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HOUSE OF REPRESENTATIVES—*Thursday, June 25, 1998*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

When the paths of life seem long and there is so much to do, we pray, gracious God, that the blessings of life will flow freely and Your benedictions will comfort and encourage. As we have received so fully from Your grace, O God, so may we share that love with others in our families and in our communities.

May good words and good thoughts and goodwill prevail. May justice mark the work of our hands, and may the spirit of mercy live in our hearts and souls this day and every day. In Your name, we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from California (Mr. ROGAN) come forward and lead the House in the Pledge of Allegiance.

Mr. ROGAN led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 2202. An act to amend the Public Health Service Act to revise and extend the bone marrow donor program, and for other purposes.

H.R. 2864. An act to require the Secretary of Labor to establish a program under which employers may consult with State officials respecting compliance with occupational safety and health requirements.

H.R. 2877. An act to amend the Occupational Safety and Health Act of 1970.

H.R. 3035. An act to establish an advisory commission to provide advice and recommendations on the creation of an integrated, coordinated Federal policy designed to prepare for and respond to serious drought emergencies.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will recognize 10 1-minutes on each side.

Will the gentlewoman from Missouri (Mrs. EMERSON) kindly assume the chair.

CHINA SELECTS U.S. ARMY AS "MOST FAVORED WEBSITE"

(Mr. GIBBONS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GIBBONS. Madam Speaker, well, never let it be said that the Communist Chinese do not learn from their mistakes. Or, perhaps we should better say from our mistakes.

It seems that when the Army realized and analyzed their web site that catalogs a variety of "lessons learned," they were surprised to find out who came calling the most often.

Mr. Speaker, it was not the 82nd Airborne Division, it was not the First Infantry Division. It was not the Air Force. It was not the Navy. It was not the Marines.

Mr. Speaker, you guessed it. It was the Communist Chinese. That is right, the United States Army web site is most often visited by the People's Liberation Army. I guess it has attained "China's Most Favored Website" status.

I suppose we should be flattered. After all, is imitation not the sincerest form of flattery?

It does point out that the People's Liberation Army is not a sleeping giant. Communist China's army is actively working to improve its capabilities and learn from our mistakes. At the same time the President is pushing for China to receive Most Favored Nation status, China has selected the United States Army as its "Most Favored Website."

GOP MANAGED CARE PROPOSAL FALLS SHORT

(Mr. GREEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GREEN. Madam Speaker, it took months of drafting and redrafting and threats and rejection, but last night we got our first look at the Republican managed care proposal.

While the final details will not be worked out for another month, the rough draft is not very promising. Most of the outlined provisions in the bill are too weak to help people like in the story in yesterday's Washington Post.

It was a father of five with liver cancer. He already had access to an appeals process that he actually won. Unfortunately for him, it took 5 months for his doctor to be told that he needed a liver transplant and the HMO was ordered to pay for it. But, Madam Speaker, he died right after they were given that permission.

What he needed was a timely appeals process and an HMO knowing that they would be responsible for the denial of that coverage.

The Republican bill would not help the Houston police officer who, after 30 years of service and not missing a day for illness, was diagnosed with cancer and it took him months to get to a specialist. The proposal would be just about as effective as using a Band-Aid for a deep flesh wound.

The provisions in the GOP bill would do nothing to stop HMOs from making major decisions based on profits instead of patients.

CHILD CUSTODY PROTECTION ACT

(Ms. ROS-LEHTINEN asked and was given permission to address the House

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

for 1 minute and to revise and extend her remarks.)

Ms. ROS-LEHTINEN. Madam Speaker, parents should not be robbed of the inherent right to counsel our children at their time of need. Yet, strangers are now allowed to transport our underage daughters in order to obtain abortions in States without parental notification laws.

This outrage, which is actually encouraged by heartless abortion clinics that place ads highlighting their State's lack of consent laws, must be stopped.

My legislation, H.R. 3682, the Child Custody Protection Act, will ensure that parental rights are respected. It would make it a Federal misdemeanor for a nonparent to transport a minor girl across State lines to avoid that State's abortion parental notification laws.

Innocent minor girls and parents must be protected from strangers who decide to make possible life-threatening decisions for them. This legislation has already been approved by the full House Judiciary Committee and it will soon be brought to this floor for a vote.

Madam Speaker, encourage my colleagues to support the protection of parental rights by voting for this important legislation.

DISCHARGE PETITION URGING CONSIDERATION OF IMF FUNDING

(Mr. OBEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OBEY. Madam Speaker, several days ago I introduced House Resolution 473, which will provide for the consideration of the remnants of H.R. 3580, a supplemental appropriation bill funding the International Monetary Fund.

Madam Speaker, I would urge all Members to sign the discharge petition which will be available at the desk starting now.

Last fall the Speaker of the House decided to use the U.N. and the IMF funding as leverage to force the President to agree to unacceptable changes in international family planning policies, and he has continued to hold this needed funding hostage. Failure to act on the IMF funding continues to endanger the U.S. economy, which is becoming more concerned each passing day with what is happening in Asia.

We need to have the debate on the IMF so that the many concerns about how the IMF is run can be resolved and so that critically needed replenishments can be put in place. American jobs are at stake. We cannot afford to allow this threat to the American economy to continue. I urge every Member to sign the discharge petition now.

LIBERALS' RECORD ON EDUCATION IN AMERICA

(Mr. CHABOT asked and was given permission to address the House for 1 minute.)

Mr. CHABOT. Madam Speaker, as a former schoolteacher myself, I would like to review the liberals' record on the issue of education in this country.

In the 1960s, the liberals decided to "dumb down" the curriculum and now across the country academic rigor is absent from many of our public schools. The predictable result is that student achievement in many areas has plummeted.

The liberals also decided that self-esteem was in and that actual knowledge was out. The liberals embraced bogus, faddish teaching methods and produced a generation of children who never learned to read.

And now the liberals oppose legislation we recently passed here in Congress which would allow parents to put their own money in accounts and not to pay tax on the money in those accounts for educating their children, kindergarten through high school. They say it would somehow hurt the public schools.

Baloney. Let us make it a little easier for parents, particularly middle-class parents, to provide a quality education for their children.

REAL MANAGED CARE REFORM

(Mr. PALLONE asked and was given permission to address the House for 1 minute.)

Mr. PALLONE. Madam Speaker, yesterday the Republican Health Task Force unveiled a set of principles that fall far short of real patient protections for Americans in HMOs.

More sinister was the Republicans' stated intention to combine changes in managed care with limits on medical malpractice liability and other highly controversial add-ons which will immediately kill any possibility for even limited patient protections to pass Congress this year.

Earlier this week, the gentleman from Iowa (Mr. GANSKE) and the gentleman from Michigan (Mr. DINGELL) introduced a discharge petition to bypass the Republican leadership's opposition to real managed care reform and bring the Patients' Bill of Rights to the floor for a vote.

The Patients' Bill of Rights would put control of medical decisions back where they belong, in the hands of doctors and their patients, not with the insurance industry bureaucrats.

Madam Speaker, I urge all of my colleagues to sign the Ganske-Dingell discharge petition so we can have a vote on real managed care reform this year.

CONGRATULATIONS TO JESSICA LORINE GONDER, U.S. SAVINGS BOND NATIONAL STUDENT POSTER CONTEST WINNER

(Mr. BARTLETT of Maryland asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARTLETT of Maryland. Madam Speaker, the United States Savings Bond National Student Poster Contest provides an opportunity for thousands of our children to learn the value of saving money while increasing the public awareness of buying U.S. savings bonds as an easy way to save and invest in their own and America's future success.

I am extremely proud of one of my constituents, Jessica Lorine Gonder of Funkstown, Maryland, who designed posters which won both the 1997 and 1998 Maryland State contest. Her impressive freehand design, which I wish everyone could see, is the 1998 National Second Place winner. Jessica was just a sixth grader at E. Russell Hicks Middle School in Hagerstown, Maryland, in Washington County.

Jessica Gonder's award-winning posters are another testament to America's greatness and our leadership in the world. In America, competition, hard work, and perseverance improve quality and are the keys to achieving success.

Madam Speaker, I say, "Congratulations, Jessica."

CONGRESS SHOULD ADDRESS CLASS SIZE AND SCHOOL CONSTRUCTION

(Mr. SNYDER asked and was given permission to address the House for 1 minute.)

Mr. SNYDER. Madam Speaker, America's school kids are now out of school and we join them, beginning today, back home for the 2-week July 4th recess.

When we return, we will not have many work days left this year. And yet, we have done nothing about the two most critical problems facing America's public schools: class sizes that are too large and school buildings of poor quality.

Madam Speaker, I want Arkansas school boards to run their schools, but the American people expect their government in Washington to help with these critical needs. When we return in 2 weeks, I hope we will refocus our attention to America's public schools and help America put more teachers in the classrooms and create better quality classrooms to put them in. America's schoolchildren deserve the best schools that we can give them.

IN HONOR OF DR. GLORIA M. SHATTO, PRESIDENT, BERRY COLLEGE

(Mr. BARR of Georgia asked and was given permission to address the House for 1 minute.)

Mr. BARR of Georgia. Madam Speaker, recently Dr. Gloria M. Shatto retired as president of Berry College. Dr. Shatto was inaugurated as Berry's sixth president in 1980 and thereby became the first woman to become a president of a college or university in the State of Georgia.

Dr. Shatto's honors include Phi Beta Kappa, the Organization of American States fellowship, the Organization of Women fellowship, and the list goes on and on.

To show its appreciation to Dr. Shatto, Berry College honored her with a "Voice of Berry Lifetime Award." The award is presented annually to a student, faculty, or staff member for communicating effectively to enhance morale, ability to motivate and inspire others, and the willingness to encourage open and free discussion.

Madam Speaker, Berry College is consistently recognized as one of the outstanding small comprehensive colleges in the South. Berry offers work experience as part of every student's development. Approximately 90 percent of the students are employed on campus in 120 job classifications during an academic year.

Madam Speaker, I proudly rise today in recognition of Dr. Shatto's outstanding service to Berry College and Berry's outstanding service to our Nation.

COMPREHENSIVE TOBACCO LEGISLATION NEEDED

(Ms. DeGETTE asked and was given permission to address the House for 1 minute.)

Ms. DeGETTE. Madam Speaker, this past Saturday marked the 1-year anniversary of the State attorneys general's proposed tobacco settlement. Ironically, this anniversary was also marked by the death of tobacco legislation in this Congress.

Since June 1997, Congress has done nothing to stem the willful and destructive forces of the tobacco industry. Today, more than a year later, all we see is a list of principles from the majority party that protects Big Tobacco and still punishes teens.

By selling out to Big Tobacco, the 105th Congress has failed to act while an astounding 1,095,000 more kids became addicted to this lethal product. During this 1-minute speech, two more children will become addicted to tobacco. This tombstone symbolizes the 1,095,000 children addicted to tobacco just in the last year.

Madam Speaker, if we are serious about reducing teen smoking, we need to pass important and comprehensive legislation and we need to raise the legal purchase price from 18 to 21 years old. Let us not make this paper tombstone turn to stone.

IRS REFORM

(Mr. SHIMKUS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHIMKUS. Madam Speaker, I rise today to compliment the House for its vote last week to abolish the Tax Code by 2002. Although it is unlikely that this bill will become law, it is a significant first step in our effort to fundamentally reform the current Internal Revenue Code. If we are ever to reform our tax system, we must focus the debate on how we will change the Tax Code, not if or when.

The existing Tax Code is a complex web of credits, deductions, and revenue rulings which shifts resources and time from productive economic activities to tax compliance. Furthermore, taxpayers with identical incomes often have vastly different tax liabilities.

It is time we in Congress provide the American taxpayer with a Tax Code which promotes economic growth, lessens the burdens of compliance on individuals and small businesses and, most importantly, reestablishes fairness.

Madam Speaker, I look forward today to voting on IRS reform later on this afternoon.

□ 1015

ACADEMY APPOINTMENTS

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Madam Speaker, I rise today to talk about students. I would like to take a moment to recognize students who epitomize the phrase "patriotism."

This year I had the pleasure of nominating 37 young men and women from the 16th Congressional District of Pennsylvania to the four United States service academies. I am very pleased that 20 of these students were appointed to the academies.

Next week those young men and women will start a journey, 4 years of study at premier institutions of higher learning, followed by active duty service in the U.S. Armed Forces. They will not only study academics but prepare themselves militarily and physically for service to the Nation as military officers.

They are living proof of the phrase "duty, honor, country," and they are tomorrow's leaders. Therefore, I would like to join their parents and friends in saluting these students.

ON EDUCATION

(Mr. ROGAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROGAN. Madam Speaker, last week Congress passed legislation making it easier for parents to save for their children's education. With this in mind, I would like to pose a few questions to the defenders of the education status quo.

Given that most of you have done this for your own children's education, why is it so bad for other parents to do so? Why is giving one's children more educational opportunities a bad thing? If parental choice on education really harms public schools, then does that mean that parents who desire to send their children to private or religious schools should be condemned because they are harming public schools?

What about all of those Members of Congress and public school teachers who send their children to private schools?

Lastly, what do you say to those parents in poor areas with dangerous, dysfunctional schools for their children? Too bad? Tough luck?

America demands and deserves answers to these critical questions.

CONGRESSIONAL FIRE SERVICES CAUCUS WILDLAND FIRE INITIATIVE

(Mr. WELDON of Pennsylvania asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WELDON of Pennsylvania. Madam Speaker, each night on the evening news in our media across this country we see the devastation being caused by forest fires and wildlands fires. Florida is being devastated as we stand here today; Texas, the West, California.

Today at 11:30 in the Rayburn, Room 2216, a bipartisan group of our colleagues will come together and announce a six-part initiative that will deal with the issue of wildlands and forest fires. We will review what actions Members of Congress are taking to enhance the capability to use, in one case, Cold War technology to detect these fires at their inception.

We will talk about resources that this Congress has in fact provided this year and in past years to improve the capability of our local emergency responders to deal with these disasters. I encourage our colleagues to join with us in announcing these initiatives to assist these States during their time of need.

NATIONAL MISSILE DEFENSE

(Mr. GUTKNECHT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GUTKNECHT. Madam Speaker, I remember the Cuban missile crisis. I remember fallout shelters. I remember the drills we had to do when I was a child to protect us from a nuclear attack.

During the 1950s, America was practicing for what we thought was the inevitable. I do not want our Nation's children to ever experience that. It is time for us to build a national missile defense to protect our children.

The good news is we have the technology to knock missiles right out of the sky. The bad news is the administration does not think it is necessary. That is right. If an enemy missile was launched at the United States, our super-sophisticated computers would pick it up right away and calculate exactly where it was going to hit and when. And then nothing. All we could do is wait for it to hit its target and pray for all of the lives that would be lost.

We have the capability to protect ourselves with a national missile defense. We just choose not to build it.

Madam Speaker, I remember the 1950s. Let us use our technology to protect our kids. I want our kids to grow up happy and carefree, not practicing what to do when nuclear missiles are launched at us.

Let us build a national missile defense. Let us do it for our kids.

PROVIDING FOR CONSIDERATION OF A CONCURRENT RESOLUTION FOR ADJOURNMENT OF HOUSE AND SENATE FOR INDEPENDENCE DAY DISTRICT WORK PERIOD

Mr. DIAZ-BALART. Madam Speaker, by direction of the Committee on Rules, I call up House Resolution 491 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 491

Resolved, That upon the adoption of this resolution it shall be in order, any rule of the House to the contrary notwithstanding, to consider a concurrent resolution providing for adjournment of the House and Senate for the Independence Day district work period.

The SPEAKER pro tempore (Mrs. EMERSON). The gentleman from Florida (Mr. DIAZ-BALART) is recognized for 1 hour.

Mr. DIAZ-BALART. Madam Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentlewoman from New York (Ms. SLAUGHTER). During consideration of this resolution, all time yielded is for the purpose of debate only.

Madam Speaker, I yield 3 minutes to the gentleman from Texas (Mr. ARMEY), distinguished majority leader.

Mr. ARMEY. Madam Speaker, I thank the gentleman for yielding me the time.

Madam Speaker, we are about to take up a resolution for adjournment for the Independence Day work period. It will be a good period of time for all of us to go home, be in touch with our constituents in our districts, something we need to do, something we enjoy doing.

While we are home, Madam Speaker, undoubtedly we are going to encounter so many constituents who are going to again express their commitment to and their concern for the education of their children. This is a major, major concern of the American people. The American people celebrate their good schools, and they worry about the schools that are not performing on behalf of the children.

The American people take the education of their children very, very seriously. Where they can, when they have the resources, they couple, along with their wish that America have the best schools in the world for their children, their own personal commitment to put their own child in the best school possible. Every parent wants this, rich and poor alike.

Madam Speaker, just a few weeks ago we passed on to the President of the United States a bill that would have provided scholarship opportunities for the parents of poor children so that those children might be moved from a school that was failing them to a school in which the child could succeed. The President vetoed that.

Despite the fact that it was new money additional funding, the President vetoed that because he thought somehow that might be destructive to the public schools, without ever realizing that when the public schools are accountable to the parents, the public schools do better. When the parents have a right and an ability to move their children to a better school, the children are better off and the schools are better off.

Today, Madam Speaker, we will enroll a bill before we go home on this district recess period that makes available again the opportunity for choice to parents, further enhanced by tax-deductible savings accounts for those parents who can afford it so that they might be able to save their own money, in addition to the taxes they pay for schools, save their own money and have the opportunity to move their child to a better school.

Once again, the President says he is going to veto this because he says it is unfair to the poor children.

Well, no, Mr. President, you were unfair to the poor children when you vetoed the earlier bill. Are you going to couple that now to be unfair to the children whose parents work, save, sacrifice and wish only that little bit of edge that could come in tax-free savings accounts for their children's education because, once again, Mr. President, your complaint is it hurts the public schools?

This is no deduction in funds available for the public schools. It is only a modest increase in freedom and resources to living parents who know themselves to be the child's first, most dedicated teacher, to use their own resources to move the child to the best school possible.

It is time, I believe, for all of this government, the House, the Senate, and the White House to respond to the needs of the parents of America. Give each parent, rich or poor, able to save or not, the opportunity to do what each parent wants most deeply in their heart to do: provide the best possible opportunity for their child.

Do not veto that bill, Mr. President. Sign it. Show that you care for the parents who care for their children.

Mr. DIAZ-BALART. Madam Speaker, I yield myself such time a I may consume.

Madam Speaker, House Resolution 491 provides for consideration in the House of a concurrent resolution providing for the adjournment of the House and Senate for the Independence Day work period.

All points of order are waived against the resolution and its consideration.

Madam Speaker, obviously this has been a very busy year in the House. We have spent a significant number of hours on the floor debating issues ranging from higher education priorities to transportation needs, from the self-determination of the people of Puerto Rico to financial services modernization.

The House will have passed five appropriations bills by the time we leave for our Fourth of July district work period later today, and we will hopefully pass the other appropriations bills soon after returning from the break.

While adjournment resolutions are usually privileged, a rule is needed in order to waive a point of order that could be raised against the Fourth of July district work period resolution on the grounds that it would violate section 309 of the Budget Act which prohibits the House from adjourning for more than 3 days in July unless the House has completed action on all appropriations bills.

Independence Day is a time to be back in our districts, not only celebrating the birth of this great Nation but meeting with and listening to what our constituents have to say about the issues that are important to them. I personally, as I am sure most Members of this House, have numerous meetings with constituent groups scheduled in the next days.

The Congress has very important spending decisions to make with limited funds, and time spent in our districts listening to the priorities of our constituents will be very worthwhile.

Therefore, Madam Speaker, I feel it appropriate that we in the House return to our districts for the Independence Day work period to reflect together with our constituents on the principles that founded this Nation and also to consult with them and think out loud with them on the issues that confront us in the weeks ahead.

I would urge adoption of this resolution, 491.

Madam Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Madam Speaker, I thank the gentleman from Florida for yielding me the customary 30 minutes, and I yield myself such time as I may consume.

Madam Speaker, H. Res. 491 waives all points of order against the consideration of the resolution providing for the adjournment of the House and Senate for the Independence Day district work period.

Madam Speaker, why do we need to waive points of order on this adjournment resolution? Because the Congressional Budget Act, section 309, states, "It shall not be in order in the House of Representatives to consider any resolution providing for an adjournment period of more than 3 calendar days during the month of July until the House of Representatives has approved annual appropriations bills providing new budget authority under the jurisdiction of all subcommittees on the Committee on Appropriations for the fiscal year beginning on October 1 of such year."

Unhappily, the House has not met this legal requirement. Even after today's actions, we will have passed fewer than half of the 13 appropriations bills. This failure to meet our legal budget appropriations timetable is one more in a series of missed deadlines. Congress is required by the Budget Act to complete action on the budget resolution by April 15, but the House did not pass its version of the budget resolution until June 5. And the leadership has refused to appoint conferees on the resolution; so who knows when or if a final budget resolution will be adopted?

The Budget Act also requires the Committee on Appropriations to report all annual appropriations bills by June 10. No appropriations bills were reported by June 10 and, to date, only 6 have been reported.

By June 15, Congress is required by law to complete action on reconciliation legislation. However, since we have no budget resolution, we do not even know whether we will have a reconciliation bill this year or not. So, Madam Speaker, the House has not met its basic responsibility to consider the appropriations bills that fund the Federal Government.

Is this because we have been diligently considering other urgent business? No. Unfortunately, this session the House has passed very little legislation that has a chance of being signed into law. Instead we are voting on bumper sticker bills and the constitutional amendment of the week.

The American public is asking us to address issues that affect their lives. But the leadership refuses to move any legislation that might benefit the public if it has the slightest chance of upsetting its friends.

□ 1030

We should be working on bills to protect patients' rights, like H.R. 306, which would ban genetic discrimination in health insurance. We know Americans are profoundly concerned about the future of their medical care. Last week a Pew Research Center study showed that 69 percent of Americans believe the debate over HMO regulation is very important to the Nation, and 60 percent said it is very important to them personally. But instead of acting on pending health care bills, several supported by more than 200 bipartisan cosponsors, Congress continues to blatantly ignore this mandate from the American people.

Similarly we should be addressing child care and after-school care legislation, like the America After School Act. This program would expand after-school programs so that young people would have a safe place to go, with stimulating activities and tutoring when the school day ends. This after-school care would decrease juvenile crime while increasing student achievement, self-esteem and positive behavior.

Another pressing matter is genuine campaign finance reform. Instead of a structured debate that allows Members to make rational choices, leadership has imposed a procedure designed to debate reform to death. Their unfair rules call for the consideration of one constitutional amendment, 11 substitute bills, 258 non-germane amendments, and an unlimited number of germane amendments. But so far we have only considered one constitutional amendment, one substitute bill, and three amendments. That leaves us with 10 bills, hundreds of nongermane amendments, and an unknown number of germane amendments to deal with and we are going on recess for nearly 3 weeks.

Federal campaigns are becoming little more than a money chase to pay for increasingly expensive elections. In the most recent election cycle, spending on Federal elections shattered all records, reaching an estimated $1.6 billion. An all-time high of $500 million was spent on just one type of advertising, broadcast television, and yet voter turnout is at an all-time low. Fewer than half of all eligible Americans exercise their right to vote. The American people are discouraged by a system in which money seems more important than issues and the interests of large contributors seem more important than the concerns of working families. If Congress were serious about fixing our broken political system, we would pass campaign finance reform before going out of session for nearly 3 weeks.

Madam Speaker, I could go on about the unfinished agenda of the House, but the bottom line is we have failed to meet our legal responsibilities under the Budget Act, and we have failed to address the issues our constituents have told us are important.

Madam Speaker, in light of the importance of our unfinished work, I must oppose this rule providing for a nearly 3-week hiatus in the legislative work of this Congress.

Madam Speaker, I reserve the balance of my time.

Mr. DIAZ-BALART. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I am a firm believer that history is a very important teacher. With regard to what was stated by my distinguished colleague and friend on the Committee on Rules that we have not fulfilled the requirements of the Budget Act in that all the appropriations bills have not been passed, I myself stated that earlier, but I think it is important to look at history, even recent history, when our friends on the other side of the aisle controlled the majority in this House and had the presidency, also, by a member of their party, which obviously it is much easier when you do not have to negotiate every single appropriations bill between the White House and the Congress in divided government. Even then in the 103rd Congress, all the appropriations bills were not passed before July 1. If we go back just a few years before that, to the 101st Congress, for example, only one appropriations bill had been passed before the July recess in the first session and we will have passed five today. If we go back just a few years before that, to the 97th Congress, no appropriations bills had been passed by this House before the July recess. I think it is important to point that out.

I think that it is also important to point out and to put in context what we have done, that it is the 105th Congress, with a majority on this side of the aisle, that has balanced the Federal budget for the first time in 30 years, and that is, I think, an accomplishment that is something that we can all in this House feel proud of.

Madam Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Madam Speaker, I have no requests for time, and I yield back the balance of my time.

Mr. DIAZ-BALART. Madam Speaker, accordingly, I would simply reiterate that this is an important resolution, that it is appropriate that we be able to think out loud and consult with our constituents in the next days.

Madam Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Ms. SLAUGHTER. Madam Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I, further proceedings on this resolution will be postponed until later today.

The point of no quorum is considered withdrawn.

ON JACK NICHOLSON'S VISIT TO CUBA

(Mr. DIAZ-BALART asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DIAZ-BALART. Madam Speaker, I read in the press this morning that a well-known actor by the name of Jack Nicholson is right now in Cuba. Not only did he arrive there and apparently demonstrate his intention to violate U.S. law, but he called, according to the press reports that I read this morning, Castro's Cuba a "paradise."

I would recommend to Mr. Nicholson, or to the President of Colombia, the gentleman whose visa has been denied to enter the United States because of allegations that he received money from the narcotraffickers in his campaign for President 4 years ago, I would recommend that both of them in the so-called paradise as described by Mr. Nicholson, that they seek to visit some of the political prisons, some of the prisons, of the hundreds of prisons in Cuba while they are staying in the so-called paradise.

There are, just to pick four examples, perhaps the most well-known of the leaders of the internal opposition in Cuba, the dissidents, are in dungeons in that paradise, according to Mr. Jack Nicholson. The dictator in Cuba, who has kept them there since July of 1997, the four most well-known leaders of the internal opposition in Cuba, has kept them in that dungeon, by the way, for the crime of publishing a document entitled "The Homeland Belongs To All" in which they call for free elections and a peaceful transition to democracy in Cuba. The Cuban dictator has not even decided yet what to charge them with. That is the so-called paradise, according to Mr. Nicholson.

So I would urge these millionaire visitors who go to the apartheid economy of Castro and partake of the pleasures available due to the slavery of the Cuban people, and when they call that so-called workers' paradise, as Nicholson did, a paradise, that they ask to visit the political prisons, or perhaps the widows or the orphans of the tens of thousands of victims of that so-called paradise.

It is shameful to see the attitude of these Jack Nicholsons of the world, the rich who believe they have no limits and who now go to the so-called workers' paradise only 90 miles from our shores to partake of the forbidden apple in all of its pleasures. It is sickening. It shows really the ugliest side of our free enterprise system, that some of these people with no conscience and no sensitivity would go and make statements like that and violate our laws and not be concerned about for 40 years the lack of the most elemental freedoms, the lack of democracy, and call a place like that totalitarian nightmare a paradise.

And so shame upon people like Nicholson. And also the President with the campaign contributions from the narcotraffickers. Obviously he feels comfortable in the land of a head of the narcotraffickers, the Cuban dictator.

WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 2676, INTERNAL REVENUE SERVICE RESTRUCTURING AND REFORM ACT OF 1998

Mr. DREIER. Madam Speaker, by direction of the Committee on Rules, I call up House Resolution 490 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 490

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill (H.R. 2676) to amend the Internal Revenue Code of 1986 to restructure and reform the Internal Revenue Service, and for other purposes. All points of order against the conference report and against its consideration are waived. The conference report shall be considered as read.

The SPEAKER pro tempore. The gentleman from California (Mr. DREIER) is recognized for 1 hour.

Mr. DREIER. Madam Speaker, for the purpose of debate only, I yield the customary 30 minutes to my very good friend, the gentleman from Dayton, OH (Mr. HALL), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Madam Speaker, this rule is needed to waive points of order against the conference report on H.R. 2676, the IRS Restructuring and Reform Act. This legislation is the culmination of years of dedicated effort and hard work by my colleague from Cincinnati, OH (Mr. PORTMAN) and the chairman of the Committee on Ways and Means the gentleman from Texas (Mr. ARCHER).

Before outlining the historic nature of the conference report this rule would make in order, I first want to applaud the gentleman from Texas for his tenacity in overcoming the Clinton administration's opposition to bringing some badly needed sanity to the tax code. I am referring, of course, to the provision to roll back the absurd 18-month capital gains holding period that the President insisted on in the Taxpayer Relief Act of 1997. That extra holding period turned the Schedule D form into the Rubik's Cube of tax forms, frustrating millions of families with unnecessary recordkeeping and complexity and also making it difficult for honest taxpayers to comply with the law.

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Thanks to the inclusion, Madam Speaker, of the Archer rollback provision in this conference report, millions of American families will no longer have to endure endless hours of mindless calculations to complete that Schedule D.

But there are other benefits to the rollback as well.

Notwithstanding the static revenue estimate provided by the Joint Committee on Taxation, the Federal Government and State governments will see an increase in revenues from the effect of investors unlocking what heretofore has been unproductive capital. The unlocking effect from the reduction in the capital gains tax rate to 20 percent is primarily responsible for this year's budget surplus. Also, as our economy is further buffeted by the effects of the Asian economic crisis, streamlining the capital gains holding period will boost investment, capital formation and economic growth. And I will say parenthetically that I am very pleased that the Speaker has introduced legislation to take that top rate down to 15 percent. Nearly 170 of my colleagues, Democrats and Republicans alike, joined in the first session of the 105th Congress to get it to 14 percent.

So, we are headed in the right direction.

As I mentioned, this is a historic bill that will bring about the first comprehensive reform of the IRS in four decades. It will make the IRS more user friendly by, among other things, establishing an independent governing board and shifting the burden of proof from the taxpayer to the IRS in disputes that reach Tax Court. These reforms will make the IRS more accountable to the American people. They will enhance the fairness of the tax collection process by giving the taxpayer the benefit of the doubt when he or she has cooperated with the IRS and has documented evidence of compliance.

These reforms will not solve the more intractable problems brought on by a complicated and inefficient Tax Code. The solutions to those broader problems require comprehensive reform of the Internal Revenue Code itself, which I hope the House will address next year. But the reforms contained in H.R. 2676 will go a long way toward protecting the right of taxpayers, making the IRS more accountable and restoring public confidence in the way the IRS enforces our tax laws.

Madam Speaker, I urge my colleagues to support both the rule and the conference report.

Madam Speaker, I reserve the balance of my time.

Mr. HALL of Ohio. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I want to thank my colleague from California (Mr. DREIER) for yielding me the time.

As my colleague described, this is a rule for consideration of the conference report on H.R. 2676. This is a bill to restructure the Internal Revenue Service. The rule waives all points of order against the conference report. This bill will transform the agency into a more customer-service-oriented operation that resolves taxpayers' problems right away instead of letting problems drag on.

I want to point out to my colleagues that the IRS has already taken steps to improve service in advance of this bill. For example, it has expanded telephone assistance, it has instituted nationwide problem-solving days, it strengthened the Office of the Taxpayer Advocate and has increased accountability for IRS management.

The legislation also directs the IRS commissioner to simplify the current complicated IRS structure and replace it with a new organization that will better serve taxpayers. This is a goal which is shared by the commissioner.

I regret that the conferees inserted provisions in the conference report that do not belong and, in my opinion, are unwise.

I am particularly concerned about the provision that changes the name of "most-favored-nation" trading status to "normal trade" relations. This name change is more than just symbolism. It is a prelude to a fundamental shift in the way we set our trading policies.

Madam Speaker, most-favored-nation trading status is earned by our trading partners. It is a reward for nations that have policies we can support. It can be denied to countries that do not conform, do not conform to our high standards such as those with a record of extreme human rights violations.

Changing the name is part of an effort to reduce the use of trade status as a tool of diplomacy especially to combat human rights abuses. If we change the name to "normal trade" relations, the implication is that all countries are entitled to this status.

The term "most-favored-nation" goes back to the 18th century. It has been used throughout the history of the United States and by our trading partners. It has worked well and should not be changed.

When the Committee on Rules considered the rule, I offered a motion to delete this section. Despite some support I received in the committee, and I appreciate that support, my amendment did fail.

I will not oppose the rule and risk delaying the legislation which is important to the American people. However, I remain opposed to the MFN provision in the manner in which it is being forced upon the House.

Madam Speaker, I reserve the balance of my time.

Mr. DREIER. Madam Speaker, I have no requests for time, and I reserve the balance of my time.

Mr. HALL of Ohio. Madam Speaker, I yield 3 minutes to the gentlewoman from California (Ms. PELOSI).

Ms. PELOSI. Madam Speaker, I thank the gentleman from Ohio (Mr. HALL) for yielding this time to me. I rise, unfortunately, I rise in opposition to the rule on a bill that I had hoped to come to the floor to support today, and I do say I regretfully oppose this rule for the following reason:

There has been a good deal of debate about trade with China in this Congress. But I really did not think we would be having any today as the President starts his trip. I have myself refrained from speaking on this floor about that issue, as I say, while our President is in China. But then I found out that the Committee on Ways and Means had sneaked this provision into this bill. When I had spoken to members of the committee, they said, "No, it's not in there; I've read the entire bill, it's not in there." But upon further investigation it was learned that changing the name of "most favored nation" status to "normal trade" status was put into this bill.

I can understand why my colleagues would not want to face up to this, because it is not right, and they must be ashamed of what they are doing or else they would let this decision be faced by this Congress standing on its own in the full light of day. But, my colleagues, you can call it whatever we want. It is not a rose, so I will not say a rose by any other name is still a rose because it is more like a thorn, a thorn in the side of the American worker.

I have here the chart about the trade deficits with the People's Republic of China, and if I continued this chart to 1998, my colleagues would see that in the years of the Clinton administration alone, by the end of 1998, the trade deficit with China will be about a quarter of a trillion dollars. That is not million with an M, billion with a B, it is TR, trillion dollars, and that trade deficit continues to grow.

Our colleagues boast that China buys nearly $13 billion from us, and that that number has increased. At the same time, the Chinese exports to the United States have grown to $62 billion for 1997, will be close to $80 billion for 1998, resulting in a trade deficit projected for 1998 of about over $63 billion.

In addition to the high tariffs which block access to most products made in America to the Chinese market, China has engaged in other nontariff barriers to our products. Let us talk about the tariffs for a moment. And do not take my word for it. This is the Foreign Trade Barriers Report of the U.S. Trade Representative's Office. It is the 1998 National Trade Estimate Report, and in it the trade rep says China restricts imports through a variety of means including high tariffs and taxes, nontariff measures and limitations on which enterprises can import, and other barriers. For example, China has used prohibitively high tariffs which in late 1997 still reached as high as 100 percent on some motor vehicles.

In the interests of time I will not read all of that, but just to conclude on that point, I say that these nominal high tariff rates to which China adds applicable value-added taxes on some goods, consumption taxes contribute to inefficiencies in China's economy pose a major threat to U.S. commercial opportunities.

I would not be opposed to most favored-nation-status for China if China extended it to the United States. In addition, in terms of service barriers, while China has promised to liberalize access, restrictive investment laws, lack of transparency and arbitrary application of regulations and laws limit U.S. service imports, exports and investments in China. My colleagues can read for themselves more and more about that in here.

Since Tiananmen Square in 1998, the trade deficit has soared from $3 billion at that time to a projected $63 billion for 1998. It is important for our colleagues to note that because of these high tariffs most products made in America do not have access to the Chinese market. Indeed, less than 2 percent of our exports are allowed into the Chinese market, while we import nearly over 35 percent of Chinese exports into our market.

The list goes on and on about lack of market access, violation of intellectual property which continues (ask the software industry), technology transfer, production transfer, transshipment of textile goods, and the use of forced labor for export. The trade violations alone would be enough to say that this is not, call it what we want, a normal trade relationship, and then when we consider the leverage that we would have with this huge trade deficit to improve the human rights situation in China and to stop the proliferation of weapons of mass destruction, my colleagues can see that we are wasting an opportunity.

Speaking of the President's trip, one of the commentators said, "Well, when the President goes there, we will see that there's more in China than repression." Well, as long as repression is there, we should use every tool at our disposal to make sure that it does not exist. If we are true to who we are as Americans, the central core value of promoting democratic values should be central. It should be not only on the table, it should be the table on which other concerns rest.

And so I say with regret, "Shame, shame, shame that the Committee on Ways and Means with the Committee on Rules is sneaking this in so that Members are forced to vote for something in the dark in the interests of passing a bigger law."

Mr. DREIER. Madam Speaker, I yield myself such time as I might consume to respond to the statement of my very good friend from California (Ms. PELOSI).

For starters, this was not secretively stuck into this measure. It has been, discussed frankly for years. There are many people who for a long period of time have said, "Why don't we have truth in advertising? Why is it that we call something that is not in fact a favored nation status what it is: normal trade relations?"

So for years people have been advocating this, and over the last several weeks a number of individuals have said, "Gosh, as we proceed with the debate on the traditional MFN issue which will be coming up most likely the week of July 20, a number of people, Democrats and Republicans alike, said, &ldquo;&rdquo;Why don't we find an opportunity to finally establish normal trade relations and call them exactly what they are?'."

There are five countries that do not enjoy what is now considered to be a so-called most-favored-nation trading status. They are Afghanistan, Cuba, Laos, North Korea and Vietnam. It is basically the rest of the world has this kind of status, and we believe very strongly that it is important for us to do what we can to get our Western values into China.

Now my friend from San Francisco very correctly talked about the imbalance of trade with the People's Republic of China that exists, and she is right, there is an imbalance of trade. But there are two points that I would like to make as it relates to that. First and foremost, she falls into that trap of the neo-mercantilist view of trade, that the only benefit for trade is exports; not recognizing that the standard of living in the United States of America is as high as it is because the world has access to our consumer market.

And the second point that I think is very important that needs to be made here is the fact that as we have observed job shifts, they have taken place within the Pacific Rim. It is not this flow of U.S. jobs that have been going to China, as some would have us believe, but it has been the shift of jobs from Singapore, Taiwan, Hong Kong, South Korea and other countries within the Pacific Rim.

As we have seen those shifts take place, what has happened?

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We have been able to see the cost of products coming into the United States and going to the other parts of the world come at a lower level. So it seems to me all we are providing here is truth in advertising by changing this from "MFN" to "normal trade relations." It is the right thing to do. Even opponents of MFN in the past have told me, "Why don't you call it exactly what it is?"

So we are doing the right thing here, and I urge my colleagues to support both the rule and the conference report when we proceed with it.

Madam Speaker, I reserve the balance of my time.

Mr. HALL of Ohio. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I would respond to my friend, the gentleman from California (Mr. DREIER), in that I too am opposed to the changing of the name to normal trade relations from most-favored-nation, because I do not really think it is a normal trade situation.

I think it is a privilege to trade with this country. It is what this country is all about. It is what we stand for. We stand for fairness, we stand for fighting oppression. We stand for not only loving other people, but we also stand for displeasure when a country does something that is very much what we think is not only against the interests of our country, but against the interests of all people.

For years, even from the 18th century, we have spoken out about most-favored-nation. That is a name that is beyond symbolism. It carries the name of the United States. It means our country and what we stand for. It is a connotation that is good and it is right.

I remember when the gentleman from Virginia (Mr. WOLF) and the gentleman from New Jersey (Mr. SMITH) and myself went to Romania several years ago. The people in Romania, especially the people that had been oppressed, would press upon us as we spoke in churches and different places, and they would press notes all over us, put them in our pockets, and when we got back to our hotel at night, we would have 50, 60 notes of people telling us about torture and oppression, to please do something about it. Even then, under the old regime of Romania, people understood what most-favored-nation status was all about.

When we came back, the gentleman from Virginia (Mr. WOLF), the gentleman from New Jersey (Mr. SMITH) and myself sponsored legislation to take most-favored-nation away from Romania because it was not normal trade relations. It was something that is very special.

It took us three years to fight that, and we fought it on the floor. We finally succeeded, and a year later, a year later, the country's power, the country's government did fall. I cannot say it was as a result of us taking most-favored-nation away, but I think it helped because it enabled us in this country to speak out towards oppression, whether it be religious, political, economic, whatever it would be.

Most-favored-nation is something we have had for years in this country, and it is something that both people that are in favor and people that are not in favor, dissidents all over the world have come to understand what it means. It is not normal. It is a privilege, and we want to defend it. We believe in it, and that is why we are very much against this change in the name.

Mr. DREIER. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I would simply say that my colleague, the gentleman from Ohio (Mr. HALL), and I obviously share the exact same goal. It is very clear that those of us who believe in the power of markets want to deal with the horrendous repression that exists in China and other parts of the world. It is just that we believe passionately that western values are best epitomized with the movement of free markets, and we believe that the best way to undermine political repression is to get those things in there. In fact, I have concluded and said here time and time again that trade promotes private enterprise, which creates wealth, which improves living standards, which undermines political repression.

So I would just like the record to show, Madam Speaker, that the gentleman from Ohio (Mr. HALL) and I share the exact same goals. We obviously are approaching them in a slightly different way.

Madam Speaker, I yield 2 minutes to the gentleman from San Diego, California (Mr. BILBRAY), my very good friend, who is an expert on tax issues and is very pleased with a provision that has been incorporated in this conference report dealing with the effective date on the Tax Code.

Mr. BILBRAY. Madam Speaker, I have to make an editorial note that this issue of what is a most-favored-nation status reminds me of the rest of the "Washington speak". This is the city where you can have a 7.5 percent increase and they call it a cut; call something a balanced budget that the rest of America would not call a balanced budget; and now we talk about most-favored-nation relationship, and it is a misnomer.

It is not about China or anything else. I think we need to talk about is Washington going to start speaking plain English like the rest of us? The most-favored-nation status to America happens to be Canada and Mexico. That is a fact of life. Some people may not like it, some of us are concerned about it, but I think the issue here about do we speak plain English when we start talking about our business in this body, I think there is a good argument of saying we should do it across the board, not just with the trade issue.

But getting back to home, let us talk about something near and dear to Americans here in the United States, and that is our tax structure, our Tax Code.

Madam Speaker, I happen to own a tax business and have owned a family tax business for a while now. My wife runs our tax business. I just got off the phone with the young lady who runs my business, my wife, and her comment was this. "When you start talking taxes, you start talking thresholds, will you please try to make it as simple as possible?"

Why do Americans across this country have to go to people like my wife to be able to get their taxes done? It is because Washington keeps making it more complicated.

I want to praise this bill because it finally is getting back to the basics. Let us start with January 1 as being the beginning of the year. What a radical concept. Finally we are getting a message across that maybe Washington should start living by the rules that everybody else lives by, and one of them is January 1 should be the beginning of the time for our tax year, as much as possible.

I praise this bill and I want to reflect the praise that my wife sends to this Congress, of keep it simple when you can. Let us make it January 1, the beginning of the year. I want to thank the Congress for doing that.

Also, let us say this is the beginning of doing other things, of making the entire Tax Code simpler.

Mr. HALL of Ohio. Madam Speaker, I yield 2 minutes to the gentlewoman from California (Mrs. CAPPS).

Mrs. CAPPS. Madam Speaker, I thank the gentleman for yielding me time.

Madam Speaker, I rise to support this rule and this bill which will finally bring reform to the Internal Revenue System.

In my recent campaign I spoke about taxes with thousands of residents of the central coast of California. They told me three things: First, get the IRS off the backs of innocent taxpayers; second, simplify the Tax Code; and, third, please let us keep a little more of our hard-earned money in our pockets.

This important bill does all three. No longer will American taxpayers be considered guilty until proven innocent. The capital gains tax has been simplified, which will bring welcome relief to everyone who has struggled with this complicated new Schedule D form, and the capital gains provision will allow working families to use more of their investment income for important needs like retirement or college education.

This is a good bill. It is long overdue. I urge my colleagues to support the IRS Restructuring and Reform Act.

Mr. DREIER. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise simply to associate myself with the very eloquent words of my very dear friend, the gentlewoman from Santa Barbara, California (Mrs. CAPPS).

Mr. HALL of Ohio. Madam Speaker, I yield two minutes to the gentleman from New Jersey (Mr. ROTHMAN).

Mr. ROTHMAN. Madam Speaker, I am pleased to see that we are finally taking up passage of legislation designed to rein in the IRS. We have all heard the stories about the worst IRS nightmares in the Nation, people committing suicide, families going bankrupt and losing their small businesses. Last October I walked door-to-door and business-to-business in my district and heard from taxpayers about their own battles with the IRS.

The IRS has an extremely important job to do, but today we are making their job a little bit easier, and we are making the IRS a more fair, more efficient, and more taxpayer-friendly agency. But my friends, this bill is only the beginning. Next we must repeal the marriage penalty, which punishes two-income married couples. A married couple pays more in income taxes than if they were unmarried. This is simply unfair and sends the wrong message about the importance of families in our country. We must repeal the marriage penalty now.

Finally, we must also make our Tax Code much simpler. Anyone who has spent long hours huddled over their 1040 with broken pencils and piles of frustration knows that our tax system today is simply too complicated. We must simplify the Tax Code so that the average American does not need a Ph.D. in accounting to complete his or her taxes.

I urge support for this first step in IRS reform.

Mr. HALL of Ohio. Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. DREIER. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise to simply encourage my colleagues to support this rule. It is a very fair and balanced rule. It will finally bring about much needed reform of the Internal Revenue Service, which the American people are desperately seeking. It will provide truth in advertising by finally taking that MFN moniker and changing it to what it is, normal trade relations. I hope we can pass this overwhelmingly.

Of course, it will bring the very, very important end to that horrendous 18-month holding period on capital gains, which cannot be forgotten. I know my friend in the Chair was a cosponsor of H.R. 14 to cut that top rate on capital gains, and we are hoping to go further with that, but this is a very good first step.

Madam Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mrs. EMERSON). The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF H.R. 4104, TREASURY AND GENERAL GOVERNMENT APPROPRIATIONS ACT, 1999

Mr. MCINNIS. Madam Speaker, by direction of the Committee on Rules, I call up House Resolution 485 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 485

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for consideration of the bill (H.R. 4104) making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1999, and for other purposes. The first reading of the bill shall be dispensed with. Points of order against consideration of the bill for failure to comply with clause 2(l)(6) of rule XI or clause 7 of rule XXI are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations. After general debate the bill shall be considered for amendment under the five-minute rule. The amendments printed in part 1 of the report of the Committee on Rules accompanying this resolution shall be considered as adopted in the House and in the Committee of the Whole. Points of order against provisions in the bill, as amended, for failure to comply with clause 2 or 6 of rule XXI are waived except as follows: page 104, line 14, through page 106, line 12. The amendments printed in part 2 of the report of the Committee on Rules may be offered only by a Member designated in the report and only at the appropriate point in the reading of the bill, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. All points of order against the amendments printed in the report are waived. During consideration of the bill for further amendment, the Chairman of the Committee of the Whole may accord priority in recognition on the basis of whether the Member offering an amendment has caused it to be printed in the portion of the Congressional Record designated for that purpose in clause 6 of rule XXIII. Amendments so printed shall be considered as read.

The chairman of the Committee of the Whole may: (1) postpone until a time during further consideration in the Committee of the Whole a request for a recorded vote on any amendment; and (2) reduce to five minutes the minimum time for electronic voting on any postponed question that follows another electronic vote without intervening business, provided that the minimum time for electronic voting on the first in any series of questions shall be 15 minutes. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill, as amended, to the House with such amendments as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

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The SPEAKER pro tempore (Mrs. EMERSON). The gentleman from Colorado (Mr. MCINNIS) is recognized for 1 hour.

Mr. MCINNIS. Madam Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentlewoman from New York (Ms. SLAUGHTER), pending which I yield myself such time as I may consume. During the consideration of this resolution, all time yielded is for purposes of debate only.

Madam Speaker, this is an open rule that waives points of order against consideration of the bill for failing to comply with clause 2(l)6 of rule XI requiring a 3-day layover of the committee report, or clause 7 of rule XXI, requiring printed hearings and reports to be available for 3 days prior to the consideration of general appropriation bills.

House Resolution 485 provides for 1 hour of general debate, equally divided between the chairman and ranking member of the Committee on Appropriations.

Madam Speaker, House Resolution 485 also provides that the amendments printed in part 1 of the report of the Committee on Rules accompanying the resolution be considered as adopted in the House and in the Committee of the Whole House.

House Resolution 485 waives points of order against provisions in the bill, as amended, which do not comply with clause 2 of rule XXI prohibiting unauthorized or legislative appropriations in a general appropriations bill, and clause 6 of rule XXI, prohibiting reappropriations in a general appropriations bill, except as specified by the rule.

Additionally, Madam Speaker, House Resolution 485 waives all points of order against the amendments printed in part 2 of the Committee on Rules report, and provides that such amendments shall be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time period specified in the report, equally divided and controlled by a proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for a division of the question.

Furthermore, this rule provides for priority in recognition for those amendments that are preprinted in the CONGRESSIONAL RECORD, and provides that the chairman of the Committee of the Whole may postpone recorded votes on any amendment and that the chairman may reduce voting time on postponed questions to 5 minutes, provided that the voting time on the first in a series of questions is not less than 15 minutes.

Finally, the rule provides for one motion to recommit with or without instructions. At the conclusion of the consideration of the bill for amendment, the committee shall rise and report the bill to the House with such amendments as may have been adopted.

Finally, Madam Speaker, the rule provides 1 motion to recommit, with or without instructions. This rule was reported out by the Committee on Rules by voice vote.

Madam Speaker, the underlying legislation, which makes the appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies for fiscal year 1999, is important legislation.

Nearly 90 percent of the activities funded under this bill are devoted to the salaries and expenses of approximately 163,000 employees who are responsible for administering programs such as drug interdiction, presidential protection, violent crime reduction, and Federal financial management.

Additionally, H.R. 4104 provides $1.8 billion for drug-related activities, including a $195 million national media campaign targeting youth drug use, and doubles the funding for the Drug-Free Communities Act of 1997. I encourage my colleagues to support the rule and the underlying legislation.

Madam Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I reluctantly oppose this rule, because I would like to support it very much. It is an open rule, and it gives all Members of the House an opportunity to offer amendments that are germane and otherwise in compliance with House rules.

I also think that the underlying bill, for the most part, is fair and worthy of support. It provides $13.2 billion in discretionary budget authority, which is a slight increase from last year's bill. It funds most programs at the levels requested, levels that will adequately support the programs and services covered by the bill.

But one major exception, however, is the Federal Election Commission, which is funded significantly below the level necessary for the FEC to do its job properly and effectively. Furthermore, authorizing language imposing term limits for the Commission's staff director and general counsel will also hamstring the FEC's ability to do its work in a fair and impartial manner.

The rule protects from a point of order critical legislative language to implement a new, fair, and reasonable pay system to adequately compensate Federal firefighters for overtime. Such a provision is necessary because of the unique and unusual pay system for these brave men and women. Currently, there is a pay inequity between the Federal firefighters and their municipal and civil service counterparts.

I strongly support this language and its protection in the rule. The measure has 153 bipartisan cosponsors, and is supported by the administration. We are currently experiencing devastating fires in Florida, and must ensure that those who risk their lives fighting fires are compensated fairly for their brave efforts.

I am disappointed that the rule did not protect from a point of order another provision in the bill to address a pay problem for Federal employees. We passed a bill to create a fairer pay system by a margin of 383 to 30, and President Bush signed it into law in 1990. Unfortunately, the bill lacked a definition of what constitutes an economic crisis, and without that definition, the new system will not be implemented.

Language in this bill would fix the problem, but unfortunately, the rule does not protect the language from a point of order. It is regrettable that efforts to reform Federal employees' pay continues to be ignored.

The bill contains and the rule protects a provision requiring all Federal health plans to provide prescription contraceptive coverage to Federal workers. Certainly anyone interested in reducing unintended pregnancies should support that language.

Having said all that, Madam Speaker, I would like to take a minute to address my concern with the rule and why I must oppose it. The bill reported out of the Committee on Appropriations contained $2.25 billion to deal with an enormous computer problem that threatens to bring the country's computers to a halt when the champagne corks pop for the year 2000. It is called Y2K, in the popular language, which is a small name for what is going to be a huge problem.

If left unchecked, this could result in major chaos and confusion throughout the country, ranging from serious threats to our national security, a crash in the stock market, failure of our Air Traffic Control system, and the inability to process Social Security checks, or any others, on time. And if it is not fixed on time, the two places I am told not to be are on an airplane or a patient in a hospital at midnight, December 31, 1999.

Experts on the so-called "millennium bug" have been warning us for years about this impending doom, and they have worked hard to warn the public, but they are frustrated by the lack of a timely response. It is up to us in Congress to step up to the plate and make certain that this matter gets the attention and financial support that it desperately needs. That is why we are elected, to take responsibility for the well-being of our people and our Nation.

The Committee on Appropriations, to their credit, did just this by putting emergency funding in this bill and the defense bill for the Y2K situation. But my Republican colleagues have decided that this can wait. They have decided to remove the emergency funds from both these bills.

This has the potential to be a crisis of major proportions, and it will not go away. We are wasting precious time with our finger-pointing and partisan squabbling. We need to get money in the pipeline immediately to begin addressing this extraordinarily complex and dangerous situation.

They said, we will do it later in another bill, but we do not see another bill on the schedule to address this major problem. After the House finishes its business today, we will adjourn for a 2-week recess.

Madam Speaker, I do not know do not know a lot about computers, but I do get the feeling that we do not have a lot of time to fix this problem. Every day we lose attempting to address the situation counts dearly. We are playing with fire by not dealing with the Y2K matter immediately.

I hope for all of our sakes that our colleagues are genuine in their promise to make this a top priority. This should not be a political issue, because we are failing in our duty to our constituents and our Nation if we do not act responsibly and take action immediately. It is far too important, not just in our country but worldwide as well. We must act now.

Because of this self-executing provision to remove this critical funding, I must oppose this rule, and I urge Members to join me in voting no on the rule.

Madam Speaker, I reserve the balance of my time.

Mr. MCINNIS. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I would just note at the very beginning of this conversation on the rule that my colleague, the gentlewoman from New York, makes the statement that this Y2K problem should not be political, but preceding that statement, the three paragraphs before, it was 100 percent political.

So I ask her, do not make the kind of statement that this should not be political when the gentlewoman talks like that. She is trying to make it political. The fact is, the money is going to be there. We are going to appropriate the money. I will make it political: The administration should have been addressing this a year and a half ago. They have not been doing it, and now the bell is beginning to toll. We realize we have a problem there.

Madam Speaker, I yield such time as he may consume to my good friend, the gentleman from the State of Louisiana (Mr. LIVINGSTON), the chairman of the Committee on Appropriations.

Mr. LIVINGSTON. Madam Speaker, I thank my friend from Colorado. On exactly that note, I just happened to walk in here and hear some phenomenal statements.

The fact is that this Congress is facing up to the funding demands for the Y2K problem. We are in the process of providing appropriations for them, even though, and I want to stress this, even though the administration has not requested enough money for the Y2K problem. We have been telling them, look, it is a big problem, for a long time. OMB, the Office of Management and Budget, has basically ignored it. They have taken the attitude, oh, we will worry about it manana; it is some ephemeral thing, let the Wizard of Oz take care of it.

We cannot afford to do that anymore. The fact is, the administration has not been realistic. The Vice President, Vice President GORE, has been the head of technology, the guru of technology, for the last 5 to 7 years, and has not paid a bit of attention to Y2K. Somebody walked up to him recently and said, what about Y2K? And he said, "I don't do Y2K," because it is too complex, evidently.

All I will say, we do not have a request from the President within his budget for any money to handle the emergencies that this Congress is going to have to handle within the coming months for Y2K, but we are going to step up to the plate, anyway. We are doing that within the appropriations process. I appreciate the gentleman yielding me the time.

Mr. MCINNIS. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I appreciate what the gentleman has had to say. We should know that while they have not asked for that, the Vice President has been very busy preparing for his telephone tax, the Gore tax, which goes in effect here in just a couple of days. I hope the consumers out there note that.

Madam Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Madam Speaker, I yield 7 minutes to the gentleman from Maryland (Mr. HOYER).

Mr. HOYER. Madam Speaker, I thank the gentlewoman for yielding time to me.

Madam Speaker, I want to first of all respond to my chairman and my friend, the gentleman from Louisiana (Mr. LIVINGSTON), as well as to the gentleman from Colorado (Mr. MCINNIS).

The fact of the matter is that this administration did make a request that over $1 billion specifically be included in a $3.5 billion emergency request for Bosnia and for Y2K, so the representation that this administration did not address it is simply wrong. I hope it is wrong because of a lack of information, as opposed to an intent to mislead. I am sure the latter is not true. But it is nevertheless wrong. This administration has addressed this problem.

Now, as the private sector has experienced, the Federal Government has also experienced an emergency situation, an emergency that both in the public and private sector has grown exponentially, where the private sector, like the public sector, has experienced a growing scope of the problem and a growing expense to solving the problem.

There is no option to solving the problem, period. As has been said, no one wants to be on an airplane when FAA's computers decide that they cannot function because they have not contemplated the change of centuries.

I will tell the Members, Mr. Speaker, previous administrations and this administration have purchased a lot of information technology, as the private sector has purchased information technology, that does not contemplate the change of century. This is a great surprise to all of us, of course, that the century is changing.

But having said that, there is a reasonable explanation, of course. There was, in my opinion, a pennywise and pound-foolish, perhaps, judgment that was made in previous administrations, and as recently, perhaps, as this administration, which purchased technology which did not contemplate this change, knowing full well that there was absolutely no alternative but to solve this problem.

There is a lot of protestation on that side of the aisle, but in point of fact, the distinguished chairman of the Committee on Appropriations went to the Speaker and it was agreed, it was agreed between the Speaker and the chairman of the Committee on Appropriations, to do exactly what this committee recommended, to do exactly what the Committee on National Security yesterday had recommended, and that the gentleman from Pennsylvania (Mr. MURTHA) talked about. That was to fund a solution to this emergency, unavoidable expenditure that confronts us.

□ 1130

And so the gentleman from Louisiana (Mr. LIVINGSTON), chairman of the Committee on Appropriations, in conversation with the Speaker, agreed to recommend this. And the Republicans and Democrats in the Committee on Appropriations voted these bills out.

But lo and behold, there are some who would say, no, this is not an emergency, we will wait; just like with the BESTEA bill, that we are going to fund this at a later date. Ways and means to be announced. Vote with us now on faith.

Madam Speaker, we ought not to do that. We ought to reject this rule and we ought to go back to the drawing board. And, frankly, the Speaker and the chairman of the committee ought to again come to their conference and say the responsible thing to do is to make sure that we solve this problem, that we confront it honestly and we do it now. Now, if at some point in time later we want to fund that, we can do it. Nothing precludes that. The only thing that we are doing now is delaying the decision. We should not do that.

Madam Speaker, I regret that. And I want to say that the gentleman from Arizona (Mr. KOLBE), chairman of my subcommittee, and I agree on this. He believed this ought to be. I did not put it in. We do not have the votes on my subcommittee to put this in. It is 7-to-4 when we vote from a partisan standpoint and there was no dispute in the subcommittee, either from the seven Republicans or the four Democrats.

So I lament the fact that there has been some change because some Members of the Republican Conference felt this was not the way they wanted to proceed. That was not reflective of the Republican leadership of the Committee on Appropriations, nor for a period of time, at least, reflective of the Republican leadership of this House, including the Speaker.

Madam Speaker, I may speak at some greater length as well on this rule, because it is not just the Y2K problem that I think is unfortunate. And I want to say to the gentleman from Colorado (Mr. MCINNIS), I do not think the Committee on Rules made this determination, and I understand that as well.

Not that he would have disagreed with the solution that was effected; I do not mean to imply that. But I understand this decision was made by the leadership and not per se by the Committee on Rules, although the Committee on Rules obviously implemented in its rule that decision. So I do not quarrel with the Committee on Rules. I want to make that clear. What I quarrel with is the decision having been made to retreat from responsibly and immediately confronting this emergency situation.

Madam Speaker, I may also at some future time talk about the rule itself. I think, unfortunately, the rule did not do some of the things I think it should have. Other Members will discuss that, and perhaps in concluding a couple of minute remarks I will discuss those items as well.

Mr. MCINNIS. Madam Speaker, I yield 4 minutes to the gentleman from Kansas (Mr. TIAHRT).

Mr. TIAHRT. Madam Speaker, I thank the gentleman from Colorado (Mr. MCINNIS) for the generous amount of time he has yielded to me.

Madam Speaker, I want to rise today to support the rule and also to speak briefly about an amendment that I will offer to strike an amendment that was brought up in the full Committee on Appropriations last week and passed by a very narrow margin, a 28-to-26 vote.

The result of this amendment is that we are going to impose a Federal mandate on all insurance companies that contract with the Federal Employees Health Benefits. This Federal mandate that is now going to be imposed on health care coverage will cover all prescription contraceptive devices that are FDA approved.

This coverage is already available as an option for health care coverage for government workers, but today this bill mandates coverage which includes the following FDA approved drugs and devices: The pill, diaphragm, IUDs, Norplant, Depo-Provera and the Morning-After abortion bill. And some day it could include the latest abortion pill, RU-486.

Madam Speaker, it is important that Members understand that my amendment will not deny any Federal employee the opportunity to receive a full range of contraceptive devices currently allowed by the FDA. All my amendment will do is allow the Federal employees to continue the freedom that they now enjoy to choose the type of coverage that best meets their family's needs.

According to the Office of Personnel Management, every health care provider for Federal employees currently provides full prescription coverage for the pill, the predominant method of choice for women of childbearing age in this country. Furthermore, over 75 percent of all Federal employees currently have coverage which includes all FDA approved methods.

The only health care plans which specifically do not cover any contraceptive devices are Catholic health care plans, which are formed for that specific purpose for reasons of conscience. In other words, 10 percent of the Federal employees who do not have contraceptive coverage do so by choice. So, ironically, those who demand freedom of choice have, through this language, limited the choice through the current language.

Under the language the Catholic Federal employees will no longer have a choice. Instead, Catholics and others will be forced to choose between receiving no health care benefits or health care insurance or belong to a plan which provides services which they believe are wrong.

This past Monday, The Washington Post reported incorrectly that the CBO had determined that this Federal mandate would not cost additional Federal funds. However, the CBO has reversed their decision and has determined that there will be costs associated with this new mandate. Once again we learn there is no free lunch.

Madam Speaker, when this bill comes to the floor, we will hear advocates of this provision argue that this mandate is about providing "parity between the coverage of family planning services and the coverages of other types of basic medical care in private insurance policies." Yet by their very nature, we know that contraceptives are elective and not medically necessary. This is what choice and freedom is all about, allowing the consumer to choose the health plan that best serves their needs.

We will also hear the proponents say that this mandate is about a woman's right to choose. Unfortunately, this mandate has nothing to do about choice and everything to do about forcing Federal employees to pay for services they may not need or want, with the result being higher priced health insurance for every Federal employee.

The bottom line is this mandate limits consumer choice. It provides nothing that is not already available to every Federal employee. If we adopt this provision and vote down my amendment, Congress will be saying to Federal employees, "We know what you want, and we know what you need, and you have no choice because we are going to provide it to you." And, Madam Speaker, the American public is going to get stuck with the bill, as are Federal workers.

In addition to the CBO stating that this is a mandate that will cost additional money, so has the Health Insurance Association of America in a letter to the gentleman from New York (Chairman SOLOMON).

Madam Speaker, I have listed reasons why we should support my amendment, and regrettably what we have is language that says there is one size that fits all. It is a Federal mandate.

I would also like to recognize in closing that this provision was legislation on an appropriations bill, which goes against our normal rules and it is not supported by the proper authorizing committee.

Mr. MCINNIS. Madam Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Madam Speaker, I yield 7 minutes to the gentleman from Wisconsin (Mr. OBEY).

Mr. OBEY. Madam Speaker, I think we have a serious problem facing us in this House. I see frankly what appears to be the politics of intimidation being practiced on a broad scale.

First of all, we have seen the majority leadership try to intimidate the Congressional Budget Office into bending their numbers so that their budget estimates more neatly fit the political desires of the Republican majority in the Congress. That controversy is well-known. It has been reported in the newspapers.

We also have the politics of intimidation being practiced against the Federal Election Commission. We have the majority party trying to turn the Federal Election Commission, which is supposed to be the watchdog that keeps every politician honest, what they are trying to do in this bill is to say to the legal counsel of the commission, "If you are not careful, if you do not soft pedal what you are doing, if you do not play kissy-face with both parties, then one party is going to be able to block you from reappointment."

That is going to turn the Federal Election Commission into being even a less effective defender of the public interest than it is today.

Then we have an effort to intimidate the General Accounting Office. There was an amendment that a number of Members on that side of the aisle sought to have made in order to change the appointment of the Comptroller General from the President, where it has traditionally been, to the Congress, again because they wanted to send a message to the GAO that they did not like some of the investigations that the GAO was conducting.

Madam Speaker, now we have seen the Republicans who know the most about this computer problem, the Republicans on the Committee on Appropriations, the Republicans who are supposed to know the most about this problem, we have seen them bring to the House their recommendation that we include in the Defense bill and in the Treasury-Post Office bill the money that is needed so that this country does not have a range of super problems when our computers go out in the year 2000 and shut down our ability to send Social Security checks, shut down our ability to make certain this country is adequately defended militarily.

Yet what is happening? Now what is happening is, on the Defense bill yesterday and on this bill today, we now have a new call by the Republican leadership which says, "Take the money out, boys." And we do not see a single Republican who took the action that was necessary in the first place now coming to the floor to defend their original actions, and wonder why.

And then I notice an article in Roll Call which says, in the June 22 edition, quote, "House Speaker Newt Gingrich was one of the first Republicans to sign a petition demanding that the congressional Republicans punish high-ranking GOP Members who team with Democrats on certain votes."

Now that sounds like intimidation to me. I am wondering whether that does not in fact explain why many of the Republicans who are the most knowledgeable on this issue, and know that this money ought to be in this bill to solve this computer problem, I am wondering if that does not explain why they are not coming here to the floor. I am wondering whether the thought police in this town are winning the argument once again.

The fact is this is the most serious mechanical problem faced by the government. I do not want to be around when Russians watching their computers in the year 2000 see their computers go blank and wonder whether America was responsible. I want to know whether they are going to understand that this is simply because of a computer accident. And I want them not to believe that somehow there is some game going on that requires them to urge that somebody push some buttons.

Madam Speaker, this is a very serious problem for our defense posture. It is a very serious problem for every person in America who expects the FAA to be able to regulate air traffic.

□ 1145

I, for the life of me, cannot see why this money is being taken out of this bill.

Some Members say: "well, it ought to be offset." I think it is the height of arrogance for Members of Congress to assume that God ought to have to comply with the budget process. There are going to be natural disasters that are emergencies, whether Republican or Democratic Members of Congress like it or not. And there are going to be other actions that are taken, such as computer companies screwing up computers which they sell to the government, which require us to take action without following the niceties of the Budget Act.

With all due respect, the nice, neat, green eyeshade accounting principles that govern the budget process are not nearly as important to this country as knowing that we can deliver quality service, deliver people's Social Security checks on time, protect the military interests of the United States effectively and do all the other things the government is supposed to do with the aid of these technological machines.

I think the gentleman from Maryland is exactly right. This rule is wrong. It ought to be defeated.

There are a number of things in the rule that I think are reasonable, but this is certainly not one of them. If we are interested in solving problems rather than having more political posturing, we will vote this rule down and allow the Republican majority on the Committee on Appropriations, who did the right thing the first time, to do what they know is right.

Mr. McINNIS. Madam Speaker, I yield myself such time as I may consume.

I should point out to the gentleman from Wisconsin (Mr. OBEY), who has probably the most partisan remarks we have heard yet this morning, not out of habit, but, again, we are trying to pass this open rule on a nonpartisan basis, and we protected one of the gentleman's amendments. He fails to mention that.

Second of all, anytime someone seems to question the position of the gentleman from Wisconsin (Mr. OBEY), it seems to elevate itself from a question to a level of intimidation. It is not intimidation. It is part of the checks and balances. Members ought to ask questions around here. He is not immune from those kind of questions.

Madam Speaker, I yield 6 minutes to the gentleman from Arizona (Mr. KOLBE), who is our in-house expert who can talk with some substance about the Y2K problem.

Mr. KOLBE. Madam Speaker, I thank the gentleman for yielding me the time.

I want to say that I rise in support of this Rule, open rule for the consideration of H.R. 4104, which is the fiscal year 1999 Treasury and general government appropriations bill.

I want to pay tribute to the Committee on Rules for crafting a Rule that I think is fair to everyone. I want to pay tribute to my ranking member, the gentleman from Maryland (Mr. HOYER) for the good work that he has done on the bill, and I will have more to say on that when we come to the consideration of the legislation.

I listened with interest to the debate that we had on the Rule yesterday on the National Security appropriations bill, and I have listened today to the debate that we have had, particularly the remarks of the gentleman from Wisconsin (Mr. OBEY).

With all due respect to my colleagues on the other side of the aisle, I think they have the facts wrong here. The rhetoric is nothing more than an attempt to shift the blame for the vulnerable state of the Federal computer systems and put it in the laps of the Republican Congress. I think that if there is blame, and I think there is some, I think it rests very clearly with the Administration.

Let us be clear about this. Our bill included $2.25 billion for the unanticipated emergency requirements of ensuring Federal information technology systems will be compliant with the requirements of the Year 2000. By the rule, that will be taken out. The fact that it is going to move in a separate vehicle, in my opinion, is really a nonissue. The money is going to get to the Federal agencies. It is going to get there in a timely fashion. There is no one on either side of the aisle that does not understand that we have to have the money to make sure our Federal agencies are ready—whether we are talking about defense with its mission-critical issues, or whether we are talking about the FAA with its mission-critical issues, or whether we are talking about the Social Security Administration and the Financial Management Administration to make sure that the checks go out on time and the bills get paid on time, or whether we are talking about something as simple as the Congress to make sure the elevators move on January 1, 2000. We all understand that we have to do this. We are going to make sure that the money is there.

The fact is, the Administration has consistently low-balled the true costs of the fiscal year 2000 efforts. In May of 1997, the Administration told us it would cost $2.8 billion governmentwide to make Federal information systems compliant for the year 2000. The estimate has been rapidly going up. They now tell us it is going to cost $5 billion. The reality is the Administration does not really know how much it will cost. And that may be fair. We do not really know. But they have not been aggressive enough, in my opinion, in their oversight. And that is part of the reason we do not know the cost; they have not been aggressive enough in their assessment of agency progress on this issue.

Governmentwide, the Administration has requested only $1.3 billion in fiscal year 1999 for the Y2K issue. They are asking agencies to absorb the cost within their regular appropriations. Now we are told that $1.3 billion just is not going to cut it. We know that the Department of Treasury is working on a budget amendment and anticipates that they will need an additional $100 million. I know that because Treasury comes under the purview of my subcommittee.

For the Department of Treasury, the Administration has been asking for Y2K money bit by bit; the fiscal year 1998 supplemental included $174 million. This was on top of the $419 million made available through the regular appropriation bill.

The Administration has displayed what I think is a real lack of urgency and attention to this issue. This should not be a partisan issue. I do not intend to make it a partisan issue. I want to knock somebody over the head to get their attention down there and make sure that we are giving this issue the kind of attention that it needs. It is not being given the attention that it needs.

Up until the appointment of a Y2K coordinator in February of this year, 22 months prior to the time that the drop-dead date occurs, there has been no centralized Federal management structure in place to coordinate policy and oversight across agencies. There has been no coordinated management of this issue despite the fact that some agencies, going back as far as the Social Security Administration in 1989, recognized the seriousness of this problem and began to put some effort in to addressing it. But there has been no centralized, no coordinated effort. There will be other speakers who can speak even more directly to this, such as the gentlewoman from Maryland (Mrs. MORELLA) who has been very engaged in the oversight of this critical issue.

Madam Speaker, the fact is, Republicans have acknowledged that Y2K is a true emergency. We are being up front. We are declaring it just as that. We are going to put it into a supplemental appropriations bill. And whether we offset it or whether we do not offset it is a decision that can be made by this body and by the Senate at a later time. There are those who will argue it ought to be offset, that agencies should have seen this coming. They should have provided enough contingency funding for this. They should reduce other things. There are others who say this is a one-time shot, it is a true emergency, and it really should be paid for with the budget surplus.

There are good arguments on both sides. That is something that this body can debate and we can decide upon. But it is appropriate that we do it in a supplemental appropriation bill.

So we are not going to appropriate the money bit by bit. We need to provide this money up front and make it available as soon as possible. That means it has to be made available at the beginning of the next fiscal year. I believe that is the responsible way to proceed, and I believe that putting it into a separate supplemental emergency appropriation bill is the right way to go.

I support this rule which in every other way, I think, it meets the needs of all the Members on both sides of the aisle in terms of protecting legislative items that are in H.R. 4104 and giving opportunities to offer amendments.

I support this rule.

Ms. SLAUGHTER. Madam Speaker, I yield 1 minute to the gentleman from Wisconsin (Mr. OBEY), ranking member on the Committee on Appropriations.

Mr. OBEY. Madam Speaker, let us talk about who is being partisan.

The fact is that when there was a vote in the committee to take this money out, 16 Republicans correctly voted against it, a majority. We are simply asking that we stick to that position on this vote.

Secondly, I would point out, if you want to attack the administration, if you look at their budget on page 253, you will see that in addition to the $1.2 billion which the administration asked for on an agency-by-agency basis to deal with this problem, the administration also has $3.25 billion set aside for contingencies, a major piece of which was supposed to be to deal with additional computer problems.

I would point out that also the subcommittee, the leadership of the gentleman from Arizona (Mr. KOLBE) cut $400 million from the specific agencies in his bill because he was going to be providing the $2.5 billion in another way. Now you are going to have both of those numbers gone. That leaves this country naked in dealing with this problem.

Mr. McINNIS. Madam Speaker, I yield 3 minutes to the gentleman from Alabama (Mr. CALLAHAN).

Mr. CALLAHAN. Madam Speaker, I rise in support of the rule.

My intention today is not to in any way delay the implementation of this rule, because it is a good rule, and we should adopt it to get to the issue. However, I want to fire a warning shot across the bow of this bill because if, indeed, Customs does not do their statutory requirement, and that is exercise the law on the Canadian softwood lumber agreement, I intend to solicit the assistance of the Forestry 2000 Task Force members, which there are over 100 of us in this Congress, to vote against the final passage of this bill unless Customs does what they are supposed to do under the law.

We negotiated a free trade agreement with Canada. The Canadians found a loophole in a rule that Customs implemented. Since that time Customs has recognized their error and has published a revocation of that rule, an explanation of it.

What the Canadians are doing now, even though they have an agreement and a quota of Canadian lumber coming to the United States, they found if they drill a pinhole in a piece of lumber, that it gives them the authority to ship as much lumber to this country as they want to because of a ruling, not a treaty, but because of a ruling by Customs which Customs admits is wrong, yet refuses to implement their own revocation of the decision that they made.

This is costing American lumber companies a million dollars a day. During this recess we are going on, it is going to cost $15 million. So while the rest of the country is experiencing a great economic prosperity, the lumber mills are just about to the position where they are going to have to close because of this unfair situation that is taking place.

My mission here today is to tell this committee, to tell this House and to tell Customs, if they do not implement the provisions according to the law, if they do not implement it by the time this bill comes to the floor, then I am going to encourage my colleagues to vote against this entire bill because this is an atrocity that has been placed upon people in Arizona. When George Wallace ran for President he said he wanted to stand up for the people of America. Well, I am here today standing up for the people of Alabama and also for the people of Arizona and for the people of Kansas and the people all over this country who are experiencing an unfair situation simply because Customs will not obey the law.

I want to support this bill. It has many good provisions in it. I want to support Customs because they do a lot of good things. But we have a few bureaucrats that are holding up the ability of American lumber manufacturers to be able to continue to survive in this period of prosperity.

I hope Members will pass this rule today, but I am here to tell my colleagues, if the bill comes up today or if it comes up the day we get back, I intend to filibuster this thing by using the five-minute rule, getting the 100-plus members of the Forestry 2000 Task Force to indeed support me in the effort.

Ms. SLAUGHTER. Madam Speaker, I reserve the balance of my time. I believe I have 11 minutes remaining.

The SPEAKER pro tempore (Mrs. EMERSON). The gentlewoman is correct.

Mr. MCINNIS. Madam Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Madam Speaker, may I inquire how much time the gentleman from Colorado has remaining?

The SPEAKER pro tempore. The gentleman from Colorado (Mr. MCINNIS) has 10 minutes remaining.

Mr. MCINNIS. Madam Speaker, I reserve the balance of my time.

□ 1200

Ms. SLAUGHTER. Madam Speaker, I yield 3½ minutes to the gentleman from Maryland (Mr. HOYER).

Mr. HOYER. Madam Speaker, I thank the gentlewoman for yielding to me.

Madam Speaker, there has been a suggestion that the administration did not exercise its responsibilities with respect to the Y2K problem. The gentleman from Wisconsin (Mr. OBEY) has pointed out that that included the total of about almost $5 billion for emergency and contingency spending in their budget, that $1.2 billion was specifically requested for Y2K, and that another $3.25 billion was requested for Bosnia contingency spending and also Y2K.

That is not described, so neither I nor anybody else can specifically say what figure one can apply. But the fact is the administration, as all governments and all private sectors, has been working this issue very hard.

But the issue is not who is to blame: Did the Reagan administration or the Bush administration or the Clinton administration purchase incorrect hardware or software. In fact, we had a hearing before the Committee on House Oversight that the new leadership, Republican leadership, came in and bought some new computerware in 1995, which is outdated. We are going to have to replace them. That is because technology is moving very quickly.

This is not to blame anybody. It is to say that that decision is in error, recognized in error yesterday before the committee in testimony by the administrator. With no criticism of that, we need to move on to make sure that, technologically, we can handle our information systems properly.

The fact of the matter is, the point we are making on this rule is that we have some 40 days, 40 legislative days left. We have not done much in this Congress to date. Everybody observes that. We have 40 days left. This country is confronted with an emergency. Everybody recognizes that on both sides of the aisle. There is no dispute about that. There is an emergency.

The dispute is whether we delay confronting that emergency. The Committee on Appropriations said no. The Subcommittee on the Treasury, Postal Service, and General Government said no.

Let us address it now. Let us deal with this issue now. Let us responsibly say we are going to fund the solution and not delay. That is what this dispute is about.

You can go all you want and say, oh, well, it was the other guys, point fingers, and it was somebody yesterday or the day before or the day before that that caused this problem. What you cannot, however, say is that there is not an absolutely essential need for us to respond.

My distinguished chairman, the gentleman from Arizona (Mr. KOLBE) said, well, we can delay and we can decide later in a supplemental as to how we pay for it or we do not pay for it, whether it is emergency or not. That sounds good, but all of us know that the longer this is delayed, the longer agencies cannot plan for dollars available, the more problematic becomes the solution. As the gentleman from Missouri (Mr. GEPHARDT) likes to quote Ed Harris as saying in Apollo 13, "In this instance, failure is not an option."

This rule puts at risk solving this problem. It does not preclude it. I understand that. But it puts it at risk unnecessarily. This is an emergency. Far too often, frankly, in the last 3 years we have found emergencies by tornado, by flood, by other devices; and we have delayed the solution to the detriment of those who were injured. We ought not to do that in this instance.

Mr. MCINNIS. Madam Speaker, first of all, I would note to the gentleman, hang around until 5 o'clock this evening, and we are going to pass the IRS reform which is the most major piece of reform. We are doing something today. It is going to be a very significant day.

Madam Speaker, I yield 3 minutes to the gentlewoman from Maryland (Mrs. MORELLA).

Mrs. MORELLA. Madam Speaker, I thank the gentleman for yielding the time.

Madam Speaker, I just wanted to set the record straight. I wanted to set the record straight in terms of the fact that we all know that on January 1 in the year 2000, we will launch the mother of all computer glitches which we hope will be remedied.

Congress, I want to affirm to my friends, Congress has been working on this problem for over 2 years in a bipartisan way. I chair the Subcommittee on Technology of the Committee on Science. The gentleman from California (Mr. HORN) chairs the appropriate subcommittee of the Committee on Government Reform and Oversight.

We have alerted our other colleagues who chair and who are ranking members of other committees to have hearings. We have had more than 26 hearings on this one issue.

Let me suggest that it was in February of 1997 that the estimate of remedying the Year 2000 computer glitch was estimated at $2.3 billion for its entirety. It has now gone up to, in May of this year, it has gone up to $5 billion. I would submit that even that is not going to be enough.

We heard debate yesterday about why it was not in the DOD bill, today why it is not in Treasury-postal. It is because we know, by virtue of the hearings that we have had, by virtue of the quarterly reports we have required from agencies where they give a national strategy and milestones, now we are going to require monthly, we know that this money is going to be requested of each agency. We want to put it together so we can look at a supplemental appropriation for the Y2K problem.

Please do not think it will be delayed. It cannot be delayed. It will be part of the appropriations process. But we are putting it all together.

I just want to point out again how it has escalated, why there is the need for it, and the fact that Congress has put into the bills, and Treasury-postal has been a wonderful opportunity for us to, through the years, put within that bill the requirement that we have a national strategy and the requirement that agencies will respond to and that no information technology can be purchased if it is not totally compliant.

So I and the administration are aware of the problem, although we had to go to them to come out with an Executive order, to use the bully pulpit, and I think more can be done, and to appoint a Year 2000 czar. John Koskinen is working very hard. Sally Katzen is the vice chair.

We must move together. The American people demand it. All of our utilities, all of our agencies, the interoperability concept make it all so very important.

But, please, I want the American people to know that Congress has been working on this issue. We will have enough money to solve it. We have been in the lead in terms of making sure that it is remedied.

Ms. SLAUGHTER. Madam Speaker, I yield such time as he may consume to the gentleman from Maryland (Mr. HOYER).

Mr. HOYER. Madam Speaker, I thank the gentlewoman for yielding to me, and I certainly am not going to use the balance of the time that remains.

The gentlewoman from Maryland is correct. Everybody has observed that this problem is coming. She also made, I think, a very valid point. The cost of the solution has escalated over the last 12 months, and I would say even over the last few months.

My point that I made before is this has happened in the private sector and the public sector. The reason for that is that the scope of the problem was not contemplated. There are computers in almost everything we use, including our automobile as we drive down the street, which apparently also has this glitch built into a number of the chips that control many of the systems in the automobiles. That is how complicated this system is.

The Committee on Appropriations, I say to my friend from Maryland, did contemplate that. We have taken, as the gentleman from Wisconsin (Mr. OBEY) said, $400 million out of the IRS. I say to my friend, the gentleman from Colorado, who got up and said we are going to pass an IRS reform bill today, it is an IRS reform bill with some tax provisions in it which are going to change the Tax Code. We are going to have to have computers amended. It is the same thing we do, on the one hand, we say reform; but on the other hand, we complicate the code.

But that aside, I will tell my friend, the gentleman from Colorado, if we do not do this emergency fix of the Y2K problem, IRS reform bill or not, IRS is going to crash in 2000, period. Then there will be no funds to do anything in the Federal Government, whether it is emergency or nonemergency, defense or domestic, Social Security, or Medicare.

All of those are going to come crashing down around America's head. They will not want to hear, very frankly, oh, well, we delayed. We washed our hands and said we are going to do it later. If it was going to be done later, it should have been done. We have heard a lot about later.

The gentleman from Louisiana (Mr. LIVINGSTON), the Speaker, all agreed some weeks ago that this was going to be an emergency and that we needed to fund it through emergency funding. They recommended that. The committee adopted that.

As the gentleman from Wisconsin (Mr. OBEY) pointed out, there were only 16 members of a 54 member committee that did not vote for that. Think of that. That is a pretty overwhelming bipartisan determination by the Committee on Appropriations that has the responsibility to make sure that we address this emergency to fund it.

We are now retreating from this; not retreating from it in the Committee on Appropriations. The Committee on Rules took it upon itself to strike it from the defense bill.

This is not a liberal/conservative issue. The gentleman from Pennsylvania (Mr. MURTHA) was up here on behalf of defense, one of the strongest advocates of defense in this Nation, saying this was a problem. He urged that we defeat the last bill specifically for that reason.

I am urging that we defeat this rule for the same reason that the gentleman from Pennsylvania (Mr. MURTHA) urged that we defeat the defense bill rule. I do not think we are going to do that. I understand that. I think the other side of the aisle has determined in a unanimous way that they are going to vote for this rule.

There is nothing I can do about that other than bring to my colleagues' attention that this does, in fact, place at risk solving what is one of the most critical problems confronting our government today, was recognized as an emergency, is an emergency.

The gentlewoman from Maryland and I agree it is an emergency. We have got to address it. Lamenting the fact, however, that we have today said that we are going to pass IRS reform, but we are going to delay to some other day solving the emergency situation of the computer glitches that will occur in the Year 2000, thus placing at risk the very IRS reform procedures that we are going to adopt later today.

I urge the House to reject this rule so that the Committee on Rules can go back, there can be a reconsideration, calmer and cooler heads can prevail, and then we can move ahead with solving this Y2K problem.

Ms. SLAUGHTER. Madam Speaker, I yield back the balance of my time.

Mr. MCINNIS. Madam Speaker, I yield myself such time as I may consume, especially in consideration of the remarks made by the gentleman over there who, at times, tends to drift from substance to partisanship.

Nobody on the Republican side said we ought to do this later. We heard from the gentleman from Arizona (Mr. KOLBE). We heard from the gentlewoman from Maryland (Mrs. MORELLA). There are a lot of people over here who have a pretty good understanding of this issue and who are focusing a lot of resources on that.

The difference between you and the difference between me is the gentleman wants to do it; we want to do it right. That is exactly what is going to occur here.

No one is saying do not fund this thing. We heard the chairman, or if you did not hear the chairman from the Committee on Appropriations, the gentleman from Louisiana (Mr. LIVINGSTON), he was here, he addressed that issue.

I take issue with the fact that my colleagues stand up here and say, well, Republicans want to do this later. They do not realize it is an emergency. You would have to have fallen off the swing twice on your head to figure out this is not important. Clearly, it is important. Clearly, we have an understanding of the Year 2000.

I am not sure the administration understands the importance of this. But in these Chambers, I think both sides understand the importance of this, and that is why it is receiving the priority. It is going to get the funding. It is getting the kind of attention it needs. We have some of our very best minds, as reflected by the gentlewoman from Maryland (Mrs. MORELLA) and the gentleman from Arizona (Mr. KOLBE) working on this.

So the gentleman is out of line, in my opinion, when he says, well, we are waiting till later. Again, the difference between that side of the aisle, the Democrats who want to do it, and this side of the aisle, is that we want to do it right. Madam Chairman, I urge the passage of the rule.

Mr. HALL of Ohio. Madam Speaker, this rule protects from a point of order a provision that would remove the U.S. Postal Service as the American representative to the Universal Postal Union and substitute the U.S. Trade Representative (USTR). The Universal Postal Union oversees the functioning of the international mail system.

Without the special protection of this rule, the provision violates the House rule against legislating in an appropriations bill. I believe the Rules Committee was wrong in granting a waiver for this ill-advised provision.

The USTR does not want the job and is not qualified for the job. The USTR fears that the new responsibilities would interfere with its principal mission of administering U.S. trade policies.

The State Department believes that the U.S. Postal Service is the proper agency to represent the United States because only the Postal Service has the necessary specialized expertise in mail operations.

Mr. GILMAN, the chairman of the House International Relations Committee, has concerns about the change because the USTR is not able to manage the new responsibility.

This provision is opposed by major businesses which depend on the mail system such as L.L. Bean, the J.C. Penney Company, Land's End, the Magazine Publishers of America, the Direct Marketing Association, Hammacher Schlemmer, and the Parcel Shippers Association.

It is opposed by the National Association of Letter Carriers, National Rural Letter Carriers Association, National Association of Postal Supervisors, National Association of Postmasters of the United States, National League of Postmasters, and American Postal Workers Union.

In fact, there is a question as to whether the Universal Postal Union would even accept the USTR as a member, since the regulations of the Universal Postal Union require representatives to be a "qualified official of the Postal Administration" of the member country and representatives to the organization's governing body must be "competent in postal matters."

For the benefit of my colleagues, I submit for the RECORD a letter from Susan G. Esserman, Acting U.S. Trade Representative; a statement from the State Department; a letter from BENJAMIN A. GILMAN, chairman of the House International Relations Committee; and a statement from the Coalition in Support of International Trade and Competition.

EXECUTIVE OFFICE OF THE PRESIDENT, THE UNITED STATES TRADE REPRESENTATIVE,
Washington, DC.

Hon. ROBERT LIVINGSTON,
Chairman, House Appropriations Committee,
U.S. House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: This letter states our disappointment with the approval yesterday of an amendment which would transfer responsibilities from the U.S. Postal Service to the U.S. Office of the U.S. Trade Representative (USTR) to represent the United States at meetings of the Universal Postal Union (UPU). We continue to oppose this amendment.

Our view is that assuming this responsibility would be a very substantial undertaking for our small agency, whose major activity is to formulate trade policy and negotiating strategies and to represent the United States in trade negotiations. The entire staff of the agency is about 180, including clerical and support staff.

USTR has no expertise in postal administration and lacks the capability of dealing with operational aspects of the international exchange of mail and the setting of rates for international mail and settlement rates with other countries for the carriage of unequal volumes of mail. I understand the UPU handles a wide range of issues related to international mail, such as security, mail fraud, hazardous materials, and financial management. These matters are well outside USTR's expertise.

USTR's Service unit, which would have to assume this function, is preparing to engage in major new international trade negotiations that are of great importance to all U.S. services industries, including the delivery services industry. These rapidly approaching negotiations will occur in the World Trade Organization, bilaterally with the European Union, in the Free Trade Area of the Americas negotiation and in the Asia-Pacific Economic Cooperation forum. To meet these responsibilities, USTR will be required to pull away resources from preparations and involvement in these broader services negotiations affecting $258 billion in exports in services.

Please feel free to contact me if I can be of further assistance.

Sincerely,

SUSAN G. ESSERMAN,
Acting.

STATE DEPARTMENT POSITION ON NORTHUP DRAFT AMENDMENT TO THE TREASURY/POSTAL APPROPRIATIONS BILL

BACKGROUND

The United States Postal Service (USPS) represents the United States on subjects relating to international mail services, and ensures that our obligations under international treaties and conventions are carried out. The USPS is authorized by law (39 U.S.C. 407) to negotiate and conclude postal treaties or conventions with the consent of the President. The Postal Service currently heads U.S. government delegations to meetings of the Universal Postal Union (UPU), which oversees the functioning of the international mail system, and fills the post of U.S. Representative. The State Department actively participates in these delegations. The Department of State and the USPS work together closely to ensure coordination between policies on international postal issues and our broader foreign policy goals.

DEPARTMENT OF STATE POSITION

As the only U.S. entity with the necessary specialized expertise in all aspects of international and domestic mail operations, the USPS is the proper agency to represent the United States in negotiating and concluding international conventions and treaties on postal matters.

UPU practice and regulations virtually mandate USPS leadership on U.S. delegations. UPU regulations require that any Representative to the UPU Postal Operations Council be a "qualified official of the Postal Administration" of the member country. Similarly, Representatives to the UPU Council of Administration, the organization's governing body, must be "competent in postal matters." In practice, all other UPU member country delegations to UPU bodies are headed by postal officials from the member countries.

Responsibility for the conduct of international postal services and UPU representation would be misplaced with the Department of State or with any other federal agency. The Department of State conducts United States foreign policy. The UPU is a specialized agency of the United Nations responsible for coordinating the exchange of mail between all of the countries of the world; it is not a foreign policy body as such.

The State Department does not have the detailed subject expertise nor the substantial personnel and support resources required to properly represent U.S. interests in the UPU. A look at the agenda of the April 1998 UPU Postal Operations Council—which included, inter alia, postal security, philately development, the direct mail advisory board, postal accounting, quality of service, and terminal dues sessions—underlines the fact that the USPS is the only U.S. entity capable of adequately representing U.S. interests with regard to the full range of UPU agenda items.

Finally, we note that the requirement in proposed Section 407 (a) raises serious constitutional concerns. The negotiation and conclusion of treaties and international agreements, including the content of such instruments, is a Constitutional responsibility vested solely in the President, and is therefore an area in which Congress may not intrude.

LEVEL PLAYING FIELD

Without resorting to new legislation, mechanisms exist to ensure that government and private sector interests are factored into any policies, or conventions on international mail services. State, Commerce, USTR and the Postal Service participate in an interagency process which can examine competing demands and make decisions based on maximum benefit to all parties, including private mail carriers.

USPS hosts meetings with representatives of the private sector to brief on UPU activities and get industry input for its policy formation (the most recent of these meetings was held on April 14, 1998) and State, Commerce, USTR and USPS participate in the interagency process when needed to discuss international mail issues.

SUMMARY

The Department of State believes the U.S. Postal Service is the most appropriate representative for the United States government in the Universal Postal Union, and it appears to us that sufficient mechanisms exist currently to ensure coordination of U.S. policy and the interests of other US government agencies and private industry under USPS leadership.

HOUSE OF REPRESENTATIVES, COMMITTEE ON INTERNATIONAL RELATIONS,
Washington, DC, June 22, 1998.

Hon. JERRY SOLOMON,
Chairman, Rules Committee, Washington, DC.

DEAR JERRY: I am writing regarding the Treasury Postal Appropriations bill for FY99. The bill contains an amendment offered by Representative Northup that revises how international postal service negotiations are conducted.

I have strong concerns about this provision, and the assigning the USTR with the broad responsibility for "the formulation, coordination, and oversight of foreign policy related to international postal services . . .". The USTR is not responsible for the conduct of US foreign policy. Moreover, this provision would dramatically change the way in which postal issues are managed in international fora and raises questions as to the rules governing the Universal Postal Union. It is my understanding that the UPU Postal Operations Council requires that a representative be a qualified official of the Postal Administration. The governing body of the UPU Council of Administration requires the representative to be competent in postal matters. This raises the question as to whether the USTR has the capacity to manage this new portfolio.

I would urge the Rules Committee not to waive points of order with respect to this provision.

With best wishes.

Sincerely,

BENJAMIN A. GILMAN,
Chairman.

COALITION IN SUPPORT OF INTERNATIONAL TRADE AND COMPETITION,
June 23, 1998.

To the Members of the Committee on Rules:

The members of the COALITION IN SUPPORT OF INTERNATIONAL TRADE AND COMPETITION, listed below, strongly urge the Committee on Rules *not* to waive points of order against the amendment on International Postal and adopted by the Committee on Appropriations, Arrangements offered by Rep. Ann Northup included in the Treasury-Postal appropriations bill under consideration today as well as any changes to the amendment Rep. Northup desires to make.

The amendment would place all international postal negotiations and representation under the U.S. Trade Representative rather than the Postal Service. The USTR has opposed this amendment, and we believe that passage could be very harmful to our international postal services and the business that use them.

Advertising Mail Marketing Association, Washington, DC.

American Postal Workers Union, Washington, DC.

Ballard Designs, Atlanta, GA.

L.L. Bean, Freeport, ME.

Current, Inc., Colorado Springs, CO.

Damark International, Inc., Minneapolis, MN.

The Direct Marketing Association, Washington, DC.

Fingerhut Companies, Inc., Minnetonka, MN.

Frontgate, Lebanon, OH.
Garnet Hill, Lebanon, NH.
Hammacher Schlemmer, Chicago, IL.
J.C. Penney Company, Plano, TX.
Land's End, Dodgeville, WI.
Magazine Publishers of America, Washington, DC.
Mail Order Association of America, Washington, DC.
National Association of Letter Carriers, Washington, DC.
National Association of Postal Supervisors, Alexandria, VA.
National Association of Postmasters of the United States, Alexandria, VA.
National League of Postmasters, Alexandria, VA.
National Retail Federation, Washington, DC.
National Rural Letter Carriers Association, Arlington, VA.
Parcel Shippers Association, Washington, DC.
Performance Data TransUnion Corporation, Chicago, IL.
Territory Ahead, Santa Barbara, CA., TravelSmith, Novato, CA.
Whispering Pines, Fairfield, CT.

Mr. McINNIS. Madam Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore (Mrs. EMERSON) announced that the ayes appeared to have it.

Ms. SLAUGHTER. Madam Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I, further proceedings on this resolution will be postponed until later today.

The point of no quorum is considered withdrawn.

PERSONAL EXPLANATION

Mr. GREEN (during consideration of H. Res. 489). Madam Speaker, on Thursday, June 18 and Friday, June 19, I was unavoidably detained in my district working on the House that Congress Built Project.

Had I been present I would have voted "yes" on rollcall 242; "no" on rollcall 243; "no" on rollcall 244; "yes" on rollcall 245; "no" on rollcalls 246, 247, 248 and 249; and "yes" on rollcalls 250 and 251.

☐ 1215

PROVIDING FOR CONSIDERATION OF H.R. 4112, LEGISLATIVE BRANCH APPROPRIATIONS ACT, 1999

Ms. PRYCE of Ohio. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 489 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 489

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 4112) making appropriations for the Legislative Branch for the fiscal year ending September 30, 1999, and for other purposes. The first reading of the bill shall be dispensed with. Points of order against consideration of the bill for failure to comply with clause 2(l)(6) of rule XI, clause 3 or 7 of rule XXI, or section 401 of the Congressional Budget Act of 1974 are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations. After general debate the bill shall be considered for amendment under the five-minute rule and shall be considered as read. Points of order against provisions in the bill for failure to comply with clause 2 or 6 of rule XXI are waived except as follows: page 10, line 1 through line 10. No amendment shall be in order except those printed in the report of the Committee on Rules accompanying this resolution. Each amendment maybe considered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, and shall not be subject to amendment. All points of order against amendments printed in the report are waived. The chairman of the Committee of the Whole may: (1) postpone until a time during further consideration in the Committee of the Whole a request for a recorded vote on any amendment; and (2) reduce to five minutes the minimum time for electronic voting on any postponed question that follows another electronic vote without intervening business, provided that the minimum time for electronic voting on the first in any series of questions shall be 15 minutes. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore (Mr. LAHOOD). The gentlewoman from Ohio (Ms. PRYCE) is recognized for 1 hour.

Ms. PRYCE of Ohio. Mr. Speaker, for the purposes of debate only, I yield the customary 30 minutes to the gentleman from Texas (Mr. FROST), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 489 is a structured rule providing for the consideration of H.R. 4112, the fiscal year 1999 Legislative Branch appropriations bill.

At the outset, I would like to commend the gentleman from New York (Mr. WALSH) and the gentleman from New York (Mr. SERRANO) for their bipartisan efforts to produce a good bill which continues our efforts to create a smaller, smarter government and to lead by example.

For instance, H.R. 4112 scales back employment in the Legislative Branch by eliminating 438 positions. The bill continues efforts to reduce redundancy and inefficiencies by preparing for the closure of the Joint Committee on Printing.

That said, some of my colleagues may point out that this bill actually provides for a slight increase in spending over last year's level. However, taken in the context of our progress over 4 years, it contributes to an overall savings of $575 million in Legislative Branch spending under this majority. In fact, since 1994, over 15 percent of the Legislative Branch has been downsized.

The rule before us will provide an opportunity to acknowledge this good work and debate what more we can do to improve the operations of this institution.

Specifically, the rule provides for 1 hour of general debate equally divided between the chairman and ranking member of the Committee on Appropriations. Under the rule, clause 2(l)(6) of rule XI is waived as are clause 3 and 7 of rule XXI. In our hearing yesterday, the Committee on Rules heard no objection to these provisions which are designed to facilitate consideration of this bipartisan bill.

The rule also waives section 104 of the Budget Act which is necessary to provide for the salary of the Director of the Congressional Research Service. In addition, this waiver will protect provisions in the bill that address severance pay and early retirement for employees of the Architect of the Capitol as well as voluntary separation incentives for employees of the Government Printing Office.

Further, clause 2 of rule XXI which prohibits unauthorized appropriations or legislative provisions in a general appropriations bill is waived, as is clause 6 of rule XXI which prohibits reappropriations in a general appropriations bill. However, these waivers do not apply to section 108 of the bill. Section 108 allows the House to participate in State and local government transit programs which encourage employees to use public transportation. This is an idea that has merit which is evidenced by the bipartisan support it has gained as a freestanding bill. There are many private businesses as well as government agencies which compensate employees for part of their public transportation expenses. There is no reason the House should not consider affording the benefit to its employees. However, the Committee on Rules believes it is wiser to allow this change in House policy to run through the normal channels of committee consideration rather than add it on to a spending bill.

Under the rule, the two amendments printed in the Committee on Rules report are the only ones made in order for House consideration. These amendments, both offered by Democrat Members, address the important issues of recycling and energy conservation. I know that many of my colleagues on both sides of the aisle are interested in these issues. In fact, a number of us have developed office policies to encourage such efficiencies. But there is much more we can do as an institution to improve upon these efforts and it makes sense to do these things in terms of fulfilling both environmental and fiscal responsibilities.

Under the rule, these amendments may be offered by the Democratic Members designated in the Committee on Rules report, are not subject to amendment, and shall be debatable for 10 minutes each, equally divided between a proponent and an opponent. All points of order against the amendments are waived.

To provide for speedy and orderly consideration of the Legislative Branch appropriations bill, the Chairman of the Committee of the Whole may postpone and reduce votes to 5 minutes as long as the first vote in any series is 15 minutes. Another opportunity to change the bill exists through a motion to recommit, with or without instructions.

Mr. Speaker, there is more in the Legislative Branch appropriations bill than salaries and expenses for Members of Congress and their staff. The spending in this bill also serves the thousands of Americans who visit their Nation's Capitol each year to witness democracy in action. This bill provides the funding which preserves the Capitol building and the grounds of the Capitol for enjoyment of all our Nation's visitors. And it is this legislation that supports the hard work and dedication of our Capitol police force who keep our Capitol and the surrounding neighborhoods safe for visitors and residents alike.

I am also pleased to report that through this appropriations bill, we will support the ongoing efforts to examine the art work in the Capitol with an eye to how it can better represent the contributions and accomplishments of American women throughout our Nation's history.

Mr. Speaker, the bottom line is that this is a fair rule which the Committee on Rules reported by voice vote. The underlying bill is bipartisan and fiscally responsible. The subcommittee did an excellent job of allocating scarce resources while building upon the internal reforms we have adopted in recent years to improve congressional operations. I urge my colleagues to vote "yes" on the rule as well as the underlying legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, yesterday the Republican majority on the Committee on Rules refused to make in order an amendment to this rule which would have allowed the gentleman from Maryland (Mr. HOYER) to offer a sensible amendment to H.R. 4112, the Legislative Branch appropriations bill. For that reason, it is my intention to oppose the previous question on this rule. Should the House defeat the previous question, it will be my intention to offer an amendment to this rule which will allow for consideration of the Hoyer amendment.

Mr. Speaker, as Members know, at the beginning of the 105th Congress, the rules package of the Republican majority included an amendment to rule XI which created a new slush fund for committees to draw from for the expenses associated with the numerous investigations planned by the Republican leadership for this Congress. Subsequently, the Republican majority adopted a committee funding resolution which included, along with prior year unexpended funds, $7.9 million for the slush fund, and my Republican colleagues have been happily spending that money ever since.

Mr. Speaker, I include for the RECORD a report prepared by the Democratic leadership about the partisan investigations that have been conducted by the Republican majority during the 105th Congress.

The text of the report is as follows:

Politically-Motivated Investigations by House Committees

1995–Present

U.S. House Democratic Policy Committee,
Richard A. Gephardt, Chair, June 18, 1998

"*The congressional investigation can be an instrument of freedom. Or it can be freedom's scourge. A legislative inquiry can serve as the tool to pry open the barriers that hide government corruption. It can be the catalyst that spurs Congress and the public to support vital reforms in our nation's laws. Or it can debase our principles, invade the privacy of our citizens, and afford a platform for demagogues and the rankest partisans.*"—Senator Sam J. Ervin (D-N.C.)[1]

"*Long ago, before the permanent culture of investigation had laid siege to Washington—meaning in the early 1980's—a formal congressional investigation was considered major if it issued a few dozen subpoenas. That was then. In the [last] year or so . . . [one committee] has issued 479 supoenas. Those forced to appear are grilled in private, sometimes for hours at a stretch, with few of the protections from badgering that shield witnesses in the real world . . . [it is] redolent of a mentality that Washington has not seen for some decades. The term 'McCarthyism' is used too often and too loosely, but there are times when it is useful and one of these is now.*"—Jonathan Rauch[2]

EXECUTIVE SUMMARY

"*Clinton Democrats should be portrayed as 'the enemy of normal Americans . . . Republicans will use the subpoena power to investigate the Administration.'*[3]—House Speaker Newt Gingrich

Since Republicans took control of the U.S. House of Representatives in 1995, they have initiated an endless parade of politically-motivated investigations.

This report details the breadth and magnitude of the Republican effort, including how duplicative and wasteful the committee investigations have been, and how much of the committees' taxpayer-financed resources are devoted to these politically-motivated investigations.

In other words, this report investigates the self-appointed investigators, in order to provide the public with information about how their taxpayer dollars are being misappropriated.

Key findings include:

As of today, House Republicans have spent more than $17 million in taxpayer dollars on politically-motivated investigations.

There have been more than 50 politically-motivated investigations in the House, 38 of which are still ongoing.

These investigations have involved 15 of the 20 House standing committees. Currently, 13 committees are involved in investigations.

Of all the completed investigations, none have turned up evidence of wrongdoing.

Perhaps even more important, a clear pattern of abuse has emerged. The House Republican leadership has called on and, when necessary, prodded its committees to devote their resources to harass political enemies.

In the process, Republicans have: undermined the credibility of the oversight function of Congress; issued overly broad and excessive subpoenas; and targeted innocent private individuals with whom they have political disagreements, and as a result, have harmed those people's businesses, humiliated them personally and professionally, and forced them to bear extraordinary travel and legal costs to try to defend their reputations.

HISTORICAL NOTE

"Washington just can't imagine a world in which Republicans would have subpoena power," said Newt Gingrich shortly before he became Speaker.[4] It was a surprising comment for a historian to make.

The House first asserted its power to investigate in 1792,[5] when a special House committee was appointed to look into the Indian massacre of U.S. soldiers under Major General Arthur St. Clair's command.

Republicans have led some of the worst[6] investigations in the history of the Congress. In particular, Senator Joseph McCarthy's (R–WI)[7] hearings will long be remembered as the most egregious abuse of Congress' power to investigate.

EXTENT AND COST OF INVESTIGATIONS

"*Republicans are pouring millions of new dollars into House committees to beef up the party's ability to investigate not only Democratic fundraising scandals but also longtime adversaries such as organized labor.*"[8]

"*Speaker Newt Gingrich is poised to launch a battery of probes next year [1998] that will involve half of the House's 20 committees.*"[9]

Since assuming control of Congress in 1995, House Republicans have pressed 15 of the 20 standing committees into service to conduct more than 50 politically-motivated investigations.

None of the completed investigations has turned up evidence of wrongdoing.

Today, 13 committees are conducting 38 separate politically-motivated investigations. These investigations are aimed exclusively at the individuals and organizations perceived by the Republican leadership as their political enemies, including the Clinton Administration, Democratic state parties, environmentalists, and labor unions.

The cost to the taxpayers of the House investigations now exceeds $17 million. This

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Footnotes are at end of article.

figure includes only costs incurred by the legislative branch, and does not include the extensive costs incurred by federal agencies to comply with these investigations, which is currently the subject of an ongoing GAO study.

Following is an accounting of the politically-motivated investigations conducted by House committees since 1995.

Subject of investigation (listed by committee and no.)	Start date	Status	Cost to taxpayer (includes costs incurred by legislative branch only)
Agriculture			[10] $105,000
1. Commodity transactions by First Lady Hillary Rodham Clinton	1996	Closed	
Appropriations			[11] $118,000
2. Alleged access to White House (Lincoln Bedroom, etc.) in exchange for contributions to the DNC	1997	Ongoing	
Banking			[12] $2,250,000
3. Whitewater	1995	Closed	
4. Alleged money-laundering and drug trafficking at the Mena, Arkansas airport during the term of then-Gov. Clinton	1996	Ongoing	
Commerce			[13] $128,000
5. Allegations that the Molten Metal Technology company received government contracts in exchange for contributions to the Clinton-Gore campaign	1997	Closed	
6. Involvement of former Gore aide Peter Knight in advocating a relocation of the FCC to the Portals building in Southwest D.C.	1997	Ongoing	
Education and the Workforce			[14] $2,530,000
7. American Worker Project, to look into the conduct of labor unions and the agencies that oversee them	1997	Ongoing	
8. Irregularities in the Teamsters 1996 elections	1997	Ongoing	
Government Reform and Oversight			[15] $6,000,000
9. Review of Ramspeck Act, prompted by large numbers of Democratic staff getting executive branch jobs following GOP takeover of House	1995	Closed	
10. Political ideology of organizations participating in the Combined Federal Campaign	1995	Closed	
11. Firing of White House travel office personnel	1996	Closed	
12. Alleged White House acquisition of FBI files of certain individuals	1995	Ongoing	
13. Alleged abuse of travel privileges by Energy Secretary Hazel O'Leary	1995	Closed	
14. Clinton Administration enforcement action against the Branch Davidians in Waco, Texas	1995	Closed	
15. Financial holdings and activities of former Commerce Secretary Rob Brown	1996	Closed	
16. Alleged illegal foreign contributions to the DNC in the '96 elections	1996	Ongoing	
17. Alleged fundraising activities on federal property (e.g. White House coffees, Lincoln Bedroom)	1996	Ongoing	
18. Alleged Hatch Act violations (e.g. fundraising phone calls from official residences, acceptance of campaign checks by White House secretaries)	1996	Ongoing	
19. Alleged "conduit" contributions to the DNC in the '96 elections (made at the request of and paid for by a third party)	1997	Ongoing	
20. Alleged foreign influence on U.S. elections and access to U.S. intelligence	1997	Ongoing	
21. Clinton Administration's appointment of Charlie Trie to a special Commerce trade commission allegedly in return for campaign contributions	1997	Ongoing	
22. Justice Department failure to appoint an independent counsel to investigate alleged fundraising calls from the White House	1997	Ongoing	
23. Alleged quid pro quo—refusal by Interior Secretary Babbitt to grant a gaming permit to the Hudson Casino and Dog Track because of campaign contributions from opposing parties.	1997	Closed	
24. Designation of Grand Staircase-Escalante National Monument, allegedly in part to benefit a Texas mining company connected with James Riady which did not want mining competition in Utah.	1997	Ongoing	
25. Alleged failure of FEC to prosecute fundraiser Howard Glicken, because of ties to Vice President Gore	1997	Ongoing	
26. Fundraising practices of state Democratic parties	1997	Ongoing	
27. Alleged use of White House databases for political purposes	1996	Ongoing	
28. Irregularities in the Teamsters 1996 elections	1997	Ongoing	
29. Alleged lack of compliance with subpoenas issued to White House, including failure to produce videotapes of White House coffees	1997	Ongoing	
30. Alleged acceptance by Webb Hubbell of White House-arranged "hush money"	1997	Ongoing	
31. Alleged White House obstruction surrounding allegations regarding Monica Lewinsky and her relationship with President Clinton	1998	Ongoing	
House Oversight			[16] $1,510,000
32. Alleged voter fraud in the Dornan-Sanchez election contest in California's 46th district in 1996	1997	Closed	
Intelligence			N/A
33. Alleged foreign influence on U.S. elections and access to U.S. intelligence	1997	Ongoing	
34. U.S. technology transfers to China, including allegations that political contributions influenced the Clinton Administration's export policy	1998	Ongoing	
International Relations			(*)
35. Alleged link between Clinton Administration's trade policies and political contributions, including but not limited to alleged illegal contributions from Indonesian and Chinese sources.	1996	Closed	(*)
36. U.S. technology transfers to China, including allegations that political contributions influenced the Clinton Administration's export policy	1998	Ongoing	(*)
Judiciary			[17] $1,445,000
37. Clinton Administration enforcement action against the Branch Davidians in Waco, Texas	1995	Closed	
38. Allegations that the Clinton Administration improperly influenced career prosecutors at the Justice Dept. to settle a civil racketeering lawsuit involving the Laborers' International Union.	1996	Closed	
39. Justice Department failure to appoint an independence counsel to investigate alleged fundraising calls from the White House	1997	Closed	
40. Justice Department oversight/preparation for impeachment proceedings	1998	Ongoing	
National Security			(*)
41. U.S. technology transfers to China, including allegations that political contributions influenced the Clinton Administration's export policy	1998	Ongoing	
Resources			[18] $460,000
Note: There are more than 15 investigations ongoing in the Resources Committee which involve abuses of the investigative powers of the Congress. In several instances, committee Republicans have used investigations to aid a conservative legal foundation which has brought three lawsuits against the Clinton Administration (these are discussed later in this report, under "Abuse of Subpoena Power.") Following is a description of some of the most clearly politically-motivated Resources Committee investigations.			
42. Designation of Grand Staircase-Escalante National Monument, allegedly for political purposes	1997	Ongoing	
43. Alleged quid pro quo—refusal by Interior Secretary Babbitt to grant a gaming permit to the Hudson Casino and Dog Track because of campaign contributions.	1997	Ongoing	
44. Allegations that campaign contributions influenced Interior Department policies on Guam	1997	Ongoing	
Rules			[19] $75,000
45. Allegations that former Energy Secretary Hazel O'Leary or her staff solicited a bribe for a Department of Energy contract	1996	Closed	
46. General investigation into fundraising activities of Clinton Administration and Democratic party officials	1996	Ongoing	
47. Alleged economic espionage for the Chinese government by John Huang while employed at the Commerce Dept.	1996	Ongoing	
48. Alleged foreign influence on U.S. elections and access to U.S. intelligence	1996	Ongoing	
49. China Ocean Shipping Company	1997	Ongoing	
50. Preparation for impeachment inquiry (based on referral to committee of Barr resolution, H. Res. 304)	1997	Ongoing	
51. Pentagon release to press of Linda Tripp's personnel file	1998	Ongoing	
52. U.S. technology transfers to China, including allegations that political contributions influenced the Clinton Administration's export policy	1998	Ongoing	
Select Committee on China			$2,500,000
53. U.S. technology transfers to China, including allegations that political contributions influenced the Clinton Administration's export policy	1998	Ongoing	
Veterans' Affairs			(*)
54. Alleged use of political influence and campaign contributions to allow for burial of non-eligible persons in Arlington National Cemetery	1997	Closed	
Ways and Means/Joint Tax			(*)
55. Alleged politically-motivated IRS audits of conservative organizations	1997	Ongoing	
Total cost for all committees			$17,121,000

* Less than $25,000.

DUPLICATION AND WASTE

"It's been very expensive and it hasn't amounted to much."[20]—Senior Republican leadership aide.

Many House committees are covering the same ground:

Four House committees are investigating the influence of foreign governments on American elections (Government Reform and Oversight; Intelligence, International Relations; and Rules)

Two House committees are looking into use of the Lincoln bedroom (Appropriations and Government Reform and Oversight).

Two House committees are looking into the Hudson casino and dogtrack (Government Reform and Oversight and Resources).

Two House committees are looking into an alleged Riady connection to the designation of Grand Staircase-Escalante National Monument (Government Reform and Oversight and Resources).

Two House committees investigated Waco (Government Reform and Oversight and Judiciary).

Both the Education and the Workforce Committee and the Government Reform and Oversight Committee have issued similar subpoenas to the International Brotherhood of Teamsters, the Ron Carey campaign, and Citizen Action to gather information related to the contested union election of 1996.

The Judiciary Committee and the Government Reform and Oversight Committee both investigated the Attorney General's decision not to appoint an independent counsel to investigate campaign finance matters. The Attorney General testified at the Judiciary Committee on October 15, 1997; less than two months later she was called to answer the same questions before the Government Reform and Oversight Committee.

Duplication within the House is only a part of the picture.

Both the large investigations and the more focused inquiries in the House are covering the same ground covered by Senate investigations, Justice Department examinations, and explorations by federal prosecutors and grand juries.

The Senate Commerce Committee already looked into the FCC relocation into the Portals Building. The House Commerce Committee recently authorized eight subpoenas in the same matter and several have been issued.

In addition to the $1.6 million spent by the House investigating Whitewater: the Senate spent $1.8 million; the RTC spent $3.6 million; and the independent counsels have spent $30 million.

Reagan-appointed federal prosecutors and several grand juries thoroughly examined allegations of money-laundering and trafficking at the Mena, Arkansas airport during Gov. Clinton's term and concluded no indictments were warranted long before the House Banking Committee undertook its investigation.

The House investigation of campaign finance follows on a completed Senate investigation and a Justice Department probe. Much of Chairman Burton's work directly duplicates Senator Thompson's investigation: of the 524 subpoenas issued by Chairman Burton, 210 (more than 40%) are duplicates of subpoenas issued in the already completed Senate investigation.

Furthermore, the House Government Reform and Oversight Committee has spent $6 million to produce only seven public hearings and hastily doctored transcripts of Webster Hubbell's phone calls. By comparison, the Senate Governmental Affairs Committee finished its work months ago, having spent a total of $3.5 million hold 33 days of hearings and publish a 1,100 page report.

The tower of wasted dollars has been built up brick by brick. In June 1997, the House Government Reform and Oversight Committee sent three staff members to Miami to retrieve a computer disk. The two-day trip (six working days of staff time) cost several thousands of dollars. Later the minority discovered that nothing prevented those who had the disk from mailing it for the cost of first-class postage.[21]

The Government Reform Committee also paid for Charles Intriago, a Florida businessman, to fly to Washington, D.C. to be deposed despite the fact that his attorney had made clear that Mr. Intriago would assert his Fifth Amendment right not to testify.[22] The bill came to several thousands of dollars—after travel expenses, court reporter fees and staff time—even though the committee knew he would answer no questions. The committee spent $62,000 on domestic travel last year, has authorized more than $50,000 this year, and tapped a State Department account to pay for two trips abroad.

Chairman Burton rewarded his staff by providing "lavish bonuses to his investigators."[23] The former investigation coordinator, David Bossie, received three pay raises in the course of a single year, bumping him up to an annual wage of $123,000. The firm of the lead attorney, Richard Bennett, is paid $15,000 a month, far more than the maximum amount permitted for congressional employees.

Government Reform is not the only committee with expensive staff. The Teamster investigation conducted by the Education and the Workforce Committee has hired Joseph DiGenova and Victoria Toensing as outside counsel/consultants. The two together are to be paid $150,000 for six months of part-time work. They each receive $12,500 a month for a 20-hour work week, which is the equivalent—on a full-time annualized basis—of $300,000 a year, more than double the maximum salary allowed for any employee of the House of Representatives. Moreover, as consultants who are not bound by House ethics restrictions, they have lobbied Members of Congress and provided legal representation for their clients including Chairman Burton.

Finally, there are significant costs which have not yet been accounted for, which are attributable to the administrative costs of producing and transmitting the vast amounts of documents in these duplicative and overlapping investigations.

CENTRAL CONTROL

"Newt has made it very clear to the chairman how important this investigation is, a source said after the meeting."[24]

"Gingrich forced this thing, that's very clear. The guy has tried to micromanage the investigation every step of the way."[25]

The fingerprints of Republican party leaders are all over the political investigations in this Congress. This is a dangerous sign because legitimate congressional inquiries spring from legislative purposes. Committees are responsible for investigating whether the laws under their jurisdiction are administered properly and effectively, whether new laws are needed and whether old programs still serve a worthwhile purpose. Given these aims, one expects the initial inquiry to come from the legislators involved in the issues, not from a directive of the party leaders.

But the Republican House leadership, in the 104th Congress, issued urgent instructions to all the committees to dig up dirt on specific enemies of the Republican party: "On behalf of the House leadership, we have been asked to cull all committees for information . . . The subjects are: waste, fraud and abuse in the Clinton Administration; influence of Washington labor union bosses/corruption; examples of dishonesty or ethical lapses in the Clinton administration."[26]

The memo lists as the contact person a staffer in Majority Leader Dick Armey's office.

After the Republican leadership issued their general call to investigate and harass its enemies, they did not keep their hands off. The leadership waded into the details of many of these political investigations, prodding them on.

Gingrich slush fund

The clearest indication that the Speaker intended all along to maintain control of the investigations was evident, though little noted, on day one of the 105th Congress. On January 7, 1997, the House adopted, by party-line vote, its rules for the new Congress. Embedded among them was a small item (section 15 of House Resolution 5) which authorized a committee reserve fund for "unanticipated committee needs." The fund is under the Speaker's control through the House Oversight Committee. On March 21, the House capitalized the slush fund to the tune of $7.9 million. The House placed an unprecedented multi-million dollar slush fund in the hands of a Speaker for the purpose of funding, controlling, and directing partisan investigations. To date, the Speaker, without a vote of the House, has given $5.3 million from the fund to three committees in connection with politically-motivated investigations:

Education and the Workforce ($2.2 million) to look into labor unions;

Government Reform and Oversight ($1.8 million) to continue its one-sided investigation into alleged Democratic campaign finance irregularities; and

Judiciary ($1.3 million) to prepare for a potential impeachment investigation.

The remainder is being held in reserve by Speaker Gingrich for the next partisan investigation he decides to pursue.

As one senior Republican leadership aide said, "It's been very expensive, and it hasn't amounted to much."[27]

Teamsters

The Speaker stepped into the Education and the Workforce probe of the International Brotherhood of Teamsters in its earliest stages. "House Speaker Newt Gingrich has intervened on behalf of hard-liners in a simmering dispute among Republicans on the House committee investigating the Teamsters union . . . Committee sources said Chairman Goodling is worried that the good relations he has had with Democrats on education issues is being jeopardized by the Hoekstra subcommittee investigation . . . 'Newt has made it very clear to the chairman how important this investigation is,' a source said after the meeting. 'He told the chairman, "You need to support it."' "[28]

The intervention of leadership did not stop there. As recently as April 30, 1998, it was reported that Mr. Gingrich again asked to meet with Chairman Goodling and subcommittee chair Hoekstra and, according to sources, the Speaker "gave his thoughts on where the investigation should go."[29]

Laborers

At the behest of the Republican leadership, the Judiciary Committee conducted an investigation into the Administration's successful efforts to rid the Laborers' International Union of organized crime influence. In a series of memos, the leadership prejudicially charged the Administration with improperly influencing career prosecutors at the Justice Department to settle a civil racketeering lawsuit involving the Laborers' Union. Rep. John Boehner (R–OH), chairman of the House Republican Conference, wrote urging investigations into "the action by Clinton appointees in the Justice Department to quash the efforts by Justice Department prosecutors to clean up Coia's union."[30] Shortly thereafter, he followed up with a Republican Conference report titled, "Washington's Union Bosses: A Look Behind the Rhetoric," in which it is stated that: "Washington union bosses [are] winning favor with the Clinton Administration to block Justice Department investigations into union boss corruption . . . Arthur Coia, President of the Laborers International Union of North America, recently received a "sweetheart' deal from the Clinton DOJ in the face of a 212 page racketeering complaint."

It should be noted that the Judiciary Committee majority report filed after the investigation was completed admitted that there was no direct evidence of "wrongdoing" or "improper influence." Moreover, the Republican report concluded that the settlement which their leadership had called a "sweetheart deal" had in fact "produced positive results."[31]

Campaign finance

The series of investigations on campaign finance by the Government Reform and Oversight Committee have, from their inception, been closely monitored by the Republican House leadership. In June 1997, Speaker Gingrich told CNN's "Inside Politics" that he would be "overseeing how Burton's committee investigation is unfolding."[32] At about the same time, Roll Call reported that Speaker Gingrich assigned four senior Republicans to meet regularly with Chairman Burton to "allow Gingrich and his leadership to keep close tabs on Burton and his plans for the investigation . . . 'Newt just wants to monitor the situation and be prepared to act when necessary,' [according to a Republican leadership advisor]."[33] Another account quotes "a close Gingrich advisor" who gives this rationale for the Speaker appointing Representative Chris Cox as vice chairman under Chairman Burton: "The Speaker's real goal is 'to encircle' the chairman and 'put him on a short leash.'"[34] Time magazine quotes another Republican leadership aide: "We only gave him [Chairman Burton] money for this year. That way, if he tanks, we can pull the plug on him."

ABUSE OF SUBPOENA POWER

A subpoena is a powerful tool. It compels people to produce documents, even if compliance is against their wishes and best interests, and threatens criminal sanctions for failure to comply.

Congressional subpoenas are more intrusive than court subpoenas because many protections of individual rights do not apply to documents requested in the course of a congressional investigation. Congress is not always required to recognize the attorney-client privilege, the work product doctrine or other privileges protecting individuals' privacy ordinarily recognized in the course of litigation. A committee demanding documents in the course of an investigation is also exempt from the Privacy Act and from Bank Secrecy laws.

Leaking subpoenaed documents to help GOP friends

A troubling pattern of Republican abuse of their subpoena power has been the leaking of subpoenaed documents to help political allies in pending litigation against the federal government.

Congress can compel the production of some documents that private litigants do not have a right to see. The Resources Committee has used this technique in several instances to help Republican friends. The document subpoenas issued in relation to the President's designation of the Grand Staircase-Escalante National Monument in Utah are a clear example. Documents were delivered to the committee under subpoena from the White House, on October 22, 1997, with the comment from White House counsel Charles Ruff that the documents "implicate substantial confidentiality interests of the Executive Branch." The subpoenaed documents included communications among the President, the Vice President and their senior advisors reflecting their deliberations. Lawsuits challenging the President's monument declaration had been filed by several interest groups, including the Rocky Mountain States Legal Foundation. There is little doubt the Foundation could not obtain the documents through a Freedom of Information Act (FOIA) request or as a litigant. The Salt Lake Tribune reported that Chairman Hansen subpoenaed the Grand Staircase-Escalante documents and released them to help those suing the federal government. "Concern that one goal of the Congressional investigation may be to benefit the lawsuits challenging the document appear to be valid. After the release of the internal White House documents, Rep. Jim Hansen R-Utah was quoted as saying: 'They [the groups suing] will feel they hit the mother lode with this. That's one reason I pushed to make the documents public, to help them'."[35]

The same pattern was followed in the investigation of the Bureau of Land Management's issuance of mining bonding regulations. The mining industry has filed suit[36] to challenge the bonding regulations; the suit is pending in the U.S. District Court for the District of Columbia. The mining industry is represented by the Rocky Mountain States Legal Foundation, the same group litigating to overturn the President's Utah monument declaration.[37] The Resources Committee has developed a draft report concluding that the bonding regulations are illegal and the report will be made public shortly. It contains documents subpoenaed from the Department of Interior, including attorney-client work products that are otherwise not attainable by the litigants.

These abuses of the subpoena power have made the agencies understandably wary of even voluntary requests for documents. A case study is the request by Resources Subcommittee on Energy and Mineral Resources Chair Barbara Cubin (R-WY) for certain documents at the Bureau of Land Management (BLM) relating to proposals to recover the costs of mineral document processing. In June, 1997, the oil and gas industry (including the Rocky Mountain Oil & Gas Association, the Independent Petroleum Association of America, the Independent Petroleum Association of Mountain States, the New Mexico Oil & Gas Association, the Western States Petroleum Association, the American Association of Professional Landmen, the California Independent Petroleum Association, the American Petroleum Institute, the Independent Petroleum Association of New Mexico, and the Wyoming Independent Petroleum Association) filed a Freedom of Information Act (FOIA) request at the Department of Interior for certain documents.[38] In November 1997, the same industry requesters informed the BLM that the documents in question may be used in litigation against the Department in the event the Department adopts certain regulations relating to recovering costs of mineral document processing.[39] Commercial companies making FOIA requests are required to pay for the costs of gathering, reviewing and copying the documents. The industry and the BLM began negotiating about how much the requesters had to reimburse the agency and whether certain documents were protected by litigation privileges. In March 1998, in the midst of these negotiations, Rep. Cubin wrote to Secretary Babbitt requesting the very documents in question. Ms. Melanie Beiler, assistant to the Secretary, responded to the request noting: "We have learned that there is a Freedom of Information Act (FOIA) request pending in the BLM . . . requesting documents virtually identical to those included in your request . . . The Department is also concerned that documents provided to the Subcommittee that would be protected from disclosure under FOIA or in any litigation will be made available to potential litigants against the United States through your Committee. In light of this, please advise us whether you wish to proceed with your request, and if so, what safeguards are appropriate to ensure that documents protected from disclosure by FOIA and litigation privileges are not made available to potential litigants against the United States."[40]

The request is still outstanding.

The Resources Committee is not alone in using the subpoena to help friendly private litigants. The Teamsters investigation at the Education and Workforce Committee has seen a similar pattern. A suit was brought against the international Brotherhood of Teamsters to force them to disclose certain documents. After a court ruled against disclosure, the Chairman subpoenaed the same documents for his investigation.

Chairman Burton was also just recently caught trying the same tactic. He subpoenaed all White House records related to Hillary Clinton and the White House Counsel's office acquisition of FBI files of former White House employees.[41] The subpoena was suspicious because the Committee had completed a thorough investigation of the matter in the last Congress, under a different chairman. The subpoena appears to be "designed to bolster the private lawsuit of Judicial Watch, a nonprofit group headed by a leading Clinton critic Larry Klayman."[42] Klayman is quoted in The Hill saying that the Committee and Judicial Watch "generally know what each other is doing" and that Judicial Watch would be "interested to see" the documents that the Committee has obtained.[43]

Plaintiffs suing the federal government to overturn the decision to deny the Hudson casino application were also helped by House investigators to documents they sought from the Interior Department and the Democratic National Committee. The Interior Department gave certain documents to the Government Reform and Oversight Committee, including documents prepared by the U.S. Attorney's office in connection with the lawsuit. Ordinarily these items would be denied to plaintiffs on grounds of work-product and attorney-client privilege Chairman Burton released the document despite the Interior Department's objections.[44] As to the release of DNC documents, an employee, David Mercer, testified under oath that he was contacted by a Milwaukee reporter who told him, "investigators had released documents from the House committee to lawyers in the [Hudson] litigation, and then the lawyers released it to the press . . . the press was calling me to find out . . . what other documents we were handing over to the House."[45]

This misuse of Congressional subpoena power to benefit favored private parties involved in federal court cases is absolutely appalling. These types of actions raise some very serious questions.

But subpoenaed documents leaked for much simpler reasons raise equally troubling questions. Chairman Burton's release of subpoenaed Bureau of Prisons recordings of phone conversations between Webster Hubbell and his wife and doctored transcripts of selected portions of those tape have led many to question his fairness as a "seeker of truth." But his leaks began when he took charge in November 1996. It was promptly reported that "Burton confirmed that . . . one of his top aides improperly leaked the confidential phone logs of former Commerce Department official John Huang."[46] On February 27, 1998, he released his staff's notes of an interview with Steven Clemons, a former aide to Senator Jeff Bingaman (D-NM). Senate Majority Leader Trent Lott (R-MS) and Senate Democratic Leader Tom Daschle (D-SD) had agreed and notified Chairman Burton that, in order to protect the independence of the two chambers, Mr. Clemons should not be called to testify. Chairman Burton canceled his hearing but released the notes, disregarding the Senate's concerns.

Subpoenaming tax records

There is also a pattern of Republican abuse of subpoena power with regard to tax records. Chairman Burton subpoenaed several tax accountants for their tax preparation materials relating to specific clients, including accountant Donald Lam with regard to Mr. Sioeng, and accountant Michael C. Schaufele with regard to Webster Hubbell's taxes. It is against the law for an accountant to reveal information gathered to prepare tax returns without either the consent of the client or a court order.[47] When his client did not consent to release and when Mr. Burton failed to seek a court order, lawyers for Donald Lam informed the committee that for his client to comply with the subpoena would subject him to criminal penalties.[48] One week later, Chairman Burton threatened accountant Donald Lam with contempt of Congress if he did not provide information to the Committee.[49]

Moreover, federal law prohibits any House committee, except the tax committees, from issuing a subpoena for tax records without special authorization by the House to seek such records.[50] Chairman Burton's subpoenas are even more questionable in light of the deliberate withdrawal of language that would have granted Chairman Burton this authority. The House adopted House Resolution 167 granting Chairman Burton broad and unprecedented unilateral authority to pursue his investigation. Before the Rules Committee marked up that resolution, a draft resolution was circulated for review. The draft resolution contained language giving unilateral authority to request tax records of any "individuals and entities named by the Chairman of the Committee as possible participants, beneficiaries, or intermediaries in the transactions under investigation by the Committee."[51] The language was dropped immediately before the Rules Committee markup. In this way, a deliberate decision was made to deny Chairman Burton authority to seek tax records.

Chairman Burton was not alone in this abuse of the subpoena power. Chairman Hoekstra requested, by letter, that the accounting firm of Grant Thornton, the teamsters' outside accountants, produce all work papers, correspondence files and other documents it held relating to the preparation of the Teamsters' financial statements and federal income taxes. Knowing it was against the law to comply with the committee's request without the consent of their client, the Grant Thornton accountants sought the Teamsters' permission to produce the documents. The Teamsters originally objected, saying the request was too broad and that they needed time to review the documents.

The Grant Thornton accountants then returned to the Republicans and tried to negotiate a narrowing of the request. The Republicans promptly wrote to the Teamsters, insisting they withdraw their objections and agree to let the accountants release the tax records by 5 p.m., April 8, 1998 or else "the Subcommittee will consider the means available to it to enforce compliance, including the institution of proceedings for contempt of Congress."[52] Before the deadline passed, the Chairman issued a subpoena and it was served on the Grant Thornton firm on the afternoon of April 8, 1998.

Needless to say, the Education and Workforce Committee is no more authorized by the House to seek tax records than the Government Reform Committee.

Enemies list subpoenas

In the Sanchez-Dornan investigation led by the House Oversight Committee, Republicans approved 42 highly burdensome subpoenas to a wide variety of individuals and entities that Mr. Dornan identified: Catholic Charities, a local community college (Rancho Santiago Community College), the Lou Correa for Assembly campaign, the Laborers Union and the Carpenter's Union. All the financial records of the Catholic Charities and their affiliates were subpoenaed. The community college was asked to produce the private, personal files of more than 22,000 students who had taken "English as Second Language" classes; it was an attempt, ultimately futile, to find illegal aliens who had voted. Republicans issued overly broad subpoenas asking for sensitive political information from the Sanchez campaign and others without agreeing on a protocol for its use and distribution.

Initially, Mr. Dornan issued subpoenas in his own name.[53] The United States District Court ordered their recall[54] as "irregular on their face." Among other documents, Mr. Dornan wanted student records protected by the Privacy Act from a Florida company hired by the Immigration and Naturalization Service to conduct citizenship classes. Mr. Dornan altered one of the recalled subpoenas to make it appear as if it had been signed by a Florida judge. He then used the altered subpoena to convince the company to turn over the private records. Despite written promises to keep the records sealed, Mr. Dornan opened the records and made them public.

On May 1, 1997, Congresswoman Sanchez and her attorneys filed objections with the House Oversight Committee based on Mr. Dornan's use of the altered subpoena. The Committee refused to consider her objections. In fact, the Committee approved 24 new subpoenas issued by Mr. Dornan by ordering the individuals to comply.

Overly broad subpoenas

To be legitimate, a subpoena calls only for pertinent and admissible information with a fair degree of specificity.

Many of the subpoenas issued by the Republicans have been overly broad and burdensome. The Education and the Workforce Committee subpoenaed all the minutes of every Board meeting of the International Brotherhood of Teamsters for the past seven years and virtually all of its financial records for the period 1991 through 1997. The documents requested include all sorts of matters (discussions of collective bargaining strategies, etc.) unrelated to the investigation of the 1996 Teamsters elections. The Teamsters estimated that the original subpoena would require them to produce between one and five million pages of documents in order to comply. They were given 14 days to comply. Then the committee had to revoke the original subpoena, because Republican staff had altered it after the committee had voted. The second subpoena was identical but gave the Teamsters only one week to comply. When the Teamsters sought to negotiate the scope of document demands, Education and the Workforce counsel first threatened them with contempt.[55] Only within the last week have Republicans begun to discuss limiting their demand.

In the same fashion, Education and the Workforce subpoenaed from the Democratic National Committee all records of fundraising phone calls to labor leaders from January 1995 through December 1997. The subpoena asks for phone calls to all labor leaders; it is not confined to the Teamsters who are under investigation. Recently, Republicans agreed to limit phone calls to the AFL–CIO, SEIU, AFSCME and Teamsters. But the subpoena still demands information about all fundraising calls, not limited to the Carey campaign, and not even limited to the 1996 election cycle.

The Committee on Government Reform and Oversight followed the same model when it subpoenaed the Democratic National Committee on March 4, 1997 with an astonishingly broad demand. It called for *all* DNC records relating to its senior staff (including memos dealing with internal budgeting, campaign strategies, media buys, issue and advertising strategies, and other political activities totally unrelated to the matters of fund-raising that the Committee is investigating) and for *all* DNC phone records from January 20, 1993 forward, again without even limiting the scope to matters related to fund-raising.[56]

The purpose here is obvious: to cast a wide enough fishing net to capture all sorts of interesting but irrelevant tidbits (like campaign strategies) and to force the Democratic National Committee to devote its resources to comply (or to fight) the overly broad subpoena.

Chairman Burton also subpoenaed the White House for *all* phone records from Air Force One and Air Force Two and *all* records of visitors to the White House since 1993.[57] These demands for documents were not limited to matters related to fund-raising or matters relevant to the committee's investigation; moreover, in making the demand, there was no consideration given to national security or the Clinton family's privacy.

The Resource Committee follows the Republican script on overly broad subpoenas. Chairman Young of the Resources Committee has repeatedly made document demands from the Interior and Agriculture Departments which are aimed at intimidating those departments and coercing them into making decisions which are advantageous to their Republican constituency. In its investigation of Forest Service timber sales, the Committee demanded documents from the Forest Service indicating every agency contact with environmentalists and subpoenaed records of all contacts by the white House Council on Environmental Quality. The Committee also issued overly broad subpoenas in its Grande Escalante Monument investigation, demanding even those documents that reflect advice to and policy deliberations of the President, Vice President and their senior advisors. In the Tucson Rod and Gun Club investigation, the Committee issued six recess subpoenas to the Forest Service again asking for extensive information beyond the scope of the investigation.

These subpoenas intentionally overwhelm the agency staffs required to respond to these multiple unfocused investigations, depriving them of the time necessary to carry out their other duties. They also do great damage to the right of confidentiality and security of their conversations, meetings, and decisions.

Contempt of Congress

A person who has been subpoenaed to produce documents and fails to do so may be guilty of a misdemeanor punishable by a fine of up to $1,000 and imprisonment for up to 1 year.[58] This is contempt of Congress and it is a serious criminal offense.

Because it is a serious criminal offense, the courts have been asked to review criminal convictions. Committees do not have to accord all the protections the court must but certain standards have to be met before a contempt citation will be sustained.

Federal courts have held that to prove contempt requires Congress to show that the subpoenaed documents are pertinent. The United States Court of Appeals for the Third Circuit explained the term "pertinent": "two separate elements must appear before pertinency is established: (1) that the material sought or answers requested are related to a legislative purpose which Congress could constitutionally entertain; and (2) that such material or answers fell within the grant of authority actually made by Congress to the investigating committee. . . "[59]

The last element is significant and has been amplified. The fact that a committee is engaged in an investigation within the committee's jurisdiction does not make valid a specific subpoena issued by the committee. As the Supreme Court stated: "Validation of the broad subject matter under investigation does not necessarily carry with it automatic and wholesale validation of all individual questions, subpoenas, and document demands."[60]

And the courts have also ruled that before a committee can properly adopt a contempt resolution, the committee must hear the objections—including the claim that the subpoena is overly broad and asks for material that is not pertinent to the investigation—and must formally dispose of the objections.

The committees have been a little quick on the trigger to threaten criminal contempt. In the Education and the Workforce investigations, subpoenas issued to the Teamsters and the DNC demanded massive amounts of documents to be produced within one week. Before the Republicans negotiated either the scope or timing of the subpoenas, they threatened to cite the organizations with contempt of Congress if they failed to comply in full.

Chairman Hoekstra showed he was also quick to threaten contempt in the American Workers Project investigation in which his staff had requested meetings with several Labor Department officials. The Labor Department people asked that Democratic staff be included in the meeting. Chairman Hoekstra promptly wrote to the Secretary of Labor, reminding her that: "An agency has a legal obligation to comply with the chairman's oversight request. Under 18 U.S.C. 1505: 'Whoever . . . obstructs, or impedes . . . the due and proper exercise of the power of inquiry under which any inquiry or investigation is being had by either House, or any committee of either House . . . shall be fined not more than $5,000 or imprisoned not more than five years, or both.'"

The Resources Committee found a creative way to use the holiday calendar to constrict further the 10 days they gave the Democratic National Committee to comply with broad subpoenas in the Hudson casino investigation. It had the feel of setting up a contempt citation. On Thursday, December 18, 1997, Resources Committee Chairman Don Young (R-AK), issued broad subpoenas for document production to eight individuals: Roy Romer, DNC Chairman; Don Fowler, former DNC Chairman; Eric Kleinfeld, Clinton-Gore '96; and five people at the law firm of O'Connor and Hannan. The Committee made no prior effort to obtain the documents voluntarily by letter request but simply issued the subpoenas. Document delivery was demanded immediately after the holiday weekend, on Monday, December 29 at noon.

TARGETING POLITICAL ENEMIES

"If Organized Labor launches a $35 million campaign against you, you're not going to lay down and play dead."[62]—House Judiciary Committee Chairman Henry Hyde (R-Ill.)

"I'm after him [President Clinton]."[63]—House Government Reform and Oversight Committee Chairman Dan Burton (R-Ind.)

"This is a matter of consequence when that contractor is a substantial contributor to the Democratic party. These things need to be investigated and people need to come through."[64]—House Majority Leader Dick Armey (R-Tex.)

"The focus has got to be on the crimes that are being committed at the White House," one lawmaker quoted Gingrich as saying, "I want you to forget the word 'scandals' and start using the word 'crimes.'"[65]

"Unlike Thompson, who sought a degree of evenhandedness, the more partisan House is looking almost exclusively at Democratic abuses, avoiding inquiries into questionable practices employed by Republicans to raise record-shattering amounts of money in 1996."[66]

Molten metal

The textbook example of Republicans targeting a political opponent has to be the Commerce Committee's ongoing harassment of Peter Knight. Knight was picked because he is a friend of and former chief aid to Vice President Al Gore, and a campaign manager of the 1996 Clinton-Gore campaign. Republicans on the Commerce Committee tried to smear Knight first through an investigation of a company called Molten Metal Technology, and then through an investigation into the decision to move the Federal Communications Commission (FCC) into the Portals Building in southwest Washington, D.C.

Molten Metal Technology Inc. hired Peter Knight, along with several other lobbyists from both political parties, for strategic advice in obtaining government contracts. Knight drew the attention of Rep. Joe Barton (R-Tex.), the chair of the Commerce Committee's oversight subcommittee, because Knight had previously worked with Thomas Grumbly. Grumbly was the Department of Energy (DOE) Assistant Secretary for Environmental Management during part of the time of the Molten Metal contract. Years before, Grumbly had served as staff director for a subcommittee of the House Science Committee when then-Representative Gore had been chairman (and Peter Knight, Gore's chief of staff) and this "coincidence" seemed suspicious to the Republican members of the subcommittee.

DOE is required to dispose of wastes it has been gathering, and spends over $1 billion on cleanup and cleanup technologies. Molten Metal Technology had a unique process for disposal and won a contract from DOE and, over the years, the contract was expanded. Ironically, the DOE made its first contract with Molten Metal under the Bush Administration. Nonetheless, the subcommittee decided to investigate whether Department of Energy decisions with respect to the Molten Metal Technology contract were influenced by Mr. Knight and Democratic campaign contributions.

The most cowardly aspect of this whole affair was the Republican decision to hold hearings—even after the investigation failed to produce evidence of wrongdoing—in order to make Knight deny in public the allegations the subcommittee knew it couldn't prove. The basis for the subcommittee's craven decision is on the record. The subcommittee counsels (chief counsel Mark Paoletta and counsel Tom DiLenge) wrote an internal memorandum "to set forth the key findings from our investigation of Molten Metal Technology ('MMT') relationship and contracts with the Department of Energy ('DOE') and to lay out our recommendation that the Subcommittee hold a hearing on this matter on October 30."[67] In summing up the major findings, the counsels state: "many of the DOE career people gave signed statements to the DOE Inspector General's Office, swearing that nothing improper occurred with regard to the MMT contract"[68] and "most of the career people who were directly involved in the handling of this contract . . . believed that CEP [Catalytic Extraction Processing, a technology used to treat and recycle radioactively-contaminated scrap metal] was a promising technology for certain mixed wastes and worth investing in."[69]

The final two conclusions of the counsels are most damning: "Despite the incredible coincidence of MMT's political contributions and favorable DOE contract actions, all parties denied there was any link, and everyone at DOE (including Grumbly) said there were no discussions about MMT's contributions at all; there also is no documentary evidence to contradict these assertions.

"Finally, and not surprisingly, we have not uncovered any intervention or interference on the part of the Vice President (or his office) with regard to MMT's DOE contracts."[70]

After they confess their failure to prove any wrongdoing, they move to the question of whether the subcommittee should hold hearings. "The pros of holding such a hearing are . . . (ii) it forces the key players to deny allegations of misconduct under oath . . . and (v) will likely generate enormous press coverage . . . The cons of holding such a hearing are (i) there is no smoking gun, which opens us up to partisan criticism for engaging in a witchhunt or smear of Democrat[ic] official, lobbyists, and fundraising practices . . . and (iv) there are documents and witnesses that undercut our case against Grumbly, Knight and MMT which the minority (and the well-prepared witnesses) certainly will raise."[71]

Peter Knight testified well into the night on November 5, 1997.

Chairman Barton recently wrote to certain government witnesses asking questions for the official record, saying "it will be necessary for you to provide your written responses in the form of a sworn affidavit," even though there is no House requirement that written responses for a hearing record be in the form of a sworn affidavit.[72]

The Molten Metal hearings brought bad press on a Democratic campaign manager (Peter Knight) with ties to the Vice President (Al Gore) and drove into bankruptcy a company that was developing technology to clean the environment (Molten Metal Technology). From the Republicans' perspective, it was a triple win. And they "accomplished" so much with an allegation they knew they couldn't prove and for which they acknowledged the exculpatory evidence was very strong.

Plus, the subcommittee has already begun another smear job on Knight. The General Services Administration, again under the Bush Administration, recommended the relocation of the FCC to the Portals location. Republicans have discovered that Peter Knight received a payment from Franklin Haney, the owner of the Portals Building, and this fact somehow raised suspicions at the subcommittee. The subcommittee has authorized eight subpoenas to individuals and several have been issued. But despite Democratic requests, Republicans have refused to hold a public hearing to get all the facts out.

Campaign finance

The Government Reform and Oversight Committee's campaign finance hearings are another clear example of partisan targeting.[73] Of the 1,063 information requests that Chairman Burton has made, 1,051 (or 99%) have been to investigate alleged Democratic abuses. Seventeen subpoenas were issued to the Democratic National Committee, only one was issued to the Republican National Committee. Of the 1.5 million pages of documents received to date by the Committee, less than 2% were in response to requests about Republican fund-raising abuses.

Several other House committees also demanded massive numbers of documents from the DNC and many of these, of course, duplicated requests made by Senate investigators. By deluging the Democratic National Committee with demands for documents, Republicans forced the DNC to hire 22 new employees—including 10 attorneys—to respond. The DNC has produced over 450,000 pages of documents (and had to search through more than 10 million pages to find responsive documents) just in response to Chairman Burton's requests. It cost $5.7 million just to produce these documents. Another $7.5 million was spent on legal fees. That was $13.2 million not spent on voter education or "get out the vote" efforts, activities that are the purpose of the DNC.

Chairman Burton has also targeted state Democratic parties. In February and March, 1998, the Chairman subpoenaed 14 state Democratic parties: Arkansas, California, Florida, Georgia, Illinois, Kansas,[74] Louisiana, Maine, Michigan, New Hampshire, New York, North Carolina, Ohio, and Pennsylvania.

The Committee asked for all documents relating to certain individuals. Yet despite the fact that some of the named individuals (e.g., Kenneth Wynn) contributed to state Republican campaigns, Chairman Burton has not requested any information from state Republican parties nor issued a single subpoena to a state Republican party.

Most of the information being sought from Democratic state parties is readily available through public sources such as state campaign finance reporting agencies. The subpoenas impose unnecessary burdens and tie up Democratic state resources, making Democrats in those states less competitive in the next election.

Chairman Burton has been quite vocal about who he is out to get. Speaking of President Clinton, he said, "This guy's a scumbag. That's why I'm after him."[75] He announced his targeting of Democrats at a GOPAC luncheon in 1997: "Brashly acknowledging his own partisan motives during this closed meeting of political allies, Burton tells the GOPAC crowd that the current fundraising scandal will turn out to be the Democrats' Watergate, resulting in a new gain of 'twenty to twenty-four seats' for the GOP in next year's congressional elections. 'It's over,' he hollers."[76]

Chairman Burton's chief counsel, John P. Rowley III, resigned on July 1, 1997 and was interviewed in the Washington times.[77] Mr. Rowley commented on the role of the investigative coordinator, David Bossie, (who resigned in May, 1998 following the Hubbell tapes fiasco) saying Bossie "was trying to 'slime' the Democrats while Mr. Rowley wanted to 'follow where the evidence leads.'"

Mena Airport

In 1995, the Banking Committee began an inquiry into allegations of illegal activities in areas of rural Arkansas around Mena Airport. It had been rumored that this area of rural Arkansas had been a center for money laundering, drug trafficking, and gun running to the Nicaraguan Contras, operations associated with DEA informant Barry Seal with the complicity of the CIA. The Banking Committee inquiry was described as "tangential" to Whitewater, and was supposed to focus on money laundering. The events occurred during Gov. Clinton's term. They had been thoroughly examined by two grand juries that decided against issuing any indictments.

there is little pretense in any of this investigation—either through the people interviewed, the facts gathered, or the numerous contacts with the agencies—to suggest it was targeted at money laundering.

Money-laundering was merely a committee hook to carry on the investigation. The investigation was clearly aimed at the role of then-Governor Clinton and the political activities of the people surrounding him. It was part of a pattern of looking and re-looking at every aspect of Governor Clinton and his associates. The final report from the majority staff is still pending.

Ethnic groups

An extremely disturbing form of targeting has been aimed at certain ethnic groups. Republicans on the House Oversight Committee targeted Latino voters in the Sanchez-Dornan election probe, and many of the House and Senate campaign finance investigations have focused on Asian-Americans. According to the Wall Street Journal, "nearly 300 people with Asian-sounding names" were subpoenaed.[78] In many cases, committees were careless about identifying the right person with the Asian-sounding name. The Government Reform and Oversight Committee in October 1997 subpoenaed the phone records of Mrs. LiPing Chen Hudson[79], though the committee was interested in a different LiPing Chen. In fact, the Hudsons had not been involved in any political campaign this decade. The carelessness caused some to wonder if Asian-Americans were being targeted in order to chill their political participation.[80]

ABUSE OF INDIVIDUAL'S RIGHTS

"*You wake up with a knot in your stomach, and you wonder what your kid's friends say to him. My wife obsesses about it.*"[81].—Peter Knight

"*This is unbelievable . . . I have no idea why they have my name.*"[82]—Professor Wang

In testimony before the House Rules Committee last year,[83] Rep. John Dingell (D–Mich.) described what a congressional investigation is like from the perspective of the witness: "I don't know how many in this room have participated in congressional investigations, but they are a rather scary event. You [the witness] are up there very much alone. You may have a counsel present, but that counsel can only advise you as to your rights. He can't defend you. And the rights that you have in an appearance before a congressional committee are far less, far less, than the rights that you have when you appear in court. A Member of Congress under the Speech and Debate clause can say almost anything he wants to you. He can abuse you. He can make some of the most scandalous and outrageous charges. He can deny you the real right to respond to the questions and answer charges that are made in his comments to you, about you. It is terrifying and it is oftentimes a demeaning experience." Despite this testimony. Republicans repealed a long-standing right of subpoenaed witnesses before congressional committees—a right installed in House rules in response to the excesses of the McCarthy era—the right to turn off the TV cameras. When they took away one of the few rights left to witnesses, Republicans indicated how reckless they may be with the reputations of the individuals they call up before congressional committees.

They proved it in the Commerce Committee campaign against Peter Knight and Molten Metal Technology (MMT). The Subcommittee on Oversight and investigations decided to conduct a public hearing just so that Knight and MMT would be compelled to deny the unproved charges under oath and before the press. The bullying behavior of committees obviously wastes taxpayer dollars, diverts committee resources away from legitimate oversight, but it also unfairly harms the reputations of individuals and businesses.

Knight found his picture in the paper beside allegations of misconduct and illegal influence. "You wake up with a knot in your stomach, and you wonder what your kids's friends say to him. My wife obsesses about it."[84] Peter Knight now says. And Knights young son, Zachary, was sucked into the investigation because the chairman of Molten Metal Technology, William Hanley II, had given a gift of stock to the boy. Readily available documents proved the Molten Metal executive gave similar gifts to family members of other associates of Molten Metal. "At week's end the Republican staff on the House Commerce Committee set a new low in scandal-mongering by activating a youth crimes division, smearing Knight's 13-year old son."[85]

The harm to Molten Metal Technology was devastating. Molten Metal was demonstrating its technology at Oak Ridge; the company was setting up three wastes-disposal plants in Texas and Tennessee. The growing pains left the company cash poor. Other private companies interested in the environmental cleanup business, such as Westinghouse, Fluor Daniel and Lockheed Martin, were discussing joint ventures with MMT. "The Republicans began leaking their allegations about Knight and Molten Metal just as the company was trying to attract investors. With the investigation in full swing, the investors grew skittish."[86]

Unable to attract investors while the smear campaign was swirling, the company was cash starved. Molten Metal Technology filed for bankruptcy in December. MMT was forced to lay off 221 employees, including half of its workforce in Waltham and Fall River, Massachusetts, and 45 workers in Texas. The promising new technology and the new waste-disposal plants (like the $70 million site planned for Bay City, Texas) are on hold. The human costs are impossible to quantify.

Carelessness

Some committees in the House have besmirched reputations by accident. In some cases, careless and mistaken subpoenas were served at the place of employment causing embarrassment and other consequences. In September 1997, a U.S. marshal served a subpoena on a Brian Kim, a mail carrier from Downey, California, at his place of work, the U.S. Post Office. Unfortunately, Brian Kim the mail carrier was the wrong Brian Kim. His supervisor was convinced that Kim had done something wrong. Kim contacted the Committee by telephone and was told to write a letter proving he was the wrong person. Kim wrote the letter but the committee never apologized to Kim and never cleared up the confusion with his supervisor.

Instead of gathering information from a Los Angeles DNC contributor, Chi Ruan Wang, the Government Reform and Oversight Committee subpoenaed the bank records of a respected Georgetown University history professor, Chi Wang.[87] Eventually, the Committee withdrew the subpoena. However, the Committee never apologized to Professor Wang and, in fact, compounded its error by denying they made a mistake to the press, leaving the impression that Professor Wan may not be the wrong person. When asked directly if the subpoena was a mistake by the Los Angeles Times, a Republican spokesman was quoted as saying: "We're not sure we made one . . . Whether he deserves a subpoena or not, we haven't decided. We've put it on hold."[88]

A Department of Agriculture employee was the unfortunate victim of carelessness. Justice Department filings in prosecutions of four Agriculture employees for misdemeanor election law violations identified three and referred to the fourth only as a "political appointee." Investigators from the Agriculture Subcommittee on Department Operations, Nutrition, and Foreign Agriculture decided to guess which individual at the Department was the "political appointee." They guessed wrong.

On September 5, 1996, the political appointee they guessed was subpoenaed to appear before the subcommittee and a list of the subpoenaed individuals, including his name, was made public. After the subcommittee investigator learned he had guessed the wrong person, the subcommittee met again on September 12 to reissue the subpoenas and subsequently released a second list with the "correctly" identified individual's name substituted. The subcommittee made no effort to explain or apologize for its mistake or to clear the reputation of the erroneously subpoenaed individual.

Depositions

It is intimidating to be called to appear before a congressional panel. Most people are deposed by Members or staff before a decision is made to call them as witness. Even if you are not called back to testify at a hearing, the deposition can be costly. Travel costs, missed work, preparation time, and legal representation are all costs that may be shouldered by the individual. These costs run as high as $10,000 per day of deposition.

People can be asked anything at a deposition; they can be bullied and badgered. Marsha Scott, deputy director of the White House Office of Personnel, had been a cooperative witness. Scott gave over 18 hours of deposition testimony before the Senate investigation and then was deposed by the House Government Reform and Oversight Committee. She was deposed for three more full days at the House committee and the majority insisted a fourth day would be required just to go over her conversations with White House counsel's office about a memo she had written. She offered instead to provide the Committee with a sworn affidavit about the conversation but her offer was rejected. She appeared for the fourth day but when the Committee chose to ask about everything except the conversation, on the advice of counsel, Scott ended the deposition. Hours later, Rep. DAVID MCINTOSH (R-IN), chair of a Government Reform and Oversight subcommittee, called a hearing for 8:00 p.m. that night and Chairman Burton subpoenaed Marsha Scott to appear. The rules of the House require seven days notice, except in extraordinary cases, before a public hearing can be held.

In a deposition, staff may pursue questions far removed from the scope of the fund-raising investigation, often prying into people's private lives. Yusaf Kharpa, a former White House intern, was asked for the name of his girlfriend. Karen Hancox, an employee in the White House Office of Political Affairs, was asked "Did you ever receive a drug test?" At times the questions are so far afield, they seem absurd. Janice Enright, special assistant to deputy chief of staff Harold Ickes, was asked to describe the type of car she drives.[89] Dick Morris was asked about others at the White House including these two questions: "You hail from New York as Mr. Ickes does. Are you familiar with his—do you have any personal knowledge about any legal problems in his background?[90]

"Did there come a time when Mr. Stephanopoulus told you about the discovery of life on Mars?[91]

Here is a Member deposing a former Interior Department official:

"Member: One of your sentences was, "I don't believe there is a shred of evidence that Mr. Ickes ever called the Secretary." Is that correct?

Witness: Yes.

Member: Was that because it had been shredded. . . .?

Witness: No.

Member: You are not aware of that?

Witness: No.

Member: And you did not do any?

Witness: No.

Member: Or did you?"[92]

CONCLUSION

The Republican Congress has diverted significant amounts of time and money away from the important issues before the United States Congress into an endless politically-motivated investigations.

It is certainly the case that some of the investigations detailed in this report involve serious allegations of wrongdoing. But what the Republicans leading the House committees should be doing is initiating fair-minded, serious inquiries, not politically-motivated smear campaigns, manipulated by party leaders and designed to create multiple press opportunities rather than to get out the facts.

Speaker Gingrich complained, shortly after Chairman Burton released doctored transcripts of the Hubbell tapes, about too much attention being paid to the committees, "to those who seek the truth" in Speaker Gingrich's words. His characterization begs the question: are the investigating committees seeking the truth?

Truth is not sought when the political leaders who instigate these investigations make up their minds in advance of the evidence and when they make their intentions obvious by telling the committee chairmen. The objectivity of these investigations must be questioned when those in charge of finding the truth tell us to "forget the word 'scandals' and start using the word 'crimes'."[93] in the words of Newt Gingrich. Or, in the words of House Government Reform and Oversight Committee Chairman Dan Burton, speaking about President Clinton, "This guy's a scumbag. That's why I'm after him."[94]

These investigations are not about finding the truth. They are about suppressing voices. They are about harassing labor unions, environmental groups, even the Catholic Charities. They are about draining the resources of Democratic national and state-wide campaign organizations. They are about intimidating Asian-Americans from participating in politics. They are about frightening Latino voters from registering or entering the polls. They are about carelessly investigating the wrong people and never apologizing, unconcerned about the damage to their reputations. They are about helping friends of the Republicans, subpoenaing legally protected documents and leaking them to friendly private litigants.

And finally, they are about wasting taxpayer dollars and abusing the vast investigative powers of congressional committees to run the biggest negative smear campaign in the history of the United States.

Joe McCarthy would have been proud of this Republican Congress.

FOOTNOTES

[1] Quoted in James Hamilton, "The Power to Probe: A study of Congressional Investigations" (New York: Random House, 1976) page xii.

[2] Los Angeles Times, March 15, 1998.

[3] "Gingrich Foresees Corruption Probe By a GOP House," Washington Post, October 14, 1994.

[4] Washington Post, October 14, 1994.

[5] The power of Congress to investigate is never expressly stated in the Constitution. Nonetheless, congressional committees are granted extraordinary powers to compel testimony, to force the production of documents and other evidence, and to punish contempt, and these powers have time and again been sustained by the Courts, because the power to investigate is "inherent in the power to make laws." (Eastland v. United States Servicemen's Fund, 421 U.S. 491 (1975)).

[6] Republicans have also been in charge of the two investigations that have brought the most discredit to the House: the McCarthy hearings of 1953 and 1954 and an 1861 joint committee investigation into the on-going conduct of the Civil War.

[7] Before McCarthy, historians point to a Republican joint committee that attacked President Lincoln's conduct of the war as the worst of congressional investigations. See Guide to Congress, Congressional Quarterly, 4th edition, 1991. The chapter entitled "Major Investigations: History in Brief" includes the following passage: "The Joint Committee on the Conduct of the War compiled what was widely considered—at least until the McCarthy era of the 1950's—the worst record of any congressional investigating unit. It was a political vehicle for Radical Republicans opposed to President Lincoln, as its far-reaching inquiries were used for intensely partisan purposes. It harassed conservative and Democratic generals., particularly Gen. George McClellan . . . Committee sessions were supposed to be closed to the press but information often would be made public if it suited the purpose of the Radicals. As a result, Confederate General Robert E. Lee was moved to observe that the committee was worth about two divisions of Confederate troops."

[8] Wall Street Journal, March 24, 1997.

[9] Wall Street Journal, December 14, 1997.

[10] Cost attributable to: Salaries of five professional staff working on the investigation, July-August, 1996.

[11] Cost attributable to: Salaries of professional committee staff and GAO investigators.

[12] Cost attributable to: Salaries of professional staff working on Whitewater investigation, 1995-96: $1.6 million. Salaries and travel costs of professional staff working on Mena Airport investigation, 1997-98: $650,000.

[13] Cost attributable to: Salaries of professional staff working part-time on the two investigations, 1997-present.

[14] Includes $750,000 from leadership slush fund for Teamsters investigation, $1.4 million from slush fund for American Worker project, $300,000 from committee funds for diGenova and Toensing contracts, and $80,000 for additional investigator consultant contracts.

[15] Includes $1.8 million from leadership slush fund. This amount only covers for staff, equipment, and travel. It does not include court reporters that have transcribed 600 hours of depositions, xeroxing, and printing. More importantly, it only includes those costs relating to campaign finance related investigations in 1997 and 1998.

[16] Includes salaries, consultant fees, and reimbursement requests from both parties to the contested election. The Federal Contested Election Act authorizes the Committee to reimburse the parties for such costs. These reimbursement requests are currently pending before the committee. This figure does not include the cost of travel, computers, or paper.

[17] Includes $1,300,000 from leadership slush fund, and $145,000 in professional staff salary costs for Waco investigation in summer of 1995.

[18] Includes only salaries of investigative staff and does not include other administrative costs.

[19] Cost attributable: Salary of professional staff member working on investigations.

[20] Congressional Quarterly, March 21, 1998.

[21] Letter from ranking minority member Waxman to Speaker Gingrich, July 7, 1997.

[22] Majority counsel responded that Mr. Intriago could not assert his Fifth Amendment privilege and threatened contempt if Mr. Intriago did not appear. "Burton Team Threatens Contempt for Witness" The Hill, February 25, 1998.

[23] Wall Street Journal, March 27, 1998.

[24] Washington Post, March 19, 1998.

[25] Floyd Brown, chairman of Citizens United, host of a conservative radio call-in show in Seattle on the firing of David Bossie, Chairman Burton's top aide, Washington Post, May 7, 1998.

[26] April 23, 1996 Memo "To: All House Full and Subcommittee Chairmen, From: Bob Walker and Jim Nussle, Subject: Request for Information—URGENT".

[27] Congressional Quarterly, March 21, 1998.

[28] Washington Post, March 19, 1998.

[29] National Journal Congress Daily, April 30, 1998, page 4.

[30] Dear Colleague, March 28, 1996.

[31] Subcommittee on Crime report, "The Administration's Efforts Against the Influence of Organized Crime in the Laborers' International Union of North America" U.S. House of Representatives, 104th Cong., 2d session, page 4.

[32] CNN's Inside Politics, June 4, 1997.

[33] "Four Picked to Watch Over Burton's Probe," Roll Call, June 6, 1997, page 1.

[34] "Burton's Glass House: Does He Have the Probity of a Prime-Time Prosecutor? Newt Seems to Have Doubts," Time, May 26, 1997.

[35] *Salt Lake Tribune*, November 11, 1997.

[36] Northwest Mining Association v. Bruce Babbitt (C.A. No. 97-1013-JLG).

[37] Rocky Mountain States Legal Foundation also represents Chairman Young and three other Republican members of the Resources Committee (Representatives Chenowith, Pombo and Schaefer) in federal court litigation seeking to block the President's American Heritage Rivers initiative.

[38] June 9, 1997 Freedom of Information Act Request letter to the Director, Office of Administrative Services, U.S. Department of Interior.

[39] November 13, 1997 letter to the Director, Office of Administrative Services, U.S. Department of Interior.

[40] April 3, 1998 Letter from Melanie Beiler, Assistant to the Secretary and Director of Congressional and Legislative Affairs, Department of the Interior to Chairman Barbara Cubin, Chair.

[41] Government Reform committee subpoena to the Executive Office of the President, January 28, 1998.

[42] "Burton Subpoenas Hillary on Filegate," *The Hill*, February 13, 1998.

[43] Ibid.

[44] Letter from Karen Maloy Sprecher, Department of Interior, to Chairman Burton, January 1, 1998.

[45] Deposition of David Mercer, Day 2, August 26, 1998, at 150.

[46] *Roll Call*, November 25, 1996.

[47] 26 U.S.C. 7216 prohibits anyone "in the business of preparing . . . [tax] returns" from actions to "disclose any information furnished to him for, or in connection with, the preparation of any such return." An accountant who violates the statute is subject to criminal penalties (a fine and/or imprisonment).

[48] For example, letter to Chairman Burton from Mark MacDougall, et al., February 13, 1998.

[49] On January 30, 1998, Chairman Burton subpoenaed accountant Donald Lam for tax preparation material relating to Ted Sioeng, his family, or their business. Mr. Sioeng objected to release of the accountant's materials. On February 13, 1998, Chairman Burton was informed by letter that federal law prevented Mr. Lam from providing the materials. On February 20, 1998, by letter, Chairman Burton issued his threat of contempt of Congress for failure to provide the information.

[50] Committees other than the tax committees are prohibited, by 26 U.S.C. 6103, from trying to obtain tax records except by special order of the House. There was no special authorization from the House for these subpoenas.

[51] Draft resolution. See appendix.

[52] April 3, 1998 letter from Chris Donesa, subcommittee Republican counsel, to Leslie Berger Kieman, counsel to the Teamsters.

[53] February 13, 1997.

[54] March 7, 1997.

[55] The Detroit News, May 6, 1998.

[56] Eventually, an agreement was reached to narrow the scope of what is sought by the Committee.

[57] Government Reform Committee subpoena to the Executive Office of the President, March 4, 1997.

[58] 2 U.S.C. 192.

[59] United States v. Orman, 207 F.2d 148 (3rd Cir. 1953).

[60] Gibson v. Florida Legislative Investigation Committee, 372 U.S. 539, 545 (1963).

[61] December 8, 1997 letter to Secretary Herman, Department of Labor, from Chairman Hoekstra, subcommittee on Oversight and Investigations.

[62] House Judiciary Committee transcript, May 18, 1996.

[63] Indianapolis Star, April 16, 1998.

[64] Majority Leader Armey speaking on the export of commercial satellites by Loral to China, Washington Post, May 6, 1998, page A4.

[65] "Burton Apologizes to GOP" Washington Post, May 7, 1998.

[66] Congressional Quarterly, April 5, 1997.

[67] Committee on Commerce, Internal Memorandum to Chairman Barton, Re: Hearing on Molten Metal Technology's Contracts with the Department of Energy, October 20, 1997.

[68] Ibid.

[69] Ibid.

[70] Ibid.

[71] Ibid.

[72] Chairman Barton's letter of February 11, 1998 responding to Ranking Member Klink's letter of January 12, 1998.

[73] The list of allegations against Democrats is well-rehearsed in the Government Reform Committee. For the list of serious Republican abuses see letters from Ranking Member Waxman to Chairman Burton of March 17, 1997, April 29, 1997, May 8, 1997, May 15, 1997, June 10, 1997, August 29, 1997, and January 13, 1998.

[74] 14 separate subpoenas were sent to the Kansas State Democratic party and prominent Kansas Democrats and a number of Kansas party officials were deposed.

[75] Indianapolis Star, April 16, 1998.

[76] "All the President's Menaces," Esquire, August 1997.

[77] Washington Times, July 3, 1997.

[78] Wall Street Journal, November 5, 1997.

[79] Government Reform Committee subpoena to Bell Atlantic-Virginia, Inc. (LiPing Chen Hudson), September 19, 1997.

[80] Letter from Rep. Moran to Chairman Burton, October 28, 1997. See also Wall Street Journal, November 5, 1997 "House Panel's Campaign-Finance Probe Promises to be More Militant than Senate's Investigation."

[81] Peter Knight quoted in Jonathan Broder's piece "How a Republican Smear Campaign Against Al Gore Undid a Promising Boston-Area Company," Boston Magazine, February 1998.

[82] Los Angeles Times, April 15, 1997.

[83] House Committee on Rules print, "Hearing Before the Committee on Rules, House of Representatives, 105th Congress, 1st session, on House Resolution 298, a resolution amending the rules of the House of Representatives to repeal the rule allowing subpoenaed witnesses to choose not to be photographed at committee hearings" November 4, 1997.

[84] Peter Knight quoted in Jonathan Broder's piece "How a Republican Smear Campaign Against Al Gore Undid a Promising Boston-Area Company," Boston Magazine, February 1998.

[85] "Anatomy of a Smear" Thomas Oliphant, Boston Globe, September 23, 1997.

[86] "How a Republican Smear Campaign Against Al Gore Undid a Promising Boston-Areas Company," Boston Magazine, February 1998.

[87] April 3, 1997, subpoenas to Chevy Chase F.S.B. and National Capital Bank of Washington.

[88] "Investigators Issue Subpoena to Wrong DNC Donor," Los Angeles Times, April 15, 1997.

[89] The last three examples are cited in letter from Ranking Member Waxman to Chairman Burton, September 8, 1997.

[90] Deposition of Dick Morris by Government Reform staff, August 21, 1997, at 152–3.

[91] Deposition of Dick Morris by Government Reform staff, August 21, 1997, at 174.

[92] Los Angeles Times, March 15, 1998.

[93] Ibid.

[94] "Chairman Burton, quoted in The Indianapolis Star, April 16, 1998.

Mr. Speaker, the Legislative Branch appropriations bill, which is otherwise a good bill, contains another $8 million for replenishing the Republican investigation slush fund. The gentleman from Maryland (Mr. HOYER) came to the Committee on Rules yesterday with an amendment which would prohibit the expenditure of any of these funds in the new fiscal year that begins on October 1. His amendment would not have deleted these funds. It would have merely prohibited their disbursement without a vote of the House. Mr. Speaker, this is a sensible amendment and it is one that should be debated.

The Committee on Rules has otherwise reported a fair rule for the consideration of this bill, but the Hoyer amendment is one that matters a great deal to the Democratic Members of this House. We have seen far too many partisan witch-hunts in this body in the past year and a half. We would hope in a new Congress that Democrats and Republicans could decide in a less highly charged atmosphere if it is in the best interests of the House to continue to use a slush fund for committee investigations. The Democrats on the Committee on Rules have asked our Republican colleagues to consider the requests for further funding by committees in the regular legislative process, requiring a vote of the full House. We have been repeatedly denied this opportunity. We are asking that the Republican leadership step back and allow the House to consider funding for investigations on a case-by-case basis that serves the best interests of this institution and the American people.

Mr. Speaker, I reserve the balance of my time.

Ms. PRYCE of Ohio. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I appreciate the gentleman's concerns about the reserve fund. However, this debate would have been more appropriate at the time the fund was created.

In my mind it makes good business sense for the House to be prepared for the unexpected by establishing a contingency fund. It is common practice among businesses, and there is no reason that the House should not adopt sound business practices.

Mr. Speaker, I would point out that this fund is accountable. The House Committee on Oversight controls these dollars, and a vote of the committee is required to expend the money. It is all very public. What is unfortunate is that there are so many questionable activities that call for congressional investigation which require the use of this money. It is also unfortunate that we have witnessed a lack of cooperation in these investigations which has made them much more time consuming and expensive.

The Legislative Branch bill is bipartisan. There is no reason to drag down this bill with politically charged debate.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield 3 minutes to the gentleman from Oregon (Mr. BLUMENAUER).

Mr. BLUMENAUER. I thank the gentleman for yielding me this time.

Mr. Speaker, in my previous life as the public works commissioner for the city of Portland, Oregon, it was my pleasure to work with our community to implement programs to promote transit as has been encouraged for years by Federal policy.

□ 1230

These programs enjoyed widespread support from the business community, from private citizens, from government, and they have made a difference in promoting the quality of life in our city.

When I was elected to Congress a couple years ago, I was surprised; no, let me say I was shocked, to find out that what the Federal Government had been encouraging local communities to do, what the Federal Government had been encouraging other people in the Washington metropolitan area to do, what the United States Senate had done for the last 6 years, I was unable to do as a Member of Congress. I could give free parking to everybody who worked for me, worth over $1,500 a year, but I could not give a partial transit subsidy for the people who choose not to drive to work.

I set about trying to find out why this was and to fix it. I have introduced legislation, House Resolution 37 that has now been cosponsored by a majority of the House, indeed 230 people already, that would make it optional for Members to at least provide this for their employees who wish to do it.

I have surveyed every one of the House agencies, there are 15 of them, to see if they support it, if they could afford it, if they want it, and I have been told unanimously that they thought it was good for the institution, that it was good for their employees, it was good for the environment.

I am pleased to note that this bill before us today, the rule of which we are debating, would finally, by an amendment from the Committee on Appropriations, would have put this in place, and I commend the committee and the Members who brought it forward so that we can short-circuit the legislative process and get on with business.

I appeared before the Committee on Rules, trying to protect this provision because I heard a rumor that somebody may object. Evidently that may occur. I think it would be unfortunate if the welfare of our employees gets caught up in some sort of jurisdictional battle.

This has been authorized by Congress for the last half dozen years, and many of the employees on the Hill, as well as 100,000 Federal employees, already benefit from it.

I would hope that we would find a way in our wisdom to not hold our employees hostage to the machinations of the House, and, as a new Member, I plead guilty of maybe not understanding them in their entirety, but when we have the second most congested area in the United States in metropolitan Washington, D.C., when we are crying about traffic congestion and parking on the Hill, when we are talking about throwing billions of dollars to try and repair Washington, D.C., I would hope that the Members of this House could somehow find it in their conscience or their creativity to make sure that we implement this little piece of Federal policy so that the Members of Congress will not be the only ones who deny it to their employees.

Ms. PRYCE of Ohio. Mr. Speaker, I yield 4 minutes to the gentleman from New York (Mr. WALSH) the chairman of the subcommittee.

Mr. WALSH. Mr. Speaker, I thank the gentlewoman, my colleague from Ohio (Ms. PRYCE), for yielding time and for the hard work and, I believe, fair rule that was provided to us by the Committee on Rules.

I rise in strong support of this rule and I ask my colleagues to support it. I want to first thank the chairman of the Committee on Rules, the gentleman from New York (Mr. SOLOMON) and ranking member, the gentleman from Massachusetts (Mr. MOAKLEY) for providing this structured rule leading to general debate on the fiscal year 1999 legislative branch appropriations bill. I will withhold particulars of the legislation until we get into the general debate portion of our discussion today, although I may be compelled to respond to some of the criticism that will be leveled in a very partisan manner, I think, on this bill. It really is not criticism that belongs in this bill, but nevertheless I will be prepared to respond.

Let me clearly state, however, that we have produced a solid bipartisan piece of legislation. I note that the gentleman from Texas, a member of the Committee on Rules, also noted that, and we had hoped that we could keep it that way, and I hope that when all the debate is over that is what this will be, a bipartisan bill, because we really did make an effort to reach out across the aisle and include the needs and concerns of all Members.

This bill, I believe, meets the needs of the House and the legislative branch for the upcoming year. It is a fiscally-sound bill presenting only a 1.7 percent increase over last year.

Now, under law, we are required to provide all legislative branch employees with a little over 3 percent increase cost of living allowance. So by providing that increase, and everyone who is eligible will receive it, the bill is still only less than a 2 percent increase over last year.

We continue to downsize the legislative branch. Indeed we will have 438 fewer employees next year than we will this year. Over the past 4 years or 5 years, rather, we have reduced full-time equivalent employees by over 15 percent.

People have said that if we are going to downsize government that the legislative branch should lead by example. I believe that we have. But we have done it in a sensitive way. We have provided the Architect and the Government Printing Office the opportunity to give their employees the option to leave and to provide them with a buyout so that the employees would be helped in the process and the management could manage this transition. I think we have really attempted to do the right thing.

The rule provides for one motion to recommit, but I am hopeful that that will not be necessary. The subcommittee worked very hard to develop a balanced bill, and to the best of our ability this bill takes into consideration the concerns of Members on a variety of problems. Let us move forward now in this process and support the rule.

Mr. FROST. Mr. Speaker, I yield 2 minutes to the gentleman from West Virginia (Mr. WISE).

Mr. WISE. Mr. Speaker, when I came on the floor and heard some previous statements about lack of cooperation from the Democrats in investigations, I have to respond.

I am a member of the Committee on Government Reform and Oversight, and I have to say that this is a perfect example of where taxpayer money has been wasted, and it has been wasted, Mr. Speaker, because the majority party, the Republican Party, would refuse to conduct investigations in a bipartisan manner.

Let me give my colleagues some examples:

If my colleagues recall, this was to be an election reform and to be looking at many of the areas of concern, particularly coming out of the 1996 elections. Well, Democrats raised a lot of soft money then, and a lot, most, of the allegations deal with soft money. What is never pointed out is Republicans raised more soft money, and so we said let us make it fair because there are allegations about Republicans just as there are allegations about Democrats. Five hundred subpoenas were issued almost unilaterally by the chairman of the committee, which I might add is an unprecedented exercise of that authority, never done before, 500 subpoenas of which almost all, and I believe there may have been 12 that went to Republican targets, but almost all went to Democratic targets.

We then asked, "Well, why don't we at least have bipartisanship in voting for subpoenas, which has always been the practice?" No, could not do that, had to be done by the chairman.

Talk about delay. There were complaints because Democrats would not vote immunity for 4 witnesses, which Democrats finally did vote just yesterday or 2 days ago because we finally got some agreements from Republicans about making it fair.

Talk about taxpayer waste. We voted to support the Republican majority on immunity for previous witnesses and found out that when they were immunized they then, the Republican majority, made such a hash of it that one of the witnesses now will not be able to be prosecuted for possible crimes that came out under that.

Talk about taxpayers losing money and taxpayer waste. That is why a lot of us are concerned about this Congress that wants to be a Congress of investigation and not legislation, while meanwhile, I might add, health care bill of rights, nobody is passing that, nothing done on a tobacco bill, campaign reform, nothing being done.

That is why some of us question whether this is a good use of funds.

Ms. PRYCE of Ohio. Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield 5 minutes to the gentleman from Maryland (Mr. HOYER).

Mr. HOYER. Mr. Speaker, I thank the gentleman from Texas (Mr. FROST) for yielding this time to me.

Mr. Speaker, the chairman of the committee rose and said this is a bipartisan bill, and he is correct in that assertion, it is a bipartisan bill. Within the constraints of the funds available, the chairman and ranking member have tried to work a bill that responsibly allows the legislative branch of government to proceed and allows this body to maintain its responsibilities to its employees. I am sure the chairman and each of us that serves on this subcommittee, as well as our ranking member, could have made additions to this bill, had resources been available which we think would have enhanced this bill and given to the legislative branch a better ability to do its job; however, those constraints exist.

Mr. Speaker, I rise, however, expressing disappointment in this rule. Basically the rule is one that tries to facilitate the consideration of this bill. I had, however, offered an amendment which I did not offer in subcommittee, but which I wanted to offer on the floor. That amendment would have provided for the increased expenditures allocated to various committees, for reasons presumably not anticipated at the time, that this House passes a funding resolution out of the Committee on House Oversight, on which I also serve.

Mr. Speaker, this so-called emergency funding, very frankly, was included for the purposes of getting the House oversight's funding resolution below certain targets so that certain people on the floor of the House would vote for it on the contention that it was not more funding than occurred pursuant to their plan; which is simply to say it was a device to shift some $8 million out of the bill and to a fund that has been referred to as a slush fund, but suffice it to say a fund out of which nonanticipated expenditures for committees can be funded.

Let me first of all say that is a not an unreasonable effort; that is to say, to provide funding for unanticipated needs. In fact, we have a very legitimate example of this Congress acting in the fashion that I think is appropriate and that would be provided for by my amendment, had it been allowed, and that was before the Committee on Rules. A hearing was held on the funding of the special committee to oversee China, the so-called Cox-Dicks committee. The Committee on Rules had an extended hearing, adopted a rule, and made a proposal, and we adopted a resolution on the floor by vote of the Congress, by the House of Representatives. There is, Mr. Speaker, in my opinion no reason why that should not be done for every committee.

Now the gentleman from West Virginia (Mr. WISE) got up and was speaking about the Committee on Government Reform and Oversight's hearings. Frankly, they have come to us for a number of unanticipated expenditures. In fact, one of the subcommittees, I think the expenditure was not unanticipated at all; this is the Teamsters' investigation and labor investigation generally. It was, however, a way of getting some extra funding without having it adopted on the floor of the House. I think that was unfortunate.

My amendment, if allowed by this rule, would have simply provided not that there could not be funding but that the House of Representatives would have to vote on that. Now, frankly, colleagues who are now in the majority took over and said that they wanted to have business done in an open fashion, and we were going to live by the rules everybody else had to live by, and that we would take responsibility for those expenditures that we made, and frankly we were going to cut spending in the House of Representatives.

Lo and behold, they created a fund that now even the Committee on House Oversight does not have hearings on.

□ 1245

Because our chairman, the gentleman from California (Mr. THOMAS) says in fact this is a Speaker's decision. We just perform a ministerial function, which is to say we are a pass-through. So I tell my friends on both sides of the aisle, currently that $8 million is decided by one person.

Now, if that is the way you think this House ought to be run, if that is the way you think the taxpayers' money ought to be spent, so be it. But if you believe that the taxpayers' money, that we all talk so much about, ought to be appropriated and expended pursuant to a vote of the representatives of those people who pay those taxes, then I would suggest to you that you would defeat this rule and allow the amendment to go forward, which does not preclude the expenditure at all, but simply says that it must be voted on by all the Members of the House.

Is that such an unreasonable proposal? Is that such a divergence from regular order that the Committee on Rules would decide not to allow that, I think reasonable and common sense rule, to be considered by the House?

I regret that I must oppose this rule.

Ms. PRYCE of Ohio. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in response to the gentleman, there is nothing secret about these allocations. There is nothing out of order. Reading from the guidelines for allocation from the reserve fund, I will read part three in total of these procedures:

Committee on House Oversight consideration, number 1, open debate will occur on the request; number 2, budget submissions will become public; number 3, committee vote will determine, A, allocation of the funds; B, amount of the allocation; and, C, scope of the projects.

There a vote, it is public, everything is above board and open.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield one minute to the gentleman from Maryland (Mr. HOYER).

Mr. HOYER. Mr. Speaker, if the gentlewoman will engage in a colloquy to answer a question, the gentlewoman heard my representation. The chairman of the Committee on House Oversight, which you say is public, has indicated ours is simply a ministerial function; that the vote essentially is taken, that is true, and, because this committee is a 2 to 1 committee, the majority party always prevails.

Is the gentlewoman aware of the fact that apparently the chairman believes this is a decision of the Speaker, and has articulated that on the record, and that the vote is simply a pro forma?

Ms. PRYCE of Ohio. Mr. Speaker, will the gentleman yield?

Mr. HOYER. I yield to the gentlewoman from Ohio.

Ms. PRYCE of Ohio. No, I am not aware of that. I am not aware that is necessarily the case, because the rules of the committee state otherwise. The rules of the committee state this is a public process, that there is a vote on it.

Mr. HOYER. Mr. Speaker, reclaiming my time, the gentlewoman is absolutely correct. That is what the rules say. But the chairman said it is pro forma, which is why we do not have the chairman come before the committee and explain these expenditures, unlike every other expenditure they want to make. They do not come before the committee.

Mr. FROST. Mr. Speaker, I yield eight minutes to the gentleman from Texas (Mr. DOGGETT).

Mr. DOGGETT. Mr. Speaker, one of the real success stories of the environment in America has been the increased understanding of people across this country of the importance of recycling. From young students, to retirees, to small businesses, to very large multi-national companies—all participate in recycling across this country.

When I go home to my hometown of Austin, Texas, there will be the blue recycling containers in front of each house with bottles and paper and other goods. When I go by the Texas State Capitol complex, I find a program in which some 30,000 State employees are participating in recycling.

Another example of the success we have had is something that was originally started in Austin called Texas Recycles. Last year that program proved so successful that it became America Recycles, and it was celebrated right here in our Nation's Capital and across the country. We honored a number of businesses that recognize it is a good business practice to recycle, not only for the environment, but because it can be a profit center in eliminating waste.

I noticed in the Washington Post from last November two retirees from Silver Spring who were honored in a "Rewarding Week for Good Recyclers" as a part of this America Recycles program. The same story reported that now the national recycling rate is 27 percent of eligible trash.

What a contrast, unfortunately, and the real focus of my remarks today, is this House of Representatives with the rest of the country. Instead of being a national leader on this important environmental issue that every American can understand, simply recycling instead of filling up more landfill and garbage, the recycling rate here in the House borders on zero percent.

The recycling program in the U.S. House of Representatives, instead of being a national leader, is indeed a national disgrace. It is a sharp contrast with the efforts of retirees and students. I think of the many elementary students that get honored each year by Keep Austin Beautiful, a program like many around the country. I can tell you there is not an elementary school classroom in Austin that is participating in the Keep Austin Beautiful program, that could not do a better job than this House Republican leadership with our recycling program.

Let me tell you a little bit about the failings and disgraceful nature of this program. It is very, very difficult to determine whether the source of these problems is shear incompetence or total indifference. I tend to view it as probably more a problem of total indifference and insensitivity to our environment, that has characterized so many of the other attacks on clean air and clean water on the floor of this House.

But what has happened during the course of this House Republican leadership, which is now entering, I guess it is on about the second half of its fourth year, is that for three years of this three-and-a-half year administration there has been no recycling coordinator in the House. They managed to hire a woman to serve as recycling coordinator for almost six months, but she was a little too honest for the job, so she is no longer involved in the program.

In December of 1996, concerned about the lack of a recycling coordinator, I met face-to-face in my office with Superintendent Miley. He assured me it was a high priority to hire a recycling coordinator and make this program work. Well, it only took another 10 months before they hired the woman who stayed here for less time than they posted her job.

Of course, the Superintendent, like the other people here in the House, can only establish the priorities and follow the emphasis of the House Republican leadership, and that emphasis on recycling is right down there in last place, zero percent.

Mr. WALSH. Mr. Speaker, will the gentleman yield?

Mr. DOGGETT. I yield to the gentleman from New York.

Mr. WALSH. Mr. Speaker, is the gentleman aware that the Subcommittee on Legislative of the Committee on Appropriations has made this a priority, and that, in fact I believe the gentleman mentioned the figure of about 20 percent as being recycled in his home community, and that is admirable; in my home community it was closer to 40.

Mr. DOGGETT. That was the national average, 27 percent. It is much higher in Austin.

Mr. WALSH. We are recycling about 10,000 tons of material each year, and our percentage in the waste stream, it is in the neighborhood of about 25 to 26 percent.

Mr. DOGGETT. Mr. Speaker, reclaiming my time, I am glad the gentleman pointed that out, because the kind of indifference and disinterest in this subject I am talking about has not always been true in the House. When the Democrats controlled the House, bottle collection since that time and recycling has dropped 83 percent. Can collections have only dropped 73 percent. Statistics on paper recycling have not been completely available, because when the House attempted to recycle four million pounds of paper, almost 90 percent of it was cluttered with garbage and the recyclers refused to take it.

I am aware of the gentleman's support of the amendment of the gentleman from California (Mr. FARR); that there are some people, including the gentleman who is asking the questions, who are of good faith and concerned about this. But to spend 3.5 years and have 3 of that without any recycling coordinator, to come into my office in the past week and be told the recycling program is suspended, is truly outrageous. To have this report which the recycling coordinator prepared, by an honest Pat Dollar, who was hired here very briefly, prepared, hidden, secreted, covered up and not released by the Superintendent's Office despite months of requests there, and to the gentleman from California (Mr. THOMAS), to not release this information is a disgrace.

That secret report, never formally released, points up that there is so much confusion around here in the corridors of these House buildings because many people do not think there is a recycling program, because they see so much garbage cluttering the floor out there. And when someone has to go through the recycling, it is pretty clear that effective recycling is not being done.

The Farr amendment, which I understand the gentleman supports, is a step in the right direction, but it is a very modest step. Just devoting some money to this is not going to solve the problem. There has to be interest. There has to be leadership. There has to be a total and complete change to adopt the attitude of the schoolchildren in Austin, Texas, instead of the attitude of the House Republican leadership, which has been unwilling to have this Congress lead the way on recycling.

Let me just say that I believe there are businesses and schoolchildren and citizens all over this country that realize that recycling papers, cans, bottles, anything that will tear, is a win-win proposition. It is true of numerous Federal agencies right down the Mall that recycle, and actually earn thousands of dollars a year from their recycling program.

It is not true of this House. Despite the fact that out here every day we have more recycled rhetoric about the environment and more recycled old bad legislative proposals, when it comes to the simple matter of doing something about all the trees that get chopped down for the tons of paper that come through these halls, just simply seeing they do not end up in a landfill, that they get recycled, that very simple thing that so many American families are able to do, this family, this House, has not done, is not doing, is not going to do until there is a total change of attitude and some emphasis on and direction from the House Republican leadership to get the job done.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LAHOOD). The Chair will remind all persons in the gallery that they are here as guests of the House, and that any manifestation of approval or disapproval of proceedings is a violation of the House rules.

Ms. PRYCE of Ohio. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, just so we can all be clear about this rule and about the statements made by the gentleman from Texas regarding the lack of leadership, the gentleman from Texas (Mr. DOGGETT) did not even come to the Committee on Rules yesterday to testify and ask that his amendment be made in order. His amendment does go to the issue of recycling. But this rule does make in order an amendment to be offered by the gentleman from California (Mr. FARR) which will allow us to vote to put more money into the recycling program. This issue will receive fair debate under this rule.

Mr. Speaker, I yield two minutes to the gentleman from New York (Mr. WALSH).

Mr. WALSH. Mr. Speaker, I really am amazed that this recycling could become a partisan issue. It is bizarre. There is a clear commitment, there was on the part of the Democrats when they controlled the House of Representatives, and there is on the part of the Republicans, to recycle our waste. This should not be a partisan issue. This is something that all Americans agree with and support.

I know just from personal experience when I became Chair of this committee, one of the things that we set about to do was to make sure that everyone understood what the rules were. So we sent a memo around to all the Members' offices. We also made sure that all trash cans were labeled, "mixed paper," "wet waste," "fine paper." What it comes down to is the Members. The Members have to provide the leadership in their own offices to recycle this waste.

□ 1300

I do not understand why this is partisan. This is something we should all be unified in. Besides, there is the fact that the amendment that the gentleman spoke about was accepted. We accepted the amendment offered by the gentleman from California (Mr. FARR). We thought it was a positive development.

The fact is that it is the Members, Republican and Democrat, that have to show the leadership in their own office to use their wastebaskets in a proper way. The Members need to provide the leadership in their offices, whether they are Democrats or Republicans or Independents; we have an Independent in the House. We all need to make sure that we put the trash in the right place.

The cloakrooms are going to follow suit. We need to organize a little bit better. The Architect's office is committed to this. We have called them in on the carpet and said we want to get a concerted effort and focus from the Architect's office on it. So clearly, Mr. Speaker, there is a real commitment here. This is not a partisan issue. We need to recycle our waste. It makes sense. It makes money. It saves us money. I think we should put this to rest right now.

Mr. FROST. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. DOGGETT).

Mr. DOGGETT. With regard to the comments from the gentlewoman from Ohio, Mr. Speaker, the Committee on Rules was so enthusiastic about addressing this problem that they have allowed us an entire 5 minutes to discuss the amendment offered by the gentleman from California (Mr. FARR). It is the same kind of priority we have had in 3 of the last 3½ years with no recycling coordinator.

With regard to the comments of the gentleman from New York, that the problem was the Members, I am surprised that any Member recycles. The rules that are given out are confusing. They were sometimes in direct error with regard to recycling practices. Furthermore, the level of commitment is such that a few months ago the custodial workers had had to bring their own plastic liners in order to do recycling.

Member compliance, as was noted in this secretive report, is a problem because many Members are not even convinced there is a recycling program. It is true that all, but I think, 11 Republican Members of this House, who have said they were willing to participate in voluntary recycling, but they are not given the guidelines, nor are their staffs, to ensure that this program works.

Mr. FROST. Mr. Speaker, I yield 4 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, it must be an interesting debate for many who are listening to determine what we might be debating on, but I think it is important because this is a very valuable appropriations process; that is, for the legislative branch appropriations.

What that really means to our constituents is the services that we provide in our offices, and in particular, in our district offices. So this is important, that we have caseworkers that deal with Social Security and veterans' benefits, Medicare issues, that we help with immigration issues. In my office we are very busy. Now that the summer has come, there are passport issues.

Frankly, we rise to discuss this because it has value. Among those values, of course, is to ensure that we do the right thing, which includes, as my colleague has just spoken about, recycling and showing the right example.

I am disappointed in this rule for several reasons. One, my good friend, the gentleman from Oregon (Mr. BLUMENAUER) was concerned about not only the environment, but respecting the options that our employees might have in traveling to work; that is, in compliance with keeping the environment safe and clean, giving them the opportunity to leave their cars at home and to take bus passes, as opposed to driving.

Companies throughout this country encourage carpooling and using the buses, but yet, an amendment that might have done that that was agreed to by the Committee on Appropriations now may suffer a point of order because it was not seen fit in the Committee on Rules to give it a waiver, so we could in fact provide this option to our very dutiful employees who come every day, and who themselves may want to use the kind of transportation services that would give them the option.

I would additionally say, since I think the greatest focus of the legislative branch appropriations should in fact be the constituency services that help you in America get the job done, I am disappointed, and this document, I think, that I have before me is about 51 pages that show the politically motivated investigations that we have in this Congress. At this point in time they are still going on.

We have the Burton committee, that has spent already $6 million. None of that is translated into any constituency services. It is still going on, and buried down in this appropriations bill is more money for a committee that leaked information out into the public on one of the witnesses that should not have ever been leaked.

We have a Teamsters investigation of working men and women going on, now $2,530,000. That is buried deeply in this legislation. More money will be expended on that. Who knows what we will get out of it.

My concern, Mr. Speaker, is that I wish we could have been similar to the Internal Revenue Service Restructuring and Reform Act rule, which I support, which gives comfort to Americans by providing an oversight so that taxpayers are are protected. That is the kind of business we should be doing on the floor of the House. That is to ensure that we do the kind of work that translates to our constituents.

I think there are 51 pages of politically motivated investigatory activities. They have already spent $8 million, and now in the appropriations bill we do not know how much more, and neither of the committees have brought about any results.

I would think we would do well to pass this amendment dealing with the recycling, to pass the amendment dealing with the issue of the bus passes, and spend more of our dollars enhancing the constituency services of our offices.

Mr. FROST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I urge a no vote on the previous question. If the previous question is defeated, I will offer an amendment to the rule which would prohibit use of funds from the reserve fund after October 1, 1998. The amendment would allow, however, the payment of obligations legitimately incurred before the October 1 deadline.

The effect of the amendment would be a return to paying for unexpected costs through an expense resolution approved by a vote of the House, as we have in past Congresses.

Mr. Speaker, I include for the Record the text of the amendment.

The text of the amendment is as follows:

At the end of the resolution, add the following new sections:

"Sec. 2. Notwithstanding any other provision of this resolution, it shall be in order to consider the amendment specified in Section 3 of this resolution. The amendment may be offered only by Representative Hoyer of Maryland or his designee, shall not be subject to amendment, and shall be debatable for 30 minutes.

Sec. 3. The amendment described in Section 2 is as follows:

At the end of the bill, insert after the last section (preceding the short title) the following new section:

Sec. 311. None of the funds made available in this Act may be used for payments from the reserve fund for unanticipated expenses of committees pursuant to clause 5(a) of rule XI of the Rules of the House of Representatives, or to pay the salary of any officer or employee of the House of Representatives who certifies, approves, or processes any disbursement of funds from any such fund pursuant to an allocation approved by the Committee on House Oversight on or after October 1, 1998."

THE VOTE ON THE PREVIOUS QUESTION: WHAT IT REALLY MEANS

This vote, the vote on whether to order the previous question on a special rule, is not merely a procedural vote. A vote against ordering the previous question is a vote against the Republican majority agenda and a vote to allow the opposition, at least for the moment, to offer an alternative plan. It is a vote about what the House should be debating.

Mr. Clarence Cannon's *Precedents of the House of Representatives*, (VI, 308–311) describes the vote on the previous question on the rule as "a motion to direct or control the consideration of the subject before the House being made by the Member in charge." To defeat the previous question is to give the opposition a chance to decide the subject before the House. Cannon cites the Speaker's ruling of January 13, 1920, to the effect that "the refusal of the House to sustain the demand for the previous question passes the control of the resolution to the opposition" in order to offer an amendment. On March 15, 1909, a member of the majority party offered a rule resolution. The House defeated the previous question and a member of the opposition rose to a parliamentary inquiry, asking who was entitled to recognition. Speaker Joseph G. Cannon (R-Illinois) said: "The previous question having been refused, the gentleman from New York, Mr. Fitzgerald, who had asked the gentleman to yield to him for an amendment, is entitled to the first recognition."

Because the vote today may look bad for the Republican majority they will say "the vote on the previous question is simply a vote on whether to proceed to an immediate vote on adopting the resolution . . . [and] has no substantive legislative or policy implications whatsoever." But that is not what they have always said. Listen to the Republican Leadership *Manual on the Legislative Process in the United States House of Representatives*, (6th edition, page 135). Here's how the Republicans describe the previous question vote in their own manual: "Although it is generally not possible to amend the rule because the majority Member controlling the time will not yield for the purpose of offering an amendment, the same result may be achieved by voting down the previous question on the rule . . . When the motion for the previous question is defeated, control of the time passes to the Member who led the opposition to ordering the previous question. That Member, because he then controls the time, may offer an amendment to the rule, or yield for the purpose of amendment."

Deschler's *Procedure in the U.S. House of Representatives*, the subchapter titled "Amending Special Rules" states: "a refusal to order the previous question on such a rule [a special rule reported from the Committee on Rules] opens the resolution to amendment and further debate." (Chapter 21, section 21.2) Section 21.3 continues: "Upon rejection of the motion for the previous question on a resolution reported from the Committee on Rules, control shifts to the Member leading the opposition to the previous question, who may offer a proper amendment or motion and who controls the time for debate thereon."

The vote on the previous question on a rule does have substantive policy implications. It is one of the only available tools for those who oppose the Republican majority's agenda to offer an alternative plan.

Mr. Speaker, as I have said, I urge that the previous question be defeated, and that we have the opportunity to offer the Hoyer amendment as part of this rule.

Mr. Speaker, I yield back the balance of my time.

Ms. PRYCE of Ohio. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would just remind my colleagues that while this rule is structured, the amendments it makes in order are Democratic amendments.

I would also like to remind my colleagues that funding for the legislative branch has been pared down significantly over 4 years, resulting in a 15 percent downsizing. The underlying legislation is bipartisan, and we should congratulate this subcommittee for their hard work by adopting this rule and moving on to debate the bill.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER pro tempore (Mr. LaHood). The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. FROST. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I, further proceedings on this resolution will be postponed until later today.

The point of no quorum is considered withdrawn.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, the Chair will now put the question on the resolutions on which further proceedings were postponed earlier today.

Votes will be taken in the following order: House Resolution 491, House Resolution 485, ordering the previous question on House Resolution 489, and adoption of House Resolution 489.

The Chair will reduce to 5 minutes the time for any electronic vote after the first such vote in this series.

PROVIDING FOR CONSIDERATION OF A CONCURRENT RESOLUTION PROVIDING FOR ADJOURNMENT OF THE HOUSE AND SENATE FOR INDEPENDENCE DAY DISTRICT WORK PERIOD

The SPEAKER pro tempore. The pending business is the question de novo of agreeing to the resolution, House Resolution 491, on which further proceedings were postponed.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. FROST. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 225, nays 188, not voting 20, as follows:

[Roll No. 267]

YEAS—225

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Bryant
Bunning
Burr

Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chabot
Chambliss
Christensen
Coble
Coburn
Collins
Combest
Cook
Cox
Crane
Cubin
Cunningham
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Dixon
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Foley
Forbes
Fossella
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Granger
Greenwood
Gutknecht
Hall (OH)
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hunter
Hyde
Inglis
Istook
Jackson (IL)
Jenkins
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King (NY)
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lucas
Manzullo
McCollum
McCrery
McHugh
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Moran (KS)
Morella
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oxley
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Redmond
Regula
Riggs
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Shimkus
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stump
Sununu
Talent
Tauzin
Taylor (NC)
Thornberry
Thune
Tiahrt
Traficant
Upton
Walsh
Wamp
Waters
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Yates
Young (AK)
Young (FL)

NAYS—188

Abercrombie
Ackerman
Allen
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Bentsen
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (FL)
Brown (OH)
Capps
Cardin
Carson
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Cummings
Danner
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Goode
Gordon
Green
Gutierrez
Hall (TX)
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Hooley
Hoyer
Jackson-Lee (TX)
Jefferson
John
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Kucinich
LaFalce
Lantos
Lee
Levin
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Miller (CA)
Minge
Mink
Mollohan
Moran (VA)
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pickett
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Rivers
Rodriguez
Roemer
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schumer
Scott
Serrano
Sherman
Sisisky
Skaggs
Skelton
Slaughter
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stenholm
Stokes
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson
Thurman
Tierney
Torres
Towns
Velázquez
Vento
Visclosky
Watt (NC)
Waxman
Wexler
Weygand
Wise
Woolsey
Wynn

NOT VOTING—20

Brady (TX)
Brown (CA)
Chenoweth
Cooksey
Crapo
Dingell
Gonzalez
Hamilton
Hinojosa
Hulshof
Hutchinson
Lampson
Lewis (GA)
Markey
McDade
Millender-McDonald
Moakley
Reyes
Thomas
Turner

□ 1328

Ms. WOOLSEY, Ms. CARSON and Messrs. STARK, CUMMINGS, JEFFERSON, HALL of Texas, CLAY, BARCIA and PASCRELL changed their vote from "yea" to "nay."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

□ 1330

PROVIDING FOR ADJOURNMENT OF THE HOUSE FROM JUNE 25, 1998, TO JULY 14, 1998, AND FOR RECESS OR ADJOURNMENT OF THE SENATE FROM JUNE 26, JUNE 27, OR JUNE 28, 1998, TO JULY 6, 1998

Mr. GOSS. Pursuant to House Resolution 491, I offer a privileged concurrent resolution (H. Con. Res. 297) and ask for its immediate consideration.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 297

Resolved by the House of Representatives (the Senate concurring), That when the House adjourns on the legislative day of Thursday, June 25, 1998, it stand adjourned until 12:30 p.m. on Tuesday, July 14, 1998, or until noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the Senate recesses or adjourns at the close of business on Friday, June 26, 1998, Saturday, June 27, 1998, or Sunday, June 28, 1998, pursuant to a motion made by the Majority Leader, or his designee, in accordance with this concurrent resolution, it stand recessed or adjourned until noon on Monday, July 6, 1998, or such time on that day as may be specified by the Majority Leader or his designee in the motion to recess or adjourn, or until noon on the second day after members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first.

SEC. 2. The Speaker of the House and the Majority Leader of the Senate, acting jointly after consultation with the Minority Leader of the House and the Minority Leader of the Senate, shall notify the Members of the House and the Senate, respectively, to reassemble whenever, in their opinion, the public interest shall warrant it.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on adoption of the remaining resolutions on which the Chair has postponed further proceedings.

PROVIDING FOR CONSIDERATION OF H.R. 4104, TREASURY AND GENERAL GOVERNMENT APPROPRIATIONS ACT, 1999

The SPEAKER pro tempore. The pending business is the question de novo of agreeing to the resolution, House Resolution 485, on which further proceedings were postponed earlier today.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. DOGGETT. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 125, noes 291, not voting 17, as follows:

[Roll No. 268]

AYES—125

Ackerman
Archer
Armey
Baldacci
Barton
Bass
Berman
Bilbray
Blagojevich
Bliley
Boehlert
Bonilla
Bono
Brown (FL)
Brown (OH)
Campbell
Cardin
Carson
Castle
Clay
Clayton
Coburn
Conyers
Crapo
Danner
Davis (IL)
Davis (VA)
DeGette
Delahunt
DeLay

Diaz-Balart
Dixon
Doggett
Dooley
Dreier
Dunn
Edwards
Ehrlich
Engel
Eshoo
Fawell
Foley
Fowler
Fox
Franks (NJ)
Frelinghuysen
Furse
Gejdenson
Gilchrest
Gilman
Goss
Granger
Greenwood
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hefner
Hobson
Hooley
Horn
Houghton
Jackson-Lee (TX)
Jefferson
Johnson (CT)
Kelly
Kennelly
Kilpatrick
Klug
Knollenberg
Kolbe
Lazio
Leach
Levin
Linder
Livingston
Lowey
Luther
Maloney (NY)
McCarthy (MO)
McDermott
McGovern
McInnis
McKinney
Millender-McDonald
Miller (FL)
Minge
Morella
Neal
Nethercutt
Northup
Olver
Oxley
Packard
Parker
Paxon
Pelosi
Porter
Pryce (OH)
Ramstad
Rivers
Roukema
Royce
Sanchez
Schaefer, Dan
Schumer
Shaw
Shays
Slaughter
Solomon
Stabenow
Stokes
Tauscher
Thurman
Tierney
Upton
Velázquez
Vento
Waters
Waxman
Wexler
Wicker
Woolsey
Yates
Young (AK)

NOES—291

Abercrombie
Aderholt
Allen
Andrews
Bachus
Baesler
Baker
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Bateman
Becerra
Bentsen
Bereuter
Berry
Bilirakis
Bishop
Blumenauer
Blunt
Boehner
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (CA)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cannon
Capps
Chabot
Chambliss
Chenoweth
Christensen
Clement
Clyburn
Coble
Collins
Combest
Condit
Cook
Costello
Cox
Coyne
Cramer
Crane
Cubin
Cummings
Cunningham
Davis (FL)
Deal
DeFazio
DeLauro
Deutsch
Dickey
Dicks
Doolittle
Doyle
Duncan
Ehlers
Emerson
English
Ensign
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Fazio
Filner
Forbes
Ford
Fossella
Frank (MA)
Frost
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gillmor
Goode
Goodlatte
Goodling
Gordon
Green
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Hayworth
Hefley
Herger
Hill
Hilleary
Hilliard
Hinchey
Hoekstra
Holden
Hostettler
Hoyer
Hunter
Hyde
Inglis
Istook
Jackson (IL)
Jenkins
John
Johnson (WI)
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kennedy (MA)
Kennedy (RI)
Kildee
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Kucinich
LaFalce
LaHood
Lantos
Largent
Latham
LaTourette
Lee
Lewis (CA)
Lewis (KY)
Lipinski
LoBiondo
Lofgren
Lucas
Maloney (CT)
Manton
Manzullo
Martinez
Mascara
Matsui
McCarthy (NY)
McCollum
McCrery
McHale
McHugh
McIntosh
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Metcalf
Mica
Miller (CA)
Mink
Mollohan
Moran (KS)
Moran (VA)
Murtha
Myrick
Nadler
Neumann
Ney
Norwood
Nussle
Oberstar
Obey
Ortiz
Owens
Pallone
Pappas
Pascrell
Pastor
Paul
Payne
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Portman
Poshard
Price (NC)
Quinn
Radanovich
Rahall
Rangel
Redmond
Regula
Riggs
Riley
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roybal-Allard
Rush
Ryun
Sabo
Salmon
Sanders
Sandlin
Sanford
Sawyer
Saxton
Scarborough
Schaffer, Bob
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Sherman
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Souder
Spence
Spratt
Stark
Stearns
Stenholm
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Tiahrt
Torres
Towns
Traficant
Visclosky
Walsh
Wamp
Watkins
Watt (NC)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Weygand
White
Whitfield
Wise
Wolf
Wynn
Young (FL)

NOT VOTING—17

Bonior
Brady (TX)
Cooksey
Dingell
Gonzalez
Graham
Hamilton
Hinojosa
Hulshof
Hutchinson
Lampson
Lewis (GA)
Markey
McDade
Moakley
Reyes
Turner

□ 1344

Messrs. COMBEST, KINGSTON, BERRY, THOMAS, GIBBONS, BOEHNER, WELLER, BLUNT, ENGLISH of Pennsylvania, SESSIONS, DUNCAN, CUNNINGHAM, GALLEGLY, and ROHRABACHER changed their vote from "aye" to "no."

Mr. OLVER, Ms. WATERS, Ms. SANCHEZ, and Messrs. DAVIS of Illinois, ENGEL, McGOVERN, and HEFNER, Mrs. CLAYTON, Mr. WEXLER, Mr. BERMAN, Ms. JACKSON-LEE of Texas, and Messrs. DOGGETT, BROWN of Ohio, and MINGE, Ms. HOOLEY of Oregon, and Messrs. CLAY, LEACH, WAXMAN, and STOKES, Mrs. KENNELLY of Connecticut, and Messrs. VENTO, YATES, CONYERS and DIXON, Ms. CARSON, and Ms. KILPATRICK changed their vote from "no" to "aye."

□ 1345

So the resolution was not agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF H.R. 4112, LEGISLATIVE BRANCH APPROPRIATIONS ACT, 1999

The SPEAKER pro tempore (Mr. LaHood). The pending business is the question de novo vote on ordering the previous question on the resolution, House Resolution 489, on which further proceedings were postponed earlier.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. OBEY. Mr. Speaker, on that, I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 222, nays 194, not voting 17, as follows:

[Roll No. 269]

YEAS—222

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Cook
Cooksey
Cox
Crane
Crapo
Cubin
Cunningham
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Foley
Forbes
Fossella
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Granger
Greenwood
Gutknecht
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hunter
Hyde
Inglis
Istook
Jenkins
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King (NY)
Kingston
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Livingston
LoBiondo
Lucas
Manzullo
McCollum
McCrery
McHugh
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Moran (KS)
Morella
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oxley
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Redmond
Regula
Riggs
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Shimkus
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowbarger
Solomon
Souder
Spence
Stearns
Stump
Sununu
Talent
Tauzin
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt

Traficant
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)

NAYS—194

Abercrombie
Ackerman
Allen
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Bentsen
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Cardin
Carson
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Cummings
Danner
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Goode
Gordon
Green
Gutierrez
Hall (OH)
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Hooley
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (WI)
Johnson, E. B.
Kanjorski
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Kucinich
LaFalce
Lantos
Lee
Levin
Lipinski
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Mollohan
Moran (VA)
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pickett
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Rivers
Rodriguez
Roemer
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schumer
Scott
Serrano
Sherman
Sisisky
Skaggs
Skelton
Slaughter
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stenholm
Stokes
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson
Thurman
Tierney
Torres
Towns
Velázquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wexler
Weygand
Wise
Woolsey
Wynn
Yates

NOT VOTING—17

Brady (TX)
Dingell
Gonzalez
Hamilton
Hinojosa
Hulshof
Hutchinson
Kaptur
Klug
Lampson
Lewis (GA)
Markey
McDade
Moakley
Reyes
Smith, Linda
Turner

☐ 1354

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. FROST. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 228, noes 188, not voting 17, as follows:

[Roll No. 270]

AYES—228

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Cook
Cooksey
Cox
Crane
Crapo
Cubin
Cunningham
Danner
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Farr
Fawell
Fazio
Foley
Forbes
Fossella
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Granger
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hyde
Inglis
Istook
Jenkins
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King (NY)
Kingston
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Livingston
LoBiondo
Lucas
Manzullo
McCollum
McCrery
McHugh
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Moran (KS)
Morella
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oxley
Packard
Pappas
Parker
Pastor
Paul
Paxon
Pease
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Redmond
Regula
Riggs
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Shimkus
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stump
Sununu
Talent
Tauzin
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Traficant
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)

NOES—188

Abercrombie
Ackerman
Allen
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Bentsen
Berman
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Cardin
Carson
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Cummings
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Fattah
Filner
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Goode
Gordon
Green
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Hooley
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Kucinich
LaFalce
Lantos
Lee
Levin
Lipinski
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Mollohan
Moran (VA)
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Payne
Pelosi
Peterson (MN)
Pickett
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Rivers
Rodriguez
Roemer
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schumer
Scott
Sherman
Sisisky
Skaggs
Skelton
Slaughter
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stenholm
Stokes
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson
Thurman
Tierney
Torres
Towns
Velázquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wexler
Weygand
Wise
Woolsey
Wynn
Yates

NOT VOTING—17

Brady (TX)
Dingell
Gonzalez
Hamilton
Hilleary
Hinojosa
Hulshof
Hunter
Hutchinson
Klug
Lampson
Lewis (GA)
Markey
McDade
Moakley
Reyes
Turner

☐ 1401

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. WALSH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 4112, and that I may include tabular and extraneous material.

The SPEAKER pro tempore (Mr. LAHOOD). Is there objection to the request of the gentleman from New York?

There was no objection.

LEGISLATIVE BRANCH APPROPRIATIONS ACT, 1999

The SPEAKER pro tempore. Pursuant to House Resolution 489 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 4112.

□ 1404

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4112) making appropriations for the Legislative Branch for the fiscal year ending September 30, 1999, and for other purposes, with Mr. HANSEN in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from New York (Mr. WALSH) and the gentleman from New York (Mr. SERRANO) each will control 30 minutes.

The Chair recognizes the gentleman from New York (Mr. WALSH).

Mr. WALSH. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise today in strong support of H.R. 4112, the Legislative Branch appropriations bill for fiscal year 1999. This is a good bill for the House, a balanced piece of legislation representing the views of every member of our subcommittee, and, most importantly, provides for the needs of the House to conduct its business here in a responsible and effective manner.

Before I present a general overview, Mr. Chairman, I want to thank the gentleman from New York (Mr. SERRANO), the ranking member of the subcommittee. Never let it be said that upstate and downstate New York cannot work together. I would like to thank him for his tremendous help and hard work in producing this legislation. Working with the gentleman from New York for me is a personal pleasure and one I consider a distinct honor. This bipartisan legislation is the result of our close working relationship, and I thank him for all that help. I would also like to extend a personal thanks to the gentleman from Florida (Mr. YOUNG), the gentleman from California (Mr. CUNNINGHAM), the gentleman from Iowa (Mr. LATHAM) and the gentleman from Tennessee (Mr. WAMP) on the majority side and the gentleman from California (Mr. FAZIO) and the gentleman from Maryland (Mr. HOYER) on the minority for their time and effort in producing this legislation. Also, Mr. LIVINGSTON, the chairman of the committee, and Mr. OBEY, the ranking member of the full committee, participated heartily, and I thank them.

Mr. Chairman, the House and in particular this subcommittee, is losing one of its key Members at the conclusion of the 105th Congress. The gentleman from California (Mr. FAZIO) has been an outstanding member of our subcommittee. He formerly chaired the Subcommittee on the Legislative Branch and has always had the overall interest of the House first and foremost on his mind. I have benefited from his wisdom and his counsel this year and last, and I want to publicly thank him for all the help and guidance that he has provided. The gentleman has been a great defender of this institution and we will miss him very much.

Mr. FAZIO of California. Mr. Chairman, will the gentleman yield?

Mr. WALSH. I yield to the gentleman from California.

Mr. FAZIO of California. First of all I want to thank the gentleman for those very kind comments. I want to say that I was born a Red Sox fan and have been one my entire 55 years. It grates me greatly to have to praise two Yankee fans who have worked so well together, but I say regardless of the issues that come before this committee and however anyone may vote on this bill, the two of them have established their own tradition and done an outstanding job on behalf of the institution. I think all Members of both parties need to recognize their contribution and appreciate the great work that the two of them have done for the House of Representatives.

Mr. WALSH. I thank the gentleman very much for his kind words. I would just suggest to him that I too am a Red Sox fan, although I am very deeply a Yankees fan. I had a great uncle play baseball for the Red Sox back about 60 years ago, actually about 80 years ago, and was with them the last time they won the world series in, I believe it was 1918. He played with Babe Ruth and then the Babe, as we know, went to New York. The rest is, as they say, history.

Again, I thank the gentleman for all his help in this bill and for the work that he has done.

Mr. Chairman, a bill like this is not prepared without yeoman effort on the part of staff. My personal thanks to Ed Lombard for his help and guidance throughout this process. I think that almost every Member of the House recognizes Ed's dedication to the Legislative Branch and to this process each year. He truly is the gem of this bill. Lucy Hand of the gentleman from New York's staff has again contributed greatly to the product brought forward here today and I thank her for all of her help. Tom Martin, on loan to us from the Library of Congress, and Johanna Kenny of my staff also deserve special recognition for their hard work.

Mr. Chairman, let me also restate something I mentioned last year when bringing the Legislative Branch appropriations bill before the floor. We the members are fortunate to have some of the most loyal and dedicated people in the world working here with us on a daily basis. Both those who help maintain our facilities here in the House and those who work with many of the offices connected to the House deserve the thanks of every Member who serves here.

Mr. Chairman, just to provide a few specifics about this bill. First of all, the appropriation level is $1.8 billion for fiscal year 1999. Compared to last year we are just about $30 million above. I would remind those who are not familiar with this bill that these are not funds just for the House of Representatives. This funds the Library of Congress, the Architect of the Capitol, the General Accounting Office, the Congressional Budget Office, the Government Printing Office, the Botanic Garden, the Capitol Hill Police and other agencies. So it is a rather extensive bill.

What we have provided for is about a 1.7 percent increase in the budget over last year. I think it is important to note that since all of our employees will be getting a 3 percent plus, about 3.1 percent increase, cost of living allowance, that to bring this bill in under 2 percent with a 3 percent across-the-board increase for staff was a real challenge and I am very proud of the work product.

The outlays is an increase of about $7 million in net outlays, that is only .45 percent above last year. The savings, if I might, since the 104th Congress when our party became the majority party, is $78 million below the level that this Legislative Branch was funded at in 1994. Including the 1999 bill, the cumulative legislative appropriations savings have been over a half billion dollars.

Mr. Chairman, I think that people would expect us to lead by our example in this government downsizing, rightsizing, and I think that we have done that. I think that this budget, the Legislative Branch budget, has done more to show leadership in reducing the size of government, making it more effective, everyone is working faster and smarter and harder, so I think this is a real tribute to the efforts and it has been tough. It has been very difficult to get those numbers down. Because we are talking about people and we are talking about service to people.

The employment levels. This bill cuts another 438 full-time equivalent positions, down some 2 percent from last year. Overall since 1994, we are down over 15 percent below 1994 levels of employment. No other branch of the Federal Government has made that sort of a commitment to downsizing. What we have done is we have given the Architect of the Capitol and the Government Printing Office the opportunity and the statutory ability to manage that downsizing through a buyout program which gives employees something when they leave office and it also gives the management some tools to manage that downsizing to make sure that services continue, or improve even.

Lastly, let me just point out that there are two or three other aspects that I think are important. One is that the Joint Committee on Printing is only funded for 3 more months in this bill. The House and the Senate chairs of the Joint Committee on Printing have asked us to do that because they are going to eliminate this joint committee. Again the idea of downsizing government. Again I mentioned the buyout programs.

One interesting feature of this bill will be that we will provide funding for the Congressional Cemetery which really has no connection with this body other than a number of members are buried there along with many other very famous Americans, including the great American musician and legend John Phillips Sousa is buried there. That has been declared a historic preservation site. We provide a million dollars of taxpayers' money to be matched by the Foundation for the National Historic Trust for Historic Preservation, they will help raise a million dollars together with the Cemetery Association, and that will create an endowment for the routine maintenance in perpetuity of that beautiful old cemetery right here in the city of Washington.

I would like to credit Jim Oliver who is the chairman of the board of the Congressional Cemetery who works right here on the floor of the House for the work that he has done, using volunteer help, catch as catch can, to keep that cemetery up in a proper manner. This, Mr. Chairman, I think, is an effort, a one-shot deal. We will do this and then we will get out of it. The Architect will stay involved as a member of the board of trustees to keep our oversight interest in front of that board, but then we are finished with it. I would like to thank again all the people who helped to put this bill together, in particular the gentleman from New York (Mr. SERRANO).

Mr. Chairman, I submit the following details and tabular material for the RECORD:

Legislative Branch Appropriations Bill, 1999

RECOMMENDATIONS FOR FISCAL YEAR 1998

$1.8 billion ($1,804,689,700) in New Obligational authority of which $1.113 billion ($1,113,521,700) is for Congressional operations exclusive of Senate items. The balance of the bill, $691 million ($691,168,000) is for the operations of the other legislative branch agencies.

Reduction: $129.6 million ($129,592,900) under the budget reuqest, a 6.7% reduction.

Above 1998 appropriations: $29.8 million ($29,813,900) above the current fiscal year—1.68%.

Above 1998 Outlays: An increase of $7 million in net outlays from new budget authority above the amount provided in FY1998. That's only 4/10ths of 1 percent. Outlays from prior year authority (which we have no control of in this bill—are up $44 million.

COMPONENTS OF INCREASE

Mandatory: There is an increase of $45.6 million ($45,126,500) primarily because of the 3.1% staff COLA projected for 1999.

Price Level: $4 million ($4,089,000) for price increases (travel, utilities, etc.); agencies were held to a 2% increase.

Program changes: A reduction of $19.4 million ($19,401,600) in programs—

House is up a net of $2.3 million in program changes ($2,272,400), including $2.8 million primarily to finance year 2000 fixes and to makeup lost revenue due to migration of the HIR mainframe to a client/server architecture.

A net $360,000 reduction in program costs of joint items.

Office of compliance: A net $279,000 reduction in program costs due to a diminished workload.

CBO: A $325,000 reduction in program costs.

Architect of the Capitol: A $20,556,000 reduction in program costs.

Government Printing Office: A $7,204,000 savings generated by an investment in new technology.

The Library of Congress: A $1,253,000 program increase to finance the installation of the integrated library system (ILS) and to bring the library's computers into compliance with the year 2000.

GAO: A $5,404,000 increase, to makeup for a loss of building rental receipts.

MAJOR ITEMS IN THE BILL

House of Representatives—$734,107,000.

Increase of $5,490,000 for staff COLA's in Members' Offices.

Increase of $4,572,000 for COLA's for committee staff.

Increase of $5,635,000 for the offices of the House.

Clerk's budget reduced $362,000 due to lower costs for closed captioning and stenographic reporting contracts.

Sergeant at Arms reduced in supplies and equipment, reflecting one-time purchases in FY 1998.

CAO's operation reduced by 18 FTE's; overall increase of $6,484,000 reflects increase to cover lost computer time reimbursements and equipment and furniture purchases for first session of 106th Congress.

Inspector general and other offices of the House held to COLA increases.

Allowances and expenses, an increase of $8,712,000, 97% of it due to increased costs for staff benefits.

Joint Economic Committee—funded at request level, an increase of $46,000 for committee staff COLA's.

Joint Committee on Printing—three months' funding at request of Chairman WARNER and Vice Chairman THOMAS; provision for additional amount for the Committee on House Oversight, if legislation increases that committee's jurisdiction over the Government Printing Office.

Joint Committee on Taxation—$6,018,000, the amount requested for current programs and to pay for staff COLA's.

Attending physician—$1,383,000, current programs plus COLA costs.

Capitol police—$76,381,000, including $72,615,000 for salaries (COLA's and "comparability" funded) and $3,766,000 for expenses including travel, communications equipment and a hazardous materials training program ($260,000). All other expense items held to a 2% increase.

Guides and special services office—$2,110,000, providing for staff COLA costs. Request for three additional FTE's not provided.

Office of Compliance—$2,086,000, providing for a lower staff level. Committee report directs budget formulation for FY2000 should reflect lowered level of activity, not that the intensive startup costs for this office are no longer needed.

Congressional Budget Office—$25,671,000, an increase of $874,000 to pay for staff COLA's. The committee report directs CBO to report to House and Senate committees—the earlier of August 30 or before conference on this bill—on variances between CBO estimates and actual outcomes for revenue, deficit and expenditure forecasts.

Architect of the Capitol—$136,399,000, a decrease of $18.3 million (18,325,000) from FY1998. Operating budget increase of $4,808,000 to cover staff COLA's and overall 2% increase in non-personnel costs. Capital budget at $22,133,000 lower than FY1998 due to one time costs for urgent work on the Capitol dome and security for the Capitol square perimeter which were funded in a fiscal year 1998 supplemental.

Congressional cemetery: Grant provided to establish permanent endowment, to be matched by private donations, to cover annual maintenance.

Power plant: Provision included (sec. 308) to provide authority for Architect to use energy savings performance contracts to refit the east plant chiller.

Audio Visual Conservation Center: Provision to limit expenditures for capital costs at this new library building in Culpeper, Virginia and to specify that expenditures shall be at a 3:1 ratio, private-to-public.

Employeee buyout program: Section 309—authority given to the Architect of the Capitol to establish a retirement incentive payment (buyout) program through FY2001. The Architect will use this program to realign operations, to eliminate duplicative operations and for other efficiencies.

Congressional Research Service—$66,688,000, providing for mandatory pay costs for current FTE level of 747. CRS requested funds for 20 additional staff to be repeated each year for five years to bring on apprentice staff for mentoring before the aging workforce retires. At the time of the hearings (February) and continuing to today, the committee believes there are ample vacancies at CRS to carryout this program.

Library of Congress (except CRS)—$291,701,000. This provides funds for the current employment level, modest (2% overall) increases in nonpersonnel costs. Funds are provided to comply with the year 2000 problem and for the integrated library system.

Routine administrative provisions plus new provision (sec. 207) providing authority for the Library to receive and credit funds from entities involved with the Global Legal Information Network (GLIN) program in the law library.

Provides funds for additional 3,766 playback machines for blind and physically handicapped readers, an increase of 18% over the past two years.

Government Printing Office—$103,729,000 and 3,416 FTE's, a decrease of $7,017,000 and 134 FTE's.

Congressional printing and binding—$74,465,000, a decrease of $7,204,000.

Superintendent of Documents—$29,264,000, an increase of $187,000 for staff COLA's.

GPO costs too high: GAO management review (Booz-Allen & Hamilton contract) found costs and staffing levels at the plant, in the printing procurement program and sales program too high. They also found a higher percentage of the workforce eligible to retire than elsewhere in Government.

GPO employee buyout: The bill includes a provision (sec. 310) providing Public Printer authority to establish a retirement incentive (buyout) and early out programs to reduce personnel costs at GPO.

General Accounting Office—$354,238,000 plus authority to spend $2,000,000 in receipts for audits, an increase of $14,739,000. This includes $5,404,000 to make up for no longer available building rental receipts.

Provides funds, including COLA's, for 3,225 FTE's, a slight increase in the level projected for FY 1998.

Committee report directs GAO to train staff in contract management skills to increase the agency's ability to utilize consulting firms and other experts in lieu of internal staff.

General and administrative provisions: Several housekeeping provisions:

Sec. 101—Remove the Architect from the House page board.

Sec. 102—Increase the authorization for interparliamentary receptions to $80,000.

Sec. 103—Authorization for training and program development programs for House leadership offices.

Sec. 104—Technical amendment to conform statutes to current structure of the Members' representational allowance.

Sec. 105—Provision requested by chairman and ranking minority member of Ethics Committee to postpone identifying, in the CAO's statement of disbursements, witnesses appearing in executive session before the committee.

Sec. 106—Provision authorizing Committee on House Oversight to prescribe conditions appropriate to non-official business use of supplies and equipment.

Sec. 107—A provision authorizing 1 consultant each for Speaker and two leaders and limiting rate of payment to per diem of committee staff.

Sec. 108—Provision authorizing a transit subsidy program for staff of the House.

Sec. 109—Provision carried as general provision in last year's act that provides that unspent MRA funds shall be used for deficit reduction.

Routine administration provisions for the Capitol Police and Library of Congress have been included as well as the new provision mentioned earlier for the Library and the two provisions mentioned earlier for the Architect.

INTERESTING COMPARISONS

The 1.68 percent increase is less than inflation.

Outlays for spending in the bill increase $7 million—an increase of 4/10 of one percent.

FTE's are reduced by 438. Since 1994, the legislative branch employment base will be down over 4,300 FTE's. That's a 15.7 percent reduction.

SUMMARY

BA compared to:

1998 operating level: +$29.8 million (+1.68 percent).

1999 request: −$129.6 million (−6.7 percent).

302b: −$17.3 million reduction under our 302b's (Senate excluded).

Outlays compared to:

1998 operating level: +$51 million (+2.9 percent) increase. $44 million are in prior year outlays over which we have no control.

1999 request: −$96 million (5.1 percent decrease).

302b: −$25 million (−1.4 percent) reduction under pro rata share (Senate excluded).

LEGISLATIVE BRANCH APPROPRIATIONS BILL, 1999 (H.R. 4112)

	FY 1998 Enacted	FY 1999 Estimate	Bill	Bill compared with Enacted	Bill compared with Estimate
TITLE I - CONGRESSIONAL OPERATIONS					
HOUSE OF REPRESENTATIVES					
Payments to Widows and Heirs of Deceased Members of Congress					
Gratuities, deceased Members	270,300	133,600	136,700	-133,600	+3,100
Salaries and Expenses					
House Leadership Offices					
Office of the Speaker	1,590,000	1,705,000	1,686,000	+96,000	-19,000
Office of the Majority Floor Leader	1,626,000	1,669,000	1,652,000	+26,000	-17,000
Office of the Minority Floor Leader	1,652,000	1,696,000	1,675,000	+23,000	-21,000
Office of the Majority Whip	1,024,000	1,053,000	1,043,000	+19,000	-10,000
Office of the Minority Whip	998,000	1,028,000	1,020,000	+22,000	-8,000
Speaker's Office for Legislative Floor Activities	397,000	406,000	397,000		-9,000
Republican Steering Committee	736,000	753,000	738,000	+2,000	-15,000
Republican Conference	1,172,000	1,205,000	1,199,000	+27,000	-6,000
Democratic Steering and Policy Committee	1,277,000	1,310,000	1,295,000	+18,000	-15,000
Democratic Caucus	631,000	648,000	642,000	+11,000	-6,000
Nine minority employees	1,190,000	1,218,000	1,190,000		-28,000
Training and Development Program:					
Majority			290,000	+290,000	+290,000
Minority			290,000	+290,000	+290,000
Subtotal, House Leadership Offices	12,293,000	12,689,000	13,117,000	+824,000	+428,000
Members' Representational Allowances					
Expenses	379,789,000	412,964,000	385,279,000	+5,490,000	-27,685,000
Committee Employees					
Standing Committees, Special and Select (except Appropriations)	86,268,000	90,608,000	89,743,000	+3,475,000	-865,000
Committee on Appropriations (including studies and investigations)	18,276,000	19,731,000	19,373,000	+1,097,000	-358,000
Subtotal, Committee employees	104,544,000	110,339,000	109,116,000	+4,572,000	-1,223,000
Salaries, Officers and Employees					
Office of the Clerk	16,804,000	15,817,000	15,365,000	-1,439,000	-452,000
Office of the Sergeant at Arms	3,564,000	3,611,000	3,501,000	-63,000	-110,000
Office of the Chief Administrative Officer	50,727,000	58,829,000	57,211,000	+6,484,000	-1,618,000
Office of Inspector General	3,808,000	4,379,000	3,953,000	+145,000	-426,000
Office of General Counsel		840,000	840,000	+840,000	
Office of the Chaplain	133,000	136,000	133,000		-3,000
Office of the Parliamentarian	1,101,000	1,106,000	1,106,000	+5,000	
Office of the Parliamentarian	(852,000)	(904,000)	(904,000)	(+52,000)	
Compilation of precedents of the House of Representatives	(249,000)	(202,000)	(202,000)	(-47,000)	
Office of the Law Revision Counsel	1,821,000	1,957,000	1,912,000	+91,000	-45,000
Office of the Legislative Counsel	4,827,000	4,980,000	4,980,000	+153,000	
Corrections Calendar Office	791,000	810,000	799,000	+8,000	-11,000
Other authorized employees	780,000	191,000	191,000	-589,000	
Former Speakers	(594,000)			(-594,000)	
Technical Assistants, Office of the Attending Physician	(186,000)	(191,000)	(191,000)	(+5,000)	
Subtotal, Salaries, Officers and Employees	84,356,000	92,656,000	89,991,000	+5,635,000	-2,665,000
Allowances and Expenses					
Supplies, materials, administrative costs and Federal tort claims	2,225,000	2,706,000	2,575,000	+350,000	-131,000
Official mail (committees, leadership, administrative and legislative offices)	500,000	500,000	410,000	-90,000	-90,000
Government contributions	124,390,000	132,949,000	132,832,000	+8,442,000	-117,000
Miscellaneous items	641,000	651,000	651,000	+10,000	
Subtotal, Allowances and expenses	127,756,000	136,806,000	136,468,000	+8,712,000	-338,000
Total, salaries and expenses	708,738,000	765,454,000	733,971,000	+25,233,000	-31,483,000
Total, House of Representatives	709,008,300	765,587,800	734,107,700	+25,099,400	-31,479,900
JOINT ITEMS					
Joint Economic Committee	2,750,000	2,796,000	2,796,000	+46,000	
Joint Committee on Printing	804,000	804,000	352,000	-452,000	-452,000
Joint Committee on Taxation	5,815,500	6,018,000	6,018,000	+202,500	
Office of the Attending Physician					
Medical supplies, equipment, expenses, and allowances	1,266,000	1,383,000	1,383,000	+117,000	

LEGISLATIVE BRANCH APPROPRIATIONS BILL, 1999 (H.R. 4112)

	FY 1998 Enacted	FY 1999 Estimate	Bill	Bill compared with Enacted	Bill compared with Estimate
Capitol Police Board					
Capitol Police					
Salaries:					
Sergeant at Arms of the House of Representatives	34,118,000	36,603,000	35,022,000	+904,000	-1,581,000
Sergeant at Arms and Doorkeeper of the Senate	36,837,000	39,505,000	37,593,000	+756,000	-1,912,000
Subtotal, salaries	70,955,000	76,108,000	72,615,000	+1,660,000	-3,493,000
General expenses	3,099,000	8,361,000	3,766,000	+667,000	-4,595,000
(By transfer)	(4,000,000)			(-4,000,000)	
Subtotal, Capitol Police	74,054,000	84,469,000	76,381,000	+2,327,000	-8,088,000
Capitol Guide Service and Special Services Office	1,991,000	2,195,000	2,110,000	+119,000	-85,000
Statements of Appropriations	30,000	30,000	30,000		
Total, Joint Items	86,710,500	97,895,000	89,070,000	+2,359,500	-8,825,000
OFFICE OF COMPLIANCE					
Salaries and expenses	2,479,000	2,286,000	2,086,000	-393,000	-200,000
CONGRESSIONAL BUDGET OFFICE					
Salaries and expenses	24,797,000	25,938,000	25,671,000	+874,000	-267,000
ARCHITECT OF THE CAPITOL					
Capitol Buildings and Grounds					
Capitol buildings, salaries and expenses	44,477,000	55,342,000	40,347,000	-4,130,000	-14,995,000
Capitol grounds	25,116,000	26,623,000	5,803,000	-19,313,000	-20,820,000
House office buildings	36,610,000	43,798,000	42,139,000	+5,529,000	-1,659,000
Capitol Power Plant	37,932,000	44,379,000	37,145,000	-787,000	-7,234,000
Offsetting collections	-4,000,000	-4,000,000	-4,000,000		
Net subtotal, Capitol Power Plant	33,932,000	40,379,000	33,145,000	-787,000	-7,234,000
Total, Architect of the Capitol	140,135,000	166,142,000	121,434,000	-18,701,000	-44,708,000
LIBRARY OF CONGRESS					
Congressional Research Service					
Salaries and expenses	64,603,000	68,461,000	66,688,000	+2,085,000	-1,773,000
GOVERNMENT PRINTING OFFICE					
Congressional printing and binding 1/	81,669,000	84,000,000	74,465,000	-7,204,000	-9,535,000
Total, title I, Congressional Operations	1,109,401,800	1,210,109,600	1,113,521,700	+4,119,900	-96,587,900
TITLE II - OTHER AGENCIES					
BOTANIC GARDEN					
Salaries and expenses	3,016,000	3,235,000	3,032,000	+16,000	-203,000
LIBRARY OF CONGRESS					
Salaries and expenses	227,504,000	239,415,000	234,822,000	+7,318,000	-4,593,000
Authority to spend receipts	-7,869,000	-6,500,000	-6,850,000	+1,019,000	-350,000
Net subtotal, Salaries and expenses	219,635,000	232,915,000	227,972,000	+8,337,000	-4,943,000
Copyright Office, salaries and expenses	34,361,000	35,269,000	33,897,000	-464,000	-1,372,000
Authority to spend receipts	-22,426,000	-21,170,000	-21,170,000	+1,256,000	
Net subtotal, Copyright Office	11,935,000	14,099,000	12,727,000	+792,000	-1,372,000
Books for the blind & physically handicapped, salaries & expenses	46,561,000	48,145,000	46,824,000	+263,000	-1,321,000
Furniture and furnishings	4,178,000	5,712,000	4,178,000		-1,534,000
Total, Library of Congress (except CRS)	282,309,000	300,871,000	291,701,000	+9,392,000	-9,170,000
ARCHITECT OF THE CAPITOL					
Congressional cemetery			1,000,000	+1,000,000	+1,000,000
Library Buildings and Grounds					
Structural and mechanical care	11,573,000	16,139,000	11,933,000	+360,000	-4,206,000
GOVERNMENT PRINTING OFFICE					
Office of Superintendent of Documents					
Salaries and expenses	29,077,000	30,200,000	29,264,000	+187,000	-936,000
Government Printing Office Revolving Fund					
GPO revolving fund		6,000,000			-6,000,000
Total, Government Printing Office	29,077,000	36,200,000	29,264,000	+187,000	-6,936,000

LEGISLATIVE BRANCH APPROPRIATIONS BILL, 1999 (H.R. 4112)

	FY 1998 Enacted	FY 1999 Estimate	Bill	Bill compared with Enacted	Bill compared with Estimate
GENERAL ACCOUNTING OFFICE					
Salaries and expenses	346,903,000	369,728,000	356,238,000	+9,335,000	-13,490,000
Offsetting collections	-7,404,000	-2,000,000	-2,000,000	+5,404,000	
Total, General Accounting Office	339,499,000	367,728,000	354,238,000	+14,739,000	-13,490,000
Total, title II, Other agencies	665,474,000	724,173,000	691,168,000	+25,694,000	-33,005,000
Grand total	1,774,875,800	1,934,282,600	1,804,689,700	+29,813,900	-129,592,900
TITLE I - CONGRESSIONAL OPERATIONS					
House of Representatives	709,008,300	765,587,600	734,107,700	+25,099,400	-31,479,900
Joint Items	86,710,500	97,695,000	89,070,000	+2,359,500	-8,625,000
Office of Compliance	2,479,000	2,286,000	2,086,000	-393,000	-200,000
Congressional Budget Office	24,797,000	25,938,000	25,671,000	+874,000	-267,000
Architect of the Capitol	140,135,000	166,142,000	121,434,000	-18,701,000	-44,708,000
Library of Congress: Congressional Research Service	64,603,000	68,461,000	66,688,000	+2,085,000	-1,773,000
Congressional printing and binding, Government Printing Office	81,669,000	84,000,000	74,465,000	-7,204,000	-9,535,000
Total, title I, Congressional operations	1,109,401,800	1,210,109,600	1,113,521,700	+4,119,900	-96,587,900
TITLE II - OTHER AGENCIES					
Botanic Garden	3,016,000	3,235,000	3,032,000	+16,000	-203,000
Library of Congress (except CRS)	282,309,000	300,871,000	291,701,000	+9,392,000	-9,170,000
Architect of the Capitol (Congressional Cemetery and Library buildings and grounds)	11,573,000	16,139,000	12,933,000	+1,360,000	-3,206,000
Government Printing Office (except congressional printing and binding)	29,077,000	36,200,000	29,264,000	+187,000	-6,936,000
General Accounting Office	339,499,000	367,728,000	354,238,000	+14,739,000	-13,490,000
Total, title II, Other agencies	665,474,000	724,173,000	691,168,000	+25,694,000	-33,005,000
Grand total	1,774,875,800	1,934,282,600	1,804,689,700	+29,813,900	-129,592,900

1/ Includes transfer from revolving fund of $11,017,000.

Mr. WALSH. Mr. Chairman, I reserve the balance of my time.

Mr. SERRANO. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 4112. To repeat what I said at the full committee and before the committee, it has been a great personal pleasure for me to work on this bill with the gentleman from New York (Mr. WALSH), our chairman. The gentleman from New York is a friend of mine and I am a longtime fan of his. In fact, the sad part of this week's baseball game, congressional baseball game, was that since he and I retired for one year, no one wore that illustrious uniform of the New York Yankees at this game, something we will take care of when he gets back in shape and plays next year.

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The other: The gentleman from New York (Mr. WALSH) has been very kind to all the Members. He has been very fair, bipartisan. He is a very knowledgeable chairman, Mr. Chairman, and he is just the kind of person that I am glad to work with, and one of the main reasons why I support this bill the way I do was because whatever shortcomings the bill may have, I know that there are issues that he wanted to deal with and perhaps fell short in trying to make the perfect bill that he would have wanted.

The other members of the subcommittee, too, have worked well together: the gentleman from California (Mr. FAZIO), the gentleman from Maryland (Mr. HOYER) on our side, whose combined knowledge of the legislative branch is staggering, along with the gentleman from Florida (Mr. YOUNG), the gentleman from California (Mr. CUNNINGHAM), the gentleman from Tennessee (Mr. WAMP), the gentleman from Iowa (Mr. LATHAM), and the chairman and ranking Democrat of the full committee, the gentleman from Louisiana (Mr. LIVINGSTON) and the gentleman from Wisconsin (Mr. OBEY).

Once again I will do what so many people have done, but I think it merits mentioning every so often, and that is the fact that this institution and all of us are going to miss the gentleman from California (VIC FAZIO) very much. Other Members have talked about his many talents and qualities, his experience, his insight, his wisdom, his fairness. Let me add that no one has been more consistently devoted to this place or had more knowledge of its inner workings than the gentleman from California (Mr. FAZIO). His retirement will leave an enormous gap that we must struggle to fill.

And of course we could not have this bill here before us today if it was not for the very able staff that we all have. Few can match Ed Lombard's experience and knowledge or Greg Dahlberg's skill and expertise. Tom Martin has provided valuable service to the subcommittee and each Member's own staff, and I would like to take this opportunity to commend my own staff member, Lucy Hand, for the work that she always does for the committee.

The gentleman from New York (Mr. WALSH), the other Members and I share a belief and commitment to the House as an institution. This is the People's House where we carry out the governmental roles of enacting the Nation's laws, overseeing and investigating Federal programs, and, yes, checking and balancing the executive and judicial branches. In these historic surroundings and in the presence of the public, people come to us to petition their government and to see how their laws are made. Tourists visit the inspiring Capitol building which is a symbol of our democracy as well as our own workplace.

Mr. Chairman, the congressional complex has been compared to a small city. It has an infrastructure of buildings and roads, water and sewer, phones and cables. It offers amenities such as visitors' tours, health care and public safety. A huge number and variety of people work here or come to visit. We all want to ensure that the House operates efficiently to protect and enhance the Capitol and the other buildings and grounds and to protect the health, safety and security of all.

We must in this bill provide resources sufficient to run an enterprise of this size and complexity.

Mr. Chairman, this is on balance a good bill, given the constraints the committee is working under this year and for the last couple of years. The gentleman from New York (Mr. WALSH) has explained the bill in detail, but I will add a couple of comments:

First of all, the increase of 1.7 is really above last year, is really less than the expected rate of inflation and less than the likely 3.1 percent cost of living adjustment. I think that this merits the respect of the House because it is not easy to come up with this kind of a bill and still only increase it by the amount we have.

This covers the operations of the House Member and committee offices, administrative offices and the legislative support activities of the Congressional Budget Office, Congressional Research Service and the Architect of the Capitol. The bill also includes dollars for the Library of Congress, the General Accounting Office and the Government Printing Office.

And while the bill continues to reduce staffing levels, it provides buyout authority to the Architect and the GPO so they can manage staff reductions and restructuring. Buyouts are less expensive, less disruptive and less harmful to the affected workers than the alternative reductions in work force.

I repeat that this is a good bill, and I will continue to speak for the bill, Mr. Chairman, during this debate. I hope that at the end of it, it will have bipartisan support and that the work that the gentleman from New York (Mr. WALSH) and our committee has done will be appreciated by all Members.

This covers the operations of House Member and Committee offices, administrative offices, and the legislative support activities of the Congressional Budget Office, Congressional Research Service, and the Architect of the Capitol.

The bill also includes $691 million for other agencies such as the Library of Congress, General Accounting Office, and Government Printing Office.

While the bill continues to reduce staffing levels, it provides buyout authority to the Architect and the GPO so they can manage staff reductions and restructuring. Buyouts are less expensive, less disruptive, and less harmful to the affected workers than the alternative, reductions-in-force.

Mr. Chairman, I repeat that this is a good bill. However, there are concerns on our side that must be expressed.

First, however modest the increase in total spending over last year is—and I believe 1.7% is modest—it is still an increase. Other appropriations bills contain drastic cuts and even terminations in programs of great importance to the American people, especially the most vulnerable Americans.

Second, the bill provides funding for only one quarter for the Joint Committee on Printing. This was at the request of the Chairmen of the House Oversight and Senate Rules Committees and assumes that Title 44 reform, including disposition of JCP's functions, will be completed by the end of 1998. However, there are not many legislative days left in this session and no legislation has been introduced, so completing reform seems unlikely.

Third, spending in the 105th Congress out of the Speaker's "reserve fund for unanticipated expenses of committees" was included in the base used to calculate the fiscal year 1999 "Committee Employees" appropriation. We understand that whether there is a slush fund in the 106th Congress will be decided when the new Congress adopts its rules and its Committee Funding Resolution. And that is the way funds should be allocated among Committees—by a vote of the House. They should not be held in reserve to be distributed at the whim of one party's leadership through a Committee strongly weighted toward that party.

I supported Mr. HOYER's attempt to have an amendment made in order that would limit funds available for the disbursements from the reserve fund.

Sadly, the amendment was not made in order under the rule, and the House is denied the opportunity to vote on how Committee funds should be allocated.

I am also sorry that Rules did not waive points of order against Section 108, as it did for every other provision subject to a point of order. Section 108 was a Hoyer amendment adopted in Committee, based on a resolution by Mr. BLUMENAUER.

The amendment would have required the Oversight Committee to institute a program through which employing offices, including Members, could offer transit subsidies to employees who do not have parking spaces or belong to car pools. It is past time for the House to join the Senate, the Architect's office, the executive branch, and much of the private sector.

More than half the Members of the House, of the Appropriations Committee, even of the House Oversight Committee, are cosponsors of Mr. BLUMENAUER's bill, so I would have thought a clean vote on whether or not to strike the provision would have been fair, but as it is, the provision can be stricken on a point of order.

Other problems facing the bill are not due to the bill itself but to the atmosphere in the House.

There are numerous ongoing, duplicative, highly partisan investigations. The Democratic Leader recently released a report that found that more than $17 million in taxpayers' dollars has been spent to date on more than 50 investigations involving 15 of the 20 standing committees of the House.

This is just too much. Congress is wasting time and money on witch hunts when the business the people expect us to do is undone.

There is also a general disregard for the rights of the minority.

While some of the more egregious offenses I mentioned last year—like denying Ranking Democrats the right to offer amendments to their bills—have subsided, there are constant irritations, such as the uneven division of suspensions between the parties.

And overall, there is a general lack of civility and respect.

Still, Mr. Chairman, Chairman WALSH has done a good job and this is a good bill. I will vote for it and I urge my colleagues to do the same.

Mr. Chairman, I reserve the balance of my time.

Mr. WALSH. Mr. Chairman, I yield 1 minute to the gentleman from California (Mr. CUNNINGHAM) a member of the subcommittee.

Mr. CUNNINGHAM. Mr. Chairman, I would like to thank the gentleman from New York (Mr. WALSH) and I would like to thank my good friend, the gentleman from New York (Mr. SERRANO). I serve on another committee, on the Committee on National Security, and it is a pleasure because of the bipartisanship. Does not mean that we do not have disagreements from time to time, but the atmosphere, the friendliness, the working, and their willingness not to continue with the, as my colleagues know, bigger government and tax and spend, but to serve by example to reduce the size to useful government; and the fact that good government does not have to be an oxymoron. I would like to thank the gentleman from New York (Mr. SERRANO) and I would like to thank the gentleman from New York (Mr. WALSH) for delivering on those kind of promises and making it a very desirable committee to serve on.

Mr. SERRANO. Mr. Chairman, I yield 3 minutes to the gentleman from Texas (Mr. DOGGETT).

Mr. DOGGETT. Mr. Chairman, I appreciate very much the bipartisan spirit with which this piece of legislation is brought to the floor, but I regret to inform the House, as I did during the rule debate, that a bipartisan effort to try to get some attention on the tons of paper and bottles and cans that go through this building and to see that they are addressed with the same amount of environmental sensitivity that families across this country use and that many businesses use in having a competent recycling program has been totally missing from this House in the last 3½ years.

Let me recite the facts:

For 3 of the last 3½ years that this House has been under Republican control, there has been no recycling coordinator in this Congress. Indeed there is no recycling coordinator today. As we debate today this bill, there is no recycling plan in place. As we debate this bill there is no recycling of mixed paper in this House; indeed that is zero, zip, nada, being done with reference to recycling of mixed paper.

Why is that particularly important? Because since there is no recycling coordinator and no real recycling effort, most people, even if they have the best of intent with regard to recycling, do not have correct information about how to recycle in a way that will be effective, and that is reflected in other facts.

When the House did recycle, it earned 30 cents per ton on the paper that it recycled. Compare that with the Department of Housing and Urban Development which earned $60 per ton because it did it properly. From October 1996 to September 1997 the House did not earn a penny because its recycling was done in such a poor, incomplete, and contaminated way.

Since the Republicans have been in charge of this House, the amount of bottle recycling has gone down 83 percent. The amount of can recycling has gone down 73 percent. If they just put the cans and the bottles out here on the sidewalk for the homeless to collect, we could have done better than has been done by the House leadership with reference to this recycling program.

Look at the number of trees around this country that are cut down with the flow of paper through this building. We are talking about whole forests that go down to generate the tons of paper that go through this building. As best I can estimate, just the Washington Post alone delivers 15,000 pounds of newsprint here every week. Most of it is going right into the landfill instead of being recycled in the way that so many American families realize is best for the future of this country.

I believe there is some bipartisan interest in this issue, as was voiced earlier, and I appreciate the willingness to accept the amendment of the gentleman from California (Mr. FARR). But it is going to take far more than a few dollars. It is going to require a significant change in attitude by the leadership of this House if we are going to reverse this very serious environmental problem here in the Congress.

This Congress ought to be leading the way, it ought to be following the businesses and the schoolchildren and the millions of families across this country that recycle. Instead the performance of this House represents a national disgrace on this issue, and it needs to be corrected immediately.

Mr. WALSH. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I really have to rise again and respond to my colleague from Texas (Mr. DOGGETT) regarding the recycling program. There is no question that we are not perfect. But I would submit that we are probably doing better than a lot of other communities around this country, and there really is an effort on the part of this committee and on the part of the Republican leadership to do a better job at recycling.

I cannot understand for the life of me how anyone can make this a partisan issue. We are all united, Republicans, Democrats, and the Independent Member of the Congress are all united in this. What it requires is some leadership on the part of each Member to sit down with their staff and say, as my colleagues know, this is mixed paper, this is fine paper, and this is wet waste, and put labels on the trash cans and implement this.

Mr. DOGGETT. Mr. Chairman, will the gentleman yield?

Mr. WALSH. I yield to the gentleman from Texas.

Mr. DOGGETT. I guess the reason that it becomes an issue that relates to whether there is a commitment by the Republican leadership to address this, is our inability to get a recycling coordinator in place and our inability to even get a copy of the report.

Mr. WALSH. Reclaiming my time, Mr. Chairman, the gentleman takes issue with the fact that there is not a coordinator in place, and apparently there is a labor dispute between that individual and the Office of Compliance, and so it has been tied up. But the fact of the matter is the Architect's Office is responsible for this.

I have a letter here that I would enter into the RECORD, but basically it says it is addressed to me from Architect Alan Hantman:

> I am writing with respect to the office waste recycling program in the House. I want to reassure the committee of my personal commitment to the success of this worthy program. I want to thank you and the committee for assuring that sufficient funds and other resources have been made available to carry out the recycling program over the past several years,

et cetera, et cetera.

The letter in its entirety is as follows:

THE ARCHITECT OF THE CAPITOL,
Washington, DC, June 24, 1998.
Hon. JAMES T. WALSH,
Chairman, Subcommittee on Legislative Branch Appropriations, Committee on Appropriations, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: I am writing with respect to the office waste recycling program in the House office buildings. I want to reassure the Committee of my personal commitment to the success of this worthy program. Further, I want to thank you and the Committee for assuring that sufficient funds and other resources have been made available to carry out the recycling program over the past several years. It is clearly the responsibility of this office to assure that those resources are used expeditiously and continuously to make certain the recycling program is a success.

Please do not hesitate to contact me if you have any questions on this matter.

Sincerely,
ALAN M. HANTMAN, AIA,
Architect of the Capitol.

Now we have accepted the gentleman from California's amendment (Mr. FARR). We are about to accept it. And we will do that, but it is a friendly amendment. Again, it is not a partisan issue. We are working together to try to resolve these things, and the gentleman from Texas, I think, misstated or misquoted the facts when he said that we are not doing anything to recycle waste. In fact, we generated 3,400 tons of office waste last year, and we recycled almost 2,000 of those. Almost 60 percent of the office waste was recycled. Of the overall waste stream, we are recycling at least 25 percent. That is as good, if not better, than most communities in America.

So, as my colleagues know, we are trying to do the best we can. We can do better, but it is going to require that we all work together in this, we should not make it a partisan issue. Let us work together, and I think we can do a better job.

Mr. Chairman, I yield 2 minutes to the gentleman from Michigan (Mr. CAMP).

Mr. CAMP. Mr. Chairman, I thank the gentleman for yielding this time to me and for his leadership.

Mr. Chairman, I rise in support of this bill and for its provision which would require that Members' unspent office funds go back to the Treasury to be used to reduce the national debt.

The fiscal year 1999 legislative branch appropriations bill continues our assault on the national debt and reduces spending by 77 million over 1995 levels. This majority has achieved in 3 years what has eluded the Congress for 3 decades, a balanced budget, and we must not rest. We must remain committed to maintaining a balanced budget and continue working toward reducing the national debt.

This bill with a provision in it offered by the Representative from Indiana (Mr. ROEMER) and myself will ensure that Members of Congress can demonstrate their personal commitment to a balanced budget. This provision requires Members' unspent office funds be used for debt reduction.

This measure has been proposed for the last 8 years. It was first adopted by the new majority with a large bipartisan vote 3 years ago, and for the first time ever has been included in the chairman's draft, and I thank the chairman for his leadership on this issue.

Requiring unspent office funds for debt reduction allows us to demonstrate our personal commitment to a truly debt-free Nation by running our offices in an efficient and frugal manner. What better example can we set in returning our unspent office funds to the American people? As taxpayers and Members of Congress, we should do our part to reduce the debt.

I thank the gentleman again, and I thank the gentleman from Indiana for his leadership and work on this important provision.

Mr. SERRANO. Mr. Chairman, I yield 2 minutes to the gentleman from Indiana (Mr. ROEMER).

Mr. WALSH. Mr. Chairman, I yield 1 minute to the gentleman from Indiana (Mr. ROEMER).

The CHAIRMAN. The gentleman from Indiana (Mr. ROEMER) is recognized for 3 minutes.

□ 1430

Mr. ROEMER. Mr. Chairman, I thank my friend from New York for yielding me this time.

Mr. Chairman, I rise on an historic day when we will reform the IRS for the first time in 46 years. We will follow up on a capital gains tax cut for the American people, and for the first time, in the underlying bill, we will give Members of Congress a direct opportunity to return money from their office accounts directly to deficit and/or debt reduction. This is something that I want to commend the gentleman from New York (Mr. WALSH) and the gentleman from New York (Mr. SERRANO) on.

In previous years I offered this amendment and Committee on Rules would not allow it to be brought forward. It was called the "Speaker's slush fund" under Democrats and Republicans that this money went to. Finally, and I give accolades to the Republican majority, we offered this as an amendment on the House floor and we successfully attached it to the bill. Three years ago, two years ago, last year, and this year, for the first time, the very first time, it is included on page 10.

So I am very happy to work with my good friend, the gentleman from Michigan (Mr. CAMP). The gentleman from Michigan (Mr. CAMP) and I have sponsored this legislation through the years and, slowly but surely, convinced our colleagues that this is a good thing.

I have returned $915,000, close to $1 million, out of my office funds. I do not think that money should go toward Capitol repair or an elevator floor made out of marble. I think that money should go to debt reduction. I think that money should go back to the U.S. Treasury. I do not think that money should be respent on something here in Washington, D.C.

So, with that, I would ask the distinguished chairman, the gentleman from New York (Mr. WALSH), if he would engage in a very short colloquy.

Mr. Chairman, as we have been discussing through the years, the language on page 10 reads that "Members' representational allowances shall be allowable only for fiscal year 1999. Any amount remaining after all payments are made under such allowances for such fiscal years shall be deposited in the Treasury to be used for deficit reduction."

Now, this is good strong language because I think, regardless, it remains in the Treasury under this language. But if in fact, Mr. Chairman, we have a surplus this year, which it appears we will, and there is not a deficit, we want to make sure this money goes toward debt reduction.

Is it the gentleman's interpretation and intention in conference to clarify this language to include debt reduction?

Mr. WALSH. Mr. Chairman, will the gentleman yield?

Mr. ROEMER. I yield to the gentleman from New York.

Mr. WALSH. The gentleman is correct. It is our understanding, regardless of the situation presented by the economy or by the budget, a deficit or surplus, and we have the happy confluence of this amendment being passed at the same time that we do have a surplus, that that money stays in the Treasury.

Mr. ROEMER. Mr. Chairman, reclaiming my time, I thank the chairman for that clarification and for that dedication to helping continue in a bipartisan way, to save the taxpayer money.

Mr. WALSH. Mr. Chairman, if the gentleman will yield further, I would like to thank the gentleman from Indiana (Mr. ROEMER) and the gentleman from Michigan (Mr. CAMP) for their persistence on this issue. I am happy to include it in the bill.

Mr. SERRANO. Mr. Chairman, I yield two minutes to the gentleman from Oregon (Mr. BLUMENAUER).

Mr. BLUMENAUER. Mr. Chairman, I thank my colleague for yielding me time.

Mr. Chairman, I have been disappointed as a Member of this body to discover that, unlike most other Federal agencies, unlike what we have done for thousands of employees in private corporations around America, that we are unable to extend a transit benefit to our employees. It has been Federal policy since the early 1990s that we encourage this balanced approach to transportation. It has been occurring in the Senate since 1992.

I was pleased when I found that the Committee on Appropriations had added the provisions of House Resolution 37 that would have extended this program that were amended into the bill. Evidently there may be some procedural problem or point of order that is raised that would pull this item from the bill.

I would hope that it would be possible for the House leadership to come together to make sure that we ultimately have provisions that have already been supported by over 230 Members of the House that have cosponsored the legislation. I would hope that at a time when we are talking about spending billions of dollars to try and somehow resuscitate the Washington, D.C., area and to fight the congestion in the second-most congested area in the United States, I would hope that we would be able to adopt this simple program that is already available to most of the employees on the Hill, because it is good for the environment, because it is good for reducing congestion, but, most important, because it extends an important benefit to some of our lowest-paid employees who want to do the right thing.

Mr. Chairman, I would hope that my colleagues would join with me, in the event it is not part of this proposal, that we could make sure that this is fixed before we adjourn for the year.

Mr. WALSH. Mr. Chairman, I yield two minutes to the distinguished gentleman from Ohio (Mr. TRAFICANT) for the purpose of colloquy.

Mr. TRAFICANT. Mr. Chairman, since I have come here, I have seen what I believe to be a shortfall in the way we treat our Capitol Police, and I do not think there is any Member that does not support our Capitol Police. Number one, we never see any headlines, and that is the biggest compliment we can pay them, and they do guard and secure our Nation's treasures as well as our human resources.

In that regard, Mr. Chairman, they are not paid at a commensurate level of other law enforcement entities in our Federal Government, number one, and, number two, after the extreme background checks and training and all the money we put into them, they are prime targets to be recruited by other surrounding law enforcement agencies because they are, in fact, some of the world's finest and the Nation's finest.

Mr. Chairman, I have sponsored legislation to bring them up to par with some of these other law enforcement entities, and that would have required a 7 percent increase in their compensation. I want to thank and compliment the gentleman from New York (Mr. WALSH) and the gentleman from New York (Mr. SERRANO) who did give and include a 3 percent raise. But that still falls $5 million short of compensating our police at a level commensurate with other similar types of enforcement entities.

I want to know under what conditions and if the two gentlemen would work with me to try and bring our Capitol Police up to that level which I think would ensure they would be retained here after the tremendous investment of training and background expenditures we make, and that would keep our morale up in that department, as it should be.

Mr. WALSH. Mr. Chairman, I yield myself such time as I may consume to respond to the gentleman from Ohio (Mr. TRAFICANT).

Mr. Chairman, I thank the gentleman for his comments and concern. Obviously the gentleman speaks for most Members in his affection and support of the Capitol Hill Police. They do a marvelous job here.

We in our deliberations have provided the Capitol Hill Police with funding for a similar increase that other Federal employees will receive. It is our understanding there is a collective bargaining process ongoing. If there is indeed a collective bargaining agreement, the process is then that it would have to be reviewed by the Committee on House Oversight, chaired by the gentleman from California (Mr. THOMAS), and, before that, by the Police Board. Once those two hurdles are cleared, if these three occurrences came within the period from now and when we go to conference, I believe we could deal with that issue when we got to the conference.

Mr. SERRANO. Mr. Chairman, will the gentleman yield?

Mr. WALSH. I yield to the gentleman from New York.

Mr. SERRANO. Mr. Chairman, I just wanted to reassure the gentleman, both the chairman and the ranking member and members of the committee want to do everything possible to make sure that we do take care of the Capitol Police. That is our intent. We obviously recognize that there are contractual obligations and proceedings that have to take place, but the gentleman can rest assured that it is our intent that they get the best and the fairest deal possible.

Mr. TRAFICANT. Mr. Chairman, if the gentleman will yield, here is the only real issue that I see. Everybody here will take care of them, and I think the gentleman from California (Mr. THOMAS) has been a great friend to the police as well, but our Capitol Police are compensated at a level lower than other Federal law enforcement entities that we fund.

Even though we are talking about these particular elements of collective bargaining now, we are bargaining over the same type of pay raise that exists for all. The only point I am making is there is a discrepancy in that they are, in my opinion, undercompensated, and I believe that wrong should be righted.

So I would be willing to meet with any and all groups. I know that the gentleman from California (Mr. THOMAS) has been a fierce supporter of the Capitol Police, but I want some assurances that we understand, that it is on the record here, that I believe they are underpaid, undercompensated for work similar to other Federal law enforcement agencies, and I think that is wrong and should be corrected.

Mr. Chairman, with that, I want to thank the gentleman from New York (Chairman WALSH).

Mr. WALSH. Mr. Chairman, reclaiming my time, I thank the gentleman for his comments. We will be happy to work with the gentleman if that series of events occurs.

Mr. SERRANO. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. WALSH. Mr. Chairman, I again would ask for support for this bill in a bipartisan manner.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the bill is considered read for amendment under the 5-minute rule.

The text of H.R. 4112 is as follows:

H.R. 4112

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Legislative Branch for the fiscal year ending September 30, 1999, and for other purposes, namely:

TITLE I—CONGRESSIONAL OPERATIONS

HOUSE OF REPRESENTATIVES

Payments to Widows and Heirs of Deceased Members of Congress

For payment to Marcia S. Schiff, widow of Steven H. Schiff, late a Representative from the State of New Mexico, $136,700.

Salaries and Expenses

For salaries and expenses of the House of Representatives, $733,971,000, as follows:

HOUSE LEADERSHIP OFFICES

For salaries and expenses, as authorized by law, $13,117,000, including: Office of the Speaker, $1,686,000, including $25,000 for official expenses of the Speaker; Office of the Majority Floor Leader, $1,652,000, including $10,000 for official expenses of the Majority Leader; Office of the Minority Floor Leader, $1,675,000, including $10,000 for official expenses of the Minority Leader; Office of the Majority Whip, including the Chief Deputy Majority Whip, $1,043,000, including $5,000 for official expenses of the Majority Whip; Office of the Minority Whip, including the Chief Deputy Minority Whip, $1,020,000, including $5,000 for official expenses of the Minority Whip; Speaker's Office for Legislative Floor Activities, $397,000; Republican Steering Committee, $738,000; Republican Conference, $1,199,000; Democratic Steering and Policy Committee, $1,295,000; Democratic Caucus, $642,000; nine minority employees, $1,190,000; training and program development—majority, $290,000; and training and program development—minority, $290,000.

Members' Representational Allowances Including Members' Clerk Hire, Official Expenses of Members, and Official Mail

For Members' representational allowances, including Members' clerk hire, official expenses, and official mail, $385,279,000.

Committee Employees

Standing Committees, Special and Select

For salaries and expenses of standing committees, special and select, authorized by House resolutions, $89,743,000: *Provided*, That such amount shall remain available for such salaries and expenses until December 31, 2000.

Committee on Appropriations

For salaries and expenses of the Committee on Appropriations, $19,373,000, including studies and examinations of executive agencies and temporary personal services for such committee, to be expended in accordance with section 202(b) of the Legislative Reorganization Act of 1946 and to be available for reimbursement to agencies for services performed: *Provided*, That such amount shall remain available for such salaries and expenses until December 31, 2000.

SALARIES, OFFICERS AND EMPLOYEES

For compensation and expenses of officers and employees, as authorized by law, $89,991,000, including: for salaries and expenses of the Office of the Clerk, including not more than $3,500, of which not more than $2,500 is for the Family Room, for official representation and reception expenses, $15,365,000; for salaries and expenses of the Office of the Sergeant at Arms, including the position of Superintendent of Garages, and including not more than $750 for official representation and reception expenses, $3,501,000; for salaries and expenses of the Office of the Chief Administrative Officer, $57,211,000, including $24,282,000 for salaries, expenses and temporary personal services of House Information Resources, of which $23,074,000 is provided herein: *Provided*, That of the amount provided for House Information Resources, $7,130,000 shall be for net expenses of telecommunications: *Provided further*, That House Information Resources is authorized to receive reimbursement from Members of the House of Representatives and other governmental entities for services provided and such reimbursement shall be deposited in the Treasury for credit to this account; for salaries and expenses of the Office of the Inspector General, $3,953,000; for salaries and expenses of the Office of General Counsel, $840,000; for the Office of the Chaplain, $133,000; for salaries and expenses of the Office of the Parliamentarian, including the Parliamentarian and $2,000 for preparing the Digest of Rules, $1,106,000; for salaries and expenses of the Office of the Law Revision Counsel of the House, $1,912,000; for salaries and expenses of the Office of the Legislative Counsel of the House, $4,980,000; for salaries and expenses of the Corrections Calendar Office, $799,000; and for other authorized employees, $191,000.

ALLOWANCES AND EXPENSES

For allowances and expenses as authorized by House resolution or law, $136,468,000, including: supplies, materials, administrative costs and Federal tort claims, $2,575,000; official mail for committees, leadership offices, and administrative offices of the House, $410,000; Government contributions for health, retirement, Social Security, and other applicable employee benefits, $132,832,000; and miscellaneous items including purchase, exchange, maintenance, repair and operation of House motor vehicles, interparliamentary receptions, and gratuities to heirs of deceased employees of the House, $651,000.

CHILD CARE CENTER

For salaries and expenses of the House of Representatives Child Care Center, such amounts as are deposited in the account established by section 312(d)(1) of the Legislative Branch Appropriations Act, 1992 (40 U.S.C. 184g(d)(1)), subject to the level specified in the budget of the Center, as submitted to the Committee on Appropriations of the House of Representatives.

Administrative Provisions

SEC. 101. (a) Section 2(a) of House Resolution 611, Ninety-seventh Congress, agreed to November 30, 1982, as enacted into permanent law by section 127 of Public Law 97–377 (2 U.S.C. 88b–3), is amended—

(1) by adding "and" at the end of paragraph (1);

(2) by striking "; and" at the end of paragraph (2) and inserting a period; and

(3) by striking paragraph (3).

(b) The amendment made by subsection (a) shall apply with respect to the One Hundred Sixth Congress and each succeeding Congress.

SEC. 102. Subsection (b) of the first section of House Resolution 1047, Ninety-fifth Congress, agreed to April 4, 1978, as enacted into permanent law by section 111 of the Legislative Branch Appropriations Act, 1979 (2 U.S.C. 130–1(b)), is amended by striking "$55,000" and inserting "$80,000".

SEC. 103. (a) There is hereby established an account in the House of Representatives for purposes of carrying out training and program development activities of the Republican Conference and the Democratic Steering and Policy Committee.

(b) Subject to the allocation described in subsection (c), funds in the account established under subsection (a) shall be paid—

(1) for activities of the Republican Conference in such amounts, at such times, and under such terms and conditions as the Speaker of the House of Representatives may direct; and

(2) for activities of the Democratic Steering and Policy Committee in such amounts, at such times, and under such terms and conditions as the Minority Leader of the House of Representatives may direct.

(c) Of the total amount in the account established under subsection (a)—

(1) 50 percent shall be allocated to the Speaker for payments for activities of the Republican Conference; and

(2) 50 percent shall be allocated to the Minority Leader for payments for activities of the Democratic Steering and Policy Committee.

(d) There are authorized to be appropriated to the account under this section for fiscal year 1999 and each succeeding fiscal year such sums as may be necessary for training and program development activities of the Republican Conference and the Democratic Steering and Policy Committee during the fiscal year.

SEC. 104. (a) Section 311(e)(2) of the Legislative Branch Appropriations Act, 1991 (2 U.S.C. 59(e)(2)) is amended—

(1) by adding "and" at the end of subparagraph (B);

(2) in subparagraph (C), by striking "; and" and inserting a period; and

(3) by striking subparagraph (D).

(b) Section 311(e) of such Act (2 U.S.C. 59e(e)) is amended by striking paragraph (4).

SEC. 105. Notwithstanding any other provision of law or any other rule or regulation, any information on payments made by the Committee on Standards of Official Conduct of the House of Representatives to an individual for attendance as a witness before the Committee in executive session during a Congress shall be reported not later than the second semiannual report filed under section 106 of the House of Representatives Administrative Reform Technical Corrections Act (2 U.S.C. 104b) in the following Congress.

SEC. 106. (a) Notwithstanding any other provision of law, the Committee on House Oversight may prescribe by regulation appropriate conditions for the incidental use, for other than official business, of equipment and supplies owned or leased by, or the cost of which is reimbursed by, the House of Representatives.

(b) The authority of the Committee on House Oversight to prescribe regulations pursuant to subsection (a) shall apply with respect to fiscal year 1999 and each succeeding fiscal year.

SEC. 107. (a) The Speaker, Majority Leader, and Minority Leader of the House of Representatives are each authorized to appoint and fix the compensation of 1 consultant, on a temporary or intermittent basis, at a daily rate of compensation not in excess of the per diem equivalent of the highest gross rate of annual compensation which may be paid to employees of a standing committee of the House.

(b) This section shall apply with respect to fiscal year 1999 and each succeeding fiscal year.

SEC. 108. (a) The House of Representatives shall participate in State and local government transit programs to encourage employees of the House to use public transportation pursuant to section 7905 of title 5, United States Code.

(b) The Committee on House Oversight shall issue regulations pertaining to the participation of the House of Representatives in State and local government transit programs through, and at the discretion of, its Members, committees, officers, and officials.

SEC. 109. Any amount appropriated in this Act for "HOUSE OF REPRESENTATIVES—SALARIES AND EXPENSES—MEMBERS' REPRESENTATIONAL ALLOWANCES" shall be available only for fiscal year 1999. Any amount remaining after all payments are made under such allowances for such fiscal year shall be deposited in the Treasury, to be used for deficit reduction.

JOINT ITEMS

For Joint Committees, as follows:

Joint Economic Committee

For salaries and expenses of the Joint Economic Committee, $2,796,000, to be disbursed by the Secretary of the Senate.

Joint Committee on Printing

For salaries and expenses of the Joint Committee on Printing, $202,000, together with an additional amount of $150,000 if there is enacted into law legislation which transfers the legislative and oversight responsibilities of the Joint Committee on Printing to the Committee on House Oversight of the House of Representatives: *Provided*, That such additional amount shall be transferred to the Committee on House Oversight of the House of Representatives and made available beginning January 1, 1999.

Joint Committee on Taxation

For salaries and expenses of the Joint Committee on Taxation, $6,018,000, to be disbursed by the Chief Administrative Officer of the House.

For other joint items, as follows:

Office of the Attending Physician

For medical supplies, equipment, and contingent expenses of the emergency rooms, and for the Attending Physician and his assistants, including: (1) an allowance of $1,500 per month to the Attending Physician; (2) an allowance of $500 per month each to two medical officers while on duty in the Office of the Attending Physician; (3) an allowance of $500 per month to one assistant and $400 per month each to not to exceed nine assistants on the basis heretofore provided for such assistants; and (4) $893,000 for reimbursement to the Department of the Navy for expenses incurred for staff and equipment assigned to the Office of the Attending Physician, which shall be advanced and credited to the applicable appropriation or appropriations from which such salaries, allowances, and other expenses are payable and shall be available for all the purposes thereof, $1,383,000, to be disbursed by the Chief Administrative Officer of the House.

Capitol Police Board

Capitol Police

SALARIES

For the Capitol Police Board for salaries of officers, members, and employees of the Capitol Police, including overtime, hazardous duty pay differential, clothing allowance of not more than $600 each for members required to wear civilian attire, and Government contributions for health, retirement, Social Security, and other applicable employee benefits, $72,615,000, of which $35,022,000 is provided to the Sergeant at Arms of the House of Representatives, to be disbursed by the Chief Administrative Officer of the House, and $37,593,000 is provided to the Sergeant at Arms and Doorkeeper of the Senate, to be disbursed by the Secretary of the Senate: *Provided*, That, of the amounts appropriated under this heading, such amounts as may be necessary may be transferred between the Sergeant at Arms of the House of Representatives and the Sergeant at Arms and Doorkeeper of the Senate, upon approval of the Committee on Appropriations of the House of Representatives and the Committee on Appropriations of the Senate.

GENERAL EXPENSES

For the Capitol Police Board for necessary expenses of the Capitol Police, including motor vehicles, communications and other equipment, security equipment and installation, uniforms, weapons, supplies, materials, training, medical services, forensic services, stenographic services, personal and professional services, the employee assistance program, not more than $2,000 for the awards program, postage, telephone service, travel advances, relocation of instructor and liaison personnel for the Federal Law Enforcement Training Center, and $85 per month for extra services performed for the Capitol Police Board by an employee of the Sergeant at Arms of the Senate or the House of Representatives designated by the Chairman of the Board, $3,766,000, to be disbursed by the Chief Administrative Officer of the House of Representatives: *Provided*, That, notwithstanding any other provision of law, the cost of basic training for the Capitol Police at the Federal Law Enforcement Training Center for fiscal year 1999 shall be paid by the Secretary of the Treasury from funds available to the Department of the Treasury.

Administrative Provision

SEC. 110. Amounts appropriated for fiscal year 1999 for the Capitol Police Board for the Capitol Police may be transferred between the headings "SALARIES" and "GENERAL EXPENSES" upon the approval of—

(1) the Committee on Appropriations of the House of Representatives, in the case of amounts transferred from the appropriation provided to the Sergeant at Arms of the House of Representatives under the heading "SALARIES";

(2) the Committee on Appropriations of the Senate, in the case of amounts transferred from the appropriation provided to the Sergeant at Arms and Doorkeeper of the Senate under the heading "SALARIES"; and

(3) the Committees on Appropriations of the Senate and the House of Representatives, in the case of other transfers.

Capitol Guide Service and Special Services Office

For salaries and expenses of the Capitol Guide Service and Special Services Office, $2,110,000, to be disbursed by the Secretary of the Senate: *Provided*, That no part of such amount may be used to employ more than forty individuals: *Provided further*, That the Capitol Guide Board is authorized, during emergencies, to employ not more than two additional individuals for not more than one hundred twenty days each, and not more than ten additional individuals for not more than six months each, for the Capitol Guide Service.

Statements of Appropriations

For the preparation, under the direction of the Committees on Appropriations of the Senate and the House of Representatives, of the statements for the second session of the One Hundred Fifth Congress, showing appropriations made, indefinite appropriations, and contracts authorized, together with a chronological history of the regular appropriations bills as required by law, $30,000, to be paid to the persons designated by the chairmen of such committees to supervise the work.

OFFICE OF COMPLIANCE

Salaries and Expenses

For salaries and expenses of the Office of Compliance, as authorized by section 305 of the Congressional Accountability Act of 1995 (2 U.S.C. 1385), $2,086,000.

CONGRESSIONAL BUDGET OFFICE

Salaries and Expenses

For salaries and expenses necessary to carry out the provisions of the Congressional Budget Act of 1974 (Public Law 93-344), including not more than $2,500 to be expended on the certification of the Director of the Congressional Budget Office in connection with official representation and reception expenses, $25,671,000: *Provided*, That no part of such amount may be used for the purchase or hire of a passenger motor vehicle.

ARCHITECT OF THE CAPITOL

Capitol Buildings and Grounds

CAPITOL BUILDINGS

SALARIES AND EXPENSES

For salaries for the Architect of the Capitol, the Assistant Architect of the Capitol, and other personal services, at rates of pay provided by law; for surveys and studies in connection with activities under the care of the Architect of the Capitol; for all necessary expenses for the maintenance, care and operation of the Capitol and electrical substations of the Senate and House office buildings under the jurisdiction of the Architect of the Capitol, including furnishings and office equipment, including not more than $1,000 for official reception and representation expenses, to be expended as the Architect of the Capitol may approve; for purchase or exchange, maintenance and operation of a passenger motor vehicle; and not to exceed $20,000 for attendance, when specifically authorized by the Architect of the Capitol, at meetings or conventions in connection with subjects related to work under the Architect of the Capitol, $40,347,000, of which $6,425,000 shall remain available until expended.

CAPITOL GROUNDS

For all necessary expenses for care and improvement of grounds surrounding the Capitol, the Senate and House office buildings, and the Capitol Power Plant, $5,803,000, of which $325,000 shall remain available until expended.

HOUSE OFFICE BUILDINGS

For all necessary expenses for the maintenance, care and operation of the House office buildings, $42,139,000, of which $11,449,000 shall remain available until expended.

CAPITOL POWER PLANT

For all necessary expenses for the maintenance, care and operation of the Capitol Power Plant; lighting, heating, power (including the purchase of electrical energy) and water and sewer services for the Capitol, Senate and House office buildings, Library of Congress buildings, and the grounds about the same, Botanic Garden, Senate garage, and air conditioning refrigeration not supplied from plants in any of such buildings; heating the Government Printing Office and Washington City Post Office, and heating and chilled water for air conditioning for the Supreme Court Building, the Union Station complex, the Thurgood Marshall Federal Judiciary Building and the Folger Shakespeare Library, expenses for which shall be advanced or reimbursed upon request of the Architect of the Capitol and amounts so received shall be deposited into the Treasury to the credit of this appropriation, $37,145,000, of which $100,000 shall remain available until expended: *Provided*, That not more than $4,000,000 of the funds credited or to be reimbursed to this appropriation as herein provided shall be available for obligation during fiscal year 1999.

LIBRARY OF CONGRESS

Congressional Research Service

SALARIES AND EXPENSES

For necessary expenses to carry out the provisions of section 203 of the Legislative Reorganization Act of 1946 (2 U.S.C. 166) and to revise and extend the Annotated Constitution of the United States of America, $66,688,000: *Provided*, That no part of such amount may be used to pay any salary or expense in connection with any publication, or preparation of material therefor (except the Digest of Public General Bills), to be issued by the Library of Congress unless such publication has obtained prior approval of either the Committee on House Oversight of the House of Representatives or the Committee on Rules and Administration of the Senate: *Provided further*, That, notwithstanding any other provision of law, the compensation of the Director of the Congressional Research Service, Library of Congress, shall be at an annual rate which is equal to the annual rate of basic pay for positions at level IV of the Executive Schedule under section 5315 of title 5, United States Code.

GOVERNMENT PRINTING OFFICE

Congressional Printing and Binding

For authorized printing and binding for the Congress and the distribution of Congressional information in any format; printing and binding for the Architect of the Capitol; expenses necessary for preparing the semimonthly and session index to the Congressional Record, as authorized by law (44

U.S.C. 902); printing and binding of Government publications authorized by law to be distributed to Members of Congress; and printing, binding, and distribution of Government publications authorized by law to be distributed without charge to the recipient, $74,465,000: *Provided*, That this appropriation shall not be available for paper copies of the permanent edition of the Congressional Record for individual Representatives, Resident Commissioners or Delegates authorized under 44 U.S.C. 906: *Provided further*, That this appropriation shall be available for the payment of obligations incurred under the appropriations for similar purposes for preceding fiscal years.

ADMINISTRATIVE PROVISION

SEC. 111. (a) The Legislative Branch Appropriations Act, 1998 (Public Law 105–55; 111 Stat. 1191) is amended in the item relating to "CONGRESSIONAL PRINTING AND BINDING" under the heading "GOVERNMENT PRINTING OFFICE" by striking "$81,669,000" and all that follows through "*Provided*," and inserting the following: "$70,652,000: *Provided*, That an additional amount of not more than $11,017,000 may be derived by transfer from the Government Printing Office revolving fund under section 309 of title 44, United States Code: *Provided further*,".

(b) The amendment made by subsection (a) shall take effect as if included in the enactment of the Legislative Branch Appropriations Act, 1998.

This title may be cited as the "Congressional Operations Appropriations Act, 1999".

TITLE II—OTHER AGENCIES

BOTANIC GARDEN

Salaries and Expenses

For all necessary expenses for the maintenance, care and operation of the Botanic Garden and the nurseries, buildings, grounds, and collections; and purchase and exchange, maintenance, repair, and operation of a passenger motor vehicle; all under the direction of the Joint Committee on the Library, $3,032,000.

LIBRARY OF CONGRESS

Salaries and Expenses

For necessary expenses of the Library of Congress not otherwise provided for, including development and maintenance of the Union Catalogs; custody and custodial care of the Library buildings; special clothing; cleaning, laundering and repair of uniforms; preservation of motion pictures in the custody of the Library; operation and maintenance of the American Folklife Center in the Library; preparation and distribution of catalog records and other publications of the Library; hire or purchase of one passenger motor vehicle; and expenses of the Library of Congress Trust Fund Board not properly chargeable to the income of any trust fund held by the Board, $234,822,000, of which not more than $6,500,000 shall be derived from collections credited to this appropriation during fiscal year 1999, and shall remain available until expended, under the Act of June 28, 1902 (chapter 1301; 32 Stat. 480; 2 U.S.C. 150) and not more than $350,000 shall be derived from collections during fiscal year 1999 and shall remain available until expended for the development and maintenance of an international legal information database and activities related thereto: *Provided*, That the Library of Congress may not obligate or expend any funds derived from collections under the Act of June 28, 1902, in excess of the amount authorized for obligation or expenditure in appropriations Acts: *Provided further*, That the total amount available for obligation shall be reduced by the amount by which collections are less than the $6,850,000: *Provided further*, That of the total amount appropriated, $9,869,000 is to remain available until expended for acquisition of books, periodicals, newspapers, and all other materials including subscriptions for bibliographic services for the Library, including $40,000 to be available solely for the purchase, when specifically approved by the Librarian, of special and unique materials for additions to the collections: *Provided further*, That of the total amount appropriated, $3,544,000 is to remain available until expended for the acquisition and partial support for implementation of an integrated library system (ILS).

Copyright Office

SALARIES AND EXPENSES

For necessary expenses of the Copyright Office, $33,897,000, of which not more than $16,000,000, to remain available until expended, shall be derived from collections credited to this appropriation during fiscal year 1999 under 17 U.S.C. 708(d): *Provided*, That the Copyright Office may not obligate or expend any funds derived from collections under 17 U.S.C. 708(d), in excess of the amount authorized for obligation or expenditure in appropriations Acts: *Provided further*, That not more than $5,170,000 shall be derived from collections during fiscal year 1999 under 17 U.S.C. 111(d)(2), 119(b)(2), 802(h), and 1005: *Provided further*, That the total amount available for obligation shall be reduced by the amount by which collections are less than $21,170,000: *Provided further*, That not more than $100,000 of the amount appropriated is available for the maintenance of an "International Copyright Institute" in the Copyright Office of the Library of Congress for the purpose of training nationals of developing countries in intellectual property laws and policies: *Provided further*, That not more than $2,250 may be expended, on the certification of the Librarian of Congress, in connection with official representation and reception expenses for activities of the International Copyright Institute.

Books for the Blind and Physically Handicapped

SALARIES AND EXPENSES

For salaries and expenses to carry out the Act of March 3, 1931 (chapter 400; 46 Stat. 1487; 2 U.S.C. 135a), $46,824,000, of which $13,744,000 shall remain available until expended.

Furniture and Furnishings

For necessary expenses for the purchase, installation, maintenance, and repair of furniture, furnishings, office and library equipment, $4,178,000.

Administrative Provisions

SEC. 201. Appropriations in this Act available to the Library of Congress shall be available, in an amount of not more than $194,290, of which $58,100 is for the Congressional Research Service, when specifically authorized by the Librarian, for attendance at meetings concerned with the function or activity for which the appropriation is made.

SEC. 202. (a) No part of the funds appropriated in this Act shall be used by the Library of Congress to administer any flexible or compressed work schedule which—

(1) applies to any manager or supervisor in a position the grade or level of which is equal to or higher than GS–15; and

(2) grants such manager or supervisor the right to not be at work for all or a portion of a workday because of time worked by the manager or supervisor on another workday.

(b) For purposes of this section, the term "manager or supervisor" means any management official or supervisor, as such terms are defined in section 7103(a) (10) and (11) of title 5, United States Code.

SEC. 203. Appropriated funds received by the Library of Congress from other Federal agencies to cover general and administrative overhead costs generated by performing reimbursable work for other agencies under the authority of 31 U.S.C. 1535 and 1536 shall not be used to employ more than 65 employees and may be expended or obligated—

(1) in the case of a reimbursement, only to such extent or in such amounts as are provided in appropriations Acts; or

(2) in the case of an advance payment, only—

(A) to pay for such general or administrative overhead costs as are attributable to the work performed for such agency; or

(B) to such extent or in such amounts as are provided in appropriations Acts, with respect to any purpose not allowable under subparagraph (A).

SEC. 204. Of the amounts appropriated to the Library of Congress in this Act, not more than $5,000 may be expended, on the certification of the Librarian of Congress, in connection with official representation and reception expenses for the incentive awards program.

SEC. 205. Of the amount appropriated to the Library of Congress in this Act, not more than $12,000 may be expended, on the certification of the Librarian of Congress, in connection with official representation and reception expenses for the Overseas Field Offices.

SEC. 206. (a) For fiscal year 1999, the obligational authority of the Library of Congress for the activities described in subsection (b) may not exceed $99,765,100.

(b) The activities referred to in subsection (a) are reimbursable and revolving fund activities that are funded from sources other than appropriations to the Library in appropriations Acts for the legislative branch.

SEC. 207. Effective October 1, 1998, the Library of Congress is authorized to receive funds from participants in and sponsors of an international legal information database led by the Law Library of Congress, and to credit any such funds to the Library of Congress appropriations, up to the extent authorized in appropriations Acts, for the development and maintenance of the database.

ARCHITECT OF THE CAPITOL

Congressional Cemetery

For a grant for the perpetual care and maintenance of the historic Congressional Cemetery, $1,000,000, to remain available until expended.

Library Buildings and Grounds

STRUCTURAL AND MECHANICAL CARE

For all necessary expenses for the mechanical and structural maintenance, care and operation of the Library buildings and grounds, $11,933,000, of which $910,000 shall remain available until expended.

ADMINISTRATIVE PROVISIONS

SEC. 208. (a) GRANT FOR CARE AND MAINTENANCE OF CONGRESSIONAL CEMETERY.—In order to assist in the perpetual care and maintenance of the historic Congressional Cemetery, the Architect of the Capitol shall make a grant to the National Trust for Historic Preservation (hereafter in this section referred to as the "National Trust") in accordance with an agreement entered into by the Architect of the Capitol with the National Trust and the Association for the

Preservation of Historic Congressional Cemetery (hereafter in this section referred to as the "Association") which contains the terms and conditions described in subsection (b) and such other provisions as the Architect may deem necessary or desirable for the implementation of this section or for the protection of the interests of the Federal government.

(b) TERMS AND CONDITIONS OF AGREEMENT.—The terms and conditions described in this subsection are as follows:

(1) Upon receipt of the amounts provided under the grant made under subsection (a), the National Trust shall deposit the amounts in a permanently restricted account in its endowment and shall administer, invest, and manage such grant funds in the same manner as other National Trust endowment funds.

(2) The National Trust shall make distributions to the Association from the amounts deposited in the endowment pursuant to paragraph (1), in accordance with its regularly established spending rate, for the care and maintenance of the Cemetery (other than the cost of personnel), except that the National Trust may only make such distributions incrementally and proportionately upon receipt by the National Trust of contributions from the Association which incrementally match the amounts provided under the grant made under subsection (a) and which are to be added to the permanently restricted account described in paragraph (1).

(3) The Association shall use such distributions from the endowment and the match for the care and maintenance of Congressional Cemetery, except that the Association may not use such distributions for nonroutine restoration or capital projects.

(4) The Association, or any successor thereto, shall maintain adequate records and accounts of all financial transactions and operations carried out with such distributions, and such records shall be available at all times for audit and investigation by the Architect of the Capitol and the Comptroller General.

(c) NO TITLE IN UNITED STATES.—Nothing in this section shall be construed to vest title to the Congressional Cemetery in the United States.

SEC. 209. (a) For fiscal year 1999, the amount available for expenditure by the Architect of the Capitol from the fund established under section 4 of the Act entitled "An Act to authorize acquisition of certain real property for the Library of Congress, and for other purposes", approved December 15, 1997 (Public Law 105–144; 111 Stat. 2688), may not exceed $2,500,000.

(b) The portion of the appropriated funds made available to the Architect of the Capitol for fiscal year 1999 which the Architect may expend for improvements to the National Audio Visual Conservation Center in Culpeper, Virginia (not including any funds made available from the fund described in subsection (a)) may not exceed an amount equal to one third of the amount of funds appropriated from the fund described in subsection (a) for the fiscal year, except that the Architect may expend a greater amount for such purposes with the approval of the Committees on Appropriations of the House of Representatives and the Senate.

GOVERNMENT PRINTING OFFICE

OFFICE OF SUPERINTENDENT OF DOCUMENTS

SALARIES AND EXPENSES

For expenses of the Office of Superintendent of Documents necessary to provide for the cataloging and indexing of Government publications and their distribution to the public, Members of Congress, other Government agencies, and designated depository and international exchange libraries as authorized by law, $29,264,000: *Provided*, That travel expenses, including travel expenses of the Depository Library Council to the Public Printer, shall not exceed $150,000: *Provided further*, That amounts of not more than $2,000,000 from current year appropriations are authorized for producing and disseminating Congressional serial sets and other related publications for 1997 and 1998 to depository and other designated libraries.

GOVERNMENT PRINTING OFFICE REVOLVING FUND

The Government Printing Office is hereby authorized to make such expenditures, within the limits of funds available and in accord with the law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 9104 of title 31, United States Code, as may be necessary in carrying out the programs and purposes set forth in the budget for the current fiscal year for the Government Printing Office revolving fund: *Provided*, That not more than $2,500 may be expended on the certification of the Public Printer in connection with official representation and reception expenses: *Provided further*, That the revolving fund shall be available for the hire or purchase of not more than twelve passenger motor vehicles: *Provided further*, That expenditures in connection with travel expenses of the advisory councils to the Public Printer shall be deemed necessary to carry out the provisions of title 44, United States Code: *Provided further*, That the revolving fund shall be available for temporary or intermittent services under section 3109(b) of title 5, United States Code, but at rates for individuals not more than the daily equivalent of the annual rate of basic pay for level V of the Executive Schedule under section 5316 of such title: *Provided further*, That the revolving fund and the funds provided under the headings "OFFICE OF SUPERINTENDENT OF DOCUMENTS" and "SALARIES AND EXPENSES" together may not be available for the full-time equivalent employment of more than 3,416 workyears: *Provided further*, That activities financed through the revolving fund may provide information in any format: *Provided further*, That the revolving fund shall not be used to administer any flexible or compressed work schedule which applies to any manager or supervisor in a position the grade or level of which is equal to or higher than GS–15: *Provided further*, That expenses for attendance at meetings shall not exceed $75,000.

GENERAL ACCOUNTING OFFICE

SALARIES AND EXPENSES

For necessary expenses of the General Accounting Office, including not more than $7,000 to be expended on the certification of the Comptroller General of the United States in connection with official representation and reception expenses; temporary or intermittent services under section 3109(b) of title 5, United States Code, but at rates for individuals not more than the daily equivalent of the annual rate of basic pay for level IV of the Executive Schedule under section 5315 of such title; hire of one passenger motor vehicle; advance payments in foreign countries in accordance with 31 U.S.C. 3324; benefits comparable to those payable under sections 901(5), 901(6) and 901(8) of the Foreign Service Act of 1980 (22 U.S.C. 4081(5), 4081(6) and 4081(8)); and under regulations prescribed by the Comptroller General of the United States, rental of living quarters in foreign countries; $354,238,000: *Provided*, That notwithstanding 31 U.S.C. 9105 hereafter amounts reimbursed to the Comptroller General pursuant to that section shall be deposited to the appropriation of the General Accounting Office then available and remain available until expended, and not more than $2,000,000 of such funds shall be available for use in fiscal year 1999: *Provided further*, That this appropriation and appropriations for administrative expenses of any other department or agency which is a member of the Joint Financial Management Improvement Program (JFMIP) shall be available to finance an appropriate share of JFMIP costs as determined by the JFMIP, including the salary of the Executive Director and secretarial support: *Provided further*, That this appropriation and appropriations for administrative expenses of any other department or agency which is a member of the National Intergovernmental Audit Forum or a Regional Intergovernmental Audit Forum shall be available to finance an appropriate share of either Forum's costs as determined by the respective Forum, including necessary travel expenses of non-Federal participants. Payments hereunder to either Forum or to the JFMIP may be credited as reimbursements to any appropriation from which costs involved are initially financed: *Provided further*, That this appropriation and appropriations for administrative expenses of any other department or agency which is a member of the American Consortium on International Public Administration (ACIPA) shall be available to finance an appropriate share of ACIPA costs as determined by the ACIPA, including any expenses attributable to membership of ACIPA in the International Institute of Administrative Sciences.

TITLE III—GENERAL PROVISIONS

SEC. 301. No part of the funds appropriated in this Act shall be used for the maintenance or care of private vehicles, except for emergency assistance and cleaning as may be provided under regulations relating to parking facilities for the House of Representatives issued by the Committee on House Oversight and for the Senate issued by the Committee on Rules and Administration.

SEC. 302. No part of the funds appropriated in this Act shall remain available for obligation beyond fiscal year 1999 unless expressly so provided in this Act.

SEC. 303. Whenever in this Act any office or position not specifically established by the Legislative Pay Act of 1929 is appropriated for or the rate of compensation or designation of any office or position appropriated for is different from that specifically established by such Act, the rate of compensation and the designation in this Act shall be the permanent law with respect thereto: *Provided*, That the provisions in this Act for the various items of official expenses of Members, officers, and committees of the Senate and House of Representatives, and clerk hire for Senators and Members of the House of Representatives shall be the permanent law with respect thereto.

SEC. 304. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 305. (a) It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available in this Act should be American-made.

(b) In providing financial assistance to, or entering into any contract with, any entity using funds made available in this Act, the head of each Federal agency, to the greatest extent practicable, shall provide to such entity a notice describing the statement made in subsection (a) by the Congress.

(c) If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a "Made in America" inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, such person shall be ineligible to receive any contract or subcontract made with funds provided pursuant to this Act, pursuant to the debarment, suspension, and ineligibility procedures described in section 9.400 through 9.409 of title 48, Code of Federal Regulations.

SEC. 306. Such sums as may be necessary are appropriated to the account described in subsection (a) of section 415 of Public Law 104–1 to pay awards and settlements as authorized under such subsection.

SEC. 307. Amounts available for administrative expenses of any legislative branch entity which participates in the Legislative Branch Financial Managers Council (LBFMC) established by charter on March 26, 1996, shall be available to finance an appropriate share of LBFMC costs as determined by the LBFMC, except that the total LBFMC costs to be shared among all participating legislative branch entities (in such allocations among the entities as the entities may determine) may not exceed $1,500.

SEC. 308. Notwithstanding any other provision of law, hereafter the Architect of the Capitol is authorized to enter into energy savings performance contracts for energy savings projects in the Capitol Complex under the following conditions:

(1) the Architect of the Capitol shall obtain the approval of the Appropriations Committees of the House and Senate prior to entering into such contracts;

(2) contracts shall conform to the requirements of 42 U.S.C. 8287(a);

(3) the Architect of the Capitol shall compete such contracts to the extent practicable among energy service contractors meeting the standards for, qualification developed by the Secretary of Energy under 42 U.S.C. 8287(b);

(4) services offered by the Department of Energy in connection with energy savings performance contracts shall be made available to the Architect of the Capitol upon request to carry out the authority granted under this section; and,

(5) if payment would be required for furnishing similar services to an executive agency, payment therefor shall be made by the Architect by reimbursement; such payment may be credited to the applicable appropriations of the Secretary of Energy.

SEC. 309. (a) SEVERANCE PAY FOR ALL EMPLOYEES OF THE ARCHITECT OF THE CAPITOL.—Section 5595(a) of title 5, United States Code, as amended by section 310 of the Legislative Branch Appropriations Act, 1998, is amended—

(1) in paragraph (1)(F), by striking ", but only with respect to the United States Senate Restaurants"; and

(2) in paragraph (2), in clause (viii) in the matter following subparagraph (B), by striking "of the United States Senate Restaurants".

(b) EARLY RETIREMENT FOR ALL EMPLOYEES OF THE ARCHITECT OF THE CAPITOL.—Section 310(b)(1) of the Legislative Branch Appropriations Act, 1998 (40 U.S.C. 174j–1(b)(1)) is amended—

(1) in the matter preceding subparagraph (A), by striking "of the United States Senate Restaurants"; and

(2) in subparagraph (A), by striking "1999;" and inserting "1999 (or, in the case of an individual who is not an employee of the United States Senate Restaurants, on or after the date of the enactment of the Legislative Branch Appropriations Act, 1999 and before October 1, 2001);".

(c) VOLUNTARY SEPARATION INCENTIVE PAYMENTS FOR ALL EMPLOYEES OF THE ARCHITECT OF THE CAPITOL.—Section 310(c) of the Legislative Branch Appropriations Act, 1998 (40 U.S.C. 174j–1(c)) is amended—

(1) in paragraph (1), by striking "of the United States Senate Restaurants"; and

(2) in paragraph (2)—

(A) by striking "not more than 50",

(B) by striking "1999" and inserting "1999 (or, in the case of an individual who is not an employee of the United States Senate Restaurants, on or after the date of the enactment of the Legislative Branch Appropriations Act, 1999 and before October 1, 2001)", and

(C) by adding at the end the following new sentence: "The number of employees of the United States Senate Restaurants to whom voluntary separation incentive payments may be offered under the program established under the previous sentence may not exceed 50.".

(d) RETRAINING, JOB PLACEMENT, AND COUNSELING SERVICES FOR ALL EMPLOYEES OF THE ARCHITECT OF THE CAPITOL.—Section 310(e) of the Legislative Branch Appropriations Act, 1998 (40 U.S.C. 174j–1(e)) is amended—

(1) in paragraph (1)(A), by striking "of the United States Senate Restaurants"; and

(2) in paragraph (3)(A), by striking "the United States Senate Restaurants of".

SEC. 310. (a) SEVERANCE PAY.—Section 5595 of title 5, United States Code, as amended by section 310 of the Legislative Branch Appropriations Act, 1998, is amended—

(1) in subsection (a)(2)—

(A) in clause (viii), by striking "or" after the semicolon;

(B) by redesignating clause (ix) as clause (x) and inserting after clause (viii) the following new clause:

"(ix) an employee of the Government Printing Office, who is employed on a temporary when actually employed basis; or"; and

(2) in subsection (b) by adding at the end the following: "The Public Printer may prescribe regulations to effect the application and operation of this section to the agency specified in subsection (a)(1)(G) of this section.".

(b) EARLY RETIREMENT.—(1) This subsection applies to an employee of the Government Printing Office who—

(A) voluntarily separates from service on or after the date of enactment of this Act and before October 1, 2001; and

(B) on such date of separation—

(i) has completed 25 years of service as defined under section 8331(12) or 8401(26) of title 5, United States Code; or

(ii) has completed 20 years of such service and is at least 50 years of age.

(2) Notwithstanding any provision of chapter 83 or 84 of title 5, United States Code, an employee described under paragraph (1) is entitled to an annuity which shall be computed consistent with the provisions of law applicable to annuities under section 8336(d) or 8414(b) of title 5, United States Code.

(c) VOLUNTARY SEPARATION INCENTIVE PAYMENTS.—(1) In this subsection, the term "employee" means an employee of the Government Printing Office, serving without limitation, who has been currently employed for a continuous period of at least 12 months, except that such term shall not include—

(A) a reemployed annuitant under subchapter III of chapter 83 or chapter 84 of title 5, United States Code, or another retirement system for employees of the Government;

(B) an employee having a disability on the basis of which such employee is or would be eligible for disability retirement under any of the retirement systems referred to in subparagraph (A); or

(C) an employee who is employed on a temporary when actually employed basis.

(2) Notwithstanding any other provision of law, in order to avoid or minimize the need for involuntary separations due to a reduction in force, reorganization, transfer of function, or other similar action affecting the agency, the Public Printer shall establish a program under which voluntary separation incentive payments may be offered to encourage eligible employees to separate from service voluntarily (whether by retirement or resignation) during the period beginning on the date of the enactment of this Act through September 30, 2001.

(3) Such voluntary separation incentive payments shall be paid in accordance with the provisions of section 5597(d) of title 5, United States Code. Any such payment shall not be a basis of payment, and shall not be included in the computation, of any other type of Government benefit.

(4)(A) Subject to subparagraph (B), an employee who has received a voluntary separation incentive payment under this section and accepts employment with the Government of the United States within 5 years after the date of the separation on which the payment is based shall be required to repay the entire amount of the incentive payment to the agency that paid the incentive payment.

(B)(i) If the employment is with an executive agency (as defined by section 105 of title 5, United States Code), the Director of the Office of Personnel Management may, at the request of the head of the agency, waive the repayment if the individual involved possesses unique abilities and is the only qualified applicant available for the position.

(ii) If the employment is with an entity in the legislative branch, the head of the entity or the appointing official may waive the repayment if the individual involved possesses unique abilities and is the only qualified applicant available for the position.

(iii) If the employment is with the judicial branch, the Director of the Administrative Office of the United States Courts may waive the repayment if the individual involved possesses unique abilities and is the only qualified applicant available for the position.

(C) For purposes of subparagraph (A) (but not subparagraph (B)), the term "employment" includes employment under a personal services contract with the United States.

(5) The Public Printer may prescribe regulations to carry out this subsection.

(d) RETRAINING, JOB PLACEMENT, AND COUNSELING SERVICES.—(1) In this subsection, the term "employee"—

(A) means an employee of the Government Printing Office; and

(B) shall not include—

(i) a reemployed annuitant under subchapter III of chapter 83 or chapter 84 of title

5, United States Code, or another retirement system for employees of the Government; or

(ii) an employee who is employed on a temporary when actually employed basis.

(2) The Public Printer may establish a program to provide retraining, job placement, and counseling services to employees and former employees.

(3) A former employee may not participate in a program established under this subsection, if—

(A) the former employee was separated from service with the Government Printing Office for more than 1 year; or

(B) the separation was by removal for cause on charges of misconduct or delinquency.

(4) Retraining costs for the program established under this subsection may not exceed $5,000 for each employee or former employee.

(e) ADMINISTRATIVE PROVISIONS.—(1) The Public Printer—

(A) may use employees of the Government Printing Office to establish and administer programs and carry out the provisions of this section; and

(B) may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, to carry out such provisions—

(i) not subject to the 1 year of service limitation under such section 3109(b); and

(ii) at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

(2) Funds to carry out subsections (a) and (c) may be expended only from funds available for the basic pay of the employee who is receiving the applicable payment.

(3) Funds to carry out subsection (d) may be expended from any funds made available to the Public Printer.

This Act may be cited as the "Legislative Branch Appropriations Act, 1999".

The CHAIRMAN. No amendment is in order unless printed in House Report 105–601. Each amendment may be offered only in the order printed, may be offered only by a Member designated in the report, shall be considered read, debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent, and shall not be subject to an amendment.

The chairman of the Committee of the Whole may postpone a request for recorded vote on any amendment and may reduce to a minimum of 5 minutes the time for voting on any postponed question that immediately follows another vote, provided that the time for voting on the first question shall be a minimum of 15 minutes.

Are there any points of order?

POINT OF ORDER

Mr. THOMAS. Mr. Chairman, I raise a point of order against section 108 on page 10, lines 1 through 10 of H.R. 4112, on the ground that this provision violates clause 2 of House rule XXI because it is in fact legislation included in a general appropriations bill.

The CHAIRMAN. Are there any other Members who wish to be heard on the point of order?

Section 108 clearly constitutes legislation on an appropriation bill in violation of clause 2 of rule XXI by requiring the Committee on House Oversight to issue regulations .

The Chair sustains the point of order. The section is stricken.

It is now in order to consider Amendment No. 1 printed in House Report 105–601.

AMENDMENT NO. 1 OFFERED BY MR. FARR OF CALIFORNIA

Mr. FARR of California. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 offered by Mr. FARR of California:

In the item relating to "HOUSE OFFICE BUILDINGS" under the heading "ARCHITECT OF THE CAPITOL—CAPITOL BUILDINGS AND GROUNDS", strike the period at the end and insert the following: ": *Provided*, That of the total amount provided under this heading, not less than $100,000 shall be used exclusively for waste recycling programs.".

The CHAIRMAN. Pursuant to House Resolution 489, the gentleman from California (Mr. FARR) and a Member opposed will each control 5 minutes.

Mr. WALSH. Mr. Chairman, I support the gentleman's amendment, and, if no Member seeks time in opposition, I ask unanimous consent that I be allocated the time the rule allows reserved for a Member in opposition.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. FARR of California. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I thank the gentleman from New York (Mr. WALSH), the chairman of the Subcommittee on Legislative, and the gentleman from New York (Mr. SERRANO), the ranking member.

I think in the dialogue we have heard here today what we recognize is we do have a serious trash problem here in the United States Congress, and trash is trash. It is not Republican trash or Democratic trash or Independent trash, it is something that we have just got to get our hands on and clean up.

□ 1445

This amendment I think allows the House to do that. It simply dictates that of the money in this bill that goes to pay for the operation and maintenance of the House buildings, $100,000 of that shall be bracketed, shall be made available to underwrite the recycling program and only the recycling program.

The amendment, by earmarking specific funds for this program, sets recycling as a priority for the House. I offer this amendment because recycling is a program that has been neglected, and consequently has had very limited success.

Most of the Members of the House do recycle. They support this. But the level and type of recycling varies from office to office, leaving a doubt in the end results of those efforts because the program itself is in such a disarray. The amendment will guarantee that the House has all the resources that we need to jumpstart this program into high gear.

I am not offering this amendment to fulfill some sort of ecowarrior's dream to save trees, I am offering this amendment because it is a way to earn money for the House and for the government by avoiding landfill costs and by earning revenue on high-grade recyclable material. It is a way to reduce our dependency on the landfills and take trash out of the community. It is a way to make the House a good corporate citizen of the D.C. community, and yes, it is a way to conserve resources.

I urge Members to support my amendment and give the House a chance to get recycling right.

Mr. DOGGETT. Mr. Chairman, will the gentleman yield?

Mr. FARR of California. I yield to the gentleman from Texas.

Mr. DOGGETT. Mr. Chairman, until the gentleman offered his amendment, despite the months the gentleman has spent in a bipartisan effort to try to get this disastrous program reshaped, there was not any money allocated specifically for this purpose in this appropriations bill by the Republican majority; is that correct?

Mr. FARR of California. Not specifically. The problem is that the program is broken. It needs a commitment. The gentleman from New York (Mr. WALSH) certainly has given his commitment to it. I believe that he is sincere, but we need to get it off the ground.

Mr. DOGGETT. Mr. Chairman, I commend the gentleman's leadership. I think it would be really helpful in focusing on what is a disgrace for the Congress, and perhaps with the adoption of the gentleman's amendment we can begin to correct this blunder.

Mr. FARR of California. I thank the gentleman. The gentleman from New York (Mr. WALSH) and I were talking at lunch today, talking about recycling in our own homes. We said it is our daughters that remind us, they are sort of the recycling cop in our houses, telling us that you have to recycle this and that. What this House needs, I think what every office needs, is a 13-year-old daughter or son to say, put this in the right place.

Frankly, that is leadership, and it is going to require the Architect of the Capitol to really get tough with our offices and remind us that this is a responsibility of each office.

Mr. Chairman, I reserve the balance of my time.

Mr. WALSH. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I certainly have no problem. In fact, I support the gentleman's amendment.

There are two things that we agree on, bipartisanly. One is that we are committed to recycling. The second is that we do whatever our daughters tell us when it comes to recycling, and probably some other things at home.

This is a friendly amendment. This is a good amendment. I know that the gentleman from California (Mr. FARR) has been a supporter of this effort. We have, too. We have conducted hearings and several meetings with the Architect. The gentleman from New York (Mr. SERRANO) is committed to this. This issue has been raised in great detail. The Architect has the message. It is now up to him, with the cooperation of all House offices, to make this program work more efficiently. We have done this in concert with the gentleman and his staff. I commend him for his interest.

Mr. Chairman, I yield such time as he may consume to the gentleman from New York (Mr. SERRANO), the distinguished ranking member of the subcommittee.

Mr. SERRANO. I thank the gentleman from New York, Mr. Chairman. In spite of the fact that I was not invited to lunch to discuss this amendment, I do think it is a great amendment. I think it speaks to a very important issue, certainly one that the gentleman from California has been working on very diligently. I support it wholeheartedly, and hope that we can accept it today.

Mr. WALSH. Mr. Chairman, I yield myself such time as I may consume, in order to say that we accept the amendment.

Mr. BLUMENAUER. Mr. Chairman, I believe the U.S. House of Representatives has a great opportunity to save the American taxpayer money. From the General Services Administration's FY96 Waste Management Report we have learned the U.S. House of Representatives recycled over three million pounds of paper and earned $761. The same reports shows:

1996	Recycled (lb.)	Earned
USDA	1,020,000	$29,730
DOE	754,000	15,992
HUD	746,000	22,413
NRC	458,000	10,728
U.S. House of Representatives	3,460,000	761

The House earned less money because the paper collected from offices which voluntarily participate in recycling becomes contaminated after it is collected by the custodial staff. Many Congressional employees who work late at night can attest that the custodial staff who collect the waste are not properly equipped with receptors to keep the waste sorted.

I understand that the House has been trying to implement a voluntary recycling program since the late 1970's and suggest that perhaps there needs to be more support and oversight from the committee to implement the program effectively. With proper oversight and direction the U.S. House of Representatives will not only save money by making money when it recycles, but it will save money by avoiding the dumping fees on waste that is sent to the landfills.

Unfortunately, the preliminary indications for FY97 are even worse. The preliminary numbers being compiled by GSA suggest that the House earned only $7.51 for recycling 4,400,000 pounds of paper.

Congressman SAM FARR's amendment makes the necessary steps to help solve the recycling problems in the House. I support his efforts and hope my colleagues will do the same.

Mr. FARR of California. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I urge the adoption of the amendment, and after hearing the analogy of the gentleman from New York (Mr. SERRANO) of this being a city on the Hill, I accept the support of the mayor and the vice-mayor, here.

Mr. Chairman, I yield back the balance of my time.

Mr. WALSH. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. FARR).

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 2 printed in House report 105–601.

AMENDMENT NO. 2 OFFERED BY MR. GUTIERREZ

Mr. GUTIERREZ. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 2 printed in House Report 105–601 offered by Mr. GUTIERREZ:

In Title III—General Provisions—after the last section insert the following new section:

SEC. 310. The Architect of the Capitol—

(1) shall develop and implement a cost-effective energy conservation strategy for all facilities currently administered by Congress to achieve a net reduction of 20 percent in energy consumption on the congressional campus compared to fiscal year 1991 consumption levels on a Btu-per-gross-square-foot basis not later than 7 years after the adoption of this resolution;

(2) shall submit to Congress no later than 10 months after the adoption of this resolution a comprehensive energy conservation and management plan which includes life cycle costs methods to determine the cost-effectiveness of proposed energy efficiency projects;

(3) shall submit to the Committee on Appropriations in the Senate and the House of Representatives a request for the amount of appropriations necessary to carry out this resolution;

(4) shall present to Congress annually a report on congressional energy management and conservation programs which details energy expenditures for each facility, energy management and conservation projects, and future priorities to ensure compliance with the requirements of this resolution;

(5) shall perform energy surveys of all congressional buildings and update such surveys as needed;

(6) shall use such surveys to determine the cost and payback period of energy and water conservation measures likely to achieve the required energy consumption levels;

(7) shall install energy and water conservation measures that will achieve the requirements through previously determined life cycle cost methods and procedures;

(8) may contract with nongovernmental entities and employ private sector capital to finance energy conservation projects and achieve energy consumption target;

(9) may develop innovative contracting methods that will attract private sector funding for the installation of energy-efficient and renewable energy technology to meet the requirements of this resolution;

(10) may participate in the Department of Energy's Financing Renewable Energy and Efficiency (FREE Savings) contracts program for Federal Government facilities; and

(11) shall produce information packages and "how-to" guides for each Member and employing authority of the Congress that detail simple, cost-effective methods to save energy and taxpayer dollars.

The CHAIRMAN. Pursuant to House Resolution 489, the gentleman from Illinois (Mr. GUTIERREZ) and a Member opposed will control 5 minutes each.

For what purpose does the gentleman from New York rise?

Mr. WALSH. Mr. Chairman, I support the gentleman's amendment, and if no Member seeks time in opposition, I ask unanimous consent that I be allocated the time under the rule otherwise reserved to a Member in opposition.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

The CHAIRMAN. The Chair recognizes the gentleman from Illinois (Mr. GUTIERREZ).

Mr. GUTIERREZ. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I first want to commend the gentleman from New York (Mr. WALSH) and the gentleman from New York (Mr. JOSÉ E. SERRANO), the ranking minority member, for their fine work on the legislation currently being considered by the House. As we all know, making Congress work is no easy task. Their efforts, however, have made it easier for all of us to work more effectively for our constituents.

I would also like to thank the gentleman from New York (Chairman SOLOMON) and the gentleman from Massachusetts (Mr. MOAKLEY) for their support in the Committee on Rules for my amendment. I am encouraged to see Members of both parties committed to making Congress a model of efficiency and innovation.

When the Republicans took control of this institution in 1995, a number of promises were made regarding the manner in which government would work and serve the American people. We Democrats had some agreements with some of them. Nevertheless, we were able to work together in many important ways to reform congressional practices. Together, Members of both parties supported and passed the Congressional Accountability Act, to bring Congress under the laws mandated for the American people and Federal agencies.

Today I ask for Members' support so we can build on that bipartisan accord. My amendment would simply oblige Congress to adhere to energy conservation standards that Congress has required for all Federal departments. By requiring the development and implementation of a comprehensive energy conservation plan for the buildings under our jurisdiction, we would be demonstrating to our people how government can function more efficiently and save taxpayers a million dollars, which would be illustrating the benefits of new and cleaner technologies, innovative contracting agreements, and cooperation between private and not-for-profit sectors.

The Federal agencies have made significant progress in these areas. Since President Bush signed the Energy Policy Act of 1992, Federal agencies have made significant progress in these areas. Federal agencies have saved taxpayers, and I want to underscore this, more than $2.5 billion since 1985. This equates to a decrease in energy costs of 44 percent in constant 1995 dollars from $14.5 billion in 1985 to $8 billion in the year 1995. That means that between 1994 and 1995, $286 million was saved. Why should Congress not follow these steps?

While Federal agencies have significantly reduced energy expenditures, Congress has seen its energy bill rise in each of the last 7 years. Congress now spends more than $32 million annually on energy bills. We can and should reverse this trend, and we should do it without short-term costs to the taxpayers.

My amendment would permit the Architect of the Capitol to enlist private and not-for-profit resources to develop, plan, and achieve reduction targets. Currently the Department of Energy has been working with Federal agencies and private sector partners on innovative contracting methods that do not cost the taxpayers a cent.

Under the Financing Renewal Energy and Efficiency or FREE savings contract, energy service companies pay for and install energy saving technologies and equipment in Federal buildings at no cost to the taxpayers. In reward, the private partners receive, for a designated number of years, about 50 percent of the savings when the building's energy bills go down. I feel strongly that the use of these contracting methods could help Congress reduce its energy expenditures by more than 20 percent by the year 2005.

Mr. Chairman, in 1995 we agreed Congress should comply with the laws of the Nation. I am sure we can also agree that Congress should be a model of how government can function better. A greater commitment by Congress to cutting its own wasteful spending and to conserving natural resources is required to achieve this goal.

Support this amendment, support a Congress that lives by the laws it passes. Support an energy-efficient congressional campus.

Mr. Chairman, I reserve the balance of my time.

Mr. WALSH. Mr. Chairman, I yield 2½ minutes to the gentleman from New York (Mr. SERRANO), the ranking minority member.

Mr. SERRANO. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, the amendment offered by the gentleman from Illinois (Mr. GUTIERREZ) as presented, in my opinion, is a good amendment. It certainly speaks about a very important issue, and one we should be dealing with in this House. He has very properly presented his arguments, and we certainly have no problems with it on this side. I would hope that the gentleman's side would accept the amendment today.

Mr. WALSH. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I have no problem with the amendment. The minority supports it, the majority supports it. The language would require the Architect of the Capitol to develop a cost-effective strategy to achieve 20 percent efficiency in energy consumption. It is a worthy goal. It is an excellent idea. It will save us money, and we support the amendment.

Mr. GUTIERREZ. Mr. Chairman, I yield myself such time as I may consume.

I would just like to say to the chairman and the ranking member, I thank them both for their consideration of my amendment. Together we will make the House a more efficient place. I thank them so much.

Mr. Chairman, I yield back the balance of my time.

Mr. WALSH. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. GUTIERREZ).

The amendment was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. PETRI) having assumed the chair, Mr. HANSEN, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4112) making appropriations for the legislative branch for the fiscal year ending September 30, 1999, and for other purposes, pursuant to House Resolution 489, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. OBEY

Mr. OBEY. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. OBEY. I certainly am, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

> Mr. OBEY moves to recommit the bill, H.R. 4112, to the Committee on Appropriations with instructions to report the same back to the House forthwith with an amendment to reduce $8,311,590 from the appropriation for "Committee Employees, Standing Committees, Special, and Select."

The SPEAKER pro tempore. The gentleman from Wisconsin (Mr. OBEY) is recognized for 5 minutes to speak on behalf of his motion to recommit.

Mr. OBEY. Mr. Speaker, many of us remember a few years back when significant reductions were made in committee staffing, which saved a significant amount of money in the House budget.

In a very controversial decision, the House majority leadership took about $8 million of those savings that were not sent back to the Treasury, but instead, put into a special fund to be controlled by the House leadership.

The House leadership has been able to spend this slush fund in any manner they wanted, without further approval of the House. This windfall spree was thought to be, more or less, a one-time windfall brought about by the committee staff reductions that have now stabilized. But I guess the House leadership has gotten hooked on this free spending, because we find tucked away in this bill extra funds ostensibly for committee staff which in fact are not meant for the committee staff at all, but rather, meant to replenish the Speaker's slush fund.

The subcommittee chairman informed the Committee on Rules yesterday that the $89 million included in this bill for the committee staff is based on taking the artificially high levels of 2 years ago, which included that estimated $7.9 million for the slush fund, and simply inflated it by 5.21 percent. That works out to over $8.3 million in this bill that is ostensibly budgeted for committee staff that the majority has no real intention of using for committee staff.

□ 1500

The real intention is to be pulling a back-door maneuver to replenish that slush fund.

Mr. Speaker, if the majority leadership wants to have more play money, then this House ought to be able to vote on it. They should not try to hide it through this kind of a back-door shenanigan.

The truth is committees are not expected to spend $89 million to operate. They can do it with about $8 million less without missing a beat. I would point out that that is comparable to the level of the 104th Congress second session, which was only $79 million. So the level we are proposing is still $2 million higher than the level at the end of the 104th Congress, with no appreciable changes in staff levels.

What would this mean for the total bill? According to CBO, the total spending increase recommended by the majority is more than 3½ percent. This reduction of $8.3 million would still leave us with a total increase over last year of 2.3 percent.

Mr. Speaker, I do not apologize for what this body spends in order to provide necessary services to our constituents. But in a day when we are seeing low-income heating assistance programs eliminated, when we are seeing summer jobs eliminated, when we are seeing cuts in health care, education, food safety, National Parks and water quality programs, it seems to me that we ought not to be providing more money than we in fact expect the committees to spend.

Mr. Speaker, we can save $8 million and not provide the funds that will otherwise be diverted to the leadership's slush fund.

Mr. Speaker, I urge a "yes" vote on the motion to recommit.

The SPEAKER pro tempore (Mr. PETRI). Is the gentleman from New York (Mr. WALSH) opposed to the motion to recommit?

Mr. WALSH. Mr. Speaker, I am.

The SPEAKER pro tempore. The gentleman from New York (Mr. WALSH) is recognized for 5 minutes in opposition to the motion.

Mr. WALSH. Mr. Speaker, this amendment will gut the ability of our committees to do their work, pure and simple. This takes $8.3 million from the total appropriation of $89.7 million in the bill for committee funds. That is a 10 percent reduction in all of our committees and their funding.

Mr. Speaker, it is going to require that we reduce staff, that we reduce our workload, and more importantly, that we reduce our oversight. This is tying one hand of the legislative branch's arm behind its back for no good reason.

This bill was constructed in a bipartisan manner. We have worked together on this. This is an attempt to politicize an otherwise nonpartisan bill. There is nowhere near this amount of money in the bill for unanticipated expenses of the committees.

This idea, this "slush fund" word, is very quotable. It is a quotable quote. It is a good 2-second sound bite. But what we are talking about here is funding unanticipated expenses of the Congress. Any construction project, any business worth their salt provides for contingencies. That is what this does.

The number, this number of $8.3 million, has no basis in reality. I do not know where the number came from. But the fact of the matter is it is an attempt to politicize an otherwise well-crafted, nonpartisan bill.

So, Mr. Speaker, I urge my colleagues to vote "no" on this motion.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. OBEY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to clause 5 of rule XV, the Chair will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device will be taken on the question of passage of the bill.

The vote was taken by electronic device, and there were—yeas 192, nays 222, not voting 19, as follows:

[Roll No. 271]

YEAS—192

Abercrombie
Ackerman
Allen
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Bentsen
Berry
Bishop
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Cardin
Carson
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Coyne
Cramer
Cummings
Danner
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Green
Gutierrez
Hall (OH)
Hall (TX)
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Hooley
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Kucinich
LaFalce
Lantos
Lee
Levin
Lipinski
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Mollohan
Moran (VA)
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pickett
Pomeroy
Poshard
Price (NC)
Rahall
Rangel
Rivers
Rodriguez
Roemer
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Schumer
Scott
Serrano
Sherman
Sisisky
Skaggs
Skelton
Slaughter
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stenholm
Stokes
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson
Thurman
Tierney
Torres
Towns
Velázquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wexler
Weygand
Wise
Woolsey
Wynn
Yates

NAYS—222

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Berman
Bilbray
Bilirakis
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Cook
Cooksey
Cox
Crane
Crapo
Cubin
Cunningham
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Foley
Forbes
Fossella
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Goss
Graham
Granger
Greenwood
Gutknecht
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hunter
Hyde
Inglis
Istook
Jenkins
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King (NY)
Kingston
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Livingston
LoBiondo
Lucas
Manzullo
McCollum
McCrery
McHugh
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Moran (KS)
Morella
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oxley
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Redmond
Regula
Riggs
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Sanford
Saxton
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Shimkus
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stump
Sununu
Talent
Tauzin
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Traficant
Upton

Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)

NOT VOTING—19

Brady (TX)
Dingell
Gonzalez
Gordon
Hamilton
Hinojosa
Hulshof
Hutchinson
Klug
Lampson
Lewis (GA)
Markey
McDade
Moakley
Pallone
Reyes
Scarborough
Turner
Weldon (PA)

☐ 1523

Messrs. MCHUGH, ARMEY, MICA, PAXON, and EWING changed their vote from "yea" to "nay."

Messrs. JOHN, PRICE of North Carolina, MATSUI, SPRATT, and MALONEY of Connecticut changed their vote from "nay" to "yea."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. PALLONE. Mr. Speaker, during rollcall vote No. 271 on the motion to recommit H.R. 4112, I was unavoidably detained. Had I been present, I would have voted "yes."

The SPEAKER pro tempore (Mr. PEASE). The question is on the passage of the bill.

Pursuant to clause 7 of rule XV, the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 235, nays 179, not voting 19, as follows:

[Roll No. 272]

YEAS—235

Aderholt
Archer
Armey
Bachus
Baesler
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Berman
Bilbray
Bilirakis
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Carson
Castle
Chabot
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Cook
Cooksey
Crapo
Cubin
Cunningham
Danner
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Dicks
Dixon
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Foley
Forbes
Fossella
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
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Gibbons
Gilchrest
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Goode
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Hall (OH)
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hayworth
Herger
Hobson
Hoekstra
Horn
Houghton
Hoyer
Hunter
Hyde
Inglis
Istook
Jefferson
Jenkins
John
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kilpatrick
Kim
King (NY)
Kingston
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Linder
Livingston
LoBiondo
Lucas
Manzullo
McCarthy (NY)
McCollum
McCrery
McHugh
McInnis
McKeon
Metcalf
Mica
Miller (FL)
Mink
Mollohan
Morella
Murtha
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oxley
Packard
Pappas
Parker
Pascrell
Pastor
Paxon
Pease
Peterson (PA)
Pickering
Pickett
Pitts
Pombo
Porter
Portman
Price (NC)
Pryce (OH)
Quinn
Radanovich
Ramstad
Redmond
Regula
Riggs
Riley
Rogan
Rogers
Ros-Lehtinen
Roukema
Ryun
Sabo
Salmon
Saxton
Scarborough
Schaefer, Dan
Serrano
Sessions
Shadegg
Shaw
Shays
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Snowbarger
Solomon
Souder
Spence
Stump
Sununu
Talent
Tauzin
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Torres
Traficant
Upton
Visclosky
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
White
Whitfield
Wicker
Wolf
Woolsey
Young (AK)
Young (FL)

NAYS—179

Abercrombie
Ackerman
Allen
Andrews
Baker
Baldacci
Barcia
Barrett (WI)
Becerra
Bentsen
Berry
Bishop
Blagojevich
Blumenauer
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Cardin
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Costello
Cox
Coyne
Cramer
Crane
Cummings
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Doggett
Dooley
Doyle
Edwards
Engel
Ensign
Eshoo
Etheridge
Evans
Filner
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Goodlatte
Green
Harman
Hastings (FL)
Hefley
Hefner
Hill
Hilleary
Hilliard
Hinchey
Holden
Hooley
Hostettler
Jackson (IL)
Jackson-Lee (TX)
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kind (WI)
Kleczka
Klink
Kucinich
LaFalce
Lantos
Lee
Levin
Lipinski
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Martinez
Mascara
Matsui
McCarthy (MO)
McDermott
McGovern
McHale
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller (CA)
Minge
Moran (KS)
Moran (VA)
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Paul
Payne
Pelosi
Peterson (MN)
Petri
Pomeroy
Poshard
Rahall
Rangel
Rivers
Rodriguez
Roemer
Rohrabacher
Rothman
Roybal-Allard
Royce
Rush
Sanchez
Sanders
Sandlin
Sanford
Sawyer
Schaffer, Bob
Schumer
Scott
Sensenbrenner
Sherman
Slaughter
Smith, Linda
Snyder
Spratt
Stabenow
Stark
Stearns
Stenholm
Stokes
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson
Thurman
Tierney
Towns
Velázquez
Vento
Waters
Watt (NC)
Weller
Wexler
Weygand
Wise
Wynn
Yates

NOT VOTING—19

Brady (TX)
Dingell
Gonzalez
Gordon
Hamilton
Hinojosa
Hulshof
Hutchinson
Klug
Lampson
Lewis (GA)
Markey
McDade
McIntosh
Moakley
Reyes
Turner
Waxman
Weldon (PA)

☐ 1533

Ms. ROYBAL-ALLARD and Messrs. ROHRABACHER, RANGEL and MCINTYRE changed their vote from "yea" to "nay."

Ms. WOOLSEY changed her vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

COMMUNICATION FROM THE CLERK OF THE HOUSE.

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

U.S. HOUSE OF REPRESENTATIVES,
Washington, DC, June 25, 1998.

Hon. NEWT GINGRICH,
The Speaker,
House of Representatives, Washington DC.

DEAR MR. SPEAKER: I have the honor to transmit herewith a copy of a certificate of unofficial vote totals received from The Honorable Stephanie Gonzales, Secretary of State, State of New Mexico, which indicates that, according to the unofficial vote totals received by the nominees whose names appeared on the 1998 Special Election Ballot of June 23, the Honorable Heather Wilson was elected Representative in Congress for the First Congressional District, State of New Mexico.

With warm regards,
ROBIN H. CARLE,
Clerk.

SWEARING IN OF THE HONORABLE HEATHER WILSON, OF NEW MEXICO, AS A MEMBER OF THE HOUSE

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that the gentlewoman from New Mexico, Ms. HEATHER WILSON, be permitted to take the oath of office today. Her certificate of election has not yet arrived, but there is no contest; and no question has been raised with regard to her election.

The SPEAKER. Is there objection to the gentleman from Texas?

There was no objection.

The SPEAKER. The Representative-elect and the Members of the New Mexico delegation may come forward.

Ms. WILSON appeared at the bar of the House and took the oath of office, as follows:

Do you solemnly swear that you will support and defend the Constitution of the United States against all enemies, foreign and domestic; that you will bear true faith and allegiance to the same; that you take this obligation freely, without any mental reservation or purpose of evasion, and that you will well and faithfully discharge the duties of the office on which you are about to enter. So help you God.

The SPEAKER. Congratulations.

INTRODUCTION OF THE HONORABLE HEATHER WILSON

(Mr. SKEEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SKEEN. Mr. Speaker, as the dean of the New Mexico delegation in the House, it is my distinct pleasure and honor to welcome and congratulate the newest Member of the House of Representatives, the Honorable HEATHER WILSON of Albuquerque, New Mexico.

Congresswoman WILSON won this week's special election in New Mexico's First Congressional District, which was vacated in March by the untimely death of our colleague, Steve Schiff. We will always miss Steve Schiff, but today we welcome a new Member who will continue in his tradition of public service on behalf of the people of the State of New Mexico.

Congresswoman WILSON won a most impressive victory in gaining election to the House. Many of us watched this race with significant interest and were involved in her successful election to Congress. I thank each and every one of my colleagues for their efforts on her behalf.

I look forward to working with the gentlewoman from New Mexico (Ms. WILSON) in Congress on behalf of many principles each of us hold dear to our hearts, such as education, a strong national defense, a simpler and fairer tax system, among a host of other issues important to our State and Nation.

I welcome the gentlewoman from New Mexico (Ms. WILSON) to Congress, and I wish her the best of success in representing the people from New Mexico's First Congressional District. It is up to her now. Thank goodness for her being here with us.

TAKING OFFICE WITH INTEGRITY, COURAGE AND ENERGY

Ms. WILSON. Mr. Speaker, I want to thank all of you so much for your help, your support, your words of wisdom, and your words of kindness throughout the special election. Without your support, I would not be here today, and without the support of the people of the First District.

It is now time to roll up my sleeves, to take up the work which Steve Schiff left off too soon, and to represent the people of the First District with honor, with integrity, and with every ounce of courage and energy that I can summon. I look forward to that challenge, and I look forward to serving with each of you.

I wanted to thank my family, who is here with me, for their love and their support. I wanted to thank all of you again. I look forward to serving with you.

PERSONAL EXPLANATION

Mrs. EMERSON. Mr. Speaker, yesterday on rollcall No. 264, Agriculture appropriations, I was unavoidably detained. Had I been present, I would have voted yes.

CONFERENCE REPORT ON H.R. 2676, INTERNAL REVENUE SERVICE RESTRUCTURING AND REFORM ACT OF 1998

Mr. ARCHER. Mr. Speaker, pursuant to House Resolution 490, I call up the conference report on the bill (H.R. 2676) to amend the Internal Revenue Code of 1986 to restructure and reform the Internal Revenue Service, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. PEASE). Pursuant to House Resolution 490, the conference report is considered read.

(For conference report and statement, see proceedings of the House of Wednesday, June 24, 1998, at page H5100.)

The SPEAKER pro tempore. The gentleman from Texas (Mr. ARCHER) and the gentleman from New York (Mr. RANGEL) each will control 30 minutes.

The Chair recognizes the gentleman from Texas (Mr. ARCHER).

GENERAL LEAVE

Mr. ARCHER. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks and include extraneous material on the conference report on H.R. 2676.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

□ 1545

Mr. ARCHER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today is a great day for the American taxpayer. As families gather together next week to celebrate the Fourth of July, a day that recognizes the independence of all Americans, they can be proud to know that this Congress has secured for them greater independence from the excesses of the IRS than have ever been granted since 1952.

The plan we vote on today gives David the taxpayer an arsenal of powerful slingshots to use against Goliath the IRS. Reform of the IRS has been long overdue and I am delighted that Congress is passing legislation that puts the legitimate rights of the taxpayer first. Our plan shifts the burden of proof off the taxpayer and onto the IRS. No longer will taxpayers have to prove in court their innocence but, rather, the IRS will have to prove liability. It gives taxpayers 74 new rights and protections, including protections for innocent spouses, usually women, and it creates an independent oversight board to get the IRS under control.

Plus, we reduce the complexity that 16 million Americans endured when they filled out their difficult Schedule D IRS capital gains tax forms. By changing the holding period from 18 months to 12 months, we bring greater simplicity to the lives of taxpayers.

Mr. Speaker, as important as this bill is to more than 100 million Americans who dutifully fill out their tax forms every year, this bill is also about our values and our priorities. It is about right and it is about wrong. It is about putting the taxpayer first and the IRS second. It has been the other way around for entirely too long.

What we do today is very much in the spirit of July 4. Today we enhance the power of the individual and we reduce the power of an abusive arm of the government that intrudes into the individual lives of each of us. By dissolving the bonds which allowed the IRS to seize homes and freeze bank accounts, we serve taxpayers whose life, liberty and pursuit of happiness had been infringed. We remind a free Nation that earnings belong to those who make them, not to a government with the power to take them.

This bill strikes the right balance between granting taxpayers the freedom to pay their taxes without abuse while providing the tools necessary to fund the government. I am very proud of this Congress for today's action. We are indeed leading the Nation in the right direction.

I am proud to belong to a Republican Congress that has balanced the budget, cut taxes, fixed welfare and now we have protected taxpayers from IRS abuses. I am also proud to be a part of a Republican Congress that has proved that it can work on a bipartisan basis across the aisle to bring this wonderful bill to the American people. If there was ever a done-something Congress, this is it.

Mr. Speaker, I reserve the balance of my time.

Mr. RANGEL. Mr. Speaker, I yield myself such time as I may consume. Let me thank the gentleman from Texas (Mr. ARCHER), my chairman, for allowing me to be a part of his Republican Congress, and to laud him for bringing about this Republican surplus, and also the Republicans for bringing about this great economic boom which we enjoy. God knows what we would have done without you, but I hope next year we will find out.

I do have to agree on this bill that the chairman of the committee as well as the Senate have shown an extreme bipartisan effort to bring about changes that were needed in the Internal Revenue Service. I really enjoyed working with the chairman and the Senate, because we got away from the rhetoric of pulling out the code by the roots, beating up on the dedicated public servants, and started working with the commission which the gentleman from Pennsylvania (Mr. COYNE) of the Committee on Ways and Means and the gentleman from Ohio (Mr. PORTMAN) had worked on, working with the administration and the other body to see what we could do to bring about change, and through hard work and mutual respect, we were able to do it. Not only do we bring in professionals to provide oversight, have additional management flexibility, but we expanded electronic tax filing and worked with the administration to make certain that the oversight board had representation not only from the private sector but from the employees.

Taxpayers' rights were protected. Innocent spouse relief was given. And even though there are some provisions in the bill that have absolutely nothing to do with reform, these were the perks and privileges of the majority and we thought that the President should support the entire bill, as do most of the people that really believe that the taxpayer has been and should be entitled to more protection.

We will have a motion to recommit perhaps that could perfect the bill and make it all that it could be, but I would publicly like to thank the chairman of the full Committee on Ways and Means as well as the leadership in the other body for coming up with a bill that would improve the protections for taxpayers and at the same time be a piece of legislation that can be supported by the administration and should make Members of this House and this body proud.

Mr. Speaker, I reserve the balance of my time.

Mr. ARCHER. Mr. Speaker, I yield 5½ minutes to the gentleman from Ohio (Mr. PORTMAN), a gentleman to whom all of us owe an enormous debt of gratitude, because he was the cochairman of the restructuring commission that spent 1 year evaluating the IRS and bringing to us a recommendation which is basically intact as a result of our efforts.

Mr. PORTMAN. Mr. Speaker, I thank the gentleman for yielding me this time, for those kind words and for all his leadership on this legislation.

It was exactly one year ago today that the National Commission on Restructuring the Internal Revenue Service announced its recommendations after a year-long audit of the IRS. That commission has been referred to by the gentleman from New York and by the chairman. It was cochaired by Senator BOB KERREY of Nebraska and myself. What we did was to recommend the first comprehensive changes to the IRS since 1952. When we released our report, again a year ago today, to fundamentally reform the IRS, change the way it does business and protect taxpayers, I cannot say that everybody in Washington was hoping that it would end up here on the floor. In fact there were many who probably hoped it would gather dust on a shelf, including some in the Clinton administration. At that time there was opposition from the Treasury Department over the degree to which we were reforming the IRS.

The next step in that process was legislation. The gentleman from Maryland (Mr. CARDIN) and I introduced House legislation, and Senators KERREY and GRASSLEY introduced legislation in the Senate that was based on those recommendations. And then it was the chairman who prioritized it, put the Committee on Ways and Means at the front of this effort, and moved the legislation so expeditiously. Again this was before the legislation was as widely acclaimed as it will be today, I think, as we have listened to Members speak on the floor.

Mr. Speaker, Americans are grateful for the leadership the gentleman from Texas showed and that the committee showed on a bipartisan basis. This is the agency that directly impacts the lives of more Americans than any other agency of government. Of course we owe it to the taxpayers to pass this bill today, and I am very confident that we will.

But let me say something else. I think that once we have finished our voting today and we are done congratulating ourselves over this very good legislation this afternoon, we then have to turn our focus to the real work. We owe it to the taxpayers to ensure that the provisions in this legislation are actually implemented, and we owe it to them because we have to ensure that we do have a fundamental cultural change at the IRS.

Members have heard about some of the bill's key provisions from the gentleman from Texas and the gentleman from New York. Let me just say it is a very comprehensive approach. It contains a wide range of reforms. When you take those reforms as a whole, it will transform the IRS from an antiquated sort of an enforcement mentality to a modern, more taxpayer service-oriented organization. It will refocus the mission of the IRS to provide respectful and efficient service to the taxpayer.

It does so in a number of different ways. One is by creating this new oversight board that the gentleman from New York mentioned. This is unprecedented in government. We will have nine members of the board, mostly from the private sector, who will bring needed expertise and customer service, information technology, and how to transform a large service organization. They will be there to ensure that the IRS will be more accountable to the taxpayer and be more accountable over a long period of time.

It does so by leveling the playing field between the taxpayers and the IRS. It has over 50 new taxpayer rights. These include shifting the burden of proof from the taxpayer to the IRS in court cases, providing long overdue relief for innocent spouses, most of whom are women who are unfairly targeted today by the IRS; it creates new due process rights for taxpayers, and even creates the right to be compensated for overzealous IRS actions.

Very importantly, the legislation also reforms the IRS management structure to increase accountability and performance. It gives the IRS Commissioner new personnel flexibilities to drive change through the agency, such as the ability to bring in experts from the private sector at a high level in the IRS, the ability to reward IRS employees for taxpayer service, and fire employees who provide inferior service. It also increases the accountability of IRS employees and managers in the collection area to stop the tactics of intimidation.

Finally, and significantly, let me just emphasize that the bill will increase congressional accountability for the IRS. That is a major victory for those of us in this body, in the House, who believe that it is not enough just to point the finger at the other end of Pennsylvania Avenue, that in fact much of the blame resides right here in the Capitol. As a result of our work, there are three significant congressional accountability provisions.

First, we streamline congressional oversight, requiring the seven committees to come together and coordinate their activities, including one mandated meeting a year to review the IRS budget, review the IRS strategic plan, and send a clear and consistent message from Capitol Hill to the IRS.

Second, we get the IRS at the table as the committees are working on tax legislation to ensure that on a more consistent basis we get expertise from the field to be sure that tax law changes are going to actually work to help the taxpayer and can work within the IRS system, what new forms or schedules will be required, how is that going to affect the IRS, how is that going to affect individuals.

Finally, and perhaps most significantly, it requires Congress to conduct a new taxpayer complexity analysis of every new piece of tax legislation that reaches the House or Senate floor. It will work kind of like the budget scoring process. We will now be forced to "score" tax legislation to see what its complexity is for the taxpayer and for the IRS. And in the House we put teeth in that with a point of order to make sure that it actually happens. This will force us to consider the implications of what might otherwise be great sounding tax legislation.

Again, for the first time ever now we will have incentives in place that actually encourage us to simplify rather than all the incentives that are out there right now for more complexity. Anybody who looked at this year's Schedule D for capital gains knows what we are talking about.

There are a lot of other provisions in this bill. We do not have time to mention them all. Suffice it to say the overall package will ensure that the IRS will now work for the taxpayer rather than the other way around.

Let me close with one final point, if I might. On a bipartisan basis within a short period of time, this Congress for the first time in 46 years fundamentally restructured the second biggest agency in government to make it far more responsive to taxpayers. That is in large measure because of the leadership of this Congress. NEWT GINGRICH took personal interest in this, talked to the Commission, supported it, expedited it. It is also, of course, the result of the hard work and dedication of the Restructuring Commission, its staff; the Committees on Ways and Means and Finance. Barbara Pate of my own staff put many hours into this project. I think the process worked, though, because we took partisanship out and brought expertise in. It just might be a model for other challenging issues we face. I again commend the chairman for his work.

Mr. Speaker, I would like to take a moment to thank the staff of the National Commission on Restructuring the Internal Revenue Service for important work on this legislation. We would not have the strong reform legislation before us today without the hard work and patience of these individuals. They staffed dozens of public hearings, 3 town-hall meetings around the country and hundreds of hours of closed-door sessions with Restructuring Commission members. They also interviewed hundreds of present and former IRS officials, representatives of key stakeholder groups, and average taxpayers. The product of their work is the Commission's final report, "A Vision for a New IRS," which served as the foundation of the legislation we have before us today. Congress, and the taxpaying public, thank them for their fine efforts.

The Commission staff members were: Jeffery Trinca, Chief of Staff; Anita Horn, Deputy Chief of Staff; Douglas Shulman, Senior Policy Advisor and Chief of Staff from June to September of 1997; Charles Lacijan, Senior Policy Advisor; Dean Zerbe, Senior Policy Advisor; Armando Gomez, Chief Counsel; George Guttman, Counsel; Lisa McHenry, Director of Communications and Research; James Dennis, Counsel; John Jungers, Research Assistant; Andrew Siracuse, Research Assistant; Damien McAndrews, Research Assistant; Margie Knowles, Office Manager; and Janise Haman, Secretary.

Mr. RANGEL. Mr. Speaker, I yield 3 minutes to the gentleman from Maryland (Mr. CARDIN) who worked very hard in making this reform possible.

Mr. CARDIN. Mr. Speaker, I thank the gentleman from New York (Mr. RANGEL) for yielding me this time. I rise in support of the conference report on H.R. 2676.

Mr. Speaker, more than a year ago the gentleman from Ohio (Mr. PORTMAN) came over to meet with me about the work that he was doing as chairman of the National Commission on Restructuring the Internal Revenue Service. It led to the introduction of H.R. 2292. The gentleman from Ohio impressed upon me his commitment to restructure the IRS and have legislation on this floor in a bipartisan manner.

Mr. Speaker, I want to congratulate and compliment the gentleman from Ohio for his professionalism and the way that he acted in such a bipartisan manner. As a result, I agree with the gentleman from Texas (Mr. ARCHER) as to why we have such an outstanding bill before us. The gentleman from Ohio deserves the thanks of all of us. To the gentleman from Texas and the Committee on Ways and Means, I want to congratulate them for the work that our committee did. It was outstanding in considering this legislation and moving it forward. To the gentleman from New York (Mr. RANGEL), the ranking member, for his advice and leadership during this process, I also want to extend congratulations.

□ 1600

Senior officials of the Clinton administration were extremely helpful to us, including Secretary Rubin who has already provided strong leadership in reforming the Internal Revenue Service.

And finally, Mr. Speaker, I think we should all thank the hardworking Federal employees at the IRS who have been critical to this reform effort. Yes, we have heard stories of abusive behavior by a handful of rogue IRS agents, but we all understand that the vast majority of the rank and file IRS workers do a very difficult job and they deserve our thanks.

This conference report includes some very strong new provisions on taxpayers' rights and taxpayer protection provisions, and I am pleased that we have improved the innocent spouse provisions, unfair imposition on tax liability. We shift the burden of proof in certain court-litigated cases back to the IRS, where it should be, and we provide relief for penalties and interest for many taxpayers who deserve that help.

But the success of IRS reform will not be the passage of this bill, but the implementation of the bill. We have set the stage where we can really improve the structure of our tax-collecting agency. Commissioner Rossotti has already started to make some of these changes but he needed this bill which establishes the oversight board that will work with Commissioner Rossotti to carry out these badly needed reforms.

As the gentleman from Ohio (Mr. PORTMAN) pointed out, it is not only the oversight board, but it is also providing for Congress to take a more responsible oversight attitude on looking at the IRS and to pass bills that make sense from tax simplification so the IRS can do its job.

Mr. Speaker, today we pass the IRS reform bill. I am very pleased that we have been able to do it. But that should not be the end of our interests in the Tax Code. We all have responsibility to make the Tax Code more simple, more efficient and more fair. I hope that the leadership of this House will move forward with tax reform as it relates to the Tax Code itself. I look forward to the enactment of this bill and working with the other Members on reforming our Tax Code.

Mr. ARCHER. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania (Mr. ENGLISH) a respected member of the Committee on Ways and Means.

Mr. ENGLISH of Pennsylvania. Mr. Speaker, I thank the gentleman from Texas (Mr. ARCHER) for yielding this time to me.

Today the House completes an ambitious project it only undertook last year, the first comprehensive overhaul of the Internal Revenue Service since Harry Truman served in the White House.

I rise in strong support of the conference report on the IRS Restructuring and Reform Act. It will protect taxpayers by increasing oversight of the agency, hold employees of the IRS accountable for their actions and create a new arsenal of taxpayer protections. These reforms go a long way toward restoring the basic rights of all Americans who deal with the IRS.

My colleague, the gentleman from Ohio (Mr. PORTMAN) who more than any other Member of this Chamber is responsible for this package has detailed some of its provisions. The major ones: The burden of proof is shifted; an independent board is created to oversee IRS policies; an innocent spouse provision is added; and new incentives are created to encourage the filing electronically of tax returns which will save millions of dollars for the taxpayers.

I also want to note there is an important unrelated truth-in-labeling provision included in this conference report, an important trade provision that will substitute the term "normal trade relations" in place of the currently used and much misunderstood "most-favored-nation" status with regard to trade. This will go far to improve the accuracy and tenor of our debates on trade issues.

Mr. Speaker, this is long-awaited, bipartisan legislation that should be swiftly acted on by both the House and Senate and hopefully receive the President's signature. I rise in strong support of this legislation.

Mr. RANGEL. Mr. Speaker, I yield 2½ minutes to the gentlewoman from Florida (Mrs. THURMAN).

Mrs. THURMAN. Mr. Speaker, I thank the conference members because I think they have done a relatively good job. As my colleagues know, quite frankly I wish this would have passed earlier in the year where people would have had an opportunity to have these changes available to them today, and I am going to support the conference report because it does include IRS reform and IRS responsibility and because I like the taxpayer protection provisions.

Earlier this year I attended a hearing with Senator BOB GRAHAM at which Florida taxpayers talked about their experiences with the IRS. I heard from women who had no idea of their spouse's tax irregularities but who were being penalized by the IRS. I also heard about penalties imposed for small underpayments that continued even after offers were made to the IRS. Such administrative inflexibility contributes to the distrust of IRS and our tax system. Fortunately the conference report makes changes that will help these taxpayers.

Mr. Speaker, the innocent spouse relief is long overdue. The suspension of interest and penalty is a small step in the right direction.

In addition, this legislation will make the IRS more efficient by improving oversight and imposing responsibility on employees for improper actions. The IRS must treat the American people with respect, and this bill will ensure that IRS employees understand that fact.

But as occurs too often here, politics got the benefit of policy for 6 months. Good legislation was delayed. Now we have a bill very similar to what the House approved in November with a few twists. We have a new provision which includes tax relief to employers who provide meals to more than half of their employees on employers' premises. I wish I had known about that provision before the conference completed its work. I have no problem with helping workers who have to eat where they work. Perhaps this provision will also benefit some hospitality workers in Florida.

But let me tell my colleagues about a letter that I received from the wife of a trucker in my district. He was on the road nearly 300 days last year. The law allows him to deduct only 50 percent of the cost of his on-road meals. His wife wants truckers to deduct 100 percent of their on-road meals. That makes sense to me, and I think the committee should consider the needs of these struggling taxpayers, too.

But despite the politics that delayed the policy, I think the legislation helps American taxpayers, and I urge the House to approve it.

Mr. ARCHER. Mr. Speaker, I yield 2 minutes to the gentleman from Arizona (Mr. HAYWORTH), a respected member of the Committee on Ways and Means.

Mr. HAYWORTH. Mr. Speaker, I thank the gentleman from Texas (Mr. ARCHER) for yielding this time to me, and, Mr. Speaker, I come to the well in strong support of this conference report and the work performed by both Chambers on this bill.

Mr. Speaker, there are many provisions that have been outlined, but in addition to the provisions, we can put faces and names on those families directly affected, sadly, by what must be termed as IRS abuse.

I think of a man from Arizona, Bob Breauxcamp, and the story of his granddad who inadvertently sent a tax payment of $7,000 to the IRS when he only owed $700, how he was aged and infirmed, and upon his death then the IRS sought estate taxes from his daughter, Bob's mom, and she discovered the overpayment; how the IRS said, no, that money will not go back to his estate and how that overpayment, through an oversight in law and, yes, I dare say, abuse by the IRS was never returned to the Breauxcamp family.

Mr. Speaker, today with passage of this conference report, we provide for a wide array of reforms. But to the aged and the infirm, to those who have been taken advantage of in this process, we become their advocates. That is another key provision we should support.

As mentioned earlier, the innocent spouse provision is vitally important and most fundamental to our notion of fairness in this country, the basic premise of American jurisprudence which says that the accused is entitled to the presumption of innocence. What was deprived in Tax Court is restored henceforth with passage of this legislation. The burden of proof will rest on the government instead of the taxpayer.

I urge passage of the conference report.

Mr. RANGEL. Mr. Speaker, I yield 3 minutes to the gentleman from Massachusetts (Mr. NEAL) a member of the Committee on Ways and Means.

Mr. NEAL of Massachusetts. Mr. Speaker, I rise in support of this conference agreement on the Internal Revenue Restructuring and Reform Act of 1998.

There is no question that this legislation will provide better oversight, greater continuity of leadership and improved access to expert advice from the private sector, and additional management flexibility. There has long been agreement of the need for fundamental reform of the IRS, and I commend the work done by the National Commission on Restructuring. I supported the majority of recommendations made by the National Commission, and I am pleased that further improvements have been made to this initial legislation introduced by the gentleman from Ohio (Mr. PORTMAN) and the gentleman from Maryland (Mr. CARDIN). Mr. PORTMAN and Mr. CARDIN did work diligently to modify the original bill to reflect the concerns of many of us on the Committee on Ways and Means.

Mr. Speaker, I believe that the Constitution requires that the IRS commissioner be appointed, hired and, if necessary, fired by the President. The legislation before us today keeps the President ultimately responsible for the actions of the IRS and the decisions of its commissioner, while the Department of the Treasury would still have a role in the oversight and management of IRS.

A key component of the bill is a section referred to as Taxpayer Rights III. These provisions will provide new protections and assistance to millions of taxpayers.

During passage of the bill I was specifically concerned about two additional provisions. First I was concerned about the authority given to the newly-created IRS Oversight Board. This board has the authority to review and approve strategic plans at the IRS and review and approve the commissioner's plans for major reorganization.

The bill was not clear on what happens to our tax administration system under these new authorities if a consensus is not reached among board members or the IRS commissioner and Treasury Secretary in disagreement with views of private sector individuals. I am pleased that the conference has addressed this issue.

Second, I am concerned about the provision in the shift of the burden of proof which should not be treated lightly. The conference agreement shifts the burden of proof to the Secretary of the Treasury in any court proceeding with respect to a factual issue if the taxpayer enters credible evidence with respect to the factual issue relevant to ascertaining the taxpayer's liability for income, estate, and gift taxes.

Under current law, a taxpayer is generally required to maintain records substantiating the calculation of his or her income tax liability. In civil matters, the burden is placed on the taxpayer because the taxpayer controls the facts and the record.

Now this shift in the burden of proof could have unintended consequences, and we should acknowledge that today. It could result in the IRS conducting more intrusive examinations and the IRS issuing more subpoenas and summonses to third parties in search of evidence, and I am concerned that this provision would induce taxpayers not to keep records. But I am pleased that the conference agreement requires a taxpayer to keep records in order to be eligible for this provision.

Our tax system is voluntary, and we have an overall compliance rate of 85 percent. The individual compliance rate is 97 percent, and we should never lose sight of those respective achievements.

Mr. ARCHER. Mr. Speaker, I yield 5 minutes to the gentlewoman from Connecticut (Mrs. JOHNSON) the chairman of the Subcommittee on Oversight of the Committee on Ways and Means, who has also done a tremendous amount of work in building this package.

Mrs. JOHNSON of Connecticut. Mr. Speaker, first I want to congratulate the gentleman from Texas (Mr. ARCHER) the chairman of the Committee on Ways and Means for not only his long investment and commitment to this bill, but the depth of knowledge that he has of it, and of the issues addressed in it and of his leadership as a conferee negotiating a bill that will be good for the taxpayers and a credit to this Congress.

□ 1615

Today is a great day for taxpayers. With enactment of the IRS Restructuring Reform Act, we are going to fundamentally change the culture of the IRS, and not a moment too soon.

Earlier this year, I asked my constituents to evaluate the performance of the IRS in a survey of taxpayers in the 6th Congressional District. Fifty-four percent of the respondents gave the agency a D or an F. That is unacceptable. It is appalling. It is unfair to taxpayers, to the honest, hard-working people of America who support their government. But it is equally unfair to the conscientious men and women who work for the IRS, that the unchecked, irresponsible actions of a few have undermined public confidence in their work.

We need stronger management, stronger congressional oversight and stronger taxpayer rights. The measure before us today provides all three. The IRS oversight board created by this bill will bring private sector knowledge into the management of the IRS, so the IRS can begin the 21st century as a state-of-the-art, customer-oriented service organization. Infusing private sector know-how into the technology development and the management of the IRS will create a model for revitalizing our government agencies.

But reform of the IRS requires reform of the congressional oversight process. At the moment, no fewer than six committees, not to mention their subcommittees, on both sides of the Capitol, tug the IRS in different and often conflicting directions. This bill takes an important first step toward streamlining Congressional oversight. It provides for annual joint hearings by Republicans and Democrats from the House and Senate tax-writing, appropriations and government oversight committees. The hearings will focus on the IRS strategic plan, budget and performance. If we expect the IRS to change its ways, we in Congress must do no less.

The measure builds on the protections provided in the Taxpayer Bill of Rights II developed by the Committee on Ways and Means Subcommittee on Oversight and enacted by the last Congress.

I am especially pleased that the taxpayer rights provisions will strengthen the protections for innocent spouses. Of all the horror stories that have surfaced in recent years, none have been more heartbreaking than those involving innocent spouses, taxpayers who in many cases have been left to rear their children as single parents, only to find their former spouses have saddled them with crushing tax debt.

Many of these horror stories have been going on for years without the IRS helping the spouses who are seeking relief from mounting tax liabilities, interest and penalties. I have seen dozens of letters from innocent spouses who find themselves in this kind of jam.

In March of 1995, the Committee on Ways and Means Subcommittee on Oversight held a hearing to explore the development of the Taxpayer Bill of Rights II. In particular, we were interested in finding out whether the current joint and several liability rules were equitable and whether innocent spouse rules were adequate. The long and the short of it is, we required the Treasury Department and the General Accounting Office to study those rules, report back to us concretely, and using that information, this conference has taken the final step to provide significant broad-based, fair, honest, innocent spouse provisions to relieve the circumstances of these disadvantaged, unfortunate, hard-working taxpayers.

But innocent spouse relief is not the only one of the more than 50 taxpayer rights we will enact in this legislation. The bill will shift the burden of proof to the IRS in court proceedings, as you have heard; prohibit the IRS from seizing a taxpayer's home without a court order, no less protection should be offered; expand the authority of the taxpayer advocate to assist taxpayers, and that is, after all, their job; strengthen due process rights for taxpayers in collection activities; suspend interest and certain penalties when the IRS does not provide appropriate notice to a taxpayer within 18 months after a return is filed; and extend the client-attorney privilege to accountants and other tax practitioners.

Mr. Speaker, Mark Twain once said that everyone complains about the weather, but no one does anything about it. Perhaps the same could be said of the IRS. The complaints are legion. Today we are doing something about it.

Mr. RANGEL. Mr. Speaker, I yield 3 minutes to the gentleman from Missouri (Mr. GEPHARDT), our minority leader, who made certain that partisanship did not enter into the debate in restructuring the IRS, and one who insists on equity in the Tax Code.

Mr. GEPHARDT. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, I rise in support of this conference report. I believe that what has been done to reform the IRS is important. It is supported by the President, supported by Members on both sides of the aisle, and I intend to vote for it.

However, there was a provision that was slipped into the conference which, frankly, is irrelevant to the substance of this bill. What was slipped into the conference was to change the holding period on certain capital gains from 18 months to 12 months. It seems that some in the majority in this House cannot resist any opportunity to try to put another tax break in tax legislation to help the wealthiest of the wealthy.

Here is a chart which shows who gets the benefit of changing the time that you have to hold certain capital gains to receive the capital gains benefit from 18 to 12 months.

Bob Dole, a former Senator, had a bill a number of years ago that would change capital gains to make them all time-sensitive. That probably makes sense. When the bill was passed to change the capital gains rate last year, we began to move in that direction by having an 18-month waiting period.

Now, the first chance that is obtained, we are going back to a 12-month holding period. The Speaker of the House announced yesterday he wants to take the capital gains rate from 20 to 15 percent. I suppose the ultimate goal is what the gentleman from Texas (Mr. ARMEY), the majority leader, has said over and over again, and that is to have a capital gains rate of absolutely zero. Absolutely zero.

Now, while this is going on and while we are tucking in provisions that help the wealthiest of the wealthy, let us look at what is happening in the Committee on Appropriations of our House of Representatives. A proposal to cut out low-income energy assistance, a cut of $1 billion that helps over four million low-income households pay their winter heating bill; a proposal to eliminate the summer jobs program that helps 530,000 disadvantaged young people; cut school-to-work by $100 million; cut $250 million from the President's request for training and job opportunities for poor young people; cut Title I by $437 million, that would eliminate reading and math help for 520,000 disadvantaged children; cut $140 million for mentoring and tutoring. The list is too long. I do not have time to go through all the cuts.

We are right back to where we started from three years ago: tax cuts for the wealthy, paid for by cuts on the poor and the middle class. That is the program of the Republican Party. They are right back at it. We are right back where we started from. There is plenty of time for tax cuts for the wealthy; there is no time for the middle class, there is no time for the poor.

I urge Members to vote for the motion to be offered by the gentleman from Washington (Mr. McDERMOTT) to recommit that will take out this ill-considered, wrongful tax cut for the wealthiest of the wealthy. We can do that this afternoon.

Mr. ARCHER. Mr. Speaker, I yield 2 minutes to the gentleman from Georgia (Mr. COLLINS), another respected member of the Committee on Ways and Means.

Mr. COLLINS. Mr. Speaker, I thank the chairman for yielding me time.

Mr. Speaker, as one small representative, I rise in support of this conference report. This legislation will provide many new protections to ensure that IRS abuse ends.

Mr. Speaker, no citizen should fear their government nor any agency of their government. Unfortunately, today, many citizens fear the IRS.

Mr. Speaker, I rise today on behalf of the residents of the Third District of Georgia who are tired of being threatened and harassed by IRS agents. Throughout the hearing process on this legislation we heard example after example of how certain IRS employees believe they have the authority to threaten, harass and intimidate individuals involved in tax disputes. Mr. Speaker, this is wrong and it must be stopped.

Not every IRS employee is unscrupulous. There are indeed many who work with constituents to fairly resolve tax disputes. However, even in Georgia there are agents who routinely abuse and intimidate citizens.

Mr. Speaker, any member of this chamber could use all of the debate time just citing cases where citizens have been harassed by agents.

In my District, there was a retired couple making monthly payments on a tax debt that had arisen because the government had failed to withhold the proper amount of taxes from the husband's government retirement check. After working out a pay plan with the IRS, the gentlemen actually overpayed each month in order to pay the debt quickly.

Unfortunately, he died before doing so and the IRS wasted no time coming after his wife. To compound problems, the IRS had failed to properly credit the payments he had made against his tax debt. So, his wife was faced with an inflated tax bill, compounded by interest and penalties the IRS incorrectly added to the total.

The IRS demanded full payment of three thousand dollars which she could not afford. This poor woman was hounded by an individual agent who literally told her she was spending too much money on groceries and other basic necessities and should instead send those monies to the IRS. Eventually, she was forced to move out of her home and leave the state to live with a relative. There she re-filed her taxes and found an IRS office willing to fairly resolve her case. She settled the case by paying four hundred and fifteen dollars, rather than the three thousand she was told she owed by the Georgia agent.

While her case was eventually resolved, the unnecessarily long process, and the abusive approach by the IRS completely changed her life forever.

Mr. Speaker, this legislation will provide many new protections to ensure that these abuses end. No citizen should fear their government—or any agency of their government such as the IRS.

Mr. RANGEL. Mr. Speaker, I yield 2 minutes to the gentleman from North Carolina (Mr. ETHERIDGE).

Mr. ETHERIDGE. Mr. Speaker, I rise today in support of this bill to reform the Internal Revenue Service. I want to thank my friend, the gentleman from New York (Mr. RANGEL) for yielding this time, and also the gentleman from Texas (Chairman ARCHER).

Mr. Speaker, it is a great day for America and a great day for North Carolina taxpayers and working families. We are eliminating the cruel and unusual punishment that has been inflicted upon too many law-abiding citizens and businesses. Americans will finally have the comprehensive reform of the IRS that they deserve.

Working families and small businesses in North Carolina and across this country face enough challenges in their lives without the added burden, as we have heard, of some of the IRS agents; not all, but some. If a criminal has a right to the presumption of innocence in our courts, the American taxpayer should at least have that same right when they are dealing with the IRS and their government.

I am glad this Congress has given the highest priority to reforming the IRS. That is why in April I coauthored a bipartisan letter with Democratic freshmen members of this class of Congress in urging Congress to pass IRS reform this year.

Today this Congress takes a strong bipartisan step forward for working families by enacting the first comprehensive reform of the IRS since 1952. I am pleased to support this bill to reform the IRS, which will make our government fairer and more efficient for the hard working, God-fearing citizens of North Carolina and America.

Mr. Speaker, I do hope we will vote for the motion to recommit, to take out the portions of this bill that should not be in it, so it truly will be fair to Americans.

Mr. ARCHER. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. FOSSELLA).

Mr. FOSSELLA. Mr. Speaker, I thank the distinguished gentleman for yielding me time.

Mr. Speaker, from time to time we come across what I guess you could call a no-brainer. It took about 46 years for our good friend, the gentleman from Ohio (Mr. PORTMAN) to identify what we are here today to accomplish, and that is to implement a no-brainer.

I think the people of this country owe a great deal of gratitude to the chairman of the Committee on Ways and Means, in addition to the gentleman from Ohio (Mr. PORTMAN). This is a great day for the people of Brooklyn and Staten Island, indeed, across America, the taxpayers who fear the IRS so much. It is about time that we put in place mechanisms whereby the IRS is responsible and they respect the average taxpayer.

Why is it that almost half of the Americans fear more going to the IRS or receiving an audit from the IRS than going to get a root canal from a dentist, respect for dentists of this country notwithstanding? That is the reality. It is amazing that it took so many years for the conventional common sense and wisdom of this country to find its way here to Washington.

But, thankfully, I guess today we see the result of people working together, with the lead of the majority here, working together to do what is right for the people of this country, to do what is right for the people of Staten Island and Brooklyn. No longer will they have to fear the local IRS agent. The benefit of doubt, the presumption of innocence, shifts to where it belongs. The country that was founded on liberty and justice somehow, when it came to the IRS, got lost.

What wonderful news. Today you can rejoice, the IRS is finally reformed. But, never forget, that is the arm that does the bidding of the body. That body is the Tax Code that is just simply out of control. Now that we have reformed the IRS, let us continue the real and serious work of reforming our Tax Code to create true and economic growth and wealth in this country once and for all.

Mr. RANGEL. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Ohio (Mr. TRAFICANT), a true crusader for taxpayers' rights.

Mr. ARCHER. Mr. Speaker, I yield 1½ minutes to the gentleman from Ohio.

The SPEAKER pro tempore (Mr. PEASE). The gentleman from Ohio (Mr. TRAFICANT) is recognized for 3½ minutes.

Mr. TRAFICANT. Mr. Speaker, I thank the gentlemen for yielding me this time.

Mr. ARCHER. Mr. Speaker, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from Texas.

Mr. ARCHER. Mr. Speaker, Members of this Congress should know that the gentleman from Ohio (Mr. TRAFICANT) led the fight for shifting the burden of proof, and it was because of the gentleman that I put it in the bill in the Committee on Ways and Means. It was not in the Restructuring Commission's recommendations. The gentleman further led the fight to assure that homeowners would not be thrown out of their home without a court order.

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I put that in the bill as a result of his importuning, because he was right. He deserves a lot of credit for those two provisions in this bill.

Mr. TRAFICANT. Mr. Speaker, I want to thank the chairman, for it is a great day for all of America and a happy day for me, and in one way a sad day, that in over 12 years I could not get this done through my own party. I could not even get a hearing.

I want to thank the chairman, the gentleman from Texas (Chairman ARCHER), and I think he told it like it is. I think without the gentleman from Texas (Chairman ARCHER), we would not be changing the burden of proof in the tax case today, and I don't think we would have these added protections for homeowners. I want to thank the gentleman.

I want to thank the gentleman from New York (Mr. CHARLIE RANGEL). If he were chairman we would have had a hearing, and I would have had a better shot. I would just like to say this, the IRS for years has prided themselves on the fact, and they have literally been quoted as saying, that fear is important, and without fear we will not have compliance.

I think my friend, the gentleman from Georgia (Mr. MAC COLLINS) told it the way it was and the way it is. Fear is a term associated more with totalitarian forms of government, Mr. Speaker, not democracies. Alex Council committed suicide, and Attorney Bruce Barron committed suicide, out of despair and fear.

Today I think we provide an opportunity where Americans do not have to fear their government, and as the gentleman from Georgia (Mr. COLLINS) so eloquently stated, no American should fear our government. It is our government. I want to thank the gentleman from Texas (Chairman ARCHER) for putting those two provisions in the bill.

Let me say one last thing. The taxpayers still must comply and still must have records, but the day where they can have that old Bogart program, to put them under the gun because they have the burden of proof, is over. No taxpayer can prove a negative. No taxpayer should have to prove a negative.

I am proud to support this bill. I want to thank the gentleman from Texas (Chairman ARCHER) for all his help.

Mr. ARCHER. Mr. Speaker, I yield 2½ minutes to the gentleman from California (Mr. DREIER), a respected member of the Committee on Rules.

Mr. DREIER. Mr. Speaker, I thank my very good friend for yielding time to me.

If he had not yielded me the full time, I would have called on my equally dear friend, the gentleman from New York (Mr. RANGEL), and I am sure he would have gladly given me a minute.

Mr. Speaker, I rise in strong support of this conference report, and to congratulate all those who have been involved in this issue, and to say that I am particularly pleased about a number of items that really transcend the issue of IRS reform.

For starters, I believe that one of the most unfortunate aspects of the 1997 tax bill was this ridiculous, preposterous, bureaucratic 18-month holding period. The Schedule D provisions provided my constituents and all Americans who dealt with the issue of capital gains a great burden.

So for us to make the change which the conference did in this bill is, I think, a very important and beneficial one. I congratulate the committee for having taken that action.

Mr. Speaker, I would like to take just a moment, if I might, to engage the chairman in a colloquy on one issue that has, I understand from the report that he has given me, not been discussed so far on this. That happens to be what I believe to be one of the most brilliant truth-in-advertising changes that has been made, that being the shift from this so-called most-favored-nation trading status, and it specifically relates to the People's Republic of China, as the debate around this place goes.

We all know that there are only five countries on the face of the Earth that do not enjoy what is now called most-favored-nation trading status with the United States. We are changing the arrangement with the People's Republic of China as we proceed with this debate to correctly call it what it is, normal trade relations.

When we were debating the rule on this conference report earlier today, one issue came to the forefront which one of our colleagues said was snuck in at the last minute, and that no one knew about it.

Mr. Speaker, I would just like the chairman to, if possible, explain as to whether or not this was snuck in and how it worked out.

Mr. ARCHER. Mr. Speaker, will the gentleman yield?

Mr. DREIER. I yield to the gentleman from Texas.

Mr. ARCHER. Mr. Speaker, I think it is important, number one, that we have terminology that fits the facts, as the gentleman has said. What has been called MFN or most-favored-nation actually merely means normal trading relations.

Toward the end of the conference both the gentleman from New York (Mr. RANGEL) and I and Senator ROTH and Senator MOYNIHAN, on a bipartisan basis, agreed that it would be appropriate to do this, and to do it in this bill so it could get done and get in place. It changes no substance in the law.

Mr. DREIER. I would ask the gentleman, Mr. Speaker, is it not true that this has been discussed widely for a number of years? Many people around here have been saying we must change this name so people can understand exactly what it is.

Mr. ARCHER. Exactly.

Mr. DREIER. I thank the chairman for his explanation.

Mr. RANGEL. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Maryland (Mr. HOYER).

Mr. HOYER. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, I rise, I would tell the gentleman from Texas (Mr. ARCHER), with the intention to support this bill when the roll is called. I was one of those who did not support this bill as it went to the Senate. I was very concerned about what the final product would be. I want to congratulate both the chairman and the ranking member for improving this bill as it came back. I think that is a good thing.

I want to rise, however, to say that this bill is a continuation of IRS reform, and to congratulate Secretary Rubin, Deputy Secretary of the Treasury Summers, and Carl Rossotti who, like all of us, have seen the need to bring both management reform and procedural reform and taxpayer sensitivity to the IRS.

Secretary Rubin is the first Secretary of Treasury with whom I have served since 1981 who has paid attention to the management issues at IRS. He formed, in 1997, a management board. He also made the determination to bring on a professional manager, Charles Rossotti, the founder and chairman of American Management Systems, and brought on as commissioner for a term. That change was a critically important change.

It is well and good that we amend the law so that we put forth a system that will reform the IRS management and the IRS dealing with taxpayers. But what is critically important is that we have on board personnel committed to that objective.

Secretary Rubin and this administration have done that. I think this legislation, in concert with the reforms that are ongoing and have been affected by the Clinton administration and Secretary Rubin, will make a very substantial, positive impact on the taxpayers of America. For that reason, I intend to support this legislation.

Mr. ARCHER. Mr. Speaker, I yield 1 minute to the gentleman from Florida (Mr. SHAW), a respected member of the Committee on Ways and Means.

Mr. SHAW. I thank the chairman for yielding time to me, Mr. Speaker. I would like to thank the gentleman from Texas (Chairman ARCHER), the gentleman from Ohio (Mr. PORTMAN), and the gentleman from New York (Mr. RANGEL), all that had anything to do with forming this much-needed legislation in the Committee on Ways and Means in the House of Representatives, in which I am proud to serve, which was very aggressive in bringing about this legislation.

This legislation really was born here in the House and moved forward. The Senate had some very good hearings and then we, of course, went to conference. Now we have come up with a really fair, much fairer, process in dealing with the Internal Revenue Service.

I think so many people did not realize that prior to this legislation, any conference they had with their certified public accountant was not at all privileged, and that their accountant could be subpoenaed to testify against them in a court of law. Now we have just about given the same privilege that an attorney has, an attorney-client privilege, to an accountant-client privilege. I think that is tremendously important. The doublet is something we cherish here in America.

Mr. RANGEL. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. BENTSEN).

Mr. BENTSEN. Mr. Speaker, I thank the gentleman from New York for yielding time to me.

Mr. Speaker, I rise today in strong support of H.R. 2676, the conference agreement to reform the Internal Revenue Service and better protect the rights of taxpayers. I am proud to have been able to cosponsor the original legislation.

Americans recognize that paying taxes is a civic duty, but our tax laws and tax collectors must be fair so Americans will feel good about paying their taxes and not bullied. Besides voting, this is the only time most Americans deal directly with the Federal Government. We should make the experience as painless as possible.

This legislation goes a long way towards changing the organizational culture of the IRS to make it more customer-friendly. It compels the IRS, through a system of penalties and incentives and new checks and balances, to do a better job in going about its mission of collecting taxes. Better management and better technology will improve the IRS's ability to serve its customer, the American taxpayer.

The hearings held by the Senate Finance Committee illuminated the spectrum of abuses by IRS tax collectors, and made this legislation imperative. The abuses highlighted last year are simply unacceptable. No reason exists for any American citizen to be trapped in a 19th century Kafkaesque novel when paying their taxes. No taxpayer should be subject to haphazard rules or the whims of government agents.

The most important and significant accomplishment in this legislation is shifting the burden of proof from the taxpayer on to the IRS. The burden of proof is shifted from the taxpayer to the IRS in disputes in civil tax court proceedings. Under current law, the taxpayer, not the government, is required to prove innocence in Federal tax cases. This new law would require the government to prove guilt.

The bill creates an independent 9-member board to oversee the IRS and develop strategy for the agency. Further, the IRS commissioners will be able to recruit private sector management experience through an adjustment in the pay scale. The burden of proof will be shifted to protect innocent spouses who have no knowledge that their former spouse had underpaid taxes.

Additionally, it expands the taxpayer bill of rights, which will include the right to sue the IRS for damages of up to $100,000, make more cases eligible for resolution in a tax version of small claims court, and provide clinics for low-income taxpayers.

Mr. Speaker, there are many good people at the IRS, but this bill makes them accountable to those for whom they work, the taxpayers.

Mr. ARCHER. Mr. Speaker, I yield 2 minutes to the gentleman from Nevada (Mr. ENSIGN), again, a respected member of the Committee on Ways and Means.

Mr. ENSIGN. Mr. Speaker, first of all, I want to thank the distinguished chairman of our committee who has brought forth this wonderful bill, and of course on the House side, in a bipartisan fashion, especially, the gentleman from Maryland (Mr. CARDIN) and the gentleman from Ohio (Mr. PORTMAN), who brought this bill to our committee. At first it was a little contentious, but I think, working together, we have brought a super bill to the House of Representatives floor.

I do want to make one point, however. This bill only goes so far. Until we completely change the Tax Code, as the ranking Democrat last year, Sam Gibbons, said, that until we completely change the Tax Code, the IRS can never be completely fixed. But at least this bill goes a long way in doing that.

I want to thank the chairman and I want to thank the ranking member for a provision that was put in the bill that especially affects my State. I especially want to thank the Speaker of the House and TRENT LOTT, for making sure that this provision was in the House.

The IRS last year targeted the workers of my State. I represent the State that has the highest number per capita of audits in the country. Something that would have made them, our workers, even more subject to audits was something called the meals tax provision that the IRS targeted the workers in the State of Nevada for.

They wanted to start taxing the meals of people who could not leave their place of employment, and because of the work of the people that I have talked about, and many of the workers from our State who did a big letter-writing campaign, the workers' meals tax is now going to be dead. We are not going to allow, because of this bill, the workers in our State and States across the country to have their meals taxed. I think it is a great day for the workers in my State, as well as those other States that this bill affects.

The other point that I would like to make, across the country, and we hear this in town hall meetings, that is that the IRS is the only place where you are guilty until proven innocent. This is now not the case under this bill. You are now innocent until proven guilty.

So this is truly a day I think for both parties to celebrate, both parties to take credit, and I am here to just thank the chairman and the rest of the people who have worked on this bill.

Mr. RANGEL. Mr. Speaker, I yield 2 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the gentleman from New York for yielding time to me, and I thank the gentleman for his work, and certainly the chairman, my colleague, the gentleman from Texas (Mr. BILL ARCHER).

Mr. Speaker, I believe that we are on the right track. We need an Internal Revenue Service that reflects American values and respects American taxpayers. It was not too long ago that I held a hearing on the Internal Revenue Service in my district. The gentleman from New York (Mr. RANGEL) and the attendees were dramatically articulating some of the enormous concerns that this legislation addressed.

An oversight entity is of crucial importance. Houston, although I will not call it the poster child of Internal Revenue Service abuses, it certainly highlighted, when employees wanted to do the right thing, the kind of intimidation that occurred.

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The witnesses who came before my hearing highlighted some of the extreme activities of the Internal Revenue Service. This is not to denounce all of the employees, many of whom work diligently every day to assist those taxpayers and who themselves want to do the right thing.

But when we have a physician who is practicing his trade or his profession in his office, and we have the Internal Revenue Service exploding into that office as he is taking care of a patient, immediately asking him to remove himself, lock his doors and get out, when the physician is attempting to explain what he has already done; when we have others of my physicians who have sat down and said that they are prepared to work out their problem, and someone says, "I do not care what you are prepared to work out, we are closing you down"; clearly, I would say that it is now overdue for us to be able to make sure that this is truly a country of the free and the brave.

We are brave to do this and to recognize that the citizens' voices must be heard. I hope my colleagues will join me in making sure that the IRS respects American values and respects our taxpayers.

Mr. Speaker, I rise to the floor of the House today in support of reforming the Internal Revenue Service to make it more efficient, accountable, modern and taxpayer friendly. Let me echo the words of our President who said, "We need an IRS that reflects American values and respects American taxpayers."

The stories of coercion, corruption and scare tactics of IRS agents that I have heard from my constituents were more than enough for me to endorse IRS reform.

Therefore, I can endorse the opening up of the government for civil liability for taxpayer abuse. This conference report will extend the liability of the government for IRS abuse caused by those who may negligently disregard our tax laws. This is a safeguard that I know taxpayers are demanding and one that I strongly support.

The establishment of an independent oversight board by the President is another provision that I support. There is no doubt that such oversight of the administrative functions of the IRS is necessary after the disclosure of the atrocities that I heard from the citizens in Houston. There were, in fact, cases of possible suicide over the tactics that were used and it is time to end such abuses. The oversight board will have the responsibility to review and advise the Secretary of the Treasury about customer service measures that will make sense. Hopefully, the Board will insure that better service to our constituents. The conference report contains numerous management initiatives, ranging from electronic filing to strengthening the Office of Taxpayer Advocate, that backers say will eventually mean better service for all taxpayers—faster refunds, easier filing, quicker response to questions and problems.

Such oversight is necessary if we are to make the IRS more efficient.

Shifting the burden of proof to the IRS is another practical measure that makes good sense. In every other proceeding where the government is moving against a citizen in a court of law, the government bears the burden of proving the facts. It is high time that the IRS come in line with this time-honored tradition of the government bearing the burden of proof in questions of fact.

This burden of proof will be enforced after the taxpayer has fully cooperated with the IRS with respect to the factual issue. A taxpayer would be required to provide access to the information, witnesses and documents within the control of the taxpayer. This makes the proceeding more in line with every other court proceeding and makes it fair.

This conference report would also correct meaningful measures that will insure taxpayer fairness in IRS audits and collection activities. The common law privilege of attorney-client privilege for those tax advisors authorized to practice before the IRS will not be afforded as it should be. It would also end the use and abuse of summons by the IRS in looking for documents. Under this bill the IRS would be required to make reasonable inquiries and could not issue a summons until it has used other reasonable methods to ascertain where the information it is seeking may be.

The conference report also provides for making more information available to the taxpayers. It requires the IRS to print and make available to taxpayers explanations that make sense and clarify a variety of complicated matters. Married taxpayers will be alerted to liabilities that they would be jointly liable for even though only one spouse earned the income.

A spouse who may be innocent for the mistakes of another spouse in preparing a tax return will also now be afforded relief from tax liability, interest and penalties. Now a spouse who has nothing to do with the preparation of the return is fully liable for the mistakes. This is wrong and would be corrected by this bill.

I am also pleased Mr. Speaker, that the conference report requires the IRS at least to notify the taxpayer within 18 months of a possible liability, so it could be paid and the interest and penalty clock stopped. If the agency does not provide this notification, penalties and interest on the unpaid tax are suspended. Currently, the agency is so slow that taxpayers may have big penalty and interest bills before they ever learn that they have underpaid their taxes.

I will also support the conference report accompanying the bill because due process provisions are included. In this bill, the agency will only be allowed to seize business property only as a last resort, and a personal residence cannot be seized without court approval.

Again, Mr. Speaker, it is high time that we have the IRS reform that the American people have been calling for. I support this bill and urge my colleagues to vote for it.

Mr. ARCHER. Mr. Speaker, I yield 1 minute to the gentleman from Illinois (Mr. WELLER), a member of the Committee on Ways and Means.

Mr. WELLER. Mr. Speaker, let me first begin my brief comments just saluting the gentleman from Texas (Mr. ARCHER), chairman of the Committee on Ways and Means, for his leadership and his tenaciousness in bringing this issue to a head and succeeding. And also I wish to thank the gentleman from New York (Mr. RANGEL), the ranking member, for his bipartisan cooperation.

This legislation is a big victory for the taxpayer. Clearly, reforming the IRS, holding the IRS accountable to those who work hard, live by the rules and pay the bills, is a big victory.

One other big victory that is a key part of this bill was one of those issues that was a quiet issue and became more and more important. I found over the last 3½ years that I have represented the South Side of Chicago and the South Suburbs that I have had a half a dozen constituents contact me every year, usually divorced single moms struggling to raise the kids, and there were cases where a deadbeat dad was a deadbeat taxpayer and the IRS could not find him.

Mr. Speaker, whose door did the IRS show up at to collect the taxes? That of the poor, struggling working, single, divorced mom with the kids whose husband was not paying the child support.

This is a big victory for taxpayers.

Mr. RANGEL. Mr. Speaker, I yield 30 seconds to the distinguished gentleman from Ohio (Mr. KASICH), chairman of the Committee on the Budget.

Mr. KASICH. Mr. Speaker, I just want to take 30 seconds to compliment the gentleman from New York (Mr. RANGEL) and the gentleman from Texas (Mr. ARCHER), chairman of the Committee on Ways and Means.

But Mr. Speaker, I want to pay a special tribute to the gentleman from Ohio (Mr. PORTMAN), my great friend, who the chairman appointed to the task force to get this ball rolling. He has done a great job and has been relentless.

The gentleman is my great friend and I am thrilled this is happening today, and I know this is something that his whole family and country is proud of.

Mr. RANGEL. Mr. Speaker, I yield 2 minutes to the gentleman from Mississippi (Mr. TAYLOR).

Mr. TAYLOR of Mississippi. Mr. Speaker, I have got to admit that portions of this bill leave me somewhat perplexed, while I agree with most of it.

Mr. Speaker, this is the same body that in the past 2 weeks has passed six different pieces of legislation expressing our grave concern as to what the Chinese intentions are towards our Nation. We have a special committee that is looking into whether or not they bribed American officials in order to get hold of American missile technology. The same body that says we will no longer transfer missile technology.

But in the most blatant hurt and wrong that is being done to the American people, a $50 billion trade imbalance with the People's Republic of China, where they get $50 billion more of our money each year, where they charge our companies 30 to 40 percent to have access to their markets but we only charge them 2 percent, if we charge them anything, to have access to our markets, that used to be called Most Favored Nation status.

Now, because the American people have caught on to that and a majority of Members of Congress can no longer vote for Most Favored Nation status, because the American people have caught on to this scam, the new scam is we are going to change the name of it. It is now going to be called "normal trading relations."

Mr. Speaker, I would really hope someone would come to this floor and tell me what is "normal" about a $50 billion trade imbalance? What is normal about giving that same money to people we know are using it for weapons modernization? Because if that is normal, we do not deserve to be here.

If my colleagues are trying to hide that from the American people, it is not going to take them very long to figure out what is going on.

Mr. RANGEL. Mr. Speaker, I yield the balance of my time to the distinguished gentleman from Washington (Mr. McDERMOTT), a member of the Committee on Ways and Means.

The SPEAKER pro tempore (Mr. PEASE). The gentleman from Washington (Mr. McDERMOTT) is recognized for 3½ minutes.

Mr. McDERMOTT. Mr. Speaker, I support the bulk of what is in the Internal Revenue Service restructuring proposal that is before us, but I cannot support this legislation in its present form because of the Republican majority's insistence on including a major tax break for the well-to-do in a bill that is supposed to restructure the IRS. The Republican decision to reduce the capital gains holding period from 18 months to 12 months for the well-to-do in this legislation is a gross illustration of the Republican party's priorities.

Given the likelihood that the House and Senate will not agree on anything else tax-related this year, and the fact that there is still no budget resolution in sight, it is probable that this is the last tax legislation that will pass the Congress and be signed into law. Even if the two Houses are to agree on tax legislation before November, there is no way they can pay for their extremist schemes without threatening Social Security by dipping into the budget surplus, a legislative action the President has said that he will veto. If we add that veto threat to the fact we have no budget, we are not going to see more tax legislation.

So what are the Republicans' tax priorities? Elimination of the marriage tax penalty? That was in the Contract on America, but we are going to leave that by the side of the road again. An increase in child tax credit? No. An extension of the research and development tax credit? No. All the Republicans want to do when they have the chance is to guarantee a tax cut for America's wealthiest investors.

Mr. Speaker, I disagree with this new-found philosophy that what is good for Goldman, Sachs is good for the country. While the Republicans are cutting taxes for the top 1 percent of this country, people averaging more than $600,000 a year, they are gutting important opportunities for America's youth in the Committee on Appropriations.

So here we have the Republican agenda out in the open again for everyone to see. While they bow to the desires of America's elite, they are eliminating funding for summer youth and school-to-work employment programs. While they are boosting the personal profits for America's CEOs, they are eliminating the low-income Home Energy Assistance Program which makes sure that America's poor do not freeze to death in the winter.

Mr. Speaker, I do not know where the rest of my colleagues will be next winter or next summer, but I hope they will be some place where they are enjoying themselves, because if they take away heating assistance for the poor and people die in the winter, if they take away summer jobs for students and work opportunities and we have disturbances and crime, they will be responsible, because all they wanted to do when they had a chance to make a difference was simply to give a tax break to the barons of Wall Street.

This is bad tax legislation. It is the only piece. And we have had all of this talk about the fact that we are going to remove the marriage tax penalty. There will be no opportunity to do that because they cannot put together a budget resolution. If they cannot do that, we cannot have a reconciliation bill. They will have no way to get at any of the surplus. They will have to raise the taxes on tobacco or somewhere else to get the money to take away the tax penalty on marriage.

Mr. Speaker, I think this shows where the priorities for the Republicans are.

I support much of what is in the Internal Revenue Service (IRS) restructuring proposal now before Congress. The majority of issues which I raised in Committee and on the House Floor regarding the workability of this bill were fixed, thanks to the hard work of the conferees who improved upon both House and Senate versions. However, I cannot support this legislation in its present form because of the Republican majority's insistence on including a major tax break for the well-to-do in a bill that is supposed to restructure the IRS.

The Republican Conferees last-minute addition to the IRS reform legislation that will reduce the capital gains holding period from 18 to 12 months will not reduce the complexity or the size of taxpayer headaches caused by last year's tax legislation. It will not even reduce the size of the taxpayers' capital gains Schedule D tax form by even 1 line. The change simply reduces taxes in a way that disproportionately benefits high-income taxpayers.

TAX INEQUITY

The Republicans' decision to sneak this tax cut for the well-to-do into legislation to reform the IRS is gross illustration of the Republican party's priorities. Given the likelihood that the House and Senate will not agree on anything else tax-related this year and the fact that there still is no Budget Resolution in sight, it's probable that this is the last tax legislation that will pass Congress and be signed into law by the President.

Even if the two Houses are to agree on tax legislation before November, there is no way they can pay for their extremist schemes without either threatening Social Security by dipping into the budget surplus legislative action that the President has vowed to veto. Add the veto reality into the tax equation and it makes it even more probable that this is the last tax bill to be signed into law this year.

And what do the Republicans demand as their top tax priority?

Elimination of the marriage tax penalty? No.

An increase in the child tax credit? No.

An extension of the Research and Development credit? No.

All the Republicans want to do when they have the chance is to guarantee a tax cut for America's wealthiest investors.

Well, Mr. Speaker, I disagree with this newfound philosophy that what's good for the partners of Goldmann-Sachs is good for the country. While the Republicans are cutting taxes for the top 1% of America's investors—folks averaging $600,000 a year or more—they are gutting important opportunities for America's youths in the Appropriations Committee.

Just this week, the Republicans reported Appropriations legislation, that one member described as nothing less than "taking from the hides of the weakest and most vulnerable in our society."

So, here's the Republican agenda, out in the open for everyone to see. While they are bowing to the desires of America's wealthy elite, they are eliminating funding for summer youth and school-to-work employment programs.

While they are boosting the personal profits for America's CEOs, they are eliminating the low-income home energy assistance program which makes sure that America's poor do not freeze to death in the winter.

Now, I don't know where the rest of you will be next winter or next summer, but I hope, for your sake, that you are safely hobnobbing at your benefactor's off-shore vacation estates. Because if you take away heating assistance for the poor, and people die; and if you take away summer jobs for students, and there are civil disturbance and crime—you will be responsible because all you wanted to do when you had a chance to make a difference was simply to give a tax break to the barons of Wall Street.

TAX SIMPLICITY

The 1997 Taxpayer Relief Act created a confusing array of capital gains tax rates and added 35 new lines to taxpayers Schedule D tax form. There are potentially five different rates that can apply to the capital gains of an individual: 10 percent, 15 percent, 20 percent, 25 percent, and 28 percent. The 1997 Act also created two additional tax rate categories, one that will take effect for the 2001 taxable year and another that will take effect for the 2006 taxable year. The schedule required to implement that new policy will add significant additional complexity, and make the 1997 schedule look simple. In addition, increasingly large numbers of taxpayers will have to fill out the complex schedule twice, once for the regular tax and once for the minimum tax.

Even with the Republican Conferees' change, the current capital gains tax schedules and underlying rules for taxation of capital gains remain unnecessarily complex, and will continue to impose on taxpayers (with more than four sales) the burden of spending, on average, 5 hours and 20 minutes preparing the schedules (two hours more than in 1994). For a party that says it wants to terminate the tax code, you'd think they could start by reducing taxpayer forms by a least 1 line.

The worst aspect of current law is that its complexity falls hardest on low- and moderate income taxpayers who invest through mutual funds and real estate investment trust. Led by Representative BILL COYNE, Ways and Means Democrats have a proposal (H.R. 3623) that would dramatically simplify the capital gains rules.

COYNE's legislation, modified to be revenue neutral, would substitute a simple 38 percent exclusion for the confusing array of capital gain tax rates mandated by last year's Act. Such an exclusion has been scored by the House Joint Committee on Taxation as essentially revenue neutral—unlike the Republican plan to drain the Federal Treasury by an additional $2 billion.

Like the Republican proposal, H.R. 3623 repeals the 18 month holding period requirement. It also goes a step further and would permit depreciation recapture gains on real estate so taxpayers can receive the full benefit of the capital gains tax reduction.

Most importantly, H.R. 3623 simplifies the computation of capital gains taxes for all individual taxpayers by replacing the entire complex 35-line schedule with a single line that would require taxpayers to include 62 percent of their net long-term capital gains on the appropriate line of the tax return.

COYNE's bill also would provide modest capital gains tax reductions for more than 97 percent of individual taxpayers. It potentially could impose modest tax increases on the approximately one and a half million wealthiest individuals in the country. This is not a bad price for its extraordinary simplicity, but may be the reason for some would-be tax code terminators opposition.

The following chart illustrates the impact of the proposed simplification legislation:

Rate bracket (number of taxpayers in bracket)	Rate under current law			Rate under H.R. 2623
	Assets held more than 18 months and net collectibles or recapture gain	Real estate depreciation recapture gain	Assets held at least 12 months but less than 18 months	All capital assets held more than 12 months.
15 percent (61.6 million)	10	15	15	9.3
28 percent (24.0 milion)	20	25	28	17.3
31 percent (2.3 million)	20	25	28	19.2
36 percent (1.0 million)	20	25	28	22.3
39.6 percent (0.5 million)	20	25	28	24.5

The IRS restructuring bill to which the Republican provision is attached would mandate that, for tax legislation considered by the Committee on Ways and Means after January 1, 1998, a "Tax Complexity Analysis" must be provided by the Joint Committee on Taxation. Had the law required a complexity analysis of last year's capital gains provisions, the Taxpayer Relief Act would have failed.

Before we close the book on IRS restructuring, let's do everyone a favor by taking a step toward tax code simplification. Inclusion of COYNE's legislation would do just that.

I am committed to working to improve accountability within the IRS and to simplify the tax code to ensure that both taxpayers and tax administrators alike can fulfill their responsibilities with greater efficiency and ease.

Unfortunately, this legislation contradicts my strong belief that our tax code should be equitable and our tax priorities should be progressive. I am unable to support this legislation because of the Republican majority's abuse of these important principles.

Distribution of the Tax Benefits From Shortening the Holding Period for 20% Capital Gains From 18 Months to 12 Months

	Percent
Less than $10,000	0.0
$10-20,000	0.1
$20-30,000	0.3
$30-40,000	0.5
$40-50,000	1.0
$50-75,000	3.8
$75-100,000	4.1
$100-200,000	14.3
$200,000 or more	76.1
All	100.0

Note: figures are at 1999 levels.

Source: Citizens for Tax Justice, June 24, 1998.

PARLIAMENTARY INQUIRY

Mr. TAYLOR of Mississippi. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. TAYLOR of Mississippi. Mr. Speaker, one of the provisions of this bill is the changing of the term "Most Favored Nation status" with regard to China and changing it to "normal trade relations." That legislation never passed this House. To the best of my knowledge, it never passed the United States Senate.

My parliamentary inquiry is, can something that has been passed and voted on in neither body be included in this conference report?

The SPEAKER pro tempore. Even if the gentleman were raising a timely point of order, all points of order against this matter were waived by House Resolution 490.

Mr. TAYLOR of Mississippi. Mr. Speaker, would the Speaker like to explain to this Member how the highest legislative body this world has ever known can waive its own rules?

The SPEAKER pro tempore. The gentleman's question is not a parliamentary inquiry.

Mr. ARCHER. Mr. Speaker, I yield such time as he may consume to the gentleman from Louisiana (Mr. MCCRERY).

Mr. MCCRERY. Mr. Speaker, I rise in support of the IRS reform bill and in support of the capital gains simplification measure in the bill.

Mr. RILEY. Mr. Speaker, the devastating storms that swept through Alabama and Georgia on April 8, 1998, left hundreds, if not thousands, of people's lives in shambles.

In a time of tragedy when people are trying to pick up the pieces of their lives and rebuild, the last thing they should be faced with is filing their federal income tax returns.

The IRS did give these taxpayers an extension, but, by law, it must charge them interest on any unpaid taxes from the original due date (April 15, 1998) until the tax is paid.

Mr. Speaker, charging disaster victims interest on their unpaid taxes after the IRS granted them an extension is irresponsible. That is why I introduced the Disaster Victims Tax Fairness Act. This bill would waive interest assessments against these families.

I would like to commend the Chairman of the Ways and Means Committee for including this important provision in the IRS Restructuring conference report.

It is the right thing to do, Mr. Speaker.

These families need all the help they can get and passage of this bill shows that we in Congress understand that.

Mr. CRANE. Mr. Speaker, I rise in strong support of H.R. 2676, the Internal Revenue Service Restructuring and Reform Act Conference Report.

Numerous hearings during this Congress have opened up the IRS to public scrutiny. These hearings provided further proof that the IRS is out of control—something too many Americans already knew.

Several witnesses testified only under the condition of anonymity for fear of retribution by rogue IRS agents. Among other abuses, we found that IRS employee performance was measured by the amount of money squeezed out of American taxpayers. This is hardly what we expect of the government of the world's leading democracy.

The Republican-led Congress had enough of the countless stories from our constituents who have been mistreated in their dealings with the IRS and we felt it was high time to rein-in the agency.

H.R. 2676 most importantly shifts the burden of proof to the IRS in disputes with taxpayers over an alleged tax liability. After this bill is enacted into law, no longer will Americans be guilty until they prove themselves innocent before the IRS.

To maintain close scrutiny of the IRS' work, the bill establishes an oversight board comprised mostly of private-sector citizens. The board will also have input into the President's selection of the IRS commissioner.

Other benefits taxpayers will enjoy from the enactment of this legislation include: relief for innocent spouses; elimination of penalties and interest on outstanding taxes in certain circumstances; and the ability to collect damages caused by rogue IRS employees.

In addition, I would like to commend the Chairman of our Ways and Means Committee, BILL ARCHER, for two provisions he added in conference. First, I appreciate the addition of the language of my bill, H.R. 2316, to the conference report. This will correct a misnomer in U.S. trade law. The term "most-favored-nation" has been quite misleading because it has implied that we were extending benefits greater than the normal benefits we extend to our trading partners. The language in the conference report will change the terminology from "most-favored-nation" to "normal trade relations" or "NTR." Rather than misleading the American people, we should call this trade treatment what it really is—merely "normal." My Ways and Means Trade Subcommittee recently marked up H.R. 2316, and the issue has been debated in Congress for years.

Second, the sorely-needed correction to the Administration provision from last year's Taxpayer Relief Act concerning the holding period for capital gains. I agree with the Chairman that the correct holding period ought to be 12, not 18, months for taxpayers to enjoy the lower capital gains tax rates.

Mr. Speaker, I urge my colleagues to support this conference report and hope that the President will sign it into law.

Mr. BLUMENAUER. Mr. Speaker I voted for the initial IRS reform bill, and there are many elements of the bill before us today that I continue to support. I am concerned, however, with several new elements which were introduced into the bill by the majority.

I am concerned that if we are going to reduce the burden on taxpayers, lower-income working families should be included. After all, the taxes these families pay have a much bigger impact on the quality of their lives. This would have been easy to achieve with an increase in the EITC, or even better, with an across the board reduction in social security taxes which would benefit every working American.

Unfortunately, those with higher incomes have been singled out for tax reductions in H.R. 2676. Since it is our struggling working families who have the roughest time making ends meet, I hope the next time we vote on tax relief we won't leave them out.

Mr. WOLF. Mr. Speaker, I rise today to express deep concern about one provision in an otherwise good bill—a provision changing Most-Favored-Nation trading status to Normal Trade Relations. This provision was not part of H.R. 2676 when it was passed overwhelmingly by the House with my support last November. It was not part of the bill passed overwhelmingly by the Senate last month. It was snuck into the conference report at the last minute. How disappointing.

What's the big deal about changing the name of Most-Favored-Nation trade status? MFN has come to symbolize something much more than just nondiscriminatory tariffs. MFN was the rallying cry for many groups and other human rights champions who fought for freedom on behalf of those trapped behind the Iron Curtain during the dark days of communism. MFN has come to symbolize a struggle for freedom of emigration, freedom of religion and human rights.

MFN was the term the Romanian people knew when the United States finally took away nondiscriminatory trade status from Nicolae Ceasusescu—a dictator who was terrorizing his own people, bulldozing churches, turning Bibles into toilet paper, torturing political dissidents, and using those who desired to emigrate as bargaining chips with the West. When we took away MFN, the Romanian people heard about it on Radio Free Europe.

MFN symbolized more than normal trading relations when the United States suspended Poland's MFN status after it invoked martial law in 1983. To the Polish people, suspending MFN was a clear statement that the American people stood with Lech Walesa, the Solidarity movement and all those struggling to throw off the chains of communism.

MFN means more than tariffs to the people of Tibet and China, who desire, but do not have, freedom and basic human rights. To them, awarding MFN to the Chinese dictators without conditions—as the United States has done since President Clinton de-linked trade from human rights in 1994—carries the message that the United States government cares more about trade than it does about human rights.

MFN is more than just a name and that's why many want to change it. Those who support this name change know that the American people are increasingly concerned about extending Most-Favored-Nation status to a country like China which persecutes people of the Christian, Buddhist and Muslim faiths.

They know the American people are increasingly concerned about giving Most-Favored-Nation status to a country that locks up Catholic bishops and priests—some for a decade at a time—for conducting Mass or pledging allegiance to Pope John Paul II.

A country that imprisons Protestant pastors and laypeople for holding Bible studies, house church meetings or distributing Bibles.

A country that allows forced abortion and sterilizations of women as a way to enforce a brutal population policy.

A country which has plundered Tibet, imprisoned and tortured hundreds of Tibetan Buddhist monks and nuns, demolished 4,000–5,000 monasteries, and is destroying the culture of the Tibetan people.

Some who favor this name change believe it will be easier to convince the American people that our trading relationship with China is normal. But what's normal about a trading relationship which has allowed China to amass a $50 billion trade surplus with the United States but still restricts most American goods from entering its market.

There's nothing normal about trade relations with China and the American people will not be fooled.

MFN is a symbol of a time when the United States was willing to put principle before profit in our relations with foreign governments. Changing the name today ends that era.

I plan to vote for H.R. 2676 because it increases taxpayer rights when dealing with the IRS and requires the IRS to be more accountable to the Congress and the American taxpayer.

However, I am deeply saddened and concerned that an otherwise good bill has been tainted by this bad provision.

Mr. OWENS. Mr. Speaker, I rise to challenge the conventional wisdom on taxes and to, thereby, give my tacit support for the conference report to H.R. 2676, the "IRS Reform and Restructuring Act." When H.R. 2676 was initially considered in the House last November, I voted for it enthusiastically because it appeared to be a long-overdue form of taxpayer advocacy to protect our citizens. However, the bill that we consider today has remarkably moved from transforming the administration and oversight of the Internal Revenue Service (IRS) for the benefit of the average American taxpayer; today's version of H.R. 2676 includes provisions (not passed by either the House or Senate) which represent an arrogant, back-door effort to reduce taxes for the wealthiest Americans. H.R. 2676 not only reforms and restructures the IRS, but it reforms and restructures tax policy on capital gains, estates, and Roth Individual Retirement Accounts (IRAs). Instead of determining new ways to circumvent taxes on the "unearned" income of the rich, it is time that America's revenue and tax policy stop penalizing the "earned" income of our working families.

It is an undisputable fact that working people are paying the cost of government—practically all of it. Our tax system is set up to pilfer the recipients of "earned" income—wages, salaries, and retirement pay—and protect the recipients of "unearned" income—interest, dividends, rents, and capital gains. Taxes on "earned" income produce 85% of all personal income taxes, with only 15% brought in by taxes on "unearned" income. Moreover, taxes on "earned" income—income and Social Security taxes—bring in over 70% of all Federal tax revenue, compared to only 9% for "unearned" income. For every dollar of tax revenue produced by "earned" income, "unearned" income brings in only 13 cents.

H.R. 2676 would exacerbate this scenario by adding another unfair layer of protection for "unearned" income. H.R. 2676 would shorten the length of time (from 18 months to 12 months) that an asset has to be held in order to yield a lower capital gains tax rate (from 28% to 20%). It should be noted that unlike "unearned" income, every single penny of "earned" income goes on the tax return and is fully taxed. (The only exception is the income "earned" by low-income people who either make only a few thousand dollars a year or who are eligible to receive the Earned Income Tax Credit.) Yet, H.R. 2676 contributes to the list of humongous loopholes, exceptions, and special provisions for "unearned" income, especially capital gains. This new protection for capital gains will cost the U.S. Treasury $300 million per year (beginning in the year 2000). Over a 10-year period, this provision in H.R. 2676 will cost more than $2 billion—all to the benefit of the top 5% of the income scale—individuals who make six figures a year.

H.R. 2676 contains other provisions that would further underscore the regressive makeup of our tax policy. The legislation does not correct an error in the 1997 Balanced Budget Act that decreased taxes on estates with values as large as $17 million. This tax break would benefit the heirs of a few hundred people each year—the richest 0.01% of Americans. In addition, H.R. 2676 would allow wealthy senior citizens to cut their future taxes by expanding their eligibility for a newer, more financially generous IRA—the "Roth IRA"—after 2004. This provision would cost the U.S. Treasury approximately $1 billion per year after 2004.

It is unfortunate that Republicans have misused this opportunity to pass a good IRS reform bill and, instead, have authorized new tax breaks for the rich. Already the tax code is rife with flagrant examples of corporate welfare; and H.R. 2676 does nothing to alleviate existing burdens on working families. Corporations used to shoulder 39% of the tax burden while families shouldered 27%. Today corporations only contribute 11% while families contribute 44%. The bank accounts of American families should not be drained to compensate for the untouchable coffers of corporate America. Instead, corporations must be forced to pay their fair share, as well as wealthy individuals.

I challenge my colleagues to step up to the plate, propose fair reform of the IRS, and achieve taxpayer justice by directing the IRS to enforce current laws. Specifically, the bill represents Congress closing its eyes to a continual corporate abuse scheme: corporations are purchasing large quantities of their own stock, which is categorically prohibited by Sections 531–537 of the Internal Revenue Code. Despite the law, hundreds of big-name corporations have been avoiding paying out dividends—and thus avoiding paying taxes on those dividends—by accumulating more than $275 billion in stock buy-backs. It must be reiterated that it is unlawful for corporate business managers to let profits pile up in the corporation, rather than to distribute them as taxable dividends. If current law were enforced today, an estimated $70 billion in penalties would be collected by the Federal government. And as evidenced by my personal investigation of this matter, the IRS is fully aware of these violations, but appears to be too timid to tackle the big corporations who are committing the offenses.

The original version of H.R. 2676 was commendable. The Taxpayer Bill of Rights III, the new 9-member oversight board, the Low-Income Taxpayer Clinics, the national Office of Taxpayer Advocate with its local advocacy offices, and the goal of an 80% electronic filing rate by the year 2007—these represent a movement in the right direction towards the reform and restructure of the nation's tax collecting agency. What about ensuring that working families take home more dollars so that they will not have to struggle to pay their own bills? The addition of special tax breaks for the rich during the conference committee meetings is an affront to economic justice for all of America's taxpayers. We can do a better job, and this bill could do more to correct the imbalance in our tax structure.

Mr. GEPHARDT. Mr. Speaker, I would like to express my deep concern about the inclusion in this legislation of an unrelated provision that, while seemingly innocuous and noticed by few, will neutralize a principle that has been at the heart of our nation's trade policy for decades.

Section 5003 of H.R. 2676 will change the term "most-favored-nation-treatment" to "normal trade relations" in all relevant U.S. statutes. This change in terminology undermines the foundations of a trade policy that has been used to advance U.S. interests for many years. This policy has in part consisted of ensuring that the most favorable terms of trade are accorded to nations with which the United States share similar concepts and practices regarding international commerce. In the past, nations we have deemed to be unworthy of this status include communist regimes and regimes that engaged in particularly oppressive acts against their citizens, such as Poland's martial-law government in 1982.

It is unfortunate that over the past several years, our government has refrained from using MFN status as a tool to advance U.S. interests broadly or, at a minimum, obtain important commitments from our trading partners. I am particularly disappointed that we have not effectively conditioned or cut off MFN status for China in the aftermath of the 1989 Tiananmen Square massacre. Our government's recent pattern of behavior in this regard, however, is no reason to now strip this tool of the nomenclature that conveys the purpose for which it was originally intended. And given the context in which this change of terminology has been proposed this year—that is, in connection with once again renewing MFN status for China—I am convinced that it is an attempt to semantically extinguish the values that should be at the core of our policy toward China and all other nations.

Earlier this week, I conveyed these concerns to the Chairman of the Ways and Means Subcommittee on Trade, as that subcommittee prepared to consider this proposal as a stand-alone legislative measure. I believe that a legislative change of this significance should be debated separately from the IRS legislation to which it has been attached. But again, I fear that the manner in which this serious issue has been presented to the House is a maneuver to neutralize its importance to our trade policy and the values that should underlie it. I submit for the RECORD a copy of my letter to the Chairman of the Ways and Means Subcommittee on Trade.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES, OFFICE OF THE DEMOCRATIC LEADER,
WASHINGTON, DC, JUNE 23, 1998.

Hon. PHILLIP M. CRANE,
Chairman, Subcommittee on Trade, Longworth House Office Building, Washington, DC

DEAR MR. CHAIRMAN: It is my understanding that today the Trade Subcommittee will be marking up a bill to change the terminology of "most favored nation" (MFN) to "normal trade relations" (NTR). I remain concerned that changing this widely accepted trade designation would be misleading and ill advised. Why would we want to overturn years of U.S. commercial law, primarily to send a gesture that we desire "normal trade relations" with China?

The fact is that China is not a normal trading nation. It is not even a market economy; it is a communist centralized economy. While we grant China MFN on a yearly basis, we receive little in reciprocal trade benefits from China. The ever ballooning trade deficit with China, up more than 175% since 1992, proves that Chinese markets remain closed to U.S. goods and services. This year, the U.S. is projected to have a $60 billion trade deficit with China.

Unacceptable Chinese behavior on a whole host of important issues like human rights, proliferation, religious freedom, Tibet, organ sales, forced abortion, trade and labor rights should preclude any preferential trade designation from the U.S. We need to use our leverage in the trade relationship and in other areas to press for changes in these unacceptable Chinese practices. However, if this measure passes, we would be unilaterally placating China.

Make no mistake. It is a preferential trading status that countries like China receive when the President makes a special request for a waiver from Jackson Vanik. When the U.S. grants MFN, nonmarket nations gain benefits from the U.S. that are often unilateral in nature. For example, China was granted $1 billion in annual tariff concessions when the WTO Uruguay Round went into effect, because it receives the MFN designation.

Let us continue to debate MFN on the merits. Rather than attempting to confuse the U.S. public and our allies with this new and inaccurate NTR designation, it would be better to acknowledge that problems remain across the array of political, economic and security issues in our bilateral relationship with China.

Real engagement means communicating honestly with China about the problems and the positive aspects of our bilateral relationship. To say that the U.S. has "normal trade relations" with China is disingenuous and suggests that China's current behavior is acceptable to the U.S. I continue to believe that China can and must do better to earn the "most favored nation" designation from the U.S. Let's not change the terms of the debate just to get China off the hook.

Thank you for this opportunity to express my views.

Sincerely,

RICHARD A. GEPHARDT.

Mr. POSHARD. Mr. Speaker, I rise today in support of this landmark legislation, which provides for long-overdue reform and restructuring of the Internal Revenue Service. I am pleased that my colleagues have been able to address this important issue in a largely bipartisan manner, and I believe that the finished product will go far in giving American taxpayers the rights and protections they deserve.

First, this bill includes many provisions that will insure the IRS and its employees are held accountable for their actions. It creates a nine-member board to oversee IRS administration, management, execution and application of internal revenue laws and provides for discipline of IRS employees for misconduct or violations of IRS rules or taxpayer rights.

Secondly, this measure codifies and strengthens the rights of taxpayers in many significant ways. The IRS, rather than the taxpayer, will now bear the burden of proof in most tax disputes. Moreover, taxpayers will be allowed to sue the government for civil damages caused by the negligent disregard of tax laws by IRS employees. I am also pleased to note that it will be more difficult for an individual to be held responsible for mistakes made on a tax return by his or her spouse.

At long last, the American taxpayer can look forward to being treated with respect and common sense by an agency which will finally be subject to meaningful standards of responsibility and accountability. I urge my colleagues to support passage of the conference report before us, so that our constituents might finally be able to reap the benefits of desperately-needed reform.

Mr. COYNE. Mr. Speaker, I rise in support of the Internal Revenue Service Restructuring and Reform Act of 1998, which will expand significantly our system of taxpayer protections as well as equip the Internal Revenue Service

(IRS) for the challenges of the 21st century. It has been over 40 years since the Congress considered major reforms to the IRS, with the last being the 1952 reorganization. This legislation provides for a sweeping overhaul of the nation's tax agency and in doing so, creates the necessary foundation for the IRS to transform itself into the efficient and service-oriented agency demanded by the taxpayers. In adopting this bill, we should also not lose sight of the many hardworking and dedicated IRS employees, whose ability to serve taxpayers better will now be enhanced.

The Congress and the administration have worked for nearly 2 years in developing this legislation. This achievement arises from the year of intensive work by the National Commission on Restructuring the Internal Revenue Service, of which I was privileged to be a member. Among its many activities, the Commission held 12 public hearings, three field hearings and visited six IRS Service centers. We also interviewed more than 500 hundred individuals, including both current and former IRS employees and managers, congressional committee members and staff, executive branch officials, academics and public sector advisors. Above all, we sought to determine what were the most common problems that average taxpayers experienced with the IRS.

In turn, it was the responsibility of the Congress and the Clinton administration to translate into legislation the many constructive ideas generated by the Commission. In this respect, I want to thank the administration, and in particular Treasury Secretary Rubin, Commissioner Rossotti, and their respective staffs, for their major contribution to the development of this legislation. Since the first IRS restructuring bill was introduced last summer, the Treasury Department and the IRS have worked closely with the House and Senate tax-writers to insure that the bill will be effective from a tax administration and tax policy standpoint. In doing so, they refined and improved upon many of the proposals. Equally as important, we could not have completed this legislation without the House and Senate tax-writing committees, and my fellow conferees, working together in a consistently bipartisan fashion.

The conference report achieves the major objectives that were established by the Commission, by streamlining IRS governance and management, improving taxpayer protections and rights, expanding electronic tax filing and enhancing congressional oversight of the IRS.

Concerning IRS governance and management, the legislation creates a new IRS Oversight Board composed of six private-life members, the Treasury Secretary, the IRS Commissioner and an individual representing IRS employees. The IRS Commissioner is given new authority for managing the IRS, including personnel flexibilities to reorganize the agency and to hire experts at expanded pay-grades. The bill also increases the direct accountability of IRS employees to the Commissioner. To improve departmental oversight of the IRS, the bill creates a new Treasury Inspector General for Tax Administration.

Consistent with prior Taxpayer Bill of Rights measures, the conference report greatly expands taxpayer rights and protections. The bill provides innocent spouse relief to taxpayers based on a more generous, current-law system of equitable relief, and to divorced, legally-separated and married taxpayers living apart for more than 1 year, based on a system of proportionate liability. This relief applies to all cases that are still open before the IRS. The legislation also shifts the burden of proof in tax court proceedings to the IRS as long as the taxpayer introduces credible evidence, complies with record keeping rules and cooperates with reasonable IRS information requests.

The legislation also modifies several interest and penalty rules, including the suspension of interest, and some penalties, when the IRS does not notify the taxpayer within 18 months of a return filing due date. This time requirement is reduced to 12 months in the year 2004. The bill also grants increased due process protections in IRS collection actions, including notification and appeals in liens, levies and seizures, and also requires court approval prior to the seizure of a principal residence. Among its other protections, the conference report expands the authority of the IRS Taxpayer Advocate, liberalizes the awarding of attorney fees in tax cases, authorizes low-income taxpayer clinics and expands rules for providing installment agreements and offers-in-compromises.

Vital to a 21st century IRS, the conference report expands electronic tax return filing systems by eliminating certain related paper submissions, authorizing signature alternatives and providing electronic filing goals and incentives. These measures, along with a modernized IRS computer system, should result in better service for all taxpayers, including faster refunds, easier filing and a more responsive system for answering taxpayer inquiries.

Lastly, to increase congressional oversight of the IRS, the bill provides for five annual joint House-Senate hearings on the agency, and requires a complexity analysis to be included in each tax bill reported out of the tax-writing committees.

While the conference agreement is fully paid for over 10 years, I am concerned about several revenue provisions which are used to fund this legislation. Most notably, the revisions to the Roth IRA will lose substantial revenue starting in the year 2008, just when the baby boom generation will place additional burdens on Social Security and Medicare. I also object to the replacement of the current 18-month long-term capital gain holding period with a 12-month holding period. This provision will cost $2 billion over 10 years, provide no real simplification, and may increase incentives for stock speculation that the current holding period was intended to prevent. On numerous occasions, I objected to some Republicans' insistence that the IRS employee representative not be granted conflict-of-interest waivers that are necessary to ensure the full participation of this board member. However, as agreed to by the conferees, I am now confident that the President will have the authority to provide appropriate waivers when submitting the nomination to the Senate.

Mr. Speaker, the IRS Restructuring and Reform Act of 1998 adopts proposals that respond to the most common problems that taxpayers face with the IRS. However, I remain concerned that some of the provisions may be very difficult for the IRS to administer. While this bill offers many constructive measures, we will need to monitor closely how these provisions are implemented by the IRS and assist this agency by simplifying the tax code wherever possible.

All of this considered, I believe that this is a good bill, and I urge my colleagues to support its passage.

Mr. SHUSTER. Mr. Speaker, I rise in support of H.R. 2676, the conference report on the Internal Revenue Service Revenue and Restructuring Act. I commend Chairman ARCHER, ranking Member RANGEL, Senator ROTH and Senator MOYNIHAN in crafting this important legislation.

In particular, I would like to address title IX of that act which includes the text of H.R. 3978, the TEA 21 Restoration Act, with only slight modification. The TEA 21 Restoration Act restores inadvertent errors and provisions that had been agreed to by the Conferees but mistakenly not included in the conference report on the recently-enacted Transportation Equity Act for the 21st Century—TEA 21.

H.R. 3978 is consensus legislation—it had been worked out in cooperation with the majority and minority in both this body and with the Senate. H.R. 3978 passed the House by unanimous consent on June 3, 1998. It was hoped that the legislation would quickly pass the Senate and be signed by the President at the same time that he signed the TEA 21 law on June 9, 1998. Unfortunately, H.R. 3978 was unable to pass the Senate because of a provision unrelated to the transportation provisions of TEA 21, but instead one that addressed corrections to programs under the jurisdiction of the Committee on Veterans' Affairs.

I am pleased that the Congress is addressing the important items contained in the TEA 21 Restoration Act. I want to thank Chairman ARCHER, Speaker GINGRICH, Majority Leader ARMEY, and Senators LOTT and ROTH for agreeing to include H.R. 3978 in this legislation. I am particularly grateful because while the transportation portions of H.R. 3978 did not have any effect on the Federal deficit, one provision relating to veterans' affairs did have a modest impact and it still was included.

I am including a summary of the provisions contained in Title IX.

HOUSE/SENATE JOINT SUMMARY OF TECHNICAL CORRECTIONS TO TRANSPORTATION EQUITY ACT FOR THE 21ST CENTURY

This legislation: (1) restores provisions agreed to by the conferees; (2) makes technical corrections to provisions included in H.R. 2400; and (3) eliminates duplicative program authorizations.

This legislation does not change the formula allocations contained in the Conference Report to the Transportation Equity Act for the 21st Century.

The following is a section by section description of provisions included in the TEA-21 Restoration Act:

SECTION 9001 SHORT TITLE

SECTION 9002 AUTHORIZATION AND PROGRAM SUBTITLE

Adjusts funding levels for high priority projects to conform with list in the conference report and to correct other errors.

Adjusts funding levels for Highway Use Tax Evasion projects to allow for implementation of the Excise Fuel Tracking System.

Corrects the obligation limitation levels for mathematical consistency and conforms obligation limitation treatment to current practice for research programs.

Makes other conforming and technical changes such as renumbering sections and correcting cross reference.

SECTION 9003 RESTORATIONS TO GENERAL PROVISIONS SUBTITLE

Restores the National Historic Covered Bridge Preservation program.

Restores the Substitute Project for the Barney Circle Freeway, Washington, DC.

Restores Fiscal, Administrative and Other Amendments included in both House and Senate bills.

Removes section 1211(j) regarding winter home heating oil delivery.

Makes technical corrections to section 1211, Amendments to Prior Surface Transportation laws and section 1212, Miscellaneous Provisions.

Clarifies program funding categories for Puerto Rico and continues current law penalties for Puerto Rico for non-compliance with the federal minimum drinking age requirements.

Clarifies that contract authority is authorized for provisions contained in section 1215, Designated Transportation Enhancement Activities.

Modifies Sec. 1217(j) to allow for effective implementation of this subsection.

Modifies Magnetic Levitation Deployment Program to clarify eligibility of low-speed magnetic levitation technologies.

Corrects reference to Special Olympics.

SECTION 9004 RESTORATIONS TO PROGRAM STREAMLINING AND FLEXIBILITY SUBTITLE

Restores Discretionary Grant Selection Criteria provisions.

Conforms Environmental Streamlining provisions to include mass transit projects.

SECTION 9005 RESTORATIONS TO SAFETY SUBTITLE

Restores the Open Container Law safety program.

Conforms the Minimum Penalties for Repeat Offenders for Driving while Intoxicated program.

SECTION 9006 ELIMINATION OF DUPLICATE PROVISIONS

Eliminated duplicate provisions for San Mateo County, California, the Value Pricing Pilot Program, and National Defense Highways Outside the United States

Restores the Minnesota Transportation History Network provision.

SECTION 9007 HIGHWAY FINANCE

Updates the Transportation Infrastructure Finance and Innovation Act program to begin in 1999 rather than in 1998.

Conforms the credit levels in the Transportation Infrastructure Finance and Innovation program to agreed upon distribution levels of budget authority.

SECTION 9008 HIGH PRIORITY PROJECTS TECHNICAL CORRECTIONS

Makes technical corrections, description changes and previously agreed upon additions to high priority projects.

SECTION 9009 FEDERAL TRANSIT ADMINISTRATION PROGRAMS

Makes corrections to transit planning provisions to conform to provisions in title 23.

Clarifies eligibility of clean diesel under clean fuels program.

Makes technical corrections to section 5309 and clarifies the Secretary's full funding grant agreement authority.

Funds University Transportation Centers authorized under title 5.

Restores requirement that transit grantees accept non-disputed audits of other government agencies when awarding contracts.

Makes corrections to the authorizations for planning, University Transportation Centers, the National Transit Institute and the additional amounts for new starts.

Makes technical corrections, description changes, and previously agreed upon additions to new starts projects.

Makes technical corrections to the access to jobs and reverse commute programs.

Corrects funding level for the Rural Transportation Accessibility Incentive Program and makes other technical corrections.

Makes technical corrections to study on transit in national parks.

Makes corrections to obligation limitation levels.

SECTION 9010 MOTOR CARRIER SAFETY TECHNICAL CORRECTION

Conforms section references for the Motor Carrier Safety program.

SECTION 9011 RESTORATIONS TO RESEARCH TITLE

Adjusts authorization levels for university transportation centers to conform with modifications made in the Transit title in section 9.

Restores eligibility of Intelligent Transportation System activities for innovative financing.

Corrects drafting errors to 5116 (e) and (f).

Makes technical and conforming changes to university research provisions.

Corrects references to the Director of the Bureau of Transportation Statistics.

Corrects drafting errors to Fundamental Properties of Asphalts and Modified Asphalts research program.

SECTION 9012 AUTOMOBILE SAFETY AND INFORMATION

Corrects reference to the National Highway Traffic Safety Administration.

Makes conforming changes to provisions in Subtitle D of Title VII.

SECTION 9013 TECHNICAL CORRECTIONS REGARDING SUBTITLE A OF TITLE VII

Makes corrections to offsetting adjustments for discretionary spending limits.

Makes other technical and conforming changes to Title VIII.

SECTION 9014 CORRECTIONS TO VETERANS SUBTITLE

The TEA-21 Restoration Act corrects drafting errors to Sec. 8201.

The provision included in the Conference Report on TEA-21 to use the Veterans smoking-related disability benefits for transportation was drafted incorrectly and had the unintended consequence of identifying smoking as an act of "willful misconduct" by veterans. The provision in the TEA-21 Restoration Act corrects any reference to smoking as an act of "willful misconduct" by veterans.

This provision also clarifies that veterans who have filed claims for smoking-related benefits are grandfathered.

The provision also makes clear that those active-duty service personnel who contract a smoking-related illness while in service continue to qualify for disability compensation.

Another correction in this bill relates to ensuring that survivors and their dependents will receive a 20% increase in education assistance benefits.

SECTION 9015 TECHNICAL CORRECTIONS REGARDING TITLE IX

Makes technical corrections to the Revenue title.

SECTION 9016 EFFECTIVE DATE

Provides for the effective date of this act to conform with the effective date of TEA-21.

Mr. CAMP. Mr. Speaker, I rise in strong support of H.R. 2676, the Internal Revenue Service Restructuring and Reform Act of 1997. Today we have a Republican-led fundamental, comprehensive reform of the IRS. This will help protect taxpayers by increasing oversight, holding IRS employees accountable and insuring taxpayers are treated with fairness.

First, the burden of proof shifts to the IRS in court proceedings—now, finally, you're innocent until proven guilty. Second, innocent spouses will not be held responsible for taxes due—the income-earning spouse will pay. Third, interest and penalty relief is provided in certain cases, where the IRS fails to give the proper notice to taxpayers. Fourth, we prohibit the IRS from seizing a taxpayer's home without a court order. And finally, we permit the taxpayer to collect up to $100,000 in civil damages resulting from IRS negligence.

These are only a few of the changes in the first IRS reform since 1952. And this bill is only the first step—but it's a big one, and it's a necessary one. Mr. Speaker, H.R. 2676 represents a critical step in returning government to the people we represent. I urge support for this important legislation.

Mr. PACKARD. Mr. Speaker, I rise today in support of H.R. 2676, the Internal Revenue Service Restructuring and Reform Act. The IRS is in desperate need of repair. This out of control agency has not been reformed since 1952 and H.R. 2676 is the first step in the overhauling process.

Our tax system is in need of comprehensive reform. H.R. 2676 is another step in the process to save taxpayers from the burden of the IRS giant. The IRS Restructuring and Reform Act will protect taxpayers by increasing oversight, holding employees accountable for their actions, and creating a level playing field for taxpayer rights.

Mr. Speaker, I am sure we could all share IRS horror stories that our constituents have been through. It is time we act on those stories and reform the system. This bill will shift the burden of proof from the taxpayer to the IRS. Too many families pay money they do not owe, and too many times the weakest taxpayers are unfairly targeted by the IRS.

Mr. Speaker, for too long, the IRS has been accountable to no one. It is time we make them accountable to those they serve—the American taxpayer. I urge my colleagues to support H.R. 2676.

Mrs. FOWLER. Mr. Speaker, for many citizens, the IRS stands for precisely what is wrong with our federal bureaucracy. Over the last few months, we've heard horror stories from our constituents about experiences they have had with the IRS. This is an agency that has had the ability to completely tear down a person's life, change their entire financial outlook and wreak irrevocable damage, sometimes with no further provocation than a computer glitch or a record-keeping problem.

I know that there are many hardworking, conscientious, and caring individuals who work for the Internal Revenue Service, but the current system is simply not working the way it should. Where else but in the massive bureaucracy of the IRS is a person guilty, until proven innocent.

This legislation will make long-overdue and necessary changes to the IRS, shifting the burden of proof to the agency in tax liability disputes, providing crucial relief to innocent spouses who have become unsuspecting victims of the IRS, and establishing an independent oversight board.

This bipartisan bill will also take several important steps to lower the tax burden on individuals who are trying to plan for retirement, save for their children's college tuition, or buy a home by reducing the capital gains tax rate.

Federal Reserve Board Chairman Alan Greenspan once said himself that, (quote) "the capital gains tax is the poorest way to raise revenue." He went on to say that it is "counterproductive to long-term economic growth which affects all American society." Indeed, since Republicans paved the way for the capital gains reduction in the Taxpayer Relief Act of last year, our economy has boomed and now the Congress is fortunate to be debating how to use billions of dollars expected in surplus revenues.

Mr. Speaker, I support the capital gains reduction and the overall legislation and urge my colleagues to do the same. It is a common sense way to restore power to our citizens and bring about changes that will make the IRS more efficient, accountable, effective, and taxpayer-friendly.

Mr. SMITH of New Jersey. Mr. Speaker, I intend to vote in favor of the conference report, because we need a more taxpayer-friendly IRS. But I cannot cast my vote without stating my strong objection to the provision that changes the name of "Most Favored Nation" status (MFN) in an attempt to sugar-coat the practice of giving trade concessions to thugs and murderers.

It is hard to know what is worse about this provision: its deplorable substance, or the sneaky and underhanded way in which it has been adopted. This provision was inserted in the dark of night, just a few hours before the Rules Committee met on this bill. It was known to be controversial on both sides of the aisle, but opponents were given no warning—not a day, not an hour, not a minute's warning—that it might be inserted into a bill we all strongly support. And it has nothing at all to do with IRS reform. It is irrelevant, non-germane, out-of-scope, and contrary to the rules of the House.

On the merits, the "normal trade relations" provision substitutes an ideological slogan for a technically accurate term that is hundreds of years old and is universally accepted in international law and practice. When we sign an MFN agreement with a foreign nation, we do not and will not agree to give that nation something called "normal trade relations." That term is meaningless in international law. What we do in these agreements, and will continue to do even after this provision is adopted, is agree to give that nation the same treatment as we give the nation that is "most favored" under our laws and treaties. So the name change is an international embarrassment—done for the sole purpose of making it politically more palatable to give MFN to China, or in the future maybe to other totalitarian dictatorships such as Viet Nam or North Korea.

Mr. Speaker, maybe we can change the politics of this issue by changing its name, but we can't change the facts. A government that murders and tortures people for their political and religious beliefs, that forces women to undergo abortion and sterilization, that executes prisoners in order to sell their body parts, that steals jobs from American workers by producing goods in forced labor camps, is not a "normal" government—and thank God for that. Unfortunately, what this provision says is that doing business with such a government should be "business as usual."

Mr. Speaker, if we had a fair and open debate on this provision, I would move that instead of changing the name of MFN to "normal trade relations," we call it something more accurate, like "dollars for dictators."

Again, Mr. Speaker, I will vote for the conference report because I strongly support IRS reform. The legislation shifts the burden of proof from the taxpayer to the government. It creates an independent civilian review board to oversee the IRS. It requires IRS to be less arbitrary and to provide more due process before it seizes taxpayers' property. And it reduces the capital gains tax. These are all important victories for the American taxpayer. It's just too bad that we are also handing a victory to Beijing and Hanoi and to their partners and cheerleaders here in the United States.

Mr. ARCHER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the conference report.

There was no objection.

MOTION TO RECOMMIT OFFERED BY MR. MC DERMOTT

Mr. MCDERMOTT. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the conference report?

Mr. MCDERMOTT. Yes, I am, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

> Mr. MCDERMOTT moves to recommit the conference report on the bill H.R. 2676 to the committee of conference with instructions to the managers on the part of the House to disagree to section 5001 (relating to lower capital gains rates to apply to property held more than 1 year) in the conference substitute recommended by the committee of conference.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. MCDERMOTT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The SPEAKER pro tempore. The Chair will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the question of agreeing to the conference report.

The vote was taken by electronic device, and there were—yeas 116 nays 292, not voting 26, as follows:

[Roll No. 273]

YEAS—116

Abercrombie
Allen
Andrews
Baldacci
Barrett (WI)
Becerra
Blagojevich
Blumenauer
Bonior
Borski
Brady (PA)
Brown (FL)
Brown (OH)
Cardin
Carson
Clyburn
Conyers
Costello
Coyne
Cummings
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Doggett
Dooley
Edwards
Engel
Etheridge
Evans
Fattah
Fazio
Filner
Ford
Frank (MA)
Furse
Gejdenson
Gephardt
Gutierrez
Hastings (FL)
Hefner
Hilliard
Hinchey
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind (WI)
Klink
Kucinich
LaFalce
Lantos
Lee
Levin
Lipinski
Luther
Manton
Matsui
McDermott
McGovern
McHale
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Nadler
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Payne
Pelosi
Peterson (MN)
Poshard
Price (NC)
Rahall
Rangel
Rivers
Rodriguez
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Scott
Skaggs
Smith, Adam
Snyder
Spratt
Stark
Stenholm
Stokes
Strickland
Stupak
Thompson
Tierney
Towns
Vento
Visclosky
Waters
Waxman
Wise
Yates

NAYS—292

Ackerman
Aderholt
Archer
Armey
Bachus
Baesler
Baker
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bentsen
Bereuter
Berry
Bilbray
Bilirakis
Bishop
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Boswell
Boucher
Boyd
Brown (CA)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clayton
Clement
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Cramer
Crane
Crapo
Cubin
Cunningham
Danner
Davis (FL)
Davis (VA)
Deal
DeLay
Deutsch
Diaz-Balart
Dickey
Doolittle
Doyle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Eshoo
Everett
Ewing
Farr
Fawell
Foley
Forbes
Fossella
Fowler
Fox
Franks (NJ)
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Harman
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra

Holden
Hooley
Horn
Hostettler
Houghton
Hunter
Hyde
Inglis
Istook
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, Sam
Jones
Kasich
Kelly
Kennedy (MA)
Kennelly
Kim
King (NY)
Kingston
Kleczka
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (KY)
Linder
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Maloney (CT)
Maloney (NY)
Manzullo
Martinez
Mascara
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
McNulty
Metcalf
Mica
Miller (FL)
Mollohan
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oxley
Pappas
Parker
Pascrell
Pastor
Paul
Paxon
Pease
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Redmond
Regula
Riggs
Riley
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Royce
Ryun
Salmon
Sanchez
Sandlin
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Schumer
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Spence
Stabenow
Stearns
Stump
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Thurman
Tiahrt
Torres
Traficant
Upton
Walsh
Wamp
Watkins
Watt (NC)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
White
Whitfield
Wicker
Wilson
Wolf
Woolsey
Wynn
Young (AK)
Young (FL)

NOT VOTING—26

Berman
Brady (TX)
Clay
Cox
Dingell
Dixon
Gonzalez
Hamilton
Hinojosa
Hulshof
Hutchinson
Klug
Lampson
Lewis (CA)
Lewis (GA)
Markey
McDade
Meehan
Moakley
Neal
Packard
Reyes
Serrano
Souder
Turner
Velázquez

☐ 1720

Messrs. WYNN, MOLLOHAN, FAWELL, BERRY, TAYLOR of Mississippi, FROST, NUSSLE, KENNEDY of Massachusetts, McNULTY, ACKERMAN, GREEN, HOLDEN, McINTYRE, DAVIS of Florida, BROWN of California, WEYGAND, and Mrs. LOWEY, Mrs. CLAYTON, and Ms. McKINNEY changed their vote from "yea" to "nay."

Ms. PELOSI, Mr. FAZIO of California, and Mr. STOKES changed their vote from "nay" to "yea."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. PACKARD. Mr. Speaker, I was unavoidably detained on June 25, 1998 for rollcall vote 273. Had I been present, I would have voted "nay."

The SPEAKER pro tempore (Mr. PEASE). The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. ARCHER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 402, noes 8, not voting 25, as follows:

[Roll No 274]

AYES—402

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Bentsen
Bereuter
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Cardin
Carson
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Conyers
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fawell
Filner
Foley
Forbes
Ford
Fossella
Fowler
Fox
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hilliard
Hinchey
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hoyer
Hunter
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Lee
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney (CT)
Maloney (NY)
Manton
Manzullo
Mascara
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McGovern
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
McNulty
Meek (FL)
Meeks (NY)
Menendez
Metcalf
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Mollohan
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Pallone
Pappas
Parker
Pascrell
Pastor
Paul
Paxon
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Redmond
Regula
Riggs
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryun
Salmon
Sanchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Schumer
Scott
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Snowbarger
Snyder
Solomon
Spence
Spratt
Stabenow
Stark
Stearns
Stenholm
Stokes
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Tierney
Torres
Towns
Traficant
Upton
Vento
Visclosky
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
White
Whitfield
Wicker
Wilson
Wise
Wolf
Woolsey
Wynn
Young (AK)
Young (FL)

NOES—8

Fazio
Frank (MA)
Martinez
Matsui
McDermott
Sabo
Smith, Linda
Yates

NOT VOTING—25

Berman
Brady (TX)
Clay
Dingell
Dixon
Fattah
Gonzalez
Hamilton
Hinojosa
Hulshof
Hutchinson
Klug
Lampson
Lewis (GA)
Markey
McDade
Meehan
Moakley
Neal
Packard
Reyes
Serrano
Souder
Turner
Velázquez

☐ 1733

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. HINOJOSA. Mr. Speaker, due to business in my Congressional District, I today was forced to miss the following rollcall votes: 267, 268, 269, 270, 271, 272, 273 and 274. Had I been present I would have voted as follows: Nos. 267–270, nay; Nos. 271–274, yea.

PERSONAL EXPLANATION

Mr. HUTCHINSON. Mr. Speaker, Due to a death in my family, I was not present for rollcall No. 267 (a vote on H. Res. 491, a resolution providing for the adjournment of the House and Senate for the Independence Day district work period). Had I been present, I would have voted "aye."

Also, Mr. Speaker, I was not present for rollcall No. 268 (the vote on H. Res. 485, a resolution providing for consideration of the bill, H.R. 4104, making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies for FY 1999). Had I been present, I would have voted "no."

Mr. Speaker, I was not present for rollcall No. 269 (the vote ordering the previous question on H. Res. 489, a resolution providing for consideration of the bill H.R. 4112, making appropriations for the Legislative Branch for FY 1999). Had I been present, I would have voted "aye."

Mr. Speaker, I was not present for rollcall No. 270 (the vote on H. Res. 489, a resolution providing for consideration of the bill H.R. 4112, making appropriations for the Legislative Branch for FY 1999). Had I been present, I would have voted "aye."

Mr. Speaker, I was not present for rollcall No. 271 (the vote on the motion to recommit H.R. 4112, a bill making appropriations for the Legislative Branch for FY 1999). Had I been present, I would have voted "no."

Mr. Speaker, I was not present for rollcall No. 272 (the vote on H.R. 4112, a bill making appropriations for the Legislative Branch for FY 1999). Had I been present, I would have voted "aye."

Mr. Speaker, I was not present for rollcall No. 273 (the vote on a motion to recommit the conference report for H.R. 2676, the Internal Revenue Service Restructuring and Reform Act). Had I been present, I would have voted "no."

Mr. Speaker, I was not present for rollcall No. 274 (the vote on agreeing to the conference report for H.R. 2676, the Internal Revenue Service Restructuring and Reform Act). Had I been present, I would have voted "aye."

PERSONAL EXPLANATION

Mr. PACKARD. Mr. Speaker, I was unavoidably detained on June 25, 1998 for rollcall vote 274. Had I been present, I would have voted "yea."

PERSONAL EXPLANATION

Mr. DIXON. Mr. Speaker, a medical appointment in Los Angeles forced me to miss rollcall votes 273 and 274. Had I been present, I would have voted "aye" on rollcall No. 273 and "aye" on rollcall No. 274.

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO HAVE UNTIL MIDNIGHT, WEDNESDAY, JULY 8, 1998, TO FILE PRIVILEGED REPORT ON DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 1999

Mr. YOUNG of Florida. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until midnight, Wednesday, July 8, 1998, to file a privileged report to accompany a bill making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1999, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

The SPEAKER. Pursuant to clause 8 of rule XXI, all points of order are reserved.

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO HAVE UNTIL MIDNIGHT, WEDNESDAY, JULY 8, 1998, TO FILE A PRIVILEGED REPORT ON DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1999

Mr. YOUNG of Florida. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until midnight, Wednesday, July 8, 1998, to file a privileged report to accompany a bill making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1999, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

The SPEAKER. Pursuant to clause 8 of rule XXI, all points of order are reserved.

LEGISLATIVE PROGRAM

(Mr. BONIOR asked and was given permission to address the House for 1 minute.)

Mr. BONIOR. Mr. Speaker, I yield to the distinguished gentleman from New York (Mr. SOLOMON) to inquire about the schedule for the day, the rest of the week, and for when we will return.

Mr. SOLOMON. Mr. Speaker, I thank the gentleman for yielding. I am pleased to announce that we have concluded legislative business for this week and will now begin the Independence Day District Work Period.

The House will next meet on Tuesday, July 14, at 12:30 p.m. for morning hour and at 2 p.m. for legislative business. We do not expect any recorded votes before 5 p.m.

On Tuesday, July 14, we will consider a number of bills under suspension of the rules, a list of which will be distributed to the Members and to the minority whip as soon as possible.

After suspensions, the House will continue consideration of H.R. 2108, that is the Bipartisan Campaign Integrity Act of 1997.

On Wednesday, July 15, the House will meet at 10 a.m. to consider the following legislation: H.R. 3682, the Child Custody Protection Act; and H.R. 3267, the Sonny Bono Memorial Salton Sea Reclamation Act.

On Thursday, July 16, the House will meet at 10 a.m., and on Friday, July 17, the House will meet at 9 a.m. to consider the VA–HUD Appropriations Act; the Interior Appropriations Act; and the Treasury Postal Appropriations Act.

Mr. Speaker, during the week we return, we also expect to deal with the President's veto of H.R. 2709, the Iran Missile Proliferation Sanctions Act.

Mr. Speaker, we hope to conclude legislative business for that week by 2 p.m. on Friday, July 17.

Mr. BONIOR. Could I inquire of one other point from the gentleman from New York.

The Bipartisan Campaign Integrity Act will occur after the suspensions on the Tuesday that we return. Does the gentleman expect that we will have the Doolittle amendment to the Shays-Meehan bill before us on that evening?

Mr. SOLOMON. It could be, yes. We will be following regular order and that would be in order.

Mr. ALLEN. Mr. Speaker, will the gentleman yield?

Mr. BONIOR. I yield to the gentleman from Maine.

Mr. ALLEN. Mr. Speaker, if I could follow up on that inquiry. As the gentleman from New York knows, H.R. 2183, the base bill for the debate, the campaign finance reform debate, has 11 substitutes. We have now worked through one of those substitutes. We are working on the second substitute. Am I correct in understanding that the time on Tuesday would be the only time during the week that we would be dealing with that particular issue?

Mr. SOLOMON. It is most likely. However, sometimes legislation moves much faster. It was amazing what the gentleman from Florida (Mr. YOUNG) and the gentleman from Pennsylvania (Mr. MURTHA) accomplished with the Defense appropriations bill. That leaves a lot of windows of opportunity. So it could be we would take it up other times, too.

Let me just say to the gentleman that I think we are beginning to move rapidly now. Once we are past these two substitutes, I think we are going to find that many Members who are able to under the rule offer amendments, I think we are going to find they are not going to offer those amendments, and I think we are going to see quite a speedy process.

Mr. ALLEN. If the gentleman will yield for one further question, I actually agree with that. That if we get through the Shays-Meehan substitute in a timely fashion, the speed with which we deal with these issues may pick up. But the fact remains that there are so many amendments to the Shays-Meehan substitute that it seems to me unless we allocate enough time for that, it will take us several weeks to get through Shays-Meehan. So my concern is there is not enough time allocated next week, and then the question, of course, rises what happens the following week, because this is, after all, the most amendments and the most substitutes we will have to deal with on any bill this entire year.

Mr. SOLOMON. It is. One has to admire Speaker GINGRICH because he lived up to his word to both sides, on both sides of the aisle. It is a very open process. The House is really going to be able to work its will. But as my colleague knows, the majority leader made a commitment that we would wrap up this legislation prior to the August recess. The majority leader is a man of his word. I am sure that he is going to try to expedite this floor action to make sure that happens.

Mr. ALLEN. I thank the gentleman for his comments.

Mr. SOLOMON. We hope you all have a good break.

Mr. BONIOR. I thank the gentleman. I wish him a happy and healthy Fourth. I wish him a good break. We will see him on the 14th of July which I believe is Bastille Day. We wish him a happy Bastille Day.

CHILD SUPPORT PERFORMANCE AND INCENTIVE ACT OF 1998

Mr. SHAW. Mr. Speaker, I ask unanimous consent (1) that the managers on the part of the House be discharged from further consideration of the bill (H.R. 3130) to provide for an alternative penalty procedure for States that fail to meet Federal child support data processing requirements, to reform Federal incentive payments for effective child support performance, to provide for a more flexible penalty procedure for States that violate interjurisdictional adoption requirements, to amend the Immigration and Nationality Act to make certain aliens determined to be delinquent in the payment of child support inadmissible and ineligible for naturalization, and for other purposes, and (2) to take from the Speaker's table the bill, H.R. 3130, with the amendments of the Senate thereto, and to (A) concur in the amendment of the Senate to the title with an amendment, and (B) concur in the amendment of the Senate to the text with an amendment.

The SPEAKER pro tempore (Mr. PEASE). The Chair will entertain the unanimous consent request since the original papers are at the Speaker's table.

The Clerk read the title of the bill.

The Clerk read the House amendment to the Senate amendment to the text, as follows:

House amendment to Senate amendment to the text:

In lieu of the matter proposed to be inserted by the Senate amendment to the text of the bill, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Child Support Performance and Incentive Act of 1998".

SEC. 2. TABLE OF CONTENTS.

The table of contents of this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.

TITLE I—CHILD SUPPORT DATA PROCESSING REQUIREMENTS

Sec. 101. Alternative penalty procedure.
Sec. 102. Authority to waive single statewide automated data processing and information retrieval system requirement.

TITLE II—CHILD SUPPORT INCENTIVE SYSTEM

Sec. 201. Incentive payments to States.

TITLE III—ADOPTION PROVISIONS

Sec. 301. More flexible penalty procedure to be applied for failing to permit interjurisdictional adoption.

TITLE IV—MISCELLANEOUS

Sec. 401. Elimination of barriers to the effective establishment and enforcement of medical child support.
Sec. 402. Safeguard of new employee information.
Sec. 403. Limitations on use of TANF funds for matching under certain Federal transportation program.
Sec. 404. Clarification of meaning of high-volume automated administrative enforcement of child support in interstate cases.
Sec. 405. General Accounting Office reports.
Sec. 406. Data matching by multistate financial institutions.
Sec. 407. Elimination of unnecessary data reporting.
Sec. 408. Clarification of eligibility under welfare-to-work programs.
Sec. 409. Study of feasibility of implementing immigration provisions of H.R. 3130, as passed by the House of Representatives on March 5, 1998.
Sec. 410. Technical corrections.

TITLE I—CHILD SUPPORT DATA PROCESSING REQUIREMENTS

SEC. 101. ALTERNATIVE PENALTY PROCEDURE.

(a) IN GENERAL.—Section 455(a) of the Social Security Act (42 U.S.C. 655(a)) is amended by adding at the end the following:

"(4)(A)(i) If—

"(I) the Secretary determines that a State plan under section 454 would (in the absence of this paragraph) be disapproved for the failure of the State to comply with a particular subparagraph of section 454(24), and that the State has made and is continuing to make a good faith effort to so comply; and

"(II) the State has submitted to the Secretary a corrective compliance plan that describes how, by when, and at what cost the State will achieve such compliance, which has been approved by the Secretary,

then the Secretary shall not disapprove the State plan under section 454, and the Secretary shall reduce the amount otherwise payable to the State under paragraph (1)(A) of this subsection for the fiscal year by the penalty amount.

"(ii) All failures of a State during a fiscal year to comply with any of the requirements referred to in the same subparagraph of section 454(24) shall be considered a single failure of the State to comply with that subparagraph during the fiscal year for purposes of this paragraph.

"(B) In this paragraph:

"(i) The term 'penalty amount' means, with respect to a failure of a State to comply with a subparagraph of section 454(24)—

"(I) 4 percent of the penalty base, in the case of the 1st fiscal year in which such a failure by the State occurs (regardless of whether a penalty is imposed under this paragraph with respect to the failure);

"(II) 8 percent of the penalty base, in the case of the 2nd such fiscal year;

"(III) 16 percent of the penalty base, in the case of the 3rd such fiscal year;

"(IV) 25 percent of the penalty base, in the case of the 4th such fiscal year; or

"(V) 30 percent of the penalty base, in the case of the 5th or any subsequent such fiscal year.

"(ii) The term 'penalty base' means, with respect to a failure of a State to comply with a subparagraph of section 454(24) during a fiscal year, the amount otherwise payable to the State under paragraph (1)(A) of this subsection for the preceding fiscal year.

"(C)(i) The Secretary shall waive a penalty under this paragraph for any failure of a State to comply with section 454(24)(A) during fiscal year 1998 if—

"(I) on or before August 1, 1998, the State has submitted to the Secretary a request that the Secretary certify the State as having met the requirements of such section;

"(II) the Secretary subsequently provides the certification as a result of a timely review conducted pursuant to the request; and

"(III) the State has not failed such a review.

"(ii) If a State with respect to which a reduction is made under this paragraph for a fiscal year with respect to a failure to comply with a subparagraph of section 454(24) achieves compliance with such subparagraph by the beginning of the succeeding fiscal year, the Secretary shall increase the amount otherwise payable to the State under paragraph (1)(A) of this subsection for the succeeding fiscal year by an amount equal to 90 percent of the reduction for the fiscal year.

"(D) The Secretary may not impose a penalty under this paragraph against a State with respect to a failure to comply with section 454(24)(B) for a fiscal year if the Secretary is required to impose a penalty under this paragraph against the State with respect to a failure to comply with section 454(24)(A) for the fiscal year.".

(b) INAPPLICABILITY OF PENALTY UNDER TANF PROGRAM.—Section 409(a)(8)(A)(i)(III) of such Act (42 U.S.C. 609(a)(8)(A)(i)(III)) is amended by inserting "(other than section 454(24))" before the semicolon.

SEC. 102. AUTHORITY TO WAIVE SINGLE STATEWIDE AUTOMATED DATA PROCESSING AND INFORMATION RETRIEVAL SYSTEM REQUIREMENT.

(a) In General.—Section 452(d)(3) of the Social Security Act (42 U.S.C. 652(d)(3)) is amended to read as follows:

“(3) The Secretary may waive any requirement of paragraph (1) or any condition specified under section 454(16), and shall waive the single statewide system requirement under sections 454(16) and 454A, with respect to a State if—

“(A) the State demonstrates to the satisfaction of the Secretary that the State has or can develop an alternative system or systems that enable the State—

“(i) for purposes of section 409(a)(8), to achieve the paternity establishment percentages (as defined in section 452(g)(2)) and other performance measures that may be established by the Secretary;

“(ii) to submit data under section 454(15)(B) that is complete and reliable;

“(iii) to substantially comply with the requirements of this part; and

“(iv) in the case of a request to waive the single statewide system requirement, to—

“(I) meet all functional requirements of sections 454(16) and 454A;

“(II) ensure that calculation of distributions meets the requirements of section 457 and accounts for distributions to children in different families or in different States or sub-State jurisdictions, and for distributions to other States;

“(III) ensure that there is only 1 point of contact in the State which provides seamless case processing for all interstate case processing and coordinated, automated intrastate case management;

“(IV) ensure that standardized data elements, forms, and definitions are used throughout the State;

“(V) complete the alternative system in no more time than it would take to complete a single statewide system that meets such requirement; and

“(VI) process child support cases as quickly, efficiently, and effectively as such cases would be processed through a single statewide system that meets such requirement;

“(B)(i) the waiver meets the criteria of paragraphs (1), (2), and (3) of section 1115(c); or

“(ii) the State provides assurances to the Secretary that steps will be taken to otherwise improve the State's child support enforcement program; and

“(C) in the case of a request to waive the single statewide system requirement, the State has submitted to the Secretary separate estimates of the total cost of a single statewide system that meets such requirement, and of any such alternative system or systems, which shall include estimates of the cost of developing and completing the system and of operating and maintaining the system for 5 years, and the Secretary has agreed with the estimates.”.

(b) Payments to States.—Section 455(a)(1) of such Act (42 U.S.C. 655(a)(1)) is amended—

(1) by striking “and” at the end of subparagraph (B);

(2) by striking the semicolon at the end of subparagraph (C) and inserting “, and”; and

(3) by inserting after subparagraph (C) the following:

“(D) equal to 66 percent of the sums expended by the State during the quarter for an alternative statewide system for which a waiver has been granted under section 452(d)(3), but only to the extent that the total of the sums so expended by the State on or after the date of the enactment of this subparagraph does not exceed the least total cost estimate submitted by the State pursuant to section 452(d)(3)(C) in the request for the waiver;”.

TITLE II—CHILD SUPPORT INCENTIVE SYSTEM

SEC. 201. INCENTIVE PAYMENTS TO STATES.

(a) In General.—Part D of title IV of the Social Security Act (42 U.S.C. 651–669) is amended by inserting after section 458 the following:

“SEC. 458A. INCENTIVE PAYMENTS TO STATES.

“(a) In General.—In addition to any other payment under this part, the Secretary shall, subject to subsection (f), make an incentive payment to each State for each fiscal year in an amount determined under subsection (b).

“(b) Amount of Incentive Payment.—

“(1) In general.—The incentive payment for a State for a fiscal year is equal to the incentive payment pool for the fiscal year, multiplied by the State incentive payment share for the fiscal year.

“(2) Incentive payment pool.—

“(A) In general.—In paragraph (1), the term ‘incentive payment pool’ means—

“(i) $422,000,000 for fiscal year 2000;

“(ii) $429,000,000 for fiscal year 2001;

“(iii) $450,000,000 for fiscal year 2002;

“(iv) $461,000,000 for fiscal year 2003;

“(v) $454,000,000 for fiscal year 2004;

“(vi) $446,000,000 for fiscal year 2005;

“(vii) $458,000,000 for fiscal year 2006;

“(viii) $471,000,000 for fiscal year 2007;

“(ix) $483,000,000 for fiscal year 2008; and

“(x) for any succeeding fiscal year, the amount of the incentive payment pool for the fiscal year that precedes such succeeding fiscal year, multiplied by the percentage (if any) by which the CPI for such preceding fiscal year exceeds the CPI for the 2nd preceding fiscal year.

“(B) CPI.—For purposes of subparagraph (A), the CPI for a fiscal year is the average of the Consumer Price Index for the 12-month period ending on September 30 of the fiscal year. As used in the preceding sentence, the term ‘Consumer Price Index’ means the last Consumer Price Index for all-urban consumers published by the Department of Labor.

“(3) State incentive payment share.—In paragraph (1), the term ‘State incentive payment share’ means, with respect to a fiscal year—

“(A) the incentive base amount for the State for the fiscal year; divided by

“(B) the sum of the incentive base amounts for all of the States for the fiscal year.

“(4) Incentive base amount.—In paragraph (3), the term ‘incentive base amount’ means, with respect to a State and a fiscal year, the sum of the applicable percentages (determined in accordance with paragraph (6)) multiplied by the corresponding maximum incentive base amounts for the State for the fiscal year, with respect to each of the following measures of State performance for the fiscal year:

“(A) The paternity establishment performance level.

“(B) The support order performance level.

“(C) The current payment performance level.

“(D) The arrearage payment performance level.

“(E) The cost-effectiveness performance level.

“(5) Maximum incentive base amount.—

“(A) In general.—For purposes of paragraph (4), the maximum incentive base amount for a State for a fiscal year is—

“(i) with respect to the performance measures described in subparagraphs (A), (B), and (C) of paragraph (4), the State collections base for the fiscal year; and

“(ii) with respect to the performance measures described in subparagraphs (D) and (E) of paragraph (4), 75 percent of the State collections base for the fiscal year.

“(B) Data required to be complete and reliable.—Notwithstanding subparagraph (A), the maximum incentive base amount for a State for a fiscal year with respect to a performance measure described in paragraph (4) is zero, unless the Secretary determines, on the basis of an audit performed under section 452(a)(4)(C)(i), that the data which the State submitted pursuant to section 454(15)(B) for the fiscal year and which is used to determine the performance level involved is complete and reliable.

“(C) State collections base.—For purposes of subparagraph (A), the State collections base for a fiscal year is equal to the sum of—

“(i) 2 times the sum of—

“(I) the total amount of support collected during the fiscal year under the State plan approved under this part in cases in which the support obligation involved is required to be assigned to the State pursuant to part A or E of this title or title XIX; and

“(II) the total amount of support collected during the fiscal year under the State plan approved under this part in cases in which the support obligation involved was so assigned but, at the time of collection, is not required to be so assigned; and

“(ii) the total amount of support collected during the fiscal year under the State plan approved under this part in all other cases.

“(6) Determination of applicable percentages based on performance levels.—

“(A) Paternity establishment.—

“(i) Determination of paternity establishment performance level.—The paternity establishment performance level for a State for a fiscal year is, at the option of the State, the IV–D paternity establishment percentage determined under section 452(g)(2)(A) or the statewide paternity establishment percentage determined under section 452(g)(2)(B).

“(ii) Determination of applicable percentage.—The applicable percentage with respect to a State's paternity establishment performance level is as follows:

“If the paternity establishment performance level is:		The applicable percentage is:
At least:	But less than:	
80%	....	100
79%	80%	98
78%	79%	96
77%	78%	94
76%	77%	92
75%	76%	90
74%	75%	88
73%	74%	86
72%	73%	84
71%	72%	82
70%	71%	80
69%	70%	79
68%	69%	78
67%	68%	77
66%	67%	76
65%	66%	75
64%	65%	74
63%	64%	73
62%	63%	72
61%	62%	71
60%	61%	70
59%	60%	69
58%	59%	68
57%	58%	67
56%	57%	66
55%	56%	65
54%	55%	64
53%	54%	63
52%	53%	62
51%	52%	61
50%	51%	60

“If the paternity establishment performance level is:		The applicable percentage is:
At least:	But less than:	
0%	50%	0.

Notwithstanding the preceding sentence, if the paternity establishment performance level of a State for a fiscal year is less than 50 percent but exceeds by at least 10 percentage points the paternity establishment performance level of the State for the immediately preceding fiscal year, then the applicable percentage with respect to the State's paternity establishment performance level is 50 percent.

“(B) ESTABLISHMENT OF CHILD SUPPORT ORDERS.—

“(i) DETERMINATION OF SUPPORT ORDER PERFORMANCE LEVEL.—The support order performance level for a State for a fiscal year is the percentage of the total number of cases under the State plan approved under this part in which there is a support order during the fiscal year.

“(ii) DETERMINATION OF APPLICABLE PERCENTAGE.—The applicable percentage with respect to a State's support order performance level is as follows:

“If the support order performance level is:		The applicable percentage is:
At least:	But less than:	
80%		100
79%	80%	98
78%	79%	96
77%	78%	94
76%	77%	92
75%	76%	90
74%	75%	88
73%	74%	86
72%	73%	84
71%	72%	82
70%	71%	80
69%	70%	79
68%	69%	78
67%	68%	77
66%	67%	76
65%	66%	75
64%	65%	74
63%	64%	73
62%	63%	72
61%	62%	71
60%	61%	70
59%	60%	69
58%	59%	68
57%	58%	67
56%	57%	66
55%	56%	65
54%	55%	64
53%	54%	63
52%	53%	62
51%	52%	61
50%	51%	60
0%	50%	0.

Notwithstanding the preceding sentence, if the support order performance level of a State for a fiscal year is less than 50 percent but exceeds by at least 5 percentage points the support order performance level of the State for the immediately preceding fiscal year, then the applicable percentage with respect to the State's support order performance level is 50 percent.

“(C) COLLECTIONS ON CURRENT CHILD SUPPORT DUE.—

“(i) DETERMINATION OF CURRENT PAYMENT PERFORMANCE LEVEL.—The current payment performance level for a State for a fiscal year is equal to the total amount of current support collected during the fiscal year under the State plan approved under this part divided by the total amount of current support owed during the fiscal year in all cases under the State plan, expressed as a percentage.

“(ii) DETERMINATION OF APPLICABLE PERCENTAGE.—The applicable percentage with respect to a State's current payment performance level is as follows:

“If the current payment performance level is:		The applicable percentage is:
At least:	But less than:	
80%		100
79%	80%	98
78%	79%	96
77%	78%	94
76%	77%	92
75%	76%	90
74%	75%	88
73%	74%	86
72%	73%	84
71%	72%	82
70%	71%	80
69%	70%	79
68%	69%	78
67%	68%	77
66%	67%	76
65%	66%	75
64%	65%	74
63%	64%	73
62%	63%	72
61%	62%	71
60%	61%	70
59%	60%	69
58%	59%	68
57%	58%	67
56%	57%	66
55%	56%	65
54%	55%	64
53%	54%	63
52%	53%	62
51%	52%	61
50%	51%	60
49%	50%	59
48%	49%	58
47%	48%	57
46%	47%	56
45%	46%	55
44%	45%	54
43%	44%	53
42%	43%	52
41%	42%	51
40%	41%	50
0%	40%	0.

Notwithstanding the preceding sentence, if the current payment performance level of a State for a fiscal year is less than 40 percent but exceeds by at least 5 percentage points the current payment performance level of the State for the immediately preceding fiscal year, then the applicable percentage with respect to the State's current payment performance level is 50 percent.

“(D) COLLECTIONS ON CHILD SUPPORT ARREARAGES.—

“(i) DETERMINATION OF ARREARAGE PAYMENT PERFORMANCE LEVEL.—The arrearage payment performance level for a State for a fiscal year is equal to the total number of cases under the State plan approved under this part in which payments of past-due child support were received during the fiscal year and part or all of the payments were distributed to the family to whom the past-due child support was owed (or, if all past-due child support owed to the family was, at the time of receipt, subject to an assignment to the State, part or all of the payments were retained by the State) divided by the total number of cases under the State plan in which there is past-due child support, expressed as a percentage.

“(ii) DETERMINATION OF APPLICABLE PERCENTAGE.—The applicable percentage with respect to a State's arrearage payment performance level is as follows:

“If the arrearage payment performance level is:		The applicable percentage is:
At least:	But less than:	
80%		100
79%	80%	98
78%	79%	96
77%	78%	94
76%	77%	92
75%	76%	90
74%	75%	88
73%	74%	86
72%	73%	84
71%	72%	82
70%	71%	80
69%	70%	79
68%	69%	78
67%	68%	77
66%	67%	76
65%	66%	75
64%	65%	74
63%	64%	73
62%	63%	72
61%	62%	71
60%	61%	70
59%	60%	69
58%	59%	68
57%	58%	67
56%	57%	66
55%	56%	65
54%	55%	64
53%	54%	63
52%	53%	62
51%	52%	61
50%	51%	60
49%	50%	59
48%	49%	58
47%	48%	57
46%	47%	56
45%	46%	55
44%	45%	54
43%	44%	53
42%	43%	52
41%	42%	51
40%	41%	50
0%	40%	0

Notwithstanding the preceding sentence, if the arrearage payment performance level of a State for a fiscal year is less than 40 percent but exceeds by at least 5 percentage points the arrearage payment performance level of the State for the immediately preceding fiscal year, then the applicable percentage with respect to the State's arrearage payment performance level is 50 percent.

“(E) COST-EFFECTIVENESS.—

“(i) DETERMINATION OF COST-EFFECTIVENESS PERFORMANCE LEVEL.—The cost-effectiveness performance level for a State for a fiscal year is equal to the total amount collected during the fiscal year under the State plan approved under this part divided by the total amount expended during the fiscal year under the State plan, expressed as a ratio.

“(ii) DETERMINATION OF APPLICABLE PERCENTAGE.—The applicable percentage with respect to a State's cost-effectiveness performance level is as follows:

“If the cost-effectiveness performance level is:		The applicable percentage is:
At least:	But less than:	
5.00		100
4.50	4.99	90
4.00	4.50	80
3.50	4.00	70
3.00	3.50	60
2.50	3.00	50
2.00	2.50	40
0.00	2.00	0.

“(c) TREATMENT OF INTERSTATE COLLECTIONS.—In computing incentive payments under this section, support which is collected by a State at the request of another State shall be treated as having been collected in full by both States, and any amounts expended by a State in carrying out a special project assisted under section 455(e) shall be excluded.

“(d) ADMINISTRATIVE PROVISIONS.—The amounts of the incentive payments to be made to the States under this section for a fiscal year shall be estimated by the Secretary at or before the beginning of the fiscal year on the basis of the best information available. The Secretary shall make the payments for the fiscal year, on a quarterly basis (with each quarterly payment being made no later than the beginning of the quarter involved), in the amounts so estimated, reduced or increased to the extent of any overpayments or underpayments which the Secretary determines were made under this section to the States involved for prior periods and with respect to which adjustment has not already been made under this subsection. Upon the making of any estimate by the Secretary under the preceding sentence, any appropriations available for payments under this section are deemed obligated.

"(e) Regulations.—The Secretary shall prescribe such regulations as may be necessary governing the calculation of incentive payments under this section, including directions for excluding from the calculations certain closed cases and cases over which the States do not have jurisdiction.

"(f) Reinvestment.—A State to which a payment is made under this section shall expend the full amount of the payment to supplement, and not supplant, other funds used by the State—

"(1) to carry out the State plan approved under this part; or

"(2) for any activity (including cost-effective contracts with local agencies) approved by the Secretary, whether or not the expenditures for the activity are eligible for reimbursement under this part, which may contribute to improving the effectiveness or efficiency of the State program operated under this part.".

(b) Transition Rule.—Notwithstanding any other provision of law—

(1) for fiscal year 2000, the Secretary shall reduce by ⅓ the amount otherwise payable to a State under section 458 of the Social Security Act, and shall reduce by ⅔ the amount otherwise payable to a State under section 458A of such Act; and

(2) for fiscal year 2001, the Secretary shall reduce by ⅔ the amount otherwise payable to a State under section 458 of the Social Security Act, and shall reduce by ⅓ the amount otherwise payable to a State under section 458A of such Act.

(c) Regulations.—Within 9 months after the date of the enactment of this section, the Secretary of Health and Human Services shall prescribe regulations governing the implementation of section 458A of the Social Security Act when such section takes effect and the implementation of subsection (b) of this section.

(d) Studies.—

(1) General review of new incentive payment system.—

(A) In general.—The Secretary of Health and Human Services shall conduct a study of the implementation of the incentive payment system established by section 458A of the Social Security Act, in order to identify the problems and successes of the system.

(B) Reports to the congress.—

(i) Report on variations in state performance attributable to demographic variables.—Not later than October 1, 2000, the Secretary shall submit to the Congress a report that identifies any demographic or economic variables that account for differences in the performance levels achieved by the States with respect to the performance measures used in the system, and contains the recommendations of the Secretary for such adjustments to the system as may be necessary to ensure that the relative performance of States is measured from a baseline that takes account of any such variables.

(ii) Interim report.—Not later than March 1, 2001, the Secretary shall submit to the Congress an interim report that contains the findings of the study required by subparagraph (A).

(iii) Final report.—Not later than October 1, 2003, the Secretary shall submit to the Congress a final report that contains the final findings of the study required by subparagraph (A). The report shall include any recommendations for changes in the system that the Secretary determines would improve the operation of the child support enforcement program.

(2) Development of medical support incentive.—

(A) In general.—The Secretary of Health and Human Services, in consultation with State directors of programs operated under part D of title IV of the Social Security Act and representatives of children potentially eligible for medical support, shall develop a performance measure based on the effectiveness of States in establishing and enforcing medical support obligations, and shall make recommendations for the incorporation of the measure, in a revenue neutral manner, into the incentive payment system established by section 458A of the Social Security Act.

(B) Report.—Not later than October 1, 1999, the Secretary shall submit to the Congress a report that describes the performance measure and contains the recommendations required by subparagraph (A).

(e) Technical Amendments.—

(1) In general.—Section 341 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (42 U.S.C. 658 note) is amended—

(A) by striking subsection (a) and redesignating subsections (b), (c), and (d) as subsections (a), (b), and (c), respectively; and

(B) in subsection (c) (as so redesignated)—

(i) by striking paragraph (1) and inserting the following:

"(1) Conforming amendments to present system.—The amendments made by subsection (a) of this section shall become effective with respect to a State as of the date the amendments made by section 103(a) (without regard to section 116(a)(2)) first apply to the State."; and

(ii) in paragraph (2), by striking "(c)" and inserting "(b)".

(2) Effective date.—The amendments made by this subsection shall take effect as if included in the enactment of section 341 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

(f) Elimination of Predecessor Incentive Payment System.—

(1) Repeal.—Section 458 of the Social Security Act (42 U.S.C. 658) is repealed.

(2) Conforming amendments.—

(A) Section 458A of the Social Security Act, as added by section 201(a) of this Act, is redesignated as section 458.

(B) Section 455(a)(4)(C)(iii) of such Act (42 U.S.C. 655(a)(4)(C)(iii)), as added by section 101(a) of this Act, is amended—

(i) by striking "458A(b)(4)" and inserting "458(b)(4)";

(ii) by striking "458A(b)(6)" and inserting "458(b)(6)"; and

(iii) by striking "458A(b)(5)(B)" and inserting "458(b)(5)(B)".

(C) Subsection (d)(1) of this section is amended by striking "458A" and inserting "458".

(3) Effective date.—The amendments made by this subsection shall take effect on October 1, 2001.

(g) General Effective Date.—Except as otherwise provided in this section, the amendments made by this section shall take effect on October 1, 1999.

TITLE III—ADOPTION PROVISIONS

SEC. 301. MORE FLEXIBLE PENALTY PROCEDURE TO BE APPLIED FOR FAILING TO PERMIT INTERJURISDICTIONAL ADOPTION.

(a) Conversion of Funding Ban Into State Plan Requirement.—Section 471(a) of the Social Security Act (42 U.S.C. 671(a)) is amended—

(1) by striking "and" at the end of paragraph (21);

(2) by striking the period at the end of paragraph (22) and inserting "; and"; and

(3) by adding at the end the following:

"(23) provides that the State shall not—

"(A) deny or delay the placement of a child for adoption when an approved family is available outside of the jurisdiction with responsibility for handling the case of the child; or

"(B) fail to grant an opportunity for a fair hearing, as described in paragraph (12), to an individual whose allegation of a violation of subparagraph (A) of this paragraph is denied by the State or not acted upon by the State with reasonable promptness.".

(b) Penalty for Noncompliance.—Section 474(d) of such Act (42 U.S.C. 674(d)) is amended in each of paragraphs (1) and (2) by striking "section 471(a)(18)" and inserting "paragraph (18) or (23) of section 471(a)".

(c) Conforming Amendment.—Section 474 of such Act (42 U.S.C. 674) is amended by striking subsection (e).

(d) Retroactivity.—The amendments made by this section shall take effect as if included in the enactment of section 202 of the Adoption and Safe Families Act of 1997 (Public Law 105–89; 111 Stat. 2125).

TITLE IV—MISCELLANEOUS

SEC. 401. ELIMINATION OF BARRIERS TO THE EFFECTIVE ESTABLISHMENT AND ENFORCEMENT OF MEDICAL CHILD SUPPORT.

(a) Study on Effectiveness of Enforcement of Medical Support by State Agencies.—

(1) Medical child support working group.—Within 60 days after the date of the enactment of this Act, the Secretary of Health and Human Services and the Secretary of Labor shall jointly establish a Medical Child Support Working Group. The purpose of the Working Group shall be to identify the impediments to the effective enforcement of medical support by State agencies administering the programs operated pursuant to part D of title IV of the Social Security Act.

(2) Membership.—The Working Group shall consist of not more than 30 members and shall be composed of representatives of—

(A) the Department of Labor;

(B) the Department of Health and Human Services;

(C) State directors of programs under part D of title IV of the Social Security Act;

(D) State directors of the medicaid program under title XIX of the Social Security Act;

(E) employers, including owners of small businesses and their trade or industry representatives and certified human resource and payroll professionals;

(F) plan administrators and plan sponsors of group health plans (as defined in section 607(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1167(1));

(G) children potentially eligible for medical support, such as child advocacy organizations;

(H) State medical child support programs; and

(I) organizations representing State child support programs.

(3) Compensation.—The members shall serve without compensation.

(4) Administrative support.—The Department of Health and Human Services and the Department of Labor shall jointly provide appropriate administrative support to the Working Group, including technical assistance. The Working Group may use the services and facilities of either such Department, with or without reimbursement, as jointly determined by such Departments.

(5) Report.—

(A) Report by working group to the secretaries.—Not later than 18 months after the date of the enactment of this Act, the Working Group shall submit to the Secretary of Labor and the Secretary of Health and Human Services a report containing recommendations for appropriate measures to address the impediments to the effective enforcement of medical support by State agencies administering the programs operated pursuant to part D of title IV of the Social Security Act identified by the Working Group, including—

(i) recommendations based on assessments of the form and content of the National Medical Support Notice, as issued under interim regulations,

(ii) appropriate measures that establish the priority of withholding of child support obligations, medical support obligations, arrearages in such obligations, and, in the case of a medical support obligation, the employee's portion of any health care coverage premium, by such State agencies in light of the restrictions on garnishment provided under title III of the Consumer Credit Protection Act (15 U.S.C. 1671–1677);

(iii) appropriate procedures for coordinating the provision, enforcement, and transition of health care coverage under the State programs operated pursuant to part D of title IV of the Social Security Act and titles XIX and XXI of such Act;

(iv) appropriate measures to improve the availability of alternate types of medical support that are aside from health coverage offered through the noncustodial parent's health plan and unrelated to the noncustodial parent's employer, including measures that establish a noncustodial parent's responsibility to share the cost of premiums, copayments, deductibles, or payments for services not covered under a child's existing health coverage;

(v) recommendations on whether reasonable cost should remain a consideration under section 452(f) of the Social Security Act; and

(vi) appropriate measures for eliminating any other impediments to the effective enforcement of medical support orders that the Working Group deems necessary.

(B) Report by secretaries to the congress.—Not later than 2 months after receipt of the report pursuant to subparagraph (A), the Secretaries shall jointly submit a report to each House of the Congress regarding the recommendations contained in the report under subparagraph (A).

(6) Termination.—The Working Group shall terminate 30 days after the date of the issuance of its report under paragraph (5).

(b) Promulgation of National Medical Support Notice.—

(1) In general.—The Secretary of Health and Human Services and the Secretary of Labor shall jointly develop and promulgate by regulation a National Medical Support Notice, to be issued by States as a means of enforcing the health care coverage provisions in a child support order.

(2) Requirements.—The National Medical Support Notice shall—

(A) conform with the requirements which apply to medical child support orders under section 609(a)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1169(a)(3)) in connection with group health plans (subject to section 609(a)(4) of such Act), irrespective of whether the group health plan is covered under section 4 of such Act,

(B) conform with the requirements of part D of title IV of the Social Security Act, and

(C) include a separate and easily severable employer withholding notice, informing the employer of—

(i) applicable provisions of State law requiring the employer to withhold any employee contributions due under any group health plan in connection with coverage required to be provided under such order,

(ii) the duration of the withholding requirement,

(iii) the applicability of limitations on any such withholding under title III of the Consumer Credit Protection Act,

(iv) the applicability of any prioritization required under State law between amounts to be withheld for purposes of cash support and amounts to be withheld for purposes of medical support, in cases where available funds are insufficient for full withholding for both purposes, and

(v) the name and telephone number of the appropriate unit or division to contact at the State agency regarding the National Medical Support Notice.

(3) Procedures.—The regulations promulgated pursuant to paragraph (1) shall include appropriate procedures for the transmission of the National Medical Support Notice to employers by State agencies administering the programs operated pursuant to part D of title IV of the Social Security Act.

(4) Interim regulations.—Not later than 10 months after the date of the enactment of this Act, the Secretaries shall issue interim regulations providing for the National Medical Support Notice.

(5) Final regulations.—Not later than 1 year after the issuance of the interim regulations under paragraph (4), the Secretary of Health and Human Services and the Secretary of Labor shall jointly issue final regulations providing for the National Medical Support Notice.

(c) Required Use by States of National Medical Support Notices.—

(1) State procedures.—Section 466(a)(19) of the Social Security Act (42 U.S.C. 666(a)(19)) is amended to read as follows:

"(19) Health care coverage.—Procedures under which—

"(A) effective as provided in section 401(c)(3) of the Child Support Performance and Incentive Act of 1998, all child support orders enforced pursuant to this part which include a provision for the health care coverage of the child are enforced, where appropriate, through the use of the National Medical Support Notice promulgated pursuant to section 401(b) of the Child Support Performance and Incentive Act of 1998 (and referred to in section 609(a)(5)(C) of the Employee Retirement Income Security Act of 1974 in connection with group health plans covered under title I of such Act, in section 401(e)(3)(C) of the Child Support Performance and Incentive Act of 1998 in connection with State or local group health plans, and in section 401(f)(5)(C) of such Act in connection with church group health plans);

"(B) unless alternative coverage is allowed for in any order of the court (or other entity issuing the child support order), in any case in which a noncustodial parent is required under the child support order to provide such health care coverage and the employer of such noncustodial parent is known to the State agency—

"(i) the State agency uses the National Medical Support Notice to transfer notice of the provision for the health care coverage of the child to the employer;

"(ii) within 20 business days after the date of the National Medical Support Notice, the employer is required to transfer the Notice, excluding the severable employer withholding notice described in section 401(b)(2)(C) of the Child Support Performance and Incentive Act of 1998, to the appropriate plan providing any such health care coverage for which the child is eligible;

"(iii) in any case in which the noncustodial parent is a newly hired employee entered in the State Directory of New Hires pursuant to section 453A(e), the State agency provides, where appropriate, the National Medical Support Notice, together with an income withholding notice issued pursuant to section 466(b), within 2 days after the date of the entry of such employee in such Directory; and

"(iv) in any case in which the employment of the noncustodial parent with any employer who has received a National Medical Support Notice is terminated, such employer is required to notify the State agency of such termination; and

"(C) any liability of the noncustodial parent to such plan for employee contributions which are required under such plan for enrollment of the child is effectively subject to appropriate enforcement, unless the noncustodial parent contests such enforcement based on a mistake of fact"."

(2) Conforming amendments.—Section 452(f) of such Act (42 U.S.C. 652(f)) is amended in the first sentence—

(A) by striking "petition for the inclusion of" and inserting "include"; and

(B) by inserting "and enforce medical support" before "whenever".

(3) Effective date.—The amendments made by this subsection shall be effective with respect to periods beginning on or after the later of—

(A) October 1, 2001, or

(B) the effective date of laws enacted by the legislature of such State implementing such amendments,

but in no event later than the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the preceding sentence, in the case of a State that has a two-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

(d) National Medical Support Notice Deemed under ERISA a Qualified Medical Child Support Order.—Section 609(a)(5) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1169(a)(5)) is amended by adding at the end the following:

"(C) National medical support notice deemed to be a qualified medical child support order.—

"(i) In general.—If the plan administrator of a group health plan which is maintained by the employer of a noncustodial parent of a child or to which such an employer contributes receives an appropriately completed National Medical Support Notice promulgated pursuant to section 401(b) of the Child Support Performance and Incentive Act of 1998 in the case of such child, and the Notice meets the requirements of paragraphs (3) and

(4), the Notice shall be deemed to be a qualified medical child support order in the case of such child.

"(ii) Enrollment of child in plan.—In any case in which an appropriately completed National Medical Support Notice is issued in the case of a child of a participant under a group health plan who is a noncustodial parent of the child, and the Notice is deemed under clause (i) to be a qualified medical child support order, the plan administrator, within 40 business days after the date of the Notice, shall—

"(I) notify the State agency issuing the Notice with respect to such child whether coverage of the child is available under the terms of the plan and, if so, whether such child is covered under the plan and either the effective date of the coverage or, if necessary, any steps to be taken by the custodial parent (or by the official of a State or political subdivision thereof substituted for the name of such child pursuant to paragraph (3)(A)) to effectuate the coverage, and

"(II) provide to the custodial parent (or such substituted official) a description of the coverage available and any forms or documents necessary to effectuate such coverage.

"(iii) Rule of construction.—Nothing in this subparagraph shall be construed as requiring a group health plan, upon receipt of a National Medical Support Notice, to provide benefits under the plan (or eligibility for such benefits) in addition to benefits (or eligibility for benefits) provided under the terms of the plan as of immediately before receipt of such Notice.".

(e) National Medical Support Notices for State or Local Governmental Group Health Plans.—

(1) In general.—Each State or local governmental group health plan shall provide benefits in accordance with the applicable requirements of any National Medical Support Notice.

(2) Enrollment of child in plan.—In any case in which an appropriately completed National Medical Support Notice is issued in the case of a child of a participant under a State or local governmental group health plan who is a noncustodial parent of the child, the plan administrator, within 40 business days after the date of the Notice, shall—

(A) notify the State agency issuing the Notice with respect to such child whether coverage of the child is available under the terms of the plan and, if so, whether such child is covered under the plan and either the effective date of the coverage or any steps necessary to be taken by the custodial parent (or by any official of a State or political subdivision thereof substituted in the Notice for the name of such child in accordance with procedures appliable under subsection (b)(2) of this section) to effectuate the coverage, and

(B) provide to the custodial parent (or such substituted official) a description of the coverage available and any forms or documents necessary to effectuate such coverage.

(3) Rule of construction.—Nothing in this subsection shall be construed as requiring a State or local governmental group health plan, upon receipt of a National Medical Support Notice, to provide benefits under the plan (or eligibility for such benefits) in addition to benefits (or eligibility for benefits) provided under the terms of the plan as of immediately before receipt of such Notice.

(4) Definitions.—For purposes of this subsection—

(A) State or local governmental group health plan.—The term "State or local governmental group health plan" means a group health plan which is established or maintained for its employees by the government of any State, any political subdivision of a State, or any agency or instrumentality of either of the foregoing.

(B) Alternate recipient.—The term "alternate recipient" means any child of a participant who is recognized under a National Medical Support Notice as having a right to enrollment under a State or local governmental group health plan with respect to such participant.

(C) Group health plan.—The term "group health plan" has the meaning provided in section 607(1) of the Employee Retirement Income Security Act of 1974.

(D) State.—The term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa.

(E) Other terms.—The terms "participant" and "administrator" shall have the meanings provided such terms, respectively, by paragraphs (7) and (16) of section 3 of the Employee Retirement Income Security Act of 1974.

(5) Effective date.—The provisions of this subsection shall take effect on the date of the issuance of interim regulations pursuant to subsection (b)(4) of this section.

(f) Qualified Medical Child Support Orders and National Medical Support Notices for Church Plans.—

(1) In general.—Each church group health plan shall provide benefits in accordance with the applicable requirements of any qualified medical child support order. A qualified medical child support order with respect to any participant or beneficiary shall be deemed to apply to each such group health plan which has received such order, from which the participant or beneficiary is eligible to receive benefits, and with respect to which the requirements of paragraph (4) are met.

(2) Definitions.—For purposes of this subsection—

(A) Church group health plan.—The term "church group health plan" means a group health plan which is a church plan.

(B) Qualified medical child support order.—The term "qualified medical child support order" means a medical child support order—

(i) which creates or recognizes the existence of an alternate recipient's right to, or assigns to an alternate recipient the right to, receive benefits for which a participant or beneficiary is eligible under a church group health plan, and

(ii) with respect to which the requirements of paragraphs (3) and (4) are met.

(C) Medical child support order.—The term "medical child support order" means any judgment, decree, or order (including approval of a settlement agreement) which—

(i) provides for child support with respect to a child of a participant under a church group health plan or provides for health benefit coverage to such a child, is made pursuant to a State domestic relations law (including a community property law), and relates to benefits under such plan, or

(ii) is made pursuant to a law relating to medical child support described in section 1908 of the Social Security Act (as added by section 13822 of the Omnibus Budget Reconciliation Act of 1993) with respect to a church group health plan,

if such judgment, decree, or order (I) is issued by a court of competent jurisdiction or (II) is issued through an administrative process established under State law and has the force and effect of law under applicable State law. For purposes of this paragraph, an administrative notice which is issued pursuant to an administrative process referred to in subclause (II) of the preceding sentence and which has the effect of an order described in clause (i) or (ii) of the preceding sentence shall be treated as such an order.

(D) Alternate recipient.—The term "alternate recipient" means any child of a participant who is recognized under a medical child support order as having a right to enrollment under a church group health plan with respect to such participant.

(E) Group health plan.—The term "group health plan" has the meaning provided in section 607(1) of the Employee Retirement Income Security Act of 1974.

(F) State.—The term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa.

(G) Other terms.—The terms "participant", "beneficiary", "administrator", and "church plan" shall have the meanings provided such terms, respectively, by paragraphs (7), (8), (16), and (33) of section 3 of the Employee Retirement Income Security Act of 1974.

(3) Information to be included in qualified order.—A medical child support order meets the requirements of this paragraph only if such order clearly specifies—

(A) the name and the last known mailing address (if any) of the participant and the name and mailing address of each alternate recipient covered by the order, except that, to the extent provided in the order, the name and mailing address of an official of a State or a political subdivision thereof may be substituted for the mailing address of any such alternate recipient,

(B) a reasonable description of the type of coverage to be provided to each such alternate recipient, or the manner in which such type of coverage is to be determined, and

(C) the period to which such order applies.

(4) Restriction on new types or forms of benefits.—A medical child support order meets the requirements of this paragraph only if such order does not require a church group health plan to provide any type or form of benefit, or any option, not otherwise provided under the plan, except to the extent necessary to meet the requirements of a law relating to medical child support described in section 1908 of the Social Security Act (as added by section 13822 of the Omnibus Budget Reconciliation Act of 1993).

(5) Procedural requirements.—

(A) Timely notifications and determinations.—In the case of any medical child support order received by a church group health plan—

(i) the plan administrator shall promptly notify the participant and each alternate recipient of the receipt of such order and the plan's procedures for determining whether medical child support orders are qualified medical child support orders, and

(ii) within a reasonable period after receipt of such order, the plan administrator shall determine whether such order is a qualified medical child support order and notify the participant and each alternate recipient of such determination.

(B) Establishment of procedures for determining qualified status of orders.—Each church group health plan shall establish reasonable procedures to determine whether medical child support orders are qualified medical child support orders and to administer the provision of benefits under such qualified orders. Such procedures—

(i) shall be in writing,

(ii) shall provide for the notification of each person specified in a medical child support order as eligible to receive benefits under the plan (at the address included in the medical child support order) of such procedures promptly upon receipt by the plan of the medical child support order, and

(iii) shall permit an alternate recipient to designate a representative for receipt of copies of notices that are sent to the alternate recipient with respect to a medical child support order.

(C) National medical support notice deemed to be a qualified medical child support order.—

(i) In general.—If the plan administrator of any church group health plan which is maintained by the employer of a noncustodial parent of a child or to which such an employer contributes receives an appropriately completed National Medical Support Notice promulgated pursuant to subsection (b) of this section in the case of such child, and the Notice meets the requirements of paragraphs (3) and (4) of this subsection, the Notice shall be deemed to be a qualified medical child support order in the case of such child.

(ii) Enrollment of child in plan.—In any case in which an appropriately completed National Medical Support Notice is issued in the case of a child of a participant under a church group health plan who is a noncustodial parent of the child, and the Notice is deemed under clause (i) to be a qualified medical child support order, the plan administrator, within 40 business days after the date of the Notice, shall—

(I) notify the State agency issuing the Notice with respect to such child whether coverage of the child is available under the terms of the plan and, if so, whether such child is covered under the plan and either the effective date of the coverage or any steps necessary to be taken by the custodial parent (or by the official of a State or political subdivision thereof substituted for the name of such child pursuant to paragraph (3)(A)) to effectuate the coverage, and

(II) provide to the custodial parent (or such substituted official) a description of the coverage available and any forms or documents necessary to effectuate such coverage.

(iii) Rule of construction.—Nothing in this subparagraph shall be construed as requiring a church group health plan, upon receipt of a National Medical Support Notice, to provide benefits under the plan (or eligibility for such benefits) in addition to benefits (or eligibility for benefits) provided under the terms of the plan as of immediately before receipt of such Notice.

(6) Direct provision of benefits provided to alternate recipients.—Any payment for benefits made by a church group health plan pursuant to a medical child support order in reimbursement for expenses paid by an alternate recipient or an alternate recipient's custodial parent or legal guardian shall be made to the alternate recipient or the alternate recipient's custodial parent or legal guardian.

(7) Payment to state official treated as satisfaction of plan's obligation to make payment to alternate recipient.—Payment of benefits by a church group health plan to an official of a State or a political subdivision thereof whose name and address have been substituted for the address of an alternate recipient in a medical child support order, pursuant to paragraph (3)(A), shall be treated, for purposes of this subsection and part D of title IV of the Social Security Act, as payment of benefits to the alternate recipient.

(8) Effective date.—The provisions of this subsection shall take effect on the date of the issuance of interim regulations pursuant to subsection (b)(4) of this section.

(g) Report and Recommendations Regarding the Enforcement of Qualified Medical Child Support Orders.—Not later than 8 months after the issuance of the report to the Congress pursuant to subsection (a)(5), the Secretary of Health and Human Services and the Secretary of Labor shall jointly submit to each House of the Congress a report containing recommendations for appropriate legislation to improve the effectiveness of, and enforcement of, qualified medical child support orders under the provisions of subsection (f) of this section and section 609(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1169(a)).

(h) Technical Corrections.—

(1) Amendment relating to public law 104-266.—

(A) In general.—Subsection (f) of section 101 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1021(f)) is repealed.

(B) Effective date.—The amendment made by subparagraph (A) shall take effect as if included in the enactment of the Act entitled "An Act to repeal the Medicare and Medicaid Coverage Data Bank", approved October 2, 1996 (Public Law 104-226; 110 Stat. 3033).

(2) Amendments relating to public law 103-66.—

(A) In general.—(i) Section 4301(c)(4)(A) of the Omnibus Budget Reconciliation Act of 1993 (Public Law 103-66; 107 Stat. 377) is amended by striking "subsection (b)(7)(D)" and inserting "subsection (b)(7)".

(ii) Section 514(b)(7) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144(b)(7)) is amended by striking "enforced by" and inserting "they apply to".

(iii) Section 609(a)(2)(B)(ii) of such Act (29 U.S.C. 1169(a)(2)(B)(ii)) is amended by striking "enforces" and inserting "is made pursuant to".

(B) Child defined.—Section 609(a)(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1169(a)(2)) is amended by adding at the end the following:

"(D) Child.—The term 'child' includes any child adopted by, or placed for adoption with, a participant of a group health plan.".

(C) Effective date.—The amendments made by subparagraph (A) shall be effective as if included in the enactment of section 4301(c)(4)(A) of the Omnibus Budget Reconciliation Act of 1993.

(3) Amendment related to public law 105-33.—

(A) In general.—Section 609(a)(9) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1169(a)(9)) is amended by striking "the name and address" and inserting "the address".

(B) Effective date.—The amendment made by subparagraph (A) shall be effective as if included in the enactment of section 5611(b) of the Balanced Budget Act of 1997.

SEC. 402. SAFEGUARD OF NEW EMPLOYEE INFORMATION.

(a) Penalty for Unauthorized Access, Disclosure, or Use of Information.—Section 453(l) of the Social Security Act (42 U.S.C. 653(l)) is amended—

(1) by striking "Information" and inserting the following:

"(1) In general.—Information"; and

(2) by adding at the end the following:

"(2) Penalty for misuse of information in the national directory of new hires.—The Secretary shall require the imposition of an administrative penalty (up to and including dismissal from employment), and a fine of $1,000, for each act of unauthorized access to, disclosure of, or use of, information in the National Directory of New Hires established under subsection (i) by any officer or employee of the United States who knowingly and willfully violates this paragraph.".

(b) Limits on Retention of Data in the National Directory of New Hires.—Section 453(i)(2) of such Act (42 U.S.C. 653(i)(2)) is amended to read as follows:

"(2) Data entry and deletion requirements.—

"(A) In general.—Information provided pursuant to section 453A(g)(2) shall be entered into the data base maintained by the National Directory of New Hires within 2 business days after receipt, and shall be deleted from the data base 24 months after the date of entry.

"(B) 12-month limit on access to wage and unemployment compensation information.—The Secretary shall not have access for child support enforcement purposes to information in the National Directory of New Hires that is provided pursuant to section 453A(g)(2)(B), if 12 months has elapsed since the date the information is so provided and there has not been a match resulting from the use of such information in any information comparison under this subsection.

"(C) Retention of data for research purposes.—Notwithstanding subparagraphs (A) and (B), the Secretary may retain such samples of data entered in the National Directory of New Hires as the Secretary may find necessary to assist in carrying out subsection (j)(5).".

(c) Notice of Purposes for Which Wage and Salary Data Are To Be Used.—Within 90 days after the date of the enactment of this Act, the Secretary of Health and Human Services shall notify the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate of the specific purposes for which the new hire and the wage and unemployment compensation information in the National Directory of New Hires is to be used. At least 30 days before such information is to be used for a purpose not specified in the notice provided pursuant to the preceding sentence, the Secretary shall notify the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate of such purpose.

(d) Report by the Secretary.—Within 3 years after the date of the enactment of this Act, the Secretary of Health and Human Services shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the accuracy of the data maintained by the National Directory of New Hires pursuant to section 453(i) of the Social Security Act, and the effectiveness of the procedures designed to provide for the security of such data.

(e) Effective Date.—The amendments made by this section shall take effect on October 1, 2000.

SEC. 403. LIMITATIONS ON USE OF TANF FUNDS FOR MATCHING UNDER CERTAIN FEDERAL TRANSPORTATION PROGRAM.

(a) In General.—Section 404 of the Social Security Act (42 U.S.C. 604) is amended by adding at the end the following:

"(k) Limitations on Use of Grant for Matching Under Certain Federal Transportation Program.—

"(1) Use limitations.—A State to which a grant is made under section 403 may not use any part of the grant to match funds made available under section 3037 of the Transportation Equity for the 21st Century Act of 1998, unless—

“(A) the grant is used for new or expanded transportation services (and not for construction) that benefit individuals described in subparagraph (C), and not to subsidize current operating costs;

“(B) the grant is used to supplement and not supplant other State expenditures on transportation;

“(C) the preponderance of the benefits derived from such use of the grant accrues to individuals who are—

“(i) recipients of assistance under the State program funded under this part;

“(ii) former recipients of such assistance;

“(iii) noncustodial parents who are described in item (aa) or (bb) of section 403(a)(5)(C)(ii)(II); and

“(iii) low income individuals who are at risk of qualifying for such assistance; and

“(D) the services provided through such use of the grant promote the ability of such recipients to engage in work activities (as defined in section 407(d)).

“(2) Amount limitation.—From a grant made to a State under section 403(a), the amount that a State uses to match funds described in paragraph (1) of this subsection shall not exceed the amount (if any) by which 30 percent of the total amount of the grant exceeds the amount (if any) of the grant that is used by the State to carry out any State program described in subsection (d)(1) of this section.

“(3) Rule of interpretation.—The provision by a State of a transportation benefit under a program conducted under section 3037 of the Transportation Equity for the 21st Century Act of 1998, to an individual who is not otherwise a recipient of assistance under the State program funded under this part, using funds from a grant made under section 403(a) of this Act, shall not be considered to be the provision of assistance to the individual under the State program funded under this part.”.

(b) Report to the Congress.—Not later than 2 years after the date of the enactment of this Act, the Secretary of Transportation, in consultation with the Secretary of Health and Human Services, shall submit to the Committees on Ways and Means and on Transportation and Infrastructure of the House of Representatives and the Committees on Finance and on Environment and Public Works of the Senate a report that—

(1) describes the manner in which funds made available under section 3037 of the Transportation Equity for the 21st Century Act of 1998 have been used;

(2) describes whether such uses of such funds has improved transportation services for low income individuals; and

(3) contains such other relevant information as may be appropriate.

SEC. 404. CLARIFICATION OF MEANING OF HIGH-VOLUME AUTOMATED ADMINISTRATIVE ENFORCEMENT OF CHILD SUPPORT IN INTERSTATE CASES.

(a) In General.—Section 466(a)(14)(B) of the Social Security Act (42 U.S.C. 666(a)(14)(B)) is amended to read as follows:

“(B) High-volume automated administrative enforcement.—In this part, the term ‘high-volume automated administrative enforcement’, in interstate cases, means, on request of another State, the identification by a State, through automated data matches with financial institutions and other entities where assets may be found, of assets owned by persons who owe child support in other States, and the seizure of such assets by the State, through levy or other appropriate processes.”.

(b) Retroactivity.—The amendment made by subsection (a) shall take effect as if included in the enactment of section 5550 of the Balanced Budget Act of 1997 (Public Law 105–33; 111 Stat. 633).

SEC. 405. GENERAL ACCOUNTING OFFICE REPORTS.

(a) Report On Feasibility of Instant Check System.—Not later than December 31, 1998, the Comptroller General of the United States shall report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives on the feasibility and cost of creating and maintaining a nationwide instant child support order check system under which an employer would be able to determine whether a newly hired employee is required to provide support under a child support order.

(b) Report On Implementation and Use of Child Support Databases.—Not later than December 31, 1998, the Comptroller General of the United States shall report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives on the implementation of the Federal Parent Locater Service (including the Federal Case Registry of Child Support Orders and the National Directory of New Hires) established under section 453 of the Social Security Act (42 U.S.C. 653) and the State Directory of New Hires established under section 453A of such Act (42 U.S.C. 653a). The report shall include a detailed discussion of the purposes for which, and the manner in which, the information maintained in such databases has been used, and an examination as to whether such databases are subject to adequate safeguards to protect the privacy of the individuals with respect to whom information is reported and maintained.

SEC. 406. DATA MATCHING BY MULTISTATE FINANCIAL INSTITUTIONS.

(a) Use of Federal Parent Locator Service.—Section 466(a)(17)(A)(i) of the Social Security Act (42 U.S.C. 666(a)(17)(A)(i)) is amended by inserting “and the Federal Parent Locator Service in the case of financial institutions doing business in 2 or more States,” before “a data match system”.

(b) Facilitation of Agreements.—Section 452 of such Act (42 U.S.C. 652) is amended by adding at the end the following:

“(l) The Secretary, through the Federal Parent Locator Service, may aid State agencies providing services under State programs operated pursuant to this part and financial institutions doing business in 2 or more States in reaching agreements regarding the receipt from such institutions, and the transfer to the State agencies, of information that may be provided pursuant to section 466(a)(17)(A)(i), except that any State that, as of the date of the enactment of this subsection, is conducting data matches pursuant to section 466(a)(17)(A)(i) shall have until January 1, 2000, to allow the Secretary to obtain such information from such institutions that are operating in the State. For purposes of section 1113(d) of the Right to Financial Privacy Act of 1978, a disclosure pursuant to this subsection shall be considered a disclosure pursuant to a Federal statute.”.

(c) Protection Against Liability.—Section 469A(a) of such Act (42 U.S.C. 669a(a)) is amended by inserting “, or for disclosing any such record to the Federal Parent Locator Service pursuant to section 466(a)(17)(A)” before the period.

SEC. 407. ELIMINATION OF UNNECESSARY DATA REPORTING.

(a) In General.—Section 469 of the Social Security Act (42 U.S.C. 669) is amended—

(1) by striking all that precedes subsection (c) and inserting the following:

“SEC. 469. COLLECTION AND REPORTING OF CHILD SUPPORT ENFORCEMENT DATA.

“(a) In General.—With respect to each type of service described in subsection (b), the Secretary shall collect and maintain up-to-date statistics, by State, and on a fiscal year basis, on—

“(1) the number of cases in the caseload of the State agency administering the plan approved under this part in which the service is needed; and

“(2) the number of such cases in which the service has actually been provided.

“(b) Types of Services.—The statistics required by subsection (a) shall be separately stated with respect to paternity establishment services and child support obligation establishment services.

“(c) Types of Service Recipients.—The statistics required by subsection (a) shall be separately stated with respect to—

“(1) recipients of assistance under a State program funded under part A or of payments or services under a State plan approved under part E; and

“(2) individuals who are not such recipients.”; and

(2) in subsection (c), by striking “(c)” and inserting “(d) Rule of Interpretation.—”.

(b) Conforming Amendment.—Section 452(a)(10) of such Act (42 U.S.C. 652(a)(10)) is amended—

(1) by adding “and” at the end of subparagraph (H); and

(2) by striking subparagraph (I) and redesignating subparagraph (J) as subparagraph (I).

(c) Effective Date.—The amendments made by this section shall apply to information maintained with respect to fiscal year 1995 or any succeeding fiscal year.

SEC. 408. CLARIFICATION OF ELIGIBILITY UNDER WELFARE-TO-WORK PROGRAMS.

Section 403(a)(5)(C)(ii) of the Social Security Act (42 U.S.C. 603(a)(5)(C)(ii)) is amended—

(1) in the matter preceding subclause (I) by striking “of minors whose custodial parent is such a recipient”;

(2) in subclause (I), by inserting “or the noncustodial parent” after “recipient”; and

(3) in subclause (II), by striking “The individual—” and inserting “The recipient or the minor children of the noncustodial parent—”.

SEC. 409. STUDY OF FEASIBILITY OF IMPLEMENTING IMMIGRATION PROVISIONS OF H.R. 3130, AS PASSED BY THE HOUSE OF REPRESENTATIVES ON MARCH 5, 1998.

(a) Study.—The Secretary of Health and Human Services, in consultation with the Immigration and Naturalization Service, shall conduct a study to determine the feasibility of the provisions of title V of H.R. 3130, as passed by the House of Representatives on March 5, 1998, were such provisions to become law, especially whether it would be feasible for the Immigration and Naturalization Service to implement effectively the requirements of such provisions.

(b) Report to the Congress.—Within 6 months after the date of the enactment of this Act, the Secretary of health and Human Services shall submit to the Committees on Ways and Means and on the Judiciary of the House of Representatives and the Committees on Finance and on the Judiciary of the Senate a report on the results of the study required by subsection (a).

SEC. 410. TECHNICAL CORRECTIONS.

(a) Section 413(g)(1) of the Social Security Act (42 U.S.C. 613(g)(1)) is amended by striking "Economic and Educational Opportunities" and inserting "Education and the Workforce".

(b) Section 422(b)(2) of the Social Security Act (42 U.S.C. 622(b)(2)) is amended by striking "under under" and inserting "under".

(c) Section 432(a)(8) of the Social Security Act (42 U.S.C. 632(a)(8)) is amended by adding "; and" at the end.

(d) Section 453(a)(2) of the Social Security Act (42 U.S.C. 653(a)(2)) is amended—

(1) by striking "parentage," and inserting "parentage or";

(2) by striking "or making or enforcing child custody or visitation orders,"; and

(3) in subparagraph (A), by decreasing the indentation of clause (iv) by 2 ems.

(e)(1) Section 5557(b) of the Balanced Budget Act of 1997 (42 U.S.C. 608 note) is amended by adding at the end the following: "The amendment made by section 5536(1)(A) shall not take effect with respect to a State until October 1, 2000, or such earlier date as the State may select.".

(2) The amendment made by paragraph (1) shall take effect as if included in the enactment of section 5557 of the Balanced Budget Act of 1997 (Public Law 105–33; 111 Stat. 637).

(f) Section 473A(c)(2)(B) of the Social Security Act (42 U.S.C. 673b(c)(2)(B)) is amended—

(1) by striking "November 30, 1997" and inserting "April 30, 1998"; and

(2) by striking "March 1, 1998" and inserting "July 1, 1998".

(g) Section 474(a) of the Social Security Act (42 U.S.C. 674(a)) is amended by striking "(subject to the limitations imposed by subsection (b))".

(h) Section 232 of the Social Security Act Amendments of 1994 (42 U.S.C. 1314a) is amended—

(1) in subsection (b)(3)(D), by striking "Energy and"; and

(2) in subsection (d)(4), by striking "(b)(3)(C)" and inserting "(b)(3)".

The Clerk read the House amendment to the Senate amendment to the title, as follows:

House amendment to Senate amendment to the title:

In lieu of the matter proposed to be inserted by the Senate amendment to the title of the bill, insert the following:

"An Act to provide for an alternative penalty procedure for States that fail to meet Federal child support data processing requirements, to reform Federal incentive payments for effective child support performance, to provide for a more flexible penalty procedure for States that violate interjurisdictional adoption requirements, and for other purposes.".

Mr. SHAW (during the reading). Mr. Speaker, I ask unanimous consent that the House amendments to the Senate amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore (Mr. PEASE). Is there objection to the request of the gentleman from Florida?

There was no objection.

The SPEAKER pro tempore. Is there objection to the original request of the gentleman from Florida?

Mr. LEVIN. Mr. Speaker, I reserve the right to object to the original unanimous consent request, and I yield to the gentleman from Florida for an explanation of the amendment.

Mr. SHAW. I thank the gentleman for yielding.

Mr. Speaker, this amendment is the product of long and difficult negotiations with the Senate on final agreement which brings together two important provisions that will greatly improve the Nation's child support enforcement program.

The first provision reduces the harsh penalties imposed on States whose child support data processing system does not meet the Federal requirements. The reduced penalties, however, will still constitute the largest penalties ever imposed on States for failing to meet Federal requirements in the child support program. This provision is a slightly amended version of the bill which was approved by this House under suspension of the rules this past March. The major change is that the States that implement certified data processing systems later than required by Federal law will receive a more generous penalty reduction in the year their system is certified. To pay for that slight penalty reduction, penalties imposed on States that are 4 or more years late in building certified data systems are actually increased under this legislation.

The second provision completely replaces the outmoded and inefficient incentive system in the child support program. This new system, which was approved by the House under suspension of the rules on March 29, 1997, rewards States for effective and efficient performance in five critical areas of child support enforcement. All sides agree that this new incentive system will boost State performance and thereby help mothers and children.

The Congressional Budget Office has determined that the amendment is budget neutral and imposes no unfunded mandates on the States. My great disappointment in this compromise amendment is that we could not convince the Senate to agree to the excellent provision that was authored by the distinguished gentleman from Maryland (Mr. CARDIN). He and his staff have worked tirelessly to create an effective procedure for penalizing aliens who have overdue child support. I want to assure the gentleman from Maryland that we will continue to fight for his superb proposal until it is finally enacted into law.

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Finally, I wish to acknowledge the work of my good friend, the gentleman from Michigan (Mr. LEVIN), and his colleagues on the other side of the aisle. We have worked hand in hand throughout this process. We have also received invaluable assistance from the Department of Health and Human Services. The result of all of this bipartisan cooperation is wonderful legislation that will substantially improve the Nation's child support program.

Mr. Speaker, I ask unanimous consent that the legislative history be put into the RECORD.

The SPEAKER pro tempore (Mr. PEASE). Is there objection to the request of the gentleman from Florida?

There was no objection.

The legislative history is as follows:

LEGISLATIVE HISTORY OF SENATE AND HOUSE AMENDMENTS TO THE CHILD SUPPORT PERFORMANCE AND INCENTIVE ACT OF 1998

TITLE I. CHILD SUPPORT DATA PROCESSING REQUIREMENTS

SEC. 101. ALTERNATIVE PENALTY PROCEDURES

1. Eligibility for alternative penalty procedure

Present law

No provision. Under current law, if a State failed to implement a statewide automated data processing and information retrieval system by October 1, 1997 (which is a child support enforcement State plan requirement), the Office of Child Support Enforcement is required to "disapprove" the State's child support enforcement plan, after an appeals process, and suspend federal funding for the State's child support enforcement program. Moreover, pursuant to title IV–A (Temporary Assistance for Needy Families; TANF), a State that cannot certify that it has an approved Child Support Enforcement plan when it amends its TANF plan (generally every 2 years), is not eligible for TANF block grant funding. Thus, a State that failed to implement a statewide automated data processing and information retrieval system is in eventual jeopardy of losing its TANF block grant allocation along with its federal Chief Support Enforcement funding.

House bill

If the Secretary determines that a State is making good faith efforts to comply with the data processing requirements and if the State submits a corrective compliance plan describing how it will comply, by when, and at what cost, the State may avoid the penalty in current law and qualify for the new penalty procedure outlined below.

Senate amendment

Same.

Agreement

The agreement follows the House bill and the Senate amendment.

2. Penalty amount

Present law

As noted above, the penalty for noncompliance with a Child Support Enforcement State plan requirement is loss of all federal Child Support Enforcement funding and all TANF funding as well.

House bill

The percentage penalty is 4 percent, 8 percent, 16 percent, and 20 percent respectively for the first, second, third, and fourth or subsequent years of failing to comply with the data processing requirements. The percentage penalty is applied to the amount payable to the State in the previous year as Federal administrative reimbursement under the child support program.

Senate amendment

Same as House bill, except in the fourth or subsequent year, the percentage penalty is 30 percent.

Agreement

The agreement follows the House bill and the Senate amendment with the modification that the percentage penalty is 4, 8, 16, 25, and 30 percent in the first through fifth and subsequent years respectively.

3. Penalty waiver

Present law

No provision.

House bill

If by December 31, 1997, a State has submitted to the Secretary a request that the Secretary certify the State as meeting the 1998 data processing requirements and is subsequently certified as a result of a review pursuant to the request, all penalties are waived.

Senate amendment

If at any time during year 1998, a State has submitted to the Secretary a request that the Secretary certify the State as having met the 1988 data processing requirement and is subsequently certified as a result of a review pursuant to the request, all penalties are waived.

Agreement

The agreement follows the House bill and the Senate amendment except the State request that the Secretary certify the state as meeting the 1988 data processing requirements must be submitted by August 1, 1998.

4. Partial Penalty Forgiveness

Present law

No provision.

House bill

If a State operating under the penalty procedure achieves compliance with the data processing requirements before the first day of the next fiscal year, then the penalty for the current fiscal year is reduced by 75 percent.

Senate amendment

Under the Senate amendment, States will not face a penalty in the fiscal year in which they come into compliance. Moreover, if a State comes into compliance within the first two years after penalties have been imposed, then the penalty from the prior fiscal year is reduced by 20 percent.

Agreement

The agreement follows the House bill and the Senate amendment with the modifications that there is no retrospective penalty reduction of 20 percent and the penalty reduction in the year of certification is 90 percent. It is expected that the date of certification for a given State will be the date the State informs the Secretary in writing that the State is ready for certification review and the State in fact is certified under that review.

5. Penalty Reduction for Good Performance

Present law

No provision.

House bill

States must comply with all the data processing requirements imposed by the 1996 welfare reform law by October 1, 2000. A State that fails to comply may nonetheless have its annual penalty reduced by 20 percent for each performance measure under the new incentive system (see Title II below) for which it achieves a maximum score. Thus, for example, a State being penalized would have its penalty for a given year reduced by 60 percent if it achieved maximum performance on three of the five performance measures.

Senate enactment

Same.

Agreement

The agreement follows the House bill and the Senate amendment.

6. Penalty procedure applies to requirements of 1988 act and 1996 act

Present law

P.L. 104–193 requires that as part of their State child support enforcement plans all States, by October 1, 2000, have in effect a single statewide automated data processing and information retrieval system that meets all of the specified requirements, except that the deadline is extended by one day for each day (if any) by which the Secretary fails to meet the deadline for final regulations on the new data processing requirements (i.e., which is not later than August 22, 1998). The disapproval procedures described above also would apply to these new data processing requirements.

House bill

With the exception of the FY1998 waiver provision, which applies only to the 1988 requirements, and the penalty reduction provision for good performance, which applies only to the 1996 requirements, the new penalty procedure applies to data processing requirements of both the 1988 Family Support Act and the 1996 welfare reform legislation.

Senate enactment

Same as House bill, except the Secretary may only impose a single penalty for any given fiscal year with respect to the establishment or operation of an automated data processing and information retrieval system.

Agreement

The agreement follows the House bill and the Senate amendment with a modification which stipulates that a state may not be penalized for violating the automatic data processing and information retrieval system requirements imposed under Public Law 104–193 if the state is being penalized for violating the automatic data processing requirements of the 1988 Family Support Act. In addition, a State is not subject to more than one penalty at a given time under the data processing requirements of either the 1988 Act or the 1996 Act.

7. Exemption from TANF penalty procedures

Present law

As noted above, States without approved child support enforcement plans are in eventual danger of losing funding for the TANF block grant (which would include supplemental and bonus TANF funding and funding for the Welfare-to-Work program).

The TANF penalty for a State which the Secretary finds has not complied with one or more of the child support enforcement program requirements and has failed to take sufficient corrective action to achieve the appropriate performance level or compliance is subject to a graduated penalty of TANF block grant funds equal to not less than 1% nor more than 2% for the first finding of noncompliance; not less than 2% nor more than 3% for the second consecutive finding of noncompliance; and not less than 3% nor more than 5% for the third or subsequent finding of noncompliance.

House bill

No provision.

Senate amendment

Because States are subject to the penalty procedure outlined above for violations of the data processing requirement, they are exempt from the TANF penalty procedure for such violations.

Agreement

The agreement follows the Senate amendment. In addition the Social Security Act is amended to clarify that TANF money used as matching funds for grants under section 3037 of the Transportation Equity for the 21st Century Act of 1998 can only be spent on the transportation needs of families eligible for TANF benefits and other low-income families. TANF funds used to provide transportation services under section 3037 grants are not considered assistance for purposes of the TANF program.

SEC. 102. AUTHORITY TO WAIVE SINGLE STATEWIDE AUTOMATED DATA PROCESSING AND INFORMATION RETRIEVAL SYSTEM REQUIREMENT

8. Expansion of waiver provision

Present law

Current law states that the Secretary of the Department of Health and Human Services may waive any requirement related to the advance planning automated data processing document or the automated data processing and information retrieval system if the State demonstrates to the Secretary's satisfaction that the State has an alternative system or systems that enable the State to be in substantial compliance with other requirements of the child support enforcement program. The waiver must also meet the following conditions: (1) must be designed to improve the financial well-being of children or otherwise improve the operation of the child support enforcement program, (2) may not permit modifications in the child support enforcement program which would have the effect of disadvantaging children in need of support, and (3) must not result in increased cost to the federal government under the TANF program; or the State provides assurances to the Secretary that steps will be taken to otherwise improve the State's child support enforcement program.

House bill

The authority of the Secretary to waive certain data processing requirements and to provide Federal funding for a wider range of State data system activities is expanded to include waiving the single statewide system requirement under certain conditions and providing Federal funds to develop and enhance local systems linked to State systems. To qualify, a State must demonstrate that it can develop an alternative system that: Can help the State meet the paternity establishment requirement and other performance measures; can submit required data to HHS that is complete and reliable; substantially complies with all requirements of the child support enforcement program; achieves all the functional capacity for automatic data processing outlined in the statute; meets the requirements for distributing collections to families and governments, including cases in which support is owed to more than one family or more than one government; has one and only one point of contact for interstate case processing and intrastate case management; is based on standardized data elements, forms, and definitions that are used throughout the State; can be operational in no more time than it would take to achieve an operational single statewide system; and can process child support cases as quickly, efficiently, and effectively as would be possible with a single statewide system.

Senate amendment

Same.

Agreement

The agreement follows the House bill and the Senate amendment.

9. Federal payments under waiver provision

Present law

To be approved for a waiver, a State must demonstrate that the proposed project: (1) is designed to improve the financial well-being of children or otherwise improve the operation of the child support program; (2) does not permit modifications in the child support program that would have the effect of disadvantaging children in need of support; and (3) does not result in increased cost to the Federal government under the TANF program.

House bill

In addition to the various waiver requirements described in provision #8 above, and to the requirements in current law, the State must submit to the Secretary separate estimates of the costs to develop and implement both a single statewide system and the alternative system being proposed by the State plus the costs of operating and maintaining these systems for 5 years from the date of implementation. The Secretary must agree with the estimates. If a State elects to operate such an alternative system, the State would be paid the 66 percent federal administrative reimbursement only on expenditures equal to the estimated cost of the single statewide system.

Senate amendment

Same.

Agreement

The agreement follows the House bill and the Senate amendment.

TITLE II. CHILD SUPPORT INCENTIVE SYSTEM

SEC. 201. INCENTIVE PAYMENTS TO STATES

1. Amount of incentive payments

Present law

Each State receives an incentive payment equal to at least 6 percent of the State's total amount of child support collected on behalf of TANF families for the year, plus at least 6 percent of the State's total amount of child support collected on behalf of non-TANF families for the year. [Note: P.L. 98–378, the Child Support Enforcement Amendments of 1984, stipulates that political subdivisions of a State that participate in the costs of support enforcement must receive an appropriate share of any incentive payment given to the State. P.L. 98-378 also requires States to develop criteria for passing through incentives to localities, taking into account the efficiency and effectiveness of local programs.]

House bill

The incentive payment for a State for a given year is calculated by multiplying the incentive payment pool for the year by the State's incentive payment share for the year.

Senate amendment

Same.

Agreement

The agreement follows the House bill and the Senate amendment.

2. Incentive payment pool

Present law

No provision.

House bill

The incentive payment pool is equal to the CBO estimate of incentive payments for each year under current law. Specifically, the amounts (in millions) for fiscal years 2000 through 2008 respectively are: $442, $429, $450, $461, $454, $446, $458, $471 and $483. Specifying these amounts in the statute assures that the incentive payments will be budget neutral. After 2008, the incentive payment pool increases each year by an amount equal to the rate of inflation.

Senate amendment

Same.

Agreement

The agreement follows the House bill and the Senate amendment.

3. Calculating incentive payments

Present law

The maximum incentive payment for a State could reach a high of 10 percent of child support collected on behalf of TANF families plus 10 percent of child support collected on behalf of non-TANF families. There is a limit, however, on the incentive payment for non-TANF child support collections. The incentive payments for such collections may not exceed 115 percent of incentive payments for TANF child support collections.

House bill

In addition to the incentive payment pool, incentive calculations are based on the five factors defined below. The general approach is to pay to each State its share of the incentive payment pool based on the quality of its performance on the five incentive performance measures. The five computational factors are:

(1) State collections base is used to ensure that incentive payments are proportional to the amount of child support collected by the State; collections for welfare cases are given double the weight of collections for nonwelfare cases in the calculations;

(2) Maximum incentive base amount is simply a device to give extra weight to three of the five incentive performance measures because these measures are thought to be more important to State performance. Specifically, paternity establishment, establishment of support orders, and collections on current support receive full weight in the calculations, while collections on past-due support and the cost-effectiveness performance level receive a weight of only 75 percent of the other three measures;

(3) Applicable percentage is the actual measure of performance effectiveness and is determined by looking up the raw performance level in a table; there is a different table for each of the five performance measures (see below);

(4) Incentive base amount is the total of the applicable percentages for each of the five performance measures multiplied by their respective maximum incentive base amounts (either 1.00 or 0.75);

(5) State incentive payment share is a percentage calculated by using the four factors defined above. This measure specifies the percentage share of the annual payment pool that each State receives. The State incentive payment share takes into account the State's performance on all five incentive performance measures, the weighting of the five incentive performance measures, its collections in the TANF and non-TANF caseloads, and its performance relative to other States.

Senate amendment

Same.

Agreement

The agreement follows the House bill and the Senate amendment.

4. Data used to calculate ratios required to be complete and reliable

Present law

No provision.

House bill

The payment on each of the five performance measures is zero unless the Secretary determines that the data submitted by the State for each measure is complete and reliable.

Senate amendment

Same

Agreement

The agreement follows the House bill and the Senate amendment.

5. State collections base

Present law

Although the collections base terminology is not used, the incentive payment is based on total child support collected on behalf of TANF families (i.e., TANF collections) plus total child support collected on behalf of non-TANF families (i.e., non-TANF collections).

House bill

The collections base for a fiscal year is the sum of two categories of child support collections by the State. The first category is collections on cases in the State child support welfare caseload. This category includes families that are currently or were formerly receiving benefits from TANF (or its predecessor program Aid to Families with Dependent Children), from Medicaid under Title XIX, or from foster care under Title IV-E. Total collections from this category are doubled in the State collections base calculation. The second category is collections from all other families receiving services from the State child support enforcement program.

Senate amendment

Same.

Agreement

The agreement follows the House bill and the Senate amendment.

6. Determination of applicable percentages for paternity establishment performance level

Present law

No provision.

House bill

The paternity establishment performance level for a State for a fiscal year is, at the option of the State, either the paternity establishment percentage of cases in the child support program or the paternity establishment percentage of all births in the State. In both cases, the paternity establishment percentage is obtained by dividing the cases in which paternity is established by the total number of nonmarital births. The applicable percentage is then determined in accord with the table in new section 458A(b)(6)(A) of the Social Security Act (see Table 1 below).

Special rule for computing the applicable percentage for paternity establishment: If the paternity establishment performance level of a State is less than 50 percent but exceeds by at least 10 percentage points the paternity establishment performance level of the State for the immediately preceding fiscal year, then the applicable percentage for the State paternity establishment performance level is 50 percent.

Senate amendment

Same.

Agreement

The agreement follows the House bill and the Senate amendment.

7. Determination of applicable percentages for child support order performance level

Present law

No provision.

House bill

The support order performance level for a State for a fiscal year is the percentage of cases in the child support program for which there is a support order. The applicable percentage is then determined in accord with the table of new section 458A(b)(6)(B) of the Social Security Act (see Table 2 below)

Special rule for computing the applicable percentage for child support orders: If the support order performance level of a State is less than 50 percent but exceeds by at least 5 percentage points the support order performance level of the State for the immediately preceding fiscal year, then the applicable percentage for the State's support order performance level is 50 percent.

Senate amendment

Same

Agreement

the agreement follows the House bill and the Senate amendment.

8. Determination of applicable percentages for collections on current child support due performance level

Present law

No provisions.

House bill

The current support payment performance level for a State for a fiscal year is the total amount of current support collected during the fiscal year from all cases in the child support program (both welfare and non-welfare cases) divided by the total amount owed on support which is not overdue. The applicable percentage is then determined in accord with the table in new section 458A(b)(6)(C) of the Social Security Act (see Table 3 below).

Special rule for computing the applicable percentage for current payments: If the current payment performance level is less than 40 percent but exceeds by at least 5 percentage points the current payment performance level of the State for the immediately preceding fiscal year, then the applicable percentage for the State's current payment performance level is 50 percent.

Senate amendment

Same.

Agreement

The agreement follows the House bill and the Senate amendment.

9. Determination of applicable percentages for collections on child support arrearages performance level

Present law

No provision.

House bill

The arrearages payment performance level for a State for a fiscal year is the total number of cases in the State child support program that received payments on past-due child support divided by the total number of cases in the State child support program in which a payment of child support is past-due. The applicable percentage is then determined in accord with the table in new section 458A(b)(6)(D) of the Social Security Act (see Table 4 below).

Special rule for computing the applicable percentage for arrears: If the arrearages payment performance level of a State for a fiscal year is less than 40 percent but exceeds by at least 5 percentage points the arreages payment performance level for the immediately preceding fiscal year, then the applicable percentage for the State's arrearages performance level is 50 percent.

Senate amendment

Same.

Agreement

The agreement follows the House bill and the Senate amendment.

10. Determination of applicable percentages for cost-effectiveness performance level

Present law

Incentive payments are made according to the collection-to-cost ratios (ratio of TANF collections to total child support enforcement administrative costs and ratio of non-TANF collections to total child support enforcement administrative costs) shown below.

Collection-to-cost ratio:	*Incentive payment received (percent)*
Less than 1.4 to 1	6.0
At least 1.4 to 1	6.5
At least 1.6 to 1	7.0
At least 1.8 to 1	7.5
At least 2.0 to 1	8.0
At least 2.2 to 1	8.5
At least 2.4 to 1	9.0
At least 2.6 to 1	9.5
At least 2.8 to 1	10.0

For purposes of calculating these ratios, interstate collections are credited to both the initiating and responding States. In addition, at State option, laboratory costs (for blood testing, etc.) to establish paternity may be excluded from the State's administrative costs in calculating the State's collection-to-cost ratios for purposes of determining the incentive payment.

House bill

The cost-effectiveness performance level for a State for a fiscal year is the total amount collected during the fiscal year from all cases in the State child support program divided by the total amount expended during the fiscal year on the State child support program. The applicable percentage is then determined in accord with the table in new section 458A(b)(6)(E) of the Social Security Act (see Table 5 below).

Senate amendment

Same.

Agreement

The agreement follows the House bill and the Senate amendment.

11. Treatment of interstate collections.

Present law

As noted above, in computing incentive payments, child support collected by one State at the request of another State (i.e., interstate collections) are credited to both the initiating State and the responding State. State expenditures on special interstate projects carried out under section 455(e) of the Social Security Act must be excluded from the incentive payment calculation.

House bill

In computing incentive payments, support collected by a State at the request of another State is treated as having been collected by both States. State expenditures on a special interstate project carried out under section 455(e) are excluded from incentive payment calculations.

Senate amendment

Same.

Agreement

The agreement follows the House bill and the Senate amendment.

12. Administrative provisions

Present law

The Secretary's incentive payments to States for any fiscal year are estimated at or before the beginning of such year based on the best information available. The Secretary makes such payments on a quarterly basis. Each quarterly payment must be reduced or increased to the extent of overpayments or underpayments for prior periods.

House bill

The Secretary's incentive payments to States are based on estimates computed from previous performance by the States. Each year, the Secretary must make quarterly payments based on these estimates. Each quarterly payment must be reduced or increased to the extent of overpayments or underpayments for prior periods.

Senate amendment

Same.

Agreement

The agreement follows the House bill and the Senate amendment.

13. Regulations

Present law

Not applicable.

House bill

The Secretary of Health and Human Services must prescribe regulations necessary to implement the incentive payment program within 9 months of the date of enactment. These regulations may include directions for excluding certain closed cases and cases over which the State has no jurisdiction.

Senate amendment

Same.

Agreement

The agreement follows the House bill and the Senate amendment.

14. Reinvestment

Present law

No provision.

House bill

States must spend their child support incentive payments to carry out their child support enforcement program or to conduct activities approved by the Secretary which may contribute to improving the effectiveness or efficiency of the State child support enforcement program.

Senate amendment

Same.

Agreement

The agreement follows the House bill and the Senate amendment.

15. Transition rule

Present law

Not applicable.

House bill

The new incentive system is phased in over 2 years beginning in fiscal year 2000. In fiscal year 2000, 1/3rd of each State's incentive payment is based on the new incentive system and 2/3rds on the old system. In fiscal year 2001, 2/3rds of each State's incentive payment is based on the new incentive system and 1/3rd on the old system. The new system is fully operational in fiscal year 2002.

Senate amendment

Same.

Agreement

The agreement follows the House bill and the Senate amendment.

16. Review

Present law

No provision.

House bill

The Secretary of Health and Human Services must conduct a study of the implementation of the incentive payment program in order to identify problems and successes of the program. An interim report must be presented to Congress not later than March 1,

2001. By October 1, 2003, the Secretary must submit a final report. Recommendations for changes that the Secretary determines would improve program operation should be included in the final report.

Senate amendment

Same.

Agreement

The agreement follows the House bill and the Senate amendment.

17. Study

Present law

No provision.

House bill

The Secretary, in consultation with State IV–D directors and representatives of children potentially eligible for medical support, must develop a new medical support incentive measure based on effective performance. A report on this new incentive measure must be submitted to Congress not later than October 1, 1999.

Senate amendment

Same.

Agreement

The agreement follows the House bill and the Senate amendment.

18. Technical and conforming amendments

Present law

No provision.

House bill

This section contains two technical and conforming amendments.

Senate amendment

Same.

Agreement

The agreement follows the House bill and the Senate amendment.

19. Elimination of current incentive program

Present law

No provision. (The current incentive payment system is a permanent provision of law.)

House bill

The current incentive program under section 458 of the Social Security Act is repealed on October 1, 2001. On that date, section 458A is redesignated as section 458.

Senate amendment

Same.

Agreement

The agreement follows the House bill and the Senate amendment.

20. General effective date

Present law

The current incentive payment system took effect on October 1, 1985.

House bill

Except for the elimination of the current incentive program (see provision #19 above), the amendments made by this legislation take effect on October 1, 1999.

Senate amendment

Same.

Agreement

The agreement follows the House bill and the Senate amendment.

TITLE III. ADOPTION PROVISIONS

SEC. 301. MORE FLEXIBLE PENALTY PROCEDURE TO BE APPLIED FOR FAILING TO PERMIT INTERJURISDICTIONAL ADOPTION

Present law

Under section 474(e) of the Social Security Act (as established by P.L. 105-89), a State is not eligible for any foster care or adoption assistance payments under Title IV–E if the Secretary finds that the State has denied or delayed a child's adoptive placement when an approved family is available outside the jurisdiction with responsibility for handling the child's case, or the State has failed to grant an opportunity for a fair hearing to anyone who alleges that a violation of this provision was denied by the State or not acted upon promptly.

House bill

The current penalty of losing all Federal Title IV–E funds for violating the jurisdictional provision is dropped and a new penalty is substituted. Under the new penalty, States that violate the adoption provision would receive a penalty equal to 2 percent of the Federal funds for foster care and adoption under Title IV–E of the Social Security Act for the first violation, 3 percent for the second violation, and 5 percent for the third and subsequent violations.

Senate amendment

Same.

Agreement

The agreement follows the House bill and the Senate amendment. The intent of a major provision of the Adoption and Safe Families Act of 1997 is to remove interjurisdictional barriers to adoption to ensure that States facilitate timely permanent placements for children. Any State policy or practice that denies a child the opportunity to be adopted across State or county jurisdictions is in clear violation of the Act. The Department of Health and Human Services must develop a comprehensive monitoring strategy to uncover state violations. The new penalties for violating the interjurisdictional provision are aimed at enforcing State plan violations by reducing for a fiscal quarter the amount of money payable to the State by 2 percent for the first violation, 3 percent for the second violation, and 5 percent for the third and subsequent violations. Congress expects the Secretary to carefully monitor changes in State policy on interjurisdictional barriers and to use the new penalties enacted by Congress if necessary.

The Adoption and Safe Families Act of 1997 does not prevent a State from making efforts to preserve or reunify a family in cases of aggravated circumstances, as long as the child's health and safety are the paramount considerations. In addition, the Adoption and Safe Families Act of 1997 establishes a new requirement that States must initiate termination of parental rights proceedings in specific cases that are outlined in the law. However, the law only requires States to initiate such proceedings and does not mandate the outcome. Moreover, the law provides that States are not required to initiate termination of parental rights in certain cases, including when there is a compelling reason to conclude that such proceedings would not be the child's best interest. Thus, the State retains the discretion to make case-by-case determinations regarding whether to seek termination of parental rights.

TITLE IV. TECHNICAL CORRECTIONS

SEC. 401. ELIMINATION OF BARRIERS TO THE EFFECTIVE ESTABLISHMENT AND ENFORCEMENT OF MEDICAL CHILD SUPPORT

Present law

P.L. 104-193 required Employee Retirement Income Security Act (ERISA) plan administrators to honor health insurance orders (i.e. medical support orders) issued by courts or administrative agencies. It appears that many ERISA plan administrators interpreted the statutory language as requiring the actual receipt of a copy of the order itself. Since it is the practice of many CSE agencies to simply notify the ERISA plan administrator that an order has been issued for a case, many plan administrators did not recognize the administrative notice as sufficient to meet the requirements of current law. Currently only 60% of all national child support orders include a medical support component. In its 1996 review of state child support enforcement programs, GAO reported that at least 13 states were not consistently petitioning to include medical support in its general support orders, and 20 states were not enforcing existing medical support orders.

House bill

No provision.

Senate amendment

The Senate amendment requires the Secretaries of the Departments of Health and Human Services and Labor to design and implement a National Standardized Medical Support Notice. Proposed regulations would be required no later than 180 days after the date of enactment, and final regulations no later than 1 year after the Date of enactment. State child support enforcement agencies would be required to use this standardized form to communicate the issuance of a medical support order, and employers would be required to accept the form as a "qualified medical support order" under the Employee Retirement Income Security Act (ERISA). The Secretaries would jointly establish a medical support working group, not later than 90 days after the date of enactment, to identify and make recommendations for the removal of other barriers to effective medical support. The working group's report on recommendations for appropriate measures to address the impediments to effective enforcement of medical support is due to the Secretary of Health and Human Services, and the Congress, no later than 18 months after the date of enactment. The Secretary of Labor, in consultation with the Secretary of Health and Human Services, would be required to submit to Congress, not later than one year after the date of enactment of this bill, a report containing recommendations for any additional ERISA changes necessary to improve medical support enforcement.

Agreement

Medical child support is an essential part of any general child support order because it enables a child to have access to quality private health care coverage to which she or he would not otherwise be entitled. It also prevents the misuse of Federal programs such as Medicaid and the State Children's Health Insurance Program as a backdoor alternative for parents who shirk their medical child support responsibilities. Although ERISA already requires that employers enforce medical care support orders if those orders meet certain criteria laid out in that statute (which qualifies them as *Qualified Medical Child Support Orders or QMSCOs)*, effective enforcement of medical child support is still thwarted by a lack of standardized communication between the state child support enforcement agencies, parents' employers, and the plan administrators of parents' health insurance plans. Streamlining the medical support process for ERISA plans and non-ERISA plans alike is essential to ensure that all children receive the medical support for which they are eligible.

The agreement follows the Senate provision on medical support with changes. The agreement requires that the Medical Child Support Working Group be established within 60 days after the date of enactment. It also adds others to the Working Group (e.g. organizations representing state child support programs and the trade or industry representatives of employers and their certified human resource and payroll professionals). It is expected that representatives of at least the following organizations be invited to participate in the working group—the American Public Welfare Association, the New York State Child Support Division, the Eastern Regional Interstate Child Support Association, the American Payroll Association, the ERISA Industry Committee, the Society for Human Resource Management, the National Coordinating Committee for Multi-employer Plans, the Center for Law and Social Policy, and the Children's Defense Fund. The working group is required to submit its recommendations for appropriate measures to address the impediments to effective enforcement of medical support to the Secretaries of Health and Human Services and Labor no later than 18 months after the date of enactment. The Secretaries are required to submit their joint report to Congress no later than 2 months after they receive the recommendations of the working group.

In general, the agreement would follow the Senate provision with respect to the development and promulgation by regulation of a National Medical Support Notice to be issued by the States as a means of ensuring that the medical support provisions in a child support order are properly carried out. The National Medical Support Notice (1) is to conform to the provisions specified in section 609(a)(3) of ERISA (irrespective of whether the group health plan is covered by reason of section 4 of such Act), and (2) is to include a separate and easily severable employer withholding notice (which can be made severable in any reasonable manner and not limited to perforated paper). Interim regulations for the National Medical Support Notice would be required within 10 months of the date of enactment, and final regulations no later than 1 year after the issuance of the interim regulations.

The agreement requires State Child Support Enforcement agencies to use the National Medical Support Notice to transfer notice of provision of health care coverage for the child to the non-custodial parent's employer (unless alternative coverage is allowed for in any order of the court or other entity issuing the order). The employer is then required, within 20 business days, to send the portion of the national notice excluding the employer withholding notice to the appropriate plan providing health care coverage for which the child is eligible. The employer withholding notice is also to inform the employer of applicable provisions of state law (and related information) requiring the employer to withhold any employee contributions due as may be required to enroll the child under such plan.

The agreement requires ERISA plan and other covered plan administrators who receive an appropriately completed National Medical Support Notice to comply with such notice as a qualified medical child support order. The plan administrator is then to report back to the State within 40 business days after receipt of the Notice whether coverage is available, whether the child is covered and the date of coverage, and if the child is not covered, any steps needed to enroll the child under the plan. Nothing in this provision is to be construed as requiring a covered group health plan to provide benefits (or eligibility for such benefits) which are not otherwise provided under the terms of the plan.

The agreement also applies the requirements of the National Medical Support Notice to certain other plans that are not covered under section 609 of ERISA.

SEC. 401. SAFEGUARD OF NEW EMPLOYEE INFORMATION

Present law

No provision.

House bill

No provision.

Senate amendment

The Senate amendment would impose a fine of $1,000 for each act of unauthorized access to, disclosure of, or use of information in the National Directory of New Hires. It would also require that data entered into the National Directory of New Hires be deleted 24 months after the date of entry for individuals who have a child support order. For an individual who does not have a child support order, the data would be required to be deleted after 12 months.

Agreement

The agreement follows the Senate amendment with modifications. The $1,000 fine is retained and the Social Security Administration (SSA), which maintains the New Hires data base under contract with HHS, must delete the New Hire and wage and unemployment compensation data within 24 months after receipt. However, HHS will not have access to the wage and unemployment compensation data after 12 months for individuals who have not been found to have a child support order. The Secretary may retain data on a sample of cases for research purposes. In addition, the Secretary must inform Congress within 90 days after enactment of the purposes for which the New Hire and wage and unemployment compensation data will be used. The Secretary must also inform Congress at least 30 days before the data is to be used for a purpose not specified in the original report. Within 3 years after enactment, the Secretary must report to Congress on the accuracy of New Hire data and the effectiveness of the procedures designed to safeguard the New Hire information.

SEC. 403. CONFORMING AMENDMENTS REGARDING THE COLLECTION AND USE OF SOCIAL SECURITY NUMBERS FOR THE PURPOSES OF CHILD SUPPORT ENFORCEMENT

Present law

Federal law (section 205(c)(2)(C) allows any State (or subdivision of the State) to use Social Security account numbers in the administration of any tax, public assistance, driver's license, or motor vehicle registration laws within its jurisdiction to identify individuals affected by such laws.

House bill

No provision.

Senate amendment

The Senate amendment revises the current statute to reflect the social security numbers also must be used by the agencies administering the renewal of professional licenses, driver's licenses, occupational licenses, or recreational licenses to respond to requests for information from Child Support Enforcement agencies; and that all divorce decrees, support orders, paternity determinations and paternity acknowledgments must include the social security number of the applicable individuals for the purpose of responding to requests for information from Child Support Enforcement agencies.

Agreement

The agreement follows the House bill; i.e., no provision.

SEC. 404. CLARIFICATION OF DEFINITION REGARDING HIGH-VOLUME AUTOMATED ADMINISTRATIVE ENFORCEMENT OF CHILD SUPPORT

Present law

Federal law (section 466(a)(14) of the Social Security Act, as amended by section 5550 of P.L. 105-33) requires States to conduct "high-volume automated administrative enforcement," to the same extent as used for intrastate cases, in response to a request made by another state to enforce a child support order and promptly report the results of such enforcement procedures to the requesting state. Federal law also defines "high-volume automated administrative enforcement."

House bill

No provision.

Senate amendment

The Senate amendment eliminates the definition of "high-volume automated administrative enforcement" from the statute.

Agreement

The agreement replaces the definition of "high-volume automated administrative enforcement" in current law with a clearer definition. The new definition requires states, upon request from another state in an interstate case, to use automated data matches with financial institutions and other entities to locate the obligor's assets and, when assets are discovered, to seize these asset through levy or other appropriate process. The agreement also includes a provision allowing the Secretary, through the Federal Parent Locator Service, to help States work with financial institutions doing business in 2 or more states. The Secretary may send identifying information to such financial institutions on all individuals who owe past-due child support in any state. The financial institutions will then transmit back to the Secretary the identifying information on individuals who owe past-due support for whom they have accounts; the Secretary will transmit this information back to the state that submitted the identifying information. The State will take appropriate actions to seize the assets.. This provision does not allow the Secretary to have access to any financial information on individuals holding accounts in these financial institutions. Multi-state financial institutions that respond to requests for information from the Secretary are not expected to respond to such requests from any state for which they have accepted information from the Secretary. However, states that now conduct these data matches with financial institutions that do business in 2 or more states may continue such procedures until January 1, 2000. This provision is not intended to prohibit a State from requiring any financial institution doing business in the State to report account information directly to the State for purposes other than child support enforcement. Financial institutions that provide identifying information to the Secretary or seize assets at the request of States are not liable under State or Federal law for such actions.

SEC. 405. GENERAL ACCOUNTING OFFICE REPORTS

Present law

No provision.

House bill

No provision.

Senate amendment

The Senate amendment would require the Comptroller General of the United States (i.e., the General Accounting Office) to report to Congress, no later than December 31, 1998, on the feasibility of implementing an instant check system for employers to use in identifying individuals with child support orders. The report is to include a review of the use of the Federal Parent Locator Service, including the Federal Case Registry of Child Support Orders and the National Directory of New Hires, and the adequacy of the privacy protections.

Agreement

The agreement follows the Senate amendment.

SEC. 406. TECHNICAL CORRECTIONS (THIS PROVISION IS SECTION 401 OF THE HOUSE BILL).

Present law

Under section 473A of the Social Security Act (as established by P.L. 105-89), States may receive financial incentives for increasing their number of adoptions of foster children, above an annual base level. In determining the base levels for each State, the Secretary will use data from the Adoption and Foster Care Analysis and Reporting System (AFCARS). However, in determining the base levels for fiscal years 1995 through 1997, the Secretary may use alternative data sources, as reported by a State by November 30, 1997, and approved by the Secretary by March 1, 1998.

Under Section 466(a)(13) of the Social Security Act (as established by P.L. 104-193 and amended by P.L. 105-33), states must have procedures requiring that the social security number of an applicant for a professional license, driver's license, occupational license, recreational, or marriage license be recorded on the application. In addition, the social security number of a person subject to a divorce decree, support order, or paternity determination or acknowledgment must be placed in the records relating to the matter. Also social security numbers must be recorded on death certificates. The statute permits the state to use a number other than the social security number in some cases. If a state chooses this option, it must still keep the social security number of the applicant on file.

The Illegal Immigration Reform and Immigrant Responsibility Act of 1996 required States to collect social security numbers on applications for State licenses for purposes of checking the identity of immigrants by October 1, 2000..

House bill

The current law on alternative data sources to calculate the adoption incentive amount only allowed the use of data reported by States by November 30, 1997 and approved by the Secretary by March 1, 1998. The new provision provides States with an additional 5 months to report data (until April 30, 1998) and the Secretary with an additional 4 months to approve the data (until July 1, 1998).

The House bill changes the January 1, 1998 date in the 1996 welfare reform law pertaining to State licenses to October 1, 2000, or such earlier date as the State selects.

Senate amendment

Same.

Agreement

The Agreement follows the House bill and the Senate amendment with some additional technical amendments. The State data reporting on child support enforcement required under section 469 of the Social Security Act is simplified. The provision on eligibility for services in the Welfare-to-Work program authorized by section 403(a)(5) of the Social Security Act is clarified by allowing states to provide services to noncustodial parents of children who meet the qualifications for benefits under the program. Two sections of the Child Support Enforcement statute at Title IV–D of the Social Security Act regarding the use of the Federal Parent Locator Service (FPLS) are clarified. Language on use of the FPLS for making or enforcing child custody or visitation orders is removed from section 453 where it had been placed inadvertently by legislation enacted in 1997. The language on use of the FPLS in cases of parental kidnaping, child custody, or parental visitation is located in section 463. This statute requires States to receive and transmit to the Secretary requests from authorized persons (State agents, attorneys, or courts). The provisions of section 463, which carefully balance the rights of children, custodial parents, and noncustodial parents, are intended to ensure that the FPLS is used in an even-handed fashion to assist both parents in achieving access to their children under appropriate circumstances. States must honor the requests of noncustodial parents to have access, through local courts, to information in the FPLS if the procedures of section 463 are followed.

TITLE V. IMMIGRATION PROVISIONS

SEC. 501. ALIENS INELIGIBLE TO RECEIVE VISAS AND EXCLUDED FROM ADMISSION FOR NONPAYMENT OF CHILD SUPPORT

Present law

No comparable provision. The Immigration and Nationality Act (INA) enumerates a number of reasons why an alien may be ineligible to receive visas and excluded from admission, including the likelihood of becoming a public charge, but failure to pay child support is not among them.

House bill

Amends the INA to makes inadmissible any alien legally obligated to pay child support whose failure to pay has resulted in an arrearage exceeding $5,000, until child support payments are made or the alien is in compliance with an approved payment agreement. Extends applicability to aliens previously admitted for permanent residence (i.e., as immigrants) who are seeking readmission. Authorizes the Attorney General to waive inadmissibility in a given case if he or she: (1) has received a waiver request from the court of administrative agency with jurisdiction over the child support case; and (2) determines that granting the waiver would substantially increase the likelihood that past and future child support payments would be made.

Senate amendment

No provision.

Agreement

The agreement follows the Senate amendment except that the Secretary of HHS is required to write a report, after consulting with the Immigration and Naturalization Service (INS), on the feasibility of enacting the provision on child support enforcement against aliens in the House bill. The report, which must be delivered to Congress within 6 months of enactment, must include an assessment of whether the INS can effectively implement the requirements of the House provision.

SEC. 502. EFFECT OF NONPAYMENT OF CHILD SUPPORT ON ESTABLISHMENT OF GOOD MORAL CHARACTER

Present law

No comparable provision in the reasons given in the INA for a determination that an alien is not a person of good moral character; such a determination is necessary for an immigrant to naturalize.

House bill

Amends the INA to preclude a finding of good moral character, and thus naturalization, if a person obligated to pay child support has failed to do so, with the opportunity to overcome this either by meeting the child support obligation or complying with an approved payment agreement.

Senate amendment

No provision.

Agreement

The agreement follows the Senate amendment; i.e., no provision

SEC. 503. AUTHORIZATION TO SERVE LEGAL PROCESS IN CHILD SUPPORT CASES ON CERTAIN ARRIVING ALIENS

Present law

No comparable provision among the functions Immigration and Naturalization Service (INS) officers are authorized by the INA to perform during the inspections process.

House bill

Amends the INA to authorize INS officers, to the extent consistent with state law, to serve an applicant for admission with a writ, order, or summons in a child support case.

Senate amendment

No provision.

Agreement

The agreement follows the Senate Amendment; i.e., no provision.

SEC. 504. AUTHORIZATION TO OBTAIN INFORMATION ON CHILD SUPPORT PAYMENTS BY ALIENS

Present law

No comparable provision.

House bill

Amends the Social Security Act to authorize the Secretary of HHS to respond to requests by the Attorney General or the Secretary of State with information which, in the opinion of the HHS Secretary, may aid them in determining whether an alien owes child support.

Senate amendment

No provision.

Agreement

The agreement follows the Senate amendment; i.e., no provision.

TABLE 1

If the paternity establishment performance level is—		The applicable percentage is
At least (percent)	But less than (percent)	
80		100
79	80	98
78	79	96
77	78	94
76	77	92
75	76	90
74	75	88
73	74	86
72	73	84
71	72	82
70	71	80
69	70	79
68	69	78
67	68	77
66	67	76
65	66	75
64	65	74
63	64	73
62	63	72
61	62	71
60	61	70
59	60	69
58	59	68
57	58	67
56	57	66
55	56	65
54	55	64

TABLE 1—Continued

If the paternity establishment performance level is—		The applicable percentage is
At least (percent)	But less than (percent)	
53	54	63
52	53	62
51	52	61
50	51	60
0	50	0

TABLE 2

If the support order establishment performance level is—		The applicable percentage is
At least (percent)	But less than (percent)	
80		100
79	80	98
78	79	96
77	78	94
76	77	92
75	76	90
74	75	88
73	74	86
72	73	84
71	72	82
70	71	80
69	70	79
68	69	78
67	68	77
66	67	76
65	66	75
64	65	74
63	64	73
62	63	72
61	62	71
60	61	70
59	60	69
58	59	68
57	58	67
56	57	66
55	56	65
54	55	64
53	54	63
52	53	62
51	52	61
50	51	60
0	50	0

TABLE 3

If the current payment performance level is—		The applicable percentage is
At least (percent)	But less than (percent)	
80		100
79	80	98
78	79	96
77	78	94
76	77	92
75	76	90
74	75	88
73	74	86
72	73	84
71	72	82
70	71	80
69	70	79
68	69	78
67	68	77
66	67	76
65	66	75
64	65	74
63	64	73
62	63	72
61	62	71
60	61	70
59	60	69
58	59	68
57	58	67
56	57	66
55	56	65
54	55	64
53	54	63
52	53	62
51	52	61
50	51	60
49	50	59
48	49	58
47	48	57
46	47	56
45	46	55
44	45	54
43	44	53
42	43	52
41	42	51
40	41	50
0	40	0

TABLE 4

If the arrearage payment performance level is—		The applicable percentage is
At least (percent)	But less than (percent)	
80		100
79	80	98
78	79	96
77	78	94
76	77	92
75	76	90
74	75	88
73	74	86
72	73	84
71	72	82
70	71	80
69	70	79
68	69	78
67	68	77
66	67	76
65	66	75
64	65	74
63	64	73
62	63	72
61	62	71
60	61	70
59	60	69
58	59	68
57	58	67
56	57	66
55	56	65
54	55	64
53	54	63
52	53	62
51	52	61
50	51	60
49	50	59
48	49	58
47	48	57
46	47	56
45	46	55
44	45	54
43	44	53
42	43	52
41	42	51
40	41	50
0	40	0

TABLE 5

If the cost effectiveness performance level is—		The applicable percentage is
At least	But less than	
5.00		100
4.50	4.99	90
4.00	4.50	80
3.50	4.00	70
3.00	3.50	60
2.50	3.00	50
2.00	2.50	40
0.00	2.00	0

GENERAL LEAVE

Mr. SHAW. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks and include extraneous material on the House amendment to the Senate amendment to H.R. 3130.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. LEVIN. Mr. Speaker, further reserving the right to object, I rise in strong support today for H.R. 3130 which will reward States that administer effective child support enforcement systems. The bill is a result of the cooperation and hard work of both parties and both Chambers of Congress, and it is very similar to legislation the House passed earlier this year by a vote of 414 to 1, and I would like to congratulate the chairman of the subcommittee, the gentleman from Florida (Mr. SHAW), to his staff, and to our staff, and to the administration for all of its work.

This bill is tough because it is realistic. No more postponements. States will have to modernize their systems to collect moneys ordered by courts for noncustodial parents needed by their children or face certain penalties.

H.R. 3130, as the gentleman from Florida (Mr. SHAW) has explained has two basic goals. First, the legislation would establish a new set of penalties for States that have failed to modernize their child support systems. Unlike the current penalties, these new requirements can be realistically enforced and therefore represent a meaningful incentive for States to computerize and centralize their child support files. These steps are necessary for reliable and timely payments to children and families.

Second, the bill would revamp the current Federal system for rewarding performance among State child support enforcement systems. By establishing specific performance criteria, H.R. 3130 would make these incentive payments more closely track State efforts to enforce child support orders.

Let me say the concerns from the other body unfortunately prevented us from including in this bill, as the gentleman from Florida (Mr. SHAW) has stated, a provision championed by the gentleman from Maryland (Mr. CARDIN) to deny noncitizens entrance into our country if they refuse to pay past due child support to an American citizen. The provision would serve a clear and useful purpose and certainly deserves our continued support.

Mr. Speaker, we all talk about parental responsibility. In today's legislation that the gentleman from Florida (Mr. SHAW) and I have sponsored and that has had, as said, the hard work on both sides of the aisle, on both sides of the Rotunda and with the administration, is indeed a real step towards requiring all parents to meet their obligations to their children.

Mr. FAWELL. Mr. Speaker, I want to rise in support of H.R. 3130, The Child Support Performance and Incentive Act. This bill will go a long way in helping children and families who depend on the performance of child support agreements.

In particular, I want to note the improved child medical support order provisions worked out in the bill. I am pleased that we have broad bipartisan support for these important provisions. They will help ensure that children who are entitled to medical support through a child support order actually get enrolled in the health plans of their non-custodial parents. Equally important, the agreement worked out in conference should greatly expedite this process, and give both State child support enforcement agencies and the health plans who must administer these children's enrollments greater assurance that the process will work efficiently.

Mr. Speaker, there are few things that are as important as one's health. Children in particular with their whole lives ahead of them, must have access to ongoing care. Similarly, there are few things that are as frightening for a family as having a child face illness without the protection of insurance. This legislation addresses these fundamental concerns: it will help ensure that more kids get the care they've been promised and need, and give more families the financial security and peace of mind to which they are entitled.

Mr. Speaker, I urge all my colleagues to support this agreement.

Mr. LEVIN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Florida?

There was no objection.

A motion to reconsider was laid on the table.

HONORING THE BERLIN AIRLIFT

Mr. HEFLEY. Mr. Speaker, I ask unanimous consent that the Committee on International Relations be discharged from the further consideration of the concurrent resolution (H. Con. Res. 230) honoring the Berlin airlift, and ask for its immediate consideration.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Colorado?

Mr. BALLENGER. Reserving the right to object, Mr. Speaker, I do not intend to object, but I would like to do so for the gentleman from Colorado (Mr. HEFLEY) to offer an explanation of his request.

Mr. HEFLEY. Mr. Speaker, will the gentleman yield?

Mr. BALLENGER. I yield to the gentleman from Colorado.

Mr. HEFLEY. Mr. Speaker, this is a sense of Congress resolution regarding the celebration of the Berlin airlift that should include a presentation of a suitable gift of representational art from the citizens of the United States of America to the citizens of the Federal Republic of Germany commemorating the fall of the Berlin Wall and the reunification of this great city. And this, as my colleagues know, was one of the great moments in history when the United States stepped in and saved a city that, if there was ever intention it was going to be choked to death, there were about 2 million people that were assisted by this airlift, and I think this is a very important and appropriate thing for the Congress of the United States to recognize. And, with that, I would hope the gentleman would remove his right to object.

Mr. BALLENGER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Colorado?

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 230

Whereas the date, 26 June 1998, marks the 50th anniversary of the commencement of the Allied effort to supply the people of Berlin, Germany, with food, fuel, and supplies in the face of the illegal Soviet blockade that divided the city;

Whereas this 15 month Allied effort became known throughout the free world as the "Berlin Airlift" and ultimately cost the lives of 78 Allied airmen, of whom 31 were United States fliers;

Whereas this heroic humanitarian undertaking was universally regarded as an unambiguous statement of Western resolve to thwart further Soviet expansion;

Whereas the Berlin Airlift was an unqualified success, both as an instrument of diplomacy and as a life saving rescue of the 1,000,000 inhabitants of West Berlin, with 2,326,205 tons of supplies delivered by 277,728 flights over a 462-day period;

Whereas historians and citizens the world over view the success of this courageous action as pivotal to the ultimate defeat of international tyranny, symbolized today by the fall of the Berlin Wall; and

Whereas this inspiring act of resolve must be preserved in the memory of future generations in a positive and dramatic manner: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that the 50th anniversary of the Berlin Airlift should include the presentation of a suitable gift of representational art from the citizens of the United States of America to the citizens of the Federal Republic of Germany, commemorating the fall of the "Berlin Wall" and the reunification of this great city and, to this end, civic and corporate leaders across the Nation are entrusted to fulfill this intent using private subscription and volunteer effort with the encouragement and support of the United States Congress.

The concurrent resolution was agreed to.

AMENDMENT TO THE PREAMBLE OFFERED BY MR. HEFLEY

Mr. HEFLEY. Mr. Speaker, I offer an amendment to the preamble.

The Clerk read as follows:

Amendment to the preamble offered by Mr. HEFLEY:

In the preamble amend the first clause to read as follows:

Whereas the Allied effort to supply the people of Berlin, Germany, with food, fuel, and supplies in the face of the illegal Soviet blockade that divided the city was one of the greatest military and humanitarian efforts in the history of the world;

In the 4th clause of the preamble, strike "1,000,000" and insert "2,000,000".

In the text after the resolving clause strike "50th anniversary" and insert "celebration".

Mr. HEFLEY. Mr. Speaker, these are technical amendments to make the resolution come into compliance with our House rules, and I would move the amendment.

The SPEAKER pro tempore. The question is on the amendment to the preamble offered by the gentleman from Colorado (Mr. HEFLEY).

The amendment to the preamble was agreed to.

A motion to reconsider was laid on the table.

PROVIDING THAT CERTAIN VOLUNTEERS AT PRIVATE NONPROFIT FOOD BANKS ARE NOT EMPLOYEES FOR PURPOSES OF THE FAIR LABOR STANDARDS ACT

Mr. BALLENGER. Mr. Speaker, I ask unanimous consent that the Committee on Education and the Workforce be discharged from further consideration of the bill (H.R. 3152) to provide that certain volunteers at private nonprofit food banks are not employees for purposes of the Fair Labor Standands Act of 1938, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

Mr. OWENS. Mr. Speaker, reserving the right to object, although I do not intend to object, and I ask that the gentleman from North Carolina (Mr. BALLENGER) offer an explanation for his request.

Mr. BALLENGER. Mr. Speaker, will the gentleman yield?

Mr. OWENS. I yield to the gentleman from North Carolina.

Mr. BALLENGER. Mr. Speaker, H.R. 3152 is intended to address a very narrow issue under the Fair Labor Standards Act but a very important issue for many of our Nation's food banks. H.R. 3152 clarifies that persons who help at food banks on a volunteer basis and receive groceries from the food bank are not employees of the food bank.

The legislation is necessary because of the inconsistent and conflicting interpretations given in the past by the Department of Labor. In 1992 in response to questions from the Congressional Homelessness Task Force, Secretary of Labor Lynn Martin wrote, "It does not appear that volunteers at nonprofit food distribution centers would be considered employees of the centers."

Five years later, in May of 1997, in response to a request by food bank centers for a formal advisory letter on the status of such volunteers, the Office of the Solicitor of the Department of Labor said it appears that distributing organizations would be compensating needy individuals in the form of benefits, that is, food or other products, for services that the individuals performed for organizations and that the individuals, if they meet the indigence requirements, would expect to receive the products in return for their services. Under this scenario we would consider these individuals employees of the distributing organizations.

Four months later, however, the Solicitor of Labor reversed course again, and he wrote, "Individuals who volunteer their services for humanitarian purposes and without contemplation of compensation to religious, charitable and similar not-for-profit organizations are not considered to be employed by such organizations for the purpose of the Fair Labor Standards Act. Therefore, such individuals would not be covered by the minimum wage requirements of the Fair Labor Standards Act.''

While the Department of Labor's current position is that individuals who volunteer for food banks and who receive groceries and food items from the food banks are not employees, the history of the Department of Labor's conflicting and inconsistent statements and letters indicates a need to clarify this point in the statute. Food banks which use such volunteers and encourage such volunteerism among those who receive food assistance should be able to do so without concern that they are triggering an employment relationship including wage and other employment liabilities.

H.R. 3152 provides clarification that food banks may give groceries and food items to individuals who volunteer their services to the food bank solely for humanitarian purposes without deeming those individuals as employees.

Mr. Speaker, H.R. 3152 is a very narrow bill intended to clarify a specific situation on which the Department of Labor has provided conflicting and contradictory rulings. There are, of course, many other situations in which individuals receive various types of benefits in conjunction with performing community services. The fact that we are clarifying the FLSA to say explicitly that individuals who volunteer at food banks and receive groceries are not employees should not be in any way construed to mean that by doing so Congress is showing an intent that any other individual who performs community services and receives benefits is an employee.

And I want to commend the gentleman from California (Mr. CAMPBELL) the sponsor of 3152 for pursuing this clarification, and I urge support of the bill.

Mr. OWENS. Further reserving the right to object, Mr. Speaker, I thank the gentleman for his explanation and rise in support of the bill. This incident is just one example of the fact that the Fair Labor Standards Act is flexible, the Fair Labor Standards Act will yield to common sense after due deliberation. The Fair Labor Standards Act of 1938, I might point out also, is enjoying its 60th anniversary today.

The Fair Labor Standards Act was passed 60 years ago. It established the 40-hour week, overtime pay, the ban on child labor and the minimum wage. Today we celebrate an important day in American history, and on this day I think we should renew our effort to bring the minimum wage up to standard.

The minimum wage now is $5.15 cents per hour, and that is still a poverty wage. It is a wage without opportunity or hope. As far as working people are concerned, the minimum wage still has not caught up with the years of inflation. We are still way behind in terms of buying power of the dollars that workers receive, so the minimum wage needs to be increased just to bring us one step closer to where the buying power of the dollar is today.

I think it is only fitting and proper in a time of great prosperity that we increase the minimum wage. It is one way to share the prosperity and help us to guarantee the pursuit of happiness on a fair playing field for everybody. On this important anniversary of the minimum wage, let us recommit ourselves to create an opportunity for all working Americans. When we return after recess, I hope we will vote to raise the minimum wage.

Further reserving the right to object, Mr. Speaker, I yield to the gentleman from California (Mr. CAMPBELL) for his statement.

Mr. CAMPBELL. Mr. Speaker, I thank the gentleman for yielding, and I also thank the subcommittee chairman, the gentleman from North Carolina (Mr. BALLENGER) for his kindness in pursuing this legislation, his conscientiousness in bringing us to this moment, and the chairman of the full committee, the gentleman from Pennsylvania (Mr. GOODLING) for the similar courtesy he has shown.

Mr. Speaker, this bill is sponsored for one very important and simple purpose. It is to allow food banks to give not only food but dignity. Those individuals who are of lesser means, who volunteer their time in order to help put together bags of groceries, are sometimes given a bag of groceries for the hours that they may work, in recognition, not as a wage, but because they themselves might also be in need. It is a way for a person who has need to receive help in his or her own right in a way that confers and maintains their dignity as a human being.

Mr. Speaker, the bill came to my attention because of the excellent work of the Second Harvest Food Bank, and in closing I would like to recognize the individuals involved in the exceptionally fine work of the Second Harvest Food Bank, in particular Mary Ellen Heising, for 18 years the director of the Second Harvest Food Bank, David Sandretto, the current executive director, and Cindy McGoun and Beverly Jackson who run the volunteer program.

□ 1800

The bill will be amended shortly by my colleague and good friend, the subcommittee chair, so that it will be styled the Amy Somers Volunteers at Food Bank Recognition Bill, and this is in recognition of Amy Somers, who in December of last year passed away. She had been for four years the director of the food bank.

I conclude by observing that as sure as I am standing here, I have faith that all of us will stand before our maker and will have to answer the question, when I was hungry, did you give me to eat; when I was thirsty, did you give me to drink. In the case of Amy Somers, for whom we will name this bill, the answer is most assuredly, yes; yes, she did.

Mr. OWENS. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. HEFLEY). Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The Clerk read the bill, as follows:

H.R. 3152

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FAIR LABOR STANDARDS ACT OF 1938.

Section 3(e) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(e)) is amended by adding at the end the following:

"(5) The term 'employee' does not include individuals who volunteer their services solely for humanitarian purposes to private non-profit food banks and who receive from the food banks groceries.".

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. BALLENGER

Mr. BALLENGER. Mr. Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. BALLENGER:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Amy Somers Volunteers at Food Banks Act".

SEC. 2. FAIR LABOR STANDARDS ACT OF 1938.

Section 3(e) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(e)) is amended by adding at the end the following:

"(5) The term 'employee' does not include individuals who volunteer their services solely for humanitarian purposes to private non-profit food banks and who receive from the food banks groceries.".

Mr. BALLENGER (during the reading). Mr. Speaker, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The SPEAKER pro tempore. The question is on the amendment in the nature of a substitute offered by the gentleman from North Carolina (Mr. BALLENGER).

The amendment in the nature of a substitute was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BALLENGER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 3152.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

RECOGNIZING 150TH ANNIVERSARY OF EMANCIPATION OF AFRICAN SLAVES IN VIRGIN ISLANDS

Mr. PEASE. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of the resolution (H. Res. 495), relating to the recognition of the connection between the emancipation of American slaves and the Danish West Indies, now the United States Virgin Islands, to the American Declaration of Independence from the British government, and ask for its immediate consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

Ms. CHRISTIAN-GREEN. Mr. Speaker, reserving the right to object, and I will not object, but I would like to explain the resolution.

Mr. Speaker, I rise to speak in support of House Resolution 495 which I have introduced along with my colleagues from both sides of the aisle to have the House of Representatives take note of the emancipation of enslaved Africans in the Virgin Islands 150 years ago.

On behalf of my constituents, the people of the Virgin Islands, I want to thank you, Mr. Speaker, and the gentleman from Texas (Mr. ARMEY), the Majority Leader, for your kindness and generosity in allowing House Resolution 495 to come to the floor today.

I also want to express my sincerest gratitude and appreciation and that of my constituents as well to the chairman of the Committee on the Judiciary, the gentleman from Illinois (Mr. HYDE), for his support of my efforts with respect to this resolution before us. I can truly say that without Chairman HYDE's unwavering support for House Resolution 495, it would not be on the floor today.

I also want to thank our minority leader, the gentleman from Missouri (Mr. GEPHARDT), and my friend, the ranking Democrat on the Committee on the Judiciary, the gentleman from Michigan (Mr. CONYERS), for their support and invaluable assistance as well.

Mr. Speaker, the 3rd of July is celebrated in the Virgin Islands as Emancipation Day. It is a day when we recognize and remember one of the most important and significant events in our history, the emancipation from slavery in the territory.

There are few moments in our history as dramatic and inspiring as those that took place in the town of Frederiksted in St. Croix on July 2nd and 3rd in 1848. It is a story of courage and determination by the people of the then Danish West Indies, who risked death in order to live as free men and women.

We are told that at the sound of the "conchshell," slaves from across the island of St. Croix converged on Fort Frederik under the leadership of Moses "General Buddhoe" Gottlieb and threatened to destroy the island unless their freedom was granted immediately. In response to the reports of the uprising, Danish Governor Peter Von Scholten rushed from the town of Christiansted and encouraged by his mulatto mistress Anna Heegaard, issued his famous proclamation, "All unfree in the Danish West Indies are from today free."

Although the revolt ended with little loss of property or life, its key players paid a high price. General Buddhoe was himself arrested and exiled, and Governor Von Scholten returned to Denmark, where he was tried and found guilty for exceeding his authority and for dereliction of duty.

Mr. Speaker, it is quite fitting that the House of Representatives, the People's House as it is known, takes note of this important event in our history, because, in doing so, we are reminded of the unwavering commitment of all Americans for freedom and for human and civil rights.

In closing, Mr. Speaker, I want to thank all of my colleagues for their help and support on this resolution, particularly again the gentleman from Missouri (Mr. GEPHARDT), the minority leader, and his staff. I also want once again to thank the gentleman from Illinois (Chairman HYDE) and his staff and the gentleman from Michigan (Mr. CONYERS), the ranking Democrat, without whose help tonight would not have been possible.

Mr. CONYERS. Mr. Speaker, will the gentlewoman yield?

Ms. CHRISTIAN-GREEN. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Speaker, I thank the gentlewoman for yielding.

Mr. Speaker, this is an important 150th anniversary. It is significant. I cannot remember in my career that we have ever celebrated the emancipation of slavery in the Virgin Islands.

I commend the gentlewoman for her conviction, ability, intelligence and beauty.

Mr. Speaker, I applaud Congresswoman DONNA CHRISTIAN-GREEN for introducing this legislation that recognizes the 150th anniversary of the emancipation of African slaves in what is now the United States Virgin Islands.

On July 3rd 1848 thousands of slaves on the island of St. Croix marched into the town of Frederiksted under the leadership of Moses Gottlieb and staged a demonstration demanding their freedom and threatened to destroy the island by fire unless their freedom was granted by 4 p.m. that afternoon.

When reports of the insurrection reached the Danish Governor of the VI Peter von Scholten, 15 miles away in the town of Christiansted, he journeyed to Frederiksted where he issued the Emancipation Proclamation.

It is important for us to commemorate the historic significance of this 150th anniversary and the significant contributions that the descendants of those who were freed have made to the United States as citizens since 1917.

More importantly, however, we as a nation must recognize the emancipation of African slaves as part of the process of extending civil rights to all individuals in the United States.

Unfortunatley, the struggle for equality for all Americans still continues. Discrimination is still rampant in housing, education, employment, the environment and in many other areas in society.

Despite the uphill battle that we appear to be facing at times, we must maintain our unwavering commitment to preserve, protect, and defend human rights and freedom.

Ms. CHRISTIAN-GREEN. Mr. Speaker, reclaiming my time, I thank the gentleman for those kind remarks.

Mr. Speaker, as my constituents and I prepare to celebrate the 150th anniversary of our emancipation, we hope it will serve as a reminder and a reaffirmation, to all of us, of the ideals of freedom and equality that this country was founded on.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The Clerk read the resolution, as follows:

H. RES. 495

Whereas, prior to July 3, 1848, many Africans were held as slaves on the islands of the Danish West Indies, now the United States Virgin Islands;

Whereas, on July 3, under the leadership of Moses "General Budhoe" Gottlieb, the African slaves on the Island of St. Croix responded to the signal of the blowing of conch shells by leaving their plantations to converge on Fort Frederick in the town of Frederiksted;

Whereas in Frederiksted the African slaves demanded their freedom and threatened to destroy the island by fire unless it was granted by 4 o'clock that afternoon;

Whereas, confronted by reports of arson and insurrection, the Danish governor, Peter von Scholten, met the African slaves in Frederiksted and declared that "all unfree in the Danish West Indies are from today free";

Whereas the heroes of this rebellion paid a high price, General Budhoe being sent into exile, and Governor von Scholten being convicted in Denmark of dereliction of duty and of exceeding his authority;

Whereas the American people declared their independence from the British on July 4, 1776; and

Whereas the courage of these heroes serves to connect Virgin Islanders and all Americans to their past and to reinforce their unwavering commitment to preserve, protect, and defend freedom: Now, therefore, be it

Resolved, That the House of Representatives urges—

(1) the American people to recognize the historical significance of the emancipation

of African slaves in what is now the United States Virgin Islands; and

(2) Virgin Islanders and all Americans to maintain their unwavering commitment to preserve, protect, and defend human rights and freedom.

The resolution was agreed to.

A motion to reconsider was laid on the table.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Sherman Williams, one of his secretaries.

DESIGNATION OF THE HONORABLE CONSTANCE A. MORELLA TO ACT AS SPEAKER PRO TEMPORE TO SIGN ENROLLED BILLS AND JOINT RESOLUTIONS THROUGH JULY 14, 1998

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

Washington, DC.
June 25, 1998.

I hereby designate the Honorable Contance A. Morella to act as Speaker pro tempore to sign enrolled bills and joint resolutions through July 14, 1998.

Newt Gingrich,
Speaker of the House of Representatives.

The SPEAKER pro tempore. Without objection, the designation is agreed to.

There was no objection.

REPORT OF NATIONAL SCIENCE BOARD—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, without objection, referred to the Committee on Science.

To the Congress of the United States:

As required by 42 U.S.C. 1863(j)(1), I am pleased to submit to the Congress a report of the National Science Board entitled *Science and Engineering Indicators—1998*. This report represents the thirteenth in a series examining key aspects of the status of American science and engineering in a global environment.

Investments in science and engineering research and education have enjoyed bipartisan support. They are critical to America's ability to maintain world leadership and fulfill our potential as a Nation as we begin the transition into the 21st century.

This report provides a broad base of quantitative information about U.S. science, engineering, and technology in an international context. I commend *Science and Engineering Indicators—1998* to the attention of the Congress and those in the scientific and technology communities. It will assist us in better understanding the new developments and trends in what is rapidly becoming a global knowledge-based economy.

William J. Clinton.

The White House, *June 25, 1998.*

PROJECT EXILE

(Mr. GOODE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOODE. Mr. Speaker, I rise today to talk about an anti-crime program that has been successfully implemented in several cities across America. The program, which was the topic of a June 18 article in the Washington Post, is known in Virginia as Project Exile. Project Exile includes a program that imposes automatic five year sentences on felons caught carrying guns.

The program is being credited by Richmond police with helping to dramatically cut the city's homicide and armed robbery rates. The idea behind the program is simple: To get guns out of the hands of those who are caring them illegally, felons who are most likely to use the weapons in the commission of a crime.

Mr. Speaker, I include the Washington Post article for the Record.

[From the Washington Post, June 18, 1998]

Richmond Gun Project Praised

(By R.H. Melton)

Richmond—A program that imposes automatic five-year sentences on felons caught carrying guns is being credited by Richmond police with helping to cut dramatically the city's homicide and armed robbery rates.

The program, under which authorities generally prosecute gun cases as federal crimes—ensuring stiffer bond rules and tougher sentences—is known as Project Exile and has received high marks from two unlikely allies: Handgun Control Inc. and the National Rifle Association.

The federal prosecutor's office here is one of only a handful in the nation—Boston and Philadelphia are two others—to launch an experimental attack on gun crimes. The idea behind the program, authorities say, is to get guns out of the hands of those who are carrying them illegally, people who are most likely to use the weapons in other crimes.

In Richmond, which in recent years has had one of the nation's highest homicide rates, authorities credit Project Exile with helping to reduce gun-related homicides dramatically. Police say there were 140 gun-related homicides last year; so far this year there have been 34. Gun-related armed robberies, meanwhile, are down by a third.

On a morning talk show Sunday, NRA President Charlton Heston told a national television audience that "in less than a year, they reduced deaths, murders, in the city of Richmond by half" through the Exile project.

Handgun Control Chairman Sarah Brady, in a letter to the U.S. attorney here, said: "Your work is succeeding in getting guns out of the hands of criminals . . . The results in Richmond are impressive.

Cynthia L. Price, a Richmond police spokeswoman, said Exile has had a profound effect on the number of violent crimes and the nature of those offenses, leading to far fewer instances in which guns are drawn in anger.

"It's a great program," Price said.

So how did Exile help cut homicides and armed robberies? A cadre of aggressive federal prosecutors, including a lead attorney who earned his spurs hounding Mafia dons in New York City, determined that Richmond's number one crime problem was similar to that plaguing Washington: street-level violence fueled largely by an evidently insatiable appetite for weaponry.

They then brought to bear on city gun cases the full force of the federal government, using statutes dating from the late 1960s to seek mandatory minimum prison sentences of five years for gun-related crimes. That expedited many of the gun cases, ensuring stiffer penalties and, in many cases, eliminating parole.

In some instances, steering a local criminal into the federal system was as simple as a Richmond police officer paging the federal Bureau of Alcohol, Tobacco and Firearms to double-check for federal gun violations, such as the obliteration of serial numbers on weapons, use of a gun while possessing a controlled substance or possession of guns by fugitives.

Several federal judges here have complained that their caseloads now seem to resemble reruns of the "Night Court" television show, but city officials and community leaders delight in the lower homicide rate.

In the year that ended last week, 363 guns were seized, 191 of 251 of those arrested on gun violations were convicted, and 137 of those were sentenced to an average of 56 months in jail.

James B. Comey, the executive assistant U.S. attorney who helped craft the Exile program, said the numbers in part reflect the unusually large number of people who were carrying guns in Richmond.

"Richmond is a weird place," he said. "The world is flooded with guns here."

Comey, a tall, boyish prosecutor who spins hair-raising tales about his Mafia wiretapping days in New York, said the gun "carry" rate—the number of times police confiscate a gun when arresting suspects—has dropped from 135 a month to 67.

"It's an amazingly high carry rate," he said. "I've never seen a place like Richmond. Dealers in cities like Chicago, New York or Cleveland have access to guns, but they're not standing on a street corner with a gun!"

Of Project Exile, he added: "It's a cultural war. It's totally apolitical. It's about locking up criminals with guns."

Gun violence has long plagued Richmond, sending its homicide rate higher than the District's several years this decade. In the fall of 1994, for instance, Richmond passed its previous homicide record, outpacing every city in the country except New Orleans.

S. David Schiller, the senior litigation counsel in the U.S. attorney's office, said police have passed out 17,000 hand bills detailing the program. There are Exile billboards, television spots and even a giant black city bus that runs through the city with a message in stark white paint: "An illegal gun gets you five years in federal prison."

A coalition of civic and merchant groups has raised $40,000 and pledged an additional $60,000 to fund the marketing efforts.

Though the Exile prosecutions have not been glamorous—"These cases are not sexy: These are mutts with guns," said Schiller—they are getting notice in other urban centers. Seventeen cities nationwide, including the District and Baltimore, are now participating in a federal pilot program to trace illegal guns, and there has been talk of extending Exile elsewhere.

"Richmond has one of the most involved programs in the country," said Joe Sudbay, a spokesman for Handgun Control in Washington. "It's a great combining of resources to combat violence."

NRA Executive Director Wayne R. LaPierre said that Exile "ought to be in every major city in the country where there's a major crime problem."

"The dirty little secret is that there is no enforcement of federal gun laws," LaPierre said. "What Exile's doing—which I think is great—is for the first time in a major American city, if a criminal picks up a gun, he'll do major time. It's a message the NRA cheers, a message police cheer."

"That's the magic of what they're doing in Richmond. The word is out on the streets of Richmond that the U.S. attorney is dead serious about stopping gun violence."

AUTHORIZING THE SPEAKER, MAJORITY LEADER AND MINORITY LEADER TO ACCEPT RESIGNATIONS AND MAKE APPOINTMENTS NOTWITHSTANDING ADJOURNMENT

Mrs. MYRICK. Mr. Speaker, I ask unanimous consent that notwithstanding any adjournment of the House until Tuesday, July 14, 1998, the Speaker, majority leader and minority leader be authorized to accept resignations and to make appointments authorized by law or by the House.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from North Carolina?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY, JULY 15, 1998

Mrs. MYRICK. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday, July 15, 1998.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from North Carolina?

There was no objection.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

CHILD CUSTODY PROTECTION ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Florida (Ms. ROS-LEHTINEN) is recognized for 5 minutes.

Ms. ROS-LEHTINEN. Mr. Speaker, the House will soon have the opportunity to vote on legislation that will help secure the rights of parents to counsel our children during a situation of great confusion that could lead to grave consequences, that of obtaining an abortion.

Almost half the States in the American union have passed laws that require the consent or notification of one or both parents before a minor girl can obtain an abortion. These laws are designed to assure that a mother, father or legal guardian can provide counsel and comfort to an innocent and naive young girl before making a decision that brings with it mental and physical ramifications.

Unfortunately, unscrupulous abortionists, while practicing in a State without parental notification laws, loudly advertise in another State which does have consent laws, that their abortion mill lacks such notification requirements. Minor girls are then taken by a stranger, oftentimes, to obtain this dangerous procedure.

This, Mr. Speaker, is an outrage that must be stopped, and can be stopped, if Congress adopts the legislation that I have introduced along with the gentlewoman from North Carolina (Mrs. MYRICK), who joins me here tonight, H.R. 3682, the Child Custody Protection Act. This bill would make it a Federal misdemeanor for an adult to knowingly transport a minor across State lines in order to evade a State's parental notification or consent laws on abortion. This legislation already has 135 cosponsors, and this number is rising, because it is a common sense idea, protecting parental rights from being stripped away by a complete stranger.

Many of our Nation's schools, for example, prohibit giving an aspirin to children without parental notification. Yet we have a situation where a complete stranger can take a young girl away from her parents to obtain an abortion and suffer no consequences, despite this young lady having been subjected to a life-threatening procedure.

President Clinton this week said parents should know when their children are being encouraged to smoke by tobacco companies. Well, this same principle, the parents right to know, should apply also to a young girl obtaining an abortion.

In July, just in a few weeks, we will have the opportunity here in the full House of Representatives to secure the parents right to know, to know when our daughters are being taken advantage of by a stranger without our consent and without our notification. H.R. 3682 is that opportunity, Mr. Speaker, and I hope that all of our colleagues, Republicans and Democrats, conservatives and liberals, will join in protecting parental rights from being stripped away by a stranger.

We urge our colleagues to support H.R. 3682, the Child Custody Protection Act.

SUPREME COURT UPHOLDS SANCTITY OF ATTORNEY-CLIENT PRIVILEGE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. CONYERS) is recognized for 5 minutes.

Mr. CONYERS. Mr. Speaker, in the continuing saga of the legal education of Kenneth W. Starr, the Supreme Court upholds the sanctity of the attorney-client relationship. In a vote of six to three today, they upheld this relationship by ruling that communications between a client and his or her lawyer remain privileged, even after the client's death.

□ 1815

Today's decision rejected efforts by the Independent Counsel, Kenneth Starr, to obtain three pages of handwritten notes taken by the attorney for former deputy White House counsel Vincent Foster. The notes were taken during a meeting between Mr. Foster and his lawyer just 9 days before Mr. Foster tragically took his own life.

Mr. Starr had asked the court to rule that anything a client says to his or her lawyer should be available to a prosecutor after the client dies. He also asked the court to believe that only clients who intended to perjure themselves would be stopped from talking to their lawyers if they knew that their conversations might become public after their death.

The Supreme Court, in an opinion written by Chief Justice Rehnquist, wrote that

> The attorney-client privilege is one of the oldest recognized privileges for confidential communications. It is intended to encourage full and frank communication between attorneys and their clients, and thereby promote broader public interests in the observance of law and the administration of justice.

He added that "It has been generally, if not universally, accepted, for well over a century, that the attorney-client privilege survives the death of the client in a case such as this." In light of this settled law, the Chief Justice said that "The burden is on the Independent Counsel to show that 'reason and experience' require a departure from this rule," and the court concluded that Mr. Starr could not meet that standard.

Rejecting Mr. Starr's view that only guilty people will invoke the privilege, the Chief Justice made the commonsense observation that people go to see attorneys about a wide range of matters that might prove embarrassing if made public after they die. For example, people routinely meet with lawyers to talk about family or money problems, and who would ever want these kinds of things made public? Think of the possible embarrassment to a person's family or the potential damage to that person's reputation, even after his or her death.

The Chief Justice wrote that,

> There are weighty reasons that counsel in favor of posthumous application. Knowing that communications will remain confidential even after death encourages the client to communicate fully and frankly with counsel. While the fear of disclosure, and the consequent withholding of information from counsel, may be reduced if disclosure is limited to posthumous disclosure in a criminal context, it seems unreasonable to assume that it vanishes altogether. Clients may be concerned about reputation, civil liability, or possible harm to friends or family. Posthumous disclosure of such communications may be as feared as disclosure during the client's lifetime.

During his 4-year, $40 million investigation, Mr. Starr made it seem that anyone who asserts a privilege when he demands information is somehow trying to obstruct justice. Without question, it is important for a prosecutor to uncover facts necessary to decide whether a crime has been committed, but we expect the basic principles of law and civility will be followed during criminal investigations.

The decision today by the United States Supreme Court reaffirms what most of us already knew, which is that the relationship between a lawyer and a client is sacred, and that prosecutors themselves are sometimes guilty of excesses.

TRANSFER OF SPECIAL ORDER TIME

Mrs. MYRICK. Mr. Speaker, I ask unanimous consent to claim the time of the gentleman from Minnesota (Mr. GUTKNECHT).

The SPEAKER pro tempore (Mr. PEASE). Is there objection to the request of the gentlewoman from North Carolina?

There was no objection.

LET US PASS THE CHILD CUSTODY PROTECTION ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from North Carolina (Mrs. MYRICK) is recognized for 5 minutes.

Mrs. MYRICK. Mr. Speaker, I rise today in support of the Child Custody Protection Act. This bill is very important to any parent who has a teenage daughter, and I look forward to a vote on the bill shortly after the July 4 recess.

Members may already know that people of several States have recently decided that a parent should know before their child has an abortion. We all hope that our teenage daughters have the wisdom to avoid pregnancies, but if they make a mistake, a parent is best able to provide advice and counseling. Also, more than anyone else, a parent knows their child's medical history. For these reasons, my home State of North Carolina requires a parent to know before their child checks into an abortion clinic, as does the State of Pennsylvania.

Earlier, though, this month the Senate Committee on the Judiciary heard chilling testimony about how lawbreaking citizens risk children's lives by taking them from their parents for out-of-State abortions. Before the Senate Committee on the Judiciary, Joyce Farley, a mother from Pennsylvania, told the tragic story of her 13-year-old daughter.

Three years ago this summer, a stranger took Ms. Farley's young child out of school, provided her with alcohol, transported her out of State to have an abortion, falsified the medical records at the abortion clinic, and abandoned her in a town 30 miles away, frightened and bleeding. Why? Because this stranger's adult son had raped Joyce Farley's teenage daughter, and she was desperate to cover up her son's tracks.

Even worse, this all may have been legal. It is perfectly legal to avoid parental abortion consent and notification laws by driving children to another State. It is wrong, and it has to be stopped.

According to the Reproductive Law and Policy Center, a pro-choice group in New York, thousands of adults across the country carry children over State lines to get abortions in States without parental notification laws. So-called men in their twenties and thirties coerce teenage girls to have abortions out of State and without their parents' knowledge.

The Child Custody Protection Act would put a stop to this abuse. If passed, the law would make it a crime to transport a minor across State lines to avoid laws that require parental consent or notification before an abortion.

Let us do something to help thousands of children in this country. Let us pass the Child Custody Protection Act, and put an end to the absurd notion that there is some sort of constitutional right for an adult stranger to secretly take someone else's teenage child into a different State for an abortion.

A TRIBUTE TO JERRY GRANT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland (Mr. HOYER) is recognized for 5 minutes.

Mr. HOYER. Mr. Speaker, I rise today to recognize a truly unique individual who has served our country, my great State of Maryland, and the Congress of the United States for over four decades. Mr. Jerry Grant is one of the finest examples of people dedicated to standing up for what is right and fighting, both in the forefront and behind the scenes, to make our country a better place for all our citizens.

Jerry turned 60 years old on July 1, and I would like to be one of the many to wish him a very happy birthday.

Mr. Speaker, I first met Jerry when both of us were attending a national Young Democrats convention, he as the president of the Young Democrats of Colorado, and I as the president of the Young Democrats of Maryland. Even at that young age, Jerry made an indelible impression, with his uncanny ability to persuade people to listen to his point of view and come onto his side of an issue. The good thing about Jerry Grant is that he uses this talent in a positive manner, to influence opinion to the good of politics and the people involved.

By 1972, Jerry was serving as a county commissioner of Adams County, Colorado. I am not sure whether this stint as a public official made him more sympathetic or critical of elected officials, but since then Jerry has served in a variety of non-elected positions, quietly and effectively making a difference in people's lives.

Jerry served for 10 years as Chief of Staff to U.S. Senator Jim Sasser of Tennessee, earning the respect of fellow staff and Members of the Senate alike. Jerry was the guy who knew all of the ins and outs of an issue, and the person who people turned to when they were not exactly sure just where to be in a controversy.

After promising himself and his family a quieter life outside the beltway, Jerry was coaxed back into the political fray by a young Maryland basketball star and Rhodes scholar, our former colleague, Tom McMillan. It was Jerry's strategy and guidance which helped Congressman McMillan win his first election to Congress in 1986. Jerry later served as Tom McMillan's Chief of Staff.

Jerry Grant played an important role in the 1992 presidential election, helping Maryland garner the highest percentage of votes in that election for the Clinton-Gore ticket. Mr. Speaker, many elected officials owe a large measure of their success to Jerry Grant. He has worked with such leaders as Jimmy Carter, Walter Mondale, Roy Roemer, Hubert Humphrey, and Henry "Scoop" Jackson.

On the local level, literally scores of elected officials in Maryland can credit their electoral wins to Jerry's counsel, advice, and maybe even sometimes a few of his jokes.

Mr. Speaker, I congratulate Jerry on his 60th birthday, and send my best wishes to my good friend, his lovely wife, Sue, and their entire family.

Mr. Speaker, Jerry Grant has been fighting cancer for a number of years with the same kind of courage and integrity that he has lived his life. Throughout his life Jerry Grant has enriched his country and his community. I know that all of my colleagues join me in wishing him well, and a very happy birthday, indeed.

THE SITUATION IN KOSOVA

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York (Mrs. KELLY) is recognized for 5 minutes.

Mrs. KELLY. Mr. Speaker, the killing in Kosova continues, and as is always the case in war, it is the innocent civilians who suffer the most. This picture of refugees fleeing Kosova, right here, through the mountainous region on the border with Albania illustrates only a few of the many thousands of Kosovan refugees who have fled the country in recent weeks to escape from the latest round of ethnic cleansing taking place in this troubled region.

I visited the region with my colleagues, the gentleman from New York (Mr. ELLIOTT ENGEL) and the gentleman from Virginia (Mr. JIM MORAN) just prior to the latest offensive launched by Serbian strongman Slobodan Milosevic. What we saw there was a mixture of fear and apprehension over the possibility that the violence would escalate, a fear which has, sadly, come to pass.

The ethnic Albanian population in Kosova elected Dr. Abraham Rugova as the President of the Republic of Kosova. Despite the fact that Belgrade refused to recognize the legitimacy of the election, despite the violence that was already taking place at the time, and despite the fact that the Kosovan people went to the polls on an election day at their own personal peril from possible retribution from Serbian police and military forces, I saw a genuine sense of hope among the ethnic Albanians that we were able to meet.

Of course, that hope was shattered by artillery and mortar rounds as Milosevic launched his latest and most deadly campaign against the Kosovan people, a campaign which has left hundreds dead and many thousands more homeless. I suppose, Mr. Speaker, that this should not surprise any of us. After all, dictators care very little for the will of the people, for human rights, and for the rule of international law.

Milosevic now has an estimated 50,000 troops and special police in Kosova, backed by tanks and armored vehicles, artillery, helicopter gunships, and aircraft to support his campaign of genocide. No, Mr. Speaker, Mr. Milosevic cares very little about the consequences of his actions in Kosova, or for the outrage expressed by world leaders.

Mr. Speaker, Mr. Milosevic no longer responds to words and condemnation. What will get his attention? What will end the killing? What will end scenes such as this, of terrified refugees fleeing with whatever belongings they could grab and carry, these poor people streaming out of the mountains, leaving their homes, leaving their family farms, trying to flee the violence? What will end scenes such as this? What may finally bring peace and stability to this troubled region? That is the very real threat of military action by NATO.

Mr. Milosevic does not understand reason, but he does understand force. When he realizes that his own forces may be in jeopardy if he fails to pull them out of Kosova, then and only then will he cease fire and pull back. Then and only then will we have any real chance at negotiating a lasting peace that recognizes the rights of all Kosovans.

□ 1830

It is time that NATO take the gloves off, Mr. Speaker. If Milosevic only responds to force, then perhaps we have reached a point where force is necessary.

GUAM CENTENNIAL RESOLUTION

The SPEAKER pro tempore (Mr. PEASE). Under a previous order of the House, the gentleman from Guam (Mr. UNDERWOOD) is recognized for 5 minutes.

Mr. UNDERWOOD. Mr. Speaker, yesterday I introduced the Guam Centennial Resolution, which commemorates the 100-year-old relationship between Guam and the United States. My colleagues have heard me speak many times before about the importance of this centennial for the people of Guam. It is a time to commemorate, to educate, and to reflect upon what 100 years of American rule has brought to our island. The Guam Centennial Resolution incorporates these functions within a six-page document.

To commemorate means to honor or to observe. As the people of Guam commemorate 100 years under American rule, we are not only observing America's official claim on Guam, we are also honoring the men and women who have come before us, those who were instrumental in laying the groundwork for Guam's economic, political, and social well-being. We honor such individuals as B.J. Bordallo, Aguenda Johnston and Antonio Won Pat.

As for commemorating our economic and social experiences over these past 100 years, the people of Guam experience conflicted emotions when recalling the end of the Spanish-American War and the beginning of America's colonial reach into the Pacific. For although we enjoy many of the benefits of being an American territory, there are issues such as our political status which have yet to be resolved, despite a solemn commitment made years ago by the Federal Government.

I remind the House that the Treaty of Paris, which ended the Spanish-American War, and which the United States was obligated to resolve the political and civil rights for the native inhabitants of Guam.

The commemoration of Guam's centennial anniversary invites us to reflect about the meaning of these events which occurred then; and contemplating what Guam has undergone these past 100 years helps us forge ahead with effective policies for the next 100 years. Commemoration and reflection are linked to a third element which is education. Events and activities used to commemorate and reflect on this centennial are essentially educational in nature.

Considering the mixed feelings associated with 1998, Guam's history emerges as an important tool in understanding the previous 100 years. In 1898, after the U.S. defeated Spain in the Spanish-American War, Guam, along with the Philippines and Puerto Rico, were ceded to the United States for a sum of $20 million.

Guam was governed by the American Department of the Navy and defined as an unincorporated territory, meaning it is not part of the United States, but is owned by the United States.

After hardships endured during World War I and World War II, Guam remained under American rule, and in 1950, the people of Guam were finally declared American citizens.

Mr. Speaker, I have briefly glossed over almost 100 years of Guam's history. Yet even from what I have mentioned, it is sometimes difficult to discern why there should be a certain ambivalence about American rule. For one thing, I did not mention that Congress, this body and the Senate, are obligated to determine the political status of Guam's native inhabitants. However, even after 100 years, this issue still has not been resolved.

The Guam Centennial Resolution is a form of commemoration, reflection and education. It commemorates the courageous story of a proud people from the pre-European contact period to our existence under the American flag today. It reflects on Guam's path to resolving its political status and calls on the House of Representatives to affirm its commitment for increased self-government for the people of Guam. It educates by detailing Guam's political history and our continued quest for increased self-determination.

Mr. Speaker, I thank the Republican and Democratic leadership, both Speaker GINGRICH and the gentleman from Missouri (Mr. GEPHARDT), as well as the leaders of the Committee on Resources, the gentleman from Alaska (Chairman YOUNG) and the gentleman from California (Mr. MILLER), as well as over 50 of my colleagues who have agreed to be cosponsors of the Guam Centennial Resolution. Such strong support for this resolution demonstrates this chamber's ongoing commitment to the people of Guam.

I realize that it is difficult at times to understand the aspirations of a people located 9,500 miles from Washington, D.C., a people whose closest neighbors are Asian and Pacific Nations. However, the introduction of the

Guam Centennial Resolution is yet another step in increasing this body's and this Nation's understanding of Guam and its unique role in the American family.

Mr. Speaker, I also want to recognize Senator AKAKA of the other body who has introduced a companion resolution in that other body.

Mr. Speaker, I beg my colleagues in the House to support H.Res. 494.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed without amendment a concurrent resolution of the House of the following title:

H. Con. Res. 297. Concurrent resolution providing for an adjournment of both Houses.

FIFTIETH ANNIVERSARY OF THE BERLIN AIRLIFT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. BILIRAKIS) is recognized for 5 minutes.

Mr. BILIRAKIS. Mr. Speaker, I rise today to commemorate the 50th anniversary of the Berlin Airlift, one of the most defining events in world history.

Tomorrow marks the 50th anniversary of the first American flight carrying food and supplies to the communist encircled City of Berlin. Two days earlier, the Soviet Union announced its intention to completely prohibit transportation in and out of the western sectors of Berlin.

Throughout the course of the mission, approximately 600 flights a day brought provisions to a city isolated from the world by the Soviet military. By its conclusion, more than a year later, 2.3 million tons of food and coal for fuel had been delivered to Berlin. "Operation Vittles," as it was called, consisted of nearly 278,000 flights by American, British, and French aircraft. The Soviets eventually submitted to American determination and reopened ground routes into Berlin.

The historical significance of the airlift is that it signaled the United States' resolve to reject communist oppression. In addition, the Berlin Airlift sent a clear message to the world that the United States would not abandon an ally in its time of need.

As we commemorate the 50th anniversary of the Berlin Airlift, we are reminded that as Americans we must stand up for democracy when it is challenged.

Time and time again, history has taught us that we defend freedom when it is threatened. However, our responsibility carries with it a tremendous price, both in monetary terms and in human life. The Berlin Airlift costs an estimated $200 million, and even more important, it took the lives of 79 individuals, including 31 American servicemen.

Although the airlift occurred between 1948 and 1949, its legacy lives today in the hearts of people around the world. The courage displayed by its participants still serves as a shining example of freedom's triumph over tyranny. Our refusal to submit to Soviet aggression 50 years ago led the groundwork for lifting the Iron Curtain of communist oppression and tearing down the Berlin Wall.

Mr. Speaker, let us perpetuate the legacy of the Berlin Airlift. Congress must honor those whose tremendous acts of courage during the airlift promoted freedom and democracy. As Americans, we must continue to ensure that these principles are cherished throughout the world.

HONORING CONGRESSMAN JIM TRAFICANT AND WILLIAM FRANKLIN HANKS, JR.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee (Mr. DUNCAN) is recognized for 5 minutes.

Mr. DUNCAN. Mr. Speaker, I rise tonight to pay tribute to two close friends of mine, one here in the Congress and one in my hometown of Knoxville.

The first is the gentleman from Ohio (Mr. TRAFICANT), one of the most popular Members of this body on both sides of the aisle. I pay tribute to the gentleman from Ohio tonight because of the bill that we just passed to reform the IRS.

Newsweek Magazine recently had a cover story about the IRS, and on its front cover Newsweek described the IRS as "lawless, abusive, and out of control." But for many years, and probably longer than anyone else presently in the Congress, the gentleman from Ohio (Mr. TRAFICANT) has been speaking out against IRS abuse of ordinary citizens.

In addition, it was the gentleman from Ohio who originally authored the legislation to place the burden of proof in tax cases on the IRS rather than on the taxpayer. In other words, thanks primarily to the gentleman from Ohio, a taxpayer will not now be subjected to the very un-American injustice of being presumed guilty unless or until he proves himself innocent.

Many people seem to be taking credit for this provision now, but I think the primary credit should go to our friend: JIM TRAFICANT.

Mr. Speaker, I think that about 85 to 90 percent of the American people want us to drastically simplify our tax laws. Mr. Speaker, we certainly should, but I doubt that we will any time in the near future. But at least we have passed this IRS reform today and the gentleman from Ohio deserves the most credit for the most significant part of it, and I salute the gentleman for this great accomplishment.

IN TRIBUTE TO BILL HANKS

Mr. Speaker, next I would like to say a few words about a close friend of mine from home, Bill Hanks, who recently retired after a long and successful business career.

William Franklin Hanks, Jr., was born in Raleigh, North Carolina, October 15, 1934. He grew up in Charlotte, North Carolina, where his parents, Sally and "Tubby" Hanks moved when he was a year old.

Bill graduated from Furman University in Greenville, South Carolina, in 1957, where he played varsity basketball and was a member of Sigma Alpha Epsilon fraternity.

It was at Furman that he met Beth Ballentine, a South Carolina girl who stole his heart; and they were married after his graduation.

Bill coached basketball one year at Statesville, North Carolina High School. After 5 years in sales for the Weyerhaeuser Corporation, he joined the sales force of Package Products Company in Charlotte, resulting in his move to Knoxville in 1964.

He has spent 34 years in sales and retired recently as national accounts manager for the Sonoco Corporation, which bought Package Products 3 years ago.

Bill is known by his family and friends for his sense of humor, his loyalty and his dedication to God, his family, his work and his community.

He has served the Eastminster Presbyterian church in Knoxville as an elder, deacon, Sunday School teacher, youth fellowship volunteer, stewardship and finance committees, always giving his time and talents unselfishly.

Bill and Beth are extremely proud of their family: Linda Hanks Kapstein and husband, Dan, who have two sons, Zachary and Jacob, and live in Little Compton, Rhode Island;

William F Hanks, III, his wife Patti and their three children, Chelsea, Will IV, and Heath, who reside in Plant City, Florida;

Wallace Sidney Hanks and his wife, Traci, and daughter, Sidney Beth, live in Dalton, Georgia; and

Lucille Rand Hanks who lives in Alexandria, and has been my office manager and has been with me since I first came to the Congress.

Professional accomplishments by this man include membership in his company's Million Dollar Club and Winner's Circle for many years. In the Knoxville community, Bill Hanks has devoted many hours to coaching youth in city basketball leagues, Boys Club and church leagues, always teaching fundamentals and teamwork.

Helping young people develop high moral standards and good work ethics while enjoying sports earned him the

Mayor's Merit Award in 1975 in the field of athletics, for outstanding achievement in service to the City of Knoxville.

Though Bill remains loyal with gifts to his Alma Mater, Furman University, he has "adopted" the University of Tennessee in Knoxville, and is an avid fan and supporter of "Big Orange" athletics.

Now in retirement, Bill will continue as a broker in the packaging business; but he and Beth will divide their time between Knoxville and a home in Fripp Island, South Carolina, and will mainly enjoy spending time with their children and grandchildren.

Mr. Speaker, I can say without hesitation or reservation that this country is a better place because of great Americans like Congressman JIM TRAFICANT and my friend, Bill Hanks.

BILLY CASPER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. HUNTER) is recognized for 5 minutes.

Mr. HUNTER. Mr. Speaker, I thank the gentleman from Tennessee (Mr. DUNCAN), of the "Duncan Caucus," for that fine speech that he just made and I will be chairman next year, hopefully, and then he can follow me in these special orders.

Mr. Speaker, let me give my kudos to a great athlete, one of the greatest athletes who ever resided in the county of San Diego where I live, and where my good golfing buddies the gentleman from California (Mr. CUNNINGHAM) and the gentleman from California (Mr. PACKARD) also live, two pretty good athletes themselves, because Billy Casper is one of the greatest golfers who ever lived on the face of the Earth.

□ 1845

He had a record of over 50 victories, including three majors. Now after his playing time on the regular tour, PGA tour has long since passed, Billy Casper just did something this last week that is quite extraordinary.

He went to Utah to play in Johnny Miller's champion's challenge and Johnny Miller's champion's challenge, if you read the list of the players who participated, read like the book of champions. Included in the field were Gary Player and his son, Johnny Miller and his son, Jack Nicklaus and his son, Hale Irwin and his son, John Daley, Laura Davies, Julie Inkster, Lisssolette Neuman, two of the great players on the women's tour, Craig Stadler and Fuzzy Zoeller and, of course, Billy Casper and his own son Bob.

Billy Casper in this tournament, which was a two-man scramble, I understand there was a $500,000 tournament, $125,000 to the winners, Billy Casper and Bob Casper, his son, won that tournament at 11 under par.

Billy Casper was always remembered as being one of the finest putters, probably the finest putter and short game player in the history of the game. He had a putting stroke that was unmatched by anybody. And when we had the recent U.S. Open at the Olympic Golf Course in San Francisco just this last week, we were all reminded of 1966, when Billy Casper trailed Arnold Palmer by 7 strokes with only 9 holes to go in the championship, tied him on that last 9 holes. Billy Casper, our Billy, shot a 32 to Arnold Palmer's 39 and Billy then won the playoff the next day.

The trophy in this particular Champion's Challenge was made by Mark Martinson, one of our great western artists. It is a wonderful trophy. It is a bronze trophy entitled, Champions in the Making, and Mark Martinson is one of our budding artists and also a great golfer who accompanied Billy Casper to this tournament in Utah. So San Diego recognizes you, Billy, as being one of the greatest champions whoever lived and whoever graced our wonderful county in San Diego. We hope to see you win a lot more tournaments.

A GOOD WEEK FOR THE PEOPLE OF NORTH CAROLINA

The SPEAKER pro tempore (Mr. PEASE). Under a previous order of the House, the gentlewoman from North Carolina (Mrs. CLAYTON) is recognized for 5 minutes.

Mrs. CLAYTON. Mr. Speaker, this has been a good week for the people of America and for the citizens of the First Congressional District of North Carolina.

First the President signed the Agriculture Research Extension and Education Reauthorization. That legislation is important for agriculture research, as well as for restoring food stamps and the much-needed crop insurance for farmers. It recognizes the need for rural development programs, which allow the Secretary to provide funds for water and sewer development as well as funds for research programs, including those involving cotton and pfiesteria, important research needed for Eastern North Carolina.

It also provides for the continuation of land grant research programs, including those at historical black colleges and universities, and education land grants for Hispanic-serving institutions.

The food stamp restoration targets the most vulnerable legal immigrants: the elderly, disabled persons and children. It targets refugees, who often came to this country without nothing but the clothes on their backs, and veterans who fought courageously along the U.S. military forces in Vietnam.

They were eligible for food stamps prior to the Welfare Reform Act of 1996. The importance, the urgency and the fairness of the agriculture research bill to all growers and consumers of agricultural products is paramount.

We also passed H.R. 4060, the Energy and Water Appropriations Act for fiscal year 1999, which includes money for the Wilmington, North Carolina port. That measure included $8.3 million in funding for the deepening and widening of the port at Wilmington, North Carolina which has historically served as one of the greatest sources of revenue along the East Coast.

While generating over $300 million in State and local taxes, the port creates over 80,000 jobs in North Carolina. Along with North Carolina, many other landlocked States of the southeast have used the Port of Wilmington as a conduit to the Atlantic Ocean and to the rest of the world.

Completing the Cape Fear River deepening project is indeed prudent spending of Federal funds, long range vision, and it does indeed allow for a balance of our priorities. I also applaud the passage of H.R. 4101, the fiscal year 1999 Agriculture Appropriation Bill. The bill provides a total of $55.9 billion for agriculture, rural development and food nutrition programs.

I am delighted that several amendments to the bill were defeated, including one against the peanut program, which is so important to my district, which was voted down by a higher margin than last year. The bill increases funding for farm operation loans, maintains funding for the WIC program, funds the Federal Crop Insurance Program, increased funding for agriculture inspection and holds the line on agriculture research, and increases funding for school lunch and the school breakfast program.

The bill also contains provisions for lifting the statute of limitations contained in the Equal Credit Opportunity Act, thus allowing black farmers who have complaints of discrimination against the Department of Agriculture to have a hearing either before the department or before the courts. Where relief is merited, it will now be granted even for the cases dating back to 1983. The plight of the black farmers in America is a plight not unlike that of other groups, with one very significant exception.

The very department designed to help them has over the last several years indeed harmed them. There has been a 64 percent decline in black farmers, just over the last 15 years, from 6,996 farmers in 1978 to 2,498 farmers in 1992.

The Department of Justice ruled earlier this year that legal and technical arguments should prevent these farmers from recovering for damages done to them, taking the position that even in cases where the discrimination had been proven, documented and demonstrated, recovery was indeed possible. However, the Reagan administration had eliminated the investigating unit within the USDA which would have investigated their complaints of discrimination.

Yet the department continued to receive the complaints and in fact in its literature encouraged farmers to submit their complaints to them. Black farmers relied on this representation and indeed it was an empty process to their detriment.

It was not until the complainants failed to get relief from USDA and filed lawsuits that the Department of Justice raised the statute of limitations as a defense. Because the department formally took the position, I and others call upon our colleagues in Congress to provide swift and effective legislative remedies. I am glad to say that our Congress passed that. It was a historical day.

STANDING UP FOR FREEDOM

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, the gentleman from Florida (Mr. SCARBOROUGH) is recognized for 60 minutes as the designee of the majority leader.

Mr. SCARBOROUGH. Mr. Speaker, earlier today the Speaker talked about the historic moment that we had 50 years ago in this country when the Berlin airlift took place. He said a couple things that I wrote down here.

He talked about the importance for America to continue to, quote, reject Communist oppression across the globe. And secondly, he talked about the importance of standing up for freedom.

I think that is very important, and I think it is critical today, 50 years later, that we do that, that we look and see what America is doing, to see if they are continuing to defend freedom across the globe the way that those that came before us did 50 years ago and the way that our Founding Fathers thought we should do.

Unfortunately, today I am concerned, as are a lot of other Republicans and Democrats, about what this administration is doing halfway across the globe in Communist China. The gentlewoman from California (Ms. PELOSI) who has worked on human rights issues with myself and others said this today:

> There is no improvement in human rights there. The President can say that China has improved its human rights record because it exiled forcibly two dissidents. But we don't call that progress.

Earlier this week the Washington Post, on Tuesday June 23rd, had this to say about human rights in China:

> Li Hai, 44 years old, a former teacher at the Chinese Medical College, is now serving a 9 year prison sentence in Beijing's prison. His crime, assembling a list of people who were jailed for taking part in pro-democracy demonstrations in Tiananmen Square in 1989. From the Beijing area alone, he documented more than 700. Of those, 158, mostly workers rather than students, received sentences of more than 9 years and are presumed to still be held for protesting for democracy in Tiananmen Square back in 1989.
>
> Many were sentenced to a life in prison, from a 22 year old to a 76 year old. Li Hai himself was convicted for prying into and gathering state secrets.

Now, in China, in Tiananmen Square, in the land where the President goes to talk about China's great progress on human rights, what the Communist government calls prying into and gathering state secrets is one individual, one citizen trying to find out who the Communist Chinese drug off to prison after they shot down and killed hundreds and maybe even thousands of demonstrators in Tiananmen Square.

The Washington Post goes on to say,

> We thought of Mr. Li as we read President Clinton's explanation in Newsweek yesterday of, Why I am going to Beijing. Mr. Clinton wrote of the real progress that China has made in human rights during the past year. That progress, according to the President, consists of the release of several prominent dissidents. How meager these accomplishments in human rights really are becomes clear when you stack them up against the administration's own decidedly modest goals going back to 1996, when it had already downgraded the priority of human rights.

The Washington Post concludes,

> Tomorrow Mr. Clinton will leave for China. He is the first President to visit since the Tiananmen Square massacre in 1989. His aides promise that he will speak out on human rights there and that there is a chance that he will meet with the mother of a student killed in Tiananmen Square. The first could be valuable if his remarks are broadcast on Chinese television. The second, an important symbol, especially because many relatives of Tiananmen victims continue to be persecuted and harassed. But Mr. Clinton's comments should above all be honest. For the sake of Li Hai, the 158 documented and the many that still cannot be found, Mr. Clinton should not trumpet real progress in human rights where no human rights record of progress exists.

Going back to 1992, it is very interesting to follow what the President has said on human rights in China. I remember back during the campaign of 1992, when the President talked about the need to stand up to the butchers of Beijing, that is a position that I actually applauded because I was surprised that those of us in Congress and the administration did not do more following the brutal massacre in 1989.

The President made that vow, but soon after he got elected, he forgot about that vow, just like he forgot about the promise to link human rights with trade. And he forgot to do that very quickly. And the result, as reported by A. M. Rosenthal in the New York Times, was disastrous.

Religious freedoms and political speech continue to be crushed in China. Protestants and Catholics are thrown in jail. In fact, thrown into jail up to 2 years for simply having a bible at home and leading a bible study.

□ 1900

Over 400,000 are jailed right now. The New York Times and A. M. Rosenthal has reported that Christians and Buddhists continue to be savagely beaten, tortured in front of their families, and even killed for simply worshiping God as they choose.

This past week, I went to a Tibet freedom rally on the west lawn. We heard Tibetans talk about what has happened in their culture and how the Tibetan culture continues to be crushed. Yet, in America, we ignore some stark numbers.

We ignore the number 50. That is about how long the Communist Chinese have occupied Tibet. We ignore the number 1.2 million. That is the number of Tibetans that have been killed since the Chinese occupation. We continue to ignore the number 130,000. That is how many Tibetans today have been forced into exile. The number 250,000 is important because that is the number of Chinese troops occupying Tibet.

And 60 million is a frightening number when you want to really gauge what type of regime the President is dealing with today in Tiananmen Square. To give all Americans a little historical perspective, 60 million is the number of Chinese that have been killed by their own government since 1949, 60 million. The number is so high that it boggles the imagination.

Let us put it into this perspective: Adolph Hitler was accused of killing 6 million Jews in the Holocaust. Hitler killed 6 million Jews, and has been termed as one of the most evil men of, not only this century, but in the history of western civilization, the history of the world. Yet, we have a regime that has murdered 10 times that amount of people, murdered 60 million.

But that is a number that continues to fall on deaf ears in the United States. Why is that? I think it has something to do with another number, and that number is 9,000. And 9,000 is a very interesting number, you see, because that number is a number that mesmerizes politicians in Washington, D.C. and in State capitals across this country. Nine thousand is a number that mesmerizes the wizards of Wall Street. Nine thousand is a number that mesmerizes those that work on Madison Avenue.

Yes, 9,000 is the number that the Dow Jones continues to float around. It is about money. We are obsessed with finance. Let me tell you, there is nothing wrong with a strong Wall Street. There is nothing wrong with a Dow Jones over 9,000.

I have been termed as a right wing fanatic, too conservative on fiscal issues. I believe in cutting taxes. I believe in abolishing the capital gains tax. I believe in abolishing the inheritance tax. I believe in cutting government spending radically. I believe in the free enterprise system.

Socialism and Marxism as political theories lie on the dust bin of history. They are dead. Capitalism won. Pure unadulterated capitalism prevailed over the socialism and the communism of the Soviet Union.

I like profit. I think profit is good for America. But we have to balance that with a few of the values that this country is supposed to be about. But everybody is so busy chasing profits across the globe to get the Dow Jones even higher that sometimes finance takes a front seat to freedom. Finance seems to take a front seat to American self-interest.

There is one defense contractor who is reported in the Wall Street Journal last year who actually was so rabidly pursuing a deal with China to sell airplanes to China that they sent their engineers over to China to talk to the engineers that worked on Chinese jet fighters, because they wanted to help the Chinese.

To prove that they were good partners, and to prove that they deserved to get this deal, they wanted to help the Chinese engineers learn how to make their jet fighters more competitive with our jet fighters. All in pursuit of a deal.

We have the CEO of another defense industry who wants to build more airplanes, that has supported me in the past, who continues to defend the actions of the Communist Chinese, despite the fact that all credible reports coming out of there continually show that oppression continues to reign.

His quote last year was that there is more democracy and freedom in China than there is in America, because, after all, more Chinese vote. That is frightening logic. But it shows how desperate companies are to go over there, make bigger profits, help their stocks go up higher.

If that affects the national security of the United States of America, or if that affects freedom, this esoteric concept that Thomas Jefferson once talked about, so be it.

We have the PAC community, BIPAC, the business PAC openly critical of Republican and Democratic Members that continue to fight against extending MFN, Most Favored Trade Nations Status to the Chinese. They claim that it shows that we are antibusiness.

When I got elected here in 1994, I had never been involved in politics before. I decided it was time to get up off the couch and do something. But it seemed to me, before I got up here, that Members of Congress and administrations did not have to choose between freedom and finance, that we could somehow walk sort of that middle road. But it is not that way anymore. The President tells us. The BIPACs of the world tell us that it is all or nothing.

You either completely engage with China, give them whatever they want on their terms, or else you are a dangerous knuckle dragging isolationist that just does not understand the economic and political realities at the end of the 20th Century. That argument is patently false.

There was an editorial in the New York Times, an op ed last week that said as much. It is written by Robert Kagan and William Kristol. The headline said "Stop Playing by China's Rules." Their editorial said the following: "In defending his China policy, President Clinton says America faces historic choice: engage China as his Administration has done or isolate it. But that is a false choice."

As the op ed goes on to say, nobody is arguing that we isolate China. China is going to be one of the great powers in the 21st Century. We will share the world stage with the Chinese people until everyone that is living today has passed away and died. That is the political reality. That is the demographic reality.

The 21st Century will not be the American century alone. It will be the American and Asian century. A power shift is happening, and we will be sharing the world stage, and we understand that.

But the question is, do we join into this partnership by China's rules, or do we try to meet in the middle ground with them? What Kagan and Kristol conclude is the following: "Mr. Clinton seems determined to cast his critics as backward-looking isolationists spoiling for a new cold war. In fact, the Clinton Administration's current policy invites Chinese adventurism abroad and repression at home. At the end of this bloody century, we all should have learned that appeasement, even when disguised as engagement, doesn't work."

How many people have read the history, or how many Americans still alive remember what happened in 1938 when Neville Chamberlain went to Munich, and he was so desperate to avoid war, so desperate to avoid any conflict with Adolph Hitler that he engaged in what was later termed an appeasement policy, a policy that Winston Churchill and his conservative allies aggressively fought against.

But Chamberlain was dead-set against fighting Hitler because Hitler was too powerful. Britain was not ready for that type of a war. So he came back, after appeasing Hitler, talking about how he had found "peace for our time."

Of course Adolph Hitler, like the Chinese today, did not see appeasement as a show of strength, but rather a show of weakness. Soon after that, peace in our time ended with Hitler going into Austria, going into Poland and beginning the bloody, bloody Second World War.

We cannot capitulate. If we continue to capitulate, BIPAC, Wall Street, and the other business leaders that are accusing us of isolation may make a short-term profit but, in the end, will pay the ultimate price.

What do the Chinese leaders think of us for this appeasement policy we have been engaging? Let me read to you from yesterday's Investor's Business Daily, a quote from a U.S. official who was negotiating with the Chinese.

It goes like this: "In March 1996, China started lobbying missiles within 100 miles of Taiwan as a signal on the eve of the island's first democratic elections. The Clinton administration said nothing publicly at the time, even though the Chinese insulted U.S. officials when they privately promised a military reaction if Taiwan was attacked."

This is what the Chinese said after that threat, "No, you won't. We've watched you in Somalia. We have watched you in Haiti. We have watched you in Bosnia and you don't have the will," a Chinese officer told U.S. negotiators. China has nuclear weapons, and "you are not going to threaten us again, because, in the end, you care a lot more about Los Angeles than Taipei," a U.S. official recalled the Chinese officer saying.

So they understand that we are a paper tiger. They understand that they can even threaten nuclear annihilation on Los Angeles, California and not face the consequences. Yet, silence is deafening from Wall Street. Silence is deafening from many in the PAC community. The silence is deafening from the halls of Congress and the administration.

Why? The Dow is over 9,000. China is, after all, the next great export market. In the end, let us face it, the economy is strong in part because the prices on consumer goods are low.

Why are they low? Because China provides us with what Americans would call slave labor. Their workers only make $30 a month. So they can make the items that we buy and wear very cheaply. This is an arrangement we do not want to fool around with.

I guess it was brought home to me just how bad the situation is in China yesterday when I heard a speech by Bill Greider in the Capitol talking about a plant that he visited over in China. They talked about how they, the workers made $30 to $60 a month if they were productive.

If they were not productive, he found out that they actually took money out of this envelope at the end of the month if they were not doing as good a job. Greider said that sounds kind of inhumane, does it not? Only $60 a month, and they still dock their pay.

The foreman said, "Well, it is better than what happened a couple of years ago." Greider said, "Well, what is that?" He said, "Well, we lined them up on the wall and shot them," and told the story of how seven workers were not simply as productive as they should have been and were taken outside and shot.

Wall Street, a lot of the business community, a lot of the lobbyists will tell you that does not exist. Yet, just about every credible journalist, whether it is the New York Times or the Washington Post, will tell you they have seen it with their own eyes, that it does exist.

☐ 1915

A.M. Rosenthal better than anybody else over the past few years has documented human rights abuses.

I had a lobbyist for an organization that I respect tell me with a straight face that there is no religious persecution in China, that there is no religious persecution in Tibet. That is a big lie.

There is a song out that is called "Novocain for the Soul." I think that is what 9,000 points on the Dow Jones Industrial has done. It has numbed us. It has numbed the soul of Americans to the grave injustices that are occurring across the globe. Maybe I am overreacting. Maybe we should not worry about it. Maybe America in the 21st century is not what America was in the 18th century. Maybe freedom, liberty and the things that Thomas Jefferson talked about and James Madison talked about does not matter. Maybe they are not relevant. But I tend to believe they are. I believe in such quaint notions as what Russell Kirk said. Kirk said, "No matter the volume of its steel production, a nation which has disavowed principle is vanquished."

And Winston Churchill in the 1950s, talking about a similar shift in his country and in his party, a similar shift where old concepts of the Constitution and freedom were transplanted with commerce and simply commerce, had this to say:

> The old conservative party, with its religious convictions, and constitutional principles, will disappear and a new party will rise, perhaps like the Republican Party in the United States, rigid, materialist and secular, whose opinions will turn on tariffs and who will cause the lobbies to be crowded with the touts of the protected industries.

I hope that does not happen to our Republican Party. I hope we will have the courage to stand up and be counted where others sit down and simply shut up and are silenced because the lure of new prosperous markets are too inviting. But the question is up in the air right now on how we are going to respond. I must say we have not been responding as well over the past few years as I would have liked. I think what we not only in the Republican Party but like-minded people in the Democratic Party must fight for are the first principles that our Founding Fathers based this Constitution and this constitutional republic upon, concepts like freedom, concepts written in the Declaration of Independence when Jefferson helped pen that incredible phrase that "we hold these truths to be self-evident, that all men are created equal and endowed by their Creator with certain unalienable rights, among those life, liberty and the pursuit of happiness."

There is not a lot of ambiguity there. The belief was all men, not people in America, but all are endowed with certain unalienable rights. From where? According to the Declaration of Independence, from God. It is non-negotiable. It does not matter whether the Dow Jones is over 9,000 or under 900. It does not matter if China is the next great export market or not. That we in America believe that all are created equal. And whether we are fighting for civil rights in Birmingham or Beijing, it is non-negotiable. Regrettably we have negotiated away too many of those freedoms and too many of those rights for a higher Dow Industrial and a lower price on consumer goods. Jefferson's idea that America was the last great hope for a dying world seems quaint 222 years later. And Ronald Reagan's belief that America was to be a city shining brightly on the hill for all the world to see seems to be a belief that has been dimmed. In fact, right now there is an exhibit that almost seems quaint. Mr. Speaker, it is in the Library of Congress and it is called "Religion and the Founding of the American Republic." It is right behind us, across the street, where the Library of Congress pulled together all the papers of our Founding Fathers when talking on the issue of religion. This is a summary of the exhibit, what the Library of Congress wrote in the chapter "America as Religious Refuge, the 17th Century." It talks about how "many of the North American colonies that eventually formed the United States of America were settled by men and women who in the face of European persecution refused to compromise passionately held religious convictions. The great majority left Europe to worship God in the way that they believed to be correct."

To worship in the way that they believed to be correct. Is that a notion that can be negotiated away in Tiananmen Square? Is that a notion that depends on how well the Dow Jones is doing? Is that a quaint notion that depends on whether we are talking about the next great export market? I do not think so. Again, that is a notion that is non-negotiable. For those on Wall Street, for those lobbyists on K Street, for those apologists on Main Street that want to turn a blind eye to oppression in China, I say facts are stubborn things. Facts are stubborn things.

We cannot turn our eyes away from the world's ills, to the growing evidence of how China has aided in nuclear proliferation, how they gave nuclear secrets to Pakistan, to Libya and now possibly even to Iran. The results obviously are dangerous. Pakistan just exploded publicly several nuclear devices that now endangers all the world as a new nuclear arms race is escalating in Asia. The technology transfers that we heard about a month or two back, where the DOD themselves said, quote, America's national security has been jeopardized, has been compromised, because this administration gave technology to the Chinese that helped make their nuclear missiles more accurate towards America. The Pentagon said national security was jeopardized.

Just today, there was testimony from a Pentagon aide who criticized Chinese policies. This is by John Diamond with the Associated Press:

> A veteran adviser with the Pentagon agency charged with reviewing proposed exports testified today before a Senate committee investigating whether the administration helped China gain military capacity that should have been restricted. .
>
> Speaking in a hoarse whisper, he told the Senate Governmental Affairs Committee how senior defense officials glossed over concerns in the lower ranks that U.S. businesses were being allowed to sell China and other countries technology with military applications. Senior defense officials sometimes instructed subordinates to soften or reverse their recommendations that certain technology not be exported, he said.
>
> That's happened on several occasions. Sometimes it happens in your face and sometimes it happens when you're on vacation and somebody tampers with your database under your name.

In 1996, Leitner said, he returned from a 3-week vacation to find that his recommendation against the export of supercomputer technology to Russia had been rewritten to a neutral position. Although approval for the export eventually was denied, Russia later announced it had obtained the U.S.-built computers without an export license. The case now is under investigation.

We heard reports in this House in an investigating committee that people that were charged with stopping military technology from being transferred to China would make recommendations not to export that technology to China and they would then be pressured to change their recommendations. We find out now that the President asked the Secretary of State to allow these technology transfers. The Secretary of State said no, this damages America's national security in its relationship with China. The President asked the CIA. They said no. The President asked the National Security Council. They said no. In fact, they continued shopping to try to find somebody that would approve this technology transfer.

Finally they went to the right department. They asked the Department of Commerce, who said, "Sure, go ahead, it's great for business." Now, the heck with the national security. It does not matter what our Secretary of State says. But go ahead and send it to Commerce. And now we find out this past week that the Commerce Department allowed technology transfers without telling other agencies about what was going on. Because, we see again, national security recently has taken a back seat to finance, to quick profits, and it is dangerous, extraordinarily dangerous.

The question is, with nuclear proliferation exploding across the globe because of China and because of our lack of response to China, with technology transfers that our own Pentagon has said compromises national security continuing to move forward, with human rights violations that are continuing in China as reported by the New York Times, the Washington Post, Newsweek, Time and just about every other major news outlet, with these human rights abuses continuing, what can be done when Wall Street, when official Washington, and when too many other people across the country are simply not paying attention, turning a blind eye to it or engaging in this conspiracy of silence. What can be done to make a difference?

I am at times cynical, but I do believe that we can make a big difference. I believe that we can fight the good fight, and I think that if people will start speaking out on this floor and speaking out, Republicans and Democrats alike, that we have a chance the next time MFN is debated to talk about human rights and talk about technology transfers, to talk about nuclear proliferation and maybe even make a difference.

Bobby Kennedy back in 1966 went to Johannesburg and at the time he was talking about ending apartheid. A lot of people thought that it was a mission that could not be done, thought it was too difficult, thought the walls of oppression would continue there. But Bobby Kennedy continued the fight. Even though he was killed in 1968, 15 years later, many of the things that he talked about in that speech in Johannesburg came true.

In talking about ending apartheid, this is what Robert Kennedy said:

> It is a revolutionary world that we live in. It is young people who must take the lead. We have had thrust upon us a greater burden of responsibility than any generation that has ever lived.
>
> "There is," said an Italian philosopher, "nothing more difficult to take in hand, more perilous to conduct, or more uncertain in its success than to take the lead in the introduction of a new order of things."
>
> There is the belief there is nothing one man or one woman can do against the enormous array of the world's ills, against misery and ignorance, injustice and violence. Yet many of the world's great movements, of thought and action, have flowed from the work of a single man or woman.
>
> It is from numberless diverse acts of courage and belief that human history is shaped. Each time a man stands up for an ideal, or acts to improve the lot of others, or strikes out against injustice, he sends forth a tiny ripple of hope, and crossing each other from a million different centers of energy and daring those ripples build a current which can sweep down the mightiest walls of oppression and resistance.

□ 1930

It is my prayer tonight, with the President halfway across the world in Beijing, that those who respect and honor human rights in China, those who respect and honor human rights in Europe, those who respect and honor human rights in this country will start acting in ways that will strike out against injustice and send forth ripples of hope and that together, today, we can begin a movement that will help end the human rights abuses in China and Tibet and across the world and help America reconnect with its proud and noble past.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. HUTCHINSON (at the request of Mr. ARMEY) for today on account of a death in the family.

Mr. BRADY of Texas (at the request of Mr. ARMEY) for today on account of official business.

Mr. HULSHOF (at the request of Mr. ARMEY) for after 11:15 a.m. today on account of personal reasons.

Mr. MCDADE (at the request of Mr. ARMEY) for Wednesday, June 24 and today on account of medical reasons.

Mr. REYES (at the request of Mr. GEPHARDT) for today on account of official business.

Mr. LAMPSON (at the request of Mr. GEPHARDT) for today on account of official business.

Mr. TURNER (at the request of Mr. GEPHARDT) for today on account of business in the district.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. OWENS) to revise and extend their remarks and include extraneous material:)

Mr. CONYERS, for 5 minutes, today.

Mr. HOYER, for 5 minutes, today.

Ms. NORTON, for 5 minutes, today.

Mr. HINCHEY, for 5 minutes, today.

Mr. UNDERWOOD, for 5 minutes today.

(The following Members (at the request of Mrs. MYRICK) to revise and extend their remarks and include extraneous material:)

Mrs. KELLY, for 5 minutes, today.

Mr. BILIRAKIS, for 5 minutes, today.

Mr. HUNTER, for 5 minutes, today.

Mr. DUNCAN, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. FROST, and to include therein extraneous material, notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $2,274.

ADJOURNMENT

Mr. SCARBOROUGH. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to.

The SPEAKER pro tempore (Mr. PEASE). Pursuant to the provisions of House Concurrent Resolution 297 of the 105th Congress, the House stands adjourned until 12:30 p.m., Tuesday, July 14, 1998, for morning hour debates.

Thereupon (at 7 o'clock and 33 minutes p.m.), pursuant to House Concurrent Resolution 297, the House adjourned until Tuesday, July 14, 1998, at 12:30 p.m. for morning hour debates.

OATH OF OFFICE, MEMBERS, RESIDENT COMMISSIONER, AND DELEGATES

The oath of office required by the sixth article of the Constitution of the United States, and as provided by section 2 of the act of May 13, 1884 (23 Stat. 22), to be administered to Members, Resident Commissioner, and Delegates of the House of Representatives, the text of which is carried in 5 U.S.C. 3331:

> "I, A B, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God."

has been subscribed to in person and filed in duplicate with the Clerk of the House of Representatives by the following Members of the 105th Congress, pursuant to the provisions of 2 U.S.C. 25:

Honorable HEATHER WILSON, First, New Mexico.

RULES OF PROCEDURE FOR THE HOUSE SELECT COMMITTEE ON MILITARY/COMMERCIAL CONCERNS WITH THE PEOPLE'S REPUBLIC OF CHINA

The Hon. CHRISTOPHER COX, Chairman of the Select Committee on U.S. National Security and Military/Commercial Concerns with the People's Republic of China, submitted the following rules of procedure:

Select Committee on U.S. National Security and Military/Commercial Concerns with the People's Republic of China—Rules of Procedure

(Adopted June 25, 1998)

1. CONVENING OF MEETINGS

The regular meeting date and time for the transaction of committee business shall be at 8 o'clock a.m. Wednesday of each week, unless otherwise directed by the chairman.

In the case of any meeting of the committee, other than a regularly scheduled meeting, the clerk of the committee shall notify every member of the committee of the time and place of the meeting and shall give reasonable notice which, except in extraordinary circumstances, shall be at least 24 hours in advance of any meeting held in Washington, D.C., and at least 48 hours in the case of any meeting held outside Washington, D.C.

2. PREPARATIONS FOR COMMITTEE MEETINGS

Under direction of the chairman, designated committee staff members shall brief members of the committee at a time sufficiently prior to any committee meeting to assist the committee members in preparation for such meeting and to determine any matter which the committee members might wish considered during the meeting. Such briefing shall, at the request of a member, include a list of all pertinent papers and other materials that have been obtained by the committee that bear on matters to be considered at the meeting.

The staff director shall recommend to the chairman the testimony, papers, and other materials to be presented to the committee at any meeting. The determination whether such testimony, papers, and other materials shall be presented in open or executive session shall be made by the Chairman in conformity with the Rules of the House and these rules.

3. MEETING PROCEDURES

Meetings of the committee shall be open to the public except that a portion or portions of any such meeting may be closed to the public if the committee determines by record vote in open session and with a majority present that the matters to be discussed or the testimony to be taken on such matters would endanger national security, would compromise sensitive law enforcement information, or would tend to defame, degrade or incriminate any person, or otherwise would violate any law or rule of the House.

Quorum.—One-third of the members of the Select Committee shall constitute a quorum for the transaction of business other than the reporting of a matter, which shall require a majority of the committee to be actually present, except that 2 members shall constitute a quorum for the purpose of holding hearings to take testimony and receive evidence. Decisions of the committee shall be by majority vote of the members present and voting.

Whenever the committee by rollcall vote reports any measure or matter, the report of the committee upon such measure or matter shall include a tabulation of the votes cast in favor of and the votes cast in opposition to such measure or matter.

4. PROCEDURES RELATED TO THE TAKING OF TESTIMONY

Notice. Reasonable notice shall be given to all witnesses appearing before the committee.

Oath or Affirmation. Testimony of witnesses shall be given under oath or affirmation which may be administered by any member of the committee, except that the chairman of the committee shall not require an oath or affirmation where the chairman determines that it would not be appropriate under the circumstances.

Interrogation. Committee interrogation shall be conducted by members of the committee and such committee staff as are authorized by the chairman or the presiding member.

Counsel for the Witness. (A) Any witness may be accompanied by counsel. A witness who is unable to obtain counsel may inform the committee of such fact. If the witness informs the committee of this fact at least 24 hours prior to the witness' appearance before the committee, the committee shall then endeavor to obtain voluntary counsel for the witness. Failure to obtain such counsel will not excuse the witness from appearing and testifying.

(B) Counsel shall conduct themselves in an ethical and professional manner. Failure to do so shall, upon a finding to that effect by a majority of the members of the committee, a majority being present, subject such counsel to disciplinary action which may include censure, removal, or a recommendation of contempt proceedings, except that the chairman of the committee may temporarily remove counsel during proceedings before the committee unless a majority of the members of the committee, a majority being present, vote to reverse the ruling of the chair.

(C) There shall be no direct or cross-examination by counsel for a witness. However, counsel may submit in writing any question counsel wishes propounded to a client or to any other witness and may, at the conclusion of such testimony, suggest the presentation of other evidence or the calling of other witnesses. The committee may use such questions and dispose of such suggestions as it deems appropriate.

Statements by Witnesses. A witness may make a statement, which shall be brief and relevant, at the beginning and conclusion of the witness' testimony. Such statements shall not exceed a reasonable period of time as determined by the chairman, or other presiding member. Any witness desiring to make a prepared or written statement for the record of the proceedings shall file a copy with the clerk of the committee, and insofar as practicable and consistent with the notice given, shall do so at least 72 hours in advance of the witness' appearance before the committee.

Objections and Ruling. Any objection raised by a witness or counsel shall be ruled upon by the chairman or other presiding member, and such ruling shall be the ruling of the committee unless a majority of the committee present overrules the ruling of the chair.

Transcripts. A transcript shall be made of the testimony of each witness appearing before the committee during a committee hearing.

Inspection and Correction. All witnesses testifying before the committee shall be given a reasonable opportunity to inspect the transcript of their testimony to determine whether such testimony was correctly transcribed. The witness may be accompanied by counsel. Any corrections the witness desires to make in the transcript shall be submitted in writing to the committee within 5 days from the date when the transcript was made available to the witness. Corrections shall be limited to grammar and minor editing, and may not be made to change the substance of the testimony. Any questions arising with respect to such corrections shall be decided by the chairman. Upon request, those parts of testimony given by a witness in executive session which are subsequently quoted or made part of a public record shall be made available to that witness at the witness' expense.

Requests to Testify. The committee will consider requests to testify on any matter or measure pending before the committee. A person who believes that testimony or other evidence presented at a public hearing, or any comment made by a committee member or a member of the committee staff may tend to affect adversely that person's reputation, may request to appear personally before the committee to testify on his or her own behalf, or may file a sworn statements of facts relevant to the testimony, evidence, or comment, or may submit to the chairman proposed questions in writing for the cross-examination of other witnesses. The committee shall take such actions as it deems appropriate.

Contempt Procedures. No recommendations that a person be cited for contempt of Congress shall be forwarded to the House unless and until the committee has, upon notice to all its members, met and considered the alleged contempt, afforded the person an opportunity to state in writing or in person why he or she should not be held in contempt, and agreed, by majority vote of the committee, a quorum being present, to forward such recommendation to the House.

Release of Name of Witness. At the request of any witness, the name of that witness scheduled to be heard by the committee shall not be released prior to, or after, the witness' appearance before the committee, unless otherwise authorized by the chairman.

Closing Hearings. A vote to close a committee hearing may be taken by a majority of those present, there being in attendance the requisite number required under the rules of the committee to be present for the purpose of taking testimony or receiving evidence; provided, that such a vote may not be taken by less than a majority of the committee members unless at least one member of the minority is present to vote upon the motion to close the hearing.

5. SUBPOENAS, INTERROGATORIES, LETTERS ROGATORY, DEPOSITIONS AND AFFIDAVITS

A. Subpoenas, Interrogatories and Letters Rogatory

Committee subpoenas issued in accordance with House Resolution 463 may be served by any person designated by the chairman. Each subpoena shall have attached thereto a copy of these rules and of House Resolution 463.

Unless otherwise determined by the select committee the chairman, upon consultation with the ranking minority member, shall authorize and issue subpoenas. In addition, the select committee may itself vote to authorize and issue subpoenas. Subpoenas shall be issued under the seal of the House and attested by the Clerk, and may be served by any persons designated by the chairman or any member. Subpoenas shall be issued upon the chairman's signature or that of a member designated by the Chairman or by the committee.

A subpoena duces tecum may be issued whose return shall occur at a time and place other than that of a regularly scheduled meeting. Upon the return of such a subpoena, the chairman or in his absence the ranking member of the majority party who is present, on two hours' telephonic notice to all other committee members, may convene a hearing for the sole purpose of elucidating further information about the return on the subpoena and deciding any objections to the subpoena.

Orders for the furnishing of information by interrogatory, the inspecting of locations and systems of records upon notice except in exigent circumstances, the obtaining of evidence in other countries by means of letters rogatory or otherwise, and the other process for obtaining information available to the committee, shall be authorized and issued by the chairman, upon consultation with the ranking minority member, or by the select committee. Requests for investigations, reports, and other assistance from any agency of the executive, legislative, and judicial branches of the federal government, shall be made by the chairman, upon consultation with the ranking minority member, or by the committee.

Provisions may be included in the process of the committee to prevent the disclosure of committee demands for information, when deemed necessary for the security of information or the progress of the investigation by the chairman or member designated by him or the committee, such as requiring that companies receiving subpoenas for financial or toll records make no disclosure to customers regarding the subpoena for ninety days or prohibiting the revelation by witnesses and their counsel of committee inquiries.

B. Depositions and Affidavits

Unless otherwise determined by the select committee the chairman, upon consultation with the ranking minority member, or the select committee, may authorize the taking of affidavits, and of depositions pursuant to notice or subpoena. Such authorization may occur on a case-by-case basis, or by instructions to take a series of affidavits of depositions. The chairman may either issue the deposition notices himself, or direct the appropriate member of the staff to do so. Notices for the taking of depositions shall specify a time and place for examination. Affidavits and depositions shall be taken under oath administered by a member or a person otherwise authorized by law to administer oaths. The minority shall be afforded an opportunity to participate in all depositions.

The committee shall not initiate procedures leading to contempt proceedings in the event a witness fails to appear at a deposition unless the deposition notice was accompanied by a committee subpoena authorized and issued by the chairman or the committee.

Witnesses may be accompanied at a deposition by personal counsel to advise them of their rights, subject to the provisions of Rule 4 hereof. Absent special permission or instructions from the chairman, no one may be present in depositions except members, staff designated by the chairman, an official reporter, the witness and any personal counsel; observers or counsel for other persons or for the agencies under investigation may not attend.

Witnesses shall be examined in depositions by a member or members or by staff designated by the chairman. Objections by the witness as to the form of questions shall be noted for the record. If a witness objects to a question and refuses to answer, the members or staff may proceed with the deposition, or may obtain, at that time or at a subsequent time, a ruling on the objection by telephone or otherwise from the chairman or his designee. The committee shall not initiate procedures leading to contempt for refusals to answer questions at a deposition unless the witness refuses to testify after his objection has been overruled and after he has been ordered and directed to answer by the chairman or his designee upon consultation with the ranking minority member or his designee.

The committee staff shall insure that the testimony is either transcribed or electronically recorded, or both. If a witness' testimony is transcribed, then the witness shall be furnished with an opportunity to review a copy. No later than five days thereafter, the staff shall enter the changes, if any, requested by the witness, with a statement of the witness' reasons for the changes, and the witness shall be instructed to sign the transcript. The individual administering the oath, if other than a Member, shall certify on the transcript that the witness was duly sworn in the administering individual's presence, the transcriber shall certify that the transcript is a true record of the testimony, and the transcript shall be filed, together with any electronic recording, with the clerk of the committee in Washington, D.C. Affidavits and depositions shall be deemed to have been taken in Washington, D.C. once filed there with the clerk of the committee for the committee's use.

All depositions, affidavits, and other materials obtained under the authority of Section 9 of House Resolution 463 shall be considered to be taken in executive session. Such material may be released or used in public sessions with the consent of the committee, which shall, unless otherwise directed by the committee, meet in executive session to consider and grant or withhold such consent, provided, that classified information shall be handled in accordance with Rule 7.

6. STAFF

Members of the committee staff shall work collegially, with discretion, and always with the best interests of the national security foremost in mind. Committee business shall, whenever possible, take precedence over other official and personal business. For the purpose of these rules, committee staff means the persons described in Sec. 14(a) of House Resolution 463, including detailees to the extent necessary to fulfill their designated roles. All such persons shall be subject to the same security clearance and confidentiality requirements as employees of the select committee under this rule. Committee staff shall be either majority, minority, or joint. The appointment of joint committee staff shall be by the chairman in consultation with the ranking minority member. A small number of majority and minority staff may be appointed by the chairman and ranking minority member, respectively, without such consultation, the total number of such staff to be fixed by the chairman. After confirmation, the chairman shall certify all committee staff appointments, including appointments by the ranking minority member, to the Clerk of the House in writing.

The joint committee staff works for the committee as a whole, under the supervision of the chairman of the committee. Except as otherwise provided by the committee, the duties of joint committee staff shall be performed and committee staff personnel affairs and day-to-day operations, including security and control of classified documents and material, shall be administered under the direct supervision and control of the staff director. Majority and minority staff appointed by the chairman and ranking member, respectively, shall be subject to the same operational control and supervision concerning security and classified documents and material as are joint committee staff.

The joint committee staff shall assist the minority as fully as the majority in all matters of committee business and in the preparation and filing of additional, separate and minority views, to the end that all points of view may be fully considered by the committee and the House.

The members of the committee staff shall not discuss either the classified substance or procedure of the work of the committee with any person not a member of the committee or the committee staff for any purpose or in connection with any proceeding, judicial or otherwise, either during that person's tenure as a member of the committee staff or at any time thereafter except as directed by the committee, or, after the termination of the committee, in such a manner as may be determined by the House.

Each member of the committee, and each member of the committee staff, as a condition of employment, shall agree in writing not to divulge any classified information which comes into such person's possession while a member of the committee or the committee staff or any classified information which comes into such person's possession by virtue of his or her position as a member of the committee or the committee staff to any person not a member of the committee or the committee staff, either while a member of the committee staff or at any time thereafter except as directed by the committee, or, after the termination of the committee, in such manner as may be determined by the House.

No member of the committee staff shall be employed by the committee unless and until such person agrees in writing, as a condition of employment, to notify the committee, or, after the committee's termination, the House, of any request for testimony, either while a member of the committee staff or at any time thereafter, with respect to classified information which came into the staff member's possession by virtue of his or her position as a member of the committee staff. Such classified information shall not be disclosed in response to such request except as directed by the committee, or, after the termination of the committee, in such manner as may be determined by the House.

No member of the committee, and no member of the committee staff, shall divulge to any person information which comes into his or her possession by virtue of his or her as member of the committee or of the committee staff, if such information may alert the subject of a committee investigation to the existence, nature, or substance of such investigation, unless directed to do so by the chairman, the committee, or the House.

The committee shall immediately consider disciplinary action to be taken in case any member of the committee staff fails to conform to any of these rules, including specifically, confidentiality, security, and classified information obligations imposed by House Resolution 463, and these rules, and the oath executed pursuant to section 8(e) of these rules. Such disciplinary action may include, but shall not be limited to, immediate dismissal from the committee staff and criminal referral to the Justice Department.

7. RECEIPT OF CLASSIFIED MATERIAL

In the case of any information classified under established security procedures and submitted to the committee by the executive or legislative branch, the committee's acceptance of such information shall constitute a decision by the committee that it is executive session material and shall not be disclosed publicly or released unless the committee, by roll call vote, determines, in a manner consistent House Resolution 463, that it should be disclosed publicly or otherwise released. For purposes of receiving information from either the executive or legislative branch, the committee staff may accept information on behalf of the committee.

8. PROCEDURES RELATED TO CLASSIFIED OR SENSITIVE MATERIAL AND OTHER INFORMATION

(a) Committee staff offices, including majority and minority offices, shall operate under strict security precautions. At least one security officer shall be on duty at all times by the entrance to control entry. Before entering the office all persons shall identify themselves.

Sensitive or classified documents and material shall be segregated in a security storage area under the supervision of appropriate joint committee staff. They may be examined only at secure reading facilities. Copying, duplicating, or removal from the joint committee offices of such documents and other materials are prohibited except with leave of the chairman and ranking member for use in, or preparation for, interviews, depositions or committee meetings, including the taking of testimony in conformity with these rules. No classified documents shall be maintained or stored in the majority or minority offices.

Each member of the committee shall at all times have access to all papers and the staff director shall be responsible for the maintenance, under appropriate security procedures, of a registry which will number and identify all classified papers and other classified materials in the possession of the committee and such registry shall be available to any member of the committee.

Pursuant to clause (2)(e)(2) and clause (2)(g)(2) of House Rule XI, members who are not members of the committee shall be granted access to such transcripts, records, data, charts and files of the committee and be admitted on a nonparticipatory basis to hearings or briefings of the committee which involve classified material on the basis of the following provisions:

(1) Members who desire to examine materials in the possession of the committee or to attend committee hearings or briefings on a nonparticipatory basis should notify the clerk of the committee in writing.

(2) Each such request by a member must be considered by the committee, a quorum being present, at the earliest practicable opportunity. The committee must determine by record vote whatever action it deems necessary in light of all circumstances of each individual request. The committee shall take into account, in its deliberations, such considerations as the sensitivity of the information sought to the national defense or the confidential conduct of the foreign relations of the United States, the likelihood of its being directly or indirectly disclosed, the jurisdictional interest of the member making the request and such other concerns—constitutional or otherwise—as affect the public interest of the United States. Such actions as the committee may take include, but are not limited to: (i) approving the request, in whole or part; (ii) denying the request; (iii) providing in different form than requested information or material which is the subject of the request.

(3) In matters touching on such requests, the committees may, in its discretion, consult the Director of Central Intelligence and such other officials as it may deem necessary.

(4) In the event that the member making the request in question does not accede to the determination or any part thereof of the committee as regards the request, that member should notify the committee in writing of the grounds for such disagreement. The committee shall subsequently consider the matter and decide, by record vote, what further action or recommendation, if any, it will take.

(b) The committee shall call to the attention of the House or to any other appropriate committee or committees of the House any matters requiring the attention of the House or such other committee or committees of the House on the basis of the following provisions:

(1) At the request of any member of the committee, the committee shall meet at the earliest practicable opportunity to consider a suggestion that the committee call to the attention of the House or any other committee or committees of the House executive session material.

(2) In determining whether any matter requires the attention of the House or any other committee or committees of the House, the committee shall consider, among such other matters it deems appropriate—

(A) the effect of the matter in question upon the national defense or the foreign relations of the United States;

(B) whether the matter in question involves sensitive intelligence sources and methods;

(C) whether the matter in question otherwise raises serious questions about the national interest; and

(D) whether the matter in question affects matters within the jurisdiction of another committee or committees of the House.

(3) In examining the considerations described in paragraph (2), the committee may seek the opinion of members of the committee appointed from standing committees of the House with jurisdiction over the matter in question or to submissions from such other committees. Further, the committee may seek the advice in its deliberations of any executive branch official.

(4) If the committee, with a quorum present, by record vote decides that a matter requires the attention of the House or a committee or committees of the House which the committee deems appropriate, it shall make arrangements to notify the House or committee or committees promptly.

(5) In bringing a matter to the attention of another committee or committees of the House, the committee, with due regard for the protection of intelligence sources and methods, shall take all necessary steps to safeguard materials or information relating to the matter in question.

(6) The method of communicating matters to other committees of the House shall insure that information or material designated by the committee is promptly made available to the chairman and ranking minority member of such other committees.

(7) The committee may bring a matter to the attention of the House when it considers the matter in question so grave that it requires the attention of all members of the House, if time is of the essence, or for any other reason which the committee finds compelling. In such case, the committee shall consider whether to request an immediate secret session of the House (with time equally divided between the majority and the minority) or to publicly disclose the matter in question in conformity with the procedures set forth in clause 7 of House Rule XLVIII, governing release of such information by the Select Committee on Intelligence.

(c) Whenever the committee makes classified material available to any other committee of the House or to any member of the House not a member of the committee, the clerk of the committee shall be notified. The clerk shall at that time provide a copy of the applicable portions of these rules and of House Resolution 463 and other pertinent Rules of the House to such members or such committee and insure that the conditions contained therein under which the classified materials provided are clearly presented to the recipient. The clerk of the committee shall also maintain a written record identifying the particular information transmitted, the reasons agreed upon by the committee for approving such transmission and the committee or members of the House receiving such information. The staff director of the committee is further empowered to provide for such additional measures as he or she deems necessary in providing material which the committee has determined to make available to a member of the House or a committee of the House.

(d) Access to classified information supplied to the committee shall be limited to those committee staff members with appropriate security clearance and a need-to-know, as determined by the committee, and under the committee's direction, the staff director.

No member of the committee or of the committee staff shall disclose, in whole or in part or by way of summary, to any person not a member of the committee or the committee staff for any purpose or in connection with any proceeding, judicial or otherwise, any testimony given before the committee in executive session, or the contents of any classified papers or other classified materials or other classified information received by the committee except as authorized by the committee in a manner consistent with House Resolution 463 and the provisions of these rules, or, after the termination of the committee, in such a manner as may be determined by the House.

Before the committee makes any decision regarding a request for access to any testimony, papers or other materials in its possession or a proposal to bring any matter to the attention of the House or a committee or committees of the House, committee members shall have a reasonable opportunity to examine all pertinent testimony, papers, and other materials that have been obtained by the committee.

(e) Before any member of the committee or the committee staff may have access to classified information the following oath shall be executed:

"I do solemnly swear (or affirm) that I will not disclose any classified information received in the course of my service on the Select Committee on Military/Commercial Concerns With the People's Republic of China, except when authorized to do so by the committee or the House of Representatives."

Copies of the executed oath shall be retained in the files of the committee.

9. LEGISLATIVE CALENDAR

The clerk of the committee shall maintain a printed calendar for the information of each committee member showing any procedural or legislative measures considered or scheduled to be considered by the committee, and the status of such measures and such other matters as the committee determines shall be included. The calendar shall be revised from time to time to show pertinent changes. A copy of each such revision shall be furnished to each member of the committee.

10. COMMITTEE TRAVEL

No member of the committee or committee staff shall travel on committee business unless specifically authorized by the chairman. Requests for authorization of such travel shall state the purpose and extent of the trip, together with itemized expenses anticipated thereon. No preliminary arrangements for foreign travel shall be undertaken by any committee member or staff unless such travel has been authorized in writing by the chairman. A full report shall be filed with the committee when any travel, foreign or domestic, is completed.

A report on all foreign travel shall be filed with the committee clerk within 60 calendar days of the completion of said travel. The report shall contain a description of all issues discussed during the trip and the persons with whom the discussion were conducted. If an individual with the committee staff fails to comply with this requirement, he or she shall be subject to the disciplinary procedures set forth in Rule 6.

A report on all foreign travel shall be filed with the committee clerk within 60 calendar days of the completion of said travel. The report shall contain a description of all issues discussed during the trip and the persons with whom the discussions were conducted. If an individual with the committee staff fails to comply with this requirement, he or she shall be subject to the disciplinary procedures set forth in Rule 6.

When the chairman approves the foreign travel of a member of the committee staff not accompanying a member of the committee, all members of the committee are to be advised, prior to the commencement of such travel, of its extent, nature and purpose. The report referred to in the previous paragraph shall be furnished to all members of the committee and shall not be otherwise disseminated with the express authorization of the committee pursuant to the rules of the committee.

11. BROADCASTING COMMITTEE MEETINGS

Whenever any hearing or meeting conducted by the committee is open to the public, a majority of the committee or subcommittee, as the case may be, may permit that hearing or meeting to be covered, in whole or in part, by television broadcast, radio broadcast, and still photography, or by any of such methods of coverage, subject to the provisions and in accordance with the spirit of the purposes enumerated in clause 3 of Rule XI of the Rules of the House.

12. COMMITTEE RECORDS TRANSFERRED TO THE NATIONAL ARCHIVES

The records of the committee at the National Archives and Records Administration shall be made available for public use in accordance with rule XXXVI of the rules of the House of Representatives. The chairman shall notify the ranking minority member of any decision, pursuant to clause 3(b)(3) or clause 4(b) of the rule, to withhold a record otherwise available, and the matter shall be presented to the committee for a determination on the written request of any member of the committee.

13. CHANGES IN RULES

These rules may be modified, amended, or repealed by the committee, provided that a notice in writing of the proposed change has been given to each member at least 48 hours prior to the meeting at which action thereon is to be taken.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

9855. A letter from the Deputy Executive Director, Commodity Futures Trading Commission, transmitting the Commission's final rule—Amendment to Regulation Concerning Conduct of Members and Employees and Former Members and Employees of the Commission: Receipt and Disposition of Foreign Gifts and Decorations [17 CFR Part 1) received June 19, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9856. A letter from the Administrator, Agricultural Marketing Service, Department of Agriculture, transmitting the Department's final rule—Changes in Fees for Federal Meat Grading and Certification Services [No. LS–96–006] (RIN: 0581–AB44) received June 23, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9857. A letter from the Administrator, Agricultural Marketing Service, Department of Agriculture, transmitting the Department's final rule—Irish Potatoes Grown in Southeastern States; Increased Assessment Rate [Docket No. FV98–953–1 IFR] received June 23, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9858. A letter from the Acting Administrator, Grain Inspection, Packers and Stockyards Administration, Department of Agriculture, transmitting the Department's final rule—Tolerances for Moisture Meters (RIN: 0580–AA60) received June 23, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9859. A letter from the Acting Administrator, Grain Inspection, Packers and Stockyards Administration, Department of Agriculture, transmitting the Department's final rule—Official Testing Service for Corn Oil, Protein, and Starch (RIN: 0580–AA62) received June 23, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9860. A letter from the Director, Regulatory Management Division, Environmental Protection Agency, transmitting notification of error on the communication submitted June 5, 1998 entitled "Phospholipid: Lyso-PE (lysophosphatidylethanolamin); Time-Limited Pesticide Tolerance"; to the Committee on Agriculture.

9861. A letter from the the Acting Comptroller General, the General Accounting Office, transmitting an updated compilation of historical information and statistics regarding rescissions proposed by the executive branch and rescissions enacted by the Congress through October 1, 1997; (H. Doc. No. 105—279); to the Committee on Appropriations and ordered to be printed.

9862. A letter from the Director, Defense Procurement, Under Secretary of Defense, transmitting the Department's final rule—Defense Federal Acquisition Regulation Supplement; Streamlined Research and Development Contracting [DFARS Case 97–D002] received June 23, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on National Security.

9863. A letter from the Regulations Coordinator, Department of Health and Human Services, transmitting the Department's final rule—Substance Abuse and Mental Health Services Administration; Requirements Applicable to Protection and Advocacy of Individuals with Mental Illness; Final Rule (RIN: 0905–AD99) received June 15, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9864. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Approval of VOC RACT Determinations for Individual Sources [PA–4071a; FRL–6104–4] received June 23, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9865. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Air Quality State Implementation Plans, Louisiana; Correction [LA45–1–7383, FRL–6116–8] received June 23, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9866. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of State Plans For Designated Facilities and Pollutants: Oregon [OR–2–0001; FRL—6115–5] received June 23, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9867. A letter from the Secretary of Health and Human Services, transmitting the Department's final rule—Medicare and Medicaid Programs; Hospital Conditions of Participation; Identification of Potential Organ, Tissue, and Eye Donors and Transplant Hospitals' Provision of Transplant-Related Data [HCFA–3005–F] (RIN: 0938–AI95) received June 19, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9868. A communication from the President of the United States, transmitting a report on the status of efforts to obtain Iraq's compliance with the resolutions adopted by the U.N. Security Council, pursuant to Public Law 102–1, section 3 (105 Stat. 4); (H. Doc. No. 105–277); to the Committee on International Relations and ordered to be printed.

9869. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold under a contract to Germany (Transmittal No. DTC–81–98), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

9870. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification that a reward has been paid, pursuant to 22 U.S.C. 2708(h); to the Committee on International Relations.

9871. A letter from the Director, Office of Personnel Management, transmitting the Office's final rule—Federal Employees Retirement System—Open Enrollment Act Implementation (RIN: 3206–AG96) received June 23, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

9872. A letter from the Director, Office of Personnel Management, transmitting the Office's final rule—Retention Allowances (RIN: 3206–AI31) received June 23, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

9873. A letter from the Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Commercial Cod Harvest [Docket No. 980318066–8066–01; I.D. 061198B] received June 23, 1998, pursuant to 5

U.S.C. 801(a)(1)(A); to the Committee on Resources.

9874. A letter from the Director, Executive Office for Immigration Review, Department of Justice, transmitting the Department's final rule—Executive Office for Immigration Reviews; Motion to Reopen: Suspension of Deportation and Cancellation of Removal [EOIR No. 121P; AG Order No. 2162-98] received June 15, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

9875. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting the Department's final rule—Documentation of Nonimmigrants Under The Immigration And Nationality Act, As Amended—Place Of Application [Public Notice 2800] received June 15, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

9876. A letter from the Deputy Associate Administrator for Procurement, National Aeronautics and Space Administration, transmitting the Administration's final rule—NASA FAR Supplement; Miscellaneous Changes [48 CFR Parts 1804, 1806, 1807, 1809, 1822, 1833, 1842, 1852, 1871, and 1872] received June 11, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Science.

9877. A letter from the Director, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—NOAA Climate and Global Change Program, Program Announcement [Docket No. 980413092-8092-01] (RIN: 0648-ZA39) received June 10, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Science.

9878. A letter from the Deputy General Counsel, Small Business Administration, transmitting the Administration's final rule—Surety Bond Guarantees; Pilot Preferred Surety Bond Guarantee Program [13 CFR Part 115] received June 17, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Small Business.

9879. A letter from the Deputy General Counsel, Small Business Administration, transmitting the Administration's final rule—Business Loan Program [13 CFR Part 120] received June 17, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Small Business.

9880. A letter from the Director, Office of Regulations Management, Veterans Affairs, transmitting the Department's final rule—Board of Veterans' Appeals: Rules of Practice—Continuation of Representation Following Death of a Claimant or Apellant (RIN: 2900-A187) received June 17,1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Veterans' Affairs.

9881. A letter from the the Assistant Secretary for Legislative Affairs, the Department of State, transmitting Presidential Determination 98-28, stating that the further extension of the waiver authority granted by section 402 of the Trade Act of 1974, as amended, will substantially promote the objectives of section 402 of the Act, and has further determined that continuation of the waiver applicable to the Republic of Belarus will substantially promote the objectives of section 402 of the Act; (H. Doc. No. 105-278); to the Committee on Ways and Means and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. YOUNG of Alaska: Committee on Resources. H.R. 2795. A bill to extend certain contracts between the Bureau of Reclamation and irrigation water contractors in Wyoming and Nebraska that receive water from Glendo Reservoir; with an amendment (Rept. 105-604). Referred to the Committee of the Whole House on the State of the Union.

Mr. CANADY: Committee on the Judiciary. H.R. 3682. A bill to amend title 18, United States Code, to prohibit taking minors across State lines to avoid laws requiring the involvement of parents in abortion decisions; with an amendment (Rept. 105-605). Referred to the Committee of the Whole House on the State of the Union.

Mr. THOMAS: Committee on House Oversight. H.R. 3748. A bill to amend the Federal Election Campaign Act of 1971 to authorize appropriations for the Federal Election Committee for fiscal year 1999, and for other purposes; with an amendment (Rept. 105-606). Referred to the Committee of the Whole House on the State of the Union.

Mr. GILMAN: Committee on International Relations. House Resolution 392. Resolution relating to the importance of Japanese-American relations and the urgent need for Japan to more effectively address its economic and financial problems and open its markets by eliminating informal barriers to trade and investment, thereby making a more effective contribution to leading the Asian region out of its current financial crisis, insuring against a global recession, and reinforcing regional stability and security; with amendments (Rept. 105-607 Pt. 1). Ordered to be printed.

DISCHARGE OF COMMITTEE

Pursuant to clause 5 of rule X the Committees on Ways and Means and Rules discharged from further consideration. H.R. 3849 referred to the Committee of the Whole House on the State of the Union.

Pursuant to clause 5 of rule X the following action was taken by the Speaker: the Committee on Banking and Financial Services discharged from further consideration. House Resolution 392 referred to the Committee of the Whole House on the State of the Union.

TIME LIMITATION OF REFERRED BILL

Pursuant to clause 5 of rule X the following action was taken by the Speaker:

House Resolution 392. Referral to the Committee on Ways and Means extended for a period ending not later than July 17, 1998.

H.R. 2281. Referral to the Committees on Commerce and Ways and Means extended for a period ending not later than July 21, 1998.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of Rule X and clause 4 of Rule XXII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. SCHUMER (for himself and Mrs. Lowey):

H.R. 4138. A bill to encourage the identification and return of stolen artwork; to the Committee on the Judiciary.

By Mr. BLILEY (for himself, Mr. Wolf, Mr. Goode, Mr. Pickett, Mr. Boucher, Mr. Davis of Virginia, Mr. Goodlatte, Mr. Bateman, Mr. Scott, Mr. Sisisky, and Mr. Moran of Virginia):

H.R. 4139. A bill to amend the Internal Revenue Code of 1986 to exclude from gross income amounts received under State programs providing compensation for birth-related injuries; to the Committee on Ways and Means.

By Mr. RADANOVICH (for himself, Mr. Ehrlich, Mr. Bob Schaffer, Mr. Forbes, Mr. Calvert, Mr. McCollum, and Mr. Riggs):

H.R. 4140. A bill to amend the Internal Revenue Code of 1986 to repeal the special taxes on wholesale and retail dealers in liquor and beer, and for other purposes; to the Committee on Ways and Means.

By Mr. GINGRICH (for himself, Mr. Collins, and Mr. Deal of Georgia):

H.R. 4141. A bill to amend the Act authorizing the establishment of the Chattahoochee River National Recreation Area to modify the boundaries of the Area, and to provide for the protection of lands, waters, and natural, cultural, and scenic resources within the national recreation area, and for other purposes; to the Committee on Resources.

By Mr. WATTS of Oklahoma:

H.R. 4142. A bill to provide that the wage of certain Department of Defense employees is determined by a recent wage survey; to the Committee on Government Reform and Oversight.

By Mr. LANTOS (for himself, Ms. Pelosi, Ms. Eshoo, Mr. Campbell, Mr. Miller of California, Ms. Woolsey, Mr. Stark, Mrs. Tauscher, Ms. Lee, and Ms. Lofgren):

H.R. 4143. A bill to revise the boundaries of the Golden Gate National Recreation Area, and for other purposes; to the Committee on Resources.

By Mr. KINGSTON:

H.R. 4144. A bill to ensure the protection of natural, cultural, and historical resources in Cumberland Island National Seashore and Cumberland Island Wilderness in the State of Georgia; to the Committee on Resources.

By Mr. JACKSON:

H.R. 4145. A bill to establish a program under the Secretary of Housing and Urban Development to eliminate redlining in the insurance business; to the Committee on Banking and Financial Services.

By Mr. DeFAZIO (for himself, Ms. Furse, Mr. Blumenauer, Ms. Hooley of Oregon, and Mr. Wise):

H.R. 4146. A bill to encourage States to require a holding period for any student expelled for bringing a gun to school; to the Committee on Education and the Workforce.

By Mr. FOX of Pennsylvania (for himself, Mr. Horn, Mr. Fattah, Ms. Stabenow, Mr. Foley, Mrs. Thurman, and Ms. Jackson-Lee):

H.R. 4147. A bill to amend the Internal Revenue Code of 1986 to increase the maximum annual contribution to education individual retirement accounts to $5,000 for higher education purposes; to the Committee on Ways and Means.

By Mr. SMITH of Oregon:

H.R. 4148. A bill to amend the Export Apple and Pear Act to limit the applicability of the Act to apples; to the Committee on Agriculture.

By Mr. SMITH of Oregon (for himself, Mr. Combest, Mr. Herger, and Mr. Taylor of North Carolina):

H.R. 4149. A bill to reduce overhead and other costs associated with the management of the National Forest System, to improve the fiscal accountability of the Forest Service through an improved financial accounting system, and for other purposes; to the Committee on Agriculture.

By Mr. STENHOLM (for himself, Mr. Dooley of California, Mr. Minge, Mr. Boswell, and Mr. Etheridge):

H.R. 4150. A bill to appropriate funds necessary for United States participation in a quota increase and the New Arrangements to Borrow of the International Monetary Fund, and for other purposes; to the Committee on Banking and Financial Services.

By Mr. SHADEGG (for himself, Mr. Clement, Ms. DeLauro, Mr. Sanders, Mr. Hostettler, Mr. Hoekstra, Mr. Solomon, Mr. Coburn, Mr. Blunt, Ms. Kilpatrick, Mr. Pascrell, Mr. Wynn, Ms. Hooley of Oregon, Mr. Sandlin, Mr. Souder, Mr. Filner, Mr. Hinchey, Mr. Manton, Mr. Gutierrez, Ms. Sanchez, Ms. Pelosi, Mrs. Thurman, Mr. Pitts, Ms. Stabenow, Mr. Stump, Mr. Allen, Mr. Engel, Mr. Vento, Mr. Kleczka, Mr. Salmon, Mr. Hayworth, Mr. McIntosh, Mr. Sessions, Ms. Dunn of Washington, Mr. Bass, and Mr. Largent):

H.R. 4151. A bill to amend chapter 47 of title 18, United States Code, relating to identity fraud, and for other purposes; to the Committee on the Judiciary.

By Mr. GEJDENSON (for himself, Mr. Neal of Massachusetts, Mr. Gephardt, Mr. Bonior, Mr. Fazio of California, Mrs. Kennelly of Connecticut, Mr. Frost, Mr. Rangel, Mr. Clay, Mr. Pomeroy, Ms. Stabenow, Mr. Matsui, Mr. Payne, Mr. Lewis of Georgia, Mr. Yates, Mr. Sandlin, Ms. Sanchez, Mr. Vento, Mr. Underwood, Mr. Pascrell, Ms. DeLauro, Mr. Frank of Massachusetts, Mr. McGovern, Mr. Lantos, Ms. Lee, Mr. Filner, Mr. Towns, Mrs. Lowey, Mr. Rahall, Mr. Hinchey, Mr. Baldacci, Mr. Gordon, Mr. Andrews, Mr. Jefferson, Mrs. Mink of Hawaii, Mr. Price of North Carolina, Mr. Manton, Mr. Delahunt, Ms. Carson, Mr. Nadler, Mr. Levin, and Mr. Borski):

H.R. 4152. A bill to provide retirement security for all Americans; to the Committee on Ways and Means, and in addition to the Committees on Education and the Workforce, Government Reform and Oversight, and Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ABERCROMBIE (for himself, Mr. Jefferson, Mr. Sherman, Mr. Payne, Mr. Underwood, Mr. Stenholm, Mr. Frost, Mrs. Mink of Hawaii, and Ms. Brown of Florida):

H.R. 4153. A bill to provide for equitable retirement for military reserve technicians who are covered under the Federal Employment Retirement System or the Civil Service Retirement System; to the Committee on Government Reform and Oversight.

By Mr. ADERHOLT (for himself, Mr. DeLay, Mr. Riley, Mr. Tiahrt, Mr. McIntosh, Mr. Pitts, Mr. Pickering, Mrs. Chenoweth, Mr. Hostettler, Mr. Souder, and Mr. Graham):

H.R. 4154. A bill to declare rights to religious liberty; to the Committee on the Judiciary.

By Mr. LAZIO of New York (for himself, Mr. Stark, Mr. Hastert, Mr. Camp, Mrs. Kelly, Mrs. Morella, Mr. Rogan, Mr. Ehlers, and Mr. Barrett of Wisconsin):

H.R. 4155. A bill to amend title XIX of the Social Security Act to extend the authority of State Medicaid fraud control units to investigate and prosecute fraud in connection with Federal health care programs and abuse of residents of board and care facilities; to the Committee on Commerce.

By Mr. ALLEN:

H.R. 4156. A bill to limit the disposal of former naval vessels and Maritime Administration vessels for purpose of scrapping abroad and to require the Secretary of the Navy to carry out a ship scrapping pilot program; to the Committee on National Security, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BARR of Georgia (for himself, Mr. Linder, Mr. Ney, Mr. Deal of Georgia, Mr. Chambliss, and Mr. Norwood):

H.R. 4157. A bill to amend the Clean Air Act to modify the application of certain provisions regarding the inclusion of entire metropolitan statistical areas within nonattainment areas, and for other purposes; to the Committee on Commerce.

By Mr. BARTLETT of Maryland:

H.R. 4158. A bill to authorize the private ownership and use of certain secondary structures and surplus lands administered as part of any national historical park that are not consistent with the purposes for which the park was established, if adequate protection of natural, aesthetic, recreational, cultural, and historical values is assured by appropriate terms, convenants, conditions, or reservations; to the Committee on Resources.

By Mr. BLUNT (for himself, Mr. Sessions, Mr. Hall of Texas, Mrs. Emerson, Mr. Shimkus, Mr. McCollum, Mr. Hill, Mr. Regula, Mr. Lewis of Kentucky, Mr. Pitts, Ms. Granger, Mr. Souder, Mr. Snowbarger, Mrs. Myrick, Mr. Gutknecht, and Ms. Pryce of Ohio):

H.R. 4159. A bill to amend section 1926 of the Public Health Service Act to waive sanctions against a State that provides for drivers'-license-related sanctions for minors who purchase or possess tobacco products for personal consumption; to the Committee on Commerce.

By Mr. BONILLA (for himself and Mr. Dicks):

H.R. 4160. A bill to amend title XVIII of the Social Security Act to provide for a special enrollment period for certain military retirees and their dependents to enroll under part B of such title, without penalty for late enrollment, in order to participate in the TRICARE Senior Prime demonstration sites pursuant to the Balanced Budget Act of 1997; to the Committee on Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. CAPPS:

H.R. 4161. A bill to amend title 28, United States Code, to provide for an additional place of holding court for the Western Division of the Central Judicial District of California; to the Committee on the Judiciary.

By Mrs. CHENOWETH:

H.R. 4162. A bill to improve public understanding of, and access to, the information and reasoning supporting significant Federal agency rulemaking proposals by specifying a consistent and informative format for Federal Register notices of such rulemaking actions; to the Committee on the Judiciary.

By Mr. CLAY:

H.R. 4163. A bill to direct the Secretary of the Interior to install a plaque commemorating the Dred Scott decision at the entrance to the Old Court House in the Jefferson National Expansion Memorial; to the Committee on Resources.

By Mr. COBLE:

H.R. 4164. A bill to amend title 28, United States Code, with respect to the enforcement of child custody and visitation orders; to the Committee on the Judiciary.

By Mr. CRANE:

H.R. 4165. A bill to amend the Internal Revenue Code of 1986 to provide an exemption from the gas guzzler tax for automobiles that are lengthened by certain small manufacturers; to the Committee on Ways and Means.

By Mr. CRAPO (for himself and Mrs. Chenoweth):

H.R. 4166. A bill to amend the Idaho Admission Act regarding the sale or lease of school land; to the Committee on Resources.

By Mrs. EMERSON (for herself, Mr. McHugh, Mr. Calvert, Mr. Watts of Oklahoma, Ms. Danner, Mr. Romero-Barcelo, Mr. Blunt, and Mr. Barr of Georgia):

H.R. 4167. A bill to amend the Internal Revenue Code of 1986 to allow a refundable credit to military retirees for premiums paid for coverage under Medicare part B; to the Committee on Ways and Means, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. FILNER:

H.R. 4168. A bill to amend title 38, United States Code, to provide the same level of health care for certain Filipino World War II veterans residing in the Philippines that veterans residing in the United States receive; to the Committee on Veterans' Affairs.

By Mr. FORBES:

H.R. 4169. A bill to improve educational facilities, reduce class size, provide parents with additional educational choices for their children, and for certain other purposes; to the Committee on Education and the Workforce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GUTKNECHT (for himself and Ms. Eshoo):

H.R. 4170. A bill to amend title IV of the Public Health Service Act to establish a National Center for Bioengineering Research; to the Committee on Commerce.

By Mr. HALL of Ohio:

H.R. 4171. A bill to direct the Secretary of Transportation to conduct a study and transmit a report to Congress on improving the safety of persons present at roadside emergency scenes and to encourage States to enact and enforce laws based upon that report; to the Committee on Transportation and Infrastructure.

By Mr. HERGER (for himself, Mr. Clement, Mr. Crane, Mr. Shaw, Mr. Bunning of Kentucky, Mr. McCrery, Mr. Camp, Mr. Ramstad, Mr. Portman, Mr. Watkins, Mr. Hayworth, Mr. Calvert, Mr. Radanovich, Mr. Pombo, Mr. Combest, Mr.

Bereuter, Mr. Pappas, Mrs. Chenoweth, Mr. Hunter, Mr. Hilleary, and Ms. Danner):

H.R. 4172. A bill to require the Commissioner of Social Security to provide prisoner information obtained from the States to Federal and federally assisted benefit programs as a means of preventing the erroneous provision of benefits to prisoners; to the Committee on Ways and Means.

By Mr. HOUGHTON (for himself, Mr. Levin, Mr. Crane, Mr. Matsui, Mr. Sam Johnson, Mr. Herger, Mr. English of Pennsylvania, and Mr. Neal of Massachusetts):

H.R. 4173. A bill to amend the Internal Revenue Code of 1986 to simplify certain rules relating to the taxation of United States business operating abroad, and for other purposes; to the Committee on Ways and Means.

By Mr. KASICH:

H.R. 4174. A bill to amend the Congressional Budget and Impoundment Control Act of 1974 to provide for the expedited consideration of certain proposed rescissions of budget authority; to the Committee on the Budget, and in addition to the Committee on Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. KUCINICH (for himself, Mr. Peterson of Pennsylvania, Mr. Romero-Barcelo, Mr. Abercrombie, Mrs. McCarthy of New York, Mr. LaTourette, Mr. Martinez, Mr. English of Pennsylvania, Mr. Hilliard, Ms. Woolsey, Ms. Carson, Ms. Christian-Green, Mr. Ford, Mr. Nadler, Mr. Hinojosa, Mr. Sanders, Mr. Frost, Ms. Lofgren, and Ms. Velázquez):

H.R. 4175. A bill to promote youth entrepreneurship education and training; to the Committee on Education and the Workforce.

By Mr. MARKEY:

H.R. 4176. A bill to amend the Communications Act of 1934 to protect consumers against "spamming," "slamming," and "cramming," and for other purposes; to the Committee on Commerce.

By Mrs. MINK of Hawaii (for herself, Mr. Abercrombie, Mr. Filner, Mr. Gilman, and Ms. Roybal-Allard):

H.R. 4177. A bill to amend the Social Security Act to further extend health care coverage under the Medicare program; to the Committee on Ways and Means, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. PRICE of North Carolina:

H.R. 4178. A bill to amend the Internal Revenue Code of 1986 to provide that periods of leave required to be permitted by the Family and Medical Leave Act of 1993 shall be treated as hours of service for purposes of the pension participation and vesting rules; to the Committee on Ways and Means, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. RUSH:

H.R. 4179. A bill to authorize qualified organizations to provide technical assistance and capacity building services to microenterprise development organizations and programs and to disadvantaged entrepreneurs using funds from the Community Development Financial Institutions Fund, and for other purposes; to the Committee on Banking and Financial Services.

By Mr. SAXTON (for himself and Mr. Delahunt):

H.R. 4180. A bill to reduce fishing capacity in United States fisheries; to the Committee on Resources.

By Mr. SHERMAN (for himself, Mr. Saxton, Mr. Salmon, Ms. McCarthy of Missouri, Mr. Pallone, Mr. McNulty, Ms. Ros-Lehtinen, Mr. Watts of Oklahoma, Mr. LoBiondo, Mr. Pappas, Mr. English of Pennsylvania, Mr. Forbes, Mr. Hayworth, Mr. Ryun, Mr. Calvert, and Mr. Snowbarger):

H.R. 4181. A bill to require the expenditure of funds for the construction of United States chancery facilities in Berlin and Jerusalem in such a manner as to ensure comparable rates of construction and occupation of the 2 facilities; to the Committee on International Relations.

By Mr. SNYDER (for himself, Mr. Berry, Mr. Hutchinson, Mr. Dickey, Mr. Lewis of Georgia, and Mr. Thompson):

H.R. 4182. A bill to establish the Little Rock Central High School National Historic Site in the State of Arkansas, and for other purposes; to the Committee on Resources.

By Mr. SOLOMON (for himself, Mr. Houghton, and Mr. Towns):

H.R. 4183. A bill to protect the Nation's electricity ratepayers by amending the Public Utility Regulatory Policies Act of 1978 to ensure that rates charged by qualifying small power producers and qualifying cogenerators do not exceed the incremental cost to the purchasing utility of alternative electric energy at the time of delivery, and for other purposes; to the Committee on Commerce.

By Ms. STABENOW (for herself, Mr. Kildee, Ms. Lofgren, Mr. Moran of Virginia, Mr. Kind of Wisconsin, Mr. Sawyer, Ms. Hooley of Oregon, Mr. Weygand, and Mr. McGovern):

H.R. 4184. A bill to amend the Internal Revenue Code of 1986 to provide incentives to elementary and secondary teachers for acquisition of computer hardware and software; to the Committee on Ways and Means.

By Ms. STABENOW (for herself, Mr. Kildee, Ms. Lofgren, Mr. Moran of Virginia, Mr. Kind of Wisconsin, Mr. Sawyer, Ms. Hooley of Oregon, Mr. Weygand, Mr. McGovern, and Mr. Levin):

H.R. 4185. A bill to amend the Internal Revenue Code of 1986 to provide incentives to elementary and secondary teachers for technology-related training for purposes of integrating educational technologies into the courses taught in our Nation's classrooms; to the Committee on Ways and Means.

By Mr. STARK:

H.R. 4186. A bill to amend title XVIII of the Social Security Act to provide flexibility in contracting for claims processing under the Medicare program; to the Committee on Ways and Means, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. STARK:

H.R. 4187. A bill to amend title XVIII of the Social Security Act to require disclosure of certain information about benefit management for prescription drugs by Medicare+Choice organizations; to the Committee on Ways and Means, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. STEARNS (for himself, Mr. Stump, Mr. Snyder, Mr. Hayworth, and Mr. Filner):

H.R. 4188. A bill to amend title 38, United States Code, to provide for a portion of funds received from national tobacco legislation to be made available for health care for veterans; to the Committee on Veterans' Affairs.

By Mr. THOMPSON (for himself, Mr. Underwood, Mr. Becerra, Mr. Kildee, Mrs. Mink of Hawaii, Ms. Waters, Ms. Brown of Florida, Mr. Brown of California, Ms. Carson, Ms. Christian-Green, Mr. Clay, Mr. Clyburn, Mr. Conyers, Mr. Cummings, Mr. Davis of Illinois, Mr. Dixon, Mr. Engel, Mr. Fattah, Mr. Faleomavaega, Mr. Filner, Ms. Furse, Mr. Ford, Mr. Gutierrez, Mr. Hastings of Florida, Mr. Hinojosa, Mr. Hilliard, Mr. Hinchey, Mr. Jackson, Ms. Jackson-Lee, Ms. Eddie Bernice Johnson of Texas, Ms. Kilpatrick, Mr. Lantos, Ms. Lee, Mr. Lewis of Georgia, Mr. Matsui, Mr. Meeks of New York, Mrs. Meek of Florida, Mr. McDermott, Ms. Millender-McDonald, Mr. Nadler, Ms. Norton, Mr. Owens, Mr. Pastor, Mr. Payne, Ms. Pelosi, Mr. Rangel, Mr. Rodriguez, Mr. Romero-Barcelo, Ms. Roybal-Allard, Mr. Rush, Mr. Scott, Mr. Serrano, Mr. Stokes, Mr. Torres, Mr. Towns, Ms. Velázquez, Mr. Waxman, Mr. Wynn, Mr. Meehan, and Mr. Gephardt):

H.R. 4189. A bill to amend the Public Health Service Act to establish authorities of the departmental Office of Minority Health with respect to tobacco products, and for other purposes; to the Committee on Commerce.

By Mr. WELLER (for himself and Mr. Neal of Massachusetts):

H.R. 4190. A bill to suspend temporarily the duty on a certain drug substance used as an HIV antiviral drug; to the Committee on Ways and Means.

By Mr. WELLER (for himself and Mr. Neal of Massachusetts):

H.R. 4191. A bill to suspend temporarily the duty on certain drug substances used as an HIV antiviral drug; to the Committee on Ways and Means.

By Mr. YOUNG of Alaska (for himself, Mr. Miller of California, and Mr. Hayworth):

H.R. 4192. A bill to amend the Internal Revenue Code of 1986 to clarify the tax treatment of Settlement Trusts established pursuant to the Alaska Native Claims Settlement Act; to the Committee on Ways and Means.

By Mr. BARR of Georgia:

H.J. Res. 124. A joint resolution proposing an amendment to the Constitution of the United States to authorize the line item veto; to the Committee on the Judiciary.

By Mr. GINGRICH (for himself and Mr. Gilman):

H.J. Res. 125. A joint resolution finding the Government of Iraq in material and unacceptable breach of its international obligations; to the Committee on International Relations.

By Mr. GOSS:

H. Con. Res. 297. Concurrent resolution providing for an adjournment of the two Houses; considered and agreed to.

By Ms. CHRISTIAN-GREEN (for herself, Ms. Kilpatrick, Ms. Jackson-Lee, Mr. Jefferson, and Mr. Conyers):

H. Res. 495. A resolution relating to the recognition of the connection between the emancipation of African slaves in the Danish West Indies, now the United States Virgin Islands, to the American Declaration of Independence from the British Government; to the Committee on the Judiciary.

By Mr. TIAHRT:

H. Res. 496. A resolution amending the Rules of the House of Representatives to require a three-fifths vote to increase the minimum wage; to the Committee on Rules.

By Mr. TRAFICANT:

H. Res. 497. A resolution amending the Rules of the House of Representatives to require a two-thirds vote on any bill or joint resolution that either authorizes the President to enter into a trade agreement that is implemented pursuant to fast-track procedures or that implements a trade agreement pusuant to such procedures; to the Committee on Rules.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

L035. The SPEAKER presented a memorial of the Senate of the State of Colorado, relative to Senate Joint Memorial 98–001 memorializing Congress to adopt legislation amending 4 U.S.C. sec. 114 to include severance payments and termination payments within the retirement income of a nonresident individual upon which states may not impose income tax; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows

H.R. 80: Mr. Pappas.

H.R. 121: Mr. Royce.

H.R. 145: Ms. Waters, Ms. Roybal-Allard, Mr. Baldacci, Mr. Davis of Florida, and Mr. Payne.

H.R. 350: Mr. Yates, Ms. Slaughter, Mr. Dooley of California, Mr. Pickering, Mr. Rothman, Mr. Walsh, Mr. Snowbarger, Mr. McNulty, Mr. Moran of Virginia, and Mr. Davis of Virginia.

H.R. 352: Mr. Luther and Mr. Pappas.

H.R. 414: Mr. Luther and Mr. Royce.

H.R. 502: Mr. Royce.

H.R. 547: Mr. Luther.

H.R. 593: Mr. Royce.

H.R. 603: Mr. Royce and Mr. Pappas.

H.R. 699: Mr. Goodlatte.

H.R. 718: Mr. Pappas and Mr. Royce.

H.R. 915: Ms. Lee, Mrs. Linda Smith of Washington, and Mr. Waxman.

H.R. 959: Mr. Upton and Mr. Pascrell.

H.R. 972: Mr. Bachus.

H.R. 993: Mr. Royce.

H.R. 1005: Mr. Bachus and Mr. Pappas.

H.R. 1126: Ms. Stabenow and Mr. Baesler.

H.R. 1140: Mr. Barcia of Michigan.

H.R. 1173: Ms. Norton, Mr. Boehlert, Mr. Gilman, and Mr. Kanjorski.

H.R. 1231: Mr. Lucas of Oklahoma.

H.R. 1232: Mr. Lewis of Georgia.

H.R. 1334: Mr. Lazio of New York.

H.R. 1340: Mr. Pappas.

H.R. 1401: Mr. Lampson and Mr. Baldacci.

H.R. 1410: Mr. Goodling.

H.R. 1438: Mr. Bachus.

H.R. 1475: Mr. Pappas.

H.R. 1524: Mr. Camp.

H.R. 1571: Mr. Dixon.

H.R. 1577: Mr. Bachus.

H.R. 1666: Mr. Royce.

H.R. 1699: Mr. Frost.

H.R. 1711: Mr. Barcia of Michigan, Mr. Cannon, Mr. Doyle, Mrs. Cubin, and Mr. McInnis.

H.R. 1756: Mr. Schumer, Mr. Hinchey, Mr. Engel, and Mr. Ackerman.

H.R. 1821: Ms. Furse, Mr. English of Pennsylvania, Mrs. Maloney of New York, and Mr. Cook.

H.R. 1828: Mr. Bachus and Mr. Pappas.

H.R. 1864: Mr. Pappas.

H.R. 1951: Mr. Ney.

H.R. 1975: Mr. LaFalce, Mr. Davis of Illinois, and Mr. Olver.

H.R. 1995: Mr. Berry.

H.R. 2001: Mr. Barcia of Michigan.

H.R. 2026: Mr. Deutsch and Mr. Nadler.

H.R. 2053: Mr. Green.

H.R. 2070: Mr. McNulty.

H.R. 2174: Ms. Pryce of Ohio, Mr. Sabo, and Mr. Wynn.

H.R. 2276: Mr. Goodling.

H.R. 2332: Mr. Frank of Massachusetts.

H.R. 2379: Mr. Watt of North Carolina.

H.R. 2490: Mr. Royce.

H.R. 2499: Mr. Ford, Ms. Sanchez, Ms. Roybal-Allard, Mr. Moran of Virginia, and Mr. Smith of New Jersey.

H.R. 2509: Mr. Miller of California.

H.R. 2526: Mr. Sessions.

H.R. 2592: Mr. Wicker.

H.R. 2609: Mr. Mica.

H.R. 2699: Mr. Goode.

H.R. 2713: Mr. Snyder.

H.R. 2727: Mr. Traficant and Mr. DeFazio.

H.R. 2733: Mr. DeFazio, Mr. Davis of Florida, Mrs. Meek of Florida, Mr. Engel, Mr. Skelton, Mr. Lipinski, Mr. Condit, Mr. Peterson of Minnesota, Mr. Boswell, and Mr. Lantos.

H.R. 2748: Mr. Pickering.

H.R. 2754: Mr. Farr of California and Mr. Sisisky.

H.R. 2755: Mrs. Thurman, Mr. Maloney of Connecticut, Mr. Campbell, Mr. LoBiondo, and Mr. Pascrell.

H.R. 2817: Ms. Hooley of Oregon, Mr. Hinojosa, and Ms. Harman.

H.R. 2819: Mr. Bunning of Kentucky, Mr. McNulty, and Mr. Davis of Florida.

H.R. 2820: Mr. Sandlin.

H.R. 2849: Mr. Abercrombie, Mrs. Morella, Mr. Cummings, Mr. Lantos, Mr. Bilbray, Mrs. Maloney of New York, Ms. Brown of Florida, and Mr. Neal of Massachusetts.

H.R. 2867: Mr. King of New York.

H.R. 2956: Mr. Fattah.

H.R. 2963: Mr. Shays.

H.R. 3053: Ms. Christian-Green.

H.R. 3063: Mr. Royce.

H.R. 3137: Mr. Ford and Ms. Carson.

H.R. 3217: Mr. Cook.

H.R. 3236: Mr. Inglis of South Carolina.

H.R. 3243: Mr. Deal of Georgia.

H.R. 3251: Ms. Kilpatrick, Mr. Matsui, and Mr. Brown of California.

H.R. 3267: Mr. Klug, Mr. Quinn, Mr. McHugh, Mr. Radanovich, Mr. Buyer, Mr. Spence, Mr. Watts of Oklahoma, and Mr. Saxton.

H.R. 3281: Mr. Brown of California, Ms. Eshoo, Mr. Frost, Ms. Sanchez, and Mr. Tierney.

H.R. 3290: Mr. Horn, Mr. Gilman, Mr. Rothman, and Mr. Gilchrest.

H.R. 3318: Ms. Pryce of Ohio and Ms. Norton.

H.R. 3341: Ms. Furse.

H.R. 3342: Ms. Kilpatrick.

H.R. 3435: Mr. Boswell and Mr. Martinez.

H.R. 3499: Mr. Fattah and Mr. Davis of Virginia.

H.R. 3501: Mr. Mollohan.

H.R. 3506: Mr. Hilliard, Mr. Barrett of Wisconsin, Mrs. Thurman, Mr. Christensen, Mr. Crapo, Mr. Ensign, Mr. Weller, Mr. Gejdenson, Ms. Harman, Mr. Kanjorski, Ms. Lofgren, Mr. Luther, Mrs. McCarthy of New York, Ms. McCarthy of Missouri, Mr. Olver, Ms. Pelosi, Mr. Poshard, Mr. Roemer, Ms. Roybal-Allard, Ms. Slaughter, Mr. Stenholm, Mr. Torres, Ms. Woolsey, Mr. Yates, Mr. Coburn, Mr. Talent, Mr. Allen, Mr. Hefner, Mr. Lantos, Mr. McDermott, Mr. McHale, Mr. Taylor of Mississippi, Mr. Smith of Texas, and Mr. Pappas.

H.R. 3514: Mr. Maloney of Connecticut and Mr. Rangel.

H.R. 3523: Mr. Martinez.

H.R. 3524: Mr. Pomeroy, Ms. Hooley of Oregon, Mr. Berman, and Mr. Price of North Carolina.

H.R. 3551: Ms. Pelosi.

H.R. 3567: Mr. Lewis of Georgia, Ms. Carson, and Mr. Martinez.

H.R. 3570: Mr. Weygand.

H.R. 3572: Mrs. Roukema, Mr. Sanders, Mr. Boehlert, Mr. Moran of Virginia, Mr. Ehlers, Mrs. Cubin, Mr. Porter, Mr. Duncan, Ms. Pryce of Ohio, and Mr. Taylor of North Carolina.

H.R. 3610: Mr. Talent.

H.R. 3615: Mr. Neal of Massachusetts.

H.R. 3651: Mrs. Maloney of New York and Mrs. Lowey.

H.R. 3652: Mr. Pastor, Mr. Manton, Mr. Hinchey, Mr. Towns, and Mr. Forbes.

H.R. 3667: Ms. Danner.

H.R. 3674: Mr. McHugh, Mr. Traficant, and Mr. Stupak.

H.R. 3682: Mr. Berry, Mr. Costello, and Mr. Riley.

H.R. 3704: Mr. Callahan and Mr. Boehlert.

H.R. 3779: Ms. Harman, Ms. Eshoo, Mr. LaTourette, Mr. Forbes, Mr. Allen, Mr. Davis of Illinois, and Mrs. Thurman.

H.R. 3780: Mr. Weller and Ms. Woolsey.

H.R. 3783: Mr. Hall of Texas, Ms. Danner, Mr. Callahan, and Mr. Weldon of Florida.

H.R. 3788: Mr. Houghton, Mr. Watkins, and Mr. Ramstad.

H.R. 3821: Mr. Collins, Mr. Hayworth, Mr. Blagojevich, Mr. Ney, Mr. Bunning of Kentucky, Mr. Pappas, Mr. McIntosh, Mr. Coyne, Mr. Chabot, Mr. Greenwood, Mrs. Emerson, Mr. Condit, Mr. Boehner, Mrs. Kennelly of Connecticut, Mr. Dreier, Mr. Sessions, and Mr. Barton of Texas.

H.R. 3865: Mr. Yates, Mr. Costello, and Mr. Condit.

H.R. 3868: Mr. Underwood, Mr. Adam Smith of Washington, Mr. Hinojosa, Mr. Torres, Mr. Romero-Barceló, Ms. McCarthy of Missouri, Ms. Harman, Mr. Martinez, Ms. Velázquez, Mr. Serrano, Mr. Becerra, Mr. Tierney, Mr. Skaggs, Mr. Allen, Mrs. Kennelly of Connecticut, Mr. Brady of Pennsylvania, Mr. Faleomavaega, and Mr. Deutsch.

H.R. 3869: Mr. Petri, Mr. Nadler, Mr. Bateman, Ms. Danner, Mr. Kim, Mr. Cummings, Mr. McCollum, Mr. Mascara, Ms. Granger, Mrs. Tauscher, Mr. Quinn, Mrs. Fowler, Mr. Mica, Mr. Franks of New Jersey, Mr. Horn, Mr. Clyburn, Mr. Filner, Mr. Sandlin, Mr. Blumenauer, Ms. Millender-McDonald, Mr. Pascrell, Mr. Johnson of Wisconsin, Mr. Boswell, Mr. McGovern, Mr. Baldacci, Mr. Berry, Mr. Torres, Mr. Gilchrest, Mr. Bass, Mr. LaHood, Mr.

THUNE, Mr. FOSSELLA, Mr. EHLERS, Mr. PICKERING, and Mr. FOX of Pennsylvania.

H.R. 3875: Ms. FURSE.

H.R. 3905: Mr. BRYANT, Mr. RAHALL, and Mr. CONYERS.

H.R. 3917: Mr. ISTOOK.

H.R. 3918: Ms. FURSE, Mr. MCGOVERN, and Mr. YATES.

H.R. 3946: Mr. GILMAN and Mr. PALLONE.

H.R. 3949: Mr. BUNNING of Kentucky, Mr. DEAL of Georgia, Mr. RAHALL, Mr. HILL, Mr. YOUNG of Alaska, Mr. WATKINS, Mr. ADERHOLT, Mr. TALENT, Mr. NORWOOD, Mr. KINGSTON, and Mr. COLLINS.

H.R. 3980: Mr. BILIRAKIS, Mr. BUYER, Mr. EVERETT, Mrs. CHENOWETH, Mr. SNYDER, Mr. BACHUS, Mr. HAYWORTH, Ms. BROWN of Florida, Mr. REYES, Mr. RODRIGUEZ, Mr. BALDACCI, Mr. MANTON, Mr. CRAMER, and Mr. QUINN.

H.R. 3981: Mr. BEREUTER, Mr. LEACH, Mr. LIPINSKI, Mr. CUNNINGHAM, Mr. MCKEON, Mr. MCINTOSH, Ms. FURSE, and Mr. ROMERO-BARCELO.

H.R. 3994: Mr. CAMP.

H.R. 3995: Ms. LOFGREN.

H.R. 4009: Mr. FROST, Ms. DELAURO, Mr. DOOLEY of California, Mr. SANDLIN, Mr. ROTHMAN, Mr. EVANS, Ms. ROYBAL-ALLARD, and Mr. HOYER.

H.R. 4016: Mr. GRAHAM.

H.R. 4018: Mr. REYES, Mr. BROWN of California, Mr. LANTOS, and Mr. ALLEN.

H.R. 4019: Mr. RAMSTAD.

H.R. 4028: Mr. DEFAZIO, Ms. JACKSON-LEE, Mr. BENTSEN, Mr. WAXMAN, Mr. TOWNS, Mr. FROST, Ms. ESHOO, and Mr. ROEMER.

H.R. 4030: Ms. ROYBAL-ALLARD, Mr. LAFALCE, Mr. CLYBURN, Ms. ESHOO, Mr. BERMAN, Mr. HILLIARD, and Mr. KILDEE.

H.R. 4031: Mr. RAHALL and Mrs. THURMAN.

H.R. 4065: Mr. HERGER, Mrs. LINDA SMITH of Washington, Mr. BALLENGER, Mr. TALENT, Mr. THORNBERRY, and Mr. PORTER.

H.R. 4070: Mr. OLVER, Mr. KENNEDY of Massachusetts, Mr. RAHALL, Mr. COSTELLO, Mr. BALDACCI, Mr. MCDERMOTT, and Mr. BOUCHER.

H.R. 4075: Mr. EHLERS.

H.R. 4092: Mr. FROST, Ms. LOFGREN, Mr. MALONEY of Connecticut, and Mr. HILLIARD.

H.R. 4096: Mr. BONILLA.

H.R. 4110: Mr. ROMERO-BARCELO and Mr. BISHOP.

H.R. 4117: Mr. NADLER, Mrs. LOWEY, and Mr. SCHUMER.

H.R. 4118: Ms. DEGETTE.

H.R. 4121: Mr. FOLEY, Mr. CANADY of Florida, and Mr. MEEHAN.

H.R. 4134: Ms. STABENOW, Mrs. TAUSCHER, and Mr. MATSUI.

H.J. Res. 123: Mr. SUNUNU, Mr. PETERSON of Pennsylvania, Mr. HALL of Texas, and Mr. HILLEARY.

H. Con. Res. 27: Mr. SANDLIN.

H. Con. Res. 52: Mr. HILLEARY and Mr. ROEMER.

H. Con. Res. 154: Mr. CAMPBELL.

H. Con. Res. 181: Mr. MOLLOHAN.

H. Con. Res. 203: Mr. GILLMOR, Mr. HEFNER, Mr. PAPPAS, Mr. HILL, Mr. TURNER, Mr. ETHERIDGE, Mr. PAUL, Mr. FOLEY, and Mr. JEFFERSON.

H. Con. Res. 210: Mr. HOBSON.

H. Con. Res. 229: Mr. CANADY of Florida and Mr. PASTOR.

H. Con. Res. 264: Mr. COMBEST and Mr. MANZULLO.

H. Con. Res. 274: Mr. GIBBONS, Mr. LANTOS, Mr. NEAL of Massachusetts, and Mr. HOBSON.

H. Con. Res. 278: Mr. CUNNINGHAM, Mr. SNOWBARGER, Ms. CHRISTIAN-GREEN, Mr. CALVERT, Mr. DELAY, Mr. STUMP, and Mr. CANNON.

H. Con. Res. 283: Mr. SCARBOROUGH, Mr. DIXON, Mr. MENENDEZ, Mr. NADLER, Mr. HINCHEY, Mr. SKAGGS, Mr. BORSKI, Mr. FARR of California, Ms. WOOLSEY, Mr. PAPPAS, Mr. LOBIONDO, and Mr. FRANK of Massachusetts.

H. Con. Res. 292: Ms. JACKSON-LEE.

H. Res. 381: Mrs. ROUKEMA.

H. Res. 406: Mr. FARR of California.

H. Res. 469: Ms. MILLENDER-MCDONALD, Mr. LAMPSON, and Mr. CALVERT.

H. Res. 475: Mr. HOUGHTON, Mr. HALL of Ohio, Mrs. MORELLA, Mr. BENTSEN, Mr. MEEHAN, Mr. OLVER, Mr. FILNER, Mr. ETHERIDGE, Mr. TIERNEY, Mr. BILBRAY, Mr. HILLIARD, Mr. BONIOR, Mr. MCGOVERN, and Ms. LOFGREN.

H. Res. 483: Mr. HILLIARD and Mr. HASTINGS of Florida.

DISCHARGE PETITIONS

Under clause 3 of rule XXVII, the following discharge petition was filed:

Petition 5. June 23, 1998, by Mrs. MALONEY on House Resolution 467, was signed by the following Members: Carolyn B. Maloney, Brian P. Bilbray, Martin T. Meehan, Anna G. Eshoo, Frank Pallone, Jr., and Elizabeth Furse.

Petition 6. June 25, 1998, by Mr. OBEY on House Resolution 473, was signed by the following Members: David R. Obey, W.G. (Bill) Hefner, Harold E. Ford, Jr., David E. Price, John W. Olver, Ken Bentsen, James P. Moran, Norman D. Dicks, Vic Snyder, Sidney R. Yates, Robert E. (Bud) Cramer, Jr., Ron Kind, Thomas H. Allen, Leonard L. Boswell, Jim McDermott, Nancy Pelosi, Earl Pomeroy, Anna G. Eshoo, Robert T. Matsui, Jane Harman, David E. Skaggs, David Minge, Lynn C. Woolsey, Barney Frank, Martin Frost, Bruce F. Vento, Karen McCarthy, Lynn N. Rivers, Howard L. Berman, Chet Edwards, Steny H. Hoyer, Debbie Stabenow, Sander M. Levin, Martin Olav Sabo, Carolyn B. Maloney, Frank Pallone, Jr., Vic Fazio, and Sheila Jackson-Lee.

DISCHARGE PETITIONS—ADDITIONS OR DELETIONS

The following Members added their names to the following discharge petitions:

Petition 1 by Mr. YATES on House Resolution 141: Sanford D. Bishop, Jr. and Vic Fazio.

Petition 4 by Mrs. SLAUGHTER on H.R. 306: Gene Green, Ken Bentsen, and Sanford D. Bishop, Jr.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 2183

OFFERED BY: MR. BOB SCHAFFER OF COLORADO

(To the Amendment Offered By: Mr. Campbell)

AMENDMENT NO. 155: Amend title II to read as follows:

TITLE II—PAYCHECK PROTECTION

SEC. 201. PROHIBITING INVOLUNTARY ASSESSMENT OF EMPLOYEE FUNDS FOR POLITICAL ACTIVITIES.

(a) IN GENERAL.—Section 316 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b) is amended by adding at the end the following new subsection:

"(c)(1) Except with the separate, prior, written, voluntary authorization of each individual, it shall be unlawful—

"(A) for any national bank or corporation described in this section to collect from or assess its stockholders or employees any dues, initiation fee, or other payment as a condition of employment if any part of such dues, fee, or payment will be used for political activity in which the national bank or corporation is engaged; and

"(B) for any labor organization described in this section to collect from or assess its members or nonmembers any dues, initiation fee, or other payment if any part of such dues, fee, or payment will be used for political activity in which the labor organization is engaged.

"(2) An authorization described in paragraph (1) shall remain in effect until revoked and may be revoked at any time. Each entity collecting from or assessing amounts from an individual with an authorization in effect under such paragraph shall provide the individual with a statement that the individual may at any time revoke the authorization.

"(3) For purposes of this subsection, the term 'political activity' means any activity carried out for the purpose of influencing (in whole or in part) any election for Federal office or educating individuals about candidates for election for Federal office or any Federal legislation, law, or regulations.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to amounts collected or assessed on or after the date of the enactment of this Act.

H.R. 2183

OFFERED BY: MR. BOB SCHAFFER OF COLORADO

(To the Amendment Offered By: Mr. Doolittle)

AMENDMENT NO. 156: Add at the end the following new section:

SEC. 7. PROHIBITING INVOLUNTARY ASSESSMENT OF EMPLOYEE FUNDS FOR POLITICAL ACTIVITIES.

(a) IN GENERAL.—Section 316 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b) is amended by adding at the end the following new subsection:

"(c)(1) Except with the separate, prior, written, voluntary authorization of each individual, it shall be unlawful—

"(A) for any national bank or corporation described in this section to collect from or assess its stockholders or employees any dues, initiation fee, or other payment as a condition of employment if any part of such dues, fee, or payment will be used for political activity in which the national bank or corporation is engaged; and

"(B) for any labor organization described in this section to collect from or assess its members or nonmembers any dues, initiation fee, or other payment if any part of such dues, fee, or payment will be used for political activity in which the labor organization is engaged.

"(2) An authorization described in paragraph (1) shall remain in effect until revoked and may be revoked at any time. Each entity collecting from or assessing amounts from an individual with an authorization in effect under such paragraph shall provide the individual with a statement that the individual may at any time revoke the authorization.

"(3) For purposes of this subsection, the term 'political activity' means any activity carried out for the purpose of influencing (in whole or in part) any election for Federal office or educating individuals about candidates for election for Federal office or any Federal legislation, law, or regulations.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to amounts collected or assessed on or after the date of the enactment of this Act.

H.R. 2183

OFFERED BY: MR. BOB SCHAFFER OF COLORADO

(To the Amendment Offered By: Mr. Bass)

AMENDMENT NO. 157: Strike section 501 and insert the following (and conform the table of contents accordingly):

SEC. 501. PROHIBITING INVOLUNTARY ASSESSMENT OF EMPLOYEE FUNDS FOR POLITICAL ACTIVITIES.

(a) IN GENERAL.—Section 316 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b) is amended by adding at the end the following new subsection:

"(c)(1) Except with the separate, prior, written, voluntary authorization of each individual, it shall be unlawful—

"(A) for any national bank or corporation described in this section to collect from or assess its stockholders or employees any dues, initiation fee, or other payment as a condition of employment if any part of such dues, fee, or payment will be used for political activity in which the national bank or corporation is engaged; and

"(B) for any labor organization described in this section to collect from or assess its members or nonmembers any dues, initiation fee, or other payment if any part of such dues, fee, or payment will be used for political activity in which the labor organization is engaged.

"(2) An authorization described in paragraph (1) shall remain in effect until revoked and may be revoked at any time. Each entity collecting from or assessing amounts from an individual with an authorization in effect under such paragraph shall provide the individual with a statement that the individual may at any time revoke the authorization.

"(3) For purposes of this subsection, the term 'political activity' means any activity carried out for the purpose of influencing (in whole or in part) any election for Federal office or educating individuals about candidates for election for Federal office or any Federal legislation, law, or regulations.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to amounts collected or assessed on or after the date of the enactment of this Act.

H.R. 2183

OFFERED BY: MR. BOB SCHAFFER OF COLORADO

(To the Amendment Offered By: Mr. Shays or Mr. Meehan)

AMENDMENT NO. 158: Strike section 501 and insert the following (and conform the table of contents accordingly):

SEC. 501. PROHIBITING INVOLUNTARY ASSESSMENT OF EMPLOYEE FUNDS FOR POLITICAL ACTIVITIES.

(a) IN GENERAL.—Section 316 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b) is amended by adding at the end the following new subsection:

"(c)(1) Except with the separate, prior, written, voluntary authorization of each individual, it shall be unlawful—

"(A) for any national bank or corporation described in this section to collect from or assess its stockholders or employees any dues, initiation fee, or other payment as a condition of employment if any part of such dues, fee, or payment will be used for political activity in which the national bank or corporation is engaged; and

"(B) for any labor organization described in this section to collect from or assess its members or nonmembers any dues, initiation fee, or other payment if any part of such dues, fee, or payment will be used for political activity in which the labor organization is engaged.

"(2) An authorization described in paragraph (1) shall remain in effect until revoked and may be revoked at any time. Each entity collecting from or assessing amounts from an individual with an authorization in effect under such paragraph shall provide the individual with a statement that the individual may at any time revoke the authorization.

"(3) For purposes of this subsection, the term 'political activity' means any activity carried out for the purpose of influencing (in whole or in part) any election for Federal office or educating individuals about candidates for election for Federal office or any Federal legislation, law, or regulations.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to amounts collected or assessed on or after the date of the enactment of this Act.

H.R. 2183

OFFERED BY: MR. BOB SCHAFFER OF COLORADO

(To the Amendment Offered By: Mr. Snowbarger)

AMENDMENT NO. 159: Amend section 5(b) to read as follows:

(b) PROHIBITING INVOLUNTARY ASSESSMENT OF EMPLOYEE FUNDS FOR POLITICAL ACTIVITIES.—

(1) IN GENERAL.—Section 316 of such Act (2 U.S.C. 441b), as amended by subsection (a), is further amended by adding at the end the following new subsection:

"(d)(1) Except with the separate, prior, written, voluntary authorization of each individual, it shall be unlawful—

"(A) for any national bank or corporation described in this section to collect from or assess its stockholders or employees any dues, initiation fee, or other payment as a condition of employment if any part of such dues, fee, or payment will be used for political activity in which the national bank or corporation is engaged; and

"(B) for any labor organization described in this section to collect from or assess its members or nonmembers any dues, initiation fee, or other payment if any part of such dues, fee, or payment will be used for political activity in which the labor organization is engaged.

"(2) An authorization described in paragraph (1) shall remain in effect until revoked and may be revoked at any time. Each entity collecting from or assessing amounts from an individual with an authorization in effect under such paragraph shall provide the individual with a statement that the individual may at any time revoke the authorization.

"(3) For purposes of this subsection, the term 'political activity' means any activity carried out for the purpose of influencing (in whole or in part) any election for Federal office or educating individuals about candidates for election for Federal office or any Federal legislation, law, or regulations.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to amounts collected or assessed on or after the date of the enactment of this Act.

H.R. 2183

OFFERED BY: MR. BOB SCHAFFER OF COLORADO

AMENDMENT NO. 160: Insert after title III the following new title (and redesignate the succeeding provisions accordingly):

TITLE IV—PAYCHECK PROTECTION

SEC. 401. PROHIBITING INVOLUNTARY ASSESSMENT OF EMPLOYEE FUNDS FOR POLITICAL ACTIVITIES.

(a) IN GENERAL.—Section 316 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b) is amended by adding at the end the following new subsection:

"(c)(1) Except with the separate, prior, written, voluntary authorization of each individual, it shall be unlawful—

"(A) for any national bank or corporation described in this section to collect from or assess its stockholders or employees any dues, initiation fee, or other payment as a condition of employment if any part of such dues, fee, or payment will be used for political activity in which the national bank or corporation is engaged; and

"(B) for any labor organization described in this section to collect from or assess its members or nonmembers any dues, initiation fee, or other payment if any part of such dues, fee, or payment will be used for political activity in which the labor organization is engaged.

"(2) An authorization described in paragraph (1) shall remain in effect until revoked and may be revoked at any time. Each entity collecting from or assessing amounts from an individual with an authorization in effect under such paragraph shall provide the individual with a statement that the individual may at any time revoke the authorization.

"(3) For purposes of this subsection, the term 'political activity' means any activity carried out for the purpose of influencing (in whole or in part) any election for Federal office or educating individuals about candidates for election for Federal office or any Federal legislation, law, or regulations.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to amounts collected or assessed on or after the date of the enactment of this Act.

H.R. 2183

OFFERED BY: MR. BOB SCHAFFER OF COLORADO

(To the Amendment Offered By: Mr. Hutchinson or Mr. Allen)

AMENDMENT NO. 161: Insert after title III the following new title (and redesignate the succeeding provisions accordingly):

TITLE IV—PAYCHECK PROTECTION

SEC. 401. PROHIBITING INVOLUNTARY ASSESSMENT OF EMPLOYEE FUNDS FOR POLITICAL ACTIVITIES.

(a) IN GENERAL.—Section 316 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b) is amended by adding at the end the following new subsection:

"(c)(1) Except with the separate, prior, written, voluntary authorization of each individual, it shall be unlawful—

"(A) for any national bank or corporation described in this section to collect from or assess its stockholders or employees any dues, initiation fee, or other payment as a condition of employment if any part of such dues, fee, or payment will be used for political activity in which the national bank or corporation is engaged; and

"(B) for any labor organization described in this section to collect from or assess its members or nonmembers any dues, initiation fee, or other payment if any part of such dues, fee, or payment will be used for political activity in which the labor organization is engaged.

"(2) An authorization described in paragraph (1) shall remain in effect until revoked and may be revoked at any time. Each entity collecting from or assessing amounts from an individual with an authorization in effect under such paragraph shall provide the individual with a statement that the individual may at any time revoke the authorization.

"(3) For purposes of this subsection, the term 'political activity' means any activity carried out for the purpose of influencing (in whole or in part) any election for Federal office or educating individuals about candidates for election for Federal office or any Federal legislation, law, or regulations.”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to amounts collected or assessed on or after the date of the enactment of this Act.

H.R. 2183

OFFERED BY: MR. BOB SCHAFFER OF COLORADO

(To the Amendment Offered By: Mr. Obey)

AMENDMENT NO. 162: Insert after title V the following new title (and redesignate the succeeding provisions accordingly):

TITLE VI—PAYCHECK PROTECTION

SEC. 601. PROHIBITING INVOLUNTARY ASSESSMENT OF EMPLOYEE FUNDS FOR POLITICAL ACTIVITIES.

(a) IN GENERAL.—Section 316 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b) is amended by adding at the end the following new subsection:

“(c)(1) Except with the separate, prior, written, voluntary authorization of each individual, it shall be unlawful—

“(A) for any national bank or corporation described in this section to collect from or assess its stockholders or employees any dues, initiation fee, or other payment as a condition of employment if any part of such dues, fee, or payment will be used for political activity in which the national bank or corporation is engaged; and

“(B) for any labor organization described in this section to collect from or assess its members or nonmembers any dues, initiation fee, or other payment if any part of such dues, fee, or payment will be used for political activity in which the labor organization is engaged.

“(2) An authorization described in paragraph (1) shall remain in effect until revoked and may be revoked at any time. Each entity collecting from or assessing amounts from an individual with an authorization in effect under such paragraph shall provide the individual with a statement that the individual may at any time revoke the authorization.

“(3) For purposes of this subsection, the term ‘political activity’ means any activity carried out for the purpose of influencing (in whole or in part) any election for Federal office or educating individuals about candidates for election for Federal office or any Federal legislation, law, or regulations.”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to amounts collected or assessed on or after the date of the enactment of this Act.

H.R. 2183

OFFERED BY: MR. BOB SCHAFFER OF COLORADO

(To the Amendment Offered By: Mr. Tierney)

AMENDMENT NO. 163: Insert after title V the following new title (and redesignate the succeeding provisions and conform the table of contents accordingly):

TITLE VI—PAYCHECK PROTECTION

SEC. 601. PROHIBITING INVOLUNTARY ASSESSMENT OF EMPLOYEE FUNDS FOR POLITICAL ACTIVITIES.

(a) IN GENERAL.—Section 316 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b) is amended by adding at the end the following new subsection:

“(c)(1) Except with the separate, prior, written, voluntary authorization of each individual, it shall be unlawful—

“(A) for any national bank or corporation described in this section to collect from or assess its stockholders or employees any dues, initiation fee, or other payment as a condition of employment if any part of such dues, fee, or payment will be used for political activity in which the national bank or corporation is engaged; and

“(B) for any labor organization described in this section to collect from or assess its members or nonmembers any dues, initiation fee, or other payment if any part of such dues, fee, or payment will be used for political activity in which the labor organization is engaged.

“(2) An authorization described in paragraph (1) shall remain in effect until revoked and may be revoked at any time. Each entity collecting from or assessing amounts from an individual with an authorization in effect under such paragraph shall provide the individual with a statement that the individual may at any time revoke the authorization.

“(3) For purposes of this subsection, the term ‘political activity’ means any activity carried out for the purpose of influencing (in whole or in part) any election for Federal office or educating individuals about candidates for election for Federal office or any Federal legislation, law, or regulations.”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to amounts collected or assessed on or after the date of the enactment of this Act.

H.R. 2183

OFFERED BY: MR. BOB SCHAFFER OF COLORADO

(To the Amendment Offered By: Mr. Farr)

AMENDMENT NO. 164: Add at the end of title VII the following new section (and conform the table of contents accordingly):

SEC. 704. PROHIBITING INVOLUNTARY ASSESSMENT OF EMPLOYEE FUNDS FOR POLITICAL ACTIVITIES.

(a) IN GENERAL.—Section 316 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b), as amended by section 304, is further amended by adding at the end the following new subsection:

“(d)(1) Except with the separate, prior, written, voluntary authorization of each individual, it shall be unlawful—

“(A) for any national bank or corporation described in this section to collect from or assess its stockholders or employees any dues, initiation fee, or other payment as a condition of employment if any part of such dues, fee, or payment will be used for political activity in which the national bank or corporation is engaged; and

“(B) for any labor organization described in this section to collect from or assess its members or nonmembers any dues, initiation fee, or other payment if any part of such dues, fee, or payment will be used for political activity in which the labor organization is engaged.

“(2) An authorization described in paragraph (1) shall remain in effect until revoked and may be revoked at any time. Each entity collecting from or assessing amounts from an individual with an authorization in effect under such paragraph shall provide the individual with a statement that the individual may at any time revoke the authorization.

“(3) For purposes of this subsection, the term ‘political activity’ means any activity carried out for the purpose of influencing (in whole or in part) any election for Federal office or educating individuals about candidates for election for Federal office or any Federal legislation, law, or regulations.”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to amounts collected or assessed on or after the date of the enactment of this Act.

SENATE—*Thursday, June 25, 1998*

The Senate met at 9:30 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Lord God, You are the Light of truth for those who know You, the Security of those who love You, the Strength of those who trust You, the Patience of those who wait on You, and the Courage of those who serve You. Fill this Senate Chamber with Your presence. May all that we say and do here today be said and done with an acute awareness of our accountability to You. Help us to ask, "What would the Lord do?" and then, "Lord, what do You want us to do?" Give us long fuses to our tempers and a long view of our vision for the future of America. We invite You to dwell not only in this place but in our minds so that we can think Your thoughts and discover Your solutions. In the Name of our Lord and Saviour. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The able majority leader, Senator LOTT of Mississippi, is recognized.

Mr. LOTT. Thank you, Mr. President.

SCHEDULE

Mr. LOTT. This morning the Senate will resume consideration of the Department of Defense authorization bill. Under the previous order, Senator WELLSTONE will immediately be recognized to offer an amendment regarding Department of Defense schools under a 30-minute time agreement. I see he is here, ready to go.

At the expiration of that debate time, the Senate will proceed to vote on or in relation to the Wellstone amendment. Following that vote, there will be 10 minutes for closing remarks with respect to the Inhofe amendment, regarding the base closure issue, with a vote occurring following that debate. There will then be 10 minutes for closing remarks with respect to the Harkin amendment that was debated last night, which deals with the VA health care issue, followed by a vote in relation to that amendment.

Therefore, three votes will occur beginning, I presume, shortly after 10 o'clock this morning. Following those votes, it is hoped that Members will come to the floor and offer and debate remaining amendments, with the understanding that the bill will be concluded during today's session. I believe that is possible. But once again, it takes cooperation and commitment to agree to reasonable time limits and get to a conclusion on this bill so we can move to a number of other very important issues that we are trying to get cleared, or appropriations bills.

We will make an effort to get short time agreements with regard to the clean needles bill, the reading excellence bill, the drug czar reauthorization bill, perhaps the higher education bill, and any other appropriations bills that we may take up, plus some Executive Calendar items we would like to be able to get done before we go home for the Fourth of July recess, but they are all related to each other. If we get cooperation on the one side, there will be cooperation on the other; if we don't get cooperation and clearance on the bills, the Executive Calendar will have to wait for another week, month, or year.

Also, the Senate can be expected to consider, prior to the Independence Day recess, as I mentioned, the higher education bill. I think we are very close to getting an agreement worked out on that. We can expect votes throughout the day, into the night, and on Friday. There will be at least two votes on Friday, and Senators need to be aware of that.

I yield the floor.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1999

The PRESIDING OFFICER (Mr. SANTORUM). The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2057) to authorize appropriations for the fiscal year 1999 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Inhofe amendment No. 2981, to modify the restrictions on the general authority of the Department of Defense regarding the closure and realignment of military installations, and to express the sense of the Congress on further rounds of such closures and realignments.

Harkin/Wellstone amendment No. 2982, to authorize a transfer of funds from the Department of Defense to the Department of Veterans Affairs for health care.

The PRESIDING OFFICER. Under the previous order, the Senator from Minnesota is recognized for 30 minutes.

Mr. THURMOND. I congratulate Senator WELLSTONE for being willing to come down this early to offer an amendment.

Mr. WELLSTONE. I thank my colleague from South Carolina.

Mr. President, I wonder whether I could ask my colleagues for 5 minutes to speak as in morning business to quickly introduce a bill before going to my 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WELLSTONE. Mr. President, I thank the Chair.

(The remarks of Mr. WELLSTONE pertaining to the introduction of S. 2215 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

PRIVILEGE OF THE FLOOR

Mr. WELLSTONE. Mr. President, I ask unanimous consent Deanna Caldwell, a fellow in our office, be allowed to be on the floor this morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2902

(Purpose: To provide, with an offset, $270,000,000 for the Child Development Program of the Department of Defense)

Mr. WELLSTONE. Mr. President, I call up my amendment numbered 2902, which is at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Minnesota [Mr. WELLSTONE], for himself, and Mrs. BOXER, proposes an amendment numbered 2902.

Mr. WELLSTONE. I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 200, between lines 14 and 15, insert the following:

SEC. 1005. CHILD DEVELOPMENT PROGRAM.

(a) ADDITIONAL FUNDING.—The amount authorized to be appropriated by this Act for the Child Development Program of the Department of Defense is hereby increased by $270,000,000.

(b) OFFSET.—(1) Notwithstanding any other provision of this Act, the total amount authorized to be appropriated by this Act (other than the amount authorized to be appropriated for the Child Development Program) is reduced by $270,000,000.

(2) The Secretary of Defense shall allocate the amount of the reduction made by paragraph (1) equitably across each budget activity, budget activity group, budget subactivity group, program, project, or activity for which funds are authorized to be appropriated by this Act.

(c) USE OF FUNDS.—(1) The amount made available by subsection (a) shall be available for obligation and expenditure as follows:

(A) $41,000,000 shall be available in fiscal year 1999.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

(B) $46,000,000 shall be available in fiscal year 2000.

(C) $53,000,000 shall be available in fiscal year 2001.

(D) $61,000,000 shall be available in fiscal year 2002.

(E) $70,000,000 shall be available in fiscal year 2003.

(2) Amounts available under this section shall be available for any programs under the Child Development Program, including programs for school-age care.

The PRESIDING OFFICER. The Senator is recognized for 15 minutes.

Mr. WELLSTONE. Mr. President, I introduce this amendment on behalf of myself and Senator BOXER. This amendment focuses on a real need in our Armed Forces. Really, we are talking about the children. We are talking about the need to have comprehensive child care for our families who serve in our Armed Forces who, after all, are involved in very important service for our Nation.

Back in the 1980s this body began looking at the state of child care. Thanks to the leadership of Senator KENNEDY, funding was appropriated to build child-care centers that provided new services to families of military personnel. Subsequently, the Department of Defense's child-care programs have been able to provide quality—by the way, this is a model for the Nation—quality service to thousands of children of military personnel. But, by 1995, we find out that there is really a tremendous need, and while there are some 299,000 children served, there are 155,000 children of families that are requesting child-care services. This amendment is an effort to bridge this gap.

For the parents of these 144,000 children—really, close to 155,000 children—requesting this, this is a huge issue. It is difficult to do well when you are worried about whether or not your children have good care, and this amendment speaks to this problem. If you don't have peace of mind while you are serving our country, if you don't believe your child is receiving good care, what we are trying to do is provide the necessary family support services.

There are a variety of different components that we are talking about. We are talking about, of course, early childhood development. That is to say, when both parents are working and you are trying to figure out what you are going to do with your child—and, look, for our military personnel, but also for all of our families—when both of you have to work, you know full well that the most important thing is to make sure that your child is receiving good child care. But for too many citizens in our country, and for too many military families, they are not able to fill that need. This amendment takes us a long way toward filling that need.

In addition, there is the issue of afterschool care for younger children who are going home, but going home alone, again, when both parents have to work, trying to fill that very important need for military personnel; or there are occasions when there is a place to drop a child off from time to time when a parent or parents need to do so. Now, it is not free. What we have is a sliding fee scale basis of child care right now within the military, which is the way I think it should be done. Actually, the average fee is about $65 per child per week. It ranges from $35 to $88.

The funding for the child development program of the Department of Defense is about $295 million. About 52 percent of the children have been served. What we are now trying to do is move toward serving the children for the vast majority of these families by, over a year period, increasing the appropriations by $270 million.

The offset is as follows: We simply say, take one-tenth of 1 percent, one-tenth of 1 penny of every dollar, which now goes to the Pentagon budget, and just do an across-the-board cut. We have had studies that talk about administrative expenses that go way beyond this in terms of administrative waste. If you were just to make a cut in the waste and be more efficient, one-tenth of 1 percent—and I make this appeal to my colleagues—you could then appropriate this $270 million over a 5-year period. We would start with $41 million next fiscal year and, ultimately, we would build up, by the year 2003, to $270 million.

What we are trying to do is to make sure that we meet a real need of our military personnel and their families. What we are trying to do is provide the service for as close to all of the children of military personnel as possible. What we are trying to do is build on the Department of Defense's child care program, which is a huge success. I have had an opportunity to talk with the people that run that program. I am very proud of what they do, but it seems to me that one of the best things we could do within the DOD budget is just simply say for a very small—one-tenth of 1 percent—cut across the board, you can take it out of waste easily and we could then have $270 million over a 5-year period, which would help—again, let me be crystal clear about this—somewhere in the neighborhood of 150,000 children. Just think of how many military families we could help through this amendment. I hope that there will be support for this amendment.

I reserve the balance of my time.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. THURMOND. Mr. President, I rise in opposition to this amendment. I share the Senator's concerns regarding the need to provide adequate resources to such worthy projects. Therefore, the bill we have before us fully authorizes the President's budget request for the Department of Defense Child Development Program. The committee has also recommended an additional $23.0 million in this bill to construct five new child care centers.

Unfortunately, the Defense budget has declined so dramatically over the past several years that we cannot afford to reduce other programs below their current levels without significantly jeopardizing near and long-term military readiness. Furthermore, I believe that this amendment has some technical problems.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. LEVIN. Mr. President, I need 5 minutes.

Mr. THURMOND. Mr. President, I yield 5 minutes to the distinguished Senator from Michigan.

Mr. LEVIN. Mr. President, first, let me say that, as usual, our friend from Minnesota is fighting for a cause that is an important one. I think he is one of the leaders in this body of trying to make sure we have enough money for child care, child development, and it is important that leadership exist in this area. I commend him on that.

The defense budget this year shows a greater than 10-percent increase in this area. So I think the Defense Department is right when they give us the facts and tell us that they have a program for significant improvement in child care, in part, by the way, because of the efforts of people in this body many years ago. They have a projected significant increase over these years, in part, may I say, because of our former colleague, Bill Cohen. Secretary Cohen was a leader in the effort to provide child care in this Senate. He is totally dedicated to it in the military.

The DOD effort, the planned effort to significantly increase the amount of child care, is requiring them to go off base frequently in order to do that, to get facilities off the site of the facility itself, and to go into the neighboring communities to get child care. But they are on that course of action. They are doing that, and they should. But they have put in this budget this year approximately a 10-percent increase in funding for child care. It is part of a significant increase that has been projected over a number of years for child care, and it is in the hands of the Secretary of Defense, who, when he was in the Senate, showed a tremendous commitment in this area and has continued that commitment as Secretary of Defense.

So the increases that are significant have been planned. They are proceeding in a planned way. The Defense Department feels that it is proceeding as quickly and as administratively feasible and efficiently, and I would, therefore, oppose the Senator's amendment.

I do so with some reluctance because of the subject matter. But despite that reluctance, I feel that the Defense Department is proceeding on pace, in a planned way, and most importantly, proceeding in a way that involves a significant increase in expansion in child care, despite the fact that the number of people in the armed services is being reduced, and it is all under the leadership of a Secretary of Defense who has shown a commitment to child care over the years.

So for those reasons I will oppose the Senator's amendment. But, again, I express my feeling that, as he so often does, he is addressing an issue that is an important issue for the Nation.

Mr. WELLSTONE. Mr. President, I appreciate both my colleagues' remarks.

I ask unanimous consent that excerpts from a CRS study be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[Excerpt from CRS Report for Congress, Sept. 14, 1995]

MILITARY CHILD CARE PROVISIONS: BACKGROUND AND LEGISLATION

(By David F. Burrelli, Specialist in National Defense, Foreign Affairs and National Defense Division with Kristin Archick)

In the 1995 survey, potential need for all the services is estimated to be 299,278 child care spaces. Given that there are currently 155,311 spaces, DoD is meeting about 52 percent of the total potential need.

TABLE 6. NEED FOR CHILD CARE SPACES BY SERVICE, 1995

	Have	Need	Percent met
Army	69,366	109,814	63
Navy	28,074	80,488	35
Air Force	45,785	85,927	53
Marines	9,086	23,049	39
DoD	155,311	299,278	52

Source: DoD's Office of Family Policy, Support and Services.

Currently, there is a waiting list of approximately 93,400 children for military child care spaces.[39]

Mr. WELLSTONE. Mr. President, the Department of Defense had its own internal study in 1995. I agree with my colleague from Michigan in his praise of our Secretary of Defense and his commitment.

I don't think the Secretary of Defense would disapprove of this body taking yet another step forward in this area.

We had an internal study in 1995 where the DOD essentially said, "Look, we can only satisfy 52 percent of the need for child care of families in the armed services." I am looking at almost 50 percent of the families not able to get the care for their children that they need. As far as how we do this, we are very clear that this gets phased in over a period of time.

As I said to my colleagues, we start next fiscal year with the $41 million, and then we gradually increase it, so that by the year 2003 it is $70 million. Overall it is $270 million, one-tenth of 1 percent of the overall budget. There have been plenty of studies that say we spend way more than that in administrative ways.

I cannot believe that the Secretary of Defense, or certainly anybody who is involved with the Department of Defense child care program, would not say, "Senators, if you are willing to take one-tenth of 1 percent across the board, and you will earmark that for expanding child care services so that we can meet the needs of 155,000 children and their families, we are for it."

I again appeal to my colleagues to support this amendment.

I reserve the remainder of my time.

The PRESIDING OFFICER (Mr. THOMAS). Who yields time? If no one yields time, it will be divided equally.

Mr. WELLSTONE. Mr. President, how much time do I have left?

The PRESIDING OFFICER. Six minutes 55 seconds.

Mr. WELLSTONE. If my colleagues have essentially yielded their time, or may now reserve some of their time, let me try to summarize it.

Let me try to make this appeal again. We have a 1995 study which says, "Look, almost 50 percent of the families are hurting here. They need the child care services." I have a Congressional Research Service study that says the same thing. We phase it in over a 5-year period. It is a total of $270 million, one-tenth of 1 percent of the overall Pentagon budget.

Isn't part of our readiness making sure that these families of our military personnel can feel secure that their children are getting good child care? Can't we do this in our budget for our military families?

The medical evidence is overwhelming about the importance of early childhood development. It is overwhelming about the development of the brain. It is overwhelming that we ought to do better. This amendment enables us to do this. I guess I am disappointed in the opposition, although, of course, everybody has a right to take whatever view they want to.

I make yet one final appeal to my colleagues to please support this amendment. It is eminently reasonable, eminently balanced, and it really does a world of good for military families.

I reserve the remainder of my time.

Mr. THURMOND. Mr. President, I yield time to the distinguished Senator from Michigan.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. LEVIN. Mr. President, we spoke with the Deputy Assistant Secretary of Defense, Carolyn Becraft. She is in charge of their family program. They oppose this amendment.

When the Senator says he can't believe that the Defense Department would not support this, or the people in charge of families and child care would not support this amendment, we asked them what their position was. Their position is that the child care program is funded in a way to expand the availability of child care in a planned way.

I want to emphasize that. We have a significant expansion in child care in the Defense Department underway. It is because of the initiative of many people within the Defense Department and outside, including Members of this body. It is under the supervision of a Secretary of Defense who is totally committed to child care. He showed that when he was in this body, and he has continued to show that as Secretary of Defense. The Defense Department has this significant expansion, which is ongoing in a planned way, and that is why they do not support this additional increase.

That comes from the Assistant Secretary of Defense who is responsible for dealing with the needs of families in the Defense Department.

Mr. WELLSTONE. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 5 minutes 2 seconds.

Mr. WELLSTONE. Mr. President, let me be clear to my colleagues. I believe in the basic discussion I have had that a lot of the men and women in personnel who are involved, I say to my colleagues, who are actually involved down in the trenches delivering child care programs within the Department of Defense child care program, will tell you, "Senator, $270 million over 5 years would do us a world of good, because we have almost 50 percent of the families we can't serve."

My colleague can get a statement from the director saying, "Look, we are not in favor of this." I mean that can be the position that the Department takes. That is the position that maybe someone who administers the program takes. But with all due respect, I have here a Congressional Research Service report. I will quote. This backs up the internal 1995 DOD report.

> In the 1995 survey, potential need for all the services is estimated to be 299,278 child care spaces. Given that there are currently 155,311 spaces, DOD is meeting about 52 percent of the total potential need.

My colleagues come here to the floor and they say there is already a plan to meet this need. But there isn't a plan to meet this need. We are talking about a gap of 48 percent.

I will say it one more time. Just ask the families. Just talk to the families. Ask that 48 percent what it feels like to not have adequate child care, what it feels like when you both have to work and you don't know whether your child is in really good child care, what it feels like when you are both working and your child comes home alone from school.

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[39] Maze, Rick. Child Care Centers Get a Huge House Boost, *Army Times*, July 3, 1995: 9.

We could do a world of good. The evidence is clear. There is a huge gaping need here.

With all due respect, whatever official positions we get from DOD on this, the fact of the matter is, I think, the evidence is irrefutable. We have a 48 percent gap, and for 1 penny of 1 dollar, one-tenth of 1 percent across the board, look at the studies on administrative waste. We could put $270 million into child care for our military families and meet a huge need. That is the issue.

I hope there will be strong support for this amendment.

I reserve the remainder of my time.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, just 1 additional minute.

The source of these additional funds is across-the-board reduction in every budget activity in the Defense Department. It is not aimed at some category called "waste." I think if there were such a category, everybody in this body would identify it. And I have spent a good part of my life seeking to identify it, have identified a lot of it, and we have been able to get rid of a lot of it.

This amendment would take money from every budget activity, in a very small amount, which the Senator has identified. But those budget activities for weapons systems are just as important as they are. Research and development is part of that. Those budget activities include DOD schools, family support centers, commissaries. Families need those things too.

So when the Senator makes an unallocated cut across each budget activity, many of those budget activities are as critical to those very same families as we are trying to help with our child care program.

Mr. President, again, I oppose this amendment. I hope it is defeated. But I want to end on a positive note and again say how much we appreciate the strength with which the Senator from Minnesota supports the kind of causes which are so important to the people of this Nation and to the people in the military.

PRIVILEGE OF THE FLOOR

Mr. WELLSTONE. Mr. President, I ask unanimous consent that Cardell Johnson, an intern in my office, be allowed floor privileges.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WELLSTONE. Mr. President, let me just say to my colleagues, this is one-tenth of 1 percent, and we have studies on administrative waste within the Department of Defense. That is my point. It is hard to believe that we could not take one penny out of $1 of the overall budget and put it into child care to make sure that these families are able to receive the support that they deserve. With almost a 50-percent gap, according to CRS, a waiting list of 93,000 families for child care, this is a great opportunity to help a lot of military families in probably the most important way we can. All of us who have been parents and grandparents know that. So I hope my colleagues will support this amendment.

I yield the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. THURMOND. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back.

Mr. LEVIN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second on the request for the yeas and nays?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the Wellstone amendment No. 2902. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS), the Senator from Arkansas (Mr. HUTCHINSON), and the Senator from Delaware (Mr. ROTH), are necessarily absent.

I further announce that the Senator from Arkansas (Mr. HUTCHINSON) is absent because of a death in the family.

I also announce that the Senator from Pennsylvania (Mr. SPECTER) is absent because of illness.

Mr. FORD. I announce that the Senator from Hawaii (Mr. AKAKA), the Senator from Montana (Mr. BAUCUS), the Senator from Ohio (Mr. GLENN), and the Senator from West Virginia (Mr. ROCKEFELLER) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 18, nays 74, as follows:

[Rollcall Vote No. 173 Leg.]

YEAS—18

Boxer
Bumpers
Durbin
Feingold
Ford
Harkin
Jeffords
Johnson
Kennedy
Kerry
Kohl
Lautenberg
Mikulski
Moseley-Braun
Murray
Torricelli
Wellstone
Wyden

NAYS—74

Abraham
Allard
Ashcroft
Bennett
Biden
Bingaman
Bond
Breaux
Brownback
Bryan
Burns
Byrd
Campbell
Chafee
Cleland
Coats
Cochran
Collins
Conrad
Coverdell
Craig
D'Amato
Daschle
DeWine
Dodd
Domenici
Dorgan
Enzi
Faircloth
Feinstein
Frist
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Hagel
Hatch
Hollings
Hutchison
Inhofe
Inouye
Kempthorne
Kerrey
Kyl
Landrieu
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Moynihan
Murkowski
Nickles
Reed
Reid
Robb
Roberts
Santorum
Sarbanes
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Stevens
Thomas
Thompson
Thurmond
Warner

NOT VOTING—8

Akaka
Baucus
Glenn
Helms
Hutchinson
Rockefeller
Roth
Specter

The amendment (No. 2902) was rejected.

Mr. COATS. I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

PRIVILEGE OF THE FLOOR

Mr. REID. Mr. President, I ask unanimous consent that Alan Easterling, a legislative fellow in my office, be allowed privileges of the floor during this action.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

AMENDMENT NO. 2981

The PRESIDING OFFICER. Under the previous order, the question reoccurs on the Inhofe amendment No. 2981, on which there will be 10 minutes of debate equally divided in the usual form.

Mr. COATS. Mr. President, could I ask, who will be controlling the time on the proponents' side of the amendment?

The PRESIDING OFFICER. The Senator from Oklahoma controls the time for the proponents.

The Senator from Indiana opposes the amendment and controls the time.

Mr. INHOFE. Mr. President, it is my understanding, for clarification, that we have 10 minutes equally divided, and I would like to be recognized to close debate on my amendment.

The PRESIDING OFFICER. The Senator is correct.

Mr. INHOFE. The Senator from Indiana is going to speak in opposition to my amendment; if you recognize the Senator from Indiana first, so I can close debate.

Mr. COATS. Mr. President, very briefly, in the time we have, I don't enjoy opposing matters offered by my friend from Oklahoma, but I have a fundamental disagreement with him on this particular issue.

We do four basic things in defense: We pay for people and their quality of life; we research, develop, and purchase modern weapons and give them the very best capabilities; we support the readiness of our forces; and we pay for infrastructure—the bases and all the infrastructure for support.

We know four things: We know that our military people are underpaid and that their quality of life is suffering; we know they live in inadequate housing; we know we have a $10 to $15-billion-a-year shortfall in research, development, and modernization; we know that we have strains in growing, cracks and fissures in our readiness; and we know that we have too much infrastructure. The Department of Defense says we cut personnel and everything else by 40 percent, infrastructure by 20 percent.

What this amendment does is send a message. It sends a message that we will subordinate the interests of caring for our people, of supporting new modernization of weapons, of making sure of our readiness, in order that we keep the infrastructure that we have, in order that we protect civilian jobs and bases that the Department of Defense does not want and does not need.

It is exactly the wrong message to send to our service people, to send to our national defense. It jeopardizes our national security. We want to take reasonable steps to put in place a process to remove excess infrastructure so we can address these three other critical needs.

I yield to my friend from Arizona.

Mr. BYRD. Before the Senator speaks, would the Senator yield briefly?

Mr. COATS. I am happy to yield to the Senator.

Mr. BYRD. Mr. President, the Supreme Court of the United States has just struck down the line-item veto by a vote of 6-3. I ask unanimous consent that I and Senator MOYNIHAN and Senator LEVIN may have some time—say, not to exceed 30 minutes—following the three votes that are scheduled.

Mr. McCAIN. I object, unless Senator COATS and I are given equal time.

Mr. BYRD. Mr. President, I would love to give both of those Senators double the time. I make the consent that they have equal time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COATS. Mr. President, I ask unanimous consent the time just yielded to the Senator from West Virginia not be deducted from the time of the Senator from Arizona. I yielded because I was under the false impression that the Senator was going to speak in favor of our position on this amendment.

I am reluctant to fail to yield to the Senator from West Virginia, but had I known he was asking for time for this purpose, I would have been sorely tempted not to yield. I probably would have, but I would have been sorely tempted not to.

I appreciate the Senator's interest in that subject, however. I know we have and will continue to have debates on that.

Mr. BYRD. I thank the distinguished Senator.

I have a few words to say today about yesterday's colloquy between the Senator and myself in which I clearly misunderstood the Senator. I think we passed each other, but most of the fact that we passed each other was my fault, and I want to state that more clearly later today.

Mr. COATS. I thank the Senator for saying that.

Mr. President, if I could ask, how much time remains on our side?

The PRESIDING OFFICER. There are 3 minutes.

Mr. COATS. I yield 2 minutes to the Senator from Arizona.

Mr. McCAIN. Mr. President, let me just make a couple comments on this amendment.

One, there seems to be some debate as to whether base closing actually saves money or not—one of the more bizarre and interesting and illogical arguments I have heard in my time in the Senate. If closing bases didn't save money, after World War II we should have kept the thousands of bases that we had across America open. Look, closing bases saves money; it just depends on when. The sooner we get about that business, the sooner we will be able to have the money that would take care of force modernization, retention of qualified men and women, and so many other urgent requirements for national defense.

Let me quickly add one of the practical effects of this amendment. It would prohibit any installation from being closed for 4 years following a realignment, where, as a result of the realignment, civilian employment dropped below 225—not military presence, civilian employment. My friends, there is nothing more revealing about the amendment than that the focus is on civilian employment. That could mean no installation could be closed—it could remain open, could be forced to remain open, with no military presence at all, no military people, but just 225 civilians, and the base being left open. It is incredible.

Let me finally say, the Secretary of Defense has recommended a Presidential veto of this bill if this amendment goes through, and I strongly support that. This is a very dangerous thing for national security.

I thank the Senator from Indiana.

Mr. COATS. I yield 30 seconds to the Senator from Virginia.

Mr. ROBB. Thank you, Mr. President.

Mr. President, very briefly, every single Member of this Chamber understands that eventually we will have to have the intestinal fortitude to reduce infrastructure if we are going to support force structure. This amendment moves us in precisely the opposite direction. If we don't have the fortitude to make those choices, let's at least let our commanders have the flexibility so they can make the choices for us in the interim.

Mr. President, virtually every Member of this body knows that another one or two rounds of base closures will not only save money, but will save billions. But many in the Congress have concluded unequivocally that preserving jobs and infrastructure in their states and districts is more important than military readiness and modernization. Some are in fact determined to punish the Administration for its actions related to privatization-in-place at Kelly and McClellan Air Force Bases. But who is being punished? We punish the nation's taxpayers when we fail to make the best use of the resources with which they entrust us. We punish today's soldiers, sailors, airmen and marines whose readiness depends on adequate funding for equipment, training and operations. We punish tomorrow's force as we continue to mortgage research, development, and modernization of equipment necessary to keep America strong into the 21st century.

The amendment before us takes our parochialism and so-called punishment of the Administration even further. The amendment seeks to make it even more difficult for DoD to shift personnel among bases, to allocate resources as efficiently as possible, to align our infrastructure in the best manner for supporting the warfighter. Rather, this amendment represents a flagrant attempt to frustrate the legitimate efforts of our service leaders to reduce and realign their personnel and facilities to meet changing security requirements and save money.

The standards for allowable realignment and adjustment of people and facilities are already significantly limiting for the services. Greater limits on service authority to adjust its infrastructure, reassign individuals and units, move forces and capabilities to where they are needed when they are needed—does nothing but harm national security. I urge my colleagues to reverse this insidious trend of raw parochialism, of protecting jobs and land and buildings at the expense of our nation's security.

With that, I thank the Chair and yield the floor.

Mr. DASCHLE. Mr. President, I come to the floor today as a cosponsor of the amendment before us. This amendment would further reduce the Secretary of Defense's ability to close and realign bases without the consent of Congress. The amendment also expresses the sense of the Senate that Congress should not authorize additional rounds of base closure until we have ceased operations at bases already marked for closure.

I have listened carefully to the arguments of those opposed to this amendment. In the immortal words of that great pop philosopher Yogi Berra, it feels like deja vu all over again. If memory serves me correctly, on this very bill last year, many of these same

Senators used many of the same arguments we are hearing today. After listening to last year's debate, the Senate overwhelmingly rejected their arguments. Little has changed in the intervening period. I believe the Senate should follow the same course this year.

Since 1988, Congress has authorized four rounds of base closure. As a result of these authorizations, operations will be ended at 97 major military installations in this country—nearly 20 percent of all U.S. bases. In addition, activities will be curtailed at hundreds of other military bases around the country. These closures and consolidations will take until 2001 to complete. As they did last year, opponents of this amendment argue that we have not done enough. They argue that we need to close more bases. They assert that previous rounds of base closure have produced billions in savings and that future rounds will do the same. And they again rely upon incomplete and questionable data from the Pentagon to back them up.

Last year, I joined with Senator LOTT, the distinguished Majority Leader, and Senator DORGAN in pointing to base closure studies by the General Accounting Office and the Congressional Budget Office that raised significant doubts about the Pentagon's data. After listening to our arguments, the Senate, by a vote of 66 to 33, adopted language offered by the Republican leader and myself requiring the Defense Department to submit a comprehensive report on base closure and to have GAO and CBO review this report.

The Pentagon recently issued its four-volume report on base realignment and closure. Unfortunately, this report appears to be as short on new information as it is long in word count. Despite the fact that the report runs nearly 2000 pages, it fails to provide some of the basic information required under the legislation adopted by Congress last year. Moreover, since the Department chose to release its report just a short time ago, GAO and CBO have been unable to complete their review prior to the Senate's consideration of this amendment.

Nonetheless, these organizations have already provided us with a considerable amount of information about the Pentagon's data on excess capacity and base closure savings. First, let me briefly address the Defense Department's assertion that significant excess capacity remains. As the Cold War was winding down in the late-1980s, the Defense Department properly decided to reexamine our military strategy and force requirements. The Pentagon conducted a rigorous analysis called the Bottom-Up Review. This review spelled out the numbers and types of military forces this Nation would need to meet the security challenges of the 1990s and beyond. In order to minimize disruptions, this review set precise future targets on such force components as military personnel for each service, combat ships, and fighting aircraft.

Unfortunately, the Defense Department has never seen fit to produce a similar master plan on military bases. Despite the fact that the Pentagon has stated since the late 1980s the approximate number and types of forces it will need well into the next decade, it has never chosen to specify the number and types of bases necessary to house this force. Instead, DoD continues to make the case for base closures using questionable calculations of excess capacity. We made this point last year, and it remains valid today. According to a May 1, 1998 letter from GAO, "precise measures of excess capacity are often lacking, and we have noted that DoD needs a strategic plan to guide the downsizing of its infrastructure."

As for savings from base closures, both GAO and CBO have issued reports that call into question the reliability of the Pentagon data offered up by the proponents of this amendment. According to GAO's most definitive base closure report, "the exact amount of actual savings realized from [base closings] is uncertain." GAO goes on to say that the Defense Department's cost and savings estimates were, "not of budget quality and rigor." CBO stated, "[it] is unable to confirm or assess DoD's estimates of cost and savings because the Department is unable to report actual spending and savings for [base closure] actions." In other words, both GAO and CBO have raised significant questions about the accuracy of the Pentagon's accounting system for base closures.

Mr. President, this is an extremely important issue. The outcome of this debate will have important consequences for both our national security and the scores of communities across this country that host military facilities. I remain concerned about the impact that additional base closures could have on our national defense. Once the Pentagon closes a major military installation, that facility is gone forever. The Defense Department cannot simply reopen the doors to a military base it has closed should a new military threat arise.

This debate will also have a major impact on our communities. Ellsworth Air Force Base in my home state is an excellent example. This facility and the people who run it have served this Nation well for 50 years. Given the far-reaching ramifications of closing additional bases, it is critical that Congress make informed decisions when deciding on the future of key facilities like Ellsworth and many others across this country. Despite the best efforts of myself and the Majority Leader in last year's Defense Authorization bill to gain the necessary knowledge, numerous important questions remain unanswered.

In addition to firming up the cost data, the Pentagon must provide the Congress with rigorous analysis that spells out the number and types of bases it will need for the base force. Once the Pentagon has done its homework, it will be appropriate for Congress to consider taking action. I look forward to working constructively with the Department of Defense in the months and years ahead on the relationship between our national security and our base structure. Once the Pentagon has its own house in order, I am prepared to revisit this issue. Unfortunately, that time has not yet come. Therefore, I ask my colleagues to support this amendment.

Mr. COATS. I reserve the balance of my time.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. I ask what the remainder of my time is.

The PRESIDING OFFICER. Forty-two seconds left for the opponents and 5 minutes for the proponent.

Mr. INHOFE. First of all, there is not a person in this Chamber who has a stronger record for supporting defense than I do—not one Senator on the Democrat side or the Republican side has a stronger record in support of defense.

No. 2, those individuals who are speaking against it, I wish we had a chance last night, we had a little bit longer for debate. This has nothing to do with base closures, because I approve of the BRAC process. Last night, I went into detail as to why I think that is the right process to use.

No. 3, the Senator from Arizona talked about "measuring" with civilian employees. That is current law. We are not changing that. That is already in the law. That law, by the way, was put on the books by the current Secretary of Defense when he was then in the U.S. Senate.

So, I only say that we have covered all these bases. It is something that is significant. Yes, we do have excess infrastructure, but when we heard Secretary Peters and General Ryan say they didn't care what Congress said, they are going to go ahead and close the bases without going to Congress, I decided we had to do something to stop that. That is all this does—it makes them come to us instead of doing it without our consent or knowledge or without the BRAC process.

I yield the remaining time to the Senator from North Dakota.

Mr. DORGAN. Mr. President, the Senator from Oklahoma closed?

The PRESIDING OFFICER. That is not correct. The Senator from Indiana still has 42 seconds, and the Senator from Oklahoma has 3 minutes.

Mr. INHOFE. It is my understanding that I made the request that I be recognized to close debate on my amendment.

The PRESIDING OFFICER. That was not the understanding of the Chair.

Mr. McCAIN. I ask unanimous consent that the Senator from Oklahoma be allowed to close debate—for how many minutes?

Mr. INHOFE. One minute.

Mr. McCAIN. I ask that he be yielded 2 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COATS. Was that request for additional time for the Senator, or within the 5 minutes?

The PRESIDING OFFICER. My understanding was within the 5 minutes.

Mr. COATS. We have no problem with the Senator closing debate. I don't think 42 seconds is going to swing things one way or another, unless I come up with something really clever.

Mr. INHOFE. Mr. President, I yield to the Senator from North Dakota, and if there is a minute remaining, I will take the minute after the other side has concluded their remarks.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, I shall not use all the time allotted to me. I just want to make a couple points.

There isn't any question, I say to my friend from Arizona, Senator McCAIN, that the base-closing rounds have saved money. I don't think there is a quarrel in this Chamber about that. Base closings save money. They do cost some money in the short term—there is no question—but they save money.

I have voted for four rounds of base closures, and it is likely that I will vote for additional base closures, because we need some restructuring. But the real question is this: Will we have the information we need to make the right decision as we cast that vote?

As my colleagues will recall, both the Congressional Budget Office and the General Accounting Office are skeptical about the Defense Department's savings estimates. Let me share what the Congressional Budget Office said about this a while ago:

> The Congress could consider authorizing an additional round of base closures if the Department of Defense believes that there is a surplus of military capacity after all rounds of BRAC have been carried out.

Then the Congressional Budget Office says:

> That consideration, however, should follow an interval during which DOD and independent analysts examine the actual impact of the measures that have been taken thus far.

About a couple dozen of the bases that have been ordered to close are not yet closed. We ought to finish the job we have done in the previous rounds before we begin a new one.

I have another question about this issue, and I think all of us should bear this question in mind. What does the Defense Department mean by requesting two additional base-closing rounds at the same time that folks at DOD are talking about building and developing new superbases? Where? How big? At what cost? Let's answer some of those questions before we proceed.

Finally, let me respond to the remarks of the Senator from Arizona about civilian employees. The civilian employee standard has been in law for some 20 years. This amendment modifies it or adjusts it some. But as a standard for the Department's authority in this area, the number of civilian employees is not new.

So I am happy to join the Senator from Oklahoma in authoring this amendment.

Again, I think some base closings will save money. I think we will do that at some point, but this is not the time. We have nearly 30 that were ordered closed that are not yet closed. Let's finish that job.

Mr. COATS. Mr. President, I yield 10 seconds to Senator WARNER.

Mr. WARNER. Mr. President, we spoke on this late last night, around 9:30, 10 o'clock. The Senator from Virginia expressed his opposition to the amendment. I referred to the letter from the Secretary of Defense. I will read one sentence:

> This proposal would seriously undermine my capacity to manage the Department of Defense.

Bill Cohen is a man we all know, a man we unanimously supported. I think it is a testament to him that we defeat this amendment.

I ask unanimous consent that this letter from Secretary Bill Cohen be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

> DEAR MR. CHAIRMAN: I am writing to express the Department of Defense's strong opposition to an amendment to the fiscal year 1999 Defense Authorization Bill that has been proposed by Senators Inhofe and Dorgan. If enacted, this amendment would further restrict the Department's already limited ability to adjust the size and composition of its base structure. The Department will have views on other provisions in the Authorization Bill as well, but I want to draw your attention to this particular amendment before the Senate completes consideration of your bill.
>
> The Department can undertake closure and realignments only after first complying with the requirements of 10 USC 2687. As a practical matter, section 2687 greatly restricts the Department from taking any action to reduce base capacity at installations with more than 300 civilians authorized. The amendment being proposed would extend the application of section 2687 to an even greater number of installations.
>
> This proposal would seriously undermine my capacity to manage the Department of Defense. Even after eight years of serious attention to the problem, we still have more infrastructure than we need to support our forces. Operating and maintaining a base structure that is larger than necessary has broad, adverse consequences for our military forces. It diverts resources that are critical to maintaining readiness and funding a robust modernization program. It spreads a limited amount of operation and maintenance funding too thinly across DoD's facilities, degrading the quality of life and operational support on which readiness depends. It prevents us from adapting our infrastructure to keep pace with the operational and technical innovations that are at the cornerstone of our strategy for the 21st century. In short, this amendment would be a step backward that would harm our long-term security by protecting unnecessary infrastructure.
>
> I urge you to oppose the Inhofe/Dorgan amendment during floor consideration of the Authorization Bill. Its passage would put the entire bill at risk. Congress has given me the responsibility to organize and manage the Department's operations efficiently. I need to preserve my existing authority to fulfill that responsibility.

Mr. COATS. Mr. President, I yield our remaining time to the Senator from Michigan.

Mr. LEVIN. How much time is left?

The PRESIDING OFFICER. Twelve seconds.

Mr. LEVIN. Mr. President, this amendment, if adopted, will dig us into a deeper hole. We are not authorizing a new BRAC round in this bill. That is not before us. This amendment will make it more difficult for the Secretary of Defense to realign bases that he currently can without a BRAC round.

Mr. INHOFE. Mr. President, how much time do I have?

The PRESIDING OFFICER. One and a half minutes.

Mr. INHOFE. Mr. President, I agree with the very letter of what the Senator from Michigan said. He is right. It does make it more difficult for the Secretary of Defense to close the realigned bases without coming to Congress or without going through the BRAC process.

I have to say, respectfully, to my colleague from Virginia that the letter he read from was referring to a previous version—a much stronger bill. We have moderated this language quite a bit. I also say that is the same individual that put this into law 20 years ago himself.

Third, this doesn't stop the 2001 BRAC process. It does not stop. We can still do it. It just says we don't need to decide in this bill whether or not we are going to have a 2001, and it could just as well be done next year.

Lastly, the comment that was made that this would draw a veto, this is used every year. I have very serious doubts that the President of the United States, on the defense authorization bill, is going to veto it on the basis of an amendment that is supported by both the majority leader, TRENT LOTT, and the minority leader, TOM DASCHLE.

I yield the remainder of my time.

The PRESIDING OFFICER. All time has expired. Is there a request for a rollcall vote?

Mr. COATS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Oklahoma.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Arkansas (Mr. HUTCHINSON) and the Senator from Delaware (Mr. ROTH) are necessarily absent.

I further announce that the Senator from Arkansas (Mr. HUTCHINSON) is absent because of death in the family.

I also announce that the Senator from Pennsylvania (Mr. SPECTER) is absent because of illness.

Mr. FORD. I announce that the Senator from Hawaii (Mr. AKAKA), the Senator from Montana (Mr. BAUCUS), the Senator from Ohio (Mr. GLENN), and the Senator from West Virginia (Mr. ROCKEFELLER) are necessarily absent.

The PRESIDING OFFICER (Mr. GREGG). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yes 48, nays 45, as follows:

[Rollcall Vote No. 174 Leg.]

YEAS—48

Abraham
Allard
Bennett
Bond
Boxer
Breaux
Brownback
Burns
Campbell
Cleland
Collins
Conrad
Coverdell
Craig
D'Amato
Daschle
Dodd
Domenici
Dorgan
Durbin
Faircloth
Ford
Frist
Gorton
Graham
Hagel
Hatch
Helms
Hutchison
Inhofe
Kempthorne
Landrieu
Lautenberg
Lott
Mack
McConnell
Mikulski
Moseley-Braun
Murray
Nickles
Roberts
Sarbanes
Sessions
Shelby
Smith (NH)
Snowe
Thomas
Torricelli

NAYS—45

Ashcroft
Biden
Bingaman
Bryan
Bumpers
Byrd
Chafee
Coats
Cochran
DeWine
Enzi
Feingold
Feinstein
Gramm
Grams
Grassley
Gregg
Harkin
Hollings
Inouye
Jeffords
Johnson
Kennedy
Kerrey
Kerry
Kohl
Kyl
Leahy
Levin
Lieberman
Lugar
McCain
Moynihan
Murkowski
Reed
Reid
Robb
Santorum
Smith (OR)
Stevens
Thompson
Thurmond
Warner
Wellstone
Wyden

NOT VOTING—7

Akaka
Baucus
Glenn
Hutchinson
Rockefeller
Roth
Specter

The amendment (No. 2981) was agreed to.

Mr. FORD. Mr. President, I move to reconsider the vote.

Mrs. BOXER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2982

The PRESIDING OFFICER. The Senate will now resume the Harkin amendment, No. 2982, with 10 minutes of debate.

First, we will have the Senate come to order. We will not proceed with debate and the vote until we can get Senators to take their conversations to the Cloakroom.

Who yields time?

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, what is the parliamentary procedure?

The PRESIDING OFFICER. The Senator is recognized for 5 minutes, and the Senator from South Carolina is recognized for 5 minutes.

Mr. HARKIN. Mr. President, the amendment I offered last night—Mr. President, there still is not order in the Senate.

The PRESIDING OFFICER. There continues to be a fairly high level of discussion. Will Senators to the left of the rostrum please take their conversations to the Cloakroom.

The Senator from Iowa.

Mr. HARKIN. I thank the President for getting order in the Chamber.

This amendment I offered basically transfers $329 million from the Department of Defense to the Veterans Affairs' medical account. The veterans' needs are very clear. We have a declining population, they say, of veterans, so why do they need that much money? That may be true for World War II vets. But now we have the Vietnam vets coming on board. Plus, our vets are living longer and are sicker than the general population. Plus, we have the problems with medical inflation.

Yesterday, during the debate, mention was made that the veterans account got more than a 12-percent increase from last year. I checked that out. That was based on a Washington Post article regarding the VA-HUD appropriations. But when I looked at the total budget account for Veterans Affairs, from 1997 to 1998, there was less than a 1-percent increase in Veterans Affairs. That is for the total veterans budget. There was even less than that in the medical account budget for our veterans.

What my amendment seeks to do is to put some money into the veterans' benefits in the medical account. This chart shows that out of our discretionary dollar, we spend about 50½ cents of each dollar for military, but for veterans' benefits, about 3½ cents.

My amendment will take the alarmingly large amount of one-eighth of 1 penny—one-eighth of 1 penny—of the entire Defense Department budget to put where it is needed to help care for our sick and elderly veterans. That $329 million will simply keep the current level of services. It will not expand it.

Lastly, this amendment will authorize the Secretary to transfer the money. It doesn't mandate. Two years ago, the comptroller general of the Department of Defense said they could not account for over $13 billion in DOD spending. They couldn't even find it. Then we had recent testimony this year from the IG's office regarding accounting principles. This will authorize the Secretary to transfer the money. Where will the Secretary get the money? You never know. Maybe they will get better accounting principles, maybe they will find some of these billions of dollars for which they haven't been able to account.

Right now the Secretary cannot take that money and put it into veterans. This amendment will allow him to do so. It doesn't mandate it, but it allows it.

Lastly, I note with some interest an article that appeared in this morning's Washington Post. It points out that the House yesterday voted to buy $431 million worth of airplanes that the Pentagon didn't even request. They didn't even request the C–130s. What the Pentagon did want is a squadron of F–18s, our carrier-based aircraft, because the F–14s are getting old. Over 32 have crashed since 1991. Yet, we are going to buy $431 million worth of C–130s.

If anyone is saying that DOD doesn't have the $329 million to take care of our veterans, I say nonsense. Of course, we do. I will make the point once again that taking care of veterans' medical needs is part and parcel of our ongoing military budget, and it ought to be viewed in that manner.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time? If no one yields time, the Chair will run the clock.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. I oppose this amendment offered by Senator HARKIN, and I will make my statement short. We have had the debate on defense spending, and I do not need to repeat those arguments. The level of defense spending was set with the Administration in the budget agreement. This agreement was widely supported by this body and should not be disregarded. Some of my colleagues have argued that the money for defense is unnecessary and they have always found other uses for this money. Thankfully, Mr. President, this body has not agreed with these arguments and has provided the resources necessary to meet our national security needs.

Mr. President, the budget agreement does not fully fund defense. The budget agreement represents what funds are available. The fact is, Mr. President, our Armed Forces have been reduced. Since the end of the cold war, the active military end strength has been reduced from 2.2 million men and women to a little over 1.4 million. Annual defense spending continues to decline from the build up of $400 billion to about the $260 billion, in equivalent, inflation adjusted dollars.

Mr. President, I am not opposed to increasing the funding for veterans' health care, but not at the cost of our national security. We have been warned of funding problems in defense. We must not further reduce defense spending, but instead, reverse the downward trend we have experienced over the last decade in defense spending. I sincerely hope we will heed the hard lessons we have already learned, and not have to learn the same painful lesson over and over?

Mr. President, I strongly urge all of my colleagues to oppose this amendment and not further aggravate a serious underfunding of our defense.

I thank the Chair, and yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. HARKIN. How much time do I have left?

The PRESIDING OFFICER. The Senator has 48 seconds.

Mr. HARKIN. Mr. President, this amendment is supported by veterans' groups, including the Paralyzed Veterans of America, the Blind Veterans Association, and the Vietnam Veterans of America.

The veterans have fulfilled the duty they had to serve our country. Now it is up to us to fulfill our duties, our obligation, and our solemn promise: Provide for our veterans.

Regardless of how you cut this issue, the health care of our veterans is a matter of our national security. What does it say to young people today entering the service who may serve in the Persian Gulf, or who knows where, to defend our national interest if they see how we treat the veterans of our past wars?

This amendment will simply keep the current level of services in the medical account section of our veterans budget. We should do no less than that.

The PRESIDING OFFICER. Time has expired. The Senator from South Carolina has 2 minutes 40 seconds remaining.

Mr. THURMOND. I yield back my time.

The PRESIDING OFFICER. The yeas and nays have not been ordered.

Mr. HARKIN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 2982. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRAIG. I announce that the Senator from Delaware (Mr. ROTH) is necessarily absent.

I further announce that the Senator from Arkansas (Mr. HUTCHINSON) is absent due to a death in the family.

I also announce that the Senator from Pennsylvania (Mr. SPECTER) is absent because of illness.

Mr. FORD. I announce that the Senator from Hawaii (Mr. AKAKA), the Senator from Montana (Mr. BAUCUS), the Senator from Ohio (Mr. GLENN), and the Senator from West Virginia (Mr. ROCKEFELLER) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 38, nays 55, as follows:

[Rollcall Vote No. 175 Leg.]

YEAS—38

Biden
Bingaman
Boxer
Breaux
Bryan
Bumpers
Byrd
Campbell
Conrad
D'Amato
Daschle
Dodd
Dorgan
Durbin
Faircloth
Feingold
Feinstein
Ford
Grassley
Harkin
Hollings
Inouye
Jeffords
Johnson
Kennedy
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Mikulski
Moseley-Braun
Moynihan
Murray
Reid
Sarbanes
Wellstone
Wyden

NAYS—55

Abraham
Allard
Ashcroft
Bennett
Bond
Brownback
Burns
Chafee
Cleland
Coats
Cochran
Collins
Coverdell
Craig
DeWine
Domenici
Enzi
Frist
Gorton
Graham
Gramm
Grams
Gregg
Hagel
Hatch
Helms
Hutchison
Inhofe
Kempthorne
Kerrey
Kyl
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Reed
Robb
Roberts
Santorum
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Stevens
Thomas
Thompson
Thurmond
Torricelli
Warner

NOT VOTING—7

Akaka
Baucus
Glenn
Hutchinson
Rockefeller
Roth
Specter

The amendment (No. 2982) was rejected.

Mr. ROBB. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Notwithstanding the pending business, I ask unanimous consent that I be permitted to enter into a colloquy with some members of the Armed Services Committee.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE AEGIS/NMD STUDY

Mr. KYL. I would like to enter into a colloquy with the distinguished manager of the Defense Authorization bill and several other members of the Armed Services Committee who share my concerns about the Pentagon's failure to date to respond to a requirement established first by the Committee in its action on last year's DoD bill, and then by the conferees on that legislation.

The first of these requirements was for the Defense Department to provide a study of the contribution that the Navy's Upper Tier—or Theater Wide—anti-missile defense program, based on the AEGIS fleet air defense system, could make to protecting the United States against long-range ballistic missiles. The due date for this report was February 15, 1998.

The conferees added to this requirement by directing the Department to report by that same date on "the feasibility of accelerating the currently planned Navy Upper Tier deployment date of fiscal year 2008" including an estimate of "the cost and technical feasibility to options for a more robust Navy Upper Tier flight test program, the earliest technically feasible deployment date and costs associated with such a deployment date."

Mr. President, many of us believe that the AEGIS Option may be the most expeditious, capable and cost-effective way to begin providing ballistic missile defense—not only for our forces and allies overseas but for the American people, as well. This is the case because the Nation has already spent nearly $50 billion building and deploying virtually the entire infrastructure we need to field the first stage of a world-wide anti-missile system.

Mr. INHOFE. Would the Senator yield?

I want to commend the Senator from Arizona for his leadership in identifying and encouraging this important program.

I too have, as a member of the Armed Services Committee, looked at the issue of our vulnerability to missile attack and concluded—as has my friend from Arizona—that it is one of the most serious shortcomings we have in our entire military posture.

I too have concluded that there is nothing we could do that would be faster or more effective than the AEGIS Option in terms of defending our people against the sorts of threats we now read about practically every day—from the thirteen ICBMs China has pointed at our cities, to the possibility of an accidental Russian missile launch, to the Indian, Pakistani, Iranian and North Korean missile programs, to Saddam Hussein's VX never gas-laden missiles and so on.

Does the Senator know why the Pentagon has not provided the information we requested last year? Our bill specifically said February.

Mr. KYL. It is my understanding that this study has been complete for sometime—well over a month. In fact, in early May, the President's key NSC staffer in the defense and arms control field, told a public meeting that it was "in the mail." The staffer seemed to be saying that his office as well as the Defense Department had finished reviewing it and would be providing it promptly. Lt. Gen. Lyles did brief me on the study, and he has kept a dialogue open with my staff, but our preference is to receive the report.

Mr. INHOFE. Has the Senator any indication about the cause of the further delay?

Mr. KYL. I am advised that the study has been objectively perfomed. As a result, it confirms what the Senator from Oklahoma and I and others have been saying for some time: The Navy's AEGIS system can contribute significantly to protecting the United States against missile attack—and do so relatively quickly and inexpensively.

Weeks and months have now gone by, the DoD authorization bill is nearly at the end of the legislative process and the delay has kept Members in the dark about an important opportunity we have for adding promptly and cost-effectively to our Nation's defense.

Mr. SMITH of New Hampshire. As the Senator from Arizona knows, I took the lead as Chairman of the Armed Services Committee's Strategic Subcommittee in drafting these reporting requirements. I think that, if what the Senator has been told is accurate, the Administration's conduct would not only be unresponsive to the mandate of Congress, but irresponsible with respect to our national defense.

It would be completely unacceptable if Congress were to be denied information it has sought, not because the information is unavailable, but because its conclusions are inconvenient to an Administration that is determined to do everything it can to prevent the deployment of missile defenses.

As Chairman of the Strategic Forces Subcommittee it is my responsibility to ensure that missile defense programmatic decisions are based upon solid information and facts. The report we are currently discussing is key to my subcommittee's future decisions on program direction and funding for missile defense. This report is one part of the process of examining our NMD program objectively, comparing the merits of each and deciding where future resources should be applied.

Mr. WARNER. I want to identify myself with the statements of my distinguished friends and colleagues from Arizona, Oklahoma, and New Hampshire on this matter. I have been privileged to have a long association with the Navy, an association that continues to this day in my capacity as Chairman of the Armed Services Committee's Seapower Subcommittee.

Over many years, I have watched the AEGIS system develop and mature as a formidable fleet air defense capability. I am persuaded that even greater returns can be realized from the wise investment our Nation has made in this system by adapting it not only to provide defenses against relatively short-range ballistic missiles but against the long-range ones that threaten our own people, as well.

I believe we need to receive the contents of the requested study of the AEGIS Option forthwith. I will be happy to work with the Chairman of the Committee, with the Chairmen of our Strategic Subcommittee and our Readiness Subcommittee and with others like the Senator from Arizona to ensure that we find out at once where this document is and, to the maximum extent possible, that we share its conclusions with the American people.

Mr. THURMOND. Let me say, Mr. President, that I would find it unconscionable if the Department of Defense were to be deliberately withholding a study that we sought in connection with our legislative responsibilities. We need to get to the bottom of this matter and I intend to do so.

Mr. INHOFE. I would say to the Chairman that I hope he would agree to consider taking some stern measures in the conference committee if this study—which is now over four months overdue—continues to be kept from the Congress. One option that could be in order would be to "fence" the funds for the Office of the Secretary of Defense until such time as the AEGIS study is provided to us in both a classified and unclassified form.

Mr. SMITH of New Hampshire. I for one would be prepared to support such a measure, should that prove necessary.

Mr. THURMOND. I can assure my colleagues that we will get this study one way or the other and I appreciate their excellent work on this issue.

Mr. KYL. Mr. President, I thank the Senator from Oklahoma and the Senator from Virginia for their strong leadership on this matter.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER (Mr. ROBERTS). The distinguished Senator from Texas is recognized.

Mr. GRAMM. Mr. President, I rise to alert my colleagues to a problem that I am trying to find a solution to. In the big scheme of things, I guess you might say this is not an overwhelming problem. But given that we are talking about the leadership of the Navy in the future, I think it is of enough significance that attention ought to be focused on it.

In addition, I believe it is indicative of a problem within our military that I am seeing over and over again throughout the various branches of the armed services. I wanted to bring it to the attention of my colleagues today.

We currently give Navy ROTC scholarships to the best and brightest students in America. Students from all over the country compete for these scholarships. I know many of my colleagues are probably not familiar with how the system works, but I want to try to explain it because you have to understand it to understand the problem that I am raising today.

How the process works is, individual students apply to the Navy for an ROTC scholarship. They are evaluated on a nationwide basis. The Navy picks people who have technical skills in an academic capacity, people who the Navy believes will make outstanding naval officers. I think it is fair to say that Navy ROTC scholarships are among the most competed for scholarships in America. They carry great prestige. They also carry a commitment to pay tuition fees and expenses at the college or university that scholarship recipients attend. So they are important monetarily. They are important because they represent a highly prized scholarship, and they are important because they end up funding the future leaders of America's Navy.

We are in the midst of a Pentagon effort that has changed policy with regard to Navy ROTC scholarships. The policy change is basically a movement toward limiting the number of individuals who can get a Navy ROTC scholarship and still go to the college or university of their choice. There are 69 colleges and universities in 68 programs in America that participate in the Navy ROTC program.

How it works is, young men and women win the scholarship from the Navy. They then must accept the scholarship. Next, they submit the names of the five colleges or universities with Navy ROTC programs that they would like to attend in order. And then the Navy, based on whether or not other students previously accepted scholarships and decided to attend those colleges and universities, tells them where they can apply and use their scholarship.

Now, several of our Navy ROTC programs find themselves with two or three times as many students who have won a Navy ROTC scholarship and who want to attend that university. But what is happening is, some of these students are now being told under this Navy policy, that they won the scholarship, they won it based on merit, they have chosen to attend a college or university that participates in the program, but because 25 other people chose that college or university before they did, that the Navy has made a value judgment that we don't need more than 25 people to attend VMI on a Navy ROTC scholarship, or to attend Texas A&M under a Navy ROTC scholarship.

This problem is further compounded by the fact that there is no logic to the distribution of these scholarship programs. For example, my guess is that in Texas, we probably have 200 kids a year who win Navy ROTC scholarships. We have four Navy ROTC scholarship programs. If these caps of 25 scholarships per school are enforced, it means that half of the kids in our State who win Navy ROTC scholarships would have to go to another State, to another school, in order to be able to use the scholarship that they have received.

Compare this to very small States which might actually have 2 or 3 scholarship recipients, but at their college or university, they have 25 slots for people to choose that school.

This produces a terrible inequity. It creates an especially difficult problem for schools that are high on the lists of people who win these scholarships.

In fact, in a memo, the Navy has said that one of the reasons they want to set these caps is that they have estimated that if they allow people who win the scholarships to choose the school they want to attend, 250 people would attend MIT and 250 recipients would attend Texas A&M University.

My question is, what is the problem? My question is, why has the Navy decided that they are going to try to limit the ability of people who win Navy ROTC scholarships to choose the participating college or university they attend?

Under this policy, Texas A&M will probably have three times as many kids from our State who want to attend Texas A&M on a Navy ROTC scholarship that they have won, but the Navy is going to tell them that, because 25 people chose Texas A&M before they did, they can't attend Texas A&M. All over the country there are going to be kids who win a Navy ROTC scholarship, who want to go to MIT, or who want to go to Notre Dame, another very popular Navy ROTC program, and they are going to be told that they can't attend those schools because the Navy has decided to set a quota to require them to go to schools that they don't want to attend.

Why are the quotas being imposed? This is the most incredible part of this policy. It shows you what happens when the Navy tires of recruiting warriors, when the Navy tires of recruiting people who crush tyrants, when the Navy tires of recruiting people who keep Ivan back from the gate, and when we are socially engineering the military services of this country.

What is the logic of this? One supposed logic of it is diversity.

Here is the interesting paradox that I want my colleagues to understand. I just pick out Texas A&M because I am from Texas A&M. At Texas A&M, we train and commission with Navy ROTC 60 percent more Hispanic graduates who go into the Navy than the average Navy ROTC program does. But in the name of diversity, we are being discriminated against in accepting students who want to come to Texas A&M. How does that make any sense?

The second reason for limiting the ability of students to attend the school of their choice is because of tuition costs. Of those schools that are now above the cap: MIT, $24,265 a year; University of Colorado, $11,502 a year; University of Southern California, $21,832 a year; University of Notre Dame, $21,027 a year; Texas A&M University, $2,594 a year.

So we have a policy in the Navy that discriminates against students who want to go to Texas A&M when we have 60 percent more Hispanics commissioned in the Navy out of Texas A&M than the average Navy ROTC scholarship school. And yet, the argument for these quotas is diversity. The second argument is high tuition costs. Yet, of all schools in the country that are over this quota in terms of students wanting to enroll there, Texas A&M has a tuition which, on average, is one-tenth the level of other schools that are over enrolled.

So I alert my colleagues to the fact that we have a major problem with the Navy ROTC program. Now, what I believe we need to do is the following. I believe that we need to change the policy. We say we have a nationwide competition, we pick the best and brightest, and then we say to the best and the brightest that they have the right to choose.

I believe we ought to have a policy with regard to Navy ROTC scholarships that if a young man or woman wins a Navy ROTC scholarship based on national competition and wants to go to VMI, they should have the right to go to VMI. And if they are admitted, they ought to be able to enroll at VMI. The fact that 25 other students have chosen VMI should make no difference. I do not think it is right to make students who win national scholarships go to colleges that are not their first, or even their second choice.

Finally, another amazing thing in this Navy memo. They are talking about how they are concerned about people applying for scholarships. In the 1992-1993 academic year, we had 7,667 students in America, high school seniors, apply for Navy ROTC scholarships. Today, we have only 5,037 applying. Why is that? Why have we had a dramatic drop in the number of young students—young men and young women—who have applied for Navy ROTC scholarships?

The reason is the Navy is not letting them go to the school of their choice. When you win one of the most prestigious scholarships in the country and you don't even end up getting your second choice of a school to go to, obviously that dampens the willingness of people to apply. I do not think quotas ought to be used in choosing where children go to school in America. This is a national program. They use national tests. They have national standards. The fact that we say to people in my State that half of the kids in Texas who win a Navy ROTC scholarship have to go outside Texas in order to use the scholarship, and that three times as many kids may want to go to Texas A&M than we allow to go to Texas A&M because we have a quota that allows only 25 to enroll at Texas A&M, even though 75 may choose Texas A&M as their first choice, that is fundamentally wrong.

The interesting paradox is that the argument for the quota—diversity and holding down costs—clearly does not apply to Texas A&M because we commission 60 percent more Hispanics than the average Navy ROTC program does and our tuition costs are one-tenth the level of other schools that are over the Navy's cap of 25 scholarship students per entering class.

Mr. COATS. Will the Senator yield?

Mr. GRAMM. I would be happy to yield.

Mr. COATS. I have discussed this with the Senator from Texas, and I think he has many valid points. I would like to offer my services as a member of the committee in working with him on this question. I think that this does need to be addressed. I think the Senator's points are legitimate. I am hopeful that we can sit down with the Department of the Navy and discuss how we can better address this. I understand their concerns, but I think the Senator's concerns need consideration. Surely, we can find a way—it is beneficial to the Navy, I believe, to find a way to address both the Senator's problems, along with theirs.

Mr. GRAMM. Mr. President, let me conclude by saying that I had not mentioned to the Senator, and I want to make it clear that so far as I know he was unaware prior to making that statement that one of the universities in America that is over this quota right now is Purdue University. Right now, their freshman class is six slots over the quota, which means that if this quota ends up being rigidly enforced over the entire Navy ROTC unit, there will be 24 young men and women who wanted to go to Purdue who will not be able to attend because the Navy says they want them to go somewhere else.

Mr. COATS. Mr. President, if the Senator will yield on that, the Senator had my attention on the issue before, but if he had any doubts about it, that has been resolved. He certainly has my attention now and we will work together to resolve, fix this problem.

Mr. GRAMM. Mr. President, I see Senator BYRD in the Chamber, and I want to stop. I do congratulate Senator BYRD on the Supreme Court ruling on the line-item veto. Senator BYRD had taken the position all along that the Court would strike down the line-item veto. I think what it says to those of us who are concerned about the line-item veto and concerned about spending is that we need to amend the Constitution, that we need a balanced budget amendment to the Constitution. I think it is our obligation now to go back and try to get that amendment to the Constitution passed.

But I congratulate Senator BYRD. He is the greatest scholar in the Senate. He is guardian of this institution, more than any other person who has served here during my adult lifetime. His position was vindicated in the Supreme

Court today, and I want to get out of the way and let Senator BYRD talk about it.

I yield the floor.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. Under the previous order, the Senators from West Virginia, New York, and Michigan are recognized for 30 minutes.

Mr. WARNER. Mr. President, would Senators allow me to do a UC on behalf of the majority leader and Senator THURMOND?

But I first associate myself with the remarks about Senator BYRD being the greatest scholar. Clearly, I am not a runner-up, but the Senator from Texas is, and for him to make that humble statement has taken a lot of courage.

Mr. GRAMM. I thought it was pretty clear myself.

Mr. WARNER. I also wish to thank the Senator from Texas for sounding general quarters on this ROTC thing, Naval ROTC. We have to look into that.

Now, Mr. President, I understand——

Mr. LEVIN. Will the Senator withhold one second?

Mr. WARNER. Yes.

Mr. BYRD. Mr. President, I ask unanimous consent that I may yield without losing the right to the floor on my own part, Mr. MOYNIHAN's and Mr. LEVIN's, until the colloquy and the action that is about to be taken has been taken.

PRIVILEGE OF THE FLOOR

Meanwhile, I ask unanimous consent that during the remarks of Mr. MOYNIHAN, Mr. LEVIN, and my own remarks, former counsel for the U.S. Senate, Mr. Michael Davidson, be allowed the privilege of the floor of the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COATS. Mr. President, on behalf of the majority leader, I ask unanimous consent that immediately following the 1 hour special order, the following Senators be recognized in order to offer the following amendments:

Senator DODD, regarding Reserve retirement, 10 minutes for debate, equally divided, and no second-degree amendments in order; Senator MURRAY, relating to burial, for up to 10 minutes, equally divided, no second-degree amendments in order; Senators MURRAY and SNOWE, regarding Department of Defense overseas abortions, 1 hour, equally divided, with no second-degrees in order prior to the vote; Senator REID, relating to striking Senator KEMPTHORNE's language, 2 hours, equally divided, with no second-degrees in order; Senator HARKIN, regarding gulf war illness, 30 minutes, equally divided, with no second-degrees in order prior to the vote.

I finally ask unanimous consent that any votes ordered in relation to any of the above-mentioned amendments be delayed, to occur in a stacked sequence at a time determined by the majority leader after consultation with the Democrat leader.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. Mr. President, reserving the right to object, and I beg the Senator's pardon; I was distracted.

The PRESIDING OFFICER. The Senator from West Virginia reserves the right to object.

Mr. COATS. Mr. President, I think this has been cleared on both sides.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The PRESIDING OFFICER. The distinguished Senator from West Virginia is recognized.

Mr. BYRD. Mr. President, I thank the Chair. I thank all Senators.

SUPREME COURT'S LINE-ITEM VETO DECISION

Mr. BYRD. Mr. President, the U.S. Supreme Court earlier today announced in its ruling in the consolidated cases of Clinton v. New York and Rubin v. Snake River Potato Growers that it has found the Line-item Veto Act to be unconstitutional. It did this by a vote of 6 to 3. It is with great relief and thankfulness that I join with Senators MOYNIHAN and LEVIN—and I am sure that if our former colleague, Senator Hatfield, were here he would join with us—in celebrating the Supreme Court's wise decision. Mr. President, the Founding Fathers created for us a vision, set down on parchment. Our Constitution embodies that vision, that dream of freedom, supported by the genius of practical structure which has come to be known as the checks and balances and separation of powers. If the fragile wings of the structure are ever impaired, then the dream can never again soar as high.

Today, the Supreme Court has spared the birthright of all Americans for yet a while longer by striking down a colossal error made by the Congress when it passed the Line-Item Veto Act. For me and for those who have joined me in this fight, a long, difficult journey is happily ended. The wisdom of the framers has once again prevailed and the slow undoing of the people's liberties has been halted.

Every year, we in this Nation spend billions upon billions of dollars, we expend precious manpower, we devise greater and more ingenious weapons, all for the sake of protecting ourselves, our way of life and our freedoms from foreign threats. And, yet, when it comes to the duty—and we all take that oath with our hand on the Holy Bible and our hand uplifted, we take that oath and say "so help me, God" that we will support and defend this Constitution. And so when it comes to the duty of protecting our Constitution, the living document which ensures the cherished liberties for which our forefathers gave their lives, we walked willingly into the friendly fire of the Line-Item Veto Act, enticed by political polls and grossly uninformed popular opinion.

Now that the Supreme Court has found the Line-Item Veto Act to be unconstitutional, it is my fervent hope that the Senate will come to a new understanding and appreciation of our Constitution and the power of the purse as envisioned by the framers. Let us treat the Constitution with the reverence it is due, with a better understanding of what exactly is at stake when we carelessly meddle with our system of checks and balances and the separation of powers. If we disregard the lessons learned from this colossal blunder, we might just as well strike a match and hold that invaluable document to the flame. Unless we take care, it will be our liberties and those of our children and grandchildren that will finally go up in the thick black smoke of puny political ambition.

Edmund Burke once observed that, "abstract liberty, like other mere abstractions, is not to be found."

If we, who are entrusted with the safeguarding of the people's liberties—and that is what is involved here—are careless or callous or complacent, then those hard-won, cherished freedoms can run through our fingers like so many grains of sand. Let us all endeavor to take more to heart the awesome responsibility which service in this body conveys, and remember always that what has been won with such difficulty for us by those who sacrificed so much for our gain can be quickly and effortlessly squandered by less worthy keepers of that trust.

Mr. President, let me read just a few brief extracts from the majority opinion. And that opinion was written by Mr. Justice Stevens.

> There is no provision in the Constitution that authorizes the President to enact, to amend, or to repeal statutes.

That is elemental. I am editorializing now—that is elemental.

Continuing with the opinion written by Mr. Justice Stevens, and concurred in by the Chief Justice and four other justices:

> What has emerged in these cases from the President's exercise of his statutory cancellation powers, however, are truncated versions of two bills that passed both Houses of Congress. They are not the product of the "finely wrought" procedure that the Framers designed.
>
> * * * * *
>
> If the Line-Item Veto Act were valid, it would authorize the President to create a different law—one whose text was not voted on by either House of Congress or presented to the President for signature. Something that might be known as "Public Law 105–33 as modified by the President" may or may not be desirable, but it is surely not a document that may "become a law" pursuant to the procedures designed by the Framers of Article I, [section] 7, of the Constitution.

> If there is to be a new procedure in which the President will play a different role in determining the final text of what may "become a law," such change must come not by legislation but through the amendment procedures set forth in Article V of the Constitution.

I close my reading of the excerpts from Mr. Justice Stevens' majority opinion. Let me read now, briefly, certain extracts from the concurring opinion by Mr. Justice Kennedy. He says this:

> I write to respond to my colleague JUSTICE BREYER, who observes that the statute does not threaten the liberties of individual citizens, a point on which I disagree. . . . The argument is related to his earlier suggestion that our role is lessened here because the two political branches are adjusting their own powers between themselves. . . . The Constitution's structure requires a stability which transcends the convenience of the moment. . . . Liberty is always at stake when one or more of the branches seek to transgress the separation of powers.
>
> Separation of powers was designed to implement a fundamental insight; concentration of power in the hands of a single branch is a threat to liberty.

The Federalist states the maxim in these explicit terms:

> The accumulation of all powers, legislative, executive and, judiciary, in the same hands . . . may justly be pronounced the very definition of tyranny.

Others of my colleagues may wish to quote further.

So what is involved here—what the Court's opinion is really saying—what is involved when we tamper with checks and balances and the separation of powers, that structure in the Constitution? What is really involved are the liberties of the people.

Blackstone says it very well in chapter 2 of book 1. Chapter 2 is titled "Of the Parliament."

Blackstone said the same thing that the Court is saying:

> In all tyrannical governments, the supreme magistracy, or the right both of making and of enforcing the laws, is vested in one and the same man, or one and the same body of men; and wherever these two powers are united together, there can be no public liberty. . . .

There it is. There can be no public liberty where these two powers are united in one and the same man or one and the same body of men.

That is what the Line-Item Veto Act sought to do; namely, to unite the power of making law with the power of enforcing the law in the hands of one man: the President of the United States.

Let me close with this excerpt from my own modest production titled "The Senate of the Roman Republic":

> This is not a truth that some people want to hear.

See, I was talking about the line-item veto. I spent years in preparation for this battle, and those years of preparation went into the writing of this treatise. I quote:

> This is not a truth that some people want to hear. Many would rather believe that quack remedies such as line-item vetoes and enhanced rescissions powers in the hands of presidents will somehow miraculously solve our current fiscal situation and eliminate our monstrous budget deficits. Of course, some people would, perhaps, prefer to abolish the Congress altogether and institute a one-man government from now on. Some people have no patience with constitutions, for that matter.

Mr. President, I yield to my colleagues.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The distinguished Senator from New York is recognized.

Mr. MOYNIHAN. I thank the Presiding Officer.

Mr. President, I rise to praise the Constitution, but also appropriately perhaps in this setting, the Senate's foremost expositor and defender of that document, the Honorable ROBERT C. BYRD, who has today helped write a page in the history of liberty. I mean no less, and I could say no more.

In 1995, led by Senator BYRD, Senator LEVIN, Senator Hatfield and others, we pleaded with the Senate not to do this, not to enact this legislation. We said it is unconstitutional.

That is a large statement. We did not say it was unwise or unseasonal. We said it was unconstitutional. We take an oath to support and defend the Constitution of the United States against all enemies, foreign and domestic, and domestic enemies can arise from ignorance, well-intentioned ignorance.

This surely was the case, because the bill passed 69 to 31.

It passed in the face of the clearest injunction from George Washington in 1793 who said, I must sign a bill in toto or veto it.

Senator BYRD, along with the Senator from New York and Senators LEVIN and Hatfield, chose, with two Members of the House, to sue the Government of the United States declaring this act to be unconstitutional. The Court held we did not have standing, although two Justices dissented. Justice Stevens, who wrote today's opinion, said in his dissent in that earlier case that we did have standing, and that the measure is unconstitutional. This was so plain to a scholar and a judge.

I will take just a moment to add and to emphasize Senator BYRD's citations of the writers at the time the Constitution was composed.

In the Federalist Papers, Madison at one point asks, given the fugitive existence—that nice phrase—of the Republics of Greece and Rome, why did anybody suppose this Republic would long endure? Because, it was answered, we have a new "science of politics." The ancients depended on virtue to animate the people who govern. We have no such illusions. We depend on the clash of equal and opposed opinions and interests—the conflict of opposing interests and the separation of powers, those two fundamental ideas. And we wrote them into the Constitution: article I, the legislative branch; article II, the executive branch. And the court decisions in this matter, too, have hearkened back to those early times.

I was struck by the opinion written by Judge Hogan, who earlier this year was the second judge of the U.S. District Court for the District of Columbia to hold this statute unconstitutional. He cited Edward Gibbon, whose "Decline and Fall" was published in 1776.

Here is Gibbon's passage as cited by Judge Hogan:

> The principles of a free constitution are irrecoverably lost when the legislative power is dominated by the executive.

And that is exactly the direction we were moving in.

Justice Kennedy, in this morning's opinion, quoted a passage from the Federalist Papers in which Montesquieu, in the "Spirit of the Laws," is cited:

> When the legislative and executive powers are united in the same person or body, there can be no liberty.

Liberty is what Senator BYRD was talking about. Liberty is what was upheld by the Supreme Court of the United States today, and liberty is what was put in jeopardy, I am sorry to say, Mr. President, by this body, by the other body, and by the President who signed the bill. Liberty was put in jeopardy. Liberty has prevailed.

Let us learn from this. Let us not just let it go by and think nothing happened. Something did happen. A smallish group opposed it, took it to court, were rebuffed, took it to court again. We were there as amici and prevailed. But had we not, what would have happened? Had ROBERT C. BYRD not been here, what would have happened to our liberties? Not to our budget. These are inconsequential things compared to that fundamental.

And so, sir, I rise to express the honor I have felt in your company and hope that history will long remember and largely note what was done today in the Court at the behest of the sometime majority leader, the distinguished upholder of our Constitution, ROBERT C. BYRD. Not as a man but as a man speaking for the ideas and principles on which the Constitution of the United States is based.

Finally, sir, I express thanks to our counsel, Michael Davidson, Lloyd Cutler, Alan Morrison, Charles Cooper, and Louis Cohen—some of the finest attorneys in our country—who have helped us with this matter, and have generously done so on a pro bono basis. Professor Laurence H. Tribe at the Harvard Law School, and Dean Michael J. Gerhardt of Case Western University School of Law, were also of great assistance, as were others.

I celebrate the moment and yield the floor.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The distinguished Senator from Michigan is recognized.

Mr. LEVIN. Mr. President, the victory which we celebrate today is truly a victory for the American people and our Constitution. It has been a matter of real pride for me to be associated with Senators BYRD and MOYNIHAN in the effort that we have made, first when we went to court to challenge the line-item veto and were parties where it was ruled we had no standing, and the substantive issue was then delayed to the decision of the Court today. But then when, as Amicus, we banded together—no longer was Senator Hatfield there, who is no longer a Senator, who was with us I know in spirit, and who had been with us in our first effort—to file an amicus brief to point out and to argue the fundamental premise of this Constitution's Article I.

The article that relates to enactment of laws is that the only way a law can be made, modified, or repealed is if the Congress is involved. And Congress may want to give the President the power to repeal a law or modify a law or even enact a law on its own. We may want, for whatever momentary reason we have, to give a President the power to make, modify, or repeal a law, but, thank God, we have a Constitution which says we cannot do that. And, thank God, we have a Supreme Court today which upheld that very fundamental provision of the Constitution.

What we tried to do—the Congress tried to do—in this law was to give the President the power to repeal a law which he just signed. What this law tried to do, and thankfully was not allowed to do, was to give the President the power to create a law today with his signature, a bill which had passed both Houses and which became law when he affixed his signature. But then this Line-Item Veto Act said that if he, within a certain number of days, wanted to modify that law, unless Congress acted to do something to the contrary, that he could unilaterally, on his own, without congressional involvement, change the law of the land.

Now, when we were all kids we learned about this Constitution and what those magic words "law of the land" meant, and what they mean today, and what, the Good Lord willing, they will always mean in this country—"law of the land"—all of us bound by it equally, no matter what our station or income or power, all bound by those words, "law of the land."

When the President affixes his signature to a bill, that bill then takes on that power, in a free society, of being the law of the land. What the line-item veto bill, in the form we passed it, tried to do was to then say, "Well, yes, it's the law of the land today, but the President can undo that law by himself, without congressional approval, if he does it in a certain number of days, in a certain type of way."

The Supreme Court said today that that cannot stand. The fundamental reasons have been cited by Senator BYRD, the mentor of all of us relative to the Constitution, and in so many other ways, and also cited by Senator MOYNIHAN. The fundamental reason is, as the Federalist put it, as James Madison put it, that there could be no liberty where the legislative and executive powers are united in the same person.

It is so fundamental, we often forget it. We should never forget it. The Supreme Court emblazoned it again on the constitutional consciousness of this country today. There can be no liberty where the legislative and executive powers are united in the same person. What this bill tried to do was to unite that power in the President by saying that he could make a law today as part of the legislative process, of which he must be a part, but then alone, as the executive, undo that law tomorrow—he could repeal a law on his own.

That is what this Congress tried to give a President of the United States. What a power. And what a road that would have taken us down. To think that we would even consider giving a President the power to repeal or modify the law of the land on his own without congressional involvement, changing a law which had been properly enacted and presented—to think that we would do that is almost unimaginable. We tried, Congress did, and, thank God, we failed.

I want to close by again thanking Senator BYRD for his leadership. I will always treasure a copy of the Constitution which he has inscribed to me, the same Constitution which he carries with him every day of his life, in his pocket, which he has so often on this floor brought out to make a point. I want to thank him.

I want to thank Senator MOYNIHAN and Senator Hatfield. I want to thank the counsel who represented us on this amicus brief that we just filed successfully: Mike Davidson, Linda Gustitus, Mark Patterson.

I also want to thank, on behalf of all of us, the attorneys who represented us in our earlier effort, where we did not succeed because of a technical reason but where we nonetheless established that beachhead which today led to victory. And those lawyers were Mike Davidson, at that time as well; Lloyd Cutler; Lou Cohen; Alan Morrison; and Chuck Cooper.

I also wish to thank Peter Kiefhaber. Although he is not a lawyer, he has one of the keenest legal minds—if you will excuse me—that I have ever seen. With their help, and the help of many others in this body, but mainly with the leadership of Senator BYRD, the position today was sustained that our liberty has been preserved in the most fundamental way.

I yield the floor.

The PRESIDING OFFICER. The time allotted to the Senators has expired.

Mr. MCCAIN. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Didn't Senator COATS and I have time allotted?

The PRESIDING OFFICER. Under the previous order, the Senators both from Indiana and Arizona will now be recognized for 30 minutes.

Mr. BYRD. Mr. President, would the Senators allow me to close our comments on this highly important subject? I will be brief.

Mr. MCCAIN. I ask unanimous consent that the Senator from West Virginia be allowed to speak for as long as he desires.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. I thank the distinguished Senator from Arizona. I also thank the Senator from Arizona, Mr. MCCAIN, and the Senator from Indiana, Mr. COATS, for their steadfast support of that in which they believed and concerning which we disagreed.

I have, from time to time, found myself wrong in life, and I have learned some lessons in being wrong. But Senators COATS and MCCAIN never faltered in their efforts. They were very worthy protagonists of their cause. I salute them, admire them, and respect them.

Mr. President, if I may add just this: we should learn a lesson by this experience. We have a duty as Members of the Senate to support and defend the Constitution. Some of us read it differently, understand it according to our own lights differently, perhaps.

We should understand that it is up to us to fight to preserve that Constitution, to protect it, to support it, to defend it. We should not pass off to the Supreme Court of the United States the duty that is ours as elected representatives of the people in this country—a duty which is ours, to study the Constitution, to study its history, the constitutional history of America, study the history of American constitutionalism, to study the history of England, to study the history of the ancient Romans, to study the colonial experience, to reflect upon the church covenants, to reflect upon the Bible and its teachings of that federation, the twelve tribes of Israel. We should do our very best to uphold that Constitution and again not to depend upon the Supreme Court of the United States to do our work. We should not hand off our responsibility to the Supreme Court.

In this instance, I am proud of the Supreme Court. At no moment in my life have I ever been more proud of the Supreme Court of the United States than I am today. God save that honorable Court!

I close, if I may, with the lines written by Henry Wadsworth Longfellow in "The Building of the Ship." I think they are most appropriate for this occasion:

Thou, too, sail on, O Ship of State!
Sail on, O UNION, strong and great!
Humanity with all its fears,
With all the hopes of future years,
Is hanging breathless on thy fate!
We know what Master laid thy keel,
What Workmen wrought thy ribs of steel,
Who made each mast, and sail, and rope,
What anvils rang, what hammers beat,
In what a forge and what a heat
Were shaped the anchors of thy hope!
For not each sudden sound and shock,
'T is of the wave and not the rock;
'T is but the flapping of the sail,
And not a rent made by the gale!
In spite of rock and tempest's roar,
In spite of false lights on the shore,
Sail on, nor fear to breast the sea!
Our hearts, our hopes, are all with thee,
Our hearts, our hopes, our prayers, our tears,
Our faith triumphant o'er our fears,
Are all with thee,—are all with thee!

The PRESIDING OFFICER. Under the previous order, the Senators from Arizona and Indiana are recognized for 30 minutes.

Mr. MCCAIN. Mr. President, there is a line that has entered American slang, and that is, "That is a tough act to follow." Mr. President, I think that certainly applies now when I make my remarks following those of our most distinguished Senator of the U.S. Senate, Senator BYRD.

Senator BYRD, I know that Senator COATS will say this for himself, but both of us appreciate the honorable conduct of this many long years' debate that we have had together—and, unfortunately, we will have in the future, since Senator COATS and I do not intend to give up on this issue.

More importantly, there was a seminal moment, I think after about 5 years of our debating this issue, when you walked up to Senator COATS and me and said, "I believe you're really sincere in your belief that the line-item veto is both constitutional and appropriate for America." That was, frankly, one of the greatest compliments that either one of us have been paid in our time here in the Senate.

May I say that Senator COATS and I continue to intend to fight this battle. I must say, in all sincerity, it will be much more difficult for me. It will be a much more arduous task without the companionship and friendship of an individual that has the highest moral standards and the highest dedication and commitment to the betterment of this Nation and its families than my dear friend from Indiana. He is not gone yet from this body, and we have the rest of the year to fight this battle, but one of my deepest regrets is that my dear friend and partner will not be there.

Mr. President, I intend to speak briefly on this issue, and I know that Senator COATS does, also. Let me make just a couple of comments.

One, it is important to point out that my understanding of the reason given by the Supreme Court for the 6-3 decision was that the Constitution requires every bill to be presented to the President for his approval or disapproval—every bill. In other words, my understanding of this decision is not that the concept of transferring this power to the President of the United States lacked constitutionality, but the fact that each bill was not sent to the President for approval or disapproval was where the Supreme Court made this decision.

Now, if that is the case, it is an argument that S. 4—which Senator COATS and I cosponsored, and was passed by a vote of 69-29, known as separate enrollment—will be constitutional. As we all know, we went into negotiations with the House that passed enhanced recession—the budgeteers and Finance Committee people—and we made certain concessions which resulted in enhanced recession. But the original bill that was passed by a vote of 69-29 through the Senate was separate enrollment, which meant that every bill would separately be presented to the President of the United States for his approval or disapproval.

In all due respect to my friend from Michigan, the allegation that somehow we were handing constitutional power—if I wrote the words down correctly—"to repeal or modify laws without congressional involvement," clearly it calls for congressional involvement. The Senator from Michigan knows that. If he vetoes it, it comes back to the Congress of the United States for veto override. That is not noninvolvement. Let's be very clear here as to what the original bill that passed 69-29 said.

Finally, we can't justify spending $150,000 to fund the National Center for Peanut Competitiveness, or $84,000 earmarked for Vidalia onions. My all-time favorite—one year we spent a couple million dollars to study the effect on the ozone layer of flatulence of cows. We can't do that kind of thing.

Unfortunately, the President of the United States now, again, does not have the power that 43 Governors in America have, and that is the line-item veto power.

Today, Senator COATS and I will reintroduce the separate enrollment bill that passed 69-29 through the U.S. Senate. We believe that clearly has constitutionality, and we will be getting expert opinions. But our initial understanding of the Supreme Court decision is based on the fact that these were not separate bills sent to the President of the United States for approval or disapproval. The fundamentals of the separate enrollment bill, which passed in the 104th Congress by a vote of 69-29, was exactly that and will meet those standards.

We will have many more hours of discussion and debate on this issue both in the public forums around America as well as on the floor of the Senate. I thank Senator BYRD for his extreme courtesy. I look forward to further debate with him and others on this issue. I believe the time and the opinion of the American people, as well as the Constitution of the United States, is overwhelmingly in favor of the line-item veto in the form of separate enrollment.

Today, The Supreme Court struck down the line-item veto in a 6-3 decision. I am very saddened by this decision. This 6-3 decision concludes that the line-item veto act violates the part of the Constitution requiring every bill to be presented to the President for his approval.

This is a bad decision. Polls from previous years indicate that 83 percent of the American people support giving the President the line-item veto. We need the line-item veto act to restore balance to the federal budget process.

The line-item veto act was a vital force in restoring the appropriate balance of power, and eliminating wasteful, unnecessary pork-barrel spending. Unfortunately, pork barrel spending is alive and well. Most recently, the FY 1999 Agriculture Appropriations bill had $241,486,300 million in specifically earmarked pork-barrel spending. The FY 1999 Energy Water Appropriations Bill contained approximately $649,428,000 million for specially earmarked projects that were not included in the budget request.

We can not afford this magnitude of pork barrel spending when we have accumulated a multi-trillion dollar national debt. Right now, today, we use a huge portion of our federal budget to make the interest payments on our multi-trillion national debt. In fact, this interest payment almost equals the entire budget for national defense.

Mr. President, we can not justify spending $150,000 to fund the National Center for Peanut Competitiveness, or an $84,000 earmark for vidalia onion, when we should be using this money to pay down the national debt, or provide tax cuts for hard-working middle class Americans. Until recently, we amassed huge budget deficits. If we are to realize our anticipated future budget surpluses, we must exercise fiscal restraint.

Our past budget deficits can return to haunt us. These past deficits did not occur by accident. They occurred because we shifted the balance of power away from the executive branch to the legislative branch. In 1974 the Budget Impoundment Act was passed, which deprived the President of the United States of the authority to impound funds. This was a tremendous shift in power. This shift eroded the executive branch's ability to exercise fiscal responsibility and fiscal restraint.

Our objective is to curb wasteful pork-barrel spending. Even though the line-item veto was recently struck down, there are other means to reaffirm the appropriate balance of power, and curb pork-barrel spending.

Shortly, Senator COATS and I will introduce another approach to curbing Congress' appetite for mindless unnecessary and wasteful spending of hard-working American's tax dollars.

Essentially, the Separate Enrollment Act of 1998 will require that each item in any appropriations measure or authorization shall be considered to be a separate item.

Legal scholars contend that the separate enrollment concept is constitutional. Congress has the right to present a bill to the President of the United States. Separate enrollment merely addresses the question of what constitutes a bill. It does not erode or interfere with the presentment of the bill to the President. Under the rule-making clause, Congress alone can determine the procedures for defining and enrolling a bill. Separate Enrollment is constitutional and will clearly work.

Separate Enrollment is not a new concept. This concept is not controversial. The Senate adopted S.4, a separate enrollment bill in the 104th Congress, by a vote of 69 to 29. Its mechanics are simple * * *. This bill requires each spending item in legislation to be enrolled as a separate bill. If the President chose to veto one of these items, each of these vetoes would be returned to Congress separately for an override.

The Separate Enrollment Act will help to restore some of the Executive Branch's role in the Federal budgeting process. The current budget process is in disarray. We have a huge national debt. We have budget surpluses that can easily be "spent" away. Our system of checks and balances is out of sync in the budget process. Congress has too much power over the federal purse strings, and the President has too little. While the line-item veto is not an instant fix to this dilemma, it is a valuable tool to realign the balance of powers, and check Congress' appetite for reckless pork barrel spending.

This is a nonpartisan issue. The issue is fiscal responsibility. We have 100 Senators, and 435 Representatives. It is hard to place responsibility upon any one member. Thus, no one is accountable for our runaway budget process. The line-item veto act, or a separate enrollment bill would make it more difficult for the Congress to blame the President for not vetoing an entire appropriations bill. Our new proposal will allow the President to surgically remove wasteful pork-barrel spending from appropriations and authorizations bills.

Past Presidents have sought the line-item veto. Congress finally agreed in 1995, when we passed the line item veto, to redistribute some of the power in the federal budget process. By giving the President a stronger role, the line-item veto, or a Separate Enrollment Act would instill additional Presidential accountability and Federal spending, and reduce the excesses of the congressional process that focus on locality specific earmarking, and caters to special interest, not the national interest, as it should.

Mr. President, in closing, I simply ask my colleagues to be fair and reasonable when addressing the issue on fiscal responsibility. The line-item veto and the shifting the balance of power in the budget process is vital to curbing wasteful pork-barrel spending. Again, I look forward to the day when we can go before the American people with a budget that is both fiscally responsible and ends the practice of earmarking funds in the appropriations process.

Mr. President, I yield the floor at this time to the Senator from Indiana.

The PRESIDING OFFICER. The Senator from Indiana is recognized.

Mr. COATS. Mr. President, I thank my colleague from Arizona for his kind remarks.

I also want to congratulate the Senator from West Virginia for a significant victory. The Senator had indicated during the debate that he believed and had reason to believe that the bill we were sending to the President, which was signed by the President and exercised by the President, would not stand constitutional muster. The Court affirmed that conclusion.

I also congratulate the Senator from West Virginia, Senator BYRD, for being the guardian of this institution. He stands at the gate to retain its hallowed practices and rules and traditions. And in this modern age of seeking the expedient and convenient over the tried, tested, and true, the Senator's contributions are extremely important to the future of this institution. I commend him for that. He is also a constitutional scholar without peer in this institution.

This Senator, as I did yesterday and as I do today, stands up with some trepidation in terms of discussing issues and matters of the Constitution, because I know I am doing so with someone who has studied it for far longer and has a far better understanding of it than I have.

When Senator MCCAIN and I addressed the issue of the line-item veto, we consulted a number of constitutional scholars. It is fair to say that there is disagreement. There are constitutional scholars, recognized scholars, who believed that the process of enhanced rescission was not line-item veto, per se, enhanced rescission was a constitutionally acceptable process, that it did retain a balance of power, it did retain the prerogative of Congress to override the Presidential veto. And it is my understanding, along with Senator MCCAIN's, on a quick reading, I would say—not even a full reading, but a very brief overview of the decision that is handed down, and I look forward to reading the entire case—that what the Court addressed was more procedural than principle, the procedure of the omnibus bill being presented to the President and, as the Senator from Michigan said, being signed, and then in a sense accepted and then reviewed relative to certain aspects of that.

The Court obviously sided with the argument so ably presented by the Senator from New York, who has left the floor—the Senator from Virginia, the Senator from New York, the Senator from Michigan, and others.

It is the principle that Senator MCCAIN and I are attempting to address, not the procedure. We had spent numerous hours of discussion and debate in attempting to establish a procedure whereby the principle of a balance against what we considered to be—and many, I think, of the American people considered to be—an irresponsible exercise of the spending power of the Congress—not the right to have the power of the purse, but an irresponsible use of that, and the voluntary transfer of some of that power, yet retaining a balance in terms of the division of power between the branches, as the Founders intended. That was our intent.

As Senator MCCAIN said, the bill that passed the Senate with 69 votes as a separate enrollment procedure would have, I believe, addressed the concerns of the Court by presenting to the President separate bills on each line item of spending. We didn't include the tax issue. That was added at the request of members of the Finance Committee. Ours went specifically to spending items. That was different from what was passed in the House of Representatives and perhaps now, in retrospect, a faulty decision. We ceded the Senate procedure to the House procedure, and we paid the price of that ceding—or perhaps not; we don't know for sure what the Supreme Court would have done with that.

The principle of each decision by the Congress standing on its own merits—having the light of day shine on that spending decision, so that the American people know that our yea is a yea and our nay is a nay, and not the procedure of hiding what arguably could be decisions on spending that would not stand the light of day and not receive a majority of support, because it is subsumed by the importance of the broader legislation—is really the principle that we are attempting to address.

We want what is decided in the back halls to be debated on the Senate floor. We want to give each Senator and Representative the opportunity to say, "I support that," or, "I don't support that," and discuss it on the merits, rather than saying, "I didn't know about that because it was added in the back room. It was part of a thousand-page bill, and we didn't have the time to peruse each line of that legislation. And, yes, had I had an opportunity to vote on that separately, there is no way I would have supported that irresponsible use of the taxpayers' dollars."

So we are seeking a way of attempting to bring into the process a means by which we could achieve a check against imbalance, against what we considered to be spending that had not been given the opportunity to be addressed and discussed and debated on the merits. We think it is a deceptive practice. We think it is a distasteful practice. We think it does not enhance the public's opinion of this institution and the processes by which we make decisions. We think it is an irresponsible exercise of the fiscal discipline that the taxpayers of America expect us to exercise in the spending of their dollars.

That is the genesis behind the legislation that Senator McCAIN and I have authored and fought for 10 years to pass, and finally did pass.

So are we disappointed with the Supreme Court decision? Yes, deeply disappointed. Do we see it as a permanent defeat? No, we don't. We think a preliminary reading, and hopefully a further careful reading and study of the Supreme Court's decision, will indicate that the Court decided on the basis of the procedure used, not on the basis of the principle involved. The principle involved ought to be at the center and heart of our debate and discussion. I hope that as we engage in future battles—I guess that is the proper word, because those were heated debates, but principled, heated debates—we can focus on the principle and not the procedure.

Questions have been raised about the cumbersome nature of separate enrollment procedurally, with a large piece of legislation having to be broken down into its separate pieces. Up until a few years ago that was an argument that carried a lot of persuasion and a lot of weight. But with the advent of modern technology—computer technology—and with some visits by myself and others to study with the enrollment clerk, and the witnessing of the utilization of that modern technology in terms of how bills are printed, how they are enrolled, and how they are presented for enrollment, we have the opportunity to take advantage of those marvelous improvements in the way in which we procedurally enroll legislation that is now technologically feasible. What would have taken literally days and perhaps hundreds of enrollment clerks, scribes, working away diligently in the basement of the Capitol separating out the bill, enrolling separate pieces of legislation, and having those signed and presented to the President of the United States, and having the President attempt to deal with it to the point he would have no other time to deal with any of his other duties and certainly achieve writers' cramp, that no longer is a problem. Technology has allowed us to bypass that.

So we intend to introduce as early as today a procedure—a process—which 69 of our Members, on a bipartisan basis, have supported, which addresses the principle of the issue and not the procedure of the issue. We look forward to the debate that will occur. We look forward to the opportunity to give our Members, all 69 of them—Democrats and Republicans—the opportunity to, once again, support a responsible practice of spending the taxpayer dollars in the most responsible way that we can.

Mr. President, I will close. I wish I were as eloquent and as articulate as the Senator from West Virginia. I wish I could reach into my mind and recall the words of the famous scholars, constitutional experts, or a poem that was appropriate to the discussion. I don't have that capacity. I don't have that talent. I admire that greatly in Senator BYRD. What discipline it must have taken to commit to flawless memory the words of historians, the thoughts of some of the greatest thinkers that this world has ever seen, the magic and beauty of the poetry that expresses those thoughts in the recall that the Senator has.

I am leaving the Senate this year. I will take with me many lifetime memories, not of process but of people—some of the most extraordinary people, I think, ever to have had the privilege of being born into this greatest of all nations and serve in this greatest of all institutions. I take away a vast reservoir of memories of 100 unique individuals with some of the greatest and most extraordinary talents to be found anywhere. And none of them, I think, transcends the abilities and the extraordinary capabilities of the Senator from West Virginia, who I have enjoyed serving with, even though we have found ourselves on opposite sides of a number of issues, and we have found ourselves on the same side on several issues.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. DODD. Mr. President, I don't want to interrupt this flow, but I want to join very briefly.

Mr. President, I stand here merely as a foot soldier in this discussion. However, I would like to take a moment to offer some comments on the Supreme Court's decision today to strike down the line-item veto as unconstitutional.

I am proud to say that I was one of 29 Members who in March of 1995 cast a vote against the line-item veto, along with the distinguished Senator from West Virginia, the distinguished Senator from Michigan, and Senator MOYNIHAN and 25 others on that day who expressed their opinion that they opposed this legislation—not as I recall, although others may have said, because they disagreed with the approach to deal with the budget issue. In my view, it had little or nothing to do with the budget process, but had everything to do with the issue that provoked the briefs to be filed, amicus curiae briefs, and the subsequent legal actions—that issue is the constitutionality of the line-item veto.

I just wanted to point out that I was looking over the vote. And of the 29 people who voted against the line-item veto in March of 1995, six Members of that group of 29 have since left the Chamber. This list includes our distinguished colleagues Senators Hatfield, Johnston, Nunn, Pell, Pryor, and Simon. Two others who voted nay—Senators BUMPERS and GLENN—will be leaving at the end of this Congress.

The other day, someone counted some 100 different proposals which are being drafted or have been introduced that would amend the Constitution in one way or another.

I am not questioning the intentions or even the desired goals that those constitutional proposals have in mind. But the framers and the founders of the document, which I happen to carry with me as well—a lesson I learned one day watching the distinguished colleague from West Virginia. I got my copy of the Constitution. I carry it in my pocket every single day, and have ever since, along with a copy of the Declaration of Independence, which is included here.

It is our job here to do everything we can to advance the goals and desires of our society, particularly as we enter a new millennium and a new century. But the fundamental principles, values and ideals incorporated in the Constitution, the basic organic law of our country, are rooted in sound philosophical judgments. And the temptation, particularly in the midst of great difficulties—and certainly the budget crisis was no small difficulty with $300 billion of deficits a year, $4 trillion in debt—the temptation to want to come up with an answer to that was profound and significant.

There will be other such crises, maybe not of that nature, but maybe of other natures that will come along, and the temptation will be to solve that problem and to do so by circumventing the values and principles incorporated into the Constitution. I only hope that we remind ourselves of what our forbearers had been struck with; and that is not to in any way denigrate or detract from the fundamental principles of the Constitution as we struggle through a very deliberative, painful, oftentimes annoying and frustrating process called democracy to address the issues of our day.

I often point out to my constituents back home that as a country we have been through a great Civil War, two World Wars in this century, and a Great Depression when I am sure the temptations were great to amend or suspend parts of our Constitution, our Bill of Rights particularly. And we never saw fit to do so during all of those great crises. We never saw fit to do so. We thrive and are strong today as a nation without having made a single change in the Bill of Rights—not one change since those words were first crafted and drafted in 1789—not a single word. Not a single syllable has been changed in the Bill of Rights.

I hope that as we look forward to a new century and a new millennium, with all the unanticipated problems we face as a nation in the world, that we will not be tempted to be drawn "to the flame"—to use the analogy of the distinguished Senator from West Virginia—to draw to that flame which could defeat it. And I will not put flame to this document and destroy the very principles and values which I think are the rationale and reason for why we have achieved the level of greatness that we have as a people.

As one Member of this body, I suspect, speaking on behalf of the six who are no longer here, and those who are not here on the floor, we thank you immensely on behalf of our constituents, both past, present and in the future, for the three of you, along with Senator Hatfield who led this effort beyond the Chamber here and brought the matter to the highest court of our land. I also extend my gratitude to those six Supreme Court Justices for the decision they handed down today.

With that, Mr. President, I thank my colleague for yielding. And, again, I have said to him in meetings of our own committee, where we sat together and worked together so many times, DAN COATS is going to be missed in the Senate. He has been one terrific Senator, and Indiana can be very proud that they sent someone of his talent, ability, and tenacity. I would much rather have him as an ally than an opponent. I have been an ally of his and have been on the opposite side. Believe me, it is much more pleasant to have DAN COATS on your side. It is a privilege to say so on this floor, as I have on other occasions.

Mr. BYRD. Will the distinguished Senator yield?

Mr. COATS. I would be happy to yield.

Mr. BYRD. I thank the distinguished Senator from Connecticut, Mr. DODD, for his incisive observations with respect to the roster of those who voted against the Line-item Veto Act on March 23, 1995, and for his very eloquent statement.

Mr. CONRAD addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, I would like to join in thanking——

The PRESIDING OFFICER. Does the Senator from Indiana yield to the Senator from North Dakota?

Mr. COATS. I would be happy to do that if I could just do a unanimous consent request. Then I would be happy to yield the floor.

Mr. CONRAD. I would be very happy to yield.

Mr. COATS. I thank the Senator.

First of all, Mr. President, in relationship to the issue of discussion, I believe it important to the legislative history of the Line Item Veto Act to have the brief prepared by the Senate counsel in support of the line item veto submitted to the RECORD. However, in the spirit of fiscal responsibility, to spare the taxpayer expense of printing the entire document, I ask unanimous consent that the front cover of the brief be printed in the RECORD. The cover provides the necessary source information to assist anyone seeking to review the full document in locating a complete copy. I encourage Senators to examine this excellent brief along with the Court decision.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NO. 97-1374

[In the Supreme Court of the United States, October Term, 1997]

WILLIAM J. CLINTON, ET AL., APPELLANTS, v. CITY OF NEW YORK, ET AL.

ROBERT E. RUBIN, APPELLANT, v. SNAKE RIVER POTATO GROWERS, INC., ET AL.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

BRIEF OF THE UNITED STATES SENATE AS AMICUS CURIAE FOR REVERSAL

THOMAS B. GRIFFITH,
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MORGAN J. FRANKEL,
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Counsel for the U.S. Senate.
March 1998.

Mr. FEINGOLD. Mr. President, I come to the floor today to discuss briefly the Supreme Court's decision earlier today to strike down the line-item veto law and to a new approach to the line-item veto that aims to cut some of the vast fat contained in our annual spending bills, but will stand up to constitutional scrutiny.

Though the Court found that the line-item veto legislation was flawed, I supported the experimental line-item veto authority we gave the President in 1996 as a means of controlling Congress' voracious appetite for pork.

I had great concerns about many aspects of the legislation. My greatest concern was granting a greatly expanded veto authority that retained the two-thirds override threshold that the Constitution provides for the Presidential veto of entire bills. Extending that authority for individual sections of a bill worried me. And the Court found that this represented an inappropriate shift in the balance of power from the legislative branch to the executive. I do not question the Court's decision.

Mr. President, I don't believe, nor have I ever believed that enhanced rescission authority, whether it be the line-item veto or some other vehicle, is the whole answer to our deficit and spending problem, or even most of the answer, but it certainly can be part of the answer.

I am working on a bill that would allow expedited rescission. It promises to be a useful tool to help reduce the Federal deficit and bring the Federal budget truly into balance, and more importantly to bring reform to our appropriations process.

The introduction of this bill would be extremely timely given this body's consideration of the fiscal year 1999 spending bills. Ideally, we would have an expedited rescissions law in place for this year's appropriations bills, but I know that won't happen. What surely will happen is the stealthy insertion of an extensive list of wasteful and unnecessary projects and programs that pick clean the wallets of this country's taxpayers.

This bill would allow the Congress and the President to work together to exercise the kind of specific budget pruning that many of us feel is a necessary response to the budget abuses that persist in the appropriations process.

Mr. President, this bill would enable the President to propose eliminating specific spending items for veto and would allow Congress to support or oppose the President's suggestions on a simple up or down vote.

This bill would accomplish the objectives of the line-item veto—eliminating wasteful and unnecessary spending—but without violating the constitutional principles of separation of power and balance of power.

Mr. President, I believe this bill would be an effective means of fighting wasteful spending, certainly something everyone opposes.

Mr. COATS. Mr. President, I ask before I yield to the Senator how much time is remaining on the earlier allocated time?

The PRESIDING OFFICER. Three minutes 20 seconds.

Mr. COATS. Is that sufficient? I yield the Senator the remainder of our time.

Mr. CONRAD. I thank the Senator from Indiana very much for his courtesy.

Let me just say I have found the Senator from Indiana to be among the most courteous of our colleagues, and we are very much going to miss him. I think he is an outstanding U.S. Senator, an extraordinarily decent person, and I am personally going to miss him from this body.

Mr. COATS. I thank the Senator for those remarks. They are generous, and also the Senator from Connecticut, I appreciate his remarks. I don't want anybody to misunderstand those remarks or interpret those remarks to mean that the Senator is finished for the year. I expect to be back in the Chamber, and I hope that Senators feel the same way about me at the end of the session as they do now.

Mr. CONRAD. I am sure we will.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. I thank the Chair. I take just a minute to thank the senior Senator from West Virginia, Mr. BYRD. I thank him for standing up to protect the Constitution of the United States. I don't think there is any higher responsibility for a Member of this body, because we all take a solemn oath when we are sworn in to preserve, protect, and defend the Constitution of the United States. That is the organic law of our country. It is a Constitution that is truly genius in what it has done for our country. We are a very young country, but already the rest of the world seeks to emulate us. And one of the reasons is the genius of that organic law, that document that has provided for the structure of this Government.

Senator BYRD convinced me when we were debating the question of line-item veto, and I must say the constituency pressure from my State was all on behalf of supporting the line-item veto. I did not because I was convinced, after lengthy discussions with Senator BYRD, that it violated the Constitution of the United States and that, in fact, part of the genius of that document was the separation of powers and the power of the purse being put in the hands of the Congress of the United States to reflect the will of the people of this country. And to have that power diluted not because Members of Congress are seeking power but because the Constitution established the framework to protect the rights of the people, that is the extraordinary genius of our Constitution. And nobody has been more vigilant in defending that Constitution than the senior Senator from West Virginia, Mr. BYRD.

I thank him because it was not an easy task. It was not a popular task. But he was right to do it. And the rightness of his position has been confirmed by this ruling by the Supreme Court. It was not a close ruling. By a 6 to 3 vote, the Supreme Court of the United States has said, yes, Senator BYRD and others who made that judgment were correct. We would be doing damage and injury to the Constitution of the United States if we were to approve the line-item veto that had been passed by the Congress of the United States.

So I say to Senator BYRD a sincere thank-you, because what he has done is in the finest tradition of the Senate.

I thank the Chair and yield the floor.

Mr. BYRD. Mr. President, will the Senator yield?

Mr. CONRAD. I am out of time.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from West Virginia.

Mr. BYRD. I ask unanimous consent for 1 minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I thank the distinguished Senator for his statement, for standing with the small group, small band, on March 23, 1995. He perhaps did not at that time follow the will of his people, but his people were served best by his decision, by the stand that he took, and in the long run I am sure they will admire him for it and respect him for it and reward him for it. His full reward comes from his conscience, his conscience that he did the right thing, that he helped to preserve the liberties of the people of his State and the people of the United States.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. I ask unanimous consent that the cover page of the amici brief referred to before that was filed by Senator BYRD, Senator MOYNIHAN, and myself be printed in the RECORD.

There being no objection, the brief was ordered to be printed in the RECORD, as follows:

No. 97-1374

[In the Supreme Court of the United States, October Term, 1997]

WILLIAM J. CLINTON, ET AL., APPELLANTS, *v.* CITY OF NEW YORK, ET AL., APPELLEES

ROBERT E. RUBIN, APPELLANT, *v.* SNAKE RIVER POTATO GROWERS, INC., ET AL., APPELLEES

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

BRIEF OF SENATORS ROBERT C. BYRD, DANIEL PATRICK MOYNIHAN, AND CARL LEVIN AS AMICI CURIAE IN SUPPORT OF APPELLEES

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Of Counsel:
LINDA GUSTITUS
MARK A. PATTERSON

April 1998.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1999

The Senate continued with the consideration of the bill.

Mr. DODD addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. May I ask a parliamentary inquiry? What is the business of the Senate?

The PRESIDING OFFICER. The Senate, under a previous order, is authorized to deal with the amendment concerning Reserve retirement, for 10 minutes, equally divided.

AMENDMENT NO. 3004

(Purpose: To require actions to eliminate the backlog of unpaid retired pay relating to Army service)

Mr. DODD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Connecticut [Mr. DODD], proposes an amendment numbered 3004.

Mr. DODD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of subtitle D of title VI, add the following:

SEC. 634. ELIMINATION OF BACKLOG OF UNPAID RETIRED PAY.

(a) REQUIREMENT.—The Secretary of the Army shall take such actions as are necessary to eliminate, by December 31, 1998, the backlog of unpaid retired pay for members and former members of the Army (including members and former members of the Army Reserve and the Army National Guard).

(b) REPORT.—Not later than 30 days after the date of the enactment of this Act, the Secretary of the Army shall submit to Congress a report on the backlog of unpaid retired pay. The report shall include the following:

(1) The actions taken under subsection (a).

(2) The extent of the remaining backlog.

(3) A discussion of any additional actions that are necessary to ensure that retired pay is paid in a timely manner.

(c) FUNDING.—Of the amount authorized to be appropriated under section 421, $1,700,000 shall be available for carrying out this section.

Mr. DODD. Let me begin by thanking my colleagues on both the minority and majority sides for their support of this amendment. I rise on behalf of military retirees, all of whom are due a pension and medical benefits at age 60, as all of my colleagues are well aware. This amendment directs the Secretary of the Army to eliminate by the end of this calendar year a serious backlog that has developed in the processing of pension applications by Army personnel.

My awareness of this problem began, as I think my colleagues will appreciate, with a letter that I received from a constituent, Mr. Arthur Greenberg, of Hamden, CT. Mr. Greenberg, a Vietnam veteran, retired from the military in 1984. Mr. Greenberg submitted his pension application back in February, 6 months before his 60th birthday. Recently, he called to check on the status of his claim and was told that his pension claim would not be processed until 9 months after his 60th birthday. I assumed that this was just an isolated case and merely a problem to be corrected through the normal corrections in the bureaucracy.

The Army informed me, however, that this is not an isolated case, and that its retirement benefits office presently holds a backlog of 2,000 cases out of a total of 5,000. So Mr. Greenberg's situation is not the exception but fast becoming the majority of cases, in terms of pensions to be received. In other words, 2,000 military retirees who have reached their 60th birthday and become eligible for pensions and medical benefits are waiting for those benefits to come.

The number of military retirees who become pension eligible increases every year. In 1994, there were 6,700 pension packages that were submitted. In 1996, the number jumped to 8,700. By the end of this year, over 10,000 Army retirees will have asked for their pensions. To give you some sense of where this is headed, 10 years from now that number will be 29,000 applications for pensions and medical benefits. In the face of this steady increase in the number of pension-eligible retirees, the office that processes Army pensions has been reduced from as many as 40 personnel a couple of years ago to just 17 people today.

I realize the Army must make personnel reductions, but in view of its increasing workload, the Army pension office should not be so drastically cut. Some retired soldiers who spent a career defending this country cannot easily afford to wait for several months to begin receiving their retirement benefits. Those benefits make a difference in the majority of these people's lives.

From the first day of boot camp, the Army has demanded from those who go through that process that they be punctual and responsible. Now, however, they must camp out by their mailboxes while they wait on the Army to provide the benefits to which each of them is entitled and due. This amendment, very simply, directs the Secretary of the Army to submit a report to Congress regarding this backlog and eliminate the backlog no later than December 31, 1998.

Furthermore, it requires the Defense Department to provide up to $1.7 million from existing funds to eliminate the backlog of Army pension claims—$1.1 million to update antiquated computer systems and another $600,000 to hire some additional 10 civilian personnel. That would get you up to 27—far short of the 40 we had before.

By the way, I should say that the Army supports this amendment. They don't like the idea they cannot provide these benefits. But they believe these numbers would allow them to update their computer systems and hire the necessary personnel to process the claims. Then we can avoid, to put it mildly, the embarrassment of seeing these pensioners wait to get the dollars they are due. But, more important, the people who deserve these benefits will receive them on time.

I am very grateful to our colleagues, both the distinguished Senator from South Carolina, the chairman of the Armed Services Committee, as well as my colleague from Michigan, Senator LEVIN, and the other members of the committee for their support of this amendment. I am grateful to them for allowing it to be considered and adopted, as I am told it will be, by approval of both sides.

I yield to my colleague from Michigan, whom I see on the floor, for any comments he wishes to make on this.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. LEVIN. Mr. President, I ask unanimous consent I be allowed to proceed for 1 minute.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Michigan.

Mr. LEVIN. Mr. President, let me congratulate Senator DODD for his amendment. It is inconceivable to me, as it was to him, that a retired reservist would have to wait for up to 9 months to receive the first pension check. The Army must fix this problem, and quickly. We will do everything we can to ensure that this issue is addressed and is resolved very quickly, and it will be Senator DODD's tenacity that is going to drive the appropriate quick response and outcome on this issue.

So the amendment has strong support in the Armed Services Committee, and it has been cleared by both sides, I understand. I believe the amendment could be adopted at this point.

Mr. President. I understand the amendment has been cleared by both sides.

Mr. THURMOND. It has been cleared by both sides.

The PRESIDING OFFICER. All time has expired.

Mr. THURMOND. I urge the adoption of the amendment.

THE PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 3004) was agreed to.

Mr. DODD. Mr. President, I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DODD. Mr. President, I had some time allocated for another amendment here that addresses Lyme disease, which we in Connecticut are painfully aware of since the name "Lyme disease" comes from Lyme, CT, the town where it first achieved prominence. But I am going to defer on that and allow the Senate to consider the amendment at a later time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. MURRAY addressed the Chair.

The PRESIDING OFFICER. Under the previous order, the Senator from Washington is to be recognized. The Senator from Washington.

AMENDMENT NO. 3005

(Purpose: Relating to burial honors for veterans)

Mrs. MURRAY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Washington [Mrs. MURRAY], for herself, Mr. MURKOWSKI, and Mr. SARBANES, proposes an amendment numbered 3005.

Mrs. MURRAY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 268, between lines 8 and 9, insert the following:

SEC. 1064. BURIAL HONORS FOR VETERANS.

(a) FINDINGS.—The Senate makes the following findings:

(1) Throughout the years, men and women have unselfishly answered the call to arms, at tremendous personal sacrifice. Burial honors for deceased veterans are an important means of reminding Americans of the sacrifices endured to keep the Nation free.

(2) The men and women who serve honorably in the Armed Forces, whether in war or peace, and whether discharged, separated, or retired, deserve commemoration for their military service at the time of their death by an appropriate military tribute.

(3) It is tremendously important to pay an appropriate final tribute on behalf of a grateful Nation to honor individuals who served the Nation in the Armed Forces.

(b) CONFERENCE ON MILITARY BURIAL HONOR PRACTICES.—(1) Not later than October 31, 1998, the Secretary of Defense shall, in consultation with the Secretary of Veterans Affairs, convene and preside over a conference for the purpose of determining means of improving and increasing the availability of military burial honors for veterans. The Secretary of Veterans Affairs shall also participate in the conference.

(2) The Secretaries shall invite and encourage the participation at the conference of appropriate representatives of veterans service organizations.

(3) The participants in the conference shall—

(A) review current policies and practices of the military departments and the Department of Veterans Affairs relating to the provision of military honors at the burial of veterans;

(B) analyze the costs associated with providing military honors at the burial of veterans, including the costs associated with utilizing personnel and other resources for that purpose;

(C) assess trends in the rate of death of veterans; and

(D) propose, consider, and determine means of improving and increasing the availability of military honors at the burial of veterans.

(4) Not later than 180 days after the date of enactment of this Act, the Secretary of Defense shall submit to Congress a report on the conference under this subsection. The report shall set forth any modifications to Department of Defense directives on military burial honors adopted as a result of the conference and include any recommendations for legislation that the Secretary considers appropriate as a result of the conference.

(c) VETERANS SERVICE ORGANIZATION DEFINED.—In this section, the term "veterans service organization" means any organization recognized by the Secretary of Veterans Affairs under section 5902 of title 38, United States Code.

Mrs. MURRAY. Mr. President, I rise to discuss my amendment to the Department of Defense authorization legislation regarding burial honors for deceased veterans. I ask that my full statement be made part of the RECORD.

Earlier this year, along with Senator MURKOWSKI and Senator SARBANES, I introduced the Veterans Burial Rights Act of 1998. Our bill requires the Department of Defense to provide honor guard services upon request at the funerals of our veterans. Importantly, my bill was crafted with the direct participation of numerous veterans service organizations and has been endorsed by the Former Prisoner of War, the Paralyzed Veterans of America, AMVETS and the American Legion.

I got involved in this issue several years ago for a very simple reason. Sadly, all across this country, veterans are being buried without full military honors—honors earned through service to us all. We asked these soldiers, sailors, and airmen to travel to distant shores to risk the ultimate sacrifice. It seems only fair to ask the DOD to travel to a nearby community to remember and honor the sacrifices of our veterans.

I believe we have a moral responsibility to tell each and every veteran at his or her funeral that we remember and we honor their service to our country. That message is so important to families who have sacrificed so much for our country.

I can speak personally to the importance of the Veterans Burial Rights Act. I lost my own father last year, a World War II veteran and proud member of the Disabled American Veterans. My family was lucky, we were able to arrange for burial honors at his service. Having the honor guard there for my family made a big difference and created a lasting impression for my family. We were all—and particularly my mother—filled with pride at a very difficult moment for our family as Dad's service was recognized one final time.

The Veterans Burial Rights Act seeks to ensure we make the same burial honors available to veterans and families who specifically request the honors at a funeral service.

Unfortunately, the Department of Defense has opposed the Veterans Burial Rights Act. The DOD has bombarded Capitol Hill with doomsday proclamations about my bill.

The DOD's stance has been particularly offensive to the veterans of our country. Not only did the DOD oppose a greater DOD role in providing burial honors for veterans, but they even went so far as to suggest the Department of Veterans Affairs should pay for honors taking additional dollars from health care, rehabilitative services and other veterans programs.

The DOD recently wrote to the Armed Services Committee claiming that a four-person burial honors detail "would have required 12,345 man-years of effort at a cost of $547 million to support the 537,000 veterans' funerals held in 1997." The last part is a direct quote. According to the DOD, funeral support in 1997 would have required 12,345 man-years and $547 million for 537,000 funerals. I must say, that's impressive accounting for an agency that can't figure out the going rate for hammers and toilet seats.

The DOD has chosen to fight my attempts to increase funeral support to veterans with funhouse mirrors. The DOD's arguments are based on providing funeral support to every veteran who dies. That's absurd. Veterans know this is not possible, logistics and cost will always be a factor. And most veterans' families will not request the services. The vast majority of veterans' families do not seek burial honors today. We are simply trying to provide burial honors for veterans whose families request the honors.

The House of Representatives included a version of the Veterans Burial Rights Act in their version of the DOD authorization. The DOD issued an appeal to the House urging the "exclusion" of this language threatening that funeral support would have negative impact on personnel and operational readiness. And I should point out again that the DOD is choosing to interpret our legislative proposals and interest in this issue in the most negative manner.

From the very beginning, we have sought to leave the DOD with the flexibility to write the directives on funeral support. No one wants to undermine the basic mission of the department. And particularly our veterans who continue to hold the various services in high esteem. But we do believe that the Department and individual services can and should do more on burial honors. We believe all of our assets—from the veterans service organizations to active and reserve components to ROTC cadets all across the country—can be utilized in a comprehensive and cooperative effort to provide burial honors for veterans and families seeking a final, deserved tribute.

The PRESIDING OFFICER. The Senator's time has expired.

Mrs. MURRAY. I understood I had 10 minutes to speak on my amendment.

The PRESIDING OFFICER. Ten minutes equally divided.

Mrs. MURRAY. I do not believe there is anybody speaking in opposition to this amendment.

Mr. LEVIN. Mr. President, I ask unanimous consent that since the Senator from Maryland wants to speak for the amendment for a few minutes—

Mr. THURMOND. I yield such time as he needs.

Mr. LEVIN. Does the Senator from Washington need additional time?

Mrs. MURRAY. I need an additional 5 minutes. It is my understanding I had 10. If I can have 5 minutes and Senator SARBANES 2 minutes.

Mr. THURMOND. The Senator can have any time she needs.

The PRESIDING OFFICER. The Senator from South Carolina has 5 minutes also. Is it my understanding you have yielded your 5 minutes to the Senator from Washington.

Mr. THURMOND. That is correct.

Mr. LEVIN. I ask the Senator from Maryland be yielded 2 additional minutes.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Washington.

Mrs. MURRAY. Thank you, Mr. President. Mr. President, from the very beginning, we have sought to leave the DOD with the flexibility to write the directives on funeral support. No one wants to undermine the basic mission of this Department, especially our various veterans service organizations. They hold the Department of Defense and their service in high esteem.

Already, veterans across the country are seeking to fill the void left by the DOD's inability to provide burial honors for veterans. Veterans service organizations want to be involved in the funerals of their fellow veterans. And we want them to continue to be involved. But the DOD overlooks this important asset. We are simply saying that VSO's and particularly older veterans cannot meet the demand alone.

The DOD wants to study the issue. We know that more than 30,000 World War II vets are dying each month and the veterans death rate is increasingly rapidly. We need to act in the short term or America's heroic World War II veterans will be gone before the DOD decides to act. That's why my amendment gives the DOD 180 days to come up with new directives and legislative recommendations for the Congress. Every day we wait, a bit of our history passes away without recognition and gratitude.

My amendment is very straightforward. It simply calls the DOD's bluff on burial honors for veterans. The DOD will be directed to hold a conference on burial honors by October 31, 1998 in cooperation with the Department of Veterans Affairs and veterans service organizations. Following the enactment of this legislation, the DOD will have 180 days to report back to the Congress detailing new DOD directives on funeral support and burial honors policy and forward to Congress any appropriate legislative recommendations.

This is essentially what the DOD has pledged to the Congress in opposing more expansive legislation on funeral support. My amendment seeks to hold the DOD accountable to its pledges to the Congress and our veterans. This is a real opportunity to make progress on this issue and I encourage the DOD to make the most of this opportunity. Otherwise, I can assure the Department that we will be back with more definitive language defining what the Congress believes are appropriate burial honors.

Many of our services have taken a positive role, and I especially commend the Commandant of the Marine Corps who issued a white paper on funeral support. General Krulak, to his credit, says we can and we will honor current and former marines.

I ask unanimous consent that his white letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

WHITE LETTER OF 12-02-97

From: Commandant of the Marine Corps.

To: All General Officers, All Commanding Officers, All Officers in Charge.

Subject: Funeral Support.

1. This past January, I signed ALMAR 003-97 which emphasized the Marine Corps' commitment to funeral support. Properly laying a fallen Marine to rest is one of the final tributes that the Marine Corps can render to our own. This service provides comfort to grieving families and demonstrates our wholehearted and enduring commitment to those who have earned the title "Marine." Unfortunately, I continue to receive letters and E-mails from family members, disappointed that the Marine Corps failed to support them during their hours of need. I am appalled, dismayed, and outraged that I continue to receive these letters. Failing to provide funeral support to a Marine, for whatever reason, is completely contradictory to our ethos and diminishes the value of our fallen comrades' service.

2. Specific guidance for funeral support is contained in MCO P3040.4D. The Marine Corps Casualty Procedures Manual, and reemphasized in ALMAR 003-97, Military Funeral Support. While I understand that an individual unit may not be able to support every funeral request, I cannot imagine our precious Corps ever turning down the request to properly bury a fellow Marine. If your unit cannot provide a funeral detail, find one that will.

3. I want my intent and guidance to ring loud and clear concerning funeral support to families of Marines and former Marines—it is our duty and we would have it no other way! Anything less is UNACCEPTABLE. I expect this guidance to be disseminated to every Marine Corps command, inspector-instructor staff, recruiting station, and administrative detachment. Ensure that all units are fully aware of my feelings on this matter and they uphold the long tradition of properly honoring a fallen Marine.

C.C. KRULAK.

Mrs. MURRAY. Mr. President, he says:

> Properly laying a fallen Marine to rest is one of the final tributes that the Marine Corps can render to our own. This service provides comfort to grieving families and demonstrates our wholehearted and enduring commitment to those who have earned the title Marine. Unfortunately, I continue to receive letters and E-mails from family members, disappointed that the Marine Corps failed to support them during their hours of need. I am appalled, dismayed and outraged that I continue to receive these letters. Failing to provide funeral support to a Marine, for whatever reason, is completely contradictory to our ethos and diminishes the value of our fallen comrades' service.

General Krulak goes on to say:

> I want my intent and guidance to ring loud and clear concerning funeral support to families of Marines and former Marines—it is our duty and we would have it not other way! Anything less is unacceptable.

These are very powerful words and I commend General Krulak and the Marine Corps for making this a priority issue. General Krulak has taken our objective from the very beginning of this effort and turned it into Marine practice each and every day.

Is it really too much to ask of our country that we do a better job remembering those who answered the call to duty, risked the ultimate sacrifice, and paved the way to the peace and prosperity we all enjoy today?

Until very recently, I doubted the DOD's sincerity in this effort. We do have a long way to go on this issue, I do think it is important to acknowledge that progress has been made in recent months on this issue. Of course, the Marines are taking a leadership role. But it should also be noted that Army and Air Force are taking positive steps on the burial honors issue. This progress is the direct result of pressure from the Congress, from our veterans, and from the families of veterans who fought for burial honors.

My amendment is an opportunity to build upon this progress. It's a step forward but I remind my colleagues that we cannot address this issue in steps alone. We need to move quickly, and that's what we are asking the Department of Defense to do.

I ask the Senate to accept this straightforward amendment. By adopting this amendment and holding the Department of Defense accountable, the Congress will send a powerful message to veterans that their service to us all will never be forgotten.

Mr. President, I know that this amendment has been accepted by both sides. I thank all of my colleagues for working with us. We are directing the Department of Defense to return definitively, quickly to us with a response to this before it is too late.

Mr. President, I ask unanimous consent to add Senator MIKULSKI as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MURKOWSKI. Mr. President, I am pleased to join the distinguished Senator from Washington in offering this amendment requiring the Department of Defense and the Veterans' Administration to sit down with the Veterans Service Organizations to find ways to honorable pay our last respects to our nation's veterans. Six months after enactment of this legislation, DoD will submit to Congress a report noting changes in DoD's policies for burial honors and recommendations for possible legislation to address this problem.

Why is this needed?

Let me tell you. Veterans across the country are dying. These are the men and women who have sacrificed so much for our country. How do we as a nation pay our final respects—many times with one person with a folded flag and a tape of taps. With World War II veterans growing older, the problem will only get worse.

Even around Washington, DC, with its many military bases this happens.

This is not uncommon. The father of one of my staff members passed away a few years ago on the West Coast. She thought that since he was a World War II veteran, he would receive an honor guard—an appropriate thank you for the service he had given our country.

What happened? As the family members watched, a member of the military—one member came and handed over a flag. There was no honor guard, no bugler, no final send off for a job well done.

My staff person was shocked at the insensitivity and the impersonal nature of the burial service. I am shocked as all of us should be.

This is a disgrace.

Earlier this year Senator MURRAY, Senator SARBANES and myself introduced legislation that required a five person honor guard with a bugler. DoD opposed the legislation because of the potential costs and drain on our military personnel.

Mr. President, although I understand DoD's arguments, something must be done. This amendment moves the ball forward but it does not solve the problem. I expect in DoD's report realistic suggestions on solving this problem. One person and a tape of Taps is not an alternative.

In closing, I would like all of us to think about the honor that our country bestows on our veterans and the honor they deserve. An honor guard is the last instance that we as a nation can thank them for their service.

They deserve no less. Thank you, Mr. President.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Mr. President, I offer my very strong support to my colleague from the State of Washington and commend her for her efforts on behalf of our Nation's veterans. What we are dealing with is really an unacceptable situation. Families across the nation have come to expect and depend on having a proper military burial for their loved ones who have served in our Armed Forces. This is simply not happening. I joined earlier with the Senator from Washington and the Senator from Alaska, Senator MURKOWSKI, in introducing legislation to in effect mandate a solution to this problem.

This amendment—and I think this is a commendable effort on the part of my distinguished colleague from Washington—will direct the Department of Defense, working with the Department of Veterans Affairs, to convene a summit and identify the means and manpower to meet this need. Senator MURRAY has put this process on a very tight timeframe. The Department has a 6-month period in which to come up with a plan to take care of this problem.

I have received letters that would move you to tears in terms of the importance that families place on providing a proper burial for their loved ones who have served in our armed services. Not every family requests these honors. But for those families who seek a military burial and have it incorporated into their burial plans, this is an extremely important matter.

These military honors, honoring the sacrifice that members of armed services have made for this country during their lifetimes, should always be a high priority, I think, on behalf of the Congress and on behalf of the Department. Unfortunately, this problem has not been recognized as such until now—due to the tremendous outcry that this situation be addressed. And Senator MURRAY has undertaken to make these burial rites a priority in a very positive and constructive and forthright way.

I am very pleased that the managers of the bill have agreed to accept this amendment. I think that through the process it establishes we will be able to work to a solution. That is my expectation and hope, that we will now, in effect, by requiring the executive branch to focus on this problem, come together to give it the kind of high priority study which we think it requires and that they will come up with a solution.

We are constantly told the Department is in favor of our goals and objectives in this regard, so we want it now to work out the means to achieve these goals and objectives. I think the amendment of the distinguished Senator from Washington will move us very much down that path and help to accomplish that purpose. I very strongly support her efforts.

I thank the chairman and the ranking member for yielding time.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. I ask unanimous consent for 1 minute, if I may.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEVIN. Mr. President, I congratulate and thank the Senator from Washington for her persistence, her constancy, and the way in which she has gone about trying to make sure that the families of veterans, in their grief, have a bit of a reminder of the dedication and the commitment of those veterans. The honors that we should be providing these veterans and their families are important. They are particularly important at a time of grief.

The Senator from Washington is determined, with the support of many of us, including the Senators from Maryland, to have the Defense Department make this happen and make this work. And I just want to thank her. There are a lot of families who will never know her name, but because there will be honors at funerals where they are requested, they will in fact have been served by her efforts here on the floor. I want to thank her for them as well as for many of us.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I commend the able Senator from Washington for offering this amendment and being willing to compromise on this important situation. And I urge adoption of the amendment, if it is in order.

The PRESIDING OFFICER. All debate time has expired. The question is on agreeing to the amendment No. 3005.

The amendment (No. 3005) was agreed to.

Mr. LEVIN. I move to reconsider the vote.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mrs. MURRAY addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

AMENDMENT NO. 2794

(Purpose: To repeal the restriction on use of Department of Defense facilities for abortions)

Mrs. MURRAY. Mr. President, I call up amendment No. 2794 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Washington [Mrs. MURRAY], for herself, Ms. SNOWE, Mr. ROBB, Ms. MIKULSKI, Mr. LAUTENBERG, Mr. KERREY, Ms. MOSELEY-BRAUN and Mrs. BOXER, proposes an amendment numbered 2794.

Mrs. MURRAY. I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of title VII add the following:

SEC. 708. RESTORATION OF PREVIOUS POLICY REGARDING RESTRICTIONS ON USE OF DEPARTMENT OF DEFENSE MEDICAL FACILITIES.

Section 1093 of title 10, United States Code, is amended—

(1) by striking out subsection (b); and

(2) in subsection (a), by striking out "(a) RESTRICTION ON USE OF FUNDS.—".

Mrs. MURRAY. Before I speak on this amendment, let me again thank my colleagues for their help on the Veterans Burial Rights Act. This is an important personal issue for me, and I know it is for many families across the country who will be waiting for the DOD report. And I will be working with all of you on whether or not we receive that report in a timely manner.

Mr. President, the amendment that I have just called up is again to the Department of Defense authorization bill, and it is an effort to protect the health and safety of our military personnel and dependents who are stationed overseas.

Mr. President, I am here on the floor today to urge my colleagues to support the Murray-Snowe amendment which ensures that female military personnel and female dependents are not subjected to substandard care while serving our country.

The Murray-Snowe amendment is very simple. It would allow female military personnel and female dependents access to abortion-related services at their own expense—at their own expense—at military hospitals or medical facilities. Our amendment guarantees that women do not surrender their rights to a safe and legal abortion because they are serving our country overseas. Our amendment also ensures that women in the military have access to the full range of reproductive health services.

The current Department of Defense restrictions that deny women access to safe and legal reproductive health services is not only inhumane, it jeopardizes their lives. This is a women's health issue, plain and simple. That is probably why the American College of Obstetricians and Gynecologists supports this amendment. The Murray-Snowe amendment has also been endorsed by the American Medical Women's Association, the American Association of University Women, the American Public Health Association, and the Planned Parenthood Federation of America.

Mr. President, I recently received a statement from an active-duty member of the Air Force stationed in Japan which summarized her experience with seeking safe and legal reproductive health services. Her supervisors were of little or no help when she notified them that she was pregnant. They offered no assistance, and they made character judgments. It was only her doctor, a military doctor, who stepped in and tried to help her. Because his hands are tied, due to DOD policy, he could only give her information on locally available abortion services.

This is a woman who is serving our country, and she is told she is at the mercy of the host country. For no other procedure or life-threatening illness would we allow the Department of Defense to turn military personnel out onto the streets of their host country. But that is what we are allowing for women.

This is what this particular servicewoman faced. She was given a hand-drawn map with the location of three hospitals that perform abortions. When she arrived at the hospital, none of the nursing staff spoke any English. She had no Japanese friends who could translate, and the Air Force could not provide any assistance. If she had been arrested for armed robbery, the Air Force could have been of more help to her.

The doctors in the hospital had limited proficiency in English, and one could not even tell her what medication he was giving her. Obviously, there was very little concern about possible reactions to the medication. She was totally at the mercy of these doctors in the host country.

Her experience was humiliating and frightening. As she stated in her letter—and I quote—

> Although I serve in the military, I was given no translators, no explanations, no transportation, and no help for a legal medical procedure . . . The military expects nothing less than the best from its soldiers and I expect the best medical care in return. If this is how I will continue to be treated as a military service member by my country and its leaders, I want no part of it.

Opponents of the Murray-Snowe amendment will argue that Federal tax dollars should not be used to provide abortion-related services. I am sure their arguments do not hold up under scrutiny.

Our amendment simply restores previous policy—previous policy—that allowed female military personnel to pay for abortion-related services at their own expense at our military hospitals. They had to pay for this expense. The hospital or outpatient facility already has to be maintained for the safety of our troops. The cost of operating the facility is already a given. The soldier or dependent would pay for any possible added cost of providing this service.

Does she pay for the electric or water bill for the facility? No, of course not. And this is where opponents argue that Federal funds are being used to provide abortion-related services. That, I would say to my colleagues, is a real stretch.

What opponents do not point out is that under existing policy, if a woman feels confident enough to discuss a very private, personal matter with her commanding officer and to request a temporary leave, the military will fly her back to the States or any other location so she can receive a legal and safe abortion. They will pay to transport her halfway around the world if she sacrifices her right to privacy and subjects herself to character assaults and judgments.

Instead of receiving care at a military hospital on base at her expense, the military will incur thousands of dollars in costs to transport her to safety. This may be why the DOD supports this amendment. They recognize the costs involved in the current policy as well as the threat to the health and safety of our soldiers.

One has to think that maybe opponents of the Murray-Snowe amendment are really trying to just humiliate women or jeopardize their health and safety. It cannot be that they are concerned about military personnel performing abortions when they object. All branches of the military have included in their code of conduct language allowing for a conscience clause for military doctors. They cannot be forced to perform an abortion if they conscientiously object.

During debate on this authorization bill, I heard many of my colleagues talk about the quality-of-life needs for our soldiers, the need to ensure that our troops receive the support that they deserve. This should be the same standard afforded women soldiers. This is a basic quality-of-life issue. Access to a full array of clinical services for women goes to the heart of quality of life.

I ask my colleagues to join us in support of our service personnel who so proudly serve our country and ask only for our support and assistance. This is not about publicly financed abortions; this is about protecting the health and the safety of military personnel and their families who are stationed overseas.

I retain the remainder of my time.

The PRESIDING OFFICER (Mr. SANTORUM). Who yields time?

Mr. THURMOND. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mrs. MURRAY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. MURRAY. Mr. President, I yield to the Senator from Maine such time as she desires.

Ms. SNOWE. Mr. President, I thank the Senator from Washington, Senator MURRAY, for taking the leadership on this issue once again. I am sure she shares my disappointment that we are even in the position we are in today that we have to offer this amendment. That this amendment is even necessary is regrettable. We will continue to offer it because we think it is important to make sure that women in the military have access to health care treatment, as well as their spouses and dependents of military personnel who are stationed overseas. Therefore, we will continue to offer this amendment to ensure that there is equal access to the high level of health care that the women who serve in our military have earned and deserve.

We are here today, once again, because U.S. law denies the right to choose to the dependents of more than 227,000 service men and women stationed overseas, and it denies the more than 27,000 servicewomen who have volunteered to serve their country access to safe medical care simply because they were assigned to duty outside this country.

I do not understand, Mr. President, why we insist on denying these women and the families of our Armed Forces their rights as Americans. We ask a great deal of our military personnel and their families—low pay, long separations, hazardous duty. When they signed up to serve their country, I do not they believe they were told they would have to leave freedom of choice at ocean's edge. It is ironic that we are denying the very people we ask to uphold democracy and freedom the simple right to safe medical care.

The New York Times summed it up several years ago when they noted:

> They can fight for their country. They can die for their country. But they cannot get access to a full range of medical services when their country stations them overseas.

The Murray-Snowe amendment would overturn the ban and ensure that women and military dependents stationed overseas would have access to safe health care. And I want to clarify that overturning this ban will not result in Federal funds being used to perform abortions at military hospitals. Federal law has banned the use of Federal funds for this purpose since 1979.

From 1979 to 1988, women could use their own personal funds to pay for medical care they needed at overseas military hospitals. As we know, a new policy was instituted in 1988 that prohibited the performance of any abortions at military hospitals, even if paid for with personal funds.

I should reiterate this point because I think it clearly is an important one. It is not the use of Federal funds or any public moneys; in fact, it is the use of one's own personal funds for this procedure.

As Senator MURRAY illustrated, what are the choices for women who are stationed overseas and have to make a very difficult decision as to whether or not to have an abortion? She must either find the time and money to fly back to the United States to receive the health care she seeks or else possibly endanger her own health by seeking one in a foreign hospital whose quality of care cannot compare with ours. Or she may have to fly to a third country—again, where the medical services do not equate to those available at the base—if she cannot afford to return home.

When people sign up for the service, we assure them that we will do our best to provide for them and their families as part of the arrangement that we make in return for their willingness to serve our country. Yet we prohibit women from using their own money to obtain the care they need at the local base hospital. They are all alone in a foreign country, facing a very difficult, wrenching, personal, difficult decision, and all we can say is, "Sorry, you are on your own."

The amendment that Senator MURRAY and I are offering here today is only asking for fair and equitable treatment. It says to our service men and women and their families: If you find yourself in this difficult situation, in order to ensure you receive safe and proper medical care, we will provide the service if you pay for it with your own money.

I happen to believe we owe it to our men and women in uniform, and their families, the option to receive the care they need in a safe environment. They do not deserve anything less.

I think it is really unfortunate that we are faced with this situation year in and year out in seeking what is equitable treatment for women who are serving in our military. Fourteen percent of the military is now represented by women. They vote, they pay taxes, are protected and punished under American law. They are serving in our military to protect the ideals and rights that this country represents.

Whether we agree with abortion or not, we all understand that safe and legal access to abortion is the law of the land. It is a choice and it is a right that has been affirmed by the Supreme Court. This ban takes away a fundamental right of personal choice for them. I don't believe we should create a dual standard because one happens to serve in the military and happens to be stationed abroad. You have that choice in America. You have your choice of facilities within your own State. You can go where you want to make that decision to have access to that legal medical procedure. But when you are stationed abroad, it is another matter in terms of receiving the quality care that women deserve. They may well be required to travel to another country, not facing the same medical standards that one is accustomed to here in this country.

This ban puts women at risk. It puts their health at risk and it puts their life at risk, because they may well be forced to seek unsafe medical care in other countries where the blood supply may not be safe, procedures are antiquated, equipment may not be sterile. I don't believe that, in addition to the sacrifices that people in the military already make, they are now required to add unsafe medical care to the list.

I happen to believe that the Department of Defense in this country is required to give the same kinds of options and access to quality medical care. In fact, it is a constitutional right for women to have this choice, whether they are serving in the military or not serving in the military. Back in 1992, the Supreme Court rendered a decision in the case Planned Parenthood v. Casey. It said that Government regulation of abortion may not constitute an "undue burden" on the right to choose abortion. An undue burden is defined as having the "purpose or effect of placing a substantial obstacle in the path of a woman seeking an abortion."

Well, certainly a combination of military regulations and practical hurdles means that a pregnant servicewoman who needs an abortion, who makes that very difficult decision, may face lengthy travel, serious delays, high expenses to fly her home, substandard medical options, and restricted information. Therefore, in my opinion, the ban appears to unconstitutionally burden the right to choose of American servicewomen.

So for all of these reasons, Mr. President, I hope that this body will do the right thing here today and overturn the ban that currently is in the statute so that it allows women to have the option to make a safe choice for herself and her well-being.

Again, I should remind this body that it isn't a requirement that we now have to use Federal funds to pay for abortions. In fact, to the contrary, it allows women to use their own personal funds for that option—a decision they may have to make if they are stationed overseas in the military. At one time in our history, they had that option. But now, in the last few years, they have been denied that choice. I don't think it is right or fair to women who serve in our military.

I urge this body to adopt the Murray-Snowe amendment.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. THURMOND. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Ms. SNOWE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. SNOWE. Mr. President, I ask unanimous consent that the time during the quorum call be divided equally between both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. SNOWE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. COATS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COATS. Mr. President, I would like to speak in opposition to the Murray-Snowe amendment and give a little bit of history. It is not the first time we have visited this amendment. In fact, we have been debating it each year, I believe, since I have been in the Senate. So we are not plowing any new ground here. We are replowing old ground. Nevertheless, it is an important issue.

On the amendment that has been offered, I think it is important that Members understand the current state of play and understand what it is we are voting on. Some history can perhaps help.

Mr. President, let me inquire as to how much time is remaining on this side.

The PRESIDING OFFICER. Twenty-two minutes 30 seconds.

Mr. COATS. Mr. President, I would like to be notified when 10 minutes have been used. I don't believe I will use more than that.

Mr. President, since 1979 the Department of Defense has prohibited the use of Federal funds to perform abortions except in cases of rape, incest, or to protect the life of the mother. The bill before us today, the Department of Defense bill, continues that prohibition. When we debated this issue last year, it was abundantly clear that the current restriction was not onerous. It did not put any women at risk. It is a policy which is fair. It was fair and sound last year and was supported by the Congress, and it remains fair and sound today.

What we are trying to do is maintain a consistency in Federal policy relative to abortion. That policy, described as "the Hyde amendment," states that taxpayer money should not be used against the wishes of taxpayers for elective abortions except in some very limited circumstances—exceptions are allowed in the cases of rape, incest, and the life of the mother. But beyond that, the Congress has consistently supported prohibitions against the use of taxpayer dollars to perform abortions. That is something that has been upheld by the Court. It is constitutional. The case of Harris v. McRae upheld the Hyde amendment. It did not find a constitutional right to require the taxpayers to fund abortions. So I don't believe the Constitution is an issue here.

Time and again we have disallowed the use of Federal funds for abortions, except in cases where, as I said, rape, incest or life of the mother is at issue. We are trying to maintain that policy. That was a policy that was maintained without problem until 1993 when President Clinton issued an Executive order to reverse the policy. Rather than go through the Congress and have the people exercise their will through their elected Representatives, the President just simply issued an Executive order, saying, "I don't like the current policy that Congress has established, and I am going to override it with an Executive order." Under that policy, the President's change in policy, defense facilities were used for the first time in 14 years, not to defend life, as our military hospitals are charged to do, but to take life, and to do it with taxpayer funds.

In 1995, the House and the Senate voted to override the President's Executive order, reversing that policy and making permanent the ban on the use of Department of Defense medical facilities to perform abortions with the exceptions of rape, incest, and endangerment of the mother's life.

So again we are today debating that issue. The amendment before us would strike that ban and reinstate the policy instituted by the President through his Executive order that the Senate overturned 3 years ago. Proponents of the amendment argue that abortions under the Clinton order did not involve use of taxpayer funds since servicewomen are required to pay for their own abortions. But, Mr. President, that statement evidences a misunderstanding of the nature of military medical facilities.

Military clinics, unlike the private hospitals, receive 100 percent of their funds from Federal taxpayers. Physicians are not private physicians who happen to be contracting with the hospital, but they are physicians that are government employees paid entirely with tax revenues. All of the operational and administrative expenses of military medicine are paid for by taxpayers. All of the equipment used to perform abortions is purchased at taxpayers' expense, and, therefore, it is impossible to separate out that which is Federal funds utilized for abortion from that which is private funds.

The only way to protect the integrity of these taxpayers' funds and the integrity of the policy is to keep the military out of business of performing abortions. Taxpayer money should not be used if it goes against what I believe and I think the Congress has supported, the moral and religious beliefs of the taxpayer, and in this case the taxpayer, through their Representatives, elected to Congress have expressed time and again that they don't feel their tax dollars are appropriately used to perform abortions.

The question is raised: If abortions are disallowed, does that not put those servicewomen who are seeking to have an abortion at risk? It does not. As we have repeatedly demonstrated and said, along with certification from the Department of Defense, nothing in this policy dictates the decision of the woman, whether or not she wants to have an abortion or has an abortion. It simply says you can't use taxpayer funds for an abortion. Because of the commingling of funds and the impossibility of separating funds, we don't want to use military hospitals for that abortion. But nothing prevents that woman from going outside of the military hospital facility to utilize another hospital in countries where there are those hospitals. Because the law of the country—say Italy—does not allow abortions or support abortions; the military has provided transport for that individual who seeks the abortion. There has never been a complaint filed about inability to go and have that abortion.

So I think Members confuse the issue sometimes when they come to the floor without having heard the debate and say, "This is a vote on a woman's right to choose whether or not to have an abortion."

I have strong and deeply held feelings about that. We have debated that issue on this floor time and time again, and we will debate it more—the nature and the meaning of life, the right of the unborn versus the right of a woman, and the decision in terms of whether one right has a preeminence over another right. But that is not what is at issue here today, and it shouldn't be confused in this debate. The issue is not over whether a woman has the right to an abortion. That is a debate for another day.

The issue is whether that abortion should be partially paid for by taxpayer funds, or performed at military hospitals. We have a policy in place that allows women who seek to have an abortion while they serve in the military, or their dependents, to have that abortion. Nothing prohibits them from doing that. But we simply have to have a policy that says that cannot be performed in a place where taxpayer funds are being used to accomplish that, or at least to accomplish part of that.

We have not received any evidence that indicates that this is a prohibition on women, on their ability to have an abortion, to make a choice to have an abortion. It simply retains a policy that has been consistently upheld by this Congress and by the Court that says that the taxpayer has a right to put limitations on whether or not their taxpayer funds are used to provide abortions. The Congress has consistently voted to uphold that policy. They make what I think are legitimate and reasonable exceptions in cases of rape, cases of incest, and cases of where the life of the mother is in danger.

So I hope that Members would see this issue for what it is—not a women's right to choose; we can discuss that at another time—but whether or not taxpayer funds should be used to perform abortions.

Mr. President, I will reserve the remainder of my time. In fact, I see the Senator from Idaho is on the floor. I would be happy to have the chairman yield him whatever time he desires.

Mr. THURMOND. Mr. President, I yield 8 minutes to the distinguished Senator from Idaho.

The PRESIDING OFFICER. The Senator from Idaho is recognized for 8 minutes.

Mr. KEMPTHORNE. Mr. President, thank you very much. I thank the chairman of the Armed Services Committee, and also Senator COATS for the particular comments he has made.

Mr. President, I have been the chairman of the Military Personnel Subcommittee for the past two years, and in that time I have learned the subcommittee itself cuts a wide swath on all the issues that we deal with. This subcommittee resolves issues that are at the forefront of our national debate. We cope with the issues of values taught to our young people who volunteer for the armed services. We deal with the issues involving gender-based training, sexual harassment in the workplace, drug and alcohol abuse, and now, as a result of this amendment before the Senate, the very sensitive issue of abortion.

Senators should know that this amendment is not a new issue. Last year the Senate extensively debated this issue, and defeated it on a 48–51 vote. I trust that the Senate will again defeat this amendment.

My record on the issue of abortion is clear. Abortion is the most emotional, complex and personal issue before us today. Personally, I believe abortion should be allowed only in cases of rape, incest or when the life of the mother is in danger. In addition, I have consistently stated my belief that federal funds should not be used for abortions. In this regard, I have voted to maintain the Hyde Amendment, which bans federal funding of abortion except in cases where it is made known to appropriate authorities that the abortion is necessary to save the life of the mother or that the pregnancy is the result of rape or incest.

I make it very clear at the outset what this issue in this particular amendment is not about. It is not about whether you are pro-life or pro-choice. This amendment is about where those abortions may be performed and whether they are paid for at Federal Government expense. This amendment would repeal the prohibition on using Department of Defense facilities for abortions and allow prepaid abortions to be perform in these taxpayer-funded facilities and by Federal medical personnel at these facilities.

The sponsors of this amendment argue that without this amendment, women in the Armed Forces stationed overseas may find it difficult to have access to a safe abortion. As a result, this interferes with their constitutional right to an abortion, so they contend.

I want to acknowledge that women who are in the Armed Forces and are stationed overseas in countries where abortion is not legal, are faced with complex emotional and difficult decisions. I note for the record, however, that a woman with a pregnancy who is in the armed services who is overseas and that pregnancy is medically life-threatening or the result of rape or incest, under current policy, can receive an abortion at a U.S. military hospital.

But there is no getting around the fact that the Department of Defense military hospital are paid with 100 percent taxpayer dollars. The medical facility is paid for with taxpayer money. The doctors and the nurses are Federal employees, paid with taxpayer dollars. So is the equipment, the overhead, the operating rooms, et cetera.

Even though the pending amendment contemplates that women will be allowed to use personal funds to pay for an abortion, there is no getting around the fact that taxpayer dollars would still directly or indirectly pay for an abortion. So this amendment, if adopted, could lead to situations where taxpayers are paying for abortions, which is contrary to our national policy as outlined in the Hyde amendment. That is inconsistent with our national policy.

To summarize, I would like to make a few important points on why I oppose this amendment.

First, I believe it is accurate to state that our national policy, as reflected in legislation adopted by this Congress and signed into law, as embodied in the Hyde amendment, in essence states that we will not use Federal taxpayer money for abortion except in the case of rape, incest, or the life of the mother.

Second, In 1980 the Supreme Court ruled on Harris vs. McRae, in which the Supreme Court upheld the constitutionality of the Hyde amendment.

Third, Congress, the President and the Supreme Court have set and affirmed the national policy that we not use Federal money to fund abortions except in those cases that I cited.

Fourth, The Defense Department in their own analysis has said it would be an accounting nightmare to go through and determine the true cost of having an abortion performed in a U.S. medical facility when the facility is 100 percent taxpayer funded. All of the personnel, equipment and facilities are paid for by the taxpayers.

Fifth, Current policy allows for a female member of the military service, in the event she chooses to have an abortion, to have access to military transportation so that she can go to a facility of her choice and exercise her constitutional right. Any military personnel has access to military transport on a space-available basis. The DOD has never had an instance where a woman who was seeking access on a space-available basis on military transport has been denied that because the purpose of her transport was for an abortion.

Sixth, If a female member of the military service was in a life-threatening situation, an abortion could be performed at a US military hospital overseas.

So I believe the current abortion policy at US military hospitals is consistent with over all national policy.

Mr. President, I conclude by just stating I have the utmost respect for Senator MURRAY and Senator SNOWE, the two Senators who have offered this amendment. I work with Senator SNOWE on the Military Personnel Subcommittee. She does an outstanding job. What a great addition she is as we deal with these issues dealing with our armed services.

I also affirm this significant fact: We could not operate as the leader of the free world without women in the military. We must have these outstanding, dedicated individuals as part of our military installations. I believe that the policy that is on the book does affirm certainly their constitutional rights, but it also affirms the national policy which I have stated, and it provides opportunities for them to exercise that. And in the case where it is life threatening, they certainly have the means with which they can deal with it in an appropriate fashion consistent with, I think, the caring of all human beings.

So with that, Mr. President, I urge all of my colleagues to oppose this amendment.

I yield the floor and reserve the remainder of our time.

The PRESIDING OFFICER. Who yields time?

Mr. THURMOND. Mr. President, I yield myself 3 minutes.

The PRESIDING OFFICER. The Senator from South Carolina is recognized for 3 minutes.

Mr. THURMOND. Mr. President, I commend Senator COATS for the excellent remarks he made on this subject. I also wish to commend Senator KEMPTHORNE for his outstanding remarks.

Mr. President, I will have to oppose this amendment. There have been some good points mentioned by those who favor the amendment, but I do not think it is wise. It is one that we have debated several times on the floor of the Senate.

The current law prohibits abortions from being performed in military facilities except in the case where the life of the mother would be in danger or in the case of rape or incest. The Congress enacted the current legislation in 1995 and reaffirmed it again in 1996 and in 1997.

In 1996, this same amendment passed the Senate by a voice vote after the motion to table failed. However, in order to achieve agreement with the House of Representatives in the conference, the conferees were required to return to the current provisions of law. Last year, this same amendment failed to achieve Senate approval.

Mr. President, I would suggest that extended debate on abortion within the Senate is unlikely to change any Senator's vote. I hope we can agree to limit the discussion and vote.

The question comes down to this. This is the question, and I would like for Senators to listen to this: If you want to have abortion on demand performed in military treatment facilities overseas at the expense of the Government, then this amendment is for you. If you want to preserve the life of the baby except in the case of rape, incest, and when the life of the mother is at risk, then you should vote against this amendment.

It is just that simple, Mr. President. I urge my colleagues to defeat this amendment.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Ms. SNOWE addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine.

Ms. SNOWE. I thank the Chair. I yield myself such time as I may consume.

Mr. President, I just make several observations in response to some of the comments that have been made here this afternoon. First and foremost, this doesn't cost a single cent to the Federal Government. When we hear about the fact, well, it is going to cost some money because of the use of the hospital, the use of medical personnel, I think we all recognize the rates that are charged by hospitals today. They set a rate, they set a cost, a charge for recovery of all of the costs. The fact is, under Medicare and Medicaid, we reimburse hospitals and providers for a specific cost. So are we saying that we are not able to create a charge for that particular procedure and in this case the option to have an abortion? I doubt it.

Obviously, the charge that is set is the recovery of all of the costs, all of the overhead. Hospitals all across America and throughout the world set that rate. So this doesn't cost a dime of taxpayers' money—not a dime. I think it is an important point to emphasize, that no public funds are used; it is only personal funds.

Second, it has been mentioned: What is the law of the land? Row v. Wade is the law of the land, and it includes the constitutional right for a woman to have an abortion, to make that decision, to make that very difficult personal choice. And, in fact, between 1973 and 1988, it was permissible for a woman to have this procedure done at military hospitals, and between 1993 and 1995 the same was true. Unfortunately, in the years in which it wasn't allowed, we were denying a woman's right. Unfortunately, it got embroiled as to whether or not you were pro-life or pro-choice.

That is not the issue here. It should not be the issue. The issue should be whether or not a woman who serves in the military, who has an overseas assignment, has access to the same health care as everyone else who serves in the military—in this case, with an abortion procedure, using her own personal funds. That is the issue here. That is why this right was allowed between 1973 and 1988 and between 1993 and 1995. It was permissible because it is the law of the land for a woman to have the right to choose.

The fact is, because she goes across the border of the United States, she all of a sudden loses her right to make this decision and is denied access to quality care. So, that is the issue here today. It is not a question of using public funds, because that is not what this amendment is all about; it never has been. It is a question of whether or not a woman in the military who is assigned overseas is going to be treated differently, treated as a second-class citizen, being the victim of a double standard because individuals have differences over whether or not women in America have a right to choose.

Because she is in the military, because she is assigned overseas, she should not be treated any differently and she should not be required to leave those rights behind.

Mr. President, I reserve the remainder of my time.

Mr. KENNEDY. Mr. President, I urge the Senate to support the amendment offered by Senator MURRAY. This provision would take the long overdue step of repealing the current ban on privately-funded abortions at U.S. military facilities abroad, so that women in the armed forces serving overseas can exercise their constitutionally-guaranteed right and have safe abortion services.

This is an issue of fundamental fairness for the women who make significant sacrifices to serve the nation. They are assigned to military bases around the world to protect our freedoms, and they serve with great distinction. It's wrong to deny them the kind of medical care available to all women in the United States. They should be able to depend on their base hospitals for all their medical services.

It is not fair for Congress to force women who serve overseas to face the choice of accepting medical care that may be of lower quality or else returning to the United States and for the care they need. Without good care, abortion can be a life-threatening or permanently disabling procedure. This danger is an unacceptable burden to impose on the nation's servicewomen.

Congress has a responsibility to provide safe alternatives in these situations. Opponents of this amendment are exposing service women to substantial risks of infection, illness, infertility, and even death. The amendment does not ask that these procedures be paid for with federal funds. It simply asks that the appropriate care be made available. It is the only responsible thing to do.

In addition to the health risks of the current policy, there is a significant financial penalty on servicewomen and their families who make the difficult conclusion to have an abortion. The cost of returning to the United States from far-off bases in other parts of the world to obtain adequate care can often involve significant financial hardship for young women. This is a cost that servicewomen based in the United States do not have to bear, since non-military hospital facilities are readily available.

If military personnel cannot afford to return to the United States on their own for an abortion, they will often face significant delays waiting for military transportation. The health risks increase each week, and if the delays in military flights are long, a woman may well decide to rely on questionable medical facilities overseas. As a practical matter, women in uniform are being denied their constitutionally-protected right to choose. A woman's decision on abortion is a very difficult and extremely personal one. It is unfair to impose an even heavier burden on women who serve our country overseas.

Every woman in America has a constitutionally-guaranteed right to choose to terminate her pregnancy. It is time for Congress to stop denying this right to military women serving abroad. It is time for Congress to stop treating service women as second-class citizens. I urge the Senate to support the Murray amendment and end this flagrant injustice under current law.

Ms. MIKULSKI. Mr. President, I rise today in support of the amendment offered by Senators MURRAY and SNOWE. I am proud to be a cosponsor of this amendment.

This amendment states Senate support for providing access to reproductive services for military women overseas. It repeals the current ban on privately funded abortions at US military facilities overseas.

I strongly support this amendment for four reasons. First of all, safe and legal access to abortion is the law. Secondly, women serving overseas should have a full range of medical services. Thirdly, this amendment protects the health and well-being of military women. Finally, we should not deprive military women from legal medical procedures.

It is a matter of simple fairness that our servicewomen, as well as the spouses and dependents of servicemen, be able to exercise their right to make health care decisions when they are stationed abroad. Women who are stationed overseas are totally dependent on their base hospitals for medical care and should not be denied abortion services when confronted with an unintended pregnancy. Most of the time the only access to safe, quality medical care is in a military facility. We should not discriminate against female military personnel just because they are stationed overseas. They should be able exercise the same freedoms they enjoy at home. Without this amendment, military women will continue to be treated like second-class citizens.

It is ridiculous to think that a woman cannot use her own funds to pay for access to safe and quality medical care.

The current ban on access to reproductive services is yet another hit on Roe v. Wade. It is an attempt to cut away at the constitutionally protected right of women to choose. It strips military women of the very rights they were recruited to protect. Abortion is a fundamental right for the women in this country. It has been upheld repeatedly by the Supreme Court.

Let's be very clear on what we are talking about here today. We are talking about the right of women to obtain a safe and legal abortion paid for with their own funds. We are not talking about using any taxpayer or federal money. We are not talking about reversing the conscience clause. No military personnel will be compelled to perform an abortion against their wishes.

This is an issue of fairness to the women who sacrifice every day to serve our nation. They deserve the same quality care that women in America have access to each day. I urge my colleagues to support this important amendment to the 1999 Department of Defense Appropriations Bill.

The PRESIDING OFFICER. Who yields time?

Mr. COATS. Mr. President, what is the status of the time?

The PRESIDING OFFICER. The Senator from Indiana has 5 minutes remaining. The Senator from Maine has 5 minutes 46 seconds remaining.

Mr. THURMOND. How much time is left on our side?

The PRESIDING OFFICER. You have 5 minutes.

Mr. THURMOND. Mr. President, I yield the remainder of the time on our side to the able Senator from Indiana.

Mr. COATS. Mr. President, I believe we will be able to yield back time. I don't know that we have any other speakers here. Let me just quickly summarize the reasons, the basis of why we oppose the amendment.

I believe the amendment is a solution in search of a problem. There is no identified problem with women in the military or their dependents seeking the right to have an abortion of their choosing when there simply is a provision in current law which states on this issue the military is not going to decide whether or not that woman should have an abortion.

We simply are saying that we want to uphold the policy that has been in place now for nearly 20 years, with the exception of the President's overturning it for a 3-year period, that says the taxpayers' funds should not be used to perform abortions or to pay for any portion of abortion except in certain limited cases—the case of rape, the case of incest, or where the life of the mother is in jeopardy.

Because of the nature of military hospitals, they are 100 percent funded with taxpayer funds, including all their equipment, all their facilities, and all their staff. Military doctors are Government-paid employees. Mr. President, 100 percent of their pay is from the taxpayer. So it is impossible to utilize military hospitals without using taxpayers' funds. Even if the woman pays for the abortion, the equipment will be used, facilities will be used, Government employees will be used. So we are simply saying to that woman who seeks an abortion, we would like you to go outside the military health care system to have your abortion. Since you are paying the cost anyway, it is not a question of affordability.

Then the question arises, What if facilities are not available outside of military hospitals? The military has recognized this is a possibility. It is not a problem at all at any U.S. base, military institution, nor in many foreign institutions. But there are certain countries that have bans on abortions being performed in their country on the basis of that country's policy. The military, in that instance, has said we will make space available on air transport for these women to go to a place where the abortion is legal.

So, I don't understand what the problem is. And, rather than overturn a law which has been upheld by both the courts and enacted by this Congress again and again and again—the Hyde language—it seems the best way to proceed is to leave the current policy that has been endorsed in place and defeat this amendment.

I urge my colleagues to vote for the current law, to vote against the Murray-Snowe amendment, again, because there is no identifiable problem to which this amendment seeks to advocate a solution.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. COATS. Mr. President, I think we are ready to yield back time. There does not appear to be any other speakers. We can move to the next amendment or vote.

The PRESIDING OFFICER. The Senator from Maine.

Ms. SNOWE. Mr. President, I yield back the remainder of my time.

Mr. COATS. I yield the remainder of my time.

Mr. THURMOND. I yield back the remainder of time on this side.

The PRESIDING OFFICER. All time has expired. There has been no rollcall requested.

The Chair asks if anyone wishes to order a rollcall vote on the pending Murray amendment.

Mr. REID. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 3009

The PRESIDING OFFICER. Under the previous order, the Murray-Snowe amendment is now set aside and the Senator from Nevada is recognized to offer his amendment.

The Senator from Nevada.

Mr. REID. Mr. President, I send an amendment to the desk on my behalf of myself and my colleague Senator BRYAN, the Senator from Hawaii, Mr. INOUYE, Senator WYDEN, Senator KERREY of Nebraska, Senator DURBIN, Senator MURRAY, and Senator FEINGOLD.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Nevada [Mr. REID], for himself, Mr. BRYAN, Mr. INOUYE, Mr. WYDEN, Mr. KERREY, Mr. DURBIN, Mrs. MURRAY and Mr. FEINGOLD, proposes an amendment numbered 3009.

Mr. REID. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 347 strike line 21 through line 13 on page 366 and insert the following:

(f) REPEAL OF SUPERSEDED AUTHORITY.—Section 2205 of the Military Construction Authorization Act for Fiscal Year 1997 is repealed. This section shall take place one day after the date of this bill's enactment.

Mr. REID. Mr. President, all Senators in this body who have a military installation in their States should be concerned if my amendment does not pass because, in effect, what this language that I am trying to have stricken today does is guarantee the future of Mountain Home Air Base. That is what this is all about. This enlargement is simply to stop there being a further round of closures that affects Mountain Home Air Base.

This amendment would prevent the unnecessary expansion of Mountain Home Air Base. This is a training range, an Air Force range in Idaho. Since 1991—in fact, since the early 1980s, the Air Force has sought to expand the training areas used by pilots operating from Mountain Home Air Base in southern Idaho.

These training areas are made up of the airspace over the Owyhee Canyon lands and range from southern Idaho to eastern Oregon and northern Nevada.

First of all, let me talk a little bit about the Owyhee Indian Reservation. This is a Shoshone Paiute Tribe consisting of a little over 2,000 members. The area that they were placed by the Federal Government is an area that is beautiful, but very stark and cold. Many times during the winter, you will find the coldest place in the United States is the Wild Horse Reservoir located some 20 miles below the reservation. This is a very cold place. But in spite of it being cold about 9 months out of the year, it is a beautiful place.

The Owyhee—O-W-Y-H-E-E—Reservation also has running through it the Owyhee River. This is one of the most beautiful areas anyplace in the United States.

How did the name Owyhee originate? If you ask one of the Indians from the reservation, they will tell you it is very simple. Last century, some trappers from Hawaii came to trap on the river in the area. They were never heard from again. No one knows what happened to them. From that time forward, this whole area has been known as Owyhee, a derivation of a Hawaiian name—O-W-Y-H-E-E—Canyon. The lands range from southern Idaho, eastern Oregon, northern Nevada.

The Air Force is saying this will improve their ability to train at this range. They are saying it is inconvenient for them to have to fly to Utah, to Oregon and Nevada to train. That is just a way of trying to establish an air base that won't be taken away in the future. There is no reason to enlarge this air base; none whatsoever. The longest flight they have to take now to do their training in Nevada, Utah or one of the other bases in the area is about 40 minutes. It doesn't seem like a very long time. If, in fact, we are able to have our amendment adopted by this body, they will still have to fly to these areas. So this does not take away the necessity of having to have their pilots fly to other areas to train.

Why is this language in the defense authorization bill which will expand the training range and associated airspace? It is not about training and readiness. That is taken care of. This is about base realignment and closure. This is about something we call BRAC. This is about almost $32 million being used to buy BRAC insurance for Mountain Home Air Force Base in Idaho.

It seems somewhat unusual to me that in this bill we are fighting to have money for projects that are extremely important for the readiness of the military. It seems real unusual to me and most everyone else who looks at this as to why we have to spend $32 million of money that we don't have and can't afford to enlarge a base that shouldn't be expanded.

It is about trying to make Mountain Home too attractive to close, while other bases in other parts of this country are closing. It should come as no surprise that this range expansion is not needed and is a waste of taxpayers' money.

Mr. President, let me read from an Air Force audit report. This is an audit report of the inspector general of the Department of Defense verbatim:

> The Air Force has not . . . proved why existing training ranges cannot continue to provide composite force training. Establishing the Idaho Training Range would be an exception to the overall DOD attempt to downsize infrastructure.

I continue the quote:

> The Assistant Secretary asserted that Saylor Creek can support day-to-day training performed by the composite wing. In summary, the Utah, Nellis and Fallon ranges are suitable for composite force training and the ranges have the required airspace and ground areas. During our audit, the 336th wing officials—

That's Mountain Home——

> stated that all the training requirements were being met with the Saylor Creek range and the Utah, Nellis and Fallon ranges. Our review showed that the capabilities of the Utah range satisfy the currently described training quality attributes applicable to the 366th. The Air Force chief of staff, plans and operations, has acknowledged that the ITR was not necessary for composite force training. The deputy chief of staff stated that using existing assets, the wing has trained adequately and has become combat ready. It seems very clear and unambiguous.

Mr. President, further, a draft audit from the inspector general went on to say:

> The Air Force's proposed Idaho Training Range is an unwarranted duplication of existing DOD tactical training ranges. Also, the Air Force cost-benefit analysis to justify the Idaho Training Range is not valid. We attributed these conditions to the State of Idaho's efforts to influence the fiscal year 1995 base closure selection process and an eagerness by both Air Force and Idaho officials to establish the training range.
>
> Therefore, the Air Force and the Idaho Air National Guard will unnecessarily spend $35.4 million.

Which has been cut down a few million.

Further, Mr. President, a Department of the Air Force memorandum from assistant inspector general of auditing a couple years ago states:

> The draft report is largely devoted to establishing what the Air Force has long acknowledged—the State's proposed Idaho Training Range is not a necessity for composite wing training in Idaho.

That is really it. There is no reason to have it. There is no request for it. The reasons haven't changed since the inspector general made his report.

In this same audit, the Secretary of Defense asserted that the existing range can support the day-to-day activities that are necessary. Even the Air Force stated that the "Air Force has long acknowledged the State's proposed Idaho Training Range is not a necessity. . .."

What does this unwarranted duplication of existing assets cost? Almost $32 million for an expansion the Air Force admits is not necessary, even as the Secretary of Defense calls for another round of base closures just to make ends meet.

We also have another very unique land policy issue, and that is, there is a cowboy whose statements I have read. He doesn't want to leave his ranch and is not going to have to leave his ranch. But about 5 percent of his many thousands of acres are going to be taken by the Air Force.

In compensation for this, he is going to get anywhere from $250,000 to $1 million. I must say, Mr. President, this is the first time that the land managers are aware of ever paying anybody for a privilege. That is, people who have grazing lands have the privilege of grazing cattle on those lands. Why should we pay somebody for that privilege? It seems it should be the other way around.

In addition to that, this gentleman is being compensated for water lines that he has put in, fencing he has put in and also he is going to be guaranteed makeup for the grazing lands that are taken from him. It seems like a pretty good deal to me, that he, in effect, loses nothing but makes anywhere from a quarter of a million to a million dollars.

The Bureau of Land Management does not recognize these lands as being available for sale or in need of compensation.

This is simply wrong.

Let's talk about the environment, the wildlife and also about Native Americans. There are many reasons to oppose it. I have outlined a number of them already. It is an unnecessary expansion of the base because the Air Force doesn't need it. It is unnecessary compensation to a rancher, a cowboy in the area. But, these Owyhee lands are far more than just a target for Air Force bombers or a dumping ground for Air Force chaff.

The Owyhee Canyon lands provides some of the most pristine, rugged and spectacular country in the West. Let me show you some of the areas along the Owyhee. It is a beautiful area. It is called the next Grand Canyon or the "Grand Canyon of the North." It is just picturesque any time of the year, and this is going to be impacted significantly as a result of the language that is in this bill.

Recently described as the "other Grand Canyon" in a prominent western magazine, the Owyhee Canyon lands are a vast network of river canyons, plateaus; this is the largest undeveloped area in the lower 48 States.

This is a mecca for those who seek to escape the daily clutter of civilization. I repeat, these canyonlands are the largest undeveloped area in the lower 48 States. And, Mr. President, these canyonlands offer an unmolested remnant of nature. This is what it is like. Tens of thousands of people go there every year—41,000, to be exact, the last count that we had. And they are going to be devastated as a result of this area being used for low-level bombing by airplanes, low-level training by airplanes.

Mr. President, Owyhee is the traditional homeland for the tribes of the Shoshone-Paiute. They have significant religious and cultural interests which must be protected from encroachment and desecration. Here, Mr. President, is some of the petroglyphs that are existing. They are all over this area.

> To us, the ashes of our ancestors are sacred, and their resting places are hallowed ground. Our religion is in the traditions of our ancestors, the dreams of our old men given them in solemn hours by night, by the Great Spirit, and the visions of our chiefs. And it is written in the hearts of our people.

Chief Seattle is the one who said that.

Mr. President, shouldn't the Native Americans have been part of this deal? Do they deserve to be ignored? They live in a very remote part of the United States, one of the most remotely settled areas in the entire United States. And they have been ignored.

And as one newspaper reported, it seems rather unusual that there would be so much attention spent—and I quote—"It is one thing when it's a white rancher who is a significant contributor. But if it's the Native Americans who are not involved in a commercial relationship with the Federal Government, too bad for you."

That is from a newspaper article today, an intermountain feature exchange from the Idaho Statesman.

It seems to me that I have no problem with this rancher caring a lot about his land. I think what I have heard about him—he has been on that land, his family has been on that land since 1880. Mr. President, those Indians have been there a lot longer than that. They deserve at least the right of somebody to consult with them. And they have been ignored. They have written a letter saying they have been ignored, they are not part of this concern, and they should have been.

The canyonlands, Mr. President, offer a safe haven for the California bighorn sheep, the pronghorn antelope, elk, deer, and numerous plants that will require our attention if they are to survive in the future.

Here is a picture, Mr. President, of the California bighorn sheep—one of the most magnificent animals there is. Average life expectancy of one of these animals—7 years. In that 7 years, they become a majestic animal and can do all kinds of things. They can do all kinds of athletic things that are beyond belief. We should do something to protect them. And we are not.

These are lands which are both part of our Western heritage and part of our American future. People of the West deserve a voice in how that heritage is used and what the future is going to be.

Today, the people of Idaho, Oregon, and Nevada have been allowed to add their voice to the chorus of those opposed to further range expansion.

Mr. President, I think it says a lot when we understand that groups are opposed to this. They talk about an environmental impact statement, and they have a comment period. The comments were 6-1 opposed to this—opposed to this.

Groups opposed to Mountain Home range expansion are: the Shoshone-Paiute Tribes, Taxpayers for Common Sense, the Wilderness Society, the Sierra Club, the Idaho Wildlife Federation, Owyhee Canyonlands Coalition, Foundation for North American Wild Sheep, U.S. Public Interest Group, the National Wildlife Federation, the Nevada Wildlife Federation, the Idaho Conservation League, Friends of the Earth, The Rural Alliance for Military Accountability, the Oregon Natural Resources Council, the Idaho Whitewater Association, the Idaho Rivers United, the Committee for Idaho's High Desert, the Oregon Natural Desert Association, and the Friends of the West.

The newspapers that are opposed to it, to name a few, are the Idaho Statesman, the Idaho Falls Post Register, the Wood River Journal News, and the Times-News.

So I am somewhat concerned that this is in the bill. We recognize it is always much more difficult to take something out of a bill than to put something in. But we are going to proceed on that basis.

What is being done here is simply wrong. The act bends the process. It fails to address the concerns of the tribe. We have 41,000 annual canyonland visitors a year. The agreement is not a product of public comment. The public has spoken and has clearly said they do not want the range.

Only yesterday the Idaho Statesman, the leading paper in Idaho, reported that "Congress has a wide variety of reasons to reject the proposed training range for Mountain Home Air Base. It should pick one and vote no."

There are lots of reasons. We only need one of those reasons. There are a multitude of reasons. The fact is, the citizens of Idaho oppose this expansion 6-1, as I have said before.

This agreement is the result of an unpleasant compromise forced on the BLM as part of a shotgun wedding with the Air Force. For the BLM, it was either the language accepted earlier this afternoon, or the even more odious agreement which was originally in the bill. And all so Mountain Home can enjoy BRAC insurance. This is not the way to craft an agreement for the public interest.

As I have said, Mr. President, the environmental impact statement is supposed to protect all parties. It does not. The Shoshone Tribe said yesterday:

> The EIS does not even begin to account for tribal concerns and was absolutely insufficient for the purpose of making a decision regarding tribal interests. In fact, the EIS process was detrimental to Tribal archaeological resources because significant vandalism has resulted from the lack of confidentiality provisions in this part of the EIS process.

That is why the majority of the people in the States of Nevada, Idaho, and Oregon oppose this language. The language in the agreement which addresses the tribe's sacred sites was never shown to them. Their opinion, in this end game, was never asked.

Consistent with this approach, they are excluded from every decision in the process that has been acquired here. This, Mr. President, is wrong.

I am a strong supporter of the men and women in our military. And as much as any American, I want to make sure that they have everything they need to be prepared to defend our Nation's interests and return home safely.

Mr. President, over half of Nevada's airspace is dedicated to the military. Over 50 percent of the airspace over the State of Nevada is dedicated to the military. But they want more. They are gluttons, Mr. President. They cannot get enough. Over half of the airspace of the State of Nevada is already dedicated to the military. And I see no reason that there must be more given, more taken.

The Air Force has not justified its need to spend $32 million. And they do not need more airspace. Remember, if they get more airspace, they are still going to go to Oregon, still going to go to Utah, still going to go to Nevada.

Mr. President, they are going to come on and say, well, we are only going to fly so high or so low. Who is going to enforce that? Who are the air police? They do not have them. Anyone who has flown an airplane in the military knows those rules are not enforced.

Look what took place in Italy just a short time ago. That was in force because they hit a cable on a gondola at a ski operation. But to say we are only going to fly this high or this low is ridiculous. Everybody knows there is no way to enforce that.

The agreement in this bill is stealth legislation. I believe in stealth in the military, but not in the legislative process.

Mr. President, we have numerous letters. I would ask the Chair, how much time has the Senator from Nevada used of the 1 hour?

The PRESIDING OFFICER. The Senator has used 20 minutes.

Mr. REID. Mr. President, there are numerous newspaper articles from all over the country. But let us just focus on a few. Let us talk about a newspaper article from Idaho Falls where they talked in the Post Register. "The U.S. Air Force keeps trying to build a new bombing range at its Mountain Home base—but it still hasn't got it right."

They acknowledge that this is "the most spectacular canyonlands left in North America." They talk about certain concessions the military has attempted to make.

> But these concessions are irrelevant [though, says the newspaper] when placed next to what the Air Force has in mind. It wants to fly thousands of bombing missions, hammering the countryside. This activity would occur in a countryside where solitude recreation is becoming increasingly popular.
>
> And it is the home of rare California bighorn sheep, not to mention a rich spectrum of high desert wildlife. Biologists will tell you that bighorn sheep don't schedule their lambing to suit the air force bombing runs. They haven't addressed [the newspaper article goes on to say] the 500 archaeological sites in the Owyhee Canyon lands. Some of these sites are the most important to the Shoshone-Paiute Tribe.

They go on to say, recently as late at 1995, 1996, the Air Force said they didn't need the land.

The Idaho Falls Post Register, again, says, "You would expect something this important"—talking about this legislation—"would warrant a separate piece of legislation." They go on to say, "No, it is sneaked into an appropriations bill." There will be no public hearings. The voices of thousands of Idahoans who overwhelmingly opposed the Air Force bombing range during a series of forums will be silenced. Idahoans won't be able to talk about the loss of solitude in an area so popular with fishermen, hikers, and ranchers, and Native Americans won't be able to express their concerns, and no Idahoan will be allowed to tell the Congress that building a bombing range for pilots who already can fly to the ranges in nearby Utah is wasting taxpayers' dollars.

Mr. President, they go on to say "the politically contrived pack is silent about how the Air Force will respect areas in the Duck Valley Reservation." It gives the Air Force the right to fly twice a month at 500 feet. The Air Force promises to alert the public in advance—as if everybody is standing at attention for this announcement.

The Twin Falls newspaper says: Why is this training range necessary? It is not. It is not as if the new lean and mean Air Force doesn't have other options to the west for the composite wing station. At Mountain Home, the Owyhee Canyon lands is a convenience, not a necessity. They go on to say it is just that in an era where the Federal Government is supposed to be trimmed down and subcompact, the proposed Owyhee training range seems to be more like a Cadillac hood ornament.

The Twin Falls newspaper, the Times News: The real issue is, will the military be allowed to lock up this irreplaceable gem of God's creation for the sake of a shorter commute? Eight years into this debate and we still haven't heard a convincing explanation why it should. This is how the people of Idaho, the people of Nevada, how the people of Oregon feel about this. That is why the groups I have listed—Oregon Natural Resources Counsel, the Rural Alliance for Military Accountability, Friends of Earth, and dozens of other groups—think this idea is scatterbrained and not very wise.

Mr. President, we have numerous articles. I also state that yesterday there was a statement made when there was a perfecting amendment—there was, in fact, a photo shown, but the Owyhee Canyon lands photo is a photo of the Tules and East Fork of the Owyhee River. The area is not covered by altitude restrictions described by the person moving the amendment. The restrictions extend upriver to Battle Creek. The Tules area is east of this.

Now public comments. The movement of the perfecting amendment yesterday failed to disclose that of the thousands of comments submitted, the substance of the comments—I repeat, 6-1, 86 percent are opposed to this deal; 86 percent are opposed to the Air Force proposal.

The tribes weren't at the table; the tribes weren't present at the meetings of any of the Senators who moved the amendments. Tribal concerns have not been met. The tribes remain opposed. One completed study, funded by the Air Force, shows irreversible harm to tribal culture by this proposal.

Mr. President, there is no reason to do this. Rancher Brackett will not go out of business as a result of this proposal. The impact of the allotment represents 5 percent of his total operation. The intention of the amendment, very graciously, is to compensate the rancher for loss of grazing allotments and then find replacement allotments of equal value. Brackett has an agreement with BLM to commence an environmental assessment, confer over 3,000 temporary AUMs—animal unit months—to the Juniper area, which would require compensation. It seems unfair and unwise.

Mr. President, training will continue. It is not going to change. This is for the benefit of the Air Force, to give them BRAC insurance. There is no other reason for this. It is a range of convenience. It is detrimental to the environment. If we look to the future, this training range is not futuristic, it is something that is looking to the past. And certainly, with our constrained budget, and attempting to balance the budget, it is unwise. I ask my colleagues to support this amendment, to delete this language from the bill, save the taxpayers a huge amount of money today and large amounts of money in the future.

I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER (Mr. SMITH of Oregon). Is there a sufficient second?

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. REID. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KEMPTHORNE. Mr. President, I will address the amendment offered by the Senator from Nevada.

The PRESIDING OFFICER. Who yields the Senator time?

Mr. THURMOND. How much time do we have left?

The PRESIDING OFFICER. The Senator from South Carolina controls 60 minutes in opposition.

Mr. THURMOND. Mr. President, I yield the distinguished Senator such time as he may require.

Mr. KEMPTHORNE. Mr. President, thank you very much.

I will address a number of the issues that have been raised by the Senator from Nevada. He talks about this proposal by the Air Force to expand and enhance training at Mountain Home Air Force Base. It is a composite wing with F-15s, F-16s, B-1 bombers, C-135 tankers. This is unusual, to have a composite wing. They are bedded down so that they train as they will fight.

I think we know we have a troubled world out there. There is no longer the other big giant, the Soviet Union. We see the troubling headlines every day. It is a composite wing that would get the order—if we have to go into harm's way, there is a high likelihood they would be dispatched from Mountain Home Air Force Base—the finest pilots in the world, sending them into harm's way.

I hope and pray that not only do we provide them the best equipment but also the best training opportunities, so that when those men and women get into that aircraft, they have every chance and opportunity to come back home to their loved ones after accomplishing what the U.S. Government sends them to do on behalf of the U.S. citizens.

The characterization that this is just some guarantee of future Mountain Home Air Force Base, is that why this is one of the items in a priority of the President of the United States? Is that why the Secretary of Interior is part of this process? The acting Secretary of the Air Force? The director of the BLM? The director of the Council of Environmental Quality? The Secretary of Defense? Are they all in this together? Yes, they are, because we want to provide that sort of training opportunity for the composite wing.

It happens to be located at Mountain Home Air Force Base. I serve on the Senate Armed Services Committee. I am proud of that assignment. Why did we put this legislation, this language from the Department of Interior and the Air Force, in the defense authorization bill? Because that is where the President puts the funds for the expansion and improvements to the training range.

That seems rather logical to me. Governor Phil Batt, a Republican, during his entire term of office, has been working to make this project a reality from the State perspective. His predecessor, Governor Cecil Andrus, a Democrat, worked diligently and dedicated much of his time to bring this about to be a reality. We are finally going to make it a reality. Is it a Republican issue? Well, if it is, why is a Democrat administration making this such a priority?

I ask the opponents of this: Have you called your President? Have you called your Secretary of Interior? Have you called your Secretary of the Air Force? Your director of the BLM? Your director of the Council of Environmental Quality? If you have, as I have, I think you will get a very clear message that this is a priority and this must and should go forward.

On this idea that, by golly, we have shut everybody out, there have been 2½ years of effort, Mr. President. This is the environmental impact statement. Yes, everybody was "shut out"—16 public hearings in 3 different States, over 400 witnesses, and over 1,000 comments are included in this. Show me the evidence that they were shut out.

We talk about the Native Americans. The Senator from Nevada said, "Shouldn't they be part of the deal? Why were they ignored?" Well, I would like to, then, reference from the environmental impact statement a few of the meetings that were held between the Air Force and representatives of the Shoshone-Paiute Tribe. I happen to have the utmost respect for members of the Shoshone-Paiute tribe. I worked with them. A number of them I consider friends. They are wonderful people.

A meeting was held on 20 May, 1995; on 20 September, 1995; on 6 December, 1995; on 21 February, 1996; on 21 May, 1996; on 22 May, 1996; on 23 May, 1996; on 28 May, 1996; on 20 June, 1996; on 11 July, 1996; on 7 August, 1996; on 22 August, 1996; on 19 September, 1996; on 20 September, 1996; on 24 September, 1996; on 8 November, 1996; on 9 December, 1996; on 9 January, 1997; on 22 January, 1997; on 14 March, 1997; on 9 June, 1997; on 29 July, 1997; on 5 December, 1997; on 10 December, 1997; on 9 January, 1998; on 13 January, 1998.

Isn't it a shame that they were ignored. There were 26 meetings.

In a letter that the tribe sent to the Honorable Rudy De Leon, Under Secretary of the U.S. Air Force—included in this letter, Mr. President, they referenced the training range. They say, "In regard to the training range, enclosed as an attachment is a map with a shaded area running north and west from a reservation. This represents the area in which our sacred sites are located and, therefore, the area in which we oppose the creation of any training range, whether drop or no drop."

Included in this letter is this map. Now, I would like to point out that here is the Duck Valley Indian Reservation. Here is the Idaho-Nevada border. This map is the same as right here. They drew the line; the Native Americans drew the line and said, "Stay out of this area, please, because we have sacred sites, because this is critical to our culture." So where is Juniper Butte, the 12,000-acre training range? Is it in that area? No. It is right there, right there. But nobody was listening. Where is the evidence? Who selected that site—Juniper Butte? Did this rancher come forward and say: Federal Government, would you please choose this site? No. It was the Bureau of Land Management. That was their proposed alternative. They suggested that. After a 2½-year process, the Air Force agreed that that is the best site. That is where you can do it. BLM recommended it; Air Force concurred. The rancher—or the "cowboy," as the Senator from Nevada refers to him—didn't come forward and say, "I would like to do this." The Air Force, from day 1, said they would compensate anybody who was adversely impacted.

There is the land, 12,000 acres. That is where that family, for years, has been deriving their living. They put in extensive water pipes and fencing in this area. But now, because the Air Force needs it, yes, they are willing to be good citizens and say, all right, we will no longer utilize it as we have. But isn't it fair that they ought to be compensated for the pipelines and the fence, so they can be allowed to remain whole? There it is.

Now, these beautiful pictures of the Owyhee Canyon lands are absolutely spectacular. The Senator from Nevada says that citizens, in trying to escape the daily clutter, go to these Owyhee Canyon lands. That is good. They should come there. They are welcome there. It is beautiful. He said that they would be devastated by this decision—devastated by this decision—because we are going to turn it into a bombing range. Over this beautiful, pristine canyonland, do you know what the current regulations are? Jets can fly at 100 feet above ground level, 100 feet above the canyon rim. With this agreement, they won't be able to do that. Right now, they can do that 365 days out of the year. With this agreement, during April, May, and June, they can only do it Tuesday, Wednesday, and Thursday. So that the recreationalists can enjoy the beautiful canyonlands and the water, it is just Tuesday, Wednesday, Thursday, not 7 days a week. Incidentally, it is not at 100 feet above the canyon rim, but 5,000 feet above the canyon rim, if they run parallel to the canyons, a mile on each side, 5,000 feet, or perpendicular at 1,000 feet. That is what you pick up with this.

But if you don't like that, then go along with the Senator from Nevada and strike the language, and the pilots can again be at 100 feet above the canyon rim 365 days a year.

We talk about sheep that are there; the Air Force provides $435,000 for 4 years so we can monitor the impact of this, the flights on the sheep as well as sage grouse. We have mitigation in place for spotted pepper grouse.

Mr. President, I think we have a good program here. I think we have a good project. We talk about the training.

Again, as members of the Armed Services Committee, we are very concerned about training and the amount of time that we can budget for our pilots actually to be in the air training—not in transit, training. That is the key—training. We have determined that their total combat training time more than doubles with this enhanced training range—more than doubles. Isn't that what we want for our pilots—to be training, so, again, as much as you hope and pray, they are not going to have to go into conflict with something crazy that happens somewhere in the world? But I will tell you, if they do, I don't want to be on the side that denied them the opportunity for adequate training.

This proposal that predates my tenure in the U.S. Senate—it has been around many, many years, but it is time to bring it to a conclusion. That is what the President of the United States believes. That is what the Secretary of the Air Force believes, the Secretary of Defense, the Secretary of the Interior, and the Idaho delegation—Senator CRAIG, Congresswoman CHENOWETH, Congressman CRAPO—Governor Batt. It is time to do this and do what is right.

Mr. President, I think that concludes my remarks at this point. I hope I have helped set the record straight.

I urge my colleagues not to support this amendment offered by the Senator from Nevada.

Again, I remind you that this is not a partisan issue. I call upon my friends of the Democratic Party, certainly those on the Senate Armed Services Committee, to support this Air Force proposal, to support this administration proposal, so that we can do what is right, do what is right for the pilots, but do it in a sensitive fashion that is right for the environment and which also enhances the opportunities for recreation.

I reserve the remainder of our time and yield the floor.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. I yield myself 2 minutes.

Mr. President, Senator REID's amendment will strike title 29 of the Nation's Defense Authorization Act for Fiscal Year 1999. Title 29, if enacted, would authorize the land withdrawal for enhanced military training in Idaho. That land withdrawal is necessary to ensure the very realistic military training of the 366th Wing at Mountain Home Air Force Base, ID. The administration has expressed support—I repeat, the administration has expressed support—for Senator KEMPTHORNE's substitute amendment to title 29 which was passed by a voice vote yesterday.

I strongly support Senator KEMPTHORNE's amendment to title 29 of the Defense Authorization Act for Fiscal Year 1999 and his continued efforts to ensure enhanced training in Idaho. As a result, I must oppose Senator REID's amendment.

Mr. President, I yield the floor.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, my friend from Idaho indicates that he wants to make sure that the pilots don't fly in harm's way. The pilots who fly out of Mountain Home are treated fairly. They have all they need to be the best that they can be.

I refer to what the Air Force said themselves. I quote the Air Force deputy chief of staff. He acknowledged that "the Idaho training range was not strictly necessary for composite force training." The deputy chief of staff said, "The division already met training needs using the existing range at Saylor Creek, as well as the ranges in Idaho and Nevada."

Here is what General Ken Peck had to say, the wing commander: "We are the most combat capable unit anywhere in the world right now."

So I don't think we can stretch this by saying that if this amendment does not pass, the Air Force pilots are going to be flying in harm's way. Quite to the contrary. According to the commander of the 336th Wing, "We are the most combat capable unit anywhere in the world right now." Why? Because they fly, at the most, 40 minutes to do training. They can train at Mountain Home, but at the most, 40 minutes.

Mr. President, let me also say that I have mentioned a number of the environmental groups. Everyone should understand that they haven't had many environmental votes this year. This is one of them. The League of Conservation Voters feels very strongly about this. They have written letters. They have done telephone calls. They have sent e-mail. They sent faxes. This is something the League of Conservation Voters are going to look at very closely.

Mr. President, has the training of the last 7 years been sufficient or inadequate? The Air Force can disagree, as I have already indicated from the commander of the base. We must focus on the justification for the proliferation of more Air Force space. It is simply unneeded. Is it necessary to spend $32 million? The answer is no. We are trying to save money, not spend it unnecessarily. As I have said before, this is BRAC insurance for Mountain Home Air Base.

What does the new tribal council say about the sites? They say that they have people come to the reservation on many occasions but, of course, have not consulted with the tribe. They have come through and told the tribe what they are going to do, and that is indicated. It is important to do that. They have been ignored.

The picture that has been shown by my friend from Idaho shows this desert area. Mr. President, what do you fly over to get to that? You fly over this to get to that. You fly over this land. That is the problem. We admit they are not going to be strafing and dropping bombs in this area. But they are going to be flying over this to get to the other area.

I repeat: Who is going to be the air police? Are we going to have helicopters up there 500 feet, and, if you go below that, you hit a helicopter? The answer is no. There is no air police. The airspace is violated continually. Anyone who has an airbase in their State knows that. These pilots do their best. Sometimes their best is not good enough. They must fly over these wilderness areas, these pristine areas, to get to the area in the picture my friend showed.

Mr. President, who called them about the agreement on the sacred sites in this bill? The answer is no one. Everybody was shut out over the site. The Air Force didn't like what was being said. Remember, we talk about thousands, or more, comments—1,000 or more comments, and 86 percent of them were opposed to it. You can go around and get all the comments you want, if you are going to ignore them. That is what was done here.

I admit that taking taxpayer money and spending it unnecessarily is a bipartisan objective around here. I agree with my friend from Idaho. Money is spent unnecessarily by Democrats and Republicans, and that is what is being done here.

It seems funny, as reported in the Idaho press, that the only person being compensated is a caucasian farmer. The Indians who have their tribal lands violated, their sacred sites violated, their life disturbed, are not getting 5 cents.

They will be able to fly over Jack's Creek, an area that BLM didn't want to give up—270 square miles of pristine land.

Mr. President, I think the most impressive thing here is how the Federal Government has attempted to get insurance. It is not on the market in most places. In Congress it is. They can come in here and buy BRAC insurance so that next time we do base closings—everybody knows Mountain Home just barely made it last time. This is an effort to assure that Mountain Home won't close next time.

I want to make sure, because they are never represented in the halls of Congress, or rarely so, and certainly the Owyhee Indians are not represented—I want everyone to understand that they feel they have been had, that they have not been treated fairly, and they feel their lands have been taken from them this time and in the past. In the past, we can't do much about that, but we certainly can do something about this time.

This amendment should pass. It is a fair thing to do. It is the right thing to do. It is the good thing to do for the military of this country. And it is the best thing we could possibly do for the taxpayers of this country. Right off the bat, we would save $32 million.

I reserve the remainder of my time.

I say to the chairman of the committee, the manager of the bill, that I only have one Senator I know who has indicated he wants to come and speak on this issue, and we are making a call. If he does not want to come, maybe we can yield back our time.

Mr. THURMOND. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KEMPTHORNE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KEMPTHORNE. Mr. President, my colleague from Nevada has been reading from an inspector general's audit. I believe the date on that is 1995. That particular project was the Idaho Training Range. It was a previous proposal that was rejected. This was a proposal which then-Governor Cecil Andrus worked extremely hard to bring about and should be commended for that. But again the specifics on that audit deal with ITR, the Idaho Training Range, and that is not the proposal before us today.

He references official letters that I think are a couple years old, so let me read to you, if I may, a letter from the current Secretary of Defense, William Cohen. I will ask unanimous consent that this be made part of the record.

It says:

> Thank you for your letter of September 8, 1997. I want to assure you nothing has changed regarding my enthusiasm for the Enhanced Training in Idaho (ETI) initiative.
>
> The 366th Wing at Mountain Home Air Force Base is an important component of our military capability. As one of the first units to deploy to a problem area, it has the responsibility to neutralize enemy forces. It must maintain peak readiness to respond rapidly and effectively to diverse situations and conflicts.
>
> ETI balances realistic local training with careful consideration of environmental, cultural, and economic concerns. The elements of the ETI proposal, though designed to minimize environmental impacts, will simulate real world scenarios and allow the aircrews to plan and practice complex missions. In addition to providing realistic training, ETI's close proximity to Mountain Home Air Force Base also will enable the Air Force to convert time currently spent in transit into actual training time. Thus, the ETI proposal allows Air Force crews to use limited flight training hours more efficiently.
>
> I continue to give the ETI process my full support. It will provide our commanders with realistic training opportunities locally, while ensuring potential impacts to natural, cultural, social, and economic resources are identified and, where possible, cooperatively resolved. Your strong support for the ETI initiative is very important to us, and you may rely upon my continued interest and commitment. I trust this information is useful.
>
> Sincerely,
>
> BILL COHEN,
> *Secretary of Defense.*

I also have a letter dated June 19, 1998, from the Acting Secretary of the Air Force, Whitten Peters, as well as the Secretary of Interior, Bruce Babbitt. I quote from that:

> DEAR SENATOR KEMPTHORNE: We are pleased to provide you with the attached legislation for the withdrawal of lands for the Enhanced Training in Idaho (ETI) project. As you know, this legislation represents three years of extensive work by the Bureau of Land Management, the Air Force, you, and other representatives of the people of Idaho, and many others who care about the welfare of Idaho's environment and the effectiveness of the 366th Wing at Mountain Home Air Force Base.
>
> ETI will increase the realism, flexibility, and quality of the Air Force's training. It permits the 366th Wing to train more efficiently and effectively for its important missions, thereby improving the aircrews' safety and mission performance. Implementation of ETI will substantially strength the 366th Wing's ability to ensure readiness to perform its assigned missions.
>
> Importantly, however, the Air Force and BLM also worked very hard so that ETI would balance training needs with the concerns of the Shoshone-Paiute Tribes, the environment, and other public land uses. The Air Force and BLM actively solicit public and agency involvement through the development of the project. Participants in the process included the State of Idaho, environmental organizations, the Shoshone-Paiute Tribes, ranchers, recreational organizations, and other users of the public lands in Idaho.
>
> The Air Force incorporated numerous mitigations in the design of the project to

> address public concerns and relocated facility sites during preparation of the environmental impact statement to avoid various environmental concerns expressed by the Shoshone-Paiute Tribes and others. Following completion of the EIS and consideration of public comment, the Air Force adopted further mitigation measures, including altitude and seasonal overflight restrictions that further address concerns of recreational users to protect the habitat of bighorn sheep. The NEPA process was a valuable tool in helping to identify these mitigations and resolve concerns.
>
> We believe the attached legislation accommodates many issues that you and other representatives of the people of Idaho have raised throughout the process and is an important step forward for national security, for the environment, and for significant tribal interests.
>
> The Office of Management and Budget advises that from the standpoint of the administration's program there is no objection to the presentation of this report to Congress.
>
> Sincerely,
>
> BRUCE BABBITT,
> *Secretary of the Interior;*
> F. WHITTEN PETERS,
> *Acting Secretary of the Air Force.*

Mr. President, as noted here, the language which I submitted is the administration's language. And I was greatly pleased, and I appreciate the statement by the ranking member of the Senate Armed Services Committee, Senator LEVIN, when he stated, and I may be paraphrasing, that Senator KEMPTHORNE did exactly what he said he would do in the Armed Services Committee, and that is that he would come back before the Senate and he would provide the perfecting language to this issue. It is exactly what I did. And whose perfecting language? It came from the administration.

I know that the senior Senator from Idaho wishes to make comments on this, so I will yield the floor and again look forward to comments by the senior Senator from Idaho, who has been a great leader on this issue as well.

I make this final thought. It is a public process. In the public arena you sometimes get bruised, but there are just groups out there that for years have not wanted this project to become a reality, and so they will use any handle they can to try to stop it. They have tried a variety of things to stop it. Sometimes they questioned people's integrity in their efforts to try to stop this. That is real unfortunate because I think that is what causes a lot of citizens to say "that's why I don't want to step into the public arena."

I think people's reputation and dignity are worth something, and I don't think they ought to be trashed just for a political agenda to somehow try to stop something.

So with that, I look forward to the comments by the senior Senator from Idaho.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, I am here on the floor this afternoon to join my colleague from Idaho, Senator KEMPTHORNE, to reinforce what this Senate agreed to yesterday, agreed to in a unanimous environment. What they really agreed to, once the two Senators from Idaho and the Idaho congressional delegation had spent over 2½ years ensuring that the public process was fulfilled, they agreed—you agreed, the Senate agreed—that the Senators from Idaho, having worked the process, deserved to do what was necessary to do to ensure the long-term stability of Mountain Home Air Force Base and its expanded mission.

What did we do? What did Idaho do to ensure that the public lands were held in the appropriate esteem, that Native Americans involved in this were appropriately addressed, that the mission was fulfilled by the expansion of range to the necessary amount?

We met twice with the BLM and the Air Force and all of the agencies involved to assure that they did their homework and that they did it right, because several years ago they had not done it right and Idahoans reacted, in part, by saying, while we need this training range, the process has to be corrected. The process is now complete and the process is correct, by every participant's evaluation.

There are some, like Senator KEMPTHORNE has just spoken to, who do not agree with it. But they agree with nothing. They oppose everything. Even though they are hard-pressed to admit that there were any failures to the process because they were involved, there were, I believe, some 16 public hearings in the State, a full outreach by the BLM and the Air Force, to make sure that this reallocating of land was the right thing to do.

The Duck Valley Indian Reservation—I believe there were 20-plus meetings. Let me read a letter that was sent on January 29 by the entire congressional delegation to the Shoshone-Paiute tribes of Duck Valley Reservation. James Paiva, the tribal chairman:

> Dear Chairman Paiva:
>
> Today we received the Air Force's final Environmental Impact Statement . . . regarding the Enhanced Training in Idaho . . . project. We also had a meeting with senior Department of Defense, Air Force, Department of the Interior and Bureau of Land Management officials regarding the future steps necessary to develop the ETI.
>
> Knowing of the tribes' previous concerns regarding the ETI [or the Enhanced Training in Idaho] project, at our meeting today we especially asked about the tribes' position regarding the final EIS. We were assured the Air Force and BLM have made great efforts to accommodate the concerns of the Tribe.
>
> We want to thank you for your excellent cooperation on this very important project. We urge you to continue to work with the Air Force to develop cooperative solutions to training issues. We look forward to working with you in the future on the many areas of mutual interests we share.
>
> Sincerely,
>
> Senator CRAIG.
> Senator KEMPTHORNE.
> Congressman CRAPO.
> Congresswoman
> CHENOWETH.

The outreach has gone on. The outreach has been complete. I cannot stand here today and tell you that all members of the Shoshone-Paiute tribe at Duck Valley are satisfied. But we believe that their questions and their concerns have been answered and that they agree in general that is the case.

Let me address the environment for just a moment. The Owyhee will not be devastated. Neither Senator CRAIG nor Senator KEMPTHORNE would stand or tolerate that, and any suggestion of that is bunk. It is a false allegation at the very best. We value our lands and we value their beauty—and they are beautiful. As Senator KEMPTHORNE has said, where there was once a 100-foot level of flight over areas, which may be demonstrated in the pictures standing by the Senator from Nevada, there is now 1,000 feet of protection. Where there was an ability to continually fly over areas where there are California sheep, there is now a limitation during the lambing period. There really isn't anything we have not thought of, because we have been consulting for 2½ years with every stakeholder and every interest in this area.

I am at a loss today to try to understand why the Senator from Nevada would want to strike this because we have talked with him. We felt we had talked and worked with his people adequately enough to assure that all of the concerns were met. Claims that this range is only here to BRAC-proof Mountain Home simply are false because Mountain Home was never on the list. Why? For a lot of the reasons that Nevada bases have not been on lists, because they are away from population centers and they have great air time and they are the kinds of bases that the Air Force wants for optimum flying. That is why.

But, for new training missions, looking out into the future, knowing how difficult it is to reallocate public lands, Mountain Home and the Air Force thought it was time to expand the necessary training ranges. It costs hundreds of thousands of dollars annually to fly longer distances to train simply because of the consumptive necessities of these large aircraft. The closer that range, the easier to train, the less need to schedule timing and do all of that type of thing. And that is exactly why we worked with the Air Force to do that.

I hope my colleagues will join with us today in not supporting a motion to strike, because I believe the two Senators from Idaho, certainly, Senator KEMPTHORNE and myself, have spoken to this issue. We knew that there would always be concern about the reallocation of public lands and that the process had to be unquestionable. We have tracked it. We have detailed it, day to day, week to week, month to month, for 2½ years. Now the administration is in full support of it. The administration put it in their budget. The Department of the Interior signed off on it. The Air Force signed off on it. The BLM has signed off on it. It is in full support.

So why, today, a motion to strike is beyond me and very frustrating. We had hoped this would not have to occur, but apparently it is necessary that the Senator from Nevada do this. For that, I am disappointed, that it has to happen, because the people of Idaho have been addressed in this issue and all of the parties concerned have been worked with in a complete manner. We believe it is important that we proceed.

Let me add just one additional thing. The Senator from Nevada expressed concern about the compensation issue for a rancher. I said it yesterday. The Senator from Nevada was not on the floor. Let me repeat it again today. There is no compensation for this individual rancher. There is an assurance, as we require him to move to a new range, that the moneys are there to build the pipelines and the water systems and the cross-fences to make the new range as productive as the old range that is being taken away from him. This rancher and the Three Creeks Grazing Association that I am very familiar with—I have been out on that range numerous times. I know the canyonlands that the Senator from Nevada talks about. I have been there. I have been in them over the last good number of decades. But the Three Creeks Grazing Association—this rancher and others—have invested hundreds of thousands of dollars of their own money and time over the last many, many years to make this one of the best grazing areas in the State of Idaho. Why? Because they can manage their cattle and because they have adequate water systems to move from pasture to pasture without overgrazing. As a result, these lands have become increasingly productive.

Something else happens when lands for grazing become increasingly productive because of water and because of rest/rotation management through effective cross-fencing. The abundance of wildlife increases, and there is clear documentation to prove it. Upland game birds, deer, and now in Idaho, open range elk have increased in phenomenal numbers—not because of the absence of management but because of the presence of management and because of the kinds of investment that many of these ranchers have worked with BLM to make over the years.

That is the intention we are talking about. Not the full misrepresentation in the newspapers that somehow somebody was getting paid off. That is simply not the case. I don't think the administration would be involved in that kind of a tactic. It is their budget that we are dealing with here and the moneys they put in for the purposes of these kinds of transitions. That is what we are talking about today.

We have been fully aboveboard on this with numerous public hearings addressing all of the issues. I hope my colleagues will join Senator KEMPTHORNE and myself in a motion to table this motion to strike.

I yield the floor.

Mr. INOUYE. Mr. President, I rise in support of the amendment to S. 2057 offered by my colleague from Nevada, Senator REID.

The Reid amendment would strike from the bill an amendment adopted by the Armed Services Committee during its markup of S. 2057.

That amendment, offered by Senator KEMPTHORNE, would withdraw 12,000 acres of land from the public domain for use by the United States Air Force for a project known as Enhanced Training in Idaho, or E.T.I.

It would ratify the Air Force's recently announced selection of this land—known as the Juniper Butte Range—for addition to an existing 109,000-acre training range.

The Air Force plans to invest thirty million dollars to outfit the area for training pilots in electronic warfare, tactical maneuvering and air support.

Over the past several years, the Air Force has failed to gain public approval of similar proposals to expand its training area in Idaho to provide more cost-effective training for pilots at Mountain Home Air Force Base.

These proposals, like the current Juniper Butte proposal, have been controversial in large part due to their potential impacts on proposed wilderness areas, wildlife, and human populations.

These impacts—principally from the anticipated increase in air traffic and the noise associated with it—are significant and very difficult to mitigate.

Increased air traffic and noise are of particular concern to the Shoshone-Paiute tribes of the Duck Valley Indian Reservation, which straddles the Idaho-Nevada border.

Low level overflights of the reservation and sonic booms associated with the existing Idaho training facilities have long been a source of friction between the tribes and the Air Force.

As a result of litigation brought by the tribe against the Air Force over these issues, the tribe and the Air Force entered into an agreement concerning training flights in the vicinity of the Duck Valley Reservation.

Regrettably, the tribe currently regards the Air Force as being in violation of this agreement.

It is therefore not surprising that the Duck Valley tribes view the Juniper Butte proposal as an additional threat to their culture, religion and resources.

Nevertheless, I would like to commend the Air Force for entering into a contract to evaluate the impacts of Air Force activities on the cultural practices and sacred sites of the tribes.

However, my understanding is that these ethnographic studies are ongoing, and that we at present do not have the benefits of their findings or recommendations.

Given the difficult history in the relationship between the Air Force and the tribe, I question the wisdom and the need to move precipitously on the Juniper Butte withdrawal.

Typically, when a Federal agency announces a record of decision on a proposal such as the Juniper Butte withdrawal, other Federal agencies have an opportunity to review and comment on it.

The Department of the Interior, whose Bureau of Land Management currently manages the Juniper Butte lands, has a wide array of concerns about withdrawing the lands for a bombing range.

The department has concerns about potential impacts to some 22 proposed wilderness areas, big horn sheep and other wildlife.

In addition, as trustee for the Shoshone-Paiute tribes, the Department is concerned about the potential impacts that adding Juniper Butte to the bombing range would have on the Duck Valley Reservation and its people.

While Interior and Air Force representatives have been meeting in an effort to address Interior's many concerns, there has been no effort to address the tribal concerns.

Given the past and present concerns about this matter, it is appropriate to ask, "What's the rush?"

Why is it necessary to short circuit the normal public process of review and comment, of congressional review of a proposal of this nature?

While it may be desirable for the Air Force to provide an additional area for training, there is no lack of existing facilities and no crisis that requires hasty action by the Senate.

There have been no congressional hearings on the decision to go ahead with the Juniper Butte land withdrawal since the Air Force announced it in March of this year.

Accordingly, the Senate has no record of discussion of the relative costs and benefits of the proposal, much less of the need for it.

Indeed, a June, 1995, report by the Defense Department's inspector general concluded that "establishing the Idaho training range would be an exception to the overall DoD attempt to downsize infrastructure".

Anyone familiar with my record in Congress knows that I believe in a strong national defense.

I support the desire of the Air Force to have the best possible training facilities so that our pilots will remain the very best in the world.

And I have no doubt that the Air Force has labored long and hard to address the various criticisms that have been made of its proposals to expand its training facilities in Idaho.

However, I also believe that the Senate has a duty and an obligation to be sure that the questions of need, of costs and benefits, have been answered fully.

We also have an obligation to review the adequacy of the measures being proposed to mitigate impacts on the environment, wildlife, and human populations.

Until and unless these concerns have been fully addressed, I see no compelling reason to go forward with this project at this time.

Accordingly, I support Senator REID's amendment to strike the Juniper Butte provisions from S. 2057.

Mr. BRYAN. Mr. President, I rise today in support of the Reid amendment, which would strike title 29 of the Defense Authorization bill, entitled "Juniper Butte Range Lands Withdrawal." Title 29 would authorize development of the proposed Enhanced Training in Idaho (ETI) project of the Air Force. The ETI involves creation of a new Air Force training range covering parts of Idaho, Oregon, and Nevada to enhance training for aircrews of the 366th Wing based at Mountain Home AFB. The ETI would provide composite force training that includes multiple types and numbers of aircraft training together. The proposal would allow the Air Force to withdraw 12,000 acres of BLM land and associated airspace. Total DoD funding is estimated at $31.5 million.

Mr. President, I would like to share with my colleagues several reasons why I feel the Enhanced Training in Idaho proposal lacks merit.

1. The Air Force has not justified the need for a new training range.

The Inspector General of the Department of Defense reviewed the Air Force's Idaho training range proposal and found that "the Air Force cost benefit analysis that supports the proposal was prematurely formulated because of the lack of an overall training plan for the 366th Wing."

The IG audit recommended that the Pentagon "withhold Air Force and Air National Guard funds related to establishing the Idaho training range."

In his comments to the IG, the Air Force Deputy Chief of Staff acknowledged that the Idaho training range was not strictly necessary, and he stated that existing training resources enabled the 366th Wing to meet its training needs and to become combat ready.

The IG concluded that "the Air Force has not established the training requirement for the 366th Wing composite force or proved why existing training ranges cannot continue to provide composite force training."

The IG further concludes that "the Utah, Nellis, and Fallon ranges are suitable for composite force training and the ranges have the required airspace and ground areas." During the audit, officials of the 366th Wing stated that all training requirements were being met with the Saylor Creek Range and the Utah, Nellis, and Fallon ranges.

2. The ETI proposal is nothing more than a BRAC insurance policy for Mountain Home AFB.

The motivation for this proposal is clear: it lessens the likelihood of Mountain Home AFB being included in a future round of base closings.

Senator KEMPTHORN was quoted in the Mountain Home News earlier this year as saying that the ETI range proposal "will be a great insurance policy for Mountain Home AFB."

3. Congress has not had the opportunity to review the proposal.

Neither the Armed Services Committee nor the Energy and Natural Resources Committee have held any hearings on this proposal.

Interested members of Congress and the public should have the opportunity to examine this proposal in the context of public hearings.

In the 99th Congress, hearings were held in both the House and Senate on Legislation authorizing the withdrawal of public lands in the State of Nevada for training ranges in Fallon and Nellis.

4. Environmental impacts associated with the proposal have not been adequately mitigated..

A substantial portion of the air space expansion proposed by the Air Force is in the state of Nevada.

The Board of County Commissioners of Elko County, Nevada, has expressed its concern with the proposal regarding the impact of increased training flights over the Owyhee Canyonlands, which extend into Elko County in northern Nevada.

Less than one-third of the acreage the BLM originally sought to protect is covered by the 5,000 foot minimum flight level contained in the agreement between BLM and the Air Force.

The agreements 5,000 foot standard protects less than one-half of the wilderness study areas of that region and its archaeological and sacred Indian sites.

It protects less than one-third of the candidate wild and scenic rivers.

Finally, the agreement opens military overflights in the area surrounding Little Jacks Creek, which is the only remaining wild area in the Owyhees where people and wildlife, including bighorn sheep, can enjoy relative peace

5. Impacts on the Shoshone-Paiute tribes have not been adequately addressed.

The proposal omits any meaningful mitigation measures for the tribal members residing on the Duck Valley Reservation

The language of the proposal pays only lip service to the importance of preserving access to and use of Indian sacred sites

6. The compensation provisions for ranching operations is a taxpayer boondoggle.

The proposal contains a lucrative compensation package for one rancher that currently has a federal grazing permit on the 12,000 acres targeted for the range

It has been reported that the grazing permit involves 1,059 AUM's—an AUM is currently valued at $1.35—which would mean that the permittee is currently paying approximately $1,429 per year for his privilege to graze cattle on public land

It has also been reported that the agreement between the Air Force and the permittee involves a buy out of all or a substantial portion of this grazing use at the rate of $250 per AUM, which equates to a total payment of $264,750; in addition, the Air Force has agreed to compensate the permittee for the replacement costs associated with constructing new range improvements on other grazing land

The vast discrepancy between what this rancher has paid for his privilege to graze on public land and what he is being paid to relocate his grazing operation sets a dangerous precedent that should alarm the American taxpayer

Mr. President, for the reasons stated above, I urge my colleagues to support the Reid amendment.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, the senior Senator from Oregon was coming to the floor to speak, but there is an illness in his family, and he will be unable to come.

What we have to understand is why, if the previous information that they had given to the Senate regarding the audit was not accurate, why wasn't another audit done?

The electronic range that is being talked about here is essentially the same, although it has shifted a little to the east. Both proposals feature supersonic operations, low-level flight, flare and chaff and composite force exercises over vast areas of public lands.

The generic components of the electronic battlefield and bombing range have been juggled around geographically in the airspace, but have remained essentially the same and are designed to support the same kind of training which has been judged to be redundant by the Department of Defense inspector general in the audit report.

There has been some talk that the tribe has been consulted many times. This is what the tribe says:

> The EIS does not even begin to account for tribal concerns and was absolutely insufficient for the purpose of making a decision regarding tribal interests. In fact, the EIS

> process was detrimental to Tribal archeological resources because significant vandalism has resulted from the lack of confidentiality provisions in this part of the EIS process.

The tribe doesn't like this deal. They don't like it in one respect, two respects; they don't like it in any respects.

My friend, the senior Senator from Idaho, says this has nothing to do with BRAC insurance. I only refer to the junior Senator from Idaho in a speech where he said, it was reported in the Mountain Home News earlier this year:

> The range will be a great insurance policy for Mountain Home Air Force Base.

That is a quote. "The range will be a great insurance policy for Mountain Home Air Force Base," Mountain Home News, February 25, 1998.

The Owyhee Canyon Lands Coalition, speaking for all the environmental groups, said:

> We have always considered the electronic warfare range to be at least as objectionable as the Juniper Butte target site.

We have heard talk on the floor that there is no compensation involved. All you have to do is read from the language of the bill that we are trying to have stricken:

> The Secretary of the Air Force is authorized and directed upon such terms and conditions as the Secretary considers just to conclude and implement agreements with the permittees—

Of course, there is only one—

> to provide appropriate consideration.

I have not practiced law in a number of years. I am a lawyer, and I know consideration means compensation. That is what the bill says.

I talked about the Air Force really having quite an appetite. They have about 50 percent of the land in the State of Nevada. Here is what they have in the State of Utah, which is 175 miles from Mountain Home. How long does it take those jets to go 175 miles? You can figure it out. Not very long. Ten minutes? Fifteen minutes? Half hour? The north range is about 175 miles from Mountain Home and consists of 350,000 acres of land for exclusive DOD use. They are begging for business. They want Mountain Home to come and fly there. It has all kinds of great craters and a helicopter air-to-ground complex. It has everything they need for this composite wing in Utah.

They have Nellis, a large base. I say to my friend from Idaho, the senior Senator, the Nellis Air Force Base range is one of the best in the world, if not the best, but Nellis Air Force Base is right in the middle of town. It is not rural Nevada. It is right in the middle of Las Vegas. You can fly from there over the great range. They can go over to Fallon, a great training facility which they use all the time.

The extension of this base is unnecessary. Based upon the statements made by Commanding General Ken Peck who is, remember, the commander of the 336th: "We are the most capable combat unit anywhere in the world right now." It doesn't mean after they get these additional acres. It means they are the most efficient, the most capable combat unit anywhere in the world right now.

I say to my colleagues, this legislation is important. This amendment is important. This is what the taxpayers put us here to do: to save money. By voting yes on this amendment—no on the motion to table—you will be saving this Government $32 million to begin with, and allowing in the future the necessary consideration to go forward as to whether or not this base should be closed. This is fair to the Native Americans who have been ignored in this process. It is fair to the taxpayers, and certainly fair to the environment and the people who support the environment. This is a vote that will be scored by a number of environmental organizations, as well it should be. This is an important environmental vote. It is an environmental vote, I think, for setting the tone for this Congress.

I say to the manager of the bill, I don't know if my two friends from Idaho have more to say. Otherwise, I will be happy to yield back time.

Mr. KEMPTHORNE addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. KEMPTHORNE. I believe we have made our case. We have had a good debate. We are ready to yield back our time. At the appropriate time, I will move to table.

Mr. REID. I yield back the time of the Senator from Nevada.

Mr. KEMPTHORNE. I yield back my time, and I move to table the Reid amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The vote will be postponed.

Mr. KEMPTHORNE. Mr. President, I ask unanimous consent that the votes ordered with respect to the pending amendments be stacked to occur at 4:30 p.m. I further ask that the first vote occur on, or in relation to, the Murray-Snowe amendment, followed by a vote on, or in relation to, the Reid amendment, which is a motion to table, with 4 minutes for debate equally divided prior to each vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KEMPTHORNE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KEMPTHORNE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KEMPTHORNE. Mr. President, I make this inquiry of the Senator from Nevada. In looking at his legislation and reading it, he states in section "(f) Repeal of Superseded Authority.—Section 2205 of the Military Construction Authorization Act for Fiscal Year 1997 is repealed."

My question is with regard to "fiscal year 1997," since that is the previous year, if, in fact, this should read "fiscal year 1999." If there is a need to make a correction here, I have no objection, because I don't want to have any parliamentary excuse used. I would like to have a fair vote here. So, again, I make this inquiry as to whether or not this should be 1997, or in fact should be 1999, or in fact the year 2000.

Mr. REID. I say to my friend from Idaho, this is right out of the bill. The bill says, "1997," so maybe we should take a look. There might be something wrong with the bill, because the bill says, "1997."

Mr. KEMPTHORNE. Again, Mr. President, I appreciate that. We noted that. We wanted to make sure there was nothing to stand in the way of us having a vote on this issue before us.

Mr. REID. So, Mr. President, I say to my friend from Idaho, if there is something wrong, it is because the original text is wrong. We will take a look at that before the vote. If it needs to be corrected, we will stipulate that.

Mr. KEMPTHORNE. With that, Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DODD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DODD. Mr. President, I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DODD. I thank my colleagues, the distinguished Senator from South Carolina and the Senator from Michigan. And I realize they are waiting for a couple of amendments to come over and be dealt with on this bill. So as soon as I see someone walk in with an amendment, I will truncate these remarks so as not to interrupt. I know they have the important business of the Department of Defense authorization bill.

(The remarks of Mr. DODD pertaining to the introduction of S.2224 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mrs. MURRAY addressed the Chair.

The PRESIDING OFFICER (Mr. GORTON). The Senator from Washington is recognized.

AMENDMENT NO. 2794

Mrs. MURRAY. Mr. President, I rise to speak in favor of amendment No. 2794, the amendment we will be voting on. I understand I have 2 minutes and the opposing side will have 2 minutes; is that correct?

The PRESIDING OFFICER. That is correct.

Mrs. MURRAY. Mr. President, I urge my colleagues to vote in favor of the Murray-Snowe amendment. This is a very simple amendment that restores the right of our women and family members who serve overseas in the military to have access to health care services to which they ought to have access.

Current law in the DOD bill says that a woman who would like to have health care services relating to an abortion would have to ask for permission from her commanding officer to have the military pay for her transport home to the United States in order to get health care services. This amendment simply allows that woman to pay for—out of her own pocket, not at our expense—that service in a military hospital where she is serving overseas.

Mr. President, this amendment is a safety issue for our women and families of personnel who serve overseas. During the course of the debate, I talked about a letter written to me by a woman who was serving in Japan who had to go to a hospital in Japan where they did not speak English. She did not know what kind of medication she was receiving. Her health care was at risk. She wrote to us seriously questioning whether she would remain in the military after being treated like this.

This is a service that is legal here in the United States. Women who serve in the military and families of military personnel should have equal access. We are not asking for any taxpayer expense. We are simply allowing women who serve in the military, or families of those who serve in the military, to pay for abortion-related services out of their own pocket, in a safe military hospital overseas.

Mr. President, I urge adoption of this amendment, and I thank Senator SNOWE for her continued help on this issue.

The PRESIDING OFFICER. There are 2 minutes in opposition to the amendment.

Mr. THURMOND. Mr. President, I yield back our time.

The PRESIDING OFFICER. All time has been yielded back.

The question is on agreeing to amendment No. 2794.

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Delaware (Mr. ROTH) is necessarily absent.

I further announce that the Senator from Arkansas (Mr. HUTCHINSON) is absent due to death in the family.

I also announce that the Senator from Pennsylvania (Mr. SPECTER) is absent because of illness.

I further announce that, if present and voting, the Senator from Arkansas (Mr. HUTCHINSON) would vote no.

Mr. FORD. I announce that the Senator from Hawaii (Mr. AKAKA), the Senator from Montana (Mr. BAUCUS), the Senator from Ohio (Mr. GLENN), and the Senator from West Virginia (Mr. ROCKEFELLER) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 44, nays 49, as follows:

[Rollcall Vote No. 176 Leg.]

YEAS—44

Biden
Bingaman
Boxer
Bryan
Bumpers
Byrd
Chafee
Cleland
Collins
Conrad
Daschle
Dodd
Dorgan
Durbin
Feingold
Feinstein
Gorton
Graham
Harkin
Hollings
Inouye
Jeffords
Johnson
Kennedy
Kerrey
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Moynihan
Murray
Reed
Robb
Sarbanes
Snowe
Stevens
Torricelli
Wellstone
Wyden

NAYS—49

Abraham
Allard
Ashcroft
Bennett
Bond
Breaux
Brownback
Burns
Campbell
Coats
Cochran
Coverdell
Craig
D'Amato
DeWine
Domenici
Enzi
Faircloth
Ford
Frist
Gramm
Grams
Grassley
Gregg
Hagel
Hatch
Helms
Hutchison
Inhofe
Kempthorne
Kyl
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Reid
Roberts
Santorum
Sessions
Shelby
Smith (NH)
Smith (OR)
Thomas
Thompson
Thurmond
Warner

NOT VOTING—7

Akaka
Baucus
Glenn
Hutchinson
Rockefeller
Roth
Specter

The amendment (No. 2794) was rejected.

Mr. THURMOND. Mr. President, I move to reconsider the vote.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3009

The PRESIDING OFFICER. The Senate will be in order. Under the previous order, there is 4 minutes of debate equally divided on the Reid amendment, No. 3009. However, that 4 minutes will not commence until the Senate is in order.

The Senator from Nevada.

Mr. REID. Mr. President, this is an amendment sponsored by Senators REID, BRYAN, INOUYE, WYDEN, KERREY of Nebraska, DURBIN, MURRAY and FEINGOLD.

What this is all about is inserted in this bill is something called BRAC insurance to prevent the Mountain Home Air Base from in the future being closed. That is all this is.

It will cost the Government $32 million unnecessarily. You compensate a rancher for the first time in the history of this country for having a privilege. The Government is paying somebody for using our land, in effect. Environmentally, every group in America is opposed to what is in this bill that we are attempting to take out.

The Indians' rights have been stomped upon. There are environmental impact statements out there—86 percent of the respondents were opposed to this. Every newspaper in the State of Idaho is opposed to what they are trying to accomplish; Oregon, Nevada is against it. This is something that is unnecessary. It is a range of convenience.

I read from the Idaho Statesman newspaper:

> So the question is: Should taxpayers spend $30 million to build another range and risk losing more high desert wilderness so the Air Force can save a few million in fuel, maintenance and operations costs for training out of the state?
>
> The answer is no. It's not an acceptable trade-off. The area is far more valuable for its natural resources—especially since the Air Force has shown its range proposal to be only convenient, rather than undeniably essential for national security or pilot safety.

To show how unnecessary this is, I refer to General Ken Peck, the commander of the 366th Wing, which is this Mountain Home Air Base commander. "We are the most combat-capable unit anywhere in the world right now."

This is not needed. I ask my colleagues to oppose this motion to table for the taxpayers of this country.

The PRESIDING OFFICER (Mr. COATS). Under the previous order, the Senator from Idaho is recognized. The Presiding Officer is aware that there are important conversations and negotiations underway relative to the disposition of this bill. The Chair asks that those conversations be taken from the well so everybody can hear the Senator from Idaho.

The Senator from Idaho is recognized for 2 minutes.

Mr. KEMPTHORNE. Mr. President, this project is a project of the U.S. Air Force. It is supported by the President of the United States, Secretary of the Interior, the Director of BLM, Katie McGinty, Counsel for Environmental Quality to the President. Here is the 2½-year process, the environmental impact statement.

I hope Senators had an opportunity to listen to the debate we had earlier. We were able to refute everything said by the Senator from Nevada.

I urge everyone to vote to table this motion.

I yield the remaining time to the chairman of the Environment and Public Works Committee, Senator CHAFEE.

Mr. CHAFEE. Mr. President, I support Senator KEMPTHORNE and will vote to table the Reid amendment. Senator KEMPTHORNE's provision will protect the environment while providing the Air Wing at Mountain Home Air Force Base with more realistic training facilities.

Please note this: The administration supports the compromise in the bill. In fact, the administration wrote the language offered by Senator KEMPTHORNE. Secretary Babbitt and Secretary Cohen have both sent letters of support, as has the Acting Secretary of the Air Force.

The compromise language ensures that our environmental laws will fully apply to Air Force activities at the Juniper Butte Range. This includes the National Environmental Policy Act and the Endangered Species Act.

The concessions made by the Air Force with respect to airspace flight restrictions near the range will reduce the noise in the canyon. Instead of flights at 100 feet at any time, the flights are now restricted to 3 days per week and this raises the minimum altitudes from 100 feet to 1000 feet or 5,000 feet depending on the flight angle to the canyon.

The Kempthorne amendment provision protects the environment and national security. I urge my colleagues to support Senator KEMPTHORNE.

The PRESIDING OFFICER. The question now occurs on the motion to table Amendment No. 3009, offered by the Senator from Nevada. The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Delaware (Mr. ROTH) is necessarily absent.

I further announce that the Senator from Arkansas (Mr. HUTCHINSON) is absent due to a death in the family.

I also announce that the Senator from Pennsylvania (Mr. SPECTER) is absent because of illness.

Mr. FORD. I announce that the Senator from Hawaii (Mr. AKAKA), the Senator from Montana (Mr. BAUCUS), the Senator from Ohio (Mr. GLENN), and the Senator from West Virginia (Mr. ROCKEFELLER) are necessarily absent.

The result was announced—yeas 49, nays 44, as follows:

[Rollcall Vote No. 177 Leg.]

YEAS—49

Abraham
Allard
Ashcroft
Bond
Brownback
Burns
Campbell
Chafee
Coats
Cochran
Collins
Coverdell
Craig
D'Amato
DeWine
Domenici
Enzi
Faircloth
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hagel
Helms
Hutchison
Inhofe
Jeffords
Kempthorne
Kyl
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Roberts
Santorum
Sessions
Shelby
Smith (NH)
Snowe
Stevens
Thomas
Thompson
Thurmond
Warner

NAYS—44

Bennett
Biden
Bingaman
Boxer
Breaux
Bryan
Bumpers
Byrd
Cleland
Conrad
Daschle
Dodd
Dorgan
Durbin
Feingold
Feinstein
Ford
Graham
Harkin
Hatch
Hollings
Inouye
Johnson
Kennedy
Kerrey
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Moynihan
Murray
Reed
Reid
Robb
Sarbanes
Smith (OR)
Torricelli
Wellstone
Wyden

NOT VOTING—7

Akaka
Baucus
Glenn
Hutchinson
Rockefeller
Roth
Specter

The motion to lay on the table the amendment (No. 3009) was agreed to.

Mr. KEMPTHORNE. I move to reconsider the vote.

Mr. REID. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CONTINGENCY OPERATIONS

Ms. SNOWE. Mr. President, on behalf of myself and the distinguished Senator from Georgia, I offered an amendment incorporated into this bill requiring the President to explain to Congress the goals and potential endpoint of any military contingency operation involving more than 500 troops. Our provision furthermore mandates this report whenever the administration submits a budget request for the operation.

During its June 9th Executive Session, the Armed Services Committee unanimously approved this amendment, and I am grateful for the eloquent expressions of support made by Senators THURMOND and LEVIN.

The Snowe-Cleland amendment, Mr. President, received the Committee's broad endorsement regardless of our differences over the scope and purpose of U.S. contingency operations because Senators from both parties agree that the administration must express its mission objectives in tandem with a funding request.

The President, however, has ignored this obligation in seeking funds to sustain our units in Bosnia. By the end of Fiscal Year 1999, the administration will have budgeted an estimated $9.4 billion for our participation in the Bosnia Stabilization Force since the completion of the Dayton peace accords. But it has never offered us a comprehensive readiness and mission assessment of U.S. Contingency Operations (CONOPS) policy to justify the expenditure of these funds.

Our amendment, therefore, mandates a dual report on the "clear and distinct objectives" that "guide the activities of United States forces" as well as the proposal of an approximate date, or set of conditions, "that defines the endpoint" of a contingency operation.

Congress, Mr. President, needs more constructive guidance in advance from the administration as the era of peacekeeping claims billions of dollars in funding that might otherwise go to core readiness and modernization programs.

Approximately 47,880 American soldiers have undertaken 14 international contingency operations between 1991 and 1998. As a result, we need to match the administration's policy arguments with its budget demands to determine if the Pentagon has a clear peacekeeping strategy that reflects the major security interests of the United States and its allies.

We did not have the benefit of this policy blueprint the first time that Congress approved Bosnia mission funding to monitor the Dayton peace accords with the FY96 budget. One year later, when the incremental cost of the Bosnia operation totaled $2.28 billion, we still had no mission guidance.

For FY98, the House and Senate appropriated two packages of $1.5 billion and $490 million a few months after a Presidential press conference that made our commitment in the Balkans open-ended.

And in FY99, Mr. President, the White House would not even label its Bosnia funding request. It chose instead to place $1.86 billion in an ambiguous "emergency operations" category and forced the Senate Armed Services Committee to move this sum into the defense budget.

When the Committee took this action last month, we did not know, after almost a three-year deployment, the conditions that would set the stage for an orderly force withdrawal.

We did not know whether adequate stability had been achieved so that diplomats and community leaders could build self-sustaining civic institutions.

We did not know why the administration extended the time frame of our deployment three times since November 1995.

And we did not know, Mr. President, for how long and to what end the White House planned to keep rotating thousands of Service people in and out of the Bosnian vortex.

Were our troops creating a Bosnian security environment for political reconciliation, or digging deeper into a country with a peace agreement that everyone signed but no one accepted?

The administration cannot expect either Congress or the taxpayers to plow billions of dollars every year into protracted peacekeeping exercises. Our Bosnian experience teaches us that we will achieve clarity of goals and accountability in financing if the President develops a strategy before he submits a funding request, not as he asks for more to do what remains unclear.

Ironically, this amendment stipulates what the administration once declared as its own strategy. Presidential

Decision Directive 25 of May 1994 outlined the scope and purpose of the administration's contingency operations policy. It promised the application of strict standards to determine whether the U.S. should participate in any overseas peace operation. The reporting categories specified by my amendment intentionally overlap with the President's directive. PDD-25 specifically declared that potential CONOPS commitments would depend on "clear objectives" and an identifiable "endpoint."

As the new century unfolds, the need for a rational peacekeeping policy, as promised by PDD-25, will only grow. The May 1997 Quadrennial Defense Review concluded that "the demand for smaller-scale contingency operations is expected to remain high over the next 15 to 20 years" while also acknowledging that peacekeeping commitments could cause a "chronic erosion" of procurement funding.

At the same time, the National Defense Panel, created by Congress to review the guidelines of the QDR, analyzed the Pentagon's peacekeeping policy as one that forces troops "too often and too quickly" into disputes of a purely political or diplomatic character.

This year, the Armed Services Committee received Navy and Air Force Posture Statements that contained warnings of negative readiness impacts from long contingency deployments. Navy Secretary Dalton specifically cited the "requirements of the Unified Commands"—those that participate heavily in peacekeeping missions—as effecting the readiness of non-deployed fleet units.

The number of Air Force personnel dedicated to contingency operations grew fourfold since 1989 to 14,600 by FR97. "Caution indicators," as the report summarized it, have emerged in the areas of retention, reenlistment, and depleted inventories of spare parts.

In addition, by October 1999, the Army, the most peacekeeping intensive of the Services, could lack the heavy armored divisions designed for rapid deployment to crisis areas. Two of the divisions that train full time for this mission may have one-third of their troops on duty in Bosnia or Kuwait.

In FY94, the Army had 541,000 active duty soldiers and no commitments in Bosnia, and the Armed Services Committee considered this level the minimum necessary for effective crisis response. Yet today, the Army faces the challenge of preparing for two Major Theater Wars, at a reduced force strength of 491,000, and with a deployment in Bosnia.

We must act upon these warning signals from military leaders, Mr. President, by aligning the law with the new requirements placed on our war fighters. It only makes common sense to mandate a contingency operations policy rationale with a contingency operations budget request. I therefore commend the Senate for adopting the Snowe-Cleland amendment.

BOSNIA LANGUAGE

Mr. FEINGOLD. Mr. President, I rise today to comment on the provisions of the Department of Defense authorization bill relating to the United States military mission in Bosnia-Herzegovina. The amendment offered by the Senator from South Carolina (Mr. THURMOND) expresses the sense of the Congress that United States ground troops should not remain in Bosnia indefinitely. The amendment offered by the Senator from New Hampshire (Mr. SMITH) would have required that none of the funding authorized or appropriated for the Bosnia mission under this bill be expended after March 31, 1999, unless both Houses of Congress had voted on the continued deployment of U.S. ground troops in Bosnia.

I supported both of these amendments because I firmly believe that it is of paramount importance for the Senate to go on record at every opportunity with respect to the U.S. mission in Bosnia. It is especially important that the Senate go on record as a part of the Department of Defense authorization bill, which is perhaps the most important piece of defense-related legislation that this body debates each year because it is the framework under which our military will be funded over the next fiscal year.

I have opposed the Bosnia mission since its inception because I did not believe then—and I do not believe now—that the Administration has presented a list of clear, achievable objectives and a definite exit strategy to the American people. To date, taxpayers have paid more than $9 billion for this ill-defined mission.

I am pleased that the second-degree amendment offered by the Senator from Arizona (Mr. McCAIN) to the Thurmond amendment calls upon the President to submit a report on the status of the Bosnia mission with each future request for additional funding for this mission. To date, the Administration has repeatedly come to the Congress seeking more and more money for this mission and offering little justification in return. The McCain language asks the Administration, with each additional funding request, to provide specific information on the Bosnia mission, including objectives for reaching a self-sustainable peace and a schedule for achieving them, and future cost and risk assessments involved with this mission.

Of course, I support our men and women in uniform and the commendable job they have done to help to implement the Dayton Accords and to achieve a lasting peace in Bosnia. What I cannot accept is the mission creep and uncertainty that these men and women are forced to live with, and the hefty price tag the American people have been forced to pay.

While I supported the Thurmond amendment, I would have liked to see stronger language, including calling on the President to devise an exit strategy that included a date certain for the transfer of chief responsibility for this mission from United States forces to European forces. It is my firm belief that the longer U.S. troops remain in the region, the harder it will be for them to leave. We must call upon our NATO allies to assume responsibility for this mission.

In the past, I have supported both a date certain for troop withdrawal, and efforts to cut funding for this mission. I also have come to the floor to express my concerns about the expanding nature of this mission. I would also like to express again my continuing frustration with the emergency designation for the funding for this mission, which is clearly no longer an emergency.

I regret that the Administration chose to deploy troops to Bosnia in 1995 without seeking prior congressional approval. I also regret that this mission has continued far past its original one-year time frame, and that our troops have been asked once again to continue down an uncertain path toward an ill-defined goal. In December 1997, the President abandoned the purported June 1998 exit date and replaced it with a series of so-called "benchmarks" for U.S. withdrawal. Today, on the 25th day of June 1998, the end of this mission is nowhere in sight. I hope that the Administration will hear clearly the sentiments expressed by the Senate through the Thurmond amendment, which has been adopted overwhelmingly by this body.

PROHIBITION ON EXPANSION OF SALE OF ALCOHOL

Mr. BYRD. Mr. President, I am pleased that the Senate adopted the amendment I submitted to S. 2057 that puts the Senate on record in opposition to the attempt being made to increase the number of military stores that sell wine and beer. Although alcohol is available for sale on military bases, it is not for sale in the commissary stores along with the groceries. Specifically, my amendment would prohibit the Secretary of Defense from conducting a survey of commissary patrons to determine whether or not they would support the sale of beer and wine in commissaries. In addition, the amendment would prohibit a demonstration project to evaluate the merit of selling wine and beer in commissary stores at exchange store prices. Mr. President, that is the wrong direction in which to take our military. We should be trying to deglamorize alcohol, not taking steps that tend to promote its use. An expansion of accessibility will likely lead to an increase in the military of all the problems that go hand and hand with alcohol use in civilian life; the negative health consequences, the loss of productivity, the cost to society, the increase in violence and crime, and the increase in sexually transmitted diseases. Why in the world would we want to embrace such a policy as expansion of access to alcohol as official government policy! Life in the military already has its share of stress—long hours, a rigid hierarchy of command, constant training, travel, and long deployments overseas. Let us not expand the opportunities to pour more fuel on any smoldering embers of alcohol abuse in our population and add to these stresses and strains. Let us keep our soldiers fit and sober, clear-headed and ready to defend our national security interests, and hope that such a policy sets an example which other entities in our society will embrace.

Mr. SANTORUM. Mr. President, the 1999 Defense Authorization bill before us contains a demonstration project that would allow some DoD-eligible retirees to join FEHBP plans, under a separate risk pool. It is my understanding that this ensures that DoD retirees who enroll in this demonstration project are able to choose from competing, private sector FEHBP plans. It is also my understanding that retirees, like other FEHBP-eligibles, will be able to choose among plans that offer fully integrated health care benefits that use market-based competition to control cost and improve quality of care.

Mr. THURMOND. Yes, we fully expect that OPM and DoD will conduct a demonstration project that provides military retirees with the same health care services provided through the same private sector delivery systems that serve today's FEHBP beneficiaries.

Mr. SANTORUM. I thank the Chairman. I appreciate this clarification and I look forward to evaluating the success of the FEHBP demonstration along with the two other demonstration projects included in this bill.

Y-12 PLANT IN OAK RIDGE, TENNESSEE

Mr. THOMPSON. I know the Chairman of the Armed Services Committee agrees with me that nuclear deterrence is the cornerstone of our national defense policy, and we should do everything we can to maintain a strong, viable nuclear deterrent in this country. This requires a robust nuclear weapons program, the ability to ensure that our weapons are both safe and reliable, and the ability to remanufacture any component of any weapon in the stockpile at any given time.

Mr. THURMOND. The Senator from Tennessee is correct. We must preserve our capability to manufacture weapons and weapons components, and we must maintain ongoing weapons surveillance and assessment activities. The four weapons production plants—including the Y-12 plant in the Senator's home state of Tennessee—are key to achieving these goals.

Mr. THOMPSON. As the Chairman knows, production activities at Y-12 were placed in a stand down mode on September 22, 1994, due to procedural and criticality safety concerns identified by the Defense Nuclear Safety Board. Since then, Y-12 has made significant progress improving its operations throughout the plant. Since the stand down, Y-12 personnel have worked tirelessly to restart operations in the following mission areas: Receipt and Shipment, Disassembly and Storage Operations, Depleted Uranium Operations, and Stockpile Surveillance, while continuing to meet all defense mission requirements.

Mr. THURMOND. I agree with the Senator that the staff of Y-12 have worked hard to bring operations back up to full speed. I was very pleased to see that, earlier this month, Y-12 resumed the last of its production missions: Enriched Uranium Operations.

Mr. THOMPSON. The Chairman is correct. On June 8, 1998, Y-12 cast its first enriched uranium part since September, 1994. This achievement is a credit to the dedication and commitment of everyone at Y-12, and is a testament to the leadership and management expertise of Lockheed Martin and their teammates at the Department of Energy. It is also critically important to our national security, because Y-12 operations are crucial to the success of our Stockpile Life Extension Program. In fact, Y-12 is currently involved in the life extension program for the Peacekeeper Missile warhead, called the W87. Initial delivery of key components of this weapon are due at the end of this year, and manufacturing will continue for several years.

I am very pleased that operations at Y-12 are up and running again, so that these critical national security missions can continue on schedule and uninterrupted. In that vein, I want to express my concern about any action on the Department of Energy's part that would disrupt the progress that has been made at Y-12 and jeopardize the timely completion of this very important Stockpile Life Extension project.

Mr. THURMOND. I share the Senator's concern, and I urge the Department to make every effort not to disrupt the tremendous progress that has been made at Y-12. The production activities taking place at the plant are a critical component of our national security policy.

Mr. THOMPSON. I thank the Chairman.

DOD TEACHER QUALITY

Mr. BINGAMAN. When the Armed Services Committee met to mark up the FY 1999 Defense Authorization bill, I introduced a measure designed to encourage the Department of Defense schools to assure the high quality of its faculty in DoD schools. Senator COATS and I have discussed ways to improve the proposal and have agreed on words that we believe would be appropriate to include in the Conference report on the Defense Authorization bill.

Mr. COATS. That's correct, Senator BINGAMAN. I believe the words we have agreed to here will encourage the Department to emphasize hiring high quality instructors for the Department's schools. In my view, the most appropriate vehicle at this point to incorporate this initiative in the defense bill is to seek a provision in the Conference report. Senator THURMOND, would you assist our efforts to do so during the upcoming conference?

Mr. THURMOND. I appreciate your efforts to assure continued high quality education in Department of Defense schools and I'll work to see that the provision you seek is adopted in conference.

COUNTERNARCOTICS MISSION

Mr. DEWINE. Mr. President, in 1989, President George Bush called drugs "the gravest domestic threat facing our nation today." Almost nine years later, that threat still exists.

That same year, President Bush tasked the Defense Department to play an important role in the drug war. Specifically, the Defense Department was tasked to engage in the detection and monitoring of drugs in transit towards the United States. At that time, counter narcotics, and drug interdiction were key components of our nation's drug control strategy. As a member of the House of Representatives at that time, I can recall very well the investments we dedicated toward the international and interdiction components of the war on drugs. These investments made a difference. We made a dent in the drug industry. The price of cocaine increased. Drug use declined significantly.

That was 1989. In 1992, the focus and the level of commitment toward a comprehensive drug control strategy has diminished. The drug threat is as strong as ever, but the same cannot be said for our drug interdiction efforts. It's not just a case of fewer resources, it's a case of diminished priorities. In fact, in its list of priorities, the Defense Department currently ranks counter-narcotics dead last in its mission statement.

This is an unfortunate mistake.

Mr. President, it's time we re-ordered our priorities. That is why last week, my friend and colleague from Florida, Senator GRAHAM, myself and Senator GRASSLEY and Senator HELMS, introduced an amendment to the Defense Authorization bill. This amendment, which was adopted by the Senate last week, simply states that a higher priority should be given within the Defense Department to drug interdiction and counterdrug activities. Specifically, our drug control mission should be ranked at the same level as our peacekeeping operations. I thank my colleagues for accepting my amendment by unanimous consent. It is my hope that the final bill will contain similar language.

The facts bring us to no other conclusion—it's time to make drug interdiction a priority again. In 1988, close to 2 million adolescent Americans were drug users, and by 1992, that number was down by 25%. At that time, we had a balanced drug control strategy—with sufficient investments in the key components: interdiction, treatment, education and law enforcement. During that same period, marijuana use dropped by over 16 percent and cocaine use was down 35 percent. Our efforts were concentrated and effective—with inspiring results.

Mr. President, that progress ceased in 1992, and since that time, teenage drug use has more than doubled—and the ramifications have been far-reaching. For example, drug-abuse related arrests for those under the age of 18 in 1996 were twice those of 1992. Health costs continue to rise as this plague spreads uncontrollably.

Youth drug use is on the rise because drugs have increasingly become both more available and more affordable. The Office of National Drug Control Policy has reported that small "pieces" or "rocks" of crack, once sold for ten to twenty dollars, are now available for three to five dollars. The street price of drugs is decreasing and our efforts to limit their supply are failing.

Mr. President, this increase in illicit drug use can be traced in part to the decline in counter-narcotics as a priority for national defense policy. In 1992, Department of Defense funding for counter-narcotics activities in transit areas was over $500 million. A steady trend in decreased funding brought it down to an all-time low of $214 million in 1995. Mr. President, that is more than a 50% decrease in funds. Thankfully, due to efforts by my Senate and House colleagues, last year's allocation was increased to $300 million. However, we are nowhere near the 1992 levels.

In recent years, the Department of Defense has been called upon to support counter narcotics activities in transit areas in the Caribbean. However, assets critical to the drug interdiction effort have been consistently diverted to matters considered a "higher priority."

Mr. President, this decrease in funding has had an unfortunate impact on our drug interdiction efforts in the Caribbean. For example, the number of days per year that our ships spend patrolling the Caribbean has shrunk by two-thirds. Some of our key interdiction agencies have reported that the ships and manpower needed for effective interdiction are unavailable. Also, there radar system is less extensive—and even if drug traffickers can be identified, we lack the manpower necessary to intercept and seize the illegal drug imports. In 1996, only half of the known maritime drug events detected resulted in apprehension or seizure. Our defenses are down and the drug lords are taking advantage of this weakness. Added to this decline in resources is the increase in more sophisticated resources utilized by the drug cartels.

According to the State Department, about 760 metric tons of cocaine were produced in South America in 1996. Of that, 608 tons were destined for the United States through the transit zone. U.S. government agencies that deal with cocaine seizures indicated that with additional equipment, annual cocaine seizures can be significantly increased. The Department of Defense, however, has indicated that it will not be able to provide these additional assets because of other priorities.

Mr. President, this attitude was not acceptable in the late 1980's and it should not be acceptable now. It is necessary that we once again implement an effective transit zone operation as an integral measure to limit the availability of illicit drugs to our youth.

It is time to renew drug interdiction efforts, provide the necessary equipment to our drug-enforcement agencies, and make the issue a defense priority again. I thank my colleagues for supporting this amendment and helping turn the tide of the drug crisis in our country.

Mr. ALLARD. Mr. President, I rise today to discuss language in the DoD authorization report contained in the "Additional Matters of Interest" section. The language in the DoD Authorization targets an amendment Senator WYDEN and I were able to get accepted during the Superfund markup.

Earlier this year the EPW Committee marked up S. 8, which if passed and signed into law would significantly improve the Superfund program. At markup Senator WYDEN and I proposed an amendment clarifying the waiver of sovereign immunity currently contained in Section 120 of Superfund. A waiver of sovereign immunity basically allows private parties and state and local governments to bring suit against the federal government for noncompliance.

This original waiver was added in 1986 when Superfund was last reformed and was accepted with broad bipartisan support. The intent of Section 120 is clear and unambiguous to those who research the legislative history and read it faithfully. The words are plain and they read: "Each department, agency, and instrumentality of the United States (including the executive, legislative, and judicial branches of government) shall be subject to, and comply with, this chapter in the same manner and to the same extent, both procedurally and substantively, as any nongovernmental entity, including liability under section 9607 of this title."

My reading of this is that the federal government needs to comply with the law just like any private party or state or local entity.

As Senator Stafford said during passage of the 1986 Superfund amendments, ". . . the legislation recognizes the reality that, only in unusual cases, th[at] national security may require issuance of circumscribed Executive orders exempting a Federal facility from the requirements of the Superfund Amendments and Reauthorization Act of 1986. In all such cases, Executive orders should adopt the method of protecting legitimate national security interests that maximize compliance with the environmental and health requirements imposed by the legislation. For example, it may be appropriate to require EPA employees reviewing cleanup plans [to] obtain a national security clearance, but it would not be appropriate to exempt such plans from national cleanup standards simply because EPA employees are assigned to ascertain what standards should apply to the cleanup." However, the language in the '86 Amendments was not exact enough and wiggle room was left for the Federal government to avoid their environmental responsibilities. Unfortunately, even though our amendment is merely clarifying, some in the Senate would like to maintain dual cleanup standards, one for those who live near a private National Priority List (NPL) site and another for those who live near an NPL site the federal government has responsibility over. Simply put, that should not be happening.

The Armed Services Committee has expressed concern with our Amendment and has even gone so far as to include report language in their bill commenting on legal language in another bill. Further they have asked for a study on the cost of our amendment.

I provide the above background as context for my reply to the Committee's characterization of our amendment to S. 8. In their report the Armed Services Committee made several claims with which I disagree. They also make claims which can be disputed which are outlined below:

(1) the report states that, "[t]he amendment would require federal facilities to comply with state and local substantive and procedural requirements, rather than the uniform, national process described in the National Contingency Plan." The implication is that federal facilities would no longer be subject to the National Contingency Plan (NCP) and that all cleanups would be done pursuant to state and local law. That is not the case. What our amendment in Committee simply did was allow state, local, and to some extent EPA the authority to enforce compliance with current Superfund and similar State and

local laws. Enforce the current Superfund law including its implementing regulations, the NCP, and similar state and local laws against federal facilities just as they would against private parties. I have attempted to make this point clear in the past and I will attempt to do so once again, this amendment would ensure that Federal entities are held to the same standard of compliance as local, state, and private parties. Nothing more, nothing less.

(2) The report also states that, "[u]nder current law, Federal facilities are already subject to state laws concerning removal and remedial action, including laws regarding enforcement (42 U.S.C. 9620(a)(4)), but state challenges must be brought after remedial action is complete. (42 U.S.C. 9613 (g))[sic]" The Federal government has not followed this section of law faithfully, in reality they have argued that it merely requires them to comply with substantive sections of the law, for example, Applicable or Relevant and Appropriate Requirements (ARAR's). As evidence of this is a letter from the Chief Counsel for the National Guard Bureau on September 13, 1996 to Assistant Attorney General Steve Shackman, regarding Duluth Air Force Base State Superfund Site. In this letter Mr. Hise asserts that, "[c]ompliance with a state CERCLA law's substantive requirements, via the ARAR's process [which includes provisions to waive ARAR's], fulfills CERCLA's legal requirements."

To state it once again, my concern is that, even though the report asserts that States can take action under 113(h) after remedial action is complete the federal polluters do not acknowledge this section means what it says. Instead, they maintain it only requires them to comply with state standards as ARARs. In fact, the only case in this area, U.S. versus Colorado, held that the federal government could not escape regulation under an authorized state RCRA program merely by listing on the NPL. Clearly, clarification is necessary that Congress intended all federal agencies to comply with this law in substance and procedure.

Beyond the merely incorrect statements in the report there is a fundamental difference in philosophy. In my view the Federal government needs to be held to the same standard as any other entity. If we are going to have a Federal Superfund law then it should apply to everyone. In other words everyone needs to be in the same bath tub with the same scrub brush. I believe this was true when we made all laws applicable to Congress and believe we need to make at the least this law applicable to all Federal agencies.

When I proposed this amendment in Committee it was claimed that it would cost the government too much money. In fact, if we examine what has occurred under RCRA, which has had the same language in effect since 1992, the conclusion is the opposite. A study done by the EPA entitled, The Federal Facility Compliance Act: Enforcement Analysis of RCRA Administrative Orders at Federal Facilities indicates that State governments have been easier on the Federal government than the EPA. The study found the following: while Federal orders averaged 369 days before settlement, state orders averaged 196. Also, during the study period the EPA fined Federal facilities over $9 million while states fined Federal facilities only slightly over $4 million. In other words those who claim the states will gold plate remedies have no basis for that belief.

Finally, I note that the Armed Services Committee has asked for a study which is due at the end of September outlining the additional potential liability a Superfund waiver would incur. I'm not opposed to such a study but I am sending a letter to the President's Council on Environmental Quality bringing it to their attention and asking them to oversee the collection of the data. I am certain that the authors of the amendment wouldn't object to such oversight which would avoid the perception of the fox guarding the chicken house.

Mr. KENNEDY. Mr. President, I support the National Defense Authorization Bill for Fiscal Year 1999. The need for a strong and capable military was clearly demonstrated during the Iraqi crisis over the UN-mandated inspections. Our forward-deployed forces were quickly strengthened by additional personnel as the crisis deepened. The diplomacy of United Nations Secretary General Khofi Annan, backed up by the credible, on-scene forces of the United States Armed Forces, successfully kept the peace.

This bill provides the proper support for our military forces while maintaining a realistic balance between readiness to take care of immediate needs, and the needed investment to develop and procure new systems for the future.

The bill provides for those who serve in uniform today, and those who gave this country so much during their careers in military service. A fully funded and well-deserved 3.1% pay raise for military personnel is included in the bill.

Additionally, the bill includes a provision for the Department of Defense to initiate a comprehensive test plan to evaluate the best way for us to provide health care to retired military personnel and their families who have reached the age of 65. The plan will build on the Medicare test program included in last year's Bipartisan Budget Agreement. The new expanded plan will include test sites for participation in the Federal Employees Health Benefit Plan, the Department of Defense's Tricare health care program, and a mail order pharmacy program to reduce out-of-pocket costs.

The daily operations of our military forces have obvious risks and dangers. All branches of the Armed Forces have made progress in improving safety in the military, but more remains to be done. I commend the Department of Defense for its accelerated installation of needed additional safety systems on military aircraft that carry passengers.

This bill also includes a worthwhile provision to evaluate the way the Pentagon investigates aviation accidents. We must ensure that no stone is left unturned in finding the cause of every accident and taking the necessary corrective action to reduce the risk of future accidents.

The growing frequency and sophistication of attacks on the Pentagon's computer networks highlight the need for improved protection of critical network infrastructures. This bill includes research and development funding for the exploration and development of defenses against cyber attacks. This step will greatly improve the Pentagon's focus on this growing threat.

In the past eight years, the Navy-Marine Corps team has responded to over 90 contingencies—almost one per month. As the Ranking Democrat on the Seapower Subcommittee of the Armed Services Committee, I am pleased that the bill provides the support necessary for our naval forces as they modernize to meet the challenges of tomorrow.

The bill includes the necessary advance procurement funding for Fiscal Year 1999 for the Navy's next aircraft carrier, CVN-77. The Navy's procurement schedule for the next carrier, revised from its budget submission of last year, will be under the cost cap mandated in last year's defense bill. Also, much of the new technology being developed for the next generation aircraft carrier, the CVX, will be included in CVN-77.

The budget request for the Navy's F/A-18E/F Super Hornet and the Marine Corps' MV-22 Osprey tilt-rotor aircraft is fully funded. The Super Hornet combines the outstanding characteristics of earlier F/A-18 models with cutting edge technology in an affordable aircraft with significantly improved performance and endurance. The MV-22 Osprey is a vertical take-off and landing aircraft designed to replace the Marine Corps' aging fleet of CH-46 and CH-53 helicopters.

In contrast to these aspects of this bill, I do have concerns about reductions in the Administration's budget request for the Cooperative Threat Reduction Program, demilitarization of chemical weapons, and the nuclear weapon stockpile stewardship program. I hope that these reductions will be corrected in the final bill.

The Cooperative Threat Reduction program is the most cost-effective program for reducing the dangers of nuclear weapons. Thousands of nuclear warheads remain in the nations of the former Soviet Union. The Cooperative Threat Reduction program plays a key role in the control and dismantling of these weapons. We must continue this all-important program and ensure that every single nuclear warhead is secure, and eventually destroyed.

Funding reductions in the chemical weapons de-militarization program will endanger our ability to comply with the provisions of the Chemical Weapons Conventions Treaty approved last year. As a world leader and the only superpower, we have an obligation to lead the worldwide effort to eliminate chemical weapons. I urge the restoration of these funds.

All of us have grave concerns over the recent nuclear testing in India. Russia and the United States continue to work hard to reduce the world's stockpile of nuclear weapons. India and other nations must also be involved in the reduction and eventual elimination of all nuclear weapons.

The Comprehensive Test Ban Treaty is a major milestone on the road to a nuclear free world. A cornerstone of the implementation of this treaty is the Department of Energy's Stockpile Stewardship Program. We must be able to certify that our remaining stockpile of nuclear weapons is reliable, while reducing the number of nuclear weapons through START II and, hopefully, a START III treaty.

The Stockpile Stewardship Program is the key component in verification of the reliability of our nuclear weapons. The program has experienced a fundamental shift in policy since the United States ceased live testing of nuclear weapons. The Department of Energy is developing new capabilities to complete this certification without live testing of nuclear weapons. The funding cuts in the budget request will hinder these efforts. I urge the restoration of these funds to the Stockpile Stewardship Program.

In closing, I welcome the opportunity to commend the distinguished services of the members of the Committee, particularly the extraordinary services of the three members who will be leaving the Senate at the end of this Congress. Their efforts have added significantly to this year's Defense Authorization bill. The Airland Subcommittee has benefited from the efforts and insights of Senator GLENN and Senator COATS. Senator KEMPTHORNE's able leadership of the Personnel Subcommittee has ensured that the needs of our service men and women are paramount in this legislation. It has been a privilege to work with these able members of the Committee over the years, and we will miss their leadership in the years ahead.

Mr. BIDEN. Mr. President, I want to say a few words about the admirable work of the Senate Armed Services Committee. For the past two years, we have had budget agreements that have forced the Committee to make tough choices with shrinking resources. Under the able leadership of Chairman THURMOND and the Ranking Member, Senator LEVIN, the Committee has once again enhanced the quality of life for our brave men and women in uniform and have invested in programs vital to our future fighting forces. As the Ranking Member on the Foreign Relations Committee, I am constantly reminded of how vital a strong military is to protecting American interests and security around the world. I have said it before and I'll say it again, for diplomacy to be effective, not only must it be adequately funded, it must also be backed by a strong military and superior intelligence activities.

But, Mr. President, before I say any more about this bill, I want to say a word or two about Chairman THURMOND. His service to this nation has been truly remarkable. From the beaches of Normandy to the halls of the U.S. Senate, he has shown an outstanding dedication and commitment to doing the work of this nation. He and I worked together on the Judiciary Committee for 12 years—he was Chairman for the first 6 years and I was Chairman for the last 6. Then, as now, he has been a leader by example. He is one of the most remarkable individuals I have ever had the privilege of working with. We are not merely colleagues, we are friends.

He has served on the Armed Services Committee for 40 years, the last 4 of which he has been its Chairman. This is his last year as Chairman, so I want to say now what deep respect I have for the Senior Senator from South Carolina's military expertise and for the able manner in which he has worked with Senator LEVIN to keep our military strong. The Committee, the Senate, and the American people have gained from Senator THURMOND's leadership and his willingness to work with Senators from both parties to put America's national security interests ahead of partisan interests.

This bill is an example of that. It includes a 3.1 percent pay raise for military personnel. It also includes an important increase in hazardous duty incentive pay for mid- and senior level air crew personnel. I thank my colleagues for joining me in addressing that concern and showing these experienced personnel that we value their unique and vital contribution to America's national interest.

In addition, there is an important $12 million increase in C-5 airlift squadrons research and development. This money is critically needed by the Air Force to examine the needs of these crucial aircraft as new technology becomes available to improve their performance. As many already know, the C-5 is capable of carrying more cargo than any other aircraft in our military. It has supported military operations from Vietnam to Desert Storm to the current operations in Bosnia and the Persian Gulf. I applaud the Committee's foresight in providing the money necessary to maintain these planes at peak performance levels.

Mr. President, I also want to take a minute to talk about the health care demonstration programs in this bill. With the growth in the number of retired military personnel, the rising costs of health care in general, and the closing of military bases, great strains have been placed on military medical facilities. This, in turn, has placed in some jeopardy the idea of guaranteeing high quality health care to our military retirees.

Last year, Congress recognized this growing problem, and we took a step in fixing it. Last year's Defense Authorization bill included a demonstration project on Medicare subvention—where Medicare reimburses military medical facilities for the treatment of retirees who are also eligible for Medicare. I am pleased that the Dover Air Force Base in Delaware has been selected as one of the six sites for this national demonstration project.

Again, this was a first step. But, there are other ways that might help us to fulfil our commitment to military retirees. And, so I strongly support the three additional health care demonstration projects in this bill—one to allow military retirees to participate in the Federal Employees Health Benefits Program once they reach age 65; one to allow retirees to continue their eligibility for TRICARE and not have to switch to Medicare when they turn 65; and one to allow military retirees who are also eligible for Medicare to continue to participate in the Department of Defense's mail order pharmacy program.

Providing health care is an obligation we owe to our military retirees. It is a promise we made—but a promise that is now in jeopardy. The health care demonstration projects in this bill will not solve the problem we face. They are, after all, only demonstrations. But, hopefully, they—along with last year's Medicare subvention demonstration project—will help point the way to a solution so we can ensure that the federal government upholds its commitment to the men and women who so bravely served our country.

Mr. President, this bill includes an amendment that I joined with four colleagues in voting against yesterday. It was a compromise Sense of Congress resolution offered by Senator LEVIN, Senator COATS, and Senator THURMOND, regarding budgeting for continued participation of United States forces in NATO operations in Bosnia and Herzegovina.

The three cosponsors deserve credit for their hard work in having crafted what was, in the main, a very well thought out amendment. It contained several positive elements. And their compromise amendment was far preferable, in my opinion, to another amendment on U.S. forces in Bosnia, which Senator HUTCHISON and Senator BYRD were considering introducing.

Nonetheless, I voted against the compromise amendment, and I would like briefly to explain the reasoning behind my vote.

First, I agree with the amendment's intent to keep the pressure on our European allies to constitute the bulk of ground forces in the Stabilization Force, known popularly as SFOR. I want to clarify, however, that non-American forces already make up approximately three-quarters of the SFOR total.

Second, I am in complete agreement with the amendment's not giving a date-certain for the withdrawal of United States ground combat forces from Bosnia and Herzegovina. Such a date-certain would constitute the worst kind of micro-management of military affairs by the Congress, and would quite likely endanger the lives of American troops on the ground.

My principal reason for voting against the compromise amendment is that I do not agree that our goal should be a withdrawal of all United States ground combat forces from Bosnia and Herzegovina as long as a NATO-led stabilization force remains in that country.

To be perfectly candid, Mr. President, I believe that such a move would serve to undermine American leadership in NATO. Even Combined Joint Task Forces, commonly known by their CJTF acronym, should, unless there are exceptional circumstances, have a U.S. ground combat force component. While American air, naval, command and control, logistical, and intelligence support, and even a ready reserve over-the-horizon force in the region would be vital to any future mission, the participation of some American combat ground forces will remain a vital bona fide of U.S. commitment to Alliance operations.

In other words, for the United States to retain control of NATO-led operations, we must be present in all components of missions, including on the ground. This would apply to any follow-on force in Bosnia, whether it is NATO-led or is a CJTF with the Western European Union.

Let me pose a question to my colleagues. If the Bosnia ground operation becomes a purely European affair, do they not think that pretty soon some of our European allies will begin to question whether an American should continue to serve as Supreme Allied Commander Europe (SACEUR)?

I for one think the answer is yes. The compromise amendment, against which I voted, may, I fear, begin to set in motion a process that will severely erode American leadership in NATO.

Lest anyone thinks that my fears are far-fetched, I would remind my colleagues that France has already called for a European to take over command of Allied Forces Southern Europe (AFSOUTH) in Naples and that initially the French were supported by several other European allies.

Keeping a contingent of U.S. ground combat troops in all NATO and NATO-led missions is a powerful symbol of American leadership and is recognized as such by allies and potential foes alike. We should think long and hard before advocating a change in that policy.

Mr. President, I will conclude where I began. I compliment the managers of this bill and the Armed Services Committee for providing a bill that continues to strengthen our nation's national security. It enhances the quality of life of our loyal and dedicated men and women in uniform. It addresses important weapons systems needs and takes steps toward finding the best way to meet our health care obligations. While I disagree with the Bosnia provision added for the reasons I've already mentioned, I think this bill gives America the strong military it needs to support our diplomatic work and to promote our national security interests.

Mr. MCCAIN. Mr. President, every year I come down to the floor of the Senate and ruminate over the propensity of Members of Congress to add programs to spending bills solely, or at least primarily, for parochial reasons. The majority of us in Congress who supported the line-item veto were ostensibly doing so as an overdue reaction to the profligate spending practices that, over time, resulted in a $5.5 trillion federal deficit. The fact that we have a balanced budget for the first time since 1969 should not detract from the fact that we continue, as a result of past spending practices, to pay as much per year in interest on the federal debt as we do for national defense.

The practice of adding programs to spending bills for parochial reasons has not abated, as a review of the ISTEA legislation reminds us. For many of us in the Senate, however, there has been a growing consensus that inadequate resources are being allocated for national defense, and that the financial burden associated with foreign operations like those in Bosnia and Southwest Asia, the funding for which is repeatedly ignored in Administration preparation of annual budget submissions, is seriously exacerbating readiness and modernization problems stemming from the combination of shrinking force structure and expanding commitments. When the stress from these conflicting trends is combined with the fact that no funding was added by Congress to the national defense portion of the federal budget for the first time since President Clinton took office, the seeds of a further, serious degradation in the state of our Armed Forces are firmly planted.

Because Congress did not add to the Administration's request for national defense, it would have seemed to be incumbent upon Members to act with a modicum of responsibility and not perpetuate funding problems with a business as usual approach. Unfortunately, we have once again failed to live up to that relatively minor expectation. The bill before us is one more example of why the President's failure to adequately exercise his line-item veto authority last year has provided Members every incentive to manipulate the budget process for the good of individual districts or states and, often, at the expense of what is best for the Armed Forces.

In my remarks last year, I was highly critical of the politicization of the services' unfunded priorities lists. That concern remains to some degree. My comments today include items that were added to the Administration's request and are on the unfunded priorities list both because of my concerns about the integrity of the process through which those lists are produced and because the lists were always submitted in the past within the context of congressionally-implemented additions to the defense budget. As additions to the budget request this year had to be offset within the 050 account, I have included projects added by Members even if they are on the lists because, in some instances, they are displacing funding from higher priority programs.

I commend the chairman of the Acquisition and Technology Subcommittee for his valiant effort at minimizing the usual considerable damage to science and technology programs that are the seed corn of our future. Senator SANTORUM deserves credit for the manner in which he has balanced the need to preserve high priority science and technology spending with the usual onslaught of frivolous pet projects inserted into the budget to mollify this university or that laboratory. It is unfortunate that he could not be spared the onerous and wasteful task of nevertheless finding funding for a number of highly questionable projects. Spending $1.5 million to study the effects on missile components of high frequency vibrations sounds reasonable. The only problem is, we have been studying that issue with regard to every missile and rocket designed since the dawn of the missile age. It is inclusive in the development of every such weapon system. This is not a better mousetrap; it s a classic waste of scarce resources.

Similarly, the $3 million added to the budget for research into stainless steel double hull technologies ignores the fact that privately-owned shipyards seeking to profit from the oil pollution act, which mandated that all future oil tankers be double hulled, have already conducted ample research into that area with financial incentives courtesy of the Title XI loan guarantee program. Additionally, what can the Navy learn from this project that it doesn't already know from its years of experience with high strength, light weight steels such as are used in the construction of submarines? Mr. Chairman, this is precisely the type of spending the majority party was supposed to oppose—the kind that helped create a huge federal deficit while diverting funding from higher priority programs.

No better example of Congress operating at its fiscal worst exists than the inclusion in the budget of more C–130J aircraft. The Air Force has repeatedly emphasized its huge surplus of C–130s, yet is forced to buy more completely irrespective of requirements and funding priorities. The annual addition to the defense budget of C–130Js—and we are buying enough of them to house the homeless in brand-new fuselages—is fiscally irresponsible in the extreme. To see four new aircraft added to the bill when the accompanying report is highly critical of the C–130J due to cost overruns and developmental problems sets a new standard for absurdity. What if we said, "we don't need the Sergeant York air defense gun, it was a developmental nightmare, we can't afford it, it was canceled by the Reagan Administration, so let's add the purchase of some to this budget?" It would be the only thing more incomprehensible than the continued acquisition of unrequested C–130s.

Lest anyone think that I exaggerate the budgetary impact of purchasing four unrequested, unneeded C–130J airframes, consider this: The cost of those aircraft is over $200 million. That is a lot of money at a time when we are struggling to pay for important quality of life programs and maintain readiness. Yet, this is not even the most egregious example of unnecessary, unrequested spending in the budget. This bill also includes a $50 million down payment on a $1.5 billion amphibious assault ship that was not requested by the Navy.

The defense authorization and appropriations bills cannot continue to be the vehicle for pumping tax dollars into favored districts and states. There are $2.5 billion in Member-adds in this bill, a bill, to reiterate, that did not enjoy an increase in its top line. That means that the funding for these programs had to be found within the Defense Department's request. It means that the priorities of the military were ignored in favor of channeling dollars toward projects of low or nonexistent priority. How much more should we provide to the flat panel display industry, which should be funding its own research? With all due respect to Norway, a NATO ally, how long are we going to allow it to leverage its weapons purchases from the United States against our purchase of Penguin missiles, which the Navy has not requested?

Mr. President, there are a number of programs inserted into the budget by Members of Congress that bear little or no relation to the mission of providing for the common defense. There are programs that arguably will, over time, contribute to our national security. I further recognize that Congress does not exist to perfunctorily bless whatever recommendations emerge from the federal agencies we are tasked to oversee. The Constitution of the United States vests Congress with the authority to raise and support Armies. That is a responsibility some of us take very seriously. The practice of adding and earmarking funding for programs and activities that marginally contribute to the national defense in order to protect jobs, however, represents an abuse of that authority we should not countenance. We should take no pride in the fact that the Army was forced to accept the National Automotive Center as the focal point for the development of automotive technology. Why should the public not think the worst of us when they see their tax dollars handled so cavalierly?

These statements, which I make on every spending bill, get tiresome after a while. My colleagues don't like to hear them, and I certainly don't win any popularity contests on account of them. I would like to wax poetic about charging windmills, but I am under no illusions that my Dulcinea waits outside the chamber or that a final reward awaits me in the great beyond. All I ask is for it to stop. Adding ships, planes, helicopters and the usual myriad arcane research and development projects to a defense bill at a time when the state of the Armed Forces continues to suffer from high operational rates and contracting force structure, when we struggle to provide military retirees the medical care they were promised when they enlisted, when the services are repeatedly telling us that they don't need what we insist they buy, does not speak well of Congress as an institution. I urge my colleagues to heed the warning not of me, but of the combatant commanders and the men and women in the field who are tired and leaving the military because we cannot get our priorities in order.

Mr. President, I will keep coming to the floor to rail against wasteful federal spending because I believe it is warranted, and not just a little cathartic. I thank you for indulging me once again and I ask unanimous consent that this list of programs added to the budget, most for the kind of questionable reasons to which I referred, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Program	*In millions*
Army procurement:	
Aircraft procurement:	
US–35 air transport aircraft (3 A/C)	15.9
UH–60 Blackhawk Helicopters (8 A/C)[1]	78.5
Modification of aircraft:	
C–12 flight maintenance system	6.0
Apache longbow AH–64 training devices and modifications[1]	40.2
Weapons and other combat vehicles:	
M249 armor machine gun 7.62mm[1]	6.5
MK–19 grenade launcher[1]	3.0
Tactical and support vehicles:	
Family of medium tactical vehicles (600 units)[1]	88.0
High mobility multi-purpose wheeled vehicle[1]	65.7
Medium truck extended program (1,085 units)[1]	63.9
Combat communications:	
Army data distribution system (ADDS)[1]	28.0
SINCGARS tactical radio (reserves)[1]	61.9
ACUS modernization program (WIN-T/T)[1]	47.8
Electronic equipment—tactical survival:	
Night vision devices[1]	13.5
Navy procurement:	
Combat aircraft:	
F–14 lantirn targeting PODS[1]	8.0
AH–1W night targeting system[1]	11.0
EP–3 spares	2.0
P–3C ANIT—surface warface improvement	2.2
Weapons procurement:	
Drones and decoys: 70 improved tactical air launched decoys	10.0
Penguin missile	7.5
Surface mode upgrade: close in weapons system	10.0
MOD 4 rotatable gun pool for cruiser conversions	15.0
Shipbuilding and conversion:	
LHD advance procurement	50.0
Air-cushioned landing craft life extention[1]	16.0
Other procurement:	
AN/WSN–7 inertial navigation system	12.0
AN/BPS–154 surface search radar	9.0
Space warfare system center	2.0
Submarine acoustic off-the-shelf processor insertion[1]	25.0
Aegis support, computer lesson system	8.0
DDG–51 Smartship equipment	12.0
NUKLA assembly qualification	1.0
Communications automation equipment (IT–21)[1]	20.0
Submarine connectivity equipment[1]	15.0
Naval shore communications equipment	20.0
Night vision goggles[1]	22.6
Marine Corps Procurement:	
MOD kits for tracked vehicles[1]	4.6
Night vision equipment[1]	11.1
Carrier, electronics infrastructure, Marine email & year 2000 fix[1]	84.1
Light Tactical vehicle (buys 672 units)[1]	37.0
Avenger FLIR upgrade	7.6
Maritime technology	5.0
Material handling equipment (forklifts)[1]	10.4

Program	In millions
New generators (1,311)[1]	9.5
Shop equipment contact maintenance[1]	5.4
Air Force Procurement:	
Combat aircraft:	
C–130J aircraft (2 aircraft)	157.5
WC–130J aircraft (1 aircraft)	75.4
EC–130J aircraft (1 aircraft)	85.0
Trainer aircraft:	
Joint Primary aircraft training system—JPATS (3 A/C)	9.1
Other aircraft:	
E–8C JSTARS aircraft advanced procurement	72.0
Modification of in-service aircraft:	
F–15 aircraft (engine replacement)[1]	25.0
F–15 aircraft (ALQ–135 countermeasures set)[1]	25.0
F–16 aircraft reconnaissance system[1]	13.3
Other aircraft:	
DARP—Defense Airborne Reconnaissance Program	56.0
National Guard and Reserve Equipment:	
$10 million per service	60.0
Modifications of in service missiles:	
Minuteman III missile modifications	46.0
Organization and base equipment:	
Theater deployable communications[1]	17.7
Army Research Development, Test & Evaluation	
Army missile defense systems integration:	
Tactical high energy laser (THEL)	10.0
Space and missile defense battle lab	7.0
Aluminum metal matrix research and development	3.0
Future missile technology integration	6.0
RAH–66 Comanche helicopter, prototype #2 acceleration[1]	24.0
All source analysis system: Software integration	2.2
Firefinder-accelerate software	0.9
Passive adjunct sensor capability	4.0
Advanced field artillery tactical data system (AFATDS)[1]	12.5
Combat vehicle improvement programs: Flat panel display improvement program	7.0
Materials technology: Hardened materials	3.0
Missile technology:	
Scramjet technology	3.0
Acoustics effects	1.5
Environmental quality tech:	
National Defense Center for Environmental Excellence	24.0
Radford Environmental Development and Management Program (REDMAP)	3.5
Plasma Energy Pyrolis System (PEPS)	5.0
Computer software technology: Software security	0.5
Military engineering technology: Cold Regions Research Laboratory	1.2
Medical advanced tech: Nutrition research	2.0
Weapons & munitions advanced technology: Precision guided mortar munitions	4.5
Advanced tactical computer science & sensor technology: Digital intelligence technology	2.5
Army technological test instrumentation & targets[1]	7.0
Survivability/Lethality analysis: Intelligence and warning vulnerability assessment	4.0
DOD high energy laser test facility, solid state laser[1]	8.0
Navy research, development test & evaluation:	
Space and electronic warfare: Advanced communications and information technology	3.0
Space and electronic warfare: Global C4ISR visualization	4.0
Precision strike and air defense technology	5.0
Joint strike fighter demonstration/validation: Alternate engine program	15.0
Integrated defense electronic counter measures (IDECM)	10.0
Air & surface launched weapon technology: Pulse detonation engine technology	1.0
Ships, submarine & logistics technology: Stainless steel double hull	3.0
Materials, electronics and computer technology: Thermal management materials	1.5
Materials, electronics and computer technology: Electronic propulsion technology	2.0
Materials, electronics and computer technology: Carbon/carbon heat shield	2.5
Medical development: Freeze dried blood research	1.0
Non-lethal weapons demonstration/validation	13.3
Medical development: Voice instructional devices	1.0
Air Force research development, test & evaluation:	
Ballistic missile technology	5.0
Advanced spacecraft technology:	
Range improvements for liquid upper stage[1]	5.0
Micro—SAT	10.0
Solar orbital transfer vehicle	10.0
National polar-orbiting operational environmental satellite system: Satellite survivability	30.0
Enhanced global positioning system—block IIF (space)	44.0
Space test program: Maneuver vehicle	10.0
Theater missile defenses: TAWS	12.0
Information systems security program	10.0
Electronic combat precision location and identification (PLAID)	14.0
Variable stability in-flight simulator test aircraft (VISTA)	7.0
Electronic warfare development: EC–130H	20.0
Target systems development: Big Crow program office	10.0
Theater battle management system	5.0
Manned reconnaissance systems: U–2 upgrade	17.0
Aircrew laser eye protection	5.5
Materials: Friction welding	1.5
Aerospace propulsion: Variable displacement vane pump	2.0
Phillips Lab: HAARP	9.0
Crew systems & personnel protection technology: Night vision technology	3.0
Defense-wide Research Development, Test & Evaluation	
Support technologies: Wide band electronics	14.0
Explosive demilitarization technology:	
Blast chamber tech	4.0
Portable blast chamber tech	1.5
Counter terror tech support: PFNA	5.0
Counter proliferation support: HAARP	3.0
Support technologies:	
Atmospheric interceptor tech	22.0
Space based laser demonstrator	94.0
Scorpius	5.0
Excaliber	5.0
Navy Theater Wide Missile Defense System:	
Navy upper tier acceleration	70.0
High power discriminator	50.0
Ballistic missile defense technical operations: Advanced Research Center	5.0
International cooperative programs: Arrow Interoperability	12.0
Counter proliferation support	4.0
Advanced sensor applications	2.0
Endurance U.A.V. (Global Hawk)	32.5
Chem-BIO Defense Program: Sensors	5.0
Medical free electron laser	7.0
Biological warfare defense: Multimedia technology	1.5
Chem-Bio Defense Program: Light weight detectors	5.0
Chem-BIO Defense Programs: Safeguard	4.0
Integrated C2 technology: High definition system, flat panel display	8.0
Materials & electronics technology:	
Mixed mode electronics	6.0
Weapons of mass destruction related technology:	
Core competencies	10.0
Deep digger	3.0
Electro magnetic pulse	2.0
Advanced electronic technology: Lithography	10.0
Generic logistics R&D demands: Computer assisted technology transfer (CATT)	4.0
High Performance Computer Modernization Program: High performance technology	20.0
High performance computer modernization program: High performance VIZ technology	3.0
CALS initiative: IDE	2.0
Joint robotics program	6.0
Joint simulation system	4.5
Defense technology analysis: Commodity management technology	2.0
Total	2,494

[1] Items were included on service unfunded priorities lists.

Mr. CONRAD. Mr. President, I rise in support of the bill before us.

In this bill the Armed Services Committee has—under unprecedented fiscal austerity—ably worked to balance the many important yet competing needs for scarce funding, maintaining a first-class military and providing important benefits for personnel, their dependents, and retirees.

Allow me to highlight several particularly good provisions in this bill, for which Chairman THURMOND and Senator LEVIN should be congratulated.

First, this measure wisely has full funding for National Missile Defense for FY99. Treaty-friendly, affordable, effective NMD has always had my strong support.

I am also pleased that funds have been added to begin to make up the readiness funding deficit of the Army National Guard. The Guard Bureau informs me these accounts were more than half a billion dollars short in the FY99 budget request. I hope the funding added by the Committee can be supplemented during conference.

Third, an additional $46 million has been included for Minuteman III ICBM upgrades. The Minuteman III force will be service for decades to come, and modernization must go forward. The Committee acted wisely regarding the Guidance Replacement Program.

The Committee has also moved to accelerate key military construction projects for North Dakota. These include $8.5 million for repair of the taxiway at Minot AFB, and $3.65 million for renovation of a supply shop for the North Dakota Air National Guard. George Lauffer and Mike McCord on the Committee staff deserve thanks for their work on these items.

Additionally, the Authorization bill calls for demonstration programs regarding allowing Medicare-eligible military retirees to enroll in the Federal Employee Health Benefits Program.

Finally, but very importantly, I am pleased that the Senate has approved an amendment bringing the pay raise in this bill up to the level in the House bill, 3.6 percent.

However, there are a number of matters in this bill of great concern.

First, the Committee's bill would call for a cut of nearly $100M to the Air Force's budget request for the Airborne Laser, a revolutionary theater missile defense program, and top priority for the USAF.

Second, this bill provides inadequate funding for the B-52H bomber force. Although I will not discuss this matter in detail at this time, let me say this: today's thoroughly upgraded B-52H can deliver a greater quantity and diversity of conventional and nuclear munitions a greater distance at a lower cost than any other airborne combat platform in the world today. Cutting the B-52 force doesn't make good national security or fiscal sense, and I applaud Senator STEVENS and Senator INOUYE—the distinguished leadership of the Defense Appropriations Subcommittee—for acting to fund all 94 B-52s in the FY99 Defense Appropriations Bill.

I hope that ABL and B-52 funding can be addressed in conference. Even so, I am pleased to support this bill, especially in light of the Committee's acceptance of my amendment regarding Russian tactical nuclear weapons.

Mr. President, at this point I would like to speak briefly about the amendment.

The recent nuclear tests by India and Pakistan serve as an unsettling reminder that nuclear weapons continue to be sought for their terrible destructive power and prestige. An equally serious, if not greater, nuclear threat still lies to the north of the Indian subcontinent, however—in Russia's enormous, ill-secured, and potentially destabilizing non-strategic, or "tactical," nuclear arsenal.

As my colleagues may be aware, Russia's tactical nuclear stockpile could be larger than ours by a factor of eight-to-one, and is not covered by any arms control accord.

I believe it is time for the Congress to do three things.

First, go on record as concerned about the significant "loose nuke" dangers associated with Russia's tactical stockpile, and the growing strategic relevance of Moscow's tactical arsenal.

Additionally, we must call for the Russians to make good on the 1991 and 1992 Gorbachev and Yeltsin promises to deeply reduce tactical weapons, just as the U.S. has followed through in good faith on President Bush's similar promises in September 1991.

And finally, the Congress needs a detailed report, and the benefit of the analysis of the Defense Department, the Intelligence Community, and the U.S. Strategic Command.

Today, I wish to thank the Armed Services Committee for accepting my amendment earlier this week that does just these things.

I also wish to thank the following distinguished Members of the Armed Services Committee, who have cosponsored my amendment: Senators KEMPTHORNE, KENNEDY, BINGAMAN, and LEVIN. Glen Tait, Menda Fife, Bill Monahan, and Madelyn Creedon, in addition to Monica Chavez with the committee—deserve thanks for their good work.

Before asking unanimous consent that the full text of my amendment be included after my statement, I would call the Senate's attention to the testimony of the Commander in Chief of the United States Strategic Command, Gen. Eugene Habiger. Gen. Habiger, testifying before the Armed Services Subcommittee on Strategic Forces, responded to a question regarding Russia's tactical nuclear stockpile by Senator KEMPTHORNE—a cosponsor of my amendment—by stating that "it is time for us to get very serious about tactical nuclear weapons."

My amendment responds to the General's sage advice, advancing the cause of getting deep reductions to Russia's non-strategic nuclear arsenal. At the very least, we should ask them to come down to our level—and prove it to us.

Before closing, Mr. President, I would like to emphasize that my amendment should be properly viewed in context with the funding for the vital Nunn-Lugar Cooperative Threat program in the FY99 Defense Authorization bill. Senate passage of my amendment ensures that we send to Russia a message of concern and cooperation.

Let me be clear: continuing the Nunn-Lugar program is absolutely critical. I can think of no better investment of national security dollars than simply expending money for the destruction of horrible weapons capable of killing millions of Americans.

Continuing and fully funding the CTR program is especially important in light of the Russian tactical nuclear dangers I have discussed. Although there are arms control agreements requiring Russian strategic force reductions, there are no arms control agreements requiring reductions to Russia's tactical nuclear stockpile.

In addition to the diplomatic pressure called for in my amendment, continuing and possibly expanding work under Nunn-Lugar on tactical nuclear weapons is the best bet we've got to put this aspect of the Russian nuclear genie back in the bottle. Funding for Nunn-Lugar is vital, and I congratulate the committee for fully supporting this program in their bill.

Again, Mr. President, I would thank my colleagues for approving my amendment, and the amendment's cosponsors for their support. This is a good bill—but a better bill because we have taken this initial step toward eliminating the tactical nuclear dangers from the former Soviet Union.

Mr. KERREY. Mr. President, the Senate is now in the process of creating arguably the most important legislation we produce all year, the Defense Authorization Bill. We are authorizing the activities of government which keep Americans free and safe, and we are authorizing activities which are carried out by young Americans in a spirit of courage and selfless service. So there is no more serious legislation than this. My purpose today is to ask my colleagues as they deliberate on this bill to consider the threats to our country as they are and as they likely will be in the decade ahead, so we authorize armed forces which will be able to deter or defeat those threats.

The armed forces we authorize in this bill keep America safe mainly by their credible potential for overwhelming, focused, sustained violence. We allocate the funds by categories such as training, operations and maintenance, quality of life, readiness, but in actuality these funds are to support the credibility of that potential for violence. It is a potential to counter and, if necessary, defeat the threats which put at risk our national life, the lives of Americans, and in some cases the livelihoods and interests of Americans. It is a potential which is an essential element of our national power.

Our colleagues on the Armed Services Committee have taken on the daunting task of measuring the forces the President has requested against the threats we face. I say this is a daunting task because while the threats are dynamic, there is a normal human trait to see the threats as static, particularly when we are already heavily invested in a technology or a family of weapons that have proven successful against a particular threat in the past. It is our duty, Mr. President, to resist that trait, to see the world as it is and to try our best to see it as it will be. In our analysis our most useful tool is the information produced by our Intelligence Community.

Let's look out across the world of the present and near future. We see Russian nuclear forces, still deployed, still on alert, still capable of killing scores of millions of Americans. We see growing indiscipline in the way Russian nuclear weapons are stored and maintained, combined with a hunger for plutonium and weapons-grade uranium among the world's weapons proliferators. In China we see a much smaller but still deadly Chinese nuclear force, reportedly with its weapons targeted on the U.S. We depend heavily on the intelligence community to monitor Russia's and China's nuclear status, for the reason we always did: because our national survival could be at stake.

In Russia we see conventional forces in steep decline and in China conventional forces which appear to be outmoded and immobile, compared with U.S. forces. Looking more broadly, we see a small and diminishing number of countries with capable conventional land or naval forces, but an increasing number of countries and movements trying to develop weapons of mass destruction. In the case of India and Pakistan, we see vividly how successful proliferation efforts add to global danger. We also see non-national and multi-national threats such as terrorist movements and drug cartels posing greater threats to the safety of Americans than the threats posed by the conventional military forces of the few isolated, weak rogue states who claim to be our adversary. Looking more broadly, past the ability of our potential adversaries to do violence, we see a new world in which people increasingly do not look to their national governments as the sole means of accomplishing their goals in international matters. The age of imperialism, in which national governments invaded each other's territory to extend their power, seems a distant memory. Saddam Hussein's attack on Kuwait eight years ago and the current nuclear tension between India and Pakistan are two indicators that we must keep a sharp eye on relations between states, and if our policymakers choose to intervene in such conflicts, we must have armed forces capable of doing so. But we are in a world in which nonnational actors—individuals as well as corporations and movements have taken international relations into their own hands.

The global nature of the Internet and the global, not national, outlook of the world's dominant corporations, are well known to all. Daimler-Benz' recent purchase of a company which less than twenty years ago we were bailing out as a patriotic duty, and the lack of concern in this country about that purchase, underscores the point. At the other, individual end of the scale, we see individual Irish citizens, both north and south, looking beyond their governments and the borders created by governments and seeing the advantage of direct personal and commercial relationships, the advantage not just of peace but of lower barriers. The relentless integration of Europe, most recently marked by the introduction of a common currency, is a sharp contrast to the conflicts and ancient rivalries which marked and divided Europe for centuries. European conflict called forth the greatest armies America ever raised, twice in this century. Today we are concerned with residual ethnic disputes in isolated corners of Europe and in the case of Bosnia even deploy military force in an effort to stabilize and contain the conflict. But large-scale conventional conflict in Europe, for the first time since the invention of gunpowder, is unthinkable.

Outside Europe, we see economic integration throughout Asia and in our own hemisphere, and we see economic integration leading cultural integration. The national boundaries are blurring. In this metropolitan area, for example, there are cable TV stations broadcasting in Spanish, Arabic, Japanese, and other languages. Even in Pakistan and India, the elites who rattle nuclear weapons at each other are part of the same global culture; their children are studying in American universities.

There are exceptions to the trend of global integration. There are pockets of recalcitrance: dictatorships who retain power by force, immature democracies in which crime rivals legitimate business and creates internal civil wars, unscrupulous leaders in places like the Middle East, South Asia, and the former Yugoslavia who manipulate ethnic rivalries as a tool to retain power. These are the places likely to generate conflicts which threaten our safety or our interests. These are the places which, especially if economic disparity is added to ethnic or religious differences, from which violence will emanate. These are the places in which U.S. intelligence ought to provide policymakers and warfighters the edge. Given that such places exist, and given the enduring strategic threat we also face from Russia, what should our armed forces be able to do?

First, our forces should be able to deter the threat of Russian and Chinese nuclear weapons, along with the growing threat posed by regional nuclear programs. The Wall may have fallen, but until verifiable arms control agreements bring this nuclear episode of military history to an end, we need modern, robust nuclear forces and we need the intelligence to closely watch not just Russia and China, but also the nuclear activities of proliferating countries. Good intelligence is inextricably linked to a sound strategic defense, and it is not cheap. Strong nuclear forces in the absence of nuclear testing means a dependable Stockpile Stewardship Program. We and the world must have absolute confidence in our nuclear capabilities. I will therefore support the efforts of the Senator from New Mexico to restore full funding to the Stockpile Stewardship Program.

Defending America from nuclear threats also means preventing fissile materials from falling into the hands of those aspiring to develop nuclear weapons, be they aspiring countries or terrorists. The Indian-Pakistani attainment of nuclear weapons does not cease our efforts; it means we should redouble them. In this sense, the security of Russia's vast nuclear arsenal is very much in our interest. The Armed Services Committee has long recognized this fact through the Nunn-Lugar program, and I will support restoration of full funding for Nunn-Lugar in this bill. Beyond the nuclear threat, the increasingly interconnected world I described presents little likelihood of a clash of large conventional forces. In addition to globalization, we see a reduction in conventional forces of most countries. With the vitally important exception of the United States, I also see a decline in recent years in the fighting spirit in the remaining large conventional forces in the world. All these trends suggest we will not see our military engaged in a major conventional conflict in the foreseeable future. Certainly the example of the Gulf War should dissuade other countries from putting a large armored force into the field against the United States. Large-scale conventional modernization can therefore safely be a lower priority for us. However, smaller, highly mobile, highly ready conventional forces will be a necessity.

Ethnic conflict will continue to erupt on the peripheries of global integration. Because of America's unique power and because, as the performance of our NATO allies in Bosnia prior to our arrival there showed, other countries' militaries will not take forceful action without an American example, we will be called upon for future deployments much like the Bosnian mission. Certainly we cannot answer every call. But if a conflict threatens a wider war which would require an even greater American involvement, we must deploy to nip some conflicts in the bud. It is an obligation of leadership. If we do it right, others will imitate us and we will have to deploy less often.

In designing our forces we should bear in mind the characteristics of the ideal deployable forces: highly capable (packing a strong punch), highly mobile, highly trained, well maintained, closely connected to national and theater intelligence, integrated with the command and control systems of the allies with whom we will operate, rapidly transportable to the theater of deployment, and supported by tailored logistics. These forces should operate in an environment in which we control the coasts and sea lanes in the vicinity and the airspace over the vicinity, for purposes of support, surveillance, and air strikes if necessary.

Beyond regional deployments, we face non-national threats such as weapons proliferation, terrorism, and the casualties we continually suffer from drug trafficking. As with the Russian nuclear threat, the first line of defense against these threats is the best possible intelligence. We require military forces that can respond to the intelligence when policy makers so direct: agile, superbly trained and equipped special operations forces. Increasingly the military future belongs to the sophistication and stealth of the special operator, rather than the armored masses of the past. Maintaining such forces in all the services should be among our highest priority.

Mr. President, a new threat has materialized in recent years, the threat of electronic attack against the communications systems and computer networks which are increasingly the fundamental infrastructure of our country. Recent Defense Department exercises have helped size the potential problem and the Administration has a number of agencies developing a response. As with every threat, intelligence plays a key role in warning against and countering this threat. In developing our defenses, we need units with great knowledge, the best equipment, technically sophisticated people, and speed in both decision and execution. Fortunately, these are American traits. In fact, those who contemplate attacking us in the realm of information operations are really attacking into one of our greatest national strengths. But we should not be over confident. We need to defend in cyberspace, and the forces authorized in this bill should do so.

The Armed Services Committee was faced with a tight budget and difficult choices. I propose reviewing those choices with this criterion: how does this or that program help create or sustain the kind of military forces I have described, forces responsive to the threats and global realities we face? We simply cannot afford to allocate these scarce resources on the basis of other criteria. It is not enough to state a particular class of equipment is wearing out or should be replaced, we have always had that class of equipment, so we should get a new modern version. We must ask: how does that class of equipment respond to the threats we face and will face? It is not enough to state, the defense plant in my state will lack work if we do not buy a particular item. It is not enough to state, the military base in my state must continue to operate at or above its current level of manning, regardless of the national need. It is unfair to our service members and their families, it is unfair to taxpayers, but above all it is unfair to the nation we are pledged to defend, to force precious defense funds to be spent on a basing system which is reportedly over twenty percent larger than the nation requires.

Mr. President, I will be looking closely at this legislation in terms of its contribution to the forces we require. It is far more agreeable to stay the course and stick with the traditional weapons and organizations and bases which helped win the Cold War. With an institution as large and complex as the Defense Department, change is also a lengthy process. But we must lead change and make the defense choices to align our forces with the world as it is and will be. Our fighting men and women deserve it and our country should expect it of us.

Ms. SNOWE. Mr. President, I rise in support of the Fiscal Year 1999 Defense Authorization Act. This legislation focuses on the military of tomorrow by establishing priorities that will allow American forces to prepare for the conflicts of the 21st Century.

We consider this measure under the leadership of a remarkable Senator whose personal sacrifice and professional insight have contributed to the molding of the military in our time. The public life of STROM THURMOND has reflected the evolution of conflict and war fighting capabilities in the last half-century. Emerging as a Colonel from World War II, he persevered through the traumas of Korea and Vietnam; the turbulent "hollow force" years of the 1970s; the recovery of our might under President Reagan; the collapse of imperial communism; and the computer-age attacks during the Persian Gulf War.

Today, he manages a bill that capitalizes on the lessons of the military history to which he contributed. The FY99 Defense Authorization Act increases the speed, precision, and analytical capacity of soldiers who will face post-Soviet adversaries as determined or dictatorial, but more numerous, than those whom we have confronted in the past.

While he steps down at the end of the year as Committee Chairman, his leadership will resonate in our deliberations and hearings for years to come. He brings an authorization before the Senate this week having groomed three generations of successors in the byzantine ways of defense legislation.

Mr. President, this bill includes several programs that enhance the readiness and modernization of the military. Our Committee has worked diligently during the 1990s to control the bleeding of funds from next-generation procurement systems and the stress on our forces from escalating peacekeeping commitments. President Clinton's outyear budget projections bring defense outlays as a percentage of GDP to 2.7 percent, the lowest level in almost 50 years. The President targets the military as the only federal function that sustains deep outlay decreases between 1993 and 2003. While mandatory domestic expenditures will increase over time by 23.6 percent, those for national defense fall by exactly the same level.

In modernization accounts—those for weapons procurement—funding has fallen by 67% since 1985. This trend, in constant dollars, means that at the height of the Reagan build-up thirteen years ago, the Pentagon obligated $138.7 billion for procurement. This spending fell to its lowest point—$44.2 billion—in FY97. The FY99 budget finally increases the account to $48.7 billion, and I commend Secretary Cohen for submitting the first budget by this administration that brings procurement back to the annual average threshold of $60.1 billion, as recommended by the Joint Chiefs of Staff, starting in 2001.

Exploding expenditures for peacekeeping operations since the end of the Persian Gulf War directly threaten spending for procurement and modernization. To confirm this point, we only need to read the Quadrennial Defense Review (QDR). Among all Pentagon programs, the QDR singled out "incremental costs of unplanned deployments and smaller-scale contingencies" as the "least predictable operating expenses" which "displace funding previously planned for procurement."

America's 29 contingency operations since the end of the Persian Gulf War have cost us a total of $18 billion. Our Bosnia commitment alone has consumed $7.2 billion. Even excluding Bosnia, the American taxpayers gave another three billion dollars just to support U.N. peacekeeping programs throughout the 1990's. The administration, however, has never offered us a comprehensive readiness and mission assessment of U.S. Contingency Operations (CONOPS) policy to justify or rationalize the expenditure of this $21 billion, or eight percent of the whole defense budget.

The Committee, therefore, supported an amendment that I offered along with Senator CLELAND during the mark-up session making the Pentagon statutorily responsible for providing all congressional defense committees with a Contingency Operations budgetary, mission, and readiness assessment by January 31, 1999. We did not establish the deadline by coincidence. I strongly believe that the Committee should consider any CONOPS authorization or supplemental appropriations requests next year only with the benefit of the president's strategic analysis of how and why the Armed Services will obligate their peacekeeping budgets.

This amendment subsequently directs the department to address five issues: the effects of ongoing CONOPS on Service retention and reenlistment rates; whether they cause sustained or significant shortages of military personnel and equipment in other regions of the world; the specific programmatic accounts on which the department has relied to underwrite CONOPS deployments; what clear objectives guide each of these undertakings; and the conditions, based on such objectives, that would define the end of each operation.

Presidential Decision Direction 25 of May 1994, Mr. President, outlined the scope and purpose of the administration's CONOPS policy. It promised the application of strict standards to determine whether the U.S. should participate in any overseas peace operation.

The reporting categories specified by my amendment intentionally overlap with this directive. PDD-25 specifically declared that potential CONOPS commitments would depend on whether our participation advanced U.S. interests, the "unique and general risks" to American personnel, if "clear objectives" could determine the role of our forces, and the identification of an "endpoint."

We would not impose an unfair burden on the Defense Department by mandating a pre-posture hearing or pre-budget request report on the steps that the administration has taken to implement its own plan.

This year, the Committee received Posture Statements from the Navy and the Air Force that contained warnings of potential negative readiness impacts as a result of long CONOPS deployments. Secretary Dalton cited the "requirements of the Unified Commands"—those that participate heavily in peacekeeping missions—as effecting the readiness of non-deployed fleet units.

The number of Air Force personnel dedicated to contingency operations grew fourfold since 1989 from 3,400 to 14,600 by FY97. "Caution indicators," as the report characterized it, have emerged in the areas of retention, reenlistment, and depleted inventories of spare parts.

In addition, by October 1999, the Army, the Service most involved in peacekeeping, could lack the heavy armored divisions designed for rapid deployment to crisis areas. Two of the divisions that train full time for this mission may have one-third of their troops on duty in Bosnia or Kuwait.

Four years ago, the Army had 541,000 active duty soldiers and no commitments in Bosnia. The Armed Services Committee, according to former Chairman Nunn, considered this level the minimum necessary for responding to two regional crises. Yet today, the Army faces the challenge of preparing for two Major Theater Wars at a reduced force strength of 491,000, coupled with a deployment in Bosnia.

Consider the exorbitant contingency operations costs that the Army absorbed in just one fiscal year. The amount, $1.5 billion, represented more than one-fifth of the entire research and development budget for the Service. It exceeded the total Army aircraft procurement line by almost two hundred million dollars. If we take these examples of the strains imposed by peacekeeping commitments on Army research and hardware programs, how can the administration state that it has adequately weighed the "unique and general risks" of these missions, as required under PDD-25, to our people in uniform?

Despite the alarming budgetary trends, the QDR predicts that contingency efforts will dominate the Pentagon's planning agenda over the next two decades. The law, Mr. President, must also move in this direction by requiring a CONOPS policy rationale with a CONOPS budget request. My amendment supports this transition by mandating the first pre-budget report to Congress on the national security and OPTEMPO implications of our increased contingency commitments.

Whether for contingency operations or more traditional missions, naval modernization programs will remain vital to the overseas projection of American forces. As a result, I salute the Chair of the Seapower Subcommittee—Senator WARNER—for this support of the $2.680 billion continuation of the DDG-51 multi-year destroyer procurement, the $2.003 billion going to produce the second ship of the New Attack Submarine class, and the $639 million going for the next LPD-17 Amphibious Transport Ship. In addition, I am pleased that the Subcommittee fully authorized the Navy's $85 million DD-21 land-attack destroyer Research and Development request to keep this new effort on schedule and within budget.

These four programs meet the Navy's requirements for the type of warfare that will dominate our military strategy of the future: littoral operations near coastal plains. Littoral engagements require the Navy to maneuver "close enough to influence events on shore if necessary." This post-Soviet mission continues to match our force structure with our security interests since 80 percent of the world's population lives near the coastal areas and waterways that open into the littorals.

Littoral concepts of war stem directly from the changing worldwide political environment in which the United States operates. Soviet power no longer threatens the open plains of Central Europe. Soviet ships and submarines no longer prepare for platform-to-platform battles on the open seas. For the first time since the end of World War II, a Pentagon planning document, the QDR, steered the military in the direction of deterring conflict and instability wherever it might occur rather than containing a single enemy force.

The surface ship and submarine programs authorized in this bill will provide the Navy more firepower and endurance at a lower cost. Smooth and modular construction materials will deceive the enemy radars that can detect the hard angles of older vessels. Electronic integrators will give ships and submarines split-second systems for communications and munitions targeting. A new series of rapid transporters will bring unprecedented levels of forces and weapons to the shorelines of instability or humanitarian rescue. From safe distances at sea, smaller crews will program missiles for strategic inland targets.

A littoral Navy, Mr. President, also corresponds with lower life-cycle costs. Carriers and surface combatants will carry more firepower and fewer people. This development, in addition to a greater reliance on commercial "off-the-shelf" technologies, holds the promise of decreasing maintenance expenditures by between 50 and 70 percent.

We also cannot forget that political limitations as well as political changes shape the new Navy. The visible and invisible forward presence provided by the Fleet assumes greater importance in an age when we no longer enjoy permanent bases throughout Europe or Southern Asia. As a result, the administration will increasingly rely on the Navy as a key agent of force behind our diplomacy.

For this reason, I was honored to participate in a Subcommittee markup that also expanded naval air programs. To stabilize the transition from the *Nimitz*-class of nuclear aircraft carriers to the new-generation CVX system, the Subcommittee allocated $124.5 million for acceleration of advance procurement and component construction of the CVN-77 system. We furthermore instructed the Navy to invest carrier research and development budgets in a way that will directly enhance the planned capabilities of the CVX. Our mark-up also placed the P-3 Orion Anti-Surface Warfare Improvement Program on an efficient 12-month modification track.

The changing mix of threats to our national security represented by these maritime and other high-technology defense programs finally influenced the Committee vote against authorizing another base closure (BRAC) round.

This amendment tried to address two of the many problems with the BRAC process: the fact that no law guarantees the proper investment of any quantifiable returns from base closures, and the president's temptation to manipulate commission rulings in his own political interest.

But the Committee rejected the BRAC amendment because it did not, nor could it, solve the fatal flaws in the process. No base closure round, Mr. President, has yielded the taxpayers any clear or proven savings. We do not need to rely on the claims of congressional BRAC opponents to demonstrate this point. We only need to consider the conclusion of the leading advocate of BRAC: The Department of Defense. DoD's April 1998 base closure report to Congress states explicitly that "no audit trail, single document, or budget account exists for tracking the end use of each dollar saved through BRAC."

We can also turn to the findings of independent evaluators. Last summer, the GAO flatly told us that "DoD accounting systems are not designed to track savings." The Congressional Budget Office concluded in December 1996 that the Pentagon "is unable to report actual spending and savings for BRAC actions." Accounting uncertainties, Mr. President, have made apparent base closure savings a frustrating mystery rather than a confirmed fact.

The Defense Department cannot continue to decide which installations to downsize or close by making arbitrary comparisons to personnel reductions. The standard should not focus, as DoD contends, on closing 36% of our bases if 36% of all people in uniform have left the military since the peak of the Cold War. The standard must remain the adaptation of infrastructure to new or developing security threats. But as it did last year, the administration rests the argument for more base closures on the premise that facility cuts have lagged behind those in personnel by 15 percent.

A simple percentage, Mr. President, cannot answer the questions that should determine the future of domestic military bases. What depots, for example, do we require to provide competition with the private sector and to insure the precision and endurance of fighter aircraft?

What shipyards can provide the Navy with a diversified industrial base to sustain the next-generation modular vessels that will maneuver in littoral waters?

What air bases must stay active to support our long-range power projection capabilities now that we have a diminished forward presence in Europe and Southern Asia?

These questions do not exhaust the list. But I raise them as examples of the factors absent in most of the base closure assessments that have come to Congress from the Pentagon.

Page one of the April base report estimates that the military could save 21 billion dollars between 2008 and 2015 if we approve two more BRAC rounds. Even if the Committee had accepted this projection, the QDR acknowledges that it could re-capture $18 billion of this amount in three ways: by following through with DoD management reforms and technology upgrades, providing consistent guidance to the Services on budget priorities, and controlling the costs of contingency operations.

The QDR indicated that this $18 billion dollar loss as from three specific causes, came exclusively from procurement accounts. It therefore has three specific plans, *all* of which relate to policy changes and internal reforms, and none of which relate to base closures, for restoring funds to modernization. The April base closure report even admits that if the Pentagon could quantify BRAC savings, there would be no guarantee that procurement programs might gain from the extra dollars because the four separate Services make their own investment decisions.

To assert that the department cannot save $18 billion dollars through rigorous budget management, Mr. President, is to assert that it cannot follow the mandates of the QDR, which called for "reducing unneeded standards and specifications," and the "leveraging of commercial technology."

And how unreasonable or impractical is it to control the level of unplanned expenditures on Bosnia through clear policy objectives? According to the administration, while it predicts extensive U.S. involvement in contingency operations beyond 2015, our engagement "must be selective, depending largely on the interests at stake and the risk of major aggression elsewhere."

The Clinton Administration advertises a commitment to multi-billion dollar defense management reforms while asking for base closures to generate savings that it can neither find nor re-invest. At the same time, it has submitted very real Bosnia bills that now exceed seven billion dollars and freeze our forces in a political vacuum.

By rejecting the BRAC amendment, the Committee invited the administration to provide us with a more compelling plan that links facility to mission needs. In the meantime, DoD can also realize billions of dollars of savings through firm policy decisions about our overseas strategic interests, internal reforms, and Service programmatic goals. The Defense Department must continue to work directly with Congress on the issues that will improve the military of the next decade instead of shifting them to yet another panel for which we can claim no responsibility.

Mr. President, the FY99 Authorization Bill accelerates the modernization of the Armed Services while recognizing the strong evidence of the degrading impact of open-ended contingency Operations on Personnel Tempos and unit readiness. It ultimately holds the Pentagon accountable for documented savings through policy and management reforms rather than accepting the unproven promises of BRAC savings that would come 15 years away. I therefore urge all of my colleagues to vote in favor of this responsible legislation.

U.S. NON-PROLIFERATION POLICY AND CONDEMNATION OF TESTING IN SOUTH ASIA

Mr. DOMENICI. Mr. President, my support for this amendment must be qualified. I too am concerned about proliferation. However, I do not welcome the potentially negative consequences relying strictly on U.S. unilateral sanctions in this case. I strongly urge we combine sanctions with engagement. This engagement must be based on comprehensive, calculated non-proliferation policies.

I believe that the proliferation of weapons of mass destruction poses an imminent threat to U.S. and international security. The geopolitical strings that contained states' individual aspirations of mass destruction capabilities have been severed. The emerging multipolar world—in which the U.S. is, without question, the dominant economic, military and cultural power—creates new threats and offers new opportunities.

Capitalizing on opportunities requires U.S. leadership. No other nation has the wherewithal to facilitate the creation and implementation of thoughtful and deliberate strategies to counter threats to U.S. and international security. No other nation parallels the power the U.S. can bring to bear in creating a stable international order. There is no doubt that we live in an increasingly interdependent world. Most major problems—economic, environmental, military—cannot be handled by the U.S. alone, despite our dominant position.

The proliferation of weapons of mass destruction is one such problem. This threat cannot be stemmed by unilateral U.S. actions. The dangers of weapons of mass destruction proliferation—whether by rogue nations or terrorist organizations—poses a threat to the U.S. military and U.S. civilians, as well as the future of humanity. In light of the changed global circumstances and the U.S. position as the global power, we urgently need to rethink antiquated doctrines of defense and provide a coherent approach to non-proliferation policies.

Our nuclear reality has radically changed in the past weeks. Recent rumblings from the detonation of nuclear devices in Southeast Asia should awaken us to a few simple realities: our non-proliferation policies have failed; any country desirous of nuclear capability can attain it; and sanctions alone are an inadequate deterrent and potentially dangerous approach.

Sanctions alone will not suffice in deterring would-be proliferators. When leaders of a country are willing to state that the people "will eat grass" in order to obtain weapons of mass destruction capability, this should be a sign of the relative impotence of U.S. unilateral attempts to alter their behavior.

The Nuclear Non-Proliferation Treaty—the lynchpin of nuclear control—is under assault. North Korea, Iraq, India and Pakistan sent clear signals—nuclear proliferation is a threat now. How obvious do the warning signs have to be to evoke an effective response?

The U.S. should be taking the lead in formulating national and multilateral efforts to contain proliferation. If not contained, the recent events in India and Pakistan will become a common occurrence in the world of the near future.

As stated by Secretary of Defense William Cohen in recent defense Appropriation hearings, India's actions could set off a chain reaction—not solely of a fissile nature but nonetheless having similar cataclysmic ramifications. Without swift and multilateral intervention this chain reaction could easily lead to a nuclear arms race between India and Pakistan that would spillover into other countries' strategic calculations.

More ominous is that Indian and Pakistani defiance will set the tone for other less developed states. It is clearly in the U.S. interest to prevent uncontrolled proliferation. A U.S. response proportionate to the threat would involve bringing all the policy tools we can bring to bear in reducing that threat. In sum, this requires a reasonable, consistent and aggressive non-proliferation strategy.

I would like to take a minute to look at India as an example of the failures in U.S. non-proliferation policies. India's tests resulted from international and domestic concerns. The international issues point to problems in the form of lack of consistency in U.S. non-proliferation policies.

First, India's strategic concerns are most succinctly formulated as follows: China, Pakistan, and the former's assistance to the latter. India has fought three wars in the last 50 years with Pakistan. These two states' relations with one another at their best are more perilous than U.S. relations with the Soviet Union were leading up to the Cuban Missile Crisis.

Moreover, India enjoys front row seats to observe how the existing non-proliferation regimes fail to check China's transfer of controlled technologies to Pakistan as well as another potential enemy, Iran. If China enjoys unimpeded export of missile technologies to Pakistan, and Pakistan proceeds to demonstrate its missile capabilities, why should India refrain from flexing its nuclear muscle?

Second, India has repeatedly indicated its frustration with lack of progress toward global nuclear disarmament. As my colleague, Senator MOYNIHAN, former U.S. Ambassador to India, recently suggested, India rejects the discriminatory nature of the existing non-proliferation regimes. Perhaps due to their frustration with the lack of progress on disarmament, India believes that these tests would lend urgency to the process.

The domestic dimension boils down to the nationalist and isolationist inclinations of the political leaders in India at present. The election manifesto of India's BJP states that it "rejects the notion of nuclear apartheid and will actively oppose attempts to impose a hegemonistic nuclear regime." India will not have its matters of security or its exercise of the nuclear option dictated to it. Nor would any other sovereign state.

While the world was generally appalled by India's actions, the reaction among Indians bordered on euphoria. Even though only four members of the BJP made the decision to test, that choice obviously enjoys widespread support. We witnessed similar domestic jubilation for Pakistan's response.

I agree with my colleague, Senator MOYNIHAN, who suggested that the U.S. should attempt to engage India and provide it with incentives to join international non-proliferation regimes. The current government in India only welcomes our sanctions. To approach the situation with India by invoking sanctions only plays into the aims of the strong nationalist and isolationist currents in that country.

Invoking sanctions on Pakistan raises even more serious concerns. Pakistan is a poor and unstable country. Should our sanctions push it over the brink and induce a collapse—we would have nuclear weapons in the possession of a desperate regime. As Henry Kissinger astutely observed, non-democratic regimes often use external conflict to coalesce support in the face of domestic unrest. Our sanctions may only force Pakistan's hand.

The U.S. should temper its sanctions with constructive engagement. And we should make the lifting of those sanctions contingent on India and Pakistan's willingness to negotiate their entry into non-proliferation regimes as is suggested in this amendment.

A comprehensive and effective non-proliferation policy would include several elements.

The recent call made by the five nuclear powers for these states to freeze their weapons development is a step in the right direction. The U.S. must ensure that these multilateral efforts get the sustained and clear commitment requisite to turn the tide of proliferation.

Our objectives should be clear:

First, we need to induce relations between India and Pakistan with the objective of preventing an arms race on the Subcontinent. We must convince them that their security is NOT enhanced by the weaponization or deployment of these devices.

Second, we should capitalize on recent overtures made by these countries to negotiate their entry into numerous non-proliferation regimes. We should focus particular attention on a fissile materials cutoff agreement as well as India and Pakistan's commitment to cease testing.

Third, the negotiations among the nuclear powers must take bold actions to address the discriminatory nature of the existing Nuclear Non-Proliferation Treaty. This reality was a longstanding and central reason for India remaining outside of the regime. We must assume that other nations recognize the discrimination codified in this regime, and we must begin to address it.

The implementation of these policies will be anything but easy, but they are critical to international stability and security. To be successful, U.S. non-proliferation policy must utilize the full array of policy tools available; it must be consistent and aggressive; and it must take into account other nations' perspectives and cost-benefit calculations. Imposing sanctions and muddling through simply will not suffice.

Meeting U.S. security needs in the 21st Century will require renewed commitment and more complex strategies than those that sufficed for the last several decades. Make no mistake about it though, these issues must be addressed now, and our commitment must be unwavering.

I concur with Senator MOYNIHAN in one other important respect. In the case of India, we should not be focusing on the intelligence failure, but rather the major failure in our statecraft, or lack thereof.

Statecraft in the form of addressing these problems as a leader, as the dominant global power. If the U.S. does not step up to the plate, the new millenium will be characterized by nations—both hostile and friendly—being armed with weapons of mass destruction and the means to deliver those weapons to our doorstep.

The 21st century will either witness widespread proliferation of mass destruction capabilities or the building of international norms and consensus to scale back incentives to acquiring costly and dangerous weaponry. The U.S. is the only country in a position to take a leaderhip role in defining the course and shape of the future international order.

If we don't act now, the 21st Century will, indeed, be the era of weapons of mass destruction. Mr. President, I support the amendment currently before the Senate. However, this support is qualified. I do not assume that our condemnation and unilateral economic sanctions will be adequate to turn the tide. I support the provisions centered on reduing tensions between India and Pakistan, urging multilateral efforts to address proliferation threats and expressing the need for U.S. leadership. We must act now. We must be consistent and vigilant. And we must utilize all policy tools available to achieve our aims.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

AMENDMENT NO. 3010

(Purpose: To permit recipients of Naval Reserve Officers' Training Corps scholarships to attend the participating college or university of their choice)

Mr. GRAMM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Texas [Mr. GRAMM] proposes an amendment numbered 3010.

Mr. GRAMM. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, add the following:

SEC. . ATTENDANCE OF RECIPIENTS OF NAVAL RESERVE OFFICERS' TRAINING CORPS SCHOLARSHIPS AT PARTICIPATING COLLEGES OR UNIVERSITIES.

Section 2107 of title 10, United States Code, is amended by adding at the end the following:

"(i)(1) Notwithstanding any other provision of law or any policy or regulation of the Department of Defense or of the Department of the Navy, recipients of Naval Reserve Officers' Training Corps scholarships who live in the state which has more scholarships awardees than slots available under the Navy quotas in their state colleges or universities may attend any college or university of their choice in their state to which they have been accepted, so long as the college or university is a participant in the Naval Reserve Officers' Training Corps program.

"(2) The Department of Defense and the Department of the Navy are prohibited from setting maximum limits on the number of Naval Reserve Officers' Training Corps scholarship students who can be enrolled at any college or university participating in the Naval Reserve Officers' Training Corps program in such state."

Mr. GRAMM. Mr. President, this amendment is a very important amendment, at least to this Senator. I would like to very briefly outline the problem I am trying to deal with. I have narrowed the solution to this problem so we might get a place holder in the bill. Then, our conferees can fix the Nation's problem in conference.

We cannot get an agreement on a final solution now. I think my colleagues, when they hear my argument, will agree to my amendment. I simply want a place holder, so this problem can be fixed in every school in every State in the Union.

Mr. President, what is happening is that the Navy is engaged in setting quotas in allowing students to attend colleges and universities under Naval ROTC scholarship programs. It is interesting, because the quotas are very similar to the problem we have with having more facilities than we have military personnel and functions. This is really very similar to the whole base closing crisis that we have faced.

The basic problem is we have 69 colleges and universities that participate in the Navy ROTC scholarship program. Many of these schools are schools that do not have large numbers of students who would like to attend them. Historically, the selection process, which has not changed, is a process whereby young men and women, the best and the brightest in America, apply for a Navy ROTC scholarship.

Here is how the system works, here is the change that has been made, here is the problem, and here is my proposed beginning of a solution. I hope my colleagues on both sides of the aisle will take this amendment.

Under our current program, a young man or woman who graduated from high school in America, who has excellent SAT scores, extremely high grades, and who has taken a strong scientific curriculum in high school, can apply for a scholarship through the Navy ROTC scholarship program. The selection is made by the Navy on a national basis. For example, for this coming year, 206 young men and women from my State have been selected by the Navy to receive a Navy ROTC scholarship—206.

Now, the way the Navy ROTC scholarship program worked prior to the implementation of quotas was that a young man or woman received a Navy ROTC scholarship and then chose to attend one of the 69 colleges that participated in the program. As the Navy has reduced the number of people participating in the ROTC scholarship program, rather than evaluating university programs and shutting down those programs that enroll literally two or three students per year, what the Navy is doing is setting a scholarship cap on each university's Navy ROTC program. The Navy ROTC scholarship programs that have been historically popular have been the program at MIT, the program at Notre Dame, the program at Purdue, the program at Texas A&M. The Navy has said, if we let students choose, 250 students would go to MIT and 250 students would go to Texas A&M.

Now, I fail to see the problem. Here is the point—by setting a cap of 25 students who can attend any one of the participating colleges, what happens in my State is two things. No. 1, we have 206 young men and women who have just won a Navy ROTC scholarship, one of the biggest things ever to happen to them in their lives.

Mr. McCAIN. Will the Senator yield?

Mr. GRAMM. Yes.

Mr. McCAIN. If the Senator dispenses pretty quick, we will accept the amendment and move on.

Mr. LEVIN. Apparently, Senator BYRD wants to be heard. Will you withhold?

Mr. GRAMM. Then I will continue.

Basically, the problem I am trying to deal with is the following problem.

Mr. McCAIN. Senator BYRD does not wish to talk on your amendment.

Mr. GRAMM. I have completed my remarks.

I thank my colleagues.

Mr. McCAIN. I urge adoption of the amendment.

The PRESIDING OFFICER. Is there further debate?

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, is there an amendment pending?

The PRESIDING OFFICER. The Senator from Texas has an amendment pending.

Mr. BYRD. That amendment is open to an amendment in the second degree?

The PRESIDING OFFICER. The Senator is correct. The amendment is open for a second degree.

Mr. BYRD. Mr. President, I will have an amendment in the second degree. First, I will talk about my amendment.

Mr. President, earlier this month, Secretary of Defense William Cohen announced a plan that he believes will improve initial entry training programs and policies of the U.S. military services. Secretary Cohen's plan will implement about 95 percent of the recommendations put forth by the Kassebaum-Baker panel. The 95 percent I refer to is not an exact mathematical term here. It is just a figure of speech to indicate that the great majority of the recommendations that were recommended by the Kassebaum panel will be put into effect.

This was a panel directed to assess the current training programs and policies, with an eye to correcting the structural problems that had allowed truly scandalous situations to occur involving the harassment of female recruits. The membership of former Senator Kassebaum's panel was selected directly by Secretary Cohen himself.

While many of the policies under the Secretary's plan are to be commended, debate has been brewing over those core recommendations that remain and that were not put into effect by Secretary Cohen. That deviation pertains to Secretary Cohen's support, in the face of the report of the Kassebaum Commission to the contrary, for continuing the practice of men and women undergoing basic training together, and allowing coed barracks. Not only does this stance counter specific recommendations made by the Kassebaum/Baker panel, but it counters legislative provisions approved by the House of Representatives. In my view, it also counters plain common sense.

Similar to recommendations in the Kassebaum report, the House of Representatives' Fiscal Year 1999 Department of Defense (DOD) Authorization Bill includes provisions that would require separate living facilities for men and women during basic training; prohibit after-hours access to barracks by the opposite sex, including drill sergeants; and separate training of men and women at the basic level. Senator BROWNBACK yesterday offered an amendment to the Senate Defense Authorization Bill that would require separate barracks for men and women, and limit access to these barracks by members of the opposite sex.

Secretary Cohen has announced that he is strongly opposed to the House provisions. But regardless of the Secretary's position in the debate, one looming fact remains: Sex scandals are plaguing our military training facilities. The papers are filled with headlines involving sexual misconduct in the services—misconduct involving extensive investigations and trials, and high-profile ends to military careers. This is a serious situation, a situation that, in all probability, must have negative ramifications for our overall national security. That is what we should be concerned about, not political correctness, not social engineering, not social theory, not social planning—not political correctness, but the military security of our country. That is why we have a military.

While some may claim that most of the sexual misconduct is not occurring during basic training but during follow-on training programs, that claim misses the point. It is my opinion that day 1 of training is a good place to start—day 1. I strongly support a policy that directly states the rules and values of our military services to new recruits on day 1. This policy should clearly dictate to new recruits that the U.S. military is about service, honor, and integrity.

The sad sagas in the press about sexual misconduct in the military and the sorry disrespect on the part of some members for the dignity of and the courtesies owed to other members of the military, including women recruits, can only serve to undermine the appeal of the U.S. military to our young men and women.

If we want the brightest and the best recruits, we must be committed to ensuring that the U.S. military service delivers on its recruiting promises of outstanding career opportunities. The best and the brightest will demand no less.

But that is only part of the issue, as far as I am concerned. While we must implement policies that attract cream-of-the-crop recruits and that carry through on the promise of providing them with world-class training, we must also remember that the objective of military service is the defense of the Nation. That is the objective of the military service. That is what it is all about. That defense, that security, must be the paramount aim of the Military Establishment. All other goals must be secondary to the goal of establishing the best fighting force that our Nation can field.

I have grave concerns—particularly in light of the Kassebaum report—that our current policy is failing to keep its eye on that paramount concern.

The Kassebaum panel stated:

> There is no more valuable military resource than its personnel, making training indisputably a top priority.

The panel further noted:

> The principal objective of the military's training programs is to produce an effective, efficient, and ready force. In order to achieve this objective, the training programs must, first and foremost, emphasize and instill discipline.

I heartily agree with those conclusions. And the Kassebaum report's recommendations supporting separate barracks for men and women during basic training, as well as calling for some same-gender platoons, seem to me to be in the best interest of the troops, as well as providing the right atmosphere for sound and serious training. I believe we need to do what is best for our national security and what is best for the men and women who join our military forces and whose very lives depend upon the quality of the training they receive.

Mr. President, last year, I worked with Senator KEMPTHORNE on the Senate Armed Services Committee. I joined with him on an amendment to the fiscal year 1998 defense authorization bill that created an independent blue-ribbon body to thoroughly examine, review, and evaluate the reasons for the ongoing number of sex scandals in training commands. This blue-ribbon panel is also chartered to examine fraternization and adultery issues. This panel has been created with unquestioned credentials. I believe that the report generated from this group will be a significant contribution to the body of work on gender policy. I regret that that report will not be completed until next year. And if its recommendations mirror, or reflect, those of Kassebaum-Baker, it is likely also to be ignored by the powers that be.

I also favor the language included in the House of Representatives fiscal year 1999 Department of Defense authorization bill that provides for the separation of men and women in training at the basic level. Echoing my priority in this regard, the Kassebaum report concludes:

> . . . separating the recruits at the operational training unit level should provide a better environment for teaching military values, including professional relations.

Again, the bottom line must be about ensuring that military service is a profession of service, honor, and integrity. Let us also remember this—let me say it again—the purpose of our Military Establishment, which costs us scores of billions of dollars, is to protect the national security of these United States, the security interests of the United States of America.

Our military is not an equal employment opportunity commission. It does not exist to ensure perfect political correctness by responding affirmatively to the demands of this group or that interest group or some other interest group. It is the ultimate protector of the sovereignty of this mighty Nation and the ultimate protector of the freedoms of her people. That is quite a heavy responsibility and one that needs the most conscientious and vigilant attention to be adequately addressed.

Mr. President, I urge my colleagues to join me in taking a constructive first step towards cleaning up the mess in the military and putting some common sense back into the service training regime. I like the way the Marines do it. And I think we ought to take a page out of their book.

Mr. President, I will have more to say possibly on this amendment. As of now, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, in the debate on the Brownback amendment yesterday some Armed Services Committee members observed that the Brownback amendment would adopt recommendations of the Kassebaum/Baker commission report by passing the Senate's own commission created last year. It was said that doing so makes a "mockery" of the Senate's own action, and wastes the time of the 10 members of the commission.

Well, Mr. President, Secretary Cohen has flouted the recommendations of the Kassebaum/Baker report that he himself commissioned. He has promised to implement the easiest recommendations in that report while publicly repudiating its core recommendations. He has not waited for the Senate commission's report either. He got out in front of it.

Senator BROWNBACK's amendment, and the amendment that I have prepared, would say if you are in for a penny, you are in for a pound. If the report has merit—and Secretary Cohen has acknowledged that at least parts of it do have merit in his estimation—then we ought not to reject those parts of the report that do not seem politically correct. In fact, the Kassebaum/Baker report notes that "the committee has made recommendations regarding gender integration in training where appropriate, but has also made recommendations regarding the large number of other issues that we concluded have an impact on the effectiveness of the overall training program. It is the committee's intention that its recommendations be viewed as a complete package since training is a building-block process beginning with the quality of the recruit."

Other Members have reported the objections of senior military officials to the recommendations in the Kassebaum/Baker report. And they have stated their strong support for keeping mixed-gender training just the way it currently is.

I would remind those officials and my colleagues that not so long ago the military trained women completely separately from men. It was only since the early to mid-1980's that the military began mixing the sexes during the early training phases. I believe, if I recall it correctly, that Army women were trained together at Fort McClellan, which is now closing as a part of the base realignment and closure process.

The great social experiment of putting men and women together from day 1 in the training process is not, therefore, some hallowed military tradition. It is a policy, and if that policy gets in the way of a process that is designed to remold these undisciplined young individuals into focused disciplined soldiers, then we should not hesitate to change it.

Our focus must be on national security—not political correctness; not social policy. And the basic safety and security of our recruits should not be compromised.

Mr. President, I ask unanimous consent that my amendment may be temporarily laid aside so that others may call up other amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

PROVIDING FOR AN ADJOURNMENT OF BOTH HOUSES

Mr. THURMOND. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of H. Con. Res. 297, the adjournment resolution, which was received from the House.

I further ask consent that the resolution be agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (H. Con. Res. 297) was agreed to.

The concurrent resolution is as follows:

H. CON. RES. 297

Resolved by the House of Representatives (the Senate concurring), That when the House adjourns on the legislative day of Thursday, June 25, 1998, it stand adjourned until 12:30 p.m. on Tuesday, July 14, 1998, or until noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when Senate recesses or adjourns at the close of business on Friday, June 26, 1998, Saturday, June 27, 1998, or Sunday, June 28, 1998, pursuant to a motion made by the Majority Leader, or his designee, in accordance with this concurrent resolution, it stand recessed or adjourned until noon on Monday, July 6, 1998, or such time on that day as may be specified by the Majority Leader or his designee in the motion to recess or adjourn, or until noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first.

SEC. 2. The Speaker of the House and the Majority Leader of the Senate, acting jointly after consultation with the Minority Leader of the House and the Minority Leader of the Senate, shall notify the Members of the House and the Senate, respectively, to reassemble whenever, in their opinion, the public interest shall warrant it.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1999

The Senate continued with the consideration of the bill.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Mr. President, we are working on a unanimous consent agreement, and orally we have at least agreed that Senator FEINGOLD would speak on his amendment for about 20 minutes, and Senator ABRAHAM wants to speak for 10 minutes. We are proceeding with the unanimous consent agreement. We think we can get things done in about an hour and a half, and final passage. We are moving forward on that.

We will be voting on Senator BYRD's amendment pretty much after he feels that everyone has spoken. But at the moment, we should move forward, I think, with the Feingold amendment.

I yield the floor.

Mr. FEINGOLD addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Thank you, Mr. President. I thank the senior Senator from Arizona. I will use some of the 20 minutes that I have been allocated at this time and then reserve some of it in order to respond to whatever arguments are made about the position of the amendment.

Mr. BYRD. Mr. President, will the Senator yield just very briefly without losing his right to the floor?

Mr. FEINGOLD. I will be happy to yield.

AMENDMENT NO. 3011 TO AMENDMENT NO. 3010

(Purpose: To require separate training platoons and separate housing for male and female basic trainees, and to ensure after-hours privacy for basic trainees)

Mr. BYRD. Mr. President, I call up my amendment and ask for its reading.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD] proposes an amendment numbered 3011 to amendment No. 3010.

Mr. BYRD. Mr. President, I ask unanimous consent that reading of the amendment be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the amendment insert the following:

SEC.   . (a) ARMY.—(1) Chapter 401 of title 10, United States Code, is amended by adding at the end the following new section:

"§4319. Recruit basic training: separate platoons and separate housing for male and female recruits

"(a) SEPARATE PLATOONS.—The Secretary of the Army shall require that during basic training—

"(1) male recruits shall be assigned to platoons consisting only of male recruits; and

"(2) female recruits shall be assigned to platoons consisting only of female recruits.

"(b) SEPARATE HOUSING FACILITIES.—The Secretary of the Army shall require that during basic training male and female recruits be housed in separate barracks or other troop housing facilities.

"(c) INTERIM AUTHORITY FOR HOUSING RECRUITS ON SEPARATE FLOORS.—(1) If the Secretary of the Army determines that it is not feasible, during some or all of the period beginning on April 15, 1999, and ending on October 1, 2001, to comply with subsection (b) at any particular installation at which basic training is conducted because facilities at that installation are insufficient for such purpose, the Secretary may grant a waiver of subsection (b) with respect to that installation. Any such waiver may not be in effect after October 1, 2001, and may only be in effect while the facilities at that installation are insufficient for the purposes of compliance with subsection (b).

"(2) If the Secretary grants a waiver under paragraph (1) with respect to an installation, the Secretary shall require that male and female recruits in basic training at that installation during any period that the waiver is in effect not be housed on the same floor of a barracks or other troop housing facility.

"(d) BASIC TRAINING DEFINED.—In this section, the term 'basic training' means the initial entry training program of the Army that constitutes the basic training of new recruits.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"4319. Recruit basic training: separate platoons and separate housing for male and female recruits.".

(3) The Secretary of the Army shall implement section 4319 of title 10, United States Code, as added by paragraph (1), as rapidly as feasible and shall ensure that the provisions of that section are applied to all recruit basic training classes beginning not later than the first such class that enters basic training on or after April 15, 1999.

(b) NAVY AND MARINE CORPS.—(1) Part III of subtitle C of title 10, United States Code, is amended by inserting after chapter 601 the following new chapter:

"CHAPTER 602—TRAINING GENERALLY

"Sec.

"6931. Recruit basic training: separate small units and separate housing for male and female recruits.

"§ 6931. Recruit basic training: separate small units and separate housing for male and female recruits

"(a) SEPARATE SMALL UNIT ORGANIZATION.—The Secretary of the Navy shall require that during basic training—

"(1) male recruits in the Navy shall be assigned to divisions, and male recruits in the Marine Corps shall be assigned to platoons, consisting only of male recruits; and

"(2) female recruits in the Navy shall be assigned to divisions, and female recruits in the Marine Corps shall be assigned to platoons, consisting only of female recruits.

"(b) SEPARATE HOUSING.—The Secretary of the Navy shall require that during basic training male and female recruits be housed in separate barracks or other troop housing facilities.

"(c) INTERIM AUTHORITY FOR HOUSING RECRUITS ON SEPARATE FLOORS.—(1) If the Secretary of the Navy determines that it is not feasible, during some or all of the period beginning on April 15, 1999, and ending on October 1, 2001, to comply with subsection (b) at any particular installation at which basic training is conducted because facilities at that installation are insufficient for that purpose, the Secretary may grant a waiver of subsection (b) with respect to that installation. Any such waiver may not be in effect after October 1, 2001, and may only be in effect while the facilities at that installation are insufficient for the purposes of compliance with subsection (b).

"(2) If the Secretary grants a waiver under paragraph (1) with respect to an installation, the Secretary shall require that male and female recruits in basic training at that installation during any period that the waiver is in effect not be housed on the same floor of a barracks or other troop housing facility.

"(d) BASIC TRAINING DEFINED.—In this section, the term 'basic training' means the initial entry training programs of the Navy and Marine Corps that constitute the basic training of new recruits.".

(2) The tables of chapters at the beginning of subtitle C, and at the beginning of part III of subtitle C, of such title are amended by inserting after the item relating to chapter 601 the following new item:

"602. Training Generally .... 6931".

(3) The Secretary of the Navy shall implement section 6931 of title 10, United States Code, as added by paragraph (1), as rapidly as feasible and shall ensure that the provisions of that section are applied to all recruit basic training classes beginning not later than the first such class that enters basic training on or after April 16, 1999.

(c) AIR FORCE.—(1) Chapter 901 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 9319. Recruit basic training: separate flights and separate housing for male and female recruits

"(a) SEPARATE FLIGHTS.—The Secretary of the Air Force shall require that during basic training—

"(1) male recruits shall be assigned to flights consisting only of male recruits; and

"(2) female recruits shall be assigned to flights consisting only of female recruits.

"(b) SEPARATE HOUSING.—The Secretary of the Air Force shall require that during basic training male and female recruits be housed in separate dormitories or other troop housing facilities.

"(c) INTERIM AUTHORITY FOR HOUSING RECRUITS ON SEPARATE FLOORS.—(1) If the Secretary of the Air Force determines that it is not feasible, during some or all of the period beginning on April 15, 1999, and ending on October 1, 2001, to comply with subsection (b) at any particular installation at which basic training is conducted because facilities at that installation are insufficient for such purpose, the Secretary may grant a waiver of subsection (b) with respect to that installation. Any such waiver may not be in effect after October 1, 2001, and may only be in effect while the facilities at that installation are insufficient for the purposes of compliance with subsection (b).

"(2) If the Secretary grants a waiver under paragraph (1) with respect to an installation, the Secretary shall require that male and female recruits in basic training at that installation during any period that the waiver is in effect not be housed on the same floor of a dormitory or other troop housing facility.

"(d) BASIC TRAINING DEFINED.—In this section, the term 'basic training' means the initial entry training program of the Air Force that constitutes the basic training of new recruits.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"9319. Recruit basic training: separate flights and separate housing for male and female recruits.".

(3) The Secretary of the Air Force shall implement section 9319 of title 10, United States Code, as added by paragraph (1), as rapidly as feasible and shall ensure that the provisions of that section are applied to all recruit basic training classes beginning not later than the first such class that enters basic training on or after April 15, 1999.

SECTION 527 NOT TO TAKE EFFECT.—Section 527 shall not take effect.

Mr. BYRD. Mr. President, I ask unanimous consent that the amendment may be temporarily laid aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. I thank the Senator.

The PRESIDING OFFICER. The Senator from Wisconsin.

AMENDMENT NO. 2808

(Purpose: To terminate the Extremely Low Frequency Communications System program of the Navy)

Mr. FEINGOLD. Mr. President, I call up amendment No. 2808 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

Mr. McCAIN. Mr. President, I ask unanimous consent that the pending Gramm amendment also be set aside at this time.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Wisconsin [Mr. FEINGOLD], for himself and Mr. KOHL, proposes an amendment numbered 2808.

Mr. FEINGOLD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of subtitle B of title II, add the following:

SEC. . TERMINATION OF THE EXTREMELY LOW FREQUENCY COMMUNICATION SYSTEM PROGRAM.

(a) TERMINATION OF PROGRAM.—The Secretary of the Navy shall terminate the Extremely Low Frequency Communication System program.

(b) PAYMENT OF TERMINATION COSTS.—Funds that are available on or after the date of the enactment of this Act for the Department of Defense for obligation for the Extremely Low Frequency Communication System program of the Navy may be obligated for that program only for payment of the costs associated with the termination of the program.

(c) USE OF SAVINGS FOR NATIONAL GUARD.—Funds referred to in subsection (b) that are not necessary for terminating the program under this section shall be transferred (in accordance with such allocation between the Army National Guard and the Air National Guard as the Secretary of Defense shall direct) to funds available for the Army National Guard and the Air National Guard for operation and maintenance for the same fiscal year as the funds transferred, shall be merged with the funds to which transferred, and shall be available for the same period and purposes as the funds to which transferred.

Mr. FEINGOLD. Mr. President, my amendment terminates the Navy's Extremely Low Frequency Communications System and uses the savings from it to offset funding increases for our National Guard. I am very pleased to be joined in introducing this amendment by our senior Senator from Wisconsin, Mr. KOHL.

Mr. President, the amendment would limit funds appropriated in this bill for the Navy's Extremely Low Frequency Communications System or, as is it called, Project ELF, and it involves the termination of this program. It is time to mothball the project and use the savings to correct a significant shortfall that we have in this authorization bill in the funding for the National Guard's operations and maintenance account. Project ELF is in Wisconsin, but it is an ineffective, unnecessary, outdated, cold-war relic that is not wanted by most residents of our State.

The members of the Wisconsin delegation have consistently fought for years to close down this Project ELF. I have introduced legislation during each Congress that I have been here to terminate it. And I have also attempted and have, in fact, recommended it for closure to the Defense Base Closure and Realignment Commission.

This project has been opposed by residents of Wisconsin since its inception, but for years we were told that the national security considerations of the cold war outweighed our concerns about having this installation in our State. As we continue our efforts to reduce the Federal budget deficit and as the Department of Defense continues to struggle to meet a tighter budget, it is just absolutely clear that Project ELF should be closed down. If enacted, this amendment would save approximately $12 million a year.

Project ELF is simply a one-way, primitive messenger system designed to signal to but not actually communicate with deeply submerged Trident submarines, so it is really just a bell-ringer. It is like a pricy beeper system used to tell the submarine when it should rise to the surface to get the actual detailed message through real communications systems. This was designed a long time ago. It was designed when the threat and consequences of detection to our submarines was real. But ELF was never developed to an effective capability, and the demise of the Soviet threat has certainly rendered at least this program unnecessary.

With the end of the cold war, Project ELF has become harder and harder to justify. Trident submarines no longer need to take this extra precaution against Soviet nuclear forces. They now can surface on a regular basis with less danger of detection or attack. They also receive more complicated messages through very low frequency, or VLF, radio waves or lengthier messages through satellite systems if it can be done more cheaply.

During the 103d Congress, Mr. President, I worked with our former colleague, Senator Nunn from Georgia, and included an amendment in the National Defense Authorization Act for Fiscal Year 1994 that required a report by the Secretary of Defense on the benefits and the costs of continued operation of this Project ELF. The report issued by DOD was particularly disappointing because it basically argued that because Project ELF may have had a purpose during the cold war, it should somehow continue to operate after the cold war as part of the complete complement of command and control links that were configured with the cold war in mind.

So if the question is, Did Project ELF play a role in helping to minimize the Soviet threat? Perhaps. Did it do so at risk to the community? Perhaps. But does it continue to play a vital security role to this Nation? No, it doesn't. It does not have that role.

In the 1995 rescissions bill, the Senate, as a whole, recommended the termination for Project ELF. Somehow again, though, the program survived when some conference committee members claimed to have "newly released, highly classified justifications" for the program's continuation. When I looked into these claims and was assured by the Navy and Strategic Command that no new classified justifications existed, I continued my effort to try to get rid of this program. Again, the Senate cut funding for the program in 1996 in the DOD authorization bill but somehow it was again resurrected in conference.

I would like you to know that both congressional representatives who have ELF installations in their areas, Representatives OBEY and STUPAK, support getting rid of this project. Also, former commander in chief of the Strategic Command, General George Lee Butler, called for an end to the cold-war nuclear weapons practices, of which Project ELF is a harrowing reminder.

Additionally, the Center for Defense Information called for ending the program, noting that "U.S. submarines operating under present and foreseeable worldwide military conditions can receive all necessary orders and instructions in timely fashion without need for Project ELF."

As I mentioned, Mr. President, the savings from terminating this Project ELF would offset increases for National Guard operations and maintenance, O&M. As we all know, the National Guard expects this year a $594 million budget shortfall for the coming year, almost a $600 million shortfall for our National Guard, and this follows fast on the heels of a $743 million shortfall for the National Guard during the current fiscal year.

According to the National Guard, these shortfalls are, in fact, compromising the Guard's readiness levels, capabilities, force structure, and end strength. The National Guard's O&M account shortfall directly affects surface operations tempo, real property maintenance, depot maintenance, information and telecommunications management, and medical support.

The President's 1999 budget request leaves the National Guard's O&M account a significant $450 million below what it really must be in order to meet the needs of the Guard and, therefore, the needs of our military and our country. The shortfalls have increasingly greater effect given the National Guard's increased operations burdens. This is a result of new missions and increased deployments and training requirements, including the National Guard's critical role in places like Bosnia, the Iraq situation, Haiti and Somalia.

Just to give my colleagues some background, as of now the Army National Guard represents 34 percent of all—total Army forces, including 55 percent of combat divisions and brigades, 46 percent of the combat support, and 25 percent of combat service support. And, yet, despite these very high figures of the critical and central role of the National Guard, the National Guard just gets 9.5 percent of the Army's funding.

In total numbers, the National Guard receives just 71 percent of its requested funding as opposed to the Active Army getting 80 percent and the Army Reserves getting 81 percent.

It is time we moved toward giving the National Guard adequate and equal funding. While this amendment would certainly not achieve funding equity for the National Guard, it is a step in the right direction. It does increase funding for the nation's only constitutionally mandated defense force, the National Guard.

Finally, I would like to briefly mention the public health and environmental concerns that have sometimes been associated with Project ELF. For almost two decades, we have received inconclusive data on this project's effects on Wisconsin and Michigan residents. In 1984, a U.S. district court ordered the project be shut down because the Navy paid inadequate attention to the system's possible health effects and violated the national environmental policy. Interestingly, that decision was overturned because U.S. national security at the time, Mr. President—at the time—prevailed over public health and environmental concerns. Obviously, at that time the cold war was still occurring.

More than 40 medical studies point to a link between electromagnetic pollution and cancer and abnormalities in both animal and plant species. Metal fences near the two transmitters must be grounded to avoid serious shock from the presence of high voltages.

Mr. President, I would like to bring to the attention of my colleagues this article from this morning's Washington Post. An international committee, convened by the National Institutes of Environmental Health Sciences undertook the study of electric and magnetic fields as a possible cause of cancer. Project ELF produces the same kind of electric and magnetic fields cited by this distinguished committee, and the committee's announcement seems to confirm some of the fears of many Wisconsinites.

At this point, I ask unanimous consent to have this article printed, also to follow my remarks in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See Exhibit 1.)

Mr. FEINGOLD. Earlier this year, a coalition of fiscal conservatives and environmentalists targeted, among other programs, Project ELF, because it harms both the Federal budget deficit and the environment. The coalition which includes groups like the Concord Coalition, Taxpayers for Common Sense, the National Wildlife Federation and Friends of the Earth, took aim at about 70 wasteful and dangerous programs, and this was one of them. I hope we heed their suggestion and end this program.

This amendment achieves two vital goals of many of my colleagues here. It terminates a wasteful and unnecessary cold-war era program, while providing funding increases for the National Guard. It is truly a win/win situation and I hope my colleagues will support this amendment.

EXHIBIT 1

HEALTH PANEL URGES POWER LINE STUDIES—ELECTRIC, MAGNETIC FIELDS TERMED "POSSIBLE HUMAN CARCINOGEN"

(By Curt Suplee)

The kind of electric and magnetic fields (EMFs) that typically surround electric power lines should be regarded as a "possible human carcinogen," a federally sponsored advisory panel concluded yesterday.

The 29-member international committee, convened by the National Institute of Environmental Health Sciences and meeting outside Minneapolis, voted 19 to 9 to consider power-line EMFs as a possible cause of cancer. Eight members found that the fields could not be classified as causing cancer, and one decided that EMFs are probably not carcinogenic in humans.

In a statement, NIEHS said that the majority was most influenced by epidemiological studies that "showed a slight increase in childhood leukemia risk from power-line/residential exposures, and an increase in chronic leukemia risk in adults in electricity-intensive industries."

The possible link between EMFs and cancer is highly controversial. Some other advisory groups, including panels of the National Cancer Institute and National Academy of Sciences, have noted the same association but found it inconclusive.

The panel's recommendation will be included in a report that NIEHS, which is part of the National Institutes of Health, is scheduled to present to Congress and regulatory agencies in coming months.

"This report does not suggest that the risk is high," said committee chairman Michael Gallo of the University of Medicine and Dentistry of New Jersey-Robert Wood Medical School. "It is probably quite small, compared to many other public health risks. However, I strongly believe that additional . . . research should be pursued to reduce uncertainties in this arena."

Mr. FEINGOLD. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 9 minutes 40 seconds remaining.

Mr. FEINGOLD. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. FEINGOLD. I yield the floor.

Mr. KOHL. Mr. President, I rise today as a cosponsor of this amendment to eliminate the Extremely Low Frequency or ELF System, and transfer these funds, some $12 million, to the National Guard. I commend my colleague from Wisconsin, Senator FEINGOLD, for his persistent efforts to kill this cold war relic.

It is amazing to me that no matter how many times the Senate votes in favor of eliminating this little known and obsolete system, it continues to reemerge in conference. In an era of tight budgets, with pressures to fund operations abroad and maintain modernization efforts at home, we need to take a closer took at the ELF System and recognize that we have far more compelling needs even within the defense budget.

Project ELF was conceived solely to launch and win a nuclear war. It was designed to protect submerged submarines from Soviet detection. Unfortunately, ELF's capabilities are minimal and, given the end of the cold war, its rationale is dubious. ELF is a communications system for sending one-way pre-formatted messages from shore commands to submarines operating at high speeds and depth without exposing antennae on the ocean surface. ELF's message capability is very limited and very slow—three letters take 15 minutes to transmit—so a submarine must still surface to retrieve communications. This poses serious questions about the protection ELF can provide to our submarine fleet.

ELF's transmitting facilities are located in Clam Lake, WI and Republic, MI. The two antennae work together to strengthen the signal. The Clam Lake antenna is 28 miles long with two sets of wires strung on telephone poles. The wires form an X running several miles out in four directions from the center.

The existence of this large antenna in Wisconsin has raised health and environmental questions over the years. At best the data on the risks posed by this facility are inconclusive. At worst, more than 40 medical studies point to a link between electromagnetic pollution and cancer. The people of Wisconsin would rather not have this question mark hanging over their heads.

Directing ELF's funding to the National Guard would be a much better use of these funds. The National Guard has been under funded in the FY99 budget request and the trend continues in that direction: Unfunded requirements for the Army National Guard could exceed $1.2 billion by 2002 if current trends continue. Our amendment will help address this shortfall.

Let me just conclude by noting that people of Wisconsin do not want this system in their borders. For years now, we have been working with the members of Congress in whose districts this system is based to shut it down. We almost succeeded in 1995 when the Senate Appropriations Committee rescinded funding for ELF in the Defense supplemental. At that time, I was told that the Navy wasn't interested in funding ELF anymore. Furthermore, when the Strategic Command was asked about the ELF program, it was lukewarm in its support, indicating that they would like to see ELF funded but they couldn't possibly fund it out of their own budget. Yet, at the last minute in conference, the House announced that there was new and classified information that supposedly revealed that ELF is essential to national security. The Defense Department has since weighed in with a letter saying it would like to keep ELF.

Our inability to kill ELF is a perfect example of how we can't seem to shed the Cold War infrastructure that has shaped our defense budgets for so many years. We pay much lip service to "defense reform" and making defense spending relevant to threats of the future, but when we have a small opportunity to demonstrate our resolve in this area, we cower at the thought of dismantling even one small system.

Mr. President, let's not hesitate this time. Let's eliminate this anachronism once and for all. I thank my colleague from Wisconsin for his leadership on this issue.

Mr. THURMOND. Mr. President, I rise to oppose the Feingold amendment to terminate the Navy's Extremely Low Frequency communications system.

The so-called Project ELF is a vital communications system that allows the United States to send messages to submarines that are traveling in very deep water. These messages tell submarines to come closer to the surface to receive more detailed communications. ELF is the only way to get a message to attack and ballistic missile submarines when they are at their normal operating depths.

Contrary to the argument made by the Senator from Wisconsin, Project ELF is not a cold war relic. The system remains as vital as ever. The need for the United States to have a survivable submarine force remains essential. ELF is not only needed to send messages to U.S. ballistic missile submarines but also to attack submarines.

In the post-Cold Ware era, the United States will place even greater emphasis on the submarine force for strategic deterrence. A survivable Trident submarine force is essential. This was reaffirmed in the Administration's Nuclear Posture Review, which recommended the retention of 14 Trident submarines for the foreseeable future. In a letter to the Armed Services Committee the Commander-in-Chief of the U.S. Strategic Command, wrote the following: "Both ELF communications sites, operating simultaneously, are needed to meet our worldwide requirements. Dismantling this critical system would unacceptably impact the survivability and flexibility of our submarine force." Just this week the nominee to be the next Commander-in-Chief of Strategic Command, Admiral Richard Mies, reaffirmed STRATCOM's strong support for the ELF system.

The need for a survivable U.S. submarine force did not end with the Cold War. Russia retains an aggressive anti-submarine warfare program designed to develop advanced capabilities to track and destroy all types of U.S. submarines. The United States continues to invest billions of dollars to maintain and modernize our submarine force. Other countries, such as Iran, are also acquiring an attack submarine force.

Congress continues to strongly support development of a New Attack Submarine. This important submarine modernization program is justified, in part, by Russia's aggressive ASW program. If the Senate is willing to sustain such programs, we should sustain Project ELF. If we terminate this communications program we will save approximately $10 million per year, but put at risk a multi-billion dollar investment in our submarine force.

The assertion has also been made that the ELF system may pose a public health threat. There is no evidence to substantiate this assertion. This question has been extensively studied. Each assessment has concluded that there is no risk to public safety.

The Department of Defense opposes the Feingold legislation to terminate project ELF. In a letter dated May 7, 1997, the DOD General Counsel wrote that: "The Department of Defense, Joint Staff, the Department of the Navy, and U.S. Strategic Command all agree on the necessity of maintaining the ELF system." The letter also stated that: "ELF is the only communications system available that ensures the maintenance of these critical communication links. Costly new research and development would have to be done to provide another communications path to our submarines to ensure our ability to communicate at speed and depth."

Mr. President, in summary, this amendment would jeopardize the security of the entire U.S. submarine force. There is no benefit to canceling this program and the risk of doing so is extremely high. I urge my colleagues to reject this amendment.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, I will use a bit more of the time I am allotted. I would like to briefly respond to the distinguished chairman. He indicated, first of all, the distinguished Senator from Michigan, who is a member of the Armed Services Committee, has been a critic of the Project ELF program long prior to the time I was serving in the Senate. Surely the Senator from Michigan would not support such a termination if it truly was a threat to our entire submarine system and our national security.

In particular, Mr. President, there were apparently, at least arguably, benefits to this program at one point. But these justifications that have just been identified no longer can be defended. I tried very hard for 5 years to find exactly what it is that is so critical that this system does, and I can't find it. Let me review briefly what the problem is with this ELF program.

It is an unsophisticated technology which is designed to only signal to, not actually substantively communicate with, a deeply submerged Trident submarine. It is entirely ineffective in communicating anything of substance. While Project ELF may provide an additional form of communication, it is really just redundant over the communications systems we now have at this time.

Any benefit from this is just marginal. It cannot communicate messages. It can just give phonetic-letter-spelled-out messages at the rate of 1 pulse per 5 minutes. And wartime messages, except messages to strike, presumably would require more sophisticated methods.

We are dismantling our first-strike capability. In order to act in combat, submarines have to come to the surface anyway, Mr. President, in order to receive messages and to launch missiles. So they are at risk of detection anyway at precisely the moment that we are talking about. Even in its optimum construction, Project ELF has no nuclear survivability; it has no nuclear dependability and, thus, it really doesn't have any wartime efficacy.

The justifications that have been given again here are the old ones. They do not fit the reality of the post-Soviet submarine era, and that is the reason why there is a justification for this amendment. It saves money, and it provides funding for our National Guard that desperately needs the help.

This is what is sometimes so frustrating about trying to ask the Defense Department just to give up something that they don't need. I understand criticisms of proposals for across-the-board cuts that mindlessly say, "Let's just cut out a percentage of the defense budget." That can't possibly be a reflection of the needs of our national security. But when a careful effort has been made over many years by Members of both bodies of our Congress to identify a specific program as outdated and is a cold-war relic, it seems to me it is our job in this body to say, "Wait a minute; this $12 million a year is wasted."

I am not even asking in this amendment that it be put into some other area of Government. I am asking that it be put into our National Guard, which I can tell you, having visited several armories in Wisconsin recently, the National Guard in Wisconsin has inventory problems. They can't get the training they need, and they don't have the personnel they need. They are, unlike Project ELF, critical to our national security.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 5 minutes 45 seconds.

Mr. FEINGOLD. I reserve the remainder of my time and yield the floor.

Ms. COLLINS addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I rise to add my voice to those who have already spoken in support of the defense authorization bill. Providing for the common defense is the single most important responsibility of a national government. If we fail in this regard, all the other aspects of our public policy become irrelevant. I am particularly pleased with the significant role that my own State of Maine plays in our national defense.

The legislation brought to us by the Armed Services Committee—and I commend the leaders of the committee for their tremendous efforts—recognizes Maine's contributions in a number of ways. Perhaps none is more significant than the contribution of the State of Maine in the field of naval shipbuilding. This is where the skill and the dedication of Maine workers at Bath Iron Works provide the U.S. Navy with state-of-the-art *Arleigh Burke* class destroyers, the backbone of our destroyer fleet. Fortunately, this bill ensures this will be true for years to come, because the legislation continues the Navy's multiyear procurement program for the *Arleigh Burke* class.

The bill also provides funding for the new LPD-17 amphibious ship which will be built in Bath and will help the Marine Corps maintain its local reach for years to come.

Moreover, this bill provides continued funding for the Navy's next generation of destroyers, the DD-21. With the DD-21, Mainers will continue to play a pivotal role on the cutting edge of American sea power through Bath's participation in the "shipbuilding alliance" that will construct this powerful and innovative new ship for our 21st-century Navy.

Other provisions of importance to my State increase funding to modernize and reconfigure the Navy's P-3 maritime patrol aircraft. This should permit these tried-and-true workhorses of naval aviation, operating out of bases such as the Brunswick Naval Air Station in Maine, to continue protecting our security for years to come. This bill also recognizes and supports the contributions of a number of very important defense contractors in Maine, including Saco Defense, Pratt & Whitney and Fiber Materials International of Biddeford.

Furthermore, having learned a great deal about the extraordinary high-tech chemical and biological sensor laboratory at the University of Maine, I am also proud of the groundbreaking role Maine is playing in this crucial field. Recent events in Iraq and elsewhere illustrate the grave threats posed by the proliferation of chemical and biological weapons, the so-called poor man's atomic bomb. If we are to protect Americans against such threats, our troops in the field and our citizens at home need access to small, portable, state-of-the-art sensors capable of detecting such threats quickly and efficiently. I am proud that the University of Maine and Maine companies, such as

Sensor Research & Development, are playing such an important role in preparing to meet this need and that this legislation supports funding for this important research program and other very significant defense projects at the University of Maine.

Maine will also contribute to our national defense in the development of advanced composite materials—a field in which Fiber Materials International, of Biddeford, Maine, is a world leader. From structural skin elements of advanced NASA spacecraft to the nose tips and other components for a whole generation of high-tech missile systems, FMI provides this country with the very best in fiber composite materials. Another world leader from Maine is the Pratt & Whitney plant in South Berwick, Maine, which produces engine components for the F-15 Eagle.

I should also note that this bill also aims to help ensure that the Defense Finance and Accounting Service meets its cost-cutting goals in a responsible manner—by requiring a careful study of how best to balance DFAS infrastructure reductions before the Department of Defense undertakes any such cuts. This ought to help Maine, and other states, avoid any unfair burden from cuts in facilities such as the award-winning DFAS center in Limestone, Maine. I commend my colleague, the senior Senator from Maine, for her amendment requiring this study.

As a state with one of the highest per-capita populations of veterans in the country, Maine will also gain from this bill's provision for three demonstration projects designed to help the Department of Defense determine the best way to provide health care to Medicare-eligible veterans over the age of 65. Among the demonstration projects this language would authorize is an effort to extend FEHBP benefits to Medicare-eligible veterans. This provision is itself modeled upon a bill introduced by Senator BOND which I have cosponsored. Through such demonstration projects, we hope to be able to fill a significant gap in the health care our country provides to military retirees.

As a final observation, I would like to point out that this defense authorization bill also includes language I introduced that will release federal interests in the Kennebec Arsenal in Augusta, Maine. The national government actually transferred this property to Maine nearly a century ago, but this conveyance had a number of strings attached—among them the requirement that the land only be used for a mental hospital. Today, these conditions are wholly obsolete, and this historic site is in great need of repair and historical preservation. The language I introduced which has been incorporated into the defense authorization bill will finally release the Kennebec Arsenal, without conditions, to the people of Maine. Augusta, ME, has very exciting plans for renovating this historic structure.

All in all, this defense authorization bill represents far-sighted thinking about the challenges of U.S. defense policy in the years ahead. For this alone, it deserves our support. I am however, particularly pleased that this bill recognizes Maine's role in our defense preparedness and our state's pivotal position on the forefront of defense research and development, and that it builds upon them in order to ensure our security in the 21st Century. Mr. President, I urge my colleagues to support this legislation, and I, again, salute the leaders of the Armed Services Committee for their impressive efforts.

Thank you, Mr. President. I yield the floor.

Mr. BROWNBACK addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

AMENDMENT NO. 3011

Mr. BROWNBACK. Mr. President, I rise to speak on behalf of the Byrd amendment and speak in favor of that amendment. I will not take very long, but I do want to draw some points of attention to my colleagues.

This amendment is about separate barracks and separate training. We had a thorough debate on this yesterday, so I don't need to speak for a long period of time. This amendment, in my estimation, is a very sensible step in restoring privacy and dignity to the military basic training experience.

The amendment codifies—I want to make this point very clear to my colleagues—this amendment, actually more than the one I put forward yesterday, this amendment codifies the Kassebaum-Baker recommendation, a unanimous commission, a bipartisan recommendation of separate-gender barracks facilities, and this goes on to say also during basic training separate-gender training.

This is also what has passed the House. So if my colleagues ask the question, Is this moving too far forward? I want to point a couple things out to them. This is the unanimous recommendation of the Kassebaum-Baker commission. This is the recommendation. This is what has passed the House of Representatives. This is what the Marines currently do, and it is what most of the branches, up until this decade, did as well.

But the sole point I actually want to make to my colleagues is this. We have had a good airing of this. When you come down to vote on this bill, will you please think of your daughters and your sons and sending them to basic training? I just ask and beg of you, please just think about your 18-year-old children.

And when you send them off to basic training—would you ask yourself, as you vote: Do I want to send my young daughter—in my case, Abby and Liz—do I want to send my 18-year-old daughter to basic training—I want them to serve their country; I really do want them to serve their country—but do I want to send them to basic training, 18 years old, and be able to have a male drill sergeant come in and out at any time of the day or night, such as in the cases that have taken place and take place?

Do I want to have them in the same barracks facility as other 18-year-old men, who, at the end of the day, may be looking for other things to do? Is that where I want to put Abby and Elizabeth? Is that where you want to put your daughters, your children?

This is not a wild idea or notion that Senator BYRD has put forward. It is common sense. It is the thing we ought to do. And so when the Senators cast their votes tonight, I hope when they write down that vote, they will think about their daughters, their granddaughters, their sons, their grandsons, and America, and ask, What is really best here?

Let us not hide behind another commission. A lot of people just want to do that—"Let's have another commission"—and we will do a commission until it reports out the way some people want. Let us just do what we know is right, what we have been doing with the Kassebaum-Baker commission reports, what has already passed, and let us pass the Byrd amendment.

With that, Mr. President, I yield the floor.

Mr. ABRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

AMENDMENT NO. 2808

Mr. ABRAHAM. Could I inquire of the Chair as to what the pending business is?

The PRESIDING OFFICER. The pending question is the amendment of the Senator from Wisconsin.

Mr. ABRAHAM. Thank you, Mr. President. I would like to speak briefly. I am not sure if we had an official time agreement on this amendment.

The PRESIDING OFFICER. There is no official time agreement.

Mr. ABRAHAM. I have some brief remarks I have to add to those by the chairman of the Armed Services Committee. I may have additional comments later, but I think this will be all that I have to add.

Mr. President, I rise today with the Department of Defense, the U.S. Strategic Command, the United States Navy, the Commander of the Atlantic Fleet Submarine Force, the Wisconsin State Conference of the International Brotherhood of Electrical Workers, the Wisconsin and Michigan District of the International Brotherhood of Electrical Workers, and the Upper Peninsula Building and Construction Trades Council, in opposing the amendment offered by my friend from Wisconsin, Mr. FEINGOLD.

Because our time is limited, I will get right to the point. The program which is defined in this amendment as the ELF program is of critical importance to the United States military. It has been for many years, and continues to be today, even in this post-cold-war environment. No other system can replace it, and if we eliminate it, our submarines will be forced to operate at lower speeds, shallower depths, less maneuverability, and will therefore be more vulnerable to detection and attack from hostile forces.

Last year, the Commander of the U.S. Strategic Command, General Habiger, told the Senate Armed Services Committee:

> As the only system capable of communicating with submarines operating deep beneath the ocean surface, ELF is key to enhancing the security and flexibility of that submarine force. Without ELF, submarines must communicate at shallow depth and slow speed with increased vulnerability to detection and decreased operation flexibility. The capability to operate at depth and speed is even more important in today's post Cold War environment. . . . From a security standpoint, ELF is critical to maintaining our hedge against current and future ASW [anti-submarine warfare] threats.

In fact, Mr. President, the Department of Defense recently wrote the Senate Armed Services Committee and stated that maintaining our deterrence and commitments under current arms control agreements and unilateral U.S. initiatives require the continued operation of ELF. The United States Navy is planning additional upgrades to this system because new command and control procedures will place an even greater reliance on ELF. Similar statements of support have been made by the previous and prospective Commanders of the U.S. Strategic Command, Admiral Chiles and Admiral Mies. I ask unanimous consent, Mr. President, that the letters from the Department of Defense, and both Admirals be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD as follows:

DEPARTMENT OF DEFENSE,
GENERAL COUNSEL,
Washington, DC, May 7, 1997.

Hon. STROM THURMOND,
Chairman, Committee on Armed Services,
U.S. Senate,
Washington, DC.

DEAR MR. CHAIRMAN: This is in response to your request for the views of the Department of Defense on S. 59, 105th Congress, a bill "To Terminate the Extremely Low Frequency Communication System of the Navy."

The Department of Defense opposes enactment of S. 59.

The Extremely Low Frequency (ELF) Communication System is a unique and highly effective means of one-way communication from U.S. based operational commanders to ballistic missile submarines (SSBNs) and selected fast attack submarines (SSNs) at operational depths and speeds. In fact, it is the only system capable of communicating with submarines operating deep beneath the ocean surface. This is critical if both SSBNs and SSNs are to utilize their full range of tactical capabilities. While other communication systems require submarines to deploy an antenna at or near the surface, the ELF system allows communication further from the surface thereby increasing operational flexibility and maximizing the stealth inherent in our nuclear submarines. Two ELF transmission sites are required to maintain worldwide communications coverage.

As a consequence of arms control agreements and unilateral U.S. initiatives, we have reduced the number of alert strategic weapons and forces. Accordingly, our strategic deterrent posture relies increasingly on flexible, responsive, highly survivable submarine forces. The ELF provides an important operational capability for SSBNs and SSNs. This legislation seeks to terminate this important program. Without ELF, submarines must communicate at shallow depths with increased vulnerability to detection and decreased operational flexibility. ELF enables a broader range of nuclear weapon de-posturing possibilities that can be implemented if required. Termination of ELF would seriously degrade submarine operations, by reducing responsiveness, and potentially survivability, of submarines because they would need to resort to less survivable communication postures.

The Department of Defense, Joint Staff, the Department of the Navy, and U.S. Strategic Command all agree on the necessity of maintaining the ELF system. In fact, the Department's recently completed comprehensive review of the Nuclear Command, Control, Communications and Intelligence System, conducted in support of the Department's Nuclear Posture Review, strongly supported the continued operation of the ELF system.

Fiscal constraints have mandated a reduction in the fixed submarine broadcast system. As the world coverage and redundancy of our communication networks are reduced, the ELF system ensures SSBNs can operate in all patrol areas and meet stringent connectivity requirements. The ELF system supports the rapid repositioning of SSBNs for contingency target coverage while maintaining continuous communications from the National Command Authority. Likewise, the ELF system provides immediate, dependable communications with SSNs operating in a multitude of theaters, communication which is essential to successful accomplishment of their assigned missions. ELF is the only communications system available that ensures the maintenance of these critical communication links. Costly new research and development would have to be done to provide another communication path to our submarines to ensure our ability to communicate at speed and depth.

The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no objection to the presentation of this report for the consideration of the committee.

Sincerely,

JUDITH A. MILLER.

DEPARTMENT OF DEFENSE,
U.S. STRATEGIC COMMAND,
Washington, DC, September 5, 1995.

Hon. C.W. BILL YOUNG,
Chairman, House Appropriations Subcommittee on National Security, Rayburn House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: Among the potential FY96 House Appropriation Bill Floor Amendments is one which prohibits Navy Extremely Low Frequency (ELF) Communications funding. Project ELF is essential for the effective use of the most critical leg of the strategic TRIAD. Therefore, I will reiterate some of the important facts surrounding ELF.

Post-Cold War reposturing and arms control agreements have resulted in placing more emphasis on submarines as the major leg of our nuclear deterrence. The ELF Communications System is the only system capable of communicating with submarines operating deep beneath the ocean's surface. This allows ballistic missile submarines (SSBNs) and attack submarines (SSNs), as well, to utilize their full range of tactical capabilities and maximize inherent stealth, thereby providing the operational flexibility needed to support command and control requirements stemming from force structure and mission changes.

ELF is also the only communications system that supports rapid reposturing of SSBNs for contingency target coverage by allowing continuous connectivity with the submarine while it transits at design depth and speed. ELF provides the SSBN the ability to train and exercise within the full envelop of its capabilities and maintain the ability to rapidly respond to National Command Authorities' orders. Both ELF communications sites, operating simultaneously, are needed to meet our worldwide requirements. Dismantling this critical system would unacceptably impact the survivability and flexibility of our submarine forces.

Your continued support is greatly appreciated.

Sincerely,

H.G. CHILES, JR.,
Admiral, U.S. Navy, Commander in Chief.

COMMANDER SUBMARINE FORCE,
U.S. ATLANTIC FLEET,
Norfolk, VA, June 15, 1998.

Hon. STROM THURMOND,
Chairman, Committee on Armed Services, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for the opportunity to respond to the questions from the Senate Armed Services Committee. It is an honor to have been nominated by the President to be Commander in Chief, U.S. Strategic Command. I respectfully submit the enclosed responses to your questions on the important defense policy and management issues and look forward to working with you and the Committee.

Sincerely,

RICHARD W. MIES,
Vice Admiral, USN.

Enclosure.

EXTREMELY LOW FREQUENCY COMMUNICATIONS

Question 54: Do you support continued operation of the Extremely Low Frequency (ELF) communications system?

Answer. Yes, I support continued operation of the ELF communications system. A strong command and control capability remains of utmost importance to the success of our Nation's strategic deterrence. Post-Cold War strategic force reductions have resulted in more emphasis on submarines in our strategic triad. ELF is a unique and highly effective system capable of one-way communications with strategic submarines at secure operating depths and speeds. While other communications systems require a submarine to deploy an antenna at or near the ocean surface, the ELF system allows communication further from the surface thereby increasing operational flexibility and maximizing the stealth inherent in our strategic submarines. Both ELF transmissions sites, operating simultaneously, are

> required to meet our worldwide requirements.
>
> Question 55: Do you believe that this system is cost effective and necessary, especially in light of other U.S. decisions to downgrade U.S. strategic command and control?
>
> Answer. The ELF system is very cost effective. A nuclear command and control review conducted in support of the Nuclear Posture Review strongly supported the continued operation of the ELF system. Loss of this critical system would adversely impact the survivability and flexibility of our strategic submarine force.

Mr. ABRAHAM. The second argument made by the opponents of ELF are that significant cost savings can be achieved by closing ELF. However, if the operational requirement is still valid, as we have shown that it is, and if that requirement can only be met with this facility, then an investment of about $15 million per year is, in my opinion, a very worthwhile expenditure to provide the greatest operational capability for U.S. submarine forces. Furthermore, because of the requirement delineated by the Department of Defense to keep this capability for our arms control deterrence requirements, the Department states they will have to spend additional money on research for a replacement system which has not yet been developed, additional money which would swallow up any of the costs savings claimed by the opponents of ELF.

Finally, Mr. President, the opponents of ELF claim the facility is an environmental hazard. As for the environmental impact, the Navy has initiated and funded an ongoing environmental monitoring program managed by an independent organization, I.I.T. Research Institute of Chicago, Illinois and R.D.L. Corporation. The combined results of these studies have found no adverse effect on animals, plants, or micro-organisms.

And, Mr. President, this study was exhaustive. It studied such diverse ecological issues as the degradation of bogs in Wisconsin, tree physiology and growth, earthworm, soil amoebas and slime molds, bees, birds, chipmunks—everything. It found no adverse effect on the environment because of the ELF transmissions. This study was further reviewed by the National Research Council in 1997, and they agreed with the Navy's findings of no adverse ecological effects.

Furthermore, in 1996, the National Academy of Science, in an exhaustive study of the effects of electromagnetic radiation on humans, determined that

> After examining more than 500 studies spanning 17 years of research, the committee said there is no conclusive evidence that electromagnetic fields play a role in the development of cancer, reproductive and developmental abnormalities, or learning and behavioral problems.

That, Mr. President, is pretty conclusive evidence, I think, of ELF's safety.

So, Mr. President, we have a choice. We can choose to squarely analyze the scientific research at hand, listen to the operational requirements of military Commanders, and provide our submarines, and the men and women that sail them, the best possible chance of achieving their mission, let alone survival. Or we can choose to force our sailors to operate without the equipment they need, placing them in greater danger. For just under $150,000 per submarine, the equivalent of the personnel costs of seven junior sailors, we can provide every submarine the capability of running deep, fast, silent and deadly instead of shallow, slow, noisy and vulnerable.

Mr. President, please let me close with a quote from Joe Stranger, President of the International Brotherhood of Electrical Workers, Wisconsin State Conference.

> The United States still has enemies that relish our demise and this [ELF] system is a decided advantage to any submarine operation in protection of our way of life. This system does not only protect this Country, but also protects those valuable lives of American servicemen and women who operate those submarines in the line of duty. I do not believe the minimal savings is worth the risk.

Mr. President, I could not say this any better. I therefore urge my colleagues to reject this amendment and protect our sailors.

Mr. President, I yield the floor.

Mr. FEINGOLD addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. It is a great joy working with the distinguished Senator from Michigan, and I regret having to be on the opposite side of this amendment, especially since it is our two States that are most affected by this project—ELF.

But this truly is a project in search of a justification. It had a purpose in the cold war. But when the Senator from Michigan lays out the purpose of the program, what isn't clearly identified is all this Project ELF does. He talks about the slower speeds and the fact that the submarines have to come up. But that is premised, somehow, on the notion that the submarines are being told something of any detail while they are submerged. They are not. Project ELF can only tell the submarine: "Come up." It is sort of like: "ET, phone home." That is all you get. "Come up and get your messages. Check your answering machine."

While the submarine is submerged, it cannot learn what the threat is, it cannot get instructions, it cannot get anything. All it gets is a message that it has to come up anyway, that it has to slow down anyway.

For 5 years I have been searching for a justification for something that is nothing more than really a very primitive beeper system that you can't communicate back with and you can't get any real information from. The only justification for it was the fact that we had a threat from Soviet nuclear submarines. That threat is no longer there, and there is no two-way communication that comes from this.

Again, this is one of the sad moments where a program comes into existence and somehow, because it once was supposed to have a justification under another set of facts, under another series of threats, it just keeps going because a couple of people in the military say it still might be handy.

The problem with that is, this is real money. It is $12 million a year that could be spent on a number of things. Under my amendment, we would spend it on our true national security. This is about priorities within our national security. I believe an archaic ELF system is less important than putting $12 million a year into the National Guard, which is underfunded under this bill. The needs of the National Guard armories, the inventory, the training, are underfunded under the Department of Defense authorization bill.

All I am trying to do here is to balance this, to say let's get rid of something that really isn't necessary, that really is primitive, that doesn't provide the sophisticated kind of communication that is claimed, and instead provide help to our hard-working men and women who are part of our National Guard and who now comprise a very significant part of what our Army does in this country.

This is an unusual situation. Both Senators from our State and the State where this exists are saying, "Please get rid of this program." How often do Senators from a State go to the base closure system and say please take something out of our State? I assure Members, neither Senator KOHL nor I would propose such a thing if we were not convinced after years of efforts that this program did not have a national security implication, that it was outdated, it was a waste of money, and the money was better used helping our National Guard.

I ask our colleagues to support this amendment.

I yield the remainder of our time.

Mr. MCCAIN. Mr. President, I ask unanimous consent that the Feingold amendment be set aside pending the disposition of the unanimous consent agreement which is going to be propounded shortly.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. While we are lining up the next speaker, I urge my colleagues to help in bringing this to a conclusion. It is a quarter to 7. We haven't locked in an agreement to get a sequence of votes on amendments and final passage. If we don't get that done right away, we will be here past 10 o'clock. So it is time we cut our speeches short and get the vote scheduled and bring this to a conclusion. Otherwise, we will be here into the wee hours of the morning.

I want to thank Senators WARNER, MCCAIN, THURMOND, and LEVIN for trying to put together an agreement. We need to get it done and quit talking and get to the final votes on this defense bill.

Mr. MCCAIN. Does that mean that the leader does not wish to speak on the Byrd amendment?

Mr. LOTT. I do not wish to speak on the Byrd amendment. I support it, and I urge my colleagues to vote for it.

Mr. MCCAIN. That is a great example by our leadership.

The PRESIDING OFFICER. The question is on agreeing to the Byrd amendment No. 3011.

Mr. MCCAIN. Mr. President, I ask that the pending business be laid aside pending the propounding of the unanimous consent, which will be shortly. In the meantime, I ask that the Senator from Maine be recognized for her remarks. I believe by the time that the Senator from Maine has completed her remarks, we will be ready with the unanimous consent.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. SNOWE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Ms. SNOWE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. SNOWE. Mr. President, I will speak to the Byrd amendment. The fact is, I am rather surprised that the Senator from West Virginia offered this amendment as a second-degree amendment, considering the fact that last night the Senate, in its wisdom, upheld the second-degree amendment that I offered to the amendment offered by the Senator from Kansas.

Mr. MCCAIN. Will the Senator yield for the propounding of a unanimous consent agreement?

Ms. SNOWE. I am happy to yield to the Senator.

UNANIMOUS CONSENT REQUEST

Mr. MCCAIN. Mr. President, I ask unanimous consent that the pending Byrd amendment and the underlying Gramm amendment be laid aside, and the following Senators be recognized in the following order, under the following time, with no second-degree amendments in order, except those listed prior to votes in relation to amendments.

The Feingold amendment, 2 minutes of debate by the distinguished chairman, Senator THURMOND, on the Feingold amendment, which would then complete all debate on the Feingold amendment; the Bumpers amendment, relative to the F-22, limited to 30 minutes under the control of Senator BUMPERS, 10 minutes under the control of the chairman, and 5 minutes under the control of Senator CLELAND; the Byrd amendment, with 20 minutes reserved prior to a vote on the Byrd amendment, which would be 5 minutes for Senator BYRD, 5 minutes for Senator LEVIN, 5 minutes for Senator SNOWE, and 5 minutes for Senator KENNEDY. Following that, Senator THOMPSON will be recognized for a colloquy regarding State taxation. Senator FORD will be recognized on the same subject for up to 10 minutes. Following that will be a Thurmond-Levin amendment relative to pay, on which there will be 2 minutes, equally divided; a Burns amendment relative to milcon, with 5 minutes equally divided; a McCain second-degree amendment to the Burns amendment, limited to 5 minutes under the control of Senator MCCAIN and 10 minutes under the control of Senator STEVENS. Then the 2 managers will be recognized to do a series of cleared amendments. Following that will be a Warner-Levin-Lott amendment regarding the naming of the bill.

I further ask that following the disposition or conclusion of debate on the above list of amendments, votes begin at no earlier than 8 p.m. and no later than 8:30 p.m. in a stacked sequence, and that the Byrd amendment relative to gender recur after disposition of the Bumpers amendment, with 10 minutes equally divided for closing remarks, and a vote to occur on the Byrd amendment.

I further ask that following the disposition of the Byrd amendment, and prior to disposition of the Gramm amendment, 4 minutes be equally divided on the Gramm amendment; that the Gramm amendment be deemed agreed to, and the Senate proceed to the remaining sequenced votes, with 2 minutes for debate between each vote for explanation.

I further ask that following the disposition of the above listed amendments, the bill be advanced to the third reading.

Mr. President, in keeping with that, I have every expectation that not all time that is allowed will be used under this time agreement, in the interest of comity to other Senators who are having to leave the country tonight on official business. I hope we can shrink these times that have been agreed to.

Mr. President, I modify my agreement and ask that the 2 managers be recognized after the vote on final passage to do a series of cleared amendments.

Mr. COATS. Reserving the right to object, Mr. President. The Senator from Indiana had requested time to speak on the Byrd amendment. I thought it was going to be incorporated into the unanimous consent request. I think it was inadvertently omitted. The Senator from Indiana would like to have 5 minutes along with the others.

Mr. MCCAIN. Mr. President, I modify the unanimous consent request and ask that following the remarks of the Senator from Maine, the Senator from Indiana be recognized for 5 minutes to speak on the Byrd amendment as well.

Mr. LEVIN. Mr. President, reserving the right to object, and I hope not to. I have just been informed that we have to clear up one additional issue on this side. I surely hope not to object. We worked very hard on this unanimous consent agreement. We are going to have to reserve that right for another couple of moments while one issue, and possibly two, are cleared up, which I have just been informed about.

I suggest, if the Senator from Arizona is willing, laying aside the unanimous consent request, and if the Senator from Maine would be willing to be interrupted again, assuming we can quickly get clearance, perhaps we could do that.

Mr. MCCAIN. I will try not to have to repeat the unanimous-consent agreement.

Mr. COATS. I just ask the Senator, if he would, instead of having the Senator from Indiana speak on the Byrd amendment following the Senator from Maine, if I could be incorporated into that order that was listed there to speak immediately prior to Senator BYRD's closing on the Byrd amendment.

Mr. MCCAIN. Mr. President, I further modify my unanimous-consent request and ask that prior to the disposition of the vote on the Byrd amendment, that there be 25 minutes equally divided, with 5 minutes for Senator BYRD, 5 minutes for Senator LEVIN, 5 minutes for Senator SNOWE, 5 minutes for Senator KENNEDY, and 5 minutes for Senator COATS.

Mr. President, I will await approval from the other side of this unanimous-consent request. I appreciate the patience and forbearance of the Senator from Maine.

I yield the floor.

The PRESIDING OFFICER. The request is temporarily withdrawn, and the Senator from Maine is recognized.

AMENDMENT NO. 3011

Ms. SNOWE. Mr. President, I rise in opposition to the amendment that has been offered by the Senator from West Virginia. As I said earlier, I was very much surprised that he would offer such an amendment because, first of all, last night, the Senate affirmed the position of supporting the initiative that was taken by this Senate last year in creating a commission to examine all of these far-reaching issues with respect to gender-integrated training. That vote was 56–37. It was a very strong vote in reinforcing the position of this body and, yes, this Congress, that we needed to have an independent analysis of many of the issues surrounding gender-integrated training.

In fact, I was very much surprised because the author of this amendment, the Senator from West Virginia, was a primary cosponsor of the initiative that was introduced in the Senate last year to create this commission. I was a cosponsor of the amendment, and the prime sponsor was Senator KEMPTHORNE as Chair of the Subcommittee on Personnel. We discussed that initiative in the committee. At first, I didn't think it was necessary. After all, we had the Kassebaum-Baker commission, and I didn't think we needed to duplicate those efforts. But as I thought about it, I realized how important it was to create a consensus on this issue because there were many Members within Congress and outside that were still concerned about various aspects of gender-integrated training at the basic training level.

I visited many installations. I understand the importance of creating cohesiveness within a unit from day one. But I was also prepared to accept the compromise, and the compromise was the creation of this commission that was sponsored by Senator KEMPTHORNE, cosponsored by the Senator from West Virginia and myself in the committee.

I would like to read to you some words by the Senator from West Virginia in the committee last year, with reference to this commission. He said:

> May I thank and congratulate Senator Kempthorne in offering this amendment and conducting the hearings in relation to the subject matter of the amendment. I congratulate, also, the distinguished Senator from Georgia, Mr. Cleland, who was present at the hearings while Senator Snowe and all who participated took an active part. Let me say that I am a cosponsor of the Kempthorne amendment, and I thank Senator Kempthorne for including me as a cosponsor. It will give us an integrated set of conclusions and recommendations on the various parts of the military gender issue, including training, fraternization and adultery practices and regulations. It will allow us an independent review by a body selected by the Senate of the assessment and recommendations to be made by all 3 bodies, established by Secretary Cohen to look at the various elements of the issue. I congratulate Secretary Cohen as well, in absentia, for proceeding to take action as he has. The American people need to know we are thoroughly investigating and settling the great uncertainties that have arisen about the management of our Armed Forces. A national debate is underway on this issue, and if we do not resolve the issue satisfactorily, recruitment and retention may be seriously affected. The deadline of April 15, 1998—

Which we ultimately postponed and deferred.

> gives us ample time in the next session to act on whatever recommendations we may choose to act upon.

The final legislation created a deadline of March of 1999, in which this commission will come back to this Congress and make recommendations with respect to all the issues that now have been included in the Byrd second-degree amendment.

The second-degree amendment offered by the Senator from West Virginia includes all kinds of issues on basic training, separate platoons, separate housing—all of the issues that ultimately will be evaluated by this commission that is represented with a breadth of experience and qualifications by 10 different individuals—individuals that are appointed by the Chairman of the Armed Forces Committee here in the Senate, ranking members and the leadership here in the Senate, as well as the Chairman and the ranking member of the House National Security Committee and their leadership. But the commission will appoint individuals of knowledge and expertise in one or more of the following areas:

Training of military personnel, social and cultural matters affecting military service, military training, military readiness, knowledge and expertise to be found through research, policymaking, practical experience as demonstrated by retired military personnel and members of the Reserve components of the Armed Forces, representatives from educational organizations, civilian, as well as other government agencies. They will look at functions related to gender-integrated training and segregated basic training—looking at all of the dimensions of these issues and the various components.

So that is why I hope the Members of the Senate will reject the amendment offered by the Senator from West Virginia. I hope the Senate will elect to uphold the authority of this commission in place of legislative segregation of males and females living together during basic training and training together. We have separate housing for men and women in basic training. And gender-integrated training has been endorsed by every military leader who has come before the Senate Armed Forces Committee. It has been endorsed by the Secretary of Defense; the military chiefs of the Army, Air Force, and Navy; military training commanders; senior noncommissioned officers of the Army, Navy, and Air Force; and the U.S. Army. Every uniformed person who has testified before the committee has endorsed gender-integrated training.

We should not be legislating our assumptions, as this amendment would do which has been offered by the Senator from West Virginia. Rather, we should, as we agreed to last year, allow a qualified panel of experts and former military leaders to consider the myriad questions that impact the effectiveness of gender-integrated training.

We have instructed the panel to assess the historic and current rationale behind the implementation of gender-integrated training at all skill levels. It requires an opinion of the policy within basic training programs and teaching troops as they would operate. And, towards this end, there are five standards to which the commission must filter the training as operating concepts. It has to review adequate physical conditioning, technical skills, proficiency, knowledge, military socialization, to include the delegation of social values and attitudes, as well as basic combat proficiencies.

Does anyone think in this Chamber that we can legislate answers and insights on these complex questions with the incentive of adjourning in time for a recess? Do we really think that we will be able to come up with the rationale necessary to govern basic training for our Armed Forces?

Mr. President, and Members of this body, I hope we will reject the amendment that has been offered by the Senator from West Virginia. It certainly will contravene the intent of this Congress last year in creating a commission to examine all of these issues. But it also will contravene the judgment of all of our top military officials who have endorsed gender-integrated training.

Then we have had the support of gender-integrated training by diverse groups such as the Rand Corporation, the Defense Equal Opportunity Management Institute, the Army Research Institute, and the Defense Advisory Commission on Women in the Services, or DACOWITZ. I would like to have you listen to a few of their recommendations.

A December 1997 DACOWITZ report states: "Trainers and trainees in all services perceived that gender-integrated training during the initial entry training phase of a service member's career was necessary to effectively prepare trainees for duty in the field and the fleet."

A February 1997 study by the U.S. Army Research Institute found that, "Females trained in a gender-integrated environment improved their performance on all measures of physical fitness, and males in gender-integrated training improved in two of three events." This, by the way, occurred with no change in the fitness standards.

Finally, we have been told over and over again that integration training increases unit cohesion. That is why every military leader who has come before the committee has endorsed it. Every single military member who has testified before this Congress supports gender-integrated training. Generals and privates, recruits and trainers, male and female, uniformed and civilian—all agree that a military which trains as it fights is the best prepared to meet the challenges of tomorrow.

Let's review other comments of leaders.

The former Secretary of the Army, Togo West, and the Chief of Staff of the Army, General Reimer, wrote that, "Any proposal that calls for gender segregation of both trainees and cadre violates the very foundation of the

Army: An integrated, effective and lethal force that is ready to perform the mission anywhere and at any time."

The senior noncommissioned officers from the services state clearly that, "Many successes in our gender-integrated all-volunteer force are a direct result of the training Services currently provide."

Admiral Pilling, the Vice Chief of Naval Operations, supports gender-integrated training as critical to helping recruits "develop interpersonal relationships that contribute to a healthy, effective, gender-integrated force."

So those are the many comments offered by our leaders, our military leaders. They have had every opportunity to decide differently on the issue of gender-integrated training. The Kassebaum-Baker commission report came forward in December and in fact endorsed gender-integrated training beyond basic training.

The Secretary of Defense gave an opportunity to all of the service chiefs to come back and report to the Secretary within 90 days as to how they would implement those recommendations—the ones which they agreed with and those which they disagreed with. All of the services came back and endorsed gender-integrated training as the best way to create a cohesive, unified force to train to fight and to fight as they would train.

Mr. President, I hope that on the basis of those who have endorsed gender-integrated training and on the basis of those who have doubts—that is the reason why the commission was created by this Congress, to evaluate those areas in which people had doubts and concerns about gender-integrated training. Even I endorsed the commission, as I said earlier, because I think it is important to put to rest once and for all of those concerns. That is why I endorsed this commission, as a way in which we could allay the fears and concerns of many, to have experts from a variety of professions and fields within the military, and even outside the military, to evaluate for more than a year the dimensions of this question.

So I hope, Mr. President, that the Members of this body will reject the amendment that has been offered by the Senator from West Virginia so that we can allow the commission to do the job that we asked them to do.

I hope that Members would support the amendment that was adopted last night by 56 to 37 and protect the integrity of the congressional panel on gender-integrated military training instead of trying to legislate specific results without the benefit of deliberation. I hope that we will confirm that judgment of last year and, indeed, last night by rejecting the amendment that has been offered by the Senator from West Virginia.

I remind this body that that commission was one that was endorsed and, indeed, created as a result of the cosponsorship of the Senator from West Virginia.

Mr. President, I yield the floor.

Mr. KENNEDY. Mr. President, I am strongly opposed to the Byrd amendment which would require that all military services separate men and women during basic training. I am opposed to this amendment for two reasons.

First, yesterday during the deliberations of the Snowe amendment it was stated that it was premature to make a determination on this issue, that we should let the commission complete its work, that we should wait for the final findings of the commission before taking any action. Nothing has changed.

We have charged the commission with a task that we seem to have no intention of letting them complete. Only upon careful study of the commission's final report is it prudent to make a judgment that could fundamentally alter the way in which the services conduct basic training.

Second, the decision on how to train recruits should be made at the individual service level, not by the Congress for every service, as if they all had the same training requirements. To do otherwise is to do a disservice to the men and women in our armed services. Men and women numerous other overseas postings were trained in a gender integrated environment. As a result, they are performing superbly in all aspects of military life, in a gender integrated force.

The Marines and Army direct ground combat units conduct gender-segregated basic training. For all other non-direct ground combat roles, the services conduct gender integrated training. This is how they will fight. And these decisions were made at the individual service level, as one component of a larger force structure. And the Congress should not now attempt to reverse these decisions.

Some ask, why should basic training be any different? But basic training is where new recruits learn basic military values. Integrated initial training makes sense. They will train and fight as an integrated force for their entire military careers. There is no reason why they should not begin to do so as early as possible. Doing so increases the readiness of all our military forces.

The critics of gender integrated training will list recent incidents of sexual harassment as an argument for gender segregation. However, these incidents were largely committed by senior personnel against junior personnel.

This kind of sexual harassment indicates poor leadership and not a gender integration problem in training. All of the Services acknowledge the importance of improving the quality of recruit training. Commanders and drill instructors will exercise closer supervision over all recruits. That is the best way to eliminate these abuses and ensure the high level of readiness required for our national defense.

The Senior Noncommissioned Officers in each service say that one training policy, which applies across all services, will have a negative impact on readiness. Then why are we attempting to sacrifice military readiness to gender-segregation? Numerous other military officers and veteran's groups have weighed in on this issue each supporting gender-integration. The senior officer in each service supports gender-integration and moreover, believes that the decision should be properly made at the service level—not in Congress.

We have come a long way toward full acceptance of women in the military. But more needs to be done to ensure that the progress goes forward in the coming years. Women will not continue to serve in a military which discriminates against them. I look forward to a day when more policies and programs affecting service members are implemented without regard to gender. Women in the military deserve no less.

I urge you to reject this amendment.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

AMENDMENT NO. 3012

(Purpose: To limit the obligation of advance procurement funds for the F-22 fighter)

Mr. BUMPERS. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Arkansas [Mr. BUMPERS] for himself and Mr. FEINGOLD proposes an amendment numbered 3012.

Mr. BUMPERS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike from line 1, page 25 through page 27, line 10, and insert in lieu thereof the following:

SEC. 133. LIMITATION ON ADVANCE PROCUREMENT OF F-22 AIRCRAFT.

Amounts available for the Department of Defense for any fiscal year for the F-22 aircraft program may not be obligated for advance procurement for the six Lot II F-22 aircraft before the date that is 30 days after the date on which the Secretary of Defense submits a certification to the congressional defense committees that the Air Force has completed 601 hours of flight testing of F-22 flight test vehicles according to the test and evaluation master plan for the F-22 aircraft program, as in effect of October 1, 1997.

Mr. BUMPERS. Mr. President, the Air Force is in the process of buying by far the most expensive fighter plane the United States has ever bought by a magnitude of 300 percent, to be precise. And that is if we can build it at today's estimated cost. I have not made any bones about the fact that I don't think we need the F-22, but we are going to get it. I lost the battle to terminate the program, I admit. But if we are going to spend $62 to $100 billion for 339 airplanes, we at least ought to fly that sucker before we buy it. And therein lies the problem.

My staff found—the distinguished Presiding Officer will find this interesting—a copy of an article from the January 9, 1989, Atlanta Constitution. The Presiding Officer is familiar with that newspaper. And the headline is "The B-2: Fly Before You Buy." How many times have my colleagues heard that term, "fly before you buy"? No less than a thousand.

My colleague, Senator Pryor, used to screech to the roof of this Chamber about buying weapons before they have been tested.

Let me begin with a little history of the F-22. It is the Pentagon's intention—and they usually get their way—to buy advanced F-18s, the so-called E/F model. We are going to buy 30 of those next year. Then the Pentagon also plans to buy the F-22, which is supposed to be the greatest, most sophisticated piece of weaponry in the history of the world. And we are going to buy 339 of those. And then in the year 2005 we will start buying 3,000 Joint Strike Fighters. It is going to be stealthy, and it is going to be everything that anybody could ever conjure up. It will be used by the Navy, the Marine Corps, the Air Force, the Brits, and perhaps some other members of NATO.

Mr. President, we are buying all these fighters in spite of the fact that the intelligence community and everybody who knows anything about an airplane knows that there isn't a plane in the world—in France, in Russia, in China—that is even remotely comparable to our F-15 and our F-18 and there won't be, the CIA says, for 15 to 20 years. So what is the rush to judgment?

A little more about the F-22 and its checkered history. We started out to buy over 600 F-22s, and the Air Force said, we will buy them at a certain such cost. It became apparent that they could not even begin to buy that many airplanes for those dollars, so they cut the number to 438. It turns out they could not buy 438 for that price, and Secretary Cohen, to his eternal credit, said this is the amount of money we are going to spend and no more. And so that took the number down to 339. Sixty-two billion dollars, and we put a cost cap for that amount in last year's Defense bill. Listen to this, that comes to $182 million for each F-22 we buy. That is roughly three times more than we have ever paid for a fighter plane.

So what is next? Lockheed Martin and the Air Force say in November of 1994 that the F-22 will require 1,400 hours of testing before we start production. That sounded reasonable. Then in May of 1997 they say, no, we don t need to do 1,400 hours; 601 hours of testing will be adequate. And now guess what we are down to in this very bill we are debating. You see the figure on this chart: 183 hours.

Mr. President, that comes out to only four percent of the four percent of the F-22's whole 4,300 hour flight test program. Four percent.

Now, the Defense Science Board and every flight evaluator and testing expert will tell you that most of the complaints, most of the flaws in an airplane, will, indeed, show up when you test it between 10 and 20 percent of the number of hours that it should be tested. But here we are in February of 1988. In 1998, they said 183 hours. This bill that we are debating was crafted in May of this year. Bear that in mind. A lot of things have happened since then.

Mr. President, the Air Force the other day—as a matter of fact, it wasn't the other day; it was yesterday—the Air Force sent a message to every Senator's office saying, "Here is why you ought to oppose the Bumper's amendment." But they closed it out exactly the way I knew they would close it out: 25,000 jobs—mostly in Georgia and some other States.

Mr. President, here is how much we tested other fighters before we made an initial purchase. The F-15 was tested for 975 hours before we bought the first one; the F-16 was tested 1,115 hours before we bought the first one; the F-18, 1,418 hours before we bought the first one; and the F-18E/F, the follow-on model, which really didn't need all that much testing, we tested for 779 hours. But do you know what else happened. During flight testing of the F-18E/F, they discovered that it had a problem. It was called "wing drop."

Now, if you listen to this illustration, you will know what you get into when you do this business of buying before you fly. They had to test-fly the F-18-E/F, they had to test-fly it almost 2,500 hours to cure one flaw in a time-tested airplane.

We are spending $200 million a year on the B-1 bomber, and do you know why? Because we didn't test it. We were so hot to buy that bomber back during the cold war that we started buying the initial airplanes before we even tested them.

We are spending over $200 million this year, and we will spend $198 million next year on it.

And so what came next? The next thing that came was the B-2 bomber, and it is not fixed. And we are spending God knows how much money on it every year because we didn't test it before we bought it.

What this bill does—I hope my colleagues will pay close attention to this—this bill does not keep the Air Force from buying what they call lot 1 of low rate initial production, two airplanes. We don't stop that with my amendment. We don't change the bill. They can go ahead and buy those two airplanes.

But then there is $190 million in this bill that is fenced, it is to buy long-lead items for the next six airplanes. It says you cannot buy them until you have tested it at least 183 hours and the Secretary certifies a couple of things, then you can go ahead and start toward $1.5 billion worth of airplanes, after 183 hours of testing.

I have a something here the Pogo Alert, put out by the Project on Government Oversight. It says:

> The contractors building the aircraft [referring to the F-22] may be satisfied with a promise of future testing in order to get the program funded now and will welcome getting more money in the future to fix problems discovered too late. But the Government should not walk into such a situation knowingly. To avoid more problems with the F-22, the Government merely needs to follow its own rhetoric of adopting commercial best practices, and that means, in this case, testing before producing, not after.

Once the waiver is issued by the Secretary of Defense, all bets are off. We are headed for a $1.5 billion purchase of six airplanes. And when we start running into trouble we will already be committed just as we were on the B-1 and the B-2.

The Air Force says, "We will test this airplane. We will get in the 183 hours before December." Would you like to know how many hours they have tested it so far? As of June 16, they have tested it 6 hours. And they say yes, but we are going to step that up to 15 hours a month. If they do, in December they will have about 95—95 hours of testing.

My amendment says they ought to test this plane for 601 hours before the initial purchase of these six production airplanes is made. That is the amount the Air Force said they would do just last year. Why is it that we are in such a sweat to get this unbelievably expensive airplane built with not an enemy in sight, not anybody in the world with airplanes to even come close to the F-15s and the F-18s and the F-16s? Yet they want to go all out to start buying this airplane. And we know, we know to a certainty that we are going to regret it. The testing so far, incidentally, the 6 hours it has been tested, is on what they call a clean airplane: No armaments, no sidewinders, no SRAMs, no nothing—just a clean airplane, 6 hours of testing. And when you start putting the armaments on it and in it, it takes on an entirely different aerodynamic.

I get frustrated and too loud sometimes, because I cannot believe what we do. Do you know what the Air Force told the GAO in 1992? Listen to this. In 1992 they said: We don't have to rush anymore. The cold war is over. We can take our time in testing weapons in the future. We do not have to urge what we call concurrency. Concurrency is buying airplanes while you are testing them. You are buying airplanes on the come, betting on the come. You are betting that somehow or other, whatever problems crop up, they can be solved. That is called concurrency, and that is what the Air Force told the GAO, in 1992, that it was not going to do. It said, we are not going to use concurrency as an excuse to buy weapons in the future because we are not in that big of a hurry.

Mr. President, I wish I could say that I thought Senators who were listening, and those on the floor would take a very sensible view toward testing an airplane before we buy it, particularly the most expensive fighter plane we have ever bought. But I am not hopeful. I have seen it happen too many times, planes being built in a lot of States with a lot of jobs. Nobody wants to be accused of being soft on defense. And they know to a certainty that the American public, by and large, will never know what happened—just as they don't know what happened in the case of the B-1 and the B-2. And their money will have been spent.

Mr. President, it is the "same old, same old." It is Lucy holding the ball for Charlie Brown and swearing she won't pull it out from under him this time. So it is a freebie. You can go ahead and vote against this amendment and be ironclad sure you will never pay at the polls. Nobody is going to say why did you spend that $62 billion to $100 billion on that F-22 without even testing it? They don't know about it, so you get a free ride.

Mr. President, I retain the remainder of my time and yield the floor.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. COATS. Mr. President, I am happy to respond to the Senator as a member of the committee that has addressed this problem. I am just looking back at the Senator from Arizona to see if he is prepared to propound a unanimous consent request. I think this Senator and perhaps the Senator from Arkansas are willing to proceed with the amendment and will try to conform our remarks to the conditions of a unanimous consent request, if the Senator from Arizona is prepared to propound that yet. I am not sure that he is.

Mr. McCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

UNANIMOUS CONSENT AGREEMENT

Mr. McCAIN. Mr. President, I renew my request with three modifications: One is that cleared amendments be considered as prior to the third reading; second is following the vote, following the debate on the Bumpers amendment, Senator FAIRCLOTH be recognized for up to 10 minutes to propose a MilCon amendment; then, after the disposition of the Byrd amendment, the only other amendment be a Harkin first-degree amendment with a relevant Biden second-degree amendment.

Mr. LEVIN. Relative to Kashmir.

Mr. McCAIN. Relative to Kashmir. Following that would be a vote on the Faircloth amendment which had been debated earlier.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Reserving the right to object, and I will not object—a lot of hard work has gone into this. I would only ask a very slight modification there, which is that Senator DASCHLE be added as a cosponsor of the Warner-Levin-Lott amendment.

Mr. McCAIN. I also ask unanimous consent Senator DASCHLE be made a cosponsor of the Warner-Levin-Lott amendment regarding the name of the bill.

The PRESIDING OFFICER. Without objection, it is ordered Senator DASCHLE will be made a cosponsor.

Mr. McCAIN. I also ask unanimous consent that the debate that has already taken place be accounted against the 30 minutes for Senator BUMPERS and 10 minutes for Senator COATS and 5 minutes for Senator CLELAND.

The PRESIDING OFFICER. Is there objection to the request? Without objection, it is so ordered.

AMENDMENT NO. 3012

Mr. BUMPERS. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 13 minutes.

Mr. BUMPERS. I have 13 minutes.

The PRESIDING OFFICER. Who yields time on the Bumpers amendment? The Senator from Indiana.

Mr. COATS. Mr. President, I think I have 10 minutes under the previous order. I yield myself those 10 minutes. I may reserve some of that.

The PRESIDING OFFICER. The Senator from Indiana is recognized for 10 minutes.

Mr. COATS. Mr. President, the Armed Services Committee has discussed in great detail the very situation that the Senator from Arkansas raises. We held numerous hearings. I had numerous private meetings with members of the Department of the Air Force, the Department of Defense, contractors and others on this question.

Last year, in the authorization bill, I offered an amendment to impose cost caps and a number of accountability features on the F-22, not as an opponent of the F-22, but as a proponent of the F-22, a marvelous new advance in technology that I believe is needed, but one in which this Congress has an absolute responsibility to ensure that the engineering, manufacturing, development, flight testing and production schedules are done in such a way that provides accountability to the taxpayer, gives us the product that we are looking for, and gives it to us in a manner that we can afford.

The last thing we want is for the F-22 to go the way of the B-2 where we get part way into a program, and because the costs become so excessive, we have to cancel the program or stop the program where it is, or the B-1, which was rushed into production without adequate testing, and we have encountered numerous problems with that platform ever since.

In recognition of the very issue that the Senator from Arkansas raises; that is, rushing to production before we have completed adequate preproduction flight test hours, this committee, after considerable negotiation with proponents, opponents and all those in between of the F-22, has arrived at a committee consensus that we will require a specified number of flight test hours and that any money that is designated for production will be fenced and not released until that threshold is met.

We arrived at that number on the basis of intense discussions with the Department of the Air Force, the Department of Defense, the contractor and others, recognizing that given new flight testing techniques and production techniques, what will be required for the F-22 may not necessarily be what was required for tactical airplanes developed in the past. Nevertheless, we want to be assured that we have at least reached a minimum threshold before any funds can be released.

We built a little window in here for the Secretary of Defense to certify that under these new testing techniques, manufacturing techniques, and engineering techniques that a lesser number of hours is required. He can waive a certain portion of those flight test hours, but not below a certain level.

We have requested that no waiver can be granted at a level below 183 flight test hours, a level which the Department of the Air Force, the Secretary of Defense, the contractor and everybody involved in this feels is adequate.

We require more than that. We require that 10 percent of plan schedule for flight testing be completed before those fenced funds are obligated for production. However, we do allow for a waiver.

The bottom line here is that the Committee agrees with the Senator from Arkansas that not enough flight testing has taken place and that we shouldn't go forward. In fact, the Under Secretary of Defense for Acquisition and Technology, Mr. Gansler, has already delayed the production decision for 1 year on the basis of the fact that there have been delays in the planned schedule for flight testing and that we need more flight testing.

By the same token, we are trying to balance the risk of going forward with fewer hours than what we normally would require with the risk of incurring very substantial additional costs as we slip production time schedules, as we delay moving from the engineering, manufacturing and development phase to preproduction phase or, in this case, production phase. And we are trying to balance all that. We have arrived at a pretty delicate compromise.

I will say that we do agree with the Senator that we need more flight testing hours before we rush into production, but we do also have to recognize that we have put demands on the contractor and the Air Force in terms of a fixed-price contract which requires a great commitment on their part at substantial risk, and we have to find an acceptable balance.

We think we have found that balance. As I say, those proponents of the F-22 on the committee, and the opponents of the F-22, and those in the middle have agreed this is an acceptable balance. The only thing I will say about the amendment of the Senator from Arkansas is that it goes a little further than the provision agreed to in the committee, and I believe we should hold to the committee position on this, because it does achieve that very delicate balance between the extra costs that will incur if we demand more testing, and the risk of not having enough flight testing.

We have built a 6-percent—between a 4- and 10-percent window in there, but we require the Secretary of Defense to put his signature on the line and his Department's credibility on the line before we waive below the 10 percent level.

For that reason, I urge Members to support the committee position. We will be going to conference with that and hope that they will understand that the underlying bill addresses the problem raised by the Senator from Arkansas, and we think it addresses it in a way that allows us to gain confidence that before we go to production, we have completed adequate flight testing. And yet our position also takes into consideration the fact that under a fixed-price contract and under the requirements that are imposed on the contractor and the Air Force, we are not incurring these substantial additional costs through the delay.

For that reason, I hope Members will support the committee position. Any remaining time I have I reserve, and I yield the floor.

Mr. CLELAND. Mr. President, I would like to speak for 5 minutes in opposition.

The PRESIDING OFFICER. The Senator has 5 minutes.

Mr. CLELAND. Mr. President, I thank the Senator from Arkansas for doing his homework. He is very courageous in touching on one of the serious issues regarding the F-22.

All of the members of the Senate Armed Services Committee, including myself, were rightly concerned about the issue of whether enough flight testing on the F-22 would be accomplished prior to making an informed decision on whether to proceed with low-rate initiation production. The dilemma we faced was simple:

Do we move forward with the program at the risk that unknown problems would arise causing significant cost overruns and delays or do we shut down the production line in response to our concerns about testing which would certainly lead to cost overruns and a delay in the program?

The Catch-22 we found ourselves in was not an easy one to solve. The Armed Services Committee took this head on, and I believe we arrived at an approach that addresses the testing issue, while also addressing the issue of keeping the program on track. Let me briefly explain what the Armed Services Committee did:

First, we fenced Lot II funding, and made it absolutely contingent upon completion of 183 test hours. Let me repeat: It is absolutely contingent upon completion of 183 hours. If that level of testing cannot be done in FY-99, Lot II funding will not be released. Second, the committee placed an additional restriction on release of funding for Lot II. The Air Force must complete 433 flight-test hours or the Secretary of Defense must certify that less than 433 hours is acceptable, explaining why less than 433 is acceptable, showing how less than 433 hours is consistent with prior Defense Acquisition board recommendations, and showing why it is more cost-advantageous to proceed with Lot II than to delay the production line.

These requirements are real. They are tough. they are realistic.

Let me offer some perspective on the first requirement. Prior to an initial production decision for 2 aircraft, the F-22 will have 183 flight test hours. In comparison, the F-16 had only 21 flight test hours prior to initial production decision for 16 aircraft—162 less than the F-22. The F-18 A/B had no flight test hours prior to an initial production decision for nine aircraft.

The second threshold, the completion of 433 hours or a certification for less than that provides us with this. The F-22 program has changed in many ways. And so many things have changed the way aircraft are designed and built today. With the advances in technology and concerns for keeping control of costs, in the future more and more testing will be done without actual flight test hours.

It is undisputed that flight test requirements cannot be replaced entirely, but there are certain amounts of simulations and ground testing that can take the place of actual in-flight tests.

Here is what the F-22 has gone through, to date: 153 prototype flight test hours—on high angle-of-attack, supercruise, and thrust vectoring technology; over 365,000 equivalent flight test hours on aircraft components and subcomponents; over 23,000 hours of software/hardware integration testing; over 6,000 hours of engine testing; 600 hours of high-fidelity radar cross section model testing; 450,000 hours of avionic ground tests; 123,000 hours of component structural tests; 2,000 hours of engine ground tests; 43,000 hours of wind tunnel testing. More importantly, there has been 25,000 hours of scaled wind tunnel testing without experiencing the "wing drop" phenomenon discovered in the F-18E/F wind tunnel testing.

The Senate Armed Services Committee provisions would require the Secretary of Defense to certify all of this and make the case that less than 433 flight test hours on this gives us the level of confidence to proceed.

I would like to say, Mr. President, that I speak in opposition to the Bumpers amendment. The Air Force informs us that a delay in the F-22 program associated with not being able to meet overly stringent requirements could increase the program some $4 billion.

So, Mr. President, I speak in opposition to the amendment and yield the remainder of my time.

Mr. FEINGOLD. Mr. President, I come to the floor today to voice my support for the amendment offered by my friend from Arkansas.

I am proud to have worked with the distinguished Senator on a number of issues during the past five years and I will miss his leadership and friendship. One of the many issues on which I have had the pleasure to work with him is the Defense Department's tactical aircraft programs.

I am a proud co-sponsor of this most sensible amendment. I find it hard to believe that anyone could oppose an amendment that makes sure the Air Force flight tests its multi-billion dollar F-22 aircraft less than half the number of hours the Air Force itself planned to fly before moving to begin production.

Just this past Monday, the DoD's Director of Operational Test and Evaluation told Congress that the F-22 will have approximately 100 hours of flight tests by December, not the 183 the Air Force expects. And that is less than one third the number of hours that the Air Force itself said was desirable just last year. In essence, Mr. President, the Air Force wants to begin producing F-22s at a cost of about one hundred billion tax dollars after completing about 7 percent of its originally planned flight tests. Does this seem like a good idea?

By comparison, the F-15 flew for 975 hours before a production contract award; the F-16 for 1,115 hours; and even the much-flawed Super Hornet had 779 flight test hours before a production contract was awarded.

There is a direct correlation between flying hours and expansion of an aircraft's flight envelope. It takes flying hours to explore an aircraft's performance at all airspeeds and altitudes and in various configurations.

Remember, Mr. President, prototype tests, ground tests, wind tunnel tests and computer simulations did not predict the Super Hornet's program-threatening wing drop problem, which took 2,500 hours of flight tests to solve.

Mr. President, this amendment just makes common sense. We need to make sure the taxpayers are getting all they're paying for. I urge my colleagues to support this amendment.

I yield back to the Senator from Arkansas.

Mr. COVERDELL. Mr. President, I rise today in opposition to the amendment offered by Senator BUMPERS that would fence in funding for advanced procurement for the six Lot II F-22 aircraft until 601 hours of flight testing of F-22 flight test vehicles has been completed and reported. By requiring the completion of an absolute number of test flight hours before releasing funds, this amendment places on the F-22 program constraint which would slow down the program, increase costs and jeopardize full procurement of the Air Force's requirement for this weapon.

First, I would like to note that the Armed Services Committee has already placed conditions on funding for the six Lot II F-22's. The Committee, in this very bill, included language mandating that procurement funds for these aircraft will not be released until the F-22 has completed 433 hours of flight testing, or the Secretary of Defense determines that a number of hours of flight testing less than 433 provides a sufficient basis for deciding to proceed to production. From what we know of this plane it has performed well. The F-22 meets or exceeds all expectations, and I expect this course to continue.

It is estimated that this amendment would delay the F-22 program up to one year. By breaking production lines and undermining firm fixed price contracts, production would have to wait while testing is completed, even if the F-22 has fully demonstrated its capabilities and the Defense Department has full confidence that the plane is ready for production. This delay would, in turn, increase costs of the program by up to $4 billion. This substantial cost increase would break the Congressionally mandated cost caps, at full expense to the tax payer, and risk full procurement of the Air Force's requirement.

Mr. President, the approach to the issue of flight test hours is most appropriately addressed by the Armed Services Committee in the Defense Authorization bill. This approach makes flight test requirements an essential component of full funding while providing the flexibility to proceed with the program should the F-22 prove, as it has already, that it is a plane ahead of its time. Our country cannot afford to let this program get off track. The F-22 is a vital component of our future national security. We must fund it, we must build it and we must fly it.

Mr. LEVIN. I thought the Senator from Arkansas might want to conclude, so I would use the remainder of the 3 minutes of the Senator from Indiana.

Mr. BUMPERS. Pardon?

Mr. LEVIN. I will use the balance of the time of the Senator from Indiana, and then the Senator from Arkansas can finish.

Mr. BUMPERS. Yes.

Mr. LEVIN. Mr. President, first, the Senator from Arkansas has again identified a significant problem in terms of our defense procurement. We were very much concerned with this problem in the Armed Services Committee in the manner which the Senator from Indiana described.

The difficulty that we face is that there is going to be some risks either way. If there is a delay here, as the amendment of the Senator from Arkansas would require, there would be a 14-month gap, approximately, before the advanced procurement funds could be obligated. And that gap in this production line will be costly to the extent perhaps of $2.75 billion.

Now, on the other hand, in the testing which we need to displace some significant problems with the F-22, we are going to also have some significant costs. So either way, we have to face some risks—either way—whether we do it the committee way or whether we do it the way of the Senator from Arkansas.

We felt on the committee it was better to do it our way, to let the Secretary of Defense, if he must waive some of those testing hours before the obligation of the advanced procurement money require that he certify that the financial risks that are there either way would be greater from his not certifying than from his certifying.

So we are trying to reduce the risks through this process, the financial risks that are going to exist either way. But in supporting the committee position, and in opposing the amendment of the Senator from Arkansas, I again commend him for taking the time to get inside one of these issues. He is one of the few Senators who is willing to get inside one of these complicated defense procurement issues and point out the complexities, and in this case what he considers to be the error of a particular procurement process in which we are engaged. And so while I disagree with him, again, I commend him and thank him for the time he has taken on this issue.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senate from Arkansas.

Mr. BUMPERS. I thank the distinguished Senator from Michigan for his very fine comments.

I have a couple of questions. No. 1, if 601 hours was the right number of preproduction tests last year, why is 183 hours the right number this year?

If you want to use apples and apples, you compare flight hours prior to award of a production contract. This chart shows the preproduction flight hours here. Those planes were tested this amount: 975 hours for the F-15; 1,115 hours for the F-16; and 1,418 hours for the F-18—preproduction hours.

And what are we going to do for the F-22? 183.

And let me repeat, when you talk about how much more this is going to cost, $3 or $4 billion more, if we do not do this—you tell me, what if the Secretary does not wait? They still have to test 433 hours, and presumably you are going to get into the same cost figures of a $3 to $4 billion cost overrun.

And while I am at it, let me ask the Air Force and Lockheed Martin this question: If you did not know, if they did not know that this committee, the Armed Services Committee—if they did not know that the required test hours were going to be cut from 600 to 183, why did they make those commitments that would generate a $3 to $4 billion cost overrun? Why are we responsible for the cost overrun that they have incurred—not us—they?

Oh, Mr. President, it is so frustrating.

I want to say this on the floor. Everyone knows I am leaving at the end of this year. I am not running for reelection. And, you know, it is no fun saying "I told you so" when you are in a little country town down in Arkansas instead of on the Senate floor. I told this body years ago that when push came to shove the space station costs were going to start escalating.

You listen to this. I told you years ago that the space station was going to cost well over $100 billion. And now it is almost up to $100 billion and rising. Since October 1, the cost overrun, just to build it—not deploy it—just to build it is 44 percent in 8 months.

And this F-22 fighter, this airplane is going to cost this body and this country more headaches than you will ever dream of. And tonight is an opportunity to avoid it. Why do we insist on going headlong into the production of an airplane this expensive, this sophisticated, which requires even more testing because of the new sophisticated equipment it has on it? And it is stealthy, all of those things.

So I will tell you tonight—and I will not be here to say "I told you so"—you are making a fatal mistake. You will regret it. The cost of this airplane is going to be a lot more than $62 billion.

When the Air Force said, "We'll build it for $62 billion," Secretary Cohen said, "OK, that's what we're going to build it for." They said, "How many can you build?" They said, "Three hundred thirty-nine." So last year, courtesy of my good friend from Michigan, Senator LEVIN, and Senator COATS, and Senator MCCAIN, we took the Air Force's word, and we put the total cost at $62 billion—$182 million each.

And we hadn't anymore got it ink printed, the ink wasn't dry, before the Air Force says, "I'm sorry, we can't do it. We have to lift that cap." You know something else? It will be lifted. It will be lifted. Nothing is ever permanent around here. How we deceive ourselves and get by with it.

The only satisfaction I will get out of this evening is knowing that sometime in the not-too-distant future I will be proven correct. Would you buy an automobile that had been tested for 6 hours, or even 183 hours? You wouldn't buy a Jeep that had only been tested for 183 hours, but we are going to spend $100 billion on 339 airplanes.

I yield the floor, and I yield back the balance of my time.

The PRESIDING OFFICER. All time is yielded back.

Under the previous order, the Senator from Tennessee was to be recognized for a colloquy, but the Senator is not here.

Mr. FAIRCLOTH addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. FAIRCLOTH. Mr. President, I ask unanimous consent that the colloquy of the Senator from Tennessee be entered in the RECORD and I may be permitted to introduce my amendment at this time.

Mr. LEVIN. Reserving the right to object, the unanimous consent request was that the colloquy of the Senator from Tennessee be entered into the RECORD at this time.

Mr. FAIRCLOTH. That was my request.

Mr. LEVIN. I want to see if there is an objection to that because——

Mr. FORD. Mr. President, reserving the right to object, I thought the Senator from Tennessee would be here to do his own business and I didn't realize the Senator from North Carolina was going to make the motion. I prefer that he not make it so I can have an opportunity—I understood the Senator from North Carolina will have an amendment he will propose.

Mr. FAIRCLOTH. That is correct.

Mr. FORD. Why don't I object to the colloquy of the Senator from Tennessee being entered into the RECORD, set that aside, so when the colloquy goes in, I will have an opportunity then to present my side of the question; would that be agreeable?

Mr. FAIRCLOTH. That would be satisfactory with me.

Mr. FORD. So they are withdrawing the unanimous consent request.

The PRESIDING OFFICER. The request is withdrawn.

Mr. FAIRCLOTH. Now, has the debate terminated on the Bumpers amendment?

The PRESIDING OFFICER. It has.

If there is no objection, the Senator from North Carolina is recognized.

Mr. WARNER. The Senator from North Carolina would now be recognized according to the time agreement.

Mr. LEVIN. Mr. President, parliamentary inquiry just to clarify the situation. As I understand the situation, the Senator from North Carolina is going to then proceed with his amendment now, ahead of the colloquy of the Senator from Tennessee and the Senator from Kentucky. Is that correct?

The PRESIDING OFFICER. That is the Chair's understanding.

Mr. LEVIN. That time has been reserved to the Senators from Tennessee and Kentucky?

The PRESIDING OFFICER. The Senator is correct.

Mr. LEVIN. I thank the Chair.

AMENDMENT NO. 3014

(Purpose: To authorize, with an offset, $8,300,000 for the construction of the National Guard Military Educational Facility at Fort Bragg, North Carolina)

Mr. FAIRCLOTH. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from North Carolina [Mr. FAIRCLOTH] proposes an amendment numbered 3014.

Mr. FAIRCLOTH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 321, between lines 16 and 17, insert the following:

SEC. 2603. NATIONAL GUARD MILITARY EDUCATIONAL FACILITY, FORT BRAGG, NORTH CAROLINA.

(a) AUTHORIZATION OF APPROPRIATIONS.—The amount authorized to be appropriated by section 2601(1)(A) is hereby increased by $8,300,000.

(b) AVAILABILITY OF FUNDS.—Funds available as a result of the increase in the authorization of appropriations made by subsection (a) shall be available for purposes of construction of the National Guard Military Educational Facility at Fort Bragg, North Carolina.

(c) OFFSET.—The amount authorized to be appropriated by section 2404(a)(9) is hereby reduced by $8,300,000.

The PRESIDING OFFICER. The Senator is recognized for 5 minutes, 10 minutes equally divided on this issue.

Mr. FAIRCLOTH. Mr. President, it was 10 minutes for me. It was not equally divided. Now, if it is equally divided, it can go to 20 minutes. I asked for 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from North Carolina is recognized for 10 minutes.

Mr. FAIRCLOTH. Mr. President, this amendment authorizes appropriations for construction of a National Guard training facility at Fort Bragg. If anyone has seen the facility that the Guard from four States is using at Fort Bragg, he would agree it is a disgrace. It is a disgrace to the Guard. It is a disgrace to the Government. It is a disgrace to the Army. In fact, the buildings are so old and so run down that they were mistaken by the XVIII Airborne Corps deputy commander as abandoned and so ordered them demolished—they were such an eyesore—until he was informed that they were the National Guard facility.

This new training facility will be used by the National Guard and reservists and active-duty personnel from four southeastern States—North Carolina, South Carolina, Georgia, and Florida.

It is simply wrong to continue to train and berth our guardsmen in World War II buildings that, when they were built, it was announced that they were temporary and going to last 10 years. Now we are 50-plus years putting our National Guard into these buildings. They were temporarily constructed in 1941, to last for 10 years and then to be taken down. They are still there. We are still housing the National Guard in them. The water supply is unsafe, and they have to haul in water in buckets for the National Guard to drink. And we talk about quality of life.

We expect much from the National Guard. We count on these troops to handle any assignment that is given to them—in war, peacekeeping, or national disasters. Yet we have put them in facilities that are a disgrace to the military. They deserve the same level of accommodations that we are building at other bases around the country.

I was not elected to the Senate by the people of North Carolina to stand by and listen to Defense Department bureaucrats and autocratic officers. I grew up believing that this was a country in which a civilian authority controlled the military. I have gotten here and I have seen this thing we call the FYDP, or whatever it is, but it now gives the military officers the total authority to set the goals of what we do. And we simply stand by, vote for it, and raise the money. This is not a civilian-controlled military. We are a civilian nation controlled by an autocratic military.

This is a worthy and worthwhile project. It should be funded. The National Guard does, as we expect it to, make a worthwhile and very necessary contribution to the country. They deserve to be treated better. But, instead they start talking about saving money by the military.

If ever there was a waster of money, where spending is out of control—and we just heard from Senator BUMPERS—

it's the military. We have heard it over and over and over.

This is $8.5 million to replace 50-year-old temporary buildings, and they say, "No, we can't do it; we need the money for something else." Now, we are wasting billions of dollars in Bosnia, billions were wasted in Somalia and Haiti. If ever it was wasted, that was wasting it. They say we can't afford $8.5 million for four States' National Guards to have a decent place for encampment.

No; the President is on his way or in China with 1,000 people with him—1,000. I question that he needs them, every one, when we say we can't afford $8.5 million for a National Guard barracks at Fort Bragg.

No. We are not a civilian population controlling a military. We changed that rule, and we decided that we would be controlled by a military—a military of arrogant officers, entrenched bureaucrats that simply write out what they want and we, like little toadies, follow.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. FAIRCLOTH. I yield back the remainder of my time.

The PRESIDING OFFICER. Under the previous order, we will now be recognizing the Senator from Tennessee and then the Senator from Kentucky.

Mr. WARNER. Mr. President, for the moment, we yield back any time on the Faircloth amendment.

Mr. President, parliamentary inquiry. Under the unanimous-consent agreement, would the Chair please advise the Senate as to the next matter. I don't have the agreement before me.

The PRESIDING OFFICER. If Senator Thompson is not here, then Senator Ford would be next.

Mr. WARNER. For the moment, I ask unanimous consent to lay aside the Thompson matter and now proceed to the Thurmond-Levin amendment relative to pay.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. I thank the Chair.

I yield the floor.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

AMENDMENT NO. 3015

(Purpose: To increase the percent by which the rates of basic pay are to be increased)

Mr. THURMOND. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. Thurmond], for himself, Mr. Stevens, Mr. Levin, Mr. Warner, Mr. McCain, Mr. Coats, Mr. Smith of New Hampshire, Mr. Kempthorne, Mr. Inhofe, Mr. Santorum, Ms. Snowe, and Mr. Roberts, proposes an amendment numbered 3015.

The amendment is as follows:

On page 110, line 13, strike out "3.1 percent." and insert in lieu thereof the following:

"3.6 percent.

"(c) Offsetting Reductions in Authorizations of Appropriations.—(1) Notwithstanding any other provision of title I, the total amount authorized to be appropriated under title II is hereby reduced by $150,000,000.

"(2) Notwithstanding any other provision of title II, the total amount authorized to be appropriated under title II is hereby reduced by $275,000,000."

Mr. THURMOND. Mr. President, this amendment would authorize a 3.6 percent pay raise for military personnel.

Mr. President, increasing military pay is something the Committee wanted to do when we marked-up our bill. However, when we completed our mark-up six weeks ago, it was just not possible. Many Senators will recall that we were facing an almost insurmountable outlay problem in the defense budget. The Budget Committee, the Armed Services Committee and the Appropriations Committee were engaged in intense discussions to find a solution that would not adversely impact our national security.

Now that we have been able to review and analyze the defense authorization and appropriations mark-ups of both bodies, we have identified programs which are hollow. We will use this hollow budget authority and outlays to pay for increasing military pay from the 3.1 percent requested by the President to the 3.6 percent level indicated by the Employment Cost Index. We will, of course, make the necessary adjustments to eliminate the hollow programs during our conference with the House.

Mr. President, I have discussed this amendment with the Chairman and Ranking Member of the Defense Appropriations Subcommittee. Both Senator Stevens and Senator Inouye have joined the Members of the Armed Services Committee as co-sponsors of the amendment.

Several weeks ago, the Joint Chiefs were briefed on recruiting and retention problems in the services and directed their staffs to review actions they could take to increase military pay. I am pleased that we are able to find a way to give our military personnel the pay raise they deserve. I urge my colleagues to support this amendment.

Mr. WARNER. Will the chairman yield for a question?

Mr. THURMOND. I am pleased to.

Mr. WARNER. I would like to be added as a cosponsor. I am sure the chairman would agree with me that Senator McCain was very active in bringing to our attention the matters of the pay raise.

Mr. THURMOND. Mr. President, I ask unanimous consent that Senator Warner be added as a cosponsor of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Mr. President, Senator Burns' amendment relating to MilCon would be the next item. We are anxious to move on.

The PRESIDING OFFICER. The Senator from Michigan has one minute.

Mr. LEVIN. Mr. President, we support the amendment. A number of Democratic members of the Armed Services Committee are already cosponsors, I believe, on the amendment. If not, I will ask unanimous consent that we be added as cosponsors. I believe the names of those cosponsors are already on the amendment. We support this amendment as an offset. It corrects a deficiency building up in military pay for some time. We think it is a good amendment and I hope it is adopted by the Senate.

The PRESIDING OFFICER. All time has expired.

Mr. THURMOND. Mr. President, I urge adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3015) was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WARNER. Mr. President, I ask unanimous consent at this time that we can recognize the Senator from Oklahoma. He has worked out a resolution of the amendment by the Senator from North Carolina.

I understand they will need a few more minutes.

UNFAIR STATE INCOME TAX

Mr. THOMPSON. Mr. President, I was planning to offer an amendment to this bill that would provide relief to the 2,200 civilian Tennesseans working at Ft. Campbell who are being unfairly taxed by the Commonwealth of Kentucky. My amendment would also provide relief to South Dakotans working on the Gavins Point Hydroelectric Dam who are being unfairly taxed by Nebraska, and the Washingtonians working on the Columbia River Hydroelectric Dams who are being unfairly treated by Oregon. I am joined in my efforts by Senators Frist, Gorton, Daschle, Murray, and Johnson.

Mr. President, the folks working at these facilities may live in Tennessee or South Dakota, but they are being forced to pay state income tax to Kentucky and Nebraska, even though they receive absolutely no services or benefits from these states. These employees are being unfairly taxed by their nonresident state simply because their work takes them across the border into the neighboring state.

The employees enter the neighboring state only on federal property. They do not travel on the neighboring states' roads during the course of their work. There is no reciprocal tax agreement between the two states to ensure that individuals pay tax only to one state (as is usually the case between neighboring states). So, these employees are fully supporting the governments of both their resident state and the neighboring state.

At Fort Campbell, Tennessee civilians enter Fort Campbell on the Tennessee side of the post and cross into Kentucky on a Fort Campbell road that is maintained by the federal government. The Tennesseans do not travel on a Kentucky road to reach the Kentucky side of the post. And all emergency fire, police and medical services at Fort Campbell are provided by the federal government.

We have a situation where Tennesseans are forced to pay the same Kentucky state income tax as a Kentucky resident, but they are not eligible to receive any benefits from the Commonwealth of Kentucky, such as unemployment compensation, in-state tuition, in-state hunting licenses or in-state fishing licenses.

The federal employees working at the Gavins Point Dam and the Columbia River Dams face comparable situations.

My amendment is very narrowly drawn so as not to establish a broad precedent. It would only affect the three listed facilities. In the past, Congress has acted to provide tax relief in similar extraordinary situations. Congress has exempted active duty military personnel, Members of Congress and their staffs, and Amtrak and other multi-state transportation employees from taxation except by their resident states.

The legislation on which my amendment is based, H.R. 1953, has passed the other body twice this Congress and was reported by the Senate Committee on Governmental Affairs by a vote of 15 to 0. It is currently pending in the Senate Finance Committee. The Chairman of the Senate Committee on Finance has expressed his support for this measure.

Mr. President, I understand that the Senator from Kentucky has clearly indicated his intention to prevent the Senate from voting on my amendment. It is not my intent to hold up action on the DOD Authorization bill. I want to ask my distinguished colleague from South Carolina, the Chairman of the Committee, then for an assurance that he will work with me and the other cosponsors of this amendment in the conference to retain the provision identical to my amendment that was included in the other body's version of the DOD Authorization bill. This is a very serious matter for my state of Tennessee, for South Dakota and for Washington state, which must be addressed.

Mr. THURMOND. I appreciate how important this matter is to the Senators from Tennessee, South Dakota and Washington. I say to the Senator that, while I cannot make preconference agreements on outcome, I will work with him to try to retain the House provision in final conference agreement.

Mr. THOMPSON. I thank the Chairman for his cooperation and assistance.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. FORD. Mr. President, I believe I have 10 minutes under the unanimous-consent agreement.

The PRESIDING OFFICER. That is correct.

Mr. FORD. Mr. President, the Senator from Tennessee, Mr. THOMPSON, just entered a colloquy as it related to the tax situation between Kentucky and Tennessee. I wanted to be sure that my remarks on the unconstitutionality of that amendment were brought to the attention of my colleague.

Mr. President, there is a provision in the House version of this bill that really astounds me. I am referring to an amendment to title X of the House bill which was offered by Congressman BRYANT. I wish to bring it to the attention of the managers. It is a tax issue involving the States of Kentucky and Tennessee. Let me restate that. It is a tax issue—not even a federal tax issue, but a state tax issue—and it is mentioned in the House version of this bill.

The House bill contains language which preempts state tax laws and lays out how federal and private sector employees who may do work at the Fort Campbell Army installation should be taxed by states. I think all Senators should be concerned by the precedent set by this language. Let me make a few points relevant to this language.

The language in the House bill raises fundamental tax issues. It is within the jurisdiction of the Finance and Ways and Means Committees. It has no place on this bill.

The House tax language involves issues that should be decided among States. Congress should not be dictating state tax policies in a Defense Authorization bill. Congress should not be preempting state tax laws in a Defense bill.

At my urging, our Governor's office has contacted the Tennessee Governor's office. Revenue officials from both States have had preliminary discussions in the last few weeks. We should allow this process of negotiation to continue. That is the usual way in which States deal with tax issues like this one. Not on the floor of the House or Senate.

The House tax language will cost my State $4 million in lost revenue. The Governor of Kentucky strongly opposes a Congressional attempt to preempt State tax laws in this manner. I ask unanimous consent that a letter of opposition to this language from the Governor of Kentucky be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COMMONWEALTH OF KENTUCKY,
OFFICE OF THE GOVERNOR,
Frankfort, KY, June 25, 1998.

Hon. WENDELL FORD,
U.S. Senate, Washington, DC.

DEAR SENATOR FORD: I am writing to express Kentucky's opposition to the Thompson amendment currently under consideration by the United States Senate. The issue addressed by this legislation is the tax imposed by the Commonwealth on income earned within Kentucky by non-resident federal workers.

The protest by federal workers employed at the Fort Campbell military base against the imposition of the Kentucky income tax has centered on their contention that the tax is unfair to them. All income in question is taxed the same whether earned by a resident or non-resident of Kentucky. Only the income earned within the Commonwealth of Kentucky is taxed. It would be unfair to tax the income of residents but not the income of non-residents doing the same job in the same place. Indeed, if this were the case, it would make sense for Kentucky residents working on the Fort Campbell base to move to Tennessee to avoid the Kentucky income tax.

On June 23, 1998, Kentucky's Attorney General sent to me a memorandum which offers a compelling and reasonable argument against the constitutionality of the Thompson amendment under the Commerce Clause. A consequence of this amendment would be its detrimental impact on the Kentucky communities which surround Fort Campbell. The legislation would exceed Congressional authority and would likely be proven as unconstitutional. Congress granted the states the power to tax income, and on several occasions, courts have held that states can assess an income tax to nonresidents who earn their income in that state. Congress can reduce the states' power of taxation, but only through an amendment within the confines of the Commerce Clause.

We are attempting to resolve this issue through a joint effort with Tennessee Governor Sundquist's office. This matter is one to be settled at the state level, and not an issue for Congress to resolve. The impacts of the Thompson amendment would far surpass Fort Campbell. These impacts would extend to the employees of every federal institution within close proximity with state borders.

In closing, I would like to reiterate that Kentucky's taxation of non-residents working in Kentucky is fair in concept and in practice. To exempt all non-residents or a special group of non-residents who work in Kentucky would be unfair. If I may provide you with any other information on this issue, please feel free to contact me.

Sincerely,

PAUL E. PATTON,
Governor.

Mr. FORD. Mr. President, this House tax language is strongly opposed by the Federation of Tax Administrators. These are the revenue officials from all 50 States and the District of Columbia. They believe this amendment creates a horrible precedent of preempting State tax laws. I ask unanimous consent that a letter in opposition to this language from the Federation of Tax Administrators be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FEDERATION OF TAX ADMINISTRATORS,
Washington, DC, June 24, 1998.

Hon. WENDELL H. FORD,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR FORD: I am writing concerning amendments to the defense appropriations bills (S. 2057) which would preempt Oregon, Kentucky and Nebraska from applying their income taxes to certain federal employees (and in some cases contractors) who work in those states, but reside in bordering states with no income taxes (Washington, Tennessee and South Dakota).

These amendments have been separately considered earlier in the 105th Congress as H.R. 1953. The Federation of Tax Administrators is an association of the principal tax administration agencies in the 50 states, the District of Columbia and New York City. The Federation has adopted a policy which urges that the Senate reject H.R. 1953 and any similar language which may be offered as an amendment to other bills.

We ask the Senate to recognize that, throughout the history of income taxation, both federal and state, workers are taxed by the jurisdiction where the work is performed. This system represents the keystone of taxation. State lawmakers make exceptions to this system to address individual circumstances where strict adherence to the principle leads to undesirable results. In particular, in those instances where sound fiscal and government policy permit, a state may enter into a reciprocal agreement with a bordering state to permit taxpayers to file a single return in the state of residency. Kentucky is at the forefront of such policy refinements—it has a reciprocal agreement with every border state that has a broad-based individual income tax. (The agreements do not function with non-income-tax states such as Tennessee, and thus they are not applicable in this case.)

The U.S. Constitution imposes substantive constraints on the manner in which states may structure their tax systems. These constraints ensure that the tax imposed meets fundamental tests of fairness in dealing with all citizens. The Constitution further ensures that state taxes do not impose undue burdens on interstate commerce or the federal government. The taxes imposed by these states meet these requirements and should not be preempted. There is no question that states have the legal authority to tax the income of nonresidents working in Oregon, Kentucky or Nebraska.

What this amendment would do is carve out a special tax benefit for workers who choose to live (or move) out of state that would not be available to any other employees working at the same location. Further, the language exempts from taxation wages paid to federal workers in Oregon and Nebraska—but it exempts from tax income paid to all individuals who work in Fort Campbell in Kentucky. This encompasses not only contract employees who work directly for the military (for instance, school teachers), but also includes the employees of private companies who run businesses or perform services on the base, including such businesses as restaurants and road maintenance firms. These are clearly private businesspeople, not federal workers. If Kentucky is to be preempted from taxing individuals who work for the federal government, we particularly urge the Senate to adopt language that more precisely defines the matter. (More precise definitions have been offered by the Pentagon.)

Finally, and most importantly, if change is necessary, it is within the power of the states involved to do so. This is an issue for state lawmakers, not federal lawmakers. Lawmakers in Kentucky and Tennessee are seeking an equitable solution that would not impose an unfair burden on either state. Oregon has already passed a law that exempts from taxation those federal employees who work on the dam in Oregon. (We would emphasize that to continue to include Oregon in this bill is unnecessary and an insult to the elected officials of that state.)

The ability to define their tax systems within the bounds of the Constitution is one of the core elements of sovereignty preserved to the states under the Constitution. A central feature of this sovereignty is the ability to tax economic activity and income earned within the borders of the state, and it is vital to the continued strong role of the states in the federal system. State taxing authority should be preempted by the federal government only where there is a compelling policy rationale. There is no such rationale present here.

The Senate is faced with an opportunity to demonstrate good faith to the principles contained in The Unfunded Mandates Act of 1995. If Congress feels that the impact of federal workers on installations crossing the borders of two states—one of which imposes an income tax and the other of which does not—should be offset, it should provide the funding necessary to offset the costs imposed on the states affected.

Sincerely,

HARLEY T. DUNCAN,
Executive Director.

Mr. FORD. Mr. President, let me quote from a couple of lines from this.

> We ask the Senate to recognize that throughout the history of income taxation, both Federal and State, workers are taxed by the jurisdiction where the work is performed.

Another part of the letter says:

> The U.S. Constitution imposes substantive constraints on the manner in which States may structure their tax systems. These restraints ensure that the tax imposed meets fundamental tests of fairness in dealing with all citizens.

The letter says:

> Finally, and most importantly, if change is necessary, it is within the power of the States involved to do so.

And:

> The ability to define their tax systems within the bounds of the Constitution is one of the core elements of sovereignty preserved to the States under the Constitution.

There is no rationale or precedent here under this situation.

Mr. President, Oregon has just worked out the problem between Washington and the State of Oregon, as it should be done. Yet, my friend from Tennessee included Oregon and Washington in his statement.

If this language is agreed to, then Tupelo, MS, had better look out because the same thing that is happening in Kentucky will happen to Mississippi, because the same situation occurs near Tupelo from Tennessee, and then there is a park system at the border there. So they would have to, in good conscience, go after two additional States.

It was my understanding that the Senator from Tennessee, Senator THOMPSON, has considered offering a similar amendment to this bill. Senators from at least 24 States should be concerned about the precedent this language would set. Any State which borders another State with no state income tax structure should be concerned about the precedent set by this language. I ask unanimous consent that a list of the 24 States that could be adversely affected by the proposed language be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE DISTURBING PRECEDENT SET BY THE THOMPSON AMENDMENT—POTENTIAL FUTURE IMPACT ON STATES BORDERING OTHER STATES WITH NO BROAD BASED INCOME TAX

Senators from these 24 States should be concerned about the precedent set:

Alabama
Arkansas
Arizona
California
Colorado
Georgia
Idaho
Iowa
Kentucky
Louisiana
Maine
Massachusetts
Minnesota
Mississippi
Missouri
Montana
Nebraska
New Mexico
North Dakota
Oklahoma
Oregon
Utah
Vermont
Virginia

Mr. FORD. Mr. President, in fact, I have a partial list of over 240 federal facilities that are on or near the borders of two or more States. The precedent created by this language could affect these and other federal facilities all over the country.

So, Mr. President, I ask unanimous consent that the 240 Federal facilities located on or near State borders be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

240 FEDERAL FACILITIES POTENTIALLY AFFECTED BY THE PRECEDENT (LOCATED ON OR NEAR STATE BORDERS)

ARIZONA (7)

Hoover Dam.
Davis Dam.
Glen Canyon Dam.
Parker Dam.
Imperial Dam.
Several National Forests.
Military Installations near Yuma.

ARKANSAS (9)

Federal prison in Forrest City.

Corps of Engineers projects at Beaver Lake.

Corps of Engineers projects at Bull Shoals Lake.

Corps of Engineers projects at Norfolk Lake.

Corps of Engineers projects at the Arkansas River.

Fort Chaffee Army base.
Felsenthal National Wildlife Refuge.
White River National Refuge.
VA Hospital in Fayetteville.

CALIFORNIA (50)

Military Facilities—Fort Irwin, Naval Weapons Center, Sierra Army Depot.

National Forests—Eldorado, Inyo, Klamath, Modoc, Plumas, Rogue River, Shasta-Trinity, Sierra, Siskiyou, Six Rivers, Stanislaus, Tahoe, Toiyabe.

National Parks and Monuments—Clear Lake National Wildlife Refuge, Death Valley National Park, Joshua Tree National Park, Kings Canyon National Park, Lava Beds National Monuments, Lower Klamath National Wildlife Refuge, Modoc National Wildlife Refuge, Mojave National Preserve, Mt. Shasta Recreation Center, Redwood National Park, Tule Lake National Wildlife Refuge, Yosemite National Park.

U.S. Bureau of Reclamation—Boca Dam, Imperial Diversion, Laguana Diversion, Lake Tahoe Dam, Prosser Creek Dam, Senator Wash, Sly Park, Stampede Dan, Colorado Dinosaur National Monument.

Routt National Forest.
Arapaho National Forest.
Roosevelt National Forest.
Rocky Mountain National Park.
Pawnee National Grassland.
Comanche National Grassland.
Great Sand Dunes National Monument.
Rio Grande National Forest.
San Juan National Forest.
Mesa Verde National Park.
Uncompahgre National Forest.
Colorado National Monument.
Grand Mesa National Forest.

CONNECTICUT (2)

U.S. Naval Submarine Base, Groton.
U.S. Coast Guard Academy, New London.

GEORGIA

Kings Bay Naval Submarine Base.

MAINE

Portsmouth Naval Shipyard.

MASSACHUSETTS

Hanscom Air Force Base.

MISSISSIPPI (8)

Holly Springs National Forest.
NASA Test Site, Bay St Louis.
Vicksburg National Military Park.
U.S. Corps of Engineers District Office, Vicksburg.
Natchez Trace Parkway.
Meridian Naval Air Station.
Columbus Air Force Base.
TVA, Tupelo.

MISSOURI (6)

Federal Locks and Dams:
No. 20 near Canton.
No. 21 near West Quincy.
No. 22 near Saverton.
No. 24 near Clarksville.
No. 25 near West Alton.
No. 27 near St Louis.

MONTANA (10)

Kootenai National Forest.
Lolo National Forest.
Bitteroot National Forest.
Beaverhead National Forest.
Custer National Forest.
Bighorn Canyon National Recreation Area.
Yellowstone National Park.
Glacier National Park.
Crow Reservation.
Blackfeet Reservation.

NEBRASKA

Gavins Point Dam.

NEW JERSEY (20)

McGuire Air Force Base.
Fort Dix Army Installation.
U.S. Naval Air Station, Lakehurst.
Pomona Naval Training Airport.
U.S. Naval Recreation Target Area, Ocean City.
Ft. Monmouth, Monmouth.
Ft. Hancock, Sandy Hook.
U.S. Coast Guard Bases (Cape May, Fort Dix, Highland, Pt. Pleasant, Ocean City).
Sandy Hook Gateway National Recreation Area.
Delaware Water Gap National Recreation Area.
Morristown National Historic Park.
Killcohock National Wildlife Refuge.
Red Bank National Battlefield Park.
Great Swamp National Wildlife Refuge.
Edwin B. Forsythe National Wildlife Refuge.
Brigantine National Wildlife Refuge.

NEW MEXICO (6)

White Sands Missile Range.
Cannon Air Force Base.
Carlsbad Caverns National Park.
Kiowa National Grassland.
Carson National Forest.
Santa Fe National Forest.

NEW YORK

Ellis Island.

NORTH CAROLINA

Great Smoky Mountains National Park.
Cherokee Indian Reservation.
Pisgah National Forest.
Blue Ridge Parkway.
Uwharrie National Forest.
Fort Bragg Military Reservation.
Pope Air Force Base.
Camp Butner Federal Prison.
Sunny Point Army Terminal.
U.S. Coast Guard Air Station, Elizabeth City.
Veterans Hospital—Swannanoa.
Veterans Hospital—Oteen.
Veterans Hospital—Durham.

OREGON (20)

Bonnieville Power Administration.
U.S. Army Corps of Engineers, North Pacific Division.
FAA Facilities.
Portland Air Force Base.
Kingsley Air Force Base in Klamath Falls.
U.S. Coast Guard, Captain of the Port.
Fremont National Forest.
Winema National Forest.
Rogue River National Forest.
Siskiyou National Forest.
Lower Klamath National Wildlife Refuge.
Hart Mt. National Wildlife Refuge.
Wallawa-Whitman National Forest.
Hells Canyon National Recreation Area.
Umatilla Army Depot.
Mt. Hood National Forest.
Umatilla National Forest.
Cold Springs National Wildlife Refuge.
McCay Creek National Wildlife Refuge.
Warm Springs Indian Reservation.

PENNSYLVANIA

Philadelphia Naval Yard.

SOUTH CAROLINA

Savannah River Site.

SOUTH DAKOTA (3)

Black Hills National Forest.
Mt. Rushmore.
Lake Wahee.

TENNESSEE (3)

Fort Campbell.
Millington Naval Base.
Arnold Engineering Research Facility.

UTAH (37)

Flamming Gorge National Recreation Area.
Manti La-Sal National Forest.
Canyonlands National Park.
Arches National Park.
Ashley National Forest.
Dinosaur National Monument.
Brown's Park National Waterfowl Management Area.
Bryce Canyon National Park.
Caribou National Forest.
Cottonwood Canyon, BLM.
Dart Canyon Primitive Area.
Dart Canyon Wilderness Area.
Desert Range Experimental Station.
Deseret Test Center, USAF.
Dixie National Forest.
Dugway Proving Grounds.
Escalante Starcase National Monument.
Glen Canyon Dam.
Glen Canyon National Park.
Golden Spike National Historic Site.
Governor Arch, BLM.
Grand Gulch Primitive Area.
High Uintas Wilderness Area.
Hill Air Force Range.
Hovenweep National Monument.
Processing Center, Ogden.
Jones Hole Federal Hatchery.
Joshua Tree Forest, BLM.
Mount Naomi Wilderness Area.
Mt. Honeyville Wilderness Area.
Paria Canyon Cliffs Wilderness Area.
Piute Wilderness Area.
Rainbow Bridge National Monument.
Sawtooth National Forest.
Wasatch National Forest.
Wendover Range, USAF.
Zion National Park.

VERMONT (2)

Green Mountain National Forest.
Border Patrol Station, Highgate.

WASHINGTON (37)

Federal Dams on the Columbia River.
Federal Dams on the Snake River.
Fairchild Air Force Base.
Mt. Spokane Air Force Facility.
U.S. DOT/U.S. Coast Guard Station Ilwaco and Westport.
Veterans Offices/Hospitals—Vancouver and Walla Walla.
U.S. Department of Energy—Hanford Site.
Indian Reservations—Spokane, Kalispel, Colville, Yakima, Shoalwater.
National Forests—Gifford Pinshot, Umatilla, Colville, Kaniksu, Pend Oreille, Okanogan.
National Historic Sites—Whitman Mission, Ft. Vancouver.
Mt. St. Helens National Volcanic Monument.
USGS Cascade Volcano Observatory.
National Wildlife Refuges—Julia Butler Hanson, Wilapa, Ridgefield, Conboy Lake, Umatilla, Toppenish, Turnbull, Little Pend Oreille.
Bonnieville Power Administration—Vancouver facility.
Bureau of Reclamation Offices and Sites—Franklin County.
FAA Offices—Pasco, Walla Walla, Spokane.

OTHER GENERAL CATEGORIES

1. National Forests which straddle State borders.
2. Indian Reservations—What about state workers at Indian casinos located on tribal lands?
3. National Refuges which straddle State borders.

Mr. FORD. Mr. President, the House tax language and proposed Thompson amendment impose unfunded mandates on the States. Think about this now.

Back in 1995 we passed a law on unfunded mandates. This amendment, if it was offered here—but it is in the House and will be in conference—violates, if not the law, the spirit of the law on unfunded mandates.

The House language and the Thompson amendment that was not offered also raise significant constitutional concerns.

I ask unanimous consent that an opinion from the Office of the Attorney General from the Commonwealth of Kentucky suggesting the Thompson amendment may be unconstitutional be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COMMONWEALTH OF KENTUCKY,
OFFICE OF THE ATTORNEY GENERAL,
Frankfort, KY, June 23, 1998.

To: Scott White.
From: Jason Moseley.
Re: Income tax on out-of-state residents.

This is in response to your request for research and a constitutional argument in opposition to HR 1953—*Limitation on State authority to tax compensation paid to individuals performing services at Fort Campbell, Kentucky.* (See attached) Below is the proposed constitutional to this legislation.

In short, Congress receded jurisdiction to the state to assess a state income tax and, through this proposed legislation, intends to limit that state power. The most plausible power that would be used for Congressional authority to make such an amendment is the Commerce Clause. The constitutional challenge to such authority is that this amendment exceeds Congressional power under the Commerce Clause.

ARGUMENT

At issue is the constitutionality of proposed legislation that would allow Congress to determine where individuals pay their state income tax. Of the enumerated powers given to Congress, the Commerce Clause appears to be the only possible source of authority for such legislation. As a consequence, an argument can be made that this legislation would have no effect on interstate commerce and would have a detrimental effect on the Kentucky communities in and around Fort Campbell. Therefore, the legislation ' would exceed Congressional power under the Commerce Clause, making the legislation unconstitutional.

On several occasions, courts have held that states can assess an income tax to nonresidents who earn their income in that state, (*Shaffer v. Carter*, 252 U.S. 37 (1919); *Travis v. Yale & Towne MFG. Co.*, 252 U.S. 60 (1919); *City of Cincinnati v. Faig*, 145 N.E.2d 563 (1957); *Ratliff v. Lexington-Fayette Urban County Government*, 540 S.W.2d 8 (Ky. 1976), but this power to tax was given to the states by Congress under the Buck Act, 4 U.S.C. §§104–110. Section 106 of this act states:

"No person shall be relieved from his liability for any incomes tax levied by any state, or by any duly constitutional taxing authority therein, having jurisdiction to levy such a tax, by reason of his residing within a Federal area or receiving income from transactions occurring or services performed in such area; and such State or taxing authority shall have full jurisdiction and power to levy and collect such tax in any Federal area within such State to the same extent and with the same effect as though such area was not a Federal area." 4 U.S.C. §106(a). Congress gave the states this power to tax income and Congress, through an amendment, can reduce that power within the confines of the Commerce Clause.

There is no case law pertaining to Congress' power to restrict a state's ability to assess an income tax on nonresidents but there are recent Supreme Court decisions where the Court has established limitations on the Commerce Clause. *United States v. Lopez*, U.S. 115 S.Ct. 1624, 131 L.Ed.2d 626 (1995), *New York v. United States*, 505 U.S. 144, 112 S.Ct. 2408, 120 L.Ed.2d 120 (1992). In *Lopez*, the Supreme Court held that the Gun-Free School Act, which made it a federal offense to knowingly possess a firearm at a place the person knows or has reason to believe is a school zone, exceeded Congressional power under the Commerce Clause. *Lopez*, 115 S.Ct. at 1625. It was in *Lopez*, that the court states the most current test for limitations on the Commerce Clause. Congressional power is limited to three areas. *Id.* at 1629. "First, Congress may regulate the use of the channels of interstate commerce." *Id.* This was interpreted as meaning that Congress has the authority "to keep the channels of interstate commerce free from immoral and injurious uses." *Id.* "Second, Congress is empowered to regulate and protect the instrumentalities of interstate commerce, or persons or things in interstate commerce, even though the threat may come only from intrastate activities." *Id.* This area has been found to apply to vehicles and aircraft used in interstate commerce and the theft of interstate shipments. *Id.* "Finally, Congress' commerce authority includes power to regulate those activities having a substantial relation to interstate commerce." *Id.* at 1629-1630.

The first two areas of power are not applicable to the proposed legislation. The proposed legislation is not an attempt to regulate the use of the channels of interstate commerce. The legislation is also not an attempt to protect an instrumentality of interstate commerce. This is an attempt to alter a state's taxing powers in assessing an income tax to employees that may reside in other states. The only area of power that may justify such legislation is the third area which gives Congress authority to regulate those activities that have a substantial relation to interstate commerce.

From the language of the Buck Act, it is evident that Congress recognized that the power to assess an income tax is a function of the state and, more specifically, the state where the income is earned. Assessing an income tax predominately affects the community where the person is employed. There is little to no effect on interstate commerce. Whatever effect there might be is not substantial. The effect of an income tax on the community level is great and reaches many levels. When a person works in a community, there are certain benefits conferred to that employee by the community. These benefits are "substantial and realistic." *Ratliff v. Lexington-Fayett Urban County Government*, 540 S.W. 2d 8.9 (Ky. 1976). "The employees in going to and from work receive police protection and use roadways built or maintained by the . . . county government. The . . . county government furnishes employees . . . with public facilities. Beautiful landscapes and other esthetic benefits are provided." *Id.* Residents of the community in which they are employed have their income taxed so that the benefits mentioned above can be provided. If a nonresident were to be exempted from contributing back to the community which conferred these benefits, the community would be forced to reduce the amount of money used to fund such programs, resulting in a smaller and less effective police force, less funding for road construction and maintenance, and fewer public facilities with less maintenance. The only other option would be to increase the income tax on those who work and reside in the community so that the level of service could be continued. The community would either have to lessen their own standard of living or increase the tax on their own residents so that nonresidents employed in the community could receive those benefits for free.

A state income tax has a substantial relation to activities within the state. There is little if any effect on interstate commerce. When Tennessee a resident comes to work at Fort Campbell, they work, receive a pay check, are assessed an income tax, and return to Tennessee. One might argue that for states such as Tennessee, which has no income tax but imposes a higher sales tax, assessing an income tax on Tennessee residents that work in Kentucky has a substantial effect on the state of Tennessee. This is not the case. If it were, the converse would be true as well. Kentucky residents who purchased items in Tennessee should be exempted from Tennessee sales tax because they pay an income tax in Kentucky.

The nature of an income tax is payment given for a benefit conferred. It effects both the community that provides the individual with a job and the individual worker who pays back into the community that has provided the job. The effect of an income tax does not cross state lines just as the effect of a sales tax does not cross state lines. It does not have a substantial relation to interstate commerce. To decide otherwise, and approve this amendment, would effectively make all income and sales tax the province of the Federal government. This would not amend 4 U.S.C. §106 but would nullify it.

CONCLUSION

Anticipating what Congressional power will be used as authority for this legislation consequently makes this research limited in its scope. The commerce clause appears to be the only enumerated power that would provide authority for such legislation. The argument has been made by Rep. Linda Smith of Washington state that an income tax on nonresident workers is taxation without representation. The situation addressed by Rep. Smith involved workers on a dam straddling the Washington/Oregon state line. Workers would cross the state line several times a day, making it difficult to keep record of how long an employee was working in each state. This situation is distinguishable from that of Fort Campbell workers. In examining the circumstances at Fort Campbell, it is a case of individuals working in solely Kentucky, benefitting from the services provided by Kentucky communities. Because of this distinction, the 'taxation with representation' argument falls to the sales tax analogy mentioned above. If assessing an income tax to residents where they earn their income is taxation without representation, assessing a sales tax to consumers where they purchase their goods would also be taxation without representation.

What has been proposed is not an amendment to the Buck Act but an attempt, through piece-meal legislation, to do away with it. Such an amendment is beyond the Commerce Clause powers of Congress and would be unconstitutional.

Mr. FORD. Mr. President, why are we singling out this Federal facility? We really do not know the full scope of this issue and this precedent we are creating by preempting State law.

The employees of Fort Campbell wherever they reside—benefit from services provided by the States of Kentucky and Tennessee.

Mr. President, I ask unanimous consent that a letter from the Kentucky Revenue Cabinet detailing the services provided to all Fort Campbell employees, including those who reside in Tennessee, be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

REVENUE CABINET,
OFFICE OF GENERAL COUNSEL,
Frankfort, KY, July 11, 1997.

Re H.R. 1953—Fort Campbell.

Mr. HARLEY DUNCAN,
Federation of Tax Administrators, Washington, DC.

DEAR HARLEY: The Revenue Cabinet has gathered some information on the Fort Campbell issue of whether employees who live in Tennessee and work on the Kentucky side of the Fort Campbell installation receive any benefits from the state of Kentucky.

The question of what services Kentucky provides is quite broad. I will attempt to itemize below what we have investigated and the results.

Roads—Fort Campbell is accessible from both the Kentucky side and the Tennessee side. Most workers enter the base at the gate nearest their work station. This means, for example, that most hospital workers enter on the Tennessee side (the hospital is in Tennessee), and most school workers enter on the Kentucky side using Kentucky maintained roads (the school is in Kentucky).

Water and Sewer Service—Self contained on the base.

Electric Service—Most is supplied directly to the base by the Tennessee Valley Authority. One housing area, however, is supplied by the Pennyrile Electric Cooperative, a Kentucky based electric company.

Cooperative Fire Protection—Local communities in both Kentucky and Tennessee have agreements with Fort Campbell to assist in the event of a major fire or other emergency.

Schools—The school system on the Fort Campbell base is fully self-contained and federally funded. It is limited to the children of active duty military personnel stationed at the military base.

Police Protection—All police protection is self-contained. Responsibility for Fort Campbell and all federal military bases rests with the federal/military police.

Unemployment Benefits—Federal civilian workers who become unemployed can apply for benefits from the state where they work or the state where they live. If a Tennessee resident working in Kentucky becomes unemployed and applies in Tennessee, a transfer is made from the Kentucky fund to the Tennessee fund to pay that worker's unemployment claim. The result is that wherever the claim is filed, Kentucky funds pay the claim.

I hope this information is helpful to you in your efforts concerning HR 1953. It is our belief that the civilian employees who work on the Kentucky side of Fort Campbell definitely receive some benefits from the state of Kentucky.

The Kentucky Revenue Cabinet greatly appreciates the work FTA is doing on HR 1953. Harley, we can't thank you and your staff enough. If I can be of further assistance, please let me know.

Sincerely,

ALEX W. ROSE,
Commissioner, Department of Law, Kentucky Revenue Cabinet.

Mr. FORD. Mr. President, tax legislation, and especially tax legislation that preempts State law, should not be snuck into a defense bill in this manner. I intended to offer an amendment which dealt with this issue and would help educate Senators on the potential broad scope of the precedent being set by the House language. However, in the interest of finishing this bill, I will withhold offering an amendment at this time.

However, I wish to alert the managers to my strong objection to such language being included in this bill, or any other unrelated bill. I strongly object to inclusion of such language in the conference report.

I urge the managers to protect my interests.

I thank the Chair.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER (Mr. FRIST). The Senator from Michigan.

Mr. LEVIN. Mr. President, I believe the Senator from Kentucky has made a strong case. I agree with him. Complex tax proposals of this type which preempt State tax laws do not belong in a defense bill. I will make sure that his concerns are considered by the conference committee when we address the differences between the House and the Senate versions of this bill.

Mr. FORD. Mr. President, I thank the Senator from Michigan and hope that the majority manager of the bill will give the same attention that I have asked for here.

Mr. WARNER. Mr. President, I believe we are ready to conclude a matter with the Senator from North Carolina and—I guess we still need to do one more check. Senator BURNS is next in line.

Mr. BURNS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana is recognized.

AMENDMENT NO. 2728

(Purpose: To improve the quality of life for members of the Armed Forces by authorizing additional military construction and military family housing projects)

Mr. BURNS. Mr. President, I call up amendment No. 2728, for myself, the ranking member of the Military Construction Appropriations Subcommittee, Senator MURRAY, along with Senators STEVENS, BYRD, INOUYE, and LOTT to be added as original cosponsors.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Montana (Mr. BURNS), for himself, Mr. LOTT, Mrs. MURRAY, Mr. STEVENS, Mr. BYRD, and Mr. INOUYE, proposes an amendment numbered 2728.

Mr. BURNS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 324, below line 14, add the following:

SEC. 2705. AUTHORIZATION OF ADDITIONAL MILITARY CONSTRUCTION AND MILITARY FAMILY HOUSING PROJECTS.

(a) ADDITIONAL ARMY CONSTRUCTION PROJECTS INSIDE THE UNITED STATES.—In addition to the projects authorized by section 2101(a), and using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(1), as increased by subsection (d), the Secretary of the Army may also acquire real property and carry out military construction projects for the installations and locations inside the United States, and in the amounts, set forth in the following table:

Army: Inside the United States

State	Installation or location	Amount
Kansas	Fort Riley	$16,500,000
Kentucky	Fort Campbell	$15,500,000
Maryland	Fort Detrick	$7,100,000
New York	Fort Drum	$7,000,000
Texas	Fort Sam Houston	$5,500,000
Virginia	Fort Eustis	$4,650,000
	Fort Meyer	$6,200,000

(b) ADDITIONAL ARMY CONSTRUCTION PROJECT OUTSIDE THE UNITED STATES.—In addition to the projects authorized by section 2101(b), and using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(2), as increased by subsection (d), the Secretary of the Army may also acquire real property and carry out the military construction project for the location outside the United States, and in the amount, set forth in the following table:

Army: Outside the United States

Country	Installation or location	Amount
Korea	Camp Casey	$8,000,000

(c) IMPROVEMENT OF ARMY FAMILY HOUSING AT WHITE SANDS MISSILE RANGE, NEW MEXICO.—In addition to the projects authorized by section 2103, and using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(5)(A), as increased by subsection (d), the Secretary of the Army may also improve existing military family housing units (36 units) at White Sands Missile Range, New Mexico, in an amount not to exceed $3,650,000.

(d) ADDITIONAL AUTHORIZATIONS OF APPROPRIATIONS, ARMY MILITARY CONSTRUCTION.—(1) The total amount authorized to be appropriated by section 2104(a) is hereby increased by $74,100,000.

(2) The amount authorized to be appropriated by section 2104(a)(1) is hereby increased by $62,450,000.

(3) The amount authorized to be appropriated by section 2104(a)(2) is hereby increased by $8,000,000.

(4) The amount authorized to be appropriated by section 2104(a)(5)(A) is hereby increased by $3,650,000.

(e) ADDITIONAL NAVY CONSTRUCTION PROJECTS INSIDE THE UNITED STATES.—In addition to the projects authorized by section 2201(a), and using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(1), as increased by subsection (g), the Secretary of the Navy may also acquire real property and carry out military construction projects for the installations and locations inside the United States, and in the amounts, set forth in the following table:

Navy: Inside the United States

State	Installation or location	Amount
Florida	Naval Station, Mayport	$3,400,000
Maine	Naval Air Station, Brunswick	$15,220,000
Pennsylvania	Naval Inventory Control Point, Mechanisburg.	$1,600,000
	Naval Inventory Control Point, Philadelphia.	$1,550,000
South Carolina	Marine Corps Recruit Depot, Parris Island.	$8,030,000

(f) Improvement of Navy Family Housing at Whidbey Island Naval Air Station, Washington.—In addition to the projects authorized by section 2203, and using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(5)(A), as increased by subsection (g), the Secretary of the Navy may also improve existing military family housing units (80 units) at Whidbey Island Naval Air Station, Washington, in an amount not to exceed $5,800,000.

(g) Additional Authorizations of Appropriations, Navy Military Construction.—(1) The total amount authorized to be appropriated by section 2204(a) is hereby increased by $35,600,000.

(2) The amount authorized to be appropriated by section 2204(a)(1) is hereby increased by $29,800,000.

(3) The amount authorized to be appropriated by section 2204(a)(5)(A) is hereby increased by $5,800,000.

(h) Additional Air Force Construction Projects Inside the United States.—In addition to the projects authorized by section 2301(a), and using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(1), as increased by subsection (k), the Secretary of the Air Force may also acquire real property and carry out military construction projects for the installations and locations inside the United States, and in the amounts, set forth in the following table:

Air Force: Inside the United States

State	Installation or location	Amount
Colorado	Falcon Air Force Station	$5,800,000
Georgia	Robins Air Force Base	$6,000,000
Louisiana	Barksdale Air Force Base	$9,300,000
North Dakota	Grand Forks Air Force Base	$8,800,000
Ohio	Wright-Patterson Air Force Base	$4,600,000
Texas	Goodfellow Air Force Base	$7,300,000
Wyoming	F.E. Warren Air Force Base	$3,850,000

(i) Construction and Acquisition of Air Force Family Housing.—In addition to the projects authorized by section 2302(a), and using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(5)(A), as increased by subsection (k), the Secretary of the Air Force may also construct or acquire family housing units (including land acquisition) at the installation, for the purpose, and in the amount set forth in the following table:

Air Force: Family Housing

State	Installation or location	Purpose	Amount
Montana	Malmstrom Air Force Base	62 Units	$12,300,000

(j) Improvement of Air Force Family Housing.—In addition to the projects authorized by section 2303, and using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(5)(A), as increased by subsection (k), the Secretary of the Air Force may also improve existing military family housing units as follows:

(1) Travis Air Force Base, California, 105 units, in an amount not to exceed $10,500,000.

(2) Moody Air Force Base, Georgia, 68 units, in an amount not to exceed $5,220,000.

(3) McGuire Air Force Base, New Jersey, 50 units, in an amount not to exceed $5,800,000.

(4) Seymour Johnson Air Force Base, North Carolina, 95 units, in an amount not to exceed $10,830,000.

(k) Additional Authorizations of Appropriations, Air Force Military Construction.—(1) The total amount authorized to be appropriated by section 2304(a) is hereby increased by $90,300,000.

(2) The amount authorized to be appropriated by section 2304(a)(1) is hereby increased by $45,650,000.

(3) The amount authorized to be appropriated by section 2304(a)(5)(A) is hereby increased by $44,650,000.

Mr. BURNS. Mr. President, this calls for an additional 27 quality-of-life military construction projects throughout the Department of Defense. These projects are located in 22 States, and some overseas. And it is focused entirely on quality of life.

If we have learned anything from our visitations to military installations, it is that we have not focused on such as health care centers, child care centers, recreation, and also housing for our enlisted, and barracks for our enlisted. It encompasses projects such as child care, dining facilities, modernization, replacement of barracks, and family housing.

We did not focus on any particular State, geographic region or committee membership, but rather we tried to find worthy and meritorious projects that the services wanted and requested but we could not afford in the near term. The majority of these projects were not asked for by Members of the Senate. Rather, they are projects requested by the Army, the Navy, the Air Force and the Marine Corps. Every single one of these projects is contained in the Department of Defense Future Year Defense Plan or FYDP. Further, over half are in the early years of that plan.

Mr. President, we offer this amendment, and I yield the floor to my colleague from Washington, Senator MURRAY.

Mrs. MURRAY addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mrs. MURRAY. I thank the Chair.

I rise to join with Senator BURNS in fully endorsing this amendment to the Armed Services bill. Chairman STEVENS, Senator BYRD, Senator INOUYE, Senator BURNS and myself have cosponsored this amendment with the sole intention of providing essential quality of life programs and initiatives for our men and women in uniform.

Increasingly over the last few years, military construction has been given the shorter end of the stick in terms of adequate funding. Congress has always stood by our services, and managed to increase funding where we thought an increase was necessary.

Again, this year we face a similar situation, with the budget request at $1.4 billion less than what we appropriated last year. The Armed Services Committee significantly bridged this gap by authorizing an additional $500 million in much-needed military construction projects. But we would like to take it a step further and add $200 million for military construction quality of life projects. This would make the military construction budget $8.48 billion, still $700 million less than what was authorized and appropriated last year, but at least $700 million above the less than adequate budget request.

The projects we have included in this $200 million request are all bonafide quality of life initiatives. We are hearing more and more often how our services are struggling with lower than average retention rates. While this shortfall is being addressed through other means, it is also important to address it through military construction. Some of the biggest complaints from our service men and women are regarding things like child care centers. Inadequate housing conditions, old dining facilities, and lack of physical fitness centers. We tried to meet these very real needs in our amendment, providing funds for 27 projects in 22 States. All of these projects are in DOD's future year defense plan, and all of these fall under the criteria of quality of life. Furthermore, the selection of the projects was made in a very bipartisan way. We did not focus on a certain political party or a certain geographical region. Instead, we went to the services and asked them what they needed but couldn't afford.

Probably at the front of many of my colleagues' minds is the fiasco we had last year with the line-item veto of 37 of our military construction projects and an unfounded concern that these projects may be mere pork. Let me assure you that all of these projects were carefully selected with the threat of the line-item veto in mind. Every single one of these projects has been included in DOD's future year defense plan, and all of these are quality of life projects, meeting the very criteria that the President submitted last year in regards to the line-item veto. Fortunately, the Supreme Court has just determined that we won't have to fight that fight again, but it should be reassuring to all here of the thoughtfulness and seriousness in which we chose all of the projects on this list.

Mr. President, I have to say that it concerns me when I hear criticism of the military construction bill as being "Christmas in July," delivering "pork" projects to Members. Nothing could be further from the truth, especially for the kinds of projects we're talking about today. First of all, as I just mentioned, these projects are based on the needs of the services, not the requests of Members. Secondly, and most importantly, at the very least, we owe our men and women in uniform a quality of life that is comparable to their civilian counterparts. They should not be compelled to live in inadequate facilities, to travel off-base for child care, to pay for membership in a physical fitness center because their installation doesn't have one. These are small dollar items that will mean so much to so many people. A gesture like this can only but help in quality of life, help in overall satisfaction with the services, help in retention, and therefore help our services meet their force needs and requirements for the 21st century.

This is a fair, bipartisan, and legitimate means of providing our service men and women with necessary quality of life programs. We have been fortunate to work with our colleagues on the Armed Services Committee in ensuring this is an acceptable amendment and an acceptable allocation of resources. I hope and expect this amendment can be fully embraced by the Armed Services Committee, and I encourage my colleagues to support its inclusion.

Thank you, Mr. President. I yield the floor.

Mr. McCAIN. Mr. President, I stand before this body to address the considerable number of low-priority, unrequested military construction projects that have been added to the FY 1999 Military Construction Appropriations Bill.

Since the end of the "Cold War," the budget that provides for the defense of this nation has been cut in half as a percentage of the gross domestic product and by over $120 billion in real terms. As a result of these drastic cuts, our military force structure has shrunk by more than 30 percent; Operations and Maintenance accounts have been reduced by 40 percent; procurement has declined by more than 50 percent, and paychecks for our service members now lag an embarrassing 13 percent behind their civilian counterparts.

In stark contrast, our military has seen a 400 percent increase in operational commitments over the same period. The tempo of operations has never been so high in a time of peace. And yet, America's military personnel have performed admirably, bridging the gap between decreased funding and increased commitments with sheer dedication to duty and professionalism. Unfortunately, the damage caused by the Administration's continual practice of asking the military to "do more with less," is becoming very evident.

Retention rates throughout the military are down. Mid-grade officers and senior non-commissioned officers—groups traditionally thought of as career oriented personnel—are exiting the service in increasing numbers. All of the services are facing pilot shortages, no doubt precipitated by reductions in flight hours, declining aircraft availability, and increased time away from home.

Recruitment goals are not being met. Except for the Marine Corps, all of the services are falling short of their recruiting to 7,000 recruits short by the end of the year. This follows the Navy's 12,000 recruit shortfall of last year. When recruiters offer potential recruits the opportunity to be over-worked, underpaid, spartanly supported and often away from home, many of America's best and brightest are saying "no thank you."

Readiness is in decline. Secretary Cohen, the service chiefs, regional commanders in chief, and various other military leaders have acknowledged that there are significant indicators of readiness problems. There are also significant shortages of critical spare parts. These shortages are forcing maintenance personnel to routinely use cannibalized parts—parts taken off of other supposedly operational systems—to keep equipment operating.

All of these problems—declining readiness, retention and recruitment shortfalls, inoperative equipment—are the result of chronic under-funding of our nation's security interests.

The Congress, most certainly, has not turned a blind eye to the needs of the services. In the previous three years, Congress has added more than $20 billion to the defense budget requests submitted by the Clinton Administration. So why do we still have these serious and growing deficiencies in readiness, pay, and modernization? Because the practice of Congress has tragically been to mis-use billions of these scarce defense dollars to add unrequested programs and building projects to the defense budget.

This year's Military Construction Appropriations Bill was crafted under the spending caps of the Balanced Budget Agreement of 1997. The agreement established firm limits to the National Defense budget. With these budget constraints in place, one would think that members would find it difficult to even consider adding projects of questionable merit, since the offsets required to pay for such requests would siphon precious dollars from areas of greater need within the defense budget. The temptation for members to pander to their parochial interests, I am sad to report, has proven too great to resist.

One only needs to look at the 114 unrequested military construction projects, at a cost of nearly $800 million in the FY 1999 Military Construction Appropriations bill, to realize the pork habit has become an addiction. If this bill is accepted as written, we will have added $9 billion in unrequested military construction projects since 1990. Nine billion dollars!

The question is not whether these unrequested military construction projects can be defended as meeting the Senate's review criteria or as actions within the prerogatives of Congress. The question is whether we are directing scarce defense resources where they will do the greatest good for our country and for the men and women of our All Volunteer Force. I believe we are not.

This bill funds ten unrequested National Guard armories and Reserve centers at a cost of $65 million. Twelve million dollars is appropriated to replace existing dining facilities at two joint civilian/military airports—one, at Dannelly Field, Alabama and the other, at Ft. Wayne, Indiana. Hickman Air Force Base will get a new $5.1 million dollar civil engineering facility to replace the existing one.

The folks at Fort Wainwright, Alaska will doubtless see readiness levels soar as they christen their new $3 million vehicle wash facility. Fort Bragg, South Carolina gets $8.3 million to erect mission critical fencing.

At a time when many installations are closing libraries because of lack of use, this bill appropriates $8.5 million dollars to build a very impressive, yet unnecessary library at Shaw Air Force Base.

Training at the National Training Center has suffered due to personnel and funding cuts, and the number of "Red Flag" air combat exercises has also been reduced due to funding cuts. Yet this bill appropriates nearly $14 million for a "Regional Training Institute" at Camp Dawson, West Virginia—a small National Guard weekend drill facility.

Many of the additions to this bill were made in the name of service member quality of life. It is interesting to note that not a single one of the Chief of Naval Operations' unfunded priority, quality of life projects is in this bill. The Commandant of the Marine Corps has priority quality of life project on the list of adds. None of the Air Force's top six unfunded quality of life projects made this bill. Only one of the top 15 did.

In contrast, 95 percent of the construction projects in the amendment are to be built in the States or districts of appropriations committee members.

In closing, let me say that I am sure there are many good projects on this list. Many of these projects will serve to improve the quality of life of our military personnel, and they will provide facilities and improvements that will enhance mission readiness. But the real reason these projects are funded in this bill is that they provide economic benefit to certain states.

With today's budget realities, it is absolutely critical that every defense dollar be spent where it will do the most good. We, the Congress, must stop the practice carving out our little portion of the Defense Budget to keep the folks at home happy. We must, instead, do what is best for the services as a whole. We owe nothing less to our men and women in uniform.

I ask unanimous consent a list of military construction appropriations additions be printed in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

FY 1999 MILITARY CONSTRUCTION APPROPRIATIONS BILL ADDS

State	Base	Facility	Cost in thousands
Alabama	Fort Rucker	Simulation center	$10,000
Alabama	Dannelly Field	Replace medical training and dining facility	6,000
Alaska	Fort Wainwright	Barracks Renewal	19,500
Alaska	Fort Richardson	Improve Family Housing (40 units)	7,400
Alaska	Fort Wainwright	Vehicle Wash Facility	3,100
Alaska	Eielson AFB	Weapons and release system shelter	6,200
Alaska	Kulis ANG Base	Vehicle maintenance and fire station	10,400
Arkansas	Little Rock AFB	Upgrade sewage plant	1,500
California	Travis AFB	Improve family housing	10,500
California	Travis AFB	New control tower	4,250
Colorado	Falcon AFS	Child development center	5,800
Connecticut	Orange Ang Station	Air control squadron complex	11,000
Connecticut	Naval Sub Base, New London	Waterfront recapitalization	12,510
Delaware	Dagsboro	Readiness center	3,609
Delaware	Dover AFB	Leadership school	1,600
Florida	Key West Naval Station	Child development center	3,400
Florida	NAVSTA Mayport	Fleet recreation facility	3,400
Florida	Pensacola	Armory	3,975
Florida	NAS Whiting Field	8 helicopter pads	1,400
Georgia	Fort Stewart	Warehouse	17,000
Georgia	Robins AFB	JSTARS dining facility	6,000
Georgia	Moody AFB	Improve family housing (68 units)	5,200
Georgia	NAS Atlanta	Hangar addition	4,100
Georgia	Sub Base King Bay	Degaussing facility	2,550
Hawaii	Schofield Barracks	Land purchase	23,500
Hawaii	Marine Corps Base, Hawaii	BEQ	19,000
Hawaii	Pearl Harbor	Hazardous waste consolidation facility	4,570
Hawaii	Hickam AFB	Replacement civil engineering facility	5,100
Idaho	Mountain Home	Munitions storage facility	4,100
Idaho	Mountain Home	Munitions storage igloo	1,500
Idaho	Boise Air Terminal	Base supply facility addition	3,000
Indiana	Hulman Regional Airport	Corrosion control facility	6,000
Indiana	Fort Wayne International Airport	New dining hall and medical training facility	6,000
Iowa	Des Moines	Police operations building	4,000
Kansas	Fort Riley	Barracks complex renewal	16,400
Kansas	McConnel AFB	Addition to deployment center	2,900
Kansas	Forbes Field	Hangar upgrade	9,800
Kentucky	Fort Campbell	Improve family housing (95 units)	10,000
Kentucky	Fort Campbell	Barracks complex renewal	15,500
Kentucky	Standiford Field, Louisville	Replace composite aerial port	4,100
Louisiana	Barksdale AFB	Physical fitness center	9,300
Louisiana	Fort Polk	Rail loading facility	8,300
Maine	NAS Brunswick	BEQ	15,220
Maryland	Fort Meade	Emergency services center	5,300
Maryland	U.S. Naval Academy	Demolish towers	4,300
Maryland	Fort Detrick	Barracks complex renewal	7,100
Massachusetts	Hanscom AFB	Renovate management facility	10,000
Massachusetts	Westover AFRB	Control tower	5,000
Michigan	Alpena County Regional Airport	Fire station	5,100
Michigan	Selfridge, ANG Base	Upgrade buildings	9,800
Mississippi	Brookhaven	Guard training center	5,247
Mississippi	Columbus AFB	52 units of family housing	6,800
Mississippi	Columbus AFB	BOQ	5,700
Mississippi	Columbus AFB	Corrosion control facility	2,500
Mississippi	Keesler AFB	Replace 52 units of family housing	6,800
Mississippi	Stennis Space Center	Operations support facility	5,500
Missouri	Rosecrans Memorial Airport	Upgrade parking aircraft apron	9,600
Montana	Helena	Reserve center	21,690
Montana	Malmstrom AFB	Missile operations shop	5,300
Montana	Malmstrom AFB	Replace housing (62 units)	12,300
Montana	Malmstrom AFB	New dormitory	7,900
Nebraska	Lincoln Municipal Airport	Medical training facility	3,350
Nevada	Carson City	Readiness center	5,860
New Hampshire	Concord	Aviation support facility	350
New Jersey	Fort Dix	Ammunitions supply point	8,731
New Jersey	McGuire AFB	Improve family housing	5,800
New Mexico	Taos	Readiness center	3,300
New Mexico	Cannon AFB	Runway repair	6,500
New Mexico	Kirtland AFB	Repair weapon integrity building	6,800
New Mexico	White Sand Missile Range	Improve family housing	3,650
New York	Fort Drum	All weather weapons training facility	4,650
New York	Fort Drum	Consolidated soldier and family housing	7,000
New York	Air Force Research Lab, Rome	Intel and reconnaissance lab	1,152
New York	Niagara Falls	Maintenance facility	3,900
North Carolina	Fort Bragg	Fences	8,300
North Carolina	Seymour	Library	6,100
North Carolina	Johnson AFB Seymour	Improve family housing	10,830
North Carolina	Camp Lejeune	BEQ	15,700
North Dakota	Minot AFB	Taxiway	8,500
North Dakota	Grand Forks	Add to physical fitness center	8,800
North Dakota	Hector Field	Addition to base supply facility	3,650
Ohio	Springfield-Beckly Airport	Civil engineering facility	5,000
Ohio	Wright-Patterson AFB	Physical fitness facility	4,600
Oklahoma	Sand Springs	Reserve center	972
Oklahoma	Tinker AFB	Operations and mobility center	10,800
Oklahoma	Vance AFB	Physical fitness center	4,400
Oklahoma	Altus AFB	Control tower	4,000
Pennsylvania	NAVICP Mechanics Burg	Child development center	1,600
Pennsylvania	NAVICP Philadelphia	Child development center	1,500
Pennsylvania	US Army Research Center	Regimental support facility	19,512
South Carolina	Charleston AFB	Housing improvements	9,110
South Carolina	MCRD Parris Island	Female recruit barracks	8,030
South Carolina	Shaw AFB	Library	8,500
South Carolina	Spartanburg	Readiness center	5,200
South Dakota	Ellsworth AFB	Operations facility	6,500
South Dakota	Joe Foss Field	Maintenance and ground equipment facility	5,200
Tennessee	Fort Campbell	Housing improvements	10,700
Texas	Fort Bliss	Overpass	4,100
Texas	Dyess, AFB	Support equipment shop	1,400
Texas	Fort Sam Houston	Dining facility	5,500
Texas	Goodfellow AFB	Student dormitory	7,300
Texas	Sheppard AFB	Family housing	12,800

FY 1999 MILITARY CONSTRUCTION APPROPRIATIONS BILL ADDS—Continued

State	Base	Facility	Cost in thousands
Utah	Hill AFB	Addition to child development center	1,500
Utah	Hill AFB	Reserve asset warehouse	2,600
Utah	Fort Douglas	Reserve center	4,106
Vermont	Burlington	Supply complex	5,500
Virginia	Fort Meyer	Barracks renovation	6,200
Virginia	Fort Eustis	Physical fitness center	4,650
Washington	Fort Lawton	Army reserve facility	10,713
Washington	Bremerton Naval Shipyard	Community support facility	4,300
Washington	McChord AFB	Medical training facility	3,400
Washington	Fairchild AFB	Training support complex	3,900
Washington	Whidbey Island NAS	Improve family housing	5,800
Washington	Fairchild ARB	Composite support complex	9,800
West Virginia	Camp Dawson	Regional training institute	13,595
Wyoming	F.E. Warren AFB	Modify dormitories	3,850
			797,000

Mr. COVERDELL. Mr. President, I rise in support of the amendment offered tonight by Senator BURNS providing additional funds for military construction projects. One of the most important aspects of military readiness is the quality of life that the soldiers who defend our Nation encounter on a daily basis. This amendment focusses only on quality of life projects and funds projects of only the highest priority—those on the Armed Services' Future Years Defense Plan.

Mr. President, two projects found in this amendment are located in Georgia, one at Robins Air Force Base and one at Moody Air Force Base. I know from my visits to these military installations that these projects will contribute substantially to the quality of life for the soldiers stationed at the respective bases. I applaud the efforts of my colleague, Senator BURNS, to increase funding in an area that needs this assistance and his efforts to help our Nation's soldiers.

Mr. BURNS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana. The Senator has 1 minute remaining.

Mr. BURNS. We have to understand that in this fiscal year we are about $700 million under what we allocated and appropriated for military construction a year ago. Compared to 2 years ago, this expenditure is down $2 billion. And I think this committee has done a good job in trying to seek out those projects that are necessary. We have done it, and we have cut some of the fat out of this appropriations and put the money where we really think it is needed and did it in a way that stays within our budget and our allocation.

So we are $2 billion less in expenditures than we were 2 years ago. So I think this committee has done a commendable job.

I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from Arizona is to be recognized to offer a second-degree amendment.

Mr. WARNER. Mr. President, would the Chair kindly repeat that.

The PRESIDING OFFICER. Under the previous agreement, the Senator from Arizona is to be recognized at this point to offer a second-degree amendment.

Mr. WARNER. Mr. President, I have been in consultation with the staff of the Senator from Arizona, and I am just going to ask that we move on to the next item on the UC at this time, preserving the rights of the Senator from Arizona under the unanimous-consent agreement.

So I ask unanimous consent to preserve the rights accorded to the Senator from Arizona and we move forward from that and proceed to the next item.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. I thank the Chair.

I wish to advise Senators we are moving along a little bit ahead of schedule, which is good. I think there could well be a disposition that the Senator from Arizona has in mind.

AMENDMENT NO. 3016

(Purpose: To name the bill in honor of Senator Strom Thurmond)

Mr. WARNER. Mr. President, we will now move to the next item under the unanimous-consent agreement which, as I understand it, is an amendment by the Senator from Virginia, myself, on behalf of the distinguished ranking member, Mr. LEVIN; on behalf of the distinguished majority leader, Mr. LOTT; and on behalf of the distinguished Democratic leader, Mr. DASCHLE. I will send the amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for himself, Mr. LEVIN, Mr. LOTT, Mr. DASCHLE, Mr. MCCAIN, Mr. COATS, Mr. SMITH of New Hampshire, Mr. KEMPTHORNE, Mr. INHOFE, Mr. SANTORUM, Ms. SNOWE, Mr. ROBERTS, Mr. KENNEDY, Mr. BINGAMAN, Mr. GLENN, Mr. BYRD, Mr. ROBB, Mr. LIEBERMAN, and Mr. CLELAND proposes an amendment numbered 3016.

Mr. WARNER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike out section 1 and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

(a) FINDINGS.—Congress makes the following findings:

(1) Senator Strom Thurmond of South Carolina first became a member of the Committee on Armed Services of the United States Senate on January 19, 1959. His continuous service on that committee covers more than 75 percent of the period of the existence of the committee, which was established immediately after World War II, and more than 20 percent of the period of the existence of military and naval affairs committees of Congress, the original bodies of which were formed in 1816.

(2) Senator Thurmond came to Congress and the committee as a distinguished veteran of service, including combat service, in the Armed Forces of the United States.

(3) Senator Thurmond was commissioned as a reserve second lieutenant of infantry in 1924. He served with great distinction with the First Army in the European Theater of Operations during World War II, landing in Normandy in a glider with the 82nd Airborne Division on D-Day. He was transferred to the Pacific Theater of Operations at the end of the war in Europe and was serving in the Philippines when Japan surrendered.

(4) Having reverted to Reserve status at the end of World War II, Senator Thurmond was promoted to brigadier general in the United States Army Reserve in 1954. He served as President of the Reserve Officers Association beginning that same year and ending in 1955. Senator Thurmond was promoted to major general in the United States Army Reserve in 1959. He transferred to the Retired Reserve on January 1, 1965, after 36 years of commissioned service.

(5) The distinguished character of Senator Thurmond's military service has been recognized by awards of numerous decorations that include the Legion of Merit, the Bronze Star medal with "V" device, the Belgian Cross of the Order of the Crown, and the French Croix de Guerre.

(6) Senator Thurmond has served as Chairman of the Committee on Armed Services of the Senate since 1995 and as the ranking minority member of the committee from 1993 to 1995. Senator Thurmond concludes his service as Chairman at the end of the 105th Congress, but is to continue to serve the committee as a member in successive Congresses.

(7) This Act is the fortieth annual authorization bill for the Department of Defense for which Senator Thurmond has taken a major responsibility as a member of the Committee on Armed Services of the Senate.

(8) Senator Thurmond, as officer and legislator, has made matchless contributions to the national security of the United States that, in duration and in quality, are unique.

(9) It is altogether fitting and proper that this Act, the last annual authorization Act for the national defense that Senator Thurmond manages in and for the United States Senate as Chairman of the Committee on

Armed Services of the Senate, be named in his honor.

(b) SHORT TITLE.—This Act shall be cited as the "Strom Thurmond National Defense Authorization Act for Fiscal Year 1999".

Mr. WARNER. Mr. President, in the course of the history of the Senate, there comes a moment whereby we recognize the extraordinary contributions of one of our Members. Tonight I rise on behalf of myself and others to recognize the services of the distinguished chairman of the Armed Services Committee, STROM THURMOND. I am pleased to introduce this amendment which would name the Department of Defense authorization bill presently under consideration after our chairman, STROM THURMOND of South Carolina.

Very few, if any, persons in American history have made the contributions, in length and quality, to the national defense that Senator THURMOND has made. First commissioned a Reserve officer in 1924, he volunteered for active duty in 1941. He went into Normandy on D-Day, June 6, 1944, in a glider with the 82d Airborne Division, and fought throughout the campaigns in northern Europe. Transferred then as a volunteer to go to the Pacific theater following the surrender of Germany, he served then in the Philippines when Japan surrendered.

Promoted to brigadier general in the Army Reserve in 1954 and to major general in 1959, Senator THURMOND remained on active status until 1965. He served as national president of the Reserve Officers Association, 1954 to 1955.

Senator THURMOND first became a member of the Committee on Armed Services in January of 1959. He served as the committee's ranking minority member from 1993 to 1995 and as chairman from 1995 to the present. He has announced that he will step down as chairman during the course of the next Congress—or the completion of this Congress—and he will, of course, remain then the ranking member of our committee.

Senator THURMOND's nearly 40 years of service on the Committee on Armed Services covers 75 percent of the time of the existence of that committee, which was formed by the merger of the old Committees on Military Affairs and Naval Affairs in 1947. Perhaps more remarkably, he covers over 20 percent of the time since the original committees were set up, since 1816.

In view of his matchless contributions to the national defense, both on the battlefield and in the Senate Chamber, it is altogether appropriate that tonight the present bill, the last he will manage as chairman of the Committee on Armed Services, be named in his honor.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. It is only because the hour is late and we are trying to wrap up this bill that I only will spend a moment saying how important it is that we adopt this amendment in paying respects to our chairman, who has done such an extraordinary job in moving our committee along in these last few years as chairman, and as a member for so many years before that.

As ranking member, I had the privilege of working with Senator STROM THURMOND, for Senator THURMOND is a chairman who approached these issues on a bipartisan basis, as the defense budget should be approached. He has always set forth a determination that we protect our Nation's security first and foremost, and that the men and women in our Armed Forces be the focus of our resolve, and the protection and security of this Nation through them be what is first and foremost in our minds.

So this is a small gesture that the Senator from Virginia is leading tonight. I want to commend him for thinking of this and for taking the leadership on this. I want to tell him it is my pleasure to join with him and do what we do so often, act on a bipartisan basis in the Armed Services Committee.

I congratulate Senator THURMOND. This will be the last defense authorization bill that he will manage, but there will be many, many, many, many more years of energetic efforts that will be forthcoming from the Senator from South Carolina.

Mr. HATCH. Mr. President, I salute one of the greatest Senators this body has ever seen. STROM THURMOND is one of the greatest men I have ever known. A fine attorney, judge, local and State leader, war veteran, patriot, hero and long-term Senator. STROM is a great father and family man. He is a fine human being who always stands up for the right with all his might. He has been a fine example to all of us who serve with him and to the public at large.

I've had the privilege of serving on the Judiciary Committee with him over the past 22 years. He has always worked hard, fought for his beliefs, and has set an example for all of us.

I truly love STROM THURMOND and will do my best to live up to his great example.

Mr. MURKOWSKI. Mr. President, it gives me great pleasure to rise today in honor of my close friend, the distinguished senior senator from South Carolina and Chairman of the Senate Armed Services Committee, STROM THURMOND, on the completion of the FY 99 Defense Authorization bill. This marks the last time that Senator THURMOND will manage a Defense Authorization Bill in his capacity as Chairman of the Senate Armed Services Committee.

Senator THURMOND is an exceptional man, a truly remarkable individual who has unselfishly dedicated his entire life to the service of others. Mr. President, earlier in the 105th Congress, on May 25, 1997, Senator THURMOND made history in this institution when he became he longest-serving United States Senator in our nation's history. He is a model in perseverance and is a testament to the greatness of this body and to this nation as a whole.

Senator THURMOND was first elected to the U.S. Senate in 1954 as a write-in candidate. He was the first person in U.S. history to ever be elected to a major U.S. office in this manner. He has since served the people of South Carolina continuously in this body for over 41 years and 10 months, a record which is likely to stand the test of time and to never be broken.

Throughout his career, STROM THURMOND has served South Carolina and the United States in a number of important ways: he has served South Carolina as a State Senator; a South Carolina Circuit Judge; a Governor and currently as a U.S. Senator. He served his country in World War II, and landed in Normandy on D-Day with the 82nd Airborne Division. He went on to earn 5 Battle Stars during World War II and 18 military decorations during his distinguished military career. He ran for President in 1948. And in 1959, while serving in the U.S. Senate, Senator THURMOND was made a Major General of the U.S. Army Reserve.

First and foremost, however, Senator THURMOND is a teacher. He began his distinguished career as a teacher in South Carolina in 1923 and has continued to emphasize the importance of education in everything he does. He wrote the South Carolina school attendance law; worked hard to increase the pay to teachers and for longer school terms; and even today, Senator THURMOND continues to send a congratulatory certificate to every graduating South Carolina high school student.

Senator THURMOND has taught all of us in this institution, Mr. President, I am honored to call him a friend and am pleased to rise today in tribute to this great man, this great American. It is fitting that we name this bill in his honor, and my deepest congratulations go out to him.

Mr. HOLLINGS. Mr. Speaker, I rise to join my colleagues in tribute to the Chairman of the Armed Services Committee. It is indeed fitting that we dedicate the 1999 Defense Authorization Bill in his honor.

Senator THURMOND has a long and distinguished record of service both in the military and in the Congress. He was commissioned a 2nd Lieutenant in 1924 and has since served this nation, and the military, in positions of increasing responsibility. During World War II he served in both Europe and Pacific. Afterwards he rose to the rank of Major General in the Army Reserve. During his many years in the Senate he toiled to insure that our military maintained the readiness necessary to defend our great nation.

In recent years he has served as Chairman of the Army Services Committee and rightfully earned a place in Senate history as one of the greatest Chairmen of this important Committee. During these years the Committee has faced many challenges in shaping a defense bill that met the needs of a military in a world in change. His great experience in military, national and international matters has made the difference in providing for the nation's defense.

Senator THURMOND has been a personal inspiration during my years in the Senate. I have always appreciated his guidance. Together, we have worked in harmony for the good of the great state of South Carolina and the Nation.

Again, I congratulate him!

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. THURMOND. Mr. President, I am humbled at the action that has been suggested here. I have been on the Armed Services Committee for about 40 years and been a Member of this body for about 45 years, and I have enjoyed every minute of it. It offers many opportunities to those who love this country and feel that they want to serve it and create something. I am very grateful to Senator WARNER, my good friend, Senator LEVIN, my good friend, and others who are interested in this action that is being considered. I tell them I appreciate you and I appreciate what you are doing, and I will never forget you.

Thank you very much.

Mr. WARNER. Mr. President, we thank our distinguished colleague, and at an appropriate time I am certain the majority leader and Democratic leader will be present. At that time, we will pass on this amendment.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

AMENDMENTS NOS. 2783, 2791 AS MODIFIED, 2792 AS MODIFIED, 2823, 2867 AS MODIFIED, 2904 AS MODIFIED, 2907, 2909 AS MODIFIED, 2923 AS MODIFIED, 2976 AS MODIFIED, 3017 THROUGH 3032, 3035 THROUGH 3040, EN BLOC

Mr. THURMOND. Mr. President, I send a series of cleared amendments to the desk on behalf of the majority and minority Members and ask that they be considered en bloc.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from South Carolina [Mr. THURMOND] proposes amendments Nos. 2783, 2791 as modified, 2792 as modified, 2823, 2867 as modified, 2904 as modified, 2907, 2909 as modified, 2923 as modified, 2976 as modified, 3017 through 3032, 3035 through 3040, en bloc.

Mr. THURMOND. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments Nos. 2783, 2791 as modified, 2792 as modified, 2823, 2867 as modified, 2904 as modified, 2907, 2909 as modified, 2923 as modified, 2976 as modified, 3017 through 3032, 3035 through 3040, en bloc, are as follows:

AMENDMENT NO. 2783

(Purpose: To provide for the issuance of burial flags to deceased members and former members of the Selected Reserve)

On page 268, between lines 8 and 9, insert the following:

SEC. 1064. ISSUANCE OF BURIAL FLAGS FOR DECEASED MEMBERS AND FORMER MEMBERS OF THE SELECTED RESERVE.

Section 2301(a) of title 38, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (1);

(2) by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following:

"(3) deceased individual who—

"(A) was serving as a member of the Selected Reserve (as described in section 10143 of title 10) at the time of death;

"(B) had served at least one enlistment, or the period of initial obligated service, as a member of the Selected Reserve and was discharged from service in the Armed Forces under conditions not less favorable than honorable; or

"(C) was discharged from service in the Armed Forces under conditions not less favorable than honorable by reason of a disability incurred or aggravated in line of duty during the individual's initial enlistment, or period of initial obligated service, as a member of the Selected Reserve.".

AMENDMENT NO. 2791 AS MODIFIED

(Purpose: To require the Secretary of the Navy to carry out a vessel scrapping pilot program)

At the end of subtitle B of title X, add the following:

SEC. 1014. SHIP SCRAPPING PILOT PROGRAM.

(a) IN GENERAL.—The Secretary of the Navy shall carry out a vessel scrapping pilot program within the United States during fiscal years 1999 and 2000. The scope of the program shall be that which the Secretary determines is sufficient to gather data on the cost of scrapping Government vessels domestically and to demonstrate cost effective technologies and techniques to scrap such vessels in a manner that is protective of worker safety and health and the environment.

(b) CONTRACT AWARD.—(1) The Secretary shall award a contract or contracts under subsection (a) to the offeror or offerors that the Secretary determines will provide the best value to the United States, taking into account such factors as the Secretary considers appropriate.

(2) In making a best value determination under this subsection, the Secretary shall give a greater weight to technical and performance-related factors than to cost and price-related factors.

(3) The Secretary shall consider the technical qualifications and past performance of the contractor and the major subcontractors or team members of the contractor in complying with applicable Federal, State, and local laws and regulations for environmental and worker protection. In accordance with the requirements of the Federal Acquisition Regulation, in the case of an offeror without a record of relevant past performance or for whom information on past performance is not available, the offeror may not be evaluated favorably or unfavorably on past performance.

(c) CONTRACT TERMS AND CONDITIONS.—The contract or contracts awarded by the Secretary pursuant to subsection (b) shall, at a minimum, provide for—

(1) the transfer of the vessel or vessels to the contractor or contractors;

(2) the sharing by any appropriate contracting method the costs of scrapping the vessel or vessels between the government and the contractor or contractors;

(3) a performance incentive for a successful record of environmental and worker protection; and

(4) Government access to contractor records in accordance with the requirements of section 2313 of title 10, United States Code.

(d) REPORTS.—(1) Not later than September 30, 1999, the Secretary of the Navy shall submit an interim report on the pilot program to the congressional defense committees. The report shall contain the following:

(A) The procedures used for the solicitation and award of a contract or contracts under the pilot program.

(B) The contract or contracts awarded under the pilot program.

(2) Not later than September 30, 2000, the Secretary of the Navy shall submit a final report on the pilot program to the congressional defense committees. The report shall contain the following:

(A) The results of the pilot program and the performance of the contractors under such program.

(B) The Secretary's procurement strategy for future ship scrapping activities.

Ms. MIKULSKI. Mr. President, this amendment is cosponsored by Senators GLENN and SARBANES.

I am pleased that this amendment has been accepted by the Chairman and Ranking Member of the Armed Services Committee, and I thank Senator THURMOND, Senator LEVIN and Senator WARNER for their assistance.

The amendment I am introducing today seeks to change the way we dispose of unneeded Navy ships.

Our great Navy ships served valiantly—and they should be retired with honor.

Instead, men die as they break these ships. Others are maimed forever. Our waterways become terribly polluted. Then, when they're done, we're left with torn hunks of metal—polluting our ports—and requiring huge sums of money to clean-up.

With the end of the cold war the number of ships to be disposed of in the military arsenal is growing. There are 180 Navy and Maritime Administration ships waiting to be scrapped. These ships are difficult and dangerous to dismantle. They usually contain asbestos, PCB's and lead paint. They were built long before we understood all the environmental hazards associated with these materials.

This issue was brought to my attention by a Pulitzer Prize-winning series of articles that appeared in the *Baltimore Sun* written by reporters Gary Cohn and Will Englund.

They conducted a thorough and rigorous investigation of the way we dispose of our Navy and maritime ships.

They traveled around the country and around the world to see firsthand how our ships are dismantled, and Mr. President, I must advise that the way we do this is not being done in an honorable, environmentally sensitive, or efficient way.

I believe when we have ships that have defended the United States of America, that they were floating military bases—and they should be retired with the same care and dignity with which we close a military base.

Let me read from the Sun series:

> As the Navy sells off warships at the end of the Cold War, a little known industry has grown up. In America's depressed ports and where the ship breaking industry goes, pollution and injured workers are left in its wake.
>
> The Pentagon repeatedly deals with ship breakers with dismal records, then fails to keep watch as they leave health, environmental and legal problems in their wake.

Of the 58 ships sold for scrapping since 1991, only 28 have been finished. And oh, my God, how they have been finished. I would like to turn to my own hometown of Baltimore.

Workers in Baltimore spoke about toiling in air thick with asbestos. Laborers scrapped the U.S. *Coral Sea*, ripping asbestos insulation from an aircraft carrier with their bare hands. At times they had no respirators, standard equipment for asbestos workers. As we all know inhaling those fibers can have lethal consequences.

Workers were ordered to stuff asbestos into a leaky barge to hide it from inspectors. Dangerous substances from scrapped shipyards have polluted harbors, rivers and shorelines, the Sun paper goes on to say.

This is what the *Coral Sea* looked like while it was being dismantled in the Baltimore harbor. It looks like it was ravaged. Like it was cannibalized.

The *Coral Sea's* dismantling had been marked by several fires. Dumping oil in the harbor. Lawsuits and repeated delays. The mishandling of asbestos. The Navy inspector refused to board the *Coral Sea* because he was afraid it was too dangerous.

I am quoting now the Sun paper. "September 16, 1993, the military sent its lone inspector for the United States to the salvage yard in Baltimore. He didn't inspect it because he thought it was too dangerous."

The inspector was right to be concerned about his own safety. The next day a 23-year-old worker found out how safe it would be.

He walked on a flight deck and he dropped 30 feet from the hangar. "I felt the burning feeling inside," he said, "blood was coming out of my mouth, I didn't think I would live. He suffered a fractured spleen, pelvis, and broke his arms in several places.

At the same time we had repeated fires that were breaking out. In November of 1996, a fire broke out in the *Coral Sea's* engine room. No one was standing fire watch. No hose nearby. The blaze burned quickly out of control and for the sixth time Baltimore City's fire department had to come in and rescue a shipyard. At the same time the owner of the shipyard had a record of environmental violations—a record for which he ultimately was sentenced to jail.

All this was happening right in Baltimore Harbor. You've probably passed it if you've taken the Baltimore Harbor tour. It is right across from Fort McHenry—where we defended the United States of America and won the second battle for the War of 1812. And look at it—that's what it looks like—it is a national disgrace that was in the Harbor as well as a national environmental danger.

It wasn't limited to Baltimore. In Terminal Island, California, workers were fired when they told federal investigators how asbestos was being improperly stripped from Navy ships.

A scrap yard from the southeast, Cape Fear, North Carolina, was so contaminated with asbestos, oil, and lead, that David Heater, an assistant attorney general, said the site looked like one of the levels of Dante's hell. Now ship scrappers frustrate regulators by constructing a maze of corporate names and moving frequently.

Meanwhile, right down the road from the *Coral Sea* in Baltimore was the Baltimore city shipyard, the Bethlehem steel shipyard that was foraging for work. We were desperate for work in our shipyard. Desperate. But no, do you think the Navy turned to shipyards like Bethlehem Ship?

While all of this has been going on, the Navy also planned to send our ships overseas—where worker and environmental safety are virtually ignored.

In India, the Sun paper found a tidal beach where 35,000 men scrapped the world ships with little more than their bare hands. They worked under wretched conditions.

This is the United States Navy ships being dismantled in India. Thirty-five thousand people work on a beach, often with no shoes, dismantling ships with their bare hands. This is an international disgrace.

I introduced a bill to change the way we dispose of unneeded Navy ships. This bill had two parts. The first would ban the export of ships to countries that don't care about protecting workers or the environment. The second part would create a pilot program to use American shipyards to break ships. Because while fly-by-night companies were attempting to break ships, we had American shipyards foraging for work—both in Baltimore and around the country.

The amendment I'm introducing today includes only the second part of my legislation. This amendment will create a pilot program to enable the Navy to develop new, efficient ways of breaking ships that meet environmental and occupational safety standards.

The Navy raised legitimate concerns about my original bill. My bill focused on competence. I wanted shipyards to break ships—because I believe that our shipyards have the experience and facilities to break ships safely. Shipyards, like the ones in my hometown of Baltimore, that are fit for duty. They know how to build a ship, they know how to convert a ship, they know how to dismantle a ship.

But the Navy was concerned that this would limit competition. So I changed my amendment to insure full and open competition. Any competent company can apply to participate in the pilot program.

What do I mean by "competent?" I mean that whoever breaks ships must have a record of protecting their workers' safety and the environment. They must have technical skills, a safe workplace, and a record of complying with environmental laws.

So my amendment addresses competency—as well as competition. It will make sure that ships are broken in a way that protects workers, the environment, and the American taxpayer.

This amendment will enable the Navy to do a better job of disposing of unneeded ships. My legislation will give the Navy the will and resources to retire our ships with honor.

I knew when the Senate saw these pictures they would be as taken aback as I have. I would like to thank the Sun paper for their outstanding series in bringing this not only to my attention but to America's attention.

They won the Pulitzer prize. But I want the United States of America to be sure that we win a victory here today for workers, the environment—and especially for the Navy. Because I know our Navy wants to do the right, honorable thing.

Again, I thank Senator THURMOND, Senator LEVIN, and Senator WARNER for their support of my amendment.

Mr. WARNER. Mr. President. I would like to comment upon Senator MIKULSKI's amendment to establish a Navy pilot program for ship scrapping practices. While I support Senator MIKULSKI's amendment, I would like to clarify some of the issues and concerns regarding this amendment.

Worker safety and environmental issues related to the scrapping of the U.S.S. Coral Sea were raised. I would like to note that the contractor that conducted the scrapping work on behalf of the Navy received criminal sanctions for environmental violations. In turn, the Navy has worked very diligently to resolve and eliminate future contractor problems in this area by adjusting its contractor selection method to ensure that the contractor has the requisite technical, financial, environmental, and worker safety qualifications. Specifically, the Navy has replaced the lowest bidder methodology with the requirement that a determination of best value be made in contract selection.

Finally, there has been reference to the overseas scrapping of Navy ships, as follows: "In India, 35,000 men scrapped . . . ships with little or more than their bare hands. They worked under wretched conditions. This is an international disgrace." I have been informed that the Navy has not contracted to scrap ships overseas. I have been apprised of one incident in which the Navy transferred the title of one Navy ship, the USS *Bennington*, to a contractor that misrepresented its intentions regarding the use of that ship. That contractor subsequently arranged for the scrapping of that ship in India. The scenario that I have described involves one ship, not many, as suggested by some. The Navy has modified its contracting procedures to avoid that type of abuse in the future.

I firmly believe that the Navy has worked to resolve the worker safety and environmental problems associated with ship scrapping, consistent with the recommendations of the Department of Defense Interagency Review Panel on Ship Scrapping, appointed by Mr. Gansler, the Under Secretary of Defense, Acquisition and Technology. It is my expectation that the Navy will continue to make progress as it continues ongoing ship scrapping operations and develops a credible pilot program that will ensure best value in the contract selection process.

Under that pilot program, it is yet to be determined whether any particular shipyard or contractor has the requisite expertise and qualifications to conduct safe and environmentally sound ship scrapping. I have supported the current version of Senator MIKULSKI's amendment with the understanding that it allows the Navy the flexibility and time to conduct meaningful analysis and to develop a viable pilot program.

I thank Senator MIKULSKI for her cooperation in ensuring that this amendment provides for a ship scrapping pilot program that encourages competition and discourages favorable treatment of any particular contractor or site.

Mr. President, I yield the floor.

AMENDMENT NO. 2792 AS MODIFIED

(Purpose: To provide $2,000,000 for emergency repairs and stabilization measures at the historic district of the Forest Glen Annex of Walter Reed Army Medical Center, Maryland)

On page 347, below line 23, add the following:

SEC. 2833. EMERGENCY REPAIRS AND STABILIZATION MEASURES, FOREST GLEN ANNEX OF WALTER REED ARMY MEDICAL CENTER, MARYLAND.

Of the amounts authorized to be appropriated by this Act, $2,000,000 may be available for the completion of roofing and other emergency repairs and stabilization measures at the historic district of the Forest Glen Annex of Walter Reed Army Medical Center, Maryland, in accordance with the plan submitted under section 2865 of the National Defense Authorization Act for Fiscal Year 1997 (division B of Public Law 104–201; 110 Stat. 2806).

AMENDMENT NO. 2823

(Purpose: To require the Director of the Federal Emergency Management Agency to carry out a program of assistance for State and local governments to ensure the preparedness of those governments to respond to potential emergencies resulting from the destruction of lethal chemical agents and munitions)

At the end of subtitle D of title X, add the following:

SEC. 1064. CHEMICAL STOCKPILE EMERGENCY PREPAREDNESS PROGRAM.

Section 1412 of the Department of Defense Authorization Act, 1986 (Public Law 99–145; 50 U.S.C. 1521) is amended by adding at the end of subsection (c) the following:

"(4)(A) The Director of the Federal Emergency Management Agency shall carry out a program to provide assistance to State and local governments in developing capabilities to respond to emergencies involving risks to the public health or safety within their jurisdictions that are identified by the Secretary as being risks resulting from—

"(i) the storage of any such agents and munitions at military installations in the continental United States; or

"(ii) the destruction of such agents and munitions at facilities referred to in paragraph (1)(B).

"(B) No assistance may be provided under this paragraph after the completion of the destruction of the United States stockpile of lethal chemical agents and munitions.".

AMENDMENT NO. 2867 AS MODIFIED

(Purpose: To make available $30,000,000 for the Initiatives for Proliferation Prevention program and $30,000,000 for the so-called "nuclear cities" initiative)

On page 397, between lines 6 and 7, insert the following:

SEC. 3137. NONPROLIFERATION ACTIVITIES.

(a) INITIATIVES FOR PROLIFERATION PREVENTION PROGRAM.—Of the amount authorized to be appropriated by section 3103(1)(B), $30,000,000 may be available for the Initiatives for Proliferation Prevention program.

(b) NUCLEAR CITIES INITIATIVE.—Of the amount authorized to be appropriated by section 3103(1)(B), $30,000,000 may be available for the purpose of implementing the initiative arising pursuant to the March 1998 discussions between the Vice President of the United States and the Prime Minister of the Russian Federation and between the Secretary of Energy of the United States and the Minister of Atomic Energy of the Russian Federation (the so-called "nuclear cities" initiative).

AMENDMENT NO. 2904, AS MODIFIED

(Purpose: To express the sense of the Senate regarding the August 1995 assassination attempt against President Shevardnadze of Georgia)

At the end of subtitle D of title X, add the following:

SEC. . SENSE OF SENATE REGARDING THE AUGUST 1995 ASSASSINATION ATTEMPT AGAINST PRESIDENT SHEVARDNADZE OF GEORGIA.

(a) FINDINGS.—Congress makes the following findings:

(1) On Tuesday, August 29, 1995, President Eduard Shevardnadze of Georgia narrowly survived a car bomb attack as he departed his offices in the Georgian Parliament building to attend the signing ceremony for the new constitution of Georgia.

(2) The former Chief of the Georgian National Security Service, Lieutenant General Igor Giorgadze, after being implicated in organizing the August 29, 1995, assassination attempt on President Shevardnadze, fled Georgia from the Russian-controlled Varziani airbase on a Russian military aircraft.

(3) Lieutenant General Giorgadze has been seen openly in Moscow and is believed to have been given residence at a Russian government facility despite the fact that Interpol is conducting a search for Lieutenant General Giorgadze for his role in the assassination attempt against President Shervardnadze.

(4) The Russian Interior Ministry claims that it is unable to locate Lieutenant General Giorgadze in Moscow.

(5) The Georgian Security and Interior Ministries presented information to the Russian Interior Ministry on November 13, 1996; January 17, 1997; March 7, 1997; March 24, 1997 and August 12, 1997, which included the exact location in Moscow of where Lieutenant General Giorgadze's family lived, the exact location where Lieutenant General Giorgadze lived outside of Moscow in a dacha of the Russian Ministry of Defense; as well as the changing official Russian government license tag numbers and description of the automobile that Lieutenant General Giorgadze uses; the people he associates with; the apartments he visits, and the places including restaurants, markets, and companies, that he frequents.

(6) On May 12, 1998, the Moscow-based Russian newspaper Zavtra carried an interview with Lieutenant General Giorgadze in which Lieutenant General Giorgadze calls for the overthrow of the Government of Georgia.

(7) Title II of the Foreign Operations Appropriations, Export Financing, and Related Programs Appropriations Act, 1998 (Public Law 105–118) prohibits assistance to any government of the new independent states of the former Soviet Union if that government directs any action in violation of the national sovereignty of any other new independent state.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the Secretary of Defense should—

(1) urge the Government of the Russian Federation to extradite the former Chief of the Georgian National Security Service, Lieutenant General Igor Giorgadze, to Georgia for the purpose of standing trial for his role in the attempted assassination of Georgian President Eduard Shevardnadze on August 29, 1995;

(2) request cooperation from the Minister of Defense of the Russian Federation and the Government of the Russian Federation to ensure that Russian military bases on Georgian territory are no longer used to facilitate the escape of assassins seeking to kill the freely elected President of Georgia and to otherwise respect the national sovereignty of Georgia; and

(3) use all authorities available to the U.S. Government to provide urgent and immediate assistance to ensure to the maximum extent practicable the personal security of President Shevardnadze.

Mr. BROWNBACK. Mr. President, I would like to introduce a resolution calling upon the Administration to do its utmost to protect the personal security of President Eduard

Shevardnadze of Georgia. Against overwhelming odds, President Shevardnadze has fought for his country's sovereignty and independence and has led it to a position where it is starting to achieve positive economic growth and is making great strides towards democracy. President Shevardnadze is a world class leader, and he and his country are natural allies of the United States in a part of the world that is crucial to the geo-political interests of the United States.

President Shevardnadze has accomplished these great achievements under the most difficult circumstances one could imagine. There have been two assassination attempts in the last three years alone and he has been working tirelessly to reach peaceful resolution with the separatist forces within Georgia. As if this weren't difficult enough, he has had to do this in the face of continual undermining by certain forces within the Russian Federation.

A case in point is Abkhazia: since the break-up of the Soviet Union, Russia has been using Abkhazia to maintain control in Georgia and in the Caucasus: the Russians encouraged separatists forces, armed and supported with fighters, intelligence and air power and used the resultant instability to force President Shevardnadze and Georgia to join the Commonwealth of Independent States (CIS).

Russia also used this weakness to force the presence of Russian bases on Georgian territory. President Shevardnadze was forced to sign the military base agreement allowing Russia troops to be stationed in Georgia without compensation, in fact Georgia is forced to pay Russia. And when he objected, President Shevardnadze was told point blank by the Russian Prime Minister either to sign the base agreement or Russia would put someone else in his place to sign it.

Russian strategy in Georgia appears to be a combination of factors driven by those who seek to pay President Shevardnadze back for his dismantling of the Soviet empire, and those who seek to prevent Caspian oil and other commerce from following through Georgia to the West, and who wish to break Georgia's increasingly close ties to the West and to the United States in particular.

The destabilizing activities have not stopped and include attempts to assassinate President Shevardnadze himself. On August 29, 1995 he narrowly survived a car bomb attack as he departed his offices in the Georgian Parliament building to attend the signing ceremony for the new constitution of Georgia. The former Chief of the Georgian National Security Service, Lieutenant General Igor Giorgadze, after being implicated in organizing this attempt on President Shevardnadze's life, escaped to Moscow after fleeing Georgia from the Russian-controlled Varziani airbase on a Russian military aircraft.

Since that time, Giorgadze has been spotted on a number of occasions in Moscow and the Georgians have repeatedly requested his extradition to Georgia. But despite the specificity of the information presented to them about Giogadze's whereabouts in Russia, the Russian Interior Ministry has claimed repeatedly that it is unable to locate Mr. Giorgadze. In short, Russia has refused to extradite him to Georgia for trial.

Further, Mr. President, another violent attempt was made on President Shevardnadze's life in February of this year. Here again, the perpetrators of this heinous act fled Georgia from a Russian military base. And barely a month later, two escort planes which were to escort the President's flight from the Turkish border on a return flight to the Georgian capital Tbilsi, were found sabotaged and inoperable, thus forcing the President's plane to return unescorted and unprotected and in direct danger of air attack. Those disabled planes, Mr. President, were sabotaged while on the ground in a Russian military base in Georgia.

Throughout all these events, the Administration has remained shockingly silent. This is unacceptable behavior towards a friend an ally. In the face of the clear pattern of destabilization in which Russia is engaged, the Administration should not have to be prodded to stand up and speak loudly in defense of this friend and ally. Unfortunately, a reticence to engage Russia on its bad behavior in Georgia and the Caucasus has led to an unacceptable passivity on the part of the Administration. It is time for this to change. And it must change soon.

There is no need to remind my colleagues that Title II of the Foreign Operations Appropriations, Export Financing, and Related Programs Appropriations Act, prohibits assistance to any government of the former Soviet Union if that government directs any action in violation of the national sovereignty of any other new independent state.

The sense of the senate I am introducing today calls upon the Administration to step up its pressure on Russia to extradite Igor Giorgadze, the alleged perpetrator of the August 1995 assassination attempt on President Shevardnadze; and to stop using its bases in Georgia as an escape for assassins and terrorists; and to provide all assistance necessary to provide for the personal safety of President Shevardnadze.

This resolution is just a first step. I believe the United States should be pressing Russia to remove its bases from Russia—after all, they are there against the will of the Georgian people. And I now call upon the Administration to stand up for President Shevardnadze and for Georgia, and to publicly and loudly condemn the efforts of any group that seeks to destabilize Georgia. I hope my colleagues will join me in sending this message and will support this resolution.

AMENDMENT NO. 2907

(Purpose: To require the Secretary of Energy to select the technology to be used for tritium production by December 31, 1998)

On page 398, between lines 9 and 10, insert the following:

SEC. 3144. DEADLINE FOR SELECTION OF TECHNOLOGY FOR TRITIUM PRODUCTION.

(a) DEADLINE.—The Secretary of Energy shall select a technology for the production of tritium not later than December 31, 1998.

(b) OPTIONS AVAILABLE FOR SELECTION.—Notwithstanding any provision of the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.), after the completion of the Department of Energy's evaluation of their Interagency Review on the production of Tritium, the Secretary shall make the selection for tritium production consistent with the laws, regulations and procedures of the Department of Energy as stated in subsection (a).

Mr. SESSIONS. Mr. President, I would like to thank the Chairman of the Armed Services Committee, Senator THURMOND, for accepting my amendment which ensures the dual track strategy the Department of Energy (DOE) is currently pursuing for tritium production will remain in place. Acceptance of this amendment ensures the Secretary of Energy will have the flexibility to make the best decision based on a careful review of the cost, technical, schedule and policy issues associated with each of the tritium production options.

In May, during the House National Security Committee's deliberation of the FY '99 Department of Defense (DOD) re-authorization bill, an amendment offered by Congressmen MARKEY and GRAHAM was accepted without a roll call vote. Their amendment (Markey/Graham amendment) would preclude the Secretary of Energy from selecting a commercial light water reactor for the production of tritium. The Markey/Graham amendment, if passed into law, would force the Secretary of Energy to select the Accelerator Production of Tritium (APT) by eliminating the option to produce tritium using a Commercial Light Water Reactor (CLWR). The APT is the only other option currently available to the Department of Energy. The results of this action would, in my opinion, require the Secretary to select the highest risk and most expensive option to produce tritium—a decision which could saddle the taxpayers with a $14.5 billion debt. To put this in context, $14.5 billion is more money than the states of Alabama, New Hampshire, South Carolina, Virginia, Rhode Island, Idaho, Oklahoma, Mississippi and New Mexico combined will receive during the next five years under the recently passed TEA21 transportation bill.

The White House, Secretary of Energy, Secretary of Defense and the Citizens Against Government Waste have all written letters in opposition to the Markey/Graham amendment in the House-passed bill, which would prevent the Department of Energy from making the best decision on tritium production.

In a Statement of Administration Policy to House National Security Committee dated May 20th, 1998, the Administration voiced its concern over the amendment to the House DoD reauthorization bill and stated:

> "The Administration strongly opposes . . . amendments . . . to prohibit the use of commercial light water reactors for the production of tritium; by eliminating the least costly, most technically mature option under consideration by DOE. Tritium production in commercial reactors is not inconsistent with U.S. non-proliferation policy".

Furthermore, in a letter dated June 23rd, 1998, the Secretary of Energy restated the Administration's position:

> "The Administration strongly opposes this amendment and any amendment that prejudges departmental decision making within the dual track strategy. A careful and deliberate review of cost, technical, schedule, and policy issues associated with each option is essential to meet our security needs most economically and reliably".

And finally, in a letter provided to me June 25th, 1998, the Secretary of Defense stated:

> "DoD opposes the amendments for three reasons. First, if the amendments were to become law, DOE would require an immediate additional investment of nearly $250 million to accelerate the development of APT. The long term impacts of the amendment are far more significant. The life cycle cost of APT could be as high as $8.8 billion. The life cycle cost of the Reactor option could be as low as $1.6 billion. Thus, the amendments could mandate an unfunded liability of up to $7.6 billion . . . Second, the amendments would likely increase the cost of the DOD Stockpile Stewardship Program.
>
> Finally, this amendment seems to be predicated on the assumption that the use of commercial reactors is inconsistent with the US non proliferation policy. It is not. The DOE will forward shortly a completed interagency report that concludes the non proliferation policy issues associated with the use of a reactor are manageable and that the DOE should continue to pursue the reactor option as a viable source for future tritium production. . .Therefore, I urge you to oppose amendments which would prohibit the Reactor production of tritium from being considered as an option. Passage of any such amendment would place the Defense Authorization bill at risk".

Mr. President, I would ask unanimous consent that all three letters be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C., May 20, 1998.

STATEMENT OF ADMINISTRATION POLICY

H.R. 3616—NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1999 (SPENCE (R) SC AND SKELTON (D) MO)

The Administration supports prompt congressional consideration of its national defense authorization legislative proposal for FY 1999. As reported by the Committee on National Security, however, H.R. 3616 raises serious budget and policy concerns which must be addressed satisfactorily. The Administration also has particular concerns, addressed below, about a number of amendments which have been ruled in order for floor consideration.

Reduction of Department of Energy (DOE) Funds

The Administration strongly objects to the net reduction of $401 million from DOE's defense activities, particularly the $358 million cut from weapons activities and the earmarking of $60 million from the Stockpile Stewardship account for DOD's Ballistic Missile Defense Organization. A significant portion of the Stockpile Stewardship reduction results from $341 million taken from prior year balances which are not available. This will force real reductions in critical programs needed to ensure the safety, security, and reliability of America's nuclear deterrent.

In addition, the Administration opposes the $230 million reduction in the Environmental Management Privatization account that cuts funds which are needed to demonstrate to the financial investment community the Administration's commitment to the privatization approach, and which are required to complete key nuclear waste disposal facilities. The bill would also delay the decision to select a primary source for tritium until the results of tests at the Watts Bar nuclear station are determined. This would delay the selection decision by over one year, increase the costs of the program, and prevent the Department from meeting its 2005 deadline for achieving a tritium production capability. The Administration also opposes the premature sun-setting of the Worker and Community Transition Program, which has facilitated the orderly reduction of 43,000 contractor employees at DOE sites since 1992.

Program Funding

H.R. 3616 would reduce funding for basic and applied research by over $1 billion in FY 1999. This research provides the fundamental knowledge and technical know-how required to develop future defense systems. The failure to provide adequate funding for this research will ultimately result in the inability to upgrade systems at an adequate pace. The Administration strongly urges the House to authorize the Administration's full $4.1 billion request for these programs.

Conversely, the bill adds a net total of $250 million for procurement and $450 million for constructions programs. Some of these increases are for programs that, due to higher priority military requirements, are not in the Future Years Defense Program (FYDP). This includes, for example, $398 million for seven additional C–130J airlift aircraft, and $300 million for other unrequested items for the National Guard and Reserve. These increases for lower priority weapons modernization and military construction programs would be at the expense of higher priority defense programs.

The Administration appreciates the bill's emphasis on preserving military readiness through strong funding for maintenance and spare parts. Force readiness could be threatened, however, by the bill's reductions to other O&M programs. The President's request is very tightly constructed within the discretionary caps agreed to the bipartisan budget agreement. Any adjustments must be carefully evaluated to ensure that sufficient funding is available for DoD operations and support programs. The Administration will work with the Congress to reexamine any adjustments to the O&M programs prior to final congressional action on the bill.

In particular, the Administration opposes the bill's $500 million funding reduction for defense contractual services, which are an integral part of DOD functions and are essential to critical military objectives. This reduction would have a direct adverse impact on operational readiness and modernization. The prohibitions and limitations on: (1) accounting procedures for contractual services and (2) the performance of core logistics capabilities are also objectionable. In addition, the bill's requirement for a comprehensive annual review of Defense service contracts would be costly and divert personnel from higher priority areas.

Base Realignment and Closure

The Administration is disappointed that the bill does not adopt the Defense proposal to authorize two additional rounds of base closure and realignment in 2001 and 2005. Defense's base infrastructure is far too large for its military forces and must be reduced if the Department is to obtain adequate appropriations for readiness and modernization requirements during the next decade.

Gender Integrated Training

The Administration strongly opposes any legislatively mandated changes for initial entry training within the military services.

The Federal Advisory Committee on Gender Integrated Training and Related Issues made several recommendations on training that have been reviewed by the Secretary of Defense and each of the services. In addition to the Committee's recommendations, the Secretary directed the services to take additional action in the areas of training leadership, training rigor, and recruit billeting. The services have each taken a number of steps in support of the Committee's recommendations and Secretary's additional direction. The implementation of future initiatives will also be monitored. All actions are geared toward providing new recruits with the best training possible in a safe and secure environment. In order to achieve this goal, each service must be allowed to tailor its basic training as needed to prepare recruits for their specific service's missions. Legislation at this time would be counter productive to meeting this goal.

Weapons of Mass Destruction

H.R. 3616 does not include authorities requested to allow a more rapid response to threats to U.S. forces, and permit Defense to support interagency efforts to combat terrorism. The bill also defers action on authorizing the National Guard and Reserves to assist other Federal, state, and local authorities in responding to domestic terrorist incidents involving weapons of mass destruction. These authorities are critical to improving the Nation's ability to deter and combat terrorism. The Administration strongly urges prompt congressional enactment of these important authorities.

Bosnia Expenditure Cap

The Administration opposes section 1201 which would impose an expenditure limitation on funds for U.S. participation in Bosnia peacekeeping operations. It is imperative that the Administration retain the flexibility necessary to meet exigent circumstances.

Chemical Weapons Convention

The Administration urges the House to include the requested authorization of appropriations for the DOD to reimburse the Organization for the Prohibition of Chemical

Weapons for costs incurred in inspecting DOD sites and facilities. These funds are necessary to fulfill the requirements of the recently ratified Chemical Weapons Convention.

Management Issues

A number of provisions in H.R. 3616 would undermine the Administration's efforts to improve governmental operations. For example, the bill would terminate a DOD "household goods moving services" pilot program that was designed to adopt corporate business practices and foster competition. The bill would replace this DOD pilot with an approach that was proposed by the industry that perpetuates the current inefficient system.

The Administration objects to section 337 which would require DOD to perform depot-level maintenance and repair of the C–17 at Government-owned, Government-operated facilities. This section also states that the C–17 Flexible Sustainment contract does not meet the requirements of law. Although the language is specific to the C–17 support contract, it has far reaching implications for many DOD weapon systems. The bill sets a precedent for bypassing the DOD risk assessment and core determination process, and directing that weapon systems be supported in public depots without regard to cost or readiness. The resulting investments would have a significant adverse affect on DOD's long term plans for funding.

Section 336 of the bill would require complicated and cumbersome tests for determining what qualifies as a commercial item under 10 U.S.C. §2464, and would require application of those tests to determine whether or not a V–22 engine component or system is a "commercial item" that, by definition, should be procured with simplified, streamlined procurement procedures. Whether intended or not, the provision would duplicate a capability that already exists commercially.

Section 331 of the bill would expand current requirements that the Secretary report to Congress before outsourcing any commercial or industrial type function currently accomplished in-house. This would be counterproductive to efficient and effective government, and should be deleted. These additional requirements would only slow the process, discourage contractors from taking over activities that DOD no longer needs to perform in-house, and waste money that should be used to modernize DOD weapons systems.

Military Pay Raise

H.R. 3616 contains a minimum of a 3.6 percent increase in basic pay for military members, an increase that is 0.5 percent higher than the amount requested. At this time, the Administration is reviewing the implications of a higher pay raise, and will work with Congress to provide a fair pay raise that does not force unacceptable reductions in other high priority Defense programs.

Cooperative Threat Reduction (CTR)

The Administration generally supports the bill's authorizations for the Cooperative Threat Reduction Program and urges full funding of the FY 1999 request for CTR. The Administration opposes, however, language that would restrict the use of CTR funds for chemical weapons destruction facility construction. The restriction would preclude any construction until FY 2000, thereby imposing a minimum delay of one year in the current project schedule.

The Administration, as it continues to review H.R. 3616, may identify other issues, and will work with the Congress to develop a more acceptable bill.

Unacceptable Amendments

In addition, the Administration strongly opposes a number of seriously problematic amendments that may be offered, including:

Any amendment that would further restrict or prohibit licensing of commercial satellite launches by China. Transfer to China or Chinese entities of technology, data, or defense services relevant to ballistic missiles or warhead delivery is controlled under the Arms Export Control Act. Existing procedures, including the bilateral Satellite Technology Safeguards Agreement (negotiated under the Bush Administration and signed in February 1993) explicitly prohibit transfer of ballistic missile technology to China.

Any amendment to require licenses for nuclear exports and retransfers to non-OECD countries to be reported to Congress 30 days before issuance. Such a requirement is unnecessary as applications for licenses to export controlled nuclear technology and items are already reported to the public immediately upon filing with the Nuclear Regulatory Commission. The licensing process provides for a unique degree of transparency, including public intervention. To require such a notification before licenses are issued to non-OECD countries would impose significant delays to many commercial contracts, reducing U.S. commercial competitiveness, and reducing U.S. influence with countries of great importance to our nuclear non-proliferation efforts.

The amendment which would cap expenditures for NATO enlargement at $2 billion or 10 percent of the total cost. At the Madrid summit Allied heads of State and government agreed that the costs of NATO enlargement would be reasonable and they would be met in accordance with current Alliance procedures. After careful study, NATO agreed that the costs of enlargement to the Alliance common budgets for the first 10 years would be $1.5 billion. Using the current shares of NATO common budget that would mean the costs to the U.S. during that period would be approximately $400 million. However, a reduction to 10 percent of enlargement costs as called for in the amendment is neither reasonable nor consistent with the Madrid communique agreed by all Allied heads of state and government.

Prohibit the use of commercial light water reactors for the production of tritium; eliminating the least costly, most technically mature opinion under consideration by DOE. Tritium production in commercial reactors is not inconsistent with U.S. nonproliferation policy. There have been several instances of cooperation between U.S. military and civilian nuclear programs, including dual use of uranium enrichment facilities and commercial sale of electricity originating from a weapons material production reactor.

The inclusion of such amendments in the bill presented to the President would be unacceptable.

THE SECRETARY OF ENERGY,
Washington, DC, June 23, 1998.

Hon. JEFF SESSIONS,
U.S. Senate, Washington, DC

DEAR SENATOR SESSIONS: The Department of Energy must establish a new source of tritium to maintain the U.S. nuclear weapons stockpile. Currently, the Department is pursuing a dual-track strategy for tritium production, which calls for the development of two technology options: use of an existing commercial light water reactor or the construction of a linear accelerator for the production of tritium. The Department has pursued this strategy for more than two years under the direction of the Congress and with the approval of the Department of Defense through the Nuclear Weapons Council. We remain on schedule to select a new tritium production source by December 31, 1998, consistent with existing law.

Last month an amendment to the National Defense Authorization Act for FY 1999 (H.R. 3616) was adopted that would prohibit the Department's ability to pursue the Commercial Light Water Reactor option of the dual track strategy. The Administration strongly opposes this amendment and any amendment that prejudges departmental decision making within the dual track strategy. A careful and deliberate review of the cost, technical, schedule, and policy issues associated with each option is essential to meet our security needs most economically and reliably.

The amendment to prohibit the Department's use of a commercial light water reactor for tritium production was predicated on an assumption that the use of such reactors to produce tritium is inconsistent with U.S. proliferation policy. The Department will forward shortly a completed interagency review that concludes that the nonproliferation policy issues associated with the use of a commercial light water reactor are manageable and that the Department should continue to pursue the reactor option as a viable source for future tritium production. This Administration conclusion was reached after an extensive and interactive review process involving a wide range of Executive Branch agencies.

I appreciate your consideration of our views and concerns regarding this issue. If you have any questions, please call me or have your staff contact Mr. John C. Angell, Assistant Secretary for Congressional and Intergovernmental Affairs, at (202) 586–5450.

Sincerely,

FEDERICO PEÑA

THE SECRETARY OF DEFENSE,
Washington, DC, June 25, 1998.

Hon. STROM THURMOND,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: I am writing to express the opinion of the Department of Defense on proposed amendments to the Fiscal Year 1999 Defense Authorization bill that prohibit commercial light water reactors from producing tritium for military purposes.

The Department of Energy (DOE) is pursuing a dual-track program to produce tritium. One method is to use a commercial light water reactor (CLWR) to irradiate rods from which tritium could be extracted at a DOE facility—in effect, buying irradiation services. The other approach is to build an accelerator to produce tritium (APT). DOE will decide on a primary method by the end of this calendar year. The proposed amendments would effectively foreclose the CLWR option.

DoD opposes the amendments for three reasons. First, if the amendments become law, DOE would require an immediate additional investment of nearly $250M to accelerate development of APT. The long term impacts of the amendments are far more significant. The life cycle cost of APT could be as high as $8.8B. The life cycle cost of the CLWR program could be as low as $1.2B. Thus, the amendments could mandate an unfunded liability of up to $7.6B. Second, the amendments would likely increase the cost of the DOE stockpile stewardship program (SSP). Finally, this amendment appears to be predicated on an assumption that the use of commercial reactors for tritium production is inconsistent with the US nonproliferation policy. It is not. The DOE will forward shortly a completed interagency report that concludes that the nonproliferation policy issues associated with the use of a commercial light water reactor are manageable and that the DOE should continue to pursue the reactor option as a viable source for future tritium production. The DoD fully endorses this position.

In conclusion, DOE has a dual-track program to develop an assured supply of tritium. Until DOE reaches its decision later this year, the wisest choice is to leave our options open. Therefore, I urge you to oppose the amendments that would prohibit CLWR from being considered as an option. Passage of any such amendment would place the Defense Authorization bill at risk.

Respectfully,

Bill Cohen.

Mr. SESSIONS. Mr. President, I further ask unanimous consent that a letter sent to me by the Citizens Against Government Waste (CAGW), along with a June 25th article from the Washington Times on tritium both be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Council for
Citizens Against Government Waste,
Washington, DC, June 23, 1998.

Hon. Jeff Sessions,
U.S. Senate, Russell Office Building, Washington, DC.

Dear Senator Sessions: On behalf of America's taxpayers, and the 600,000 members of the Council for Citizens Against Government Waste (CCAGW), we are pleased to endorse your amendment to the FY 1999 National Defense Authorization Act, which ensures that the government procures tritium in the most cost-efficient method.

The Department of Energy (DOE) is responding to Defense Department needs for tritium by carefully considering two options recommended by The Weapons Council: use of a nearly complete commercial light water reactor at Bellefonte in Alabama; or construction of a large new accelerator at the Savannah River federal site in South Carolina. While we are not qualified to comment on dependability, technology, and non-proliferation policy issues concerning these two options, CCAGW feels compelled to point out the obvious cost advantages of the light water reactor option. By any measurement, use of a commercial reactor is the lower cost tritium production option. This option should not be legislatively excluded as provided in the House-passed Markey amendment.

Every budget estimate confirms that construction and operation of an accelerator costs significantly more than the commercial reactor. DOE estimates that the seven-year startup costs for the accelerator will be $3.9 billion with $120 million in annual operating costs. CBO's cost estimate for the accelerator is $6.72 billion. These cost estimates reflect only a modest level of accuracy since they are based on a preliminary conceptual design. Any cost overruns would be borne by the taxpayers. Recent proposals for modular construction of the accelerator will still cost at least $2.6 billion, and these proposals fail to include substantial engineering design and safety expenses.

In contrast, the Bellefonte reactor option will cost only $1.9 billion to complete construction and start producing tritium in five years. Unlike the accelerator, the commercial reactor will generate about $100 million annually in revenues for the Treasury from the production and sale of electricity. The Bellefonte cost estimate is a fixed price that has been certified by several independent reviews as having a very high-level of accuracy. The reactor owner would pay any cost overruns.

From a common sense perspective, the commercial reactor option has to be a better deal for the taxpayer. The Bellefonte reactor is already 90 percent complete whereas ground has not even been broken for construction of the accelerator which is still undergoing conceptual design. Finishing a nearly-complete facility obviously must cost less than designing and building a new facility.

No matter how you compare it, the commercial reactor option is more cost-effective, Construction of a new accelerator will be anywhere from 70 percent to almost 300 percent more expensive than the guaranteed fixed price of a commercial reactor. Moreover, the commercial reactor will generate revenues every year for the Treasury while the accelerator will require annual appropriations to operate.

Given the obviously significant cost advantages, the commercial reactor should not be excluded as an option as proposed by the House. We applaud you placing politics aside and putting the interest of the taxpayers first. We offer our full assistance in this effort.

Sincerely,

Council Nedd II,
Director of Government Affairs.

[From the Washington Times, June 25, 1998]

Nuclear Material Causes Senate Spat

(By Sean Scully)

An obscure House amendment to the Defense Department budget is sparking an interstate battle in the Senate—a fight that could cost U.S. taxpayers an extra $4 billion.

Without having a debate or taking a recorded vote, the House passed an amendment on May 21 to prohibit commercial nuclear reactors from producing tritium, a radioactive substance used to increase the effectiveness of nuclear weapons. As a result, the Energy and Defense departments must abandon a $2 billion plan to produce tritium in an Alabama reactor in favor of building a new production facility in South Carolina, which could cost up to $6.7 billion.

"I think I am morally bound to do everything I can to stop this colossal error that may be in the making," said Sen. Jeff Sessions, Alabama Republican and leader of the effort to block a similar amendment in the Senate.

But backers of the amendment say there is far more at stake than cost.

The United States has long drawn a sharp line between military and civilian nuclear programs, backers say, and producing tritium at a commercial power plant would blur that line.

"It takes 50 years of policy and turns it on its head. . . . This is a major change of policy that has ripple effects beyond comprehension," said Rep. Lindsey Graham, South Carolina Republican and cosponsor of the House amendment.

If the United States begins using a civilian reactor for military purposes, even for the relatively benign tritium, the administration will have a more difficult time convincing nations such as North Korea and India not to use their reactors to make bomb material, supporters said.

"It's just not smart, it's not the right thing to do," especially in light of the recent nuclear tests by India and Pakistan, said Maury Lane, spokesman for Sen. Ernest F. Hollings, South Carolina Democrat.

The Alabama faction disagrees. Tritium, they say, is not part of non-proliferation treaties and is widely produced in civilian reactors worldwide, although not in the United States.

The real issue is cost, Mr. Sessions said.

In May 1997, the Congressional Budget Office estimated that buying an existing reactor, or completing a new one, would cost about $1.9 billion. The Alabama reactor, owned by the Tennessee Valley Authority, is about 85 percent complete. The TVA promises to give the Energy Department 60 percent of the profits from selling electricity produced by the plant—as much as $100 million per year—which could offset much of the cost of building and operating the reactor.

The CBO estimated, meanwhile, that the South Carolina plant, known as an accelerator, would cost $6.7 billion. And, while the technology of accelerators is well understood, it has never been used to create tritium on this scale before.

"We simply cannot afford to spend that much extra money in the defense budget, which is extraordinarily tight," Mr. Sessions said.

The South Carolina side, however, said the CBO numbers are based on outdated data. Mr. Graham said the current accelerator plan is much smaller, costing about $2 billion.

"The costs are—at best—a wash," he said.

But at the root of the dispute may be home-district politics, a fact that partisans on both sides admit. The CBO estimates that almost 400 jobs are at stake in South Carolina and as many as 800 in Alabama.

Mr. SESSIONS. Mr. President, under current law, the Department of Energy has been going forward with a dual track process to decide on the technology selection of tritium. DOE is to choose the best option to produce tritium based on cost and merit. The House-passed Markey/Graham amendment, eliminates DOE's decision-making authority and would put the national defense at risk by relying on an unproven technology. The Markey/Graham amendment is fiscally irresponsible and would prevent the Secretary from making a merit-based decision.

Tritium is a radioactive isotope of hydrogen which is used in all nuclear weapons of the United States. It has a relatively short half life of 12.3 years and must be replaced periodically as long our nation's defense relies on nuclear deterrence.

In 1993, Congress required the Secretary of Energy to submit a report to Congress with a schedule to produce tritium to meet our defense needs. Later that year, the Secretary submitted a report indicating that under START II, tritium production would need to resume by 2009. However, since the START II treaty has not been ratified, as is now the case, the DOE has stated tritium production needs to begin by 2005.

On December 6th, 1995 the Department of Energy issued a Record of Decision to pursue a dual-track approach to produce tritium. This process was recommended by the President's Nuclear Weapons Council. The first option is to use the services of a reactor to produce tritium. The second option is to design, build and test a particle accelerator at Savannah River to drive tritium producing nuclear reactions. Both options would be required to produce tritium by the 2009 deadline, but only the reactor option could meet the 2005 deadline. The DOE is scheduled to announce its choice for tritium production by the end of 1998.

The Department of Energy needs to pursue the dual-track option for the production of tritium. The Markey/Graham amendment prevents the DOE from making their decision, and ties the Secretary of Energy's hands, throwing competition out the window and saddling the American taxpayer with a huge $16.7 billion dollar debt.

Mr. President, the House-passed Markey/Graham amendment to the Department of Defense re-authorization bill sole sources the Secretary of Energy's options for tritium production and forces the Secretary to select the least reliable, highest cost option—APT. Even the DOE's Accelerator Production of Tritium program managers suggest the accelerator may not be able to produce enough tritium to fulfill our defense needs according to a June 8th, 1998 DOE letter in response to my technical questions regarding the accelerator program.

The CLWR option to produce tritium is a proven technology which allows the US to maintain its nuclear preparedness. It uses safe, reliable technology at no net cost to the DOE. In fact, the reactor option to produce tritium could actually net the Federal Government a $2.4 billion profit over the forty year life of the program.

In contrast, the Accelerator needed for APT is estimated to cost $5.4 billion just to complete. There is no mechanism to ever recapture these costs. In addition, an Accelerator, of the size needed to fulfill our defense needs, would require a tremendous amount of electricity to operate. The annual operational costs of the Accelerator are estimated to be between $120 - $180 million per year. Using the latest inflationary factors developed by Office of Management and Budget of 2.2% and the $180 million annual operating cost estimate put forth in the May, 1997 Congressional Budget Office report titled *Preserving the Nuclear Stockpile Under a Comprehensive Test Ban*, the life-cycle operating costs for the Accelerator Production of Tritium would be a staggering $11.356 billion over forty years. In total, the operations and maintenance costs, coupled with the cost to complete construction of APT could top $16.756 billion.

The Commercial Light Water Reactor option to produce tritium will cost only $1.9 billion—an investment which will be paid back and generate additional revenue to the Treasury in excess of $2.4 billion over the forty year life of the reactor. It would provide the government with a free supply of tritium and generate revenue through the generation and sale of electrical power.

The APT will require 2,600,000 megawatts-hours of power each year to operate. This is the equivalent of the electricity requirements of a medium size city like Huntsville and Decatur, Alabama. The power required to operate the APT will result in increased emissions of sulfur, carbon, particulate matter and ozone creating gases and serve to work against our efforts to clean the environment.

According to data collected by the Edison Electric Institute, even today's cleanest fossil fuel powered electric plants will emit between 4 million and 9 million tons of carbon; 17,000 and 42,000 tons of Sulfur Dioxide (major contributor to acid rain); and between 870 and 7,100 tons of Nitrous Oxide (major ozone contributor) per year just to generate the same amount of power as the emissions free reactor option to produce tritium. Clearly, the reactor option is the preferred choice for the environment.

To maintain our country's nuclear preparedness under the only signed and enforceable treaty, START I, the Department of Defense needs a production capacity of at least 3 kilograms of tritium per year by 2005. The cost estimates on the APT provided by the Department of Energy, at my request, suggest the accelerator, if its experimental technology were to work without failure or shutdown, may only be able to produce 1.5 to 2.0 kilograms of tritium per year. This is not enough to maintain our nuclear arsenal.

The earliest the APT will be able to produce tritium is 2007 which could cause the Department of Defense to dip into our Tritium Reserve Stockpile to maintain our readiness. The Reactor option can produce tritium using safe, reliable, certified technology by 2003.

Mr. President, can we afford to risk our national security on this unproven APT technology for our nuclear arsenal's tritium needs by eliminating a safe and reliable reactor technology so casually?

In closing, Mr. President, my amendment will ensure the Secretary of Energy retains the ability to carefully review each of these options and select the one which will best serve the tritium needs of our nation's nuclear arsenal.

I urge my colleagues being appointed to the conference committee on the DOD re-authorization bill, to support my amendment, which preserves the integrity of DOE's decision-making process. We can ill afford to decide the fate of our nation's security on the floor of Congress. Let's allow the nation's top experts in this field to make their decision based on the careful considerations of cost and merit regarding both options.

Mr. President, I yield the floor.

Mr. THURMOND. Mr. President, would the able gentleman from Alabama join me in a colloquy regarding the Department of Energy's tritium production program?

Mr. SESSIONS. Mr. President, I would be happy to engage the Committee Chairman in a colloquy on the subject of tritium production.

Mr. THURMOND. I believe the Senator from Alabama has an interest in the Department of Energy's tritium production program and I believe he shares my strong interest in restoring a sound United States tritium production capability to support our enduring nuclear deterrent.

Mr. SESSIONS. That is correct. We must have new tritium production to maintain a credible nuclear deterrent. The Department of Energy is currently assessing two potential technologies to produce tritium for defense purposes. One option is to construct a linear accelerator facility and the other is to complete the Bellefonte nuclear plant in my home state of Alabama.

Mr. THURMOND. I understand the Senator's strong support for our national defense. I also understand that the Senator has offered an amendment to the Fiscal Year 1999 Defense Authorization Act which would require the Department of Energy to follow applicable laws and internal Departmental policies and procedures in selecting a permanent tritium source.

Mr. SESSIONS. It is my belief that any conference outcome on this issue should not limit the ability of the DOE to make a final selection on the two alternatives. I am hopeful, of course, that the Bellefonte plant would be favorably considered.

Mr. THURMOND. I understand the position of the Senator from Alabama. As he knows well, I support the accelerator alternative. He also understands well that the dynamics of the House Senate conference preclude me from making any pre-conference agreements on conference outcomes. However, I assure the Senator from Alabama that despite my own interests, and my position as Chairman of the Armed Services Committee, that I will not work personally to disadvantage the Bellefonte alternative in the conference. With this understanding, I am prepared to accept the Senator's amendment.

Mr. SESSIONS. I agree and thank the Chairman for his cooperation and understanding on this issue. I appreciate your consideration of this issue and my amendment.

Mr. COVERDELL. Mr. President, I rise today in support of a position taken by the House last month in their version of the Defense Authorization bill. During House debate, Congressman GRAHAM of South Carolina and Congressman MARKEY of Massachusetts introduced an amendment to ban the use of commercial nuclear reactors to produce tritium. Tritium, as you know Mr. President, is a material essential to the efficacy of our nuclear arsenal which, because it decays, must be replenished over time. Tritium has not been produced in this country since 1988 and a new source is needed to maintain our nuclear weapons stockpile at the levels called for in the START II treaty. The question now is where production of the needed tritium will take place.

For fifty years the United States has drawn a strong line between commercial and military production of nuclear materials. While tritium is produced in commercial reactors as a by-product of the fission process, this material is not used for nuclear weapon application. Instead, tritium for our nuclear arsenal was long produced at the Department of Energy's Savannah River Site in South Carolina. The DOE is now considering the use of a commercial reactor to produce weapons grade tritium. We must not arbitrarily allow this shift in our nation's nuclear policy.

The recent nuclear tests in India and Pakistan sent a strong signal across the world that the efforts, particularly those of the United States, to prevent the proliferation of nuclear weapons have not fully succeeded. In this light we must upgrade our efforts to halt nuclear proliferation. Should Congress allow the commercial production of weapons grade tritium we would take a step backwards in our efforts to curtail proliferation. We would tell the rest of the world that commercial reactors are a viable means to enhance a nuclear arsenal. This is no time to send this kind of message.

The DOE's other option is to build a nuclear accelerator at the Savannah River Site, where production of tritium for our nuclear arsenal has traditionally taken place. Mr. President, this is the correct policy option for our country and for our efforts to prevent nuclear proliferation. I hope that when the Senate and the House begin their conference negotiations on the FY99 Defense Authorization bill the Senate will agree to the language included in the House bill by Congressmen GRAHAM and MARKEY preventing commercial production of tritium.

Mr. SHELBY. Mr. President, I rise in support of the amendment offered by Mr. SESSIONS and commend his effort to bring attention to the important, though obscure issue of tritium production. Since the looming threat of nuclear war dissipated in the aftermath of the demise of the Soviet Union, our strategic forces have been pushed to the sidelines. But recent events in the Asia subcontinent remind us not only of the danger from the proliferation of weapons of mass destruction but also of the imperative to maintain the deterrent effect of our strategic weapons stockpile.

Tritium is a radioactive isotope that is used in every nuclear warhead in our nation's stockpile. Like all radioactive matter, tritium decays over time. To compensate for the loss from decay, it is necessary to periodically replenish the level of tritium in each weapon. Despite this constant demand, tritium has not been produced for strategic purposes since 1988. Replenishment in the weapons stockpile has continued, however, by recycling tritium from nuclear weapons as they are dismantled. This is only an interim measure, and it is clear that the U.S. will have to resume tritium production sometime soon.

In 1995, the Department of Energy decided to follow a dual-track approach whereby the two most promising options for tritium production would be explored. The first option is to purchase the radioactive gas from a commercial nuclear reactor. The second alternative is to design, construct, and test an accelerator system, which is called the Accelerator Production of Tritium or APT. The Department of Energy was directed by last year's National Defense Authorization Act to conduct an interagency review of tritium production policy issues. The Authorization Act also directed the Energy Department to determine which of two tracks will serve as the primary source of tritium production by the end of this year.

There are forces in Congress, however, who are determined to derail this process. Proponents of APT are trying to prohibit the production of tritium at a commercial reactor. This misguided attempt would leave the Department of Energy with no choice other than using APT as the source for tritium production. Make no mistake about it, this is a thinly disguised attempt to mandate one particular technology that benefits one particular state. It is unfortunate that some are willing to put parochial interests in front of the national security imperative to develop a cheap, safe source of tritium.

As the Secretary of Energy stated, the selection of tritium production should be based on "a careful and deliberate review of the cost, technical, schedule, and policy issues associated with each option." These sentiments are supported by the Administration and the Department of Defense. I suspect that all of us who believe in fair and honest competition would agree that Congress should not interfere with the Department of Energy's process for selecting a tritium production source. If proponents of the APT are successful in their efforts however, Congress will do just that, and the decision will be based not on the merits of either option but solely on politics.

The Congress and the taxpayer should be aware of the staggering differences in the price tag associated with each competing technology. The Congressional Budget Office estimate that APT will cost from $6.72 billion to construct. In addition to the initial construction cost, the APT option will require an annual appropriation of $150 million to operate. Furthermore, these estimates are based on preliminary conceptual designs, and the taxpayer of course will be asked to pay for any likely cost overruns.

On the other hand, Mr. President, the commercial reactor option would only cost $1.8 to $2 billion. Moreover, this initial investment is similar to a loan, so every tax dollar spent will be returned to the Treasury. This has been certified by several independent reviews. I would like to add that this option does not require any additional appropriated funds because the commercial reactor owner, not the Treasury, will pay any cost overruns.

If selected by the Department of Energy, a commercial reactor could begin producing tritium by 2003. This is two years ahead of the scheduled that the Departments of Energy and Defense have laid out as necessary to maintain the nuclear stockpile at the START I level. It uses a proven design which is currently being demonstrated. The commercial reactor also provides the Department of Energy with the flexibility to change tritium production quantities in response to changing need without major cost implications.

Serious concerns have been raised about the technical feasibility of the accelerator option. While proponents of APT tout its supposed benefits, I would like to point out that the APT does not exist. It is still a paper concept. Also, several components that are critical to the development of this accelerator are still in the prototype stage. Even if the APT is developed on schedule, it would not be operational until 2007, which is two years after the Department's target date. As a result, the ATP option will require that the Department of Energy will have to find an interim source of tritium until the APT is proven. Any unforeseen delays in the development of the accelerator technology will extend the Department's reliance on an interim source.

Mr. President, the issue before us can be boiled down to this: Should Congress dictate the tritium production method as a political favor regardless of technological risk and cost? I strongly believe that the commercial reactor option should not be removed from consideration by legislation fiat. Instead, the Senate has a responsibility to preserve the integrity of a process that rewards merits and competition. I urge my colleagues to support the Session's amendment and preserve the Department of Energy's dual-track options for tritium production.

Mr. CLELAND. I rise today to discuss my grave concerns about the policy implications if a decision to produce tritium in a commercial nuclear reactor were to be made. My concerns are especially serious in light of the nuclear tests conducted by India and Pakistan last month. The recent detonation of nuclear devices in South Asia should serve as a wake-up call to the U.S. and the international community about the unfinished business with respect to the proliferation of weapons of mass destruction.

Most of the international effort to slow the spread of nuclear weapons has been focused on limiting access to plutonium and uranium. However, less attention has been given to tritium which can increase the capabilities of these nuclear weapons. To those unfamiliar with the use of tritium in nuclear munitions, tritium is to a nuclear weapon what Tabasco Sauce is to a good bowl of chili—it adds kick. The key point is that it is the tritium which allows the use of smaller delivery systems because it allows a smaller weapon to produce a much greater yield. In the age of concerns about suitcase bombs and the smuggling of weapons across borders, it is critical that we also attempt to limit access to tritium.

It has been long-standing American policy to discourage the use of commercial reactors to produce weapons material. Instead, the Atomic energy Act mandated that the Atomic Energy Commission would be the exclusive owner of production facilities related to nuclear weapons. That authority now lies within the Department of Energy. Unfortunately, when drafted, the Atomic Energy Act did not specifically list tritium as a special nuclear material covered under the act. The House has passed legislation that would insure that tritium is covered as a special nuclear material which is only to be produced in a facility owned by the Department of Energy. I believe such an approach is a reasonable one given our non-proliferation objectives.

Our dwindling supply of tritium and our need to preserve the nation's nuclear deterrent require the U.S. to develop a new tritium production capability at this time. To that end, the U.S. is currently considering two types of tritium production methods. Unfortunately, one of the two technology options under consideration contrasts sharply with our traditional policy. The use of commercial nuclear reactors raises serious concerns about non-proliferation. The U.S. has worked too long and too hard to stem the spread of weapons of mass destruction to abandon the principles of the Atomic Energy Act which has served as well over the last four decades. How can we urge the governments of India, Pakistan, North Korea, and any other country seeking a nuclear weapons capability not to attempt to use reactors designed for peaceful energy production for military purposes when we are contemplating doing a very similar thing here in America?

Now, I am certainly no expert in nuclear physics and the production of nuclear weapons material. However, America has tremendous human resources within the Department of Energy in the form of our scientists, engineers, and plant workers. These Americans helped win the Cold War. Their contributions are significant and not to be overlooked. What is key is that their contributions are not yet done. The Department of Energy's Savannah River Site has been where tritium has been traditionally produced and processed. That is where America's expertise in tritium production lies. That is where we can be assured that our national non-proliferation objectives will never be subordinated to commercial or other concerns. It is my view that we should once again turn to those great workers there to get the job done as they have proven they are capable.

I will certainly admit, proudly, to my constituency interest in seeing that the Savannah River Site be given fair consideration. However, there is a larger issue at stake here than the economic interests of competing constituent interests. Prevention of the spread of nuclear weapons and the preservation of American leadership on this issue is in the interests of every state, of every region, and of every American.

I do not have the expertise to determine which technology is most viable and cost effective if the choice is between a reactor-based option and an accelerator option. However, I do know that at this point in history, it would be wrong to turn our backs on one of our most effective non-proliferation policies. It is my view that we should continue to maintain our nuclear weapons capability within DOE facilities where we have traditionally done this work.

Mr. President, I yield the floor.

Mr. LEVIN. Mr. President, the tritium production issue that is the subject of the Sessions amendment is a very important issue.

The Department of Energy must have a level playing field to make a sound decision on a tritium production source. We should not restrict the options available to the Department of Energy in making that choice.

The Sessions amendment would ensure a level playing field for the Department to make its choice. That is why I strongly support the Sessions amendment.

Mr. President, I will work hard to ensure that the conference on the defense authorization bill will result in a level playing field to assure the Energy Department can make the best possible choice. That is in our national interest.

Mr. President, Secretary of Defense William Cohen agrees that there should be no restriction on the options being considered by the Department of Energy on a future tritium production source.

He has sent a letter to the Armed Services Committee today that urges the Senate not to adopt any amendment that would restrict DOE's options. His letter concludes with the following sentence: "Passage of any such amendment would place the Defense Authorization bill at risk."

Mr. President, I ask unanimous consent that the letter from Secretary Cohen be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF DEFENSE
Washington, DC, June 25, 1998.

Hon. STROM THURMOND,
Chairman, Committee on the Armed Services, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I am writing to express the opinion of the Department of Defense on proposed amendments to the Fiscal Year 1999 Defense Authorization bill that prohibit commercial light water reactors from producing tritium for military purposes.

The Department of Energy (DOE) is pursuing a dual-track program to produce tritium. One method is to use a commercial light water reactor (CLWR) to irradiate rods from which tritium could be extracted at a DOE facility—in effect, buying irradiation services. The other approach is to build an accelerator to produce tritium (APT). DOE will decide on a primary method by the end of this calendar year. The proposed amendments would effectively foreclose the CLWR option.

DoD opposes the amendments for three reasons. First, if the amendments become law, DOE would require an immediate additional investment of nearly $250M to accelerate development of APT. The long term impacts of the amendments are far more significant. The life cycle cost of APT could be as high as $8.8B. The life cycle cost of the CLWR program could be as low as $1.2B. Thus, the amendments could mandate an unfunded liability of up to $7.6B. Second, the amendments would likely increase the cost of the DOE stockpile stewardship program (SSP). Finally, this amendment appears to be predicated on an assumption that the use of commercial reactors for tritium production is inconsistent with the US nonproliferation policy. It is not. The DOE will forward shortly a completed interagency report that concludes that the nonproliferation policy issues associated with the use of a commercial light water reactor are manageable and that the DOE should continue to pursue the reactor option as a viable source for future tritium production. The DoD fully endorses this position.

In conclusion, DOE has a dual-track program to develop an assured supply of tritium. Until DOE reaches its decision later this year, the wisest choice is to leave our options open. Therefore, I urge you to oppose the amendments that would prohibit CLWR from being considered as an option. Passage of any such amendment would place the Defense Authorization bill at risk.

Respectfully,

WILLIAM COHEN,
Secretary of Defense.

AMENDMENT NO. 2909 AS MODIFIED

(Purpose: To require the Secretary of Defense to provide new incentives for retention of personnel for critical military specialties)

At the end of subtitle B of title VI, add the following:

SEC. 620. RETENTION INCENTIVES INITIATIVE FOR CRITICALLY SHORT MILITARY OCCUPATIONAL SPECIALTIES.

(a) REQUIREMENT FOR NEW INCENTIVES.—The Secretary of Defense shall establish and provide for members of the Armed Forces qualified in critically short military occupational specialties a series of new incentives that the Secretary considers potentially effective for increasing the rates at which those members are retained in the Armed Forces for service in such specialties.

(b) CRITICALLY SHORT MILITARY OCCUPATIONAL SPECIALTIES.—For the purposes of this section, a military occupational specialty is a critically short military occupational specialty for an armed force if the number of members retained in that armed force in fiscal year 1998 for service in that specialty is less than 50 percent of the number of members of that armed force that were projected to be retained in that armed force for service in the specialty by the Secretary of the military department concerned as of October 1, 1997.

(c) INCENTIVES.—It is the sense of Congress that, among the new incentives established and provided under this section, the Secretary of Defense should include the following incentives:

(1) Family support and leave allowances.

(2) Increased special reenlistment or retention bonuses.

(3) Repayment of educational loans.

(4) Priority of selection for assignment to preferred permanent duty station or for extension at permanent duty station.

(5) Modified leave policies.

(6) Special consideration for Government housing or additional housing allowances.

(d) RELATIONSHIP TO OTHER INCENTIVES.—Incentives provided under this section are in addition to any special pay or other benefit that is authorized under any other provision of law.

(e) REPORTS.—(1) Not later than December 1, 1998, the Secretary of Defense shall submit to the congressional defense committees a report that identifies, for each of the Armed Forces, the critically short military occupational specialties to which incentives under this section are to apply.

(2) Not later than April 15, 1999, the Secretary of Defense shall submit to the congressional defense committees a report that specifies, for each of the Armed Forces, the incentives that are to be provided under this section.

AMENDMENT NO. 2923 AS MODIFIED

(Purpose: To require the Assistant Secretary of Defense for Health Affairs to revise the TRICARE policy manual to clarify that rehabilitative services are available to a patient for a head injury under certain circumstances)

At the end of title VII, add the following:

SEC. 708. ACCESSABILITY TO CARE UNDER TRICARE.

(a) REHABILITATION SERVICES FOR HEAD INJURIES.—The Secretary of Defense shall revise the TRICARE policy manual to clarify that rehabilitative services are available to a patient for a head injury when the treating physician certifies that such services would be beneficial for the patient and there is potential for the patient to recover from the injury.

(b) REVIEW OF ADEQUACY OF PROVIDER NETWORK.—The Secretary of Defense shall review the administration of the TRICARE Prime health plans to determine whether, for the region covered by each such plan, there is a sufficient number, distribution, and variety of qualified participating health care providers to ensure that all covered health care services, including specialty services, are available and accessible in a timely manner to all persons covered by the plan. If the Secretary determines during the review that, in the region, there is an inadequate network of providers to provide the covered benefits in proximity to the permanent duty stations of covered members of the uniformed services in the region, or in proximity to the residences of other persons covered by the plan in the region, the Secretary shall take such actions as are necessary to ensure that the TRICARE Prime plan network of providers in the region is adequate to provide for all covered benefits to be available and accessible in a timely manner to all persons covered by the plan.

Mr. DURBIN. Mr. President. I rise today to offer an amendment that seeks to address some of the inadequacies in the current Armed Services' health care system. I know many of my colleagues will be aware of these inadequacies from their constituents complaints about this system which, at times seems more like a cost cutting operation than the health care system for those brave enough to put their lives on the line for their country.

The inadequacies addressed by my amendment were brought to my attention recently through the tragic case of Stephanie Davito, the 14 year old daughter of a nuclear submarine commander who currently lies in a coma at Sentara General Hospital in Norfolk, Virginia. This little girl's family has been fighting to get her the care that she needs through the TRICARE PRIME health care system and they have met time and time again with a wall of bureaucracy. At this time of extreme stress and anguish, Commander Davito and his wife Kristine have been forced to literally plead for adequate health care for their daughter. No-one should be forced to plead for covered benefits, least of all our Armed Services personnel and their families.

Commander Davito, who is a United States Naval Officer from Spring Valley in Illinois, had been the Executive Officer on board the nuclear powered attack submarine U.S.S. *Hyman G. Rickover* stationed in Norfolk, Virginia. In March, he was transferred to STRATCOM in Nebraska. His family remained in Norfolk to finish out the school year. On May 15th, tragedy struck as Commander and Mrs. Davito's young daughter was hit by a car on her way home from school. She has been in a coma ever since. STRATCOM, as Commander Davito explained in his recent letter to me, was wonderful and transferred him temporarily to Commander Submarine Force Atlantic in Norfolk, so that he could be with his daughter.

However, Commander Davito's experience with TRICARE has been a nightmare. Even though Stephanie's neurologist, Dr. Robert Rashti, believes that Stephanie has a very good chance for recovery, a TRICARE bureaucrat tried to argue that because Stephanie was not "an active participant" in her rehabilitation, they would not have to cover her treatment. This is an absolutely outrageous claim. Such a view obviously affects anyone covered by TRICARE that is unfortunate enough to suffer a coma. To suggest that comatose patients do not deserve treatment is, to me a completely abhorrent suggestion.

The TRICARE policy manual does in fact stipulate that Rehabilitation is a covered service, though much of the manual reads like alphabet soup with respect to clarity. Clearly, the manual needs to be made more explicit, as my amendment suggests, so that no utilization clerk within the TRICARE system will ever again be confused.

TRICARE has on numerous occasions tried to encourage the Davitos to put Stephanie in custodial care which, by the way, they do not cover. There, she would not get the Rehabilitation that she needs.

The Davitos contacted Senator WARNER, Illinois State Representative Frank Mautino, and my office to see if we could help them. I want to take this opportunity to thank Senator WARNER on their behalf for all his staffs' hard work on this issue. In particular, I believe that Mr. Sanford in his district office has been extremely helpful to the Davitos. In spite of all our offices' repeated intervention on behalf of the Davitos, Stephanie's care is still not resolved and we are still being met with a wall a bureaucracy from the TRICARE system. Secretary Dalton has personally intervened and I want to sincerely thank him for that. The Navy has been deeply involved in trying to resolve this but they too have met with incredible resistance from TRICARE West with respect to TRICARE committing to treating Stephanie adequately. These are not the wars that the Armed Services should have to fight.

Stephanie's doctor believes that she has a good chance for recovery, if TRICARE would only provide her with the Rehabilitation that she needs. Dr. Rashti wrote on June 15th, and I am quoting from his letter to Senator WARNER, "at the time of Stephanie's admission, she was in critical condition due to severe brain swelling from contusions and a small hematoma in the right frontal region of the head. After a stormy course lasting two weeks, her brain swelling began to resolve and Stephanie began to show signs of improvement. . . . Prognostically, her diagnostic studies in conjunction with her evolving clinical course, suggests that this young lady has significant potential for functional recovery. While there is no guarantee, this medical impression is based on over 26 years of neurosurgical experience, including experience at the Shock Trauma Unit in Maryland and the Multiple Trauma Unit for twenty years here in Norfolk." Later in this letter, Dr. Rashti stated very clearly "From a medical standpoint, it is not felt appropriate that she go to a custodial care facility." Another doctor, Dr. Kip Burkman was in full agreement with Dr. Rashti's recommendation. Neither medical opinions seemed to sway the administrators of the TRICARE West program who refused to allow for Stephanie's transfer to the Immanuel Medical Center in Omaha, Nebraska which is near her family's home and which can provide Rehabilitation services that she needs.

Can any of us imagine how we would feel if one of our children lay as Stephanie does in a coma, where the doctors said she would get better if only she has access to care, but the cost cutting plan administrators tried to use every ambiguity in the policy manual to deny care? The pain and suffering that Stephanie's parents must be going through must be incredible. Is this how we treat the families of a person like Commander Davito who has served his country for 16 years and who has time and time again put his life at risk for the good of his country? Is this the kind of health care system that we reward our Armed Services with?

Further confounding this problem is the issue of whether the network of providers in some regions of the country are adequate. Part of the problem that the Davito's are experiencing is due to the absence of a Rehabilitation facility near the STRATCOM base that is affiliated with the TRICARE West network. The Immanuel Medical Center in Omaha which is close to the STRATCOM base, after TRICARE initially suggested that Stephanie could be transferred there, was found not to be within the TRICARE West network which was probably part of the reason that TRICARE West suddenly became reluctant to allow her to be transferred there. However, TRICARE West does not have any facilities within their network near the base that are capable of providing Stephanie with the Rehabilitation recommended by her doctors. TRICARE suggested again that she be placed in a nursing home in Omaha or a nursing home in Lincoln Nebraska which is over 80 miles from the base, or finally they offered a place in a hospital in Lincoln, again over 80 miles from Stephanie's parents.

What would it mean if TRICARE was successful in denying Stephanie access to the care that she needed? Well, it would likely mean that when she recovers from her coma, she will not be able to walk because she will have been denied the physical therapy necessary to prevent muscle atrophy. A wide variety of other completely avoidable complications might also result from the denial of rehabilitation.

This little girl deserves a chance to get better. After much prodding, TRICARE is now saying that maybe she could have one month of Rehabilitation care at the Immanuel Hospital near the STRATCOM base. However, the time-frame for recovery from these injuries is 4–6 months at a minimum. Stephanie's doctors are suggesting that she may need between 6 and 12 months of care. As Dr. Rashti pointed out in his most recent letter, "Progress in any rehabilitation program is usually not as rapid as family or insurance companies would like but that is the nature of recovering brain injury patients. Their course is frequently characterized by rapid spurts of improvement interspersed with plateau periods lasting weeks before the next level of improvement begin." Dr. Rashti suggested that Stephanie would likely need 4 to 6 months of aggressive rehabilitation, with a maximum rehab benefit of about a year. I completely agree with Dr. Rashti when he says "This child is 14 years old and deserves every chance to reach her maximum potential".

My staff has contacted NIH to inquire of their staff at the National Institute of Neurological Disease, as to their opinion for the normal time-frame for recovery from such injuries. They have also indicated that 6 months to 1 year seems appropriate.

Everyone except the insurance company seems to be in agreement as to the care that Stephanie needs. I hope that we can make some progress during consideration of the Department of Defense's Reauthorization bill to see that this issue gets resolved not only for Stephanie but also for all the other Americans covered by the TRICARE system.

My amendment is very simple. It has two parts. The first part directs the Secretary of Defense to revise the TRICARE policy manual to make it perfectly clear that Rehabilitative services are available to a patient suffering from a head injury when the treating physician certifies that such services would be beneficial for that patient and there is potential for recovery. This would move medical decisions concerning treatment back where they belong into the hands of physicians and out of the hands of HMO bureaucrats that may be more concerned with cost cutting than care giving.

The second part of my amendment would direct the Secretary of Defense to evaluate the adequacy of each TRICARE region's network of providers. Each region should have sufficient number, distribution and variety of qualified health care providers and facilities to provide all the covered services. If a region is found to have an inadequate network of providers for some covered services, then the Secretary would be requested to take remedial action to improve the adequacy of the networks. This part of my amendment is very important to those in the military who are frequently transferred from station to station. In some areas, where managed care has been around for a long time, the networks may be good and patients may access all the care that they need and are entitled to. However, in some parts of the country, the networks are not sufficient and someone that enrolled in TRICARE PRIME while in California or Oregon suddenly finds that their new network is completely inadequate. Should our Armed Services personnel be force to swap between TRICARE Prime and TRICARE Standard depending on where they are currently stationed? Will they only find out when they can't get the care that they need that their region has an inadequate network of providers? Surely, we can provide a better standard of care to the men and women and their families who patriotically serve our country.

After 4 years in operation, I believe it is time to evaluate the TRICARE system and to see if there are regional gaps in service. Obviously, if it turns out that some regions do not provide adequately for our military's health care needs, then this should be remedied. However, if we don't ask for this evaluation, it may take much longer to correct problems that may exist.

There are those that might argue that providing adequate health care coverage will cost us more. Actually, having inadequate networks may also be extremely costly because when a person is denied care, it may take many navy personnel working in the appeals process to secure them the necessary health care. It may also mean that the Plan has to contract temporarily with an out of network provider. This is not a very efficient way of doing business. As the saying goes, "You should fix the roof while the sun is shining", we should not leave it to tragedies like Stephanies to point out to us when our health care system for the Armed Services is deficient.

I believe that this amendment will take a small step forward to making sure that the Armed Services have access to a decent health care system and I hope that my colleagues will support, my amendment.

AMENDMENT NO. 2976 AS MODIFIED

(Purpose: Relating to Radio Free Asia)

Add at the end the following new title:

TITLE —RADIO FREE ASIA

SECTION 1. SHORT TITLE.

This Act may be cited as the "Radio Free Asia Act of 1998".

SEC. 2. FINDINGS.

The Congress makes the following findings:

(1) The Government of the People's Republic of China systematically controls the flow of information to the Chinese people.

(2) The Government of the People's Republic of China demonstrated that maintaining its monopoly on political power is a higher priority than economic development by announcing in January 1996 that its official news agency Xinhua, will supervise wire services selling economic information, including Dow Jones-Telerate, Bloomberg, and Reuters Business, and in announcing in February 1996 the "Interim Internet Management Rules", which have the effect of censoring computer networks.

(3) Under the May 30, 1997, order of Premier Li Peng, all organizations that engage in business activities related to international computer networking must now apply for a license, increasing still further government control over access to the Internet.

(4) Both Radio Free Asia and the Voice of America, as a surrogate for a free press in the People's Republic of China, provide an invaluable source of uncensored information to the Chinese people, including objective and authoritative news of in-country and regional events, as well as accurate news about the United States and its policies.

(5) Enhanced broadcasting service to China and Tibet can efficiently be established through a combination of Radio Free Asia and Voice of America programming.

(6) Radio Free Asia and Voice of America, in working toward continuously broadcasting to the People's Republic of China in multiple languages, have the capability to establish 24-hour-a-day Mandarin broadcasting to that nation by staggering the hours of Radio Free Asia on Voice of America.

(7) Simultaneous broadcastings on Voice of America radio and Worldnet television 7 days a week in Mandarin are also important and needed capabilities.

SEC. 3. AUTHORIZATION OF APPROPRIATIONS FOR INCREASED FUNDING FOR RADIO FREE ASIA AND VOICE OF AMERICA BROADCASTING TO CHINA.

(a) Authorization of Appropriations for Radio Free Asia.—

(1) Authorization of appropriations.—There are authorized to be appropriated for "Radio Free Asia" $30,000,000 for fiscal year 1998 and $22,000,000 for fiscal year 1999.

(2) Limitations.—

Of the funds under paragraph (1) authorized to be appropriated for fiscal year 1998, $8,000,000 is authorized to be appropriated for one-time capital costs.

(3) Sense of Congress

It is the Sense of Congress that of the funds under paragraph (1), a significant amount shall be directed towards broadcasting to China and Tibet in the appropriate languages and dialects.

(b) Authorization of Appropriations for International Broadcasting To China.—In addition to such sums as are otherwise authorized to be appropriated for "International Broadcasting Activities" for fiscal years 1998 and 1999, there are authorized to be appropriated for "International Broadcasting Activities" $5,000,000 for fiscal year 1998 and $3,000,000 for fiscal year 1999, which shall be available only or enhanced Voice of America broadcasting to China.

Of the funds authorized under this subsection, $100,000 is authorized to be appropriated for each of the fiscal years 1998 and 1999 for additional personnel to staff Hmong language broadcasting.

(c) Authorization of Appropriations for Radio Construction.—In addition to such sums as are otherwise authorized to be appropriated for "Radio Construction" for fiscal years 1998 and 1999, there are authorized to be appropriated for "Radio Construction" $10,000,000 for fiscal year 1998 and $2,000,000 for fiscal year 1999, which shall be available only for construction in support of enhanced broadcasting to China, including the timely augmentation of transmitters at Tinian, the Commonwealth of the Northern Mariana Islands.

SEC. 4. REPORTING REQUIREMENT.

(a) Not later than 90 days after the date of enactment of this Act, the Broadcasting Board of Governors shall prepare and submit to the appropriate congressional committees an assessment of the Board's efforts to increase broadcasting by Radio Free Asia and Voice of America China and Tibet. This report shall include an analysis of Chinese government control of the media, the ability of independent journalists and news organizations to operate in China, and the results of any research conducted to quantify listenership.

(b) For the purposes of this section, appropriate congressional committees are defined as the Senate Committees on Foreign Relations and Appropriations and the House Committees on International Relations and Appropriations.

Mr. BIDEN. Mr. President, I support the amendment by the Senator from Arkansas regarding Radio Free Asia. The amendment is virtually identical to the text of H.R. 2232 as reported by the Committee on Foreign Relations on May 19.

As the author of the legislation which created Radio Free Asia (RFA) in 1994, I strongly support its efforts to broadcast truth and information to the people living under dictatorial rule in China and elsewhere in Asia.

RFA began broadcasts in 1996 on a shoestring budget of roughly $10 million a year. This bill authorizes, in Fiscal Years 1998 and 1999, a significant increase in funding for Radio Free Asia, and provides additional funds for the transmission capability needed to broadcast the programming. It is consistent with the funding levels in S. 903, the State Department authorization bill approved by the Senate over a year ago.

Modeled on Radio Free Europe, this organization was conceived in order to broadcast news and information about internal events in China and the other non-democratic states of East Asia. Radio Free Asia thus acts as a "surrogate" service, acting as a local media—making available information to the Chinese people which is otherwise unavailable because of the tight control that the dictatorship in Beijing retains on the media in China. As the State Department's Annual Human Rights report noted, the Chinese government and the Communist Party "continue to control tightly print and broadcast media and use them to propagate the current ideological line."

Radio Free Asia is designed to overcome these restrictions on press freedom. The leaders of the new democracies in Eastern Europe have all testified to the importance of Radio Free Europe and Radio Liberty during the Cold War. No tribute has been more eloquent than that of Lech Walesa, former President of Poland, who said "How fortunate that the Iron Curtain could not be raised so high as to block radio transmission. The truth seeped in, unseen by border guards . . . . between the barbed wire. It provided impossible to stop, impossible to silence."

Radio Free Asia is not, as some cynics have asserted, a propaganda service. Although funding by the U.S. government, it is a private corporation. Its funding is provided by the Broadcasting Board of Governors, a government entity which has considerable autonomy in its role of supervising U.S. government-sponsored broadcasting.

In short, Radio Free Asia is a legitimate news organization, staffed by legitimate journalists. Its President is Richard Richter, a former network news executive, who has insisted on the highest journalistic standards. The Vice-President for Programming, Daniel Southerland, is also an experienced reporter who formerly served as the Beijing bureau chief for the *Washington Post*. In the short time that Radio Free Asia has been on the air, they have assembled a very talented and dedicated staff which is committed to honest journalism.

The exiling of prominent dissidents by the Beijing government has been a boon to Radio Free Asia. Wei Jingsheng and Wang Dan, both recently exiled by China, have signed on to provide regular commentary. Radio Free Asia thus provides a platform for voices of democracy—a platform that is, unfortunately, unavailable to these men inside China.

China and the other nations to which RFA broadcasts have not been thrilled with the honor. Since last year, the Chinese have attempted to jam Radio Free Asia broadcasts. And this week, the Beijing government rescinded visas it had previously issued for three RFA reporters who had sought to accompany President Clinton on his trip to China.

The decision by China to rescind the visas is deeply regrettable. Had it admitted the journalists, the Chinese government would have provided a manifest demonstration that it had turned a corner—that it is willing to open up its system to greater pluralism and scrutiny. China wants to be a great power. But Great Powers do not obstruct the flow of information into and out of the country. The Universal Declaration of Human Rights provides that everyone has the right to "seek, receive and impart information and ideas through any media and regardless of frontiers." If China is to be a modern nation, it should adhere to this universal standard.

There is, however, some good news lurking in the decision of the Chinese government to block the visas for RFA reporters: China must be worried about the effect of RFA's broadcasts. In other words, the broadcasts are getting through—despite the efforts to jam it—and people are listening. Information is subversive of tyranny, as are western investment and exchanges, and the Communist government in China apparently recognizes that Radio Free Asia threatened its attempts to control news and information.

Mr. President, Radio Free Asia is an important instrument to advance U.S. policy of promoting democratic values in China and elsewhere in Asia. This amendment is a modest, but important, step to ensure that it has the tools to do the job.

AMENDMENT NO. 3017

(Purpose: To authorize $13,584,000 for the construction of a Combined Support Maintenance Shop for the Army National Guard at Camp Guernsey, Wyoming. Other Procurement Army is reduced $13,584,000 for Land Warrior)

On page 320, line 25, strike out "$95,395,000" and insert in lieu thereof "$108,979,000".

On page 14, line 6, reduce subparagraph (5) by $13,584,000.

AMENDMENT NO. 3018

(Purpose: To increase by $10,000,000 the total amount authorized to be appropriated for research and development relating to Persian Gulf illnesses, and to offset the increase by reducing the amount under title II for the Army Commercial Operations and Support Savings Program by $10,000,000)

At the end of subtitle B of title II, add the following:

SEC. 219. PERSIAN GULF ILLNESSES.

(a) ADDITIONAL AMOUNT FOR PERSIAN GULF ILLNESSES.—The total amount authorized to be appropriated under this title for research and development relating to Persian Gulf illnesses is the total amount authorized to be appropriated for such purpose under the other provisions of this title plus $10,000,000.

(b) REDUCED AMOUNT FOR ARMY COMMERCIAL OPERATIONS AND SUPPORT SAVINGS PROGRAM.—Of the amount authorized to be appropriated under section 201(1), $23,600,000 shall be available for the Army Commercial Operations and Support Savings Program.

Mr. HARKIN. I rise to offer an amendment important to Persian Gulf War veterans. My amendment increases Department of Defense spending on research to determine the causes and possible treatments of those suffering from Gulf War illnesses by $10 million. It is my understanding that the amendment has been accepted by the bill managers on both sides.

While the Persian Gulf War ended in 1991, the physical and psychological ordeal for many of the nearly 700,000 troops who served our country in Operation Desert Storm and Desert Shield has not ended. It's been seven years since our troops were winning the war in the Gulf. Unfortunately, they continue to suffer due to their deployment.

Many of our troops returned from the Persian Gulf suffering from a variety of symptoms that have been difficult to trace to a single source or substance. Our veterans have experienced a combination of symptoms in varying degrees of seriousness, including: fatigue, skin rash, muscle and joint pain, headache, loss of memory, shortness of breath, and gastrointestinal and respiratory problems. Unfortunately, the initial response from the Pentagon and the Department of Veterans Affairs was to express skepticism about veterans' and their loved ones who dealt with the very real affects of their service in the Gulf.

I vividly remember a series of roundtable discussions I held with veterans across Iowa after being contacted by several families of Gulf War veterans stricken with undiagnosed illnesses. And these folks weren't just sick. They were tired. They were tired of getting the runaround from the government they defended. There were tired of people who refused to listen. . . or told them it was in their head . . . or that it had nothing to do with their service in the Gulf.

Their stories put a human face on the results of a study I requested through the Centers for Disease Control and Prevention. The results add to the increasing volume of evidence that what these veterans were experiencing was indeed very real. More than one in three Gulf War veterans reported one or more significant medical problems. Fifteen percent reported two or more significant medical conditions. These Iowa veterans also reported significantly greater problems with quality of life issues than others on active duty at the time but not deployed in the Gulf. For example, Persian Gulf veterans had lower scores on measures of vitality, physical and mental health, ability to work, and increased levels of emotional problems and bodily pain.

In addition, over 80 percent of the Gulf War veterans in the CDC study reported having been exposed to at least one potentially hazardous material during their Persian Gulf Deployment. A recent General Accounting Office report provided an alarming laundry list of such hazards including: "compounds used to decontaminate equipment and protect it against chemical agents, fuel used as a sand suppressant in and around encampments, fuel used to burn human waste, fuel in shower water, leaded vehicle exhaust used to dry sleeping bags, depleted uranium, parasites, pesticides, multiple vaccines used to protect against chemical warfare agents, and smoke from oil-well fires."

To this rather exhaustive list, we can also add exposure to nerve gas. The DOD and CIA have admitted that as many as 100,000 or more . . . that's 1 in 7 troops deployed in the Gulf . . . may have been exposed to chemical agents released into the atmosphere when U.S. troops destroyed an Iraqi weapons bunker. A Presidential Advisory Committee also found credible evidence of exposure to chemical agents in a second incident when troops crossed Iraqi front lines on the first day of the ground war. Chemical weapons specialists in these units said they detected poison gas. Unfortunately, these detections were initially neither acknowledged nor pursued by the Pentagon.

That being said, the Pentagon and others have been more forthcoming recently with relevant information, documents, and research. But more needs to be done. I am pleased that the President, acting based on legislation, I cosponsored, extended the time veterans will have to file claims with the government for illnesses related to their service in the Gulf. Previously, they had to show their illness surfaced within two years of their service. Now, they have until the end of 2001. This is a great victory for our veterans. Gulf War illnesses do not surface on a time line convenient to the rules of bureaucrats. This extension will help us meet our responsibility to take care of these soldiers. But, more still needs to be done.

There is still substantial mystery and confusion surrounding the symptoms and health problems experienced by Gulf War veterans. While many veterans have been diagnosed with a recognizable disease, I am concerned about those who have no explanation, no label, no treatment for their suffering. More needs to be done to help these Americans.

For example, the Presidential Advisory Committee has suggested research in three new areas to help close the gaps in what we know about Gulf War illnesses. They suggest research on the long-term health effects of low-level exposures to chemical warfare agents, the combined effects of medical injections meant to combat chemical warfare with other Gulf War risk factors, and on the body's physical response to stress. It is also imperative to ensure that longitudinal studies and mortality studies are funded since some health effects, such as cancer, may not appear for several years after the end of the Gulf War.

Although there may be no *single* Gulf-War related disease so to speak, it is widely acknowledged that the multiple illnesses and symptoms experienced by Gulf War veterans are connected to their service during the war. Therefore, we must not forget on our solemn obligation to those who willingly served their country and put their lives in harm's away.

To that end, I offer this amendment to increase research into the illnesses experienced by Persian Gulf veterans by $10 million. In the committee version of the bill, $19 million is included. Therefore, my amendment would increase that amount to $29 million, providing many more opportunities for the Pentagon to study that many more possible causes and cures. The funds would support much more research, including the evaluation and treatment of a host of nuero-immunological disorders, as well as possible connections to Multiple Chemical Sensitivity, chronic fatigue syndrome and fibromyaglia.

Our veterans are not asking for much. They want answers. They want the truth. Our veterans answered our nations's call in war, and now we must answer theirs. My amendment to increase funding for research into Gulf War illnesses is one step in helping find these answers. Should our priorities include our Gulf War veterans? I believe the choice is self evident and absolutely clear.

AMENDMENT NO. 3019

(Purpose: To reauthorize a land conveyance of the Army Reserve Center, Youngstown, Ohio)

On page 342, below line 22, add the following:

SEC. 2827. REAUTHORIZATION OF LAND CONVEYANCE, ARMY RESERVE CENTER, YOUNGSTOWN, OHIO.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey, without consideration, to the City of Youngstown, Ohio (in this section referred to as the "City"), all right, title, and interest of the United States in and to a parcel of excess real property, including improvements thereon, that is located at 399 Miller Street in Youngstown, Ohio, and contains the Kefurt Army Reserve Center.

(b) CONDITION OF CONVEYANCE.—The conveyance authorized under subsection (a) shall be subject to the condition that the City retain the conveyed property for purposes of activities relating to public schools in Youngstown, Ohio.

(c) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the City.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

(e) REPEAL OF SUPERSEDED AUTHORITY.—Section 2861 of the Military Construction Authorization Act for Fiscal Year 1996 (division B of Public Law 104–106; 110 Stat. 573) is repealed.

AMENDMENT NO. 3020

(Purpose: Relating to Lyme disease)

On page 157, between lines 13 and 14, insert the following:

SEC. 708. LYME DISEASE.

Of the amounts authorized to be appropriated by this Act for Defense Health Programs, $3,000,000 shall be available for research and surveillance activities relating to Lyme disease and other tick-borne diseases.

Mr. DODD. Mr. President, I rise today to offer an amendment, along with Senators LIEBERMAN, CHAFEE, REED of Rhode Island and LAUTENBERG, to expand DoD's research into preventing and treating Lyme Disease and other tick-borne illnesses.

Almost everyone in my state, including myself, has seen the devastating impact the Lyme Disease, in particular, can have on its victims.

Most of you know that Lyme Disease has particular meaning for residents of Connecticut. While it wasn't discovered in my state, it did achieve prominence there in the early 1980s, and, in fact, is named after the town of Lyme, Connecticut.

Like many northeastern states, CT experiences more than its share of the anguish that this condition inflicts—my constituents face a Lyme Disease rate that is 10 times the national average.

The damage imposed by Lyme Disease on individuals and on families is heartbreaking. Health problems experienced by those infected can include facial paralysis, joint swelling, loss of coordination, irregular heart-beat, liver malfunction, depression, and memory loss.

Unfortunately, Lyme Disease mimics other health conditions and patients must often visit multiple doctors before they're properly diagnosed. The result is prolonged pain and suffering, unnecessary tests, and costly treatments.

Long term treatment expenses can exceed $100,000 per person—a phenomenal cost to society. But an even greater price is paid by the victims and their families. We can put no price tag on the emotional costs associated with this disease.

Tragically, the number of Lyme Disease cases reported to the CDC has skyrocketed—from 500 cases in 1982 to 16,000 cases in 1996. And these cases only represent the tip of the iceberg. Several new reports have found that the actual incidence of the disease may be ten times greater than current figures suggest. And due to the warm, wet winter caused by El Nino, infection rates are expected to reach record levels in the near future.

The growing number of cases has led the Department of Defense to recognize that Lyme Disease and other tick-borne illnesses pose a potentially serious health threat to our troops, civilian employees, and residents at military installations all over the world—and thus a threat to our military readiness. Indeed, hundreds of troops have already been infected. And infection rates among enlistees are expected to rise along with those in the civilian population. And each time a soldier contracts Lyme Disease, he or she contracts a potentially debilitating illness that could compromise the overall readiness of our armed forces.

While recently approved vaccines offer hope for significantly reducing the number of Lyme Disease cases in the long-term, we can't let down our guard.

These vaccines aren't yet 100% effective and aren't approved at all for children or adolescents. Furthermore, the vaccines don't protect against other rapidly emerging tick-borne diseases. And, of course, these vaccines do nothing to help individuals who are already infected.

To protect our troops, DoD must increase its surveillance of these diseases, improve its ability to diagnose and treat tick-borne illnesses, and expand its research into new options to prevent the spread of Lyme Disease. This amendment would direct the Defense Department to provide $3 million to put toward these goals.

This sum would come out of existing Defense Department funds for medical research—funds which total some $250 million. The amendment leaves to the discretion of the Secretary how to best allocate such funds to as to make this necessary commitment to research.

I truly look forward to the day when Lyme Disease no longer plagues our citizens and troops. It's time that we take Lyme Disease seriously and establish a concrete commitment to fighting this devastating disease.

I ask my colleagues to join me in supporting this amendment.

AMENDMENT NO. 3021

(Purpose: To make available, with an offset, $10,000,000 for the DoD/VA Cooperative Research Program)

On page 41, below line 23, add the following:

SEC. 219. DOD/VA COOPERATIVE RESEARCH PROGRAM.

(a) AVAILABILITY OF FUNDS.—(1) The amount authorized to be appropriated by section 201(4) is hereby increased by $10,000,000.

(2) Of the amount authorized to be appropriated by section 201(4), as increased by paragraph (1), $10,000,000 shall be available for the DoD/VA Cooperative Research Program.

(b) OFFSET.—(1) The amount authorized to be appropriated by section 201(2) is hereby decreased by $10,000,000.

(2) Of the amount authorized to be appropriated by section 201(2), as decreased by paragraph (1), not more than $18,500,000 shall be available for the Commercial Operations and Support Savings Program.

(c) EXECUTIVE AGENT.—The Secretary of Defense, acting through the Army Medical Research and Materiel Command and the Naval Operational Medicine Institute, shall be the executive agent for the utilization of the funds made available by subsection (a).

Mr. ROCKEFELLER. Mr. President, I am pleased that this amendment, which authorizes $10 million for the DOD/VA Cooperative Research Program, has been accepted. This program is a valuable, mutually beneficial association between the Department of Defense and the Department of Veterans Affairs, and funds health-related research specifically designed to benefit both active duty military personnel and veterans. In fact, fostering this collaborative relationship was the original intent of the DOD appropriation, back when this program began in 1987. It has been funded every year since then.

The DOD/VA Cooperative Research Program provides an excellent example of interagency cooperation to achieve a common goal. First of all, the VA and DOD jointly designate representatives to oversee the entire process. Before any money is spent, these representatives identify several specific research topics of interest to both agencies. The Departments, working together, then decide the priorities of the research areas and the appropriate funding levels. Research proposals that are received in response to an announcement of the program are reviewed by external experts, to preserve the integrity and credibility of the research. The result is a program which provides a strong, direct link between DOD and VA investigators to pursue high quality research of mutual interest.

I am cosponsoring this amendment with Senator HARKIN and Senator DURBIN who also recognize the tremendous benefits that can be gained from continuing this joint research effort. A collaborative approach like this one allows investigators to follow the natural course of disease or injury from the time of onset during active duty, and afterwards, in the veteran population.

In FY 1998, DOD and VA spent the funds provided for this program on studies of combat casualty care including bone healing and wound repair, and mechanisms of emerging pathogens. These kinds of studies are personally important to me, because in my own state of West Virginia, we have the highest per capita population of veterans, many of whom received grievous injuries during combat. This program is funding research on limb regeneration and recovery from burn wounds at VA medical centers that include West Virginia, and offers hope for a better future for combat-wounded soldiers.

Last year's program also included the development of new clinical research areas on treatment for post-traumatic stress disorder and prostate diseases, including prostate cancer. As the Ranking Member of the Committee on Veterans' Affairs, I have witnessed the devastating effects of PTSD on the lives of former military personnel, and I am enormously encouraged by research which may prevent the onset of PTSD.

Let me stress that this amendment does not specify research areas for focus. That decision rightly belongs with the Departments, because of the collaborative nature of the joint program. They have expressed interest in continuing research in the areas I just mentioned, expanding the studies of emerging pathogens to include host defenses. In addition to these ongoing areas of research, two new research initiatives have been jointly agreed to by both Departments. The first will focus on exercise physiology and combat readiness, while the second addresses traumatic brain and spinal cord injury.

I am also pleased to note that the VA/HUD Appropriations Subcommittee has included report language recommending that VA and DOD develop a new cooperative research program on alcoholism. Rates of alcohol abuse are significantly higher in the military than among civilians. These patterns of heavy drinking persist in the veteran population, such that alcoholism is one of the most common illnesses found among hospitalized veterans.

As the nature of war changes, the modern military must cope with threats that include environmental hazards and possible biological or chemical warfare, as well as the more traditional hazards of combat. Research is needed to ensure that we are ready to meet these new risks. We must also remember to care for our soldiers after they have suffered the ravages of war, whatever the wounds. We need additional research to find effective ways to help them have healthy and happy lives after service, to repay them for the sacrifices that they make for all of us.

AMENDMENT NO. 3022

(Purpose: Relating to activities of the contractor-operated facilities of the Department of Energy)

On page 397, between lines 6 and 7, insert the following:

SEC. 3137. ACTIVITIES OF THE CONTRACTOR-OPERATED FACILITIES OF THE DEPARTMENT OF ENERGY.

(a) RESEARCH AND ACTIVITIES ON BEHALF OF NON-DEPARTMENT PERSONS AND ENTITIES.—(1) The Secretary of Energy may conduct research and other activities referred to in paragraph (2) through contractor-operated facilities of the Department of Energy on behalf of other departments and agencies of the Government, agencies of State and local governments, and private persons and entities.

(2) The research and other activities that may be conducted under paragraph (1) are those which the Secretary is authorized to conduct by law, and include, but are not limited to, research and activities authorized under the following:

(A) Section 33 of the Atomic Energy Act of 1954 (42 U.S.C. 2053).

(B) Section 107 of the Energy Reorganization Act of 1974 (42 U.S.C. 5817).

(C) The Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5901 et seq.).

(b) CHARGES.—(1) The Secretary shall impose on the department, agency, or person or entity for whom research and other activities are carried out under subsection (a) a charge for such research and activities equal to not more than the full cost incurred by the contractor concerned in carrying out such research and activities, which cost shall include—

(A) the direct cost incurred by the contractor in carrying out such research and activities; and

(B) the overhead cost including site-wide indirect costs associated with such research and activities.

(2)(A) Subject to subparagraph (B), the Secretary shall also impose on the department, agency, or person or entity concerned a Federal administrative charge (which includes any depreciation and imputed interest charges) in an amount not to exceed 3 percent of the full cost incurred by the contractor concerned in carrying out the research and activities concerned.

(B) The Secretary may waive the imposition of the Federal administrative charge required by subparagraph (A) in the case of research and other activities conducted on behalf of small business concerns, institutions of higher education, non-profit entities, and State and local governments.

(3) Not later than 2 years after the date of enactment of this Act, the Secretary shall terminate any waiver of charges under section 33 of the Atomic Energy Act of 1954 (42 U.S.C. 2053) that were made before such date, unless the Secretary determines that such waiver should be continued.

(c) PILOT PROGRAM OF REDUCED FACILITY OVERHEAD CHARGES.—(1) The Secretary may, with the cooperation of participating contractors of the contractor-operated facilities of the Department, carry out a pilot program under which the Secretary and such contractors reduce the facility overhead charges imposed under this section for research and other activities conducted under this section.

(2) The Secretary shall carry out the pilot program at contractor-operated facilities selected by the Secretary in consultation with the contractors concerned.

(3) The Secretary shall determine the facility overhead charges to be imposed under the pilot program based on their joint review of all items included in the overhead costs of the facility concerned in order to determine which items are appropriately incurred as facility overhead charges by the contractor in carrying out research and other activities at such facility under this section.

(4) The Secretary shall commence carrying out the pilot program not later than October 1, 1999, and shall terminate the pilot program on September 30, 2003.

(5) Not later than January 31, 2003, the Secretary shall submit to the congressional defense committees, the Committee on Energy and Natural Resources of the Senate, and other appropriate committees of the House of Representatives an interim report on the results of the pilot program under this subsection. The report shall include any recommendations for the extension or expansion of the pilot program, including the establishment of multiple rates of overhead charges for various categories of persons and entities seeking research and other activities in contractor-operated facilities of the Department.

(d) PARTNERSHIPS AND INTERACTIONS.—(1) The Secretary of Energy may encourage partnerships and interactions between each contractor-operated facility of the Department of Energy and universities and private businesses.

(2) The Secretary may take into account the progress of each contractor-operated facility of the Department in developing and expanding partnerships and interactions under paragraph (1) in evaluating the annual performance of such contractor-operated facility.

(e) SMALL BUSINESS TECHNOLOGY PARTNERSHIP PROGRAM.—(1) The Secretary may require that each contractor operating a facility of the Department establish a program at such facility under which the contractor may enter into partnerships with small businesses at such facility relating to technology.

(2) The amount of funds expended by a contractor under a program under paragraph (1) at a particular facility may not exceed an amount equal to 0.25 percent of the total operating budget of the facility.

(3) Amounts expended by a contractor under a program—

(A) shall be used to cover the costs (including research and development costs and technical assistance costs) incurred by the contractor in connection with activities under the program; and

(B) may not be used for direct grants to small businesses.

(4) The Secretary shall submit to the congressional defense committees, the Committee on Energy and Natural Resources of the Senate, and the appropriate committee of the House of Representatives, together with the budget of the President for each fiscal year that is submitted to Congress under section 1105 of title 31, United States Code, an assessment of the program under this subsection during the preceding year, including the effectiveness of the program in providing opportunities for small businesses to interact with and use the resources of the contractor-operated facilities of the Department, the cost of the program to the Federal government and any impact on the execution of the Department's mission.

Mr. DOMENICI. Mr. President, partnerships among our federal laboratories, universities, and industry provide important benefits to our nation. They help to create innovative new products and services that drive our economy and improve our quality of life. Today I introduce the DOE Partnership Amendment to the National Defense Authorization Bill for Fiscal Year 1999. This Amendment improves the capabilities at the DOE sites for effective partnerships and interactions with other federal agencies, with the private sector, and with universities.

I have personally observed the positive impacts of well crafted partnerships. These partnerships enhance the ability of the laboratories and other contractor-operated facilities of the Department of Energy to accomplish their federal missions at the same time that the companies benefit through enhanced competitiveness from the technical resources available at these sites.

I have also seen important successes achieved by other federal agencies and companies that utilized the resources of the national laboratories and other Department sites through contract research mechanisms. Contract research enables these sites to contribute their technical expertise in cases where the private sector can not supply a customer's needs. Partnerships and other interactions enable companies and other agencies to accomplish their own missions better, faster, and cheaper.

I've seen spectacular examples where small businesses have been created around breakthrough technologies from the national laboratories and other contractor-operated sites of the DOE. But, at present, only the Department's Defense Programs has a specific program for small business partnerships and assistance.

All programs of the Department have expertise that can be driving small business successes. Historically, in the United States, small businesses have often been the most innovative and the fastest to exploit new technical opportunities—all of the Department's programs should be open to the small business interactions that Defense Programs has so effectively utilized.

I have been concerned that barriers to these partnerships and interactions continue to exist within the Department of Energy. In addition, the Department's laboratories and other sites need continuing encouragement to be fully receptive to partnership opportunities that meet both their own mission objectives and industry's goals. And finally, small business interactions should be encouraged across the Department of Energy, not only in Defense Programs.

For these reasons, I introduced S. 1874 on March 27, 1998, the Department of Energy Small Business and Industry Partnership Enhancement Act of 1998, which was co-sponsored by Senators THOMPSON, CRAIG, KEMPTHORNE, BINGAMAN, REID, and LIEBERMAN. The National Coalition for Advanced Manufacturing, or NACFAM, endorsed our actions with S. 1874, describing it as "a crucial step in reducing barriers to cooperation between the national laboratories and private industry, higher education institutions, non-profit entities, and state and local governments." NACFAM also noted that this "bill supports our shared conviction that collaborative R&D will further strengthen America's productivity growth and national security."

Today I introduce, with Senator BINGAMAN as a co-sponsor, language for amendment of the National Defense Authorization Bill for Fiscal Year 1999 that accomplishes almost the same goals as S. 1874. This Amendment was developed through consultation with several of the co-sponsors, the Senate Energy and Natural Resources Committee, the Senate Committee on Armed Services, and the Department of Energy.

This Amendment removes barriers to more effective utilization of all of the Department's contractor-operated facilities by industry, other federal agencies and universities. The Amendment covers all the Department's contractor-operated facilities—national laboratories and their other sites like Kansas City, Pantex, Hanford, Savannah River, or the Nevada Test Site.

This Amendment also provides important encouragement to the contractor-operated sites to increase their partnerships and other interactions with universities and companies. And finally, it creates opportunities for small businesses to benefit from the technical resources available at all of the Department's contractor-operated facilities.

This Amendment supplements the authority of the Atomic Energy Act, which limited the areas wherein the Department's facilities could provide research and other services, not in competition with the private sector, to only those mission areas undertaken in the earliest days of the AEC. My Amendment recognizes that the Department's responsibilities are far broader than the original AEC, and that all parts of the Department should be available to help on a contract basis wherever capabilities are not available from private industry.

One barrier at the Department to contract research involves charges added by the Department to the cost of work accomplished by a site. At some laboratories, these charges now range up to 25%. This Amendment requires that charges to customers for research and other services at these facilities be fully recovered, and sharply limits addition of extra charges by the Department to only 3%. The Amendment further requires waiver of these extra charges for small business and nonprofit entities and provides a process for the Secretary of Energy to continue any pre-existing waivers.

The Amendment creates a five-year pilot program for external customers that enables facilities to examine their overhead rates and determine if an alternative lower rate serves to cover services actually used by these customers. For example, where companies or universities do not require secure facilities or do not utilize the extensive special nuclear material capabilities of the laboratories, then the customer will be charged an overhead rate that excludes security costs and environmental legacy costs. This pilot program will enable the Department and facilities to evaluate the impact of these lower overhead rates for one important class of external customers. The Department is required to report in 2003 on the interim results of this Pilot and to provide recommendations on possibly continuing this Pilot and even extending it to include other federal customers.

The Amendment provides direct encouragement for expansion of partnerships and interactions with companies and universities by requiring that each facility be annually judged for success in expanding these interactions in ways that support each facility's missions. The Amendment requires that the external partnership and interaction program be considered in evaluating the annual contract performance at each site.

And finally, the Amendment sets up a new Small Business Partnership Program in which all of the Department sites participate. This action will enable small businesses across the United States to better access and partner with any of the Department's contractor-owned facilities. A fund for such interactions up to 0.25 percent of the total site budget is available for these small business interactions.

With these changes, Mr. President, the Department of Energy facilities will be better able to meet their critical national missions, while at the same time assisting other federal agencies, large and small businesses, and universities in better meeting their goals and missions.

Mr. BINGAMAN. Mr. President, I am pleased to be a co-sponsor of this amendment. I cosponsored the bill on which it is based, S. 1874, with Senator DOMENICI and our offices have worked closely together with the Administration and with the Committee on Energy and Natural Resources to get this amendment cleared. I believe that the amendment accomplishes several important objectives. It clarifies the ability of the Department to engage in mutually beneficial research and development interactions with external partners. It reduces red tape associated with these interactions. It encourages DOE facilities to cooperate with small businesses. These are all steps that strengthen DOE's research capabilities at all its facilities and increase the contribution that the Department can make to our national research and innovation system. I urge the adoption of the amendment.

AMENDMENT NO. 3023

(Purpose: Relating to Department of Defense aviation accident investigations)

SEC. 908. MILITARY AVIATION ACCIDENT INVESTIGATIONS.

(a) FINDINGS.—Congress makes the following findings:

(1) In February 1996, the GAO released a report highlighting a 75% reduction in aviation Class A mishaps, a 70% reduction in aviation mishap fatalities and a 65% reduction in Class A mishap rates from 1975–1995 (Military Aircraft Safety—Significant Improvements since 1975).

(2) In February 1998, the GAO completed a follow-up review of military aircraft safety, noting that the military experienced fewer serious aviation mishaps in fiscal years 1996 and 1997 than in previous fiscal years (Military Aircraft Safety: Serious Accidents Remain at Historically Low Levels).

(3) The report required by section 1046 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 1888) concluded, "DoD found no evidence that changing existing investigation processes to more closely resemble those of the NTSB would help DoD to find more answers more quickly, or accurately."

(4) The Department of Defense must further improve its aviation safety by fully examining all options for improving or replacing its current aviation accident investigation processes.

(5) The inter-service working group formed as a result of that report has contributed to progress in military aviation accident investigations by identifying ways to improve family assistance, as has the formal policy direction coordinated by the Office of the Secretary of Defense.

(6) Such progress includes the issuance of Air Force Instruction 90–701 entitled "Assistance to Families of Persons Involved in Air Force Aviation Mishaps," that attempts to meet the need for a more timely flow of relevant information to families, a family liaison officer, and the establishment of the Air Force Office of Family Assistance. However, formal policy directions and Air Force instructions have not adequately addressed the failure to provide primary next of kin of members of the Armed Forces involved in military aviation accidents with interim reports regarding the course of investigations into such accidents, and the Department of Defense must improve its procedures for informing the families of the persons involved in military aviation mishaps.

(7) The report referred to in paragraph (3) concluded that the Department would "benefit from the disappearance of the misperception that the privileged portion of the safety investigation exists to hide unfavorable information".

(8) That report further specified that "[e]ach Military Department has procedures in place to provide redacted copies of the final [privileged] safety report to the families. However, families must formally request a copy of the final safety investigation report".

(9) Current efforts to improve family notification would be enhanced by the issuance by the Secretary of Defense of uniform regulations to improve the timeliness and reliability of information provided to the primary next of kin of persons involved in military aviation accidents during and following both the legal investigation and safety investigation phases of such investigations.

(b) EVALUATION OF DEPARTMENT OF DEFENSE AVIATION ACCIDENT INVESTIGATION PROCEDURES.—(1) The Secretary of Defense shall establish a task force to—

(A) review the procedures employed by the Department of Defense to conduct military aviation accident investigations; and

(B) identify mechanisms for improving such investigations and the military aviation accident investigation process.

(2) The Secretary shall appoint to the task force the following:

(A) An appropriate number of members of the Armed Forces, including both members of the regular components and the reserve components, who have experience relating to military aviation or investigations into military aviation accidents.

(B) An appropriate number of former members of the Armed Forces who have such experience.

(C) With the concurrence of the member concerned, a member of the National Transportation Safety Board.

(3)(A) The task force shall submit to Congress an interim report and a final report on its activities under this subsection. The interim report shall be submitted on December 1, 1998, and the final report shall be submitted on March 31, 1999.

(B) Each report under subparagraph (A) shall include the following:

(i) An assessment of the advisability of conducting all military aviation accident investigations through an entity that is independent of the military departments.

(ii) An assessment of the effectiveness of the current military aviation accident investigation process in identifying the cause of military aviation accidents and correcting problems so identified in a timely manner.

(iii) An assessment whether or not the procedures for sharing the results of military aviation accident investigations among the military departments should be improved.

(iv) An assessment of the advisability of centralized training and instruction for military aircraft investigators.

(v) An assessment of any costs or cost avoidances that would result from the elimination of any overlap in military aviation accident investigation activities conducted under the current so-called "two track" investigation process.

(vi) Any improvements or modifications in the current military aviation accident investigation process that the task force considers appropriate to reduce the potential for aviation accidents and increase public confidence in the process.

(C) UNIFORM REGULATIONS FOR RELEASE OF INTERIM SAFETY INVESTIGATION REPORTS.—(1)(A) Not later than May 1, 1999, the Secretary of Defense shall prescribe regulations that provide for the release to the family members of persons involved in military aviation accidents, and to members of the public, of reports referred to in paragraph (2).

(B) The regulations shall apply uniformly to each military department.

(2) A report under paragraph (1) is a report on the findings of any ongoing privileged safety investigation into an accident referred to in that paragraph. Such report shall be in a redacted form or other form appropriate to preserve witness confidentiality and to minimize the effects of the release of information in such report on national security.

(3) Reports under paragraph (1) shall be made available—

(A) in the case of family members, at least once every 30 days or upon the development of a new or significantly changed finding during the course of the investigation concerned; and

(B) in the case of members of the public, on request.

Mr. WYDEN. Mr. President, for nearly two years, my home state has suffered through an agonizing process, trying to find out what happened aboard King-56, an Air Force Reserves C–130 that crashed off of the California coast, killing 10 of the 11 Oregon airmen on board in November, 1996. The families of those victims have worked tirelessly to find out the truth, both for their own peace-of-mind and so that corrections could be made, if necessary, to protect other American servicepeople. It should not have been nearly as hard as it has been to get this information.

Drawing from this experience, my Oregon colleague Senator SMITH and I have joined together to put forward this proposal to try to change the procedures that the Air Force uses for investigating crashes of this sort, so that others will be spared the suffering that Oregonians have had to ensure.

At the outset, let me acknowledge the hard work of the Air Force since reopening the King-56 investigation late last year. For many months now, a Broad Area Review, or simply BAR, to use the military acronym, has been both investigating the cause of the King-56 crash and the safety of the entire C–130 fleet. The BAR, after thoroughly re-checking all available material, and having the help of an experienced NTSB crash investigator, was able to narrow down the list of possible causes of the crash to about two dozen, and determined that the only way to pinpoint the cause would be to recover additional King-56 wreckage. The Air Force candidly admitted that they were mistaken not to have collected all the wreckage in the first place, and that they would do everything they could this time to get it right. They are out in the ocean right now trying to salvage everything they can. I know that the families are eagerly awaiting the results of the new salvage operation, and, hopefully, the Air Force will soon learn the exact cause of the crash, and give the families some sense of closure.

Finding the exact cause of the King-56 crash has another, very important purpose. Crews flying other C–130's have frequently reported problems similar to what the Oregon reservists encountered on their airplanes. The BAR has been able to apply the lessons learned from the King-56 crash to the entire fleet. For example, a major problem the BAR turned up was the near total inconsistency in emergency procedures manuals issued to crews. The Air Force identified this problem, standardized and rewrote the manuals, and issued them to all C–130 crews.

And thank goodness they did. Because earlier this year a C–130 took off from McChord Air Force Base in Washington state and experienced an engine problem known as "four-engine rollback," or loss of power to the engines. The C–130 that went down off the California coast also had simultaneous failure of all four engines. In that instance the emergency manual listed as an option ditching the plane in the ocean, which turned out to be a tragic error, and only one crewman survived. However, the C–130 that took off from McChord had a newly revised emergency manual on board written after the BAR review. They were able to bring their plane under control and land it safely. So I am pleased the Air Force found and fixed such problems, making these planes safer.

Although this is welcome progress, nagging questions keep coming to mind. Why did the original investigation not make as much progress in finding the cause of the accident? Why did the Air Force turn up the numerous flaws and problems in safety procedures in the C–130 fleet only after two Senators stepped in to get them to conduct a more thorough review? The plain fact is that the problems with the original investigation were not an isolated incident. The failure of the original investigation was a symptom of the shortcomings of current investigation procedures and guidelines in general.

We need an aviation accident investigation process that would have gotten it right the first time around. Reports indicate that Pentagon crash investigators are undertrained and under funded. I question whether the current system of conducting two separate investigations, one public, the other secret, is the best system possible for finding the causes of accidents and applying the lessons learned.

So what the Wyden/Smith amendment does is simple and straightforward. It establishes a Pentagon task force to review procedures the Department of Defense employs to conduct aircraft accident investigations and to develop solutions for improving the overall process. I give the Pentagon credit for their renewed diligence on the King-56 investigation and their review of the C–130 fleet. It is my hope—and expectation—that they apply this diligence to coming up with ways to improve the overall process, and make the planes our men and women in uniform fly every day safer.

Our amendment also touches on how families are notified of such terrible accidents and of the care and support they receive. The reason the Oregon families first came to Senator SMITH and me was because, after losing their loved ones, the Air Force treated them miserably, there's no better way to put it. Not only did the Air Force not provide the families with the support, guidance, and comfort that they deserved, but they refused to provide the answer that would have surely been at the top of any of our minds had we lost a loved one: how could this possibly have happened? Their treatment was far inferior to the way Congress recently mandated families be treated in civilian aviation accidents.

What the families of King-56 got was a totally inconclusive investigation report. When they wanted more information, especially what was contained in the separate, secret safety report, the Air Force refused outright. Senator SMITH and I tried to help them obtain the answers they needed, but we, too, were met with more stonewalling. After we brought significant pressure to bear, the Air Force decided to reopen the probe. Since then they have done a better job of keeping the families fully informed of the progress of their investigation.

The King-56 episode turned up a number of basic problems with the way the Pentagon notifies families in such terrible cases. Working closely with the families, Senator SMITH and I passed amendments to last year's defense bill that have led to improvements in family notification procedures. For example, earlier this year the Air Force issued instructions to improve the flow of information to families, to enhance the role of family liaison officers, and to establish an Office of Family Assistance. DoD efforts to improve family notification are still ongoing, and I intend to watch their progress closely in case further action is needed in Congress.

Although I welcome this progress, one basic issue has been left out of the mix, namely, the problem of providing families with maximum information not only after an investigation has been concluded, but, more importantly, while the investigation is taking place in the weeks and months after an accident. The Air Force has proposed to do a better job of informing families about how investigations are conducted and even why they can't have any information immediately. While attempts to provide better information are helpful, current efforts just don't get at one of the biggest headaches the Oregon families encountered: knowing what the investigators know.

The Wyden/Smith amendment, in addition to requiring DoD to come up with improvements in accident investigations, gets at this problem. We require the Pentagon to provide next of kin with regular and timely interim reports on the progress of both legal and safety investigations, providing them with the best possible information during what must be a most agonizing ordeal. Better information about ongoing investigations is just one part of what families need, and it is my hope that future families will not have to endure what the Oregon families were forced to. Again, I think the DoD learned its lesson about how to treat families, especially after the DoD Inspector General scrutinized it as a result of our amendment last year, and they are actively working on solutions. But the specific need for interim reports needs to be addressed as well.

I'd like to thank the Air Force again for their diligence in reopening the King-56 crash investigation and helping the families reach closure on this terrible episode. I am pleased by the progress the Pentagon has made in improving C–130 fleet safety, and by the measures they've taken to treat families better in the future. It's time to apply the lessons learned from King-56 to all accident investigations, and I look forward to working with the Pentagon in the future to make sure our men and women in uniform fly the safest airplanes possible, and that their families receive the best possible care and attention, in good times as well as the bad.

Mr. SMITH of Oregon. Mr. President, I rise today to join my colleague from Oregon in offering this amendment to the Department of Defense Authorization Bill on the handling of Department of Defense aviation accident investigations. In November 1996, 10 Portland-based Air Force reservists were killed in a mysterious C–130 King-56 plane crash. For nearly 2 years, Senator WYDEN and I have been working with the Air Force and the families in order to find an explanation for how this tragic accident occurred. We have learned more since asking that the Air Force renew its investigation, and we are confident that we will soon know the cause of this accident. I wish to thank the Air Force for reopening its investigation and for its subsequent efforts. We owed that to the families of these Air Force reservists, that their widows and children be given the information needed for understanding.

I am pleased to have joined my colleague from Oregon in seeking answers for these families still struggling with their losses and ensuring greater responsiveness to the families of our military personnel in the future. This Wyden/Smith amendment will create a task force to review aviation accident investigations and identify areas for improvement. It will also ensure that families be provided with regular reports regarding ongoing investigations.

My thoughts continue to be with the families of the victims from the C-130 accident in November. I thank them for bringing this to our attention and I commend them on their patience and strength. I also thank my Oregon colleague, Senator WYDEN, for his leadership on this issue. I appreciate the efforts of Air Force officials and look forward to working with them in the future to protect our service members and their families.

AMENDMENT NO. 3024

(Purpose: To amend Title 5, United States Code, to enable the Secretary of Energy to set a maximum age at which new couriers may enter the Department of Energy's nuclear materials courier force and to provide early retirement programs for the Department's nuclear materials couriers)

At the appropriate place add the following:

SECTION 1. Section 3307 of Title 5, United States Code, is amended as follows:

(1) by striking in subsection (a) "and (d)" and inserting in its place "(d), (e), and (f)"; and

(2) by adding the following new subsection (f) after subsection (e):

"(f) The Secretary of Energy may determine and fix the maximum age limit for an original appointment to a position as a Department of Energy nuclear materials courier, so defined by section 8331(27) of this title.".

SEC. 2. Section 8331 of Title 5, United States Code, is amended by adding the following new paragraph (27) after paragraph (26):

"(27) Department of Energy nuclear materials courier means an employee of the Department of Energy or its predecessor agencies, the duties of whose position are primarily to transport, and provide armed escort and protection during transit of, nuclear weapons, nuclear weapon components, strategic quantities of special nuclear materials or other materials related to national security, including an employee who remains fully certified to engage in this activity who is transferred to a supervisory, training, or administrative position.".

SEC. 3. (a) The first sentence of Section 8334(a)(1) of Title 5, United States Code, is amended by striking "and a firefighter," and inserting in its place "a firefighter, and a Department of Energy nuclear materials courier,".

(b) Section 8334(c) of Title 5, United States Code, is amended by adding the following new schedule after the schedule for a Member of the Capitol Police:

"Department of Energy nuclear materials courier for courier service (while employed by DOE and its predecessor agencies)—5 July 1, 1942 to June 30, 1948, 6 July 1, 1948 to October 31, 1956, 6½ November 1, 1956 to December 31, 1969, 7 January 1, 1970 to December 31, 1974, 7½ After December 31, 1974.".

SEC. 4. Section 8336(c)(1) of Title 5, United States Code, is amended by striking "or firefighter" and inserting in its place, "a firefighter, or a Department of Energy nuclear materials courier,".

SEC. 5. Section 8401 of Title 5, United States Code, is amended by adding the following new paragraph (33) after paragraph (32):

"(33) Department of Energy nuclear materials courier means an employee of the Department of Energy or its predecessor agencies, the duties of whose position are primarily to transport, and provide armed escort and protection during transit of, nuclear weapons, nuclear weapons components, strategic quantities of special nuclear materials, or other materials related to national security, including an employee who remains fully certified to engage in this activity who is transferred to a supervisory, training, or administrative position.".

SEC. 6. Section 8412(d) of Title 5, United States Code, is amended by striking "or firefighter" in paragraphs (1) and (2) and inserting in its place "a firefighter, or a Department of Energy nuclear materials courier,".

SEC. 7. Section 8415(g) of Title 5, United States Code, is amended by striking "firefighter" and inserting in its place "firefighter, Department of Energy nuclear materials courier,".

SEC. 8. Section 8422(a)(3) of Title 5, United States Code, is amended by striking "firefighter" in the schedule and inserting in its place "firefighter, Department of Energy nuclear materials courier,".

SEC. 9. Sections 8423(a)(1)(B)(i) and 8423(a)(3)(A) of Title 5, United States Code, are amended by striking "firefighters" and inserting in its place "firefighters, Department of Energy nuclear materials couriers,".

SEC. 10. Section 8335(b) of Title 5, United States Code, is amended by adding the words "or Department of Energy Nuclear Materials Couriers" after the word "officer" in the second sentence.

SEC. 11. These amendments are effective at the beginning of the first pay period in fiscal year 2000, and apply only to those employees who retire after fiscal year 1999.

SEC. 12. Any payments made by the Department of Energy to the Civil Service Retirement or Disability Fund pursuant to this Act shall be made from the Weapons Activities account.

AMENDMENT NO. 3025

(Purpose: To require a review and report on National Guard resourcing)

At the end of subtitle C of title X, add the following:

SEC. 1031. REVIEW AND REPORT REGARDING THE DISTRIBUTION OF NATIONAL GUARD RESOURCES AMONG STATES.

(a) REQUIREMENT FOR REVIEW.—The Chief of the National Guard Bureau shall review the process used for allocating and distributing resources, including all categories of full-time manning, among the States for the National Guard of the States.

(b) PURPOSE OF REVIEW.—The purpose of the review is to determine whether the process provides for adequately funding the National Guard of the States that have within the National Guard no unit or few (15 or less) units categorized in readiness tiers I, II, and III.

(c) MATTERS REVIEWED.—The matters reviewed shall include the following:

(1) The factors considered for the process of determining the distribution of resources, including the weights assigned to the factors.

(2) The extent to which the process results in funding for the units of the States described in subsection (b) at the levels necessary to optimize the preparedness of the units to meet the mission requirements applicable to the units.

(3) The effects that funding at levels determined under the process will have on the National Guard of those States in the future, including the effects on all categories of full-time manning, and unit readiness, recruitment, and continued use of existing National Guard armories and other facilities.

(d) REPORT.—Not later than March 15, 1999, the Chief of the National Guard Bureau shall submit a report on the results of the review to the congressional defense committees.

Mr. JEFFORDS. Mr. President, the defense authorization bill is one of the most important pieces of legislation we consider each year and by far the largest annual authorization bill. Even though the bill's overall numbers are huge by comparison to most others, the Department of Defense is being forced to make difficult spending decisions and curtail its program requests for future years in order to live within a budget that has shrunk in real terms. I recognize that this is a difficult challenge.

However, I feel compelled to bring to my colleagues attention a matter of great concern to me—funding for the National Guard. The Department of Defense has not given sufficient attention or resources to this important component of our national defense. We all understand the importance of the Active Duty forces, and support for the active component must be strong. However, this must not come at the expense of an equally important component—the National Guard. I need not belabor the virtues of the National Guard for most of my colleagues. They are familiar with the cost savings that come from assigning duties to the National Guard. Senators also appreciate the critically important role the Guard plays in times of emergency in our own States. And most Members of Congress understand the intangible political benefits that come from having citizen soldiers and from maintaining a force that is intertwined with the fabric of daily life in every state to a much greater degree than the active component. The National Guard and Reserves are the face of the US military for many Americans, yet they continue to get second billing when it comes to the distribution of resources.

In particular, I am concerned about the unintended consequences of National Guard Bureau formulas for distributing manpower and resources among the various Guard units. The current system gives priority to top tier units, which would seem to make sense at first glance, as those are the ones maintained at the highest readiness levels. However, the funding allocated to each unit then comes together somewhat randomly to form the mosaic of each State's National Guard and Reserve forces overall funding. Distortions sometimes creep in that cannot be corrected at the State level. I have found this to be true in the technician end strength levels projected for my State's National Guard for the coming years. A steady drop over the past few years combined with a projected cut of 15 percent next year would put the Vermont Guard in a very difficult position. It is quite possible that the resources coming to Vermont in the near future to support its essential operations will fall well below the acceptable level, and below what I believe even the National Guard Bureau would recognize as appropriate. The Vermont Guard has performed exceedingly well, winning national recognition in some instances, even though most of its units have been resourced at only 55 percent. But with projected cuts to 35 percent, for a drop of 20 percent over three years, I worry that Vermont will have to make cuts in its core program, like closing armories.

Mr. President, each State's National Guard is a unique compilation of duties and responsibilities, all deemed critical to our national defense. No State's mission should be slighted because the formulas don't allow for an overall assessment of the aggregate funding level and an opportunity to correct shortfalls that are deemed unreasonably harsh for any one State. I can only assume that a few other States' National Guards are suffering in much the same manner as Vermont is.

The Armed Services Committee has been helpful to Senator LEAHY and me in our efforts to address this problem. We offer this amendment to direct the Chief of the National Guard Bureau to examine the process of resource distribution and, in particular, to evaluate the effects of these allocations upon each State's ability to carry out its missions. This report should also shed light on the aggregate effects of the current formulas for determining allocation and distribution of full-time manning strengths. I trust that this report will clarify the exact nature of this problem and allow the Pentagon and Congress to address it directly next year.

We have agreed not to specify minimum end strength levels for military technicians, but we trust that the Committee will make every effort to recede in conference to the minimum end strength levels endorsed by the House of Representatives in its authorization legislation.

I appreciate the support the Committee has given us in this effort and I urge my colleagues' endorsement of this amendment.

Mr. LEAHY. Mr. President, I rise to offer an amendment with my colleague and friend from Vermont, Senator JEFFORDS. Recently, I was dismayed to learn that the Vermont Army National Guard is programmed to receive yet another cut in its full-time manning. nearly all of us take pride in supporting our state National Guard units. The Guard is a critical state asset when we experience natural disasters and other state emergencies. The Guard offers professional opportunities and education for our young constituents. Perhaps most importantly, the Guard is available in case our nation ever finds itself at war. Fully 58% of our Army's combat forces are located in the National Guard, and an Army Guard combat unit can do the same job as its active duty counterpart for less than half the cost. But all these benefits are wasted if we do not provide enough resources for our Guard to train, and enough full-time personnel so that our Guardsmen can take full advantage of the limited time they spend in uniform.

For many years now, the Army has been giving some Guard units more resources than others. The allocation model that the Army uses is based on which units would be called to fight first. That is fine in principle, but in practice the resources that have been given to lower priority units have been insufficient. For example, in recent years the Vermont Guard's 86th Brigade has been receiving about 55% of its full time manning requirements. These are the men and women who prepare for each month's drill weekend, maintain and fix equipment, recruit new soldiers from the community, and do all the other tasks that need to be done during the month. Higher priority Guard units have been receiving 70 to 75 percent of their full time manning requirements. Although 55 percent was not sufficient, it has been enough for the 86th brigade. They recently were noted for the fact that they qualified one of their tank battalions on the regular Army's tough Tank Table 12 live-fire test. The Vermonters were only the second unit in the country to achieve this honor, the first being an enhanced unit from Idaho.

That is why I was so disturbed that the Army was set to cut Vermont's full-time support down to between 30 and 34 percent, according to a letter I received from Acting Assistant Secretary of the Army Jayson Spiegal on March 3 of this year. At that level of funding, I have been told that Vermont would have to close some of its armories because it would not have enough funds to keep two soldiers in each armory. Of course, I am worried about my own state, which has one of the oldest militia traditions dating back to Benedict Arnold's Green Mountain Boys of Revolutionary War fame. But there are eight other National Guard combat divisions spread across the country, and I want to inform my colleagues that each of those units is in danger of suffering a death of a thousand cuts by a lack of resources.

The Chairman and Ranking Member of the Armed Services Committee have accepted this amendment from Senator JEFFORDS and myself which requires that the Head of the Guard Bureau provide a report to the four defense committees of Congress to ensure that states with a large number of lower-priority National Guard units are not being disproportionately impacted by full-time manning reductions.

Mr. President, I want to close by thanking Senator THURMOND and Senator LEVIN for accommodating me and my colleague from Vermont on this amendment. Their expertise and hard work for our nation's defenses are appreciated by all of us in this body.

AMENDMENT NO. 3026

(Purpose: To provide health benefits for abused dependents of members of the armed forces)

At the appropriate place, add the following:

Paragraph (1) of section 1076(e) of Title 10, United States Code, is amended to read as follows:

(1) The administering Secretary shall furnish an abused dependent of a former member of a uniformed service described in paragraph (4), during that period that the abused dependent is in receipt of transitional compensation under section 1059 of this title, with medical and dental care, including mental health services, in facilities of the uniformed services in accordance with the same eligibility and benefits as were applicable for that abused dependent during the period of active service of the former member.

Mr. WELLSTONE. Mr. President today I am introducing an amendment that will show the heart and hands of our government in caring for the victims of domestic violence in the military.

My amendment is simple: it will provide health benefits for abused dependents of members of the armed forces, who are currently receiving transitional compensation due to their batterer's discharge or court martial for abuse. These health benefits include medical, dental, and mental health care at armed forces facilities. Victims, battered women and abused children, would be entitled to health benefits for as long as they received transitional compensation, which is a maximum of three years. The financial expense would be negligible; but the increased care, safety and dignity given to our military dependents who are victims of abuse would be huge.

Domestic violence is one of the most serious issues we face. It knows no borders. Neither economic status, geography, or race shields someone from domestic violence. It is happening to women in your families, your neighborhoods, and in your place of work and worship. Most distressing, it is happening at an alarming rate in military families.

Battering is the one of the single greatest causes of injury to women. According to Department of Justice statistics, of the 1.4 million hospital emergency room admissions in 1994, about one quarter were treated for injuries from domestic violence.

Among civilians, the DoJ has estimated that, on average each year, from

1992–1996, about 8 in 1000 women . . . age 12 or older experienced a violent victimization by a spouse or boyfriend.

The numbers for domestic violence victims in the military are deeply disturbing and much bigger. Department of Defense data indicates 17.8 to 19.0 women per 1000 for substantiated reports of abuse during the same period. Substantiated reports of abuse are those confirmed by a military review panel.

Many battered women and their children in the military do not come forward because they fear they will be destitute or lose key benefits if their spouses are discharged or court-martialed on the grounds of abuse. This amendment reduces the disincentives of victims to come forward about the violence in their homes. It allows dependent family members in the military to get the health services they need, so that they can escape their abusers and move toward independence.

There have been cases brought to my attention where military dependents could have benefited from this legislation, and we know, that sadly, there are many more such stories throughout the military.

Annette is the former wife of a Navy Chief Petty Officer and mother of two young children. She was routinely beaten by him from June 1994 through 1996. Military protective orders and civilian restraining orders failed to protect her and her children. Her ex-husband was charged with twenty-one offenses by the United States Navy, including eight assault charges involving Annette. He was ultimately court-martialed.

Due to domestic violence, Annette has been declared ninety percent disabled by doctors and therapists. She suffers from severe skeletal and muscular damage to her back from an attempted rape by her husband; debilitating migraines due to nerve damage; dental problems as a result of her teeth being knocked out; and post traumatic stress disorder. These are just a few of her challenges while attempting to raise two children. She is receiving transitional compensation, but has had no health benefits. She has several thousands of dollars in unpaid medical bills.

We need to ensure that military wives and dependents like Annette get the health services they need and deserve to care for their children and to heal. I urge my colleagues to vote for this amendment.

AMENDMENT NO. 3027

(Purpose: To eliminate secret Senate holds)

On page   , after line   , insert the following:

SEC.   . ELIMINATING SECRET SENATE HOLDS.

(a) STANDING ORDER.—It is a standing order of the Senate that a Senator who provides notice to leadership of his or her intention to object to proceeding to a motion or matter shall disclose the objection or hold in the Congressional Record not later than 2 session days after the date of the notice.

(b) RULEMAKING.—This section is adopted—

(1) as an exercise of the rulemaking power of the Senate and as such it is deemed a part of the rules of the Senate and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(2) with full recognition of the constitutional right of the Senate to change its rules at any time, in the same manner, and to the same extent as in the case of any other rule of the Senate.

Mr. WYDEN. Mr. President, today, fewer than 50 legislative days remain in the session. Dozens of nominations are pending and more than 400 items are on the calender. Being an election year, this is a recipe for an explosion of an extraordinarily powerful Senate practice . . . the use of secret holds.

On Monday evening, Senator GRASSLEY and I came to the floor to put members on notice that we would be offering the same amendment we offered last year on anonymous holds. We discussed the Century-old Senate tradition of members being granted the courtesy of "holding" a debate until they are available to participate. We believe this venerable Senate practice should continue. As a public institution, however, we believe the use of holds should occur in the full light of day. We believe in the not-so-radical notion that the public's business should be done in public.

The amendment we are offering is identical to an amendment that the Senate adopted last fall. The amendment would eliminate the secrecy of the Senate's holds procedure. It would simply require that any Senator who notifies leadership of an intent to object to a motion to proceed make that objection public within 48 hours.

Last fall, the Senate adopted an identical amendment by voice vote. No Senator spoke out against it. We had discussed this idea for more than a year. But in the closing hours of the last session, our amendment was dropped from the D.C. Appropriations bill. At that time I vowed to stay at it until it's done.

Today, as time is running out on the session, we are sure to face the same situation again of a proliferation of anonymous holds. They will threaten the Senate with legislative gridlock. When the Senate dropped our amendment last fall, there were at least 42 holds in play, and even the Minority Leader had to admit to reporters that he didn't know who had placed them. "If you don't have hold, you ought to feel lonesome," Senator DASCHLE said.

Over the past eight months, we have been working in a bipartisan manner to lift the secrecy that so often surrounds the use of holds. We have worked with the Leader's Bipartisan Task Force on Senate Reform. In February, nine Senators joined Senator GRASSLEY and me in a bipartisan letter to the Senate leadership asking that they work with us to change the Standing Orders of the Senate to eliminate anonymous holds. We made it clear we are not out to scrap the Senate's holds procedure, but to scrap the secrecy surrounding it.

In May, the Bipartisan Task Force on Senate Reform, chaired by Senator BENNETT, reviewed this idea and discussed it with the floor staff of both parties. The members expressed great interest in it, but it was clear from our discussions that certain members in key positions would not look favorably on the task force moving forward with the idea.

The right of every member of this body to prevent debate on a motion or bill is a very powerful tool. But this right can be found nowhere in the Constitution, nowhere in our Federal statutes and nowhere in the Senate's rules. In fact, it is not a Senate rule or standing order. It is not a right. It is a practice, or a custom that we have come to view as a right.

Let me be clear: our amendment does not challenge or affect in any way the ability of each Senator to place a hold. Our amendment would preserve that ability. What we are challenging is the way in which Senators use this extraordinary power. Such extraordinary power should be exercised in public.

The use of secret holds leads to a curious game of procedural "hide and seek." Senator A, for example, blocks Senator B's bill with a hold, so B sets off to buttonhole all 99 other Senators, trying to find out who is responsible. If the Senator does find out, it is possible B will place a hold on A's bills in retaliation. Sometimes it becomes even more complex, with "revolving holds," where the group of objecting Senators simply rotates the hold, always one step ahead of the Senator chasing down the hold to try to move a bill. Another session should not become bogged down with burdensome, anonymous holds.

The Senate is a public institution. Our offices are open to the public, we conduct our hearings in public, our debate takes place in public and each time we answer the roll call, everyone knows how each Senator voted. But many of our holds are not public. We believe the public's business should be conducted in public.

At a time when the American people are increasingly cynical and skeptical about government, there should no longer be any room for the kind of closed-door dealings represented by the secret hold. The secret hold cheapens the currency of democracy. We should open the door on this closet filibuster.

Mr. President, our amendment provides that every Senator may continue to place a hold on a measure or matter, and simply requires that the Senator announce the hold publicly within 48 hours. Our amendment enables the Senate both to maintain its proud traditions and to have openness and accountability.

Mr. GRASSLEY. Mr. President, I rise to urge my colleagues to support the Wyden-Grassley amendment banning secret holds. My colleagues should be aware of our efforts by now, but in case they are not, this is what we are trying to do. My good friend from Oregon and I are offering language that would require any Senator who wishes to place a hold on legislation or a nomination must notify the Senate and the American people of his or her action.

This can be done either through the CONGRESSIONAL RECORD or a statement on the floor. I want my colleagues to understand: This amendment does not, I repeat, does not ban holds. With our proposal, Senators can continue to place a hold on any legislation they wish. Our amendment simply requires that they be open about it.

I firmly believe this amendment will improve the daily workings of the Senate. First, it will make the Senate more accountable.

Too many Americans think that we in Congress don't take responsibility for what we do. This amendment will give Americans greater peace of mind that their public servants are responsible and accountable. And we cannot function effectively if we do not have the basic trust of the people we work for—our constituents.

I know in my own experience I have had to spend valuable time trying to find out who had put a hold on legislation of mine. Tracking down a hold is a tremendous waste of time and effort.

If someone has put a hold on one of my bills, under this proposal I can immediately go to that Senator and talk about his or her concerns and see if we can work things out. When we engage in reasoned debate and give and take on issues is when this body serves the best interests of the American people most effectively. I believe open holds will do much to facilitate this.

Members may think they could face retribution if they declare a hold.

However, Senator WYDEN and I have both practiced open holds, and I can tell my colleagues that there is no reason for them to fear retribution or reprisal. I have never faced any repercussions from stating my intention to place a hold and I would imagine Senator WYDEN would say the same.

Senators need to know that voting against this amendment will not make it go away, because Senator WYDEN and I intend to pursue this reform until we succeed. And I know we will succeed because this is the right thing to do.

It is right to be open with the American people and it is right to be open with your fellow Senators. It is time we made this reform because the secrecy surrounding holds is not required by Senate rules or the Constitution or any other instrument of Government that I know of and it has been allowed to go on much too long. Our proposal is simple, reasonable and fair. I know there are some who say we need to study this issue a little longer. I reject that notion. This is not a complicated change we are proposing.

In closing, I just want to urge my fellow Senators again as emphatically as I can to support this amendment. I have heard many of my colleagues express to me and to Senator WYDEN that they believe this reform is necessary. Now those of us who support openness and accountability in government have an opportunity to act on those convictions. I urge a yes vote on the Wyden-Grassley open holds amendment.

AMENDMENT NO. 3028

(Purpose: To provide $5,000,000 for research, development, test, and evaluation for the Low Cost Launch Development Program)

At the end of subtitle B of title II, add the following:

SEC. 219. LOW COST LAUNCH DEVELOPMENT PROGRAM.

(a) AMOUNT FROM AIR FORCE FUNDING.—Of the total amount authorized to be appropriated under section 201(3), $5,000,000 is available for the Low Cost Launch Development Program.

Mr. DOMENICI. Mr. President, I rise to offer an amendment to provide $5 million for programs that will radically reduce space launch costs. I understand that this amendment has been accepted by the Chairman and Ranking Member, and I thank them for their cooperation in this regard.

This amendment will provide support for further development of robust and cost-effective launch vehicles. One such program, the Scorpius Low Cost Launch Development Program, has met development goals on or under budget in every instance. Delays in the program have been a result of bureaucratic delays, rather than technical problems. This is a solid program, and it deserves our full support.

In addition to a need for the U.S. to regain a competitive position in the international market for space launch, critical national security concerns can be addressed by reducing these costs.

Achieving reduced launch costs is clearly in the national interest. From 1993 through 1997, the United States spent roughly $11 billion for unmanned space launches—well over $2 billion annually. Due to these unnecessary and exorbitant costs, we have lost the commercial space launch industry, which America pioneered, to overseas competitors.

Moreover, the excessive costs of space launch in this country have induced current and past Presidents to allow satellite launches from China, Russia and France. It currently costs $10,000 to $12,000 a pound to launch a payload using U.S. rockets. In contrast, China charges $4,000 to $5,000 per pound. Thus, satellite companies can save up to $50 million by using foreign source to put their satellites into orbit.

There is a further national security objective that demand cheaper space launch capability. Command and control elements of our military force increasingly rely on digital and satellite communications capability. These communications capabilities and global positioning systems require sufficient satellites for effective implementation. The U.S. can either pay exorbitant amounts to attain adequate communications capabilities or we can support low-cost launch programs now that will radically reduce the costs incurred later.

I have been following closely the progress of Microcosm, a small California company, and its Scorpius program. This is an effort to lower space launch cost from the current level of over $7,000 per pound to low Earth orbit to under $1,000 per pound. If successful, the current launch cost for a 15,000 pound military communications satellite would drop from over $75 million to less than $15 million. The over $2 billion per year U.S. cost would drop to less than $255 million per year—for the same level of effort.

The design of these systems is robust with a margin of two-to-one compared to current rockets with a near one-to-four factor, almost nothing. Its launch crew is comprised of 12 technicians, not the current hundreds, even thousands of engineers needed today. Those same 12 technicians, when not actually firing the rocket, would be assembling them. It is truly a simple design.

Scorpius would be a bona fide "launch on demand" vehicle, able to lift off within 8 hours after the payload arrives at the launch site. Its short, squat design, though less elegant than present rockets, makes it oblivious to weather limitations, such as high wind. It would not require the extensive launch infrastructure, such as gantry, providing great flexibility of where it could be fixed. If desirable, Scorpius could even be sea-launched. Our military field commanders would be able to request and receive the satellite resources they need when and where they need them.

Microcosm has already received 12 SBIR contracts for Scorpius totaling roughly $4 million. All SBIR contracts were awarded competitively. In Fiscal year 1997, Congress specifically funded Scorpius with the program receiving $7.5 million; in Fiscal Year 1998, Congress again specified Scorpius funding, this time at $10 million. The results have been impressive:

19 5,000 pound thrust engines built, each at a cost under $5,000—establishing a benchmark cost per pound of thrust of less than $1, a significant improvement over current engines;

19 engines test-fired including 8 each for 200 seconds of continuous burn—the performance required to get a payload to LEO (low Earth orbit);

the 5,000 pound thrust engine, with injector, completed and qualified for flight;

design completed, including the Critical Design Review, for the 20,000 pound thrust engine;

the entire avionics package completed and successfully qualified at Marshall Space Flight Center: Huntsville, Alabama;

fuel and cryogenic tanks, with liners, designed and fabricated for the SR-1 sub-orbital vehicle;

a new test stand, designed for engines up to 100,000 pounds of thrust; and

technical spin-offs that could benefit non-Scorpius programs as well, such as the gas generator.

The funding requested for Fiscal Year 1999 would yield similar results. With adequate funding in 1999, Microcosm could achieve the following:

design, development and test Scorpius engines through 80,000 pounds of thrust;

preliminary design and testing of the 320,000 pound thrust engine;

test flights of the sub-orbital vehicles; and

preliminary design of the light-lift orbital vehicle.

The program has been subjected to many senior technical reviews by both government and industry experts. No significant technical problem has been identified.

Low cost launch programs are a bargain. We have a simple choice. Either we will continue to fall behind in our competitive position for space launch costs and risk U.S. security through the transfer of sensitive technologies to be launched by other countries, or we can attain over 85% savings to taxpayers for space launch needs in the near future. These leap-frog technologies could make space launch truly affordable. With our support these efforts will recapture an American industry—and jobs—now lost to foreign countries.

AMENDMENT NO. 3029

(Purpose: To require efforts to continue to increase defense burdensharing by allies)

At the end of subtitle D of title X, add the following:

SEC. 1064. DEFENSE BURDENSHARING.

(a) REVISED GOALS FOR EFFORTS TO INCREASE ALLIED BURDENSHARING.—Subsection (a) of section 1221 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 1935; 22 U.S.C. 1928 note) is amended to read as follows:

"(a) EFFORTS TO INCREASE ALLIED BURDENSHARING.—The President shall seek to have each nation that has cooperative military relations with the United States (including security agreements, basing arrangements, or mutual participation in multinational military organizations or operations) take one or more of the following actions:

"(1) For any nation in which United States military personnel are assigned to permanent duty ashore, increase its financial contributions to the payment of the nonpersonnel costs incurred by the United States Government for stationing United States military personnel in that nation, with a goal of achieving by September 30, 2000, 75 percent of such costs. An increase in financial contributions by any nation under this paragraph may include the elimination of taxes, fees, or other charges levied on United States military personnel, equipment, or facilities stationed in that nation.

"(2) Increase its annual budgetary outlays for national defense as a percentage of its gross domestic product by 10 percent or at least to a percentage level commensurate to that of the United States by September 30, 1999.

"(3) Increase the military assets (including personnel, equipment, logistics, support and other resources) that it contributes or has pledged to contribute to multinational military activities worldwide by 10 percent by September 30, 1999.

"(4) Increase its annual budgetary outlays for foreign assistance (funds to promote democratization, governmental accountability and transparency, economic stabilization and development, defense economic conversion, respect for the rule of law and internationally recognized human rights, or humanitarian relief efforts) by 10 percent, or to provide such foreign assistance at a minimum annual rate equal to one percent of its gross domestic product, by September 30, 1999.".

(b) REVISED REQUIREMENT FOR REPORT ON PROGRESS IN INCREASING ALLIED BURDENSHARING.—Subsection (c) of such section is amended to read as follows:

"(c) REPORT ON PROGRESS IN INCREASING ALLIED BURDENSHARING.—Not later than March 1, 1999, the Secretary of Defense shall submit to Congress a report on—

"(1) steps taken by other nations toward completing the actions described in subsection (a);

"(2) all measures taken by the President, including those authorized in subsection (b), to achieve the actions described in subsection (a);

"(3) the difference between the amount allocated by other nations for each of the actions described in subsection (a) during the period beginning on October 1, 1996, and ending on September 30, 1997, and during the period beginning on October 1, 1997, and ending on September 30, 1998, or, in the case of any nation for which the data for such periods is inadequate, the difference between the amounts for the latest periods for which adequate data is available; and

"(4) the budgetary savings to the United States that are expected to accrue as a result of the steps described under paragraph (1).".

(c) EXTENSION OF DEADLINE FOR REPORT REGARDING NATIONAL SECURITY BASES FOR FORWARD DEPLOYMENT AND BURDENSHARING RELATIONSHIPS.—Subsection (d)(2) of such section is amended by striking out "March 1, 1998" and inserting in lieu thereof "March 1, 1999".

AMENDMENT NO. 3030

(Purpose: To find findings and additional items for the report on the continuity of essential operations at risk of failure because of computer systems that are not year 2000 compliant)

On page 213, between lines 21 and 22, insert the following:

(a) FINDINGS.—Congress makes the following findings:

(1) Because of the way computers store and process dates, most computers will not function properly, or at all, after January 1, 2000, a problem that is commonly referred to as the year 2000 problem.

(2) The United States Government is currently conducting a massive program to identify and correct computer systems that suffer from the year 2000 problem.

(3) The cost to the Department of Defense of correcting this problem in its computer systems has been estimated to be more than $1,000,000,000.

(4) Other nations have failed to initiate aggressive action to identify and correct the year 2000 problem within their own computers.

(5) Unless other nations initiate aggressive actions to ensure the reliability and stability of certain communications and strategic systems, United States nationally security may be jeopardized.

On page 213, line 22, strike out "(a)" and insert in lieu thereof "(b)".

On page 214, line 7, strike out "(b)" and insert in lieu thereof "(c)".

On page 215, between lines 20 and 21, insert the following:

(9) The countries that have critical computer-based systems any disruption of which, due to not being year 2000 compliant, would cause a significant potential national security risk to the United States.

(10) A discussion of the cooperative arrangements between the United States and other nations to assist those nations in identifying and correcting (to the extent necessary to meet national security interests of the United States) any problems in their communications and strategic systems, or other systems identified by the Secretary of Defense, that make the systems not year 2000 compliant.

(11) A discussion of the threat posed to the national security interests of the United States from any potential failure of strategic systems of foreign countries that are not year 2000 compliant.

On page 215, line 21, strike out "(c)" and insert in lieu thereof "(d)".

On page 215, between lines 23 and 24, insert the following:

(e) INTERNATIONAL COOPERATIVE ARRANGEMENTS.—The Secretary of Defense, with the concurrence of the Secretary of State may enter into a cooperative arrangement with a representative of any foreign government to provide for the United States to assist the foreign government in identifying and correcting (to the extent necessary to meet national security interests of the United States) any problems in communications, strategic, or other systems of that foreign government that make the systems not year 2000 compliant.

On page 215, line 24, strike out "(d)" and insert in lieu thereof "(f)".

Mr. GRAHAM. Mr. President, I am here today to introduce an amendment to the Defense Authorization bill which is now before us. But first, I would like to congratulate the members of the Armed Services Committee for the excellent work they have done in preparing this legislation. I know they are being asked to do more and more with less and less, and they are having to make some very tough choices. The Committee has done an outstanding job and they deserve to be commended for it.

I would also like to pay special tribute to the Chairman, Senator THURMOND, who is managing this legislation for the final time. His record of service to this country is remarkable. It is symbolic of the greatness of this country that this paratrooper who landed in Normandy on D-Day, who fought the tyranny of Nazi Germany and saw it defeated, fought the tyranny of the Stalinist Soviet Union and saw it defeated, rose to the Senate of our great Nation and then to become Chairman of the Senate Armed Services Committee. His experience and commitment to our national security has strengthened democracy and peace here and abroad. We all owe a great debt of gratitude to this great American.

Mr. President, defense spending has declined for the last 14 years, and is now at the lowest point as a percentage of GDP since before the Second World War. We have decreased military personnel by 39% since the end of the Cold War. I supported these reductions during the time that I was privileged to serve on the Armed Services Committee. At that time, the federal budget deficit was spiraling out of control and balancing the budget was one of my highest priorities.

I think the pendulum may be beginning to swing the other way. We now expect to realize a significant budget surplus this year, perhaps more than $50 billion. In light of this, it may be appropriate to review the limits we have set on defense spending so that we can halt the annual decreases in defense spending. Even holding the defense budget constant in real terms would make a significant difference to all those who serve in our armed forces.

I know that my colleagues Senator STEVENS and Senator DOMINICI share this concern. It has been reported that Navy Secretary Dalton believes that the Navy cannot afford to both modernize and recapitalize our naval forces within current fiscal guidance, placing readiness at significant risk. I would urge all of my colleagues to recognize the great strain we are placing on our soldiers, sailors, airmen and marines as we continually ask them to do more while providing them with less.

I now would like to turn to an amendment that I have introduced, together with Senator BENNETT, which deals with the Y2K problem. I understand that this amendment will be accepted by both the majority and the minority, and I would like to thank both sides for their assistance in finding a formulation which is acceptable to both sides.

We now are undertaking a massive effort to deal with this problem within the U.S. Government. The Defense Department alone has over 2800 critical systems that must be "cured." The Russians, however, have not yet determined if they have a similar problem, let alone begun to fix it.

Given the potential impact of such a problem on military weapons systems, it is in our national interest to work with Russia, and other nations with similar problem, to help them identify the scope of their Y2K problem in strategic systems and to fix it. Our amendment authorizes the Secretary of Defense to enter into cooperative agreements with foreign governments to assist them in identifying and correcting their Y2K problems in strategic and communications systems that would otherwise threaten the national security interests of the United States.

It would be detrimental to our interests if the Russians awoke on the morning of January 1, 2000, with blank screens on their early warning radars and command and control systems. What would be even worse is if their critical systems continued to operate with false and corrupted information. It is in both U.S. and Russian interests for our countries to maintain the highest level of confidence in our command and control systems. We must build this confidence through transparency and other cooperative measures. The recent nuclear escalation on the Indian subcontinent demonstrates the importance of mutual trust and confidence, and the danger and instability that can result when uncertainty and miscalculation arise. Assisting the Russians with their Y2K problem is an example of cooperation that will enhance both Russian and U.S. national security.

AMENDMENT NO. 3031

(Purpose: To modify the requirements relating to reports on the transferability of functions of the Defense Automated Printing Service)

Strike out the matter proposed to be inserted, and insert in lieu thereof the following:

SEC. 1064. REVIEW OF DEFENSE AUTOMATED PRINTING SERVICE FUNCTIONS.

(a) REVIEW REQUIRED.—The Secretary of Defense shall provide for a review of the functions of the Defense Automated Printing Service in accordance with this section and submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives the matters required under subsection (d) not later than March 31, 1999.

(b) PERFORMANCE BY INDEPENDENT ENTITY.—The Secretary of Defense shall select the General Accounting Office, an experienced entity in the private sector, or any other entity outside the Department of Defense to perform the review. The Comptroller General shall perform the review if the Secretary selects the Comptroller General to do so.

(c) REPORT.—The entity performing the review under this section shall submit to the Secretary of Defense a report that sets forth the findings and recommendations of that entity resulting from the review. The report shall contain the following:

(1) The functions that are inherently national security functions and, as such, need to be performed within the Department of Defense, together with a detailed justification for the determination for each such function.

(2) The functions that are appropriate for transfer to another appropriate entity to perform, including private sector entity.

(3) Any recommended legislation and any administrative action that is necessary for transferring or outsourcing the functions.

(4) A discussion of the costs or savings associated with the transfers or outsourcing.

(5) A description of the management structure of the Defense Automated Printing Service.

(6) A list of all sites where functions of the Defense Automated Printing Service are performed by the Defense Automated Printing Service.

(7) The total number of the personnel employed by the Defense Automated Printing Service and the locations where the personnel perform the duties as employees.

(8) A description of the functions performed by the Defense Automated Printing Service and, for each such function, the number of employees of the Defense Automated Printing Service that perform the function.

(9) For each site identified under paragraph (6), an assessment of each type of equipment at the site.

(10) The type and explanation of the networking and technology integration linking all of the sites referred to in paragraph (6).

(11) The current and future requirements of customers of the Defense Automated Printing Service.

(12) An assessment of the effectiveness of the current structure of the Defense Automated Printing Service in supporting current and future customer requirements and plans to address any deficiencies in supporting such requirements.

(13) A description and discussion of the best business practices that are used by the Defense Automated Printing Service and of other best business that could be used by the Defense Automated Printing Service.

(14) Options for maximizing the Defense Automated Printing Service structure and services to provide the most cost effective service to its customers.

(d) REVIEW AND COMMENTS OF SECRETARY OF DEFENSE.—(1) After reviewing the report, the Secretary of Defense shall submit the report to Congress, together with the Secretary's comments on the report and a plan to transfer or outsource from the Defense Automated Printing Service to another appropriate entity the functions of the Defense Automated Printing Service that—

(1) are not identified in the report as being inherently national security functions; and

(2) the Secretary believes should be transferred for performance outside the Department of Defense in accordance with law.

(e) EXTENSION OF REQUIREMENT FOR COMPETITIVE PROCUREMENT OF SERVICES.—Section 351(a) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 266), as amended by section 351(a) of Public Law 104–201 (110 Stat. 2490) and section 387(a)(1) of Public Law 105–85 (111 Stat. 1713), is further amended by striking out "1998" and inserting in lieu thereof "1999".

AMENDMENT NO. 3032

(Purpose: To increase the amount for procurement of M888, 60-millimeter, high-explosive munitions for the Marine Corps by $17,000,000, and to offset the increase by reducing the amounts for the Marine Corps for operation and maintenance for initial use by $12,000,000 and for base support by $5,000,000)

On page 14, line 23, increase the amount by $17,000,000.

On page 42, line 23, reduce the amount by $17,000,000.

Mr. SANTORUM. Mr. President, this amendment to S. 2057, the Fiscal Year

1999 Defense Authorization Act, seeks to add $17 million for the procurement of M888, 60-millimeter, high-explosive munitions for the Marine Corps.

The additional funds would help alleviate training constraints for Marine Corps units due to shortages in this item, and will help reduce the coming bow-wave of procurement requirements that we may not have the resources to fund in future years.

I would like to clarify that funds from the Marine Corps' OPTEMPO and base support lines, both Operations & Maintenance accounts, have been identified to offset this additional funding. The offset draws on funds that were authorized in excess of what was appropriated for these particular funding lines.

Initially, I had identified Marine Corps' initial use and base support lines as an offset for this amendment. I wish to alert the Senate Armed Services Committee and the full Senate of this specific change.

Lastly, it is my understanding that the Marine Corps supports this amendment.

AMENDMENT NO. 3035

(Purpose: To require a report on the peaceful employment of former Soviet experts on weapons of mass destruction)

At the end of subtitle C of title X, add the following:

SEC. 1031. REPORT ON THE PEACEFUL EMPLOYMENT OF FORMER SOVIET EXPERTS ON WEAPONS OF MASS DESTRUCTION.

(a) REPORT REQUIRED.—Not later than January 31, 1999, the Secretary of Defense shall submit to the congressional defense committees a report on the need for and the feasibility of programs, other than those involving the development or promotion of commercially viable proposals, to further United States nonproliferation objectives regarding former Soviet experts in ballistic missiles or weapons of mass destruction. The report shall contain an analysis of the following:

(1) The number of such former Soviet experts who are, or are likely to become within the coming decade, unemployed, underemployed, or unpaid and, therefore, at risk of accepting export orders, contracts, or job offers from countries developing weapons of mass destruction.

(2) The extent to which the development of nonthreatening, commercially viable products and services, with or without United States assistance, can reasonably be expected to employ such former experts.

(3) The extent to which projects that do not involve the development of commercially viable products or services could usefully employ additional such former experts.

(4) The likely cost and benefits of a 10-year program of United States or international assistance to projects of the sort discussed in paragraph (3).

(b) CONSULTATION REQUIREMENT.—The report shall be prepared in consultation with the Secretary of State, the Secretary of Energy, and such other officials as the Secretary of Defense considers appropriate.

Mr. BIDEN. Mr. President, I want to thank the managers of this bill, the senior Senators from South Carolina and Michigan, for their willingness to work with me on non-proliferation issues and to accept two amendments that I proposed in this regard. There is a critical need to guard against the proliferation of weapons of mass destruction or related technology from the former Soviet Union, and I am very pleased that my colleagues share that concern.

There is no more critical national security issue than how well we handle the threat of holocaust posed by weapons of mass destruction. The potential for such horrific destruction may well have been increased by the end of the Cold War and the breakdown of superpower control over other countries. And a failure to contain the risk of such holocausts would dwarf any other foreign policy successes or failures.

War between the United States and Russia is no longer a realistic threat, despite the size of our nuclear arsenals. The use of weapons of mass destruction by other countries, or even by terrorist groups, is a real threat, however, and there is a real risk that former Soviet materials or technology will be the engine of proliferation to other countries or groups.

No great power is as active as the United States in trying to prevent proliferation. Nobody has as many programs as we do to detect proliferation activities, to stop them, to pressure illegal buyers and sellers, to develop military weapons and tactics for operations against sites with weapons of mass destruction, and to assist the former Soviet states, in particular, in safeguarding and destroying dangerous material and in reorienting their military industry to the civilian economy.

But the fact is, Mr. President, that we are failing to do all that we can to stop proliferation. In particular, we are failing to reach most of the highly-trained scientists and technicians who developed weapons of mass destruction and ballistic missiles for the former Soviet Union. Well over a hundred thousand such skilled personnel served the Soviet death machine at its peak. Anywhere from ten to fifty thousand personnel still have skills that a rogue state or terrorist group would like to obtain, and are underpaid or unemployed today.

How can we remedy these failings? One way is to support and fully fund our existing programs of non-proliferation assistance to the former Soviet Union. I am pleased to say that the managers of this bill agree with that judgment. Thus, they have accepted a Bingaman amendment that I co-sponsored, to restore the few cuts in these programs that had been adopted in committee mark-up.

The managers of this bill have also accepted an amendment that I sponsored, to make available an additional $15 million for the Energy Department's Initiatives for Proliferation Prevention program and $30 million for the new "nuclear cities" initiative endorsed at the last meeting of the Gore-Chernomyrdin Commission three months ago. This amendment parallels one to the Energy and Water Development Appropriations Act that Senator DOMENICI and I sponsored last week. I am confident that it will result in these two important programs being able to move forward effectively, rather than being a threat to each other's existence.

As I noted on the floor last week, Initiatives for Proliferation Prevention (or IPP) is a program that creates employment opportunities for former Soviet arms specialists by helping them develop their ideas for commercially viable goods and services. As an idea reaches fruition, IPP brings the arms specialists into joint ventures with outside investors, who gradually take over the funding. For example, thanks to IPP, a U.S. firm is working with Ukrainian scientists to develop and market a device for decontaminating liquids. This device will enable the Ukrainian dairy industry to produce fresh milk despite the lingering effects of the Chernobyl reactor meltdown.

IPP had a slow start. It's hard to come up with really viable commercial ventures, to find investors, and to make sure they can invest safely. But IPP has begun to take off. As of this April 15, projects had achieved completely commercial funding and 77 had found major private co-funding. We all have chosen wisely today, to maintain IPP's funding stream and to encourage the many weapons specialists in the former Soviet Union who are searching for new careers in the civilian economy.

The "nuclear cities" initiative is a more specialized effort to improve employment opportunities for Russian personnel from their nuclear weapons labs and manufacturing facilities. This initiative, too, will focus on finding commercially viable projects and bringing in outside investors. The challenge is to find projects that can work at these somewhat isolated cities, which are more or less the Russian equivalent of Los Alamos.

When the United States funds the "nuclear cities" initiative, it gets two benefits. First, Russia's Minister of Atomic Energy has announced that he will downsize their nuclear weapons establishment. And second, by providing civilian job opportunities for some of the personnel who are let go, we will help protect against Russian weapons specialists accepting offers from states like Iran, Iraq, or Libya.

One problem in any program that depends upon developing commercially viable products and services is that foreign investors are wary of putting their funds in ventures that may fail because of confiscatory taxes, local corruption or the difficulty of enforcing contracts. As a result, many otherwise marketable ideas may go without the funding they need to get off the ground and become engines of employment.

The senior Senator from Indiana and I sent a letter to the Vice President recently to suggest that a high-level commission or advisory committee be formed, with senior U.S. industrialists among its members, to survey investment opportunities in the "nuclear cities" and similar areas. This commission would also work with Russian officials on improving the climate for international investment, so that an enlarging civilian economy in Russia can provide new careers for more former arms experts. Fifty years ago, a commission to set up the Marshall Plan—led by an industrialist, the CEO of Studebaker—was able to convince Western Europe to take bold steps in economic coordination. In a similar manner, perhaps practical help from U.S. industrialists today can galvanize Russian officials to take the steps that are needed for international investment to jump-start their economic engines.

Even with such a commission, however, even if we maintain the Initiatives for Proliferation Prevention program, and even if we add the "nuclear cities" initiative, there is no way that commercially viable ventures can employ all the tens of thousands of Russian personnel who have worked on weapons of mass destruction. At some point, Mr. President, we have to ask whether it is not in our national security interest to provide broader assistance.

That is why I proposed the other amendment that the managers of this bill have accepted, to require the Secretary of Defense to report to Congress on this issue. Specifically, that report will tell us: (1) how many former Soviet personnel are at risk of being candidates for recruitment by rogue states; (2) how many can be employed in commercially viable enterprises; (3) how many additional personnel could be employed if we were to subsidize socially useful employment that could not attract outside investment; and (4) what the costs and benefits would be of a 10-year program of such subsidized employment.

I am confident that the Department of Defense will find a significant gap between the number of Russian arms experts who are at risk and the number who can be reached by programs that focus upon commercially viable ventures. We have much less information, however, regarding either the potential or the costs of a program that would provide broader assistance. The Department of Defense report required by this amendment, which would be prepared in consultation with the Secretary of State and the Secretary of Energy, will thus make a significant contribution to the ability of Congress to make sensible policy decisions in this field.

The task of assisting the transition of the former Soviet Union from totalitarianism to democracy, from a command economy to a market economy, and from militarism to more peaceful pursuits is indeed daunting. We need many programs, for no single effort will achieve all of this. There will be disappointments along with successes. But the stakes are so high that we dare not flinch from the challenge to assist that transition.

Likewise, we dare not cease our efforts to ensure that former Soviet arms experts refrain from selling their expertise to those who would misuse it. Today's actions are not the end of this demand upon our attention and our resources. But we can take heart from the fact that they are measured steps in the right direction. With luck, we will come up with the needed programs and resources in time to prevent weapons of mass destruction from becoming a larger factor in the next century than they have been in our own.

AMENDMENT NO. 3036

(Purpose: To require a study on effective deployment of theater missle defense systems in the Asia-Pacific region)

On page 268, between lines 8 and 9, insert the following:

SEC. 1064. INCREASED MISSILE THREAT IN ASIA-PACIFIC REGION.

(a) STUDY.—The Secretary of Defense shall carry out a study of the architecture requirements for the establishment and operation of a theater ballistic missile defense system in the Asia-Pacific region that would have the capability to protect key regional allies of the United States.

(b) REPORT.—(1) Not later than January 1, 1999, the Secretary shall submit to the Committee on National Security of the House of Representatives and the Committee on Armed Services of the Senate a report containing—

(A) the results of the study conducted under subsection (a);

(B) the factors used to obtain such results; and

(C) a description of any existing United States missile defense system that could be transferred to key allies of the United States in the Asia-Pacific region to provide for their self-defense against limited ballistic missile attacks.

(2) The report shall be submitted in both classified and unclassified form.

Mr. KYL. Mr. President, I rise to thank my colleagues for their support of the Kyl-Murkowski amendment which is intended to foster increased missile defense cooperation between the United States and our key allies in the Asia-Pacific region.

U.S. forces and allies in the Asia-Pacific region face a growing missile threat from China and North Korea. China has embarked on a program to modernize its theater and strategic missile programs and Beijing has shown a willingness to use ballistic missiles to intimidate its neighbors. During Taiwan's national legislative elections in 1995, China fixed six M–9 ballistic missiles to an area bout 100 miles north of the island. Less than a year later, on the eve of Taiwan's first democratic presidential election, China again launched M–9 missiles to areas within 30 miles north and south of the island, establishing a virtual blockade of Taiwan's two primary ports.

North Korea's missile program is also becoming more advanced. According to a recent Defense Department report, North Korea has deployed several hundred Scud missiles that are capable of reaching targets in South Korea. The North has started to deploy the No Dong missile, which will have sufficient range to target nearly all of Japan, and is continuing to develop a longer-range ballistic missile that will be capable of reaching Alaska and Hawaii.

North Korea's missile program shows no signs of slowing down. In fact, Pyongyang recently stated that it would continue to develop, produce, and sell ballistic missiles unless the U.S. lifts economic sanctions and compensates the regime for lost earnings from missile exports. On June 16th, the official Korean Central News Agency announced, "We will continue developing, testing, and deploying missiles. If the United States really wants to prevent our missile export, it should lift the economic embargo as early as possible and make a compensation for the losses to be caused by discontinued missile export. Our missile export is aimed at obtaining foreign money, which we need at present."

Theater missile defenses are vitally needed to protect American forces and allies in the Asia-Pacific region. This amendment would require the Administration to conduct a study of how the U.S. could best cooperate with key allies in the region such as Taiwan, South Korea, and Japan to establish and operate effective theater missile defenses.

I would also note that missile defenses are purely defensive items and can only be used to intercept incoming missiles. Therefore, in may view, the sale of ballistic missile defenses to Taiwan is consistent with the provisions of the Taiwan Relations Act, which states that "the United States will make available to Taiwan such defense articles and defense services in such quantity as may be necessary to enable Taiwan to maintain a sufficient self-defense capability."

Mr. President, in closing I would like to thank Senator MURKOWSKI for working with me on this initiative and would like to thank my colleagues again for their support of this amendment, which I hope will lay the groundwork for effective cooperation with our allies to confront a real and growing missile threat in the region.

Mr. MURKOWSKI. Mr. President, Senator KYL and I have sponsored an amendment which would require the Secretary of Defense to study the issue of effective deployment of a theater missile defense system for the Asia-Pacific region. This is obviously needed to protect our troops in Okinawa and on the Korean peninsula. This amendment would further require that Korea, Japan and Taiwan be allowed to purchase such a system from the United States, should they desire. I suspect that all of them would be extremely interested in such a defense system, Mr. President, and I think it is incumbent upon us to extend this protection to them.

A form of this legislation has already passed the House—albeit the House version was more specific in relating just to Taiwan. This legislation makes sense, is deeply needed, and would be a good show of support, meaningful support, to our allies in Korea, Japan and Taiwan.

I thank the managers of the bill for agreeing to accept a scaled down version of this amendment. I had hoped that the entire version would have been eagerly accepted by colleagues on both sides of the aisle, but clearly there are other issues at play in the Senate at this time.

I want the RECORD to reflect that this scaled down version in no way reflects a diminished commitment to Taiwan. Quite the contrary. This amendment should be seen as a victory—because it is. It is one of the only provisions to be adopted into this bill addressing ballistic missile defense, and one of the only provisions adopted which addresses security issues in the Asian theater. And it is perhaps the only provision which addresses China and Taiwan.

Our commitment to Taiwan is unwavering. As President Clinton goes to China, this amendment reiterates our support for the people of Taiwan, and the government of Taiwan. The question of Taiwan must only be resolved through peaceful means—and I again call on President Clinton to raise the issue of renouncing the threat of the use of force against Taiwan when he meets with President Jiang in Beijing.

The Chinese missile tests off the coast of Taiwan in the Spring of 1996 brought our relations with China to the brink of conflict. Their actions were reprehensible and intended only to intimidate, and I think test, whether the United States was serious on the issue of Taiwan. They learned that we are, that the United States is unequivocal on the issue of Taiwan's security, and here right to a free and democratic society. We will not condone efforts to intimidate national free elections; the people on Taiwan have chosen to live a life of freedom—we commend them and support them in this.

Finally, Mr. President, at a time when the United States is being pressured to reduce its forces in Asia, ballistic missile defense for Korea, Japan and Taiwan is even more important. If we reduce our forces in Asia, make no mistake—there will be a security void, a vacuum. Our amendment is intended to prevent a vacuum; to reduce the impact of missile development by China, North Korea and perhaps others in the region. Mr. President, the Loral Space communications issue has shown us one thing—that if our policies, even by accident, allow others to improve their missile capabilities, it is incumbent upon us to provide our allies with the support they need to defend themselves. Be extending ballistic missile protection to Taiwan, we are doing just that.

AMENDMENT NO. 3037

(Purpose: To require the submission of a plan and design relating to the relocation of the National Atomic Museum in Albuquerque, New Mexico)

On page 397, between lines 6 and 7, insert the following:

SEC. 3137. RELOCATION OF NATIONAL ATOMIC MUSEUM, ALBUQUERQUE, NEW MEXICO.

The Secretary of Energy shall submit to the Defense Committees of Congress a plan for the design, construction, and relocation of the National Atomic Museum in Albuquerque, New Mexico.

AMENDMENT NO. 3038

(Purpose: Cooperation between the Department of the Army and the Environmental Protection Agency in meeting Chemical Weapons Convention requirements to destroy chemical stockpile)

The Senate finds that:

(1) Compliance with international obligations to destroy the U.S. chemical stockpile by April 28, 2007, as required under the Chemical Weapons Convention (CW), is a national priority.

(2) The President should ensure that the Department of Defense and the Department of the Army receive all necessary assistance from federal agencies in expediting and accelerating the destruction of the lethal chemical stockpile.

(3) The Environmental Protection Agency, as one of the federal agencies with responsibilities to assist the Department of Defense and the Department of the Army, has asserted that is not adequately funded to provide, or meet its national responsibilities under the Resource Conservation and Recovery Act (RCA) permitting requirements, in order to assist the U.S. government in meeting its international obligations to destroy its lethal chemical stockpile.

(4) The Environmental Protection Agency (EPA) should work in concert with the State and local governments in this process, and that they should properly budget for this process.

Report Required. The Department of Defense, in coordination with the Environmental Protection Agency, shall report to the congressional defense committees by April 1, 1999, on the following:

(1) Responsibilities associated with obligations under the Resource Conservation and Recovery Act (RCRA) permitting process related to U.S. international obligations under the CWC to destroy the U.S. chemical stockpile;

(2) Technical assistance provided by the EPA to its regional offices and the States and local governments in the permitting process, and how that assistance facilitates the issuance of the environmental permits at the various sites;

(3) Responsibility of the Department of Defense to provide funding to the EPA, for the facilitation of meetings of the National Chemical Agent Demilitarization Workgroup, meetings between the Office of Solid Waste and the affected EPA Regional Offices and States; and meetings between the Office of Solid Waste, the Program Manager for Chemical Demilitarization and the Department of Defense; and,

(4) Responsibility of the Department of Defense and the Department of the Army to provide funds to the Environmental Protection Agency to hire full-time equivalents to assist in the formulation of RCRA permits.

Mr. MURKOWSKI. Mr. President, I rise with an amendment to the Department of Defense Authorization Bill which relates to our chemical weapons demilitarization program. I thank the managers of this bill, and the professional staff at the Senate Armed Services Committee for agreeing to adopt this amendment.

This is a straightforward amendment, but may be on track to save us a lot of time and money with respect to our chemical weapons stockpile demilitarization program. Over the life of the stockpile demilitarization program which as gone from about $2 billion to $15 billion, to perhaps $16 billion as we speak. The anticipated time it will take to comply with the Chemical Weapons Convention has also been extended, and it is increasingly unlikely that we will make the April 29, 2007 deadline which we agreed to here in the Senate last year.

Mr. President, my amendment is intended to help save time and money in this program. It simply requires that the Department of the Army and the EPA be allied instead of adversaries. It requires that the Secretary of the Army sit down with the Administrator of the EPA and report back to Congress on how these departments can work together to help expedite the permits which are necessary for the demilitarization program. Most of these permits are pursuant to the Resource Conservation and Recovery Act (RCRA). While the EPA does not have a role issuing permits, it does act in an advisory capacity to the various State governments which review and issue permits.

Since the States are likely to follow the feds, cooperation between the Army and the EPA is critical. Let's simply make certain that all arms of the federal government are cooperating. Mr. President, we aim to be rid of these weapons by the year 2007. If we are serious about meeting this deadline, we need to do all we can now to give the program stewards the tools they need to get the job done.

Again, I thank the bill managers for agreeing to adopt this amendment.

AMENDMENT NO. 3039

(Purpose: To amend title 10, United States Code, with respect to the administration of certain drugs to members of the Armed Forces without the informed consent of the members)

At the end of title VII, add the following:

SEC. 708. PROCESS FOR WAIVING INFORMED CONSENT REQUIREMENT FOR ADMINISTRATION OF CERTAIN DRUGS TO MEMBERS OF ARMED FORCES.

(a) LIMITATION AND WAIVER.—(1) Section 1107 of title 10, United States Code, is amended—

(A) by redesignating subsection (f) as subsection (g); and

(B) by inserting after subsection (e) the following new subsection (f):

"(f) LIMITATION AND WAIVER.—(1) An investigational new drug or a drug unapproved for its applied use may not be administered to a member of the armed forces pursuant to a request or requirement referred to in subsection (a) unless—

"(A) the member provides prior consent to receive the drug in accordance with the requirements imposed under the regulations required under paragraph (4) of section 505(i) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(i)); or

"(B) the Secretary obtains—

"(i) under such section a waiver of such requirements; and

"(ii) a written statement that the President concurs in the determination of the Secretary required under paragraph (2) and with the Secretary's request for the waiver.

"(2) The Secretary of Defense may request a waiver referred to in paragraph (1)(B) in the case of any request or requirement to administer a drug under this section if the Secretary determines that obtaining consent is not feasible, is contrary to the best interests of the members involved, or is not in the best interests of national security. Only the Secretary may exercise the authority to make the request for the Department of Defense, and the Secretary may not delegate that authority.

"(3) The Secretary shall submit to the chairman and ranking minority member of each congressional defense committee a notification of each waiver granted pursuant to a request of the Secretary under paragraph (2), together with the concurrence of the President under paragraph (1)(B) that relates to the waiver and the justification for the request or requirement under subsection (a) for a member to receive the drug covered by the waiver.

"(4) In this subsection, the term 'congressional defense committee' means each of the following:

"(A) The Committee on Armed Services and the Committee on Appropriations of the Senate.

"(B) The Committee on National Security and the Committee on Appropriations of the House of Representatives.".

(2) The requirements for a concurrence of the President and a notification of committees of Congress that are set forth in section 1107(f) of title 10, United States Code (as added by paragraph (1)(B)) shall apply with respect to—

(A) each waiver of the requirement for prior consent imposed under the regulations required under paragraph (4) of section 505(i) of the Federal Food, Drug, and Cosmetic Act (or under any antecedent provision of law or regulations) that—

(i) has been granted under that section (or antecedent provision of law or regulations) before the date of the enactment of this Act; and

(ii) is applied after that date; and

(B) each waiver of such requirement that is granted on or after that date.

(b) TIME AND FORM OF NOTICE.—(1) Subsection (b) of such section is amended by striking out ", if practicable" and all that follows through "first administered to the member".

(2) Subsection (c) of such section is amended by striking out "unless the Secretary of Defense determines" and all that follows through "alternative method".

Mr. BYRD. Mr. President, I am pleased that the Committee has accepted my amendment to provide greater oversight and accountability in those instances when the Secretary of Defense determines that U.S. troops would be best protected by the administration of investigational drugs in a wartime situation. Our forces increasingly face the threat of chemical and biological weapons being used on the battlefield. It may therefore be necessary, in order to protect them from these terrible weapons, to require them to take medicines and drugs to counteract or prevent these threats from being used to devastating effect. I think that we can all agree that the Secretary of Defense should take all reasonable precautions to protect U.S. troops in these situations, and that for a number of reasons, it may not be possible, wise, or safe to make public that decision by asking for the informed consent of each and every soldier, sailor, or airman before those preventative measures are administered.

However, I believe that it is also reasonable to take steps to ensure that when the Department of Defense thinks a particular drug, either investigational or used in a new way, should be administered without the informed consent of the troops, that such a decision is vetted very carefully, and that such decisions are recorded. Therefore, my amendment adds a new and higher level of scrutiny to the waiver process. My amendment requires that the President, the Commander in Chief, concurs in the decision of the Department of Defense to administer such drugs. It puts the top civilian in charge of the military in the loop, and it requires that these decisions to administer drugs to our troops are reported to the Congress.

Unfortunately, some examples from history, such as the exposure of troops to atmospheric atomic tests, and other examples of making U.S. military men and women "guinea pigs," have left lingering concerns about leaving this decision making process entirely in the hands of the military. I hope that my amendment, by bringing civilian leaders and representatives of the people into the process, will allay concerns that U.S. troops will ever be given drugs for any reason other than to protect them from real and dangerous threats.

AMENDMENT NO. 3040

(Purpose: To authorize the conveyance of utility systems at Lone Star Army Ammunition Plant, Texas)

On page 342, below line 22, add the following:

SEC. 2827. CONVEYANCE OF UTILITY SYSTEMS, LONE STAR ARMY AMMUNITION PLANT, TEXAS.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey at fair market value all right, title, and interest of the United States in and to any utility system, or part thereof, including any real property associated with such system, at the Lone Star Army Ammunition Plant, Texas, to the redevelopment authority for the Red River Army Depot, Texas, in conjunction with the disposal of property at the Depot under the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note).

(b) CONSTRUCTION.—Nothing in subsection (a) may be construed to prohibit or otherwise limit the Secretary from conveying any utility system referred to in that subsection under any other provision of law, including section 2688 of title 10, United States Code.

(c) UTILITY SYSTEM DEFINED.—In this section, the term "utility system" has the meaning given that term in section 2688(g) of title 10, United States Code.

Mr. THURMOND. I ask unanimous consent the amendments be agreed to en bloc, and the motion to reconsider be laid upon the table.

I further ask that statements of explanation for each amendment be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

Mr. LEVIN. Mr. President, each of these amendments has been cleared by us. Many of these are amendments from this side of the aisle and of course many from the Republican side of the aisle. But they have all been cleared. We support the adoption of these amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments nos. 2783, 2791 as modified, 2792 as modified, 2823, 2867 as modified, 2904 as modified, 2907, 2909 as modified, 2923 as modified, 2976 as modified, 3017 through 3032, 3035 through 3040, en bloc, were agreed to.

Mr. LEVIN. Mr. President, I move to reconsider the vote.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2728

Mr. LEVIN. Mr. President, if I can have just 30 seconds on the Burns amendment? I want to commend the Senator from Montana on his amendment. While there may be priorities which I would give a higher priority to, including readiness, this amendment fits the needs of our military personnel and meets the tests that the Armed Services Committee has set for military construction projects.

I thank him for meeting those criteria. We try to apply those criteria across the board, and here is what they are—if I can just take 30 seconds. Each one of Senator BURNS' projects is contained in the Defense Department's Future Year's Defense Program, FYDP; they are all considered mission essential by the Defense Department; they are consistent with past Base Closure Commission decisions; and they are all projects that can be executed in fiscal year 1999.

I thank him for the care with which he has selected these quality-of-life projects. They all meet these criteria.

Mr. BURNS. Mr. President, I thank the ranking member of the committee and manager of this bill. If he hadn't developed those criteria, we could not have done what we have done in the last 2 years in taking $2 billion out of this and still provide for the needs of our military people on base. We could not have done that.

So, there are a lot of people to thank for developing those criteria, for working with us, and for having the discipline to stay within those criteria, whenever we recommend these projects. So I thank my good friend from Michigan.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, we can, I think, momentarily proceed to the rollcall votes that are still required. It is likely that at least two of them are going to be vitiated, which I think is good news to all.

I want to make certain that the McCain second-degree amendment to the Burns amendment, limited to 5 minutes under the control of Senator McCAIN and 10 minutes under the control of Senator STEVENS, is reserved, and that time is reserved for the Senator from Arizona prior to the vote on the Burns amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2808

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to the Feingold amendment with 2 minutes, equally divided.

Who yields time?

Mr. LEVIN. Mr. President, I suggest the absence of a quorum because I note the absence of Senator FEINGOLD.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WARNER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Virginia is recognized.

Mr. WARNER. We can now proceed pursuant to the unanimous consent request to the first rollcall vote.

Mr. LEVIN. To clarify the Record, the unanimous consent agreement did provide for time on the Feingold amendment, and that time was used with debate.

The PRESIDING OFFICER. The Senator is correct.

The PRESIDING OFFICER. The question is on agreeing to the Feingold amendment No. 2808. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Delaware (Mr. ROTH) is necessarily absent.

I further announce that the Senator from Arkansas (Mr. HUTCHINSON) is absent due to a death in family.

I also announce that the Senator from Pennsylvania (Mr. SPECTER) is absent because of illness.

Mr. FORD. I announce that the Senator from Hawaii (Mr. AKAKA), the Senator from Montana (Mr. BAUCUS), the Senator from Ohio (Mr. GLENN), and the Senator from West Virginia (Mr. ROCKEFELLER) are necessarily absent.

I also announce that the Senator from Oregon (Mr. WYDEN) is absent due to a family illness.

I further announce that, if present and voting the Senator from Oregon (Mr. WYDEN) would vote "aye."

The result was announced—yeas 20, nays 72, as follows:

[Rollcall Vote No. 178 Leg.]

YEAS—20

Biden
Boxer
Bryan
Bumpers
Byrd
Daschle
Durbin
Feingold
Harkin
Johnson
Kennedy
Kohl
Lautenberg
Leahy
Levin
Mikulski
Moseley-Braun
Reid
Sarbanes
Wellstone

NAYS—72

Abraham
Allard
Ashcroft
Bennett
Bingaman
Bond
Breaux
Brownback
Burns
Campbell
Chafee
Cleland
Coats
Cochran
Collins
Conrad
Coverdell
Craig
D'Amato
DeWine
Dodd
Domenici
Dorgan
Enzi
Faircloth
Feinstein
Ford
Frist
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Hagel
Hatch
Helms
Hollings
Hutchison
Inhofe
Inouye
Jeffords
Kempthorne
Kerrey
Kerry
Kyl
Landrieu
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Moynihan
Murkowski
Murray
Nickles
Reed
Robb
Roberts
Santorum
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Stevens
Thomas
Thompson
Thurmond
Torricelli
Warner

NOT VOTING—8

Akaka
Baucus
Glenn
Hutchinson
Rockefeller
Roth
Specter
Wyden

The amendment (No. 2808) was rejected.

Mr. THURMOND. I move to reconsider the vote.

Mr. WARNER. I move to lay it on the table.

The motion to lay on the table was agreed to.

Mr. LOTT. Mr. President, I thank the managers of the legislation for getting the agreement that has been entered into in an effort to get a vote at a reasonable time so we can conclude this matter before the night is out.

I ask unanimous consent the remaining votes in this series be limited to 10 minutes in length. That is, votes on the Bumpers amendment, Senator BYRD's amendment, and final passage.

The PRESIDING OFFICER (Mr. HAGEL). Without objection, it is so ordered.

Mr. WARNER. Now, Mr. President, we turn to the Bumpers amendment. We will have the 10-minute rollcall vote, preceded by 1 minute to Senator BUMPERS and 1 minute to Senator COATS.

I wish to advise the Senate that following the Bumpers amendment there will be a period not to exceed 25 minutes allocated to the following Senators to speak: Senator LEVIN, Senator SNOWE, Senator KENNEDY, Senator COATS, Senator BYRD. This is preceding the Byrd amendment. It is hoped that not all of that time will be used. So there will be a period following the Bumpers amendment, not to exceed 25 minutes.

I suggest the Chair recognize the Senator from Arkansas, Mr. BUMPERS, for the purpose of speaking on his amendment.

AMENDMENT NO. 3012

Mr. BUMPERS. Mr. President, we are embarked on buying the most expensive fighter plane in the history of the United States. As a matter of fact, three times more expensive than any fighter plane in the history of the United States, the F-22, $182 million each, $62 billion total—which will surely go to $100 to $125 billion before we are finished.

When we first started talking about it, the Air Force said we will test this plane, preproduction, 1,400 hours. In 1997, they said no, 600 hours. Now this bill says 183 hours, if the Secretary will certify a couple of little deals. You wouldn't buy a golf cart that hadn't been tested more than 183 hours.

We are going right down the B-1, B-2 lane. I can tell you, we are headed for big-time trouble. All I want to say is, not only is this plane very expensive, it is simply not going to work.

The PRESIDING OFFICER. All time has expired.

Mr. COATS. Mr. President, this may sound surprising, but the committee agrees with Senator BUMPERS. We have studied this and we absolutely have language in this bill that requires testing before we buy or before we fly. We have carefully worked out a compromise on this issue with the Secretary of Defense, Secretary of the Air Force, contractors, Members of Congress—those for the F-22 and those against the F-22—to ensure adequate testing, but also to do so in a way that doesn't add unnecessary costs—some estimated at more than billions of dollars by delayed production—by unnecessary testing. The Secretary of Defense has to certify before we can go forward.

We urge people to support the committee position. We studied this and we agree with Senator BUMPERS: More testing before we fly—but not as much as Senator BUMPERS thinks we need.

Mr. WARNER. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Delaware (Mr. ROTH) is necessarily absent.

I further announce that the Senator from Arkansas (Mr. HUTCHINSON) is absent due to a death in family.

I also announce that the Senator from Pennsylvania (Mr. SPECTER) is absent because of illness.

Mr. FORD. I announce that the Senator from Hawaii (Mr. AKAKA), the Senator from Montana (Mr. BAUCUS), the Senator from Ohio (Mr. GLENN), and the Senator from West Virginia (Mr. ROCKEFELLER) are necessarily absent.

I also announce that the Senator from Oregon (Mr. WYDEN) is absent due to a family illness.

I further announce that, if present and voting, the Senator from Oregon (Mr. WYDEN) would vote "aye."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 19, nays 73, as follows:

[Rollcall Vote No. 179 Leg.]

YEAS—19

Boxer
Bryan
Bumpers
Byrd
Durbin
Feingold
Feinstein
Grams
Grassley
Harkin
Jeffords
Johnson
Kennedy
Kerry
Kohl
Lautenberg
Leahy
Moseley-Braun
Wellstone

NAYS—73

Abraham
Allard
Ashcroft
Bennett
Biden
Bingaman
Bond
Breaux
Brownback
Burns
Campbell
Chafee
Cleland
Coats
Cochran
Collins
Conrad
Coverdell
Craig
D'Amato
Daschle
DeWine
Dodd
Domenici
Dorgan
Enzi
Faircloth
Ford
Frist
Gorton
Graham
Gramm
Gregg
Hagel
Hatch
Helms
Hollings
Hutchison
Inhofe
Inouye
Kempthorne
Kerrey
Kyl
Landrieu
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Mikulski
Moynihan
Murkowski
Murray
Nickles
Reed
Reid
Robb
Roberts
Santorum
Sarbanes
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Stevens
Thomas
Thompson
Thurmond
Torricelli
Warner

NOT VOTING—8

Akaka
Baucus
Glenn
Hutchinson
Rockefeller
Roth
Specter
Wyden

The amendment (No. 3012) was rejected.

Mr. THURMOND. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WARNER. Mr. President, we are making great progress. I think momentarily we can dispose of a request for the need for a rollcall vote.

AMENDMENT NO. 3033 AND AMENDMENT NO. 3034 EN BLOC

Mr. WARNER. Mr. President, first, I ask unanimous consent that two amendments I now send to the desk be considered, en bloc, the reading of the amendments be waived, that the amendments be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to any of these amendments appear at this point in the RECORD.

Mr. LEVIN. Mr. President, they have been cleared on this side.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments (No. 3033 and 3034) en bloc were agreed to.

The amendments are as follows:

AMENDMENT NO. 3033

(Purpose: Relating to the pharmacy benefit available under the health care demonstration projects with respect to medicare-eligible beneficiaries of the military health care system)

On page 157, between lines 13 and 14, insert the following: The Program under this Section will allow retail to compete for services in delivery of Pharmacy benefits without increasing costs to the government or the beneficiaries.

AMENDMENT NO. 3034

(Purpose: To modify the land conveyance authority with respect to Finley Air Force Station, Finley, North Dakota)

On page 342, below line 22, add the following:

SEC. 2827. MODIFICATION OF LAND CONVEYANCE AUTHORITY, FINLEY AIR FORCE STATION, FINLEY, NORTH DAKOTA.

Section 2835 of the Military Construction Authorization Act for Fiscal Year 1995 (division B of Public Law 103-337; 108 Stat. 3063) is amended—

(1) by striking out subsections (a), (b), and (c) and inserting in lieu thereof the following new subsections (a) (b), and (c):

"(a) CONVEYANCE AUTHORIZED.—(1) The Secretary of the Air Force may convey, without consideration, to the City of Finley, North Dakota (in this section referred to as the 'City'), all right, title, and interest of the United States in and to the parcels of real property, including any improvements thereon, in the vicinity of Finley, North Dakota, described in paragraph (2).

"(2) The real property referred to in paragraph (1) is the following:

"(A) A parcel of approximately 14 acres that served as the support complex of the Finley Air Force Station and Radar Site.

"(B) A parcel of approximately 57 acres known as the Finley Air Force Station Complex.

"(C) A parcel of approximately 6 acres that includes a well site and wastewater treatment system.

"(3) The purpose of the conveyance authorized by paragraph (1) is to encourage and facilitate the economic redevelopment of Finley, North Dakota, following the closure of the Finley Air Force Station and Radar Site.

"(b) REVERSION.—If the Secretary determines at any time that the real property conveyed under subsection (a) is not being used for purposes of the economic development of Finley, North Dakota, all right, title, and interest in and to the property, including any improvements thereon, shall revert to the United States, and the United States shall have the right of immediate entry thereon."; and

(c) ABATEMENT.—The Secretary of the Air Force may, prior to conveyance, abate any hazardous substances in the improvements to be conveyed.

Mr. WARNER. Mr. President, I ask unanimous consent that the Senator from Oklahoma be recognized for not to exceed 2 minutes, followed by the Senator from North Carolina not to exceed 2 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Oklahoma is recognized.

Mr. INHOFE. Thank you, Mr. President.

I yield to the Senator from North Carolina.

AMENDMENT NO. 3014, AS MODIFIED

(Purpose: To authorize, with an offset, $8,300,000 for the construction of the National Guard Military Educational Facility at Fort Bragg, North Carolina)

Mr. FAIRCLOTH. Mr. President, I ask unanimous consent to send a modified version of my amendment to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

The Senator from North Carolina (Mr. FAIRCLOTH) proposes an amendment numbered 3014, as modified.

Mr. FAIRCLOTH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment, as modified, is as follows:

On page 231, between lines 16 and 17, insert the following:

SEC. 2603. NATIONAL GUARD MILITARY EDUCATIONAL FACILITY, FORT BRAGG, NORTH CAROLINA.

(a) AUTHORIZATION OF APPROPRIATIONS.—Of the amount authorized to be appropriated by section 2601(1)(A), $1,000,000 may be available for purposes of planning and design of the National Guard Military Educational Facility at Fort Bragg, North Carolina.

Mr. FAIRCLOTH. Mr. President, this amendment is modified to provide $1 million for design money for Fort Bragg for a National Guard facility.

I yield to the Senator from Oklahoma.

Mr. INHOFE. Mr. President, if the Senator will yield, as the chairman of the Readiness Committee, we have approved this, and we appreciate very much the way that the Senator from North Carolina has been willing to go into the planning phase so that we will have a chance to go into this project in an orderly fashion. And the funding should not be a problem, because it will be used with existing funds from the National Guard.

I appreciate the cooperation of the Senator from North Carolina.

Mr. FAIRCLOTH. I thank Senator INHOFE. I thank Senators WARNER and THURMOND for their help.

Since the amendment is now accepted on both sides, the majority and the minority, I ask unanimous consent to vitiate the planned rollcall vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEVIN. Mr. President, I make inquiry of the Senator from Virginia. He and I have discussed this question. It is my understanding that the authorization here is discretionary.

No. 1, that the words "may be available" are now in instead of "shall".

No. 2, not only is it discretionary so that if the Secretary chooses to do the design, then something also will be forthcoming.

It is my understanding that this amendment is not only discretionary, but does not commit us to the construction of this project.

I want to ask the Senator from Virginia is my understanding correct?

Mr. WARNER. Mr. President, the Senator's understanding is correct.

Mr. LEVIN. I thank the Chair and thank the Senators who were involved in working this out, the Senator from North Carolina and the Senator from Oklahoma.

Mr. WARNER. Mr. President, I urge adoption of the amendment.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 3014), as modified, was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote by which the amendment, as modified, was agreed to.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. I want to commend the able Senator from North Carolina for offering this amendment. Fort Bragg is the logical place for this National Guard Armory. I appreciate his bringing this matter up. It not only concerns my State but many other States, too. The Senator from North Carolina has done a good job, and we are proud of him.

Mr. FAIRCLOTH. I thank the chairman, Senator THURMOND.

AMENDMENT NO. 3011

Mr. WARNER. Mr. President, pursuant to the unanimous consent request, we will proceed to the Byrd amendment. The 25 minutes allocated for such debate as may be required are allocated as follows:

No more than 5 minutes for Senator LEVIN, no more than 5 minutes for Senator SNOWE, no more than 5 minutes for Senator KEMPTHORNE, no more than 5 minutes for Senator COATS, and, the concluding speaker, no more than 5 minutes for Senator BYRD.

Mr. LEVIN. Reserving the right to object, I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WARNER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Mr. President, I suggest we proceed to the debate on the amendment.

The PRESIDING OFFICER. Who seeks recognition?

Mr. WARNER. Mr. President, the order designated by my unanimous consent request—and I now ask that that be adopted. I don't think there is an objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Michigan.

Mr. LEVIN. Mr. President, in addition to the five speakers noted, I would add a request on that unanimous consent that Senator ROBB of Virginia be granted 3 minutes.

The PRESIDING OFFICER. Is there objection?

The Chair hears none, and it is so ordered.

Mr. LEVIN. Mr. President, the amendment before us goes beyond the amendment which we considered yesterday.

Yesterday, there was a debate on an amendment of Senator BROWNBACK which related to the question of barracks. The amendment before us today revisits that issue, and I will come to that in a moment. It goes beyond that to require segregated training for our recruits. This is not a pure revisit of yesterday's amendment that was offered by the Senator from Kansas. We are now talking about both the barracks issue and the requirement in the Byrd amendment for segregated training.

Now, our top uniformed officials have written us strongly opposing this amendment. In a moment I am going to read from the letter of the Chief of Staff of the Army, General Reimer, who wrote to STROM THURMOND, our great chairman, on May 19, about this issue. But before I quote from his letter, I want to emphasize that what we are being told here is not a matter of political correctness; this is a question of a commander's responsibilities that General Reimer is talking to us about. And this is what General Reimer wrote:

> The company commanders of the training companies are responsible for everything their units do or fail to do. Segregating their units—

Segregating their units—

> into gender-unique platoons for training and billeting the soldiers by gender in separate buildings will degrade the commander's ability to command and control his or her unit. We do not want to make the commander's responsibilities more difficult or the drill sergeant's duties more challenging than they already are.

This is part of a letter from General Reimer.

Now, the top enlisted members of each of the services, each of the services—and these are the senior advisers relative to the welfare of enlisted members—have written us on June 17 saying the following:

> Each time our Nation has asked the Army, Navy, Air Force or Marines to do a job, it has been done. Men and women soldiers, sailors, airmen and Marines accomplish the tasks asked of them every day in places like Bosnia, Haiti, southwest Asia, and the Far East. Their many successes in our gender-integrated, all-volunteer force is a direct result of the training the services currently provide.

A direct result of the training that these recruits get—and that training is gender-integrated training.

This amendment would end that—not only end it against the recommendation of our top uniformed officials and officers; it would end it prematurely and precipitously.

Last year, we appointed a commission, the Congress appointed a commission. We picked 10 people on this commission to review the recommendations of the Kassebaum commission. That was our choice, and those citizens are now serving. They are serving at our request, reviewing the very recommendations that this amendment would put into law before that review can take place.

I want to read from that part of last year's defense authorization bill. It says that the commission—again I emphasize, the commission that we created, we put into place, we appointed—this commission shall:

> Consider issues regarding the personal relationships of members of the Armed Forces as follows:

And No. 3 is:

> To assess the reports of the independent panel, the Department of Defense task force, and the review of existing guidance on fraternization that has been required by the Secretary of Defense.

Just last year we created a commission, and one of its explicit duties is to review the Kassebaum commission's recommendations. A number of those recommendations are not acceptable to the uniformed military, including the ones relative to training.

The PRESIDING OFFICER (Mr. ALLARD). The Senator's 5 minutes have expired.

Who seeks recognition?

The Senator from Virginia.

Mr. WARNER. Mr. President, under the unanimous consent request, Senators LEVIN, SNOWE, KEMPTHORNE, COATS, and BYRD are allocated time not to exceed 5 minutes.

Mr. LEVIN. Mr. President, I believe we had an understanding informally that that time would be alternated between persons in opposition and support, so that someone in support of the Byrd amendment, it seems to me, should now be the person recognized.

The PRESIDING OFFICER. Who seeks recognition?

Mr. WARNER. I say to the Senator from Michigan, I think we had better proceed and the Senator from Maine is now next.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Ms. SNOWE. I thank the Chair.

The Byrd amendment goes even further than the amendment that was offered by the Senator from Kansas last night which we rejected by a vote of 56 to 37.

The Byrd amendment would essentially eliminate all gender-integrated training at basic levels. The decision we made last night was to uphold the congressional commission that was created on military training and gender-related issues to complete its assessment and to report back to this Congress in March of 1999.

This commission was created by Congress last year with the active cosponsorship of the Senator from West Virginia—in fact, in deference to the position he held on the issue of gender-integrated training. This commission is made up of 10 distinguished individuals who are selected by both the Armed Services Committee of the Senate and the House National Security Committee that will examine a myriad of gender-related issues and the relationship that gender-integrated adds to our performance levels, to readiness and cohesion and to the morale of our All Volunteer Force. Will we permit this panel of experts to deliberate on the views and the experiences of the commanders in the field, or are we going to decide this evening to legislate with an instant result through the Byrd amendment that defies the views of the Secretary of Defense, to the service chiefs of the Air Force, the Navy and the Army, the training commanders of the Army, the Navy and the Air Force, the senior noncommissioned officers of the Army, the Navy and the Air Force, or the Association of the U.S. Army, or every active duty service member who has testified before the Senate Armed Services Committee over the last 2 years.

Yesterday, we chose the path of deliberation by a commission of our own design, rather than imposing on the military another set of regulations without the benefit of testimony from the field.

The position of many of the military, including all of our top level military officers, support gender-integrated training, because they believe it is an anchor of that readiness. Far from an invention of social policy activists, they recognize that it is an absolute necessity in a military that cannot maintain an effective and efficient volunteer force without the contributions of our women in uniform. And it is a force multiplier, teaching service members the blend of operational skills, the codes of personal behavior necessary to our gender-neutral position, which is to win wars.

Last night, we upheld the integrity of the commission that was created by this Congress.

Mr. BYRD. Mr. President, may we have order? There are too many conversations going on.

The PRESIDING OFFICER. The Senate will come to order.

Mr. BYRD. The Senator is entitled to be heard.

Ms. SNOWE. I thank the Senator.

The PRESIDING OFFICER. The Senator from Maine will proceed.

Ms. SNOWE. Last night, we upheld the decision to uphold the integrity of the commission that we created that includes two retired Marine Corps generals, a retired master sergeant, two military sociologists, the former Assistant Secretary of Defense for Force Management and the former Assistant Secretary of the Navy for Personnel.

I urge Members of this Senate to reject the Byrd amendment and to support the views of those of us, including the Senator from West Virginia, that we should have a commission to provide an independent evaluation and analysis of gender-integrated training, and the importance of it to the readiness and the cohesiveness of our armed services.

I urge the Senate to reject the Byrd amendment, that we confirm the action that was taken last year by this Congress, which was to create this commission, and to reaffirm the vote that was taken last night to support the commission in its work and to report back to this Congress. I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

Mr. WARNER. Mr. President, the Senator from Idaho has 5 minutes.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. KEMPTHORNE. Mr. President, I offer my comments in my capacity as the chairman of the Senate Armed Services Committee, Subcommittee on Personnel. I have the utmost and profound respect for Senator BYRD, a man of tremendous integrity and motivation.

Last year, when we established the commission that would deal with these issues that are very critical issues dealing with the military, the legislation which established it was an amendment that was crafted by Senator BYRD and by myself. I cannot turn my back on that commission at this point.

A few weeks ago, there was a situation among those very talented commission members where some of them walked away. It looked as though the commission was going to collapse. I met with them, Senator CLELAND met with them, Congressman BUYER met with them, and we urged them, because of the magnitude of the issues that they would be dealing with, that they come back together, give us guidance.

For me to now say once you have been put back together, we are going to go ahead now with legislation, hope you concur—I really think if we go forward with this, we ought to consider disbanding the commission.

Last night, in the course of debate, Senator ENZI made a very interesting point, and that was with regard to how many meters a grenade could be thrown and the standards by which a female would be required to throw the grenade versus how many meters a male soldier would be required to throw the grenade, and that there were differences and should there be differences.

I ask my colleagues in the U.S. Senate, do you want to get into that debate? Do you really think we ought to be getting down to the details of how many meters a grenade should be thrown by a male soldier versus a female soldier, or are we going just a little too far in micromanaging? That is my concern. That is why on this commission we have outstanding individuals. We have retired Marine Corps generals, a sergeant major from the Army—we have folks who have been there. The physical training—how many push-ups should a man do versus a woman? Do you want to debate that? Do you want to get into that detail?

We have a commission that has been appointed to do this. If that is not what we intended, the wisdom of this body that last year affirmed that commission, then we should have said so. We should have had this debate last year. We should have been up front about it, because if we are going to do this, if I were a commission member, I would say, "Here's my resignation."

I don't think that is what we are about, Mr. President. One of the things which I mentioned to that commission in the charge is do not ever, ever consider delivering to us, to this U.S. Senate, to the House of Representatives, what is, in your estimation, politically correct. We do not want to know what is politically correct with regard to the military of the United States. You tell us what is militarily correct for those men and women who wear the uniform. Don't tell us what is politically correct. This is not a social laboratory. This is the military. The courts have upheld that it is the military and things can be different.

So let's do what is right, and let's not now make this U.S. Senate the governing body of all the details of how far the grenade should be thrown by a female soldier versus a male soldier, how many sit-ups they should do. We can enact the overall policy, but we have put talented people in place in the commission to do so.

Please do not undo what you did last year. If you do, then ask yourselves, were we wrong last year? Was this deliberative body wrong, and we are admitting a mistake? I don't think so.

I must, again, in my capacity as the chairman of the Personnel Subcommittee, support the commission which I helped create, because I have a belief that they will come back with recommendations which may well totally affirm what Senator BYRD is advocating tonight, totally affirm what Senator BROWNBACK was advocating last night, perhaps even farther. But unless you want to get into how far to toss a grenade, I ask you not to pull the pin here tonight. And with that, I respectfully and regretfully have to oppose Senator BYRD's amendment.

Mr. President, I yield the floor.

Mr. COATS addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. COATS. Mr. President, this is an emotional subject, a difficult subject. I am former chairman of the Personnel Subcommittee and still a member of that subcommittee. And it is an issue at which I have looked and studied and struggled with for some time.

I have come to an opposite conclusion of some of my friends, and I want to tell you why I have. First of all, everyone needs to understand the Byrd amendment is not an effort to return to segregated military units. It is simply designed to say that at that initial entry point, we are dealing with a situation that involves young people, many coming out of very disruptive backgrounds, many in a very vulnerable position. And we have seen—tragically seen—some exploitation of that, which is wrong and absolutely needs to be handled in the most direct way and that sends out a very clear signal that we have zero tolerance on this. But I want to make clear, nevertheless, that the situation we are dealing with in this amendment is with young people at their initial entry point.

Now, we do not need another commission. We enacted a commission because I think a lot of Members did not have any faith that the DOD-appointed commission would give an objective view.

I think everyone was surprised, including the Secretary of Defense, when the commission, led by our former colleague, Senator Kassebaum, came back with the conclusion and the recommendation that we ought to have segregated training at that initial entry point, and then that a merger of those two separate units of male and female trainees at the next level of their training. The question is, Why? Why did that commission come back with that recommendation to the surprise of everyone, including, I think, the Secretary of Defense?

The reason is that the Kassebaum commission went and visited those same sites that I have gone and visited. And they talked to female and male trainees, and male drill instructors and female drill instructors. And they came away with the inescapable conclusion that I think any of us would, or at least most of us would if we went and asked the females, asked the women and men, asked the people at that initial entry point what they preferred, what they thought worked, what was best?

I went to Fort Jackson where the Army trains with integrated male-female training. About 30 percent of the females do not have female drill sergeants in their platoons. They have all male drill sergeants. And those females said, "We want female drill sergeants." Then I went to Parris Island, and at Parris Island, the female marines said, "This is the best thing that ever happened to me to be associated with a mentor who can provide me guidance as a young lady in how to deal with these questions, how to deal with these kinds of decisions, how to deal with these tough situations, how to deal with this pressure, how to deal with this demanding training. It prepares me."

I cannot say it better than the letter that was forwarded by a female corporal in the Armed Forces. And it reads:

> Sir: . . . This is very distressing news to me and my fellow women marines. There is no way I would ever have made it through basic training with men present. I experienced mixed boot camp for just a few days while in basic training. It was the worst training days we had. I am all for equality, but this is madness. With no disrespect to the Army, the problems they have had [ought to] be proof [of this madness]. I can honestly say that if I had it to do over again and basic training was mixed gender, there is no way I would do it. I would not make it, not with the level of dedication and concentration it took when there were only females. I can't imagine having to deal with the underlying sexual tension, the jealousy, and unconscious way I would feel every day.

I am convinced that any of us who would take the time to go and visit the women marines in their initial training at Parris Island would feel as proud as any American would ever feel about the abilities of women coming out of sometimes very, very difficult situations, gaining the self-esteem and bonding together with their female drill instructors and each other, and being prepared to move on to that next stage in their training.

And if you listened and asked them, literally to a person, they told me—this entire company of women marines told me—"This is the way it ought to be initially. Then we're prepared to move on in our advanced training and integrate with the men. But we wouldn't give up this experience for anything in the world. This is the way we ought to be trained."

The Marine Corps model is a model that works. It has demonstrated its effectiveness. The other services are struggling to make it work, without the requisite number of female instructors, and with a very uncomfortable situation.

So why not take a model that works and why not follow the recommendations of the commission that has already been in place, appointed by the Secretary of Defense, headed up by our former colleague, Senator Kassebaum, which I do not think anybody thought had a bias in favor of separated training going in, but came away, after their exhaustive experience in examining all of the training camps for all of the services, and came away with the inescapable conclusion that we ought to have gender segregation at the initial entry training level. That is what the Byrd amendment is about. I urge my colleagues to support it.

The PRESIDING OFFICER. Who seeks recognition?

Mr. ROBB addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. ROBB. Mr. President, I thank you.

I understand the concerns that have been expressed by our colleague from Indiana and that undoubtedly underlie the concerns expressed by the distinguished senior Senator from West Virginia. I, too, had occasion recently to visit the marines who were training in Parris Island. And I talked with the women marines who were completing their training, completing the crucible.

I do not think there was a more inspiring experience that I have had in recent years than being with them at the first light in the morning as they marched out with their separate training under those circumstances. As a former marine, I could not have been prouder. And I do not want to see us do anything to attempt to change either the culture or the success of the training program that the Marines engage in.

But I do not want to see us change the culture or the success of the Army program or the Navy program or the Air Force program at this point either. I also had occasion to visit Fort Jackson and talked to the young women and young men who were undergoing training at both Fort Jackson and at Parris Island.

I talked to the drill sergeants and the drill instructors. And neither program is entirely without some challenges, and indeed there was a significant challenge at Fort Jackson with respect to separation. That has been addressed by the Secretary of Defense. And many of the recommendations that were made by the Kassebaum-Baker commission were good and have already been implemented or are in the process of being implemented.

But the bottom line is, we established a commission, as mentioned by

Senator KEMPTHORNE, to review those recommendations. I personally believe at this point, although I was skeptical at the outset, that I would prefer to see us take a step back and let the services make these determinations. But at the very least, I do not want to see us prematurely require the services to make changes that the service chiefs, the senior enlisted members of those services do not believe are in their best interests.

And the kind of training and esprit which was clearly evident at Parris Island, but also evident at Fort Jackson, and in talking to the young women in training, as well as the drill sergeants—they liked the kind of training that they were engaged in. They thought it was successful.

I hope that this Senate will consider the amendment that we dealt with last night by Senator SNOWE from Maine. I think we made the right decision on that occasion. I hope this evening it will be the pleasure of the Senate not to pass this particular amendment, and allow our commission to make their report. Then we can take the actions that are appropriate under the circumstances.

With that, Mr. President, I thank the chairman and yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. BYRD. Mr. President, I respect the viewpoints of all of those who have spoken, those who are opposed to my amendment as well as those who have spoken in support of it.

When I read and heard about the problems that were existing in the military, I stated publicly that I was going to seek, in the Armed Services Committee, to establish a commission to look into the matter. Whereupon, I am not implying that Mr. Cohen appointed his commission because I said that, but he did appoint the commission on his own, or indicated he was going to appoint a commission.

I looked with some askance at a commission that would be appointed by the Secretary of Defense to look into this matter. So he proceeded to appoint that commission. I was surprised that he appointed Nancy Kassebaum-Baker as chairman of that commission. He appointed a good commissioner.

So I had approached the matter by pushing for an amendment that would create a commission. Mr. KEMPTHORNE and I joined in that. But I was suspicious of any commission that would be appointed within the administration by the Secretary of Defense—not that it was the particular Secretary of Defense, but I wanted to establish a fox to watch the chickens.

As it turned out, the commission that the Secretary appointed was a good one. It made some excellent recommendations, but by then we had already decided to appoint our commission.

Now, there are those who say we should wait on the commission that we appointed. The Kassebaum commission is a commission of high integrity. We know the former Senator who served from Kansas, Nancy Kassebaum. We know that she was a great Senator of integrity and one who worked with high purposes. We all believed in her, and I believed in her commission.

So I think that we ought not wait on the commission now that I helped to establish to keep an eye on the commission, that the Defense Secretary had indicated he was going to appoint. The Kassebaum commission has rendered its recommendations, and my amendment would put into effect the recommendations of the Kassebaum commission. My amendment would conform to the language of the House, the House language, so when the conferees go to conference, if my amendment is adopted, this will not be a question in conference because the Senate language will conform to the House language.

So there are those who have urged that our colleagues vote against my amendment in order to preserve the integrity of the Senate commission on gender-integrated training, which will not issue its report until next year. Mr. President, I suggest to my colleagues that it is better to preserve the integrity of our Armed Forces and to preserve the integrity and safety of our young recruits.

Let us not delay the process of implementing changes recommended by former Senator Kassebaum-Baker and the commission that she headed, a commission established by the Secretary of Defense. Let us not delay making changes that will improve the discipline, the teamwork, the cohesion of our military forces. Put these young recruits in separate barracks, train them separately until they have been instilled in the military discipline that will allow them to work together as strong, confident, and effective teams, and keep them focused on the job at hand. Let us not put this off for another year, waiting for the Senate commission to report. The Senate commission's purpose is not undermined by this action. It may make further recommendations regarding the problems faced today with mixed-gender training that the Secretary may want to adopt.

It is also tasked with examining other areas, including fraternization policies in the various services which clearly, clearly, also merit review and possible change. There is plenty of work for the Senate commission still to do. The Senators have noted in their remarks that senior military officials all supported keeping mixed-gender training just the way it is. But our colleagues have failed to note that not all of our military services support mixed-gender training from day 1. The Commandant of the Marine Corps testified before the Armed Services Committee that the Marine Corps had decided to keep their basic training segregated.

I think most of my colleagues would agree that the Marine Corps has arguably the greatest discipline, the greatest order, and the greatest unity cohesion of any branch of service. I think it is time that the other services model themselves after this successful example.

I urge the adoption of my amendment.

The PRESIDING OFFICER (Mr. DEWINE). The question is on the amendment.

Mr. WARNER. Does the distinguished Senator from West Virginia desire the yeas and nays?

Mr. BYRD. Yes.

Mr. WARNER. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. WARNER. Could the distinguished ranking member—I do have one small matter.

AMENDMENT NO. 3041

Mr. LEVIN. Mr. President, we ask unanimous consent an amendment of Senator MURKOWSKI be sent to the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Michigan [Mr. LEVIN] for Mr. MURKOWSKI, proposes an amendment numbered 3041.

The amendment is as follows:

No later than December 1, 1998, the Secretary shall submit to the Congress a report recommending alternative means through which a refiner that qualifies as a small disadvantaged business and that delivers fuel by barge to Defense Energy Supply Point-Anchorage under a contract with the Defense Energy Supply Center can—

(a) fulfill its contractual obligations,

(b) maintain its status as a small disadvantaged business, and

(c) receive the small disadvantaged business premium for the total amount of fuel under the contract,

when ice conditions in Cook Inlet threaten physical delivery of such fuel.

Any inability by such refiner to satisfy its contractual obligations to the Defense Energy Supply Center for the delivery of fuel to Defense Energy Supply Point-Anchorage may not be used as a basis for the denial of such refiner's small disadvantaged business status or small disadvantaged business premium for the total amount of fuel under the contract, where such inability is a result of ice conditions in Cook Inlet as determined by the U.S. Coast Guard. Through February 1999; and if the Secretary of Defense determines that such inability will result in an inequity to the refiner.

Mr. LEVIN. Mr. President, it is agreeable on this side, as I think it is on the other side.

Mr. MURKOWSKI. My understanding is, it is cleared by both sides.

Mr. LEVIN. I ask unanimous consent when that amendment is sent to the desk it be considered read, it be considered passed, reconsidered, and tabled.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 3041) was agreed to.

Mr. WARNER. I wish to advise the Senate that following the rollcall vote, 10 minutes on the Byrd amendment, we now turn to the Burns amendment pursuant to—I am reciting the existing unanimous consent order relative to MilCon—5 minutes equally divided, a McCain second-degree amendment to the Burns amendment, with Senator McCAIN recognized for 5 minutes and Senator STEVENS recognized for 10 minutes.

My understanding is, in all likelihood there will not be a rollcall vote as a consequence of these statements by our colleagues.

Following the disposition of the Burns amendment, I ask unanimous consent that the majority leader and the minority leader be recognized for such period as they desire to address the Senate and then we proceed to final passage.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. Reserving the right to object, Mr. President, I earlier filed two amendments concerning the authorization of funds for continuing the peacekeeping mission in Bosnia.

After discussions with the distinguished manager's of the bill, I will not call up those amendments on this bill.

The President's budget did not present any request for funds for the Bosnia mission for FY 1999. The Congress received a supplemental budget amendment requesting $1.858 billion for Bosnia operations.

After four years, there is little merit in treating Bosnia costs as an "unforeseen, emergency requirement" as required by the Budget Act.

I do not oppose the mission in Bosnia. On a visit to Tuzla last month, the delegation that I and Senator INOUYE led were much impressed by the commitment and morale of the army forces deployed to Bosnia.

Major General Ellis deserves much of the credit for the recent success of this mission.

Despite these positive indicators, we face dealing with Bosnia costs again this year without a clear plan for the size of the force, OPTEMPO levels or future mission objectives.

Further, no decisions have been made about the future funding for Bosnia in the five year budget plan now under consideration by the Department of State.

Many of us agree we need more money for defense. The army cannot continue the Bosnia mission without additional funds.

As the Senate proceeds to the Defense appropriations bill for 1999, we will have to consider further the approach the Senate will take for Bosnia.

If our forces are to remain, and potentially face additional responsibilities for Kosovo, we must decide how much we are prepared to spend, and whether these amounts will come from within the current defense caps, or with additional real appropriations.

I appreciate the willingness of the managers to provide me this opportunity to discuss these amendments, and for their concern about the impact of Bosnia on the well-being of the men and women of the Armed Forces.

VOTE ON AMENDMENT NO. 3011

The PRESIDING OFFICER. The question occurs on the Byrd amendment. The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. NICKLES. I announce that the Senator from Delaware (Mr. ROTH) is necessarily absent.

I further announce that the Senator from Arkansas (Mr. HUTCHINSON) is absent due to a death in the family.

I also announce that the Senator from Pennsylvania (Mr. SPECTER) is absent because of illness.

Mr. FORD. I announce that the Senator from Hawaii (Mr. AKAKA), the Senator from Montana (Mr. BAUCUS), and the Senator from Ohio (Mr. GLENN) are necessarily absent.

I also announce that the Senator from Oregon (Mr. WYDEN) is absent due to family illness.

I further announce that, if present and voting, the Senator from Oregon (Mr. WYDEN) would vote "no."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 39, nays 53, as follows:

[Rollcall Vote No. 180 Leg.]

YEAS—39

Abraham
Ashcroft
Bennett
Brownback
Bumpers
Burns
Byrd
Campbell
Coats
Conrad
Coverdell
Craig
DeWine
Enzi
Faircloth
Ford
Frist
Gorton
Grams
Grassley
Gregg
Hatch
Helms
Hollings
Inhofe
Inouye
Kyl
Lott
McConnell
Moynihan
Murkowski
Nickles
Roberts
Santorum
Sessions
Shelby
Smith (NH)
Stevens
Torricelli

NAYS—53

Allard
Biden
Bingaman
Bond
Boxer
Breaux
Bryan
Chafee
Cleland
Cochran
Collins
D'Amato
Daschle
Dodd
Domenici
Dorgan
Durbin
Feingold
Feinstein
Graham
Gramm
Hagel
Harkin
Hutchison
Jeffords
Johnson
Kempthorne
Kennedy
Kerrey
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lugar
Mack
McCain
Mikulski
Moseley-Braun
Murray
Reed
Reid
Robb
Sarbanes
Smith (OR)
Snowe
Thomas
Thompson
Thurmond
Warner
Wellstone

NOT VOTING—8

Akaka
Baucus
Glenn
Hutchinson
Rockefeller
Roth
Specter
Wyden

The amendment (No. 3011) was rejected.

Mr. THURMOND. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3010

The PRESIDING OFFICER. Under the previous order, the Gramm amendment numbered 3010 is agreed to.

The amendment (No. 3010) was agreed to.

AMENDMENT NO. 3016

Mr. LOTT. Mr. President, I understand now that there is one other amendment that will be disposed of without a recorded vote, and then we would be prepared to go to final passage.

But before we do that, I think it is appropriate that we pause just for a few minutes so that Senator DASCHLE, and I, on behalf of the entire Senate, can express our appreciation and our admiration for the distinguished chairman of the Armed Services Committee.

All Senators who would like to express their appreciation and their affection for this distinguished Senator should feel free to do so after the vote on final passage, and put their remarks in the RECORD. I know that every Senator will want to do that.

But I think it is appropriate that we name this bill the "Strom Thurmond National Defense Authorization Act of 1999." Just think for a minute what this man has done. He is truly one of the legends of the last half century in this country. Certainly he has had a profound impact on the U.S. Senate, with his perserverance, his unfailing gentlemanliness, his respect for each one of us, the institution, and his strong feelings about the importance of national defense for our country.

This is a man who has served in a way that probably would take six others of us to even come close to. He was a two-star major general. He was in the Army Reserve after he served in World War II, where he was a hero, having crashed behind enemy lines. He was a judge. He is an author, an attorney, a schoolteacher, Governor, Senator, and Presidential candidate.

In short, in my opinion, he is "Mr. Defense" in the Senate. I think that after all he has done for us as individuals and for this country that it is appropriate tonight that we express our appreciation to him for his leadership, for the tremendous job that he does in getting these important bills through the Senate. They are never easy. The defense authorization bill always takes time and effort. But he is here ready to do battle for what he feels so strongly about—and that is the defense of our country.

So, Senator THURMOND, we thank you for what you have done for this country. We thank you for what you have done in this Senate, and it is a great honor for me to join others in supporting the naming of this legislation in your honor.

Thank you, sir.

I yield the floor.

(Applause, Senators rising.)

Mr. THURMOND. Thank you very much.

The PRESIDING OFFICER. The minority leader.

Mr. DASCHLE. Mr. President, I wish to join the majority leader in this tribute this evening and in cosponsoring the amendment to name the 1999 defense authorization bill after the distinguished chairman.

Senator THURMOND joined the Armed Services Committee in January 1959, during the 86th Congress. He has served continuously for 40 years on the committee since then, a truly remarkable achievement.

When Senator THURMOND joined the committee, its membership, included a number of Senators who would go on to greatness, and whose names would become synonymous with a strong national defense: Richard Russell, John Stennis, Henry Jackson, to name a few.

Over the past 40 years, Senator THURMOND's name has become synonymous with a strong national defense.

A lot has certainly changed over the 40 years that our chairman has been on that committee.

One of the first bills the committee addressed in 1959 was a bill to extend the draft. Today, of course, we rely on volunteers—both men and women—to man the force.

When Senator THURMOND joined the committee, the cold war was raging, and the flash points of the Cuban missile crisis was just a few years away. Today, of course, with the collapse of the Soviet empire, the cold war is largely a matter for the history books, and the military is repositioning itself to meet the challenges of the next century.

During Senator THURMOND's tenure on the Armed Services Committee, our Nation's military has responded to the challenges of every sort in every corner of the globe: Western Europe, Vietnam, Middle East, the Caribbean basin, the Persian Gulf, and today in Central Europe.

His steadfast commitment to national defense, and to the men and women in uniform, has been instrumental in ensuring that our military has always been ready to answer the call whenever and wherever needed.

From the day he was first commissioned as a Reserve second lieutenant in 1924 until today where he serves as the chairman of the Committee on Armed Services, STROM THURMOND has dedicated his life to national service and America's military.

I don't know of a more fitting tribute or a more fitting way with which to say thank you to this leader, to this patriot than to name the defense authorization bill after him tonight.

On behalf of all of our colleagues, I congratulate our chairman, STROM THURMOND.

(Applause, Senators rising.)

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, words cannot express how I feel. I thank the majority leader and the minority leader for those kind words.

It has been a pleasure to serve in the Senate and serve on the Armed Services Committee all these years. We have the greatest country in the world. And what is more important than national defense, preserving this Nation that serves us all so well, gives us more freedom, more liberty than any country in the world?

I thank from the bottom of my heart Senator LOTT, the distinguished majority leader, and the distinguished minority leader for what he had to say. And I thank all of you for your cooperation. We could not have gotten through this bill or all the other bills in the past without your cooperation. Every one of you are true patriots. We are proud of you.

And, again, all I can say is thank you, thank you, thank you.

(Applause, Senators rising.)

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. I urge the adoption of the Warner-Levin-Lott-Daschle amendment.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 3016) was agreed to.

Mr. WARNER. Now, Mr. President, the remaining item prior to final passage is the Burns amendment, and according to the unanimous consent request relative to MilCon, 5 minutes equally divided, McCain second-degree amendment to the Burns amendment, Senator MCCAIN recognized for 5 minutes, and Senator STEVENS not to exceed 10 minutes.

Mr. BURNS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

AMENDMENT NO. 2728

Mr. BURNS. Mr. President, we offered this amendment earlier in the evening, and we gave our points as to why this addition of 22 new projects is being put on the defense authorization.

These are quality-of-life projects. All of them stood the criteria of being added and requested by the Defense Department, and so we added them, because if there is one thing that we are noticing as we visit our bases around this country and around the world, it is a deteriorating quality of life and also the retention—keeping some of our most skilled military people in place.

So in this bill, all these projects have passed the criteria. They are for child care centers and health care centers, living quarters, and dining facilities and recreation facilities that have been requested by our military.

I thank the managers for accepting this, and I yield the floor.

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I will be brief; the hour is late.

We have presently, Mr. President, 11,800 families who are eligible for food stamps. We have a hemorrhaging of qualified men and women out of the military. We are now dropping down, as far as our standards for recruiting, to a lower level than any time since the Vietnam war.

All objective observers recognize that we are not modernizing our force, nor are we maintaining a level of readiness that is necessary obviously to carry out our responsibilities. And what we are finding more and more is an increasingly dangerous world. So when, as happens around here from time to time, $200 million was found and appeared, of course one might suppose that those pressing issues might be addressed. But, no; they came up with a list of 22, guess what, MilCon projects.

I looked at the MilCon projects and examined them and had some study done by experts, and I could find only one commonality to these projects, and that is that 90 percent of them happened to be in the State or districts of members of the Appropriations Committees.

I also found out that the Army got nine projects, one of which was on the unfunded priority list of the Chief of Staff of the Army. Two projects were removed from the original amendment because they could not be completed in the Future Years Defense Plan. So did the committee go to the list of priorities to find the next two most deserving projects? No. They found two other low priority projects from the same State.

The Air Force had 40 items of higher priority projects on this list, only 40, about $2 billion worth of projects which were assessed by the Air Force to be a higher property. The Army had nearly $2.5 billion worth of higher priority projects than any of these projects. The Navy's list of unfunded priorities totaled $2.1 billion. Funding anything on the unfunded priority list of the Chief of Naval Operations would have been a higher priority since not one of these projects—not one—was on the list of the Chief of Naval Operations.

The facts here are very interesting: 67 percent of the 27 projects were not scheduled to be funded until the last 2 years of the Future Year's Defense Plan.

As I said before, not a single one was on the priority list of the Navy. None of the Air Force's top six unfunded quality-of-life projects made this list. Only 1 of the top 15 did. Ninety percent, as I mentioned, of the construction projects in the amendment are to be built in the States or districts of Senate and House Appropriations Committee members.

Half of the added projects are for the Air Force. The Air Force is a fine, fine service, my friends, but it is the service that claims it will be able to meet the new one-plus-one barracks living standard a full 10 years ahead of any of the other services.

The Marine Corps gets one project—one project—and it was second to the last on the Commandant's list. This is a service that will take nearly 40 years to meet the same standard as the Air Force 33 years after the Air Force. The Navy gets 25 percent of the total number of projects and 14 percent of the money. What is more egregious is the fact that the Navy won't get one priority project that the Navy asked for.

Mr. President, these are quality-of-life projects. The Senator from Montana is right. But no objective observer can view this list as in any way addressing first the requirements of the military and much needed improvements in the military, much less the military construction projects that are needed.

Mr. President, as I have said at the beginning of my comments, we live in a very dangerous world. We will have some serious foreign policy crises. I am not sure we have the military that is capable of meeting some of these foreseeable threats, but I know that what we are doing with this $200 million will not do a single thing to improve our ability to meet that threat.

I yield back the remainder of my time.

Mr. ROBB addressed the Chair.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, does the Senator from Virginia seek time? There is only 10 minutes remaining. Does he seek time?

Mr. McCAIN. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has used his time.

Mr. STEVENS. I do seek to understand if the Senator from Virginia wishes to have some of the 10 minutes. I would be happy to yield some time.

Mr. ROBB. If the Senator from Alaska would be kind enough to yield me 30 seconds.

Mr. STEVENS. I yield the Senator 30 seconds.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. ROBB. I thank the Chair, and I thank my friend, the Senator from Alaska.

I simply remind our fellow Senators that the force structure and end strength of our armed services have been cut 30 percent in recent years. Our overseas commitments have increased significantly. Our funding for procurement is down 70 percent. If we are going to support the soldiers, sailors, airmen, and marines who protect this country, we need to make certain that we provide for the kinds of priorities that will support them. And I join my friend from Arizona in being a scold on this particular issue. I know it is popular, but we are not doing enough to provide the kind of support that we need for our services today. This is popular, but it is not the right kind of priority.

I thank the Senator from Alaska.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, military construction is down $2 billion from 2 years ago. It is down $700 million from last year. This is not an increase. To the contrary.

I do want to assure my friend from Arizona, if there was some test that these projects had to be for members of the Appropriations Committee, I can assure him there would be one for Alaska. There are none for Alaska on this list. This is not a pork list. This is a list that was prepared by our staff, the staff of the subcommittee headed by Senator BURNS and part of the full committee staff working with the staff from the Pentagon to find quality projects that could be commenced in this next year that are ready to go.

We have, I think, a very good list. In times gone by, people have said we should not proceed with these projects unless they are authorized, so we brought this amendment to this authorization bill to be sure they would be authorized.

This is not an increase. We still will be $700 million below 1998 and $2 billion lower than 1997. I urge that Senator BURNS' amendment be adopted.

I yield back the remainder of our time.

Mr. KERRY. Will the Senator yield?

Mr. STEVENS. I yield to the Senator from Massachusetts 1 minute, if he wishes.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I want to share with colleagues the feelings expressed both by the Senator from Arizona and the Senator from Virginia. In the course of the last months, I heard from an extraordinary number of our people in uniform who are increasingly pressured in ways that I think a lot of us have not necessarily been particularly sensitive to or yet taken into account.

The operations pace, the pace of employment is such that even those Reserve units that get called up and taken over to whether it is Bosnia or elsewhere, find themselves reassigned in certain ways that suddenly put them out on unemployment again.

The tension on families is having a profound impact on morale through all the services. But in addition to that, the retention rate for some of our most highly trained, highly skilled personnel is on a rapid declining trend.

I think we have an enormous amount of bipartisan thinking to do about how we are going to address this new structure and these new demands. It is service by service. The Coast Guard—Admiral Kramek, who retired a few weeks ago, made very profound comments about the tensions in the Coast Guard with the increased duties they have. I think that is service to service.

I simply say this is something we need to consider. It has a profound impact on all of us, and I suppose we will.

I guess the other question I have is how the other 10 percent got in there.

Mr. STEVENS. I only yielded 1 minute. I am sorry. I will only say this: The most important thing in retention is quality of life and treating military families properly. These are projects that are all quality-of-life projects. We do not have any pork in this amendment.

The Senator from Washington wishes to have time. Let me yield to the Senator——

The PRESIDING OFFICER. The Senator has 6 minutes 32 seconds left.

Mrs. MURRAY. I ask for 1 minute.

Mr. STEVENS. I yield the Senator 1 minute.

Mrs. MURRAY. Thank you, Mr. President. As the ranking member on military construction, I assure my colleagues that we have worked very, very carefully this year to go through the numerous requests and the needs of the military. We are extremely aware of the quality-of-life needs of our military, and they are reflected in this amendment that is before us.

This amendment adds child-care centers, inadequate housing conditions, old dining facilities and lack of physical fitness centers. These are quality-of-life issues.

I have traveled out and talked to men and women on the military bases. These are the issues they are asking us to address, and these are the ones that are addressed in this amendment. We worked very carefully in a bipartisan way to put these forward. I assure my colleagues we have done it in a fair manner with the needs of the quality of life of our men and women in the military in mind.

Mr. STEVENS. Mr. President, during the last recess, I took a group of our people to Kuwait, Saudi Arabia, Bosnia and Belgium. We talked personally with members of the armed services and questioned them about their decisions, some of them, not to re-enlist.

When we come back from the recess, we will have the defense appropriations bill before us. There are initiatives in there to deal with retention, to deal with additional quality-of-life issues, and to deal with some of the basic problems with which the young people in our military service are really trying to cope.

Mr. President, I had breakfast this morning with the Chairman of the Joint Chiefs. One of the great problems we have in deploying people now is very often husband and wife are in the same unit, and they are subject to being deployed. We have to have, literally, foster parents to assure that these families are treated right while husband and wife are deployed abroad.

This is not a simple matter to deal with, and it does take money for military construction to meet these needs. I hope that the Senate will be ready for a debate when we get to the appropriations bill, because there are some very controversial issues in there that we seek to initiate to try to deal with the problems of families in the armed services today.

I urge you to approve this as a quality-of-life amendment. I yield back the remainder of my time.

The PRESIDING OFFICER. All time has expired.

Mr. WARNER. I urge adoption of the amendment by voice vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2728) was agreed to.

Mr. WARNER. Mr. President, I ask for the yeas and nays on final passage.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill, as amended, pass? The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Delaware (Mr. ROTH) is necessarily absent.

I further announce that the Senator from Arkansas (Mr. HUTCHINSON) is absent due to a death in family.

I also announce that the Senator from Pennsylvania (Mr. SPECTER) is absent because of illness.

Mr. FORD. I announce that the Senator from Hawaii (Mr. AKAKA), the Senator from Montana (Mr. BAUCUS), the Senator from Ohio (Mr. GLENN), the Senator from West Virginia (Mr. ROCKEFELLER), are necessarily absent.

I also announce that the Senator from Oregon (Mr. WYDEN) is absent because of family illness.

I further announce that, if present and voting, the Senator from Oregon (Mr. WYDEN) would vote "aye."

The result was announced—yeas 88, nays 4, as follows:

[Rollcall Vote No. 181 Leg.]

YEAS—88

Abraham
Allard
Ashcroft
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bryan
Burns
Byrd
Campbell
Chafee
Cleland
Coats
Cochran
Collins
Conrad
Coverdell
Craig
D'Amato
Daschle
DeWine
Dodd
Domenici
Dorgan
Durbin
Enzi
Faircloth
Feinstein
Ford
Frist
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Hagel
Hatch
Helms
Hollings
Hutchison
Inhofe
Inouye
Jeffords
Johnson
Kempthorne
Kennedy
Kerrey
Kerry
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Mikulski
Moseley-Braun
Moynihan
Murkowski
Murray
Nickles
Reed
Reid
Robb
Roberts
Santorum
Sarbanes
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Stevens
Thomas
Thompson
Thurmond
Torricelli
Warner

NAYS—4

Bumpers
Feingold
Harkin
Wellstone

NOT VOTING—8

Akaka
Baucus
Glenn
Hutchinson
Rockefeller
Roth
Specter
Wyden

The bill (S. 2057), as amended, was passed.

(The text of the bill will be printed in a future edition of the RECORD.)

Mr. WARNER. I move to reconsider the vote.

Mr. THURMOND. I move to lay it on the table.

The motion to lay on the table was agreed to.

Mr. THURMOND. Mr. President, as a wind-up, I would like to speak for about 3 minutes.

Mr. President, I want to thank my colleagues for their support of this bill. It was their suggestions and comments that make this a strong bill—a bill that I am extremely proud will bear my name. I appreciate the support of the able majority leader, Senator LOTT. As a former member of the Armed Services Committee, I know he recognizes the importance of this bill to the Nation and our military. I thank the able minority leader for his fine cooperation and leadership.

Mr. President, I want to thank the members of the Armed Services Committee for their loyalty and support over the past years. I want to especially recognize Senator WARNER for his leadership during the past hours. It will serve him well in the future.

Finally, I want to recognize Senator CARL LEVIN, the ranking member of the Armed Services Committee. During the past 2 years, he has been my friend and counsel. I have the highest respect for his abilities and concern for the security of our Nation, I shall always call him my friend.

In closing, I want to recognize the hard work of the staff—both on the committee and in the personal offices. Under the leadership of the staff directors Les Brownlee and David Lyles; they have accomplished wonders.

I would be remiss if I did not recognize the work of the floor staff. They have spent countless and dedicated hours supporting the Senators and our staffs. Without their efforts, it would have been impossible to pass this bill.

Mr. President, this is a good bill for our Nation and most important to the men and women who wear the uniforms of our military services. It is and always will be my greatest honor to be associated with these patriots.

I thank the President and yield the floor.

Mr. LEVIN. Mr. President, let me join Senator THURMOND, our chairman, in thanking a number of people, the members of our committee. Let me not single out anybody, but I do want to pay a special tribute to Senator WARNER, Senator THURMOND's loyal lieutenant, who really worked along with Senator THURMOND and made it possible.

We have great members of this Armed Services Committee who worked with us on a bipartisan basis—David Lyles on our side and staff on our side, Les Brownlee and staff on the Republican side, working together, all the time, to try to fashion a bill on which all of us at the end can come together.

We want to thank our leaders, Senator LOTT, Senator DASCHLE who worked so hard to make this kind of effort happen in just a few days. It seemed like a long period of time this was on the floor, but as complicated a bill as this is, and involving as many issues and as much money as this bill does, we really, I think, disposed of this bill with great dispatch as well as bipartisanship.

This bill is a tribute to Senator THURMOND. Many have paid tribute to him tonight, and I won't repeat that except to say I will always remember this evening, naming a bill that strengthens our national security after Senator STROM THURMOND, who has meant so much to the national security of this country.

It has been a real pleasure and an honor to work with Senator THURMOND. I know that my staff, our staff here, as well as all the members of the committee on both sides of the aisle felt very, very good that this bill was named after Senator STROM THURMOND.

Mr. WARNER. Mr. President, I first want to thank my distinguished chairman who has been like a big brother to me during my 19 years in the Senate and whose steady hand has remained on the helm of this committee for years, to give us the guidance and counsel that is so valued by all of us. All members of the Armed Services Committee have joined in the tribute.

I ask unanimous consent all members of the Armed Services Committee be made cosponsors of the amendment that the distinguished Senator from Michigan and I, together with our respective leaders, put forward.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Now, Mr. President, I join Senator THURMOND and Senator LEVIN in extending our great appreciation to Colonel Brownlee, George, David Lyles, and all others, and those who represent the Senators who have worked so hard on this bill and could not. We could not have a bill of this magnitude without their help. That is night and day and weekends. Colonel Browning said there would be no weekend off this weekend. I hate to pass that on.

Mr. President, I thank my distinguished colleague from Michigan. We came to the Senate together, and God willing, we will work together in future years. We so rarely have a cross word between us. I thank him for his kind remarks.

Mr. President, now on behalf of the distinguished chairman, Mr. THURMOND, I ask unanimous consent that S. 2057, as amended, be printed as passed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. On behalf of the distinguished chairman, I ask further unanimous consent that the Senate proceed immediately to the consideration en bloc of S. 2058 through S. 2060, Calendar Order Numbers 365, 366, and 367; that all after the enacting clause of those bills be stricken and that the appropriate portion of S. 2057, as amended, be inserted in lieu thereof, as follows:

In lieu of S. 2058, Insert Division C of S. 2057, as Passed;

In lieu of S. 2059, Insert Division B of S. 2057, as Passed;

In lieu of S. 2060, Insert Division A of S. 2057, as Passed; and that these bills be advanced to third reading and passed; that the motion to reconsider en bloc be laid upon the table; and that the above actions occur without intervening action or debate.

I further ask unanimous consent that the Senate Report No. 105–189, the report to the Committee on Armed Services on S. 2060, be deemed to be the report of the committee accompanying S. 2057.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 2058) was deemed read the third time and passed.

(The text of S. 2058 will appear in a future edition of the RECORD.)

The bill (S. 2059) was deemed read the third time and passed.

(The text of S. 2059 will appear in a future edition of the RECORD.)

The bill (S. 2060) was deemed read the third time and passed.

(The text of S. 2060 will appear in a future edition of the RECORD.)

Mr. WARNER. On behalf of our distinguished chairman, Mr. President, with respect to H.R. 3616, the House-passed version of the National Defense Authorization Act for Fiscal Year 1999, is named in honor of our distinguished chairman. I ask unanimous consent that the Senate turn to its immediate consideration; that all after the enacting clause be stricken and the text of S. 2057, as passed, be submitted in lieu thereof; that the bill be advanced to third reading and passed; that the title of S. 2057 be substituted for the title of H.R. 3616; that the Senate insist on its amendments to the bill and the title and agree to or request a conference, as appropriate, with the House on the disagreeing votes of the two Houses and the Chair be recognized to appoint conferees; that the motion to reconsider the above-mentioned vote be laid upon the table; and that the foregoing occur without intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 3616), as amended, was considered, read the third time, and passed.

The PRESIDING OFFICER appointed Mr. THURMOND, Mr. WARNER, Mr. MCCAIN, Mr. COATS, Mr. SMITH of New Hampshire, Mr. KEMPTHORNE, Mr. INHOFE, Mr. SANTORUM, Ms. SNOWE, Mr. ROBERTS, Mr. LEVIN, Mr. KENNEDY, Mr. BINGAMAN, Mr. GLENN, Mr. BYRD, Mr. ROBB, Mr. LIEBERMAN, and Mr. CLELAND, conferees on the part of the Senate.

UNANIMOUS CONSENT AGREEMENT—S. 2057, S. 2058, S. 2059 and S. 2060

Mr. WARNER. Mr. President, I ask unanimous consent with respect to S. 2057, 2058, 2059 and 2060, as just passed by the Senate, that if the Senate receives the message with respect to any one of these bills from the House of Representatives, the Senate disagree with the House on its amendment or amendments to the Senate-passed bill and agree to or request a conference, as appropriate, with the House on the disagreeing votes of the two Houses; that the Chair be authorized to appoint conferees; and that the foregoing occur without any intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Mr. President, I advise the Chair that there are no further matters relating to this important piece of legislation.

I thank the Chair.

Mr. BURNS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BURNS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. BURNS. Mr. President, I ask unanimous consent that there be a period for the transaction of routine morning business until 11:30, with Senators permitted to speak therein for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

RETIREMENT OF COLONEL RON FRANKS

Mr. THURMOND. Mr. President, I rise today to honor a fine Marine Officer, Colonel Ron Franks, the Deputy Legislative Assistant to the Commandant of the Marine Corps, who will soon retire from active duty.

Colonel Franks' career began more than twenty-five years ago, following his graduation from the University of Central Texas, when he became a Marine aviator flying the venerable Huey helicopter. A few years later, Ron Franks switched from rotor wing aircraft to fixed wing, becoming a C–130 pilot, but flying some of the world's most advanced aircraft would not be the limit of this officer's duties.

In a career as long as the one Colonel Franks has had, one is bound to have some interesting and challenging tasks and assignments. In the case of Ron Franks, his experiences have ranged from leading Marine aviators into combat during Operation Desert Storm as the squadron commander of VMGR–252 to helping the Commandant of the Marine Corps monitor the activities of the Legislative Branch. Without question, he was most efficient and successful in his duties monitoring Congress and working to represent the interests and concerns of the Marine Corps. Additionally, the Colonel is a graduate of the Naval War College, and earned a master's degree in business administration from Boston University, both of which are excellent indications not only of his commitment to seeking professional and personal improvement, but of the high caliber individual who serves as an officer of Marines. Finally, in almost three decades of service, Ron Franks has amassed an impressive list of awards and recognitions which include the Defense Meritorious Service Medal, the Meritorious Service Medal, and the Navy and Marine Corps Commendation Medal.

As Colonel Franks prepares to end his military service, I am certain that he will be missed by all those who have worked with him and come to know him. He has rendered the Nation a great service through his career as a Marine Officer and we are grateful for the sacrifices he has made in order that the United States may remain free and safe. I wish Colonel Franks, his wife Debby, and their children Kristen and Kimberly much health and happiness in the years ahead.

60TH ANNIVERSARY OF THE FAIR LABOR STANDARDS ACT

Mr. KENNEDY. Mr. President, sixty years ago today, President Roosevelt signed into law an historic piece of legislation. The Fair Labor Standards Act established a number of basic protections for workers, including one of the great landmarks of American law—the federal minimum wage.

President Roosevelt called that Act "the most far-reaching, far-sighted program for the benefit of workers ever adopted here or in any other country."

And he was right. 700,000 workers got a raise in 1938. The minimum wage helped pull the country out of the Great Depression. And, in the decades that followed, it helped to lift millions of working families out of poverty.

Our standard of living has improved steadily and dramatically since 1938. And, for thirty years, the minimum wage kept pace with those improvements.

But the last thirty years have seen an about-face. The real value of the minimum wage has dropped steeply since 1968. To have the purchasing power today that it had thirty years ago, the minimum wage would have to be $7.38 and hour—40% higher than its current level of $5.15.

Working 40 hours a week, 52 weeks a year, minimum wage workers today earn just $10,700 a year—$2,900 below the poverty level for a family of three. In the midst of what many experts are calling "the best economy ever," 12 million Americans are earning poverty-level wages.

For them survival is the daily goal. If they work hard enough and their hours are long enough, they can make ends meet—but only barely. They don't have time for their families. They can't participate in activities with their children. They can't afford to buy birthday presents or do the countless other things that most of us take for granted.

We know who minimum wage workers are. They are teachers' aides and home health aides. They care for our children in child care centers and our parents and grandparents in nursing homes. They sell us goods at the corner store, and serve us coffee at the local coffee shop.

They clean office buildings in communities across the country.

They are workers like Valerie Bell, a custodian for a contractor in Baltimore, who told us what a higher minimum wage means in human terms. For workers and their families, it means far more than dollars and cents. It means dignity. As she said, "We no longer have to receive food stamps or other social services to supplement our incomes. We can fix up our homes and invest in our neighborhoods. We can spend more at the local grocery store.

We can work two low-wage jobs, rather than three low-wage jobs, and spend more time with our families. Our utilities won't be cut off. We can pay the medical bills we accumulated from not having health benefits in our jobs."

That's why we say now is the time to raise the minimum wage. Our proposal will raise the minimum wage by 50 cents on January 1, 1999 and 50 cents more on January 1, 2000—bringing the minimum wage to $6.15 an hour at the turn of the century. Twelve million working families across the country deserve no less.

Our Republican friends just cut capital gains taxes for the wealthiest Americans by more than $300 million over the next five years. Yet they oppose giving minimum wage workers an additional $1 an hour. "Let them eat cake," they say.

Plums for the rich and crumbs for everyone else is the wrong priority. We need to do more for hard-working families in communities across America, and we can do more. We can raise the minimum wage. And with the strong support of President Clinton and Democrats in the Senate and House, we will raise it.

I intend to offer the minimum wage on the first available legislation after the July 4th recess. No one who works for a living should have to live in poverty.

Mr. FEINGOLD. Mr. President, I rise today to commemorate the anniversary of the passage of the Fair Labor Standards Act and the establishment of the federal minimum wage. For sixty years, this law has provided hard-working Americans a promise—a promise that, in this country, we value the labor of all of our workers.

Over the last several decades, we have kept that promise by periodically raising the minimum wage. We have passed legislation six times since 1955 to ensure that this vital safety net is not just symbolic, but, instead, a true standard of decency. It is time to do this again.

Just like investors who expect a fair return for the money they put into the stock market, workers should expect a fair return for the labor they invest. In today's thriving economy, investors have gotten back more than they could have hoped for. Those making minimum wage, however, have seen a declining return on their investment. An hour of work does not give back what it used to.

In 1997 dollars, the minimum wage of today is more than two dollars less than what it was in the late 1960s. Our parents' generation had a minimum wage equivalent to $7.33. Now our children—despite an unparalleled booming economy—are faced with a minimum wage that places them below the poverty level.

That, Mr. President, is outrageous. People who work forty hour weeks year round, trying to provide for themselves and their families, are finding that their efforts are just not enough.

Perhaps, most troubling of all, this low minimum wage is having a disproportionately devastating effect on working moms. Sixty-two percent of all minimum wage workers are women, many the sole heads of their households. Where do these moms turn when they can't provide for their hungry children?

Many have been forced to seek outside assistance. Last year, a US Conference of Mayors study indicated that eighty-six percent of cities reported an increased demand for emergency food assistance. Thirty-eight percent of those people seeking food at soup kitchens and shelters were employed. This is an increase of fifteen percent since 1994.

This new trend is alarming. In a nation as great as ours, in a time as prosperous as this one, we should guarantee the American people that, if they are willing to work, then they will be able to live off of their income; they will be able to feed their children; they will be able to afford clothing and shelter, and they will be able to live their lives with basic dignity and fair compensation.

I call upon my colleagues to raise the minimum wage so that we can help millions of working people lift themselves up from poverty. Opponents of the minimum wage claim that we cannot afford to do this. But, for the most vulnerable in America's workforce, the truth is that we simply cannot afford not to.

TRULY A BRIGHT IDEA: NO COST TO TAXPAYERS

Mr. HELMS. Mr. President, it is an exciting development that the electrical cooperatives in North Carolina are improving public education and the quality of classroom instruction without spending a dime of the taxpayer's money.

Since 1994, the electrical cooperatives in my state have sponsored a grant program for teachers called "Bright Ideas", and it has been a roaring success—encouraging creative teaching by awarding grants of up to $2,000 to K-12 teachers in annual competitions. There is no restriction on subject matter to apply; in fact, Mr. President, teachers are not required to teach in a cooperative service area to compete.

Teachers need only to show that they are using original, innovative ideas to improve the education of young people. These new teaching methods range from reading and music programs to creative math and science programs; from research involving computers and video technology to career-oriented programs to prepare teenagers for the working world. 2,000 teachers applied to cooperatives for grants this year, and more than 400 classrooms in North Carolina became "Bright Ideas" classrooms.

Mr. President, North Carolina's electric cooperatives operate in 93 of our 100 counties, providing power to almost a quarter of our state's population. Most members of these cooperatives aren't walking around with deep-pockets. They're hard-working folks in rural areas who recognize the value of a good education.

The "Bright Ideas" program initiated by these fine people continues to flourish. In 1994, North Carolina's electric cooperatives authorized a collaborative statewide effort and allocated $225,000 annually for Bright Ideas for a five-year period. But a funny thing happened, Mr. President. These grants proved so successful that individual cooperatives are getting into the act and supplementing already allocated funds with money of their own. Their initiative will allow the cooperatives to award more than $1 million dollars in grants a full year ahead of schedule.

In fact, Chuck Terrill, Executive Vice-President and CEO of the North Carolina Electric Membership Corporation says that "Bright Ideas" grants for North Carolina's school will top $1.5 million by the end of the 1998–1999 school year.

Mr. President, "Bright Ideas" is just one of the many ways the members of North Carolina's electric cooperatives help their communities and support their public schools. I congratulate them for seeing a need and providing precious resources to challenge the children in North Carolina's classrooms.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Wednesday, June 24, 1998, the federal debt stood at $5,503,890,151,659.51 (Five trillion, five hundred three billion, eight hundred ninety million, one hundred fifty-one thousand, six hundred fifty-nine dollars and fifty-one cents).

One year ago, June 24, 1997, the federal debt stood at $5,336,558,000,000 (Five trillion, three hundred thirty-six billion, five hundred fifty-eight million).

Five years ago, June 24, 1993, the federal debt stood at $4,304,357,000,000 (Four trillion, three hundred four billion, three hundred fifty-seven million).

Ten years ago, June 24, 1988, the federal debt stood at $2,527,474,000,000 (Two trillion, five hundred twenty-seven billion, four hundred seventy-four million).

Fifteen years ago, June 24, 1983, the federal debt stood at $1,303,410,000,000 (One trillion, three hundred three billion, four hundred ten million) which reflects a debt increase of more than $4 trillion—$4,200,480,151,659.51 (Four trillion, two hundred billion, four hundred eighty million, one hundred fifty-one thousand, six hundred fifty-nine dollars and fifty-one cents) during the past 15 years.

U.S. FOREIGN OIL CONSUMPTION FOR WEEK ENDING JUNE 19TH

Mr. HELMS. Mr. President, the American Petroleum Institute has reported that for the week ending June 19 that the U.S. imported 7,883,000 barrels of oil each day, more than a quarter million (253,000) barrels a day more than the 7,630,000 imported during the same week a year ago.

Americans relied on foreign oil for 55.5 percent of their needs last week. There are no signs that the upward spiral will abate. Before the Persian Gulf War, the United States imported about 45 percent of its oil supply from foreign countries. During the Arab oil embargo in the 1970s, foreign oil accounted for only 35 percent of America's oil supply.

All Americans should ponder the economic calamity certain to occur in the U.S. if and when foreign producers shut off our supply—or double the already enormous cost of imported oil flowing into the U.S.—now 7,883,000 barrels a day at a cost of approximately $78,908,830 a day.

SUPREME COURT'S LINE ITEM VETO DECISION

Mr. LEAHY. Mr. President, today the United States Supreme Court held the Line Item Veto Act unconstitutional. I voted against that Act when it was considered by the Senate and joined the senior Senator from West Virginia and others in warning that giving the President, any President, line item veto authority would result in a dramatic shift in power from the legislative branch to the executive branch that was inconsistent with the constitutional principles of separation of powers. We warned that this shift in power that would damage our fundamental principle of majority rule, encourage horse trading between Members of Congress and the President, and not reduce the deficit in any meaningful way. Unfortunately, all of those warnings have come true.

In 1997 I called upon Congress to admit its mistake and repeal this unconstitutional Act before the courts struck it down. Congress was given a second opportunity to correct its ill-considered action when the Supreme Court dismissed, on the limited ground of lack of standing, the challenge brought by Senator BYRD. In that case, Byrd v. Raines, District Judge Jackson had ruled that the Act violated the Constitution.

Having failed to do its job properly, the majority in Congress is now confronted with a Supreme Court that was forced to do the Congress' job. Consistent with its judicial power under the Constitution, the Supreme Court has once again had to preserve the Constitution from legislative attack. As it did when it defended the First Amendment from being undermined by the so-called Communications Decency Act, and when it defended federalism against the encroachment of the Brady Act, here again the Supreme Court has been called upon to preserve, protect and defend the Constitution. As a Senator who voted against these measures in spite of their momentary popularity, and as a Vermonter who cherishes the Constitution and the freedoms that it guarantees, I thank the Court for its service.

I have long been concerned that the line item veto encourages minority rule by allowing a presidential item veto to stand with the support of only 34 Senators or 146 Representatives. That is not majority rule. Those anti-democratic super-majority requirements are fundamentally at odds with the principles underlying legislative action.

Our Founders rejected such super-majority requirements on matters within Congress' purview. Alexander Hamilton described super-majority requirements as a "poison" that serves "to destroy the energy of the government, and to substitute the pleasure, caprice, or artifices of an insignificant, turbulent, or corrupt junto to the regular deliberations and decisions of a respectable majority." Such super-majority requirements reflect a basic distrust not just of Congress, but of the electorate itself.

In addition, these super-majority requirements hurt small states, like my home State of Vermont, by upping the ante for those who dare take on the President. Under the line item veto, Members from small states have to convince two-thirds of each House to override the President's veto for the sake of a project. With Vermont having only one representative in the House, why would other Members risk the President's wrath to help us with a vetoed project? It is truly a task for Hercules to override a veto. Just look at the record—of the more than 2,500 Presidential vetoes in our history, Congress has been able to override 105.

As the senior Senator from West Virginia has so forcefully argued, we should tread carefully when expanding the fiscal powers of the presidency. The line item veto would have weakened one of the fundamental checks and balances that form the separation of powers under our Constitution. The line item veto would have handed over the power of the purse to the President.

I have heard the howls of some of my colleagues who lost worthy appropriations since the approval of the line item veto. And what if the President makes a mistake by line item vetoing a worthy project? The Administration even admitted that it mistakenly vetoed some projects. Do Senators trust the bureaucrats over at the Office of Management and Budget to decide, within a few short days, which projects are deserving and which are not? Is that consistent with the Founders' vision?

I was born and raised in Vermont and go home almost every weekend. I am confident that I have a better sense of Vermont than someone who thinks Vermont is an avenue that lies somewhere between K and L streets in northwest Washington, D.C.

Let us keep the power of the purse with Congress—where it belongs. As the Ranking Member of the Foreign Operations Subcommittee of the Appropriations Committee, I am frequently called upon to visit emerging democracies. I often hear praise of our system of checks and balances and, in particular, the genius of having the power to spend reside in the legislative branch, not the executive. Many officials from new democracies believe that a legislature's power over the purse is the best weapon to fight the tyranny of a dictatorship. They have been there. They know. And it has proven to be so historically.

In his concurring opinion today in Clinton v. City of New York, Justice Kennedy noted:

> Separation of powers helps to ensure the ability of each branch to be vigorous in asserting its proper authority. . . . By increasing the power of the President beyond what the Framers envisioned, the statute compromises the political liberty of our citizens, liberty which the separation of powers seeks to secure.

As I said in the Senate debate on the Line Item Veto Act and in Senate debate on proposals to amend the Constitution with a balanced budget amendment, the Constitution is as good a law as has been written. That is why it has survived as the supreme law of the land with so few alterations throughout the last 200 years. It has contributed to our success as a nation by binding us together, rather than tearing us apart.

It contains the Great Compromise that allowed small states and large states to join together in a spirit of mutual accommodation and respect. It embodies the protections that make real the pronouncements in our historic Declaration of Independence and give meaning to our inalienable rights to life, liberty and the pursuit of happiness.

The Constitution requires due process and guarantees equal protection of the law. It protects our freedom of thought and expression, our freedom to worship or not as each of us chooses, and our political freedoms, as well. It is the basis for our fundamental right of privacy and for limiting government's intrusions and burdens in our lives.

I have opposed what I perceive to be a growing fascination with laying waste to our Constitution and the protections that have served us well for over 200 years. The First Amendment, separation of powers and power of the purse should be supported and defended. That is the oath we all swore when we entered this public service. That is our duty to those who forged this great document, our responsibility to those who sacrificed to protect and defend our Constitution, our commitment to our constituents and our legacy to those who will succeed us.

In this Congress we have seen over 100 constitutional amendments proposed. Yesterday, the Judiciary Committee voted to report an amendment that would cut back on the First Amendment for the first time in our nation's history. Today, the Committee was considering a second proposed amendment to the Constitution in as many days. Proposed amendments to our fundamental charter require consideration whether they are, in the language of Article V of the Constitution, constitutionally "necessary". I hope that we will not burden the states with a hodgepodge of poll-driven, popular sounding constitutional amendments.

This Senate only barely rejected the balanced budget amendment to the Constitution last year. I recall all too well when we were told that we could never achieve a balanced budget without a constitutional amendment. I recall the stacks of deficit-laden federal budgets proposed by Republican and Democratic Presidents since President Johnson and being told that the only answer to annual budget deficits was to pass an ill-conceived constitutional amendment whose terms and effects could not be explained.

I asked then why it is necessary to seek to amend the Constitution? If Congress could get close to a two-thirds majority vote to support a constitutional amendment declaring that we would normally balance the budget, we should be able to achieve a simple majority that will actually vote to reduce the deficit and pass a balanced budget.

I defended the Constitution during the course of the balanced budget amendment debate last year and this year President Clinton sent us the first balanced budget in almost 30 years. What some said could not happen without a constitutional amendment, did happen. With cooperation in the Congress, we can enact the first balanced budget since 1969, and we will have done it without inserting a fiscal straightjacket on future generations into the text of the United States Constitution.

They said it could not be done, but it can, as a result of the sound fiscal policies of this Administration which have led not only to balance but to the prospect of budget surplus. In 1993, a Democratic Congress put us on the right road to fiscal responsibility when we took the hard votes and passed the President's plan. This Congress should culminate that extraordinary 5-year effort without further delay.

April 15 was the legal deadline for Congress to have passed a budget resolution. While the Senate did some preliminary work on a flawed proposal earlier this year, Congress is recessing again this week without completing this fundamental task. The Senate should spend less time seeking to rewrite the work of the Framers and show more courage in completing its legislative responsibilities.

I hope that as Congress leaves for the Independence Day recess, we will reflect on what makes this country great, and that the majority will return committed to completing work on a balanced budget to serve the American people without additional delay. It should be balanced in two senses: It should be a balanced series of proposals to meet the health, education, environmental and law enforcement needs of the country. And it should also, for the first time in almost three decades, be a budget that will not rely on deficit financing.

Completing action on the budget is the first step toward Congress taking action on the annual appropriations bills that are so important to the government programs that protect the environment and assist State and local governments with education and law enforcement. Those contracting with the government, those working in partnership with government services and those dependent on government services deserve better. Americans deserve peace of mind and the assurance that their government is working. Congress needs to complete its budget and appropriations legislation so that the agencies and service providers can plan programs, pay workers and serve the American public in an effective manner.

It is high time for the congressional leadership to do its job and for the Congress to get on about the business of governing. Congress should not be taking breaks without having completed the work of the people. Such callous disregard for the needs of the American people has become too much the rule as year after year under Republican leadership Congress recesses without having completed its work on emergency supplementals, budgets, and appropriations bills. Republican congressional leadership is well-known for shutting down the government by not completing work on these basic measures in a timely way.

The Senate will also recess again this week without having passed a strong tobacco bill. Tobacco legislation is now added to the litany of important matters the Congress has left unfinished—added to the budget, campaign finance reform, and the prompt consideration of the many fine men and women the President has nominated to long vacant federal judgeships across the country.

I urge that when Congress reconvenes in July and in the 11 weeks in session left in this congressional year, it take seriously its responsibilities to the American people and show respect and appreciation for the Constitution by working to fulfil our legislative responsibilities.

ARIZONA'S ELECTRIC POWER COMPETITION ACT

Mr. KYL. Mr. President, I rise today as a member of the Senate Energy and Natural Resources Committee to call attention to newly enacted legislation in my state of Arizona that stands as a model for opening electric power markets to competition and customer choice.

Under the Electric Power Competition Act signed into law May 29 by Arizona Governor Jane D. Hull, Arizona's public power utilities must open 20 percent of their markets to competition by December 31 of this year and 100 percent to competition by December 31, 2000.

Residents, businesses, and multi-national corporations served by companies like the Salt River Project, a public power and water utility serving 670,000 customers in the greater Phoenix area, will gain more control over where they spend their energy dollars. Customers will be able to shop for savings among sources of electricity, ultimately choose billing and metering providers, and still depend on their local utility to provide reliable electric delivery and power backup services.

The Arizona legislation requires affected utilities to reduce rates for smaller customers at least 10 percent, as measured over a 10-year period, and caps rates for larger customers who choose to stay with their local utility. To protect consumers against deceptive marketing practices, power marketers can enroll customers only through written, signed contracts—a provision specifically aimed at stopping the notorious "slamming" and "cramming" abuses that have occurred with telephone deregulation. Strict enforcement measures are included for companies that fail to comply. The legislation also mandates that Arizona public utilities develop and pay for comprehensive public education programs to inform customers about their choices.

While the new law does not apply to investor-owned utilities under jurisdiction of the Arizona Corporation Commission, it creates a relatively uncomplicated means for opening Arizona's entire electric market to competition. It will encourage the transition from monopoly to competitive services within a reasonable timeframe, and will allow utilities to recover costs of past investments made to meet growth needs, but that could become "stranded" in a competitive market.

Improved services, economic efficiencies and new technologies should be among outcomes. At the same time, the legislation offers Arizona electric customers and suppliers a far less burdensome way of achieving choice than the costly plan adopted by California with effects that, so far, have slowed the development of competition. By contrast, Arizona's legislation strikes a balance between benefits stemming from free markets and the public interest in maintaining an economically secure, environmentally responsible electric infrastructure.

Arizona's Electric Power Competition Act was passed with support of major industries, consumer groups, low-income advocates, and the state's largest investor-owned utility, Arizona Public Service Company. It puts Arizona in the forefront of the nation's move to electric competition and establishes a policy that other states would do well to consider.

KYOTO PROTOCOL IMPLEMENTATION

Mr. MURKOWSKI. Last week, the administration's climate change negotiators returned from Bonn, Germany.

These negotiators were in Bonn from June 2 through the 12 with their counterparts from many other countries, working out the details of how to implement the Kyoto Protocol to the United Nations Framework Convention on Climate Change.

Mr. President, people often say "the devil's in the details" and I think we have a case here with this Kyoto Protocol where the devil is definitely there—in the details.

So, that is just what I want to talk about today—the details.

Back in October of last year, President Clinton outlined his climate change proposal during a speech. If it seems strange that I have to refer to the text of a speech to describe the administration's climate change proposal, I have to do that, because the speech is all we have.

Last year, I, along with Senators CRAIG, HAGEL, and HELMS, asked the General Accounting Office to review the administration's climate change proposal. The Committee on Energy and Natural Resources held a hearing earlier this month on GAO's results so far.

The Office of Management and Budget told the GAO auditors that the Administration has no documentation of its climate change proposal, beyond the President's speech last October. The speech is the plan. I must admit, I was amazed by this.

The administration is asking for an increase of $6.3 billion over the next five years for its climate change program, and the documentation of that program is a speech that is about 3 or 4 pages long. Out in the business world, you don't get $6.3 billion in financing based on a three page proposal.

So, in this brief climate change proposal, what do we find? We find a statement of the administration's principles for addressing climate change.

One of the administration's principles on climate change is: "Developing Countries Must Participate."

The President's climate change proposal says: "The President has committed that the United States will not adopt binding obligations without developing country participation."

Take note that this statement came from the Administration prior to the Kyoto negotiations, when the administration conveniently abandoned that principle, in order to come home with some kind of agreement to show everyone how successful they were.

The administration still claims to be committed to "meaningful participation"—whatever that means—by developing countries. In fact, Mr. Dirk Forrister, the chairman of the White House Climate Change Task Force, told me during our hearing on June 4 that "meaningful participation" does include China and India.

So, the President's climate change proposal says you must have developing country participation. Mr. Forrister tells me just three weeks ago that we must get China and India to participate.

But then, what happens in Bonn, Germany? Over 1200 negotiators met there to start negotiating the details for the Kyoto treaty. The U.S. negotiating team had over 25 members.

I wasn't at the Bonn meeting, so let me read from a report of what happened in Bonn. This is from the Washington Times, June 13, 1998. The headline is: "Third World, EU knock U.S. effort on global warming. Two week talks in Bonn end in impasse." The article says:

> Third World and European nations dealt a blow to President Clinton's effort to make the global warming treaty more palatable to Americans at a negotiating session . . . in Germany.
>
> China and India, speaking for a group of 77 developing countries, opposed even discussing proposals that would require them to drastically cut so-called greenhouse gas emissions as the United States and industrialized nations are required to do under the treaty.

Let me repeat that: China and India . . . opposed even discussing proposals

. . . that would require them to . . . cut . . . emissions.

What are we to make of this? The administration says China and India must participate. Yet, in Bonn, China and India led an effort by developing countries to oppose even talking about their participation.

Let me point out another disconnect. President Clinton's climate change proposal says:

> The President is committed to a market-based emissions trading system, both domestically and internationally, that will harness the power of the market to reduce emissions . . .

The administration's climate change proposal states that an emissions trading system will allow the United States to meet its reductions targets "with minimal economic costs."

In fact, Janet Yellen, Chairman of the President's Council of Economic Advisors, has testified before Congress that according to the administration's economic analysis—the details of which, by the way, almost no one is allowed to see—that Kyoto targets can be met for minimal costs.

We are just finding out how you meet the Kyoto targets so cheaply. Apparently, the administration relies on achieving 85 percent of emissions reduction through emissions trading. They think we can "buy our way out" of the problem.

But let's see what happened in Bonn. What did the rest of the world have to say about extensive use of emissions trading?

Again, let me quote from the Washington Times article:

> The European Union said it would oppose extensive use of a complicated [emissions trading] scheme Mr. Clinton devised to ensure that Americans pay only modestly higher energy prices under the treaty, saying the United States should bear the brunt of such costs, which could total in the hundreds of billions of dollars.

So, here are the results of Bonn.

1. Developing countries are still saying "not interested" when it comes to signing up for binding reduction targets.

2. Our European friends are saying, "Hey America, you can't buy your way out of your commitments through emissions trading. We want you to take more expensive action at home.

What kind of actions might we take to reduce emissions, if we can't rely on emissions trading? To answer that question, I think it's helpful to look at the current situation.

Where do we currently get our electricity from? We generate 53 percent of our electricity from coal. The administration says coal pollutes so we have to cut back on dramatically on how much we rely on coal. We generate 18 percent of our electricity from nuclear power. This is our largest emission-free source of power. I've talked about this issue over the years and the percentage of nuclear keeps falling. A few years ago we were 22 percent nuclear, last year this figure was about 20 percent. I think we should be clear about why this number is falling.

We have an administration that won't deal with the nuclear waste problem. We have a President who says he will veto our nuclear waste bill, which has passed both this Congress by wide margins. The bottom line is that we are at risk of losing our nuclear power.

We generate 14 percent from natural gas, but the administration has issued OCS moritoria and won't provide access to public lands for gas production, so there are limits to what gas can do.

We generate 10 percent from hydroelectric power—another emissions-free source of electricity. But again, the Admin opposes hydropower and we have a Secretary of the Interior who brags he will be the first Interior Secretary to tear down a dam.

We generate about 3 percent—a little bit under 3 percent—from waste or "biomass". This is electricity from burning wood, garbage, old tires. This isn't exactly a carbon-free activity, so we will have to curtail our use of biomass for power production.

We generate 2 percent of our electricity from oil. Again, this is something unpopular with the administration. They are opposed to fossil fuel use, and they won't allow access to public lands for further oil exploration.

The remaining less than 0.1 percent comes from wind and solar. This is a very small percentage, yet the administration claims these are the technologies that will make-up for reductions in all the other sources. How realistic is this?

The Sierra Club refers to wind turbines as "cuisinarts for the birds." Wind power also depends on a limited number of sites, with strong, dependable winds.

Solar technology has many obvious shortcomings. First of all, the sun doesn't shine at night. Also, solar panels take up a tremendous amount of space. It would take about 10,000 square miles of solar panels to replace the 18 percent of our electricity generated with nuclear power. This is about the size of the entire states of Vermont and Delaware, combined.

So there are obvious limits to renewable resources, but there are places where they make sense. For instance, remote villages in Alaska, where electricity is now generated with diesel fuel for 30–40 cents per kilowatt hour. But for large populations these renewable technologies probably are not feasible.

How does the President say we will meet our Kyoto targets? In addition to buying carbon credits from Russia and Ukraine, the President says we should increase energy efficiency . . . and "pay the bill" by deregulating electricity. I'm all for efficiency and rational deregulation . . . but if you've endangered your major sources of generation, efficiency and generation aren't much help.

The President is clearly pushing this issue off onto somebody else's watch. So, where does this leave us? Well, we are headed into larger, higher-level negotiations in Buenos Aires, Argentina this fall. Should we be hopeful that we will have any better success than we did in Bonn?

Don't get me wrong. I happen to think that principles are a great thing to have. The point is you have to stick to them.

I fear that in Buenos Aires, the administration will once again be desperate for the appearance of success. In their desperation, the administration might conveniently abandon more of the principles they claim to hold regarding what the U.S. should demand of the rest of the world in a climate change treaty.

Mr. President, I have been watching these events unfold for some time now. I have watched this climate change deal become more and more of a raw deal for Americans.

But to sum up, I don't think I can put it any better than one of my constituents, Sam Tatum from Wasilla, Alaska. He wrote me a letter saying "this climate change treaty is bad news for our country." Well, Sam, hold on to your pocketbook and let's see what comes out of Buenos Aries.

I ask unanimous consent that an article from the Washington Times be printed in the RECORD, plus a table.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Times, June 13, 1998]

THIRD WORLD, EU KNOCK U.S. EFFORT ON GLOBAL WARMING

(By Patrice Hill)

Third World and European nations dealt a blow to President Clinton's efforts to make the *global warming treaty* more palatable to Americans as a negotiating session that ended yesterday in Germany.

China and India, speaking for a group of 77 developing countries, opposed even discussing proposals that would require them to drastically cut so-called greenhouse-gas emissions as the United States and industrialized nations are required to do under the treaty, said participants at the Bonn talks.

And the European Union said it would oppose extensive use of a complicated scheme Mr. Clinton devised to ensure that Americans pay only modestly higher energy prices under the treaty, saying the United States should bear the brunt of such costs, which could total in the hundreds of billions of dollars.

"China and India pointed out that the industrialized world still hasn't done anything to reduce emissions, and they didn't feel it was appropriate" to discuss requiring Third World participation in the treaty until that happens, said Kelly Symms of Ozone Action.

The developing nations squelched a move to add discussions about their participation in the treaty to the agenda at the next negotiating session in Buenos Aires, Argentina, this fall. Clinton administration officials vow to nevertheless bring up Third World inclusion for discussion at the session.

"It was the same dynamic" that Americans encountered in Kyoto, Japan, when the treaty was drafted, with most nations blaming the United States for the global warming problem, since it is the largest emitter of greenhouse gases, and saying it should bear the costs, said Miss Symms.

But Mr. Clinton faces just the opposite problem at home: a Congress that is livid that the Kyoto treaty excludes developing nations, which could become major emitters in the next century, and insisting that costs must be minimal for the treaty to have even a change of being ratified in the Senate.

"We all have our political situations," said Rafe Pomerance, deputy assistant secretary of state for environment, acknowledging that none of the Third World nations the administration is negotiating with are ready right now to voluntarily sign on to the treaty.

The administration has more hope of winning Europeans over to its emissions-trading scheme, which is designed to allow American companies to lower the cost of emissions cuts by buying credits from other countries where the costs are smaller.

The administration is relying on extensive trading of such credits to hold down what could be significant costs for Americans in its analysis of the economic effects of the treaty, he said.

Environmentalists say the administration's conclusion that the treaty would impose only "modest" costs on Americans assumes that 80 percent of the treaty's emissions reductions are achieved through international trading.

The administration only yesterday released details of its controversial and closely held cost estimates to the House Commerce Committee.

Europeans stridently oppose the extensive use of emissions trading saying the United States should first impose energy taxes and other measures used by European countries to cut emissions before "buying" reductions from the rest of the world.

"Their primary goal is to cripple the U.S. economy" by quadrupling energy costs to the levels that prevail in Europe, said Deborah Fidelke, spokesman for Sen. Chuck Hagel, Nebraska Republican and a leading opponent of the treaty in the Senate.

The two-week-long negotiating session in Bonn—where the world's nations came to agreement on only one technical question involving reforestation—shows the futility of Mr. Clinton's efforts to forge a treaty that he hopes can get through the Senate, she said.

"This whole thing is going nowhere," especially in light of the hardships on China and other Asian developing countries resulting from the Asian financial crisis, she said.

"Why on Earth would they now sign on to a treaty that would slow their growth even further?" she asked. "We just put economic sanctions on India and now we expect them to sign on to a treaty that will slow their growth? Let's live in the real world."

Sources of electricity used in the United States

	In percent
Coal	53
Nuclear energy	18
Natural gas	14
Hydro-electricity	10
Other*	2.72
Oil	2
Wind	0.08
Solar energy	0.02

*=Waste (0.79%)=Biomass (2.0%)+Geothermal (0.44%)+Other (0.03%).

MISSILE SALES BY NORTH KOREA

Mr. MURKOWSKI. Mr. President, I rise to call attention to an article which ran on the front page of the Washington Post yesterday morning regarding missile sales by North Korea. Although North Korea has denied selling missiles in the past, I for one have never taken them at their word on this and have long believed that they have been and continue to be actively engaged in the weapons trade; without question, the sale of weapons to rogue states has been and continues to be a major source of revenue for the North Korea government.

Well, despite their past denials, the Washington Post reports that North Korea now admits to selling weapons to countries such as Iran, Iraq and Syria, and has actively assisted these countries with their own missile development programs.

Mr. President, this article really comes as no surprise—it simply verifies what many of us have suspected all along. But I think we should also consider for a moment whether we have, in no small way, contributed to North Korea's missile development program.

I am referring, of course, to the 1994 Agreed Framework, whereby North Korea would dismantle its nuclear program in exchange for American assistance in building two light-water reactors. Without going into the details, Japan and South Korea would contribute several billion dollars worth of assistance to the construction of the reactors, and the United States would also supply heavy oil to North Korea until the reactors were up and running—this would help North Korea meet its energy needs pending construction of the facilities.

Mr. President, the Agreed Framework, no matter how well intentioned, puts a gaping hole in the international sanctions which we have levied against North Korea. The United Sates has already given close to $200 million taxpayer dollars, perhaps more, in combined food aid and to support the Korean Economic Development Organization (KEDO), which is tasked with sending heavy fuel oil to North Korea and carrying out other activities under the Agreed Framework. For a country whose economy is completely isolated and strapped for cash, this assistance frees up sizable amounts of money which North Korea can invest in other areas—including their national missile development program.

So, the North Koreans use the aid which comes from the United States, Japan, South Korea and other countries to support other aspects of their economy, freeing up resources which can be used to develop weapons. These weapons are then sold to our enemies, and pointed at our troops, our allies, and even us.

Mr. President, last year two North Korean defectors indicated in testimony before the Senate Government Affairs Committee that the North Korean missile development program already poses a verifiable threat to American forces in Okinawa and is on track to threaten parts of Alaska by the turn of the Century.

Mr. President, I have no problem with humanitarian aid in itself—this is not the issue. The issue is whether we have an effective policy toward gaining cooperation with North Korea? I would argue, and I think the facts back me up, that we do not! Think about it. Every concession North Korea has ever granted has been on their terms—not ours, theirs! And when things do not appear to go their way, they take action which we try to deter through additional concessions. Sounds to me like the tail is wagging the dog.

Last month, the New York Times ran a story indicating that North Korea announced it would suspend their efforts to carry out the 1994 nuclear freeze agreement, the Agreed Framework. I would ask that a copy of this article appear in the RECORD at this time.

What does this tell us, Mr. President? That North Korea is not committed to a freeze; and that the freeze is simply a vehicle by which North Korea can exploit aid and other concessions from the United States and our allies.

I am not at this time suggesting that we should cut off all assistance to North Korea, nor am I suggesting that we should cut off funding and assistance to KEDO. We can discuss these issues during the appropriations process—and I suspect we will.

But I am encouraging my colleagues to think hard about this issue. Last week, we were honored to receive President Kim Dae-jung from the Republic of Korea. He hinted that the United States should consider easing sanctions against North Korea. Well, Mr. President, in light of these incidents, I don't know how we could possibly consider easing sanctions against North Korea—although I wonder whether we haven't already vis a vis KEDO and other assistance which we continue to extend to the North Korean government.

Mr. President, when the Senate turns back to the Defense Authorization bill, Senator Kyl and I will offer an amendment which requires the Secretary of Defense to study the issue of effective deployment of a theater missile defense system for the Asia-Pacific region. This is obviously needed to protect our troops in Okinawa and on the Korean peninsula. This amendment will further require that Korea, Japan and Taiwan be allowed to purchase, should they desire, such a system from the United States. I suspect that all of them would be extremely interested in such a defense system, Mr. President, and I think it is incumbent upon us to extend this protection to them.

Finally, Mr. President, I would simply reiterate that the United States needs a policy whereby we can effectively gain cooperation with North Korea. KEDO does not appear to be that framework. Perhaps we need to evaluate this, or whether a different approach is needed.

Mr. President, I ask unanimous consent that relevant articles be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post]

N. KOREA ADMITS SELLING MISSILES—MOVE SEEN AS TEST OF U.S. EMBARGO

(By Kevin Sullivan)

SEOUL, June 16—North Korea declared today that it will continue to develop, test and export ballistic missiles, officially acknowledging for the first time a clandestine weapons trade that analysis say has helped build arsenals in Iran, Iraq and Syria.

North Korea's admission added to tensions in Asia following nuclear testing by India and Pakistan, which has also reportedly purchased some of North Korea's Soviet-inspired missiles.

The blunt disclosure of the missile program appears to be aimed directly at the United States, which has imposed a near total economic embargo on North Korea. Pyongyang has been trying for years to persuade Washington to lift the embargo, which is strangling North Korea at a time when its economy is in desperate need of outside assistance.

In Washington, the State Department branded the North Korean statement "irresponsible" and rejected the economic arguments Pyongyang offered to justify missile sales, staff writer Thomas W. Lippman reported.

"Their missile proliferation activities have been of concern to us for a long time," a State Department official said. "It's well known that they sell missiles and technology virtually indiscriminately, including to regions in the Middle East and South Asia where we didn't think it was wise."

If North Korea wants improved relations with the United States and an easing of sanctions, the official said, it should restrain its missile sales, not expand them.

The United States has imposed sanctions on North Korea four times for missile exports, most recently in April of this year after Pakistan conducted flight tests of missile of North Korean design known in Pakistan as the Ghauri.

Many U.S. officials have pointed to North Korea's missile sales to Iraq and other states as evidence that the Stalinist government in Pyongyang remains a threat to global security. The Clinton administration has pressed North Korea repeatedly to stop exporting missiles—which, until today, North Korea had flatly denied doing.

"We will continue developing, testing and deploying missiles," said the official Korean Central News Agency, monitored in Tokyo. "If the United States really wants to prevent our missile export, it should lift the economic embargo as early as possible and make a compensation for the losses to be caused by discontinued missile export. . . . Our missile export is aimed at obtaining foreign money, which we need at present."

It was unclear whether North Korean officials had timed their statements to take advantage of concern over the Indian and Pakistani nuclear tests. North Korea, facing desperate food shortages and an economy that has been in a downward spiral for eight years, is widely seen as a shrewd manipulator capable of turning tensions on the Indian subcontinent into an opportunity for itself.

Pyongyang also may be trying to build on any momentum created by South Korean President Kim Dae Jung's recent visit to the United States. Kim, who favors broader peaceful engagement with North Korea, suggested gently to President Clinton and members of Congress that sanctions could be lifted gradually in exchange for reciprocal acts of good faith by Pyongyang.

By pressing the missile point just three days after Kim's return to Seoul, officials in North Korea may be hoping to capitalize on any new softening of Washington's resolve on sanctions.

Donald Gregg, a former U.S. ambassador to South Korea and now chairman of the Korea Society in New York, said he met today with officials of the North Korean U.N. delegation and was told they were dissatisfied with the pace of oil deliveries from the United States promised under a 1994 agreement. In that deal, North Korea agreed to suspend its suspected nuclear weapons program in exchange for two new nuclear reactors and 500,000 tons of fuel oil each year until the reactors were producing electricity.

Several oil shipments have been delayed, and Gregg said the North Koreans complained that the United States was not living up to its end of the deal. He said they argued that steady deliveries of fuel are especially important now during the agricultural growing season.

Gregg said the North Koreans also may feel that there had been less movement on the sanctions issue than they expected following Kim's visit to Washington. That, combined with irritation over the oil deliveries, may have spurred today's announcement, he said.

"The hard-liners may have thought, 'Well, we've got to make a move,'" Gregg said, adding that it is good that North Korea's missile program had finally been "flushed out."

Pyongyang's announcement is not likely to win any friends in Washington. "With missiles of the United States, which is at war with [North Korea] technically, aiming at our territory, we find no reason to refrain from developing and deploying missiles to counter them," the North Korean statement said.

The United States and North Korea began talks last year in which American negotiators hope to persuade Pyongyang to freeze its missile program and join an international agreement to restrict missile proliferation. The talks have gone virtually nowhere; the latest round, set for last August in New York, was canceled, and no new sessions are scheduled.

North Korea's missiles have long been a matter of grave concern in Asia. In 1993, it test-fired a medium-range Rodong-1 model into the Sea of Japan, demonstrating that parts of Japan, a key U.S. ally in the region, were well within the missile's 1,000-mile range.

Defense analysts say North Korea has since developed the Rodong-2 missile, which has a range of 1,500 miles, putting virtually all of Northeast Asia, including the 80 million residents of greater Tokyo, within striking distance. Analysts believe North Korea also is developing missiles with even longer ranges.

North Korea's provocative statements about its missile program come as Pyongyang has been more receptive and open on other issues. In recent months, relations between North and South Korea have thawed somewhat, especially on economic matters.

Under Kim Dae Jung's "sunshine policy" of engaging North Korea, many South Korean business leaders have been traveling to the North to discuss possible ventures there. For example, Chung Ju Yung, founder and honorary chairman of the Hyundai conglomerate, entered North Korea today with a donation of 500 cattle for the impoverished nation.

[From the New York Times International, Wednesday, May 13, 1998]

NORTH KOREA SAYS IT WILL UNSEAL REACTOR

(By Elizabeth Rosenthal)

Beijing, May 12—North Korean officials have announced that they are suspending their efforts to carry out the 1994 nuclear freeze agreement that was intended to dismantle that country's nuclear program. United States officials have said the program was intended to produce weapons.

Protesting that the United States had failed to honor promises to send fuel oil, a high-ranking member of the North Korean Government told a visiting academic on Saturday that North Korea had recently decided to unseal a nuclear reactor that under the agreement, was to have been closed permanently, and had also barred technicians from packing the last of the reactor's spent fuel rods for shipment out of the country. The rods contain plutonium that can be used in nuclear weapons.

Although North Korea's decision to reopen the plant, in Yong Byon, about 90 miles from the capital, Pyongyang, had no immediate effect, some arms experts called it an ominous symbolic action.

"This is like somebody dusting off the old .45 and making sure that it shines, but not loading it," said Gary Milhollin, director of the Wisconsin Project on Nuclear Arms Control. "They're sending a clever signal in our direction saying, remember, we can stop cooperating." Mr. Milhollin also said the approximately 200 rods did not contain enough plutonium to pose a nuclear threat.

Under the 1994 agreement, North Korea pledged to dismantle its nuclear program in exchange for American promises to coordinate the building of two light-water reactors to generate electricity and to deliver 500 metric tons of oil annually. North Korea also promised to ease barriers to trade. Although the United States has had trouble raising the billions of dollars required for those measures, it has repeatedly said it would carry out its side of the agreement.

But last Friday, North Korea's Government-run Korean Central News Agency expressed deep displeasure with the pace of the United States' efforts, and hinted that the North Korean Government might restart its nuclear program. North Korea "should no longer lend an ear to the empty promises of the United States side, but open and readjust the frozen nuclear facilities and do everything our own way," a statement from an unnamed Foreign Ministry official said.

And the next day, North Korea's Foreign Minister, Kim Young Nam, elaborated on the statement in a private two-hour meeting in Pyongyang with an American expert on Korea, Selig Harrison, of the Twentieth Century Fund.

According to Mr. Harrison, Mr. Kim said that on April 19, the North Koreans had opened up the previously sealed plant to "conduct maintenance activities," and had also halted the "canning of spent fuel rods" from the reactor, which is being conducted under the auspices of the International Atomic Energy Agency. Agency supervisors have been asked to leave the reactor site, although not the country. Two hundred of the reactor's 8,000 rods have not yet been prepared, he said.

"We are keeping up our progress in implementing the nuclear freeze agreement, but the U.S. is behind," Mr. Kim told Mr. Harrison, who spoke with reporters in Beijing en route back to the United States. "So we have now decided to slow down and suspend certain aspects of the agreement." He said that once the United States had a chance to "catch up," North Korea would resume cooperation.

The North Koreans contend that the United States is behind schedule in heavy fuel shipments and in its preparations to build the new reactors, to be completed by 2003.

On Saturday, the State Department said the United States had lived up to its obligations, noting that even though oil shipments have been slow for the first part of the year, the stipulated quota would be met by year's end. "Anything that would happen to undermine the integrity of that agreement from the North Korean side or from the outside would be, in our view, extremely lamentable and regrettable," Undersecretary of State Thomas Pickering said.

A State Department official who spoke on condition of anonymity said he had no information about the unsealing of the plant. He said that whether that act violates the agreement depends on what those "maintenance activities are."

Although North Korea has generally honored its commitments under the 1994 agreement, the United States has been unhappy with what it sees as North Korea's tepid attempts to improve relations with South Korea. North Korea, in turn, had been angered by it regarded as the United States' halfhearted efforts to remove trade barriers—efforts that have so far been mostly limited to allowing phone and fax lines.

Plans for the two reactors promised under the agreement have also been slowed by the financial crisis in Japan and South Korea. The two countries have delayed payments of billions of dollars in cash they had pledged.

Despite the announcement, Mr. Harrison said North Korean leaders had made some conciliatory statements during his talks. He said they signaled that they might be willing to negotiate with both the United States and South Korea to create a threeway peacekeeping force and structure for the tense Korean demilitarized zone. North Korea has previously refused to deal with Seoul as an equal partner on the issue.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting one nomination which was referred to the Committee on the Judiciary.

(The nomination received today is printed at the end of the Senate proceedings.)

REPORT ENTITLED "SCIENCE AND ENGINEERING INDICATORS—1998"—MESSAGE FROM THE PRESIDENT—PM 141

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Commerce, Science, and Transportation.

To the Congress of the United States:

As required by 42 U.S.C. 1863(j)(1), I am pleased to submit to the Congress a report of the National Science Board entitled *Science and Engineering Indicators—1998*. This report represents the thirteenth in a series examining key aspects of the status of American science and engineering in a global environment.

Investments in science and engineering research and education have enjoyed bipartisan support. They are critical to America's ability to maintain world leadership and fulfill our potential as a Nation as we begin the transition into the 21st century.

This report provides a broad base of quantitative information about U.S. science, engineering, and technology in an international context. I commend *Science and Engineering Indicators—1998* to the attention of the Congress and those in the scientific and technology communities. It will assist us in better understanding the new developments and trends in what is rapidly becoming a global knowledge-based economy.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *June 25, 1998.*

MESSAGES FROM THE HOUSE

At 1:05 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 3830. An act to provide for the exchange of certain lands within the state of Utah.

H.R. 4101. An act making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1999, and for other purposes.

H.R. 4103. An act making appropriations for the Department of Defense for the fiscal year ending September 30, 1999, and for other purposes.

At 2:11 p.m., a message from the House of Representatives, delivered by Mr. Hanrahan, one of its reading clerks, announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 297. Concurrent resolution providing for an adjournment of both Houses.

The message also announced that pursuant to the provisions of section 503(b)(3) of Public Law 103-227, the Speaker reappoints the following members on the part of the House to the National Skill Standards Board for four-year terms: Mr. James D. Burge of Washington, D.C. and Mr. Kenneth R. Edwards of Rockville, Maryland.

The message further announced that pursuant to the provisions of section 206 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5616), as amended by section 2(d) of Public Law 102-586, the Speaker appoints the following members on the part of the House to the Coordinating Council on Juvenile Justice and Delinquency Prevention: Mr. William Roberts Byars, Jr. of South Carolina, to a one-year term and Adele L. Grubbs of Georgia, to a three-year term.

At 6:57 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 3152. An act to provide that certain volunteers at private non-profit food bank are not employees for purposes of the Fair Labor Standards Act of 1938.

H.R. 4112. An act making appropriations for the Legislative Branch for the fiscal year ending September 30, 1999, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolution, in which requests the concurrence of the Senate:

H. Con. Res. 230. Concurrent Resolution honoring the Berlin Airlift.

The message further announced that the House agrees to the report of the committee on conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2676) to amend the Internal Revenue Code of 1986 to restructure and reform the Internal Revenue Service, and for other purposes.

The message also announced that the House agrees to the amendments of the Senate to the bill (H.R. 3130) to provide for an alternative penalty procedure for States that fail to meet Federal child support data processing requirements, to reform Federal incentive payments for effective child support performance, to provide for a more flexible penalty procedure for States that violate interjurisdictional adoption requirements, to amend the Immigration and Nationality Act to make certain aliens determined to be delinquent in the payment of child support inadmissible and ineligible for naturalization, and for other purposes.

ENROLLED BILLS SINGED

The message further announced that the Speaker has signed the following enrolled bills:

S. 2069. An act to permit the mineral leasing of Indian land located within the Fort Berthold Indian Reservation in any case in which there is consent from a majority interest in the parcel of land under consideration for lease.

H.R. 1316. An act to amend chapter 87 of title 5, United States Code, with respect to the order of precedence to be applied in the payment of life insurance benefits.

The enrolled bills were signed subsequently by the President pro tempore (Mr. THURMOND).

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent and referred as indicated:

H.R. 3152. An act to provide that certain volunteers at private non-profit food bank are not employees for purposes of the Fair Labor Standards Act of 1938; to the Committee on Labor and Human Resources.

H.R. 3830. An act to provide for the exchange of certain lands within the state of Utah; to the Committee on Energy and Natural Resources.

The following concurrent resolution was read and referred as indicated:

H. Con. Res. 230. Concurrent Resolution honoring the Berlin Airlift; to the Committee on Foreign Relations.

MEASURES PLACED ON THE CALENDAR

The following bills were read the first and second times, and placed on the calendar:

H.R. 4101. An act making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1999, and for other purposes.

H.R. 4103. An act making appropriations for the Department of Defense for the fiscal year ending September 30, 1999, and for other purposes.

H.R. 4112. An act making appropriations for the Legislative Branch for the fiscal year ending September 30, 1999, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-5716. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule correcting technical errors in regulations on organobromide production wastes (RIN2050-AD79) received on June 23, 1998; to the Committee on Environment and Public Works.

EC-5717. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plan; Indiana" (FRL6115-7) received on June 23, 1998; to the Committee on Environment and Public Works.

EC-5718. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule regarding Municipal Solid Waste Emissions Guidelines in the State of Oregon (FRL6115-5) received on June 23, 1998; to the Committee on Environment and Public Works.

EC-5719. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality State Implementation Plans, Louisiana; Correction" (FRL6116-8) received on June 23, 1998; to the Committee on Environment and Public Works.

EC-5720. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule regarding air quality regulations for volatile organic compounds in Pennsylvania (FRL6104-4) received on June 23, 1998; to the Committee on Environment and Public Works.

EC-5721. A communication from the Acting Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report on the establishment of an account for contributions to defray the costs of U.S. operations in Southwest Asia; to the Committee on Appropriations.

EC-5722. A communication from the Acting Comptroller General of the United States, transmitting, the report of an updated compilation of historical information and statistics regarding proposed and enacted rescissions through October 1, 1997; referred jointly, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, to the Committee on Appropriations, and to the Committee on the Budget.

EC-5723. A communication from the Acting Administrator of the Grain Inspection, Packers and Stockyards Administration, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Official Testing Service for Corn Oil, Protein, and Starch" (RIN0580-AA62) received on June 23, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC-5724. A communication from the Acting Administrator of the Grain Inspection, Packers and Stockyards Administration, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Tolerances for Moisture Meters" (RIN0580-AA60) received on June 23, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC-5725. A communication from the Secretary of Veterans' Affairs, transmitting, pursuant to law, the report of the Office of Inspector General for the period October 1, 1997 through March 31, 1998; to the Committee on Governmental Affairs.

EC-5726. A communication from the Chairman of the Federal Trade Commission, transmitting the Commission's annual report for fiscal year 1997; to the Committee on Commerce, Science, and Transportation.

EC-5727. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, notice of a certification regarding a proposed transfer of major defense equipment between Kuwait and Brazil (RSAT-2-98) received on June 24, 1998; to the Committee on Foreign Relations.

EC-5728. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, notice of the certification of a proposed Manufacturing License Agreement with Spain regarding amphibious assault vehicles (DTC80-98) received on June 24, 1998; to the Committee on Foreign Relations.

EC-5729. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, notice of the certification of a proposed Manufacturing License Agreement with Turkey regarding a thermal surveillance system (DTC72-98) received on June 24, 1998; to the Committee on Foreign Relations.

EC-5730. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, notice of the certification of a proposed Manufacturing License Agreement with Japan regarding certain missile systems (DTC75-98) received on June 24, 1998; to the Committee on Foreign Relations.

EC-5731. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, notice of the certification of a proposed Manufacturing License Agreement with Germany regarding aircraft engine parts (DTC81-98) received on June 24, 1998; to the Committee on Foreign Relations.

EC-5732. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, notice of the certification of a proposed Manufacturing License Agreement with Germany regarding a tank fire control system (DTC84-98) received on June 24, 1998; to the Committee on Foreign Relations.

EC-5733. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, notice of the certification of a proposed Manufacturing License Agreement with Germany regarding a missile system interface simulator (DTC73-98) received on June 24, 1998; to the Committee on Foreign Relations.

EC-5734. A communication from the Administrator of the Energy Information Administration, Department of Energy, transmitting, pursuant to law, a report entitled "Commercial Nuclear Fuel from U.S. and Russian Surplus Defense Inventories: Materials, Policies, and Market Effects"; to the Committee on Energy and Natural Resources.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-497. A resolution adopted by the House of the Legislature of the Commonwealth of Pennsylvania; to the Committee on Finance.

HOUSE RESOLUTION NO. 482

Whereas, section 5536 of the Balanced Budget Act of 1997, Public Law 105-33, amended Federal law to require each state to have in place laws requiring applicants for recreational licenses (hunting and fishing) to provide their Social Security numbers; and

Whereas, the Commonwealth of Pennsylvania has implemented this Federal mandate through the amendatory act of December 16, 1997 (P.L. 549, No. 58), to Title 23; and

Whereas, the Commonwealth of Pennsylvania strongly supports all effective mechanisms to encourage payment of child support obligations; and

Whereas, requiring applicants for hunting and fishing licenses to provide their Social Security numbers does not appear to enhance effective enforcement of child support obligations inasmuch as hunting and fishing license records are not retrievable by reference to the Social Security numbers; and

Whereas, the vast majority of hunting and fishing licenses are not sold by government agencies but are sold by private businesses ranging in size from large department stores to small bait and outdoor shops; and

Whereas, imposing the requirements to collect Social Security number information on the businesses that sell hunting and fishing licenses unduly complicate the license issuance transaction; and

Whereas, many purchasers of hunting and fishing licenses object to disclosure of their Social Security numbers to the private businesses that sell these licenses; and

Whereas, the legitimate privacy concerns expressed by many purchasers of hunting and fishing licenses from private businesses need to be addressed; and

Whereas, collection of Social Security numbers from applicants for hunting and fishing licenses does not aid in effective enforcement of child support obligations but does unduly inconvenience both the sellers and purchasers of these licenses and raises legitimate concerns about protection of personal information, therefore, be it

Resolved, That the House of Representatives of the Commonwealth of Pennsylvania memorialize the President and Congress of the United States to eliminate the requirement that states must require applicants for hunting and fishing licenses to provide their Social Security numbers.

POM—498. A resolution adopted by the House of the Legislature of the Commonwealth of Pennsylvania; to the Committee on Finance.

House Resolution No. 381

Whereas, costs borne by the taxpayers of the Commonwealth of Pennsylvania for long-term care under Medicaid exceed more than $500 million per fiscal year; and

Whereas, the costs of providing care for persons who can no longer take care of themselves have skyrocketed, with a national average of $38,000 per year for a nursing home stay and with costs as high as $50,000 in metropolitan areas like Philadelphia hitting the middle class particularly hard; and

Whereas, these costs to the Commonwealth will increase because of the demands of our aging population and the fact that baby boomers will soon be reaching retirement age; and

Whereas, a Pennsylvania solution to allow middle class Pennsylvanians to exempt for Medicaid eligibility, assets as a result of a purchase of private sector long-term care insurance so as to reduce the eventual costs borne by taxpayers for their care is stymied by section 1902(r)(2) of the Social Security Act (49 Stat. 620, 42 U.S.C. §1396a(r)(2)) which prohibits such shielding; therefore be it

Resolved, That the House of Representatives of the Commonwealth of Pennsylvania memorialize the Congress of the United States to enact legislation repealing section 1902(r)(2) of the Social Security Act (49 Stat. 620, 42 U.S.C. §1396a(r)(2)); and be it further

Resolved, That copies of this resolution be transmitted to the presiding officers of each house of Congress and to each member of Congress from Pennsylvania.

POM-499. A concurrent resolution adopted by the Legislature of the Commonwealth of Pennsylvania; to the Committee on Finance.

House Resolution No. 352

Whereas, the policy of the Commonwealth of Pennsylvania is to assure the health, safety and welfare of its citizens; and

Whereas, an adequate supply of tax-exempt private activity bond volume cap is essential and critically important in financing affordable, decent first-time homeownership opportunities in this State and the nation and serves other critically important purposes that contribute to the well-being of the citizens of this Commonwealth; and

Whereas, an adequate supply of low-income housing tax credits is essential and critically important to financing affordable, decent rental housing units that contribute to the well-being of the citizens of this Commonwealth; and

Whereas, the Congress of the United States, in the Tax Reform Code of 1986, established restrictions on tax-exempt private activity municipal bonds that imposed a limit, based on each state's population, not to exceed the greater of $50 per capita or $150,000,000 per calendar year but failed to include an automatic inflationary multiplier to ensure that the purchasing power of this resource did not become diminished; and

Whereas, Pennsylvania's relatively small growth in population has limited the amount of tax-exempt private activity bonds available, thus leading to an inadequate amount to meet the tax-exempt private activity financing demands of the Commonwealth of Pennsylvania, its agencies and political subdivisions; and

Whereas, the Congress, in the Tax Reform Code of 1986, established restrictions on the low-income housing tax credit that imposed a limit based on each state's population to be equal to $1.25 per capita per calendar year but failed to include an automatic inflationary multiplier to ensure that the purchasing power of this resource did not become diminished; and

Whereas, since 1987 the effects of annual inflation have diluted the purchasing power of these housing and economic development efforts by 40%, thereby reducing the real value of private activity bonds from $600,000,000 in 1987 to only $360,000,000 in 1997 and reducing the real value of Pennsylvania's share of low-income housing tax credits from $1.25 per capita in 1987 to only $0.75 per capita in 1997; and

Whereas, losing $240,000,000 in the real value of tax-exempt private activity bonding resource along with $0.50 of annual per capita credits from the low-income housing tax credit resource has greatly impaired the ability of this State and the nation to provide affordable housing and job opportunities by reducing nearly in half the number of single-family housing units and multifamily housing units available and affordable to first-time homebuyers and renters in Pennsylvania and has reduced the ability of its agencies and political subdivisions to provide economic stimulation; and

Whereas, if the State and its agencies and political subdivisions continue to be unable to provide levels of tax-exempt private activity bond financing and low-income housing tax credit financing for these purposes, the health, safety and welfare of the citizens of the Commonwealth of Pennsylvania will be further grievously damaged; therefore be it

Resolved (the Senate concurring), That the General Assembly memorialize Congress to increase immediately the tax-exempt private activity volume cap and the allocation of low-income housing tax credits available to each state, including Pennsylvania, to levels that would fully restore the tax-exempt private activity bond volume cap purchasing power and the low-income housing tax credit purchasing power of each state, including Pennsylvania, to levels that would offset the diluted effects of inflation since 1987 and to index increases for these resources to inflation in future years; and be it further

Resolved, That copies of this resolution be transmitted to the presiding officers of each house of Congress and to each member of Congress from Pennsylvania.

POM-500. A resolution adopted by the Town of Bourne, Massachusetts relative to contamination of the Campbell Elementary School on the Mass Military Reservation; to the Committee on Appropriations.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CHAFEE, from the Committee on Environment and Public Works, without amendment:

S. 627. A bill to reauthorize the African Elephant Conservation Act (Rept. No. 105-222).

S. 2090. A bill to extend the authority of the Nuclear Regulatory Commission to collect fees through 2003, and for other purposes (Rept. No. 105-223).

By Mr. CHAFEE, from the Committee on Environment and Public Works, with amendments:

S. 2095. A bill to reauthorize and amend the National Fish and Wildlife Foundation Establishment Act (Rept. No. 105-224).

By Mr. McCAIN, from the Committee on Commerce, Science, and Transportation, without amendment:

S. 1482. A bill to amend section 223 of the Communications Act of 1934 to establish a prohibition on commercial distribution on the World Wide Web of material that is harmful to minors, and for other purposes (Rept. No. 105-225).

S. 1619. A bill to direct the Federal Communications Commission to study systems for filtering or blocking matter on the Internet, to require the installation of such a system on computers in schools and libraries with Internet access, and for other purposes (Rept. No. 105-226).

By Mr. CHAFEE, from the Committee on Environment and Public Works, without amendment:

H.R. 39. A bill to reauthorize the African Elephant Conservation Act.

By Mr. HELMS, from the Committee on Foreign Relations, with amendments and with a preamble:

S. Res. 240. A resolution expressing the sense of the Senate with respect to democracy and human rights in the Lao People's Democratic Republic.

By Mr. HATCH, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 1976. A bill to increase public awareness of the plight of victims of crime with developmental disabilities, to collect data to measure the magnitude of the problem, and to develop strategies to address the safety and justice needs of victims of crime with developmental disabilities.

By Mr. HELMS, from the Committee on Foreign Relations, with amendments and with a preamble:

S. Con. Res. 97. A concurrent resolution expressing the sense of Congress concerning the human rights and humanitarian situation facing the women and girls of Afghanistan.

EXECUTIVE REPORTS OF COMMITTEE

The following executive reports of committees were submitted:

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources:

William Lloyd Massey, of Arkansas, to be a Member of the Federal Energy Regulatory Commission for the term expiring June 30, 2003. (Reappointment)

(The above nomination was reported with the recommendation that he be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. D'AMATO, from the Committee on Banking, Housing, and Urban Affairs:

Michael J. Copps, of Virginia, to be an Assistant Secretary of Commerce.

Awilda R. Marquez, of Maryland, to be Assistant Secretary of Commerce, and Director General of the United States and Foreign Commercial Service.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. HATCH, from the Committee on the Judiciary:

John D. Kelly, of North Dakota, to be United States Circuit Judge for the Eighth circuit.

Dan A. Polster, of Ohio, to be United States District Judge for the Northern District of Ohio.

Robert G. James, of Louisiana, to be United States District Judge for the Western District of Louisiana.

Ralph E. Tyson, of Louisiana, to be United States District Judge for the Middle District of Louisiana.

Raner Christercunean Collins, of Arizona, to be United States District Judge for the District of Arizona.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. THURMOND, from the Committee on Armed Services:

The following named officers for appointment in the United States Air Force to the grade indicated under title 10, U.S.C., section 624:

To be brigadier general

Col. Russell J. Anarde, 0781
Col. Anthony W. Bell, 4246
Col. Robert Damon Bishop, Jr., 9524
Col. Marion E. Callender, Jr., 6380
Col. Kevin P. Chilton, 6603
Col. Trudy H. Clark, 2591
Col. Richard L. Comer, 4255
Col. Craig R. Cooning, 4416
Col. John D.W. Corley, 9553
Col. David A. Deptula, 6792
Col. Gary R. Dylewski, 7306
Col. Edward R. Ellis, 9696
Col. Leonard D. Fox, 1435
Col. Terry L. Gabreski, 2941
Col. Jonathan S. Gration, 9630
Col. Michael A. Hamel, 2699
Col. William F. Hodgkins, 0138
Col. John L. Hudson, 5860
Col. David L. Johnson, 8568
Col. Walter I. Jones, 8782
Col. Daniel P. Leaf, 9223
Col. Paul J. Lebras, 9625
Col. Richard B.H. Lewis, 1265
Col. Stephen P. Luebbert, 9120
Col. Dale W. Meyerrose, 1611
Col. David L. Moody, 4219
Col. Quentin L. Peterson, 7151
Col. Douglas J. Richardson, 2865
Col. Ben T. Robinson, 7005
Col. John W. Rosa, Jr., 3351
Col. James G. Roudebush, 9187
Col. Ronald F. Sams, 5888
Col. Stanley A. Sieg, 3623
Col. James B. Smith, 5309
Col. Joseph B. Sovey, 2815
Col. Lawrence H. Stevenson, 8269
Col. Robert P. Summers, 8833
Col. Peter U. Sutton, 9325
Col. Donald J. Wetekam, 0322
Col. William M. Wilson, Jr., 9364

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be general

Lt. Gen. Charles T. Robertson, Jr., 8691

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. Walter S. Hogle, Jr., 6057

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. John L. Woodward, Jr., 3961

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. Gregory S. Martin, 6337

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Lt. Gen. John B. Sams, Jr., 6470

The following named officer for appointment in the United States Air Force as Dean of Faculty, United States Air Force Academy, a position established under title 10, United States Code, section 9335, and for appointment to the grade indicated in accordance with Article II, Section 2 of the Constitution of the United States:

To be brigadier general

Col. David A. Wagie, 0211

The following named officer for appointment in the United States Air Force to the grade indicated under title 10, U.S.C., section 624:

To be major general

Brig. Gen. Kenneth W. Hess, 2733

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. Thomas J. Keck, 7924

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. Marvin R. Esmond, 6588

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be general

Gen. Richard B. Myers, 7092

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be general

Lt. Gen. Patrick K. Gamble, 2878

The following named officers for appointment in the United States Army to the grade indicated under title 10, U.S.C., section 624:

To be major general

John P. Abizaid, 6229
Joseph W. Arbuckle, 1975
Barry D. Bates, 4112
William G. Boykin, 5846
Charles C. Campbell, 6999
James L. Campbell, 9858
George W. Casey, Jr., 1204
Dean W. Cash, 1289
Dennis D. Cavin, 8558
Joseph M. Cosumano, Jr., 4186
Peter M. Cuviello, 4052
Robert F. Dees, 5138
John C. Doesburg, 2908
James E. Donald, 4190
Benjamin S. Griffin, 5044
Dennis K. Jackson, 1213
James T. Jackson, 4979
William J. Lennox, Jr., 1093
Albert J. Madora, 4210
David D. McKiernan, 8864
Geoffrey D. Miller, 7650
Willie B. Nance, Jr., 9605
Robert W. Noonan, Jr., 6884
Kenneth L. Privratsky, 8131
Hawthorne L. Proctor, 9888
Robert J. St. Onge, Jr., 1736
Robert L. Van Antwerp, Jr., 8468
Daniel R. Zanini, 1319

The following named officers for appointment in the United States Army to the grade indicated under title 10, U.S.C., section 624:

To be major general

Brig. Gen. Evan R. Gaddis, 5455
Brig. Gen. Alfred A. Valenzuela, 4832

The following named officer for appointment as Chief of the Bureau of Medicine and Surgery and Surgeon General and for appointment to the grade indicated under title 10, U.S.C., sections 601 and 5137:

To be vice admiral

Rear Adm. Richard A. Nelson, 1464

The following named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be admiral

Vice Adm. Richard W. Mies, 4623

The following named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be vice admiral

Rear Adm. Charles W. Moore, Jr., 5696

The following named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be vice admiral

Vice Adm. Robert J. Natter, 9953

The following named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be vice admiral

Vice Adm. Thomas B. Fargo, 9953

The following named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be vice admiral

Rear Adm. Walter F. Doran, 4942

The following named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be vice admiral

Vice Adm. Arthur K. Cebrowski, 9746

The following named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be vice admiral

Rear Adm. Dennis V. McGinn, 1807

The following named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C, section 601:

To be vice admiral

Rear Adm. Daniel J. Murphy, Jr., 6221

The following named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be admiral

Vice Adm. James O. Ellis, Jr., 4995

(The above nominations were reported with the recommendation that they be confirmed.)

Mr. THURMOND. Mr. President, from the Committee on Armed Services, I report favorably nomination lists which were printed in the RECORDS of September 18, 1997, January 29, 1998, April 29, 1998, May 15, 1998, May 22, 1998 and June 9, 1998, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar, that these nominations lie at the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk were printed in the RECORDS of September 18, 1997, January 29, 1998, April 29, 1998, May 15, 1998, May 22, 1998 and June 9, 1998, at the end of the Senate proceedings.)

In the Navy nomination of Timothy W. Zeller, which was received by the Senate and appeared in the Congressional Record of September 18, 1997.

In the Army nominations beginning Sue H. Abreu, and ending Daryl N Zeigler, which nominations were received by the Senate and appeared in the Congressional Record of January 29, 1998.

In the Navy nominations beginning Daniel A. Acton, and ending Eric R. Zumwalt, which nominations were received by the Senate and appeared in the Congressional Record of April 29, 1998.

In the Air Force nominations beginning William E. Dickerson, and ending William E. Nelson, which nominations were received by the Senate and appeared in the Congressional Record of May 15, 1998.

In the Army nominations beginning Herbert P. Fritts, and ending Willie H. Oglesby, Jr., which nominations were received by the Senate and appeared in the Congressional Record of May 15, 1998.

In the Navy nomination of Masako Hasebe, which was received by the Senate and appeared in the Congressional Record of May 15, 1998.

In the Navy nominations beginning Richard B. Alsop, and ending Theodore A. Zobel, which nominations were received by the Senate and appeared in the Congressional Record of May 15, 1998.

In the Army nominations beginning Gary J. Dunn, and ending Michael C. Sullivan, which nominations were received by the Senate and appeared in the Congressional Record of May 22, 1998.

In the Army nominations beginning Larry P. Adamsthompson, and ending Douglas R. Wootten, which nominations were received by the Senate and appeared in the Congressional Record of May 22, 1998.

In the Marine Corps nomination of Lonny R. Haddox, which was received by the Senate and appeared in the Congressional Record of May 22, 1998.

In the Marine Corps nominations beginning Steven P. Martinson, and ending Brent A. Smith, which nominations were received by the Senate and appeared in the Congressional Record of May 22, 1998.

In the Navy nominations beginning Jason T. Baltimore, and ending Daniel P. Shanahan, which nominations were received by the Senate and appeared in the Congressional Record of May 22, 1998.

In the Navy nominations beginning David L. Grochmal, and ending Joel D. Newman, which nominations were received by the Senate and appeared in the Congressional Record of May 22, 1998.

In the Navy nominations beginning Ronald W. Hargraves, and ending Janice L. Walli, which nominations were received by the Senate and appeared in the Congressional Record of May 22, 1998.

In the Navy nomination of Stephen E. Palmer, which was received by the Senate and appeared in the Congressional Record of May 22, 1998.

In the Navy nominations beginning Gary L. Murdock, and ending Brian G. Wilson, which nominations were received by the Senate and appeared in the Congressional Record of May 22, 1998.

In the Army nominations beginning Isaac V. Gusukuma, and ending James I. Pylant, which nominations were received by the Senate and appeared in the Congressional Record of June 9, 1998.

In the Army nominations beginning Michael D. Corson, and ending Kenneth H. Newton, which nominations were received by the Senate and appeared in the Congressional Record of June 9, 1998.

In the Army nomination of *Timothy C. Beaulieu, which was received by the Senate and appeared in the Congressional Record of June 9, 1998.

In the Army nominations beginning *James E. Ragan, and ending *John H. Chiles, which nominations were received by the Senate and appeared in the Congressional Record of June 9, 1998.

In the Marine Corps nominations beginning William M. Aukerman, and ending Dayle L. Wright, which nominations were received by the Senate and appeared in the Congressional Record of June 9, 1998.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. WELLSTONE:

S. 2215. A bill to provide transitional community employment for unemployed persons, and other individuals in poverty, who live in certain identified communities, and for other purposes; to the Committee on Finance.

By Ms. COLLINS:

S. 2216. A bill to amend title XVIII of the Social Security Act to make certain changes related to payments for graduate medical education under the medicare program; to the Committee on Finance.

By Mr. FRIST (for himself, Mr. ROCKEFELLER, Mr. DOMENICI, Mr. LIEBERMAN, Mr. BURNS, Mr. BINGAMAN, Mr. GRAMM, and Mr. BREAUX):

S. 2217. A bill to provide for continuation of the Federal research investment in a fiscally sustainable way, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. SARBANES (for himself, Mr. FAIRCLOTH, Mr. WARNER, Ms. MIKULSKI, and Mr. ROBB):

S. 2218. A bill to require the Secretary of the Army, acting through the Chief of Engineers, to evaluate, develop, and implement a strategic master plan for States on the Atlantic Ocean to address problems associated with toxic microorganisms in tidal and nontidal wetlands and waters; to the Committee on Environment and Public Works.

By Mr. KERREY:

S. 2219. A bill to direct the Secretary of the Interior to convey certain irrigation project property to certain irrigation districts in the State of Nebraska; to the Committee on Energy and Natural Resources.

By Mr. JOHNSON:

S. 2220. A bill to provide the President with expedited Congressional consideration of line item vetoes of appropriations and targeted tax benefits; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one Committee reports, the other Committee have thirty days to report or be discharged.

By Mr. MCCAIN (for himself and Mr. COATS):

S. 2221. A bill to grant the power to the President to reduce budget authority; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one Committee reports, the other Committee have thirty days to report or be discharged.

By Mr. GRASSLEY (for himself, Mr. REID, Mr. HOLLINGS, and Mr. D'AMATO):

S. 2222. A bill to amend title XVIII of the Social Security Act to repeal the financial limitation on rehabilitation services under part B of the Medicare Program; to the Committee on Finance.

By Mr. GRAMS (for himself, Mr. FAIRCLOTH, Mr. BRYAN, Mr. THURMOND, Mr. BREAUX, Mr. ALLARD, Mr. AKAKA, Mr. BROWNBACK, Mr. INOUYE, Mr. DOMENICI, Mr. REID, Mr. GREGG, Mr. ASHCROFT, Mr. BENNETT, Mr. MACK, Mr. MCCAIN, and Mr. ENZI):

S. 2223. A bill to provide a moratorium on certain class actions relating to the Real Estate Settlement Procedures Act of 1974; to the Committee on the Judiciary.

By Mr. DODD (for himself, Mr. HAGEL, Mr. BIDEN, and Mr. ROBERTS):

S. 2224. A bill to authorize the President to delay, suspend , or terminate economic sanctions if it is in the national security or foreign policy interest of the United States to do so; to the Committee on Foreign Relations.

By Mr. GRAHAM (for himself and Mr. MACK):

S. 2225. A bill to amend the Outer Continental Shelf Lands Act to prohibit new leasing activities in certain areas off the coast of Florida, and to permit exploration, production, or drilling activities on existing leases only if adequate studies are performed, to require adequate information and analyses for development and production activities, and to allow states full review of development and production activities; to the Committee on Energy and Natural Resources.

By Mr. CRAIG (for himself and Mr. KEMPTHORNE):

S. 2226. A bill to amend the Idaho Admission Act regarding the sale or lease of school land; to the Committee on Energy and Natural Resources.

By Mr. WYDEN (for himself and Mr. SMITH of Oregon):

S. 2227. A bill to amend title XVIII of the Social Security Act to eliminate the budget neutrality adjustment factor used in calculating the blended capitation rate for Medicare+Choice organizations; to the Committee on Finance.

By Mr. THOMPSON (for himself, Mr. GLENN, Mr. COCHRAN, Mr. LEVIN, Mr. BROWNBACK, and Mr. LIEBERMAN):

S. 2228. A bill to amend the Federal Advisory Committee Act (5 U.S.C. App.) to modify termination and reauthorization requirements for advisory committees, and for other purposes; to the Committee on Governmental Affairs.

By Mr. LEVIN:

S. 2229. A bill to amend the Internal Revenue Code of 1986 to provide an increase in the lifetime learning education credit for expenses of teachers in improving technology training; to the Committee on Finance.

By Mr. CHAFEE (for himself, Mr. BAUCUS, Mr. D'AMATO, Mr. HATCH, Ms. MIKULSKI, Mr. JEFFORDS, Mr. ROCKEFELLER, and Mr. CONRAD):

S. 2230. A bill to amend the Internal Reveneue Code of 1986 to extend the work opportunity tax credit for 3 additional years; to the Committee on Finance.

By Mr. HATCH (for himself, Mr. BAUCUS, and Mr. MACK):

S. 2231. A bill to amend the Internal Revenue Code of 1986 to simplify certain rules relating to the taxation of United States business operating abroad, and for other purposes; to the Committee on Finance.

By Mr. BUMPERS (for himself and Mr. HUTCHINSON):

S. 2232. A bill to establish the Little Rock Central High School National Historic Site in the State of Arkansas, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. CONRAD (for himself and Mr. HATCH):

S. 2233. A bill to amend section 29 of the Internal Revenue Code of 1986 to extend the placed in service date for biomass and coal facilities; to the Committee on Finance.

By Mr. DORGAN:

S. 2234. A bill to require the Secretary of Agriculture to carry out a trade compensation assistance program if the President, any other member of the executive branch, or any other provision of law causes exports from the United States to any country to be suspended for reasons of national security policy, and to require the Secretary of Defense to reimburse the Commodity Credit Corporation for the cost of each such program; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. CAMPBELL (for himself and Mr. JEFFORDS):

S. 2235. A bill to amend part Q of the Omnibus Crime Control and Safe Streets Act of 1968 to encourage the use of school resource officers; to the Committee on the Judiciary.

By Mr. GORTON (for himself, Mr. ROCKEFELLER, and Mr. LIEBERMAN):

S. 2236. A bill to establish legal standards and procedures for product liability litigation, and for other purposes; read the first time.

By Mr. LOTT (for himself, Mr. LIEBERMAN, Mr. HELMS, Mr. KYL, Mr. BROWNBACK, Mr. SHELBY, and Mr. MCCAIN):

S.J. Res. 54. A joint resolution finding the Government of Iraq in unacceptable and material breach of its international obligations; to the Committee on Foreign Relations.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. WARNER (for himself, Mr. FORD, and Mr. MOYNIHAN):

S. Con. Res. 106. A concurrent resolution to commend the Library of Congress for 200 years of outstanding service to Congress and the Nation, and to encourage activities to commemorate the bicentennial anniversary of the Library of Congress; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. WELLSTONE:

S. 2215. A bill to provide transitional community employment for unemployed persons, and other individuals in poverty, who live in certain identified communities, and for other purposes; to the Committee on Finance.

STRATEGIC TRANSITIONAL EMPLOYMENT PROGRAM ACT

Mr. WELLSTONE. Mr. President, today I am introducing a piece of legislation, and Delegate ELEANOR HOLMES NORTON has introduced this on the House side. This legislation is called the Strategic Transitional Employment Program, STEP. This legislation is an outgrowth of some of my work as a senator in Minnesota and in other communities around the country.

If I had to summarize my travel in our country in Delta, MS, or East Los Angeles, or Watts, or inner-city Baltimore, or inner-city Minneapolis, or rural Minnesota, or Appalachia, Letcher County, KY, or inner-city Chicago, over and over and over again, the one thing I heard from people was: Where are the jobs at decent wages that we can support our families on? More than anything in the world, Senator, we want to be able to earn a decent living and give our children the care they need and deserve.

Congresswoman NORTON and I had the opportunity to be at First Baptist Church here in D.C. Pastor Eldridge Spearman's church, in the Greenway community, working with the Marshall Heights Community Development Organization. There was a wonderful turnout of people from the community. They said this would be the best single thing we could talk about. Over the next 4 years, an effort to create 1.8 million jobs for people, transitional employment, moving toward living-wage jobs, opportunity for education, job training, so that we build up the human capital in our communities so that we then can attract the private capital.

This is a major issue that is off the political debate screen but should be on the political debate screen and should be part of our agenda. There is a jobs gap in our Nation now, close to 5 million jobs, and even with the economy humming along at peak economic performance, there are many communities, as the eminent scholar, William Julius Wilson, points out, where there is no work, work is the most important thing we can focus on. When people work, they contribute to family, they contribute to community, they have dignity. But there are too many communities in our country where there are almost no jobs at all.

This legislation speaks to that. I will be bringing to the floor of the Senate some sense-of-the-Senate amendments that talk about the need to have thorough study and investigation. I will work out amendments that come from this piece of legislation, build up support, and come to the floor over and over and over again to talk about this. This is a structural problem in our economy, and this is the key to economic opportunity.

Children do better when their parents are doing better. There is no more important priority than to focus on jobs and to focus on job opportunities. That is what this legislation does.

I thank Brian Ahlberg, on my staff, and Deanna Caldwell for doing such superior work, and I thank the Center for Community Change, the Center for Budget and Policy Priorities, Peter Edelman and William Julius Wilson for their work, as well.

The bill I introduce today, the Strategic Transitional Employment Program (STEP) Act of 1998 addresses what I consider to be one of the key moral issues facing our country. The issue is jobs. I often say that if you want to prevent crime, if you want to prevent drugs, broken homes, violence in our homes, violence in our schools and on the streets, then focus on providing all Americans with a good education, good health care and a good job. Too many Americans who want to work and are able to work cannot find a good job.

During my recent and continuing travels, I have found that even as official unemployment figures and other leading indicators suggest that we should be celebrating our economic success, many American communities continue to struggle with the demoralization of joblessness. When I traveled last year to Mississippi, Los Angeles, Chicago, Baltimore, Kentucky, urban and rural Minnesota, and when I travel to struggling communities, neighborhoods and barrios today, I heard and still hear the question: Senator, where are all the good jobs? We want to work. We are able to work. Where are the jobs?

Most Americans are aware that the gap between rich and poor in America is widening. Between the late 1970s and the mid 1990s, incomes of the richest fifth of families increased on average by 30 percent, or about $27,000 after adjusting for inflation. In contrast, the real incomes of the poorest families declined on average 21 percent, about $2,500. According to the Center on Budget and Policy Priorities, "In the United States as a whole, the poorest 20 percent of families with children had an average income of $9,250 in the mid-1990s, while the average income of families with children in the top 20 percent of the income distribution was $117,500, or 13 times as large."

In the United States today, poverty is becoming more and more concentrated, the poor are more and more isolated, and joblessness is more strongly associated with that poverty than ever before. Concentrated joblessness is increasing in urban neighborhoods and poor rural communities. Meanwhile, the joblessness is becoming more and more prolonged—a chronic condition—for residents of those areas.

Last Friday I took part in an event at First Baptist Church in Southeast Washington, D.C. First Baptist is just across the Anacostia River on Minnesota Avenue. It serves the communities of Greenway, Marshall Heights and many others across our Nation's Capital. District of Columbia Delegate HOLMES-NORTON and I announced that we would be introducing this bill, and I would just like to thank the church, including its pastor Eldridge Spearman, as well as Mr. and Mrs. Strayhorn and others of the church's staff for welcoming us there. Representatives of the Marshall Heights Community Development Organization also were present and participated in what I believe was an important event.

The problem of joblessness persists today in Washington, D.C. and in communities across the country, even at a time when our economy is at peak performance. Between 4 and 5 million Americans of working age lack the jobs they need to support themselves and their families. Many have been jobless for prolonged periods. They have lost their jobs, or they have never been able to find a job. They lack the skills and experience to get a job, or there are no jobs nearby where they live. Many are so discouraged they no longer are seeking work. They are not even counted as unemployed.

We are not talking only about those who are already or soon will be losing welfare benefits. Those people, many of them women with children, will be required to find work. We also are talking about more than a million men—African-American men in our cities, men regardless of race or background in urban and rural areas. Many jobless men are fathers. They want to work. They are able to work. But they remain jobless.

Why has concentrated joblessness and poverty increased and intensified for some while the rest of the country is enjoying an abundance of work, when in fact in some areas there are labor shortages? There are a number of reasons, but two are fundamental: changes in the nature of work and in the location of work. Race is a third important factor.

We have experienced profound economic restructuring that has transformed the nature of work and the skills demanded for work. Industrial and manufacturing jobs, once a foundation of our economy, have given way to work that is driven by new technological developments and a global marketplace. The demand for skilled workers, those with education and training, is high. Lower-skilled workers, who have always been the most vulnerable to economic shifts, have seen their work opportunities dwindle or vanish. The gap between average earnings of high school graduates and college graduates has become a gulf. In fact, "the unemployment rates for low-skilled men and women are five times that among their college-educated counterparts," according to the prominent social scientist and Harvard University Professor William Julius Wilson.

I am pleased that to say that I believe we are on the verge of completing conference work on the workforce legislation that will improve the country's job-training system. That is a crucial, bipartisan work-product of the Senate's Labor Subcommittee on Employment and Training, on which I am proud to serve as Ranking Minority Member. I am hopeful we can complete and enact that legislation in the coming weeks. The bill I introduce today is designed to fit closely with and complement that reform of the federal job-training system. It would utilize the streamlined and improved job-training infrastructure that the workforce bill is designed to bring about.

The location of work also has changed. Business has moved to the suburbs. New jobs, even lower-skill jobs, are more likely to be found in suburban environments than central city or rural communities. In the 1980s, 87 percent of new jobs in the lower-paying and lower-skilled service and retail trade sectors were created in the suburbs, according to the Department of Housing and Urban Development (HUD). And all too often, jobs in the suburbs are inaccessible using public transportation.

Race is a further determinant of concentrated poverty and joblessness. We cannot ignore or dismiss the impact of racial discrimination. It has created islands of poverty and joblessness. It is no coincidence that the residents of most central cities, of most poor rural counties, are more likely to be racial minorities. William Julius Wilson describes how many of our central cities have become essentially racially segregated and poor:

> In addition to changes in the economy and in the class, racial, and demographic composition of inner-city ghetto neighborhoods, certain government programs and policies contributed, over the last fifty years, to the evolution of jobless ghettos. Prominent among these are the early actions of the FHA in withholding mortgage capital from inner-city neighborhoods, the manipulation of market incentives that trapped blacks in the inner cities and lured middle-class whites to the suburbs, the construction of massive federal housing projects in inner-city neighborhoods, and, since 1980, the New Federalism, which, through its insistence on localized responses to social problems, resulted in drastic cuts in spending on basic urban programs. Just when the problems of social dislocation in jobless neighborhoods have escalated, the city has fewer resources with which to address them.

HUD's State of the Cities report for 1997 observed that, "In 1995, the poverty rate for whites (not of Hispanic origin) was 6.4 percent; for Asians and Pacific Islanders it was 12.4 percent; African Americans, 26.4 percent; and Hispanics 27.0 percent."

The Eisenhower Foundation recently published a report that examines what has happened in the 30 years since the historic Kerner Commission report of 1968. Here is one finding from that report: "Since the Kerner Commission, the U.S. has had the most rapid growth in wage inequality in the Western world, with racial minorities suffering disproportionately. . . . [T]here cannot be meaningful progress in closing the racial divide without an economic corollary."

The problem is not only urban. An American Indian in Minneapolis or a Mexican-American immigrant in Willmar, Minnesota might still not receive fair consideration from too many potential employers. With historic Civil Rights legislation through the years, we have largely transcended the most blatant policies of racial prejudice and segregation in our country. But to some degree we have replaced them with policies of inaction and neglect. Poor minorities have been made poorer, in some cases are more segregated, and many remain stereotyped.

We pay for neglect, for the failure to act, in a myriad of ways. Neglect breeds destructive behavior that harms individuals, that harms those in close proximity, and that eventually harms those far removed. Criminal behavior is a child of neglect. We know that there are strong relationships between poverty, unemployment, and crime. Work deters the kind of crime that is found in communities of concentrated joblessness and poverty. It may not be all that is needed, but legitimate work opportunity is integral. Without it there is no hope.

The STEP proposal would build a bridge to close the "jobs gap"—the gap between those who are doing well in today's economy and those who are being left behind. The problem in this case is not the cyclical nature of our economy. It is chronic and structural joblessness. We cannot any longer disregard the substantial portion of our population that is being left out of the benefits of general prosperity.

The Center for Community Change estimates a jobs gap of about 4.4 million. In other words, 4.4 million people are out of work or economically in need of additional employment due to a lack of jobs appropriate to their skills and abilities. The estimate includes about 2.1 million of the officially unemployed who have been without work for 15 weeks or longer. It also includes about 330,000 persons who are without work but have given up their employment search and are therefore no longer officially unemployed—also called the discouraged worker. And it includes about 2 million full-time equivalent positions, which represent the nearly 4 million "economically underemployed," people who work part-time because they cannot find a full-time job and who are also not included in the count of the officially unemployed.

The answer to the jobs gap is jobs, and our bill will create jobs—1.8 million of them over three years. The idea for this legislative proposal comes from people who have devoted much of their professional lives to attempting to solve this problem: the Center for Community Change, the Center for Budget and Policy Priorities, Peter Edelman, William Julius Wilson and grassroots organizations around the country which serve low-income communities. Our bill will not create every permanent job that is needed. Massive job-creation programs have been proposed and even tried in the past. They usually were designed as counter-cyclical interventions in the economy to address recessions. We also acknowledge that there are other reasons for joblessness which our bill does not directly address. If there are no jobs nearby, part of the solution may be transportation. If a jobless person is a parent, part of the solution may be affordable, quality child care.

Rather, the bill proposes for the first time a specific and limited policy tool to address a specific, crucial need. It is a realistic effort to provide for out-of-work individuals a transition between chronic joblessness and a non-subsidized job in the private or public sector. It is a serious, even if initial and partial, effort to close the jobs gap. What I propose today is a plan to provide nearly 2 million Americans with a significant step toward a full-time, living wage job.

It will help these jobless individuals living in poverty with meaningful employment experience for one year, as well as with skills-training and education.

It will provide hard-hit communities with needed economic development and services so they can attract more investment.

It will prepare workers who, at the end of a year of skills-developing work, can qualify for many of the positions that private employers are telling us they cannot fill because they can't find able and experienced workers. That also will help attract investment.

Finally, it will create a new demonstration program at the Small Business Administration to help target venture-capital investment to small enterprises that provide jobs in high-unemployment, high-poverty communities.

The core of the bill is a 4-year, $20-billion program to create 1.8 million entry-level, 12-month, transitional jobs. These will be community employment jobs, filling needs in the affected communities. The program would be administered by the Department of Labor, largely through the existing federal employment and training infrastructure, which we are in the midst of reforming and improving in substantial ways. Money and decision-making power would be pushed down to the local level. Participation by key groups—employers, labor, elected officials and community-based organizations—would be assured.

We are not simply providing make-work jobs leading to nowhere. State and local plans would have to specify how the jobs and the accompanying skills development would provide a transition to gainful employment after one year. Nor are we creating an exploited, low-wage workforce to displace current workers or undercut their wages, such as many allege is happening with Welfare-to-Work in some places. Strict anti-displacement language is included in the bill. Workers in the program would be paid slightly above minimum wage, plus benefits, and would receive full federal labor law protections.

The program would be paid for from discretionary funds, so no budgetary offset would be required for its enactment. Nonetheless, offsets are included in the bill. It would be paid for by eliminating unnecessary current spending. The bill would revoke the current subsidy of excessive executive compensation among large American corporations—prohibiting the federal tax deduction for salaries paid to executives which are more than 25 times the compensation of another employee of the same company for the same year. And it would repeal the deferral of income tax owed on assets of U.S.-controlled foreign corporations.

Here is how the bill would work.

The STEP Act would provide transitional employment to place people firmly on the pathway to economic security.

The STEP Act would provide funding over four years to create entry-level jobs, and provide benefits, for people who have been jobless 15 weeks or more, who have a family income at or below poverty, and who are living in a community of concentrated poverty and unemployment. The jobs would be transitional—meaning that eligible participants could stay in the program for a maximum of twelve months, although some exceptions would be allowed.

Under the four-year STEP initiative, States and local communities would spend the first year carefully planning a job creation strategy to create, nationwide, 1.8 million jobs over three years. With an eye towards ensuring quality and the coordination of resources, the STEP Act incrementally builds the number of jobs created each year to reach the total of 1.8 million jobs. Funding is provided in the second (post-planning) year to create 200,000 jobs; in the third year to create 600,000 jobs; and in the fourth year to create 1 million jobs.

The number one priority of STEP is creating jobs for people who need work—people living in communities of concentrated poverty and unemployment. STEP is not just a job that ends in 12 months. It is the propellant for landing sustaining employment—employment that pays a living wage, the kind of job that could provide meaningful responsibilities to help people develop work skills and get sound work experience under their belt. At the same time, STEP participants would have paid time—10 hours per week—to get secondary, vocational, or post-secondary education. Their annual earnings would be consistent with living wage principals. They would be hooked into services such as transportation and child care which will be critical to their ultimate success. Also, they would have job search and job placement assistance to help ensure their successful transition out of the STEP program.

The second priority is to create jobs in communities where jobs are scarce—in communities of concentrated poverty—whenever possible. There is no lack of work to be done in poor neighborhoods. The STEP Act would authorize work, regardless of its location, for environmental conservation or restoration, to develop infrastructure or affordable housing, to provide human services or to support small businesses. Poor communities could use the wage subsidies that STEP would provide to help with the renovation of schools and community centers, to provide child care or community health care services, to provide elder care, to provide aides to school teachers, to provide after-school and summer recreational programs, to develop parks and playgrounds, to provide 911 phone service, to remove lead paint and asbestos, to build or renovate housing, and to provide community safety and crime prevention services. This is just some of the work that could be, and should be, done in communities with entrenched poverty.

The jobs that would be created and the location of those jobs would be determined by the people most familiar with the needs of the community and with the needs of local residents. Local community members, elected officials, labor unions, and representatives from for-profit business would collaborate to develop work proposals and identify worksite employers. When work could be physically located in or would benefit a community of concentrated poverty and unemployment, that work would receive funding before other proposals. We would allow jobs to be located outside a community of poverty for two reasons: (1) because we understand that the best skill-developing work opportunities may lie outside the boundaries of an impoverished community and our first priority is getting people to work; and (2) because we recognize that wages alone don't renovate schools or build houses. Other resources are necessary and may not be available to those communities. Participants, however, would have to be residents of a community of concentrated poverty and unemployment.

Employers could be local public agencies, private nonprofits, or private employers. Work created in public agencies and in nonprofits would be funded first.

The bill contains a number of measures to ensure that current employees would not be harmed or displaced. Labor organizations would play a significant role in selecting job proposals and in monitoring work conditions. It also contains provisions to ensure that workers would be provided health insurance benefits; would be covered by Federal, State, and local labor laws; would be covered by anti-discrimination statutes; and would be eligible for the Earned Income Tax Credit.

The cost of creating 1.8 million jobs over four years as I have outlined is $21 billion. That cost of providing jobs to those who need them is a bargain compared to the inescapable price that we pay, and that our children will pay, for doing nothing. The price of neglect is high—fiscally, emotionally and culturally.

The bill also provides funding for community development venture capital—a critical need in most low-income communities. Equity capital is in short supply in low-income areas. Grassroots community development organizations have accomplished much through self-help economic development efforts, including microlending and technical assistance to businesses. However, few of these organizations have the financial or technical capacity to make equity investments to launch businesses or to help them expand. A field of community development venture capital (CDVC) funds is emerging to fill the gap. These CDVC funds are targeting businesses that traditional institutional investors shy away from for a variety of reasons. These are businesses that may be located in economically distressed urban or rural areas, or businesses in need of equity investment in smaller amounts than what the traditional investor would consider. Also unlike the traditional investment firm, CDVCs target companies that will create good jobs that pay decent wages and opportunities for advancement. They seek to shape the culture of young companies with respect to sustainable community development and environmental impact. That means providing entrepreneurial solutions to social problems, creating jobs and generating wealth in economically disadvantaged areas, and yielding competitive long-term investment returns.

There are about 30 community development venture capital funds currently operating around the country. Northeast Ventures Corporation in Duluth, Minnesota is an excellent example. Northeast Ventures invests primarily in a seven county area that is a restructured mining region. They invest in a wide range of industries, with "typical" initial investments ranging from $150,000 to $350,000.

The STEP Act would provide funding of $20 million over four years for community development venture capital initiatives. The program would help to build the capacity of existing CDVC funds and encourage the development of emerging funds. The funds would be channeled through experienced, qualified, nonprofit intermediary organizations to provide venture capital financing (loans, grants, and equity investments) to venture capital funds that serve low-income people and their communities. The funding would also be used to provide training, education and operating support to develop the technical and administrative capacity of emerging community development venture capital organizations.

Mr. President, the STEP Act would be an important effort towards bridging America's jobs gap. I hope my colleagues will support it.

I ask unanimous consent that a list of groups supporting the bill be printed in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

GROUPS IN SUPPORT OF STEP ACORN

Alameda Corridor Jobs Coalition, California
Amalgamated Transit Union, Local 998, Milwaukee
American Federation of Government Employees, AFL-CIO
Anishinabe Council of Job Developers, Inc., Minneapolis
Arrowhead Economic Opportunity Agency, Minnesota
Californians for Justice
Campaign for a Sustainable Milwaukee
Center for Community Change
Community Resource Center, Colorado
Community Voices Heard, New York
Georgia Citizens Coalition on Hunger
Greater Bethany Economic Development Corporation, California
Hartford Areas Rally Together, Connecticut
HIRED, Minneapolis
Homeless Services Coordination Station, Georgia
J.E.D.I. For Women, Utah
Marshall Heights Community Development Organization, Inc., Washington, D.C.
Metropolitan Alliance of Congregations, Illinois
Minnesota Assistance Council for Veterans
National Low Income Housing Coalition
Northwest Federation of Community Organizations
Operation PEACE, Inc., Georgia
People and Policy Center of Mississippi
Philadelphia Unemployment Project, Pennsylvania
Reform Organization of Welfare, Missouri
Rural Minnesota Concentrated Employment Program (CEP), Inc.
San Luis Valley Welfare Advocates, Colorado
SENSES, New York
South Carolina, Fair Share
South Central Georgia Task Force for the Homeless
Southerners for Economic Justice, North Carolina
Tennessee Justice Center
University of Minnesota, Labor Education Service
University of Minnesota, Institute on Race and Poverty
Up and Out of Poverty Now! Coalition, Georgia
Utica Citizens in Action, New York
Virginia Organizing Project
Women's Opportunity and Resource Development, Inc., Montana
Wister Townhouses Neighborhood Networks Computer Training Center, Pennsylvania

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By Ms. COLLINS:

S. 2216. A bill to amend title XVIII of the Social Security Act to make certain changes related to payments for graduate medical education under the medicare program; to the Committee on Finance.

GRADUATE MEDICAL EDUCATION TECHNICAL AMENDMENTS OF 1998

Ms. COLLINS. Mr. President, today I introduce the Graduate Medical Education Technical Amendments Act of 1998, which is intended to address some of the problems that small family practice residency programs in Maine and elsewhere are experiencing as a result of provisions in the Balanced Budget Act (BBA) of 1997 that were intended to control the growth in Medicare graduate medical education spending.

Of specific concern are the provisions in the BBA that cap the total number of residents in a program at the level included in the 1996 Medicare cost reports. Congress' goal in reforming Medicare's graduate medical education program was to slow down our nation's overall production of physicians, while still protecting the training of physicians who are in short supply and needed to meet local and national health care demands. While it is true that the BBA's provisions will curb growth in the overall physician supply, they do so indiscriminately and are thwarting efforts in Maine and elsewhere to increase the supply of primary care physicians in underserved rural areas.

Because Maine has only one medical school—the University of New England, which trains osteopathic physicians—we depend on a number of small family practice residency programs to introduce physicians to the practice opportunities in the State. Most of the graduates of these residency programs go on to establish practices in Maine, many in rural and underserved areas of the State. The new caps on residency slots included in the BBA penalize these programs in a number of ways.

For instance, the current cap is based on the number of interns and residents who were "in the hospital" in FY 1996. Having a cap that is institution-specific rather than program-specific has caused several problems. For instance, the Maine-Dartmouth Family Practice Residency Program had two residents out on leave in 1996—one on sick leave for chemotherapy treatments and one on maternity leave. Therefore, the program's cap was reduced by two, because it was based on the number of actual residents in the hospital in 1996 as opposed to the number of residents in the program.

Moreover, residents in this program have spent one to two months training in obstetrics at Dartmouth's Mary Hitchcock's Medical Center in Lebanon, New Hampshire. Because the cap is based on a hospital's cost report, these residents are counted toward Dartmouth Medical School's cap instead of the Maine-Dartmouth Family Practice Residency Program's. Last year, the Maine program was informed that Dartmouth would be cutting back the amount of time their residents are there. But the Maine-Dartmouth Family Practice Residency Program has no way of recouping the resident count from them in order to have the funds to support obstetrical training for their residents elsewhere.

Moreover, the cap does not include residents who continue to be part of the residency program, but who have been sent outside of the hospital for training. This penalizes all primary care specialties, but especially family medicine, where ambulatory training has historically been the hallmark of the specialty. This is particularly ironic since other specialty programs that now begin training in settings outside the hospital will, under the new rules, have those costs included in their Medicare graduate medical education funding.

All told, the Maine Dartmouth Family Practice Residency Program will see its graduate medical education funding reduced by over half a million dollars a year as a result of the cap established by the BBA.

The example I have just used is from Maine, but the problems created by the BBA's graduate medical education changes are national in scope. It has created disproportionately harmful effects on family practice residencies from Maine to Alaska. A recent survey of all family practice residency program directors has found that:

56 percent of respondents who were in the process of developing new rural training sites have indicated that they will either not implement those plans or are unsure about their sponsoring institutions' continued support.

21 percent of respondents report planning to decrease their family practice residency slots in the immediate future. The majority of those who are planning to decrease their slots are the sole residency program in a teaching hospital. This means that, under current law, they have no alternative way of achieving growth, such as through a reduction of other specialty slots in order to stay within the cap.

And finally, the vast majority of family practice residencies did not have their full residency FTEs captured in the 1996 cost reports upon which the cap is based.

In addition to this survey, we have anecdotal information from residencies across the country detailing how they have lost funding either because of where they trained their residents or because their residents had been extended sick or maternity leave. For example, one family practice residency in Washington State last year had an equivalent of 14 residents training outside of the hospital and four in the hospital. Under the BBA, their cap would be four. By contrast, had all of their residents been trained in the hospital up to this point, their payment base would have been capped at 18, even if they trained residents in non-hospital settings in the future.

The Medicare Graduate Medical Education Technical Amendments Act, which I am introducing today, will address these problems by basing the cap on the number of residents "who were appointed by the approved medical residency training programs for the hospital" in 1996, rather than on the number of residents who were "in the hospital."

I am also concerned that the Balanced Budget Act and its accompanying regulations will severely hamper primary care residency programs that are expanding to meet local needs. Specifically, a new residency program that had not met its full complement of accredited residency positions until after the cutoff date of August 5, 1997, is precluded from increasing its number of residents unless the hospital decreases the number of residents in one of its other specialty programs. However, over forty percent of the nation's family practice residency programs are the only program sponsored by the hospital. This provision therefore completely precludes such a hospital from expanding its residency program to meet emerging primary care needs.

To address this problem, the legislation I am introducing today would exempt the small number of programs at hospitals that sponsor just one residency program from the cap. In addition, to enable a number of family practice residency programs that are already in the pipeline to get accredited and grow to completion, the bill extends the cutoff date to September 1999.

And finally, the Balanced Budget Act gave the Secretary of Health and Human Services the authority to give "special consideration" to new facilities that "meet the needs of underserved rural areas." The Health Care Financing Administration has interpreted this to mean facilities that are actually in underserved rural areas. There have been several recent expansions in family practice residency programs that include a rural training track, with residents located in outlying hospitals, or with satellite programs designed specifically to train residents to work with underserved populations.

Even though these new programs or satellites required accrediting body approval, they are still part of the "mother" residencies, which may not be physically located in an underserved rural area. While these are not technically new programs, I believe that the definition should be expanded to include such endeavors, given the value of these programs in addressing the needs of underserved populations. Therefore, the Medicare Graduate Medical Education Technical Amendments Act would expand the definition to include "facilities which are not located in an underserved rural area, but which have established separately accredited rural training tracks."

Mr. President, while the changes I am proposing today are relatively minor and technical in nature, they are critical to the survival of the small family practice residency programs that are so important to our ability to meet health manpower needs in rural and underserved areas. I urge all of my colleagues to join me in cosponsoring the Medicare Graduate Medical Education Technical Amendments and ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2216

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Graduate Medical Education Technical Amendments of 1998".

SEC. 2. INDIRECT GRADUATE MEDICAL EDUCATION ADJUSTMENT.

Section 1886(d)(5)(B)(v) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(B)(v)) (as added by section 4621(b) of the Balanced Budget Act of 1997) is amended by striking "in the hospital with respect to the hospital's most recent cost reporting period ending on or before December 31, 1996" and inserting "who were appointed by the hospital's approved medical residency training programs for the hospital's most recent cost reporting period ending on or before December 31, 1996. The preceding sentence shall not apply to a hospital that sponsors only 1 allopathic or osteopathic residency program.".

SEC. 3. DIRECT GRADUATE MEDICAL EDUCATION ADJUSTMENT.

(a) LIMITATION ON NUMBER OF RESIDENTS.—Section 1886(h)(4)(F) of the Social Security Act (42 U.S.C. 1395ww(h)(4)(F)) (as added by section 4623 of the Balanced Budget Act of 1997) is amended by inserting "who were appointed by the hospital's approved medical residency training programs" after "may not exceed the number of such full-time equivalent residents".

(b) FUNDING FOR NEW PROGRAMS.—The first sentence of section 1886(h)(4)(H)(i) of the Social Security Act (42 U.S.C. 1395ww(h)(4)(H)(i)) (as added by section 4623 of the Balanced Budget Act of 1997) is amended inserting "and before September 30, 1999" after "January 1, 1995".

(c) FUNDING FOR PROGRAMS MEETING RURAL NEEDS.—The second sentence of section 1886(h)(4)(H)(i) of the Social Security Act (42 U.S.C. 1395ww(h)(4)(H)(i)) (as added by section 4623 of the Balanced Budget Act of 1997) is amended by striking the period at the end and inserting ", including facilities that are not located in an underserved rural area but have established separately accredited rural training tracks.".

SEC. 4. EFFECTIVE DATE.

The amendments made by this Act shall take effect as if included in the enactment of the Balanced Budget Act of 1997.

By Mr. FRIST (for himself, Mr. ROCKEFELLER, Mr. DOMENICI, Mr. LIEBERMAN, Mr. BURNS, Mr. BINGAMAN, Mr. GRAMM, and Mr. BREAUX):

S. 2217. A bill to provide for continuation of the Federal research investment in a fiscally sustainable way, and for other purposes; to the Committee on Commerce, Science, and Transportation.

FEDERAL RESEARCH INVESTMENT ACT

• Mr. ROCKEFELLER. Mr. President, I would like to join my colleagues Senators FRIST, LIEBERMAN, DOMENICI, BINGAMAN, BURNS, GRAMM, and BREAUX in introducing the Federal Research Investment Act. This legislation will set a long-term vision for federal funding of research and development programs so that the United States can continue to be the world leader in high-tech industries.

This is a very important time in our history. One only needs to look as far as the front page of the newspaper to see the effect of high-technology on our country. New drugs are becoming available for fighting cancer; new communication hardware is allowing more people to connect to the internet; and advances in fuel-cell technology are leading to low-emission, high-efficiency hybrid vehicles. In fact, seventy percent of all patent applications cite non-profit or federally-funded research as a core component to the innovation being patented. People are living longer, with a higher quality of life, in a better economy due to processes, procedures, and equipment which are based on federally-funded research.

What I am afraid of is that many people are not aware that these products do not just 'come along.' They are the result of a basis of knowledge which has been built up by researchers supported by federal funding. American companies pull from this knowledge base in order to develop the latest high-tech products which you and I read about in the paper and see on our store shelves.

I view this knowledge base as a bank. The US government puts in modest amounts of funding in the form of support for scientific research. The payback comes from the economic growth which is produced as this knowledge is turned into actual products by American companies. That is the good news.

The bad news is that the United States has been withdrawing more than it has been depositing for several years now. Just this year we are looking at the first budget surplus in 29 years. A large part of the current rosy economic situation is due to our dominate high-tech industries. High-tech companies are currently responsible for one-third of our economic output and half of our economic growth. However, we have not been supporting the fundamental, pre-competitive research which is critical to these industries at the levels necessary to allow us to continue at this pace. We must act now in order to try to correct this situation.

Recently, Senators GRAMM and LIEBERMAN, along with Senators DOMENICI and BINGAMAN, introduced S. 1305 the National Research Investment Act. Their idea was to double R&D funding in 10 years, a very noble and courageous effort. Even more importantly, I think, this bill caused members of the scientific and engineering community to pull together and fight as a whole for an idea. It has certainly caused the co-sponsors of this bill to pull together to try to move forward as a group with their original idea. Our bill is the next step in this process.

This bill is a long-term vision for federal R&D funding. It creates legislative language which stresses the importance of R&D funding to the strength of our nation's innovation infrastructure. It also sets out guidelines for Congress to use in prioritizing funding decisions.

Based on a careful review and analysis of our past history, our bill authorizes a real funding increase of 2.5% over the rate of inflation for the next 12 years for federally-funded, civilian, R&D programs. This would increase federal R&D spending from the current level of 2.1% to 2.6% of total, overall budget. It would also cause a doubling, in 1998 dollars, of R&D funding in approximately 12 years. In order to make sure that these increases are fully incorporated into budgetary process we request that the President include these increases in his annual budget request to Congress.

Currently, as I have stated previously, we are in an economic upturn. This is the perfect time to increase funding for R&D so that we can continue this growth. I have faith that, as long as the economic situation allows it, my thoughtful and wise colleagues will support increasing R&D funding to the levels that we have laid out in this bill. However, I am also a realist. I realize that the economy may not always remain as strong as it is right now. That is why we have introduced a funding firewall. Without this firewall I am seriously concerned that history will repeat itself. In the past, R&D funding is one of the first things that has been cut during times of crisis. This is the wrong approach. I believe that cutting R&D funding levels below a bare minimum level causes serious, long-term harm to the R&D infrastructure in the United States. Our firewall would not allow this to happen. It is not meant as a goal, it is meant as a bare minimum which should only be implemented in the leanest of years.

Many, if not most, recent 'quantum leaps' in knowledge have occurred at the interface between traditional disciplines of research. Therefore, we legislatively mandate that this funding increase must be macroscopically balanced, so that there is not preferential growth of one agency, program or field of study at the expense of other, equally qualified and deserving agencies. One of the original reasons that I started to get involved with technology issues such as EPSCoR and EPSCoT, was because I believe that technology should be shared by everyone, not just those in Silicon Valley or the Route 128 corridor in Boston. Therefore, this bill should not be seen as a means of promoting elitist science but as a mechanism for allowing for diversity in our national innovation infrastructure.

Finally, so that we are able to assure other Members of Congress and the general public that this money authorized by this Act would be well spent, we have included accountability measures which will assure that there is no waste of federal money on out-dated, or ill-conceived projects. This bill puts into place a system of accountability for each affected agency. Our bill institutes a study by the National Academy of Sciences to determine how to effectively measure the progress of R&D based agencies and then have them institute performance measures based on these metrics. This will allow increases in funding without concerns over wasteful spending being generated.

In conclusion, with the help of Senators GRAMM, LIEBERMAN, DOMENICI, and BINGAMAN, Senator FRIST and I have put together a long-term vision for federal R&D funding which we hope will instigate real increases in federal funding for research and development. Federally-funded research has been, and will continue to be, a driving power behind our economic success. If we are to maintain and enhance our current economic prosperity we must make sure that research programs are funded at adequate levels. I urge my colleagues to support this bill.•

• Mr. LIEBERMAN. Mr. President, I am pleased to join my colleagues, the original cosponsors of S. 1305, the members of the Senate Science and Technology Caucus, and Senator BREAUX, as an original cosponsor of S. 2217, the Frist-Rockefeller Federal Research Investment Act. This is the next step in the effort to restore federal civilian R&D investments to their historical levels and assure American leadership in science, technology, and innovation into the 21st century.

I was pleased to introduce last October, along with Senators GRAMM, BINGAMAN, and DOMENICI, the National Research Investment Act of 1998, S. 1305, which now has 19 cosponsors. S. 1305 has been an important coalition-building vehicle that served to galvanize support for federal R&D programs within the Congress. It is time, now, to move forward with a new legislative instrument that can move through the committee process and onto the floor.

The Frist-Rockefeller bill adds an important policy piece to the Senate effort to double federal R&D investments—based upon the work this year of the Senate Science and Technology Caucus, which I co-Chair along with Senator FRIST—and adds performance-based accountability provisions to ensure the quality of programs funded with new monies. The policy piece is especially valuable because it outlines an investment strategy that can serve as a useful complement to the very important efforts of the House Science Committee in drafting a national policy for federal R&D programs.

We must fund research and development at levels commensurate with their contribution to the health and welfare of our citizenry. America's research enterprise is the most competitive and productive in the world. The strength of our innovation system depends on the steady stream of discovery that flows out of our nation's universities and industrial and national laboratories. The creation of new knowledge, and the education and training that is part and parcel of the knowledge-creation process, are critical enablers of wealth creation and future economic growth. I believe that adequately funding R&D and advanced scientific and technical education are two of the most effective measures we can undertake to promote the health and prosperity of America's high-tech economy.

I welcome the leadership of Senators FRIST and ROCKEFELLER. I look forward to working with them to assure the continued success of America's science and technology enterprise.

I'd like to take a moment to acknowledge the important work of the many people representing research and educational organizations who have labored long and hard to raise the level of understanding of those of us in Congress with respect to the contribution research makes to our national well being. They have helped to lay the groundwork for this legislation that was introduced today. Among those who have contributed to this effort are:

Mike Lubell and Frances Slakey, American Physical Society;

David Schutt and Melissa Kuckro, American Chemical Society;

Greg Schuckman and Pete Leon, American Association of Engineering Societies;

Kathy Tollerton, American Society for Engineering Education;

Mike Matlack, the National Society of Professional Engineers;

Raymond Paul, Institute of Electrical and Electronic Engineers;

Suzy Glucksman, American Society of Mechanical Engineers;

Sam Rankin, American Mathematical Society;

David Peyton, National Association of Manufacturers;

Stephanie Stitzer, American Electronics Association;

Taffy Kingscott, Coalition for Technology Partnerships, and the Semiconductor Industry Association;

Betsy Houston, Federation of Materials Societies;

Ron Kelley, Materials Research Society;

Elizabeth Baldwin, Optical Society of America;

Jerry Roschwalb, National Association of State Universities and Land-Grant Colleges;

George Leventhal, Association of American Universities;

Richard O'Grady and Jodi Kolber, American Institute of Biological Sciences;

Brian Gottlieb, American Society for Microbiology;

Nadine Lymn, Ecological Society of America;

Peter Folger, American Geophysical Union; and

Stephanie Beck, Research America! •

By Mr. SARBANES (for himself, Mr. FAIRCLOTH, Mr. WARNER, Ms. MIKULSKI, and Mr. ROBB):

S. 2218. A bill to require the Secretary of the Army, acting through the Chief of Engineers, to evaluate, develop, and implement a strategic master plan for States on the Atlantic Ocean to address problems associated with toxic microorganisms in tidal and non-tidal wetlands and waters; to the Committee on Environment and Public Works.

ATLANTIC COAST TOXIC MICROORGANISM ENVIRONMENTAL REMEDIATION ACT

• Mr. SARBANES. Mr. President, today I am introducing legislation, together with my colleagues Senators FAIRCLOTH, WARNER, MIKULSKI and ROBB, to help address the serious problems posed by toxic microorganisms that are affecting the tidal and non-tidal wetlands and waters of the States along the eastern seaboard. The "Atlantic Coast Toxic Microorganism Environmental Remediation Act" authorizes the Army Corps of Engineers to develop and implement a strategy to mitigate current and potential problems posed by these aquatic microorganisms.

Serious outbreaks of toxic microorganisms, such as Pfiesteria and Pfiesteria-like dinoflagellates, have recently struck inland waters and estuaries in Maryland, North Carolina, Delaware, Florida, and Virginia. Linked to the flow of excess nutrients and loss of habitat, these toxic microorganisms are seriously impacting regional economies and threatening finfish resources and economic and recreational sectors along the Atlantic Coast.

Between 1972 and 1995, the number of coastal and estuarine waters that host major, recurring attacks by harmful microbes has doubled. Last year alone, approximately 450,000 fish were killed in North Carolina by Pfiesteria, while tens of thousands of valuable fish met the same fate in tidal rivers in the eastern shore of my own State of Maryland last year. There are other harmful microbes, as well, that are similar to Pfiesteria in their effects and that may be poised in a moments notice to wreck havoc on our aquatic ecosystems and communities and which may pose serious threats to human health and safety.

In 1982, scientists were aware of 22 species of harmful water-borne dinoflagellates; now they are aware of over 60! So, we now face a situation where more than five dozen different harmful microbes can potentially produce catastrophic economic and environmental effects in waters extending along the eastern seaboard.

Experts note that such harmful attacks are increasing in frequency or severity in aquatic environments both in the United States and worldwide. Toxic dinoflagellates and harmful algae are microscopic, single-celled organisms that live in the sea, estuaries and near-shore inland waters along our coasts. Most species are not harmful, and are a key element in the aquatic food web. Unfortunately, a small number of these species also produce potent neurotoxins than can affect and even kill higher forms of life, such as shellfish, finfish, birds, marine mammals, as well as impact human health.

Last year, the Administration directed that an interagency research and monitoring strategy be developed in response to the outbreaks of Pfiesteria in the Chesapeake Bay. Seven federal agencies participated in developing this strategy including NOAA, EPA, the Departments of Interior and Agriculture and the Centers for Disease Control. Funding to implement actions called for under the plan and the Administration's Clean Water Initiative was included in the fiscal 1999 budget request. Unfortunately, the key Federal agency with expertise in water resources and aquatic habitat restoration—the Army Corps of Engineers—was not included in the interagency task force and habitat and related considerations were not integrated into the response plans.

The bill I am introducing seeks to address this shortcoming and to ensure that all the available expertise of the Federal government is brought to bear in combating these biotoxins. The legislation authorizes the Army Corps of Engineers, in partnership with State and local governments as well as other Federal agencies, to conduct an evaluation, develop a strategic master plan, and implement recommended actions to address problems in the degradation of aquatic habitat related to the presence of toxic microbes, including Pfiesteria, in wetlands and waters along the Atlantic coast. With its expertise in watershed management and restoration, the U.S. Army Corps of Engineers has a vital role to play in responding to the threats posed by toxic microorganisms and this legislation provides the funding and authority for this agency to do so.

Mr. President: I ask unanimous consent that the full text of the bill be included in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2218

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Atlantic Coast Toxic Microorganism Environmental Remediation Act".

SEC. 2. FINDINGS.

Congress finds that—

(1) effective protection of tidal and nontidal wetlands and waters of the United States is essential to sustain and protect ecosystems, as well as recreational, subsistence, and economic activities dependent on those ecosystems;

(2) the effects of increasing occurrences of toxic microorganism outbreaks can adversely affect those ecosystems and their dependent activities; and

(3) there needs to be a comprehensive evaluation, development, and implementation of strategic master plans for States.

SEC. 3. DEFINITIONS.

In this Act:

(1) SECRETARY.—The term "Secretary" means the Secretary of the Army, acting through the Chief of Engineers.

(2) STATE.—The term "State" means a State on the coast of the Atlantic Ocean.

(3) TOXIC MICROORGANISMS.—The term "toxic microorganisms" includes Pfiesteria piscicida and other potentially harmful aquatic dinoflagellates.

SEC. 4. STUDY AND STRATEGY FOR AQUATIC HABITAT REMEDIATION.

(a) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary shall evaluate, develop, and implement a strategic master plan for each State (on a watershed basis) to address problems associated with the degradation of ecosystems and their dependent activities resulting from toxic microorganisms in tidal and nontidal wetlands and waters.

(b) FEDERAL AND NON-FEDERAL SHARES.—

(1) FEDERAL SHARE.—The Federal share of the cost of evaluating, developing, and implementing a strategic master plan for a State under subsection (a) shall be 75 percent.

(2) NON-FEDERAL SHARE.—The non-Federal share of the cost of evaluating, developing, and implementing a strategic master plan for a State under subsection (a) shall be provided in the form of cash, in-kind services, or materials.

(c) COOPERATIVE AGREEMENTS.—Subject to subsection (b), in carrying out this section, the Secretary may enter into cooperative agreements with Federal, State, and local government agencies under which the Secretary shall provide financial assistance to implement actions identified in each watershed strategic master plan.

(d) IMPLEMENTATION.—The Secretary shall carry out this section in cooperation with—

(1) the Secretary of the Interior;

(2) the Secretary of Agriculture;

(3) the Administrator of the Environmental Protection Agency;

(4) the Administrator of the National Oceanic and Atmospheric Administration;

(5) the heads of other appropriate Federal, State, and local government agencies; and

(6) affected local landowners, businesses, and commercial entities.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $15,000,000.•

By Mr. KERREY:

S. 2219. A bill to direct the Secretary of the Interior to convey certain irrigation project property to certain irrigation districts in the State of Nebraska; to the Committee on Energy and Natural Resources.

MISSOURI RIVER BASIN, MIDDLE LOUP DIVISION PROJECT FACILITIES CONVEYANCE ACT

• Mr. KERREY. Mr. President, today I am introducing the "Missouri River Basin, Middle Loup Division Project Facilities Conveyance Act."

The bill provides for the transfer of title of irrigation project facilities and lands from the Bureau of Reclamation, U.S. Department of Interior to the Middle Loup Division irrigation districts in central Nebraska. These districts have operated the facilities there for over 35 years.

The project facilities are part of the Missouri River Basin Project, and provide water from the Middle Loup River to over 64,000 acres of irrigable land, as well as providing recreation and fish and wildlife benefits. Principal features of the projects include the Sherman Dam and Reservoir, the Arcadia Diversion Dam, the Milburn Diversion Dam, irrigation canals and laterals, drains and pumping plants.

Crops grown on these irrigated lands primarily include alfalfa, small grains, sugar beets, and corn to provide feed for a thriving livestock-feeding economy in my state of Nebraska, which includes beef cattle, hogs, and poultry.

In 1995 the Vice President indicated that the Bureau of Reclamation of the U.S. Department of Interior should transfer title to allow local ownership of irrigation projects such as this. The Bureau has indicated to me that this project is a top candidate for title transfer to be achieved. When this legislation passes, Nebraska will become the first state where title transfer efforts have been successful.

A Nebraska-Middle Loup River Community Environmental Trust Fund is also created through the transfer, to be administered by a 7-member Interlocal Cooperation Agency (ICA). The fund is to be used for environmental and conservation enhancements to project lands and facilities, as agreed to by the 7-member ICA, and cannot be used for routine operation and maintenance of the project or facilities.

The irrigation projects and facilities were constructed between 1955 and 1966 under authorities of the Flood Control Act of 1944, and are currently operated and maintained under contracts between the Bureau and the irrigation districts and power producers. The transfer will provide for total repayment of all outstanding obligations on behalf of the irrigation districts and power producers, while retaining all current uses and purposes for the projects.

Mr. President, I urge my colleagues to join me in support of this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2219

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Missouri River Basin, Middle Loup Division Project Facilities Conveyance Act".

SEC. 2. DEFINITIONS.

In this Act:

(1) PROJECT.—The term "project" means each of the irrigation projects constructed by the United States under the Act of December 22, 1944 (commonly known as the "Flood Control Act of 1944") (58 Stat. 887, chapter 665), described as the "Missouri River Basin, Middle Loup Division Project" and locally known as the "Farwell Irrigation Project" and the "Sargent Irrigation Project".

(2) PROJECT BENEFICIARY.—The term "project beneficiary" means—

(A) the Farwell Irrigation District, Sargent Irrigation District, and Loup Basin Reclamation District, each of which is organized as a subdivision of government under the law of the State of Nebraska;

(B) a combination of the irrigation districts or reclamation district; and

(C) an organization established by 1 or more of the irrigation districts or reclamation district under the law of the State of Nebraska as an interlocal cooperation agency.

(3) Project property.—The term "project property" means—

(A) all contracts in effect on the date of enactment of this Act between the United States and a project beneficiary or other person that relate to a project or project facility, including any written or unwritten contract to provide power from a Federal power facility under the Act of December 22, 1944 (58 Stat. 887, chapter 665);

(B) all project distribution and drainage facilities, all reservoir and related diversion facilities, and all related land owned by the United States as of the date of enactment of this Act that the Secretary determines to be related to a project;

(C) all acquired land (including the surface estate and the subsurface estate) within a project;

(D) all water rights held by the United States relating to the project facilities;

(E) all right, title, and interest in all outstanding contracts, leases, licenses, outgrants, or permits on or relating to land associated with a project; and

(F) all personal property (including operating equipment, tools, materials, and other tangible personal property) owned by the United States that is used for the purpose of operating the project or serving the project facility.

(4) Project purpose.—The term "project purpose" means use of the project property and the water supply of the project (consistent with the recent use and experience with the project and not limited to the use envisioned when the project was originally authorized, and consistent with section 8) to—

(A) provide irrigation water for project land to which the project water rights are assigned;

(B) enhance the agricultural economy of the area served by the project;

(C) stabilize the water supply from surface and ground water sources in the area served by the project;

(D) develop and protect fish and wildlife resources native to the area served by the project; and

(E) develop and manage water- and land-based recreation facilities in the area that are related to the project property.

(5) Secretary.—The term "Secretary" means the Secretary of the Interior.

SEC. 3. CONVEYANCE.

(a) Conveyance.—

(1) In general.—On January 1, 2000 (or on any earlier date that is agreeable to the Secretary and the project beneficiaries), the Secretary may, on terms in accordance with this Act, convey by quitclaim deed, patent, or other appropriate instrument, all right, title, and interest of the United States in and to the project property to the project beneficiaries, in the name or names of project beneficiaries as the project beneficiaries may determine.

(2) Contaminated property.—

(A) Remedial action.—Notwithstanding section 120(h)(3) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620(h)(3)) or any other law, the Secretary shall make the conveyance under paragraph (1) not later than January 1, 2000, without regard to whether all necessary remedial action required under that Act on any part of the project property has been completed by that date.

(B) Effect.—Subparagraph (A) does not—

(i) relieve the United States of the obligation to complete any required remedial action expeditiously; or

(ii) place any obligation on the project beneficiaries to conduct or contribute to payment of the costs of any remedial action.

(3) Completion of NEPA studies and reports.—The Secretary shall cause all studies and reports required on the project property under the National Environmental Policy Act of 1964 (42 U.S.C. 4321 et seq.) relating to the conveyance under paragraph (1) to be completed as far in advance of January 1, 2000, as practicable.

(b) Consideration.—The conveyance of the project property under subsection (a) shall be for consideration totaling $5,030,000, to be paid to the United States for credit against the Reclamation Projects Funds for the Missouri River Basin Project, as follows:

(1) Payment by project beneficiaries.—

(A) In general.—On the date of conveyance, the project beneficiaries shall pay the Secretary $3,530,000.

(B) Crediting of contract payments.—There shall be credited against the amount specified in subparagraph (A) the amount of any payments made by the project beneficiaries between July 1, 1998, and December 31, 1999, under contracts between the project beneficiaries and the United States.

(2) Payment by power producers.—

(A) In general.—On the date of conveyance, the power producers under the Pick-Sloan Missouri Basin Program shall pay the Secretary $1,500,000.

(B) Payment source.—As a source of funds for the payment under subparagraph (A), the power producers may use power sale revenues received in fiscal year 1998 or any subsequent fiscal year in which the amount of power sale revenues received exceeds the amount of interest and operation and maintenance obligations.

(c) Satisfaction of Outstanding Obligations.—

(1) In general.—The payment of the sums provided for in subsection (b) shall be in full and complete satisfaction of all obligations against the project property, the project beneficiaries, and Missouri River Basin power producers existing before the date of conveyance of the project property under any contracts entered into between the United States, the project beneficiaries, or the Missouri River Basin power producers or under any obligations that may have been required by the Act of December 22, 1944 (58 Stat. 887, chapter 665) or other related Federal law.

(2) Satisfaction of obligations.—The completion of the conveyance of all project facilities under this Act and the payment of the consideration specified for the projects shall constitute full satisfaction of any and all obligations for further payments or repayments by the respective project beneficiaries or by the Missouri River Basin power producers for irrigation benefits of the project property and for any other benefits conveyed to the project beneficiaries.

(d) Conveyance Documents.—

(1) In general.—With the assistance of the project beneficiaries, the Secretary—

(A) shall execute and deliver to the project beneficiaries all necessary conveyance documents (including quitclaim land deeds, court proceedings, decrees, bills of sale, certificates of title, lease contract transfers, water rights certificates and amendment documents, and notice filings) and make all such filings as may be required of the transferor; and

(B) take all such actions as may be required to consummate the conveyance of project property.

(2) Filing costs.—The cost of any required filing of documents shall be paid by the project beneficiaries.

(e) Assumptions of Obligations.—On the date of the conveyance under subsection (a), the project beneficiaries shall—

(1) assume the rights and responsibilities under the contracts, leases, licenses, outgrants, and permits referred to in section 2(3)(E); and

(2) during the continued term of each contract, lease, license, outgrant, and permit, carry out all responsibilities of the United States under the contract, lease, license, outgrant, or permit unless released by the holder of the contract, lease, license, outgrant, or permit.

(f) No Diminishment of Estate.—The Secretary shall not transfer, modify, or restrict the interest of the United States in any part of the project property after the date of enactment of this Act and before the date of the conveyance under subsection (a).

(g) Effect of Agreement by Project Beneficiaries.—

(1) In general.—By accepting the conveyance under subsection (a), the project beneficiaries agree—

(A) to operate, maintain, repair, replace, and rehabilitate the project in a manner designed to carry out the project purposes; and

(B) to cooperate with each person holding a contract, lease, license, outgrant, or permit referred to in section 2(3)(E) so as to ensure that the rights of the person under the contract, lease, license, outgrant, or permit are preserved after the conveyance.

(2) Notifications.—The project beneficiaries shall be responsible for notifying all State, regional, and local authorities (including authorities responsible for dam safety, monitoring, and inspections, water quality monitoring, and inspections and administration of water rights) regarding the conveyance of project property and the assumption of ownership of the project.

(h) Payment of NEPA Study Costs.—All costs incurred by the United States in preparation of studies and reports required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) relating to the conveyance under subsection (a)—

(1) up to the sum of $170,000, shall be paid equally by the United States and the project beneficiaries; and

(2) in excess of $170,000, shall be paid solely by the United States.

SEC. 4. MIDDLE LOUP DRAINAGE FACILITIES AND LAND.

(a) Responsibility for Drainage Work.—

(1) In general.—Except for any drainage work that is made necessary by acts or omissions of project beneficiaries in connection with project operations, any repair or modification of drainage work in existence on the date of enactment of this Act or any development of new additional drainage work that the project beneficiaries, in cooperation with Loup City, Nebraska, and the landowners on whose land drainage works exist at any time, determine is necessary to satisfactorily limit or reduce ground water encroachment on the land described in subsection (b), shall be the financial responsibility of the United States to the extent provided in paragraph (2).

(2) RACHETING DOWN OF FINANCIAL RESPONSIBILITY OF THE UNITED STATES.—For drainage work performed in the following fiscal years, the United States shall have financial responsibility for the following percentages of the cost of the drainage work, and the project beneficiaries shall have financial responsibility for the remainder:

Fiscal year:	**Percentage:**
2000	100
2001	95
2002	90
2003	85
2004	80
2005	75
2006	70
2007	65
2008	60
2009	55
2010	50
2011	45
2012	40
2013	35
2014	30
2015	25
2016	20
2017	15
2018	10
2019	5
2020 and thereafter	0.

(b) DESCRIPTION OF LAND.—The land described in this subsection is all land—

(1) in which the United States has any interest in the valley of the Middle Loup River in and around Loup City, Nebraska;

(2) that was developed or acquired by the United States for the purposes of collecting and draining excess ground water; and

(3) that is entirely outside the political subdivision boundaries of the project beneficiaries.

SEC. 5. LIABILITY.

Beginning on the date of the conveyance of the project property under section 3(a), the United States shall not be liable for damages arising out of any act, omission, or occurrence relating to the project property or a project except for damages caused by an act or omission of the United States or an employee, agent, or contractor of the United States before that date.

SEC. 6. MAINTENANCE OF PROJECT PURPOSES AND BENEFITS AND CREATION OF TRUST FUND.

(a) CONTINUATION OF PROJECT PURPOSES.—

(1) IN GENERAL.—All project property conveyed under section 3 shall, to the extent practicable, be operated and maintained to achieve the project purposes.

(2) APPLICABILITY OF LAWS.—Operations of all project property conveyed under section 3 shall be subject to Federal and State laws under which the irrigation districts and reclamation district were established and the irrigation districts and reclamation district conduct operations.

(3) OTHER USES OF PROJECT FACILITIES.—All other uses of project facilities consistent with those laws and the operation of irrigation facilities, including fish, wildlife, and recreation uses, shall be preserved, protected, and enhanced to the extent practicable by the project beneficiaries.

(b) NEBRASKA-MIDDLE LOUP RIVER COMMUNITY ENVIRONMENTAL TRUST FUND.—

(1) ESTABLISHMENT.—As a condition to the conveyance under section 3, the project beneficiaries shall establish a fund, to be known as "Nebraska-Middle Loup River Community Environmental Trust Fund".

(2) ADMINISTRATION.—The fund shall be administered by an interlocal cooperation agency, organized under State law by the project beneficiaries, that includes at least—

(A) 1 member selected by the Loup Basin Reclamation District;

(B) 1 member each selected by the Farwell Irrigation District and the Sargent Irrigation District;

(C) 1 member from the Nebraska Game and Parks Commission, to be selected by the Commission;

(D) 1 member from the Nebraska Natural Resources Commission, to be selected by the Commission;

(E) 1 member of the Lower Loup Natural Resources District, selected by the District; and

(F) 1 member from the Nebraska Department of Water Resources, to be selected by the Governor of the State of Nebraska.

(3) DEPOSIT.—On receipt of payment of consideration under section 3(b), the Secretary shall deposit the payment in the fund.

(4) USE OF FUND.—

(A) IN GENERAL.—Amounts in the fund shall be used to preserve, protect, enhance, and manage project property in a manner that the interlocal cooperation agency determines is necessary to achieve the project purposes, including actions to—

(i) stabilize water supplies;

(ii) conserve water and land resources;

(iii) improve and enhance fisheries and recreational opportunities; and

(iv) expand knowledge of water and land sources for enhancing project operations to improve the service of project purposes.

(B) PROHIBITION.—Amounts in the fund shall not be used for any routine operation and maintenance work by the project beneficiaries or any cooperator, lessee, licensee, or permittee of the project beneficiaries.

SEC. 7. ARCHAEOLOGICAL PRESERVATION RESPONSIBILITIES.

(a) IN GENERAL.—The Secretary shall complete all investigation and preservation activities required under the National Historic Preservation Act (16 U.S.C. 470 et seq.) at archaeological sites on project property that, before the date of the conveyance under section 3(a), have been identified as being subject to the requirements of that Act.

(b) EASEMENT.—At the time of the conveyance of the project property, the project beneficiaries shall convey to the Secretary an easement to each archaeological site described in subsection (a) for the purpose of retaining access to and full use of the site for the purposes of concluding any required archaeological activity at the site.

(c) EFFECT ON PROJECT OPERATION.—The Secretary shall—

(1) ensure that archaeological activity at an archaeological site described in subsection (a) does not adversely affect the integrity of the operation any project property; or

(2) to the extent that it is not practicable for the Secretary to avoid any adverse effect, provide such alternative facilities as are necessary to maintain project integrity.

SEC. 8. MODIFICATION OF PROJECT PURPOSES.

The purposes of the project are modified to exclude flood control.●

By Mr. JOHNSON:

S. 2220. A bill to provide the President with expedited Congressional consideration of line item vetoes of appropriations and targeted tax benefits; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one Committee reports, the other Committee have thirty days to report or be charged.

THE LEGISLATIVE LINE ITEM RESCISSION ACT

Mr. JOHNSON. Mr. President, I rise today in response to the decision by the Supreme Court striking down the Line Item Veto Act.

Today's decision does not surprise many who have looked closely at the constitutional questions raised by this law. The fundamental flaw of the Line Item Veto Act was that it violated the Presentment Clause of the Constitution by attempting to give the President the power to amend legislation passed by Congress. In the words of Justice Stevens, who wrote for the majority of the Court, "If the Line Item Veto Act were valid, it would authorize the President to create a different law—one whose text was not voted on by either House of Congress or presented to the President for signature."

The majority opinion goes on to state that "if there is to be a new procedure in which the President will play a different role in determining the final text" of a law, such change can only result from amending the Constitution.

Some of my colleagues, in reaction to today's decision, have already announced their support for a constitutional amendment giving the President this power. I hope that, in their haste, they do not overlook a legislative alternative that I am introducing in the Senate today to create a process for expedited consideration of presidentially-proposed rescissions.

I have been a supporter of line-item rescission legislation since the beginning of my first term in the House of Representatives. I first introduced legislation in August 1987, and I was pleased to see support for this concept grow over the years.

In November 1987, I wrote to President Reagan's Chief-of-Staff, Howard Baker, to request that line-item rescission be discussed during the Economic Budget Summit that was held during that year. Although the administration declined this request, President Reagan's budget proposal for Fiscal Year 1989 contained a proposal for line-item rescission that was very similar to the legislation that I had introduced.

Support continued to grow, and a variety of versions of this legislation were introduced in the House. Eventually, the supporters of line-item rescission banded together in 1992 behind a common vehicle, H.R. 2164, which passed the House in October of that year. Insufficient time was available in the legislative year, however, for the Senate to take up the bill.

After the momentous elections in the fall of 1992, I met with Karen Hancox of President-elect Clinton's transition team. I requested that Clinton support the line-item rescission concept. His endorsement helped win easy House passage of H.R. 1578 on April 29, 1993. To my disappointment, however, the Senate did not take up consideration of this bill, and the 103d Congress adjourned without progress.

The 104th Congress brought a change in control of the Congress. With that partisan shift came an inclination to support a new form of line-item rescission, the so-called legislative line-item veto. Unlike line-item rescission, the line-item veto stated that the president's rescissions were to be considered automatically approved unless overridden by a two-thirds vote of both the House and the Senate. Although still a cosponsor of line-item rescission, I voted for the new bill with the knowledge that it would receive constitutional scrutiny by the courts.

Now that the Supreme Court has ruled, I believe that Congress should take another look at line-item rescission. The bill I submit today, S. 2220, does not cede power to the President to alter an act of Congress. Instead, it provides for an up-or-down vote in Congress of rescissions proposed by the President, thus exposing controversial items of spending to the light of day. If Congress believes the spending is merited, then it will vote to reject the rescission bill. Likewise, if the spending does not stand up to scrutiny, Congress can pass the rescission bill with a majority vote in each house and send it to the President for signature.

The American Law Division of the Congressional Research Service has conducted a preliminary review of my bill. According to this review, S. 2220 would meet the standard outlined in today's Court decision since the bill would not cede to the President the power to alter the text of legislation passed by Congress.

It seems clear that we still need a mechanism to highlight items of wasteful spending and to force a vote on this spending. Line-item rescission accomplishes this feat without unduly altering the balance of power between the legislative and executive branches of government. Before running off to amend the Constitution, we should give line-item rescission a try.

By Mr. GRASSLEY (for himself, Mr. REID, Mr. HOLLINGS, and Mr. D'AMATO):

S. 2222. A bill to amend title XVIII of the Social Security Act to repeal the financial limitation on rehabilitation services under part B of the Medicare Program; to the Committee on Finance.

REINSTATEMENT OF THE MEDICARE REHABILITATION BENEFIT ACT OF 1998

Mr. GRASSLEY. Mr. President, today I introduce the "Reinstatement of the Medicare Rehabilitation Benefit Act of 1998 with my colleagues, Senators REID, HOLLINGS, and D'AMATO. This legislation will enable seniors to receive rehabilitative services based on their condition and not on arbitrary payment limits. A similar version was introduced in the House of Representatives by Congressman Ensign earlier this year.

The Balanced Budget Act of 1997 is a very important accomplishment and one that I am proud to say I supported. However, in our rush to save the Medicare Trust Fund from bankruptcy, Congress neglected to thoroughly evaluate the impact the new payment limits on rehabilitative services would have on Medicare beneficiaries.

The BBA included a $1500 cap on occupational, physical and speech therapy services received outside a hospital setting. According to a recent study by Muse & Associates, these limitations on services would harm almost 13 percent (or 653,000) of Medicare beneficiaries because these individuals would exceed the cap. While many seniors will not need services that would cause them to exceed the $1500 cap, others, like stroke victims, will likely need services beyond what the arbitrary caps will cover. Unfortunately, it is those beneficiaries who need rehabilitative care the most who will be penalized by being forced to pay the entire cost for these services outside of a hospital setting.

The bill I am introducing would repeal the cap, which is scheduled to go into effect in January 1999. The Secretary of the Department of Health and Human Services would be required to implement a prospective payment system that would recoup any savings lost from the repeal of this provision by January 2000. In essence, the bill attempts to accomplish the primary goal of the $1500 cap, budgetary savings, but without harming the Medicare beneficiary. Payment is based on the patient's condition and not on an arbitrary monetary amount. Help us repeal the $1,500 cap, establish a system that makes sense, and still achieve the budget savings sought from the BBA without reducing Medicare benefits.

Please join me and my colleagues in passing this legislation. I ask unanimous that the full text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2222

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Reinstatement of the Medicare Rehabilitation Benefit Act of 1998".

SEC. 2. REPEAL OF FINANCIAL LIMITATION ON REHABILITATION SERVICES.

(a) REPEAL.—

(1) IN GENERAL.—Section 1833 of the Social Security Act (42 U.S.C. 1395l) is amended by striking subsection (g).

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to services furnished on or after January 1, 1999.

(b) OFFSETTING PORTION OF ADDITIONAL EXPENDITURES THROUGH PAYMENT REFORM.—

(1) IN GENERAL.—Notwithstanding any other provision of law, for outpatient physical therapy services, outpatient occupational therapy services, and outpatient speech-language pathology services covered under title XVIII of the Social Security Act and furnished on or after January 1, 2000, the Secretary of Health and Human Services shall implement a new payment methodology based on the classification of individuals by diagnostic category, functional status, and prior use of services in both inpatient and outpatient settings.

(2) BUDGET NEUTRALITY IN IMPLEMENTATION.—Such payment methodology shall be designed so that the methodology, taking into account the increased expenditures resulting from the amendment made by subsection (a), does not result in any increase or decrease in the expenditures under title XVIII of the Social Security Act on a fiscal year basis.

Mr. REID. Mr. President, I rise in strong support of the "Reinstatement of the Medicare Rehabilitation Benefit Act of 1998" (RMRA). This legislation repeals a provision in the Balanced Budget Act of 1997 (BBA 97) that imposes a $1500 annual per beneficiary cap on Medicare outpatient rehabilitation services. RMRA directs the Health Care Financing Administration (HCFA) to develop and implement an alternative payment system that is based on individual diagnosis and prior therapy in both inpatient and outpatient facilities by January 1, 2000.

The BBA created annual caps for two categories of therapy provided to beneficiaries under Medicare Part B: a $1500 annual cap on physical therapy and speech language combined; and a separate cap for occupational therapy. These arbitrary limits on rehabilitation therapy were hastily included in the BBA without the benefit of Congressional hearings or thorough review by HCFA. As a result, the $1500 limits bear no relation to the medical condition of the patient, or the health outcomes of the rehabilitative services.

The $1500 cap would create serious access and quality problems for Medicare's oldest and sickest beneficiaries. Senior citizens who suffer from common conditions such as stroke, hip fracture, and coronary artery disease, will not be able to obtain the rehabilitative services they need to resume normal activities of daily living. A stroke patient typically requires more than $3,000 in physical therapy alone. Rehabilitation therapy for a patient suffering from Multiple Sclerosis or ALS costs even more. Without access to outpatient therapy, patients must remain in institutional settings longer, be transferred to a higher cost hospital facility, or in some cases, just go without necessary services.

Coverage for rehabilitative therapy should be based on medically necessary treatment, not arbitrary spending limits that ignore a patient's clinical needs. I urge you to join me in protecting Medicare's most vulnerable beneficiaries by supporting the "Reinstatement of the Medicare Rehabilitation Benefit Act of 1998".

• Mr. HOLLINGS. Mr. President, I am delighted to join my colleagues, Senator GRASSLEY, Senator REID, and Senator D'AMATO in introducing legislation which would repeal provisions of the Balanced Budget Act of 1997 pertaining to the establishment of annual caps of $1,500 on all outpatient rehabilitation services except those furnished in a hospital outpatient department.

The "Reinstatement of the Medicare Rehabilitation Benefit Act of 1998" that we introduce today is made necessary because of the negative impact these provisions will have on Medicare beneficiaries who require therapy services. Senior citizens suffering from medical conditions common to the elderly such as stroke, hip fracture, and coronary artery disease will not be able to obtain the rehabilitative care they need to resume normal activities of daily living because of this arbitrarily imposed cap. This is especially true in South Carolina, which has a significant number of Medicare recipients who live in rural areas. A patient who has met the $1,500 cap will have no choice but to seek care in a hospital outpatient department, not only at a much greater distance but also at a substantially higher cost.

The "Reinstatement of the Medicare Rehabilitation Benefit Act" would also repeal the provision combining speech-language pathology and physical therapy services under the same $1,500 cap. These are two very separate and distinct functions, and there is no rational basis for including them under one cap. As my constituent, Beth Fleming of Anderson, South Carolina, said recently, and I agree, "Patients should not have to choose between walking and talking."

I urge my distinguished colleagues to join Senator GRASSLEY, Senator REID, Senator D'AMATO and me in supporting this legislation.•

By Mr. GRAMS (for himself, Mr. FAIRCLOTH, Mr. BRYAN, Mr. THURMOND, Mr. BREAUX, Mr. ALLARD, Mr. AKAKA, Mr. BROWNBACK, Mr. INOUYE, Mr. DOMENICI, Mr. REID, Mr. GREGG, Mr. ASHCROFT, Mr. BENNETT, Mr. MACK, Mr. MCCAIN and Mr. ENZI):

S. 2223. A bill to provide a moratorium on certain class actions relating to the Real Estate Settlement Procedures Act of 1974; to the Committee on the Judiciary.

MORTGAGE LITIGATION REFORM ACT OF 1998

• Mr. GRAMS. Mr. President, today I introduce the Mortgage Litigation Reform Act of 1998. This legislation is a narrowly crafted, bipartisan bill. Its goal is to provide relief from frivolous class action lawsuits resulting from the regulatory ambiguity over the payment of certain fees by mortgage bankers to mortgage brokers.

A spate of recent class action lawsuits have called into question the legality of yield spread premiums, although there is no statute or regulation ruling that such fees are per se illegal. This legislation simply places a moratorium, from the date of enactment through July 1, 1999, on class action lawsuits regarding these fees. It is important to note that the bill is narrowly crafted and does not prohibit personal rights of action or criminal prosecution related to these payments.

During the moratorium period, I am hopeful that either the Department of Housing and Urban Development will publish a clear ruling governing the payment of yield spread premiums or, better yet, Congress will achieve the long sought after overhaul of the Real Estate Settlement Procedures Act (RESPA) and Truth In Lending Act (TILA).•

• Mr. FAIRCLOTH. Mr. President, I introduce legislation entitled the "Mortgage Litigation Reform Act of 1998" to stop the filing of frivolous class action lawsuits in the mortgage lending process. At dispute in these class actions is whether the payment of a yield spread premium by a lender to another lender or a mortgage broker is a violation of RESPA (Real Estate Settlement Procedures Act).

The Real Estate Settlement Procedures Act, a federal statute enacted in 1974, was passed to provide consumers with meaningful disclosures about the home buying process and protect them from paying unnecessary and costly fees when buying a house. Today, the statute is confusing to consumers and no longer meets the needs of industry because of changes in technology and business affiliations. I held two hearings on RESPA and the Truth in Lending Act (TILA) last summer and found that consumer groups and the real estate and lending community agreed that there must be major overhaul of the statutes.

One issue among these problems is whether payment of a yield spread premium is legal. HUD's own home settlement booklet indicates that a mortgage broker may be paid by a borrower, a lender or both. This would indicate to a reasonable person that the payments are legal. However, when I questioned HUD point-blank on the legality of these fees during the hearings last summer, the Department refused to give me a straight answer. Instead, the agency proposed a cumbersome and confusing rule that would have given legality to some of the fees in certain circumstances. Many of us believed that the rule if put into final form would have encouraged more frivolous litigation.

Today, consumer and industry groups and HUD and the Federal Reserve are working on legislative recommendations to overhaul RESPA and TILA. We hope to have hearings on those recommendations later this year and pass a reform package next session. While these efforts are underway, I believe that we should pass this narrowly-tailored moratorium on class action lawsuits until the issue of yield spread premiums is clarified by HUD or by the Congress. This bill would not affect the filing of private rights of action by individual consumers so that the legality can be adjudicated on a case-by-case basis.

I believe that much work still needs to be done on RESPA and TILA reform but this legislation will enable one of those controversial issues to be set aside for the time being.•

By Mr. DODD (for himself, Mr. HAGEL, Mr. BIDEN, and Mr. ROBERTS):

S. 2224. A bill to authorize the President to delay, suspend, or terminate economic sanctions if it is in the national security or foreign policy interest of the United States to do so; to the Committee on Foreign Relations.

SANCTIONS RATIONALIZATION ACT OF 1998

Mr. DODD. Mr. President, I rise today to introduce legislation on behalf of myself, Senators HAGEL, BIDEN and ROBERTS. The objective of this bill is to restore some rationality to what has become a very complex and problematic compilation of Congressionally imposed unilateral economic sanctions laws.

The bill we are introducing today—the "1998 Sanctions Rationalization Act" would give the President the authority to delay, suspend or terminate a sanction that he believes not to be in the United States national interest. But it would also give Congress an opportunity to review each Presidential exercise such authority, and to enact a resolution of disapproval to maintain a particular sanction, under the expedited procedures, within thirty days of Presidential action.

Mr. President, on June 4, I joined with Senator LUGAR and others as a cosponsor of S. 1413—the Enhancement of Trade, Security, and Human Rights Through Sanctions Reform Act. This bill creates a framework for future consideration by the legislative and executive branches of unilateral economic sanctions. I applaud Senator LUGAR for his vision in putting together this piece of legislation in cooperation with Congressman LEE HAMILTON.

I believe that the legislation I am introducing today complements the efforts of Senator LUGAR and Congressman HAMILTON by dealing with sanctions that are already imbedded in statute and which have come to threaten the ability of the President of the United States to conduct United States foreign policy in furtherance of U.S. national interests.

Mr. President, U.S. sanctions—predominantly economic, but also political and sometimes even military penalties—are being employed more and more frequently for a variety of purposes. The United States, more than any other country, uses sanctions to further its many, sometimes conflicting, foreign policy objectives. We have used them among other things to discourage the proliferation of weapons of mass destruction and transfer of ballistic missiles, to advance human rights, to end state supported terrorism, to discourage armed aggression, to protect the environment, to thwart drug trafficking, and in isolated instances to oust unacceptable governments.

Some recently released statistics illustrate just how pervasive U.S. sanctions have become, and at what cost to the United States. Since World War II, the United States has imposed sanctions on roughly 100 occasions—more than sixty percent of those sanctions have occurred just since 1993. Between 1993–1996, sixty-one U.S. laws and executive orders have been enacted authorizing various types of unilateral economic sanctions against thirty-five countries in the name of foreign policy. The sanctioned countries encompass 42% of the world's population—roughly 2.3 billion potential consumers of U.S. goods and services.

In our zeal to punish foreign governments for offensive behavior, we have managed to cut ourselves off from approximately 20% of the world's export markets. Our allies and trading partners think we are crazy. They have happily filled the American void, often times gaining mid to long term competitive advantages in these markets even after specific sanctions have been repealed, to the extent that happens.

Rarely, if ever, Mr. President is a careful and thoughtful analysis done of the costs and benefits of the proposed sanction or the likelihood of its altering the sanctioned behavior. In most instances, the issue is rushed to the Senate or House floor, so that the Congress can express its outrage at some perceived misdeed that just appeared in print or live on CNN. To the best of my knowledge there has never been any systematic effort on the part of the Congress to review sanctions once imposed, to consider whether they have achieved their objectives or have turned out to be counterproductive.

Unilateral economic sanctions have truly become the foreign policy "flavor of the month" imposed by the Congress, in the heat of the moment, often at the behest of special interest lobbies. Mr. President, we may make ourselves feel good by voting to cut off foreign access to United States markets, goods, people and ideas. We may even please the particular domestic constituency that has clamored for Congressional action. But in most instances we simply fool ourselves if we think that we have done much, if anything, to alter the behavior or policy of the government that has been targeted. In fact, we have probably made it easier for governments, particularly the authoritarian ones, to resist any internal pressures to change, because they can blame their domestic failures on U.S. sanctions policy.

Since we don't appropriate funds to cover the actual private sector costs incurred when sanctions are imposed, some in the Congress have come to view them as a cost free way to influence the Administration's conduct of foreign policy. Nothing could be further from the truth. Sanctions are one of the most pernicious "unfunded mandates" that the Congress can impose on the private sector, with virtually no prior consultation or input from it.

According to the Institute for International Economics, a Washington-based think tank, the cost of sanctions in 1995 alone was nearly $20 billion in lost exports and 200,000 lost American jobs. If we carry those costs forward by five years, these same sanctions would cost the American economy $100 billion in foregone exports and one million jobs. That is a high price to pay for a policy that is successful. More often than not U.S. sanctions fail to alter behavior or policies.

The costs incurred due to sanctions are more than simply direct economic costs. There are indirect costs as well—tangible and intangible. The cost to us diplomatically and politically with our friends and allies can be extremely high. I suspect, for example, that United States officials have expended a great deal of our diplomatic capital in defusing the anger of European officials and other interested governments concerning the extra-territorial application of certain recently enacted sanctions law. Such capital is not inexhaustible, and should be husbanded for those occasions when international support is critical to the United States effectively dealing with a major national security or foreign policy challenge—Iraq, Bosnia, Pakistan, India and even Kosovo come readily to mind.

The time has come to call a halt to the indiscriminate use of unilateral sanctions as the foreign policy instrument of "first resort." Perhaps we should consider the "old fashioned" way of conducting foreign policy—it's called diplomacy. While diplomacy may take longer to produce results and isn't as dramatic as voting to impose draconian measures against other countries, it more often than not gets us where we want to go.

In saying that, I am not arguing that the United States should remove the sanctions option from its foreign policy arsenal, just as I would never suggest that we rule out the use of force as an option. Clearly there are occasions when sanctions or military force are the appropriate responses to a particular situation—Iraq for one. However, in recent years we have elected to exercise the sanctions option far too frequently, and in so doing we are undermining its continued effectiveness as a U.S. foreign policy tool.

The United States, particularly the Congress must become more precise in the choice of sanctions, more realistic with respect to what is achievable, better informed of the potential costs to the U.S. economy and the American people, and more sensitive to the potential impact on innocent populations and on relations with other governments. It is especially problematic when Congress enacts sanctions and fails to include any flexibility in the statute to enable the President to respond effectively to what we all know is an ever changing political landscape. I believe that some of the measures enacted by the Congress are actually harmful to our long term foreign policy interests.

A perfect example of this has occurred recently with respect to India and Pakistan. Because of the so called Pressler amendment, President Clinton had very little to offer in the way of "carrots" to Pakistan to dissuade it from following India in testing its nuclear weapons capabilities: The President has even less flexibility today to respond to the new threat that exists following both India's and Pakistan's defiance of the international community's pleadings to forgo testing. I say this because under existing nuclear non-proliferations statutes enacted by the Congress, sanctions are automatic and the President has no authority to lift them absent Congressional action to modify existing law.

The international reaction to recent events in India and Pakistan has been very telling. Even our closest allies who share our concerns about nuclear proliferation have failed to follow our lead by imposing economic sanctions on India and Pakistan. Why? Because they do not believe that such an approach is likely to force India and Pakistan to sign onto international non-proliferations regimes. In fact, quite the opposite. It is likely to further isolate them, heightening domestic political pressure in both countries and encouraging each one to perfect even further their nuclear weapons capability and God forbid, even to consider using it against one another in a moment of paranoia.

As I have said earlier, I do not believe that we should ever totally rule out the use of sanctions as a foreign policy instrument. But before we impose them we should be clear about what our foreign policy goals are. We should be selective in our choice of sanctions. They should be imposed for a finite time period, with an option to extend them, if the situation warrants it. We should also include a certain measure of flexibility in any Congressionally imposed sanctions to allow the Secretary of State and the President to fulfill their Constitutional obligations to conduct our nation's foreign policy—without their arms tied behind their backs.

We should also endeavor to get other governments to join us in imposing sanctions. Multilaterally imposed sanctions have a far better likelihood of succeeding than those that are unilaterally imposed and they minimize the competitive disadvantages to the U.S. economy. This will mean that we must have patience as diplomatic efforts are undertaken to garner international support.

If we find that we must go it alone, we should keep to a minimum the adverse effects of our sanctions on third countries, particularly friends and allies. We should also be more selective in the choice of sanctions we impose—opting for those that will be felt by the offending government officials, rather than those that are more general in scope and harm the general population—people who in most cases have little or no ability to influence the behavior of their government leaders.

With economic sanctions fast becoming the very core of United States foreign policy, I believe that a more thoughtful and comprehensive approach to them is desperately needed before we do serious harm to our own national interests. The legislation introduced by Senator LUGAR would provide such a framework in the context of future sanctions. The bill I am introducing today would create a similar framework of rationality with respect to existing sanctions regimes.

I believe that the Lugar and Dodd bills, taken together, will help to sharpen the focus of the debate on this important subject. I believe such a focus is long overdue. I look forward to working with Senator LUGAR and other interested Senators in forging a comprehensive legislative package that incorporates the approaches contained in the two bills so that our colleagues will have an opportunity to vote on these very important matters in the very near future.

Mr. BIDEN. Mr. President, I am pleased to join my friend from Connecticut, as well as Senators HAGEL and ROBERTS, in introducing the "Sanctions Rationalization Act of 1998."

The bill establishes a means for the President to delay, suspend, or terminate certain unilateral economic sanctions, or a portion thereof, if doing so is important to U.S. national interests. The bill also provides a means for Congress to overturn any such decision, and provides for expedited procedures within the House and Senate for consideration of a resolution to reverse a Presidential decision.

I have become increasingly concerned that Congress' efforts to impose sanctions is unduly hampering the President's ability to conduct U.S. foreign policy. To say this is not to suggest that Congress has exceeded its authority in the foreign affairs area. Under the Constitution, both Congress and the President have considerable foreign policy powers. As Professor Edward Corwin, a noted authority on the Presidency, once wrote, the Constitutional design on foreign policy tenders an "invitation to struggle."

Indeed, Congress has several powers under the Constitution in the foreign affairs area.

It has, among other things, the power of the purse, the power to declare war, the power to raise and support the military, and the power to regulate foreign commerce.

Congress is well within its power to impose sanctions against foreign governments. And in many instances, sanctions—or the embarrassment to the foreign government which flows from their imposition—have had a positive effect in advancing U.S. policy.

But what Congress cannot do is to conduct the daily business of diplomacy. Only the President can undertake negotiations with foreign governments and leaders. And any law which limits the ability of the United States to engage with foreign nations necessarily limits the options available to the President as he seeks diplomatic solutions to foreign policy problems.

Foreign policy, however, usually involves a complex mosaic of interests, and requires use of a wide range of diplomatic instruments. Moreover, foreign policy is not static—constantly changing circumstances often require calibrations in policy.

The imposition of statutory sanctions, in many cases, serves to undermine the ability of the President to balance the competing interests and to respond to changes on the ground overseas.

In sum, statutory sanctions are often a blunt instrument, when the situation at hand may call for an instrument which the President can fine-tune.

The most significant part of this legislation, in my view, is that it gives the President the power to calibrate sanctions once imposed—that is, to adjust or modify the application of a sanction as the situation may warrant. Accordingly, he can use the authority in this bill to try to induce the desired action by the foreign government by lifting or modifying a sanction progressively.

The bill does not allow the President to terminate those measures that are imposed on a multilateral basis, including obligations under resolutions of the United Nations Security Council, nonproliferation and export control arrangements like the Australia Group, the Nuclear Supplier's Group, the Missile Technology Control Regime, and the Wassenaar Arrangement.

The bill also does not allow the President to terminate those measures taken under treaty obligations, such as those under the Chemical Weapons Convention, the Nuclear Non-Proliferation Treaty and the Biological Weapons Convention.

Further, the bill does not apply to several types of measures, including foreign military financing, export controls and restrictions under the Arms Export Control Act, any measure taken pursuant to section 307 of the Chemical and Biological Weapons Control and Warfare Elimination Act of 1991, any measure to restrict imports of products and services in order to protect domestic health or safety, any measure to enforce a federal criminal law, and any retaliatory trade measure authorized under our trade statutes or international trade agreements.

In proposing this legislation, I do not envisage that the authority granted to the President would be employed casually. Instead, like analogous waiver authority in the Foreign Assistance Act—section 614 of that Act—I expect that this power would be used only when absolutely necessary, only after careful consideration in the Executive Branch, and only after careful consultation with the appropriate committees of Congress.

And in cases where the President does abuse the authority this bill grants him, Congress would still have the power to reverse the President's decision, and resolutions to do so will be entitled to expedited procedures which would ensure their prompt consideration.

I wish to emphasize that I do not regard this bill as a final product. Rather, it is a work in progress. This is a complicated subject; defining what constitutes a "sanction" is a difficult undertaking, as is drafting the necessary exclusions.

Accordingly, I welcome contributions from our colleagues, the Executive Branch, and non-governmental organizations.

Of course, this is not the only legislation on this subject. Our colleagues, Senator LUGAR, and Representative HAMILTON, have made an important contribution in promoting the debate on this subject in introducing their sanctions reform legislation. The Majority and Minority Leaders plan to appoint a special task force to review the issue, and I am certain that legislative proposals will emerge from those discussions.

In closing, I should state that I am under no illusion that passing this legislation will be easy. It may be that we cannot reach a consensus on acceptable legislation in the remaining months of the 105th Congress.

What is important now is that the Executive and the Congress have initiated a dialog, on a bipartisan basis, on a subject of considerable importance to our national interests. I look forward to engaging in that debate in the weeks and months ahead.

By Mr. GRAHAM (for himself and Mr. MACK):

S. 2225. A bill to amend the Outer Continental Shelf Lands Act to prohibit new leasing activities in certain areas off the coast of Florida, and to permit exploration, production, or drilling activities on existing leases only if adequate studies are performed, to require adequate information and analyses for development and production activities, and to allow states full review of development and production activities; to the Committee on Energy and Natural Resources.

FLORIDA COAST PROTECTION ACT

• Mr. GRAHAM. Mr. President, today with my good friend and colleague Senator MACK I introduce the "Florida Coast Protection Act". This legislation will protect Florida's fragile coastline from outer continental shelf leasing and drilling in three important ways.

First, it transforms the annual moratorium on leasing and preleasing activity off the coast of Florida into a permanent ban covering Planning Areas in the Eastern Gulf of Mexico, the Straits of Florida, and the South Atlantic Planning Area.

Second, it raises the bar for approval of development and production requests on existing leases off the coast of Florida. It establishes a Joint Federal-State Outer Continental Shelf Task Force comprised of experts from the Environmental Protection Agency, the Minerals Management Service, the National Oceanic and Atmospheric Administration, the Fish and Wildlife Service, the National Marine Fisheries Service, the Biological Resources Division of the United States Geological Survey, state representatives, and professional scientist nominated by the National Academy of Sciences. This Joint Task Force will ensure that all data required to make a determination of the environmental and economic effects of oil and gas production and development on local communities is available to the Secretary of the Interior and the State of Florida.

Third, the Florida Coast Protection Act corrects an egregious conflict in regulatory provisions where an affected state is required to make a consistency determination for proposed oil and gas production or development under the Coastal Zone Management Act prior to receiving the Environmental Impact Statement (EIS) from the Mineral Management Service. Our bill requires that the EIS is provided to affected states six months before they make a consistency determination.

Mr. President, you may recall that we introduced similar legislation under the same title in June 1997. The focus of that bill was the cancellation of the lease tract 17 miles off the coast of Pensacola, resulting in the elimination of six oil and gas leases. Since that time, these leases were relinquished by the Mobil Corporation back to the control of the U.S. Department of the Interior. In addition, these areas are covered by the moratorium on leasing in the Eastern Gulf—a protection that President Clinton recently extended through 2012 as part of the Year of the Ocean efforts to protect this extremely valuable natural resource.

What would this bill mean for Florida? The elimination of preleasing activity and lease sales off the coast of Florida protects our economic and environmental future.

In 1997, over 47 million tourists visited Florida, spending $41 billion. The five western counties of the Florida Panhandle brought in over $8 million from tourist development tax in 1996. Three cities in this area—Panama City, Pensacola, and Fort Walton Beach—recorded over $1.5 billion in tourism and recreation taxable sales during the same period.

It is home to some of the richest estuarine areas in the world. These habitats provide an irreplaceable link in the life cycle of both marine and terrestrial species. Florida's commercial fishing industry relies heavily on these estuaries as they support the nurseries for most commercially harvested fish. In addition, nearly 90 percent of the reef fish resources in the Gulf of Mexico are caught on the West Florida Shelf.

Mr. President, the environmental and economic value of this area is evidenced by the many state and federal land holdings in designated environmental preservation, conservation, and recreation areas. Fifty of these areas are located along 175 miles of coastline in the Florida Panhandle.

In testimony before the House Resources Subcommittee on Energy and Mineral Resources on May 14, 1998, Florida Governor Lawton Chiles provided the following perspective on the potential damage to Florida's coastline that could be caused by offshore drilling. He said that "oil spills remain the most visible . . . however, there are other detrimental environmental effects that these activities could have on the shallow, clean water marine communities found on the Florida outer continental shelf . . . [including] . . . physical disturbances caused by anchoring, pipeline placement and rig construction, the resuspension of bottom sediments, and the chronic pollution from discharges of drilling effluents, production effluents, and possible accidental releases of oil or other toxic material . . ."

Throughout my time in the Senate, I have opposed offshore oil drilling off the coast of Florida because of the threat it presents to the state's greatest natural and economic resource—our coastal environment. With my colleagues in the Florida delegation, I have worked successfully to obtain moratoria on additional leasing off the west Florida coast. With the passage of the Florida Coast Protection Act, this annual moratoria will evolve into permanent protection for the Florida coastline.

The Florida Coast Protection Act is a milestone in our attempts to protect our natural coastal resources in the State of Florida and throughout the nation. I urge my colleagues to support this effort.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2225

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Florida Coast Protection Act of 1998".

SEC. 2. LEASING ACTIVITY OFF THE COAST OF FLORIDA.

(a) PROHIBITION.—Section 8 of the Outer Continental Shelf Lands Act (43 U.S.C. 1337) is amended—

(1) in subsection (a)(1), by striking "The Secretary" and inserting "Except as provided in subsection (p), the Secretary"; and

(2) by adding at the end the following:

"(p) LEASING ACTIVITY OFF THE COAST OF FLORIDA.—

"(1) DEFINITIONS.—In this subsection:

"(A) ADEQUATE.—The term 'adequate', in reference to information means, as defined by the National Research Council reports described in paragraph (2)(E)—

"(i) sufficiently complete so as to provide for appropriate breadth and depth of basic scientific information in all relevant disciplines needed to understand the environmental risks associated with OCS decisions; and

"(ii) of sufficient scientific quality to be repeatable, reliable, and valid in measurements and analyses with appropriate subjects methods of inquiry and interpretation that reflect the state of good practice in each scientific field.

Methods of inquiry and interpretation must reflect the state of good practice in each scientific field.

"(B) COVERED AREA.—The term 'covered area' means—

"(i) Eastern Gulf of Mexico Planning Area (as established by the Secretary) which is adjacent to the State of Florida as defined by 43 U.S.C. 1333(a)(2)(A);

"(ii) the Straits of Florida Planning Area (as established by the Secretary); and

"(iii) the South Atlantic Planning Area (as established by the Secretary) which is adjacent to the State of Florida as defined by 43 U.S.C. 1333 (a)(2)(A);

within 100 miles off the coast of Florida.

"(C) JOINT TASK FORCE.—The term "joint task force" means the Joint Federal-State Outer Continental Shelf Task Force established by paragraph (3)(C).

"(D) PRELEASING ACTIVITY.—

"(i) IN GENERAL.—The term 'preleasing activity' means an activity relating to a lease that is conducted before a lease sale is held.

"(ii) INCLUSIONS.—The term 'preleasing activity' includes—

"(I) the scheduling of a lease sale;

"(II) the issuance of a request for industry interest;

"(III) the issuance of a call for information or a nomination;

"(IV) the identification of an area for prospective leasing;

"(V) the publication of a draft or final environmental impact statement or a notice of sale; and

"(VI) the performance of any form of rotary drilling in a prospective lease area.

"(iii) Exclusions.—The term 'preleasing activity' does not include an environmental, geologic, geophysical, economic, engineering, or other scientific analysis, study, or evaluation.

"(E) Report of the National Research Council of the National Academy of Sciences.—The term 'report of the National Research Council' means—

"(i) the report entitled "The Adequacy of Environmental Information for Outer Continental Shelf Oil and Gas Decisions: Florida and California" issued in 1989 by the National Research Council's Committee to Review the Outer Continental Shelf Environmental Studies Program and supported by the President's Outer Continental Shelf Leasing and Development Task Force through Department of the Interior Contract No. 1435000130495; and

"(ii) parts I, II, and III of the document entitled "Assessment of the United States Outer Continental Shelf Environmental Studies Program" issued in 1990 and 1992 by the committee referred to in subclause (I), with support from Department of the Interior Contract No. 14–12–001030342.

"(2) Prohibition of preleasing activities and lease sales.—The Secretary shall not conduct any preleasing activity or hold a lease sale under this Act in a covered area.

"(3) Activities in existing lease areas.—

"(A) In general.—With respect to a lease in a covered area entered into before the date of an enactment of this subsection, the Secretary may approve or permit an exploration, production, or drilling activity in the lease area only if—

"(i) all assessments, studies, and research required for the area under subparagraph (B) have been completed;

"(ii) all such assessments, studies, and research have been peer reviewed, by qualified scientists, as provided for and supervised by the joint task force; and

"(iii) the Secretary submits to Congress and the Governor of the State of Florida a report, which has been approved by the joint task force, certifying that the available physical oceanographic, ecological, and socioeconomic information, and other information pertaining to the environment, endangered and threatened species, and marine mammals, is adequate to enable the Secretary to carry out the responsibilities of the Secretary in the area under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) and other laws, with a minimal level of uncertainty, with respect to the proposed exploration, production, or drilling activity.

"(B) Assessments, studies, and research.—The assessments, studies, and research referred to in subparagraph (A) are as follows:

"(i) Eastern Gulf of Mexico planning area.—With respect to the area described in paragraph (1)(B)(I):

"(I) The Assessment of the Historical, Social, and Economic Impacts of Outer Continental Shelf Development on Gulf Coast Communities, to be conducted by the Minerals Management Service.

"(II) The series of studies identified as the Northeastern Gulf of Mexico Coastal and Marine Ecosystem Program, to be conducted by the Biological Resources Division of the United States Geological Survey.

"(III) Any additional physical oceanographic studies identified and recommended by the Northeast Gulf of Mexico Physical Oceanography Workshop conducted by the Minerals Management Service in conjunction with Florida State University and identified in the workshop proceedings OCS Study MMS 94–0044.

"(IV) Any additional studies or research in the area identified by the joint physical oceanographic/ecological workshop to be held by the Minerals Management Service in conjunction with the University of West Florida in August 1998.

"(V) Any additional studies or research in the area needed to acquire information on a subject on which a report of the National Research Council found available information to be less than adequate.

"(VI) Any additional physical oceanographic, ecological, or socioeconomic or other environmental studies, endangered and threatened species surveys, or marine mammal surveys requested by the Governor of the State of Florida and recommended by the joint task force to minimize the uncertainty about the effects of the proposed preleasing activity, leasing, or exploration, production, or drilling activity on the marine environment, the coastal environment, and the human environment of the State of Florida, including any such request for the expansion of assessments, duties, or research described in subclauses (I) through (V).

"(ii) Straits of Florida planning area.—With respect to the area described in paragraph (1)(B)(ii):

"(I) An assessment of the Social and Economic Impacts of Outer Continental Shelf oil and gas activities on Florida's coastal communities.

"(II) Any additional studies or research in the area needed to acquire information on a subject on which a report of the National Research Council found available information to be less than adequate.

"(III) Any additional physical oceanographic, ecological, or socioeconomic or other environmental studies, endangered and threatened species surveys, or marine mammal surveys requested by the Governor of the State of Florida and recommended by the joint task force to minimize the uncertainty about the effects of the proposed preleasing activity, leasing, or exploration, production, or drilling activity on the marine environment, the coastal environment, and the human environment of the State of Florida.

"(iii) South Atlantic planning area.—With respect to the area described in paragraph (1)(B)(iii):

"(I) An assessment of the social and economic impacts of Outer Continental Shelf oil and gas activities on Florida's coastal communities.

"(II) Any additional studies or research in the area needed to acquire information on a subject on which a report of the National Research Council found available information to be less than adequate.

"(III) Any additional physical oceanographic, ecological, or socioeconomic or other environmental studies, endangered and threatened species surveys, or marine mammal surveys requested by the Governor of the State of Florida and recommended by the joint task force to minimize the uncertainty about the effects of the proposed preleasing activity, leasing, or exploration, production, or drilling activity on the marine environment, the coastal environment, and the human environment of the State of Florida.

"(C) Joint task force.—

"(i) Establishment.—There is established a Joint Federal-State Outer Continental Shelf Task Force for the purpose of carrying out the responsibilities assigned to the joint task force under this paragraph in the areas described in subparagraph (B).

"(ii) Responsibilities.—The responsibilities of the Joint Federal-State Outer Continental Shelf Task Force shall be—

"(I) to ensure the acquisition and consideration of adequate information in all relevant disciplines needed to understand the environmental risks associated with OCS activities and for the protection of marine, coastal, and human environments of the State of Florida; and

"(II) to provide recommendations, with the assistance of the OCS Scientific Committee, on the adequacy, types, and methodologies of assessments, studies, and research needed to enable the Secretary to carry out the responsibilities of the Secretary in the areas under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) and other laws, with a minimal level of uncertainty;

"(III) to facilitate the resolution of conflicts between the State of Florida and the Minerals Management Service or other Federal agency regarding OCS activities and environmental studies;

"(IV) to assist the Minerals Management Service and other Federal agencies in coordinating research; and

"(V) to participate in the review of, and assist in obtaining review by, qualified scientists of all assessments, studies and research required by this subsection.

"(ii) Membership.—The joint task force shall consist of—

"(I) 1 representative, at the assistant secretary level or equivalent, of each of—

"(aa) the Environmental Protection Agency;

"(bb) the Minerals Management Service;

"(cc) the National Oceanic and Atmospheric Administration;

"(dd) the United States Fish and Wildlife Service;

"(ee) the National Marine Fisheries Service; and

"(ff) the Biological Resources Division of the United States Geological Survey;

"(II) 6 representatives of the State of Florida, appointed by the Governor of the State; and

"(III) 3 members appointed by the Secretary of Commerce from a list of individuals nominated by the National Academy of Sciences who are professional scientists in the fields of physical oceanography, marine ecology, and social science.

"(iii) Compensation.—

"(I) In general.—Members of the joint task force appointed under clause (ii)(III) may be compensated at a rate to be fixed by the Secretary of Commerce, but not in excess of the maximum rate of pay payable for a position classified above GS–15 under section 5108 of title 5, United States Code, for each day that the member spends performing the duties of the joint task force.

"(II) Travel and transportation expenses.—Members of the joint task force appointed under clause (ii)(III), while performing official duties under this Act, shall receive compensation for travel and transportation expenses under section 5703 of title 5, United States Code.

"(D) Oil and gas exploration.—Approval of the first exploration plan submitted after the date of enactment of this subsection under section 11 and any other exploration plan deemed significant by the Secretary and each affected State in each of the covered areas shall be subject to the requirement of the preparation of a detailed statement submitted under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).".

(b) OIL AND GAS DEVELOPMENT AND PRODUCTION.—

(1) DEVELOPMENT AND PRODUCTION PLAN.—Section 25(c) of the Outer Continental Shelf Lands Act (43 U.S.C. 1351(c)) is amended—

(A) by striking "and" at the end of paragraph (5);

(B) by redesignating paragraph (6) as paragraph (8); and

(C) by inserting after paragraph (5) the following:

"(6) thorough descriptions of the area affected by the proposed development and production activities and analyses of the primary, secondary, and cumulative effects of such development and production on the ocean, coastal, land, human, air, social, and economic resources of the affected area; and

"(7) specific information in the necessary detail for inclusion in permit applications for all permits needed to conduct development and production activities whether issued by the Secretary or another Federal or State agency, including air quality permits, water quality permits, applications for permit to drill, applications for the approval of the installation of a lease term pipeline or for the granting of a right-of-way; and platform applications.".

(2) CONCURRENCE BY THE STATE.—Section 25(d) of the Outer Continental Shelf Lands Act (43 U.S.C. 1351(d)) is amended—

(1) by striking "The Secretary shall not" and inserting the following:

"(d) CONCURRENCE BY THE STATE.—The Secretary shall not approve any Development and Production Plan or Development Operations Coordination Document or"; and

(2) by adding at the end the following:

"(2) UNAVAILABILITY OF INFORMATION.—Should any of the information required in subsection (c) not be available for inclusion in the plan for development and production activities at the time that the plan is submitted to the Secretary and subsequently to a State for which the activities described in the plan affects any land use or water use in the coastal State with a coastal zone management program approved pursuant to section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455), the State's consistency response to the consistency certification that accompanied the plan shall be considered to be preliminary and provisional, subject to the receipt and review of the complete information identified under paragraph (1). When the information required under paragraph (1) is developed and submitted to the Secretary or developed by the Secretary, each affected State shall be afforded the opportunity to complete its consistency review and response.".

(3) MAJOR FEDERAL ACTION.—Section 25(e)(1) of the Outer Continental Shelf Lands Act (43 U.S.C. 1351 (e)(1)) is amended—

(A) by inserting before "At least" the following: "The Secretary shall consult with and obtain the concurrence of each affected State in determining if the approval of a development and production plan constitutes to be a major Federal action for purposes of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.)."; and

(B) by adding at the end the following

"(3) On a finding by the Secretary, in consultation with each affected State, that the approval of a development and production plan is a major Federal action subject to the procedures under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), the Secretary shall ensure that each affected State for which the development and production plan affects any land use or water use in the coastal zone of the State with a coastal zone management program approved pursuant to section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455), receives the final environmental impact statement 6 months prior to determining concurrence or objection to the coastal zone consistency certification which must accompany the environmental impact statement pursuant to section 307(c)(3)(B) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1456(c)(3)(B)). Coastal states for which a development and production plan that has been determined to be a major Federal action for purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and that affects any land use or water use of a State without an approved coastal zone management program must receive the final environmental impact statement 3 months prior to submission of comments and recommendations under subsection (g) .".

(4) APPROVAL OR DISAPPROVAL.—Section 25(h)(1) of the Outer Continental Shelf Lands Act (43 U.S.C. 1351(h)(1)) is amended in the first sentence—

(A) by striking "within sixty days" following 'the Secretary shall,';

(B) by striking "sixty days";

(C) by inserting after "modifications of the plan" the following: ", and after receipt of concurrence or objection by a State with respect to the consistency certification accompanying the environmental impact statement pursuant to section 307(c)(3)(B) of that Act (16 U.S.C. 1456(c)(3)(B)) unless the Secretary of Commerce makes the finding authorized by section 307(c)(3)(B)(iii) of that Act (16 U.S.C. 1456(c)(3)(B)(iii)), whichever is later"; and

(D) by inserting after require "modifications of the plan" the following: "within 60 days.".

(5) APPLICATION OF SECTION.—Section 25(l) of the Outer Continental Shelf Lands Act (3 U.S.C. 1351(l)) is amended by striking "may" and inserting "shall".●

● Mr. MACK. Mr. President, today with my colleague, Senator GRAHAM. I introduce the Florida Coast Protection Act of 1998. It was a little over a year ago that we introduced similar legislation to protect the pristine environment off of Florida's coasts. That legislation would have banned leasing within 100 miles of the coast of Florida, and would have canceled six oil and gas leases on the Outer Continental Shelf closest to Florida's coast held by the Mobil Corporation. Fortunately, soon after we introduced our bill, Mobil decided to pull out of those leases. Nevertheless, the threat to Florida's coastline remains.

Mr. President, Floridians have always been justifiably concerned about the prospect of oil and gas exploration in the waters off our State. We are well aware of the risk this activity poses to our environment and our economy because, in Florida. A healthy environment means a healthy economy. Millions of people come to our State each year to enjoy the climate, our beaches, and our fine quality of life. The tourism industry in Florida provides millions of jobs and generates revenues in the billion of dollars. It would take only one disaster to end Florida's good standing as America's vacationland. We cannot afford to let that happen.

Throughout my tenure in the Senate I have opposed exploration and drilling off Florida's coasts. My goal—and the goal the entire Florida Congressional delegation—is to permanently remove this threat from our coasts. In recent years, we have stood together in opposition to drilling and have successfully extended the annual moratorium on all new leasing activities on Florida's continental shelf.

Mr. President, while the opposition of Floridians to oil drilling is well-documented, the reality remains that leases have been let, potential drilling sites have been explored and it is likely that actual extraction of resources could take place within the next few years. For these reasons, I rise with Senator GRAHAM to protect our State from the ravages of drilling.

First, our legislation makes permanent the ban on any new leasing activity within 100 miles of our coast in order to prevent a repeat of the past mistake of leasing in the OCS off Florida. Second, it requires additional studies be conducted prior to the issuance of permits of oil and gas production on existing leases. Finally, it gives the state flexibility to make a determination regarding the consistency of oil and gas development and production plans with The Coastal Zone Management Act after an environmental impact statement detailing the direct and cumulative impacts of the project is completed by the Minerals Management Service.

Mr. President, removing the threat of oil and gas exploration permanently from our shores will require responsible leadership from the Congress. This legislation, in my view, is absolutely necessary to protect our State's economic and environmental well-being. I urge my colleagues to support this worthwhile effort. We look forward to working with Senator MURKOWSKI, Chairman of the Senate Committee on Energy and Natural Resources, to meet this goal.●

By Mr. CRAIG (for himself and Mr. KEMPTHORNE):

S. 2226. A bill to amend the Idaho Admission Act regarding the sale or lease of school land; to the Committee on Energy and Natural Resources.

AMENDMENTS TO THE IDAHO ADMISSIONS ACT

● Mr. CRAIG. Mr. President, today with my friend and colleague from Idaho, Senator KEMPTHORNE, introduce a bill to amend the Idaho Admission Act of July 3, 1890, to provide for the better management of school lands within our state. In doing so, I note that our Idaho colleagues Congressmen CHENOWETH and CRAPO will offer identical legislation in the House of Representatives today.

Mr. President, this piece of legislation is simple, straightforward, and of vital importance to my State. It brings Federal statute into line with amendments to the Idaho Constitution passed by the Idaho State Legislature earlier this year and has but one goal: to bring about the better management of State lands to the financial benefit of our public schools.

The legislation, along with that passed by the Legislature, were developed to implement the recommendations of a special committee of State leaders who sought to secure financial security for Idaho's schools. This legislation accomplishes the goal with only a few changes to current statute.

First, it allows the Board of Land Commissioners to exercise its fiduciary responsibility as managers of the State endowments by treating both land and fiscal assets as one trust.

Second, the proposal creates an earnings reserve account that will serve as a "shock absorber" to allow the endowments to provide a more predictable income stream.

Third, it provides increased and stable funding for public education by allowing investments in assets that will provide higher rates of return. The State committee projected that through this single change, public education in our State could receive up to $20 million or more annually without raising taxes.

Fourth, it establishes a land bank account for proceeds from the sale of endowment lands. The account gives the Board of Land Commissioners the flexibility to re-invest in other real property for the land trust.

Mr. President, the legislation we introduce today is supported by the Idaho State Legislature and was written in compliance with the Joint Memorial passed by the Legislature and sent to us earlier this year. It is vitally important to our Governor, the Board of Land Commissioners, and all those involved in public education in our state.

Like most western states, certain lands within Idaho were reserved for the benefit of public education upon admission to the Union. These lands are spread throughout the State and are managed for the financial benefit of our children. The Idaho Admission Act is very specific in how these lands are to be administered. And while these specifications worked well in 1890, they have now become outdated. These century old regulations have severely limited the State's efforts to maximize funding for public schools. The legislation we introduce today brings the management of endowment lands into modern times and employs modern financial tools to the benefits of Idaho children.

Mr. President, I implore my colleagues to act on this measure in a timely matter and hope they might all join me in this important endeavor to help Idaho public education and the children it serves.●

● Mr. KEMPTHORNE. Mr. President, this Congress and the citizens of Idaho must seize a unique opportunity to pass legislation this year that will provide the ability to increase Idaho public education funding at least $20 million and possibly $30 million annually. And it will do so without raising taxes, cutting services or asking the Federal Government for one thin dime.

This is no smoke and mirrors.

This is creativity and innovation at its best.

This legislation will empower Idaho to be better stewards of the endowment created 108 years ago that helps pay for Idaho's public education. By using prudent, time-tested investment strategies, the endowment will be better equipped to pay for teaching Idaho's children in the 21st century.

Legislation I am introducing today with Senator LARRY CRAIG will reform federal law that now restricts the way Idaho's Endowment Fund is managed. This legislation, along with constitutional amendments Idaho voters must approve in November, will modernize the legal framework of the endowment. According to financial experts, this legislative package will substantially increase funds available for Idaho school children. Specifically, this legislation gives greater flexibility for investing and managing endowment funds, and for managing the sale and lease of endowment lands.

The bottom line is that the bill provides more money for educating our kids, money that can be used to buy computers, increase teachers' salaries, or buy new textbooks.

And all this without raising taxes, cutting services or asking the Federal Government for one thin dime.

I will work to get this bill passed in the Senate, in the House of Representatives and signed into law by President Clinton this year.

Here is the background.

In writing the 1890 law that made Idaho the 43rd state, the citizens of Idaho worked with Congress to set aside 3.5 million acres of land as a permanent endowment to help finance the education of Idaho children in the 20th century.

Today this endowment is worth a combined total of $3.4 billion that consists of 2.5 million acres of land valued at $2.7 billion and an endowment fund worth nearly $700 million. In 1997, land and timber sales and investment interest generated $110 million of income. Of that, $55 million was reinvested into the endowment; $35 million was devoted to public schools and $10 million paid for other State endowments.

But we can do even better for Idaho. In FY97, this $3.4 billion endowment earned $110 million, or a rate of return of just 3%. By virtually any investment standard, this is a low rate of return. If this rate increased by just one additional percent, to 4%, an extra $32 million would be created.

The reason the Idaho Endowment Fund earned 3% and not any higher is because its investment and management structure is terribly outdated. The endowment was created in the 1800s when there was no developed securities market and before inflation became a major factor in investment decisions. As a result, the fund has no investment in equities or other higher yielding instruments. Right now, the endowment is exclusively invested in low yielding debt instruments like government securities, mortgages, and corporate bonds.

Right now, the law requires the endowment to be managed the way land and money were managed in 1890, not in the 1900s. That's like keeping laws on the books that restrict the delivery of health care to procedures and drugs that were available in 1800s.

The problem is simple. Current laws keep Idaho from earning higher rates of return. This results in less money being available for school children who do not received as much as they might, and it requires their parents to pay more taxes to make up the difference. While this problem is simple, so is the solution. And that is to allow the fund to be invested in a broader array of investments and require that investments must follow what is known as the "prudent investor" test. This test requires managers to use reasonable care and caution in making investment decisions.

In addition, both current federal law and the Idaho State Constitution contains provisions that restrict the ability of the land trust to maximize the sale and management of the endowment lands.

If prudent, time-tested investment strategies were applied to the land trust and endowment fund, financial experts agree that rates of return would increase, investment risk would decrease, and fluctuations in annual cash flows would be eliminated.

The bottom line is this: More money for Idaho school children. And less taxes for their parents.

Congress and the citizens of Idaho must work together to prepare the Idaho Endowment to meet the needs of children in the 21st century.

That's the goal of the legislation Senator CRAIG and I are introducing today.

Section Five of the original Idaho Admissions Act of 1890 created the endowment fund, and rules governing sale and lease of endowment land.

The measure we are introducing today will replace section 5 with a new section that gives land and investment managers greater flexibility in managing both the endowment land and endowment funds. Here is how:

Under current law, income from lands sales can only be placed in the endowment fund. Once placed in the endowment fund, funds cannot be used to buy land, even if doing so will ultimately produce more funds for education.

To provide more flexibility for land sales, legislation we are introducing today would give the state the authority to establish a new land bank fund which can be used to purchase additional land. For example, this land bank would allow the state to sell land that is difficult to manage in order to purchase land of higher functionality and greater investment return.

Under current law, no flexibility exists for managing endowment fund cash flow.

The legislation we are introducing today establishes an Earnings Reserve Fund. This earning reserve can be managed in a way that insures a steady, and likely higher source of funds for public education than what is now provided. With this earnings reserve in place, the assets of the endowment are placed in investments that over time have higher yields than less fluctuating, lower yielding investments. This reserve fund gives investment managers greater flexibility that have higher returns and facilitate a steadier and higher stream of distributions.

Under current law, there is a 10-year limit on leases of endowment lands.

The Craig-Kempthorne legislation repeals the 10-year limit, and allows the state land board to establish agreements that will maximize the long-term financial return on any lease that is made. This provision makes the management of lands available for education purposes on equal footing with the management of land in other endowments.

These changes may sound technical but in truth bring common-sense to managing the Idaho Endowment. The endowment, if it were created today, would be managed as a whole, and would have a diversified mix of equity assets, with smaller portions of fixed income and real estate. In addition, cash flow would be better regulated to meet a more consistent, and higher, level of distributions. This is the overwhelming practice of most endowments.

Instead, the Idaho Endowment is two separate entities, the land trust and the endowment fund. There is currently little coordination between these two entities, and each part of the endowment is concentrated in a particular type of asset. The land trust is dominated by timber, and the financial assets are exclusively fixed income, lower-yielding assets. There is currently no management of the distributions of overall cash flow and the investment policy has no long-term investment strategy, or prudent management of cash flow or a policy to decrease the concentration of assets to reduce investment risk. This is an outdated investment strategy. And there is now no comprehensive plan for the entire trust.

Governor Phil Batt appointed a committee of financial experts and public officials to review the endowment and land trust. This committee, chaired by Douglas Dorn, reviewed the endowment and the trust, and made a number of recommendations. Of particular importance, the committee recommended and concluded that the endowment should be managed as one fund by one governing body that would decide overall investment strategy using modern day so-called prudent investor investment strategies.

The creation of the land bank and the earnings reserve are key elements of this strategy. That is what this legislation provides, and I urge the Senate to adopt this bill at the first opportunity. And I will be urging the citizens of Idaho to do their part this November and vote for the constitutional amendments that are needed to modernize the legal framework of the Endowment.

I commend Governor Batt for his leadership and innovation in developing this legislative package which will clearly benefit Idaho children. I also want to commend Doug Dorn, and his committee of Rep. William L. Deal, State Controller J.D. Williams, Robert Montgomery, Dr. Thomas Stitzel, Robert Maynard, Michael Brassey, Clive Strong and Michael Ferguson for their effective and bipartisan work.

Today we see the results of the wisdom and foresight of the decisions made 100 years ago by Congress and the citizens of Idaho. I trust this Congress and the citizens of Idaho will match the wisdom of their predecessors, and adopt this legislative package which will provide more money so we can teach our children well.•

By Mr. WYDEN (for himself and Mr. Smith of Oregon):

S. 2227. A bill to amend title XVIII of the Social Security Act to eliminate the budget neutrality adjustment factor used in calculating the blended capitation rate for Medicare+Choice organizations; to the Committee on Finance.

THE MEDICARE+CHOICE PAYMENT EQUITY ACT OF 1998

• Mr. WYDEN. Mr. President, last year's balanced budget agreement contained provisions to make Medicare more efficient by moving away from wasteful practices that the private sector long ago consigned to history, while offering seniors in Oregon and other states more and better choices for their health care service. The bipartisan bill Senator Smith and I are introducing today will make sure that those provisions are implemented in a way that will indeed bring about the full potential of these reforms.

The Medicare+Choice Payment Equity Act of 1998 will finish what we started with the Balanced Budget Act of 1997 by creating payment equity under Medicare's formula for paying for managed care services . Without equity in payment, beneficiaries in Oregon could be penalized because they may never get the same kinds of services in their Medicare managed care package that are available in other areas of the country with less efficient health care systems.

For states like Oregon with cost efficient health care systems, the Medicare formula resulted in lower payment. While we made progress in correcting this inequity through the Balanced Budget Act, changes made at the last minute in the legislation will actually prevent efficient states from ever gaining full equity in payment under Medicare managed care plans.

This legislation corrects that by requiring full funding of what is known as the "blend" portion of the formula. With managed care taking a larger role in Medicare it is more important now to assure equity in the payment formula. This legislation is supported by the Fairness Coalition and the American Hospital Association.

I ask unanimous consent that a copy of the bill be printed for the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2227

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Medicare+Choice Payment Equity Act of 1998".

SEC. 2. ELIMINATION OF BUDGET NEUTRALITY ADJUSTMENT FACTOR IN CALCULATING THE BLENDED CAPITATION RATE FOR MEDICARE+CHOICE ORGANIZATIONS.

(a) In General.—Section 1853(c) of the Social Security Act (42 U.S.C. 1395w–23(c)) is amended—

(1) in paragraph (1)(A), by striking the comma at the end of clause (ii) and all that follows before the period at the end; and

(2) by striking paragraph (5) and redesignating paragraphs (6) and (7) as paragraphs (5) and (6) respectively.

(b) Conforming Amendments.—Part C of the Social Security Act (42 U.S.C. 1395w–21 et seq.) is amended—

(1) in section 1853(c)—

(A) in the matter preceding subparagraph (A) of paragraph (1), by striking "(6)(C) and (7)" and inserting "(5)(C) and (6)"; and

(B) in paragraphs (1)(B)(ii) and (3)(A)(i), by striking "(6)(A)" and inserting "(5)(A)"; and

(2) in subsections (b)(3)(B)(ii) and (c)(3) of section 1859, by striking "1853(c)(6)" and inserting "1853(c)(5)".

(c) Submission to Congress.—Not later than 20 days after the date of enactment of this Act, the Secretary of Health and Human Services shall submit to Congress a legislative proposal that provides for aggregate decreases in Federal expenditures under the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) as are equal to the aggregate increases in such expenditures under such program resulting from the amendments made by subsections (a) and (b).

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to payments made under contracts entered into on or after January 1, 1999.●

● Mr. SMITH of Oregon. Mr. President, today with my colleague, Senator WYDEN, I introduce legislation to restore equity in the Medicare payment rate otherwise known as the Average Adjusted Per Capita Cost (AAPCC) formula under Medicare. This formula, which is implemented by the Health Care Financing Administration, determines the payment rates made to health maintenance organizations (HMOs) that offer coverage to Medicare beneficiaries.

Mr. President, prior to the passage of the Balanced Budget Act of 1997, AAPCC rates were determined by calculating the five-year average of per-capita Medicare fee-for-service spending by county, as well as the graduate medical education (GME) and disproportionate share (DSH) payments. Since Medicare utilization rates, GME and DSH rates vary from county to county throughout the United States, those areas that have low Medicare utilization rates subsequently receive a lower payment than other areas where Medicare utilization rates are much higher. In 1997, those rates varied from $286 in Gilliam County, Oregon to $748 in Dade County, Florida.

The result of such disproportionate levels in payments to HMOs is a disproportionate amount of benefits provided to Medicare beneficiaries. For example, HMOs that provide coverage for Medicare beneficiaries living in Los Angeles, California or Dade County, Florida receive a significantly higher payment; therefore, they can afford to provide additional benefits such as prescription drugs, eye glasses, and dental coverage. Meanwhile, HMOs that provide coverage to beneficiaries in Portland, Oregon receive a lower payment rate and cannot afford to provide such additional benefits. Mr. President, this is blatantly unfair, and unacceptable. Medicare beneficiaries deserve the same access to the same benefits, regardless of where they live in this country.

To address this discrepancy, the Balanced Budget Act of 1997 included three main provisions to change the calculation of the AAPCC payment rates. First, a minimum "floor" payment of $367 was implemented to provide assistance to those rural counties with low Medicare utilization rates. Second, a blended rate was established to benefit low and mid-level payment counties to slowly bring them up to a more equitable level. Third, a minimum two percent "hold-harmless" was established so that all counties, even those at a higher payment level, are guaranteed at least a two percent increase in their current payment rates.

As a member of the Senate Committee on the Budget, I was proud to support these provisions; however, the only component of this proposal that has been implemented, is the guaranteed two percent increase for all counties due to budget neutrality restrictions. While the two percent increase is a good start in restoring some equity to the payment system, beneficiaries living in rural counties in Oregon and throughout the country will not have access to Medicare+Choice options if we cannot find a way to provide funding for the blend component. This was the original intent of Congress, and I believe we have a responsibility to implement all three of these provisions in order to restore equity to the Medicare system.

The legislation that Senator WYDEN and I are proposing today would remove the budget neutrality provision used in calculating the blended capitation rate for Medicare+Choice organizations. To put this simply, we propose to fund the blend. Under this legislation, the Secretary of Health and Human Services would submit to Congress a legislative proposal outlining ways in which to restructure federal Medicare expenditures in order to implement the blend. We believe this is a fair and fiscally responsible way to address this matter and look forward to the Finance Committee's consideration of this issue in the year ahead.

Mr. President, I would like to commend my colleague, Senator WYDEN, for drafting this legislation and for the work of Stephanie Kennan of his staff on this bill. He has been a strong proponent of Medicare reform both as a member of the House of Representatives and as a member of the Senate Committee on the Budget. I thank him for this opportunity to join him in this effort.●

By Mr. THOMPSON (for himself, Mr. GLENN, Mr. COCHRAN, Mr. LEVIN, Mr. BROWNBACK and Mr. LIEBERMAN):

S. 2228. A bill to amend the Federal Advisory Committee Act (5 U.S.C. App.) to modify termination and reauthorization requirements for advisory committees, and for other purposes; to the Committee on Governmental Affairs.

THE ADVISORY COMMITTEE TERMINATION AND STREAMLINING ACT OF 1998

● Mr. THOMPSON. Mr. President, our democracy depends not just on our citizens exercising the franchise at every election. It also depends on the active participation of citizens in the operations of the government. To that end, the federal government has sought input and advice from citizens on a wide variety of issues by creating advisory committees. To solicit this input, however, costs the government around $180 million a year, and results in an accretion of advisory committees that continue long after their useful purpose is satisfied.

The operations of advisory committees are governed by the Federal Advisory Committee Act of 1972, commonly called "FACA." This law was enacted out of a concern that federal advisory committees were proliferating without adequate review, oversight, or accountability. In adopting the FACA, Congress intended that the number of advisory committees be kept to the minimum necessary and that all advisory committees operate openly under uniform standards and procedures.

Although the FACA was not enacted until 1972, agencies of the federal government had been using advisory committees for many years. For example, the Board of Visitors of the Naval Academy was established by Congress in 1879. There are four types of advisory committees used by federal agencies: committees mandated by Congress; committees authorized, but not mandated, by Congress; committees mandated by executive order of the President; and, finally, committees established by agencies under their organic statutes. Over the years, the number of advisory committees grew. In enacting the FACA, Congress mandated that all then-existing advisory committees terminate within two years but did not apply this mandate to advisory committees established directly by Congress, only to those created by agencies themselves. Despite this termination mandate, the number of advisory committees continued to increase after enactment of the FACA. Many of the advisory committees terminated two years after the FACA's enactment were simply reestablished, and many new committees have since come into existence.

While allowing public participation in government, advisory committees cost the federal government money. According to the General Services Administration, the 968 federal advisory committees used by federal agencies cost the government $178 million in fiscal year 1997 and consumed 1254 full-time equivalent positions. Advisory committees are expected to cost the government $183 million this year. Even though the number of advisory committees has fallen from 1305 in 1993, their costs have continued to increase, even in constant dollars. In 1988, the cost to operate advisory committees was $93 million. The cost to operate fewer advisory committees in 1997 was about $136 million in 1988 dollars.

The costs associated with advisory committees would be even higher were it not for initiatives taken to reduce the number of advisory committees created by executive branch agencies. The number of these "discretionary" committees, those created not at the direction of Congress or the President, is limited to 534. The GSA also conducts an annual review of advisory committees that no longer serve a useful purpose. Through this review, GSA has identified 61 advisory committees mandated by law that should be eliminated. The termination of these committees would save $8.4 million this year.

The time has come for Congress to step up and do its part to achieve further cuts in current advisory committees. Unless Congress acts, the cost of advisory committees will continue to increase, as new committees are created and old, useless committees continue with no legitimate purpose.

Today, joined by a bipartisan group of my colleagues on the Committee on Governmental Affairs, I am introducing the Advisory Committee Termination and Streamlining Act of 1998. I am pleased to be joined by the ranking member of the Committee, Senator GLENN, who has a long history of involvement with the FACA; Senator COCHRAN; Senator LEVIN, who formerly chaired the Subcommittee with oversight responsibility for the FACA; Senator BROWNBACK, Chairman of the Subcommittee on Oversight of Government Management and Restructuring; and Senator LIEBERMAN, the ranking member on the Government Management and Restructuring Subcommittee. This bill has been developed with the assistance of the Administration, which proposed many of its provisions.

Let me briefly lay out what this legislation would accomplish. The focus of the legislation is to force the reappraisal of the need for all current advisory committees. To achieve this goal, the bill would terminate all advisory committees within three years of the bill's enactment. This three-year window applies to all advisory committees, whether established by congressional or presidential mandate, congressional authorization, or agency decision. Any advisory committee established by presidential order or agency decision will be subject to continuation if an affirmative decision is made that the committee's continuation is warranted. Similarly, three years will allow Congress enough time to review the advisory committees it has mandated, determine which of these continue to serve useful functions, and reauthorize such committees. This provision will clear away many advisory committees that continue to exist from inertia but no longer serve a useful function.

The bill excludes two categories of advisory committees. Advisory committees that provide peer review of grant applications, such as those used by the National Institutes of Health, will continue, whether or not they are reauthorized, as the termination provision does not apply to them. The second category exempt from the termination provision covers those committees that provide advice relating to the academic certification of federal institutions. This category includes the Boards of Visitors of the service academies. Finally, the bill exempts from the termination provision all advisory committees that "address critical needs relating to health, safety, national security, or other concerns as the President may certify." This exemption allows sufficient flexibility to preserve those advisory committees that continue to serve useful purposes in areas deemed important by the President.

The other provisions of the bill can be quickly summarized. First, the bill allows the GSA to issue binding regulations and not just administrative guidelines. This change, proposed by the Administration, is needed to promote consistent, uniform application of the FACA's requirements throughout the executive branch. Second, the bill changes the date on which the Administration's annual report on advisory committees must be submitted to Congress from December 31 to March 15. The GSA has consistently failed to meet the December 31 deadline, due largely to its inability to collect the necessary information from other agencies in a timely manner. This change will provide a more realistic date for submission of the report, and the GSA has assured us that it will be able to meet the new March 15 deadline. Finally, the bill will allow the GSA to promulgate regulations authorizing notice of advisory committee meetings through means other than publication in the Federal Register. Many who have an interest in the work of specific advisory committees do not read the Federal Register, and the Administration is interested in experimenting with providing notice of meetings through the Internet or other electronic formats in order to determine whether other forms of notice are more effective at reaching large numbers of interested persons.

Mr. President, this bill would streamline the government and save us money. It will have the additional benefit of requiring Congress and the Administration to work jointly to revisit the charters of all advisory committees and evaluate the need for their continuation. I thank the Administration for working with us to develop this bill and my cosponsors for working towards a consensus on this matter.

I ask unanimous consent that the bill and a copy of a June 22, 1998 article from the Gannett News Service entitled "Committees Dwindle—but Costs Don't," which details some of these facts, be inserted in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

S. 2228

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Advisory Committee Termination and Streamlining Act of 1998".

SEC. 2. TERMINATION OF ADVISORY COMMITTEES.

Section 14 of the Federal Advisory Committee Act (5. U.S.C. App.) is amended by adding at the end the following:

"(d)(1) Notwithstanding any other provision of law (including section 4(a) of this Act and this section) and except as provided under paragraph (2), each advisory committee established, authorized, or reauthorized by statute shall terminate 3 years after the date of enactment of the Advisory Committee Termination and Streamlining Act of 1998.

"(2) This subsection shall not apply to any advisory committee the purpose of which is to—

"(A) provide for peer review of Federal grant or research applications or similar activities;

"(B) provide advice and recommendations relating to academic certification of Federal institutions; or

"(C) address critical needs relating to health, safety, national security, or other concerns as the President may certify.

"(3) Nothing in this subsection shall be construed to reauthorize the continuation of any advisory committee covered under paragraph (1) beyond the termination date specified in the original authorization or any reauthorization for the committee.".

SEC. 3. REGULATIONS.

Section 7(c) of the Federal Advisory Committee Act (5 U.S.C. App.) is amended in the first sentence by striking: "administrative guidelines" and inserting "regulations".

SEC. 4. ANNUAL REPORT.

Section 6(c) of the Federal Advisory Committee Act (5 U.S.C. App.) is amended by striking .the first sentence and inserting: "Not later than March 15 of each year, the President shall submit an annual report to Congress on the activities, status, and changes in the composition of advisory committees in existence during the preceding fiscal year.".

SEC. 5. ADVISORY COMMITTEE PROCEDURES.

Section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App.) is amended to read as follows:

"(2) Except when the President determines otherwise for reasons of national security, timely notice of each such meeting shall be published in the Federal Register. The Administrator shall prescribe regulations to provide for other types of public notice in addition to, or in lieu of, notices in the Federal Register to ensure that all interested persons are notified of such meeting prior thereto.".

COMMITTEES DWINDLE—BUT COSTS DON'T

(By Chris Collins)

WASHINGTON.—In early 1993, President Clinton vowed to whack away at the tangled growth of hundreds of advisory committees that he described as proliferating throughout the federal government "like kudzu," the notorious vine that engulfs objects virtually overnight.

Today, the number of such panels is down, as Clinton promised: 963 in 1997, the most recent year for which numbers are available, compared to 1,305 in 1993, when he issued an executive order to pare the committees.

But hold the applause. Both the number of committee members on the remaining panels and their cost to taxpayers have soared to all-time highs.

In 1993, according to the General Accounting Office, 28,317 people served on advisory committees. By 1997, the number of committee members had jumped to 36,586, although the number of committees was way down.

Costs were up, too: $178 million last year, compared to $143.9 million in 1993. Even using constant 1988 dollars, the cost to operate advisory committees has risen in the past decade from $93 million in 1988 to about $136 million in 1997, GAO said.

James L. Dean, director of the Committee Management Secretariat at the General Services Administration, attributes the bulk of the increase in committee members to the National Institutes of Health's increasingly prevalent practice of rapidly rotating memberships on some of its peer review committees.

NIH spokeswoman Laura Vazquez confirmed that "memberships" on NIH's 141 committees appear to have tripled in recent years as NIH pulled more experts onto its committees for temporary, often one-meeting tenures. In 1997, for example, NIH had 8,366 such short-term participants and 4,140 longer-term committee members.

But the cost of the committees to taxpayers is not higher simply because there are more members. The cost of caring for each committee member has risen, too: From $90,816 per member in 1988 to $184,868 in 1997, GAO said. Even in constant 1988 dollars, per-member expenses rose from $90,816 to $140,870 in that period.

Most of that money—$75.5 million last year—pays for federal staff support for the committees, Dean said. Most panelists are not paid for their time; only $10.4 million went last year to compensate non-federal committee members, said Dean, whose office had eight employees and a $645,000 budget in 1997 (up from $220,000 in 1988).

None of this, however, shows up in the annual message the president is required to send to Congress on the status of federal advisory committees.

Clinton's last message, sent in September, bragged about how the number of committees has dropped during his tenure and that $2.5 million was saved during the 1996 budget year by cutting out additional panels. There wasn't a mention of how much overall costs and overall membership had risen.•

By Mr. CHAFEE (for himself, Mr. BAUCUS, Mr. D'AMATO, Mr. HATCH, Ms. MIKULSKI, Mr. JEFFORDS, Mr. ROCKEFELLER, and Mr. CONRAD):

S. 2230. A bill to amend the Internal Revenue Code of 1986 to extend the work opportunity tax credit for 3 additional years; to the Committee on Finance.

THE WORK OPPORTUNITY TAX CREDIT EXTENSION ACT

• Mr. CHAFEE. Mr. President, on behalf of myself and Senators BAUCUS, HATCH, D'AMATO, CONRAD, MIKULSKI, JEFFORDS and ROCKEFELLER. I am introducing legislation that extends the current Work Opportunity Tax Credit (WOTC) program for three years. The program expires at the end of this month. While it is clear that the program will not be extended before we leave for the Fourth of July recess, I hope that Congress will act quickly upon its return to make sure that this very important program is reinstated and that no gap in the availability of the credit is created.

The WOTC program is a public-private partnership which encourages businesses to hire individuals on public assistance or who otherwise have life situations that make them difficult to employ. Employers who hire these individuals receive an income tax credit of as much as forty percent of the first $6,000 in wages they pay.

The WOTC program was established in 1996 as a replacement for the Targeted Jobs Tax Credit (TJTC). Last year, as part of the Taxpayer Relief Act Congress affirmed its strong support for this program by extending it for nine months along with the other so-called "expiring provisions." Unfortunately, the tax credit will expire at the end of this month before Congress will have an opportunity to extend it.

The legislation we are introducing today extends the program for three years. This extension is vital to the continued success of the WOTC program. In speaking with employers who utilize the program, their biggest concern is the on again, off again nature of the credit. Participation in the program requires significant resources and time commitments on the part of the employer. The uncertainty surrounding the continuation of this program makes it very difficult for employers to make that commitment. The loss of program certainty reduces the incentive to hire those currently on public assistance. During previous breaks employers have scaled back their programs, and some have even abandoned the program altogether.

Individuals hired under the WOTC program often require substantial time and effort on the part of an employer. In many instances these individuals lack even the most basic skills necessary to hold a job. Without the WOTC program there would be a strong disincentive for employers to make any effort to hire these individuals. The tax credit levels the playing field and gives these individuals an opportunity to move off the welfare rolls and take control of their futures. Thus far, nearly 300,000 people—mostly single mothers—have been hired under this program.

Those eligible for the WOTC are: members of families receiving AFDC benefits; qualified veterans who are members of families receiving food stamp benefits; 18–24 years olds who are members of families receiving food stamp benefits; 18-24 year olds who live in an empowerment zone or enterprise community; summer youth (16–17 year olds) who live in an empowerment zone or enterprise community who are hired during the summer months; SSI recipients; economically disadvantaged exfelons; and individuals with physical or mental disabilities who have been referred to employers after or while receiving rehabilitative services under the Rehabilitation Act of 1973.

As I mentioned earlier, an employer will receive an income tax credit of forty percent of the first $6,000 in wages paid to an employee who is a member of one of these groups. Therefore, the maximum credit available is $2,400. The only exception is summer youth employees where the maximum amount of wages used to calculate the credit is $3,000. An employer can only receive this maximum credit, however, if the employee is employed for at least 400 hours. While that may sound like a short period of time, for many of these individuals, that represent a significant period of employment, perhaps longer than any job they've ever held.

A smaller credit equal to 25% of the first $6,000 of wages is available to an employer in those instances where the employee works less than 400 hours. No credit is available for any employee who works less than 120 hours.

The Work Opportunity Tax Credit is an important component of our efforts to make welfare reform work over the long term. It provides transitional assistance to employers who are willing to hire and take the time to train individuals before they become long-term welfare recipients and young people at high risk of going on public assistance programs.

I hope my colleagues will join me in supporting a long-term extension of the Work Opportunity Tax Credit.•

• Mr. BAUCUS. Mr. President, I am pleased today to join my colleague Senator JOHN CHAFEE in introducing legislation to extend the Work Opportunities Tax Credit (WOTC). This program was created after extensive consultations between the Congress and the Administration as a replacement for the Targeted Jobs Tax Credit. It was improved in the Taxpayer Relief Act of 1997 with changes designed to make the program more accessible to employers who identify, hire and train welfare recipients and equip them with basic job skills necessary for long-term employment.

As the June 30, 1998 expiration date for the WOTC program approaches, we are introducing this bill as a statement of Congressional commitment to the future continuation of the credit. WOTC encourages employers to participate in the national goal of moving millions from welfare to work through a hiring tax incentive that helps to offset the costs of recruiting, hiring and training those with few basic job skills.

Congress enacted welfare reform in 1996. Since that time, employers have utilized WOTC to hire nearly one in four of those coming off public assistance. The time limits that were implemented through the welfare reform legislation are now reaching many of the more difficult welfare cases, those with the fewest job skills that have had the most difficulty finding jobs. As these welfare recipients search for jobs, it is extremely important to continue providing an incentive which will help defray the extra costs experienced by companies hiring these workers.

The legislation we are introducing today will extend WOTC for three years. The current practice of extending the credit on a year-to-year, or partial-year, basis makes it extremely difficult for employers to use the credit. Small businesses in particular require some time to set up and use the program. All employers need some level of certainty for tax planning, which is not available when the credit is extended on a short-term basis. A multi-year extension will provide that certainty, and will show that Congress is serious about making the program work.

I thank Senators CONRAD, D'AMATO, HATCH, JEFFORDS, MIKULSKI and ROCKEFELLER for joining Senator CHAFEE and myself as original cosponsors of this bill. I look forward to working with all of my colleagues to enact a multi-year extension of the Work Opportunities Tax Credit before the end of this legislative session.•

By Mr. HATCH (for himself, Mr. BAUCUS, and Mr. MACK):

S. 2231. A bill to amend the Internal Revenue Code of 1986 to simplify certain rules relating to the taxation of United States business operating abroad, and for other purposes; to the Committee on Finance.

INTERNATIONAL TAX SIMPLIFICATION FOR AMERICAN COMPETITIVENESS ACT

• Mr. HATCH. Mr. President, today with my friend and colleague Senator BAUCUS I introduce the International Tax Simplification for American Competitiveness Act of 1998. This bill will provide much-needed tax relief from complex and inconsistent tax laws that burden our American-owned companies which are attempting to compete in the world marketplace.

Our foreign tax code is in desperate need of reform and simplification. The rules in this arena are way too complex and, often, their results are perverse.

Mr. President, the economy of this country has entered into an environment like no other in our history. The American economy has experienced significant growth and prosperity. That success, however, is becoming more and more intertwined with the success of our businesses in the global marketplace. As the economic boundaries from country to country merge closer together, as technology blurs traditional geographical boundaries, and as competition continues to increase from previously lesser-developed nations, it is imperative that American-owned businesses be able to compete effectively.

It seems to me that any rule, regulation, requirement, or tax that we can alleviate to enhance competitiveness will insure to the benefit of American companies, their employees, and shareholders.

There are many barriers that the U.S. economy must overcome in order to remain competitive that Congress cannot hurdle by itself. All around the world, we have international trade negotiators working hard to remove the barriers to foreign markets that discourage and hamper U.S. trade. This is very important to the future economic growth of the U.S. economy. However, this effort has largely ignored the largest source of artificial and unnecessary trade barriers experienced by U.S. companies operating abroad—the complexities and inconsistencies contained in our own tax code.

We cannot continue the status quo—we must work to remove the barriers in our own back yard as diligently as we attack those imposed by other countries. The failure to do so will even jeopardize our own domestic economy as American companies are lured to other countries with simple, more favorable tax treatment.

The business world is changing at an increasingly rapid pace. Tax laws have failed to keep pace with the rapid changes in the world technology and economy. We enacted some foreign tax simplification in last year's Taxpayer Relief Act, but these changes are not enough. Too many of the international provisions in the Internal Revenue Code have not been substantially debated and revised in over a decade. Since that time, existing international markets have changed significantly and we have seen new markets created. The U.S. tax code needs to adapt to the changing times as well. The continued use of a confusing and archaic tax code only results in a mismatch with commercial reality.

If we close American companies out of the international arena due to complex and burdensome tax rules on exports and foreign production, then we are denying them the ability to compete and dooming the, and ourselves, to anemic economic growth and all its adverse subsidiary effects.

The bill we are introducing today is not a comprehensive solution, neither is it a set of bold new initiatives. Instead, this bill contains a set of important intermediate steps which will take us a long way toward simplifying the rules and making some sense of the international tax regime. The bill contains provisions to simplify and update the tax treatment of controlled foreign corporations, fix some of the rules relating to the foreign tax credit, and make other changes to international tax law.

Some of these changes are in areas that are in dire need of repair, and others are changes that take into consideration the changes we have seen in international business practices and environments during the last decade. The provisions in this bill are necessary to facilitate the American economy's ability to remain the driving economic force in the world of the future.

One example of the need for updating our laws to more adequately represent rapid changes that have occurred in the last few years is the financial service industry. This industry has seen technological and global changes that have changed the very nature of the way these corporations do business both here and abroad. This bill contains several provisions to help adapt the foreign tax regime to keep up with these changes.

In particular, I want to highlight the provision regarding a Subpart F Exception for active financial services income. This provision is based in large part on the one-year rule embodied in H.R. 2513, the House-passed bill that resulted from lengthy negotiations between the Treasury Department and the financial services industry. The bill's provisions are not intended to replace H.R. 2513. Rather, this bill goes further and provides additional options to facilitate discussion regarding the parameters of a permanent rule that would effectively level the playing field with respect to our foreign competition. This discussion is even more important in view of the Supreme Court's ruling on the line-item veto this morning.

The bill also allows deferral for cross-border income received by controlled foreign corporations engaged in the active conduct of a banking, financing, or similar business under narrowly defined circumstances. This provision is designed to preclude opportunities for excessive "mobility" of income. The first safeguard is the requirement that income eligible for deferral must be derived from a transaction with a "customer." The definition of a customer would not permit a related-party transaction to qualify if one of the principal purposes for such transaction was to satisfy the underlying provision. Second, the requirement that employees meet a "material participation" test will reinforce the active nature of the covered activities. Thus, corporations holding passive investments would be precluded from relying on the rule.

There are many areas of the international tax regime not covered by this bill. This legislation represents a pragmatic collection of proposals, not an exhaustive one. One area I think needs to be explored is the foreign tax rules as they apply to foreign corporations with U.S. operations and subsidiaries. These companies are helping the U.S. economy grow. They buy and sell U.S. products, and they employ U.S. workers. We need to examine the international tax law and any barriers it creates for these companies. We must ensure that the U.S. tax law is written and enforced fairly for all companies operating in the U.S. I hope that we can include provisions in this area in future versions of this legislation.

This bill is not the end of the international tax debate. If we were to pass every provision it contains, we would still not have a simple tax code. We would need to make more reforms yet. We cannot limit this debate to only the intermediate changes such as those in this bill. We must not lose sight of the long term. I intend to continue this debate with an eye to the future and propel the discussion to broader, more sweeping areas in need of reform such as interest allocation, the international tax treatment of partnerships, issues raised by the European Union, and a broader debate of Subpart F itself. I believe that we must address these concerns in the next few years if we are to put U.S. corporations and the U.S. economy in a position to maintain economic position in the global economy of tomorrow.

This bill is important to the future of every American citizen. Without these changes, American businesses will see their ability to compete diminished, and the U.S. will have an uphill battle to remain the preeminent economic force in a changing world. This credible package of international tax reforms will help to keep our businesses and our economy competitive and a driving force in the world economic picture. I urge my colleagues to support this legislation.•

• Mr. BAUCUS. Mr. President, I am very pleased today to join with my colleague, Senator HATCH, to introduce another in our series of international simplification bills. The International Simplification for American Competitiveness Act of 1998 will provide much-needed relief to American-owned companies that are struggling to compete in the world marketplace by simplifying our overly complicated international tax rules.

America's economy, and economies of our individual States, are increasingly interlinked with the success of our businesses in the international economy. As the economies of previously less-developed countries around the world begin to expand, and the economic boundaries between our countries become more blurred, it is increasingly important for our businesses to be able to operate abroad from their most competitive position. Restraining American companies through redundant and unnecessary complexity in our own tax code dampens their ability to compete for foreign business. This only hurts our own economy.

I have worked through the Trade Subcommittee to lower barriers to foreign markets and encourage agreements to keep trade free and fair. I have sought to open foreign markets for many Montana products, from beef to wheat, because of the positive impact on Montana's economy, and on the economy of our country. While we have made much progress on the trade front in opening barriers, our tax code remains mired in antiquated provisions that have not kept pace with the rapidly expanding global economic frontier. We must simplify our code, remove duplicative or outmoded provisions, and provide incentives for trade whenever possible, if we are to ensure continued U.S. success in the world economy. If we miss this opportunity, we risk the erosion of U.S. international competitiveness as countries with simple, favorable tax treatment of businesses lure away our foreign customers.

There is a strong correlation between American corporate competitiveness overseas and the ability of those companies to continue providing jobs at home. According to a report prepared by the accounting firm of Price Waterhouse, United States exports in 1996 totaled over $600 billion and supported almost 7 million direct and indirect jobs. Exports alone account for over 11% of our Gross Domestic Product, and when combined with imports, total about 17% of GDP. Even in Montana, a state which is struggling to expand its foreign markets, exports totaled almost one-half billion dollars and supported 58,000 jobs in 1996.

This bill does not by any means cure all of the problems in the international tax arena. But it is a good starting point which simplifies existing law, reduces the cost of compliance, and begins to rationalize the rules that need to be drafted with the competitiveness of U.S. businesses in mind. There are a lot of important international issues that this bill does not deal with. The problems associated with the interest allocation rules, for example. But Senator HATCH and I feel that these are larger issues that need more time to resolve, so they have not been included in this bill. I look forward to working with him, the Treasury Department and industry groups in an effort to find solutions to these bigger-picture issues over the next months.

We live in a global economy. And we must help make American companies competitive in this economy, while fairly taxing their profits, if we are to keep this unprecedented period of economic expansion going. The "International Tax Simplification for American Competitiveness Act of 1998" is a major step in that direction, and I look forward to working with Senator HATCH and my other colleagues on the Finance Committee to have its provisions enacted into law.•

By Mr. BUMPERS (for himself and Mr. HUTCHINSON):

S. 2232. A bill to establish the Little Rock Central High School National Historic Site in the State of Arkansas, and for other purposes; to the Committee on Energy and Natural Resources.

LITTLE ROCK CENTRAL HIGH SCHOOL NATIONAL HISTORIC SITE

• Mr. BUMPERS. Mr. President, today I am introducing legislation to designate Central High School in Little Rock, Arkansas, as a National Historic Site. Central High School is perhaps the most well-known school in the nation, as a result of the high profile and pivotal role it played in the desegregation of public schools in America. I am pleased to be joined by Senator HUTCHINSON in sponsoring this legislation.

In 1954, the U.S. Supreme Court issued its landmark decision, Brown versus Board of Education, which held that the segregation of public schools was unconstitutional. The following year, in its Brown II decision, the Court ruled that integration of the public schools was the responsibility of local school districts, to be carried out "with all deliberate speed." This set the stage for the eventual confrontation in Little Rock.

Prior to the Brown decision, Central High was attended only by white students. Following the Court's decision, the Little Rock School Board initially made plans to comply with the decision in phases to be carried out over six years. However, by the time the district began to implement the decision in the fall of 1957, the political controversy had increased to the extent that only 9 black students decided to enroll at Central High, with approximately 1,900 white students. Those nine students later became known as the "Little Rock Nine," and are an inspiration to America.

Mr. President, earlier this Congress, Senator MOSELEY-BRAUN and I introduced legislation, S. 1283, to award the Congressional Gold Medal to those nine extraordinary individuals—Jean Brown Trickey, Carlotta Walls LaNier, Melba Patillo Beals, Terrance Roberts, Gloria Ray Karlmark, Thelma Mothershed Wair, Ernest Green, Elizabeth Eckford, and Jefferson Thomas. It is my strong desire that both S. 1283 and this legislation will be enacted into law in the remaining months of this Congress. These nine sons and daughters of Little Rock are proud symbols of the progress we have made and a solemn reminder of the progress we have yet to make.

By the time the Little Rock Nine attempted to enter Central High in September of 1957, the issue of desegregation had polarized not only Little Rock, but the entire nation. The Governor of Arkansas, Orville Faubus, ordered the Arkansas National Guard to prevent the desegregation of Central High. Following several days of unrest, a Federal District Court in Little Rock issued an order preventing the National Guard from further obstructing desegregation efforts in Little Rock. Amid this period of intense feelings and acrimony, President Eisenhower issued an Executive Order which federalized the National Guard and deployed Federal troops to enforce the district court's order. Although several events of the following days were tense and often ugly, the eventual peaceful resolution that followed helped to ensure the successful implementation of the Brown decision, not only in Little Rock, but throughout the South.

Last fall, on the 40th anniversary of the 1957 events, the attention of the nation was once again focused on Central High, and the Little Rock Nine once again entered through the school's main doors. However, this time those doors were held open by the President of the United States and the Governor of Arkansas.

Establishment of the Little Rock Central High School National Historic Site will, for the first time, provide the National Park Service with the ability to interpret for all Americans the complete history of the desegregation of our public schools, certainly one of the most important social events in the history of our country. Let me hasten to add, Mr. President, that Central High will continue to be a functioning high school, managed by the Little Rock School District. Designation of the school as a National Historic Site will also complement the very successful interpretive activities already undertaken by the Central High Museum and Visitor Center.

There is no question as to the national significance of Central High School. The school is included on the National Register of Historic Places, and was designated in 1982 as a National Historic Landmark by the Secretary of the Interior.

There is strong support for this bill, both in Little Rock and with the entire Arkansas Congressional delegation. The City of Little Rock, the Little Rock School District, Central High Museum, Inc., area residents, and many other organizations and individuals in Little Rock have expressed support for this proposal. It is my hope to have a hearing scheduled for this bill in the very near future, with passage by the Senate shortly thereafter.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2232

Be it enacted in the Senate and the House of Representatives in the United States of America in Congress assembled,

SECTION 1. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) the 1954 U.S. Supreme Court decision of *Brown* v. *Board of Education*, which mandated an end to the segregation of public schools, was one of the most significant Court decisions in the history of the United States;

(2) the admission of nine African-American students, known as the "Little Rock Nine", to Little Rock's Central High School as a result of the Brown decision, was the most prominent national example of the implementation of the Brown decision, and served as a catalyst for the integration of other, previously segregated public schools in the United States;

(3) 1997 marked the 70th anniversary of the construction of Central High School, which has been named by the American Institute of Architects as "the most beautiful high school building in America";

(4) Central High School was included on the National Register of Historic Places in 1977 and designated by the Secretary of the Interior as a National Historic Landmark in 1982 in recognition of its national significance in the development of the Civil Rights movement in the United States; and

(5) the designation of Little Rock Central High School as a unit of the National Park System will recognize the significant role the school played in the desegregation of public schools in the South and will interpret for future generations the events associated with early desegregation of southern schools.

(b) PURPOSE.—The purpose of this Act is to preserve, protect, and interpret for the benefit, education, and inspiration of present and future generations, Central High School in Little Rock, Arkansas, and its role in the integration of public schools and the development of the Civil Rights movement in the United States.

SEC. 2. ESTABLISHMENT OF CENTRAL HIGH SCHOOL NATIONAL HISTORIC SITE.

(a) ESTABLISHMENT.—The Little Rock Central High School National Historic Site in the State of Arkansas (hereinafter referred to as the "historic site") is hereby established as a unit of the National Park System. The historic site shall consist of lands and interests therein comprising the Central High School campus in Little Rock, Arkansas, as generally depicted on a map entitled ____________ and dated June, 1998. Such map shall be on file and available for public inspection in the appropriate offices of the National Park Service.

(b) ADMINISTRATION OF HISTORIC SITE.—The Secretary of the Interior (hereinafter referred to as the "Secretary") shall administer the historic site in accordance with this Act and the laws generally applicable to units of the National Park System, including the Act of August 25, 1916 (16 U.S.C. 1, 2-4) and the Act of August 21, 1935 (16 U.S.C. 461-467): *Provided*, That nothing in this Act shall affect the authority of the Little Rock School District to administer Little Rock Central High School.

(c) COOPERATIVE AGREEMENTS.—(1) The Secretary may enter into cooperative agreements with appropriate public and private agencies, organizations, and institutions (including, but not limited to, the State of Arkansas, the City of Little Rock, the Little Rock School District, Central High Museum, Inc., Central High Neighborhood, Inc., or the University of Arkansas) in furtherance of the purposes of this Act.

(2) The Secretary shall coordinate visitor interpretation of the historic site with the Little Rock School District and the Central High School Museum, Inc.

(d) GENERAL MANAGEMENT PLAN.—Within two years after the date funds are made available, the Secretary shall prepare a general management plan for the historic site.

(e) CONTINUING EDUCATIONAL USE.—The Secretary shall consult and coordinate with the Little Rock School District in the development of the general management plan and in the administration of the historic site so as to not interfere with the continuing use of Central High School as an educational institution.

(f) ACQUISITION OF PROPERTY.—The Secretary is authorized to acquire by purchase with donated or appropriated funds, by exchange, or donation the lands and interests therein located within the boundaries of the historic site: *Provided*, That the Secretary may only acquire lands or interests therein within the consent of the owner thereof: *Provided further*, That lands or interests therein owned by the State of Arkansas or a political subdivision thereof, may only be acquired by donation or exchange.

SEC. 3. DESEGREGATION IN PUBLIC EDUCATION THEME STUDY.

(a) THEME STUDY.—Within two years after the date funds are made available, the Secretary shall prepare and transmit to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives a National Historic Landmark Theme Study (hereinafter referred to as the "theme study") on the history of desegregation in public education. The purpose of the theme study shall be to identify sites, districts, buildings, structures, and landscapes that best illustrate or commemorate key events or decisions in the historical movement to provide for racial desegregation in public education. On the basis of the theme study, the Secretary shall identify possible new national historic landmarks appropriate to this theme and prepare a list in order of importance or merit of the most appropriate sites for national historic landmark designation.

(b) OPPORTUNITIES FOR EDUCATION AND RESEARCH.—The theme study shall identify appropriate means to establish linkages between sites identified in subsection (a) and between those sites and the Central High School National Historic Site established in section 2, and with other existing units of the National Park System to maximize opportunities for public education and scholarly research on desegregation in public education. The theme study also shall recommend opportunities for cooperative arrangements with State and local governments, educational institutions, local historical organizations, and other appropriate entities to preserve and interpret key sites in the history of desegregation in public education.

(c) COOPERATIVE AGREEMENTS.—The Secretary may enter into cooperative agreements with one or more major educational institutions, public history organizations, or civil rights organizations knowledgeable about desegregation in public education to prepare the theme study and to ensure that the theme study meets scholarly standards.

(d) THEME STUDY COORDINATION WITH GENERAL MANAGEMENT PLAN.—The theme study shall be prepared as part of the preparation and development of the general management plan for the Little Rock Central High School National Historic Site established in section 2.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated such sums as may be necessary to carry out this Act.●

By Mr. CONRAD (for himself and Mr. HATCH):

S. 2233. A bill to amend section 29 of the Internal Revenue Code of 1986 to extend the placed in service date for biomass and coal facilities; to the Committee on Finance.

BIOMASS AND COAL FACILITIES EXTENSION ACT

• Mr. CONRAD. Mr. President, today I am pleased to join with my friend from Utah, Senator HATCH, in the introduction of the Biomass and Coal Facilities Extension Act. This legislation would extend by eight months the placed-in-service date under section 29 of the Internal Revenue Code.

This change is necessary in order to alleviate the hardship suffered by taxpayers who relied on action Congress took almost two years ago, and made substantial commitments of resources to develop alternative fuel technology projects. These commitments were made in good faith pursuant to the 1996 Small Business Protection Act, in which Congress amended section 29 for synthetic coal and biomass by extending the "binding contract" provision for 12 months to December 31, 1996 and extending the "placed-in-service" provision for 18 months to June 30, 1998.

That should have settled the matter. However, when the Administration's fiscal year 1998 budget was submitted in February 1997, it contained a proposal to shorten by a full year the placed-in-service date for facilities producing gas from biomass and synthetic fuel from coal. The Administration was concerned about what it characterized as rapid growth in the section 29 credit. Congress considered that argument and concluded that any concern about the growth in the credit had been dealt with adequately in the 1996 Act.

In the tax legislative arena, even a mere proposal can have consequences, as the Administration's proposal to shorten the placed-in-service date illustrates. The Joint Committee on Taxation's analysis of the proposal, made in March 1997, warned Congress about just such a consequence as it noted that "[b]ecause the binding contract date has already passed * * * the proposal might place an unfair financial burden on those taxpayers who are bound to contracts entered into prior to the Administration's announcement."

Mr. President, that is exactly what happened—taxpayers in that situation lost their sources of financing because financial institutions had to treat the Administration proposal as a real possibility. Because the tax credit plays a significant role in the overall financial situation that lenders have to consider, its potential loss made securing necessary financing impossible for taxpayers who were proceeding under binding contracts made in good faith reliance on the Small Business Protection Act of 1996.

The bill we offer today would simply restore some of the lost time that taxpayers endured as a result of the unintended consequences stemming from Congressional consideration of the Administration's 1997 budget proposal. It would extend the placed-in-service date from June 30, 1998 to a date eight months from the date of the bill's enactment.

Taxpayers took Congress at its word in 1996 when it said that the development of environmentally friendly fuels from domestic biomass and coal resources was worth supporting. Their subsequent investment of large amounts of time, effort, and money should be allowed to fulfill its objectives rather than simply be forfeited as a result of circumstances over which these taxpayers had no control.

This is a modest proposal; it would not disturb the "binding contract" date of the 1996 Act. Thus, no new projects would qualify because of its enactment. It seeks only to allow taxpayers who began projects under the 1996 Act to proceed in an orderly manner—an option that was effectively denied them as a result of the uncertainty created during consideration of the fiscal year 1998 budget.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2233

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Biomass and Coal Facilities Extension Act".

SEC. 2. EXTENSION OF PLACED IN SERVICE DATE FOR BIOMASS AND COAL FACILITIES.

(a) IN GENERAL.—Section 29(g)(1)(A) of the Internal Revenue Code of 1986 (relating to extension for certain facilities) is amended by striking "July 1, 1998" and inserting "the date which is 8 months after the date of the enactment of the Biomass and Coal Facilities Extension Act".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.•

• Mr. HATCH. Mr. President, today with my colleague, Senator CONRAD, I introduce the Biomass and Coal Facilities Extension Act. This legislation would extend the "placed in service" date under section 29 for facilities that produce alternative fuels by 8 months.

Section 29 was originally created to encourage the development of alternative fuels to reduce our dependence on imports and to reduce the environmental impacts of certain fuels. With the enormous reserves of low rank coals and lignite in the United States and around the world, and with the potential for use of biomass and other alternatives, it is particularly important to the American economy and the world's environment that new, more environmentally friendly fuels are brought to market here and in developing nations.

Bringing new technologies to market is financially risky. In particular, finding investors to take a new technology from a laboratory table to the market is difficult because working the bugs out of a first-of-a-kind, full-sized plant is a costly undertaking. Incentives to bring new, clean energy technologies to the market in the U.S. are a worthwhile use of the code.

The 1996 Small Business Protection Act provided sufficient incentives to make the development of alternative fuels a viable pursuit. In particular, it extended the section 29 "placed in service" date for facilities designed to produce energy from biomass or processed coals to July 1, 1998, provided that those facilities were constructed pursuant to a binding contract entered into before January 1, 1997.

However, the Administration's budget proposal, released in February 1997, effectively nullified the extension granted by Congress in the 1996 Small Business Protection Act. The Administration proposed that the placed in service date be moved up one year, to July 1, 1997, which, for many of these projects, was an impossible deadline to meet.

Without the assurance of the section 29 tax credit, financing for these projects dried up, stranding taxpayers in contracts, some of which contained significant liquidated damages clauses, already entered into in reliance on the Small Business Protection Act of 1996. As a result of the Administration's proposal, taxpayers essentially lost 8 months of the extension given them in 1996.

Mr. President, the bill before us would give these lost months back to companies with contracts signed by January 1, 1997. This bill does not extend the contract deadline, allow more projects to be initiated, or change the 2008 deadline for receiving the section 29 tax credit. This bill simply restores the time taxpayers lost in their efforts to develop environmentally friendly fuels under section 29.

Bringing new alternative fuel technologies to the market is an important part of our commitment to a cleaner environment and a secure economy. We reflected that commitment in our efforts to mitigate some of the financial risk involved in developing this much needed technology in the Small Business Protection Act of 1996. This bill maintains that commitment. I urge my colleagues to support this legislation.•

By Mr. CAMPBELL (for himself and Mr. JEFFORDS):

S. 2235. A bill to amend part Q of the Omnibus Crime Control and Safe Streets Act of 1968 to encourage the use of school resource officers; to the Committee on the Judiciary.

THE SCHOOL RESOURCE OFFICERS PARTNERSHIP GRANT ACT OF 1998

Mr. CAMPBELL. Mr. President, today I introduce the School Resource Officers Partnership Grant Act of 1998, a bill which will be an important step in our efforts to end crime in our nation's schools. This bill will help build thousands of deep, meaningful and lasting partnerships between America's local school systems, school children, and local law enforcement agencies. I am joined in introducing this legislation by my friend and colleague from Vermont, Senator JIM JEFFORDS, as an original cosponsor.

The need for this bill is clear. Violence in schools is both serious and deadly. Violence is disrupting our children's opportunity and ability to learn. No child anywhere in America should have to go to school with fear on their mind, rather than learning. The recent school-related shootings stand as stark and horrific examples of just how urgent the situation has become. These recent school shootings have occurred in suburbs, small towns, and major metropolitan areas all across our nation. They have shattered the myth that school violence is a problem solely confined to the inner cities. Events now clearly show that the potential for serious and deadly school violence is everywhere. Something must be done to ensure that our schools provide a safe place for our children to learn and grow.

Under this bill, schools in partnerships with local law enforcement agencies would be eligible to receive federal funding to hire "School Resource Officers" (SROs). A SRO would be a career law enforcement officer, with sworn authority, deployed in community oriented policing, and assigned by the employing police department or agency to work in collaboration with schools and community-based organizations. The SROs would be able to assist in several primary activities. First, SROs would address crime and disorder problems with a special focus on gangs, drug-related activities, and other crimes occurring in or around our schools. Second, SROs would develop or expand crime prevention efforts in cooperation with students. Third, SROs would help educate potential school-age victims in crime prevention and personal safety awareness. Fourth, SROs would develop or expand community justice initiatives. Fifth, and clearly increasingly more important in light of the recent school shootings, is that the SROs would train students in conflict resolution and teach students how to resolve their differences without feeling the need to resort to violence. Where childhood schoolyard hard feelings used to occasionally result in a scuffle, we now live in a time where they are resolved with firearms and lead to serious wounds and even death. This simply must end. Sixth, SROs would help identify changes in the school environment, like new graffiti or other indications of gang activity, that provide vital indicators. And finally, SROs would assist with the development of anti-crime, school policy and procedural changes.

According to the National School Safety Center, 25 students have been killed in U.S. schools since January 1, 1998. This is the same number of students that were killed for the full 1996 school year, but in half the time. At this rate, we are on track to a doubling of the schoolyard murder rate in just two short years.

The current school-based partnership grant program, which is administered by the Justice Department's Office of Community Oriented Policing Services (COPS), is not defined by statute, nor is the description of the qualifications and responsibilities of SROs. This legislation would ensure that SROs are career law enforcement officers, deployed in community-oriented policing assignments and directed by their agencies to work in collaboration with schools and other community-based organizations to address crime problems and assist school authorities in educating students about crime and violence prevention.

This legislation complements the existing school-based partnership research grant program administered by the COPS office. The existing demonstration program provides funds to specific, and relatively small scale, youth crime prevention programs. My legislation would build on this solid foundation, and allow the COPS program resources to be freed up for widespread and comprehensive partnerships between our nation's schools and law enforcement agencies, with the SROs providing the vital link between the two.

In addition, my bill is a companion to H.R. 4009, which our colleague in the House of Representatives, Congressman JIM MALONEY of Connecticut, introduced on June 5, 1998. This bill has received the endorsement of a number of education and law enforcement groups including the National Education Association, the International Brotherhood of Police, the Fraternal Order of Police. I believe that this powerful combination of endorsements clearly reflects the strength of, and compelling need for, this legislation.

On June 23rd, Senator JUDD GREGG, Chairman of the Senate Appropriations Subcommittee on Commerce, Justice, State and the Judiciary, unveiled a $210 million Safe Schools Initiative. Largely thanks to Senator GREGG, the funding needed to combat school violence is on track to be made available in a few short months, on October 1st, 1998, the start of Fiscal Year 1999.

Together, these initiatives will target important funding and resources to where it is most urgently needed, in our nation's schools. I urge my colleagues to support passage of this legislation.

I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2235

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SCHOOL RESOURCE OFFICERS.

Part Q of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd et seq.) is amended—

(1) in section 1701(d)—

(A) by redesignating paragraphs (8) through (10) as paragraphs (9) through (11), respectively; and

(B) by inserting after paragraph (7) the following:

"(8) establish school-based partnerships between local law enforcement agencies and local school systems by using school resource officers who operate in and around elementary and secondary schools to combat school-related crime and disorder problems, gangs, and drug activities;"; and

(2) in section 1709—

(A) by redesignating the first 3 undesignated paragraphs as paragraphs (1) through (3), respectively; and

(B) by adding at the end the following:

"(4) 'school resource officer' means a career law enforcement officer, with sworn authority, deployed in community-oriented policing, and assigned by the employing police department or agency to work in collaboration with schools and community-based organizations—

"(A) to address crime and disorder problems, gangs, and drug activities affecting or occurring in or around an elementary or secondary school;

"(B) to develop or expand crime prevention efforts for students;

"(C) to educate likely school-age victims in crime prevention and safety;

"(D) to develop or expand community justice initiatives for students;

"(E) to train students in conflict resolution, restorative justice, and crime awareness;

"(F) to assist in the identification of physical changes in the environment that may reduce crime in or around the school; and

"(G) to assist in developing school policy that addresses crime and to recommend procedural changes.".

By Mr. LOTT (for himself, Mr. LIEBERMAN, Mr. HELMS, Mr. KYL, Mr. BROWNBACK, Mr. SHELBY, and Mr. MCCAIN):

S.J. Res. 54. A joint resolution finding the Government of Iraq in unacceptable and material breach of its international obligations; to the Committee on Foreign Relations.

IRAQI VIOLATIONS OF INTERNATIONAL OBLIGATIONS

Mr. LOTT. Mr. President, I am pleased to introduce today S.J. Res. 54 concerning Iraq's violations of the cease-fire agreement that ended Operation Desert Storm in 1991.

Yesterday, the Chairman of the United Nations Special Commission (UNSCOM) presented clear and compelling evidence to the U.N. Security Council that Iraq has lied about a critical aspect of its weapons of mass destruction programs.

UNSCOM has uncovered proof that Iraq has turned the deadly nerve agent known as VX into missile warheads. Iraq still denies the truth today, but no one should be fooled. The proof is certain.

And no one should be surprised. Iraq has consistently lied to UNSCOM for 8 years. It denied having any biological weapons. Iraq concealed the number of missiles it possessed. Iraq has refused to account for its chemical weapons programs. Iraq has refused to provide access to sites or documents necessary for UNSCOM to complete its work.

In the past, under both this administration and the previous administration, Iraq's violations led to action on the part of the U.S. Iraq has been found to be in material breach on many occasions which are spelled out in this resolution. Military action has been threatened and even employed to force compliance.

But now there is a different tune from the Clinton Administration. Now the Clinton Administration is on the defensive. Just keeping U.N. sanctions on seems to be enough—even though a U.S. veto would keep sanctions in place regardless of Russian or French pressure. I cannot understand why the Administration has been so passive in the face of the smoking gun demonstrating Iraq's deception to the world.

Earlier this year, President Clinton came close to using military force in response to Iraq's violations. Instead, U.N. Secretary General Annan went to Baghdad and made a deal with Saddam Hussein. Hussein promised to do what he has been obligated to do since 1991. In return, a new "Special Envoy" for Iraq was created. Special procedures of certain UNSCOM inspections were laid out.

If the goal was to avoid the difficult decision to use force, the Clinton Administration was successful. If the goal was to achieve Iraqi compliance with its international obligations, the Clinton Administration has failed.

In recent months there are a number of signs that the Clinton Administration is abandoing a serious policy toward Iraq. First, U.S. military deployments in the Persian Gulf have been reduced. There has been no change in Iraqi behavior. Congress fully funded the deployments through the fiscal year. Yet the force without which diplomacy is empty has been significantly and unilaterally reduced.

Second, the Administration refuses to support effective opposition to Saddam Hussein. The Congress provided $5 million in support for the Iraqi democratic opposition and required the Administration to submit its plan to Congress for using the money in 30 days. Today, almost 60 days later, we have received no report.

The Administration has refused to provide direct support to the Iraqi National Congress—the opposition group most effective in challenging Saddam Hussein in the past. Instead, they provided a list of dozens of so-called opposition groups that included fronts for Syrian intelligence, groups compromised by Iraq, groups linked to Iran, and a number of cultural and religious groups with no history in political opposition. This list—and the absence of a report—make it seem the Administration has no interest in an effective policy of supporting the Iraqi opposition.

Third, the Administration is acting in a very bizarre way in the case of Iraqis detained by the Immigration and Naturalization Service in California. Six Iraqis involved in efforts to overthrow Saddam Hussein—part of more than 6,000 evacuated after Saddam invaded northern Iraq—are now subject to secret deportation proceedings. former CIA Director Woolsey is representing them free of charge, but even he has been denied an opportunity to see the alleged "evidence" gathered by INS. Something very suspicious is going on here. The Congress will look at why the executive branch is trying to send Iraqis who supported our goals in Iraq back to certain death at the hands of Saddam Hussien.

Fourth, the U.S. acquiesced in a dramatic expansion of Iraq's oil exports for the ostensible purpose of feeding Iraqis. The new program, approved just before Secretary General Annan left for Baghdad, allows Iraq to export more than $10 billion a year. This is not about feeding Iraqis—it is about repairing Iraq's oil infrastructure, building roads and otherwise helping Saddam Hussein provide the services he has been denied because of U.N. sanctions. It goes a long way to allowing Saddam Hussein to enjoy the benefits of ending sanctions while the U.S. has received no additional support for keeping sanctions on Iraq. It is a bad deal that seems to be getting worse—for our position.

Finally, there is the mute response to evidence of the weaponization of VX by Saddam Hussein's regime. This is one of the most deadly substances know to man. A single drop can kill a person. Saddam Hussien had it in missile warheads. He denied it. UNSCOM caught him in his lies—again.

The Administration needs to do more than simply hear the evidence and say the sanctions should remain. They need to develop and implement a coherent policy that addresses the threat posed by Saddam Hussein's regime. The need to respond—as the U.S. and even the U.N.—has responded before to material breaches by Iraq. Instead they are, in effect, looking the other way and hoping the French and Russians are not too offended by UNSCOM.

This resolution is intended to put pressure on the Administration to act on the information uncovered by UNSCOM. This is a material and unacceptable breach of Iraq's obligations. If the Administration refuses to act, Congress will be forced to step into the vacuum.

I would like to thank the cosponsors of the resolution: Senators LIEBERMAN, HELMS, KYL, SHELBY, BROWNBACK, and MCCAIN. I look forward to continuing to work with them in supporting an effective policy toward Iraq.

Mr. President, I ask unanimous consent that the text of the joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 54

Whereas hostilities in Operation Desert Storm ended on February 28, 1991, and the conditions governing the cease-fire were specified in United Nations Security Council Resolutions 686 (March 2, 1991) and 687 (April 3, 1991);

Whereas United Nations Security Council Resolution 687 requires that international economic sanctions remain in place until Iraq discloses and destroys its weapons of mass destruction programs and capabilities and undertakes unconditionally never to resume such activities;

Whereas Resolution 687 established the United Nations Special Commission on Iraq (UNSCOM) to uncover all aspects of Iraq's weapons of mass destruction programs and tasked the Director-General of the International Atomic Energy Agency to locate and remove or destroy all nuclear weapons systems, subsystems or material from Iraq;

Whereas United Nations Security Council Resolution 715, adopted on October 11, 1991, empowered UNSCOM to maintain a long-term monitoring program to ensure Iraq's weapons of mass destruction programs are dismantled and not restarted;

Whereas Iraq has consistently fought to hide the full extent of its weapons programs, and has systematically made false declarations to the Security Council and to UNSCOM regarding those programs, and has systematically obstructed weapons inspections for seven years;

Whereas In June 1991, Iraq forces fired on International Atomic Energy Agency inspectors and otherwise obstructed and misled UNSCOM inspectors, resulting in UN Security Council Resolution 707 which found Iraq to be in "material breach" of its obligations under United Nations Security Council Resolution 687 for failing to allow UNSCOM inspectors access to a site storing nuclear equipment;

Whereas in January and February of 1992, Iraq rejected plans to instal long-term monitoring equipment and cameras called for in UN resolutions, resulting in a Security Council Presidential Statement of February 19, 1992 which declared that Iraq was in "continuing material breach" of its obligations;

Whereas in February of 1992, Iraq continued to obstruct the installation of monitoring equipment, and failed to comply with UNSCOM orders to allow destruction of missiles and other proscribed weapons, resulting the Security Council Presidential Statement of February 28, 1992 which reiterated that Iraq was in "continuing material breach" and noted a "further material breach" on account of Iraq's failure to allow destruction of ballistic missile equipment;

Whereas on July 5, 1992, Iraq denied UNSCOM inspectors access to the Iraqi Ministry of Agriculture, resulting in a Security Council Presidential Statement of July 6, 1992 which declared that Iraq was in "material and unacceptable breach" of its obligations under UN resolutions;

Whereas in December of 1992 and January of 1993, Iraq violated the southern no-fly zone, moved surface to air missiles into the no-fly zone, raided a weapons depot in internationally recognized Kuwaiti territory and denied landing rights to a plane carrying UN weapons inspectors, resulting in a Security Council Presidential Statement of January 8, 1993 which declared that Iraq was in an "unacceptable and material breach" of its obligations under UN resolutions;

Whereas in response to continued Iraqi defiance, a Security Council Presidential Statement of January 11, 1993 reaffirmed the previous finding of material breach, followed on January 13 and 18 by allied air raids, and on January 17 with an allied missile attack on Iraqi targets;

Whereas on June 10, 1993, Iraq prevented UNSCOM's installation of cameras and monitoring equipment, resulting in a Security Council Presidential Statement of June 18, 1993 declaring Iraq's refusal to comply to be a "material and unacceptable breach";

Whereas on October 6, 1994, Iraq threatened to end cooperation with weapons inspectors if sanctions were not ended, and one day later, massed 10,000 troops within 30 miles of the Kuwaiti border, resulting in United Nations Security Council Resolution 949 demanding Iraq's withdrawal from the Kuwaiti border area and renewal of compliance with UNSCOM;

Whereas on April 10, 1995, UNSCOM reported to the Security Council that Iraq had concealed its biological weapons program, and had failed to account for 17 tons of biological weapons material resulting in the Security Council's renewal of sanctions against Iraq;

Whereas on July 1, 1995, Iraq admitted to a full scale biological weapons program, but denied weaponization of biological agents, and subsequently threatened to end cooperation with UNSCOM resulting in the Security Council's renewal of sanctions against Iraq;

Whereas on March 8, 11, 14 and 15, 1996, Iraq again barred UNSCOM inspectors from sites containing documents and weapons, in response to which the Security Council issued a Presidential Statement condemning "clear violations by Iraq of previous Resolutions 687, 707 and 715.";

Whereas from June 11–15, 1996, Iraq repeatedly barred weapons inspectors from military sites, in response to which the Security Council adopted United Nations Security Council Resolution 1060, noting the "clear violation on United Nations Security Council Resolutions 687, 707 and 715" and in response to Iraq's continued violations, issued a Presidential statement detailing Iraq's "gross violation of obligations";

Whereas in August 1996, Iraqi troops overran Irbil, in Iraqi Kurdistan, employing more than 30,000 troops and Republican Guards, in response to which the Security Council briefly suspended implementation on United Nations Security Council Resolution 986, the UN oil for food plan;

Whereas in December 1996, Iraq prevented UNSCOM from removing 130 Scud missile engines from Iraq for analysis, resulting in a Security Council presidential statement which "deplore[d]" Iraq's refusal to cooperate with UNSCOM;

Whereas on April 9, 1997, Iraq violated the no-fly zone in southern Iraq and United Nations Security Council Resolution 670, banning international flights, resulting in a Security Council statement regretting Iraq's lack of "specific consultation" with the Council;

Whereas on June 4 and 5, 1997 Iraqi officials on board UNSCOM aircraft interfered with the controls and inspections, endangering inspectors and obstructing the UNSCOM mission, resulting in a UN Security Council presidential statement demanding Iraq end its interference and on June 21, 1997, United Nations Security Council Resolution 1115 threatened sanctions on Iraqi officials responsible for these interferences;

Whereas on September 13, 1997 during an inspection mission, an Iraqi official attacked UNSCOM officials engaged in photographing illegal Iraqi activities, resulting in the October 23, 1997 adoption of United Nations Security Council Resolution 1134 which threatened a travel ban on Iraqi officials responsible for non-compliance with UN resolutions;

Whereas on October 29, 1997, Iraq announced that it would no longer allow American inspectors working with UNSCOM to conduct inspections in Iraq, blocking UNSCOM teams containing Americans to conduct inspections and threatening to shoot down U.S. U–2 surveillance flights in support of UNSCOM, resulting in a United Nations Security Council Resolution 1137 on November 12, 1997 which imposed the travel ban on Iraqi officials and threatened unspecified "further measures."

Whereas on November 13, 1997, Iraq expelled U.S. inspectors from Iraq, leading to UNSCOM's decision to pull out its remaining inspectors and resulting in a United Nations Security Council presidential statement demanding Iraq revoke the expulsion;

Whereas on January 16, 1998, an UNSCOM team led by American Scott Ritter was withdrawn from Iraq after being barred for three days by Iraq from conducting inspections, resulting in the adoption on a United Nations Security Council presidential statement deploring Iraq's decision to bar the team as a clear violation of all applicable resolutions;

Whereas, despite clear agreement on the part of Iraqi President Saddam Hussein with United Nations Secretary General Kofi Annan to grant access to all sites, and fully cooperate with UNSCOM, and the adoption on March 2, 1998 of United Nations Security Council Resolution 1154, warning that any violation of the agreement with Annan would have the "severest consequences" for Iraq, Iraq has continued to actively conceal weapons and weapons programs, provide misinformation and otherwise deny UNSCOM inspectors access;

Whereas on June 24, 1998, UNSCOM Director Richard Butler presented information to the UN Security Council indicating clearly that Iraq, in direct contradiction to information provided to UNSCOM, weaponized the nerve agent VX;

Whereas Iraq's continuing weapons of mass destruction programs threaten vital United States interests and international peace and security; and

Whereas the United States has existing authority to defend United States interests in the Persian Gulf region; Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Government of Iraq is in material and unacceptable breach of its international obligations, and therefore, the President of the United States is urged to act accordingly.

ADDITIONAL COSPONSORS

S. 246

At the request of Mr. GREGG, the name of the Senator from Michigan (Mr. ABRAHAM) was added as a cosponsor of S. 246, a bill to amend title XVIII of the Social Security Act to provide greater flexibility and choice under the medicare program.

S. 263

At the request of Mr. MCCONNELL, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 263, a bill to prohibit the import, export, sale, purchase, possession, transportation, acquisition, and receipt of bear viscera or products that contain or claim to contain bear viscera, and for other purposes.

S. 438

At the request of Mr. GRASSLEY, the name of the Senator from Colorado (Mr. ALLARD) was added as a cosponsor of S. 438, a bill to provide for implementation of prohibitions against payment of Social Security benefits to prisoners, and for other purposes.

S. 1222

At the request of Mr. CHAFEE, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 1222, a bill to catalyze restoration of estuary habitat through more efficient financing of projects and enhanced coordination of Federal and non-Federal restoration programs, and for other purposes.

S. 1321

At the request of Mr. TORRICELLI, the name of the Senator from Georgia (Mr. CLELAND) was added as a cosponsor of S. 1321, a bill to amend the Federal Water Pollution Control Act to permit grants for the national estuary program to be used for the development and implementation of a comprehensive conservation and management plan, to reauthorize appropriations to carry out the program, and for other purposes.

S. 1413

At the request of Mr. LUGAR, the names of the Senator from Alabama (Mr. SESSIONS) and the Senator from Alabama (Mr. SHELBY) were added as cosponsors of S. 1413, a bill to provide a framework for consideration by the legislative and executive branches of unilateral economic sanctions.

S. 1635

At the request of Mr. ALLARD, the name of the Senator from Mississippi (Mr. LOTT) was added as a cosponsor of S. 1635, a bill to amend the Internal Revenue Code of 1986 to reduce the maximum capital gains rates, to index capital assets for inflation, and to repeal the Federal estate and gift taxes and the tax on generation-skipping transfers.

S. 1918

At the request of Mr. DORGAN, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 1918, a bill to require the Secretary of Agriculture to make available to producers of the 1998 and subsequent crops of wheat and feed grains nonrecourse loans that provide a fair return to the producers in relation to the cost of production.

S. 1976

At the request of Mr. DEWINE, the names of the Senator from Michigan (Mr. ABRAHAM) and the Senator from Massachusetts (Mr. KENNEDY) were added as cosponsors of S. 1976, a bill to increase public awareness of the plight of victims of crime with developmental disabilities, to collect data to measure the magnitude of the problem, and to develop strategies to address the safety and justice needs of victims of crime with developmental disabilities.

S. 2021

At the request of Mr. SARBANES, the name of the Senator from Virginia (Mr. ROBB) was added as a cosponsor of S. 2021, a bill to provide for regional skills training alliances, and for other purposes.

S. 2040

At the request of Mr. BAUCUS, the name of the Senator from Kentucky (Mr. FORD) was added as a cosponsor of S. 2040, a bill to amend title XIX of the Social Security Act to extend the authority of State medicaid fraud control units to investigate and prosecute fraud in connection with Federal health care programs and abuse of residents of board and care facilities.

S. 2078

At the request of Mr. GRASSLEY, the name of the Senator from Colorado (Mr. CAMPBELL) was added as a cosponsor of S. 2078, a bill to amend the Internal Revenue Code of 1986 to provide for Farm and Ranch Risk Management Accounts, and for other purposes.

S. 2084

At the request of Mrs. BOXER, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 2084, a bill to amend the Outer Continental Shelf Lands Act to direct the Secretary of the Interior to cease mineral leasing activity on submerged land of the Outer Continental Shelf that is adjacent to a coastal State that has declared a moratorium on mineral exploration, development, or production activity in adjacent State waters.

S. 2110

At the request of Mr. BIDEN, the names of the Senator from New York (Mr. MOYNIHAN) and the Senator from Hawaii (Mr. INOUYE) were added as cosponsors of S. 2110, a bill to authorize the Federal programs to prevent violence against women, and for other purposes.

S. 2130

At the request of Mr. GRAMS, the name of the Senator from North Carolina (Mr. HELMS) was added as a cosponsor of S. 2130, a bill to amend the Internal Revenue Code of 1986 to provide additional retirement savings opportunities for small employers, including self-employed individuals.

S. 2156

At the request of Mr. SMITH, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 2156, a bill to amend the Arms Export Control Act to exempt any credit, credit guarantee or other financial assistance provided by the Department of Agriculture for the purchase or other provision of food or other agricultural commodities from sanctions provided for under the Act.

S. 2162

At the request of Mr. MACK, the names of the Senator from Ohio (Mr. GLENN) and the Senator from Michigan (Mr. ABRAHAM) were added as cosponsors of S. 2162, a bill to amend the Internal Revenue Code of 1986 to more accurately codify the depreciable life of printed wiring board and printed wiring assembly equipment.

S. 2185

At the request of Mr. KENNEDY, the name of the Senator from Illinois (Ms. MOSELEY-BRAUN) was added as a cosponsor of S. 2185, a bill to protect children from firearms violence.

S. 2196

At the request of Mr. GORTON, the name of the Senator from Arkansas (Mr. BUMPERS) was added as a cosponsor of S. 2196, a bill to amend the Public Health Service Act to provide for establishment at the National Heart, Lung, and Blood Institute of a program regarding lifesaving interventions for individuals who experience cardiac arrest, and for other purposes.

S. 2201

At the request of Mr. TORRICELLI, the names of the Senator from Florida (Mr. GRAHAM) and the Senator from North Carolina (Mr. FAIRCLOTH) were added as cosponsors of S. 2201, a bill to delay the effective date of the final rule promulgated by the Secretary of Health and Human Services regarding the Organ Procurement and Transplantation Network.

S. 2208

At the request of Mr. FRIST, the names of the Senator from Maine (Ms. COLLINS) and the Senator from North Carolina (Mr. FAIRCLOTH) were added as cosponsors of S. 2208, a bill to amend title IX of the Public Health Service Act to revise and extend the Agency for Healthcare Policy and Research.

SENATE JOINT RESOLUTION 50

At the request of Mr. BOND, the name of the Senator from Tennessee (Mr. THOMPSON) was added as a cosponsor of Senate Joint Resolution 50, a joint resolution to disapprove the rule submitted by the Health Care Financing Administration, Department of Health and Human Services on June 1, 1998, relating to surety bond requirements for home health agencies under the medicare and medicaid programs.

SENATE CONCURRENT RESOLUTION 97

At the request of Mrs. FEINSTEIN, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of Senate Concurrent Resolution 97, a concurrent resolution expressing the sense of Congress concerning the human rights and humanitarian situation facing the women and girls of Afghanistan.

SENATE RESOLUTION 237

At the request of Mr. FEINGOLD, the names of the Senator from Indiana (Mr. COATS) and the Senator from New Jersey (Mr. TORRICELLI) were added as cosponsors of Senate Resolution 237, a resolution expressing the sense of the Senate regarding the situation in Indonesia and East Timor.

AMENDMENT NO. 2728

At the request of Mr. BURNS the name of the Senator from Mississippi (Mr. LOTT) was added as a cosponsor of amendment No. 2728 proposed to S. 2057, an original bill to authorize appropriations for the fiscal year 1999 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

AMENDMENT NO. 2808

At the request of Mr. FEINGOLD the name of the Senator from Wisconsin (Mr. KOHL) was added as a cosponsor of amendment No. 2808 proposed to S. 2057, an original bill to authorize appropriations for the fiscal year 1999 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

AMENDMENT NO. 2902

At the request of Mr. WELLSTONE the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of amendment No. 2902 proposed to S. 2057, an original bill to authorize appropriations for the fiscal year 1999 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

AMENDMENT NO. 2981

At the request of Mr. HELMS his name was added as a cosponsor of amendment No. 2981 proposed to S. 2057, an original bill to authorize appropriations for the fiscal year 1999 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

AMENDMENT NO. 2982

At the request of Mrs. MURRAY her name was added as a cosponsor of amendment No. 2982 proposed to S. 2057, an original bill to authorize appropriations for the fiscal year 1999 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

SENATE CONCURRENT RESOLUTION 106—COMMENDING THE LIBRARY OF CONGRESS FOR 200 YEARS OF OUTSTANDING SERVICE TO CONGRESS AND THE NATION

Mr. WARNER (for himself, Mr. FORD, and Mr. MOYNIHAN) submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 106

Whereas the Library of Congress was established in 1800 and will celebrate the 200th anniversary of the Library of Congress in 2000;

Whereas the goal of the bicentennial commemoration is to inspire creativity in the century ahead and ensure a free society through greater use of the Library of Congress and libraries everywhere;

Whereas the bicentennial goal will be achieved through a variety of national, State, and local projects, developed in collaboration with the offices of the Members of Congress, the staff of the Library of Congress, and special advisory committees; and

Whereas the bicentennial commemorative activities include significant acquisitions, symposia, exhibits, issuance of a commemorative coin, and enhanced public access to the collections of the Library of Congress through the National Digital Library: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress commends the Library of Congress on 200 years of service to Congress and the Nation, and encourages the American public to participate in activities to commemorate the bicentennial anniversary of the Library of Congress.

AMENDMENTS SUBMITTED

THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1999

HUTCHISON AMENDMENT NO. 3003

(Ordered to lie on the table.)

Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill (S. 2057) to authorize appropriations for the fiscal year 1999 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

On page 14, line 6, reduce the amount by $23,400,000.

On page 29, line 2, increase the amount by $23,400,000.

On page 41, after line 23, insert the following:

SEC. 219. H-1 ROTARY WING AIRCRAFT UPGRADE.

Of the total amount authorized to be appropriated under section 201(2), $121,942,000 shall be available for upgrade of H-1 rotary wing aircraft.

DODD AMENDMENT NO. 3004

Mr. DODD proposed an amendment to the bill, S. 2057, supra; as follows:

At the end of subtitle D of title VI, add the following:

SEC. 634. ELIMINATION OF BACKLOG OF UNPAID RETIRED PAY.

(a) REQUIREMENT.—The Secretary of the Army shall take such actions as are necessary to eliminate, by December 31, 1998, the backlog of unpaid retired pay for members and former members of the Army (including members and former members of the Army Reserve and the Army National Guard).

(b) REPORT.—Not later than 30 days after the date of the enactment of this Act, the Secretary of the Army shall submit to Congress a report on the backlog of unpaid retired pay. The report shall include the following:

(1) The actions taken under subsection (a).

(2) The extent of the remaining backlog.

(3) A discussion of any additional actions that are necessary to ensure that retired pay is paid in a timely manner.

(c) FUNDING.—Of the amount authorized to be appropriated under section 421, $1,700,000 shall be available for carrying out this section.

MURRAY (AND OTHERS) AMENDMENT NO. 3005

Mrs. MURRAY (for herself, Mr. MURKOWSKI, Mr. SARBANES, Ms. MIKULSKI, and Mr. INHOFE) proposed an amendment to the bill, S. 2057, supra; as follows:

On page 268, between lines 8 and 9, insert the following:

SEC. 1064. BURIAL HONORS FOR VETERANS.

(a) FINDINGS.—The Senate makes the following findings:

(1) Throughout the years, men and women have unselfishly answered the call to arms, at tremendous personal sacrifice. Burial honors for deceased veterans are an important means of reminding Americans of the sacrifices endured to keep the Nation free.

(2) The men and women who serve honorably in the Armed Forces, whether in war or peace, and whether discharged, separated, or retired, deserve commemoration for their military service at the time of their death by an appropriate military tribute.

(3) It is tremendously important to pay an appropriate final tribute on behalf of a grateful Nation to honor individuals who served the Nation in the Armed Forces.

(b) CONFERENCE ON MILITARY BURIAL HONOR PRACTICES.—(1) Not later than October 31, 1998, the Secretary of Defense shall, in consultation with the Secretary of Veterans Affairs, convene and preside over a conference for the purpose of determining means of improving and increasing the availability of military burial honors for veterans. The Secretary of Veterans Affairs shall also participate in the conference.

(2) The Secretaries shall invite and encourage the participation at the conference of appropriate representatives of veterans service organizations.

(3) The participants in the conference shall—

(A) review current policies and practices of the military departments and the Department of Veterans Affairs relating to the provision of military honors at the burial of veterans;

(B) analyze the costs associated with providing military honors at the burial of veterans, including the costs associated with utilizing personnel and other resources for that purpose;

(C) assess trends in the rate of death of veterans; and

(D) propose, consider, and determine means of improving and increasing the availability of military honors at the burial of veterans.

(4) Not later than 180 days after the date of enactment of this Act, the Secretary of Defense shall submit to Congress a report on the conference under this subsection. The report shall set forth any modifications to Department of Defense directives on military burial honors adopted as a result of the conference and include any recommendations for legislation that the Secretary considers appropriate as a result of the conference.

(c) VETERANS SERVICE ORGANIZATION DEFINED.—In this section, the term "veterans service organization" means any organization recognized by the Secretary of Veterans Affairs under section 5902 of title 38, United States Code.

BINGAMAN (AND DOMENICI) AMENDMENTS NOS. 3006–3008

(Ordered to lie on the table.)

Mr. BINGAMAN (for himself and Mr. DOMENICI) submitted three amendments intended to be proposed by them to the bill, S. 2057, supra; as follows:

AMENDMENT NO. 3006

At the end of subtitle B of title III, add the following:

SEC. 314. DEFENSE SYSTEMS EVALUATION PROGRAM.

Of the amount authorized to be appropriated under section 301(a)(12) for flying hours, $2,500,000 shall be available for activities of the New Mexico Air National Guard in support of testing activities at White Sands Missile Range, New Mexico, that relate to the Defense Systems Evaluation program.

AMENDMENT NO. 3007

On page 41, below line 23, add the following:

SEC. 219. PLANNING AND DESIGN FOR ASTRONOMICAL RESEARCH FACILITY AT MAGDALENA RIDGE OBSERVATORY, NEW MEXICO.

Of the amounts authorized to be appropriated by this title, $5,000,000 shall be available for planning and design with respect to an astronomical research facility at Magdalena Ridge Observatory, New Mexico, for the support of activities of the Ballistic Missile Defense Organization and test activities at White Sands Missile Range.

AMENDMENT NO. 3008

On page 397, between lines 6 and 7, insert the following:

SEC. 3137. RELOCATION OF NATIONAL ATOMIC MUSEUM, ALBUQUERQUE, NEW MEXICO.

Of the amounts authorized to be appropriated by this title, $1,500,000 shall be available for planning and design relating to the relocation of the National Atomic Museum in Albuquerque, New Mexico.

REID (AND OTHERS) AMENDMENT NO. 3009

Mr. REID (for himself, Mr. BRYAN, Mr. INOUYE, Mr. WYDEN, Mr. KERREY, Mr. DURBIN, Mrs. MURRAY, and Mr. FEINGOLD) proposed an amendment to the bill, S. 2057, supra; as follows:

On page 347 strike line 21 through line 13 on page 366 and insert the following:

(f) REPEAL OF SUPERSEDED AUTHORITY.—Section 2205 of the Military Construction Authorization Act for Fiscal Year 1997 is repealed. This section shall take place one day after the date of this bill's enactment.

GRAMM AMENDMENT NO. 3010

Mr. GRAMM proposed an amendment to the bill, S. 2057, supra; as follows:

At the appropriate place, add the following:

SEC. . ATTENDANCE OF RECIPIENTS OF NAVAL RESERVE OFFICERS' TRAINING CORPS SCHOLARSHIPS AT PARTICIPATING COLLEGES OR UNIVERSITIES.

Section 2107 of title 10, United States Code, is amended by adding at the end the following:

"(i)(1) Notwithstanding any other provision of law or any policy or regulation of the Department of Defense or of the Department of the Navy, recipients of Naval Reserve Officers' Training Corps scholarships who live in the state which has more scholarship awardees than slots available under the Navy quotas in their state colleges or universities may attend any college or university of their choice in their state to which they have been accepted, so long as the college or university is a participant in the Naval Reserve Officers' Training Corps program.

"(2) The Department of Defense and the Department of the Navy are prohibited from setting maximum limits on the number of Naval Reserve Officers' Training Corps scholarship students who can be enrolled at any college or university participating in the Naval Reserve Officers' Training Corps program in such state."

BYRD AMENDMENT NO. 3011

Mr. BYRD proposed an amendment to amendment No. 3010 proposed by Mr. GRAMM to the bill, S. 2057, supra; as follows:

At the end of the amendment insert the following:

SEC. . (a) ARMY.—(1) Chapter 401 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 4319. Recruit basic training: separate platoons and separate housing for male and female recruits

"(a) SEPARATE PLATOONS.—The Secretary of the Army shall require that during basic training—

"(1) male recruits shall be assigned to platoons consisting only of male recruits; and

"(2) female recruits shall be assigned to platoons consisting only of female recruits.

"(b) SEPARATE HOUSING FACILITIES.—The Secretary of the Army shall require that during basic training male and female recruits be housed in separate barracks or other troop housing facilities.

"(c) INTERIM AUTHORITY FOR HOUSING RECRUITS ON SEPARATE FLOORS.—(1) If the Secretary of the Army determines that it is not feasible, during some or all of the period beginning on April 15, 1999, and ending on October 1, 2001, to comply with subsection (b) at any particular installation at which basic training is conducted because facilities at that installation are insufficient for such purpose, the Secretary may grant a waiver of subsection (b) with respect to that installation. Any such waiver may not be in effect after October 1, 2001, and may only be in effect while the facilities at that installation are insufficient for the purposes of compliance with subsection (b).

"(2) If the Secretary grants a waiver under paragraph (1) with respect to an installation, the Secretary shall require that male and female recruits in basic training at that installation during any period that the waiver is in effect not be housed on the same floor of a barracks or other troop housing facility.

"(d) BASIC TRAINING DEFINED.—In this section, the term 'basic training' means the initial entry training program of the Army that constitutes the basic training of new recruits.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"4319. Recruit basic training: separate platoons and separate housing for male and female recruits.".

(3) The Secretary of the Army shall implement section 4319 of title 10, United States Code, as added by paragraph (1), as rapidly as feasible and shall ensure that the provisions of that section are applied to all recruit basic training classes beginning not later than the first such class that enters basic training on or after April 15, 1999.

(b) NAVY AND MARINE CORPS.—(1) Part III of subtitle C of title 10, United States Code, is amended by inserting after chapter 601 the following new chapter:

"CHAPTER 602—TRAINING GENERALLY

"Sec.
"6931. Recruit basic training: separate small units and separate housing for male and female recruits.

"§ 6931. Recruit basic training: separate small units and separate housing for male and female recruits

"(a) SEPARATE SMALL UNIT ORGANIZATION.—The Secretary of the Navy shall require that during basic training—

"(1) male recruits in the Navy shall be assigned to divisions, and male recruits in the Marine Corps shall be assigned to platoons, consisting only of male recruits; and

"(2) female recruits in the Navy shall be assigned to divisions, and female recruits in the Marine Corps shall be assigned to platoons, consisting only of female recruits.

"(b) SEPARATE HOUSING.—The Secretary of the Navy shall require that during basic training male and female recruits be housed in separate barracks or other troop housing facilities.

"(c) INTERIM AUTHORITY FOR HOUSING RECRUITS ON SEPARATE FLOORS.—(1) If the Secretary of the Navy determines that it is not feasible, during some or all of the period beginning on April 15, 1999, and ending on October 1, 2001, to comply with subsection (b) at any particular installation at which basic training is conducted because facilities at that installation are insufficient for that purpose, the Secretary may grant a waiver of subsection (b) with respect to that installation. Any such waiver may not be in effect after October 1, 2001, and may only be in effect while the facilities at that installation are insufficient for the purposes of compliance with subsection (b).

"(2) If the Secretary grants a waiver under paragraph (1) with respect to an installation, the Secretary shall require that male and female recruits in basic training at that installation during any period that the waiver is in effect not be housed on the same floor of a barracks or other troop housing facility.

"(d) BASIC TRAINING DEFINED.—In this section, the term 'basic training' means the initial entry training programs of the Navy and Marine Corps that constitute the basic training of new recruits.".

(2) The tables of chapters at the beginning of subtitle C, and at the beginning of part III of subtitle C, of such title are amended by inserting after the item relating to chapter 601 the following new item:

"602. Training Generally .... 6931".

(3) The Secretary of the Navy shall implement section 6931 of title 10, United States Code, as added by paragraph (1), as rapidly as feasible and shall ensure that the provisions of that section are applied to all recruit basic training classes beginning not later than the first such class that enters basic training on or after April 16, 1999.

(c) AIR FORCE.—(1) Chapter 901 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 9319. Recruit basic training: separate flights and separate housing for male and female recruits

"(a) SEPARATE FLIGHTS.—The Secretary of the Air Force shall require that during basic training—

"(1) male recruits shall be assigned to flights consisting only of male recruits; and

"(2) female recruits shall be assigned to flights consisting only of female recruits.

"(b) SEPARATE HOUSING.—The Secretary of the Air Force shall require that during basic training male and female recruits be housed in separate dormitories or other troop housing facilities.

"(c) INTERIM AUTHORITY FOR HOUSING RECRUITS ON SEPARATE FLOORS.—(1) If the Secretary of the Air Force determines that it is not feasible, during some or all of the period beginning on April 15, 1999, and ending on October 1, 2001, to comply with subsection (b) at any particular installation at which basic training is conducted because facilities at that installation are insufficient for such purpose, the Secretary may grant a waiver of subsection (b) with respect to that installation. Any such waiver may not be in effect after October 1, 2001, and may only be in effect while the facilities at that installation are insufficient for the purposes of compliance with subsection (b).

"(2) If the Secretary grants a waiver under paragraph (1) with respect to an installation, the Secretary shall require that male and female recruits in basic training at that installation during any period that the waiver is in effect not be housed on the same floor of a dormitory or other troop housing facility.

"(d) BASIC TRAINING DEFINED.—In this section, the term 'basic training' means the initial entry training program of the Air Force that constitutes the basic training of new recruits.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"9319. Recruit basic training: separate flights and separate housing for male and female recruits.".

(3) The Secretary of the Air Force shall implement section 9319 of title 10, United States Code, as added by paragraph (1), as rapidly as feasible and shall ensure that the provisions of that section are applied to all recruit basic training classes beginning not

later than the first such class that enters basic training on or after April 15, 1999.

SECTION 527 NOT TO TAKE EFFECT.—Section 527 shall not take effect.

BUMPERS (AND FEINGOLD) AMENDMENT NO. 3012

Mr. BUMPERS (for himself and Mr. FEINGOLD) proposed an amendment to the bill, S. 2057, supra; as follows:

Strike from line 1, page 25 through page 27, line 10, and insert in lieu thereof the following:

SEC. 133. LIMITATION ON ADVANCE PROCUREMENT OF F-22 AIRCRAFT.

Amounts available for the Department of Defense for any fiscal year for the F-22 aircraft program may not be obligated for advance procurement for the six Lot II F-22 aircraft before the date that is 30 days after the date on which the Secretary of Defense submits a certification to the congressional defense committees that the Air Force has completed 601 hours of flight testing of F-22 flight test vehicles according to the test and evaluation master plan of the F-22 aircraft program, as in effect on October 1, 1997.

UNITED STATES BUFFALO NICKEL ACT OF 1998

CAMPBELL AMENDMENT NO. 3013

(Ordered referred to the Committee on Banking, Housing, and Urban Affairs.)

Mr. CAMPBELL submitted an amendment intended to be proposed by him to the bill (S. 1112) to require the Secretary of the Treasury to mint coins in commemoration of Native American history and culture; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Buffalo Coin Act of 1998".

SEC. 2. BUFFALO HALF-DOLLAR.

Section 5112 of title 31, United States Code, is amended by adding at the end the following:

"(n) BUFFALO HALF-DOLLAR.—

"(1) DENOMINATIONS.—Notwithstanding any other provision of law, during the 3-year period beginning on January 1, 2000, the Secretary shall mint and issue each year not more than 500,000 half-dollar coins, minted in accordance with this title.

"(2) DESIGN REQUIREMENTS.—The design of the half-dollar coins minted under this subsection shall be based on the original 5-cent buffalo nickel designed by James Earle Fraser and minted from 1913 to 1938. Each coin shall have on the obverse side a profile representation of a Native American, and on the reverse side a representation of a buffalo.

"(3) SELECTION.—The design for the coins minted under this subsection shall be—

"(A) selected by the Secretary, after consultation with the Committee on Banking, Housing, and Urban Affairs and the Committee on Indian Affairs of the Senate and the Commission of Fine Arts; and

"(B) reviewed by the Citizens Commemorative Coin Advisory Committee.

"(4) QUALITY OF COINS.—Coins minted under this subsection shall be issued in uncirculated and proof qualities.

"(5) SOURCES OF BULLION.—The Secretary shall obtain silver for minting coins under this subsection from sources that the Secretary deems appropriate, including from stockpiles established under the Strategic and Critical Materials Stockpiling Act.

"(6) MINT FACILITY.—Only 1 facility of the United States Mint may be used to strike any particular quality of the coins minted under this subsection.

"(7) SALE OF COINS.—

"(A) IN GENERAL.—The coins issued under this subsection shall be sold by the Secretary at a price equal to the sum of—

"(i) the face value of the coins;

"(ii) the surcharge provided in subparagraph (D) with respect to such coins; and

"(iii) the cost of designing and issuing the coins (including labor, materials, dies, use of machinery, overhead expenses, marketing, and shipping).

"(B) BULK SALES.—The Secretary shall make bulk sales of the coins issued under this subsection at a reasonable discount.

"(C) PREPAID ORDERS.—The Secretary shall accept prepaid orders for the coins minted under this subsection before the issuance of such coins. Sale prices with respect to prepaid orders shall be at a reasonable discount.

"(D) SURCHARGES.—All sales of coins minted under this subsection shall include a surcharge of $3.00 per coin.

"(8) DISTRIBUTION OF SURCHARGES.—All surcharges received by the Secretary from the sale of coins issued under this subsection shall be paid promptly by the Secretary to the Numismatic Public Enterprise Fund established under section 5134. Proceeds from the sale of coins minted under this subsection shall be made available to the National Museum of the American Indian for the purposes of—

"(A) commemorating the tenth anniversary of the establishment of the Museum; and

"(B) supplementing the endowment and educational outreach funds of the Museum.".

Mr. CAMPBELL. Mr. President, I take the time today to submit an amendment which will update legislation I introduced last year. On July 31, 1997, I introduced a bill, S. 1112, which would authorize the Mint to produce a commemorative Buffalo Nickel, based on the design of the original nickel which was in circulation from 1913 to 1938. In February of this year, I presented the design of the coin to the Mind and provided testimony regarding the history of the nickel and its design. Former Ambassador to Austria and Colorado buffalo rancher, Swanee Hunt, joined me at this presentation to share her support.

Since introducing that bill and making the presentation, I have been working closely with officials at the Treasury and the Citizens Commemorative Coin Advisory Committee. The recommendation of the Committee is necessary in order to bring the coin into circulation. In their annual report, the Committee approved the minting of a coin, based on the design of the Buffalo Nickel. However, the CCCAC recommended that the coin be a half-dollar denomination, rather that a nickel, which will go into circulation in 2001.

This amendment I am submitting today reflects their recommendation and complies with Title 31, the Commemorative Coin Act. All proceeds from the sale of this coin will continue to be paid to the Smithsonian Institution's National Museum of the American Indian, as the original legislation directed. The Committee's recommendation to put the coin into circulation in 2001 will coincide well with the Museum's scheduled opening date of 2002.

This legislation reflects the goals of all interested parties, and still maintains the original goal of raising funds for the preservation of Native American artifacts in the Museum of the American Indian. I urge my colleagues to support passage of this bill.

THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1999

FAIRCLOTH AMENDMENT No. 3014

Mr. FAIRCLOTH proposed an amendment to the bill. S 2057, supra; as follows:

On page 321, between lines 16 and 17, insert the following:

SEC. 2803. NATIONAL GUARD MILITARY EDUCATIONAL FACILITY, FORT BRAGG, NORTH CAROLINA.

(a) AUTHORIZATION OF APPROPRIATIONS.—The amount authorized to be appropriated by section 2601(1)(A) is hereby increased by $8,300,000.

(b) AVAILABILITY OF FUNDS.—Funds available as a result of the increase in the authorization of appropriations made by subsection (a) shall be available for purposes of construction of the National Guard Military Educational Facility at Fort Bragg, North Carolina.

(c) OFFSET.—The amount authorized to be appropriated by section 2404(a)(9) is hereby reduced by $8,300,000.

THURMOND (AND OTHERS) AMENDMENT NO. 3015

Mr. THURMOND (for himself, Mr. STEVENS, Mr. LEVIN, Mr. WARNER, Mr. MCCAIN, Mr. COATS, Mr. SMITH of New Hampshire, Mr. KEMPTHORNE, Mr. INHOFE, Mr. SANTORUM, Ms. SNOWE, Mr. ROBERTS, Mr. KENNEDY, Mr. BINGAMAN, Mr. GLENN, Mr. BYRD, Mr. LIEBERMAN, Mr. CLELAND, and Mr. ROBB) proposed an amendment to the bill, S. 2057, supra; as follows:

On page 110, line 13, strike out "3.1 percent." and insert in lieu thereof the following:

3.6 percent.

(c) OFFSETTING REDUCTIONS IN AUTHORIZATIONS OF APPROPRIATIONS.—(1) Notwithstanding any other provision of title I, the total amount authorized to be appropriated under title II is hereby reduced by $150,000,000.

(2) Notwithstanding any other provision of title II, the total amount authorized to be appropriated under title II is hereby reduced by $275,000,000.

WARNER (AND OTHERS) AMENDMENT NO. 3016

Mr. WARNER (for himself, Mr. LEVIN, Mr. MCCAIN, Mr. COATS, Mr.

Smith of New Hampshire, Mr. Kempthorne, Mr. Inhofe, Mr. Santorum, Ms. Snowe, Mr. Roberts, Mr. Kennedy, Mr. Bingaman, Mr. Glenn, Mr. Byrd, Mr. Robb, Mr. Lieberman, Mr. Cleland, Mr. Lott, Mr. Daschle, and Mr. Murkowski) proposed an amendment to the bill, S. 2057, supra; as follows:

Strike out section 1 and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

(a) Findings.—Congress makes the following findings:

(1) Senator Strom Thurmond of South Carolina first became a member of the Committee on Armed Services of the United States Senate on January 19, 1959. His continuous service on that committee covers more than 75 percent of the period of the existence of the committee, which was established immediately after World War II, and more than 20 percent of the period of the existence of military and naval affairs committees of Congress, the original bodies of which were formed in 1816.

(2) Senator Thurmond came to Congress and the committee as a distinguished veteran of service, including combat service, in the Armed Forces of the United States.

(3) Senator Thurmond was commissioned as a reserve second lieutenant of infantry in 1924. He served with great distinction with the First Army in the European Theater of Operations during World War II, landing in Normandy in a glider with the 82nd Airborne Division on D-Day. He was transferred to the Pacific Theater of Operations at the end of the war in Europe and was serving in the Philippines when Japan surrendered.

(4) Having reverted to Reserve status at the end of World War II, Senator Thurmond was promoted to brigadier general in the United States Army Reserve in 1954. He served as President of the Reserve Officers Association beginning that same year and ending in 1955. Senator Thurmond was promoted to major general in the United States Army Reserve in 1959. He transferred to the Retired Reserve on January 1, 1965, after 36 years of commissioned service.

(5) The distinguished character of Senator Thurmond's military service has been recognized by awards of numerous decorations that include the Legion of Merit, the Bronze Star medal with "V" device, the Belgian Cross of the Order of the Crown, and the French Croix de Guerre.

(6) Senator Thurmond has served as Chairman of the Committee on Armed Services of the Senate since 1995 and as the ranking minority member of the committee from 1993 to 1995. Senator Thurmond concludes his service as Chairman at the end of the 105th Congress, but is to continue to serve the committee as a member in successive Congresses.

(7) This Act is the fortieth annual authorization bill for the Department of Defense for which Senator Thurmond has taken a major responsibility as a member of the Committee on Armed Services of the Senate.

(8) Senator Thurmond, as officer and legislator, has made matchless contributions to the national security of the United States that, in duration and in quality, are unique.

(9) It is altogether fitting and proper that this Act, the last annual authorization Act for the national defense that Senator Thurmond manages in and for the United States Senate as Chairman of the Committee on Armed Services of the Senate, be named in his honor.

(b) Short Title.—This Act shall be cited as the "Strom Thurmond National Defense Authorization Act for Fiscal Year 1999".

THOMAS (AND ENZI) AMENDMENT NO. 3017

Mr. WARNER (for Mr. Thomas for himself and Mr. Enzi) proposed an amendment to the bill, S. 2057, supra; as follows:

On page 320, line 25, strike out "$95,395,000" and insert in lieu thereof "$108,979,000".

On page 14, line 6, reduce subparagraph (5) by $13,584,000

HARKIN AMENDMENT NO. 3018

Mr. LEVIN (for Mr. Harkin) proposed an amendment to the bill, S. 2057, supra; as follows:

At the end of subtitle B of title II, add the following:

SEC. 219. PERSIAN GULF ILLNESSES.

(a) Additional Amount for Persian Gulf Illnesses.—The total amount authorized to be appropriated under this title for research and development relating to Persian Gulf illnesses is the total amount authorized to be appropriated for such purpose under the other provisions of this title plus $10,000,000.

(b) Reduced Amount for Army Commercial Operations and Support Savings Program.—Of the amount authorized to be appropriated under section 201(1), $23,600,000 shall be available for the Army Commercial Operations and Support Savings Program.

DeWINE AMENDMENT NO. 3019

Mr. WARNER (for Mr. DeWine) proposed an amendment to the bill, S. 2057, supra; as follows:

On page 342, below line 22, add the following:

SEC. 2827. REAUTHORIZATION OF LAND CONVEYANCE, ARMY RESERVE CENTER, YOUNGSTOWN, OHIO.

(a) Conveyance Authorized.—The Secretary of the Army may convey, without consideration, to the City of Youngstown, Ohio (in this section referred to as the "City"), all right, title, and interest of the United States in and to a parcel of excess real property, including improvements thereon, that is located at 399 Miller Street in Youngstown, Ohio, and contains the Kefurt Army Reserve Center.

(b) Condition of Conveyance.—The conveyance authorized under subsection (a) shall be subject to the condition that the City retain the conveyed property for purposes of activities relating to public schools in Youngstown, Ohio.

(c) Description of Property.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the City.

(d) Additional Terms and Conditions.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

(e) Repeal of Superseded Authority.—Section 2861 of the Military Construction Authorization Act for Fiscal Year 1996 (division B of Public Law 104–106; 110 Stat. 573) is repealed.

DODD AMENDMENT NO. 3020

Mr. LEVIN (for Mr. Dodd) proposed an amendment to the bill, S. 2057, supra; as follows:

On page 157, between lines 13 and 14, insert the following:

SEC. 708. LYME DISEASE.

Of the amounts authorized to be appropriated by this Act for Defense Health Programs, $3,000,000 shall be available for research and surveillance activities relating to Lyme disease and other tick-borne diseases.

ROCKEFELLER (AND OTHERS) AMENDMENT NO. 3021

Mr. LEVIN (for Mr. Rockfeller for himself, Mr. Durbin, and Mr. Harkin) proposed an amendment to the bill, S. 2057, supra; as follows:

On page 41, below line 23, add the following:

SEC. 219. DOD/VA COOPERATIVE RESEARCH PROGRAM.

(a) Availability of Funds.—(1) The amount authorized to be appropriated by section 201(4) is hereby increased by $10,000,000.

(2) Of the amount authorized to be appropriated by section 201(4), as increased by paragraph (1), $10,000,000 shall be available for the DoD/VA Cooperative Research Program.

(b) Offset.—(1) The amount authorized to be appropriated by section 201(2) is hereby decreased by $10,000,000.

(2) Of the amount authorized to be appropriated by section 201(2), as decreased by paragraph (1), not more than $18,500,000 shall be available for the Commercial Operations and Support Savings Program.

(c) Executive Agent.—The Secretary of Defense, acting through the Army Medical Research and Materiel Command and the Naval Operational Medicine Institute, shall be the executive agent for the utilization of the funds made available by subsection (a).

DOMENICI (AND BINGAMAN) AMENDMENT NO. 3022

Mr. WARNER (for Mr. Domenici for himself and Mr. Bingaman) proposed an amendment to the bill, S. 2057, supra; as follows:

On page 397, between lines 6 and 7, insert the following:

SEC. 3137. ACTIVITIES OF THE CONTRACTOR-OPERATED FACILITIES OF THE DEPARTMENT OF ENERGY.

(a) Research and Activities on Behalf of Non-Department Persons and Entities.—(1) The Secretary of Energy may conduct research and other activities referred to in paragraph (2) through contractor-operated facilities of the Department of Energy on behalf of other departments and agencies of the Government, agencies of State and local governments, and private persons and entities.

(2) The research and other activities that may be conducted under paragraph (1) are those which the Secretary is authorized to conduct by law, and include, but are not limited to, research and activities authorized under the following:

(A) Section 33 of the Atomic Energy Act of 1954 (42 U.S.C. 2053).

(B) Section 107 of the Energy Reorganization Act of 1974 (42 U.S.C. 5817).

(C) The Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5901 et seq.).

(b) CHARGES.—(1) The Secretary shall impose on the department, agency, or person or entity for whom research and other activities are carried out under subsection (a) a charge for such research and activities equal to not more than the full cost incurred by the contractor concerned in carrying out such research and activities, which cost shall include—

(A) the direct cost incurred by the contractor in carrying out such research and activities; and

(B) the overhead cost including site-wide indirect costs associated with such research and activities.

(2)(A) Subject to subparagraph (B), the Secretary shall also impose on the department, agency, or person or entity concerned a Federal administrative charge (which includes any depreciation and imputed interest charges) in an amount not to exceed 3 percent of the full cost incurred by the contractor concerned in carrying out the research and activities concerned.

(B) The Secretary may waive the imposition of the Federal administrative charge required by subparagraph (A) in the case of research and other activities conducted on behalf of small business concerns, institutions of higher education, non-profit entities, and State and local governments.

(3) Not later than 2 years after the date of enactment of this Act, the Secretary shall terminate any waiver of charges under section 33 of the Atomic Energy Act of 1954 (42 U.S.C. 2053) that were made before such date, unless the Secretary determines that such waiver should be continued.

(c) PILOT PROGRAM OF REDUCED FACILITY OVERHEAD CHARGES.—(1) The Secretary may, with the cooperation of participating contractors of the contractor-operated facilities of the Department, carry out a pilot program under which the Secretary and such contractors reduce the facility overhead charges imposed under this section for research and other activities conducted under this section.

(2) The Secretary shall carry out the pilot program at contractor-operated facilities selected by the Secretary in consultation with the contractors concerned.

(3) The Secretary shall determine the facility overhead charges to be imposed under the pilot program based on their joint review of all items included in the overhead costs of the facility concerned in order to determine which items are appropriately incurred as facility overhead charges by the contractor in carrying out research and other activities at such facility under this section.

(4) The Secretary shall commence carrying out the pilot program not later than October 1, 1999, and shall terminate the pilot program on September 30, 2003.

(5) Not later than January 31, 2003, the Secretary shall submit to the congressional defense committees, the Committee on Energy and Natural Resources of the Senate, and other appropriate committees of the House of Representatives an interim report on the results of the pilot program under this subsection. The report shall include any recommendations for the extension or expansion of the pilot program, including the establishment of multiple rates of overhead charges for various categories of persons and entities seeking research and other activities in contractor-operated facilities of the Department.

(d) PARTNERSHIPS AND INTERACTIONS.—(1) The Secretary of Energy may encourage partnerships and interactions between each contractor-operated facility of the Department of Energy and universities and private businesses.

(2) The Secretary may take into account the progress of each contractor-operated facility of the Department in developing and expanding partnerships and interactions under paragraph (1) in evaluating the annual performance of such contractor-operated facility.

(e) SMALL BUSINESS TECHNOLOGY PARTNERSHIP PROGRAM.—(1) The Secretary may require that each contractor operating a facility of the Department establish a program at such facility under which the contractor may enter into partnerships with small businesses at such facility relating to technology.

(2) The amount of funds expended by a contractor under a program under paragraph (1) at a particular facility may not exceed an amount equal to 0.25 percent of the total operating budget of the facility.

(3) Amounts expended by a contractor under a program—

(A) shall be used to cover the costs (including research and development costs and technical assistance costs) incurred by the contractor in connection with activities under the program; and

(B) may not be used for direct grants to small businesses.

(4) The Secretary shall submit to the congressional defense committees, the Committee on Energy and Natural Resources of the Senate, and the appropriate committee of the House of Representatives, together with the budget of the President for each fiscal year that is submitted to Congress under section 1105 of title 31, United States Code, an assessment of the program under this subsection during the preceding year, including the effectiveness of the program in providing opportunities for small businesses to interact with and use the resources of the contractor-operated facilities of the Department, the cost of the program to the Federal government and any impact on the execution of the Department's mission.

WYDEN (AND SMITH) AMENDMENT NO. 3023

Mr. LEVIN (for Mr. WYDEN for himself, and Mr. SMITH of Oregon) proposed an amendment to the bill, S. 2057, supra; as follows:

On page 196, between lines 18 and 19, insert the following:

SEC. 908. MILITARY AVIATION ACCIDENT INVESTIGATIONS.

(a) FINDINGS.—Congress makes the following findings:

(1) In February 1996, the GAO released a report highlighting a 75% reduction in aviation Class A mishaps, a 70% reduction in aviation mishap fatalities and a 65% reduction in Class A mishap rates from 1975–1995 (Military Aircraft Safety—Significant Improvements since 1975).

(2) In February 1998, the GAO completed a follow-up review of military aircraft safety, noting that the military experienced fewer serious aviation mishaps in fiscal years 1996 and 1997 than in previous fiscal years (Military Aircraft Safety; Serious Accidents Remain at Historically Low Levels).

(3) The report required by section 1046 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105-85; 111 Stat. 1888) concluded, "DoD found no evidence that changing existing investigation processes to more closely resemble those of the NTSB would help DoD to find more answers more quickly, or accurately."

(4) The Department of Defense must further improve its aviation safety by fully examining all options for improving or replacing its current aviation accident investigation processes.

(5) The inter-service working group formed as a result of that report has contributed to progress in military aviation accident investigations by identifying ways to improve family assistance, as has the formal policy direction coordinated by the Office of the Secretary of Defense.

(6) Such progress includes the issuance of Air Force Instruction 90-701 entitled "Assistance to Families of Persons Involved in Air Force Aviation Mishaps," that attempts to meet the need for a more timely flow of relevant information to families, a family liaison officer, and the establishment of the Air Force Office of Family Assistance. However, formal policy directions and instructions have not adequately addressed the failure to provide primary next of kin of members of the Armed Forces involved in military aviation accidents with interim reports regarding the course of investigations into such accidents, and the Department of Defense must improve its procedures for informing the families of the persons involved in military aviation mishaps.

(7) The report referred to in paragraph (3) concluded that the Department would "benefit from the disappearance of the misperception that the privileged portion of the safety investigation exists to hide unfavorable information".

(8) That report further specified that "[e]ach Military Department has procedures in place to provide redacted copies of the final [privileged] safety report to the families. However, families must formally request a copy of the final safety investigation report".

(9) Current efforts to improve family notification would be enhanced by the issuance by the Secretary of Defense of uniform regulations to improve the timeliness and reliability of information provided to the primary next of kin of persons involved in military aviation accidents during and following both the legal investigation and safety investigation phases of such investigations.

(b) EVALUATION OF DEPARTMENT OF DEFENSE AVIATION ACCIDENT INVESTIGATION PROCEDURES.—(1) The Secretary of Defense shall establish a task force to—

(A) review the procedures employed by the Department of Defense to conduct military aviation accident investigations; and

(B) identify mechanisms for improving such investigations and the military aviation accident investigation process.

(2) The Secretary shall appoint to the task force the following:

(A) An appropriate number of members of the Armed Forces, including both members of the regular components and the reserve components, who have experience relating to military aviation or investigations into military aviation accidents.

(B) An appropriate number of former members of the Armed Forces who have such experience.

(C) With the concurrence of the member concerned, a member of the National Transportation Safety Board.

(3)(A) The task force shall submit to Congress an interim report and a final report on its activities under this subsection. The interim report shall be submitted on December 1, 1998, and the final report shall be submitted on March 31, 1999.

(B) Each report under subparagraph (A) shall include the following:

(i) An assessment of the advisability of conducting all military aviation accident investigations through an entity that is independent of the military departments.

(ii) An assessment of the effectiveness of the current military aviation accident investigation process in identifying the cause of military aviation accidents and correcting problems so identified in a timely manner.

(iii) An assessment whether or not the procedures for sharing the results of military aviation accident investigations among the military departments should be improved.

(iv) An assessment of the advisability of centralized training and instruction for military aircraft investigators.

(v) An assessment of any costs or cost avoidances that would result from the elimination of any overlap in military aviation accident investigation activities conducted under the current so-called "two-track" investigation process.

(vi) Any improvements or modifications in the current military aviation accident investigation process that the task force considers appropriate to reduce the potential for aviation accidents and increase public confidence in the process.

(c) UNIFORM REGULATIONS FOR RELEASE OF INTERIM SAFETY INVESTIGATION REPORTS.—(1)(A) Not later than May 1, 1999, the Secretary of Defense shall prescribe regulations that provide for the release to the family members of persons involved in military aviation accidents, and to members of the public, of reports referred to in paragraph (2).

(B) The regulations shall apply uniformly to each military department.

(2) A report under paragraph (1) is a report on the findings of any ongoing privileged safety investigation into an accident referred to in that paragraph. Such report shall be in a redacted form or other form appropriate to preserve witness confidentiality and to minimize the effects of the release of information in such report on national security.

(3) Reports under paragraph (1) shall be made available—

(A) in the case of family members, at least once every 30 days or upon the development of a new or significantly changed finding during the course of the investigation concerned; and

(B) in the case of members of the public, on request.

THURMOND (AND OTHERS) AMENDMENT NO. 3024

Mr. WARNER (for Mr. THURMOND for himself, Mr. DOMENICI, Mr. THOMPSON, Mr. BINGAMAN, and Mr. FRIST) proposed an amendment to the bill, S. 2057, supra; as follows:

At the appropriate place add the following: Section 3307 of Title 5, United States Code, is amended as follows:

(1) by striking in subsection (a) "and (d)" and inserting in its place "(d), (e), and (f)"; and

(2) by adding the following new subsection (f) after subsection (e):

"(f) The Secretary of Energy may determine and fix the maximum age limit for an original appointment to a position as a Department of Energy nuclear materials courier, so defined by section 8331(27) of this title.".

SEC. 2. Section 8331 of Title 5, United States Code, is amended as follows: By adding the following new paragraph (27) after paragraph (26):

"(27) Department of Energy nuclear materials courier means an employee of the Department of Energy or its predecessor agencies, the duties of whose position are primarily to transport, and provide armed escort and protection during transit of, nuclear weapons, nuclear weapon components, strategic quantities of special nuclear materials or other materials related to national security, including any employee who remains fully certified to engage in this activity who is transferred to a supervisory, training, or administrative position.".

SEC. 3(a) The first sentence of Section 8334(a)(1) of Title 5. United States Code, is amended by striking "and a firefighter," and inserting in its place "a firefighter, and a Department of Energy nuclear materials courier,".

(b) Section 8334(c) of Title 5, United States Code, is amended by adding the following new schedule after the schedule for a Member of the Capitol Police:

"Department of Energy nuclear materials courier for courier service (while employed by DOE and its predecessor agencies).	5	July 1, 1942 to June 30, 1948.
	6	July 1, 1948 to October 31, 1956.
	6½	November 1, 1956 to December 31, 1969.
	7	January 1, 1970 to December 31, 1974.
	7½	After December 31, 1974.".

SEC. 4. Section 8336(c)(1) of Title 5, United States Code, is amended by striking "or firefighter" and inserting in its place, "a firefighter, or a Department of Energy nuclear materials courier,".

SEC. 5. Section 8401 of Title 5, United States Code, is amended as follows: By adding the following new paragraph (33) after paragraph (32):

"(33) Department of Energy nuclear materials courier means an employee of the Department of Energy or its predecessor agencies, the duties of whose position are primarily to transport, and provide armed escort and protection during transit of, nuclear weapons, nuclear weapons components, strategic quantities of special nuclear materials, or other materials related to national security, including an employee who remains fully certified to engage in this activity who is transferred to a supervisory, training, or administrative position.".

SEC. 6. Section 8412(d) of Title 5, United States Code, is amended by striking "or firefighter" in paragraphs (1) and (2) and inserting in its place, "a firefighter, or a Department of Energy nuclear materials courier,".

SEC. 7. Section 8415(g) of Title 5, United States Code, is amended by striking "firefighter" and inserting in its place "firefighter, Department of Energy nuclear materials courier,".

SEC. 8. Section 8422(a)(3) of Title 5, United States Code, is amended by striking "firefighter" in the schedule and inserting in its place "firefighter, Department of Energy nuclear materials courier,".

SEC. 9. Sections 8423(a)(1)(B)(i) and 9423(a)(3)(A) of Title 5, United States Code, are amended by striking "Firefighters" and inserting in its place "firefighters, Department of Energy nuclear materials couriers,".

SEC. 10. Section 8335(b) of Title 5, United States Code, is amended by adding the words "or Department of Energy Nuclear Materials Couriers" after the word "officer" in the second sentence.

SEC. 11. These amendments are effective at the beginning of the first pay period in fiscal year 2000, and applies only to those employees who retire after fiscal year 1999.

SEC. 12. Any payments made by the Department of Energy to the Civil Service Retirement or Disability Fund pursuant to this Act shall be made from the Weapons Activities account.

JEFFORDS (AND LEAHY) AMENDMENT NO. 3025

Mr. WARNER (for Mr. JEFFORDS for himself and Mr. LEAHY) proposed an amendment to the bill, S. 2057, supra; as follows:

At the end of subtitle C of title X, add the following:

SEC. 1031. REVIEW AND REPORT REGARDING THE DISTRIBUTION OF NATIONAL GUARD RESOURCES AMONG STATES.

(a) REQUIREMENT FOR REVIEW.—The Chief of the National Guard Bureau shall review the process used for allocating and distributing resources, including all categories of full-time manning, among the States for the National Guard of the States.

(b) PURPOSE OF REVIEW.—The purpose of the review is to determine whether the process provides for adequately funding the National Guard of the States that have within the National Guard no unit or few (15 or less) units categorized in readiness tiers I, II, and III.

(c) MATTERS REVIEWED.—The matters reviewed shall include the following:

(1) The factors considered for the process of determining the distribution of resources, including the weights assigned to the factors.

(2) The extent to which the process results in funding for the units of the States described in subsection (b) at the levels necessary to optimize the preparedness of the units to meet the mission requirements applicable to the units.

(3) The effects that funding at levels determined under the process will have on the National Guard of those States in the future, including the effects on all categories of full-time manning, and unit readiness, recruitment, and continued use of existing National Guard armories and other facilities.

(d) REPORT.—Not later than March 15, 1999, the Chief of the National Guard Bureau shall submit a report on the results of the review to the congressional defense committees.

WELLSTONE AMENDMENT NO. 3026

Mr. LEVIN (for Mr. WELLSTONE) proposed an amendment to the bill, S. 2057, supra; as follows:

At the appropriate place, add the following:

Paragraph (1) of section 1076(e) of Title 10, United States Code, is amended to read as follows:

(1) The administering Secretary shall furnish an abused dependent of a former member of a uniformed service described in paragraph (4), during that period that the abused dependent is in receipt of transitional compensation under section 1059 of this title, with medical and dental care, including mental health services, in facilities of the uniformed services in accordance with the same eligibility and benefits as were applicable for that abused dependent during the period of active service of the former member.

WYDEN (AND GRASSLEY) AMENDMENT NO. 3027

Mr. LEVIN (for Mr. Wyden for himself, and Mr. Grassley) proposed an amendment to the bill, S. 2057, supra; as follows:

At the appropriate place, insert the following:

SEC. ___. ELIMINATING SECRET SENATE HOLDS.

(a) Standing Order.—It is a standing order of the Senate that a Senator who provides notice to leadership of his or her intention to object to proceeding to a motion or matter shall disclose the objection or hold in the Congressional Record not later than 2 session days after the date of the notice.

(b) Rulemaking.—This section is adopted—

(1) as an exercise of the rulemaking power of the Senate and as such it is deemed a part of the rules of the Senate and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(2) with full recognition of the constitutional right of the Senate to change its rules at any time, in the same manner, and to the same extent as in the case of any other rule of the Senate.

DOMENICI (AND BINGAMAN) AMENDMENT NO. 3028

Mr. THURMOND (for Mr. Domenici for himself and Mr. Bingaman) proposed an amendment to the bill, S. 2057, supra; as follows:

At the end of subtitle B of title II, add the following:

SEC. 219 LOW COST LAUNCH DEVELOPMENT PROGRAM.

(a) Amount From Air Force Funding.—Of the total amount authorized to be appropriated under section 201(3), $5,000,000 is available for the Low Cost Launch Development Program.

DURBIN AMENDMENT NO. 3029

Mr. LEVIN (for Mr. Durbin) proposed an amendment to the bill, S. 2057, supra; as follows:

At the end of subtitle D of title X, add the following:

SEC. 1064. DEFENSE BURDENSHARING.

(a) Revised Goals for Efforts To Increase Allied Burdensharing.—Subsection (a) of section 1221 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 1935; 22 U.S.C. 1928 note) is amended to read as follows:

"(a) Efforts To Increase Allied Burdensharing.—The President shall seek to have each nation that has cooperative military relations with the United States (including security agreements, basing arrangements, or mutual participation in multinational military organizations or operations) take one or more of the following actions:

"(1) For any nation in which United States military personnel are assigned to permanent duty ashore, increase its financial contributions to the payment of the nonpersonnel costs incurred by the United States Government for stationing United States military personnel in that nation, with a goal of achieving by September 30, 2000, 75 percent of such costs. An increase in financial contributions by any nation under this paragraph may include the elimination of taxes, fees, or other charges levied on United States military personnel, equipment, or facilities stationed in that nation.

"(2) Increase its annual budgetary outlays for national defense as a percentage of its gross domestic product by 10 percent or at least to a percentage level commensurate to that of the United States by September 30, 1999.

"(3) Increase the military assets (including personnel, equipment, logistics, support and other resources) that it contributes or has pledged to contribute to multinational military activities worldwide by 10 percent by September 30, 1999.

"(4) Increase its annual budgetary outlays for foreign assistance (funds to promote democratization, governmental accountability and transparency, economic stabilization and development, defense economic conversion, respect for the rule of law and internationally recognized human rights, or humanitarian relief efforts) by 10 percent, or to provide such foreign assistance at a minimum annual rate equal to one percent of its gross domestic product, by September 30, 1999.".

(b) Revised Requirement for Report on Progress in Increasing Allied Burdensharing.—Subsection (c) of such section is amended to read as follows:

"(c) Report on Progress in Increasing Allied Burdensharing.—Not later than March 1, 1999, the Secretary of Defense shall submit to Congress a report on—

"(1) steps taken by other nations toward completing the actions described in subsection (a);

"(2) all measures taken by the President, including those authorized in subsection (b), to achieve the actions described in subsection (a);

"(3) the difference between the amount allocated by other nations for each of the actions described in subsection (a) during the period beginning on October 1, 1996, and ending on September 30, 1997, and during the period beginning on October 1, 1997, and ending on September 30, 1998, or, in the case of any nation for which the data for such periods is inadequate, the difference between the amounts for the latest periods for which adequate data is available; and

"(4) the budgetary savings to the United States that are expected to accrue as a result of the steps described under paragraph (1).".

(c) Extension of Deadline for Report Regarding National Security Bases for Forward Deployment and Burdensharing Relationships.—Subsection (d)(2) of such section is amended by striking out "March 1, 1998" and inserting in lieu thereof "March 1, 1999".

GRAHAM (AND BENNETT) AMENDMENT NO. 3030

Mr. LEVIN (for Mr. Graham for himself and Mr. Bennett) proposed an amendment to the bill, S. 2057, supra; as follows:

On page 213, between lines 21 and 22, insert the following:

(a) Findings.—Congress makes the following findings:

(1) Because of the way computers store and process dates, most computers will not function properly, or at all, after January 1, 2000, a problem that is commonly referred to as the year 2000 problem.

(2) The United States Government is currently conducting a massive program to identify and correct computer systems that suffer from the year 2000 problem.

(3) The cost to the Department of Defense of correcting this problem in its computer systems has been estimated to be more than $1,000,000,000.

(4) Other nations have failed to initiate aggressive action to identify and correct the year 2000 problem within their own computers.

(5) Unless other nations initiate aggressive actions to ensure the reliability and stability of certain communications and strategic systems, United States nationally security may be jeopardized.

On page 213, line 22, strike out "(a)" and insert in lieu thereof "(b)".

On page 214, line 7, strike out "(b)" and insert in lieu thereof "(c)".

On page 215, between lines 20 and 21, insert the following:

(9) The countries that have critical computer-based systems any disruption of which, due to not being year 2000 compliant, would cause a significant potential national security risk to the United States.

(10) A discussion of the cooperative arrangements between the United States and other nations to assist those nations in identifying and correcting (to the extent necessary to meet national security interests of the United States) any problems in their communications and strategic systems, or other systems identified by the Secretary of Defense, that make the systems not year 2000 compliant.

(11) A discussion of the threat posed to the national security interests of the United States from any potential failure of strategic systems of foreign countries that are not year 2000 compliant.

On page 215, line 21, strike out "(c)" and insert in lieu thereof "(d)".

On page 215, between lines 23 and 24, insert the following:

(e) International Cooperative Arrangements.—The Secretary of Defense, with the concurrence of the Secretary of State may enter into a cooperative arrangement with a representative of any foreign government to provide for the United States to assist the foreign government in identifying and correcting (to the extent necessary to meet national security interests of the United States) any problems in communications, strategic, or other systems of that foreign government that make the systems not year 2000 compliant.

On page 215, line 24, strike out "(d)" and insert in lieu thereof "(f)".

WARNER (AND SANTORUM) AMENDMENT NO. 3031

Mr. WARNER (for himself and Mr. Santorum) proposed an amendment to the bill, S. 2057, supra; as follows:

Strike out the matter proposed to be inserted, and insert in lieu thereof the following:

SEC. 1064. REVIEW OF DEFENSE AUTOMATED PRINTING SERVICE FUNCTIONS.

(a) Review Required.—The Secretary of Defense shall provide for a review of the functions of the Defense Automated Printing Service in accordance with this section and submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives the matters required under subsection (d) not later than March 31, 1999.

(b) Performance by Independent Entity.—The Secretary of Defense shall select the General Accounting Office, an experienced entity in the private sector, or any other entity outside the Department of Defense to perform the review. The Comptroller

General shall perform the review if the Secretary selects the Comptroller General to do so.

(c) Report.—The entity performing the review under this section shall submit to the Secretary of Defense a report that sets forth the findings and recommendations of that entity resulting from the review. The report shall contain the following:

(1) The functions that are inherently national security functions and, as such, need to be performed within the Department of Defense, together with a detailed justification for the determination for each such function.

(2) The functions that are appropriate for transfer to another appropriate entity to perform, including private sector entity.

(3) Any recommended legislation and any administrative action that is necessary for transferring or outsourcing the functions.

(4) A discussion of the costs or savings associated with the transfers or outsourcing.

(5) A description of the management structure of the Defense Automated Printing Service.

(6) A list of all sites where functions of the Defense Automated Printing Service are performed by the Defense Automated Printing Service.

(7) The total number of the personnel employed by the Defense Automated Printing Service and the locations where the personnel perform the duties as employees.

(8) A description of the functions performed by the Defense Automated Printing Service and, for each such function, the number of employees of the Defense Automated Printing Service that perform the function.

(9) For each site identified under paragraph (6), an assessment of each type of equipment at the site.

(10) The type and explanation of the networking and technology integration linking all of the sites referred to in paragraph (6).

(11) The current and future requirements of customers of the Defense Automated Printing Service.

(12) An assessment of the effectiveness of the current structure of the Defense Automated Printing Service in supporting current and future customer requirements and plans to address any deficiencies in supporting such requirements.

(13) A description and discussion of the best business practices that are used by the Defense Automated Printing Service and of other best business that could be used by the Defense Automated Printing Service.

(14) Options for maximizing the Defense Automated Printing Service structure and services to provide the most cost effective service to its customers.

(d) Review and Comments of Secretary of Defense.—(1) After reviewing the report, the Secretary of Defense shall submit the report to Congress, together with the Secretary's comments on the report and a plan to transfer or outsource from the Defense Automated Printing Service to another appropriate entity the functions of the Defense Automated Printing Service that—

(1) are not identified in the report as being inherently national security functions; and

(2) the Secretary believes should be transferred or outsourced for performance outside the Department of Defense in accordance with law.

(e) Extension of Requirement for Competitive Procurement of Services.—Section 351(a) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 266), as amended by section 351(a) of Public Law 104–201 (110 Stat. 2490) and section 387(a)(1) of Public Law 105–85 (111 Stat. 1713), is further amended by striking out "1998" and inserting in lieu thereof "1999".

SANTORUM AMENDMENT NO. 3032

Mr. WARNER (for Mr. Santorum) proposed an amendment to the bill, S. 2057, supra; as follows:

On page 14, line 23, increase the amount by $17,000,000.

On page 42, line 23, reduce the amount by $17,000,000.

SANTORUM AMENDMENT NO. 3033

Mr. WARNER (for Mr. Santorum) proposed an amendment to the bill, S. 2057, supra; as follows:

On page 157, between lines 13 and 14, insert the following:

The program under this section will allow retail to compete for services in delivery of pharmacy benefits without increasing costs to the government or the beneficiaries.

DORGAN (AND CONRAD) AMENDMENT NO. 3034

Mr. WARNER (for Mr. Dorgan for himself and Mr. Conrad) proposed an amendment to the bill, S. 2057, supra; as follows:

On page 342, below line 22, add the following:

SEC. 2827. MODIFICATION OF LAND CONVEYANCE AUTHORITY, FINLEY AIR FORCE STATION, FINLEY, NORTH DAKOTA.

Section 2835 of the Military Construction Authorization Act for Fiscal Year 1995 (division B of Public Law 103–337; 108 Stat. 3063) is amended—

(1) by striking out subsections (a), (b), and (c) and inserting in lieu thereof the following new subsections (a), (b), and (c):

"(a) Conveyance Authorized.—(1) The Secretary of the Air Force may convey, without consideration, to the City of Finley, North Dakota (in this section referred to as the 'City'), all right, title, and interest of the United States in and to the parcels of real property, including any improvements thereon, in the vicinity of Finley, North Dakota, described in paragraph (2).

"(2) The real property referred to in paragraph (1) is the following:

"(A) A parcel of approximately 14 acres that served as the support complex of the Finley Air Force Station and Radar Site.

"(B) A parcel of approximately 57 acres known as the Finley Air Force Station Complex.

"(C) A parcel of approximately 6 acres that includes a well site and wastewater treatment system.

"(3) The purpose of the conveyance authorized by paragraph (1) is to encourage and facilitate the economic redevelopment of Finley, North Dakota, following the closure of the Finley Air Force Station and Radar Site.

"(b) Reversion.—If the Secretary determines at any time that the real property conveyed under subsection (a) is not being used for purposes of the economic development of Finley, North Dakota, all right, title, and interest in and to the property, including any improvements thereon, shall revert to the United States, and the United States shall have the right of immediate entry thereon."; and

(c) Abatement.—The Secretary of the Air Force may, prior to conveyance, abate any hazardous substances, in the improvements to be conveyed.

BIDEN (AND LEVIN) AMENDMENT NO. 3035

Mr. LEVIN (for Mr. Biden for himself and Mr. Levin) proposed an amendment to the bill, S. 2057, supra; as follows:

At the end of subtitle C of title X, add the following:

SEC. 1031. REPORT ON THE PEACEFUL EMPLOYMENT OF FORMER SOVIET EXPERTS ON WEAPONS OF MASS DESTRUCTION.

(a) Report Required.—Not later than January 31, 1999, the Secretary of Defense shall submit to the congressional defense committees a report on the need for and the feasibility of programs, other than those involving the development or promotion of commercially viable proposals, to further United States nonproliferation objectives regarding former Soviet experts in ballistic missiles or weapons of mass destruction. The report shall contain an analysis of the following:

(1) The number of such former Soviet experts who are, or are likely to become within the coming decade, unemployed, underemployed, or unpaid and, therefore, at risk of accepting export orders, contracts, or job offers from countries developing weapons of mass destruction.

(2) The extent to which the development of nonthreatening, commercially viable products and services, with or without United States assistance, can reasonably be expected to employ such former experts.

(3) The extent to which projects that do not involve the development of commercially viable products or services could usefully employ additional such former experts.

(4) The likely cost and benefits of a 10-year program of United States or international assistance to projects of the sort discussed in paragraph (3).

(b) Consultation Requirement.—The report shall be prepared in consultation with the Secretary of State, the Secretary of Energy, and such other officials as the Secretary of Defense considers appropriate.

KYL (AND MURKOWSKI) AMENDMENT NO. 3036

Mr. WARNER (for Mr. Kyl for himself and Mr. Murkowski) proposed an amendment to the bill, S. 2057, supra; as follows:

On page 268, between lines 8 and 9, insert the following:

SEC. 1064. INCREASED MISSILE THREAT IN ASIA-PACIFIC REGION.

(a) Study.—The Secretary of Defense shall carry out a study of the architecture requirements for the establishment and operation of a theater ballistic missile defense system in the Asia-Pacific region that would have the capability to protect key regional allies of the United States.

(b) Report.—(1) Not later than January 1, 1999, the Secretary shall submit to the Committee on National Security of the House of Representatives and the Committee on Armed Services of the Senate a report containing—

(A) the results of the study conducted under subsection (a);

(B) the factors used to obtain such results; and

(C) a description of any existing United States missile defense system that could be transferred to key allies of the United States in the Asia-Pacific region to provide for their self-defense against limited ballistic missile attacks.

(2) The report shall be submitted in both classified and unclassified form.

BINGAMAN (AND DOMENICI) AMENDMENT NO. 3037

Mr. LEVIN (for Mr. BINGAMAN for himself and Mr. DOMENICI) proposed an amendment to the bill. S. 2057, supra; as follows:

On page 397, between lines 6 and 7, insert the following:

SEC. 3137. RELOCATION OF NATIONAL ATOMIC MUSEUM, ALBUQUERQUE, NEW MEXICO.

The Secretary of Energy shall submit to the Defense Committees of Congress a plan for the design, construction and relocation of the National Atomic Museum in Albuquerque, New Mexico.

MURKOWSKI AMENDMENT NO. 3038

Mr. WARNER (for Mr. MURKOWSKI) proposed an amendment to the bill, S. 2057, supra; as follows:

At the appropriate place, insert:

The Senate finds that:

(1) Compliance with international obligations to destroy the U.S. chemical stockpile by April 28, 2007, as required under the Chemical Weapons Convention (CWC), is a national priority.

(2) The President should ensure that the Department of Defense and the Department of the Army receive all necessary assistance from federal agencies in expediting and accelerating the destruction of the lethal chemical stockpile.

(3) The Environmental Protection Agency, as one of the federal agencies with responsibilities to assist the Department of Defense and the Department of the Army, has asserted that is not adequately funded to provide, or meet its national responsibilities under the Resource Conservation and Recovery Act (RCRA) permitting requirements in order to assist the U.S. government in meeting its international obligations to destroy its lethal chemical stockpile.

(4) The Environmental Protection Agency (EPA) should work in concert with the State and local governments in this process, and that they should properly budget for this process.

REPORT REQUIRED. The Department of Defense, in coordination with the Environmental Protection Agency, shall report to the congressional defense committees by April 1, 1999, on the following:

(1) responsibilities associated with obligations under the Resource Conservation and Recovery Act (RCRA) permitting process related to U.S. international obligations under the CWC to destroy the U.S. chemical stockpile;

(2) technical assistance provided by the EPA to its regional offices and the States and local governments in the permitting process, and how that assistance facilitates the issuance of the environmental permits at the various sites;

(3) responsibility of the Department of Defense to provide funding to the EPA, for the facilitation of meetings of the National Chemical Agent Demilitarization Workgroup, meetings between the Office of Solid Waste and the affected EPA Regional Offices and States; and meetings between the Office of Solid Waste, the Program Manager for Chemical Demilitarization and the Department of Defense; and,

(4) responsibility of the Department of Defense and the Department of the Army to provide funds to the Environmental Protection Agency to hire full-time equivalents to assist in the formulation of RCRA permits.

BYRD AMENDMENT NO. 3039

Mr. LEVIN (for Mr. BYRD) proposed an amendment to the bill, S. 2057, supra; as follows:

At the end of title VII, add the following:

SEC. 708. PROCESS FOR WAIVING INFORMED CONSENT REQUIREMENT FOR ADMINISTRATION OF CERTAIN DRUGS TO MEMBERS OF ARMED FORCES.

(a) LIMITATION AND WAIVER.—(1) Section 1107 of title 10, United States Code, is amended—

(A) by redesignating subsection (f) as subsection (g); and

(B) by inserting after subsection (e) the following new subsection (f):

"(f) LIMITATION AND WAIVER.—(1) An investigational new drug or a drug unapproved for its applied use may not be administered to a member of the armed forces pursuant to a request or requirement referred to in subsection (a) unless—

"(A) the member provides prior consent to receive the drug in accordance with the requirements imposed under the regulations required under paragraph (4) of section 505(i) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(i)); or

"(B) the Secretary obtains—

"(i) under such section a waiver of such requirements; and

"(ii) a written statement that the President concurs in the determination of the Secretary required under paragraph (2) and with the Secretary's request for the waiver.

"(2) The Secretary of Defense may request a waiver referred to in paragraph (1)(B) in the case of any request or requirement to administer a drug under this section if the Secretary determines that obtaining consent is not feasible, is contrary to the best interests of the members involved, or is not in the best interests of national security. Only the Secretary may exercise the authority to make the request for the Department of Defense, and the Secretary may not delegate that authority.

"(3) The Secretary shall submit to the chairman and ranking minority member of each congressional defense committee a notification of each waiver granted pursuant to a request of the Secretary under paragraph (2), together with the concurrence of the President under paragraph (1)(B) that relates to the waiver and the justification for the request or requirement under subsection (a) for a member to receive the drug covered by the waiver.

"(4) In this subsection, the term 'congressional defense committee' means each of the following:

"(A) The Committee on Armed Services and the Committee on Appropriations of the Senate.

"(B) The Committee on National Security and the Committee on Appropriations of the House of Representatives.".

(2) The requirements for a concurrence of the President and a notification of committees of Congress that are set forth in section 1107(f) of title 10, United States Code (as added by paragraph (1)(B)) shall apply with respect to—

(A) each waiver of the requirement for prior consent imposed under the regulations required under paragraph (4) of section 505(i) of the Federal Food, Drug, and Cosmetic Act (or under any antecedent provision of law or regulations) that—

(i) has been granted under that section (or antecedent provision of law or regulations) before the date of the enactment of this Act; and

(ii) is applied after that date; and

(B) each waiver of such requirement that is granted on or after that date.

(b) TIME AND FORM OF NOTICE.—(1) Subsection (b) of such section is amended by striking out ", if practicable" and all that follows through "first administered to the member".

(2) Subsection (c) of such section is amended by striking out "unless the Secretary of Defense determines" and all that follows through "alternative method".

HUTCHISON AMENDMENT NO. 3040

Mr. WARNER (for Mrs. HUTCHISON) proposed an amendment to the bill, S. 2057, supra; as follows:

On page 342, below line 22, add the following:

SEC. 2827. CONVEYANCE OF UTILITY SYSTEMS, LONE STAR ARMY AMMUNITION PLANT, TEXAS.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey at fair market value all right, title, and interest of the United States in and to any utility system, or part thereof, including any real property associated with such system, at the Lone Star Army Ammunition Plant, Texas, to the redevelopment authority for the Red River Army Depot, Texas, in conjunction with the disposal of property at the Depot under the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note).

(b) CONSTRUCTION.—Nothing in subsection (a) may be construed to prohibit or otherwise limit the Secretary from conveying any utility system referred to in that subsection under any other provision of law, including section 2688 of title 10, United States Code.

(c) UTILITY SYSTEM DEFINED.—In this section, the term "utility system" has the meaning given that term in section 2688(g) of title 10, United States Code.

MURKOWSKI AMENDMENT NO. 3041

Mr. WARNER (for Mr. MURKOWSKI) proposed an amendment to the bill, S. 2057, supra; as follows:

At the appropriate place in the bill insert the following:

SEC. .

No later than December 1, 1998, the Secretary shall submit to the Congress a report recommending alternative means through which a refiner that qualifies as a small disadvantaged business and that delivers fuel by barge to Defense Energy Supply Point-Anchorage under a contract with the Defense Energy Supply Center can—

(a) fulfill its contractual obligations,

(b) maintain its status as a small disadvantaged business, and

(c) receive the small disadvantaged business premium for the total amount of fuel under the contract,

when ice conditions in Cook Inlet threaten physical delivery of such fuel.

Any inability by such refiner to satisfy its contractual obligations to the Defense Energy Supply Center for the delivery of fuel to Defense Energy Supply Point-Anchorage may not be used as a basis for the denial of such refiner's small disadvantaged business status or small disadvantaged business premium for the total amount of fuel under the contract where such inability is a result of ice conditions in Cook Inlet, through February 1999, as determined by the U.S. Coast Guard and if the Secretary of Defense determines that such inability will result in an inequity to the refiner.

HUNA TOTEM CORPORATION LAND EXCHANGE ACT

MURKOWSKI AMENDMENT NO. 3042

Mr. BURNS (for Mr. MURKOWSKI) proposed an amendment to the bill (S. 1158) to amend the Alaska Native Claims Settlement Act, regarding the Huna Totem Corporation public interest land exchange, and for other purposes; as follows:

In lieu of the Committee substitute strike all after Section 1. And insert the following:

SEC. 2. AMENDMENT OF SETTLEMENT ACT.

The Alaska Native Claims Settlement Act (Public Law 92-203, December 18, 1971, 85 Stat. 688, 43 U.S.C. 1601, et seq.), as amended, is further amended by adding a new section to read:

"SEC. . HUNA TOTEM CORPORATION LAND EXCHANGE.

"(a) GENERAL.—In exchange for lands and interests therein described in subsection (b), the Secretary of Agriculture shall, subject to valid existing rights, convey to the Huna Totem Corporation the surface estate and to Sealaska Corporation the subsurface estate of the Federal lands identified by Huna Totem Corporation pursuant to subsection (c): *Provided*, That, the exchange of lands described in this section shall be on the basis of equal value.

"(b) The surface estate to be conveyed by Huna Totem Corporation and the subsurface estate to be conveyed by Sealaska Corporation to the Secretary of Agriculture are the municipal watershed lands as shown on the map dated September 1, 1997, and labeled attachment A, and are further described as follows:

MUNICIPAL WATERSHED AND GREENBELT BUFFER—T43S, R61E, C.R.M.

Portion of Section:

	Approximate acres
16	2
21	610
22	227
23	35
26	447
27	400
33	202
34	76
Approximate total	1,999

"(c) Within ninety (90) days of the receipt by the United States of the conveyances of the surface estate and the subsurface estate described in subsection (b), Huna Totem Corporation shall be entitled to identify lands readily accessible to the Village of Hoonah and, where possible, located on the road system to the Village of Hoonah, as depicted on the map dated September 1, 1997, and labeled Attachment B. Huna Totem Corporation shall notify the Secretary of Agriculture in writing which lands Huna Totem Corporation has identified.

"(d) TIMING OF CONVEYANCE AND VALUATION.—The conveyance mandated by subsection (a) by the Secretary of Agriculture shall occur within ninety (90) days after the list of identified lands is submitted by Huna Totem Corporation pursuant to subsection (c).

"(e) TIMBER MANUFACTURING; EXPORT RESTRICTION.—Notwithstanding any other provision of law, timber harvested from land conveyed to Huna Totem Corporation under this section is not available for export as unprocessed logs from Alaska, nor may Huna Totem Corporation sell, trade, exchange, substitute, or otherwise convey that timber to any person for the purpose of exporting that timber from the State of Alaska.

"(f) RELATION TO OTHER REQUIREMENTS.—The land conveyed to Huna Totem Corporation and Sealaska Corporation under this section shall be considered, for all purposes, land conveyed under the Alaska Native Claims Settlement Act.

"(g) MAPS.—The maps referred to in this section shall be maintained on file in the Office of the Chief, United States Forest Service, and in the Office of the Secretary of the Interior, Washington, D.C. The acreage cited in this section is approximate, and if a discrepancy arises between cited acreage and the land depicted on the specified maps, the maps shall control. The maps do not constitute an attempt by the United States to convey State or private land."

KAKE TRIBAL CORPORATION LAND EXCHANGE ACT

MURKOWSKI AMENDMENT NO. 3043

Mr. BURNS (for Mr. MURKOWSKI) proposed an amendment to the bill (S. 1159) to amend the Alaska Native Claims Settlement Act, regarding the Kake Tribal Corporation public interest land exchange, and for other purposes; as follows:

In lieu of the Committee substitute strike all after Section 1. And insert the following:

SEC. 2. AMENDMENT OF SETTLEMENT ACT.

The Alaska Native Claims Settlement Act (Public Law 92-203, December 18, 1971, 85 Stat. 688, 43 U.S.C. 1601 et seq.), as amended, is further amended by adding at the end thereof:

"SEC. . KAKE TRIBAL CORPORATION LAND EXCHANGE.

"(a) GENERAL.—In exchange for lands and interests therein described in subsection (b), the Secretary of Agriculture shall, subject to valid existing rights, convey to the Kake Tribal Corporation the surface estate and to Sealaska Corporation the subsurface estate of the Federal land identified by Kake Tribal Corporation pursuant to subsection (c): *Provided*, That, the exchange of lands described in this section shall be on the basis of equal value.

"(b) The surface estate to be conveyed by Kake Tribal Corporation and the subsurface estate to be conveyed by Sealaska Corporation to the Secretary of Agriculture are the municipal watershed lands as shown on the map dated September 1, 1997, and labeled Attachment A, and are further described as follows:

MUNICIPAL WATERSHED COPPER RIVER MERIDIAN—T56S, R72E

Section:

	Approximate acres
13	82
23	118
24	635
25	640
26	346
34	9
35	349
36	248
Approximate total	2,427

"(c) Within ninety (90) days of the receipt by the United States of the conveyances of the surface estate and the subsurface estate described in subsection (b), Kake Tribal Corporation shall be entitled to identify lands in the Hamilton Bay and Saginaw Bay areas, as depicted on the maps dated September 1, 1997, and labeled Attachments B and C. Kake Tribal Corporation shall notify the Secretary of Agriculture in writing which lands Kake Tribal Corporation has identified.

"(d) TIMING OF CONVEYANCE AND VALUATION.—The conveyance mandated by subsection (a) by the Secretary of Agriculture shall occur within ninety (90) days after the list of identified lands is submitted by Kake Tribal Corporation pursuant to subsection (c).

"(e) MANAGEMENT OF WATERSHED.—The Secretary of Agriculture shall enter into a Memorandum of Agreement with the City of Kake, Alaska, to provide for management of the municipal watershed.

"(f) TIMBER MANUFACTURING; EXPORT RESTRICTION.—Notwithstanding any other provision of law, timber harvested from land conveyed to Kake Tribal Corporation under this section is not available for export as unprocessed logs from Alaska, nor may Kake Tribal Corporation sell, trade, exchange, substitute, or otherwise convey that timber to any person for the purpose of exporting that timber from the State of Alaska.

"(g) RELATION TO OTHER REQUIREMENTS.—The land conveyed to Kake Tribal Corporation and Sealaska Corporation under this section shall be considered, for all purposes, land conveyed under the Alaska Native Claims Settlement Act.

"(h) MAPS.—The maps referred to in this section shall be maintained on file in the Office of the Chief, United States Forest Service, and in the Office of the Secretary of the Interior, Washington, D.C. The acreage cited in this section is approximate, and if a discrepancy arises between cited acreage and the land depicted on the specified maps, the maps shall control. The maps do not constitute an attempt by the United States to convey State or private land.

MINIDOKA PROJECT ACT OF 1998

CRAIG AMENDMENT NO. 3044

Mr. BURNS (for Mr. CRAIG) proposed an amendment to the bill (S. 538) to authorize the Secretary of the Interior to convey certain facilities of the Minidoka project to the Burley Irrigation District, and for other purposes; as follows:

Paragraph 1(c)(1) of the Committee amendment is modified to read as follows:

"(1) TRANSFER.—(A) Subject to subparagraphs (B) and (C), the Secretary shall transfer to Burley, through an agreement among Burley, the Minidoka Irrigation district, and the Secretary, in accordance with and subject to the law of the State of Idaho, all natural flow, waste, seepage, return flow, and groundwater rights held in the name of the United States—

(1) for the benefit of the Minidoka Project or specifically for the Burley Irrigation District; and

(2) that are for use on lands within the Burley Irrigation District; and

(3) which are set forth in contracts between the United States and Burley or in the decree of June 20, 1913 of the District Court of the Fourth Judicial District of the State of Idaho, in and for the County of Twin Falls, in the case of *Twin Falls Canal Company* v. *Charles N. Foster, et al.*, commonly referred to as the "Foster decree".

"(B) Any rights that are presently held for the benefit of lands within both the Minidoka Irrigation District and the Burley Irrigation District shall be allotted in such manner so as to neither enlarge nor diminish the respective rights of either district in such water rights as described in contracts between Burley and the United States.

"(C) The transfer of water rights in accordance with this paragraph shall not impair the integrated operation of the Minidoka Project, affect any other adjudicated rights, or result in any adverse impact on any other project water user."

MILITARY CONSTRUCTION APPROPRIATIONS ACT, 1999

BURNS AMENDMENT NO. 3045

Mr. BURNS proposed an amendment to the bill (H.R. 4059) making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 1999, and for other purposes; as follows:

At the appropriate place insert the following:

SEC. . (a) Notwithstanding any other provision of this Act, the amount appropriated by the heading "MILITARY CONSTRUCTION, NAVY" is hereby increased by $5,780,000.

(b) Notwithstanding any other provision of this Act, the amount appropriated by the heading "MILITARY CONSTRUCTION, DEFENSE-WIDE" is hereby decreased by $11,000,000.

(c) Notwithstanding any other provision of this Act—

(1) the amount appropriated by the heading "FAMILY HOUSING, AIR FORCE" is hereby increased by $5,220,000; and

(2) the amount appropriated by that heading for Construction is hereby increased by $5,220,000.

THOMAS (AND ENZI) AMENDMENT NO. 3046

Mr. BURNS (for Mr. THOMAS for himself and Mr. ENZI) proposed an amendment to the bill, supra, as follows:

At the appropriate place insert the following:

SEC. . (a) Notwithstanding any other provision of this Act, the amount appropriated by this Act under the heading "MILITARY CONSTRUCTION, ARMY NATIONAL GUARD" is hereby increased by $12,716,000.

(b) Notwithstanding any other provision of this Act, the amount appropriated by this Act under the heading "MILITARY CONSTRUCTION, ARMY RESERVE" is hereby decreased by $12,716,000.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. WARNER. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be allowed to meet during the session of the Senate on Thursday, June 25, 1998. The purpose of this meeting will be to mark up child nutrition and WIC reauthorization legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. WARNER. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Thursday, June 25, 1998, to conduct a hearing on H.R. 10, the "Financial Services Act of 1998".

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. WARNER. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Thursday, June 25, for purposes of conducting a full committee hearing which is scheduled to begin at 9:30 a.m. The purpose of this hearing is to consider the nomination of William J. Massey to be a Member of the Federal Energy Regulatory Commission.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. WARNER. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, June 25, 1998, at 2:00 p.m. to hold a hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. WARNER. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Committee to meet on Thursday, June 25, 1998, at 10:30 a.m. for a hearing on Defense Technology Security Administration role in the interagency decision process of approving critical technology exports.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. WARNER. Mr. President, I ask unanimous consent that the Committee on the Judiciary, be authorized to hold an executive business meeting during the session of the Senate on Thursday, June 25, 1998, at 9:00 a.m., in room 226 of the Senate Dirksen Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. WARNER. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet for a hearing on Health Insurance and Older Workers during the session of the Senate on Thursday, June 25, 1998, at 10:00 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. WARNER. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, June 25, 1998 at 10:00 a.m. to hold a closed hearing on Intelligence Matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ADMINISTRATIVE OVERSIGHT AND THE COURTS

Mr. WARNER. Mr. President, I ask unanimous consent that the Subcommittee on Administrative Oversight and the Courts, of the Senate Judiciary Committee, be authorized to meet during the session of the Senate on Thursday, June 25, 1998 at 2:00 p.m. to hold a hearing in room 226, Senate Dirksen Building, on: "A Review of the Judgeship Needs of the 6th and 7th Circuits."

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON FORESTS AND PUBLIC LAND MANAGEMENT

Mr. WARNER. Mr. President, I ask unanimous consent that the Subcommittee on Forests and Public Land Management of the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Thursday, June 25, for purposes of conducting a subcommittee hearing which is scheduled to begin at 2:00 p.m. The purpose of this hearing is to receive testimony on S. 2146, a bill to provide for the exchange of certain lands within the State of Utah.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

60TH ANNIVERSARY OF THE FAIR LABOR STANDARDS ACT

• Mrs. FEINSTEIN. Mr. President, today we honor the 60th anniversary of the historic Fair Labor Standards Act. The Fair Labor Standards Act is landmark legislation, creating the federal minimum wage, establishing the forty-hour work week and banning oppressive child labor practices. Each element is an important component in our federal commitment to workers and their families.

We can all appreciate the current strength of the economy: 300,000 more Americans started new jobs in May alone; unemployment was steady at 4.3%, the lowest in 28 years; and median family income has increased for three years in a row and today, more Americans own their own homes than ever before.

However, while the U.S. economy is expanding, all Americans are not sharing equally in the benefits of the growing economy. Despite growth in both gross domestic product and employment between 1989 and 1994, median family income in 1994 was still $2,168 lower than it was in 1989. In the current economy, growth is not leading to improved economic well-being for typical families. Some working families, particularly single women, are falling further and further behind. For these families, a minimum wage increase is not a windfall, but a necessary step to allow them to attain a real "living wage." This uneven growth should concern us all in Congress.

The Clinton Administration's plan is to increase the current minimum wage of $5.15 by $0.50 in January 1999 and another $0.50 a year later, resulting in a wage floor of $6.15 in the year 2000. I support the proposal and would like to take a moment to put the proposed increase in context. If we do nothing, the minimum wage in the year 2000 would be equal to $4.82, a level that cannot support a family. The administration proposal, if fully implemented in the year 2000, would result in a minimum wage of $6.15 per hour. However, based on the inflation estimates of the Congressional Budget Office, that $6.15 wage in the year 2000 would equal only $5.72 in today's dollars.

The proposed increase would move the minimum wage back to the level of the early 1980s, before inflation was allowed to erode the real value of the minimum wage by 30 percent. Throughout the 1960s and much of the 1970s, the minimum wage was as much as a dollar above the current proposal. The fact is that the minimum wage increases in the 1990s, including the one currently under consideration, will only restore some of the lost ground and real earning power of America's lowest paid workers.

Despite the 1996 increase, the minimum wage remains below its real value from 1956 through 1983. And if no action is taken, its value will once again erode over time. From 1980 through 1995, inflation rose 86 percent, but the minimum wage increased by only 27 percent. As a result, working families fall further and further behind. Because of inflation, it now takes $7.33 to buy what the minimum wage did in 1968. The current minimum wage of $5.15 has nearly 30% less buying power than it did thirty years ago. That's unfair for low-income individuals, struggling to provide for themselves and their families.

Since the late 1970s, wage inequality has grown steadily. Wage inequality is the gap between those at the bottom, the middle of the wage scale and those earning the highest income. In 1996, the wealthiest one-fifth of the population, those whose earnings place them in the highest 20% of household earnings, collected 49% of all national income, an increase from 42.8 percent in 1968. By contrast, the share earned by the remaining 80 percent of all Americans declined. The decline in the real value of the minimum wage is a large part of this widening gap. By raising the minimum back to its 1979 level, we can help close the gap and ensure that low-wage workers get a fairer share of the economic growth. The minimum wage helps workers get their fair share of our economic growth and prosperity, raising wages for millions of workers across the country.

The 60-year-old Fair Labor Standards Act serves as our basic commitment to America's workers. FLSA was subsequently amended by the Pay Equity Act roughly thirty-five years ago, pledging equal pay for equal work. Of the 12 million workers who would benefit from an increase in the minimum wage, 60% are women. Pay equity is an important issue in the minimum wage debate.

Today, the median annual earnings for women is only 71% of a man's earnings, just 71 cents for each dollar. Expressed another way, the median annual income for women in 1995, less than $22,500, was the male median earnings level of the early 1980s. We've all been through the 1980s and shouldn't be expected to go back.

After more than a decade of wage growth for most women, the bottom two-thirds of women in the workforce saw their wages decline between 1989 and 1995. At the same time, jobs have become less secure and less likely to offer health and pension benefits.

By increasing the minimum wage, we can provide strong support and raise family income for low income families across the country, helping to address widening income inequality for women, particularly single women raising children.

Who are minimum wage workers? They are men and women who operate airport metal detectors and X-ray machines at Los Angeles International airport are among those making the state's minimum wage of $5.75 an hour. They receive no benefits, no sick days, and no vacation, and yet they protect the safety of millions of passengers who travel though the nation's second-busiest airport every year.

Minimum wage workers are disproportionately women, often single heads of households with children. The average minimum wage worker is responsible for providing more than half of his or her family's earnings. Working 40 hours a week, 52 weeks a year, a minimum wage worker earns $10,712 a year, approximately $2,900 below the poverty level for a family of three.

During the successful 1996 effort to increase the minimum wage, opposition in the business community argued the increase would trigger a loss of minimum wage jobs. However, recent studies suggest otherwise. A review of the 1996 minimum wage increase found the increase raised wages of almost 10 million workers. Approximately 71 percent of those were adults, with roughly half working full time, and another third worked 20 to 34 hours a week. The study found no impact on the level of jobs or inflation, but workers got the raise they deserve.

Contrary to Republican critics, the increases were well-targeted, disproportionately benefiting low-income working households. The poorest 20% of American households, those with an average income of $15,728, received 35 percent of the benefits from the minimum wage increase. Raising the minimum wage lifts family income for low-income workers, without the adverse effects and job loss claimed.

During the 1996 welfare reform debate, there was widespread support for the concept of "making welfare work." Raising the minimum wage is particularly important for those moving off welfare as a result of welfare reform. We need to make sure these workers are able to find work that enables them to make ends meet. Minimum wage workers are primarily adults, with more than half serving as their family's primary wage earner. Raising the minimum wage plays an important role in moving people from welfare assistance to supporting themselves and their family.

An Oregon study found that, following an increase in the state minimum wage, the average wage of an individual leaving welfare increased as well. By contrast, the average wage of an individual leaving welfare fell by 5 percent in the years prior to the increase. Nearly one-third who found work, and one-half of those finding part-time work, received the minimum wage. A strong minimum wage offers strong protection for low-income families and can assist them to make a successful transition from welfare to work.

Mr. President, by any measure, whether its education level or test scores, low-wage workers are equally if not more skilled than the workers of 20 years ago. These workers have more labor market experience, more education and have contributed to an expanding economy which has experienced overall labor productivity growth of 22 percent since 1979.

Yet today's minimum wage earner receives nearly 30% less buying power than they did thirty years ago. That's unfair for low-income individuals, struggling to provide for themselves and their families. Today, about 12 million workers earn the minimum wage. These low income workers deserve a share of the benefit. These workers deserve a raise.●

A SALUTE TO GENERAL DANIEL SMITH

• Mr. FRIST. Mr. President, General Daniel Smith, a builder of civilization in the Tennessee Frontier, will be remembered at his home, Rock Castle in Hendersonville, Tennessee, on October 17, 1998 for his 250th birthday. As a licensed surveyor, Daniel Smith worked with Thomas Walker in 1781 to extend the state lines of North Carolina and Virginia to determine the boundary between the unsettled territories of the future Kentucky and Tennessee.

After serving as Captain in the Revolutionary War, he received a 3,140 acre land grant from North Carolina as payment for his surveying work and service during the Revolution. In 1784, Daniel Smith brought his family from Virginia to the North Carolina Territory that would become Tennessee. He served as Brigadier General of the Metro District and Secretary of the Territory South of the River Ohio.

In 1784, Daniel Smith produced the first map of the "Tennessee Government." As chairman of the committee to draft a state constitution, he is credited with naming the State of Tennessee. He served twice as a United States Senator. I now yield to my colleague from Tennessee.

Mr. THOMPSON. Daniel Smith's many and great accomplishments are far too numerous to list in this venue, but are celebrated daily in the freedom of our Nation and the struggles of the early Westward movement. Thomas Jefferson wrote of Smith after his death:

> For intelligence, well cultivated talents, for integrity, and usefulness, in soundness of judgement, in the practice of virtue and in shunning vice he was equaled by few men, and in the purity of motive, excelled by none.

As Tennessee's United States Senators, we salute the vision of General Daniel Smith. He saw the vast potential in this young nation's early Westward movement, and his love of Tennessee is an inspiration to us all. We are proud to follow in his footsteps in the United States Senate, and we join our fellow Tennesseans in remembering this proud statesman on the 250th anniversary of his birth.•

GRAND FORKS EXHIBITION

• Mr. CONRAD. Mr. President, I am here today to talk about a very special photo exhibit entitled "Come Hell and High Water," which is on display this week in the Rotunda of the Russell Senate Office Building.

Through some of the most amazing photographs I have ever seen, the exhibit poignantly tells the story of the residents throughout the Red River Valley of North Dakota and Minnesota who struggled through the most devastating of circumstances during the winter and spring of 1997.

From the most brutal winter in 50 years, which, when all was said and done, had dropped more than 100 inches of snow on the region; to the most significant flooding in recorded history that resulted in the Red River cresting 26 feet above flood stage at Grand Forks and forcing an evacuation of nearly all 50,000 residents in the middle of the night; to, when no one could imagine it getting any worse, the devastating fire that destroyed the heart of downtown Grand Forks; to the tremendous outpouring of assistance that brought hope from the Administration and organizations such as the American Red Cross, and the thousands of volunteers from throughout the United States; to the beginning of the recovery process, which continues to this day and will continue as the cities of Grand Forks and East Grand Forks rebuild bigger, better, and stronger than they were before these devastating events. Each of these 37 photographs is worth not only a thousand words, but thousands of lives—the lives that were so greatly impacted by these events.

I am proud to say to my colleagues today that the City of Grand Forks has made tremendous strides in overcoming these seemingly insurmountable odds. The flood destroyed more than 800 homes in Grand Forks. Today, Grand Forks Homes, in partnership with several agencies and local lenders, have contracted to build 222 new homes in three new subdivisions. Fifty-four of these homes are complete, and 158 homes are in the framing stage. During the winter months, 287 families were housed in FEMA-provided mobile homes. Currently, only 119 mobile homes are occupied. Of the 41 historic downtown buildings destroyed by flood waters and 11 destroyed by fire, 20 properties have been acquired through the Central Business District Business Acquisition program, and 25 more have been targeted for buyout. The Business and Industry Disaster Assistance Program has committed more than $1.5 million to 76 businesses to help provide for post-flood economic development. The Noah's Ark building, a 170,000 square foot office and industrial building that will provide new economic development opportunities for the community, is slated to be finished July 1st. The Corporate Center, composed of two buildings currently under construction in downtown Grand Forks, will house three larger businesses and will provide economic vitality to this area.

I commend the residents of Grand Forks for their strength, perseverance, and commitment to their wonderful community.

I would like to take this time to thank the exhibit sponsors: the Bremer Foundation of St. Paul and the Knight-Ridder Corporation of Miami, who have allowed this exhibit to be displayed at the Newseum, the U.S. Geological Survey, the Kennedy Center, and throughout the State of North Dakota.

Also, a special thank you to all the photographers who so dramatically captured the events, the lives, the emotions, and the heart of the Red River Valley.

I urge my colleagues to take the time to view this exhibit and begin to truly understand not only the devastation of the events of 1997, but more importantly, the resilience, the spirit, and the strength of the citizens of the Red River Valley.•

TRIBUTE TO MICHAEL E. STEPHENS

• Mr. SHELBY. Mr. President, I rise today to honor Mr. Michael E. Stephens, the founder of ReLife, Inc., a nation-wide rehabilitation system, and the namesake of the Michael E. Stephens College of Business at the University of Montevallo in Alabama. Mr. Stephens is a remarkable man, a distinguished citizen and a leader in the field of health care and physical rehabilitation.

Mr. Stephens was born and raised in Alabama and began attending the University of Montevallo in 1962. However, his path through college was a long, complicated one. Though Michael Stephens is today a highly successful entrepreneur, recognized for his many accomplishments and his generous civic spirit, his first attempt at college was incomplete! Instead, Mr. Stephens left the University in 1966 for a series of jobs in the insurance industry. Several years later, at the age of 26, he broke his neck in a horrible diving accident. Despite being told he would never walk again, with extensive rehabilitation—and steely determination—Michael Stephens overcame the most significant obstacle of his life. Amazingly, he fully recovered in less than a year, and almost ten years after he had begun his college education, Mr. Stephens returned to the University of Montevallo.

Michael Stephens received his undergraduate degree in business from the University of Montevallo in 1973 and his Master's Degree in 1975 from the University of Alabama at Birmingham. He went to work in rehabilitative services for the Lakeshore Rehabilitation Hospital. Based upon his own experience, Mr. Stephens was committed to providing comprehensive services and quality care to people with physical disabilities. Under his leadership, Lakeshore Hospital became a world-class rehabilitative center. By introducing new rehabilitative services, such as speech therapy, recreational programs, psychological counseling and outpatient job training, Mr. Stephens created a new way of dealing with disability. In fact, Forbes Magazine said, "Stephens turned little Lakeshore into a model laboratory for his idea about rehabilitation." In the mid-1980's, he founded the Lakeshore Foundation, a non-profit organization designed to assist people with physical disabilities. Specifically, the Foundation focused on training athletes. Almost overnight, Mr. Stephens' athletic program grew. Lakeshore's athletes went on to become among the most successful in the paralympics: breaking records in all events and winning numerous gold, silver and bronze medals. His successful approach to rehabilitation led to his founding of ReLife, a publicly-traded national health-services corporation, in 1986.

Through ReLife, Mr. Stephens realized his dream of reinventing rehabilitation. By 1992, ReLife ran over forty rehabilitation facilities. In 1994, when ReLife merged with HealthSouth Corporation, Michael Stephens focused his attention and considerable talents on other needs of his community. He became a member of the board of trustees of the Alabama Symphony Orchestra and the Naples, Florida Philharmonic Center for the Arts. Additionally, he is a former member of both the President's Committee on Hiring the Handicapped and the National Association of Rehabilitation Facilities and is active in the Alabama State Health Coordinating Council. Mr. Stephens' business prowess is not limited to rehabilitation: he also owns several car dealerships, a real estate development company and a champion horse breeding farm.

His leadership was recognized by the University of Montevallo in 1995, when he was awarded the Doctor of Humane Letters. Mr. Stephens serves as a member of the Board of Trustees of the University, and recently donated one million dollars to their capital funds campaign.

As a result of business endeavors, community service, philanthropic projects and long-standing support for higher education, on October 9, 1997, the University of Montevallo honored Mr. Stephens by deciding to re-name the business school the Michael E. Stephens College of Business. The citation issued by the University's Board of Trustees stated: "His leadership and service deserve lasting recognition and are worthy of holding as exemplary to this and future generations of Montevallo students, faculty, alumni and friends." Mr. Stephens has promised to remain very active in the Stephens College of Business, and I believe that all of the current and future Montevallo students will benefit greatly from his involvement.

On that day last year, Michael Stephens, loved and respected by all who have known him, was honored as a friend and leader to not only the University of Montevallo, but all the citizens of Alabama. I, too, want to honor Mr. Stephen's example of strength, vision, courage and community spirit. On behalf of my wife, Annette, an alumna of the University of Montevallo, we wish Michael Stephens our sincerest thanks and congratulations for his dedication to making a difference.•

ELLEN BENNETT KANTROWITZ: A REMARKABLE NEW YORKER

• Mr. MOYNIHAN. Mr. President, a milestone will occur on Tuesday, July 7th, which I do not want to go unacknowledged: Ellen Bennett Kantrowitz, a remarkable New Yorker, will celebrate her 80th birthday.

Mrs. Bennett Kantrowitz is a native of Queens, New York. She married Matt Bennett of Brooklyn, New York and had four children: daughter Pat, and sons Bill, Mike and Matt. Today they all have achieved much success which they attribute to the guidance provided by their strong mother. Pat is a program assistant with the National Association of Secondary School Principals in Reston, Virginia. Bill is a Long Island businessman. Mike is News Director of WHUD/WLNA in Peekskill, New York. Matt is a partner in a Goshen, New York law firm.

Forty years ago, a tragic accident claimed the life of Matt Bennett. The lawsuit which followed led Mrs. Bennett Kantrowitz to enlist the help of New York lawyer Moses Kantrowitz. Seven years later, the pair were married. For twenty three years this couple lived happily, continuing to promote and sustain the strong family bonds which characterize the Bennett Kantrowitz family, until Moses Kantrowitz's death in 1989.

Mrs. Bennett Kantrowitz is the matriarch of a large and loving family, one which extends throughout the state of New York from Huntington, North Babylon, Massapequa, Selden, Brooklyn, Queens, and Staten Island to Upstate, Monroe, Highland Mills, Central Valley, Newburgh and Beacon. She remains steadfast in her dedication to her children, grandchildren and great-children, undeterred by age and ailment.

As Ellen Bennett Kantrowitz turns 80 she will be surrounded by family at a celebration July 4th weekend in Monroe, New York. With appreciation and admiration I take this opportunity to congratulate her on her 80th birthday, and wish her many more.•

READJUSTING GLOBAL MILITARY FORCE POLICY

• Mr. GRASSLEY. Mr. President, debate concerning drugs and drug policy has reached new levels. The letters and phone calls which my office receive are a constant reminder that the influx of drugs into this country are at the top of constituents' concerns. Our fight against drugs exists on two fronts. Within our border we must educate our young about the dangers of drugs in an effort to reduce demand.

Along our borders there exists another battle. This battle, to keep drugs from entering the U.S. has become increasingly difficult as drug runners have been employing more sophisticated technologies and techniques. Small planes are using remote landing strips to ferry drugs across the border. In the Caribbean traffickers are using high-speed boats to escape the Coast Guard. I need not reiterate how these preexisting conditions are straining the effort of our front-line law enforcement people on the border. As the methods which drug traffickers along the Mexican border continue to improve, we are beginning to lose ground in our "War on Drugs." This current predicament calls for an increasing and appropriate role for the U.S. military.

In recognition of this need, I am joining with Senator DEWINE and Senator GRAHAM in sponsoring an amendment which, has been accepted, to the Department of Defense reauthorization bill. This amendment calls upon the Secretary of Defense to add drug interdiction and counter-drug activities under military operations other than war, in the Global Military Force Policy. This would effectively give counter-drug efforts greater priority than military exercises. In addition, it would come at no extra cost to the taxpayer. Military resources such as AWAC's and other military hardware would be reallocated and instead of being sent out on exercises, they would be used to detect and intercept drug traffickers.

Elevating the priority of drug interdiction within the Global Military Force Policy is necessary in helping stem the flow of illegal drugs into this country. In conclusion, if we are to "get tough on drugs" in the face of increasingly modernizing drug trade, we must seek to incorporate the U.S. military in our effort.•

81ST ANNIVERSARY OF THE NATIONAL OCEANIC AND ATMOSPHERIC COMMISSIONED CORPS

• Mr. SARBANES. Mr. President, this year marks the 81st anniversary of the National Oceanic and Atmospheric Administration Commissioned Corps, one of the seven uniformed services of the United States. The officers of the NOAA corps play an integral role in the National Oceanic and Atmospheric Administration and serve this multidisciplinary scientific organization and our nation with distinction.

The roots of the NOAA Corps can be found in 1807, when our third President, Thomas Jefferson, created the United States Coast and Geodetic Survey. Directed by Congress, the Department of War and the Department of the Navy provided the Survey with commissioned officers to chart the coastlines and map the shores of our nation, allowing for the expansion of maritime commerce. On May 22, 1917, an Act of Congress formally established a uniformed service, patterned after the military, to meet the growing responsibilities and unique needs of the Survey. This commissioned service of the United States Coast and Geodetic Survey (C&GS) served with distinction in both world wars.

Since its inception, the NOAA Corps has enabled its members to perform remote, sometimes hazardous and otherwise arduous duties in a wide range of environmental measurement and stewardship responsibilities. Indeed, the NOAA Corps is truly on the front line of NOAA's operations. Today's corp officers combine unique qualifications as research ship and aircraft operators; as technical experts with advanced academic backgrounds in hydrography, geodesy, fisheries sciences, meteorology, and oceanography; and as leaders in technical program and data management contributing to the coherence, integrity, and effectiveness of the administrative structure of NOAA.

In order to discharge the responsibilities of NOAA, the NOAA Corps continues to provide a highly effective interface with other branches of the armed forces, most notably the Coast Guard, Navy, Air Force, and Army Corps of Engineers. Additionally, the Corps, our nation's experts in nautical charting, ensure the safe navigation of foreign trade, 98% of which travels in U.S. coastal waters.

In recent years, the NOAA Corps has contributed its valuable scientific and engineering skills to the Armed Services and to the Nation, particularly during times of national emergency. Mr. President, you may recall that it was the crew from the NOAA Ship *Rude* that so swiftly located the wreckage of TWA Flight 800. The *Rude* and a shore component of NOAA officers were also responsible for creating a highly detailed map which greatly aided Navy divers in their retrieval of the wreckage. For their efforts, they were recognized by then Secretary of Transportation Pena and by NOAA's parent bureau, the Department of Commerce, with the Department's highest award, the Commerce Gold Medal.

Additionally, it was the NOAA Corps who provided ship, aircraft and technical expertise for an environmental appraisal and the first comprehensive study of the Persian Gulf following the Gulf War. While shore personnel provided expertise in the management of hazardous materials, scientists above the NOAA Ship *Mt. Mitchell* evaluated and determined the extent of environmental damage to the Gulf. Not only did the work of the NOAA Corps grant instant credibility to both the United States and the other nations involved in the Gulf conflict, it also provided a safe, effective research platform. Once again, the Captain and crew were lauded for their service, receiving a Commerce Gold and Silver Medal, respectively.

Whether charting our nation's coastline, assessing its fisheries stock, or flying into hurricanes for the benefit of science and mankind, today's NOAA Corp maintains a standard of excellence in steadfastly following its mission, always ready to apply their scientific and service skills to the management of the United States' oceanic and atmospheric resources.

On this, the 81st anniversary of the National Oceanic and Atmospheric Commissioned Corps, I urge all Americans to join with me in taking a moment to honor these men and women for their distinguished service in their efforts to explore, chart, and protect the oceans and atmosphere not only of the United States, but of the entire world.•

TRIBUTE TO THE KINGSWOOD HIGH SCHOOL KNIGHTS VARSITY BASEBALL TEAM

• Mr. SMITH of New Hampshire. Mr. President, I rise today to congratulate the players of the Kingswood High School varsity baseball team for winning their first division championship.

As any baseball fan well knows, winning a division championship is no easy task. Yet what makes the Knights' season all the more remarkable is the fact that they ended their season with a spectacular record of 22 wins and only 1 loss. The Knights battled for the championship against Somersworth High School. Pitcher Kyle Frank and the team's four other seniors, Allie Shelley, Shaun St. Ong, Corey Eastman and Matt Pearson, led their team to an 8–5 victory to win the school's first championship.

Equally as important as the team's victory is the way the players carry themselves both on and off the field. The Kingswood Knights' hard work, fierce determination and positive attitude in the face of tough competition are traits that exemplify true champions and should make every student at Kingswood Regional High School proud.

The Kingswood Knights are a refreshing example of a principle that often gets lost in today's sports world: dedicated baseball playing. The Knights play because of a love and respect for the game of baseball and this is evident in their division championship.

Kingswood's victory is also very special to me personally. Twenty years ago, as a teacher at Kingswood Regional High School, I had the privilege of coaching the Knights and, in fact, had Coach Chip Skelley on my team. Mr. President, I want to once again congratulate the Kingswood Knights as well as Coach Skelley and Assistant Coach Bill Rollins. It is an honor to represent the Kingswood Knights in the United States Senate.•

HONORING DR. ELBERT W. FRIDAY, JR., ON HIS RETIREMENT FROM THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

• Mr. HOLLINGS. Mr. President, in over 30 years as a U.S. Senator, I have had the opportunity to work with hundreds of Federal employees. Among all of those hard-working public servants, there are a few individuals who stand out for their commitment to doing the best possible job for the American people and who have the skills to get that job done. Today, I would like to recognize one of those individuals on the occasion of his retirement—Dr. Elbert W. "Joe" Friday, Jr., former director of the Department of Commerce's National Weather Service.

Dr. Friday has given 38 years of outstanding service to this country. Twenty of those years were as a U.S. Air Force Weather Detachment Commander in Saigon, Vietnam, and Nakhon Phanom, Thailand, and as the Director of Environmental and Life Sciences in the Office of the Under Secretary of Defense for Research and Engineering. The remaining eighteen years were served in the National Oceanic and Atmospheric Administration (NOAA). During his tenure at NOAA, Joe served as associate administrator for both the National Weather Service and the Office of Oceanic and Atmospheric Research.

As the head of the National Weather Service, Joe has guided the agency through the most significant changes in its 200-year history. Weather service modernization has required the implementation of powerful new observational technologies, updated information and forecast systems, and a streamlined organizational structure. When complete, it will yield revolutionary advancements in our national public weather warning and forecast system. In fact, in recent years we have already begun to document dramatic improvements in the accuracy and timeliness of the Service's forecasts of weather events. For example, the Weather Service has lengthened the warning time for tornadoes from 6 minutes back in 1994 to 10 minutes today. That may not seem like a huge accomplishment, but it can mean the difference between life and death for individuals who are caught in a tornado's deadly path. Under Dr. Friday's leadership, we have also seen substantial improvements in the accuracy of predicting hurricane landfall, allowing local managers to make better and less costly evacuation plans and emergency preparations.

In 1989, an anxious nation watched as Hurricane Hugo moved relentlessly towards the Southeastern coast. As we waited, there was one person, Joe Friday, that I could count on to answer my questions and provide accurate information for tracking the storm. During weather service modernization when local communities in every region raised concerns about the closing of weather stations and the placement of radars, one person, Joe Friday, sorted through the rumors, listened, and gave us straight information. In recent years, budgetary difficulties have provided Joe with some of his greatest challenges. However, he succeeded in protecting the National Hurricane Center and other essential programs from sweeping cutbacks that would have hampered the ability of the Weather Service to do its job.

Last year, Joe moved over to NOAA's Office of Oceanic and Atmospheric Research, where he is responsible for environmental research and technology programs like Sea Grant and Climate and Global Change. These programs are critical for addressing such diverse issues as global warming, climate prediction, El Niño events, red tides, and *Pfiesteria*. I am sure that many at NOAA would echo my view when I say that I regret not being able to entice Dr. Friday to stay longer in his new position.

Throughout his career, Joe Friday has shared credit for successes, but never blamed others for problems or difficulties. He is a rare mix of gifted scientist, decorated soldier, and eloquent speaker—a charismatic man who leads by example and has inspired a generation of men and women at the National Weather Service. His strong leadership, clear vision, loyalty, and concern for his colleagues were instrumental in creating an effective team of professionals. His simple but powerful philosophy has always been that, as a public servant, his responsibility is to provide the highest level of products and services to the people of the United States and the world. In all his endeavors, he has supplied endless energy, sound judgment, keen intelligence, and a sense of humor to the government he is so proud to serve. It was no surprise to anyone when he was awarded the 1993 Federal Executive of the Year, an outstanding and well deserved recognition for his contributions.

I am confident that I speak for many of my colleagues when I express admiration and thanks to Joe for his invaluable contributions to the United States of America and to the global scientific community. He has our best wishes and deepest gratitude for his accomplishments in his 38 years of Federal Service.•

EDUCATION SAVINGS AND SCHOOL EXCELLENCE ACT OF 1998

• Mr. COVERDELL. Mr. President, yesterday, the Senate passed the conference report to H.R. 2646, the Education Savings and School Excellence Act of 1998 by a bipartisan vote of 59–36. With respect to the Reading Excellence provision of the bill, I wanted to state for the record that there was a technical error in the report regarding the participation of private schools. I will seek to correct this technical problem when the opportunity arises to ensure the participation of private schools in the literacy program authorized under this bill.•

SUPREME COURT DECISION ON THE REACHBACK TAX

• Mr. CONRAD. Mr. President, the Senate has often heard me speak about the people of North Dakota, and at times I have been compelled to speak about the injustices North Dakotans have been forced to endure because of something our Federal government has done to them.

Today, the Supreme Court handed down a decision which should mark the beginning of the end for the reachback tax, which has been a terrible burden for the largest lignite producer and largest coal industry employer in our state.

This very important part of our economy was unfairly and unjustly saddled with the reachback tax under the 1992 Coal Industry Retiree Health Benefit Act. The Coal Act has been draining millions of dollars from this company every year.

The Supreme Court, while agreeing that Congress has the power to help fund retired unionized bituminous coal miners' health benefits, held that Congress did so improperly. We subjected honest, tax-paying corporate citizens to a truly onerous levy without an adequate basis for doing so. If the Senate had taken the time either in committee or in a floor debate to consider fully the scope of this reachback tax, perhaps the rebuke Congress received this morning from the Supreme Court could have been avoided.

In the opinion of the Court, the Act places a "severe, disproportionate, and extremely retroactive burden" on the reachback company that brought the action. As such, the Court held that the tax imposition it reviewed violates the Constitution's takings clause.

In short, Mr. President, the Supreme Court has affirmed the arguments that many of us have pursued in this body for some time—namely, that Congress needs to revisit the whole problem of how to fund the health benefits for retired unionized bituminous coal miners.

Since its inception, I have fought for reform of the Coal Act. Many of my colleagues over the years have joined me in this bipartisan fight. With the impetus of today's decision by the Supreme Court, the Senate should commit itself to fixing the Coal Act soon. I am confident that we can devise a plan that assures benefits for affected retirees and their families, treats the industry fairly, and passes Constitutional muster.•

TRIBUTE TO JAMES EDWIN "JIMMY" WALKER

• Mr. SHELBY. Mr. President, I rise today to salute a great Alabamian and a great American whose life was cut short by war—Lieutenant James Edwin "Jimmy" Walker. I did not have the pleasure of knowing Jimmy, but many people from my home state who knew this young man have nothing but praise for him.

Born in 1913, Jimmy became one of the most outstanding athletes in the history of Holt High School. He was the captain of the football, baseball, and basketball teams, leading his small school to athletic prominence in the state. Jimmy's former high school coach and teacher described him as having "superior athletic abilities, and as being a great and popular leader." He further described Jimmy as "a joy and an inspiration to those who had the good fortune to work and play with or for him."

In 1932, Jimmy entered the University of Alabama, in Tuscaloosa, on an athletic scholarship. Throughout his three years of varsity competition, he started on both the football and basketball teams. On campus, as well as on the athletic field, Jimmy was well known, loved and respected. He was a member of the "A" Club, Alabama Quadrangle, Jason's Honorary Junior Society, Pi Gamma Alpha Fraternity, O.D.K., Cotillion Club, and the Court of Appeals of the Student Government. Notably, Jimmy was captain of the victorious Rose Bowl and national championship football team of 1935, as well as captain of the 1934 Crimson Tide Basketball team. He was an All-Conference, All-Southeastern, and All-American basketball player while remaining active on campus and successful in the classroom. Jimmy ultimately received his Bachelor of Science degree in 1935.

Jimmy continued in athletics, coaching basketball at Virginia Military Institute. As in high school, Jimmy led a small school to great heights. His teams were outstanding, consistently ranking higher than the much larger southern schools. At the time, newspapers called his accomplishment "a coaching masterpiece."

Despite his considerable professional and personal success and his growing notoriety, Jimmy asked for a leave of absence from coaching to join the United States Navy at the start of World War II. When he became a First Lieutenant in the Navy, he told his family that he had finally "made the team." After a period of distinguished wartime service, on December 22, 1943, this Alabama sports-hero-turned-Naval-officer sadly died in South America, from wounds received while in the performance of his official duties.

Jimmy died serving his country. He was a true leader, not only on the athletic field but in all areas of life. As a coach, a student, and a military officer, he was a fine role model for those around him. His dedicated, patriotic spirit will be remembered for a long time. He truly gave his all for victory.

Today, 45 years after his untimely passing, my thoughts are with Jimmy's family and friends. His spirit will forever live on in those who knew him. Perhaps Jimmy's sister, Neta Walker Laycock, of Tuscaloosa, Alabama, captured his outstanding personality best when she said: "If you knew him, you loved him. If you didn't, you missed a treat."●

MILITARY CONSTRUCTION APPROPRIATIONS ACT, 1999

Mr. BURNS. Mr. President, I ask unanimous consent that the Senate now turn to calendar No. 422, H.R. 4059, that all after the enacting clause be stricken, and the text of S. 2160 be inserted in lieu thereof, and the bill be amended by two conforming amendments at the desk.

AMENDMENTS NOS. 3045 AND 3046

The PRESIDING OFFICER. The clerk will report the amendments.

The legislative clerk read as follows:

The Senator from Montana [Mr. BURNS] proposes amendments numbered 3045 and 3046, en bloc.

The amendments (Nos. 3045 and 3046) are as follows:

AMENDMENT NO. 3045

(Purpose: To adjust appropriations for Navy military construction, Air Force family housing construction, and Defense-Wide military construction to accommodate the authorizations of appropriations for such construction for fiscal year 1999)

At the appropriate place insert the following:

SEC. . (a) Notwithstanding any other provision of this Act, the amount appropriated by the heading "MILITARY CONSTRUCTION, NAVY" is hereby increased by $5,780,000.

(b) Notwithstanding any other provision of this Act, the amount appropriated by the heading "MILITARY CONSTRUCTION, DEFENSE-WIDE" is hereby decreased by $11,000,000.

(c) Notwithstanding any other provision of this Act—

(1) the amount appropriated by the heading "FAMILY HOUSING, AIR FORCE" is hereby increased by $5,220,000; and

(2) the amount appropriated by that heading for Construction is hereby increased by $5,220,000.

AMENDMENT NO. 3046

(Purpose: To increase by $12,716,000 the appropriation for military construction for the Army National Guard and to decrease the appropriation for military construction for the Army Reserve by $12,716,000)

At the appropriate place insert the following:

SEC. (a) Notwithstanding any other provision of this Act, the amount appropriated by this Act under the heading "MILITARY CONSTRUCTION, ARMY NATIONAL GUARD" is hereby increased by $12,716,000.

(b) Notwithstanding any other provision of this Act, the amount appropriated by this Act under the heading "MILITARY CONSTRUCTION, ARMY RESERVE" is hereby decreased by $12,716,000.

Mr. DOMENICI. Mr. President, the pending military construction appropriations bill provides $8.5 billion in new budget authority and $2.6 billion in new outlays for Military Construction and Family Housing programs for the Department of Defense for fiscal year 1999.

When outlays from prior-year budget authority and other completed actions are taken into account, the outlays for the 1999 program total $9.1 billion.

Compared to 1998 appropriations, this bill is $417 million lower in budget authority, and it is $477 million lower in outlays.

This legislation provides for construction by the Department of Defense for U.S. military facilities throughout the world, and it provides for family housing for the active forces of each of the U.S. military services. Accordingly, it provides for important readiness and quality of life programs for our service men and women.

The bill is within the revised section 302(b) allocation for the Military Construction Subcommittee. I commend the distinguished subcommittee Chairman, the Senator from Montana, for bringing this bill to the floor within the subcommittee's allocation.

Because Congress has not yet passed the final 1999 congressional budget resolution, prior year outlays for this bill have not yet been revised to reflect Congress' override of President Clinton's Line Item Veto of 37 FY 1998 military construction projects. When this adjustment is made, outlays prior to 1999 will be revised upward by $112 million. It is my understanding that this necessary adjustment will be made when CBO revises its baseline for this legislation, which should be before this bill is reported back to the Senate from Conference with the House.

The bill provides important increases over the President's request for 1999, and I urge the adoption of the bill.

Mr. President, I ask unanimous consent that a table showing the relationship of the bill to the subcommittee's section 302(b) allocation be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

S. 2160, MILITARY CONSTRUCTION APPROPRIATIONS, 1999—SPENDING COMPARISONS, SENATE-REPORTED BILL

[Fiscal year 1999, dollars in millions]

Category	Defense	Nondefense	Crime	Mandatory	Total
Senate-reported bill:					
Budget authority	8,481				8,481
Outlays	9,120				9,120
Senate 302(b) allocation:					
Budget authority	8,484				8,484
Outlays	9,120				9,120
President's request:					
Budget authority	7,784				7,784
Outlays	9,059				9,059
House-passed bill:					
Budget authority					
Outlays					
SENATE-REPORTED BILL COMPARED TO:					
Senate 302(b) allocation:					
Budget authority	−3				−3
Outlays					
President's request					
Budget authority	697				697
Outlays	61				61
House-passed bill:					
Budget authority	8,841				8,481
Outlays	9,120				9,120

Note. Details may not add to totals due to rounding. Totals adjusted for consistency with current scorekeeping conventions.

Mr. BURNS. Mr. President, I am pleased to bring before the Senate the military construction appropriation bill and report for fiscal year 1999.

This bill reflects the bipartisan approach that the ranking Member, Senator MURRAY of Washington, and I have tried to maintain regarding military construction and this subcommittee. It has been a pleasure to work with Senator MURRAY, her staff and the members of the subcommittee throughout this process. I very much appreciate all of their support.

Mr. President, this bill was reported out of the full Appropriations Committee on June 11, by a unanimous vote of 27 to 0. The bill recommended by the full Committee on Appropriations is for $8,480,574,000. This is $696.5 million over the budget request.

However, this bill provides $702 million less than what was appropriated last year—a reduction of 8.2 percent overall spending authority for the committee from the amount appropriated in fiscal year 1998.

Further, more importantly, the bill reflects a reduction of 23 percent since fiscal year 1997—almost $2 billion less from just two years ago.

We have sought to recommend a balanced bill to the Senate, and we believe it addresses key, military construction requirements for readiness, family housing, barracks, quality of life and the Guard & Reserve components.

This bill honors the commitment we have to our Armed Forces. It helps ensure that the housing and infrastructure needs of the military are given proper recognition.

Also, I am pleased to report to the Senate that the bill is within the committee's 302(b) budget allocation for both budget authority and outlays.

Mr. President, this bill has some points I want to mention. We added $98 million above the budget request to provide better and more modern family housing for our service personnel and their families.

On another quality of life measure, we have added substantially to the budget request for medical and hospital facilities. We have provided $708 million for some 46 barracks construction projects to provide single service members a more favorable living environment.

The committee also fully funds the budget request of $97 million for funding 15 class I violation environmental projects.

We also addressed the shortfalls that continue to plague our Reserve components. The Department continues to walk away from the total force concept. Recognizing this, we have again lent support by adding $267 million to the Guard and Reserve accounts. In each case, the funds will help satisfy essential, mission, quality of life or readiness requirements.

22 percent of the bill, or $1.731 billion, is for downsizing defense infrastructure, or better known as the Base Closure and Realignment Program. This includes funding for the last two rounds of BRAC.

Almost a quarter of all military construction dollars goes toward the base closure and realignment process.

All of the projects that we have recommended are included in the Senate-passed version of the defense authorization bill. We will work very closely with the Armed Services Committee, as we put together a conference package for military construction.

We have tried to accommodate the sizeable administration request for overseas projects in such places as Korea, Germany and the Middle East. 18 percent of the administration's budget request for military construction projects is for overseas areas. We have funded only the essential of those projects.

There are many other issues that I could speak about at this time. I urge the Members of the Senate to support this bill and move it forward expeditiously.

I would like to yield to my ranking member, Senator MURRAY.

Mrs. MURRAY. Mr. President, it is my pleasure to join Chairman BURNS in recommending for the Senate's consideration the FY 1999 military construction appropriations bill. Through a bipartisan effort, we have created what I think is a very fair and just bill that should please both DoD and my colleagues here in the Senate.

As he does every year, Chairman BURNS had to weigh the priorities of the Department of Defense, the requests of his colleagues, and the recommendations of the Armed Services Committee. He had to do this with an unacceptably low budget request of $7.784 billion, which was $1.4 billion less than the $9.18 billion we appropriated last year. Thanks to Chairman STEVENS, that budget request was raised to an $8.48 billion allocation—which we have completely allocated in an equitable and bipartisan way.

You will find that the budget request yet again tremendously short ended the Guard and Reserve—asking for only $179 million compared to the $390 million we appropriated last year. Thanks to some creative maneuvering and forward thinking, we were able to fund the Guard and Reserve this year at $446 million without disadvantaging any other portion of our bill.

As Chairman BURNS noted, the active components were given $2.57 billion for military construction. In an attempt to fund even more projects, Chairman BURNS and I have also created a $200 million package of quality of life projects that has been added to the authorization bill. These adds are included in our bill, and the criteria used in choosing them was that the programs had to be quality of life, had to be in the future year defense plan, and had to represent a broad number of States and services. These are inherently valuable projects, and include improvements to family housing, child development centers, dining facilities, barracks renewal, and physical fitness centers. I encourage all members to support this important initiative to provide a better quality of life to our service men and women.

Mr. President, this is a good bill—and it's a bill that all of the Senators here should be pleased to support. Again I'd like to thank Chairman BURNS for his fair, honest, and excellent work at drafting a bi-partisan and equitable bill. I'd also like to thank and commend his appropriations staff, Sid Ashworth, as well as minority staff in past. Emily East and Dick Diamond for commitment to producing this first-rate bill. I hope my colleagues can join Chairman BURNS and me in supporting this bill and voting to adopt it today.

I yield the floor.

The PRESIDING OFFICER. Without objection, the amendments are agreed to.

The amendments (Nos. 3045 and 3046) were agreed to.

Mr. BURNS. Mr. President, I ask unanimous consent that H.R. 4059, as amended, be considered read the third time, and passed, and the motion to reconsider be laid on the table, all without further action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 4059), as amended, was considered read the third time, and passed as follows:

(The text of the bill (H.R. 4059) will be printed in a future edition of the RECORD.)

Mr. BURNS. Mr. President, I move that the Senate insist on its amendment, request a conference with the House, and the Chair be authorized to appoint conferees on the part of the Senate, all without further action or debate.

The motion was agreed to and the Chair appointed Mr. BURNS, Mrs. HUTCHISON, Mr. FAIRCLOTH, Mr. CRAIG, Mr. STEVENS, Mrs. MURRAY, Mr. REID, Mr. INOUYE, and Mr. BYRD, conferees on the part of the Senate.

UNANIMOUS CONSENT AGREEMENT—S. 1882

Mr. BURNS. Mr. President, I ask unanimous consent that the majority leader, after the notification of the Democratic leader may turn to calendar No. 354, S. 1882, the higher education bill, and upon the reporting by the clerk, the chairman be immediately recognized to modify the committee-reported substitute. I further ask that there be 7 relevant first degree higher education amendments in order for each leader, with relevant second-degree amendments, and following the disposition of these amendments, the substitute be agreed to and the bill be advanced to third reading and the Labor Committee be immediately discharged from the House companion bill, H.R. 6.

I further ask that the Senate proceed to its immediate consideration and all after the enacting clause be stricken, the text of S. 1882, as amended, be inserted, H.R. 6 be advanced to third reading and a vote occur on passage, all without any intervening action or debate.

Finally, I ask unanimous consent that the Senate bill, S. 1882, be returned to the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEASURE READ THE FIRST TIME—S. 2236

Mr. BURNS. Mr. President, I send a bill to the desk and ask that it be read for the first time.

The PRESIDING OFFICER. The clerk will read the bill for the first time.

The legislative clerk read as follows:

A bill (S. 2236) to establish legal standards and procedures for product liability litigation.

Mr. BURNS. I now ask for its second reading and will object to my own request.

The PRESIDING OFFICER. Objection is heard.

The bill will remain at the desk.

COMMENDING THE LIBRARY OF CONGRESS FOR 200 YEARS OF SERVICE

Mr. BURNS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Con. Res. 106, submitted earlier by Senators WARNER and FORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 106) to commend the Library of Congress for 200 years of outstanding service to Congress and the Nation, and to encourage activities to commemorate the bicentennial anniversary of the Library of Congress.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. BURNS. Mr. President, I ask unanimous consent that the concurrent resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and any statements relating to the resolution appear at this point in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (S. Con. Res. 106) was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, is as follows:

S. CON. RES. 106

Whereas the Library of Congress was established in 1800 and will celebrate the 200th anniversary of the Library of Congress in 2000;

Whereas the goal of the bicentennial commemoration is to inspire creativity in the century ahead and ensure a free society through greater use of the Library of Congress and libraries everywhere;

Whereas the bicentennial goal will be achieved through a variety of national, State, and local projects, developed in collaboration with the offices of the Members of Congress, the staff of the Library of Congress, and special advisory committees; and

Whereas the bicentennial commemorative activities include significant acquisitions, symposia, exhibits, issuance of a commemorative coin, and enhanced public access to the collections of the Library of Congress through the National Digital Library: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress commends the Library of Congress on 200 years of service to Congress and the Nation, and encourages the American public to participate in activities to commemorate the bicentennial anniversary of the Library of Congress.

UNANIMOUS CONSENT AGREEMENT—EXECUTIVE CALENDAR

Mr. BURNS. Mr. President, as in executive session, I ask unanimous consent that on Friday, June 26, it be in order for the majority leader, after consultation with the minority leader, to proceed to executive session for the consideration of the nomination of executive calendar No. 574, the nomination of A. Howard Matz, to be U.S. District Judge for the Central District of California.

I further ask consent that at that time the Senate proceed immediately to a vote on the confirmation of the nomination, and that immediately following that vote, the Senate proceed to a vote on the nomination of executive calendar No. 621, Victoria A. Roberts, to be U.S. District Judge for the Eastern District of Michigan.

I further ask consent that following the votes, the motions to reconsider be laid upon the table, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. BURNS. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session to consider the military nominations which were reported today by the Armed Services Committee.

I further ask unanimous consent that the nominations be confirmed, the motions to reconsider be laid upon the table, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed are as follows:

IN THE AIR FORCE

The following named officers for appointment in the United States Air Force to the grade indicated under title 10, U.S.C., section 624:

To be brigadier general

Col. Russell J. Anarde, 0781.
Col. Anthony W. Bell, 4246.
Col. Robert Damon Bishop, Jr., 9524.
Col. Marion E. Callender, Jr., 6380.
Col. Kevin P. Chilton, 6603.
Col. Trudy H. Clark, 2591.
Col. Richard L. Comer, 4255.
Col. Craig R. Cooning, 4416.
Col. John D. W. Corley, 9553.
Col. David A. Deptula, 6792.
Col. Gary R. Dylewski, 7306.
Col. Edward R. Ellis, 9696.
Col. Leonard D. Fox, 1435.
Col. Terry L. Gabreski, 2941.
Col. Jonathan S. Gration, 9630.
Col. Michael A. Hamel, 2699.
Col. William F. Hodgkins, 0138.
Col. John L. Hudson, 5860.
Col. David L. Johnson, 8568.
Col. Walter I. Jones, 8782.
Col. Daniel P. Leaf, 9223.
Col. Paul J. Lebras, 9625.
Col. Richard B. H. Lewis, 1265.
Col. Stephen P. Luebbert, 9120.
Col. Dale W. Meyerrose, 1611.
Col. David L. Moody, 4219.
Col. Quentin L. Peterson, 7151.
Col. Douglas J. Richardson, 2865.
Col. Ben T. Robinson, 7005.
Col. John W. Rosa, Jr., 3351.
Col. James G. Roudebush, 9187.
Col. Ronald F. Sams, 5888.
Col. Stanley A. Sieg, 3623.
Col. James B. Smith, 5309.
Col. Joseph B. Sovey, 2815.
Col. Lawrence H. Stevenson, 8269.
Col. Robert P. Summers, 8833.
Col. Peter U. Sutton, 9325.
Col. Donald J. Wetekam, 0322.
Col. William M. Wilson, Jr., 9364.

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be general

Lt. Gen. Charles T. Robertson, Jr., 8691.

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. Walter S. Hogle, Jr., 6057.

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. John L. Woodward, Jr., 3961.

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under Title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. Gregory S. Martin, 6337.

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Lt. Gen. John B. Sams, Jr., 6470.

The following named officer for appointment in the United States Air Force as Dean of Faculty, United States Air Force Academy, a position established under title 10, United States Code, section 9335, and for appointment to the grade indicated in accordance with Article II, Section 2 of the Constitution of the United States.

To be brigadier general

Col. David A. Wagie, 0211.

The following named officer for appointment in the United States Air Force to the grade indicated under title 10, U.S.C., section 624:

To be major general

Brig. Gen. Kenneth W. Hess, 2733.

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. Thomas J. Keck, 7924.

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. Marvin R. Esmond, 6588.

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be general

Gen. Richard B. Myers, 7092.

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be general

Lt. Gen. Patrick K. Gamble, 2878.

IN THE ARMY

The following named officers for appointments in the United States Army to the grade indicated under title 10, U.S.C., section 624:

To be major general

John P. Abizaid, 6229
Jospeh W. Arbuckle, 1975
Barry D. Bates, 4112
William G. Boykin, 5846
Charles C. Campbell, 6999
James L. Campbell, 9858
George W. Casey, Jr., 1204
Dean W. Cash, 1289
Dennis W. Cavin, 8558
Joseph M. Cosumano, Jr., 4186
Peter M. Cueviello, 4052
Robert F. Dees, 5138
John C. Doesburg, 2908
James E. Donald, 4190
Benjamin S. Griffin, 5044
Dennis K. Jackson, 1213
James T. Jackson, 4979
William J. Lennox, Jr., 1093
Albert J. Madora, 4210
David D. McKiernan, 8864
Geoffrey D. Miller, 7650
Willie B. Nance, Jr., 9605
Robert W. Noonan, Jr., 6884
Kenneth L. Privratsky, 8131
Hawthorne L. Proctor, 9888
Robert J. St. Onge, Jr., 1736
Robert L. Van Antwerp, Jr., 8468
Daniel R. Zanini, 1319

The following named officers for appointment in the United States Army to the grade indicated under title 10, U.S.C., section 624:

To be major general

Brig. Gen. Evan R. Gaddis, 5455.
Brig. Gen. Alfred A. Valenzuela, 4832.

IN THE NAVY

The following named officer for appointment as Chief of the Bureau of Medicine and Surgery and Surgeon General and for appointment to the grade indicated under title 10, U.S.C., sections 601 and 5137:

To be vice admiral

Rear Adm. Richard A. Nelson, 1464.

The following named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be admiral

Vice Adm. Richard W. Mies, 4623.

The following named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be vice admiral

Rear Adm. Charles W. Moore, Jr., 5696.

The following named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be vice admiral

Vice Adm. Robert J. Natter, 9953.

The following named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be vice admiral

Vice Adm. Thomas B. Fargo, 9953.

The following named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be vice admiral

Rear Adm. Walter F. Doran, 4942.

The following named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be vice admiral

Vice Adm. Arthur K. Cebrowski, 9746.

The following named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be To be vice admiral

Rear Adm. Dennis V. McGinn, 1807.

The following named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be vice admiral

Rear Adm. Daniel J. Murphy, Jr., 6221.

The following named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be admiral

Vice Adm. James O. Ellis, Jr., 4995.

IN THE AIR FORCE

Air Force nominations beginning WILLIAM E. DICKERSON, and ending WILLIAM E. NELSON, which nominations were received by the Senate and appeared in the Congressional Record on May 15, 1998.

IN THE ARMY

Army nominations beginning SUE H. ABREU, and ending DARYL N. ZEIGLER, which nominations were received by the Senate and appeared in the Congressional Record on January 29, 1998.

Army nominations beginning HERBERT P. FRITTS, and ending WILLIE H. OGLESBY, JR., which nominations were received by the Senate and appeared in the Congressional Record on May 15, 1998.

Army nominations beginning GARY J. DUNN, and ending MICHAEL C. SULLIVAN, which nominations were received by the Senate and appeared in the Congressional Record on May 22, 1998.

Army nominations beginning LARRY P. ADAMSTHOMPSON, and ending DOUGLAS R. WOOTTEN, which nominations were received by the Senate and appeared in the Congressional Record on May 22, 1998.

Army nominations beginning ISAAC V. GUSUKUMA, and ending JAMES I. PYLANT, which nominations were received by the Senate and appeared in the Congressional Record on June 9, 1998.

Army nominations beginning MICHAEL D. CORSON, and ending KENNETH H. NEWTON, which nominations were received by the Senate and appeared in the Congressional Record on June 9, 1998.

Army nomination of *TIMOTHY C. BEAULIEU, which was received in the Senate and appeared in the Congressional Record of June 9, 1998.

Army nominations beginning *JAMES E. RAGAN, and ending *JOHN H. CHILES, which nominations were received by the Senate and appeared in the Congressional Record on June 9, 1998.

IN THE MARINE CORPS

Marine Corps nomination of LONNY R. HADDOX, which was received in the Senate and appeared in the Congressional Record of May 22, 1998.

Marine Corps nominations beginning STEVEN P. MARTINSON, and ending BRENT A. SMITH, which nominations were received by the Senate and appeared in the Congressional Record on May 22, 1998.

Marine Corps nominations beginning WILLIAM M. AUKERMAN, and ending DAYLE L. WRIGHT, which nominations were received by the Senate and appeared in the Congressional Record on June 9, 1998.

IN THE NAVY

Navy nomination of TIMOTHY W. ZELLER, which was received in the Senate and appeared in the Congressional Record of September 18, 1997.

Navy nominations beginning DANIEL A. ACTON, and ending ERIC R. ZUMWALT, which nominations were received by the Senate and appeared in the Congressional Record on April 29, 1998.

Navy nomination of MASAKO HASEBE, which was received in the Senate and appeared in the Congressional Record of May 15, 1998.

Navy nominations beginning RICHARD B. ALSOP, and ending THEODORE A. ZOBEL, which nominations were received by the Senate and appeared in the Congressional Record on May 15, 1998.

Navy nominations beginning JASON T. BALTIMORE, and ending DANIEL P. SHANAHAN, which nominations were received by the Senate and appeared in the Congressional Record on May 22, 1998.

Navy nominations beginning DAVID L. GROCHMAL, and ending JOEL D. NEWMAN, which nominations were received by the Senate and appeared in the Congressional Record on May 22, 1998.

Navy nominations beginning RONALD W. HARGRAVES, and ending JANICE L. WALLI, which nominations were received by the Senate and appeared in the Congressional Record on May 22, 1998.

Navy nomination of STEPHEN E. PALMER, which was received by the Senate and appeared in the Congressional Record of May 22, 1998.

Navy nominations beginning GARY L. MURDOCK, and ending BRIAN G. WILSON, which nominations were received by the Senate and appeared in the Congressional Record on May 22, 1998.

EXECUTIVE CALENDAR

Mr. BURNS. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nominations on the Executive Calendar: Calendar Nos. 264, 501, 646, 650, and 651.

I further ask unanimous consent that the nominations be confirmed, the motions to reconsider be laid upon the table, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed are as follows:

DEPARTMENT OF ENERGY

Mary Anne Sullivan, of the District of Columbia, to be General Counsel of the Department of Energy.

DEPARTMENT OF THE INTERIOR

Donald J. Barry, of Wisconsin, to be Assistant Secretary for Fish and Wildlife.

REFORM BOARD (AMTRAK)

Michael S. Dukakis, of Massachusetts, to be a Member of the Reform Board (AMTRAK) for a term of five years. (New Position)

John Robert Smith, of Mississippi, to be a Member of the Reform Board (AMTRAK) for a term of five years. (New Position)

Tommy G. Thompson, of Wisconsin, to be a Member of the Reform Board (AMTRAK) for a term of five years. (New Position)

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, I wonder if my friend from Montana would simply allow me to announce, for those who have been anxiously awaiting the acceptance of Executive Calendar 264, that was the nomination of Mary Anne Sullivan to be the general counsel of the Department of Energy. I know that Secretary Peña has been very interested in that, as well as Mary Anne Sullivan. I am very pleased with this action today; and, further, Executive Calendar No. 501, the nomination of Mr. Donald J. Barry to be Assistant Secretary of Interior, Fish and Wildlife. I know that Secretary Babbitt, as well as Mr. Barry, has been anxious for this evening.

I wanted to take this opportunity with the indulgence of the President to make that statement.

I thank the Senator.

AMTRAK REFORM BOARD

Mr. McCAIN. Mr. President, the Senate has confirmed three members to the new Amtrak Reform Board, as provided for under the Amtrak Reform and Accountability Act, P.L. 105-134. That law required a new 7-member Reform Board to replace Amtrak's current Board of Directors. By today's confirmation of Governor Tommy Thompson, Governor Michael Dukaskis, and Mayor John Robert Smith, along with the automatic confirmation of Secretary Rodney Slater, a quorum of new members will be constituted and in turn, the new Board will immediately assume the old Board's responsibilities. This action ensures Amtrak's authorization remains in tact.

I think it is important to discuss the background leading up to today's confirmations. As my colleagues know, the Amtrak reform legislation enacted last December required Amtrak to operate more like a real business. After 27 years and more than $22 billion in taxpayers subsidies, that new law finally sends a real signal that this is Amtrak's "last chance" to turn itself into a viable operation. The status quo has been, and remains, unacceptable. If Amtrak cannot find a way to free itself from its subsidy "fix," then the Amtrak we know today will cease to exist.

Amtrak has been directed to institute substantive changes to enable it to operate free of subsidies by 2002. As such, Congress and the Administration agreed that new leadership at Amtrak was imperative, which is why we provided for a new Reform Board to replace the current Amtrak Board of Directors. It is absolutely necessary to instill a "new culture" among Amtrak employees and management if Amtrak is ever to become a legitimate business. And that new culture necessitates changes that start from the top.

Let me remind my colleagues that during the last days of negotiations on the reform legislation, three members of the Amtrak Board of Directors, along with Secretary Slater who is also a Board member, negotiated a new labor agreement to give union employees a raise. In the real world it is not very typical for Board members to negotiate labor deals. Yet these three—and at times four—did. They agreed to raise salaries, which is projected to cost Amtrak $35 million in FY 1998 alone, as it is assumed its terms will be extended to all its other unions. It is further projected these costs will grow to $60 million in future year obligations.

One must ask, how could these Board members have been upholding their fiduciary responsibilities by agreeing to increase Amtrak's obligations at the very time Amtrak is looming on the brink of bankruptcy? Amtrak's projected net loss for FY 1998 is greater than the previous year's due in part to the current Board's own actions. Its losses are growing, Mr. President, even though under the law Amtrak has less than two years to demonstrate it can achieve its financial goals, or risk dissolution.

Mr. President, the Democratic Presidentially-appointed Board Members who negotiated the union salary hike assured us at the time that their high-priced labor agreement would require no action by Congress—nor more importantly, would the labor agreement place any additional obligations on the American taxpayers. That was their assurance, even though one of the agreement's contingencies was that the Administration had to request $1.4 billion in additional funding above Amtrak's glidepath projections. So, what has the Administration done?

The Administration didn't request the additional funding, yet the Board did nothing to nullify the contract. Instead, the Administration and Amtrak are now asking Congress to agree to shuffle Amtrak's operating and capital costs. Specifically, they want us to agree to shift labor costs into Amtrak's "capital" account so that Amtrak can pay for the Board's labor agreement with funds currently directed for capital investment.

When are we going to say enough is enough? Just how long are the American taxpayers going to be forced to cover the expenses stemming from Amtrak's poor management decisions? It surely won't be hard for Amtrak to tell Congress it met requirements to be free of operating subsidy if the current group at Amtrak can pull this one off. All operating costs could essentially vanish with the stroke of a pen and become capital costs.

And, if Amtrak and the Administration are successful—and I acknowledge Amtrak's political clout in the Congress—how will Amtrak make up for its loss in capital? If Amtrak is permitted to shift capital funds to cover wage increases and other items traditionally considered operating costs, would someone please tell me how Amtrak will make up for the corresponding loss in funding for its capital improvements. I think I know how. Amtrak will just come a calling to Congress to bail it out, just like always.

Mr. President, time and again we have been told Amtrak faces critical infrastructure investment needs which must be met if Amtrak is to have any chance of becoming a viable operation. Time and again we have been told Amtrak needs capital resources to invest in its future. But as I see it, the change they propose has the potential for completely jeopardizing Amtrak's abilities to meet its capital needs which it has sought so long to accomplish.

Mr. President, it is unconscionable that while Congress was under intense negotiations to reach agreement on reform legislation, which was required to release the $2.3 billion so-called "tax credit" to Amtrak, the Amtrak Board was doing anything it could to appease the labor unions. Of course, it is no secret who the democratic party is beholden to. While Amtrak's financial situation is in dire straights—looming on the brink of bankruptcy—its democratic Board members agreed to raise union salaries, increasing Amtrak's operating—and I stress operating—costs by millions of dollars annually. By adopting these wage increases, the current Board failed to fulfill its fiduciary responsibilities not only to Amtrak, but to the American taxpayer as well. Is it any wonder the Congress decided that the Board has to go?

The Congress should be concerned about this situation because two of the six Presidential nominees for the new board are holdovers from the current Board. Another holdover is the Secretary of the Department of Transportation. That makes three holdovers according to my count. And these are three of the four that negotiated this sweetheart deal for labor. Surely we did not call for a new Board only to maintain the current members? Doesn't the Administration have any respect for Congressional intent?

The Administration cannot argue that it was unaware of Congressional intent because Administration representatives participated in the reform legislation negotiations. Let me remind the Administration about the provisions we discuss today. First, a new 7-member reform Board is to be established. Second, specific eligibility criteria was incorporated in the new law in an attempt to ensure that the new Board members would be qualified to perform their duties. Third, the law requires the new Board to be comprised of individuals with transportation, corporate, or financial expertise.

To further enhance Amtrak's operations, several provisions were included to prompt timely action by the Administration and Congress on filling the new Board. Unfortunately, the spirit of these provisions was met with little respect by the Administration.

The law required the new Board to be in place by March 31, 1998—more than 2 months ago. Yet, the Senate did not receive even a single nomination from the President until the eve of the Memorial Day Recess. Due to concerns that the Administration may drag its feet indefinitely—which only would hurt Amtrak—Amtrak's authorization was linked to the nomination and confirmation of a new Board. Specifically, the law provides that if the new Reform Board has not assumed the responsibilities of the Amtrak Board of Directors before July 1st, Amtrak's authorization lapses. The law also automatically discharged pending Board nomination from the Senate Commerce Committee if the Committee had failed to act by June 1st.

As I said, the new Reform Board was to be in place more than two months ago. Presidential nominations require Senate confirmation, with hearings and review by the appropriate Senate Committees accompanying nominations. Yet due to the lack of timely action by the Administration, the Commerce Committee had no opportunity to carry out its duties prior to the statutory automatic June 1st discharge. I must ask, was the Administration's timing a direct attempt to circumvent the Commerce Committee's authority in this regard?

Mr. President, my position regarding the new Board was made clear from day one. I repeatedly voiced my concerns to the Administration each time I heard rumors of its plans to reappoint current members. I was very clear that the Commerce Committee would not report favorably any Board hold-overs and I remained firm on that position. I truly believed even the Administration would acknowledge we didn't create a new Board only to reappoint the same members.

So what happened? The Administration sent up the nominations as Congress headed into the Memorial Day recess. Two of the six nominations needing confirmation were Board holdovers—that is, one-third. The Administration must have known that the Commerce Committee would be unable to fulfill its hearings and review prior to the statutory discharge date, given the Administration's stealth nomination submission.

Mr. President, if a new board is not constituted before July 1st, Amtrak's authorization will lapse. That is why the Majority Leader, myself and others are seeking to move forward with some of the nominations in order to meet that deadline. But I stand firm that we should not take these or any other confirmations lightly.

We should demand the intent of the law be fulfilled. We should demand that the new Board not be riddled with potential conflicts of interest by members representing competing transportation businesses and serving on state transit agencies. We should demand some legitimacy to this operation if we really expect Amtrak is to ever become a viable transportation provider.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

THE CALENDAR

Mr. BURNS. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of the following bills en bloc:

Calendar No. 185, S. 1158; Calendar No. 195, S. 1159; Calendar No. 216, S. 439; Calendar No. 217, S. 846; Calendar No. 239, S. 799; Calendar No. 240, S. 814; Calendar No. 241, H.R. 960; Calendar No. 246, S. 538; Calendar No. 252, H.R. 651; Calendar No. 253, H.R. 652; Calendar No. 254, H.R. 848; Calendar No. 255, H.R. 1184; and, Calendar No. 256, H.R. 1217.

Mr. President, I ask unanimous consent that any committee amendments be agreed to, except those that are modified in the amendments that are to be adopted.

I also ask unanimous consent that amendment No. 3042 to S. 1158, amendment No. 3043 to S. 1159, and amendment No. 3044 to S. 538 be considered as read and agreed to, en bloc, the bills be read for the third time and passed, as amended, if amended, the motions to reconsider be laid upon the table, that any statements relating to the bills appear in the RECORD, with the above occurring en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

HUNA TOTEM CORPORATION LAND EXCHANGE ACT

The Senate proceeded to consider the bill (S. 1158) to amend the Alaska Native Claims Settlement Act, regarding the Huna Totem Corporation public interest land exchange, and for other purposes, which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Huna Totem Corporation Land Exchange Act".

SEC. 2. AMENDMENT OF SETTLEMENT ACT.

The Alaska Native Claims Settlement Act (Public Law 92-203, December 18, 1971, 85 Stat. 688, 43 U.S.C. 1601, et seq.), as amended, is further amended by adding a new section to read:

"SEC. . HUNA TOTEM CORPORATION LAND EXCHANGE.

"(a) General.—The Secretary of Agriculture referred to as (Secretary) in this section in accordance with the equal value provisions of section 22(f) shall, subject to valid existing rights and easements, convey to the Huna Totem Corporation the surface estate to the Federal lands described in subsection (b)(2) of this section and convey to Sealaska Corporation title to the subsurface estate in such lands.

"(b) Description and Deadlines.—The land to be exchanged is located in the Copper River Meridian and is further described as follows:

(1) The surface and subsurface estates to the land to be conveyed by Huna Totem Corporation and Sealaska to the United States, no later than ninety (90) days after the effective date of this section, is depicted on the map dated September 1, 1997, and labeled attachment A, and is described as follows:

"MUNICIPAL WATERSHED AND GREENBELT BUFFER

T43S, R61E, C.R.M.

Portion of Section	Approximate Acres
16	2
21	610
22	227
23	35
26	447
27	400

Portion of Section	Approximate Acres
33	202
34	76
Approximate total	1,999

"(2) The surface and subsurface estates to the land to be conveyed to Huna Totem Corporation and Sealaska by the Secretary of Agriculture shall be lands readily accessible to Hoonah and, where possible, located on the road system to Hoonah, and shall be conveyed within one hundred eighty (180) days after the conveyance of lands in subsection (b)(1); and are to be selected from the lands depicted on the map dated September 1, 1997, and labeled Attachment B.

"(c) TIMBER MANUFACTURING; EXPORT RESTRICTION.—Notwithstanding any other provision of law, timber harvested from land conveyed to Huna Totem Corporation under this section is not available for export as unprocessed logs from Alaska, nor may Huna Totem Corporation sell, trade, exchange, substitute, or otherwise convey such timber to any person for the purpose of exporting that timber from the State of Alaska.

"(d) RELATION TO OTHER REQUIREMENTS.—The land conveyed to Huna Totem Corporation and Sealaska Corporation under this section is, for all purposes, considered land conveyed under the Alaska Native Claims Settlement Act.

"(e) MAPS.—The maps referred to in this section shall be maintained on file in the Office of the Chief, United States Forest Service, and in the office of the Secretary of the Interior, Washington, DC. The acreage cited in this section is approximate, and if a discrepancy arises between cited acreage and the land depicted on the specified maps, the maps shall control. The maps do not constitute an attempt by the United States to convey State or private land."

In lieu of the Committee substitute strike all after Section 1. And insert the following:

SEC. 2. AMENDMENT OF SETTLEMENT ACT.

The Alaska Native Claims Settlement Act (Public Law 92-203, December 18, 1971, 85 Stat. 688, 43 U.S.C. 1601, et seq.), as amended, is further amended by adding a new section to read:

"SEC. . HUNA TOTEM CORPORATION LAND EXCHANGE.

"(a) GENERAL.—In exchange for lands and interests therein described in subsection (b), the Secretary of Agriculture shall, subject to valid existing rights, convey to the Huna Totem Corporation the surface estate and to Sealaska Corporation the subsurface estate of the Federal lands identified by Huna Totem Corporation pursuant to subsection (c): *Provided*, That, the exchange of lands described in this section shall be on the basis of equal value.

"(b) The surface estate to be conveyed by Huna Totem Corporation and the subsurface estate to be conveyed by Sealaska Corporation to the Secretary of Agriculture are the municipal watershed lands as shown on the map dated September 1, 1997, and labeled attachment A, and are further described as follows:

MUNICIPAL WATERSHED AND GREENBELT BUFFER

T43S, R61E, C.R.M.

Portion of section:	Approximate acres
16	2
21	610
22	227
23	35
26	447
27	400
33	202
34	76
Approximate total	1,999

"(c) Within ninety (90) days of the receipt by the United States of the conveyances of the surface estate and the subsurface estate described in subsection (b), Huna Totem Corporation shall be entitled to identify lands readily accessible to the Village of Hoonah and, where possible, located on the road system to the Village of Hoonah, as depicted on the map dated September 1, 1997, and labeled Attachment B. Huna Totem Corporation shall notify the Secretary of Agriculture in writing which lands Huna Totem Corporation has identified.

"(d) TIMING OF CONVEYANCE AND VALUATION.—The conveyance mandated by subsection (a) by the Secretary of Agriculture shall occur within ninety (90) days after the list of identified lands is submitted by Huna Totem Corporation pursuant to subsection (c).

"(e) TIMBER MANUFACTURING; EXPORT RESTRICTION.—Notwithstanding any other provision of law, timber harvested from land conveyed to Huna Totem Corporation under this section is not available for export as unprocessed logs from Alaska, nor may Huna Totem Corporation sell, trade, exchange, substitute, or otherwise convey that timber to any person for the purpose of exporting that timber from the State of Alaska.

"(f) RELATION TO OTHER REQUIREMENTS.—The land conveyed to Huna Totem Corporation and Sealaska Corporation under this section shall be considered, for all purposes, land conveyed under the Alaska Native Claims Settlement Act.

"(g) MAPS.—The maps referred to in this section shall be maintained on file in the Office of the Chief, United States Forest Service, and in the Office of the Secretary of the Interior, Washington, D.C. The acreage cited in this section is approximate, and if a discrepancy arises between cited acreage and the land depicted on the specified maps, the maps shall control. The maps do not constitute an attempt by the United States to convey State or private land."

The amendment (No. 3042) was agreed to.

The bill (S. 1158), as amended, was passed, as follows:

S. 1158

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Huna Totem Corporation Land Exchange Act".

SEC. 2. AMENDMENT OF SETTLEMENT ACT.

The Alaska Native Claims Settlement Act (Public Law 92-203, December 18, 1971, 85 Stat. 688, 43 U.S.C. 1601, et seq.), as amended, is further amended by adding a new section to read:

"SEC. . HUNA TOTEM CORPORATION LAND EXCHANGE.

"(a) GENERAL.—In exchange for lands and interests therein described in subsection (b), the Secretary of Agriculture shall, subject to valid existing rights, convey to the Huna Totem Corporation the surface estate and to Sealaska Corporation the subsurface estate of the Federal lands identified by Huna Totem Corporation pursuant to subsection (c): *Provided*, That, the exchange of lands described in this section shall be on the basis of equal value.

"(b) DESCRIPTION.—The surface estate to be conveyed by Huna Totem Corporation and the subsurface estate to be conveyed by Sealaska Corporation to the Secretary of Agriculture are the municipal watershed lands as shown on the map dated September 1, 1997, and labeled attachment A, and are further described as follows:

"MUNICIPAL WATERSHED AND GREENBELT BUFFER

"T43S, R61E, C.R.M.

"Portion of Section	Approximate Acres
16	2
21	610
22	227
23	35
26	447
27	400
33	202
34	76
Approximate total	1,999

"(c) DEADLINE.—Within ninety (90) days of the receipt by the United States of the conveyances of the surface estate and the subsurface estate described in subsection (b), Huna Totem Corporation shall be entitled to identify lands readily accessible to the Village of Hoonah and, where possible, located on the road system to the Village of Hoonah, as depicted on the map dated September 1, 1997, and labeled Attachment B. Huna Totem Corporation shall notify the Secretary of Agriculture in writing which lands Huna Totem Corporation has identified.

"(d) TIMING OF CONVEYANCE AND VALUATION.—The conveyance mandated by subsection (a) by the Secretary of Agriculture shall occur within ninety (90) days after the list of identified lands is submitted by Huna Totem Corporation pursuant to subsection (c).

"(e) TIMBER MANUFACTURING; EXPORT RESTRICTION.—Notwithstanding any other provision of law, timber harvested from land conveyed to Huna Totem Corporation under this section is not available for export as unprocessed logs from Alaska, nor may Huna Totem Corporation sell, trade, exchange, substitute, or otherwise convey that timber to any person for the purpose of exporting that timber from the State of Alaska.

"(f) RELATION TO OTHER REQUIREMENTS.—The land conveyed to Huna Totem Corporation and Sealaska Corporation under this section shall be considered, for all purposes, land conveyed under the Alaska Native Claims Settlement Act.

"(g) MAPS.—The maps referred to in this section shall be maintained on file in the Office of the Chief, United States Forest Service, and in the Office of the Secretary of the Interior, Washington, D.C. The acreage cited in this section is approximate, and if a discrepancy arises between cited acreage and the land depicted on the specified maps, the maps shall control. The maps do not constitute an attempt by the United States to convey State or private land.".

KAKE TRIBAL CORPORATION LAND EXCHANGE ACT

The Senate proceeded to consider the bill (S. 1159) to amend the Alaska Native Claims Settlement Act, regarding the Kake Tribal Corporation public interest land exchange, and for other purposes, which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Kake Tribal Corporation Land Exchange Act".

SEC. 2. AMENDMENT OF SETTLEMENT ACT.

The Alaska Native Claims Settlement Act (Public Law 92-203, December 18, 1971, 85

Stat. 688, 43 U.S.C. 1601 et seq.), as amended, is further amended by adding at the end thereof:

"SEC. KAKE TRIBAL CORPORATION LAND EXCHANGE.

"(a) GENERAL.—The Secretary of Agriculture in accordance with the equal value provisions of section 22(f) shall convey to the Kake Tribal Corporation the Federal land as described in subsection (c).

"(b) TITLE TO SURFACE AND SUBSURFACE.—Subject to valid existing rights and easements, the Secretary shall, no later than the deadline specified in (c)(2) of this section, convey to Kake Tribal Corporation title to the surface estate in the land described in subsection (c)(2) and convey to Sealaska Corporation title to the subsurface estate in that land.

"(c) DESCRIPTION AND DEADLINES.—The land to be conveyed under this section is in the Copper River Meridian and is further described as follows:

"(1) the surface and subsurface estates to the municipal watershed land to be conveyed by Kake Tribal Corporation and Sealaska to the United States no later than 90 days after the effective date of this section is shown on the map dated September 1, 1997, and labeled Attachment A, and is described as follows:

MUNICIPAL WATERSHED

T56S, R72E

Section	Approximate acres
13	82
23	118
24	635
25	640
26	346
34	9
35	349
36	248
Approximate total	2,427

and

"(2) the surface and subsurface estates to the land to be conveyed to Kake Tribal Corporation and Sealaska by the Secretary of Agriculture shall be lands in the Hamilton Bay and Saginaw Bay areas and shall be conveyed within 180 days after the conveyance of lands in subsection (c)(1); and are to be selected from the lands depicted on the maps dated September 1, 1997, and labeled Attachments B and C.

"(d) MANAGEMENT OF WATERSHED.—The Secretary of Agriculture shall enter into a Memorandum of Agreement with the City of Kake, Alaska, to provide for management of the municipal watershed.

"(e) TIMBER MANUFACTURING; EXPORT RESTRICTION.—Notwithstanding any other provision of law, timber harvested from land conveyed to Kake Tribal Corporation under this Act is not available for export as unprocessed logs from Alaska, nor may Kake Tribal Corporation sell, trade, exchange, substitute, or otherwise convey that timber to any person for the purpose of exporting that timber from the State of Alaska.

"(f) RELATION TO OTHER REQUIREMENTS.—The land conveyed to Kake Tribal Corporation and Sealaska Corporation under this section shall be for all purposes, considered land conveyed under the Alaska Native Claims Settlement Act.

"(g) MAPS.—The maps referred to in this section shall be maintained on file in the Office of the Chief, United States Forest Service, and in the Office of the Secretary of the Interior, Washington, DC. The acreage cited in this section is approximate, and if a discrepancy arises between cited acreage and the land depicted on the specified maps the maps shall control. The maps do not constitute an attempt by the United States to convey State or private land.".

In lieu of the Committee substitute strike all after Section 1. and insert the following:

SEC. 2. AMENDMENT OF SETTLEMENT ACT.

The Alaska Native Claims Settlement Act (Public Law 92-203, December 18, 1971, 85 Stat. 688, 43 U.S.C. 1601 et seq.), as amended, is further amended by adding at the end thereof:

"SEC. . KAKE TRIBAL CORPORATION LAND EXCHANGE.

"(a) GENERAL.—In exchange for lands and interests therein described in subsection (b), the Secretary of Agriculture shall, subject to valid existing rights, convey to the Kake Tribal Corporation the surface estate and to Sealaska Corporation the subsurface estate of the Federal land identified by Kake Tribal Corporation pursuant to subsection (c): *Provided*, That, the exchange of lands described in this section shall be on the basis of equal value.

"(b) The surface estate to be conveyed by Kake Tribal Corporation and the subsurface estate to be conveyed by Sealaska Corporation to the Secretary of Agriculture are the municipal watershed lands as shown on the map dated September 1, 1997, and labeled Attachment A, and are further described as follows:

MUNICIPAL WATERSHED COPPER RIVER MERIDIAN

T56S, R72E

Section	*Approximate acres*
13	82
23	118
24	635
25	640
26	346
34	9
35	349
36	248
Approximate total	2,427

"(c) Within ninety (90) days of the receipt by the United States of the conveyances of the surface estate and the subsurface estate described in subsection (b), Kake Tribal Corporation shall be entitled to identify lands in the Hamilton Bay and Saginaw Bay areas, as depicted on the maps dated September 1, 1997, and labeled Attachment B and C. Kake Tribal Corporation shall notify the Secretary of Agriculture in writing which lands Kake Tribal Corporation has identified.

"(d) TIMING OF CONVEYANCE AND VALUATION.—The conveyance mandated by subsection (a) by the Secretary of Agriculture shall occur within ninety (90) days after the list of identified lands is submitted by Kake Tribal Corporation pursuant to subsection (c).

"(e) MANAGEMENT OF WATERSHED.—The Secretary of Agriculture shall enter into a Memorandum of Agreement with the City of Kake, Alaska, to provide for management of the municipal watershed.

"(f) TIMBER MANUFACTURING; EXPORT RESTRICTION.—Notwithstanding any other provision of law, timber harvested from land conveyed to Kake Tribal Corporation under this section is not available for export as unprocessed logs from Alaska, nor may Kake Tribal Corporation sell, trade, exchange, substitute, or otherwise convey that timber to any person for the purpose of exporting that timber from the State of Alaska.

"(g) RELATION TO OTHER REQUIREMENTS.—The land conveyed to Kake Tribal Corporation and Sealaska Corporation under this section shall be considered, for all purposes, land conveyed under the Alaska Native Claims Settlement Act.

"(h) MAPS.—The maps referred to in this section shall be maintained on file in the Office of the Chief, United States Forest Service, and in the Office of the Secretary of the Interior, Washington, D.C. The acreage cited in this section is approximate, and if a discrepancy arises between cited acreage and the land depicted on the specified maps, the maps shall control. The maps do not constitute an attempt by the United States to convey State or private land.

The amendment (No. 3043) was agreed to.

The bill (S. 1159), as amended, was passed, as follows:

S. 1159

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Kake Tribal Corporation Land Exchange Act".

SEC. 2. AMENDMENT OF SETTLEMENT ACT.

The Alaska Native Claims Settlement Act (Public Law 92-203, December 18, 1971, 85 Stat. 688, 43 U.S.C. 1601, et seq.), as amended, is further amended by adding at the end thereof:

"SEC. . KAKE TRIBAL CORPORATION LAND EXCHANGE.

"(a) GENERAL.—In exchange for lands and interests therein described in subsection (b), the Secretary of Agriculture shall, subject to valid existing rights, convey to the Kake Tribal Corporation the surface estate and to Sealaska Corporation the subsurface estate of the Federal lands identified by Kake Tribal Corporation pursuant to subsection (c): *Provided*, That, the exchange of lands described in this section shall be on the basis of equal value.

"(b) DESCRIPTION.—The surface estate to be conveyed by Kake Tribal Corporation and the subsurface estate to be conveyed by Sealaska Corporation to the Secretary of Agriculture are the municipal watershed lands as shown on the map dated September 1, 1997, and labeled attachment A, and are further described as follows:

"MUNICIPAL WATERSHED COPPER RIVER MERIDIAN

"T56S, R72E

"Section	Approximate Acres
13	82
23	118
24	635
25	640
26	346
34	9
35	349
36	248
Approximate total	2,427

"(c) DEADLINE.—Within ninety (90) days of the receipt by the United States of the conveyances of the surface estate and the subsurface estate described in subsection (b), Kake Tribal Corporation shall be entitled to identify lands in the Hamilton Bay and Saginaw Bay areas, as depicted on the maps dated September 1, 1997, and labeled Attachments B and C. Kake Tribal Corporation shall notify the Secretary of Agriculture in writing which lands Kake Tribal Corporation has identified.

"(d) TIMING OF CONVEYANCE AND VALUATION.—The conveyance mandated by subsection (a) by the Secretary of Agriculture shall occur within ninety (90) days after the list of identified lands is submitted by Kake

Tribal Corporation pursuant to subsection (c).

"(e) MANAGEMENT OF WATERSHED.—The Secretary of Agriculture shall enter into a Memorandum of Agreement with the City of Kake, Alaska, to provide for management of the municipal watershed.

"(f) TIMBER MANUFACTURING; EXPORT RESTRICTION.—Notwithstanding any other provision of law, timber harvested from land conveyed to Kake Tribal Corporation under this section is not available for export as unprocessed logs from Alaska, nor may Kake Tribal Corporation sell, trade, exchange, substitute, or otherwise convey that timber to any person for the purpose of exporting that timber from the State of Alaska.

"(g) RELATION TO OTHER REQUIREMENTS.—The land conveyed to Kake Tribal Corporation and Sealaska Corporation under this section shall be considered, for all purposes, land conveyed under the Alaska Native Claims Settlement Act.

"(h) MAPS.—The maps referred to in this section shall be maintained on file in the Office of the Chief, United States Forest Service, and in the Office of the Secretary of the Interior, Washington, D.C. The acreage cited in this section is approximate, and if a discrepancy arises between cited acreage and the land depicted on the specified maps, the maps shall control. The maps do not constitute an attempt by the United States to convey State or private land.".

Mr. MURKOWSKI. Mr. President, today I offer substitute amendments to two similar bills passed out of the Energy and Natural Resources Committee earlier this year. The two bills are S. 1158, a bill to amend the Alaska Native Claims Settlement Act, regarding the Huna Totem Corporation Public Interest Land Exchange, and S. 1159, a bill to amend the Alaska Native Claims Settlement Act, regarding the Kake Tribal Corporation Public Interest Land Exchange. Both of these bills direct the Secretary of Agriculture to conclude land exchanges which collectively will allow Kake and Huna to exchange land needed as municipal watershed in exchange for other Forest Service lands.

By passing these bills two objectives will be met. First, the two corporations will finally be able to fully recognize the economic benefits promised to them under ANCSA. Second, the watersheds that provide the respective communities of Hoonah, Alaska and Kaka, Alaska will be protected in order to provide safe water for those communities.

The substitutes I offer today clarify several issues that were raised during the Committee hearings and mark-up. First, the substitutes again direct that the Sealaska subsurface interest will mirror the Kake and Huna lands to be conveyed to the Secretary of Agriculture and the new lands to be conveyed to the corporations. Second the substitute clarifies that these exchange are to be done on an equal value basis. Both the Secretary of Agriculture and the corporations insisted this be the case. I believe this is critical, Mr. President, because both S. 1158 and S. 1159 provide that any timber derived from the newly acquired lands be processed in-state, a requirement that does not currently exist on the watershed lands the corporations are exchange. Therefore, if this exchange was simply done on an acre-for-acre basis it is likely that the acreage the corporations are exchanging, without any timber export restrictions, would have a much higher value then what they get in return. It is for this reason that these exchanges were not done on an acre-for-acre basis. If it ends up that either party has to receive additional compensation, either additional land or cash to equalize the value, then it is my hope this is done in an expeditious way to allow the exchange to move forward within the times specified in the legislation.

I believe these two pieces of legislation are in the best interest of the native corporations, the Alaska communities where the watersheds are located, and the Federal government. It is my intention to try and pass these bills out of the Senate before the end of this session of Congress.

HYDROELECTRIC PROJECTS ACT OF 1997

The Senate proceed to consider the bill (S. 439) to provide for Alaska State jurisdiction over small hydroelectric projects, to address voluntary licensing of hydroelectric projects, to address voluntary licensing of hydroelectric projects on fresh waters in the Sate of Hawaii, to provide an exemption for portion of a hydroelectric project locate in the State of New Mexico, and for other purposes, which had been reported from the Committee on Energy and Natural Resources, with amendments, as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italic.)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

[SECTION. 1. ALASKA STATE JURISDICTION OVER SMALL HYDROELECTRIC PROJECTS.

[The Federal Power Act, as amended (16 U.S.C. 1791a et seq.) is further amended by adding the following at the end of section 23:

["(c) In the case of any project works in the State of Alaska—

["(1) that are not part of a project licensed under this Act prior to the date of enactment of this subsection;

["(2) for which a preliminary permit or a license application has not been accepted for filing by the Commission prior to the date of enactment of this subsection (unless such application is withdrawn at the election of the applicant);

["(3) that have a power production capacity of 5,000 kilowatts or less;

["(4) that are located entirely within the boundaries of the State of Alaska; and

["(5) that are not located in whole or in part on any Indian reservation, unit of the National Park System, component of the Wild and Scenic Rivers System or segment of a river designated for study for potential addition to such system, the State of Alaska shall have the exclusive authority to authorize such project works under State law, in lieu of licensing by the Commission under the otherwise applicable provisions of this part, effective upon the date on which the Governor of the State of Alaska notifies the Secretary of Energy that the State has in place a process for regulating such projects which gives appropriate consideration to the improvement or development of the State's waterways for the use or benefit of intrastate, interstate, or foreign commerce, for the improvement and use of waterpower development, for the adequate protection, mitigation of damage to, and enhancement of fish and wildlife (including related spawning grounds), and for other beneficial public uses, including irrigation, flood control, water supply, recreational and other purposes, and Indian rights, if applicable.

["(d) In the case of a project that would be subject to authorization by the State under subsection (c) but for the fact that the project has been licensed by the Commission prior to the enactment of subsection (c), the licensee of such project may in its discretion elect to make the project subject to the authorizing authority of the State.

["(e) With respect to projects located in whole or in part on Federal lands, State authorizations for project works pursuant to subsection (c) of this section shall be subject to the approval of the Secretary having jurisdiction with respect to such lands and subject to such terms and conditions as the Secretary may prescribe."

["(f) Nothing in subsection (c) shall preempt the application of Federal environment, natural, or cultural resources protection laws according to their terms.".]

SECTION 1. ALASKA STATE JURISDICTION OVER SMALL HYDROELECTRIC PROJECTS.

Part I of the Federal Power Act (16 U.S.C. 792 et seq.) is amended by adding at the end the following:

"SEC. 32. ALASKA STATE JURISDICTION OVER SMALL HYDROELECTRIC PROJECTS.

"(a) DISCONTINUANCE OF REGULATION BY THE COMMISSION.—Notwithstanding sections 4(e) and 23(b), the Commission shall discontinue exercising licensing and regulatory authority under this Part over qualifying project works in the State of Alaska, effective on the date on which the Commission certifies that the State of Alaska has in place a regulatory program for water-power development that—

"(1) protects the public interest, the purposes listed in paragraph (2), and the environment to the same extent provided by licensing and regulation by the Commission under this Part and other applicable Federal laws, including the Endangered Species Act (16 U.S.C. 1531 et seq.) and the Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.);

"(2) gives equal consideration to the purposes of—

"(A) energy conservation;

"(B) the protection, mitigation of damage to, and enhancement of, fish and wildlife (including related spawning grounds and habitat);

"(C) the protection of recreational opportunities,

"(D) the preservation of other aspects of environmental quality,

"(E) the interests of Alaska Natives, and

"(F) other beneficial public uses, including irrigation, flood control, water supply, and navigation; and

"(3) requires, as a condition of a license for any project works—

"(A) the construction, maintenance, and operation by a licensee at its own expense of such lights and signals as may be directed by the Secretary of the Department in which the Coast

Guard is operating, and such fishways as may be prescribed by the Secretary of the Interior or the Secretary of Commerce, as appropriate;

"(B) the operation of any navigation facilities which may be constructed as part of any project to be controlled at all times by such reasonable rules and regulations as may be made by the Secretary of the Army; and

"(C) conditions for the protection, mitigation, and enhancement of fish and wildlife based on recommendations received pursuant to the Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.) from the National Marine Fisheries Service, the United States Fish and Wildlife Service, and State fish and wildlife agencies.

"(b) Definition of 'Qualifying Project Works'.—For purposes of this section, the term "qualifying project works" means project works—

"(1) that are not part of a project licensed under this Part or exempted from licensing under this Part or section 405 of the Public Utility Regulatory Policies Act of 1978 prior to the date of enactment of this section;

"(2) for which a preliminary permit, a license application, or an application for an exemption from licensing has not been accepted for filing by the Commission prior to the date of enactment of subsection (c) (unless such application is withdrawn at the election of the applicant);

"(3) that are part of a project that has a power production capacity of 5,000 kilowatts or less;

"(4) that are located entirely within the boundaries of the State of Alaska; and

"(5) that are not located in whole or in part on any Indian reservation, a conservation system unit (as defined in section 102(4) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3102(4))), or segment of a river designated for study for addition to the Wild and Scenic Rivers System.

"(c) Election of State Licensing.—In the case of nonqualifying project works that would be a qualifying project works but for the fact that the project has been licensed (or exempted from licensing) by the Commission prior to the enactment of this section, the licensee of such project may in its discretion elect to make the project subject to licensing and regulation by the State of Alaska under this section.

"(d) Project Works on Federal Lands.—With respect to projects located in whole or in part on a reservation, a conservation system unit, or the public lands, a State license or exemption from licensing shall be subject to—

"(1) the approval of the Secretary having jurisdiction over such lands; and

"(2) such conditions as the Secretary may prescribe.

"(e) Consultation With Affected Agencies.—The Commission shall consult with the Secretary of the Interior, the Secretary of Agriculture, and the Secretary of Commerce before certifying the State of Alaska's regulatory program.

"(f) Application of Federal Laws.—Nothing in this section shall preempt the application of Federal environmental, natural resources, or cultural resources protection laws according to their terms.

"(g) Oversight by the Commission.—The State of Alaska shall notify the Commission not later than 30 days after making any significant modification to its regulatory program. The Commission shall periodically review the State's program to ensure compliance with the provisions of this section.

"(h) Resumption of Commission Authority.—Notwithstanding subsection (a), the Commission shall reassert its licensing and regulatory authority under this Part if the Commission finds that the State of Alaska has not complied with one or more of the requirements of this section.

"(i) Determination by the Commission.—

"(1) Upon application by the Governor of the State of Alaska, the Commission shall within 30 days commence a review of the State of Alaska's regulatory program for water-power development to determine whether it complies with the requirements of subsection (a).

"(2) The Commission's review required by paragraph (1) shall be completed within one year of initiation, and the Commission shall within 30 days thereafter issue a final order determining whether or not the State of Alaska's regulatory program for water-power development complies with the requirements of subsection (a).

"(3) If the Commission fails to issue a final order in accordance with paragraph (2), the State of Alaska's regulatory program for water-power development shall be deemed to be in compliance with subsection (a).".

SEC. 2. VOLUNTARY LICENSING OF HYDROELECTRIC PROJECTS ON FRESH WATERS IN THE STATE OF HAWAII.

Section 4(e) of the Federal Power Act is amended by striking "several States, or upon" and inserting "several States (except fresh waters in the State of Hawaii, unless a license would be required by section 23 of the Act), or upon".

SEC. 3. LIMITED EXEMPTION FOR TRANSMISSION FACILITIES ASSOCIATED WITH THE EL VADO HYDROELECTRIC PROJECT.

(a) Part I of the Federal Power Act, and the jurisdiction of the Federal Energy Regulatory Commission under such part I, shall not apply to the transmission line facilities associated with the El Vado Hydroelectric project (FERC project No. 5226) which are described in subsection (b).

(b) The facilities to which the exemption under subsection (a) applies are those transmission facilities located near the Rio Chama, a tributary of the Rio Grande, in Rio Arriba County, New Mexico, referred to as the El Vado transmission line, a three phase 12-mile long 69 kV power line installed within a 50-foot wide right-of-way in Rio Arriba County, New Mexico, originating at the El Vado project's switchyard and connecting to the Spills 69 kV switching station operated by the Northern Arriba Electric Cooperative Inc.

SEC. 4. FERC EXTENSION OF COMMENCEMENT OF CONSTRUCTION DEADLINE FOR HYDROELECTRIC PROJECTS.

The second sentence in section 13 of the Federal Power Act (15 U.S.C. 806) is amended to read as follows: "The period for the commencement of construction may be extended by the Commission for not longer than ten years from the issuance date of the license when not incompatible with the public interest, and the period for the completion of construction carried on in good faith and with reasonable diligence may be extended by the Commission when not incompatible with the public interest.".

SEC. 5. TECHNICAL CORRECTION.

Section 6 of the Federal Power Act (16 U.S.C. 799) is amended by adding at the end the following:

Licenses may be revoked only for the reasons and in the manner prescribed under the provisions of this Act, and may be altered or surrendered only upon mutual agreement between the license and the Commission after thirty days' public notice.

The amendments were agreed to.

The bill (S. 439), as amended, was passed.

FEDERAL POWER ACT AMENDMENT ACT

The bill (S. 846) to amend the Federal Power Act to remove the jurisdiction of the Federal Energy Regulatory Commission to license projects on fresh waters in the State of Hawaii, was considered, ordered to be engrossed for a third reading, read the third time, and passed; as follows:

S. 846

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PROJECTS ON FRESH WATERS IN THE STATE OF HAWAII.

Section 4(e) of the Federal Power Act (16 U.S.C. 798(e)) is amended by striking "several States, or upon" and inserting "several States (except fresh waters in the State of Hawaii, unless a license would be required by section 23), or upon".

STEFFENS FAMILY PROPERTY ACT

The Senate proceeded to consider the bill (S. 799) to direct the Secretary of the Interior to transfer to the personal representative of the estate of Fred Steffens of Big Horn County, Wyoming, certain land comprising the Steffens family property, which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. TRANSFER OF STEFFENS FAMILY PROPERTY.

(a) Conveyance.—Subject to valid existing rights, the Secretary of the Interior is directed to issue, without consideration, a quitclaim deed to Marie Wambeke of Big Horn County, Wyoming, the personal representative of the estate of Fred Steffens, to the land described in subsection (b): *Provided*, That all minerals underlying such land are hereby reserved to the United States.

(b) Land Description.—The land referred to in subsection (a) is the approximately 80-parcel known as "Farm Unit C" in the E½NW¼ of Section 27 in Township 57 North, Range 97 West, 6th Principal Meridian, Wyoming.

(c) Revocation of Withdrawal.—The Bureau of Reclamation withdrawal for the Shoshone Reclamation Project under Secretrial Order dated October 21, 1913 is hereby revoked with respect to the lands described in subsection (b).

The amendment was agreed to.

The bill (S. 799), as amended, was passed.

BIG HORN COUNTY PATENT CORRECTION ACT

The Senate proceeded to consider the bill (S. 814) to direct the Secretary of the Interior to transfer to John R. and Margaret J. Lowe of Big Horn County, Wyoming, certain land so as to correct an error in the patent issued to their predecessors in interest, which had been reported from the Committee on

Energy and Natural Resources, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. TRANSFER OF LOWE FAMILY PROPERTY.

(a) Conveyance.—Subject to valid existing rights, the Secretary of the Interior is directed to issue, without consideration, a quitclaim deed to John R. and Margaret J. Lowe of Big Horn County, Wyoming, to the land described in subsection (b): Provided, That all minerals underlying such land are hereby reserved to the United States.

(b) Land Description.—The land referred to in subsection (a) is the approximately 40-acre parcel located in the SW¼ SE¼ of Section 11, Township 51 North, Range 96 West, 6th Principal Meridian, Wyoming.

The amendment was agreed to.

The bill (S. 814), as amended, was passed.

VALIDATING CONVEYANCES IN THE CITY OF TULARE, CALIFORNIA

The bill (H.R. 960) to validate certain conveyances in the City of Tulare, Tulare County, California, and for other purposes, was considered, ordered to a third reading, read the third time, and passed.

MINIDOKA PROJECT ACT OF 1997

The Senate proceeded to consider the bill (S. 538) to authorize the Secretary of the Interior to convey certain facilities of the Minidoka project to the Burley Irrigation District, and for other purposes, which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. CONVEYANCE OF FACILITIES.

(a) Definitions.—In this section:

(1) Burley.—The term "Burley" means the Burley Irrigation District, an irrigation district organized under the law of the State of Idaho.

(2) Division.—The term "Division" means the Southside Pumping Division of the Minidoka project, Idaho.

(3) Secretary.—The term "Secretary" means the Secretary of the Interior.

(b) Conveyance.—

(1) In general.—The Secretary shall, without consideration or compensation except as provided in this section, convey to Burley, by quitclaim deed or patent, all right, title, and interest of the United States in and to acquired lands, easements, and rights-of-way of or in connection with the Division, together with the pumping plants, canals, drains, laterals, roads, pumps, checks, headgates, transformers, pumping plant substations, buildings, transmission lines, and other improvements or appurtenances to the land or used for the delivery of water from the headworks (but not the headworks themselves) of the Southside Canal at the Minidoka Dam and reservoir to land in Burley, including all facilities used in conjunction with the Division (including the electric transmission lines used to transmit electric power for the operation of the pumping facilities of the Division and related purposes for which the allocable construction costs have been fully repaid by Burley).

(2) Costs.—The first $80,000 in administrative costs of transfer of title and related activities shall be paid in equal shares by the United States and Burley, and any additional amount of administrative costs shall be paid by the United States.

(c) Water Rights.—

(1) Transfer.—The Secretary shall transfer to Burley, through an agreement among Burley, the Minidoka Irrigation District, and the Secretary, in accordance with and subject to the law of the State of Idaho, all natural flow, waste, seepage, return flow, and ground water rights held in the name of the United States for the benefit of, and for use on land within, the Burley Irrigation District as described in the contracts between Burley and the United States including the provisions on use of any waste, seepage, and return flow set forth in such contracts: Provided, That such transfer shall not impair the integrated operation of the Minidoka project, affect any other adjudicated rights, or result in any adverse impact on any other project water user.

(2) Allocation of storage space.—The Secretary shall provide an allocation to Burley of storage space in Minidoka Reservoir, American Falls Reservoir, and Palisades Reservoir, as described in Burley Contract Nos. 14–06–100–2455 and 14–06–W–48, subject to the obligation of Burley to continue to assume and satisfy its allocable costs of operation and maintenance associated with the storage facilities operated by the Bureau of Reclamation.

(d) Project Reserved Power.—The Secretary shall continue to provide Burley with project reserved power from the Minidoka Reclamation Power Plant, Palisades Reclamation Power Plant, Black Canyon Reclamation Power Plant, and Anderson Ranch Reclamation Power Plant in accordance with the terms of the existing contracts, including any renewals thereof as provided in such contracts.

(e) Savings.—

(1) Nothing in this Act or any transfer pursuant thereto shall affect the right of Minidoka Irrigation District to the joint use of the gravity portion of the Southside Canal, subject to compliance by the Minidoka Irrigation District with the terms and conditions of a contract between Burley and Minidoka Irrigation District, and any amendments or changes made by agreement of the irrigation districts.

(2) Nothing in this Act shall affect the rights of any person or entity except as may be specifically provided herein.

(f) Liability.—Effective on the date of conveyance of the project facilities, described in section (1)(b)(1), the United States shall not be held liable by any court for damages of any kind arising out of any act, omission, or occurrence relating to the conveyed facilities, except for damages caused by acts of negligence committed by the United States or by its employees, agents, or contractors prior to the date of conveyance. Nothing in this section shall be deemed to increase the liability of the United States beyond that currently provided in the Federal Tort Claims Act, 28 U.S.C. 2671 et seq.

(g) Completion of Conveyance.—

(1) In general.—The Secretary shall complete the conveyance under subsection (b) (including such action as may be required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.)) not later than 2 years after the date of enactment of this Act.

(2) Report.—The Secretary shall provide a report to the Committee on Resources of the United States House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate within eighteen months from the date of enactment of this Act on the status of the transfer, any obstacles to completion of the transfer as provided in this section, and the anticipated date for such transfer.

Paragraph 1(c)(1) of the Committee amendment is modified to read as follows:

"(1) Transfer.—(A) Subject to subparagraphs (B) and (C), the Secretary shall transfer to Burley, through an agreement among Burley, the Minidoka Irrigation district, and the Secretary, in accordance with and subject to the law of the State of Idaho, all natural flow, waste, seepage, return flow, and groundwater rights held in the name of the United States—

"(1) for the benefit of the Minidoka Project or specifically for the Burley Irrigation District; and

"(2) that are for use on lands within the Burley Irrigation District; and

"(3) which are set forth in contracts between the United States and Burley or in the decree of June 20, 1913 of the District Court of the Fourth Judicial District of the State of Idaho, in and for the County of Twin Falls, in the case of *Twin Falls Canal Company* v. *Charles N. Foster, et al.*, and commonly referred to as the "Foster decree".

"(B) Any rights that are presently held for the benefit of lands within both the Minidoka Irrigation District and the Burley Irrigation District shall be allotted in such manner so as to neither enlarge nor diminish the respective rights of either district in such water rights as described in contracts between Burley and the United States.

"(C) The transfer of water rights in accordance with this paragraph shall not impair the integrated operation of the Minidoka Project, affect any other adjudicated rights, or result in any adverse impact on any other project water user."

The amendment (No. 3044) was agreed to.

The committee amendment was agreed to.

The bill (S. 538), as amended, was passed, as follows:

S. 538

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONVEYANCE OF FACILITIES.

(a) Definitions.—In this section:

(1) Burley.—The term "Burley" means the Burley Irrigation District, an irrigation district organized under the law of the State of Idaho.

(2) Division.—The term "Division" means the Southside Pumping Division of the Minidoka project, Idaho.

(3) Secretary.—The term "Secretary" means the Secretary of the Interior.

(b) Conveyance.—

(1) In general.—The Secretary shall, without consideration or compensation except as provided in this section, convey to Burley, by quitclaim deed or patent, all right, title, and interest of the United States in and to acquired lands, easements, and rights-of-way of or in connection with the Division, together with the pumping plants, canals, drains, laterals, roads, pumps, checks, headgates, transformers, pumping plant substations, buildings, transmission lines, and other improvements or appurtenances to the land or used for the delivery of water from the headworks (but not the headworks themselves) of the Southside Canal at the

Minidoka Dam and reservoir to land in Burley, including all facilities used in conjunction with the Division (including the electric transmission lines used to transmit electric power for the operation of the pumping facilities of the Division and related purposes for which the allocable construction costs have been fully repaid by Burley).

(2) COSTS.—The first $80,000 in administrative costs of transfer of title and related activities shall be paid in equal shares by the United States and Burley, and any additional amount of administrative costs shall be paid by the United States.

(c) WATER RIGHTS.—

(1) TRANSFER.—(A) Subject to subparagraphs (B) and (C), the Secretary shall transfer to Burley, through an agreement among Burley, the Minidoka Irrigation district, and the Secretary, in accordance with and subject to the law of the State of Idaho, all natural flow, waste, seepage, return flow, and groundwater rights held in the name of the United States—

(i) for the benefit of the Minidoka Project or specifically for the Burley Irrigation District;

(ii) that are for use on lands within the Burley Irrigation District; and

(iii) which are set forth in contracts between the United States and Burley or in the decree of June 20, 1913 of the District Court of the Fourth Judicial District of the State of Idaho, in and for the County of Twin Falls, in the case of Twin Falls Canal Company v. Charles N. Foster, et al., and commonly referred to as the "Foster decree".

(B) Any rights that are presently held for the benefit of lands within both the Minidoka Irrigation District and the Burley Irrigation District shall be allotted in such manner so as to neither enlarge nor diminish the respective rights of either district in such water rights as described in contracts between Burley and the United States.

(C) The transfer of water rights in accordance with this paragraph shall not impair the integrated operation of the Minidoka Project, affect any other adjudicated rights, or result in any adverse impact on any other project water user.

(2) ALLOCATION OF STORAGE SPACE.—The Secretary shall provide an allocation to Burley of storage space in Minidoka Reservoir, American Falls Reservoir, and Palisades Reservoir, as described in Burley Contract Nos. 14-06-100-2455 and 14-06-W-48, subject to the obligation of Burley to continue to assume and satisfy its allocable costs of operation and maintenance associated with the storage facilities operated by the Bureau of Reclamation.

(d) PROJECT RESERVED POWER.—The Secretary shall continue to provide Burley with project reserved power from the Minidoka Reclamation Power Plant, Palisades Reclamation Power Plant, Black Canyon Reclamation Power Plant, and Anderson Ranch Reclamation Power Plant in accordance with the terms of the existing contracts, including any renewals thereof as provided in such contracts.

(e) SAVINGS.—

(1) Nothing in this Act or any transfer pursuant thereto shall affect the right of Minidoka Irrigation District to the joint use of the gravity portion of the Southside Canal, subject to compliance by the Minidoka Irrigation District with the terms and conditions of a contract between Burley and Minidoka Irrigation District, and any amendments or changes made by agreement of the irrigation districts.

(2) Nothing in this Act shall affect the rights of any person or entity except as may be specifically provided herein.

(f) LIABILITY.—Effective on the date of conveyance of the project facilities, described in section (1)(b)(1), the United States shall not be held liable by any court for damages of any kind arising out of any act, omission, or occurrence relating to the conveyed facilities, except for damages caused by acts of negligence committed by the United States or by its employees, agents, or contractors prior to the date of conveyance. Nothing in this section shall be deemed to increase the liability of the United States beyond that currently provided in the Federal Tort Claims Act, 28 U.S.C. 2671 et seq.

(g) COMPLETION OF CONVEYANCE.—

(1) IN GENERAL.—The Secretary shall complete the conveyance under subsection (b) (including such action as may be required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.)) not later than 2 years after the date of enactment of this Act.

(2) REPORT.—The Secretary shall provide a report to the Committee on Resources of the United States House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate within eighteen months from the date of enactment of this Act on the status of the transfer, any obstacles to completion of the transfer as provided in this section, and the anticipated date for such transfer.

FEDERAL POWER ACT AMENDMENT ACT OF 1997

The bill (H.R. 651) to extend the deadline under the Federal Power Act for the construction of a hydroelectric project located in the State of Washington, and for other purposes, was considered, ordered to a third reading, read the third time, and passed.

FEDERAL POWER ACT DEADLINE EXTENSION ACT OF 1997

The bill (H.R. 652) to extend the deadline under the Federal Power Act for the construction of a hydroelectric project located in the State of Washington, and for other purposes, was considered, ordered to a third reading, read the third time, and passed.

AUSABLE HYDROELECTRIC PROJECT ACT OF 1997

The bill (H.R. 848) to extend the deadline under the Federal Power Act applicable to the construction of the AuSable Hydroelectric Project in New York, and for other purposes, was considered, ordered to a third reading, read the third time, and passed.

BEAR CREEK HYDROELECTRIC PROJECT ACT OF 1997

The bill (H.R. 1184) to extend the deadline under the Federal Power Act for the construction of the Bear Creek hydroelectric project in the State of Washington, and for other purposes, was considered, ordered to a third reading, read the third time, and passed.

FEDERAL POWER ACT DEADLINE EXTENSION ACT OF 1997

The bill (H.R. 1217) to extend the deadline under the Federal Power Act for the construction of a hydroelectric project located in the State of Washington, and for other purposes, was considered, ordered to a third reading, read the third time, and passed.

UNANIMOUS CONSENT AGREEMENT—S. 660

Mr. BURNS. Mr. President, I ask unanimous consent that the majority leader, after consultation with the minority leader, may proceed to the consideration of Calendar No. 208, S. 660, regarding University of Alaska public lands.

I ask unanimous consent that upon the consideration of the bill, the committee substitute be agreed to and considered as original text for the purpose of further amendment.

I further ask unanimous consent that the total debate time be limited to 6 hours equally divided between the chairman and the ranking member.

I further ask that the only amendments in order be the following: two relevant amendments offered by Senator BUMPERS; one relevant amendment offered by Senator MURKOWSKI.

I further ask consent that no second-degree amendments be in order, and following the expiration of time, and the disposition of any pending amendments, the bill be read a third time, and the Senate proceed to the vote on passage of the bill with no intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS CONSENT AGREEMENT—S. 1092

Mr. BURNS. Mr. President, I ask unanimous consent that the majority leader, after consultation with the minority leader, may proceed to the consideration of Calendar 218, S. 1092, regarding Cold Bay and King Cove.

I further ask consent that total debate time be limited to 6 hours equally divided between the chairman and the ranking member.

I further ask that the only amendments in order be the following: two relevant amendments offered by Senator BUMPERS; one relevant amendment offered by Senator MURKOWSKI.

I further ask consent that no second-degree amendments be in order, and that following expiration of the time and disposition of any pending amendments, the bill be read the third time, and the Senate proceed to vote on passage of the bill with no intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL PEACE GARDEN LEGISLATIVE AUTHORITY CONSTRUCTION EXTENSION

Mr. BURNS. Mr. President, I ask the Chair lay before the Senate a message from the House of Representatives on the bill (S. 731) to extend the legislative authority for construction of the National Peace Garden memorial, and for other purposes.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 731) entitled "An Act to extend the legislative authority for construction of the National Peace Garden memorial, and for other purposes.", do pass with the following amendment:

Strike out all after the enacting clause and insert:

That notwithstanding section 10(b) of Public Law 99–652 and section 1(a) of Public Law 103–321, the legislative authority for the National Peace Garden shall extend through June 30, 2002.

SEC. 2. MAINTENANCE OF WILD HORSES IN CAPE LOOKOUT NATIONAL SEASHORE.

Section 5 of the Act entitled "An Act to provide for the establishment of the Cape Lookout National Seashore in the State of North Carolina, and for other purposes", approved March 10, 1966 (Public Law 89–366; 16 U.S.C. 459g–4), is amended by inserting "(a)" after "SEC. 5.", and by adding at the end the following new subsection:

"(b)(1) The Secretary, in accordance with this subsection, shall allow a herd of 100 free roaming horses in Cape Lookout National Seashore (hereinafter referred to as the "seashore"): Provided, That nothing in this section shall be construed to preclude the Secretary from implementing or enforcing the provisions of paragraph (3).

"(2) Within 180 days after enactment of this subsection, the Secretary shall enter into an agreement with the Foundation for Shackleford Horses (a nonprofit corporation established under the laws of the State of North Carolina), or another qualified nonprofit entity, to provide for management of free roaming horses in the seashore. The agreement shall—

"(A) provide for cost-effective management of the horses while ensuring that natural resources within the seashore are not adversely impacted; and

"(B) allow the authorized entity to adopt any of those horses that the Secretary removes from the seashore.

"(3) The Secretary shall not remove, assist in, or permit the removal of any free roaming horses from Federal lands within the boundaries of the seashore—

"(A) unless the entity with whom the Secretary has entered into the agreement under paragraph (2), following notice and a 90-day response period, fails to meet the terms and conditions of the agreement; or

"(B) unless the number of free roaming horses on Federal lands within Cape Lookout National Seashore exceeds 110; or

"(C) except in the case of an emergency, or to protect public health and safety.

"(4) The Secretary shall annually monitor, assess, and make available to the public findings regarding the population, structure, and health of the free roaming horses in the national seashore.

"(5) Nothing in this subsection shall be construed to require the Secretary to replace horses or otherwise increase the number of horses within the boundaries of the seashore where the herd numbers fall below 100 as a result of natural causes, including, but not limited to, disease or natural disasters.

"(6) Nothing in this subsection shall be construed as creating liability for the United States for any damages caused by the free roaming horses to property located inside or outside the boundaries of the seashore.".

Mr. BURNS. Mr. President, I ask unanimous consent that the Senate concur in the amendment of the House.

The PRESIDING OFFICER. Without objection, it is so ordered.

MARTIN LUTHER KING, JR. MEMORIAL

Mr. BURNS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 421, H.J. Res. 113, a joint resolution approving the location of the Martin Luther King, Jr. Memorial in the Nation's Capital, that the joint resolution be considered read three times, passed, and the motion to reconsider be laid upon the table, and that the preamble be agreed to with the above occurring without any intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The joint resolution (H.J. Res. 113) was passed.

The preamble was agreed to.

Mr. WARNER. Mr. President, I rise to applaud the passage of this important legislation authorizing the placement of a Martin Luther King, Jr. Memorial in Area I of the Capital.

I would like to take this opportunity to recognize Senator SARBANES and Congresswoman MORELLA for the leadership they have both shown over the years we have worked together on legislation authorizing the establishment of a Martin Luther King, Jr. Memorial.

In 1996, Congress passed and the President signed legislation, also sponsored by Senator SARBANES and myself, authorizing the Alpha Phi Alpha Fraternity, the oldest predominantly African-American fraternity in the United States, to establish without cost to the federal government a memorial to Martin Luther King, Jr., in the District of Columbia.

The Alpha Phi Alpha fraternity wishes to honor Dr. King with a memorial in the nation's Capital as tangible recognition of his remarkable role in the history of our nation. Dr. King's message of nonviolence and freedom for all should be passed from generation to generation. A memorial in his name will be effective in helping us reach this important goal.

This legislation establishes the memorial in Area I, which consists of the Mall and environs. As you know, the Department of Interior, after consulting with the National Capital Memorial Commission, transmitted its formal recommendation that the memorial be located in Area I in a letter to the President of the Senate dated January 29, 1998.

Requirements contained in the Commemorative Works Act stipulate that the Department of Interior's recommendation regarding location of a memorial in Area I shall be disapproved if not enacted into law within 150 days of its transmittal to Congress. Therefore it was critical that the Senate consider and pass this legislation prior to that deadline.

ORDERS FOR FRIDAY, JUNE 26, 1998

Mr. BURNS. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until 9:30 a.m. on Friday, June 26.

I further ask that on Friday, immediately following the prayer, the routine requests through the morning hour be granted, and that the Senate then begin a period of morning business until 10:10 a.m. with Senators permitted to speak for up to 5 minutes each with the following exceptions: Senator DEWINE, for 10 minutes; Senator HATCH for 10 minutes; Senator GRAMS of Minnesota for 10 minutes; and, Senator DORGAN, or designee, for 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. BURNS. Mr. President, for the information of all Senators, when the Senate reconvenes tomorrow at 9:30 a.m., there will be a period for morning business until 10:10 a.m. Following morning business, the Senate will proceed to executive session to consider judicial nominations. It is, therefore, expected that up to two votes will occur on nominations at approximately 10:15 a.m. tomorrow.

Following those votes, the Senate may consider any of the following items: the drug czar reauthorization bill, the clean needles bill, the reading excellence legislation, legislative branch appropriations bill, and any other legislative or executive items that may be cleared for action.

Once again, Members are reminded there will be rollcall votes during Friday's session of the Senate, with the first vote expected approximately 10:15 a.m.

NATIONAL UNDERGROUND RAILROAD NETWORK TO FREEDOM PROGRAM

Mr. BURNS. Mr. President, I ask unanimous consent that the Energy Committee be discharged from further consideration of H.R. 1635, a bill to establish the National Underground Railroad Network to Freedom Program; further, that the Senate proceed to its immediate consideration, the bill be considered read the third time, passed, and the motion to reconsider be laid upon the table. I further ask that any statements related to the bill appear at this point in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 1635) was considered read the third time and passed.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. BURNS. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 11:28 p.m., adjourned until Friday, June 26, 1998, at 9:30 a.m.

NOMINATION

Executive nomination received by the Senate June 25, 1998:

THE JUDICIARY

DAVID O. CARTER, OF CALIFORNIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE CENTRAL DISTRICT OF CALIFORNIA, VICE WILLIAM J. REA, RETIRED.

CONFIRMATIONS

EXECUTIVE NOMINATIONS CONFIRMED BY THE SENATE JUNE 25, 1998:

DEPARTMENT OF ENERGY

MARY ANNE SULLIVAN, OF THE DISTRICT OF COLUMBIA, TO BE GENERAL COUNSEL OF THE DEPARTMENT OF ENERGY.

DEPARTMENT OF THE INTERIOR

DONALD J. BARRY, OF WISCONSIN, TO BE ASSISTANT SECRETARY FOR FISH AND WILDLIFE.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

REFORM BOARD (AMTRAK)

MICHAEL S. DUKAKIS, OF MASSACHUSETTS, TO BE A MEMBER OF THE REFORM BOARD (AMTRAK) FOR A TERM OF FIVE YEARS.

JOHN ROBERT SMITH, OF MISSISSIPPI, TO BE A MEMBER OF THE REFORM BOARD (AMTRAK) FOR A TERM OF FIVE YEARS.

TOMMY G. THOMPSON, OF WISCONSIN, TO BE A MEMBER OF THE REFORM BOARD (AMTRAK) FOR A TERM OF FIVE YEARS.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be brigadier general

COL. RUSSELL J. ANARDE, 0781.
COL. ANTHONY W. BELL, 4246.
COL. ROBERT DAMON BISHOP, JR., 9524.
COL. MARION E. CALLENDER, JR., 6380.
COL. KEVIN P. CHILTON, 6603.
COL. TRUDY H. CLARK, 2591.
COL. RICHARD L. COMER, 4255.
COL. CRAIG R. COONING, 4416.
COL. JOHN D.W. CORLEY, 9553.
COL. DAVID A. DEPTULA, 6792.
COL. GARY R. DYLEWSKI, 7306.
COL. EDWARD R. ELLIS, 9696.
COL. LEONARD D. FOX, 1435.
COL. TERRY L. GABRESKI, 2941.
COL. JONATHAN S. GRATION, 9630.
COL. MICHAEL A. HAMEL, 2699.
COL. WILLIAM F. HODGKINS, 0138.
COL. JOHN L. HUDSON, 5860.
COL. DAVID L. JOHNSON, 8568.
COL. WALTER I. JONES, 8782.
COL. DANIEL P. LEAF, 9223.
COL. PAUL J. LEBRAS, 9625.
COL. RICHARD B. H. LEWIS, 1265.
COL. STEPHEN P. LUEBBERT, 9120.
COL. DALE W. MEYERROSE, 1611.
COL. DAVID L. MOODY, 4219.
COL. QUENTIN L. PETERSON, 7151.
COL. DONALD P. PETTIT
COL. DOUGLAS J. RICHARDSON, 2865.
COL. BEN T. ROBINSON, 7005.
COL. JOHN W. ROSA, JR., 3351.
COL. JAMES G. ROUDEBUSH, 9187.
COL. RONALD F. SAMS, 5898.
COL. STANLEY A. SIEG, 3623.
COL. JAMES B. SMITH, 5309.
COL. JOSEPH B. SOVEY, 2815.
COL. LAWRENCE H. STEVENSON, 8269.
COL. ROBERT P. SUMMERS, 8833.
COL. PETER U. SUTTON, 9325.
COL. DONALD J. WETEKAM, 0322.
COL. WILLIAM M. WILSON, JR., 9364.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be general

LT. GEN. CHARLES T. ROBERTSON, JR., 8691.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. WALTER S. HOGLE, JR., 6057.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. JOHN L. WOODWARD, JR., 3961.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. GREGORY S. MARTIN, 6337.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10 U.S.C., SECTION 601:

To be lieutenant general

LT. GEN. JOHN B. SAMS, JR., 6470.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE AS DEAN OF FACULTY, UNITED STATES AIR FORCE ACADEMY, A POSITION ESTABLISHED UNDER TITLE 10, UNITED STATES CODE, SECTION 9335, AND FOR APPOINTMENT TO THE GRADE INDICATED IN ACCORDANCE WITH ARTICLE II, SECTION 2 OF THE CONSTITUTION OF THE UNITED STATES:

To be brigadier general

COL. DAVID A. WAGIE, 0211.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be major general

BRIG. GEN. KENNETH W. HESS, 2733.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLED 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. THOMAS J. KECK, 7924.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. MARVIN R. ESMOND, 6588.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be general

GEN. RICHARD B. MYERS, 7092.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be general

LT. GEN. PATRICK K. GAMBLE, 2878.

IN THE ARMY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be major general

JOHN P. ABIZAID, 6229.
JOSEPH W. ARBUCKLE, 1975.
BARRY D. BATES, 4112.
WILLIAM G. BOYKIN, 5846.
CHARLES C. CAMPBELL, 6999.
JAMES L. CAMPBELL, 9858.
GEORGE W. CASEY, JR., 1204.
DEAN W. CASH, 1289.
DENNIS D. CAVIN, 8558.
JOSEPH M. COSUMANO, JR., 4186.
PETER M. CUVIELLO, 4052.
ROBERT F. DEES, 5138.
JOHN C. DOESBURG, 2908.
JAMES E. DONALD, 4190.
BENJAMIN S. GRIFFIN, 5044.
DENNIS K. JACKSON, 1213.
JAMES T. JACKSON, 4979.
WILLIAM J. LENNOX, JR., 1093.
ALBERT J. MADORA, 4210.
DAVID D. MCKIERNAN, 8864.
GEOFFREY D. MILLER, 7650.
WILLIE B. NANCE, JR., 9605.
ROBERT W. NOONAN, JR., 6884.
KENNETH L. PRIVRATSKY, 8131.
HAWTHORNE L. PROCTOR, 9888.
ROBERT J. ST. ONGE, JR., 1736.
ROBERT L. VAN ANTWERP, JR., 8468.
DANIEL R. ZANINI, 1319.

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be major general

BRIG. GEN. EVAN R. GADDIS, 5455.
BRIG. GEN. ALFRED A. VALENZUELA, 4832.

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS CHIEF OF THE BUREAU OF MEDICINE AND SURGERY AND SURGEON GENERAL AND FOR APPOINTMENT TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTIONS 601 AND 5137:

To be vice admiral

REAR ADM. RICHARD A. NELSON, 1464.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be admiral

VICE ADM. RICHARD W. MIES, 4623.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be vice admiral

REAR ADM. CHARLES W. MOORE, JR., 5696.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be vice admiral

VICE ADM. ROBERT J. NATTER, 9953.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be vice admiral

VICE ADM. THOMAS B. FARGO, 9953.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be vice admiral

REAR ADM. WALTER F. DORAN, 4942.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be vice admiral

VICE ADM. ARTHUR K. CEBROWSKI, 9746.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be vice admiral

REAR ADM. DENNIS V. MCGINN, 1807.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED

WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be vice admiral

REAR ADM. DANIEL J. MURPHY, JR., 6221.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be vice admiral

VICE ADM. JAMES O. ELLIS, JR., 4995.

IN THE AIR FORCE

AIR FORCE NOMINATIONS BEGINNING WILLIAM E. DICKERSON, AND ENDING WILLIAM E. NELSON, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MAY 15, 1998.

IN THE ARMY

ARMY NOMINATIONS BEGINNING SUE H. ABREU, AND ENDING DARYL N. ZEIGLER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JANUARY 29, 1998.

ARMY NOMINATIONS BEGINNING HERBERT P. FRITTS, AND ENDING WILLIE H. OGLESBY, JR., WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MAY 15, 1998.

ARMY NOMINATIONS BEGINNING GARY J. DUNN, AND ENDING MICHAEL C. SULLIVAN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MAY 22, 1998.

ARMY NOMINATIONS BEGINNING LARRY P. ADAMS THOMPSON, AND ENDING DOUGLAS R WOOTTEN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MAY 22, 1998.

ARMY NOMINATIONS BEGINNING ISAAC V. GUSUKUMA, AND ENDING JAMES I. PYLANT, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 9, 1998.

ARMY NOMINATIONS BEGINNING MICHAEL D. CORSON, AND ENDING KENNETH H. NEWTON, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 9, 1998.

ARMY NOMINATION OF *TIMOTHY C. BEAULIEN, WHICH WAS RECEIVED IN THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF JUNE 9, 1998.

ARMY NOMINATIONS BEGINNING *JAMES E. RAGAN, AND ENDING *JOHN H. CHILES, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 9, 1998.

IN THE MARINE CORPS

MARINE CORPS NOMINATION OF LONNY R. HADDOX, WHICH WAS RECEIVED IN THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF MAY 22, 1998.

MARINE CORPS NOMINATIONS BEGINNING STEVEN P. MARTINSON, AND ENDING BRENT A. SMITH, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MAY 22, 1998.

MARINE CORPS NOMINATIONS BEGINNING WILLIAM M. AUKERMAN, AND ENDING DAYLE L. WRIGHT, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 9, 1998.

IN THE NAVY

NAVY NOMINATION OF TIMOTHY W. ZELLER, WHICH WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF SEPTEMBER 18, 1997.

NAVY NOMINATIONS BEGINNING DANIEL A. ACTON, AND ENDING ERIC R. ZUMWALT, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON APRIL 29, 1998.

NAVY NOMINATION OF MASAKO HASEBE, WHICH WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF MAY 15, 1998.

NAVY NOMINATIONS BEGINNING RICHARD B. ALSOP, AND ENDING THEODORE A. ZOBEL, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MAY 15, 1998.

NAVY NOMINATIONS BEGINNING JASON T. BALTIMORE, AND ENDING DANIEL P. SHANAHAN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MAY 22, 1998.

NAVY NOMINATIONS BEGINNING DAVID L. GROCHMAL, AND ENDING JOEL D. NEWMAN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MAY 22, 1998.

NAVY NOMINATIONS BEGINNING RONALD W. HARGRAVES, AND ENDING JANICE L. WALLI, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MAY 22, 1998.

NAVY NOMINATION OF STEPHEN E. PALMER, WHICH WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF MAY 22, 1998.

NAVY NOMINATIONS BEGINNING GARY L. MURDOCK, AND ENDING BRIAN G. WILSON, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MAY 22, 1998.

EXTENSIONS OF REMARKS

HONORING INDUCTEES INTO THE INDIANA FOOTBALL HALL OF FAME

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 24, 1998

Mr. VISCLOSKY. Mr. Speaker, it is my distinct honor to congratulate the following individuals for their induction into the Indiana Football Hall of Fame: Ted Karras, Sr., of Gary, Indiana; Andy Kirk, of Merrillville, Indiana; Stewart Mattix, of Hobart, Indiana; Charles Stainer, of Valparaiso, Indiana; Harold Atterberry, of Morgan Township, Indiana; George Hall, of Kentucky; Bob Kuechenberg, of Florida; and Irv Cross, of Idaho. These eight outstanding sportsmen were inducted as members of the 1998 Indiana Football Hall of Fame class on Sunday, May 31, 1998.

Since its founding in 1973, the Indiana Football Hall of Fame has been honoring prominent coaches, players, officials, members of the press, and citizens who have made lasting contributions to the advancement of football and sporting excellence. The Football Hall of Fame commemorates Indiana's prestigious football history throughout the century. Whether they were involved in football during the early twenties or the present day, the Indiana Football Hall of Fame is dedicated to recognizing those who were instrumental in creating, fostering, and adding to Indiana's excellent football legacy. Each of these eight newly-inducted members made outstanding contributions to Indiana football.

Ted Karras, Sr., graduated from Emerson High School in 1952. After being named 1st Team All state and Parade All-American for his accomplishments in high school football, Ted attended Indiana University. After graduating from I.U. in 1956, he want on to play professional football for eleven years. He played with the San Diego Marines from 1956–1957, the Pittsburgh Steelers from 1958–1959, the Chicago Bears from 1960–1964, the Detroit Lions in 1965, and the Los Angeles Rams in 1966. After his football career ended, Ted taught and coached for 20 years in the Hammond Public School system. Although Ted retired in 1995, he continues to serve as an assistant coach for his son, Ted Jr., at Andrean High School in Merrillville.

Andy Kirk's football career began at Horace Mann High School in Gary, where he played varsity football from 1934–1937. After graduating, Andy attended the Chicago Art Institute on scholarship for two years before leaving to find a new life in sports as a trainer. He worked in Gary at the YMCA, where he served as an apprentice masseur. In 1941, Andy earned a degree from the College of Swedish Massage. He entered the realm of high school sports in 1942 and spent the next thirty years there. He started at Horace Mann High School, spent ten years at Tolleston High School, three years at Lew Wallace High School, and, in 1960, commenced his long career at Andrean High School. He also worked for Saints Peter and Paul School for thirty years until his retirement in 1981. Andy still volunteers his time at Andrean High School. He and his wife of fifty-four years, Margaret, reside in Merrillville.

Stewart Mattix is another Hobart High School graduate to be inducted into this year's Indiana Football Hall of Fame class. Stew earned two varsity letters before graduating in 1949. He went on to Ball State University, where he earned a Bachelor of Science in Elementary Education in 1954. Before retiring in 1992, Stew was a teacher, an elementary principal, and an assistant superintendent. In 1958, he took over the field announcing duties for his high school team, the Hobart Brickies. For 34 years, the voice of Stew Mattix was heard all around the Brickie Bowl, as well as during practices he attended. Stew still resides in Hobart with his wife, Connie.

Gary native Charles Stanier attended Horace Mann School from kindergarten through his final year as a senior. He graduated in 1959, but not before he earned recognition as a Captain, All-City, All-Conference, and the Chicago Tribune's All Area-Team for his great performance as both a linebacker and an offensive tackle. For his outstanding talent and dedication, Charlie earned a scholarship to Duke University where he was chosen as First Team Freshman Atlantic Coast Conference before his playing career ended due to knee injuries. In 1963, Charlie graduated from Duke and began his teaching and coaching career at Valparaiso High School. Charlie has served as a line coach under Tom Stokes and Mark Hoffman. He and his wife, Janice, live in Valparaiso, and they have three daughters, Jennifer, Rebecca, and Laura.

Harold Atterberry began working as a member of the maintenance staff of the Portage Township schools in 1972. From then until his retirement in February of this year, he maintained the fields of Portage High School's football field in a professional, meticulous manner, befitting a professional football field. After twenty-five years, he retired and enjoys gardening and spending time with his wife, Nancy, at their home in Morgan Township.

Before graduating from Edison High School in Gary, in 1954, George Hall played football, basketball, track, and baseball. After serving two years in the United States Army, George earned a Bachelor of Science Degree from Purdue University and a Masters Degree from Indiana University. After his college days, George became a football coach. For 29 years, 25 of which were in Hammond, George taught young men the sport of football. He is currently retired and living in Bowling Green, Kentucky.

Bob Kuechenberg played football at Hobart High School, from which he graduated in 1964. After being named Team Captain and All-State End, he attended the University of Notre Dame, from which he graduated with a degree in economics. He played on Notre Dame's National Championship team of 1966, earned the team's Most Valuable Lineman award in 1967, the Fighting Irish's Defensive Lineman of the Year in 1968, and played in the East-West and All-American Bowls. Bob played for 15 years in the NFL with the Miami Dolphins. With the Dolphins, Bob played in five Super Bowls and earned his place on six different Pro Bowl teams. His accomplishments qualify him as one of the most versatile, effective, and durable offensive linemen throughout the NFL's history. Bob currently lives in Miramar, Florida, where he is the CEO of Kuechenberg Marketing.

Irv Cross, a familiar face on CBS Television's "The NFL Today" show on Sunday afternoons from 1975–1990, is a 1957 Hammond High School graduate. He earned high distinction as the Calumet Region Times' Athlete of the Year for his outstanding accomplishments in football, basketball, and track. Irv went on to star at Northwestern University as an offensive and defensive end, as well as a fullback. He was named Northwestern's Athlete of the Year, and went on to play for the Philadelphia Eagles. After retiring as an active player he became a coach. He then followed up his career as a player and a coach with his notable accomplishments as a commentator and expert analyst on CBS. Irv is currently the Athletic Director at Idaho State University.

Mr. Speaker, I ask you and my other distinguished colleagues to join me in congratulating Ted Karras, Sr., Andy Kirk, Stewart Mattix, Charles Stanier, Harold Atterberry, George Hall, Bob Kuechenberg, and Irv Cross for being inducted into the Indiana Football Hall of Fame. Their service, dedication, and success has left an indelible mark on Indiana football and Indiana's First Congressional District.

IN RECOGNITION OF THE 200TH ANNIVERSARY OF THE MAHONING PRESBYTERIAN CHURCH

HON. RON KLINK

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 24, 1998

Mr. KLINK. Mr. Speaker, I rise to recognize the 200th anniversary of the Mahoning Presbyterian Church, of Pulaski, Pennsylvania. The Mahoning Presbyterian Church is one of the oldest churches in Lawrence County. During the last two centuries, the church has been instrumental in the development of Lawrence County. In addition to being a social center for the community, it has helped to educate and fulfill the spiritual needs of residents and families throughout the region.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

From the church's beginning to the present it has served as a guide for its congregants through the best and worst of times. It has withstood the Civil War, two World Wars, the prosperity of the 1920's and the despair of the 1930's, as well as the end of the Cold War. Mahoning Presbyterian Church has never shied away from its duties and obligations to its membership and the region. Thanks to that dedication, the church has succeeded in building a stable community that each member can be proud of.

And so I urge my colleagues to rise in recognition of the Mahoning Presbyterian Church of Lawrence County and salute the congregation's 200 years of unwavering commitment to its members. I wish them the best of luck in their future endeavors.

HONORING EMMANUEL BAPTIST CHURCH

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 24, 1998

Mr. ENGEL. Mr. Speaker, I rise to give congratulations to a great institution of the Bronx, the Emmanuel Baptist Church, which is celebrating its 110th anniversary as a spiritual leader of the community.

The church had its actual beginnings in 1876 as a Sunday School Bible class with seven young men meeting at Haven's Hall. The Sunday School grew rapidly with the members building a chapel, and under the leadership of Rev. F.M. Lamb the church was organized on March 30, 1888 with 28 members forming the constituent membership.

The church has been ministering to its flock under successive ministries and in 1978 the Rev. Nathan Carroll became the church's first African American Pastor. In October 1986 the Rev. Dr. Major McGuire III was called to this historic church. Under his guidance Emmanuel Baptist has expanded the number of congregants several fold with prayer services now conducted throughout the week. Under Dr. McGuire's leadership the church is beginning construction of a new edifice for its worship services.

I have had the pleasure and the privilege of working with the Rev. Dr. McGuire and his wife, the Rev. Darlene Thomas-McGuire, who was unanimously voted co-pastor of the Church. They are a wonderful and dynamic pair working ceaselessly for their community.

The Emmanuel Baptist Church is a cornerstone of the community, giving sustenance and spiritual life to its many congregants under the leadership and guidance of Dr. McGuire.

THE EXPOSURE GROUP HONORS LOCAL PHOTOGRAPHERS

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 24, 1998

Ms. NORTON. Mr. Speaker, I rise to pay tribute to three local photographers, recorders of history, who are being recognized by The Exposure Group, African American Photographers Association for their contributions to humanity and to the District of Columbia.

Robert H. McNeill was born in Washington, DC in 1917 and graduated from Dunbar High School where, in 1935, he first became interested in photography. He worked as a consultant for the Works Project Administration, and owned McNeill Photo Service and GEM Photographers. He was a staff photographer for the US Naval Gun Factory, the Pentagon, the Naval Ordnance Laboratory and the Department of State from which he retired as Chief of the Photography Branch, Audio-Visual Services. Mr. McNeill's work has been published in several books, many magazines and, mostly recently, in seven issues of the Washington Post Magazine. He has also exhibited his work in a traveling show sponsored by the Rhode Island Institute of Design, the Charles Sumner School, the Smithsonian Institution's Anacostia Museum, the National Museum of American Art and the Smithsonian's Center for African American History and Culture. Mr. McNeill will receive the Maurice Sorrell Lifetime Achievement Award.

James M. Johnson, Jr. is also a native Washingtonian and, for nineteen years, has operated a full-service photography studio in southeast Washington near the banks of the Potomac River. In 1975, he received a Master of Engineering degree from Howard University and worked as an engineer for seven years before he decided to follow his heart and study photography. Mr. Johnson is president of the Professional Photographers' Minority Network, an international affiliate of Professional Photographers of America, and an Ambassador to the International Photography Hall of Fame and Museum. Mr. Johnson will receive the Photographer of the Year Award.

Nestor Hernandez, Jr. is currently the Chief Photographer, Communications Division, District of Columbia Public Schools. He is the president of the FotoCraft Camera Club, which recently celebrated its 60 year history with an exhibit at Howard University. Mr. Hernandez has exhibited his work nationally and internationally. He was exhibited in a solo show at the Christina Cultural Art Center in Wilmington, Delaware and participated in group shows in Springfield, Massachusetts and La Habana, Cuba. Mr. Nestor will receive the Community Service Award of Merit.

Mr. Speaker, I ask that this body join me in saluting these gentlemen photographers, and applauding the magnificent work they have done.

TRIBUTE TO HOWARD IVERSON

HON. JOHN F. TIERNEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 24, 1998

Mr. TIERNEY. Mr. Speaker, I'd like to take this opportunity to formally wish Howard Iverson, editor of the "Danvers Herald" and political columnist for Community Newspapers in Massachusetts all the best on his recent retirement.

Thirty-five years of writing.

That is a lot of words, a lot of ideas, a lot of opinions, and more than a few friends made.

Howard, the paper will miss you and the North Shore will miss you.

Enjoy your retirement, but don't be afraid to share some ideas, some opinions and some history in the newspaper when the mood strikes you. Your readers will be on the lookout, so don't keep us waiting too long.

PROTECT CHILDREN AND MENTALLY DISABLED PERSONS INVOLVED IN MEDICAL TRIALS

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 24, 1998

Mr. TOWNS. Mr. Speaker, today I rise to introduce a bill which will increase oversight protection for children and mentally disabled individuals who participate in clinical research trials. I am proud that this bill has received bipartisan support. Mr. SHAYS of Connecticut, Mr. BARRETT of Wisconsin, Mr. BURTON of Indiana, and Mr. WAXMAN of California are original cosponsors of this measure.

Institutional Review Boards serve as the principal line of defense for the protection of human subjects who participate in clinical research. These boards review and approve a research plan before the research is carried out and ensure that any risks are warranted in relation to the anticipated benefits. The Department of Health and Human Services (HHS) is the primary Federal department sponsoring biomedical and behavioral research. Its regulatory apparatus for overseeing such research consists of two principal tiers of review: one at the research institution level and the other at the Federal level. Both tiers are responsible for ensuring that individual researchers and their research institutions comply with Federal laws and regulations for protecting human subjects.

However, the GAO and the Inspector General of the Department of Health and Human Services have found that these Boards are falling down on the job. In numerous reports over the last 5 years, each of these oversight agencies have found that IRB's are conducting reviews too quickly and with members who lack expertise in the subject areas, that they conduct minimal review of approved research, tend to allow for unauthorized expansion of research plans or "creep" and that their membership and institutional affiliations may present real and apparent conflicts of interests. Both the GAO and the Inspector General warned that these serious deficiencies may jeopardize the protection apparatus necessary for people who participate in medical research. In a recent hearing of the Subcommittee on Human Resources, of which I am the ranking member, we uncovered a case which may be the realization of the fears expressed by the GAO and the IG.

In New York City, a prestigious IRB permitted a research project which used the drug Fenfluramine. Researchers devised a trial which was reputedly designed to determine whether a relationship existed between aggressive behavior and the brain chemical serotonin. Fenfluramine is a class IV amphetamine which occupies the same status as drugs such as darvon and xanax. It is half of the diet drug "phen-fen". Prior to being withdrawn from the market in 1997 by the FDA, its only approved use was weight control. Because the drug for safety or efficacy on children under 12 years of age. Therefore, no one knows whether this drug may adversely affect children under 12. The research plan called for the participation of male children between the ages of 6–11 years old whose siblings had been adjudicated as delinquents. None of the children sought for the study had any history of violent or aggressive behavior. There is no evidence that any of the older siblings had any history of violent or aggressive behavior. The research plan specified that all children recruited should be African-American or Hispanic. Caucasian children were specifically excluded.

Prior to the lab portion of the tests, the children were placed on a low protein diet for 72 hours which affects the levels of serotonin in the brain. The children were denied food for 12 hours prior to the test. After receiving Fenfluramine, a catheter was placed in the arms of the participants to enable the researchers to withdraw blood easily. Blood was withdrawn about once an hour during the five-hour tests. The blood readings were used to measure levels of serotonin activity in the children. Because this experiment involved an approved drug which was being given to measure physical and biological responses, FDA approval was not needed. After the experiment, the children and their parents were paid and sent home. Subsequently, several parents have complained that their children have suffered illnesses which they did not have prior to this "challenge".

In numerous memos ranging over a 2-year period, the IRB asked the researchers to explain the scientific premise of their experiment in greater detail and to explain the necessity of exposing children to a procedure which the IRB deemed to constitute "more than minimal risk". After 2 years of correspondence, these issues were never fully addressed. Additionally, Federal regulations require that studies involving human subjects recruit participants in an "equitable" fashion. Here, the research plan breached that requirement because it specifically excluded White children without any medical reasons for the exclusion. The IRB approved this study despite these problems.

Although the Food and Drug Administration and the Office of Protection from Research Risks are charged with the responsibility of investigating complaints involving human subject research, such investigations are rare. Both agencies rarely conduct more than 100 investigations at any given time. Corrective actions or sanctions are imposed on a fraction of those researchers investigated. The Office of Protection from Research Risks is currently investigating this New York study. However, they estimate that it may take up to a year to conclude this investigation. Clearly, we need to assure that Federal officials are empowered to take a proactive role in research abuses. However that will be difficult because currently, IRBs are not required to register or engage in any certification process. We do not know how many IRBs operate in this Nation. Therefore, we cannot know the extent of their use of children and other vulnerable populations.

The bill that I introduce today requires that any IRB that uses children or mentally disabled individuals in research must report to the Secretary of Health and Human Services concerning the participants, the nature, objectives and reasons for the research and the source of funding. The Secretary will be required to make this information available to the public. I believe that this bill will impose sunshine on this secretive process and will afford greater oversight by the government and by concerned members of the public. I ask all of my colleagues who are concerned about children and the mentally disabled to join me in supporting this bill.

HONORING BUTLER MEMORIAL UNITED METHODIST CHURCH

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 24, 1998

Mr. ENGEL. Mr. Speaker, I rise to speak in celebration of the eighty-sixth anniversary of a church that has become a cornerstone to its community—the Butler Memorial United Methodist Church.

The church was begun by a small group of spiritually minded individuals in 1912. Today it has grown to a congregation exceeding 800 members with the Rev. Granville A. Forde serving as pastor to his growing flock.

A growing church is a busy church and Butler Memorial now has programs for the United Methodist Women, the United Methodist Men, the Methodist Youth Fellowship, four choirs and a number of clubs.

The church is celebrating its anniversary as an integral part of its community, giving the congregants of Butler Memorial and the surrounding area the ecclesiastical guidance that allows for the growth of the temporal as well the spiritual.

The Rev. Forde is taking this opportunity to award to four good people the Community Service Awards for their commitment, caring and dedication to making a difference. They are Kathleen Cushnie, Joseph King and Mildred Lewis with Anathaleo Blake getting a Youth Award.

It is the churches of our community, like Butler Memorial, which make the difference in the lives of the people. I am proud that Butler Memorial is in my district and it is with pride that I rise to celebrate its anniversary of giving to and caring for the people of the Bronx.

RECOGNIZING THE TRAFFORD HIGH SCHOOL "ALL CLASS REUNION"

HON. RON KLINK

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 24, 1998

Mr. KLINK. Mr. Speaker, I rise today to recognize Trafford High School alumni participating in the upcoming "All Class Reunion." The event will take place during the weekend of July 9–12 and is sure to rekindle friendships and reunite former classmates from across the tri-state area.

Trafford School District began in 1905 with the erection of a four room school building. By 1928 the district had expanded in size threefold. In 1956, Trafford School District merged with Penn Township and Penn Borough to create the Penn-Trafford School District.

Trafford High School Alumni believe that this reunion is the first of its kind in Westmoreland County. Classmates from 1924 through 1970 will gather to share their high school memories. A crowd of more than 700 people is expected with more than five hundred being alumni of Trafford High.

I applaud the committee chairpersons, George Valmassoni, Don Smith, Ed Drost, Bruce Robinson, Vic Capets, Marge Bucar, Bob Kozubal, Hank Pascoe, Ed Erwin, Betty Buchin and Bernic Mikach for two years they have worked to make this event a reality. Without their commitment this event would not have been possible.

So my fellow colleagues, it is with great pleasure that I ask you to join me in recognizing participants in the Trafford High School All Class Reunion. This promises to be a terrific opportunity for old friends and acquaintances to make up for lost time.

TRIBUTE TO J. DONALD LEEK OF GARY, INDIANA

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 24, 1998

Mr. VISCLOSKY. Mr. Speaker, it is with the greatest pleasure that I pay tribute to an exceptionally dedicated, compassionate, and distinguished member of Indiana's First Congressional District, Mr. J. Donald Leek, of Gary, Indiana. After serving as the School City of Gary's Athletic Director for twenty-seven years, Don will retire on June 30, 1998. Upon completion of his last day, Don will be honored in Gary's Marquette Park with a final, formal salute for his service, effort, and dedication.

A 1947 graduate of Roosevelt High School, Don was a phenomenal athlete and an excellent student. In addition to his four varsity letters in football and three in track, his outstanding efforts earned him Roosevelt's Most Outstanding Athlete award in 1947. In addition to these honors, Don was the city's low and high hurdler champion in 1946 and 1947, 1947 state runner-up in the high hurdles, and a member of the Panthers' 1947 state championship 880 relay team. Continuing his excellence in track, Don attended North Carolina

Central University, where he was his school's conference champion in the low hurdles in 1950 and 1951, and the 60-yard high hurdles champion at the Junior National Indoor Track and Field Meet in New York City in 1950. Upon graduating from NCCU in 1951, Don was inducted into the Air Force and spent the next two years serving his country.

After being Honorably Discharged as a First Lieutenant in 1953, he returned to Roosevelt where he began his coaching career in both football and track. Don's success as a track star contributed to his coaching ability, which helped him direct his teams to nine city championships, nine sectional championships, seven regional titles, and five state championships. In recognition of his coaching successes, Don was named the 1962 Coach of the Year by the Indiana High School Track Coaches Association. Don was also honored as Indiana High School Athletic Director of the year in 1975, and he was inducted into the Indiana Association of Track and Cross Country Hall of Fame in 1974.

Though extremely dedicated to his work as a coach and athletic director, Don selflessly gives his free time and energy to his community, his education, and most importantly, his family. Don is a life member of the NAACP, as well as the Kappa Alpha Psi fraternity. He also volunteers for the Gary YMCA, is a member of the Indiana High School Athletic Directors Association, and served as President of the Civil Rights Hall of Fame Games. In addition to his degree from North Carolina Central University, Don graduated with an M.S. degree from Indiana University in 1967 and earned an advanced degree from Purdue University in 1976. Don, now seventy years old, plans to continue his daily regimen of walking at least two miles every morning. He also wants to spend more time with his wife, Barbara, their two daughters, Sandra and Cynthia, and his stepson, Cromwell O'Brien.

Mr. Speaker, I ask you and my other distinguished colleagues to join me in commending Don Leeks for his lifetime of service, leadership, and rededication to Gary and Northwest Indiana. Don's efforts as Athletic Director for the School City of Gary are legendary as one tool among many serving to help students stay motivated in the classroom. Don has rewarded the people of his community with true leadership and uncompromising dedication.

TRIBUTE TO GRADUATES AND ACADEMIC ACHIEVERS OF THE 12TH CONGRESSIONAL DISTRICT

HON. NYDIA M. VELÁZQUEZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 24, 1998

Ms. VELÁZQUEZ. Mr. Speaker, it is with great pride that I ask you and my colleagues to join me in congratulating special graduates of the 12th Congressional District of New York. I am certain that this day marks the culmination of much effort and hard work which has led and will lead them to continued success. In these times of uncertainty, limited resources, and random violence in our communities and schools, it is encouraging to know that they have overcome these obstacles and succeeded.

These students have learned that education is priceless. They understand that education is the tool to new opportunities and greater endeavors. Their success is not only a tribute to their strength but also to the support they have received from their parents and loved ones.

In closing, I encourage all my colleagues to support the education of the youth of America. With a solid education, today's youth will be tomorrow's leaders. And as we approach the new millennium, it is our responsibility to pave the road for this great Nation's future. Members of the U.S. House of Representatives I ask you to join me in congratulating the following Academic Achievement Award Recipients:

Rafael Feliciano and Shaquana Anderson—PS 16; Joseph Santos and Angeline Hidalgo—P.S. 18; Kristoffer Cortes and Christie Santana—P.S. 19; Jose Oquendo and Cindy Rivas—P.S. 49; Myrna Adana and Angela Morales—I.S. 71; Imari Valentin and Gilbert Feliciano—P.S. 84; Andrew Malave and Gabriel Martinez—P.S. 147; Miriam Aponte and Amanda Rodriguez—P.S. 196; Desiree Cardona and Michael Curchar—P.S. 250; Ralph Wilson and Cheetara Little—P.S. 257; Valerio Aguilar and Hugo Rios—P.S. 380; Lauren Cruz and John Bigolski—I.S. 318; and Xiomara Adames and Jose Castro—J.H.S. 50.

Vanessa Rodriguez and Victor Gavela—Beginning With Children School; Abner Aponte and Cesarina Lopez—Eastern District Senior Academy; Julian Blumberg and Jazlyn Duran—All Saints R.C. School; Jamie Inez Hernandez and Adam Valentin—Most Holy Trinity School; Lauren Teresa and Ana Castro—St. Nicholas R.C. School; Gwen Cruz and Desiree Ortiz—St. Peter & Paul R.C. School; Jackqueline Duran and Adrian Jimenez—Transfiguration School.

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 1999

SPEECH OF

HON. VIC FAZIO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1998

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 4101) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1999, and for other purposes:

Mr. FAZIO of California. Mr. Chairman, I rise in reluctant opposition to the Dooley amendment.

Mr. DOOLEY has been the chief proponent of increased resources going to agriculture research, and he labored mightily within his committee and at the conference committee on the recently-passed ag research bill, which was signed this morning by the President.

He knows as I do that research has always been the key to U.S. ag productivity and that as we turn to a more market-oriented ag economy, ag research will be even more important in sustaining the U.S. lead in this field.

California's specialty crop agriculture has known this for many years.

One key to our success has been market promotion with such successful programs such as the Market Access Program, but we have a very close relationship with the research going on at our ag schools and getting those results into the field.

Formula funds for our land-grant schools are important.

The competitive funds within the National Research Initiative are important.

We hope the new initiatives—such as the Fund for Rural America and now the new research program in the ag research bill—will play an important role in the future in putting additional resources into research—the committee has been chagrined this year at having to look to these new and promising initiatives for offsets in order to make our bill whole.

But special research grants are also important to our overall research effort.

These are cooperative efforts between industry and our research institutions.

Unlike competitive research which is wholly-government funded, industry is making significant contributions—typically 50%—to these limited-duration agriculture projects affecting commodities of local or regional importance.

But Mr. DOOLEY does us a real service with his amendment in pointing out the real difficulties we are struggling with in every bill this year.

These are difficult choices, and the committee had a Hobbesian choice in either letting the new ag research program go forward or making cuts in virtually every other agricultural program in our bill.

Unfortunately, the amendment presents another difficult choice in determining the direction of our ag research efforts—whether to abandon the special research initiatives which have traditionally served us well in order to move a new research initiative forward.

I appreciate Mr. DOOLEY raising these important issues—in the field of ag research, there is no legislator who has labored longer or has greater standing to comment on these issues.

Although I reluctantly oppose him today, I know that together we will be doing all we can to see that agricultural research gets the resources that pay off so mightily for our nation.

THE REFORESTATION TAX ACT

HON. JENNIFER DUNN

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 24, 1998

Ms. DUNN. Mr. Speaker, today I am introducing legislation, the Reforestation Tax Act, that will lower the tax burden on timber assets that are managed in a sustainable and environmentally sound fashion.

Last year, Congress took a major step toward reducing the Federal tax burden on millions of Americans, eliminating the deficit, restoring greater fiscal integrity to the budget process and, in the process bringing a measure of greater equity to the tax code. Most importantly, we sought to encourage savings, to promote sustained, long-term growth, and to immediately reduce the tax burden of Americans by lowering the tax on capital gains.

The Reforestation Tax Act recognizes the unique nature of growing trees by reducing the amount of gain subject to capital gains by 3 percent each year a timber asset is held up to a maximum of 50 percent. Most importantly, it would apply this tax rate to all taxpayers, individuals as well as corporations. In this manner, we would avoid the inequity we have today whereby neighboring tracks of the same timber are taxed at different rates simply because of the business form of their investments (i.e. one is owned by a small group of investors while another is owned by a larger group of public investors).

Besides ensuring fairness, the Reforestation Tax Act will encourage sound forestry practices that keep our environment healthy for the future. Currently, industrial timberlands help reduce demand for timber from public lands while generally being managed according to principles of sustainable forestry. Moreover, by sequestering carbon, managed forests help to offset emissions that contribute to the "greenhouse effect". Unfortunately, today's high tax burden on forest assets runs counter to our commitment to preserving and investing in the environment. This bill would encourage reforestation—or reinvestment in the environment—by extending tax credits for all reforestation expenses and shortening the amortization period for reforestation costs. As we consider policies to counteract global warming and improve water quality, we need to encourage sound forestry practices. It is this kind of approach that assures our tax policies take into account the long-term risk of timber investments and rewards timber owners who responsibly sustain forest health over long periods of time.

The Reforestation Tax Act represents the best of sound tax and environmental policy. I urge my colleagues to support and cosponsor this measure.

DESCRIPTION OF REFORESTATION TAX ACT OF 1998

SECTION 1—PROPOSAL TO INCREASE INCENTIVES FOR INVESTMENT IN LONG-HELD TIMBER ASSETS

Proposal: To reduce the negative interaction of tax rates and inflationary gain on investment in long-held timber assets. Section 1 would reduce the amount of gain on harvested timber subject to tax by 3 percent each year the asset is held, up to a maximum 50 percent reduction. The proposal would be available for all timber owners.

Description of Current Law: Under current law, timber is considered a capital asset. However, the lower tax rate for capital assets was eliminated in the Tax Reform Act of 1986. This created a situation where timber owners, who must hold their trees for 20 to 60 years before harvesting, were paying taxes on inflationary gains. Congress partially corrected this problem last year when it restored lower capital gains rates—20% for individuals who held their capital assets for at least 18 months. However, corporate timber owners must still pay the higher regular tax rate of 35% on their timber gains.

Reasons for the Change: The 1997 Taxpayer relief Act (TRA) significantly reduced the Federal tax bill on millions of Americans by reducing the burdensome tax rates on capital gains for individuals. The House passed version of TRA included a capital gains tax reduction for individuals and corporations. Unfortunately, the TRA as finally enacted contains provisions that have unintended consequences for the forest products industry. Because it ultimately excluded corporate assets, the 1997 TRA established a much higher capital gains tax threshold for all corporate assets, merely based on the form of ownership. Discriminating against taxpayers who make long-term investments, based solely on the business form of their investment, is a particularly unfair consequence for the forest products industry.

Timber growing in any form is a long-term, high-risk venture, subject to the unpredictable threats of disease, fire, government intervention, and price in the marketplace. The TRA outcome creates a differential between those who invested in growing trees as a corporation and those who have invested as individuals. Many non-industrial timberland owners' assets are held in corporate form, based on considerations under current law (liability concerns, estate taxes, etc.), so a capital gains differential limited to individuals excludes coverage for much of the nation's privately held timberland. But no matter who pays the capital gains tax, the investments are equally risky, and the incentive to reinvest diminished. Private forest landowners—corporate and non-corporate—furnish most of the nation's timber resources. In fact, less than 8 percent of the nation's timber harvest comes from public lands. There are currently 393 million acres of woodlands owned by 9.9 million private owners, ranging in size from small woodlot owners to large industrial concerns.

How the Sales Price Adjustment Works: Upon the sale of timber, for purposes of determining capital gain, the gain would be reduced by 3 percent for every year the timber was held. This provision is restricted as that the reduction in sales price cannot reduce the gain by more than 50 percent.

Environmental Benefits of the Section 1: U.S. Commercial timberlands are managed in accordance with some of the strictest environmental standards in the world. We need to support this industry as it competes in the global marketplace against international competitors, many of whom are not subject to the same standards as the U.S. industry. U.S. commercial timberlands are managed not only for purposes of providing timber but also for promoting fish and wildlife habitat and other public purposes. In addition, trees are natural "carbon sinks," sequestering carbon dioxide and giving off oxygen. In plain terms, the U.S. forest products industry is a major contributor toward reducing the accumulation of greenhouse gases through its management of timberlands.

SECTION 2—PROPOSED TO IMPROVE THE TAX CREDIT AND AMORTIZATION PERIOD FOR REFORESTATION EXPENDITURES

Proposal: To remove the current dollar limitation ($10,000) on the amount of reforestation expenses that are eligible for the 10 percent tax credit and that are allowed to be amortized; secondly, to decrease the amortization period over which these expenses can be deducted from seven to five years.

Description of Current Law: Current law provides a ten percent tax credit to timberland owners who spend up to $10,000 to reforest their land and allows the same amount ($10,000) of reforestation expenses to be amortized over a seven year period.

What are Reforestation Expense: The initial expenses required to establish a new stand of trees often include items such as site preparation, the cost of the seedlings, the labor costs required to plant the seedlings and care for the trees in the first several years, and depreciation equipment used in reforestation.

Example of How the Credit and Amortization Provisions Work: Today, if a timberland owner spends $10,000 on reforestation costs in a year, the taxpayers can take a ten percent credit, i.e., $1,000 off their tax bill for those expense. The basis is reduced by 50% of the credit (in this case $500) and the remaining $9500 of expenses are eligible to be amortized, i.e., deducted over a seven year period, generally in equal amounts of one-seventh each year. Reforestation expenses over $10,000 are not eligible for this incentive.

Environmental Benefits of the Section 2: The provisions are intended to encourage reforestation, both on land that has been harvested and on land that was previously put to other uses, such as agriculture. Trees provide a tremendous benefit to the environment—they prevent soil erosion, cleanse streams and waterways, absorb carbon dioxide from the atmosphere, and provide habitat for a range of species. Tax incentives for planting on private lands also decrease the pressure to obtain timber from public lands, allowing more public land to remain untouched.

Need for Tax Incentives to Encourage Reforestation: The decision to reforest, particularly after harvesting, can be a difficult one. The expenses are high and the eventual benefits quite remote since trees must grow 20 to 60 years until mature enough for harvesting again. During that long period of time, the trees are subject to numerous risks such as disease, forum insects, etc., as well as ordinary market risks.

Reasons for Eliminating the $10,000 Cap: The arbitrary limit on eligible reforestation expenses restricts the number of acres that can be automatically reforested. With the ever decreasing availability of public timber, it is even more important to encourage the maximum amount of private reforestation possible. It is particularly essential that all landowners be eligible for such tax treatment so that they will have the resources to hire professional foresters, wildlife biologist, and other experts which allow for more environmentally sensitive forestry practices. Larger owners are penalized under current law because corporations are not eligible for lower capital gains rate on timber. If the tax law is not changed to benefit all timber owners who reforest, it could encourage owners who do not receive tax incentives to get out of the business of owning timber and this would ultimately be very harmful to both timber supply and the environment.

HONORING GWENDOLYN BYRD

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 24, 1998

Mr. ENGEL. Mr. Speaker, Gwendolyn Byrd is a grand example of someone who has achieved success in both the public and private sectors. So it is with more than a touch of sorrow that on this occasion we are honoring her on her retirement as New Rochelle City Clerk.

Gwen was born the eldest of four daughters to Marcus and Juanita Tarrant. After attending

Pace University for two years she went to work. And, when her family moved to New Rochelle in 1958, she worked for a number of City agencies before becoming the city's first African American and woman named a Deputy City Marshal.

Five years later she opened Byrd's Nest restaurant and also started a catering business which serviced a client list that included the Cathedral of St. John the Divine and many others. In the 1980s she established Hannah's Place at the New Rochelle Marina, serving fresh seafood. In 1989 Gwen joined the Cornell University Cooperative Extension Service counseling the homeless residents of WestHelp on nutrition.

Gwen has always been an ardent volunteer and organizer. She is a founder of the New Rochelle Black Women's Political Caucus and the African American Art and Cultural Appreciation Council.

She was appointed City Clerk in 1992, the first African American and woman to be appointed to such a high city post.

She has given so much for so long I cannot imagine how New Rochelle will get along without her. But that cannot stop me from offering her the very best for a retirement as rewarding as the rest of her life.

TRIBUTE TO MONCHITO PASCUALY ON THE STREET RENAMING CEREMONY IN HIS HONOR IN SUNSET PARK, BROOKLYN

HON. NYDIA M. VELÁZQUEZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 24, 1998

Ms. VELÁZQUEZ. Mr. Speaker, it is with great pride that I offer a tribute to Gladys Pascualy and the Pascualy family on behalf of Monchito Pascualy, the former "mayor" of Sunset Park, Brooklyn, on the day of a street being renamed in his honor in the community. Monchito, as he was known with warmth throughout the Sunset Park community, was a respected and loved member of our diverse community. He was a business leader who owned two small businesses in Sunset Park and who worked to bring together merchants throughout the community, especially along 4th Avenue, to improve the neighborhood and their livelihood.

Monchito, recognizing that youth are our community's and Nation's future, would often sponsor positive activities and provide trophies and other awards for Sunset Park's youth. His civic mindedness inspired merchants all along 4th and 5th Avenues in Sunset Park to commit themselves to bettering the community, including developing a constructive working relationship with the 72nd Police Precinct.

Monchito's generous and charitable nature would not allow him to see another human being suffering and he would often give freely to those in need. His generosity and leadership are legendary in the community to this day.

Sunset Park lost a great man, a great Puerto Rican and an effective leader when Monchito died three years ago. The renaming of 5th Avenue between 44th and 45th Streets is a well-deserved tribute to Monchito Pascualy who gave so much, and so lovingly to so many in our community. Mr. Speaker, I ask my colleagues in the U.S. House of Representatives to join me in paying tribute to Monchito Pascualy on the day of a street being renamed in his honor.

A TRIBUTE TO LOCAL HEROS

HON. JAMES P. McGOVERN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 24, 1998

Mr. McGOVERN. Mr. Speaker, on December 27, 1997, James Floyd, a part-time Plainville, Massachusetts Police Officer, responded to an accident on Mirimiche Road. Officer Floyd found a car submerged in Mirimichi Lake when he arrived at the scene. After calling for assistance, he proceeded into the freezing water to rescue any victims. He was unable at first to free Thomas Spadoni, who was trapped inside. When Officer Floyd surfaced, Officers Greg Kiff and Brian Scully were at the accident site. Officer Floyd was given a knife and able to cut the victim free. Mr. Spadoni was then given CPR by Officers Kiff and Scully, who were assisted by paramedics from Plainville and North Attleboro. Officer Floyd returned to the water to verify that there were no remaining victims in the car.

Thomas Spadoni was transported to Sturdy Memorial Hospital and then to the University of Massachusetts Medical Center. Hospital officials confirmed that Mr. Spadoni was "clinically drowned." He survived only because of the heroic efforts of Officer Floyd and the other officers at the scene. When James Floyd was asked why he jumped into the water, he stated, "It was a lot of training and instinct."

On January 12, 1998 the citizens of Plainville honored their heroes at a special ceremony in the Wood School Library. Officer Floyd was given the Medal of Valor for actions that far exceeded expectation. The people of Plainville, as well as the citizens of Massachusetts, are indeed fortunate to have these truly dedicated public safety officers in their service.

PERSONAL EXPLANATION

HON. LUIS V. GUTIERREZ

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 24, 1998

Mr. GUTIERREZ. Mr. Speaker, in the afternoon of Monday, June 22, 1997, I was unavoidable delayed from reaching this chamber and therefore missed roll call vote number 252, the vote on the Foley amendment to H.R. 4060; roll call vote number 253, the vote on final passage on H.R. 4060, the Energy and Water Development Appropriations bill; roll call vote number 254, the vote on final passage of H.R. 4059, the Military Construction Appropriations bill; roll call vote number 255, to suspend the rules and pass H. Con. Res. 288 and roll call 256 to suspend the rules and pass H. Res. 452. I want the record to show that if I had been able to be present in this chamber when these votes were cast, I would have voted yea on each of them.

COMMEMORATING THE 25TH ANNIVERSARY OF THE SENIOR CITIZENS COORDINATING COUNCIL OF RIVERBAY

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 24, 1998

Mr. ENGEL. Mr. Speaker, today I rise to speak in praise of a group of people celebrating the 25th anniversary of working daily to address the needs of senior citizens who live at Co-op City in the Bronx. The Senior Citizens Coordinating Council on Riverbay, Inc. has taken as its mission to seek out and develop resources and services to meet the needs of the elderly in Co-op City, to facilitate service co-ordination between agencies, to establish a safety net of services for the vulnerable elderly, to advocate for seniors at all levels of decision making, and to organize, educate and empower seniors to act on their own behalf.

This is a grass roots organization in the best sense, for it is made up of local people banding together to help themselves and others similarly situated. It was organized in 1973 as a non-profit organization to help the elderly in Co-op City, the largest co-operative community in the world with more than 15,000 apartments and 50,000 residents.

SCCC was formed shortly after Co-op City opened to help the already large number of retired and those nearing retirement who had come to live in Co-op City. SCCC has organized programs targeting the homebound elderly and operates three centers for congregate meals to help the 90 percent of the seniors in Co-op City who are in the low- to moderate-income categories.

I have worked with SCCC and find it an exemplary model of a helping organization; one that is run locally by people from the community to help their neighbors.

PERSONAL EXPLANATION

HON. MICHAEL G. OXLEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 24, 1998

Mr. OXLEY. Mr. Speaker, I was unavoidably absent from the House chamber for roll call votes held the evening of Monday, June 22. Had I been present I would have voted "nay" on roll call 252 and "yea" on roll call votes 253 through 256.

PERSONAL EXPLANATION

HON. DAVE WELDON

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 24, 1998

Mr. WELDON of Florida. Mr. Speaker, on June 18, my wife and I adopted a newborn baby boy and I was unable to be in Washington for votes. Due to the adoption, I missed votes on June 18, 19, and 22. Had I been present I would have cast votes as follows.

I would have voted Aye on the following Roll Call votes: 243, 244, 245, 246, 247, 248, 251, 254, 255, and 256.

I would have voted No on the following Roll Call vote: 242.

ECONOMIC GROWTH ACT OF 1998

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 24, 1998

Mr. PACKARD. Mr. Speaker, I rise in support of House Speaker NEWT GINGRICH's "Economic Growth Act of 1998." As an original cosponsor of this legislation, I am proud that it will boost economic growth and offer better financial investment resources for all Americans.

The "Economic Growth Act of 1998" will reduce capital gains rates, simplify the tax rate by eliminating exemptions and reduce the holding period for assets. This bill is a win-win situation for all citizens. Critics have claimed that reducing taxes on investment will only benefit the wealthy. This is not the case. A 1997 Congressional Budget Office study found half of all U.S. families own assets such as stocks, bonds, businesses and real estate which encourage savings and investment. One-third of all taxpayers who reported gains or losses over a 10-year period made less than $50,000 annually. This legislation will make investment and planning more manageable for all Americans, regardless of their annual income.

Mr. Speaker, the "Economic Growth Act of 1998" will benefit Americans, regardless of their stage in life, if they are starting a family, sending a child to college or preparing for retirement. For too long, the threat of monetary punishment often associated with entrepreneurship has loomed over the heads of Americans, discouraging them from saving and investing. This legislation will move our economy with the changing times and interests of America's families and businesses.

A TRIBUTE TO NATIONAL PARK SERVICE RANGER JOSEPH KOLODSKI

HON. CHARLES H. TAYLOR

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 24, 1998

Mr. TAYLOR of North Carolina. Mr. Speaker, I was shocked and deeply saddened by the news last weekend of a federal law enforcement official's murder in my district. Ranger Joseph David Kolodski, 36, of the U.S. Park Service was killed in cold blood while serving our nation and keeping Western North Carolina communities safe. Unfortunately, legislative business will keep me from attending Thursday's memorial services, so I am sending members of my staff to convey our sympathies and promise that this senseless act will not go unpunished.

A six-year veteran of the Park Service, Ranger Kolodski epitomized the dedication and sacrifice that protect and maintain our nation's natural resources. He was a devoted father and family man. Joe was also a dedicated member of his community. He served in his community church, First Baptist Church in Bryson City, North Carolina. He also volunteered with the Cherokee Emergency Medical Services.

I plan to inquire of National Park Service officials what equipment upgrades or resources could prevent another tragedy from occurring. We need to guarantee that our National Parks and Forests remain safe for visitors and personnel. In the 82 years of the National Park Service, Ranger Kolodski is the third to fall in the line of duty. We need also to be sure the men and women who keep them safe have the tools they need to protect themselves!

Finally, my thoughts and prayers are with Florie—Ranger Kolodski's wife of 17 years who is also a Park Ranger—and Rachel, Joseph and Sarah—Joseph's children. For them, Ranger Kolodski was a devoted husband and father. At this time of grief, I urge Members to join with me in conveying our sympathies to this young family and work with me to see that our Park Rangers have the tools they need to be safe.

A SPECIAL TRIBUTE TO THE HURON PLAYHOUSE IN RECOGNITION OF ITS FIFTIETH ANNIVERSARY CELEBRATION

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 24, 1998

Mr. GILLMOR. Mr. Speaker, I rise today to pay special tribute to one of the truly outstanding landmarks in Ohio's Fifth Congressional District, the Huron Playhouse. On Opening Night, Tuesday, June 30, 1998, the Huron Playhouse will celebrate its Fiftieth Anniversary.

The Huron Playhouse is the oldest continuing educational summer theater in the state of Ohio. Over the past fifty years, the Huron Playhouse has been the summer home to more than 475,000 attendees, who have come to see 329 productions of some 262 different plays. The successes of the Huron Playhouse, over its fifty-year history, are strong examples of what hard work, determination, talent, and creativity can bring.

The Huron Playhouse has a very rich and tradition-filled history. Started in 1948, the Huron Playhouse began as a partnership summer theater program by Bowling Green State University and the Huron community. Over the past fifty years, the BGSU/Huron partnership has continued to grow and has provided the tremendously educational and entertaining theatrical productions that are associated with the Huron Playhouse.

Mr. Speaker, the Huron Playhouse is one of the cornerstones of the Huron community. It continues to be a wonderful summer theater of which we can all be proud. The Fiftieth Anniversary Celebration of the Huron Playhouse is a time to reflect upon the achievements of the past, and a time to look to the future with much enthusiasm. I am sure the next fifty years of the Huron Playhouse will be just as memorable as the first.

Mr. Speaker, I would urge my colleagues to stand and join me in paying special tribute to the Huron Playhouse, to all those who have attended its performances, to the directors, producers, cast, crew, and orchestra members, and all others who have helped build it into the premier theater in the area. We congratulate you on fifty wonderful years, and wish you all the best in the future.

HONORING GENEVIEVE BROOKS

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 24, 1998

Mr. ENGEL. Mr. Speaker, we rise to speak in the highest praise of a woman who has worked for much of her life to improve the lot of people in need, a woman who has done more than probably anyone to save and create housing in the Bronx when it seemed that everyone else was fleeing.

Genevieve Brooks is vice president for the Faith Center for Community Development, where she is dedicating herself to creating and preserving healthy neighborhoods. She has been doing this in many guises for most of her life. As Deputy Borough President of the Bronx she oversaw policy implementation for a county of 1.2 million people while managing the day-to-day operations of 120 people and agency professionals, as well as community based organizations, in planning for and improving housing and the delivery of municipal services. She has served on the Boards of Directors of Bronx Health and Human Services Development Corp. and the Bronx Overall Economic Development Corp. She has also served on the Consumer Advisory Council of the Federal Reserve Board and the Advisory Council of the Federal Home Loan Mortgage Corp.

She has organized and run dozens of organizations to improve housing either communally or throughout the Borough. She was instrumental in the Bronx being named one of America's top ten cities.

Genevieve Brooks is being honored for her good works by being named Bronx Woman of Distinction. No one is more deserving of this honor; no one has done more to earn it.

PROTEST ON BEHALF OF ALEXANDR NIKITIN

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 24, 1998

Mr. HOYER. Mr. Speaker, next week, on Thursday, June 25, human rights activists and defenders of the environment plan to gather in front of the Russian Consulate in San Francisco to protest the continuing mistreatment of former Russian Navy Captain Alexandr Nikitin.

Working with the Norwegian environmental group "Bellona," Mr. Nikitin provided resource material for a report entitled "The Russian Northern Fleet: sources of Radioactive Contamination," that exposed the Russian Navy's nuclear waste dumping in the White Sea and Kola Peninsula region. the report revealed, for instance, that fifty-two decommissioned nuclear submarines still containing nuclear fuel are rusting at the Murmansk dockside and that nuclear reactors from other decommissioned submarines were simply dumped into the Arctic Ocean.

It would probably be too much to ask that the Russian government thank him for his efforts. Frankly, the Russian government is not the only government that has not looked kindly on environmental whistle blowers. However, most governments would not go to the lengths to which the Russian government has gone to punish Mr. Nikitin for his expose.

On February 2, 1996, he was arrested and charged with "revealing state secrets," a charge that could carry the death penalty if he were convicted. In October 1996, the Federal Security Service (FSB) declared the Bellona/Nikitin report "forbidden literature." Nikitin was held in pretrial detention from February to December 1996. I would note that during this time his brother-in-law, who had served in the Russian Northern Fleet, died of radiation poisoning.

Protests from human rights activists and defenders of the environment resulted in Nikitin's release from detention, but the charges were not dropped. The FSB attempted to have him indicted on the basis of unpublished "secret decrees," a blatant violation of the Russian constitution. Even the Federal Prosecutor's office admitted that "mistakes were made" and that the case "contains no hint of espionage." The FSB had to back down, and after six earlier investigations, now claims to have a legitimate case to go to trial. One wonders how many chances the FSB gets.

Meanwhile, Nikitin has been required to remain in St. Petersburg. His wife and daughter came to the United States last year to accept on his behalf the prestigious Goldman Environmental Prize for his environmental work. Their apartment is kept under surveillance, the phone has been tapped, and Nikitin's lawyer was recently approached by thugs on the street and told to "stay away from this."

But the FSB has misjudged their man. Alexandr Nikitin and his family are standing up to the reactionary forces of the past. They do this not only for themselves, but for millions of Russians and millions of others on this planet who are endangered by ecological irresponsibility and indifference. if we care about human rights and the future of our planet, we should add our voices in support of Alexandr Nikitin's cause. The Russian government woud be better served by honoring the efforts and integrity of citizens such as Alexandr Nikitin rather than trying to silence and punish him.

GIFTED AND TALENTED STUDENTS EDUCATION ACT OF 1998

HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 24, 1998

Mr. GALLEGLY. Mr. Speaker, today I will introduce the Gifted and Talented Students Education Act of 1998 that would provide block grants to states to identify and assist our nation's most gifted and talented students.

Gifted and talented students are this nation's greatest natural resource. They are our future Thomas Edisons, Langston Hughes, George Gershwins and Albert Einsteins. Unfortunately, these students are not being challenged today and our nation is missing out on their future achievements. According to Secretary of Education Richard Riley, our nation is facing a "quiet crisis" in that we are not appropriately educating our nation's most gifted and talented students. We must challenge these students with exceptional talent so they do not slip though the cracks and their talent does not go untapped.

My legislation addresses this "quiet crisis" by providing block grants to state education agencies to identify gifted and talented students from all economic, ethnic and racial backgrounds—including students of limited English proficiency and students with disabilities—and to provide support programs and services to ensure these students achieve their full potential. Funding would be based on each state's student population, with each state receiving a minimum of $1 million per year.

I encourage all of my colleagues to join me in my commitment to ensure our nation's gifted and talented students reach their fullest potential and to ensure we have a new generation of Americans ready to meet the demand of the 21st Century.

POLYCYSTIC KIDNEY DISEASE

HON. MERRILL COOK

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 24, 1998

Mr. COOK. Mr. Speaker, I rise today to share with my colleagues the story of a remarkable woman from Salt Lake City. Her story, and that of her family, brought home to me the reality of a tragic and widespread affliction called Polycystic Kidney Disease, or PKD.

Heidi Naylor suffers from PKD. So did her grandfather. So does her mother. So does her aunt. So do two of her brothers and sisters. Her children may ultimately develop this devastating disease as well.

Heidi's grandfather died from PKD when he was only 43 years old. Heidi's mother has undergone surgery six times in a single month to treat the disease. She has had 38 surgeries overall and has been on dialysis for the last 15 years. Heidi's mother has suffered from numerous life threatening complications including punctured lungs, pancreatitis, and numerous infections. However, the nurses and technicians at her dialysis center call her the "Energizer Bunny," because she never gives up. She has survived longer than almost anyone else in Utah on dialysis. Heidi told me that her mother is an inspiration to her entire family because, "when you see her and her determination to live here on this earth you can't help but feel uplifted."

Heidi herself is 33 years old with three children, and has also been diagnosed with Polycystic Kidney Disease, which is also known as PKD. Taking a cue from her indefatigable mother, she is fighting to make a difference. Heidi has become involved with Polycystic Kidney Research Foundation. She came here to Washington last week, which is when I had the pleasure of meeting her. Heidi called herself a rookie advocate, but she was extremely articulate in relating her family's compelling story, and in advocating a greater federal commitment to PKD research. Heidi says that she wants to work to ensure that effective treatments are available if her children in case they develop PKD.

Six hundred thousand Americans suffer from PKD. As Heidi's story makes clear, it is a genetic disease. It is also very painful and debilitating. Sufferers are afflicted with cysts on both kidneys which impair their functions. More than half of those afflicted develop kidney failure. In fact, PKD is the third leading cause of kidney failure. PKD sufferers make up approximately 10% of the End Stage Renal Disease population in the U.S. Medicare and Medicaid End Stage Renal Disease coverage for PKD sufferers costs the government over one billion dollars annually.

Congress can help people like Heidi and her family in their fight against the pain and the debilitating symptoms and complications of PKD.

First, we can fight for increasing funding for the NIH. I understand that the Appropriations Committee is in the process of considering a $1.25 billion increase in NIH funding. Mr. Speaker, I urge all of my colleagues to support this needed spending increase.

Second, we should let the NIH know that it should increase the funding for PKD research through the National Institute of Diabetes and Digestive and Kidney Diseases. NIH funding for this disease is low compared to the large number of individuals who are afflicted. Increased funding for PKD research would be a wise and compassionate investment. Scientists have recently discovered the gene that causes most cases of PKD and are working on finding ways to translate this discovery into treatments for the disease. Finally, as I have already noted, PKD costs the government over a billion dollars a year in Medicare and Medicaid coverage for End Stage Renal Disease. Effective treatments will eliminate the need for this spending.

Mr. Speaker, I ask you and my colleagues to consider that a relatively small investment in research at the NIH can end a great deal of pain and suffering, and ultimately save the Treasury billions of dollars. It will also help Heidi Naylor and her family. It will let them know that we in the Congress are standing beside them in their fight against PKD. And that is the least we can do.

CONCERNS FOR THE ENERGY AND WATER DEVELOPMENT APPROPRIATIONS CONFERENCE REPORT

HON. ED WHITFIELD

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 24, 1998

Mr. WHITFIELD. Mr. Speaker, two days ago the full House passed the FY 1999 Energy and Water Development Appropriations Bill. I was proud to lend my support to that bill, although there are several important issues affecting my District that I would like to bring to the attention of my House colleagues.

I represent the workers at the Paducah Gaseous Diffusion Plant—one of two plants in America that originally enriched uranium for our country's nuclear weapons production program. Today, that uranium is sold to commercial nuclear power companies.

The environmental cleanup associated with the enrichment process is financed by the Decontamination and Decommissioning Fund. The President requested $277 million for the D&D fund. The Senate bill includes $197 million while the House bill provides $225 million.

The federal government is responsible for this cleanup, Mr. Speaker, and further delays will result in higher long-term costs. It is my hope that the House and Senate conferees will agree to fund the D&D program at the higher House-approved funding level.

Another issue of special importance to me was raised by my colleague in the Senate, MITCH MCCONNELL, during a floor discussion with Senator PETE DOMENICI, Chairman of the Energy and Water Development Appropriations Subcommittee.

The United States Enrichment Corporation (USEC) currently manages the two uranium enrichment plants in Paducah, Kentucky and Portsmouth, Ohio. Legislation has already passed the Congress to privatize USEC and final privatization action is imminent. Once that Corporation is privatized, I have been advised that between 600 to 1,700 jobs will be lost at the two plants.

I have also been told that USEC has accrued approximately $400 million on its books for the purpose of cleaning up the uranium waste generated by the enrichment process since USEC took over operation of the plants from the Department of Energy in 1993. However, this money only remains available until USEC is privatized and, at that point, the monies would be transferred to the Treasury.

I oppose returning those funds to the Treasury when they were originally earmarked for cleanup of USEC's uranium waste at both of the gaseous diffusion plants.

It would be my hope that my colleagues on the Energy and Water Development Appropriations Subcommittee will work with me to ensure that the money earmarked for the purpose of cleaning up the uranium tails produced by USEC will continue to be dedicated for these purposes and help mitigate job losses at these plants.

IN HONOR OF PAUL O'DWYER

HON. CAROLYN McCARTHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 24, 1998

Mrs. McCARTHY of New York. Mr. Speaker, I rise to express my great sorrow at the passing of a wonderful man, Mr. Paul O'Dwyer who died last night at his home in Goshen, New York. Born in the tiny village of Bohola, County Mayo, Ireland, Paul was one of eleven children—the youngest son of two school teachers. As a young man, Paul left his native home and like millions of his fellow countrymen before him, set sail for America seeking a better life. He arrived in New York in 1926, and found work as a laborer on the shipping docks in lower Manhattan. While working long hours by day as a laborer, Paul managed to earn his law degree at night from St. John's University Law school.

As a young attorney in New York, Paul became the driving political force among the Irish of New York. He was a man of tremendous energy, and more importantly, tremendous conviction. His office was open to all who needed help and he was always ready to champion a good cause. Whether it was signing up African-American voters in the South when they were being denied the right to vote; organizing efforts to break the British blockade of Israel in 1948; fighting for the rights of labor; or galvanizing the Irish-American movement for justice in Northern Ireland, Paul never saw a wrong he didn't try to right.

I speak for all of us who knew and loved Paul when I say he will be sorely missed—but his legacy will live on. I would like to extend my deepest sympathy to Paul's wife, Patricia, his sons, Brian, Rory, William, his daughter, Eileen and the rest of his family.

EVERY CURRENCY CRUMBLES

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 24, 1998

Mr. PAUL. Mr. Speaker, it has recently come to my attention that James Grant has made a public warning regarding monetary crises. In an Op-Ed entitled "Every Currency Crumbles" in The New York Times on Friday, June 19, 1998, he explains that monetary crises are as old as money. Some monetary systems outlive others: the Byzantine empire minted the bezant, the standard gold coin, for 800 years with the same weight and fineness. By contrast, the Japanese yen, he points out, is considered significantly weak at 140 against the U.S. dollar now to warrant intervention in the foreign exchange markets but was 360 as recently as 1971. The fiat U.S. dollar is not immune to the same fate as other paper currencies. As Mr. Grant points out, "The history of currencies is unambiguous. The law is, Ashes to ashes and dust to dust."

Mr. James Grant is the editor of Grant's Interest Rate Observer, a financial publication, and editorial director of Grant's Municipal Bond Observer and Grant's Asia Observer. He has also authored several books including the biographical "Bernard Baruch: Adventures of a Wall Street Legend", the best financial book of the year according to The Financial Times "Money of the Mind: Borrowing and Lending in America from the Civil War to Michael Milken", "Minding Mr. Market: Ten Years on Wall Street with Grant's Interest Rate Observer" and "The Trouble with Prosperity: The Loss of Fear, the Rise of Speculation, and the Risk to American Savings". He is a frequent guest on news and financial programs, and his articles appear in a variety of publications.

[From the New York Times, June 19, 1998]

EVERY CURRENCY CRUMBLES

(By James Grant)

Currencies, being made of paper, are highly flammable, and governments are forever trying to put out the fires. Thus a half decade before the bonfire of the baht, the rupiah and the yen, there was the conflagration of the markka, the lira and the pound. The dollar, today's global standard of value, was smoldering ominously as recently as 1992.

Monetary crises are almost as old as money. What is different today is the size of these episodes. It isn't every monetary era that features recurrent seismic shifts in the exchange values of so-called major currencies. On Wednesday morning, after coordinated American and Japanese intervention, the weakling yen became 5 percent less weak in a matter of hours.

People with even a little bit of money ought to be asking what it's made of. J.S.G. Boggs, an American artist, has made an important contribution to monetary theory with his lifelike paintings of dollar bills. So authentic do these works appear—at least at first glance, before Mr. Boggs' own signature ornamentation becomes apparent—that the Secret Service has investigated him for counterfeiting. "All money is art," Mr. Boggs has responded.

Currency management is a political art. The intrinsic value of a unit of currency is the cost of the paper and printing. The stated value of a unit of currency derives from the confidence of the holder in the promises of the issuing government.

It cannot undergird confidence that the monetary fires are becoming six- and seven-alarmers. Writing in 1993 about the crisis of the European Rate Mechanism (in which George Soros bested the Bank of England by correcting anticipating a devaluation of the pound), a central bankers' organization commented: "Despite its geographical confinement to Europe, it is probably no exaggeration to say that the period from late 1991 to early 1993 witnessed the most severe and widespread foreign exchange market crisis since the breakdown of the Bretton Woods System 20 years ago." But the European crisis has been handily eclipsed by the Asian one.

Monetary systems have broken down every generation or so for the past century. The true-blue international gold standard didn't survive World War I. Its successor, a half-strength gold standard, didn't survive the Great Depression. The Bretton Woods regime—in which the dollar was convertible into gold and the other, lesser currencies were convertible into the dollar—didn't survive the inflationary period of the late 1960's and early 1970's.

Today, the unnamed successor to Bretton Woods is showing its years. The present-day system is also dollar-based, but it differs from Bretton Woods in that the dollar is no longer anchored to anything. It is defined as

100 cents and only as 100 cents. Its value is derived not from a specified weight of gold, as it was up until Aug. 15, 1971, but from the confidence of the market.

For the moment, the market is highly confident. So is the world at large. In 1996, the Federal Reserve Board estimated that some 60 percent of all American currency in existence circulates overseas. The dollar has become the Coca-Cola of monetary brands.

However, as Madison Avenue knows as well as Wall Street, brand loyalties are fickle. In the early 1890's, the United States Treasury was obliged to seek a bailout from the Morgan bank. During the great inflation of the 1970's, Italian hotel clerks, offered payments in dollars, rolled their eyes. The yen, today reckoned dangerously weak at 140 or so to the dollar, was 360 as recently as 1971. The tendency of the purchasing power of every paper currency down through the ages is to regress. Is there any good reason that the dollar, universally esteemed today, should be different?

None. Certainly, the deterioration of the American balance-of-payments position doesn't bode well for the dollar's long-term exchange rate. Consuming more than it produces, the United States must finance the shortfall. And it is privileged to be able to pay its overseas bills with dollars, the currency that it alone can legally produce. Thailand would be a richer country today if the world would accept baht, and nothing but baht, in exchange for goods and services. It won't, of course. America and the dollar are uniquely blessed.

Or were. France and Germany have led the movement to create a pan-European currency, one that would compete with the dollar as both a store of value and a medium of exchange. The euro, as the new monetary brand is called, constitutes the first serious competitive threat to the dollar since the glory days of the pound sterling.

In a world without a fixed standard of value, a currency is strong or weak only in relation to other currencies. The dollar's "strength," therefore, is a mirror image of—for example—the yen's "weakness." It is not necessarily a reflection of the excellence of the American economy.

And no degree of excellence can forestall a new monetary crisis indefinitely. Some monetary systems are better than others, and some last longer than others, but each and every one comes a cropper. The bezant, the standard gold coin of the Byzantine empire, was minted for 800 years at the same weight and fineness. The gold may still be in existence (in fact—no small recommendation for gold bullion—it probably is), but the empire has fallen.

After the 1994 crisis involving the Mexican peso, the world's financial establishment vowed to stave off a recurrence. Even as the experts delivered their speeches, however, Asian banks were overlending and Asian businesses were overborrowing; the credit-cum-currency eruption followed in short order. Naturally, officials and editorialists are now calling for even better fire prevention systems.

But "stability," the goal so sought after, is ever unattainable. The history of currencies is unambiguous. The law is, Ashes to ashes and dust to dust.

CAMPAIGN FINANCE

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 24, 1998

Mr. HAMILTON. Mr. Speaker, I insert my Washington Report for Wednesday, June 24, 1998 in the CONGRESSIONAL RECORD.

LIMITING CAMPAIGN SPENDING

Hoosiers will sometimes ask me why Congress doesn't simply change the system for financing congressional races. They are concerned about the rapidly escalating cost of campaigns and the "money chase" by candidates, and there is usually a "Just fix it" tone to their question. It can obviously be difficult for Members of Congress to change a system under which they were elected, but there are other, more fundamental reasons why campaign finance reform is so difficult—reasons arising out of a Supreme Court decision made more than two decades ago.

The Buckley case: The debate over campaign finance reform has become closely linked to the First Amendment rights of speech, expression, and association. In a famous 1976 decision, *Buckley* v. *Valeo*, the Supreme Court held that the giving and spending of campaign contributions were forms of political speech protected by the U.S. Constitution. The Court, however, distinguished between the constitutional protection afforded campaign contributions to a candidate by individuals, political action committees (PACs), or other groups and the protection afforded campaign spending by the candidate or others for direct communications with voters. Congress, the Court concluded, could place reasonable limits on campaign contributions to candidates because those contributions pose the possibility of corruption, or at least the appearance of corruption. Campaign spending by candidates or others, on the other hand, could not be so limited because the risk of corruption was less apparent and did not justify restrictions on the free speech rights of candidates.

The Buckley case has been a very large obstacle to meaningful campaign finance reform. The upshot of the decision is that Congress can properly limit the amount an individual or PAC can give to a candidate, but not the overall amount spent by any given candidate. Congress has the authority to limit campaign spending indirectly through a voluntary system of public financing, as is used in Presidential campaigns, but resistance to public financing makes that alternative unlikely. Buckley has helped spawn a campaign finance system where hundreds of millions of dollars are spent each year on federal elections.

Need for reform: I believe it is time for the Supreme Court to revisit the Buckley decision. I agree that campaign spending deserves some protection as free speech, but also believe spending can be restricted consistent with the Constitution. As the Court in Buckley acknowledged, campaign spending limits could be upheld if there were compelling governmental interests to justify such limits. The Court did not find those compelling interests existed in 1976. I believe they exist today with over 20 years of documented evidence.

Time fundraising: First, spending caps can be justified as a way to limit the harmful effects of fundraising on the legislative process and our system of representative government. Candidates today are engaged in an ever-escalating effort to raise money. In 1976 my campaign cost about $100,000; in the last election it cost $1 million. The practical effect of the money chase is that candidates spend more time raising money and less time meeting with constituents and doing their legislative work. They are not gathering information, analyzing policy, or debating the issues with their fellow Members. They are not learning what questions and problems most trouble the voters or going to public forums to hold their views up to public scrutiny. Consequently, the legislative process suffers.

Money wins: Second, spending caps can be justified as a way to reduce anti-competitive electoral practices. The simple fact is that the candidates who spend the most usually, but not always, win. Wealthy or well-funded candidates have a decided advantage in seeking office. Too many talented and energetic people simply choose not to run because they don't have the stomach to get into the money chase or because they are dismissed as not being viable candidates without the money. Incumbents are fully aware of this dynamic and they exploit it. They amass large war chests to scare away the competition, and as a result many incumbents today run unopposed. The upshot is that political debate is curtailed, and people with large amounts of money drown out everybody else's speech.

Corruption: Third, spending limits can be justified as a way to go after the threat of corruption. Most voters today believe their elected representatives are beholden to people and interests with money, not to them. Many campaign contributions may come from the candidate's natural political base, but if he has to seek an unlimited amount of money he will have to tap money from outside his natural supporters. And that puts a lot of pressure on him to take positions he does not favor and do things he does not want to do. Every act an elected official takes, whether to vote one way or the other, to introduce a bill or not, to deliver a speech, to conduct a committee hearing, has to be assessed in terms of its potential to attract or repel campaign funds. This situation feeds voter cynicism and disillusionment with elected officials and with government.

Conclusion: A host of legislative proposals to address these problems are being shot down by references to the Buckley decision and the First Amendment. I have never understood the different treatment of contributions and expenditures in Buckley. My view is that if government is justified in restricting contributions it is justified in limiting spending as well. Democracy can be threatened by excessive activity on either the spending or the contribution side of campaign finance.

It is time for the Supreme Court to review and modify the Buckley decision. The government has a strong interest in restoring the health of our democracy. The very essence of representative government is challenged by the present regime of money raising. Money has produced a crisis in our democratic system. Voters perceive that money too often controls who runs and who wins and that candidates spend too much time chasing money rather than listening to them. They become disillusioned and their disillusionment leads to disengagement.

Surely the Court can find a way under our Constitution to prevent money from skewing electoral results or from disproportionately influencing the priorities, the activities, and the decisions of our elected representatives. We simply have to find a way to preserve democracy without sacrificing free speech. If we are to find a way to reinvigorate our democracy, we must reexamine the Buckley case.

STARR'S PREVIOUS DENIAL OF LEAKS MAY HAVE VIOLATED THE LAW

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 24, 1998

Mr. CONYERS. Mr. Speaker, I enter into the Record the following article from the National Law Journal concerning legal issues that have been raised by Mr. Starr's previous denials of allegations of improper disclosures by his office to the press.

[From the National Law Journal, June 29, 1998]

Lies, Not Leaks, Real Starr Issue? Critics Say His Leak Denials May Have Violated U.S. Law

(By David E. Rovella)

Kenneth W. Starr's critics say the Whitewater independent counsel should be investigated for leaking grand jury information. But if he's found to have done anything wrong, it may not be for leaking, but for lying—the very offense Mr. Starr is trying to pin on the president.

Such thinking has gained some currency among lawyers connected to the investigation, but not because of Mr. Starr's recently published admission that he gave information to reporters—information some say may be protected by grand jury secrecy laws. Instead, defense lawyers are focusing on statements Mr. Starr made in the past six months, statements that gave the impression that he never commented about such matters.

For example, a defense lawyer involved in the investigation says confidential memos sent by the Office of the Independent Counsel to him and to the Justice Department deny such leaks. As a result, he argues, Mr. Starr's recent statements could make him vulnerable under 18 U.S.C. 1001(a)(2), which punishes false statements made to executive branch officials, such as U.S. Attorney General Janet Reno.

In short, Mr. Starr and Bill Clinton are accused of unseemly acts most people don't care much about. For Mr. Clinton, the allegation is sex with a White House intern. For Mr. Starr, it is allegedly illegal leaking. But if either man is brought down, it would not be because he committed an illicit act, but conceivably because he lied about it.

Just as Mr. Starr has been allowed to chase evidence of Mr. Clinton's lying or suborning perjury to cover up alleged sexual peccadilloes, lawyers representing possible targets of the Whitewater investigation say Ms. Reno should appoint a special prosecutor to investigate alleged leaks and any possible false statements made by Mr. Starr. Justice officials would only say that the Office of Professional Responsibility is reviewing the article in Brill's Content magazine, published June 15, in which Mr. Starr made his so-called leak confession.

The independent counsel has said in at least three separate public statements that information he provided to reporters did not violate Rule 6(e)(2) of the Federal Rules of Criminal Procedure, which requires grand jury secrecy. But observers say even the possibility that he lied increases pressure on the Justice Department to launch an unprecedented probe of the independent counsel.

"It's very parallel to Clinton and Lewinsky," says former Iran-Contra associate independent counsel Gerard E. Lynch. "The question of leaks, like the question of consensual oral sex, is something only two people know about, and neither one wants to tell."

THE DEFENSE OF STARR

In a June 16 letter to Mr. Starr, Clinton lawyer David E. Kendall listed various points during the six-month Lewinsky investigation when Mr. Starr had publicly declined to comment on grand jury matters, citing secrecy concerns. One lawyer close to the investigation, who requested not to be identified, says that when complaints about alleged leaking by Mr. Starr were filed with Deputy Attorney General Eric Holder Jr., Mr. Starr responded with scathing denials. "He had made statements to Justice that he had not done these things," the lawyer says. Neither Mr. Starr nor the Justice Department would comment on whether such memos were sent or what they may have contained.

But Mr. Starr's carefully worded statement tracks his defense against such charges. In the magazine article, he stated that his talks with reporters did not violate grand jury secrecy because the information provided stemmed from interviews with grand jury witnesses before they testified.

If there ever is an investigation, there remains some question of how Justice would probe the OIC without compromising its independence. "Most 6(e) cases tend to be [Freedom of Information Act] cases, media requests to open the court—not dealing with the behavior of the prosecutor," says former Iran-Contra associate independent counsel John Q. Barrett.

Experts say Ms. Reno could use her general powers to appoint a "Regulatory Special Prosecutor," similar to those appointed prior to the independent counsel law. This, they say, is preferable to seeking another independent counsel—which would likely be denied by the Special Division of the U.S. Circuit Court of Appeals for the District of Columbia—or to asking Mr. Starr to expand the mandate of former DOJ official Michael Shaheen, who is probing alleged payoffs of Whitewater witness David Hale by right-wing groups.

THE "DOW JONES" CASE

Both the leaking and lying charges hinge on a May 8 ruling by the D.C. Circuit that dealt with media access to hearings spawned by the Whitewater grand jury. A passage in the ruling, which may be a nonbinding dictum because it doesn't directly involve media access, contradicts Mr. Starr's initial assertions that he did not breach 6(e). In Re: Motions of Dow Jones & Co., 98-3033. Circuit Judge A. Raymond Randolph addressed 6(e)(2), which requires secrecy for "matters occurring before the grand jury."

"This phrase . . . includes not only what has occurred and what is occurring, but also what is likely to occur," he wrote. "Encompassed within the rule[is] . . . the substance of testimony [and the] strategy or direction of the investigation."

Some experts who say that using 18 U.S.C. 1001's prohibitions of lying against Mr. Starr would be a stretch also say they doubt the potency of Dow Jones on 6(e). "If I were a special prosecutor assigned to pursue this theory, it wouldn't be a slam-dunk," says Mr. Lynch.

Another facet of Mr. Starr's defense deals with charges that his alleged leaking violates Justice Department policies. Under 28 U.S.C. 594(f)(1) of the independent counsel act, Mr. Starr must obey the "established policies" of the Justice Department, "except to the extent that to do so would be inconsistent" with the act.

One of those policies is Rule 1-7.530 of the U.S. Attorney's Manual. While barring medial contact concerning ongoing investigations, the rule makes an exception for "matters that have already received substantial publicity, or about which the community needs to be reassured." Mr. Starr says he was obligated to correct misinformation in the press, and therefore his press comments fell under that exception. (Mr. Lynch says that this argument is "a little lame.")

However, the independent counsel law may relieve Mr. Starr of having to follow 1-7.530 at all, if he feels that doing so would be "inconsistent" with the act.

But Mr. Lynch says this provision of the law isn't a free ride. Mr. Starr "is not a total free agent; he's a substitute for a regular prosecutor," he says. "You're not supposed to make up your own rules along the way."

INTRODUCTION OF THE VIRGINIA FLOOD CONTROL BILL

HON. BOB GOODLATTE

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 24, 1998

Mr. GOODLATTE. Mr. Speaker, I rise today to introduce a bill that is designed to alleviate a serious problem for flood victims. In 1996, much of the southeastern region of our country took the brunt of the punches hurricane Fran could muster. Soon thereafter, Congress reacted by sending emergency aid to help rebuild the lives of those caught by this natural disaster. Many of my constituents were recipients of that aid and were grateful for it. However, the bureaucracy that accompanied some of Congress' best intentions was not as welcomed.

The people of the 6th district of Virginia are good, hard working, self-reliant people. Their first reaction was not to look for government intervention when calamity struck. Instead, they turned to their families and neighbors and told each other that it was time to go to work.

The flooding caused by Hurricane Fran in Allegheny, Augusta, Rockbridge, and Rockingham Counties dumped tons of rock and other debris in fields, pastures, living rooms and basements. My constituents, the farmers and landowners, wanted simply to start their tractors, put their gloves on and begin moving rocks. However, federal bureaucrats told them they needed to apply for a permit to put their lives back together.

If the farmers and landowners came crying to the government for help to move the debris, one might understand the federal cries for delay. But these folks were simply doing what they were always taught; if you want to get a job done right, do it yourself. Imagine their frustration when someone, probably from Washington, DC, came by and threatened to fine them if they continued to move the rocks without a permit.

Homer Allman, a landowner in Rockingham County, told me the so-called "repairs" the government so readily provided left nothing to be spoken for. "The work they did is already eroding," he said. "they provided me with six people who took three or four days to work on a plot of 1500 square feet of land that needed attention. In result, they made no banking and bore out a 50-foot channel. I could have done that in one afternoon with my bulldozer, and saved the taxpayer money."

Another landowner and constituent of mine, Page Will, observed that once the Army Corps of Engineers relaxed some permitting requirements, regular folks dug in and the work was completed. This is the impetus and spirit of my bill. Once we get the federal bureaucrats and their political way of prioritizing emergency projects out of the way, stream beds were cleared, banks were stabilized, and debris removed from pastures."

My bill prohibits the Secretary of Agriculture, or other executive branch officials, from preventing a State or local government to remove any rocks or other debris from land or water when the primary purpose of the removal operation is to reduce the risk and severity of subsequent flooding. I fail to see the need for federal intervention in what is seemingly their right to fix as landowners.

It's as simple as that. Why does the federal government have to get involved if it isn't being asked to supply the equipment or human resources to get the removal projects underway? My constituents and I strongly believe that they should not be.

I urge my colleagues to support this legislation.

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 1999

SPEECH OF

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, June 22, 1998

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 4060) making appropriations for energy and water development for the fiscal year ending September 30, 1999, and for other purposes.

Mr. SERRANO. Mr. Chairman, I would like to express my support for the Energy and Water Development Appropriations bill that we are voting on today on the House floor. With limited resources, this bill funds a diverse array of programs, everything from flood control projects to renewable energy technologies, in a truly bipartisan way.

I would also like to take this opportunity to recognize the outstanding contributions of two statesmen, Chairman McDADE and the Ranking Member VIC FAZIO. Both of these Members have served this institution with distinction and have managed to once again carefully balance the diverse needs of our nation in a carefully crafted bill. VIC FAZIO and JOE McDADE have been my friends, as well as colleagues, and their sense of fairness and ability to listen will be missed.

The people in the South Bronx are particularly grateful that funding was provided in this bill for the Corps of Engineers to initiate and complete a reconnaissance report for flood control, environmental restoration and other related purposes of the Bronx River. The restoration of the Bronx River is very important to the community that I represent, and this reconnaissance study will give the community the valuable information that it needs as it proceeds with its numerous efforts on behalf of the Bronx River.

Secondly, the Bronx community is deeply appreciative of the funding that was provided for the Corps of Engineers to continue design and construction activities at Orchard Beach in New York. More than two million people, many low-income and minority, visit Orchard Beach every year. Unfortunately, the beach is suffering from severe erosion and the sand needs to be replenished. In their March 1992 report, the Corps of Engineers New York District referred to this project as "environmentally acceptable with the potential to serve as a demonstration for tidal wetland restoration, provide direct environmental benefits and indirect educational value to the local population."

In conclusion, I would like to reaffirm my strong support for this legislation and for the way in which it both carefully balances the needs of our nation and takes into account the very specific needs of the residents of the South Bronx. Also, I would like to again express my deep appreciation for the fine work and many contributions of VIC FAZIO and JOE McDADE. They will both be missed, and I wish them success in their future endeavors.

INTERNET TAX FREEDOM ACT

SPEECH OF

HON. CHRISTOPHER COX

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 22, 1998

Mr. COX of California. Mr. Speaker, even prior to recent changes which enabled the Internet Tax Freedom Act to be endorsed by the National Association of Governors, National Conference of State Legislatures, and other state and local government groups, the bill had already been endorsed by a number of prominent individual Governors, State lawmakers, State Treasurers and tax collectors.

I'd particularly like to single out for thanks the support of California Gov. Pete Wilson, New York Gov. George Pataki, Massachusetts Gov. Paul Cellucci, Virginia Gov. Jim Gilmore, former Massachusetts Gov. Bill Weld, former Virginia Gov. George Allen, California Board of Equalization Chairman Dean Andal, former Federation of Tax Administrators president Ernie Dronenburg, Ohio Treasurer Ken Blackwell, Utah Senate Democrat Leader Scott Howell, and Maryland House Republican Leader Martha Klima.

The Internet Tax Freedom Act is strongly supported by President Clinton, who endorsed the legislation in February 1998 in a speech to high-tech executives. The legislation is also supported by the U.S. Treasury Department, which endorsed the legislation in May 1997 in testimony before Congress. I'd like to insert into the RECORD the following letter of support form the Deputy Secretary of the Treasury, the Honorable Lawrence H. Summers.

In addition to significant support from prominent stated officials and President Clinton, the Internet Tax Freedom Act has also garnered support from a broad and diverse coalition of individuals and organizations, consumer and taxpayer advocates, and service and trade associations representing businesses involved in the Internet community. I'd like to ask that several letters of support from these individuals and organizations be placed in the RECORD.

STATEMENTS OF PROMINENT STATE LAWMAKERS AND OFFICIALS WHO SUPPORT THE INTERNET TAX FREEDOM ACT

VA Gov. Jim Gilmore: "Virginia's Internet community is a thriving forum for commercial innovation and entrepreneurship. Now is not the time to tax the infant but promising marketplace of electronic commerce. Virginia must foster the economic growth of the Internet rather than thwart it with a state-by-state patchwork of burdensome tax policies."

CA Gov. Pete Wilson: "The Internet is a newly emerging business tool that holds great promise for commercial uses, and your bill will ensure that the Internet industry will have a chance to develop without the market distortions caused by a haphazard tax structure. Without that protection, countless potential businesses will never have the opportunity to succeed."

Former Federation of Tax Administrators President Ernie Dronenburg: "I am confident that the Internet Tax Freedom Act's federally-imposed hiatus will create a unified and concerted effort ultimately leading to a fair solution for states and localities, the Internet industry and their customers. The dramatic growth in the Internet industry requires that action on this legislation should occur sooner rather that later."

CA Tax Board Chairman Dean Andal: "Instead of applying traditional legal concepts to the taxation of electronic commerce, state tax bureaucrats are becoming legal contortionists in an attempt to tax Internet sales. The resulting confusion among prospective Internet merchants and service providers could substantially impede the development of Internet commerce. Congress must act, as it should have long ago, to clearly identify the boundaries of state taxation of interstate commerce."

NY Gov. George Pataki: "New York's efforts alone are not enough. There must be a national effort to protect the Internet from a myriad of new taxes and reporting requirements that would hurt the development of the whole industry and the jobs that go with it. Ordinarily such taxes would be within the jurisdiction of the states. Since the Internet does not respect traditional geographic borders, Congressional action that would have a beneficial effect on the development of on-line commerce in both New York State and the nation is justified and desirable."

Former VA Gov. George Allen: "The moratorium on Internet taxation called for by this legislation has the potential to boost the long-term growth and utilization of this technology tool in Virginia and across the nation. As a strong supporter of the Constitution's rich federalist tradition and a firm believer in common-sense Jeffersonian conservative principles, I recognize the apparent tension created by this legislation between the important principles of lower taxes and State sovereignty. I firmly believe, however, that the proper balance exists in this bill between these two seemingly distinct ideals."

Former MA Gov. Bill Weld: "The real threat to Massachusetts' future economic health is the taxing power of hundreds of jurisdictions who are thinking only of maximizing their tax revenue and not considering the creative energy and potential of the Internet. The Congress has a constitutional obligation to assess the various threats to the nation's interstate commerce."

MD House of Delegates Republican leader Martha Klima: "States' rights are enormously protested by many of us in the state legislatures, but I hope that in this instance, you help protect us from ourselves and require a satisfactory moratorium prohibiting state and local governments from various forms of taxation."

UT Senate Democrat leader Scott Howell: "A national moratorium is consistent with efforts in several states to discourage precipitous Internet taxation by local governments. We also believe that the consultative approach is a sensible way to provide breathing room to form a federal-state and international consensus on Internet policies. We understand that eventually there may be sufficient commerce taking place on the Internet to be considered as a source of tax revenues for states, but that level of activity still lies several years in the future. In the meantime, we think it is necessary for federal, state, local, and even international policy makers to develop broadly-agreed-to comprehensive policy."

The Deputy Secretary
of the Treasury,
Washington, June 23, 1998.

Hon. Newt Gingrich,
Speaker of the House, U.S. House of Representatives, Washington, DC.

Dear Mr. Speaker: As the House prepares to consider H.R. 4105, the Internet Tax Freedom Act, I welcome the opportunity to share the Administration's views on this important legislation.

The Administration strongly supports a temporary and appropriate moratorium on taxation of the Internet and electronic commerce. The dramatic growth of the Internet and electronic commerce is creating jobs and economic growth, expanding customer choice, and making U.S. firms more competitive in global markets. We would not want duplicative, discriminatory or inappropriate taxation by 30,000 different state and local tax jurisdictions to stunt the development of what President Clinton has called "the most promising new economic opportunity in decades." Thus, any taxation of the Internet and electronic commerce must be clear, consistent, neutral, and non-discriminatory.

At the same time, we must not allow the Internet to become a tax haven that drains the sales tax and other revenues that our states and cities need to educate our children and keep our streets safe. In conjunction with this moratorium, we need to establish a commission that will explore the longer-term tax issues raised by electronic commerce, and develop a policy framework that is fair to states and localities while allowing the Internet to earn its fair place in the ever-changing business world.

The Administration strongly urges the House to act now to pass this legislation as we work to accomplish these two goals. The Administration will have suggestions for improving the bill, but we believe that any outstanding issues can be resolved in a House-Senate conference.

The Office of Management and Budget has advised that there is no objection from the standpoint of the Administration's program to the presentation of this report.

Sincerely,
Lawrence H. Summers.

Chamber of Commerce,
June 23, 1998.

Hon. Christopher Cox,
U.S. House of Representatives, Washington, DC.

Dear Representative Cox: On behalf of the U.S. Chamber of Commerce, the world's largest business federation, representing more than three million businesses and organizations of every size, sector, and region, we urge you to support the Internet Tax Freedom Act when it comes before the House floor.

The U.S. Chamber views the successful development of electronic commerce as essential to the future health of American business. Today's patchwork of state and local taxes on the Internet interferes with the free flow of electronic commerce and, if current trends continue, will reduce the potential of the Internet as a new frontier for commerce. The Internet Tax Freedom Act's moratorium on state and local taxes on the Internet or interactive computer services, will ease the burden on electronic commerce.

Passage of the Internet Tax Freedom Act would complement well the Senate companion bill, S. 442, which has a six-year moratorium on all existing and future taxes on electronic commerce. Making the Internet more accessible for small business owners is a major concern for the U.S. Chamber and we may consider using this vote in our annual How They Voted vote ratings.

The U.S. Chamber commends the House on its efforts concerning this issue, and pledges to continue working with both Houses of Congress to enact this landmark legislation. Successful passage of the Internet Tax Freedom Act will be critical for the future of electronic commerce and for the future of private enterprise.

Sincerely,
R. Bruce Josten.

CITIZENS AGAINST GOVERNMENT WASTE

Pork Chops

TALKING POINTS ON WASTE ISSUES BEFORE THE 105TH CONGRESS

THE INTERNET TAX MORATORIUM ACT (H.R. 3529) "ESTABLISHING A NATIONAL POLICY AGAINST TAXING INFORMATION"

On June 17, the House Judiciary Committee approved the Internet Tax Freedom Act (H.R. 3529), a bill that imposes a three-year moratorium on new taxes targeted at Internet users. Rep. Chris Cox (R–Calif.), a sponsor of the legislation, praised the committee action, stating: "We are one step closer to establishing a national policy against taxing information."

Electronic commerce is a rapidly growing industry. One-third of all Internet users bought products online within the last year. Commerce on the Internet is expected to grow to $327 billion by 2002 if undue regulation is not imposed, according to Forrester Research Inc., a Massachusetts consulting firm.

More and more businesses are offering their services over the Net—more than 25 percent of all small businesses have already established an Internet presence, according to one survey. Online stores, such as Amazon.com and Dell Computer, are finding out that they can build real businesses selling products online. Total Web-related revenues generated $24 billion in 1997, nearly double the amount from the previous year.

Total Web-related revenues are projected to reach $1 trillion by 2000, according to one industry analysis. Others, including the accounting firm of Arthur Andersen, have put this figure between $150 and $600 billion. In 1996, the U.S. Treasury Department projected more conservative online revenues of $70 billion by 2000.

A KPMG Peat Marwick survey found that more than half of participating financial executives responded that ambiguous state and local tax laws are already inhibiting their involvement in electronic commerce. An alarming 20 percent of executives were so confused by the tax situation that they did not know if their companies were even subject to sales and transaction taxes for the sale of products over the Internet.

The Internet Tax Freedom Act provides for tax-free Internet access and prohibits state and local governments from imposing taxes on Internet access charges. Taxes on Internet access, online services, and "bit taxes" are expressly banned for three years.

The Internet Tax Freedom Act prevents multiple or discriminatory taxes on the Internet and protects consumers and vendors who buy and sell over the information Superhighway.

The Internet Tax Fairness Coalition,
June 23, 1998.

Dear Member of Congress: Today, H.R. 4105, the Internet Tax Freedom Act, will be brought to the floor of the House. We urge your support of this important legislation.

As you know, the Internet Tax Freedom Act (ITFA) would place a temporary moratorium on taxation of Internet access and discriminatory taxation of electronic commerce. This "time-out" will enable consumers, businesses, and local governments to establish fair and non-discriminatory rules-of-the-road for the taxation of Internet commerce—rules that will allow e-commerce to flourish both at home and abroad. The members of our coalition feel this bill is essential if America is to realize the full potential of the Internet and electronic commerce. The alternative, which we have begun to glimpse in the past two years, is a rush by numerous state and local authorities to tax this exciting new medium, leaving consumers confused or disadvantaged, and online businesses facing a host of overlapping and discriminatory tax demands.

The Internet is changing the way Americans interact, shop, do business and learn. By enacting the ITFA, Congress would ensure millions of citizens that their use of the Internet will not be stifled by overreaching or unfair taxation.

The ITFA was reported out of both the Commerce and Judiciary Committees without dissent, and enjoys strong, bipartisan support. We hope you will lend it your support, as well, when H.R. 4105 is considered today on the House floor.

The Internet Tax Fairness Coalition (www.stopnettax.org) is a coalition of leading Internet and high-tech companies and trade associations that supports the fair and equitable tax treatment of the Internet and online services. The Coalition believes Congressional action is necessary to implement a moratorium to address Internet-related tax issues.

Sincerely,
THE INTERNET TAX FAIRNESS COALITION.

MEMBERS

America Online, Inc., American Electronics Association, American Hotel & Motel Association, American Society of Association Executives, Americans for Tax Reform, Association of Online Professionals, Business Software Alliance, California Internet Industry Alliance, Charles Schwab & Co., Inc., Citizens for a Sound Economy, CommerceNet, Commercial Internet Exchange, Computer Software Industry Association, Computer Technology Industry Association, DCI, Frontiers for Freedom, Hewlett Packard, IBM, Information Industry Association, Information Technology Association of America, Interactive Services Association, International Mass Retail Association, Microsoft Corporation, National Association of Realtors, National Retail Federation, NCR Corporation, Securities Industry Association, Silicon Valley Software Industry Coalition, Software Forum, Software Publishers Association, Ticketmaster, US Chamber of Commerce, US Internet Council, US West.

JUNE 23, 1998.

Hon. CHRISTOPHER COX,
The U.S. Capitol, Washington, DC.

DEAR REPRESENTATIVE COX: Congratulations on your efforts to prevent unfair taxation of the Internet.

The Internet and the development of electronic commerce present difficult policy questions in areas as diverse as tax, privacy, liability and telecommunications regulation. However, we believe it is best to adhere to time-tested principles like consumer choice, deregulation and competition. We believe that tax policy should not discriminate against electronic commerce.

We have long believed that lower taxes and a smaller government are keys to a successful and healthy economy. American consumers and retailers are benefiting as a part of the marketplace becomes electronic: the Internet provides more consumer choice and is a growing market for consumers from around the world.

The laws that you create must be neutral and consistent. Stated another way, government ought not choose one technology over another or one type of transaction over another, and consumers should know what to expect of our laws.

Again, we commend your efforts to ensure a neutral and consistent tax policy that will not hamper development of electronic commerce.

Sincerely,
GROVER G. NORQUIST,
President, Americans for Tax Reform.
JAMES L. GATTUSO,
Vice President, The Competitive Enterprise Institute.
PAUL BECKNER,
President, Citizens for a Sound Economy.
THOMAS DUESTERBERG,
The Hudson Institute.

THE SAVINGS AND INVESTMENT RELIEF ACT OF 1998

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1998

Mr. SOLOMON. Mr. Speaker, I rise today to introduce H.R. 4120, the Savings and Investment Relief Act of 1998. This legislation would provide relief to every American who invests in the stock market. Fortunately, Mr. Speaker, in this day and age, the stock market is no longer the sole province of the rich and the elite. Our capital markets, which are the most liquid and efficient in the world, are accessible to virtually every American. In fact, as of 1995, nearly half of all households in America owned stock, either individually, in a mutual fund or through a pension plan. However, I suspect that many of these Americans do not know that they are subject to a tax every time they—or their pension plan or mutual fund—sell stock. This tax yields the government hundreds of millions of dollars in revenue each year. This is in addition to the income taxes and capital gains taxes which Americans are already paying.

Under our securities laws, the Securities and Exchange Commission (SEC) collects transaction fees on sales of stocks. These fees were originally designed solely to fund the SEC's regulation and supervision of the securities markets. The SEC's role in protecting investors is critical, and the hardworking members of the Commission and its staff should be commended for the good job that they do. However, the SEC is now collecting transaction fees far in excess of what it needs to carry out these functions, transforming what was intended to be a user fee with a specific purpose into a huge, general tax.

When Congress enacted the National Securities Markets Improvement Act of 1996 (NSMIA), we intended to bring total SEC fee collections, which had already grown to significantly exceed the Commission's budget, more in line with its costs. However, in fiscal year 1997, total SEC collections actually grew to 324% of its appropriated budget authority, and 382% of its requested budget. Frankly, Mr. Speaker, this situation is ridiculous and it must be addressed. We talk a lot on this floor about common sense government and about putting money back in the pockets of the ordinary, hardworking Americans. The legislation I am introducing today would accomplish both of these objectives.

Mr. Speaker, my bill is really very simple. It would cap annual collections of transaction fees assessed on trades of NASDAQ and exchange-listed stocks, so that when the Commission had collected all the money it needs for the year, the fee would simply shut off. All we are saying with this bill is that once the SEC has collected sufficient money to fund itself, then investors do not have to pay any more fees.

At the same time, Mr. Speaker, my bill would offer more flexibility than under current law and ensure that the SEC always has sufficient money to carry out its important mission of protecting investors. The bill provides that for any year in which the SEC does not collect enough fee revenue to cover its budget, the Appropriations Committee can temporarily raise the transaction fee rate through an Appropriations Act to ensure that sufficient money is collected to fund SEC functions for that fiscal year.

I urge all Members to support this important legislation which would save a substantial amount of money for millions of American investors, and guarantee that the SEC always has enough funding to carry out its critical function of protecting shareholders.

CONGRATULATING THE NOAA CORPS ON ITS 81ST ANNIVERSARY

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1998

Mrs. MORELLA. Mr. Speaker, this year marks the 81st anniversary of the National Oceanic and Atmospheric Administration Commissioned Corps. Known as "America's Seventh Service," the officers of the NOAA Corps are an integral part of the National Oceanic and Atmospheric Administration who serve with distinction throughout this multi-disciplinary scientific organization. I am proud to congratulate the NOAA Corps for 81 years of dedicated service to our Nation.

The NOAA Corps was designed to allow for flexibility in the assignment of professionals to remote, hazardous, or otherwise arduous duties throughout the wide range of vital environmental and stewardship activities encompassed by NOAA. Corps officers today combine such unique qualifications as: research ship and aircraft operations; technical expertise with advanced academic backgrounds in hydrography, geodesy, fisheries sciences, meteorology, and oceanography; and leadership in technical program and data management contributing to the coherence, integrity, and effectiveness of the administrative structure of NOAA.

The dedicated scientists, engineers, and officers of the uniformed NOAA Corps have a long and decorated tradition of providing mobility, flexibility, operational, and professional skills in the unique response capability to our Nation. The Corps houses experts in nautical charting and hydrographic surveying. These functions are vital to our national interest to ensure the continued safe navigation of trade. NOAA Corps pilots provide critical operations when conducting low-altitude penetration missions of hurricanes and tropical storms in support of weather research and prediction. Corps officers supply the data collection and management that are requisite to ensuring accurate fisheries stock, turtle, and marine mammal assessments.

The Corps has contributed on many occasions over the recent decades in providing valuable scientific and engineering skills, especially in times of national emergencies. The Corps made immediate vital contributions during both Operations Desert Shield and Desert Storm. NOAA provided ship, aircraft, and technical skills during the Golf War to assess the oil-based environmental damages caused by

Iraq. Shore personnel contributed scientific expertise in hazardous materials management, while a NOAA ship carried scientists in the Gulf to evaluate the extent of environmental damages. In another recent example, NOAA Corps officers and ships provided crucial survey support in response to the TWA Flight 800 recovery effort. The Corps swiftly located the wreckage of TWA Flight 800 and created highly detailed map products which greatly facilitated the retrieval of wreckage by Navy divers.

Today, the NOAA Corps expertly performs its missions, whether in charting our Nation's coastline, assessing our fisheries stocks, or flying into hurricanes for scientific research and the humanitarian need to produce better safety warnings for the protection of life and property. NOAA Corps officers serve in NOAA research laboratories and program offices throughout the Nation and in remote locations around the world. These officers remain ready to apply their science and service skills to the many problems facing the United States in the management and study of oceanic and atmospheric resources.

I extend my warmest congratulations to the men and women of the NOAA Corps on this 81st anniversary. The expertise and flexibility that the Corps has demonstrated in the past will serve the Nation for years to come. The NOAA Corps has reached a celebrated milestone, and I wish it an even greater future.

HONORING ST. FRANCES OF ROME

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1998

Mr. ENGEL. Mr. Speaker, St. Frances of Rome celebrates its centenary this year; one hundred years of neighborhood building in the Bronx.

In 1898, using a tent with a cross atop it, St. Frances of Rome was founded in the mostly Irish, German and Italian Wakefield section. Three years later a wooden church building was erected and soon after the growth of the parish caused a Mission Church to be established in the nearby Woodlawn area. Further growth in the parish led to it being subdivided and the Mission Church became St. Barnabas Church.

By the mid 1920's property was acquired for a more permanent church and in that same decade the school for St. Frances of Rome was started. The basement church was opened on Easter Sunday in 1926 with the rectory being constructed about the same time. In 1928 Father Moore, the first pastor of the church and a man of vision and energy, died. The great cross on the church is dedicated to him and the street outside was renamed Moore Plaza.

In the following years the growth of the parish continued under hardworking pastors who tended their flock with great care and concern. The building continued with the present upper church, an additional school building constructed. The parish adapted to a newer congregation by expanding daycare and programs for the homebound and elderly and establishing a food pantry.

I salute the parish of St. Frances of Rome. What it has given to the growth of the Bronx and to New York City cannot be measured in mere numbers. The spiritual unity it has conferred on us has made us a community.

HONORING DAN AND BOBBIE JENSEN

HON. BOB SCHAFFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1998

Mr. BOB SCHAFFER of Colorado. Mr. Speaker, it is my honor to come to the floor today to honor Dan and Bobbie Jensen of Fort Collins, Colorado. They offer an example of honesty and integrity, which my colleagues in Congress, and all Americans, would be wise to emulate.

Raising two beautiful girls, Dan and Bobbie are dedicated to their family. Whether it was cheerleading, a track meet, or a choir performance, the girls could always count on their parents to be there supporting and cheering them on. The Jensens worked hard to make sure their children learned to make responsible choices regardless of the cost or situation, and these loving lessons are now being passed on to their three grandchildren.

Their family watched as Dan and Bobbie worked together to build their home development company, Jensen Homes, into one of the most successful companies in Fort Collins. Running a successful business is never easy, but even when things were tough, they made sacrifices to insure all of their employees and vendors were paid in full. They didn't do this for a pat on the back, or because it was forced on them—they simply did it because it was the right thing to do.

Dan and Bobbie's dedication has extended beyond their immediate family and business, and has been an true asset to the community. Their commitment to living out their faith led them to help create "Man Alive," a ministry program dedicated to strengthening the family. Through Man Alive, speakers such as Dave Roever, Dr. Malcolm Smith, and Pastor James Ryle of Promise Keepers, have come to our community to share a message of hope for our youth, and encouragement for men to recognize God's calling in their lives.

Mr. Speaker, Dan and Bobbie's life together is a true inspiration. I am proud to represent them in Congress, and on the occasion of their 27th wedding anniversary I wish them many more years of happiness.

THE MEDICARE CONTRACTING FLEXIBILITY ACT OF 1998

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1998

Mr. STARK. Mr. Speaker, I am pleased to introduce the Medicare Contracting Flexibility Act of 1998.

For years, we have been telling the Health Care Financing Administration (HCFA) to be a more prudent purchaser of health care. Now, we need to provide them with the tools to act more like a private company and hold Medicare contractors accountable.

Specifically, the Medicare Contracting Flexibility Act would enable HCFA to contract with other types of companies besides health insurers to process claims for the Medicare program. Right now, the pool of potential contractors is limited and has been steadily diminishing, leaving HCFA at the mercy of the few contractors that remain. If one fails or has difficulty processing claims, HCFA is hard-pressed to find a replacement.

This problem is especially evident in HCFA's inability to bring its contractors into compliance for the year 2000. Although several contractors are not yet in compliance, HCFA appears to have little leverage in forcing contractors to make the necessary system adjustments. This means that January 1, 2000, Medicare's claims processing system could malfunction, wreaking havoc throughout the provider community.

The Medicare Contracting Flexibility Act would enable HCFA to solve this short-term problem by expanding the pool of potential contractors and fostering more competition among companies so that HCFA could get the best value and service for each taxpayer dollar spent.

The Medicare Contracting Flexibility Act would also give HCFA the ability to solve long-term problems by laying the groundwork for other changes to the contracting program. For example, HCFA could set performance standards for contractors, or combine claims processing for Medicare Parts A and B under one contractor, as opposed to having two separate entities.

All of these changes would translate into better, more effective service for the Medicare program, and ultimately the nation's 39 million Medicare beneficiaries. I urge my fellow Members of Congress to join with me in passing the Medicare Contracting Flexibility Act. Together we can ensure that HCFA has the tools to be a more prudent purchaser of health care.

HONORING REVEREND WILLIE H. UPSHAW, D.D.

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1998

Mr. ENGEL. Mr. Speaker, the City of Yonkers and especially the Mount Carmel Baptist Church are fortunate to have a pastor such as the Reverend Willie H. Upshaw. Dr. Upshaw has been pastor of the Church for 31 years, since 1967. It was under his guidance that the membership grew from 150 to more than 2,500.

Dr. Upshaw was born in Alabama and began his journey in the church early in life as an active member of the Galilee Baptist Church. In 1957 he moved to New York where he was licensed to the ministry and, in 1967, ordained.

That same year Dr. Upshaw became Pastor of the Mount Carmel Baptist Church where he sees to the needs of his flock by visiting and praying with the sick and shut-ins, dedicating infants, bringing the Gospel to persons at nursing homes and prisons and helping those in the community who look to him for guidance and counsel.

Dr. Upshaw served as Executive Vice President of the Yonkers Council of Churches, as President of the Ministerial Fellowship of Yonkers, as a member of the Central Hudson Baptist Association, the Central Hudson Baptist Retreat, and the Board of Directors of Yonkers General Hospital. He has received the Community Service Award and was recognized by the American Heart Association for unparalleled dedication to the Heart Healthy Education Project. Dr. Upshaw and his wife Carolyn have two children and two grandchildren.

He personifies the good that one man can bring to a community. I salute him for the good work he has done for all of us.

RECOGNIZING THE COLORADO GUNSMITHING ACADEMY

HON. BOB SCHAFFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1998

Mr. BOB SCHAFFER of Colorado. Mr. Speaker, as the Congressman representing the Fourth District of the State of Colorado, I am proud to have constituents like Earl and Charlene Bridges who run the Colorado Gunsmithing Academy in Lamar, Colorado. These individuals set the standard for integrity and craftsmanship for small business in America and I am greatful for their contribution to not only the state, but the entire nation. I submit the following article detailing the success of the Colorado Gunsmithing Academy for the RECORD.

STUDENTS SAY LAMAR ACADEMY GIVES THEM GOOD SHOT AT A JOB

(BY KIT MINICLIER)

LAMAR—Students at the Colorado Gunsmithing Academy of Lamar start by building their own rifles from scratch.

The approach enables them to learn patience and development skills in stockmaking, metalsmithing, welding and other disciplines while building their own single-shot rifle.

It is theirs to take home, and many use them to demonstrate their expertise when applying for their first job in their new profession.

Only 4½ years old, the academy is already developing a national and international reputation, attracting students from Connecticut to California and from Norway, Sweden, Australia and Holland.

It is one of three gunsmithing schools in Colorado. There are only 17 in the nation, said Charlene Bridges, president of the Lamar school. The other Colorado schools are at Trinidad State Junior College and the Colorado School of Trades in Lakewood.

Bridges' husband, J. Earl Bridges, is director and chief instructor. He has been a gunsmith for 15 years and has been teaching the craft for the past six.

Since it opened, the academy "has worked on no less than 3,000 firearms, and maybe four have been returned to redo something or because we overlooked something," Earl Bridges said.

In addition to learning how to build their own rifles from stock to trigger assembly to barrel, students are expected to repair or remodel a minimum of 40 firearms during their mandatory 2,240 hours at the academy.

Roughly one-third of their time must be spent on "design, function and repair of firearms." Only 175 hours are spent on theory. There is no homework, just many hours of painstaking precision work, and students are encouraged to read, said Charlene Bridges.

A major difference between this school and others is the emphasis on the basics involved in building a gun from raw metal bar stock, said instructor and part owner Michael Syler, who owned a gun shop near Dallas before moving to Lamar.

Tuition, excluding room and board, is $11,760 for the course, and students pay an additional $5,300 to acquire the tools of their trade.

"The quality of the work here is impeccable. Everything approved by (Bridges) must be top notch," said student Jay Crowder, 27, of Knoxville, Tenn.

Although the school doesn't guarantee job placement, "it seems like anyone who needs a job gets one. Eventually, I want a place of my own," Crowder said.

Student Mike Fricks, 29, of Texarkana, Texas, said he appreciated the opportunity to "do finer quality work at a higher standard rather than just basic gun repair."

Fricks' current project, and his last before graduating, is a double gun, which has two independent triggers and barrels just in case one malfunctions. He already has lined up a job after sending a prospective employer a gun he made.

Kevin Macluskie, 28, said he finished his rifle in 270 hours. The school is open 10 hours a day, four days a week, although students may elect to go only six or eight hours a day and take longer to graduate.

Several other students, each of whom has his own spacious work bench, spoke positively of the close, careful supervision and the encouragement. Recently, there were 10 students in the academy, each working at his own level.

The academy's system produces fine results, says Taylor Carroll of Caroll's Gun Shop in Wharton, Texas, who hired academy graduate Dave Wright after visiting the school.

"I've been in business 38 years," said Carroll, who sells guns and has always employed a gunsmith for custom work and repairs. When his veteran gunsmith retired after more than 30 years, "I began searching for a gunsmith."

He knew Earl Bridges by reputation, visited the spacious shop south of Lamar twice and talked with the instructors. "I was happy with what I saw," and he is delighted with Wright.

"I'm very, very satisfied with everything he has done for me," Carroll said.

HONORING THE LATE LEONARD HARPER

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1998

Mr. RANGEL. Mr. Speaker, I rise today to honor the late Leonard Harper on his remarkable achievements in the field of theater and stage shows.

Mr. Harper was one of the leading figures who transformed Harlem into a cultural center during the 1920's. His nightclub productions at Connie Inn, Lafayette Theater and the opening of the new Apollo Theater drew people from all over the world.

Mr. Harper's accomplishments on Broadway include the all-Black "Kentucky Club Revue" at the New Amsterdam Theater, and his work as a director on the big musical hit, "Hot Chocolates' at the Hudson Theater. The production was a milestone, the first-ever production with three Black men as the sole creative force, which changed Broadway forever.

Mr. Harper brought the cabaret form of entertainment to a professional level. As a producer and a brilliant choreographer, he introduced some of the most extraordinary talents to ever perform on stage and cabaret.

Mr. Harper was previously honored by the New York State Assembly and the City Council of New York for his remarkable achievements.

Mr. Speaker, I ask you and my colleagues to join me in saluting Mr. Leonard Harper for his contributions to the community and his extraordinary accomplishments.

TORTURE AND MURDER OF AKAL TAKHT JATHEDAR BY INDIAN POLICE MUST BE INVESTIGATED AND PUNISHED

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1998

Mr. TOWNS. Mr. Speaker, the truth about India's brutality towards the Sikhs continues to come to light. A group of 13 human-rights activists issued a statement on May 19 at a press conference in Chandigarh about the torture and murder of Gurdev Singh Kaunke, the Jathedar of the Akal Takht, from December 25, 1992 to January 1, 1993. After being tortured for a week, Jathedar Kaunke, the religious leader of the Sikh Nation, was murdered by the police.

Jathedar Kaunke was abducted on December 25, 1992 by the police from the Jagraon subdivision of the Ludhiana district. Even Akali Dal leader Parkash Singh Badal, now the Chief Minister of Punjab, condemned this action. He was briefly detained for his statement. Yet he has refused to refer this terrible incident for investigation by India's Central Bureau of Investigation (CBI) on the flimsy pretext that it would demoralize the murderous, out-of-control Punjab police. It is a well-known fact among the people of Punjab that the person responsible for the torture and murder of Jathedar Kaunke is SSP Swaran Singh Ghotna. Ghotna is not a last name, but a very inhumane torture technique used by the police for which he is infamous.

On January 2, 1993, the police claimed that Jathedar Kaunke had escaped. This claim was false. He had been killed the day before. According to a news article, he was murdered by being torn in half, similar to the way that the driver for another religious leader, Bbab Charan Singh, was murdered by the Indians.

The human-rights activists created a commission to look into the matter. According to their statement, they seek "an appointment with the Chief Minister of Punjab to acquaint him with its findings and to demand registration of a case against the culprits." They pointed out that this demand "is no more than a reiteration of the position that Parkash Singh Badal himself had taken at the time of the incident. The Akal Takht is the highest institution of the Sikhs that embodies their sacral and secular aspirations. Its former Jathedar was inhumanly tortured to death. We are confident that the Sikh Chief Minister of Punjab would not treat this matter in the same lackadaisical spirit that generally marks his attitude on our human-rights concerns." They also demanded police protection for key witnesses in the case because India has a record of intimidating, bribing, even killing witnesses.

Signers of this statement include Hindu human-rights activist Ram Narayan Kumar, Justice Kuldip Singh, President of the World Sikh Council, Justice Ajit Singh Bains, chairman of the Punjab Human Rights Organization, Inderjit Singh Jaijee, chairman of the Movement Against State Repression, Dr. Sukhjit Kaur, Maj. Gen. Narinder Singh, Amrik Singh Muktsar, D.S. Gill, R. S. Bains, Amar Singh Chahal, Jaspal Singh Dhillon, Mrs. Baljit Kaur, and Navkiran Singh. They should be recognized for their courage in standing up to the Indian tyranny.

This incident reveals the truth that for minorities living under Indian rule, there is no democracy. The mere fact that they have the right to choose their oppressors does not mean that they live in a democracy. In this light, it is not surprising that there are 17 freedom movements throughout India. If the United States is interested in real freedom, peace, and stability in South Asia, we must support self-determination for the Sikh Nation and all the nations of South Asia. I call on my colleagues to join in supporting an internationally-supervised plebiscite in Punjab, Khalsitan, so that the political status of this troubled country can be decided the democratic way. I also call for my colleagues to vote to stop all aid to India until the basic human and democratic rights of all people are respected. I would like to introduce the statement from The Committee for Coordination on Disappearances in Punjab in the RECORD.

THE COMMITTEE FOR COORDINATION ON DISAPPEARANCES IN PUNJAB

Bhai Gurdev Singh Kaunke, former Jathedar of the Akal Takht, was illegally arrested from his village home in Jagraon subdivision of Ludhiana district on 25 December 1992. The police authorities later claimed that Bhai Gurdev Singh Kaunke escaped from the custody of 2 January 1993, a claim that was widely condemned as false. Holding the then Chief Minister Beant Singh responsible for the murder of Jathedar Kaunke, Akali Dal (Badal) had not only demanded his resignation but had also asked for a high powered judicial inquiry to determine the truth. Prakash Singh Badal, the present Chief Minister of Punjab, was himself detained when he was visiting the bereaved at their village on 5 January 1992. A copy of the Punjabi Tribune dated 10 January 1993, which reported the Badal Akali Dal's position on Jathedar Kaunke's case, and report of his arrest in Ajit's 6 January 1992 edition, are enclosed.

A team specially appointed by the Committee has been conducting investigations to determine the true facts of the case. The team comprises the following: Ram Narayan Kumar, Amrik Singh Muktsar, Jasapl Singh Dhillon, D.S. Gill and Rajwinder Singh Bains. Investigation conducted by this team conclusively proves inhuman torture of Bhai Gurdev Singh Kaunke, first at the Sadar Police Station of Jagraon and then at the CIA interrogation Center, from 25 December 92 to 1 January 1993. The team has also acquired irrefutable evidence to establish that the former Jathedar of the Akal Takht was killed under torture.

The Coordination Committee is seeking an appointment with the Chief Minister of Punjab to acquaint him with its findings and to demand registration of a case against the culprits under relevant sections of the IPC. We also insist that the government of Punjab must hand over the investigation of the case to the CBI. Our demand, which rests on legally binding evidence, is no more than a reiteration of the position that Prakash Singh Badal had himself taken at the time of the incident. The Akal Takht is the highest institution of the Sikhs that embodies their sacral and secular aspirations. Its former Jathedar was inhumanly tortured to death. We are confident that the Sikh Chief Minister of Punjab would not treat this matter in the same lackadaisical spirit that generally marks his attitude on our human rights concerns.

We also demand that the key witnesses in the case and their family members be provided with adequate security from a central police force. Our experience in the Khalra case shows that policemen accused of grave human rights offenses resort to every method—from cajoling, browbeating and bribing to open threats to life—to suborn the witnesses and to destroy the evidence. Therefore, it is crucial that the key witnesses to the custodial torture and murder of Akal Takht's former Jathedar are protected from harassment from the very beginning.

Darshan Singh, former policeman at Jagraon when the incident occurred, is a key witness in the case. We demand that Drashan Singh and his family members be protected by the CRPF.

We would submit a list of other important witnesses in the case, who must likewise be protected, to the Chief Minister when we meet him.

Justice (rtd) Kuldip Singh, President, World Sikh Council; Justice (rtd) Ajit Singh Bains, Maj. Gen (rtd) Narinder Singh, D.S. Gill, Amar Singh Chahal, Inderjit Singh Jaijee, Navkiran Singh, Ram Narayan Kumar, Converter; Dr. (Mrs.) Sukhjit Kaur, Amrik Singh Muktsar, R.S. Bains, Jaspal Singh Dhillon, Mrs. Baljit Kaur.

FIFTIETH ANNUAL MONTGOMERY COUNTY AGRICULTURAL FAIR

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1998

Mrs. MORELLA. Mr. Speaker, this summer, my constituents will celebrate the 50th Anniversary of the Montgomery County Agricultural Fair! I am proud to again be a part of this yearly community tradition. Over the past fifty summers, our local fair has proven itself as one of the very finest in the nation. It is the largest county fair in Maryland, with more than 250,000 visitors and 17,000 exhibits last summer. During this extra-special anniversary year, we recall the grand past of our county fair and look ahead to an exciting future.

Congratulations and best wishes to all of the fair's participants. The farmers, artists, craftspeople, entertainers, and volunteers work diligently all year to make this annual event a tremendous success. The highlight of every summer, the Montgomery County Agricultural Fair attracts people of all ages in a magnificent example of community spirit to display for the public the true importance of agriculture. It offers a chance to have fun, learn about local agriculture, and build memories. The summer event provides the opportunity to proudly showcase the agricultural foundations of Montgomery County.

During this milestone anniversary celebration, we look forward to even more exciting fairs in the future. The agricultural leaders of our community are firmly committed to a strong future of farming in Montgomery County. In just two summers, we will be at the dawn of a new millennium. I am sure that the glorious tradition and heritage of the Montgomery County Agricultural Fair will continue to flourish in the next century and beyond.

I'll see you at the fair!

HONORING ADELE ZELLER

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1998

Mr. ENGEL. Mr. Speaker, I rise to speak of an extraordinary person who is being named Woman of the Year by the Business and Professional Women's Club of Mount Vernon—Adele Zeller. I have known Adele for several years and can attest that she is a dynamic person who gives unselfishly for the betterment of the whole community.

She and her husband Noel have owned businesses in Mount Vernon since 1964 and have lived in Westchester County for the past thirty years. They have founded and operated several companies, the latest, Zelco Industries, has expanded operations worldwide with facilities in the United States, Italy, Hong Kong and China. Its broad range of products are distributed in 30 countries around the world.

They have also opened a second company in Italy. This expansion can be credited to Adele's remarkable sales and marketing proficiency and her ability to converse in Italian, Spanish and French.

Adele is Chair of the Mount Vernon Chamber of Commerce and is also a member of the Board of Directors of the Rose YM–YWHA. In both positions she is serving with distinction.

Her hard work and caring and her dedication to the community has made Mount Vernon a better community for all who live and work there. I know we all cherish and thank Adele Zeller for her dedication and commitment.

HONORING JAMES K. HAAS

HON. BOB SCHAFFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1998

Mr. BOB SCHAFFER of Colorado. Mr. Speaker, I rise today to congratulate James "Jim" K. Haas of Lamar, Colorado for attaining the rank of Eagle Scout. Jim is a member of Varsity Team #222 chartered by the Church of Jesus Christ of Latter Day Saints. A mere two percent of all Boy Scouts ever attain this elevated rank.

Jim began his Scouting career at six years of age, as a Tiger Cub at Pack #221 chartered by Washington Elementary School. He completed the Cub ranks at Washington through first year Webelos. Jim than transferred to Pack #222 and completed the second year Webelos and Arrow of Light Requirements. In May of 1993, Jim became a Boy Scout in Troop #222, and a Varsity Scout in February of 1996. Jim has served as quartermaster, grub master, scribe, chaplain, assistant patrol leader, and senior patrol leader. He has attended two years of summer camp at San Isabel Scout Ranch, Packard High Adventure Camp, and the 1997 National Jamboree at FT. A.P. Hill, VA. He also earned the "On My Honor" religious award in 1997. To date, Jim has earned 42 merit badges, the varsity letter, three varsity pins, and is looking forward to a Philmont trek this summer.

Jim chose his Eagle project after a wildfire swept through the Lake Hasty Campground last March, destroying much of the natural cover for the birds in the area. With the help of fellow members of Troop and Team #222, 13 quail shelters were erected, two bat boxes, two owl platforms, and 12 bird houses were placed in the Hasty Lake area. A total of 164 hours was involved in this project.

Mr. Speaker, I hereby submit for the RECORD a copy of an article which appears in the Lamar Daily News about Jim Haas.

JIM HAAS ACHIEVES THE RANK OF EAGLE SCOUT

An Eagle Court of Honor was held May 2, 1998 for James K. Haas. Jim is a member of Varsity Team #222 chartered by the Church of Jesus Christ of Latter Day Saints.

The Eagle Court was conducted by David Northup. Opening flag ceremony was presented by Dragon Patrol of Troop #222 with piano accomplishment of Stars Spangled Banner by Katie Rose. The invocation was given by Andy Rose. "Voice of the Eagle" was presented by Robet Haas. Eagle presentation was done by James Rupp. Lance Porter then issued the Eagle Charge. Congratulatory letters were read by Connie Haas. A memory quilt highlighting Jim's Scouting accomplishments was presented by his sister, Jennifer Haas and family friend, Paige Porter. A special music number "Because I Have Given Much" was sung by the David Northup family. Closing flag ceremony was done by the Hawk Patrol of Troop #222. Benediction was given by Jim Haas.

Jim chose red, white and blue as his colors for this Court of Honor, and Service as his theme. Table decorations consisted of red and blue streamers on white table clothes, with silk flower vases of red roses and blue and white carnations. Jim presented these as a token of his appreciation to all who helped with his Court of Honor.

Out of town guests included, Mr. and Mrs James Rupp and Mr. and Mrs. Robert Haas, grandparents of Canon City. Debra Rupp-Lindt, aunt, of Grand Junction, John Sallee, Pioneer Trails Paraprofessional, La Junta and Ted Kadlecek, Post 2203, Rocky Ford. Several other Scouting volunteers from the Lamar area as well as many friends were in attendance.

On Feb. 19, 1998, James K. Haas completed the requirement to attain the rank of Eagle Scout. Jim is the son of Ken and Connie Haas. He is 16 years old and a sophomore at Lamar High School. In addition to Scouting Jim is also active in the Lamar FFA Chapter, where he received the Star Greenhand Award for the 1997 year, has attended "Made for Excellence" Leadership Training, attended the 69th Annual State Convention in Pueblo, and served on several committees. Jim is currently president of his Sunday School class, past member of the Cloverleaf 4–H Club and has been a Lamar Daily News carrier for five years, as well as a great asset to the family business. In his spare time he enjoys reading, farm mechanics, shooting sports, camping and hiking.

Jim began his Scouting career at six years of age, as a Tiger Cub at Park #221 chartered by Washington School. He completed the Cub ranks at Washington through first year Webelos. Jim transferred to Pack #222, chartered by LDS Church, and completed second year Webelos and Arrow of Light requirements.

May 1993, Jim became a Boy Scout in Troop #222, and a Varsity Scout in February 1996. Jim has served as quartermaster, grub master, scribe, chaplain, asst. patrol leader, and sr. patrol leader. Jim has attended Junior Leadership Training, two years summer camp at San Isabel Scout Ranch, Packard High Adventure Camp, and the 1997 National Jamboree at Ft. A.P. Hill, Va. "On My Honor" religious award was earned in 1997.

To date Jim has earned 42 merit badges, the varsity letter, three varsity pins, and is looking forward to a Philmont trek this summer.

Jim chose his Eagle project after a wildfire swept through the Lake Hasty Campground last March, destroying much of the natural cover for the birds in the area. After several meetings with Virgil Harp of the Corp of Engineers, and Steve Keefer of Department of Wildlife, the service project was successfully completed November 1997. With the help of follow members of Troop and Team #222, 13 quail shelters were erected, two bat boxes, two owl platforms, and 12 bird houses were placed in the Hasty Lake area. A total of 164 hours was involved in this project.

Scoutmasters Rich Nelson and James Bair, along with assistant Scoutmasters David Northrup, Tom McKannon, Kent Fisher and team coach Ken Haas, have all been instrumental in Jim's completion of Eagle rank.

As the Congressman representing the Fourth Congressional District of the State of Colorado, I am proud to represent James Haas. He sets a fine example showing the impact that youth can make when they strive to live a life of integrity. Once again, I congratulate him for this tremendous achievement and wish him well in any future endeavor he wishes to pursue.

HONORING THE RISING SUN CHAPTER

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1998

Mr. RANGEL. Mr. Speaker, I rise today to pay tribute to the Rising Sun Chapter of the Prince Hall Royal Arch Masons for providing leadership and support to its members and to the New York community.

The first Independent African Grand Holy Royal Arch Chapter of North America located at South Eleven Street, Philadelphia, Pennsylvania, held its Grand Chapter Convocation on November 27, 1847.

At that convocation a petition was presented by Brothers from New York requesting that a delegation be sent from Grand Chapter to confer the several Royal Arch Degrees. The petition was received and adopted, and ten Brothers from New York were exalted.

Going back to the Civil War and the military conflicts that followed, its members have shown the way in the defense of this country overseas, even while confronting the challenges of racism at home.

Since its beginnings the lodge has made education a priority, and worked for the economic and social improvement of its members and the African-American community at large.

During the Harlem Renaissance Companion Arthur Schomburg, a Royal Arch Mason, shared his knowledge of the history of people of African descent and inspired other scholars and writers, such as James Weldon Johnson, Claude McKay and Richard Wright.

The lodge has supported the civil rights movement, been prominent in fighting the scourges of our community, from drug addiction to deadly diseases. It has supported efforts to improve the educational system and prepare our young people for the job market.

Mr. Speaker, I ask you and my colleagues to join me in saluting the Rising Sun Chapter for their great accomplishments.

TRIBUTE TO JEANNETTE MARY LOSCIUTO

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1998

Mr. TOWNS. Mr. Speaker, I rise today to pay tribute to Ms. Jeannette Mary LoSciuto upon her retirement from the New York City Board of Education. Jeannette taught in the NYC public school system since 1972 and will retire from teaching after 25 years. Jeannette's last 23 years were spent at the Joseph B. Cavallaro School, Intermediate School 281K in Brooklyn. Jeannette taught language arts to the students of IS281K and was the department leader for 20 years. Jeannette was also the faculty advisor for the school yearbook and newspaper from 1980 to 1982.

Jeannette is not only an educator but also very active in the Coney Island community. Her community activism includes serving as a member and/or officer on the local Community

Board, boards of numerous elementary schools, day care centers, housing and homeowner associations, task force on poverty, Community Council, and PTAs. She also served with the Community Democratic Club from 1964 until its dissolution in 1994. This participation included positions as the editor of the newsletter, election district captain, poll watcher, petition counter and checker, and a member of its Executive Board.

Jeannette joined the Boys Scouts of America in 1963 and continued to be active long after her children's involvement. Jeannette received various awards in her capacity as Den Mother; Webelo Leader; instructor; counselor for the Sheepshead District, Brooklyn; member of the Training and Commissioners staff and committee person, first in Troop & Pack #678 and then in Troop & Pack #504. Her active involvement with the Boys Scouts of America continues as committee person and merit badge counselor. In 1974, Jeannette was awarded the prestigious Silver Beaver.

Mr. Speaker, it is with great honor that I pay tribute to Jeannette M. LoSciuto upon her retirement as a teacher in the NYC public school system. At a time, when there have been many stories told about the failures in our public school system, it is with great pleasure that we can honor someone whose dedication is an inspiration to our youth.

RESTORE TAX RELIEF FOR SMALL COACH BUILDERS

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1998

Mr. CRANE. Mr. Speaker, I rise to commend to the attention of my colleagues a bill I am introducing today which will correct an inequity in the tax code which punishes certain small businesses.

The 1990 Omnibus Budget Reconciliation Act taught Congress a number of tough lessons. At the time, I took on the leader of my party, then President Bush, and, along with every other House Republican, opposed the 1990 bill because of its huge tax increases. The bill enacted the infamous luxury taxes on boats, automobiles and other goods in order to "tax the rich." What I predicted at the time was confirmed when the U.S. boat and aircraft industries were hit hard economically as a result of these so-called "tax the rich" policies. The rich were not harmed, rather U.S. workers were out of jobs when consumers stopped buying goods subject to luxury taxes.

While Congress has since worked to repeal these harmful luxury taxes, there are a few remaining tax inequities from that 1990 bill. The federal gas guzzler tax attempted to force better gas mileage from automobiles in the U.S. by overtaxing cars that exceeded government mandated fuel economy standards. Congress in 1986 provided an exemption from the gas guzzler tax for small automobile manufacturers. Those benefitting from this tax relief were the small coach builders who modify existing automobiles into limousines. Unfortunately, the 1990 tax bill repealed this small business exemption, thus subjecting the small coach builders again to the gas guzzler tax.

Like the other luxury taxes, the negative consequences of this new tax increase fell hardest on the workers of the coach building industry. In the late 1980s, there were 35 builders producing up to 9,000 autos. Today, only 12 builders remain and they produce less than 2,400 vehicles. The gas guzzler tax adds, on average, $1,800 to the cost of one of these vehicles. This cost must also be borne by the small businesses who operate limousine services and must replace a vehicle every 18 to 24 months.

The bill I introduce today will restore that exemption for small coach builders from the gas guzzler tax. Specifically, my bill will exempt coach builders who annually manufacture fewer than 10,000 vehicles from this onerous tax.

I urge my colleagues to join me in providing this tax relief for small businesses by cosponsoring this legislation.

A DISTINGUISHED CAREER OF ACHIEVEMENT

HON. JAMES A. BARCIA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1998

Mr. BARCIA. Mr. Speaker, the quality of health care that people receive is most directly related to the skills and manner of the people providing the care. A kind word, a reassuring look, or a friendly touch can do as much to help speed along a person's recovery as can any medicine. The patients at Bay Medical Center have had the good fortune to have the professional leadership of more than 1,200 employees by Dorothy Watrous, the Vice President of Patient Care, who is retiring after seventeen years of service.

During her time at Bay Medical, Dorothy Watrous has been credited with instituting many successful programs. She implemented Primary Care Nursing and Nursing Career Ladders, which have earned national praise as innovative and effective efforts. Dorothy has worked to provide educational opportunities for employees of the Center. She has also given back to the nursing profession through her work in developing an annual nursing scholarship program through Bay Medical Center for qualified students in the community.

One of the most important actions on her part was to develop a flexible scheduling program that accommodated working mothers. Given the demands that medical staffs face, the ability to deal with the realities of family needs helped to provide a happier staff that could only make patients feel even better about the responsiveness of their care. She also provided strong encouragement to employees to pursue further education and move up to positions of greater responsibility.

Having received both her Bachelor's and Masters of Science degrees in nursing from the University of Michigan, Dorothy Watrous went on to serve within the U.S. Public Health Service. She also has participated in many community service projects, including the Board of Directors for the Bay County Women's Center, and the Allocations Committee of United Way of Bay County. She also is the Vice Chairperson for the Board of Directors for Bay Medical Education, and on Advisory Committees for Bay-Arena Skill Center, Delta College, Saginaw Valley State University, and Great Lakes Junior College. She is an active member of the Bay City Presbyterian Church and Choir, the Saginaw Torch Club, and the Bay YWCA Week Without Violence Committee.

Mr. Speaker, when an individual does so much for her profession and for her community, that person deserves to be lauded. While her day-to-day presence will be missed, her efforts and initiatives will certainly continue to be of benefit to people for years to come. I ask you and all of our colleagues to join me in thanking Dorothy Watrous for her years of dedication, and in wishing her the very best for her retirement and all that lies ahead.

SENDING BEST WISHES TO MARYBETH SCARPONE

HON. MICHAEL PAPPAS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1998

Mr. PAPPAS. Mr. Speaker, I am sad to report that Marybeth Scarpone, a staff assistant who serves the residents of New Jersey's twelfth congressional district in my Freehold office, has announced that she is leaving the office. Marybeth has been a joy to have in the office. She has always been cheerful and pleasant. She greets constituents with a bright, happy smile putting them at ease. Her caring nature is evident by the numerous letters of gratitude we receive from constituents whom she has helped.

Marybeth grasped new challenges in her life with enthusiasm and exuberance, from the art competition and the women's forum to the youth council. All have been successful events thanks in part to the efforts of Marybeth. Today, my district office is decorated with the artwork of those students who were runner ups in this year's competition.

Often, Marybeth would go beyond the call of duty and we will not only remember her for her happy, beaming demeanor but for the rash of poison ivy after a beach cleanup and the way she looked after chaperoning the 4–H high school essay contest winners on their trip to D.C.—a day that started at 5:00 a.m.

Once in a while you could catch her spending her lunch hour in our conference room with baskets and gardening gloves, caring for the beautiful plants that brighten up our bay window.

Someone else may one day occupy Marybeth's desk but no one can occupy the place in our hearts that she has found. We will miss her very much and we wish her a future of success and happiness.

IN SUPPORT OF BRAIN INJURY RESEARCH

HON. BILL PASCRELL, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1998

Mr. PASCRELL. Mr. Speaker, Traumatic Brain Injury, known as TBI, is the number one killer and cause of disability among young people in the United States. It claims more victims than breast cancer, prostate cancer and AIDS combined, yet it receives little attention from Congress, the media and the medical community.

It is time that Congress demonstrate it's commitment to head injury patients and expand our efforts to treat and cure brain injuries. Each year, more than 2 million Americans are involved in an incident which results in head injury. Approximately 100,000 victims die and 500,000 will require hospitalization.

Traumatic brain injury can strike anyone and leave devastating results. Trauma to the head can result in significant impairment to an individual's physical, psychosocial and cognitive functional abilities. TBI affects the victim's whole family both emotionally and economically and often results in immense medical and rehabilitative expenses. The direct and indirect costs of TBI are $25 billion per year.

In 1996, Congress passed the Traumatic Brain Injury Act which authorized the NIH to expand research studies and establish innovative programs regarding traumatic brain injury. We must now provide the NIH with sufficient funding so that exciting new research, such as regeneration, can reach the clinical stage and give victims and their families new hope.

I urge my colleagues to support NIH brain injury funding so that we can help save Americans from the devastation of Traumatic Brain Injury.

INTRODUCTION OF LEGISLATION CONCERNING THE CHATTAHOOCHEE NATIONAL RECREATION AREA

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1998

Mr. GINGRICH. Mr. Speaker, today I introduced a bill, H.R. 4141, to modify the boundaries of the Chattahoochee River National Recreation Area to protect the lands, waters, and natural, cultural, and scenic resources along the Chattahoochee River.

Expansion of the Chattahoochee National Recreation Area will provide additional recreation opportunities for citizens, will protect and preserve the endangered Chattahoochee River, and will be accomplished through support and funding from federal, state, local, and private entities.

The Chattahoochee River, ranked as one of the ten most endangered rivers in the country provides the drinking water for the Atlanta metropolitan area and almost half of the population of Georgia. One of the major concerns to our river is the imminent threat of development. Runoff from construction and the overdevelopment of areas surrounding the forty-eight mile stretch of the river north of the city have resulted in pollution silt, and sediment build-ups. This bill authorizes the creation of a greenway buffer between the river and private development to prevent further pollution from continued development, provide flood and erosion control, and maintain water quality for safe drinking water and for the abundant fish and wildlife dependent on the river system. Protecting this valuable resource is vital to the future of the state of Georgia and what I consider to be one of the most important things that I can do in my public career.

The massive influx of people—more than 400,000 since 1990—into the Atlanta metropolitan area has not only endangered the river, but has also dramatically increased the need for recreational areas. The Chattahoochee River is currently one of the most visited recreation areas in the country. At the rate of growth expected in this area, the demand for parks will only increase. Visitor enjoyment will be enhanced by increased acreage and by adding land-based links between exiting units of the national recreation area. This additional land will be welcomed in a city with a lack of public parks and green spaces.

This greenway project will serve as a model for future conservation efforts. Public and private cost sharing will ensure local involvement in the expansion of the park boundary. Federal appropriations provided in this proposal will be matched by funding from the State of Georgia, local governments, private foundations, corporate entities, private individuals, and other sources. The cost to the federal government will be less than half of the estimated cost of the effort and will almost certainly be much less.

I am very pleased to introduce a proposal that will promote private/public partnerships in protecting vital natural resources and in increasing recreational opportunities for citizens. Expanding the Chattahoochee National Recreation Area will ensure that future generations will have clean water to drink and will be able to enjoy the beauty of this nationally significant resource.

TRIBUTE TO NICK BACA

HON. BOB FILNER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1998

Mr. FILNER. Mr. Speaker and colleagues, I rise today to honor a hero and a pillar of our community—Nick Baca, who died in January, 1998 at the age of 76.

Although Nick served honorably in World War II and narrowly escaped death, he rarely spoke of his service and kept the memories buried for many years. In June of 1944, as a Ranger scout with the Second Ranger Battalion, he scaled the cliffs of Pointe du Hoc on the Normandy coast of France to destroy enemy bunkers. He was one of 24 out of 120 who reached the top in a barrage of gunfire and grenades.

He fought in the Battle of the Bulge and was taken prisoner. In December of 1944, he was lined up with his fellow prisoners in a column three men deep to be shot, but miraculously escaped a bullet in the massacre by the German guards. Covered with bodies, Nick lay still so the soldiers with bayonets did not notice him. The man on top of him was stabbed to death by a bayonet and Nick's leg was cut. He hid for several days before making his way back to friendly lines—one of only a handful who survived this massacre of American prisoners of war in Malmedy, Belgium.

After the war, he returned as an Army sergeant to his life in Los Lentes, New Mexico where his family had lived since the 1600s. When jobs became scarce, he became the first of his family to leave this area, and he moved to National City, California. Here he established himself in the construction industry and became a leader in the community. He was especially active in the Veterans of Foreign Wars. He was president of an Hispanic social organization in the 1970s.

His was a wonderful life. He was a man who did his duty to his country, who contributed to his community, and who raised his family well. He is survived by Eloise, his wife of 56 years, and his children, Rosalie Ortega, George Baca, Robert Baca and Herman Baca, who is a prominent Mexican-American activist in San Diego County—along with 18 grandchildren and 11 great grandchildren.

My thoughts and prayers go out to his wife and children and to the larger community who was touched by his presence. We will all miss him.

IN SUPPORT OF H.R. 3905, FAIRNESS IN ASBESTOS COMPENSATION ACT OF 1998

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1998

Mr. CONYERS. Mr. Speaker, today I have agreed to cosponsor H.R. 3905, the "Fairness in Asbestos Compensation Act of 1998," legislation originally introduced by Chairman HYDE.

I have done so because litigation over asbestos claims may have reached a crisis point. Hundreds of thousands of American workers who were exposed to asbestos, and who have suffered or are suffering from serious diseases as a result, have to wait for years to have their legitimate claims paid. In some cases, innocent victims are in danger of not receiving any compensation at all, because the liable corporations have protected themselves, or will protest themselves, under the bankruptcy laws.

In 1994, negotiators between labor unions representing the bulk of the asbestos worker victims, on one side, and asbestos manufacturers, on the other side, resulted in a settlement agreement that was designed to alleviate the crisis. This agreement, know as the "Georgine Settlement' after Robert Georgine, President of the Building and Construction Trades Department of the AFL–CIO and the lead negotiator for labor in the settlement talks, would have established an administrative procedure for resolving asbestos claims. The U.S. District Court that oversees much of the federal class-action asbestos litigation approved the settlement as fair and reasonable. *Georgine v. Amchem Products, Inc.*, 157 F.R.D. 246 (E.D. Pa 1994).

Last year, however, in *Amchem Products, Inc. v. Windsor*, 117 S. Ct. 2231 (1997), the Supreme Court invalidated the Georgine Settlement, not on grounds of unfairness, but because the settlement agreement did not fit within the technical requirements of Rule 23 of the Federal Rules of Civil Procedure, which governs class-action lawsuits. The Court held that the federal courts lacked statutory authority to order so sweeping a settlement. Writing for the Supreme Court majority, Justice Ruth Bader Ginsburg stated: "The argument is sensibly made that a nationwide administrative claims processing regime would provide the most secure, fair, and efficient means of compensating victims of asbestos exposure. Congress, however, has not adopted such a solution.'

Given the Supreme Court's decision, I believe that the relevant parties should again come to the table to work out a legislative solution if at all possible. That is why I have agreed to cosponsor H.R. 3905. I do want to note, however, that I have some specific concerns about the language of the bill as it is currently drafted. I am concerned the bill would eliminate the availability of punitive damages in those cases in which asbestos victims choose to pursue ordinary tort remedies instead of the administrative claims procedure. I have always believed, and I continue to believe strongly, that punitive damages must be available to sanction outrageous wrongdoing by corporate defendants. Otherwise, some unscrupulous businesspeople will simply choose to treat the damage caused by unsafe products as a cost of doing business. This in no way means that I believe those defendants in the Georgine Settlement engaged in such conduct, but I do believe that such judgments should be left to the judicial process.

In addition, it is my position that any legislation we enact in the asbestos area should hew as closely as possible to the terms of the Georgine Settlement. To the extent H.R. 3905 may depart from those terms, I believe we should examine such departures very closely.

I look forward to working with Chairman HYDE on a bipartisan basis on this important legislation.

THE MEDICARE+CHOICE PHARMACEUTICAL MANAGEMENT ACT

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1998

Mr. STARK. Mr. Speaker, I am pleased to introduce the Medicare+Choice Pharmaceutical Management Act of 1998.

This bill would provide important protections for Medicare beneficiaries receiving prescription drug benefits through Medicare+Choice plans. These plans would be required to disclose important information about how they manage their drug benefits to cut costs, including any incentives offered to doctors to get them to switch to cheaper, but sometimes less effective, medications.

While many health plans still manage their own drug benefits, an increasing number of plans are hiring a new breed of management consultants known as pharmaceutical benefit managers (PBMs) to do their work for them. These companies currently manage prescriptions for some 115 million Americans and the number is expected to reach 200 million by the year 2000.

Plans have turned to PBMs in the hopes that they will be able to cut rising prescription drug costs. PBMs accomplish that goal by setting up lists of approved drugs (known as formularies), requiring specific authorization of non-formulary drugs, and urging doctors—often by providing financial and other incentives—to switch prescriptions for less expensive medications.

Of greater concern is the fact that PBMs are often given free reign to manage benefits through their own programs, with little oversight from the health plan. And, PBMs are neither licensed health care providers nor subject to federal regulation by the Food and Drug Administration (FDA).

Several of the largest PBMs are now owned by drug manufacturers and many independent PBMs have formed "strategic alliances" with drug manufacturers, exchanging preferential treatment on a formulary with millions of dollars in rebate payments from the drug companies. Since 1993, the three largest PBMs, serving fully 80% of covered enrollees, have been acquired by drug manufacturers at a total cost of $12.8 billion. And, a January 1998 study showed that drug-company-owned PBMs covered 41% of the lives enrolled in PBM programs.

Drug companies that own PBMs say that they have "firewalls" in place to prohibit the two companies from sharing proprietary information or conducting joint marketing efforts and other deals that benefit the drug company. But can any company policy resolve this inherent conflict of interest, especially when the goal is to maximize profit? If you've the CEO of a major drug company, wouldn't it be tempting to try to get more doctors to prescribe your company's new medication for high blood pressure?

I certainly think so. But, in case you think I'm just being cynical, consider the case of PCS, the largest PBM covering 50 million lives. When PCS was acquired by Eli Lilly, which manufactures Prozac, in 1994, Lilly's chairman openly declared that "this purchase will help us sell even more Prozac." Internal PCS memos obtained by the New York City Public Advocate revealed a plan to steer the company's managed care customers toward Prozac and another top Lilly drug, the ulcer medication Axid. Millions of messages would be sent to physicians and pharmacists urging switches, leading to a projected $171 million in additional sales.

Given that there are millions of dollars at stake for drug manufacturers and PBMs, it's very tempting for these companies to join forces to steer physicians to prescribe their products. But, there's more at stake than just money—the health and welfare of Medicare beneficiaries who join Medicare+Choice plans is also at risk. I am attaching testimony given by the Public Advocate for the City of New York before President Clinton's Advisory Commission on Consumer Protection and Quality that clearly shows just how low these companies will go to push their products.

I have introduced the Medicare+Choice Pharmaceutical Management Act of 1998 to discourage these types of activities by requiring Medicare+Choice plans to disclose the following information about their pharmacy benefits management: the committee (if any) used to develop and oversee drug formularies, including the composition of the committee and how they decide what drugs to include on the formulary; and incentives to physicians, pharmacists, and patients associated with formulary compliance programs, including drug switching and any known health risks associated with such a program; all policies and procedures for any drug utilization reviews of physicians and pharmacists, including any counseling, intervention, enforcement actions, or penalties associated with these reviews; any expedited process for amendment drug formularies to include new drugs that become available, particularly those that treat or alleviate potentially life-threatening illnesses; and any requirements for prior treatment failures of a particular drug before approving alternative drug therapies.

Medicare+Choice plans will be required to disclose this information when they apply for a contract with Medicare and to make this information and their drug formularies available to the public upon request. That way, the Health Care Financing Administration (HCFA), the agency that reviews these contracts, will know about a health plan's pharmacy program—and any financial incentives to push certain drugs—and can make the decision whether to contract with that plan or require changes in their pharmacy benefits management. And, even more important, the information will allow consumer groups and individuals to make recommendations and choices about the managed care plans that best serve the patient.

I urge my fellow Members of Congress to join with me in cosponsoring the Medicare+Choice Pharmaceutical Management Act of 1998. Together, we can ensure that Medicare beneficiaries get access to the prescription drugs ordered by their physician, not by a benefits manager focused on the bottom line.

TESTIMONY OF MARK GREEN, PUBLIC ADVOCATE FOR THE CITY OF NEW YORK, BEFORE THE ADVISORY COMMISSION ON CONSUMER PROTECTION AND QUALITY IN THE HEALTH CARE INDUSTRY—FEBRUARY 26, 1998

We all know that there is no more common health care experience in America than filling a prescription. But few Americans know that the terms of our every day drug-counter transactions are changing more fundamentally and rapidly than anytime in modern medical history. I suggest that your report to the President reflect this fact and propose reforms that protect patients from the adverse consequences of "drug switching."

A two-year investigation by my office has concluded that health plans are now frequently intervening in the prescription process, pressuring physicians and pharmacists to switch medications to less therapeutically valuable drugs. In addition, the approved "drug formularies" sometimes exclude critical drugs from coverage altogether. These preferences seldom have anything to do with medical appropriateness. Indeed, for some individual patients, the substituted drug is not as efficacious as the original prescription and can lead to harmful side effects.

While the original intent of these now widespread substitution strategies was to lower costs without affecting the quality of care, existing research indicates that this practice results in higher overall costs. Instead of cost-containment, commercial interests have become the guiding force behind drug preferences. Health care organizations have established a variety of business relationships with drug manufacturers that are shaping, and in some cases compromising, drug choice. The exposure of these arrangements has sounded a sudden alarm among those concerned about the independence and trust implicit in the prescription tradition of American medicine.

Five federal agencies have weighed in critically on the drug switching issue in the last few years: the FDA [US Food and Drug Administration], the OIG [US Office of the Inspector General], the HCFA [US Health Care Financing Administration], the FTC [US Federal Trade Commission] and the GAO [US General Accounting Office]. The FDA recently issued draft guidelines to attempt to monitor these practices. Yet it is estimated that 71 percent of HMOs will have programs encouraging substitutions by the end of the year.

The American Medical Association says that the "frequency and intensity" of HMO substitution interventions "pit the interest of patients against the economic interest of their health care providers" and have risen "to the level of harassment." The American College of Cardiology argues that heart medications are highly specific to particular patients and warns that substitutions represent "a real and present danger" that could involve patients being switched to drugs that might produce "life threatening toxicity" or other adverse reactions. My own surveys of almost 400 New York physicians and pharmacists found that 75 percent of both believe substitutions are diminishing care, while almost all said plans routinely contact and urge them to make substitutions.

Recent academic and governmental reports have concluded that both the employer groups paying the premiums and the HMOs engaging in drug management tactics are becoming increasingly concerned about the care-consequences of these switches. Fourteen medical journal articles have reached critical conclusions, six of which suggested that these new drug preference practices may be leading to extended illness, more visits to doctors and emergency rooms, longer hospital stays and greater total costs.

What has galvanized this concern is the growing power of a new force in drug selection—PBMs [pharmaceutical benefit managers]. HMOs retain PBMs as consultants to help them administer drug coverage. These companies, which have overnight become billion dollar giants in their own right, manage prescriptions for 115 million Americans. They are the engines driving the new substitution initiatives. With 90 percent of HMOs now employing one form or another of pharmacy management, 200 million Americans are expected to be covered by PBMs by the end of the decade.

Though the initial rationale for turning over drug management to PBMs was cost containment, drug costs continue to increase as a share of total health costs and faster than inflation. Indeed, drug costs have risen from $21 billion ten years ago to $50 billion today, and ambulatory costs for drug-related problems, including reactions to PBM-induced substitutions, are how estimated at $76.6 billion.

PBMs develop the formularies, a list of covered and preferred drugs, thereby determining prescription access for millions of patients. They pay incentives to pharmacists to get them to push doctors to switch prescriptions, and drop independent pharmacists who do not engineer switches often enough. PBM consultants call and visit doctors to discuss specific patients and urge the use of specific drugs. They impose rock-bottom prescription budgets on doctors, and review the prescribing records of recalcitrant physicians to make sure they make the favored drug selections. They even punish patients who do not accept switches by charging them higher co-pays. Yet PBMs are neither licensed as health care providers nor regulated by any oversight agency.

But PBM drug preferences are frequently of questionable independence. Since 1993, the three largest PBMs, serving fully 80 percent of covered enrollees, have been acquired by pharmaceutical manufacturers at a total cost of $12.8 billion. Other manufacturers have formed "strategic alliances" with major PBMs, paying millions of dollars in rebate payments for preferential treatment on a formulary. The overarching corporate purpose of these acquisitions and arrangements has clearly been to increase market share for certain widely used drugs. Studies have shown, for example, that the manufacturer-owned PBMs are unsurprisingly pushing the prime pharmaceuticals of their owner.

PCS, for example, is the largest PBM, covering 50 million lives. It was acquired by Eli Lilly, the manufacturer of Prozac, in 1994. Lilly's chairman openly declared after the PCS merger that "this purchase will help us sell even more Prozac." Internal PCS memos obtained by my office revealed a plan to steer the company's managed care customers toward Prozac and another top Lilly drug, the ulcer medication Axid. Millions of messages would be sent to physicians and pharmacists urging switches, leading to a projected, almost instant, burst of $171 million in additional sales. Yet both drugs cost more than effective competitors.

PCS hired outside experts to justify the Prozac switch. Though only one of the three consultants recommended knocking a top competitor, Zoloft, off the preferred list, PCS did it anyway. In fact, the one consultant they followed found that Prozac had the longest dose adjustment time of three main antidepressants—two and a half months compared to Zoloft's five and a half days. The consultant also found that Prozac produced far more side effects, including headaches, sexual dysfunction, insomnia, diarrhea, anxiety and agitation. Yet the PCS letter subsequently sent to thousands of physicians erroneously suggested that Prozac had the shortest adjustment time and fewest side effects.

The misuse of this PCS drug utilization letter for transparent promotional purposes was one of the reasons the FDA recently decided to monitor drug substitutions. HCFA recently reported that PCS believes that 30 percent of the prescriptions written under its preferred drug program are successfully switched, providing some measure of how extensive this practice is becoming.

Such drug policies influenced by commercial interests can have damaging effects on care. Patients are being switched to chemically dissimilar agents that are not rated as equivalent by the FDA, and usually have different side effects, dosages and efficacy rates. Patients stabilized on one medication are also being moved to another without any clinical cause, leading one doctor to label these switching strategies "massive unfunded human experimentation." With doctors constrained by preferred lists, the many differences between patients—age, ethnicity, multiple disease states—are not always factored into prescribing decisions.

Hurt most by these practices are the elderly and chronically ill because they often consume daily dosages of a variety of highly competitive medications. Take the example of 65-year-old Clara Davis, a retired grocery store manager from Bolivar, Tennessee. She lost a third of her stomach after her ulcer medication was switched. Her physician tried to persuade her plan not to force the substitution but it insisted. While recovering from the operation she suffered a paralyzing stroke.

As we meet, several states—Maine, New York, California and Virginia—are considering legislative action to protect the Clara Davis' of this country and to restrict drug formularies based more on commercial, rather than health, considerations. But ultimately, since drug sales are obviously national in scope, there must be a national policy on drug substitutions. I urge you not to squander your once-in-a-generation opportunity to stop this new and growing trend of HMOs—not physicians and pharmacists—prescribing the pills that we all swallow.

Given how extensive and harmful managed-care-driven drug substitutions have become, I urge the Commission to include this language in their final report. I believe that these recommendations implement the mandates of the Consumer Bill of Rights on Information Disclosure and Participation in Treatment Decisions:

"Consumers should be fully informed about all factors affecting a prescription choice. Health care organizations and physicians should disclose any possible side effects or economic reasons for a recommended therapeutic switch. Health care organizations should restrict substitutions to those that are found to be therapeutically equivalent by the FDA. Consumers should be free to reject these recommended switches without penalty, such as the imposition of a higher copayment. Consumers have the right to continue on a drug regimen that has been medically beneficial for them, without pressures on their physician to switch. Health care organizations should make their preferred drug lists, as well as formularies, available to consumers. Drug substitutions should take into account the potential overall cost of a change in care, not merely the comparative costs of two medications in the same therapeutic category.

"The President should provide strong, continuous leadership to improve the quality and delivery of prescription drug care in the United States. The President should act to eliminate all commercial interests advising, selecting or influencing prescription drug treatments and act to improve the health of all Americans by developing a patient-specific prescription drug policy."

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IN RECOGNITION OF JETER NIMMO

HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1998

Mr. HALL of Texas. Mr. Speaker, I rise today to pay my respects to a good friend, fine Texan and more importantly a great American—Mr. Jeter Nimmo. Jeter was born on January 24, 1920 in Delta County, Texas, where he learned the importance of family, church and community. Jeter took these values with him to the University of Texas at Austin, where he earned a degree in engineering, and to the Army Air Corps, where he served his country as a pilot during World War II.

Jeter spent the majority of his adult life in Van Zandt County, Texas, where he was a community leader. Actively involved in church and community affairs, Jeter often volunteered his time, labor and talents to the First Baptist Church of Van Zandt. Not only did Jeter dedicate himself to his family and church, but he also served as an officer for both the Federal Land Bank and the Texas Farm Bureau Association. Such tireless efforts to his community made Jeter the wonderful man and special friend that I stand here today to honor. Giving not only of himself, but even of his own money to those individuals and families less fortunate, Jeter was a daily testimony of his commitment to God, family, friends and community.

Mr. Speaker, Jeter Nimmo passed from us on February 25th of this year. He is survived by his two daughters and their husbands: Nancy and Joe Lambert of Colfax, Texas and Caroline and Mike Athey of Niceville, Florida.

Mr. Speaker, as we adjourn today's session, let us do so in honor of this outstanding husband, father, friend and American, Mr. Jeter Nimmo. He will be missed by all those who knew him.

RECOGNIZING THE CONTRIBUTION OF FORT MONMOUTH TO THE UNITED STATES ARMY SIGNAL CORPS

HON. MICHAEL PAPPAS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1998

Mr. PAPPAS. Mr. Speaker, it is my privilege to offer congratulations to the United States Army Signal Corps which is celebrating its 138th anniversary. In particular, I would like to recognize Fort Monmouth Army Base in my district, New Jersey's twelfth, which was "home" to the Signal Corps for 58 years of crucial advances in military communications.

On June 21, 1860, the Signal Corps was born, the brainchild of Albert James Myer, an Army doctor who believed there should be a trained, professional military signal service. From its first use in New Mexico during a Navajo expedition, to its use during the Civil War, the Spanish American War, the two World Wars, the Korean and Vietnam Wars to the present day, the Signal Corps has provided necessary communication devices which have protected the lives of the men and women who have advanced the cause of freedom.

Fort Monmouth was "home" to the Signal Corps School from 1917 to 1975. As the center for signal education, as well as major laboratory, Fort Monmouth played an important role in the major world conflicts of this time period. Early radiotelephones developed at Fort Monmouth were used in the European theater during World War I. The first Army radar was developed in 1938. This new technology, as well as the development of the tactical FM radio, were important communications devices which helped to lead the Allies to victory in World War II. These innovations are still used today, by military and non-military alike.

Fort Monmouth has also made major contributions to the development of space communications. "Project Diana" in 1946 successfully bounced electronic signals off of the moon, a milestone on the road to space communication. Solar-powered batteries, typewriters for space shuttles, and communications satellites were some of the other advances developed at Fort Monmouth. Though no longer home to the Signal School, Fort Monmouth continues to serve as an important technological logistics, and training center. Today, Fort Monmouth serves as home to CECOM, the Army's Communication and Electronic Command.

I would like to thank the men and women of Fort Monmouth for their continuing dedication to the protection and promotion of freedom. I am confident that their important work will continue well into the next millennium.

HONORING SISTER WINIFRED DANWITZ, Ph.D.

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1998

Mr. ENGEL. Mr. Speaker, I rise to join in celebrating the Golden Jubilee of Sister Winifred Danwitz, a woman whose accomplishments are so many that they seem crammed into those fifty years, but one who looks forward to doing even more.

Sister Winifred is the former Administrator of the Mount Saint Ursula Speech Center for New York City and Professor Emeritus of Special Education at the Graduate School of the College of New Rochelle. She was selected a Fellow of the American Speech-Language-Hearing Association.

Her teaching experience includes the College of New Rochelle and its graduate school, Fordham University, Hunter College and Iona College. The list of her organizational activities where she served in a senior position runs off the page. She has almost as many awards.

Now she is embarking on her latest venture as Executive Director of Angela House. Angela House began as her idea. It will be an innovative demonstration project to address the problems confronting homeless women and their young. Angela House will serve as a model supportive transitional residence to provide these women and their children with the supervision, support and training in a nurturing environment.

Sister Winifred will be as successful in helping these women and their children as she has been in her other endeavors. Her generosity of spirit has made beneficiaries of all of us. I am proud to be able to praise her work, her dedication and her innovation. She is our treasure.

SENATE—*Friday, June 26, 1998*

The Senate met at 9:30 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Almighty God, Sovereign of this Nation and Lord of our lives, we prepare for the July 4 recess by remembering Benjamin Franklin's words to George Washington at the Constitutional Convention, "I have lived, sir, a long time, and the longer I live the more convincing proofs I see of this truth: that God governs in the affairs of men. If a sparrow cannot fall to the ground without His notice, is it probable that an empire can rise without His aid? I believe that without His concurring aid we shall succeed no better than the builders of Babel. We shall be divided by our partial local interests; our projects will be confounded . . ."

Gracious Lord, we join our voices with our Founding Fathers in confessing our total dependence on You. We believe that You are the Author of the glorious vision that gave birth to our beloved Nation. What You began You will continue to develop to full fruition, and today the women and men of this Senate will grapple with the issues of moving this Nation forward in keeping with Your vision. Think Your thoughts through them; speak Your truth through their words; enable Your best for America through what You lead them to decide. In the Name of our Lord and Savior. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The able majority leader, Senator LOTT of Mississippi, is recognized.

Mr. LOTT. I thank the Chair.

COMMENDING SENATOR STROM THURMOND

Mr. LOTT. Let me say again, Mr. President, how proud I am that the Senate last night voted to name our defense authorization bill the Strom Thurmond National Defense Authorization Act. We all admire you and love you so much. You are the idol of every Senator. Your example is one to which we all aspire.

We are very proud of you, Mr. President.

The PRESIDENT pro tempore. Thank you very much for your kind remarks.

SCHEDULE

Mr. LOTT. Mr. President, for the information of all Senators, this morning there will be a period of morning business until 10:10. Following morning business, the Senate will proceed to executive session to consider the nominations of A. Howard Matz to be United States District Judge for the Central District of California, and Victoria A. Roberts to be United States District Judge for the Eastern District of Michigan. It is, therefore, expected that up to two votes will occur on those nominations at approximately 10:15 this morning.

Following those votes, the Senate may consider any of the following items: drug czar reauthorization bill, the clean needles bill, the reading excellence legislation, the legislative branch appropriations bill, and other legislative or executive items that may be cleared for action.

Once again, Members are reminded there will be rollcall votes during today's session of the Senate, with the first vote expected at approximately 10:15.

I understand from our discussions with Senator DASCHLE that we perhaps have been able to get an agreement on the higher education bill—we did get the time agreement locked in—with a number of amendments in order. We will work to consider that bill as expeditiously as possible. We need to get it done because the authorization expires July 1. Even though we have had an extension of funding for 90 days, that is something we need to get done absolutely before we go out for the year. So we need to get it completed in the Senate and be able to get it in conference. We also may be able to take up the intelligence authorization bill later on today.

Let me go ahead and announce to the Senate, and I will repeat it later, right before votes probably, Senators should expect long days and lots of votes during the month of July. We will have votes on most Mondays, even though we have not made a final decision with regard to July 6. It is expected we will have one vote on that date, but we are still working with Senators on both sides to determine what that one vote will be late in the day.

Throughout July, though, Senators should expect to be here on Mondays and on Fridays. I expect that we will be in 6 or 7 hours each Monday; that we will have night sessions every night; that we will be in usually 12 hours a day Tuesdays, Wednesdays and Thursdays; and I will be trying to schedule bills and votes into the night Tuesdays, Wednesdays, and Thursdays so that we can move several appropriations bills and some of the bills I have mentioned here.

We have a number of other important issues—product liability, bankruptcy, the credit union bill. We have a lot of work to do, so what I will try to do is dual-track some of these, with appropriations bills being on the floor almost every day and then maybe work at night on other issues.

For instance, it is my intention to have the conference report on the IRS restructuring probably the Tuesday or Wednesday night that we come back. We may actually have a final vote on it the next morning. But in order to get our work done, Senators should expect that I will schedule votes around 9 o'clock every Tuesday, Wednesday, and Thursday.

I have really bent over backwards to be helpful to the Senate, to try to be considerate of their family needs, but it seems that we have not gotten reciprocation from Senators, frankly, on either side. The number of amendments is totally out of control. Every bill now has 100 amendments. If Senators can't learn to be serious, only have major amendments, cut the debate time, if we do not get cooperation on both sides of the aisle, then I have no alternative but to start having what would be called "bed check" votes. If we get our work done, we will not go late. If we do not, we will be here until 9 and 10 o'clock every night in July.

So Senators need to prepare for that, and then we won't surprise anybody. But that is the schedule we have to work in order to get six or eight appropriations bills done in July, and maybe more, if we can, and other important authorizations that have to be done. I know that is good news for one and all, and now morning business is in order.

I yield the floor.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER (Mr. ALLARD). Under the previous order, leadership time is reserved.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for morning business not to extend beyond the hour of 10:10 a.m., with Senators permitted to speak therein for up to 5 minutes each. Under the previous order, the Senator from Ohio, Mr. DEWINE, is recognized to speak up to 10 minutes.

The Senator from Ohio.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

PRIVILEGE OF THE FLOOR

Mr. DEWINE. Mr. President, let me first ask unanimous consent that the privilege of the floor be granted to a member of my staff, Terrence O'Donnell, for the remainder of the day.

The PRESIDING OFFICER. Without objection, it is so ordered;

Mr. DEWINE addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. DEWINE. I thank the Chair.

(The remarks of Mr. DEWINE pertaining to the introduction of S. 2242 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, am I correct, the Senate is in morning business?

The PRESIDING OFFICER. The Senator is correct. The Senator is recognized for 10 minutes.

PATIENTS' BILL OF RIGHTS

Mr. DORGAN. Mr. President, it is my hope and the hope of many of my colleagues, that, when we return following the Independence Day break, we will take up a piece of legislation called the Patients' Bill of Rights.

We have, over many weeks, come to the floor of the Senate to talk about cases around the country that illustrate the critical need for us to do something about a health care system that has increasingly herded people into managed care plans in which profit and loss, or the bottom line, becomes more important than a person's health care needs. That is why the American Medical Association and many others support the Patients' Bill of Rights that we have introduced. My fervent hope is that the Congress and the Senate will find time to address this issue in July.

Let me talk just for a moment about a woman, Phyllis Cannon from Newcastle, OK. In September of 1991, Phyllis Cannon was diagnosed with acute myeloblastic leukemia. She underwent a regimen of chemotherapy, which her HMO did pay for, and her leukemia went into remission. But her doctor, her oncologist, fearing that her cancer would again surface, recommended that she undergo an analogous bone marrow transplant. However, her HMO contended that this procedure was still experimental for first remission patients, and it refused to pay for the bone marrow transplant, even though a bone marrow transplant procedure was covered under the terms of her plan.

Phyllis Cannon's oncologist fought vigorously for this procedure. He supplied the HMO with the latest medical literature on the procedure, knowing that an urgent transplant was critical for Phyllis' health. But, once again, the HMO denied coverage. Phyllis, her husband Jerry, and the doctor continued to fight, and finally, after another month had passed, the HMO relented and said it would pay for the bone marrow transplant.

But the HMO officials, once they had agreed to cover the transplant, didn't notify Phyllis of the decision until a month later, and by then it was too late. The leukemia had returned, and Phyllis died 6 weeks later.

Because Phyllis received her health care coverage from her employer, her HMO was protected under a law called ERISA. Employer-sponsored plans, like the one covering Phyllis, are governed by ERISA, which gives HMOs immunity from the harmful effects their decisions might have. So, for Jerry Cannon, ERISA left him no chance to hold the HMO accountable for its decision which led to his wife's death. And this story, one more story, of Phyllis Cannon, demonstrates the need for a Patients' Bill of Rights.

Increasingly, as health care becomes more a function of profit and loss, it is straying from the central purpose of health care.

Let me share with my colleague what Phyllis' husband Jerry said. This is a picture of Jerry holding a photograph of his wife.

> [Telling my wife that the HMO was not going to provide the transplant she needed] just devastated her. She gave up after that. Oh, it was horrible. Once I got off the phone, I could see all hope leave her.

This is just one person, one person among thousands and tens of thousand in this country who now fear a health care system in which they are herded into this big chute called HMOs or managed care, and some insurance company accountant in a back room 500 miles away will make a decision about whether a medical procedure is covered. And when they make a mistake in that back room of the insurance office, no one can hold them accountable. If the doctor makes a mistake, that doctor is accountable. But the health care plan has no accountability.

In fact, they have special protection under the law. We suggest as the remedy a Patients' Bill of Rights supported by the President, by the American Medical Association, and by a vast array of groups around this country that represent patients.

Let me describe one more time, as I have before when I have come to the floor to talk about this issue, why the American people are demanding we do something about this problem.

There was a story in the paper several months ago about a woman who was injured quite severely by a fall from a horse. Her brain was swelling, and bystanders called an ambulance to take her to the hospital. While this woman was in the ambulance, with her brain swelling, she said, "I don't want to go to hospital X," which was the nearest hospital. "I want you to take me to hospital Y," which was further away.

She survived this brain injury and was asked later, "Why did you, while you were in this ambulance suffering from a serious injury, ask to be taken to the hospital that was further away?" She said, "Because I had read a lot about the hospital that was closest, and it was all about profit and loss, all about the bottom line. I didn't want to be wheeled into an emergency room in that hospital and have someone look at me in terms of dollars and cents, in terms of profit and loss. That is not the way I wanted to be treated as a patient."

Our Patients' Bill of Rights says that every patient has a right to know all the medical options available for treatment of their disease, not just the cheapest option. Our Patients' Bill of Rights says that people have a right to go to an emergency room when they have a medical emergency. You think that is something that is understood across this country? It is not. There are plenty of instances when people are not getting coverage for emergency room visits.

Our Patients' Bill of Rights says that when someone is in need of a specialist to treat their disease, he or she has a right to see that specialist. You think that is routine in managed care organizations today? I am sorry to say it is not.

And our Patients' Bill of Rights—unlike the bill that was unveiled just yesterday, I believe, in the other body—says patients have a right to sue their health plan if its decision harms them. We take away the special exemption that is given these organizations so that when a health plan makes medical judgments that can deny someone like Phyllis the cancer treatment she needs the folks who made that decision are made to take responsibility for it. That is why President Clinton and a good many in Congress, Republicans and Democrats, say it is time to do something about this issue.

I suppose that one can make the case, "Well, there's only so much money in the system." Doctors make the case that they want to practice medicine in the doctor's office, in the hospital room.

I have met with a good many doctors in my State to talk to them about the health care system. Increasingly, they tell us that managed care organizations are taking the decisions out of the doctors' offices and out of the hospital rooms, and making them instead in some insurance office hundreds of miles away by someone who knows nothing about the patient and nothing about the patient's needs.

Doctors are angry about that, and justifiably angry in my judgment. It is time—long past the time—to pass a piece of legislation that says to these organizations, there are certain basic rights that ought to be available to every American when they are ill, when they are in need of help from the health care system.

Among those rights, as I just mentioned, is the right to understand, from your health care provider, all of the options available to you to help treat you, not just the cheapest option available that the managed care organization is willing to provide. Those are the kinds of things that we will address and discuss and hopefully deal with when we bring a Patients' Bill of Rights to the floor.

Again, I am pleased to say this is not one of those issues that is a partisan issue. There are Republicans and Democrats who feel strongly and have spoken aggressively on the floor of the Senate and the House about this issue.

The power to schedule here in the Congress is a very important and very significant power. We hope that those who have the power to schedule will put on the agenda of the U.S. Senate the Patients' Bill of Rights. No, not some watered down, lukewarm version like was introduced yesterday that is designed only to allow Congress to say it dealt with this issue. I am talking about a real Patients' Bill of Rights, one that addresses and solves the health care problems that Americans are forced to deal with every day and that, regrettably, Jerry Cannon and his poor wife Phyllis discovered a few years ago in a very tragic way.

We can solve these problems, and we should. We owe it to Phyllis and Jerry and the other families around this country who confront this every day in the doctors' offices and in the hospital rooms.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from Utah, Mr. HATCH, is recognized to speak for up to 10 minutes.

JUDICIARY COMMITTEE'S MICROSOFT INQUIRY

Mr. HATCH. Mr. President, I rise this morning to speak for just a few moments on the Senate Judiciary Committee's progress with respect to our Microsoft inquiry and, more specifically, to share my perspectives on how Microsoft has conducted itself before the committee; to discuss some important developments from this past week; and to discuss the committee's upcoming plans with respect to the Microsoft issue.

This week has been a significant one. Just yesterday, Windows 98 was rolled out to consumers. I might note that, contrary to Microsoft's emphatic protests last month that a federal lawsuit would have catastrophic consequences for the PC industry, the Justice Department did file suit, and, lo and behold, the sky has not fallen on either Microsoft or the computer industry. Meanwhile, the Department of Justice encountered a setback in its original consent decree case. And, something which got less attention in the midst of these other developments, the Software Publisher's Association, the 1,200 member software industry association of which Microsoft is a member, released a report describing how, if allowed to proceed with its tried and true market practices, Microsoft will extend its current desktop monopoly to control the market for network servers—a technology which provides the foundation for the Internet and corporate intranets. So this is important. Microsoft is attempting to extend its current monopoly of 90 percent of the underlying operating system to control all the market for network services, both the Internet and corporate intranets.

So, for those who have looked seriously at the Microsoft issue, I believe it is clear that the issue is about much more than just the browser. In fact, I have never thought that the browser issue was the most important issue at all, although it is important if you look at all of the ramifications of the browser problems.

It is about whether one company will be able to exploit its current monopoly in order to control access to, and commerce on, the Internet; whether one company will control the increasingly networked world in which we are coming to conduct our businesses and in which we are coming to lead our lives.

Indeed, the reach of Microsoft's monopoly power is on the verge of extending well beyond markets which we have traditionally thought of as software or technology markets, and the effects of this expansion will be felt not just by the software companies who have traditionally competed with Microsoft, but by a broad swath of U.S. consumers. As the New York Times yesterday observed,

> Right now Microsoft is expanding into myriad Internet businesses, including news, entertainment information, banking, financial transactions, travel bookings and other services. Since consumers have no choice but to buy the Windows operating system when they buy personal computers, Microsoft is in a position to give such a big advantage to its own software that any other software maker would not be able to compete.

I agree with the Times's conclusion. They went on to say: "It is not healthy for the courts to grant Microsoft a permanent chokehold over the entire expanding world of the Internet." I ask unanimous consent that this New York Times editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

> [From the New York Times, June 25, 1998]
>
> A MISTAKEN MICROSOFT RULING
>
> One month after the Justice Department filed its sweeping antitrust suit against Microsoft, a Federal appeals court has issued a deeply flawed ruling that may weaken the Government's case. The three-judge panel seemed to adopt Microsoft's arrogant claim that it has the right to incorporate its browser, or any other software, into its Windows operating system as long as doing so offers certain advantages to consumers. But if the thinking behind this decision prevails, it could permit Microsoft to use its monopoly power to crush competitors throughout the Internet. The Justice Department thus needs to mount a vigorous counterattack invoking the full force of antitrust laws.
>
> The Justice Department can argue that the appeals court ruling need not determine the outcome of its larger antitrust case against Microsoft. That is because it was based on a narrow case brought by the Justice Department last year, when it charged that Microsoft violated a 1995 consent decree affecting the marketing of Windows 95. In that decree, Microsoft agreed not to condition its sale of Windows to computer makers on the sale of other software, but could improve Windows by integrating other functions into it.
>
> In December a Federal district judge ordered Microsoft to split off its browser, the software used to navigate the World Wide Web, from Windows 95. Now the appeals court has said the browser can be included, because with it Windows became a new and improved integrated product.
>
> The problem with the appeals court's reasoning is that virtually any new form of software can be integrated into the basic Windows system, arguably improving it. Right now, Microsoft is expanding into myriad Internet businesses, including news, entertainment information, banking, financial transactions, travel bookings and other services. Since consumers have no choice but to buy the Windows operating system when they buy personal computers, Microsoft is in a position to give such a big advantage to its own software that any other software maker would not be able to compete.
>
> Because the court of appeals ruling was based on the meaning of the 1995 consent decree, the Justice Department has a chance to reverse its thinking in its larger case against Microsoft, which is to come to trial in September. In that case, the judge will be asked to look beyond the consent decree to the broad principles of antitrust law, and to look as well at Microsoft's predatory practices. The department has assembled impressive evidence that Microsoft deliberately used its monopoly in Windows to crush its rival Netscape, which was selling a browser that many consumers preferred to the one made by Microsoft.
>
> The appeals court's decision referred to the general "undesirability of having courts oversee product design." Judge Patricia Wald, in her dissent, correctly warned that the decision "would seem to permit" Microsoft to incorporate "any now-separate software product into its operating system by identifying some minimal synergy" as a result. It is not healthy for the courts to grant Microsoft a permanent chokehold over the entire expanding world of the Internet.

Mr. HATCH. I believe this is one of the more important policy issues of our day, one which will have far reaching ramifications for years to come, and that it would be remiss for lawmakers and law enforcers not to be paying close attention to these issues. So, when we return from the July recess, I plan to hold further hearings on competition in the digital age. In particular, I plan for the committee to examine market practices and developments in the so-called "enterprise" or back office software market, and more generally to examine practices and developments affecting access to, and transactions on the Internet. Specific hearing dates and witness lists will be released when finalized.

While I will reserve comments regarding Microsoft's tactics in these markets until after we learn more about this issue next month, I do have a few comments regarding Microsoft's tactics in Washington over the last several months. In a nutshell, I would offer my view that Microsoft has, regrettably, seen fit to deploy a massive pr campaign grounded in spin control and misdirection, as opposed to engaging the American public, on the basis of the facts and the merits surrounding all of these issues.

For starters, I find it rather surprising that any one company would, rather than seeking to prevail on the merits, instead have the hubris to try and use the appropriations process to "go on the offensive" and seek to restrain a federal law enforcement agency that has an obligation to enforce the laws, as was recently reported. I trust that my colleagues in this Chamber would have little difficulty in seeing this as anything but an effort to interfere with an ongoing law enforcement action. I can certainly appreciate my colleagues wanting to go to bat for their constituent, but I would find it surprising and disturbing were they or any other Senators swayed to permit this body to seriously consider such an effort to interfere with the appropriations system hope and cut out funds for the Justice Department division on antitrust. I hope that they don't continue in those efforts if those reports are true.

More fundamentally, though, I am troubled that Microsoft has seen fit to engage in a game of hide the ball, as opposed to putting their best case forward on the facts and on the merits. This issue has nothing to do with the government trying to design software. It is about trying to preserve competition and innovation—the hallmark of a free market—in an area that is absolutely critical to the future of our economy and I guess you have to pay the world. It is critical to our economy, as well. It is about getting to the bottom of the true facts here so as to understand how best to accomplish this fundamental objective. Frankly, if the facts truly aren't so bad, I would expect Microsoft to be happy to explain them.

One of the issues I have been concerned with since last fall, for example, happens to be the restrictive contracts Microsoft has imposed on various Internet firms seeking placement on the ubiquitous Windows desktop. Rather than admit that they have indeed imposed such terms, and explain to us why we should not find them objectionable, Microsoft has consistently sought to avoid the existence and implications of these contract terms. When pressed on the issue, Microsoft announced on the eve of our March hearing that it would no longer enforce these restrictive covenants or these restrictive contract provisions, instead of explaining why these provisions were legal. But, when the Justice Department filed its suit nearly three months later, we learn not only that these restrictive and exclusionary provisions existed, but that Microsoft in fact continues to enforce them with respect to the biggest Internet firms such as AOL and Compuserve, notwithstanding Microsoft's prior representations to the Committee that these very provisions had been removed from its contracts "on a worldwide basis."

These are just a few examples where Microsoft has been less than one hundred percent candid and forthright. There are others. Committee staff has prepared a brief report outlining some of the areas where I believe Microsoft could and should have been more forthright with the Committee.

As the Committee continues its inquiry, I plan to give Microsoft a fair opportunity to be heard on these issues. But I think they should be heard on the record, rather than through carefully orchestrated, multimillion dollar pr campaigns that are more concerned with blurring the true facts than explaining them. So I hope that, when given the opportunity to be heard on the record, Microsoft chooses to be somewhat more candid with the American people than it has been so far.

I ask unanimous consent that a report prepared by the majority staff of the Senate Judiciary Committee, dated June 26, 1998, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[A Report Prepared by Majority Staff, Senate Judiciary Committee, June 26, 1998]

MICROSOFT STATEMENTS TO THE UNITED STATES SENATE JUDICIARY COMMITTEE

INTRODUCTION

Throughout the course of the Senate Judiciary Committee's ongoing inquiry into competition in the software industry, Microsoft has continually sought to steer the Committee away from important but potentially damaging areas of inquiry. At times, Microsoft has relied on factually misleading or inaccurate statements to accomplish this objective. A sampling of such statements, and a brief assessment of their accuracy, are provided in the following report.

I. EXCLUSIONARY LICENSES WITH INTERNET SERVICE PROVIDERS

At the Committee's November 4, 1997 hearing, Senator Hatch raised concerns about the exclusive nature of Microsoft's licenses with Internet Service Providers (ISPs) that appeared to have the effect of limiting ISP's freedom to promote and distribute competing browsers. Senator Hatch specifically cited a number of provisions in Microsoft's license with Earthlink.

In response, Microsoft Senior Vice President William Neukom wrote Senator Hatch, stating that: "The implication at the hearing that Microsoft's agreement with Earthlink was somehow directed at locking out competing software is plainly refuted by the facts.

". . . the ISP is free at all times to distribute and promote any browser software to any customers not referred by Microsoft."[1]

In addition, Microsoft Chairman Bill Gates testified at the Committee's March 3 hearing that Microsoft's ISP agreements "are not exclusive"[2] and reiterated Mr. Neukom's suggestion that those restrictions Microsoft did impose on ISPs only applied to customers referred to the ISP by Microsoft.[3]

When pressed by Committee staff to square these assertions with the plain language of the Earthlink license, Microsoft officials stated that staff was overlooking the fact that the Committee's version of the contract contained redactions. The redactions referred to, however, turned out to be largely irrelevant and Microsoft's assertions cannot be squared with the unredacted language of the contracts.

First, Microsoft's restriction on an ISP's freedom to promote competing browsers plainly is not limited, as Messrs. Neukom and Gates suggested, to customers referred to the ISP by Microsoft. Microsoft's contracts include blanket prohibitions, not limited to customers referred by Microsoft, stating that the ISP "shall not advertise or otherwise promote any non-MS browser more than 10 to 20% of total impressions," and that the ISP "shall not display any logo for, or maintain a link to, a non-MS web browser on [ISPs] home page for the ISP Service, on the Start Page, or on *any [ISP] home page for any other Internet access service offered by [the ISP]*."[4] (Emphasis added). Messrs. Gates and Neukom's assertion that "the ISP is free at all times to . . . promote any browser software to any customers not referred by Microsoft" is simply false.

Second, and more importantly, Microsoft required its ISP licénsees, in order to avoid being removed from the Windows ISP referral, to ensure that a high percentage (between 75% and 85%) of total browser shipments were Internet Explorer.[5] Independent of other restrictions in Microsoft's ISP contracts, an ISP which is obliged to guarantee that 85% of the browsers it distributes are Microsoft browsers clearly is not, as Mr. Neukom stated, "free at all times to distribute . . . any browser software to any customers not referred by Microsoft."

In sum, it is inconceivable how licensing provisions that prevents ISPs from promoting competing browsers, and actually require that ISPs ensure that 75–85% of its browser shipments are Microsoft's, are not "exclusive" and directed precisely at "locking out competing software." Indeed, this conclusion is only buttressed by the fact that, as a top strategic priority aimed at "Winning the Internet platform battle," Microsoft executives directed its sales force to sign "[e]xclusive licensing of Internet Explorer to top 5 [Internet] Access providers."[6]

II. WITHDRAWAL OF EXCLUSIVE ISP LICENSING PROVISIONS

When the Committee persisted in questioning how these ISP contract provisions were anything other than exclusionary and designed to "lock out competing software," Microsoft, instead of providing any plausible, substantive response, stated that it had agreed to remove these provisions from its contracts. On the eve of the Committee's March 3 hearing, Microsoft provided the Committee with a letter stating that the contract provisions at issue had been deleted from its ISP agreements "on a worldwide basis."[7] When questioned on the subject by Senator Hatch at the Match 3 hearing, Mr. Gates states that "we agreed to waive" the ISP contract provisions that had raised concerns.[8] The clear implication of Microsoft's letter to the Committee, and Mr. Gates's testimony, was that Microsoft would no longer prevent firms that provide Internet access from promoting or distributing alternative browsers as a condition of gaining placement on the Windows desktop.

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[1] Footnotes at end of report.

Notwithstanding Mr. Gates's testimony, and Microsoft's assertion to the Committee that it had removed these restrictive contract terms "on a worldwide basis," Microsoft had apparently continued to enforce the most restrictive of its contract terms with the largest Internet access firms, including AOL, CompuServe and Prodigy.[9] In fact, the firms still restricted from distributing and/or promoting non-Microsoft browsers represent over 53% of North American Internet users.[10] Given the fact that more than half of U.S. consumers accessing the Internet are still subject to Microsoft's restrictive and exclusionary contract terms, Microsoft's failure to, at a minimum, qualify or clarify its officially asserted waiver of these provisions can be considered nothing other than a sleight of hand.

III. ABILITY TO SWITCH BROWSERS

In his testimony before the Judiciary Committee, Mr. Gates sought to limit the relevance of any restrictions it might impose on ISPs by suggesting that, regardless of what browser was bundled by an ISP, the ISP's customers "could always go out and switch their browser. There is no product that is easier to switch in the world today than a browser. It takes about five seconds to go up and click and go get the Netscape browser or the Microsoft browser or any other browser that is out there on the Internet."[11]

In reality, it is simply not possible to switch browsers in five seconds. To execute the procedure referred to by Mr. Gates, a user would have to launch Internet Explorer, find that Netscape homepage, find an option for downloading, Netscape Navigator, and execute the download. Using a typical 28.8 K modem, it took the Committee systems administrator over two hours merely to complete the download process. The reality is that all but the most sophisticated Internet users are likely to forego the time and effort necessary to download a browser off the Internet when they can instead use the browser which comes bundled with their Internet service or PC. Thus, Mr. Gates's attempt to minimize the exclusionary impact of its ISP contracts is misleading at best.

IV. EXCLUSIVE LICENSING PROVISIONS WITH CONTENT PROVIDERS

Microsoft has also imposed restrictions on the ability of firms providing Internet content ("content providers" or "ICPs") to promote, distribute, or render payment of non-Microsoft browsers. Here again, Mr. Gates has been less than candid about these resctictions. At the Judiciary Committee's March 3 hearing, for example, Mr. Gates testified: "At far as Internet content providers go, let me be very clear about that. There is nothing that restricts anybody who has content relationships with us from developing sites that exploit any browser out there in the marketplace. Those people are free to do as they choose in terms of developing sites, and they have lot of ways they can promote the other sites that they do."[12]

This statement, however, glossed over the very significant fact that, while Microsoft might not have been able to explicitly prohibit a content provider from developing content that can be retrieved with using non-Microsoft browsers, it did manage to split its leverage over content providers, to get them to agree, as a condition for obtaining placement on the Windows desktop, to various restrictions designated at "locking out" competing browser platforms. For example, the Justice Department learned that, contrary to Mr. Gates's testimony, Mirosoft's contracts with the largest and most popular ICPs in fact do require those ICPs to promote their Microsoft channel exclusively, and do restrict the ICPs' abilities to deal with "Other Browsers." As the Justice Department's brief explains:

ICPs are not allowed to compensate in any manner a producer of an "Other Browser"—including by distributing its browser—for the distribution, marketing, or promotion of the ICP's content, effectively precluding payment for a channel on Netscape's competing Netcaster product;

Even if an "Other Browser" (namely Netscape) distributes—without compensation—an ICP's content through Netcaster, the ICP is still prohibited by its Microsoft contract from promoting or advertising the existence of its Netcaster channel and from licensing its logos to Netscape in order for Netscape to promote and highlight the existence of that content for Netcaster;

ICPs are not allowed to promote any "Other Browser" products;

Microsoft restricts the distribution of "Other Browsers" by requiring that the ICP "distribute Internet Explorer and no Other Browser as an integral part" of an ICP Channel Client for the Win32, Win16 or Macintosh platforms; and

ICPs must create channel content exclusively viewable with Internet Explorer, and optimize many of their websites to take advantage of Internet Explorer—specific extensions to web standards (such as HTML) and Windows-specific technology (such as Active X).[13]

Thus, Mr. Gates's testimony that Microsoft does not restrict content providers' ability to develop for, or promote, competing browsers, is flatly contradicted by the evidence unearthed by the Justice Department. Moreover, when pressed on this issue at the Committee's March 3 hearing, Mr. Gates went to great lengths to avoid conceding that Microsoft imposed such restrictions, even when posed with direct questions and asked to give a "yes-no" answer. For example, when Senator Hatch repeatedly questioned whether Microsoft prevented any of its content partners from advertising or promoting Netscape, Mr. Gates persisted in giving non-responsive answers and avoiding the simple "yes" or "no" answer that was requested. Only after Senator Hatch, visibly frustrated, repeated the question for a fifth time, did Mr. Gates finally concede albeit in a grossly incomplete fashion, that Microsoft did in fact impose restrictions on Internet Content Providers. The colloquy was as follows:

Q: Mr. Gates, you have been somewhat hard to nail down on a very specific question, and I would appreciate just a yes or no, if you can. Do you put any limitation on content providers that limit them . . . for advertising or promoting Netscape? Yes or no, if you can.

A: Every Internet content provider that has a business relationship with Microsoft is free to develop content that uses competitors' platforms and standards.

Q: But my question is do you put any limitations on content providers that limit them . . . for doing any advertising or promoting of Netscape?

A: Well, understand, there are more people in the Netscape channel guide than there are on the Microsoft channel guide.

Q: How about Microsoft: Do they put limitations or restrictions on people from advertising and promoting Netscape?

A: I am not aware of any limitation that prevents them from doing content that promotes Netscape.

Q: Do you use your exclusive arrangement with the companies—do you use that as leverage to stop them from advertising or promoting Netscape?

A: I don't—we don't—. . .

Q: Does Microsoft then limit—place any limit on any content providers that limits them . . . for advertising or promoting Netscape or any other competitor?

A: I said earlier that on the pages that you link to through the channel guide—that on those pages you don't promote the competitive product, but that is a unique URL. You are free to promote their content in quite a variety of ways, but not off the specific page that we link to.[14]

Mr. Gates's steadfast refusal to answer Senator Hatch's question prevented the Members of the Committee from discovering what would be revealed in the Justice Department suit nearly three months later—a broad range of exclusionary restrictions that Microsoft imposes on content providers. Indeed, contrary to Mr. Gates's testimony, it appears that Microsoft does, in fact, restrict content providers from promoting content developed for competing browsers, and from promoting or distributing other browsers. These practices all are, to use Mr. Neukom's own words, clearly designed at "locking out competing [browser] software."

V. STRATEGIC MOTIVATION BEHIND "INTEGRATION" OF WINDOWS AND INTERNET EXPLORER

An issue central to understanding the "browser wars" and the nature of competition in the software industry generally is whether Microsoft's decision to link its browser to Windows was a response to consumer demand and preferences, or an effort to lock competing browsers out of the market. A December 20, 1996 e-mail by Microsoft Senior Vice President Jim Allchin appears to shed light on this question. It reads as follows: "Ensuring that we leverage Windows. I don't understand how IE is going to win. The current path is simply to copy everything that Netscape does packaging and product wise . . . My conclusion is that we must leverage Windows more, Treating IE as just an add-on to Windows . . . [is] losing our biggest advantage—Windows market share . . . We should first think about an integrated solution. That is our strength?"[15]

In follow-up questions to the Committee's. March 3 hearing, Senator Hatch inquired whether Mr. Allchin was "urging that Internet Explorer be integrated into Windows as a strategic marketing measure intended to compete with Netscape Navigator by ensuring that all Windows users would automatically receive Internet Explorer as well." In his written response, Mr. Gates claimed that this interpretation was inaccurate, stating that "Mr. Allchin's e-mail had nothing to do with the distribution of Internet Explorer. . . ."[16]

Mr. Gates's assertion is puzzling at best. Mr. Allchin's questioning "how IE is going to win" and criticism of Microsoft's current plan "simply to copy everything that Netscape does packaging and product wise" certainly appears to be concerned with nothing other than "the distribution of Internet Explorer." Indeed, Mr. Allchin's view that Microsoft should tie Internet Explorer to Windows in order to gain an advantage over Netscape is abundantly clear in an e-mail he wrote only two weeks after the above-quoted e-mail. In this second e-mail, Allchin wrote: "You see browser share as job 1 . . . I do not feel we are going to win on our current path. *We are not leveraging Windows from a marketing perspective. . . . We do not use our strength—which is that we have an installed base of Windows and we have a strong OEM shipment channel for Windows.* Pitting browser against browser is hard since Netscape has 80% marketshare and we have 20% . . . *I am convinced we have to use Windows—this is the one thing they don't have. . . .*" (emphasis added)[17]

Indeed, Allchin's view was echoed by other Microsoft employees.

Christian Wildfeuer, for example wrote as follows: "It seems clear that it will be very hard to increase browser market share on the merits of IE 4 alone. It will be more important to leverage the OS asset to make people use IE instead of Navigator."[18]

It is, in short, difficult to accept Mr. Gates' summary assertion that "Mr. Allchin's e-mail had nothing to do with the distribution of Internet Explorer."

VI. THE WINDOWS MONOPOLY

Notwithstanding the fact that Microsoft has a 90% plus market share in the market for personal computer operating systems, Mr. Gates denies that Microsoft enjoys a monopoly in this market. In an effort to support his position, Mr. Gates has repeatedly made reference to the fact that prices in the computer industry have been falling. For example, in his oral testimony before the Judiciary Committee, Mr. Gates stated that: "Another sign of a healthy, competitive industry is lower prices. The statistics show that the cost of computing has decreased ten-millionfold since 1971."

(Mr. Gates repeated this statistic in a recent Economist piece, where he also stated that the price of Windows has remained "relatively stable.")[20] And, in his written testimony, Mr. Gates proudly declared that "Prices for personal computers continue to fall, even as PC's become more powerful and offer greater features than ever before . . . Microsoft has been an active participant in providing the incredible price/performance gains that distinguished the computer industry."[21]

What Mr. Gates fails to mention, however, is that the price of Windows has steadily increased since its introduction to the marketplace. According to one news report, the price Microsoft charges OEMs for a PC operating system has risen from $12–$15 per copy of DOS, to $35 for Windows 3.x, to approximately $60–$70 for Windows 95.[22] Four OEMs have reported that Microsoft will further raise the price of Windows 98[23] and it is expected that Windows NT 5.0 (which eventually will replace Windows) will cost OEMs approximately $130 per copy.[24] Thus, while the cost of computing has "decreased ten-millionfold," the price of a Microsoft operating system has increased roughly tenfold—from $12 to $130. This market departure from an overwhelming industry trend of decreasing prices is a classic sign of monopoly power.

While it is, of course, true that new features and functionality have been added to Microsoft's operating systems over this period, the same clearly can be said of other computing components and computing generally. Whereas a single transistor cost $5–$6 in 1959, today $6 will buy a 16 megabit DRAM chip with sixteen million transistors.[25] And, while Intel's first Pentium chip, with 3.1 million transistors and a speed of 60 megahertz, sold for $878 in 1993, the Pentium II, with 7.5 million transistors and a speed of 233 megahertz, now sells for $268.[26]

Thus, Mr. Gates's use of the fact that the price of computing has fallen dramatically to imply that Microsoft operating systems are priced competitively is quite misleading. In fact, Microsoft's monopoly power in the operating system market has enabled it not just to raise operating system prices while the price of other computing components has dropped precipitously, but in fact has allowed Microsoft to reap huge monopoly profits. According to the Wall Street Journal, for example, Microsoft earns a staggering 92% gross and 50% operating margin in its Windows business.[27]

VII. COMPETITION AND CHOICE IN THE PC OPERATING SYSTEM MARKET

In another effort to rebut the seemingly self-evident proposition that Microsoft's 90%-plus market share for PC operating systems amounts to a monopoly, Mr. Gates also stated to the Committee that, "if Microsoft attempted to raise its prices beyond competitive levels, powerful operating system competitors like IBM, Sun Microsystems, Novell, Apple or a new entrant to the business could satisfy consumer demand instantly."[28]

This sweeping statement is plainly at odds with the economic reality, attested to by OEMs, that, given Microsoft's monopoly and the fact that such a vast majority of desktop applications are written for Windows,[29] computer manufacturers clearly do not have the choice of turning to an operating system other than Windows. Indeed, numerous representatives from computer manufacturers have testified that they simply have no choice but to ship computers with Windows, and that there is no other operating system which a computer manufacturer could or would use as a substitute to Windows.

Packard Bell executive Mal Ransom testified that there were no "commercially feasible alternative operating systems" to Windows 98.

Micron executive Eric Browning asserts: "I am not aware of any other non-Microsoft operating system product to which Micron could or would turn as a substitute for Windows 95 at this time."

Hewlett Packard executive John Romano testified that HP had "absolutely no choice" except to install Windows on its PCs.

Gateway executive James Von Holle testified that Gateway had to install Windows because "We don't have a choice."

Mr. Von Holle has testified that if there were competition to Windows, he believed such competition "would drive prices lower" and promote innovations.[30]

FOOTNOTES

[1] November 12, 1997 Letter to Chairman Hatch from William H. Neukom, Microsoft Senior Vice President, Law and Corporate Affairs. (Appendix A)

[2] Senate Judiciary Committee Transcript of Proceedings, "Market Power and Structural Change in the Software Industry," March 3, 1998, p. 78. (Appendix B)

[3] Senate Judiciary Committee Transcript of Proceedings, "Market Power and Structural Change in the Software Industry," March 3, 1998, p. 62. (Appendix C)

[4] Provision 7 of Earthlink License Agreement, see February 18, 1998 Letter to Manus Cooney, Chief Counsel and Staff Director, Senate Judiciary Committee, from Marc Berejka, Federal Regulatory Affairs Manager, Corporate Attorney, p. 3. (Appendix D)

[5] *U.S.* v. *Microsoft Corporation*, Memorandum of the United States In Support of Motion for Preliminary Injunction, May 18, 1998, at 30. (Appendix E)

[6] Brad Chase Memo, "Winning the Internet Platform Battle," April 4, 1996, p. 1. (Appendix F)

[7] February 28, 1998 Letter to Manus Cooney, Chief Counsel and Staff Director, Senate Committee on the Judiciary, from Jack Krumholtz, Director Federal Government Affairs, Senior Corporate Attorney. (Appendix G)

[8] Senate Judiciary Transcript of Proceedings, p. 62. (Appendix C)

[9] *U.S.* v. *Microsoft Corporation*, Memorandum of the United States In Support of Motion for Preliminary Injunction, May 18, 1998, at 31 and note 25. (Appendix H)

[10] Id., note 25. (Appendix H)

[11] Senate Judiciary Committee Transcript of Proceedings, p. 62 (Appendix C)

[12] Senate Judiciary Transcript of Proceedings, p. 62–63. (Appendix C)

[13] *U.S.* v. *Microsoft Corporation*, Memorandum of the United States In Support of Motion for Preliminary Injunction, May 18, 1998, at 35–36. (Appendix I)

[14] Senate Judiciary Transcript of Proceedings, p. 176–179. (Appendix J)

[15] Response of Bill Gates to Supplemental Questions from Senator Hatch, p. 15. (Appendix K)

[16] Response of Bill Gates to Supplemental Questions from Senator Hatch, p. 16. (Appendix K)

[17] U.S. v. Microsoft Corporation, Complaint, May 18, 1998, at 8. (Appendix L)

[18] *U.S.V. Microsoft Corporation*, Memorandum, at 25. (Appendix M)

[19] Senate Judiciary Committee Transcript of Proceedings, p. 19. (Appendix C)

[20] The Economist, http://www.economist.com/editorial/freeforall/current/sf10077.html. (Appendix N)

[21] Statement of Bill Gates before the Senate Judiciary Committee, p. 2–3. (Appendix O)

[22] ZDNet, "OS Pricing: The Crux of the Matter," February 2, 1998. (Appendix P)

[23] Business Week, "Just How Much Does Windows 98 Cost?," June 15, 1998, p. 50. (Appendix Q)

[24] ZDNet, February 2, 1998. (Appendix P)

[25] Wall Street Journal, "Microsoft's Windows Bucks the Pricing Trend," March 23, 1998. (Appendix R)

[25] Wall Street Journal, "Microsoft's Windows Bucks the Pricing Trend," March 23, 1998. (Appendix R)

[27] Ibid. (Appendix R)

[28] Response of Bill Gates to Supplemental Questions from Senator Hatch, p. 11. (Appendix S)

[29] *U.S. v. Microsoft Corporation*, Memorandum, at 17, and note 10. (Appendix T)

[30] *U.S. v. Microsoft Corporation*, Memorandum, at 2–3. (Appendix U)

Mr. HATCH. I suggest people who are interested in this issue not only listen to what I have to say here today but that they read this. I think they will find that this is a group that basically disassembles on many issues. Frankly, I don't think they need to disassemble. All they have to do is come in and tell their case forthright and in a fair and reasonable manner and do it on the merits. If you read this, I think you will realize this is a much more serious set of problems than some in the media make it, especially some of those who seem to think there should never be an enforcement of the antitrust laws.

You don't get people from the left to the right, or right to the left—from Bork to you-name-it on the left—saying that there are things that are wrong here, that there is an exploitation of the monopoly power of 90 percent of the operating system and the desktop operating systems throughout the world to crush competition and to do a number of other things that basically are violative of our laws, without their being some heat to some of the arguments that they are making.

I have to say, our committee hearings have shown that there are some things that are wrong here. It is a matter of getting people in the software industry to have the guts to come forward and tell their stories. For instance, the OEM, the original equipment manufacturers, are terrified because they depend totally on Microsoft's underlying operating system to run their machines. All Microsoft has to do is to delay the delivery of that underlying operating system or anything else they do to the OEMs by 1 week and they could be multimillions of dollars in the hole as others get an unfair advantage. We have had people come in and tell us, who are afraid to testify for fear they would lose their business, that they have been warned they better not cooperate with the committee or they better not tell the story.

This happens in a wide variety of things according to people who have come to us. Now I think they have to have the guts to get in front of the committee and tell their stories and let the chips fall where they may. If they are true, if what they have been alleging to us and to the Justice Department is true, then we ought to find out about it and Microsoft ought to have some answers for it.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

NOMINATION OF VICTORIA ROBERTS

Mr. LEVIN. Mr. President, in a few moments we will be voting on two judges for the Federal court. The second of those judges is Victoria Roberts, a woman who I recommended for nomination to the President of the United States. She is exceedingly well qualified by temperament, by experience, to be a district court judge. She is only the second person in our history in Michigan who has been elected both president of the State bar of Michigan and the Wolverine Bar Association.

I just thank Senator HATCH, the members of the Judiciary Committee, Senator ABRAHAM, for their support of Victoria Roberts. I am delighted that her name has been recommended to the Senate and that we will be voting upon her confirmation in a few minutes.

I thank the Chair, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. THOMAS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SESSIONS). Without objection, it is so ordered.

Mr. THOMAS. I ask that I may speak for 3 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

A BIENNIAL BUDGET

Mr. THOMAS. Mr. President, I would like to just mention again, as we enter into the real depth of appropriations, one of the things that we have talked about a great deal that I feel very strongly about, and I think we ought to think about as we do that, is a biennial budget.

Each year in this institution we spend about half or more of our time dealing with appropriations, which leaves us very little time to do the other things that are very necessary—particularly oversight. Almost all legislative bodies in this country have biennial budgets, which gives an opportunity, first of all, for the agencies to have two years with which to know what their spending will be. Secondly, it allows the institution to have time to oversee the spending that is authorized.

Rather than take more time to talk about it, I just raise the question again and urge the leadership to give some consideration to a biennial budget, where we would make a budget for two years and then have a chance for oversight, have a chance for the agencies to know what they are doing longer, and have a chance to do some of the other business that properly comes before this body.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

EXECUTIVE SESSION

NOMINATION OF A. HOWARD MATZ, TO BE U.S. DISTRICT JUDGE FOR THE CENTRAL DISTRICT OF CALIFORNIA

The PRESIDING OFFICER. Under the previous order, the Senate will now go into executive session for the consideration of executive calendar No. 574, which the clerk will report.

The legislative clerk read the nomination of A. Howard Matz, to be U.S. District Judge for the Central District of California.

Mrs. BOXER. Mr. President, I am very pleased that the Senate is considering today the nomination of A. Howard Matz to be U.S. District Judge for the Central District of California.

With all the support Mr. Matz has from both Democrats and Republicans, I know the Senate will agree he is eminently qualified to sit on the U.S. District Court for the Central District in California.

I first recommended Mr. Matz for this seat on the federal bench on July 23, 1997, and said then that Howard Matz is an exceptional attorney and person. His experience, intelligence, and integrity make him extremely well-qualified for the Federal bench.

Howard Matz is currently a partner in private practice. He represents largely business clients in civil and white-collar crime matters. His clients have included IBM, Walt Disney Co., the cities of Anaheim and Riverside, Yale University and numerous individuals, partnerships, lawyers, and law firms. I would like to note here that I am not related to Joel Boxer, a partner in Howard's firm.

Mr. Matz received his undergraduate degree from Columbia University and his law degree from Harvard University. In addition to working in various law firms, early in his career he clerked for U.S. District Court Judge Morris Lasker. As an Assistant U.S. Attorney in the Criminal Division, in charge of the Los Angeles Fraud and Special Prosecutions team, he has always believed the punishment should fit the crime. Mr. Matz is highly regarded in the legal community, having written many articles on legal topics and having served as a speaker and panelist on legal matters numerous times. He has received many awards and other distinctions from representatives of the Securities and Exchange Commission, the Federal Bureau of Investigation, the Department of Health and Human Services, and the Internal Revenue Service for cases he handled as a prosecutor.

Complementing his exceptional legal career, Matz also engages regularly in pro bono work and is very active in his community. He is on the board of directors of Bet Tzedek, having once served as the President of this highly respected provider of legal services for the poor. He has also served on the board of the Los Angeles Legal Aid Society. He is a member of the Board of Overseers for the Los Angeles campus of the Hebrew Union College-Jewish Institute of Religion and is one of the founding sponsors of the Skirball Cultural Center and Museum.

Howard Matz has received numerous letters in support of his nomination.

Judge Lourdes G. Baird, was appointed to the U.S. District Court in the Central District of California by President Bush. Howard Matz was Judge Baird's mentor at the United States Attorney's office when they served as Assistant U.S. Attorney together. Judge Baird wrote "For over 20 years I have known Howard Matz well, both professionally and socially, and strongly believe that he would be an outstanding federal judge if given the opportunity. . . . I am certain that one could find very few candidates who could fulfill the demands of this position as well as Howard."

Sheriff Sherman Block of the County of Los Angeles wrote in a letter to Chairman HATCH "Matz is an extremely hard working individual of impeccable character and integrity. His list of credits, both professionally and within the community, is extensive. I would like to recommend that you favorably consider this appointment. I have no doubt that he would be a distinguished addition to the United States District Court."

Gil Garcetti, the Los Angeles County District Attorney, has known Howard Matz for almost 15 years. Gil Garcetti turns down most requests of support from those seeking appointments, but for Mr. Matz, he felt the need to express his strong support. Garcetti wrote to Chairman HATCH "His unusually diverse background—representing clients in civil and criminal litigation, in state court and federal court, as plaintiffs and defendants—has given him a view of the judicial process which would compel him to exercise his responsibilities as a federal judge with restraint. . . . I am confident Howard possesses no other agenda than to preside fairly and to rule with due regard for the importance of precedent."

George O'Connell, former U.S. Attorney for the Eastern District of California under President Bush, and former Assistant U.S. Attorney in both Los Angeles and Sacramento, wrote "I can only underscore the I think Mr. Matz would make a superb United States District Judge. . . . I do not think that he would engage in inappropriate judicial activism. Rather, I believe he would make the most sincere efforts to achieve justice within the existing framework of the law."

Robert Bonner, former U.S. Attorney (Appointed by President Reagan), former U.S. District Court Judge in the Central District of California, former head of the Drug Enforcement Administration (Appointed by President Bush), has known Matz for nearly 25 years, and served side-by-side as Assistant U.S. Attorney in the Criminal Division of the U.S. Attorney's office in the Central District of California. Bonner wrote in a letter to Chairman HATCH that he believes "Howard Matz possesses those attributes of character, knowledge and intellect that convince me that he will be an outstanding federal district judge. On a personal note, and on an issue of concern to both of us, not only do I know Howard well, but I believe that, if appointed, he will not be an activist jurist."

Harold Blatt, the head of Bryan Cave LLP, sent Senator ASHCROFT two detailed support letters from California partners of his distinguished firm, who know Mr. Matz very well.

Ronald Olson, a former Iowan and former chair of the American Bar Association Federal Judiciary Committee, writes to Senator GRASSLEY that he has known Howard for most of his professional life. Olson wrote "Howard is a lawyer who understands the limitations of the law as well as its possibilities, and I can assure you that he will serve as a judicial officer in a way that respects the limited powers of the Court and the fundamental roles of the legislative and executive branches."

John Fishel, Executive Vice President of the Jewish Federation, wrote "Mr. Matz would make an outstanding federal judge and hope that his nomination will receive serious consideration."

I would like to submit these recommendation letters in full for the Record.

I strongly believe Howard Matz will make an outstanding addition to the federal bench. I believe his intelligence, judicial temperament, broad experience, professional and community service, and deep commitment to justice qualify him to serve on the federal bench with great distinction. I am very proud to have had the opportunity to recommend him to the President, and hope the Senate will confirm him today.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I will say one thing. With the approval of these two judges, this Republican Congress will have confirmed, during the full tenure of President Clinton, 272 Federal judges, following the confirmation of these two judges.

Mr. President, I ask unanimous consent that we have two separate back-to-back votes of 15 minutes each on the two nominations we're considering this morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Mr. President, I ask for the yeas and nays on both of the nominations.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of A. Howard Matz, to be U.S. District Judge for the Central District of California.

The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Utah (Mr. BENNETT), the Senator from Oklahoma (Mr. INHOFE), the Senator from Arizona (Mr. KYL), the Senator from Arizona (Mr. MCCAIN), the Senator from Delaware (Mr. ROTH), and the Senator from Alaska (Mr. STEVENS) are necessarily absent.

I further announce that the Senator from Arkansas (Mr. HUTCHINSON) is absent due to a death in the family.

I also announce that the Senator from Pennsylvania (Mr. SPECTER) is absent because of illness.

Mr. FORD. I announce that the Senator from Hawaii (Mr. AKAKA), the Senator from Montana (Mr. BAUCUS), the Senator from Ohio (Mr. GLENN), the Senator from Iowa (Mr. HARKIN), the Senator from West Virginia (Mr. ROCKEFELLER), and the Senator from Minnesota (Mr. WELLSTONE) are necessarily absent.

I also announce that the Senator from Oregon (Mr. WYDEN), is absent due to family illness.

I further announce that, if present and voting, the Senator from Oregon (Mr. WYDEN) and the Senator from Minnesota (Mr. WELLSTONE) would each vote "aye."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 85, nays 0, as follows:

[Rollcall Vote No. 182 Ex.]

YEAS—85

Abraham
Allard
Ashcroft
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Cleland
Coats
Cochran
Collins
Conrad
Coverdell
Craig
D'Amato
Daschle
DeWine
Dodd
Domenici
Dorgan
Durbin
Enzi
Faircloth
Feingold
Feinstein
Ford
Frist
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Hagel
Hatch
Helms
Hollings
Hutchison
Inouye
Jeffords
Johnson
Kempthorne
Kennedy
Kerrey
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McConnell
Mikulski
Moseley-Braun
Moynihan
Murkowski
Murray
Nickles
Reed
Reid
Robb
Roberts
Santorum
Sarbanes
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Thomas
Thompson
Thurmond
Torricelli
Warner

NOT VOTING—15

Akaka
Baucus
Bennett
Glenn
Harkin
Hutchinson
Inhofe
Kyl
McCain
Rockefeller
Roth
Specter
Stevens
Wellstone
Wyden

The nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the motion to reconsider will be laid upon the table. The President will be immediately notified of the Senate's action.

Mr. LOTT addressed the chair.

The PRESIDING OFFICER. The majority leader.

SCHEDULE

Mr. LOTT. Mr. President I would like to take leader time just to go over the schedule briefly because I know Senators are interested in the balance of the day and when we return.

This second vote will be the last vote of the week. We did get a good deal accomplished yesterday and I thank Senators for their cooperation on the Department of Defense authorization bill, the military construction appropriations bill and nominations.

The Senate will recess this afternoon until 12 noon on Monday, July 6, for the Independence Day recess. When we reconvene on Monday, it will be my intention to turn to the Department of Defense appropriations bill. Any votes to occur with respect to that appropriations bill will be stacked to occur on Tuesday, July 7. It is my understanding the managers may have as many as 20 amendments to consider on Monday, and expect to debate those amendments and have votes, then, on Tuesday.

Before the Senate adjourns, I will ask consent that we turn to the product liability bill. If that request is objected to, then I will move to proceed to that matter and file cloture. That cloture vote will occur, then, on Tuesday, July 7, at 9:30, if it is necessary to file cloture. We will then be asked to consider the IRS reform conference report Tuesday evening, and I do mean Tuesday night, so that we can get work done on appropriations bills, product liability, and the IRS reform.

There will be no vote occurring, then, on Monday, July 6. There are a lot of conflicts, Senators trying to get back and I am trying to be cooperative on that. But I do want to announce again, as I did earlier today: Expect votes on Mondays and Fridays and expect 12-hour days Tuesdays, Wednesdays and Thursdays throughout July. We have to do at least 8 appropriations bills during July.

If we get our work done, we won't have to have votes at 9 or 10 o'clock. But it would be my intention, if we don't get cooperation, that I would schedule votes at 9 or 10 o'clock every Tuesday, Wednesday and Thursday, because we have to get it done. I hope Senators will stop introducing 100 amendments to every bill. It is ridiculous. If you have three or four important amendments on each side, and I am talking to both sides, fine. But if we call up DOD and there are 150 amendments offered, it just tells you something about the Senate. So we are going to get our work done in July if we have to go way into the night every night.

Members should be prepared, then, to work on the appropriations bills and the conference reports. We have a time agreement on higher education. We will work to take up bankruptcy, drug czar reauthorization, Internet gambling, pornography and filtering. I thank all Senators for their cooperation.

I thank Senator GORDON SMITH for what he has done to the dress code in the Senate. I think the Senate is looking brighter, lighter, and it is good for our image and, I think, for the country.

I yield the floor.

NOMINATION OF VICTORIA A. ROBERTS, OF MICHIGAN, TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF MICHIGAN

The PRESIDING OFFICER. Under the previous order, the Senate will now consider the nomination of Victoria A. Roberts, of Michigan, to be United States District Judge for the Eastern District of Michigan.

The legislative clerk read the nomination of Victoria A. Roberts, of Michigan, to be United States District Judge for the Eastern District of Michigan.

Mr. ABRAHAM. Mr. President, it is my pleasure to offer a few brief remarks on behalf of Ms. Victoria Ann Roberts, who will soon be confirmed by this body to be a United States District Judge for the Eastern District of Michigan.

Ms. Roberts has built an impressive professional resume, as managing partner for a Detroit's Goodman, Eden, Millender and Bedrosian, as an Assistant United States Attorney, and as the president of the State Bar of Michigan.

Ms. Roberts has also taken a long and active interest in several community organizations that have greatly benefitted Metropolitan Detroit. She served on the board of directors of the Fair Housing Association of Detroit from 1985–91 and was its chair from 1986 to 1989. In addition, she has worked with Big Brothers, Big Sisters of Michigan since 1987, serving as Secretary, Vice President, and member of the Board of Directors and Advisory Board.

I think all of this points to an individual who brings a well-rounded and very successful set of legal credentials to the Federal Bench, and to a person who has consistently given to her community and her state as a volunteer in a variety of very important ways.

Mr. President, I am pleased to congratulate Ms. Victoria Roberts on this confirmation, and I look forward to following her career as a judge on the federal bench.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Victoria A. Roberts of Michigan, to be United States District Judge for the Eastern District of Michigan.

On this question, the yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Utah (Mr. BENNETT), the Senator from Oklahoma (Mr. INHOFE), the Senator from Arizona (Mr. KYL), the Senator from Arizona (Mr. MCCAIN), the Senator from Delaware (Mr. ROTH), and the Senator from Alaska (Mr. STEVENS) are necessarily absent.

I further announce that the Senator from Arkansas (Mr. HUTCHINSON) is absent due to a death in the family.

I also announce that the Senator from Pennsylvania (Mr. SPECTER) is absent because of illness.

Mr. FORD. I announce that the Senator from Hawaii (Mr. AKAKA), the Senator from Montana (Mr. BAUCUS), the Senator from Ohio (Mr. GLENN), the Senator from Iowa (Mr. HARKIN), the Senator from West Virginia (Mr. ROCKEFELLER), and the Senator from Minnesota (Mr. WELLSTONE) are necessarily absent.

I also announce that the Senator from Oregon (Mr. WYDEN) is absent due to family illness.

I further announce that, if present and voting, the Senator from Oregon (Mr. WYDEN) and the Senator from Minnesota (Mr. WELLSTONE) would each vote "aye."

The result was announced, yeas 85, nays 0, as follows:

[Rollcall Vote No. 183 Ex.]

YEAS—85

Abraham
Allard
Ashcroft
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Cleland
Coats
Cochran
Collins
Conrad
Coverdell
Craig
D'Amato
Daschle
DeWine
Dodd
Domenici
Dorgan
Durbin
Enzi
Faircloth
Feingold
Feinstein
Ford
Frist
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Hagel
Hatch
Helms
Hollings
Hutchison
Inouye
Jeffords
Johnson
Kempthorne
Kennedy
Kerrey
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McConnell
Mikulski
Moseley-Braun
Moynihan
Murkowski
Murray
Nickles
Reed
Reid
Robb
Roberts
Santorum
Sarbanes
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Thomas
Thompson
Thurmond
Torricelli
Warner

NOT VOTING—15

Akaka
Baucus
Bennett
Glenn
Harkin
Hutchinson
Inhofe
Kyl
McCain
Rockefeller
Roth
Specter
Stevens
Wellstone
Wyden

The nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the motion to reconsider is laid upon the table. The President will be immediately notified of the Senate's action.

JUDICIAL NOMINATIONS

Mr. LEAHY. Mr. President, I began this year challenging the Senate to maintain the pace it set in the last weeks of the last session in which it confirmed 27 judicial nominees in 9 weeks. Instead, the Senate has confirmed only 31 nominees so far this year—instead of the 54 it should have if it had maintained last year's pace.

I reissue my challenge for the remaining 10 weeks of this session: The Republican Senate can confirm another 30 nominees by the end of the session if it will just work at the pace it achieved in connection with the President's radio address last year.

I thank the Majority Leader for calling up the nominations of Howard Matz and Victoria Roberts. With their confirmations, and I do believe that they should and will be confirmed, the Senate will have acted on only 33 federal judges at a time in which the federal judiciary has experienced 103 vacancies, many of longstanding duration. Indeed, Ms. Roberts would fill a judiciary emergency vacancy. We will have 45 judicial nominations still pending before the Senate or the Judiciary Committee, some which were first received over three years ago.

There are currently nine other qualified nominees on the Senate calendar having been reported favorably by the Judiciary Committee. I deeply regret that the entire Senate Executive Calendar is not being cleared and the Senate is not being given the opportunity to vote on all 11 nominees awaiting Senate action.

The nomination held up the longest is that of Judge Sonia Sotomayor to fill a critical vacancy on the Second Circuit, a Circuit whose Chief Judge has declared an emergency situation, canceled hearings and taken the extraordinary step of proceeding with 3-judge panels including only one Second Circuit judge. Chief Judge Winter recently issued his annual report in which he notes that the Circuit now has the greatest backlog it has ever had, due to the multiple vacancies that have plagued that court.

In addition, there are 36 nominees pending before the Committee and more nominees being received from the President every week. I hope that the Committee will schedule prompt hearings for each of the judicial nominees currently pending in Committee and the nominees we expect to be receiving over the next several weeks so that they may have an opportunity to be considered by the Committee and confirmed by the Senate. At the rate of six nominees a hearing, the Committee needs to schedule at least six more hearings this summer for currently pending nominees.

The Senate continues to tolerate more than 70 vacancies in the federal courts with another 11 on the horizon—almost one in 10 judgeships remains unfilled, and, from the looks of things, will remain unfilled into the future unless the Judiciary Committee does a better job and the Senate proceeds promptly to consider nominees reported to it.

We have held only seven judicial nomination confirmation hearings all year. I recall in 1994—the most recent year in which the Democrats constituted the majority—when the Judiciary Committee held 25 judicial confirmation hearings, including hearings to confirm a Supreme Court Justice.

Nine currently pending nominees for the Courts of Appeals need their hearings and need them promptly if they are to be considered and confirmed this year, only three of those were received in the last 60 days. We have 25 currently pending nominees to the District Courts and only four of those were received in the last 30 days.

Unlike earlier days in the Senate when nominees were not made to wait for weeks and months on the Senate calendar before they could be considered, that is now becoming the rule. Margaret Morrow spent 244 days on the calendar. Patrick McCuskey and Michael McCuskey each spent 144 days on the calendar. The average time on the calendar has gone from a day or two to over 44 days.

I calculate that the average number of days for those few lucky nominees who are finally confirmed is continuing to escalate. In 1994 and 1995 judicial nominees took on average 86 or 87 days from nomination to confirmation. In 1996, that number rose to a record 183 days on average. Some would discount that number because it was a presidential election year, but even they cannot ignore that it shattered the previous record. Last year, the average number of days from nomination to confirmation rose dramatically yet again, and this is the first year of a presidential term. From initial nomination to confirmation, the average time it took for Senate action on the 36 judges confirmed in 1997 broke the 200 day barrier for the first time in our history. It was 212 days. Unfortunately, that time is still growing and the average is still rising to the detriment of the administration of justice. As we begin the day the average time from nomination to confirmation is over 250 days. That is three times the time it took before this slowdown began in earnest.

During the entire four years of the Bush Administration there were only three judicial nominations that were pending before the Senate for as long as 9 months before being confirmed and none took as long as a year. In 1997 alone there were 10 judicial nominations that took more than 9 months before a final favorable vote and 9 of those 10 extended over a year to a year and one-half. Of the judges confirmed so far this year, Hilda Tagle's confirmation took 32 months, Susan Oki Mollway's confirmation took 30 months, Ann Aiken's confirmation took 26 months, Margaret McKeown's confirmation took 24 months, Margaret Morrow's confirmation took 21 months, and Victoria Roberts will have taken 11 months. An additional nine confirmations this year took more than 200 days.

Last year the President sent us 79 judicial nominations but the Senate completed action on fewer than half of them. The percentage of judicial nominees confirmed over the course of last year was lower than for any Congress over the last three decades and, possibly, at any time in our history.

Left pending were 42 judicial nominees, including 11 who were first nominated in 1995 and 1996, and 21 to fill judicial emergencies. Still pending before the Senate are four nominees first nominated in 1995 and two more first nominated in 1996. There are still eight nominations pending from 1997.

Unfortunately, over the last three years, the Senate has barely matched the one-year total of judges confirmed in 1994 when we were on course to end the vacancy gap. We have not yet made up for attrition over the last two years. I observed at our last nominations hearing that we are not even keeping up with Mark McGwire, the St. Louis Cardinal slugger. In the three months of the baseball season leading up to the All Star game, he has hit 35 home runs. The Senate has had two additional months and confirmed only 33 judges.

I recall in 1992, the last year of President Bush's Administration, the Senate, with a Democratic majority in a presidential election year confirmed 63 judicial nominations. Since obtaining their majority in the 1994 election, the current Republican majority has not achieved that number of confirmation in any year. Indeed in the presidential election year of 1996, the Senate confirmed only 17 judges and none for the courts of appeals.

The Chief Justice of the United States Supreme Court has called the number of judicial vacancies "the most immediate problem we face in the federal judiciary." I have urged those who have been stalling the consideration of the President's judicial nominations to reconsider and to work with us to have the Judiciary Committee and the Senate fulfill this constitutional responsibility. Those who delay or prevent the filling of these vacancies must understand that they are delaying or preventing the administration of justice. Courts cannot try cases, incarcerate the guilty or resolve civil disputes without judges.

The numerous, longstanding vacancies in some courts are harming the federal administration of justice. The people in these districts and circuits need additional federal judges. Indeed the Judicial Conference of the United States recommends that in addition to filling the current vacancies, the Congress should authorize 53 additional judgeships throughout the country, as set forth in S. 678, the Federal Judgeship Act that I introduced in May 1997.

That indicates that the work demands of the federal judiciary justify 133 additional judges. There is a clamor for us to fill these vacancies and there is harm by the Senate's delay and failure to do so.

The Chief Justice of the United States Supreme Court pointedly declared in his 1997 Year End Report: "Vacancies cannot remain at such high levels indefinitely without eroding the quality of justice that traditionally has been associated with the federal judiciary." We have had hearings canceled by both the Second Circuit and the Ninth Circuit due to judicial vacancies. Must we wait for the administration of justice to fail before the Senate will act on the other 45 judicial nominees pending before us? I hope not.

In his most recent report on the judiciary the Chief Justice of the United States Supreme Court observed: "Some current nominees have been waiting a considerable time for a Senate Judiciary Committee vote or a final floor vote. The Senate confirmed only 17 judges in 1996 and 36 in 1997, well under the 101 judges it confirmed in 1994." He went on to note: "The Senate is surely under no obligation to confirm any particular nominee, but after the necessary time for inquiry it should vote him up or vote him down."

I hope that the Judiciary Committee and the Senate will proceed to consider and confirm judicial nominees more promptly and without the months of delay that now accompany so many nominations. I hope the Committee will not delay in scheduling the additional hearings we need to hold to consider the fine men and women whom the President has nominated to fill these important positions.

Mr. President, Howard Matz, I am glad to see, was confirmed. He was nominated last October, reported by the committee on April 2.

I thank the majority leader for bringing this up and getting it concluded. Senator BOXER of California showed enormous perseverance and determination in moving this forward. I commend her and her choice. I note that he was confirmed by unanimous vote, 85-0.

Victoria Roberts' nomination has been on the calendar 1 month, pending 11 months. Senator LEVIN has been very strongly supportive of her, and I believe that also was a unanimous confirmation. I commend the Senators involved, and I commend the majority leader.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate returns to legislative session.

MORNING BUSINESS

Mr. LOTT. Mr. President, I ask unanimous consent there now be a period for the transaction of routine morning business, with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from West Virginia.

CHESTER TRENT LOTT III

Mr. BYRD. Mr. President, Romulus was the legendary first King of Rome. It was said that he went up to Heaven during a storm. Others have drawn the conclusion that it was during an eclipse of the Sun. In any case, it was a historic event.

When Joshua had his men march around the walls of Jericho, they blew their trumpets at a given signal and the walls came tumbling down. We are told in the Scriptures that it was a long day, a long day, a significant event, perhaps a scientific event, one about which there has been some debate.

I have been informed of a truly significant recent event. I wouldn't say that it is Earth shaking, but who knows? It could eventually be looked back upon as an earthshaking event.

Now, what is this all about? The Senator from Maryland, Mr. SARBANES, is watching and listening with great interest, and so are others. This event, I want to say in the RECORD and for all those who are watching through that electronic eye, this event was about the coming of Chester Trent Lott III, the first grandchild of our distinguished majority leader, and the baby came with the angels on last Saturday evening.

He weighed 7 pounds and 7 ounces—so, you see, those are mystic numbers, 7/7—7 pounds, 7 ounces. He was 19.5 inches in length. Now, these weights and measures are important. They were even important to the barons who forced King John on the meadow at Runnymede on June 15, 1215, to sign the great charter, the Magna Carta, which required that there be a system of weights and measures in the Kingdom. And our illustrious forebears who wrote the Constitution of the United States said that Congress would have the power to fix the standard of weights and measures.

So here to live by that system of weights and measures is a new man, a nova Homo sapiens named Chester Trent Lott III. That is a matter of great significance in the life of our leader.

I congratulate Senator LOTT on this most felicitous happening, this most felicitous occasion. Mr. President, there is nothing, may I say to the distinguished Senator from Massachusetts, Mr. KENNEDY, so wonderful as cradling in your arms—oh, many times I have done it—cradling in your arms a swaddled baby. It awakens in one such an amazing range of emotions. There is nothing like it. It is an experience sui generis—one of a kind. Upon the birth of one's own child, the tremendous joy and relief felt in meeting for the first time this tiny, new person is tempered by a measure of fear. You gaze down at this fragile baby and realize what an awesome responsibility you have assumed. Your baby is small, maybe 7 pounds 7 ounces—and there are smaller babies. They are all small and so fragile, so helpless, and so dependent upon you for their survival. His skin is as soft as a butterfly's wing, his fingernails as translucent as scraps of rice paper; yet those minute, perfect little fingers grasp yours with such fierce determination! I can feel those little fingers closing around my fingers with such fierce determination—although that experience of having my own daughters do that is now 60 years gone. But the memory is fresh in my mind.

But to become a grandfather—now, that is a higher plateau. Mr. Leader, you are walking a higher plateau of immortality. It is not your first taste of mortality—that came with your son or daughter—but now a more inspiring, promising taste of immortality. To become a grandfather is a completely different experience. There is none of that fear, but all of the joy. That joy is heightened by a deep conviction—a deep conviction that "this is in my image" and in its grandmother's image, too. But it has my genes, it has my chromosomes, it is part of me. I can see it going on into the future and carrying on through life. ROBERT BYRD will never die, I would say. I can say that in more ways than one, but in this situation, my grandchild is part of me.

Tennyson said, "I am a part of all that I have met." But this was known before Tennyson. A grandfather, when he looks upon that child, can say with joy: "This is a part of me; it will never, never die."

That joy is heightened by a deep connection that you feel to the long continuum of countless generations, stretching all the way back from Adam and Eve to you and through you to your child, and now to your child's child. And you can feel the pull of the ancient echoes from the dim and distant past as your arms adjust to the weight of this little, new life in your arms. And you can see into the hazy unknown and murky distant future of continuing, endless generations, when this child of your child will have children who will carry a part of you and a part of everyone in this chain before you into the next century, and beyond.

There is a sense of connectedness and timelessness that allows you to understand your place in the long, slow march of generations that is as difficult to express as it is wonderful to experience.

That political treatise, The Policraticus, was written by John of Salisbury in the early part of the 12th century. It told of Prothaonius, who said it was glory enough for him that he had lived a life, of which his "grandson need not be ashamed." It was glory enough for him that he had lived a life of which his grandson need not be ashamed. We grandfathers should try to emulate Prothaonius.

Well, I offer my sincere congratulations to Senator LOTT and best wishes to his new grandson; and, of course, I congratulate Mrs. Lott, about her new grandson, and my wife joins me. I hope the duties of the "grandfather's office" will not prevent the Senator from Mississippi from spending many happy hours with the newest member of the "House of Lott."

We read about the House of David. This is the "House of Lott." And, as the days and months go by, when this grandfather holds his new grandson, I hope that Senator LOTT will appreciate the emotion that is expressed by these few lines of verse, which I did not write, but which I dedicate to Chester Trent Lott III.

First, in thy grandfather's arms, a newborn child
thou didst weep, while those around thee smiled;
so live, that in thy lasting sleep
thou mayst smile while those around thee weep.

The PRESIDING OFFICER. The majority leader.

Mr. LOTT. Mr. President, I am truly honored and awed by the beautiful, flowing, wonderful remarks of the distinguished Senator from West Virginia. I can assure him that the "House of Lott" will forever treasure his remarks here today.

I actually was not sure that the Senator was going to do this today. But by accident, coincidence, I had suggested to my wife earlier this morning about 10:30 that she might want to look in on the Senate's activities this morning. I hope that she and my son and daughter-in-law and young grandson have been able to watch this magnificent presentation.

I could never match, nor would I even attempt to respond in kind to the magnificent statement that has just been given by the Senator from West Virginia.

The American people have seen once again here this morning what an important and incomparable role that the Senator from West Virginia plays in this body. He is our historian. He is our conscience. He is the one that guarantees that we honor this institution, respect each other, that we are honest and fair with each other, that we think about our country, and that we have moments of great oratory and moments where we reach for that power star in this country and in the world. But only Senator BYRD would take the floor and take the time to talk about the importance of family, fatherhood, grandchildren, and generations yet to come.

He brings us back to Earth. He makes us appreciate, once again, how really humbled we should be to be here, and that we should always keep our priorities in order.

History gives us something we can look back toward as we move in the future—great events, great moments, crowning of kings, and war treaties. But in most lives nothing is more important than the birth of your children, your daughter, and your son, and your grandson.

So I thank him for what he had to say here today, not just for my grandson and me, but what it says about this institution, what it says about our relationship, and what is says about America and the importance of family.

I am very proud. I am a very proud grandfather. I have a wonderful wife and two wonderful children, and now our grandchild.

You are right. I have held him in my arms already. I was reduced to a puddle of tears and excitement about this occasion. It really is one of the magic moments in your life.

But the most wonderful experience I had over the past week was when I took my son to lunch last Sunday to give him a break because it had been a long time through the delivery. And his wife did wonderfully well. And I was talking to him. I said, "Now, son, don't feel like you have to pass the family name on. You know, call him whatever you want." He said, "Dad, I want to name my son after my best friend."

I couldn't say anything more, because I was so proud of him and what he had to say.

So this is a great event. I am really appreciative of what you had to say, and I am appreciative of being able to serve in this great body.

Thank you.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I wish to add my hearty congratulations to our distinguished leader.

And how much I enjoyed listening to Senator BYRD. I had the privilege of having a long conversation with your granddaughter the other day. She has a certain interest in my State. I am not even going to let you know what we were talking about.

Someday, Senator LOTT, we will put in the RECORD the great story about Senator MURKOWSKI and his grandchildren. That is a wonderful story. It should be in the RECORD.

But these are moments in the life of the Senate—to look at these two, the greatest of leaders, exchange heartfelt thoughts. It enriches us all. And I thank you.

Mr. SARBANES. Mr. President, I want to join with all my other colleagues in congratulating the majority leader, Senator LOTT, on the birth of his grandson, and also to express my very deep appreciation to Senator BYRD for his wonderful statement just a few minutes ago on the floor of the Senate.

There is no one who brings us back to our sense of the Senate as an institution any more than Senator BYRD. And it is always a delight to have the opportunity to hear him.

MARTIN LUTHER KING, JR., MEMORIAL

Mr. WARNER. Mr. President, I join with my distinguished colleague from Maryland, Mr. SARBANES, and all Senators last night for the unanimous-consent passage of an important piece of legislation authorizing the placement of a Martin Luther King, Jr., Memorial in area I of the capital of the greatest country in the world, right here in Washington, DC.

Mr. President, I rise to applaud the passage of this important legislation authorizing the placement of a Martin Luther King, Jr., Memorial in Area I of the Capital.

I would like to take this opportunity to recognize Senator SARBANES and Congresswoman MORELLA for the leadership they have both shown over the years we have worked together on legislation authorizing the establishment of a Martin Luther King, Jr., Memorial.

In 1996, Congress passed and the President signed legislation, also sponsored by Senator SARBANES and myself, authorizing the Alpha Phi Alpha Fraternity, the oldest predominately African-American fraternity in the United States, to establish without cost to the Federal Government a memorial to Martin Luther King, Jr., in the District of Columbia.

Mr. Chairman, the Alpha Phi Alpha Fraternity wishes to honor Dr. King with a memorial in the Nation's Capital as tangible recognition of his remarkable role in the history of our nation. Dr. King's message of nonviolence and freedom for all should be passed from generation to generation. A memorial in his name will be effective in helping us reach this important goal.

The legislation establishes the memorial in Area I, which consists of the Mall and environs. As you know, the Department of Interior, after consult with the National Capital Memorial Commission, transmitted its formal recommendation that the memorial be located in Area I in a letter to the President of the Senate dated January 29, 1998.

Requirements contained in the Commemorative Works Act stipulate that the Department of Interior's recommendation regarding location of a memorial in Area I shall be disapproved if not enacted into law within 150 days of its transmittal to Congress. Therefore it was critical that the Senate consider and pass this legislation prior to that deadline.

I would like to add two personal reminiscences that I have about Dr. King. By coincidence largely, I was within the vicinity of the Lincoln Memorial when he delivered his historic address. I do recall vividly the long line of marchers coming to and from that historic event.

Somewhat later in life, I was privileged to serve on the governing board of the Washington Cathedral. The subject came up as to whether or not he would be invited to preach in the Washington Cathedral. And I remember very well the board meeting. I was present and with others cast my vote such that he could come to that magnificent edifice which is on the highest promontory of the Nation's Capital to deliver his last and most historic sermon.

So I am deeply moved. But I have played a modest role in seeing that another very fitting memorial be dedicated to that American of extraordinary accomplishment.

I yield the floor.

Mr. SARBANES. Mr. President, I want to amend one thing that the distinguished Senator from Virginia said. I think he referred to his role here as a "modest role." But he really was very pivotal in helping us to get this legislation enacted last night.

The Secretary of the Interior determined that the Martin Luther King statue, which is going to be placed in the District of Columbia in memory of Martin Luther King, would be put in the prime area, which is the Mall and the surrounding areas. That determination needed the approval of the Congress. Senator WARNER and I joined together in the Senate, along with Congresswoman MORELLA, who led the effort in the House, in order to bring this about.

We will now have a statue in the District in a fairly short time. The money will be raised privately by the Alpha Phi Alpha Fraternity. But it will stand as a tribute to what Martin Luther King, Jr. represented, which, in my judgment, was a commitment to achieving change through nonviolence—a very important lesson. Martin Luther King, Jr. clearly worked within the framework of a democratic society. He sought very significant and substantial change. He sought to make the Nation live up to its ideals. But he was committed in doing it in a nonviolent way.

I think that is a very important lesson for all Americans.

I, like the Senator from Virginia, have personal memories. I was at the Reflecting Pool the day he gave the "I Have a Dream" speech, when he stood on the steps of the Lincoln Memorial, and, of course, that speech had a tremendous impact on American society then and continues to have a tremendous impact.

So I am very glad that this matter has been moved forward now. All of the legislation that is now necessary is in place, and now we look forward to going ahead and we look forward to, at sometime in the not too distant future, a ground breaking and, sometime thereafter, a dedication.

I express again my deep appreciation to the distinguished senior Senator from Virginia for his efforts in this regard.

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. WARNER. Could I just simply add my thanks to my colleague. We were full partners on it. And, indeed, I did not know that the Senator likewise was at the historic speech. It shows you how interesting life can be.

I thank the Chair, and I thank my colleague.

Mr. KERRY. Mr. President, I understand we are in morning business?

The PRESIDING OFFICER. We are, with remarks limited to 10 minutes.

Mr. KERRY. I thank the Chair.

CONGRATULATING SENATOR LOTT AND SENATOR BYRD

Mr. KERRY. Mr. President, I join with my colleagues in expressing my admiration and respect for the senior Senator from West Virginia, for the extraordinary comments he made on behalf of Senator LOTT. I was equally touched I think by the honest, open response of Senator LOTT to the emotions that he felt with respect to the birth of his grandson. I think we can all sense, at least those of us who have had children, the enormous emotional wave of that particular moment.

So we salute both of those colleagues of ours. I thank Senator BYRD for taking the time to share with the Senate those important thoughts.

THE TOBACCO BILL

Mr. KERRY. Mr. President, I almost hate to break the sort of magic, if you will, of those moments, but I want to say a few things, if I may, about the proposal yesterday of the Speaker of the House with respect to the principles that the House and he will pursue in trying to put forward tobacco legislation.

Many people in the press have been busy writing that the tobacco bill is dead, and a great number of people have suggested, even in this body, that tobacco is dead as an issue for this year.

I wish to make it very clear that, if anything, the proposal by the Speaker makes it clear that not only is it not dead but the Republicans feel compelled to somehow create some sort of cover for the efforts that took place in the Senate over the course of the last weeks to stop a particular piece of legislation.

I think the headlines that ran across the country saying "Republicans Killed Tobacco Bill"; have stung more than some people want to suggest, and the evidence of that is the fact that the Speaker saw fit to provide this figleaf to the party. It is a figleaf, and I think it has to be put in the context of Speaker GINGRICH's own $50 billion tax credit that he snuck for the tobacco industry into the balanced budget legislation. No one should forget that only a year ago the Speaker of the House provided the tobacco industry of this country with a $50 billion tax credit and now he is providing another gift to the industry and a disaster for children and for public health.

As Surgeon General Koop said yesterday about the Gingrich proposal:

> Instead of doing something serious about reducing the number of children who smoke, these Members of Congress have created a bill that they can hold up for a photo opportunity and a sound bite. If the House Republicans try to call this a bill to limit the damage that tobacco does to the Nation's health, that's false advertising.

Then Surgeon General Koop said:

> I'm glad they feel they have to do something. I'm sorry they think they can do so little.

Mr. President, let me say specifically what the great flaws are in the outline proposed by the Speaker.

First of all, rather than expand FDA authority over tobacco, it actually restricts authority. By restricting the FDA to only being able to regulate the manufacture of cigarettes, it actually strips the FDA of most of its regulatory authority. And that is directly contrary to what the Senate accepted in the proposal that came from the Commerce Committee by a vote of 19 to 1, and it was never contested in this Chamber that that authority ought to exist.

The House, under the Gingrich proposal, would even curtail the FDA's ability to restrict the illegal sale of tobacco products to children. That is extraordinary, and also it lacks any common sense whatsoever.

Furthermore, the Gingrich proposal provides no tough penalties whatsoever on the tobacco industry if they are to continue to market to kids. There is not any one of us who does not know the long history of the tobacco industry marketing to kids.

Here is the memo from R.J. Reynolds Company:

> They, i.e. young people, represent tomorrow's cigarette business. As this 14-24 age group matures, they will account for a key share of the total cigarette volume for at least the next 25 years.

In the course of the debate, we made it very, very clear, through their own words, the degree to which tobacco companies targeted young children and the degree to which they created a strategy to try to addict young people to cigarettes, to tobacco. There is no effort whatsoever in the Gingrich approach to try to hold the tobacco companies responsible, not only to the programs that might reduce children from smoking but also to tough provisions that would hold them accountable if they do not meet the reduction in teenager smoking.

The tobacco industry has preyed upon children for decades. The Republicans in the House evidently are prepared to let them continue to do that, and the Senate I know will find that unacceptable.

Furthermore, the Gingrich approach lays out a series of very tough, punitive measures for teenagers without being punitive on the companies themselves. They are tougher on the kids who wind up subjecting themselves to the lure of the tobacco companies than they are on the tobacco companies themselves. That is absolutely extraordinary and totally unacceptable.

Obviously, there ought to be some penalties with respect to teenage purchase if it is against the law to purchase, but the answer to reduce youth smoking is not a solely punitive bill on children, it is to include the tobacco companies. If anything ever stood for the degree to which the Republicans in the House, and maybe elsewhere, are prepared to stand with the tobacco companies, it is an outline for a tobacco bill that holds the children liable and lets the tobacco companies go free.

In addition to that, there is no price increase whatsoever for the effort to reduce youth smoking. We can argue about what this level ought to be. The Senate rejected the notion that it ought to be $1.50, but the Senate did accept the notion that $1.10 seemed to make sense. At least no one voted to strip that $1.10, and I doubt that they would.

So it is clear, all of the evidence thus far makes it clear, that raising the price has some impact on smoking. Let me quote from Philip Morris. You don't have to believe the Senate debate, but this is Philip Morris speaking, this is an internal document from the Minnesota trial:

> You may recall from the article I sent you that Jeffrey Harris of MIT calculated . . . the 1982–1983 round of price increases caused two million adults to quit smoking and prevented 600,000 teenagers from starting to smoke.

In 1982, the tobacco companies took note themselves of the fact that a price increase prevented 600,000 teenagers from starting to smoke:

> Those teenagers are now 18–21 years old, and since about 70 percent of 18–20 year-olds and 35 percent of older smokers smoke a [Philip Morris] brand, this means that 700,000 of those adult quitters had been [Philip Morris] smokers, and 420,000 of those non-starters would have been [Philip Morris] smokers. Thus, if Harris is right, we were hit disproportionately hard. We don't need this to happen again.

Philip Morris says, "We don't need this to happen again." Evidently, NEWT GINGRICH agrees with him because he has come up with a proposal that allies himself directly with the tobacco companies and with that memo.

Mr. President, it is clear we need serious legislation. We have made it clear that we are going to return on future pieces of legislation to try to pass tobacco legislation in the Senate.

Let me be clear. If we were to simply come back with the same bill that was defeated, I think we would be both stupid and we would deserve a vote of rejection by the Senate. So it is clear that we need to rethink how we do this in an intelligent way.

The Senate found cause to cite specific kinds of problems with the last piece of legislation. I am not going to disagree that there were not legitimate problems. I do disagree that we could not have cured them in a legitimate legislative process. But it is clear that, if we put our minds to it, we can constrain a piece of legislation so it adequately is tailored to meet the needs of reducing teenage smoking and of creating a sufficient amount of funding, if you will, of the States' needs with respect to the settlement process. After all, the tobacco companies and the States agreed to a $368 billion base over 25 years, and that provided about $200 billion to the States to be able to settle. They came to agreement on that.

It would seem to me we ought to be able to ratify something in the Senate that establishes a comprehensive proposal to have a State settlement at the same time as we meet the needs of health care with respect to reducing the number of kids smoking at the same time as we meet the needs of farmers.

So, we will be able to test that, in the next weeks, through a proposal that I and others will make, which ought to be able to address the most critical concerns that were expressed by Senators in opposition but at the same time provides us with something completely different from what Speaker GINGRICH is talking about.

We do not need a figleaf. We do not need a photo opportunity. We need a serious piece of legislation that will allow the States to be able to do what they need to do to provide counteradvertising and cessation efforts to address the health care needs of our country and to reduce teenage smoking while simultaneously allowing us to come to a global settlement.

I believe that is achievable. I hope when we return the Senate will act seriously to make that happen. I look forward to the U.S. Senate sending over to the House a serious piece of tobacco legislation that will provide the country with an opportunity, in bipartisan form, to be able to deal with this important problem.

I yield the floor.

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, before I make comments on trade, let me only say to the Senator from Massachusetts, long before the Senate decided to put down the very ill-conceived piece of legislation, the Speaker of the House was saying that the House would address teenage smoking problems. So, whether the Senator from Massachusetts decides to characterize it today as a figleaf or Johnny-come-lately, that was clearly the intent of the House all along. Obviously, the Speaker is now honoring his commitment by stepping forward with a proposal.

I hope in the end we can address this issue and not allow teenagers to be the figleaf of big taxes and big government, and find a real solution to this problem.

U.S. GOVERNMENT IS ALLOWING EVASION OF U.S./CANADA LUMBER AGREEMENT, AT THE EXPENSE OF U.S. MILLS AND JOBS

Mr. CRAIG. Mr. President, I would like to talk today briefly about an issue that affects hundreds of American companies and tens of thousands of American workers, and that is, of course, the proper enforcement of the 1996 U.S./Canadian Softwood Lumber Agreement.

On several occasions I have stood before this body to express disappointment at our trading partners who are violating trade agreements with the United States. Generally, the problem arises abroad and requires aggressive efforts by the administration to insist on compliance by other countries to ensure that our products and our workers can compete on a level playing field. But the foremost problem for the Lumber Agreement is action by the U.S. Customs Service that is affirmatively undermining the current softwood agreement that I am speaking to.

As many of us who are from lumber-producing States are so keenly aware, the 1996 Lumber Agreement is our largest sectorial trade agreement with our largest trading partner, Canada. It is a very moderate response to a massive Canadian subsidizing of lumber. Unlike United States lumber mills which must buy timber at market prices, Canadian mills are provided timber by the Provinces at prices that are oftentimes one-quarter to one-third the market value of real timber on the stump. Those subsidies amount to $4 billion Canadian dollars a year. Subsidized imports have cost the United States thousands of jobs and have injured and constrained a pivotal U.S. industry.

In 1991, Canada unilaterally abrogated a 1986 settlement of that dispute. Canada's imports to the United States climbed from about 27 percent of market share to almost 37 percent. The compromise in the 1996 Agreement was intended to offset, in part, Canada's subsidies and bring Canada's share of our market back to around 33 percent to 34 percent.

In February of 1997, however, a ruling by our own Customs Service enabled Canadian producers to evade the agreement merely by drilling holes in the lumber. Let me repeat that—by simply drilling holes in a 2x4 or a building stud, ostensibly, the argument was, for wires and pipes in construction purposes. Customs said this lumber with a hole was "joinery or carpentry," like doors or window frames or built-up truss. This was a ridiculous ruling, by almost everybody's evaluation. It is inconsistent with other classifications. It is inconsistent with common commercial understanding. Official guidance issued by the Commerce Department, the International Trade Commission, and the Customs Service all confirmed that drilled lumber is "lumber" for import classification purposes, not joinery or carpentry. The U.S. Trade Representative confirmed that this product was intended to be covered by the Agreement.

Not surprisingly, though, once Customs opened the door, imports of "joinery and carpentry" rose from about $8-10 million a month to nearly $46 million a month in April. This loophole is allowing over $1 million a day—let me repeat that—$1 million a day of subsidized lumber to evade the Agreement and destroy the Agreement's intent of offsetting the subsidy.

The U.S. industry is again experiencing widespread shutdowns, slowdowns, and job losses. In my State of Idaho, mills are closing or anticipating closure because of this flood of Canadian timber now hitting our market.

Last September, Congress confirmed its intention that drilled lumber be considered "lumber." But while Customs promised a quick reassessment of the February 1997 ruling, our report was ignored. Customs finally requested formal comments on the ruling by late October, but then gave a 60-day comment period rather than its normal 30-day comment period. You almost have to say, "U.S. Customs, whose side are you on?"

Customs delayed its response until April 15—that is from a February ruling of the year before—when it acknowledged its mistake, but again failed to take action. Instead, even though it had thoroughly reviewed extensive public comment, it asked for more comment, but this time referenced a statute with a deadline for formal action by June 15. Now we are almost a year and a half into the process. After 17½ months of review, the agency failed to meet that statutory deadline. Highly subsidized drilled lumber continues to pour over the border, damaging the agreement and destroying jobs in my State and in every other timber-producing State in the Nation.

Now, some are arguing that even if Customs finally corrects the error, it will take another 60 days for implementation, at the cost of more than $70 million in U.S. sales. I have to say—and I use this word, but I would like to find a stronger word—"Customs, how ridiculous can you get?" Importers were warned by Customs in the October 27, 1997 Federal Register notice that they could not rely on the old ruling. Once Customs decides that this product is properly covered by the United States-Canadian Lumber Agreement, further invasion should be stopped. By its terms, the international agreement will cover this lumber.

What is particularly shocking about this loophole is that before the Agreement was signed, the administration expressly committed to the U.S. lumber industry that USTR, Commerce, and Customs would work aggressively at full and effective enforcement.

Now, I do not know if you call stumbling through the darkness of statutes for 17 months an aggressive effort. Mr. President, this "ain't" aggressive.

Mr. President, the Customs Service handled this issue in what I would have to say is the most outrageous of ways. U.S. mills and workers should be able to expect their Government, their President, to work for them by enforcing trade agreements. Heaven knows, they should be able to expect their Government not to affirmatively undermine trade agreements and cause them to be defenseless against unfair imports. That Customs would continue to do so in violation of a direct statutory requirement and blithely ignoring this Congress' report is beyond the pale. Of course, now with the Asian flu, we have Indonesian dimensional lumber beginning to hit the west coast at even well below our cost of production.

In the strongest terms, I urge Customs to begin doing the job that it is commanded to do by U.S. law and for which U.S. taxpayers are paying. Customs must immediately issue a definitive, corrected ruling on drilled lumber and implement the ruling at once—not 30 days, not 60 days, not 17 months—but at once. It must also correct related miscalculations regarding notched lumber that are also undermining the lumber agreement. Reported efforts by the administration to clarify with Canada the Agreement's treatment of drilled and notched lumber do not affect Customs' obligation to act in accordance with U.S. law and policy. In fact, if Customs fails to act properly and reclassify this product, we can only expect more delay and more efforts at evasion in the future. More broadly, the agency must vigorously enforce the agreement and help the U.S. lumber industry realize that full subsidy offset is exactly what they deserve.

Failure by Customs to proceed in conformity with U.S. law and policy could have grave implications for other trade agreement programs. Just at a time when this country must awaken to not only the fairness of trade, but the importance of trade, and the balance of it, the administration is apparently moving in the other direction by ignoring it and allowing the flow of subsidized imports. The administration promised full and vigorous enforcement. With this loophole, it is not living up to that commitment.

Trade agreements serve U.S. interests only if they are effective. If the American people cannot trust the administration to maintain the integrity or much less enforce such agreements, the administration cannot expect a continued mandate to pursue trade agreements. Here we are trying to, struggling to, get this administration the ability to deal in trade, and they are simply doing the slow waltz at a time when it is costing this country hundreds of jobs, if not thousands.

Customs' mishandling of this important issue could also have budgetary implications. The taxpayers should not be expected to fund activities that actually worsen their position. Moreover, Congress should reconsider who has authority to make and implement classification decisions which can undermine our international trade agreements. In the context of countervailing duty and antidumping duty cases, the Commerce Department has direct authority to prevent these types of evasion. Perhaps we need to give USTR direct authority—and a mandate—to stop Customs from the twiddling of their fingers and their willy-nilly attitude toward obeying and enforcing the law. "Customs, I'm sorry, 17 months doesn't cut it."

Mr. President, this is truly one of those situations that makes most Americans outside the beltway just shake their heads in disbelief at our Government. I, and I know others in Congress, will demand drastic actions if this problem is not rectified in a prompt manner. I am sending a copy of this to Secretary Rubin, and I am going to ask other senior Treasury officials to report to Congress immediately about the agency's intentions on this matter.

At a time when trade is of utmost importance to the producers in our country, we must recognize that balance is what really counts, and not allow industry or certain industries to die simply by arbitrary decision or inaction on the part of Customs and other agencies of our Federal Government.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRAMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. HAGEL). Without objection, it is so ordered.

Mr. GRAMS. I ask unanimous consent to be able to speak for up to half an hour in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

WHAT CAN WE LEARN FROM THE PAST? A HISTORY OF SOCIAL SECURITY

Mr. GRAMS. Mr. President, on July 1st, concerned Americans will gather in Cranston, Rhode Island, for the second in what will be a series of public meetings called the "Great Social Security Debate."

I want to thank the Concord Coalition, the American Association of Retired Persons, and Americans Discuss Social Security for sponsoring this event.

The first forum, which took place last April 7th in Kansas City, Missouri, was a great success. The discussions in Rhode Island will no doubt be equally compelling, especially given the focus of the debate: "Retirement in the 21st Century."

It is with one eye to the 21st Century that I rise today to speak about Social Security's past—to offer some perspective on its history and what we can learn from our attempts at social policy making.

In recent years, as more and more Americans become aware of its looming financial and demographic crisis, Social Security is no longer the "third rail" of American politics.

Both Democrats and Republicans have offered reform plans, including ones that would set up individual retirement accounts—a suddenly mainstream idea that would have been considered heresy just a couple of years ago.

Long before President Clinton's "Save Social Security" State of the Union address, a national dialogue was already underway.

Summits, conferences, forums, and town hall meetings were organized to allow all Americans, old and young, to discuss Social Security and how to reform it to benefit our Nation and make retirement more secure for current and future generations.

This democratic process will help us build a national consensus and eventually find workable solutions to preserve and strengthen Social Security while providing freedom of choice for all Americans.

As we move forward, it is important to remember that history is a mirror—by looking through it we gain perspective and the wisdom it provides, giving us the opportunity to avoid repeating mistakes. Nobel Laureate Friedrich Hayek says:

> Political opinion and views about historical events ever have been and always must be closely connected. Past experience is the foundation on which our beliefs about the desirability of different policies and institutions are mainly based. . .
>
> Yet we can hardly profit from past experience unless the facts from which we draw our conclusions are correct.

A review of its history will provide a better understanding of the origin and evolution of our Social Security system. It will facilitate the national debate on its reform and point us in the right direction.

For a time I would like to travel back in time. For hundreds, perhaps thousands of years, human society relied on families, relatives, or friends to care for their elders.

For the unfortunate individuals who could not support themselves, or did not have families to support them, the community provided assistance, in many cases through what were called the "poor laws."

The first compulsory social insurance programs on a national scale, including the programs that we call "Social Security" today, were established in Germany under Bismarck during the 1880s. Soon after, Austria and Hungary followed Germany by passing similar legislation.

England adopted national compulsory social insurance in 1911 and greatly expanded it in 1948. After 1920, social insurance on a compulsory basis was rapidly adopted throughout Europe and into the American hemisphere.

The United States did not have a national social insurance program until 1935.

Today, more than 140 countries in the world have one form or another of a social security program.

Unfortunately, a recent World Bank study shows that most of these programs are not sustainable in their present form. I will discuss this issue on another occasion.

It has been said that the industrial and agricultural revolution that began in the late 18th Century triggered social reform that shifted elderly-care from individuals and families to the state.

But empirical evidence is insufficient to support this statement, particularly in the case of the United States.

Prior to 1929, the economic condition of the elderly in America was fairly secure: most owned their own homes and lived off labor income, which was supplemented by emerging private pension plans as well as life insurance, savings, and family support.

The intellectual origin of social insurance, or as we call it, Social Security, comes in effect from an obscure group of scholars known as the German historical school of economics.

Driven by their dislike of laissez-faire capitalism and fear for a Marxist-led revolution, a group of German-government employed professors desperately sought a middle ground to make peace with Marxists.

They pushed for large-scale welfare legislation that could, in their view, ease the social tension, keep social order and justice, and avoid proletariat revolutions.

One of the leading figures was Gustav Schmoller. Schmoller was sympathetic to the industrial proletariat, and hated what he called the "unethical" striving for wealth by the property-owning classes.

He believed that the lower classes had a right to derive benefits from increased production through welfare legislation. He argued that unequal distribution of income was evil, and that government, not the individual or the community, had the moral duty to help the proletariat maintain equity and social harmony.

In the early 1870s, Schmoller set up the Congress for Social Reform. The purpose was to draft, propose, and promote social legislation. Later, he and others created the Association of Socialpolitics as a forum to advocate social reform.

As a result of his effort, the Bismarck government passed the first welfare laws in 1883 and old age insurance laws in 1889 in Germany.

Very few in this country have ever heard about the German Historical School of Economics, but it was this small group of intellectual elite had a tremendous impact on American economic thought as well as public policy making.

As thousands of young Americans went to Germany to study in the late 19th century and early this century, many became disciples of the German Historical School of Economics and were indoctrinated by German welfare capitalism.

The American students were urged by their German teachers to influence the course of politics in the U.S. and change American attitudes toward social legislation.

Now, these German-trained and educated economists—Adams, Clark, Patten, Seligman, and Ely—founded the American Economic Association in 1885. That is the American counterpart of the German Association of Socialpolitics.

Edwin Gay, one of Schmoller's students, was a founder of the National Bureau of Economic Research and created the journal, Foreign Affairs.

Recford Tugwell, a well-known American disciple of the German Historical School of Economics, favored social legislation along the lines of the German welfare economists. Tugwell became influential under President Roosevelt in the 1930s and exerted considerable legislative influence under the New Deal.

Richard Ely, another important disciple of the German Historical School, established the American Association for Labor Legislation, later named the American Association for Old-Age Security. That launched the first American social insurance movement. He was even put on trial by Wisconsin's superintendent of public instruction for propagating socialism in Wisconsin schools in 1894. Ely and John Commons succeeded in passing the old-age insurance legislation in Wisconsin in 1925.

That was among the first in this country.

Later, the Wisconsin model was used in drafting the federal Social Security legislation.

Now, despite their enthusiasm for social legislation, these German-trained intellectuals were initially not successful in achieving their goals in America.

Before 1929, there were no significant, broad-based demands for compulsory, federal old-age insurance. In most states, elderly assistance was locally provided and administered through poor laws.

Private charity and town/county-controlled almshouses were the primary sources for elderly assistance. In 1929, the New York Commission on Old-Age Security found that 90 percent of the elderly population were either self-supporting or were being supported by their families and relatives.

Less than four percent depended on private charity or public assistance. Private pensions existed although they were not widespread in America before the era of the Great Depression.

During the Great Depression, when the stock market plunged 80 percent, 15 percent of the population began receiving some form of public relief. This event gave tremendous momentum to social legislation.

On June 8, 1934, President Franklin D. Roosevelt announced his intention to provide a program for Social Security.

Subsequently, FDR created the Committee on Economic Security, which was chaired by Frances Perkins, Secretary of Labor, with four other members of the cabinet.

The committee was instructed to study the entire problem of economic insecurity and to make recommendations that would serve as the basis for legislation consideration by the Congress.

A number of university professors were called to staff the CES. According to the recollections of Professor Douglas Brown, a staff member in the small, old-age security section of the CES, the major attention of the CES and its staff was focused on unemployment insurance, not old age insurance.

FDR, Perkins, and the CES director clearly had doubts about a national old-age system. On a number of occasions it appeared unlikely that the Committee would approve the old-age insurance system.

Because it was on the back burner, the old-age security section had a very small staff and was left alone to work out a plan at its will.

Basically, two individuals, Barbara Armstrong of the University of California and Douglas Brown of Princeton, pushed old-age insurance in the CES. The two actually drafted the U.S. Social Security plan in only a month.

Their compulsory old-age insurance plan raised serious concerns about its constitutionality within the CES.

Even President Roosevelt, Labor Secretary Perkins, who was also the chairman of the CES, and Edwin Witte, the Executive Director of the CES, did not think this was the right time for a Social Security system.

But the intellectual elite within the CES pushed on. In November, 1934, Armstrong asked her friend, Max Stern, who was in the Scripps-Howard newspaper chain to launch a sharply written editorial criticizing Roosevelt's failure to give his wholehearted support to old-age insurance.

Roosevelt finally caved. From then on, old-age insurance moved to the front burner at the CES.

The original proposals for the old-age insurance program drafted by the CES staff allowed the states or private insurance companies to administer the program.

But this was removed in later drafts. Douglas Brown later admitted that the CES staff deliberately exaggerated the difficulties of establishing separate state old-age insurance systems as an alternative to a federal system.

It is generally believed that the Great Depression made Social Security necessary for the American people.

The CES argued that the Great Depression had greatly exacerbated the plight of the elderly, that the elderly were among the first to lose their jobs, and that the effects of the Depression would be felt for a long time to come since many families had seen their lifetime savings wiped out.

However, the Social Security proposal submitted to Congress fell far short of dealing with this. The Social Security system started to collect payroll taxes in 1937 but no benefits were distributed until 1942. It took more than seven years for this elderly relief measure to be effective—long after the Great Depression ended.

More recent studies have suggested the Depression may not have dictated the establishment of a Social Security system.

For example, economists now believe that by examining the welfare of the elderly outside the family context, reformers such as those staffing the CES drew an exaggerated picture of the elderly's plight.

The 1935-36 data shows that per-capita household income peaked at $627 for persons aged 60 to 64, while for people aged 65 and over, average per-capita income was only slightly lower, at $601.

In any event, the CES made its report to the President in early January 1935, and on January 17, the President introduced the report in both Houses of Congress for simultaneous consideration.

In less than seven months following its introduction, Congress passed and the President signed the Social Security Act into law.

The history of Congress' debates and consideration of this legislation is of particular interest.

When drafting the compulsory old-age legislation, the CES felt that the House Ways and Means Committee and the Senate Finance Committee, which had jurisdiction over the issue, might not be sympathetic toward FDR's plan, so they created a special committee that would be headed by the labor committees' chairmen.

Without showing much interest in the substance of social security, the tax committees were concerned nonetheless with who should have jurisdiction over it.

When it appeared he might be bypassed, Ways and Means Chairman Robert Doughton of North Carolina went to see FDR, whereupon the President told Frances Perkins that bypassing the Ways and Means Committee would never do.

He did not want to alienate Doughton and his Senate counterpart, Pat Harrison. Without especially liking the old-age insurance program, both committee chairmen stood loyally by it, perhaps in return for having been left in charge.

Instead of being put into a new committee, the chairmen of these committees, the Senate Finance and House Ways and Means, did not want to feel that they were being bypassed, so they pledged their loyalty in order to keep jurisdiction in their committees over these plans.

Once the Economic Security bill was introduced, both chambers began hearings immediately, and it took less than a month for the committees to complete its work on the bill. Nearly 100 people testified—but most of them were either government officials or friends of the CES. The general public and opponents of the bill, particularly employer groups, were not well represented. Again, according to CES Director Edwin Witte, the employer groups "simply knew too little to take any active role." So did the public.

In other words, the employers and the public knew too little, so they only invited certain people to testify before their committees in support of the new Social Security program.

The Economic Security Legislation contained many titles. In an "all-or-none" strategy, FDR smartly tied old-age insurance with the old-age assistance program.

If not for the needed program to aid the elderly poor, the old-age insurance would have never gone through the Congress, according Edwin Witte.

Nevertheless, there was no shortage of opposition to the bill in the House.

In fact, the old-age insurance title was nearly stricken from the bill in the House Ways and Means Committee and again on the House floor, where an amendment to strike the program mustered a third of the votes cast.

Congressman Allen Treadway, the ranking Republican member of the House Ways and Means Committee, called old-age insurance the "worst title in the bill. . . a burdensome tax on industry."

Congressman Daniel Reed pointed out that neither old-age insurance nor unemployment compensation were "relief provisions and they are not going to bring any relief to the destitute or needy now nor for many years to come."

When the Senate began debate on the legislation, the old-age insurance program became even more controversial. Many senators from both sides of the aisle seriously questioned how un-Americaness this compulsory old-age insurance plan was. So there were a lot of questions and concerns at that time in Congress over these proposals.

Some worried about the extremely high cost of the program and the heavy tax burden it would impose on the American people.

Some doubted the finance mechanism, and predicted the funding could not be sustained. Some pointed out how unwise it was to have the federal government, instead of states and private companies, run the plan.

Some were concerned that, as an emergency measure to respond to the difficult days of the Great Depression, the plan would turn into a permanent program over which the Congress had no control.

Some criticized the discriminative nature of the legislation against the young and higher-wage earners. Some questioned the morality of the current generation passing the burden to future generations.

Unfortunately, many of their prophecies have become reality today.

The major battle on the Economic Security Legislation was fought over the Clark amendment.

Senator Bennett Clark, a Democrat from Missouri, recognized the income-redistribution and non-competitive nature of the old-age insurance program and decided to amend it by allowing companies with private pensions to opt out of the public program.

Any employer could stay out of the Social Security program if they had a pension plan that offered benefits comparable to the federal program. Workers would be given the freedom to choose either the federal Social Security program or a private pension plan offered by their companies.

Clark argued that if the purpose of the old-age insurance program was to provide pensions based on earnings and contributions, not to redistribute income, the private sector was perfectly capable of performing this function. Unearned benefits, not competition, were the source of the problem.

The proponents of the Economic Security Bill feared that if the Clark amendment passed, it would encourage private competition and put the federal-run program at a disadvantage.

That is the market at work. Again, those who were proponents of the Social Security plan did not like the Clark amendment because they thought it would encourage private competition and it would put the Federal run program at a disadvantage.

Competition would eventually undermine and destroy the Social Security program, they argued.

The Clark amendment was narrowly defeated in the Senate Finance Committee by a tied vote, but was adopted on the Senate floor by a wide margin of 51 to 35. Considering FDR's veto threat and the two-to-one ratio of Democrats/Republicans in the Senate, this was indeed a very significant vote.

Subsequently, the Senate passed the Economic Security bill, including the Clark amendment, by a vote of 77–6. However, the amendment became a sticking point once the bill reached conference.

House conferees strongly opposed the amendment on the grounds that it would ruin the federal program, but Senate conferees refused to concede on this matter.

The conference dragged on for weeks. At the end, FDR ordered the Senate Democrat conferees to agree to the House position, and because many conferees feared that the much-needed old-age assistance might be delayed by the Clark amendment, they agreed to drop the amendment.

The concession was that the Administration promised to further study the idea of contracting out of Social Security.

There would be a special joint legislative committee to work on legislation based on the Clark amendment and submit it to Congress for consideration during the next session. With that understanding, the Congress approved the conference report. FDR signed it into law on August 14, 1935. The promised special committee and the Clark legislation, of course, never happened.

In her book, "The Roosevelt I Knew", Frances Perkins recorded an interesting conversation she had with Senator Al Gore, Sr., of Tennessee:

> I remember that when I appeared before the Senate Committee old Senator Gore raised a sarcastic objection. "Isn't this Socialism?"
>
> My reply was, "Oh, no."
>
> Then, smiling, leaning forward and talking to me as though I were a child, he said, "Isn't this a teeny-weeny bit of Socialism?"

Despite her denial, Senator Gore may have made a point. Professor Theresa McMahon, a member of the Social Security Council, put it more bluntly by saying at that time: "I don't mind taxing the bachelors . . . I think they ought to take on the responsibility of sharing their income with somebody else."

On January 31, 1940, the Social Security system started to distribute the payroll taxes the government had collected in the past three years to those who never paid any tax into the system. The first monthly retirement check was issued to Ida May Fuller of Ludlow, Vermont, in the amount of $22.54. Miss Fuller died in January of 1975 at the age of 100. During her 35 years as a beneficiary, she received over $20,000 in benefits and paid in nothing.

In the 60 years following its creation, and despite continued criticism, the Social Security program has grown dramatically in size and scope. As more beneficiaries and programs are added, the payroll tax has been raised 51 times.

Congress 51 different times has gone back either to raise the tax on Social Security, or to expand the income on which that was to be taxed.

As an example, in 1940, an American worker earning the maximum taxable wage paid $70 in payroll tax. That is $675 in inflation-adjusted dollars. Today, that same worker would pay a Social Security payroll tax of $8,481.

So the maximum in 1940 in today's dollars would have been $675. The maximum today is nearly $8,500. Meanwhile, the number of workers per retiree has dropped from 100 in 1942 to two today, and the unfunded liabilities of the program have become unbearable for future generations.

Since the enactment of the 1935 Social Security Act, many changes have taken place to expand the program.

Major changes include the 1939 amendment, which was initiated by Social Security officials and greatly expanded the program. It required the payment of benefits to the spouse and minor children of a retired worker, and survivor benefits to the family in the event of the premature death of a covered worker.

It also increased benefit amounts and accelerated the start of monthly benefit payments from 1942 to 1940. The 1939 amendment officially set up the pay-as-you-go scheme which uses today's tax to pay today's benefits, leaving unfunded liabilities to future generations.

A 1950 amendment accelerated the benefits schedules and extended Social Security coverage to the self-employed. In 1952, all Social Security beneficiaries received a general "cost-of-living" increase.

The Social Security Amendments of 1954 expanded the old-age insurance to a disability insurance program.

Another major change was made in 1956.

The 1956 amendment expanded Social Security coverage to more classes of workers, increased the wage base substantially, and increased benefits by 77 percent.

In 1965, Medicare, a new social insurance program that extended health coverage to retirees, was added to the Social Security system. In the 1970s, another new program, Supplemental Security Income, was added.

The 1950s and 1960s were the golden age for Social Security because the fund revenue was greatly increased by growing employment and rising wage rates. Social Security officials repeatedly assured the Congress that Social Security would maintain long-term actuarial balances.

Ronald Reagan saw the defects of the system and was the first to suggest investing Social Security funds in the market. As early as 1964, Reagan asked: "Can we introduce voluntary features that would permit a citizen to do better on his own, to be excused upon presentation of evidence that he had made provisions for the non-earning years?"

Reagan's advice was cast aside. But in 1975, Social Security first began running larger long-term deficits. Its expenditures exceeded income by $1.5 billion. The pay-as-you-go finance mechanism started cracking and was unable to produce large windfall gains to retirees.

In 1977 and 1983, Congress had no choice but to pass Social Security rescue packages by significantly increasing taxes. Again Washington claimed the fix would make Social Security solvent for at least 75 years. Again, that was a lie.

Today, Social Security faces the severest crisis yet. When 74 million baby boomers begin retiring in 2008, Social Security will run a cash shortage in 2013 and go broke in 2031, according to official projections. Knowing the "reliability" of these official forecasts, the shortage could arrive much earlier.

Without a policy change, the Congressional Budget Office estimates the debt held by the public will balloon to nearly $80 trillion, from today about $5.6 trillion in debt. But without a policy change, beginning with Social Security, the Congressional Budget Office estimates that the debt held by the public could balloon to as much as $80 trillion. And General Accounting Office estimates that it could be even worse. The General Accounting Office says it could be a $158 trillion debt. This is very, very serious.

Mr. President, that covers the history of Social Security. Now, what can we learn from our past policy making experiences?

First, the Social Security system was put together in just a few weeks without thorough debate and time to consider such a major policy change.

It was imposed on the American people following a time of economic crisis and despair by a few individuals who had a personal agenda of redistributing private income.

At the time it passed, few people understood the long-term impact of the program on the citizens. It was hardly a democratic process.

Second, a retirement program that mixes insurance with welfare does not work, because these two functions are fundamentally incompatible.

As a result, we have a bad welfare plan and a bad old-age insurance plan which make the system much more inefficient for those who need welfare assistance as well as those who need retirement security.

It does not work because it is based on the false assumption that people no longer have to work to achieve the American dream—the government will take care of them.

Third, when we consider Social Security, policy—not politics—should be our guide. Changes made for short term gain will come back to haunt us.

Fourth, the federal government does not have a good record of running social insurance programs. We should look for ways to improve and streamline the program.

Fifth, we should begin to look to the ingenuity and competitive spirit of the private sector to improve and rejuvenate the program.

The American people should have some freedom of choice. Each individual has different abilities and different needs at different times; they should be free to choose either the current compulsory insurance plan or their own individual retirement accounts.

The individual retirement account is not a new idea. A majority in Congress supported this idea 60 years ago. Sixty years ago the Clark amendment, the individual retirement account, was supported by the vast majority in Congress—60 years ago. Had we adopted the Clark amendment then, our Social Security system would be in much better shape today.

And it is not too late, because Congress should take Senator Clark's advice by allowing people to opt out of the Social Security system and giving individual workers the right to fund and control the investment of their own retirement accounts.

With today's mature and well-regulated financial markets, every American, rich or poor, can greatly improve their retirement security. We must provide the options to ensure that Americans can provide for their retirement, not just pass an increasing liability on to their children and grandchildren. If we don't make this change, we are going to pass to our children a national debt somewhere between $80- and $160 trillion. We need to pass on the ability for our children and grandchildren to make those decisions for themselves.

Finally, we need to educate and inform the public about Social Security. We should encourage more people to participate in the policymaking process. We need to encourage them to understand how options can actually help them enjoy their retirement. A well-informed general public will not be deceived by political rhetoric and will be able to decide what is the best option for them. They can make that decision best for themselves.

So, Mr. President, with the perspective offered by the past, I urge my colleagues to join me in the months to come in my efforts to improve retirement security for all Americans.

I thank the Chair. I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from West Virginia.

Mr. BYRD. Mr. President, I ask unanimous consent that I may consume as much time as I require.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE PRESIDENT'S TRIP TO CHINA

Mr. BYRD. Mr. President, 11 months ago, this body resoundingly passed S. Res. 98, a sense-of-the-Senate resolution, cosponsored by the distinguished Senator who presently presides over the Senate, the Senator from Nebraska, Mr. HAGEL, and myself. The Byrd-Hagel Resolution sent a strong message to the Administration regarding the then-impending Kyoto Protocol. The Resolution directed the Administration not to submit the Kyoto Protocol to the Senate for its advice and consent until developing countries, especially the largest emitters, make "new specific scheduled commitments to limit or reduce greenhouse gas emissions" similar to those to which developed nations would be bound if the Protocol were implemented. The resolution also called on the Administration to show that such a Protocol "would not result in serious harm to the economy of the United States."

In anticipation of the President's trip to China, I recently sent a letter to him urging him to use his influence to persuade the Chinese to take "a progressive leadership role among the developing world" so that we can begin to fully address this complex and serious issue. I noted that, "after 2015, China is expected to surpass the United States as the world's largest emitter of greenhouse gases. While the Chinese contribution to global emissions in 1995 was 11 percent, it is expected to reach 17 percent by percent by 2035. In that same time period, the U.S. emissions will shrink from 22 percent to 15 percent."

While the international effort to bring China on board may seem like a difficult task, it is still possible if we seek win-win opportunities. While China has taken a number of steps to clean up its own environment, China's domestic efforts must increase given the serious nature of their environmental problems. I urged the President to encourage China to support the market mechanisms that were successfully incorporated in the Protocol by the Administration's negotiators.

Through flexible, market-based mechanisms, we have a tremendous opportunity to work with the developing world, allowing for economic growth and also reducing world, allowing for economic growth and also reducing global greenhouse gas emissions. As I have previously said, the United States and the rest of the developed world is not attempting to limit the economic growth of China or any other developing nation. China has the right to develop economically. But, based on the growing body of evidence and the potential consequences of increasing greenhouse gas concentrations, all economic development should be done in a responsible manner. The Chinese must recognize the importance of their role, and they should not ignore their responsibilities in addressing this shared problem. Global warming is a global problem. It is not just an American problem. It is not just a European problem. It is a global problem. And as such, it requires not just an American solution, not just a European solution, but a global solution.

I wrote the President stating that, "the combination of these efforts would be the right course of action and underscores how the Chinese could accept binding commitments to reduce their greenhouse gas emissions. Taken together, these steps would lead to a real reduction in emissions as well as global participation in the Kyoto Protocol."

Mr. President, I believe we should challenge the Administration to recognize the concerns of the Senate and the American people with regard to the Kyoto Protocol and its possible impact on the U.S. economy, but in saying this, I am also willing to seek a constructive dialogue focusing on addressing this important issue. Of all the significant concerns that the President will discuss with the Chinese during his visit, I believe that this is one of the most critical for the long-term relationship of both our nations. We have to begin to work together because our shared environmental futures are at stake, and the well-being of our people's futures—these are at stake.

SENATOR COATS AND THE LINE-ITEM VETO

Mr. BYRD. Mr. President, on another item, I take this opportunity to speak about him during his absence, and I am referring to the distinguished Senator from Indiana, Mr. COATS.

Mr. COATS will be leaving the Senate after this year. He is voluntarily doing so. He is a very able member of the Senate Armed Services Committee. I serve on that committee with Senator COATS. He is very knowledgeable about national defense, about military matters. He takes his responsibilities seriously. He is extremely articulate in his exposition of the problems and the defense needs of our country, and he is quite influential among the other members of the committee and of the Senate on both sides of the aisle as well.

I admire him. He was a very dedicated protagonist—a very dedicated protagonist of the line-item veto, and it was on those occasions when we would debate back and forth between us, and among us on both sides of the aisle, that I learned to respect Senator COATS—learned to respect him for his ability to debate, for his equanimity, always, in debate. He is always most charitable, very deferential, and courteous to a fault. He has always treated me fairly and kindly. On yesterday, when we discussed the Supreme Court's decision—which I favored, and which did not follow the viewpoint of Mr. COATS—Mr. COATS was most magnanimous in his words concerning those of us who opposed the line-item veto.

So, basically he is a gentleman, and what more can one say? A gentleman; he considers the views of others, he listens to the words of others patiently and with respect, and is much to be admired. I admire him.

He has indicated, along with Senator McCAIN, that it is his—it is their intention to come forward with another proposal. And of course I will respect their viewpoint and listen to what they have to say and read carefully what they propose, and will again oppose anything that purports to shift the people's power over the purse as reflected by their elected Representatives in this body and in the House of Representatives—shift that power to any President.

Yesterday was a great day in the history of our Nation, an exceedingly important day, because, beginning with President Grant after the Civil War, all Presidents, with the exception of William Howard Taft, have endorsed and espoused the line-item veto. For much longer than a single century, Presidents have wanted the line-item veto. George Washington, the first and greatest President of all Presidents, in my viewpoint, recognized the Constitution for what it was and for what it is. He said that when he signed a bill, he had to sign it or veto it in toto, he had to accept it or veto it in its entirety.

Washington presided over the Constitutional Convention that met in Philadelphia in 1787. He presided. He listened to all of the debates. He, obviously, listened and joined in the conversations that went on in the back rooms and the meeting places of Members when they were not in convention session. He knew what their thoughts were. He knew what Madison's thoughts were; he knew what Hamilton's ideas were; he knew what Elbridge Gerry's feelings were; he knew what Governor Edmund Randolph's ideas were. But George Washington knew that that Constitution did not allow, it did not permit, it did not give the line-item veto to any President.

I am grateful to the majority on the Supreme Court for having acted to save us from our own folly. I am somewhat disappointed and amazed that there would even be a minority on the Supreme Court on this issue. I cannot comprehend a minority of the Members of the Supreme Court seeing any way other than as the majority saw it. I voted against Clarence Thomas to go on the Supreme Court, but Mr. Justice Thomas yesterday saw clearly what the Constitution requires.

Who yesterday stood to defend this unique system of checks and balances and separation of powers? Clarence Thomas was one of the six. He redeemed himself in great measure, in one Senator's eyes—my own! I was proud of Chief Justice Rehnquist who agreed with Mr. Justice Stevens in the majority opinion. I was proud of Mr. Justice Kennedy in his concurring opinion.

For the first time, Congress had committed this colossal error of shifting to the President a power over the purse that he does not have under the Constitution. Congress failed the people of the United States, in whom all power in this Republic resides and from whom all power is given. And the Senate failed. For the first time in more than a century and a quarter, the Congress yielded to political impulses and gave to the President a share in the control of the purse that the Constitution does not give him.

For those who have read Madison, who have read the Federalist essays, they saw in Federalist 58 Madison's words when he said, "This power over the purse may in fact be regarded as the most complete and effectual weapon with which any Constitution can arm the immediate representatives of the people for obtaining a redress of every grievance, and for carrying into effect every just and salutary measure." Those are Madison's words.

So, Mr. President, where are our eyes? Read the Federalist essays, read the debates that took place in the convention—according to Madison's notes and the notes of others who attended that convention. Where could we possibly imagine that that Constitution gives to us puny pygmies—the power and the authority or the right to attempt to end run the Constitution by giving to the President the line-item veto by statute?

What a shame. What a shame. How would those framers look upon us? But the framers wisely provided for that eventuality when they created the judiciary. And our forebears in the first Senate, which met in 1789, also provided for that eventuality when they enacted the Judiciary Act and created the court system.

I am a more exalted admirer of the Supreme Court today than I have ever been in my 29,439 days of life. It isn't my birthday; I have just lived 29,439 days. I keep count of my days, take my life one day at a time—29,439 days. And yesterday I became a more enthusiastic and avid admirer of the Supreme Court of the United States than ever before because, to me, this, this decision by the Court preserved the system of checks and balances and separation of powers.

So God bless America. God bless this honorable Court.

I also pause to thank those 28 other Senators who, on March the 23th, 1995, stood with me in voting against that inimical, perverse Line-Item Veto Act that sought to give the line-item veto to the President of the United States.

And I thank those 30 other Senators on both sides of the aisle who stood with me in voting against the conference report on that legislation, the Line-Item Veto Act, on March the 27th, 1996, a year and 4 days later. That was when the Senate stabbed itself in the back. Those 31 who stood in defense of the constitutional system of checks and balances and separation of powers on that day, those 31 were vindicated by the Supreme Court's decision on yesterday.

Thank God for the United States of America!

God save the Supreme Court of the United States!

(Mr. ENZI assumed the Chair.)

FOURTH OF JULY

Mr. BYRD. Mr. President, on still another note, it seems like such a short time ago that we rang in the New Year. It is almost July, and the midpoint of the year has passed. How quickly we have gone from gray skies, lowering clouds, and seemingly incessant rain, with some snow, some hail, strong winds, to bright sunshine and the first fruits and vegetables of the season. Already the brief moment of the wild strawberries, those tender morsels of condensed sunshine and spring showers, has passed, but juicy blackberries are ripening along their protective bramble arches, ready for picking in time to fill a pie that may grace a festive Fourth of July picnic. In West Virginia, whole families can be spotted, buckets in hand, along the fence rows where brambles grow, especially those old rail fences, gathering blackberries for pies and jam. Of course, the younger the picker, the more blackberries that end up inside the picker rather than inside the bucket, but that is just one of the messy, finger-staining joys of summertime. And the fingers are stained, as are the lips and the chins and the drippings on the clothing.

When I think of the Fourth of July, visions of family picnics crowned by the very literal fruits of that berry-picking labor are among the many happy thoughts that surface. Like that blackberry pie topped with melting vanilla ice cream, Fourth of July memories are a sweet blend of small town parades with volunteer firemen in brightly polished trucks and high school marching bands bedecked in their finest regalia; of local beauty queens sharing convertibles with waving mayors and Congressmen and Senators; and flags . . . flags everywhere, waving in the sweaty palms of excited youngsters and proudly flying before houses on quiet side streets where no parade will ever pass, but where grandpa might sit on the porch in his World War II service cap and wave to the passing neighbors. That is the American scene.

Although cheapened by holiday sales that commercialize the occasion, like all holidays, the Fourth of July has somehow remained triumphantly above it all, like the flag so gallantly flying over Fort McHenry that inspired Francis Scott Key to write "The Star Spangled Banner." More families and friends gather for picnics or reunions and an evening spent watching fireworks than spend the day in the mall and the evening before the television set. Most people still know that the Fourth of July celebrates the declaration of our nation's independence from Great Britain, though other historical facts concerning our battle for freedom and the establishment of our government are fuzzy though these are facts, and out of focus but not the Fourth of July. Most people consider themselves patriotic, though I suspect that a substantial percentage could not clearly define what it means to them to be a patriot.

To be a patriot is much, much more than to be a fan of, say, a football team. To root for one's country is part of being a patriot, but that support can be shallow, like the hurrah of a sports fan that turns all too quickly to boos—boos, b-o-o-s—when the team's record loses a certain winning luster. Those cheers, those hurrahs, change to boos, b-o-o-s. It might have been some other spelling of "booze" imbibed during the game. We will leave that for another day. To be a patriot is to reach into the deep current that has carried our nation through history, and not be distracted by the ephemeral eddies of scandal that ripple the surface. To be certain, a part of that definition is the quiet willingness to set aside one's own plans and don the uniform of a nation that calls for your service. But one need not only wear a uniform to be a patriot. Nor is it enough simply to pay your taxes, obey the speed limit, and memorize the pledge of allegiance to the flag of the United States of America and to the republic—not the democracy—to the republic for which it stands, one nation, under God.

I am proud of the fact that I was a member of the other body, and I'm the only Member of Congress who still serves in the Congress of the United States who was present there when the words "under God" were included in the Pledge of Allegiance on June 7, 1954.

Interestingly, exactly 1 year from that day, on June 7, 1955, the House of Representatives—I was a member of the House at that time—the House of Representatives enacted legislation providing for these words "In God We Trust" to appear on the currency and the coin of the United States. Those words had appeared on some of the coins previous to that time, but on June 7, 1955, the House enacted legislation providing that the currency and the coin of the United States would carry the words "In God We Trust."

To be a patriot involves understanding, appreciating, and protecting that which gives our Nation its unique spot on the compass of the world—our Constitution. It has been much in the news the last 24 hours. And that cannot be condensed onto a bumper sticker.

In establishing a government that adroitly balances the minority against the majority, the small or less populous States against the larger, the executive against the legislative against the judicial, and that preserves individual liberty and opportunity, our Founding Fathers truly delivered on the promise embodied in the Fourth of July. The Declaration of Independence was a clarion call in the wilderness, a defiant shout down the echoing canyons of history, saying, "We can do better." The Constitution gave that call that was issued in the Declaration of Independence substance, and the more than 200 years of history since that time have done little to erode the triumph of that achievement.

The Constitution of the United States of America is a remarkably compact document. This is it—this little, tiny document. Of course, this particular booklet also contains the Declaration of Independence. But that is it. That is the Constitution of the United States. Think of the struggles, think of the sacrifices of men and women, think of the battles, think of April 19 when Captain Parker stood on the greens at Lexington with his men and bared their breasts to the British redcoats, and then at Concord, and then Bunker Hill, and King's Mountain. And think of the battles during the War of 1812, on the sea, on the land, the carnage, the blood that was shed in the Civil War by men on both sides, who fought for the Union and who fought against the Union. All of these, and more, gave their lives.

The Constitution still lives! The men who wrote the Declaration of Independence—Jefferson, Franklin, Sherman, Adams, Livingston—their lives were at risk. Their lives were at risk. They could have been hanged. That was treason—treason—to write that Declaration of Independence! They could have been taken to England and tried and executed there. That was treason! Think of the sacrifices that have gone into the creation of that little booklet—the history, the events, the treasures that were at risk, the fortunes that were lost, the lives that were lost, the blood that was shed, the families that were destroyed, the properties that were confiscated—all of these and more.

What did we get out of it? We got this—the Constitution of the United States! The Constitution's beginnings go back for years, for decades, for centuries, back a thousand years. American constitutionalism began at Runnymede on the banks of the Thames in June 1215 and before. It had its roots in the English struggle when Englishmen shed their blood at the point of a sword in their efforts to wrest from tyrannical monarchs the power of the purse.

So there it is. That little document is all we got out of it. But what that contains! More than the Magna Carta. That is what we will be celebrating on the 4th of July—that Declaration of Independence and that Constitution. Too soon we have forgotten, haven't we? This is a remarkable document. Every schoolchild ought to study it, and every schoolchild ought to be required to memorize it.

The Law of the Twelve Tables, created in Rome in the year 450 B.C. A delegation was sent to Athens to study the laws of Solon—that remarkable man who is one of the seven wise men of Greece—to study the laws and to bring back to Rome the ideas and the provisions that could be put into a law, which the Plebeians would understand as well as the Patricians. The delegation went in 454 B.C., and they came back to Rome and began this work in 451 B.C. In 450, they completed the work: The Law of the Twelve Tables. They inscribed these laws on tables, and those tables were destroyed in the year 390 B.C. by Brennus and the Gauls. The Gauls conquered Rome and destroyed much of it and, along with it, destroyed the Law of the Twelve Tables.

But so what? Cicero said that the young people had been required to memorize the Law of the Twelve Tables, and therefore, even though the Gauls destroyed the Twelve Tables, the Law of the Twelve Tables lived on in the memories of the schoolchildren. Hence, the Romans hadn't lost the Law of the Twelve Tables. The Schoolchildren had been required to memorize the Law of the Twelve Tables.

Cicero also had this to say about the Constitution:

> It is necessary for a Senator to be thoroughly acquainted with the Constitution, without which no Senator can possibly be fit for his office.

Those who wish to find that quotation may look in Blackstone, the first book of Blackstone, section 1, paragraph #10, I believe it is. Blackstone quotes Cicero and what Cicero said about the Constitution.

This is it. Let us all think about that on the 4th of July. Let us think about those who pledged their lives, their fortunes, and their sacred honor for that document. It is not lengthy. What does it weigh? Put it on the scale. Put it on the scales of time, on the scales of history, on the scales of liberty. Its weight cannot be measured.

Every schoolchild ought to study this, and every adult ought to know so instinctively that any challenge to the balance of powers outlined in this document should be instantly identified and resisted. If only cultural antibodies could be developed that would allow the people of this Nation to acquire an immunity, and would allow the Members of this body and the other body of the Congress today and forevermore to acquire an immunity, to constitutional cancer—it is a vaccine that I would gladly take. Then, perhaps, I and others like me would not have to struggle so hard to excise the melanomas of balanced budget amendments and line-item acts that periodically threaten to overturn the safeguards established by the Framers to ensure that the people and their elected representatives have recourse against an ambitious power grab by the executive, or by any political party.

Like the wild strawberries and blackberries that sweeten a country stroll on a Sunday afternoon, our republican form of government is a natural treasure of a generous and bountiful land. But, like the delicate wild beauties of vine and bramble which are too easily overlooked amid the garish profusion of plenty that surrounds us, so must we be alert to often subtle presence of Constitutional safeguards embodied in our complex profusion of laws and governmental structures. We must guard against a complacency that would trample them under foot or mow them down in a fervor of thoughtless modernization for the sake of change or in the name of some soul-less efficiency.

This Fourth of July—this Fourth of July—let us put aside for a moment the bright display of fireworks, the inspiring ring of martial music, and listen for the timeless song of our past. Listen for the courage and determination in the solemn opening paragraphs of the Declaration of Independence where it is said:

"When in the Course of human events, it becomes necessary for one people to dissolve the political bands which have connected them with another, and to assume among the powers of the earth, the separate and equal station to which the Laws of Nature and of Nature's God entitle them, a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the separation.

"We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness.—That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed,—That whenever any Form of Government becomes destructive of these ends, it is the Right of the People to alter or abolish it, and to institute new Government, laying its foundation on such principles and organizing its powers in such form, as to them shall seem most likely to effect their Safety and Happiness."

Mr. President, on July 4, 1776, the thirteen united states of America committed themselves to a bold new course, at great risk. It is no small thing to break away from centuries of tradition, in the face of overwhelming military might, and the opening paragraphs of the Declaration of Independence make it clear that our Founding Fathers knew full well the seriousness and the risks of the course they had embarked upon. They recognized the challenge laid out for them in establishing a new and better form of government.

This Fourth of July, I will happily watch the parades and the fireworks and, with luck, perhaps enjoy with my wife of 61 years and my daughters of many years and my grandchildren of several years a piece of blackberry pie with ice cream.

But I will also take the time to pull out my little copy of the Constitution that I carry with me, near to my heart. I will take a few minutes to marvel again at the skill and economy with which the Framers outlined a government that has so well provided for our nation through the centuries. We who enjoy the freedom, the independence, the security, and the prosperity of 1998, owe a great debt of gratitude for the courage and the commitment of those patriots of 1776, and an equal debt to the men, some of them the same individuals, who followed through on that promise in the Constitutional Convention of 1789. We honor them best, I think, by preserving their legacy for the patriots of the 21st Century, our children and grandchildren.

The legacy bequeathed to us in trust to our children and grandchildren is, Mr. President—I say to the very distinguished patriotic Senator, who is from Wyoming, and who graces the Presiding Officer's chair in the Chamber today—simply the most richly endowed nation on the face of the Earth—rich in land, in opportunity, in liberty.

We are the inheritors of plenty, thank God, merciful Providence. I have had the great fortune to travel widely during my life. I have visited with kings, queens, shahs, prime ministers, presidents, and premiers of many lands. I have seen the beauties of Europe, the mysteries of the Orient, the crumbling ruins of once-mighty empires in the Middle East. They have all left me with wonderful memories and great stories. But when I travel, I pine for home.

I took a trip around the world along with six colleagues in the House of Representatives in 1955. That was 43 years ago. We traveled around the world in an old Constellation. We traveled for 68 days. That would have been called a junket today. We were a subcommittee of the House Committee on Foreign Affairs. And so I traveled in many wonderful lands, but the most beautiful sight that I saw in that entire 68 days, having seen the Taj Mahal, having seen Sun Moon Lake in Taiwan, having seen the other wonders and beauties of the world and of nature, the most inspiring and gratifying thing that I saw were the two little bright red lights flashing at the top of the Washington Monument when we returned to the good old United States of America. We had been in lands where there was no fresh, clean water to be drawn from the faucets. We so much take America for granted today, but what a wonderful experience it was anew to be able upon our return to go back to a faucet and see come from that faucet water—clear, pure, good water—that we could drink without fear of becoming ill. So I have been left with many wonderful memories, but never shall I forget those two red lights at the top of the monument to the greatest President of the greatest country in the world, the Washington Monument.

I miss when I travel the comforting presence of friendly West Virginia faces, the soft breeze that carries their cheerful hellos, the warm smiles that brighten the day and lift my heart. I think that I never appreciate home so much as when I am away from it. I suspect that you, Mr. President, and most Americans feel that way, too. That great poet Henry Van Dyke certainly did, and he used his facility with words to capture the feeling in his poem, "America For Me."

'Tis fine to see the Old World, and travel up and down
Among the famous palaces and cities of renown,
To admire the crumbly castles and the statues of the kings,—
But now I think I've had enough of antiquated things.

So it's home again, and home again, America for me!
My heart is turning home again, and there I long to be,
In the land of youth and freedom beyond the ocean bars,
Where the air is full of sunlight and the flag is full of stars.

Oh, London is a man's town, there's power in the air;
And Paris is a woman's town, with flowers in her hair;
And it's sweet to dream in Venice, and it's great to study in Rome
But when it comes to living there is just no place like home.

I like the German fir-woods, in green battalions drilled;
I like the gardens of Versailles with flashing fountains filled;
But, oh, to take your hand, my dear, and ramble for a day
In the friendly western woodland where Nature has her way!

I know that Europe's wonderful, yet something seems to lack:
The Past is too much with her, and the people looking back.
But the glory of the Present is to make the Future free,—
We love our land for what she is and what she is to be.

Oh, it's home again, and home again, America for me!
I want a ship that's westward bound to plough the rolling sea,
To the blessed Land of Room Enough beyond the ocean bars,
Where the air is full of sunlight and the flag is full of stars!

Mr. President, I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll to ascertain the absence or presence of a quorum.

The assistant legislative clerk proceeded to call the roll.

Mr. LOTT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. Mr. President, I want to express my appreciation to the fine men and women of the United States Air Force, who honored my great State and her great people by naming the 19th operational B-2 Stealth Bomber, The Spirit of Mississippi. I saw the B-2 fly—and it filled me, and all those who participated in the naming ceremony, with enormous pride.

The dedication of this magnificent aircraft took place in a moving ceremony on Saturday, May 23d, in Jackson, MS. The ceremony took on additional meaning for all those who joined me since it came at the start of the Memorial Day weekend, when we honor those who sacrificed so much for the defense of our great Nation.

The ceremony included a number of great Americans. General Richard Hawley, the Commander of the Air Force's Air Combat Command, chose Mississippi as the name to grace this aircraft as she serves to deter our enemies for decades to come. Also participating in the ceremony was Mr. Kent Kresa, the Chairman, President, and Chief Executive Officer of Northrop Grumman, the company that built this technological wonder with the help of the skilled people and companies of Mississippi.

I was pleased to be joined by a number of senior political leaders from Mississippi: My esteemed colleague, Senator THAD COCHRAN, Governor Kirk Fordice, and Congressman ROGER WICKER of the 1st District.

Major General James H. Garner, the Adjutant General of the Mississippi National Guard, and Colonel Robert Barron, the Commander of the 172d Airlift Wing at Jackson, served as our hosts for these ceremonies.

When you stand up close to a B-2, and have the opportunity to see a B-2 fly, you realize just how magnificent this aircraft truly is—and the magnitude of the technological accomplishments that it represents. Just to put this in perspective, the B-2 aircraft has a wingspan about ⅔ the length of a football field and, so they tell me, the radar signature of an insect. With refueling, it can fly anywhere on the planet to deliver 16 one-ton precision-guided bombs—even in bad weather. The B-2 offers a revolutionary combination of stealth, range, payload, and precision. It could only have been built here in America—and, I say with pride, only with the help of my fellow Mississippians.

Fielding this revolutionary aircraft took courage and dedication on the part of key leaders in the Senate, the House of Representatives, and four separate administrations. To get where we are today, from concept to a squadron of B-2s ready to fly and fight, took almost two decades of effort. Standing here now, we can better appreciate their vision. And we need to remember the time it took to develop the B-2 as we look to the future of America's long-range bomber force.

We in Congress believe that long-range air power will be even more important in the future than it has been in the past. The reasons are straightforward. Our forces based overseas are shrinking in size—and that trend is likely to continue. Potential adversaries are arming themselves with fast-moving conventional forces and weapons of mass destruction. Long range air power gives the President the ability to respond to aggression immediately and decisively—and that's what helps provide deterrence.

We in Congress, however, have had growing concerns about the future of the bomber force. Accordingly, we mandated last year that a distinguished and independent panel of experts—the Long Range Air Power Panel—examine current plans for the bomber force and recommend actions to the President and the Congress. That panel has completed its review and I'd like to briefly share some of its important recommendations regarding the B-2 and the future of America's long-range bomber force.

The Panel stated up front that, and I quote: "long-range air power is an increasingly important element of U.S. military capability." Over the near term, to make sure that the bomber force can meet the increasing demand for long-range air power, the Panel recommended that we need to invest in and upgrade the current force. In the case of the B–2, for example, the Panel stated that we should work on in increasing the B–2's sortie rate using a combined program that improves stealth maintenance and performance. This will take some additional funding beyond what we provided in the 1998 budget, but keep in mind that doubling the B–2's sortie rate would in effect double the combat power of the force. That's a bargain.

The Panel also made an important recommendation regarding the long-term future of the bomber force. As I noted before, it took almost 20 years to field the B–2. In less than 20 years from now, the Panel stated that we should be fielding a next generation bomber—and to do so, we need to get started now to develop a plan to replace the existing force over time. I don't know what the next generation bomber will look like. Maybe it will be an upgraded B–2 or something completely different. But I do know that given the strategic importance of long-range air power, we need to get started. I look forward to seeing the Pentagon's recommendations next year about this important issue.

The enhancements suggested for the B–2 are in line with the requirements identified by my fellow participant in the Spirit of Mississippi naming ceremony, General Hawley. As we complete work on this year's defense budget, we should follow the example offered by a brilliant former leader from Mississippi—the late Senator John Stennis—who along with other leaders in this chamber had the vision to start building the B–2. His vision is now a reality that will fly for many decades into the future. In following Senator Stennis' guidance, we need to support the continued enhancement of the revolutionary B–2 stealth bomber. And we need to encourage the Air Force to provide us with a comprehensive plan for developing a next-generation bomber to sustain the long-range air power force over the long-term. John Stennis would be very proud of our actions—and our long-term vision.

TRIBUTE TO LISA KAUFMAN, SOUTH DAKOTA WINNER OF THE NATIONAL PEACE ESSAY CONTEST

Mr. DASCHLE. Mr. President, I rise to salute Lisa Kaufman of Freeman, SD—an outstanding young woman who has been honored as South Dakota's first place winner in the eleventh annual National Peace Essay Contest sponsored by the United States Institute of Peace. More than 5,000 students in the 50 states participated in this year's contest. Students wrote about the way in which war crimes and human rights violations are accounted for in various international conflicts.

Ms. Kaufman was chosen to represent South Dakota in a special program for state-level winners here in Washington this past week, where she participated in a three-day simulation of high-level discussions with the goal of finding the best way to address war crimes and human rights violations to ensure a stable peace in Cambodia. She has received a college scholarship to reward her achievement.

I also commend Ms. Vernetta Waltner, the faculty coordinator for the contest at the Freeman Academy, for her involvement and for encouraging participation in this type of program.

I am pleased that Ms. Kaufman and our next generation of leaders are helping build peace to promote freedom and justice among nations and peoples. Their commitment and dedication is a lesson to us all. The title of Ms. Kaufman's essay is "Justice Leads to Peace." She richly deserves public recognition for her accomplishment, and I am proud to ask unanimous consent that her winning essay be printed in the RECORD.

There being no objection, the essay was ordered to be printed in the RECORD, as follows:

JUSTICE LEADS TO PEACE

(By Lisa Kaufman)

It is impossible to deny the fact that there are many cruelties associated with war. In the news, we see and hear about the devastation that war causes in a country. Damage occurs to the land. Buildings and even whole cities may be destroyed by bombs. The real problem with war, though, is that it causes damage beyond just the destruction of various structures within a country. War affects people. Individuals who live through times of war endure much pain. An ugly reality is that many violent crimes are committed against people during times of war.

So how does a society deal with those who committed atrocious human rights violations during a war? I feel that the only way to restore a stable peace is to face the challenge of punishing those guilty of war crimes. A society can't move on without dealing with the realities of its past, no matter how painful they may be. Several countries throughout the world are now facing the obstacle of dealing with war criminals as they move down the road to peace.

One country that is dealing with this issue is South Africa. Conflict over the practice of apartheid, or racial segregation, escalated into a serious situation during the last half of the 20th Century. The conflict is deeply seeded in South Africa's history. The British gained control of South Africa in 1814 and white control of the country immediately provoked uprising by the native blacks who sought independence. In 1910, Britain did grant South Africa independence, but the situation didn't change much as white English-speaking people maintained control of the government.

The government established apartheid as an official policy in 1948, and various acts were passed with the purpose of completely separating South Africa's blacks from the white minority. Inevitably, protests arose and they became more serious throughout the 1950's. Nelson Mandela led the African National Congress (ANC), a political organization that actively worked for black control. Boycotts, strikes, and rallies were used to draw attention to their plea for the end of apartheid. Tensions rose even higher when the ANC was banned by the government and Nelson Mandela was jailed.

The black movement began to escalate again during the 1970's and 1980's. Renewed demonstrations and riots plagued the country and a state of emergency was declared in 1986. Change finally began when a new president, Frederick de Klerk, took office in 1989. Nelson Mandela was released from jail and apartheid was gradually dismantled. Real progress came with elections held in 1994 in which blacks took control of the government with Nelson Mandela as the new president.

The new government faced many challenges, one of which was dealing with those guilty of human rights violations that occurred during the era of apartheid. The Truth and Reconciliation Commission was created in June 1995 to give victims a chance to voice the abuses that occurred. It also served to uncover evidence about the perpetrators of those crimes. Political amnesty was guaranteed for those who came forward voluntarily to confess. In other words, those who admitted to committing political crimes were pardoned, but those who remained silent could be prosecuted.

I feel that the creation of this commission was beneficial in several ways, but was too lenient in its dealings with war criminals. The acceptance of the commission was evident when over 10,000 victims came forward to share their personal horror stories. This reveals that there was a need among the people to talk about what happened. The way in which the commission dealt with war criminals represented a compromise, though Truth is essential, but at what cost?

There must be penalties for these crimes that were committed and I think that the offer of political amnesty was too generous. Citizens should be able to see punishment handed out to the guilty so that they can feel safe again. It would be beneficial to reward those who come forward voluntarily with a lesser sentence, but they still deserve to face punishment for their actions. Justice must not be compromised in this way. War criminals must be held accountable.

Another recent conflict that has been plagued by discoveries of genocide and vast human rights violations is the civil war in Bosnia. The region has had a troubled past. After World War II, Yugoslavia was united as a confederation of six republics held together by the ruling Communist Party. This federation was unstable, though, because of deeply seeded ethnic divisions.

In 1990, the Communists lost control and Yugoslavia began to crumble. In June, 1991, two of the republics, Slovenia and Croatia, declared their independence. The other republics followed, with Bosnia and Herzegovina declaring their independence in March 1992. Civil war then broke out in Bosnia between the three ethnic groups living in the area: the Croats, Serbs and Bosnian Muslims. The Muslim-dominated government forces fought to maintain a multiethnic state while the Bosnian Serbs and Croats called for separate ethnic states.

A peace treaty was signed in December 1995 in which Bosnia was split into two substates, a Muslim-Croat federation and a Serb republic. The agreement called for the exchange of territory and this led to much violence. International peacekeeping forces and humanitarian organizations were present throughout the war and remain in the area yet today to stabilize the conflict.

Both during and after the war, reports were confirmed of torture and cruelty committed by all three ethnic groups. The Bosnian Serbs were specifically singled out, though, for their policy of "ethnic cleansing" in which over 700,000 Muslims were forced from their homes in Serb-controlled areas of Bosnia. The Serbs were also responsible for putting people in concentration camps and killing and raping many women. Mass graves hold evidence to the large number of deaths that occurred.

These human rights abuses were acknowledged with the formation of The United Nations International Criminal Tribunal for the former Yugoslavia. This tribunal was set up at The Hague in 1994 with the purpose of judging serious violations of international humanitarian law. The tribunal issued indictments of various criminal suspects and then those in the international community were responsible to arrest them and turn them over to the tribunal to face punishment.

The problem with this arrangement was that many indicted war criminals were not actively sought by international peacekeepers. The North Atlantic Treaty Organization (NATO) was very active both during and after the war in Bosnia by stationing peacekeeping soldiers throughout the area. These NATO troops have not chosen to search out the war criminals, though. At one point 75 people had been indicted by the tribunal, while only nine had been arrested.

In July 1997, NATO started to actively track down indicted war criminals. More arrests were made, but NATO has not yet moved to arrest the higher-level criminals that have been indicted, such as Radovan Karadzic, a Serb leader who is accused of genocide, or the intent to destroy a whole ethnic group.

I believe that it is time for international peacekeepers to actively move in on arresting the high-profile suspects. It is easier to leave these suspects alone, but by delaying action, peace and reconciliation is being delayed. I agree with the tribunal's goal of bringing war criminals to face judgment, but the way that this effort is being carried out is short of effective.

These issues dealing with the prosecution of war criminals must be dealt with carefully. There are many variables to consider. Even though public trials may be painful for survivors, I feel that it is necessary to deal with the perpetrators in public. Silence is not a solution. It is better to deal with those suspected of human rights violations than to pretend the, damage never occurred. Only when these problems are dealt with can lasting peace have a chance.

Truth must be exposed. Elie Wiesel, a Holocaust survivor and Nobel Peace Prize winner, recently said, "There is no compensation for what happened. But at least a certain balance can be established that opposing fear there is hope, hope that when we remember the fear . . . our memory becomes a shield for the future." By exposing what really happened we can guard ourselves against it ever happening again.

Both South Africa and Bosnia face challenges in their future. As they work to bring war criminals to justice, painful memories resurface. They are taking steps in the right direction, though, as they confront the atrocities that took place during times of war and conflict. War criminals must be tried and held responsible for their actions. There are no valid excuses for killing. People should never have to suffer based on their ethnic origin or simply the color of their skin. When these offenses occur, the guilty must be punished so that peace and justice can thrive in the future.

PRODUCT LIABILITY REFORM ACT

Mr. LIEBERMAN. Mr. President, I rise today to make a few very brief comments on the Product Liability Reform Act of 1998, which the Senate will soon be considering. I will make more lengthy remarks on this bill when we return from recess and move on to this bill, but I did not want to let the bill's introduction last night pass without comment.

This bill is a good bill, and I am proud to be one of its original co-sponsors. It is the product of incredibly hard work and tremendous dedication by Senator GORTON and Senator ROCKEFELLER, and I want to congratulate—and thank—them and their staffs for what they have been able to achieve. I also want to thank the President for his willingness to work with us to come up with a bill that now has his full support.

I, frankly, would have liked a stronger bill, like the one we passed last Congress, but the President vetoed that bill. That is something that I think all those of us who support reform have to keep in mind as we move forward with this bill. Because even if it doesn't incorporate everything we wanted, this bill does offer much—together with the promise of the President's signature.

The President's promise is important not just to those of us who have long supported legal reform. It also should be important to my colleagues who have not. I hope it prompts them to take a serious look at this bill—to put aside preconceived notions they may have of product liability reform, and to take a fresh look at what we have done.

Mr. President, this bill offers meaningful—and fair—reform of our legal system to redress the system's abuses while at the same time protecting consumers' rights. And it contains the provisions of a bill Senator MCCAIN and I have been working on for a couple of Congresses: the Biomaterials Access Assurance Act.

The Biomaterials bill is the response to a crisis affecting more than 7 million patients annually who rely on implantable life-saving or life-enhancing medical devices—things like pacemakers, heart valves, artificial blood vessels, hydrocephalic shunts, and hip and knee joints. These patients are at risk of losing access to the devices because many suppliers are refusing to sell biomaterial device manufacturers the raw materials and component parts that are necessary to make the devices. The reason: suppliers no longer want to risk having to pay enormous legal fees to defend against product liability suits when those legal fees far exceed any profit they make from supplying the raw materials for use in implantable devices. Although not a single biomaterials supplier has ultimately been held liable so far, the actual and potential costs of defending lawsuits has caused them to leave this market. A study by Aronoff Associates found that 75 percent of suppliers surveyed were not willing to sell their raw materials to implant manufacturers under current conditions. That study predicts that unless this trend is reversed, patients whose lives depend on implantable devices may no longer have access to them.

The Biomaterials title of the Product Liability bill responds to this crisis by allowing most suppliers of raw materials and component parts for implantable medical devices to gain early dismissal from lawsuits. At the same time, by allowing plaintiffs to bring those suppliers back into a lawsuit in the rare case that the other defendants are bankrupt or otherwise judgment proof, it ensures that plaintiffs won't be left without compensation for their injuries if they can prove a supplier was at fault. Mr. President, I have a summary of the bill here, and I ask unanimous consent that it be printed after this statement in the RECORD.

I will have a lot more to say about the Biomaterials provisions and the entire bill when we return from recess. For now, let me just once again congratulate Senator GORTON, Senator ROCKEFELLER and the President for their success in forging this compromise bill. I urge my colleagues to support it.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SUMMARY OF BIOMATERIALS ACCESS ASSURANCE ACT

Title II of the Product Liability Reform Act of 1998 contains the provisions of the Lieberman-McCain Biomaterials Access Assurance Act.

Need For The Biomaterials Bill: The Biomaterials bill responds to a looming crisis affecting more than 7 million patients annually who rely on implantable life-saving or life-enhancing medical devices such as pacemakers, heart valves, artificial blood vessels, hydrocephalic shunts, and hip and knee joints. These patients are at risk of losing access to the devices because many suppliers are refusing to sell biomaterial device manufacturers the raw materials and component parts that are necessary to make the devices. The reason: suppliers no longer want to risk having to pay enormous legal fees to defend against meritless product liability suits when those legal fees far exceed any profit they make from supplying the raw materials for use in implantable devices. Although not a single biomaterials supplier has thus far been held liable, the actual and potential costs of defending lawsuits has caused them to leave this market. A study by Aronoff Associates found that 75 percent of suppliers surveyed were not willing to sell their raw materials to implant manufacturers under current conditions. That study predicts that unless this trend is reversed, patients whose lives rely on implantable devices may no longer have access to them.

What The Bill Does: To alleviate these problems, the Biomaterials bill would do two things. First, with an important exception noted below, the bill would immunize suppliers of raw materials and component parts from product liability suits, unless (a) the supplier also manufactured the implant alleged to have caused harm; (b) the supplier sold the implant alleged to have caused harm; or (c) the supplier furnished raw materials or component parts that failed to meet applicable contractual requirements or specifications. Second, the bill would provide raw materials and component parts suppliers with a mechanism for making that immunity meaningful by obtaining early dismissal from lawsuits.

What The Bill Does Not Do: The bill does not keep injured plaintiffs from gaining compensation for their injuries. First, it leaves lawsuits against those involved in the design, manufacture or sale of medical devices untouched. Second, it provides a fallback rule if the manufacturer or other responsible party is bankrupt or judgment-proof. In such cases, a plaintiff may bring the raw materials supplier back into a lawsuit if a court concludes that evidence exists to warrant holding the supplier liable. Finally, the bill does not cover lawsuits involving silicone gel breast implants.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Thursday, June 25, 1998, the federal debt stood at $5,504,168,372,205.11 (Five trillion, five hundred four billion, one hundred sixty-eight million, three hundred seventy-two thousand, two hundred five dollars and eleven cents).

One year ago, June 25, 1997, the federal debt stood at $5,339,644,000,000 (Five trillion, three hundred thirty-nine billion, six hundred forty-four million).

Five years ago, June 25, 1993, the federal debt stood at $4,305,269,000,000 (Four trillion, three hundred five billion, two hundred sixty-nine million).

Twenty-five years ago, June 25, 1973, the federal debt stood at $452,652,000,000 (Four hundred fifty-two billion, six hundred fifty-two million) which reflects a debt increase of more than $5 trillion—$5,051,516,372,205.11 (Five trillion, fifty-one billion, five hundred sixteen million, three hundred seventy-two thousand, two hundred five dollars and eleven cents) during the past 25 years.

HONORING THE PHILLIPS, SWONS, AND YOUNTS ON THEIR 30TH WEDDING ANNIVERSARIES

Mr. ASHCROFT. Mr. President, families are the cornerstone of America. The data are undeniable: Individuals from strong families contribute to the society. In an era when nearly half of all couples married today will see their union dissolve into divorce, I believe it is both instructive and important to honor those who have taken the commitment of "till death us do part" seriously, demonstrating successfully the timeless principles of love, honor, and fidelity. These characteristics make our country strong.

For these important reasons, I rise today along with the senior Senator from Missouri, Senator BOND, to honor Kathy and John Phillips, Alma and Larry Swon, and Kathy and Mike Yount of Mexico, Missouri, who on July 3, 1998, will celebrate their 30th wedding anniversaries. Many things have changed in the 30 years these couples have been married, but the values, principles, and commitment these marriages demonstrate are timeless.

My wife, Janet, and I had the privilege of celebrating our 30th wedding anniversary just one year ago. I can attest, like these fine couples, to the remarkable love and appreciation that has grown out of my own marriage. As these couples gather together in Mexico on July 3, surrounded by friends and family, it will be apparent that the lasting legacy of these marriages will be the time, energy, and resources invested in their children, church, and community.

The Phillips, Swons, and Younts exemplify the highest commitment to relentless dedication and sacrifice. Their commitment to the principles and values of their marriages deserve to be saluted and recognized.

PATIENTS' BILL OF RIGHTS

Mr. KENNEDY. Mr. President, upon our return in July, it is my hope that the Senate will turn to full and open debate of patient protection legislation at the earliest appropriate time. The American people are concerned about the state of our health care system. Earlier this month, a survey by the Pew Research Center showed HMO regulation at the top of the list of issues important to individuals and the country.

We have a proposal, the Patients' Bill of Rights (S. 1890), which would restore confidence in our system. A critical provision in our bill would allow patients who receive their benefits through their employer to hold their plans accountable for medical or coverage decisions that result in injury or death. Currently, approximately 123 million Americans are precluded from seeking any meaningful redress when they are permanently disabled or when they lose a loved one because of insurance company abuses that put profits ahead of patients.

Patients who purchase in the individual market can hold their plans accountable. Patients enrolled in plans that serve state or local employees can hold their plans accountable. But people insured through ERISA covered plans cannot. No industry deserves to be exempt from liability for their actions. Last week, William Welch, a reporter with USA Today, wrote an article that eloquently outlines this issue and how it affects families across the country. I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From USA Today, June 19–21, 1998]

1974 PENSIONS LAW SPARKS POLITICAL FIRE

(By William M. Welch)

WASHINGTON—When a doctor's mistake causes death or injury to the patient, a malpractice suit frequently follows. But what if fault lies with a managed care plan that denies treatment?

Chances of a successful suit for damages are slim, many Americans are finding, because a federal law makes it practically impossible to collect from an employer-provided health care plan.

As more people get into health maintenance organizations and other types of managed-care plans, that 25-year old law has become an election-year issue. Both parties propose regulating managed-care plans and making HMOs more accountable. Knocking down legal barriers to suits has emerged as the most contentious issue in the debate.

"The American public doesn't realize that the managed-care industry is the only industry in the country that has a congressionally mandated shield from liability," says Rep. Charlie Norwood, R–Ga, a dentist who is sponsoring one of several bills that would open the door to suits against health plans. "I want these accountants to think twice before they overrule the physician who says your child needs to go to the hospital."

Sen. Edward M. Kennedy, D-Mass., is sponsoring a similar version in the Senate and vows to attach it to spending bills or other must-pass legislation, perhaps as early as next week. "We will use whatever parliamentary means," he says, "because the American people expect it."

The bills would remove the barrier to suits by changing a federal law that says decisions made by employer-provided health plans in most cases cannot be the subject of suits in state courts. It also greatly limits potential awards in federal courts.

Norwood and Kennedy say the change would instantly make healthcare plan managers more accountable for their decisions about coverage and put authority for treatment decisions back in the hands of doctors.

Opponents say it would bring a flood of expensive lawsuits and lead to higher health insurance costs for average Americans. In the House of Representatives, Majority Leader Dick Armey, R-Texas, is a leading opponent. He says the change would "drive up premiums and drive down coverage by letting trial lawyers sue health plans for malpractice."

MY CHILD WAS CHEATED

Advocates of changing the federal law point to people like Bill Beaver of Pollock Pines, Calif. Beaver, 52, says his HMO misdiagnosed a brain tumor for two years, then told him his condition was inoperable and hopeless. He cashed in a retirement account to visit specialists at Johns Hopkins University Hospital in Baltimore. They began radiation treatment.

The tumor receded, and Beaver is alive three years later. The HMO refused to pay for the treatment at Johns Hopkins. He wanted to sue but was told federal law would make it impossible for him to win.

"When I needed support, my HMO gave me the door," Beaver says, "Unless HMOs are forced to give quality care, they will continue to deny costly treatments that can prolong or in my case even save a life."

Melody Louise Johnson of Norco, Calif., died at age 16 of cystic fibrosis, a genetic disease that attacks the lungs. Her mother, Terry Johnson, says the family's HMO delayed their request for referral to specialists and overruled the specialists once she saw them. The family has sued, and their HMO is citing the federal law in seeking dismissal.

"I don't want another parent to have to go through what I went through," she says. "It is devastating enough to have a child with this disease. . . . My child was cheated."

Privacy laws prevent health-care companies from commenting on individual cases, says Richard Smith, vice president of the American Association of Health Plans, whose members include the nation's major HMOs and managed-care plans.

"It is nearly impossible for the plans that are being accused to respond," Smith says. "I think that most people understand there's often more than one side to a story."

SUPPORT FOR CHANGE

Armed with stories like these, supporters of change have tapped strong chords of unhappiness with managed care among voters.

More than half the House, including members in both parties, has signed on as supporters of Norwood's bill. House and Senate Democratic leaders have introduced similar bills. President Clinton has called for passage of the legislation, and Congress is expected to act this year.

A poll released this week by the Pew Research Center found that 69% say the debate over HMO regulation is very important, and 60% said it was very important to them personally.

Senate GOP leaders and Armey in the House have blocked the bills, although some Republicans are calling for action. House Speaker Newt Gingrich, R-Ga., has named a task force of GOP lawmakers to come up with a more limited bill. But he rejected their initial attempt.

The issue is already being used by Democrats in House and Senate campaigns in states as diverse as North Carolina and Montana. Some GOP lawmakers worry that their leaders are handing a powerful issue to Democrats that threatens their 11-vote House majority.

"In my opinion this will be one of the top two or three issues in this fall campaign," says Rep. Greg Ganske, R-Iowa, a physician. "We will only see legislation passed when it becomes apparent to the Republican leadership that they could lose their majority based on this issue."

WHY SUITS ARE BARRED

The obstacle to suits is a 1974 law, the Employee Retirement Income Security Act, or ERISA. It was designed to protect pensions and simplify rules for employers by preempting state regulation of benefit plans and covering them with a single federal law.

Many experts say the law was never intended to shield health care decisions from malpractice suits, but court interpretations and the changing nature of the U.S. health care system have had that effect. Because of the law, managed-care plans can argue that they are extensions of employer-provided benefit plans and thus protected from state laws and regulations on health insurance.

The law also makes it relatively futile to sue in federal court. It prohibits plaintiffs from seeking punitive or compensatory damages. They can sue only to recover the cost of the procedure that was denied.

A decade ago, when HMOs and managed care covered relatively few Americans, denial of coverage meant an insurance company didn't pay a bill after treatment, and the law wasn't a big issue. But there has been a revolution in the way health care is provided, and now 138 million people, or three-quarters of Americans with private health insurance, rely on managed-care plans.

Those plans limit costs by tightly controlling access to many types of care. Decisions authorizing or denying care may be made by claims clerks and managers. For patients in those plans, denial of coverage can mean they don't see the doctor or specialist they want or don't get a medical procedure their doctor recommended. They may not even be informed of expensive treatments or clinical trials that hold promise for life-threatening illnesses such as cancer. A health plan can limit the options its doctors discuss with patients.

"In non-managed care, it's not an issue because the physician makes the decision and is accountable," says Dr. Thomas Reardon, president of the American Medical Association. "It's when you have a third party second-guessing the physician that this becomes a problem."

Jerry Cannon of Newcastle, Okla., learned about the limits on accountability when his wife, Phyllis, contracted leukemia. Her HMO denied the bone marrow transplant that her doctor recommended until it was too late. She died in 1992 at 46. When Cannon sued, a federal court ruled that the federal law prevented any award.

A three-judge panel of the 10th U.S. Circuit Court of Appeals upheld the ruling and said the law was clear, however wrong the result may seem. The Supreme Court refused the case.

"Although moved by the tragic circumstances of this case and the seemingly needless loss of life that resulted, we conclude the law gives us no choice," the appeals court said.

Cannon recalls taking the phone call and relaying word to his wife that the HMO wasn't going to provide the transplant she needed: "It just devastated her. She gave up after that. Oh, it was horrible. Once I got off the phone, I could see all hope leave her."

RADICAL PROPOSAL

Concerned about growing calls for change, employers, insurers and health care companies have begun an aggressive advertising and lobbying campaign against the bills. They contend that changing the law could open the door to expensive lawsuits against employers as well as health plans, drive up costs for consumers, and ultimately reduce the quality of health care.

"This kind of radical proposal to expand the current flawed medical liability system is not going to generate better medical care. It's going to generate lower quality medical care," says Smith, of the health plans association.

Kennedy and Norwood dispute the industry view and say their bills would not permit suits against employers unless they actually participated in the decisions leading to injury.

But industry groups say higher costs and the potential for suits could cause some big employers to stop offering health plans for their workers.

"There is no question, we believe, that this would cause a lot of employers to drop coverage. They just couldn't take the risk," says Dan Danner, chairman of the Health Benefits Coalition, made up of business groups organized to fight the bills.

His group has run ads in selected congressional districts attacking the bills as protecting "fat cat trial lawyers" rather than the sick. Danner says his group's spending is approaching $2 million, and individual companies are spending more.

Fighting for the bills are consumer groups and an unusual alliance of doctors and trial lawyers, who are traditionally adversaries in malpractice cases. The lawyers have let groups with more sympathetic public images, such as doctors, wage the visible campaign while the lawyers lobby aggressively inside Congress.

THERE ARE PROBLEMS

Industry officials say their decisions are protected because they are not, strictly speaking, medical decisions. Instead, they say the decisions revolve around what treatments are or are not covered by a plan. Doctors, who are liable to lawsuits for their decisions, dismiss that claim.

"That's absurd because they are making medical decisions," says the AMA's Reardon. "They're hiding behind the facade that it is not medical, that it's a coverage decision."

Some industry officials agree that some new regulation of managed care plans is needed, short of dropping the prohibition on suits.

"There are problems with managed care," says Danner. "Hopefully the debate will focus on the best way to solve those problems without significant unintended consequences."

Advocates from Norwood to the AMA say that accountability is at the heart of the issue. Making HMOs liable for their decisions would bring dramatic change for all patients, not just those inclined to sue, they say.

"If the plans are held as accountable as I am for the medical decision-making," Reardon says, "it will benefit the patient."

ABOUT THE MANAGED-CARE BILL

Here are key provisions in a managed-care regulation bill proposed by Rep. Charlie Norwood, R-Ga.

A Democrat-sponsored bill is similar.

Gag rule. Plans may not restrict discussions between their doctors and patients, including treatment options.

Legal liability. Eliminates federal law blocking individuals from suing managed-care companies for malpractice.

Emergency care. Requires plans to pay for emergency care in most cases without prior authorization.

Information. Plans must provide information about policies and appeals procedures in a uniform and understandable manner.

Access. Plans must have enough doctors or other providers to ensure that patients have timely access to benefits.

Choice. Patients can choose a doctor or other health provider within the plan.

Appeals. An independent outside third-party appeals board must be available to hear appeals of treatment denials.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting three treaties and sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE RECEIVED DURING ADJOURNMENT

ENROLLED BILL SIGNED

Under the authority of the order of the Senate of January 7, 1997, the Secretary of the Senate, on June 26, during the adjournment of the Senate, received a message from the House of Representatives announcing that the Speaker has signed the following enrolled bill:

H.R. 2646. An act to amend the Internal Revenue Code of 1986 to allow tax-free expenditures from education individual retirement accounts for elementary and secondary school expenses, to increase the maximum annual amount of contributions to such accounts, and for other purposes.

The enrolled bill was signed subsequently by the President pro tempore (Mr. THURMOND).

MEASURES PLACED ON THE CALENDAR

The following bill was read the second time and placed on the calendar:

S. 2236. An act to establish legal standards and procedures for product liability litigation, and for other purposes.

The following bill was discharged from the Committee on Armed Services, and ordered placed on the calendar:

S. 2052. An act to authorize appropriations for fiscal year 1999 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Retirement and Disability System, and for other purposes.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on June 26, 1998, he had presented to the President of the United States, the following enrolled bill:

S. 2069. An act to permit the mineral leasing of Indian land located within the Fort Berthold Indian Reservation in any case in which there is consent from a majority interest in the parcel of land under consideration for lease.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. GORTON, from the Committee on Appropriations, without amendment:

S. 2237: An original bill making appropriations for the Department of the Interior related agencies for the fiscal year ending September 30, 1999, and for other purposes (Rept. No. 105–227).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources:

Report to accompany the bill (S. 1683) to transfer administrative jurisdiction over part of the Lake Chelan National Recreation Area from the Secretary of the Interior to the Secretary of Agriculture for inclusion in the Wenatchee National Forest (Rept. No. 105–228).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources with an amendment in the nature of a substitute:

S. 638: A bill to provide for the expeditious completion of the acquisition of private mineral interests within the Mount St. Helens National Volcanic Monument mandated by the 1982 Act that established the Monument, and for other purposes (Rept. No. 105–229).

S. 1403: A bill to amend the National Historic Preservation Act for purposes of establishing a national historic lighthouse preservation program (Rept. No. 105–230).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, without amendment:

H.R. 1439: A bill to facilitate the sale of certain land in Tahoe National Forest, in the State of California to Placer County, California (Rept. No. 105–231).

H.R. 1779: A bill to make a minor adjustment in the exterior boundary of the Devils Backbone Wilderness in the Mark Twain National Forest, Missouri, to exclude a small parcel of land containing improvements (Rept. No. 105–232).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. GORTON:

S. 2237. An original bill making appropriations for the Department of the Interior related agencies for the fiscal year ending September 30, 1999, and for other purposes; from the Committee on Appropriations; placed on the calendar.

By Mr. LOTT (for Mr. MCCAIN (for himself and Mr. BRYAN)):

S. 2238. A bill to reform unfair and anticompetitive practices in the professional boxing industry; to the Committee on Commerce, Science, and Transportation.

By Mr. MURKOWSKI:

S. 2239. A bill to revise the boundary of Fort Matanzas Monument and for other purposes; to the Committee on Energy and Natural Resources.

S. 2240. A bill to establish the Adams National Historical Park in the Commonwealth of Massachusetts, and for other purposes; to the Committee on Energy and Natural Resources.

S. 2241. A bill to provide for the acquisition of lands formerly occupied by the Franklin D. Roosevelt family at Hyde Park, New York, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. DEWINE (for himself, Mr. GRASSLEY, Mr. KOHL, Mr. ABRAHAM, Mr. SESSIONS, and Mr. COVERDELL):

S. 2242. A bill to amend the Controlled Substances Import and Export Act to place limitations on controlled substances brought into the United States from Canada and Mexico; to the Committee on the Judiciary.

By Mrs. HUTCHISON:

S. 2243. A bill to authorize the repayment of amounts due under a water reclamation project contract for the Canadian River Project, Texas; to the Committee on Energy and Natural Resources.

By Mr. CHAFEE (for himself, Mr. KEMPTHORNE, Mr. BAUCUS, Mr. ALLARD, Mr. DASCHLE, Ms. COLLINS, Mr. GRAHAM, Mrs. FEINSTEIN, Mr. JEFFORDS, Mr. SMITH of Oregon, Mr. D'AMATO, Mr. FAIRCLOTH, Mr. BOND, Mr. DEWINE, and Mr. SMITH of New Hampshire):

S. 2244. A bill to amend the Fish and Wildlife Act of 1956 to promote volunteer programs and community partnerships for the benefit of national wildlife refuges, and for other purposes; to the Committee on Environment and Public Works.

By Mr. LAUTENBERG:

S. 2245. A bill to require employers to notify local emergency officials, under the appropriate circumstances, of workplace emergencies, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. MURKOWSKI:

S. 2246. A bill to amend the Act which establised the Frederick Law Olmsted National Historic Site, in the Commonwealth of Massachusetts, by modifying the boundary and for other purposes; to the Committee on Energy and Natural Resources.

S. 2247. A bill to permit the payment of medical expenses incurred by the U.S. Park Police in the performance of duty to be made directly by the National Park Service, and for other purposes; to the Committee on Energy and Natural Resources.

S. 2248. A bill to allow for waiver and indemnification in mutual law enforcement agreements between the National Park Service and a state or political subdivision, when required by state law, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. DASCHLE (for himself, Mrs. BOXER, Mr. KENNEDY, Mr. BINGAMAN, Ms. MOSELEY-BRAUN, Mr. ROCKEFELLER, Ms. MIKULSKI, Mr. REID, Mr. DURBIN, Mr. INOUYE, and Mr. TORRICELLI):

S. 2249. A bill to provide retirement security for all Americans; to the Committee on Finance.

By Mr. COVERDELL:

S. 2250. A bill to protect the rights of the States and the people from abuse by the Federal Government, to strengthen the partnership and the intergovernmental relationship between State and Federal Governments, to restrain Federal agencies from exceeding their authority, to enforce the Tenth Amendment of the United States Constitution, and for other purposes; to the Committee on the Judiciary.

By Mr. SANTORUM (for himself and Mr. SPECTER):

S. 2251. A bill to establish the Lackawanna Valley American Heritage Area; to the Committee on Energy and Natural Resources.

By Mr. ABRAHAM:

S. 2252. A bill to amend the Sherman Act and the Federal Trade Commission Act with respect to commerce with foreign nations; to the Committee on the Judiciary.

By Mr. CAMPBELL:

S. 2253. A bill to establish a matching grant program to help State and local jurisdictions purchase bullet resistant equipment for use by law enforcement departments; to the Committee on the Judiciary.

By Mr. REED:

S. 2254. A bill to provide for the establishment of an assistance program for health insurance consumers; to the Committee on Labor and Human Resources.

By Mr. FEINGOLD:

S. 2255. A bill to amend the Agricultural Market Transition Act to prohibit the Secretary of Agriculture from including any storage charges in the calculation of loan deficiency payments or loans made to producers for loan commodities; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. KERRY (for himself, Ms. SNOWE, Mr. HOLLINGS, and Mr. STEVENS):

S. 2256. A bill to provide an authorized strength for commissioned officers of the National Oceanic and Atmospheric Administration Corps, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Ms. LANDRIEU:

S. 2257. A bill to reauthorize the National Historic Preservation Act; to the Committee on Energy and Natural Resources.

By Mr. GLENN:

S. 2258. A bill to provide for review on case-by-case basis of the effectiveness of country sanctions mandated by statute; to the Committee on Foreign Relations.

By Mr. MURKOWSKI:

S. 2259. A bill to amend title XVIII of the Social Security Act to make certain changes related to payments for graduate medical education under the medicare program; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. WARNER (for himself, Mr. FORD, Mr. STEVENS, and Mr. MOYNIHAN):

S. Res. 255. A resolution to commend the Library of Congress for 200 years of outstanding service to Congress and the Nation, and to encourage activities to commemorate the bicentennial anniversary of the Library of Congress; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LOTT (for Mr. McCAIN (for himself and Mr. BRYAN)):

S. 2238. A bill to reform unfair and anticompetitive practices in the professional boxing industry; to the Committee on Commerce, Science, and Transportation.

MUHAMMAD ALI BOXING REFORM ACT

• Mr. McCAIN. Mr. President, I am pleased today to introduce a new bipartisan proposal to improve several aspects of the professional boxing industry in the U.S. I am joined by Senator BRYAN of Nevada in offering this legislation. He has been a great partner in my efforts to improve the safety and integrity of this major industry in the public interest.

This bill is intended to protect boxers from some of the most egregious and onerous business practices which they have been subjected to across the U.S. over the last several decades. It will also help State officials provide more effective public oversight of boxing events held in their jurisdiction, so that they can better prevent business practice abuses and unethical conduct. Furthermore, this legislation will improve integrity and open competition in professional boxing, by curbing its most restrictive and anti-competitive business practices. This is a limited and modest proposal in many respects, but it is the product of months of consultation with experienced State athletic officials and the most respected and knowledgeable members of the boxing industry.

Let me say a few words about the title of this legislation. I thought it would be a fitting tribute to name an important new reform measure on professional boxing after Muhammad Ali. Mr. Ali had perhaps the most impressive and exciting career in the history of professional boxing, and his many championships and achievements are legendary in the sport. Of course, Muhammad Ali's character, integrity, and personal charm appealed to tens of millions of Americans who did not even consider themselves to be boxing fans. His entire life has been a story of tremendous determination, accomplishment, and perseverance against daunting odds. I feel it most appropriate for the Congress to pass a measure to protect the interests of boxers, encourage fair competition, and vastly improve the overall integrity of the boxing industry, that is named in his honor. I want to thank Mr. Ali for his graciousness in letting this legislation be so named.

I have been deeply involved in exploring ways to improve the professional boxing industry for most of this decade. It is a complex task. Many of the steps that need to be taken to permanently end the disreputable and abusive business practices which have long marred the sport must be taken either by members of the industry, or by State officials. I firmly believe that State boxing commissioners and industry leaders must be the primary agents of reform in this sport. It is they who I have continually turned to for advice and recommendations on how the federal government might be of help, albeit in a limited and supportive role.

This proposal seeks to remedy many of the anti-competitive, oppressive, and unethical business practices which have cheated professional boxers and denied the public the benefits of a truly honest and legitimate sport. This reform measure is designed to prohibit the harmful and arbitrary business practices which have clearly hurt the welfare of professional boxers, without imposing unnecessary restrictions or federal intrusions into the sport. I want to emphasize that this proposal requires no State or federal funding; creates no federal bureaucracy; imposes no mandates on State commissions; and requires no new regulatory actions by State boxing commissioners. It is a modest and practical measure that will establish several "fair contracting" standards to protect professional boxers, and enhance important financial disclosures that are made to State commissions by business entities in the industry.

This bill also would establish certain federal standards with which boxing's "sanctioning organizations" must comply. These entities are notorious in the sport for engaging in arbitrary and manipulative activity with respect to their ratings of professional boxers. Though often foreign-based, these entities operate on an interstate basis in the U.S. with virtually no oversight at the State or federal level. For several decades they have been repeatedly and credibly criticized by boxers and sportswriters for business practices that are highly questionable. Their inconsistent and subjective methods of rating boxers, often in apparent collusion with powerful promoters in the sport, clearly has had negative consequences for boxers. A boxer's career can be effectively stalled or crippled by these entities' arbitrary decisions. This legislation would establish a series of prudent business conduct standards and financial disclosure requirements on sanctioning organizations to ensure they are subject to legitimate public oversight by State officials.

I want to note the vital need for these reforms at the federal level, Mr. President. Boxing in the U.S. is regulated by individual State boxing commissions, many of which are severely underfunded and understaffed. Many do not have more than a single employee. Though many State commissions have extremely knowledgeable and dedicated members, they do not have the capacity to prevent the indefensible interstate business abuses which this legislation address. Indeed, when a small group of states boxing commissions tries to crack down on the promoters and others who are engaged in fraudulent or unethical activity, State officials face the prospect of losing all their professional boxing events to another jurisdiction. Promoters and sanctioning bodies can avoid State reforms by seeking out new forums where public interest protections are fewer and weaker. That is not good for the boxers who bear all the risks of this punishing profession, and it not good for the ticket-buying fans, either.

Decades of scandals, controversy, and corruption have shown professional boxing to be an industry where public oversight is absolutely critical, Mr. President. Therefore, this limited series of national fair business standards and public disclosure requirements will be of tremendous service to the State officials and general public concerned about this industry. This bill will in no way interfere with any legitimate, good faith business practices in the sport.

Senator BRYAN and the many industry members that I have worked with over the past five months to develop this bill have come up with a solid, practical, and no-cost way to protect the interests of the athletes and the public in the boxing industry. The sole objectives of this bill are to ensure that boxers are not cheated of their fair earnings in the sport; that State officials are given better information with which to supervise major boxing events, and take corrective actions when necessary; and to encourage integrity and honest business practices by the business interests which dominate professional boxing. I have attached a one page summary of this proposal, and ask unanimous consent to print the bill and summary in the Record. I look forward to comments on this proposal by members of the industry and State commissioners across the U.S., and ask my colleagues for their support.

There being no objection, the items were ordered to be printed in the Record, as follows:

S. 2238

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Muhammad Ali Boxing Reform Act".

SEC. 2. FINDINGS.

The Congress makes the following findings:

(1) Professional boxing differs from other major, interstate professional sports industries in the United States in that it operates without any private sector association, league, or centralized industry organization to establish uniform and appropriate business practices and ethical standards. This has led to repeated occurrences of disreputable and coercive business practices in the boxing industry, to the detriment of professional boxers nationwide.

(2) Professional boxers are vulnerable to exploitative business practices engaged in by certain promoters and sanctioning bodies which dominate the sport. Boxers do not have an established representative group to advocate for their interests and rights in the industry.

(3) State officials are the proper regulators of professional boxing events, and must protect the welfare of professional boxers and serve the public interest by closely supervising boxing activity in their jurisdiction. State boxing commissions do not currently receive adequate information to determine whether boxers competing in their jurisdiction are being subjected to contract terms and business practices which may be violative of State regulations, or are onerous and confiscatory.

(4) Promoters who engage in illegal, coercive, or unethical business practices can take advantage of the lack of equitable business standards in the sport by holding boxing events in states with weaker regulatory oversight.

(5) The sanctioning organizations which have proliferated in the boxing industry have not established credible and objective criteria to rate professional boxers, and operate with virtually no industry or public oversight. Their ratings are susceptible to manipulation, have deprived boxers of fair opportunities for advancement, and have undermined public confidence in the integrity of the sport.

(6) Open competition in the professional boxing industry has been significantly interfered with by restrictive and anti-competitive business practices of certain promoters and sanctioning bodies, to the detriment of the athletes and the ticket-buying public. Common practices of promoters and sanctioning organizations represent restraints of interstate trade in the United States.

(7) It is necessary and appropriate to establish national contracting reforms to protect professional boxers and prevent exploitative business practices, and to require enhanced financial disclosures to State athletic commissions to improve the public oversight of the sport.

(8) Whereas the Congress seeks to improve the integrity and ensure fair practices of the professional boxing industry on a nationwide basis, it deems it appropriate to name this reform in honor of Muhammad Ali, whose career achievements and personal contributions to the sport, and positive impact on our society, are unsurpassed in the history of boxing.

SEC. 3. PURPOSES.

The purposes of this Act are—

(1) to protect the rights and welfare of professional boxers by preventing certain exploitative, oppressive, and unethical business practices they may be subject to on an interstate basis;

(2) to assist State boxing commissions in their efforts to provide more effective public oversight of the sport; and

(3) to promoting honorable competition in professional boxing and enhance the overall integrity of the industry.

SEC. 4. PROTECTING BOXERS FROM EXPLOITATION.

The Professional Boxing Safety Act of 1996 (15 U.S.C. 6301 et seq.) is amended by—

(1) redesignating section 15 as 16; and

(2) inserting after section 14 the following:

"SEC. 15. PROTECTION FROM EXPLOITATION.

"(a) Contract Requirements.—

"(1) In general.—Any contract between a boxer and a promoter or manager shall—

"(A) be reasonable;

"(B) include mutual obligations between the parties; and

"(C) specify a minimum number of professional boxing matches per year for the boxer.

"(2) 1-year limit on coercive promotional rights.—The period of time for which promotional rights to promote a boxer may be granted under a contract between the boxer and a promoter, or between promoters with respect to a boxer, may not be greater than 12 months in length if the boxer is required to grant such rights, or a boxer's promoter is required to grant such rights with respect to a boxer, as a condition precedent to the boxer's participation in a professional boxing match. Nothing in this paragraph shall be construed as pre-empting any State statute or common law rule against interference with contract.

"(3) Promotional rights under mandatory bout contracts.—Neither a promoter nor a sanctioning organization may require a boxer, in a contract arising from a professional boxing match that is a mandatory bout under the rules of the sanctioning organization, to grant promotional rights to any promoter for a future professional boxing match.

"(b) Employment As Condition of Promoting, Etc.—No person who is a licensee, manager, matchmaker, or promoter may require a boxer to employ, retain, or provide compensation to any individual or business enterprise (whether operating in corporate form or not) recommended or designated by that person as a condition of—

"(1) such person's working with the boxer as a licensee, manager, matchmaker, or promoter;

"(2) such person's arranging for the boxer to participate in a professional boxing match; or

"(3) such boxer's participation in a professional boxing match.

"(c) Enforcement.—

"(1) Promotion agreement.—A provision in a contract between a promoter and a boxer, or between promoters with respect to a boxer, that violates subsection (a) is contrary to public policy and unenforceable at law.

"(2) Employment agreement.—In any action brought against a boxer to recover money (whether as damages or as money owed) for acting as a licensee, manager, matchmaker, or promoter for the boxer, the court, arbitrator, or administrative body before which the action is brought may deny recovery in whole or in part under the contract as contrary to public policy if the employment, retention, or compensation that is the subject of the action was obtained in violation of subsection (b).".

(b) Conflicts of Interest.—Section 9 of such Act (15 U.S.C. 6308) is amended by—

(1) striking "No member" and inserting "(a) Regulatory Personnel.—No member"; and

(2) adding at the end thereof the following:

"(b) Firewall Between Promoters and Managers.—

"(1) In general.—It is unlawful for—

"(A) a promoter to have a direct or indirect financial interest in the management of a boxer; or

"(B) a manager to have a direct or indirect financial interest in the promotion of a boxer.

"(2) Exception for self-promotion and management.—Paragraph (1) does not prohibit a boxer from acting as his own promoter or manager.".

SEC. 5. SANCTIONING ORGANIZATION INTEGRITY REFORMS.

(a) In General.—The Professional Boxing Safety Act of 1996 (15 U.S.C. 6301 et seq.), as amended by section 4 of this Act, is amended by—

(1) redesignating section 16, as redesignated by section 4 of this Act, as section 17; and

(2) by inserting after section 15 the following:

"SEC. 16. SANCTIONING ORGANIZATIONS.

"(a) Objective Criteria.—A sanctioning organization that sanctions professional boxing matches on an interstate basis shall establish objective and consistent written criteria for the ratings of professional boxers.

"(b) Appeals Process.—A sanctioning organization shall establish and publish an appeals procedure that affords a boxer rated by that organization a reasonable opportunity to submit information to contest its rating of the boxer. Under the procedure, the sanctioning organization shall, within 14 days after receiving a request from a boxer questioning that organization's rating of the boxer—

"(1) provide to the boxer a written explanation of the organization's criteria and its rating of the boxer; and

"(2) submit a copy of its explanation to the President of the Association of Boxing Commissions of the United States.

"(c) Notification of Change in Rating.—If a sanctioning organization changes its rating of a boxer who is included, before the change, in the top 10 boxers rated by that organization, then it shall provide a written explanation of the reasons for its change in that boxer's rating to the boxer within 14 days after changing the boxer's rating.

"(d) Public Disclosure.—

"(1) FTC filing.—Not later than January 31st of each year, a sanctioning organization shall submit to the Federal Trade Commission—

"(A) a complete description of the organization's ratings criteria, policies, and general sanctioning fee schedule;

"(B) the bylaws of the organization;

"(C) the appeals procedure of the organization; and

"(D) a list and business address of the organization's officials who vote on the ratings of boxers.

"(2) FORMAT; UPDATES.—A sanctioning organization shall—

"(A) provide the information required under paragraph (1) in writing, and, for any document greater than 2 pages in length, also in electronic form; and

"(B) promptly notify the Federal Trade Commission of any material change in the information submitted.

"(3) FTC TO MAKE INFORMATION AVAILABLE TO PUBLIC.—The Federal Trade Commission shall make information received under this subsection available to the public. The Commission may assess sanctioning organizations a fee to offset the costs it incurs in processing the information and making it available to the public.

"(4) INTERNET ALTERNATIVE.—In lieu of submitting the information required by paragraph (1) to the Federal Trade Commission, a sanctioning organization may provide the information to the public by maintaining a website on the Internet that—

"(A) is readily accessible by the general public using generally available search engines and does not require a password or payment of a fee for full access to all the information;

"(B) contains all the information required to be submitted to the Federal Trade Commission by paragraph (1) in a easy to search and use format; and

"(C) is updated whenever there is a material change in the information.".

(b) CONFLICT OF INTEREST.—Section 9 of such Act (15 U.S.C. 6308), as amended by section 4 of this Act, is amended by adding at the end thereof the following:

"(c) SANCTIONING ORGANIZATIONS.—

"(1) PROHIBITION ON RECEIPTS.—Except as provided in paragraph (2), no officer or employee of a sanctioning organization may receive any compensation, gift, or benefit directly or indirectly from a promoter, boxer, or manager.

"(2) EXCEPTIONS.—Paragraph (1) does not apply to—

"(A) the receipt of payment by a promoter, boxer, or manager of a sanctioning organization's published fee for sanctioning a professional boxing match or reasonable expenses in connection therewith if the payment is reported to the responsible boxing commission under section 17; or

"(B) the receipt of a gift or benefit of *de minimis* value.".

(c) SANCTIONING ORGANIZATION DEFINED.—Section 2 of the Professional Boxing Safety Act of 1996 (15 U.S.C. 6301) is amended by adding at the end thereof the following:

"(11) SANCTIONING ORGANIZATION.—The term 'sanctioning organization' means an organization that sanctions professional boxing matches in the United States—

"(A) between boxers who are residents of different States; or

"(B) that are advertised, otherwise promoted, or broadcast (including closed circuit television) in interstate commerce.".

SEC. 6. PUBLIC INTEREST DISCLOSURES TO STATE BOXING COMMISSIONS.

(a) IN GENERAL.—The Professional Boxing Safety Act of 1996 (15 U.S.C. 6301 et seq.), as amended by section 5 of this Act, is amended by—

(1) redesignating section 17, as redesignated by section 5 of this Act, as section 18; and

(2) by inserting after section 16 the following:

"SEC. 17. REQUIRED DISCLOSURES TO STATE BOXING COMMISSIONS.

"(a) SANCTIONING ORGANIZATIONS.—Before sanctioning a professional boxing match in a State, a sanctioning organization shall provide to the boxing commission of, or responsible for sanctioning matches in, that State a written statement of—

"(1) all charges, fees, and costs the organization will assess any boxer participating in that match;

"(2) all payments, benefits, complimentary benefits, and fees the organization will receive for its affiliation with the event, from the promoter, host of the event, and all other sources; and

"(3) such additional information as the commission may require.

"(b) PROMOTERS.—Before a professional boxing match organized, promoted, or produced by a promoter is held in a State, the promoter shall provide a statement in writing to the boxing commission of, or responsible for sanctioning matches in, that State—

"(1) a copy of any agreement in writing to which the promoter is a party with any boxer participating in the match;

"(2) a statement made under penalty of perjury that there are no other agreements, written or oral, between the promoter and the boxer with respect to that match; and

"(3) a statement in writing of—

"(A) all fees, charges, and expenses that will be assessed by or through the promoter on the boxer pertaining to the event, including any portion of the boxer's purse that the promoter will receive, and training expenses; and

"(B) all payments, gift, or benefits the promoter is providing to any sanctioning organization affiliated with the event.

"(c) STATE BOXING COMMISSION TO ESTABLISH REQUIREMENTS.—The boxing commission of each State, or the responsible boxing commission for a State that has no boxing commission, shall determine how far in advance of a professional boxing match the documents described in subsections (a) and (b) shall be provided to the boxing commission, and may prescribe such additional requirements relative to the required submission as may be necessary.

"(d) INFORMATION TO BE AVAILABLE TO STATE ATTORNEY GENERAL.—A State boxing commission shall make information received under this section available to the chief law enforcement officer of the State in which the match is to be held upon request.

"(e) EXCEPTION.—The requirements of this section do not apply in connection with a professional boxing match scheduled to last less than 10 rounds.".

SEC. 7. ENFORCEMENT.

Section 10 of the Professional Boxing Safety Act of 1996 (15 U.S.C. 6309) is amended by—

(1) inserting a comma and "other than section 9(b), 15, 16, or 17," after "this Act" in subsection (b)(1);

(2) redesignating paragraphs (2) and (3) of subsection (b) as paragraphs (3) and (4), respectively, and inserting after paragraph (1) the following:

"(2) VIOLATION OF ANTI-EXPLOITATION, SANCTIONING ORGANIZATION, OR DISCLOSURE PROVISIONS.—Any person who knowing violates any provision of section 9(b), 15, 16, or 17 of this Act shall, upon conviction, be imprisoned for not more than 1 year or fined not more than—

"(A) $100,000; and

"(B) if the violations occur in connection with a professional boxing match the gross revenues for which exceed $2,000,000, such additional amount as the court finds appropriate,

or both."; and

(3) adding at the end thereof the following:

"(c) ACTIONS BY STATES.—Whenever the chief law enforcement officer of any State has reason to believe that a person or organization is engaging in practices which violate any requirement of this Act, the State, as *parens patriae*, may bring a civil action on behalf of its residents in an appropriate district court of the United States—

"(1) to enjoin the holding of any professional boxing match which the practice involves;

"(2) to enforce compliance with this Act;

"(3) to obtain the fines provided under subsection (b) or appropriate restitution; or

"(4) to obtain such other relief as the court may deem appropriate.

"(d) PRIVATE RIGHT OF ACTION.—Any boxer who suffers economic injury as a result of a violation of any provision of this Act may bring an action in the appropriate Federal or State court and recover the damages suffered, court costs, and reasonable attorneys fees and expenses.".

S. 2238—SUMMARY

PROTECTING BOXERS FROM EXPLOITATION

(a) Declares that all contracts between boxers and promoters must be based on a mutuality of obligation, be reasonable in length and terms, and contain terms specifying a minimum number of bouts per year for the boxer.

(b) Limits certain "option" contracts between boxers and promoters to one year. (Those where a boxer was required to provide options to a promoter, as a condition of getting a particular fight.)

(c) Prohibits promoters and sanctioning bodies from requiring "options" from a boxer who is considered by a sanctioning body to be the "mandatory challenger."

(d) No promoter can require a boxer to hire an associate, relative, or any other individual, as the boxer's manager, or in any other employment capacity.

(e) Prohibits conflicts of interest between managers of a boxer, and the promoter. No promoter can have a financial interest in the management of a boxer, or vice versa.

SANCTIONING ORGANIZATION INTEGRITY REFORMS

(a) Sanctioning organizations conducting business in the U.S. on an interstate basis must establish objective and consistent criteria for the ratings of professional boxers.

(b) On an annual basis, sanctioning organizations must provide the following information to the Federal Trade Commission (or make it publicly available on the "internet"): (a) their bylaws, ratings criteria, and (b) roster of officials who vote on their ratings decisions.

(c) When sanctioning organizations change their rating of a U.S. boxer, the organization must inform the boxer in writing of the reason for the change.

(d) Each sanctioning organization must establish an appeals process for boxers in the U.S. to contest their ranking in writing, and receive a written response from the organization explaining its decision. Copies of their decision shall be provided to the ABC.

(e) No sanctioning organization can receive payments or compensation from a promoter, boxer, or manager, except for the established sanctioning fee and expenses they receive for sanctioning a bout, and which are reported to the relevant State commission.

PUBLIC INTEREST DISCLOSURES TO STATE BOXING COMMISSIONS

(a) Sanctioning organizations must disclose to a state boxing commission, in advance of the event, all charges and fees they will impose on the boxer(s) competing in the event.

(b) Sanctioning bodies must also disclose all payments, fees, and complimentary services they will receive from promoters, the host of the boxing event, and any other sources affiliated with the event. Services or benefits of minor value are excluded.

(c) The promoter and matchmakers affiliated with each event shall file a complete and accurate copy of all contracts they have with the boxer pertaining to the event, with the boxing commission prior to the event, and disclose in writing all fees, charges, and costs they will assess on the boxer(s). The promoter shall also disclose all payments and benefits made to sanctioning organization affiliated with the event. Promoters of "club" boxing events—those bouts of less than 10 rounds—are excluded from these reporting requirements.

(d) Require that disclosures made under this Act to a State Commission shall be provided upon request to the State Attorney General's Office, upon request.

ENFORCEMENT

Civil and Criminal penalties similar to new federal boxing law, but fines are higher to deter major promoters from violations. Also, allow enforcement by State Attorney Generals.

By Mr. MURKOWSKI:

S. 2239. A bill to revise the boundary of Fort Matanzas Mounment and for other purposes; to the Committee on Energy and Natural Resources.

FORT MATANZAS NATIONAL MONUMENT LEGISLATION

• Mr. MURKOWSKI. Mr. President, on behalf of the Administration, today I introduce legislation to revise the boundary of Fort Matanzas National Monument, and for other purposes. I ask unanimous consent that the Administration's letter of transmittal and a section-by-section analysis of the legislation be printed in the RECORD for the information of my colleagues.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF INTERIOR,
OFFICE OF THE SECRETARY,
Washington, DC, February 23, 1998.

Hon. ALBERT GORE, Jr.,
President of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: Enclosed is a draft of a bill, "to revise the boundary of Fort Matanzas National Monument, and for other purposes." Also enclosed is a section-by-section analysis of the bill. We recommend that the bill be introduced, referred to the appropriate committee for consideration, and enacted.

The enclosed bill would revise the boundary of Fort Matanzas National Monument in Florida to clarify long-standing boundary and acquisition issues involving a total of approximately 70 acres. The first issue involves two tracts of land, 01-102 and 01-103 which are currently adjacent to the park's boundary. These two tracts were donated to the United States in 1963 and 1965. At the time of the donations, no attempt was made to seek authority to include these tracts within the park's boundary.

The second issue involves Tract 01-107, which was originally intended to be donated as part of Tract 01-102 on January 1, 1965. However, a regional Solicitor's opinion of September 14, 1984, indicated that an error in the legal description omitted this tract and the United States does not hold title to this parcel.

The purpose of this bill is to include the three tracts within the boundary of Fort Matanzas National Monument. This would ensure that the National Park Service could legally protect the resources on the tracts and ensure visitor safety.

The Office of Management and Budget has advised that there is no objection to the enactment of the enclosed draft legislation from the standpoint of the Administration's program.

Sincerely,

DONALD BARRY,
Acting Assistant Secretary for
Fish and Wildlife and Parks.

SECTION-BY-SECTION ANALYSIS

Section 1 of this legislation revises the boundary of Fort Matanzas National Monument in Florida by adding three small tracts of land totaling approximately 70 acres. The boundary adjustments are depicted on the map entitled "Fort Matanzas National Monument", numbered 347/80004, and dated February 1991.

Section 2 authorizes the Secretary to acquire the lands by donation, purchase, transfer or exchange.

Section 3 states that the lands will be administered as part of Fort Matanzas National Monument and will be subject to the laws that are applicable to the monument.•

By Mr. MURKOWSKI:

S. 2240. A bill to establish the Adams National Historical Park in the Commonwealth of Massachusetts, and for other purposes; to the Committee on Energy and Natural Resources.

ADAMS NATIONAL PARK LEGISLATION

• Mr. MURKOWSKI. Mr. President, on behalf of the Administration, today I introduce legislation to establish the Adams National Historical Park in the Commonwealth of Massachusetts and for other purposes.

I ask unanimous consent that the Administration's letter of transmittal and a section-by-section analysis of the legislation be printed in the RECORD for the information of my colleagues.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, DC. February 23, 1998.

Hon. ALBERT GORE, Jr.
President of the Senate, Washington, DC.

DEAR MR. PRESIDENT: Enclosed is a draft bill "To establish the Adams National Historical Park in the Commonwealth of Massachusetts and for other purposes."

We recommend the bill be introduced, referred to the appropriate committee, and enacted.

The legislation would establish the Adams National Historical Park in Quincy, Massachusetts. Currently the proposed Adams National Historical Park is designated as a National Historic Site. It was established by Secretarial Order in 1935 based on the Historic Sites Act. It was expanded in 1952 again by Secretarial Order. In 1972, 1978 and 1980, Congress added more acreage to the site and authorized the addition of two separate properties to the historic site. The continued expansion of the historic site with the addition of separate properties all focused on the life and history of John Adams, Abigail Adams, John Quincy Adams, and their descendants, qualifies the existing National Park System unit for designation as a national historical park.

The legislation would authorize the acquisition of ten additional acres for development of visitor and administrative facilities to protect the historical setting and integrity of the historical park. The legislation directs that the historical park be managed in accord with the laws applicable to units of the National Park System, in particular the National Park Service Organic Act of 1916 and the Historic Sites Act of 1935. The legislation also provides specific cooperative agreement authority to the historical park to work with outside entities and individuals on the preservation, development, interpretation, and use of the site.

The redesignation of Adams National Historic Site to Adams National Historical Park is the important recognition that the collection of sites in Quincy, Massachusetts, related to the lives of John Adams, 2nd President of the United States, his wife Abigail and their descendants, including their son, John Quincy Adams, 6th President of the United States, properly deserves. The authorities for land acquisition and cooperative agreements are critical for the successful protection, development, interpretation and use of the Adams National Historical Park.

The Office of Management and Budget has advised that there is no objection to the enactment of the enclosed draft legislation from the standpoint of the Administration's program.

Sincerely,

DONALD BARRY,
Acting Assistant Secretary for
Fish and Wildlife and Parks.

SECTION-BY-SECTION ANALYSIS—ADAMS NATIONAL HISTORICAL PARK

Section 1.—Provides a short title for the Act—"Adams National Historical Park Act of 1998."

Section 2. (a) Findings.—Provides the references including Secretarial Orders and Public Laws which created the Adams National Historic Site in Quincy, Massachusetts and expanded it from a single site to three separate sites in Quincy plus additional acreage at the original site. No single piece of legislation or Executive Order provides overarching authority or guidance for managing the multiple sites.

Section 2. (b) Purpose.—States the purpose of the legislation, to establish the "Adams National Historical Park."

Section 3.—Provides definitions.

Section 4.—Establishes the boundary of the historical park which is made up of the properties currently owned by the National Park Service and managed as part of the Adams National Historic Site or property identified in Executive Orders or Public Laws related to Adams National Historic Site that are to be acquired or conveyed to the National Park Service for inclusion in the historic site but that have not yet been acquired or conveyed. Also provides for the acquisition of up to ten additional acres for the development of administrative and visitor services.

Section 5.—Provides the authorities under which the historical park is to be administered, including cooperative agreement authority.

Section 6.—Authorities that funds necessary for the development, operation, and maintenance of the park be provided.•

By Mr. MURKOWSKI:

S. 2241. A bill to provide for the acquisition of lands formerly occupied by the Franklin D. Roosevelt family at Hyde Park, New York, and for other purposes; to the Committee on Energy and Natural Resources.

FRANKLIN D. ROOSEVELT FAMILY HISTORIC SITE LEGISLATION

• Mr. MURKOWSKI. Mr. President, on behalf of the Administration, today I introduce legislation to provide for the acquisition of lands formerly occupied by the Franklin D. Roosevelt family at Hyde Park, New York, and for other purposes.

I ask unanimous consent that the Administration's letter of transmittal and a section-by-section analysis of the legislation be printed in the RECORD for the information of my colleagues.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, DC, May 26, 1998

Hon. ALBERT GORE Jr.,
President of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: Enclosed is a draft bill "To provide for the acquisition of lands formerly occupied by the Franklin D. Roosevelt family at Hyde Park, New York, and for other purposes."

We recommend the bill be introduced, referred to the appropriate committee, and enacted.

The purpose of the legislation is to allow the Secretary of the Interior to acquire lands and interests therein that were owned by Franklin Delano Roosevelt or his family at the time of his death, as depicted on the map referenced in the bill, by means of purchase using appropriated or donated funds, by donation, or exchange. The lands would be added to and managed as part of the Home of Franklin D. Roosevelt National Historic Site or the Eleanor Roosevelt National Historic Site.

This would expand the current acquisition authority at the Home of Franklin D. Roosevelt National Historic Site. Currently the Secretary's authority to acquire land owned by FDR or his family at the time of his death is by means of donation only. The National Park Service's priority at the site would continue to be land acquisition by donation. With regard to the property where Roosevelt's Top Cottage is situated, the National Park Service would acquire such property by donation only. This bill, upon enactment, would allow the use of appropriated funds for purchase of lands where donation is infeasible.

The Office of Management and Budget has advised that there is no objection to the enactment of the enclosed draft legislation from the standpoint of the Administration's program.

Sincerely,

DONALD BARRY,
Acting Assistant Secretary for Fish and Wildlife and Parks.

SECTION-BY-SECTION ANALYSIS—FRANKLIN DELANO ROOSEVELT NATIONAL HISTORIC SITE/ELEANOR ROOSEVELT NATIONAL HISTORIC SITE

Section 1. Provides the Secretary of the Interior authority to acquire lands and/or interests in lands owned by Franklin Delano Roosevelt or his family at the time of his death. The property may be acquired by purchase using donated or appropriated funds, by donation or otherwise. This revises current authority that only allows acquisition by donation.

Section 2. States that any land acquired will be administered as part of the Home of Franklin D. Roosevelt National Historic Site or as part of the Eleanor Roosevelt National Historic Site, as appropriate.

Section 3. Provides authority for funds to be appropriated to carry out the Act.•

By Mr. DEWINE (for himself, Mr. GRASSLEY, Mr. KOHL, Mr. ABRAHAM, Mr. SESSIONS, and Mr. COVERDELL):

S. 2242. A bill to amend the Controlled Substances Import and Export Act to place limitations on controlled substances brought into the United States from Canada and Mexico; to the Committee on the Judiciary.

CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT AMENDMENTS

Mr. DEWINE. One of the key priorities for America today is protecting our young people from drugs. We need to stay on the lookout for new and different ways that we can make even a small difference in this important fight. This morning, along with Senators, GRASSLEY, KOHL, ABRAHAM, SESSIONS, and COVERDELL, I am introducing a bill that is neither monumental in approach nor grandiose in scope—but it will break one of the links in the chain of the drug trade.

There is now a loophole in Federal law that permits large quantities of a certain class of drugs known as controlled substances to pour into our country at an alarming rate. Included among these are some dangerous hallucinogenics and so-called date-rape drugs.

The reason for this current loophole is that, under present law, an individual is permitted to transport a 90-day supply of a controlled substance into the United States. By "controlled substance" we mean a substance that is either banned or regulated by the Drug Enforcement Agency. This "personal use exception," as it is called, is well intentioned. It was created to allow Americans who become ill or injured abroad to carry their necessary medication back to the United States. I want to emphasize that this bill would by no means end that very legitimate practice. That is not our intention at all. However, this legislation would stop the blatant exploitation of that exemption which is allowing some drug traffickers to operate freely in the United States.

Let me explain. Specifically, these narcotics are being legally purchased in another country without any sort of documentation of medical need, then brought across our border, and then illegally sold on our streets in this country. By closing this loophole, we will empower our law enforcement to stop what amounts to nothing more than another form of drug trafficking in the United States.

The remedy we seek today is both effective and sensible. It would limit the amount of these controlled substances that can be carried back to the United States by Americans to 50 doses. According to the DEA, that is about a 2-week supply, enough time to go get a new prescription before running out of that medication.

I would also like to note some things that this legislation will not do, so we can explain it very clearly to Members. It will not change the law with respect to noncontrolled prescription drugs, drugs such as insulin or Premarin, and it would not affect the ability of people to obtain drugs to treat heart disease or cancer or AIDS or other serious illnesses, because these medication are not on the Controlled Substances List at all. I also indicate to my colleagues that there is support for this among the Office of National Drug Control Policy, the Drug Enforcement Administration, U.S. Customs—they all support this approach. They recognize the problem and would like to see it resolved.

Let me again emphasize, this legislation is not complex. All we are really doing is closing a loophole to stop this illegal trafficking of controlled substances in the United States. If we are really going to make drug interdiction a priority, then it makes a great deal of sense to take this relatively small but effective and meaningful step. We need to take this step today.

Before closing, I would like to compliment my friend and colleague from the State of Ohio, Congressman STEVE CHABOT, from Cincinnati, who has shown great leadership on this issue, and many issues. It was through his active and tireless efforts in raising the profile on this issue that I was first made aware of the problem. I look forward to work with him and my other colleagues on this very important new initiative. It is my hope the Senate will act quickly and decisively to approve this very commonsense piece of legislation.

Mr. President, in conclusion, I ask unanimous consent a recent article that appeared in USA Today entitled "Medications from Mexico" that explains this and illustrates the problem be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

MEDICATIONS FROM MEXICO

(By Tim Friend)

Millions of tablets of prescription sedatives, amphetamines and narcotic painkillers are being brought into the U.S. from

Mexico, and most appear destined for recreational use or sale on the street, a new study shows.

The 12-month study of U.S. Customs declaration forms suggests serious abuse of federal laws that permit individuals to buy prescription drugs in Mexico and bring them back for personal use, the authors say.

It also suggests U.S. Customs enforcement of controlled substances at the border at Laredo, Texas, is limited.

"It is remarkable what is being brought back across the border," says Marvin Shepherd of the College of Pharmacy at the University of Texas at Austin. "It's a prescription mill down there."

Shepherd set out to determine how many prescription drugs elderly people are buying in Mexico because of the cheaper prices. The study was funded by the National Association of Chain Drug Stores and the Texas Pharmacy Association. They were concerned that unapproved drugs were entering the U.S. and that many elderly were skirting safeguards provided by U.S. pharmacies.

Shepherd says he and the study sponsors were shocked to learn that drugs declared by people over age 50 accounted for only 9.4% of 5,624 claims. The median age of men purchasing drugs was 24 and of women it was 35.

In some cases, individuals declared as many as 25 bottles of Valium containing 90 pills each and 29 boxes of Percodan containing 10 pills each.

Most people declaring the drugs obtained prescriptions in Nuevo Laredo from Mexican doctors' offices, usually for $20 to $30, without seeing a doctor.

Federal law permits prescriptions written and filled in Mexico to pass through customs, says Judy Turner, U.S. Customs spokeswoman. However, the policy is to allow only a 90-day supply of drugs.

"They do see a huge amount of Valium in Laredo," says Turner. "But it's possible people are declaring large amounts of drugs and that agents are not permitting them to keep more than the limit."

Customs records show agents at Laredo seized 330,089 tablets of Valium and 14 other drugs in 1995. But Shepherd estimates from June 1994 to July 1995, 8.7 million tablets of the top 15 drugs were brought into the U.S. from Nuevo Laredo.

Kristin McKeithan, who collected data for the study, says agents sometimes enforce limits on the drugs and at other times allow individuals to bring in large quantities.

"When a person came through it was a really random process," McKeithan says.

Leticia Moran, port director for U.S. Customs at Laredo, says the situation there is complicated by large numbers of people crossing the border.

"There is no way my officers would allow someone to bring in 25 boxes of Valium," Moran says. But on Saturdays, 25,000 people visit Nuevo Laredo. It is impossible for customs to check everyone, she says. People will get through with more drugs than are allowed.

Ronald Ziegler, president of the chain drug association, says the amounts of drugs many individuals were declaring far exceed amounts considered medically appropriate.

"The study cries out with the potential for abuse in almost every section," says Ziegler. "You can imagine that if you take this from one border and expand it to other border crossings across the state, it's quite profound. Within this system, something has gone haywire."

By Mr. CHAFEE (for himself, Mr. KEMPTHORNE, Mr. BAUCUS, Mr. ALLARD, Mr. DASCHLE, Ms. COLLINS, Mr. GRAHAM, Mrs. FEINSTEIN, Mr. JEFFORDS, Mr. SMITH of Oregon, Mr. D'AMATO, Mr. FAIRCLOTH, Mr. BOND, Mr. DEWINE, and Mr. SMITH of New Hampshire):

S. 2244. A bill to amend the Fish and Wildlife Act of 1956 to promote volunteer programs and community partnerships for the benefit of national wildlife refugees, and for other purposes; to the Committee on Environment and Public Works.

NATIONAL WILDLIFE REFUGE SYSTEMS VOLUNTEER AND PARTNERSHIP ENHANCEMENT ACT

● Mr. CHAFEE. Mr. President, I am extremely pleased to introduce a bill that has tremendous potential to improve management and operations of the National Wildlife Refuge System. This bill—the National Wildlife Refuge System Volunteer and Partnership Enhancement Act—will supplement scarce Federal dollars with outside services and donations by local groups and individuals. I am joined by 13 of our colleagues on both sides of the aisle, including Senators KEMPTHORNE, BAUCUS, ALLARD, DASCHLE, COLLINS, GRAHAM, FEINSTEIN, JEFFORDS, GORDON SMITH, D'AMATO, DEWINE, BOND, and FAIRCLOTH.

The National Wildlife Refuge System consists of 93 million acres in 513 units. This is the land set aside by the Federal Government to protect fish and wildlife. The Refuge System historically has received less funding acre-for acre than its larger and older sibling, the National Park System. Despite the recent passage of the National Wildlife Refuge System Improvement Act of 1997, the refuge system remains poorly funded, and has a significant backlog of construction and maintenance projects totaling approximately $1 billion.

As budgets continue to shrink, the Federal Government must look at alternative sources of funding and assistance. Volunteer services have long helped the Refuge System, and are becoming increasingly important as a means of supplement decreasing Federal dollars. Indeed, the very first refuge on Pelican Island, Florida, was staffed by volunteer wardens. Since 1982, when the Fish and Wildlife Service [FWS] established a formal volunteer program, the program has grown from 4,251 volunteers donating 128,440 hours of time to 25,000 volunteers donating more than one million hours in 1996. This 1996 figure represents almost 20 percent of all work done by the FWS on the Refuge System, amounting to about $11 million worth of services, compared with a cost of $1.7 million for maintaining the volunteer program.

The five refuges in my own State of Rhode Island, which are managed as a single complex, provide a wonderful illustration of how important these effort are. Last year, volunteers donated 4,500 hours of service to Rhode Islands refuges. With only five full-time employers working among the five Rhode Island refuges, volunteers contributed 36 percent of all work performed on these refuges. At several of our refuges, the typical visitor often will only interact with volunteer staff.

The "National Wildlife Refuge System Vounterer and Partnership Enhancement Act" lends much needed support to the efforts of the FWS to maintain and operate the Refuge System. This bill will accomplish four goals: (1) encourage financial contributions and donations to refuges; (2) increase opportunities and incentives for volunteers on refuges; (3) promote community partnerships with local refuges; and (4) establish a refuge education program to use refuges as outdoor classrooms.

Mr. President, let me give you some of the highlights in the bill. Section 3 of the bill allows gifts and donations to be made to individual refuges without further appropriations. While this is similar to current law, the bill provides new authority for the FWS to match these gifts. This will allow refuge managers to leverage the precious few dollars over which they have discretion for operations and maintenance with money from local residents and groups.

Section 4 directs the FWS to carry out a pilot project at 2 or more refuges in each region, but no more than 20 nationwide, to hire a volunteer coordinator for the refuge. This coordinator will manage and supervise the volunteers, and service as the liaison between the volunteers, the partnership organizations, and the refuge. It also establishes a Senior Volunteer Corps for individuals 50 years or older. These older citizens comprise the majority of volunteer efforts throughout the refuge system. This new corps will recognize and foster that effort.

Section 5 provides for community partner organizations to enter into agreements with the FWS to implement projects consistent with the purposes of the refuge. The projects may improve habitat, support operations, promote educational materials, or encourage donations. Non-Federal funding may be matched by the FWS. Section 6 directs the Secretary of the Interior to develop guidance for education programs that promotes understanding of refuge resources, improves scientific literacy, and provides outdoor classroom experiences. It also authorizes the Secretary to develop or enhance refuge education programs based on this guidance.

This bill is similar to a House bill, H.R. 1856, introduced by Congressman SAXTON on June 10, 1997, and subsequently passed by the House. I have been pleased to work with Congressman SAXTON on this wonderful initiative, and I urge all of our colleagues to support it.●

• Mr. BAUCUS. Mr. President, I am pleased to join my colleague Senator CHAFEE, the chairman of the Senate Environment and Public Works Committee, in introducing the National Wildlife Refuge System Volunteer and Partnership Enhancement Act of 1998.

This bill will promote volunteerism on our national wildlife refuges. By encouraging volunteers to work with the U.S. Fish and Wildlife Service to improve our national wildlife refuges, this bill will not only benefit fish and wildlife but enhance the outdoor recreation and education experience for thousands of visitors.

The National Wildlife Refuge System is a sanctuary for our nation's fish and wildlife, many species of which are threatened or endangered. It is a sanctuary for people too, who use refuges for many purposes. Comprising some 93 million acres spread across the country in over 500 individual refuges, the system is an invaluable natural resource.

To ensure that the resource is conserved for future generations of Americans, the Congress recently enacted legislation to guide the management of the National Wildlife Refuge System. But even improved management cannot make up for the lack of money. The refuge system is underfunded. Without adequate financial and staff resources, we will not realize the full potential of the refuge system, as envisioned by the National Wildlife Refuge System Improvement Act of 1997.

One way to address this need is through the use of volunteers, ordinary citizens who care enough about our refuges to contribute their time.

To encourage volunteers to take a more active role in improving our wildlife refuges, this bill would authorize the Secretary of the Interior to enter into cooperative agreements with partner organizations to undertake conservation and education projects. In addition, the bill would authorize the Secretary to develop refuge education programs and provide for staff to assist partner organizations and coordinate volunteer activities.

Mr. President, I believe that this is a good bill and that it deserves our support. It will benefit fish and wildlife, provide unique opportunities for citizens to donate their valuable time and expertise to refuges in their local communities, and enhance the refuge experience for the many people who visit our refuges each year.

I intend to work closely with my colleague, Senator CHAFEE, and other members of our Committee, to help ensure that it is enacted this year.•

By Mr. LAUTENBERG:

S. 2245. A bill to require employers to notify local emergency officials, under the appropriate circumstances, of workplace emergencies, and for other purposes; to the Committee on Labor and Human Resources.

INDUSTRIAL EMERGENCY NOTIFICATION ACT OF 1998

• Mr. LAUTENBERG. Mr. President, I introduce the Industrial Emergency Notification Act of 1998. The bill will require the U.S. Occupational Safety and Health Administration [OSHA] to require that employers notify local emergency officials, like police and fire departments, in the event of workplace emergencies. Passage of this bill will help prevent accidents such as the explosion that took the lives of five men three years ago at Napp Technologies in Lodi, New Jersey.

One mark of our progress as a society is the extent to which we can guarantee every working man and woman a safe, healthy workplace. No one should have to risk their health and safety to make a decent living. Sadly, the Napp explosion showed us how far we have to go.

Among other things, the Napp explosion showed the loopholes that exist in current OSHA regulations. On the day of the explosion, after the chemical mixture started smoking, Napp management clearly knew they had a chemical emergency on their hands, yet they ordered the evacuation by word of mouth rather than by alarm, resulting in a lack of notification to the fire department. Then, still without notifying local emergency officials, which even common sense would have dictated, they sent the workers back in to their deaths. After all this, one would think OSHA would have had the basis for a strong enforcement action against Napp. Yet after the explosion, OSHA officials were unable to cite Napp for not contacting local emergency officials because there was no clear enforceable requirement to do so.

Current OSHA standards on workplace emergencies and emergency response require employers to coordinate with local response authorities, leaving the final decision for notification to employers' discretion—rather than specifying clear minimum criteria for notification. The compliance directive recently released by OSHA on this standard elaborates on this requirement, but fails to close this gap.

The Industrial Emergency Notification Act of 1998 will require OSHA to require that employers notify local emergency officials in the event of workplace emergencies. OSHA shall specify, as appropriate, the circumstances under which emergency notification is required, such as workplace evacuation. Also, the legislation will codify OSHA's recent compliance directive, which requires employers to develop emergency response procedures in cooperation with local emergency officials.

It is both possible and important to list the circumstances under which local emergency officials should be notified, rather than leaving such notification to the discretion of a potentially harried business manager. Also it is vital that OSHA's authority include the ability to take appropriate enforcement action against negligence, after inadequate notification and the resulting workplace injuries or deaths. Finally, in addition to the importance of this legislation in improving workplace safety, to the extent that local emergency officials can help control the chemical releases associated with workplace emergencies, this legislation will provide important environmental protection benefits as well.

The bill is endorsed by the American Federation of Labor, Congress of Industrial Organizations, the Union of Needletrades, Industrial and Textile Employees, the Oil, Chemical and Atomic Workers International Union, the International Chemical Workers Union Council of the United Food and Commercial Workers, the International Union of Operating Engineers, the Environmental Defense Fund, and the U.S. Public Interest Research Group.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2245

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Industrial Emergency Notification Act of 1998."

SEC. 2. NOTIFICATION OF EMERGENCY OFFICIALS.

(a) Notwithstanding any other provision of law, the Occupational Safety and Health Administration shall issue as a final rule, not later than 18 months of the enactment of this act, a regulation that requires employers to:

(1) notify outside emergency responders when the conditions and circumstances occur which require outside emergency response, including workplace evacuations and other conditions specified in the rule;

(2) describe with specificity in their emergency response plans developed under 29 CFR 1919.120 or 1926.65, or in their emergency action plans under 29 CFR 1910.38, the conditions and circumstances that require outside emergency response in addition to those specified under paragraph (1); and

(3) obtain the agreement, in writing, of the outside responders as to which conditions and circumstances require outside response in addition to those specified under paragraph (1).•

By Mr. MURKOWSKI:

S. 2246. A bill to amend the Act which established the Frederick Law Olmsted National Historic Site, in the commonwealth of Massachusetts, by modifying the boundary and for other purposes; to the Committee on Energy and Natural Resources.

FREDERICK LAW OLMSTED NATIONAL HISTORIC SITE LEGISLATION

• Mr. MURKOWSKI. Mr. President, on behalf of the Administration, today I introduce legislation to amend the Act which established the Frederick Law Olmstead National Historic Site, in the commonwealth of Massachusetts, by modifying the boundary and for other purposes.

I ask unanimous consent that the Administration's letter of transmittal and a section-by-section analysis of the legislation be printed in the RECORD for the information of my colleagues.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, DC, September 22, 1997.
Hon. ALBERT GORE, Jr.,
President of the Senate, Washington, DC.

DEAR MR. PRESIDENT: Enclosed is a draft bill "To amend the Act which established the Frederick Law Olmsted National Historic Site, in the Commonwealth of Massachusetts, by modifying the boundary and for other purposes."

We recommend the bill be introduced, referred to the appropriate committee, and enacted. The purpose of the legislation is to allow the Secretary of the Interior to acquire, by donation only, lands owned by the Brookline Conservation Land Trust which are situated adjacent to the historic site. These lands remain much as they were during Olmsted's life and acquisition will help preserve the setting of the historic site. The Brookline Conservation Land Trust desires to donate the property to the National Park Service to help preserve the setting of the historic site and to make it available for educational purposes.

The Office of Management and Budget has advised that there is no objection to the enactment of the enclosed draft legislation from the standpoint of the Administration's program.

Sincerely,
DONALD J. BARRY,
Acting Assistant Secretary for Fish and Wildlife and Parks.

Enclosures.

SECTION-BY-SECTION ANALYSIS—FREDERICK LAW OLMSTED NATIONAL HISTORIC SITE

Amends the Act of October 12, 1979, which originally established the historic site, by providing the Secretary of the Interior authority to acquire lands adjacent to the historic site. The lands may be acquired only by means of donation from a private land trust. The land trust wishes to donate the subject property to the historic site to help preserve and maintain the historic setting of the site.•

By Mr. MURKOWSKI:

S. 2247. A bill to permit the payment medical expenses incurred by the U.S. Park Police in the performance of duty to be made directly by the National Park Service, and for other purposes; to the Committee on Energy and Natural Resources.

U.S. PARK POLICE LEGISLATION

Mr. MURKOWSKI. Mr. President, on behalf of the Administration, today I introduce legislation to permit the payment of medical expenses incurred by the United States Park Police in the performance of duty to be made directly by the National Park service, and for other purposes.

I ask unanimous consent that the Administration's letter of transmittal and a section-by-section analysis of the legislation be printed in the RECORD for the information of my colleagues.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, DC, March 11, 1998.
Hon. ALBERT GORE, Jr.,
President of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: Enclosed is a draft bill, "to permit the payment of medical expenses incurred by the U.S. Park Police in the performance of duty to be made directly by the National Park Service, and for other purposes."

We recommend the bill be introduced, referred to the appropriate committee for consideration, and enacted.

The District of Columbia (District) is currently charged with paying all medical bills for services rendered for National Park Police members who become injured or ill in the performance of their duties. Subsequently, the National Park Service reimburses the District for medical payments made on behalf of the Park Police. Fiscal constraints experienced by the District have resulted in untimely payments of these expenses. Consequently, some Park Police members have been denied treatment and others have had their credit ratings adversely affected. This situation is untenable. It compromises the law enforcement capability of the Park Police and places an undue burden on Park Police employees. The enclosed draft legislation would amend the Act of September 1, 1916, section 12(e), to allow the National Park Service to make these payments directly to the medical providers. Amended language is urgently needed. We respectfully request that this draft legislation be expedited.

The Office of Management and Budget has advised that there is no objection to the enactment of the enclosed draft legislation from the standpoint of the Administration's program.

Sincerely,
DONALD BARRY,
Acting Assistant Secretary for Fish and Wildlife and Parks.

SECTION-BY-SECTION ANALYSIS

This bill amends the Act of September 1, 1916, section 12(e), to allow the National Park Service to pay medical providers directly for expenses incurred by the U.S. Park Police while on official duty.

By Mr. MURKOWSKI:

S. 2248. A bill to allow for waiver and indemnification in mutual law enforcement agreements between the National Park Service and a state or political subdivision, when required by state law, and for other purposes; to the Committee on Energy and Natural Resources.

NATIONAL PARK SERVICE LEGISLATION

• Mr. MURKOWSKI. Mr. President, on behalf of the Administration, today I introduce legislation to allow for wavier and indemnification in mutual law enforcement agreements between the National Park Service and a state or political subdivision, when required by state law, and for other purposes.

I ask unanimous consent that the Administration's letter of transmittal and a section-by-section analysis of the legislation be printed in the RECORD for the information of my colleagues.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, DC, March 18, 1998.
Hon. ALBERT GORE, Jr.
President of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: Enclosed is a draft bill, "To allow for waiver and indemnification in mutual law enforcement agreements between the National Park Service and a state or political subdivision, when required by state law, and for other purposes."

We recommend the bill be introduced, referred to the appropriate committee for consideration, and enacted.

This amendment would provide express authority for the National Park Service to enter into mutual aid agreements with adjacent law enforcement agencies. Pursuant to statutory authorities, the Park Police have maintained memoranda of understandings with local law enforcement agencies in Maryland and Virginia. These agreements specify the circumstances under which these agencies will assist the Park Police. Both Maryland and Virginia laws require that each party must agree to indemnify and hold harmless the assisting agency from all claims by third parties for property damage or personal injury, which may arise out of the assisting agency's activities outside its respective jurisdiction.

The Comptroller General issued a decision on August 16, 1991, which stated that such indemnification clauses violate the Anti-deficiency Act (31 U.S.C. 1341(a)). The Comptroller General stated:

"[O]pen-ended indemnification agreements should not be entered into regardless of the existence of language of limitations except with express congressional acquiescence. . . . Thus we recommend that the Park Police obtain congressional approval for this type of arrangement."

The Comptroller General further recognized the importance of memoranda of understandings between the Park Police and local authorities for effective law enforcement, and stated, ". . . we will not object to the Park Police temporarily entering into revised agreements with the required indemnification clauses while congressional approval is being sought."

Although the opinions of the Comptroller General are not binding on Executive Branch departments, they often provide useful guidance on appropriations matters and related issues. Because it raises questions as to Interior's indemnification authority, the Comptroller General's opinion may impede Interior's efforts to maintain intergovernmental cooperation in the policing of national parks. The amendment that we have proposed would eliminate this potential impediment.

The Office of Management and Budget has advised that there is no objection to the enactment of the enclosed draft legislation from the standpoint of the Administration's program.

Sincerely,
DONALD BARRY,
Acting Assistant Secretary for Fish and Wildlife and Parks.

Section-by-Section Analysis

Section 1: This section renumbers paragraphs and adds a new section c(3), which would provide express statutory authority for the National Park Service to use indemnification clauses in their mutual aid agreements with a state or political subdivision for law enforcement purposes, when required by state law.

Section 2: This section makes a technical correction.●

By Mr. DASCHLE (for himself, Mrs. Boxer, Mr. Kennedy, Mr. Bingaman, Ms. Moseley-Braun, Mr. Rockefeller, Ms. Mikulski, Mr. Reid, Mr. Durbin, Mr. Inouye, and Mr. Torricelli):

S. 2249. A bill to provide retirement security for all Americans; to the Committee on Finance.

RETIREMENT ACCESSIBILITY, SECURITY AND PORTABILITY ACT OF 1998

Mr. DASCHLE. Mr. President, today, Democrats are offering identical bills in the House and the Senate—the "Retirement Accessibility, Security and Portability Act of 1998"—to make the prospect of retirement less frightening for millions of American workers. Right now, just under half of all American workers have pension plans, and the number is far worse for women and low- and moderate-income workers.

Our plan would increase the number of Americans with pensions by making it easier and cheaper for small businesses to set up pension funds. It would create a new system to help workers who have no pension coverage to build their own retirement savings through direct contributions from their paychecks into an IRA.

Our plan would make it easier for workers to take their pensions with them from one job to the next. This is incredibly important in an economy where the average worker will change careers an average of 7 times.

Our plan would increase pension security to ensure retirees will actually have a pension when they leave the work force. And, it would help close the huge pension gap that now exists between men and women and that leaves far too many older women who are widowed or divorced living in near-poverty.

Mr. President, I talk frequently to people all the time who are worried they won't be able to afford the "luxury" of retirement. I say, we can't afford the luxury of ignoring the coming retirement crisis. Retirement shouldn't mean an economic freefall. And it doesn't have to.

The first of the baby boomers turns 50 this year. We still have time to make the changes that will allow us to enjoy a secure retirement. But it will take change from individuals, employers and from the government.

That's what this bill provides.

This bill would expand pension coverage and access to more Americans by establishing an easy-to-administer defined benefit plan option for small businesses known as the SMART Plan; providing a maximum credit of $1,000 to help small business cover the cost of setting up new pension plans; and modifying new rules for the "SIMPLE" and 401(k) plans to encourage the provision of pensions to low-to-moderate income employees.

This bill would encourage pension portability by requiring faster vesting of employers' matching contributions under defined contribution plans, including 401(k) plans, so that employees would have rights to the contributions after the least 3 years of employment; allowing rollovers between 401(k) and similar plans set up by non-profit organizations, including 403(b) plans; and allowing participants in plans set up by state and local governments to roll over their account balances to IRAs.

This bill would protect and strengthen pensions by establishing greater safeguards to prevent corporations from raiding their employees' pension plans; creating stricter requirements for audits of plan assets and how companies are investing these assets; prohibiting employers from making credit card loans against pension assets; and providing pension plan participants with regular and informative benefit statements so they can monitor the activity and value of their pension assets.

In addition, this bill would reduce the wide gap in pension coverage between men and women, as well as provide greater protections for older women by creating new safeguards to ensure that pension benefits are not overlooked when a couple divides assets upon divorce; a new option for federal workers to provide a greater benefit for women who outlive their husbands; protections for low-income women against the loss of their Social Security benefits; a new women's pension information hotline; and a requirement that additional hours taken under the Family and Medical leave Act are credited to one's pension plan for purposes of participation and vesting in their plan benefits.

In 1994, President Clinton signed a bill protecting the pensions of more than 40 million American workers and retirees against risky investments and corporate raids. In 1996, he signed additional legislation cutting red tape and start-up costs for pension plans, so more small businesses could create retirement plans for their workers.

Before 1998 is over, we intend to give the President another retirement security bill to sign.

This Congress has done precious little so far to address the concerns of America's working families. passing this bill—increasing Americans' retirement security—would do a lot to fill that void. We urge our Republican colleagues to join us in passing it.

Mr. President, I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2249

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Retirement Accessibility, Security and Portability Act of 1998".

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.

TITLE I—PENSION ACCESS AND COVERAGE

Sec. 100. Amendment of 1986 Code.

Subtitle A—Improved Access to Individual Retirement Savings

Sec. 101. Credit for pension plan startup costs of small employers.
Sec. 102. Exclusion for payroll deduction contributions to IRAs.
Sec. 103. Nonrefundable tax credit for contributions to individual retirement plans.
Sec. 104. Distributions from certain plans may be used without penalty during periods of unemployment.

Subtitle B—Secure Money Annuity or Retirement (SMART) Trusts

Sec. 111. Secure money annuity or retirement (SMART) trusts.

Subtitle C—Improved Fairness in Retirement Plan Benefits

Sec. 121. Amendments to SIMPLE retirement accounts.
Sec. 122. Nondiscrimination rules for qualified cash or deferred arrangements and matching contributions.
Sec. 123. Definition of highly compensated employees.
Sec. 124. Treatment of multiemployer plans under section 415.
Sec. 125. Exemption of mirror plans from section 457 limits.
Sec. 126. Immediate participation in the thrift savings plan for Federal employees.
Sec. 127. Full funding limitation for multiemployer plans.
Sec. 128. Elimination of partial termination rules for multiemployer plans.
Sec. 129. Repeal of 150 percent of current liability funding limit.

TITLE II—SECURITY

Sec. 200. Amendment of ERISA.

Subtitle A—General Provisions

Sec. 201. Periodic pension benefits statements.
Sec. 202. Requirement of annual, detailed investment reports applied to certain 401(k) plans.
Sec. 203. Information required to be provided to investment managers of 401(k) plans.
Sec. 204. Study on investments in collectibles.
Sec. 205. Qualified employer plans prohibited from making loans through credit cards and other intermediaries.

Sec. 206. Multiemployer plan benefits guaranteed.
Sec. 207. Prohibited transactions.
Sec. 208. Substantial owner benefits.
Sec. 209. Reversion report.

Subtitle B—ERISA Enforcement

Sec. 211. Civil penalties for breach of fiduciary responsibilities made discretionary, etc.
Sec. 212. Reporting and enforcement requirements for employee benefit plans.
Sec. 213. Additional requirements for qualified public accountants.
Sec. 214. Inspector General study.

Subtitle C—Increase in Excise Tax on Employer Reversions

Sec. 221. Increase in excise tax.

TITLE III—PORTABILITY

Sec. 301. Faster vesting of employer matching contributions.
Sec. 302. Rationalization of the restrictions on distributions from 401(k) plans.
Sec. 303. Treatment of transfers between defined contribution plans.
Sec. 304. Missing participants.
Sec. 305. Allowance of rollovers from and to 403(b) plans.
Sec. 306. Rollover contributions from deferred compensation plans of State and local governments.
Sec. 307. Extension of 60-day rollover period in the case of Presidentially declared disasters and service in combat zone.
Sec. 308. Purchase of service credit in governmental defined benefit plans.

TITLE IV—COMPREHENSIVE WOMEN'S PENSION PROTECTION

Subtitle A—Pension Reform

Sec. 401. Pension right to know proposals.
Sec. 402. Women's pension toll-free phone number.
Sec. 403. Modification of government pension offset.
Sec. 404. Family leave provisions.
Sec. 405. Pension integration rules.
Sec. 406. Division of pension benefits upon divorce.
Sec. 407. Entitlement of divorced spouses to railroad retirement annuities independent of actual entitlement of employee.
Sec. 408. Effective dates.

Subtitle B—Protection of Rights of Former Spouses to Pension Benefits Under Certain Government and Government-Sponsored Retirement Programs

Sec. 411. Extension of tier II railroad retirement benefits to surviving former spouses pursuant to divorce agreements.
Sec. 412. Survivor annuities for widows, widowers, and former spouses of Federal employees who die before attaining age for deferred annuity under civil service retirement system.
Sec. 413. Payment of lump-sum benefits to former spouses of Federal employees.

Subtitle C—Modifications of Joint and Survivor Annuity Requirements

Sec. 421. Modifications of joint and survivor annuity requirements.
Sec. 422. Spousal consent required for distributions from defined contribution plans.

TITLE V—DATE FOR ADOPTION OF PLAN AMENDMENTS

Sec. 501. Date for adoption of plan amendments.

TITLE I—PENSION ACCESS AND COVERAGE

SEC. 100. AMENDMENT OF 1986 CODE.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

Subtitle A—Improved Access to Individual Retirement Savings

SEC. 101. CREDIT FOR PENSION PLAN STARTUP COSTS OF SMALL EMPLOYERS.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits) is amended by adding at the end the following new section:

"SEC. 45D. SMALL EMPLOYER PENSION PLAN STARTUP COSTS.

"(a) GENERAL RULE.—For purposes of section 38, in the case of an eligible employer, the small employer pension plan startup cost credit determined under this section for any taxable year is an amount equal to 50 percent of the qualified startup costs paid or incurred by the taxpayer during the taxable year.

"(b) DOLLAR LIMITATION.—The amount of the credit determined under this section for any taxable year shall not exceed—

"(1) $1,000 for the first credit year,

"(2) $500 for each of the 2 taxable years immediately following the first credit year, and

"(3) zero for any other taxable year.

"(c) ELIGIBLE EMPLOYER.—For purposes of this section—

"(1) IN GENERAL.—The term 'eligible employer' has the meaning given such term by section 408(p)(2)(C)(i).

"(2) EMPLOYERS MAINTAINING QUALIFIED PLANS DURING 1997 NOT ELIGIBLE.—Such term shall not include an employer if such employer (or any predecessor employer) maintained a qualified plan (as defined in section 408(p)(2)(D)(ii)) with respect to which contributions were made, or benefits were accrued, for service in 1997. If only individuals other than employees described in subparagraph (A) or (B) of section 410(b)(3) are eligible to participate in the qualified employer plan referred to in subsection (d)(1), then the preceding sentence shall be applied without regard to any qualified plan in which only employees so described are eligible to participate.

"(d) OTHER DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED STARTUP COSTS.—

"(A) IN GENERAL.—The term 'qualified startup costs' means any ordinary and necessary expenses of an eligible employer which are paid or incurred in connection with—

"(i) the establishment or administration of an eligible employer plan, or

"(ii) the retirement-related education of employees with respect to such plan.

"(B) PLAN MUST HAVE AT LEAST 2 PARTICIPANTS.—Such term shall not include any expense in connection with a plan that does not have at least 2 individuals who are eligible to participate.

"(C) PLAN MUST BE ESTABLISHED BEFORE JANUARY 1, 2001.—Such term shall not include any expense in connection with a plan established after December 31, 2000.

"(2) ELIGIBLE EMPLOYER PLAN.—The term 'eligible employer plan' means a qualified employer plan within the meaning of section 4972(d), or a qualified payroll deduction arrangement within the meaning of section 408(q)(1) (whether or not an election is made under section 408(q)(2)). A qualified payroll deduction arrangement shall be treated as an eligible employer plan only if all employees of the employer who—

"(A) have been employed for 90 days, and

"(B) are not described in subparagraph (A) or (C) of section 410(b)(3),

are eligible to make the election under section 408(q)(1)(A).

"(3) FIRST CREDIT YEAR.—The term 'first credit year' means—

"(A) the taxable year which includes the date that the eligible employer plan to which such costs relate becomes effective, or

"(B) at the election of the eligible employer, the taxable year preceding the taxable year referred to in subparagraph (A).

"(e) SPECIAL RULES.—For purposes of this section—

"(1) AGGREGATION RULES.—All persons treated as a single employer under subsection (a) or (b) of section 52, or subsection (n) or (o) of section 414, shall be treated as one person. All eligible employer plans shall be treated as 1 eligible employer plan.

"(2) DISALLOWANCE OF DEDUCTION.—No deduction shall be allowed for that portion of the qualified startup costs paid or incurred for the taxable year which is equal to the credit determined under subsection (a).

"(3) ELECTION NOT TO CLAIM CREDIT.—This section shall not apply to a taxpayer for any taxable year if such taxpayer elects to have this section not apply for such taxable year."

(b) CREDIT ALLOWED AS PART OF GENERAL BUSINESS CREDIT.—Section 38(b) (defining current year business credit) is amended by striking "plus" at the end of paragraph (11), by striking the period at the end of paragraph (12) and inserting ", plus", and by adding at the end the following new paragraph:

"(13) in the case of an eligible employer (as defined in section 45D(c)), the small employer pension plan startup cost credit determined under section 45D(a)."

(c) CONFORMING AMENDMENTS.—

(1) Section 39(d) is amended by adding at the end the following new paragraph:

"(8) NO CARRYBACK OF SMALL EMPLOYER PENSION PLAN STARTUP COST CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the small employer pension plan startup cost credit determined under section 45D may be carried back to a taxable year ending on or before the date of the enactment of section 45D."

(2) Subsection (c) of section 196 is amended by striking "and" at the end of paragraph (7), by striking the period at the end of paragraph (8) and inserting ", and", and by adding at the end the following new paragraph:

"(9) the small employer pension plan startup cost credit determined under section 45D(a)."

(3) The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

"Sec. 45D. Small employer pension plan startup costs."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to costs paid or incurred in taxable years ending after the date of the enactment of this Act.

SEC. 102. EXCLUSION FOR PAYROLL DEDUCTION CONTRIBUTIONS TO IRAS.

(a) IN GENERAL.—Section 408 (relating to individual retirement accounts) is amended by redesignating subsection (q) as subsection (r) and by inserting after subsection (p) the following new subsection:

"(q) QUALIFIED PAYROLL DEDUCTION ARRANGEMENT FOR IRA CONTRIBUTIONS.—

"(1) IN GENERAL.—For purposes of this title, the term 'qualified payroll deduction arrangement' means a written arrangement of an employer under which—

"(A) an employee eligible to participate in the arrangement may elect to have the employer make payments—

"(i) to the employee directly in cash, or

"(ii) as elective employer contributions to an individual retirement plan (as defined in section 7701(a)(37)), other than an individual retirement plan described in section 408(k), 408(p), or 408A(b), on behalf of the employee for the taxable year in which the payments otherwise would have been made to the employee directly in cash,

"(B) the amount which the employee may elect under subparagraph (A) for any year may not exceed a total of $2,000,

"(C) no other contributions may be made other than contributions described in subparagraph (A),

"(D) the employee's rights to any contributions made to an individual retirement plan are nonforfeitable (for this purpose, rules similar to the rules of subsection (k)(4) shall apply), and

"(E) the employer makes the elective employer contributions under subparagraph (A) not later than the close of the 30-day period following the last day of the month with respect to which the contributions are to be made.

"(2) ELECTION NOT TO HAVE SUBSECTION APPLY.—An employer that maintains an arrangement otherwise described in paragraph (1) may elect to have contributions treated as though they were not made under such an arrangement. If an employer does not make an election described in the preceding sentence, an employee may elect, before any contributions are made for the calendar year, to have contributions on behalf of the employee treated as though they were not made under an arrangement described in paragraph (1). An employer shall be deemed to have made an election under this paragraph for a year if the employer maintained a qualified plan with respect to which contributions were made or benefits were accrued for such year. For purposes of the preceding sentence, the term 'qualified plan' means a plan, contract, pension, or trust described in subparagraph (A) or (B) of section 219(g)(5).".

(b) TAX TREATMENT OF EMPLOYER CONTRIBUTIONS MADE UNDER A QUALIFIED PAYROLL DEDUCTION ARRANGEMENT.—

(1) COORDINATION WITH DEDUCTION UNDER SECTION 219.—

(A) Section 219(b) (relating to maximum amount of deduction) is amended by adding at the end the following new paragraph:

"(5) SPECIAL RULE FOR CONTRIBUTIONS UNDER A QUALIFIED PAYROLL DEDUCTION ARRANGEMENT.—This section shall not apply with respect to any amount contributed under a qualified payroll deduction arrangement described in section 408(q)(1) (for which an election has not been made under section 408(q)(2)).".

(B) Section 219(g)(1) (relating to the limitation on deduction for active participants) is amended to read as follows:

"(1) IN GENERAL.—If (for any part of any plan year ending with or within a taxable year) an individual is an active participant, each of the dollar limitations contained in subsections (b)(1)(A) and (c)(1)(A) for such taxable year shall be reduced (but not below zero) by the sum of—

"(A) the amount determined under paragraph (2), and

"(B) the amount contributed for the taxable year under a qualified payroll deduction arrangement described in section 408(q)(1) (for which an election has not been made under section 408(q)(2)).".

(2) DEDUCTIBILITY OF EMPLOYER CONTRIBUTIONS.—Section 404 (relating to deductions for contributions of an employer to pension, etc., plans) is amended by adding at the end the following new subsection:

"(n) SPECIAL RULES FOR CONTRIBUTIONS UNDER A QUALIFIED PAYROLL DEDUCTION ARRANGEMENT.—Rules similar to the rules of subsection (m) shall apply to employer contributions made under a qualified payroll deduction arrangement described in section 408(q)(1) (for which an election has not been made under section 408(q)(2)).".

(3) CONTRIBUTIONS AND DISTRIBUTIONS.—Section 402 (relating to taxability of beneficiary of employees' trust) is amended by adding at the end the following new subsection:

"(l) TREATMENT OF CONTRIBUTIONS AND DISTRIBUTIONS UNDER A QUALIFIED PAYROLL DEDUCTION ARRANGEMENT.—Rules similar to the rules of paragraphs (1) and (3) of subsection (h) shall apply to contributions and distributions made with respect to an individual retirement plan under a qualified payroll deduction arrangement described in section 408(q)(1) (for which an election has not been made under section 408(q)(2)), except that contributions made by an employer on behalf of an employee for a taxable year shall be excluded from income only to the extent such contributions would have been deductible for such taxable year under section 219, if such section applied, without regard to section 219(g)(1)(B). Contributions that are not excluded from income under the preceding sentence shall be treated as designated nondeductible contributions under section 408(o).".

(c) EXEMPTION FROM WITHHOLDING.—Subsection (a) of section 3401 (defining wages) is amended by striking "or" at the end of paragraph (20), by striking the period at the end of paragraph (21) and inserting "; or", and by inserting after paragraph (21) the following new paragraph:

"(22) for any payment made for the benefit of the employee to an individual retirement plan if the amount of such payment was deducted and withheld under section 408(q).".

(d) EXCLUSION SHOWN ON W-2.—Subsection (a) of section 6051 (relating to receipts for employees) is amended by striking "and" at the end of paragraph (10), by striking the period at the end of paragraph (11) and inserting ", and", and by inserting after paragraph (11) the following new paragraph:

"(12) the total amount deducted and withheld pursuant to section 408(q).".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to remuneration paid after December 31, 1998.

SEC. 103. NONREFUNDABLE TAX CREDIT FOR CONTRIBUTIONS TO INDIVIDUAL RETIREMENT PLANS.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits) is amended by inserting after section 25A the following new section:

"SEC. 25B. RETIREMENT SAVINGS.

"(a) ALLOWANCE OF CREDIT.—There shall be allowed as a credit against the tax imposed by this chapter so much of the qualified retirement contributions of the taxpayer for the taxable year as does not exceed the applicable amount of the adjusted gross income of the taxpayer for such year.

"(b) APPLICABLE AMOUNT.—For purposes of subsection (a), the applicable amount is determined in accordance with the following table:

"If adjusted gross income is:	The applicable amount is:
Not over $15,000	$450.
Over $15,000 but not over $20,000.	$400.
Over $20,000 but not over $25,000.	$350.
Over $25,000 but not over $30,000.	$300.
Over $30,000	$0.

"(c) SECTION NOT TO APPLY TO CERTAIN CONTRIBUTIONS.—This section shall not apply with respect to—

"(1) an employer contribution to a simplified employee pension,

"(2) any amount contributed to a simple retirement account established under section 408(p),

"(3) any amount contributed to a Roth IRA, and

"(4) any designated nondeductible contribution (as defined in section 408(o)(2)(C)).

"(d) OTHER LIMITATIONS AND RESTRICTIONS.—

"(1) BENEFICIARY MUST BE UNDER AGE 70½.—No credit shall be allowed under this section with respect to any qualified retirement contribution for the benefit of an individual if such individual has attained age 70½ before the close of such individual's taxable year for which the contribution was made.

"(2) RECONTRIBUTED AMOUNTS.—No credit shall be allowed under this section with respect to a rollover contribution described in section 402(c), 403(a)(4), 403(b)(8), or 408(d)(3).

"(3) AMOUNTS CONTRIBUTED UNDER ENDOWMENT CONTRACT.—In the case of an endowment contract described in section 408(b), no credit shall be allowed under this section for that portion of the amounts paid under the contract for the taxable year which is properly allocable, under regulations prescribed by the Secretary, to the cost of life insurance.

"(4) DENIAL OF CREDIT FOR AMOUNT CONTRIBUTED TO INHERITED ANNUITIES OR ACCOUNTS.—No credit shall be allowed under this section with respect to any amount paid to an inherited individual retirement account or individual retirement annuity (within the meaning of section 408(d)(3)(C)(ii)).

"(5) NO DOUBLE BENEFIT.—No credit shall be allowed under this section for any taxable year with respect to the amount of any qualified retirement contribution for the benefit of an individual if such individual takes a deduction with respect to such amount under section 219 for such taxable year.

"(e) QUALIFIED RETIREMENT CONTRIBUTION.—For purposes of this section, the term 'qualified retirement contribution' means—

"(1) any amount paid in cash for the taxable year by or on behalf of an individual to an individual retirement plan for such individual's benefit, and

"(2) any amount contributed on behalf of any individual to a plan described in section 501(c)(18).

"(f) OTHER DEFINITIONS AND SPECIAL RULES.—

"(1) COMPENSATION.—For purposes of this section, the term 'compensation' has the meaning given in section 219(f)(1).

"(2) MARRIED COUPLES MUST FILE JOINT RETURN.—If the taxpayer is married at the close of the taxable year, the credit shall be allowed under subsection (a) only if the taxpayer and the taxpayer's spouse file a joint return for the taxable year.

"(3) TIME WHEN CONTRIBUTIONS DEEMED MADE.—For purposes of this section, a taxpayer shall be deemed to have made a contribution to an individual retirement plan on the last day of the preceding taxable year if the contribution is made on account of such taxable year and is made not later than the time prescribed by law for filing the return for such taxable year (not including extensions thereof).

"(4) EMPLOYER PAYMENTS.—For purposes of this title, any amount paid by an employer to an individual retirement plan shall be treated as payment of compensation to the employee (other than a self-employed individual who is an employee within the meaning of section 401(c)(1)) includible in his gross income in the taxable year for which the amount was contributed, whether or not a credit for such payment is allowable under this section to the employee."

(b) CONFORMING AMENDMENTS.—

(1) Section 86(f) is amended by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5), respectively, and by inserting after paragraph (1) the following new paragraph:

"(2) section 25B(f)(1) (defining compensation),".

(2) Clause (i) of section 501(c)(18)(D) is amended by inserting "which may be taken into account in computing the credit allowable under section 25B or" before "with respect".

(3) Section 6047(c) is amended by inserting "section 25B or" before "section 219".

(4) Section 6652(g) is amended by inserting "CREDITABLE" before "DEDUCTIBLE" in the heading thereof.

(5) The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 25A the following new item:

"Sec. 25B. Retirement savings."

(c) EFFECTIVE DATE.—The amendments made by this section apply to taxable years beginning after December 31, 1998.

SEC. 104. DISTRIBUTIONS FROM CERTAIN PLANS MAY BE USED WITHOUT PENALTY DURING PERIODS OF UNEMPLOYMENT.

(a) IN GENERAL.—Paragraph (2) of section 72(t) (relating to exceptions to 10-percent additional tax on early distributions from qualified retirement plans) is amended by adding at the end the following new subparagraph:

"(G) ADDITIONAL DISTRIBUTIONS TO UNEMPLOYED INDIVIDUALS.—

"(i) IN GENERAL.—Distributions from an individual retirement plan, or from amounts attributable to employer contributions made pursuant to elective deferrals described in subparagraph (A) or (C) of section 402(g)(3) or section 501(c)(18)(D)(iii), to an individual after separation from employment if—

"(I) such individual has received unemployment compensation for 12 consecutive weeks under any Federal or State unemployment compensation law by reason of such separation, and

"(II) such distributions are made during the 1-year period beginning on the date of such separation.

"(ii) DISTRIBUTIONS AFTER REEMPLOYMENT.—Clause (i) shall not apply to any distribution made after the individual has been employed for at least 60 days after the separation from employment to which clause (i) applies.

"(iii) COORDINATION WITH SUBPARAGRAPH (D).—Distributions during the 1-year period described in clause (i)(II) shall not be taken into account in applying the limitation under subparagraph (D)(i)(III)."

(b) CONFORMING AMENDMENTS.—

(1) Section 401(k)(2)(B)(i) is amended by striking "or" at the end of subclause (III), by striking "and" at the end of subclause (IV) and inserting "or", and by inserting after subclause (IV) the following new subclause:

"(V) the date on which a period referred to in section 72(t)(2)(G) begins, and".

(2) Section 403(b)(11) is amended by striking "or" at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting ", or", and by inserting after subparagraph (B) the following new subparagraph:

"(C) for distributions to which section 72(t)(2)(G) applies."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions after the date of the enactment of this Act.

Subtitle B—Secure Money Annuity or Retirement (SMART) Trusts

SEC. 111. SECURE MONEY ANNUITY OR RETIREMENT (SMART) TRUSTS.

(a) IN GENERAL.—Subpart A of part I of subchapter D of chapter 1 is amended by inserting after section 408A the following new section:

"SEC. 408B. SMART PLANS.

"(a) EMPLOYER ELIGIBILITY.—

"(1) IN GENERAL.—An employer may establish and maintain a SMART annuity or a SMART trust for any year only if—

"(A) the employer is an eligible employer (as defined in section 408(p)(2)(C)), and

"(B) the employer does not maintain (and no predecessor of the employer maintains) a qualified plan (other than a permissible plan) with respect to which contributions were made, or benefits were accrued, for service in any year in the period beginning with the year such annuity or trust became effective and ending with the year for which the determination is being made.

The period described in subparagraph (B) shall include the period of 5 years before the year such trust or annuity became effective with respect to qualified plans which are defined benefit plans or money purchase pension plans.

"(2) DEFINITIONS.—For purposes of paragraph (1)—

"(A) QUALIFIED PLAN.—The term 'qualified plan' has the meaning given such term by section 408(p)(2)(D)(ii).

"(B) PERMISSIBLE PLAN.—The term 'permissible plan' means—

"(i) a SIMPLE plan described in section 408(p),

"(ii) a SIMPLE 401(k) plan described in section 401(k)(11),

"(iii) an eligible deferred compensation plan described in section 457(b),

"(iv) a collectively bargained plan but only if the employees eligible to participate in such plan are not also entitled to a benefit described in subsection (b)(5) or (c)(5), or

"(v) a plan under which there may be made only—

"(I) elective deferrals described in section 402(g)(3), and

"(II) employer matching contributions not in excess of the amounts described in subclauses (I) and (II) of section 401(k)(12)(B)(i).

"(b) SMART ANNUITY.—

"(1) IN GENERAL.—For purposes of this title, the term 'SMART annuity' means an individual retirement annuity (as defined in section 408(b) without regard to paragraph (2) thereof and without regard to the limitation on aggregate annual premiums contained in the flush language of section 408(b)) if—

"(A) such annuity meets the requirements of paragraphs (2) through (8), and

"(B) the only contributions to such annuity are employer contributions.

Nothing in this section shall be construed as preventing an employer from using a group annuity contract which is divisible into individual retirement annuities for purposes of providing SMART annuities.

"(2) PARTICIPATION REQUIREMENTS.—

"(A) IN GENERAL.—The requirements of this paragraph are met for any year only if all employees of the employer who—

"(i) received at least $5,000 in compensation from the employer during any 2 consecutive preceding years, and

"(ii) received at least $5,000 in compensation during the year,

are entitled to the benefit described in paragraph (5) for such year.

"(B) EXCLUDABLE EMPLOYEES.—An employer may elect to exclude from the requirements under subparagraph (A) employees described in subparagraph (A) or (C) of section 410(b)(3).

"(3) VESTING.—The requirements of this paragraph are met if the employee's rights to any benefits under the annuity are nonforfeitable.

"(4) BENEFIT FORM.—The requirements of this paragraph are met if the only form of benefit is—

"(A) a benefit payable annually in the form of a single life annuity with monthly payments (with no ancillary benefits) beginning at age 65, or

"(B) any other form of benefit which is the actuarial equivalent (based on the assumptions specified in the SMART annuity) of the benefit described in subparagraph (A).

"(5) AMOUNT OF ANNUAL ACCRUED BENEFIT.—

"(A) IN GENERAL.—The requirements of this paragraph are met for any plan year if the accrued benefit of each participant derived from employer contributions for such year, when expressed as a benefit described in paragraph (4)(A), equals the applicable percentage of the participant's compensation for such year.

"(B) APPLICABLE PERCENTAGE.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'applicable percentage' means 2 percent.

"(ii) ELECTION OF DIFFERENT PERCENTAGE.—An employer may elect to apply an applicable percentage of 1 percent for any year for all employees eligible to participate in the plan for such year, if the employer notifies the employees of such percentage within a reasonable period before the beginning of such year. An employer may also elect to apply an applicable percentage of 3 percent for any of the first 5 years that the plan is effective for all employees eligible to participate in the plan for such year, if the employer so notifies the employees.

"(C) COMPENSATION LIMIT.—

"(i) IN GENERAL.—The compensation taken into account under this paragraph for any year shall not exceed $100,000.

"(ii) COST-OF-LIVING ADJUSTMENT.—The Secretary shall adjust annually the $100,000 amount in clause (i) for increases in the cost-of-living at the same time and in the same manner as adjustments under section 415(d); except that the base period shall be the calendar quarter beginning October 1, 1998, and any increase which is not a multiple of $5,000 shall be rounded to the next lowest multiple of $5,000.

"(6) FUNDING.—

"(A) IN GENERAL.—The requirements of this paragraph are met only if the employer is required to contribute to the annuity for each plan year the amount necessary to purchase a SMART annuity in the amount of the benefit accrued for such year for each participant entitled to such benefit. Such contribution must be made no later than 8½ months after the end of the plan year.

"(B) Penalty for failure to make required contribution.—The taxes imposed by section 4971 shall apply to a failure to make the contribution required by this paragraph in the same manner as if the amount of the failure were an accumulated funding deficiency to which such section applies.

"(7) Limitation on distributions.—

"(A) In general.—The requirements of this paragraph are met only if distributions may be paid only when the employee attains age 65, separates from service, dies, or becomes disabled (within the meaning of section 72(m)(7)).

"(B) Limitation on distributions on separation from service of employees who have not attained age 65.—Subparagraph (A) shall apply to a distribution on separation of service of an employee who has not attained age 65 only if—

"(i) the aggregate cash value of an employee's SMART annuities does not exceed the dollar limit in effect under section 411(a)(11)(A), or

"(ii) the distribution is a direct trustee-to-trustee transfer of the entire balance to the credit of the employee to a SMART trust described in subsection (c), a SMART rollover plan, or a SMART annuity for the benefit of such employee.

"(8) Joint and survivor annuity rules applicable.—The requirements of this paragraph are met only if the annuity satisfies section 401(a)(11).

"(9) Definitions and special rule.—

"(A) Definitions.—The definitions in section 408(p)(6) shall apply for purposes of this subsection.

"(B) Use of designated financial institutions.—A rule similar to the rule of section 408(p)(7) (without regard to the last sentence thereof) shall apply for purposes of this subsection.

"(C) SMART rollover plan.—For purposes of this section, the term 'SMART rollover plan' means an individual retirement plan for the benefit of the employee to which a rollover was made from a SMART Annuity, SMART trust, or another SMART Rollover plan.

"(c) SMART Trust.—

"(1) In general.—For purposes of this title, the term 'SMART trust' means a trust forming part of a defined benefit plan if—

"(A) such trust meets the requirements of section 401(a) as modified by subsection (d),

"(B) such plan meets the requirements of paragraphs (2) through (8), and

"(C) the only contributions to such trust are employer contributions.

"(2) Participation requirements.—A plan meets the requirements of this paragraph for any year only if the requirements of subsection (b)(2) are met for such year.

"(3) Vesting.—A plan meets the requirements of this paragraph for any year only if the requirements of subsection (b)(3) are met for such year.

"(4) Benefit form.—

"(A) In general.—Except as provided in subparagraph (B), a plan meets the requirements of this paragraph only if the trustee distributes a SMART annuity that satisfies subsection (b)(4) where the annual benefit described in subsection (b)(4)(A) is no less than the accrued benefit determined under paragraph (5).

"(B) Direct transfers to individual retirement plan or SMART annuity.—A plan shall not fail to meet the requirements of this paragraph by reason of permitting, as an optional form of benefit, the distribution of the entire balance to the credit of the employee. If the employee is under age 65, such distribution must be in the form of a direct trustee-to-trustee transfer to a SMART annuity, another SMART trust, or a SMART rollover plan (or, in the case of a distribution that does not exceed the dollar limit in effect under section 411(a)(11)(A), any other individual retirement plan).

"(5) Amount of annual accrued benefit.—A plan meets the requirements of this paragraph for any year only if the requirements of subsection (b)(5) are met for such year.

"(6) Funding.—

"(A) In general.—A plan meets the requirements of this paragraph for any year only if—

"(i) the requirements of subparagraph (A) of subsection (b)(6) are met for such year,

"(ii) in the case of a plan which has an unfunded annuity amount with respect to the account of any participant, the plan requires that the employer make an additional contribution to such plan (at the time the annuity contract to which such amount relates is purchased) equal to the unfunded annuity amount, and

"(iii) in the case of a plan which has an unfunded prior year liability as of the close of such plan year, the plan requires that the employer make an additional contribution to such plan for such year equal to the amount of such unfunded prior year liability no later than 8½ months following the end of the plan year.

"(B) Unfunded annuity amount.—For purposes of this paragraph, the term 'unfunded annuity amount' means, with respect to the account of any participant for whom an annuity is being purchased, the excess (if any) of—

"(i) the amount necessary to purchase an annuity contract which meets the requirements of subsection (b)(4) in the amount of the participant's accrued benefit determined under paragraph (5), over

"(ii) the balance in such account at the time such contract is purchased.

"(C) Unfunded prior year liability.—For purposes of this paragraph, the term 'unfunded prior year liability' means, with respect to any plan year, the excess (if any) of—

"(i) the aggregate of the present value under the plan as of the close of the prior plan year, over

"(ii) the value of the plan's assets determined under section 412(c)(2) as of the close of the plan year (determined without regard to any contributions for such plan year).

Such present value shall be determined using the assumptions specified in subparagraph (D).

"(D) Actuarial assumptions.—In determining the amount required to be contributed under subparagraph (A)—

"(i) the assumed interest rate shall be 5 percent per year,

"(ii) the assumed mortality shall be determined under the applicable mortality table (as defined in section 417(e)(3), as modified by the Secretary so that it does not include any assumption for preretirement mortality), and

"(iii) the assumed retirement age shall be 65.

"(E) Changes in mortality table.—If the applicable mortality table under section 417(e)(3) for any plan year is not the same as such table for the prior plan year, the Secretary shall prescribe regulations which phase in the effect of the changes over a reasonable period of plan years determined by the Secretary.

"(F) Penalty for failure to make required contribution.—The taxes imposed by section 4971 shall apply to a failure to make the contribution required by this paragraph in the same manner as if the amount of the failure were an accumulated funding deficiency to which such section applies.

"(7) Separate accounts for participants.—A plan meets the requirements of this paragraph for any year only if the plan provides—

"(A) for an individual account for each participant, and

"(B) for benefits based solely on—

"(i) the amount contributed to the participant's account,

"(ii) any income, expenses, gains and losses, and any forfeitures of accounts of other participants which may be allocated to such participant's account, and

"(iii) the amount of any unfunded annuity amount with respect to the participant.

"(8) Trust may not hold securities which are not readily tradable.—A plan meets the requirements of this paragraph only if the plan prohibits the trust from holding directly or indirectly securities which are not readily tradable on an established securities market. Nothing in this paragraph shall prohibit the trust from holding insurance company products regulated by State law.

"(9) Definitions.—The definitions applicable under subsection (b)(8) shall apply for purposes of this subsection.

"(d) Special Rules for SMART Annuities and Trusts.—For purposes of section 401(a), a SMART annuity and a SMART trust shall be treated as meeting the requirements of the following provisions:

"(1) Section 401(a)(4) (relating to nondiscrimination rules).

"(2) Section 401(a)(26) (relating to minimum participation).

"(3) Section 410 (relating to minimum participation and coverage requirements).

"(4) Section 411(b) (relating to accrued benefit requirements).

"(5) Section 416 (relating to special rules for top-heavy plans)."

(b) Deduction Rules.—

(1) In general.—Section 404 is amended by adding at the end the following new subsection:

"(n) Special Rules for SMART Annuities and Trusts.—

"(1) In general.—Employer contributions to a SMART annuity shall be treated as if they are made to a plan described in paragraph (1) of subsection (a).

"(2) Deductible limit.—For purposes of section 404(a)(1)(A)(i), the amount necessary to satisfy the minimum funding requirement of section 408B (b)(6) or (c)(6) shall be treated as the amount necessary to satisfy the minimum funding requirement of section 412."

(2) Coordination with deduction under section 219.—

(A) Section 219(b) is amended by adding at the end the following new paragraph:

"(5) Special rule for SMART annuities.—This section shall not apply with respect to any amount contributed to a SMART annuity established under section 408B(b)."

(B) Section 219(g)(5)(A) (defining active participant) is amended by striking "or" at the end of clause (v) and by adding at the end the following new clause:

"(vii) any SMART annuity (within the meaning of section 408B), or".

(c) Contributions and Distributions.—

(1) Section 402 is amended by adding at the end the following new subsection:

"(l) Treatment of SMART Annuities.—Rules similar to the rules of paragraphs (1) and (3) of subsection (h) shall apply to contributions and distributions with respect to SMART annuities under section 408B."

(2) Section 408(d)(3) is amended by adding at the end the following new subparagraph:

"(H) SMART ANNUITIES.—This paragraph shall not apply to any amount paid or distributed out of a SMART annuity (as defined in section 408B) unless it is paid in a trustee-to-trustee transfer into a SMART rollover plan."

(3)(A) Section 412(h) is amended by striking "or" at the end of paragraph (5), by striking the period at the end of paragraph (6) and inserting ", or", and by inserting after paragraph (6) the following new paragraph:

"(7) any plan providing for the purchase of any SMART annuity or any SMART plan."

(B) Section 301(a) of Employee Retirement Income Security Act of 1974 (29 U.S.C. 1081) is amended by striking "or" at the end of paragraph (9), by striking the period at the end of paragraph (10) and inserting "; or", and by adding at the end the following new paragraph:

"(11) any plan providing for the purchase of any SMART annuity or any SMART plan (as such terms are defined in section 408B of such Code)."

(4) Section 415(b) is amended by adding at the end the following new paragraph:

"(12) TREATMENT OF SMART ANNUITIES AND TRUSTS.—A SMART annuity and a SMART trust shall be treated as meeting the requirements of this section, but distributions from such an annuity or trust shall be taken into account in determining whether any other plan satisfies the requirements of this section."

(d) INCREASED PENALTY ON EARLY WITHDRAWALS.—Section 72(t) (relating to additional tax on early distributions) is amended by adding at the end the following new paragraph:

"(9) SPECIAL RULES FOR SMART ANNUITIES AND TRUSTS.—In the case of any amount received from a SMART annuity, a SMART trust, or a SMART rollover plan (within the meaning of section 408B), paragraph (1) shall be applied by substituting '20 percent' for '10 percent' and paragraph (2) shall be applied by substituting 'age 65' for 'age 59½'."

(e) SIMPLIFIED EMPLOYER REPORTS.—

(1) SMART ANNUITIES.—Section 408(l) (relating to simplified employer reports) is amended by adding at the end the following new paragraph:

"(3) SMART ANNUITIES.—

"(A) SIMPLIFIED REPORT.—The employer maintaining any SMART annuity (within the meaning of section 408B) shall file a simplified annual return with the Secretary containing only the information described in subparagraph (B).

"(B) CONTENTS.—The return required by subparagraph (A) shall set forth—

"(i) the name and address of the employer,

"(ii) the date the plan was adopted,

"(iii) the number of employees of the employer,

"(iv) the number of such employees who are eligible to participate in the plan,

"(v) the total amount contributed by the employer to each such annuity for such year and the minimum amount required under section 408B to be so contributed,

"(vi) the percentage elected under section 408B(b)(5)(B),

"(vii) the name of the issuer,

"(viii) the employer identification number,

"(ix) the name of the plan, and

"(x) the date of the contribution.

"(C) REPORTING BY ISSUER OF SMART ANNUITY.—

"(i) IN GENERAL.—The issuer of each SMART annuity shall provide to the owner of the annuity for each year a statement setting forth as of the close of such year—

"(I) the benefits guaranteed at age 65 under the annuity, and

"(II) the cash surrender value of the annuity.

"(ii) SUMMARY DESCRIPTION.—The issuer of any SMART annuity shall provide to the employer maintaining the annuity for each year a description containing the following information:

"(I) The name and address of the employer and the issuer.

"(II) The requirements for eligibility for participation.

"(III) The benefits provided with respect to the annuity.

"(IV) The procedures for, and effects of, withdrawals (including rollovers) from the annuity.

"(D) TIME AND MANNER OF REPORTING.—Any return, report, or statement required under this paragraph shall be made in such form and at such time as the Secretary shall prescribe."

(2) SMART TRUSTS.—Section 6059 (relating to actuarial reports) is amended by redesignating subsections (c) and (d) as subsections (d) and (e), respectively, and by inserting after subsection (b) the following new subsection:

"(c) SMART TRUSTS.—In the case of a SMART trust (within the meaning of section 408B), the Secretary shall require a simplified actuarial report which contains—

"(1) information similar to the information required in section 408(l)(3)(B),

"(2) the fair market value of the assets of the trust,

"(3) the amounts distributed directly to participants,

"(4) the amounts transferred to SMART rollover plans, and

"(5) the present value of the annual accrued benefits under the plan to which the trust relates."

(f) CONFORMING AMENDMENTS.—

(1) Subparagraph (A) of section 219(g)(5) is amended by striking "or" at the end of clause (v) and by inserting after clause (vi) the following new clause:

"(vii) any SMART trust or SMART annuity (within the meaning of section 408B), or".

(2) Section 280G(b)(6) is amended by striking "or" at the end of subparagraph (C), by striking the period at the end of subparagraph (D) and inserting ", or" and by adding after subparagraph (D) the following new subparagraph:

"(E) a SMART annuity described in section 408B."

(3) Subsections (b), (c), (m)(4)(B), and (n)(3)(B) of section 414 are each amended by inserting "408B," after "408(p),".

(4) Section 4972(d)(1)(A) is amended by striking "and" at the end of clause (iii), by striking the period at the end of clause (iv) and inserting ", and", and by adding after clause (iv) the following new clause:

"(v) any SMART annuity (within the meaning of section 408B)."

(g) REPORTING REQUIREMENTS UNDER ERISA.—Section 101 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1021) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h) SMART ANNUITIES.—

"(1) NO EMPLOYER REPORTS.—Except as provided in this subsection, no report shall be required under this section by an employer maintaining a SMART annuity under section 408B(b) of the Internal Revenue Code of 1986.

"(2) SUMMARY DESCRIPTION.—The issuer of any SMART annuity shall provide to the employer maintaining the annuity for each year a description containing the following information:

"(A) The name and address of the employer and the issuer.

"(B) The requirements for eligibility for participation.

"(C) The benefits provided with respect to the annuity.

"(D) The procedures for, and effects of, withdrawals (including rollovers) from the annuity."

"(3) EMPLOYEE NOTIFICATION.—The employer shall provide each employee eligible to participate in the SMART annuity with the description described in paragraph (2) at the same time as the notification required under section 408B(b)(5)(B) of the Internal Revenue Code of 1986."

(h) $5 PER PARTICIPANT PBGC PREMIUM.—Subparagraph (A) of section 4006(a)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1306) is amended—

(1) by inserting "not described in clause (iv)" after "in the case of a single-employer plan" in clause (i),

(2) by striking the period at the end of clause (iii) and inserting "; and", and

(3) by inserting after clause (iii) the following new clause:

"(iv) in the case of a single-employer plan described in section 408B(c) of the Internal Revenue Code of 1986, an amount equal to $5 for each participant.".

(i) CLERICAL AMENDMENT.—The table of sections for subpart A of part I of subchapter D of chapter 1 is amended by inserting after the item relating to section 408A the following new item:

"Sec. 408B. SMART plans."

(j) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 1998.

Subtitle C—Improved Fairness in Retirement Plan Benefits

SEC. 121. AMENDMENTS TO SIMPLE RETIREMENT ACCOUNTS.

(a) MINIMUM CONTRIBUTION REQUIREMENT.—

(1) IN GENERAL.—Paragraph (2) of section 408(p) (defining qualified salary reduction arrangement) is amended—

(A) by striking clauses (iii) and (iv) of subparagraph (A) and inserting the following new clauses:

"(iii) the employer is required to make a matching contribution to the simple retirement account for any year in an amount equal to—

"(I) so much of the amount the employee elects under clause (i)(I) as does not exceed 3 percent of compensation for the year, and

"(II) a uniform percentage (which is at least 50 percent but not more than 100 percent) of the amount the employee elects under clause (i)(I) to the extent that such amount exceeds 3 percent but does not exceed 5 percent of the employee's compensation,

"(iv) the employer is required to make nonelective contributions of 1 percent of compensation for each employee eligible to participate in the arrangement who has at least $5,000 of compensation from the employer for the year, and

"(v) no contributions may be made other than contributions described in clause (i), (iii), or (iv).", and

(B) by striking subparagraph (B) and inserting the following new subparagraph:

"(B) CONTRIBUTION RULES.—

"(i) EMPLOYER MAY ELECT 3-PERCENT NONELECTIVE CONTRIBUTION.—An employer shall be treated as meeting the requirements of clauses (iii) and (iv) of subparagraph (A) for any year if, in lieu of the contributions described in such clauses, the employer elects to make nonelective contributions of 3 percent of compensation for each employee who is eligible to participate in the arrangement and who has at least $5,000 of compensation from the employer for the year. If an employer makes an election under this clause for any year, the employer shall notify employees of such election within a reasonable period of time before the 60-day period for such year under paragraph (5)(C).

"(ii) Discretionary contributions.—A plan shall not be treated as failing to meet the requirements of subparagraph (A)(v) merely because, pursuant to the terms of the plan, an employer makes nonelective contributions under subparagraph (A)(iv) or clause (i) of this subparagraph in excess of 1 percent or 3 percent of compensation, respectively, but only if all such contributions bear a uniform relationship to the compensation of each eligible employee and do not exceed 5 percent of compensation for any eligible employee.

"(iii) Compensation limitation.—The compensation taken into account under this paragraph for any year shall not exceed the limitation in effect for such year under section 401(a)(17)."

(2) Matching contributions.—Subparagraph (B) of section 401(k)(11) (relating to adoption of simple plan to meet nondiscrimination tests) is amended—

(A) by striking subclauses (II) and (III) of clause (i) and inserting the following new subclauses:

"(II) the employer is required to make a matching contribution to the trust for any year in an amount equal to—

"(aa) so much of the amount the employee elects under subclause (I) as does not exceed 3 percent of compensation for the year, and

"(bb) a uniform percentage (which is at least 50 percent but not more than 100 percent) of the amount the employee elects under subclause (I) to the extent that such amount exceeds 3 percent but does not exceed 5 percent of the employee's compensation,

"(III) the employer is required to make nonelective contributions of 1 percent of compensation for each employee eligible to participate in the arrangement who has at least $5,000 of compensation from the employer for the year, and

"(IV) no other contributions may be made other than contributions described in subclause (I), (II), or (III).", and

(B) by striking clause (ii) and inserting the following new clause:

"(ii) Contribution rules.—

"(I) Employer may elect 3-percent nonelective contribution.—An employer shall be treated as meeting the requirements of subclauses (II) and (III) of clause (i) for any year if, in lieu of the contributions described in such subclauses, the employer elects to make nonelective contributions of 3 percent of compensation for each employee who is eligible to participate in the arrangement and who has at least $5,000 of compensation from the employer for the year. If an employer makes an election under this subclause for any year, the employer shall notify employees of such election within a reasonable period of time before the 60th day before the beginning of such year.

"(II) Discretionary contributions.—A plan shall not be treated as failing to meet the requirements of clause (i)(IV) merely because, pursuant to the terms of the plan, an employer makes nonelective contributions under clause (i)(III) or subclause (I) of this clause in excess of 1 percent or 3 percent of compensation, respectively, but only if all such contributions bear a uniform relationship to the compensation of each eligible employee and do not exceed 5 percent of compensation for any eligible employee."

(b) Option To Suspend Contributions.—Section 408(p) (relating to simple retirement accounts) is amended by adding at the end the following new paragraph:

"(10) Suspension of plan.—Except as provided by the Secretary, a plan shall not be treated as failing to meet the requirements of this subsection if, under the plan, the employer may suspend all elective, matching, and nonelective contributions under the plan after notifying employees eligible to participate in the arrangement of such suspension in writing at least 30 days in advance. Such suspension shall apply to contributions with respect to compensation earned after the effective date of the suspension. Only 1 suspension under this paragraph may take effect during any year."

(c) Conforming Amendments.—Section 408(p)(2)(C) is amended—

(1) by striking clause (ii),

(2) by striking "Definitions" in the heading and inserting "Eligible employer",

(3) by striking "(i) Eligible employer.—", and

(4) by redesignating subclauses (I) and (II) as clauses (i) and (ii), respectively.

(d) Effective Date.—

(1) In general.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 1998.

(2) Delayed effective date for plans established in 1997 or 1998.—In the case of plans established in 1997 or 1998 under section 408(p) of the Internal Revenue Code of 1986, the amendments made by this section shall apply to taxable years beginning after December 31, 2002.

SEC. 122. NONDISCRIMINATION RULES FOR QUALIFIED CASH OR DEFERRED ARRANGEMENTS AND MATCHING CONTRIBUTIONS.

(a) Alternative Methods of Satisfying Section 401(k) Nondiscrimination Tests.—Subparagraph (B) of section 401(k)(12) (relating to alternative methods of meeting nondiscrimination requirements) is amended to read as follows:

"(B) Nonelective and matching contributions.—

"(i) In general.—The requirements of this subparagraph are met if the requirements of clauses (ii) and (iii) are met.

"(ii) Nonelective contributions.—The requirements of this clause are met if, under the arrangement, the employer is required, without regard to whether the employee makes an elective contribution or employee contribution, to make a contribution to a defined contribution plan on behalf of each employee who is not a highly compensated employee and who is eligible to participate in the arrangement in an amount equal to at least 1 percent of the employee's compensation.

"(iii) Matching contributions.—The requirements of this clause are met if, under the arrangement, the employer makes matching contributions on behalf of each employee who is not a highly compensated employee in an amount equal to—

"(I) 100 percent of the elective contributions of the employee to the extent such elective contributions do not exceed 3 percent of the employee's compensation, and

"(II) 50 percent of the elective contributions of the employee to the extent that such elective contributions exceed 3 percent but do not exceed 5 percent of the employee's compensation.

"(iv) Rate for highly compensated employees.—The requirements of clause (iii) are not met if, under the arrangement, the rate of matching contribution with respect to any rate of elective contribution of a highly compensated employee is greater than that with respect to an employee who is not a highly compensated employee. For purposes of this clause, to the extent provided in regulations, the last sentences of paragraph (3)(A) and subsection (m)(2)(B) shall not apply.

"(v) Alternative plan designs.—If the rate of matching contribution with respect to any rate of elective contribution is not equal to the percentage required under clause (iii), an arrangement shall not be treated as failing to meet the requirements of clause (iii) if—

"(I) the rate of an employer's matching contribution does not increase as an employee's rate of elective contribution increase, and

"(II) the aggregate amount of matching contributions at such rate of elective contribution is at least equal to the aggregate amount of matching contributions which would be made if matching contributions were made on the basis of the percentages described in clause (iii)."

(b) Contributions Part of Qualified Cash or Deferred Arrangement.—Subparagraph (E)(ii) of section 401(k)(12) is amended to read as follows:

"(ii) Social security and similar contributions not taken into account.—Except as provided in regulations, an arrangement shall not be treated as meeting the requirements of subparagraph (B) or (C) unless such requirements are met without regard to subsection (l), and, for purposes of subsection (l), and determining whether contributions provided under a plan satisfy subsection (a)(4) on the basis of equivalent benefits, employer contributions under subparagraph (B) or (C) shall not be taken into account."

(c) Alternative Methods of Satisfying Section 401(m) Nondiscrimination Tests.—Section 401(m)(11) (relating to alternative method of satisfying tests) is amended—

(1) by striking "subparagraph (B)" in subparagraph (A)(iii) and inserting "subparagraphs (B) and (C)",

(2) by adding at the end of subparagraph (B) the following new flush sentence:

"To the extent provided in regulations, the last sentences of paragraph (2)(B) and subsection (k)(3)(A) shall not apply for purposes of clause (iii).", and

(3) by adding at the end the following new subparagraph:

"(C) Test must be met separately.—If this paragraph applies to any matching contributions, such contributions shall not be taken into account in determining whether employee contributions satisfy the requirements of this subsection."

(d) Special Rule for Determining Average Deferral Percentage for First Plan Year, Etc.—Subparagraph (E) of section 401(k)(3) is amended to read as follows:

"(E) For purposes of this paragraph, in the case of the first plan year of any plan, the amount taken into account as the actual deferral percentage of nonhighly compensated employees for the preceding plan year shall be—

"(i) 3 percent, or

"(ii) the actual deferral percentage of nonhighly compensated employees determined for such first plan year in the case of—

"(I) an employer who elects to have this clause apply, or

"(II) except to the extent provided by the Secretary, a successor plan."

(e) Effective Date.—The amendments made by this section shall apply to years beginning after December 31, 1998.

SEC. 123. DEFINITION OF HIGHLY COMPENSATED EMPLOYEES.

(a) In General.—Subparagraph (B) of section 414(q)(1) (defining highly compensated employee) is amended to read as follows:

"(B) for the preceding year had compensation from the employer in excess of $80,000."

(b) Conforming Amendments.—

(1)(A) Subsection (q) of section 414 is amended by striking paragraphs (3), (5), and (7) and by redesignating paragraphs (4), (6), (8), and (9) as paragraphs (3) through (6), respectively.

(B) Sections 129(d)(8)(B), 401(a)(5)(D)(ii), 408(k)(2)(C), and 416(i)(1)(D) are each amended by striking "section 414(q)(4)" and inserting "section 414(q)(3)".

(C) Section 416(i)(1)(A) is amended by striking "section 414(q)(5)" and inserting "section 414(r)(9)".

(2)(A) Section 414(r) is amended by adding at the end the following new paragraph:

"(9) Excluded employees.—For purposes of paragraph (2)(A), the following employees shall be excluded:

"(A) Employees who have not completed 6 months of service.

"(B) Employees who normally work less than 17½ hours per week.

"(C) Employees who normally work during not more than 6 months during any year.

"(D) Employees who have not attained the age of 21.

"(E) Except to the extent provided in regulations, employees who are included in a unit of employees covered by an agreement which the Secretary of Labor finds to be a collective bargaining agreement between employee representatives and the employer."

(B) Subparagraph (A) of section 414(r)(2) is amended by striking "subsection (q)(5)" and inserting "paragraph (9)".

(c) Effective Date.—The amendments made by this section shall apply to years beginning after December 31, 1998.

SEC. 124. TREATMENT OF MULTIEMPLOYER PLANS UNDER SECTION 415.

(a) Compensation Limit.—Paragraph (11) of section 415(b) (relating to limitation for defined benefit plans) is amended to read as follows:

"(11) Special limitation rule for governmental and multiemployer plans.—In the case of a governmental plan (as defined in section 414(d)) or a multiemployer plan (as defined in section 414(f)), subparagraph (B) of paragraph (1) shall not apply."

(b) Exemption for Survivor and Disability Benefits.—Subparagraph (I) of section 415(b)(2) (relating to limitation for defined benefit plans) is amended—

(1) by inserting "or a multiemployer plan (as defined in section 414(f))" after "section 414(d))" in clause (i),

(2) by inserting "or multiemployer plan" after "governmental plan" in clause (ii), and

(3) by inserting "AND MULTIEMPLOYER" after "GOVERNMENTAL" in the heading.

(c) Effective Date.—The amendments made by this section shall apply to years beginning after December 31, 1998.

SEC. 125. EXEMPTION OF MIRROR PLANS FROM SECTION 457 LIMITS.

(a) In General.—Subsection (e) of section 457 (relating to deferred compensation plans of State and local governments and tax-exempt organizations) is amended by adding at the end the following new paragraph:

"(16) Exemption for mirror plans.—

"(A) In general.—Amounts of compensation deferred under a mirror plan shall not be taken into account in applying this section to amounts of compensation deferred under any other deferred compensation plan.

"(B) Mirror plan.—The term 'mirror plan' means a plan, program, or arrangement maintained solely for the purpose of providing retirement benefits for employees in excess of the limitations imposed by section 401(a)(17) or section 415, or both."

(b) Effective Date.—The amendment made by this section shall apply to taxable years beginning after December 31, 1998.

SEC. 126. IMMEDIATE PARTICIPATION IN THE THRIFT SAVINGS PLAN FOR FEDERAL EMPLOYEES.

(a) Elimination of Certain Waiting Periods for Purposes of Employee Contributions.—Paragraph (4) of section 8432(b) of title 5, United States Code, is amended to read as follows:

"(4) The Executive Director shall prescribe such regulations as may be necessary to carry out the following:

"(A) Notwithstanding subparagraph (A) of paragraph (2), an employee or Member described in such subparagraph shall be afforded a reasonable opportunity to first make an election under this subsection beginning on the date of commencing service or, if that is not administratively feasible, beginning on the earliest date thereafter that such an election becomes administratively feasible, as determined by the Executive Director.

"(B) An employee or Member described in subparagraph (B) of paragraph (2) shall be afforded a reasonable opportunity to first make an election under this subsection (based on the appointment or election described in such subparagraph) beginning on the date of commencing service pursuant to such appointment or election or, if that is not administratively feasible, beginning on the earliest date thereafter that such an election becomes administratively feasible, as determined by the Executive Director.

"(C) Notwithstanding the preceding provisions of this paragraph, contributions under paragraphs (1) and (2) of subsection (c) shall not be payable with respect to any pay period before the earliest pay period for which such contributions would otherwise be allowable under this subsection if this paragraph had not been enacted.

"(D) Sections 8351(a)(2), 8440a(a)(2), 8440b(a)(2), 8440c(a)(2), and 8440d(a)(2) shall be applied in a manner consistent with the purposes of subparagraphs (A) and (B), to the extent those subparagraphs can be applied with respect thereto.

"(E) Nothing in this paragraph shall affect paragraph (3)."

(b) Technical and Conforming Amendments.—

(1) Section 8432(a) of title 5, United States Code, is amended—

(A) in the first sentence by striking "(b)(1)" and inserting "(b)"; and

(B) by amending the second sentence to read as follows: "Contributions under this subsection pursuant to such an election shall, with respect to each pay period for which such election remains in effect, be made in accordance with a program of regular contributions provided in regulations prescribed by the Executive Director."

(2) Section 8432(b)(1)(B) of such title is amended by inserting "(or any election allowable by virtue of paragraph (4))" after "subparagraph (A)".

(3) Section 8432(b)(3) of such title is amended by striking "Notwithstanding paragraph (2)(A), an" and inserting "An".

(4) Section 8432(i)(1)(B)(ii) of such title is amended by striking "either elected to terminate individual contributions to the Thrift Savings Fund within 2 months before commencing military service or".

(5) Section 8439(a)(1) of such title is amended by inserting "who makes contributions or" after "for each individual" and by striking "section 8432(c)(1)" and inserting "section 8432".

(6) Section 8439(c)(2) of such title is amended by adding at the end the following: "Nothing in this paragraph shall be considered to limit the dissemination of information only to the times required under the preceding sentence."

(7) Sections 8440a(a)(2) and 8440d(a)(2) of such title are amended by striking all after "subject to" and inserting "subject to this chapter."

(c) Effective Date.—This section shall take effect 6 months after the date of the enactment of this Act or such earlier date as the Executive Director may by regulation prescribe.

SEC. 127. FULL FUNDING LIMITATION FOR MULTIEMPLOYER PLANS.

(a) Amendments to Code.—

(1) Full funding limitation.—Section 412(c)(7)(C) (relating to full funding limitation) is amended—

(A) by inserting "or in the case of a multiemployer plan," after "paragraph (6)(B),", and

(B) by inserting "AND MULTIEMPLOYER PLANS" after "PARAGRAPH (6)(B)" in the heading thereof.

(2) Valuation.—Section 412(c)(9) (relating to annual valuation) is amended—

(A) by inserting "(3 years in the case of a multiemployer plan)" after "year", and

(B) by striking "Annual valuation" in the heading and inserting "Valuation".

(b) Amendments to ERISA.—

(1) Full funding limitation.—Section 302(c)(7)(C) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1082(c)(7)(C)) is amended—

(A) by inserting "or in the case of a multiemployer plan," after "paragraph (6)(B),", and

(B) by inserting "AND MULTIEMPLOYER PLANS" after "PARAGRAPH (6)(B)" in the heading thereof.

(2) Valuation.—Section 302(c)(9) of such Act (29 U.S.C. 1082(c)(9)) is amended—

(A) by inserting "(3 years in the case of a multiemployer plan)" after "year", and

(B) by striking "Annual valuation" in the heading and inserting "Valuation".

(c) Effective Date.—The amendments made by this section shall apply to plan years beginning after December 31, 1998.

SEC. 128. ELIMINATION OF PARTIAL TERMINATION RULES FOR MULTIEMPLOYER PLANS.

(a) Partial Termination Rules for Multiemployer Plans.—Section 411(d)(3) (relating to termination or partial termination; discontinuance of contributions) is amended by adding at the end the following new sentence: "This paragraph shall not apply in the case of a partial termination of a multiemployer plan."

(b) Effective Date.—The amendment made by this section shall apply to partial terminations beginning after December 31, 1998.

SEC. 129. REPEAL OF 150 PERCENT OF CURRENT LIABILITY FUNDING LIMIT.

(a) IN GENERAL.—Section 412(c)(7) (relating to full-funding limitation) is amended—

(1) by striking "150 percent" in subparagraph (A)(i)(I) and inserting "the applicable percentage", and

(2) by adding at the end the following new subparagraph:

"(F) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A)(i)(I), the applicable percentage is determined according to the following table:

"In the case of any plan year beginning in—	The applicable percentage is—
1998	155
1999	160
2000	165
2001	170
2002 and succeeding years	0."

(b) SPECIAL AMORTIZATION RULE.—

(1) IN GENERAL.—Section 412(c)(7), as amended by subsection (a), is amended by adding at the end the following new subparagraph:

"(G) SPECIAL AMORTIZATION RULE.—Contributions that would be required to be made under the plan but for the provisions of subparagraph (A)(i)(I) shall be amortized over a 20-year period."

(2) CONFORMING AMENDMENT.—Section 412(c)(7)(D) is amended by adding "and" at the end of clause (i), by striking ", and" at the end of clause (ii) and inserting a period, and by striking clause (iii).

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to any unamortized bases with respect to plan years beginning before, on, or after December 31, 1998.

TITLE II—SECURITY

SEC. 200. AMENDMENT OF ERISA.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Employee Retirement Income Security Act of 1974.

Subtitle A—General Provisions

SEC. 201. PERIODIC PENSION BENEFITS STATEMENTS.

(a) IN GENERAL.—Subsection (a) of section 105 (29 U.S.C. 1025) is amended—

(1) by striking "shall furnish to any plan participant or beneficiary who so requests in writing," and inserting "shall furnish at least once every 3 years, in the case of a participant in a defined benefit plan who has attained age 35, and annually, in the case of a defined contribution plan, to each plan participant, and shall furnish to any plan participant or beneficiary who so requests,", and

(2) by adding at the end the following flush sentence:

"Information furnished under the preceding sentence to a participant in a defined benefit plan (other than at the request of the participant) may be based on reasonable estimates determined under regulations prescribed by the Secretary."

(b) RULE FOR MULTIEMPLOYER PLANS.—Subsection (d) of section 105 (29 U.S.C. 1025) is amended to read as follows:

"(d) Each administrator of a plan to which more than 1 unaffiliated employer is required to contribute shall furnish to any plan participant or beneficiary who so requests in writing, a statement described in subsection (a)."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after the later of—

(1) the date of issuance by the Secretary of Labor of regulations providing guidance for simplifying defined benefit plan calculations with respect to the information required under section 105 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1025), or

(2) December 31, 1998.

SEC. 202. REQUIREMENT OF ANNUAL, DETAILED INVESTMENT REPORTS APPLIED TO CERTAIN 401(k) PLANS.

(a) IN GENERAL.—Section 104(b)(3) (29 U.S.C. 1024(b)(3)) is amended—

(1) by inserting "(A)" after "(3)"; and

(2) by adding at the end the following new subparagraph:

"(B)(i) If, for any plan year, a plan includes a qualified cash or deferred arrangement (as defined in section 401(k)(2) of the Internal Revenue Code of 1986) and such plan covers less than 100 participants, the administrator shall furnish (within 60 days after the end of such plan year) to each participant and to each beneficiary receiving benefits under the plan an annual investment report detailing such information as the Secretary by regulation shall require.

"(ii) Clause (i) shall not apply with respect to any participant described in section 404(c)."

(b) REGULATIONS.—

(1) IN GENERAL.—The Secretary of Labor, in prescribing regulations required under section 104(b)(3)(B)(i) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1023(b)(3)(B)(i)), as added by subsection (a), shall consider including in the information required in an annual investment report the following:

(A) Total plan assets and liabilities as of the beginning and ending of the plan year.

(B) Plan income and expenses and contributions made and benefits paid for the plan year.

(C) Any transaction between the plan and the employer, any fiduciary, or any 10-percent owner during the plan year, including the acquisition of any employer security or employer real property.

(D) Any noncash contributions made to or purchases of nonpublicly traded securities made by the plan during the plan year without an appraisal by an independent third party.

(2) ELECTRONIC TRANSFER.—The Secretary of Labor in prescribing such regulations shall also make provision for the electronic transfer of the required annual investment report by a plan administrator to plan participants and beneficiaries.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to plan years beginning after the date of the enactment of this Act.

SEC. 203. INFORMATION REQUIRED TO BE PROVIDED TO INVESTMENT MANAGERS OF 401(k) PLANS.

(a) IN GENERAL.—Section 105 (29 U.S.C. 1025) is amended by adding at the end the following new subsection:

"(e) If—

"(1) the administrator of an individual account plan described in section 401(k) of the Internal Revenue Code of 1986 provides for investment of the plan assets by means of a contractual arrangement with another party, and

"(2) such other party is not required under such arrangement to separately account for benefits accrued with respect to each participant and beneficiary under this plan,

such administrator shall be treated as failing to meet the requirements of subsection (a) unless, under such contractual arrangement, such administrator provides to such other party such information as is necessary to enable such party to separately account at any time for benefits accrued with respect to each participant and beneficiary."

(b) CIVIL PENALTY FOR VIOLATIONS.—Paragraph (1) of section 502(c) (29 U.S.C. 1132(c)(1)) is amended by striking "or section 101(e)(1)" and inserting ", section 101(e)(1), or section 105(e)".

SEC. 204. STUDY ON INVESTMENTS IN COLLECTIBLES.

(a) STUDY.—The Secretary of Labor, in consultation with the Secretary of the Treasury, shall study the extent to which pension plans invest in collectibles and whether such investments present a risk to the pension security of the participants and beneficiaries of such plans.

(b) REPORT.—Not later than 12 months after the date of the enactment of this Act, the Secretary of Labor shall submit a report to the Congress containing the findings of the study described in subsection (a) and any recommendations for legislative action.

SEC. 205. QUALIFIED EMPLOYER PLANS PROHIBITED FROM MAKING LOANS THROUGH CREDIT CARDS AND OTHER INTERMEDIARIES.

(a) IN GENERAL.—Subsection (a) of section 401 of the Internal Revenue Code of 1986 is amended by adding after paragraph (34) the following new paragraph:

"(35) PROHIBITION OF LOANS THROUGH CREDIT CARDS AND OTHER INTERMEDIARIES.—A trust shall not constitute a qualified trust under this section if the plan makes any loan to any beneficiary under the plan through the use of any credit card or any other intermediary."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to plan years beginning after the date of the enactment of this Act.

SEC. 206. MULTIEMPLOYER PLAN BENEFITS GUARANTEED.

(a) IN GENERAL.—Section 4022A(c) (29 U.S.C. 1322a(c)) is amended—

(1) by striking "$5" each place it appears in paragraph (1) and inserting "$11",

(2) by striking "$15" in paragraph (1) and inserting "$33", and

(3) by striking paragraphs (2), (5), and (6) and by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to any multiemployer plan that has not received financial assistance (within the meaning of section 4261 of the Employee Retirement Income Security Act of 1974) within the 1-year period ending on the date of the enactment of this Act.

SEC. 207. PROHIBITED TRANSACTIONS.

(a) IN GENERAL.—Section 502(i) (29 U.S.C. 1132(i)) is amended by striking "5 percent" and inserting "15 percent".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to prohibited transactions occurring after the date of the enactment of this Act.

SEC. 208. SUBSTANTIAL OWNER BENEFITS.

(a) MODIFICATION OF PHASE-IN OF GUARANTEE.—Subparagraphs (B) and (C) of section 4022(b)(5) (29 U.S.C. 1322(b)(5)) are amended to read as follows:

"(B) For purposes of this title, the term 'majority owner' has the same meaning as substantial owner under subparagraph (A), except that subparagraph (A) shall be applied by substituting '50 percent or more' for 'more than 10 percent' each place it appears.

"(C) In the case of a participant who is a majority owner, the amount of benefits guaranteed under this section shall not exceed the product of—

"(i) a fraction (not to exceed 1) the numerator of which is the number of years from the later of the effective date or the adoption date of the plan to the termination date, and the denominator of which is 30, and

"(ii) the amount of the majority owner's monthly benefits guaranteed under subsection (a) (as limited by paragraph (3) of this subsection)."

(b) Modification of Allocation of Assets.—

(1) Section 4044(a)(4)(B) (29 U.S.C. 1344(a)(4)(B)) is amended by striking "section 4022(b)(5)" and inserting "section 4022(b)(5)(C)".

(2) Section 4044(b) (29 U.S.C. 1344(b)) is amended—

(A) by striking "(5)" in paragraph (2) and inserting "(4), (5),", and

(B) by redesignating paragraphs (3) through (6) as paragraphs (4) through (7), respectively, and by inserting after paragraph (2) the following new paragraph:

"(3) If assets available for allocation under paragraph (4) of subsection (a) are insufficient to satisfy in full the benefits of all individuals who are described in that paragraph, the assets shall be allocated first to benefits described in subparagraph (A) of that paragraph. Any remaining assets shall then be allocated to subparagraph (B). If assets allocated to subparagraph (B) are insufficient to satisfy in full the benefits in that subparagraph, the assets shall be allocated pro rata among individuals on the basis of the present value (as of the termination date) of their respective benefits described in that subparagraph."

(c) Effective Date.—The amendments made by this section shall apply to plan terminations—

(1) under section 4041(c) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1341(c)) with respect to which notices of intent to terminate are provided under section 4041(a)(2) of such Act (29 U.S.C. 1341(a)(2)) on or after the date of the enactment of this Act, or

(2) under section 4042 of such Act (29 U.S.C. 1342) with respect to which proceedings are instituted by the corporation on or after such date.

SEC. 209. REVERSION REPORT.

(a) In General.—Section 4008 (29 U.S.C. 1308) is amended by adding at the end the following new subsection:

"(b) Reversion Report.—As soon as practicable after the close of each fiscal year, the Secretary of Labor (acting in the Secretary's capacity as chairman of the corporation's board) shall transmit to the President and the Congress a report providing information on plans from which residual assets were distributed to employers pursuant to section 4044(d)."

(b) Conforming Amendment.—Section 4008 (29 U.S.C. 1308) is amended by striking "Sec. 4008." and inserting "Sec. 4008. (a) Annual Report.—".

(c) Effective Date.—The amendments made by this section shall apply to fiscal years beginning after September 30, 1998.

Subtitle B—ERISA Enforcement

SEC. 211. CIVIL PENALTIES FOR BREACH OF FIDUCIARY RESPONSIBILITIES MADE DISCRETIONARY, ETC.

(a) Imposition and Amount of Penalty Made Discretionary.—Section 502(l)(1) (29 U.S.C. 1132(l)) is amended—

(1) by striking "shall" and inserting "may", and

(2) by striking "equal to" and inserting "not greater than".

(b) Applicable Recovery Amount.—Section 502(l)(2) (29 U.S.C. 1132(l)(2)) is amended to read as follows:

"(2) For purposes of paragraph (1), the term 'applicable recovery amount' means any amount which is recovered from (or on behalf of) any fiduciary or other person with respect to a breach or violation described in paragraph (1) on or after the 30th day following receipt by such fiduciary or other person of written notice from the Secretary of the violation, whether paid voluntarily or by order of a court in a judicial proceeding instituted by the Secretary under paragraph (2) or (5) of subsection (a). The Secretary may, in the Secretary's sole discretion, extend the 30-day period described in the preceding sentence.".

(c) Other Rules.—Section 502(l) is amended by adding at the end the following new paragraphs:

"(5) A person shall be jointly and severally liable for the penalty described in paragraph (1) to the same extent that such person is jointly and severally liable for the applicable recovery amount on which the penalty is based.

"(6) No penalty shall be assessed under this subsection unless the person against whom the penalty is assessed is given notice and opportunity for a hearing with respect to the violation and applicable recovery amount."

(d) Effective Dates.—

(1) In general.—The amendments made by this section shall apply to any breach of fiduciary responsibility or other violation of part 4 of title I of the Employee Retirement Income Security Act of 1974 occurring on or after the date of the enactment of this Act.

(2) Transition rule.—In applying the amendment made by subsection (b), a breach or other violation occurring before the date of the enactment of this Act which continues after the 180th day after such date (and which may be discontinued at any time during its existence) shall be treated as having occurred on the day after such date of enactment.

SEC. 212. REPORTING AND ENFORCEMENT REQUIREMENTS FOR EMPLOYEE BENEFIT PLANS.

(a) In General.—Part 1 of subtitle B of title I (29 U.S.C. 1021 et seq.) is amended—

(1) by redesignating section 111 as section 112, and

(2) inserting after section 110 the following new section:

"DIRECT REPORTING OF CERTAIN EVENTS

"Sec. 111. (a) Required Notifications.—

"(1) Notifications by plan administrator.—Within 5 business days after an administrator of an employee benefit plan determines that there is evidence (or after the administrator is notified under paragraph (2)) that an irregularity may have occurred with respect to the plan, the administrator shall—

"(A) notify the Secretary of the irregularity in writing; and

"(B) furnish a copy of such notification to the accountant who is currently engaged under section 103(a)(3)(A).

"(2) Notifications by accountant.—

"(A) In general.—Within 5 business days after an accountant engaged by the administrator of an employee benefit plan under section 103(a)(3)(A) determines in connection with such engagement that there is evidence that an irregularity may have occurred with respect to the plan, the accountant shall—

"(i) notify the plan administrator of the irregularity in writing, or

"(ii) if the accountant determines that there is evidence that the irregularity may have involved an individual who is the plan administrator or who is a senior official of the plan administrator, notify the Secretary of the irregularity in writing.

"(B) Notification upon failure of plan administrator to notify.—If an accountant who has provided notification to the plan administrator pursuant to subparagraph (A)(i) does not receive a copy of the administrator's notification to the Secretary required in paragraph (1) within the 5-business day period specified therein, the accountant shall furnish to the Secretary a copy of the accountant's notification made to the plan administrator on the next business day following such period.

"(3) Irregularity defined.—

"(A) For purposes of this subsection, the term 'irregularity' means—

"(i) a theft, embezzlement, or a violation of section 664 of title 18, United States Code (relating to theft or embezzlement from an employee benefit plan);

"(ii) an extortion or a violation of section 1951 of title 18, United States Code (relating to interference with commerce by threats or violence);

"(iii) a bribery, a kickback, or a violation of section 1954 of title 18, United States Code (relating to offer, acceptance, or solicitation to influence operations of an employee benefit plan);

"(iv) a violation of section 1027 of title 18, United States Code (relating to false statements and concealment of facts in relation to employee benefit plan records); or

"(v) a violation of section 411, 501, or 511 of this title (relating to criminal violations).

"(B) The term 'irregularity' does not include any act or omission described in this paragraph involving less than $1,000 unless there is reason to believe that the act or omission may bear on the integrity of plan management.

"(b) Notification Upon Termination of Engagement of Accountant.—

"(1) Notification by plan administrator.—Within 5 business days after the termination of an engagement of an accountant under section 103(a)(3)(A) with respect to an employee benefit plan, the administrator of such plan shall—

"(A) notify the Secretary in writing of such termination, giving the reasons for such termination, and

"(B) furnish the accountant whose engagement was terminated with a copy of the notification sent to the Secretary.

"(2) Notification by accountant.—If the accountant referred to in paragraph (1)(B) has not received a copy of the administrator's notification to the Secretary as required under paragraph (1)(B), or if the accountant disagrees with the reasons given in the notification of termination of the engagement for auditing services, the accountant shall notify the Secretary in writing of the termination, giving the reasons for the termination, within 10 business days after the termination of the engagement.

"(c) Determination of Periods Required for Notification.—In determining whether a notification required under this section with respect to any act or omission has been made within the required number of business days—

"(1) the day on which such act or omission begins shall not be included; and

"(2) Saturdays, Sundays, and legal holidays shall not be included.

For purposes of this subsection, the term 'legal holiday' means any Federal legal holiday and any other day appointed as a holiday by the State in which the person responsible for making the notification principally conducts business.

"(d) Immunity for Good Faith Notification.—No accountant or plan administrator shall be liable to any person for any finding, conclusion, or statement made in any notification made pursuant to subsection (a)(2) or (b)(2), or pursuant to any regulations issued under those subsections, if the finding, conclusion, or statement is made in good faith."

(b) Civil Penalty.—

(1) In general.—Section 502(c) (29 U.S.C. 1132(c)) is amended by inserting after paragraph (6) the following new paragraph:

"(8)(A) The Secretary may assess a civil penalty of up to $50,000 against any administrator who fails to provide the Secretary with any notification as required under section 111.

"(B) The Secretary may assess a civil penalty of up to $50,000 against any accountant who knowingly and willfully fails to provide the Secretary with any notification as required under section 111."

(2) Conforming amendment.—Section 502(a)(6) (29 U.S.C. 1132(a)(6)) is amended by striking "or (6)" and inserting "(6), or (8)".

(c) Clerical Amendments.—

(1) Section 514(d) (29 U.S.C. 114(d)) is amended by striking "111" and inserting "112".

(2) The table of contents in section 1 is amended by striking the item relating to section 111 and inserting the following new items:

"Sec. 111. Direct reporting of certain events.
"Sec. 112. Repeal and effective date."

(d) Effective Date.—The amendments made by this section shall apply with respect to any irregularity or termination of engagement described in the amendments only if the 5-day period described in the amendments in connection with the irregularity or termination commences at least 90 days after the date of the enactment of this Act.

SEC. 213. ADDITIONAL REQUIREMENTS FOR QUALIFIED PUBLIC ACCOUNTANTS.

(a) In General.—Section 103(a)(3)(D) (29 U.S.C. 1023(a)(3)(D)) is amended—

(1) by inserting "(i)" after "(D)";

(2) by inserting ", with respect to any engagement of an accountant under subparagraph (A)" after "means";

(3) by redesignating clauses (i), (ii), and (iii) as subclauses (I), (II), and (III), respectively;

(4) by striking the period at the end of subclause (III) (as so redesignated) and inserting a comma;

(5) by adding after and below subclause (III) (as so redesignated), the following: "but only if such person meets the requirements of clauses (ii) and (iii), with respect to such engagement."; and

(6) by adding at the end the following new clauses:

"(ii) A person meets the requirements of this clause with respect to an engagement of the person as an accountant under subparagraph (A) if the person—

"(I) has in operation an appropriate internal quality control system;

"(II) has undergone a qualified external quality control review of the person's accounting and auditing practices, including such practices relevant to employee benefit plans (if any), during the 3-year period immediately preceding such engagement; and

"(III) has completed, within the 2 calendar years immediately preceding such engagement, such continuing education or training as the Secretary in regulations determines is necessary to maintain professional proficiency in connection with employee benefit plans.

"(iii) A person meets the requirements of this clause with respect to an engagement of the person as an accountant under subparagraph (A) if the person meets such additional requirements and qualifications of regulations which the Secretary deems necessary to ensure the quality of plan audits.

"(iv) For purposes of clause (ii)(II), an external quality control review shall be treated as qualified with respect to a person referred to in clause (ii) if—

"(I) such review is performed in accordance with the requirements of external quality control review programs of recognized auditing standard setting bodies, as determined in regulations of the Secretary, and

"(II) in the case of any such person who has, during the peer review period, conducted 1 or more previous audits of employee benefit plans, such review includes the review of an appropriate number (determined as provided in such regulations, but in no case less than 1) of plan audits in relation to the scale of the person's auditing practice.

(b) Effective Dates.—

(1) In general.—Except as provided in paragraph (2), the amendments made by this section apply with respect to plan years beginning on or after the date which is 3 years after the date of the enactment of this Act.

(2) Restrictions on conducting examinations.—Clause (iii) of section 103(a)(1)(D) of the Employee Retirement Income Security Act of 1974 (as added by subsection (a)(6)) takes effect on the date of enactment of this Act.

(3) Regulations.—The Secretary shall issue regulations under this section no later than December 31, 1999.

SEC. 214. INSPECTOR GENERAL STUDY.

(a) Study.—The Inspector General of the Department of Labor shall conduct a study on the need for regulatory standards and procedures to authorize the Secretary, in appropriate cases, to prohibit persons from serving as qualified accountants for purposes of section 103 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1023).

(b) Matters To Be Studied.—In conducting the study under this section, the Inspector General shall address whether standards and procedures to prohibit persons from serving as qualified public accountants are likely to improve the quality of employee benefit plan audits, and the potential for increased costs to plans. If the Inspector General concludes that regulations incorporating standards and procedures would be appropriate, the study shall include recommended standards and procedures.

(c) Report.—Not later than 1 year after the date of the enactment of this Act, the Inspector General shall submit a report on the results of the study conducted pursuant to this section to each house of Congress and the Secretary of Labor.

Subtitle C—Increase in Excise Tax on Employer Reversions

SEC. 221. INCREASE IN EXCISE TAX.

(a) In General.—Section 4980 of the Internal Revenue Code of 1986 (relating to tax on reversion of qualified plan assets to employer) is amended—

(1) in subsection (a), by striking "20 percent" and inserting "35 percent"; and

(2) in subsection (d)(1), by striking "substituting '50 percent' for '20 percent' with respect to any employer reversion" and inserting "substituting '65 percent' for '35 percent' with respect to any employer reversion".

(b) Effective Date.—

(1) In general.—Except as provided in paragraph (2), the amendment made by this section shall apply to reversions occurring after December 31, 1998.

(2) Exception.—The amendment made by this section shall not apply to any reversion after December 31, 1998, if—

(A) in the case of plans subject to title IV of the Employee Retirement Income Security Act of 1974, a notice of intent to terminate under such title was provided to participants (or if no participants, to the Pension Benefit Guaranty Corporation) before June 25, 1998,

(B) in the case of plans subject to title I (and not to title IV) of such Act, a notice of intent to reduce future accruals under section 204(h) of such Act was provided to participants in connection with the termination before June 25, 1998,

(C) in the case of plans not subject to title I or IV of such Act, a request for a determination letter with respect to the termination was filed with the Secretary of the Treasury or the Secretary's delegate before June 25, 1998, or

(D) in the case of plans not subject to title I or IV of such Act and having only 1 participant, a resolution terminating the plan was adopted by the employer before June 25, 1998.

TITLE III—PORTABILITY

SEC. 301. FASTER VESTING OF EMPLOYER MATCHING CONTRIBUTIONS.

(a) Amendment of Internal Revenue Code.—Paragraph (2) of section 411(a) of the Internal Revenue Code of 1986 (relating to employer contributions) is amended—

(1) by inserting ", and, if applicable, (C)" after "or (B)", and

(2) by adding at the end the following new subparagraph:

"(C) Matching contributions.—In the case of a plan that includes an accrued benefit derived from matching contributions (as defined in section 401(m)(4)(A)), the plan satisfies the requirements of this subparagraph if—

"(i) an employee who has completed at least 3 years of service has a nonforfeitable right to 100 percent of the employee's accrued benefit derived from such matching contributions, or

"(ii) an employee has a nonforfeitable right to a percentage of the employee's accrued benefit derived from employer matching contributions (as so defined) determined under the following table:

"Years of service:	The nonforfeitable percentage is:
2	20
3	40
4	60
5	80
6	100."

(b) Amendment of ERISA.—Paragraph (2) of section 203(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1053(a)) is amended—

(1) by inserting ", and, if applicable, (C)" after "or (B)", and

(2) by adding at the end the following new subparagraph:

"(C) Matching contributions.—In the case of a plan that includes an accrued benefit derived from matching contributions (as defined in section 401(m)(4)(A) of the Internal Revenue Code of 1986), the plan satisfies the requirements of this subparagraph if—

"(i) an employee who has completed at least 3 years of service has a nonforfeitable right to 100 percent of the employee's accrued benefit derived from such matching contributions, or

"(ii) an employee has a nonforfeitable right to a percentage of the employee's accrued benefit derived from employer matching contributions (as so defined) determined under the following table:

"Years of service:	The nonforfeitable percentage is:
2	20
3	40
4	60
5	80
6	100."

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the amendments made by this section shall apply to plan years beginning after December 31, 1998.

(2) APPLICATION TO CURRENT EMPLOYEES.—The amendments made by this section shall not apply to any employee who does not have at least 1 hour of service in any plan year beginning after December 31, 1998.

(3) COLLECTIVE BARGAINING AGREEMENTS.—In the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified by the date of the enactment of this Act, the amendments made by this section shall not apply to employees covered by any such agreement in plan years beginning before the earlier of—

(A) the later of—

(i) the date on which the last of such collective bargaining agreements terminates (determined without regard to any extension thereof on or after such date of enactment), or

(ii) January 1, 1999, or

(B) January 1, 2003.

SEC. 302. RATIONALIZATION OF THE RESTRICTIONS ON DISTRIBUTIONS FROM 401(k) PLANS.

(a) IN GENERAL.—Section 401(k)(2)(B)(i)(I) of the Internal Revenue Code of 1986 (relating to qualified cash or deferred arrangements) is amended by striking "separation from service" and inserting "severance from employment".

(b) BUSINESS SALE REQUIREMENTS DELETED.—

(1) IN GENERAL.—Section 401(k)(2)(B)(i)(II) of the Internal Revenue Code of 1986 (relating to qualified cash or deferred arrangements) is amended by striking "an event" and inserting "a plan termination".

(2) CONFORMING AMENDMENTS.—Section 401(k)(10) of such Code is amended—

(A) by striking subparagraph (A) and inserting the following:

"(A) IN GENERAL.—A plan termination is described in this paragraph if the termination of the plan is without establishment or maintenance of another defined contribution plan (other than an employee stock ownership plan as defined in section 4975(e)(7)).",

(B) by striking subparagraph (C), and

(C) by striking "OR DISPOSITION OF ASSETS OR SUBSIDIARY" in the heading.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions after December 31, 1998.

SEC. 303. TREATMENT OF TRANSFERS BETWEEN DEFINED CONTRIBUTION PLANS.

(a) IN GENERAL.—Section 411(d)(6) of the Internal Revenue Code of 1986 (relating to accrued benefit not to be decreased by amendment) is amended by adding at the end the following new subparagraph:

"(D) PLAN TRANSFERS.—A defined contribution plan (in this subparagraph referred to as the 'transferee plan') shall not be treated as failing to meet the requirements of this paragraph merely because the transferee plan does not provide some or all of the forms of distribution previously available under another defined contribution plan (in this subparagraph referred to as the 'transferor plan') to the extent that—

"(i) the forms of distribution previously available under the transferor plan applied to the account of a participant or beneficiary under the transferor plan that was transferred from the transferor plan to the transferee plan pursuant to a direct transfer rather than pursuant to a distribution from the transferor plan,

"(ii) the terms of both the transferor plan and the transferee plan authorize the transfer described in clause (i),

"(iii) the transfer described in clause (i) was made pursuant to a voluntary election by the participant or beneficiary whose account was transferred to the transferee plan,

"(iv) the election described in clause (iii) was made after the participant or beneficiary received a notice describing the consequences of making the election,

"(v) if the transferor plan provides for an annuity as the normal form of distribution under the plan in accordance with section 417, the transfer is made with the consent of the participant's spouse (if any), and such consent meets requirements similar to the requirements imposed by section 417(a)(2), and

"(vi) the transferee plan allows the participant or beneficiary described in clause (iii) to receive any distribution to which the participant or beneficiary is entitled under transferee plan in the form of a single sum distribution."

(b) CONFORMING AMENDMENT.—Section 204(g) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1054(g)) is amended by adding at the end the following new paragraph:

"(4) A defined contribution plan (in this paragraph referred to as the 'transferee plan') shall not be treated as failing to meet the requirements of this subsection merely because the transferee plan does not provide some or all of the forms of distribution previously available under another defined contribution plan (in this paragraph referred to as the 'transferor plan') to the extent that—

"(A) the forms of distribution previously available under the transferor plan applied to the account of a participant or beneficiary under the transferor plan that was transferred from the transferor plan to the transferee plan pursuant to a direct transfer rather than pursuant to a distribution from the transferor plan,

"(B) the terms of both the transferor plan and the transferee plan authorize the transfer described in subparagraph (A),

"(C) the transfer described in subparagraph (A) was made pursuant to a voluntary election by the participant or beneficiary whose account was transferred to the transferee plan,

"(D) the election described in subparagraph (C) was made after the participant or beneficiary received a notice describing the consequences of making the election,

"(E) if the transferor plan provides for an annuity as the normal form of distribution under the plan in accordance with section 205, the transfer is made with the consent of the participant's spouse (if any), and such consent meets requirements similar to the requirements imposed by section 205(c)(2), and

"(F) the transferee plan allows the participant or beneficiary described in subparagraph (C) to receive any distribution to which the participant or beneficiary is entitled under transferee plan in the form of a single sum distribution."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers after December 31, 1998.

SEC. 304. MISSING PARTICIPANTS.

(a) IN GENERAL.—Section 4050 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1350) is amended by redesignating subsection (c) as subsection (e) and by inserting after subsection (b) the following new subsections:

"(c) MULTIEMPLOYER PLANS.—The corporation shall prescribe rules similar to the rules in subsection (a) for multiemployer plans covered by this title that terminate under section 4041A.

"(d) PLANS NOT OTHERWISE SUBJECT TO TITLE.—

"(1) TRANSFER TO CORPORATION.—The plan administrator of a plan described in paragraph (4) may elect to transfer a missing participant's benefits to the corporation upon termination of the plan.

"(2) INFORMATION TO THE CORPORATION.—To the extent provided in regulations, the plan administrator of a plan described in paragraph (4) shall, upon termination of the plan, provide the corporation information with respect to benefits of a missing participant if the plan transfers such benefits—

"(A) to the corporation, or

"(B) to an entity other than the corporation or a plan described in paragraph (4)(B)(ii).

"(3) PAYMENT BY THE CORPORATION.—If benefits of a missing participant were transferred to the corporation under paragraph (1), the corporation shall, upon location of the participant or beneficiary, pay to the participant or beneficiary the amount transferred (or the appropriate survivor benefit) either—

"(A) in a single sum (plus interest), or

"(B) in such other form as is specified in regulations of the corporation.

"(4) PLANS DESCRIBED.—A plan is described in this paragraph if—

"(A) the plan is a pension plan (within the meaning of section 3(2))—

"(i) to which the provisions of this section do not apply (without regard to this subsection), and

"(ii) which is not a plan described in paragraphs (2) through (11) of section 4021(b), and

"(B) at the time the assets are to be distributed upon termination, the plan—

"(i) has missing participants, and

"(ii) has not provided for the transfer of assets to pay the benefits of all missing participants to another pension plan (within the meaning of section 3(2)).

"(5) CERTAIN PROVISIONS NOT TO APPLY.—Subsections (a)(1) and (a)(3) shall not apply to a plan described in paragraph (4)."

(b) CONFORMING AMENDMENTS.—

(1) Section 206(f) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1056(f)) is amended—

(A) by striking "title IV" and inserting "section 4050", and

(B) by striking "the plan shall provide that,".

(2) Section 401(a)(34) of the Internal Revenue Code of 1986 (relating to benefits of missing participants on plan termination) is amended by striking "title IV" and inserting "section 4050".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions made after final regulations implementing subsections (c) and (d) of section 4050 of the Employee Retirement Income Security Act of 1974 (as added by subsection (a)), respectively, are prescribed.

SEC. 305. ALLOWANCE OF ROLLOVERS FROM AND TO 403(b) PLANS.

(a) ROLLOVERS FROM SECTION 403(b) PLANS.—Section 403(b)(8)(A)(ii) of the Internal Revenue Code of 1986 (relating to rollover amounts) is amended by striking "such distribution" and all that follows and inserting "such distribution to an eligible retirement plan described in section 402(c)(8)(B), and".

(b) Rollovers to Section 403(b) Plans.—Section 402(c)(8)(B) of such Code (defining eligible retirement plan) is amended by striking "and" at the end of clause (ii), by striking the period at the end of clause (iv) and inserting ", and", and by adding at the end the following:

"(v) an annuity contract described in section 403(b)."

(c) Conforming Amendments.—

(1) Section 72(o)(4) of such Code is amended by striking "and 408(d)(3)" and inserting "403(b)(8), and 408(d)(3)".

(2) Section 401(a)(31)(B) of such Code is amended by striking "and 403(a)(4)" and inserting ", 403(a)(4), and 403(b)(8)".

(3) Subparagraph (B) of section 403(b)(8) of such Code is amended by inserting "and (9)" after "through (7)".

(4) Subparagraphs (A) and (B) of section 415(b)(2) of such Code are each amended by striking "and 408(d)(3)" and inserting "403(b)(8), and 408(d)(3)".

(d) Effective Date; Special Rule.—

(1) Effective date.—The amendments made by this section shall apply to distributions after December 31, 1998.

(2) Special rule.—Notwithstanding any other provision of law, subsections (h)(3) and (h)(5) of section 1122 of the Tax Reform Act of 1986 shall not apply to any distribution from an eligible retirement plan on behalf of an individual if there was a rollover to such plan on behalf of such individual which is permitted solely by reason of any amendment made by this section.

SEC. 306. ROLLOVER CONTRIBUTIONS FROM DEFERRED COMPENSATION PLANS OF STATE AND LOCAL GOVERNMENTS.

(a) Rollovers From Section 457 Plans.—

(1) In general.—Section 457(e) of the Internal Revenue Code of 1986 (relating to other definitions and special rules) is amended by adding at the end the following:

"(16) Rollover amounts.—

"(A) General rule.—In the case of an eligible deferred compensation plan of an eligible employer described in paragraph (1)(A), if—

"(i) any portion of the balance to the credit of an employee in such plan is paid to such employee in a rollover distribution (other than a distribution described in subsection (d)(1)(A)(iii) or in subparagraph (A) or (B) of section 402(c)(4)),

"(ii) the employee transfers any portion of the property such employee receives in such distribution to an individual retirement plan (as defined in section 7701(a)(37), and

"(iii) in the case of a distribution of property other than money, the amount so transferred consists of the property distributed,

then such distribution (to the extent so transferred) shall not be includible in gross income for the taxable year in which paid.

"(B) Certain rules made applicable.—Rules similar to the rules of section 401(a)(31), paragraphs (2), (3), (5), (6), (7), and (9) of section 402(c), and section 402(f) shall apply for purposes of subparagraph (A)."

(2) Distribution requirements.—Section 457(d)(1)(A) of such Code (relating to distribution requirements) is amended by inserting "except as provided in subsection (e)(16)," after "(A)".

(3) Conforming amendments.—

(A) Section 72(o)(4) of such Code is amended—

(i) by striking "and 408(d)(3)" and inserting "408(d)(3), and 457(e)(16)",

(ii) by inserting "or excludable" after "deductible" each place it appears, and

(iii) in the heading by inserting "or Excludable" after "Deductible".

(B) Section 219(d)(2) of such Code is amended by striking "or 408(d)(3)" and inserting "408(d)(3), or 457(e)(16)".

(C) Section 401(a)(31)(B) of such Code is amended by striking "and 403(b)(8)" and inserting ", 403(b)(8), and 457(e)(16)".

(D) Paragraph (4) of section 402(c) of such Code is amended by inserting "or in an eligible deferred compensation plan (as defined in section 457(b)) of an eligible employer described in section 457(e)(1)(A)" after "qualified trust".

(E) Section 408(a)(1) of such Code is amended by striking "or 403(b)(8)" and inserting ", 403(b)(8), or 457(e)(16)".

(F) Section 408(d)(3)(A)(ii) of such Code is amended by striking "or" after "501(a)" and inserting a comma, and by inserting ", or from an eligible deferred compensation plan described in section 457(b)" after "contribution)".

(G) Subparagraphs (A) and (B) of section 415(b)(2) of such Code are each amended by striking "and 408(d)(3)" and inserting "408(d)(3), and 457(e)(16)".

(H) Section 4973(b)(1)(A) of such Code is amended by striking "or 408(d)(3)" and inserting "408(d)(3), or 457(e)(16)".

(d) Effective Date; Special Rule.—

(1) Effective date.—The amendments made by this section shall apply to distributions after December 31, 1998.

(2) Special rule.—Notwithstanding any other provision of law, subsections (h)(3) and (h)(5) of section 1122 of the Tax Reform Act of 1986 shall not apply to any distribution from an individual retirement plan on behalf of an individual if there was a rollover to such plan on behalf of such individual which is permitted solely by reason of any amendment made by this section.

SEC. 307. EXTENSION OF 60-DAY ROLLOVER PERIOD IN THE CASE OF PRESIDENTIALLY DECLARED DISASTERS AND SERVICE IN COMBAT ZONE.

(a) In General.—Paragraph (1) of section 7508(a) of the Internal Revenue Code of 1986 (relating to time postponed for performing certain acts) is amended by striking "and" at the end of subparagraph (J), by redesignating subparagraph (K) as subparagraph (L), and by inserting after subparagraph (J) the following new subparagraph:

"(K) Rollover of any distribution within the 60-day period specified in section 402(c)(3) or 408(d)(3)(A); and".

(b) Effective Date.—The amendment made by this section shall apply to distributions made after December 31, 1998.

SEC. 308. PURCHASE OF SERVICE CREDIT IN GOVERNMENTAL DEFINED BENEFIT PLANS.

(a) 403(b) Plans.—Subsection (b) of section 403 of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

"(13) Trustee-to-trustee transfers to purchase permissive service credit.—No amount shall be includible in gross income by reason of a direct trustee-to-trustee transfer to a defined benefit governmental plan (as defined in section 414(d)) if such transfer is—

"(A) for the purchase of permissive service credit (as defined in section 415(n)(3)(A)) under such plan, or

"(B) a repayment to which section 415 does not apply by reason of subsection (k)(3) thereof."

(b) 457 Plans.—Subsection (e) of section 457 of such Code, as amended by section 306, is amended by adding at the end the following new paragraph:

"(17) Trustee-to-trustee transfers to purchase permissive service credit.—No amount shall be includible in gross income by reason of a direct trustee-to-trustee transfer to a defined benefit governmental plan (as defined in section 414(d)) if such transfer is—

"(A) for the purchase of permissive service credit (as defined in section 415(n)(3)(A)) under such plan, or

"(B) a repayment to which section 415 does not apply by reason of subsection (k)(3) thereof."

(c) Effective Date.—The amendments made by this section shall apply to trustee-to-trustee transfers after December 31, 1998.

TITLE IV—COMPREHENSIVE WOMEN'S PENSION PROTECTION

Subtitle A—Pension Reform

SEC. 401. PENSION RIGHT TO KNOW PROPOSALS.

(a) Spouse's Right To Know Distribution Information.—

(1) Amendment of internal revenue code.—Paragraph (3) of section 417(a) of the Internal Revenue Code of 1986 (relating to definitions and special rules for purposes of minimum survivor annuity requirements) is amended by adding at the end the following new subparagraph:

"(C) Explanation to spouse.—At the time a plan provides a participant with a written explanation under subparagraph (A) or (B), such plan shall provide a copy of such explanation to such participant's spouse. If the last known address of the spouse is the same as the last known address of the participant, the requirement of the preceding sentence shall be treated as met if the copy referred to in the preceding sentence is included in a single mailing made to such address and addressed to both such participant and spouse."

(2) Amendment of ERISA.—Paragraph (3) of section 205(c) of Employee Retirement Income Security Act of 1974 is amended by adding at the end the following new subparagraph:

"(C) Explanation to spouse.—At the time a plan provides a participant with a written explanation under subparagraph (A) or (B), such plan shall provide a copy of such explanation to such participant's spouse. If the last known address of the spouse is the same as the last known address of the participant, the requirement of the preceding sentence shall be treated as met if the copy referred to in the preceding sentence is included in a single mailing made to such address and addressed to both such participant and spouse."

(b) Employee's Right To Know of Opportunity for Elective Contributions Under 401(k) Plans.—Subparagraph (D) of section 401(k)(12) of the Internal Revenue Code of 1986 (relating to notice requirements) is amended—

(1) by striking ", within a reasonable period before any year," and inserting "before the 60th day before the beginning of any year", and

(2) by adding at the end the following new flush sentence:

"The requirements of paragraph (11)(B)(iii) shall apply for purposes of this subparagraph."

SEC. 402. WOMEN'S PENSION TOLL-FREE PHONE NUMBER.

(a) In General.—The Secretary of Labor shall contract with an independent organization to create a women's pension toll-free telephone number and contact to serve as—

(1) a resource for women on pension questions and issues;

(2) a source for referrals to appropriate agencies; and

(3) a source for printed information.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $1,000,000 for each of the fiscal years 1999, 2000, 2001, and 2002 to carry out subsection (a).

SEC. 403. MODIFICATION OF GOVERNMENT PENSION OFFSET.

(a) WIFE'S INSURANCE BENEFITS.—Section 202(b)(4)(A) of the Social Security Act (42 U.S.C. 402(b)(4)(A)) is amended—

(1) by inserting "the amount (if any) by which the sum of such benefit (before reduction under this paragraph) and" after "two-thirds of"; and

(2) by inserting "exceeds the amount described in subsection (z) for such month," before "if".

(b) HUSBAND'S INSURANCE BENEFITS.—Section 202(c)(2)(A) of such Act (42 U.S.C. 402(c)(2)(A)) is amended—

(1) by inserting "the amount (if any) by which the sum of such benefit (before reduction under this paragraph) and" after "two-thirds of"; and

(2) by inserting "exceeds the amount described in subsection (z) for such month," before "if".

(c) WIDOW'S INSURANCE BENEFITS.—Section 202(e)(7)(A) of such Act (42 U.S.C. 402(e)(7)(A)) is amended—

(1) by inserting "the amount (if any) by which the sum of such benefit (before reduction under this paragraph) and" after "two-thirds of"; and

(2) by inserting "exceeds the amount described in subsection (z) for such month," before "if".

(d) WIDOWER'S INSURANCE BENEFITS.—Section 202(f)(2)(A) of such Act (42 U.S.C. 402(f)(2)(A)) is amended—

(1) by inserting "the amount (if any) by which the sum of such benefit (before reduction under this paragraph) and" after "two-thirds of"; and

(2) by inserting "exceeds the amount described in subsection (z) for such month," before "if".

(e) MOTHER'S AND FATHER'S INSURANCE BENEFITS.—Section 202(g)(4)(A) of such Act (42 U.S.C. 402(g)(4)(A)) is amended—

(1) by inserting "the amount (if any) by which the sum of such benefit (before reduction under this paragraph) and" after "two-thirds of"; and

(2) by inserting "exceeds the amount described in subsection (z) for such month," before "if".

(f) AMOUNT DESCRIBED.—Section 202 of such Act (42 U.S.C. 402) is amended by adding at the end the following:

"(z) The amount described in this subsection is, for months in each 12-month period beginning in December of 1998, and each succeeding calendar year, the greater of—

"(1) $1200; or

"(2) the amount applicable for months in the preceding 12-month period, increased by the cost-of-living adjustment for such period determined for an annuity under section 8340 of title 5, United States Code (without regard to any other provision of law)."

(g) LIMITATIONS ON REDUCTIONS IN BENEFITS.—Section 202 of such Act (42 U.S.C. 402), as amended by subsection (f), is amended by adding at the end the following:

"(aa) For any month after December 1998, in no event shall an individual receive a reduction in a benefit under subsection (b)(4)(A), (c)(2)(A), (e)(7)(A), (f)(2)(A), or (g)(4)(A) for the month that is more than the reduction in such benefit that would have applied for such month under such subsections as in effect on December 1, 1998."

(h) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to monthly insurance benefits payable under title II of the Social Security Act for months after December 1998.

SEC. 404. PERIODS OF FAMILY AND MEDICAL LEAVE TREATED AS HOURS OF SERVICE FOR PENSION PARTICIPATION AND VESTING.

(a) AMENDMENTS OF INTERNAL REVENUE CODE.—

(1) PARTICIPATION.—

(A) IN GENERAL.—Paragraph (3) of section 410(a) of the Internal Revenue Code of 1986 (relating to minimum participation standards) is amended by adding at the end the following new subparagraph:

"(E) FAMILY AND MEDICAL LEAVE TREATED AS SERVICE.—

"(i) IN GENERAL.—For purposes of this subsection, in the case of an individual who is absent from work on leave required to be given to such individual under the Family and Medical Leave Act of 1993, the plan shall treat as hours of service—

"(I) the hours of service which otherwise would normally have been credited to such individual but for such absence, or

"(II) in any case in which the plan is unable to determine the hours described in subclause (I), 8 hours of service per day of absence.

"(ii) YEAR TO WHICH HOURS ARE CREDITED.—The hours described in clause (i) shall be treated as hours of service as provided in this subparagraph—

"(I) only in the year in which the absence from work begins, if a participant would have a year of service solely because the period of absence is treated as hours of service as provided in clause (i); or

"(II) in any other case, in the immediately following year."

(B) COORDINATION WITH TREATMENT OF MATERNITY AND PATERNITY ABSENCES UNDER BREAK IN SERVICE RULES.—Subparagraph (E) of section 410(a)(5) of such Code is amended—

(i) by inserting "NOT UNDER FAMILY AND MEDICAL LEAVE ACT OF 1993" after "ABSENCES" in the heading, and

(ii) by adding at the end of clause (i) the following new sentence: "The preceding sentence shall apply to an absence from work only if no part of such absence is required to be given under the Family and Medical Leave Act of 1993."

(2) VESTING.—

(A) IN GENERAL.—Paragraph (5) of section 411(a) of such Code (relating to minimum vesting standards) is amended by adding at the end the following new subparagraph:

"(E) FAMILY AND MEDICAL LEAVE TREATED AS SERVICE.—

"(i) IN GENERAL.—For purposes of this subsection, in the case of an individual who is absent from work on leave required to be given to such individual under the Family and Medical Leave Act of 1993, the plan shall treat as hours of service—

"(I) the hours of service which otherwise would normally have been credited to such individual but for such absence, or

"(II) in any case in which the plan is unable to determine the hours described in subclause (I), 8 hours of service per day of absence.

"(ii) YEAR TO WHICH HOURS ARE CREDITED.—The hours described in clause (i) shall be treated as hours of service as provided in this subparagraph—

"(I) only in the year in which the absence from work begins, if a participant would have a year of service solely because the period of absence is treated as hours of service as provided in clause (i); or

"(II) in any other case, in the immediately following year."

(B) COORDINATION WITH TREATMENT OF MATERNITY AND PATERNITY ABSENCES UNDER BREAK IN SERVICE RULES.—Subparagraph (E) of section 411(a)(6) of such Code is amended—

(i) by inserting "NOT UNDER FAMILY AND MEDICAL LEAVE ACT OF 1993" after "ABSENCES" in the heading, and

(ii) by adding at the end of clause (i) the following new sentence: "The preceding sentence shall apply to an absence from work only if no part of such absence is required to be given under the Family and Medical Leave Act of 1993."

(b) AMENDMENTS OF ERISA.—

(1) PARTICIPATION.—

(A) IN GENERAL.—Paragraph (3) of section 202(a) of the Employee Retirement Income Security Act of 1974 (relating to minimum participation standards) is amended by adding at the end the following new subparagraph:

"(E)(i) For purposes of this subsection, in the case of an individual who is absent from work on leave required to be given to such individual under the Family and Medical Leave Act of 1993, the plan shall treat as hours of service—

"(I) the hours of service which otherwise would normally have been credited to such individual but for such absence, or

"(II) in any case in which the plan is unable to determine the hours described in subclause (I), 8 hours of service per day of absence.

"(ii) The hours described in clause (i) shall be treated as hours of service as provided in this subparagraph—

"(I) only in the year in which the absence from work begins, if a participant would have a year of service solely because the period of absence is treated as hours of service as provided in clause (i); or

"(II) in any other case, in the immediately following year."

(B) COORDINATION WITH TREATMENT OF MATERNITY AND PATERNITY ABSENCES UNDER BREAK IN SERVICE RULES.—Subparagraph (A) of section 202(b)(5) of such Act is amended by adding at the end of clause (i) the following new sentence: "The preceding sentence shall apply to an absence from work only if no part of such absence is required to be given under the Family and Medical Leave Act of 1993."

(2) VESTING.—

(A) IN GENERAL.—Paragraph (2) of section 203(b) of such Act (relating to minimum vesting standards) is amended by adding at the end the following new subparagraph:

"(E)(i) For purposes of this subsection, in the case of an individual who is absent from work on leave required to be given to such individual under the Family and Medical Leave Act of 1993, the plan shall treat as hours of service—

"(I) the hours of service which otherwise would normally have been credited to such individual but for such absence, or

"(II) in any case in which the plan is unable to determine the hours described in subclause (I), 8 hours of service per day of absence.

"(ii) The hours described in clause (i) shall be treated as hours of service as provided in this subparagraph—

"(I) only in the year in which the absence from work begins, if a participant would have a year of service solely because the period of absence is treated as hours of service as provided in clause (i); or

"(II) in any other case, in the immediately following year."

(B) COORDINATION WITH TREATMENT OF MATERNITY AND PATERNITY ABSENCES UNDER BREAK IN SERVICE RULES.—Clause (i) of section 203(b)(3)(E) of such Act is amended by adding at the end of clause (i) the following new sentence: "The preceding sentence shall apply to an absence from work only if no part of such absence is required to be given under the Family and Medical Leave Act of 1993."

SEC. 405. PENSION INTEGRATION RULES.

(a) APPLICABILITY OF NEW INTEGRATION RULES EXTENDED TO ALL EXISTING ACCRUED BENEFITS.—Notwithstanding subsection (c)(1) of section 1111 of the Tax Reform Act of 1986 (relating to effective date of application of nondiscrimination rules to integrated plans) (100 Stat. 2440), effective for plan years beginning after the date of the enactment of this Act, the amendments made by subsection (a) of such section 1111 shall also apply to benefits attributable to plan years beginning on or before December 31, 1988.

(b) INTEGRATION DISALLOWED FOR SIMPLIFIED EMPLOYEE PENSIONS.—

(1) IN GENERAL.—Subparagraph (D) of section 408(k)(3) of the Internal Revenue Code of 1986 (relating to permitted disparity under rules limiting discrimination under simplified employee pensions) is repealed.

(2) CONFORMING AMENDMENT.—Subparagraph (C) of such section 408(k)(3) is amended by striking "and except as provided in subparagraph (D),".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to taxable years beginning on or after January 1, 1998.

(c) EVENTUAL REPEAL OF INTEGRATION RULES.—Effective for plan years beginning on or after January 1, 2004—

(1) subparagraphs (C) and (D) of section 401(a)(5) of the Internal Revenue Code of 1986 (relating to pension integration exceptions under nondiscrimination requirements for qualification) are repealed, and subparagraph (E) of such section 401(a)(5) is redesignated as subparagraph (C); and

(2) subsection (*l*) of section 401 of such Code (relating to nondiscriminatory coordination of defined contribution plans with OASDI) is repealed.

SEC. 406. DIVISION OF PENSION BENEFITS UPON DIVORCE.

(a) AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986.—Section 414(p) of the Internal Revenue Code of 1986 (relating to qualified domestic relations order defined) is amended by redesignating paragraph (12) as paragraph (13) and by adding at the end the following new paragraph:

"(12) SPECIAL RULES AND PROCEDURES FOR DOMESTIC RELATIONS ORDERS NOT SPECIFYING DIVISION OF PENSION BENEFITS.—

"(A) IN GENERAL.—If—

"(i) a domestic relations order (including an annulment or other order of marital dissolution) relates to provision of marital property with respect to a marriage of at least 5 years duration between the participant and the former spouse,

"(ii)(I) such order (and any prior order) does not specifically provide that pension benefits were considered by the parties and no division is intended, and

"(II) such order is not a qualified domestic relations order without regard to this paragraph and there is no other prior qualified domestic relations order issued in connection with the dissolution of the marriage to which such order relates, and

"(iii) the former spouse notifies a plan within the period prescribed under subparagraph (C) that the former spouse is entitled to benefits under the plan in accordance with the provisions of this paragraph,

then such domestic relations order shall be treated as a qualified domestic relations order for purposes of this subsection and section 401(a)(13).

"(B) AMOUNT OF BENEFIT.—

"(i) IN GENERAL.—Any domestic relations order treated as a qualified domestic relations order under subparagraph (A) shall be treated as specifying that the former spouse is entitled to the applicable percentage of the marital share of the participant's accrued benefit.

"(ii) MARITAL SHARE.—For purposes of clause (i), the marital share of a participant's accrued benefit is an amount equal to the product of—

"(I) such benefit as of the date of the first payment under the plan (to the extent such accrued benefit is vested at the date of the divorce or any later date), and

"(II) a fraction the numerator of which is the period of participation by the participant under the plan starting with the date of marriage and ending with the date of divorce, and the denominator of which is the total period of participation by the participant under the plan.

"(iii) APPLICABLE PERCENTAGE.—For purposes of this subparagraph, the applicable percentage is—

"(I) except as provided in subclause (II), 50 percent, and

"(II) in the case of a participant who fails to provide the plan with notice of a domestic relations order within the time prescribed under subparagraph (C), 67 percent.

"(C) NOTICE REQUIREMENTS.—

"(i) NOTICE BY EMPLOYEE.—Each employee who is a participant in a pension plan shall, within 60 days after the dissolution of the marriage of the employee—

"(I) notify the plan administrator of the plan of such dissolution, and

"(II) provide to the plan administrator a copy of the domestic relations order (including an annulment or other order of marital dissolution) providing for such dissolution and the last known address of the employee's former spouse.

"(ii) NOTICE BY PLAN ADMINISTRATOR.—Each plan administrator receiving notice under clause (i) shall promptly notify the former spouse of a participant of such spouse's rights under this paragraph, including the time period within which such spouse is required to notify the plan of the spouse's intention to claim rights under this paragraph.

"(iii) NOTICE BY FORMER SPOUSE.—A former spouse may notify the plan administrator of such spouse's intent to claim rights under this paragraph at any time before the last day of the 1-year period following receipt of notice under clause (ii).

"(iv) COORDINATION WITH PLAN PROCEDURES.—The determination under paragraph (6)(A)(ii) with respect to a domestic relations order to which this paragraph applies shall be made within a reasonable period of time after the plan administrator receives the notice described in clause (iii).

"(D) INTERPRETATION AS QUALIFIED DOMESTIC RELATIONS ORDER.—Each plan shall establish reasonable rules for determining how any such deemed domestic relations order is to be interpreted under the plan so as to constitute a qualified domestic relations order that satisfies paragraphs (2) through (4) (and a copy of such rules shall be provided to such former spouse promptly after delivery of the divorce decree). Such rules—

"(i) may delay the effect of such an order until the earlier of the date the participant is fully vested or has terminated employment,

"(ii) may allow the former spouse to be paid out immediately,

"(iii) shall permit the former spouse to be paid not later than the earliest retirement age under the plan or the participant's death,

"(iv) may require the submitter of the divorce decree to present a marriage certificate or other evidence of the marriage date to assist in benefit calculations, and

"(v) may conform to the rules applicable to qualified domestic relations orders regarding form or type of benefit."

(b) AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—Section 206(d)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1056(d)(3)) is amended by redesignating subparagraph (N) as subparagraph (O) and by inserting after subparagraph (M) the following new subparagraph:

"(N) SPECIAL RULES AND PROCEDURES FOR DOMESTIC RELATIONS ORDERS NOT SPECIFYING DIVISION OF PENSION BENEFITS.—

"(i) IN GENERAL.—If—

"(I) a domestic relations order (including an annulment or other order of marital dissolution) relates to provision of marital property with respect to a marriage of at least 5 years duration between the participant and the former spouse,

"(II)(aa) such order (and any prior order) does not specifically provide that pension benefits were considered by the parties and no division is intended, or

"(bb) such order is a qualified domestic relations order without regard to this subparagraph or there is no other prior qualified domestic relations order issued in connection with the dissolution of the marriage to which such order relates, and

"(III) the former spouse notifies a plan within the period prescribed under clause (iii) that the former spouse is entitled to benefits under the plan in accordance with the provisions of this subparagraph,

then such domestic relations order shall be treated as a qualified domestic relations order for purposes of this paragraph.

"(ii) AMOUNT OF BENEFIT.—

"(I) IN GENERAL.—Any domestic relations order treated as a qualified domestic relations order under clause (i) shall be treated as specifying that the former spouse is entitled to the applicable percentage of the marital share of the participant's accrued benefit.

"(II) MARITAL SHARE.—For purposes of subclause (I), the marital share of a participant's accrued benefit is an amount equal to the product of—

"(aa) such benefit as of the date of the first payment under the plan (to the extent such accrued benefit is vested at the date of the divorce or any later date), and

"(bb) the numerator of which is the period of participation by the participant under the plan starting with the date of marriage and ending with the date of divorce, and the denominator of which is the total period of participation by the participant under the plan.

"(III) APPLICABLE PERCENTAGE.—For purposes of this clause, the applicable percentage is—

"(aa) except as provided in item (bb), 50 percent, and "(bb) in the case of a participant who fails to provide the plan with notice of a domestic relations order within the time prescribed under clause (iii), 67 percent.

"(iii) NOTICE REQUIREMENTS.—

"(I) NOTICE BY EMPLOYEE.—Each employee who is a participant in a pension plan shall, within 60 days after the dissolution of the marriage of the employee—

"(aa) notify the plan administrator of the plan of such dissolution, and

"(bb) provide to the plan administrator a copy of the domestic relations order (including an annulment or other order of marital dissolution) providing for such dissolution and the last known address of the employee's former spouse.

"(II) NOTICE BY PLAN ADMINISTRATOR.—Each plan administrator receiving notice under subclause (I) shall promptly notify the former spouse of a participant of such spouse's rights under this subparagraph, including the time period within which such spouse is required to notify the plan of the spouse's intention to claim rights under this subparagraph.

"(III) NOTICE BY FORMER SPOUSE.—A former spouse may notify the plan administrator of such spouse's intent to claim rights under this subparagraph at any time before the last day of the 1-year period following receipt of notice under subclause (II).

"(IV) COORDINATION WITH PLAN PROCEDURES.—The determination under subparagraph (G)(i)(II) with respect to a domestic relations order to which this subparagraph applies shall be made within a reasonable period of time after the plan administrator receives the notice described in subclause (III).

"(iv) INTERPRETATION AS QUALIFIED DOMESTIC RELATIONS ORDER.—Each plan shall establish reasonable rules for determining how any such deemed domestic relations order is to be interpreted under the plan so as to constitute a qualified domestic relations order that satisfies subparagraphs (C) through (E) (and a copy of such rules shall be provided to such former spouse promptly after delivery of the divorce decree). Such rules—

"(I) may delay the effect of such an order until the earlier of the date the participant is fully vested or has terminated employment,

"(II) may allow the former spouse to be paid out immediately,

"(III) shall permit the former spouse to be paid not later than the earliest retirement age under the plan or the participant's death,

"(IV) may require the submitter of the divorce decree to present a marriage certificate or other evidence of the marriage date to assist in benefit calculations, and

"(V) may conform to the rules applicable to qualified domestic relations orders regarding form or type of benefit."

SEC. 407. ENTITLEMENT OF DIVORCED SPOUSES TO RAILROAD RETIREMENT ANNUITIES INDEPENDENT OF ACTUAL ENTITLEMENT OF EMPLOYEE.

Section 2 of the Railroad Retirement Act of 1974 (45 U.S.C. 231a) is amended—

(1) in subsection (c)(4)(i), by striking "(A) is entitled to an annuity under subsection (a)(1) and (B)"; and

(2) in subsection (e)(5), by striking "or divorced wife" the second place it appears.

SEC. 408. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this subtitle, other than sections 403 and 405, shall apply with respect to plan years beginning on or after January 1, 1999, and the amendments made by section 406 shall apply only with respect to divorces becoming final in such plan years.

(b) SPECIAL RULE FOR COLLECTIVELY BARGAINED PLANS.—In the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified on or before the date of the enactment of this Act, subsection (a) shall be applied to benefits pursuant to, and individuals covered by, any such agreement by substituting for "January 1, 1999" the date of the commencement of the first plan year beginning on or after the earlier of—

(1) the later of—

(A) January 1, 2000, or

(B) the date on which the last of such collective bargaining agreements terminates (determined without regard to any extension thereof after the date of the enactment of this Act), or

(2) January 1, 2001.

Subtitle B—Protection of Rights of Former Spouses to Pension Benefits Under Certain Government and Government-Sponsored Retirement Programs

SEC. 411. EXTENSION OF TIER II RAILROAD RETIREMENT BENEFITS TO SURVIVING FORMER SPOUSES PURSUANT TO DIVORCE AGREEMENTS.

(a) IN GENERAL.—Section 5 of the Railroad Retirement Act of 1974 (45 U.S.C. 231d) is amended by adding at the end the following new subsection:

"(d) Notwithstanding any other provision of law, the payment of any portion of an annuity computed under section 3(b) to a surviving former spouse in accordance with a court decree of divorce, annulment, or legal separation or the terms of any court-approved property settlement incident to any such court decree shall not be terminated upon the death of the individual who performed the service with respect to which such annuity is so computed unless such termination is otherwise required by the terms of such court decree."

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 412. SURVIVOR ANNUITIES FOR WIDOWS, WIDOWERS, AND FORMER SPOUSES OF FEDERAL EMPLOYEES WHO DIE BEFORE ATTAINING AGE FOR DEFERRED ANNUITY UNDER CIVIL SERVICE RETIREMENT SYSTEM.

(a) BENEFITS FOR WIDOW OR WIDOWER.—Section 8341(f) of title 5, United States Code, is amended—

(1) in the matter preceding paragraph (1) by—

(A) by inserting "a former employee separated from the service with title to deferred annuity from the Fund dies before having established a valid claim for annuity and is survived by a spouse, or if" before "a Member"; and

(B) by inserting "of such former employee or Member" after "the surviving spouse";

(2) in paragraph (1)—

(A) by inserting "former employee or" before "Member commencing"; and

(B) by inserting "former employee or" before "Member dies"; and

(3) in the undesignated sentence following paragraph (2)—

(A) in the matter preceding subparagraph (A) by inserting "former employee or" before "Member"; and

(B) in subparagraph (B) by inserting "former employee or" before "Member".

(b) BENEFITS FOR FORMER SPOUSE.—Section 8341(h) of title 5, United States Code, is amended—

(1) in paragraph (1) by adding after the first sentence "Subject to paragraphs (2) through (5) of this subsection, a former spouse of a former employee who dies after having separated from the service with title to a deferred annuity under section 8338(a) but before having established a valid claim for annuity is entitled to a survivor annuity under this subsection, if and to the extent expressly provided for in an election under section 8339(j)(3) of this title, or in the terms of any decree of divorce or annulment or any court order or court-approved property settlement agreement incident to such decree."; and

(2) in paragraph (2)—

(A) in subparagraph (A)(ii) by striking "or annuitant," and inserting "annuitant, or former employee"; and

(B) in subparagraph (B)(iii) by inserting "former employee or" before "Member".

(c) PROTECTION OF SURVIVOR BENEFIT RIGHTS.—Section 8339(j)(3) of title 5, United States Code, is amended by inserting at the end the following: "The Office shall provide by regulation for the application of this subsection to the widow, widower, or surviving former spouse of a former employee who dies after having separated from the service with title to a deferred annuity under section 8338(a) but before having established a valid claim for annuity."

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply only in the case of a former employee who dies on or after such date.

SEC. 413. PAYMENT OF LUMP-SUM BENEFITS TO FORMER SPOUSES OF FEDERAL EMPLOYEES.

(a) CIVIL SERVICE RETIREMENT SYSTEM.—Chapter 83 of title 5, United States Code, is amended—

(1) in section 8342(c), by striking "Lump-sum" and inserting "Except as provided in section 8345(j), lump-sum";

(2) in section 8345(j) by adding at the end of paragraph (1) the following: "Except for purposes of subparagraph (B), the first sentence of this paragraph shall be deemed to be amended by inserting after 'that individual' the following: ', and any lump-sum benefits authorized by section 8342(d) through (f) which would otherwise be paid to any person or persons under section 8342(c),' "; and

(B) by adding at the end the following:

"(4) Any payment under this subsection to a person bars recovery by any other person."

(b) FEDERAL EMPLOYEES' RETIREMENT SYSTEM.—Chapter 84 of title 5, United States Code, is amended—

(1) in section 8424(d), by striking "Lump-sum" and inserting "Except as provided in section 8467(a), lump-sum"; and

(2) in section 8467—

(A) in subsection (a), by adding at the end the following: "Except for purposes of paragraph (2), the first sentence of this subsection shall be deemed to be amended by inserting after 'that individual' the following: ', and any lump-sum benefits authorized by section 8424(e) through (g) which would otherwise be paid to any individual or individuals under section 8424(d),' "; and

(B) by adding at the end the following:

"(d) Any payment under this section to a person bars recovery by any other person."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to any amount payable by reason of any death occurring on or after the date of the enactment of this Act.

Subtitle C—Modifications of Joint and Survivor Annuity Requirements

SEC. 421. MODIFICATIONS OF JOINT AND SURVIVOR ANNUITY REQUIREMENTS.

(a) AMENDMENTS TO ERISA.—

(1) AMOUNT OF ANNUITY.—

(A) IN GENERAL.—Paragraph (1) of section 205(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1055(a)) is amended by inserting "or, at the election of the participant, shall be provided in the form of a qualified joint and ⅔ survivor annuity" after "survivor annuity,".

(B) DEFINITION.—Subsection (d) of section 205 of such Act (29 U.S.C. 1055) is amended—

(i) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively,

(ii) by inserting "(1)" after "(d)", and

(iii) by adding at the end the following new paragraph:

"(2) For purposes of this section, the term "qualified joint and ⅔ survivor annuity" means a joint and survivor annuity under which the survivor annuity for the life of the surviving spouse is equal to at least ⅔ of the amount of the annuity which is payable during the joint lives of the participant and spouse."

(2) ILLUSTRATION REQUIREMENT.—Clause (i) of section 205(c)(3)(A) of such Act (29 U.S.C. 1055(c)(3)(A)) is amended to read as follows:

"(i) the terms and conditions of each qualified joint and survivor annuity and qualified joint and ⅔ survivor annuity offered, accompanied by an illustration of the benefits under each such annuity for the particular participant and spouse and an acknowledgement form to be signed by the participant and the spouse that they have read and considered the illustration before any form of retirement benefit is chosen,".

(b) AMENDMENTS TO INTERNAL REVENUE CODE.—

(1) AMOUNT OF ANNUITY.—

(A) IN GENERAL.—Clause (i) of section 401(a)(11)(A) of the Internal Revenue Code of 1986 (relating to requirement of joint and survivor annuity and preretirement survivor annuity) is amended by inserting "or, at the election of the participant, shall be provided in the form of a qualified joint and ⅔ survivor annuity" after "survivor annuity,".

(B) DEFINITION.—Section 417 of such Code (relating to definitions and special rules for purposes of minimum survivor annuity requirements), as amended by section 422, is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f) DEFINITION OF QUALIFIED JOINT AND ⅔ SURVIVOR ANNUITY.—For purposes of this section and section 401(a)(11), the term "qualified joint and ⅔ survivor annuity" means a joint and survivor annuity under which the survivor annuity for the life of the surviving spouse is equal to at least ⅔ of the amount of the annuity which is payable during the joint lives of the participant and spouse."

(2) ILLUSTRATION REQUIREMENT.—Clause (i) of section 417(a)(3)(A) of such Code (relating to explanation of joint and survivor annuity) is amended to read as follows:

"(i) the terms and conditions of each qualified joint and survivor annuity and qualified joint and ⅔ survivor annuity offered, accompanied by an illustration of the benefits under each such annuity for the particular participant and spouse and an acknowledgement form to be signed by the participant and the spouse that they have read and considered the illustration before any form of retirement benefit is chosen,".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning on or after January 1, 1999.

SEC. 422. SPOUSAL CONSENT REQUIRED FOR DISTRIBUTIONS FROM DEFINED CONTRIBUTION PLANS.

(a) AMENDMENTS TO INTERNAL REVENUE CODE OF 1986.—

(1) IN GENERAL.—Section 401(a)(11) of the Internal Revenue Code of 1986 (relating to requirement of joint and survivor annuity and preretirement survivor annuity) is amended by striking subparagraphs (B), (C), and (D), by redesignating subparagraphs (E) and (F) as subparagraphs (C) and (D), respectively, and by inserting after subparagraph (A) the following new subparagraph:

"(B) PLANS TO WHICH PARAGRAPH APPLIES.—This paragraph shall apply to any defined benefit plan and to any defined contribution plan."

(2) EXCEPTION FOR HARDSHIP DISTRIBUTIONS.—Section 417(f) of such Code is amended by adding at the end the following new paragraph:

"(8) HARDSHIP DISTRIBUTIONS.—The requirements of section 401(a)(11) and this section shall not apply to a hardship distribution under section 401(k)(2)(B)(i)(IV)."

(3) SPECIAL RULE FOR CASH-OUTS.—Section 417(e) of such Code is amended by adding at the end the following new paragraph:

"(4) SPECIAL RULE FOR DEFINED CONTRIBUTION PLANS.—

"(A) IN GENERAL.—In the case of a defined contribution plan, notwithstanding paragraph (2), if the present value of the qualified joint and survivor annuity does not exceed $10,000, the plan may immediately distribute 50 percent of the present value of such annuity to each spouse.

"(B) EXCEPTION.—The plan may distribute a different percentage of the present value of an annuity to each spouse if a court order or contractual agreement provides for such different percentage."

(b) AMENDMENTS TO ERISA.—

(1) IN GENERAL.—Section 205(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1055(b)) is amended to read as follows:

"(b)(1) This section shall apply to any defined benefit plan and to any individual account plan.

"(2) This section shall not apply to a plan which the Secretary of the Treasury or his delegate has determined is a plan described in section 404(c) of the Internal Revenue Code of 1986 (or a continuation thereof) in which participation is substantially limited to individuals who, before January 1, 1976, ceased employment covered by the plan."

(2) HARDSHIP DISTRIBUTION.—Section 205 of such Act (29 U.S.C. 1055) is amended by adding at the end the following new subsection:

"(m) This section shall not apply to a hardship distribution under section 401(k)(2)(B)(i)(IV) of the Internal Revenue Code of 1986."

(3) SPECIAL RULE FOR CASH-OUTS.—Section 205(g) of such Act (29 U.S.C. 1055(g)) is amended by adding at the end the following new paragraph:

"(4) SPECIAL RULE FOR DEFINED CONTRIBUTION PLANS.—

"(A) IN GENERAL.—In the case of an individual account plan, notwithstanding paragraph (2), if the present value of the qualified joint and survivor annuity or the qualified preretirement survivor annuity exceeds $10,000, the plan may immediately distribute 50 percent of the present value of such annuity to each spouse.

"(B) EXCEPTION.—The plan may distribute a different percentage of the present value of an annuity to each spouse if a court order or contractual agreement provides for such different percentage."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 1999.

TITLE V—DATE FOR ADOPTION OF PLAN AMENDMENTS

SEC. 501. DATE FOR ADOPTION OF PLAN AMENDMENTS.

(a) IN GENERAL.—Except as otherwise provided in this Act, if any amendment made by this Act requires an amendment to any plan, such plan amendment shall not be required to be made before the last day of the first plan year beginning on or after January 1, 1999, if—

(1) during the period after such amendment takes effect and before the last day of such first plan year, the plan is operated in accordance with the requirements of such amendment, and

(2) such plan amendment applies retroactively to such period.

A plan shall not be treated as failing to provide definitely determinable benefits or contributions, or to be operated in accordance with the provisions of the plan, merely because it operates in accordance with this subsection.

(b) GOVERNMENTAL PLANS.—In the case of a governmental plan (as defined in section 414(d) of the Internal Revenue Code of 1986), subsection (a) shall be applied by substituting for "January 1, 1999" the later of—

(1) January 1, 2000, or

(2) the date which is 90 days after the opening of the first legislative session beginning after January 1, 1999, of the governing body with authority to amend the plan, but only if such governing body does not meet continuously.

(c) SPECIAL RULE FOR COLLECTIVELY BARGAINED PLANS.—Notwithstanding any other provision of this Act, in the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified on or before the date of the enactment of this Act, any amendment made by this Act which requires an amendment to such plan shall not be required to be made before the last day of the first plan year beginning on or after the earlier of—

(1) the later of—

(A) January 1, 1999, or

(B) the date on which the last of such collective bargaining agreements terminates (determined without regard to any extension thereof after the date of the enactment of this Act), or

(2) January 1, 2000.

By Mr. COVERDELL:

S. 2250. A bill to protect the rights of the States and the people from abuse by the Federal Government, to strengthen the partnership and the intergovernmental relationship between State and Federal Governments, to restrain Federal agencies from exceeding their authority, to enforce the Tenth Amendment of the United States Constitution, and for other purposes; to the Committee on the Judiciary.

TENTH AMENDMENT ENFORCEMENT ACT

Mr. COVERDELL. Mr. President, I rise today to introduce the Tenth Amendment Enforcement Act of 1998. The Tenth Amendment was a promise to the States and to the American people that the Federal Government would be limited, and that the people of the States could, for the most part, govern themselves as they saw fit. Unfortunately, in the last half century, that promise has been broken. The American people have asked us to start honoring that promise again: To return power to State and local governments which are close to and more sensitive to the needs of the people.

We took an important first step in the 104th Congress by enacting the Unfunded Mandates Reform Act. It began the shift of power out of Washington and back to the States and to the American people. Today we continue that process. The Tenth Amendment Enforcement Act of 1998 will return power to the States and to the people by placing safeguards in the legislative process, by restricting the power of Federal agencies and by instructing the Federal courts to enforce the Tenth Amendment.

The Tenth Amendment Enforcement Act of 1998 enforces the Tenth amendment in five ways. First, it includes a specific congressional finding that the Federal Government has no powers not delegated by the Constitution, and the States may exercise all powers not withheld by the Constitution. In other words, the Tenth Amendment means what it says.

Second, this proposal states that Federal laws may not interfere with State or local powers unless Congress declares its intent to preempt and specifically cites its constitutional authority to act.

Third, it enforces this declaration by establishing a point of order that allows any Congressman or Senator to challenge a bill lacking such a declaration or insufficiently citing constitutional authority. Such a point of order would require a three-fifths majority to be defeated.

Fourth, it requires that Federal agency rules and regulations not interfere with State or local powers without constitutional authority cited by Congress. Agencies must allow States notice and an opportunity to be heard in the rulemaking process.

Fifth, the proposal directs the courts to strictly construe Federal laws and regulations interfering with State powers. It requires a presumption in favor of State authority and against Federal preemption.

Too often in Washington, there is the temptation to weakening our Federal system of government. It has been stated that just as the separation and independence of the coordinate branches of the Federal Government serves to prevent the accumulation of excessive power in any one branch, a healthy balance of power between the States and the Federal Government will reduce the risk of tyranny and abuse from either front. We have an obligation to take steps to prevent such things from happening and to preserve the freedom and liberties we enjoy. I believe the Tenth Amendment Enforcement Act of 1998 is an important step and urge my colleagues to join me in this effort.

By Mr. CAMPBELL:

S. 2253. A bill to establish a matching grant program to help State and local jurisdictions purchase bullet resistant equipment for use by law enforcement departments; to the Committee on the Judiciary.

OFFICER DALE CLAXTON BULLET RESISTANT POLICE PROTECTIVE EQUIPMENT

Mr. CAMPBELL. Mr. President, today I introduce legislation to help our Nation's State and local law enforcement officers acquire the bullet resistant equipment they need to protect themselves from would-be killers. This bill, the Officer Dale Claxton Bullet Resistant Police Protective Equipment Act of 1998, is named after a Cortez, Colorado, police officer who was fatally shot through the windshield of his patrol car on May 29, 1998, after stopping a stolen truck. Officer Claxton was tragically and prematurely taken away from his wife and four children. Today, two of the three suspects are still at large, even after an extensive manhunt.

Unfortunately, this type of incident is far from isolated. All across our Nation law enforcement officers, whether parked on the side of the road or in hot pursuit, are at risk of being shot through their windshields. Another example that many of my colleagues may be aware of is the brutal murder of the District of Columbia's Officer Brian Gibson, who was ambushed and shot while sitting in his patrol car. We must do what we can to prevent tragedies like this.

As a former deputy sheriff, I am personally aware of the dangers which law enforcement officers face on the front lines every day. One way in which the Federal Government can improve their safety is to help them acquire bullet resistant glass and other equipment for patrol cars. These partnership grants are especially crucial for officers who serve in small local jurisdictions that often lack the funds to provide their officers with all of the life saving equipment they may need.

The Officer Dale Claxton bill builds on the impact of the Bulletproof Vest Partnership Grant Act, S. 1605, which I introduced and the President signed into law on June 16, 1998. This new program provides grants to law enforcement agencies to purchase body armor for their officers. The Officer Dale Claxton bill extends this protection to include bullet resistant equipment for the officers' vehicles, shields, and any other equipment that officers may need when they are serving out on the front lines of law enforcement.

The bill I introduce today has two major components. The first is to provide a matching grant program for state, county, local and tribal law enforcement agencies. This legislation would authorize the Department of Justice's Bureau of Justice Assistance to administer a $40 million matching grant program to assist these agencies purchase of bullet resistant equipment for patrol cars, including bullet resistant glass, panels, and other safety devices.

The program will provide 50–50 matching grants to state and local law enforcement agencies and Indian tribes to assist in purchasing bulletproof vests and body armor. To ensure that the funding goes first to those police departments which need it most, the Director of the Bureau of Justice Assistance is given discretion to give preferential consideration to smaller departments whose budgets are scarce.

Additionally, those jurisdictions which do not receive any funding under the local law enforcement block grant program will be given preference. Furthermore, at least half of the funds available under this program will be awarded to jurisdictions with less than 100,000 residents.

The second component of this legislation would launch an expedited and targeted research and development effort to come up with new technologies and products. Promising new lightweight bullet proof materials now being developed could be as revolutionary in the year 2000 as the development of Kevlar was in the 1970s for the manufacture of body armor. These exciting new technologies promise to be lighter, more versatile and hopefully less expensive than traditional heavy bulletproof glass.

The Officer Dale Claxton bill authorizes $3 million over 3 years for the Justice Department's National Institute of Justice (NIJ) to conduct research and development of new bullet resistant technologies, such as bonded acrylic, polymers, polycarbons, aluminized material, and transparent ceramics. This R and D program would focus on specialized equipment, including windshield glass, car panels, police shields and other types of protective gear.

The Officer Dale Claxton bill directs the National Institute of Justice to inventory existing technologies in the private sector, in surplus military property, and in use by other countries. The bill also directs the Institute to conduct: standards development; technology development; technical testing; operational testing; evaluation; and technology transfer.

Under the bill, the Institute would give priority in testing and engineering surveys to law enforcement partnerships developed in coordination with existing High Intensity Drug Trafficking Areas (HIDTAs).

Our nation's police officers, sheriffs and deputies regularly put their lives in harm's way as they protect the people and preserve the peace. They deserve to have access to the bullet resistant equipment they need. The Officer Dale Claxton bill will both accelerate the development of new lifesaving bullet resistant technologies and then help get them deployed into the field where they are needed. Lives will be saved.

I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2253

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Officer Dale Claxton Bullet Resistant Police Protective Equipment Act of 1998".

SEC. 2. FINDINGS; PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) Officer Dale Claxton of the Cortez, Colorado, Police Department was shot and killed by bullets that passed through the windshield of his police car after he stopped a stolen truck, and his life may have been saved if his police car had been equipped with bullet resistant equipment;

(2) the number of law enforcement officers who are killed in the line of duty would significantly decrease if every law enforcement officer in the United States had access to additional bullet resistant equipment;

(3) according to studies, between 1985 and 1994, 709 law enforcement officers in the United States were feloniously killed in the line of duty;

(4) the Federal Bureau of Investigation estimates that the risk of fatality to law enforcement officers while not wearing bullet resistant equipment, such as an armor vest, is 14 times higher than for officers wearing an armor vest;

(5) according to studies, between 1985 and 1994, bullet-resistant materials helped save the lives of more than 2,000 law enforcement officers in the United States; and

(6) the Executive Committee for Indian Country Law Enforcement Improvements reports that violent crime in Indian country has risen sharply, despite a decrease in the national crime rate, and has concluded that there is a "public safety crisis in Indian country".

(b) PURPOSE.—The purpose of this Act is to save lives of law enforcement officers by helping State, local, and tribal law enforcement agencies provide officers with bullet resistant equipment.

SEC. 3. MATCHING GRANT PROGRAM FOR LAW ENFORCEMENT BULLET RESISTANT EQUIPMENT.

(a) IN GENERAL.—Part Y of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended—

(1) by striking the part designation and part heading and inserting the following:

"PART Y—MATCHING GRANT PROGRAMS FOR LAW ENFORCEMENT

"Subpart A—Grant Program For Armor Vests";

(2) by striking "this part" each place that term appears and inserting "this subpart"; and

(3) by adding at the end the following:

"Subpart B—Grant Program For Bullet Resistant Equipment

"SEC. 2511. PROGRAM AUTHORIZED.

"(a) IN GENERAL.—The Director of the Bureau of Justice Assistance is authorized to make grants to States, units of local government, and Indian tribes to purchase bullet resistant equipment for use by State, local, and tribal law enforcement officers.

"(b) USES OF FUNDS.—Grants awarded under this section shall be—

"(1) distributed directly to the State, unit of local government, or Indian tribe; and

"(2) used for the purchase of bullet resistant equipment for law enforcement officers in the jurisdiction of the grantee.

"(c) PREFERENTIAL CONSIDERATION.—In awarding grants under this subpart, the Director of the Bureau of Justice Assistance may give preferential consideration, if feasible, to an application from a jurisdiction that—

"(1) has the greatest need for bullet resistant equipment based on the percentage of law enforcement officers in the department who do not have access to a vest;

"(2) has a violent crime rate at or above the national average as determined by the Federal Bureau of Investigation; or

"(3) has not received a block grant under the Local Law Enforcement Block Grant program described under the heading 'Violent Crime Reduction Programs, State and Local Law Enforcement Assistance' of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1998 (Public Law 105–119).

"(d) MINIMUM AMOUNT.—Unless all eligible applications submitted by any State or unit of local government within such State for a grant under this section have been funded, such State, together with grantees within the State (other than Indian tribes), shall be allocated in each fiscal year under this section not less than 0.50 percent of the total amount appropriated in the fiscal year for grants pursuant to this section, except that the United States Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands shall each be allocated .25 percent.

"(e) MAXIMUM AMOUNT.—A qualifying State, unit of local government, or Indian tribe may not receive more than 5 percent of the total amount appropriated in each fiscal year for grants under this section, except that a State, together with the grantees within the State may not receive more than 20 percent of the total amount appropriated in each fiscal year for grants under this section.

"(f) MATCHING FUNDS.—The portion of the costs of a program provided by a grant under subsection (a) may not exceed 50 percent. Any funds appropriated by Congress for the activities of any agency of an Indian tribal government or the Bureau of Indian Affairs performing law enforcement functions on any Indian lands may be used to provide the non-Federal share of a matching requirement funded under this subsection.

"(g) ALLOCATION OF FUNDS.—At least half of the funds available under this subpart shall be awarded to units of local government with fewer than 100,000 residents.

"SEC. 2512. APPLICATIONS.

"(a) IN GENERAL.—To request a grant under this subpart, the chief executive of a State, unit of local government, or Indian tribe shall submit an application to the Director of the Bureau of Justice Assistance in such form and containing such information as the Director may reasonably require.

"(b) REGULATIONS.—Not later than 90 days after the date of the enactment of this subpart, the Director of the Bureau of Justice Assistance shall promulgate regulations to implement this section (including the information that must be included and the requirements that the States, units of local government, and Indian tribes must meet) in submitting the applications required under this section.

"(c) ELIGIBILITY.—A unit of local government that receives funding under the Local Law Enforcement Block Grant program (described under the heading 'Violent Crime Reduction Programs, State and Local Law Enforcement Assistance' of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1998 (Public Law 105–119)) during a fiscal year in which it submits an application under this subpart shall not be eligible for a grant under this subpart unless the chief executive officer of such unit of local government certifies and provides an explanation to the Director that the unit of local government considered or will consider using funding received under the block grant program for any or all of the costs relating to the purchase of bullet resistant equipment, but did not, or does not expect to use such funds for such purpose.

"SEC. 2513. DEFINITIONS.

"For purposes of this subpart—

"(1) the term 'equipment' means windshield glass, car panels, shields, and protective gear;

"(2) the term 'State' means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands;

"(3) the term 'unit of local government' means a county, municipality, town, township, village, parish, borough, or other unit of general government below the State level;

"(4) the term 'Indian tribe' has the same meaning as in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)); and

"(5) the term 'law enforcement officer' means any officer, agent, or employee of a State, unit of local government, or Indian tribe authorized by law or by a government agency to engage in or supervise the prevention, detection, or investigation of any violation of criminal law, or authorized by law to supervise sentenced criminal offenders.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)) is amended by striking paragraph (23) and inserting the following:

"(23) There are authorized to be appropriated to carry out part Y—

"(A) $25,000,000 for each of fiscal years 1999 through 2001 for grants under subpart A of that part; and

"(B) $40,000,000 for each of fiscal years 1999 through 2001 for grants under subpart B of that part.".

SEC. 4. SENSE OF THE CONGRESS.

In the case of any equipment or products that may be authorized to be purchased with financial assistance provided using funds appropriated or otherwise made available by this Act, it is the sense of the Congress that entities receiving the assistance should, in expending the assistance, purchase only American-made equipment and products.

SEC. 5. TECHNOLOGY DEVELOPMENT.

Section 202 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3722) is amended by adding at the end the following:

"(e) BULLET RESISTANT TECHNOLOGY DEVELOPMENT.—

"(1) IN GENERAL.—The Institute is authorized to—

"(A) conduct research and otherwise work to develop new bullet resistant technologies (i.e. acrylic, polymers, aluminized material, and transparent ceramics) for use in police equipment (including windshield glass, car panels, shields, and protective gear);

"(B) inventory bullet resistant technologies used in the private sector, in surplus military property, and by foreign countries;

"(C) promulgate relevant standards for, and conduct technical and operational testing and evaluation of, bullet resistant technology and equipment, and otherwise facilitate the use of that technology in police equipment.

"(2) PRIORITY.—In carrying out this subsection, the Institute shall give priority in testing and engineering surveys to law enforcement partnerships developed in coordination with High Intensity Drug Trafficking Areas.

"(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $3,000,000 for fiscal years 1999 through 2001.".

By Mr. REED.

S. 2254. A bill to provide for the establishment of an assistance program for health insurance consumers; to the Committee on Labor and Human Resources.

THE HEALTH CARE CONSUMER ASSISTANCE ACT

• Mr. REED. Mr. President, today I introduce the Health Care Consumer Assistance Act. This legislation creates a consumer assistance program that is key to patient protections in the health insurance market.

President Clinton's Health Quality Commission stated in its recently released Bill of Rights that consumers have the right to receive accurate, easily understood information and get assistance in making informed decisions about health plans and providers. Today, only a loose patchwork of consumer assistance services exists. And, while a number of sources provide assistance, most programs are limited. Many consumer groups have advocated for the establishment of consumer assistance programs to support consumers' growing need of information.

The legislation I am introducing today gives states grants to establish nonprofit, private consumer assistance program designed to help consumers understand and act on their health care choices, rights and responsibilities. Under my bill, the Secretary of Health and Human Services will make available funds for states to select an independent, nonprofit agency to provide the following services to consumers: provide information to consumers relating to their choices, rights and responsibilities within the plans they select; operate 1-800 telephone hotlines to respond to consumer information, advice and assistance requests; produce and disseminate educational materials about patients' rights; provide assistance and representation to people who wish to appeal the denial, termination, or reduction of health care services, or a refusal to pay for health services; and collect and disseminate data about inquiries, problems and grievances handled by the consumer assistance program.

This program has been championed by Ron Pollack of Families USA, a member of the President's Commission on Quality, as well as numerous other consumer advocates.

Mr. President, I have joined with many of my Democratic colleagues in sponsoring S.1890, the Patients' Bill of Rights Act of 1998. I am pleased that S.1890 would establish a consumer assistance program, similar to that established by my legislation. My purpose today is to emphasize the importance of such a consumer protection program. This legislation is not without controversy, but I believe that American consumers deserve protection and assistance as they attempt to navigate the often confusing and complex world of health insurance.

Mr. President, I ask unanimous consent to have the bill printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2254

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Health Care Consumer Assistance Act".

SEC. 2. GRANTS.

(a) IN GENERAL.—The Secretary of Health and Human Services (referred to in this Act as the "Secretary") shall award grants to States to enable such States to enter into contracts for the establishment of consumer assistance programs designed to assist consumers of health insurance in understanding their rights, responsibilities and choices among health insurance products.

(b) ELIGIBILITY.—To be eligible to receive a grant under this section a State shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including a State plan that describes—

(1) the manner in which the State will solicit proposals for, and enter into a contract with, an entity eligible under section 3 to serve as the health insurance consumer office for the State; and

(2) the manner in which the State will ensure that advice and assistance services for health insurance consumers are coordinated through the office described in paragraph (1).

(c) AMOUNT OF GRANT.—

(1) IN GENERAL.—From amounts appropriated under section 5 for a fiscal year, the Secretary shall award a grant to a State in an amount that bears the same ratio to such amounts as the number of individuals within the State covered under a health insurance plan (as determined by the Secretary) bears to the total number of individuals covered under a health insurance plan in all States (as determined by the Secretary). Any amounts provided to a State under this section that are not used by the State shall be remitted to the Secretary and reallocated in accordance with this paragraph.

(2) MINIMUM AMOUNT.—In no case shall the amount provided to a State under a grant under this section for a fiscal year be less than an amount equal to .5 percent of the amount appropriated for such fiscal year under section 5.

SEC. 3. ELIGIBILITY OF STATE ENTITIES.

To be eligible to enter into a contract with a State and operate as the health insurance consumer office for the State under this Act, an entity shall—

(1) be an independent, nonprofit entity with demonstrated experience in serving the needs of health care consumers (particularly low income and other consumers who are most in need of consumer assistance);

(2) prepare and submit to the State a proposal containing such information as the State may require;

(3) demonstrate that the entity has the technical, organizational, and professional capacity to operate the health insurance consumer office within the State;

(4) provide assurances that the entity has no real or perceived conflict of interest in providing advice and assistance to consumers regarding health insurance and that the entity is independent of health insurance plans, companies, providers, payers, and regulators of care; and

(5) demonstrate that, using assistance provided by the State, the entity has the capacity to provide assistance and advice throughout the State to public and private health insurance consumers regardless of the source of coverage.

SEC. 4. USE OF FUNDS.

(a) BY STATE.—A State shall use amounts received under a grant under this Act to enter into a contract described in section 2(a) to provide funds for the establishment and operation of a health insurance consumer office.

(b) BY ENTITY.—

(1) IN GENERAL.—An entity that enters into a contract with a State under this Act shall use amounts received under the contract to establish and operate a health insurance consumer office.

(2) NONCOMPLIANCE.—If the State fails to enter into a contract under subsection (a), the Secretary shall withhold amounts to be provided to the State under this Act and use such amounts to enter into the contract described in paragraph (1) for the State.

(c) ACTIVITIES OF OFFICE.—A health insurance consumer office established under this Act shall—

(1) provide information to health insurance consumers within the State relating to choice of health insurance products and the rights and responsibilities of consumers and insurers under such products;

(2) operate toll-free telephone hotlines to respond to requests for information, advice or assistance concerning health insurance in a timely and efficient manner;

(3) produce and disseminate educational materials concerning health insurance consumer and patient rights;

(4) provide assistance and representation (in nonlitigative settings) to individuals who desire to appeal the denial, termination, or reduction of health care services, or the refusal to pay for such services, under a health insurance plan;

(5) make referrals to appropriate private and public individuals or entities so that inquiries, problems, and grievances with respect to health insurance can be handled promptly and efficiently; and

(6) collect data concerning inquiries, problems, and grievances handled by the office and disseminate a compilation of such information to employers, health plans, health

insurers, regulatory agencies, and the general public.

(d) AVAILABILITY OF SERVICES.—The office shall not discriminate in the provision of services regardless of the source of the individual's health insurance coverage or prospective coverage, including individuals covered under employer-provided insurance, self-funded plans, the medicare or medicaid programs under title XVIII or XIX of the Social Security Act (42 U.S.C. 1395 and 1396 et seq.), or under any other Federal or State health care program.

(e) SUBCONTRACTS.—An office established under this section may carry out activities and provide services through contracts entered into with 1 or more nonprofit entities so long as the office can demonstrate that all of the requirements of this Act are met by the office.

(f) TRAINING.—

(1) IN GENERAL.—An office established under this section shall ensure that personnel employed by the office possess the skills, expertise, and information necessary to provide the services described in subsection (c).

(2) CONTRACTS.—To meet the requirement of paragraph (1), an office may enter into contracts with 1 or more nonprofit entities for the training (both through technical and educational assistance) of personnel and volunteers. To be eligible to receive a contract under this paragraph, an entity shall be independent of health insurance plans, companies, providers, payers, and regulators of care.

(3) LIMITATION.—Not to exceed 7 percent of the amount awarded to an entity under a contract under subsection (a) for a fiscal year may be used for the provision of training under this section.

(g) ADMINISTRATIVE COSTS.—Not to exceed 1 percent of the amount of a block grant awarded to the State under subsection (a) for a fiscal year may be used for administrative expenses by the State.

(h) TERM.—A contract entered into under subsection (a) shall be for a term of 3 years.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this Act.●

By Mr. FEINGOLD:

S. 2255. A bill to amend the Agricultural Market Transition Act to prohibit the Secretary of Agriculture from including any storage charges in the calculation of loan deficiency payments or loans made to producers for loan commodities; to the Committee on Agriculture, Nutrition, and forestry.

AGRICULTURAL MARKET TRANSITION ACT AMENDMENTS

● Mr. FEINGOLD. Mr. President, today I introduce legislation that will give some relief to the taxpayers of this country, who now pay millions every year to cover the storage costs of cotton farmers. This year alone, this program has provided more than $23 million to store the cotton crop of participating farmers. This measure puts all commodities on a more equal footing by eliminating the storage subsidy for cotton, the only commodity that still enjoys that privilege.

Mr. President, prior to the passage of the 1996 Freedom to Farm bill, farmers producing wheat and feed grains relied heavily on the Farmer Owned Reserve Program to assist them in repaying their overdue loans when times were tough. They would roll their non-recourse loans into the Farmer Owned Reserve Program which would allow them the opportunity to pay back their loan, without interest, and also get assistance in paying storage costs. Although cotton producers were not eligible to participate in that particular program, they were offered the same opportunities and others through the heavily subsidized cotton program. Those were the days of heavy agriculture subsidization, when the government dictated prices, provided price supports, and more often than not, had over-surpluses of wheat, corn and other feed grains—driving down domestic prices. The 1996 Farm Bill, sought to bring farm policy up to date with prevailing modern agricultural thought—that the agriculture industry must be more market oriented—must survive with minimal government price interference.

Mr. President, although the Farm Bill was successful in ridding agriculture policy of much of the weight of government intrusion that burdened it for years, there are still hidden subsidies costing taxpayers billions. This legislation would prevent USDA from factoring cotton industry storage costs into Marketing Loan Program calculations. This costly and unnecessary benefit is bestowed on no other commodity.

Farmers, except those who produce cotton, are required to pay storage cost through the maturity date of their support loans. Producers must prepay or arrange to pay storage costs through the loan maturity date or USDA reduces the amount of the loan by deducting the amount necessary for prepaid storage. Cotton producers are not required to prepay storage costs. When they redeem a loan under marketing loan provisions or forfeit collateral, USDA pays the cost of accrued storage.

It is interesting to note, Mr. President, that in a 1994 audit of the cotton program, USDA's Office of Inspector General found no reason for USDA to pay for the accrued storage costs of cotton producers. The Inspector General recommended that USDA "revise procedures to eliminate the automatic payment of cotton storage charges by CCC and make provisions consistent with the treatment of storage charges on other program crops".

Although those in the cotton industry will argue that the automatic payments were eliminated in the Farm Bill, in reality, those payments are now simply hidden. It's true that certain provisions have been removed from the statute which mandates that USDA pay these charges. Now, USDA freely chooses to waste the taxpayers money by paying these costs, allowing cotton producers to subtract their storage costs from the market value of their cotton, providing a larger difference with the loan rate, and therefore receiving a higher return.

Marketing Loan Programs are designed to encourage producers to redeem their loans and market their crops, but USDA payment of cotton storage costs discourage loan redemption. As long as the adjusted world price is at or below the loan rate, producers can delay loan redemption in the secure expectation that domestic prices will rise or the adjusted world price will decline regardless of accruing storage costs.

Mr. President, its time to stop kidding ourselves. Let's eliminate this subsidy before it costs hardworking Americans any more. Let's bring equity to the commodities program. Lets finish what the Farm Bill started—a more market oriented agriculture program. One that benefits us all.

Mr. President, I ask unanimous consent that the entire text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2255

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. STORAGE CHARGES FOR LOAN COMMODITIES.

Subtitle C of the Agricultural market Transition Act (7 U.S.C. 7231 et seq.) is amended by adding at the end the following:

"SEC. 138. STORAGE CHARGES FOR LOAN COMMODITIES.

"In calculating the amount of a loan deficiency payment or loan made to a producer for a loan commodity under this subtitle, the Secretary may not include any storage charges incurred by the producer in connection with the loan commodity.".●

By Mr. KERRY (for himself, Ms. SNOWE, Mr. HOLLINGS, and Mr. STEVENS):

S. 2256. A bill to provide an authorized strength for commissioned officers of the National Oceanic and Atmospheric Administration Corps, and for other purposes; to the Committee on Commerce, Science, and Transportation.

THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION CORPS CONTINUATION ACT

Mr. KERRY. Mr. President, I am introducing legislation today that will relieve the hiring freeze on the Commissioned Corps of the National Oceanic and Atmospheric Administration (NOAA), that was first imposed following the 1995 National Performance Review. I want to thank Senators SNOWE, HOLLINGS, and STEVENS, who have joined me in cosponsoring this legislation, for their continued leadership on this issue. This legislation represents another milestone in their consistent stewardship of the NOAA Corps and the very important part it plays in

NOAA and to our Nation. This legislation will restore stability and renew the good faith contract made with the men and women that make up the NOAA Corps by establishing a minimum and maximum authorized strength for our nation's seventh uniformed service.

The NOAA Corps is an indispensable part of NOAA: a pool of professionals trained in engineering, earth sciences, oceanography, meteorology, fisheries science, and other related disciplines. Corps officers serve in assignments within the five major line offices of NOAA. They operate ships, fly aircraft into hurricanes, lead mobile field parties, manage research projects, conduct diving operations, and serve in staff positions throughout NOAA. They operate the ships that set buoys used to gather oceanographic and meteorological data on unusual weather phenomena such as El Niño. They fly research aircraft into hurricanes that record valuable atmospheric observations. They conduct hydrographic surveys along our nation's coast in order to make our waters safe for maritime commerce.

Over three years ago, the Administration proposed that the NOAA Corps be disestablished and unilaterally imposed a hiring freeze. This action was based on flawed recommendations by the President's National Performance Review. A thorough review of the cost studies associated with the dissolution of the NOAA Corps clearly reflects that no real savings will be achieved over either the short or long term. In fact, without commissioned officers, NOAA may incur significant additional costs in the acquisition of data to fulfill its statutory missions. Further, recent data indicate that factors such as tort liability were not even considered as part of the total cost-benefit analysis. The Administration has ignored the fact that Congress alone has the authority to set the duties and strength of the uniformed services and Congress alone must act for the NOAA Corps to be disestablished. I am convinced that the preponderance of evidence supports the need for the NOAA Corps to be retained, not disestablished. This legislation will ensure that the pearl of expertise that resides in the men and women who make up the NOAA Corps is retained for the nation.

The NOAA Corps hiring freeze has been tantamount to slow motion dissolution of our nation's seventh uniformed service. At the time the freeze was imposed, the NOAA Corps had a strength of 411 officers. At the end of this fiscal year, the projected on-board strength will be 235 officers. Through this three years of adversity, the NOAA Corps has heroically continued to sail NOAA's fleet and fly its aircraft. At its current diminished personnel levels, I have become deeply concerned regarding the NOAA Corps' ability to carry out its mission. In addition, I am also concerned about the safety of the men and women aboard NOAA ships and aircraft.

Last week, Dr. James Baker, the Administrator of NOAA, announced a plan for restructuring the NOAA Corps. This plan calls for a further reduction of the Corps strength from its current level of 248 officers to 240 officers. In addition, it calls for a civilian Senior Executive Service member to manage the Corps. This restructuring plan will maintain a cloud of uncertainty over the future of the NOAA Corps, diminishing its viability and culminating in its ultimate elimination.

The proposed level of 240 officers will be inadequate to staff NOAA ships and aircraft. There are currently 70 officer billets aboard NOAA vessels. Assuming that a NOAA Corps officer spends one third of his or her career at sea, which is the norm in other seagoing services, a requirement exists for 210 seagoing officer billets. Likewise, there are 36 billets aboard NOAA aircraft. Assuming that an officer flies for two years and is moved to an office support billet for one year, a requirement exists for 54 aviator billets. Therefore, the minimum staffing requirement to maintain a viable NOAA Corps is 264 officers. All services allow for 10 to 15 percent of their personnel to be in a general detail status (i.e. training classes, travel and temporary duty). Therefore, I endorse staffing the NOAA Corps at a floor of 264 and a ceiling of 299 officer billets which corresponds to a general detail percentage that is consistent with the practices of other uniformed services. This level is consistent with the already-achieved reduction of 130 billets that was recommended by the National Performance Review.

The proposal to establish a civilian position to manage the NOAA Corps in place of the current flag officer creates an extra layer of management that is not required. A NOAA Corps flag officer is required to carry out NOAA fleet business with flag officers of the other services. As the civilian Administrator of NOAA, Dr. Baker is in a position to oversee the NOAA Corps, working with its senior flag officer.

Mr. President, this legislation will establish staffing levels for the NOAA Corps that will provide some assurance of long term viability. It will establish a floor strength of 264 officers with a ceiling of 299 officers. It is time that we reaffirm our commitment to studying the earth's oceans and atmosphere by insuring that the NOAA Corps is staffed at the appropriate level.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2256

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Oceanic and Atmospheric Administration Corps Continuation Act".

SEC. 2. FINDINGS.

The Congress makes the following findings:

(1) Tracing its roots back to 1807 when President Thomas Jefferson signed a bill for the "Survey of the Coast", the National Oceanic and Atmospheric Administration Corps has served the armed services and the Nation consistently and ably for almost two centuries.

(2) The National Oceanic and Atmospheric Administration Corps is a dedicated and specialized uniformed officer corps that operates vessels and planes, provides important scientific and technical services, and carrier out programmatic responsibilities throughout the National Oceanic and Atmospheric Administration.

(3) The smallest of the seven uniformed services, the National Oceanic and Atmospheric Administration Corps grew in size from 275 officers in 1970, the year the National Oceanic and Atmospheric Administration was created, to 411 officers in 1994.

(4) The National Oceanic and Atmospheric Administration Corps has met or exceeded the 1996 National Performance Review recommendation which called for a reduction of 130 officers from the 1994 level.

(5) Federally-sponsored studies conclude that no immediate or long-term cost savings would be achieved by replacing the National Oceanic and Atmospheric Administration Corps with a comparable civilian entity.

(6) As a result of the hiring freeze imposed on the National Oceanic and Atmospheric Administration Corps, positions necessary to maintain the statutorily mandated operation of the vessel and aircraft fleets of the National Oceanic and Atmospheric Administration have not been filled, valuable research work has been delayed, and the hydrography expertise of the National Oceanic and Atmospheric Administration, that is critical to the international trade of the United States, has been compromised.

SEC. 3. AUTHORIZED NUMBER OF COMMISSIONED OFFICERS.

Section 2 of the Coast and Geodetic Survey Commissioned Officers' Act of 1948 (33 U.S.C. 853a) is amended—

(1) by redesignating subsections (a) through (3) as subsections (b) through (f), respectively; and

(2) by inserting before subsection (b), as redesignated, the following:

"(a) There are authorized to be not less than 264 and not more than 299 commissioned officers on the active list of the National Oceanic and Atmospheric Administration.".

SEC. 4. DESIGNATION OF THE DIRECTOR OF THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION CORPS.

Section 24(a) of the Coast and Geodetic Survey Commissioned Officers' Act of 1948 (33 U.S.C. 853u(a)) is amended by inserting "One such position shall be the director of the commissioned officers who shall be appointed from the officers on the active duty promotion list serving in or above the grade of captain, and who shall be responsible for administration of the commissioned officers, and for oversight of the operation of the vessel and aircraft fleets, of the Administration." before "An officer".

SEC. 5. RELIEF FROM HIRING FREEZE.

The Secretary of Commerce immediately shall relieve the moratorium on new appointments of commissioned officers to the National Oceanic and Atmospheric Administration Corps.

• Ms. SNOWE. Mr. President, I am pleased to join my Commerce Committee colleagues Senators KERRY, STEVENS, and HOLLINGS in introducing legislation today to reauthorize the National Oceanic and Atmospheric Administration (NOAA) Corps.

The NOAA Corps is a uniformed officer service that fulfills a variety of important missions for the agency and the public. NOAA Corps officers manage the operations of NOAA's research and survey vessels, as well as its aircraft. They serve as pilots and navigators, and as key scientific and engineering personnel involved with the missions for which the vessels and aircraft are being used. These missions include fisheries research, hydrographic surveys, oceanographic research, and airborne research on hurricanes, among others.

In addition to field missions, NOAA Corps officers perform a variety of shoreside tasks, from managing the ground support for the vessel and aircraft operations, to serving in management and technical support positions in offices throughout NOAA's line agencies.

At the outbreak of World War I, personnel and equipment from the Coast and Geodetic Survey—one of NOAA's predecessor organizations—were transferred to the War Department for military missions during the war, and the personnel were given military commissions. In World War II, about half of the Survey's commissioned officers and vessels were transferred to the war effort. Although all Survey personnel resumed civilian duties after the war, the commissioned Corps has continued to exist since that time.

But in recent years, some questioned whether it still makes sense to retain a uniformed Corps to perform these missions for NOAA. As part of its National Performance Review in 1994, the Clinton Administration determined that a uniformed Corps was no longer necessary, and it recommended that the organization be disestablished and replaced with a civilian staff. The Administration argued that the disestablishment of the Corps would result in some budget savings to the federal government and increase operational flexibility.

Unfortunately, the Congress did not receive a legislative proposal for disestablishment from the Administration until May of last year, and in the interim, the Corps was subject to administrative hiring freezes and annual appropriations riders that whittled the Corps' ranks by more than 25%. Since last year, the Corps has continued to shrink through attrition. Understandably, the morale of the Corps members has been negatively affected by these actions and the uncertainty about their future. As a result of these developments combined, important NOAA operations have been negatively affected.

Last fall, the Subcommittee on Oceans and Fisheries, which I chair, held a hearing on the Administration's disestablishment proposal. The Administration claimed that the replacement of the Corps with civilian personnel would save $2 million or more annually for the Federal government, primarily because of lower retirement costs for a civilian workforce. But upon examination by the Subcommittee, these estimated savings appeared to be suspect. The non-retirement costs of a civilian workforce could be much higher than the Administration estimated, and the likelihood of finding qualified civilians to replace the Corps officers in a short period of time is likewise very uncertain. In my view, the budget savings achieved by disestablishing the Corps would be marginal at best, but the American people would be losing a highly dedicated and professional cadre of men and women to perform many of NOAA's essential missions.

Very recently, the Administration reconsidered its disestablishment proposal and has decided to abandon it. The Administration now proposes to maintain a streamlined NOAA Corps of 240 officers. While I appreciate the Administration's willingness to honestly reassess a proposal that it had advocated since 1994, I fear that the 240 number is too low to effectively operate NOAA's vessels, aircraft, and associated support units. The bill that we are introducing today reauthorizes the Corps and establishes a force range of between 264 and 299 officers. This represents a substantial down-sizing of the Corps from a level of over 400 in 1994, but it ensures that a sufficient number of officers will be available to maintain NOAA's missions at a high level of effectiveness while providing a substantial degree of management flexibility to the agency. The bill also requires the Administration to immediately rescind the current moratorium on the commissioning of new officers and it requires the director of the Corps to be a Corps officer.

This legislation is the product of careful examination and deliberation by the Subcommittee on Oceans and Fisheries and it represents a responsible solution to a problem that has been lingering for four years. I strongly urge my colleagues to support this bill.•

Mr. HOLLINGS. Mr. President, today, Senators KERRY, SNOWE, STEVENS, and I are introducing a bill which will address the future of the smallest of this Nation's seven uniformed services, the commissioned officer corps (Corps) of the National Oceanic and Atmospheric Administration (NOAA). This bill will set a floor on Corps officers of 264 and a ceiling of 299, designate a flag officer as the Director of the Corps, and lift the hiring freeze on NOAA Corps officers.

Let me be clear at the outset. Since 1995 when the Administration proposed the disestablishment of the NOAA Corps, I have thought it was a solution in search of a problem. The NOAA Corps is a dedicated and highly skilled group of men and women who have served this Nation consistently and ably for almost two centuries. This uniformed officer corps operates NOAA vessels and planes, provides important scientific and technical services, and carries out programmatic responsibilities throughout the agency.

NOAA Corps officers do more than routine work; they maintain an ability to provide a specialized, rapid response in emergencies. The actions of the NOAA ship, RUDE, after the tragic crash of TWA Flight 800 demonstrate the importance of the Corps' work to NOAA and to the Nation. Managed and operated by NOAA Corps officers, the RUDE's sonar capabilities were used to locate crash debris and map the wreckage. In addition, ship officers served as liaison between Navy divers and members of the National Transportation Safety Board. The NOAA officers aboard the RUDE and those on-shore directing charting operations impressed the other myriad agencies who responded to the disaster, even earning the Coast Guard's Public Service Commendation. As one newspaper headline put it, "Obscure team gains respect at TWA site."

Corps officers also pilot NOAA aircraft through hurricanes at low altitudes, the only pilots trained with such skills anywhere in the world. The information they collect is essential for projecting the track and strength of hurricanes so that people in the path can prepare.

It should be clear to all of us that the NOAA Corps provides a unique and valuable service. Speaking frankly, I do not understand the efforts to disestablish the Corps or let it wither and die through a hiring freeze. None of the studies on converting the Corps to civilian status have shown a significant cost savings. A GAO study showed savings of 2 percent, another study by Arthur Andersen showed a cost increase of 2 percent, and the Hay/Huggins report concluded that costs were essentially the same for the Corps or civilians. It seems to me that there is not a justification for doing away with the Corps based on these studies of cost savings.

This is an issue that must be resolved. The Corps has not been permitted to recruit new officers since October 1994, and this methodical, de facto elimination of positions has continued without the oversight of approval of the Congress. While we have been discussing the issue, the natural retirements and attribution of time have been slowly bleeding the strength out of the NOAA Corps. The Corps stands now at 248 members, down 44 percent from its highest level of 439 in 1995.

That is why we are introducing the NOAA Corps Continuation Act today. We cannot let the members of this service continue in limbo. NOAA's recently released plan to restructure the Corps is not acceptable. It takes into account neither the reductions in personnel already achieved nor the need for officers to have shore assignments. We need to set a realistic strength level for the Corps, designate a Director of the Corps from within the ranks, and life the hiring freeze. I thank Senator KERRY for his leadership on this issue and urge my colleagues to act swiftly on this legislation so that NOAA can continue to have the Corps' expertise in carrying out the agency's vital missions.

By Ms. LANDRIEU:

S. 2257. A bill to reauthorize the National Historic Preservation Act; to the Committee on Energy and Natural Resources.

MEASURE TO EXTEND THE AUTHORIZATION FOR THE NATIONAL HISTORIC PRESERVATION FUND

Ms. LANDRIEU. Mr. President, today I introduce a measure to extend the authorization for appropriations for the National Historic Preservation Fund, as established in the Historic Preservation Act Amendments of 1976. On September 30, 1997, the authorization for deposits into the Historic Preservation Fund from revenues due and payable to the United States under the Outer Continental Shelf Lands Act expired. I am introducing this legislation today with the purpose in mind of re-authorizing the deposits at the same level of $150,000,000 annually through the year 2004.

The Historic Preservation Fund is based on the idea that a part of proceeds from depletion of a non-renewable resource, off shore gas and oil, should be invested in the enhancement of other non-renewable resources: historic properties. The Historic Preservation Fund account supports roughly half the cost of the Nation's historic preservation program as created by the National Historic Preservation Act (16 U.S.C. 470). State governments contribute the other half of the cost. This is a true Federal-State partnership.

States and certain local governments and Indian tribes carry out the Nation's historic preservation program under the Act for the Secretary of the Interior and the Advisory Council on Historic Preservation. The historic preservation program involves the identification of historic places, working with property owners in nominating significant places to the National Register, consulting with federal agencies on projects that may adversely impact historic places, advising investors on tax credits for the rehabilitation of historic buildings, and offering information and educational opportunities to the private and public sectors on historic preservation.

The national historic preservation program, made possible by the Historic Preservation Fund (plus the State match), contributes significantly to community revitalization for the benefit of residents, to heritage tourism by identifying places people want to visit, and to economic development through the rehabilitation of commercial buildings and rental housing ($1.7 billion in construction costs in fiscal year 1997).

I believe this is an extremely worthwhile program that works. We should re-authorize this fund so that important restoration and revitalization efforts may continue across the country, done with the assistance of State Historic Preservation Offices and the Advisory Council on Historic Preservation. I ask unanimous consent that the text of the bill be entered into the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2257

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. NATIONAL HISTORIC PRESERVATION ACT.

The second sentence of section 108 of the National Historic Preservation Act (16 U.S.C. 470h) is amended by striking "1997" and inserting "2004".

ADDITIONAL COSPONSORS

S. 38

At the request of Mr. JOHNSON, his name was added as a cosponsor of S. 38, a bill to reduce the number of executive branch political appointees.

S. 59

At the request of Mr. JOHNSON, his name was added as a cosponsor of S. 59, a bill to terminate the Extremely Low Frequency Communication System of the Navy.

S. 520

At the request of Mr. JOHNSON, his name was added as a cosponsor of S. 520, a bill to terminate the F/A–18 E/F aircraft program.

S. 643

At the request of Mr. DURBIN, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 643, a bill to prohibit the Federal Government from providing insurance, reinsurance, or noninsured crop disaster assistance for tobacco.

S. 982

At the request of Mrs. BOXER, her name was added as a cosponsor of S. 982, a bill to provide for the protection of the flag of the United States and free speech, and for other purposes.

S. 1151

At the request of Mr. DODD, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 1151, a bill to amend subpart 8 of part A of title IV of the Higher Education Act of 1965 to support the participation of low-income parents in postsecondary education through the provision of campus-based child care.

S. 1275

At the request of Mr. MURKOWSKI, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 1275, a bill to implement further the Act (Public Law 94–241) approving the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America, and for other purposes.

S. 1924

At the request of Mr. MACK, the names of the Senator from Rhode Island (Mr. REED), the Senator from Alabama (Mr. SHELBY), and the Senator from Connecticut (Mr. LIEBERMAN) were added as cosponsors of S. 1924, a bill to restore the standards used for determining whether technical workers are not employees as in effect before the Tax Reform Act of 1986.

S. 1929

At the request of Mrs. HUTCHISON, the name of the Senator from Texas (Mr. GRAMM) was added as a cosponsor of S. 1929, a bill to amend the Internal Revenue Code of 1986 to provide tax incentives to encourage production of oil and gas within the United States, and for other purposes.

S. 1993

At the request of Ms. COLLINS, the name of the Senator from South Carolina (Mr. HOLLINGS) was added as a cosponsor of S. 1993, a bill to amend title XVIII of the Social Security Act to adjust the formula used to determine costs limits for home health agencies under the medicare program, and for other purposes.

S. 2017

At the request of Mr. D'AMATO, the names of the Senator from Virginia (Mr. ROBB) and the Senator from Massachusetts (Mr. KERRY) were added as cosponsors of S. 2017, a bill to amend title XIX of the Social Security Act to provide medical assistance for breast and cervical cancer-related treatment services to certain women screened and found to have breast or cervical cancer under a Federally funded screening program.

S. 2040

At the request of Mr. BAUCUS, the name of the Senator from Nevada (Mr. BRYAN) was added as a cosponsor of S. 2040, a bill to amend title XIX of the Social Security Act to extend the authority of State medicaid fraud control units to investigate and prosecute fraud in connection with Federal health care programs and abuse of residents of board and care facilities.

S. 2049

At the request of Mr. KERREY, the names of the Senator from Washington (Mrs. MURRAY), the Senator from Ohio (Mr. GLENN), and the Senator from Kansas (Mr. ROBERTS) were added as cosponsors of S. 2049, a bill to provide for payments to children's hospitals that operate graduate medical education programs.

S. 2214

At the request of Mr. LOTT, the name of the Senator from Texas (Mrs. HUTCHISON) was added as a cosponsor of S. 2214, a bill to amend the Internal Revenue Code of 1986 to reduce individual capital gains tax rates.

S. 2233

At the request of Mr. CONRAD, the names of the Senator from North Dakota (Mr. DORGAN) and the Senator from Illinois (Ms. MOSELEY-BRAUN) were added as cosponsors of S. 2233, a bill to amend section 29 of the Internal Revenue Code of 1986 to extend the placed in service date for biomass and coal facilities.

SENATE RESOLUTION 255—COMMENDING THE LIBRARY OF CONGRESS FOR 200 YEARS OF OUTSTANDING SERVICE TO CONGRESS AND THE NATION, AND TO ENCOURAGE ACTIVITIES TO COMMEMORATE THE BICENTENNIAL ANNIVERSARY OF THE LIBRARY OF CONGRESS

Mr. WARNER (for himself, Mr. FORD, Mr. STEVENS, and Mr. MOYNIHAN) submitted the following resolution; which was considered and agreed to:

S. RES. 255

Whereas the Library of Congress was established in 1800 and will celebrate the 200th anniversary of the Library of Congress in 2000;

Whereas the goal of the bicentennial commemoration is to inspire creativity in the century ahead and ensure a free society through greater use of the Library of Congress and libraries everywhere;

Whereas the bicentennial goal will be achieved through a variety of national, State, and local projects, developed in collaboration with the offices of the Members of Congress, the staff of the Library of Congress, and special advisory committees; and

Whereas the bicentennial commemorative activities include significant acquisitions, symposia, exhibits, issuance of a commemorative coin, and enhanced public access to the collections of the Library of Congress through the National Digital Library: Now, therefore, be it

Resolved, That the Senate commends the Library of Congress on 200 years of service to Congress and the Nation, and encourages the American public to participate in activities to commemorate the bicentennial anniversary of the Library of Congress.

AMENDMENTS SUBMITTED

NATIONAL CENTER FOR MISSING AND EXPLOITED CHILDREN AUTHORIZATION ACT

HATCH (AND OTHERS) AMENDMENT NO. 3047

Mr. LOTT (for Mr. HATCH for himself, Mr. FEINGOLD, and Mr. DEWINE) proposed an amendment to the bill (S. 2073) to authorize appropriations for the National Center for Missing and Exploited Children; as follows:

On page 8, below line 24, add the following:

SEC. 3. CHILD EXPLOITATION SENTENCING ENHANCEMENTS.

(a) DEFINITIONS.—In this section:

(1) CHILD; CHILDREN.—The term "child" or "children" means a minor or minors of an age specified in the applicable provision of title 18, United States Code, that is subject to review under this section.

(2) MINOR.—The term "minor" means any individual who has not attained the age of 18, except that, with respect to references to section 2243 of title 18, United States Code, the term means an individual described in subsection (a) of that section.

(b) INCREASED PENALTIES FOR USE OF A COMPUTER IN THE SEXUAL ABUSE OR EXPLOITATION OF A CHILD.—Pursuant to the authority granted to the United States Sentencing Commission under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall—

(1) review the Federal sentencing guidelines on aggravated sexual abuse under section 2241 of title 18, United States Code, sexual abuse under section 2242 of title 18, United States Code, sexual abuse of a minor or ward under section 2243 of title 18, United States Code, coercion and enticement of a juvenile under section 2422(b) of title 18, United States Code, and transportation of minors under section 2423 of title 18, United States Code; and

(2) upon completion of the review under paragraph (1), promulgate amendments to the Federal sentencing guidelines to provide an appropriate sentencing enhancement if the defendant used a computer with the intent to persuade, induce, entice, or coerce a child of an age specified in the applicable provision referred to in paragraph (1) to engage in any prohibited sexual activity.

(c) INCREASED PENALTIES FOR KNOWING MISREPRESENTATION IN THE SEXUAL ABUSE OR EXPLOITATION OF A CHILD.—Pursuant to the authority granted to the United States Sentencing Commission under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall—

(1) review the Federal sentencing guidelines on aggravated sexual abuse under section 2241 of title 18, United States Code, sexual abuse under section 2242 of title 18, United States Code, sexual abuse of a minor or ward under section 2243 of title 18, United States Code, coercion and enticement of a juvenile under section 2422(b) of title 18, United States Code, and transportation of minors under section 2423 of title 18, United States Code; and

(2) upon completion of the review under paragraph (1), promulgate amendments to the Federal sentencing guidelines to provide an appropriate sentencing enhancement if the defendant knowingly misrepresented the actual identity of the defendant with the intent to persuade, induce, entice, or coerce a child of an age specified in the applicable provision referred to in paragraph (1) to engage in a prohibited sexual activity.

(d) INCREASED PENALTIES FOR PATTERN OF ACTIVITY OF SEXUAL EXPLOITATION OF CHILDREN.—Pursuant to the authority granted to the United States Sentencing Commission under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall—

(1) review the Federal sentencing guidelines on criminal sexual abuse, the production of sexually explicit material, the possession of materials depicting a child engaging in sexually explicit conduct, coercion and enticement of minors, and the transportation of minors; and

(2) upon completion of the review under paragraph (1), promulgate amendments to the Federal sentencing guidelines to provide an appropriate sentencing enhancement applicable to the offenses referred to in paragraph (1) in any case in which the defendant engaged in a pattern of activity involving the sexual abuse or exploitation of a minor.

(e) REPEAT OFFENDERS; INCREASED MAXIMUM PENALTIES FOR TRANSPORTATION FOR ILLEGAL SEXUAL ACTIVITY AND RELATED CRIMES.—

(1) REPEAT OFFENDERS.—

(A) CHAPTER 117.—

(i) IN GENERAL.—Chapter 117 of title 18, United States Code, is amended by adding at the end the following:

"§ 2425. Repeat offenders

"(a) IN GENERAL.—Any person described in this subsection shall be subject to the punishment under subsection (b). A person described in this subsection is a person who violates a provision of this chapter, after one or more prior convictions—

"(1) for an offense punishable under this chapter, or chapter 109A or 110; or

"(2) under any applicable law of a State relating to conduct punishable under this chapter, or chapter 109A or 110.

"(b) PUNISHMENT.—A violation of a provision of this chapter by a person described in subsection (a) is punishable by a term of imprisonment of a period not to exceed twice the period that would otherwise apply under this chapter.".

(ii) CONFORMING AMENDMENT.—The chapter analysis for chapter 117 of title 18, United States Code, is amended by adding at the end the following:

"2425. Repeat offenders.".

(B) CHAPTER 109A.—Section 2247 of title 18, United States Code, is amended to read as follows:

"§ 2247. Repeat offenders

"(a) IN GENERAL.—Any person described in this subsection shall be subject to the punishment under subsection (b). A person described in this subsection is a person who violates a provision of this chapter, after one or more prior convictions—

"(1) for an offense punishable under this chapter, or chapter 110 or 117; or

"(2) under any applicable law of a State relating to conduct punishable under this chapter, or chapter 110 or 117.

"(b) PUNISHMENT.—A violation of a provision of this chapter by a person described in subsection (a) is punishable by a term of imprisonment of a period not to exceed twice the period that would otherwise apply under this chapter.".

(2) INCREASED MAXIMUM PENALTIES FOR TRANSPORTATION FOR ILLEGAL SEXUAL ACTIVITY AND RELATED CRIMES.—

(A) TRANSPORTATION GENERALLY.—Section 2421 of title 18, United States Code, is amended by striking "five" and inserting "10".

(B) COERCION AND ENTICEMENT OF MINORS.—Section 2422 of title 18, United States Code, is amended—

(i) in subsection (a), by striking "five" and inserting "10"; and

(ii) in subsection (b), by striking "10" and inserting "15".

(C) TRANSPORTATION OF MINORS.—Section 2423 of title 18, United States Code, is amended—

(i) in subsection (a), by striking "ten" and inserting "15"; and

(ii) in subsection (b), by striking "10" and inserting "15".

(3) AMENDMENT OF SENTENCING GUIDELINES.—Pursuant to the authority granted to the United States Sentencing Commission under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall—

(A) review the Federal sentencing guidelines relating to chapter 117 of title 18, United States Code; and

(B) upon completion of the review under subparagraph (A), promulgate such amendments to the Federal sentencing guidelines as are necessary to provide for the amendments made by this subsection.

(f) CLARIFICATION OF DEFINITION OF DISTRIBUTION OF PORNOGRAPHY.—Pursuant to the authority granted to the United States Sentencing Commission under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall—

(1) review the Federal sentencing guidelines relating to the distribution of pornography covered under chapter 110 of title 18, United States Code, relating to the sexual exploitation and other abuse of children; and

(2) upon completion of the review under paragraph (1), promulgate such amendments to the Federal sentencing guidelines as are necessary to clarify that the term "distribution of pornography" applies to the distribution of pornography—

(A) for monetary remuneration; or

(B) for a nonpecuniary interest.

(g) DIRECTIVE TO UNITED STATES SENTENCING COMMISSION.—In carrying out this section, the United States Sentencing Commission shall—

(1) with respect to any action relating to the Federal sentencing guidelines subject to this section, ensure reasonable consistency with other guidelines of the Federal sentencing guidelines; and

(2) with respect to an offense subject to the Federal sentencing guidelines, avoid duplicative punishment under the guidelines for substantially the same offense.

(h) AUTHORIZATION FOR GUARDIANS AD LITEM.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of Justice, for the purpose specified in paragraph (2), such sums as may be necessary for each of fiscal years 1998 through 2001.

(2) PURPOSE.—The purpose specified in this paragraph is the procurement, in accordance with section 3509(h) of title 18, United States Code, of the services of individuals with sufficient professional training, experience, and familiarity with the criminal justice system, social service programs, and child abuse issues to serve as guardians ad litem for children who are the victims of, or witnesses to, a crime involving abuse or exploitation.

(i) APPLICABILITY.—This section and the amendments made by this section shall apply to any action that commences on or after the date of enactment of this Act.

LEAHY (AND HATCH) AMENDMENT NO. 3048

Mr. LOTT (for Mr. LEAHY for himself and Mr. HATCH) proposed an amendment to the bill, S. 2073, supra; as follows:

At the end of the bill, add the following:

SEC. 4. RUNAWAY AND HOMELESS YOUTH ACT.

(a) IN GENERAL.—Section 372(a) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5714b(a)) is amended by striking "unit of general local government" and inserting "unit of local government".

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) TECHNICAL AMENDMENTS.—

(A) ERROR RESULTING FROM REDESIGNATION.—

(i) IN GENERAL.—Section 3(i) of the Public Law 102–586 (106 Stat. 5026) is amended by striking "Section 366" and inserting "Section 385".

(ii) EFFECTIVE DATE.—The amendment made by clause (i) shall take effect as if included in the amendments made by Public Law 102–586.

(B) ERROR RESULTING FROM REFERENCES TO NONEXISTENT PROVISIONS OF LAW.—

(i) IN GENERAL.—Section 40155 of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322; 108 Stat. 1922) is amended by striking "is amended—" and all that follows through "after section 315" and inserting the following: "is amended by adding at the end".

(ii) EFFECTIVE DATE.—The amendment made by clause (i) shall take effect as if included in the amendments made by the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322).

(2) REAUTHORIZATIONS.—

(A) IN GENERAL.—Section 385 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5751) (as amended by section 3(i) of the Public Law 102–586 (106 Stat. 5026) (as amended by paragraph (1)(A) of this subsection)) is amended—

(i) in subsection (a)—

(I) in paragraph (1), by striking "1993 and such sums as may be necessary for fiscal years 1994, 1995, and 1996" and inserting "1998 and such sums as may be necessary for each of fiscal years 1999, 2000, 2001, 2002, and 2003"; and

(II) in paragraph (3), by striking subparagraphs (A) through (D) and inserting the following:

"(A) for fiscal year 1998, not less than $957,285;

"(B) for fiscal year 1999, not less than $1,005,150;

"(C) for fiscal year 2000, not less than $1,055,406;

"(D) for fiscal year 2001, not less than $1,108,177;

"(E) for fiscal year 2002, not less than $1,163,585; and

"(F) for fiscal year 2003, not less than $1,163,585.";

(ii) in subsection (b), by striking "1993 and such sums as may be necessary for fiscal years 1994, 1995, and 1996" and inserting "1999 and such sums as may be necessary for each of fiscal years 2000, 2001, 2002, and 2003"; and

(iii) in subsection (c), by striking "1993, 1994, 1995, and 1996" and inserting "1999, 2000, 2001, 2002, and 2003".

.(B) ADDITIONAL REAUTHORIZATION.—Section 316 of part A of the Runaway and Homeless Youth Act (42 U.S.C. 5712d) (as added by section 40155 of the Violent Crime Control and Law Enforcement Act of 1994 (as amended by paragraph (1)(B) of this subsection)) is—

(i) redesignated as section 315; and

(ii) amended by striking subsection (c) and inserting the following:

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of fiscal years 1999, 2000, 2001, 2002, and 2003.".

CONCURRENT RESOLUTION HONORING THE BERLIN AIRLIFT

COVERDELL AMENDMENT NO. 3049

Mr. LOTT (for Mr. COVERDELL) proposed an amendment to the concurrent resolution (S. Con. Res. 81) honoring the Berlin Airlift; as follows:

Strike all after the resolving clause and insert the following:

That it is the sense of Congress that—

(1) the Berlin Airlift, which marks its 50th anniversary of commencement in June 1998, is one of the most significant events in postwar European history; and

(2) the Berlin Sculpture Fund should be commended for commemorating the 50th anniversary of the Berlin Airlift by presenting to the citizens of the Federal Republic of Germany a gift of representational art, funded by private subscriptions from citizens of the United States.

Amend the preamble to read as follows:

Whereas the date of June 26, 1998, marks the 50th anniversary of the commencement of the Allied effort to supply the people of Berlin, Germany, with food, fuel, and supplies in the face of the illegal Soviet blockade that divided the city;

Whereas this 15 month Allied effort became known throughout the free world as the "Berlin Airlift" and ultimately cost the lives of 78 Allied airmen, of whom 31 were United States fliers;

Whereas this heroic humanitarian undertaking was universally regarded as an unambiguous statement of Western resolve to thwart further Soviet expansion;

Whereas the Berlin Airlift was an unqualified success, both as an instrument of diplomacy and as a life saving rescue of the 2,000,000 inhabitants of West Berlin, with 2,326,205 tons of supplies delivered by 277,728 flights over a 462-day period;

Whereas historians and citizens the world over view the success of this courageous action as pivotal to the ultimate defeat of international tyranny, symbolized today by the fall of the Berlin Wall; and

Whereas this inspiring act of resolve must be preserved in the memory of future generations in a positive and dramatic manner: Now, therefore, be it

Amend the title to read as follows: "Concurrent resolution honoring the Berlin Airlift and commending the Berlin Sculpture Fund.".

INTELLIGENCE AUTHORIZATION ACT OF FISCAL YEAR 1999

SHELBY AMENDMENT NO. 3050

Mr. LOTT (for Mr. SHELBY) proposed an amendment to the bill (S. 2052) to authorize appropriations for fiscal year 1999 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Retirement and Disability System, and for other purposes; as follows:

On page 11, between lines 18 and 19, insert the following:

SEC. 307. DESIGNATION OF HEADQUARTERS BUILDING OF CENTRAL INTELLIGENCE AGENCY AS THE GEORGE HERBERT WALKER BUSH CENTER FOR CENTRAL INTELLIGENCE.

(a) Designation.—The Headquarters Building of the Central Intelligence Agency located in Langley, Virginia, shall be known and designated as the "George Herbert Walker Bush Center for Central Intelligence".

(b) References.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the Headquarters Building referred to in subsection (a) shall be deemed to be a reference to the George Herbert Walker Bush Center for Central Intelligence.

KERREY AMENDMENTS NOS. 3051–3052

Mr. LOTT (for Mr. Kerrey) proposed two amendments to the bill, S. 2052, supra; as follows:

Amendment No. 3051

On page 11, between lines 18 and 19, insert the following:

SEC. 307. AUTHORITY TO DIRECT COMPETITIVE ANALYSIS OF ANALYTICAL PRODUCTS HAVING NATIONAL IMPORTANCE.

Section 102(g)(2) of the National Security Act of 1947 (50 U.S.C. 403(g)(2)) is amended—

(1) by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively; and

(2) by inserting after subparagraph (C) the following new subparagraph (D):

"(D) direct competitive analysis of analytical products having National importance;".

Amendment No. 3052

On page 11, between lines 18 and 19, insert the following:

SEC. 307. ANNUAL STUDY AND REPORT ON THE SAFETY AND SECURITY OF RUSSIAN NUCLEAR FACILITIES AND NUCLEAR MILITARY FORCES.

(a) Annual Study.—The Director of Central Intelligence shall, on an annual basis, conduct a study of the safety and security of the nuclear facilities and nuclear military forces in Russia.

(b) Annual Reports.—(1) The Director shall, on an annual basis, submit to the committees referred to in paragraph (4) an intelligence report assessing the safety and security of the nuclear facilities and nuclear military forces in Russia.

(2) Each report shall include a discussion of the following:

(A) The ability of the Russia Government to maintain its nuclear military forces.

(B) Security arrangements at civilian and military nuclear facilities in Russia.

(C) The reliability of controls and safety systems at civilian nuclear facilities in Russia.

(D) The reliability of command and control systems and procedures of the nuclear military forces in Russia.

(3) Each report shall be submitted in unclassified form, but may contain a classified annex.

(4) The committees referred to in paragraph (1) are the following:

(A) The Select Committee on Intelligence, Committee on Armed Services, and Committee on Foreign Relations of the Senate.

(B) The Permanent Select Committee on Intelligence, Committee on National Security, and Committee on International Relations of the House of Representatives.

COATS AMENDMENT NO. 3053

Mr. LOTT (for Mr. Coats) proposed an amendment to the bill, S. 2052, supra; as follows:

Amendment No. 3053

On page 11, between lines 18 and 19, insert the following:

SEC. 307. QUADRENNIAL INTELLIGENCE REVIEW.

(a) Sense of Congress.—It is the sense of Congress that—

(1) the Director of Central Intelligence and the Secretary of Defense should jointly complete, in 1999 and every 4 years thereafter, a comprehensive review of United States intelligence programs and activities;

(2) each review under paragraph (1) should—

(A) include assessments of intelligence policy, resources, manpower, organization, and related matters; and

(B) encompass the programs and activities funded under the National Foreign Intelligence Program (NFIP), the Joint Military Intelligence Program (JMIP), and the Tactical Intelligence and Related Activities (TIARA) accounts;

(3) the results of each review should be shared with the appropriate committees of Congress; and

(4) the Director, in conjunction with the Secretary, should establish a nonpartisan, independent panel (with members chosen in consultation with the committees referred to in subsection (b)(2) from individuals in the private sector) in order to—

(A) assess each review under paragraph (1);

(B) conduct an assessment of alternative intelligence structures to meet the anticipated intelligence requirements for the national security and foreign policy of the United States through the year 2010; and

(C) make recommendations to the Director and the Secretary regarding the optimal intelligence structure for the United States in light of the assessment under subparagraph (B).

(b) Report.—(1) Not later than August 15, 1998, the Director and the Secretary shall jointly submit to the committees referred to in paragraph (2) the views of the Director and the Secretary regarding—

(A) the potential value of conducting reviews as described in subsection (a)(1); and

(B) the potential value of assessments of such reviews as described in subsection (a)(4)(A).

(2) The committees referred to in paragraph (1) are the following:

(A) The Select Committee on Intelligence, Committee on Armed Services, and Committee on Appropriations of the Senate.

(B) The Permanent Select Committee on Intelligence, Committee on National Security, and Committee on Appropriations of the House of Representatives.

NEXT GENERATION INTERNET RESEARCH ACT OF 1998

FRIST (AND ROCKEFELLER) AMENDMENT NO. 3054

Mr. LOTT (for Mr. Frist for himself and Mr. Rockefeller) proposed an amendment to the bill (S. 1609) to amend the High-Performance Computing Act of 1991 to authorize appropriations for fiscal years 1999 and 2000 for the Next Generation Internet program, to require the Advisory Committee on High-Performance Computing and Communications, Information Technology, and the Next Generation Internet to monitor and give advice concerning the development and implementation of the Next Generation Internet program and report to the President and the Congress its activities, and for other purposes; as follows:

On page 9, in the matter appearing after line 18—

(1) strike $42,500,000" in the column headed FY 1999 and insert "$40,000,000";

(2) strike "45,000,000" in the column headed FY 2000 and insert "$42,500,000";

(3) strike "$5,000,000" in the column headed FY 1999 the second place it appears and insert "$10,000,000";

(4) strike "$5,000,000" in the column headed FY 2000 and insert "$10,000,000";

(5) strike the closing quotation marks at the end of the table; and

(6) after the table insert the following:

The amount authorized for the Department of Defense for fiscal year 1999 under this section shall be the amount authorized pursuant to the National Defense Authorization Act for Fiscal Year 1999.".

LEAHY (AND ASHCROFT) AMENDMENT NO. 3055

Mr. LOTT (for Mr. Leahy for himself and Mr. Ashcroft) proposed an amendment to the bill, S. 1609, supra; as follows:

At the appropriate place in the bill, insert the following new section:

SEC. . STUDY OF EFFECTS ON TRADEMARKS AND INTELLECTUAL PROPERTY RIGHTS OF ADDING GENERIC TOP-LEVEL DOMAINS.

(a) Study by National Research Council.—Not later than 60 days after the date of enactment of this Act, the Secretary of Commerce shall request the National Research Council of the National Academy of Sciences to conduct a comprehensive study, taking into account the diverse needs of domestic and international Internet users, of the short-term and long-term effects on trademark and intellectual property rights holders of adding new generic top-level domains and related dispute resolution procedures.

(b) Matters To Be Assessed In Study.—The study shall assess and, as appropriate, make recommendations for policy, practice, or legislative changes relating to—

(1) the short-term and long-term effects on the protection of trademark and intellectual property rights and consumer interests of increasing or decreasing the number of generic top-level domains;

(2) trademark and intellectual property rights clearance processes for domain names, including—

(A) whether domain name databases should be readily searchable through a common interface to facilitate the clearing of trademarks and intellectual property rights and proposed domain names across a range of generic top-level domains;

(B) the identification of what information from domain name databases should be accessible for the clearing of trademarks and intellectual property rights; and

(C) whether generic top-level domain registrants should be required to provide certain information;

(3) domain name trademark and intellectual property rights dispute resolution mechanisms, including how to—

(A) reduce trademark and intellectual property rights conflicts associated with the addition of any new generic top-level domains; and

(B) reduce trademark and intellectual property rights conflicts through new technical approaches to Internet addressing;

(4) choice of law or jurisdiction for resolution of trademark and intellectual property rights disputes relating to domain names, including which jurisdictions should be available for trademark and intellectual property rights owners to file suit to protect such trademarks and intellectual property rights;

(5) trademark and intellectual property rights infringement liability for registrars, registries, or technical management bodies; and

(6) short-term and long-term technical and policy options for Internet addressing schemes and the impact of such options on current trademark and intellectual property rights issues.

(c) COOPERATION WITH STUDY.—

(1) INTERAGENCY COOPERATION.—The Secretary of Commerce shall—

(A) direct the Patent and Trademark Office, the National Telecommunications and Information Administration, and other Department of Commerce entities to cooperate fully with the National Research Council in its activities in carrying out the study under this section; and

(B) request all other appropriate Federal departments, Federal agencies, Government contractors, and similar entities to provide similar cooperation to the National Research Council.

(2) PRIVATE CORPORATION COOPERATION.—The Secretary of Commerce shall request that any private, not-for-profit corporation established to manage the Internet root server system and the top-level domain names provide similar cooperation to the National Research Council.

(d) REPORT.—

(1) IN GENERAL.—Not later than 12 months after the date of enactment of this Act, the National Research Council shall complete the study under this section and submit a report on the study to the Secretary of Commerce. The report shall set forth the findings, conclusions, and recommendations of the Council concerning the effects of adding new generic top-level domains and related dispute resolution procedures on trademark and intellectual property rights holders.

(2) SUBMISSION TO CONGRESSIONAL COMMITTEES.—Not later than 30 days after the date on which the report is submitted to the Secretary of Commerce, the Secretary shall submit the report to the Committees on Commerce and the Committees on the Judiciary of the Senate and House of Representatives.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $800,000 for the study conducted under this Act.

NOTICE OF HEARINGS

SUBCOMMITTEE ON NATIONAL PARKS, HISTORIC PRESERVATION AND RECREATION

Mr. THOMAS. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Subcommittee on National Parks, Historic Preservation and Recreation of the Committee on Energy and Natural Resources.

The hearing will take place on Thursday, July 9, 1998, at 2:00 p.m., in room SD-366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of this hearing is to receive testimony on S. 1333, to amend the Land and Water Conservation Fund Act of 1965 to allow national park units that cannot charge an entrance or admission fee to retain other fees and charges; S. 2129, to eliminate restrictions on the acquisition of certain land contiguous to Hawaii Volcanoes National Park; S. 2232, to establish the Little Rock Central High School National Historic Site in the State of Arkansas, and for other purposes; S. 2106 and H.R. 2283, to expand the boundaries of Arches National Park, Utah, to include portions of certain drainages that are under the jurisdiction of the Bureau of Land Management, and to include a portion of Fish Seep Draw owned by the State of Utah, and for other purposes.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Subcommittee on National Parks, Historic Preservation and Recreation, Committee on Energy and Natural Resources, United States Senate, 364 Dirksen Senate Office Building, Washington, DC 20510-6150.

For further information, please contact Jim O'Toole of the Subcommittee staff at (202) 224-5161.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MURKOWSKI. Mr. President, I would like to announce for the public that a hearing has been scheduled before the Full Committee on Energy and Natural Resources.

The hearing will take place on Tuesday, July 14, 1998, at 9:30 a.m. in room SH-216 of the Hart Senate Office Building in Washington, DC.

The purpose of this hearing is to receive testimony on H.R. 856, To provide a process leading to full self-government for Puerto Rico and S. 472, To provide for referenda in which the residents of Puerto Rico may express democratically their preferences regarding the political status of the territory, and for other purposes.

Those wishing to testify or who wish to submit written statements should contact the Committee on Energy and Natural Resources, Washington, DC. For further information, please call James Beirne, Counsel at (202) 224-2564, or Betty Nevitt, Staff Assistant at (202) 224-0765.

SUBCOMMITTEE ON NATIONAL PARKS, HISTORIC PRESERVATION AND RECREATION

Mr. THOMAS. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Subcommittee on National Parks, Historic Preservation and Recreation of the Committee on Energy and Natural Resources.

The hearing will take place on Thursday, July 16, 1998, at 2:00 p.m., in room SD-366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of this hearing is to receive testimony on S. 155, to redesignate General Grant National Memorial as Grant's Tomb National Monument, and for other purposes; S. 1408, to establish the Lower East Side Tenement National Historic Site, and for other purposes; S. 1718, to amend the Weir Farm National Historic Site Establishment Act of 1990 to authorize the acquisition of additional acreage for the historic site to permit the development of visitor and administrative facilities and to authorize the appropriation of additional amounts for the acquisition of real and personal property; and S. 1990, to authorize expansion of Fort Davis National Historic Site in Fort Davis, Texas.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Subcommittee on National Parks, Historic Preservation and Recreation, Committee on Energy and Natural Resources, United States Senate, 364 Dirksen Senate Office Building, Washington, DC 20510-6150.

For further information, please contact Jim O'Toole of the Subcommittee staff at (202) 224-5161.

SUBCOMMITTEE ON FORESTS AND PUBLIC LAND MANAGEMENT

Mr. CRAIG. Mr. President, I would like to announce for the public that a hearing has been scheduled before the Subcommittee on Forests and Public Land Management of the Senate Committee on Energy and Natural Resources.

The hearing will take place Tuesday, July 21, 1998, at 2:30 p.m., in room SD-366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of this hearing is to receive testimony on S. 1964, a bill to provide for the sale of certain public land in the Ivanpah Valley, Nevada, to the Clark County Department of Aviation, and S. 1509, a bill to authorize the Bureau of Land Management to use vegetation sales contracts in managing land at Fort Stanton and certain nearby acquired land along the Rio Bonita in Lincoln County, New Mexico.

Those who wish to submit written statements should write to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510. For further information, please call Amie Brown or Mike Menge, (202) 224-6170.

ADDITIONAL STATEMENTS

TRIBUTE TO MR. MACK R. FARR

• Mr. WARNER. Mr. President, I rise today to pay tribute to the vision, professional dedication, and public service of Mr. Mack R. Farr who will retire in July after thirty-one years of civilian service in the Department of Defense. During that time, Mr. Farr has become one of the preeminent leaders in the development and procurement of night vision devices for the U.S. Armed Forces.

Mr. Farr has been instrumental in the development of night vision devices at all levels—from technician at the Army's Night Vision Laboratory to Technical Director for the Army's Project Manager for Night Vision/Reconnaissance, Surveillance, and Target Acquisition. The extent of his participation spans the development of two generations of image intensifiers, laser aiming lights, laser range finders, and laser countermeasures systems, as well as the recent development and production of second-generation thermal systems. These systems enable our troops to fight in the dark and represent one of the most profound improvements in military capability.

Our ability to "own the night" was critical to the success demonstrated during Operations Desert Storm in Kuwait and Just Cause in Panama. Under Mr. Farr's technical direction, the U.S. military has procured $3.3 billion worth of night vision equipment, substantially improving the lethality and survivability of our Armed Forces.

Mr. Farr began his career with the government as a technician for the Army's Night Vision Laboratory in January 1967, working to improve the operating life of image intensifier tubes. He then focused on miniaturizing this technology so that it could be utilized by the individual soldier. The products which evolved from this effort are now widely used by both ground soldiers and aviators alike, and have formed the foundation for such grand concepts as the Land Warrior program. The best compliment paid to Mr. Farr came from one of his colleagues who stated, "Mr. Farr brought night vision to the individual soldier."

During his career, Mr. Farr was the chief architect of omnibus style procurements for night vision devices. Omnibus procurements are designed to solicit multiple night vision systems which use common manufacturing processes and combine them into one significant multi-year contract. In addition, these procurements were one of the Army's first "best value" contracting efforts. Both concepts have become so successful that best value source selections are now the desired method of procurement for the Army, and four omnibus style contracts have been awarded over a fifteen-year period for 476,861 night vision goggles, sights, and driving devices. Mr. Farr's efforts in shaping these concepts have led to the continuous improvement of night vision devices over this period. Night vision goggle unit prices have decreased by seventy percent over this time frame, while the performance of night vision goggles has significantly increased.

Mr. Farr has also led the Army's Project Manager, Night Vision/Reconnaissance, Surveillance, and Target Acquisition office in continued acquisition reform. His efforts in Image Intensification have resulted in a consolidated program which today is known as horizontal Technology Integration and Single Process Initiatives. Mr. Farr has worked with industry to develop innovative concepts such as establishment of the first swap out program which allows Army units to trade-in old image intensification systems for credit toward purchase of the latest high performance devices. Industry then recycles components from the old image intensifier systems for use in their commercial products. This process keeps industry prices low and Army capability high, at a reduced cost to the Government.

Mr. Farr has also been instrumental in developing export policy for night vision devices. He has worked closely with the Army Materiel Command, Defense Technology Surveillance Agency, and Defense Intelligence Agency to develop a policy which is both fair to U.S. night vision manufacturers and protective of U.S. interests in this technology. Under this policy, U.S. manufacturers have become the desired suppliers of night vision equipment on the international market.

Mr. Farr has received numerous awards during the span of his government career, however his preeminence in the electro-optics field is best demonstrated by his selection into the Association of Night Vision Manufacturers Image Intensification Hall of Fame for his long service and remarkable contributions to this technology.

I know that Mr. Farr's wife, Nancy, his children, Shelly, Mark, and Robert, and the Department of Defense are proud of his accomplishments and contributions. Our Nation and our Armed Forces are indebted to him for his many years of public service. I wish him well in his future endeavors.•

321ST MISSILE GROUP, GRAND FORKS AFB

• Mr. CONRAD. Mr. President, I rise today to pay tribute to the 321st Missile Group at Grand Forks AFB, North Dakota, as it prepares to deactivate.

As my colleagues may be aware, the 321st is one of the longest-serving and most decorated ICBM units in the United States Air Force. After flying B–25 bombers in the Mediterranean theater during the Second World War as the 321st Bombardment Group, this fine unit undertook several aircraft and basing changes before coming home to the prairies of North Dakota at Grand Forks AFB in 1964.

As the 321st Missile Wing, this unit was the very first to deploy the Minuteman II ICBM during the mid-1960s, and became one of the first to upgrade to the Minuteman III missile in the early 1970s. The 321st consistently won awards, being often regarded as the best ICBM wing in the Air Force. After this unit was selected for closure, its personnel ably continued the strategic deterrence mission, while also—ahead of schedule—realigning the 321st Missile Group's assets.

North Dakotans have always had a special attachment to the 321st. Unlike other military units which are sometimes seen at a distance, at air fields and barracks behind chain-link fences, the 321st Missile Group has literally been based in North Dakota's backyards. Its roots of steel and concrete are sunk deep into the prairie soil of the Flickertail State.

One hundred and fifty ICBM silos and fifteen missile alert facilities dot the fields of eastern North Dakota, covering an area larger than the state of New Jersey. As the missileers and their hardware stood at the very frontlines of the Cold War, we North Dakotans in our nearby farms and communities knowingly and proudly stood with them. For over three decades, we have been pleased to open our small town coffee shops to personnel on their way to inspect a launch facility, or to groups of officers returning to base after pulling long strategic alerts in launch control facilities beneath the wheat fields of the Red River Valley.

Mr. President, the men and women of the 321st have been a part of North Dakota in a very special way. To everyone who has served in the 321st over its long history at Grand Forks, I say this: you will always have a home in North Dakota. You are part of the family.

There is no question that we are sad to see the 321st go. Even so, I think it is important that we put the departure of this unit in its proper context.

The 321st is being realigned because our country won the Cold War. The triumph of America and its ideals over communism and tyranny is worth celebrating.

As we celebrate this victory, however, we must not forget that it was the men and women of the 321st who provided America the strategic deterrence and stability that allowed the Cold War to end peacefully. Around the clock, year after year, the 321st stood ready to deliver 450 nuclear warheads to targets throughout the Soviet Union in just a few minutes time. This made it clear to Moscow that a thermonuclear war with the United States would be a conflict they could never hope to win.

I would urge my Colleagues in the Senate not to forget that the motto of the Strategic Air Command was "Peace is Our Profession." Truly, the 321st has been an organization of "peace professionals."

It is good to know that the spirit of the 321st Missile Group will live on at Grand Forks AFB with the 319th Air Refueling Wing, a "core" tanker unit of KC-135 Stratotankers. I hope that the 319th and the Air Force will be with us in North Dakota for many years to come.

Today, Mr. President, as the 321st prepares to retire its colors, I would send to the 321st Missile Group, all who have and do serve her, and the Untied States Air Force that has protected us so well, a message of thanks and congratulations. The Senate—and all Americans—owe you a deep debt of gratitude.•

RECOGNITION OF THE JEFFERSON CITY SAMARITAN CENTER

• Mr. BOND. Mr. President, I rise to recognize the Samaritan Center of Jefferson City, on the occasion of the groundbreaking for a new home. More than a decade ago, Samaritan Center began as an effort of five Mid-Missouri Catholic churches. Three Protestant churches joined the cause and Samaritan Center has operated ever since as an interfaith agency. Virtually all of its resources are devoted directly to service delivery, as the center's single paid employee, an operations manager, is assisted by more than 150 volunteers each month.

Respectful, loving service is delivered with firm supervision, and anyone who knows the center pays tribute to the practical assistance they provide. For example, during the historic Flood of 1993, which wiped out the life stake of so many Missouri farmers, the center not only donated food, clothing, diapers and utility assistance to make it through the winter; they also came through with help to get the crop in when spring arrived. Many folks got back on their feet thanks to this helping hand, and those who saw what it meant to these families will never forget it.

I am one who marvels at how far the center can stretch its help. I have visited and left with my faith in people renewed. The computer is donated, the employees unpaid, the furniture castoffs—but the service is sterling and as varied as the need.

This groundbreaking is another step toward meeting a new challenge the Samaritan Center is taking on. The current quarters are bursting at the seams, and new space must be found to continue to help the families they serve (which number more than 400 each month for food alone!). Characteristically, the center refuses to reduce service to pay for the new building they hope to place on land donated by supporters. So, in addition to continuing to help people with needs ranging from rent to work uniforms, the center and its friends are not so slowly and very surely piecing together the resources to build a site that meets the needs of Mid-Missouri today.

To know the Samaritan Center is to respect and support it. It is my honor to offer this tribute from the United States Senate on the loving service provided by the Center, its volunteer and many supporters.•

INTERNATIONAL DAY IN SUPPORT OF TORTURE VICTIMS AND SURVIVORS

• Mr. FEINGOLD. Mr. President, I rise today to mark the first observance of International Day in Support of Torture Victims and Survivors. This day, which was designated last year by the United Nations General Assembly, serves as a reminder to all of us that, sadly, at this very moment, somewhere in the world a prisoner is being beaten, a woman is being raped, or a child is witnessing the torture or murder of a loved one at the hands of a hostile force.

Along with guns and bombs, torture unfortunately has become just another weapon in the arsenal of war. In generations past, we like to believe that wars were fought between combatants according to an unwritten code. In some conflicts of the past, fighting was suspended after dark and during the winter months so as not to give one side an advantage over the other. But the rules of contemporary wars are much less clear. Combatants fight, not merely against each other, but against civilians, including women and children, on the opposing side. War is no longer just a means to acquire territory or settle long-running disputes, but often it is used as a means to attempt to obliterate entire ethnic or religious groups.

In this past decade alone, the world has been witness to inconceivable acts of horror committed against specific populations in such places as Rwanda, Sudan, Iraq, the former Yugoslavia, and Kosovo. The terms "ethnic cleansing" and "genocide" have become all too common in describing events around the world. And the stories of those torture victims who live to tell of their experiences continue to shock and horrify the international community.

Earlier this month, during the National Day of Action for Tibet rally which took place on the Capitol steps, I was privileged to hear the comments of Palden Gyatso, a Buddhist monk who was imprisoned for 33 years by the Chinese force which unlawfully occupies his homeland. He told of unspeakable acts of torture that are routinely committed against the Tibetan people by the Chinese military. The myriad forms of torture he was forced to endure included being hung upside down while his naked body was repeatedly stung with an electric cattle prod and having boiling water poured over his body. That he was able to survive this brutal treatment is a testament to his faith, which his captors attempted to squelch through these and other inhuman acts.

But for every person like Palden Gyatso, who somehow managed to survive such brutal treatment, there are countless others, whose names we may never know, who did not. These people endured their fate with a quiet courage that inspires hundreds of thousands worldwide to fight against the practice of torture as a weapon of war.

I find it particularly ironic that the President is spending the first International Day in Support of Torture Victims and Survivors in the People's Republic of China as the guest of a government that has sanctioned the torture of its own citizens. I hope the President will mark this day by calling on Chinese leaders to open a meaningful dialogue with the Dalai Lama regarding Tibet and to gain assurances that the basic human rights of all Chinese citizens will become a top priority.

Since coming to the Senate in 1993, I have been contacted by numerous Wisconsin residents who share the concern of the international community about the prevalence of torture in our world. As a member of the Senate Committee on Foreign Relations, I will continue to speak out against such reprehensible acts at every available opportunity. I look forward to the day when the use of torture as a weapon of war is consigned to history books instead of daily news reports from around the world.•

FEDERAL RESEARCH INVESTMENT ACT OF 1998

• Mr. FRIST. Mr. President, yesterday I introduced legislation that would elevate Congress' commitment to federally-funded research and development. This critical federal investment, performed throughout our national laboratories, universities, and private industry, is currently fueling 50% of our national economy through improvements in capital and labor productivity. While it is imperative that we reinforce this commitment by raising the funding levels, we must also establish a solid foundation for Congress to evaluate current and future civilian federally-funded research and development programs.

Now is not the time to let American leadership in science and technology slip. As a Congress and as a nation, we must reaffirm our national commitment to science and technology and redouble our efforts to ensure that funding is not only maintained, but increased as America moves into the next century. Nothing less than the future of our Nation, and our leadership position in the world, depend upon it.

IMPORTANCE OF SCIENCE AND TECHNOLOGY TO AMERICA'S FUTURE

As a physician and surgeon, I've had the opportunity to witness everyday the remarkable difference that medical science and technology have made in people's lives. In the short span of time that I've been practicing—less than twenty years—I've seen how the products of medical research and development—lasers, mechanical cardiac assist devices, and automatic internal defibrillators—have not only saved, but vastly improved the quality of hundreds of thousands of lives every year.

As a physician, I can envision a future in which science and technology will roll back the current frontiers of medical knowledge, identify the causes, and eliminate most of the effects of the diseases that now plague mankind.

But, as a Senator, I've been afforded another opportunity. The ability to see, and learn, and understand, not just medicine—but America. I can envision the difference that science and technology will make in the life or our Nation.

Science and technology have had a profound impact on our world. We've put men into space and looked into the farthest corners of the known universe. We've broken the code of the human genome and begun to dismantle previously intractable diseases. We've created a virtual world and a whole new realm called cyberspace.

Our world runs on technology, and much of our economy runs on it as well. In fact, half of all U.S. economic growth is the result of technological progress. Technology has provided new goods and services, new jobs, and new capital—even whole new industries.

Without a doubt, technology is the principle driving force behind America's long-term economic growth and our rising standard of living.

SCIENCE AND TECHNOLOGY ARE IMPORTANT TO TENNESSEE

Science is especially important to Tennessee. From the Oak Ridge Laboratories' important contributions to America's security during the Cold War, to today's research university partnerships, science and technology are a big part of Tennessee's past, present and future.

In 1995, the latest year for which figures are available—

20 out of every 1,000 private sector workers in Tennessee were employed by high tech firms. The total payroll for those workers that year reached $1.5 billion.

And every one of them earned, on average, $12,000 more per year than they would have in another type of private sector job in Tennessee.

Of Tennessee's $8.8 billion export market, high technology products accounted for $2.1 billion or 24 percent.

But significant growth and activity have occurred since 1995. The technology corridor, now being forged in East Tennessee, will be a model for America's 21st Century economy. From Chattanooga to Knoxville, and Oak Ridge to the Tri-Cities, private industry and working partnerships between the public and private sectors, and between research universities and industry, are creating jobs and opportunity; thus linking Tennessee to the nation and the world.

For example, in Kingsport, Tennessee, Eastman Chemical produces more than 400 different kinds of modern chemicals, fibers, and plastics—as well as a wide range of intellectual property technologies that will soon be marketed on a global scale.

In Tri-Cities, the new Regional Med-Tech Center is a planned, large-scale, integrated development project that will one day link health care delivery systems and related research with high technology business.

And the Spallation Neutron Source, a major undertaking of Oak Ridge Laboratory, when completed, will be the most powerful spallation source of neutrons in the world: enabling scientists to "see", and thus understand, the physical, chemical and biological properties of materials at the atomic level.

AMERICA'S INVESTMENT IN SCIENCE AND TECHNOLOGY MUST CONTINUE

Clearly, America's investment in science and technology must continue. Mr. President, the history of the last five decades has shown us that there is a federal role in the creation and nurturing of science and technology, and that—even in times of fiscal austerity—Congress' commitment has been relatively constant.

However, the last three decades have also shown us something else: fiscal reality. The simple truth is that there's just not enough money to do everything we'd like to do. Discretionary spending is under immense fiscal pressure. One only has to look back over the last 30 years to confirm the trend. In 1965, mandatory federal spending on entitlements and interest on the debt accounted for 30 percent of the federal budget. Fully 70 percent went toward discretionary programs—roads, bridges, education, research, national parks, and national defense.

Today, just 30 years later, that ratio has been almost completely reversed: 67 percent of the budget is spent on mandatory programs; leaving only 33 percent for everything else. This situation will only grow worse as the Baby Boom generation begins to retire.

Thus, Mr. President, we have both a long-term problem: addressing the ever-increasing level of mandatory spending; and a near-term challenge: apportioning the ever-dwindling amount of discretionary funding. The confluence of increased dependency on technology and decreased fiscal flexibility has created a problem too obvious to ignore: not all deserving programs can be funded; not all authorized programs can be fully implemented.

In other words, Mr. President, the luxury of fully funding science and technology programs across the board has long since passed. We must set priorities.

FEDERAL RESEARCH INVESTMENT ACT: VISION FOR THE FUTURE

The Federal Research Investment Act that I am introducing today represents the result of over a year of debate surrounding increased funding for federal research and development. I commend my colleagues, Senators GRAMM, LIEBERMAN, DOMENICI, and BINGAMAN, for not only commencing this debate, but also continuing it. Like my colleagues, I firmly believe that Congress must reaffirm our national commitment to science and technology. And that is precisely what the Federal Research Investment Act achieves through its strategy for the future—a vision that not only provides adequate levels of funding, but most importantly, ensures that the funding is both responsible and accountable over the long-term.

This legislation realizes this goal by establishing and applying a set of guiding principles, established by the Science and Technology Caucus here in the Senate, to consistently ask the appropriate questions about each competing technology program; to focus on that program's effectiveness and appropriateness for federal funding; and to help us make the hard choices about which programs deserve to be funded and which do not. Only then can Congress be assured that it has invested wisely.

These guiding principles, Mr. President, provide a framework that will not only guide the creation of new, federally-funded research and development programs, but also validate existing ones. Taken together, they create a powerful method for evaluating the debate by increasing Congress' ability to focus on the important issues, decreasing the likelihood that it will get sidetracked on politically-charged technicalities, and ensuring that federal R&D programs are consistent and effective. These principles will also help us establish national goals, and a vision for the future.

The Federal Research Investment Act doubles the aggregate amount of civilian funding for research and development over a 12 year period. By steadily increasing the total level by 2.5 percent, in addition to the assumed rate of inflation, this legislation would provide Congress with realistic targets for prioritizing fundamental, scientific, and pre-competitive engineering research over the long-term.

Furthermore, this legislation has two components that I believe will change the face of how taxpayer dollars are invested in research and development.

First, under this bill, the President would be required to submit, as part of his annual budget to Congress, a detailed report on how the Administration is paralleling Congressional funding goals. Thus, the President will be held accountable for how his budget achieves Congressional targets to double R&D spending over 12 years.

Second, the Office of Science and Technology Policy will commission the National Academy of Sciences to conduct a comprehensive study to develop methods for evaluating Federally-funded research and development programs. The results of this study, in coordination with Government Performance Results Act, will provide a framework to help Congress and the Administration measure the success of federal programs. Only after Congress holds federal agencies accountable to strict, yet fair standards, will the legislative body be able to claim that is acting responsibly on behalf of American citizens.

In closing Mr. President, I would like to urge my colleagues to support the Federal Research Investment Act. I further challenge each of you to reach out to your own universities and engage them in this critical dialogue as to the future of science and technology funding. This federal funding, after all, is a public investment in America's future.•

TRADE SANCTIONS COMPENSATION

• Mr. DORGAN. Mr. President, yesterday I introduced a bill to compensate farmers if we choose to continue using food as a weapon. I do not support the use of food in this way, but if this country chooses to use food as a weapon, then the producers of that weapon deserve to be compensated, just as all other weapons manufacturers are compensated.

Today, ten percent of the world's wheat markets are off limits to American farmers because of sanctions. If we include the recent loss of the markets in Pakistan and India, sixteen percent of the worlds markets are not available. Farmers in my state, and farmers across this nation, cannot afford to pay for this foreign policy option out of their own pockets.

This bill amends an existing statute which is so narrowly drawn that, despite ongoing sanctions, the statute has not required any compensation to farmers. The existing statute requires that the sanction be imposed by the executive branch of government, be unilateral, and not be joined by any other nation. It also limits compensation to three years and allows the Secretary of Agriculture to choose between direct compensation and export assistance programs.

This bill eliminates all of the restrictions in the existing statute which preclude it from being of any assistance to farmers hit by declining prices caused by lost export markets. The new statute will make it clear that, if our government chooses to use food as a weapon, then those who produce that food will not alone bear the financial burden. I ask that my colleagues join me in passage of this bill to ensure fairness in our foreign trade policy.•

THE PROGRAM FOR INVESTMENT IN MICRO-ENTREPRENEURS OF 1998

• Mr. KERRY. Last week I joined Senators KENNEDY, DOMENICI and BINGAMAN in introducing a bill to establish the PRIME program for investment in microenterprise. I applaud Senators KENNEDY and DOMENICI for their work in developing this legislation and welcome their efforts in supporting the development of business skills for microentrepreneurs. Access to education and training is critical for the development of small businesses in the United States.

Developing microenterprise is crucial to the financial health of our nation. Small businesses have been the engine of growth in our economy and have provided virtually all of our country's net new jobs. Very small businesses, those with four or fewer employees, created more jobs from 1992 through 1996 than large businesses employing more than 500 workers. However, many of those who yearn to turn an innovative idea into a marketable product need assistance in developing the skills and knowledge necessary to succeed in today's competitive marketplace. That is why, as Ranking Democratic Member of the Senate Small Business Committee, I have been such a strong supporter of programs to assist microenterprise development, especially through the microloan program within the Small Business Administration. This program has provided $67 million in microloans to very small businesses in every state. A great percentage of microloans have gone to traditionally underserved groups, including 43 percent to women-owned businesses, 39 percent to minority-owned businesses and 11 percent to veteran-owned businesses. I am committed to seeing this and other programs that assist microenterprise grow and thrive.

The Community Development Financial Institutions (CDFI) fund represents another type of community investment initiative. It uses limited federal resources to invest in and build the capacity of private, for profit and nonprofit financial institutions, leveraging private capital and private-sector talent and creativity. The fund's main program allows local CDFIs to apply for financial and technical assistance. This funding can be used to support basic financial services, housing for low-income people, businesses that provide jobs for low-income people and technical assistance for capacity-building, training, and development of programs, investments or loans. The CDFI fund offers a combination of increased access to capital and institutional capacity building that is vital to low-income communities, and fill a need that the marketplace is not meeting.

We have all heard a lot about the need for individual responsibility, family responsibility, and community responsibility. The microenterprise program within CDFI give us an opportunity to lend a helping hand to those in need of financial aid and technical assistance so they can fulfill their personal, family, and community responsibilities. It has given many a chance to break the cycle of poverty and welfare and move toward individual responsibility and financial independence.

The PRIME bill introduced last week seeks to increase CDFI's funding for technical assistance to give micro-entrepreneurs access to information on developing a business plan, record-keeping, planning, financing and marketing that are crucial in the development of a small business. Furthermore, this legislation will sponsor research on the most innovative and successful ways of encouraging these new businesses and enabling them to succeed.

This legislation will allow organizations which assist microenterprises to develop new products and services for their customers and expand on existing services. In Massachusetts, Working Capital, a recipient of a Presidential Award for Excellence in Microenterprise Development in 1997, currently offers three complementary programs to its microenterprise customers which could be eligible for additional funding under the PRIME legislation. First, Working Capital provides business credit to micro-entrepreneurs. Second, they provide business education and training on how to draw up business plans and prepare financial projections, and how to use these tools in managing their businesses. Third, they offer networking opportunities to connect micro-entrepreneurs to each other and give them a sense of belonging within a community which faces the same challenges.

The PRIME legislation will assist in the development of programs such as those offered by Working Capital in Massachusetts and similar organizations across the country and will assist more Americans in taking a chance on the American dream of owning their own small business. I look forward to working with my colleagues to enact this important legislation.•

UNANIMOUS-CONSENT REQUEST—H.R. 2614

Mr. LOTT. I now ask unanimous consent the Senate turn to Calendar No. 404, H.R. 2614, the Reading Excellence

Act, and immediately following the reporting by the clerk, the chairman be recognized to withdraw the committee amendment and there be 30 minutes for debate to be equally divided in the usual form with no amendments or motions in order.

I further ask that following the conclusion or yielding back of time, the Senate proceed to vote on passage of H.R. 2614, all without any intervening action or debate.

I would like to note that I have discussed this with White House officials, and they have urged that we try to find a way to get this legislation up. Actually, this was a week or two ago, so we have been trying to get something worked out. I would like very much for us to be able to do that.

Mr. FORD. Reserving the right to object, Mr. President, and I do not have any caveat to the unanimous-consent agreement, but would the majority leader modify his request to include an amendment from the Democratic side which would be the only amendment in order, and that it be the text of the committee-reported substitute amendment as modified; that there would be 1 hour for debate on the amendment equally divided, and that upon the use or yielding back of time, the Senate proceed to vote on adoption of the committee-reported amendment?

Mr. LOTT. Mr. President, I would have to object to that at this time because if we add any amendments to this bill in its present form, then it would require further House action. And, of course, the House has already adjourned for the July 4 recess until July 14.

I note also, if we do not do this bill now in the form that it was called up, the money that would have been used for this Reading Excellence Program, some $206 million, I believe it was—something of that nature—would then go over to the IDEA, Individuals with Disabilities in Education Act, so that money would be gone. So we really are in a box here.

I think everybody would like to do the Reading Excellence Act. But if we don't do it in the form that I have called it up, it would have to go back to the House. Basically, then, we wouldn't get anything done. We need to send it directly to the President.

So that is why I would be constrained to object to that modification.

Mr. FORD. Mr. President, it is hard for me to understand, when this was a House bill and it came over and the Senate committee studied it and sent it to the Senate floor with a substitute amendment, and then we don't want to take the committee substitute amendment.

"There is something about that," as we would say down in West Kentucky, "that ain't right." So we are again telling the committee you can go through all of your work, you can do your hearings, you can do your markup, but you did the wrong thing.

So I think the amendment that we offered, which was a committee amendment as modified, was appropriate. If the majority leader wishes to object to that, why, that is the way it has to be.

Mr. LOTT. I believe, Mr. President, then, the Senator objects to the original request?

Mr. FORD. You objected to mine, so that ended it right there.

Mr. LOTT. You never said you object to it, then, as proposed. So you object to it as proposed?

Mr. FORD. Sure, and you object to mine as proposed by the committee.

Mr. LOTT. I do.

The PRESIDING OFFICER. Objection is heard.

Mr. KENNEDY. Mr. President, I oppose the House version of the Reading Excellence Act, and I also oppose the process by which it is being brought to the Senate at the last minute in an effort to pass this bad bill under the pressure of the July 1 funding deadline.

On May 13th, six weeks ago, the Labor and Human Resources Committee approved an alternative bill on this issue, with unanimous bipartisan support, and with the strong backing of educators, reading specialists, and community organizations across the country. Despite this overwhelming support for the Senate committee bill, the Republican leadership refused to allow the full Senate to act on it. Instead, they did nothing for six weeks. Now, as the July 1 deadline is upon us, they insist that we swallow the deeply flawed House bill.

What is at stake here is nothing less than the way teachers and schools across the country will be allowed to help children learn to read.

Organizations throughout the nation who know this well are adamantly opposed to the House bill. These groups include the American Association of School Administrators, the International Reading Association, the Council of Chief State School Officers, the National School Boards Association, the National Parent Teacher Association, the National Council of Teachers of English, the American Federation of Teachers, the National Education Association, the National Association of Elementary School Principals, the National Conference on Language and Literacy, the Conference on College Composition and Communications, the National Association of State Boards of Education, and Reach Out and Read.

All of these groups are doing the hard day-to-day work, helping children learn to read. They say that no bill would be better than the House bill, because the House bill will not help them do the work they need to do.

In last year's appropriations legislation, Congress reserved $210 million for a child literacy program if enacted by July 1. By missing the July 1 deadline, we miss an initial opportunity. But we will have many other opportunities this session to pass a bill we can all support—and fund it accordingly.

Many successful models to help children learn to read well now exist, but they are not yet available to all children. As a result, far too many children in communities across the country are denied the opportunity to learn to read well. The statistics are appalling. Forty percent of 4th grade students do not achieve the basic level in reading, and 70 percent of 4th graders do not achieve the proficient level.

We must do more—much more—to help all children learn to read well. Many of the reading difficulties experienced by teenagers and adults today could have been prevented by adequate intervention in early childhood. By working to ensure that all children learn to read well in the early grades, we can also reduce the need for costly special education instruction in later grades.

The time has come to pass a bill that will help all children learn to read well. Child literacy is an important goal, and if we are to reach this goal, we need well-educated, well-trained teachers prepared to give children the special assistance they deserve. We need dedicated and trained volunteer tutors. We need support for successful community programs to improve family literacy and teach parents how to read more effectively with their children at home. We need support for innovative community efforts to help children learn to read before they enter school.

This House-passed bill is not an adequate response to these problems. This bill undermines state and local responsibility for public education. My Republican colleagues want to create a new state bureaucracy and new federal control over public education. These are the same Republicans who say they want school vouchers and block grants, in order to give parents and communities more choice and more control over their children's education.

State and local education agencies and school administrators are doing well in creating, implementing, and coordinating innovative efforts to help children learn. We should do more to support these efforts. We should provide community organizations with the resources they need to bring successful programs to more people. Instead, my colleagues want to bypass state leadership, undermine local control, and create a new state bureaucracy, when states and communities are already prepared to implement new literacy programs and oversee the use of new Federal funding.

State Departments of Education and local education agencies are already working successfully to coordinate local, State, and Federal resources to improve education and provide higher quality education to children. It makes no sense to bypass the current State leadership and require states to create a new State bureaucracy.

Another serious problem with this bill is that it brings Federal control into the classroom and dictates how teachers teach reading. This bill specifies only one way to teach reading skills. It ignores the research and recommendations of the leading educators. During the Senate Labor and Human Resources Committee hearing on child literacy, we heard from two of the most distinguished researchers—Doctor Catherine Snow of the Harvard Graduate School of Education, who chairs the Committee on the Prevention of Reading Difficulties at the National Academy of Sciences, and Doctor Reid Lyon of the National Institutes of Health. They emphasized that the best way to help all children learn to read is to promote a variety of the best practices and give local educators the freedom to tailor programs to meet local needs.

Doctor Snow testified that a solution to reading problems has not been achieved because of an:

> Unrealistic desire for a simpler answer. Reading is a complex and multifaceted outcome, determined by many factors. Ensuring adequate reading progress for every child . . . requires providing all of the many, varied experiences that will benefit their reading.

Doctor Lyon testified that:

> Learning to read requires different skills at different levels of development. . . . It does not have anything to do with philosophy, and it does not have anything to do with politics. It has to do with making sure the kids get the ideas. That is it. . . . To be able to read our language, you have to know the sounds. You have got to know how to map it onto the letters . . . you have got to do it quickly, and you have got to know why you are reading and have good vocabulary and the things that Dr. Snow spoke about. It is never an either/or.

This bill will prevent teachers from following that sound advice. Instead, teachers will be forced to follow a mandate from Washington requiring all teachers across the country to follow one formula to teach reading—regardless of local needs. Is this what the Republicans mean when they ask for more local control of education? Schools and communities already have control over education. The Federal Government shouldn't start micromanaging their reading programs.

We should be doing more, not less, to ensure that teachers and school districts are free to design programs to meet the unique local needs of the children. The Reading Excellence Act approved by the Senate Committee by a unanimous, bi-partisan vote would give local educators the flexibility and training the experts say they need.

This bill doesn't just take control away from public schools. It also takes money away from public schools. We all recognize that recruiting and training more tutors is an important goal. President Clinton began his effort two years ago, with his "America Reads Challenge." The Senate Committee bill would build on the success of that program, so that local schools will benefit from available community resources.

The House bill is a detour away from these worthy goals. Instead of helping schools capitalize on volunteer tutors and community resources, it wastes funds on private tutoring programs. It denies support for successful school-based programs in which tutoring assistance is closely linked to a child's classroom instruction.

The bill also requires local schools to spend time, money, and other scarce resources overseeing private tutoring programs. Funneling scarce public dollars into these private programs will undermine accountability for academic results and expenditure of federal dollars.

This bill has major flaws. It does little or nothing to help public school children learn to read or improve their chance of receiving a good education. Other provisions in the bill are worthwhile, because they encourage better teaching, more trained volunteer tutors, and more support for community-based family literacy programs. These initiatives will ensure that many children get the extra assistance they need to learn to read well and early.

These issues are too important for us to leave this House bill as the final word. I will do all I can to pass a strong bipartisan bill in the Senate in the coming months—the nation's children deserve no less.

UNANIMOUS-CONSENT REQUEST—H.R. 3717

Mr. LOTT. Mr. President, I ask unanimous consent the Senate now turn to Calendar No. 361, H.R. 3717, prohibiting Federal funds for the distribution of needles; that there be 30 minutes for debate to be equally divided with no amendments or motions in order. I further ask that following the conclusion or yielding back of time, the Senate proceed to third reading and final passage, all without intervening action or debate, and finally I ask unanimous consent it be in order for me to ask for the yeas and nays on passage at this time.

Mr. FORD. Reserving the right to object, Mr. President, I do object on behalf of this side.

Mr. LOTT. I now ask for the yeas and nays.

Mr. FORD. I object.

Mr. LOTT. Again, Mr. President, I should note that if we could have gotten that agreement, since it has already passed the House, this bill would have gone directly to the President for his signature. It passed the House April 29th by a vote of 287 to 140. I would think that this is something we would want to do. I think for the Federal Government to be distributing needles encourages people to use needles for drug abuse, and I had hoped we could get it cleared. We had worked earlier to try to get some sort of agreement on how we could clear it, with maybe even some amendments being ordered. We could not do it.

Also, in order to get the President's signature, we would have to do it in this way.

UNANIMOUS CONSENT REQUEST—H.R. 2610

Mr. LOTT. Mr. President, I ask unanimous consent that we turn to Calendar No. 273, H.R. 2610, the reauthorization of the drug czar office, and immediately following the reporting by the clerk, the chairman be recognized to modify the amendment, the committee substitute; that there be 30 minutes for debate to be equally divided with no amendments or motions in order. I further ask that following the conclusion or yielding back of this time, the Senate proceed to immediate adoption of the committee substitute to be followed immediately by third reading and final passage, all without intervening action or debate. And, finally, I ask unanimous consent it be in order for me to ask for the yeas and nays on passage at this time.

Mr. FORD. Reserving the right to object, Mr. President, there are some who had hoped to offer some amendments. They were in the process of trying to work these amendments out where they would be agreeable. That has not transpired yet. So, then, on behalf of this side, I object.

Mr. BIDEN. Mr. President, I must object. I object because what the majority leader proposes is to add a very significant piece of substantive drug legislation relating to the crack-powder cocaine sentencing issues.

I note that the Judiciary Committee has not reported this legislation. This legislation is subject to significant debate. For example, the costs of the most recent proposal offered by Senators ABRAHAM and ALLARD are very significant.

According to the Justice Department—the 5-year cost estimate to our federal prison budget is more than $790 million. The 10-year estimate—more than $1.9 billion.

This is just one example of the significant policy implications of this proposal. Frankly, the Judiciary Committee must be given the opportunity to report this legislation before we debate this on the floor.

In contrast, we have fully debated the drug director legislation introduced last summer. The Judiciary Committee has debated it, the committee held hearings, the committee developed a bipartisan re-authorization bill, the committee reported the bill last November, since then we have worked with Senator McCAIN and the Armed Services Committee to work out their issues with this bill.

The bottom lines—we have a bipartisan, fully debated, bill; and we need to get the drug director's office re-authorized.

There are many particular, specific drug policy issues to debate. Crack-cocaine is just one of them. Youth drug abuse, youth violence, drug interdiction, and many more all need to be debated.

But, let's keep our eye on the ball, and let's re-authorize General McCaffrey's office. The General needs our support.

The PRESIDING OFFICER. Objection is heard.

Mr. LOTT. Mr. President, I should note we had at least one very important amendment that a Senator wanted to offer on this side of the aisle to this bill, too, dealing with the penalties for the use of powder cocaine. Certainly, it is a very important issue, and I would like it to be considered, but I called upon that Senator—actually it was two Senators—and said you will have a chance to offer that on other legislation including State, Justice, Commerce. He was willing, then, to agree to put it aside.

I really think we need to reauthorize the drug czar office. I am hoping this is not the final word on this. Maybe we can work out something in July to consider it. But our problem is, we are really running out of time. I think it is going to be unconscionable if we can't find some way to quickly reauthorize the drug czar's office. We will have to do it without it taking up more than just a couple or 3 hours, because we just don't have the time, when you look at the appropriations bills and everything else we are going to need to do.

Mr. FORD. Mr. President, I understand what the majority leader is saying, what he is trying to do. But if he continued to push these amendments over to a piece of legislation at a later time, then you are going to have all these amendments that are waiting, and your colleagues will want to bring them up, and then your colleagues will be asked not to bring it up on that one.

So we go through here with this constrained time that we find ourselves with, and the inability to bring amendments. I understand what the majority leader wants to do. I have no fault with what he is trying to do except we are trying to work out some amendments that we think are important. Just like your side, we are going to let ours try to work them out.

So I will object.

Mr. LOTT. I understand that. I know every individual Senator can demand his or her right to offer amendments. But I would have to say, I am very concerned that the Senate is getting more and more into a position where we try to rewrite or write bills on the floor of the Senate. One of the basic tenets I was told about when I came over to the Senate is, if you have a bad bill, don't think you are going to fix it on the floor of the Senate. When you have something like a drug czar reauthorization—I know there are a lot of drug-related amendments that are sort of pent up and Members want to offer them, but it seems to me we ought to just reauthorize that office—it is not a big, complicated bill—and allow the drug czar to do his job.

But we will keep working and hopefully find a way to get a limited amount of time and limited amendments on that issue.

PRODUCT LIABILITY REFORM ACT OF 1997

Mr. LOTT. I ask unanimous consent the Senate turn to Calendar No. 90, S. 648, the Product Liability Reform Act.

The PRESIDING OFFICER. Is there objection?

Mr. FORD. Reserving the right to object, I do object.

The PRESIDING OFFICER. Objection is heard.

CLOTURE MOTION

Mr. LOTT. I move to proceed to S. 648 and send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

> We, the undersigned Senators, in accordance with the provision of Rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the motion to proceed to Calendar No. 90, S. 648, the products liability bill:
>
> Trent Lott, Don Nickles, Slade Gorton, Phil Gramm, John McCain, Spencer Abraham, Daniel Coats, Richard G. Lugar, Lauch Faircloth, John H. Chafee, Sam Brownback, Ted Stevens, Jon Kyl, Jeff Sessions, Michael B. Enzi, and Judd Gregg.

Mr. LOTT. Mr. President, I ask unanimous consent that the cloture vote occur at 9:30 a.m. on Tuesday, July 7, and the mandatory quorum under rule XXII be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. Then, for the information of all Senators, this cloture vote will occur at 9:30 on Tuesday, July 7, when we return from the Fourth of July recess. It will be the first vote of that week back from the recess. If cloture is invoked, the Senate could be asked to remain in session into the night in order to reduce the 30 hours provided postcloture.

I now withdraw the motion.

TASK FORCE ON ECONOMIC SANCTIONS

Mr. LOTT. Mr. President, Senator DASCHLE and I have been talking about a task force to consider the question of economic sanctions, how they are put in place, how they are dealt with, both in the short term and over the long term. We have discussed this matter with Secretary of State Albright.

I think there is feeling on both sides of the aisle that perhaps the proclivity to place sanctions, economic sanctions on countries around the world repeatedly, and with not a clear way of ending those, has become a problem, at least one we should think very carefully about to see if there is a way we can deal with some of the pending legislation in this area, like, for instance, the Glenn amendment that was applicable in the case of India and, I believe, Pakistan with the Pressler amendment, and a number of other instances.

On the longer term, I think we need to have a task force to give thought, how we do this, when we do it, and even when we end it. I have discussed it with a number of Senators on our side of the aisle who work in this area of foreign policy and deal with the question of sanctions, and so I am satisfied we can have a good group and this will be a bipartisan group. So I want to announce we are agreeing to create a task force on economic sanctions to examine this whole area.

I wanted to have a short-term mandate, though, not just the broader policy questions, but to examine what we can do or what should be done about sanctions on India and Pakistan as a result of their nuclear programs. With the recent stories of nuclear tests in south Asia, it is important to look at the U.S. sanctions laws and how they affect our ability to de-escalate the nuclear arms race in the region.

I have asked the task force to make recommendations to the Senate leadership by July 15, 1998, on sanctions relating to these two countries—India and Pakistan. We will also ask this task force to examine overall issues related to sanctions, legislation, and implementation.

I have asked the task force to report back to the Senate leadership by September 1, 1998, on the following issues:

What constitutes a sanction?

There are many categories of legislative and executive branch action, using economic sanctions in an effort to support policy goals, including restrictions on U.S. Government funds, conditions on the export of sensitive technology, and limitations on normal commercial activity.

What sanctions are now in place? And what flexibility is provided in these different sanctions? That would be a second question.

Third: How should success be assessed in determining the effectiveness of these sanctions? When have we done what we wanted to achieve, and then can perhaps remove them?

Fourth: How should policy goals be defined in considering and implementing these sanctions?

Are effective procedures in place now to ensure coordination between the executive and legislative branches for the consideration and imposition of sanctions?

I have to say, I think the answer to that question is no; there is not adequate coordination and communication between the executive and legislative branches in this area of sanctions.

Are effective procedures in place for oversight and monitoring of the executive branch compliance and implementation of existing sanctions?

I have been stunned by some of the instances that I have seen with regard to Russia and with China where clearly sanctions were called for, should have been almost automatic by the administration, and it did not happen. Why not? And so we need to think about that.

Should there be a unique Senate floor or committee procedure for considering sanctions legislation?

Answering all of these questions in the limited timeframe will not be easy, but I am confident this very distinguished and qualified bipartisan group can come up with some very good recommendations. And I hope that the Senate will reserve its judgment and not act in this area until we see what will come out of the task force recommendations.

The task force will include 18 Members and will be chaired by the distinguished Senator from Kentucky, Senator MCCONNELL. He is chairman of the Appropriations Subcommittee on Foreign Operations. The cochair will be Senator BIDEN. The task force will also include Senators HELMS, BAUCUS, LUGAR, DODD, D'AMATO, GLENN, MACK, KERRY, KYL, LEAHY, WARNER, LEVIN, HUTCHINSON, LIEBERMAN, ROBERTS, and MOYNIHAN. I think you can see this is a very distinguished group. And I know they will have some very important recommendations to the Senate.

I will be glad to yield to the Senator from Kentucky.

Mr. MCCONNELL. I thank the leader.

I suppose there is not a single Member of this body, I would say to the majority leader, who has been very consistent on this subject. Sometimes Members have felt that sanctions were inappropriate except in their particular area of interest where they thought sanctions might make sense. I confess to being entirely inconsistent, too, myself, I say to my friend from Mississippi, having supported sanctions in South Africa and opposed them in China and other places. So none of us have a consistent pattern here.

I think it is very important to try to pull together the best thinking available from Senators on both sides of the aisle to see whether there is some kind of coherent way to go forward in this field.

So I thank the majority leader for his understanding of the importance to try to pull us together in this complicated area. And I assure him I will do my best to try to give everybody an opportunity to have their say. And we will certainly meet the deadlines. I say to the distinguished majority leader, the deadlines will be met, with or without consensus, I cannot say at this point. But I look forward to working on this assignment. I thank the majority leader for the opportunity.

Mr. LOTT. I thank you, I say to Senator MCCONNELL.

I do note that Senator DASCHLE and I have been communicating on this back and forth the last 2 weeks. I am sorry he is not able to be here now. But this is an example of how we do come together and work very carefully and sensibly, hopefully, when it comes to foreign policy questions. And he certainly wanted to go forward with this. I am glad we were able to make this announcement this afternoon.

I do have a series of bills I believe we can deal with before we adjourn for the week.

I know Senator FORD here is on behalf of the Democratic leader. So we can go through these pretty quickly.

MEASURE PLACED ON THE CALENDAR—S. 2236

Mr. LOTT. Mr. President, I understand there is a bill at the desk due for its second reading.

The PRESIDING OFFICER. The Clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2236) to establish legal standards and procedures for product liability litigation, and for other purposes.

Mr. LOTT. I object to further proceedings on this bill at this time.

The PRESIDING OFFICER. The bill will be placed on the calendar.

APPOINTMENTS BY THE MAJORITY LEADER

The PRESIDING OFFICER. The Chair, on behalf of the Minority Leader, pursuant to the provisions of Public Law 105–186, appoints the following Senators to the Presidential Advisory Commission on Holocaust Assets in the United States: The Senator from New York (Mr. D'AMATO), and the Senator from Pennsylvania (Mr. SPECTER).

APPOINTMENTS BY THE DEMOCRATIC LEADER

The PRESIDING OFFICER. The Chair, on behalf of the Minority Leader, pursuant to the provisions of Public Law 105–186, appoints the following Senators to the Presidential Advisory Commission on Holocaust Assets in the United States: The Senator from California (Mrs. BOXER), and the Senator from Connecticut (Mr. DODD).

Mr. LOTT. I should note that these appointments are to the Presidential Advisory Commission on Holocaust Assets. The members will be Senator D'AMATO of New York, Senator SPECTER of Pennsylvania, Senator BOXER of California, and Senator DODD of Connecticut.

VITIATION OF TITLE AMENDMENT—H.R. 3616

Mr. LOTT. Mr. President, I ask unanimous consent to vitiate the title amendment to H.R. 3616.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL CENTER FOR MISSING AND EXPLOITED CHILDREN AUTHORIZATION ACT

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of calendar No. 383, S. 2073.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2073) to authorize appropriations for the National Center for Missing and Exploited Children.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary, with an amendment on page five, so as to make the bill read:

S. 2073

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

Congress makes the following findings:

(1) For 14 years, the National Center for Missing and Exploited Children (referred to in this section as the "Center") has—

(A) served as the national resource center and clearinghouse congressionally mandated under the provisions of the Missing Children's Assistance Act of 1984; and

(B) worked in partnership with the Department of Justice, the Federal Bureau of Investigation, the Department of the Treasury, the Department of State, and many other agencies in the effort to find missing children and prevent child victimization.

(2) Congress has given the Center, which is a private non-profit corporation, unique powers and resources, such as having access to the National Crime Information Center of the Federal Bureau of Investigation, and the National Law Enforcement Telecommunications System.

(3) Since 1987, the Center has operated the National Child Pornography Tipline, in conjunction with the United States Customs Service and the United States Postal Inspection Service and, beginning this year, the

Center established a new CyberTipline on child exploitation, thus becoming "the 911 for the Internet".

(4) In light of statistics that time is of the essence in cases of child abduction, the Director of the Federal Bureau of Investigation in February of 1997 created a new NCIC child abduction ("CA") flag to provide the Center immediate notification in the most serious cases, resulting in 642 "CA" notifications to the Center and helping the Center to have its highest recovery rate in history.

(5) The Center has established a national and increasingly worldwide network, linking the Center online with each of the missing children clearinghouses operated by the 50 States, the District of Columbia, and Puerto Rico, as well as with Scotland Yard in the United Kingdom, the Royal Canadian Mounted Police, INTERPOL headquarters in Lyon, France, and others, which has enabled the Center to transmit images and information regarding missing children to law enforcement across the United States and around the world instantly.

(6) From its inception in 1984 through March 31, 1998, the Center has—

(A) handled 1,203,974 calls through its 24-hour toll-free hotline (1-800-THE-LOST) and currently averages 700 calls per day;

(B) trained 146,284 law enforcement, criminal and juvenile justice, and healthcare professionals in child sexual exploitation and missing child case detection, identification, investigation, and prevention;

(C) disseminated 15,491,344 free publications to citizens and professionals; and

(D) worked with law enforcement on the cases of 59,481 missing children, resulting in the recovery of 40,180 children.

(7) The demand for the services of the Center is growing dramatically, as evidenced by the fact that in 1997, the Center handled 129,100 calls, an all-time record, and by the fact that its new Internet website (www.missingkids.com) receives 1,500,000 "hits" every day, and is linked with hundreds of other websites to provide real-time images of breaking cases of missing children, helping to cause such results as a police officer in Puerto Rico searching the Center's website and working with the Center to identify and recover a child abducted as an infant from her home in San Diego, California, 7 years earlier.

(8) In 1997, the Center provided policy training to 256 police chiefs and sheriffs from 50 States and Guam at its new Jimmy Ryce Law Enforcement Training Center.

(9) The programs of the Center have had a remarkable impact, such as in the fight against infant abductions in partnership with the healthcare industry, during which the Center has performed 668 onsite hospital walk-throughs and inspections, and trained 45,065 hospital administrators, nurses, and security personnel, and thereby helped to reduce infant abductions in the United States by 82 percent.

(10) The Center is now playing a significant role in international child abduction cases, serving as a representative of the Department of State at cases under The Hague Convention, and successfully resolving the cases of 343 international child abductions, and providing greater support to parents in the United States.

(11) The Center is a model of public/private partnership, raising private sector funds to match congressional appropriations and receiving extensive private in-kind support, including advanced technology provided by the computer industry such as imaging technology used to age the photographs of long-term missing children and to reconstruct facial images of unidentified deceased children.

(12) The Center was 1 of only 10 of 300 major national charities given an A+ grade in 1997 by the American Institute of Philanthropy.

(13) In light of its impressive history, the Center has been redesignated as the Nation's missing children clearinghouse and resource center once every 3 years through a competitive selection process conducted by the Office of Juvenile Justice and Delinquency Prevention of the Department of Justice, and has received grants from that Office to conduct the crucial purposes of the Center.

(14) An official congressional authorization will increase the level of scrutiny and oversight by Congress and continue the Center's long partnership with the Department of Justice and the Office of Juvenile Justice and Delinquency Prevention of the Department of Justice.

(15) The exemplary record of performance and success of the Center, as exemplified by the fact that the Center's recovery rate has climbed from 62 to 91 percent, justifies action by Congress to formally recognize the National Center for Missing and Exploited Children as the Nation's official missing and exploited children's center, and to authorize a line-item appropriation for the National Center for Missing and Exploited Children in the Federal budget.

SEC. 2. NATIONAL CENTER FOR MISSING AND EXPLOITED CHILDREN.

(a) Grants.—The Administrator of the Office of Juvenile Justice and Delinquency Prevention of the Department of Justice shall annually make a grant to the National Center for Missing and Exploited Children, which shall be used to—

(1) operate the official national resource center and information clearinghouse for missing and exploited children;

(2) provide to State and local governments, public and private nonprofit agencies, and individuals, information regarding—

(A) free or low-cost legal, restaurant, lodging, and transportation services that are available for the benefit of missing and exploited children and their families; and

(B) the existence and nature of programs being carried out by Federal agencies to assist missing and exploited children and their families;

(3) coordinate public and private programs that locate, recover, or reunite missing children with their families;

(4) disseminate, on a national basis, information relating to innovative and model programs, services, and legislation that benefit missing and exploited children;

(5) provide technical assistance and training to law enforcement agencies, State, and local governments, elements of the criminal justice system, public and private nonprofit agencies, and individuals in the prevention, investigation, prosecution, and treatment of cases involving missing and exploited children; and

(6) provide assistance to families and law enforcement agencies in locating and recovering missing and exploited children, both nationally and internationally.

(b) Authorization of Appropriations.—There is authorized to be appropriated to the Administrator to carry out this section, $10,000,000 for each of fiscal years 1999, 2000, 2001, 2002, and 2003.

Mr. LOTT. This is to authorize appropriations for the National Center for Missing and Exploited Children.

AMENDMENTS NOS. 3047 AND 3048, EN BLOC

Mr. LOTT. There are two amendments at the desk; an amendment offered by Senators Hatch and Feingold and DeWine; and an amendment offered by Senators Leahy and Hatch. I ask unanimous consent that the amendments be considered, en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments are as follows:

AMENDMENT NO. 3047

(Purpose: To provide for sentencing enhancements and amendments to the Federal Sentencing Guidelines for offenses relating to the abuse and exploitation of children)

On page 8, below line 24, add the following:

SEC. 3. CHILD EXPLOITATION SENTENCING ENHANCEMENTS.

(a) Definitions.—In this section:

(1) Child; children.—The term "child" or "children" means a minor or minors of an age specified in the applicable provision of title 18, United States Code, that is subject to review under this section.

(2) Minor.—The term "minor" means any individual who has not attained the age of 18, except that, with respect to references to section 2243 of title 18, United States Code, the term means an individual described in subsection (a) of that section.

(b) Increased Penalties for Use of a Computer in the Sexual Abuse or Exploitation of a Child.—Pursuant to the authority granted to the United States Sentencing Commission under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall—

(1) review the Federal sentencing guidelines on aggravated sexual abuse under section 2241 of title 18, United States Code, sexual abuse under section 2242 of title 18, United States Code, sexual abuse of a minor or ward under section 2243 of title 18, United States Code, coercion and enticement of a juvenile under section 2422(b) of title 18, United States Code, and transportation of minors under section 2423 of title 18, United States Code; and

(2) upon completion of the review under paragraph (1), promulgate amendments to the Federal sentencing guidelines to provide an appropriate sentencing enhancement if the defendant used a computer with the intent to persuade, induce, entice, or coerce a child of an age specified in the applicable provision referred to in paragraph (1) to engage in any prohibited sexual activity.

(c) Increased Penalties for Knowing Misrepresentation in the Sexual Abuse or Exploitation of a Child.—Pursuant to the authority granted to the United States Sentencing Commission under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall—

(1) review the Federal sentencing guidelines on aggravated sexual abuse under section 2241 of title 18, United States Code, sexual abuse under section 2242 of title 18, United States Code, sexual abuse of a minor or ward under section 2243 of title 18, United States Code, coercion and enticement of a juvenile under section 2422(b) of title 18, United States Code, and transportation of minors under section 2423 of title 18, United States Code; and

(2) upon completion of the review under paragraph (1), promulgate amendments to the Federal sentencing guidelines to provide an appropriate sentencing enhancement if the defendant knowingly misrepresented the actual identity of the defendant with the intent to persuade, induce, entice, or coerce a

child of an age specified in the applicable provision referred to in paragraph (1) to engage in a prohibited sexual activity.

(d) Increased Penalties for Pattern of Activity of Sexual Exploitation of Children.—Pursuant to the authority granted to the United States Sentencing Commission under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall—

(1) review the Federal sentencing guidelines on criminal sexual abuse, the production of sexually explicit material, the possession of materials depicting a child engaging in sexually explicit conduct, coercion and enticement of minors, and the transportation of minors; and

(2) upon completion of the review under paragraph (1), promulgate amendments to the Federal sentencing guidelines to provide an appropriate sentencing enhancement applicable to the offenses referred to in paragraph (1) in any case in which the defendant engaged in a pattern of activity involving the sexual abuse or exploitation of a minor.

(e) Repeat Offenders; Increased Maximum Penalties for Transportation for Illegal Sexual Activity and Related Crimes.—

(1) Repeat offenders.—

(A) Chapter 117.—

(i) In general.—Chapter 117 of title 18, United States Code, is amended by adding at the end the following:

"§ 2425. Repeat offenders

"(a) In General.—Any person described in this subsection shall be subject to the punishment under subsection (b). A person described in this subsection is a person who violates a provision of this chapter, after one or more prior convictions—

"(1) for an offense punishable under this chapter, or chapter 109A or 110; or

"(2) under any applicable law of a State relating to conduct punishable under this chapter, or chapter 109A or 110.

"(b) Punishment.—A violation of a provision of this chapter by a person described in subsection (a) is punishable by a term of imprisonment of a period not to exceed twice the period that would otherwise apply under this chapter.".

(ii) Conforming amendment.—The chapter analysis for chapter 117 of title 18, United States Code, is amended by adding at the end the following:

"2425. Repeat offenders.".

(B) Chapter 109A.—Section 2247 of title 18, United States Code, is amended to read as follows:

"§ 2247. Repeat offenders

"(a) In General.—Any person described in this subsection shall be subject to the punishment under subsection (b). A person described in this subsection is a person who violates a provision of this chapter, after one or more prior convictions—

"(1) for an offense punishable under this chapter, or chapter 110 or 117; or

"(2) under any applicable law of a State relating to conduct punishable under this chapter, or chapter 110 or 117.

"(b) Punishment.—A violation of a provision of this chapter by a person described in subsection (a) is punishable by a term of imprisonment of a period not to exceed twice the period that would otherwise apply under this chapter.".

(2) Increased maximum penalties for transportation for illegal sexual activity and related crimes.—

(A) Transportation generally.—Section 2421 of title 18, United States Code, is amended by striking "five" and inserting "10".

(B) Coercion and enticement of minors.—Section 2422 of title 18, United States Code, is amended—

(i) in subsection (a), by striking "five" and inserting "10"; and

(ii) in subsection (b), by striking "10" and inserting "15".

(C) Transportation of minors.—Section 2423 of title 18, United States Code, is amended—

(i) in subsection (a), by striking "ten" and inserting "15"; and

(ii) in subsection (b), by striking "10" and inserting "15".

(3) Amendment of sentencing guidelines.—Pursuant to the authority granted to the United States Sentencing Commission under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall—

(A) review the Federal sentencing guidelines relating to chapter 117 of title 18, United States Code; and

(B) upon completion of the review under subparagraph (A), promulgate such amendments to the Federal sentencing guidelines as are necessary to provide for the amendments made by this subsection.

(f) Clarification of Definition of Distribution of Pornography.—Pursuant to the authority granted to the United States Sentencing Commission under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall—

(1) review the Federal sentencing guidelines relating to the distribution of pornography covered under chapter 110 of title 18, United States Code, relating to the sexual exploitation and other abuse of children; and

(2) upon completion of the review under paragraph (1), promulgate such amendments to the Federal sentencing guidelines as are necessary to clarify that the term "distribution of pornography" applies to the distribution of pornography—

(A) for monetary remuneration; or

(B) for a nonpecuniary interest.

(g) Directive to United States Sentencing Commission.—In carrying out this section, the United States Sentencing Commission shall—

(1) with respect to any action relating to the Federal sentencing guidelines subject to this section, ensure reasonable consistency with other guidelines of the Federal sentencing guidelines; and

(2) with respect to an offense subject to the Federal sentencing guidelines, avoid duplicative punishment under the guidelines for substantially the same offense.

(h) Authorization for Guardians Ad Litem.—

(1) Authorization of appropriations.—There are authorized to be appropriated to the Department of Justice, for the purpose specified in paragraph (2), such sums as may be necessary for each of fiscal years 1998 through 2001.

(2) Purpose.—The purpose specified in this paragraph is the procurement, in accordance with section 3509(h) of title 18, United States Code, of the services of individuals with sufficient professional training, experience, and familiarity with the criminal justice system, social service programs, and child abuse issues to serve as guardians ad litem for children who are the victims of, or witnesses to, a crime involving abuse or exploitation.

(i) Applicability.—This section and the amendments made by this section shall apply to any action that commences on or after the date of enactment of this Act.

AMENDMENT NO. 3048

(Purpose: To reauthorize the Runaway and Homeless Youth Act)

At the end of the bill, add the following:

SEC. 4. RUNAWAY AND HOMELESS YOUTH ACT.

(a) In General.—Section 372(a) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5714b(a)) is amended by striking "unit of general local government" and inserting "unit of local government".

(b) Authorization of Appropriations.—

(1) Technical amendments.—

(A) Error resulting from redesignation.—

(i) In general.—Section 3(i) of the Public Law 102–586 (106 Stat. 5026) is amended by striking "Section 366" and inserting "Section 385".

(ii) Effective date.—The amendment made by clause (i) shall take effect as if included in the amendments made by Public Law 102–586.

(B) Error resulting from references to nonexistent provisions of law.—

(i) In general.—Section 40155 of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322; 108 Stat. 1922) is amended by striking "is amended—" and all that follows through "after section 315" and inserting the following: "is amended by adding at the end".

(ii) Effective date.—The amendment made by clause (i) shall take effect as if included in the amendments made by the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322).

(2) Reauthorizations.—

(A) In general.—Section 385 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5751) (as amended by section 3(i) of the Public Law 102–586 (106 Stat. 5026) (as amended by paragraph (1)(A) of this subsection)) is amended—

(i) in subsection (a)—

(I) in paragraph (1), by striking "1993 and such sums as may be necessary for fiscal years 1994, 1995, and 1996" and inserting "1998 and such sums as may be necessary for each of fiscal years 1999, 2000, 2001, 2002, and 2003"; and

(II) in paragraph (3), by striking subparagraphs (A) through (D) and inserting the following:

"(A) for fiscal year 1998, not less than $957,285;

"(B) for fiscal year 1999, not less than $1,005,150;

"(C) for fiscal year 2000, not less than $1,055,406;

"(D) for fiscal year 2001, not less than $1,108,177;

"(E) for fiscal year 2002, not less than $1,163,585; and

"(F) for fiscal year 2003, not less than $1,163,585.";

(ii) in subsection (b), by striking "1993 and such sums as may be necessary for fiscal years 1994, 1995, and 1996" and inserting "1999 and such sums as may be necessary for each of fiscal years 2000, 2001, 2002, and 2003"; and

(iii) in subsection (c), by striking "1993, 1994, 1995, and 1996" and inserting "1999, 2000, 2001, 2002, and 2003".

(B) Additional reauthorization.—Section 316 of part A of the Runaway and Homeless Youth Act (42 U.S.C. 5712d) (as added by section 40155 of the Violent Crime Control and Law Enforcement Act of 1994 (as amended by paragraph (1)(B) of this subsection)) is—

(i) redesignated as section 315; and

(ii) amended by striking subsection (c) and inserting the following:

"(c) Authorization of Appropriations.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of fiscal years 1999, 2000, 2001, 2002, and 2003.".

Mr. HATCH. Mr. President, today I am proud to support passage of the National Center for Missing and Exploited Children Authorization Act of 1998. This bill recognizes the outstanding record of achievements of this outstanding organization and will enable NCMEC to provide even greater protection of our Nation's children in the future. In addition, I am offering an amendment with the text of the Child Exploitation Sentencing Enhancements Act along with the sponsors of that legislation, S. 900, Senators FEINGOLD and DEWINE. Lastly, I urge the Senate to accept an amendment offered by Senator LEAHY and myself to reauthorize the Runaway and Homeless Youth Act and for other purposes.

The underlying bill, S. 2073, authorizes appropriations for the National Center for Missing and Exploited Children. As part of the Missing Children's Assistance Act, the Office of Juvenile Justice and Delinquency Prevention has selected and given grants to the Center for the last 14 years to operate a national resource center located in Arlington, Virginia and a national 24-hour toll-free telephone line. the Center provides invaluable assistance and training to law enforcement around the country in cases of missing and exploited children. the Center's record is quite impressive, and its efforts have led directly to a significant increase in the percentage of missing children who are recovered safely.

In fiscal year 1998, the Center received an earmark of $6.9 million in the Departments of Commerce, Justice, and State Appropriations conference report. In addition, the Center's Jimmy Ryce Training Center received 1.185M in this report.

This legislation directs OJJDP to make a grant to the Center and authorizes appropriations up to $10 million in fiscal years 1999 through 2003. The authorization would, of course, be subject to appropriations. This bill thus continues and formalizes NCMEC's long partnership with the Justice Department and OJJDP.

NCMEC's exemplary record of performance and success, as demonstrated by the fact that NCMEC's recovery rate has climbed from 62%to 91%, justifies action by Congress to formally recognize it as the nation's official missing and exploited children's center, and to authorize a line-item appropriation. This bill will enable the Center to focus completely on its missions, without expending the annual effort to obtain authority and grants from OJJDP. It also will allow the Center to expand its longer term arrangements with domestic and foreign law enforcement entities. By providing an authorization, the bill also will allow for better congressional oversight of the Center.

The record of the Center, described briefly below, demonstrates the appropriateness of this authorization.

For fourteen years the Center has served as the national resource center and clearinghouse mandated by the Missing Children's Assistance Act. The Center has worked in partnership with the Department of Justice, the Federal Bureau of Investigation, the Department of Treasury, the State Department, and many other federal and state agencies in the effort to find missing children and prevent child victimization.

The trust the federal government has placed in NCMEC, a private, non-profit corporation, is evidenced by its unique access to the FBI's National Crime Information Center, and the National Law Enforcement Telecommunications system (NLETS).

NCMEC has utilized the latest in technology, such as operating the National Child Pornography Tipline, establishing its new Internet website, www.missingkids.com, which is linked with hundreds of other websites to provide real-time images of breaking cases of missing children, and, beginning this year, establishing a new CyberTipline on child exploitation.

NCMEC has established a national and increasingly worldwide network linking NCMEC online with each of the missing children clearinghouses operated by the 50 states, the District of Columbia and Puerto Rico. In addition, NCMEC works constantly with international law enforcement authorities such as Scotland Yard in the United Kingdom, the Royal Canadian Mounted Police, INTERPOL headquarters in Lyon, France, and others. This network enables NCMEC to transmit images and information regarding missing children to law enforcement across America and around the world instantly. NCMEC also serves as the U.S. State Department's representative at child abduction cases under the Hague Convention.

The record of NCMEC is demonstrated by the 1,203,974 calls received at its 24-hour toll-free hotline, 1 (800) THE LOST, the 146,284 law enforcement, criminal/juvenile justice, and healthcare professionals trained, the 15,491,344 free publications distributed, and, most importantly, by its work on 59,481 cases of missing children, which has resulted in the recovery of 40,180 children. Each of these figures represents the activity of NCMEC through this spring.

NCMEC is a shining example of the type of public-private partnership the Congress should encourage and recognize. I urge my colleagues to support this legislation, which would help improve the performance of the National Center for Missing and Exploited Children and thus the safety of our Nation's children.

In addition, I offer an amendment to S. 2073, along with Senators FEINGOLD and DEWINE, which contains the text of S. 900, the Child Exploitation Sentencing Enhancement Act. It is of the utmost importance that our children be protected from predatory pedophiles who roam the streets and the Internet looking for innocent children to victimize. These offenders need to be sent a message that the punishment for their actions will be serve and predictable.

Unfortunately, the anonymity provided by a computer linked to the Internet is being used by pedophiles more each day to lure children into harmful, dangerous and potentially deadly situations. Often, the perpetrator will entice the child by convincing the child that he also is a child, thus easing the child's fears and inhibitions. The Hatch-Feingold-Dewine amendment calls for the Sentencing Commission to enhance the sentencing guidelines for punishment of individuals who have used a computer to lure a child into sexual abuse or exploitation, or who has misrepresented himself for those purposes.

In addition to increasing the maximum penalties for first time offenders found guilty of transporting or enticing others for illegal sexual purposes or for traveling for illegal sexual purposes, the amendment also ensures that the penalties for repeat offenders are tougher, as they should be. Those convicted for transporting or luring minors for illegal sexual purposes, of for traveling across state lines to abuse a minor, will face up to twice the maximum jail sentence if they have previously been convicted of a similar crime. Those who are convicted of crossing state lines to sexually abuse minors or who do so on federal property, having previously been convicted of a similar crime, will also see their potential prison sentences doubled.

Finally, the amendment will authorize funds to ensure that child victims and witnesses to crimes involving sexual abuse and exploitation will have the services of professional, experienced guardians appointed to assist them in legal proceedings where necessary and appropriate. It is important that those who have been traumatized by sexual abuse not be victimized by the criminal justice system a second time.

I urge my colleagues to join me in supporting this important amendment.

Lastly, I have joined with Senator LEAHY in offering an amendment to reauthorize the Runaway and Homeless Youth Act. According to the National Network for Youth, this Act provides "critical assistance to youth in high-risk situations all over the country." The three programs, discussed in more detail below, benefit those children truly in need and at high risk of becoming addicted to drugs or involved in criminal behavior. For these reasons, I supported including this reauthorization as section 306 of S. 10, the Violent and Repeat Offender Act.

The cornerstone of the Runaway and Homeless Youth Act is the Basic Center Program which provides grants for temporary shelter and counseling for children under age 18. My home state of Utah received over $378,000 in grants in FY 1998 under this program, and I have received requests from Utah organizations such as the Baker Youth Service Home to reauthorize this important program.

Community-based organizations also may request grants under the two related programs, the Transitional Living and the Sexual Abuse Prevention/Street Outreach programs. The Transitional Living grants provide longer term housing to homeless teens aged 16 to 21, and aim to move these teens to self-sufficiency and to avoid long-term dependency on public assistance. The Sexual Abuse Prevention/Street Outreach Program targets homeless teens potentially involved in high risk behaviors.

In addition, the amendment reauthorizes the Runaway and homeless Youth Act Rural Demonstration Projects which provide assistance to rural juvenile populations, such as in my state of Utah. Finally, the amendment makes several technical corrections to fix prior drafting errors in the Runaway and Homeless Youth Act.

The combination of this bill and the amendments will strengthen our commitment to our youth, and I urge adoption of the amendments and the bill as amended.

Mr. FEINGOLD. Mr. President, I am pleased that the distinguished Chairman of the Judiciary Committee has agreed to cosponsor my Child Exploitation Sentencing Enhancement Amendment and add it to the authorization bill for the National Center for Missing and Exploited Children (NCMEC).

As we all know, miraculous advances in computer technology have opened new worlds to citizens all across this country. It's an exciting future. But it is also a future filled with risk for vulnerable children because some in our country have chosen to exploit the new technologies to commit crimes. According to the NCMEC, criminals are increasingly using computer telecommunications technology as a means to assist in the sexual victimization of young children and teenagers.

To combat this growing problem of the use of computers and the Internet to sexually exploit and abuse children, I introduced the Child Exploitation Sentencing Enhancement Act of 1997 last June. The amendment adopted by the Senate today incorporates that bill—S. 900—which was also co-sponsored by my friend from Ohio, Senator DEWINE.

Mr. President, the same marvelous advances in computer and telecommunications technology that allow our children to reach out to new sources of knowledge and cultural experiences are also leaving them unwittingly vulnerable to exploitation and harm by pedophiles and other sexual predators in ways never before possible. Advances in technology should not be the shield from behind which pedophiles and sexual molesters target and prey upon our children. When new technologies are used to further the criminal sexual exploitation and abuse of children, it is essential, that this conduct be punished severely.

This amendment directs the U.S. Sentencing Commission to increase criminal penalties for people who use a computer to entice children into illicit sexual conduct. The amendment also directs that sentences be increased for those criminals who seek out children on the Internet and misrepresent their true identity in a knowing effort to gain the trust of the child they intend to victimize sexually.

The provisions in this amendment are directed squarely at those molesters and sexual predators who go on-line and use computer chat rooms to target young victims. One distinct advantage of the Internet for criminals is that they are able to reach a much wider audience of potential victims than they would if they had to be physically present at a schoolyard or playground. Another advantage for cyber-criminals is that they have near fool-proof anonymity while they cruise the Internet looking for victims. In some cases, victims are enticed or lured to meet with the sexual molester. The opportunites for the criminal to misrepresent his true identity and thus gain the confidence of the victim is a significant aspect of these crimes. Director Freeh noted this problem last year in testimony before an appropriations subcommittee. He said:

> Pedophiles often seek out young children by either participating in or monitoring activities in chat rooms that are provided by commercial on-line services for teenagers and preteens to converse with each other. These chat rooms also provide pedophiles an anonymous means of establishing relationships with children. Using a chat room, a child can converse for hours with unknown individuals, often without the knowledge or approval of their parents. There is no easy way for the child to know if the person he or she is talking with is, in fact, another 14-year-old, or is a 40-year-old sexual predator masquerading as a peer.

Director Freeh's testimony also noted that sexual criminals also target young victims by posing as children looking for pen pals or by posting notices on computer bulletin boards in order to facilitate and develop relationships which can in turn provide a victim for the predator's illegal sexual activity.

One chilling example of this problem comes from my own state of Wisconsin.

In June 1997, a federal grand jury indicted a Jacksonville, Florida man for child enticement and for traveling in interstate commerce to commit a sex act with a fifteen-year-old girl. The defendant first contacted the girl via the Internet and over time began sending her increasingly sexually explicit messages. The defendant offered to pay for the girl to visit him in Florida. The entire time, the defendant told the young girl that he was 21 years old when, in fact, he was 39.

As the sexually explicit messages escalated and it became apparent that the girl would not be able to go to Florida, the man ultimately traveled to Sturgeon Bay, Wisconsin to meet her.

Believing she was going to meet a 21-year-old, the girl took a friend and waited for the defendant at a restaurant. Upon being confronted by the man—who was clearly not who he said he was—the young girl fled into a restroom while the defendant stood outside and demanded that she come out.

Later that day, based upon information provided by the girl, the man was arrested by Sturgeon Bay police at a local motel at which he had registered under an assumed name.

This is a chilling example of how criminals can use the Internet to facilitate crimes against children. Thankfully, this incident did not end in the sexual abuse of a fifteen-year-old. But it is frightening to consider what might have happened if the defendant had been able to lure her to the unfamiliar area of Jacksonville, Florida.

This is not an isolated incident; there have been other similar instances in Wisconsin and across the nation. And many have not ended as happily as this one did.

In addition to increasing sentences for criminal activity involving this type of conduct, my amendment expands the "pattern of activity" sentencing enhancement to a wider range of sexual abuse and exploitation crimes. Those criminals who have shown an ongoing pattern of sexually exploiting minors will be held accountable for their conduct through longer prison sentences. These longer sentences incapacitate the criminal for a longer period of time, reducing the potential that they will be set free to victimize again. This sentencing enhancement will now be applicable in cases of sexual abuse, sexual exploitation, and the coercion and enticement of minors for an illegal sexual activity.

In addition, the amendment targets repeat offenders by increasing penalties for repeat offenses and by increasing maximum penalties available under the Federal criminal code. And finally, the amendment authorizes funding to be used to appoint guardians ad litem for children who are the victims of, or witnesses to, crimes involving abuse or exploitation.

Mr. President, our children are our most precious resource. I am the father of teenage children. Like any parent, I worry about the health and safety of my children. I encourage my children to utilize the Internet and to gain the benefits of these amazing new technologies—technologies which simply did not exist just a few years ago, not to mention when I was growing up. During my tenure in this body, I have been a strong believer in the potential of the Internet and sincerely hope that as we move toward the next century that potential will be realized to the benefit of all our citizens.

But I am also mindful of the dangers that arise when criminals exploit a new technology to further their illicit criminal activity. This amendment speaks directly to the small percentage of individuals who intentionally misuse the Internet to prey sexually upon children. The adoption of this amendment will send a message that we will not tolerate the sexual exploitation of our young people on the information superhighway. Pedophiles and sexual predators are not welcome on that road.

Mr. President, there are many different views on the best approach to the potential dangers of the Internet. We have disagreements in this body, as we do in the country, about the best way to protect children from sexually explicit images on the Internet. But I think we all can agree that when the Internet is used to facilitate criminal abuse of chilren, punishment should be swift and severe.

I yield the floor.

Mr. LEAHY. Mr. President, I am pleased that Senator HATCH has now decided to join with me in including on this measure an amendment that will reauthorize the Runaway and Homeless Youth Act for five years. This amendment complements Senator HATCH's bill to authorize the National Center for Missing and Exploited Children, S. 2073, because it provides additional assistance to some of the most vulnerable children in our country—children and teenagers who have run away or become homeless.

In 1996, I introduced legislation with Senator Simon similar to this amendment. Unfortunately, that bill was never passed by the Judiciary Committee and so the Runaway and Homeless Youth Act has not been authorized for over two years. I think it is time for the Senate to remedy this situation and that is why I proposed this amendment to Senator HATCH's bill. I had also hoped to reauthorize the Incentive Grants for Local Delinquency Prevention Programs, commonly known as the Title V program, as well as two anti-drug abuse programs for runaway and homeless youth and gang-affiliated teenagers. But, due to objections from the Republican side of the aisle, I have not been able to include reauthorization for those worthwhile programs in this amendment. That is unfortunate. As a former prosecuter I know these programs could cut drug abuse.

Reauthorizing the Runaway and Homeless Youth Act for five more years is the first step in assuring local community programs that they will have the additional resources they need to assist the growing number of homeless and runaway youth in the U.S. This program distributes funding to local community programs which are on the front lines assisting the approximately 1.3 million children and youth each year who are homeless or have left their families for a variety of reasons. This is the sort of program that studies have found to be an effective and efficient use of limited federal dollars.

The Runaway and Homeless Youth Act programs assist some of our nation's neediest children—those who lack a roof over their heads. Many of the beneficiaries of these programs have either fled or been kicked out of their family homes due to serious family conflicts or other problems. These programs assist children facing a variety of circumstances and provide funding for shelters and crisis intervention services, transitional living arrangements and outreach to teens who are living on the streets.

The Basic Center grants for housing and crisis services for runaway and homeless children are awarded to each State, based on juvenile population, with a minimum grant of $100,000 currently awarded to smaller States, such as Vermont. Effective community-based programs around the country can also apply directly for the funds made available for the Transitional Living Program and the Sexual Abuse Prevention/Street Outreach grants. The Transitional Living Program grants are used to provide longer term housing to homeless teens age 16 to 21, and to help these teenagers become more self-sufficient. The Sexual Abuse Prevention/Street Outreach Program also targets teens who have engaged in or are at risk of engaging in high risk behaviors while living on the street.

Vermont's Coalition for Runaway and Homeless Youth and the Spectrum Youth and Family Services in Burlington, Vermont, have developed very comprehensive and effective programs to assist both teens who are learning to be self-sufficient and those who are struggling to survive on the streets. As such, Vermont programs have been successful in applying for these two specialized programs and have been on the forefront of developing and improving the services available to runaway and homeless youth.

This amendment, which reauthorizes all three Runaway and Homeless Youth Act programs, is intended to recognize the important work of these programs in Vermont, as well as the many, many others across the U.S. that are working effectively with runaway and homeless youth and their families.

Our amendment also reauthorizes the Runaway and Homeless Youth Act Rural Demonstration Projects for an additional five years. This program provides extra assistance to States with rural juvenile populations. Programs serving runaway and homeless youth have found that those in rural areas are particularly difficult to reach and serve effectively. Runaway and homeless youth programs in rural areas, such as those in Utah and Vermont, need additional assistance and have special needs.

For those who do not think rural areas have significant numbers of runaway youth, I note that in fiscal year 1997, the Vermont Coalition for Runaway and Homeless Youth served 987 young people in its programs in 10 counties. Spectrum Youth and Family Services served an additional 259 at its center and over 2,000 through its street outreach services and drop-in center in Burlington. These numbers have been increasing rapidly over the past few years with a 154 percent increase in the number of youth served by the Vermont Coalition between 1992 and 1997. An area of special concern is the increasing number of young people who are being "pushed" out of their homes—those numbers increased 263 percent between 1993 and 1997 in Vermont. This is in addition to the hundreds of children each year who find themselves homeless or who have run away from home.

The Runaway and Homeless Youth Act does more than shelter these children in need. As the National Network for Youth stressed in their letter in support of my amendment, the Act's programs "provide critical assistance to youth in high-risk situations all over the country." This Act also ensures that these children and their families have access to important services, such as individual, family or group counseling, alcohol and drug counseling and a myriad of other resources to help these young people and their families get back on track.

As a result of this multi-pronged approach to helping runaway and homeless youth, the Vermont Coalition for Runaway and Homeless Youth was able to establish 85 percent of the youth served in 1997 in a "positive living situation" by the end of the year. Of these 800 young people, 54 percent returned home and another 17 percent went to live with a relative or friend.

The Vermont Coalition should be applauded for these fine results and I believe the best way to do that is to reauthorize the Runaway and Homeless Act for five more years, so programs like these in Vermont have some greater financial security in the future.

Mr. BIDEN. Mr. President, I rise to support passage of S. 2073, legislation to authorize specific funding for the National Center for Missing and Exploited Children. I am pleased to join

Senator HATCH and others in sponsoring this legislation.

I would also note that this legislation makes the same important change in law that I originally proposed as an amendment during the Judiciary Committee's mark-up of S. 10, legislation concerning juvenile justice issues. My amendment was accepted by Chairman HATCH and agreed to by all members of the Committee.

So, I am particularly happy that the full Senate is today passing this legislation in another form.

It is my hope that the House will also act to pass this bill.

Mr. LOTT. Mr. President, I ask unanimous consent that the amendments be agreed to, en bloc, the committee amendment be agreed to, the bill, as amended, be considered read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments (Nos. 3047 and 3048) were agreed to, en bloc.

The committee amendment was agreed to.

The bill (S. 2073), as amended, was considered read the third time and passed, as follows:

S. 2073

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

Congress makes the following findings:

(1) For 14 years, the National Center for Missing and Exploited Children (referred to in this section as the "Center") has—

(A) served as the national resource center and clearinghouse congressionally mandated under the provisions of the Missing Children's Assistance Act of 1984; and

(B) worked in partnership with the Department of Justice, the Federal Bureau of Investigation, the Department of the Treasury, the Department of State, and many other agencies in the effort to find missing children and prevent child victimization.

(2) Congress has given the Center, which is a private non-profit corporation, unique powers and resources, such as having access to the National Crime Information Center of the Federal Bureau of Investigation, and the National Law Enforcement Telecommunications System.

(3) Since 1987, the Center has operated the National Child Pornography Tipline, in conjunction with the United States Customs Service and the United States Postal Inspection Service and, beginning this year, the Center established a new CyberTipline on child exploitation, thus becoming "the 911 for the Internet".

(4) In light of statistics that time is of the essence in cases of child abduction, the Director of the Federal Bureau of Investigation in February of 1997 created a new NCIC child abduction ("CA") flag to provide the Center immediate notification in the most serious cases, resulting in 642 "CA" notifications to the Center and helping the Center to have its highest recovery rate in history.

(5) The Center has established a national and increasingly worldwide network, linking the Center online with each of the missing children clearinghouses operated by the 50 States, the District of Columbia, and Puerto Rico, as well as with Scotland Yard in the United Kingdom, the Royal Canadian Mounted Police, INTERPOL headquarters in Lyon, France, and others, which has enabled the Center to transmit images and information regarding missing children to law enforcement across the United States and around the world instantly.

(6) From its inception in 1984 through March 31, 1998, the Center has—

(A) handled 1,203,974 calls through its 24-hour toll-free hotline (1-800-THE-LOST) and currently averages 700 calls per day;

(B) trained 146,284 law enforcement, criminal and juvenile justice, and healthcare professionals in child sexual exploitation and missing child case detection, identification, investigation, and prevention;

(C) disseminated 15,491,344 free publications to citizens and professionals; and

(D) worked with law enforcement on the cases of 59,481 missing children, resulting in the recovery of 40,180 children.

(7) The demand for the services of the Center is growing dramatically, as evidenced by the fact that in 1997, the Center handled 129,100 calls, an all-time record, and by the fact that its new Internet website (www.missingkids.com) receives 1,500,000 "hits" every day, and is linked with hundreds of other websites to provide real-time images of breaking cases of missing children, helping to cause such results as a police officer in Puerto Rico searching the Center's website and working with the Center to identify and recover a child abducted as an infant from her home in San Diego, California, 7 years earlier.

(8) In 1997, the Center provided policy training to 256 police chiefs and sheriffs from 50 States and Guam at its new Jimmy Ryce Law Enforcement Training Center.

(9) The programs of the Center have had a remarkable impact, such as in the fight against infant abductions in partnership with the healthcare industry, during which the Center has performed 668 onsite hospital walk-throughs and inspections, and trained 45,065 hospital administrators, nurses, and security personnel, and thereby helped to reduce infant abductions in the United States by 82 percent.

(10) The Center is now playing a significant role in international child abduction cases, serving as a representative of the Department of State at cases under The Hague Convention, and successfully resolving the cases of 343 international child abductions, and providing greater support to parents in the United States.

(11) The Center is a model of public/private partnership, raising private sector funds to match congressional appropriations and receiving extensive private in-kind support, including advanced technology provided by the computer industry such as imaging technology used to age the photographs of long-term missing children and to reconstruct facial images of unidentified deceased children.

(12) The Center was 1 of only 10 of 300 major national charities given an A+ grade in 1997 by the American Institute of Philanthropy.

(13) In light of its impressive history, the Center has been redesignated as the Nation's missing children clearinghouse and resource center once every 3 years through a competitive selection process conducted by the Office of Juvenile Justice and Delinquency Prevention of the Department of Justice, and has received grants from that Office to conduct the crucial purposes of the Center.

(14) An official congressional authorization will increase the level of scrutiny and oversight by Congress and continue the Center's long partnership with the Department of Justice and the Office of Juvenile Justice and Delinquency Prevention of the Department of Justice.

(15) The exemplary record of performance and success of the Center, as exemplified by the fact that the Center's recovery rate has climbed from 62 to 91 percent, justifies action by Congress to formally recognize the National Center for Missing and Exploited Children as the Nation's official missing and exploited children's center, and to authorize a line-item appropriation for the National Center for Missing and Exploited Children in the Federal budget.

SEC. 2. NATIONAL CENTER FOR MISSING AND EXPLOITED CHILDREN.

(a) GRANTS.—The Administrator of the Office of Juvenile Justice and Delinquency Prevention of the Department of Justice shall annually make a grant to the National Center for Missing and Exploited Children, which shall be used to—

(1) operate the official national resource center and information clearinghouse for missing and exploited children;

(2) provide to State and local governments, public and private nonprofit agencies, and individuals, information regarding—

(A) free or low-cost legal, restaurant, lodging, and transportation services that are available for the benefit of missing and exploited children and their families; and

(B) the existence and nature of programs being carried out by Federal agencies to assist missing and exploited children and their families;

(3) coordinate public and private programs that locate, recover, or reunite missing children with their families;

(4) disseminate, on a national basis, information relating to innovative and model programs, services, and legislation that benefit missing and exploited children;

(5) provide technical assistance and training to law enforcement agencies, State, and local governments, elements of the criminal justice system, public and private nonprofit agencies, and individuals in the prevention, investigation, prosecution, and treatment of cases involving missing and exploited children; and

(6) provide assistance to families and law enforcement agencies in locating and recovering missing and exploited children, both nationally and internationally.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Administrator to carry out this section, $10,000,000 for each of fiscal years 1999, 2000, 2001, 2002, and 2003.

SEC. 3. CHILD EXPLOITATION SENTENCING ENHANCEMENTS.

(a) DEFINITIONS.—In this section:

(1) CHILD; CHILDREN.—The term "child" or "children" means a minor or minors of an age specified in the applicable provision of title 18, United States Code, that is subject to review under this section.

(2) MINOR.—The term "minor" means any individual who has not attained the age of 18, except that, with respect to references to section 2243 of title 18, United States Code, the term means an individual described in subsection (a) of that section.

(b) INCREASED PENALTIES FOR USE OF A COMPUTER IN THE SEXUAL ABUSE OR EXPLOITATION OF A CHILD.—Pursuant to the authority granted to the United States Sentencing

Commission under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall—

(1) review the Federal sentencing guidelines on aggravated sexual abuse under section 2241 of title 18, United States Code, sexual abuse under section 2242 of title 18, United States Code, sexual abuse of a minor or ward under section 2243 of title 18, United States Code, coercion and enticement of a juvenile under section 2422(b) of title 18, United States Code, and transportation of minors under section 2423 of title 18, United States Code; and

(2) upon completion of the review under paragraph (1), promulgate amendments to the Federal sentencing guidelines to provide an appropriate sentencing enhancement if the defendant used a computer with the intent to persuade, induce, entice, or coerce a child of an age specified in the applicable provision referred to in paragraph (1) to engage in any prohibited sexual activity.

(c) Increased Penalties for Knowing Misrepresentation in the Sexual Abuse or Exploitation of a Child.—Pursuant to the authority granted to the United States Sentencing Commission under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall—

(1) review the Federal sentencing guidelines on aggravated sexual abuse under section 2241 of title 18, United States Code, sexual abuse under section 2242 of title 18, United States Code, sexual abuse of a minor or ward under section 2243 of title 18, United States Code, coercion and enticement of a juvenile under section 2422(b) of title 18, United States Code, and transportation of minors under section 2423 of title 18, United States Code; and

(2) upon completion of the review under paragraph (1), promulgate amendments to the Federal sentencing guidelines to provide an appropriate sentencing enhancement if the defendant knowingly misrepresented the actual identity of the defendant with the intent to persuade, induce, entice, or coerce a child of an age specified in the applicable provision referred to in paragraph (1) to engage in a prohibited sexual activity.

(d) Increased Penalties for Pattern of Activity of Sexual Exploitation of Children.—Pursuant to the authority granted to the United States Sentencing Commission under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall—

(1) review the Federal sentencing guidelines on criminal sexual abuse, the production of sexually explicit material, the possession of materials depicting a child engaging in sexually explicit conduct, coercion and enticement of minors, and the transportation of minors; and

(2) upon completion of the review under paragraph (1), promulgate amendments to the Federal sentencing guidelines to provide an appropriate sentencing enhancement applicable to the offenses referred to in paragraph (1) in any case in which the defendant engaged in a pattern of activity involving the sexual abuse or exploitation of a minor.

(e) Repeat Offenders; Increased Maximum Penalties for Transportation for Illegal Sexual Activity and Related Crimes.—

(1) Repeat offenders.—

(A) Chapter 117.—

(i) In general.—Chapter 117 of title 18, United States Code, is amended by adding at the end the following:

"§ 2425. Repeat offenders

"(a) In General.—Any person described in this subsection shall be subject to the punishment under subsection (b). A person described in this subsection is a person who violates a provision of this chapter, after one or more prior convictions—

"(1) for an offense punishable under this chapter, or chapter 109A or 110; or

"(2) under any applicable law of a State relating to conduct punishable under this chapter, or chapter 109A or 110.

"(b) Punishment.—A violation of a provision of this chapter by a person described in subsection (a) is punishable by a term of imprisonment of a period not to exceed twice the period that would otherwise apply under this chapter.".

(ii) Conforming amendment.—The chapter analysis for chapter 117 of title 18, United States Code, is amended by adding at the end the following:

"2425. Repeat offenders.".

(B) Chapter 109A.—Section 2247 of title 18, United States Code, is amended to read as follows:

"§ 2247. Repeat offenders

"(a) In General.—Any person described in this subsection shall be subject to the punishment under subsection (b). A person described in this subsection is a person who violates a provision of this chapter, after one or more prior convictions—

"(1) for an offense punishable under this chapter, or chapter 110 or 117; or

"(2) under any applicable law of a State relating to conduct punishable under this chapter, or chapter 110 or 117.

"(b) Punishment.—A violation of a provision of this chapter by a person described in subsection (a) is punishable by a term of imprisonment of a period not to exceed twice the period that would otherwise apply under this chapter.".

(2) Increased maximum penalties for transportation for illegal sexual activity and related crimes.—

(A) Transportation generally.—Section 2421 of title 18, United States Code, is amended by striking "five" and inserting "10".

(B) Coercion and enticement of minors.—Section 2422 of title 18, United States Code, is amended—

(i) in subsection (a), by striking "five" and inserting "10"; and

(ii) in subsection (b), by striking "10" and inserting "15".

(C) Transportation of minors.—Section 2423 of title 18, United States Code, is amended—

(i) in subsection (a), by striking "ten" and inserting "15"; and

(ii) in subsection (b), by striking "10" and inserting "15".

(3) Amendment of sentencing guidelines.—Pursuant to the authority granted to the United States Sentencing Commission under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall—

(A) review the Federal sentencing guidelines relating to chapter 117 of title 18, United States Code; and

(B) upon completion of the review under subparagraph (A), promulgate such amendments to the Federal sentencing guidelines as are necessary to provide for the amendments made by this subsection.

(f) Clarification of Definition of Distribution of Pornography.—Pursuant to the authority granted to the United States Sentencing Commission under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall—

(1) review the Federal sentencing guidelines relating to the distribution of pornography covered under chapter 110 of title 18, United States Code, relating to the sexual exploitation and other abuse of children; and

(2) upon completion of the review under paragraph (1), promulgate such amendments to the Federal sentencing guidelines as are necessary to clarify that the term "distribution of pornography" applies to the distribution of pornography—

(A) for monetary remuneration; or

(B) for a nonpecuniary interest.

(g) Directive to United States Sentencing Commission.—In carrying out this section, the United States Sentencing Commission shall—

(1) with respect to any action relating to the Federal sentencing guidelines subject to this section, ensure reasonable consistency with other guidelines of the Federal sentencing guidelines; and

(2) with respect to an offense subject to the Federal sentencing guidelines, avoid duplicative punishment under the guidelines for substantially the same offense.

(h) Authorization for Guardians Ad Litem.—

(1) Authorization of appropriations.—There are authorized to be appropriated to the Department of Justice, for the purpose specified in paragraph (2), such sums as may be necessary for each of fiscal years 1998 through 2001.

(2) Purpose.—The purpose specified in this paragraph is the procurement, in accordance with section 3509(h) of title 18, United States Code, of the services of individuals with sufficient professional training, experience, and familiarity with the criminal justice system, social service programs, and child abuse issues to serve as guardians ad litem for children who are the victims of, or witnesses to, a crime involving abuse or exploitation.

(i) Applicability.—This section and the amendments made by this section shall apply to any action that commences on or after the date of enactment of this Act.

SEC. 4. RUNAWAY AND HOMELESS YOUTH ACT.

(a) In General.—Section 372(a) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5714b(a)) is amended by striking "unit of general local government" and inserting "unit of local government".

(b) Authorization of Appropriations.—

(1) Technical amendments.—

(A) Error resulting from redesignation.—

(i) In general.—Section 3(i) of the Public Law 102–586 (106 Stat. 5026) is amended by striking "Section 366" and inserting "Section 385".

(ii) Effective date.—The amendment made by clause (i) shall take effect as if included in the amendments made by Public Law 102–586.

(B) Error resulting from references to nonexistent provisions of law.—

(i) In general.—Section 40155 of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322; 108 Stat. 1922) is amended by striking "is amended—" and all that follows through "after section 315" and inserting the following: "is amended by adding at the end".

(ii) Effective date.—The amendment made by clause (i) shall take effect as if included in the amendments made by the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322).

(2) Reauthorizations.—

(A) In general.—Section 385 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5751) (as amended by section 3(i) of the Public Law 102–586 (106 Stat. 5026) (as amended by paragraph (1)(A) of this subsection)) is amended—

(i) in subsection (a)—

(I) in paragraph (1), by striking "1993 and such sums as may be necessary for fiscal years 1994, 1995, and 1996" and inserting "1998 and such sums as may be necessary for each of fiscal years 1999, 2000, 2001, 2002, and 2003"; and

(II) in paragraph (3), by striking subparagraphs (A) through (D) and inserting the following:

"(A) for fiscal year 1998, not less than $957,285;

"(B) for fiscal year 1999, not less than $1,005,150;

"(C) for fiscal year 2000, not less than $1,055,406;

"(D) for fiscal year 2001, not less than $1,108,177;

"(E) for fiscal year 2002, not less than $1,163,585; and

"(F) for fiscal year 2003, not less than $1,163,585.";

(ii) in subsection (b), by striking "1993 and such sums as may be necessary for fiscal years 1994, 1995, and 1996" and inserting "1999 and such sums as may be necessary for each of fiscal years 2000, 2001, 2002, and 2003"; and

(iii) in subsection (c), by striking "1993, 1994, 1995, and 1996" and inserting "1999, 2000, 2001, 2002, and 2003".

(B) ADDITIONAL REAUTHORIZATION.—Section 316 of part A of the Runaway and Homeless Youth Act (42 U.S.C. 5712d) (as added by section 40155 of the Violent Crime Control and Law Enforcement Act of 1994 (as amended by paragraph (1)(B) of this subsection)) is—

(i) redesignated as section 315; and

(ii) amended by striking subsection (c) and inserting the following:

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of fiscal years 1999, 2000, 2001, 2002, and 2003.".

HONORING THE BERLIN AIRLIFT

Mr. LOTT. Mr. President, I ask unanimous consent that the Foreign Relations Committee be discharged from further consideration of S. Con. Res. 81, and further that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 81) honoring the Berlin airlift.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

AMENDMENT NO. 3049

(Purpose: To provide a complete substitute)

Mr. LOTT. Senator COVERDELL has a substitute amendment at the desk, and I ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Mississippi [Mr. LOTT], for Mr. COVERDELL, proposes an amendment numbered 3049.

Mr. LOTT. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the resolving clause and insert the following:

That it is the sense of Congress that—

(1) the Berlin Airlift, which marks its 50th anniversary of commencement in June 1998, is one of the most significant events in postwar European history; and

(2) the Berlin Sculpture Fund should be commended for commemorating the 50th anniversary of the Berlin Airlift by presenting to the citizens of the Federal Republic of Germany a gift of representational art, funded by private subscriptions from citizens of the United States.

Amend the preamble to read as follows:

Whereas the date of June 26, 1998, marks the 50th anniversary of the commencement of the Allied effort to supply the people of Berlin, Germany, with food, fuel, and supplies in the face of the illegal Soviet blockade that divided the city;

Whereas this 15 month Allied effort became known throughout the free world as the "Berlin Airlift" and ultimately cost the lives of 78 Allied airmen, of whom 31 were United States fliers;

Whereas this heroic humanitarian undertaking was universally regarded as an unambiguous statement of Western resolve to thwart further Soviet expansion;

Whereas the Berlin Airlift was an unqualified success, both as an instrument of diplomacy and as a life saving rescue of the 2,000,000 inhabitants of West Berlin, with 2,326,205 tons of supplies delivered by 277,728 flights over a 462-day period;

Whereas historians and citizens the world over view the success of this courageous action as pivotal to the ultimate defeat of international tyranny, symbolized today by the fall of the Berlin Wall; and

Whereas this inspiring act of resolve must be preserved in the memory of future generations in a positive and dramatic manner: Now, therefore, be it

Mr. COVERDELL. Mr. President, I rise today to speak on a resolution I introduced honoring the heroes of the Berlin Airlift. Today marks the fiftieth anniversary of this great undertaking. This massive Allied effort to provide relief to a post war Berlin held hostage by the Soviet Union displayed to the world, the resolve of the western world to fight oppression and began a long fight against Soviet Communism that culminated with the collapse of the Berlin Wall.

The former Soviet Union, Britain, France and the United States occupied separate sectors of Germany after World War II. Berlin, located in the Soviet zone of Germany, was occupied in a similar fashion. In response to a failing economy the Western powers undertook an effort to reform the German currency. The Soviet Union, meanwhile, kept the old German currency from entering its zones by banning, on June 24, 1948, all travel into and out of the Western half of the city. The Soviets also cut the supply of electricity to this zone. Berlin's economy was in ruins and its citizens were under virtual seige.

The response to this blockade was one of the most heroic and monumental undertakings in history. For fifteen months Allied transport planes shipped food, coal and supplies into Berlin. During the height of this effort airplanes were taking off every three minutes, twenty four hours a day, while delivering daily 14,000 tons of supplies. All told, 2,326,205 tons of supplies were delivered by 277,728 flights in the face of Soviet efforts to thwart the Allies.

Mr. President, these numbers do not speak to the personal stories of those who organized and participated in the Berlin airlift, the sacrifices they made and the selflessness they displayed. They do not speak to the lives lost during the operation, 31 of which were American. They do not speak to the gratitude those in Berlin felt toward the Allies who were so willing after such a brutal war, to provide them with life-sustaining relief. Mr. President, let us all keep these ideas in mind as we remember the Berlin Airlift, what it meant to the world in a post World War II environment, and what it has come to mean to us today.

Finally, Mr. President I would like to note that next week, on July 2, 1998, a delegation with representatives from the Berlin Sculpture Fund will visit Berlin to present a gift of art to the citizens of the Federal Republic of Germany in commemoration of the 50th Anniversary of the Berlin Airlift. The Berlin Sculpture Fund and its Chairman, General John Mitchell, should be commended for their work to commemorate this event and the impact it made on our world's history.

Mr. LOTT. I ask unanimous consent that the amendment be agreed to, the resolution, as amended, be agreed to, the amendment to the preamble be agreed to, and the preamble, as amended, be agreed to, the amendment to the title be agreed to, the motion to reconsider be laid upon the table, and any statements relating to this resolution appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 3049) was agreed to.

The resolution, as amended, was agreed to.

The amendment to the preamble was agreed to.

The preamble, as amended, was agreed to.

The concurrent resolution (S. Con. Res. 81), as amended, with its preamble, as amended, reads as follows:

S. CON. RES. 81

Whereas the date of June 26, 1998, marks the 50th anniversary of the commencement of the Allied effort to supply the people of Berlin, Germany, with food, fuel, and supplies in the face of the illegal Soviet blockade that divided the city;

Whereas this 15 month Allied effort became known throughout the free world as the "Berlin Airlift" and ultimately cost the lives of 78 Allied airmen, of whom 31 were United States fliers;

Whereas this heroic humanitarian undertaking was universally regarded as an unambiguous statement of Western resolve to thwart further Soviet expansion;

Whereas the Berlin Airlift was an unqualified success, both as an instrument of diplomacy and as a life saving rescue of the 2,000,000 inhabitants of West Berlin, with 2,326,205 tons of supplies delivered by 277,728 flights over a 462-day period;

Whereas historians and citizens the world over view the success of this courageous action as pivotal to the ultimate defeat of international tyranny, symbolized today by the fall of the Berlin Wall; and

Whereas this inspiring act of resolve must be preserved in the memory of future generations in a positive and dramatic manner: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that—

(1) the Berlin Airlift, which marks its 50th anniversary of commencement in June 1998, is one of the most significant events in postwar European history; and

(2) the Berlin Sculpture Fund should be commended for commemorating the 50th anniversary of the Berlin Airlift by presenting to the citizens of the Federal Republic of Germany a gift of representational art, funded by private subscriptions from citizens of the United States.

The title was amended so as to read: "Concurrent Resolution Honoring the Berlin Airlift and Commending the Berlin Sculpture Fund."

CHILD SUPPORT PERFORMANCE AND INCENTIVE ACT OF 1998

Mr. LOTT. Mr. President, I ask unanimous consent the Chair lay before the Senate a message from the House of Representatives on the bill (H.R. 3130) to provide for an alternative penalty procedure for States that fail to meet Federal child support data processing requirements, to reform Federal incentive payments for effective child support performance, and to provide for a more flexible penalty procedure for States that violate interjurisdictional adoption requirements.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendments of the Senate to the bill (H.R. 3130) entitled "An Act to provide for an alternative penalty procedure for States that fail to meet Federal child support data processing requirements, to reform Federal incentive payments for effective child support performance, to provide for a more flexible penalty procedure for States that violate interjurisdictional adoption requirements, to amend the Immigration and Nationality Act to make certain aliens determined to be delinquent in the payment of child support inadmissible and ineligible for naturalization, and for other purposes", with the following amendments:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Child Support Performance and Incentive Act of 1998".

SEC. 2. TABLE OF CONTENTS.

The table of contents of this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.

TITLE I—CHILD SUPPORT DATA PROCESSING REQUIREMENTS

Sec. 101. Alternative penalty procedure.
Sec. 102. Authority to waive single statewide automated data processing and information retrieval system requirement.

TITLE II—CHILD SUPPORT INCENTIVE SYSTEM

Sec. 201. Incentive payments to States.

TITLE III—ADOPTION PROVISIONS

Sec. 301. More flexible penalty procedure to be applied for failing to permit interjurisdictional adoption.

TITLE IV—MISCELLANEOUS

Sec. 401. Elimination of barriers to the effective establishment and enforcement of medical child support.
Sec. 402. Safeguard of new employee information.
Sec. 403. Limitations on use of TANF funds for matching under certain Federal transportation program.
Sec. 404. Clarification of meaning of high-volume automated administrative enforcement of child support in interstate cases.
Sec. 405. General Accounting Office reports.
Sec. 406. Data matching by multistate financial institutions.
Sec. 407. Elimination of unnecessary data reporting.
Sec. 408. Clarification of eligibility under welfare-to-work programs.
Sec. 409. Study of feasibility of implementing immigration provisions of H.R. 3130, as passed by the House of Representatives on March 5, 1998.
Sec. 410. Technical corrections.

TITLE I—CHILD SUPPORT DATA PROCESSING REQUIREMENTS

SEC. 101. ALTERNATIVE PENALTY PROCEDURE.

(a) IN GENERAL.—Section 455(a) of the Social Security Act (42 U.S.C. 655(a)) is amended by adding at the end the following:

"(4)(A)(i) If—

"(I) the Secretary determines that a State plan under section 454 would (in the absence of this paragraph) be disapproved for the failure of the State to comply with a particular subparagraph of section 454(24), and that the State has made and is continuing to make a good faith effort to so comply; and

"(II) the State has submitted to the Secretary a corrective compliance plan that describes how, by when, and at what cost the State will achieve such compliance, which has been approved by the Secretary,

then the Secretary shall not disapprove the State plan under section 454, and the Secretary shall reduce the amount otherwise payable to the State under paragraph (1)(A) of this subsection for the fiscal year by the penalty amount.

"(ii) All failures of a State during a fiscal year to comply with any of the requirements referred to in the same subparagraph of section 454(24) shall be considered a single failure of the State to comply with that subparagraph during the fiscal year for purposes of this paragraph.

"(B) In this paragraph:

"(i) The term 'penalty amount' means, with respect to a failure of a State to comply with a subparagraph of section 454(24)—

"(I) 4 percent of the penalty base, in the case of the 1st fiscal year in which such a failure by the State occurs (regardless of whether a penalty is imposed under this paragraph with respect to the failure);

"(II) 8 percent of the penalty base, in the case of the 2nd such fiscal year;

"(III) 16 percent of the penalty base, in the case of the 3rd such fiscal year;

"(IV) 25 percent of the penalty base, in the case of the 4th such fiscal year; or

"(V) 30 percent of the penalty base, in the case of the 5th or any subsequent such fiscal year.

"(ii) The term 'penalty base' means, with respect to a failure of a State to comply with a subparagraph of section 454(24) during a fiscal year, the amount otherwise payable to the State under paragraph (1)(A) of this subsection for the preceding fiscal year.

"(C)(i) The Secretary shall waive a penalty under this paragraph for any failure of a State to comply with section 454(24)(A) during fiscal year 1998 if—

"(I) on or before August 1, 1998, the State has submitted to the Secretary a request that the Secretary certify the State as having met the requirements of such section;

"(II) the Secretary subsequently provides the certification as a result of a timely review conducted pursuant to the request; and

"(III) the State has not failed such a review.

"(ii) If a State with respect to which a reduction is made under this paragraph for a fiscal year with respect to a failure to comply with a subparagraph of section 454(24) achieves compliance with such subparagraph by the beginning of the succeeding fiscal year, the Secretary shall increase the amount otherwise payable to the State under paragraph (1)(A) of this subsection for the succeeding fiscal year by an amount equal to 90 percent of the reduction for the fiscal year.

"(D) The Secretary may not impose a penalty under this paragraph against a State with respect to a failure to comply with section 454(24)(B) for a fiscal year if the Secretary is required to impose a penalty under this paragraph against the State with respect to a failure to comply with section 454(24)(A) for the fiscal year.".

(b) INAPPLICABILITY OF PENALTY UNDER TANF PROGRAM.—Section 409(a)(8)(A)(i)(III) of such Act (42 U.S.C. 609(a)(8)(A)(i)(III)) is amended by inserting "(other than section 454(24))" before the semicolon.

SEC. 102. AUTHORITY TO WAIVE SINGLE STATEWIDE AUTOMATED DATA PROCESSING AND INFORMATION RETRIEVAL SYSTEM REQUIREMENT.

(a) IN GENERAL.—Section 452(d)(3) of the Social Security Act (42 U.S.C. 652(d)(3)) is amended to read as follows:

"(3) The Secretary may waive any requirement of paragraph (1) or any condition specified under section 454(16), and shall waive the single statewide system requirement under sections 454(16) and 454A, with respect to a State if—

"(A) the State demonstrates to the satisfaction of the Secretary that the State has or can develop an alternative system or systems that enable the State—

"(i) for purposes of section 409(a)(8), to achieve the paternity establishment percentages (as defined in section 452(g)(2)) and other performance measures that may be established by the Secretary;

"(ii) to submit data under section 454(15)(B) that is complete and reliable;

"(iii) to substantially comply with the requirements of this part; and

"(iv) in the case of a request to waive the single statewide system requirement, to—

"(I) meet all functional requirements of sections 454(16) and 454A;

"(II) ensure that calculation of distributions meets the requirements of section 457 and accounts for distributions to children in different families or in different States or sub-State jurisdictions, and for distributions to other States;

"(III) ensure that there is only 1 point of contact in the State which provides seamless case

processing for all interstate case processing and coordinated, automated intrastate case management;

"(IV) ensure that standardized data elements, forms, and definitions are used throughout the State;

"(V) complete the alternative system in no more time than it would take to complete a single statewide system that meets such requirement; and

"(VI) process child support cases as quickly, efficiently, and effectively as such cases would be processed through a single statewide system that meets such requirement;

"(B)(i) the waiver meets the criteria of paragraphs (1), (2), and (3) of section 1115(c); or

"(ii) the State provides assurances to the Secretary that steps will be taken to otherwise improve the State's child support enforcement program; and

"(C) in the case of a request to waive the single statewide system requirement, the State has submitted to the Secretary separate estimates of the total cost of a single statewide system that meets such requirement, and of any such alternative system or systems, which shall include estimates of the cost of developing and completing the system and of operating and maintaining the system for 5 years, and the Secretary has agreed with the estimates.".

(b) Payments to States.—Section 455(a)(1) of such Act (42 U.S.C. 655(a)(1)) is amended—

(1) by striking "and" at the end of subparagraph (B);

(2) by striking the semicolon at the end of subparagraph (C) and inserting ", and"; and

(3) by inserting after subparagraph (C) the following:

"(D) equal to 66 percent of the sums expended by the State during the quarter for an alternative statewide system for which a waiver has been granted under section 452(d)(3), but only to the extent that the total of the sums so expended by the State on or after the date of the enactment of this subparagraph does not exceed the least total cost estimate submitted by the State pursuant to section 452(d)(3)(C) in the request for the waiver;".

TITLE II—CHILD SUPPORT INCENTIVE SYSTEM

SEC. 201. INCENTIVE PAYMENTS TO STATES.

(a) In General.—Part D of title IV of the Social Security Act (42 U.S.C. 651–669) is amended by inserting after section 458 the following:

"SEC. 458A. INCENTIVE PAYMENTS TO STATES.

"(a) In General.—In addition to any other payment under this part, the Secretary shall, subject to subsection (f), make an incentive payment to each State for each fiscal year in an amount determined under subsection (b).

"(b) Amount of Incentive Payment.—

"(1) In general.—The incentive payment for a State for a fiscal year is equal to the incentive payment pool for the fiscal year, multiplied by the State incentive payment share for the fiscal year.

"(2) Incentive payment pool.—

"(A) In general.—In paragraph (1), the term 'incentive payment pool' means—

"(i) $422,000,000 for fiscal year 2000;

"(ii) $429,000,000 for fiscal year 2001;

"(iii) $450,000,000 for fiscal year 2002;

"(iv) $461,000,000 for fiscal year 2003;

"(v) $454,000,000 for fiscal year 2004;

"(vi) $446,000,000 for fiscal year 2005;

"(vii) $458,000,000 for fiscal year 2006;

"(viii) $471,000,000 for fiscal year 2007;

"(ix) $483,000,000 for fiscal year 2008; and

"(x) for any succeeding fiscal year, the amount of the incentive payment pool for the fiscal year that precedes such succeeding fiscal year, multiplied by the percentage (if any) by which the CPI for such preceding fiscal year exceeds the CPI for the 2nd preceding fiscal year.

"(B) CPI.—For purposes of subparagraph (A), the CPI for a fiscal year is the average of the Consumer Price Index for the 12-month period ending on September 30 of the fiscal year. As used in the preceding sentence, the term 'Consumer Price Index' means the last Consumer Price Index for all-urban consumers published by the Department of Labor.

"(3) State incentive payment share.—In paragraph (1), the term 'State incentive payment share' means, with respect to a fiscal year—

"(A) the incentive base amount for the State for the fiscal year; divided by

"(B) the sum of the incentive base amounts for all of the States for the fiscal year.

"(4) Incentive base amount.—In paragraph (3), the term 'incentive base amount' means, with respect to a State and a fiscal year, the sum of the applicable percentages (determined in accordance with paragraph (6)) multiplied by the corresponding maximum incentive base amounts for the State for the fiscal year, with respect to each of the following measures of State performance for the fiscal year:

"(A) The paternity establishment performance level.

"(B) The support order performance level.

"(C) The current payment performance level.

"(D) The arrearage payment performance level.

"(E) The cost-effectiveness performance level.

"(5) Maximum incentive base amount.—

"(A) In general.—For purposes of paragraph (4), the maximum incentive base amount for a State for a fiscal year is—

"(i) with respect to the performance measures described in subparagraphs (A), (B), and (C) of paragraph (4), the State collections base for the fiscal year; and

"(ii) with respect to the performance measures described in subparagraphs (D) and (E) of paragraph (4), 75 percent of the State collections base for the fiscal year.

"(B) Data required to be complete and reliable.—Notwithstanding subparagraph (A), the maximum incentive base amount for a State for a fiscal year with respect to a performance measure described in paragraph (4) is zero, unless the Secretary determines, on the basis of an audit performed under section 452(a)(4)(C)(i), that the data which the State submitted pursuant to section 454(15)(B) for the fiscal year and which is used to determine the performance level involved is complete and reliable.

"(C) State collections base.—For purposes of subparagraph (A), the State collections base for a fiscal year is equal to the sum of—

"(i) 2 times the sum of—

"(I) the total amount of support collected during the fiscal year under the State plan approved under this part in cases in which the support obligation involved is required to be assigned to the State pursuant to part A or E of this title or title XIX; and

"(II) the total amount of support collected during the fiscal year under the State plan approved under this part in cases in which the support obligation involved was so assigned but, at the time of collection, is not required to be so assigned; and

"(ii) the total amount of support collected during the fiscal year under the State plan approved under this part in all other cases.

"(6) Determination of applicable percentages based on performance levels.—

"(A) Paternity establishment.—

"(i) Determination of paternity establishment performance level.—The paternity establishment performance level for a State for a fiscal year is, at the option of the State, the IV–D paternity establishment percentage determined under section 452(g)(2)(A) or the statewide paternity establishment percentage determined under section 452(g)(2)(B).

"(ii) Determination of applicable percentage.—The applicable percentage with respect to a State's paternity establishment performance level is as follows:

"If the paternity establishment performance level is:		The applicable percentage is:
At least:	But less than:	
80%		100
79%	80%	98
78%	79%	96
77%	78%	94
76%	77%	92
75%	76%	90
74%	75%	88
73%	74%	86
72%	73%	84
71%	72%	82
70%	71%	80
69%	70%	79
68%	69%	78
67%	68%	77
66%	67%	76
65%	66%	75
64%	65%	74
63%	64%	73
62%	63%	72
61%	62%	71
60%	61%	70
59%	60%	69
58%	59%	68
57%	58%	67
56%	57%	66
55%	56%	65
54%	55%	64
53%	54%	63
52%	53%	62
51%	52%	61
50%	51%	60
0%	50%	0.

Notwithstanding the preceding sentence, if the paternity establishment performance level of a State for a fiscal year is less than 50 percent but exceeds by at least 10 percentage points the paternity establishment performance level of the State for the immediately preceding fiscal year, then the applicable percentage with respect to the State's paternity establishment performance level is 50 percent.

"(B) Establishment of child support orders.—

"(i) Determination of support order performance level.—The support order performance level for a State for a fiscal year is the percentage of the total number of cases under the State plan approved under this part in which there is a support order during the fiscal year.

"(ii) Determination of applicable percentage.—The applicable percentage with respect to a State's support order performance level is as follows:

"If the support order performance level is:		The applicable percentage is:
At least:	But less than:	
80%		100
79%	80%	98
78%	79%	96
77%	78%	94
76%	77%	92
75%	76%	90
74%	75%	88
73%	74%	86
72%	73%	84
71%	72%	82
70%	71%	80
69%	70%	79
68%	69%	78
67%	68%	77
66%	67%	76
65%	66%	75
64%	65%	74
63%	64%	73
62%	63%	72
61%	62%	71
60%	61%	70
59%	60%	69
58%	59%	68
57%	58%	67
56%	57%	66
55%	56%	65
54%	55%	64
53%	54%	63
52%	53%	62
51%	52%	61
50%	51%	60
0%	50%	0.

Notwithstanding the preceding sentence, if the support order performance level of a State for a fiscal year is less than 50 percent but exceeds by at least 5 percentage points the support order performance level of the State for the immediately preceding fiscal year, then the applicable percentage with respect to the State's support order performance level is 50 percent.

"(C) COLLECTIONS ON CURRENT CHILD SUPPORT DUE.—

"(i) DETERMINATION OF CURRENT PAYMENT PERFORMANCE LEVEL.—The current payment performance level for a State for a fiscal year is equal to the total amount of current support collected during the fiscal year under the State plan approved under this part divided by the total amount of current support owed during the fiscal year in all cases under the State plan, expressed as a percentage.

"(ii) DETERMINATION OF APPLICABLE PERCENTAGE.—The applicable percentage with respect to a State's current payment performance level is as follows:

"If the current payment performance level is:		The applicable percentage is:
At least:	But less than:	
80%		100
79%	80%	98
78%	79%	96
77%	78%	94
76%	77%	92
75%	76%	90
74%	75%	88
73%	74%	86
72%	73%	84
71%	72%	82
70%	71%	80
69%	70%	79
68%	69%	78
67%	68%	77
66%	67%	76
65%	66%	75
64%	65%	74
63%	64%	73
62%	63%	72
61%	62%	71
60%	61%	70
59%	60%	69
58%	59%	68
57%	58%	67
56%	57%	66
55%	56%	65
54%	55%	64
53%	54%	63
52%	53%	62
51%	52%	61
50%	51%	60
49%	50%	59
48%	49%	58
47%	48%	57
46%	47%	56
45%	46%	55
44%	45%	54
43%	44%	53
42%	43%	52
41%	42%	51
40%	41%	50
0%	40%	0.

Notwithstanding the preceding sentence, if the current payment performance level of a State for a fiscal year is less than 40 percent but exceeds by at least 5 percentage points the current payment performance level of the State for the immediately preceding fiscal year, then the applicable percentage with respect to the State's current payment performance level is 50 percent.

"(D) COLLECTIONS ON CHILD SUPPORT ARREARAGES.—

"(i) DETERMINATION OF ARREARAGE PAYMENT PERFORMANCE LEVEL.—The arrearage payment performance level for a State for a fiscal year is equal to the total number of cases under the State plan approved under this part in which payments of past-due child support were received during the fiscal year and part or all of the payments were distributed to the family to whom the past-due child support was owed (or, if all past-due child support owed to the family was, at the time of receipt, subject to an assignment to the State, part or all of the payments were retained by the State) divided by the total number of cases under the State plan in which there is past-due child support, expressed as a percentage.

"(ii) DETERMINATION OF APPLICABLE PERCENTAGE.—The applicable percentage with respect to a State's arrearage payment performance level is as follows:

"If the arrearage payment performance level is:		The applicable percentage is:
At least:	But less than:	
80%		100
79%	80%	98
78%	79%	96
77%	78%	94
76%	77%	92
75%	76%	90
74%	75%	88
73%	74%	86
72%	73%	84
71%	72%	82
70%	71%	80
69%	70%	79
68%	69%	78
67%	68%	77
66%	67%	76
65%	66%	75
64%	65%	74
63%	64%	73
62%	63%	72
61%	62%	71
60%	61%	70
59%	60%	69
58%	59%	68
57%	58%	67
56%	57%	66
55%	56%	65
54%	55%	64
53%	54%	63
52%	53%	62
51%	52%	61
50%	51%	60
49%	50%	59
48%	49%	58
47%	48%	57
46%	47%	56
45%	46%	55
44%	45%	54
43%	44%	53
42%	43%	52
41%	42%	51
40%	41%	50
0%	40%	0.

Notwithstanding the preceding sentence, if the arrearage payment performance level of a State for a fiscal year is less than 40 percent but exceeds by at least 5 percentage points the arrearage payment performance level of the State for the immediately preceding fiscal year, then the applicable percentage with respect to the State's arrearage payment performance level is 50 percent.

"(E) COST-EFFECTIVENESS.—

"(i) DETERMINATION OF COST-EFFECTIVENESS PERFORMANCE LEVEL.—The cost-effectiveness performance level for a State for a fiscal year is equal to the total amount collected during the fiscal year under the State plan approved under this part divided by the total amount expended during the fiscal year under the State plan, expressed as a ratio.

"(ii) DETERMINATION OF APPLICABLE PERCENTAGE.—The applicable percentage with respect to a State's cost-effectiveness performance level is as follows:

"If the cost-effectiveness performance level is:		The applicable percentage is:
At least:	But less than:	
5.00		100
4.50	4.99	90
4.00	4.50	80
3.50	4.00	70
3.00	3.50	60
2.50	3.00	50
2.00	2.50	40
0.00	2.00	0.

"(c) TREATMENT OF INTERSTATE COLLECTIONS.—In computing incentive payments under this section, support which is collected by a State at the request of another State shall be treated as having been collected in full by both States, and any amounts expended by a State in carrying out a special project assisted under section 455(e) shall be excluded.

"(d) ADMINISTRATIVE PROVISIONS.—The amounts of the incentive payments to be made to the States under this section for a fiscal year shall be estimated by the Secretary at or before the beginning of the fiscal year on the basis of the best information available. The Secretary shall make the payments for the fiscal year, on a quarterly basis (with each quarterly payment being made no later than the beginning of the quarter involved), in the amounts so estimated, reduced or increased to the extent of any overpayments or underpayments which the Secretary determines were made under this section to the States involved for prior periods and with respect to which adjustment has not already been made under this subsection. Upon the making of any estimate by the Secretary under the preceding sentence, any appropriations available for payments under this section are deemed obligated.

"(e) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary governing the calculation of incentive payments under this section, including directions for excluding from the calculations certain closed cases and cases over which the States do not have jurisdiction.

"(f) REINVESTMENT.—A State to which a payment is made under this section shall expend the full amount of the payment to supplement, and not supplant, other funds used by the State—

"(1) to carry out the State plan approved under this part; or

"(2) for any activity (including cost-effective contracts with local agencies) approved by the Secretary, whether or not the expenditures for the activity are eligible for reimbursement under this part, which may contribute to improving the effectiveness or efficiency of the State program operated under this part.".

(b) TRANSITION RULE.—Notwithstanding any other provision of law—

(1) for fiscal year 2000, the Secretary shall reduce by ⅓ the amount otherwise payable to a State under section 458 of the Social Security Act, and shall reduce by ⅔ the amount otherwise payable to a State under section 458A of such Act; and

(2) for fiscal year 2001, the Secretary shall reduce by ⅔ the amount otherwise payable to a State under section 458 of the Social Security Act, and shall reduce by ⅓ the amount otherwise payable to a State under section 458A of such Act.

(c) REGULATIONS.—Within 9 months after the date of the enactment of this section, the Secretary of Health and Human Services shall prescribe regulations governing the implementation of section 458A of the Social Security Act when such section takes effect and the implementation of subsection (b) of this section.

(d) STUDIES.—

(1) GENERAL REVIEW OF NEW INCENTIVE PAYMENT SYSTEM.—

(A) IN GENERAL.—The Secretary of Health and Human Services shall conduct a study of the implementation of the incentive payment system established by section 458A of the Social Security Act, in order to identify the problems and successes of the system.

(B) REPORTS TO THE CONGRESS.—

(i) REPORT ON VARIATIONS IN STATE PERFORMANCE ATTRIBUTABLE TO DEMOGRAPHIC VARIABLES.—Not later than October 1, 2000, the Secretary shall submit to the Congress a report that identifies any demographic or economic variables that account for differences in the performance levels achieved by the States with respect to the performance measures used in the system, and contains the recommendations of the Secretary for such adjustments to the system *as may be necessary to ensure that the relative performance of States is measured from a baseline that takes account of any such variables.*

(ii) INTERIM REPORT.—Not later than March 1, 2001, the Secretary shall submit to the Congress an interim report that contains the findings of the study required by subparagraph (A).

(iii) FINAL REPORT.—Not later than October 1, 2003, the Secretary shall submit to the Congress a final report that contains the final findings of the study required by subparagraph (A). The report shall include any recommendations for changes in the system that the Secretary determines would improve the operation of the child support enforcement program.

(2) DEVELOPMENT OF MEDICAL SUPPORT INCENTIVE.—

(A) IN GENERAL.—The Secretary of Health and Human Services, in consultation with State directors of programs operated under part D of title IV of the Social Security Act and representatives of children potentially eligible for medical support, shall develop a performance measure based on the effectiveness of States in establishing and enforcing medical support obligations, and shall make recommendations for the incorporation of the measure, in a revenue neutral manner, into the incentive payment system established by section 458A of the Social Security Act.

(B) REPORT.—Not later than October 1, 1999, the Secretary shall submit to the Congress a report that describes the performance measure and contains the recommendations required by subparagraph (A).

(e) TECHNICAL AMENDMENTS.—

(1) IN GENERAL.—Section 341 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (42 U.S.C. 658 note) is amended—

(A) by striking subsection (a) and redesignating subsections (b), (c), and (d) as subsections (a), (b), and (c), respectively; and

(B) in subsection (c) (as so redesignated)—

(i) by striking paragraph (1) and inserting the following:

"(1) CONFORMING AMENDMENTS TO PRESENT SYSTEM.—The amendments made by subsection (a) of this section shall become effective with respect to a State as of the date the amendments made by section 103(a) (without regard to section 116(a)(2)) first apply to the State."; and

(ii) in paragraph (2), by striking "(c)" and inserting "(b)".

(2) EFFECTIVE DATE.—The amendments made by this subsection shall take effect as if included in the enactment of section 341 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

(f) ELIMINATION OF PREDECESSOR INCENTIVE PAYMENT SYSTEM.—

(1) REPEAL.—Section 458 of the Social Security Act (42 U.S.C. 658) is repealed.

(2) CONFORMING AMENDMENTS.—

(A) Section 458A of the Social Security Act, as added by section 201(a) of this Act, is redesignated as section 458.

(B) Section 455(a)(4)(C)(iii) of such Act (42 U.S.C. 655(a)(4)(C)(iii)), as added by section 101(a) of this Act, is amended—

(i) by striking "458A(b)(4)" and inserting "458(b)(4)";

(ii) by striking "458A(b)(6)" and inserting "458(b)(6)"; and

(iii) by striking "458A(b)(5)(B)" and inserting "458(b)(5)(B)".

(C) Subsection (d)(1) of this section is amended by striking "458A" and inserting "458".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on October 1, 2001.

(g) GENERAL EFFECTIVE DATE.—Except as otherwise provided in this section, the amendments made by this section shall take effect on October 1, 1999.

TITLE III—ADOPTION PROVISIONS

SEC. 301. MORE FLEXIBLE PENALTY PROCEDURE TO BE APPLIED FOR FAILING TO PERMIT INTERJURISDICTIONAL ADOPTION.

(a) CONVERSION OF FUNDING BAN INTO STATE PLAN REQUIREMENT.—Section 471(a) of the Social Security Act (42 U.S.C. 671(a)) is amended—

(1) by striking "and" at the end of paragraph (21);

(2) by striking the period at the end of paragraph (22) and inserting "; and"; and

(3) by adding at the end the following:

"(23) provides that the State shall not—

"(A) deny or delay the placement of a child for adoption when an approved family is available outside of the jurisdiction with responsibility for handling the case of the child; or

"(B) fail to grant an opportunity for a fair hearing, as described in paragraph (12), to an individual whose allegation of a violation of subparagraph (A) of this paragraph is denied by the State or not acted upon by the State with reasonable promptness.".

(b) PENALTY FOR NONCOMPLIANCE.—Section 474(d) of such Act (42 U.S.C. 674(d)) is amended in each of paragraphs (1) and (2) by striking "section 471(a)(18)" and inserting "paragraph (18) or (23) of section 471(a)".

(c) CONFORMING AMENDMENT.—Section 474 of such Act (42 U.S.C. 674) is amended by striking subsection (e).

(d) RETROACTIVITY.—The amendments made by this section shall take effect as if included in the enactment of section 202 of the Adoption and Safe Families Act of 1997 (Public Law 105–89; 111 Stat. 2125).

TITLE IV—MISCELLANEOUS

SEC. 401. ELIMINATION OF BARRIERS TO THE EFFECTIVE ESTABLISHMENT AND ENFORCEMENT OF MEDICAL CHILD SUPPORT.

(a) STUDY ON EFFECTIVENESS OF ENFORCEMENT OF MEDICAL SUPPORT BY STATE AGENCIES.—

(1) MEDICAL CHILD SUPPORT WORKING GROUP.—Within 60 days after the date of the enactment of this Act, the Secretary of Health and Human Services and the Secretary of Labor shall jointly establish a Medical Child Support Working Group. The purpose of the Working Group shall be to identify the impediments to the effective enforcement of medical support by State agencies administering the programs operated pursuant to part D of title IV of the Social Security Act.

(2) MEMBERSHIP.—The Working Group shall consist of not more than 30 members and shall be composed of representatives of—

(A) the Department of Labor;

(B) the Department of Health and Human Services;

(C) State directors of programs under part D of title IV of the Social Security Act;

(D) State directors of the medicaid program under title XIX of the Social Security Act;

(E) employers, including owners of small businesses and their trade or industry representatives and certified human resource and payroll professionals;

(F) plan administrators and plan sponsors of group health plans (as defined in section 607(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1167(1));

(G) children potentially eligible for medical support, such as child advocacy organizations;

(H) State medical child support programs; and

(I) organizations representing State child support programs.

(3) COMPENSATION.—The members shall serve without compensation.

(4) ADMINISTRATIVE SUPPORT.—The Department of Health and Human Services and the Department of Labor shall jointly provide appropriate administrative support to the Working Group, including technical assistance. The Working Group may use the services and facilities of either such Department, with or without reimbursement, as jointly determined by such Departments.

(5) REPORT.—

(A) REPORT BY WORKING GROUP TO THE SECRETARIES.—Not later than 18 months after the date of the enactment of this Act, the Working Group shall submit to the Secretary of Labor and the Secretary of Health and Human Services a report containing recommendations for appropriate measures to address the impediments to the effective enforcement of medical support by State agencies administering the programs operated pursuant to part D of title IV of the Social Security Act identified by the Working Group, including—

(i) recommendations based on assessments of the form and content of the National Medical Support Notice, as issued under interim regulations;

(ii) appropriate measures that establish the priority of withholding of child support obligations, medical support obligations, arrearages in such obligations, and, in the case of a medical support obligation, the employee's portion of any health care coverage premium, by such State agencies in light of the restrictions on garnishment provided under title III of the Consumer Credit Protection Act (15 U.S.C. 1671–1677);

(iii) appropriate procedures for coordinating the provision, enforcement, and transition of health care coverage under the State programs operated pursuant to part D of title IV of the Social Security Act and titles XIX and XXI of such Act;

(iv) appropriate measures to improve the availability of alternate types of medical support that are aside from health coverage offered through the noncustodial parent's health plan and unrelated to the noncustodial parent's employer, including measures that establish a noncustodial parent's responsibility to share the cost of premiums, copayments, deductibles, or payments for services not covered under a child's existing health coverage;

(v) recommendations on whether reasonable cost should remain a consideration under section 452(f) of the Social Security Act; and

(vi) appropriate measures for eliminating any other impediments to the effective enforcement of medical support orders that the Working Group deems necessary.

(B) REPORT BY SECRETARIES TO THE CONGRESS.—Not later than 2 months after receipt of the report pursuant to subparagraph (A), the Secretaries shall jointly submit a report to each House of the Congress regarding the recommendations contained in the report under subparagraph (A).

(6) TERMINATION.—The Working Group shall terminate 30 days after the date of the issuance of its report under paragraph (5).

(b) PROMULGATION OF NATIONAL MEDICAL SUPPORT NOTICE.—

(1) IN GENERAL.—The Secretary of Health and Human Services and the Secretary of Labor shall jointly develop and promulgate by regulation a National Medical Support Notice, to be issued by States as a means of enforcing the health care coverage provisions in a child support order.

(2) REQUIREMENTS.—The National Medical Support Notice shall—

(A) conform with the requirements which apply to medical child support orders under section 609(a)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1169(a)(3)) in connection with group health plans (subject to section 609(a)(4) of such Act), irrespective of whether the group health plan is covered under section 4 of such Act;

(B) conform with the requirements of part D of title IV of the Social Security Act; and

(C) include a separate and easily severable employer withholding notice, informing the employer of—

(i) applicable provisions of State law requiring the employer to withhold any employee contributions due under any group health plan in connection with coverage required to be provided under such order;

(ii) the duration of the withholding requirement;

(iii) the applicability of limitations on any such withholding under title III of the Consumer Credit Protection Act;

(iv) the applicability of any prioritization required under State law between amounts to be withheld for purposes of cash support and amounts to be withheld for purposes of medical support, in cases where available funds are insufficient for full withholding for both purposes; and

(v) the name and telephone number of the appropriate unit or division to contact at the State agency regarding the National Medical Support Notice.

(3) PROCEDURES.—The regulations promulgated pursuant to paragraph (1) shall include appropriate procedures for the transmission of the National Medical Support Notice to employers by State agencies administering the programs operated pursuant to part D of title IV of the Social Security Act.

(4) INTERIM REGULATIONS.—Not later than 10 months after the date of the enactment of this Act, the Secretaries shall issue interim regulations providing for the National Medical Support Notice.

(5) FINAL REGULATIONS.—Not later than 1 year after the issuance of the interim regulations under paragraph (4), the Secretary of Health and Human Services and the Secretary of Labor shall jointly issue final regulations providing for the National Medical Support Notice.

(c) REQUIRED USE BY STATES OF NATIONAL MEDICAL SUPPORT NOTICES.—

(1) STATE PROCEDURES.—Section 466(a)(19) of the Social Security Act (42 U.S.C. 666(a)(19)) is amended to read as follows:

"(19) HEALTH CARE COVERAGE.—Procedures under which—

"(A) effective as provided in section 401(c)(3) of the Child Support Performance and Incentive Act of 1998, all child support orders enforced pursuant to this part which include a provision for the health care coverage of the child are enforced, where appropriate, through the use of the National Medical Support Notice promulgated pursuant to section 401(b) of the Child Support Performance and Incentive Act of 1998 (and referred to in section 609(a)(5)(C) of the Employee Retirement Income Security Act of 1974 in connection with group health plans covered under title I of such Act, in section 401(e)(3)(C) of the Child Support Performance and Incentive Act of 1998 in connection with State or local group health plans, and in section 401(f)(5)(C) of such Act in connection with church group health plans);

"(B) unless alternative coverage is allowed for in any order of the court (or other entity issuing the child support order), in any case in which a noncustodial parent is required under the child support order to provide such health care coverage and the employer of such noncustodial parent is known to the State agency—

"(i) the State agency uses the National Medical Support Notice to transfer notice of the provision for the health care coverage of the child to the employer;

"(ii) within 20 business days after the date of the National Medical Support Notice, the employer is required to transfer the Notice, excluding the severable employer withholding notice described in section 401(b)(2)(C) of the Child Support Performance and Incentive Act of 1998, to the appropriate plan providing any such health care coverage for which the child is eligible;

"(iii) in any case in which the noncustodial parent is a newly hired employee entered in the State Directory of New Hires pursuant to section 453A(e), the State agency provides, where appropriate, the National Medical Support Notice, together with an income withholding notice issued pursuant to section 466(b), within 2 days after the date of the entry of such employee in such Directory; and

"(iv) in any case in which the employment of the noncustodial parent with any employer who has received a National Medical Support Notice is terminated, such employer is required to notify the State agency of such termination; and

"(C) any liability of the noncustodial parent to such plan for employee contributions which are required under such plan for enrollment of the child is effectively subject to appropriate enforcement, unless the noncustodial parent contests such enforcement based on a mistake of fact.".

(2) CONFORMING AMENDMENTS.—Section 452(f) of such Act (42 U.S.C. 652(f)) is amended in the first sentence—

(A) by striking "petition for the inclusion of" and inserting "include"; and

(B) by inserting "and enforce medical support" before "whenever".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall be effective with respect to periods beginning on or after the later of—

(A) October 1, 2001; or

(B) the effective date of laws enacted by the legislature of such State implementing such amendments,

but in no event later than the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the preceding sentence, in the case of a State that has a two-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

(d) NATIONAL MEDICAL SUPPORT NOTICE DEEMED UNDER ERISA A QUALIFIED MEDICAL CHILD SUPPORT ORDER.—Section 609(a)(5) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1169(a)(5)) is amended by adding at the end the following:

"(C) NATIONAL MEDICAL SUPPORT NOTICE DEEMED TO BE A QUALIFIED MEDICAL CHILD SUPPORT ORDER.—

"(i) IN GENERAL.—If the plan administrator of a group health plan which is maintained by the employer of a noncustodial parent of a child or to which such an employer contributes receives an appropriately completed National Medical Support Notice promulgated pursuant to section 401(b) of the Child Support Performance and Incentive Act of 1998 in the case of such child, and the Notice meets the requirements of paragraphs (3) and (4), the Notice shall be deemed to be a qualified medical child support order in the case of such child.

"(ii) ENROLLMENT OF CHILD IN PLAN.—In any case in which an appropriately completed National Medical Support Notice is issued in the case of a child of a participant under a group health plan who is a noncustodial parent of the child, and the Notice is deemed under clause (i) to be a qualified medical child support order, the plan administrator, within 40 business days after the date of the Notice, shall—

"(I) notify the State agency issuing the Notice with respect to such child whether coverage of the child is available under the terms of the plan and, if so, whether such child is covered under the plan and either the effective date of the coverage or, if necessary, any steps to be taken by the custodial parent (or by the official of a State or political subdivision thereof substituted for the name of such child pursuant to paragraph (3)(A)) to effectuate the coverage; and

"(II) provide to the custodial parent (or such substituted official) a description of the coverage available and any forms or documents necessary to effectuate such coverage.

"(iii) RULE OF CONSTRUCTION.—Nothing in this subparagraph shall be construed as requiring a group health plan, upon receipt of a National Medical Support Notice, to provide benefits under the plan (or eligibility for such benefits) in addition to benefits (or eligibility for benefits) provided under the terms of the plan as of immediately before receipt of such Notice.".

(e) NATIONAL MEDICAL SUPPORT NOTICES FOR STATE OR LOCAL GOVERNMENTAL GROUP HEALTH PLANS.—

(1) IN GENERAL.—Each State or local governmental group health plan shall provide benefits in accordance with the applicable requirements of any National Medical Support Notice.

(2) ENROLLMENT OF CHILD IN PLAN.—In any case in which an appropriately completed National Medical Support Notice is issued in the case of a child of a participant under a State or local governmental group health plan who is a noncustodial parent of the child, the plan administrator, within 40 business days after the date of the Notice, shall—

(A) notify the State agency issuing the Notice with respect to such child whether coverage of the child is available under the terms of the plan and, if so, whether such child is covered under the plan and either the effective date of the coverage or any steps necessary to be taken by the custodial parent (or by any official of a State or political subdivision thereof substituted in the Notice for the name of such child in accordance with procedures appliable under subsection (b)(2) of this section) to effectuate the coverage; and

(B) provide to the custodial parent (or such substituted official) a description of the coverage available and any forms or documents necessary to effectuate such coverage.

(3) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed as requiring a State or local governmental group health plan, upon receipt of a National Medical Support Notice, to provide benefits under the plan (or eligibility for such benefits) in addition to benefits (or eligibility for benefits) provided under the terms of the plan as of immediately before receipt of such Notice.

(4) DEFINITIONS.—For purposes of this subsection—

(A) STATE OR LOCAL GOVERNMENTAL GROUP HEALTH PLAN.—The term "State or local governmental group health plan" means a group health plan which is established or maintained for its employees by the government of any State, any political subdivision of a State, or any agency or instrumentality of either of the foregoing.

(B) ALTERNATE RECIPIENT.—The term "alternate recipient" means any child of a participant who is recognized under a National Medical Support Notice as having a right to enrollment under a State or local governmental group health plan with respect to such participant.

(C) GROUP HEALTH PLAN.—The term "group health plan" has the meaning provided in section 607(1) of the Employee Retirement Income Security Act of 1974.

(D) STATE.—The term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa.

(E) OTHER TERMS.—The terms "participant" and "administrator" shall have the meanings

provided such terms, respectively, by paragraphs (7) and (16) of section 3 of the Employee Retirement Income Security Act of 1974.

(5) EFFECTIVE DATE.—The provisions of this subsection shall take effect on the date of the issuance of interim regulations pursuant to subsection (b)(4) of this section.

(f) QUALIFIED MEDICAL CHILD SUPPORT ORDERS AND NATIONAL MEDICAL SUPPORT NOTICES FOR CHURCH PLANS.—

(1) IN GENERAL.—Each church group health plan shall provide benefits in accordance with the applicable requirements of any qualified medical child support order. A qualified medical child support order with respect to any participant or beneficiary shall be deemed to apply to each such group health plan which has received such order, from which the participant or beneficiary is eligible to receive benefits, and with respect to which the requirements of paragraph (4) are met.

(2) DEFINITIONS.—For purposes of this subsection—

(A) CHURCH GROUP HEALTH PLAN.—The term "church group health plan" means a group health plan which is a church plan.

(B) QUALIFIED MEDICAL CHILD SUPPORT ORDER.—The term "qualified medical child support order" means a medical child support order—

(i) which creates or recognizes the existence of an alternate recipient's right to, or assigns to an alternate recipient the right to, receive benefits for which a participant or beneficiary is eligible under a church group health plan; and

(ii) with respect to which the requirements of paragraphs (3) and (4) are met.

(C) MEDICAL CHILD SUPPORT ORDER.—The term "medical child support order" means any judgment, decree, or order (including approval of a settlement agreement) which—

(i) provides for child support with respect to a child of a participant under a church group health plan or provides for health benefit coverage to such a child, is made pursuant to a State domestic relations law (including a community property law), and relates to benefits under such plan; or

(ii) is made pursuant to a law relating to medical child support described in section 1908 of the Social Security Act (as added by section 13822 of the Omnibus Budget Reconciliation Act of 1993) with respect to a church group health plan,

if such judgment, decree, or order (I) is issued by a court of competent jurisdiction or (II) is issued through an administrative process established under State law and has the force and effect of law under applicable State law. For purposes of this paragraph, an administrative notice which is issued pursuant to an administrative process referred to in subclause (II) of the preceding sentence and which has the effect of an order described in clause (i) or (ii) of the preceding sentence shall be treated as such an order.

(D) ALTERNATE RECIPIENT.—The term "alternate recipient" means any child of a participant who is recognized under a medical child support order as having a right to enrollment under a church group health plan with respect to such participant.

(E) GROUP HEALTH PLAN.—The term "group health plan" has the meaning provided in section 607(1) of the Employee Retirement Income Security Act of 1974.

(F) STATE.—The term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa.

(G) OTHER TERMS.—The terms "participant", "beneficiary", "administrator", and "church plan" shall have the meanings provided such terms, respectively, by paragraphs (7), (8), (16), and (33) of section 3 of the Employee Retirement Income Security Act of 1974.

(3) INFORMATION TO BE INCLUDED IN QUALIFIED ORDER.—A medical child support order meets the requirements of this paragraph only if such order clearly specifies—

(A) the name and the last known mailing address (if any) of the participant and the name and mailing address of each alternate recipient covered by the order, except that, to the extent provided in the order, the name and mailing address of an official of a State or a political subdivision thereof may be substituted for the mailing address of any such alternate recipient;

(B) a reasonable description of the type of coverage to be provided to each such alternate recipient, or the manner in which such type of coverage is to be determined; and

(C) the period to which such order applies.

(4) RESTRICTION ON NEW TYPES OR FORMS OF BENEFITS.—A medical child support order meets the requirements of this paragraph only if such order does not require a church group health plan to provide any type or form of benefit, or any option, not otherwise provided under the plan, except to the extent necessary to meet the requirements of a law relating to medical child support described in section 1908 of the Social Security Act (as added by section 13822 of the Omnibus Budget Reconciliation Act of 1993).

(5) PROCEDURAL REQUIREMENTS.—

(A) TIMELY NOTIFICATIONS AND DETERMINATIONS.—In the case of any medical child support order received by a church group health plan—

(i) the plan administrator shall promptly notify the participant and each alternate recipient of the receipt of such order and the plan's procedures for determining whether medical child support orders are qualified medical child support orders; and

(ii) within a reasonable period after receipt of such order, the plan administrator shall determine whether such order is a qualified medical child support order and notify the participant and each alternate recipient of such determination.

(B) ESTABLISHMENT OF PROCEDURES FOR DETERMINING QUALIFIED STATUS OF ORDERS.—Each church group health plan shall establish reasonable procedures to determine whether medical child support orders are qualified medical child support orders and to administer the provision of benefits under such qualified orders. Such procedures—

(i) shall be in writing;

(ii) shall provide for the notification of each person specified in a medical child support order as eligible to receive benefits under the plan (at the address included in the medical child support order) of such procedures promptly upon receipt by the plan of the medical child support order; and

(iii) shall permit an alternate recipient to designate a representative for receipt of copies of notices that are sent to the alternate recipient with respect to a medical child support order.

(C) NATIONAL MEDICAL SUPPORT NOTICE DEEMED TO BE A QUALIFIED MEDICAL CHILD SUPPORT ORDER.—

(i) IN GENERAL.—If the plan administrator of any church group health plan which is maintained by the employer of a noncustodial parent of a child or to which such an employer contributes receives an appropriately completed National Medical Support Notice promulgated pursuant to subsection (b) of this section in the case of such child, and the Notice meets the requirements of paragraphs (3) and (4) of this subsection, the Notice shall be deemed to be a qualified medical child support order in the case of such child.

(ii) ENROLLMENT OF CHILD IN PLAN.—In any case in which an appropriately completed National Medical Support Notice is issued in the case of a child of a participant under a church group health plan who is a noncustodial parent of the child, and the Notice is deemed under clause (i) to be a qualified medical child support order, the plan administrator, within 40 business days after the date of the Notice, shall—

(I) notify the State agency issuing the Notice with respect to such child whether coverage of the child is available under the terms of the plan and, if so, whether such child is covered under the plan and either the effective date of the coverage or any steps necessary to be taken by the custodial parent (or by the official of a State or political subdivision thereof substituted for the name of such child pursuant to paragraph (3)(A)) to effectuate the coverage; and

(II) provide to the custodial parent (or such substituted official) a description of the coverage available and any forms or documents necessary to effectuate such coverage.

(iii) RULE OF CONSTRUCTION.—Nothing in this subparagraph shall be construed as requiring a church group health plan, upon receipt of a National Medical Support Notice, to provide benefits under the plan (or eligibility for such benefits) in addition to benefits (or eligibility for benefits) provided under the terms of the plan as of immediately before receipt of such Notice.

(6) DIRECT PROVISION OF BENEFITS PROVIDED TO ALTERNATE RECIPIENTS.—Any payment for benefits made by a church group health plan pursuant to a medical child support order in reimbursement for expenses paid by an alternate recipient or an alternate recipient's custodial parent or legal guardian shall be made to the alternate recipient or the alternate recipient's custodial parent or legal guardian.

(7) PAYMENT TO STATE OFFICIAL TREATED AS SATISFACTION OF PLAN'S OBLIGATION TO MAKE PAYMENT TO ALTERNATE RECIPIENT.—Payment of benefits by a church group health plan to an official of a State or a political subdivision thereof whose name and address have been substituted for the address of an alternate recipient in a medical child support order, pursuant to paragraph (3)(A), shall be treated, for purposes of this subsection and part D of title IV of the Social Security Act, as payment of benefits to the alternate recipient.

(8) EFFECTIVE DATE.—The provisions of this subsection shall take effect on the date of the issuance of interim regulations pursuant to subsection (b)(4) of this section.

(g) REPORT AND RECOMMENDATIONS REGARDING THE ENFORCEMENT OF QUALIFIED MEDICAL CHILD SUPPORT ORDERS.—Not later than 8 months after the issuance of the report to the Congress pursuant to subsection (a)(5), the Secretary of Health and Human Services and the Secretary of Labor shall jointly submit to each House of the Congress a report containing recommendations for appropriate legislation to improve the effectiveness of, and enforcement of, qualified medical child support orders under the provisions of subsection (f) of this section and section 609(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1169(a)).

(h) TECHNICAL CORRECTIONS.—

(1) AMENDMENT RELATING TO PUBLIC LAW 104-266.—

(A) IN GENERAL.—Subsection (f) of section 101 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1021(f)) is repealed.

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall take effect as if included in the enactment of the Act entitled "An Act to repeal the Medicare and Medicaid Coverage Data Bank", approved October 2, 1996 (Public Law 104-226; 110 Stat. 3033).

(2) AMENDMENTS RELATING TO PUBLIC LAW 103-66.—

(A) IN GENERAL.—(i) Section 4301(c)(4)(A) of the Omnibus Budget Reconciliation Act of 1993 (Public Law 103-66; 107 Stat. 377) is amended by

striking "subsection (b)(7)(D)" and inserting "subsection (b)(7)".

(ii) Section 514(b)(7) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144(b)(7)) is amended by striking "enforced by" and inserting "they apply to".

(iii) Section 609(a)(2)(B)(ii) of such Act (29 U.S.C. 1169(a)(2)(B)(ii)) is amended by striking "enforces" and inserting "is made pursuant to".

(B) CHILD DEFINED.—Section 609(a)(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1169(a)(2)) is amended by adding at the end the following:

"(D) CHILD.—The term 'child' includes any child adopted by, or placed for adoption with, a participant of a group health plan.".

(C) EFFECTIVE DATE.—The amendments made by subparagraph (A) shall be effective as if included in the enactment of section 4301(c)(4)(A) of the Omnibus Budget Reconciliation Act of 1993.

(3) AMENDMENT RELATED TO PUBLIC LAW 105-33.—

(A) IN GENERAL.—Section 609(a)(9) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1169(a)(9)) is amended by striking "the name and address" and inserting "the address".

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall be effective as if included in the enactment of section 5611(b) of the Balanced Budget Act of 1997.

SEC. 402. SAFEGUARD OF NEW EMPLOYEE INFORMATION.

(a) PENALTY FOR UNAUTHORIZED ACCESS, DISCLOSURE, OR USE OF INFORMATION.—Section 453(l) of the Social Security Act (42 U.S.C. 653(l)) is amended—

(1) by striking "Information" and inserting the following:

"(1) IN GENERAL.—Information"; and

(2) by adding at the end the following:

"(2) PENALTY FOR MISUSE OF INFORMATION IN THE NATIONAL DIRECTORY OF NEW HIRES.—The Secretary shall require the imposition of an administrative penalty (up to and including dismissal from employment), and a fine of $1,000, for each act of unauthorized access to, disclosure of, or use of, information in the National Directory of New Hires established under subsection (i) by any officer or employee of the United States who knowingly and willfully violates this paragraph.".

(b) LIMITS ON RETENTION OF DATA IN THE NATIONAL DIRECTORY OF NEW HIRES.—Section 453(i)(2) of such Act (42 U.S.C. 653(i)(2)) is amended to read as follows:

"(2) DATA ENTRY AND DELETION REQUIREMENTS.—

"(A) IN GENERAL.—Information provided pursuant to section 453A(g)(2) shall be entered into the data base maintained by the National Directory of New Hires within 2 business days after receipt, and shall be deleted from the data base 24 months after the date of entry.

"(B) 12-MONTH LIMIT ON ACCESS TO WAGE AND UNEMPLOYMENT COMPENSATION INFORMATION.—The Secretary shall not have access for child support enforcement purposes to information in the National Directory of New Hires that is provided pursuant to section 453A(g)(2)(B), if 12 months has elapsed since the date the information is so provided and there has not been a match resulting from the use of such information in any information comparison under this subsection.

"(C) RETENTION OF DATA FOR RESEARCH PURPOSES.—Notwithstanding subparagraphs (A) and (B), the Secretary may retain such samples of data entered in the National Directory of New Hires as the Secretary may find necessary to assist in carrying out subsection (j)(5).".

(c) NOTICE OF PURPOSES FOR WHICH WAGE AND SALARY DATA ARE TO BE USED.—Within 90 days after the date of the enactment of this Act, the Secretary of Health and Human Services shall notify the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate of the specific purposes for which the new hire and the wage and unemployment compensation information in the National Directory of New Hires is to be used. At least 30 days before such information is to be used for a purpose not specified in the notice provided pursuant to the preceding sentence, the Secretary shall notify the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate of such purpose.

(d) REPORT BY THE SECRETARY.—Within 3 years after the date of the enactment of this Act, the Secretary of Health and Human Services shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the accuracy of the data maintained by the National Directory of New Hires pursuant to section 453(i) of the Social Security Act, and the effectiveness of the procedures designed to provide for the security of such data.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2000.

SEC. 403. LIMITATIONS ON USE OF TANF FUNDS FOR MATCHING UNDER CERTAIN FEDERAL TRANSPORTATION PROGRAM.

(a) IN GENERAL.—Section 404 of the Social Security Act (42 U.S.C. 604) is amended by adding at the end the following:

"(k) LIMITATIONS ON USE OF GRANT FOR MATCHING UNDER CERTAIN FEDERAL TRANSPORTATION PROGRAM.—

"(1) USE LIMITATIONS.—A State to which a grant is made under section 403 may not use any part of the grant to match funds made available under section 3037 of the Transportation Equity for the 21st Century Act of 1998, unless—

"(A) the grant is used for new or expanded transportation services (and not for construction) that benefit individuals described in subparagraph (C), and not to subsidize current operating costs;

"(B) the grant is used to supplement and not supplant other State expenditures on transportation;

"(C) the preponderance of the benefits derived from such use of the grant accrues to individuals who are—

"(i) recipients of assistance under the State program funded under this part;

"(ii) former recipients of such assistance;

"(iii) noncustodial parents who are described in item (aa) or (bb) of section 403(a)(5)(C)(ii)(II); and

"(iv) low income individuals who are at risk of qualifying for such assistance; and

"(D) the services provided through such use of the grant promote the ability of such recipients to engage in work activities (as defined in section 407(d)).

"(2) AMOUNT LIMITATION.—From a grant made to a State under section 403(a), the amount that a State uses to match funds described in paragraph (1) of this subsection shall not exceed the amount (if any) by which 30 percent of the total amount of the grant exceeds the amount (if any) of the grant that is used by the State to carry out any State program described in subsection (d)(1) of this section.

"(3) RULE OF INTERPRETATION.—The provision by a State of a transportation benefit under a program conducted under section 3037 of the Transportation Equity for the 21st Century Act of 1998, to an individual who is not otherwise a recipient of assistance under the State program funded under this part, using funds from a grant made under section 403(a) of this Act, shall not be considered to be the provision of assistance to the individual under the State program funded under this part.".

(b) REPORT TO THE CONGRESS.—Not later than 2 years after the date of the enactment of this Act, the Secretary of Transportation, in consultation with the Secretary of Health and Human Services, shall submit to the Committees on Ways and Means and on Transportation and Infrastructure of the House of Representatives and the Committees on Finance and on Environment and Public Works of the Senate a report that—

(1) describes the manner in which funds made available under section 3037 of the Transportation Equity for the 21st Century Act of 1998 have been used;

(2) describes whether such uses of such funds has improved transportation services for low income individuals; and

(3) contains such other relevant information as may be appropriate.

SEC. 404. CLARIFICATION OF MEANING OF HIGH-VOLUME AUTOMATED ADMINISTRATIVE ENFORCEMENT OF CHILD SUPPORT IN INTERSTATE CASES.

(a) IN GENERAL.—Section 466(a)(14)(B) of the Social Security Act (42 U.S.C. 666(a)(14)(B)) is amended to read as follows:

"(B) HIGH-VOLUME AUTOMATED ADMINISTRATIVE ENFORCEMENT.—In this part, the term 'high-volume automated administrative enforcement', in interstate cases, means, on request of another State, the identification by a State, through automated data matches with financial institutions and other entities where assets may be found, of assets owned by persons who owe child support in other States, and the seizure of such assets by the State, through levy or other appropriate processes.".

(b) RETROACTIVITY.—The amendment made by subsection (a) shall take effect as if included in the enactment of section 5550 of the Balanced Budget Act of 1997 (Public Law 105-33; 111 Stat. 633).

SEC. 405. GENERAL ACCOUNTING OFFICE REPORTS.

(a) REPORT ON FEASIBILITY OF INSTANT CHECK SYSTEM.—Not later than December 31, 1998, the Comptroller General of the United States shall report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives on the feasibility and cost of creating and maintaining a nationwide instant child support order check system under which an employer would be able to determine whether a newly hired employee is required to provide support under a child support order.

(b) REPORT ON IMPLEMENTATION AND USE OF CHILD SUPPORT DATABASES.—Not later than December 31, 1998, the Comptroller General of the United States shall report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives on the implementation of the Federal Parent Locater Service (including the Federal Case Registry of Child Support Orders and the National Directory of New Hires) established under section 453 of the Social Security Act (42 U.S.C. 653) and the State Directory of New Hires established under section 453A of such Act (42 U.S.C. 653a). The report shall include a detailed discussion of the purposes for which, and the manner in which, the information maintained in such databases has been used, and an examination as. to whether such databases are subject to adequate safeguards to protect the privacy of the individuals with respect to whom information is reported and maintained.

SEC. 406. DATA MATCHING BY MULTISTATE FINANCIAL INSTITUTIONS.

(a) USE OF FEDERAL PARENT LOCATOR SERVICE.—Section 466(a)(17)(A)(i) of the Social Security Act (42 U.S.C. 666(a)(17)(A)(i)) is amended *by inserting "and the Federal Parent Locator Service in the case of financial institutions doing business in 2 or more States," before "a data match system".*

(b) FACILITATION OF AGREEMENTS.—Section 452 of such Act (42 U.S.C. 652) is amended by adding at the end the following:

"(l) The Secretary, through the Federal Parent Locator Service, may aid State agencies providing services under State programs operated pursuant to this part and financial institutions doing business in 2 or more States in reaching agreements regarding the receipt from such institutions, and the transfer to the State agencies, of information that may be provided pursuant to section 466(a)(17)(A)(i), except that any State that, as of the date of the enactment of this subsection, is conducting data matches pursuant to section 466(a)(17)(A)(i) shall have until January 1, 2000, to allow the Secretary to obtain such information from such institutions that are operating in the State. For purposes of section 1113(d) of the Right to Financial Privacy Act of 1978, a disclosure pursuant to this subsection shall be considered a disclosure pursuant to a Federal statute.".

(c) PROTECTION AGAINST LIABILITY.—Section 469A(a) of such Act (42 U.S.C. 669a(a)) is amended by inserting ", or for disclosing any such record to the Federal Parent Locator Service pursuant to section 466(a)(17)(A)" before the period.

SEC. 407. ELIMINATION OF UNNECESSARY DATA REPORTING.

(a) IN GENERAL.—Section 469 of the Social Security Act (42 U.S.C. 669) is amended—

(1) by striking all that precedes subsection (c) and inserting the following:

"SEC. 469. COLLECTION AND REPORTING OF CHILD SUPPORT ENFORCEMENT DATA.

"(a) IN GENERAL.—With respect to each type of service described in subsection (b), the Secretary shall collect and maintain up-to-date statistics, by State, and on a fiscal year basis, on—

"(1) the number of cases in the caseload of the State agency administering the plan approved under this part in which the service is needed; and

"(2) the number of such cases in which the service has actually been provided.

"(b) TYPES OF SERVICES.—The statistics required by subsection (a) shall be separately stated with respect to paternity establishment services and child support obligation establishment services.

"(c) TYPES OF SERVICE RECIPIENTS.—The statistics required by subsection (a) shall be separately stated with respect to—

"(1) recipients of assistance under a State program funded under part A or of payments or services under a State plan approved under part E; and

"(2) individuals who are not such recipients."; and

(2) in subsection (c), by striking "(c)" and inserting "(d) RULE OF INTERPRETATION.—".

(b) CONFORMING AMENDMENT.—Section 452(a)(10) of such Act (42 U.S.C. 652(a)(10)) is amended—

(1) by adding "and" at the end of subparagraph (H); and

(2) by striking subparagraph (I) and redesignating subparagraph (J) as subparagraph (I).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to information maintained with respect to fiscal year 1995 or any succeeding fiscal year.

SEC. 408. CLARIFICATION OF ELIGIBILITY UNDER WELFARE-TO-WORK PROGRAMS.

Section 403(a)(5)(C)(ii) of the Social Security Act (42 U.S.C. 603(a)(5)(C)(ii)) is amended—

(1) in the matter preceding subclause (I) by striking "of minors whose custodial parent is such a recipient";

(2) in subclause (I), by inserting "or the noncustodial parent" after "recipient"; and

(3) in subclause (II), by striking "The individual—" and inserting "The recipient or the minor children of the noncustodial parent—".

SEC. 409. STUDY OF FEASIBILITY OF IMPLEMENTING IMMIGRATION PROVISIONS OF H.R. 3130, AS PASSED BY THE HOUSE OF REPRESENTATIVES ON MARCH 5, 1998.

(a) STUDY.—The Secretary of Health and Human Services, in consultation with the Immigration and Naturalization Service, shall conduct a study to determine the feasibility of the provisions of title V of H.R. 3130, as passed by the House of Representatives on March 5, 1998, were such provisions to become law, especially whether it would be feasible for the Immigration and Naturalization Service to implement effectively the requirements of such provisions.

(b) REPORT TO THE CONGRESS.—Within 6 months after the date of the enactment of this Act, the Secretary of health and Human Services shall submit to the Committees on Ways and Means and on the Judiciary of the House of Representatives and the Committees on Finance and on the Judiciary of the Senate a report on the results of the study required by subsection (a).

SEC. 410. TECHNICAL CORRECTIONS.

(a) Section 413(g)(1) of the Social Security Act (42 U.S.C. 613(g)(1)) is amended by striking "Economic and Educational Opportunities" and inserting "Education and the Workforce".

(b) Section 422(b)(2) of the Social Security Act (42 U.S.C. 622(b)(2)) is amended by striking "under under" and inserting "under".

(c) Section 432(a)(8) of the Social Security Act (42 U.S.C. 632(a)(8)) is amended by adding "; and" at the end.

(d) Section 453(a)(2) of the Social Security Act (42 U.S.C. 653(a)(2)) is amended—

(1) by striking "parentage," and inserting "parentage or";

(2) by striking "or making or enforcing child custody or visitation orders,"; and

(3) in subparagraph (A), by decreasing the indentation of clause (iv) by 2 ems.

(e)(1) Section 5557(b) of the Balanced Budget Act of 1997 (42 U.S.C. 608 note) is amended by adding at the end the following: "The amendment made by section 5536(1)(A) shall not take effect with respect to a State until October 1, 2000, or such earlier date as the State may select.".

(2) The amendment made by paragraph (1) shall take effect as if included in the enactment of section 5557 of the Balanced Budget Act of 1997 (Public Law 105–33; 111 Stat. 637).

(f) Section 473A(c)(2)(B) of the Social Security Act (42 U.S.C. 673b(c)(2)(B)) is amended—

(1) by striking "November 30, 1997" and inserting "April 30, 1998"; and

(2) by striking "March 1, 1998" and inserting "July 1, 1998".

(g) Section 474(a) of the Social Security Act (42 U.S.C. 674(a)) is amended by striking "(subject to the limitations imposed by subsection (b))".

(h) Section 232 of the Social Security Act Amendments of 1994 (42 U.S.C. 1314a) is amended—

(1) in subsection (b)(3)(D), by striking "Energy and"; and

(2) in subsection (d)(4), by striking "(b)(3)(C)" and inserting "(b)(3)".

In lieu of the matter proposed to be inserted by the Senate amendment to the title of the bill, insert the following: "An Act to provide for an alternative penalty procedure for States that fail to meet Federal child support data processing requirements, to reform Federal incentive payments for effective child support performance, to provide for a more flexible penalty procedure for States that violate interjurisdictional adoption requirements, and for other purposes.".

Mr. ROTH. Mr. President, I rise in support of "The Child Support Performance and Incentive Act of 1998" now before the Senate as amended and urge its immediate adoption.

Today we take another important step forward to help millions of children receive the financial and medical support owed to them by their absent parents. The child support enforcement system involves not only the federal, state, and local governments, but employers, financial institutions, and private sector agents and vendors as well.

By continuing to improve the child support enforcement system, we will help families avoid and escape welfare dependency.

Mr. President, when Congress passed welfare reform nearly two years ago, we sent a clear and unambiguous message that child support is indeed a personal responsibility. It has been with quiet determination that Republican and Democratic members have found common ground and worked together to strengthen and improve the child support enforcement system. The legislation before us today is directed at fulfilling the responsibilities of the states.

The work on this legislation began shortly after the "Personal Responsibility and Work Opportunity Reconciliation Act of 1996" was signed into law.

The 1996 welfare reform act required the Secretary of Health and Human Services to recommend to Congress a new, budget-neutral performance-based incentive system for the child support enforcement program. H.R. 3130 incorporates those recommendations which were developed in consultation with 26 representatives of State and local child support enforcement systems. The new incentive program is the centerpiece of this bill.

Under current law, the Federal Government returns more than $400 million per year in child support collections to the States as incentive payments. But this incentive structure has been criticized for years as weak and inadequate.

All States, regardless of actual performance, receive some incentive payments. But for more than a decade, performance has not been tied to the national goals of the program.

H.R. 3130 breaks the past and creates five categories in which State performance will be evaluated and rewarded. The States will be measured according to their performance in paternity establishment, establishment of court orders, collections of current child support payments, collections on past due payments, and cost effectiveness.

The new incentive structure is an important development not only for the child support enforcement system but also as a model for improving accountability and performance in government.

The second major feature of this bill is to provide for an alternative penalty procedure for those States that have failed to meet Federal child support data processing requirements. Less than half of the States have been certified as in compliance. Without this change, States face not only the loss of their entire child support grant, but all of their funds in the Temporary Assistance for Needy Families program as well.

Such a result would obviously be crippling to a State and would ultimately hurt the very families these programs are intended to help. H.R. 3130 provides for a new mechanism under which HHS and the States will map out a strategic plan to meet the Federal requirements. States which do not achieve compliance will face tough but fair penalties.

The alternative penalty procedure is a new tool for both the State and Federal Governments to achieve compliance with Federal requirements in the child support enforcement system. It is not intended to be a means of raising revenue at the expense of the State and potentially at the expense of the very families who rely on this system.

H.R. 3130 also provides additional flexibility to the States in how they design their automated systems. In looking back over the history of automation, we find there were a number of mistakes made at both the Federal and State levels which contributed to the delay in getting these systems operational. The child support enforcement system is a prime example of what can happen when regulations fail to keep pace with real world practices.

H.R. 3130 recognizes the advances in technologies and allows States to take advantage of these improvements. It properly refocuses Federal policy on function and results rather than on rigid rules.

All of these changes will work together to get the States in compliance as quickly as possible. This will mean the child support enforcement system will work better for the families who depend on child support.

Working with the States and employers, a bipartisan effort has yielded a three part approach to eliminate barriers to effective medical support enforcement. More children will no doubt gain access to their noncustodial parents' private health insurance plans because of H.R. 3130. Children and taxpayers alike will benefit from the medical child support provisions.

H.R. 3130 also makes a correction in how penalties are applied under the new "Adoption and Safe Families Act of 1997" which became law last November. It is vitally important that the States be held accountable for assisting the children in foster care.

When Congress passed this legislation last fall, it sent an important message across the country that a child should not be denied the opportunity to be adopted into a loving and caring family simply because the prospective parents live in the next county. The intent of section 202, "Adoptions Across State and County Jurisdictions" is to ensure that States facilitate timely permanent placements for children so their wait in foster care be brief.

A child should not be denied the opportunity to be adopted into a loving and caring family simply because the prospective parents live in the next county.

The intent of P.L. 105-89 clearly is to remove interjurisdictional barriers to adoption. I am deeply concerned about recent reports that some States may in fact be erecting new barriers to families who are seeking to adopt. There are some disturbing reports that some States may be engaging in policies or practices that could create interjurisdictional barriers to adoption such as discontinuance of the registration of waiting families with adoption exchanges outside the State, refusal to share home studies across State lines, and refusal to respond to out-of-State inquiries.

The Secretary should closely monitor any change in State policy or practice which discourages families from seeking to adopt children and take appropriate action if a State is not complying with the law. When the Department of Health and Human Services issues regulations on how the new penalties are enforced, it should of course provide the States with the opportunity to present evidence of how it complies with the new law. The review of this new requirement must be a fair and complete assessment of whether the law is being met.

Mr. President, this is indeed an important, bipartisan bill which will prove itself to pay dividends for Americans' families. I urge its adoption.

I ask unanimous consent that a legislative history be printed in the RECORD to reflect the Senate and House action on H.R. 3130. While there is a cost of $2,009 associated with printing this material, in the RECORD, it is important that our action be clearly explained. Furthermore, this history is in lieu of a conference report which would have been printed in the RECORD, so there is really no additional cost to the taxpayer.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

LEGISLATIVE HISTORY OF SENATE AND HOUSE AMENDMENTS TO THE CHILD SUPPORT PERFORMANCE AND INCENTIVE ACT OF 1998

TITLE I. CHILD SUPPORT DATA PROCESSING REQUIREMENTS

SEC. 101. ALTERNATIVE PENALTY PROCEDURES

1. Eligibility for alternative penalty procedure

Present law

No provision. Under current law, if a State failed to implement a statewide automated data processing and information retrieval system by October 1, 1997 (which is a child support enforcement State plan requirement), the Office of Child Support Enforcement is required to "disapprove" the State's child support enforcement plan, after an appeals process, and suspend federal funding for the State's child support enforcement program. Moreover, pursuant to title IV-A (Temporary Assistance for Needy Families; TANF), a State that cannot certify that it has an approved Child Support Enforcement plan when it amends its TANF plan (generally every 2 years), is not eligible for TANF block grant funding. Thus, a State that failed to implement a statewide automated data processing and information retrieval system is in eventual jeopardy of losing its TANF block grant allocation along with its federal Chief Support Enforcement funding.

House bill

If the Secretary determines that a State is making good faith efforts to comply with the data processing requirements and if the State submits a corrective compliance plan describing how it will comply, by when, and at what cost, the State may avoid the penalty in current law and qualify for the new penalty procedure outlined below.

Senate amendment

Same.

Agreement

The agreement follows the House bill and the Senate amendment.

2. Penalty amount

Present law

As noted above, the penalty for noncompliance with a Child Support Enforcement State plan requirement is loss of all federal Child Support Enforcement funding and all TANF funding as well.

House bill

The percentage penalty is 4 percent, 8 percent, 16 percent, and 20 percent respectively for the first, second, third, and fourth or subsequent years of failing to comply with the data processing requirements. The percentage penalty is applied to the amount payable to the State in the previous year as Federal administrative reimbursement under the child support program.

Senate amendment

Same as House bill, except in the fourth or subsequent year, the percentage penalty is 30 percent.

Agreement

The agreement follows the House bill and the Senate amendment with the modification that the percentage penalty is 4, 8, 16, 25, and 30 percent in the first through fifth and subsequent years respectively.

3. Penalty waiver

Present law

No provision.

House bill

If by December 31, 1997, a State has submitted to the Secretary a request that the Secretary certify the State as meeting the 1998 data processing requirements and is subsequently certified as a result of a review pursuant to the request, all penalties are waived.

Senate amendment

If at any time during year 1998, a State has submitted to the Secretary a request that the Secretary certify the State as having met the 1988 data processing requirement and is subsequently certified as a result of a review pursuant to the request, all penalties are waived.

Agreement

The agreement follows the House bill and the Senate amendment except the State request that the Secretary certify the state as meeting the 1988 data processing requirements must be submitted by August 1, 1998.

4. Partial Penalty Forgiveness

Present law

No provision.

House bill

If a State operating under the penalty procedure achieves compliance with the data processing requirements before the first day of the next fiscal year, then the penalty for the current fiscal year is reduced by 75 percent.

Senate amendment

Under the Senate amendment, States will not face a penalty in the fiscal year in which they come into compliance. Moreover, if a State comes into compliance within the first two years after penalties have been imposed, then the penalty from the prior fiscal year is reduced by 20 percent.

Agreement

The agreement follows the House bill and the Senate amendment with the modifications that there is no retrospective penalty reduction of 20 percent and the penalty reduction in the year of certification is 90 percent. It is expected that the date of certification for a given State will be the date the State informs the Secretary in writing that the State is ready for certification review and the State in fact is certified under that review.

5. Penalty Reduction for Good Performance

Present law

No provision.

House bill

States must comply with all the data processing requirements imposed by the 1996 welfare reform law by October 1, 2000. A State that fails to comply may nonetheless have its annual penalty reduced by 20 percent for each performance measure under the new incentive system (see Title II below) for which it achieves a maximum score. Thus, for example, a State being penalized would have its penalty for a given year reduced by 60 percent if it achieved maximum performance on three of the five performance measures.

Senate enactment

Same.

Agreement

The agreement follows the House bill and the Senate amendment.

6. Penalty procedure applies to requirements of 1988 act and 1996 act

Present law

P.L. 104–193 requires that as part of their State child support enforcement plans all States, by October 1, 2000, have in effect a single statewide automated data processing and information retrieval system that meets all of the specified requirements, except that the deadline is extended by one day for each day (if any) by which the Secretary fails to meet the deadline for final regulations on the new data processing requirements (i.e., which is not later than August 22, 1998). The disapproval procedures described above also would apply to these new data processing requirements.

House bill

With the exception of the FY1998 waiver provision, which applies only to the 1988 requirements, and the penalty reduction provision for good performance, which applies only to the 1996 requirements, the new penalty procedure applies to data processing requirements of both the 1988 Family Support Act and the 1996 welfare reform legislation.

Senate enactment

Same as House bill, except the Secretary may only impose a single penalty for any given fiscal year with respect to the establishment or operation of an automated data processing and information retrieval system.

Agreement

The agreement follows the House bill and the Senate amendment with a modification which stipulates that a state may not be penalized for violating the automatic data processing and information retrieval system requirements imposed under Public Law 104–193 if the state is being penalized for violating the automatic data processing requirements of the 1988 Family Support Act. In addition, a State is not subject to more than one penalty at a given time under the data processing requirements of either the 1988 Act or the 1996 Act.

7. Exemption from TANF penalty procedures

Present law

As noted above, States without approved child support enforcement plans are in eventual danger of losing funding for the TANF block grant (which would include supplemental and bonus TANF funding and funding for the Welfare-to-Work program).

The TANF penalty for a State which the Secretary finds has not complied with one or more of the child support enforcement program requirements and has failed to take sufficient corrective action to achieve the appropriate performance level or compliance is subject to a graduated penalty of TANF block grant funds equal to not less than 1% nor more than 2% for the first finding of noncompliance; not less than 2% nor more than 3% for the second consecutive finding of noncompliance; and not less than 3% nor more than 5% for the third or subsequent finding of noncompliance.

House bill

No provision.

Senate amendment

Because States are subject to the penalty procedure outlined above for violations of the data processing requirement, they are exempt from the TANF penalty procedure for such violations.

Agreement

The agreement follows the Senate amendment. In addition the Social Security Act is amended to clarify that TANF money used as matching funds for grants under section 3037 of the Transportation Equity for the 21st Century Act of 1998 can only be spent on the transportation needs of families eligible for TANF benefits and other low-income families. TANF funds used to provide transportation services under section 3037 grants are not considered assistance for purposes of the TANF program.

SEC. 102. AUTHORITY TO WAIVE SINGLE STATEWIDE AUTOMATED DATA PROCESSING AND INFORMATION RETRIEVAL SYSTEM REQUIREMENT

8. Expansion of waiver provision

Present law

Current law states that the Secretary of the Department of Health and Human Services may waive any requirement related to the advance planning automated data processing document or the automated data processing and information retrieval system if the State demonstrates to the Secretary's satisfaction that the State has an alternative system or systems that enable the State to be in substantial compliance with other requirements of the child support enforcement program. The waiver must also meet the following conditions: (1) must be designed to improve the financial well-being of children or otherwise improve the operation of the child support enforcement program, (2) may not permit modifications in the child support enforcement program which would have the effect of disadvantaging children in need of support, and (3) must not result in increased cost to the Federal Government under the TANF program; or the State provides assurances to the Secretary that steps will be taken to otherwise improve the State's child support enforcement program.

House bill

The authority of the Secretary to waive certain data processing requirements and to provide Federal funding for a wider range of State data system activities is expanded to include waiving the single statewide system requirement under certain conditions and providing Federal funds to develop and enhance local systems linked to State systems. To qualify, a State must demonstrate that it can develop an alternative system that: Can help the State meet the paternity establishment requirement and other performance measures; can submit required data to HHS that is complete and reliable; substantially complies with all requirements of the child support enforcement program; achieves all the functional capacity for automatic data processing outlined in the statute; meets the requirements for distributing collections to families and governments, including cases in which support is owed to more than one family or more than one government; has one and only one point of contact for interstate case processing and intrastate case management; is based on standardized data elements, forms, and definitions that are used throughout the State; can be operational in no more time than it would take to achieve an operational single statewide system; and can process child support cases as quickly, efficiently, and effectively as would be possible with a single statewide system.

Senate amendment

Same.

Agreement

The agreement follows the House bill and the Senate amendment.

9. Federal payments under waiver provision

Present law

To be approved for a waiver, a State must demonstrate that the proposed project: (1) is designed to improve the financial well-being of children or otherwise improve the operation of the child support program; (2) does not permit modifications in the child support program that would have the effect of disadvantaging children in need of support; and (3) does not result in increased cost to the Federal government under the TANF program.

House bill

In addition to the various waiver requirements described in provision #8 above, and to the requirements in current law, the State must submit to the Secretary separate estimates of the costs to develop and implement both a single statewide system and the alternative system being proposed by the State plus the costs of operating and maintaining these systems for 5 years from the date of implementation. The Secretary must agree with the estimates. If a State elects to operate such an alternative system, the State would be paid the 66 percent federal administrative reimbursement only on expenditures equal to the estimated cost of the single statewide system.

Senate amendment

Same.

Agreement

The agreement follows the House bill and the Senate amendment.

TITLE II. CHILD SUPPORT INCENTIVE SYSTEM

SEC. 201. INCENTIVE PAYMENTS TO STATES

1. Amount of incentive payments

Present law

Each State receives an incentive payment equal to at least 6 percent of the State's total amount of child support collected on behalf of TANF families for the year, plus at least 6 percent of the State's total amount of child support collected on behalf of non-TANF families for the year. [Note: P.L. 98–378, the Child Support Enforcement Amendments of 1984, stipulates that political subdivisions of a State that participate in the costs of support enforcement must receive an appropriate share of any incentive payment given to the State. P.L. 98–378 also requires States to develop criteria for passing through incentives to localities, taking into account the efficiency and effectiveness of local programs.]

House bill

The incentive payment for a State for a given year is calculated by multiplying the incentive payment pool for the year by the State's incentive payment share for the year.

Senate amendment

Same.

Agreement

The agreement follows the House bill and the Senate amendment.

2. Incentive payment pool

Present law

No provision.

House bill

The incentive payment pool is equal to the CBO estimate of incentive payments for each year under current law. Specifically, the amounts (in millions) for fiscal years 2000 through 2008 respectively are: $422, $429, $450, $461, $454, $446, $458, $471 and $483. Specifying these amounts in the statute assures that the incentive payments will be budget neutral. After 2008, the incentive payment pool increases each year by an amount equal to the rate of inflation.

Senate amendment

Same.

Agreement

The agreement follows the House bill and the Senate amendment.

3. Calculating incentive payments

Present law

The maximum incentive payment for a State could reach a high of 10 percent of child support collected on behalf of TANF families plus 10 percent of child support collected on behalf of non-TANF families. There is a limit, however, on the incentive payment for non-TANF child support collections. The incentive payments for such collections may not exceed 115 percent of incentive payments for TANF child support collections.

House bill

In addition to the incentive payment pool, incentive calculations are based on the five factors defined below. The general approach is to pay to each State its share of the incentive payment pool based on the quality of its performance on the five incentive performance measures. The five computational factors are:

(1) State collections base is used to ensure that incentive payments are proportional to the amount of child support collected by the State; collections for welfare cases are given double the weight of collections for nonwelfare cases in the calculations;

(2) Maximum incentive base amount is simply a device to give extra weight to three of the five incentive performance measures because these measures are thought to be more important to State performance. Specifically, paternity establishment, establishment of support orders, and collections on current support receive full weight in the calculations, while collections on past-due support and the cost-effectiveness performance level receive a weight of only 75 percent of the other three measures;

(3) Applicable percentage is the actual measure of performance effectiveness and is determined by looking up the raw performance level in a table; there is a different table for each of the five performance measures (see below);

(4) Incentive base amount is the total of the applicable percentages for each of the five performance measures multiplied by their respective maximum incentive base amounts (either 1.00 or 0.75);

(5) State incentive payment share is a percentage calculated by using the four factors defined above. This measure specifies the percentage share of the annual payment pool that each State receives. The State incentive payment share takes into account the State's performance on all five incentive performance measures, the weighting of the five incentive performance measures, its collections in the TANF and non-TANF caseloads, and its performance relative to other States.

Senate amendment

Same.

Agreement

The agreement follows the House bill and the Senate amendment.

4. Data used to calculate ratios required to be complete and reliable

Present law

No provision.

House bill

The payment on each of the five performance measures is zero unless the Secretary determines that the data submitted by the State for each measure is complete and reliable.

Senate amendment

Same.

Agreement

The agreement follows the House bill and the Senate amendment.

5. State collections base

Present law

Although the collections base terminology is not used, the incentive payment is based on total child support collected on behalf of TANF families (i.e., TANF collections) plus total child support collected on behalf of non-TANF families (i.e., non-TANF collections).

House bill

The collections base for a fiscal year is the sum of two categories of child support collections by the State. The first category is collections on cases in the State child support welfare caseload. This category includes families that are currently or were formerly receiving benefits from TANF (or its predecessor program Aid to Families with Dependent Children), from Medicaid under Title XIX, or from foster care under Title IV-E. Total collections from this category are doubled in the State collections base calculation. The second category is collections from all other families receiving services from the State child support enforcement program.

Senate amendment

Same.

Agreement

The agreement follows the House bill and the Senate amendment.

6. Determination of applicable percentages for paternity establishment performance level

Present law

No provision.

House bill

The paternity establishment performance level for a State for a fiscal year is, at the option of the State, either the paternity establishment percentage of cases in the child support program or the paternity establishment percentage of all births in the State. In both cases, the paternity establishment percentage is obtained by dividing the cases in which paternity is established by the total number of nonmarital births. The applicable percentage is then determined in accord with the table in new section 458A(b)(6)(A) of the Social Security Act (see Table 1 below).

Special rule for computing the applicable percentage for paternity establishment: If the paternity establishment performance level of a State is less than 50 percent but exceeds by at least 10 percentage points the paternity establishment performance level of the State for the immediately preceding fiscal year, then the applicable percentage for the State paternity establishment performance level is 50 percent.

Senate amendment

Same.

Agreement

The agreement follows the House bill and the Senate amendment.

7. Determination of applicable percentages for child support order performance level

Present law

No provision.

House bill

The support order performance level for a State for a fiscal year is the percentage of cases in the child support program for which there is a support order. The applicable percentage is then determined in accord with the table in new section 458A(b)(6)(B) of the Social Security Act (see Table 2 below).

Special rule for computing the applicable percentage for child support orders: If the support order performance level of a State is less than 50 percent but exceeds by at least 5 percentage points the support order performance level of the State for the immediately preceding fiscal year, then the applicable percentage for the State's support order performance level is 50 percent.

Senate amendment

Same

Agreement

The agreement follows the House bill and the Senate amendment.

8. Determination of applicable percentages for collections on current child support due performance level

Present law

No provision.

House bill

The current support payment performance level for a State for a fiscal year is the total amount of current support collected during the fiscal year from all cases in the child support program (both welfare and non-welfare cases) divided by the total amount owed on support which is not overdue. The applicable percentage is then determined in accord with the table in new section 458A(b)(6)(C) of the Social Security Act (see Table 3 below).

Special rule for computing the applicable percentage for current payments: If the current payment performance level is less than 40 percent but exceeds by at least 5 percentage points the current payment performance level of the State for the immediately preceding fiscal year, then the applicable percentage for the State's current payment performance level is 50 percent.

Senate amendment

Same.

Agreement

The agreement follows the House bill and the Senate amendment.

9. Determination of applicable percentages for collections on child support arrearages performance level

Present law

No provision.

House bill

The arrearages payment performance level for a State for a fiscal year is the total number of cases in the State child support program that received payments on past-due child support divided by the total number of cases in the State child support program in which a payment of child support is past-due. The applicable percentage is then determined in accord with the table in new section 458A(b)(6)(D) of the Social Security Act (see Table 4 below).

Special rule for computing the applicable percentage for arrears: If the arrearages payment performance level of a State for a fiscal year is less than 40 percent but exceeds by at least 5 percentage points the arreages payment performance level for the immediately preceding fiscal year, then the applicable percentage for the State's arrearages performance level is 50 percent.

Senate amendment

Same.

Agreement

The agreement follows the House bill and the Senate amendment.

10. Determination of applicable percentages for cost-effectiveness performance level

Present law

Incentive payments are made according to the collection-to-cost ratios (ratio of TANF collections to total child support enforcement administrative costs and ratio of non-TANF collections to total child support enforcement administrative costs) shown below.

Collection-to-cost ratio:	*Incentive payment received (percent)*
Less than 1.4 to 1	6.0
At least 1.4 to 1	6.5
At least 1.6 to 1	7.0
At least 1.8 to 1	7.5
At least 2.0 to 1	8.0
At least 2.2 to 1	8.5
At least 2.4 to 1	9.0
At least 2.6 to 1	9.5
At least 2.8 to 1	10.0

For purposes of calculating these ratios, interstate collections are credited to both the initiating and responding States. In addition, at State option, laboratory costs (for blood testing, etc.) to establish paternity may be excluded from the State's administrative costs in calculating the State's collection-to-cost ratios for purposes of determining the incentive payment.

House bill

The cost-effectiveness performance level for a State for a fiscal year is the total amount collected during the fiscal year from all cases in the State child support program divided by the total amount expended during the fiscal year on the State child support program. The applicable percentage is then determined in accord with the table in new section 458A(b)(6)(E) of the Social Security Act (see Table 5 below).

Senate amendment

Same.

Agreement

The agreement follows the House bill and the Senate amendment.

11. Treatment of interstate collections.

Present law

As noted above, in computing incentive payments, child support collected by one State at the request of another State (i.e., interstate collections) are credited to both the initiating State and the responding State. State expenditures on special interstate projects carried out under section 455(e) of the Social Security Act must be excluded from the incentive payment calculation.

House bill

In computing incentive payments, support collected by a State at the request of another State is treated as having been collected by both States. State expenditures on a special interstate project carried out under section 455(e) are excluded from incentive payment calculations.

Senate amendment

Same.

Agreement

The agreement follows the House bill and the Senate amendment.

12. Administrative provisions

Present law

The Secretary's incentive payments to States for any fiscal year are estimated at or before the beginning of such year based on the best information available. The Secretary makes such payments on a quarterly basis. Each quarterly payment must be reduced or increased to the extent of overpayments or underpayments for prior periods.

House bill

The Secretary's incentive payments to States are based on estimates computed from previous performance by the States. Each year, the Secretary must make quarterly payments based on these estimates. Each quarterly payment must be reduced or increased to the extent of overpayments or underpayments for prior periods.

Senate amendment

Same.

Agreement

The agreement follows the House bill and the Senate amendment.

13. Regulations

Present law

Not applicable.

House bill

The Secretary of Health and Human Services must prescribe regulations necessary to implement the incentive payment program within 9 months of the date of enactment. These regulations may include directions for excluding certain closed cases and cases over which the State has no jurisdiction.

Senate amendment

Same.

Agreement

The agreement follows the House bill and the Senate amendment.

14. Reinvestment

Present law

No provision.

House bill

States must spend their child support incentive payments to carry out their child support enforcement program or to conduct activities approved by the Secretary which may contribute to improving the effectiveness or efficiency of the State child support enforcement program.

Senate amendment

Same.

Agreement

The agreement follows the House bill and the Senate amendment.

15. Transition rule

Present law

Not applicable.

House bill

The new incentive system is phased in over 2 years beginning in fiscal year 2000. In fiscal year 2000, 1/3rd of each State's incentive payment is based on the new incentive system and 2/3rds on the old system. In fiscal year 2001, 2/3rds of each State's incentive payment is based on the new incentive system and 1/3rd on the old system. The new system is fully operational in fiscal year 2002.

Senate amendment

Same.

Agreement

The agreement follows the House bill and the Senate amendment.

16. Review

Present law

No provision.

House bill

The Secretary of Health and Human Services must conduct a study of the implementation of the incentive payment program in order to identify problems and successes of the program. An interim report must be presented to Congress not later than March 1, 2001. By October 1, 2003, the Secretary must submit a final report. Recommendations for changes that the Secretary determines would improve program operation should be included in the final report.

Senate amendment

Same.

Agreement

The agreement follows the House bill and the Senate amendment.

17. Study

Present law

No provision.

House bill

The Secretary, in consultation with State IV-D directors and representatives of children potentially eligible for medical support, must develop a new medical support incentive measure based on effective performance. A report on this new incentive measure must be submitted to Congress not later than October 1, 1999.

Senate amendment

Same.

Agreement

The agreement follows the House bill and the Senate amendment.

18. Technical and conforming amendments

Present law

No provision.

House bill

This section contains two technical and conforming amendments.

Senate amendment

Same.

Agreement

The agreement follows the House bill and the Senate amendment.

19. Elimination of current incentive program

Present law

No provision. (The current incentive payment system is a permanent provision of law.)

House bill

The current incentive program under section 458 of the Social Security Act is repealed on October 1, 2001. On that date, section 458A is redesignated as section 458.

Senate amendment

Same.

Agreement

The agreement follows the House bill and the Senate amendment.

20. General effective date

Present law

The current incentive payment system took effect on October 1, 1985.

House bill

Except for the elimination of the current incentive program (see provision #19 above), the amendments made by this legislation take effect on October 1, 1999.

Senate amendment

Same.

Agreement

The agreement follows the House bill and the Senate amendment.

TITLE III. ADOPTION PROVISIONS

SEC. 301. MORE FLEXIBLE PENALTY PROCEDURE TO BE APPLIED FOR FAILING TO PERMIT INTERJURISDICTIONAL ADOPTION

Present law

Under section 474(e) of the Social Security Act (as established by P.L. 105–89), a State is not eligible for any foster care or adoption assistance payments under Title IV–E if the Secretary finds that the State has denied or delayed a child's adoptive placement when an approved family is available outside the jurisdiction with responsibility for handling the child's case, or the State has failed to grant an opportunity for a fair hearing to anyone who alleges that a violation of this provision was denied by the State or not acted upon promptly.

House bill

The current penalty of losing all Federal Title IV–E funds for violating the jurisdictional provision is dropped and a new penalty is substituted. Under the new penalty, States that violate the adoption provision would receive a penalty equal to 2 percent of the Federal funds for foster care and adoption under Title IV–E of the Social Security Act for the first violation, 3 percent for the second violation, and 5 percent for the third and subsequent violations.

Senate amendment

Same.

Agreement

The agreement follows the House bill and the Senate amendment. The intent of a major provision of the Adoption and Safe Families Act of 1997 is to remove interjurisdictional barriers to adoption to ensure that States facilitate timely permanent placements for children. Any State policy or practice that denies a child the opportunity to be adopted across State or county jurisdictions is in clear violation of the Act. The Department of Health and Human Services must develop a comprehensive monitoring strategy to uncover state violations. The new penalties for violating the interjurisdictional provision are aimed at enforcing State plan violations by reducing for a fiscal quarter the amount of money payable to the State by 2 percent for the first violation, 3 percent for the second violation, and 5 percent for the third and subsequent violations. Congress expects the Secretary to carefully monitor changes in State policy on interjurisdictional barriers and to use the new penalties enacted by Congress if necessary.

The Adoption and Safe Families Act of 1997 does not prevent a State from making efforts to preserve or reunify a family in cases of aggravated circumstances, as long as the child's health and safety are the paramount considerations. In addition, the Adoption and Safe Families Act of 1997 establishes a new requirement that States must initiate termination of parental rights proceedings in specific cases that are outlined in the law. However, the law only requires States to initiate such proceedings and does not mandate the outcome. Moreover, the law provides that States are not required to initiate termination of parental rights in certain cases, including when there is a compelling reason to conclude that such proceedings would not be in the child's best interest. Thus, the State retains the discretion to make case-by-case determinations regarding whether to seek termination of parental rights.

TITLE IV. TECHNICAL CORRECTIONS

SEC. 401. ELIMINATION OF BARRIERS TO THE EFFECTIVE ESTABLISHMENT AND ENFORCEMENT OF MEDICAL CHILD SUPPORT

Present law

P.L. 104–193 required Employee Retirement Income Security Act (ERISA) plan administrators to honor health insurance orders (i.e. medical support orders) issued by courts or administrative agencies. It appears that many ERISA plan administrators interpreted the statutory language as requiring the actual receipt of a copy of the order itself. Since it is the practice of many CSE agencies to simply notify the ERISA plan administrator that an order has been issued for a case, many plan administrators did not recognize the administrative notice as sufficient to meet the requirements of current law. Currently only 60% of all national child support orders include a medical support component. In its 1996 review of state child support enforcement programs, GAO reported that at least 13 states were not consistently petitioning to include medical support in its general support orders, and 20 states were not enforcing existing medical support orders.

House bill

No provision.

Senate amendment

The Senate amendment requires the Secretaries of the Departments of Health and Human Services and Labor to design and implement a National Standardized Medical Support Notice. Proposed regulations would be required no later than 180 days after the date of enactment, and final regulations no later than 1 year after the Date of enactment. State child support enforcement agencies would be required to use this standardized form to communicate the issuance of a medical support order, and employers would be required to accept the form as a "qualified medical support order" under the Employee Retirement Income Security Act (ERISA). The Secretaries would jointly establish a medical support working group, not later than 90 days after the date of enactment, to identify and make recommendations for the removal of other barriers to effective medical support. The working group's report on recommendations for appropriate measures to address the impediments to effective enforcement of medical support is due to the Secretary of Health and Human Services, and the Congress, no later than 18 months after the date of enactment. The Secretary of Labor, in consultation with the Secretary of Health and Human Services, would be required to submit to Congress, not later than one year after the date of enactment of this bill, a report containing recommendations for any additional ERISA changes necessary to improve medical support enforcement.

Agreement

Medical child support is an essential part of any general child support order because it ensures a child will have access to quality private health care coverage to which she or he would not have access even if available to the noncustodial parent through the employer at reasonable costs. It also prevents the misuse of Federal programs such as Medicaid and the State Children's Health Insurance Program as a backdoor alternative for parents who shirk their medical child support responsibilities. Although ERISA already requires that employers enforce medical child support orders if those orders meet certain criteria laid out in that statute (which qualifies them as *Qualified Medical Child Support Orders or QMSCOs*), effective enforcement of medical child support is still thwarted by (1) a lack of standardized communication between the state child support enforcement agencies, parents' employers, and the plan administrators of parents' health insurance plans and (2) uniform process for enforcement. Streamlining the medical support process for ERISA plans and non-ERISA plans alike is essential to ensure that all children receive the medical support for which they are eligible and to which they are entitled.

The agreement follows the Senate provision on medical support with changes. The agreement requires that the Medical Child Support Working Group be established within 60 days after the date of enactment. It is expected that representatives of states, employers, advocacy groups, IV–D agencies and associations, experts in ERISA, and others who must administer this process be invited to participate in the working group. The working group is required to submit its recommendations for appropriate measures to address the impediments to effective enforcement of medical support as well as recommendations on other issues as specified in the statute, to the Secretaries of Health and Human Services and Labor no later than 18 months after the date of enactment. The

Secretary of HHS should use its child support technical assistance budget for special projects (per Section 452(j) of the Title IV–D program under the Social Security Act (42 U.S.C. 652(j) as authorized by Section 354(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996) to hire an outside facilitator to moderate and staff Workgroup proceedings. The Secretaries are required to submit their joint report to Congress no later than 2 months after they receive the recommendations of the working group.

In general, the agreement would follow the Senate provision with respect to the development and promulgation by regulation of a National Medical Support Notice to be issued by the States as a means of ensuring that the medical support provisions in a child support order are properly carried out. States' use of the National Medical Support Notice will ensure enrollment of the child in available health care coverage, as appropriate. The National Medical Support Notice (1) is to conform to the provisions specified in section 609(a)(3) of ERISA (irrespective of whether the group health plan is covered by reason of section 4 of such Act), and (2) is to include a separate and easily severable employer withholding notice (which can be made severable in any reasonable manner and not limited to perforated paper). Interim regulations for the National Medical Support Notice would be required within 10 months of the date of enactment, and final regulations no later than 1 year after the issuance of the interim regulations.

The agreement requires State Child Support Enforcement agencies to use the National Medical Support Notice to transfer notice of provision of health care coverage for the child to the non-custodial parent's employer (unless alternative coverage is allowed for in any order of the court or other entity issuing the order). The employer is then required, within 20 business days, to send the national notice, excluding the employer withholding notice, to the appropriate plan providing health care coverage for which the child is eligible. The employer withholding notice is also to inform the employer of applicable provisions of state law (and related information) requiring the employer to withhold any employee contributions due as may be required to enroll the child under such plan.

The agreement requires all plan administrators who receive an appropriately completed National Medical Support Notice to comply with such notice. The plan administrator is then to report back to the State within 40 business days of the date of the Notice whether coverage is available, whether the child is covered and the date of coverage, and if the child is not covered and coverage is available, any steps needed to enroll the child under the plan. The agreement also requires the plan administrator to provide to the custodial parent (or substituted official) any forms or documents (including any health care cards and claim forms) necessary to enroll the child in coverage and ensure access to such coverage. Nothing in this provision is to be construed as requiring a covered group health plan to provide benefits (or eligibility for such benefits) which are not otherwise provided under the terms of the plan.

It is expected that federal plans will also comply with these requirements.

The agreement also applies the requirements of the National Medical Support Notice to certain other plans that are not covered under section 609 of ERISA.

SEC. 402. SAFEGUARD OF NEW EMPLOYEE INFORMATION

Present law

No provision.

House bill

No provision.

Senate amendment

The Senate amendment would impose a fine of $1,000 for each act of unauthorized access to, disclosure of, or use of information in the National Directory of New Hires. It would also require that data entered into the National Directory of New Hires be deleted 24 months after the date of entry for individuals who have a child support order. For an individual who does not have a child support order, the data would be required to be deleted after 12 months.

Agreement

The agreement follows the Senate amendment with modifications. The $1,000 fine is retained and the Social Security Administration (SSA), which maintains the New Hires data base under contract with HHS, must delete the New Hire and wage and unemployment compensation data within 24 months after receipt. However, HHS will not have access to the wage and unemployment compensation data after 12 months for individuals who have not been found to have a child support order. The Secretary may retain data on a sample of cases for research purposes. In addition, the Secretary must inform Congress within 90 days after enactment of the purposes for which the New Hire and wage and unemployment compensation data will be used. The Secretary must also inform Congress at least 30 days before the data is to be used for a purpose not specified in the original report. Within 3 years after enactment, the Secretary must report to Congress on the accuracy of New Hire data and the effectiveness of the procedures designed to safeguard the New Hire information.

SEC. 403. CONFORMING AMENDMENTS REGARDING THE COLLECTION AND USE OF SOCIAL SECURITY NUMBERS FOR THE PURPOSES OF CHILD SUPPORT ENFORCEMENT

Present law

Federal law (section 205(c)(2)(C) allows any State (or subdivision of the State) to use Social Security account numbers in the administration of any tax, public assistance, driver's license, or motor vehicle registration laws within its jurisdiction to identify individuals affected by such laws.

House bill

No provision.

Senate amendment

The Senate amendment revises the current statute to reflect the social security numbers also must be used by the agencies administering the renewal of professional licenses, driver's licenses, occupational licenses, or recreational licenses to respond to requests for information from Child Support Enforcement agencies; and that all divorce decrees, support orders, paternity determinations and paternity acknowledgments must include the social security number of the applicable individuals for the purpose of responding to requests for information from Child Support Enforcement agencies.

Agreement

The agreement follows the House bill; i.e., no provision.

SEC. 404. CLARIFICATION OF DEFINITION REGARDING HIGH-VOLUME AUTOMATED ADMINISTRATIVE ENFORCEMENT OF CHILD SUPPORT

Present law

Federal law (section 466(a)(14) of the Social Security Act, as amended by section 5550 of P.L. 105–33) requires States to conduct "high-volume automated administrative enforcement," to the same extent as used for intrastate cases, in response to a request made by another state to enforce a child support order and promptly report the results of such enforcement procedures to the requesting state. Federal law also defines "high-volume automated administrative enforcement."

House bill

No provision.

Senate amendment

The Senate amendment eliminates the definition of "high-volume automated administrative enforcement" from the statute.

Agreement

The agreement replaces the definition of "high-volume automated administrative enforcement" in current law with a clearer definition. The new definition requires states, upon request from another state in an interstate case, to use automated data matches with financial institutions and other entities to locate the obligor's assets and, when assets are discovered, to seize these asset through levy or other appropriate process. The agreement also includes a provision allowing the Secretary, through the Federal Parent Locator Service, to help States work with financial institutions doing business in 2 or more states. The Secretary may send identifying information to such financial institutions on all individuals who owe past-due child support in any state. The financial institutions will then transmit back to the Secretary the identifying information on individuals who owe past-due support for whom they have accounts; the Secretary will transmit this information back to the state that submitted the identifying information. The State will take appropriate actions to seize the assets. This provision does not allow the Secretary to have access to any financial information on individuals holding accounts in these financial institutions. Multi-state financial institutions that respond to requests for information from the Secretary are not expected to respond to such requests from any state for which they have accepted information from the Secretary. However, states that now conduct these data matches with financial institutions that do business in 2 or more states may continue such procedures until January 1, 2000. This provision is not intended to prohibit a State from requiring any financial institution doing business in the State to report account information directly to the State for purposes other than child support enforcement. Financial institutions that provide identifying information to the Secretary or seize assets at the request of States are not liable under State or Federal law for such actions.

SEC. 405. GENERAL ACCOUNTING OFFICE REPORTS

Present law

No provision.

House bill

No provision.

Senate amendment

The Senate amendment would require the Comptroller General of the United States (i.e., the General Accounting Office) to report to Congress, no later than December 31, 1998, on the feasibility of implementing an instant check system for employers to use in identifying individuals with child support orders. The report is to include a review of the use of the Federal Parent Locator Service, including the Federal Case Registry of Child Support Orders and the National Directory of New Hires, and the adequacy of the privacy protections.

Agreement

The agreement follows the Senate amendment.

SEC. 406. TECHNICAL CORRECTIONS (THIS PROVISION IS SECTION 401 OF THE HOUSE BILL)

Present law

Under section 473A of the Social Security Act (as established by P.L. 105–89), States may receive financial incentives for increasing their number of adoptions of foster children, above an annual base level. In determining the base levels for each State, the Secretary will use data from the Adoption and Foster Care Analysis and Reporting System (AFCARS). However, in determining the base levels for fiscal years 1995 through 1997, the Secretary may use alternative data sources, as reported by a State by November 30, 1997, and approved by the Secretary by March 1, 1998.

Under Section 466(a)(13) of the Social Security Act (as established by P.L. 104–193 and amended by P.L. 105–33), states must have procedures requiring that the social security number of an applicant for a professional license, driver's license, occupational license, recreational, or marriage license be recorded on the application. In addition, the social security number of a person subject to a divorce decree, support order, or paternity determination or acknowledgment must be placed in the records relating to the matter. Also social security numbers must be recorded on death certificates. The statute permits the state to use a number other than the social security number in some cases. If a state chooses this option, it must still keep the social security number of the applicant on file.

The Illegal Immigration Reform and Immigrant Responsibility Act of 1996 required States to collect social security numbers on applications for State licenses for purposes of checking the identity of immigrants by October 1, 2000.

House bill

The current law on alternative data sources to calculate the adoption incentive amount only allowed the use of data reported by States by November 30, 1997 and approved by the Secretary by March 1, 1998. The new provision provides States with an additional 5 months to report data (until April 30, 1998) and the Secretary with an additional 4 months to approve the data (until July 1, 1998).

The House bill changes the January 1, 1998 date in the 1996 welfare reform law pertaining to State licenses to October 1, 2000, or such earlier date as the State selects.

Senate amendment

Same.

Agreement

The Agreement follows the House bill and the Senate amendment with some additional technical amendments. The State data reporting on child support enforcement required under section 469 of the Social Security Act is simplified. The provision on eligibility for services in the Welfare-to-Work program authorized by section 403(a)(5) of the Social Security Act is clarified by allowing states to provide services to noncustodial parents of children who meet the qualifications for benefits under the program. Two sections of the Child Support Enforcement statute at Title IV–D of the Social Security Act regarding the use of the Federal Parent Locator Service (FPLS) are clarified. Language on use of the FPLS for making or enforcing child custody or visitation orders is removed from section 453 where it had been placed inadvertently by legislation enacted in 1997. The language on use of the FPLS in cases of parental kidnaping, child custody, or parental visitation is located in section 463. This statute requires States to receive and transmit to the Secretary requests from authorized persons (State agents, attorneys, or courts). The provisions of section 463, which carefully balance the rights of children, custodial parents, and noncustodial parents, are intended to ensure that the FPLS is used in an even-handed fashion to assist both parents in achieving access to their children under appropriate circumstances. States must honor the requests of noncustodial parents to have access, through local courts, to information in the FPLS if the procedures of section 463 are followed.

TITLE V. IMMIGRATION PROVISIONS

SEC. 501. ALIENS INELIGIBLE TO RECEIVE VISAS AND EXCLUDED FROM ADMISSION FOR NONPAYMENT OF CHILD SUPPORT

Present law

No comparable provision. The Immigration and Nationality Act (INA) enumerates a number of reasons why an alien may be ineligible to receive visas and excluded from admission, including the likelihood of becoming a public charge, but failure to pay child support is not among them.

House bill

Amends the INA to makes inadmissible any alien legally obligated to pay child support whose failure to pay has resulted in an arrearage exceeding $5,000, until child support payments are made or the alien is in compliance with an approved payment agreement. Extends applicability to aliens previously admitted for permanent residence (i.e., as immigrants) who are seeking readmission. Authorizes the Attorney General to waive inadmissibility in a given case if he or she: (1) has received a waiver request from the court or administrative agency with jurisdiction over the child support case; and (2) determines that granting the waiver would substantially increase the likelihood that past and future child support payments would be made.

Senate amendment

No provision.

Agreement

The agreement follows the Senate amendment except that the Secretary of HHS is required to write a report, after consulting with the Immigration and Naturalization Service (INS), on the feasibility of enacting the provision on child support enforcement against aliens in the House bill. The report, which must be delivered to Congress within 6 months of enactment, must include an assessment of whether the INS can effectively implement the requirements of the House provision.

SEC. 502. EFFECT OF NONPAYMENT OF CHILD SUPPORT ON ESTABLISHMENT OF GOOD MORAL CHARACTER

Present law

No comparable provision in the reasons given in the INA for a determination that an alien is not a person of good moral character; such a determination is necessary for an immigrant to naturalize.

House bill

Amends the INA to preclude a finding of good moral character, and thus naturalization, if a person obligated to pay child support has failed to do so, with the opportunity to overcome this either by meeting the child support obligation or complying with an approved payment agreement.

Senate amendment

No provision.

Agreement

The agreement follows the Senate amendment; i.e., no provision

SEC. 503. AUTHORIZATION TO SERVE LEGAL PROCESS IN CHILD SUPPORT CASES ON CERTAIN ARRIVING ALIENS

Present law

No comparable provision among the functions Immigration and Naturalization Service (INS) officers are authorized by the INA to perform during the inspections process.

House bill

Amends the INA to authorize INS officers, to the extent consistent with state law, to serve an applicant for admission with a writ, order, or summons in a child support case.

Senate amendment

No provision.

Agreement

The agreement follows the Senate Amendment; i.e., no provision.

SEC. 504. AUTHORIZATION TO OBTAIN INFORMATION ON CHILD SUPPORT PAYMENTS BY ALIENS

Present law

No comparable provision.

House bill

Amends the Social Security Act to authorize the Secretary of HHS to respond to requests by the Attorney General or the Secretary of State with information which, in the opinion of the HHS Secretary, may aid them in determining whether an alien owes child support.

Senate amendment

No provision.

Agreement

The agreement follows the Senate amendment; i.e., no provision.

TABLE 1

If the paternity establishment performance level is—		The applicable percentage is
At least (percent)	But less than (percent)	
80		100
79	80	98
78	79	96
77	78	94
76	77	92
75	76	90
74	75	88
73	74	86
72	73	84
71	72	82
70	71	80
69	70	79
68	69	78
67	68	77
66	67	76
65	66	75
64	65	74
63	64	73
62	63	72
61	62	71
60	61	70
59	60	69
58	59	68
57	58	67
56	57	66
55	56	65
54	55	64
53	54	63
52	53	62

TABLE 1—Continued

If the paternity establishment performance level is—		The applicable percentage is
At least (percent)	But less than (percent)	
51	52	61
50	51	60
0	50	0

TABLE 2

If the support order establishment performance level is—		The applicable percentage is
At least (percent)	But less than (percent)	
80		100
79	80	98
78	79	96
77	78	94
76	77	92
75	76	90
74	75	88
73	74	86
72	73	84
71	72	82
70	71	80
69	70	79
68	69	78
67	68	77
66	67	76
65	66	75
64	65	74
63	64	73
62	63	72
61	62	71
60	61	70
59	60	69
58	59	68
57	58	67
56	57	66
55	56	65
54	55	64
53	54	63
52	53	62
51	52	61
50	51	60
0	50	0

TABLE 3

If the current payment performance level is—		The applicable percentage is
At least (percent)	But less than (percent)	
80		100
79	80	98
78	79	96
77	78	94
76	77	92
75	76	90
74	75	88
73	74	86
72	73	84
71	72	82
70	71	80
69	70	79
68	69	78
67	68	77
66	67	76
65	66	75
64	65	74
63	64	73
62	63	72
61	62	71
60	61	70
59	60	69
58	59	68
57	58	67
56	57	66
55	56	65
54	55	64
53	54	63
52	53	62
51	52	61
50	51	60
49	50	59
48	49	58
47	48	57
46	47	56
45	46	55
44	45	54
43	44	53
42	43	52
41	42	51
40	41	50
0	40	0

TABLE 4

If the arrearage payment performance level is—		The applicable percentage is
At least (percent)	But less than (percent)	
80		100
79	80	98
78	79	96
77	78	94
76	77	92
75	76	90
74	75	88
73	74	86
72	73	84
71	72	82
70	71	80
69	70	79
68	69	78
67	68	77
66	67	76
65	66	75
64	65	74
63	64	73
62	63	72
61	62	71
60	61	70
59	60	69
58	59	68
57	58	67
56	57	66
55	56	65
54	55	64
53	54	63
52	53	62
51	52	61
50	51	60
49	50	59
48	49	58
47	48	57
46	47	56
45	46	55
44	45	54
43	44	53
42	43	52
41	42	51
40	41	50
0	40	0

TABLE 5

If the cost effectiveness performance level is—		The applicable percentage is
At least	But less than	
5.00		100
4.50	4.99	90
4.00	4.50	80
3.50	4.00	70
3.00	3.50	60
2.50	3.00	50
2.00	2.50	40
0.00	2.00	0

Mr. GRASSLEY. It has come to my attention that some States are engaging in policies or practices that could create interjurisdictional barriers to adoption, such as discontinuance of the registration of waiting families with adoption exchanges outside the State, refusal to share home studies across State lines, and refusal to respond to out-of-state inquiries. The Adoption and Safe Families Act (P.L. 105–89), enacted last year, explicitly established that States shall not take any action that would deny or delay a child's adoption when an approved family is available outside the child's jurisdiction. In light of these recent reports, I urge the Department of Health and Human Services to closely monitor State policy and practice with regard to interstate adoptions to determine compliance with the new law, to immediately report any change of policy or practice in this area to the States, and to impose the full penalty on States which are out of compliance.

I have been told by some organizations which represent the States' interests that they consider Sec. 202 of Public Law 105–89 to be ambiguous and that the Adoption and Safe Families Act did not necessarily prohibit creating barriers to adoption. Let me make this very clear, while the Adoption and Safe Families Act does not specifically declare that States shall not create barriers to adoption, Congresssional intent is clear that any action that delays an adoption, when an approved family is available, would be a violation of the law. Thus, policies that might result in such delays would be inconsistent with the law's intent. Particularly when viewed in the context of the entire Adoption and Safe Families Act, which is designed to promote and expedite adoptions, there can be no confusion about Congressional intent. In addition, this requirement is not inconsistent with other provisions in federal child welfare law that require States to recruit a diverse pool of potentially adoptive families, nor should it discourage States from developing adoptive families within their own borders. The overall goal is to place children for adoption with approved families without any unnecessary delay. Simply put, the law establishes that States shall not discriminate in adoptive placements on the basis of geography.

Let me give you examples of created barriers: any refusal to return phone calls from outside the agency's jurisdiction; the suggestion that agencies have a property right which permits them to withhold a homestudy from a preadoptive family; the imposition of conditions on families from outside the jurisdiction which are different in quantity or quality from conditions imposed on families within the jurisdiction; or, the refusal to accept home studies performed by duly licensed social workers from another jurisdiction without good cause to believe those social workers are dishonest or incompetent.

We have a national crisis on our hands. Thousands of children are waiting for families to adopt them. If we don't recognize this, children will continue to live out their childhoods in foster care. Territory and turf should not come between waiting children and adoptive families. Any barrier created to deny or delay an adoptive placement is an injustice. Although States can spend hundreds of dollars recruiting adoptive families, they need to remember, they do not own these families. Their recruitment efforts contribute to a national recruitment effort for the nation's waiting children, not just their State's children. I recognize that many states are pulling out all the stops for kids. But they cannot do all the work. We all must do everything we can to ensure that children are united with loving, nurturing families, and we cannot let geography get in the way.

Mr. ROCKEFELLER. Mr. President, I am pleased to join my colleagues in support of the Child Support Performance and Incentive Act of 1998. It is my firm belief that this legislation will significantly improve the financial stability, health and well-being of millions of American children. My most sincere thanks to Senators SNOWE, KERRY, JEFFORDS and DODD, who cosponsored the Child Support Performance Improvement Act of 1997, the bill that laid much of the groundwork for this legislation in the Senate. I would like to thank Senator JIM JEFFORDS in particular for his help in securing the inclusion of vital medical child support enforcement provisions in this legislation. I would also like to express my appreciation to my colleagues Senators TED KENNEDY and DAN COATS for their unwavering commitment to children and for their work on securing better medical child support enforcement.

There is no doubt that child support penalties and incentives payments simply do not generate the flash and natural interest that other children's issues do. The Child Support Performance and Incentive Act of 1998 addresses some very complicated financing formulas, complex interactions between the Federal government and state child support enforcement agencies and hidden budget implications. Despite its plain wrapping, however, effective child support enforcement is one of the most important roles the Federal government plays in facilitating a real continuum of quality benefits and services for children in this country.

In my role as Governor of West Virginia and later as Senator and Chairman of the National Commission on Children, my ultimate goal has always been the same: to make sure that all children receive the specialized supports necessary to address a wide range of financial, emotional and medical needs. Child support is one of the most vital sources of support for millions of American children, and the Child Support Performance and Incentive Act of 1998 strengthens state enforcement of these obligations in a variety of areas. I am proud of the fact that my state works hard to enforce its child support obligations and does an excellent job. It is my hope that this legislation will encourage West Virginia and other states do their job even more effectively.

One of the most important and, unfortunately, overlooked areas of child support is the enforcement of medical child support (that is, health insurance or medical costs covered by the noncustodial parent). Since 1984, Federal law has required state child support enforcement agencies to pursue medical support as part of every child support order. Despite this requirement, only 60% of national child support orders contain a medical support component. In its 1996 review of state child support enforcement programs, GAO found that at least 13 states were not consistently petitioning to include medical support in their general support orders, and 20 states were not enforcing existing medical support orders at all.

Such limited enforcement of medical support is dismal, particularly in light of the fact that health insurance and premiums provided through a non-custodial parent's health plan are often a child's only chance for comprehensive medical care. My colleagues and I have worked very hard to make sure that Federal programs such as Medicaid and the Children's Health Insurance Program provide quality health care for children whose families cannot afford to cover them. While no one could care more about these Federal programs than I do, they are not designed to be and should not be misused as a backdoor for parents who shirk their medical support responsibilities.

Unfortunately, effective medical child support enforcement is thwarted by a lack of standardized communication between state child support enforcement agencies and the employers and plan administrators responsible for the non-custodial parent's health plan. This is particularly true for health plans that are governed by the Employment Retirement Income Security Act (ERISA) which represent 50% of all employer health plans. With 700,000 children dependent on medical support through ERISA-governed plans and an additional 1,000,000 children dependent on medical support through non-ERISA governed medical plans, it is essential that communication between states, employers, and plan administrators be as efficient as possible.

The Child Support Performance and Incentive Act of 1998 seeks to improve enforcement of medical support in two ways. First, it orders the Secretary of the Department of Health and Human Services to develop a medical support incentive measure which would base a percentage of each qualified state's annual Federal incentives payment on its ability to establish and enforce medical child support. If implemented by Congress, this sixth performance measure would be added to the first five already included in this legislation: (1) establishment of paternity; (2) establishment of child support orders; (3) enforcement of current child support orders; (4) enforcement of back child support (or "arrearages"); and (5) cost effectiveness. Once HHS develops this medical child support incentive measure, Congress has the responsibility to make sure it becomes part of the overall incentives program.

The Child Support Performance and Incentive Act of 1998 also takes another important step towards effective medical support enforcement by requiring the Secretaries of the Department of Human Services and the Department of Labor to develop a National Medical Support Notice as a means of enforcing the health care provisions of a child support order. Under this new requirement, all states would be required to use and all employers and plan administrators would be required to accept the National Medical Support Notice as a qualified medical child support order under ERISA.

This standardization is an essential step in ensuring that everyone is on the same page when it comes to providing eligible children with the health care coverage they deserve. The legislation also requires HHS and DoL to bring together a Medical Child Support Work Group composed of employers, plan administrators, state child support directors, and child advocates which will recommend additional ways to remove the remaining barriers to effective medical support. We have also required that HHS and DoL submit their recommendations for further legislative solutions to improve medical support, including any necessary changes to ERISA.

With $15 to $25 billion each year in uncollected child support, we have a long way to go to strengthen our national and state child support systems. I am hopeful, however, that the changes brought about in this legislation make significant progress towards the ultimate goal of ensuring child support for every child who is entitled to it. In that regard, I am particularly pleased that medical child support enforcement is finally receiving the attention it deserves in the context of these broader changes.

Mr. JEFFORDS. Mr. President, yesterday the House of Representatives passed H.R. 3130, the Child Support bill by unanimous consent. Today, the Senate will pass the same bill. One provision in the bill affects qualified medical child support orders, a provision in the Employee Retirement Income Security Act (ERISA), and a matter under the jurisdiction of the Committee on Labor and Human Resources. Senators KENNEDY, COATS and myself were conferees on that provision.

I would like to express my appreciation to Senator ROTH for including a description of the changes we agreed upon in his explanatory material. It is terribly important that this explanation be made a part of the legislative history on medical child support orders.

There are 700,000 children in the United States today who are eligible for medical support from a non-custodial parent. All too often when the States attempt to enforce a medical child support order, the plan sponsors have had fiduciary concerns regarding some aspect of the medical support order and, consequently medical benefits were denied to the child. Hopefully, this legislation will alleviate those concerns and more children will be covered under private health benefit plans. The legislation requires the Departments of Health and Human Services and Labor to quickly promulgate a model Medical Support Order form that States must use to collect medical support for children. It also requires those Secretaries to appoint and to collaborate with a Working Group to improve the process by which these medical support orders are implemented.

I am happy that we were able to reach agreement on this important language. I want to take this opportunity to thank Senators KENNEDY and COATS, and their staff, for all their assistance. Also, I thank Chairman BILL GOODLING of the House Workforce Committee, Chairman BILL ROTH of the Senate Finance and Senator JAY ROCKEFELLER, for their help and guidance in reaching an agreement. In particular, Mr. Bill Sweetnam, Senior Counsel to the Finance Committee and Ms. Mary Bissell of Senator ROCKEFELLER's staff provided the technical expertise, knowledge of State programs and support we needed to finish the job.

I look forward to the Labor and Human Resources Committee exercising its oversight authority to see that this legislation is properly implemented and that we work toward improving collection of medical child support for every child to which such support is legitimately owed.

Mr. MOYNIHAN. Mr. President, I rise today in support of H.R. 3130, the Child Support Performance and Incentive Act of 1998. This legislation contains two important components to improve child support collections: a better system of making incentive payments to states for their performance in collecting child support and a new penalty system to help ensure that state child support systems meet basic data processing standards. While both of these components are rather technical, they do represent concrete steps forward and should result in thousands of children—many of them poor—receiving critical financial assistance from absent parents, something all too many poor children do not receive today.

In addition, the bill contains provisions to improve enforcement of the medical aspects of child support and to help ensure data privacy. These latter provisions we owe to the hard work of my colleagues Senator ROCKEFELLER and Senator BAUCUS, and I thank them for these improvements to the legislation.

Mr. President, I urge that H.R. 3130 be passed.

Mr. GRAHAM. Mr. President, I would like to commend the efforts of the conferees of the Child Support Performance and Incentive Act of 1998 for the hard work they have done to secure passage of child support reform legislation. The legislation that has passed the House and Senate represents a significant victory for children who are getting the support they need from both parents. I am pleased that the conferees accepted a provision offered by Senator GRASSLEY and I to further enhance the states' efforts along with banks to streamline the matching process that is required to gather financial information to support our children.

The changes we have proposed through this provision will allow the Federal Parent Locator Service to aid our State agencies in their collection efforts. Financial institutions doing business in two or more States would be able to use the Federal Parent Locator Service to assist them in matching data for child support enforcement purposes. The language included in this provision will provide a structure for a centralized and coordinated matching process, thereby streamlining data matches for the financial institutions and state child support enforcement programs. We believe that such measures will prevent the duplication of efforts by states and banks and assist us in the ultimate aim of getting more money to more children more quickly.

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate concur to the amendments of the House to the amendments of the Senate to the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nominations on the Executive Calendar: No. 634, which is Major General Jack Klimp to be lieutenant general; 655, through 661. That is a whole series of ambassadorial nominations reported by the Foreign Affairs Committee on June 23; 664–673; 698, which is William Massey, to be a member of the Federal Energy Regulatory Commission; 699, Michael Copps to be an Assistant Secretary of Commerce; and 700, Awilda R. Marquez, to be Assistant Secretary of Commerce and Director General of the United States and Foreign Commercial Service, and the nomination on the Secretary's desk in the Foreign Service.

I further ask unanimous consent that the nominations be confirmed, the motion to consider be laid upon the table, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

MARINE CORPS

The following named officer for appointment in the United States Marine Corps to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. Jack W. Klimp, 5723

DEPARTMENT OF STATE

Nancy E. Soderberg, of the District of Columbia, to be an Alternate Representative of the United States of America to the Sessions of the General Assembly of the United Nations during her tenure of service as Alternate Representative of the United States of America for Special Political Affairs in the United Nations, to which position she was appointed during the last recess of the Senate.

Nancy E. Soderberg, of the District of Columbia, to be Alternate Representative of the United States of America for Special Political Affairs in the United Nations, with the rank of Ambassador, to which position she was appointed during the last recess of the Senate.

UNITED STATES INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Vivian Lowery Derryck, of Ohio, to be an Assistant Administrator of the Agency for International Development.

DEPARTMENT OF STATE

Shirley Elizabeth Barnes, of New York, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Madagascar.

Charles Richard Stith, of Massachusetts, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the United Republic of Tanzania.

Eric S. Edelman, of Virginia, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Finland.

Nancy Halliday Ely-Raphel, of the District of Columbia, a Career Member of the Senior Executive Service, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Slovenia.

William Davis Clarke, of Maryland, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the State of Eritrea.

George Williford Boyce Haley, of Maryland, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of the Gambia.

Katherine Hubay Peterson, of California, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of Lesotho.

Jeffrey Davidow, of Virginia, a Career Member of the Senior Foreign Service, Class of Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Mexico.

John O'Leary, of Maine, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Chile.

Michael Craig Lemmon, of Florida, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Armenia.

Rudolf Vilem Perina, of California, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Moldova.

Paul L. Cejas, of Florida, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Belgium.

Cynthia Perrin Schneider, of Maryland, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of the Netherlands.

Kenneth Spencer Yalowitz, of Virginia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Georgia.

FEDERAL ENERGY REGULATORY COMMISSION

William Lloyd Massey, of Arkansas, to be a Member of the Federal Energy Regulatory Commission for the term expiring June 30, 2003. (Reappointment)

DEPARTMENT OF COMMERCE

Michael J. Copps, of Virginia, to be an Assistant Secretary of Commerce.

Awilda R. Marquez, of Maryland, to be Assistant Secretary of Commerce, and Director General of the United States and Foreign Commercial Service.

NOMINATIONS PLACED ON THE SECRETARY'S DESK

Foreign Service nomination of John M. O'Keefe, which was received by the Senate and appeared in the Congressional Record of September 3, 1997.

NOMINATION OF MICHAEL J. COPPS'S TO BE ASSISTANT SECRETARY OF COMMERCE FOR TRADE DEVELOPMENT

Mr. HOLLINGS. Mr. President, I urge this body to confirm Michael J. Copps to be the Assistant Secretary of Commerce for Trade Development. Mike Copps has been enormously effective as the Deputy Assistant Secretary of Commerce for Basic Industries; the sooner the Senate approves his nomination, the sooner he can go to work to further our nation's economic interests and develop new trade opportunities for American industry.

It has been my privilege to know Mike Copps for over 25 years. He served on my staff for 15 years and was my administrative assistant for over a decade. In that time, I came to know and respect Mike; and today there is no one whose judgment I value more highly or in whose abilities I place greater confidence. In fact, Mr. Chairman, I can think of no one better suited to serve as the Assistant Secretary of Commerce for Trade Development than Michael Copps.

Mike is a man of measured judgment and extraordinary maturity, and he possesses a keen, analytical mind. I can state from personal experience that he is the consummate chief of staff—cool and collected, Mike Copps leads by example. In moments of crisis, he was calm. In times of indecision, he was resolute. And he always demonstrated high-minded principle and professionalism.

I have been an elected servant of the people over the span of six decades, Mr. Chairman; and in this time, I have seen many people forget the purpose of public service. But Mike Copps never has forsaken his dedication to the public good. His moral compass has never wavered. I can pay no greater tribute to Mike Copps than to say he is a public servant without equal. Truly, this is the greatest accolade one can garner.

Perhaps one way to underscore Mike Copps' unique temperament and keen intellect is to explain the origins of my relationship with him. Mike came to my staff in 1970, to help with writing and other tasks. From this humble beginning, he rose in less than five years to be my administrative assistant. Now, I pride myself on my staff, and for someone to rise from a newly hired assistant to chief of staff in the Senate in just five years is highly unusual. But Mike Copps has made a career out of making the unusual seem routine.

Just look at what he has accomplished since taking over as the Deputy Assistant Secretary of Commerce for Basic Industries in 1993. His tenure has been one of the busiest and most purposeful in that office's history. DAS Copps has conceived, organized, and successfully achieved public sector-private sector partnerships in the belief that we can succeed in the world of global commerce only through close cooperation between industry and government. This has been the guiding light of his tenure at Commerce: fostering public sector-private sector cooperation to strengthen U.S. industry and benefit U.S. consumers.

For example, under Mike Copps' leadership, the Commerce Department's Basic Industries division has administered seven highly innovative Market Development Cooperator Program Awards. This competitive matching grants program provides two private sector dollars for every federal dollar and builds public-private partnerships by providing assistance to non-profit export multipliers.

DAS Copps chairs the U.S.-Russia Business Development Committee's Oil and Gas Working Group. The BDC is the principal venue for bilateral discussions on trade between America and Russia. Chairman Copps played an important role in pushing successfully for the removal of the export tax for U.S. companies shipping oil out of Russia and in reducing Russian oil excise taxes.

In China, Copps negotiated the terms of reference for working groups in the electrical power, chemical, and automotive industries; developed policy and trade promotion programs for each; and started a broad range of working group activities involving both the private and public sectors.

Copps also helped create similar partnerships involving forest products and agribusiness in Russia, energy and agribusiness in the Ukraine, and electrical power in Turkey.

To see how effectively Deputy Assistant Secretary Copps has promoted U.S. industries, just look at what he has done for the automotive industry. Under his leadership, the Commerce Department's Office of Automotive Affairs has become the lead agency of the U.S. Government in providing both the expertise for our nation's global automotive negotiations and its trade promotion initiatives. During the past two years, for example, the Office has convened meetings to successfully resolve 23 outstanding Japanese vehicle standards issues.

The Office of Automotive Affairs also contributed its expertise and participation to ongoing U.S.-Korean automotive negotiations, an ASEAN automotive trade initiative, and to U.S.-Brazil automotive talks. All these initiatives have helped reinvigorate the U.S. auto industry and have helped it achieve a level playing field and a competitive edge overseas.

Mike Copps has been able to compile this impressive record of achievement because he combines a tremendous work ethic, wonderful diplomatic skills, and a rigorous and analytical mind. In addition, he possesses a historical perspective unmatched by anyone I have met in government. Before joining my staff in 1970, he had earned his Ph.D. in history and taught courses at Loyola University for three years. His appreciation for the forces of history and the perspective his studies gave him make Mike Copps especially suited for this job, which requires an understanding not only of economic forces and trade negotiation, but also of America's role in the world and the cultures of our trading partners.

Mike Copps possesses all the qualities we admire in our public servants. Professional and grave in matters of the public trust, he is also witty and diplomatic. He values good policies over politics, but he understands the importance of both in the arena of international trade. After working in the Senate, private industry, and the Department of Commerce, he appreciates the concerns and needs of both sectors and knows the compromises necessary to create successful public-private partnerships.

Finally, I would note that Mike Copps' dedication begins at home. He is a devoted family man, and I know his wife Beth and his five children are justifiably proud of his service and achievements. Unlike some in Washington, Mike has never forgotten the values and ideals that count the most. I believe his moral compass points him in the right direction so infallibly because it is grounded in the family he treasures above all else.

Mr. President, I urge speedy confirmation of Michael J. Copps to be Assistant Secretary of Commerce for Trade Development. We cannot afford to delay action on such an effective and dedicated public servant.

NOMINATION OF JOHN O'LEARY TO BE UNITED STATES AMBASSADOR TO CHILE

Ms. SNOWE. Mr. President, I rise today to express my strong support for the nomination of John O'Leary to be the next United States Ambassador to Chile, and my appreciation to the Foreign Relations Committee for their prompt and favorable review. I urge the Senate to do likewise.

I know that Mr. O'Leary will be a credit to his fellow Mainers and the citizens of the United States. On June 13th, I was proud to join with my colleagues in the Maine delegation—Senator COLLINS, Representative ALLEN, and Representative BALDACCI—to introduce this outstanding candidate to the Foreign Relations Committee. Mainers have had a long and proud tradition of service to this nation and John O'Leary is the latest individual to carry on this tradition. We in Maine are proud of him and know he will make the nation proud as well.

Mr. O'Leary brings a wealth of talents to the table, and a review of his background reveals a man well-qualified for the demands and responsibilities of the post for which he has been nominated.

Since his graduation from Yale Law School in 1974, John O'Leary has built an impressive career in law distinguished by a strong intellect and a commitment to the highest ethical standards. He is a leader in the American legal field, having recently served as the Chair of the American Bar Association's eleven-person Standing Committee on Environmental Law. He has also been entrusted with one of eight seats on the First Circuit Advisory Committee on Rules.

Mr. O'Leary's outstanding leadership and organizational skills are also evidenced by his management of complex litigation. In fact, his efforts led one major national retailer to choose Mr. O'Leary's firm, Pierce Atwood, for its annual award for quality and value—the first time a law firm had ever been chosen from among the retailer's global vendors for such an honor. His analytical mind coupled with a studious attention to detail would be of tremendous benefit to the United States' interests in Chile.

Mr. O'Leary is also no stranger to public and community service. His commitment to civic affairs in Maine are evidenced by his election to the City Council of Maine's largest city, Portland, and his service as Mayor. He has also contributed of his time and talents as a trustee and president of the Portland Public Library.

Finally, John O'Leary's extensive background and interest in Latin American affairs would be invaluable to U.S.-Chile relations. His impressive resume includes participation on an arbitration panel for the Inter-American Commercial Arbitration Commission, working on a matter involving Venezuela; and service on a three member United States team that assisted Bolivia in sustainable development matters. From 1991 to 1997, Mr. O'Leary also served as President of the Natural Resources and Environmental Protection Committee of the Inter-American Bar Association (IABA), which was charged with overall responsibility for the IABA committee's activities in Chile and throughout the Americas.

And finally, in March of 1997, he both chaired and organized a major conference in Argentina on "Development, the Environment and Dispute Resolution in the Americas"—which incidentally was the first such American Bar Association program ever run in South America.

Mr. President, we in the Senate have the solemn responsibility of ensuring that those Americans we send abroad to represent our nation and her interests are individuals of the highest character and most outstanding qualifications. Today, we have before us a nominee who fulfills those criteria most ably. I met with Mr. O'Leary prior to his confirmation hearing and that meeting only confirmed what I have already stated—that I believe him to be an outstanding choice for Ambassador. He is a man of intellect and integrity, who knows how to work with people and knows how to get things done.

Mr. President, I am pleased that the Senate is about to act to confirm John O'Leary as our next Ambassador to Chile. It is a decision I believe all of my colleagues will be proud that we made.

INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 1999

Mr. LOTT. I ask unanimous consent that the Armed Services Committee be discharged from further consideration of S. 2052 and the Senate proceed to its consideration. This is the intelligence authorization bill.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> A bill (S. 2052) to authorize appropriations for fiscal year 1999 for intelligence and intelligence related activities for the U.S. government and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. SHELBY. Mr. President, I rise in strong support of S. 2052, the Intelligence Authorization Act for Fiscal Year 1999, to authorize appropriations for intelligence-related activities and programs of the United States Government. This important legislation was reported favorably out of the Committee on May 7, 1998, by unanimous vote, consistent with the long-standing, bipartisan nature of the Select Committee on Intelligence.

Following receipt of the President's budget, the Select Committee undertook a thorough review of the budget request for intelligence for fiscal year 1999. That review was informed, in part, by several hearings and briefings as well as the findings and recommendations of a group of outside experts—known as the Technical Advisory Group—that the distinguished Vice Chairman of the Committee, Senator KERREY, and I tasked last December to address key questions facing the Community.

In addition, the Committee staff recently completed indepth audits and reviews of the use of "cover" by the Central Intelligence Agency and the administration of the Foreign Intelligence Surveillance Act of 1978. These reviews and audits led to Committee action with respect to the authorities, applicable laws, and budget of the activity or program concerned.

As a product of these reviews, the Committee came to some rather startling and disconcerting conclusions about the overall health and direction of the Intelligence Community. For example:

First, the CIA's foremost mission of providing timely intelligence based on human sources ("HUMINT") is in grave jeopardy. CIA case officers today do not have the training or the equipment needed to keep their true identities hidden, to communicate covertly with agents, or to plant sophisticated listening devices and other collection tools that will provide timely intelligence on an adversary's intentions.

Second, what many see as the "crown jewel" of U.S. Intelligence—the National Security Agent's SIGINT capability—likewise is in dire need of modernization. The digital and fiber-optic revolutions are here-and-now, but NSA is still predominantly oriented toward Cold War-era threats. The Director of NSA, Lieutenant General Kenneth Minihan, has recommended major changes in how NSA performs its vital mission—changes our Committee endorses—but these changes were not reflected in the President's budget request.

Third, promising technologies and systems for detecting missiles and other threats have been short-changed in the budget request. Likewise, robust funding for new tools for conducting information warfare, new sensors to detect and counter proliferation, and moving to smaller and cheaper satellites to support the war-fighter are not included in the budget request.

And fourth, the quality of analysis within the Intelligence Community is poor and getting worse. Responding to the failure to predict the Indian nuclear tests, the Director of Central Intelligence commissioned retired Admiral David Jeremiah to review what went wrong and why. Among other findings, Admiral Jeremiah concluded that intelligence community analysts were complacent; they based their analyses on faulty assumptions; and engaged in wishful thinking. It is my belief that such is the state of analysis as it relates to many issues and problems, including political-military developments in China, the ballistic missile threat, and more. We can and should expect more from the Intelligence Community.

The Intelligence Community has been forced by budgetary pressures to choose between funding current operations (such as Bosnia) and investing in the future. This is the case even after personnel reductions of over 20 percent in the Intelligence Community have been made over the past decade. In many ways, then, the problem confronting U.S. Intelligence is similar to that confronting the Department of Defense: How to pay for the necessary investments in future, "winning-edge" capabilities when the policymakers emphasize current operations? And, equally important, how to sustain the quality of life and skills-level of personnel who are already stretched thin by high operations tempo and lengthy overseas deployments?

To address these challenges, Senator KERREY and I tasked the staff to find and cut any and all poorly justified or redundant programs out of the budget. And, in fact, significant cuts were made to a wide range of lower-priority intelligence programs and activities. If it was poorly justified, redundant, or low-priority, then we cut it. These actions are entirely consistent with our oversight responsibilities, and the American people would expect no less.

The Select Committee then took those funds and applied them against the highest priority intelligence needs and targets. Earlier this year, Senator KERREY and I prepared intelligence budget guidance to direct the staff's budget work. That guidance emphasized the need for strengthened investment in areas such as advanced research and development, counter-proliferation, counter-terrorism, counter-narcotics, personnel training, information operations, effective covert action, and enhanced analysis. These are precisely the areas the Committee has historically supported and the keys to future intelligence successes—whether to support military commanders, policymakers in Washington, or American diplomats.

This approach of cutting low-priority projects and redirecting those funds into high-payoff, futuristic technologies and systems, is fiscally responsible and reflects the need for difficult choices in an era of scarce resources.

This budget is full of tough choices. For example, the Committee recommended cutting certain "legacy" programs and activities at NSA in order to pay for the collection systems and processes of the future, as recommended in General Minihan's study of the future SIGINT architecture needs (the "Unified Cryptologic Architecture"). Likewise, the Committee recommended cutting the number of CIA contractors, and reduced spending on costly infrastructure programs.

None of these actions were easy—and in fact I am concerned that the Select Committee may have cut the intelligence budget too deeply in order to reach agreement with the Senate Armed Services Committee. That being said, this legislation is sound, it is balanced, and it is worthy of strong bipartisan support.

My colleagues and the American people must come to understand that to save lives on the battlefield, to preclude terrorist attacks against Americans, to root out spies in our midst, and to give diplomats the information they need to forestall conflict in the first place, we need an effective, revitalized Intelligence Community. And that is precisely what the Intelligence Authorization Act seeks to do.

In summary, the Select Committee made the tough choices. We cut programs in order to invest in the future. We concluded that the intelligence budget can be cut, but it must be done in a careful, precise way, and based on specific programmatic recommendations. And we did it in a fully bipartisan manner.

I applaud and appreciate the efforts of the Vice Chairman of the Committee, Senator KERREY from Nebraska, and all the Members of the Committee, who labored long and hard on this bill. It is one of the most important pieces of legislation this body will consider this year, and I urge its passage.

Pursuant to the unanimous consent agreement, the Armed Services Committee has been discharged from consideration of the Intelligence Authorization Bill. Although the Chairman of the Armed Services Committee and I had previously agreed that the Armed Services Committee would not report the Intelligence Authorization Bill until three days following completion of Senate Floor consideration of the Defense Authorization Bill, the Chairman of the Armed Services Committee has informed me that his committee has completed its review of the Intelligence Authorization Bill and does not recommend any amendments. We agree that it is appropriate for the Senate to consider the intelligence Authorization Bill at this time. We also agree, however, that this unanimous consent agreement to discharge the Armed Services Committee from further review of the Intelligence Authorization Bill will not serve as a precedent for requiring the Armed Services Committee to report future Intelligence Authorization Bills until it has had an adequate amount of time to review such legislation.

I ask unanimous consent to have printed in the RECORD the cost estimate for the bill.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, May 14, 1998.

Hon. RICHARD C. SHELBY,
Chairman, Select Committee on Intelligence, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 2052, the Intelligence Authorization Act for Fiscal Year 1999.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Dawn Sauter, who can be reached at 226-2840.

Sincerely,

JUNE E. O'NEILL,
Director.

Enclosure.

S. 2052: INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 1999, AS REPORTED BY THE SENATE SELECT COMMITTEE ON INTELLIGENCE ON MAY 7, 1998

SUMMARY

S. 2052 would authorize appropriations for fiscal year 1999 for intelligence activities of the United States government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System (CIARDS).

This estimate addresses only the unclassified portion of the bill. On that limited basis, CBO estimates that enacting S. 2052 would result in additional spending of $174 million over the 1999-2003 period, assuming appropriation of the authorized amounts. The unclassified portion of the bill would affect direct spending; thus, pay-as-you-go procedures would apply. However, CBO cannot give a precise estimate of the direct spending effects because data to support a cost estimate are classified.

The Unfunded Mandates Reform Act of 1995 (UMRA) excludes from application of the act legislative provisions that are necessary for the national security. CBO has determined that all of the provisions of this bill either fit within that exclusion or do not contain intergovernmental or private-sector mandates as defined by UMRA.

ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary impact of the unclassified portions of S. 2052 is shown in the following table. CBO is unable to obtain the necessary information to estimate the costs for the entire bill because parts are classified at a level above clearances held by CBO employees. The costs of this legislation fall within budget function 050 (national defense).

	By fiscal year, in millions of dollars—					
	1998	1999	2000	2001	2002	2003
SPENDING SUBJECT TO APPROPRIATION						
Spending Under Current Law for the Community Management Account:						
Budget Authority[1]	94	0	0	0	0	0
Estimated Outlays	104	36	7	2	0	0
Proposed Changes:						
Authorization Level	0	174	0	0	0	0
Estimated Outlays	0	108	52	10	3	0
Spending Under S. 2052 for the Community Management Account:						
Authorization Level[2]	94	174	0	0	0	0
Estimated Outlays	104	144	59	12	3	0
CHANGES IN DIRECT SPENDING						
Estimated Budget Authority	0	0	(2)	(2)	(2)	(2)
Estimated Outlays	0	0	(2)	(2)	(2)	(2)

[1] The 1998 level is the amount appropriated for that year.

[2] CBO cannot give a precise estimate of direct spending effects because data to support a cost estimate are classified.

The bill would authorize appropriations of $174 million for the Community Management Account. In addition, the bill would authorize $202 million for CIARDS to cover retirement costs attributable to military service and various unfunded liabilities. The payment to CIARDS is considered mandatory, and the authorization under this bill would be the same as assumed in the CBO baseline.

Section 401 of the bill would extend the CIA's authority to offer incentive payments to employees who voluntarily retire or resign. This authority, which is currently scheduled to expire at the end of fiscal year 1999, would be extended through fiscal year 2001. Section 401 would also require the CIA to make a deposit to the Civil Service Trust Fund equal to 15 percent of final pay for each employee who accepts an incentive payment. CBO estimates that these payments would amount to less than $5 million. We believe that these deposits would be sufficient to cover the cost of any long-term increase in benefits that would result from induced retirements, although the timing of the agency payments and the additional benefit payments would not match on a yearly basis. CBO cannot provide a precise estimate of the direct spending effects because the data necessary for an estimate are classified.

Section 501 of the bill would require the President to inform certain federal employees and contract employees that they may disclose classified and unclassified information to Congressional oversight committees if they believe that information provides direct and specific evidence of wrongdoing. CBO estimates that the costs of implementing section 501 would not be significant because the number of employees covered by the bill would be small and the cost associated with each notice would be minimal.

For purposes of this estimate, CBO assumes that S. 2052 will be enacted by October 1, 1998, and that the full amounts authorized will be appropriated for fiscal year 1999. Outlays are estimated according to historical spending patterns for intelligence programs.

PAY-AS-YOU-GO CONSIDERATIONS

Section 401 of the bill would affect direct spending, and therefore the bill would be subject to pay-as-you-go procedures. CBO cannot estimate the precise direct spending effects because the necessary data are classified.

INTERGOVERNMENTAL AND PRIVATE SECTOR IMPACT

The Unfunded Mandates Reform Act of 1995 (UMRA) excludes from application of the act legislative provisions that are necessary for the national security. CBO has determined that all of the provisions of this bill either fit within that exclusion or do not contain intergovernmental or private-sector mandates as defined by UMRA.

PREVIOUS CBO ESTIMATE

On May 5, 1998, CBO issued an estimate for H.R. 3694, the Intelligence Authorization Act for Fiscal Year 1999, as ordered reported by the House Permanent Select Committee on Intelligence. CBO estimated that section 401 of that bill would increase direct spending by $1 million or more in at least one year during the 2000–2003 period. Like section 401 in S. 2052, the provisions in H.R. 3694 would extend the CIA's authority to offer incentive payments to employees who voluntarily retire or resign. However, H.R. 3694 would not require the CIA to make a deposit equal to 15 percent of final pay to the Civil Service Trust Fund for each employee who receives an incentive payment. The bills also authorize different amounts of appropriations for the Community Management Account.

CBO prepared a cost estimate on February 25, 1998, for S. 1668, as reported by the Senate Select Committee on Intelligence on February 23, 1998. Section 501 of S. 2052 duplicates the provisions of S. 1668, a bill to encourage the disclosure to Congress of certain classified and related information. CBO's estimates for these provisions are identical.

Estimate prepared by

Federal Costs: Estimate for Voluntary Separation Pay: Eric Rollins (226–2820), and Estimate for Remaining Provisions: Dawn Sauter (226–2840).

Impact on State, Local, and Tribal Governments: Teri Gullo (225–3220).

Impact on the Private Sector: Bill Thomas (226–2900).

Estimate approved by: Robert A. Sunshine, Deputy Assistant Director for Budget Analysis.

Mr. KERREY. Mr. President, I rise to urge my colleagues to support the Intelligence Authorization Bill. This bill is the product of the Intelligence Committee's efforts to match national intelligence resources and activities with today's and tomorrow's threats. Under Chairman SHELBY's leadership, the Committee has tried to move the Intelligence Community toward new technologies which address emerging threats like weapons proliferation, terrorism, and information operations, while at the same time keeping intelligence strong against the mature threats, such as Russian nuclear forces, which still can kill scores of millions of Americans.

Most of this bill is secret, contained in a classified annex available to all Members for review in S–407. However, it has been reported that the bill authorizes less money for intelligence programs than the President requested. I am not pleased with this outcome. But as the national security budgets are currently organized, the Intelligence Authorization bill must respond to larger Defense requirements. The dependent relationship of intelligence to defense is anachronistic, in my view, but it exists and Chairman SHELBY and I have worked with our colleagues on the Armed Services Committee to make the best of a bad budgetary situation for both Committees. Let me add, I am equally concerned that the Defense budget is skirting the level of inadequacy, especially with regard to our conventional forces. National security is the principal function of government, and we should fund it better.

The Intelligence Committee looked at the way intelligence is collected—through imagery, signals, human, and measurements and signatures—and saw mature technologies which have served America well for many years pitted against revolutionary change in the collection environments. The Committee studied solutions to this imbalance. In addition to its own evaluation, the Committee gathered a group of outside scientific experts, including some who have had no previous connection to intelligence, to recommend solutions to our shortfalls in signals and human intelligence. This panel's recommendations are also reflected in this bill. So Chairman SHELBY and I have a strong basis in evidence for the new technologies and initiatives which would be authorized by this bill.

The recent nuclear tests in India brought accusations of "intelligence failure" in our media. In fact, I think the episode might be more accurately called a policy failure, but intelligence could certainly have done a better job. Director of Central Intelligence Tenet quickly tasked Admiral David Jeremiah to review the Intelligence Community's performance, and a summary of his recommendations have been declassified at the Committee's request.

The India nuclear case offers many lessons, but two are especially important to intelligence. The first is that the Director of Central Intelligence needs to run the national Intelligence Community to ensure agency efforts are focused and priorities across the individual agencies are clear. I am holding off on legislation to increase the DCI's management powers because new officials are in place in positions already created by Congress to help manage the Community better. I want to see what progress Deputy Director Joan Dempsey and her new Assistant Directors make in harnessing the DCI's existing powers, before Congress creates new ones. Congress and the American people hold the DCI accountable for these problems. We need the DCI to be in charge.

The second India lesson is the tendency to "mirror image", to assume Indians, in this case, would behave as we do. This tendency increases when there is unanimity among analysts and no one is asking contrarian questions. To insure such questions are always asked during the analysis of significant intelligence, Chairman SHELBY and I are offering an amendment today which, among other things, will require competitive analysis as an integral, routine part of the analytic process. The fundamental purpose of intelligence is to keep our policymakers and military commanders from being surprised. Competitive analysis should at least reduce the chance of surprise.

Finally, Mr. President, I understand Chairman SHELBY will introduce an amendment to name the CIA headquarters building after the only U.S. President who has also served as DCI, former President George Bush. While I am not enthusiastic about the current fad of naming things after living politicians, I make an exception in this case. In political terms, service as DCI carries considerable risk. Your apparent failures are big news, while your successes are secret and the fruits of your leadership are harvested by your successor. But in peace or war, George Bush never calculated risks when there was an opportunity to serve his country, and I think he particularly relished the hardest tasks. Naming his old headquarters in his honor is a fitting tribute which I am proud to support.

Mr. President, I urge my colleagues to support this important bill, and I yield the floor.

AMENDMENTS NOS. 3051 THROUGH 3053, EN BLOC

Mr. LOTT. There are several manager amendments at the desk, and I ask they be considered and agreed to en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

The Senator from Mississippi [Mr. LOTT] proposes amendments No. 3051 through 3053, en bloc.

The amendments agreed to en bloc are as follows:

AMENDMENT NO. 3051

(Purpose: To authorize the Assistant Director of Central Intelligence for Analysis and Production to direct competitive analysis of analytical products having National importance)

On page 11, between lines 18 and 19, insert the following:

SEC. 307. AUTHORITY TO DIRECT COMPETITIVE ANALYSIS OF ANALYTICAL PRODUCTS HAVING NATIONAL IMPORTANCE.

Section 102(g)(2) of the National Security Act of 1947 (50 U.S.C. 403(g)(2)) is amended—

(1) by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively; and

(2) by inserting after subparagraph (C) the following new subparagraph (D):

"(D) direct competitive analysis of analytical products having National importance;".

AMENDMENT NO. 3052

(Purpose: To require annual studies and reports on the safety and security of Russian nuclear facilities and nuclear military forces)

On page 11, between lines 18 and 19, insert the following:

SEC. 307. ANNUAL STUDY AND REPORT ON THE SAFETY AND SECURITY OF RUSSIAN NUCLEAR FACILITIES AND NUCLEAR MILITARY FORCES.

(a) ANNUAL STUDY.—The Director of Central Intelligence shall, on an annual basis, conduct a study of the safety and security of the nuclear facilities and nuclear military forces in Russia.

(b) ANNUAL REPORTS.—(1) The Director shall, on an annual basis, submit to the committees referred to in paragraph (4) an intelligence report assessing the safety and security of the nuclear facilities and nuclear military forces in Russia.

(2) Each report shall include a discussion of the following:

(A) The ability of the Russia Government to maintain its nuclear military forces.

(B) Security arrangements at civilian and military nuclear facilities in Russia.

(C) The reliability of controls and safety systems at civilian nuclear facilities in Russia.

(D) The reliability of command and control systems and procedures of the nuclear military forces in Russia.

(3) Each report shall be submitted in unclassified form, but may contain a classified annex.

(4) The committees referred to in paragraph (1) are the following:

(A) The Select Committee on Intelligence, Committee on Armed Services, and Committee on Foreign Relations of the Senate.

(B) The Permanent Select Committee on Intelligence, Committee on National Security, and Committee on International Relations of the House of Representatives.

AMENDMENT NO. 3053

(Purpose: Relating to a quadrennial intelligence review)

On page 11, between lines 18 and 19, insert the following:

SEC. 307. QUADRENNIAL INTELLIGENCE REVIEW.

(a) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the Director of Central Intelligence and the Secretary of Defense should jointly complete, in 1999 and every 4 years thereafter, a comprehensive review of United States intelligence programs and activities;

(2) each review under paragraph (1) should—

(A) include assessments of intelligence policy, resources, manpower, organization, and related matters; and

(B) encompass the programs and activities funded under the National Foreign Intelligence Program (NFIP), the Joint Military Intelligence Program (JMIP), and the Tactical Intelligence and Related Activities (TIARA) accounts;

(3) the results of each review should be shared with the appropriate committees of Congress; and

(4) the Director, in conjunction with the Secretary, should establish a nonpartisan, independent panel (with members chosen in consultation with the committees referred to in subsection (b)(2) from individuals in the private sector) in order to—

(A) assess each review under paragraph (1);

(B) conduct an assessment of alternative intelligence structures to meet the anticipated intelligence requirements for the national security and foreign policy of the United States through the year 2010; and

(C) make recommendations to the Director and the Secretary regarding the optimal intelligence structure for the United States in light of the assessment under subparagraph (B).

(b) REPORT.—(1) Not later than August 15, 1998, the Director and the Secretary shall jointly submit to the committees referred to in paragraph (2) the views of the Director and the Secretary regarding—

(A) the potential value of conducting reviews as described in subsection (a)(1); and

(B) the potential value of assessments of such reviews as described in subsection (a)(4)(A).

(2) The committees referred to in paragraph (1) are the following:

(A) The Select Committee on Intelligence, Committee on Armed Services, and Committee on Appropriations of the Senate.

(B) The Permanent Select Committee on Intelligence, Committee on National Security, and Committee on Appropriations of the House of Representatives.

THE QUADRENNIAL INTELLIGENCE REVIEW

Mr. COATS. Mr. President, I strongly support an initiative to establish a Quadrennial Intelligence Review and an independent, nonpartisan National Intelligence Panel. This process can be modeled after the Military Force Structure Review Act of 1986 which passed the Senate by a unanimous vote of 100-0. This Act directed the Quadrennial Defense Review (QDR) and the National Defense Panel (NDP) which conducted comprehensive reviews of all aspects of defense. These reviews have produced a much needed update of our defense strategy, a revised defense program, and a vibrant debate on the course of our defense capabilities.

I believe that a process of internal and external comprehensive review fashioned on this QDR and NDP model can be equally effective in the area of intelligence. I intend to work with the Committee to develop a provision establishing a Quadrennial Intelligence Review and an independent National Intelligence Panel for inclusion in the Intelligence Authorization Act for Fiscal Year 1999.

AMENDMENT NO. 3050

(Purpose: To provide for the designation of the Headquarters Building of the Central Intelligence Agency as the George Herbert Walker Bush Center for Central Intelligence)

Mr. LOTT. Mr. President, Senator SHELBY has an additional amendment at the desk and I ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Mississippi [Mr. LOTT], for Mr. SHELBY, proposes an amendment numbered 3050.

Mr. LOTT. I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 11, between lines 18 and 19, insert the following:

SEC. 307. DESIGNATION OF HEADQUARTERS BUILDING OF CENTRAL INTELLIGENCE AGENCY AS THE GEORGE HERBERT WALKER BUSH CENTER FOR CENTRAL INTELLIGENCE.

(a) DESIGNATION.—The Headquarters Building of the Central Intelligence Agency located in Langley, Virginia, shall be known and designated as the "George Herbert Walker Bush Center for Central Intelligence".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the Headquarters Building referred to in subsection (a) shall be deemed to be a reference to the George Herbert Walker Bush Center for Central Intelligence.

"GEORGE HERBERT WALKER BUSH CENTER FOR CENTRAL INTELLIGENCE"

Mr. SHELBY. Mr. President, this Amendment will add a section to the Intelligence Authorization Act for Fiscal Year 1999 that will designate the headquarters building of the Central Intelligence Agency as the "George Herbert Walker Bush Center for Central Intelligence."

I believe that this is a fitting tribute to a man that has had a remarkable and distinguished career in public service not only as President, but also as Vice President, Member of Congress, U.N. Ambassador, the Chief of the U.S. Liaison Office to the Peoples' Republic of China, and Director of Central Intelligence.

President Bush, of course, is the only Director of Central Intelligence to become President of the United States.

I know that he has always been particularly proud of his tenure as the Director of Central Intelligence. I also know that he guided the Agency through a difficult time and continues to be held in high regard by not only CIA employees, but also the Intelligence Community at large.

Currently, the headquarters building at Langley does not have a formal name and this would be the only facility in the Washington, D.C. area named after President Bush. This amendment has been cleared on both sides and I urge its immediate adoption.

Mr. LOTT. Mr. President, I ask unanimous consent the amendment be agreed to and, further, a classified change be incorporated in the classified schedule of authorizations which has been available for all Members' review.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 3050) was agreed to.

Mr. LOTT. I ask unanimous consent that the bill be considered read the third time and the Intelligence Committee then be discharged from further consideration of H.R. 3694.

I further ask unanimous consent that the Senate proceed to its immediate consideration, all after the enacting clause be stricken, and the text of S. 2052, as amended, be inserted in lieu thereof. I ask consent that the bill be read the third time, and passed, the Senate insist on its amendment, request a conference with the House, and the Chair be authorized to appoint conferees, and I ask unanimous consent that the statements related to the bill appear in the RECORD and S. 2052 be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 3694), as amended, was considered read the third time, and passed, as follows:

Resolved, That the bill from the House of Representatives (H.R. 3694) entitled "An Act to authorize appropriations for fiscal year 1999 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.", do pass with the following amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Intelligence Authorization Act for Fiscal Year 1999".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—INTELLIGENCE ACTIVITIES

Sec. 101. Authorization of appropriations.
Sec. 102. Classified schedule of authorizations.
Sec. 103. Personnel ceiling adjustments.
Sec. 104. Community Management Account.

TITLE II—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

Sec. 201. Authorization of appropriations.

TITLE III—GENERAL PROVISIONS

Sec. 301. Increase in employee compensation and benefits authorized by law.
Sec. 302. Restriction on conduct of intelligence activities.
Sec. 303. Extension of application of sanctions laws to intelligence activities.
Sec. 304. Extension of authority to engage in commercial activities as security for intelligence collection activities.
Sec. 305. Modification of National Security Education Program.
Sec. 306. Technical amendments.
Sec. 307. Authority to direct competitive analysis of analytical products having national importance.
Sec. 308. Annual study and report on the safety and security of Russian nuclear facilities and nuclear military forces.
Sec. 309. quadrennial intelligence review.
Sec. 310. Designation of Headquarters Building of Central Intelligence Agency as the George Herbert Walker Bush Center for Central Intelligence.

TITLE IV—CENTRAL INTELLIGENCE AGENCY

Sec. 401. Extension of separation pay program for voluntary separation of CIA employees.
Sec. 402. Additional duties for Inspector General of Central Intelligence Agency.

TITLE V—DISCLOSURE OF INFORMATION TO CONGRESS

Sec. 501. Encouragement of disclosure of certain information to Congress.

TITLE VI—FOREIGN INTELLIGENCE AND INTERNATIONAL TERRORISM INVESTIGATIONS

Sec. 601. Pen registers and trap and trace devices in foreign intelligence and international terrorism investigations.
Sec. 602. Access to certain business records for foreign intelligence and international terrorism investigations.
Sec. 603. Conforming and clerical amendments.

TITLE I—INTELLIGENCE ACTIVITIES

SEC. 101. AUTHORIZATION OF APPROPRIATIONS.

Funds are hereby authorized to be appropriated for fiscal year 1999 for the conduct of the intelligence and intelligence-related activities of the following elements of the United States Government:

(1) The Central Intelligence Agency.

(2) The Department of Defense.

(3) The Defense Intelligence Agency.

(4) The National Security Agency.

(5) The Department of the Army, the Department of the Navy, and the Department of the Air Force.

(6) The Department of State.

(7) The Department of the Treasury.

(8) The Department of Energy.

(9) The Federal Bureau of Investigation.

(10) The National Reconnaissance Office.

(11) The National Imagery and Mapping Agency.

SEC. 102. CLASSIFIED SCHEDULE OF AUTHORIZATIONS.

(a) SPECIFICATIONS OF AMOUNTS AND PERSONNEL CEILINGS.—The amounts authorized to be appropriated under section 101, and the authorized personnel ceilings as of September 30, 1999, for the conduct of the intelligence and intelligence-related activities of the elements listed in such section, are those specified in the classified Schedule of Authorizations prepared to accompany the conference report on the bill H.R. 3694 of the One Hundred Fifth Congress.

(b) AVAILABILITY OF CLASSIFIED SCHEDULE OF AUTHORIZATIONS.—The Schedule of Authorizations shall be made available to the Committees on Appropriations of the Senate and House of Representatives and to the President. The President shall provide for suitable distribution of the Schedule, or of appropriate portions of the Schedule, within the Executive Branch.

SEC. 103. PERSONNEL CEILING ADJUSTMENTS.

(a) AUTHORITY FOR ADJUSTMENTS.—With the approval of the Director of the Office of Management and Budget, the Director of Central Intelligence may authorize employment of civilian

personnel in excess of the number authorized for fiscal year 1999 under section 102 when the Director of Central Intelligence determines that such action is necessary to the performance of important intelligence functions, except that the number of personnel employed in excess of the number authorized under such section may not, for any element of the intelligence community, exceed two percent of the number of civilian personnel authorized under such section for such element.

(b) NOTICE TO INTELLIGENCE COMMITTEES.—The Director of Central Intelligence shall promptly notify the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate whenever the Director exercises the authority granted by this section.

SEC. 104. COMMUNITY MANAGEMENT ACCOUNT.

(a) AUTHORIZATION OF APPROPRIATIONS.—

(1) AUTHORIZATION.—There is authorized to be appropriated for the Community Management Account of the Director of Central Intelligence for fiscal year 1999 the sum of $173,633,000.

(2) AVAILABILITY OF CERTAIN FUNDS.—Within such amount, funds identified in the classified Schedule of Authorizations referred to in section 102(a) for the Advanced Research and Development Committee, the Advanced Technology Group, and the Environmental Intelligence and Applications Program shall remain available until September 30, 2000.

(b) AUTHORIZED PERSONNEL LEVELS.—The elements within the Community Management Account of the Director of Central Intelligence are authorized a total of 283 full-time personnel as of September 30, 1999. Personnel serving in such elements may be permanent employees of the Community Management Account element or personnel detailed from other elements of the United States Government.

(c) CLASSIFIED AUTHORIZATIONS.—

(1) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts authorized to be appropriated for the Community Management Account by subsection (a), there is also authorized to be appropriated for the Community Management Account for fiscal year 1999 such additional amounts as are specified in the classified Schedule of Authorizations referred to in section 102(a). Such additional amounts shall remain available until September 30, 2000.

(2) AUTHORIZATION OF PERSONNEL.—In addition to the personnel authorized by subsection (b) for elements of the Community Management Account as of September 30, 1999, there is hereby authorized such additional personnel for such elements as of that date as is specified in the classified Schedule of Authorizations.

(d) REIMBURSEMENT.—Except as provided in section 113 of the National Security Act of 1947 (50 U.S.C. 404h), during fiscal year 1999, any officer or employee of the United States or member of the Armed Forces who is detailed to the staff of an element within the Community Management Account from another element of the United States Government shall be detailed on a reimbursable basis, except that any such officer, employee, or member may be detailed on a nonreimbursable basis for a period of less than one year for the performance of temporary functions as required by the Director of Central Intelligence.

(e) NATIONAL DRUG INTELLIGENCE CENTER.—

(1) IN GENERAL.—Of the amount authorized to be appropriated in subsection (a), the amount of $27,000,000 shall be available for the National Drug Intelligence Center. Within such amount, funds provided for research, development, test, and evaluation purposes shall remain available until September 30, 2000, and funds provided for procurement purposes shall remain available until September 30, 2001.

(2) TRANSFER OF FUNDS.—The Director of Central Intelligence shall transfer to the Attorney General of the United States funds available for the National Drug Intelligence Center under paragraph (1). The Attorney General shall utilize funds so transferred for the activities of the Center.

(3) LIMITATION.—Amounts available for the Center may not be used in contravention of the provisions of section 103(d)(1) of the National Security Act of 1947 (50 U.S.C. 403–3(d)(1)).

(4) AUTHORITY OVER CENTER.—Notwithstanding any other provision of law, the Attorney General shall retain full authority over the operations of the Center.

TITLE II—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

SEC. 201. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated for the Central Intelligence Agency Retirement and Disability Fund for fiscal year 1999 the sum of $201,500,000.

TITLE III—GENERAL PROVISIONS

SEC. 301. INCREASE IN EMPLOYEE COMPENSATION AND BENEFITS AUTHORIZED BY LAW.

Appropriations authorized by this Act for salary, pay, retirement, and other benefits for Federal employees may be increased by such additional or supplemental amounts as may be necessary for increases in such compensation or benefits authorized by law.

SEC. 302. RESTRICTION ON CONDUCT OF INTELLIGENCE ACTIVITIES.

The authorization of appropriations by this Act shall not be deemed to constitute authority for the conduct of any intelligence activity which is not otherwise authorized by the Constitution or the laws of the United States.

SEC. 303. EXTENSION OF APPLICATION OF SANCTIONS LAWS TO INTELLIGENCE ACTIVITIES.

Section 905 of the National Security Act of 1947 (50 U.S.C. 441d) is amended by striking out "January 6, 1999" and inserting in lieu thereof "January 6, 2000".

SEC. 304. EXTENSION OF AUTHORITY TO ENGAGE IN COMMERCIAL ACTIVITIES AS SECURITY FOR INTELLIGENCE COLLECTION ACTIVITIES.

Section 431(a) of title 10, United States Code, is amended in the second sentence by striking out "December 31, 1998" and inserting in lieu thereof "December 31, 2000".

SEC. 305. MODIFICATION OF NATIONAL SECURITY EDUCATION PROGRAM.

(a) ASSISTANCE FOR COUNTERPROLIFERATION STUDIES.—The David L. Boren National Security Education Act of 1991 (50 U.S.C. 1901 et seq.) is amended as follows:

(1) In section 801 (50 U.S.C. 1901), by inserting "counterproliferation studies," after "area studies," each place it appears in subsections (b)(7) and (c)(2).

(2) In section 802 (50 U.S.C. 1902)—

(A) by inserting "counterproliferation studies," after "area studies," each place it appears in paragraphs (1)(B)(i), (1)(C), and (4) of subsection (a); and

(B) by inserting "counterproliferation study," after "area study," each place it appears subparagraphs (A)(ii) and (B)(ii) of subsection (b)(2).

(3) In section 803(b)(8) (50 U.S.C. 1903(b)(8)), by striking out "and area" and inserting in lieu thereof "area, and counterproliferation".

(4) In section 806(b)(1) (50 U.S.C. 1906(b)(1)), by striking out "and area" and inserting in lieu thereof "area, and counterproliferation".

(b) REVISION OF MEMBERSHIP OF NATIONAL SECURITY EDUCATION BOARD.—Section 803(b) of that Act (50 U.S.C. 1903(b)) is further amended—

(1) by striking out paragraph (6); and

(2) by inserting in lieu thereof the following new paragraph (6):

"(6) The Secretary of Energy.".

SEC. 306. TECHNICAL AMENDMENTS.

(a) CENTRAL INTELLIGENCE AGENCY ACT OF 1949.—(1) Section 5(a)(1) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403f(a)(1)) is amended—

(A) by striking out "subparagraphs (B) and (C) of section 102(a)(2), subsections (c)(5)" and inserting in lieu thereof "paragraphs (2) and (3) of section 102(a), subsections (c)(6)"; and

(B) by striking out "(50 U.S.C. 403(a)(2)" and inserting in lieu thereof "(50 U.S.C. 403(a)".

(2) Section 6 of that Act (50 U.S.C. 403g) is amended by striking out "section 103(c)(5) of the National Security Act of 1947 (50 U.S.C. 403–3(c)(5))" and inserting in lieu thereof "section 103(c)(6) of the National Security Act of 1947 (50 U.S.C. 403–3(c)(6))".

(b) CENTRAL INTELLIGENCE AGENCY RETIREMENT ACT.—Section 201(c) of the Central Intelligence Agency Retirement Act (50 U.S.C. 2011(c)) is amended by striking out "section 103(c)(5) of the National Security Act of 1947 (50 U.S.C. 403–3(c)(5))" and inserting in lieu thereof "section 103(c)(6) of the National Security Act of 1947 (50 U.S.C. 403–3(c)(6))".

SEC. 307. AUTHORITY TO DIRECT COMPETITIVE ANALYSIS OF ANALYTICAL PRODUCTS HAVING NATIONAL IMPORTANCE.

Section 102(g)(2) of the National Security Act of 1947 (50 U.S.C. 403(g)(2)) is amended—

(1) by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively; and

(2) by inserting after subparagraph (C) the following new subparagraph (D):

"(D) direct competitive analysis of analytical products having National importance;".

SEC. 308. ANNUAL STUDY AND REPORT ON THE SAFETY AND SECURITY OF RUSSIAN NUCLEAR FACILITIES AND NUCLEAR MILITARY FORCES.

(a) ANNUAL STUDY.—The Director of Central Intelligence shall, on an annual basis, conduct a study of the safety and security of the nuclear facilities and nuclear military forces in Russia.

(b) ANNUAL REPORTS.—(1) The Director shall, on an annual basis, submit to the committees referred to in paragraph (4) an intelligence report assessing the safety and security of the nuclear facilities and nuclear military forces in Russia.

(2) Each report shall include a discussion of the following:

(A) The ability of the Russian Government to maintain its nuclear military forces.

(B) Security arrangements at civilian and military nuclear facilities in Russia.

(C) The reliability of controls and safety systems at civilian nuclear facilities in Russia.

(D) The reliability of command and control systems and procedures of the nuclear military forces in Russia.

(3) Each report shall be submitted in unclassified form, but may contain a classified annex.

(4) The committees referred to in paragraph (1) are the following:

(A) The Select Committee on Intelligence, Committee on Armed Services, and Committee on Foreign Relations of the Senate.

(B) The Permanent Select Committee on Intelligence, Committee on National Security, and Committee on International Relations of the House of Representatives.

SEC. 309. QUADRENNIAL INTELLIGENCE REVIEW.

(a) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the Director of Central Intelligence and the Secretary of Defense should jointly complete, in 1999 and every 4 years thereafter, a comprehensive review of United States intelligence programs and activities;

(2) each review under paragraph (1) should—

(A) include assessments of intelligence policy, resources, manpower, organization, and related matters; and

(B) encompass the programs and activities funded under the National Foreign Intelligence Program (NFIP), the Joint Military Intelligence Program (JMIP), and the Tactical Intelligence and Related Activities (TIARA) accounts;

(3) the results of each review should be shared with the appropriate committees of Congress; and

(4) the Director, in conjunction with the Secretary, should establish a nonpartisan, independent panel (with members chosen in consultation with the committees referred to in subsection (b)(2) from individuals in the private sector) in order to—

(A) assess each review under paragraph (1);

(B) conduct an assessment of alternative intelligence structures to meet the anticipated intelligence requirements for the national security and foreign policy of the United States through the year 2010; and

(C) make recommendations to the Director and the Secretary regarding the optimal intelligence structure for the United States in light of the assessment under subparagraph (B).

(b) Report.—(1) Not later than August 15, 1998, the Director and the Secretary shall jointly submit to the committees referred to in paragraph (2) the views of the Director and the Secretary regarding—

(A) the potential value of conducting reviews as described in subsection (a)(1); and

(B) the potential value of assessments of such reviews as described in subsection (a)(4)(A).

(2) The committees referred to in paragraph (1) are the following:

(A) The Select Committee on Intelligence, Committee on Armed Services, and Committee on Appropriations of the Senate.

(B) The Permanent Select Committee on Intelligence, Committee on National Security, and Committee on Appropriations of the House of Representatives.

SEC. 310. DESIGNATION OF HEADQUARTERS BUILDING OF CENTRAL INTELLIGENCE AGENCY AS THE GEORGE HERBERT WALKER BUSH CENTER FOR CENTRAL INTELLIGENCE.

(a) Designation.—The Headquarters Building of the Central Intelligence Agency located in Langley, Virginia, shall be known and designated as the "George Herbert Walker Bush Center for Central Intelligence".

(b) References.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the Headquarters Building referred to in subsection (a) shall be deemed to be a reference to the George Herbert Walker Bush Center for Central Intelligence.

TITLE IV—CENTRAL INTELLIGENCE AGENCY

SEC. 401. EXTENSION OF SEPARATION PAY PROGRAM FOR VOLUNTARY SEPARATION OF CIA EMPLOYEES.

(a) Extension.—Subsection (f) of section 2 of the Central Intelligence Agency Voluntary Separation Pay Act (50 U.S.C. 403–4 note) is amended by striking out "September 30, 1999" and inserting in lieu thereof "September 30, 2001".

(b) Conforming Amendment.—Subsection (i) of that section is amended by striking out "fiscal year 1998 or fiscal year 1999" and inserting in lieu thereof "fiscal year 1998, 1999, 2000, or 2001"

SEC. 402. ADDITIONAL DUTIES FOR INSPECTOR GENERAL OF CENTRAL INTELLIGENCE AGENCY.

Section 17(c) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403q(c)) is amended—

(1) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively; and

(2) by inserting after paragraph (2) the following new paragraph (3):

"(3) to review existing and proposed legislation relating to the programs and operations of the Agency and to make recommendations in the semiannual reports required by subsection (d) concerning the impact of such legislation on economy and efficiency in the administration of, or prevention and detection of fraud and abuse in, the programs and operations administered or financed by the Agency;".

TITLE V—DISCLOSURE OF INFORMATION TO CONGRESS

SEC. 501. ENCOURAGEMENT OF DISCLOSURE OF CERTAIN INFORMATION TO CONGRESS.

(a) Encouragement.—

(1) In general.—Not later than 30 days after the date of enactment of this Act, the President shall take appropriate actions to inform the employees of the covered agencies, and employees of contractors carrying out activities under classified contracts with covered agencies, that—

(A) except as provided in paragraph (4), the disclosure of information described in paragraph (2) to the individuals referred to in paragraph (3) is not prohibited by law, executive order, or regulation or otherwise contrary to public policy;

(B) the individuals referred to in paragraph (3) are presumed to have a need to know and to be authorized to receive such information; and

(C) the individuals referred to in paragraph (3) may receive information so disclosed only in their capacity as members of the committees concerned.

(2) Covered information.—Paragraph (1) applies to information, including classified information, that an employee reasonably believes to provide direct and specific evidence of—

(A) a violation of any law, rule, or regulation;

(B) a false statement to Congress on an issue of material fact; or

(C) gross mismanagement, a gross waste of funds, a flagrant abuse of authority, or a substantial and specific danger to public health or safety.

(3) Covered individuals.—The individuals to whom information described in paragraph (2) may be disclosed are the members of a committee of Congress having as its primary responsibility the oversight of a department, agency, or element of the Federal Government to which such information relates.

(4) Scope.—Paragraph (1)(A) does not apply to information otherwise described in paragraph (2) if the disclosure of the information is prohibited by Rule 6(e) of the Federal Rules of Criminal Procedure.

(b) Report.—Not later than 60 days after the date of enactment of this Act, the President shall submit to Congress a report on the actions taken under subsection (a).

(c) Construction With Other Reporting Requirements.—Nothing in this section may be construed to modify, alter, or otherwise affect any reporting requirement relating to intelligence activities that arises under the National Security Act of 1947 (50 U.S.C. 401 et seq.) or any other provision of law.

(d) Covered Agencies Defined.—In this section, the term "covered agencies" means the following:

(1) The Central Intelligence Agency.

(2) The Defense Intelligence Agency.

(3) The National Imagery and Mapping Agency.

(4) The National Security Agency.

(5) The Federal Bureau of Investigation.

(6) The National Reconnaissance Office.

(7) Any other Executive agency, or element or unit thereof, determined by the President under section 2302(a)(2)(C)(ii) of title 5, United States Code, to have as its principal function the conduct of foreign intelligence or counterintelligence activities.

TITLE VI—FOREIGN INTELLIGENCE AND INTERNATIONAL TERRORISM INVESTIGATIONS

SEC. 601. PEN REGISTERS AND TRAP AND TRACE DEVICES IN FOREIGN INTELLIGENCE AND INTERNATIONAL TERRORISM INVESTIGATIONS.

The Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended—

(1) by redesignating title IV as title VI and section 401 as section 601, respectively; and

(2) by inserting after title III the following new title:

"TITLE IV—PEN REGISTERS AND TRAP AND TRACE DEVICES FOR FOREIGN INTELLIGENCE PURPOSES

"DEFINITIONS

"Sec. 401. As used in this title:

"(1) The terms 'foreign power', 'agent of a foreign power', 'international terrorism', 'foreign intelligence information', 'Attorney General', 'United States person', 'United States', 'person', and 'State' shall have the same meanings as in section 101 of this Act.

"(2) The terms 'pen register' and 'trap and trace device' have the meanings given such terms in section 3127 of title 18, United States Code.

"(3) The term 'aggrieved person' means any person—

"(A) whose telephone line was subject to the installation or use of a pen register or trap and trace device authorized by this title; or

"(B) whose communication instrument or device was subject to the use of a pen register or trap and trace device authorized by this title to capture incoming electronic or other communications impulses.

"PEN REGISTERS AND TRAP AND TRACE DEVICES FOR FOREIGN INTELLIGENCE AND INTERNATIONAL TERRORISM INVESTIGATIONS

"Sec. 402. (a) Notwithstanding any provision of title I of this Act with respect to electronic surveillance under that title as defined in section 101(f)(4) of this Act, the Attorney General or a designated attorney for the Government may make an application for an order or an extension of an order authorizing or approving the installation and use of a pen register or trap and trace device for any investigation to gather foreign intelligence information or information concerning international terrorism which is being conducted by the Federal Bureau of Investigation under such guidelines as the Attorney General approves pursuant to Executive Order No. 12333, or a successor order.

"(b) Each application under this section shall be in writing under oath or affirmation to—

"(1) a judge of the court established by section 103(a) of this Act; or

"(2) a United States Magistrate Judge under chapter 43 of title 28, United States Code, who is publicly designated by the Chief Justice of the United States to have the power to hear applications for and grant orders approving the installation and use of a pen register or trap or trace device on behalf of a judge of that court.

"(c) Each application under this section shall require the approval of the Attorney General, or a designated attorney for the Government, and shall include—

"(1) the identity of the Federal officer seeking to use the pen register or trap and trace device covered by the application;

"(2) a certification by the applicant that the information likely to be obtained is relevant to an ongoing foreign intelligence or international terrorism investigation being conducted by the Federal Bureau of Investigation under guidelines approved by the Attorney General; and

"(3) information which demonstrates that there is reason to believe that the telephone line

to which the pen register or trap and trace device is to be attached, or the communication instrument or device to be covered by the pen register or trap and trace device, has been or is about to be used in communication with—

"(A) an individual who is engaging or has engaged in international terrorism or clandestine intelligence activities that involve or may involve a violation of the criminal laws of the United States; or

"(B) a foreign power or agent of a foreign power under circumstances giving reason to believe that the communication concerns or concerned international terrorism or clandestine intelligence activities that involve or may involve a violation of the criminal laws of the United States.

"(d)(1) Upon an application made pursuant to this section, the judge shall enter an ex parte order as requested, or as modified, approving the installation and use of a pen register or trap and trace device if the judge finds that the application satisfies the requirements of this section.

"(2) An order issued under this section—

"(A) shall specify—

"(i) the identity, if known, of the person who is the subject of the foreign intelligence or international terrorism investigation;

"(ii) in the case of an application for the installation and use of a pen register or trap and trace device with respect to a telephone line—

"(I) the identity, if known, of the person to whom is leased or in whose name the telephone line is listed; and

"(II) the number and, if known, physical location of the telephone line; and

"(iii) in the case of an application for the use of a pen register or trap and trace device with respect to a communication instrument or device not covered by clause (ii)—

"(I) the identity, if known, of the person who owns or leases the instrument or device or in whose name the instrument or device is listed; and

"(II) the number of the instrument or device; and

"(B) shall direct that—

"(i) upon request of the applicant, the provider of a wire or electronic communication service, landlord, custodian, or other person shall furnish any information, facilities, or technical assistance necessary to accomplish the installation and operation of the pen register or trap and trace device in such a manner as will protect its secrecy and produce a minimum amount of interference with the services that such provider, landlord, custodian, or other person is providing the person concerned;

"(ii) such provider, landlord, custodian, or other person—

"(I) shall not disclose the existence of the investigation or of the pen register or trap and trace device to any person unless or until ordered by the court; and

"(II) shall maintain, under security procedures approved by the Attorney General and the Director of Central Intelligence pursuant to section 105(b)(2)(C) of this Act, any records concerning the pen register or trap and trace device or the aid furnished; and

"(iii) the applicant shall compensate such provider, landlord, custodian, or other person for reasonable expenses incurred by such provider, landlord, custodian, or other person in providing such information, facilities, or technical assistance.

"(e) An order issued under this section shall authorize the installation and use of a pen register or trap and trace device for a period not to exceed 90 days. Extensions of such an order may be granted, but only upon an application for an order under this section and upon the judicial finding required by subsection (d). The period of extension shall be for a period not to exceed 90 days.

"(f) No cause of action shall lie in any court against any provider of a wire or electronic communication service, landlord, custodian, or other person (including any officer, employee, agent, or other specified person thereof) that furnishes any information, facilities, or technical assistance under subsection (d) in accordance with the terms of a court under this section.

"(g) Unless otherwise ordered by the judge, the results of a pen register or trap and trace device shall be furnished at reasonable intervals during regular business hours for the duration of the order to the authorized Government official or officials.

"AUTHORIZATION DURING EMERGENCIES

"SEC. 403. (a) Notwithstanding any other provision of this title, when the Attorney General makes a determination described in subsection (b), the Attorney General may authorize the installation and use of a pen register or trap and trace device on an emergency basis to gather foreign intelligence information or information concerning international terrorism if—

"(1) a judge referred to in section 402(b) of this Act is informed by the Attorney General or his designee at the time of such authorization that the decision has been made to install and use the pen register or trap and trace device, as the case may be, on an emergency basis; and

"(2) an application in accordance with section 402 of this Act is made to such judge as soon as practicable, but not more than 48 hours, after the Attorney General authorizes the installation and use of the pen register or trap and trace device, as the case may be, under this section.

"(b) A determination under this subsection is a reasonable determination by the Attorney General that—

"(1) an emergency requires the installation and use of a pen register or trap and trace device to obtain foreign intelligence information or information concerning international terrorism before an order authorizing the installation and use of the pen register or trap and trace device, as the case may be, can with due diligence be obtained under section 402 of this Act; and

"(2) the factual basis for issuance of an order under such section 402 to approve the installation and use of the pen register or trap and trace device, as the case may be, exists.

"(c)(1) In the absence of an order applied for under subsection (a)(2) approving the installation and use of a pen register or trap and trace device authorized under this section, the installation and use of the pen register or trap and trace device, as the case may be, shall terminate at the earlier of—

"(A) when the information sought is obtained;

"(B) when the application for the order is denied under section 402 of this Act; or

"(C) 48 hours after the time of the authorization by the Attorney General.

"(2) In the event that an application for an order applied for under subsection (a)(2) is denied, or in any other case where the installation and use of a pen register or trap and trace device under this section is terminated and no order under section 402 of this Act is issued approving the installation and use of the pen register or trap and trace device, as the case may be, no information obtained or evidence derived from the use of the pen register or trap and trace device, as the case may be, shall be received in evidence or otherwise disclosed in any trial, hearing, or other proceeding in or before any court, grand jury, department, office, agency, regulatory body, legislative committee, or other authority of the United States, a State, or political subdivision thereof, and no information concerning any United States person acquired from the use of the pen register or trap and trace device, as the case may be, shall subsequently be used or disclosed in any other manner by Federal officers or employees without the consent of such person, except with the approval of the Attorney General if the information indicates a threat of death or serious bodily harm to any person.

"AUTHORIZATION DURING TIME OF WAR

"SEC. 404. Notwithstanding any other provision of law, the President, through the Attorney General, may authorize the use of a pen register or trap and trace device without a court order under this title to acquire foreign intelligence information for a period not to exceed 15 calendar days following a declaration of war by Congress.

"USE OF INFORMATION

"SEC. 405. (a)(1) Information acquired from the use of a pen register or trap and trace device installed pursuant to this title concerning any United States person may be used and disclosed by Federal officers and employees without the consent of the United States person only in accordance with the provisions of this section.

"(2) No information acquired from a pen register or trap and trace device installed and used pursuant to this title may be used or disclosed by Federal officers or employees except for lawful purposes.

"(b) No information acquired pursuant to this title shall be disclosed for law enforcement purposes unless such disclosure is accompanied by a statement that such information, or any information derived therefrom, may only be used in a criminal proceeding with the advance authorization of the Attorney General.

"(c) Whenever the United States intends to enter into evidence or otherwise use or disclose in any trial, hearing, or other proceeding in or before any court, department, officer, agency, regulatory body, or other authority of the United States against an aggrieved person any information obtained or derived from the use of a pen register or trap and trace device pursuant to this title, the United States shall, before the trial, hearing, or the other proceeding or at a reasonable time before an effort to so disclose or so use that information or submit it in evidence, notify the aggrieved person and the court or other authority in which the information is to be disclosed or used that the United States intends to so disclose or so use such information.

"(d) Whenever any State or political subdivision thereof intends to enter into evidence or otherwise use or disclose in any trial, hearing, or other proceeding in or before any court, department, officer, agency, regulatory body, or other authority of the State or political subdivision thereof against an aggrieved person any information obtained or derived from the use of a pen register or trap and trace device pursuant to this title, the State or political subdivision thereof shall notify the aggrieved person, the court or other authority in which the information is to be disclosed or used, and the Attorney General that the State or political subdivision thereof intends to so disclose or so use such information.

"(e)(1) Any aggrieved person against whom evidence obtained or derived from the use of a pen register or trap and trace device is to be, or has been, introduced or otherwise used or disclosed in any trial, hearing, or other proceeding in or before any court, department, officer, agency, regulatory body, or other authority of the United States, or a State or political subdivision thereof, may move to suppress the evidence obtained or derived from the use of the pen register or trap and trace device, as the case may be, on the grounds that—

"(A) the information was unlawfully acquired; or

"(B) the use of the pen register or trap and trace device, as the case may be, was not made in conformity with an order of authorization or approval under this title.

"(2) A motion under paragraph (1) shall be made before the trial, hearing, or other proceeding unless there was no opportunity to make such a motion or the aggrieved person concerned was not aware of the grounds of the motion.

"(f)(1) Whenever a court or other authority is notified pursuant to subsection (c) or (d), whenever a motion is made pursuant to subsection (e), or whenever any motion or request is made by an aggrieved person pursuant to any other statute or rule of the United States or any State before any court or other authority of the United States or any State to discover or obtain applications or orders or other materials relating to the use of a pen register or trap and trace device authorized by this title or to discover, obtain, or suppress evidence or information obtained or derived from the use of a pen register or trap and trace device authorized by this title, the United States district court or, where the motion is made before another authority, the United States district court in the same district as the authority shall, notwithstanding any other provision of law and if the Attorney General files an affidavit under oath that disclosure or any adversary hearing would harm the national security of the United States, review in camera and ex parte the application, order, and such other materials relating to the use of the pen register or trap and trace device, as the case may be, as may be necessary to determine whether the use of the pen register or trap and trace device, as the case may be, was lawfully authorized and conducted.

"(2) In making a determination under paragraph (1), the court may disclose to the aggrieved person, under appropriate security procedures and protective orders, portions of the application, order, or other materials relating to the use of the pen register or trap and trace device, as the case may be, or may require the Attorney General to provide to the aggrieved person a summary of such materials, only where such disclosure is necessary to make an accurate determination of the legality of the use of the pen register or trap and trace device, as the case may be.

"(g)(1) If the United States district court determines pursuant to subsection (f) that the use of a pen register or trap and trace device was not lawfully authorized or conducted, the court may, in accordance with the requirements of law, suppress the evidence which was unlawfully obtained or derived from the use of the pen register or trap and trace device, as the case may be, or otherwise grant the motion of the aggrieved person.

"(2) If the court determines that the use of the pen register or trap and trace device, as the case may be, was lawfully authorized or conducted, it may deny the motion of the aggrieved person except to the extent that due process requires discovery or disclosure.

"(h) Orders granting motions or requests under subsection (g), decisions under this section that the use of a pen register or trap and trace device was not lawfully authorized or conducted, and orders of the United States district court requiring review or granting disclosure of applications, orders, or other materials relating to the installation and use of a pen register or trap and trace device shall be final orders and binding upon all courts of the United States and the several States except a United States Court of Appeals or the Supreme Court.

"CONGRESSIONAL OVERSIGHT

"SEC. 406. (a) On a semiannual basis, the Attorney General shall fully inform the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate concerning all uses of pen registers and trap and trace devices pursuant to this title.

"(b) On a semiannual basis, the Attorney General shall also provide to the committees referred to in subsection (a) and to the Committees on the Judiciary of the House of Representatives and the Senate a report setting forth with respect to the preceding six-month period—

"(1) the total number of applications made for orders approving the use of pen registers or trap and trace devices under this title; and

"(2) the total number of such orders either granted, modified, or denied.".

SEC. 602. ACCESS TO CERTAIN BUSINESS RECORDS FOR FOREIGN INTELLIGENCE AND INTERNATIONAL TERRORISM INVESTIGATIONS.

The Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.), as amended by section 601 of this Act, is further amended by inserting after title IV, as added by such section 601, the following new title:

"TITLE V—ACCESS TO CERTAIN BUSINESS RECORDS FOR FOREIGN INTELLIGENCE PURPOSES

"DEFINITIONS

"SEC. 501. As used in this title:

"(1) The terms 'foreign power', 'agent of a foreign power', 'foreign intelligence information', 'international terrorism', and 'Attorney General' shall have the same meanings as in section 101 of this Act.

"(2) The term 'common carrier' means any person or entity transporting people or property by land, rail, water, or air for compensation.

"(3) The term 'physical storage facility' means any business or entity that provides space for the storage of goods or materials, or services related to the storage of goods or materials, to the public or any segment thereof.

"(4) The term 'public accommodation facility' means any inn, hotel, motel, or other establishment that provides lodging to transient guests.

"(5) The term 'vehicle rental facility' means any person or entity that provides vehicles for rent, lease, loan, or other similar use to the public or any segment thereof.

"ACCESS TO CERTAIN BUSINESS RECORDS FOR FOREIGN INTELLIGENCE AND INTERNATIONAL TERRORISM INVESTIGATIONS

"SEC. 502. (a) The Director of the Federal Bureau of Investigation or a designee of the Director (whose rank shall be no lower than Assistant Special Agent in Charge) may make an application for an order authorizing a common carrier, public accommodation facility, physical storage facility, or vehicle rental facility to release records in its possession for an investigation to gather foreign intelligence information or an investigation concerning international terrorism which investigation is being conducted by the Federal Bureau of Investigation under such guidelines as the Attorney General approves pursuant to Executive Order No. 12333, or a successor order.

"(b) Each application under this section—

"(1) shall be made to—

"(A) a judge of the court established by section 103(a) of this Act; or

"(B) a United States Magistrate Judge under chapter 43 of title 28, United States Code, who is publicly designated by the Chief Justice of the United States to have the power to hear applications and grant orders for the release of records under this section on behalf of a judge of that court; and

"(2) shall specify that—

"(A) the records concerned are sought for an investigation described in subsection (a); and

"(B) there are specific and articulable facts giving reason to believe that the person to whom the records pertain is a foreign power or an agent of a foreign power.

"(c)(1) Upon application made pursuant to this section, the judge shall enter an ex parte order as requested, or as modified, approving the release of records if the judge finds that the application satisfies the requirements of this section.

"(2) An order under this subsection shall not disclose that it is issued for purposes of an investigation described in subsection (a).

"(d)(1) Any common carrier, public accommodation facility, physical storage facility, or vehicle rental facility shall comply with an order under subsection (c).

"(2) No common carrier, public accommodation facility, physical storage facility, or vehicle rental facility, or officer, employee, or agent thereof, shall disclose to any person (other than those officers, agents, or employees of such common carrier, public accommodation facility, physical storage facility, or vehicle rental facility necessary to fulfill the requirement to disclose information to the Federal Bureau of Investigation under this section) that the Federal Bureau of Investigation has sought or obtained records pursuant to an order under this section.

"CONGRESSIONAL OVERSIGHT

"SEC. 503. (a) On a semiannual basis, the Attorney General shall fully inform the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate concerning all requests for records under this title.

"(b) On a semiannual basis, the Attorney General shall provide to the Committees on the Judiciary of the House of Representatives and the Senate a report setting forth with respect to the preceding six-month period—

"(1) the total number of applications made for orders approving requests for records under this title; and

"(2) the total number of such orders either granted, modified, or denied.".

SEC. 603. CONFORMING AND CLERICAL AMENDMENTS.

(a) CONFORMING AMENDMENT.—Section 601 of the Foreign Intelligence Surveillance Act of 1978, as redesignated by section 601(1) of this Act, is amended by striking out "other than title III" and inserting in lieu thereof "other than titles III, IV, and V".

(b) CLERICAL AMENDMENT.—The table of contents at the beginning of the Foreign Intelligence Surveillance Act of 1978 is amended by striking out the items relating to title IV and section 401 and inserting in lieu thereof the following:

"TITLE IV—PEN REGISTERS AND TRAP AND TRACE DEVICES FOR FOREIGN INTELLIGENCE PURPOSES

"401. Definitions.
"402. Pen registers and trap and trace devices for foreign intelligence and international terrorism investigations.
"403. Authorization during emergencies.
"404. Authorization during time of war.
"405. Use of information.
"406. Congressional oversight.

"TITLE V—ACCESS TO CERTAIN BUSINESS RECORDS FOR FOREIGN INTELLIGENCE PURPOSES

"501. Definitions.
"502. Access to certain business records for foreign intelligence and international terrorism investigations.
"503. Congressional oversight.

"TITLE VI—EFFECTIVE DATE

"601. Effective date.".

The Presiding Officer (Mr. ENZI) appointed:

Mr. SHELBY, Mr. CHAFEE, Mr. LUGAR, Mr. DEWINE, Mr. KYL, Mr. INHOFE, Mr. HATCH, Mr. ROBERTS, Mr. ALLARD, Mr. COATS, Mr. KERREY, Mr. GLENN, Mr. BRYAN, Mr. GRAHAM, Mr. KERRY, Mr.

BAUCUS, Mr. ROBB, Mr. LAUTENBERG, Mr. LEVIN, and from the Committee on Armed Services, Mr. THURMOND.

EXECUTIVE SESSION

CONVENTION FOR THE PROTECTION OF PLANTS

INTERNATIONAL GRAINS AGREEMENT, 1995

TRADEMARK LAW TREATY WITH REGULATIONS

AMENDMENTS TO THE CONVENTION ON THE INTERNATIONAL MARITIME ORGANIZATION

Mr. LOTT. Mr. President, I ask unanimous consent the Senate proceed to executive session to consider the following treaties on today's Executive Calendar: Nos. 17, 18, 19, 20.

I further ask unanimous consent the treaties be considered as having passed through their various parliamentary stages up to and including the presentation of the resolutions of ratification; all committee provisos, reservations, understandings, declarations be considered agreed to; that any statements be inserted in the CONGRESSIONAL RECORD as if read; and that the Senate take one vote on the resolutions of ratification to be considered as separate votes; further, when the resolutions of ratification are voted upon, the motion to reconsider be laid upon the table, the President be notified of the Senate's action, and that following the disposition of these treaties the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. Mr. President, I ask for a division vote on the resolutions of ratification.

The PRESIDING OFFICER. A division has been requested.

Senators, in favor of the resolution will rise and stand until counted.

(After a pause.)

Those opposed will rise and stand until counted.

On a division, two-thirds of the Senators present having voted in the affirmative, the resolutions of ratification are agreed to.

(The texts of the resolutions of ratification will be printed in a future edition of the RECORD.)

Mr. LOTT. Mr. President, these treaties are the Convention for the Protection of Plants, International Grains Agreement, Trademark Law Treaty with Regulations and Amendments to the Convention of the International Maritime Organization.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will return to legislative session.

AUTHORITY FOR COMMITTEES TO REPORT

Mr. LOTT. I ask unanimous consent that on Thursday, July 2, committees have from the hours of 11 to 1 p.m. in order to file legislative or executive reported items.

The PRESIDING OFFICER. Without objection, it is so ordered.

REMOVAL OF INJUNCTION OF SECRECY

Mr. LOTT. As in executive session, I ask unanimous consent the injunction of secrecy be removed from the following treaties transmitted to the Senate on June 26, 1998, by the President: Tax Convention with Estonia, Tax Convention with Lithuania, Tax Convention with Latvia.

I further ask that the treaties, having been considered read the first time, be referred with accompanying papers to the Committee on Foreign Affairs be reported and the President's message be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The messages of the President are as follows:

To the Senate of the United States:

I transmit herewith for Senate advice and consent to ratification the Convention Between the United States of America and the Republic of Estonia for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, signed at Washington on January 15, 1998. Also transmitted is the report of the Department of State concerning the Convention.

This Convention, which is similar to tax treaties between the United States and OECD nations, provides maximum rates of tax to be applied to various types of income and protection from double taxation of income. The Convention also provides for resolution of disputes and sets forth rules making its benefits unavailable to residents that are engaged in treaty shopping.

I recommend that the Senate give early and favorable consideration to this Convention and that the Senate give its advice and consent to ratification.

WILLIAM J. CLINTON.
THE WHITE HOUSE, *June 26, 1998.*

To the Senate of the United States:

I transmit herewith for Senate advice and consent to ratification the Convention Between the United States of America and the Government of the Republic of Lithuania for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, signed at Washington on January 15, 1998. Also transmitted is the report of the Department of State concerning the Convention.

This Convention, which is similar to tax treaties between the United States and OECD nations, provides maximum rates of tax to be applied to various types of income and protection from double taxation of income. The Convention also provides for resolution of disputes and sets forth rules making its benefits unavailable to residents that are engaged in treaty shopping.

I recommend that the Senate give early and favorable consideration to this Convention and that the Senate give its advice and consent to ratification.

WILLIAM J. CLINTON.
THE WHITE HOUSE, *June 26, 1998.*

To the Senate of the United States:

I transmit herewith for Senate advice and consent to ratification the Convention Between the United States of America and the Republic of Latvia for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, signed at Washington on January 15, 1998. Also transmitted is the report of the Department of State concerning the Convention.

This Convention, which is similar to tax treaties between the United States and OECD nations, provides maximum rates of tax to be applied to various types of income and protection from double taxation of income. The Convention also provides for resolution of disputes and sets forth rules making its benefits unavailable to residents that are engaged in treaty shopping.

I recommend that the Senate give early and favorable consideration to this Convention and that the Senate give its advice and consent to ratification.

WILLIAM J. CLINTON.
THE WHITE HOUSE, *June 26, 1998.*

ORDER FOR RECORD TO REMAIN OPEN

Mr. LOTT. Mr. President, I ask unanimous consent the RECORD remain open until 3 p.m. today in order for Senators to introduce legislation and statements.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMENDING THE LIBRARY OF CONGRESS FOR 200 YEARS OF OUTSTANDING SERVICE

Mr. LOTT. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of Senate Resolution 255, submitted earlier today by Senators WARNER, FORD, STEVENS, and MOYNIHAN.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 255) to commend the Library of Congress for 200 years of outstanding service to Congress and the Nation, and to encourage activities to commemorate the bicentennial anniversary of the Library of Congress.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. LOTT. I ask unanimous consent the resolution be agreed, the preamble be agreed to, a motion to consider be laid upon the table, and a statement of explanation appear in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 255) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 255

Whereas the Library of Congress was established in 1800 and will celebrate the 200th anniversary of the Library of Congress in 2000;

Whereas the goal of the bicentennial commemoration is to inspire creativity in the century ahead and ensure a free society through greater use of the Library of Congress and libraries everywhere;

Whereas the bicentennial goal will be achieved through a variety of national, State, and local projects, developed in collaboration with the offices of the Members of Congress, the staff of the Library of Congress, and special advisory committees; and

Whereas the bicentennial commemorative activities include significant acquisitions, symposia, exhibits, issuance of a commemorative coin, and enhanced public access to the collections of the Library of Congress through the National Digital Library: Now, therefore, be it

Resolved, That the Senate commends the Library of Congress on 200 years of service to Congress and the Nation, and encourages the American public to participate in activities to commemorate the bicentennial anniversary of the Library of Congress.

NEXT GENERATION INTERNET RESEARCH ACT OF 1998

Mr. LOTT. Mr. President, I ask unanimous consent the Senate now proceed to the consideration of Calendar No. 334, S. 1609.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1609) to amend the High-Performance Computing Act of 1991 to authorize appropriations for fiscal years 1999 and 2000 for the Next Generation Internet program, to require the Advisory Committee on High-Performance Computing and Communications, Information Technology, and the Next Generation Internet to monitor and give advice concerning the development and implementation of the Next Generation Internet program and report to the President and the Congress on its activities, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 3054

(Purpose: To change the authorization levels for the Department of Defense and the National Aeronautics and Space Administration, and to provide that the FY 1999 DOD authorization is under the National Defense Authorization Act for Fiscal Year 1999)

Mr. LOTT. Senators FRIST and ROCKEFELLER have an amendment at the desk and I ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Mississippi [Mr. LOTT], for Mr. FRIST, for himself, and Mr. ROCKEFELLER, proposes an amendment numbered 3054.

Mr. LOTT. I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 9, in the matter appearing after line 18—

(1) strike "$42,500,000" in the column headed FY 1999 and insert "$40,000,000";

(2) strike "$45,000,000" in the column headed FY 2000 and insert "$42,500,000";

(3) strike "$5,000,000" in the column headed FY 1999 the second place it appears and insert "$10,000,000";

(4) strike "$5,000,000" in the column headed FY 2000 and insert "$10,000,000";

(5) strike the closing quotation marks at the end of the table; and

(6) after the table insert the following:

The amount authorized for the Department of Defense for fiscal year 1999 under this section shall be the amount authorized pursuant to the National Defense Authorization Act for Fiscal Year 1999.".

Mr. LOTT. I ask unanimous consent the amendment be considered as read and agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 3054) was agreed to.

AMENDMENT NO. 3055

(Purpose: To authorize the comprehensive independent study of the effects on trademark and intellectual property rights holders of adding new generic top-level domains and related dispute resolution procedures)

Mr. LOTT. I ask unanimous consent that the Senate proceed to the consideration of an amendment offered by Senators LEAHY and ASHCROFT, which is at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Mississippi [Mr. LOTT], for Mr. LEAHY, for himself, and Mr. ASHCROFT, proposes an amendment numbered 3055.

The amendment is as follows:

At the appropriate place in the bill, insert the following new section:

SEC. ___. STUDY OF EFFECTS ON TRADEMARKS AND INTELLECTUAL PROPERTY RIGHTS OF ADDING GENERIC TOP-LEVEL DOMAINS.

(a) STUDY BY NATIONAL RESEARCH COUNCIL.—Not later than 60 days after the date of enactment of this Act, the Secretary of Commerce shall request the National Research Council of the National Academy of Sciences to conduct a comprehensive study, taking into account the diverse needs of domestic and international Internet users, of the short-term and long-term effects on trademark and intellectual property rights holders of adding new generic top-level domains and related dispute resolution procedures.

(b) MATTERS TO BE ASSESSED IN STUDY.—The study shall assess and, as appropriate, make recommendations for policy, practice, or legislative changes relating to—

(1) the short-term and long-term effects on the protection of trademark and intellectual property rights and consumer interests of increasing or decreasing the number of generic top-level domains;

(2) trademark and intellectual property rights clearance processes for domain names, including—

(A) whether domain name databases should be readily searchable through a common interface to facilitate the clearing of trademarks and intellectual property rights and proposed domain names across a range of generic top-level domains;

(B) the identification of what information from domain name databases should be accessible for the clearing of trademarks and intellectual property rights; and

(C) whether generic top-level domain registrants should be required to provide certain information;

(3) domain name trademark and intellectual property rights dispute resolution mechanisms, including how to—

(A) reduce trademark and intellectual property rights conflicts associated with the addition of any new generic top-level domains; and

(B) reduce trademark and intellectual property rights conflicts through new technical approaches to Internet addressing;

(4) choice of law or jurisdiction for resolution of trademark and intellectual property rights disputes relating to domain names, including which jurisdictions should be available for trademark and intellectual property rights owners to file suit to protect such trademarks and intellectual property rights;

(5) trademark and intellectual property rights infringement liability for registrars, registries, or technical management bodies; and

(6) short-term and long-term technical and policy options for Internet addressing schemes and the impact of such options on current trademark and intellectual property rights issues.

(c) COOPERATION WITH STUDY.—

(1) INTERAGENCY COOPERATION.—The Secretary of Commerce shall—

(A) direct the Patent and Trademark Office, the National Telecommunications and Information Administration, and other Department of Commerce entities to cooperate fully with the National Research Council in its activities in carrying out the study under this section; and

(B) request all other appropriate Federal departments, Federal agencies, Government contractors, and similar entities to provide similar cooperation to the National Research Council.

(2) PRIVATE CORPORATION COOPERATION.—The Secretary of Commerce shall request that any private, not-for-profit corporation established to manage the Internet root server system and the top-level domain names provide similar cooperation to the National Research Council.

(d) REPORT.—

(1) IN GENERAL.—Not later than 12 months after the date of enactment of this Act, the National Research Council shall complete the study under this section and submit a report on the study to the Secretary of Commerce. The report shall set forth the findings, conclusions, and recommendations of the Council concerning the effects of adding new generic top-level domains and related dispute resolution procedures on trademark and intellectual property rights holders.

(2) SUBMISSION TO CONGRESSIONAL COMMITTEES.—Not later than 30 days after the date on which the report is submitted to the Secretary of Commerce, the Secretary shall submit the report to the Committees on Commerce and the Committees on the Judiciary of the Senate and House of Representatives.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $800,000 for the study conducted under this Act.

Mr. LEAHY. Mr. President, from its origins as a U.S.-based research vehicle, the Internet has matured into a democratic, international medium for communication, commerce and education. As the Internet evolves, the traditional means of organizing its technical functions such as the Domain Name System (DNS) need to evolve as well.

It is for this reason, in part, that I viewed S.1609, legislation to authorize the Next Generation Internet (NGI) program, as the appropriate vehicle for my domain name amendment. This amendment is based on S.1727, legislation I introduced on March 6 to authorize the National Research Council (NRC) of the National Academy of Sciences to conduct a comprehensive study of the effects on trademark and intellectual property rights holders of adding new generic top level domain names (gTLDs), and related dispute resolution procedures.

At the outset, I would like to thank Senator ASHCROFT, who is a cosponsor of this domain name amendment to S. 1609 as well as a cosponsor of my original domain name bill, S.1727. I would also like to thank Senators ROCKEFELLER, FRIST, HOLLINGS and MCCAIN who enabled this domain name amendment to be considered along with S.1609.

On today's Internet, the domain name system (DNS) works through a hierarchy of names. At the top of this hierarchy are a set of Top Level Domains that can be classified into two categories: generic Top Level Domains (gTLD), such as ".gov," ".net," ".com," ".edu," ".org," ".int," and ".mil," and the country code Top Level Domain names, such as ".us" and ".uk". Before each TLD suffix, is a Second Level Domain name.

Since the Internet is an outgrowth of U.S. government investments carried out under agreements with U.S. agencies, major components of the DNS are still performed by or subject to agreements with U.S. agencies. Examples include assignments of numerical addresses to Internet users, management of the system of registering names for Internet users, operation of the root server system, and protocol assignment.

For the past five years, a company based in Herndon, Virginia, named Network Solutions, Inc., has served under a cooperative agreement with the National Science Foundation as the exclusive registry of all second level domain names in several of the gTLDs (e.g., .com, .net, .org, and .edu). This contract ended in March 1998, but the Federal Government has exercised an optional ramp-down period that is scheduled to expire in September 1998. With this date quickly approaching, many of us have been concerned about what would happen at the end of that company's exclusive contract. Simply put, how will we avoid chaos on the Internet and the potential risk of multiple registrations of the same domain name for different computers?

On January 30, 1998, the Commerce Department released a "Green Paper", or discussion draft, entitled A Proposal to Improve Technical Management of Internet Names and Addresses, proposing privatization of the management of the DNS through the creation of a new, not-for-profit corporation. The Green Paper suggested that during the period of transition to this new, not-for-profit corporation, the U.S. Government, in cooperation with IANA, would undertake a process to add up to five new gTLDs to the DNS.

Although adding new gTLDs, as the Green Paper proposed, would allow more competition and more individuals and businesses to obtain addresses that more closely reflect their names and functions, I was concerned as were many businesses, that the increase in gTLDs would make the job of protecting their trademarks from infringement or dilution more difficult. In addition, increasing the number of gTLDs without an efficient dispute resolution mechanism had the potential of fueling litigation and the threat of litigation, with an overall chilling effect on the choice and use of domain names.

The Green Paper properly raised the important questions of how to protect consumers' interests in locating the brand or vendor of their choice on the Internet without being deceived or confused, how to protect companies from having their brand equity diluted in an electronic environment, and how to resolve disputes efficiently and inexpensively. It did not, however, answer these complex and important questions. Dictating the introduction of new gTLDs without analyzing the impact that these new gTLDs would have on trademark and intellectual property rights holders and related dispute resolution procedures seemed like putting the cart before the horse.

The bill that I introduced, S. 1727, was intended to get the horse back in front of the cart. It directs the Secretary of Commerce to request the National Research Council (NRC) of the National Academy of Sciences to conduct a comprehensive study of the effects on trademark and intellectual property rights holders of adding new gTLDs and related dispute resolution procedures. The study shall assess and, as appropriate, make recommendations for policy, practice, or legislative changes regarding:

(1) the short-term and long-term effects on the protection of trademark and intellectual property rights and consumer interests of increasing or decreasing the number of gTLDs;

(2) trademark and intellectual property rights clearance processes for domain names, including whether domain name databases should be readily searchable through a common interface to facilitate the "clearing" of trademarks and intellectual property rights and proposed domain names across a range of gTLDs; identifying what information from domain name databases should be accessible for the "clearing" of trademarks and intellectual property rights; and whether gTLDs registrants should be required to provide certain information;

(3) domain name trademark and intellectual property rights dispute resolution mechanisms, including how to reduce trademark and intellectual property rights conflicts associated with the addition of any new gTLDs and how to reduce trademark and intellectual property rights conflicts through new technical approaches to Internet addressing;

(4) choice of law or jurisdiction for resolution of trademark and intellectual property rights disputes relating to domain names, including which jurisdictions should be available for trademark and intellectual property rights owners to file suit to protect their trademarks and intellectual property rights;

(5) trademark and intellectual property rights infringement liability for registrars, registries, or technical management bodies; and

(6) short-term and long-term technical and policy options for Internet addressing schemes and their impact on current trademark and intellectual property issues.

We should understand the effects on trademark and intellectual property rights holders of adding new gTLDs and related dispute resolution procedures before we move too quickly to add significant numbers of new gTLDs. Since its introduction in March, groups such as ATT, Bell Atlantic, Time Warner, the International Trademark Association, and the American Intellectual Property Law Association, have endorsed this legislation reflected in the Leahy-Ashcroft amendment.

The Administration's White Paper, released on June 5, acknowledges the concerns to be addressed in the study called for in this legislation. The White Paper backed off the Green Paper's earlier suggestion to add five new gTLDs. Instead, the White Paper proposes that the new corporation would be the most appropriate body to make decisions as to how many, if any, new gTLDs should be added once it has global input, including from the study called for in the Leahy-Ashcroft domain name amendment. Specifically, the White Paper calls upon the World Intellectual Property Organization, inter alia, to "evaluate the effects, based on studies conducted by independent organizations, such as the National Research Council of the National Academy of Sciences, of adding new gTLDs and related dispute resolution procedures on trademark and intellectual property holders."

I commend the Administration for the deliberate approach it has taken to facilitate the withdrawal of the U.S. government from the governance of the Internet and to privatize the management of Internet names and addresses. We should have a Hippocratic Oath for the Internet—that before we adopt any new regimen that affects the Internet, we should make sure we are doing no harm to this dynamic medium.

We, in Congress, have not always lived up to the standard of this oath. Passage by an overwhelming vote of the unconstitutional Communications Decency Act to regulate constitutionally-protected online speech on the Internet is an example of wrong-headed legislation that Congress still has not lived down. Internet users generally remain skeptical about the heavy-headed regulatory actions Congress may take based on bumper-sticker politics.

The experience of the Communications Decency Act demonstrates that we should exercise caution in passing new laws for the Internet. This is a global phenomenon and its freedom from regulation has been primarily responsible for its explosive growth. This principle is important as we see increasingly intense disputes over whether or how to regulate this medium. Encouraging free markets and private sector self-regulatory approaches is a particularly American approach.

The best way to "export" our core American values, to preserve the free flow of commerce and individual expression and community self-governance on the Internet, is not to declare the Internet a U.S. territory. Rather, we should be seeking to support the growth of the Internet's own self-ordering properties, and fostering mechanisms by which policy will be set by groups accountable to all Internet participants on a global basis. If we succeed in creating a decentralized and truly global policy-making apparatus for the Internet, the core values we care most about will in fact propagate across the world.

On a number of issues pertaining to the Internet, from privacy to pornography to online gambling, governments are more and more faced with the question of when to defer to effective private action, rather than regulating in detail in the first instance. The Internet community is rapidly developing new technologies and practices that may well solve many of these new "public policy" problems before we can even begin effectively to debate them. For example, new labels for web sites will let users know which sites have privacy policies or content they can accept. New software standards will even allow the automated negotiation of privacy or content preferences. Other technologies will allow end users to control what information their web browsers surrender to the sites they visit. And many new types of filters and private sector practices are being deployed to bring the vice of unsolicited commercial E-mail (spam) under control.

I fully appreciate that we have some way to go before governments can declare the private sector self-governance mechanisms of the Internet adequate to solve the complex and multi-faceted problems of online privacy or protecting children from inappropriate material. But progress is being made every day, at a rapid pace, thanks to the ingenuity of engineers and concerted actions of public interest advocates and system operators.

We should be trying to persuade other countries to see the virtues of free enterprise and community self-governance. We can demonstrate by means of the sheer success of electronic commerce, unconstrained by heavy-handed top down regulation, that those who allow the market to work will be richly rewarded. We can develop new technological means and online trade practices to solve the new public policy problems of the Internet—demonstrating in the process that it is best to let those with the greatest stake in solving those problems and in building online commerce and community to attempt to do so in the first instance. We can show that diversity works best to fit individual needs to community rules—by allowing a diverse Internet to flourish and using filters and education and navigational aids to help everyone make sure they only go where they want to go and only deal with those they are prepared to trust.

We can, in short, spread the American faith in liberty and the pursuit of happiness by avoiding the futile, top-down lawmaking other countries are so fond of—and by demonstrating that an unconstrained Internet will form its own new kind of order and become the best kind of online place for those who participate there. That kind of American leadership cannot be justly accused of being a new form of imperialism. We'll make converts to our values one at a time, throughout the world, by showing the path to greater wealth, and the virtues of greater freedom, by example. And we'll be better able to resist counterproductive local regulation by other countries if we can show that we are not attempting to impose rules of our own on others without their consent.

As we debate new bills that directly or indirectly regulate the Internet and impose U.S. laws on a global medium, we should remember our core values, and try to export those values—free speech, freedom to associate, freedom of the press—to the rest of the world via the Internet. But the most effective way to do so is by the leadership of our example. By inviting Internet stakeholders to work together and form a new, private, not-for-profit corporation to manage the domain name and addressing system so critical to the governance of the Internet, the Administration has set an excellent example, and I commend them for it.

Mr. LOTT. I ask unanimous consent the amendment be agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 3055) was agreed to.

Mr. LOTT. Mr. President, I ask unanimous consent that the bill be read the third time and passed, as amended, the motion to reconsider be laid upon the table, and any statements related to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 1609), as amended, was read the third time and passed, as follows:

S. 1609

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Next Generation Internet Research Act of 1998".

SEC. 2. DEFINITIONS.

(a) TERMS USED IN THIS ACT.—For purposes of this Act—

(1) INTERNET.—The term "Internet" has the meaning given such term by section 230(e)(1) of the Communications Act of 1934 (47 U.S.C. 230(e)(1)).

(2) GEOGRAPHIC PENALTY.—The term "geographic penalty" means the imposition of costs on users of the Internet in rural or other locations attributable to the distance of the user from network facilities, the low population density of the area in which the user is located, or other factors, that are disproportionately greater than the costs imposed on users in locations closer to such facilities or on users in locations with significantly greater population density.

(b) DEFINITION OF NETWORK IN HIGH-PERFORMANCE COMPUTING ACT OF 1991.—Paragraph (4) of section 4 of the High-Performance Computing Act of 1991 (15 U.S.C. 5503) is amended by striking "network referred to as the National Research and Education Network established under section 102; and" and inserting "network, including advanced computer networks of Federal agencies and departments; and".

SEC. 3. FINDINGS.

(a) IN GENERAL.—The Congress finds that—

(1) United States leadership in science and technology has been vital to the Nation's prosperity, national and economic security, and international competitiveness, and there is every reason to believe that maintaining this tradition will lead to long-term continuation of United States strategic advantages in information technology;

(2) the United States' investment in science and technology has yielded a scientific and engineering enterprise without peer, and that Federal investment in research is critical to the maintenance of United States leadership;

(3) previous Federal investment in computer networking technology and related fields has resulted in the creation of new industries and new jobs in the United States;

(4) the Internet is playing an increasingly important role in keeping citizens informed of the actions of their government; and

(5) continued inter-agency cooperation is necessary to avoid wasteful duplication in Federal networking research and development programs.

(b) ADDITIONAL FINDINGS FOR THE 1991 ACT.—Section 2 of the High-Performance Computing Act of 1991 (15 U.S.C. 5501) is amended by—

(1) striking paragraph (4) and inserting the following:

"(4) A high-capacity, flexible, high-speed national research and education computer network is needed to provide researchers and educators with access to computational and information resources, act as a test bed for further research and development for high-capacity and high-speed computer networks, and provide researchers the necessary vehicle for continued network technology improvement through research."; and

(2) adding at the end thereof the following:

"(7) Additional research must be undertaken to lay the foundation for the development of new applications that can result in economic growth, improved health care, and improved educational opportunities.

"(8) Research in new networking technologies holds the promise of easing the economic burdens of information access disproportionately borne by rural users of the Internet.

"(9) Information security is an important part of computing, information, and communications systems and applications, and research into security architectures is a critical aspect of computing, information, and communications research programs.".

SEC. 4. PURPOSES.

(a) IN GENERAL.—The purposes of this Act are—

(1) to serve as the first authorization in a series of computing, information, and communication technology initiatives outlines in the High-Performance Computing Act of 1991 (15 U.S.C. 5501 et seq.) that will include research programs related to—

(A) high-end computing and computation;

(B) human-centered systems;

(C) high confidence systems; and

(D) education, training, and human resources; and

(2) to provide for the development and coordination of a comprehensive and integrated United States research program which will—

(A) focus on the research and development of a coordinated set of technologies that seeks to create a network infrastructure that can support greater speed, robustness, and flexibility than is currently available and promote connectivity and interoperability among advanced computer networks of Federal agencies and departments;

(B) focus on research in technology that may result in high-speed data access for users that is both economically viable and does not impose a geographic penalty; and

(C) encourage researchers to pursue approaches to networking technology that lead to maximally flexible and extensible solutions wherever feasible.

(b) MODIFICATION OF PURPOSES OF THE 1991 ACT.—Section 3 of the High-Performance Computing Act of 1991 (15 U.S.C. 5502) is amended by—

(1) striking the section caption and inserting the following:

"SEC. 3. PURPOSES.";

(2) striking "purpose of this Act is" and inserting "purposes of this Act are";

(3) striking "universities; and" in paragraph (1)(I) and inserting "universities;";

(4) striking "efforts." in paragraph (2) and inserting "network research and development programs;"; and

(5) adding at the end thereof the following:

"(3) promoting the further development of an information infrastructure of information stores, services, access mechanisms, and research facilities available for use through the Internet;

"(4) promoting the more rapid development and wider distribution of networking management and development tools; and

"(5) promoting the rapid adoption of open network standards.".

SEC. 5. DUTIES OF ADVISORY COMMITTEE.

Title I of the High-Performance Computing Act of 1991 (15 U.S.C 5511 et seq.) is amended by adding at the end thereof the following:

"SEC. 103. ADVISORY COMMITTEE.

"(a) IN GENERAL.—In addition to its functions under Executive Order 13035 (62 F.R. 7231), the Advisory Committee on High-Performance Computing and Communications, Information Technology, and the Next Generation Internet, established by Executive Order No. 13035 of February 11, 1997 (62 F.R. 7231) shall—

"(1) assess the extent to which the Next Generation Internet program—

"(A) carries out the purposes of this Act;

"(B) addresses concerns relating to, among other matters—

"(i) geographic penalties (as defined in section 2(2) of the Next Generation Internet Research Act of 1998); and

"(ii) technology transfer to and from the private sector; and

"(2) assess the extent to which—

"(A) the role of each Federal agency and department involved in implementing the Next Generation Internet program is clear, complementary to and non-duplicative of the roles of other participating agencies and departments; and

"(B) each such agency and department concurs with the rule of each other participating agency or department.

"(b) REPORTS.—The Advisory Committee shall assess implementation of the Next Generation Internet initiative and report, not less frequently than annually, to the President, the United States Senate Committee on Commerce, Science, and Transportation, and the United States House of Representatives Committee on Science on its findings for the preceding fiscal year. The first such report shall be submitted 6 months after the date of enactment of the Next Generation Internet Research Act of 1998 the last report shall be submitted by September 30, 2000.".

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

Title I of the High-Performance Computing Act of 1991 (15 U.S.C 5511 et seq.), as amended by section 5 of this Act, is amended by adding at the end thereof the following:

"SEC. 104. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated for the purpose of carrying out the Next Generation Internet program the following amounts:

"Agency	FY 1999	FY 2000
"Department of Defense	$40,000,000	$42,500,000
"Department of Energy	$20,000,000	$25,000,000
"National Science Foundation	$25,000,000	$25,000,000
"National Institutes of Health	$5,000,000	$7,500,000
"National Aeronautics and Space Administration	$10,000,000	$10,000,000
"National Institute of Standards and Technology	$5,000,000	$7,500,000

The amount authorized for the Department of Defense for fiscal year 1999 under this section shall be the amount authorized pursuant to the National Defense Authorization Act for Fiscal Year 1999.".

SEC. 7. STUDY OF EFFECTS ON TRADEMARKS AND INTELLECTUAL PROPERTY RIGHTS OF ADDING GENERIC TOP-LEVEL DOMAINS.

(a) STUDY BY NATIONAL RESEARCH COUNCIL.—Not later than 60 days after the date of enactment of this Act, the Secretary of Commerce shall request the National Research Council of the National Academy of Sciences to conduct a comprehensive study, taking into account the diverse needs of domestic and international Internet users, of the short-term and long-term effects on trademark and intellectual property rights holders of adding new generic top-level domains and related dispute resolution procedures.

(b) MATTERS TO BE ASSESSED IN STUDY.—The study shall assess and, as appropriate, make recommendations for policy, practice, or legislative changes relating to—

(1) the short-term and long-term effects on the protection of trademark and intellectual property rights and consumer interests of increasing or decreasing the number of generic top-level domains;

(2) trademark and intellectual property rights clearance processes for domain names, including—

(A) whether domain name databases should be readily searchable through a common interface to facilitate the clearing of trademarks and intellectual property rights and proposed domain names across a range of generic top-level domains;

(B) the identification of what information from domain name databases should be accessible for the clearing of trademarks and intellectual property rights; and

(C) whether generic top-level domain registrants should be required to provide certain information;

(3) domain name trademark and intellectual property rights dispute resolution mechanisms, including how to—

(A) reduce trademark and intellectual property rights conflicts associated with the addition of any new generic top-level domains; and

(B) reduce trademark and intellectual property rights conflicts through new technical approaches to Internet addressing;

(4) choice of law or jurisdiction for resolution of trademark and intellectual property rights disputes relating to domain names, including which jurisdictions should be available for trademark and intellectual property rights owners to file suit to protect such trademarks and intellectual property rights;

(5) trademark and intellectual property rights infringement liability for registrars, registries, or technical management bodies; and

(6) short-term and long-term technical and policy options for Internet addressing

schemes and the impact of such options on current trademark and intellectual property rights issues.

(c) COOPERATION WITH STUDY.—

(1) INTERAGENCY COOPERATION.—The Secretary of Commerce shall—

(A) direct the Patent and Trademark Office, the National Telecommunications and Information Administration, and other Department of Commerce entities to cooperate fully with the National Research Council in its activities in carrying out the study under this section; and

(B) request all other appropriate Federal departments, Federal agencies, Government contractors, and similar entities to provide similar cooperation to the National Research Council.

(2) PRIVATE CORPORATION COOPERATION.—The Secretary of Commerce shall request that any private, not-for-profit corporation established to manage the Internet root server system and the top-level domain names provide similar cooperation to the National Research Council.

(d) REPORT.—

(1) IN GENERAL.—Not later than 12 months after the date of enactment of this Act, the National Research Council shall complete the study under this section and submit a report on the study to the Secretary of Commerce. The report shall set forth the findings, conclusions, and recommendations of the Council concerning the effects of adding new generic top-level domains and related dispute resolution procedures on trademark and intellectual property rights holders.

(2) SUBMISSION TO CONGRESSIONAL COMMITTEES.—Not later than 30 days after the date on which the report is submitted to the Secretary of Commerce, the Secretary shall submit the report to the Committees on Commerce and the Committees on the Judiciary of the Senate and House of Representatives.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $800,000 for the study conducted under this Act.

Mr. LOTT. Mr. President, I will go to the closing script now, unless there are any other issues pending. When I get to the close of this, we will have a final speaker today, Senator GORTON, and I appreciate his patience.

ORDERS FOR MONDAY, JULY 6, 1998

Mr. LOTT. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment under the provisions of S. Con. Res. 297. I further ask that when the Senate reconvenes on Monday, July 6 at 12 noon, immediately following the prayer, the routine requests through the morning hour be granted and the Senate then begin a period of morning business until 1 p.m., with Senators permitted to speak therein for up to 5 minutes each with the following exceptions: Senator LIEBERMAN, 30 minutes; Senator LOTT, or his designee, 30 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. LOTT. For the information of all Senators, when the Senate reconvenes on Monday, July 6, at 12 noon, there will be a period for morning business until 1. Following morning business, it will be my intention for the Senate to begin consideration of the VA/HUD Appropriations bill. I had earlier indicated that we might go directly to the Department of Defense Appropriations bill, but one of the managers will be necessarily absent. So we will go to the VA/HUD appropriations bill. It is hoped that Members will come to the floor during Monday's session to offer and debate amendments to the VA/HUD bill. We need to get a number of appropriations bills done in July, and if we could get this one done, working on Monday and Tuesday of that week—certainly not more than Thursday—that would be helpful. There will be no votes, though, during Monday's session.

Any votes ordered with respect to the VA/HUD Appropriations bill will be postponed to occur on Tuesday, July 7, at a time to be determined by the two leaders. A cloture motion was filed on the motion to proceed to the products liability bill, with a vote to occur Tuesday morning at 9:30 a.m. Also, on Tuesday evening, the Senate may vote on the IRS reform conference report. When I say Tuesday evening, I mean probably night.

Finally, I remind all Members that July will be a very busy month. We will have late night sessions during each week. We should expect to have votes on most Mondays and Fridays. The cooperation of all Members will be necessary for us to complete our work prior to the August recess.

ORDER FOR ADJOURNMENT

Mr. LOTT. Mr. President, if there is no further business to come before the Senate, I now ask that the Senate stand in adjournment under the provisions of H. Con. Res 297, following the remarks of Senator GORTON of Washington.

I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Washington.

THE BATTLE AGAINST MICROSOFT

Mr. GORTON. Mr. President, my colleague, the senior Senator from Utah came to the Senate floor earlier today to continue his lonely and increasingly unsuccessful battle against Microsoft. His statement comes one day after the successful release of Microsoft's latest operating system software, Windows 98, and only three days after Microsoft won a major victory in a ruling by a three-judge panel of the Circuit Court of Appeals for the District of Columbia.

Senator HATCH said this morning that he is disappointed that Microsoft "has regrettably seen fit to deploy a massive PR campaign, as opposed to engaging the American public on the basis of the facts and the merits."

I find Senator HATCH's comments interesting, given that the appeals court panel took a long hard look at the very facts that Senator HATCH and the Department of Justice claim Microsoft is hiding and ruled that Microsoft's integration of Internet Explorer in Windows 95 is not a violation of U.S. antitrust law or of the 1995 consent decree. The ruling is significant because it covers the same issue that is the central focus of the Justice Department's current case against Microsoft—whether Microsoft can innovate by integrating new products, namely Internet Explorer, into Windows 98.

The Senator from Utah and the Department of Justice would have barred Windows 98 in its present form, frustrating millions of potential customers and imposing a major roadblock—the first major roadblock—in the way of the continuing triumph of American technology in this most cutting edge of all of our industries.

So Senator HATCH, instead, announced that his Judiciary Committee will examine those facts even further, in the hope, apparently, of finding something that the appeals court missed, or, as he explains in his statement, of finding a new issue with which to attack Microsoft.

The proper course of action would be precisely the opposite—the abandonment by both the Department of Justice and the chairman of the Judiciary Committee of an unsuccessful and wrongly directed crusade against the advancement of American technology.

I believe we are now relatively assured that the Department of Justice will not get the extra $7 million above the President's budget request that it asked for to pursue just this course. These actions are a waste of the taxpayers' money and represent the use of the taxpayers' money for the pursuit of private antitrust remedies which, if they are appropriate at all, should be financed by the competitors who seek them.

Regrettably, Mr. President, Senator HATCH and the Department of Justice are little interested in the facts or merits of the case but purely interested in bringing the most successful software company in the Nation to its knees, so that less successful, less competitive companies, that do not have the ability to succeed on their own, can do so with the help of the Clinton administration's Justice Department aided and abetted by the senior Senator from Utah.

Senator HATCH also discussed the release of a paper this week by the Software Publisher's Association attacking Microsoft's server business. Interestingly enough, this paper was released just 10 days after Microsoft's biggest competitor in the server business, Sun Microsystems, joined the Association.

The SPA paper claims that Microsoft is attempting to leverage its market dominance in desktop computer operating systems to gain control of the market for network servers with Windows NT.

Mr. President, Windows NT has enjoyed great success because it offers the price and performance Microsoft's customers demand. Microsoft Windows NT and the PC model have enabled a new generation of lower-priced computing for businesses worldwide. In fact, a recent study by the Business Research Group found that corporate systems based on Windows NT Server cost 52 percent less than comparable systems from Microsoft's biggest competitor.

It is not rocket science to determine that Microsoft's success is due to its ability to provide high performance software at low prices. That Senator HATCH and Microsoft's competitors represented by the Software Publishers Association want the American people to believe that Microsoft should be punished for providing what consumers want at prices consumers like is to turn the public interest on its head.

Senator HATCH and the Justice Department are fighting a losing battle, but in the process, are trampling on an American principle I and millions of Americans like me hold dear. That principle is that the free market economy, where innovation and unhindered competition have made this country the most successful economy in the world, should continue untrammeled by either Senator HATCH or the Clinton Justice Department.

ADJOURNMENT UNTIL MONDAY, JULY 6, 1998

The PRESIDING OFFICER. Under the previous order, the Senate is now adjourned until 12 noon, July 6, 1998.

Thereupon, the Senate, at 2:15 p.m., adjourned until Monday, July 6, 1998, at 12 noon.

NOMINATIONS

Executive nominations received by the Senate June 26, 1998:

EXECUTIVE OFFICE OF THE PRESIDENT

SUSAN G. ESSERMAN, OF MARYLAND, TO BE DEPUTY UNITED STATES TRADE REPRESENTATIVE, WITH THE RANK OF AMBASSADOR, VICE JEFFERY M. LANG, RESIGNED.

DEPARTMENT OF STATE

RICHARD E. HECKLINGER, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE KINGDOM OF THAILAND.

THEODORE H. KATTOUF, OF MARYLAND, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE UNITED ARAB EMIRATES.

IN THE NAVY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES NAVAL RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be rear admiral

CAPT. MARIANNE B. DREW, 3561.
CAPT. MARK R. FEICHTINGER, 3808.
CAPT. JOHN A. JACKSON, 3255.
CAPT. SAM H. KUPRESIN, 8757.
CAPT. JOHN P. MC LAUGHLIN, 4645.
CAPT. JAMES B. PLEHAL, 5145.
CAPT. MARKE R. SHELLEY, 9994.

CONFIRMATIONS

Executive nominations confirmed by the Senate June 26, 1998:

DEPARTMENT OF STATE

NANCY E. SODERBERG, OF THE DISTRICT OF COLUMBIA, TO BE AN ALTERNATE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE SESSIONS OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS DURING HER TENURE OF SERVICE AS ALTERNATE REPRESENTATIVE OF THE UNITED STATES OF AMERICA FOR SPECIAL POLITICAL AFFAIRS IN THE UNITED NATIONS.

NANCY E. SODERBERG, OF THE DISTRICT OF COLUMBIA, TO BE ALTERNATE REPRESENTATIVE OF THE UNITED STATES OF AMERICA FOR SPECIAL POLITICAL AFFAIRS IN THE UNITED NATIONS, WITH THE RANK OF AMBASSADOR.

UNITED STATES INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

VIVIAN LOWERY DERRYCK, OF OHIO, TO BE AN ASSISTANT ADMINISTRATOR OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT.

DEPARTMENT OF STATE

SHIRLEY ELIZABETH BARNES, OF NEW YORK, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF MADAGASCAR.

CHARLES RICHARD STITH, OF MASSACHUSETTS, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE UNITED REPUBLIC OF TANZANIA.

ERIC S. EDELMAN, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF FINLAND.

NANCY HALLIDAY ELY-RAPHEL, OF THE DISTRICT OF COLUMBIA, A CAREER MEMBER OF THE SENIOR EXECUTIVE SERVICE, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF SLOVENIA.

WILLIAM DAVIS CLARKE, OF MARYLAND, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE STATE OF ERITREA.

GEORGE WILLIFORD BOYCE HALEY, OF MARYLAND, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF THE GAMBIA.

KATHERINE HUBAY PETERSON, OF CALIFORNIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE KINGDOM OF LESOTHO.

JEFFREY DAVIDOW, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO MEXICO.

JOHN O'LEARY, OF MAINE, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF CHILE.

MICHAEL CRAIG LEMMON, OF FLORIDA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF ARMENIA.

RUDOLF VILEM PERINA, OF CALIFORNIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF MOLDOVA.

PAUL L. CEJAS, OF FLORIDA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO BELGIUM.

CYNTHIA PERRIN SCHNEIDER, OF MARYLAND, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE KINGDOM OF THE NETHERLANDS.

KENNETH SPENCER YALOWITZ, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO GEORGIA.

FEDERAL ENERGY REGULATORY COMMISSION

WILLIAM LLOYD MASSEY, OF ARKANSAS, TO BE A MEMBER OF THE FEDERAL ENERGY REGULATORY COMMISSION FOR THE TERM EXPIRING JUNE 30, 2003.

DEPARTMENT OF COMMERCE

MICHAEL J. COPPS, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF COMMERCE.

AWILDA R. MARQUEZ, OF MARYLAND, TO BE ASSISTANT SECRETARY OF COMMERCE, AND DIRECTOR GENERAL OF THE UNITED STATES AND FOREIGN COMMERCIAL SERVICE.

THE JUDICIARY

A. HOWARD MATZ, OF CALIFORNIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE CENTRAL DISTRICT OF CALIFORNIA.

VICTORIA A. ROBERTS, OF MICHIGAN, TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF MICHIGAN.

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES MARINE CORPS TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. JACK W. KLIMP, 5723.

FOREIGN SERVICE

THE FOLLOWING-NAMED CAREER MEMBER OF THE SENIOR FOREIGN SERVICE OF THE DEPARTMENT OF STATE FOR PROMOTION IN THE SENIOR FOREIGN SERVICE TO THE CLASS INDICATED:

CAREER MEMBER OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF MINISTER-COUNSELOR:

JOHN M. O'KEEFE, OF MARYLAND.

EXTENSIONS OF REMARKS

TRIBUTE TO EDWARD A. WEINSTEIN

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1998

Mr. TOWNS. Mr. Speaker, I rise today to honor Mr. Edward A. Weinstein, an individual who through his public service, especially in New York, is an invaluable asset to our communities. Through his 37-year tenure at Deloitte & Touche LLP, Mr. Weinstein has made a tremendous impact to both his profession, and the community.

During his college days at Columbia College, Mr. Weinstein received academic honors and distinctions in economics. As a graduate student, he received his M.B.A. from The Wharton School. Mr. Weinstein was also a member of the Beta Alpha Psi and Beta Gamma Sigma honor societies at The Wharton School. The hard work ethic that led to his academic success has carried on to his success, not only as a devout father of two children, but also into his vast public service contributions to society. Mr. Weinstein is past President of the New York State Society of Certified Public Accountants and is a past Vice President and member of its Board of Directors. He was also a member of the Council of the American Institute of Certified Public Accountants and has been chairman and a member of many committees of the New York State Society of CPAs and AICPA.

Mr. Weinstein is the author of several articles dealing with the numerous topics that have been published in prominent publications such as The CPA Journal, The Journal of Accountancy, the Credit and Financial Management Magazine, and many others. In 1975, he won the Max Block Award of The CPA Journal for his article entitled "A Time of Travail and Challenge". Mr. Weinstein is also an individual who has been very involved in civic activities. He has been an advisor to a Junior Achievement Group as well as a member of the Financial Advisory Committee of the Salvation Army. He has been a trustee of The International House, the Fairmont Park Council for Historic Sites, the World Affairs Council, and the Federation of Jewish Agencies of Greater Philadelphia. Mr. Weinstein is very active with the United Way, and in 1992, both the NYSSCPA and AICPA recognized him with awards for his public service. Currently, he serves as a Board member of the New York City Police Foundation and the Cooper Hewitt National Museum of Design in New York.

Mr. Speaker, it is with great honor that I pay tribute to Edward A. Weinstein, a member of the community who throughout his life has always been active in society and through his service has given back innumerable amounts of resources to the community.

IN RECOGNITION OF EVELYN CUNNINGHAM

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1998

Mr. RANGEL. Mr. Speaker, I would like to bring to your attention and to the attention of my colleagues here in the House, the story of a woman 82 years young, who was once known as "Big East" and the "Lynching Editor" when she was a reporter for *The Pittsburgh Courier*. This dynamo of whom I speak is none other than Evelyn Cunningham.

Evelyn Cunningham grew up in New York where she was the daughter of a dressmaker and a cab driver. She would come to work at The Pittsburgh Courier from 1940 to 1962, working out of the paper's New York City office at 125th Street and Seventh Avenue when not at the home office on the outskirts of Pittsburgh.

When Evelyn Cunningham entered a room, you knew it. Nicknamed "Big East" because of her high heels, red hair, mink coat, and attitude, Ms. Cunningham was a force to be reckoned with. She was also known as the "Lynching Editor" which was a name she earned as a result of her stories on the fight for equal rights in the early 1960's. She reported on the school desegregation fight in Birmingham, Alabama, and on the Montgomery bus boycott.

Presently living in Harlem where she's been a resident for the past 40 years, Ms. Cunningham is still very much active. She serves on a number of boards including the Appollo Theatre Foundation and the Studio Museum, and just recently, was among five former Courier reporters accepting the George Polk Career Award when the paper was honored by Long Island University.

Ms. Cunningham often prided herself on covering the hard news stories, but thought that the black press lacked "humor". What did she do? She changed that by writing a column of commentary called, "*The Women.*"

Yes, Evelyn Cunningham once a star of one of the most influential newspapers in America, is someone to whom we can extend accolades of respect and admiration. This is for you Evelyn.

May God continue to bless you and keep you in his care.

REMEMBRANCE OF ANDREW LEWIS TRUJILLO

HON. BOB SCHAFFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1998

Mr. BOB SCHAFFER of Colorado. Mr. Speaker, I speak today in remembrance of one of Ft. Collins' most well-known good Samaritans, Andrew Lewis Trujillo. Lewis, as he preferred to be called, founded Night Walker Enterprises, a charitable organization that carried truckloads of toys, food and clothing to impoverished Indian reservations across the country. Always ready with a smile or a joke, Mr. Trujillo brought happiness and hope to hundreds of children and families each year at Christmas. Part Ute Indian, Lewis Trujillo showed tireless dedication and effort in his charitable work. He has left a legacy of giving that continues with Night Walker Enterprises, now serving 32 reservations in ten states. His efforts helped bring Coloradans together, and brought joy and happiness into the lives of many. Ft. Collins has suffered a great loss with the passing of Lewis Trujillo, but his selfless spirit lives on with all of those he touched. Thank you, Mr. Speaker.

COMMENDING JACK ALLEN, CIVIC LEADER

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1998

Mr. STARK. Mr. Speaker, I would like to congratulate Mr. Jack Allen of San Leandro and his wife Elsie on their 50 years of marriage. In our community, Jack is a hero, and rightfully so. Jack labored persistently for twelve years to get a stamp to commemorate Juan Cabrillo, the Portuguese explorer of Alta California over 450 years ago.

His efforts resulted in the Juan Cabrillo commemorative postage stamp that was finally approved by the Postal Service in 1992. The stamp was a symbol of the importance of the Portuguese settlers to our founding nation. Jack's actions in our community through the Cabrillo Clubs continue the Portuguese-American contributions to our country through the clubs' charitable and education work.

Jack has demonstrated his loving commitment in another area, his marriage to his lovely wife, Elsie. We salute Jack and Elsie as they celebrate their 50th wedding anniversary.

HONORING MRS. SADIE GLOVER SMITH

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1998

Mr. ENGEL. Mr. Speaker, I rise to note that Mrs. Sadie Glover Smith celebrates her 100th birthday. She is a remarkable woman celebrating a remarkable achievement.

She moved to New York in the 1920s with her childhood sweetheart and husband,

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Clifford Smith. She owned a confectionery store and a catering service. More importantly, she was the person to whom all in the community came.

As one of eight brothers and sisters she had learned to care for her family and her community. She was born in the year the *Maine* was sunk in Havana and has seen all the changes of this century, for better or worse. Through it all she has never lost her caring for people.

In Concourse Village, where she lives, she is called aunt, cousin, sister, mother, Godmother, grandmother, neighbor and friend. I congratulate her not only for her long life but, most especially, for all the joy and goodness she has brought to all those fortunate enough to know her.

CELEBRATING THE ONE HUNDREDTH ANNIVERSARY OF THE SAINT FRANCES' RESIDENCE

HON. BILL PASCRELL, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1998

Mr. PASCRELL. Mr. Speaker, I would like to take this opportunity to highlight a momentous milestone for the Saint Frances' Residence. On June 28, 1998, the residence will officially mark their 100th year of service to my hometown of Paterson, New Jersey.

During the latter half of the Nineteenth Century, the City of Paterson experienced a prolonged period of industrial growth. In particular, the silk industry was expanding so rapidly that Paterson was soon known as "The Silk City." Many of those working in the mills were young single women, away from home for the first time. These young women had come to Paterson to help support their families. Still others were recent immigrants with no roots in the United States. Out of concern for the well-being of these women, the Very Reverend William NcNulty, Pastor of the St. John's Roman Catholic Parish, requested that the Sisters of Charity of Saint Elizabeth provide them with a stable "home for working girls."

Under the first Superior/Administrator, Sister Mary Louis Healy, the Saint Frances' Residence opened on January 1, 1897. Although its original mission was to provide a safe haven for working women, the residence also placed emphasis on providing lodging and training for ill or unemployed female domestics. The Residence was an instant success, causing it to expand from its original location at 393 Main Street to a nearby property on Jackson Street. The expansion continued during the early 1900s.

As Paterson's needs evolved, the role of the Residence changed. By 1933, Saint Frances had become a modernized "home for business women," complete with electricity and a "restful summer house." At one time, as many as 72 women lived in the residence, most of whom were gainfully employed. Breakfast and dinner were provided by the residence and a packed lunch was provided.

By the 1950s, St. Frances' began to take in more financially secure mature women. It continues to serve the City of Paterson as a home for the aged to this day. The Residence also remains an important asset to the community during times of crisis, providing housing for those who have been the victims of natural disasters. The most famous instance of St. Frances' generosity occurred in 1956 when it provided shelter for the passengers of the doomed ocean-liner "Andrea Doria."

Mr. Speaker, I ask that you join me, our colleagues, and the City of Paterson as we congratulate the St. Frances Residence on its first 100 years and wish current Superior/Administrator Sister Joyce Vincent the best of luck as the Residence begins its second century of service.

COMMUNITY FOOD BANK OF NATIONAL CITY: VICTORY AGAINST HUNGER AWARD RECIPIENT

HON. BOB FILNER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1998

Mr. FILNER. Mr. Speaker, and colleagues, I am pleased to recognize the Community Food Bank of National City as one of twelve recipients nationwide of the prestigious 5th Annual Victory Against Hunger Award.

The Victory Against Hunger Awards are distributed to anti-hunger organizations that are using innovative methods to help food banks that are running on empty. These awards, which include checks of $1000 to each winning organization, are sponsored by the Congressional Hunger Center, headed by Representatives TONY HALL and FRANK WOLF, and Victory Wholesale Grocers of Springboro, Ohio. By the end of last year's competition, a total of $38,000 in $1,000 checks had been presented by Members of Congress to their winning hunger-fighting organizations.

The Community Food Bank is dedicated to breaking the cycle of poverty and providing emergency food to residents and transients, as well as assisting with needs beyond hunger such as clothing, housing, job placement, medical prescriptions, transportation and counseling.

This service began in May of 1991. At that time, it was known as the Deacon's Food Closet of First Baptist Church of National City—the dream of Chuck and Betty Black, members of this congregation. The Food Bank operated one day each week out of a small room at this church site, serving forty to fifty families.

In early 1997, a number of churches, social service agencies, and concerned citizens gathered to explore the possibilities for networking together with the hope of more effectively meeting the needs in the community. Out of this meeting came an expansion which includes a new name, a new location, plans to extend the hours of operations to three days per week, and the innovative collaboration of several community organizations. Working together, this wide range of groups and individuals are able to contribute far more to the community than working alone.

The Board of Directors is now comprised of members from four community churches including St Matthew's Episcopal Church, First United Methodist Church, First Congressional Church, and First Baptist Church of National City, the Kiwanis Club of National City, Paradise Valley Hospital, the Family Resource Center, elected officials, and other leaders of the community. A side benefit of the expanded Food Bank is that the ecumenical ties and relationships between the congregations of the community have been strengthened and enriched.

A grand opening and ribbon-cutting ceremony for the new location was just held on Monday, June 22nd, presided over by National City Mayor George Waters who was instrumental in obtaining this new site for the Food Bank.

The goal of the Community Food Bank is to eventually work towards a five day operation. There are no paid staff, and a group of volunteers provide all the man and womanpower. The Food Bank holds several food drives each year and actively seeks cash donations to improve the quality and quantity of the food. They work to provide food that represents all major food groups.

My congratulations go to the Community Food Bank of National City, to the officers (Chair Rev. Patricia Andrews-Callori, Vice Chair Rev. W. James Kilinsky, Secretary Rev. Adiel De Pano, and Treasurer Ben Martinez), and to all the other members of the community who are working together on this vital project. I am proud of the cooperation of so many community groups and individuals which is making a difference in the lives of many National City residents.

IN RECOGNITION OF JOE TUNNELL

HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1998

Mr. HALL of Texas. Mr. Speaker, I rise today to pay my respects to a dedicated protector of the law and a fine American—Judge Joe Tunnell of Tyler, Texas—who died on June 9. Judge Tunnell also was a devoted father and husband, and he will be dearly missed by all those he touched in East Texas.

Joe Tunnell, the son of a Van Zandt County, Texas farmer, was born June 4, 1918, and attended the Grand Saline school system. He earned his bachelor's degree and teaching certificate from North Texas State Teachers College. Upon graduation, he briefly taught high school before entering the U.S. Navy, where he served during World War II. Afterward, in 1948, he received his law degree from Southern Methodist University.

In 1950, Mr. Tunnell was elected Van Zandt County District Attorney—an office he held for eight years. He left Van Zandt County to become assistant U.S. Attorney for the Eastern District of Texas and then briefly as interim U.S. Attorney before returning to private practice. In 1985 Mr. Tunnell was appointed to the 241st District Court bench, where he served until retirement in 1993. Judge Tunnell was known for his no-nonsense, tough, yet fair decisions, and for his genuine concern for people.

Judge Tunnell lived his life in the same manner he handled decisions on the bench—

with grace and dignity. He was also a long time member of Pollard Methodist Church. He is survived by his daughter and son-in-law, Jo Ann Tunnell and Bill Atkins of Tyler; his two sons and daughters-in-law, T.R. Tunnell and Debbie Pool Tunnell, Dallas, and John W. Tunnell and Jackee Cox Tunnell of Huntington, Texas; as well as his three sisters and two grand sons, Matthew and Adam Tunnell. Mr. Speaker, as we adjourn today, let us do so in honor of and respect for this great American—the late Judge Joe Tunnell.

THE FRAGILE FUTURE OF HAITI

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1998

Mr. CONYERS. Mr. Speaker, next week I will be leading a bipartisan delegation to the nation of Haiti. I have been there many times in the last five years, and never before have I seen obstacles of nation-building so substantial and the determination of a people so focused.

In December 1990, Jean-Bertrand Aristide was elected president in the first democratic elections Haiti ever held. He overwhelmingly defeated all the other candidates, including the U.S.-backed candidate. Less than one year later, in September 1991, he was overthrown by a military coup d'etat. The international community responded with a massive embargo to try to squeeze power from the grip of the junta.

During the years of the military regime, Haiti suffered under horrible human rights conditions. The terror that people thought they had put behind them in 1986 and 1987 when the Duvalier dictatorship ended and a new constitution was formed returned with a new vengeance. Supporters of democracy were harassed by attachés and the FAHD, as the Haitian army was called. Worst of all, as many as 5000 people were killed by a paramilitary organization called FRAPH, led by a U.S. intelligence contact named Emmanuel "Toto" Constant.

By 1994, President Clinton decided that this was too much and it was time to act. On September 19, U.S. troops led a multi-national force in Operation Uphold Democracy that restored Haiti's legitimately elected government to power.

It soon became obvious, though, that Haiti's challenges had just begun.

For one, Haiti had to figure out what to do with a military that was 7,000 soldiers strong. It managed to abolish that corrupt institution and build an interim public safety force with the help of the international community. Since then Haiti has been working with the United States and the international community to build a civilian police force that respects the rule of law and human rights while gaining the confidence of the population. Now the police force is 6,500 officers strong, and the U.S. is largely responsible for training 5,200 of them.

Haiti also had to revitalize an economy that had been ravaged by a massive drug trade, a constant flow of contraband, and the flight of private investment in the face of the embargo. Today real GDP growth is hovering around 3 to 5 percent, inflation is down to a remarkable 7 percent, and exports are up 44 percent. Many economic reforms have taken place, and the government is ebbing toward dialogue with those popular organizations, unions, and people who have an interest in seeing that they occur in the least harmful way, and with the greatest democratic input. Economic reforms need to happen, but they will only be successful with the full consent and participation of those most profoundly affected by them.

Haiti also discovered that political interests that had united around Aristide before and during the coup began fragmenting, creating a diversity of views but also a new kind of political confusion. This confusion has culminated in a political paralysis that has left Haiti without a prime minister for over a year now.

I am going to Haiti with my good colleagues, Mr. DELAHUNT from Massachusetts and Mr. CHRISTENSEN from Nebraska in the hopes that we can gain some insight into the crisis, offer our thoughts, and describe to them what I think is happening here in Washington with regard to Haiti. Mr. Speaker, I think Haiti has slipped from the radar screen of many in Congress, which I think is very problematic. I also think it is clear that those in Congress who do follow Haiti closely are terribly frustrated with this enduring political crisis that has dragged on for so long.

This delegation is going to Haiti because we believe a political solution is necessary and possible. I hope the American people and the Congress are prepared to give this fragile democracy the attention it deserves. We need to do everything we can to make sure this nation succeeds and that the hard fought gains of the democratic movements of the 1980's are not turned back. Let's keep hope alive in Haiti.

TRIBUTE TO BILL McDONALD

HON. JIM KOLBE

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1998

Mr. KOLBE. Mr. Speaker, I want to take this opportunity to recognize my friend Bill McDonald, a constituent from Douglas, Arizona, who earlier this month was awarded a prestigious "genius grant" by the John D. and Catherine T. MacArthur Foundation. I can't think of anyone more deserving of this recognition, for I have seen the fruits of Bill's particular vision and genius first hand.

Bill and I have a few things in common: We both grew up on family ranches in southeastern Arizona, and we both have an abiding faith in the bedrock values of hard work, individual liberty, and personal responsibility. We also share a love for the land which, in Bill's case, has sustained his family for five generations.

To appreciate the true significance of the accomplishment for which Bill has been recognized, one must first understand that there is a real Range War raging through the American West today. It is a classic conflict that pits certain environmentalists against the cattle ranching industry, and federal land managers have been caught in the crossfire.

Bill decided to reject the old paradigm and try something new. With true pioneering spirit, he established the Malpai Borderlands Group, a group of neighboring ranchers whose properties, along with adjacent public lands, comprise about one million acres of contiguous territory in southeastern Arizona and southwestern New Mexico.

Under Bill's leadership, and in cooperation with various federal land management agencies, conservationists and scientists, the Malpai Borderlands Group ranchers have developed an innovative, voluntary land management strategy. They also have funded programs to identify and protect endangered species on their land.

Through a unique, cooperative grass banking program, participating ranchers are permitted to graze their cattle on one another's property. This eliminates problems, such as erosion and habitat destruction, that can result from overgrazing.

Group members also have pooled resources to support experimental land management programs, including the replanting of native grasses. And they have agreed to establish permanent conservation easements to prevent the open range from being subdivided for residential development.

Bill and his neighbors have demonstrated that cattle ranching can be both economically rewarding and ecologically responsible. And the Malpai Borderlands Group that he founded is proof positive that ranchers, acting with enlightened self interest, can be the best stewards of the land they love.

HONORING OFFICER THOMAS A. PORTER

HON. JOSEPH P. KENNEDY II

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1998

Mr. KENNEDY of Massachusetts. Mr. Speaker, I rise today to pay tribute to a valiant peace officer who time and time again over his long career in law enforcement demonstrated bravery and self-sacrifice.

Officer Thomas A. Porter, a native of the great Commonwealth of Massachusetts, showed from an early age his devotion to law enforcement—working as a teenage Junior Deputy to educate his school peers about the dangers of drug abuse. While working his way through the University of Alabama, Officer Porter received high honors in the fields of criminal justice, social work, and public relations, and served as an intern to a state supreme court judge and future U.S. Senator.

But it was in his chosen field of law enforcement that Officer Porter most distinguished himself.

His first assignment came with the Hyannisport Police Department on Cape Cod, where he served and protected every resident of the community, including the members of my family. During his tenure on the Hyannisport force, Officer Porter, in complete disregard for his own safety, broke down the door of a burning house and rescued an 82-year-old man.

Officer Porter left Cape Cod for Wintergreen, Virginia, Police Department, where he continued to compile an outstanding record, uncovering a notorious burglar ring and working on special assignment with the Secret Service and the Federal Bureau of Investigations.

Officer Porter's law-enforcement career came to a tragic and premature close in 1992. While confronting a suspect in a breaking-and-entering investigation, he was run over by the suspect's vehicle and suffered spinal cord injuries and several broken bones. He was paralyzed for almost two years but through rehabilitation has been able to regain partial mobility. Throughout the period of his convalescence, Officer Porter has served as an inspiration to fellow disabled officers.

In recognition of his selfless duty and willingness—at any moment of danger—to give his last full measure of devotion, the National Trust of Chiefs of Police Association voted earlier this year to award Officer Porter the Legion of Honor Medal as well as the Silver Star for Bravery.

I had the privilege today of presenting these honors to Officer Porter during a ceremony in my office. His career in law enforcement stands as a model to all who aspire to public service, and his courage in the face of catastrophic injury serves as an inspiration to every American.

HONORING RHONDA (RANDI) WEINGARTEN

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1998

Mr. ENGEL. Mr. Speaker, today I would like to praise a woman who has accomplished much. Rhonda (Randi) Weingarten is the new president of the 130,000-member United Federation of Teachers, the largest local union in the United States. She is also vice president of the 960,000 member American Federation of Teachers, the UFT's national affiliate and is a member of the Board of Directors of both the New York State United Teachers and the New York City Central Labor Council.

From 1986 to 1998 Randi served as counsel to UFT President Sandra Feldman, taking a lead role in contract negotiations for teachers and other school employees. When Ms. Feldman became president of the American Federation of Teachers, Randi was selected to serve as president. She has a B.S. from Cornell and graduated cum laude from the Benjamin N. Cardozo School of Law. She was also an adjunct professor at Cardozo from 1986–91. She first became affiliated with the UFT when working for a prestigious law firm which had the union as a client.

She has served as legislative assistant for the New York State Senate Labor Committee and as a mediator on disputes originating in the New York Criminal Court. She has served as a member of the board and then as chairperson of the Health Insurance Plan of Greater New York. She is also a certified teacher of social studies and American History.

Randi continues to advance the cause of education in New York. I look forward to working with her to keep the education of our youth as the highest priority of the people and our governments at every level.

TRIBUTE TO MacGREGOR RANCH

HON. BOB SCHAFFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1998

Mr. BOB SCHAFFER of Colorado. Mr. Speaker, I rise today to acknowledge the history and legacy of one of Colorado's oldest and largest historic cattle ranches, the MacGregor Ranch, and to pay tribute to all of those that worked to create, operate and protect it. This scenic, 3,000-acre ranch is located near the growing town of Estes Park and Rocky Mountain National Park.

Homesteaded by Alexander and Clara MacGregor in 1873, the MacGregor ranch will celebrate its 125th anniversary as a working ranch on August 28 and 29, 1998. Moreover, Clara MacGregor, the first postmistress in Estes Park, will be honored with a commemorative postmark. The MacGregor's granddaughter, Muriel Lurilla MacGregor, ran the ranch until her death in 1970. A remarkable woman, Muriel earned a law degree from the University of Denver at a time when women lawyers were practically unknown. She also held degrees from the University of Colorado and from Colorado College. Hoping to preserve the beautiful ranch, Muriel's estate planning called for the ranch to be held in trust, and operated as it had been.

The Internal Revenue Service, however, disagreed and attempted to collect over two million dollars in inheritance taxes and fees from the relatives of Mrs. MacGregor. Fortunately, some civic-minded volunteers and a few lawyers in the Colorado Attorney General's Office worked diligently to prevent that, and to save the ranch from impending litigation and sale. Attorneys Ruth Anne Garland, James Riles and Howard Kennison put in eight years of hard work on the issues. They contributed their time and expertise to help resolve the many complex legal and tax issues clouding the future of the ranch. Gladys Thomson, and Orpha Kendall contributed considerable time and labor to keep the ranch operating after Muriel's death. With all of their help, the IRS negotiated a solution, and the Department of the Interior contributed funds for a scenic easement on the property. The MacGregor Ranch has now been listed on the National Register of Historic Places.

Volunteers now staff a visitors center for the charitable trust that holds and operates the ranch. Notably, the ranch attracted nearly seven thousand people last year. They come from around the nation to witness the active cattle ranch, and to revel in scenery and history as rugged as the Rocky Mountains. Students and youth groups make up a large proportion of the visitors. At the MacGregor ranch, children see how the hardy pioneers once made their living from the land. I am encouraged that all of those children have the opportunity to see how a ranch operates, and to see what good stewards of the land Colorado ranchers have been.

Mr. Speaker, the MacGregor family has left a lasting legacy for all of us to enjoy. I salute them, and all of the good people who worked to preserve that legacy. We all have a lot to gain from preserving our history and preserving the ranching way of life.

THE ADOPTION TAX CREDIT AND EASING ADOPTION COSTS

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1998

Mr. GINGRICH. Mr. Speaker, I would like to commend to the attention of my colleagues the following editorial from the Marietta Daily Journal, which recognizes the importance of the Adoption Tax Credit passed by Congress in 1996 and urges further Congressional action to ease the costs involved in adopting a child.

[From the Marietta Daily Journal]

"AYE" TO ADOPTION CREDIT

People adopt children for lots of reasons. However, the desire to gain a tax break is not one of them. Yes, adoptive parents do receive a tax break from Uncle Sam, but the amount scarcely comes close to what the adoption process actually costs.

Prospective adoptive parents easily can incur legal fees, medical bills, travel expenses and other costs in excess of $20,000, according to Cobb County's Mark Johnson, executive director of the Hope for Children adoption agency.

With that in mind, House Speaker Newt Gingrich has announced a push to raise the adoption tax credit to $8,000 from $5,000 in hopes of spurring more people to adopt. He also would make the credit available to upper-income adoptive parents. And Mr. Gingrich knows a bit about adoption, having been adopted as a boy by his mother's second husband.

The speaker reasons that children who are adopted are more likely to grow up loved and as contributing members of society than children who spend their youths as wards of the state.

"It is so much better to have an adoption-child tax credit, which is one-third to one-fourth the cost of a year in prison, than it is to have that child end up 16 years later in jail," he said.

An increase in the tax credit would increase the number of adoptions of children that are least likely to be adopted—disabled children, minorities and siblings. Gingrich also announced plans to push for a change in the law that would limit the legal rights of biological parents who refuse to sign adoption papers, even though they fail to support their children financially.

"You can't run a society in which a totally irresponsible person, possibly to blackmail money out of you, can refuse to sign a document for a child they're providing no support for," he argued.

That makes perfect sense to us. And as for increasing the tax credit, the HOPE agency's Johnson predicts the number of adoptions would double if it was increased. That also makes sense, and we hope Congress heeds the speaker's advice.

INTRODUCTION OF THE INTERNATIONAL TAX SIMPLIFICATION FOR AMERICAN COMPETITIVENESS ACT

HON. AMO HOUGHTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1998

Mr. HOUGHTON. Mr. Speaker, I am joined by my colleagues, Messrs. LEVIN, CRANE, MATSUI, HERGER, JOHNSON, ENGLISH and NEAL, in introducing legislation to simplify and reform our current international tax laws. As all of you know, we are in a period of fundamental re-examination of the Internal Revenue Code. One of the most complicated and impenetrable areas of the Code and most in need of change is the foreign area. Our international trade laws have gotten ahead of our tax laws for this area. We consider our bill to be a "down payment' on needed changes in this area.

Now as we begin the process of re-examining in fundamental ways our income tax system, we believe it imperative to address the area of international taxation. In an Internal Revenue Code stuffed with eye-glazing complexity, there is probably no area that contains as many difficult and complicated rules as international taxation. Further, I cannot stress enough the importance of continued discussion between the Congress and Treasury of simplifying our international tax laws; especially in the areas of interest allocation, partnerships, and the European Union.

The business world is changing at an increasingly rapid pace. As we all know, tax laws have failed to keep up with the rapid changes in the world technology and economy. Neither one of us is under any illusion that the measure which we introduced removes all complexity or breaks bold new conceptual ground. We believe, however, that the enactment of this legislation would be a significant step in the right direction. The legislation would enhance the ability of America to continue to be the preeminent economic force in the world. If our economy is to continue to create jobs for its citizens, we must ensure that the foreign provisions of the United States income tax law do not stand in the way.

The focus of the legislation is to put some rationalization to the international tax area. In general, the bill seeks in modest but important ways to: (1) simplify this overly complex area, especially the foreign tax credit and the various antideferral mechanism; (2) encourage exports; (3) enhance U.S. competitiveness in other industrialized countries. And it seeks to achieve these objectives in a revenue-conscious manner.

Specifically, the provision regarding the Subpart F exception for active financial services income is based in large part on the one-year rule embodied in H.R. 2513, the House passed bill that resulted from lengthy negotiations between the Treasury Department and the financial services industry. The bill's provision are not intended to replace the one-year rule in H.R. 2513 that could well be enacted this year. Rather, the bill includes additional options that taxpayers would like to see in a permanent rule, to facilitate discussion regarding the parameters of a permanent rule that would effectively level the playing field with respect to our foreign competition.

Furthermore, the bill allows deferral for cross-border income received by controlled foreign corporations engaged in the active conduct of a banking, financing, or similar business, under narrowly defined circumstances that are designed to preclude opportunities for excessive "mobility" of income. The first safeguard is the requirement that income eligible for deferral must be derived from a transaction with a "customer;" the definition of a customer (which is identical to the definition prescribed under proposed treasury regulations dealing with passive foreign investment companies) would not permit a related-party transaction to qualify if one of the principal purposes for such transaction was to satisfy the underlying provision. Second, the requirement that employees meet a "material participation" test will reinforce the "active" nature of the covered activities. Thus, corporations holding passive investments would be precluded from relying on the rule.

The law as now constituted frustrates the legitimate goals and objectives of American business and erects artificial and unnecessary barriers to U.S. competitiveness. In addition, the law stands as a monument to the act that the conceptual complexity of man as applied to the Internal Revenue Code knows no limits. Neither the largest U.S. based multinational companies nor the Internal Revenue Service is in a position to administer and interpret the mind numbing complexity of many of the foreign provisions. Why not then move toward creating a set of international tax rules which taxpayers can understand, and the government can administer?

In summary, therefore the proposed changes we believe represent a creditable package and a "down payment" on further reform in the international tax area. We ask you to join us, in this bipartisan effort, by supporting our legislation.

EXPLANATION OF VOTE ON H.R. 4103

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1998

Mr. CRANE. Mr. Speaker, on the evening of Wednesday, June 24th, I was away from the Capitol complex and was not notified of an impending vote. As a result, I was unable to record my vote on rollcall No. 266. Had I been present, I would have voted for H.R. 4103, The Department of Defense Appropriation bill. Indeed, I must compliment my colleague BILL YOUNG, Chairman of the Appropriations Subcommittee on National Security, for his fine work on this legislation. There is no more important appropriations bill considered by Congress than the bill providing funding for the defense of our nation, and nobody takes his responsibility more seriously than Chairman YOUNG. I look forward to Chairman YOUNG bringing back a conference report mirroring the priorities in the House version of H.R. 4103, and, assuming that to be the case, I will proudly cast my vote in support of this legislation at that time.

HONORING MAUREEN WALKER

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1998

Mr. ENGEL. Mr. Speaker, public service, when done honestly and done well, is the noblest of callings. Thus, I rise to honor a public servant who shows that definition to be true.

Maureen Walker has demonstrated unwavering integrity and an ardor for fiscal responsibility as Comptroller of the City of Mount Vernon. She has also shown a dedication to helping others throughout her community.

Her success has the quality of myth surrounding it. She was born in a village in Guyana to Caleb and Mildred Headley and perhaps it was living in a village that gave her the strong sense of community service that she has shown in her adoptive country.

She came to America and attended Brooklyn College, graduating Magna Cum Laude and received scholarships from Chase Manhattan and the National Association of Black Accountants. Maureen is a Certified Public Accountant with more than ten years experience. She was a senior financial analyst with Equitable Life Assurance and an auditor with Arthur Anderson & Company before becoming Mount Vernon's gain.

She has received numerous awards and has served on the Board of Estimate, the Urban Renewal Agency, the Board of Assessment and Review and, of course, on the Board of Junior Achievers. She is also a member of the Board of the Community Aid Club.

Working with Maureen over the years I came to appreciate her ability and dedication. She gave herself to helping her community. Mount Vernon is better not only because she has served as its Comptroller, but especially because she lives there and cares.

HONORING PAUL O'DWYER

HON. NYDIA M. VELÁZQUEZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1998

Ms. VELÁZQUEZ. Mr. Speaker, it is with great sadness that I rise today to recognize the passing of Paul O'Dwyer. Paul was a man of unquestioned principle who selflessly devoted his life to promoting understanding. His loss will be felt not only in New York but also around the world.

Born on an impoverished farm in Ireland, Paul O'Dwyer's humble beginnings awakened in him a desire to help those less fortunate. Subsequently, he became a champion for the underdog and a tenacious fighter for social justice. In his native country, Mr. O'Dwyer actively promoted a peaceful resolution to the conflict which plagued Northern Ireland.

Upon arriving in this country, he immediately sought to correct the injustices he saw around him. Mr. O'Dwyer defended workers, teachers and civil-rights activists accused of Communist sympathies. He also helped register black voters in Mississippi during the civil rights movement.

Paul O'Dwyer's popularity among the common man helped him get elected to the New York City Council in 1963. He served as president of this organization from 1973 to 1977. Despite the constraints on his time, Paul remained a progressive leader of the Irish community in New York.

Perhaps Mr. O'Dwyer will be best remembered for his work with the United Nations, where he served as a liaison between countless diplomats and the City of New York. His ability to find common ground between New Yorkers and representatives from around the world earned him universal respect and admiration.

Mr. Speaker, yesterday New York lost a remarkable individual. This country and indeed the world could use more people like Paul O'Dwyer.

LITTLE THEATER HONORED

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1998

Mr. KANJORSKI. Mr. Speaker, I rise today to pay tribute to the Little Theater of Wilkes-Barre, Pennsylvania. This week the Little Theater will celebrate its 75th anniversary; it is believed to be possibly one of the oldest community theaters in the country. I am honored to have been asked to participate in this important celebration.

The Little Theater has been providing quality entertainment in Northeastern Pennsylvania since it was organized in 1922. The Theater's original founders were some of the most prominent families in the area, including Mrs. Simon Long, Mrs. Frank G. Darte, Mrs. Ernest G. Smith, Annette Evans, Daniel W. Davis, Todd Rippard, Bernard Burgunder, Brandon Gearhart, Raijean Breese, and Leonard Parkhurst. With no building of its own until 1957, the first performance of the new group was performed at what was then Wilkes-Barre High School.

The Little Theater was established for the purpose of stimulating local interest in the performing arts. In addition to producing first-rate shows, the Theater provides training for people of all ages. The Theater has sponsored a workshop specifically for high school students for the last 12 years.

The Little Theater stage has hosted such noted artists as actor James Karen, Tony Award-winner Santo Loquasto, film designer Maher Ahmad, founder of the Pennsylvania Ballet Society Barbara Weisberger, and even Judge Harold Flannery and the late Congressman Daniel Flood and his wife, Catherine.

The Little Theater's tradition of excellence is continued today by General Manager Walter S. Mitchell Junior. Artistic Director Ann Marie Kopec, and Technical Director Christine E. Rook. Their efforts are supposed by the current members of the Little Theater's Board: Joe Lucas,. Bonnie Biros, Barb Wilson, Lisa Y. Fink, Deb Kolojejchick, Mary Ann Ulichney, Chet Newhart, and Marge Dewees.

Mr. Speaker, the Little Theater has produced more than 300 Broadway-style productions since its inception. It is the only community theater in Northeastern Pennsylvania with full orchestration in its musical productions. I am extremely pleased to be able to join with the community in thanking the Little Theater of Wilkes-Barre for 75 wonderful years. I send my sincere best wishes for the little Theater's continued success.

HAPPY 100TH ANNIVERSARY SAGINAW COUNTRY CLUB

HON. JAMES A. BARCIA

OF MICHIGAN

HON. DAVE CAMP

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1998

Mr. BARCIA. Mr. Speaker, Americans have always taken maximum advantage from opportunities to join together in matters of common interest, and have used clubs for the benefit of the membership and the community. One such organization, the Saginaw Country Club will this week celebrate its 100th anniversary.

Charles H. Davis, a devotee of golf, formed the Saginaw Country Club on October 11, 1898 with his fellow townsmen. The club operated with its gentlemanly understandings until the Articles of Incorporation were filed on October 1, 1901. Over the years, the club grew from its 100 members and nine-hole old course to add tennis, croquet, shooting traps, and a race track. An additional nine holes were opened in May, 1912, and the Club was the site of the first State Golf Tournament in 1913. Further expansions, modernizations, and remodeling over the years brought the Club to the outstanding status that it has today.

The philosophy of the Club is an enviable one. Every member is absolutely equal. The Club is a place of relaxation, not a place of business. Everyone is encouraged to be actively involved in their communities, and to support philanthropic endeavors, but such activities are not on-going designed actions for the Club. The President serves for but a single term so that over time there is ample opportunity for leadership to be passed among the members, and not become the mainstay of a limited group.

Mr. CAMP. Mr. Speaker, I join my colleague in recognizing the Saginaw Country Club on its 100th Anniversary. Over the past 100 years this club has offered recreation and an escape for its members. The Saginaw Country Club has grown and changed over the years—but has always remained a special place. It has been host to some of the great golf legends—such as Arnold Palmer, Ben Hogan, Byron Nelson and Jimmy Demaret. Carved out of land from the oldest part of Saginaw—the Country Club continues to host one of the oldest invitational golf tournaments in the State of Michigan. This rich history is what makes Saginaw Country Club's 100 years of existence so interesting.

Today, it remains an intricate part of its community and maintains an excellent reputation for the many activities offered. From holding annual 4th of July festivities for families and sponsoring championship swimming teams—the Country Club plays an important role in its surrounding community. As with any organization, there have been countless memories associated with the Country Club over the past 100 years. Through this club, the members have developed friendships and enjoyed special events. The Country Club continues to grow—while not sacrificing the characteristics that made it what it is today.

This weekend friends of the Country Club will come together to reflect on the past 100 years. They will remember special times and look forward to many more to come. So as the Country Club's famous bridge links its front nine to the back nine—it will also continue to bring many different age groups together for years to come. It is this linkage that will maintain its rich tradition and heritage. We wish the Saginaw Country Club many years of continued success.

DISTURBING PANAMANIAN REALITIES

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1998

Mr. CONYERS. Mr. Speaker, the U.S. has been intimately connected to events in Panama for one hundred years. If anything, this relationship has intensified in recent years, as the time approaches for the reversion of the Canal Zone back to the people of Panama on the last day of this century. But rather than it being a happy occasion, considerable apprehension seems to exist among the average Panamanian whether local authorities will be able to effectively administer the Canal. Anna M. Busch, a researcher with the Washington-based Council on Hemispheric Affairs has authored an article scheduled to soon appear in COHA's biweekly publication. *The Washington Report on the Hemisphere.* In her article, Busch cites the disturbing case of Dr. Miguel Antonio Bernal, a highly regarded Panamanian professor of international law, who has had an exemplary history of being a gadfly in defense of democracy against a long line of authoritarian figures, including General Manual Noriega, for which he had to flee the country.

Because of the transcending importance to the U.S. of the well being of the Panamanian people, and the desire of all Americans to see an effective transition in the return of the Canal Zone to Panama as stipulated under the terms of the Carter-Torrijo Treaty of 1977, I urge my colleagues to closely examine the Council on Hemispheric Affairs article authored by Anna M. Busch for its important insights into a series of issues, including the multinational drug facility, which is now being negotiated with Panamanian authorities.

DISTURBING PANAMANIAN REALITIES

(By Anna Marie Busch)

As a result of the 1977 Carter-Torrijos Canal treaties, the U.S. is in the middle of the process of handling over the last vestiges of control over its Canal Zone facility, which must be transferred to local authorities by

December 31, 1999. As it readies to do so, thousands of U.S. military personnel have left the country and the Southern Command already has moved its headquarters to Miami. But, the questions being raised by many Panamanians are whether Panamanian President Ernesto Perez Balladares, whose government has been plagued by charges of nepotism, drug cartel links, and human rights violations, is capable of taking charge of canal operations, or, for that matter, deserves to remain in office for another term. Apparently, many Panamanians have grave doubts, at least on the first point, with recent polls indicating that 70% of the population favors the facility to remain under some form of U.S. supervision.

PETTY PANAMANIAN POLITICS

Former Vice-President Richardo Arias Calderón observed in the *New York Times* last September, "whoever is in power for the next term will have the opportunity to take some big decisions and grant some important contracts. That generates economic power, and if not done transparently, offers ways to favor certain economic interests and law firms." Arias' prophesy and the poll regarding the future status of the canal, reflect genuine misapprehensions by Panama's citizens over the country's lack of civic rectitude and the grave doubt which many of them entertain regarding the personality and performance of President Perez Balladares.

Although the Panamanian constitution bars any incumbent from serving two consecutive terms and mandates a ten year interval before a candidate could qualify for reelection, Perez Balladares, following the disquieting trend among Latin American presidents like Peru's Fujimori, Brazil's Cardoso, and Argentina's Menem, is moving a proposed referendum through the legislature, which is controlled by his party. The supplemental bill, expected to pass in August, would allow him to run for reelection when the canal's transfer takes place. Not leaving matters to chance, four of the eleven board of directors chosen by the ruling Democratic Revolutionary (PRD) leader to oversee the control of the canal, are relatives of either Perez Balladares or his wife.

The referendum, which many Panamanians consider unconstitutional, has caused a vocal outcry among many scholars and other critics of the Perez Balladares government. One prominent analyst, Dr. Miguel Antonio Bernal, a distinguished university professor and popular radio commentator, who repeatedly has voiced his negative opinions on the referendum, and has made allegations concerning government excesses and wrong-doings, has now been indicted by the state attorney after he had suggested that the National Police had bungled an ongoing case in which four prisoners had been decapitated. Though Dr. Bernal has long been viewed as a perpetual irritant by the authorities (just as he had been under the Noriega regime when he was forced to flee into exile) for his outspoken criticism of corrupt government practices, official Panamanian sources predict that the new charge against him may again result in enforced exile.

Dr. Bernal's case was suspended by the judge at the end of its June 19 preliminary hearing due to a motion presented by defense attorneys requesting that legal basis of charges against the defendant be declared as unconstitutional. The trial will be postponed indefinitely until a higher court rules. Although the defendant's highly visible profile and fame drew wide support for him, the average Panamanian dissident could never hope for such a crowd and such widespread attention. This is why the final disposition of the Bernal case is so important to the future of Panamanian democracy.

Despite the fact that the Panamanian constitution guarantees freedom of expression, that same document also contains clauses which the authorities intentionally entered into it in order to silence its would-be critics. For example, article 33 allows for the State to "fine or arrest any person who offends or shows disrespect to them [government officials] when they are in performance of their duties or because of their performance of the same." In the country's Penal Code, a charge of "slander and offense" can bring about fines or imprisonment. Long controversial Law 67 of 1978 forbids the practice of journalism by people who do not have "professional competence."

REMOVING THE CHECKS AND BALANCES

On February 5 of last year, Perez Balladares signed a bill creating a new office, "Defender of the People" (Human Rights Ombudsman). This official, even though working on a pathetically meager budget, was initially given broad powers to investigate accusations of human rights abuses and to disseminate his findings. The terms of the position also allowed the ombudsman to step in and negotiate complaints having to do with the Attorney General's office, and the proper functioning of the Electoral Tribunal. But, in a troubling ruling by the Court last February, his latter powers were revoked. The Perez Balladares government originally had set up the Human Rights Ombudsman office as a way to placate international human rights groups, but as time passed, more and more of its powers have been yanked away. The ombudsman, (constitutional law scholar Italo Antinori), now must learn to cope with hundreds of complaints, a low budget, and an office whose powers largely have been retrenched.

PEREZ BALLADARES' EYE ON THE PRIZE

Though the transfer of the canal is certainly on the minds of U.S. government and Panamanian officials, this issue does not exhaust their bilateral agenda. Slow negotiations over a multinational anti-drug center still must be successfully concluded, the legality of the proposed referendum allowing for Perez Balladares to seek reelection confirmed, and the accusation that basic civil rights are being trampled on must be resolved. A long list of brutality charges against the National Police remain to be investigated; a Supreme Court, which according to the State Department is "subject to corruption and political manipulation," must be reformed and governmental links to drug cartels and money laundering schemes investigated. Perez Balladares' current mildly anti-U.S. stance is being seen as a form of self-serving demagoguery, in which he artfully wraps himself in the nation's flag to gain support for his August referendum from the nationalist core of his party's rank-and-file. Thus far, he has turned down U.S. transitional assistant funds for the canal, preferring to accept aid from Asian or EU sources, in order to lessen Washington's presence and influence. Regardless, if current practices remain, any ongoing mismanagement of the canal could result in a huge disappointment for the country, both in terms of shortfalls in shipping revenue, and also due to impediments to the Canal's tourist and industrial development potential. Any slowdown in growth could also present a springboard for his many political adversaries to savage any dreams he might have had of reelection.

IN RECOGNITION OF COLONEL RANDALL T. SMITH

HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1998

Mr. HALL of Texas. Mr. Speaker, it is a pleasure for me to pay tribute to a truly exceptional Marine: Colonel Randall T. Smith, who will be retiring on October 1, 1998, after more than 26 years of service to this great nation. His dedication and professionalism have earned him the respect of his seniors, peers and his subordinates.

Colonel Smith is a graduate of East Texas State University with a Bachelors Degree in Business Administration. He was commissioned a Second Lieutenant upon graduation from Officers Candidate School in May 1972, and completed the Basic School in November 1972. After graduating from the Aviation supply Officer's Course in February 1973, Colonel Smith was assigned as Squadron Supply Officer with VMAT–203, MCCRGT–20, Marine Corps Air Station, Cherry Point, North Carolina, in March 1973—during which the squadron received its first AV–8A Harrier. He was promoted to First Lieutenant in April 1974.

Colonel Smith next served in various H&MS–12 Group Supply Department billets, until he was transferred to the 4th Marine Aircraft wing in August 1976. He was promoted to Captain in November 1976 and served as Officer-in-Charge of the Marine Reserve Aviation Supply Training Unit in New Orleans, Louisiana, until July 1978.

After graduating from Amphibious Warfare School, Marine Corps Base, Quantico, Virginia, in June 1979, Colonel Smith reported for duty with H&MS–13, Marine Air Group–13, Marine Corps Air Station, El Toro, California. There, he served as the Group Aviation Supply Support Center Officer, and subsequently, as Group Supply Officer. Colonel Smith, then, transferred to H&MS–24, Marine Air Group–24, Marine Corps Air Station, Kaneohe Bay, Hawaii in August 1981, for duty as the Group Supply Officer where he was promoted to Major in June 1982.

From August 1984 to June 1985 Colonel Smith attended the College of Naval Command and Staff, Newport, Rhode Island, and also was awarded a Master of Science Degree in Management from Salve Regina College. Following graduation from the Naval War College, he was ordered to Naval Air Systems Command, Washington, D.C., where he served as the Naval Aviation Logistics Command Management Information Systems (PMA–270) Deputy Program Manager. In January 1988, Colonel Smith transferred to Headquarters, Marine Corps (Department of Aviation) for duty as the Aviation Supply Support Officer for the Marine Corps.

In September 1988, Colonel Smith reported to Navy Supply Corps School, Athens, Georgia, for duty as Marine Corps Representative for Northeast Georgia and Head Marine Corps Training Division, where he was promoted to Lieutenant Colonel in April 1989. Colonel Smith, then, reported to Marine Air Logistics Squadron–29, Marine Air Group–29, Marine Corps Air Station, New River, North Carolina, for duty as Squadron Executive Officer in September 1991. There, Colonel Smith served as Commanding Officer of Marine Air Logistics Squadron–29 from February 1992 until June 1993.

Colonel Smith was assigned as Assistant Chief of Staff (ALD), 1st Marine Air Wing in August 1993 and was promoted to his present grade of Colonel in July 1994. He later assumed command of Marine Wing Support Group 17 on January 28, 1995.

Colonel Smith's awards include the Meritorious Service Medal (with one Gold Star), the Navy commendation Medal, the Navy Achievement Medal, the Meritorious Unit Commendation, the National Defense Service Medal (with one Bronze Star) and the Sea Service Deployment Ribbon (with three Bronze Stars).

During Colonel Smith's career, he and his family have made many sacrifices for our country. I would like to thank them all—Randall, his lovely wife Donna, and their four children, April, Sara, Derek and Brett—for their contributions to the Marine Corps and to our national security.

Mr. Speaker, Colonel Smith is a great credit to the United States Marine Corps and the country he has so faithfully and honorably served. As he prepares to depart for new challenges, I know that my colleagues on both sides of the aisle join me in wishing him every success, as well as fair winds and following seas. When we adjourn today's session, let us do so in honor of this great American.

TRIBUTE TO LIEUTENANT COLONEL DAPHNE D. SAHLIN, U.S. ARMY

HON. AMO HOUGHTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1998

Mr. HOUGHTON. Mr. Speaker, I rise to pay tribute today to an outstanding American at the close of her career as an officer in the U.S. Army.

On June 30, 1998, Lieutenant Colonel Daphne D. Sahlin retires after completing over 20 years of service to her nation and the U.S. Army. Daphne hails from Louisiana, and was graduated from Rice University with a degree in history. She came to the Army's officer corps from the ROTC program there. She later completed a master's degree in management. Daphne's service includes tours of duty in Korea and Germany, as well as various stateside posts.

Throughout her career, Daphne has been a continuing inspiration to her superiors, peers and subordinates. She has typified and personified the dedication ethic that our Armed Forces aspire to attain. Daphne has stood as a role model of courage, competence and candor, leading both her soldiers and the Army into a new age. She has not only watched, but she has been in the midst of the change in the Army that allowed the role of women to expand and take on significant new meaning in today's force. Perhaps no other officer is better qualified to comment on the gender issues that are under discussion still today than Daphne Sahlin.

Her perspective is that of one who has made the ultimate contribution, having taken on a career in the Army when the climate was challenging and an expanded role for women was only a goal in the mind of the forward thinkers. But throughout over two decades, Daphne relentlessly pursued those very goals that legions of others could only hope to achieve later on. She held an impressive series of key jobs in the field Army, from platoon level up to the staff of the Secretary of the Army.

Daphne took on the tough jobs, serving in key military intelligence units of the Army, to include the famed XVIIIth Airborne Corps at Fort Bragg, North Carolina where she was required to participate in parachute operations. But this was no challenge for an officer of her caliber and stamina. She later went on to serve in the Pentagon in the top operations office in the most fast paced and demanding job in the Army. There, Daphne was a principal assistant to the Deputy Chief of Staff for Operations. Every item of interest and each piece of correspondence that was routed to the Army leadership for decision came across her desk. Her role was essential and she once again subordinated personal interests to those of the Army. After her noteworthy service in the Pentagon, she came to Capitol Hill to begin her service to the U.S. House of Representatives.

Many of my colleagues and their spouses and staff know Daphne well in her role in the Army's Liaison Office. From that posting, she has indeed made a difference and touched all our lives. Daphne has traveled across the globe with Congressional delegations in support of the House International Relations Committee, the Permanent Select Committee on Intelligence, and the National Security Committee, and most importantly to me, the U.S.-Canada Interparliamentary Group. Daphne has been to the most remote regions of the world. Whether the destination was Beijing, Pyongyang, Damascus or Sydney, Nova Scotia, Daphne provided the Members of this body the same superb assistance each and every time. She organized, planned and executed these flawless trips, despite any logistical challenges, and allowed each delegation to focus on the business at hand.

Mr. Speaker, Daphne really established the standard for all of her successors and we are grateful to her for such honorable service under such often difficult circumstances. As we honor her, we note that this institution and our country is better off for the major contributions she has made over a sustained period. We wish her all the best in her future endeavors as she enters civilian life.

CONGRATULATING THE LOS SURES SENIOR CENTER

HON. NYDIA M. VELÁZQUEZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1998

Ms. VELÁZQUEZ. Mr. Speaker, I would like to take this moment to offer my congratulations to the Los Sures Senior Center on its 10th Anniversary. My district is enriched by having such a remarkable institution serve the community.

Thanks to the exemplary leadership of Councilman Victor Robles, the elderly community of Los Sures in Williamsburg has a place dedicated and committed to them. The center succeeds in unifying different generations, so that our youth might benefit from the wisdom of their elders. It is also a place where people come together to exchange ideas and enjoy the company of their neighbors.

Furthermore, the Center ensures that much needed recreational and other support services are available to the elderly in our community. Many have referred to the Center as a sanctuary from the hectic pace of every day life. This remarkable place could not exist without the dedication and sacrifice of its staff. I would like to thank them for all of their hard work.

In closing, I ask my colleagues to join me in congratulating Councilman Victor L. Robles for his vision, perseverance and dedication to the senior community of Los Sures. Both myself and the community look forward to the next ten years.

HONORING BERNARD L. STEIN, WINNER OF THE 1998 PULITZER PRIZE FOR DISTINGUISHED EDITORIAL WRITING

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1998

Mr. ENGEL. Mr. Speaker, today I rise to honor a person whom I am proud to call a constituent and a personal friend. Mr. Bernard L. (Buddy) Stein, a journalist of uncommon merit and character, has recently been recognized by his peers in the media through his receipt of 1998 Pulitzer Prize for distinguished editorial writing. This great honor truly befits the accomplishments of Bernard Stein and his editorial expertise and skill.

Bernard's list of accomplishments is nearly as diverse and extraordinary as the man himself. Writing weekly editorials for the Riverdale Press, a publication widely known for its excellence in reporting, Bernard informs his readers on a variety of subjects of both national and local interest. His areas of special concern include such prudent matters as school overcrowding and the preservation and enhancement of the Riverdale community. Bernard is a man committed to the betterment of not only his community, but the rights of every person worldwide.

In 1989, the offices of the Riverdale Press were bombarded by arson; a fire set in reaction to Mr. Stein's highly controversial editorial defending the right to purchase and read Salman Rushdie's novel, Satanic Verses. Today, Mr. Stein continues his campaign for the preservation of those most sacred rights of free speech and freedom of the press. On the anniversary of the aforementioned incident and the death sentence against Mr. Rushdie, a photograph of Bernard holding a banner supporting free speech and freedom of the press appears in the Riverdale Press.

This most recent recognition of Bernard's outstanding and distinctive journalistic talent, the Pulitzer Prize, reflects the author's unique ability to write with uncommon grace and almost lyrical composition, yet convey with a distinct and unparalleled intensity a most thoughtful and engaging editorial. Recognition for one's talents and achievements all too frequently goes unacknowledged. Yet, today we have an opportunity to celebrate a grand acknowledgement of a most distinguished member of the Riverdale and world community, Mr. Bernard Stein. I encourage my colleagues to join the people of Riverdale and the Bronx in acknowledging and congratulating Mr. Stein on his most exceptional honor, the 1998 Pulitzer Prize for distinguished editorial writing.

HONORING GEORGE A. PETERKIN, JR.

HON. KEN BENTSEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1998

Mr. BENTSEN. Mr. Speaker, I rise to recognize George A. Peterkin, Jr., Chairman of the Board of Kirby Corporation, for his many outstanding contributions to the nation's marine industry and the public that it serves. On July 20, 1998, Kirby Corporation will honor Mr. Peterkin by dedicating its new building, the George A. Peterkin, Jr. Operations and Training Center, which is located near the confluence of San Jacinto River and the Houston Ship Channel in the 25th District.

During his long and distinguished career, Mr. Peterkin has inspired the men and women of Kirby Corporation and its predecessor, Dixie Carriers, Inc., to achieve the highest levels of safety and environmental excellence. As a result, Kirby Corporation is a recognized industry leader in safety performance. Each year, Kirby Corporation's rates for lost time injuries, recordable injuries and spills are among the lowest realized by towboat operators in the United States. In addition, each year Kirby Corporation has more vessels honored than any other operator through the Devlin Award program, a national program that recognizes the safe performance of vessel crews. In 1995, the United States Coast Guard recognized the company's accomplishments when it selected Kirby Corporation to receive the William M. Benkert Award for environmental excellence in the Large Company-Vessel Operator Category.

Mr. Peterkin's legacy regarding safety excellence has continued to grow as Kirby Corporation is called upon to share its expertise by industry organizations and government entities. For example, Kirby Corporation has played a leadership role on the National Steering Committee of the American Waterway Operators/USCG Safety Partnership since its inception in 1995. The charter of the Partnership is to strengthen the working relationship between the Coast Guard and the barge and towing industry and to provide a mechanism for cooperative AWO/USCG action to advance the two organizations' mutual goals of marine safety and environmental protection.

Further, Kirby Corporation has played a key role in the development and implementation of AWO's Responsible Carrier Program, which is designed to achieve improved safety performance by members of AWO and their towing service vendors. Thus, Kirby Corporation is playing a central role in the ongoing quest for safer and cleaner waterways for the good of the nation's public, marine industry personnel, and the environment.

Mr. Peterkin's contributions to the marine transportation industry also include innovations in marine vessel design and operations. For example, Mr. Peterkin spearheaded the introduction of the "air controller" design for towboat wheelhouses. This design provides pilots with an unobstructed, panoramic view from the wheelhouse and has helped to avoid countless accidents since it became an industry standard more than three decades ago. Mr. Peterkin also led the industry in advancing automated unmanned towboat engine rooms.

These innovations have helped to make barge transportation the nation's safest and lowest cost method for transporting bulk goods. The ultimate beneficiaries from these innovations are marine industry personnel who enjoy safer work environments and the public that pays lower transportation costs.

Mr. Peterkin has also been active in community service. For over 30 years, he has provided leadership on the Board of Trustees of Texas Children's Hospital, also located in the 25th District, serving as a board member from 1967-present, President 1978–1979, and Chairman of the Board, 1987–1991. He has been instrumental in guiding the development of this world renowned hospital.

Mr. Speaker, whatever he does, George Peterkin's intelligence, enthusiasm, and integrity serves him and all those he encounters well. He brings a tireless energy, an unflagging drive, and a passionate caring to each of his endeavors, wearing many hats along the way. His contributions to the nation's marine industry and the community are truly commendable.

INTRODUCTION OF THE DIGITAL JAMMING ACT OF 1998

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1998

Mr. MARKEY. Mr. Speaker, I rise to introduce the Digital Jamming Act of 1998. The growing incidents of "spamming," and "cramming," and "slamming" in our telecommunications arena represent an important series of consumer protection issues that need to be addressed by the Congress or by appropriate regulatory agencies. I am using the term "jamming" to describe all 3 consumer protection issues because they are all unscrupulous practices that either jam consumers' bills with unauthorized services or jam our nation's telecommunications networks with unwanted messages in the digital era.

These are, in fact, particularly thorny issues to address because there are multiple players involved in resolving these problems in the telecommunications industry, and in the Federal Government, and at the State level as well. It is hard to find someone these days who has not had first hand experience with one or all of these issues. When someone is "slammed" their telephone carrier is changed without proper authorization and it usually leads to higher bills for slammed customers and a big hassle in clearing everything up. When someone is subjected to "cramming"—their telephone bill gets filled up with all sorts of new and unauthorized charges. And with the rise of the Internet, the growth of unsolicited electronic messages—or spamming—is becoming the daily, nuisance experience for countless people online and a burden on Internet service providers who often have their systems swamped with spamming traffic. Unfortunately, all three of these issues appear to be growing problems.

The issue of slamming was addressed in the Telecommunications Act of 1996 where unauthorized switches in carrier selection were prohibited and a liability provision for unauthorized charges included in Section 258 of the Communications Act. The FCC is currently in the process of developing rules to further implement that provision and protect the public. I want to encourage the Commission's efforts to crack down on this problem and look forward to the Commission completing any rule revisions in the near future. Moreover, "cramming" is increasingly a billing quandary for consumers across the country who are taken advantage of and I believe that consumers deserve protection from this rising telecommunications affliction.

Finally, the issue of spamming is quickly becoming the bane of many online surfers who log onto their computer only to find their mailbox stuffed with unsolicited electronic messages. Beyond the nuisance factor that massive spamming creates, it also engenders problems associated with the unsolicited sending of indecent material and online fraud perpetrated by a cadre of high tech hucksters who attempt to dupe people online into parting with their money. In addition, the millions of unsolicited e-mail messages clog up the networks of many online providers and this does a terrible disservice to other subscribers to such service and to online commerce generally.

The legislation I am introducing today seeks to help address the spamming issue by building upon work that the Congress performed a few years ago in addressing unsolicited telephone marketing and which is codified in Section 227 of the Communications Act. In that earlier legislation, Congress granted authority to the Commission and authorized, at the Commission's discretion, the creation of a "do-not-call" database for people who no longer wanted to receive unsolicited telemarketing at home. The Commission elected not to utilize this authority in its rulemaking at that time.

I believe it may be worth exploring however, the creation of "do-not-contact" databases for people who want to put a "no soliciting" sign in cyberspace and stop the flood of junk e-mail. This could be done at the Federal or State levels and technology has advanced to a point where this might be a cost-effective and efficient remedy.

The legislation I will introduce will also include provisions building upon Section 258 of the Act to help address slamming and cramming issues. I believe it may be worthwhile to expand liability provisions contained in Section 258 to permit double damages to be paid to consumers—in addition to compensating "slammed" carriers for lost business—as a deterrent to slammers. In addition, the legislation tasks the NTIA in the Commerce Department with the job of conducting an analysis into third-party verification clearinghouses. Because those authorizing switches in carrier selection have a financial interest in making switches, it may be useful to explore the feasibility of giving the verification or authorization functions for switching carriers to a third party—either at the State or Federal levels. NTIA is asked to report back to the Congress on the feasibility and desirability of such a system.

Mr. Speaker, I look forward to working with my colleagues in the House Commerce Committee, Chairman BLILEY, Mr. DINGELL, Chairman TAUZIN, Mr. GORDON, and others on addressing these issues, as well as my other colleagues in the House who have expressed concern on these matters.

MARTZ GROUP PRAISED

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1998

Mr. KANJORSKI. Mr. Speaker, I rise today to pay tribute to the Martz Group, the nation's largest, privately-held, non-subsidized bus company. The Martz Group is headquartered in my district in Wilkes-Barre, Pennsylvania and this year is celebrating its 90th Anniversary. It has grown from owning a single bus to owning 400 motor vehicles and employing 700 people worldwide.

The Martz Group provides vital services for my constituents. Last month alone, an estimated 2,500 people a day traveled on Martz buses from New York City to Wilkes-Barre, the most populous city in Pennsylvania's Eleventh Congressional District. Both the company and its President/CEO, Frank M. Henry, are very highly regarded in northeastern Pennsylvania. I speak for many in the Wyoming Valley when I say that we are looking forward to another generation of fine leadership as Scott Henry increases his role in the company.

Mr. Speaker, the history of the Martz Group has been adeptly summarized in a June 14 article by Mary Ondrako for the *Wilkes-Barre Citizens' Voice*. I wish to enter this article in the CONGRESSIONAL RECORD so that my colleagues may be aware of the distinguished history of this company. I wish the Martz Group a happy anniversary and continued success in the future.

[From the Citizens' Voice, June 14, 1998]

MARTZ BUSES STILL ROLLIN' ALONG 90 YEARS LATER

(By Mary Ondrako)

Ninety years and still rolling along is what the Martz Group is celebrating this year.

Founded in 1908 by Frank Martz Sr., the business has grown from a single bus to a transportation empire of nine companies featuring about 400 motor vehicles and 700 employees worldwide.

The largest, privately held, nonsubsidized bus company is now under management by Frank Henry and his son, Scott E. Henry. Scott Henry represents the fourth generation of the Martz family. Headquarters are on Old River Road, Wilkes-Barre.

Frank Martz Sr., whom Scott Henry described as an "innovator," back in the 1900s, recognized a need to provide transportation services for people, who like himself, often had to walk to their places of employment despite chilly winters or other inclement weather conditions.

"My great-great grandfather's father ran a company store and he used to have to deliver goods from the company store to different places around town and he would walk," Scott Henry explained. "He got tired of walking so he decided to get a truck and he nailed a flat platform in the back of his truck and saw he could give miners a ride while he was delivering his goods."

According to Martz Group, the vehicle he designed, was "rustic" by today's standards, but was heralded "a chariot" particularly by mining families in Wyoming Valley area at that time.

In 1912, Frank Martz Sr., incorporated the White Transit Company and added four coaches. For a nickel, an individual could ride the coach to get from 'Point A' to 'Point B.' White Transit Company provided public transportation for Wilkes-Barre area until Luzerne County Transportation Authority took over the service, Scott Henry noted.

Over the years, Martz coach service was expanded throughout Pennsylvania, New York, New Jersey, Ohio and Illinois.

Also, in 1926, a four- and six-passenger airplane service was started by Frank Martz Sr. to shuttle corporate clients to and from Wilkes-Barre, Newark, Buffalo and Cleveland. This service ended in 1933.

Frank Martz Coach Co. was incorporated in 1927 and this led to more buses being added and intracity routes. With this, an individual could hop on a bus and travel to New York City, Philadelphia, and upstate New York.

According to Martz Group, the company was the first to feature an on-board host or hostess. Frank Martz Sr. also is considered a pioneer in express service, according to Martz Group. He implemented the service to appease prospective clients who were disappointed by frequent bus stops.

In 1936, National Trailways Bus System was established which consisted of a group of independent carriers providing transportation and ticketing coordination to help companies compete against Greyhound. According to Martz Group, Martz is the sole original member of the organization of 26 carriers.

During the Depression of 1930s, Martz scaled back coach services. Frank Martz Sr. introduced "club coaches" to clients to help stay the business. Club coaches offered amenities such as overstuffed chairs, writing desks, radios, a host or hostess and air conditioning.

At the time of his death in 1936, Frank Martz Sr. was operating a transportation company that extended along the Northeast coast and featured 150 coaches.

His son, Frank Martz Jr. then took over the company, rebuilding Martz after the Depression.

After Frank Martz Jr. died in a helicopter accident in 1964, Frank Henry took over the Martz reins. He serves as president and CEO of Martz Group; Scott Henry is president of Martz Trailways.

The company was renamed "Martz Group" and has facilities and services concentrated on the East Coast, from Wilkes-Barre, including Martz Towers on Public Square, to New York and Florida.

Businesses operating under the Martz Group banner are Martz Trailways, Wilkes-Barre; Martz Lines/Gray Line, Philadelphia; Martz Travel, Wilkes-Barre; Tourtime, Virginia; Gold Line/Gray Line, Washington, D.C.; Franklin Motorcoach, Virginia; National Coach Works, Virginia; First Class Coach Co. and Gulf Coast/Gray Line, both of Florida.

"Basically, we'll do whatever anybody wants to enjoy themselves in the transportation end of it," Scott Henry said.

He noted excursions offered by Martz include Penn State football games, fall foliage tours, Belmont Stakes and Preakness, amusement parks including Great Adventure, New Jersey, and Hershey Park, and NASCAR events. Martz also transported passengers to Olympic events held in Atlanta, GA and Montreal, Canada, according to Scott Henry.

Charters can be arranged for up to 53 people. For those who desire to travel in the lap of luxury, Martz offers its "Executive" line buses. The vehicles are equipped with a lounge, card tables, sofas, microwaves and coffee makers, televisions and seat up to 24 people, according to Scott Henry. A host or hostess is also included in Executive packages.

"I view our business as we are in the entertainment business," Scott Henry suggested. "We will take people so they could go and have a good time.

"If you say you want to go to Pittsburgh, we will get you tickets for the football game, baseball game. . . . You tell us how many people you have, an idea of what you want to do and we'll find something for you," he continued.

According to Scott Henry, the business is constantly growing and adding new coaches, services and upgrading equipment to transport clients to almost any point in the world.

Notably upgrades in equipment have helped grow its customer base, Scott Henry noted.

For example, in the 1950s, Martz was the second company nationwide to implement two-way radios in its coaches. This allowed for speed of service in weather bulletins and assisted communication among passengers.

And it was one of the first to provide television to clients.

"We were the first in the area and one of the first in the country to do it and now it's standard where we buy equipment with televisions on it," Scott Henry said of the founder's foresight.

The company's commitment to service was noted early in the business's history, Scott Henry added, explaining that Frank Martz Sr. would situate a block of ice near a ventilation system as a primitive air-conditioning system for coaches.

A recent upgrade, Martz features four handicap accessible coaches, one of which is permanently sited in Wilkes-Barre, Scott Henry said.

And Martz buses can be seen rolling down almost any highway and byway today as a testament of its success.

"In Wilkes-Barre alone, for the month of May, we had 73,000 passengers," Scott Henry said of just one of its daily line services from Wilkes-Barre to New York City. "That's 2,500 people a day."

More recently, Martz is offering "I Ride Trolley" services in Disneyworld, Florida, and bi-lingual tours in Washington, D.C. Charters feature head sets for all passengers in up to five different languages, Scott Henry explained.

As far as look to the horizon, Scott Henry noted the company will remain committed to its longstanding motto of "Safe, courteous service" which has been the case since Frank Martz Sr. began the business 90 years ago.

According to Scott Henry, Martz, for now, plans to build up its holdings.

"We plan to continue to concentrate on the Eastern region," Scott Henry stated.

The company's main competition is from airlines, rental cars and also people who choose to travel with their own wheels.

To that end, Martz seeks to safeguard and improve on its niche in the comfort zone and move closer to becoming a one-stop service.

He explained persons chartering trips to New York City can obtain event tickets, arrange for an early night dinner before catching the latest theatrical production and taking in a few city sights and maybe catch a flick on the way home.

HONORING MIDDLE SCHOOL 141

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1998

Mr. ENGEL. Mr. Speaker, Middle School 141 is celebrating its 40th anniversary of teaching the young people of Bronx County. In that time thousands of students have learned in a benign, education friendly environment, taught by caring teachers and principals. From the beginning the school administration insisted on the involvement of parents and it is most likely this which gave the school its ability to reach its students.

The education of our children is perhaps society's most important function. Middle School 141 has fulfilled this obligation for these 40 years.

MS141 opened with 600 students, in grades five through eight and two kindergarten classes. Today the school's enrollment is 1,500. Our future is written in their faces. I proudly congratulate the graduates, students and faculty for their glorious contribution to our society.

INTRODUCTION OF THE RETIREMENT ACCOUNTABILITY SECURITY PORTABILITY ACT OF 1998

HON. RICHARD E. NEAL

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1998

Mr. NEAL of Massachusetts. Mr. Speaker, today Congressman GEJDENSON and I are introducing comprehensive pension legislation which focuses on the four major themes of accessibility, security, portability, and equity for women. Almost 51 million American workers have no pension coverage. In my state of Massachusetts, only 29 percent of employers with fewer than 100 employees sponsor pension plans. Small businesses with fewer than 100 employees make up approximately 36 percent of the workforce in Massachusetts.

The Retirement Accountability Security Portability Act of 1998 will make it easier for employers to offer pensions and for employees to keep their pensions when they change jobs. Now is the time for us to focus on pensions. We are beginning to face what has been commonly referred to as the "graying of America." Within thirty years, one out of every five Americans will be over age sixty-five. In thirteen years, the baby boomers will begin turning sixty-five. The baby boomer generation consists of 76 million members and will result in the Social Security beneficiaries doubling by the year 2040.

Pensions are an integral part of retirement. Retirement can be compared to a three-legged stool and the legs of the stool are savings, pensions and Social Security. Forty percent of retirement income comes from Social Security, nineteen percent comes from pensions, and the remaining comes from private savings. Last year, we enacted the Taxpayer Relief Act which created the Roth IRA which has made IRAs available to millions of Americans. The response has been overwhelming. The Taxpayer Relief Act has jump-started personal savings and now we need to do the same for pensions.

Our society changed greatly over the last few decades and these changes have affected the workplace. It is now more common to change jobs than stay with one firm for an entire career. This makes it extremely important for us to address pension portability. Portability allows the employee to transfer the benefits of their pension when they change jobs. Changing jobs should not drastically affect one's pension.

Five million people with pensions change jobs every year. One-third of employees leave their job before reaching five years of employment. Under current law, an employee does not receive the employer's contribution until he or she has been employed for five years. This legislation will reduce the vesting period from five years to three years for employer contributions to defined contribution plans or allows benefits to become vested in increments of 20 percent for each year beginning after two years of service, with full vesting after the employee has completed six years of service.

This legislation allows employees of non-profit entities and public schools to take their retirement savings when they change jobs and put these savings into the retirement plan of their new for-profit or state or local government employer when they switch jobs. Participants of 457 defined contribution plans would be permitted to rollover their account balance into an IRA. The current 60-day rollover period is extended in cases of natural disaster and military service. Individuals faced with disaster will be able to avoid substantial tax penalties.

This legislation creates a new simplified tax-favored pension plan entitled Secure Money Annuity or Retirement Trust Plan, commonly referred to as the SMART Plan. These plans would provide participants with a minimum guaranteed benefit at retirement with Pension Benefit Guaranty Corporation insurance. Employees would immediately vest in the benefit contributions made and earnings that accrue under the plan. Funding would be provided either through an annuity or a trust. This type of funding allows SMART plans to be portable upon a job change. The SMART plan is a simplified defined benefit plan which contains the best attribute of a defined contribution plan which is portability.

I urge my colleagues to join us in protecting pensions for American workers.

THE RETIREMENT ACCESSIBILITY, SECURITY AND PORTABILITY ACT OF 1998

HON. SAM GEJDENSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1998

Mr. GEJDENSON. Mr. Speaker, today, joined by dozens of our colleagues, I am proud to introduce the Retirement Accessibility, Security and Portability Act of 1998, comprehensive pension legislation which will increase access to our nation's private pension system, enhance the protection and security of our nation's retirement funds, boost options for portability within the system and restore a degree of gender equity to the system.

I have been working on this issue for a number of years now, and have been dedicated to it because of a number of factors. First, we are in a new world today. Today's worker does not go through life with one job. They move around a lot. They go from job to job, taking advantage of new training and opportunities. While this is great for economy, it also means that today's workers are not getting the kind of retirement benefits our parents had. Gone are the days when a person would work for one company, retire and collect one check a month.

I have also been concerned because 51 million Americans, half the American workforce, have no pension coverage. Of that, 32 million work in small businesses. This is a staggering fact, and we must do something to help people save more, particularly our nation's women and small business employees.

Women are particularly disadvantaged by our pension system. 12 million women in this country work in firms that do not offer pensions. Two thirds of today's working women are concentrated in industries that have the lowest pension coverage. Something must be done to improve this.

Once our nation's families are saving, it is essential that we protect those savings. Mr. Speaker, as many of our colleagues know, in the town of Westbrook in my eastern Connecticut district, about 80 employees working for a firm called Emergi-Lite began 1998 by finding out that their pension money was gone. They had been defrauded out of their money by a swindler. That swindler recently pleaded guilty and will be spending a few years in jail. Our pension system needs to tighten up so that tragedies like this do not happen again.

As I said earlier, the Retirement Accessibility, Security and Portability Act of 1998 is comprehensive pension reform legislation that seeks to solve some of these problems.

Since accessibility is a problem, particularly in small businesses, I propose a tax credit to cover a portion of the start-up and administrative costs of starting a pension plan. Many small employers at home in Connecticut have told me that the costs of starting a plan keep them from doing so. Since savings are a national priority, we should make it easier for small employers to help their employees to save.

In this legislation I also propose to establish a simple pension plan that guarantees monthly payments for life. The gentleman from Massachusetts, Mr. NEAL, working with the President, brought this idea to my attention. In this bill we establish the SMART, or Secure Money Annuity or Retirement Trust. This is a new, simple kind of annuity plan that will bring people into the retirement savings system in a way that guarantees benefits for as long as a retiree lives. This is something that will benefit millions of Americans.

We also are introducing in this bill new security protections. When this bill becomes law, participants in a plan, either defined benefit or defined contribution, will begin receiving statements of how their investments are doing. If the employees can see their money grow, they will be more in tune to when there are problems.

Finally Mr. Speaker, we make a number of changes in this bill to restore a sense of gender equity to our retirement savings system. While the changes outlined above will benefit all workers, they will benefit women in particular, since they are more likely to lack retirement coverage. We have in this bill a series of improvements, however, for women in particular. For example, we have new safeguards to ensure that pension benefits are not overlooked when a couple divorces. We add a new option for federal workers to increase benefits for women who outlive their husbands. We add a new hotline targeted at women so they have somewhere to turn when pension questions arise.

Mr. Speaker, I want to thank so many of my colleagues and their staffs for the work they have done in putting this bill together. In particular, I would like to thank Leader GEPHARDT, Mr. NEAL, Mr. RANGEL, Senator DASCHLE, Mr. POMEROY, Mrs. KENNELLY, Senator MOSELEY-BRAUN, Mr. ANDREWS, Mr. JEFFERSON, Mr. PAYNE, Ms. STABENOW, Mr. PRICE, Mr. MCNULTY, and Mr. MCDERMOTT. Their work, and the work of their staff, has been of enormous help in bringing this legislation forward.

It is my hope, Mr. Speaker, that the Leadership of this House, and the Chairmen of the Committees of jurisdiction bring this bill forward for consideration. The issue of Retirement Security is an incredibly important one to our nation's working families. There is no more important effort our leaders can make.

Mr. Speaker, I submit a detailed, section by section summary of the bill for the RECORD.

THE RETIREMENT ACCESSIBILITY, SECURITY AND PORTABILITY ACT OF 1998

TITLE I—EXPANDING PENSION COVERAGE AND ACCESS

Increases Coverage through Access to Payroll Deduction for Retirement Savings.—An employee would be allowed to make contributions of up to $2,000 tax-free to his or her IRA through automatic payroll deductions from wages. This would be in lieu of taking the deduction at the end of the year on the individual's tax return. The immediate tax benefit received by the individual is more beneficial than the deduction taken many months later. In addition, contributions of small amounts would be more appealing to low-income workers than a one-time contribution of $2,000.

Increases Coverage through a Nonrefundable Tax Credit For IRA Contributions made by Low-Income Workers.—The maximum credit of $450 per year would be more beneficial to low-income workers than the $2,000 deduction because many of these workers are in the 15-percent tax bracket. The benefit would be delivered to taxpayers on a sliding scale basis. Thus, the lowest income workers, who need to save some minimum amount for their retirement, would be provided with the greatest tax benefit under the credit.

Creates Flexibility by Allowing Penalty-Free IRA Withdrawals in Cases of Long-Term Unemployment. An employee would be permitted to make penalty-free (but not tax-free) withdrawals from an employer sponsored plan such as 401(k) or 403(b), as well as an IRA, in cases of unemployment that exceeds the receipt of benefits for 12 consecutive weeks. (§132, HR 1130)

Enhances Accountability by Requiring that Pension Plan Participants be Given Periodic Benefit Statements. Pension plans would be required to provide plan participants and beneficiaries with benefit statements reflecting the balance and activity of the participants' or beneficiaries' accounts at least annually for defined contribution plans (such as 401(k)) and at least once every three (3) years for defined benefit plans. This is in lieu of providing benefit statements only upon request.

Expands and Increases Coverage through a New Simplified Tax- Favored Defined Benefit Pension Plan. The new simplified defined benefit plan, known as Secure Money Annuity or Retirement Trust (SMART), would provide small employers with the option of offering retirement benefits through a defined benefit plan while at the same time providing employees with the attractive feature of full portability. SMART would provide each participant with a minimum guaranteed benefit upon retirement. The participant would be poised to receive a larger retirement benefit than the guaranteed amount if the investment on the plan assets out-perform the presumed rate of return. Benefits would be guaranteed by the Pension Benefit Guaranty Corporation (PBGC).

Expands Coverage for Non-highly Compensated Employees through Modification to 401(k) Safeharbors. An employer who chooses to offer a 401(k) plan under certain safe harbors that are provided for these types of plans would be required to a make an employer minimum contribution of one percent of compensation for each eligible employee. This ensures a minimum benefit for each eligible plan participant. The minimum employer contribution would be made without any reference to whether the employee made an elective deferral and would be in addition to any employer matching contribution.

Improves the Nondiscrimination Rules for 401(k) Plans (See above)

Increases Benefits by Requiring Sponsors of the SIMPLE Plan to Make a Minimum Contribution. Employers who offer the new simplified 401(k) plan (SIMPLE) would be required to make a minimum contribution of one percent of each eligible employee's compensation on behalf of each eligibel participant without reference to whether such participant makes an elective deferral.

Enhances Benefits through Simplifying the Definition of Highly Compensated Employee. The definition of a highly compensated employee would be determined under a two-pronged test rather than the current three-pronged test. Thus, a highly compensated employee would be determined either by compensation or ownership.

Increases Benefits by Waiving Certain Section 415 Limits for Multiemployer Plans. Benefits accrued under a multi-employer plan would be paid to the plan participant (or beneficiary) without reference to the 100-percent-of-compensation limit set forth under section 415. In addition, certain survivor and disability benefits would be exempted from adjustments for early commencement and for participation and service of less than 10 years.

Expands Access by Exempting Mirror Plans From Section 457 Limits. The amount of savings employees of state and local governments and not-for-profits entities could save through nonqualified deferred compensation plans would be increased.

Expands Coverage through Immediate Participation in the Thrift Savings Plan. Federal employees would be allowed to choose whether they want to participate in the Thrift Savings Plan immediately upon beginning employment. This will enable these employees to get into the habit of saving for retirement early in their employment and give them valuable tax benefits that would otherwise be lost during the current 6- to 12-month required waiting period.

Enhances the Stability of Funded Benefits by Simplifying the Full Funding Limitation for Multiemployer Plans. The current limit on deductible contributions, which is based on a specified percentage of current liability, would be repealed with respect to multiemployer plans. This will permit deductible contributions in the amount by which the accrued liability of the plan exceeds the value of the plan assets.

Simplifies Certain Vesting Requirements for Multi-employer Plans. The current partial termination rules, which require that participants become 100-percent vested in their accrued benefits (to the extent funded) upon a partial termination of a qualified retirement plan, would be repealed.

Enhances the Stability of Funded Benefits by Repealing the 150-Percent-of-Current Liability Funding Limit. A defined benefit plan is considered to be fully funded if the plan has reached the following limitation—the lesser of (1) 150 percent of current liability or (2) the accrued liability (including normal cost) under the plan. Contributions made to a plan that has reached its full funding limit are not deductible and the employer could be subject to an excise tax. A plan at 150 percent of current liability may still have excess accrued liabilities. The 150-percent-of-current liability funding limit would be repealed. This also would permit employers to fund-up their plans in good years in planning for the bad years.

Expands Coverage through a Tax Credit for Start-Up Expenses of Newly Established Pension Plans. Small employers who establish certain new pension plans would be allowed to claim a credit for the first three years of maintaining the plan with respect to administrative and educational expenses of the plan. The credit would be up to 50 percent of permissible expenses within certain limitations. The types of pension plans that would be eligible for the credit would be any new defined benefit or defined contribution plan, including 401(k), SIMPLE, or payroll deduction IRA arrangement.

TITLE II—ENHANCING PENSION SECURITY AND ACCOUNTABILITY

Enhances Accountability of Benefits by Improving Disclosure Requirements With Respect to Plan Participants and Beneficiaries. Sponsors of small 401(k) plans (less than 100 participants) would be required to furnish to participants and beneficiaries annual investment reports detailing information the Secretary of Labor determines to be pertinent to such individuals. Also, such reports would be required to be provided to participants of a defined benefit plan once every three (3) years. These changes also would apply for purposes of multi-employer plans.

Enhances Accountability of Benefits by Requiring Certain Information to be given to Investment Managers of 401(k) plans. If a sponsor of a 401(k) plan contracts the investment and management of the plan to another person, the plan sponsor is required to provide such person with sufficient information that would permit the investment manager to separately account for each participant's accrued benefits even if the contract does not require such separate accounts.

Requires a Study on Collectibles. The Secretary of Labor in consultation with the Secretary of the Treasury is requested to conduct a study on the extent of investment of pension plans in collectibles and whether such investments present a risk to the pension security of such plans. The report would be due no later than twelve months (12) after the enactment of the bill.

Enhances the Security of Benefits by Prohibiting Credit Card Loans From or Against Qualified Employer Plans. A qualified plan would be prohibited from making any loan to a plan participant or beneficiary through the use of a credit card or any other intermediary.

Expands Guaranteed Multi-employer Plan Benefits. The maximum level of annual benefits guaranteed to each employee under a multi-employer plan would be increased from $5,850 (set in 1980) to $12,870.

Simplifies Certain Rules Governing the Department of Labor's Authority to Assess Civil Monetary Penalties on Prohibited Transactions. Certain conforming changes would be made to parallel a similar excise tax that applies to certain pension plans under the Internal Revenue Code.

Simplifies Certain Rules Applicable to Substantial-Owner Rules and Plan Terminations. The more complex rules currently used to determine PBGC guaranteed benefits for 10-percent owners of a business would be repealed. Such benefits would be calculated under the same rules that apply to all other plan participants.

Enhances Benefit Security by Requiring a Report on Pension Reversions. The Secretary of Labor, as Chair of the PBGC, would be required to report annually to the President and Congress regarding pension reversions.

Enhances Benefits Security by Repealing the Limited Scope Audit for Certain Pension Plans. Plan assets that are held by certain regulated financial institutions would be required to be included within the accountant's audit of the plan. This provision is not meant to require that the plan's accountant duplicate the work of the independent accountant who audits the financial institution's books and records. It merely requires the plan's accountant to use the Report on the Processing of Transactions Service Organization under American Institute of Certified Public Accountants Statement on Auditing Standards No. 70.

Enhances Benefits Security by Creating Reporting and Enforcement Requirements for Employee Benefit Plans. The plan administrator would be required to notify the Secretary of Labor within five (5) business days whenever the administrator has determined that there is evidence that an irregularity may have occurred with respect to the plan, or has received notice from the accountant that the accountant has similarly determined that there is evidence that an irregularity may have occurred. Also, the administrator would also be required to furnish a copy of such notification to the accountant engaged to audit the plan's financial statements.

Enhances Benefit Security through Additional Requirements for Qualified Public Accountants. The ERISA definition of "qualified public accountant" would be modified to include regulatory requirements and qualifications that the Secretary deems necessary to ensure the quality of plan audits.

Requires Inspector General study to be conducted by Department of Labor focusing on the need for regulatory standards and procedures to authorize the Secretary of Labor to prohibit persons from serving as qualified accountants.

Enhances Benefit Security by Increasing the Excise Tax on Plan Reversions. Under current law, corporations with defined benefit plans that are actuarially over-funded may remove, without a tax penalty, only certain excess assets needed to fund retiree health benefits within prescribed limitations or to establish an employee stock ownership plan. Termination of a plan without establishing a new plan, or removal of assets for any other reason, is subject to a maximum excise tax of 50-percent plus the normal corporate tax that would otherwise apply. The maximum excise tax would be increased to 65-percent plus the normal corporate tax that would otherwise apply.

TITLE III—IMPROVING PORTABILITY OF PENSION BENEFITS

Expands Coverage through Faster Vesting of Employer's Matching Contributions to Defined Contribution Plans. The plan participant would be fully vested after completing three (3) years of service (cliff vesting) or six (6) years of service (graded vesting). Under cliff vesting no part of the benefit vests to the participant until the participant has completed at least three years of service. Under graded vesting, the benefit is vested to the participant in 20-percent increments beginning after the participant has completed two (2) years of service. Current law provides for five-year cliff vesting and seven-year graded vesting.

Enhances Portability of Benefits under 410 (k) plans. Severance from employment would be a permissible event for the plan to make a distribution of the account balance to each plan participant who may exercise his or her option to roll over the balance to another plan or an IRA.

Enhances Portability of Benefits Between Defined Contribution Plans. Transfers of account balances held in defined contribution plans would be permitted to be transferred to another defined contribution plan without requiring complete replication of distribution options. Such transfers would be permitted only where the participant knowingly and voluntarily elects the transfer and any applicable spousal consent rights were respected prior to the transfer.

Enhances Portability of Benefits by Expanding PBGC's Missing Participants Program. The PBGC's missing participants program would be extended to defined contribution plans such as a 401(k). The PBGC would act as a clearing house for terminated plans of employers who have moved, changed names, or gone out of business. This would enable participants of those plans to receive their pension benefits under the plan.

Enhances Portability of Benefits Held by Certain Employees of Non-Profit Entities and Public School Systems. Employees of certain employers who participate in a 403(b) plan would be permitted to roll their account balance into the new for-profit employer-sponsored plan when they change employment.

Enhances Portability of Benefits held by Participants of 457 Deferred Compensation Plans. Employees of certain non-profit entities and/or state/local governments who participate in a section 457 plan would be permitted to roll their account balance (to the extent funded) to and IRA upon termination of employment.

Enhances the Portability of Benefits through modifying the 60-Day Rollover Period in Certain Cases. In cases of natural disaster and military service the 60-day rollover period would be extended to provide relief against substantial tax penalties that would otherwise result from missing the 60-day rollover deadline.

Expands Coverage and Enhances Portability through the Purchase of Certain Service Credits. Employees of state and local governments, especially teachers who often move between states and school districts in the course of their careers, would be permitted to use funds from their 403(b) or 457 defined contribution plans to purchase service credits for qualification of full benefits under a defined benefit plan.

TITLE IV—COMPREHENSIVE WOMEN'S PENSION PROTECTION

Enhances Certain Government Pension Benefits. Modifies benefits offset for certain surviving spouses who are retired government workers by reducing only two-thirds (⅔) of their combined Social Security spousal benefit that exceeds $1,200 a month. This current offset is a two-thirds reduction of their total monthly government pension benefit.

Enhances Pension Benefits for Many Plan Participants through Repeal of Social Security Integration by Year 2004. Qualified pension plans which integrate the plan benefits with Social Security benefits would be required to adopt the limited integration rules included in the Tax Reform Act of 1986 with respect to benefits attributable to plan years prior to 1988. In addition, integration would be repealed completely for benefits accrued for plan years beginning in the year 2004. Benefits under SEP (Simplified Employee Pension) plans could not be integrated.

Enhances Benefit Security for Benefits Under a Qualified Benefit Plan Upon Divorce. The non-participating spouse would be entitled to an automatic share of the pension benefits, except where such benefits are protected by a valid and enforceable agreement which constitutes a part of the equitable division of property pursuant to the divorce. The participating spouse would be required to notify the plan of divorce proceedings that have been undertaken. The provision would apply in cases of couples who have been married for five years or more.

Enhances Benefits of Certain Spouses With Respect to Railroad Retirement. The requirement that a former husband must have started collecting his own railroad retirement benefits in order for the former spouse to receive his or her benefits pursuant to an annuity would be repealed.

Enhances Tier II Railroad Retirement Benefits to Surviving Spouses After Divorce. Payment of benefits to a surviving spouse pursuant to a divorce agreement, annulment, legal separation, or any other Court approved termination of the marriage would not be terminated upon the death of the participating spouse.

Enhances Benefits of Surviving Spouses of Certain Civil Servants. Surviving spouses (and former spouses if awarded pursuant to divorce) of employees who died while eligible for a deferred annuity under the Civil Service Retirement System (CSRS) would be allowed to elect to receive either (1) 55 percent of the former employee's deferred annuity, commencing when the employee's deferred annuity would have commenced had the employee lived; (2) the actuarial equivalent of the amount determined under (1) above, but commencing at the time of the former employee's death; or (3) a refund of the former employee's retirement contributions.

Enhances Benefits for Former Spouses of Federal Employees. Courts would be authorized to require the ex-husband to name his former wife as beneficiary under the pension plan of all or a portion of any refunded contributions.

Enhances the Security of Benefits of Certain Spouses of Plan Participants. The participating spouse's plan would be required to provided the participant's spouse with a copy of the explanation of survivor benefits and options under the plan in the same manner as provided to the plan participant.

Enhances Certain Spousal Benefits with Respect to Joint and Survivor Annuities. Modifies the current survivor annuity requirements to provide that the plan participant may elect to have the benefit paid in the form of a qualified joint and two-thirds ($^2\!/_3$) survivor annuity.

Enhances Security of Spousal benefits Under all Defined Contribution Plans. All defined contribution plans would be required to offer the option of a joint and survivor annuity.

Enhances Spousal Benefits Under 401(k) Plans. The spousal consent requirement that applies to defined benefit plans would be extended to defined contribution plans to prevent the participants from draining all the benefits from the plan to the detrimert of the non-participating spouse.

Erpands and Enhances the Benefits of Participants Who Utilize Leave Under the Family and Medical Leave Act. Hours for leave taken under the Family and Medical Leave Act would be credited under the employee's pension plan for purposes of participating in the plan and vesting of the participant's benefits under the plan.

Enhances Pension Benefits for Plan Participants With an Emphasis on Serving Women. A toll-free hotline would be established by the Department of Labor to serve as a resource for women on pension issues; a source of referrals for the caller to the appropriate agencies; and a source for applicable printed materials.

HONORING RIVERDALE ROTARY CLUB

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1998

Mr. ENGEL. Mr. Speaker, the Rotary Club of Riverdale is celebrating its tenth anniversary and in that relatively short time this fine group has reached around the world to help people.

Rotary's motto is Service Above Self and its object is to encourage and foster the idea of service. The Riverdale Rotary Club is an exemplar of that motto and ideal.

The Riverdale Rotary has made itself a part of the community by contributing to the community. We may say that its ideal is charity, the love of giving to others.

Among its many activities are annual community awards, sponsoring the first annual Riverfest Music Festival, giving annual awards to area high schools, participating in the Arthritis Foundation Mini-Grand Prix, contributions to the Rotary Foundation or ambassadorial scholarship for postgraduate study, contributions to the Riverdale Mental Health Association, the Bronx Arts Ensemble, the Bronx Municipal Hospital and Riverdale Neighborhood House.

The generosity of club members reaches across the hemispheres to Kenya, where Riverdale Rotary sponsors two scholarships and contributes to a school library, and Ethiopia, where the club president Gilda Chirafisi travelled to join with Rotarians from Addis Ababa to inoculate hundreds of children against childhood diseases.

The Riverdale Rotary Club is an essential part of the community. But what marks it apart is its essential spirit of giving. I join the community in celebrating the tenth anniversary of the Rotary Club of Riverdale and look forward to celebrating many more anniversaries with them.

IN MEMORY OF MRS. MAXINE SHORE

HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1998

Ms. KAPTUR. Mr. Speaker, it is with sadness yet also gratitude, that I enter in this RECORD the life of Mrs. Maxine Shore, an American of enormous talent and creativity whose 86 years of life contributed to the enrichment of America and our literary heritage. Her life of continuous learning and perseverance throughout holds an example for all who knew her, and all who will enjoy her writings for generations to come. Our deepest sympathies are extended to her son, Steven, her many friends, and associates.

IN REMEMBRANCE: A BIOGRAPHY OF MAXINE SHORE

AUTHOR AND TEACHER

Maxine Shore, a prolific author and teacher, died June 2, 1998, at her home in Carmel, CA. She was 86. She received her B.A. from McAllister College in Minnesota, quickly moving into writing and publishing after college.

Mrs. Shore, believed that everyone has inborn creativity which she encouraged in her students, who successfully published award winning books. At the time of her death she was still teaching classes and editing five books a month.

One book, The Captive Princess which was authored by Shore was set in the first century in England and told the story about the first Christian princess of England. The book went into seven printings and was chosen by two book clubs.

What made Mrs. Shore stand out from other creative writing teachers was her dedication to the creativity of the individual and her teaching methods of encouraging students to never give up.

Her career spanned 75 years with Mrs. Shore submitting her first article to a Minneapolis paper at the age of 11. She began writing her first book at the age of 12. Throughout her career she was an editor at Harper's and a member of the prestigious writing group along with Dorothy Parker at the Algonquin Table in New York. She authored hundreds of short stories, serials and articles for national magazines, as well as book reviews and radio scripts. Shore also authored plays for youth.

After leaving New York and Minnesota, Mrs. Shore moved to California with her son Steven. She continued to publish books, and with her writing and interviewing skills, quickly became involved with the stars in the Hollywood community.

Hoping to give her son a better education and home environment, Mrs. Shore moved to Carmel when Steven was a teenager. At the time of her move Shore was already an author of all kinds of fiction, non-fiction and plays and poems. She quickly became an established author and teacher for the Carmel community readily sharing her knowledge of the publishing business and her experience as a writer with her students. Maxine Shore had much to share. A partial listing of books she authored or co-authored in addition to the Captive Princess are: Shipwreck Island, an adventure story for boys which was based on the 19th century diary of Alfred Glendenning who was shipwrecked at the tip of Cape Horn; a biography, Hero of Darien; a biography, Knight of the Wilderness; a historical book for boys, The Slave Who Dreamed; she also ghost-wrote two other published books; and Biography of Balboa.

Mrs. Shore co-authored, The Destiny Stone, the story of the Stone of Scone with her son Steven. She just completed a book in May on creative writing.

Mrs. Shore's students have published over 50 books as well as articles, short stories and poems. One student, Mary Ann Taylor also had a serial in Good Housekeeping.

Her son Steven, plans as a fitting tribute to Mrs. Shore and her long career to publish poems and books not yet in print.

HONORING THE BRAVERY OF MR. LEON BAKER

HON. DAVE CAMP

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1998

Mr. CAMP. Mr. Speaker, it is with great pride that I honor Mr. Leon Baker, from Greenville, Michigan, for his heroic actions. On May 14, 1998 while working for the Greenville Water Department he noticed a home engulfed in fire. After reporting the fire, he ran to the door of the house and heard an elderly woman's cry for help. Without concern for his own life he entered the burning house, located and carried the woman to safety. Due to his selfless actions, the woman's life was saved.

Mr. Baker is truly a hero—even though he refuses to acknowledge that he showed a great deal of bravery in his heroic actions. It was without concern for his own well being that Mr. Baker heroically responded to a desperate call for help and rescued a fellow citizen.

In response to being called a hero he humbly said "I don't classify myself as a hero, just as a good American. I would hope someone would do the same for me if I needed help. I'm a Christian and I did it for that reason. God is my motivation. I'm just glad I could save her." This demonstrates his unselfishness and commitment to his fellow Americans. It is this type of bravery and courage that helped found

America. Leon Baker is an example of what is so great about America. I salute him for his heroic actions, bravery and genuine care for his fellow citizens.

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 1999

SPEECH OF

HON. TIM HOLDEN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 24, 1998

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 4101) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1999, and for other purposes:

Mr. HOLDEN. Mr. Chairman, I rise today to share my support for America's dairy farmers, and to oppose efforts to strike a very important dairy provision from the FY99 Agriculture Appropriations bill, a provision that will extend the implementation of Federal Milk Market Order (FMMO) reform.

The Agriculture Appropriations bill includes a very carefully crafted compromise designed to assure that Congress has sufficient time to review the Secretary of Agriculture's Final Rule for FMMO reform once it is issued. Specifically, the dairy language in the bill extends the deadline for USDA's implementation of FMMO reform from April 4, 1999 until October 1, 1999. This extension is important for the following reasons:

First, this provision will allow adequate time for Congress to review USDA's Final Rule in FMMO reform. In the 1996 Farm Bill, Congress requires USDA to reform the FMMO program by consolidating 33 milk marketing orders no later than 1999. USDA recently announced its proposed rules for FMMO reform. Included in the Secretary's proposal are two options for reforming the fluid milk pricing: Option 1A and Option 1B. The Secretary has indicated his support for implementing Option 1B even though 238 members of the House and 61 Senators have expressed their support for Option 1A. With the current implementation deadline of April 4, 1999, there is concern there may not be time for the new Congress to adequately review the Final Rule and make changes, if they wish, before that deadline.

Second, the extension guarantees Congress time to make adjustments to the FMMO reform Final Rule, if necessary. Under this timetable, Congress will have six months from the release of the Final Rule, on or before April 4, 1999, to review the provisions of the Final Rule released by USDA and take up any changes they may wish to make. It would be much more difficult for Congress, which will be reorganizing following the fall elections, to complete its review of FMMO reform before the current April 4, 1999 deadline for implementation of FMMO reform.

I would now like to share with my colleagues the reason for my concern regarding Option 1B, and why I support having the opportunity to have my concerns addressed upon the issuance of a Final Rule.

In my home state of Pennsylvania, dairy is the largest agricultural enterprise in the state—representing a $1.5 billion industry. Pennsylvania is the 4th largest dairy state in the country, with dairy products accounting for 40 percent of agricultural outputs in Pennsylvania. In the last ten years, the number of dairy farms has declined by 3,200, to only 10,500, and the number of dairy cows has declined by 90,000, down to just 640,000. In Pennsylvania, it has been estimated that 17,000 jobs are tied directly to the dairy industry, and another 12,500 jobs—such as building, trucking, banking, etc.—are indirectly tied to the dairy industry. It has been estimated that a 2 percent decline in Pennsylvania's dairy industry would translate into a loss of almost 600 jobs. Dairy is important to Pennsylvania, and the entire Northeast, because of the economic contributions it makes—both in dollars and jobs.

Under Option 1A, projected annual income of dairy farms would increase $32 million. This is less than one half of one percent of total dairy farm income. Under Option 1B, however, U.S. dairy farmers would lose $365 million per year or $1 million per day under Option 1B. I have heard estimates that Option 1B could reduce mailbox prices by as much as $0.85–$1.25 per hundredweight in the Northeast.

The pricing structure for Class I (fluid) milk is extremely important to dairy farm income, rural community economic stability, and the regional supply of fresh fluid milk. The phase-down of farm income proposed by Option 1B will clearly hurt the financial condition of farmers, with small family farms bearing the greatest burden. In fact, the proposed rule states that "small businesses, particularly producers, would experience significant economic impacts." This runs counter to the USDA's recently released National Commission on Small Farms Report, "A Time to Act," which states, "the small farm is the cornerstone of our agricultural rural economy." As demonstrated by the 238 House Members and 61 Senators who signed the April, 1998 letter to Secretary Glickman, there is tremendous support in Congress for Option 1A in the pricing of Class I (fluid) milk. This option has broad bipartisan and geographic support from all major dairy producing regions of the country. Therefore, I am hopeful that USDA's final rule will have a Class I pricing surface, which resembles Option 1A.

It is important to note, that, as a member of the Agriculture Subcommittee on Dairy, Livestock, and Poultry, I am pleased with some aspects of USDA's proposed rule, and I commend Secretary Glickman and the USDA's Agricultural Marketing Service for their hard work in attempting to create a consensus reform package on this issue. However, I remain concerned with the Option 1B proposal, as do a majority of my colleagues, and I look forward to working with USDA to resolve this issue.

I urge my colleagues to support the FMMO reform extension, and oppose any efforts to strike this important provision from the FY99 Agriculture Appropriations Bill.

TRIBUTE TO PETER O'NEIL UPON HIS RETIREMENT

HON. ANNE M. NORTHUP

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1998

Mrs. NORTHUP. Mr. Speaker, I would like to take this opportunity to recognize a constituent of mine from the Louisville area. His name is Peter O'Neil. Mr. O'Neil recently retired from the United Parcel Service where his leadership in the area of aviation security helped to make our skies safer for everyone. Even though working for an all-cargo airline, Mr. O'Neil served as Chairman of the Air Transport Association's Security Committee and worked to bring industry consensus on how to respond to security threats. Mr. O'Neil distinguished himself here in Washington, working with the Federal Aviation Administration and the Department of Transportation. I would like to thank Peter O'Neil for his dedicated service to our country and wish him and his wife Robin a happy retirement.

THANK YOU TO THE CREW OF AIRCRAFT CARRIER, THE "JOHN C. STENNIS"

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1998

Mr. GILMAN. Mr. Speaker, today the men and women of the U.S. Armed Forces stand guard in defense of our vital interests in the Persian Gulf. These dedicated men and women stand ready to respond to the latest crisis in the Middle East with the most advanced and capable weapons systems available. A few months ago as the United States prepared to strike Iraq, the news media flooded the airwaves with stories about our military personnel in the Gulf. After the crisis, the media left but thousands of our soldiers, sailors and airmen remained—on guard and at their posts.

One of the most difficult assignments in the Gulf is service at sea aboard the many naval vessels that ensure that the U.S. retains a unilateral ability to defend our interests in a crisis. Much of the work is long, tedious and boring but let us make no mistake about it—the fate of the world's economy and our national security depend on these men and women in uniform.

I want to invite my colleagues to take this opportunity to thank the men and women of our armed services who are currently serving in the Gulf for their dedication to duty and their commitment to their country. I also want to send a specific thank you to the crew of the U.S.S. *John C. Stennis* (CVN 74) who form the backbone of our commitment to Gulf security. Under the able leadership of the Battlegroup Commander, RADM Ralph Suggs, the ship's Commanding Officer, Captain Douglas Roulstone, and the Executive Officer, CDR Wade Tallman, our newest aircraft carrier and pride of the fleet is the reason why Saddam Hussein and the Iraqi leadership are kept at bay. These Navy leaders took a brand new ship and crew and welded them into a team that is now a cornerstone in our nation's security.

A member of my staff recently served with this crew as they prepared for the Gulf. He reminded me that long after CNN and the other networks left the Gulf, our people in the nation's sea service remained on duty in the Gulf. While I cannot read the names of the whole crew, I wanted to send a special thank you from the Congress to the ship's intelligence staff who are the eyes and ears of the Battlegroup, watching any threat which may intend harm for America and her allies. In specific, I want to thank the following sailors for their service:

CDR Paula L. Moore, LCDR William P. Hamblet, LCDR Cecil R. Johnson, LT Claudio C. Biltoc, LT Wayne S. Grazio, LT Constance M. Greene, LT Amy L. Halin, LT Michael C. McMahon, LT Michael S. Prather, LTJG Jason S. Alznauer, LTJG Kwame O. Cooke, LTJG Joe A. Earnst, LTJG Ben H. Eu, LTJG Neil A. Harmon, LTJG Kevin J. McHale, LTJG Alexander W. Miller, LTJG Eric C. Mostoller, LTJG Kevin E. Nelson, LTJG John M. Schmidt, ENS Curtis D. Dewitt, ENS Joseph M. Spahn, CW02 Robert G. Stephens, ISCS(SW) Mary B. Buzuma, CTIC Andrea C. Elwyn, CTRC(SW/AW) Leroy Dowdy, ISC Nancy A. Heaney, PHC(AW) Troy D. Summers, CTO1 William L. Beitz, IS1 Janice E. Bevel, CTR1 Theresa L. Covert, CTR1 Charlene Duplan'er, PH1 Lewis E. Everett, CTA1 Jennifer L. Fojtik, IS1 Matthew E. Hatcher, CTM1(SW) Susan C. Kehner, IS1(AW) Kevin E. King, CTT1 John E. Schappert, CTT1 Marx A. Warren, CTR1(SW/AW) Kevin R. Webb, PH1(AW) James M. Williams, CTR2 Francis E. Algers, IS2 Zachary C. Alyea, PH2 Clinton C. Beaird, IS2 Brandon G. Brooks, DM2 Chad A. Dulac, IS2 Sean M. Fitzgerald, PH2(AW) Brain D. Forsmo, CTRA2 Sarah A. Fuselier, IS2 Brent L. George, IS2 Richard M. Gierbolini, IS2 Christopher S. Holloman, CTR2 Kevin J. Hubbard, PH2 Leah J. Kanak, CTI2(NAC) Paula C. Keefe, IS2 Angel Morales, IS2 Matthew W. Nace, CTI2(NAC) Eric S. Newton, CTO2 Milton T. Pritchett, IS2 Richard J. Quinn, IS2 Lee E. Redenbo, CTR2 Michael A. Santichi, IS2 Bryan S. Stanley, IS2 Mark A. Szypula, PH2(AW) Jadye A. Theobald, CTI2 Sarah A. Vogel, PH3(SW) Robert M. Baker, IS3 Gere L. Beason, IS3 Michael J. Barrenchea, PH3 Richard J. Brunson, CTO3 Michael H. Buxton, PH3 Jomo K. Coffea, IS3 Terry D. Cooper, IS3 Trinity A. Durrell, CTR3 Angel Garay-Guzman, CTR3 George W. Hall, PH3 Sandra Harrison, CTO3 Yacha C. Hodge, IS3 Mark T. Kenny, CTT3 David E. Kozacek, PH3 Michael L. Larson, PH3(SW) Stephen E. Massone, CTI3 Dennis M. Paquet, IS3 Christopher P. Petrofski, IS3 Christopher D. Ross, IS3 John C. Shirah, CTT3 Gus Smalls, PH3 Alicia C. Thompson, CTM3 Jonathan R. Thompson, PH3 Kevin R. Tidwell, CTR3 Malina N. Townsend, IS3 William T. Tyre, CTR3 Thomas J. Wilgus, PH3 Robin R. Williams, ISSN Samuel J. Abernathy, PHAN Emily A. Baker, ISSN Kevin L. Bolden, CTRSN Stacey L. Bowman, ISSN Daniel F. Cady, ISSN Charles E. Fischer, ISSN Gene H. Gregory, ISSN Stephen W. Hedrick, AN Thomas E. Kossman, CTOSN Melissa A. Oliver, PHAN Jamie Snodgrass, ISSN Michael D. Spiller, ISSN Arther C. Twyman, ISSN Travis L. Veal, PHAR James A. Farraly, and PHAR Quinton D. Jackson.

In August, we plan to welcome these dedicated sailors and their crewmates back to the United States at their new home port in San Diego, California. Until then and on behalf of the Congress, I want to extend our thanks to the crew of the *John C. Stennis* and their families for their pride, service and dedication to their country. Godspeed and come home safely.

COMMENDING THE GARY, INDIANA NAACP

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1998

Mr. VISCLOSKY. Mr. Speaker, it is my distinct pleasure to commend the members of the Gary, Indiana, branch of the National Association for the Advancement of Colored People (NAACP). Tonight, June 25, 1998, the Gary NAACP will hold its thirty-fifth annual Life Membership Banquet and Scholarship Diner at St. Timothy community Church, in Gary.

This annual event is a major fundraiser for the Gary branch of the NAACP. The funds generated through this activity, and others like it, go directly to the organization's needed programs and advocacy efforts. In addition, the dinner serves to update and keep the community aware of the activities, accomplishments, and accolades of the local and national chapters of the NAACP on an annual basis. This year's banquet will feature the branch's own Dr. Randall C. Morgan, Jr., a resident of Valparaiso, as the keynote speaker. Dr. Morgan, a second generation life member, has been a proud Golden Heritage Member of the NAACP for fifteen years, and he is the immediate past President of the National Medical Association.

Tonight, the Gary NAACP will honor seven of Northwest Indiana's finest leaders for their efforts to further equality in society. Joining more than five hundred outstanding civil, community, and religious leaders of the region, the following distinguished individuals will be inducted as life members of the Gary NAACP: Frances Boler, of Gary; Edward Evans, of Gary; Walter James, of Gary; Floyd Mask, of Gary; Gussie Mask, of Gary; Mozella Stone, of Gary; and James Thomas, of Munster. In addition, Richard Williams, of Gary, will be awarded a scholarship for his excellence as a student, an activist, and a leader. This four thousand dollar scholarship will help finance Richard's college education at a college or university of his choice.

The Gary NAACP was organized in 1915 by a group of residents that felt there was a need for an organization that would monitor and defend the rights of African-Americans in Northwest Indiana. The national organization, of which the Gary branch is a member, focuses on providing better and more positive ways of addressing the important issues facing minorities in social and job-related settings. Like the national organization, the Gary branch of the NAACP serves its community by combating injustice, discrimination, and unfair treatment in our society.

Mr. Speaker, I ask you and my other distinguished colleagues to join me in paying tribute to Frances Boler, Edward Evens, Walter James, Floyd Mask, Gussie Mask, Mozella Stone, James Thomas, and Richard Williams, as well as the other members of the Gary NAACP, for the efforts, activities, and leadership that these outstanding men and women have utilized to improve the quality of life for all residents of Indiana's First Congressional District.

HELP RESTORE AMERICA'S RIGHT TO WORK

HON. JOHN T. DOOLITTLE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1998

Mr. DOOLITTLE. Mr. Speaker, I rise today to offer my colleagues a rare opportunity to be able to do what is right.

To stand up for the freedom of those who are forced to pay union dues against their will to keep their jobs, and at the same time to vote for legislation supported by nearly 80% of the American people. Congress created compulsory unionism with its power-grabbling National Labor Relations Act and Railway Labor Act. Coercive unionism has a crippling effect on our nation's competitiveness, preventing hard-working Americans from being as productive as they know how to be, destroying businesses and the jobs they provide, or sending those good jobs overseas.

Now, Congress can fix its mistake and free working Americans from this forced dues tyranny. H.R. 59, the National Right to Work Act, would end the forced payment of union dues or fees. Joining a labor union is a right and will remain so. But not joining a union should be a right as well.

I ask my colleagues to join me in support of H.R. 59 and I urge the leadership to bring it to the floor for a vote.

ZEKE FORLINI RECEIVES PIO ZAPAZODI CONGRESSIONAL AWARD

HON. CURT WELDON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1998

Mr. WELDON of Pennsylvania. Mr. Speaker, I rise today to congratulate, Mr. Zeke Forlini, one of my constituents, on receiving the Pio Zapazodi Congressional Award, recognizing his dedication to the EMS and firefighting community.

As co-chairman of the Congressional Fire Caucus and a former firefighter and chief, I have witnessed first hand the dedication of many men and women to the community. However, there are some unique individuals whose service is heads about the rest. To recognize those individuals, Delaware County has established the Pio Zapazodi Congressional Award, named after a longtime, dedicated leader in the fire community in Upper Darby and the entire county.

Zeke is a leader in the local fire community and an individual I consider to be a close friend. In the early nineties, he helped to develop the Emergency Services Training Center in Folcroft, Pennsylvania. Using his own equipment from his own concrete business, Zeke donated countless hours and resources to the construction of the training center. His efforts and assistance played an important role in the timely opening of the center which is an important resource to the fire and EMS community of Delaware County. In addition to his time and money, Zeke has offered his guidance to the project, giving direction to many smaller projects at the center.

Zeke has seen the training center project through from beginning to end, going so far as to supply the refreshments for the dedication of the building. And when the future of the building was questionable, Zeke arranged the pouring of 185 yards of solid concrete for the foundation.

Zeke continues to be active in the emergency services community, dedicating much of his personal time to the Board of Fire and Life Safety. Mr. Speaker, this man's commitment to his community is truly an example for our entire region. His considerable generosity and genuine interest in the welfare of our county is only matched by the many well-deserved friends he has accumulated over the years. It is a fitting tribute that the entrance to the Emergency Services Training Center has been named "Zeke's Way." With his continual gifts of time, guidance, and friendship, it is evident that Zeke Forlini has earned the Pio Zapazodi Congressional Award.

Mr. Speaker, I ask my colleagues to join me in recognizing Zeke Forlini for his selfless dedication to the fire community.

MILITARY RETIREE HEALTH CARE RELIEF ACT

HON. JO ANN EMERSON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1998

Mrs. EMERSON. Mr. Speaker, I am here today to introduce the Military Retiree Health Care Relief Act. This legislation will provide a refundable tax credit to all military retirees and their spouses for Medicare Part B monthly premiums, and it will waive the ten percent penalty for late enrollment in Medicare.

As we head into this Fourth of July recess, let us not forget why we are blessed with freedom and democracy in this country. The sacrifices made by those who served in the military are something that must never be overlooked. Promises were made to those who served in the Uniformed Services. They were told that their health care would be taken care of for life if they served a minimum of 20 years of active federal service.

Well, those military retirees served their time and expected the government to hold up its end of the bargain. They are now realizing that these were nothing more than empty promises.

Those who served in the military did not let their country down in its time of need and we should not let military retirees down in theirs. It's time military retirees get what was promised to them and that's why I am introducing this legislation.

LEARNING WITH LAPTOPS

HON. FLOYD SPENCE

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1998

Mr. SPENCE. Mr. Speaker, as the academic year comes to a close across our country, I rise to bring to the attention of the House the "Learning With Laptops" program, which is conducted by the Beaufort County School District in South Carolina. This impressive program makes it possible for sixth and seventh grade students to combine learning and technology by using laptop computers for classwork and homework. The Beaufort County School District is the largest public school system in the United States to participate in this innovative partnership with Microsoft and Toshiba. The pilot program was initiated during the 1996–1997 academic year, in which 330 sixth grade students were provided with laptop computers. In the 1997–1998 academic year, the program expanded to involve 1,325 sixth and seventh grade students, and it is anticipated that when the schools open in Beaufort County for the 1998–1999 academic year, that more than 2,000 sixth and seventh graders will be using laptop computers in most of their classes.

The "Learning With Laptops" program is based on a public/private partnership. The SchoolBook Foundation, a nonprofit organization, was formed to lease and subsidize the laptop computers for students. Through subsidies, all students are able to participate in the program, regardless of their financial circumstances. In fact, the majority of students who are participating in the program qualify for free or reduced price lunches.

Through the "Learning With Laptops" program, an enthusiasm about exploring new areas inside and outside of the classroom has been created. I have visited a classroom of the H.E. McCracken Middle School, where students demonstrated their skills and ingenuity in using laptop computers, and I was impressed with their ability to utilize this technology so effectively. By integrating laptop computers into the learning process through this model program the Beaufort County School District is leading our Nation into a new dimension of educational achievement.

Earlier this month, the "Learning With Laptops" program was highlighted among our country's technology innovators at a special symposium that was sponsored by the Smithsonian Institution. I would like to commend the Beaufort County School District on its efforts to put its motto of "Innovation Toward Excellence" into practice with such an outstanding program.

PERSONAL EXPLANATION

HON. HAROLD E. FORD, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1998

Mr. FORD. Mr. Speaker, on Wednesday, June 24, 1998, I was present on the House floor during rollcall vote No. 264—final passage of H.R. 4104, the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act of 1999. To my knowledge, I voted on final passage of H.R. 4104. Apparently, my vote was not recorded. Had my vote been recorded, it would have been "aye."

IN COMMEMORATION OF THE SANTA MARIA LAWN BOWLING CLUB

HON. LOIS CAPPS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1998

Mrs. CAPPS. Mr. Speaker, I rise to bring to the attention of my colleagues the 20th anniversary of the Santa Maria Lawn Bowling Club. The club, which was established in 1978 with a grant from the Joslyn Foundation, brings together old and young residents of the Central Coast, allows them to participate in one of the oldest known sports.

The Santa Maria Lawn Bowling Club has more than 100 members and participates in intra club tournaments with neighboring lawn bowling clubs. It has succeeded in popularizing the sport of lawn bowling in Santa Maria, and has enriched the quality of life of this special community.

I ask my colleagues to join with me, the county of Santa Barbara, and the city of Santa Maria in commending the Santa Maria Lawn Bowling Club on its 20th anniversary.

PERSONAL EXPLANATION

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1998

Mrs. MALONEY of New York. Mr. Speaker, on Monday, June 22, I was unavoidably detained and missed rollcall votes 252–256. Had I been present, I would have voted "yes" on all of them.

MINORITY TOBACCO LEGISLATION

HON. ROBERT A. UNDERWOOD

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1998

Mr. UNDERWOOD. Mr. Speaker, I am pleased to join my colleagues today in introducing tobacco legislation which addresses many of the concerns of the minority communities.

As Chairman of the Health Task Force of the Hispanic Caucus and Vice Chairman of the Congressional Asian Pacific American Caucus, I have been working with a number of public health advocates to develop a proposal by which affected communities would benefit from public health services provided by organizations that have long served minority populations in tobacco-related activities.

There is no doubt that minorities have been targets by the tobacco industry. The effects of tobacco-related illnesses suffered by minorities are well documented in the April 1998 report of the Surgeon General of the United States. Unfortunately, the Surgeon General's report does not have good data on the territories. Guam, for example, has a 41 percent adult smoking rate, but nowhere is this mentioned in the report. Our bill calls for good data collection which would include the territories.

The bill which we are introducing today includes intervention programs designed to accomplish the following priorities: (1) to fund tobacco-related prevention activities in the minority community; (2) to conduct research on tobacco use by minorities; and (3) to enact programs to reduce or stop tobacco use by minorities.

Last year, the tobacco industry and the State Attorneys General agreed to a proposed settlement aimed at the restructuring of tobacco policies, giving us an opportunity to address tobacco control policies seriously and comprehensively. The bill we are introducing today accomplishes some of the goals and objectives in the proposed tobacco settlement agreement.

Recent efforts at reform were attempted through the McCain tobacco bill, which the United States Senate killed last week. The extensive and often contentious debate over the now-defunct McCain bill has demonstrated that even widespread support for anti-tobacco legislation can be forestalled by partisan politics, especially in an election year. In arguing against the bill, many Senators wielded accusations of "tax and spend" policies, playing on their constituencies' wariness of "big government." It is clear that the approximately $40 million of advertising by the tobacco industry designed to raise doubts about enacting tobacco control legislation helped to kill the McCain bill.

The Republican leadership in the U.S. Congress now have proposed a teen smoking bill as an alternative to the McCain proposal. In my view, this narrowly-crafted proposal by the Republican leadership falls far short of the pressing needs in our minority communities.

Our proposal hinges on a comprehensive plan to create public health interventions aimed at cessation, education, and research programs in the targeted communities. We believe that a proportional amount of funds raised from tobacco legislation should go to the funding of these public health programs.

While the tobacco industry has long been notorious for targeting minorities, especially African Americans and Native Americans, the need for such public health programs grows more and more urgent as the numbers of minority group members who smoke continues to increase at alarming rates.

Teenagers are especially vulnerable to the influence of ubiquitous and alluring advertising aimed at their demographic. This year's Surgeon General Report—the first to focus on minority tobacco issues—evidences just how effective has been the tobacco companies' targeting of minorities.

According to the report, from 1991 to 1997, smoking rates among African American high School students increased by 80 percent, while smoking rates among Hispanic high school students increased by 34 percent. From 1990 to 1995, smoking by high school students increased by 17 percent among Asian Americans and by 26 percent among American Indian and Alaska Natives. Smoking-related illnesses, such as lung cancer, continue to be a significant cause of death for these groups.

However, the tobacco industry's hold on minority groups involves more than just the pervasiveness of flashy advertising and targeting a niche market. Often, minority organizations are funded indirectly by tobacco companies, and soon come to depend on tobacco companies as primary sources of funding. We believe that national tobacco legislation should address the need to wean organizations away from their dependence on the tobacco industry. Our bill has a provision to accomplish this objective.

The dependence of minority organizations on tobacco funding, as well as the alarming statistics in the Surgeon General's report, together provide compelling evidence for the urgency of our legislation. Our bill utilizes existing public health agencies at the federal, state and local levels. Community-based organizations would be involved in running these programs. Funds would be targeted for cessation, prevention, research or education programs in the minority communities. And the Secretary of Health and Human Services, in collaboration with the Office of Minority Health, would be accountable for the outcomes mandated by the bill. As members of the Hispanic Caucus, Black Caucus, Asian Pacific American Caucus, and Native American Caucus, we believe that our proposal is reasonable and achievable within the context of national tobacco legislation.

Let's be clear on why we are introducing this bill today and why we are seeking support for its enactment. it's about helping our children who have been targeted by the industry, it's about our communities that have suffered, and it's about our resolve to make the tough decisions to prevent another 418,000 individuals from dying each year due to smoking.

We look forward to working with the Republican and Democratic leadership in Congress, as well as with President Clinton, to enact comprehensive tobacco legislation which includes our proposal. It is our duty to act now so that more people will not die as a result of our inaction.

A TRIBUTE TO RONALD L. WILSON

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1998

Mr. LEWIS of California. Mr. Speaker, I would like to bring to your attention today the fine work and outstanding public service of Mr. Ronald L. Wilson, the recipient of the 1998 Citizen of the Year Award by the California Inland Empire Council of Boy Scouts of America. Ron will be recognized at a dinner in his honor on Saturday, July 11 in Victorville, California.

Ron Wilson was born on October 12, 1953 in Hyden, Kentucky. In 1958, however, Ron and his family moved to Arizona where he graduated from Cortez High School and Grand Canyon University. It was in Arizona that he first discovered his love for banking.

In 1989, Ron was appointed Executive Vice President/Chief Administrative Officer of Desert Community Bank and President/Chief Executive Officer in 1990. Ronald is very dedicated to the banking business and as acting CEO, he has achieved unprecedented success for Desert Community Bank. In addition, Ron has also received a number of awards which he has shared with the Bank and its employees.

These extraordinary entrepreneurial skills, however, are not all Ron has given to the community. At present, Ron serves on the Board for Victorville Rotary, St. Mary Foundation, Partnership in Academic Excellence Foundation/Academy of Academic Excellence, United Way, Apple Valley Care Center, Victor Valley Union High School District and San Bernardino County Fair Board. Ronald also writes a weekly newspaper column for the Daily Press and hosts a weekly television interview shown on Channel 64 and two cable stations. Clearly, Ronald L. Wilson's service is a model of outstanding citizenship.

Mr. Speaker, it is people like Ron that make our community a better place to live. I ask that you join me, our colleagues, and the California Inland Empire Council of Boy Scouts of America in recognizing Ron Wilson as 1998 Citizen of the Year.

RECOGNIZING ADVANCES IN THE MICROBIOLOGICAL SCIENCES

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1998

Mr. PORTER. Mr. Speaker, I rise to recognize the extraordinary scientific contribution advances in Microbiological Sciences have made to the United States over the past century. These advances have improved the nation's health, economy and environment for all Americans. I'm recognizing these contributions on the eve of the 100th anniversary of the founding of the American Society for Microbiology, the oldest and largest single life science organization in the world.

Some of the greatest scientific achievements of humankind have come from microbiologists like Harold E. Varmus, J. Michael Bishop, Jonas Salk, Rosalyn Yalow, David Baltimore, Daniel Nathans, Hamilton Smith, Arthur Kornberg, James Watson, Baruj Benacerraf, Paul Berg, Selman Waksman, Joshua Lederberg, and many others. In fact, two thirds of all Nobel Prizes awarded in the past decade in Physiology or Medicine have been awarded in the microbiological sciences.

All life on earth is inextricably intertwined with microorganisms; without microorganisms all other life forms would cease to exist. Our own knowledge of fundamental life processes has been substantially advanced through the study and research of microorganisms.

Microbiological research contributes not only to the treatment, prevention and cure of infectious diseases—the leading cause of death worldwide—but also to treatments and cures for emerging diseases of humans, plants and animals that pose an increasing threat to public health. Microbiological research also has led to developments in monitoring and improving the safety of our food supply, maintaining the quality of health care delivery, defending against biological weapons, and to the application and development of alternative methods of energy production and waste recycling, biotechnology, bioremediation of environmental problems, and even new sources of food. In addition, microbiological research has led to the development of new antibiotics and vaccines for diseases that have saved millions of lives and billions of dollars.

In addition to the importance of these scientific applications of Microbiology, the economic impact of a wide range of United States employers who rely on the microbiological sciences can not be underestimated. These employers include medical centers and clinical laboratories, pharmaceutical companies, biotechnology firms, food products manufacturers, colleges and universities, government laboratories, and national, state and local agencies have made the United States a world leader in biomedical research and development, and generates a positive balance of trade for our country.

Microbiological research creates high-skill jobs, helps retain U.S. leadership in biomedical research, protects the environment, and provides great hope for effectively treating, curing and preventing disease.

In conclusion, I wish to commend the Microbiological Sciences and in particular the American Society for Microbiology for their contribution to science and public health and congratulate the Society on an enormously successful century of public service.

BEVERLY J. ROHRER, ED.D.: A DISTINGUISHED RECORD AS SUPERINTENDENT OF SCHOOLS FOR THE REDONDO BEACH UNIFIED SCHOOL DISTRICT

HON. JANE HARMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1998

Ms. HARMAN. Mr. Speaker, I rise today to recognize Dr. Beverly J. Rohrer on her retirement as Superintendent of Schools for the Redondo Beach, California, Unified School District. Her retirement ends a distinguished and visionary career which began in the classroom in 1960.

Since Beverly became Superintendent in 1990, the Redondo Beach schools have led the nation in innovative approaches to the use of technology in education. For example, she helped create the ADTECH Consortium, a coalition of 12 Los Angeles South Bay School Districts, community colleges, universities and businesses which resulted in an innovative high-technology training and learning center called the "Futures Academy." I was proud to participate in the ribbon-cutting for the Academy, which has become a "technology schoolhouse" for educating teachers, students and the community. Technologically-proficient teachers, in turn, prepare youth for high-skilled, tech-driven jobs of our new economy.

Beverly also instituted many advanced educational programs. Standford University selected Redondo Beach as the first district in the country to implement their pilot Accelerated School Program. The Getty Education Institute for the Arts chose Redondo Union High School as a County Center of Excellence in Fine Arts. The award-winning Health, Fitness and Sport Academy promotes fitness and career opportunities. And, the Center for the Advancement of Arts and Entertainment is the focal point of the district's visual and performing arts curriculum.

Beverly's leadership inspired invention and confidence among students, parents and teachers. Students manage BeachNet, the district's Wide Area Network. Ninth graders and teachers have laptop computers to begin full high school participation in wireless, wall-free learning. KnowledgeNets is on-line 24 hours a day. And, high school students thousands of miles apart produced a musical, then performed together in Redondo Beach.

Among Bev's other contributions and professional affiliations are membership on the Executive Council of the Technology for Learning Initiative, The National School Board Association Institute for Transfer of Technology to Education, and IBM's ArtsEdTech 100 Conference.

Mr. Speaker, Bev Rohrer will be fondly remembered for her exhaustive efforts to address the challenges of educating adults and teaching young people in a world of constant and demanding change. But most importantly, she can look about the community and see a legacy made of the thousands of children, parents, teachers and administrators whose lives she touched. It is a legacy for which she can be immensely proud.

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 1999

SPEECH OF

HON. BART STUPAK

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 24, 1998

The House in a Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 4101) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1999, and for other purposes.

Mr. STUPAK. Mr. Chairman, I rise today to further clarify my position on the Wildlife Services program at the Department of Agriculture. Today Mr. BASS and Mr. DEFAZIO offered an amendment to H.R. 4101 which reduces the appropriation for Wildlife Services by $10 million, to $28.8 million.

The intention of the Bass-DeFazio amendment is to prevent Wildlife Services from using controversial procedures and inefficient practices for killing predators in western states. The activities that have occurred in western state have been heavily criticized for their indiscriminate killing programs. The program designed to kill coyotes, for example, kills many pets and endangered species. Additionally, the program has been criticized for its wasteful spending practices in the west. In New Mexico, for instance, Wildlife Services spent more than $2 million to kill predators that had inflicted $167,000 in damage to ranchers. I oppose these activities and urge the Department of Agriculture to assure that Wildlife Services acts responsibly and efficiently.

I cannot, however, vote for the Bass-DeFazio amendment. Just last week in my congressional district, a cow was identified as having contracted Bovine TB, a dangerous livestock disease. The cow contracted the disease from an infected white-tail deer. There are several deer herds in northern Michigan which are identified as Bovine TB-positive herds. Wildlife Services has assisted the State in fighting to eradicate Bovine TB and is responsible for depopulating some of the infected deer herds.

I appreciate the efforts of Mr. BASS and Mr. DEFAZIO to change they way Wildlife Services does business. This amendment, unfortunately, does not clearly state which practices at Wildlife Services should be changed or how they should be changed. The language does not protect the many exceptional activities performed by Wildlife Services, like protection of human health and safety. We may all be able to agree that the intention of this amendment is to stop the controversial practices in the west, but there is no guarantee that intention will be implemented when Wildlife Services receives their FY99 appropriations on October 1. While I appreciate the efforts of Mr. BASS and Mr. DEFAZIO, I cannot vote to put each of Wildlife Services activities at risk.

A SALUTE TO THE DIKEMBE MUTOMBO FOUNDATION, INC.

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1998

Mr. STOKES. Mr. Speaker, I rise today to bring attention to a very worthy cause. On Friday, June 26, the Board of Directors of the Dikembe Mutombo Foundation will hold a special celebration dinner. I am proud to speak to you today about this organization.

Atlanta Hawks player Dikembe Mutombo created the Dikembe Mutombo Foundation in 1997. He wanted an organization that would fulfill his longstanding desire to aid the plight of health care in Africa, particularly in his native homeland of Kinshasa, located in the Democratic Republic of the Congo.

In the Congo, children die every day from curable diseases, the sole reason being lack of adequate health care resources. The Foundation was created to address that problem as well as to ensure that immunization programs are available, and to improve the health, education, and quality of life for the people of the Congo. Another of the foundation's major projects is to build a General Hospital in Kinshasa, the capital city.

The humanitarian efforts of the Dikembe Mutombo Foundation are merely an extension of Dikembe Mutombo's personal efforts. Off season, Dikembe has made four goodwill ambassador trips in five years to Africa. In 1996, he provided uniforms and expenses for the women's basketball team from the Congo during the Centennial Olympic Games in Atlanta. He has served as the international spokesman for CARE—an international relief effort organization. He travels throughout Africa on behalf of the NBA performing at basketball clinics for as many as 2,000 children per day.

Dikembe is also involved with the Strong STARTS (Schools Taking Action to Reach Troubled Students) program. Strong STARTS is designed to reach the growing number of adolescents suffering from untreated emotional disorders that impair academic performance and social achievement. He serves as a spokesperson for the Atlanta Hawks Team Up program. Team Up's foundation is making a difference in the community. It encourages middle school students to take an active role in their communities from conducting canned food drives and toy drives to recycling cans and working at a local senior citizen's homes and soup kitchens.

Dikembe visits local schools with the message of overcoming adversity, and promoting reading. Along with his promotion of good study habits and staying in school, Dikembe tapes Public Service Announcements on violence prevention, volunteerism, and not smoking.

Mr. Speaker, Dikembe Mutombo is a role model to many with his humanitarian efforts and selfless giving. He provides opportunities to many underprivileged children and remains a man who stays in contact with his native homeland. As a child, Dikembe had hopes of becoming a medical doctor, in an attempt to aid those in need in his hometown. His career as a pro athlete with the NBA has taken him down a different paths. Dikembe has still managed to fulfill his childhood dream, by aiding not only his hometown, but those in the Atlanta and international community as well.

I would like to thank my colleagues for allowing me this time to give a special thanks to the Dikembe Mutombo Foundation, Inc., and to Dikembe Mutombo.

IN HONOR OF EMILY CIKRA

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1998

Mr. KUCINICH. Mr. Speaker, I rise to salute an extraordinary and determined young lady, Emily Cikra. Although diagnosed with muscular dystrophy, Emily has boldly accepted the challenge and lives her life passionately, serving as a role model to all she meets. She powerfully tells her own story in the June 17, 1998 issue of the Plain Dealer:

SERVING A SPECIAL PURPOSE

BAY TEEN WITH MUSCULAR DYSTROPHY OPENS OTHERS' EYES TO DISABILITIES

(By Emily Cikra)

When I was in second grade, a little girl came up to me on the playground and wanted to play. When I asked how she knew my name, she replied, "Everybody knows you, Emily. You're the famous girl in the wheelchair."

Some people think I'm special, but I'm not. I'm me.

I have had a disability my whole life. Neither my parents nor the doctors realized anything was wrong until I was 1, when I wasn't reaching the physical milestones a typical baby would.

I was diagnosed with muscular dystrophy. This disease weakens the skeletal muscles and restricts me from walking. There are many types of muscular dystrophy; mine, called congenital, is one of the rarer types.

Early on, my parents tried to include me in everything typical kids were involved in. They always assured me I was the same as everyone else; I just use wheels to get around instead of feet.

I have always believed this, and have done a lot of things people wouldn't expect me to be able to do. For example, I have skied at Boston Mills Ski Resort, gone to Girl Scout camp, ice skated in my chair, sledded, ridden roller coasters at Walt Disney World and swam in the ocean.

Kids in my grade and my whole community have always accepted me. They have been able to look past my disability and get to know me. I think it is a good experience for them to grow up with someone with a disability. Hopefully they will be able to see all people as equals and give everyone a fair chance.

Though it usually doesn't bother me, being in a wheelchair can get me down. There always will be things I can't do. It also makes some things more difficult, such as going into friends' homes, certain stores and restaurants.

Sometimes my friends make plans for activities that require physical agility, such as dances or sports. Transportation is an issue because someone has to be there who can drive my van with a lift. But as much as possible I participate and my friends are always considerate in thinking of how to include me.

This summer I would like to find a job, but due to mobility problems and general weakness, waitressing and typical teen jobs are out of the question. I guess I'll have to be a little more creative.

In the past few years I have realized that God put me here for a special purpose. I believe I am here to teach others that people with a disability are the same as other people, with feelings, opinions and ideas of their own.

I have begun trying to spread this word by talking at Bay Middle School for a diversity class that is a requirement for all fifth-grade students. People with disabilities and from different cultures talk to the class.

I tell the kids to ask anything on their minds, and if it's too awkward for me I will just pass. The questions they ask range from simple to very thoughtful. For example, "How many brothers and sisters do you have?"

Or "Do you have any pets?" to "Do you sleep in your wheelchair?" (No!) and "How do you get dressed in the morning?"

The kids are almost always more mature about meeting me than some adults are. For some reason, many grown-ups seem to think if you can't walk, you can't hear, see or think. They tend to talk down to me as if I were half my age.

Last year I had a setback just before Christmas. I developed pneumonia and was in Rainbow Babies & Children's Hospital for six weeks. I had a tracheotomy (a small hole surgically cut in my windpipe) and now I use a portable ventilator to help me breathe.

Actually I feel a lot better, and I'm working on getting off the vent. Our lives are a little different. I have a nurse or an adult nearby at all times in case of an emergency. I am lucky to have four wonderful home-care nurses who have been very comforting to me.

It's not always easy, but I have a loving family, supportive friends and a community that rallies for me in a time of need. I'm not special, but I'm surrounded by a lot of people who are.

My fellow colleagues, join me in recognizing Emily Cikra. She is a special person and deserves our Nation's recognition.

TRIBUTE TO THE LATE MR. JOHN JASON MARANO

HON. JAMES H. MALONEY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1998

Mr. MALONEY of Connecticut. Mr. Speaker, it is with deep sadness that I bring to the attention of the House of Representatives the passing of a young man in my Connecticut congressional district, Mr. John Jason Marano, who was involved in a tragic automobile accident on Tuesday, June 9, 1998.

A life long resident of Waterbury, John had accomplished much in his all too brief twenty years of life. An outstanding student at Fairfield University, where he would have been a senior, John was a marketing major and had made the dean's list. He was also a very active member of the East Mountain Athletic Association where he was a softball coach, a baseball and softball umpire and where he also officiated at basketball games.

John was a parishioner of St. Francis Xavier Church in Waterbury and attended St. Francis Xavier Grammar School, graduating in 1991. He also attended Holy Cross High School, graduating in 1995. While attending Holy Cross, John excelled in track and field, earning All-City honors as a pole vaulter.

John Marano was a special young man who was admired and respected by all who knew him. Classmates, employers, neighbors, and others all respected him for his kindness, his giving nature and the joy he brought to so many people. During his short life, he touched many others and contributed to their well being.

Besides his parents, John and Denise (Grant) Marano, John leaves a brother, Kevin; a sister, Jill; a paternal grandfather, Albert Marano; and a maternal grandmother, Irene Grant, all of Waterbury.

Mr. Speaker, we grieve over the tragic loss of John Jason Marano; at the same time we celebrate the special grace his life brought to so many people, and we are thankful that we had, however briefly, an outstanding person like John Jason Marano in our lives.

I want to express my personal condolences to John's family and extend to them the condolences of the entire U.S. House of Representatives.

INTERNET TAX FREEDOM ACT

SPEECH OF

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1998

Mr. PAUL. Mr. Speaker, I rise today to express skepticism regarding H.R. 4105, The Internet Tax Freedom Act. The stated goal of H.R. 4105 certainly is noble: "A bill to establish a national policy against State and local interference with interstate commerce on the Internet, to exercise congressional jurisdiction over interstate commerce by establishing a moratorium on the imposition of exactions that would interfere with the free flow of commerce via the Internet, to establish a national policy against federal and state regulation of Internet access and online services, and for other purposes." The bill's name, "Tax Freedom," also expresses a laudable notion. One must always be wary of misnomers in Washington—the Justice Department comes to mind as one quick example. The late economic historian, Murray N. Rothbard, Ph.D., so warned when he stated "when someone in government mentions the word 'fairness', grab your wallet and run for the hills."

I am, nevertheless, always suspicious when a recently-crafted bill comes to the House floor not only having bypassed the Committee process but without any advance warning. Such was the case with this bill. Moreover, this bill comes to the floor under suspension of the rules which does not allow for amendments and which limits the debate time to twenty minutes on each side. I, in fact, was denied an opportunity to speak by those managing the limited time allowable under this process.

However laudable the stated goal of tax freedom this bill still encroaches on state's right to raise revenue and reserves instead (establishes) an exclusive right for national and international governments to instead impose the "proper" form of taxation and distribute it to local governments as these larger governmental bodies ultimately see fit. At the same time, this particular bill rewards those states which were quick to tax their citizens by "grandfathering" their taxes while excluding other States' rights to do so certainly making this a bill that lacks uniformity.

If the intended purpose of the legislation was simply to keep the internet tax free, a three paragraph bill would have been adequate to accomplish this. Instead, H.R. 4105 is significantly more complex. It, in fact, creates a new 30-member federal commission tasked with, among other things:

> Examining model State legislation relating to taxation of transactions using the Internet and Internet access, including uniform terminology, definitions of the transactions, services, and other activities that may be subject to State and local taxation, procedural structures and mechanisms applicable to such taxation, and a mechanism for the resolution of disputes between States regarding matters involving multiple taxation;
>
> Examining a simplified system for administration and collection of sales and use tax for remote commerce, that incorporates all manner of making consumer payments, that would provide for a single statewide sales or use tax rate (which rate may be zero), and would establish a method of distributing to political subdivisions within each State their proportionate share of such taxes, including an examination of collection of sales or use tax by small volume remote sellers only in the State of origin;
>
> Examining ways to simplify the interstate administration of sales and use tax on remote commerce, including a review of the need for a single or uniform tax registration, single or uniform tax returns, simplified remittance requirements, and simplified administrative procedures; and
>
> Examining the need for an independent third party collection system that would utilize the Internet to further simplify sales and use tax administration and collection;

These H.R. 4105-established "duties" suggest that the Commission's real purpose is to design a well-engineered system of taxation (efficient tyranny) rather than keep citizens in a state of "Tax Freedom" as the bill's name suggests. I encourage my colleagues in this House as well as citizens of this country to be wary of federal and international encroachment upon the privacy and efficiency currently available to individuals around the globe via the internet.

TRIBUTE TO DR. HERMAN MIXON

HON. EARL F. HILLIARD

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1998

Mr. HILLIARD. Mr. Speaker, I rise today to offer a tribute to one of Alabama's most able and illustrious educators, Dr. Herman Mixon of Alabama A&M University. Dr. Mixon has made significant contributions to the State of Alabama as an educator for almost 29 years, as a practicing attorney, and as a community volunteer. Dr. Mixon has given of himself so that many of our Nation's most treasured assets, our young people, may learn, grow and prosper in today's complex world.

I first came to know Dr. Mixon at the citadel of learning and knowledge, Morehouse College in Atlanta, Georgia. After our continued education in graduate school, and law school, we began working together under a general practice of law. It was at that time that I learned first-hand of his advocacy for children's issues, as evidenced by his volunteer work with the Boy Scouts, student organizations and individual students.

He has always been the best in whatever endeavor he chose to participate. In addition, his excellence in his chosen fields of endeavors, be it the law, education, or community volunteerism have always benefited many others. He is a volunteer of the first order, a scholar, a humanitarian, and a true gentleman.

Mr. Speaker, I request that Dr. Mixon be commended by the United States Congress for his laudable career of service to others, and that a copy of this statement be presented to him for his aforementioned illustrious career.

VIRGINIA BIRTH-RELATED INJURY COMPENSATION LEGISLATION

HON. TOM BLILEY

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1998

Mr. BLILEY. Mr. Speaker, today I rise to introduce legislation which will ensure that payments Virginians receive under the Virginia Birth-Related Injury Compensation Program continue to be received on a tax-free basis.

The Birth-Related Injury Compensation Program was enacted in Virginia in 1987. It provides rights and remedies to infants that sustain birth-related neurological injuries. The program was designed to avert the insurance crisis that threatened the availability of obstetrical care by reducing the uncertainty inherent in the Tort system. The program removes cases involving certain serious birth-related injuries from the Tort system by providing a fund to compensate infants with such neurological injuries. If a qualifying injury has occurred and either the physician or hospital providing the obstetrical services participates in the program, compensation is available through the program without establishing fault. Qualifying injuries are generally brain or spinal cord injuries caused by the deprivation of oxygen or mechanical injuries occurring during the course of labor, delivery or resuscitation in the immediate post-delivery period.

The program provides the exclusive remedy for qualified claimants against participating physicians and/or participating hospitals, except in cases involving intentional or willful acts. Upon a determination that the infant qualifies for compensation through the program, damages may be awarded for certain actual medically necessary and reasonable expenses, loss of earnings from age 18 through 65, and reasonable expenses incurred in connection with the filing of the claim for compensation through the program. One form of compensation sometimes provided is the rent-free use of a residence that is specially equipped to accommodate the needs of the child. No punitive damages are awarded, and no compensation is awarded for pain and suffering, emotional distress or mental anguish.

In 1994, at the request of one of the families receiving compensation, the program prepared and submitted a private letter ruling request to the IRS requesting a ruling that the rent-free use of a residence provided by the program could be excluded from taxable income by the infant and his family under section 104(a)(2) of the Internal Revenue Code. Section 104(a)(2) of the code provides "gross income does not include the amount of damages (other than punitive damages) received (whether by suit or agreement and whether as lump sums or as periodic payments) on account of personal physical injuries or physical sickness . . .". A favorable ruling was eventually obtained.

Because a private letter ruling may only be relied upon by the taxpayer to whom it is issued, another Virginia family that subsequently applied for compensation requested that the program submit a private letter ruling request to its behalf as well. A ruling request was prepared and submitted; however, in this instance, the IRS was unwilling to issue a favorable ruling excluding the benefits under section 104(a)(2) of the Code. It was the IRS' position that section 104(a)(2) only applied to damages received on account of traditional tort or tort-type rights. Because the Virginia Neurological Injury Compensation Act is a "no fault" statute and because the full range of traditional tort remedies (i.e., compensation for pain and suffering, emotional distress or mental anguish) is not available, the IRS took the position that the right to compensation through the program is not a traditional tort or tort-type right and, accordingly does not qualify for exclusion under section 104(a)(2).

Fortunately, the IRS eventually issued a favorable ruling on the basis that the program is an arrangement having the effect of accident or health insurance and that the benefits received from the program are excludable by the infant under section 104(a)(3) of the Code. However, the ruling is limited to benefits received by the infant. The IRS specifically declined to issue a ruling regarding the taxation of benefits received by the infant's family. I believe that classifying the program as an insurance arrangement under section 104(a)(3) is an indirect and perhaps temporary way of addressing the problem.

I believe the compensation received from the program is within the intent of exclusion under section 104(a)(2). Without the legislation I am introducing today, the IRS could make good on its threat to tax the benefits received under the program. Such action would have a disastrous effect on the families which receive benefits, as taxes would significantly diminish the relief provided by the program unless the program agreed to compensate the families for the additional tax incurred. The reimbursement of the taxes incurred on an after-tax basis would almost double the cost of the relief provided by the program.

My legislation would ensure that Virginia families, who have already been visited by tragedy, could continue to receive benefits on a tax-free basis. The legislation would amend section 104(a)(2) to exclude from gross income payments received under this program. It is the right thing to do, and I urge the House to consider this legislation this year.

PEIRCE COLLEGE COMMENCEMENT ADDRESS BY THE HONORABLE MARJORIE O. RENDELL, THURSDAY, MAY 14, 1998, PHILADELPHIA, PENNSYLVANIA

HON. CHAKA FATTAH

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1998

Mr. FATTAH. Mr. Speaker, I am submitting for the RECORD a recent speech given by the Honorable Marjorie O. Rendell, Judge of the U.S. District Court of Appeals, on the occasion of the recent commencement at Peirce College, in my Congressional district.

PEIRCE COLLEGE COMMENCEMENT ADDRESS BY THE HONORABLE MARJORIE O. RENDELL

This is not my first graduation address, so I was not surprised when Dr. Lendo made an appointment to discuss with me the attributes of the school and the class that I should be aware of. He started by saying, "We're not your normal college," and twenty minutes later, I had the picture.

This is not your normal college. I have no intention of talking about you going out into the world. You are the world. I will not liken your school environment to a cocoon because you have all clearly left that developmental stage long ago.

I was quite taken by Dr. Lendo's description of the class and realized how distinctly different my address would have to be from a "traditional" commencement speech. My mind started working overtime, and I awoke at 6:00 a.m. the next morning with the wheels a-turning (My horoscope that day, I later discovered, said that I would be a steamroller. We've all had days like that—and some not quite like that.)

In any event—and this is the truth,—three songs from my past came to mind, songs that set the tone and frame the content of what I want to impart today.

I will take Dr. Lendo's description as gospel, and assume that most of the graduates have "been there, done that". In that we have a common ground (You don't get to age fifty without having "been there", and having "done that.") So allow me to share with you some thoughts about how wonderful you should feel about your arrival at this moment with many accomplishments and experiences tucked in your pockets and finally, the diploma in hand.

The first song is a children's song, "The Bear Went Over the Mountain." It goes like this: The bear . . . and whaddya think he saw; he saw another mountain, he saw another mountain. . .

You do not know until you get to the top of that mountain what you will see. Now, I take issue with the bear seeing only another mountain ahead of him. I think the look back down the mountain is rather nice. In fact I tell mothers struggling with career and kids and the fun that entails, that these times are tough, but, believe it or not, they're really great to look back upon. It's fun to look back upon juggling the sick child, the busy husband, the demanding client, the needy parent, the barking dog—all needing you at once. Tough going up the mountain, for sure, but much easier to look back down.

I find that life is a mountain, with two sides. The first part, the trip up, is largely trial and error, while at the top, you stop, take a breath, appreciate your accomplishment, and start down, with the rest being somewhat easier due to what you've learned. Being at the top is fun . . . and many of you are there today.

Now, the bear did see other mountains ahead, so the trip down may not be the end of it, but I urge you to stop and enjoy, take pride not only in the fact that you arrived, but on how you got there. All the trials and tribulations, the trailblazing and exploration of uncharted territory that Dr. Lendo spoke of, the "going it aloneness" of what you did, these should bring a rush, a sense of satisfaction and accomplishment. Bask in it today, for tomorrow there's, as they say, the rest of the journey!

The second phrase is from a popular song "I can see clearly now".

I can see clearly now the rain is gone
I can see all obstacles in my way
Gone are the dark clouds that had me blind*
It's gonna be a bright, bright sunshiny day
*[Here is that rainbow I've been praying for]

Wait a minute. This guy's as bad as the bear. He sees the obstacles clearly and it's going to be a bright day? What's his problem? Well, again, seeing your problems clearly, as compared to not being able to see them at all, or having a less than clear picture of what lies ahead is not all that bad. All of us have our struggles, whether financial, health, family issues, frustrations, and setbacks. Education, pride and confidence enable us to deal with them. The knowledge that comes from what you have learned in the classroom and in life helps you deal with what you must confront.

I have always liked the passage from the Bible, "When I was child, I spoke as a child, I understood as a child, I thought as a child; but when I became a man I put away childish things. For now we see as in a mirror, dimly, but then I shall know just as I also am known" Your life experiences and your education give you the kind of self-knowledge that is rewarding and satisfying in and of itself.

When I was interviewed for the position of judge, someone asked me, "What in your background has prepared you to sit in judgment on others and make solitary decisions that will affect people's lives?" It was a very good question. My response was:

First, I have raised a child;

Second, I have experienced political campaigns which, truth be told, prepares you to single-handedly withstand World War III; and

Third, I have been a female bankruptcy lawyer, in a profession in which females, let alone female bankruptcy attorneys, have not always been, shall we say, welcomed.

In any event, I interpreted the question as, "What has formed your insides", and those were my thoughts. As Dr. Lendo has spoken of today, we've got some well-developed insides here today. I don't need to tell you that the things you confront that are burdensome are nonetheless opportunities; you know that. I don't need to tell you that your families are proud of you today, that's already part of you. Take some satisfaction in what has formed your insides, because today it's written all over your face.

Another memorable question (and I know you're waiting for the third song, which I'll get to) was posed to me by the mother of one of Jesse's friends. We had taken the boys on a short ski trip—husbands not invited—and were preparing dinner. We were talking about family, kids, work and juggling—what else—and she asked me, "What sustains you?" I was taken aback; I'd never really thought about being sustained, let alone what did it. I thought a minute and replied, "love of those around me". When it comes right down to it, the love and support of those around us provides the sustenance for us to go on and do what we do.

The point of sharing these two questions and answers is that the self-knowledge—the seeing clearly, even of obstacles, that you are capping off with your diploma today is a reward in itself. Obstacles seen through the rainbow of the light of knowledge are manageable. Take a few minutes over the next week and ask your self these questions—what has formed you, and what sustains you?—and you will take great pride I am sure in your answers, and appreciate even more this great day.

Now for the third song. I actually sang this at a fundraiser for Bill Gray. It was at the Franklin Institute. The acoustics were bad, and everyone kept talking during the speeches. No one could hear the speakers, who were praising Bill for his years in Congress, as he was retiring to head the United Negro College Fund. So I decided to sing, and I sang "Oh, the Lord Is". I thanked Bill for using the tools God had given him to benefit us all. But I thought of doing this because this song is my joyful tune. It gives glory, yet has humility in it. It says that all we need, Lord, is the tools, just give us the tools and we'll do the rest. We'll do the hard work, sweat the sweat, take the time, apply the creativity, nurture, plant, prune, water, and cause the tree to grow. Give us the brains, the brawn, the fortitude, the courage, the hope, and we'll do the rest.

And, when I would leave a college exam on which I had guessed right as to what was going to be asked, I thanked God for the tools. And after a fairly short and very successful childbirth, I thanked God for the tools.

Well, today, I do hope you, too will take the time, to look around at all you have accomplished, at the people who have sustained and supported you, at the year you have put into doing all the things that wear you down and yet build you up, and give thanks for the tools.

HONORING MARJORIE HIRSCHBERG, POET AND ADVOCATE

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1998

Mr. PALLONE. Mr. Speaker, it is my good fortune to represent Monmouth County, N.J., a beautiful, seashore county that produced our current Poet Laureate, Robert Pinsky.

Another accomplished poet also called Monmouth County home. That was Marjorie Hirschberg who died last year at the age of 54, a victim of Amyotrophic Lateral Sclerosis or Lou Gehrig's disease.

Before succumbing to that most vicious, crippling disease, Marjorie wrote poetry on her computer, touching her cheek to a wand until she could no longer even move her head.

Her mother said that through all of this struggle, Marjorie exhibited a bravery and spirit that gave strength to everyone—mother, father, husband and children and enabled them to cope with her rapid deterioration. "Bravo, my child," said her mother in a recent letter to me.

Well, I want to say "bravo" too, for the excellent and moving poetry that Marjorie Hirschberg produced and I would like to share two of these poems with my colleagues. I would also like to include an article that appeared in the Atlanta Journal-Constitution that highlights some of her many other contributions to the arts, women and children. The poems follow:

MY WONDERFUL MOTHER IS EIGHTY TODAY

I would like to drive her through my neighborhood
Honking the horn to let everyone know
How proud I am of her.
Visit all my friends with her
Accepting tea and cake
Or turkish coffee
As tokens of their love and respect. Then
I would take her to lunch some place
Where the prices would scandalize her.
We will talk of bess as suffragette,
Of pearl and the coat and evey and the wagon. Sid
Sid and the store and millie's phone call on
January 1. And Bobby's announcement of joy to the world.
Then we get to newborn Ethan in our shaker bed, Elizabeth of the tumbling
Brown ringlets. Of eloping with the brown-haired adonis who came to the door
All this while eating our fill, sharing two extravagant desserts
Then rolling home,
Knowing the best daydreams
Have a life of their own.

OLD DOG

I watch you lying in the sun on your better days
Old, tired bones soaking up what little warmth
The universe still holds for an old dog.
Coat neglected, chewed, host to parades of
Unconquerable, merciless fleas.
And smelly, I do remember that,
An undeniable, ugly fact.
You really smell.
But I remember too how you did love
How children tumbled carelessly all over you
And got adoring looks and happy panting in return.
Recall that day a wild curly-headed toddler
Made her break for the road
And you shepherded her like an old pro
Those deep, patient sighs from your position as a rug
Waiting for me to walk you
And then when I could no longer walk
You wouldn't leave my side
Believing like me it would be any minute
That I would jump up and grab the leash.
You became a nuisance to the ones in charge
The smell, the bulk, the fleas
(since we are being honest here,
You always were part nuisance)
So now shuttled between solitary in the hall
And lonely pees in the yard,
You seem a bit defeated
Love hasn't conquered all
We've both seen better days.
Perhaps like me you live in hope that those days will return
When neglect was just silly human foible
Not the result of grief and numbness
When much fuss would have been made
About your lying on the chaise lounge.
And you could dream each year
Of next Passover and its bone
When even you and I
Will welcome the messiah.

[From the Atlanta Journal-Constitution, Feb. 26, 1997]

MARJORIE HIRSCHBERG, 54, ADVOCATE—FOUGHT FOR RIGHTS OF WOMEN, KIDS

(By Malcolm X Abram)

Marjorie Hirschberg spent much of her adult life committed to helping others. As a homemaker, she watched over her family. As an advocate, she fought for the rights of women and children. And finally, as a victim of Lou Gehrig's disease, she underwent an experimental treatment in hopes of providing a future for herself and others.

Ms. Hirschberg, 54, died Saturday of respiratory failure related to Amyotrophic Lateral Sclerosis—the official name for Lou Gehrig's disease—at St. Joseph's Hospital. The funeral will be a 11 a.m. Sunday at Green Lawn Funeral Home.

Ms. Hirschberg was a native of New Jersey who graduated cum laude from Vassar and later received her master's degree in special education from Bank Street College of Education in New York.

When her family relocated to Atlanta, she briefly taught children with learning disabilities at the Atlanta Speech School before becoming a full-time homemaker, according to her husband, Dick Tauber of Atlanta.

"I was inspired by Marjorie. . . . She was the kind of woman and mother I would want to be," said her friend Audrey Galex. "I've tried to pattern myself after her because she had her priorities straight. Her family and the community came first."

Ms. Hirschberg's devotion to the community was well documented at her daughter Elizabeth's school, Sagamore Elementary, where she taught a special education class and worked with the PTA to bring in more arts-related programs.

Ms. Hirchsberg was also active in women's rights issues. As a member of the National Council for Jewish Women, she lobbied for women's and children's rights at the Georgia Capitol. She also co-produced "Atlanta Women's Voices," a public access cable program that discussed issues of particular import to women.

"Something about her was very ethical," said friend and fellow lobbyist Sara Ghitis. "She was a gentle person who had everything about her in the right place."

Ms. Ghitis said that when Ms. Hirschberg found out about her disease, she was furious. "She said, 'I'm not ready to die with all the things I have yet to do in this world,'" Ms. Ghitis said.

When the disease began to severely limit her communication and motor abilities, Ms. Hirschberg sought alternative treatments. "Marjorie had a lot of courage to try this new procedure," said Mr. Tauber. "And she got to go to her son's graduation, which meant a lot to her."

"She told me that as long as I can see my kids, I want to remain alive," said Ms. Galex. "I lost a real role model."

Surviving in addition to her husband and daughter are her son, Ethan Hirsch-Tauber of Atlanta; her parents, Ada and Bernard Hirschberg of Red Bank, N.J.; and a brother, Robert M. Hirschberg of Tustin Ranch, Calif.

TRIBUTE TO RUSSELL PATTERSON

HON. KAREN McCARTHY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1998

Ms. MCCARTHY of Missouri. Mr. Speaker, I rise today to recognize Mr. Russell Patterson, a major contributor to the arts community in Missouri and a friend of mine who is retiring after 40 years as founder and Artistic Leader of the Lyric Opera of Kansas City. He also organized The Kansas City Symphony and has served as its Artistic Director.

In addition to his position with the Lyric Opera of Kansas City, he is Festival Director and Principal Conductor at the Sunflower Music Festival as well as founder and serving as Artistic Director of the Buzzards Bay Musicfest, Mr. Patterson also is credited for founding the Missouri River Festival of the Arts in Boonville, Missouri. He has appeared as guest conductor in opera and concert engagements in Mexico City, London, New York, Seattle, Cincinnati, and Sacramento.

Mr. Patterson has spent his career enriching Kansas City with his talent and vision. He is a graduate of the Conservatory of Music at the University of Missouri-Kansas City. He helped establish the Middle-America Opera Apprentice Program in conjunction with the Conservatory. The Apprentice Program is designed to prepare exceptional young singers for a professional operatic career. The Program continues to gain national recognition for its commitment to aspiring artists.

As a trailblazer in the arts community, Mr. Patterson has served on the Advisory panels for the National Endowment for the Arts and the Missouri Arts Council, as a consultant to the Ford foundation, and on the Board of Directors of OPERA America. He has received numerous awards and honors including the Alumni Achievement Award, the Dean's Awards, the nationally prestigious Conductor's Award from the Alice M. Ditson Fund of Columbia University, and the W.F. Yates Medallion from William Jewell College. In 1996, Mr. Patterson was honored at the OPERA America 25th Anniversary Conference for his years of service.

Mr. Speaker, please join me in congratulating Russell Patterson for his commitment to our community's future artists and his service in music in Kansas City. I wish he and his lovely wife Terri well in all of their future endeavors, and hope we can enjoy some tennis at the Cape.

RETIRED CITIZENS MONTH IN ALABAMA

HON. ROBERT B. ADERHOLT

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1998

Mr. ADERHOLT. Mr. Speaker, I rise today to join Governor Fob James in recognition of Western Hills of North Alabama Advantage for Relocation and Retirement during Retired Citizens Month in Alabama.

North Alabama is home to a significant number of retired citizens. Due to the beautiful natural environment and pleasant weather, people find North Alabama a comfortable place to retire. I commend the people at Western Hills for being fine ambassadors of the State of Alabama and improving the quality of life for all in our State.

I would like to insert into the RECORD the Governor's proclamation in recognition of Retired Citizens Month in Alabama.

Whereas, the Western Hills of North Alabama Advantage for Relocation and Retirement is dedicated to the development of a positive image of North Alabama; and

Whereas, the Western Hills of North Alabama for Relocation and Retirement promotes community activities, recreational opportunities, historical sites, and many other unique attractions that are indigenous to North Alabama so that more of the nation's retirees will want to relocate to our great state during their retirement years; and

Whereas, retirees carry tremendous importance to the State of Alabama, contributing greatly to our employment, economic prosperity, and international trade relations; and

Whereas, retirees not only contribute to our State through financial means but through their sharing of a lifetime of experience and knowledge that can be passed down to our younger generations of Alabamians; and

Whereas, the State of Alabama supports the Western Hills of North Alabama Advantage for Relocation and Retirement for its efforts to increase the numbers of retirees that relocate to our state:

Now therefore I, Fob James, Jr., Governor of the State of Alabama, do hereby proclaim June 1998 as Retired Citizens Month in Alabama, to further show our State's appreciation for the retired population.

March 18, 1998.

Mr. Speaker, join me in recognizing June as Retired Citizens Month in Alabama.

IN HONOR OF RUTH R. CRONE

HON. THOMAS M. DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1998

Mr. DAVIS of Virginia. Mr. Speaker, I rise today to pay tribute to Ruth R. Crone's outstanding leadership on the occasion of her retirement from the Metropolitan Washington Council of Governments (COG). For thirty years, she has helped guide the Washington region through an era of tremendous growth and change.

As the Executive Director, Ruth was responsible for the overall administration of COG as well as supervising the development and implementation of COG's policies and programs. She served as the Director of Human Resources and Public Safety from 1980 to 1988, and as the Director of the Department of Human Resources from 1972 to 1980.

The Council of Governments, founded in 1957, is an independent, non-profit association composed of the eighteen local governments in the Washington metropolitan area. The COG develops and implements programs in response to regional concerns such as growth, transportation, air and water quality, child care, crime, and economic development.

Ruth also serves as the Executive Vice President of the Center for Public Administration and Service, board member of the D.C. Agenda Support Corporation, ex-officio board member of the Greater Washington Board of Trade, and editor for the Regionalist, the publication of the National Association of Regional Councils. She is a frequent speaker at area universities and association meetings, has appeared on local and national radio and television talk shows and news programs, and has testified before numerous Congressional committees.

Prior to joining COG in 1969, Ruth worked as a planner with the Northeastern Illinois Planning Commission in Chicago and the Baltimore Department of Housing and Community Development, and as a health planner with the Public Health Federation of Cincinnati, Ohio.

Ruth has been honored many times for her contributions to public service and for her successful career. Her awards include the National Public Service Award from the American Society for Public Administration and the National Academy for Public Administration, the 1998 Alumni Achievement Award from Muhlenberg College, and the International City/County Management Association's Professional Development Award. Washingtonian magazine named her one of the region's most influential leaders in 1992, and one of the region's most powerful women in 1994 and 1997.

Ruth received her undergraduate degree in sociology from Muhlenberg College and obtained her Master's Degree in Community Planning from the University of Cincinnati.

Mr. Speaker, I know my colleagues join me in congratulating Ruth on her outstanding career and many achievements. Her leadership at the Council of Governments will be missed, but her accomplishments never forgotten. The groundwork Ruth has laid will continue to sow the seeds of success for the metropolitan region.

DRED SCOTT COMMEMORATIVE PLAQUE BILL

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1998

Mr. CLAY. Mr. Speaker, today, I am introducing legislation authorizing the U.S. Park Service to install a plaque to commemorate the Dred Scott decision at the Old Courthouse in St. Louis, Missouri.

The Old Courthouse is part of the Jefferson National Expansion Memorial (JNEM) which was created by Congress to commemorate and illustrate many of the historic events which occurred during this nation's westward expansion. The purpose of JNEM is to foster an awareness and understanding of those who settled the vast frontier region west of the Mississippi River.

In keeping with its mission to commemorate the significant occurrences in the westward expansion of the United States, this legislation authorizes the National Park Service to install a plaque advising visitors that the Dred Scott case was tried at this Courthouse and enlightening them to the debate over slavery that was launched by the landmark Supreme Court ruling in the 1857 case of Dred Scott v. Sanford.

Dred Scott, a slave who sought his freedom on the basis that he had lived in free territory, lost his case and his appeal to the Supreme Court. He did not live to see the end of slavery. However, by fighting for his freedom, Dred Scott made a great contribution to this nation. Historians consider the Dred Scott decision to be among the key events that triggered the Civil War. In it, the Supreme Court ruled that slaves could not be citizens of the United States and could not sue in federal courts. But the Supreme Court did not stop here. In an effort to put an end to the debate over slavery, under the leadership of Chief Justice Taney from the slave state of Maryland, the Supreme Court stated that since a slave was private property, a slave could be taken into the territories and held there—regardless of what Congress or the territorial legislatures ruled. The Supreme Court effectively declared unconstitutional the already repealed but still honored Missouri Compromise which forbade slavery north of 36° 30'.

The Dred Scott ruling did not put to rest the debate over slavery. Instead, the Supreme Court, in Dred Scott v. Sanford, exacerbated the tensions between the foes of slavery and the Southern slave holders. Abolitionists challenged the Supreme Court's authority to rule on slavery in the territories while Southerners were incensed by their contempt for the Court's ruling. The bitterness between the North and the South over the issue of slavery intensified in the wake of the Dred Scott decision and four years later the Civil War erupted.

Mr. Speaker, Dred Scott was a slave whose courage helped to forever change the course of this nation's history. Those who visit the Old Courthouse in the City of St. Louis will benefit from a public plaque commemorating his fight for freedom.

HONORING CENTURYTEL AND MOTOROLA'S COMMITMENT TO THE VICTIMS OF DOMESTIC VIOLENCE

HON. DEBBIE STABENOW

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1998

Ms. STABENOW. Mr. Speaker, domestic violence is a very serious crime that affects families and communities throughout the nation. That is why I am very pleased to congratulate CenturyTel and Motorola for their Wireless Alliance for Safe Families initiative that will be announced on June 30, 1998 in Lansing, Michigan.

It is estimated that over four million women each year are abused by their husbands or partners, with many victims of abuse struggling to rebuild their lives because of fear.

CenturyTel and Motorola are teaming up in Michigan to provide an extraordinary service for victims of domestic abuse. Through the use of cellular phones donated by Motorola and local cellular service contributed by CenturyTel, Michigan will now have a program which gives victims of domestic violence access to cellular phones in case an emergency develops.

This program will be a very important part of giving countless domestic victims and their families a new sense of security in their daily lives. Without the strong commitment of CenturyTel and Motorola this service would not be possible.

The work of CenturyTel and Motorola is an important local symbol of what can be accomplished through partnerships between the public and private sectors. I applaud the commitment CenturyTel and Motorola have shown regarding the critical issue of domestic violence and I am proud to join in supporting this new initiative in Michigan.

FORCED CLOSURE OF CENTER FOR VICTIMS OF TORTURE IN TURKEY

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1998

Mr. SMITH of New Jersey. Mr. Speaker, tomorrow marks the observance of United Nations International Day in Support of Victims of Torture.

As Co-Chairman of the Commission on Security and Cooperation in Europe, I am particularly disturbed by the recent forced closure of the Diyarbakir Representation Office by Turkish Authorities. The Office had just opened by the Human Rights Foundation of Turkey on June 13, 1998, with the aim of assisting victims of torture in the southeastern region of Turkey. The Foundation operates similar treatment and rehabilitation centers in Ankara, Izmir, Istanbul, and Adana. Since 1990, these centers have assisted over 3,000 torture victims and have gained national and international respect. The unwarranted closure of the Diyarbakir center by the authorities only four days after it opened is but the latest form of harassment directed against those seeking to provide professional help to victims of torture in Turkey.

I call upon the Government of Turkey to stop its campaign of harassment and intimidation of human rights non-governmental organizations, including the Human Rights Foundation. If Prime Minister Yilmaz is serious about ending torture in Turkey, Mr. Speaker, he should redirect the resources of the state to vigorously prosecute those responsible for acts of torture.

COMMEMORATING 100 YEARS OF THE U.S. ARMY CORPS OF ENGINEERS

HON. STEPHEN HORN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1998

Mr. HORN. Mr. Speaker, 100 years ago, Captain J.J. Meyler led a small group from the U.S. Army Corps of Engineers to construct a breakwater in San Pedro Bay. From this initial project, the Corps of Engineers helped develop and maintain what is now the busiest port in the United States and the largest port complex in the Western Hemisphere. These unsung heroes helped make Southern California an engine of economic growth for the entire Nation. Their designs and efforts have provided protection to the residents and businesses of this area for the past century.

The construction of the San Pedro breakwater led to a new period of sustained growth for the Los Angeles-Long Branch area. The Port of Long Beach is now the busiest port in the Nation and—if they were combined—the Ports of Los Angeles and Long Beach would be the largest port complex in the Western Hemisphere. This work led to the establishment of rail links tying Southern California first to San Francisco, and then to the rest of the Nation. It also served as the foundation for the development of industry which would put Los Angeles and the surrounding communities at the forefront of the American economic expansion.

Although the Corps of Engineers has been intimately involved in the ever increasing capacity of the Ports of Long Beach and Los Angeles, it has provided—much as it has for the entire Nation—numerous other benefits to Southern California. The Corps has constructed flood control channels and shoreline protection to provide a safer place to live and work for millions of people. The Corps built barracks, medical facilities, headquarters, and other important structures that served hundreds of thousands of servicemen at military bases throughout the State during the First and Second World Wars, the Korean War, the Vietnam war, and the cold war with the Soviet Union.

Over time, the national role of the Corps of Engineers in regulatory policy has allowed the Corps to play a broader role in California. The Corps provides valuable assistance in evaluating requests for construction around navigable waters and in the protection of wetlands. The Corps works to maintain safe areas for commercial and recreational boating, including access for passenger service to Catalina Island.

The people of Southern California—and the Nation—owe much to the Corps of Engineers for their dedicated service, hard work, and benefits they provide for all of us. For more than two centuries, the Corps of Engineers has served to preserve and protect this Nation. I want to congratulate the men and women of the Corps for their many achievements throughout this country and overseas, and to give particular thanks to the members of the Corps for their 100 years of service to Southern California. Happy anniversary.

REVEREND ROBERT O. SIMPSON: A POINT-OF-LIGHT FOR ALL AMERICANS

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1998

Mr. OWENS. Mr. Speaker, it is with a great deal of pleasure that I pay tribute to an exceptionally dedicated and benevolent spiritual leader—the Reverend Robert O. Simpson. Reverend Simpson will be honored on Saturday, June 27, 1998 at a gala concert celebrating his 25th anniversary of service to Janes United Methodist Church. Reverend Robert O. Simpson is a great Point-of-Light who has changed the face of Janes United Methodist Church through his moral guidance and unwavering commitment to the community.

"Rev. Bob," as he is affectionately called by his parishioners, was appointed as minister of Janes United Methodist Church on July 1, 1973. During his tenure Reverend Simpson has seen significant change in the church. Through it all, one thing remains the same—his enduring dedication to the church and its members. His commitment to the mission of outreach has brought several distinguished men and women to join the church. Since 1973, under the ministry of Reverend Simpson, the active membership of the Janes United Methodist Church has tripled.

Reverend Simpson's greatest challenge as pastor was the rebuilding of Janes United Methodist Church following the November 10, 1984 fire that destroyed the 100 year old building. Through his dynamic leadership, the support of the Janes congregation, and many members of the community, the new Janes Church was built and consecrated in April 1991. The story of Janes' rebuilding was the basis of Reverend Simpson's post-graduate work and dissertation in "Church Administration and Liturgies" at New Brunswick Theological Seminary.

As a minister, Reverend Simpson is in a unique position to touch the lives and to help mold so many futures. Because of this enormous responsibility, he has initiated a number of programs which contributed to the growth and development of the church and the Bedford-Stuyvesant community. During his pastorate, Reverend Simpson has developed the church's Community Outreach Program, a tutorial program for school aged children; the Senior Citizens' Friendship Club; the Voter Registration and Information Project; referral programs; a Meals-on-Wheels Program; and "God's Sheltering Arms," Janes' ministry to the homeless. Clearly Janes United Methodist Church is in a better position because of Reverend Simpson.

Reverend Simpson's remarkable climb was accompanied by an ever-increasing group of civic, religious, and philanthropic organizations in which he participated. He served the wider community as a member of Community Planning Board #3, District 16 Community School Board and New York Methodist Hospital Board of Directors. He has worked diligently in numerous positions within the United Methodist Church denomination to strengthen the church infrastructure. He has served as Treasurer of the New York Annual Conference Board of Trustees, Chair of the Episcopal Committee, and member of the Council of Finance and Administration.

Reverend Simpson began his formal education in the nursery school at Janes United Methodist Church, the church he would eventually pastor for 25 years. He attended both public and private schools in Brooklyn, New York and graduated from Yale Divinity School in June 1993 with a Master's of Divinity.

In a recent sermon on "Buried Talents," Reverend Simpson emphasized the importance of using all of the gifts and graces God has entrusted to us. His leadership and pastoring of the church is an excellent example of the strength, fortitude, faith and perseverance needed for an effective ministry in the church or any other leadership position. Reverend Simpson has made Janes United Methodist Church a landmark for families to worship and a dramatic force for good. We salute Reverend O. Simpson and the accomplishments of his ministry. He is a great Point-of-Light for all Americans.

HONORING JOSEPH S. TOLBERT

HON. WILLIAM J. COYNE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1998

Mr. COYNE. Mr. Speaker, I rise today to honor a model American who recently passed away.

Born on November 27, 1924 in Pittsburgh, Pennsylvania, Joseph S. Tolbert (Tolochko) enlisted in the U.S. Air Force in 1942 immediately after this graduation from Taylor Allderdice High School. As one of the youngest command pilots in the American forces in Europe, he completed his 25th mission over Germany only one day before his 19th birthday.

After his service in Europe, he returned to the United States and, over the next few years, maintained his reserve status in the Air Force. Immediately after his graduation with honors from the University of Pittsburgh, he returned to active duty and went on to serve in several subsequent military conflicts. His many years of reserve training with a broad range of aircraft, as well as his experiences in World War II, served him well during the wars in Korea and Vietnam. Recognized as an experienced and talented pilot, he was enrolled in a graduate program at Maxwell Air Force Base for Command and Staff College. During his years of active service, he also taught aeronautical courses at New York University.

Retiring as a lieutenant colonel in 1969, he experienced great success in the automobile sales industry and opened his own dealership in Woodland, California. After several years, he entered the video security market and established several offices of Videoscope Inc. in the Sacramento area. He also participated in several civic organizations, such as the Davis Rotary, the Kiwanis, and the Chamber of Commerce, as well as several professional aviation associations.

He was a beloved husband, father, and grandfather, as well as a successful entrepreneur and an exceptional citizen. I join the residents of the Pittsburgh area in extending our deepest regrets to his family.

PATRICIA A. FRIEND DISCUSSES LABOR RIGHTS IN TAIWAN AND THE ABUSE OF THOSE RIGHTS IN CHINA

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1998

Mr. LANTOS. Mr. Speaker, as President Clinton is in the People's Republic of China in search of better relations between our two nations, I hope that his efforts will serve to influence the Beijing government to improve its dismal policies on the application of basic international human rights and to respect internationally-recognized trade union rights for workers of China.

China's human rights abuses have been chronicled on the floor of this House and in numerous committee and subcommittee hearings on many occasions. These abuses include arbitrary detention, imprisonment for political views and exercise of trade union rights, abuse of prisoners and denial of its citizens' rights to freedom of expression and assembly.

In direct contrast to the practices of the government of China, the Republic of China on Taiwan presents a completely different picture. Taiwan is a nation with democratically elected leaders, which respects human rights and trade union rights. Taiwan is a country with a booming economy, but unlike China one does not find forced labor, political repression, and abuse of human rights. In particular, Mr. Speaker, Taiwan guarantees political, economic and press freedoms that are an integral part of civic and political life. Taiwan is a society where workers are freely allowed to form their own unions and to engage in collective bargaining with their employers.

In this connection, Mr. Speaker, I would like to call to the attention of my colleagues an excellent opinion article which appeared in the San Francisco Chronicle written by Patricia A. Friend, the International President of the AFL–CIO's Association of Flight Attendants, and a member of the AFL–CIO Executive Council.

In her article, Ms. Friend accurately reports on the significant gains that have been achieved by Taiwanese workers, and she points up the sharp contrast to the huge difference in the record of Taiwan via-a-vis China when it comes to democratic freedoms, economic progress for its citizens, and the application of and respect for international human rights, trade unions rights and free expression.

I commend Ms. Friend for her excellent and timely essay on the state of freedom in Taiwan and I urge my colleagues to give this article the thoughtful attention that it deserves.

[From the San Francisco Chronicle, June 16, 1998]

TAIWAN, NOT MAINLAND, IS ON RIGHT PATH

(By Patricia A. Friend)

It has been nearly two decades since U.S. airlines began regular service to Taiwan and mainland China, establishing a direct and important link to the Asia-Pacific region. That tie and the many others established since have helped spur pro-democracy efforts and new freedoms of speech and press—but only on one side of the Taiwan Strait.

While the People's Republic of China is notorious for abuses of human rights, Taiwan celebrates respect for human rights and the right of employees to form and join unions. In fact, about 200 Taiwanese flight attendants who work for United Airlines based in Taipei have joined the other 45,000 members of the Association of Flight Attendants, a member union in the AFL–CIO and a group that I am proud to serve as international president. The Taiwanese flight attendants are the only Taiwanese nationals to be members of a U.S. labor union.

This development, as much as any other, underscores the vast differences between mainland China and Taiwan.

On the east side of the strait, the people of Taiwan have made dramatic changes in recent years. The island is now a vibrant democracy under the bold leadership of President Lee Teng-hui, the first directly and democratically elected leader in ethnic Chinese history. Last fall the opposition party, the Democratic Progressive Party, took a majority of seats in local elections, clear evidence of the willingness of the Taiwanese people to exercise their newfound right to vote and their freedom to do so.

Taiwan is home to 21.6 million people and one of the most dynamic economies in the world. The economic crisis that has rocked so many Asian nations in recent months has left Taiwan virtually unscathed. The tiny island boasts a per-capita income of almost $13,000, status as the world's 13th-largest trading partner and the United States' eighth-largest trading partner.

The United states exports $18 billion a year of goods to Taiwan, 50 percent more than the United States exports to mainland China.

Taiwan has demonstrated a commitment to expanding opportunities there for U.S. businesses. In February, Taiwan and the United States concluded talks, which have been going on for four years, on the terms of Taiwan's entry into the World Trade Organization. U.S. Trade Representative Charlene Barshefsky said the agreement would "dramatically open up Taiwan's markets," particularly in the areas of agricultural products and industrial goods.

Yet despite this progress in the economic arena, America does not have diplomatic relations with Taiwan, and our officials are prohibited from even referring to Taiwan as a "country." Our government refuses to endorse Taiwan's bid to rejoin the United Nations—of which it was a founding member—or other international organizations.

The time has come for Americans to take a stand for democracy, freedom and basic human rights in Asia, issues that will probably be on the table when President Clinton meets PRC President Jiang Zemin in Beijing this month. The People's Republic of China shows no sign of changing its inhuman labor policies. The flight attendants in our union salute the people of Taiwan for the progress they have made in recent years and urge the Clinton administration to acknowledge and champion Taiwan's accomplishments in improving the standard of living of its workforce.

REMARKS OF ADM. ROBERT KRAMEK, COMMANDANT, U.S. COAST GUARD AT HIS CHANGE OF COMMAND CEREMONY

HON. BOB CLEMENT

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1998

Mr. CLEMENT. Mr. Speaker, on May 29, 1998, Admiral Robert Kramek retired as Commandant of the United States Coast Guard after 41 years of service to our country. I believe that his remarks at his Change of Command Ceremony will give you but a small glimpse into the life of a Coast Guard officer and the dedication and sacrifice that he has made during his many tours of duty and 19 moves in 19 years. As the Ranking Democrat on the Subcommittee on Coast Guard and Maritime Transportation, I would like to thank him for his leadership and the working relationship that we have developed. Therefore, Mr. Speaker, it is with great pleasure that I present his comments to you:

REMARKS OF ADM. ROBERT KRAMEK

Chairman Wolfe, Secretary Slater, distinguished Cabinet officials, distinguished Administration officials, Chairman Ralston, Service Chiefs, CINCs, distinguished flag officers and active duty and retired and general officers, our friends from foreign nations that are here, leaders of Government and industry, family and friends, and most of all, our Coast Guard team, I'm very honored to be here today.

And I'm very proud to have been the Commandant of our Coast Guard these past four years. The awards I have received today, however, are the Coast Guard's awards, the team that I belong to; and I accept them only on behalf and as a member of that team, the team of live savers and guardians of the sea.

Today my words to you are those of happiness and appreciation and thankfulness for all that you've done to make my vision for the Coast Guard a reality.

It seems like it was only yesterday that I was having a discussion with my father regarding attending the Coast Guard Academy. He was convinced it was the right thing for me. I wasn't so sure. But he was right.

So today, alongside the Barque Eagle where I started almost 41 years ago, I want to take time to thank you for this great opportunity to serve and to be a Coast Guardsman. Thank you to my classmates in the Class of 1961.

They're never outdone. They've been there from start to finish, all the way. And what a great journey it's been. What a wonderful bond we have together. Together, supportive of each other, and supportive of a strong Coast Guard, you've set the standard for all classes, especially in leadership.

We cut the ribbon just last week on the Leadership Development Center. And just a couple of days ago, you gave out a leadership award at the Academy in my name to Ensign Green, Class of '98, and made him an honorary member of our class and he's joined us today.

Thank you for that.

I thank you for the active duty journey in the Class of '61, and I close that chapter of our careers today. But we still have much to do together in supporting our Coast Guard and our Academy.

Thank you to the President, and thank you to my Secretary, Secretary Slater, and the one Department of Transportation team for empowering me to lead this great Agency. The Coast Guard is vital to America. Nobody else in Government can do what the United States Coast Guard does.

A member of the Armed Forces, a law enforcement agency, and a humanitarian service serving the American people. Saving lives and property, keeping the oceans clean and safe, protecting our borders and being a distinct instrument of national security.

Mr. Secretary, you supported my vision and plans and goals to be the premier maritime service in the world, and I thank you for that.

Thank you to our Congress and their very talented staffs for supporting our Coast Guard with the legislation and the resources to do our job. We've spent a lot of time together making sure our Coast Guard was Semper Paratus.

Thank you to the Joint Chiefs and the Joint Staff and to the CINC's for helping me make the Coast Guard a distinct instrument of national security and being part and including the Coast Guard in the joint vision.

Our readiness as an Armed Force has never been better, but our Services have never been in higher demand either. We're proud to serve as one of America's five Armed Forces, as we've done for over 207 years.

Thank you to a great interagency team that has helped the Coast Guard to carry out its multitude of missions. Because we're an Armed Force and law enforcement agency, we require a great deal of support from everybody.

The State Department, Justice, Department of Defense, Department of Commerce, and especially my colleagues from Customs, the Drug Enforcement Agency, the FBI, the DIA, the CIA and NOAACorps and the National Security Council.

You've been especially helpful to all of us in prioritizing and carrying out our responsibilities for the Nation.

As the interdiction coordinator serving the President, and as recent operations have shown in Puerto Rico and Haiti and the Dominican Republic, together and continuing to work together results in a potent team that can stop the flow of drugs to America.

Thank you to our wonderful support groups, the Military Coalition, the Navy League, the maritime industry, the boating industry and even Coast Guard City USA, Grand Haven, Michigan that's joining us today.

Thank you for always thinking of the Coast Guard and taking care of us in your communities. Thank you to my senior team, the Vice Commandant of the Coast Guard, Admiral Dick Herr.

My senior and strategic advisory group, my Area Commanders and Chief of Staff. And all the flag officers and senior executive service personnel that have turned my vision and goals into an executable business plan that was world class and a model for all in Government to follow.

You are the wardroom of our Coast Guard and have exhibited unparalleled management ability and exceptional leadership. You streamlined the Coast Guard without any loss of service to the American public and made us a model of one of the most efficient Government organizations in history; a quality Agency.

Thank you for that.

Thank you to that great team. We call it Team Coast Guard: active duty, civilian, reservists and auxiliarists. Eighty-three thousand strong working together. You are the real reason that we can live our motto of being always ready.

You've eliminated work place barriers. You've worked together as a family. You've integrated your talents and together made us the premier maritime service in the world. Your selfless service is admired by everybody.

And I'm saddened by the loss of our shipments who have given their lives in these last four years on search and rescue cases so that others may live. We live in a world of perilous operations, and our rescuers deserve the best support that we can give them.

And to all those around the world this morning as we've here at this ceremony who are standing watch, saving lives and serving America, thank you. Thank you to my personal staff, the Commandant's staff and the U.S. Interdiction Coordinator's staff.

No one works harder or is more dedicated than you are, especially the Master Chief Petty Office of the Coast Guard and the Chaplain of the Coast Guard. I thank you.

It's fun to smile with you and travel with you and work with you and to share experiences. As one of you said recently, "We're a really tight group." We certainly are, and I thank you for that.

Thank you to my family. What a wonderfully supportive, loving group of people. You have great accomplishments on your own right, and I'm very proud of all that.

I'm especially proud of my children. Nineteen moves to nineteen different locations.

You've each attended eight different schools. I move three of you during senior years of high school at great personal risk to you socially, athletically, academically; but you're extraordinary.

All graduating from high school with honors, all graduating from college with honors. Now two in law school and one on her way to get her MBA. All tremendous, caring, loving people.

We did it together. Sometimes in the pop-up camper in every national park in the United States between duty assignments, sometimes biking across Glacier National Park, sometimes trying to catch salmon for dinner in Alaska.

To studying calculus at the dining room table so you could pass your exams and putting together your plans for the future, your matrix of life. And thank you for even getting to church on time.

Thank you to my wife Pat. No one I know is more dedicated and loving than you. Every moment, every day, you've been there for all of us. Total selfless support and love. And you've been there for our Coast Guard family as well making sure we take care of all of their needs.

Pat, I hope these flowers will remind you today and always what a great team we've been. I couldn't have done it without you.

Today's state of the Coast Guard is strong because of its people. They are strong. But we've cut back about as far as we can to meet the great challenges of balancing our budget and the mandates for change of a smaller Government at less cost and improved service to the public.

We've done that. We are smaller today than in any time since 1963. And our fleet of aircraft and ships are some of the oldest in the world—37th oldest out of 41 Coast Guards in the world.

I don't feel this speaks well for the greatest nation on earth. Our recapitalization budgets have been half to two-thirds of what they should have been the past ten years.

And we should not put Americans, as well as the Coast Guard who saves them and answers their call for help, at risk by continuing to operate equipment that has reached the end of its service life, some of which we've had since World War II.

It's time to approve the recapitalization of our fleet. Now that the budget is balanced, we can do that. On the other side of that bridge to the 21st century, I see an increasing demand ,for Coast Guard services, and history is making it that way.

Our maritime trade will triple in the next 15 years. Mega ships will require world class ports to come into and discharge their cargo to keep us a globally competitive nation. We need a world class waterways management system in this country.

And Mr. Secretary, I thank you for taking the leadership on that new strategic initiative. There's tremendous pressure on our coastal areas both in environmental protection, use of the waters and for safety.

Our Exclusive Economic Zone is the largest in the world: 47,000 miles of coast line out to 200 miles protected by the Magnuson Act which provided a new 9.3 billion square miles of ocean for the Coast Guard to patrol as a maritime law enforcement agency.

The pressure of our borders is greater than ever from drug smugglers to illegal migrants. We are the land of milk and honey, and no wonder everybody wants to come here.

And operations other than war dominate our national security picture. And in order to do that, we have to work together jointly. Will the Coast Guard be ready for the 21st century? You bet.

This last week, the 21st Commandant of the Coast Guard, Admiral Jim Loy, and his team were putting together the Coast Guard's plans to be Semper Paratus. I know no better leader for the Coast Guard as we enter the 21st century than Admiral Jim Loy.

Jim, Pat and I wish you and Kay great success. You are a great team, and we'll be proud you're at the helm of our Coast Guard.

NATIONAL BONE MARROW PROGRAM GAINS VITAL COMMUNICATION TOOL

HON. JIM McDERMOTT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1998

Mr. McDERMOTT. Mr. Speaker, in 1986 the United States Congress authorized the creation of the National Marrow Donor Program to facilitate successful transplants of hematopoietic cells from volunteer unrelated donors as a form of life saving therapy for people of all racial and socioeconomic backgrounds.

Today, the National Marrow Donor Program is composed of a nationwide network including 114 Donor Centers, 111 Transplant Centers and over 300 affiliated donor centers across the country. Today, bone marrow transplants are increasingly being used to treat a variety of diseases. Over 12,000 unrelated transplants were done worldwide in 1995, and the number is projected to grow at a rate of 20% a year. Bone marrow transplantation is a treatment that has come of age and is responsible for saving thousands of lives every year.

In 1991 Admiral Zumwalt, Jr. created The Marrow Foundation to secure support from private sources for the work of the National Marrow Donor Program. The Foundation's goals are to help increase the size and diversity of the national Registry of donors; to assist people undergoing a transplantation financially as they search for a marrow match; and to support research to improve the understanding and outcome of unrelated marrow transplantation.

This year information about the important work of The Marrow Foundation will be widely disseminated to all health professionals that need it, thanks to an educational grant made by Cell Therapeutics, Inc. (CTI), a Seattle-based biotechnology company. CTI has provided The Marrow Foundation with the grant to publish a quarterly newsletter "Team Marrow." This newsletter will reach a network of over 300 affiliated donor centers, recruitment groups, and transplant and collection facilities, as well as more than 2,500 corporate, foundation and individual contributors who share in the commitment of making marrow transplantation accessible to every person who needs it.

CTI, by virtue of its commitment to cancer research, understands all too well the horrendous side effects of a bone marrow transplant. CTI is devoted to bringing novel therapies to the market that will minimize the infections so frequently experienced by individuals undergoing bone marrow transplants. CTI is presently engaged in several clinical trials collaborations with various centers across the country.

Earlier this month, at a celebration of The Marrow Foundation, Dr. James Bianco, CTI's founder, presented the educational grant to Admiral Zumwalt. Now, every transplant center and affiliated institution will have in hand the most current information about the national donor pool and what is being done to improve our capacity to match every person in need.

TRIBUTE TO MAJ. GEN. ROBERT A. McINTOSH

HON. DAVID L. HOBSON

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1998

Mr. HOBSON. Mr. Speaker, I take this opportunity to recognize and pay tribute to Major General Robert A. McIntosh for his dedicated and exemplary service to this Nation as Chief of the Air Force Reserve and commander of the Air Force Reserve Command. I am very proud to honor this leader from my congressional district in Ohio. General McIntosh served as the principal advisor to the Chief of Staff of the Air Force and to the Secretary of the Air Force on all Air Force Reserve matters. As commander of the Air Force Reserve Command, he had overall responsibility for the command, control, and supervision of all U.S. Air Force Reserve units around the world.

Over the past three and a half years, General McIntosh performed outstanding service and exhibited exceptional commitment to the Air Force Reserve. His in-depth knowledge of Air Force and Reserve Component issues has been a tremendous asset to (1) the Congress when deliberating major national defense matters, (2) the National Security Appropriations Subcommittee and the Military Construction Appropriations Subcommittee—on both of which I serve—when debating complex funding issues, and (3) individual Members of Congress when dealing with reserve units and facilities such as my own 445th Air Force Reserve Airlift Wing at Wright-Patterson Air Force Base. In today's environment of shrinking defense budgets where the Reserve Component plays an increasingly important role, the Air Force Reserve's Ambassador to Congress has consistently championed the contributions and versatility of our citizen-airmen.

General McIntosh, a native of Bellefontaine, Ohio, entered the Air Force in 1966 as a graduate of the Ohio University Reserve Officer Training Corps program, and earned a bachelor of science degree in business administration. He completed the Industrial College of the Armed Force in 1977. A Vietnam veteran decorated for extraordinary aerial achievement and devotion to duty while assigned as an A–37 pilot with the 604th Special Operations Squadron at Bien Hoa Air Base in South Vietnam, General McIntosh separated from active duty in August 1971 to join the air reserve technician program as a full-time civil service employee with active participation as an Air Force reservist.

He is a command pilot with more than 4,000 flying hours in the A–10, A–37, C–130, and F–

4. His military awards include the Distinguished Service Medal, Legion of Merit, Distinguished Flying Cross, Meritorious Service Medal with oak leaf cluster, Air Medal with 18 oak leaf clusters, Air Force Commendation Medal with oak leaf cluster, and Vietnam Service Medal with three service stars. During his distinguished career, he has commanded an Air Force Reserve wing, commanded two Reserve numbered Air Forces, served as the vice commander of the Air Force Reserve, and served most recently in the dual hatted position of chief of the Air Force Reserve and commander of the Air Force Reserve Command.

General McIntosh's outstanding leadership was crucial to the continuing integration of the Air Force Reserve into the total Air Force, culminating in the congressionally directed activation of the Air Force Reserve Command as the service's ninth major command. Through initiatives he sponsored, the Air Force Reserve successfully entered new mission areas including the Reserve instructor pilot program, Space Command Group, Fighter Reserve Associate Test, AWACS, and Combat Camera.

Mr. Speaker, we have been extremely fortunate to work with General McIntosh as Chief of the Air Force Reserve but look forward with much pleasure to continuing to work with him in his new position as the Assistant on Reserve Matters to the Chairman of the Joint Chiefs of Staff. I was one of the House sponsors of the initiative to create a two-star advisor to the JCS and can think of no one who is better qualified or who would set a higher standard for this assignment. It is a well deserved compliment to be selected as the first occupant of this new, challenging position. Bob, and his wife, Suzie, deserve our thanks for their selfless service to the men and women of the Air Force Reserve.

IN MEMORY OF PAUL O'DWYER

HON. THOMAS J. MANTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1998

Mr. MANTON. Mr. Speaker, I rise to commemorate the Honorable Paul O'Dwyer who passed away Tuesday night after a long and distinguished career. Paul O'Dwyer was a great American and a great New Yorker. His many, many friends and colleagues will miss his wit, wisdom, counsel, friendship, and unflinching dedication to the causes in which he believed.

Mr. Speaker, as the son of Irish immigrants, born and raised in New York City, I cannot think of a person, other than my own father, that I admired more than Paul O'Dwyer. Of his many accomplishment over the years, I will remember most his indispensable role in fighting for peace in Northern Ireland. A fight which we all hope is now within reach, thanks to Paul's untiring efforts on the behalf of justice.

Mr. Speaker, it would be impossible for me to adequately describe Paul's legendary career or capture what he meant to those who he cared about, and to me personally, in this extension of remarks. Let me simply say that New York, the United States and, indeed, the world have lost a great statesman and leader, the likes of whom we are unlikely to see again for some time to come.

Mr. Speaker, I ask unanimous consent that today's New York Times' obituary for Paul be placed in the RECORD at this point.

Mr. Speaker, I know my colleagues will join me in offering our condolences to Paul's wife, his children, and the entire O'Dwyer family.

[From the New York Times, June 25, 1998]

PAUL O'DWYER, NEW YORK'S LIBERAL BATTLER FOR UNDERDOGS AND OUTSIDERS, DIES AT 90

(By Francis X. Clines)

Paul O'Dwyer, a spirited liberal voice in New York politics from his immigrant days in the Democratic clubhouse to his glory years as a fiery anti-Vietnam War insurgent, died Tuesday night at his home in Goshen, N.Y. He was 90.

Mr. O'Dwyer had been in failing health from the effects of a stroke and died quietly in his sleep, according to his nephew and law partner, Frank Durkan.

To his deathbed, Paul O'Dwyer, a white-maned, fiercely browed advocate, embraced a raft of minority causes, identifying with indigents and immigrants, progressives and underdogs well beyond America—from the guerrilla fighters for a Jewish home state to the diehard rebels of his beloved Ireland.

Mr. O'Dwyer was an enduring if rarely elected politician who impressed successive generations as an eloquent battler in the name of conscience. Arriving in America at age 18, he labored up from dock work and garment packing to become one of New York's leading defenders of the underclass.

"The ideals should always come first," Mr. O'Dwyer counseled in a long public life steeped in voluntary civil-rights battles and vociferous challenges of the political establishment.

Elected twice to the New York City Council, he seemed more at home in the politics of the outsider. As an Irishman who had lived under British occupation, he heartily joined the ongoing American struggle against prejudice suffered variously by Jews, blacks, women and the very latest immigrant wave.

"Politics is the only machinery around on which you can really straighten things out," he said in his softly unyielding brogue.

A fleet, unapologetic gadfly, Paul was the antithesis of his older brother William, who rose from the police force to become an urbane master of machine politics as Mayor of New York from 1946 until 1950, when scandals shook his administration. The O'Dwyers moved separately on the crest of Irish-American political power before it faded in the city.

Paul O'Dwyer far outlasted his brother "Bill-O" in public life, fighting for the labor movement and embattled immigrants in the 1940's, against McCarthyism and racial segregation in the 50's, and against the Vietnam War in the 60's. In the antiwar movement, he stood as a patriarchal exception in the eyes of young pacifists intent on trusting no one over 30.

"WE WERE CHANGING THIS NATION"

An ally of Senator Eugene J. McCarthy in the successful antiwar challenge to President Lyndon B. Johnson's renomination in 1968, Mr. O'Dwyer scored an upset victory himself in the New York Democratic Senate primary that year, but lost in the November election to Senator Jacob K. Javits.

"We were taking a country engrossed in an immoral war," he declared afterward, pounding the arm of his chair in celebration of that struggle. "We were changing this nation, By God, we did it. We did do it."

He could make a rampart of a legal brief, too, successfully litigating a landmark 1951 fight against the powerful Metropolitan Life Insurance Company. That suit opened the way for blacks to live in Stuyvesant Town, a huge Manhattan housing complex, and presaged an era of desegregation across the nation.

Mr. O'Dwyer honed his courtroom skills suing insurance companies in negligence cases. But his outside interests were his larger life: He successfully defended Kentucky miners accused of blowing up a bridge in a union dispute, just as he won acquittal of a black teen-ager accused of homicide in a New York City riot in the mid-60's. He sued City Hall to force more budget money into public transit for the working class, just as he defended an unpopular union chief during a city garbage collection strike. In 1958, he joined with Eleanor Roosevelt and Herbert H. Lehman, the former Governor, to found the Committee for Democratic Voters, the state party reform movement.

But his outspokenness for minority causes helped deny him a mainstream role in politics. As president of the New York chapter of the National Lawyers Guild, Mr. O'Dwyer was denounced as a radical for angrily challenging Red-baiting assaults on civil liberties by politicians who were intent on searching for Communist leanings among teachers and other government workers.

"When you come from the period of, first, the Depression and then the McCarthy era," he explained, "if you survive that, then you're less likely to be cautious expressing yourself."

Paul O'Dwyer was among the first volunteers litigating in Deep South integration struggles. "It was like a present on Christmas morning," he enthused about his participation. He was also gladly troublesome as a delegate to the 1964 Democratic National Convention, leading the fight to see the black Freedom Democratic party of Mississippi represented. Personally close to a generation of black politicians, Mr. O'Dwyer managed the campaigns of several. He was credited by Mayor David N. Dinkins with salvaging his career by coaxing him back into public life after Mr. Dinkins had earlier been forced to resign a city job because of his failure to file income tax returns from 1969 to 1972.

"As a young person, Impressionable, I almost forget who I was, as the Irish often do here," Mr. O'Dwyer once commented on the roots of his desegregation fervor. "Because you are white you think you will be treated equally. I was corrected by my brothers, who were here ahead of me."

He rued the fading of an era when "Irish Catholic" was synonymous with "liberal Democrat," and told the joke about a tenement clubhouse boss scandalized at the news that O'Brien had turned Republican. "That's a damned lie," the boss thundered. "I saw O'Brien at Mass last Sunday."

As a civil libertarian, Mr. O'Dwyer tapped into vivid memories from his Irish childhood of insurrection against British occupation forces. "The Black and Tans used to drive through the town, shooting it up," he said, recalling the rampages of the British auxiliary police. "It wasn't too different from Mississippi."

DEFENDED BERRIGAN AND BRICKLAYERS

A florid-faced, articulate bantam, Mr. O'Dwyer successfully argued before the Supreme Court for the right of mainland Puerto Ricans to take their voter literacy test in

Spanish. In 1972, he stood in defense of a pacifist group called the Harrisburg Eight, led by the Rev. Phillip F. Berrigan, and won them a mistrial on charges of an anti-Government plot against the Nixon Administration during the Vietnam War.

No less fervidly did he represent uncelebrated sandhogs, hod carriers and warehouse clerks in formative trade union years when, he recalled, "strikebreaking and union-busting remained widespread and brutal." He carried a union card in Local 975 of the International Longshoremen's Association. In 1968, he declined to cross a wildcat picket line outside a television studio when he was a Senate candidate, telephoning the apoplectic interviewer to explain, "These are my people."

Mr. O'Dwyer accepted the role of the city's Commissioner for the United Nations during the Dinkins administration. But soon he was boycotting the U.N. cafeteria for its anti-unionism, and finally resigned so he could speak out against human rights abuses by some of the nations he was supposed to be welcoming.

Born June 29, 1907, in the village of Bohola, County Mayo, in western Ireland, Peter Paul O'Dwyer was the 11th and last surviving child of Patrick and Bridget McNicholas O'Dwyer. They were schoolteachers who raised their family in Ireland's grim potato economy, packed into a rude house without plumbing. He later endowed a home for the handicapped on his family home site.

"I sprang from the 'shabby genteel,'" he once said with a smile, using Eugene O'Neill's qualification for the striving Irish poor. Paul O'Dwyer counted himself fortunate for the high school education he received before having to follow four older brothers to New York in the age-old immigration of young Irish to opportunity.

He soon picked up on the politics of Jefferson and Paine after finding clannish lodgings in Mrs. Maguire's Irish boarding house at West 103d Street and Columbus Avenue in Manhattan. Landing a paying job within two days—a touch of clubhouse patronage via brother "Bill-O"—he moved fast on the classic immigrant's route to betterment through night school, first at Fordham University, then at St. John's Law School in Brooklyn.

So fast did he move that he had to obtain special permission from Chief Judge Benjamin Nathan Cardozo of the New York Court of Appeals to take his bar exam in 1929, four years after arriving from Ireland and two years before he could receive citizenship. In 1931, Paul O'Dwyer became America's newest citizen-lawyer, ringling with the impulses of Thomas Paine. "He sounded simple and logical to my young mind," Mr. O'Dwyer explained.

Anti-Semitism in college fraternities had bonded him to Jewish friends, he recalled in his 1979 autobiography, "Counsel for the Defense." "And the Kings County Young Democratic Club thenceforward was made up of 35 Jewish classmates and me," he noted proudly.

It followed naturally that he was involved in the cause of a Jewish homeland in 1946 by arranging for the illegal entry of Holocaust survivors to Palestine and by aiding the gun-running operations of the Irgun militants fighting the British in the Holy Land. The next year, as chairman of the Lawyers' Committee for Justice in Palestine, he pleaded at the United Nations for Israeli soverelghty.

Successfully defending an admitted Jewish gun-runner in New York in 1948, Mr. O'Dwyer told the court, "He was only doing what every other freedom-loving person would be doing."

As a lawyer, Mr. O'Dwyer became a principal in one of the city's flagship immigrant law firms, O'Dwyer & Bernstein. He began as a clerk to Oscar Bernstein and worked his way to senior partner. From the firm's offices in the financial district, Mr. O'Dwyer helped build the business but found time for assorted challenges to social injustice, typically without fee. He soon was respected as one of the city's sharper-tongued liberals.

"If I thought at the end of the year that all I did was make a living, I'd regard it as a pretty incomplete year," he said of his rich life as an agitator within the system.

"If I've had any success at all, it's been in large measure from listening to young people," said Mr. O'Dwyer, whose eagle-like visage—a darkeyed glare and shock of prematurely white hair—stood out in the thick of any battle.

LEADING A WELCOME FOR GERRY ADAMS

Even in decline he stayed keen for political justice. In 1994, he beamed from a wheelchair and led the welcoming cheers when Gerry Adams, the Northern Irish republican political leader, was finally allowed into the United States to plead his grievance against Britain. Mr. O'Dwyer was the national coordinator for the American League for an Undivided Ireland.

He ran 12 times for elective office in campaigns noteworthy for thread-bare war chests and life-liberal agendas, daring to call for decriminalizing drug addition in one. His two successes were in 1963, as Councilman at Large in Manhattan, and 1973, as City Council President, a post in which he made sure to alter the city's official founding date from 1664, when the British landed, to 1625, when Dutch settlers arrived. In six total years in office, he instigated numerous causes, including an uphill battle in 1965 to raise the city's minimum wage to $1.50 an hour.

Mr. O'Dwyer's abiding comfort was in the good fight. Losing to Carol Bellamy in a 1977 bid to remain Council President, he said "I fought for a lot of civil rights 25, 35 years ago, including women's rights, and I'm in poor shape to complain if I find myself in the way of the machinery that I myself helped set in motion."

He offered a decidedly Irish smile of bemusement when critics focused on his antiwar activity and tried to dismiss him as a single-issue politician.

"The one issue is fair play over the period of a lifetime," Mr. O'Dwyer amended.

His wife of 45 years, the former Kathleen Rohan, died in 1980. In 1984 he married Patricia Hanrahan, then the upstate chief of Gov. Mario M. Cuomo's women's division. She survives him, along with four children from his first marriage: William, of Albany; Roy, of Fort Lauderdale, Fla; Brian of Manhattan, and Eileen O'Dwyer Hughes of New York. He had eight grandchildren and three great-grandchildren.

Mr. O'Dwyer long tried to persuade his wife, Patricia, to restake the family flag in elective politics. She finally agreed this year, and he lived to see her running for the 95th State Assembly District in Orange County, true to his favorite line of Yeats:

That I may seem, though I die old,
A foolish, passionate man.

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 1999

SPEECH OF

HON. ROBERT B. ADERHOLT

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 22, 1998

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 4060) making appropriations for Energy and water development for the fiscal year ending September 30, 1999, and for other purposes:

Mr. ADERHOLT. Mr. Chairman, I rise today in support of H.R. 4060, the Energy and Water Development Appropriations Act for Fiscal Year 1999, and for the hard work of Chairman McDADE and Ranking Member FAZIO. Although the allocation is tight, they managed to craft a bill that reverses the irresponsible cuts in the budget for the Army Corps of Engineers and other infrastructure projects that are so important to this nation. However, I am concerned about the lack of funding for the non-power programs administered by the Tennessee Valley Authority (TVA).

Since its creation in 1933, TVA has had two responsibilities in the Tennessee Valley: produce electric power; and to provide flood control, navigation, and manage aquatic vegetation growth along the Tennessee River and its tributaries. Many people in Washington today confuse the non-power programs with the larger issue of electric utility restructuring.

I realize that last year the House decided to eliminate funding for non-power programs because the Chairman of TVA, Craven Crowell, announced in early 1997 that TVA would forgo non-power programs to concentrate on the production of electric power. The residents in the Tennessee Valley and the state and local governments expressed a strong desire for TVA to continue its traditional non-power programs.

Under the agreement reached last year between the House and the Senate, TVA is scheduled to receive no funding for these important programs in Fiscal Year 1999. However, the Senate has included $70 million for the programs, and I am hopeful that when the Energy and Water bill goes to Conference, the House will reconsider funding the non-power programs for Fiscal Year 1999. Until there is an alternative with a clear transition, it is imperative that TVA continue these programs through the appropriations process. The ratepayers of my Congressional District, and throughout the Tennessee Valley, deserve no less.

THE SENIOR CITIZENS PROTECTION ACT

HON. RICK LAZIO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1998

Mr. LAZIO of New York. Mr. Speaker, I rise today to introduce a bill, H.R. 4155, to cut fraud and abuse in our Medicare system, restore balance in our health care system, and give us all a better quality of life. Federal, state, and local governments need more tools at their disposal to crack down on rampant health care fraud. Congress needs to empower law enforcement to preserve and protect Medicare, decrease the crime rate, and let each and every one of us feel safe and secure in our retirement years.

The Health and Human Service's Office of the Inspector General recently released startling information on their audit of the Health Care Financing Administration (HCFA). According to the audit, the Medicare Program lost $20 billion in fraud and improper payments in Fiscal Year 1997. What is unconscionable is that only $4 billion was recovered!

A recently published *"Focus Group Study of Medicare Insurance Counselors"* found that most officials believe a significant amount of fraud exists and continues to undermine the Medicare program. In the study, many experts said HCFA took no action after being notified of fraud. The May 1998 study further cited that HCFA did not have adequate systems and procedures in place to root out fraud.

A major reason health care fraud is at historic levels is because current law bars state officials from even investigating suspected fraud in the Medicaid. This creates an enforcement gap because an entity defrauding Medicaid is often linked to fraud in other federal health programs.

An example from my district on Long Island illustrates this predicament perfectly. A provider was suspected of defrauding Medicaid. The state and its Medicaid Fraud Control Unit began an investigation. That investigation spilled over into allegations of Medicare fraud and the state could not investigate because it lacked the requisite authority. Despite repeated requests from the state, the federal government did not investigate or prosecute the allegations. While the state was trying to wrest control of the investigation from the federal government, the provider billed nearly $2 million. If the state had the power to investigate, some fraud could have been stopped and stolen money would have been recovered and returned to the government coffers.

My bill, the Senior Citizens Protection Act of 1998, will empower the states and their Medicaid Fraud Control Units by allowing them to investigate Medicare fraud cases when Medicaid fraud has been alleged.

A second reason health care fraud remains unchecked is because current law prohibits states from investigating patient abuse in assisted living and residential-care facilities. Currently, a state only has the authority to investigate patient abuse in facilities that receive Medicaid reimbursement, usually nursing facilities. Yet today, more and more of our friends and family reside in assisted living and other residential-care facilities. Normally, federal and local governments do not investigate suspected patient abuse in these non-traditional health care facilities and the state lacks the power to delve into these cases. The result is a high number of cases falling through the cracks.

My bill would authorize the states and the Medicaid Fraud Control Units to investigate these patient abuse cases in long-term care facilities.

The government should be doing more—much more—to combat fraud and abuse. "White collar" crimes in the health care industry can be stopped. The Senior Citizens Protection Act requires coordination of anti-fraud efforts, keeps our senior citizens safe, returns all recoveries to the federal government, and does not cost the federal government anything!

Our government should be given all the tools necessary to combat fraud in our health care system and give Americans the peace of mind that their moms and dads are well cared for in their retirement years. We need to ferret out providers who rip off the system, and Americans need to rest comfortably at night knowing our family members and friends receive the highest quality health care without the fear of being physically, mentally, or financially abused. I urge my colleagues to support the Senior Citizens Protection Act of 1998 because it will provide health care security to our seniors and restore their trust in the people who care for them from morning until night.

A TRIBUTE TO ROY LAURENCE

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1998

Mr. LIPINSKI. Mr. Speaker, I rise today to pay tribute to an outstanding Senior Citizen of my district, Mr. Roy Laurence.

Roy Laurence, of Indian Head Park, Illinois, has displayed tremendous effort and involvement toward the betterment of many of the members of his community. In the opinion of this Congressman, he has indubitably merited the award of Senior Citizen of the Year.

In recent years he has been extremely involved with many not-for-profit organizations within the third district of Illinois. His activities have included the position of commander of the Robert E. Coulter Jr. Post, American Legion.

In 1996 I worked cooperatively with Mr. Laurence in planning and executing the Jubilee Medal awards program for the veterans of the June 4, 1944, Normandy Invasion. This opportunity allowed me to personally witness the heart and soul that Mr. Laurence has given to each and every one of his involvements.

Mr. Laurence has also expressed a sincere concern for the development of the youth of America. He has chaired committees for both the Boys State Program and the Lincoln's Challenge Program. During his chairmanship for the Boys State Program he personally sought outside funding in order that as many young men as possible receive assistance with their educational development. The Lincoln's Challenge Program, a Defense Department initiative designed to keep youth's in school, has made significant strides and continued to inspire educational development, in large part, due to the resilient involvement of Mr. Laurence.

I hope you will join with me in recognizing this devoted senior's hard work and effort toward his community as a whole.

TRIBUTE TO ELVERA BERGEN

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1998

Mr. PAYNE. Mr. Speaker, I would like to take a moment to pay tribute here in the U.S. House of Representatives to a very special person who will be honored this week in my home district in New Jersey, Sister Elvera (Vera) Bergen.

Sister Bergen has served as the organist for Ebenezer A.M.E. Church in Rahway for over 37 years, performing a true "labor of love" as she has shared her wonderful oratory and musical talents to enrich the spiritual lives of countless members of the community. A member of the First Baptist Church of Cranford, New Jersey and an affiliated member of Ebenezer A.M.E., she is widely admired and appreciated for her devotion to the church and its members. It is fitting that we recognize the accomplishments of this caring and generous woman who has meant so much to us in New Jersey.

I am sure that my colleagues here in Congress join me in congratulating Sister Bergen as she is honored on June 27th, and in wishing her many more productive and fulfilling years.

PERSONAL EXPLANATION

HON. ASA HUTCHINSON

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1998

Mr. HUTCHINSON. Mr. Speaker, during Roll Call Vote #265, agreeing to H. Res. 484, providing for the consideration of H.R. 4103, making appropriations for the Department of Defense for FY 1999, I was unavoidably detained. Had I been present, I would have voted "aye."

HONORING BRYAN BARDIN OF ST. PETERSBURG, FL FOR HIS AWARD WINNING TRIBUTE TO HIS GRANDMOTHER

HON. C.W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1998

Mr. YOUNG of Florida. Mr. Speaker, during the observance of "Older Americans Month," the Tampa Bay Regional Planning Council's Area Agency on Aging, in cooperation with the Pinellas County School Board, sponsored an essay contest in which young students were asked to write about their favorite older person.

Bryan Bardin, an 11-year-old student at Bay Vista Fundamental School in St. Petersburg, Florida, was awarded first place for his essay honoring his grandmother, Mary Aucremann. This outstanding essay was published in The St. Petersburg Times and I would like to share it with my colleagues today. Not only do I commend Bryan for his writing, but I also thank his grandmother for being such a great inspiration to her grandson and to each of us who learn of her good works through his words.

BRYAN BARDIN, 11, FIRST PLACE

It's almost as hard to find a Good Samaritan as it is to find a needle in a haystack. By definition, Good Samaritans are ready to give a helping hand, do for others before doing for themselves and set a good example. I think my grandma is a true Good Samaritan. She is always giving of her time and energy, she sets a good example all the time, and she has the biggest and kindest heart of anyone I know.

My grandma Mary Aucremann (Granny) is a very busy person. If you were to graph how she spends her time using a pie chart, you would find there is only a small slice left for herself. She takes Meals on Wheels dinners to people she doesn't even know. She volunteers some of her time at Cedarkirk, our church camp, repairing anything that needs to be fixed. Some of her time goes to her friends who need her to help them with their errands or problems.

A large slice of her time is used helping us, her family, with our projects, problems and periodic puppy demands. For example, we went to Michigan last year, and Granny was able to pet-sit our three hamsters and our dog. She had to take our dog, Zoe, out three times a day and feed her once a day. She also had to feed and clean all of the hamsters. This sounds easy, but it rained 90 percent of the time. Zoe got as dirty as a pig that had rolled in the mud. So Granny had to give her a bath. Even though all this happened, I think she will do it again this year.

I look up to many people, but Mom says Granny is the best role model for anyone. Like the Boy Scout oath, which says, "To keep myself physically strong, mentally awake and morally straight," Granny exercises regularly to keep "physically strong." When she turned 60, she went back to school to learn accounting so she could do the taxes of her children and anyone else who needs help. This keeps her "mentally awake." Granny is a Christian and lives by the Bible to keep herself "morally straight." My grandma loves to keep busy by square- and line-dancing. I love her and I love being with her.

Granny has the absolute biggest heart I've ever seen. I think her heart is what holds the family together. She's always there for me and probably everyone else in the world! She loves everything and everyone she comes across. Once, Granny, my mom and I went to Sam's for some food; Granny saw a calendar full of cute puppy pictures and cried over it.

She also comes to all of our school, Scouts and other events. For example, she and my grandfather, Poppop, came to look at my science fair open house, my music concert and my spaghetti dinner. They also came to the Great American Teach-In.

Very recently, Granny had open-heart surgery. We all missed her turkey for Thanksgiving, even though my mom's turkey wasn't that bad. I still don't understand why the doctor had to fix Granny's heart; it seemed fine to me.

I love my Grandma, my true Good Samaritan, good role model, always giving, bighearted, kind and loving grandmother. Even if her heart was broke one time, it was, is and will always be perfect to me.

INTRODUCTION OF THE MILITARY RETIREE HEALTH FAIRNESS ACT 1998

HON. HENRY BONILLA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1998

Mr. BONILLA. Mr. Speaker, today I am introducing along with my colleague from Washington State, Mr. DICKS the "Military Retiree Health Fairness Act of 1998". This bipartisan bill is an important step in keeping our promises to military retirees. Specifically, this legislation will make sure that all military retirees have the opportunity to participate in Tricare Senior Prime, by waiving penalties for late enrollment in Medicare Part B. Without such relief those most dependent on the military medical system may well see their access reduced.

Medicare Subvention will allow military retirees to receive the health care they were promised by having Medicare reimburse DOD for care provided to Medicare eligible beneficiaries at DOD facilities. Retirees will be able to continue using the same physicians they have always relied and depended upon. Current law mandates that retirees who had counted on using the military health care system and did not enroll in Medicare Part B will be denied the opportunity to participate. Without change, these individuals would have reduced access to DOD health services due to Tricare Senior Prime participants increased use of the system.

The "Military Retiree Health Fairness Act of 1998" makes sure all military retirees have the opportunity to participate in Tricare Senior Prime. The "Military Retiree Health Fairness Act of 1998" waives the penalties for those who do not have Medicare Part B, but would like to participate in Tricare Senior Prime. We can not allow our military retirees to be neglected. I urge my colleagues to join me and cosponsor this worthy legislation.

INTRODUCTION OF H.R. 4149 "THE FOREST SERVICE COST REDUCTION AND FISCAL ACCOUNTABILITY ACT OF 1998"

HON. ROBERT SMITH

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1998

Mr. SMITH of Oregon. Mr. Speaker, a year-and-a-half ago the Committee on Agriculture convened a hearing in Sunriver, Oregon to discuss deteriorating conditions in the Eastside forests of Oregon. That meeting marked the beginning of what has since become an intensive national inquiry into the way the Forest Service is managing our National Forest System.

Since the meeting in Sunriver, the Committee on Agriculture has held ten hearings to examine the performance of the Forest Service. From the first six of these the Committee learned that forest health and productivity throughout the country is deteriorating due to a decline in active forest management—management that is necessary to provide high quality recreation experiences, maintain a well-functioning rural transportation system, sustain the integrity of watersheds, improve fish and wildlife habitat, protect timber stands from the devastating effects of unnatural fire, insect and disease activity, and provide an adequate supply of forest products to the American public. Recreationists, wildlife advocacy groups, environmentalists and forest products companies from every quarter have testified that the agency is achieving fewer outputs per dollar spend now that in any other time in its history.

This information has prompted the Committee to take a more detailed look at how the Forest Service manages its annual appropriations, trust funds and off-budget accounts to determine the correlation between fiscal management and resource management. This inquiry has revealed some rather troubling findings, including the following:

In 1995, the USDA Inspector General gave the Forest Service a failing grade on its annual financial report saying that it could not certify that the data contained in the report was accurate. The Forest Service has failed to produce an acceptable financial statement since then.

A total of at least 10 separate General Accounting Office reports have been published in recent years documenting the mismanagement of taxpayer dollars by the Forest Service.

The Forest Service claims to have a $10.5 billion road reconstruction backlog. Yet, thirty-two percent of the agency's road construction and reconstruction program costs are overhead. The FY99 budget request asked for $26.5 million for road reconstruction while requesting $31 million for overhead.

The Forest Service presently charges over 27% overhead to the off-budget accounts it uses for reforestation, brush disposal, and other site restoration associated with federal timber sales. Overhead charged to these funds has increased by 80% over the last five years.

Presently 31% of the total costs of the federal timber sale program is overhead. These costs are in addition to the cost of project planning and implementation, environmental documentation, litigation, and other costs. By way of comparison, in 1996 the Forest Service reports that it spent $5 million on timber sales litigation, $54 million on environmental documentation, $123 million on timber sales preparation and over $200 million on overhead.

The Forest Service does not currently have a system in place to adequately track the costs associated with the programs it administers. Consequently, inefficiency and escalating overhead is the rule within the agency rather than the exception.

Inevitably, each dollar spent on overhead or lost to inefficiency is a dollar not spent on active forest management. In short, rather than spending more money to deliver quality goods and services to the American taxpayer, the Forest Service is spending more money to support wasteful management and line the pockets of bureaucrats.

Some in Congress argue incorrectly that the solution to the problems I have outlined is to simply eliminate those programs the agency does not efficiently administer. This is the position, for example, of those who advocate eliminating the federal timber program.

This approach, however, ignores rather than solves the problem and is ultimately unfair to national forest constituents. If Congress were to eliminate every Forest Service program plagued by waste and inefficiency then, in the end, we would be forced to eliminate all of them. The big losers under this way of thinking are the millions of tax paying Americans who use our forests for a variety of purposes every day.

When government misbehaves, Congress' objective should be to discipline the government, not punish the people it is supposed to serve. That is why I have introduced the Forest Service Cost Reduction and Fiscal Accountability Act of 1998.

This legislation will require the agency to reduce costs, limit overhead, and be more accountable to Congress and the taxpayer. Specifically, the bill will do five things:

1. Require the Forest Service to account annually for the costs associated with all of the programs it administers by moving to an "all resources" financial reporting system.

2. Impose limitations on the overhead the agency may charge to off-budget funds.

3. Require the Forest Service to fully disclose in each year's budget request the amount of overhead implicit in each budget line item.

4. Require the Forest Service, in cooperation with the General Accounting Office and USDA Office of Inspector General, to develop a five-year strategic plan for identifying and reducing overhead and unnecessary costs.

5. Require periodic GAO audits of the implementation of the strategic plan and corresponding reports to Congress.

I invite my colleagues in the House of Representatives to join me in quickly moving this bill toward final passage on the House floor.

The Forest Service Cost Reduction and Fiscal Accountability Act of 1998 will produce less waste, greater efficiency, and make more dollars available for active on-the-ground management. It is a good government solution for what ails the Forest Service without unfairly penalizing forest constituents. In sum, it is a win for the good forest management, a win for the Forest Service and, most importantly, a win for the millions of Americans who live, work and recreate in our national forests every day.

INTRODUCTION OF THE MINORITY COMMUNITY TOBACCO REDUCTION ACT

HON. BENNIE G. THOMPSON

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1998

Mr. THOMPSON. Mr. Speaker, today more than fifty Members of the Congressional Asian Pacific Caucus, Congressional Black Caucus, Congressional Hispanic Caucus, and the Congressional Native American Caucus joined with a number of other Members of Congress in introducing legislation to address the disproportionate levels of tobacco use and tobacco related disease in the minority community.

The "Minority Community Tobacco Reduction Act" was developed to address the absence of minority initiatives in national tobacco legislation and to reverse the disturbing effects of the tobacco industry's targeting of minorities. The three main priorities of the bill are: 1. Funding for tobacco-related prevention activities in the minority community; 2. Research on tobacco's effects on minority populations and the best means to reduce tobacco use in the future; and 3. Transition assistance for small, community-based events and activities which can no longer be sponsored by the tobacco industry.

Without these provisions, guaranteeing reductions in youth smoking among all sectors of the American population will be impossible. Moreover, many of the bills introduced in Congress mandate a substantial increase in tobacco prices that will result in a regressive tax increase on low-income minorities if national tobacco legislation does not include efforts to reduce tobacco use among both minority youth and adult smokers.

The Minority Community Tobacco Reduction Act will ensure that new cessation, prevention, research, or education programs, administered by federal agencies or state health departments (which will be funded through federal block grants), are supported in the minority community based on the minority group's percentage of the smoking population. In addition to funding these initiatives at an adequate level, the legislation assures this historic opportunity to prevent tobacco from further harming the minority community is not squandered. By providing the Deputy Assistant Secretary for the Minority Health with a role in coordinating the minority tobacco activities of the Public Health Service and approving state applications for block grant funds, a sufficient degree of accountability and organization will be established to produce genuine results.

The minority caucuses' legislation also makes $1 billion of the funds made available by national tobacco legislation for conducting badly needed biomedical, child health, and tobacco-related research at minority education institutions across the nation. Finally, the Minority Community Tobacco Reduction Act funds treatment of tobacco-related diseases at community health centers and provides transition assistance to small, community-based events, activities and publications sponsored by the tobacco industry in the past but may no longer receive advertising dollars as a result of bans included in national tobacco legislation.

Despite last week's defeat of tobacco legislation introduced by Senator JOHN MCCAIN, it is imperative that Congress continue to work toward enacting comprehensive national tobacco legislation that President Clinton will be willing to sign. The bill introduced by members of the minority caucuses today offers substantial policy initiatives that any genuinely comprehensive national tobacco legislation must include.

Minority populations have suffered from disproportionately higher rates of tobacco use and tobacco-related diseases as a direct result of the tobacco industry's targeting. The Surgeon General's report released last month entitled "Tobacco Use Among U.S. Racial/Ethnic Minority Groups" found that Native Americans and African Americans have the highest smoking rates of any ethnic group. Hispanic youth have smoking rates which have almost overtaken those of white youth, and many Asian American/Pacific Islander sub-populations display frighteningly high rates of tobacco use. Minority populations also consistently display the highest rates of tobacco-related diseases, particularly lung cancer.

According to a report recently released by the Centers for Disease Control, these trends of tobacco use in the minority community are likely to worsen. The report found that smoking rates among African American and Hispanic high school students increased by 80 percent and 34 percent, perspectively, from 1991 through 1997.

While the legislation introduced today by the members of the minority caucuses is a stand-alone bill, its provisions are designed to be included in more comprehensive national tobacco legislation.

The Members of Congress who support the Minority Community Tobacco Reduction Act look forward to working with the Republican and Democratic leadership as well as President Clinton to enact national tobacco legislation this year that will take positive steps toward fighting tobacco use in every American household.

The Minority Community Tobacco Reduction Act is the culmination of almost a year of historic cooperation between the minority caucuses. I am proud of the final product, and would like to thank the dozens if not hundreds of people who have participated in its development. In particular, I would like to thank the following congressional staffers who have spent countless hours working on this bill: Adam Gluck, Alysia Davis, Angela Vincent, Ann Jacobs, Bobby Vassar, Brenda Pillors, Charles Dujon, Charles Stephenson, Claudia Pharis, Curt Clinton, Danny Cromer, Darlene Taylor, David Sutphen, David Wildes, Deborah Spielberg, Edward Jackson, Esther Aguilera, Emilie Milne, Fred Turner, Fredette West, Howard Moon, James Williams, Jennifer Leach, Jessica Diaz, John Schelble, Jon Alexander, Joyce Brayboy, Heather Hale, Kate Emanuel, Keith Stem, Ken Keck, Kenya Reid, Kerry McKenney, Kim Alton, Kim Richan, Kimberly McAfee, Kimberly Teehee, Kirra Jarratt, LaTario Powell, Larry Dillard, Leah Allen, Liz Powell, Lucy Hand, Marcus Mason, Marie McGlone, Marsha Mccraven, Minnie Langham, Oneki Dafe, Paul Cunningham, Richard Boykin, Ronnie Simmons, Rory Verrett, Samara Ryder, Sean Peterson, Sheila Harvey, Sherry Newton, Susan Rosenblum, Tammy Boyd, Tambi McCollum, Terri Schroeder, Todd Gee, Tom McDaniels, Tony Vance, Ufo Eric-Atuanya, Walter Vinson, and Yelberton Watkins.

I would also like to thank Peter Goodloe from the House Legislative Counsel's office for his assistance in drafting our seemingly endless modifications. Without his expertise, this legislation would never have been prepared in time for introduction today.

PERSONAL EXPLANATION

HON. DIANA DeGETTE

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1998

Ms. DEGETTE. Mr. Speaker, on June 24, I inadvertently voted "no" on rollcall 261. It was my intention to vote "yes".

INTERNATIONAL IMPLICATIONS OF SCHOOL-TO-WORK PROGRAMS

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1998

Mr. HYDE. Mr. Speaker, one of the nation's experts on education, D.L. Cuddy has written an important article I would like to bring to my colleagues' attention.

THE NEW TRANSATLANTIC AGENDA

(By D.L. Cuddy)

In the U.S. Congress, Rep. Henry Hyde has been warning people about school-to-work (STW) education initiatives, and Senator John Ashcroft has amended the Workforce Investment Partnership Act now being discussed to prohibit its funding of STW. At the state level, N.C. Rep. Don Davis is chairing a House Select Committee for Federal Education Grants, which has been investigating STW grants among others, and invited Richmond Times-Dispatch op-ed editor Robert Holland to address the Select Committee on this subject.

While the implications of STW at the state and national levels have been widely debated, not much has been written about the international connections. On May 18, the White House released a statement at the conclusion of the U.S.-European Summit in London, indicating that "through the New Transatlantic Agenda (NTA), created in 1995, the United States and the European Union have focused on addressing the challenges and opportunities of global integration."

One part of this "global integration" in 1995 was the agreement between the U.S. and the European Community establishing a cooperation program in higher education and vocational education and training. The agreement, signed December 21 of that year, called for "improving the quality of human resource development . . . Transatlantic student mobility, . . . and thus portability of academic credits." In this regard, a Joint Committee would reach decisions by consensus.

As part of the NTA, the U.S. and European Union then convened a major conference, "Bridging the Atlantic: People-to-People Links," on May 5-6, 1997 calling for "thematic networks for curriculum development," and further stating that in an information-based global economy, "governments too are obliged to adapt their economic, training and social welfare programs." The conference final report noted that in the U.S., ACHIEVE has been one of the organizations at the forefront of defining key issues in this regard and developing strategies to address them. ACHIEVE has been measuring and reporting each state's annual progress in establishing Internationally competitive standards, and business leaders involved have indicated their commitment to consider the quality of each state's standards when making business location or expansion decisions.

The "Partners in a Global Economy Working Group" of the conference discussed "what redesigning of curricula is required . . . (i.e. what career skills are needed), . . . portability of skill certificates, . . . and institutionalizing cross-national learning/training activities."

Most people debating STW in the U.S. are familiar with the role of Marc Tucker, president of the National Center on Education and the Economy. He's also on the National Skill Standards Board (NSSB), and on its website under international links, one finds "Smartcards Project Forum," under which one reads: "The Tavistock Institute and the European Commission are working on a feasibility study to research the affect of using Smart Cards in competence accreditation. The study will be carried out in the USA and parts of Europe." The project involves assessing and validating students' skills, with information placed on personal skills Smartcards, which "become real passports to employment."

If without a passport one cannot enter a country, does this mean that without a skills passport one may not be able to get a job in the future?

In October 1997, the Tavistock Institute (and Manchester University) completed the final report for the European Commission, and described in a report summary were the relevancy of Goals 2000, SCANS (U.S. Department of Labor "Secretary's Commission on Achieving Necessary Skills") typology with its "profound implications for the curriculum and training changes that this will require," valid skills standards and portable credentials "benchmarked to international standards such as those promulgated by the International Standards Organization (ISO)."

The report summary went on to say that "there is increasing attention being focused on developing global skill standards and accreditation agreements," and there will be "partnerships between government, industry, and representatives of worker organizations . . . (and) a high degree of integration . . . embedding skills within the broader context of economic and social activity, and specifically within the areas of secondary education, work-based learning and local and regional economic development. . . . The NSSB, Goals 2000, STW Program are all combining to act as a catalyst to promote the formation of partnerships to develop skills standards. In this regard, a system like O*Net can be seen as the 'glue' that holds everything together."

O*Net is a new occupational database system sponsored by the U.S. Department of Labor's Employment and Training Administration, and is being piloted in Texas, South Carolina, California, New York and Minnesota. It includes information such as "Worker Characteristics" (abilities, interests and work styles) and "Worker Requirements" (e.g., basic skills, knowledge and education).

INTRODUCTION OF THE CRIMINAL WELFARE PREVENTION ACT, PART III

HON. WALLY HERGER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1998

Mr. HERGER. Mr. Speaker, I rise today to announce the introduction of "The Criminal Welfare Prevention Act, Part III"—the third in a series of legislative initiatives I have sponsored to help cut off fraudulent federal benefits to prisoners in state and local jails.

Because of the original "Criminal Welfare Prevention Act"—legislation I introduced during the 104th Congress which was enacted as part of welfare reform in 1996—an effective new incentive system is now in place that enables the Social Security Administration (SSA) to detect and cut off fraudulent Supplemental Security Income (SSI) and Social Security (OASDI) benefits that would otherwise be issued to prisoners. That provision established monetary incentives for state and local law enforcement authorities to enter into voluntary data-sharing contracts with SSA. Now, participating local authorities can elect to provide the Social Security numbers of their inmates to the Social Security Administration. If SSA identifies any "matches"—instances where inmates are fraudulently collecting SSI benefits—SSA now cuts off those benefits and the participating local authority receives a cash payment of as much as $400. Participation in these data-sharing contracts is strictly voluntary; they do not involve any unfunded federal mandates. According to a recent estimate by SSA's Inspector General, this initiative could help save taxpayers as much as $3.46 billion through the year 2001.

Mr. Speaker, on June 4th of this year, the House passed my follow-up legislation, "The Criminal Welfare Prevention Act, Part II." This proposal would encourage even more sheriffs to become involved in fraud-prevention by extending the $400 incentive payments to intercepted Social Security (OASDI) checks as well. This provision—included as Section 7 of "The Ticket to Work and Self-Sufficiency Act"—is now awaiting action in the Senate.

Despite this important progress, Mr. Speaker, our work is still not complete. In addition to establishing the new system of monetary incentives, the original Criminal Welfare Prevention Act also authorized the SSA to share the agency's augmented prisoner database with other federal agencies so that similar inmate fraud could be prevented in other federal and federally-assisted benefit programs. In April of this year, President Clinton issued an executive memorandum directing the SSA to act on its newly-granted authority and to make its database available by November 1st. This action, if faithfully executed, could potentially uncover a tremendous number of fraudulent benefit checks that would otherwise be issued to prisoners by the Departments of Agriculture, Education, Labor, Veterans' Affairs, and others. In fact, according to Administration estimates, this could save taxpayers an additional $500 million over five years.

Mr. Speaker, I want to take this opportunity to congratulate the President for joining this important fight against fraud in our nation's federal programs. However, because fraud prevention has not historically been a top priority at the SSA, I believe that Congress should nonetheless move to codify this administrative action into law.

The Criminal Welfare Prevention Act, Part III is quite straightforward. It would simply require the SSA to share its prisoner database with other federal departments and agencies to help prevent the continued payment of other fraudulent benefits (i.e., food stamps, veterans' benefits, education aid, etc.) to prisoners. I would urge all of my colleagues—on both sides of the aisle—to cosponsor this important legislation and to remind criminals that crime isn't supposed to pay.

INTRODUCTION OF REMEDIAL ANCSA SETTLEMENT TRUST LEGISLATION

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1998

Mr. YOUNG of Alaska. Mr. Speaker, today I am pleased to introduce legislation which will enable Alaska Native Settlement Trusts to achieve the goals envisioned for them by the Congress in the original authorizing legislation: to encourage Alaska Native Corporation to use their own assets to provide segregated, protected funds to "promote the health, education, and welfare of . . . (Settlement Trust) beneficiaries and preserve the heritage and culture of Natives." Settlement trusts have been impeded from achieving the laudatory goals originally envisaged because of deficiencies in the original legislation and impediments arising from certain IRS interpretations as well as inflexibility in current tax administration with regard to the trust.

In recent years I have written to the Chairman of the Ways and Means Committee informing him that what has started as a simple proposition, promoted by Congress in the Settlement Trust legislation—to provide aid from a protected source to Alaska Natives who often have very little in other available assets to sustain them and in particular in their retirement years—had become a complex and bewildering situation which frustrated the use of the settlement trust provisions in law. This result stems from an IRS interpretation calling for the immediate taxation to potential beneficiaries when these trusts are established by Alaska Native corporations which have earnings and profits, as opposed to taxation when the money is actually received by the beneficiaries. Put simply, in the case of some beneficiaries, particularly the elderly, who have to prepay taxes in order to receive their benefits and, if they die prematurely, they will not even receive the amount of their prepaid taxes back. Needless to say, this is a substantial impediment to setting up and continuing such beneficial trusts.

But those Native corporations having favorable tax situations which enable them to make contributions to trusts which are not immediately taxable to their beneficiaries face other impediments. The IRS has taken the position that there is no authority to withhold tax from beneficiary payments, which prevents a simple way for a Native to pay his or her tax. The IRS requires that trust reporting to beneficiaries be accomplished via the complex so-called "K-1" form as opposed to the simple 1099 form, so familiar to most of us. As you can imagine, the requirement to use the former, particularly in rural areas in the state of Alaska where accountants may not be readily available, presents major reporting problems. We believe the IRS internally has been supportive of such a change but has advised in the past that it would need to be accomplished by statute.

Finally, the original authorizing legislation failed to provide a mechanism to encourage sustaining the longevity of these trusts dedicated to the goals enumerated. Such trusts are currently treated as regular trusts and penalized for accumulating income with an assessment of the highest marginal tax rate. Accordingly, from the standpoint of a settlement trust, it currently makes good tax sense to distribute all income to the beneficiaries rather than leaving it to be taxed at the current trust tax rate. This, however,does not make good social sense and encourages the opposite result one would envision for these entities, whose goal is to sustain the funds on a long-term basis in order to fulfill the objective envisioned for Settlement Trusts.

Accordingly, Mr. Speaker, Congressman MILLER and Congressman HAYWORTH, and I are today introducing legislation today which will rectify these problems and facilities settlement trusts functioning in a manner more in keeping with the underlying goals of the Alaska Native Claims Settlement Act. In general, this legislation provides that:

1. Contributions to settlement trusts will not result in immediate taxation to beneficiaries. In the case of ANCSA corporations which have earnings and profits at the time of transfer, any and all distributions from the trust of either principal or interest, will be taxable as ordinary income to the beneficiaries when received up to the amount which would have been subject to taxation under present IRS rulings. This replicates the taxation presently imposed by the IRS but delays it from the establishment of the trust to the distribution to beneficiaries, which is clearly the proper point of taxation. It should be noted that currently, the distribution of principal is not taxable. This provision provides for the taxation of such distribution as part of the overall balance worked into the bill.

2. A settlement trust will be able to defer taxation of up to 45% of its current income in order to "inflation proof" and not dissipate the principal. However, when this deferred income is ultimately distributed to beneficiaries, they will be taxes at ordinary income rates rather than at more favorable capital gains rates or, in some cases at present, not taxed at all.

3. Beneficiaries of settlement trusts will be able to have up to 15% of their distributions by the trust withheld to satisfy their anticipated federal income tax obligations. This will obviously speed up and help insure IRS collections.

4. A settlement trust will be able to issue form 1009's to beneficiaries which should greatly simplify their reporting and again enhance tax collections.

Mr. Speaker, in the development of this bill, a serious effort has been made to address concerns raised during discussions with Department of Treasury officials as well as with representatives of the Joint Committee on Taxation. Substantial information has been provided already to the Joint Tax Committee to help permit the committee to make a realistic revenue estimate. In this regard, it is our belief that by providing offsetting tax measures in the bill and speeding up and otherwise enhancing the collections of tax, we believe that the legislation we introduce today should be essentially revenue neutral.

In sum, such trusts were intended to provide for the segregation of Native assets, to immunize such assets from potential dissipation through business ventures (or premature distributions) or otherwise and to provide a fund which would remain intact fort a substantial period of time and hence contribute to the health, education, welfare, heritage and cultural objectives in the current settlement trust statute for years to come. Unfortunately, general tax interpretations and policy, established for far different reasons, have hampered these Congressional goals and objectives.

Therefore, I am pleased that, on a bipartisan basis, I can join with my colleague and Ranking Minority Member on the Resources Committee, Mr. MILLER, and my other distinguished colleagues Mr. HAYWORTH to introduce this important remedial legislation.

NARRATIVE EXPLANATION FOR SETTLEMENT TRUST TAX LEGISLATION

BILL SECTION 1(A)

Identification of ANCSA Settlement Trusts As Eligible To Elect Tax Exempt Status

This provision of the draft legislation permits settlement trusts organized under the Alaska native Claims Settlement Act, 43 U.S.C. 1601 et seq. (ANCSA), to elect tax exempt status.

BILL SECTION 1(B)

Detailing Tax Treatment For Settlement Trusts And Their Beneficiaries

This new subsection amends the Tax Code to add a new section 501(p), which is comprised of six paragraphs clarifying the tax treatment of ANCSA settlement trusts.

Paragraph (1) provides that contributions to ANCSA settlement trusts are not deemed distributions to the ANCSA corporation's shareholders—the conveyance to the trust does not trigger taxation to the beneficiaries. Paragraph (1) applies whether or not a settlement trust has made the (p)(2) election, and alters an existing IRS ruling posture which has operated as a disincentive to contributions to settlement trusts by taxing beneficiaries prior to their receipt of distributions. However, as noted below, the draft legislation further provides that if an ANCSA corporation has earnings and profits for the taxable year of a contribution, those earnings and profits (up to the amount of the contribution) must be transferred to the trust. Subsequent distributions by the trust will produce ordinary income to the beneficiaries, until these transferred earnings and profits are exhausted. This transfer of earnings and profits eliminates the possibility that settlement trusts could be used to bail out corporate earnings and profits.

Paragraph (2) provides the basic mechanism by which a settlement trust elects tax exempt status. In general under the legislation an electing settlement trust must meet two requirements to be tax exempt. First, the trust must timely file for the election as prescribed. Second, the beneficial interests in the trust must abide by alienation restrictions which prohibit transfers of trust units in the same manner that transfers of ANCSA corporate stock are prohibited; failure to do so results in revocation of the election. If an electing trust violates the alienation restrictions at any point during a taxable year, the section 501(p) election will be automatically revoked for that year and all subsequent years. Once the section 501(p) election is evoked, that trust would not be able to reelect.

Paragraph (3) provides the distribution requirements for an electing trust in the amount of 55% of adjustable taxable income. If an electing trust fails to meet this requirement, it is taxable at the maximum individual tax rates (presently 39.6%) on whatever amount it would have had to distribute to meet the 55% requirement. As an example, if an electing trust distributed only 50% of its taxable income for a given year, then 5% (55% requirement less 50% actually distributed) would be subject to tax.

Paragraph (4) describes the taxation of the beneficiaries of settlement trusts. Subparagraph (4)(A) applies to electing settlement trusts and imposes a rule that distributions by such trusts are automatically taxable as ordinary income regardless of the source of those distributions. This would include amounts retained without tax incidence at the trust level which are subsequently distributed to beneficiaries. Subparagraph (4)(B) applies to trusts which have not made the new subsection 501(p)(2) election. If the ANCSA corporation does not have earnings and profits for tax purposes when a contribution is made to a settlement trust, subsequent distributions by that trust are taxable to the beneficiaries under the existing rules of Subchapter J of the Code. In general, under existing law the character of income earned by the trust would flow out to the beneficiaries and distributions of capital and accumulated income are tax free.

On the other hand, if the ANCSA corporation has earnings and profits when a contribution is made to a settlement trust, further rules apply. The contribution is deemed to transfer the corporation's earnings and profits up to the amount of the contribution to the settlement trust. Subsequent distributions by the trust to its beneficiaries will be deemed to come from these transferred earnings and profits and produce ordinary income to the beneficiaries, the same as would occur if the ANCSA corporation had distributed those earnings and profits directly. This treatment continues until the trust has fully distributed the amount of the transferred earnings and profits. Only thereafter is taxation of the beneficiaries controlled by Subchapter J.

Paragraph (5) permits beneficiaries to elect to have up to 15% of their distributions by the trust withheld from their ongoing trust distributions to satisfy their anticipated federal income tax obligations. This paragraph applies whether or not a settlement trust has made the 501(p)92) election.

Paragraph (6) defines a settlement trust with reference to ANCSA.

BILL SECTION 1(C)

Information Reporting

Section 1(c) provides a mechanism to permit beneficiary reporting under form 1099. Annual information reporting on form 1099 reporting is advantageous for all settlement trusts, even where taxability for beneficiaries is determined under Subchapter J (i.e. as to non electing trusts which have no transferred earnings and profits). In the case of a non electing settlement trust, the 1099 would differentiate among the different types and character of income being distributed. Also, 1099 reporting would be in lieu of the existing requirement that a non electing settlement trust attach a copy of beneficiary K-1s to its own tax return.

BILL SECTION 1(D)

Effective Date

The provisions of the bill are applicable to taxable years beginning and contributions made after December 31, 1996.

IN SUPPORT OF RIGHT-TO-WORK LEGISLATION

HON. HOWARD COBLE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 25, 1998

Mr. COBLE. Mr. Speaker, there is an issue that affects my constituents in North Carolina's Sixth District as well as all hard working citizens across America.

It is important to remember that small businesses keep America strong. This Congress must be cognizant of the significant impact small business has on our economy. Congress should take the necessary steps to ensure that our economic system is not endangered by legislation that tightens compulsory unionism. I have always been a strong supporter of North Carolina's right-to-work laws. H.R. 59, which I cosponsored, would protect employees and employers throughout our nation from the economically-crippling effects of compulsory unionism. Furthermore, this legislation would protect consumers and taxpayers from industry closures as well as increases in government operating costs.

Freedom of choice is the heart of H.R. 59. The right to work means that a worker cannot be fired for not paying fees or dues to labor bosses. This issue relates directly to the First Amendment, which guarantees our freedom of association. If you do not wish to join an organization, the federal government should not force you to do so, at the risk of losing your job.

Forcing workers to pay union dues as a condition of employment is morally wrong and economically wasteful. We must take steps to relieve employees and employers from the mandated union fees. H.R. 59 will aid America's small businesses

SENATE—*Monday, July 6, 1998*

The Senate met at 12 noon and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Dear Father, we return to the work of this busy month with the words and music from the Fourth of July celebration sounding in our souls. We pray together today, remembering the first prayer of dependence prayed for the delegates to the Continental Congress in 1774 that eventually led to the Declaration of Independence in 1776. Now that the fireworks are over, work in us the fire of that same dependence on You that was the secret of truly great leaders throughout our history. We pray for the women and men of this Senate. Enlarge their hearts until they are big enough to contain the gift of Your Spirit; expand their minds until they are capable of thinking Your thoughts; deepen their mutual trust so that they can work harmoniously for what is best for this Nation. You know all the legislation to be debated and voted on before the August recess. Grant the Senators an unprecedented dependence on You, an unreserved desire to seek Your will, and an unlimited supply of Your supernatural strength.

Now we move forward into this 223d year of our history as a nation with renewed dependence on You and renewed interdependence on one another as fellow patriots. Help us to be willing, in the spirit of our founders, to stake our reliance on You and pledge our lives, fortunes, and sacred honor for the next stage of Your strategy for America.

Lord of all life, we ask You to intervene and extinguish the fires that are sweeping throughout the State of Florida. Be with Senators MACK and GRAHAM as they personally comfort and care for the thousands whose homes have been destroyed and whose lives have been disrupted. In the Name of our Lord and Saviour. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able acting majority leader is recognized.

Mr. HAGEL. I thank the Chair.

EXTENSION OF MORNING BUSINESS

Mr. HAGEL. Mr. President, I ask unanimous consent that the period of morning business previously ordered for today be extended until 2:30 p.m.

The PRESIDENT pro tempore. Without objection, it is so ordered.

SCHEDULE

Mr. HAGEL. Mr. President, today the Senate will be in a period of morning business until 2:30. Following morning business, it is the leader's intention to begin consideration of the VA-HUD appropriations bill. It is hoped that Members will come to the floor during today's session to offer and debate amendments to the VA-HUD bill. There will be no rollcall votes during Monday's session, so any votes ordered with respect to the VA-HUD bill will be postponed to occur on Tuesday, July 7, at a time to be determined by the two leaders.

During Tuesday's session, under a previous order, there will be a cloture vote on the motion to proceed to the product liability bill at 9:30 a.m. Following that vote, the Senate will resume consideration of the VA-HUD bill and may also consider the IRS conference report Tuesday afternoon. The Senate could also consider any other legislative or executive items cleared for action.

The majority leader would like to remind all Members that July will be a very busy month with late night sessions during each week. The cooperation of all Members will be necessary for the Senate to complete its work prior to the August recess.

I thank my colleagues for their attention.

Mr. President, I note the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

(Mr. HAGEL assumed the chair.)

Mr. WYDEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT—S. 2168

The PRESIDING OFFICER. I ask unanimous consent that at 2:30 p.m. today the Senate begin consideration of the HUD/VA appropriations bill.

Is there objection?

Without objection, it is so ordered.

ORDER FOR RECESS

The PRESIDING OFFICER. I now ask that the Senate stand in recess until 2:30 p.m. today following the remarks of the Senator from Oregon.

Is there objection?

Without objection, it is so ordered.

The Chair recognizes the Senator from Oregon, Mr. WYDEN.

Mr. WYDEN. Mr. President, I thank the Chair.

Mr. President, every Member of this body has watched horrified these last few months at the outbreak of gun violence that has struck America's schools. Now, with the new school year just a few weeks away, it is time for this body to respond to America's parents who are frightened for their youngsters and are asking, what can be done to protect their children when they are at school?

Frankly, a lot of those parents don't believe that this Congress will produce very much. They know there has been considerable acrimony about the whole debate over guns in America. Certainly there are many areas where reasonable people can differ. There are constitutional protections with respect to the right to bear arms, and at the same time we are also concerned about the safety of those youngsters when they are away at school.

Senator GORDON SMITH, my colleague from Oregon, and I believe it is time to set politics aside with respect to this issue of gun violence in our schools. That is why we have teamed up on important legislation which we believe ought to be enacted by the time school starts in the fall. We don't think this is the complete answer to this scourge of school violence, gun violence, that our youngsters face, but we think it can make a real difference.

We propose this legislation after the tragedy in Springfield, OR. As the Presiding Officer of this body knows, there has been a rash of these violent incidents at our schools. The problems have literally been seen in schools from coast to coast. Senator SMITH and I have introduced legislation which I believe would lay out the beginnings of a rational policy to control school violence in America.

What we have proposed—we did it after consulting with families, law enforcement officials, educators, people who are for gun control, people who are against gun control—we have proposed legislation which would stipulate that when a young person brings a gun to school, that would, in effect, be a five-alarm warning to society. It would make it very clear that at that point there is a real threat to young people, to teachers, and our society. And young people who bring a gun to school, under our legislation, would be detained for up to 72 hours for a comprehensive evaluation, from the standpoint of mental health considerations, law enforcement issues, family questions, the whole gamut of concerns that ought to be looked at when a young person brings a gun to school.

The alleged killer at Thurston High School, in Springfield, OR, was apprehended at school with a gun the day before he shot more than 20 of his classmates. That day, the police made a decision which is duplicated each day across our Nation, a decision that seemed reasonable at the time. The youngster was released to his parents, parents who were themselves teachers and who were known to be concerned and involved in the lives of their children. Currently, many police departments across America have complete discretion to treat young people caught with a gun at school in the manner they deem appropriate. As Springfield's own police chief has argued, the evaluation that needs to occur in these situations is beyond the means and capacity of most police forces across our country.

So Senator SMITH and I have introduced legislation which would provide an incentive for each State to enact a law requiring a mandatory 72-hour detention for any child caught with a gun at school. If a State passes such a law, it will be eligible for an additional 25 percent in funding under the Juvenile Justice Act. The cost of this legislation is small, perhaps $25 million a year, and certainly modest when you look at the State's overall requirements in the effort to prevent school violence.

Now, Mr. President, we are not suggesting that this is all that needs to be done. Certainly, though, our first responsibility when a child brings a gun to school is to protect all of the kids who come to that school armed only with their books and their calculators. Children caught with a gun at school ought to be detained for a sufficient period to protect the other children and to evaluate the degree to which they are a threat to themselves and those around them.

I believe this legislation can win the support of every Member of this body, be enacted in time for the opening of the fall school year and should be acted on as soon as possible. Mr. President, Bill Clinton has spoken favorably of this legislation during his visit to Springfield, OR. The Nation's mayors—Democrats, Republicans, liberals, conservatives—have spoken favorably of this legislation. I am very hopeful that even though this body has an extremely busy schedule in the weeks ahead, there will be time, on a bipartisan basis, to ensure that this legislation moves forward.

According to Larry Bentz, principal of Thurston High School in Springfield, OR, the Thurston High community is slowly returning to some semblance of normalcy. The kids are engaged in the traditions of summer—swimming, playing basketball, summer jobs. With the memories of the brutal shooting at the high school seared into their memories, the parents are trying to push ahead and return to family routines and responsibilities. But they want to make sure that this body, and elected officials everywhere, don't forget about the gun violence that has shattered young lives and families in Springfield, OR—and, in fact, in five States over the last school year. Senator SMITH and I urge that this body not let that happen. We ought to listen and learn from the lessons of Springfield and commit to doing our part to end school gun violence now as the schools look to opening their doors for a new school year.

Now, the Thurston community is still processing the tragedy at Thurston High. They are debating a variety of approaches and ideas for reducing school violence. Senator SMITH and I don't pretend to have all of the answers, but we know there are some practical steps that the U.S. Senate can take, and take promptly, to make our schools safer in America.

There are other steps that need to be taken, Mr. President. We have to make certain that communities have the resources to evaluate kids in trouble. I heard again and again, as I visited with families in Springfield, from hard-working, middle-class families, that they simply could not get any help until their youngster was violent. That is just not acceptable in America, Mr. President. It is not right to say that there will be no response until a young person is actually violent. We have to get there early. We have to get there with preventive strategies.

Senator SMITH and I hope to be back before the U.S. Senate with other constructive approaches in the days ahead. But let us make a strong beginning, Mr. President. Let us make a strong effort in the U.S. Senate to take the first step to averting further school tragedies. In Oregon alone, young people were apprehended with guns at school 100 times in the last school year—and those were simply the ones who were caught. So as our country goes about the business of the pleasures of summer, and as the U.S. Senate deals with what we know is going to be a very hectic schedule over the next few weeks, let's not forget about what happened in Springfield, OR, in Kentucky, in Arkansas and in Mississippi. Let us remember that our young people will be back in school in just a few weeks. Let us do our part to make sure that school violence ends here.

Mr. President, I yield the floor.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate now stands in recess until 2:30 p.m.

Thereupon, the Senate, at 12:54 p.m., recessed until 2:30 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. FRIST).

The PRESIDING OFFICER. The clerk will call the roll to ascertain a quorum.

The legislative clerk proceeded to call the roll.

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Ms. MIKULSKI. Mr. President, I ask unanimous consent to speak as if in morning business to pay tribute to the recently deceased comptroller of the State of Maryland.

The PRESIDING OFFICER. Without objection, it is so ordered.

MARYLAND COMPTROLLER LOUIS GOLDSTEIN

Ms. MIKULSKI. Mr. President, and to all who are with us in the proceedings today, I rise with melancholy to pay tribute to a great Marylander who passed away over this weekend, our beloved and endeared comptroller, Louie Goldstein. Louie, indeed, was a Maryland treasure—and he was—to the State, and the State treasured him. Like all Marylanders, I will miss Louie Goldstein and mourn his passing. As Maryland's comptroller, he always stood steadfast sentry over the State purse. He helped make sure that the economy was booming, and he fought for the economy of our State. He fought for the State to have a triple-A bond rating. He also was out there absolutely on the side of his constituents.

It is hard to believe that the State tax collector was the most popular elected official in the State. This man collected the State taxes for 40 years. And every tax season he would say "Don't delay. File today." He crisscrossed the State often going close to 100,000 miles reaching out to rotaries, senior citizen clubs, and League of Women Voters gatherings always talking about the State's economy, what the tax dollars went for, and he was beloved.

He ran a tight ship, and Maryland benefited from it for more than 39 years. In his 10 terms as the comptroller, he always made sure that Maryland kept its triple-A bond rating, which was an indication of our fiscal soundness.

As the State's tax collector, he prided himself on getting tax returns back quickly and efficiently to Marylanders. There was no IRS-type heavy hand on Louie Goldstein's watch.

We always knew that the tax collector's office was run efficiently, fairly, and a taxpayer could get a hearing and get their refund early and on time.

Louie was a man of the old school. He was a gentleman. His word was his bond. He believed in high-tech and reach-out politics. But also he was a very shrewd businessman. Under his very folksy style in which he would reach out and always had a laugh and a word of encouragement, he also knew the power of high-tech. He came from an era of pen and paper. He would joke about himself, and was maybe even a stylist. But quickly he saw the power and utility of new technology and worked diligently to bring high-tech efficiency to the comptroller's office.

Under his leadership, Maryland was the first State to computerize its tax records. At the time of his death, he was working on a system that would allow Marylanders to file their taxes electronically.

He also realized the magnitude of the Year 2000 problem. He got a jump-start on fixing it.

Imagine an 85-year-old comptroller who had served 10 terms doing the job, had more new ideas and was more far-sighted than many of the young people who want to come into government. He was reshaping Maryland's computers so they would be ready by 1999.

Now, anyone who met him knew there was much more to Louie Goldstein than his position as comptroller. When he came up to you, he would shake your hand, give you his trademark little imitation gold coin that said "God bless you, real good." He radiated warmth that was truly genuine. Louie was a tremendous public speaker and, unlike most politicians, people looked forward to his southern Maryland accent. However, when other politicians found out he was scheduled to speak, they always got a little nervous, including yours truly.

Louie Goldstein was a dedicated Democrat and worked tirelessly for a Democratic "Team Maryland," but would work on a bipartisan basis for fiscal soundness and business attraction to the State.

Early on, he campaigned for me. He knocked on doors, and he believed in me, when I was a little upstart politician before I got to be one of the fortunate 100. All Maryland Democrats owe Louie Goldstein a debt of gratitude for showing us how to stay in touch with constituents, whether it was at a church supper or in a business boardroom.

Louie Goldstein was tremendously warm and kind. He loved to laugh and loved to be on the sunny side of life. I am proud to call him a friend, a colleague, and a mentor. There was and will be no one like him. We will find a successor, but we will never find a replacement, nor should we seek one. He was unique in Maryland politics, and I think he was unique in American history.

On the day of his death, he was in five different parades, came home, read the Declaration of Independence to his gathered family, as he had done for so many years, took a swim, and then God called him to glory.

We salute him. As Louie would say to one and all, I say to him, "Louie, God bless you, real good."

I ask unanimous consent that the Baltimore Sun tributes to Louie Goldstein be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Baltimore Sun, July 4, 1998]

LOUIS L. GOLDSTEIN, 1913–1998

What can you write about Louis L. Goldstein that hasn't been recorded numerous times during his 60-year career in public service?

He was truly a legend in his own time, the best-known and best-liked Maryland politician of the last four decades.

Call him "Mr. Maryland." Or as one speaker put it at a fund-raiser last year, our "state fossil." Up until his death last night at age 85, Mr. Goldstein could—and did—run lesser-aged politicians ragged on the campaign trail and in the hallways of state government.

Voters elected Louie Goldstein state comptroller a record 10 times. His love of people and his perpetual optimism made him one of the few tax collectors in America who drew cheers, not jeers, from constituents.

But Mr. Goldstein was far more than a popular campaigner. He ran one of the best tax-collection departments in the nation, receiving awards for keeping his office on the cutting edge of technology. His latest success: A vast increase in computerized tax filings this year.

It was on the Board of Public Works, though, that Mr. Goldstein may have performed his greatest service. This largely unknown panel—the governor, the comptroller and the state treasurer—holds immense power over billions of dollars of state contracts.

It was Mr. Goldstein who acted as board skeptic, grilling bureaucrats mercilessly on the merits of projects. What a ferocious fiscal watchdog he was! He poured over voluminous reports to the point where he knew as much about them as those making the presentations.

Often, proposals were pulled even before the public hearing—after Mr. Goldstein had brutally dissected the plan at the panel's pre-board sessions.

Given the immense power granted the governor in Maryland, the need for checks and balances is critical. Louis L. Goldstein performed that role brilliantly. But he did so with a smile on his face and a keen understanding of the benefits of government when it is made to work in favor of the best interests of its citizens.

God bless Louie Goldstein, real good.

[From the Baltimore Sun, July 5, 1998]

"THERE WILL BE NO ONE LIKE HIM"

(By William F. Zorzi Jr.)

Louis Lazarus Goldstein was the total package: indefatigable campaigner, skilled financial watchdog and accessible public servant, a 40-year incumbent who was unbeatable by challengers of either party.

It seemed as if he had been comptroller of Maryland's treasury forever. When Goldstein was first elected in 1958, Dwight D. Eisenhower was president, J. Millard Tawes was stepping up to be governor and the Baltimore Colts were still a month away from winning their first national championship.

When he died Friday night after a heart attack at his Calvert County home, a chapter of Maryland's history was closed. A career ended that stretched back 60 years, to when he was first elected to the House of Delegates.

Goldstein, a Democrat who was 85, helped usher Maryland government into the modern era, overseeing the computerization of the state's tax and payroll systems. He fought fiercely to protect the state's AAA bond rating, calming jittery New York bond houses during the state's various financial crises. And he earned the trust of a public that he never lost touch with, consistently winning high marks among Marylanders for a job well done.

"He truly represented the state of Maryland," said Robert A. Marano, a tractor dealer who was watching Towson's Fourth of July parade yesterday. "He loved what he was doing and it showed."

Said U.S. Sen. Barbara A. Mikulski: "There was and will be no one like him."

In a singular honor, Goldstein's body will lie in state for public viewing tomorrow in the Rotunda of the Maryland State House. A funeral service is scheduled for 11 a.m. Tuesday at Trinity United Methodist Church in Prince Frederick.

Gov. Parris N. Glendening, who ordered state flags to half staff to mark Goldstein's passing, said the comptroller's "personal touch would be missed very, very much."

Glendening, who was to appear with Goldstein in three parades yesterday, said he found it "really weird" not to see the comptroller in the car behind him.

Goldstein was one of three members—Glendening and Maryland Treasurer Richard N. Dixon being the other two—of the Board of Public Works, the powerful panel that oversees billions of dollars in expenditures each year.

FISCAL WATCHDOG

It was as a member of that board that he earned his reputation as the state's watchdog, a stickler for detail who often would grill bureaucrats—at times mercilessly—over even the smallest of contract awards. It was not unusual for him to impatiently scold them at the crowded meetings, as he looked up over half-lens glasses balanced on the end of his nose.

Of particular interest to him were school roofs—a subject on which he became an expert because the state replaced so many of them.

"Governors and treasurers have come and gone . . . but he's been the constant," said Dixon, who thought of Goldstein as the board's "General Overseer."

"He ran the show," Dixon said. "He read every page of those big agenda books before the meetings. He must have spent the weekend going through the items."

In fact, before his heart attack Friday evening, Goldstein spent a portion of the day reviewing the agenda for this week's board meeting.

State Sen. Robert R. Neall, an Anne Arundel Republican who as a county executive and legislator has put in time before the Board of Public Works, praised Goldstein for his work there.

"You had someone who was very competent at his job, someone who was very sharp fiscally," Neall said. "He would be cautioning a governor not to make a mistake that some governor, like Governor O'Connor, made 50 years ago," he said. "He just understood state government like no one else."

His knowledge of matters financial was such that six weeks prior to the stock market crash in October 1987, he advised the Maryland Retirement and Pension Board, which he chaired, to moved $2 billion in investments out of stocks and into bonds. The board followed his advice, saving the pension system from huge losses and bolstering further his national reputation.

BORN IN 1913

Goldstein was born March 14, 1913, in Prince Frederick to immigrant merchant Goodman Goldstein and his wife, Belle.

He was first elected to public office in 1938, the year Herbert R. O'Conor became Maryland's governor and Franklin Delano Roosevelt was president.

He served one four-year term in the House of Delegates before entering the Marine Corps during World War II. In 1946, a month after returning stateside, he was elected to the Maryland Senate, where he spent 12 years, including four years as president.

In 1958, he ran for comptroller in what would be the first of 10 terms. Though his state service was uninterrupted, he did lose one election—to Joseph D. Tydings in the 1964 Democratic primary for U.S. Senate.

SUCCESSFUL IN BUSINESS

His distinctive Southern drawl and country-boy manner belied just how shrewd he was. He was a successful businessman as a real estate investor, tree farmer and former Calvert County newspaper publisher.

Over his career, primarily in the 1950s and early 1960s, Goldstein bought thousands of acres of land in Southern Maryland and on the Eastern Shore. He advised friends and acquaintances to do the same, "because the Good Lord isn't making any more of it."

Some of those deals were questioned, particularly when he sold some of the land at a high profit, but he protested that he had done nothing wrong.

Goldstein traded on his charm and affable ways, crisscrossing the state and seeming to turn up at every rally, fund-raiser or Rotary meeting to which he was invited.

He put as many as 100,000 miles a year on his state car, which was driven by Maryland State Police bodyguards.

"He was very much a retail, press-the-flesh politician," said Marvin A. Bond, Goldstein's long-time assistant and friend. "He never had the benefit of a machine or vast organization, and he believed that Maryland was a small enough state that people still expected to see you."

Some of Goldstein's detractors complained privately that he was an unabashed publicity seeker with a penchant for taking the politically easy vote.

If true, voters across the state never seemed to notice; they returned him to office time and again by impressive margins. He consistently outscored other politicians in polls that measured name recognition and voter satisfaction—an unusual occurrence for a state's tax collector.

Goldstein had a remarkable memory, for figures as well as faces.

Glendening recalled the first time he met Goldstein—at a Prince George's County crab feast — just after coming to Maryland from Florida in 1967. There "must have been 600 or 700 people there," the governor said, and at the time, Glendening was a mere political science professor at the University of Maryland, College Park.

"I saw him about a year later, and he said to me, 'Hi professor, how are you?'"

Shocked, Glendening asked Goldstein if he remembered him, to which the comptroller responded, "Sure I do, Parris."

"THE STATE FOSSIL"

Goldstein had been around for so long that in introducing him, other politicians could not resist making some crack about his being in Maryland when the colony was founded. Recently, he was referred to affectionately in an introduction as "the state fossil."

"Louis had become an institution . . . a sort of goodwill ambassador," Neall said. "He had gone beyond the sort of typical pol looking to renew his lease."

At the Towson parade yesterday, J. Kevin Wight, 38, said he did not remember much about Goldstein's politics, but he did remember his personality.

"He was always going up to people, waving,' Wight said. "He always had a smile on his face."

"GOD BLESS YOU ALL"

Goldstein's name became synonymous with his trademark phrase, "God bless you all real good." The expression was emblazoned on one side of gold-painted coins he handed out everywhere he went. The other side read simply "Louis L. Goldstein, State Comptroller, Maryland."

After an event, he followed up quickly with thank-you notes, often dictating them to his secretary over the car phone as he left.

Goldstein was so popular that Democratic candidates had all but stopped running against him, and state Republicans put up only token opposition.

The GOP future brightened for a short time after the 1994 election, when Goldstein announced that he would not seek an 11th term. But that changed after Goldstein's wife of 48 years, Hazel, died in April 1996. With only state business to turn to, he announced in June of that year that he would run again. His decision sent virtually everyone who had considered a bid out of the race.

On Tuesday, Goldstein will be buried next to his wife at the Trinity churchyard cemetery.

Ms. MIKULSKI. Mr. President, I yield the floor and note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOND. Mr. President, what is the pending business?

* * *

DEPARTMENT OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1999

The PRESIDING OFFICER. The clerk will report S. 2168.

The legislative clerk read as follows:

A bill (S. 2168) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, commissions, corporations, and offices for the fiscal year ending September 30, 1999, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

PRIVILEGE OF THE FLOOR

Mr. BOND. Mr. President, I ask unanimous consent that full floor privileges be granted to Carrie Apostolou, a member of the subcommittee staff, during the consideration of S. 2168, the fiscal year 1999 VA–HUD appropriations bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOND. I thank the Chair.

Mr. President, I am pleased to present to the Senate the fiscal year 1999 VA, HUD, and independent agencies appropriations bill, S. 2168. This legislation provides a total of $69.986 billion in discretionary budget authority and $80.78 billion in outlays, and an additional $23 billion in mandatory spending for veterans programs.

The Subcommittee allocation was about $750 million below the President's request in budget authority. In addition, there were some significant shortfalls in the President's budget in such areas as veterans medical care and elderly housing. In attempting to balance all the competing demands, we were forced to make a number of tough decisions.

The committee did its best to provide the needed funding for the important priorities within the bill, with the highest priority given to veterans programs and elderly housing. Other priorities included maintaining environmental programs at or above current year levels, ensuring adequate funds for our nation's space and science programs, and providing adequate funding for disaster relief. The committee also met the commitment we made to provide the necessary funding to cover all expiring section 8 contracts.

On balance, I believe the recommendation is fair and balanced. Not everyone is happy, but I believe it is equitable. Clearly, we were not able to provide fully what each member requested—and I should note that we received about 1,000 requests from Members of this body for items in this bill—but we attempted to meet the priorities.

Before describing what is included in this legislation for each agency, I want to thank Chairman STEVENS for all his support, and I particularly thank my ranking member, Senator MIKULSKI, for all of her hard work and cooperation in putting this legislation together. This is always a difficult task, and it is made for easier and more efficient by the professional and wholehearted cooperation of Senator MIKULSKI and her staff—Andy Givens, David Bowers, and Bertha Lopez. I extend my thanks to them. Their contributions to this process have been invaluable.

Mr. President, for the Department of Veterans Affairs, the committee recommendation totals $42.5 billion, including $19.2 billion in discretionary spending. This is an increase of $373 million above the President's request. The amount recommended includes

$222 million more for medical care, $53 million more for the state home construction program to reduce the large backlog of priority projects, and $79 million in additional funds for other construction programs.

The additional funds are intended to ensure VA medical care is the best possible quality, and that it is available to as many eligible veterans as possible. The funds are also intended to ensure VA facilities are adequately maintained, safe, and seismically secure, and that the final resting places for our fallen heroes are maintained in an appropriate and dignified manner.

The recommendation also includes an increase of $10 million above the President's request for VA research, for a total of $310 million.

This is a critical program, veterans research, in improving the quality of VA care, in furthering our understanding of such illnesses as gulf war syndrome, in developing prosthetic devices and other items which will improve the quality of life to veterans and others, and in seeking cures to diseases which veterans and the Nation at large face. The programs are also key in the recruitment and retention of top-notch medical staff at VA hospitals.

For the Department of Housing and Urban Development, the committee recommendation totals $24.1 billion, an increase of $2.66 billion over the fiscal year 1998 level.

This means we have been able to fund HUD programs fairly while meeting our commitment to provide the needed funding for all expiring section 8 contracts and by more than fully funding the section 202 elderly housing program at $676 million, an increase of $31 million over the fiscal year 1998 level and an increase of $576 million over the President's request of $109 million.

I emphasize that the section 202 Elderly Housing Program is the most important housing program for elderly, low-income Americans, providing both affordable, low-income housing and supportive services designed to meet the special needs of the elderly. This combination of supportive services and affordable housing is critical to promoting independent living, self-sufficiency, and dignity while delaying the more costly alternative of institutional care. Section 202 elderly housing is more than just housing—it is a safety net for the elderly, providing both emotional and physical security and a sense of community. I am very disappointed and puzzled by the administration's failure to propose the needed funding for the section 202 program.

Moreover, at the direction of the Senate and House VA/HUD Appropriations Subcommittees, GAO conducted a very thorough budget investigation of the HUD section 8 accounts. Based on the GAO budget scrub and after discussions with HUD, we discovered that the administration's request for $1.3 billion in section 8 amendment funding is unnecessary for fiscal year 1999 and that a further $1.4 billion in section 8 project-based recaptures may be considered excess funding, which means we are actually above the President's request for HUD.

These additional funds have provided us with needed flexibility to fund HUD programs as well as to fund other priorities throughout this bill. As a result, the committee has provided additional funding for HUD programs such as the HOME program, CDBG, Youthbuild, the HOPE VI program, and the Homeless Assistance Grants program. I think these all are needed additions that were made available as a result of this review by GAO and work with HUD.

Nevertheless, HUD continues to be a troubled agency with GAO designating the entire agency as "high-risk." In fact, HUD is the only agency ever to have received a "high-risk" designation agency-wide. Now, Secretary Cuomo has begun implementing the HUD 2020 management reform plan as his first step to agency reform and downsizing. Many of our future funding recommendations will depend on the success of this plan and I want to state my support of the Secretary in his efforts to reform the Department. Nevertheless, we expect to see tangible and quantifiable results. We need to know that HUD programs work, that HUD staff are capable of effectively administering HUD programs, and that there is accountability within HUD programs.

Further, we also do not look to fund new HUD programs and initiatives until HUD can demonstrate to the satisfaction of the Congress its ability to administer effectively its primary programs. I want to make it very clear that self-serving press releases by HUD that announce success carry little weight. I am from Missouri and I want to be shown.

Finally, for the first time in a number of years, this bill would provide modest increases in the FHA mortgage insurance limits, raising the floor from 38 percent of the Freddie Mac conforming loan limit, or some $86,000, to 48 percent of the conforming loan limit, or some $109,000, and establishing a new ceiling for high-cost areas from the existing 75 percent of the conforming loan limit, or some $170,000, to 87 percent of the conforming loan limit, or some $197,000.

I know for some that this is considered controversial, but we have tried to strike a reasonable balance and I believe that the new limit is needed especially in non-urban areas where the price of new housing has escalated beyond the capacity of first-time homebuyers to use FHA mortgage insurance to buy a house. In my own state I have seen many areas where, because of the FHA lower limits, financing is not available for construction of first homes for families of workers with lower wages.

Nevertheless, I remain concerned about HUD'S capacity to manage the FHA mortgage insurance programs and will be looking for additional ways to ensure the solvency of the mutual mortgage insurance fund.

For EPA, the bill includes $7.4 billion. This is about $50 million more that the fiscal year 1998 level. The bill maintains level funding or provides some increases to all EPA programs, reflecting the priority we have placed on environmental protection activities. Included in the recommendation is $350 million more than the President requested for state revolving funds, which he had proposed to cut by $275 million. The SRFs help to meet a need in excess of $200 billion nationally for water infrastructure financing. Cleaning up waste water and assuring safe drinking water should be at the top of our environmental priority list.

The committee has provided 80 percent of the administration's request for the clean water action plan, including $180 million for nonpoint source grants and $106 million for water quality grants. The committee's action recognizes the importance of addressing polluted runoff and seeks to ensure that our Nation's rivers, lakes, and streams are protected from polluted runoff, and are clean for recreation and for wildlife. These funds give the states the tools they need to improve the quality of our Nation's water. I promised Administrator Browner I would try to find more funds for this critical program, and I have.

The bill includes level funding for Superfund. Given the myriad problems with this program, coupled with the lack of a reauthorization bill, an increase simply was not warranted. I remind my colleagues, with respect to the fiscal year 1999 advance that was provided in last year's bill for Superfund, those funds were to be made available only if the program was reauthorized. We had a deal with the administration on this, and unfortunately the administration conveniently seems to have forgotten this deal.

Further, the program continues to be listed by GAO as high risk, subject to fraud, waste and abuse. Such abuse recently was demonstrated in an IG report which found that Superfund was being used to rebuild homes at several times their market value. Finally, experts agree that funds invested in Superfund yield less reduction in risk to human health and the environment compared to other EPA programs.

Our recommendation totals $13.6 billion for NASA, an increase of $150 million above the request to ensure adequate funds for space station and other critical NASA programs. It also includes a restructuring of the NASA appropriation accounts to improve fiscal accountability.

In particular, we have included a new account for the International Space Station to ensure that Congress and this subcommittee get honest figures for the ISS from the administration.

While I strongly support the ISS and the many important programs administered by NASA, the long history of space station overruns reached a new and unprecedented level with the recent release of the report by the independent cost assessment and validation team headed by Jay Chabrow. The Chabrow report estimates that the ISS will cost some $24.7 billion instead of $17.4 billion and will take up to 38 months longer to build than NASA's current estimates.

For NSF, the recommendation includes $3.6 billion, an increase of about $220 million above the 1998 level. NSF is an investment in the future and this additional funding is intended to reaffirm the strong and longstanding support of this subcommittee to scientific research and education.

Finally, for FEMA, there is a total of $1.3 billion, including $846 million in disaster relief and about $500 million in nondisaster relief programs. The amount recommended for disaster relief, coupled with the $1.6 billion provided in the fiscal year 1998 supplemental, approximates the 5-year historical average cost of disaster relief in 1999 dollars.

The recommendation includes the restoration of $11 million in state and local assistance grants to state emergency management agencies. It also includes $25 million in the new pre-disaster mitigation program.

Mr. President, as you know, the administration last month submitted a budget amendment to increase funds for FEMA counterterrorism preparedness activities.

I intend to work with my ranking member, Senator MIKULSKI, to offer an amendment to increase funds for such activities in FEMA by $8 million, in addition to the $9 million currently included in the committee mark. These are critical activities. I think it is important we accommodate the administration's request, and I ask for my colleagues' attention to this very important measure. We think not only the work that goes on in FEMA, but the work that goes on elsewhere in the Federal Government, needs to take account of the risks that we face in these areas.

Mr. President, that concludes my statement. It is a pleasure to turn to my ranking member, Senator MIKULSKI. I yield the floor.

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. Mr. President, I thank the chairman.

PRIVILEGE OF THE FLOOR

I ask unanimous consent that during consideration of S. 2168, the fiscal year 1999 VA-HUD appropriations bill, Ms. Bertha Lopez, a detailee from HUD serving with the committee, be provided the privilege of the floor.

The PRESIDING OFFICER (Ms. COLLINS). Without objection, it is so ordered.

Ms. MIKULSKI. Madam President, once again, we are on the floor to bring to the U.S. Senate for its consideration the appropriations on VA, HUD, and independent agencies. I thank Senator BOND for his very hard work and the bipartisan approach to producing this bill.

I also acknowledge his professional staff and the collegial and cooperative way in which they have worked with my staff to bring this bill to the floor. It is this type of bipartisan effort that I think focuses on results, not rhetoric, meeting our obligations to important constituencies, like veterans and the elderly, and yet creating opportunities for people, like we are in FHA and VA mortgages, national service, and various other empowerment things we do. No one Member or party will get everything they want in this bill, but we do believe that this really does meet compelling human needs. Given the spartan allocation for the subcommittee and the need to make up cuts in programs, like housing for the elderly, I believe that this legislation is very solid. I strongly support it and encourage those on my side of the aisle to do so.

This bill shows our commitment to both high touch and high tech. We have kept our high-touch commitment to our veterans and the elderly and the high-tech commitment to science in agencies like National Science Foundation, the space agency, and EPA.

Let me talk a minute, though, just after the Fourth of July, about a constituency that truly does rely on the U.S. Senate for promises made, promises kept, and that is the veterans. The veterans of America rely on us, and I believe that Senator BOND and I have worked to scour every line item to be sure that the promises made to the veterans of the United States of America for their health care have been promises kept.

This year, we will be funding veterans health care at the amount of $17.2 billion. That is "b" like in Barbara, not million, like "m" in Mikulski—$17.2 billion, and with the way we have been able to view the bill, this is a $200 million increase.

Also, we want to improve VA medical research. The Veterans' Administration, through their excellent medical services, does an astounding amount of medical research, particularly the applied research that goes to hands-on clinical practice. In this budget, we have increased VA medical research by $38 million, to the tune of $310 million, and this will go to focus on research affecting aging populations, like Alzheimer's and Parkinson's, special needs of veterans, particularly those related to orthopaedic injury, surgical practice, and other improvements in clinical practice, to improve health care and shorten stays and not skimp.

Also, as everyone here knows, as a champion of the women's health agenda, I wanted to be sure, working with Senator BOND, that we did not forget the men of this country. There is a special set-aside in here for research on prostate cancer, so that we can find a cure and we can find better early detection methods. We, the women of the Senate, as I know the Presiding Officer feels, want to show the men of America we are squarely on their side.

I thank Senator BOND for going over this budget so that we could work to establish VA medical care, VA medical research, and also, at the same time, increase funding for something called veterans State homes. "State home" is an old-fashioned word. It comes out, really, of the Spanish-American War and out of World War I, where we had "old-age homes" for veterans. We are now at the end of the old century and moving to a new one, and State homes really now are long-term care and rehabilitation facilities for our veterans, but they are unique partnerships between the Federal Government and the State government, forming Federal-State partnerships to establish long-term care facilities, maximizing our dollars to operate it and even help build it, but State resources in purchases of land. This way, we stretch out the Federal dollar and the State becomes a stakeholder. I think this is a unique way of meeting the long-term care needs of our veterans population.

While we were working to make sure promises made to the veterans were kept, we also, I think, had an excellent approach to the Housing and Urban Development Department. Particularly, I am impressed with the fact that we worked very hard, again, on a bipartisan basis in restoring the $489 million cut to elderly housing. HUD's elderly housing program is one of the more successful housing programs at the agency. It works with nonprofit organizations and faith-based organizations. The HUD 202 Program leverages those community resources that help provide safe and decent housing for the elderly and a sense of community in many communities around the country.

The agency proposed close to a half-billion-dollar cut, and I am pleased that in the budget deliberation and now in our own appropriations, Senator BOND and I joined hands, joined forces, to make sure that we restored that cut so that the elderly of this country can have the 202 Program building housing for them and operating those programs.

We also rejected with vigor the desire to take a substantial part of the housing for the elderly and convert that into vouchers.

The Presiding Officer, I know, is on the Select Committee on Aging, and I know both in her home State of Maine and in her role in the Senate, she has been devoted to the cause of the elderly. She knows, as Senator BOND and I, that you cannot take an 80-year-old lady with a walker who is frail elderly and give her a voucher to go out in a community to find her own housing.

Can you see her going up three flights of stairs with her voucher and her walker to see if the bathroom is fit for duty? We are not going to have the elderly of America going door-to-door with vouchers trying to find housing to meet their needs. That should be done through housing for the elderly, the 202 funding, housing for the elderly that is run primarily by nonprofit and faith-based organizations—Jewish charities and Catholic Charities in my own community. That is what the elderly want.

Guess what? In this bill, we restored the $489 million, and I am really proud of the way we did that.

In addition to looking out for the elderly, we wanted to look out for the young people of our community.

We wanted to promote first-time home ownership. That is why we also looked at the FHA loan limit, recognizing that some parts of our country are very high cost. And we raised the FHA loan limit to $197,000 in high-cost areas and $108,000 in more modest areas. The administration proposed raising the limit to $227,000 for all communities. We believe that that is too high.

We were deeply concerned about FHA foreclosures, that people would get into too much debt too early in their lives and end up not with an opportunity but with a heartbreak, and leaving the taxpayer with the liability. So we did not want heartbreak for the family and we did not want heartburn for the taxpayer. So we believe that this is a reasonable compromise, to raise it at this rate. It is critical that we ensure that FHA is able to meet the new market realities without setting ourselves up for this big buck unfunded liability in the event of FHA foreclosures.

We also included language directing HUD to consult with Congress further before beginning its bulk sale of foreclosed properties. We do not want these houses to go at fire-sale prices or to end up adding blight to a community. We want to make sure that FHA is a tool for first-time home buyers, not a tool for neighborhood deterioration.

We are also pleased that in this bill we really tackle the issue of brownfields. Brownfields funding is both in the HUD part of the bill as well as in the environmental protection part. The President requested $90 million for EPA's brownfields program. And $25 million of the request is provided for HUD's brownfields program.

I happen to be a strong supporter of brownfields programs, and I think they are important tools to communities. They enable us to take care of areas that have a level of contamination and move them to clean up and redevelop them. My concern is that we will not get a Superfund authorization. And while we are waiting for Superfund funding—a great opportunity in our communities—brownfields that are not nearly as contaminated, with good gall and good appropriations, we can move brownfields to green fields, opening up opportunities for economic development.

This then takes me to talking about EPA. Our bill provides critical resources for the Environmental Protection Agency at $7.4 billion. This is an increase of $51 million over last year. This is primarily in the areas of improving water quality, which are very important to a State like my own. It also includes last year's level of $1.5 billion for Superfund.

This bill also contains money for State and tribal assistance grants, providing critical resources for States' efforts to maintain clean and healthy water.

Madam President, water quality is absolutely crucial, and part of the funding is $20 million for the Chesapeake Bay program to continue our commitment to protect this natural resource. This Chesapeake Bay program was started by my predecessor, Senator Charles McC. Mathias, a distinguished Republican from the State of Maryland. Senator SARBANES and I have kept that commitment. And we thank Presidents Ronald Reagan, George Bush, and Bill Clinton, and now the Republican leadership of this committee, for working to keep that commitment going.

We were also hit by something called an algae bloom. Now an algae bloom in my State is called pfiesteria. I understand that the Senator from Maine, the Presiding Officer, has also been hit by algae bloom in her own State. We know Senator FAIRCLOTH and Senator HELMS have had it in North Carolina. We have had pfiesteria in Maryland; you have had problems in Maine; the Louisiana Senators have had it.

This algae bloom is now a national problem, and we have put over $37 million in the EPA budget to begin to do the water quality monitoring and the research so that we can solve not only our problem in Maryland, but we also look forward to working with our colleagues, like yourself, in really dealing with this, because this could destroy our waters and it could destroy our mutual economies. Again, we look forward to working with you. This $37 million we think is a very important step in research and monitoring and trying to get good science and the best practices from EPA and environmental agencies in this.

I regret that this year we do not have the authorization for the Superfund. Year after year, people want to reauthorize the Superfund site on appropriations and leave it to us to solve a problem that the authorizing cannot. I join in agreement with Senator BOND that we need the reauthorization of the Superfund site before we can move ahead on this bill.

I know the administration is looking at additional sites for us to be able to clean up while we are waiting for authorization. I talked to Administrator Browner, and I said, if you have the sites, show us the money and get us also the authorization so that we can see how we could move forward.

In the area of science and technology, I thank the chairman for working to increase both the funding of the national space agency as well as the National Science Foundation. In addition to increasing funding for the National Science Foundation, I am particularly pleased with the increases in informal education programs that will be important and also those in K through 12.

Now, why is this important? Because so much of getting our young people excited about science goes on through informal education programs. These are not spontaneous playground programs; these are structured afterschool activities.

In my own State, they are going on in the Maryland Science Center, the aquarium. I wish you had been with me during the break. I was at something called the Christopher Columbus Center, a marine biotech center. We have second graders there every day from 9 until 2. They do science in the morning; they do reading in the afternoon; and they are so excited. And when they go back then to the classroom, they are going to be much more reading ready and they are going to be excited about science. And, by the way, I got to do a few experiments myself.

In terms of the Federal Emergency Management Agency, FEMA has been doing an outstanding job. I think FEMA has been doing an outstanding job, and we provided $1.3 billion to the agency, $500 million over the request. We also have provided a modest amount for predisaster mitigation, which I hope, as the bill moves forward through conference, we can actually increase because of the approach to preventing disasters.

In my own State, Allegheny County has gotten a $700,000 grant, and we have worked with the Corps of Engineers and the Governor. We are well on our way to protecting communities that normally are hit.

Now, in this legislation also there is $9 million for FEMA to have resources to do the training necessary to prevent us from terrorist attacks due to weapons of mass destruction. Senator BOND and I are working to increase that funding. I know it started out even more spartan than this. But, Madam President, we really have to worry that the predators in the world—be they nations or terrorists—are really going to once again try to spread weapons of mass destruction on the United States of America. I know that the military is standing sentry, our intelligence agencies will give us the warning, but we need to look out for our civilian population. I think we need to have the type of training at the local level that we can be able to move in this bill.

Let me also thank the chairman for including money for national service, which does provide the opportunity for so many people to volunteer in our own communities, at the rate of $425 million, last year's request.

And let me close by saying there are two independent agencies—the Neighborhood Reinvestment Corporation, which we funded at $60 million, that I think specific amounts of money are absolutely out there in poor communities and near-poor communities doing a good job. Also, our Consumer Product Safety Commission has gotten out of the rhetoric business under its able administrator, Ms. Brown, and really is giving much needed advice on consumer product safety. Most recently, she has been helping with the whole issue of a particular type of blanket which could cause the death of preschoolers.

This is our bill. It goes from funding Arlington Cemetery and the Consumer Product Safety Agency, to protecting us against national disasters, to honoring our commitment to veterans, to protecting the environment, and promoting science. This is one of the most interesting and exciting bills and subcommittees in the U.S. Senate. I believe the chairman and I have done an outstanding job in trying to get real value for the taxpayer and for the Nation in this bill. I hope that this bill moves forward and that our arguments have been so compelling that there won't be any amendments and we can pass this bill by tomorrow afternoon.

Madam President, I yield the floor.

Mr. BOND addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. BOND. Madam President, I thank my distinguished ranking member for her very cogent and persuasive arguments. She makes an excellent case for the bill.

I note when she says this is an interesting bill that there is an old curse that one should live in interesting times. But we are very fortunate to be able to work on a bill that has so many important programs and is of such great interest among our colleagues.

I want to begin the debate. Before I turn the floor over to our colleague from Ohio, who I understand has other business, I urge all of our colleagues to please come forward if they have amendments, if they have colloquies. It would really help us if we could get as many of those in today as possible in order for us to complete work on this measure by tomorrow afternoon, which would be my hope.

I know we have two amendments that are going to be argued with some enthusiasm and with great feeling on both sides. I hope we can complete those. In order for us to do that, I ask that all Senators who have amendments that might be cleared or colloquies which they wish to enter with us, they provide them by no later than the Tuesday lunches tomorrow so we may have an opportunity to look at them. If we get near the end it would be my desire to finish up, once we have dealt with the controversial amendments, and I would hate to have to turn down an amendment that might otherwise be agreed to because it is not presented in a timely fashion. In order for us to move forward with this bill so we can expedite the work of the Senate, I ask colleagues bring to us this afternoon, if possible, and tomorrow morning in any event, any amendments or colloquies or other matters it wishes to consider so we can complete work on them in as quick a fashion as possible.

I yield the floor.

Ms. MIKULSKI. Madam President, I wish to echo the request of Senator BOND. I say to all my Democratic colleagues, if you have an amendment, please let us know by noon tomorrow, preferably even by 10 o'clock tomorrow morning so we could have discussions with you and perhaps find other ways to resolve their, I am sure, very legitimate concerns.

Also, we ask our colleagues to cooperate with us in a time agreement. There are many bills waiting to come to the floor. We have very few days left in July. We are ready to move our bill.

I yield the floor.

Mr. GLENN. Madam President, I want to compliment Senator BOND and Senator MIKULSKI for the hard work they have done on this bill. I know personally of their efforts in this regard. I certainly support the tack they have taken and look forward to taking part in the debate as it continues over the next couple of days with regard to this matter.

I wish to speak today on a different matter. I ask unanimous consent we proceed as in morning business for the duration of my speech, which will not be beyond about 15 minutes, and then revert back to VA and HUD.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GLENN. I thank the Chair.

NUCLEAR WEAPONS AND SANCTIONS

Mr. GLENN. Madam President, if we go back in history, we see that the development of weapons of war have become more and more hideous as time goes on.

One of the biggest steps forward in that direction—or steps downward, depending on how you look at it—was the development of nuclear weaponry near the end of World War II. I was involved in World War II and in the Korean war. I have been through combat. I know what it is like. When I came to the Senate, I could not imagine anything more horrible than the use of nuclear weaponry in future wars, if they ever came up. The horrors of conventional war are bad enough without imposing nuclear weaponry into that scenario.

My desire to do something in this area motivated much of my work here in the Senate, and I have taken a leading position on this issue through the years. Some of it has been very controversial. There have been various approaches to this issue. I want to discuss just a few of those today.

We have been hearing much talk in this body lately about the use and the value of sanctions, which is one of the tools we have applied to prevent the spread of nuclear weapons to more and more countries around the world. This tool has been applied in many other foreign policy contexts as well, and I am the first to agree with those who say that we may have gone too far in the application of some of these instruments of foreign policy—some of them. There have been successes and there have been failures. It has been a rather spotty record all the way through.

When you consider this whole issue, it seems to revolve mainly around two questions: First, in our international relationships, where do we use carrots and where do we use sticks, to put it in those terms. Where do we use enticements to people, to try and entice them into a certain behavior we would like to see, and where do we use sticks? Where do we threaten the punishments that they may consider ahead of time that might cause them not to go into certain areas of behavior we would like to see them avoid?

Second, what role should sanctions play as an expression of disapproval or punishment in cases where it is manifest that behavior will not be significantly altered as a result of the imposition of sanctions?

Now, the debate in Congress and in most of the think tanks around town and across the country has been most curious because they seem to want it both ways. They want sanctions in some areas and not in others, but not necessarily with regard to nonproliferation.

If we consider some other areas, for example, probably the most salient example of the failure of sanctions from every perspective is the drug war. Now, all of us are against drug use. We want to cut out drug use, whether by cutting the flow from abroad or at our borders or within our communities or whatever. We have those sanctions on, but no one in Congress is standing up to proclaim that sanctions against persons or countries which are contributing to the illegal use of drugs ought to be eliminated. We want to keep those sanctions on. Why? In part, because the drug war is politically popular. The war against drugs is politically popular, and its effect on commercial activity by American business is mixed. We have some businesses in this country actually flourishing because of the drug war—manufacturing of equipment used in surveillance, construction of jails, so on. So those people are not about to go to the National Association of Manufacturers or the Chamber of Commerce to complain about unilateral U.S. sanctions. But the complaints about sanctions are now legion when sanctions are applied in other contexts, like the one I am addressing today—nonproliferation. This is not to say that the critics of congressionally mandated sanctions have no case. I agree with some of the points that they make. But there are extremists who take the position that sanctions are never effective and are therefore always inappropriate. There are also extremists who insist on taking a punitive approach to every vexing foreign policy problem. These folks never saw a sanction they didn't like, and any approach to an issue that doesn't take the hardest line is denounced as some sort of appeasement. I might add that quite often there are political points as much as public policy points trying to be made by some of the tacks that these people seem to take.

Well, as the author of numerous pieces of legislation on nuclear proliferation that have included both carrots and the sticks of sanctions as tools for achieving certain nonproliferation objectives, I have tried to forge a balanced approach to the proliferation problem. Most recently, my 1994 legislation, which has been referred to as the Glenn amendment, was used by President Clinton to impose a variety of economic sanctions against both India and Pakistan because of their recent nuclear tests. Those sanctions were tough. We didn't pull any punches with those sanctions. Those sanctions mandated that military sales and any aid programs had to stop. It said we would block credits and loan guarantees by U.S. Government agencies. We would oppose any loans or cooperation with those countries under sanction from the World Bank, or IMF, the so-called IFITs, International Financial Institution Transactions. We would also block credit from private banks, and we would prohibit the export of dual-use technology to those countries which might be used for military purposes.

Now, that is tough legislation. We didn't give a waiver authority at all. We had rather spotty experiences with Presidents in the past and we said we were going to make this tough; the President could delay the imposition of those sanctions for 30 session days if he wanted, but the President didn't have the authority to waive those sanctions, as is the case with some other legislation. That was done very intentionally. These sanctions now require congressional legislation in order to remove them.

Let's look at the history behind the 1994 legislation—I think it is important to know—in order to understand why this legislation took the form that it did. It is tied up with the history of the cold war and U.S. nonproliferation policy. We could go back to the days of Hiroshima and Nagasaki. Most people realized since those days that we needed to prevent a nuclear holocaust by somehow, some way reducing nuclear weapons. Now, that has remained through the years a long-term objective. And through many of those years it was very disappointing to see the spread of nuclear weapons go on, or nations trying to gain nuclear weapons capabilities.

While nuclear reductions and ultimately nuclear disarmament remained our long-term objective, it would become even more difficult if more and more nations developed a nuclear weapons capability. And with that long-time objective in mind, we passed legislation over a period of more than 20 years trying to stop the spread of nuclear weapons, while at the same time holding out the hope for eventual weapons control.

In 1978, the Nuclear Non-Proliferation Act, which I coauthored, was enacted. It provided for carrots on nuclear cooperation for countries that adhered to certain nonproliferation principles, and it provided the stick of sanctions—cutoffs of nuclear cooperation for countries engaged in dangerous nuclear activities related to bomb making, including nuclear detonations. The Presidential waiver was provided within that legislation. A year earlier than that—in 1977—I authored an amendment to the Foreign Assistance Act that provided for cutoffs of economic and military assistance to countries that received or exploded a nuclear device, or were engaged in—and this is important—either the import or export of dangerous nuclear technologies involving plutonium production and separation—either import or export, either way, whether the country was supplying the stuff or receiving it.

I provided a Presidential waiver in this case also. This legislation, along with the so-called Symington amendment on nuclear enrichment technology transfers, resulted in a cutoff of economic and military assistance for Pakistan in 1979. While the Glenn amendment could have been waived, the Presidential waiver attached to the Symington amendment was impossible to exercise; only congressional action could remove the Symington sanction. Then we came to Afghanistan. After the Afghanistan war erupted—which coincided almost very similar in time to the installation of a new administration—the Reagan administration decided they could not provide military assistance to the mujahedin in Afghanistan without lifting the ban on assistance to Pakistan. The reason was that the material had to flow to Afghanistan through Pakistan. We could hardly get them to transport material through the Pakistani border area and across their territory to Afghanistan if we had sanctions on against Pakistan. So there was a waiver.

The Administration went to Congress and asked for a repeal of the Symington amendment, but Congress wasn't willing to do that. We were unwilling to give the Pakistanis total relief from pressure to halt their evident nuclear weapons development program, so a compromise was struck. Congress agreed to a legislated 6-year waiver of the Symington sanctions, but at the same time passed an amendment that I offered to remove the ability of the President to waive a cutoff of economic and military assistance to any nonweapon state like Pakistan that explodes a nuclear device.

In effect, the line in the sand on sanctions had been pulled back. My purpose in removing the waiver was simple. I didn't know how long in fact the Afghanistan war would proceed. I believed that just as long as it went on, the Pakistanis would count on the Reagan administration not to put nonproliferation policy ahead of cold-war policy. My amendment did provide for a possible 30-session-day delay of sanctions by the President following a detonation, but no waiver without congressional action.

Now, turn over the calendar a little bit. In 1985, when it was clear that the Pakistanis were still going for the bomb—something we had known for a long time—which they consistently denied at all levels of their government, Congress moved the line in the sand a bit closer by passing the Pressler amendment, which also carried no Presidential waiver. It mandated a cutoff to Pakistan, unless the President certified that Pakistan did not possess a nuclear explosive device. Note the wording: The President could not certify they did not possess a nuclear explosive device. It was under this amendment that Pakistan was cut off from economic and military assistance in 1990, after the Afghanistan war ended—and I should add about 3 years after the Pakistanis actually had made the bomb that we knew they were working on all that time.

But other international developments were going on all through this same period. In terms of world events at this point, we were witnessing the demise of the cold war and the beginning of the collapse of the Soviet Union. This brought new hope for really, truly, and finally at least gaining control of nuclear weaponry, after going through years upon years upon years of what we call MAD—mutually assured destruction—on both sides if anybody set off a nuclear weapon. Those were long years where we thought that nuclear nonproliferation was dead and wasn't something with which we really were going to succeed. But finally, with the collapse of the Soviet Union, this brought new hope for really gaining control of nuclear weaponry. In a comparatively short period of time there was real optimism that control over these weapons could be gained. I was one of those who changed my views on this completely during that time period, because I had been very pessimistic through the years. Even though I am the author of much legislation, as I just recounted, on this, I didn't feel that we were really gaining much in the world, and we were starting to move in place. And other nations were really trying to get nuclear weaponry. So we weren't really accomplishing much.

But all at once I began to feel very optimistic at this time, because at the end of the cold war and the agreement with the Soviet Union we saw missiles being taken out of silos; weapons being taken down; fissile material being taken out; the cores of nuclear weapons being taken out and used for other purposes, for stockpile, or whatever. But they were no longer in the weapons aimed at each other halfway around the world. Real progress was being made. I began to feel pretty good about this.

With U.S. leadership, we then worked to obtain progress on arms control and nonproliferation. Over a period of time we had 185 nations sign up under the nonproliferation treaty. Progress was being made on the Comprehensive Test Ban Treaty, also, which currently has 149 signatories. If anyone had come to me and told me a few years ago that we would have that many signatories, that we would have 185 sign up under NPT and 149 for CTBT, I would have told them they were crazy to even contemplate such a thing. But that is what has happened. So things are moving in the right direction.

Indeed, so much progress was being made on the test ban treaty and so much progress had been made on computer simulation of nuclear weapon tests that it was unclear whether any further nuclear explosions would have to take place anywhere.

Back in the old days it was quite apparent that if a nation was going nuclear they didn't say they were a nuclear nation unless they had gone out and really tested a weapon. They couldn't just say their engineering was good, that they will rely on engineering and claim they were a nuclear state and that they knew the thing would go off. That wasn't the way it went. You had to take it out and test it. And if you didn't, you couldn't rely on nuclear weapons. What has happened with the supercomputer and supercomputer simulation is that the need for testing is no longer clear. The way it is now is we think probably you could have a nuclear weapons capability without doing any testing.

So the hope was at that point—the hope we had in 1994—that much tougher sanctions would put the final nail in the coffin for nuclear tests. There wouldn't be any nuclear testing if we could just make this a tough law. So although the circumstances in 1994 were much different than those of 1981, the Glenn amendment of 1981 was updated with tough sanctions. It became the Glenn amendment of 1994. I thought it was working. And it was working until just a few months ago. Unfortunately, the hope on which the amendment was based went down the drain when India's extreme Hindu Nationalist Party overrode what most of the world thought should have been more responsible behavior and set off a nuclear weapon. And Pakistan responded in kind with their demonstration also to make sure they were not left out of things, too.

So we are now faced with a situation which will test the mettle of our diplomacy in south Asia like few times in history, I guess we could probably say like never before. The sanctions that are being imposed because of the Indian and Pakistani tests will fall on both of them, and may help us—I hope it does—move the Indians and Pakistanis toward more responsible behavior in the aftermath of the tests.

We must admit that the sanctions did fail in their primary purpose, which was to prevent a test in the first place. But I look at this as a setback, not the end of our efforts. One could only speculate if this failure was due to the sanctions' unilateral nature or whether the Indians would have tested under any circumstance. This is not to say that unilateral sanctions are never to be imposed as nonproliferation threats. Quite the contrary. For example, the threat of such sanctions was helpful in the special cases of Taiwan and South Korea, when both of those countries were taking steps toward proliferative activity some years ago. We could also indicate that there were other nations that we thought were moving perhaps in that direction, too, and who ultimately gave up their programs—like Argentina and Brazil, and South Africa.

But anyway, to go back to Taiwan and South Korea, both of those countries were heavily dependent on the United States. So unilateral sanctions worked, and they worked well. I think our sanctions also worked for a while in maybe holding back some of Pakistan's advance in their nuclear weapons program, because we made it more difficult for other nations to cooperate with Pakistan as they were trying to achieve their nuclear weapons capability.

But in general I believe it has been increasingly clear that with the dramatic expansion of the world community—sources of information, sources of equipment, sources of trade around the world—I believe that sanctions become really effective only if they have multilateral support.

Let me repeat that because that is the basis of some of these things that I want to elaborate on just a little bit further. Sanctions become really effective only if they have multilateral support, whether through our allies or through the United Nations. Unilateral sanctions are not as effective as we would like to see them. That is the understatement of the day. And there are situations where the imposition or continuation of mandated unilateral sanctions may make a problem even worse.

So I have come to believe that except in very special circumstances, such as those we faced in 1981, sanctions legislation that give the President no role in their implementation or continuation should be avoided, and laws which have been constructed in such fashion should be amended. That is the reason I am here on the floor today.

In my 1994 legislation, the President has no role in the process of implementation or the continuation of sanctions. And the Congress, because of the tradition of no limit on Senate debate, can be hamstrung by a determined minority of Senators who wish to retain sanctions because of considerations that may have nothing to do with the original transgression. So we don't want to permit that to happen, either.

So, accordingly, on June 26, just before the recess, I introduced the Sanctions Implementation Procedures Act of 1998, which is labeled Senate bill 2258, which, if passed, will be applicable to all country sanctions laws that do not contain a Presidential waiver which the President may exercise on the grounds of protecting the national interest. I want to, in order to give the President more leeway, get multilateral support, which is what I would like to see happen either with our major allies or through the United Nations. This bill would give the President the option of delaying any imposition of congressionally mandated sanctions for a period not to exceed the combination of 45 calendar days, followed by 15 session days of Congress. The President, if he chooses to delay the sanctions, must provide a report to Congress no later than the end of the 45-day period in which he discusses the objectives of the sanctions, the extent of multilateral support for the sanctions, and the estimated costs and benefits, both tangible and intangible.

If in this report the President recommends that we don't go ahead with the sanctions—he recommends nonimplementation of the sanctions—then expedited procedures are triggered for 15 session days in both the Senate and the House of Representatives—both Houses of Congress—for the purpose of approving or disapproving the President's recommendation—in other words, expedited procedures which provide for no filibuster. We take it up in preference to other legislation. We give it priority. So it could not be delayed.

Equally important, if the sanctions go into effect—let's say that the Congress says, "OK. Yes. Mr. President, we think this should go into effect," or if the President just chooses to put it into effect and says, "Yes, we do have multilateral support, and, yes, we do have enough support to make the sanctions really bite to make them meaningful"—if the sanctions go into effect, they remain so for two years and then this procedure is repeated on the sanctions' second anniversary, and each anniversary thereafter. In other words, there would be a time certain after every sanction in which the administration would have to consider the effectiveness of it, a report to the Congress, and Congress then would either take appropriate action as they saw fit at that time or we let the sanctions continue on for another year.

For sanctions already in effect at the time of enactment of this bill, this procedure is triggered at the next anniversary of the sanction if it has been in place for 2 years or more, or at the second anniversary for sanctions less than 2 years old.

So this proposed legislation is retrospective and prospective both. We are trying to set down rules here that would apply and make sense on how we will operate in the future with existing sanctions that are in there now and ones that might be applied in the future under current and future laws of our land.

Madam President, this bill does not give the President carte blanche to waive congressionally mandated sanctions, as some bills do, and does not allow a minority of the Senate to prevent sanctions from being lifted as is the case with some of our laws.

We have worked on this very hard, and I believe this bill provides a balance of responsibilities between the President and the Congress. We do not cut the President out of the equation. We do not cut the Congress out of the equation. We recognize our constitutional responsibilities at both ends of Pennsylvania Avenue. This would apply in the imposition and removal of sanctions, and I urge the support of my colleagues for this bill.

I know that a task force has been formed to look at some of the sanctions legislation, and I will be presenting this to that task force also for its consideration. There are several bills that will address this particular problem, but I think this bill really establishes a balance, and I hope I can rely on my colleagues for support when this subject comes to a vote.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BOND. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Ms. COLLINS). Without objection, it is so ordered.

DEPARTMENT OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1999

The Senate continued with the consideration of the bill.

AMENDMENT NO. 3056

(Purpose: To increase funding for the Federal Emergency Management Agency antiterrorism activities)

Mr. BOND. Madam President, I send an amendment to the desk on behalf of myself and Senator MIKULSKI and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

> The Senator from Missouri [Mr. BOND], for himself and Ms. MIKULSKI, proposes an amendment numbered 3056.

Mr. BOND. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> On page 73, line 11, strike "$231,000,000" and insert "$239,000,000, including $11,000,000 for assisting state and local governments in preparing for and responding to terrorist incidents".
>
> On page 42, line 14, strike "$1,000,826,000" and insert "$992,826,000".

Mr. BOND. Madam President, I ask it be considered en bloc as it amends the bill in two places.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOND. Madam President, this amendment responds to the critical requirement of enhancing antiterrorist activities at the Federal Emergency Management Agency. In our budget hearings with the Federal Emergency Management Agency, Senator MIKULSKI and I raised the question of whether this country is ready to respond and take all appropriate actions to deal with the threat of terrorist activities in our country. The administration has submitted a budget amendment on June 8 to increase spending in several agencies for antiterrorism activities, including $11 million more than the original budget request for FEMA's emergency planning and assistance. With this amendment we will meet the request.

The bill as reported by the committee adds $3 million above the initial request for such activities, and this amendment now pending before the Senate would add another $8 million, for a total of $11 million in this key area. These funds are to be used for such critical activities as planning at the Federal, State, and local level for the unique aspect of terrorist-related incidents.

I note this is part of a larger proposal for $249 million to strengthen our ability to defend against and respond to terrorist incidents involving the use of biological or chemical weapons. I wholeheartedly support this effort. I think it is vitally important and I think this is a vital first step.

In a recent self-assessment by the States, they rated themselves as being unprepared in this critical area. The funds we are adding today should go a long way in helping State and local governments prepare for these instances that we hope they never have to face. But, as in all emergency management agencies' activities, we have to be prepared for things that could happen that we hope never happen.

With this amendment, FEMA funding would total almost $18 million. The FEMA program, as I said, complements a broader initiative involving the Department of Defense, Department of Justice, and the Department of Health and Human Services. That effort includes building a civilian stockpile of antidotes to respond to any large-scale attack, improving the public health surveillance system, and providing special equipment to first responders.

We have already included in this bill assistance for first responders in dealing with a problem that is particularly acute in my State of Missouri, and that is the explosion of methamphetamine clandestine labs in our State. We have recognized in this bill the need to prepare first responders—emergency personnel, firefighters, police—when they go into a methamphetamine lab. These are very dangerous facilities that can blow up with any kind of heat or light, or even the discharge of a gun. So we recognize that the people who do the vitally important work responding to emergencies, whether they are firefighters or police or sheriffs units, the first responders as they are often called, need to be prepared. In this amendment, we are going to provide additional assistance to the people who will come on the scenes first.

These are very frightening issues. The terrorism issue—we have already experienced domestic acts of terrorism in Oklahoma City and at the World

Trade Center, so we know they can occur. We need to be prepared. We need to make our country as safe as possible. It is all too easy to ship weapons of mass destruction, be they explosives or chemical or biological weapons, even in a suitcase. This risk is not acceptable, and I strongly support the amendment as an important first step towards dealing with these problems.

Our country has to be prepared to protect its citizens from the dangers of a hostile world. Unfortunately, the constant threat we face from rogue states makes it vital that Congress provide the funding for FEMA to use towards counterterrorism measures on a local level. Our amendment gives FEMA the funding it needs to enhance the training of emergency personnel in the event that a terrorist attack occurs.

Madam President, I urge adoption of the amendment and I yield the floor to my colleague.

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. Madam President, I am pleased to join with Chairman BOND in offering this FEMA amendment. As he has indicated, it provides an additional $8 million for the antiterrorist activities of FEMA, combined with a $3 million increase provided in the full committee markup.

Now, this is really important. There are rogues, bums, and predators out there who want to destroy the United States of America. The United States of America can be attacked and it can be attacked by another nation by a weapon of mass destruction, or it can be attacked by an external terrorist, or even someone within our own country.

What are weapons of mass destruction? They are, of course, nuclear weapons. They are, in addition to nuclear, chemical, biological, and even cybermanipulation.

The issues around chemical and biological weapons present new and unique threats to the United States of America. I am fortunate to have two outstanding military installations in my State, Fort Detrick as well as Aberdeen, whose whole approach is to look into the research activities on what could be the possible weapons used against us, whether it be nerve gas or a despicable virus that could bring a city's population to its knees.

We were concerned in our hearing and raised this issue. Mr. James Lee Witt, the head of FEMA, said he did need to have more resources. In President Clinton's speech at the U.S. Naval Academy, he said that he had directed the administration to undertake a concerted effort to protect our people in the event of biological or chemical weapons being unleashed either by a rogue state, an international criminal organization, or a terrorist group. The key elements of this directive are, for the first time, a civilian stockpile of antidotes and antibiotics, protecting the population by public health surveillance to detect biological or chemical agents, and analyzing the results of diseases.

The President wants an additional $294 million to go to the Justice Department, the FBI, the Department of Health and Human Services, but certainly to FEMA.

We support the FEMA request because it is very important. It is consistent with its overall mission. They receive tasking under the Nunn-Lugar-Domenici legislation that it protect us from all hazards, including weapons of mass destruction, and they need to do several things: They need to play an important role in coordination, and they need to do preparedness by working with States for planning and for training.

It is not only planning—we are not talking about endless summers of planning—but actual exercises to prepare local agencies, from city fire departments to police departments to emergency medical personnel, on what will be the way to both contain the attack and contain the panic around the attack. If we are hit by something from a rogue state or from an international criminal organization, one of the first instances will be to contain the chemical attack or identify the biological one. But people will be scared, they will be panic-stricken. This is an unknown situation. It is FEMA's job to work with the civilian population around the preparedness to do this.

We know that our colleagues in the Department of Defense, like at Fort Detrick, we know that the National Institutes of Health and FDA will be working on the antidotes and the vaccines to protect our civilian population.

We believe that this amount of $17 million enhances the preparedness, which is to coordinate with the Department of Defense and the National Guard, with the Department of Health and Human Services, as well as State and local governments.

DOD, except through the National Guard, doesn't have a relationship with State and local governments. They come in after the first responders. So these funds are very important in developing a new manual, in developing training in the State and local communities, particularly in the high-risk areas that we know would be targeted by rogue states, to deal with their predatory acts.

We believe that this legislation will provide them with a downpayment to prepare. We have been so focused on moving FEMA from a cold-war agency to responding to the tremendous number of civilian natural disasters we have had, and they have done an outstanding job. We now have the infrastructure for them to respond to any risk that the United States of America faces. Now when the ugly head of someone like Saddam Hussein is raised or the ugly tentacles of international crime organizations try to do their predatory acts, we need to stand sentry with our military and our intelligence agencies.

But for anyone who is thinking about doing harm in any way to the American people, know we are well on our way to being prepared. We are prepared now, so don't think, if you are listening out there on CNN, where Saddam Hussein is, don't think we are not prepared. We are prepared, but we are even going to be better prepared. So don't even think about doing it, because if you do, you will face us in return and know we will take any and all means possible to protect our people and we, the Federal emergency management appropriators, are ready to make sure they have the resources to begin the planning and the drills to protect our people.

I support this amendment, and if there is no objection, I urge adoption of the amendment.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to amendment No. 3056.

The amendment (No. 3056) was agreed to.

Mr. BOND. Madam President, I move to reconsider the vote by which the amendment was agreed to.

Ms. MIKULSKI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BOND. Madam President, I think that some of our colleagues may wish to add statements. I know we have had a number of colleagues express an interest in this. I ask unanimous consent that they be allowed to be listed as cosponsors and add statements to the RECORD by the close of business today.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOND. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BOND. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3057

(Purpose: To transfer land from the Department of Veterans Affairs to the University of Alabama, to clarify that States may charge loan fees to clean water state revolving fund borrowers, to make technical reforms to the Mark-to-Market program; to make technical corrections, and for other purposes)

Mr. BOND. Madam President, I send a managers' amendment to the desk on behalf of myself and Senator MIKULSKI and ask for its immediate consideration and ask unanimous consent that it be considered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Missouri [Mr. BOND], for himself and Ms. MIKULSKI, proposes an amendment numbered 3057.

Mr. BOND. I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 16, line 20, insert the following:

"SEC. 110. LAND CONVEYANCE, RIDGECREST CHILDREN'S CENTER, ALABAMA.

(a) CONVEYANCE.—The Secretary of Veterans Affairs may convey, without consideration, to the Board of Trustees of the University of Alabama, all right, title, and interest of the United States in and to the parcel of real property, including any improvements thereon, described in subsection (b).

(b) COVERED PARCEL.—The parcel of real property to be conveyed under subsection (a) is the following: A parcel of property lying in the northeast quarter of the southwest quarter, section 28, township 21 south, range 9 west, Tuscaloosa County, Alabama, lying along and adjacent to Ridgecrest (Brewer's Porch) Children's Center being more particularly described as follows: As a point of commencement start at the southeast corner of the north half of the southwest quarter run in an easterly direction along an easterly projection of the north boundary of the southeast quarter of the southwest quarter for a distance of 888.52 feet to a point; thence with a deflection angle to the left of 134 degrees 41 minutes run in a northwesterly direction for a distance of 1164.38 feet to an iron pipe; hence with a deflection angle to the left of 75 degrees 03 minutes run in a southwesterly direction for a distance of 37.13 feet to the point of beginning of this parcel of property; thence continue in this same southwesterly direction along the projection of the chain link fence for a distance of 169.68 feet to a point; thence with an interior angle to the left of 63 degrees 16 minutes run in a northerly direction for a distance of 233.70 feet to a point; thence with an interior angle to the left of 43 degrees 55 minutes run in a southeasterly direction for a distance of 218.48 feet to the point of beginning, said parcel having an interior angle of closure of 72 degrees 49 minutes, said parcel containing 0.40 acres more or less, said parcel of property is also subject to all rights-of-way, easements, and conveyances heretofore given for this parcel of property.

(c) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States."

On page 55, after line 13, insert the following new sections and designate, accordingly:

SEC. . TECHNICAL CORRECTIONS TO THE DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1998.

(a) SECTION 8 CONTRACT RENEWAL POLICY FOR FY 1999 AND SUBSEQUENT YEARS.—Section 524 of the Multifamily Assisted Housing Reform and Affordability Act of 1997 is amended:

(1) in subsection (a)(2), by inserting after "Notwithstanding paragraph (1)" The following "and subject to section 516 of this subtitle"; and

(2) by inserting at the end the following new subsections"

"(b) INAPPLICABILITY TO PROJECTS SUBJECT TO RESTRUCTURING.—This section shall not apply to projects restructured under this subtitle.

"(c) SAVINGS PROVISIONS.—Upon the repeal of this subtitle pursuant to section 579, the provisions of sections 512(2) and 516 (as in effect immediately before such repeal) shall apply with respect to this section.".

(b) REPEAL OF CONTRACT RENEWAL AUTHORITY UNDER SECTION 405(a).—Section 405(a) of the Balanced Budget Down Payment Act, I is hereby repealed.

(c) EXEMPTIONS FROM RESTRUCTURING.—(1) Section 514(h)(1) of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, is amended to read as follows:

(1) the primary financing for the project was provided by a unit of State government of a unit of general local government (or an agency or instrumentality of either) and the primary financing involves mortgage insurance under the National Housing Act, such that implementation of a mortgage restructuring and rental assistance sufficiency plan under this Act would be in conflict with applicable law or agreements governing such financing;".

(2) Section 524(a)(2)(B) is amended by striking "and the financing" and inserting "and the primary financing".

(d) MANDATORY RENEWAL OF PROJECT-BASED ASSISTANCE.—Section 515(c)(1) is amended by inserting "or" after the semicolon at the end of subparagraph (B).

(e) PARTIAL PAYMENTS OF CLAIMS.—Section 514 of the national Housing Act is amended by—

(1) by striking "1978 or" and inserting "1978) or"; and

(2) by striking ")))" and inserting "))".

On page 56, line 17, after the word "That" insert ", of the funds made available under this heading,".

On page 69, line 15, following the last proviso and prior to the period, insert the following:

": *Provided further*, That, notwithstanding section 603(d)(7) of the Federal Water Pollution Control Act, as amended, the limitation on the amounts in a water pollution control revolving fund that may be used by a State to administer the fund shall not apply to amounts a State has heretofore included, or will hereafter include, as principal in loans made by such fund to eligible borrowers where such amounts represent costs of administering the fund, except that such amounts therefore or hereafter included in loans shall be accounted for separately from other assets in the fund, shall only be used for purposes of administering the fund and shall not exceed an amount that the Administrator deems reasonable"

On page 70, line 3, insert the following: "(a) LIMITATION ON FUNDS USED TO ENFORCE REGULATIONS REGARDING ANIMAL FATS AND VEGETABLE OILS.—None of the funds made available by this Act or subsequent Acts may be used by the Environmental Protection Agency to issue, implement, or enforce a regulation or to establish an interpretation or guideline under the Edible Oil Regulatory Reform Act (Public Law 104–55) or the amendments made by that Act, that does not recognize and provide for, with respect to fats, oils, and greases (as described in that Act, or the amendments made by that Act) differences in—

(1) physical, chemical, biological and other relevant properties; and

(2) environmental effects.

(b) DEADLINE FOR PROMULGATION OF REGULATIONS.—Not later than March 31, 1999, the Administrator of the Environmental Protection Agency shall issue regulations amending 40 C.F.R. 112 to comply with the requirements of Public Law 104–55."

On page 55, after line 13, insert the following new section:

SEC. . CLARIFICATION OF OWNER'S RIGHT TO PREPAY.

(a) PREPAYMENT RIGHT.—Notwithstanding section 211 of the Housing and Community Development Act of 1987 or section 221 of the Housing and Community Development Act of 1987 (as in effect pursuant to section 604(c) of the Cranston-Gonzalez National Affordable Housing Act), subject to subsection (b), with respect to any project that is eligible low-income housing (as that term is defined in section 229 of the Housing and Community Development Act of 1987)—

(1) the owner of the project may prepay, and the mortgagee may accept prepayment of, the mortgage on the project, and

(2) the owner may request voluntary termination of a mortgage insurance contract with respect to such project and the contract may be terminated notwithstanding any requirements under sections 229 and 250 of the National Housing Act.

(b) CONDITIONS.—Any prepayment of a mortgage or termination of an insurance contract authorized under subsection (a) may be made—

(1) only to the extent that such prepayment or termination is consistent with the terms and conditions of the mortgage on or mortgage insurance contract for the project; and

(2) only if owner of the project involved agrees not to increase the rent charges for any dwelling unit in the project during the 60-day period beginning upon such prepayment or termination.

Mr. BOND. Madam President, this amendment includes clarifying provisions which have been cleared on both sides and are without controversy.

First, on behalf of Senator SHELBY, the amendment would allow the transfer of land from the Department of Veterans Affairs—Tuscaloosa VA Hospital—to the University of Alabama to use for the Ridgecrest Children's Center. VA has no objection to this language, and it is in keeping with the conveyance of land from Tuscaloosa authorized in the fiscal year 1997 VA-HUD bill.

Second, the amendment makes a technical correction to a provision under the American Battle Monuments Commission.

Third, the amendment clarifies that States, in administering their clean water State revolving fund program, may charge borrowers loan origination fees. This language has been reviewed and approved by both EPA and the authorizing committee.

Fourth, the amendment would make a number of technical amendments to the mark-to-market legislation enacted as part of the VA-HUD fiscal year 1998 Appropriations Act with the concurrence of the administration and the Senate Banking Committee.

Fifth, on behalf of Senator HARKIN, the amendment would require that

EPA recognize the differences between the environmental effects caused by spills of animal fats and vegetable oils, as opposed to petroleum oil, and issue regulations to accomplish this commonsense differentiation.

Finally, the amendment would clarify the owner's right to prepay under the Preservation Program, as requested by the administration and cleared by the Senate Banking Committee.

Ms. MIKULSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Ms. MIKULSKI. Madam President, I think this is an outstanding managers' amendment. I think it resolves several issues related to the Tuscaloosa Hospital, the American Battle Monuments Commission, as well as clarifying certain things with EPA.

I am particularly gratified that we will recognize the differences of the environmental effects between animal fats and vegetable oils and petroleum oil. And I think this will be an important clarification for EPA to issue this commonsense differentiation. I have been at oil spills and I have also spilled some oil on my floor cooking those Maryland crab cakes, and I know the difference, and it will help EPA know as well.

So I am prepared to accept the amendment.

Mr. BOND. Madam President, I urge adoption of the amendment.

The PRESIDING OFFICER. Is there further debate?

If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 3057) was agreed to.

Mr. BOND. I move to reconsider the vote.

Ms. MIKULSKI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BOND. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BOND. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. BOND. Madam President, I ask unanimous consent that there now be a period for the transaction of routine morning business, with Senators permitted to speak therein for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Madam President, at the close of business Friday, July 3, 1998, the federal debt stood at $5,528,258,076,325.62 (Five trillion, five hundred twenty-eight billion, two hundred fifty-eight million, seventy-six thousand, three hundred twenty-five dollars and sixty-two cents).

One year ago, July 3, 1997, the federal debt stood at $5,356,041,000,000 (Five trillion, three hundred fifty-six billion, forty-one million).

Twenty-five years ago, July 3, 1973, the federal debt stood at $453,254,000,000 (Four hundred fifty-three billion, two hundred fifty-four million) which reflects a debt increase of more than $5 trillion—$5,075,004,076,325.62 (Five trillion, seventy-five billion, four million, seventy-six thousand, three hundred twenty-five dollars and sixty-two cents) during the past 25 years.

TRIBUTE TO JUDGE MAURICE H. RICHARDSON

Mr. KENNEDY. Madam President, I welcome this opportunity to recognize the valuable service given to Massachusetts by our state District Court Judge Maurice H. Richardson, who retired in June after serving the citizens of Norfolk County with great distinction for nearly a quarter century.

Judge Richardson dedicated his career in the law to serving the people of our state. As a judge he applied the law with great wisdom and compassion. He was well known for his ability to distinguish between hardened, habitual criminals and those who could take advantage of opportunities for rehabilitation. He encouraged many to seek counseling, enter a drug or alcohol treatment program, or take other steps to put their lives and their families back together.

During his years on the bench, Judge Richardson was also a skillful and tireless advocate for mental health. For many years he presided over mental health commitment hearings for several Massachusetts facilities. He was dedicated to finding the most effective assistance for the mentally ill, and often worked closely with doctors, patients and their families.

Judge Richardson also took the lead in the state judicial system and state legislature to improve the way the mentally ill and the mentally retarded are treated by the state courts, and his efforts enhanced the quality of life for countless individuals and their families.

Judge Richardson has earned well-deserved recognition for his leadership and his achievements. Throughout his distinguished career, he received numerous awards, including the District Court Award for Judicial Excellence from the Massachusetts Judges' Conference, the Annual Award from the Bar Association of Norfolk County, and the Commissioners Award from the Massachusetts Department of Mental Health.

I am sure that my colleagues join me in commending Judge Richardson for his distinguished service. We congratulate him on his extraordinary career and we extend our warmest wishes to Judge Richardson and his family on his retirement.

FIVE WINNERS PICKED TO "CELEBRATE AMERICA"

Mr. KENNEDY. Madam President, a few months ago, the American Immigration Lawyers Association held its second annual essay contest, entitled "Celebrate America" for fifth grade children across the country. The children were asked to write essays on the subject, "Why I am Glad America is a Nation of Immigrants."

Thousands of children entered the contest, and I congratulate all the participants. Five winners were selected, and were judged by a panel that included our colleague Senator ABRAHAM, Washington State Governor Gary Locke, New York City Mayor Rudolph Giuliani, Minnesota Supreme Court Justice Alan Page, and myself.

The winner of this year's contest is Jaclyn Mals, from Decatur Classical School in Chicago, who wrote about her great-grandfather's immigrant experience. In addition, four other students were honored for their essays—Tony Kudron of Livonia, MI, Samantha Fonseca-Moreira of Lexington, MA, Mandi Steiner of West Hills, CA, and Kayla Weinstein of Encinitas, CA. All of the essays are an expression of the pride that we all share in our immigrant heritage, and emphasize what the nation gains from immigrants.

I congratulate each of these students, and I ask unanimous consent that the five winning essays from the "Celebrate America" contest be printed in the RECORD.

There being no objection, the essays were ordered to be printed in the RECORD, as follows:

(By Jaclyn Mals)

MISS LIBERTY AND ME

This man, I'm told, was an immigrant,
arrived when he was young,
seven dollars in his pocket,
Spoke only a foreign tongue.

Miss Liberty greeted him at the shore,
and he smiled with great relief,
a new beginning was ahead,
in freedom, her torch did reach.

The years ahead were an adventure,
new language, new customs, and ways,
his children were his tutors,
to prosper in his days.

This man was my great grandpa,
and if you look around,
his story is quite familiar now,
in this multi-cultural crowd.

He gave us inspiration,
to welcome all who roam,
and light the way like Miss Liberty,
for those with no land to call home.

So whenever you meet a person,
who comes from a land that's not free
show them all they can be in freedom,
like Great Grandpa, Miss Liberty, and me.

WHY I'M GLAD AMERICA IS A NATION OF IMMIGRANTS

(By Tony Kudron)

Immigration has played a very important part in our country's history. Many of our past immigrants passed through Ellis Island from 1892 to 1943. It has been part of the Liberty National Monument since 1965. Many of today's immigrants come to the United States to be reunited with their families. Others come here seeking employment, while others look for political freedom.

My story of immigration is about my sister, Mia. She was adopted from Seoul, Korea. One of the steps in the adoption process was to petition the Department of INS. The Immigration and Naturalization Service is our country's government agency that administers our country's immigration laws and procedures. Our social worker helped us with the forms and procedures. There were several things that needed to be done, but the two most important were that my parents had to have their finger prints sent to the INS, and the other was to fill out Form I–600 to Petition to Classify Orphan as an Immediate Relative. The citizenship process took six months. The next step was to go to the INS office in Port Huron, Michigan. So, on November 15, 1996 my family went to Port Huron.

We started the afternoon off by enjoying lunch at the Thomas Edison Inn on the St. Clair River. After lunch we went to our scheduled appointment at the INS office located by the Blue Water Bridge. Mia was dressed in a red, white and blue dress and was holding the American flag. There my parents went over the paperwork with the officers and turned in Mia's green card. They gave us a copy of her green card for her baby book. Since Mia was just under two years old, my dad signed her certificate of U.S. Citizenship for her. Now was the final step. With a very serious look on his face the INS officer read Mia the Oath of Allegiance. Mia stood on a chair in front of the officer's desk and listened carefully as if she understood, nodding her head when appropriate. It brought tears and smiles to all of our faces. She also received a letter from President Clinton congratulating her on becoming a U.S. citizen. So, I'm glad America is a nation of immigrants because without immigration to the U.S., I wouldn't have my beautiful little sister.

WHY I AM GLAD AMERICA IS A NATION OF IMMIGRANTS

(By Samantha Fonseca-Moreira)

America without immigrants, would be like a patchwork quilt without the patches. Without immigrants there would be no colors. The immigrants bring the colors to the quilt because of their different cultures, religions and skin color. They came to this country for different reasons; freedom, starting a new life, making money and worshiping any way they choose. Without immigrants America would not have become the great nation that it is today.

The thread that sews the quilt together is made from the struggles and hard times that many immigrants had to go through when they came to the United States. One of the reasons that the quilt is so strong and beautiful is that we have worked hard together to make America a better country by creating rules that are fair for everyone. The individual patches are needed to create the beauty of the quilt. Together they combined to form the patterns that make the quilt complete.

The stuffing is made up of generations and generations of new Americans that met and married, a German with an Irish, a Chinese with a Portuguese, a Greek with a French, for a Brazilian with a Canadian. Only in the United States could this be possible. They bring stories and heritages that become part of America. The quilt is a never ending project. New immigrants arrive every day creating their own patches of the American quilt.

WHY I AM GLAD AMERICA IS A NATION OF IMMIGRANTS—I CAN BE ME IN AMERICA

(By Mandi Steiner)

I am who I am, and you are who you are
If you believe in me, and I believe in you,
We each can be a shining star
In our land of the red, white, and blue.

You are my sister, and you are my brother
It doesn't matter if you are Italian or Greek,
Let's remember to be kind to each other,
And respect the language we happen to speak.

We can learn so many new things,
About all the cultures that we meet
That we can travel without wings
By talking to new friends on our street.

I greet you with "Hola", and you say "Bon Jour,"
But I know what you mean by the smile on your face.
So hand in hand we walk down the block to the store,
Not ever caring about color or race.

I feel lucky to sample the flavors we share
Chop suey, chili, and falafels galore.
We sing, we eat, we show that we care.
We enjoy and then come back for more.

I am who I am, and you are who you are
We have roots to keep us proud without fear
Although we may have come from very far,
In America our voice will be heard loud and clear.

IMMIGRANTS ARE THE KEY

(By Kayla Weinstein)

Do you always think the grass is green,
Morning, evening, in-between?
Look much closer and you'll see
So many colors blend to be.

So many fishes in the sea
Designs and colors running free
But all are one and come together
Making life there so much better.

Blue's not the color of the sky
Both day and night I'll tell you why,
Pinks, oranges, purples must be seen
And all the colors in-between

And what about the pot of soup?
Beans, broccoli, peas and more to scoop
Each has a flavor of its own.
Together's when its name is known.

Our country's something of the same
All people share their county's fame
Were richer when we come together
Learning, sharing makes us better.

Difference makes our nation richer
Like juice for punch in one big pitcher
Like grass, like sky, like soup, like sea
Our land of immigrants is key!

MEASURES READ THE FIRST TIME

The following bills were read the first time:

H.R. 2431. An act to establish an Office of Religious Persecution Monitoring, to provide for the imposition of sanctions against countries engaged in a pattern of religious persecution, and for other purposes.

H.R. 3150. An act to amend title 11, of the United States Code, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–5735. A communication from the Chief of the Regulations Unit, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "EIC Eligibility Requirements" (RIN1545–AV62) received on June 25, 1998; to the Committee on Finance.

EC–5736. A communication from the Chief of the Regulations Unit, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Examination of Returns and Claims for Refund, Credit, or Abatement; Determination of Correct Tax Liability" (Rev. Proc. 98–38) received on June 25, 1998; to the Committee on Finance.

EC–5737. A communication from the Chief of the Programs and Legislation Division, Office of Legislative Liaison, Department of the Air Force, transmitting, pursuant to law, the report of a cost comparison of the Master Personnel Records function at the Air Force Personnel Center, Randolph Air Force Base, San Antonio, Texas; to the Committee on Armed Services.

EC–5738. A communication from the Chief of the Programs and Legislation Division, Office of Legislative Liaison, Department of the Air Force, transmitting, pursuant to law, the report of a cost comparison of the Supply and Transportation functions at Andersen Air Force Base, Guam; to the Committee on Armed Services.

EC–5739. A communication from the Director of the Office of Regulatory Management and Information, Office of Policy, Planning, and Evaluation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans; Ohio" (FRL6116–9) received on June 25, 1998; to the Committee on Environment and Public Works.

EC–5740. A communication from the Executive Director of the Presidio Trust, transmitting, pursuant to law, the report of a rule entitled "Interim Management of the Presidio" (RIN3212–AA00) received on June 25, 1998; to the Committee on Energy and Natural Resources.

EC–5741. A communication from the Chairman of the Merit Systems Protection Board, transmitting, pursuant to law, a report entitled "Federal Supervisors and Strategic Human Resources Management"; to the Committee on Governmental Affairs.

EC–5742. A communication from the Assistant Administrator, Office of Prevention, Pesticides and Toxic Substances, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Reporting Requirements for Risk/Benefit Information; Amendment and Correction" (RIN2070–AB50) received on June 25, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5743. A communication from the Administrator of the Rural Utilities Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Electric Engineering, Architectural Service and Design Policies and Procedures" (RIN0572-AA48) received on June 25, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC-5744. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, notice that a reward has been paid to Rewards Program Participant 96-21; to the Committee on Foreign Relations.

EC-5745. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Medicare Program; Establishment of the Medicare+Choice Program" (RIN0938-AI29) received on June 25, 1998; to the Committee on Finance.

EC-5746. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Medicare Program; Medicare Coverage of and Payment for Bone Mass Measurements" (RIN0938-AI89) received on June 25, 1998; to the Committee on Finance.

EC-5747. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule relative to money purchase pension plans (Rev. Proc. 98-42) received on June 25, 1998; to the Committee on Finance.

EC-5748. A communication from the National Director of the Tax Forms and Publications Division, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule relative to specifications for the private printing of substitute forms W-2 and W-3 (Rev. Proc. 98-33) received on June 25, 1998; to the Committee on Finance.

EC-5749. A communication from the Director of the Office of Personnel Management, transmitting, pursuant to law, the report of a rule entitled "Employment in the Senior Executive Service; Promotion and Internal Placement" (RIN3206-AH92) received on June 25, 1998; to the Committee on Governmental Affairs.

EC-5750. A communication from the Director of the Office of Personnel Management, transmitting, pursuant to law, the report of a rule entitled "Federal Employees Retirement System—Open Enrollment Act Implementation" (RIN3206-AG96) received on June 25, 1998; to the Committee on Governmental Affairs.

EC-5751. A communication from the Director of the Office of Personnel Management, transmitting, pursuant to law, the report of a rule entitled "Retention Allowances" (RIN3206-AI31) received on June 25, 1998; to the Committee on Governmental Affairs.

EC-5752. A communication from the Director of the Personnel and Family Readiness Division, Headquarters United Sates Marine Corps, Department of the Navy, transmitting, pursuant to law, the annual report of the retirement plan for civilian employees involved in morale, welfare and recreation support activities for calendar year 1997; to the Committee on Governmental Affairs.

EC-5753. A communication from the Director of the Federal Emergency Management Agency, transmitting, pursuant to law, the report of the Office of Inspector General for the period October 1, 1997 through March 31, 1998 with an associated Director's report; to the Committee on Governmental Affairs.

EC-5754. A communication from the Interim District of Columbia Auditor, transmitting, pursuant to law, a report regarding the Water and Sewer Authority's fiscal year 1998 revenue estimate; to the Committee on Governmental Affairs.

EC-5755. A communication from the Secretary of Labor, transmitting, pursuant to law, a report entitled "Minimum Wage and Overtime Hours Report"; to the Committee on Labor and Human Resources.

EC-5756. A communication from the Acting Director of Communications and Legislative Affairs, Equal Employment Opportunity Commission, transmitting, pursuant to law, the report of a rule entitled "Waiver of Rights and Claims Under the Age Discrimination in Employment Act" received on June 25, 1998; to the Committee on Labor and Human Resources.

EC-5757. A communication from the Members of the Railroad Retirement Board, transmitting, pursuant to law, the annual report on the financial status of the railroad unemployment insurance system for 1998; to the Committee on Labor and Human Resources.

EC-5758. A communication from the General Counsel of the National Science Foundation, transmitting, pursuant to law, the report of a rule entitled "Antarctica; Adjustment of Civil Monetary Penalties" received on June 25, 1998; to the Committee on Labor and Human Resources.

EC-5759. A communication from the Director of the Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Labeling of Drugs for Use in Milk-Producing Animals" (Docket 96N-0007) received on June 25, 1998; to the Committee on Labor and Human Resources.

EC-5760. A communication from the Secretary of Defense, transmitting notice of military retirements; to the Committee on Armed Services.

EC-5761. A communication from the Director of Defense Procurement, Office of the Under Secretary of Defense for Acquisition and Technology, transmitting, pursuant to law, the report of a rule entitled "Defense Federal Acquisition Regulation Supplement; Streamlined Research and Development Contracting" (Case 97-D002) received on June 25, 1998; to the Committee on Armed Services.

EC-5762. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, the report of a Presidential Determination entitled "Sanctions Against Pakistan for Detonation of a Nuclear Explosive Device" (No. 98-25); to the Committee on Foreign Relations.

EC-5763. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, the report of a rule entitled "Passport Procedures—Amendment to Restriction of Passports Regulation" (Notice 2632) received on June 25, 1998; to the Committee on Foreign Relations.

EC-5764. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, the report of a proposed Manufacturing License Agreement with Israel regarding aircraft components (DTC-78-98); to the Committee on Foreign Relations.

EC-5765. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, the report of a proposed Manufacturing License Agreement with Israel regarding aircraft components (DTC-77-98); to the Committee on Foreign Relations.

EC-5766. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, the report of a proposed Manufacturing License Agreement with Israel and the United Kingdom regarding aircraft components (DTC-76-98); to the Committee on Foreign Relations.

EC-5767. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, the report of a proposed Manufacturing License Agreement with Japan regarding airborne transponders (DTC-83-98); to the Committee on Foreign Relations.

EC-5768. A communication from the Managing Director of the Federal Housing Finance Board, transmitting, pursuant to law, the report of a rule entitled "Compensation and Conflicts-of-Interest Rules for Federal Home Loan Bank Employees" (RIN3069-AA76) received on June 25, 1998; to the Committee on Banking, Housing, and Urban Affairs.

EC-5769. A communication from the Secretary of Commerce, transmitting, pursuant to law, the report of a rule regarding certain foreign policy-based export controls imposed on the Federal Republic of Yugoslavia received on June 25, 1998; to the Committee on Banking, Housing, and Urban Affairs.

EC-5770. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, notice of a Determination regarding Export-Import Bank financing of the sale of defense articles and services to Venezuela for anti-narcotics purposes; to the Committee on Banking, Housing, and Urban Affairs.

EC-5771. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Tuberculosis in Cattle, Bison, and Captive Cervids; Indemnity for Suspects" (Docket 98-033-1) received on June 25, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC-5772. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Validated Brucellosis-Free States; Oklahoma" (Docket 98-061-1) received on June 25, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC-5773. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Brucellosis in Cattle; State and Area Classifications; Louisiana" (Docket 98-068-1) received on June 25, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC-5774. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans; Indiana" (FRL6114-8) received on June 25, 1998; to the Committee on Environment and Public Works.

EC-5775. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Disposal of Polychlorinated Biphenyls (PCB's); Final Rule" (FRL5726-1) received on June 25, 1998; to the Committee on Environment and Public Works.

EC-5776. A communication from the Director of Publications, American Council of

Learned Societies, transmitting, pursuant to law, the Council's annual report for fiscal year 1997; to the Committee on the Judiciary.

EC–5777. A communication from the Acting Secretary of the Federal Trade Commission, transmitting, pursuant to law, the report of a rule entitled "Premerger Notification; Reporting and Waiting Period Requirements" received on June 25, 1998; to the Committee on the Judiciary.

EC–5778. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Boeing Model 737–100, –200, –300, –400, and –500 Series Airplanes" (Docket 98–NM–178–AD) received on June 25, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5779. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Standard Instrument Approach Procedures; Miscellaneous Amendments" (Docket 29248) received on June 25, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5780. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Standard Instrument Approach Procedures; Miscellaneous Amendments" (Docket 29249) received on June 25, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5781. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of VOR Federal Airway V–405; NY" (Docket 97–AEA–30) received on June 25, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5782. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of VOR Federal Airway V–605; and Withdrawal of Proposal to Establish VOR Federal Airway V–603; SC" (Docket 95–ASO–22) received on June 25, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5783. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB–120 Series Airplanes" (Docket 97–NM–304–AD) received on June 25, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5784. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Gulfstream Aerospace Corporation Model G–159 (G–I) Airplanes" (Docket 97–NM–302–AD) received on June 25, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5785. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB–145 Series Airplanes" (Docket 98–NM–181–AD) received on June 25, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5786. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety Zone; San Francisco Bay, San Francisco, CA—COTP San Francisco Bay; 98–011" (RIN2115–AA97) received on June 25, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5787. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety Zone; San Francisco Bay, San Francisco, CA—COTP San Francisco Bay; 98–010" (RIN2115–AA97) received on June 25, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5788. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Qualifications for Tankermen and for Persons in Charge of Transfers of Dangerous Liquids and Liquefied Gases" (Docket 79–116) received on June 25, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5789. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety Zone: Burlington Independence Day Fireworks, Burlington Bay, Vermont" (Docket 01–98–058) received on June 25, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5790. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety Zone: City of Yonkers Fireworks, New York, Hudson River" (Docket 01–98–044) received on June 25, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5791. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Revision of Class E Airspace; Kotzebue, AK" (Docket 98–AAL–5) received on June 25, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5792. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Special Local Regulations; Cellular One Offshore Cup; San Juan Bay and North of Old San Juan, Puerto Rico" (Docket 07–98–037) received on June 25, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5793. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Special Local Regulations; Independence Day Celebration Cumberland River Miles 190–191, Nashville, TN" (Docket 08–98–025) received on June 25, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5794. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Special Anchorage Area: Groton, CT" (Docket 01–97–014) received on June 25, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5795. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Special Local Regulations; Deerfield Beach Super Boat Race, Deerfield Beach, Florida" (Docket 07–98–024) received on June 25, 1998; to the Committee on Commerce, Science, and Transportation.

. EC–5796. A communication from the Director of the Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 630" (Docket 971208297–8054–02) received on June 25, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5797. A communication from the Director of the Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule regarding the commercial cod harvest in the Northeast (Docket 980318066–8066–01) received on June 25, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5798. A communication from the Director of the Federal Aviation Administration and the Administrator of the National Aeronautics and Space Administration, transmitting, pursuant to law, the report on the Subsonic Noise Reduction Technology Program for fiscal year 1997 received on June 25, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5799. A communication from the AMD-Performance Evaluation and Records Management, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Minimum Distance Separations To Mexican Broadcast Stations" received on June 25, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5800. A communication from the Acting Secretary of the Federal Trade Commission, transmitting, pursuant to law, the report of a rule entitled "Amended Enforcement Policy Statement Concerning Clear and Conspicuous Disclosure in Foreign Language Advertising and Sales Materials" received on June 25, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5801. A communication from the Chairman of the Farm Credit Insurance Corporation, transmitting, pursuant to law, the Corporation's report for calendar year 1997; to the Committee on Agriculture, Nutrition, and Forestry.

REPORTS OF COMMITTEES SUBMITTED DURING ADJOURNMENT

Under the authority of the order of the Senate of June 26, 1998, the following reports of committees were submitted on July 2, 1998:

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 1752: A bill to authorize the Secretary of Agriculture to convey certain administrative sites and use the proceeds for the acquisition of office sites and the acquisition, construction, or improvement of offices and support buildings for the Coconino National Forest, Kaibab National Forest, Prescott National Forest, and Tonto National Forest in the State of Arizona (Rept. No. 105–233).

S. 1807: A bill to transfer administrative jurisdiction over certain parcels of public domain land in Lake County, Orgeon, to facilitate management of the land, and for other purposes (Rept. No. 105–234).

By Mr. GREGG, from the Committee on Appropriations, without amendment:

S. 2260: An original bill making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1999, and for other purposes (Rept. No. 105–235).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

H.R. 434: A bill to provide for the conveyance of small parcels of land in the Carson National Forest and the Santa Fe National

Forest, New Mexico, to the village of El Rito and the town of Jemez Springs, New Mexico. (Rept. No. 105-236).

By Mr. MURKOWSKI, From the Committee on Energy and Natural Resources, without amendment:

H.R. 2165: A bill to extend the deadline under the Federal Power Act applicable to the construction of FERC Project Number 3862 in the State of Iowa, and for other purposes (Rept. No. 105-237).

H.R. 2217: A bill to extend the deadline under the Federal Power Act applicable to the construction of FERC Project Number 9248 in the State of Colorado, and for other purposes (Rept. No. 105-238).

H.R. 2841: A bill to extend the time required for the construction of a hydroelectric project (Rept. No. 105-239).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 1510: A bill to direct the Secretary of the Interior and the Secretary of Agriculture to convey certain lands to the county of Rio Arriba, New Mexico (Rept. No. 105-240).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. LEVIN:

S. 2261. A bill to amend chapter 63 of title 5, United States Code, to increase the amount of leave time available to a Federal employee in any year in connection with serving as an organ donor, and for other purposes; to the Committee on Governmental Affairs.

S. 2262. A bill to amend chapter 89 of title 5, United States Code, relating to the Federal Employees Health Benefits Program, to enable the Federal Government to enroll an employee and the family of the employee in the program when a State court orders the employee to provide health insurance coverage for a child of an employee but the employee fails to provide the coverage, and for other purposes; to the Committee on Governmental Affairs.

By Mr. GORTON (for himself, Mr. LIEBERMAN, Mr. FAIRCLOTH, Mr. HARKIN, and Mrs. BOXER):

S. 2263. A bill to amend the Public Health Service Act to provide for the expansion, intensification, and coordination of the activities of the National Institutes of Health with respect to research on autism; to the Committee on Labor and Human Resources.

By Mr. HATCH:

S. 2264. A bill to revise, codify, and enact without substantive change certain general and permanent laws, related to patriotic and national observances, ceremonies, and organizations, as title 36, Untied States Code, "Patriotic and National Observances, Ceremonies, and Organizaitons"; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LEVIN:

S. 2261. A bill to amend chapter 63 of title 5, United States Code, to increase the amount of leave time available to a Federal employee in any year in connection with serving as an organ donor, and for other purposes; to the Committee on Governmental Affairs.

ORGAN DONOR LEGISLATION

• Mr. LEVIN: Mr. President, I introduce legislation which would increase the amount of leave time available to a Federal employee who serves as an organ donor. Presently, Federal employees are allowed a maximum of 7 days when serving as an organ or bone-marrow donor. Although a 7 day recovery period is sufficient for bone-marrow donors, often times, the donation of an organ requires a lengthier period for recovery. This bill seeks to address this need.

Under this bill, Federal employees that serve as organ donors would be allowed to take up to 30 days of leave for recovery. Thus, this legislation provides Federal employees the security of knowing that they can take sufficient leave time when considering the option of organ donation. This will also serve as a guide for both public and private employers who may wish to provide similar benefits to their employees.

Medical technology and improved surgical techniques have improved the survival rate of persons needing an organ transplant. It is important that the Federal Government continues to do whatever it can to assist the medical community in encouraging citizens to become organ donors.

Mr. President, I ask unanimous consent that a bill summary be printed in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

Section-by-Section Analysis

The bill would increase the current limit of 7 days to 30 days for organ donation. Recent surveys of doctors and hospitals show that the current limit, while sufficient time for bone-marrow donation, is an insufficient amount of time for organ transplant procedures, where recovery time is lengthier. This change would properly differentiate the two types of donations to reflect that difference in the time it takes to recuperate.

I would also amend the table of sections at the beginning of chapter 63 of title 5, United States Code, by adding after the item relating to section 6327 a second section 6328 which relates to absence due to funerals of fellow Federal law enforcement officers.•

By Mr. LEVIN:

S. 2262. A bill to amend chapter 89 of title 5, United States Code, relating to the Federal Employees Health Benefits Program, to enable the Federal Government to enroll an employee and the family of the employee in the program when a State court orders the employee to provide health insurance coverage for a child of an employee but the employee fails to provide the coverage, and for other purposes; to the Committee on Governmental Affairs.

FEDERAL EMPLOYEES HEALTH BENEFITS CHILDREN'S EQUITY ACT OF 1998

• Mr. LEVIN. Mr. President, today I introduce the Federal Employees Health Benefit Children's Equity Act of 1998.

This legislation concerns Federal employees who are under a court order to provide health insurance to their dependent children. If a Federal employee is under such a court order and his dependent children have no health insurance coverage, the Federal government would be authorized to enroll the employee in a "family coverage" health plan. If the employee is not enrolled in any health care plan, the Federal government would be authorized to enroll the employee in the "family coverage" plan of the standard option of the service benefit plan, typically Blue Cross/Blue Shield. The bill would also prevent the employee from canceling health coverage for his children for the term of the court order.

Mr. President, I ask unanimous consent that a summary of the bill be printed in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

Section-by-Section Analysis

Section 1 provides the bill's short title, the "Federal Employees Health Benefits Children's Equity Act of 1997."

Section 2 would amend 5 U.S.C. §8905 by adding a new subsection (f) to allow an employee who is not enrolled in an FEHB plan to enroll in a plan for self and family coverage if the employee is required by a court order or administrative order to provide health insurance coverage for a child who meets the definition of "member of family" under 5 U.S.C. 8901(5). Moreover, if such an employee fails to enroll and cannot show that the child is covered by other health insurance, this section would require the employing agency to enroll the employee for self and family under the low-option Service Benefit Plan (currently Blue Cross/Blue Shield).

Section 2 also prescribes similar treatment for a similarly-situated employee who is enrolled as an individual in an FEHB plan. The amendment would ensure that, under the circumstances described in the preceding paragraph, the employee's enrollment would be changed to a self and family enrollment that would cover the child. An employee who did not so change his or her enrollment voluntarily would be enrolled for self and family in the same plan in which the employee was already covered as an individual, unless that plan does not provide full benefits and services where the child resides. In the latter event, the employee would be enrolled for self and family under the low-option Service Benefit Plan.

Finally, Section 2 would create the new section 8905(f) of title 5 that would bar the employee from discontinuing the self and family enrollment as long as the order remains in effect and the child continues to meet the definition in section 8901(f), unless the employee can show that the child has other health insurance.•

By Mr. GORTON (for himself, Mr. LIEBERMAN, Mr. FAIRCLOTH, Mr. HARKIN, and Mrs. BOXER):

S. 2263. A bill to amend the Public Health Service Act to provide for the expansion, intensification, and coordination of the activities of the National

Institutes of Health with respect to research on autism; to the Committee on Labor and Human Resources.

ADVANCEMENT IN PEDIATRIC AUTISM RESEARCH ACT

• Mr. GORTON. Mr. President, today, I join with my colleagues Senators LIEBERMAN, FAIRCLOTH, HARKIN, and BOXER to introduce legislation that will build on current scientific advances in understanding autism and will promote additional research in this promising field. Many think autism is rare. In fact, it is the third most prevalent childhood disability, affecting an estimated four hundred thousand Americans and their families. It is also a condition that doctors and scientists believe can be cured. It is not something that we simply must accept.

When people think of autism they might remember the character played by Dustin Hoffman in the movie "Rainman." Yet autism has many faces; it affects people from every background, social and ethnic category. Children with autism may be profoundly retarded and may never learn to speak, while others may be extremely hyperactive and bright. Some may have extraordinary talents, such as an exceptional memory or skill in mathematics. However, all share the common traits of difficulty with communication and social interaction. And for reasons we do not yet understand, eighty percent of those with autism are males.

But autism is not about statistics or medical definitions—it is about children and families. The Kruegers, from Washington state, have an all too typical story. Their little girl Chanel developed like any other child—she happily played with her parents, took her first steps, learned some of her first words and then she started to regress. In four short months, by the time she was two, Chanel had become almost completely enveloped in her own private world. Chanel's mother told me "it was like somebody came in the middle of the night and took my child."

Like many children with autism, the Krueger's daughter no longer responded when her parents called her name; words she once spoke clearly became garbled; and socializing became more and more difficult. Fortunately, due to her parents dedication and intervention Chanel Krueger at age 5, is doing remarkably well.

But, many autistic children completely lose the ability to interact with the outside world. The hours these kids should be spending in little league or playing with their friends are often spent staring out the window, transfixed by the dust floating in the sunlight or the pattern of leaves on the ground.

Even today, with advances in therapy and early intervention, few of these children will go to college, hold a regular job, live independently or marry. More than half never learn how to speak.

The facts about autism can be sobering—but there is hope. Early intervention and treatment has helped many children. Science has also made great strides in understanding this disorder. We now know that autism is a biological condition, it is not an emotional problem and it is not caused by faulty parenting. Scientists believe that autism is one of the most heritable developmental disorders and is the most likely to benefit from the latest advances in genetics and neurology. Once the genetic link is discovered, the opportunities for understanding, treating, and eventually curing autism are endless.

The promise of research is exactly why I am introducing this legislation and my colleague Representative JIM GREENWOOD has introduced similar legislation in the House. This bill will increase the federal commitment to autism research. Its cornerstone is authorization for five Centers of Excellence where basic researchers, clinicians and scientists can come together to increase our understanding of this devastating disorder.

I also want to encourage the collaboration beginning to take place between the various Institutes at the NIH conducting autism research. The bill formalizes the current autism coordinating committee and includes a mechanism to ensure public input.

While we are hoping to advance our understanding and treatment of autism through research, it is also important that pediatricians and other health professionals have the most current information so that children and their families can receive help as early as possible. The bill includes authorization for an Autism Awareness Program to educate doctors and other health professionals about autism.

Finally, the bill includes a provision to fund a gene and brain tissue bank developed from families affected with autism to be available for research purposes. This library of genetic information should be a valuable tool for researchers trying to identify the genetic basis for the disorder.

While the focus of this bill is on autism, advances in this area are also likely to shed light on related problems such as attention deficit disorder, obsessive compulsive disorder, and various seizure disorders and learning disabilities.

Research is the key to unlocking the door and freeing those with autism from the isolation and loneliness of their private world. This bill is intended to give the NIH the resources to take advantage of the tremendous opportunity before us to find more effective treatments and ultimately a cure for autism. The promise is real. Fulfillment of that promise only requires our commitment. I urge my Senate colleagues to support this important investment in the future of our children and our Nation.•

By Mr. HATCH:

S. 2264. A bill to revise, codify, and enact without substantive change certain general and permanent laws, related to patriotic and national observances, ceremonies, and organizations, as title 36, United States Code, "Patriotic and National Observances, Ceremonies, and Organizations"; to the Committee on the Judiciary.

PATRIOTIC AND NATIONAL OBSERVANCES, CEREMONIES, AND ORGANIZATIONS CODIFICATION ACT

• Mr. HATCH. Mr. President, I am pleased to introduce today the Patriotic and National Observances, Ceremonies, and Organizations Codification Act.

This legislation will codify as title 36, United States Code, certain general and permanent laws related to various Federally chartered patriotic and national observances, ceremonies, and organizations. Without making substantive changes, this bill restates existing law to remove ambiguities and inconsistencies and repeals obsolete, unnecessary, and superseded provisions.

Some of the important organizations whose charters will be codified with this legislation include, among others: The American Legion, The American Society of International Law, Army and Navy Union of the United States of America, Boy Scouts of America, Boys & Girls Clubs of America, Congressional Medal of Honor Society of the United States of America, Girl Scouts of the United States of America, Jewish War Veterans of the United States of America, Incorporated, Little League Baseball, Incorporated, National Academy of Sciences, National Fund for Medical Education, United States Olympic Committee, The American National Red Cross.

The bill was drafted by the Office of the Law Revision Counsel under the Office's statutory mandate to prepare and submit periodically to the Committee on the Judiciary of the House of Representatives, one title at a time, a restatement and revision of the general and permanent laws of the United States for enactment into positive law (2 U.S.C. 285b).•

ADDITIONAL COSPONSORS

S. 623

At the request of Mr. INOUYE, the names of the Senator from Maryland (Ms. MIKULSKI) and the Senator from Illinois (Ms. MOSELEY-BRAUN) were added as cosponsors of S. 623, a bill to amend title 38, United States Code, to deem certain service in the organized military forces of the Government of the Commonwealth of the Philippines and the Philippines Scouts to have been active service for purposes of benefits under programs administered by the Secretary of Veterans Affairs.

S. 980

At the request of Mr. DURBIN, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 980, a bill to require the Secretary of the Army to close the United States Army School of the Americas.

S. 1220

At the request of Mr. DODD, the name of the Senator from North Carolina (Mr. FAIRCLOTH) was added as a cosponsor of S. 1220, a bill to provide a process for declassifying on an expedited basis certain documents relating to human rights abuses in Guatemala and Honduras.

S. 1423

At the request of Mr. HAGEL, the name of the Senator from Indiana (Mr. COATS) was added as a cosponsor of S. 1423, a bill to modernize and improve the Federal Home Loan Bank System.

S. 1529

At the request of Mr. KENNEDY, the name of the Senator from Vermont (Mr. JEFFORDS) was added as a cosponsor of S. 1529, a bill to enhance Federal enforcement of hate crimes, and for other purposes.

S. 1859

At the request of Mr. ROTH, the name of the Senator from Indiana (Mr. COATS) was added as a cosponsor of S. 1859, a bill to correct the tariff classification of 13″ televisions.

S. 1903

At the request of Mr. THOMAS, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 1903, a bill to prohibit the return of veterans memorial objects to foreign nations without specific authorization in law.

S. 1970

At the request of Mr. ABRAHAM, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 1970, a bill to require the Secretary of the Interior to establish a program to provide assistance in the conservation of neotropical migratory birds.

S. 1976

At the request of Mr. DEWINE, the name of the Senator from Wisconsin (Mr. KOHL) was added as a cosponsor of S. 1976, a bill to increase public awareness of the plight of victims of crime with developmental disabilities, to collect data to measure the magnitude of the problem, and to develop strategies to address the safety and justice needs of victims of crime with developmental disabilities.

S. 1981

At the request of Mr. HUTCHINSON, the name of the Senator from Minnesota (Mr. GRAMS) was added as a cosponsor of S. 1981, a bill to preserve the balance of rights between employers, employees, and labor organizations which is fundamental to our system of collective bargaining while preserving the rights of workers to organize, or otherwise engage in concerted activities protected under the National Labor Relations Act.

S. 2022

At the request of Mr. DEWINE, the name of the Senator from Georgia (Mr. COVERDELL) was added as a cosponsor of S. 2022, a bill to provide for the improvement of interstate criminal justice identification, information, communications, and forensics.

S. 2112

At the request of Mr. ENZI, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 2112, a bill to make the Occupational Safety and Health Act of 1970 applicable to the United States Postal Service in the same manner as any other employer.

S. 2128

At the request of Mr. STEVENS, the name of the Senator from Florida (Mr. GRAHAM) was withdrawn as a cosponsor of S. 2128, a bill to clarify the authority of the Director of the Federal Bureau of Investigation regarding the collection of fees to process certain identification records and name checks, and for other purposes.

S. 2130

At the request of Mr. GRAMS, the name of the Senator from Iowa (Mr. GRASSLEY) was added as a cosponsor of S. 2130, a bill to amend the Internal Revenue Code of 1986 to provide additional retirement savings opportunities for small employers, including self-employed individuals.

S. 2185

At the request of Mr. KENNEDY, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 2185, a bill to protect children from firearms violence.

S. 2201

At the request of Mr. TORRICELLI, the name of the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S. 2201, a bill to delay the effective date of the final rule promulgated by the Secretary of Health and Human Services regarding the Organ Procurement and Transplantation Network.

SENATE JOINT RESOLUTION 50

At the request of Mr. BOND, the names of the Senator from Connecticut (Mr. LIEBERMAN), the Senator from Texas (Mrs. HUTCHISON), and the Senator from Maryland (Ms. MIKULSKI) were added as cosponsors of Senate Joint Resolution 50, a joint resolution to disapprove the rule submitted by the Health Care Financing Administration, Department of Health and Human Services on June 1, 1998, relating to surety bond requirements for home health agencies under the medicare and medicaid programs.

SENATE CONCURRENT RESOLUTION 95

At the request of Mr. DODD, the name of the Senator from Nebraska (Mr. HAGEL) was added as a cosponsor of Senate Concurrent Resolution 95, a concurrent resolution expressing the sense of Congress with respect to promoting coverage of individuals under long-term care insurance.

AMENDMENT NO. 2241

At the request of Mr. JOHNSON, his name was added as a cosponsor of amendment No. 2241 proposed to S. Con. Res. 86, an original concurrent resolution setting forth the congressional budget for the United States Government for fiscal years 1999, 2000, 2001, 2002, and 2003 and revising the concurrent resolution on the budget for fiscal year 1998.

AMENDMENT NO. 2907

At the request of Mr. THURMOND, the name of the Senator from Alabama (Mr. SHELBY) was added as a cosponsor of amendment No. 2907 proposed to S. 2057, an original bill to authorize appropriations for the fiscal year 1999 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

AMENDMENTS SUBMITTED

DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1999

BOND (AND MIKULSKI) AMENDMENTS NOS. 3056-3057

Mr. BOND. (for himself and Ms. MIKULSKI) proposed two amendments to the bill (S. 2168) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, commissions, corporations, and offices for the fiscal year ending September 30, 1999, and for other purposes; as follows:

AMENDMENT NO. 3056

On page 73, line 11, strike "$231,000,000" and insert "$239,000,000, including $11,000,000 for assisting state and local governments in preparing for and responding to terrorist incidents".

On page 42, line 14, strike "$1,000,826,000" and insert "992,826,000".

AMENDMENT NO. 3057

On page 16, line 20, insert the following:

"SEC. 110. LAND CONVEYANCE, RIDGECREST CHILDREN'S CENTER, ALABAMA.

(a) CONVEYANCE.—The Secretary of Veterans Affairs may convey, without consideration, to the Board of Trustees of the University of Alabama, all right, title, and interest of the United States in and to the parcel of real property, including any improvements thereon, described in subsection (b).

(b) COVERED PARCEL.—The parcel of real property to be conveyed under subsection (a) is the following: A parcel of property lying in the northeast quarter of the southwest quarter, section 28, township 21 south, range 9 west, Tuscaloosa County, Alabama, lying along and adjacent to Ridgecrest (Brewer's Porch) Children's Center being more particularly described as follows: As a point of commencement start at the southeast corner of the north half of the southwest quarter run in an easterly direction along an easterly projection of the north boundary of the southwest quarter for a distance of 888.52 feet to a point; thence with a deflection angle to the left of 134 degrees 41 minutes run in a northwesterly direction for a distance of 1164.38 feet to an iron pipe; thence with a deflection angle to the left of 75 degrees 03 minutes run in an southwesterly direction for a distance of 37.13 feet to the point of beginning of this parcel of property; thence continue in this same southwesterly direction along the projection of the chain link fence for a distance of 169.68 feet to a point; thence with an interior angle to the left of 63 degrees 16 minutes run in a northerly direction for a distance of 233.70 feet to a point; thence with an interior angle to the left of 43 degrees 55 minutes run in a southeasterly direction for a distance of 218.48 feet to the point of beginning, said parcel having an interior angle of closure of 72 degrees 49 minutes, said parcel containing 0.40 acres more or less, said parcel of property is also subject to all rights-of-way, easements, and conveyances heretofore given for this parcel of property.

(c) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States."

On page 55, after line 13, insert the following new sections and designate, accordingly:

"SEC. . TECHNICAL CORRECTIONS TO THE DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1998.

(a) SECTION 8 CONTRACT RENEWAL POLICY FOR FY 1999 AND SUBSEQUENT YEARS.—Section 524 of the Multifamily Assisted Housing Reform and Affordability Act of 1997 is amended——

(1) in subsection (a)(2), by inserting after "Notwithstanding paragraph (1)" the following "and subject to section 516 of this subtitle"; and

(2) by inserting at the end the following new subsections:

"(b) INAPPLICABILITY TO PROJECTS SUBJECT TO RESTRUCTURING.—This section shall not apply to projects restructured under this subtitle.

"(c) SAVINGS PROVISIONS.—Upon the repeal of this subtitle pursuant to section 579, the provisions of sections 512(2) and 516 (as in effect immediately before such repeal) shall apply with respect to this section.".

(b) REPEAL OF CONTRACT RENEWAL AUTHORITY UNDER SECTION 405(a).—Section 405(a) of The Balanced Budget Downpayment Act, I is hereby repealed.

(c) EXEMPTIONS FROM RESTRUCTURING.—(1) Section 514(h)(1) of the Department of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, is amended to read as follows:

(1) the primary financing for the project was provided by a unit of State government or a unit of general local government (or an agency or instrumentality of either) and the primary financing involves mortgage insurance under the National Housing Act, such that implementation of a mortgage restructuring and rental assistance sufficiency plan under this Act would be in conflict with applicable law or agreements governing such financing;".

(2) Section 524(a)(2)(B) is amended by striking "and financing" and inserting "and the primary financing".

(d) MANDATORY RENEWAL OF PROJECT-BASED ASSISTANCE.—Section 515(c)(1) is amended by inserting "or" after the semicolon at the end of subparagraph (B).

(e) PARTIAL PAYMENTS OF CLAIMS.—Section 514 of the National Housing Act is amended by—

(1) by striking "1978 or" and inserting "1978) or "; and

(2) by striking ")))" and inserting "))".

On page 56, line 17, after the word "That" insert ", of the funds made available under this heading,".

On page 69, line 15, following the last proviso and prior to the period, insert the following:

": *Provided further*, That, notwithstanding section 603(d)(7) of the Federal Water Pollution Control Act, as amended, the limitation on the amounts in a water pollution control revolving fund that may be used by a State to administer the fund shall not apply to amounts a State has heretofore included, or will hereafter include, as principal in loans made by such fund to eligible borrowers where such amounts represent costs of administering the fund, except that such amounts heretofore or hereafter included in loans shall be accounted for separately from other assets in the fund, shall only be used for purposes of administering the fund and shall not exceed an amount that the Administrator deems reasonable"

On page 70, line 3, insert the following: "(a) LIMITATION ON FUNDS USED TO ENFORCE REGULATIONS REGARDING ANIMAL FATS AND VEGETABLE OILS.—None of the funds made available by this Act or subsequent Acts may be used by the Environmental Protection Agency to issue, implement, or enforce a regulation or to establish an interpretation or guideline under the Edible Oil Regulatory Reform Act (Public Law 104-55) or the amendments made by that Act, that does not recognize and provide for, with respect to fats, oils, and greases (as described in that Act, or the amendments made by that Act) differences in—

(1) physical, chemical, biological and other relevant properties; and

(2) environmental effects.

(b) DEADLINE FOR PROMULGATION OF REGULATIONS.—Not later than March 31, 1999, the Administrator of the Environmental Protection Agency shall issue regulations amending 40 C.F.R. 112 to comply with the requirements of Public Law 104-55."

On page 55, after line 13, insert the following new section:

SEC. . CLARIFICATION OF OWNER'S RIGHT TO PREPAY.

(a) PREPAYMENT RIGHT.—Notwithstanding section 211 of the Housing and Community Development Act of 1987 or section 221 of the Housing and Community Development Act of 1987 (as in effect pursuant to section 604(c) of the Cranston-Gonzalez National Affordable Housing Act), subject to subsection (b), with respect to any project that is eligible low-income housing (as that term is defined in section 229 of the Housing and Community Development Act of 1987)—

(1) the owner of the project may prepay, and the mortgagee may accept prepayment of, the mortgage on the project, and

(2) the owner may request voluntary termination of a mortgage insurance contract with respect to such project and the contract may be terminated notwithstanding any requirements under sections 229 and 250 of the National Housing Act.

(b) CONDITIONS.—Any prepayment of a mortgage or termination of an insurance contract authorized under subsection (a) may be made—

(1) only to the extent that such prepayment or termination is consistent with the terms and conditions of the mortgage on or mortgage insurance contract for the project; and

(2) only if owner of the project involved agrees not to increase the rent charges for any dwelling unit in the project during the 60-day period beginning upon such prepayment or termination.

COATS AMENDMENT NO. 3058

(Ordered to lie on the table.)

Mr. COATS submitted an amendment intended to be proposed by him to the bill S. 2168, supra; as follows:

At the appropriate place, insert the following:

SEC. . URBAN HOMESTEAD PROVISIONS.

(a) DEFINITIONS.—In this section:

(1) COMMUNITY DEVELOPMENT CORPORATION.—The term "community development corporation" means a nonprofit organization whose primary purpose is to promote community development by providing housing opportunities to low-income families.

(2) COST RECOVERY BASIS.—The term "cost recovery basis" means, with respect to any sale of a project or residence by a unit of general local government to a community development corporation under subsection (b)(3)(B), that the purchase price paid by the community development corporation is less than or equal to the costs incurred by the unit of general local government in connection with such project or residence during the period beginning on the date on which the unit of general local government acquires title to the multifamily housing project or residential property under subsection (b)(1) and ending on the date on which the sale is consummated.

(3) LOW-INCOME FAMILIES.—The term "low-income families" has the same meaning as in section 3(b) of the United States Housing Act of 1937.

(4) MULTIFAMILY HOUSING PROJECT.—The term "multifamily housing project" has the same meaning as in section 203 of the Housing and Community Development Amendments of 1978.

(5) SECRETARY.—The term "Secretary" means the Secretary of Housing and Urban Development.

(6) SEVERE PHYSICAL PROBLEMS.—A dwelling unit shall be considered to have "severe physical problems" if such unit—

(A) lacks hot or cold piped water, a flush toilet, or both a bathtub and a shower in the unit, for the exclusive use of that unit;

(B) on not less than 3 separate occasions, during the preceding winter months was uncomfortably cold for a period of more than 6 consecutive hours due to a malfunction of the heating system for the unit;

(C) has no functioning electrical service, exposed wiring, any room in which there is not a functioning electrical outlet, or has experienced not less than 3 blown fuses or tripped circuit breakers during the preceding 90-day period;

(D) is accessible through a public hallway in which there are no working light fixtures, loose or missing steps or railings, and no elevator; or

(E) has severe maintenance problems, including water leaks involving the roof, windows, doors, basement, or pipes or plumbing fixtures, holes or open cracks in walls or ceilings, severe paint peeling or broken plaster, and signs of rodent infestation.

(7) SINGLE FAMILY RESIDENCE.—The term "single family residence" means a 1- to 4-family dwelling that is held by the Secretary.

(8) SUBSTANDARD MULTIFAMILY HOUSING PROJECT.—A multifamily housing project is "substandard" if not less than 25 percent of the dwelling units of the project have severe physical problems.

(9) UNIT OF GENERAL LOCAL GOVERNMENT.—The term "unit of general local government" has the same meaning as in section 102(a) of the Housing and Community Development Act of 1974.

(10) UNOCCUPIED MULTIFAMILY HOUSING PROJECT.—The term "unoccupied multifamily housing project" means a multifamily housing project that the unit of general local government certifies in writing is not inhabited.

(b) DISPOSITION OF UNOCCUPIED AND SUBSTANDARD PUBLIC HOUSING.—

(1) TRANSFER OF OWNERSHIP TO UNITS OF GENERAL LOCAL GOVERNMENT.—Notwithstanding section 203 of the Housing and Community Development Amendments of 1978 or any other provision of Federal law pertaining to the disposition of property, the Secretary shall transfer ownership of any unoccupied multifamily housing project, substandard multifamily housing project, or other residential property that is owned by the Secretary to the appropriate unit of general local government for the area in which the project or residence is located in accordance with paragraph (2), if the unit of general local government enters into an agreement with the Secretary described in paragraph (3).

(2) TIMING.—

(A) IN GENERAL.—Any transfer of ownership under paragraph (1) shall be completed—

(i) with respect to any multifamily housing project owned by the Secretary that is determined to be unoccupied or substandard before the date of enactment of this Act, not later than 1 year after that date of enactment; and

(ii) with respect to any multifamily housing project or other residential property acquired by the Secretary on or after the date of enactment of this Act, not later than 1 year after the date on which the project is determined to be unoccupied or substandard or the residence is acquired, as appropriate.

(B) SATISFACTION OF INDEBTEDNESS.—Prior to any transfer of ownership under subparagraph (A), the Secretary shall satisfy any indebtedness incurred in connection with the project or residence at issue, either by—

(i) cancellation of the indebtedness; or

(ii) reimbursing the unit of general local government to which the project or residence is transferred for the amount of the indebtedness.

(3) SALE TO COMMUNITY DEVELOPMENT CORPORATIONS.—An agreement is described in this paragraph if it is an agreement that requires a unit of general local government to dispose of the multifamily housing project or other residential property in accordance with the following requirements:

(A) NOTIFICATION TO COMMUNITY DEVELOPMENT CORPORATIONS.—Not later than 30 days after the date on which the unit of general local government acquires title to the multifamily housing project or other residential property under paragraph (1), the unit of general local government shall notify community development corporations located in the State in which the project or residence is located—

(i) of such acquisition of title; and

(ii) that, during the 6-month period beginning on the date on which such notification is made, such community development corporations shall have the exclusive right under this subsection to make bona fide offers to purchase the project or residence on a cost recovery basis.

(B) RIGHT OF FIRST REFUSAL.—During the 6-month period described in subparagraph (A)(ii)—

(i) the unit of general local government may not sell or offer to sell the multifamily housing project or other residential property other than to a party notified under subparagraph (A), unless each community development corporation notifies the unit of general local government that the corporation will not make an offer to purchase the project or residence; and

(ii) the unit of general local government shall accept a bona fide offer to purchase the project or residence made during such period if the offer is acceptable to the unit of general local government, except that a unit of general local government may not sell a project or residence to a community development corporation during that 6-month period other than on a cost recovery basis.

(C) OTHER DISPOSITION.—During the 6-month period beginning on the expiration of the 6-month period described in subparagraph (A)(ii), the unit of general local government shall dispose of the multifamily housing project or other residential property on a negotiated, competitive bid, or other basis, on such terms as the unit of general local government deems appropriate.

(c) EXEMPTION FROM PROPERTY DISPOSITION REQUIREMENTS.—No provision of the Multifamily Housing Property Disposition Reform Act of 1994, or any amendment made by that Act, shall apply to the disposition of property in accordance with this section.

(d) TENANT LEASES.—This section shall not affect the terms or the enforceability of any contract or lease entered into before the date of enactment of this Act.

(e) PROCEDURES.—Not later than 6 months after the date of enactment of this Act, the Secretary shall establish, by rule, regulation, or order, such procedures as may be necessary to carry out this section.

McCAIN (AND ROCKEFELLER) AMENDMENT NO. 3059

(Ordered to lie on the table.)

Mr. McCAIN (for himself and Mr. ROCKEFELLER) submitted an amendment intended to be proposed by them to the bill, S. 2168, supra; as follows:

On page 93, between lines 18 and 19, insert the following:

SEC. 423. Effective as of the date of enactment of the Transportation Equity Act for the 21st Century (Public Law 105-178), the Veterans Benefits Act of 1998 (subtitle B of title VIII of the Transportation Equity Act for 21st Century) is repealed and shall be treated as if not enacted.

McCAIN AMENDMENT NO. 3060

(Ordered to lie on the table.)

Mr. McCAIN submitted an amendment intended to be proposed by him to the bill, S. 2168, supra; as follows:

On page 93, between lines 18 and 19, insert the following:

SEC. 423. (a) Each entity that receives a grant from the Federal Government for purposes of providing emergency shelter for homeless individuals shall—

(1) ascertain, to the extent practicable, whether or not each adult individual seeking such shelter from such entity is a veteran; and

(2) provide each such individual who is a veteran such counseling relating to the availability of veterans benefits (including employment assistance, health care benefits, and other benefits) as the Secretary of Veterans Affairs considers appropriate.

(b) The Secretary of Veterans Affairs and the Secretary of Housing and Urban Development shall jointly coordinate the activities required by subsection (a).

(c) Entities referred to in subsection (a) shall notify the Secretary of Veterans Affairs of the number and identity of veterans ascertained under paragraph (1) of that subsection. Such entities shall make such notification with such frequency and in such form as the Secretary shall specify.

(d) Notwithstanding any other provision of law, an entity referred to subsection (a) that fails to meet the requirements specified in that subsection shall not be eligible for additional grants or other Federal funds for purposes of carrying out activities relating to emergency shelter for homeless individuals.

ADDITIONAL STATEMENTS

REAUTHORIZING THE OFFICE OF THE DRUG CZAR

• Mr. WYDEN. Mr. President, for the past two weeks I have been working with Senator GORDON SMITH, Senator BIDEN and others to reach an agreement so that the legislation reauthorizing the office of the so-called Drug Czar, H.R. 2610, can move forward. I do not object to the reauthorization, but have been prevented from offering an amendment to the measure and will not give my consent to adoption of the Drug Czar bill until we have reached agreement on my amendment. The amendment I wish to offer is bipartisan legislation Senator GORDON SMITH and I have sponsored in response to the gun violence that struck Thurston High School in Springfield, Oregon. The bill, S. 2169, would provide an incentive for states to enact a 72-hour holding period for students that bring guns to schools so that the students who bring guns to school may be fully and thoroughly evaluated by professionals. The President has endorsed our proposal, and it is my hope that we can reach a consensus that allows the Senate to pass both the Drug Czar measure and the Wyden-Smith bill.•

TRADE LAW ENFORCEMENT IMPROVEMENT ACT OF 1998

• Mr. ABRAHAM. Mr. President, on Friday, June 26th, the day the Senate adjourned for the July 4th recess, I introduced the Trade Law Enforcement Improvement Act of 1998. This bill would clarify an ambiguity in an important U.S. antitrust law and thereby ensure that U.S. law will be effectively utilized to combat anticompetitive foreign cartels, acts, and conspiracies designed to unfairly exclude American products from overseas markets.

The principal aim of my bill is to codify the U.S. Department of Justice's (DOJ) current—and correct—interpretation of the Foreign Trade Antitrust Improvements Act of 1982 (FTAIA) which is currently embodied in Footnote 62 of the International Antitrust Guidelines. This footnote makes it clear that there are no unnecessary jurisdictional obstacles to challenging anticompetitive acts and conspiracies that take place outside our borders.

The FTAIA authorized the U.S. to assert jurisdiction over anticompetitive conduct abroad that has a "direct, substantial and reasonably foreseeable" effect on export trade or commerce or those engaged in export trade or commerce with foreign nations. However, in 1998 DOJ issued International Enforcement Guidelines which included Footnote 159, a new interpretation of FTAIA confining U.S. enforcement efforts solely to anticompetitive conduct that affected U.S. consumers, without regard to its effect on U.S. exporters. Specifically, the footnote announced that henceforth "the Department [would be] concerned only with adverse effects on competition that would harm U.S. consumers * * *."

Fortunately, in 1992, DOJ announced that Footnote 159 would be superseded by a policy which recognized that harm to U.S. exporters was sufficient to trigger an antitrust enforcement action regardless of whether there were harmful effects on U.S. consumers. Thus, the interpretation was revised to affirmatively permit DOJ to enforce "our antitrust laws against anticompetitive practices that harm U.S. commerce." That interpretation now appears in Footnote 62 of the current International Enforcement Guidelines.

While the correction to Footnote 159 was drafted by Assistant Attorney General Jim Rill in the Bush Administration, it is important to note that it has been fully endorsed by the Clinton Administration. Assistant Attorneys General Rill, Bingaman, and Klein should all be recognized and commended for their strong leadership in strengthening international antitrust enforcement and for bringing cases under the authority of the FTAIA.

Let me describe why this provision in our trade law is so important and why it is crucial that it be properly interpreted and enforced.

The opening of global markets has advanced America's current economic prosperity, but it also poses fundamental challenges for U.S. antitrust laws. One example is the U.S. flat glass industry. For the better part of a decade, America's leading flat glass producers have been seeking access to the Japanese market, the largest and richest in Asia. American companies are already leaders in producing and selling high-quality innovative glass products around the world. U.S. firms have been very successful in Europe, Asia, the Middle East, and Latin America—but not yet Japan. The fact is that securing effective distribution channels for American glass has not proved to be a significant barrier to entry in any country other than Japan.

It is not for a lack of trying. In 1992, President Bush and Japanese Prime Minister Miyazawa negotiated an agreement in which Japan committed that the Japan Fair Trade Commission (JFTC) would study anticompetitive practices in the flat glass sector. For over a quarter-century, the Japanese market has been controlled by a cartel, consisting of the three leading Japanese producers—Asahi, Nippon, and Central. Because of the cartel, market shares for the three companies have been remarkably constant: Asahi has had a 50% market share, Nippon has had 30%, and Central has had 20% for nearly three decades, while other major markets in Europe and North America have undergone dramatic competitive shifts.

When the JFTC, one year later, issued its report, it found a long-standing history of anticompetitive practices in the Japanese flat glass industry, but concluded that enforcement action was "inappropriate."

In 1995, the Clinton Administration concluded a new trade agreement in the U.S.-Japan Framework talks. Japan committed to "deal with structural and sectoral issues in order substantially to increase access and sales of competitive foreign goods and services." For their part, Japanese flat glass manufacturers and distributors pledged publicly that the market would be open on a non-discriminatory basis for competition by all suppliers, foreign and domestic alike. It was agreed that the U.S. and Japanese Governments would jointly monitor progress to verify that Japanese distributors would deal in imported glass, "recognizing that token dealings or use does not demonstrate diversification of supply sources."

So what happened? Trade agreements have done nothing to shake the glass cartel's stranglehold on Japan's distribution system. Instead, despite a remarkable series of U.S.-Japan trade agreements, commitments, and undertakings, the market share of U.S. producers has increased from 1.0% to 1.5%, even though imported foreign-affiliated glass costs about 30% less. In short, despite years of intensive efforts by U.S. negotiators, an illegal cartel continues to control the Japanese glass market to the exclusion of U.S. producers.

Two weeks ago, Deputy U.S. Trade Representative Richard Fisher presented the latest U.S. proposal to the Government of Japan. The proposal was drafted by the Antitrust Division of DOJ. USTR is asking the Japanese Government to establish antitrust-type compliance plans for its glass sector that would be modeled on the compliance plans currently in effect at most major U.S. corporations. In other words, we are not asking anything from Japanese companies that we do not already expect of U.S. companies. But reportedly senior Japanese officials flatly rejected the U.S. proposal, making it clear that they have little regard for robust compliance plans that would deter anticompetitive conduct on the part of management and sales personnel.

Mr. President, it is precisely such intractable trade disputes that the FTAIA was intended to address, and it is vital that we make use of the one instrument we currently have at our disposal to rectify such problems. Given the confusion and uncertainty that has surrounded this provision of our antitrust trade law due to the conflicting interpretations that various administrations have attached to it, it is important for us to eliminate any vestige of ambiguity that may still remain even after we have gone back to its original interpretation.

By clarifying the jurisdictional requirements of the FTAIA, it is my hope that we can encourage DOJ and injured U.S. industries to make broad use of this important power by challenging cartels, such as those blocking distribution of U.S. flat glass in Japan, in the U.S. courts, before U.S. juries, under U.S. law. My bill makes simply a straightforward point: anticompetitive foreign cartels and conspiracies are subject to U.S. antitrust laws, and foreign companies who engage in such activities will be held accountable and dealt with accordingly. We must ensure that American firms and workers have a timely and effective remedy against those who would engage in anticompetitive acts designed to exclude American products or services from the international marketplace.

Mr. President, I ask that the text of the bill be printed in the RECORD, and I urge my colleagues to review this legislation and to cosponsor and support it.

The text of the bill follows:

S. 2252

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Trade Law Enforcement Improvement Act of 1998.".

SEC. 2 AMENDMENTS.

(a) AMENDMENT OF THE SHERMAN ACT.—Section 7 of the Sherman Act (15 U.S.C. 6a) is amended by striking the period at the end and inserting the following: "and without regard to the effect of such conduct on consumers in the United States. A determination of whether the effects of such conduct is substantial may be made solely with reference to the product or type of product affected by the conduct and the geographical area in which the conduct occurs.''.

(b) AMENDMENT TO THE FEDERAL TRADE COMMISSION ACT.—Section 5(a)(3) of the Federal Trade Commission Act (15 U.S.C. 45(a)(3)) is amended by striking the period at the end and inserting the following: ''and without regard to the effect of such methods of competition on consumers in the United States. A determination of whether the effect of such methods of competition is substantial may be made solely with reference to the product or type of product affected by such methods of competition and the geographical area in which such methods of competition occur.''.•

STROM THURMOND DEFENSE AUTHORIZATION BILL

• Mr. DODD. Mr. President, I rise to commend the Chairman and Ranking Member of the Senate Armed Services Committee for their fine work on the Strom Thurmond Defense Authorization Bill which passed the Senate by a vote of 88-4 on June 25th of this year. The nearly unanimous support by this body for this $270 billion authorization bill is a real tribute to their diligence and foresight.

This bill will deservedly bear the name of my good friend Chairman THURMOND in recognition of his lifelong commitment to the defense of this nation. Some may think that the Chairman's devotion to national defense began with his assignment to the Armed Services Committee some forty years ago, but they would be mistaken. In fact, Senator THURMOND joined the Army reserves in 1924. Shortly after the United States declared war against Imperial Japan and Nazi Germany in 1941, at the age of 39, Senator THURMOND resigned his judgeship and joined the Army. As a member of the elite 82nd Airborne Unit, he worked behind enemy lines in advance of the D-Day invasion force which landed 54 years ago this month. He won a Legion of Merit and rose to the rank of Major General in the Army Reserve. So Senator THURMOND has not only played a major role in developing national defense policy, but he has literally stood at the vanguard in the defense of this nation.

The bill bears the imprint of his strong commitment to the national defense. In addition to procuring world-class weapons systems and preserving troop readiness, the bill includes a 3.6% pay increase for our soldiers, sailors, airmen and marines. The men and women who serve on the front lines deserve that increase for their determination and commitment in defending this nation.

For the retirees who served in the Armed Forces for most of their lives, this bill includes three health care demonstration projects. The goal is to provide the best possible health care to the protectors of this nation by eliminating the weaknesses of the present system.

The bill provides $2.7 billion for the second New Attack Submarine which will be built by Electric Boat and Newport News Shipbuilding. These two shipyards, the finest in the nation, will continue to build the world's most capable submarines.

I am concerned, however, by reports that the Navy's strength may drop below 300 ships and the attack submarine force below 50 submarines. Recent events in the Persian Gulf and on the Indian subcontinent should serve as reminders that we face an uncertain future. We must not allow ourselves to be lulled into a false sense of security that would have us cut the number of submarines to less than half of Cold War levels. After all, a couple of submarines can cut off the world's supply of oil from the Persian Gulf. We have worked too hard during two world wars and the Cold War to let our guard down now, and I believe we must remain vigilant.

The Senate Armed Services Committee deserves praise for adding eight UH-60 Blackhawk helicopters to the President's request for a total of 34 Blackhawk-type helicopters. Four of these versatile aircraft will be delivered to the Navy, twelve will be delivered to the Army, and eighteen will go to the National Guard. Most of the Blackhawks will replace Vietnam-era Huey helicopters that cannot meet everyday commitments. I hope that we will see a larger request from the President next year in recognition of the needs of all three services.

Finally, this bill fully funds other vitally important defense programs, including the Comanche helicopter, the C-17 cargo aircraft, the F-22 fighter and the JSTARS aircraft. These systems will be elements in this nation's arsenal for decades to come. The Committee's careful consideration of these programs led them to decisions that I whole-heartedly support.

As a whole, the bill is good for this nation's defense and it is vitally important in the less-predictable world of today. I am proud to stand with my colleagues on the Committee and the vast majority of the Senate in supporting this bill.•

CBO COST ESTIMATE—S. 1403

• Mr. MURKOWSKI. Mr. President, when the Committee on Energy and Natural Resources filed its report on S. 1403, the National Historic Lighthouse Preservation Act of 1998, the estimate of the Congressional Budget Office was not available. The estimate has since been received and I ask that it be printed in the RECORD for the information of the Senate.

The material follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 29, 1998.

Hon. FRANK H. MURKOWSKI,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 1403, the National Historic Lighthouse Preservation Act of 1998.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Deborah Reis (for Federal costs) and Marjorie Miller (for the state and local impact).

Sincerely,

JUNE E. O'NEILL,
Director.

Enclosure.

S. 1403—National Historic Lighthouse Preservation Act of 1998

Assuming appropriation of the necessary amounts, CBO estimates that implementing S. 1403 would cost the federal government less than $500,000 annually beginning in fiscal year 1999. Because the bill could increase direct spending, pay-as-you-go procedures would apply. CBO estimates, however, that any such effects would be negligible. The bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

S. 1403 would create two programs related to historic lighthouses. The first of these would be a program to preserve national historic lighthouses, under which the National Park Service (NPS) would collect information about such facilities and would support related education and research projects. The second would be a process under which the federal government—acting through the NPS and the General Services Administration (GSA—would convey or sell surplus lighthouses to nonfederal entities. The bill would authorize the appropriation of whatever amounts are necessary to carry out these programs. In addition, proceeds from any sales of lighthouses under the bill could be spent without further appropriation for the NPS's national maritime heritage grant program. Under existing law, proceeds from sales of property such as lighthouses are treated as offsetting receipts and cannot be spent without appropriation action.

The NPS, GSA, and other federal agencies, such as the U.S. Coast Guard, already perform many of the duties that would be required by S. 1403, including both preserving historic lighthouses and disposing of surplus stations. Based on information provided by the NPS, CBO estimates that the federal government would spend less than $500,000 annually in appropriated funds to carry out the more formal preservation program required by this legislation and to process lighthouse conveyances under the new disposal process.

CBO estimates that any effect on direct spending would be insignificant because the government would be as unlikely to sell any lighthouses under this legislation as it is under existing authorities. Entities eligible to receive title to historic lighthouses under this bill would include state and local agencies. Participation by such agencies and any related costs would be voluntary on their part.

The CBO staff contacts are Deborah Reis (for federal costs) and Marjorie Miller (for the state and local impact). This estimate was approved by Robert A. Sunshine, Deputy Assistant Director for Budget Analysis.•

REMARKS HONORING THE 25TH ANNIVERSARY OF THE CHILDREN'S PROGRAM OF NORTHERN IRELAND

• Mr. WELLSTONE. Mr. President, I rise today to mark a significant milestone: the Minnesota-based Children's Program of Northern Ireland is celebrating its 25th anniversary this summer.

This important program began in 1973 when one nine-year-old from Belfast, David Hughes, traveled to Minnesota and stayed with Roy and Ruth Lerud of Twin Valley.

From this simple beginning, wondrous things have happened.

During the following summer, Rotary Clubs in Hibbing, Minnesota, and Belfast, Northern Ireland, joined together to bring 120 children, ages 10–11, to Minnesota host families.

And now, 25 years later, the program can boast that more than 4,000 children have come to Minnesota and neighboring states. These children have had their lives touched in immeasurable ways. And they have touched the lives of untold thousands of Minnesotans.

The Children's Program of Northern Ireland was the first of its kind in the nation. It is now the blueprint of 25 other, similar programs throughout America which bring children to Minnesota for a summer of peace and understanding.

Something important is at work here—Minnesotans are working to bring about peace, one child at a time. When the good people of Minnesota got involved in this program 25 years ago it was because they saw the need and stepped in to fill it. There were no Presidential Commissions or calls by Congress asking citizens to become involved. Rather, there were everyday heroes and heroines who tried to make their world better by opening their homes to a child from a troubled part of the world.

And they have succeeded.

Rotary is proud, and rightly so, of its motto "Service Above Self." The Hibbing Rotary Club and the Belfast Rotary Club, in 1974, were living embodiments of this motto, as are all the people throughout Minnesota and Northern Ireland whose hard work and dedication have made this program such an enduring success.

From the beginning these selfless efforts have been driven by volunteers. I would like to recognize, on the floor of the United States Senate, two of those volunteers. Hazel Busby is the coordinator in Belfast. She has been a tireless and enthusiastic volunteer for many, many years. I also would like to recognize Kathy Schultz, who is the current American board president. Both of these women merit the highest recognition for their contributions toward achieving peace in our time.

None of us can know exactly how significant these Minnesota efforts have been in bringing peace and understanding to our world. However, we can know that the work of these fine people has brought a large measure of peace and understanding to untold thousands on both sides of the Atlantic. And that, in and of itself, merits recognition and highest praise.•

STROM THURMOND NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1999

The Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (S. 2057), passed by the Senate on June 25, 1998, is as follows:

S. 2057

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

(a) FINDINGS.—Congress makes the following findings:

(1) Senator Strom Thurmond of South Carolina first became a member of the Committee on Armed Services of the United States Senate on January 19, 1959. His continuous service on that committee covers more than 75 percent of the period of the existence of the committee, which was established immediately after World War II, and more than 20 percent of the period of the existence of military and naval affairs committees of Congress, the original bodies of which were formed in 1816.

(2) Senator Thurmond came to Congress and the committee as a distinguished veteran of service, including combat service, in the Armed Forces of the United States.

(3) Senator Thurmond was commissioned as a reserve second lieutenant of infantry in 1924. He served with great distinction with the First Army in the European Theater of Operations during World War II, landing in Normandy in a glider with the 82nd Airborne Division on D-Day. He was transferred to the Pacific Theater of Operations at the end of the war in Europe and was serving in the Philippines when Japan surrendered.

(4) Having reverted to Reserve status at the end of World War II, Senator Thurmond was promoted to brigadier general in the United States Army Reserve in 1954. He served as President of the Reserve Officers Association beginning that same year and ending in 1955. Senator Thurmond was promoted to major general in the United States Army Reserve in 1959. He transferred to the Retired Reserve on January 1, 1965, after 36 years of commissioned service.

(5) The distinguished character of Senator Thurmond's military service has been recognized by awards of numerous decorations that include the Legion of Merit, the Bronze Star medal with "V" device, the Army Commendation Medal, the Belgian Cross of the Order of the Crown, and the French Croix de Guerre.

(6) Senator Thurmond has served as Chairman of the Committee on Armed Services of the Senate since 1995 and as the ranking minority member of the committee from 1993 to 1995. Senator Thurmond concludes his service as Chairman at the end of the One Hundred Fifth Congress, but is to continue to serve the committee as a member in successive Congresses.

(7) This Act is the fortieth annual authorization bill for the Department of Defense for which Senator Thurmond has taken a major responsibility as a member of the Committee on Armed Services of the Senate.

(8) Senator Thurmond, as officer and legislator, has made matchless contributions to the national security of the United States that, in duration and in quality, are unique.

(9) It is altogether fitting and proper that this Act, the last annual authorization Act for the national defense that Senator Thurmond manages in and for the United States Senate as Chairman of the Committee on Armed Services of the Senate, be named in his honor.

(b) SHORT TITLE.—This Act shall be cited as the "Strom Thurmond National Defense Authorization Act for Fiscal Year 1999".

SEC. 2. ORGANIZATION OF ACT INTO DIVISIONS; TABLE OF CONTENTS.

(a) DIVISIONS.—This Act is organized into three divisions as follows:

(1) Division A—Department of Defense Authorizations.

(2) Division B—Military Construction Authorizations.

(3) Division C—Department of Energy National Security Authorizations and Other Authorizations.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Organization of Act into divisions; table of contents.
Sec. 3. Congressional defense committees defined.

DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

TITLE I—PROCUREMENT

Subtitle A—Authorization of Appropriations

Sec. 101. Army.
Sec. 102. Navy and Marine Corps.
Sec. 103. Air Force.
Sec. 104. Defense-wide activities.
Sec. 105. Reserve components.
Sec. 106. Defense Inspector General.
Sec. 107. Chemical demilitarization program.
Sec. 108. Defense health programs.
Sec. 109. Defense export loan guarantee program.

Subtitle B—Army Programs

Sec. 111. Multiyear procurement authority for Longbow Hellfire missile program.
Sec. 112. Condition for award of more than one multiyear contract for the family of medium tactical vehicles.
Sec. 113. Armored system modernization.
Sec. 114. Reactive armor tiles.
Sec. 115. Annual reporting of costs associated with travel of members of Chemical Demilitarization Citizens' Advisory Commission.
Sec. 116. Extension of authority to carry out Armament Retooling and Manufacturing Support Initiative.
Sec. 117. Alternative technologies for destruction of assembled chemical weapons.

Subtitle C—Navy Programs

Sec. 121. CVN–77 nuclear aircraft carrier program.
Sec. 122. Increased amount to be excluded from cost limitation for Seawolf submarine program.
Sec. 123. Multiyear procurement authority for the Medium Tactical Vehicle Replacement.
Sec. 124. Multiyear procurement authority for certain aircraft programs.

Subtitle D—Air Force Programs

Sec. 131. Joint Surveillance Target Attack Radar System.

Sec. 132. Limitation on replacement of engines on military aircraft derived from Boeing 707 aircraft.
Sec. 133. F-22 aircraft program.
Sec. 134. C-130J aircraft program.

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

Subtitle A—Authorization of Appropriations

Sec. 201. Authorization of appropriations.
Sec. 202. Amount for basic and applied research.

Subtitle B—Program Requirements, Restrictions, and Limitations

Sec. 211. Crusader self-propelled artillery system program.
Sec. 212. CVN-77 nuclear aircraft carrier program.
Sec. 213. Unmanned aerial vehicle programs.
Sec. 214. Airborne Laser Program.
Sec. 215. Enhanced Global Positioning System program.
Sec. 216. Manufacturing Technology Program.
Sec. 217. Authority for use of major range and test facility installations by commercial entities.
Sec. 218. Extension of authority to carry out certain prototype projects.
Sec. 219. NATO alliance ground surveillance concept definition.
Sec. 220. NATO common-funded civil budget.
Sec. 221. Persian Gulf illnesses.
Sec. 222. DOD/VA Cooperative Research Program.
Sec. 223. Low Cost Launch Development Program.

Subtitle C—Other Matters

Sec. 231. Policy with respect to ballistic missile defense cooperation.
Sec. 232. Review of pharmacological interventions for reversing brain injury.
Sec. 233. Landmines.

TITLE III—OPERATION AND MAINTENANCE

Subtitle A—Authorization of Appropriations

Sec. 301. Operation and maintenance funding.
Sec. 302. Working capital funds.
Sec. 303. Armed Forces Retirement Home.
Sec. 304. Transfer from the National Defense Stockpile Transaction Fund.

Subtitle B—Program Requirements, Restrictions, and Limitations

Sec. 311. Special Operations Command counterproliferation and counterterrorism activities.
Sec. 312. Tagging system for identification of hydrocarbon fuels used by the Department of Defense.
Sec. 313. Pilot program for acceptance and use of landing fees charged for use of domestic military airfields by civil aircraft.
Sec. 314. NATO common-funded military budget.

Subtitle C—Environmental Provisions

Sec. 321. Transportation of polychlorinated biphenyls from abroad for disposal in the United States.
Sec. 322. Modification of deadline for submittal to Congress of annual reports on environmental activities.
Sec. 323. Submarine solid waste control.
Sec. 324. Payment of stipulated penalties assessed under CERCLA.
Sec. 325. Authority to pay negotiated settlement for environmental cleanup of formerly used defense sites in Canada.
Sec. 326. Settlement of claims of foreign governments for environmental cleanup of overseas sites formerly used by the Department of Defense.
Sec. 327. Arctic Military Environmental Cooperation Program.
Sec. 328. Sense of Senate regarding oil spill prevention training for personnel on board Navy vessels.

Subtitle D—Counter-Drug Activities

Sec. 331. Patrol coastal craft for drug interdiction by Southern Command.
Sec. 332. Program authority for Department of Defense support for counterdrug activities.
Sec. 333. Southwest border fence.
Sec. 334. Revision and clarification of authority for Federal support of National Guard drug interdiction and counter-drug activities.
Sec. 335. Sense of Congress regarding priority of drug interdiction and counter-drug activities.

Subtitle E—Other Matters

Sec. 341. Liquidity of working-capital funds.
Sec. 342. Termination of authority to manage working-capital funds and certain activities through the Defense Business Operations Fund.
Sec. 343. Clarification of authority to retain recovered costs of disposals in working-capital funds.
Sec. 344. Best commercial inventory practices for management of secondary supply items.
Sec. 345. Increased use of smart cards.
Sec. 346. Public-private competition in the provision of support services.
Sec. 347. Condition for providing financial assistance for support of additional duties assigned to the Army National Guard.
Sec. 348. Repeal of prohibition on joint use of Gray Army Airfield, Fort Hood, Texas.
Sec. 349. Inventory management of in-transit secondary items.
Sec. 350. Personnel reductions in Army Materiel Command.
Sec. 351. Prohibitions regarding evaluation of merit of selling malt beverages and wine in commissary stores as exchange system merchandise.

TITLE IV—MILITARY PERSONNEL AUTHORIZATIONS

Subtitle A—Active Forces

Sec. 401. End strengths for active forces.
Sec. 402. Limited exclusions of joint duty officers from limitations on number of general and flag officers.
Sec. 403. Limitation on daily average of personnel on active duty in grades E-8 and E-9.
Sec. 404. Repeal of permanent end strength requirement for support of two major regional contingencies.

Subtitle B—Reserve Forces

Sec. 411. End strengths for Selected Reserve.
Sec. 412. End strengths for Reserves on active duty in support of the reserves.
Sec. 413. End strengths for military technicians (dual status).
Sec. 414. Exclusion of additional reserve component general and flag officers from limitation on number of general and flag officers who may serve on active duty.
Sec. 415. Increase in numbers of members in certain grades authorized to be on active duty in support of the reserves.
Sec. 416. Consolidation of strength authorizations for active status Naval Reserve flag officers of the Navy Medical Department staff corps.

Subtitle C—Authorization of Appropriations

Sec. 421. Authorization of appropriations for military personnel.

TITLE V—MILITARY PERSONNEL POLICY

Subtitle A—Officer Personnel Policy

Sec. 501. Streamlined selective retention process for regular officers.
Sec. 502. Permanent applicability of limitations on years of active naval service of Navy limited duty officers in grades of commander and captain.
Sec. 503. Involuntary separation pay denied for officer discharged for failure of selection for promotion requested by the officer.
Sec. 504. Term of office of the Chief of the Air Force Nurse Corps.
Sec. 505. Attendance of recipients of Naval Reserve Officers' Training Corps scholarships at participating colleges or universities.

Subtitle B—Reserve Component Matters

Sec. 511. Service required for retirement of National Guard officer in higher grade.
Sec. 512. Reduced time-in-grade requirement for reserve general and flag officers involuntarily transferred from active status.
Sec. 513. Eligibility of Army and Air Force Reserve brigadier generals to be considered for promotion while on inactive status list.
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Sec. 3503. Purchase of vehicles.
Sec. 3504. Expenditures only in accordance with treaties.
Sec. 3505. Donations to the Commission.
Sec. 3506. Agreements for United States to provide post-transfer administrative services for certain employee benefits.
Sec. 3507. Sunset of United States overseas benefits just before transfer.
Sec. 3508. Central Examining Office.
Sec. 3509. Liability for vessel accidents.
Sec. 3510. Placement of United States citizens in positions with the United States Government.
Sec. 3511. Panama Canal Board of Contract Appeals.
Sec. 3512. Technical amendments.
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TITLE XXXVI—COMMERCIAL ACTIVITIES OF PEOPLE'S LIBERATION ARMY

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Sec. 3602. Definition.

TITLE XXXVII—FORCED OR INDENTURED LABOR

Sec. 3701. Findings.
Sec. 3702. Authorization for additional Customs personnel to monitor the importation of products made with forced or indentured labor.
Sec. 3703. Reporting requirement on forced labor or indentured labor products destined for the United States market.
Sec. 3704. Renegotiating memoranda of understanding on forced labor.
Sec. 3705. Definition of forced labor.

TITLE XXXVIII—FAIR TRADE IN AUTOMOTIVE PARTS

Sec. 3801. Short title.
Sec. 3802. Definitions.
Sec. 3803. Re-establishment of initiative on automotive parts sales to Japan.
Sec. 3804. Establishment of special advisory committee on automotive parts sales in Japanese and other Asian markets.
Sec. 3805. Expiration date

TITLE XXXIX —RADIO FREE ASIA

Sec. 3901. Short title.
Sec. 3902. Findings.
Sec. 3903. Authorization of appropriations for increased funding for Radio Free Asia and Voice of America broadcasting to China.
Sec. 3904. Reporting requirement.

SEC. 3. CONGRESSIONAL DEFENSE COMMITTEES DEFINED.

For purposes of this Act, the term "congressional defense committees" means—

(1) the Committee on Armed Services and the Committee on Appropriations of the Senate; and

(2) the Committee on National Security and the Committee on Appropriations of the House of Representatives.

DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

TITLE I—PROCUREMENT

Subtitle A—Authorization of Appropriations

SEC. 101. ARMY.

Funds are hereby authorized to be appropriated for fiscal year 1999 for procurement for the Army as follows:

(1) For aircraft, $1,466,508,000.

(2) For missiles, $1,175,539,000.

(3) For weapons and tracked combat vehicles, $1,443,108,000.

(4) For ammunition, $1,010,155,000.

(5) For other procurement, $3,565,927,000.

SEC. 102. NAVY AND MARINE CORPS.

(a) NAVY.—Funds are hereby authorized to be appropriated for fiscal year 1999 for procurement for the Navy as follows:

(1) For aircraft, $7,499,934,000.

(2) For weapons, including missiles and torpedoes, $1,370,045,000.

(3) For shipbuilding and conversion, $6,067,272,000.

(4) For other procurement, $4,052,012,000.

(b) MARINE CORPS.—Funds are hereby authorized to be appropriated for fiscal year 1999 for procurement for the Marine Corps in the amount of $910,558,000.

(c) NAVY AND MARINE CORPS AMMUNITION.—Funds are hereby authorized to be appropriated for procurement of ammunition for the Navy and the Marine Corps in the amount of $476,539,000.

SEC. 103. AIR FORCE.

Funds are hereby authorized to be appropriated for fiscal year 1999 for procurement for the Air Force as follows:

(1) For aircraft, $8,303,839,000.

(2) For missiles, $2,354,745,000.

(3) For ammunition, $384,161,000.

(4) For other procurement, $6,792,081,000.

SEC. 104. DEFENSE-WIDE ACTIVITIES.

Funds are hereby authorized to be appropriated for fiscal year 1999 for Defense-wide procurement in the amount of $2,029,250,000.

SEC. 105. RESERVE COMPONENTS.

Funds are hereby authorized to be appropriated for fiscal year 1999 for procurement of aircraft, vehicles, communications equipment, and other equipment for the reserve components of the Armed Forces as follows:

(1) For the Army National Guard, $10,000,000.

(2) For the Air National Guard, $10,000,000.

(3) For the Army Reserve, $10,000,000.

(4) For the Naval Reserve, $10,000,000.

(5) For the Air Force Reserve, $10,000,000.

(6) For the Marine Corps Reserve, $10,000,000.

SEC. 106. DEFENSE INSPECTOR GENERAL.

Funds are hereby authorized to be appropriated for fiscal year 1999 for procurement for the Inspector General of the Department of Defense in the amount of $1,300,000.

SEC. 107. CHEMICAL DEMILITARIZATION PROGRAM.

There is hereby authorized to be appropriated for fiscal year 1999 the amount of $780,150,000 for—

(1) the destruction of lethal chemical agents and munitions in accordance with section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521); and

(2) the destruction of chemical warfare material of the United States that is not covered by section 1412 of such Act.

SEC. 108. DEFENSE HEALTH PROGRAMS.

Funds are hereby authorized to be appropriated for fiscal year 1999 for the Department of Defense for procurement for carrying out health care programs, projects, and activities of the Department of Defense in the total amount of $402,387,000.

SEC. 109. DEFENSE EXPORT LOAN GUARANTEE PROGRAM.

Funds are hereby authorized to be appropriated for fiscal year 1999 for the Department of Defense for carrying out the Defense Export Loan Guarantee Program under section 2540 of title 10, United States Code, in the total amount of $1,250,000.

Subtitle B—Army Programs

SEC. 111. MULTIYEAR PROCUREMENT AUTHORITY FOR LONGBOW HELLFIRE MISSILE PROGRAM.

Beginning with the fiscal year 1999 program year, the Secretary of the Army may, in accordance with section 2306b of title 10, United States Code, enter into a multiyear procurement contract for the procurement of the Longbow Hellfire missile. The contract may be for a term of five years.

SEC. 112. CONDITION FOR AWARD OF MORE THAN ONE MULTIYEAR CONTRACT FOR THE FAMILY OF MEDIUM TACTICAL VEHICLES.

Before awarding a multiyear procurement contract for the production of the Family of Medium Tactical Vehicles to more than one contractor under the authority of section 112(b) of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 1648), the Secretary of the Army shall certify in writing to the congressional defense committees that—

(1) the total quantity of Family of Medium Tactical Vehicles trucks required by the Army to be delivered in any 12-month period exceeds the production capacity of any single prime contractor; or

(2)(A) the total cost of the procurements to the Army under all such contracts over the period of the contracts will be the same as or lower than the amount that would be the total cost of the procurements if only one such contract were awarded; and

(B) the vehicles to be produced by all contractors under the contracts will be produced with common components that will be interchangeable among similarly configured models.

SEC. 113. ARMORED SYSTEM MODERNIZATION.

(a) Limitation.—Of the funds authorized to be appropriated under section 101(3), $20,300,000 of the funds available for the M1A1D Application Integration Kit may not be obligated for the procurement of the Kit until 30 days after the Secretary of the Army submits the report required under subsection (b).

(b) Report.—Not later than January 31, 1999, the Secretary of the Army shall submit a report on armored system modernization to the congressional defense committees. The report shall contain an assessment of the current acquisition and fielding strategies for the M1A2 Abrams Tank and M2A3 Bradley Fighting Vehicle and an assessment of alternatives to those strategies. The report shall specifically include an assessment of an alternative fielding strategy that provides for placing all of the armored vehicles configured in the latest variant into one heavy corps. The assessment of each alternative strategy shall include the following:

(1) The relative effects on warfighting capabilities in terms of operational effectiveness and training and support efficiencies, taking into consideration the joint warfighting context.

(2) How the alternative strategy would facilitate the transition to the Future Scout and Cavalry System, the Future Combat System, or other armored systems for the future force structure known as the Army After Next.

(3) How the alternative strategy fits into the context of overall armored system modernization through 2020.

(4) Budgetary implications.

(5) Implications for the national technology and industrial base.

SEC. 114. REACTIVE ARMOR TILES.

(a) Limitation.—None of the funds authorized to be appropriated under section 101(3) or 102(b) may be obligated for the procurement of reactive armor tiles until 30 days after the date on which the Secretary of Defense submits to the congressional defense committees the study required by subsection (c).

(b) Exception.—The limitation in subsection (a) does not apply to the obligation of any funds for the procurement of armor tiles for an armored vehicle for which the Secretary of the Army or, in the case of the Marine Corps, the Secretary of the Navy, had established a requirement for such tiles before the date of the enactment of this Act.

(c) Study Required.—(1) The Secretary of Defense shall contract with an entity independent of the Department of Defense to conduct a study of the present and future operational requirements of the Army and the Marine Corps for reactive armor tiles for armored vehicles and to submit to the Secretary a report on the results of the study.

(2) The study shall include the following:

(A) A detailed assessment of the operational requirements of the Army and the Marine Corps for reactive armor tiles for each of the armored vehicles presently in use, including the requirements for each vehicle in its existing configurations and in configurations proposed for the vehicle.

(B) For each armored vehicle, an analysis of the costs and benefits of the procurement and installation of the tiles, including a comparison of those costs and benefits with the costs and benefits of any existing upgrade program for the armored vehicle.

(3) The entity carrying out the study shall request the views of the Secretary of the Army and the Secretary of the Navy.

(d) Submission to Congress.—Not later than April 1, 1999, the Secretary of Defense shall submit to the congressional defense committees—

(1) the report on the study;

(2) the comments of the Secretary of the Army and the Secretary of the Navy on the study; and

(3) for each vehicle for which it is determined that a requirement for reactive armor tiles exists, the Secretary's recommendations as to the number of vehicles to be equipped with the tiles.

SEC. 115. ANNUAL REPORTING OF COSTS ASSOCIATED WITH TRAVEL OF MEMBERS OF CHEMICAL DEMILITARIZATION CITIZENS' ADVISORY COMMISSION.

(a) Information To Be Included in Annual Report on Chemical Demilitarization Program.—Section 1412(g)(2) of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521(g)(2)) is amended by adding at the end the following:

"(C) An accounting of all funds expended (for the fiscal year covered by the report) for travel and associated travel costs for Citizens' Advisory Commissioners under section 172(g) of Public Law 102–484 (50 U.S.C. 1521 note).".

(b) Technical Amendment.—Section 1412(g) of section 1412 of such Act is amended by striking out "(g) Periodic Reports.—" and inserting in lieu thereof "(g) Annual Report.—".

SEC. 116. EXTENSION OF AUTHORITY TO CARRY OUT ARMAMENT RETOOLING AND MANUFACTURING SUPPORT INITIATIVE.

Section 193(a) of the Armament Retooling and Manufacturing Support Act of 1992 (subtitle H of title I of Public Law 102–484; 10 U.S.C. 2501 note) is amended by striking out "During fiscal years 1993 through 1998" and inserting in lieu thereof "During fiscal years 1993 through 1999".

SEC. 117. ALTERNATIVE TECHNOLOGIES FOR DESTRUCTION OF ASSEMBLED CHEMICAL WEAPONS.

(a) Program Management.—The program manager for the Assembled Chemical Weapons Assessment shall continue to manage the development and testing (including demonstration and pilot-scale testing) of technologies for the destruction of lethal chemical munitions that are potential or demonstrated alternatives to incineration. In performing such function, the program manager shall act independently of the program manager for the baseline chemical demilitarization program and shall report to the Under Secretary of Defense for Acquisition and Technology.

(b) Post-Demonstration Activities.—(1) The program manager for the Assembled Chemical Weapons Assessment may undertake the activities that are necessary to ensure that an alternative technology for the destruction of lethal chemical munitions can be implemented immediately after—

(A) the technology has been demonstrated successful; and

(B) the Under Secretary of Defense for Acquisition and Technology has submitted a report on the demonstration to Congress.

(2) To prepare for the immediate implementation of any such technology, the program manager may, during fiscal years 1998 and 1999, take the following actions:

(A) Establish program requirements.

(B) Prepare procurement documentation.

(C) Develop environmental documentation.

(D) Identify and prepare to meet public outreach and public participation requirements.

(E) Prepare to award a contract for the design, construction, and operation of a pilot facility for the technology to the provider team for the technology not later than June 1, 1999.

(c) Independent Evaluation.—The Under Secretary of Defense for Acquisition and Technology shall provide for two evaluations of the cost and schedule of the Assembled Chemical Weapons Assessment to be performed, and for each such evaluation to be submitted to the Under Secretary, not later than September 30, 1999. One of the evaluations shall be performed by a nongovernmental organization qualified to make such an evaluation, and the other evaluation shall be performed separately by the Cost Analysis Improvement Group of the Department of Defense.

(d) Pilot Facilities Contracts.—(1) The Under Secretary of Defense for Acquisition and Technology shall determine whether to proceed with pilot-scale testing of a technology referred to in paragraph (2) in time to award a contract for the design, construction, and operation of a pilot facility for the technology to the provider team for the technology not later than December 30, 1999. If the Under Secretary determines to proceed with such testing, the Under Secretary shall (exercising the acquisition authority of the Secretary of Defense) so award a contract not later than such date.

(2) Paragraph (1) applies to an alternative technology for the destruction of lethal chemical munitions, other than incineration, that the Under Secretary—

(A) certifies in writing to Congress is—

(i) as safe and cost effective for disposing of assembled chemical munitions as is incineration of such munitions; and

(ii) is capable of completing the destruction of such munitions on or before the later of the date by which the destruction of the munitions would be completed if incineration were used or the deadline date for completing the destruction of the munitions under the Chemical Weapons Convention; and

(B) determines as satisfying the Federal and State environmental and safety laws that are applicable to the use of the technology and to the design, construction, and operation of a pilot facility for use of the technology.

(3) The Under Secretary shall consult with the National Research Council in making determinations and certifications for the purpose of paragraph (2).

(4) In this subsection, the term "Chemical Weapons Convention" means the Convention on the Prohibition of Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction, opened for signature on January 13, 1993, together with related annexes and associated documents.

(e) Funding.—(1) Of the total amount authorized to be appropriated under section 107, $18,000,000 shall be available for the program manager for the Assembled Chemical Weapons Assessment for the following:

(A) Demonstrations of alternative technologies under the Assembled Chemical Weapons Assessment.

(B) Planning and preparation to proceed from demonstration of an alternative technology immediately into the development of a pilot-scale facility for the technology, including planning and preparation for—

(i) continued development of the technology leading to deployment of the technology for use;

(ii) satisfaction of requirements for environmental permits;

(iii) demonstration, testing, and evaluation;

(iv) initiation of actions to design a pilot plant;

(v) provision of support at the field office or depot level for deployment of the technology for use; and

(vi) educational outreach to the public to engender support for the deployment.

(C) The independent evaluation of cost and schedule required under subsection (c).

(2) Funds authorized to be appropriated under section 107(1) are authorized to be used for awarding contracts in accordance with subsection (d) and for taking any other action authorized in this section.

(f) Assembled Chemical Weapons Assessment Defined.—In this section, the term "Assembled Chemical Weapons Assessment" means the pilot program carried out under section 8065 of the Department of Defense Appropriations Act, 1997 (section 101(b) of Public Law 104–208; 110 Stat. 3009–101; 50 U.S.C. 1521 note).

Subtitle C—Navy Programs

SEC. 121. CVN–77 NUCLEAR AIRCRAFT CARRIER PROGRAM.

Of the amount authorized to be appropriated under section 102(a)(3) for fiscal year 1999, $124,500,000 is available for the advance procurement and advance construction of components (including nuclear components) for the CVN–77 nuclear aircraft carrier program.

SEC. 122. INCREASED AMOUNT TO BE EXCLUDED FROM COST LIMITATION FOR SEAWOLF SUBMARINE PROGRAM.

Section 123(a) of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 1650) is amended by striking out "$272,400,000" and inserting in lieu thereof "$557,600,000".

SEC. 123. MULTIYEAR PROCUREMENT AUTHORITY FOR THE MEDIUM TACTICAL VEHICLE REPLACEMENT.

Beginning with the fiscal year 1999 program year, the Secretary of the Navy may, in accordance with section 2306b of title 10, United States Code, enter into a multiyear procurement contract for the procurement of the Medium Tactical Vehicle Replacement. The contract may be for a term of five years.

SEC. 124. MULTIYEAR PROCUREMENT AUTHORITY FOR CERTAIN AIRCRAFT PROGRAMS.

Beginning with the fiscal year 1999 program year, the Secretary of the Navy may, in accordance with section 2306b of title 10, United States Code, enter into multiyear contracts for the procurement of the following aircraft:

(1) The AV–8B aircraft.

(2) The E–2C aircraft.

(3) The T–45 aircraft.

Subtitle D—Air Force Programs

SEC. 131. JOINT SURVEILLANCE TARGET ATTACK RADAR SYSTEM.

(a) Amount for Follow-On Options.—Of the amount authorized to be appropriated under section 103(1) for the Joint Surveillance Target Attack Radar System (JSTARS) program, $72,000,000 is available for funding the following options:

(1) Advance procurement of long-lead items for two additional E–8C JSTARS aircraft.

(2) Payment of expenses associated with termination of production of JSTARS aircraft, together with augmentation of other funding for the program for development of an improved joint surveillance target attack radar, known as the radar technology insertion program.

(b) Limitation.—None of the funds available in accordance with subsection (a) for funding an option described in that subsection may be obligated until 30 days after the date on which the Secretary of Defense submits to Congress a plan for using the funds. The plan shall specify the option selected, the reasons for the selection of that option, and details about how the funds are to be used for that option.

SEC. 132. LIMITATION ON REPLACEMENT OF ENGINES ON MILITARY AIRCRAFT DERIVED FROM BOEING 707 AIRCRAFT.

None of the funds authorized to be appropriated under this title may be obligated or expended for the replacement of engines on aircraft of the Department of Defense that are derived from the Boeing 707 aircraft until the Secretary of Defense has submitted the analysis required by section 133 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 1652).

SEC. 133. F–22 AIRCRAFT PROGRAM.

(a) Limitation on Advance Procurement.—(1) Amounts available for the Department of Defense for any fiscal year for the F-22 aircraft program may not be obligated for advance procurement for the six Lot II F–22 aircraft before the date that is 30 days after date that is applicable under paragraph (2) or (3).

(2) The applicable date for the purposes of paragraph (1) is the date on which the Secretary of Defense submits a certification under subsection (b)(1) unless the Secretary submits a report under subsection (b)(2).

(3) If the Secretary submits a report under subsection (b)(2), the applicable date for the purposes of paragraph (1) is the later of—

(A) the date on which the Secretary of Defense submits the report; or

(B) the date on which the Director of Operational Test and Evaluation submits the certification required under subsection (c).

(b) Certification by Secretary of Defense.—(1) Upon the completion of 433 hours of flight testing of F–22 flight test vehicles, the Secretary of Defense shall submit to the congressional defense committees a certification of the completion of that amount of flight testing. A certification is not required under this paragraph if the Secretary submits a report under paragraph (2).

(2) If the Secretary determines that a number of hours of flight testing of F–22 flight test vehicles less than 433 hours provides the Defense Acquisition Board with a sufficient basis for deciding to proceed into production of Lot II F–22 aircraft, the Secretary may submit a report to the congressional defense committees upon the completion of that lesser number of hours of flight testing. A report under this paragraph shall contain the following:

(A) A certification of the number of hours of flight testing completed.

(B) The reasons for the Secretary's determination that the lesser number of hours is a sufficient basis for a decision by the board.

(C) A discussion of the extent to which the Secretary's determination is consistent with each decision made by the Defense Acquisition Board since January 1997 in the case of a major aircraft acquisition program that the amount of flight testing completed for the program was sufficient or not sufficient to justify a decision to proceed into low-rate initial production.

(D) A determination by the Secretary that it is more financially advantageous for the Department to proceed into production of Lot II F–22 aircraft than to delay production until completion of 433 hours of flight testing, together with the reasons for that determination.

(c) Certification by the Director of Operational Test and Evaluation.—Upon the completion of 183 hours of the flight testing of F–22 flight test vehicles provided for in the test and evaluation master plan for the F–22 aircraft program, as in effect on October 1, 1997, the Director of Operational Test and Evaluation shall submit to the congressional defense committees a certification of the completion of that flight testing.

SEC. 134. C–130J AIRCRAFT PROGRAM.

Not later than March 1, 1999, the Secretary of Defense shall review the C–130J aircraft program and submit a report on the program to the congressional defense committees. The report shall include at least the following:

(1) A discussion of the testing planned and the testing conducted under the program, including—

(A) the testing schedule intended at the beginning of the program;

(B) the testing schedule as of when the testing commenced; and

(C) an explanation of the time taken for the testing.

(2) The cost and schedule of the program, including—

(A) whether the Department has exercised or plans to exercise contract options for fiscal years 1996, 1997, 1998, and 1999;

(B) when the Department expects the aircraft to be delivered and how the delivery dates compare to the delivery dates specified in the contract;

(C) whether the Department expects to make any modification to the negotiated contract price for these aircraft, and the amount and basis for any such modification; and

(D) whether the Department expects the reported delays and overruns in the development of the aircraft to have any other impact on the cost, schedule, or performance of the aircraft.

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

Subtitle A—Authorization of Appropriations

SEC. 201. AUTHORIZATION OF APPROPRIATIONS.

Funds are hereby authorized to be appropriated for fiscal year 1999 for the use of the Department of Defense for research, development, test, and evaluation as follows:

(1) For the Army, $4,838,145,000.

(2) For the Navy, $8,219,997,000.

(3) For the Air Force, $13,673,993,000.

(4) For Defense-wide activities, $9,583,822,000, of which—

(A) $249,106,000 is authorized for the activities of the Director, Test and Evaluation; and

(B) $25,245,000 is authorized for the Director of Operational Test and Evaluation.

SEC. 202. AMOUNT FOR BASIC AND APPLIED RESEARCH.

(a) Fiscal Year 1999.—Of the amounts authorized to be appropriated by section 201, $4,186,817,000 shall be available for basic research and applied research projects.

(b) Basic Research and Applied Research Defined.—For purposes of this section, the term "basic research and applied research" means work funded in program elements for defense research and development under Department of Defense category 6.1 or 6.2.

Subtitle B—Program Requirements, Restrictions, and Limitations

SEC. 211. CRUSADER SELF-PROPELLED ARTILLERY SYSTEM PROGRAM.

(a) Limitation.—Of the amount authorized to be appropriated for the Army pursuant to section 201(1), not more than $223,000,000 may be obligated for the Crusader self-propelled artillery system program until 30 days after the date on which the Secretary of the Army submits the report required under subsection (b).

(b) Requirement for Report.—The Secretary of the Army shall submit to the congressional defense committees a report on the Crusader self-propelled artillery system. The report shall include the following:

(1) An assessment of the risks associated with the current Crusader program technology.

(2) The total requirements for the Crusader system, taking into consideration revisions in force structure resulting from the redesign of heavy and light divisions to achieve a force structure known as the Army After Next.

(3) The potential for reducing the weight of the Crusader system by as much as 50 percent.

(4) The potential for using alternative propellants for the artillery projectile for the Crusader system and the effects on the overall program schedule that would result from taking the actions and time necessary to develop mature technologies for alternative propellants.

(5) An analysis of the costs and benefits of delaying procurement of Crusader to avoid affordability issues associated with the current schedule and to allow for maturation of weight and propellant technologies.

(c) Submission of Report.—The Secretary of the Army shall submit the report not later than March 1, 1999.

SEC. 212. CVN–77 NUCLEAR AIRCRAFT CARRIER PROGRAM.

(a) Amount for New Technologies.—Of the amounts authorized to be appropriated under section 201(2) for aircraft carrier system development, $50,000,000 shall be available only for research, development, test, and evaluation, and for acquisition, of technologies described in subsection (b) for use in the CVN–77 nuclear aircraft carrier program.

(b) Technologies.—The technologies for which amounts are available under subsection (a) are technologies that are designed—

(1) for a transition from the CVN–77 aircraft carrier program to the CV(X) aircraft carrier program; and

(2) for—

(A) demonstrating enhanced capabilities for the CV(X) aircraft carrier program; or

(B) mitigating the cost or technical risks of that program.

SEC. 213. UNMANNED AERIAL VEHICLE PROGRAMS.

(a) Termination of Dark Star Program.—The Secretary of Defense shall terminate the Dark Star unmanned aerial vehicle program. Except as provided in subsection (b), funds available for that program may be obligated after the date of the enactment of this Act only for costs necessary for terminating the program.

(b) Global Hawk Program.—Of the unobligated balance of the funds available for the Dark Star unmanned aerial vehicle program, $32,500,000 shall be available for the procurement of three Global Hawk unmanned aerial vehicles. However, none of the funds made available for the Global Hawk unmanned aerial vehicle program under the preceding sentence may be obligated or expended for that program until phase II testing of the Global Hawk unmanned aerial vehicle has been completed.

SEC. 214. AIRBORNE LASER PROGRAM.

(a) Findings.—Congress makes the following findings:

(1) The development plan of the Department of Defense for the Airborne Laser Program does not include the basic validation of certain key technologies until 2002, which is shortly before the program is scheduled to enter the engineering and manufacturing development phase of development.

(2) It is possible that the technical risk of the Airborne Laser Program could be substantially reduced by restructuring the program to include a technology demonstration using a low power laser device to collect optical data in an operationally representative environment.

(3) Department of Defense officials are currently planning to have expended approximately $1,300,000,000 on the Airborne Laser Program by the end of fiscal year 2002, and a total of $6,300,000,000 by the end of fiscal year 2008 for the development of the system and the procurement of seven airborne laser aircraft.

(4) Due to the likely vulnerability of an airborne laser system to air defense threats, the limited lethal range of the laser device, and other operational limitations of the system, the utility of the airborne laser system will be severely restricted under a wide range of operational scenarios.

(b) Assessment of Technical and Operational Limitations.—The Secretary of Defense shall conduct an assessment of the technical obstacles and operational shortcomings expected for the Airborne Laser Program. In conducting the assessment, the Secretary shall—

(1) require the Panel on Reducing Risk in Ballistic Missile Defense Test Programs to evaluate the adequacy of the test program for the Airborne Laser Program; and

(2) establish an independent team of persons from outside the Department of Defense who are experts in relevant fields to review the operational limitations and issues associated with the Airborne Laser Program.

(c) Report on Assessment.—Not later than March 15, 1999, the Secretary shall submit a report on the assessment to Congress. The report shall include the Secretary's findings and any recommendations that the Secretary considers appropriate.

(d) Funding for Program.—Of the amount authorized to be appropriated under section 201(3), $195,219,000 shall be available for the Airborne Laser Program.

(e) Limitation.—Of the amount made available pursuant to subsection (d), not more than $150,000,000 may be obligated until 30 days after the Secretary submits the report required under subsection (c).

SEC. 215. ENHANCED GLOBAL POSITIONING SYSTEM PROGRAM.

(a) Findings.—Congress makes the following findings:

(1) Section 152(b) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1578) prohibits the obligation of funds, after September 30, 2000, to modify or procure any Department of Defense aircraft, ship, armored vehicle, or indirect-fire weapon system that is not equipped with a Global Positioning System receiver.

(2) Section 279(b) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104-106; 110 Stat. 243) requires the Secretary of Defense to prepare a plan for enhancing the Global Positioning System and to provide in that plan for—

(A) the development of capabilities to deny hostile military forces the ability to use the Global Positioning System without hindering the ability of United States military forces and civil users to have access to and use of the system; and

(B) the development and acquisition of receivers for the Global Positioning System and other techniques for weapons and weapon systems that provide substantially improved resistance to jamming and other forms of electronic interference or disruption.

(3) Section 2281 of title 10, United States Code, requires the Secretary of Defense—

(A) to develop appropriate measures for preventing hostile use of the Global Positioning System so as to make it unnecessary for the Secretary to use the selective availability feature of the system continuously while not hindering the use of the Global Positioning System by the United States and its allies for military purposes;

(B) to ensure that the Armed Forces of the United States have the capability to use the Global Positioning System effectively despite hostile attempts to prevent the use of the system by such forces; and

(C) to develop measures for preventing hostile use of the Global Positioning System in a particular area without hindering peaceful civil use of the system elsewhere.

(b) Policy on Priority for Development of Enhanced GPS System.—The development of an enhanced Global Positioning System is an urgent national security priority.

(c) Development Required.—To fulfill the requirements described in subsection (a), the Secretary of Defense shall develop an enhanced Global Positioning System in accordance with the priority declared in subsection (b). The enhanced Global Positioning System shall consist of the following elements:

(1) An evolved satellite system that includes dynamic frequency reconfiguration and regional-level directional signal enhancements.

(2) Enhanced receivers and user equipment that are capable of providing military users with direct access to encrypted Global Positioning System signals.

(3) To the extent funded by the Secretary of Transportation, additional civil frequencies and other enhancements for civil users.

(d) Sense of Congress Regarding Funding.—It is the sense of Congress that—

(1) the Secretary of Defense should ensure that the future-years defense program provides for sufficient funding to develop and deploy an enhanced Global Positioning System system in accordance with the priority declared in subsection (b); and

(2) the Secretary of Transportation should provide sufficient funding to support additional civil frequencies for the Global Positioning System and other enhancements of the system for civil users.

(e) Plan for Development of Enhanced Global Positioning System.—Not later than April 15, 1999, the Secretary of Defense shall submit to Congress a plan for carrying out the requirements of subsection (c).

(f) Delayed Effective Date for Limitation on Procurement of Systems Not GPS-Equipped.—Section 152(b) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160; 107 Stat. 1578) is amended by striking out "2000" and inserting in lieu thereof "2005".

(g) Funding From Authorized Appropriations for Fiscal Year 1999.—Of the amounts authorized to be appropriated under section 201(3), $44,000,000 shall be available to establish and carry out an enhanced Global Positioning System program.

SEC. 216. MANUFACTURING TECHNOLOGY PROGRAM.

(a) Competition and Cost Sharing.—Subsection (d) of section 2525 of title 10, United States Code, is amended by striking out paragraphs (2), (3), and (4) and inserting in lieu thereof the following:

"(2) Except as provided in paragraph (3), the costs of a project carried out under the program shall be shared by the Department of Defense and the other parties to the grant, contract, cooperative agreement, or other transaction involved if any results of the project are likely to have an immediate and direct commercial application. The cost share—

"(A) in the case of a grant, contract, cooperative agreement, or other transaction that is awarded using a competitive selection process, shall be the cost share proposed in the application or offer selected for the award; or

"(B) in a case in which there is only one applicant or offeror, shall be the cost share negotiated with the applicant or offeror that provides the best value for the Government.

"(3)(A) Cost-sharing is not required of the non-Federal Government parties to a grant, contract, cooperative agreement, or other transaction under paragraph (2) if the project is determined as being sufficiently high risk to discourage cost-sharing by non-Federal Government sources.

"(B) A determination under subparagraph (A) that cost-sharing is not required in the case of a particular grant, contract, cooperative agreement or other transaction shall be made by—

"(i) the Secretary of the military department awarding the grant or entering into the contract, cooperative agreement, or other transaction; or

"(ii) the Secretary of Defense for any other grant, contract, cooperative agreement, or transaction.

"(C) The transaction file for a case in which cost-sharing is determined as not being required shall include written documentation of the reasons for the determination.".

(b) Five-Year Plan.—Subsection (e)(2) of such section is amended to read as follows:

"(2) The plan shall include the following:

"(A) An assessment of the effectiveness of the program.

"(B) An assessment of the extent to which the costs of projects are being shared by the following:

"(i) Commercial enterprises in the private sector.

"(ii) Department of Defense program offices, including weapon system program offices.

"(iii) Departments and agencies of the Federal Government outside the Department of Defense.

"(iv) Institutions of higher education.

"(v) Other institutions not operated for profit.

"(vi) Other sources.".

SEC. 217. AUTHORITY FOR USE OF MAJOR RANGE AND TEST FACILITY INSTALLATIONS BY COMMERCIAL ENTITIES.

(a) Permanent Authority.—Subsection (g) of section 2681 of title 10, United States Code, is repealed.

(b) Repeal of Executed Reporting Requirement.—Subsection (h) of such section is repealed.

SEC. 218. EXTENSION OF AUTHORITY TO CARRY OUT CERTAIN PROTOTYPE PROJECTS.

Section 845(c) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160; 10 U.S.C. 2371 note) is amended by striking out "September 30, 1999" and inserting in lieu thereof "September 30, 2001".

SEC. 219. NATO ALLIANCE GROUND SURVEILLANCE CONCEPT DEFINITION.

Amounts authorized to be appropriated under subtitle A are available for a NATO alliance ground surveillance concept definition that is based on the Joint Surveillance Target Attack Radar System (Joint STARS) Radar Technology Insertion Program (RTIP) sensor of the United States, as follows:

(1) Of the amount authorized to be appropriated under section 201(1), $6,400,000.

(2) Of the amount authorized to be appropriated under section 201(3), $3,500,000.

SEC. 220. NATO COMMON-FUNDED CIVIL BUDGET.

Of the amount authorized to be appropriated by section 201(1), $750,000 shall be available for contributions for the common-funded Civil Budget of NATO.

SEC. 221. PERSIAN GULF ILLNESSES.

(a) Additional Amount for Persian Gulf Illnesses.—The total amount authorized to be appropriated under this title for research and development relating to Persian Gulf illnesses is the total amount authorized to be appropriated for such purpose under the other provisions of this title plus $10,000,000.

(b) Reduced Amount for Army Commercial Operations and Support Savings Program.—Of the amount authorized to be appropriated under section 201(1), $23,600,000 shall be available for the Army Commercial Operations and Support Savings Program.

SEC. 222. DOD/VA COOPERATIVE RESEARCH PROGRAM.

(a) Availability of Funds.—(1) The amount authorized to be appropriated by section 201(4) is hereby increased by $10,000,000.

(2) Of the amount authorized to be appropriated by section 201(4), as increased by paragraph (1), $10,000,000 shall be available for the DOD/VA Cooperative Research Program.

(b) Offset.—(1) The amount authorized to be appropriated by section 201(2) is hereby decreased by $10,000,000.

(2) Of the amount authorized to be appropriated by section 201(2), as decreased by paragraph (1), not more than $18,500,000 shall be available for the Commercial Operations and Support Savings Program.

(c) Executive Agent.—The Secretary of Defense, acting through the Army Medical Research and Materiel Command and the Naval Operational Medicine Institute, shall be the executive agent for the utilization of the funds made available by subsection (a).

SEC. 223. LOW COST LAUNCH DEVELOPMENT PROGRAM.

Of the total amount authorized to be appropriated under section 201(3), $5,000,000 is available for the Low Cost Launch Development Program.

Subtitle C—Other Matters

SEC. 231. POLICY WITH RESPECT TO BALLISTIC MISSILE DEFENSE COOPERATION.

As the United States proceeds with efforts to develop defenses against ballistic missile attack, it should seek to foster a climate of cooperation with Russia on matters related to missile defense. In particular, the United States and its NATO allies should seek to cooperate with Russia in such areas as early warning.

SEC. 232. REVIEW OF PHARMACOLOGICAL INTERVENTIONS FOR REVERSING BRAIN INJURY.

(a) Review and Report Required.—The Assistant Secretary of Defense for Health Affairs shall review research on pharmacological interventions for reversing brain injury and, not later than March 31, 1999, submit a report on the results of the review to Congress.

(b) Content of Report.—The report shall include the following:

(1) The potential for pharmacological interventions for reversing brain injury to reduce mortality and morbidity in cases of head injuries incurred in combat or resulting from exposures to chemical weapons or agents.

(2) The potential utility of such interventions for the Armed Forces.

(3) A conclusion regarding whether funding for research on such interventions should be included in the budget for the Department of Defense for fiscal year 2000.

SEC. 233. LANDMINES.

(a) Availability of Funds.—(1) Of the amounts authorized to be appropriated in section 201, $17,200,000 shall be available for activities relating to the identification, adaptation, modification, research, and development of existing and new tactics, technologies, and operational concepts that—

(A) would provide a combat capability that is comparable to the combat capability provided by anti-personnel landmines, including anti-personnel landmines used in mixed mine systems; and

(B) comply with the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction.

(2) The amount available under paragraph (1) shall be derived as follows:

(A) $12,500,000 shall be available from amounts authorized to be appropriated by section 201(1).

(B) $4,700,000 shall be available from amounts authorized to be appropriated by section 201(4).

(b) Studies.—(1) Not later than 30 days after the date of enactment of this Act, the Secretary of Defense shall enter into a contract with each of two appropriate scientific organizations for purposes of identifying existing and new tactics, technologies, and concepts referred to in subsection (a).

(2) Each contract shall require the organization concerned to submit a report to the Secretary and to Congress, not later than one year after the execution of such contract, describing the activities under such contract and including recommendations with respect to the adaptation, modification, and research and development of existing and new tactics, technologies, and concepts identified under such contract.

(3) Amounts available under subsection (a) shall be available for purposes of the contracts under this subsection.

(c) Reports.—Not later than April 1 of each of 1999 through 2001, the Secretary shall submit to the congressional defense committees a report describing the progress made in identifying and deploying tactics, technologies, and concepts referred to in subsection (a).

(d) Definitions.—In this section:

(1) Anti-personnel landmine.—The term "anti-personnel landmine" has the meaning given the term "anti-personnel mine" in Article 2 of the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction.

(2) Mixed mine system.—The term "mixed mine system" includes any system in which an anti-vehicle landmine or other munition is constructed with or used with one or more anti-personnel landmines, but does not include an anti-handling device as that term is defined in Article 2 of the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction.

TITLE III—OPERATION AND MAINTENANCE

Subtitle A—Authorization of Appropriations

SEC. 301. OPERATION AND MAINTENANCE FUNDING.

(a) Amounts Authorized.—Funds are hereby authorized to be appropriated for fiscal year 1999 for the use of the Armed Forces and other activities and agencies of the Department of Defense for expenses, not otherwise provided for, for operation and maintenance, in amounts as follows:

(1) For the Army, $17,395,563,000.

(2) For the Navy, $22,001,302,000.

(3) For the Marine Corps, $2,621,703,000.

(4) For the Air Force, $19,213,404,000.

(5) For the Special Operations Command, $1,251,503,000.

(6) For Defense-wide activities, $9,025,598,000.

(7) For the Army Reserve, $1,217,622,000.

(8) For the Naval Reserve, $943,639,000.

(9) For the Marine Corps Reserve, $134,593,000.

(10) For the Air Force Reserve, $1,759,696,000.

(11) For the Army National Guard, $2,476,815,000.

(12) For the Air National Guard, $3,113,933,000.

(13) For the Defense Inspector General, $130,764,000.

(14) For the United States Court of Appeals for the Armed Forces, $7,324,000.

(15) For Environmental Restoration, Army, $370,640,000.

(16) For Environmental Restoration, Navy, $274,600,000.

(17) For Environmental Restoration, Air Force, $372,100,000.

(18) For Environmental Restoration, Defense-wide, $23,091,000.

(19) For Environmental Restoration, Formerly Used Defense Sites, $195,000,000.

(20) For Overseas Humanitarian, Demining, and CINC Initiatives, $50,000,000.

(21) For Drug Interdiction and Counter-drug Activities, Defense-wide, $727,582,000.

(22) For the Kaho'olawe Island Conveyance, Remediation, and Environmental Restoration Trust Fund, $15,000,000.

(23) For Medical Programs, Defense, $9,653,435,000.

(24) For Cooperative Threat Reduction programs, $440,400,000.

(25) For Overseas Contingency Operations Transfer Fund, $746,900,000.

(26) For Impact Aid, $35,000,000.

(b) General Limitation.—Notwithstanding paragraphs (1) through (25) of subsection (a), the total amount authorized to be appropriated for fiscal year 1999 under those paragraphs is $93,875,207,000.

SEC. 302. WORKING CAPITAL FUNDS.

Funds are hereby authorized to be appropriated for fiscal year 1999 for the use of the Armed Forces and other activities and agencies of the Department of Defense for providing capital for working capital and revolving funds in amounts as follows:

(1) For the Defense Working Capital Funds, Air Force, $30,800,000.

(2) For Defense Working-Capital Fund, Defense-wide, $63,700,000.

(3) For the National Defense Sealift Fund, $669,566,000.

SEC. 303. ARMED FORCES RETIREMENT HOME.

There is hereby authorized to be appropriated for fiscal year 1999 from the Armed Forces Retirement Home Trust Fund the sum of $70,745,000 for the operation of the Armed Forces Retirement Home, including the United States Soldiers' and Airmen's Home and the Naval Home.

SEC. 304. TRANSFER FROM THE NATIONAL DEFENSE STOCKPILE TRANSACTION FUND.

(a) Transfer Authority.—To the extent provided in appropriations Acts, not more than $150,000,000 is authorized to be transferred from the National Defense Stockpile Transaction Fund to operation and maintenance accounts for fiscal year 1999 in amounts as follows:

(1) For the Army, $50,000,000.

(2) For the Navy, $50,000,000.

(3) For the Air Force, $50,000,000.

(b) Treatment of Transfers.—Amounts transferred under this section—

(1) shall be merged with, and be available for the same purposes and the same period as, the amounts in the accounts to which transferred; and

(2) may not be expended for an item that has been denied authorization of appropriations by Congress.

(c) Relationship to Other Transfer Authority.—The transfer authority provided in this section is in addition to the transfer authority provided in section 1001.

Subtitle B—Program Requirements, Restrictions, and Limitations

SEC. 311. SPECIAL OPERATIONS COMMAND COUNTERPROLIFERATION AND COUNTERTERRORISM ACTIVITIES.

Of the amount authorized to be appropriated under section 301(a)(5), the $18,500,000 available for the Special Operations Command that is not needed for the operation of six of the patrol coastal craft of the Department of Defense in the Caribbean Sea and Eastern Pacific Ocean in support of the drug interdiction efforts of the United States Southern Command by reason of section 331 shall be available for increased training and related operations in support of that command's counterproliferation of weapons of mass destruction and the command's counterterrorism activities. The amount available under the preceding sentence is in addition to other funds authorized to be appropriated under section 301(a)(5) for the Special Operations Command for such purposes.

SEC. 312. TAGGING SYSTEM FOR IDENTIFICATION OF HYDROCARBON FUELS USED BY THE DEPARTMENT OF DEFENSE.

(a) Authority To Conduct Pilot Program.—The Secretary of Defense may conduct a pilot program using existing technology to determine—

(1) the feasibility of tagging hydrocarbon fuels used by the Department of Defense for the purposes of analyzing and identifying such fuels;

(2) the deterrent effect of such tagging on the theft and misuse of fuels purchased by the Department; and

(3) the extent to which such tagging assists in determining the source of surface and underground pollution in locations having separate fuel storage facilities of the Department and of civilian companies.

(b) System Elements.—The tagging system under the pilot program shall have the following characteristics:

(1) The tagging system does not harm the environment.

(2) Each chemical used in the tagging system is—

(A) approved for use under the Toxic Substances Control Act (15 U.S.C. 2601 et seq.); and

(B) substantially similar to the fuel to which added, as determined in accordance with criteria established by the Environmental Protection Agency for the introduction of additives into hydrocarbon fuels.

(3) The tagging system permits a determination if a tag is present and a determination if the concentration of a tag has changed in order to facilitate identification of tagged fuels and detection of dilution of tagged fuels.

(4) The tagging system does not impair or degrade the suitability of tagged fuels for their intended use.

(c) Report.—Not later than 30 days after the completion of the pilot program, the Secretary shall submit to Congress a report setting forth the results of the pilot program and including any recommendations for legislation relating to the tagging of hydrocarbon fuels by the Department that the Secretary considers appropriate.

(d) Funding.—Of the amounts authorized to be appropriated under section 301(a)(6) for operation and maintenance for defense-wide activities, not more than $5,000,000 shall be available for the pilot program.

SEC. 313. PILOT PROGRAM FOR ACCEPTANCE AND USE OF LANDING FEES CHARGED FOR USE OF DOMESTIC MILITARY AIRFIELDS BY CIVIL AIRCRAFT.

(a) Pilot Program Authorized.—The Secretary of each military department may carry out a pilot program to demonstrate the use of landing fees as a source of funding for the operation and maintenance of airfields of the department.

(b) Imposition of Landing Fees.—Under a pilot program carried out under this section, the Secretary of a military department may prescribe and impose landing fees for use of any military airfield of the department in the United States by civil aircraft during fiscal years 1999 and 2000. No fee may be charged under the pilot program for a landing after September 30, 2000.

(c) Use of Proceeds.—Amounts received for a fiscal year in payment of landing fees imposed under the pilot program for use of a military airfield shall be credited to the appropriation that is available for that fiscal year for the operation and maintenance of the military airfield, shall be merged with amounts in the appropriation to which credited, and shall be available for that military airfield for the same period and purposes as the appropriation is available.

(d) Report.—Not later than March 31, 2000, the Secretary of Defense shall submit to Congress a report on the pilot programs carried out under this section by the Secretaries of the military departments. The report shall specify the amounts of fees received and retained by each military department under the pilot program as of December 31, 1999.

SEC. 314. NATO COMMON-FUNDED MILITARY BUDGET.

Of the amount authorized to be appropriated by section 30(a)(1), $227,377,000 shall be available for contributions for the common-funded Military Budget of NATO.

Subtitle C—Environmental Provisions

SEC. 321. TRANSPORTATION OF POLYCHLORINATED BIPHENYLS FROM ABROAD FOR DISPOSAL IN THE UNITED STATES.

(a) Authority.—Chapter 157 of title 10, United States Code, is amended by adding at the end the following:

"§ 2646. Transportation of polychlorinated biphenyls from abroad; disposal

"(a) Authority To Transport.—(1) Subject to paragraph (2), the Secretary of the Defense and the Secretaries of the military departments may provide for the transportation into the customs territory of the United States of polychlorinated biphenyls generated by or under the control of the Department of Defense for purposes of their disposal, treatment, or storage in the customs territory of the United States.

"(2) Polychlorinated biphenyls may be transported into the customs territory of the United States under paragraph (1) only if the Administrator of the Environmental Protection Agency determines that the transportation will not result in an unreasonable risk of injury to health or the environment.

"(b) Disposal.—(1) The disposal, treatment, and storage of polychlorinated biphenyls transported into the customs territory of the United States under subsection (a) shall be governed by the provisions of the Toxic Substances Control Act (15 U.S.C. 2601 et seq.).

"(2) A chemical waste landfill may not be used for the disposal, treatment, or storage of polychlorinated biphenyls transported into the customs territory of the United States under subsection (a) unless the landfill meets all of the technical requirements specified in section 761.75(b)(3) of title 40, Code of Federal Regulations, as in effect on the date that was one year before the date of enactment of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999.

"(c) Customs Territory of the United States Defined.—In this section, the term 'customs territory of the United States' has the meaning given that term in General Note 2. of the Harmonized Tariff Schedule of the United States.".

(b) Clerical Amendment.—The table of sections at the beginning of that chapter is amended by adding at the end the following:

"2646. Transportation of polychlorinated biphenyls from abroad; disposal.".

SEC. 322. MODIFICATION OF DEADLINE FOR SUBMITTAL TO CONGRESS OF ANNUAL REPORTS ON ENVIRONMENTAL ACTIVITIES.

Section 2706 of title 10, United States Code, is amended by striking out "not later than 30 days" each place it appears in subsections (a), (b), (c), and (d) and inserting in lieu thereof "not later than 45 days".

SEC. 323. SUBMARINE SOLID WASTE CONTROL.

(a) Solid Waste Discharge Requirements.—Subsection (c)(2) of section 3 of the Act to Prevent Pollution from Ships (33 U.S.C. 1902) is amended—

(1) in subparagraph (A), by adding at the end the following:

"(iii) With regard to submersibles, nonplastic garbage that has been compacted and weighted to ensure negative buoyancy."; and

(2) in subparagraph (B)(ii), by striking out "subparagraph (A)(ii)" and inserting in lieu thereof "clauses (ii) and (iii) of subparagraph (A)".

(b) Conforming Amendment.—Subsection (e)(3)(A) of that section is amended by striking out "garbage that contains more than the minimum amount practicable of".

SEC. 324. PAYMENT OF STIPULATED PENALTIES ASSESSED UNDER CERCLA.

The Secretary of Defense may pay, from amounts in the Department of Defense Base Closure Account 1990 established by section 2906(a)(1) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note), not more than $15,000 as payment of pay stipulated civil penalties assessed under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) against McClellan Air Force Base, California.

SEC. 325. AUTHORITY TO PAY NEGOTIATED SETTLEMENT FOR ENVIRONMENTAL CLEANUP OF FORMERLY USED DEFENSE SITES IN CANADA.

(a) Findings.—Congress makes the following findings with respect to the authorization of payment of settlement with Canada in subsection (b) regarding environmental cleanup at formerly used defense sites in Canada:

(1) A unique and longstanding national security alliance exists between the United States and Canada.

(2) The sites covered by the settlement were formerly used by the United States and Canada for their mutual defense.

(3) There is no formal treaty or international agreement between the United States and Canada regarding the environmental cleanup of the sites.

(4) Environmental contamination at some of the sites could pose a substantial risk to the health and safety of the United States citizens residing in States near the border between the United States and Canada.

(5) The United States and Canada reached a negotiated agreement for an ex-gratia reimbursement of Canada in full satisfaction of claims of Canada relating to environmental contamination which agreement was embodied in an exchange of Notes between the Government of the United States and the Government of Canada.

(6) There is a unique factual basis for authorizing a reimbursement of Canada for environmental cleanup at sites in Canada after the United States departure from such sites.

(7) The basis for and authorization of such reimbursement does not extend to similar claims by other nations.

(8) The Government of Canada is committed to spending the entire $100,000,000 of the reimbursement authorized in subsection (b) in the United States, which will benefit United States industry and United States workers.

(b) Authority To Make Payments.—(1) Subject to paragraph (3), the Secretary of Defense may, using funds specified under subsection (c), make a payment described in paragraph (2) in each of fiscal years 1999 through 2008 for purposes of the ex-gratia reimbursement of Canada in full satisfaction of any and all claims asserted against the United States by Canada for environmental cleanup of sites in Canada that were formerly used for the mutual defense of the United States and Canada.

(2) A payment referred to in paragraph (1) is a payment of $10,000,000, in constant fiscal year 1996 dollars, into the Foreign Military Sales Trust Account for purposes of Canada.

(3) A payment may be made under paragraph (1) in any fiscal year after fiscal year 1999 only if the Secretary of Defense submits to Congress with the budget for such fiscal year under section 1105 of title 31, United States Code, evidence that the cumulative amount expended by the Government of Canada for environmental cleanup activities in Canada during any fiscal years before such fiscal year in which a payment under that paragraph was authorized was an amount equal to or greater than the aggregate amount of the payments under that paragraph during such fiscal years.

(c) Source of Funds.—A payment may be made under subsection (b) in a fiscal year from amounts appropriated pursuant to the authorization of appropriations for the Department of Defense for such fiscal year for Operation and Maintenance, Defense-Wide.

SEC. 326. SETTLEMENT OF CLAIMS OF FOREIGN GOVERNMENTS FOR ENVIRONMENTAL CLEANUP OF OVERSEAS SITES FORMERLY USED BY THE DEPARTMENT OF DEFENSE.

(a) Notice of Negotiations.—The President shall notify Congress before entering into any negotiations for the ex-gratia settlement of the claims of a government of another country against the United States for environmental cleanup of sites in that country that were formerly used by the Department of Defense.

(b) Authorization Required for Use Funds for Payment of Settlement.—Notwithstanding any other provision of law, no funds may be utilized for any payment under an ex-gratia settlement of any claims described in subsection (a) unless the use of the funds for that purpose is specifically authorized by law, treaty, or international agreement.

SEC. 327. ARCTIC MILITARY ENVIRONMENTAL COOPERATION PROGRAM.

(a) Findings.—Congress makes the following findings:

(1) The Secretary of Defense has developed a program to address environmental matters relating to the military activities of the Department of Defense in the Arctic region. The program is known as the "Arctic Military Environmental Cooperation Program".

(2) The Secretary has carried out the Arctic Military Environmental Cooperation Program using funds appropriated for Cooperative Threat Reduction programs.

(b) Activities Under Program.—(1) Subject to paragraph (2), activities under the Arctic Military Environmental Cooperation Program shall include cooperative activities on environmental matters in the Arctic region with the military departments and agencies of other countries, including the Russian Federation.

(2) Activities under the Arctic Military Environmental Cooperation Program may not include any activities for purposes for which funds for Cooperative Threat Reduction programs have been denied, including the purposes for which funds were denied by section 1503 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2732).

(c) Availability of Fiscal Year 1999 Funds.—(1) Of the amount authorized to be appropriated by section 301(a)(6), $4,000,000 shall be available for carrying out the Arctic Military Environmental Program.

(2) Amounts available for the Arctic Military Environmental Cooperation Program under paragraph (1) may not be obligated or expended for that Program until 45 days after the date on which the Secretary of Defense submits to the congressional defense committees a plan for the Program under paragraph (3).

(3) The plan for the Arctic Military Environmental Cooperation Program under this paragraph shall include the following:

(A) A statement of the overall goals and objectives of the Program.

(B) A statement of the proposed activities under the Program and the relationship of such activities to the national security interests of the United States.

(C) An assessment of the compatibility of the activities set forth under subparagraph (B) with the purposes of the Cooperative Threat Reduction programs of the Department of Defense (including with any prohibitions and limitations applicable to such programs).

(D) An estimate of the funding to be required and requested in future fiscal years for the activities set forth under subparagraph (B).

(E) A proposed termination date for the Program.

SEC. 328. SENSE OF SENATE REGARDING OIL SPILL PREVENTION TRAINING FOR PERSONNEL ON BOARD NAVY VESSELS.

(a) Findings.—The Senate makes the following findings:

(1) There have been six significant oil spills in Puget Sound, Washington, in 1998, five at Puget Sound Naval Shipyard (including three from the U.S.S. Kitty Hawk, one from the U.S.S. Carl Vinson, and one from the U.S.S. Sacramento) and one at Naval Station Everett from the U.S.S. Paul F. Foster.

(2) Navy personnel on board vessels, and not shipyard employees, were primarily responsible for a majority of these oil spills at Puget Sound Naval Shipyard.

(3) Oil spills have the potential to damage the local environment, killing microscopic organisms, contributing to air pollution, harming plants and marine animals, and increasing overall pollution levels in Puget Sound.

(b) Sense of Senate.—It is the sense of the Senate that the Secretary of the Navy should take immediate action to significantly reduce the risk of vessel oil spills, including the minimization of fuel oil transfers, the assurance of proper training and qualifications of all Naval personnel in occupations that may contribute to or minimize the risk of shipboard oil spills, and the improvement of liaison with local authorities concerning oil spill prevention and response activities.

Subtitle D—Counter-Drug Activities

SEC. 331. PATROL COASTAL CRAFT FOR DRUG INTERDICTION BY SOUTHERN COMMAND.

Of the funds authorized to be appropriated under section 301(a)(21), relating to drug interdiction and counter-drug activities, $18,500,000 shall be available for the equipping and operation of six of the Cyclone class coastal defense ships of the Department of Defense in the Caribbean Sea and Eastern Pacific Ocean in support of the drug interdiction efforts of the United States Southern Command.

SEC. 332. PROGRAM AUTHORITY FOR DEPARTMENT OF DEFENSE SUPPORT FOR COUNTER-DRUG ACTIVITIES.

(a) Extension of Authority.—Subsection (a) of section 1004 of the National Defense Authorization Act for Fiscal Year 1991 (10 U.S.C. 374 note) is amended by striking out "through 1999" and inserting in lieu thereof "through 2004".

(b) Bases and Facilities Support.—(1) Subsection (b)(4) of such section is amended by inserting "of the Department of Defense or any Federal, State, local, or foreign law enforcement agency" after "counter-drug activities".

(2) Section 1004 of such Act is further amended by adding at the end the following:

"(h) Congressional Notification of Facilities Projects.—(1) Not later than 21 days before obligating funds for beginning the work on a project described in paragraph (2), the Secretary of Defense shall submit to the congressional defense committees a notification of the project, including the scope and estimated total cost of the project.

"(2) Paragraph (1) applies to a project for the modification or repair of a Department of Defense facility for the purpose set forth in subsection (b)(4) that is estimated to cost more than $500,000.".

SEC. 333. SOUTHWEST BORDER FENCE.

(a) Limitation of Funding for Expansion.—None of the funds authorized to be appropriated for the Department of Defense by this Act may be used to expand the Southwest border fence until the Secretary of Defense submits the report required by subsection (b).

(b) Report.—The Secretary of Defense shall submit to the congressional defense committees a report on the extent to which the Southwest border fence has reduced the illegal transportation of narcotics and other drugs into the United States.

(c) Southwest Border Fence Defined.—In this section, the term "Southwest border fence" means the fence that was constructed, at Department of Defense expense, along the southwestern border of the United States for the purpose of preventing or reducing the illegal transportation of narcotics and other drugs into the United States.

SEC. 334. REVISION AND CLARIFICATION OF AUTHORITY FOR FEDERAL SUPPORT OF NATIONAL GUARD DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES.

(a) Procurement of Equipment.—Subsection (a)(3) of section 112 of title 32, United States Code, is amended by striking out "and leasing of equipment" and inserting in lieu thereof "and equipment, and the leasing of equipment,".

(b) Training and Readiness.—Subsection (b)(2) of such section is amended to read as follows:

"(2)(A) A member of the National Guard serving on full-time National Guard duty under orders authorized under paragraph (1) shall participate in the training required under section 502(a) of this title in addition to the duty performed for the purpose authorized under that paragraph. The pay, allowances, and other benefits of the member while participating in the training shall be the same as those to which the member is entitled while performing duty for the purpose of carrying out drug interdiction and counter-drug activities.

"(B) Appropriations available for the Department of Defense for drug interdiction and counter-drug activities may be used for paying costs associated with a member's participation in training described in subparagraph (A). The appropriation shall be reimbursed in full, out of appropriations available for paying those costs, for the amounts paid. Appropriations available for paying those costs shall be available for making the reimbursements.".

(c) Assistance to Youth and Charitable Organizations.—Subsection (b)(3) of such section is amended to read as follows:

"(2) A unit or member of the National Guard of a State may be used, pursuant to a State drug interdiction and counter-drug activities plan approved by the Secretary of Defense under this section, to provide services or other assistance (other than air transportation) to an organization eligible to receive services under section 508 of this title if—

"(A) the State drug interdiction and counter-drug activities plan specifically recognizes the organization as being eligible to receive the services or assistance;

"(B) in the case of services, the provision of the services meets the requirements of paragraphs (1) and (2) of subsection (a) of section 508 of this title; and

"(C) the services or assistance is authorized under subsection (b) or (c) of such section or in the State drug interdiction and counter-drug activities plan.".

(d) Definition of Drug Interdiction and Counter-drug Activities.—Subsection (l)(1) of such section is amended by inserting after “drug interdiction and counter-drug law enforcement activities” the following: “, including drug demand reduction activities,”.

SEC. 335. SENSE OF CONGRESS REGARDING PRIORITY OF DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES.

It is the sense of Congress that the Secretary of Defense should revise the Global Military Force Policy of the Department of Defense—

(1) to treat the international drug interdiction and counter-drug activities of the department as a military operation other than war, thereby elevating the priority given such activities under the policy to the next priority below the priority given to war under the policy and to the same priority as is given to peacekeeping operations under the policy; and

(2) to allocate the assets of the department to drug interdiction and counter-drug activities in accordance with the priority given those activities.

Subtitle E—Other Matters

SEC. 341. LIQUIDITY OF WORKING-CAPITAL FUNDS.

(a) Increased Cash Balances.—The Secretary of Defense shall administer the working-capital funds of the Department of Defense during fiscal year 1999 so as to ensure that the total amount of the cash balances in such funds on September 30, 1999, exceeds the total amount of the cash balances in such funds on September 30, 1998, by $1,300,000,000.

(b) Actions Regarding Unbudgeted Losses and Gains.—(1) In order to achieve the increase in cash balances in working-capital funds required under subsection (a), the Under Secretary of Defense (Comptroller) shall—

(A) assess surcharges on the rates charged to Department of Defense activities for the performance of depot-level maintenance and repair workloads for those activities in fiscal year 1999 as necessary to recoup for the working-capital funds the amounts of any operational losses that are incurred in the performance of those workloads in excess of the amounts of the losses that are budgeted for fiscal year 1999; and

(B) return to Department of Defense activities any amounts that—

(i) are realized for the working-capital funds for depot-level maintenance and repair workloads in excess of the estimated revenues budgeted for the performance of those workloads that originate in those activities; and

(ii) are not needed to achieve the required increase in cash balances.

(2) The Under Secretary of Defense (Comptroller) shall prescribe policies and procedures for carrying out paragraph (1). The policies and procedures shall include a prohibition on applying assessments of surcharges to a Department of Defense activity more frequently than once every six months.

(c) Waiver.—(1) The Secretary of Defense may waive the requirements of this section upon certifying to Congress, in writing, that the waiver is necessary to meet requirements associated with—

(A) a contingency operation (as defined in section 101(a)(13) of title 10, United States Code); or

(B) an operation of the Armed Forces that commenced before October 1, 1998, and continues during fiscal year 1999.

(2) The waiver authority under paragraph (1) may not be delegated to any official other than the Deputy Secretary of Defense.

(3) The waiver authority under paragraph (1) does not apply to the limitation in subsection (d) or the limitation in section 2208(l)(3) of title 10, United States Code (as added by subsection (e)).

(d) Fiscal Year 1999 Limitation on Advance Billings.—(1) The total amount of the advance billings rendered or imposed for the working-capital funds of the Department of Defense and the Defense Business Operations Fund in fiscal year 1999—

(A) for the Department of the Navy, may not exceed $500,000,000; and

(B) for the Department of the Air Force, may not exceed $500,000,000.

(2) In paragraph (1), the term “advance billing” has the meaning given such term in section 2208(l) of title 10, United States Code.

(e) Permanent Limitation on Advance Billings.—(1) Section 2208(l) of title 10, United States Code, is amended—

(A) by redesignating paragraph (3) as paragraph (4); and

(B) by inserting after paragraph (2) the following new paragraph (3):

“(3) The total amount of the advance billings rendered or imposed for all working-capital funds of the Department of Defense in a fiscal year may not exceed $1,000,000,000.”.

(2) Section 2208(l)(3) of such title, as added by paragraph (1), applies to fiscal years after fiscal year 1999.

(f) Semiannual Report.—(1) The Under Secretary shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives—

(A) not later than May 1, 1999, a report on the administration of this section for the 6-month period ending on March 31, 1999; and

(B) not later than November 1, 1999, a report on the administration of this section for the 6-month period ending on September 30, 1999.

(2) Each report shall include, for the 6-month period covered by the report, the following:

(A) The profit and loss status of each working-capital fund activity.

(B) The actions taken by the Secretary of each military department to use assessments of surcharges to correct for unbudgeted losses and gains.

SEC. 342. TERMINATION OF AUTHORITY TO MANAGE WORKING-CAPITAL FUNDS AND CERTAIN ACTIVITIES THROUGH THE DEFENSE BUSINESS OPERATIONS FUND.

(a) Revision of Certain DBOF Provisions and Reenactment To Apply to Working-Capital Funds Generally.—Section 2208 of title 10, United States Code, is amended by adding at the end the following:

“(m) Capital Asset Subaccounts.—Amounts charged for depreciation of capital assets shall be credited to a separate capital asset subaccount established within a working-capital fund.

“(n) Separate Accounting, Reporting, and Auditing of Funds and Activities.—The Secretary of Defense, with respect to the working-capital funds of each Defense Agency, and the Secretary of each military department, with respect to the working-capital funds of the military department, shall provide in accordance with this subsection for separate accounting, reporting, and auditing of funds and activities managed through the working-capital funds.

“(o) Charges for Goods and Services Provided Through the Fund.—(1) Charges for goods and services provided for an activity through a working-capital fund shall include the following:

“(A) Amounts necessary to recover the full costs of the goods and services provided for that activity.

“(B) Amounts for depreciation of capital assets, set in accordance with generally accepted accounting principles.

“(2) Charges for goods and services provided through a working-capital fund may not include the following:

“(A) Amounts necessary to recover the costs of a military construction project (as defined in section 2801(b) of this title), other than a minor construction project financed by the fund pursuant to section 2805(c)(1) of this title.

“(B) Amounts necessary to cover costs incurred in connection with the closure or realignment of a military installation.

“(C) Amounts necessary to recover the costs of functions designated by the Secretary of Defense as mission critical, such as ammunition handling safety, and amounts for ancillary tasks not directly related to the mission of the function or activity managed through the fund.

“(p) Procedures For Accumulation of Funds.—The Secretary of Defense, with respect to each working-capital fund of a Defense Agency, and the Secretary of a military department, with respect to each working-capital fund of the military department, shall establish billing procedures to ensure that the balance in that working-capital fund does not exceed the amount necessary to provide for the working-capital requirements of that fund, as determined by the Secretary concerned.

“(q) Annual Reports and Budget.—The Secretary of Defense, with respect to each working-capital fund of a Defense Agency, and the Secretary of each military department, with respect to each working-capital fund of the military department, shall annually submit to Congress, at the same time that the President submits the budget under section 1105 of title 31, the following:

“(1) A detailed report that contains a statement of all receipts and disbursements of the fund (including such a statement for each subaccount of the fund) for the fiscal year ending in the year preceding the year in which the budget is submitted.

“(2) A detailed proposed budget for the operation of the fund for the fiscal year for which the budget is submitted.

“(3) A comparison of the amounts actually expended for the operation of the fund for the fiscal year referred to in paragraph (1) with the amount proposed for the operation of the fund for that fiscal year in the President's budget.

“(4) A report on the capital asset subaccount of the fund that contains the following information:

“(A) The opening balance of the subaccount as of the beginning of the fiscal year in which the report is submitted.

“(B) The estimated amounts to be credited to the subaccount in the fiscal year in which the report is submitted.

“(C) The estimated amounts of outlays to be paid out of the subaccount in the fiscal year in which the report is submitted.

“(D) The estimated balance of the subaccount at the end of the fiscal year in which the report is submitted.

“(E) A statement of how much of the estimated balance at the end of the fiscal year in which the report is submitted will be needed to pay outlays in the immediately following fiscal year that are in excess of the amount to be credited to the subaccount in the immediately following fiscal year.”.

(b) Repeal of Authority To Manage Through the Defense Business Operations Fund.—(1) Section 2216a of title 10, United States Code, is repealed.

(2) The table of sections at the beginning of chapter 131 of such title is amended by striking out the item relating to section 2216a.

SEC. 343. CLARIFICATION OF AUTHORITY TO RETAIN RECOVERED COSTS OF DISPOSALS IN WORKING-CAPITAL FUNDS.

Section 2210(a) of title 10, United States Code, is amended to read as follows:

"(a)(1) A working-capital fund established pursuant to section 2208 of this title may retain so much of the proceeds of disposals of property referred to in paragraph (2) as is necessary to recover the expenses incurred by the fund in disposing of such property. Proceeds from the sale or disposal of such property in excess of amounts necessary to recover the expenses may be credited to current applicable appropriations of the Department of Defense.

"(2) Paragraph (1) applies to disposals of supplies, material, equipment, and other personal property that were not financed by stock funds established under section 2208 of this title.".

SEC. 344. BEST COMMERCIAL INVENTORY PRACTICES FOR MANAGEMENT OF SECONDARY SUPPLY ITEMS.

(a) DEVELOPMENT AND SUBMISSION OF SCHEDULE.—Not later than 180 days after the date of the enactment of this Act, the Secretary of each military department shall develop and submit to Congress a schedule for implementing within the military department, for secondary supply items managed by that military department, inventory practices identified by the Secretary as being the best commercial inventory practices for the acquisition and distribution of such supply items consistent with military requirements. The schedule shall provide for the implementation of such practices to be completed not later than five years after the date of the enactment of this Act.

(b) DEFINITION.—For purposes of this section, the term "best commercial inventory practice" includes cellular repair processes, use of third-party logistics providers, and any other practice that the Secretary determines will enable the military department to reduce inventory levels and holding costs while improving the responsiveness of the supply system to user needs.

(c) GAO REPORTS ON MILITARY DEPARTMENT AND DEFENSE LOGISTICS AGENCY SCHEDULES.—(1) Not later than 240 days after the date of the enactment of this Act, the Comptroller General shall submit to Congress a report evaluating the extent to which the Secretary of each military department has complied with the requirements of this section.

(2) Not later than 18 months after the date on which the Director of the Defense Logistics Agency submits to Congress a schedule for implementing best commercial inventory practices under section 395 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 1718; 10 U.S.C. 2458 note), the Comptroller General shall submit to Congress an evaluation of the extent to which best commercial inventory practices are being implemented in the Defense Logistics Agency in accordance with that schedule.

SEC. 345. INCREASED USE OF SMART CARDS.

(a) FUNDING FOR INCREASED USE GENERALLY.—Of the funds available for the Navy for fiscal year 1999 for operation and maintenance, the Secretary of the Navy shall allocate sufficient amounts, up to $25,000,000, to making significant progress toward ensuring that smart cards having a multi-application, multi-technology automated reading capability are issued and used throughout the Navy and the Marine Corps for purposes for which such cards are suitable.

(b) DEPLOYMENT OF SMART CARDS.—(1) Not later than March 31, 1999, the Secretary of the Navy shall equip with smart card technology at least one carrier battle group, one carrier air wing, and one amphibious readiness group (including the Marine Corps units embarked on the vessels of such battle and readiness groups) in each of the United States Atlantic Command and the United States Pacific Command.

(2) None of the funds appropriated pursuant to any authorization of appropriations in this Act may be expended after March 31, 1999, for the procurement of the Joint Uniformed Services Identification card for, or for the issuance of such card to, members of the Navy or the Marine Corps until the Secretary of the Navy certifies in writing to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives that the Secretary has completed the issuance of smart cards in accordance with paragraph (1).

(c) PLAN.—Not later than March 31, 1999, the Secretary of the Navy shall submit to the congressional defense committees a plan for equipping all operational naval units with smart card technology. The Secretary shall include in the plan estimates of the costs of, and the savings to be derived from, carrying out the plan.

(d) SMART CARD DEFINED.—In this section, the term "smart card" means a credit card size device that contains one or more integrated-circuits.

SEC. 346. PUBLIC-PRIVATE COMPETITION IN THE PROVISION OF SUPPORT SERVICES.

(a) SENSE OF THE SENATE.—It is the sense of the Senate that the Secretary of Defense should take action to initiate public-private competitions pursuant to Office of Management and Budget Circular A–76 for functions of the Department of Defense involving not fewer than a number of employees equivalent to 30,000 full-time employees for each of fiscal years 1999, 2000, 2001, 2002, 2003, and 2004.

(b) SMALL FUNCTIONS QUALIFIED FOR A WAIVER OF THE NOTIFICATION AND REPORTING REQUIREMENTS FOR CONVERSION TO CONTRACTOR PERFORMANCE.—(1) Section 2461(d) of title 10, United States Code, is amended by striking out "20 or fewer" and inserting in lieu thereof "50 or fewer".

(2) Notwithstanding any other provision of law, no study, notification, or report may be required pursuant to subsection (a), (b), or (c) of section 2461 of title 10, United States Code, or Office of Management and Budget Circular A–76 for functions that are being performed by 50 or fewer Department of Defense civilian employees.

(c) BEST OVERALL VALUE TO THE TAXPAYER.—Section 2462(a) of title 10, United States Code, is amended by striking out "at a cost that is lower" and all that follows through the period at the end and inserting in lieu thereof: "at a lower cost than the cost at which the Department can provide the same supply or service or at a better overall value than the value that the Department can provide for the same supply or service. Each determination regarding relative cost or relative overall value shall be based on an objective evaluation of cost and performance-related factors and shall include the consideration of any cost differential required by law, Executive order, or regulation.".

(d) EFFECTIVE DATE.—Subsections (b) and (c), and the amendments made by such subsections, shall take effect on January 1, 2001.

SEC. 347. CONDITION FOR PROVIDING FINANCIAL ASSISTANCE FOR SUPPORT OF ADDITIONAL DUTIES ASSIGNED TO THE ARMY NATIONAL GUARD.

(a) COMPETITIVE SOURCE SELECTION.—Section 113(b) of title 32, United States Code, is amended to read as follows:

"(b) COVERED ACTIVITIES.—(1) Except as provided in paragraph (2), financial assistance may be provided for the performance of an activity by the Army National Guard under subsection (a) only if—

"(A) the activity is carried out in the performance of a responsibility of the Secretary of the Army under paragraph (6), (10), or (11) of section 3013(b) of title 10; and

"(B) the Army National Guard was selected to perform the activity under competitive procedures that permit all responsible private-sector sources to submit offers and be considered for selection to perform the activity on the basis of the offers.

"(2) Paragraph (1)(B) does not apply to an activity that, on the date of the enactment of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999, was performed for the Federal Government by employees of the Federal Government or employees of a State.".

(b) PROSPECTIVE APPLICABILITY.—Subparagraph (B) of section 113(b)(1) of title 32, United States Code (as amended by subsection (a) of this section), does not apply to—

(1) financial assistance provided under that section before October 1, 1998; or

(2) financial assistance for an activity that, on or before May 8, 1998, the Secretary of the Army identified in writing as being under consideration for supporting with financial assistance under such section.

SEC. 348. REPEAL OF PROHIBITION ON JOINT USE OF GRAY ARMY AIRFIELD, FORT HOOD, TEXAS.

Section 319 of the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99–661; 100 Stat. 3855), relating to a prohibition on the joint military-civilian use of Robert Gray Army Airfield, Fort Hood, Texas, is repealed.

SEC. 349. INVENTORY MANAGEMENT OF IN-TRANSIT SECONDARY ITEMS.

(a) REQUIREMENT FOR PLAN.—Not later than March 1, 1999, the Secretary of Defense shall submit to Congress a plan to address problems with Department of Defense management of the department's inventories of in-transit secondary items as follows:

(1) The vulnerability of in-transit secondary items to loss through fraud, waste, and abuse.

(2) Loss of oversight of in-transit secondary items, including any loss of oversight when items are being transported by commercial carriers.

(3) Loss of accountability for in-transit secondary items due to either a delay of delivery of the items or a lack of notification of a delivery of the items.

(b) CONTENT OF PLAN.— The plan shall include, for each of the problems described in subsection (a), the following information:

(1) The actions to be taken to correct the problems.

(2) Statements of objectives.

(3) Performance measures and schedules.

(4) An identification of any resources that may be necessary for correcting the problem, together with an estimate of the annual costs.

(c) GAO REVIEWS.—(1) Not later than 60 days after the date on which the Secretary of Defense submits the plan to Congress, the Comptroller General shall review the plan and submit to Congress any comments that the Comptroller General considers appropriate regarding the plan.

(2) The Comptroller General shall monitor any implementation of the plan and, not later than one year after the date referred to in paragraph (1), submit to Congress an assessment of the extent to which the plan has been implemented.

SEC. 350. PERSONNEL REDUCTIONS IN ARMY MATERIEL COMMAND.

Not later than March 31, 1999, the Comptroller General shall submit to the congressional defense committees a report concerning—

(1) the effect that the quadrennial defense review's proposed personnel reductions in the Army Materiel Command will have on workload and readiness if implemented; and

(2) the projected cost savings from such reductions and the manner in which such savings are expected to be achieved.

SEC. 351. PROHIBITIONS REGARDING EVALUATION OF MERIT OF SELLING MALT BEVERAGES AND WINE IN COMMISSARY STORES AS EXCHANGE SYSTEM MERCHANDISE.

Neither the Secretary of Defense nor any other official of the Department of Defense may—

(1) by contract or otherwise, conduct a survey of eligible patrons of the commissary store system to determine patron interest in having commissary stores sell malt beverages and wine as exchange store merchandise; or

(2) conduct a demonstration project to evaluate the merit of selling malt beverages and wine in commissary stores as exchange store merchandise.

TITLE IV—MILITARY PERSONNEL AUTHORIZATIONS

Subtitle A—Active Forces

SEC. 401. END STRENGTHS FOR ACTIVE FORCES.

The Armed Forces are authorized strengths for active duty personnel as of September 30, 1999, as follows:

(1) The Army, 480,000.

(2) The Navy, 372,696.

(3) The Marine Corps, 172,200.

(4) The Air Force, 370,882.

SEC. 402. LIMITED EXCLUSIONS OF JOINT DUTY OFFICERS FROM LIMITATIONS ON NUMBER OF GENERAL AND FLAG OFFICERS.

(a) One Additional Exemption From Percentage Limitation on Number of Lieutenant Generals and Vice Admirals.—Section 525(b)(4)(B) of title 10, United States Code, is amended by striking out "six" and inserting in lieu thereof "seven".

(b) Extension of Authority To Exclude Up to 12 Joint Duty Officers From Limitation on Authorized General and Flag Officer Strength.—Section 526(b)(2) of such title is amended by striking out "October 1, 1998" and inserting in lieu thereof "October 1, 2002".

SEC. 403. LIMITATION ON DAILY AVERAGE OF PERSONNEL ON ACTIVE DUTY IN GRADES E-8 AND E-9.

(a) Fiscal Year Basis for Application of Limitation.—The first sentence of section 517(a) of title 10, United States Code, is amended—

(1) by striking out "a calendar year" and inserting in lieu thereof "a fiscal year"; and

(2) by striking out "January 1 of that year" and inserting in lieu thereof "the first day of that fiscal year".

(b) Correction of Cross Reference.—Such sentence is further amended by striking out "Except as provided in section 307 of title 37, the" and inserting in lieu thereof "The".

SEC. 404. REPEAL OF PERMANENT END STRENGTH REQUIREMENT FOR SUPPORT OF TWO MAJOR REGIONAL CONTINGENCIES.

(a) Repeal.—Section 691 of title 10, United States Code, is repealed.

(b) Clerical Amendment.—The table of sections at the beginning of chapter 39 of such title is amended by striking out the item relating to section 691.

Subtitle B—Reserve Forces

SEC. 411. END STRENGTHS FOR SELECTED RESERVE.

(a) In General.—The Armed Forces are authorized strengths for Selected Reserve personnel of the reserve components as of September 30, 1999, as follows:

(1) The Army National Guard of the United States, 357,000.

(2) The Army Reserve, 208,000.

(3) The Naval Reserve, 90,843.

(4) The Marine Corps Reserve, 40,018.

(5) The Air National Guard of the United States, 106,991.

(6) The Air Force Reserve, 74,242.

(7) The Coast Guard Reserve, 8,000.

(b) Waiver Authority.—The Secretary of Defense may vary an end strength authorized by subsection (a) by not more than 2 percent.

(c) Adjustments.—The end strengths prescribed by subsection (a) for the Selected Reserve of any reserve component shall be proportionately reduced by—

(1) the total authorized strength of units organized to serve as units of the Selected Reserve of such component which are on active duty (other than for training) at the end of the fiscal year, and

(2) the total number of individual members not in units organized to serve as units of the Selected Reserve of such component who are on active duty (other than for training or for unsatisfactory participation in training) without their consent at the end of the fiscal year.

Whenever such units or such individual members are released from active duty during any fiscal year, the end strength prescribed for such fiscal year for the Selected Reserve of such reserve component shall be proportionately increased by the total authorized strengths of such units and by the total number of such individual members.

SEC. 412. END STRENGTHS FOR RESERVES ON ACTIVE DUTY IN SUPPORT OF THE RESERVES.

Within the end strengths prescribed in section 411(a), the reserve components of the Armed Forces are authorized, as of September 30, 1999, the following number of Reserves to be serving on full-time active duty or full-time duty, in the case of members of the National Guard, for the purpose of organizing, administering, recruiting, instructing, or training the reserve components:

(1) The Army National Guard of the United States, 21,763.

(2) The Army Reserve, 11,804.

(3) The Naval Reserve, 15,590.

(4) The Marine Corps Reserve, 2,362.

(5) The Air National Guard of the United States, 10,930.

(6) The Air Force Reserve, 991.

SEC. 413. END STRENGTHS FOR MILITARY TECHNICIANS (DUAL STATUS).

The reserve components of the Army and the Air Force are authorized strengths for military technicians (dual status) as of September 30, 1999, as follows:

(1) For the Army Reserve, 5,205.

(2) For the Army National Guard of the United States, 22,179.

(3) For the Air Force Reserve, 9,761.

(4) For the Air National Guard of the United States, 22,408.

SEC. 414. EXCLUSION OF ADDITIONAL RESERVE COMPONENT GENERAL AND FLAG OFFICERS FROM LIMITATION ON NUMBER OF GENERAL AND FLAG OFFICERS WHO MAY SERVE ON ACTIVE DUTY.

Section 526(d) of title 10, United States Code, is amended to read as follows:

"(d) Exclusion of Certain Reserve Officers.—(1) Subject to paragraph (2), the limitations of this section do not apply to the following reserve component general or flag officers:

"(A) A general or flag officer who is on active duty for training.

"(B) A general or flag officer who is on active duty under a call or order specifying a period of less than 180 days.

"(C) A general or flag officer who is on active duty under a call or order specifying a period of more than 179 days.

"(2) The number of general or flag officers of an armed force that are excluded from the applicability of the limitations of this section under paragraph (1)(C) at any one time may not exceed the number equal to three percent of the number specified for that armed force under subsection (a).".

SEC. 415. INCREASE IN NUMBERS OF MEMBERS IN CERTAIN GRADES AUTHORIZED TO BE ON ACTIVE DUTY IN SUPPORT OF THE RESERVES.

(a) Officers.—The table in section 12011(a) of title 10, United States Code, is amended to read as follows:

"Grade	Army	Navy	Air Force	Marine Corps
Major or Lieutenant Commander	3,219	1,071	791	140
Lieutenant Colonel or Commander	1,524	520	713	90
Colonel or Navy Captain	438	188	297	30".

(b) Senior Enlisted Members.—The table in section 12012(a) of title 10, United States Code, is amended to read as follows:

"Grade	Army	Navy	Air Force	Marine Corps
E-9	623	202	395	20
E-8	2,585	429	997	94".

SEC. 416. CONSOLIDATION OF STRENGTH AUTHORIZATIONS FOR ACTIVE STATUS NAVAL RESERVE FLAG OFFICERS OF THE NAVY MEDICAL DEPARTMENT STAFF CORPS.

Section 12004(c) of subtitle E of title 10, United States Code, is amended—

(1) in the table in paragraph (1)—

(A) by striking out the item relating to the Medical Corps and inserting in lieu thereof the following:

"Medical Department staff corps ... 9";

and

(B) by striking out the items relating to the Dental Corps, the Nurse Corps, and the Medical Service Corps; and

(2) by adding at the end the following:

"(4)(A) For the purposes of paragraph (1), the Medical Department staff corps referred to in the table are as follows:

"(i) The Medical Corps.

"(ii) The Dental Corps.

"(iii) The Nurse Corps.

"(iv) The Medical Service Corps.

"(B) Each of the Medical Department staff corps is authorized one rear admiral (lower half) within the strength authorization distributed to the Medical Department staff corps under paragraph (1). The Secretary of the Navy shall distribute the remainder of the strength authorization for the Medical Department staff corps under that paragraph among those staff corps as the Secretary determines appropriate to meet the needs of the Navy.".

Subtitle C—Authorization of Appropriations

SEC. 421. AUTHORIZATION OF APPROPRIATIONS FOR MILITARY PERSONNEL.

There is hereby authorized to be appropriated to the Department of Defense for military personnel for fiscal year 1999 a total of $70,434,386,000. The authorization in the preceding sentence supersedes any other authorization of appropriations (definite or indefinite) for such purpose for fiscal year 1999.

TITLE V—MILITARY PERSONNEL POLICY

Subtitle A—Officer Personnel Policy

SEC. 501. STREAMLINED SELECTIVE RETENTION PROCESS FOR REGULAR OFFICERS.

(a) Repeal of Requirement for Duplicative Board.—Section 1183 of title 10, United States Code, is repealed.

(b) Conforming Amendments.—(1) Section 1182(c) of such title is amended by striking out "send the record of proceedings to a board of review convened under section 1183 of this title" and inserting in lieu thereof "recommend to the Secretary concerned that the officer not be retained on active duty".

(2) Section 1184 of such title is amended by striking out "board of review convened under section 1183 of this title" and inserting in lieu thereof "board of inquiry convened under section 1182 of this title".

(c) Clerical Amendments.—(1) The heading for section 1184 of such title is amended by striking out "**review**" and inserting in lieu thereof "**inquiry**".

(2) The table of sections at the beginning of chapter 60 of such title is amended by striking out the items relating to sections 1183 and 1184 and inserting in lieu thereof the following:

"1184. Removal of officer: action by Secretary upon recommendation of board of inquiry.".

SEC. 502. PERMANENT APPLICABILITY OF LIMITATIONS ON YEARS OF ACTIVE NAVAL SERVICE OF NAVY LIMITED DUTY OFFICERS IN GRADES OF COMMANDER AND CAPTAIN.

(a) Commanders.—Section 633 of title 10, United States Code, is amended—

(1) by striking out "Except an officer" and all that follows through "or section 6383 of this title applies" and inserting in lieu thereof "Except an officer of the Navy or Marine Corps who is an officer designated for limited duty to whom section 5596(e) or 6383 of this title applies"; and

(2) by striking out the second sentence.

(b) Captains.—Section 634 of such title is amended—

(1) by inserting "an officer of the Navy who is designated for limited duty to whom section 6383(a)(4) of this title applies and except" in the first sentence after "Except"; and

(2) by striking out the second sentence.

(c) Years of Active Naval Service.—Section 6383(a) of such title is amended by striking out paragraph (5).

(d) Limitations on Selective Retentions.—Section 6383(k) of such title is amended by striking out the last sentence.

SEC. 503. INVOLUNTARY SEPARATION PAY DENIED FOR OFFICER DISCHARGED FOR FAILURE OF SELECTION FOR PROMOTION REQUESTED BY THE OFFICER.

(a) Ineligibility for Separation Pay.—Section 1174(a) of title 10, United States Code, is amended by adding at the end the following:

"(3) Notwithstanding paragraphs (1) and (2), an officer discharged for twice failing of selection for promotion to the next higher grade is not entitled to separation pay under this section if the officer submitted a request not to be selected for promotion to any selection board that considered and did not select the officer for promotion to that grade.".

(b) Report of Selection Board To Name Officers Requesting Nonselection.—Section 617 of such title is amended by adding at the end the following:

"(c) A selection board convened under section 611(a) of this title shall include in its report to the Secretary concerned the name of any regular officer considered and not recommended by the board for promotion who submitted to the board a request not to be selected for promotion.".

(c) Effective Date.—This section and the amendments made by this section shall take effect on the date of the enactment of this Act and shall apply with respect to selection boards convened under section 611(a) of title 10, United States Code, on or after that date.

SEC. 504. TERM OF OFFICE OF THE CHIEF OF THE AIR FORCE NURSE CORPS.

Section 8069(b) of title 10, United States Code, is amended in the third sentence by striking out "and" and inserting in lieu thereof the following: "except that the Secretary may increase the limit to four years in any case in which the Secretary determines that special circumstances justify a longer term of service in the position. An officer appointed as Chief".

SEC. 505. ATTENDANCE OF RECIPIENTS OF NAVAL RESERVE OFFICERS' TRAINING CORPS SCHOLARSHIPS AT PARTICIPATING COLLEGES OR UNIVERSITIES.

Section 2107 of title 10, United States Code, is amended by adding at the end the following:

"(i)(1) Notwithstanding any other provision of law or any policy or regulation of the Department of Defense or of the Department of the Navy, recipients of Naval Reserve Officers' Training Corps scholarships who live in a State which has more scholarship awardees than slots available under the Navy quotas in their State colleges and universities may attend any college or university of their choice in their State to which they have been accepted, so long as the college or university is a participant in the Naval Reserve Officers' Training Corps program.

"(2) The Department of Defense and the Department of the Navy are prohibited from setting maximum limits on the number of Naval Reserve Officers' Training Corps scholarship students who can be enrolled at any college or university participating in the Naval Reserve Officers' Training Corps program in such State.".

Subtitle B—Reserve Component Matters

SEC. 511. SERVICE REQUIRED FOR RETIREMENT OF NATIONAL GUARD OFFICER IN HIGHER GRADE.

(a) Revision of Requirement.—Subparagraph (E) of section 1370(d)(3) of title 10, United States Code, is amended to read as follows:

"(E) To the extent authorized by the Secretary of the military department concerned, a person who, after having been found qualified for Federal recognition in a higher grade by a board under section 307 of title 32, serves in a position for which that grade is the minimum authorized grade and is appointed as a reserve officer in that grade may be credited for the purposes of subparagraph (A) as having served in that grade. The period of the service for which credit is afforded under the preceding sentence may only be the period for which the person served in the position after the Senate provides advice and consent for the appointment.".

(b) Effective Date.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply with respect to appointments to higher grades that take effect after that date.

SEC. 512. REDUCED TIME-IN-GRADE REQUIREMENT FOR RESERVE GENERAL AND FLAG OFFICERS INVOLUNTARILY TRANSFERRED FROM ACTIVE STATUS.

(a) Minimum Service in Active Status.—Section 1370(d)(3) of title 10, United States Code, as amended by section 511, is further amended by adding at the end the following new subparagraph:

"(F) A person covered by subparagraph (A) who has completed at least six months of satisfactory service in a grade above colonel or (in the case of the Navy) captain and, while serving in an active status in such grade, is involuntarily transferred (other than for cause) from active status may be credited with satisfactory service in the grade in which serving at the time of such transfer, notwithstanding failure of the person to complete three years of service in that grade.".

(b) Effective Date.—Subparagraph (F) of such section, as added by subsection (a), shall take effect on the date of the enactment of this Act and shall apply with respect to transfers referred to in such subparagraph that are made on or after that date.

SEC. 513. ELIGIBILITY OF ARMY AND AIR FORCE RESERVE BRIGADIER GENERALS TO BE CONSIDERED FOR PROMOTION WHILE ON INACTIVE STATUS LIST.

(a) Waiver of Active Status Requirement.—Chapter 1405 of title 10, United States Code, is amended by adding at the end the following:

"§14318. Officers on inactive status list: eligibility of Army and Air Force reserve brigadier generals for consideration for promotion

"(a) Waiver of One-Year Active Status Rule.—The Secretary concerned may waive the eligibility requirements in section 14301(a) of this title (and the requirement in section 140101(a) of this title that an officer be on a reserve active-status list) in the case of a general officer referred to in subsection (b) and authorize the officer to be considered for promotion under this chapter by a promotion board convened under section 14101(a) of this title.

"(b) Applicability.—Subsection (a) applies to a reserve officer of the Army or Air Force who—

"(1) is on the inactive status list of the Standby Reserve in the grade of brigadier general pursuant to a transfer under section 14314(a)(2) of this title;

"(2) has been on the inactive status list pursuant to the transfer for less than one year as of the date of the convening of the promotion board that is to consider the officer for promotion; and

"(3) during the one-year period ending on the date of the transfer to the inactive status list, continuously performed service on either the reserve active-status list, the active-duty list, or a combination of both lists.".

(b) Clerical Amendment.—The table of sections at the beginning of such chapter is amended by adding at the end the following:

"14318. Officers on inactive status list: eligibility of Army and Air Force reserve brigadier generals for consideration for promotion.".

SEC. 514. COMPOSITION OF SELECTIVE EARLY RETIREMENT BOARDS FOR REAR ADMIRALS OF THE NAVAL RESERVE AND MAJOR GENERALS OF THE MARINE CORPS RESERVE.

Section 14705(b) of title 10, United States Code, is amended—

(1) by inserting "(1)" after "(b) Boards.—"; and

(2) by adding at the end the following:

"(2) In the case of a board convened to consider the early retirement of officers in the grade of rear admiral in the Naval Reserve or major general in the Marine Corps Reserve, the Secretary of the Navy may prescribe the composition of the board notwithstanding section 14102(b) of this title. In doing so, however, the Secretary shall ensure that each regular commissioned officer of the Navy or the Marine Corps appointed to the board holds a permanent grade higher than the grade of the officers under consideration by the board and that at least one member of the board is a reserve officer who holds the grade of rear admiral or major general.".

SEC. 515. USE OF RESERVES FOR EMERGENCIES INVOLVING WEAPONS OF MASS DESTRUCTION.

(a) Order to Active Duty.—(1) Section 12304 of title 10, United States Code, is amended—

(A) in subsection (a), by inserting "or is necessary to provide assistance referred to in subsection (b)" after "to augment the active forces for any operational mission".

(B) in subsection (b)—

(i) by striking out "(b)" and inserting in lieu thereof "(c) Limitations.—(1)"; and

(ii) by striking out ", or to provide" and inserting in lieu thereof "or, except as provided in subsection (b), to provide";

(C) by redesignating subsection (c) as paragraph (2); and

(D) by inserting after subsection (a) the following new subsection (b):

"(b) Support for Responses to Certain Emergencies.—The authority under subsection (a) includes authority to order a unit or member to active duty to provide assistance in responding to an emergency involving a use or threatened use of a weapon of mass destruction.".

(2) Subsection (i) of such section is amended to read as follows:

"(i) Definitions.—For purposes of this section:

"(1) The term 'Individual Ready Reserve mobilization category' means, in the case of any reserve component, the category of the Individual Ready Reserve described in section 10144(b) of this title.

"(2) The term 'weapon of mass destruction' has the meaning given such term in section 1402 of the Defense Against Weapons of Mass Destruction Act of 1996 (50 U.S.C. 2302(1)).".

(3) Such section is further amended—

(A) in subsection (a), by inserting "Authority.—" after "(a)";

(B) in subsection (d), by inserting "Exclusion From Strength Limitations.—" after "(d)";

(C) in subsection (e), by inserting "Policies and Procedures.—" after "(e)";

(D) in subsection (f), by inserting "Notification of Congress.—" after "(f)";

(E) in subsection (g), by inserting "Termination of Duty.—" after "(g)"; and

(F) in subsection (h), by inserting "Relationship to War Powers Resolution.—" after "(h)".

(b) Use of Active Guard and Reserve Personnel.—Section 12310 of title 10, United States Code, is amended by adding at the end the following:

"(c)(1) A Reserve on active duty as described in subsection (a), or a Reserve who is a member of the National Guard serving on full-time National Guard duty under section 502(f) of title 32 in connection with functions referred to in subsection (a), may perform any duties in support of emergency preparedness programs to prepare for or to respond to any emergency involving the use of a weapon of mass destruction (as defined in section 1402 of the Defense Against Weapons of Mass Destruction Act of 1996 (50 U.S.C. 2302(1))).

"(2) The costs of the pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for a Reserve performing duties under the authority of paragraph (1) shall be paid from the appropriation that is available to pay such costs for other members of the reserve component of that Reserve who are performing duties as described in subsection (a).".

Subtitle C—Other Matters

SEC. 521. ANNUAL MANPOWER REQUIREMENTS REPORT.

Section 115a(a) of title 10, United States Code, is amended by striking out the first sentence and inserting in lieu thereof the following: "The Secretary of Defense shall submit an annual manpower requirements report to Congress each year, not later than 45 days after the date on which the President submits the budget for the next fiscal year to Congress under section 1105(a) of title 31.".

SEC. 522. FOUR-YEAR EXTENSION OF CERTAIN FORCE REDUCTION TRANSITION PERIOD MANAGEMENT AND BENEFITS AUTHORITIES.

(a) Active Force Early Retirement.—Section 4403(i) of the National Defense Authorization Act for Fiscal Year 1993 (10 U.S.C. 1293 note) is amended by striking out "October 1, 1999" and inserting in lieu thereof "October 1, 2003".

(b) Special Separation Benefits Program.—Section 1174a(h) of title 10, United States Code, is amended by striking out "September 30, 1999" and inserting in lieu thereof "September 30, 2003".

(c) Voluntary Separation Incentive.—Section 1175(d)(3) of such title is amended by striking out "September 30, 1999" and inserting in lieu thereof "September 30, 2003".

(d) Selective Early Retirement Boards.—Section 638a(a) of such title, is amended by striking out "nine-year period" and inserting in lieu thereof "13-year period".

(e) Retired Grade.—Section 1370(a)(2)(A) of such title is amended by striking out "nine-year period" and inserting in lieu thereof "13-year period".

(f) Minimum Commissioned Service for Voluntary Retirement.—Sections 3911(b), 6323(a)(2), and 8911(b) of such title are amended by striking out "nine-year period" and inserting in lieu thereof "13-year period".

(g) Travel, Transportation, and Storage Benefits.—(1) Subsections (c)(1)(C) and (f)(2)(B)(v) of section 404 of title 37, United States Code, and subsections (a)(2)(B)(v) and (g)(1)(C) of section 406 of such title are amended by striking out "nine-year period" and inserting in lieu thereof "13-year period".

(2) Section 503(c)(1) of the National Defense Authorization Act for Fiscal Year 1991 (37 U.S.C. 406 note) is amended by striking out "nine-year period" and inserting in lieu thereof "13-year period".

(h) Educational Leave for Public and Community Service.—Section 4463(f) of the National Defense Authorization Act for Fiscal Year 1993 (10 U.S.C. 1143a note) is amended by striking out "September 30, 1999" and inserting in lieu thereof "September 30, 2003".

(i) Health Benefits.—Section 1145 of title 10, United States Code, is amended—

(1) in subsections (a)(1) and (c)(1), by striking out "nine-year period" and inserting in lieu thereof "13-year period"; and

(2) in subsection (e), by striking out "five-year period" and inserting in lieu thereof "nine-year period".

(j) Commissary and Exchange Benefits.—Section 1146 of such title is amended—

(1) by striking out "nine-year period" in the first sentence and inserting in lieu thereof "13-year period"; and

(2) by striking out "five-year period" in the second sentence and inserting in lieu thereof "nine-year period".

(k) Use of Military Housing.—Section 1147(a) of such title 10 is amended—

(1) in paragraph (1), by striking out "nine-year period" and inserting in lieu thereof "13-year period"; and

(2) in paragraph (2), by striking out "five-year period" and inserting in lieu thereof "nine-year period".

(l) Continued Enrollment of Dependents in Defense Dependents' Education System.—Section 1407(c)(1) of the Defense Dependents' Education Act of 1978 (20 U.S.C. 926(c)(1)) is amended by striking out "nine-year period" and inserting in lieu thereof "13-year period".

(m) Guard and Reserve Transition Initiatives.—Title XLIV of the National Defense Authorization Act for Fiscal Year 1993 (10 U.S.C. 12681 note) is amended—

(1) in section 4411, by striking out "September 30, 1999" and inserting in lieu thereof "September 30, 2003"; and

(2) in section 4416(b)(1), by striking out "October 1, 1999" and inserting in lieu thereof "October 1, 2003".

(n) Retired Pay for Nonregular Service-Age and Service Requirements.—(1) Section 12731(f) of title 10, United States Code, is amended by striking out "September 30, 1999" and inserting in lieu thereof "September 30, 2003".

(2) Subsections (a)(1)(B) and (b) of section 12731a of such title are amended by striking out "October 1, 1999" and inserting in lieu thereof "October 1, 2003".

(o) Reduction of Time-in-Grade Requirement for Retention of Grade Upon Voluntary Retirement.—Section 1370(d) of such title is amended by adding at the end the following new paragraph:

"(5) The Secretary of Defense may authorize the Secretary of a military department to reduce the three-year period required by paragraph (3)(A) to a period not less than two years in the case of retirements effective during the period beginning on the date of the enactment of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 and ending September 30, 2003. The number of the reserved commissioned officers of an armed force in the same grade for whom a reduction is made during any fiscal year in the period of service-in-grade otherwise required under this paragraph may not exceed the number equal to two percent of the strength authorized for that fiscal year for reserve commissioned officers of that armed force in an active status in that grade.".

(p) Affiliation With Guard and Reserve Units; Waiver of Certain Limitations.—Section 1150(a) of such title is amended by striking out "nine-year period" and inserting in lieu thereof "13-year period".

(q) TIME FOR USE OF MONTGOMERY G.I. BILL ENTITLEMENT.—Section 16133(b)(1)(B) of such title is amended by striking out "September 30, 1999" and inserting in lieu thereof "September 30, 2003".

SEC. 523. CONTINUATION OF ELIGIBILITY FOR VOLUNTARY SEPARATION INCENTIVE AFTER INVOLUNTARY LOSS OF MEMBERSHIP IN READY OR STANDBY RESERVE.

(a) PERIOD OF ELIGIBILITY.—Subsection (a) of section 1175 of title 10, United States Code, is amended—

(1) by inserting "(1)" after "(a)";

(2) by striking out ", for the period of time the member is serving in a reserve component"; and

(3) by adding at the end the following:

"(2)(A) Except as provided in subparagraph (B), a financial incentive provided a member under this section shall be paid for the period equal to twice the number of years of service of the member, computed as provided in subsection (e)(5).

"(B) If, before the expiration of the period otherwise applicable under subparagraph (A) to a member receiving a financial incentive under this section, the member is separated from a reserve component or is transferred to the Retired Reserve, the period for payment of a financial incentive to the member under this section shall terminate on the date of the separation or transfer unless—

"(i) the separation or transfer is required by reason of the age or number of years of service of the member;

"(ii) the separation or transfer is required by reason of the failure of selection for promotion or the medical disqualification of the member, except in a case in which the Secretary of Defense or the Secretary of Transportation determines that the basis for the separation or transfer is a result of a deliberate action taken by the member with the intent to avoid retention in the Ready Reserve or Standby Reserve; or

"(iii) in the case of a separation, the member is separated from the reserve component for appointment or enlistment in or transfer to another reserve component of an armed force for service in the Ready Reserve or Standby Reserve of that armed force.".

(b) REPEAL OF SUPERSEDED PROVISION.—Subsection (e)(1) of such section is amended by striking out the second sentence.

SEC. 524. REPEAL OF LIMITATIONS ON AUTHORITY TO SET RATES AND WAIVE REQUIREMENT FOR REIMBURSEMENT OF EXPENSES INCURRED FOR INSTRUCTION AT SERVICE ACADEMIES OF PERSONS FROM FOREIGN COUNTRIES.

(a) UNITED STATES MILITARY ACADEMY.—Section 4344(b) of title 10, United States Code, is amended—

(1) in the second sentence of paragraph (2), by striking out ", except that the reimbursement rates may not be less than the cost to the United States of providing such instruction, including pay, allowances, and emoluments, to a cadet appointed from the United States"; and

(2) by striking out paragraph (3).

(b) NAVAL ACADEMY.—Section 6957(b) of such title is amended—

(1) in the second sentence of paragraph (2), by striking out ", except that the reimbursement rates may not be less than the cost to the United States of providing such instruction, including pay, allowances, and emoluments, to a midshipman appointed from the United States"; and

(2) by striking out paragraph (3).

(c) AIR FORCE ACADEMY.—Section 9344(b) of such title is amended—

(1) in the second sentence of paragraph (2), by striking out ", except that the reimbursement rates may not be less than the cost to the United States of providing such instruction, including pay, allowances, and emoluments, to a cadet appointed from the United States"; and

(2) by striking out paragraph (3).

SEC. 525. REPEAL OF RESTRICTION ON CIVILIAN EMPLOYMENT OF ENLISTED MEMBERS.

(a) REPEAL.—Section 974 of title 10, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 49 of such title is amended by striking out the item relating to section 974.

SEC. 526. EXTENSION OF REPORTING DATES FOR COMMISSION ON MILITARY TRAINING AND GENDER-RELATED ISSUES.

(a) INTERIM REPORT.—Subsection (e)(1) of section 562 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 1754; 10 U.S.C. 113 note) is amended by striking out "April 15, 1998" and inserting in lieu thereof "October 15, 1998".

(b) FINAL REPORT.—Subsection (e)(2) of such section is amended by striking out "September 16, 1998" and inserting in lieu thereof "March 15, 1999".

SEC. 527. MORATORIUM ON CHANGES OF GENDER-RELATED POLICIES AND PRACTICES PENDING COMPLETION OF THE WORK OF THE COMMISSION ON MILITARY TRAINING AND GENDER-RELATED ISSUES.

Notwithstanding any other provision of law, officials of the Department of Defense are prohibited from implementing any change of policy or official practice in the department regarding separation or integration of members of the Armed Forces on the basis of gender that is within the responsibility of the Commission on Military Training and Gender-Related Issues to review under subtitle F of title V of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 1750), before the date on which the commission terminates under section 564 of such Act.

SEC. 528. TRANSITIONAL COMPENSATION FOR ABUSED DEPENDENT CHILDREN NOT RESIDING WITH THE SPOUSE OR FORMER SPOUSE OF A MEMBER CONVICTED OF DEPENDENT ABUSE.

(a) ENTITLEMENT NOT CONDITIONED ON FORFEITURE OF SPOUSAL COMPENSATION.—Subsection (d) of section 1059 of title 10, United States Code, is amended—

(1) by striking out paragraph (1) and inserting in lieu thereof the following:

"(1) If the individual was married at the time of the commission of the dependent-abuse offense resulting in the separation, the spouse or former spouse to whom the individual was married at that time shall be paid such compensation, including an amount (determined under subsection (f)(2)) for each, if any, dependent child of the individual described in subsection (b) who resides in the same household as that spouse or former spouse.";

(2) in paragraph (2)—

(A) by striking out "(but for subsection (g)) would be eligible" and inserting in lieu thereof "is or, but for subsection (g), would be eligible"; and

(B) by striking out "such compensation" and inserting in lieu thereof "compensation under this section"; and

(3) in paragraph (4), by striking out "For purposes of paragraphs (2) and (3)" and inserting in lieu thereof "For purposes of this subsection".

(b) AMOUNT OF PAYMENT.—Subsection (f)(2) of such section is amended by striking out "has custody of a dependent child or children of the member" and inserting in lieu thereof "has custody of a dependent child of the member who resides in the same household as that spouse or former spouse".

(c) PROSPECTIVE APPLICABILITY.—No benefits shall accrue by reason of the amendments made by this section for any month that begins before the date of the enactment of this Act.

SEC. 529. PILOT PROGRAM FOR TREATING GED AND HOME SCHOOL DIPLOMA RECIPIENTS AS HIGH SCHOOL GRADUATES FOR DETERMINATIONS OF ELIGIBILITY FOR ENLISTING IN THE ARMED FORCES.

(a) PROGRAM REQUIRED.—The Secretary of Defense shall establish a pilot program to assess whether the Armed Forces could better meet recruiting requirements by treating GED recipients and home school diploma recipients as having graduated from high school with a high school diploma for the purpose of determining the eligibility of those persons to enlist in the Armed Forces. The Secretary of each military department shall administer the pilot program for the armed force or armed forces under the jurisdiction of the Secretary.

(b) ELIGIBLE RECIPIENTS.—(1) Under the pilot program, a person shall be treated as having graduated from high school with a high school diploma for the purpose described in subsection (a) if the person—

(A) has completed a general education development program while participating in the National Guard Challenge Program and is a GED recipient; or

(B) is a home school diploma recipient and provides a transcript demonstrating completion of high school to the military department involved under the pilot program.

(2) For the purposes of this section, a person is a GED recipient if the person, after completing a general education development program, has obtained certification of high school equivalency by meeting State requirements and passing a State approved exam that is administered for the purpose of providing an appraisal of the person's achievement or performance in the broad subject matter areas usually required for high school graduates.

(3) For the purposes of this section, a person is a home school diploma recipient if the person has received a diploma for completing a program of education through the high school level at a home school, without regard to whether the home school is treated as a private school under the law of the State in which located.

(c) ANNUAL LIMIT ON NUMBER.—Not more than 1,250 GED recipients, and not more than 1,250 home school diploma recipients, enlisted by an armed force in any fiscal year may be treated under the pilot program as having graduated from high school with a high school diploma.

(d) PERIOD FOR PILOT PROGRAM.—The pilot program shall be in effect for five fiscal years beginning on October 1, 1998.

(e) REPORT.—(1) Not later than February 1, 2004, the Secretary of Defense shall submit a report on the pilot program to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives.

(2)(A) The report shall include the assessment of the Secretary of Defense, and any assessment of any of the Secretaries of the military departments, regarding the value of, and any necessity for, authority to treat GED recipients and home school diploma recipients as having graduated from high school with a high school diploma for the purpose of determining the eligibility of those persons to enlist in the Armed Forces.

(B) The Secretary shall also set forth in the report, by armed force for each fiscal year of the pilot program, a comparison of the performance of the persons who enlisted in that armed force during the fiscal year as GED or home school diploma recipients treated under the pilot program as having graduated from high school with a high school diploma with the performance of the persons who enlisted in that armed force during the same fiscal year after having graduated from high school with a high school diploma, with respect to the following:

(i) Attrition.

(ii) Discipline.

(iii) Adaptability to military life.

(iv) Aptitude for mastering the skills necessary for technical specialties.

(v) Reenlistment rates.

(f) Reference to National Guard Challenge Program.—The National Guard Challenge Program referred to in this section is a program conducted under section 509 of title 32, United States Code.

(g) State Defined.—In this section, the term "State" has the meaning given that term in section 509(l)(1) of title 32, United States Code.

SEC. 530. WAIVER OF TIME LIMITATIONS FOR AWARD OF CERTAIN DECORATIONS TO CERTAIN PERSONS.

(a) Waiver.—Any limitation established by law or policy for the time within which a recommendation for the award of a military decoration or award must be submitted shall not apply to awards of decorations described in this section, the award of each such decoration having been determined by the Secretary of the military department concerned to be warranted in accordance with section 1130 of title 10, United States Code.

(b) Distinguished-Service Cross.—Subsection (a) applies to award of the Distinguished-Service Cross of the Army as follows:

(1) To Isaac Camacho of El Paso, Texas, for extraordinary heroism in actions at Camp Hiep Hoa in Vietnam on November 24, 1963, while serving as a member of the Army.

(2) To Bruce P. Crandall of Mesa, Arizona, for extraordinary heroism in actions at Landing Zone X-Ray in Vietnam on November 14, 1965, while serving as a member of the Army.

(3) To Leland B. Fair of Jessieville, Arkansas, for extraordinary heroism in actions in the Philippine Islands on July 4, 1945, while serving as a member of the Army.

(c) Distinguished-Service Medal.—Subsection (a) applies to award of the Distinguished-Service Medal of the Army to Richard P. Sakakida of Fremont, California, for exceptionally meritorious service while a prisoner of war in the Philippine Islands from May 7, 1942, to September 14, 1945, while serving as a member of the Army.

(d) Distinguished Flying Cross.—Subsection (a) applies to award of the Distinguished Flying Cross for service during World War II or Korea (including multiple awards to the same individual) in the case of each individual (not covered by section 573(d) of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 1757)) concerning whom the Secretary of the Navy (or an officer of the Navy acting on behalf of the Secretary) submitted to the Committee on National Security of the House of Representatives and the Committee on Armed Services of the Senate, before the date of the enactment of this Act, a notice as provided in section 1130(b) of title 10, United States Code, that the award of the Distinguished Flying Cross to that individual is warranted and that a waiver of time restrictions prescribed by law for recommendation for such award is recommended.

SEC. 531. PROHIBITION ON ENTRY INTO CORRECTIONAL FACILITIES FOR PRESENTATION OF DECORATIONS TO PERSONS WHO COMMIT CERTAIN CRIMES BEFORE PRESENTATION.

(a) Prohibition.—Chapter 57 of title 10, United States Code, is amended by adding at the end the following:

"§ 1132. Presentation of decorations: prohibition on entering into correctional facilities for certain presentations

"(a) Prohibition.—No member of the armed forces may enter into a Federal, State, or local correctional facility for purposes of presenting a decoration to a person who has been convicted of a serious violent felony.

"(b) Definitions.—In this section:

"(1) The term 'decoration' means any decoration or award that may be presented or awarded to a member of the armed forces.

"(2) The term 'serious violent felony' has the meaning given that term in section 3359(c)(2)(F) of title 18.".

(b) Clerical Amendment.—The table of sections at the beginning of that chapter is amended by adding at the end the following:

"1132. Presentation of decorations: prohibition on entering into correctional facilities for certain presentations.".

SEC. 532. ADVANCEMENT OF BENJAMIN O. DAVIS, JUNIOR, TO GRADE OF GENERAL.

(a) Authority.—The President is authorized to advance Benjamin O. Davis, Junior, to the grade of general on the retired list of the Air Force.

(b) Additional Benefits Not To Accrue.—An advancement of Benjamin O. Davis, Junior, to the grade of general on the retired list of the Air Force under subsection (a) shall not increase or change the compensation or benefits from the United States to which any person is now or may in the future be entitled based upon the military service of the said Benjamin O. Davis, Junior.

TITLE VI—COMPENSATION AND OTHER PERSONNEL BENEFITS

Subtitle A—Pay and Allowances

SEC. 601. INCREASE IN BASIC PAY FOR FISCAL YEAR 1999.

(a) Waiver of Section 1009 Adjustment.—Any adjustment required by section 1009 of title 37, United States Code, in the rates of monthly basic pay authorized members of the uniformed services by section 203(a) of such title to become effective during fiscal year 1999 shall not be made.

(b) Increase in Basic Pay.—Effective on January 1, 1999, the rates of basic pay of members of the uniformed services are increased by 3.6 percent.

(c) Offsetting Reductions in Authorizations of Appropriations.—(1) Notwithstanding any other provision of title I, the total amount authorized to be appropriated under title II is hereby reduced by $150,000,000.

(2) Notwithstanding any other provision of title II, the total amount authorized to be appropriated under title II is hereby reduced by $275,000,000.

SEC. 602. RATE OF PAY FOR CADETS AND MIDSHIPMEN AT THE SERVICE ACADEMIES.

(a) Increased Rate.—Section 203(c) of title 37, United States Code, is amended by striking out "$558.04" and inserting in lieu thereof "$600.00".

(b) Effective Date.—The amendment made by subsection (a) shall take effect on January 1, 1999.

SEC. 603. PAYMENTS FOR MOVEMENTS OF HOUSEHOLD GOODS ARRANGED BY MEMBERS.

(a) Monetary Allowance Authorized.—Subsection (b)(1) of section 406 of title 37, United States Code, is amended—

(1) in subparagraph (A)—

(A) by striking out ", or reimbursement therefor,"; and

(B) by inserting after the second sentence the following: "Alternatively, a member may be paid reimbursement or a monetary allowance under subparagraph (F)."; and

(2) by adding at the end the following:

"(F) A member entitled to transportation of baggage and household effects under subparagraph (A) may, as an alternative to the provision of transportation, be paid reimbursement or, at the member's request, a monetary allowance in advance for the cost of transportation of the baggage and household effects. The monetary allowance may be paid only if the amount of the allowance does not exceed the cost that would be incurred by the Government under subparagraph (A) for the transportation of the baggage and household effects. Appropriations available to the Department of Defense, the Department of Transportation, and the Department of Health and Human Services for providing transportation of baggage or household effects of members of the uniformed services shall be available to pay a reimbursement or monetary allowance under this subparagraph. The Secretary concerned may prescribe the manner in which the risk of liability for damage, destruction, or loss of baggage or household effects arranged, packed, crated, or loaded by a member is allocated among the member, the United States, and any contractor when a reimbursement or monetary allowance is elected under this subparagraph.".

(b) Repeal of Superseded Provision.—Such section is further amended by striking out subsection (j).

SEC. 604. LEAVE WITHOUT PAY FOR SUSPENDED ACADEMY CADETS AND MIDSHIPMEN.

(a) Authority.—Section 702 of title 10, United States Code, is amended—

(1) by designating the second sentence of subsection (b) as subsection (d);

(2) by redesignating subsection (b) as subsection (c); and

(3) by inserting after subsection (a) the following new subsection (b):

"(b) Leave Without Pay.—(1) Under regulations prescribed under subsection (d), the Superintendent of the United States Military Academy, the United States Naval Academy, the United States Air Force Academy, or the United States Coast Guard Academy may order a cadet or midshipman of the Academy to be placed on leave involuntarily for any period during which the cadet or midshipman is suspended from duty at the Academy—

"(A) pending separation from the Academy;

"(B) pending return to the Academy to repeat an academic semester or year; or

"(C) for other good cause.

"(2) A cadet or midshipman placed on involuntary leave under paragraph (1) is not entitled to any pay under section 230(c) of title 37 for the period of the leave.

"(3) A return of a cadet or midshipman to a pay status at the Academy from an involuntary leave status under paragraph (1) does not restore any entitlement of the cadet or midshipman to pay for the period of the involuntary leave.".

(b) SUBSECTION HEADINGS.—Such section, as amended by subsection (a), is further amended—

(1) in subsection (a), by inserting "GRADUATION LEAVE.—" after "(a)";

(2) in subsection (c), by inserting "INAPPLICABLE LEAVE PROVISIONS.—" after "(c)"; and

(3) in subsection (d), by inserting "REGULATIONS.—" after "(d)".

Subtitle B—Bonuses and Special and Incentive Pays

SEC. 611. THREE-MONTH EXTENSION OF CERTAIN BONUSES AND SPECIAL PAY AUTHORITIES FOR RESERVE FORCES.

(a) SPECIAL PAY FOR HEALTH PROFESSIONALS IN CRITICALLY SHORT WARTIME SPECIALTIES.—Section 302g(f) of title 37, United States Code, is amended by striking out "September 30, 1999" and inserting in lieu thereof "December 31, 1999".

(b) SELECTED RESERVE REENLISTMENT BONUS.—Section 308b(f) of title 37, United States Code, is amended by striking out "September 30, 1999" and inserting in lieu thereof "December 31, 1999".

(c) SELECTED RESERVE ENLISTMENT BONUS.—Section 308c(e) of title 37, United States Code, is amended by striking out "September 30, 1999" and inserting in lieu thereof "December 31, 1999".

(d) SPECIAL PAY FOR ENLISTED MEMBERS ASSIGNED TO CERTAIN HIGH PRIORITY UNITS.—Section 308d(c) of title 37, United States Code, is amended by striking out "September 30, 1999" and inserting in lieu thereof "December 31, 1999".

(e) SELECTED RESERVE AFFILIATION BONUS.—Section 308e(e) of title 37, United States Code, is amended by striking out "September 30, 1999" and inserting in lieu thereof "December 31, 1999".

(f) READY RESERVE ENLISTMENT AND REENLISTMENT BONUS.—Section 308h(g) of title 37, United States Code, is amended by striking out "September 30, 1999" and inserting in lieu thereof "December 31, 1999".

(g) PRIOR SERVICE ENLISTMENT BONUS.—Section 308i(f) of title 37, United States Code, as redesignated by section 622, is amended by striking out "September 30, 1999" and inserting in lieu thereof "December 31, 1999".

(h) REPAYMENT OF EDUCATION LOANS FOR CERTAIN HEALTH PROFESSIONALS WHO SERVE IN THE SELECTED RESERVE.—Section 16302(d) of title 10, United States Code, is amended by striking out "October 1, 1999" and inserting in lieu thereof "January 1, 2000".

SEC. 612. THREE-MONTH EXTENSION OF CERTAIN BONUSES AND SPECIAL PAY AUTHORITIES FOR NURSE OFFICER CANDIDATES, REGISTERED NURSES, AND NURSE ANESTHETISTS.

(a) NURSE OFFICER CANDIDATE ACCESSION PROGRAM.—Section 2130a(a)(1) of title 10, United States Code, is amended by striking out "September 30, 1999" and inserting in lieu thereof "December 31, 1999".

(b) ACCESSION BONUS FOR REGISTERED NURSES.—Section 302d(a)(1) of title 37, United States Code, is amended by striking out "September 30, 1999" and inserting in lieu thereof "December 31, 1999".

(c) INCENTIVE SPECIAL PAY FOR NURSE ANESTHETISTS.—Section 302e(a)(1) of title 37, United States Code, is amended by striking out "September 30, 1999" and inserting in lieu thereof "December 31, 1999".

SEC. 613. THREE-MONTH EXTENSION OF AUTHORITIES RELATING TO PAYMENT OF OTHER BONUSES AND SPECIAL PAYS.

(a) AVIATION OFFICER RETENTION BONUS.—Section 301b(a) of title 37, United States Code, is amended by striking out "September 30, 1999," and inserting in lieu thereof "December 31, 1999,".

(b) REENLISTMENT BONUS FOR ACTIVE MEMBERS.—Section 308(g) of title 37, United States Code, is amended by striking out "September 30, 1999" and inserting in lieu thereof "December 31, 1999".

(c) ENLISTMENT BONUSES FOR MEMBERS WITH CRITICAL SKILLS.—Sections 308a(c) and 308f(c) of title 37, United States Code, are each amended by striking out "September 30, 1999" and inserting in lieu thereof "December 31, 1999".

(d) SPECIAL PAY FOR NUCLEAR-QUALIFIED OFFICERS EXTENDING PERIOD OF ACTIVE SERVICE.—Section 312(e) of title 37, United States Code, is amended by striking out "September 30, 1999" and inserting in lieu thereof "December 31, 1999".

(e) NUCLEAR CAREER ACCESSION BONUS.—Section 312b(c) of title 37, United States Code, is amended by striking out "September 30, 1999" and inserting in lieu thereof "December 31, 1999".

(f) NUCLEAR CAREER ANNUAL INCENTIVE BONUS.—Section 312c(d) of title 37, United States Code, is amended by striking out "October 1, 1999" and inserting in lieu thereof "October 1, 1998, and the 15-month period beginning on that date and ending on December 31, 1999".

SEC. 614. ELIGIBILITY OF RESERVES FOR SELECTIVE REENLISTMENT BONUS WHEN REENLISTING OR EXTENDING TO PERFORM ACTIVE GUARD AND RESERVE DUTY.

Section 308(a)(1)(D) of title 37, United States Code, is amended by inserting after "a regular component of the service concerned" the following: ", or in a reserve component of the service concerned in the case of a member reenlisting or extending to perform active Guard and Reserve duty (as defined in section 101(d)(6) of title 10),".

SEC. 615. REPEAL OF TEN-PERCENT LIMITATION ON PAYMENTS OF SELECTIVE REENLISTMENT BONUSES IN EXCESS OF $20,000.

Section 308(b) of title 37, United States Code, is amended—

(1) by striking out paragraph (2); and

(2) in paragraph (1), by striking out "(1)".

SEC. 616. INCREASE OF MAXIMUM AMOUNT AUTHORIZED FOR ARMY ENLISTMENT BONUS.

Section 308f(a) of title 37, United States Code, is amended by striking out "$4,000" and inserting in lieu thereof "$6,000".

SEC. 617. EDUCATION LOAN REPAYMENT PROGRAM FOR HEALTH PROFESSIONS OFFICERS SERVING IN SELECTED RESERVE.

(a) ELIGIBLE PERSONS.—Subsection (b)(2) of section 16302 of title 10, United States Code, is amended by inserting ", or is enrolled in a program of education leading to professional qualifications," after "possesses professional qualifications".

(b) INCREASED BENEFITS.—Subsection (c) of such section is amended—

(1) in paragraph (2), by striking out "$3,000" and inserting in lieu thereof "$20,000"; and

(2) in paragraph (3), by striking out "$20,000" and inserting in lieu thereof "$50,000".

SEC. 618. INCREASE IN AMOUNT OF BASIC EDUCATIONAL ASSISTANCE UNDER ALL-VOLUNTEER FORCE PROGRAM FOR PERSONNEL WITH CRITICALLY SHORT SKILLS OR SPECIALTIES.

Section 3015(d) of title 38, United States Code, is amended by striking out "$700" and inserting in lieu thereof "$950".

SEC. 619. RELATIONSHIP OF ENTITLEMENTS TO ENLISTMENT BONUSES AND BENEFITS UNDER THE ALL-VOLUNTEER FORCE EDUCATIONAL ASSISTANCE PROGRAM.

(a) ENTITLEMENTS NOT EXCLUSIVE.—(1) Subchapter II of chapter 30 of title 38, United States Code, is amended by adding at the end the following:

"§ 3019A. Relationship to entitlement to certain enlistment bonuses

"The entitlement of an individual to benefits under this chapter is not affected by receipt by that individual of an enlistment bonus under section 308a or 308f of title 37.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 3019 the following:

"3019A. Relationship to entitlement to certain enlistment bonuses.".

(b) REPEAL OF RELATED LIMITATION.—Section 8013(a) of Public Law 105–56 (111 Stat. 1222) is amended—

(1) by striking out "of this Act—" and all that follows through "nor shall any amounts" and inserting in lieu thereof "of this Act enlists in the armed services for a period of active duty of less that three years, nor shall any amounts"; and

(2) in the first proviso, by striking out "in the case of a member covered by clause (1),".

SEC. 620. HARDSHIP DUTY PAY.

(a) DUTY FOR WHICH PAY AUTHORIZED.—Subsection (a) of section 305 of title 37, United States Code, is amended by striking out "on duty at a location" and all that follows and inserting in lieu thereof "performing duty in the United States or outside the United States that is designated by the Secretary of Defense as hardship duty.".

(b) REPEAL OF EXCEPTION FOR MEMBERS RECEIVING CAREER SEA PAY.—Subsection (c) of such section is repealed.

(c) CONFORMING AMENDMENTS.—(1) Subsections (b) and (d) of such section are amended by striking out "hardship duty location pay" and inserting in lieu thereof "hardship duty pay".

(2) Subsection (d) of such section is redesignated as subsection (c).

(3) The heading for such section is amended by striking out **"location"**.

(4) Section 907(d) of title 37, United States Code, is amended by striking out "duty at a hardship duty location" and inserting in lieu thereof "hardship duty".

(d) CLERICAL AMENDMENT.—The item relating to section 305 in the table of sections at the beginning of chapter 5 of such title is amended to read as follows:

"305. Special pay: hardship duty pay.".

SEC. 620A. INCREASED HAZARDOUS DUTY PAY FOR AERIAL FLIGHT CREWMEMBERS IN PAY GRADES E–4 TO E–9.

(a) RATES.—The table in section 301(b) of title 37, United States Code, is amended by striking out the items relating to pay grades E–4, E–5, E–6, E–7, E–8, and E–9, and inserting in lieu thereof the following:

"E–9	240
E–8	240
E–7	240
E–6	215
E–5	90
E–4	165".

(b) EFFECTIVE DATE.—This section and the amendment made by this section shall take effect on October 1, 1998, and shall apply with respect to months beginning on or after that date.

SEC. 620B. DIVING DUTY SPECIAL PAY FOR DIVERS HAVING DIVING DUTY AS A NONPRIMARY DUTY.

(a) ELIGIBILITY FOR MAINTAINING PROFICIENCY.—Section 304(a)(3) of title 37, United States Code, is amended to read as follows:

"(3) either—

"(A) actually performs diving duty while serving in an assignment for which diving is a primary duty; or

"(B) meets the requirements to maintain proficiency as described in paragraph (2) while serving in an assignment that includes diving duty other than as a primary duty.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1998, and shall apply with respect to months beginning on or after that date.

SEC. 620C. RETENTION INCENTIVES INITIATIVE FOR CRITICALLY SHORT MILITARY OCCUPATIONAL SPECIALTIES.

(a) REQUIREMENT FOR NEW INCENTIVES.—The Secretary of Defense shall establish and provide for members of the Armed Forces qualified in critically short military occupational specialties a series of new incentives that the Secretary considers potentially effective for increasing the rates at which those members are retained in the Armed Forces for service in such specialties.

(b) CRITICALLY SHORT MILITARY OCCUPATIONAL SPECIALTIES.—For the purposes of this section, a military occupational specialty is a critically short military occupational specialty for an armed force if the number of members retained in that armed force in fiscal year 1998 for service in that specialty is less than 50 percent of the number of members of that armed force that were projected to be retained in that armed force for service in the specialty by the Secretary of the military department concerned as of October 1, 1997.

(c) INCENTIVES.—It is the sense of Congress that, among the new incentives established and provided under this section, the Secretary of Defense should include the following incentives:

(1) Family support and leave allowances.

(2) Increased special reenlistment or retention bonuses.

(3) Repayment of educational loans.

(4) Priority of selection for assignment to preferred permanent duty station or for extension at permanent duty station.

(5) Modified leave policies.

(6) Special consideration for Government housing or additional housing allowances.

(d) RELATIONSHIP TO OTHER INCENTIVES.—Incentives provided under this section are in addition to any special pay or other benefit that is authorized under any other provision of law.

(e) REPORTS.—(1) Not later than December 1, 1998, the Secretary of Defense shall submit to the congressional defense committees a report that identifies, for each of the Armed Forces, the critically short military occupational specialties to which incentives under this section are to apply.

(2) Not later than April 15, 1999, the Secretary of Defense shall submit to the congressional defense committees a report that specifies, for each of the Armed Forces, the incentives that are to be provided under this section.

Subtitle C—Travel and Transportation Allowances

SEC. 621. TRAVEL AND TRANSPORTATION FOR REST AND RECUPERATION IN CONNECTION WITH CONTINGENCY OPERATIONS AND OTHER DUTY.

Section 411c of title 37, United States Code, is amended—

(1) in subsection (a)—

(A) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B); and

(B) by inserting "IN GENERAL.—(1)" after "(a)";

(2) in subsection (b), by striking out "(b) The transportation authorized by this section" and inserting in lieu thereof "(2) The transportation authorized by paragraph (1)"; and

(3) by adding at the end the following:

"(b) CONTINGENCY OPERATIONS AND OTHER SPECIAL SITUATIONS.—(1) Under uniform regulations prescribed by the Secretaries concerned, a member of the armed forces serving a tour of duty at a duty station, and under conditions, described in paragraph (2) may be paid for or provided transportation to a location described in subsection (a)(1) as part of a program of rest and recuperation specifically authorized for members of the armed forces serving under those conditions at that duty station by the Secretary concerned in advance of the commencement of the member's travel.

"(2) Paragraph (1) applies to a member of the armed forces serving at a duty station outside the United States if—

"(A) the member is participating in a contingency operation at or from that duty station; or

"(B) the payment for or provision of transportation would be in the best interests of members of the armed forces and the United States because of unusual conditions at the duty station, as determined by the Secretary concerned.

"(3) Transportation may not be paid for or provided to a member under this subsection for travel that begins—

"(A) more than 24 months after the commencement of the tour of duty for which the transportation is authorized; or

"(B) after the tour of duty ends.

"(4) The transportation authorized by this subsection is limited to one round-trip during any tour of at least 6, but less than 24, consecutive months.

"(5) Transportation paid for or provided to a member under this subsection may not be counted as transportation for which the member is eligible under subsection (a).".

SEC. 622. PAYMENT FOR TEMPORARY STORAGE OF BAGGAGE OF DEPENDENT STUDENT NOT TAKEN ON ANNUAL TRIP TO OVERSEAS DUTY STATION OF SPONSOR.

Section 430(b) of title 37, United States Code, is amended by striking out the second sentence and inserting in lieu thereof the following: "The allowance authorized by this section may be prescribed by the Secretaries concerned as transportation in kind or reimbursement therefor, including an amount for the temporary storage of any baggage not taken with the child on the annual trip if determined advantageous to the Government.".

SEC. 623. COMMERCIAL TRAVEL OF RESERVES AT FEDERAL SUPPLY SCHEDULE RATES FOR ATTENDANCE AT INACTIVE DUTY TRAINING ASSEMBLIES.

(a) AUTHORITY.—Chapter 1217 of title 10, United States Code is amended by adding at the end the following:

"§ 12603. Commercial travel at Federal supply schedule rates for attendance at inactive duty training assemblies

"(a) FEDERAL SUPPLY SCHEDULE TRAVEL.—Commercial travel under Federal supply schedules is authorized for the travel of a Reserve to the location of inactive duty training to be performed by the Reserve or from that location upon completion of the training.

"(b) REGULATIONS.—The Secretary of Defense shall prescribe in regulations the requirements, conditions, and restrictions for travel under the authority of subsection (a) that the Secretary considers appropriate. The regulations shall include policies and procedures for preventing abuses of the travel authority.

"(c) REIMBURSEMENT NOT AUTHORIZED.—A Reserve is not entitled to Government reimbursement for the cost of travel authorized under subsection (a).

"(d) TREATMENT OF TRANSPORTATION AS USE BY MILITARY DEPARTMENTS.—For the purposes of section 201(a) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481(a)), travel authorized under subsection (a) shall be treated as transportation for the use of a military department.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following:

"12603. Commercial travel at Federal supply schedule rates for attendance at inactive duty training assemblies.".

Subtitle D—Retired Pay, Survivor Benefits, and Related Matters

SEC. 631. PAID-UP COVERAGE UNDER SURVIVOR BENEFIT PLAN.

(a) PAID UP AT 30 YEARS OF SERVICE AND AGE 70.—Section 1452 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(j) COVERAGE PAID UP AT 30 YEARS AND ATTAINMENT OF AGE 70.—(1) Coverage of a survivor of a member under the Plan shall be considered paid up as of the end of the later of—

"(A) the 360th month in which the member's retired pay has been reduced under this section; or

"(B) the month in which the member attains 70 years of age.

"(2) The retired pay of a member shall not be reduced under this section to provide coverage of a survivor under the Plan after the month when the coverage is considered paid up under paragraph (1).".

(b) EFFECTIVE DATE.—Section 1452(j) of title 10, United States Code (as added by subsection (a)), shall take effect on October 1, 2003.

SEC. 632. COURT-REQUIRED SURVIVOR BENEFIT PLAN COVERAGE EFFECTUATED THROUGH ELECTIONS AND DEEMED ELECTIONS.

(a) ELIMINATION OF DISPARITY IN EFFECTIVE DATE PROVISIONS.—Section 1448(b)(3) of title 10, United States Code, is amended—

(1) in subparagraph (C)—

(A) by striking out the second sentence; and

(B) by striking out "EFFECTIVE DATE." in the heading; and

(2) by adding at the end the following:

"(E) EFFECTIVE DATE.—An election under this paragraph—

"(i) in the case of a person required (as described in section 1450(f)(3)(B) of this title) to make the election, is effective as of the first day of the first month which begins after the date of the court order or filing that requires the election; and

"(ii) in all other cases, is effective as of the first day of the first calendar month following the month in which the election is received by the Secretary concerned.".

(b) CONFORMITY BY CROSS REFERENCE.—Section 1450(f)(3)(D) of such title is amended by striking out "the first day of the first month which begins after the date of the court order or filing involved" and inserting in lieu thereof "the day referred to in section 1448(b)(3)(E)(i) of this title".

SEC. 633. RECOVERY, CARE, AND DISPOSITION OF REMAINS OF MEDICALLY RETIRED MEMBER WHO DIES DURING HOSPITALIZATION THAT BEGINS WHILE ON ACTIVE DUTY.

(a) IN GENERAL.—Section 1481(a)(7) of title 10, United States Code, is amended to read as follows:

"(7) A person who—

"(A) dies as a retired member of an armed force under the Secretary's jurisdiction during a continuous hospitalization of the member as a patient in a United States hospital that began while the member was on active duty for a period of more than 30 days; or

"(B) is not covered by subparagraph (A) and, while in a retired status by reason of eligibility to retire under chapter 61 of this title, dies during a continuous hospitalization of the person that began while the person was on active duty as a Regular of an armed force, or a member of an armed force without component, under the Secretary's jurisdiction.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) takes effect on the date of the enactment of this Act and applies with respect to deaths occurring on or after that date.

SEC. 634. SURVIVOR BENEFIT PLAN OPEN ENROLLMENT PERIOD.

(a) PERSONS NOT CURRENTLY PARTICIPATING IN SURVIVOR BENEFIT PLAN.—

(1) ELECTION OF SBP COVERAGE.—An eligible retired or former member may elect to participate in the Survivor Benefit Plan during the open enrollment period specified in subsection (d).

(2) ELECTION OF SUPPLEMENTAL ANNUITY COVERAGE.—An eligible retired or former member who elects under paragraph (1) to participate in the Survivor Benefit Plan may also elect during the open enrollment period to participate in the Supplemental Survivor Benefit Plan.

(3) ELIGIBLE RETIRED OR FORMER MEMBER.—For purposes of paragraphs (1) and (2), an eligible retired or former member is a member or former member of the uniformed services who on the day before the first day of the open enrollment period is not a participant in the Survivor Benefit Plan and—

(A) is entitled to retired pay; or

(B) would be entitled to retired pay under chapter 1223 of title 10, United States Code (or chapter 67 of such title as in effect before October 5, 1994), but for the fact that such member or former member is under 60 years of age.

(4) STATUS UNDER SBP OF PERSONS MAKING ELECTIONS.—

(A) STANDARD ANNUITY.—A person making an election under paragraph (1) by reason of eligibility under paragraph (3)(A) shall be treated for all purposes as providing a standard annuity under the Survivor Benefit Plan.

(B) RESERVE-COMPONENT ANNUITY.—A person making an election under paragraph (1) by reason of eligibility under paragraph (3)(B) shall be treated for all purposes as providing a reserve-component annuity under the Survivor Benefit Plan.

(b) MANNER OF MAKING ELECTIONS.—

(1) IN GENERAL.—An election under this section must be made in writing, signed by the person making the election, and received by the Secretary concerned before the end of the open enrollment period. Except as provided in paragraph (2), any such election shall be made subject to the same conditions, and with the same opportunities for designation of beneficiaries and specification of base amount, that apply under the Survivor Benefit Plan or the Supplemental Survivor Benefit Plan, as the case may be. A person making an election under subsection (a) to provide a reserve-component annuity shall make a designation described in section 1448(e) of title 10, United States Code.

(2) ELECTION MUST BE VOLUNTARY.—An election under this section is not effective unless the person making the election declares the election to be voluntary. An election to participate in the Survivor Benefit Plan under this section may not be required by any court. An election to participate or not to participate in the Survivor Benefit Plan is not subject to the concurrence of a spouse or former spouse of the person.

(c) EFFECTIVE DATE FOR ELECTIONS.—Any such election shall be effective as of the first day of the first calendar month following the month in which the election is received by the Secretary concerned.

(d) OPEN ENROLLMENT PERIOD DEFINED.—The open enrollment period is the one-year period beginning on March 1, 1999.

(e) EFFECT OF DEATH OF PERSON MAKING ELECTION WITHIN TWO YEARS OF MAKING ELECTION.—If a person making an election under this section dies before the end of the two-year period beginning on the effective date of the election, the election is void and the amount of any reduction in retired pay of the person that is attributable to the election shall be paid in a lump sum to the person who would have been the deceased person's beneficiary under the voided election if the deceased person had died after the end of such two-year period.

(f) APPLICABILITY OF CERTAIN PROVISIONS OF LAW.—The provisions of sections 1449, 1453, and 1454 of title 10, United States Code, are applicable to a person making an election, and to an election, under this section in the same manner as if the election were made under the Survivor Benefit Plan or the Supplemental Survivor Benefit Plan, as the case may be.

(g) PREMIUMS FOR OPEN ENROLLMENT ELECTION.—

(1) PREMIUMS TO BE CHARGED.—The Secretary of Defense shall prescribe in regulations premiums which a person electing under this section shall be required to pay for participating in the Survivor Benefit Plan pursuant to the election. The total amount of the premiums to be paid by a person under the regulations shall be equal to the sum of—

(A) the total amount by which the retired pay of the person would have been reduced before the effective date of the election if the person had elected to participate in the Survivor Benefit Plan (for the same base amount specified in the election) at the first opportunity that was afforded the member to participate under chapter 73 of title 10, United States Code;

(B) interest on the amounts by which the retired pay of the person would have been so reduced, computed from the dates on which the retired pay would have been so reduced at such rate or rates and according to such methodology as the Secretary of Defense determines reasonable; and

(C) any additional amount that the Secretary determines necessary to protect the actuarial soundness of the Department of Defense Military Retirement Fund against any increased risk for the fund that is associated with the election.

(2) PREMIUMS TO BE CREDITED TO RETIREMENT FUND.—Premiums paid under the regulations shall be credited to the Department of Defense Military Retirement Fund.

(h) DEFINITIONS.—In this section:

(1) The term "Survivor Benefit Plan" means the program established under subchapter II of chapter 73 of title 10, United States Code.

(2) The term "Supplemental Survivor Benefit Plan" means the program established under subchapter III of chapter 73 of title 10, United States Code.

(3) The term "retired pay" includes retainer pay paid under section 6330 of title 10, United States Code.

(4) The terms "uniformed services" and "Secretary concerned" have the meanings given those terms in section 101 of title 37, United States Code.

(5) The term "Department of Defense Military Retirement Fund" means the Department of Defense Military Retirement Fund established under section 1461(a) of title 10, United States Code.

SEC. 635. ELIGIBILITY FOR PAYMENTS OF CERTAIN SURVIVORS OF CAPTURED AND INTERNED VIETNAMESE OPERATIVES WHO WERE UNMARRIED AND CHILDLESS AT DEATH.

Section 657(b) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2585) is amended by adding at the end the following:

"(3) In the case of a decedent who had not been married at the time of death—

"(A) to the surviving parents; or

"(B) if there are no surviving parents, to the surviving siblings by blood of the decedent, in equal shares.".

SEC. 636. CLARIFICATION OF RECIPIENT OF PAYMENTS TO PERSONS CAPTURED OR INTERNED BY NORTH VIETNAM.

Section 657(f)(1) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2585) is amended by striking out "The actual disbursement" and inserting in lieu thereof "Notwithstanding any agreement (including a power of attorney) to the contrary, the actual disbursement".

SEC. 637. PRESENTATION OF UNITED STATES FLAG TO MEMBERS OF THE ARMED FORCES.

(a) ARMY.—(1) Chapter 353 of title 10, United States Code, is amended by inserting after the table of sections the following:

"§ 3681. Presentation of flag upon retirement at end of active duty service

"(a) REQUIREMENT.—The Secretary of the Army shall present a United States flag to a member of any component of the Army upon the release of the member from active duty for retirement.

"(b) MULTIPLE PRESENTATIONS NOT AUTHORIZED.—A member is not eligible for a presentation of a flag under subsection (a) if the member has previously been presented a flag under this section or section 6141 or 8681 of this title.

"(c) NO COST TO RECIPIENT.—The presentation of a flag under his section shall be at no cost to the recipient.".

(2) The table of sections at the beginning of such chapter is amended by inserting before the item relating to section 3684 the following:

"3681. Presentation of flag upon retirement at end of active duty service.".

(b) NAVY AND MARINE CORPS.—(1) Chapter 561 of title 10, United States Code, is amended by inserting after the table of sections the following:

"§ 6141. Presentation of flag upon retirement at end of active duty service

"(a) REQUIREMENT.—The Secretary of the Navy shall present a United States flag to a member of any component of the Navy or

Marine Corps upon the release of the member from active duty for retirement or for transfer to the Fleet Reserve or the Fleet Marine Corps Reserve.

"(b) Multiple Presentations Not Authorized.—A member is not eligible for a presentation of a flag under subsection (a) if the member has previously been presented a flag under this section or section 3681 or 8681 of this title.

"(c) No Cost to Recipient.—The presentation of a flag under his section shall be at no cost to the recipient.".

(2) The table of sections at the beginning of such chapter is amended by inserting before the item relating to section 6151 the following:

"6141. Presentation of flag upon retirement at end of active duty service.".

(c) Air Force.—(1) Chapter 853 of title 10, United States Code, is amended by inserting after the table of sections the following:

"§ 8681. Presentation of flag upon retirement at end of active duty service

"(a) Requirement.—The Secretary of the Air Force shall present a United States flag to a member of any component of the Air Force upon the release of the member from active duty for retirement.

"(b) Multiple Presentations Not Authorized.—A member is not eligible for a presentation of a flag under subsection (a) if the member has previously been presented a flag under this section or section 3681 or 6141 of this title.

"(c) No Cost to Recipient.—The presentation of a flag under his section shall be at no cost to the recipient.".

(2) The table of sections at the beginning of such chapter is amended by inserting before the item relating to section 8684 the following:

"8681. Presentation of flag upon retirement at end of active duty service.".

(d) Requirement for Advance Appropriations.—The Secretary of a military department may present flags under authority provided the Secretary in section 3681, 6141, or 8681 title 10, United States Code (as added by this section), only to the extent that funds for such presentations are appropriated for that purpose in advance.

(e) Effective Date.—Sections 3681, 6141, and 8681 of title 10, United States Code (as added by this section shall take effect on October 1, 1998, and shall apply with respect to releases described in those sections on or after that date.

SEC. 638. ELIMINATION OF BACKLOG OF UNPAID RETIRED PAY.

(a) Requirement.—The Secretary of the Army shall take such actions as are necessary to eliminate, by December 31, 1998, the backlog of unpaid retired pay for members and former members of the Army (including members and former members of the Army Reserve and the Army National Guard).

(b) Report.—Not later than 30 days after the date of the enactment of this Act, the Secretary of the Army shall submit to Congress a report on the backlog of unpaid retired pay. The report shall include the following:

(1) The actions taken under subsection (a).

(2) The extent of the remaining backlog.

(3) A discussion of any additional actions that are necessary to ensure that retired pay is paid in a timely manner.

(c) Funding.—Of the amount authorized to be appropriated under section 421, $1,700,000 shall be available for carrying out this section.

Subtitle E—Other Matters

SEC. 641. DEFINITION OF POSSESSIONS OF THE UNITED STATES FOR PAY AND ALLOWANCES PURPOSES.

Section 101(2) of title 37, United States Code, is amended by striking out "the Canal Zone,".

SEC. 642. FEDERAL EMPLOYEES' COMPENSATION COVERAGE FOR STUDENTS PARTICIPATING IN CERTAIN OFFICER CANDIDATE PROGRAMS.

(a) Periods of Coverage.—Subsection (a)(2) of section 8140 of title 5, United States Code, is amended to read as follows:

"(2) during the period of the member's attendance at training or a practice cruise under chapter 103 of title 10, beginning when the authorized travel to the training or practice cruise begins and ending when authorized travel from the training or practice cruise ends.".

(b) Line of Duty.—Subsection (b) of such section is amended to read as follows:

"(b) For the purpose of this section, an injury, disability, death, or illness of a member referred to in subsection (a) may be considered as incurred or contracted in line of duty only if the injury, disability, or death is incurred, or the illness is contracted, by the member during a period described in that subsection. Subject to review by the Secretary of Labor, the Secretary of the military department concerned (under regulations prescribed by that Secretary), shall determine whether an injury, disability, or death was incurred, or an illness was contracted, by a member in line of duty.".

(c) Clarification of Casualties Covered.—Subsection (a) of such section, as amended by subsection (a) of this section, is further amended by inserting ", or an illness contracted," after "death incurred" in the matter preceding paragraph (1).

(d) Effective Date and Applicability.—The amendments made by subsections (a) and (b) shall take effect on the date of the enactment of this Act and apply with respect to injuries, illnesses, disabilities, and deaths incurred or contracted on or after that date.

SEC. 643. AUTHORITY TO PROVIDE FINANCIAL ASSISTANCE FOR EDUCATION OF CERTAIN DEFENSE DEPENDENTS OVERSEAS.

Section 1407(b) of the Defense Dependents' Education Act of 1978 (20 U.S.C. 926(b)) is amended—

(1) by striking out "(b) Under such circumstances as he may by regulation prescribe, the Secretary of Defense" and inserting in lieu thereof "(b) Tuition and Assistance When Schools Unavailable.—(1) Under such circumstances as the Secretary of Defense may prescribe in regulations, the Secretary"; and

(2) by adding at the end the following:

"(2)(A) The Secretary of Defense, and the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service of the Navy, may provide financial assistance to sponsors of dependents in overseas areas where schools operated by the Secretary of Defense under subsection (a) are not reasonably available in order to assist the sponsors to defray the costs incurred by the sponsors for the attendance of the dependents at schools in such areas other than schools operated by the Secretary of Defense.

"(B) The Secretary of Defense and the Secretary of Transportation shall each prescribe regulations relating to the availability of financial assistance under subparagraph (A). Such regulations shall, to the maximum extent practicable, be consistent with Department of State regulations relating to the availability of financial assistance for the education of dependents of Department of State personnel overseas.".

SEC. 644. VOTING RIGHTS OF MILITARY PERSONNEL.

(a) Guarantee of Residency.—Article VII of the Soldiers' and Sailors' Civil Relief Act of 1940 (50 U.S.C. App. 590 et seq.) is amended by adding at the end the following:

"Sec. 704. (a) For purposes of voting for an office of the United States or of a State, a person who is absent from a State in compliance with military or naval orders shall not, solely by reason of that absence—

"(1) be deemed to have lost a residence or domicile in that State;

"(2) be deemed to have acquired a residence or domicile in any other State; or

"(3) be deemed to have become resident in or a resident of any other State.

"(b) In this section, the term 'State' includes a territory or possession of the United States, a political subdivision of a State, territory, or possession, and the District of Columbia.".

(b) State Responsibility To Guarantee Military Voting Rights.—(1) Section 102 of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff-1) is amended—

(A) by inserting "(a) Elections for Federal Offices.—" before "Each State shall—"; and

(B) by adding at the end the following:

"(b) Elections for State and Local Offices.—Each State shall—

"(1) permit absent uniformed services voters to use absentee registration procedures and to vote by absentee ballot in general, special, primary, and runoff elections for State and local offices; and

"(2) accept and process, with respect to any election described in paragraph (1), any otherwise valid voter registration application from an absent uniformed services voter if the application is received by the appropriate State election official not less than 30 days before the election.".

(2) The heading of title I of such Act is amended by striking out "**FOR FEDERAL OFFICE**".

TITLE VII—HEALTH CARE

SEC. 701. DEPENDENTS' DENTAL PROGRAM.

(a) Inflation-Indexed Premium.—(1) Section 1076a(b)(2) of title 10, United States Code, is amended—

(A) by inserting "(A)" after "(2)"; and

(B) by adding at the end the following:

"(B) Effective as of January 1 of each year, the amount of the premium required under subparagraph (A) shall be increased by the percent equal to the lesser of—

"(i) the percent by which the rates of basic pay of members of the uniformed services are increased on such date; or

"(ii) the sum of one-half percent and the percent computed under section 5303(a) of title 5 for the increase in rates of basic pay for statutory pay systems for pay periods beginning on or after such date.".

(2) The amendment made by subparagraph (B) of paragraph (1) shall take effect on January 1, 1999, and shall apply to months after 1998 as if such subparagraph had been in effect since December 31, 1993.

(b) Offer of Plan Under TRICARE.—(1) Section 1097 of such title is amended by adding at the end the following:

"(f) Dependents' Dental Plan.—A basic dental benefits plan established for eligible dependents under section 1076a of this title may be offered under the TRICARE program.".

(2) Subsection (e) of such section is amended by adding at the end the following:

"Charges for a basic dental benefits plan offered under the TRICARE program pursuant to subsection (f) shall be those provided for under section 1076a of this title.".

SEC. 702. EXTENSION OF AUTHORITY FOR USE OF PERSONAL SERVICES CONTRACTS FOR PROVISION OF HEALTH CARE AT MILITARY ENTRANCE PROCESSING STATIONS AND ELSEWHERE OUTSIDE MEDICAL TREATMENT FACILITIES.

Section 1091(a)(2) of title 10, United States Code, is amended in the second sentence by striking out "the end of the one-year period beginning on the date of the enactment of this paragraph" and inserting in lieu thereof "June 30, 1999".

SEC. 703. TRICARE PRIME AUTOMATIC ENROLLMENTS AND RETIREE PAYMENT OPTIONS.

(a) Procedures.—(1) Chapter 55 of title 10, United States Code, is amended by inserting after section 1097 the following new section:

"§ 1097a. TRICARE Prime: automatic enrollments; payment options

"(a) Automatic Enrollment of Certain Dependents.—Each dependent of a member of the uniformed services in grade E4 or below who is entitled to medical and dental care under section 1076(a)(2)(A) of this title and resides in the catchment area of a facility of a uniformed service offering TRICARE Prime shall be automatically enrolled in TRICARE Prime at the facility. The Secretary concerned shall provide written notice of the enrollment to the member. The enrollment of a dependent of the member may be terminated by the member or the dependent at any time.

"(b) Automatic Renewal of Enrollments of Covered Beneficiaries.—(1) An enrollment of a covered beneficiary in TRICARE Prime shall be automatically renewed upon the expiration of the enrollment unless the renewal is declined.

"(2) Not later than 15 days before the expiration date for an enrollment of a covered beneficiary in TRICARE Prime, the Secretary concerned shall—

"(A) transmit a written notification of the pending expiration and renewal of enrollment to the covered beneficiary or, in the case of a dependent of a member of the uniformed services, to the member; and

"(B) afford the beneficiary or member, as the case may be, an opportunity to decline the renewal of enrollment.

"(c) Payment Options for Retirees.—A member or former member of the uniformed services eligible for medical care and dental care under section 1074(b) of this title may elect to have any fee payable by the member or former member for an enrollment in TRICARE Prime withheld from the member's retired pay, retainer pay, or equivalent pay, as the case may be, or to be paid from a financial institution through electronic transfers of funds. The fee shall be paid in accordance with the election.

"(d) Regulations.—The administering Secretaries shall prescribe regulations, including procedures, for carrying out this section.

"(e) Definitions.—In this section:

"(1) The term 'TRICARE Prime' means the managed care option of the TRICARE program.

"(2) The term 'catchment area', with respect to a facility of a uniformed service, means the service area of the facility, as designated under regulations prescribed by the administering Secretaries.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1097 the following new item:

1097a. TRICARE Prime: automatic enrollments; payment options.".

(b) Deadline for Implementation.—The regulations required under subsection (d) of section 1097a of title 10, United States Code (as added by subsection (a)), shall be prescribed to take effect not later than January 1, 1999. The section shall be applied under TRICARE Prime on and after the date on which the regulations take effect.

SEC. 704. LIMITED CONTINUED CHAMPUS COVERAGE FOR PERSONS UNAWARE OF A LOSS OF CHAMPUS COVERAGE RESULTING FROM ELIGIBILITY FOR MEDICARE.

(a) Continuation of Eligibility.—The eligibility of a person described in subsection (b) for care under CHAMPUS may be continued under regulations prescribed by the administering Secretaries if it is determined under the regulations that the continuation of the eligibility is appropriate in order to ensure that the person has adequate access to health care.

(b) Eligible Persons.—Subsection (a) applies to a person who—

(1) has been eligible for health care under CHAMPUS;

(2) loses eligibility for health care under CHAMPUS solely by reason of paragraph (1) of section 1086(d), United States Code;

(3) is unaware of the loss of eligibility; and

(4) satisfies the conditions set forth in subparagraphs (A) and (B) of paragraph (2) of such section 1086(d) at the time health care is provided under CHAMPUS pursuant to a continuation of eligibility in accordance with this section.

(c) Period of Continued Eligibility.—A continuation of eligibility under this section shall apply with regard to health care provided on or after October 1, 1998, and before July 1, 1999.

(d) Definitions.—In this section:

(1) The term "administering Secretaries" has the meaning given such term in paragraph (3) of section 1072 of title 10, United States Code.

(2) The term "CHAMPUS" means the Civilian Health and Medical Program of the Uniformed Services, as defined in paragraph (4) of such section.

SEC. 705. ENHANCED DEPARTMENT OF DEFENSE ORGAN AND TISSUE DONOR PROGRAM.

(a) Findings.—Congress makes the following findings:

(1) Organ and tissue transplantation is one of the most remarkable medical success stories in the history of medicine.

(2) Each year, the number of people waiting for organ or tissue transplantation increases. It is estimated that there are approximately 39,000 patients, ranging in age from babies to those in retirement, awaiting transplants of kidneys, hearts, livers, and other solid organs.

(3) The Department of Defense has made significant progress in increasing the awareness of the importance of organ and tissue donations among members of the Armed Forces.

(4) The inclusion of organ and tissue donor elections in the Defense Enrollment Eligibility Reporting System (DEERS) central database through the Real-time Automated Personnel Identification System (RAPIDS) represents a major step in ensuring that organ and tissue donor elections are a matter of record and are accessible in a timely manner.

(b) Responsibilities of the Secretary of Defense.—The Secretary of Defense shall ensure that the advanced systems developed for recording Armed Forces members' personal data and information (such as the SMARTCARD, MEDITAG, and Personal Information Carrier) include the capability to record organ and tissue donation elections.

(c) Responsibilities of the Secretaries of the Military Departments.—The Secretaries of the military departments shall ensure that—

(1) appropriate information about organ and tissue donation is provided to each recruit and officer candidate of the Armed Forces during initial training;

(2) members of the Armed Forces are given recurring, specific opportunities to elect to be organ or tissue donors during service in the Armed Forces and upon retirement; and

(3) members of the Armed Forces electing to be organ or tissue donors are encouraged to advise their next of kin concerning the donation decision and any subsequent change of that decision.

(d) Responsibilities of the Surgeons General of the Military Department.—The Surgeons General of the Armed Forces shall ensure that—

(1) appropriate training is provided to enlisted and officer medical personnel to facilitate the effective operation of organ and tissue donation activities under garrison conditions and, to the extent possible, under operational conditions; and

(2) medical logistical activities can, to the extent possible without jeopardizing operational requirements, support an effective organ and tissue donation program.

(e) Report.—Not later than September 1, 1999, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report on the status of the implementation of this section.

SEC. 706. JOINT DEPARTMENT OF DEFENSE AND DEPARTMENT OF VETERANS AFFAIRS REVIEWS RELATING TO INTERDEPARTMENTAL COOPERATION IN THE DELIVERY OF MEDICAL CARE.

(a) Findings.—Congress makes the following findings:

(1) The military health care system of the Department of Defense and the Veterans Health Administration of the Department of Veterans Affairs are national institutions that collectively manage more than 1,500 hospitals, clinics, and health care facilities worldwide to provide services to more than 11,000,000 beneficiaries.

(2) In the post-Cold War era, these institutions are in a profound transition that involves challenging opportunities.

(3) During the period from 1988 to 1998, the number of military medical personnel has declined by 15 percent and the number of military hospitals has been reduced by one-third.

(4) During the two years since 1996, the Department of Veterans Affairs has revitalized its structure by decentralizing authority into 22 Veterans Integrated Service Networks.

(5) In the face of increasing costs of medical care, increased demands for health care services, and increasing budgetary constraints, the Department of Defense and the Department of Veterans Affairs have embarked on a variety of dynamic and innovative cooperative programs ranging from shared services to joint venture operations of medical facilities.

(6) In 1984, there was a combined total of 102 Department of Veterans Affairs and Department of Defense facilities with sharing

agreements. By 1997, that number had grown to 420. During the six years from fiscal year 1992 through fiscal year 1997, shared services increased from slightly over 3,000 services to more than 6,000 services ranging from major medical and surgical services, laundry, blood, and laboratory services to unusual speciality care services.

(7) The Department of Defense and the Department of Veterans Affairs are conducting four health care joint ventures in New Mexico, Nevada, Texas, Oklahoma, and are planning to conduct four more such ventures in Alaska, Florida, Hawaii, and California.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the Department of Defense and the Department of Veterans Affairs are to be commended for the cooperation between the two departments in the delivery of medical care, of which the cooperation involved in the establishment and operation of the Department of Defense and the Department of Veterans Affairs Executive Council is a praiseworthy example;

(2) the two departments are encouraged to continue to explore new opportunities to enhance the availability and delivery of medical care to beneficiaries by further enhancing the cooperative efforts of the departments; and

(3) enhanced cooperation is encouraged for—

(A) the general areas of access to quality medical care, identification and elimination of impediments to enhanced cooperation, and joint research and program development; and

(B) the specific areas in which there is significant potential to achieve progress in cooperation in a short term, including computerization of patient records systems, participation of the Department of Veterans Affairs in the TRICARE program, pharmaceutical programs, and joint physical examinations.

(c) JOINT SURVEY OF POPULATIONS SERVED.—(1) The Secretary of Defense and the Secretary of Veterans Affairs shall jointly conduct a survey of their respective medical care beneficiary populations to identify, by category of beneficiary (defined as the Secretaries consider appropriate), the expectations of, requirements for, and behavior patterns of the beneficiaries with respect to medical care. The two Secretaries shall develop the protocol for the survey jointly, but shall obtain the services of an entity independent of the Department of Defense and the Department of Veterans Affairs for carrying out the survey.

(2) The survey shall include the following:

(A) Demographic characteristics, economic characteristics, and geographic location of beneficiary populations with regard to catchment or service areas.

(B) The types and frequency of care required by veterans, retirees, and dependents within catchment or service areas of Department of Defense and Veterans Affairs medical facilities and outside those areas.

(C) The numbers of, characteristics of, and types of medical care needed by the veterans, retirees, and dependents who, though eligible for medical care in Department of Defense or Department of Veterans Affairs treatment facilities or other federally funded medical programs, choose not to seek medical care from those facilities or under those programs, and the reasons for that choice.

(D) The obstacles or disincentives for seeking medical care from such facilities or under such programs that veterans, retirees, and dependents perceive.

(E) Any other matters that the Secretary of Defense and the Secretary of Veterans Affairs consider appropriate for the survey.

(3) The Secretary of Defense and the Secretary of Veterans Affairs shall submit a report on the results of the survey to the appropriate committees of Congress. The report shall contain the matters described in paragraph (2) and any proposals for legislation that the Secretaries recommend for enhancing Department of Defense and Department of Veterans Affairs cooperative efforts with respect to the delivery of medical care.

(d) REVIEW OF LAW AND POLICIES.—(1) The Secretary of Defense and the Secretary of Veterans Affairs shall jointly conduct a review to identify impediments to cooperation between the Department of Defense and the Department of Veterans Affairs regarding the delivery of medical care. The matters reviewed shall include the following:

(A) All laws, policies, and regulations, and any attitudes of beneficiaries of the health care systems of the two departments, that have the effect of preventing the establishment, or limiting the effectiveness, of cooperative health care programs of the departments.

(B) The requirements and practices involved in the credentialling and licensure of health care providers.

(C) The perceptions of beneficiaries in a variety of categories (defined as the Secretaries consider appropriate) regarding the various Federal health care systems available for their use.

(2) The Secretaries shall jointly submit a report on the results of the review to the appropriate committees of Congress. The report shall include any proposals for legislation that the Secretaries recommend for eliminating or reducing impediments to interdepartmental cooperation that are identified during the review.

(e) PARTICIPATION IN TRICARE.—(1) The Secretary of Defense shall review the TRICARE program to identify opportunities for increased participation by the Department of Veterans Affairs in that program. The ongoing collaboration between Department of Defense officials and Department of Veterans Affairs officials regarding increasing the participation shall be included among the matters reviewed.

(2) The Secretary of Defense and the Secretary of Veterans Affairs shall jointly submit to the appropriate committees of Congress a semiannual report on the status of the review and on efforts to increase the participation of the Department of Veterans Affairs in the TRICARE program. No report is required under this paragraph after the submission of a semiannual report in which the Secretaries declare that the Department of Veterans Affairs is participating in the TRICARE program to the extent that can reasonably be expected to be attained.

(f) PHARMACEUTICAL BENEFITS AND PROGRAMS.—(1) The Federal Pharmaceutical Steering Committee shall—

(A) undertake a comprehensive examination of existing pharmaceutical benefits and programs for beneficiaries of Federal medical care programs, including matters relating to the purchasing, distribution, and dispensing of pharmaceuticals and the management of mail order pharmaceuticals programs; and

(B) review the existing methods for contracting for and distributing medical supplies and services.

(2) The committee shall submit a report on the results of the examination to the appropriate committees of Congress.

(g) STANDARDIZATION OF PHYSICAL EXAMINATIONS FOR DISABILITY.—The Secretary of Defense and the Secretary of Veterans Affairs shall submit to the appropriate committees of Congress a report on the status of the efforts of the Department of Defense and the Department of Veterans Affairs to standardize physical examinations administered by the two departments for the purpose of determining or rating disabilities.

(h) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—For the purposes of this section, the appropriate committees of Congress are as follows:

(1) The Committee on Armed Services and the Committee on Veterans' Affairs of the Senate.

(2) The Committee on National Security and the Committee on Veterans' Affairs of the House of Representatives.

(i) DEADLINES FOR SUBMISSION OF REPORTS.—(1) The report required by subsection (c)(3) shall be submitted not later than January 1, 2000.

(2) The report required by subsection (d)(2) shall be submitted not later than March 1, 1999.

(3) The semiannual report required by subsection (e)(2) shall be submitted not later than March 1 and September 1 of each year.

(4) The report on the examination required under subsection (f) shall be submitted not later than 60 days after the completion of the examination.

(5) The report required by subsection (g) shall be submitted not later than March 1, 1999.

SEC. 707. DEMONSTRATION PROJECTS TO PROVIDE HEALTH CARE TO CERTAIN MEDICARE-ELIGIBLE BENEFICIARIES OF THE MILITARY HEALTH CARE SYSTEM.

(a) IN GENERAL.—(1) The Secretary of Defense shall, after consultation with the other administering Secretaries, carry out three demonstration projects (described in subsections (d), (e), and (f)) in order to assess the feasibility and advisability of providing certain medical care coverage to the medicare-eligible individuals described in subsection (b).

(2) The Secretary shall commence the demonstration projects not later than January 1, 2000, and shall terminate the demonstration projects not later than December 31, 2003.

(3) The aggregate costs incurred by the Secretary under the demonstration projects in any year may not exceed $60,000,000.

(b) ELIGIBLE INDIVIDUALS.—An individual eligible to participate in a demonstration project under subsection (a) is a member or former member of the uniformed services described in section 1074(b) of title 10, United States Code, a dependent of the member described in section 1076(a)(2)(B) or 1076(b) of that title, or a dependent of a member of the uniformed services who died while on active duty for a period of more than 30 days, who—

(1) is 65 years of age or older;

(2) is entitled to hospital insurance benefits under part A of title XVIII of the Social Security Act (42 U.S.C. 1395c et seq.);

(3) is enrolled in the supplemental medical insurance program under part B of such title XVIII (42 U.S.C. 1395j et seq.); and

(4) resides in an area of the demonstration project selected by the Secretary under subsection (c).

(c) AREAS OF DEMONSTRATION PROJECTS.—(1) Subject to paragraph (3), the Secretary shall carry out each demonstration project under this section in two separate areas selected by the Secretary.

(2) Of the two areas selected for each demonstration project—

(A) one shall be an area outside the catchment area of a military medical treatment facility in which—

(i) no eligible organization has a contract in effect under section 1876 of the Social Security Act (42 U.S.C. 1395mm) and no Medicare+Choice organization has a contract in effect under part C of title XVIII of that Act (42 U.S.C. 1395w–21); or

(ii) the aggregate number of enrollees with an eligible organization with a contract in effect under section 1876 of that Act or with a Medicare+Choice organization with a contract in effect under part C of title XVIII of that Act is less than 2.5 percent of the total number of individuals in the area who are entitled to hospital insurance benefits under part A of title XVIII of that Act; and

(B) one shall be an area outside the catchment area of a military medical treatment facility in which—

(i) at least one eligible organization has a contract in effect under section 1876 of that Act or one Medicare+Choice organization has a contract in effect under part C of title XVIII of that Act; and

(ii) the aggregate number of enrollees with an eligible organization with a contract in effect under section 1876 of that Act or with a Medicare+Choice organization with a contract in effect under part C of title XVIII of that Act exceeds 10 percent of the total number of individuals in the area who are entitled to hospital insurance benefits under part A of title XVIII of that Act.

(3) The Secretary may not carry out a demonstration project under this section in any area in which the Secretary is carrying out any other medical care demonstration project unless the Secretary determines that the conduct of such other medical care demonstration project will not interfere with the conduct or evaluation of the demonstration project under this section.

(d) FEHBP AS SUPPLEMENT TO MEDICARE DEMONSTRATION.—(1)(A) Under one of the demonstration projects under this section, the Secretary shall permit eligible individuals described in subsection (b) who reside in the areas of the demonstration project selected under subsection (c) to enroll in the health benefits plans offered through the Federal Employees Health Benefits program under chapter 89 of title 5, United States Code.

(B) The Secretary shall carry out the demonstration project under this subsection under an agreement with the Office of Personnel Management.

(2)(A) An eligible individual described in paragraph (1) shall not be required to satisfy any eligibility criteria specified in chapter 89 of title 5, United States Code, as a condition for enrollment in the health benefits plans offered through the Federal Employee Health Benefits program under the demonstration project under this subsection.

(B) Each eligible individual who enrolls in a health benefits plan under the demonstration project shall be required to remain enrolled in the supplemental medical insurance program under part B of title XVIII of the Social Security Act while participating in the demonstration project.

(3)(A) The authority responsible for approving retired or retainer pay or equivalent pay in the case of a member or former member shall manage the participation of the members or former members who enroll in health benefits plans offered through the Federal Employee Health Benefits program pursuant to paragraph (1).

(B) Such authority shall distribute program information to eligible individuals, process enrollment applications, forward all required contributions to the Employees Health Benefits Fund established under section 8909 of title 5, United States Code, in a timely manner, assist in the reconciliation of enrollment records with health plans, and prepare such reports as the Office of Personnel Management may require in its administration of chapter 89 of such title.

(4)(A) The Office of Personnel Management shall require health benefits plans under chapter 89 of title 5, United States Code, that participate in the demonstration project to maintain a separate risk pool for purposes of establishing premium rates for eligible individuals who enroll in such plans in accordance with this subsection.

(B) The Office shall determine total subscription charges for self only or for family coverage for eligible individuals who enroll in a health benefits plan under chapter 89 of such title in accordance with this subsection, which shall include premium charges paid to the plan and amounts described in section 8906(c) of title 5, United States Code, for administrative expenses and contingency reserves.

(5) The Secretary shall be responsible for the Government contribution for an eligible individual who enrolls in a health benefits plan under chapter 89 of title 5, United States Code, in accordance with this subsection, except that the amount of the contribution may not exceed the amount of the Government contribution which would be payable if such individual were an employee enrolled in the same health benefits plan and level of benefits.

(6) The cancellation by a eligible individual of coverage under the Federal Employee Health Benefits program shall be irrevocable during the term of the demonstration project under this subsection.

(e) TRICARE AS SUPPLEMENT TO MEDICARE DEMONSTRATION.—(1) Under one of the demonstration projects under this section, the Secretary shall permit eligible individuals described in subsection (b) who reside in each area of the demonstration project selected under subsection (c) to enroll in the TRICARE program. The demonstration project under this subsection shall be known as the "TRICARE Senior Supplement".

(2) Payment for care and services received by eligible individuals who enroll in the TRICARE program under the demonstration project shall be made as follows:

(A) First, under title XVIII of the Social Security Act, but only the extent that payment for such care and services is provided for under that title.

(B) Second, under the TRICARE program, but only to the extent that payment for such care and services is provided under that program and is not provided for under subparagraph (A).

(C) Third, by the eligible individual concerned, but only to the extent that payment for such care and services is not provided for under subparagraphs (B) and (C).

(3)(A) The Secretary shall require each eligible individual who enrolls in the TRICARE program under the demonstration project to pay an enrollment fee. The Secretary may provide for payment of the enrollment fee on a periodic basis.

(B) The amount of the enrollment fee of an eligible individual under subparagraph (A) in any year may not exceed an amount equal to 75 percent of the total subscription charges in that year for self-only or family, fee-for-service coverage under the health benefits plan under the Federal Employees Health Benefits program under chapter 89 of title 5, United States Code, that is most similar in coverage to the TRICARE program.

(f) TRICARE MAIL ORDER PHARMACY BENEFIT SUPPLEMENT TO MEDICARE DEMONSTRATION.—(1) Under one of the demonstration projects under this section, the Secretary shall permit eligible individuals described in subsection (b) who reside in each area of the demonstration project selected under subsection (c) to participate in the mail order pharmacy benefit available under the TRICARE program.

(2) The Secretary may collect from eligible individuals who participate in the mail order pharmacy benefit under the demonstration project any premiums, deductibles, copayments, or other charges that the Secretary would otherwise collect from individuals similar to such eligible individuals for participation in the benefit.

(g) INDEPENDENT EVALUATION.—(1) The Secretary shall provide for an evaluation of the demonstration projects conducted under this section by an appropriate person or entity that is independent of the Department of Defense.

(2) The evaluation shall include the following:

(A) An analysis of the costs of each demonstration project to the United States and to the eligible individuals who enroll or participate in such demonstration project.

(B) An assessment of the extent to which each demonstration project satisfied the requirements of such eligible individuals for the health care services available under such demonstration project.

(C) An assessment of the effect, if any, of each demonstration project on military medical readiness.

(D) A description of the rate of the enrollment or participation in each demonstration project of the individuals who were eligible to enroll or participate in such demonstration project.

(E) An assessment of which demonstration project provides the most suitable model for a program to provide adequate health care services to the population of individuals consisting of the eligible individuals.

(F) An evaluation of any other matters that the Secretary considers appropriate.

(3) The Comptroller General shall review the evaluation conducted under paragraph (1). In carrying out the review, the Comptroller General shall—

(A) assess the validity of the processes used in the evaluation; and

(B) assess the validity of any findings under the evaluation.

(4)(A) The Secretary shall submit a report on the results of the evaluation under paragraph (1), together with the evaluation, to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives not later than December 31, 2003.

(B) The Comptroller General shall submit a report on the results of the review under paragraph (3) to the committees referred to in subparagraph (A) not later than February 15, 2004.

(h) ADDITIONAL REQUIREMENTS RELATING TO FEHBP DEMONSTRATION PROJECT.—(1) Notwithstanding subsection (a)(2), the Secretary shall commence the demonstration project under subsection (d) on July 1, 1999.

(2) Notwithstanding subsection (c), the Secretary shall carry out the demonstration project under subsection (d) in four separate areas, of which—

(A) two shall meet the requirements of subsection (c)(1)(A); and

(B) two others shall meet the requirements of subsection (c)(1)(B).

(3)(A) Notwithstanding subsection (f), the Secretary shall provide for an annual evaluation of the demonstration project under subsection (d) that meets the requirements of subsection (f)(2).

(B) The Comptroller shall review each evaluation provided for under subparagraph (A).

(C) Not later than September 15 in each of 2000 through 2004, the Secretary shall submit a report on the results of the evaluation under subparagraph (A) during such year, together with the evaluation, to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives.

(D) Not later than December 31 in each of 2000 through 2004, the Comptroller General shall submit a report on the results of the review under subparagraph (B) during such year to the committees referred to in subparagraph (C).

(i) DEFINITIONS.—In this section:

(1) The term "administering Secretaries" has the meaning given that term in section 1072(3) of title 10, United States Code.

(2) The term "TRICARE program" has the meaning given that term in section 1072(7) of title 10, United States Code.

(j) COMPETITION FOR SERVICES.—The program under this section will allow retail to compete for services in delivery of pharmacy benefits without increasing costs to the Government or the beneficiaries.

SEC. 708. PROFESSIONAL QUALIFICATIONS OF PHYSICIANS PROVIDING MILITARY HEALTH CARE.

(a) REQUIREMENT FOR UNRESTRICTED LICENSE.—Section 1094(a)(1) of title 10, United States Code, is amended by adding at the end the following: "In the case of a physician, the physician may not provide health care as a physician under this chapter unless the current license is an unrestricted license that is not subject to limitation on the scope of practice ordinarily granted to other physicians for a similar specialty by the jurisdiction that granted the license.".

(b) SATISFACTION OF CONTINUING MEDICAL EDUCATION REQUIREMENTS.—(1) Chapter 55 of title 10, United States Code, is amended by inserting after section 1094 the following new section:

"§ 1094a. Continuing medical education requirements: system for monitoring physician compliance

"The Secretary of Defense shall establish a mechanism for ensuring that each person under the jurisdiction of the Secretary of a military department who provides health care under this chapter as a physician satisfies the continuing medical education requirements applicable to the physician.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"1094a. Continuing medical education requirements: system for monitoring physician compliance.".

(c) EFFECTIVE DATES.—(1) The amendment made by subsection (a) shall take effect on October 1, 1998.

(2) The system required by section 1094a of title 10, United States Code (as added by subsection (b)), shall take effect on the date that is three years after the date of the enactment of this Act.

SEC. 709. ASSESSMENT OF ESTABLISHMENT OF INDEPENDENT ENTITY TO EVALUATE POST-CONFLICT ILLNESSES AMONG MEMBERS OF THE ARMED FORCES AND HEALTH CARE PROVIDED BY THE DEPARTMENT OF DEFENSE AND DEPARTMENT OF VETERANS AFFAIRS BEFORE AND AFTER DEPLOYMENT OF SUCH MEMBERS.

(a) AGREEMENT FOR ASSESSMENT.—The Secretary of Defense shall seek to enter into an agreement with the National Academy of Sciences, or other appropriate independent organization, under which agreement the Academy shall carry out the assessment referred to in subsection (b).

(b) ASSESSMENT.—(1) Under the agreement, the Academy shall assess the need for and feasibility of establishing an independent entity to—

(A) evaluate and monitor interagency coordination on issues relating to the post-deployment health concerns of members of the Armed Forces, including coordination relating to outreach and risk communication, recordkeeping, research, utilization of new technologies, international cooperation and research, health surveillance, and other health-related activities;

(B) evaluate the health care (including preventive care and responsive care) provided to members of the Armed Forces both before and after their deployment on military operations;

(C) monitor and direct government efforts to evaluate the health of members of the Armed Forces upon their return from deployment on military operations for purposes of ensuring the rapid identification of any trends in diseases or injuries among such members as a result of such operations;

(D) provide and direct the provision of ongoing training of health care personnel of the Department of Defense and the Department of Veterans Affairs in the evaluation and treatment of post-deployment diseases and health conditions, including nonspecific and unexplained illnesses; and

(E) make recommendations to the Department of Defense and the Department of Veterans Affairs regarding improvements in the provision of health care referred to in subparagraph (B), including improvements in the monitoring and treatment of members referred to in that subparagraph.

(2) The assessment shall cover the health care provided by the Department of Defense and, where applicable, by the Department of Veterans Affairs.

(c) REPORT.—(1) The agreement shall require the Academy to submit to the committees referred to in paragraph (3) a report on the results of the assessment under this section not later than one year after the date of enactment of this Act.

(2) The report shall include the following:

(A) The recommendation of the Academy as to the need for and feasibility of establishing an independent entity as described in subsection (b) and a justification of such recommendation.

(B) If the Academy recommends that an entity be established, the recommendations of the Academy as to—

(i) the organizational placement of the entity;

(ii) the personnel and other resources to be allocated to the entity;

(iii) the scope and nature of the activities and responsibilities of the entity; and

(iv) mechanisms for ensuring that any recommendations of the entity are carried out by the Department of Defense and the Department of Veterans Affairs.

(3) The report shall be submitted to the following:

(A) The Committee on Armed Services and the Committee on Veterans' Affairs of the Senate.

(B) The Committee on National Security and the Committee on Veterans' Affairs of the House of Representatives.

SEC. 710. LYME DISEASE.

Of the amounts authorized to be appropriated by this Act for Defense Health Programs, $3,000,000 shall be available for research and surveillance activities relating to Lyme disease and other tick-borne diseases.

SEC. 711. ACCESSIBILITY TO CARE UNDER TRICARE.

(a) REHABILITATIVE SERVICES FOR HEAD INJURIES.—The Secretary of Defense shall revise the TRICARE policy manual to clarify that rehabilitative services are available to a patient for a head injury when the treating physician certifies that such services would be beneficial for the patient and there is potential for the patient to recover from the injury.

(b) REVIEW OF ADEQUACY OF PROVIDER NETWORK.—The Secretary of Defense shall review the administration of the TRICARE Prime health plans to determine whether, for the region covered by each such plan, there is a sufficient number, distribution, and variety of qualified participating health care providers to ensure that all covered health care services, including specialty services, are available and accessible in a timely manner to all persons covered by the plan. If the Secretary determines during the review that, in the region, there is an inadequate network of providers to provide the covered benefits in proximity to the permanent duty stations of covered members of the uniformed services in the region, or in proximity to the residences of other persons covered by the plan in the region, the Secretary shall take such actions as are necessary to ensure that the TRICARE Prime plan network of providers in the region is adequate to provide for all covered benefits to be available and accessible in a timely manner to all persons covered by the plan.

SEC. 712. HEALTH BENEFITS FOR ABUSED DEPENDENTS OF MEMBERS OF THE ARMED FORCES.

Paragraph (1) of section 1076(e) of title 10, United States Code, is amended to read as follows:

"(1) The administering Secretary shall furnish an abused dependent of a former member of a uniformed service described in paragraph (4), during that period that the abused dependent is in receipt of transitional compensation under section 1059 of this title, with medical and dental care, including mental health services, in facilities of the uniformed services in accordance with the same eligibility and benefits as were applicable for that abused dependent during the period of active service of the former member.".

SEC. 713. PROCESS FOR WAIVING INFORMED CONSENT REQUIREMENT FOR ADMINISTRATION OF CERTAIN DRUGS TO MEMBERS OF ARMED FORCES.

(a) LIMITATION AND WAIVER.—(1) Section 1107 of title 10, United States Code, is amended—

(A) by redesignating subsection (f) as subsection (g); and

(B) by inserting after subsection (e) the following new subsection (f):

"(f) LIMITATION AND WAIVER.—(1) An investigational new drug or a drug unapproved for its applied use may not be administered to a member of the armed forces pursuant to a request or requirement referred to in subsection (a) unless—

"(A) the member provides prior consent to receive the drug in accordance with the requirements imposed under the regulations required under paragraph (4) of section 505(i) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(i)); or

"(B) the Secretary obtains—

"(i) under such section a waiver of such requirements; and

"(ii) a written statement that the President concurs in the determination of the Secretary required under paragraph (2) and with the Secretary's request for the waiver.

"(2) The Secretary of Defense may request a waiver referred to in paragraph (1)(B) in the case of any request or requirement to administer a drug under this section if the Secretary determines that obtaining consent is not feasible, is contrary to the best interests of the members involved, or is not in the best interests of national security. Only the Secretary may exercise the authority to make the request for the Department of Defense, and the Secretary may not delegate that authority.

"(3) The Secretary shall submit to the chairman and ranking minority member of each congressional defense committee a notification of each waiver granted pursuant to a request of the Secretary under paragraph (2), together with the concurrence of the President under paragraph (1)(B) that relates to the waiver and the justification for the request or requirement under subsection (a) for a member to receive the drug covered by the waiver.

"(4) In this subsection, the term 'congressional defense committee' means each of the following:

"(A) The Committee on Armed Services and the Committee on Appropriations of the Senate.

"(B) The Committee on National Security and the Committee on Appropriations of the House of Representatives.".

(2) The requirements for a concurrence of the President and a notification of committees of Congress that are set forth in section 1107(f) of title 10, United States Code (as added by paragraph (1)(B)) shall apply with respect to—

(A) each waiver of the requirement for prior consent imposed under the regulations required under paragraph (4) of section 505(i) of the Federal Food, Drug, and Cosmetic Act (or under any antecedent provision of law or regulations) that—

(i) has been granted under that section (or antecedent provision of law or regulations) before the date of the enactment of this Act; and

(ii) is applied after that date; and

(B) each waiver of such requirement that is granted on or after that date.

(b) TIME AND FORM OF NOTICE.—(1) Subsection (b) of such section is amended by striking out ", if practicable" and all that follows through "first administered to the member".

(2) Subsection (c) of such section is amended by striking out "unless the Secretary of Defense determines" and all that follows through "alternative method".

TITLE VIII—ACQUISITION POLICY, ACQUISITION MANAGEMENT, AND RELATED MATTERS

SEC. 801. PARA-ARAMID FIBERS AND YARNS.

(a) AUTHORIZED SOURCES.—Chapter 141 of title 10, United States Code is amended by adding at the end the following:

"§ 2410n. Foreign manufactured para-aramid fibers and yarns: procurement

"(a) AUTHORITY.—The Secretary of Defense may procure articles containing para-aramid fibers and yarns manufactured in a foreign country referred to in subsection (b).

"(b) FOREIGN COUNTRIES COVERED.—The authority under subsection (a) applies with respect to a foreign country that—

"(1) is a party to a defense memorandum of understanding entered into under section 2531 of this title; and

"(2) permits United States firms that manufacture para-aramid fibers and yarns to compete with foreign firms for the sale of para-aramid fibers and yarns in that country, as determined by the Secretary of Defense.

"(c) APPLICABILITY TO SUBCONTRACTS.—The authority under subsection (a) applies with respect to subcontracts under Department of Defense contracts as well as to such contracts.

"(d) DEFINITIONS.—In this section, the terms 'United States firm' and 'foreign firm' have the meanings given such terms in section 2532(d) of this title.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following:

"2410n. Foreign manufactured para-aramid fibers and yarns: procurement.".

SEC. 802. PROCUREMENT OF TRAVEL SERVICES FOR OFFICIAL AND UNOFFICIAL TRAVEL UNDER ONE CONTRACT.

(a) AUTHORITY.—Chapter 147 of title 10, United States Code, is amended by inserting after section 2490a the following new section:

"§ 2490b. Travel services: procurement for official and unofficial travel under one contract

"(a) AUTHORITY.—The head of an agency may enter into a contract for travel-related services that provides for the contractor to furnish services for both official travel and unofficial travel.

"(b) CREDITS, DISCOUNTS, COMMISSIONS, FEES.—(1) A contract entered into under this section may provide for credits, discounts, or commissions or other fees to accrue to the Department of Defense. The accrual and amounts of credits, discounts, or commissions or other fees may be determined on the basis of the volume (measured in the number or total amount of transactions or otherwise) of the travel-related sales that are made by the contractor under the contract.

"(2) The evaluation factors applicable to offers for a contract under this section may include a factor that relates to the estimated aggregate value of any credits, discounts, commissions, or other fees that would accrue to the Department of Defense for the travel-related sales made under the contract.

"(3) Commissions or fees received by the Department of Defense as a result of travel-related sales made under a contract entered into under this section shall be distributed as follows:

"(A) For amounts relating to sales for official travel, credit to appropriations available for official travel for the fiscal year in which the amounts were charged.

"(B) For amounts relating to sales for unofficial travel, deposit in nonappropriated fund accounts available for morale, welfare, and recreation programs.

"(c) DEFINITIONS.—In this section:

"(1) The term 'head of an agency' has the meaning given that term in section 2302(1) of this title.

"(2) The term 'official travel' means travel at the expense of the Federal Government.

"(3) The term 'unofficial travel' means personal travel or other travel that is not paid for or reimbursed by the Federal Government out of appropriated funds.

"(d) INAPPLICABILITY TO COAST GUARD AND NASA.—This section does not apply to the Coast Guard when it is not operating as a service in the Navy, nor to the National Aeronautics and Space Administration.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following:

"2490b. Travel services: procurement for official and unofficial travel under one contract.".

SEC. 803. LIMITATION ON USE OF PRICE PREFERENCE UPON ATTAINMENT OF CONTRACT GOAL FOR SMALL AND DISADVANTAGED BUSINESSES.

Section 2323(e)(3) of title 10, United States Code, is amended—

(1) by inserting "(A)" after "(3)";

(2) by inserting ", except as provided in (B)," after "the head of an agency may" in the first sentence; and

(3) by adding at the end the following:

"(B) The head of an agency may not exercise the authority under subparagraph (A) to enter into a contract for a price exceeding fair market cost in the fiscal year following a fiscal year in which the Department of Defense attained the 5 percent goal required by subsection (a).".

SEC. 804. DISTRIBUTION OF ASSISTANCE UNDER THE PROCUREMENT TECHNICAL ASSISTANCE COOPERATIVE AGREEMENT PROGRAM.

(a) CORRECTION OF DESCRIPTION OF GEOGRAPHIC UNIT.—Section 2413(c) of title 10, United States Code, is amended by striking out "region" and inserting in lieu thereof "district".

(b) ALLOCATION OF FUNDS.—(1) Section 2415 of title 10, United States Code, is repealed.

(2) The table of sections at the beginning of chapter 142 of such title is amended by striking the item relating to section 2415.

SEC. 805. DEFENSE COMMERCIAL PRICING MANAGEMENT IMPROVEMENT.

(a) SHORT TITLE.—This section may be cited as the "Defense Commercial Pricing Management Improvement Act of 1998".

(b) COMMERCIAL ITEMS EXEMPT FROM COST OR PRICING DATA CERTIFICATION REQUIREMENTS.—For the purposes of this section, the term "exempt item" means a commercial item that is exempt under subsection (b)(1)(B) of section 2306a of title 10, United States Code, or subsection (b)(1)(B) of section 304A of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254b), from the requirements for submission of certified cost or pricing data under that section.

(c) COMMERCIAL PRICING REGULATIONS.—(1) The Federal Acquisition Regulation issued in accordance with sections 6 and 25 of the Office of Federal Procurement Policy Act shall be revised to clarify the procedures and methods to be used for determining the reasonableness of prices of exempt items.

(2) The regulations shall, at a minimum, provide specific guidance on—

(A) the appropriate application and precedence of such price analysis tools as catalog-based pricing, market-based pricing, historical pricing, parametric pricing, and value analysis;

(B) the circumstances under which contracting officers should require offerors of exempt items to provide—

(i) uncertified cost or pricing data; or

(ii) information on prices at which the offeror has previously sold the same or similar items;

(C) the role and responsibility of Department of Defense support organizations, such as the Defense Contract Audit Agency, in procedures for determining price reasonableness; and

(D) the meaning and appropriate application of the term "purposes other than governmental purposes" in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12)).

(3) This subsection shall cease to be effective one year after the date on which final regulations prescribed pursuant to paragraph (1) take effect.

(d) Unified Management of Procurement of Exempt Commercial Items.—The Secretary of Defense shall develop and implement procedures to ensure that, to the maximum extent that is practicable and consistent with the efficient operation of the Department of Defense, a single item manager or contracting officer is responsible for negotiating and entering into all contracts for the procurement of exempt items from a single contractor.

(e) Commercial Price Trend Analysis.—(1) The Secretary of Defense shall develop and implement procedures that, to the maximum extent that is practicable and consistent with the efficient operation of the Department of Defense, provide for the collection and analysis of information on price trends for categories of exempt items described in paragraph (2).

(2) A category of exempt items referred to in paragraph (1) consists of exempt items—

(A) that are in a single Federal Supply Group or Federal Supply Class, are provided by a single contractor, or are otherwise logically grouped for the purpose of analyzing information on price trends; and

(B) for which there is a potential for the price paid to be significantly higher (on a percentage basis) than the prices previously paid in procurements of the same or similar items for the Department of Defense, as determined by the head of the procuring Department of Defense agency or the Secretary of the procuring military department on the basis of criteria prescribed by the Secretary of Defense.

(3) The head of a Department of Defense agency or the Secretary of a military department shall take appropriate action to address any unreasonable escalation in prices being paid for items procured by that agency or military department as identified in an analysis conducted pursuant to paragraph (1).

(4)(A) Not later than 180 days after the date of the enactment of this Act, the Under Secretary of Defense for Acquisition and Technology shall submit to the congressional defense committees a report describing the procedures prescribed under paragraph (1), including a description of the criteria established for the selection of categories of exempt items for price trend analysis.

(B) Not later than April 1 of each of fiscal years 2000, 2001, and 2002, the Under Secretary of Defense for Acquisition and Technology shall submit to the congressional defense committees a report on the analyses of price trends that were conducted for categories of exempt items during the preceding fiscal year under the procedures prescribed pursuant to paragraph (1). The report shall include a description of the actions taken to identify and address any unreasonable price escalation for the categories of items.

(f) Secretary of Defense To Act Through Under Secretary of Defense for Acquisition and Technology.—The Secretary of Defense shall act through the Under Secretary of Defense for Acquisition and Technology to carry out subsections (d) and (e).

SEC. 806. DEPARTMENT OF DEFENSE PURCHASES THROUGH OTHER AGENCIES.

(a) Extension of Regulations.—Not later than three months after the date of the enactment of this Act, the Secretary of Defense shall revise the regulations issued pursuant to section 844 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1720; 31 U.S.C. 1535 note) to cover all purchases of goods and services by the Department of Defense under contracts entered into or administered by any other agency pursuant to the authority of section 2304a of title 10, United States Code, or section 303H of the Federal Property and Administrative Services Act (41 U.S.C. 253h).

(b) Termination.—This section shall cease to be effective 1 year after the date on which final regulations prescribed pursuant to subsection (a) take effect.

SEC. 807. SUPERVISION OF DEFENSE ACQUISITION UNIVERSITY STRUCTURE BY UNDER SECRETARY OF DEFENSE FOR ACQUISITION AND TECHNOLOGY.

Section 1702 of title 10, United States Code, is amended by adding at the end the following: "The Under Secretary shall prescribe policies and requirements for the educational programs of the defense acquisition university structure established under section 1746 of this title.".

SEC. 808. REPEAL OF REQUIREMENT FOR DIRECTOR OF ACQUISITION EDUCATION, TRAINING, AND CAREER DEVELOPMENT TO BE WITHIN THE OFFICE OF THE UNDER SECRETARY OF DEFENSE FOR ACQUISITION AND TECHNOLOGY.

Section 1703 of title 10, United States Code, is amended by striking out "within the office of the Under Secretary".

SEC. 809. ELIGIBILITY OF INVOLUNTARILY DOWNGRADED EMPLOYEE FOR MEMBERSHIP IN AN ACQUISITION CORPS.

Section 1732(c) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(3) Paragraph (1) of subsection (b) shall not apply to an employee who—

"(A) having previously served in a position within a grade referred to in subparagraph (A) of that paragraph, is currently serving in the same position within a grade below GS–13, or in another position within that grade, by reason of a reduction in force or the closure or realignment of a military installation, or for any other reason other by reason of an adverse personnel action for cause; and

"(B) except as provided in paragraphs (1) and (2), satisfies the educational, experience, and other requirements prescribed under paragraphs (2), (3), and (4) of that subsection.".

SEC. 810. PILOT PROGRAMS FOR TESTING PROGRAM MANAGER PERFORMANCE OF PRODUCT SUPPORT OVERSIGHT RESPONSIBILITIES FOR LIFE CYCLE OF ACQUISITION PROGRAMS.

(a) Designation of Pilot Programs.—The Secretary of Defense, acting through the Secretaries of the military departments, shall designate 10 acquisition programs of the military departments as pilot programs on program manager responsibility for product support.

(b) Responsibilities of Program Managers.—The program manager for each acquisition program designated as a pilot program under this section shall have the responsibility for ensuring that the product support functions for the program are properly carried out over the entire life cycle of the program.

(c) Report.—Not later than February 1, 1999, the Secretary of Defense shall submit to the congressional defense committees a report on the pilot programs. The report shall contain the following:

(1) A description of the acquisition programs designated as pilot programs under subsection (a).

(2) For each such acquisition program, the specific management actions taken to ensure that the program manager has the responsibility for oversight of the performance of the product support functions.

(3) Any proposed change to law, policy, regulation, or organization that the Secretary considers desirable, and determines feasible to implement, for ensuring that the program managers are fully responsible under the pilot programs for the performance of all such responsibilities.

SEC. 811. SCOPE OF PROTECTION OF CERTAIN INFORMATION FROM DISCLOSURE.

Section 2371(i)(2)(A) of title 10, United States Code, is amended by striking out "cooperative agreement that includes a clause described in subsection (d)" and inserting in lieu thereof "cooperative agreement for performance of basic, applied, or advanced research authorized by section 2358 of this title".

SEC. 812. PLAN FOR RAPID TRANSITION FROM COMPLETION OF SMALL BUSINESS INNOVATION RESEARCH INTO DEFENSE ACQUISITION PROGRAMS.

(a) Plan Required.—Not later than February 1, 1999, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a plan for facilitating the rapid transition into Department of Defense acquisition programs of successful first phase and second phase activities under the Small Business Innovation Research program under section 9 of the Small Business Act (15 U.S.C. 638).

(b) Conditions.—The plan submitted under subsection (a) shall—

(1) be consistent with the Small Business Innovation Research program and with recent acquisition reforms that are applicable to the Department of Defense; and

(2) provide—

(A) a high priority for funding the projects under the Small Business Innovation Research program that are likely to be successful under a third phase agreement entered into pursuant to section 9(r) of the Small Business Act (15 U.S.C. 638(r)); and

(B) for favorable consideration, in the acquisition planning process, for funding projects under the Small Business Innovation Research program that are subject to a third phase agreement described in subparagraph (A).

SEC. 813. SENIOR EXECUTIVES COVERED BY LIMITATION ON ALLOWABILITY OF COMPENSATION FOR CERTAIN CONTRACTOR PERSONNEL.

(a) Defense Contracts.—Section 2324(l)(5) of title 10, United States Code, is amended to read as follows:

"(5) The term 'senior executive', with respect to a contractor, means the five most highly compensated employees in management positions at each home office and segment of the contractor.".

(b) Non-Defense Contracts.—Section 306(m)(2) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 256(m)(2)) is amended to read as follows:

"(2) The term 'senior executive', with respect to a contractor, means the five most highly compensated employees in management positions at each home office and segment of the contractor.".

(c) CONFORMING AMENDMENT.—Section 39(c)(2) of the Office of Federal Procurement Policy Act (41 U.S.C. 435(c)(2)) is amended to read as follows:

"(2) The term 'senior executive', with respect to a contractor, means the five most highly compensated employees in management positions at each home office and segment of the contractor.".

SEC. 814. SEPARATE DETERMINATIONS OF EXCEPTIONAL WAIVERS OF TRUTH IN NEGOTIATION REQUIREMENTS FOR PRIME CONTRACTS AND SUBCONTRACTS.

(a) DEFENSE PROCUREMENTS.—Section 2306a(a)(5) of title 10, United States Code, is amended to read as follows:

"(5) A waiver of requirements for submission of certified cost or pricing data that is granted under subsection (b)(1)(C) in the case of a contract or subcontract does not waive the requirement under paragraph (1)(C) for submission of cost or pricing data in the case of subcontracts under that contract or subcontract unless the head of the agency concerned determines that the requirement under that paragraph should be waived in the case of such subcontracts and justifies in writing the reasons for the determination.".

(b) NON-DEFENSE PROCUREMENTS.—Section 304A(a)(5) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254b(a)(5)) is amended to read as follows:

"(5) A waiver of requirements for submission of certified cost or pricing data that is granted under subsection (b)(1)(C) in the case of a contract or subcontract does not waive the requirement under paragraph (1)(C) for submission of cost or pricing data in the case of subcontracts under that contract or subcontract unless the head of the executive agency concerned determines that the requirement under that paragraph should be waived in the case of such subcontracts and justifies in writing the reasons for the determination.".

SEC. 815. FIVE-YEAR AUTHORITY FOR SECRETARY OF THE NAVY TO EXCHANGE CERTAIN ITEMS.

(a) BARTER AUTHORITY.—The Secretary of the Navy may enter into a barter agreement to exchange trucks and other tactical vehicles for the repair and remanufacture of ribbon bridges for the Marine Corps in accordance with section 201(c) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481(c)), except that the requirement for items exchanged under that section to be similar items shall not apply to the authority under this subsection.

(b) PERIOD OF AUTHORITY.—The authority to enter into agreements under subsection (a) and to make exchanges under any such agreement is effective during the 5-year period beginning on October 1, 1998, and ending at the end of September 30, 2003.

SEC. 816. CLARIFICATION OF RESPONSIBILITY FOR SUBMISSION OF INFORMATION ON PRICES PREVIOUSLY CHARGED FOR PROPERTY OR SERVICES OFFERED.

(a) ARMED SERVICES PROCUREMENTS.—Section 2306a(d)(1) of title 10, United States Code is amended—

(1) by striking out "the data submitted shall" in the second sentence and inserting in lieu thereof the following: "the contracting officer shall require that the data submitted"; and

(2) by adding at the end the following: "Submission of data required of an offeror under the preceding sentence in the case of a contract or subcontract shall be a condition for the eligibility of the offeror to enter into the contract or subcontract.".

(b) CIVILIAN AGENCY PROCUREMENTS.—Section 304A(d)(1) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254b(d)(1)), is amended—

(1) by striking out "the data submitted shall" in the second sentence and inserting in lieu thereof the following: "the contracting officer shall require that the data submitted"; and

(2) by adding at the end the following: "Submission of data required of an offeror under the preceding sentence in the case of a contract or subcontract shall be a condition for the eligibility of the offeror to enter into the contract or subcontract.".

(c) CRITERIA FOR CERTAIN DETERMINATIONS.—Not later than 180 days after the date of the enactment of this Act, the Federal Acquisition Regulation shall be amended to include criteria for contracting officers to apply for determining the specific price information that an offeror should be required to submit under section 2306(d) of title 10, United States Code, or section 304A(d) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254b(d)).

SEC. 817. DENIAL OF QUALIFICATION OF A SMALL DISADVANTAGED BUSINESS SUPPLIER.

(a) No later than December 1, 1998, the Secretary shall submit to the Congress a report recommending alternative means through which a refiner that qualifies as a small disadvantaged business and that delivers fuel by barge to Defense Energy Supply Point-Anchorage under a contract with the Defense Energy Supply Center can—

(1) fulfill its contractual obligations,

(2) maintain its status as a small disadvantaged business, and

(3) receive the small disadvantaged business premium for the total amount of fuel under the contract,

when ice conditions in Cook Inlet threaten physical delivery of such fuel.

(b) Any inability by such refiner to satisfy its contractual obligations to the Defense Energy Supply Center for the delivery of fuel to Defense Energy Supply Point-Anchorage may not be used as a basis for the denial of such refiner's small disadvantaged business status or small disadvantaged business premium for the total amount of fuel under the contract, where such inability is a result of ice conditions, as determined by the United States Coast Guard, in Cook Inlet through February 1999, and if the Secretary of Defense determines that such inability will result in an inequity to the refiner.

TITLE IX—DEPARTMENT OF DEFENSE ORGANIZATION AND MANAGEMENT

SEC. 901. REDUCTION IN NUMBER OF ASSISTANT SECRETARY OF DEFENSE POSITIONS.

(a) NINE POSITIONS.—Section 138(a) of title 10, United States Code, is amended by striking out "ten" and insert in lieu thereof "nine".

(b) CONFORMING AMENDMENT.—The item relating to the Assistant Secretaries of Defense in section 5315 of title 5, United States Code, is amended to read as follows:

"Assistant Secretaries of Defense (9).".

SEC. 902. RENAMING OF POSITION OF ASSISTANT SECRETARY OF DEFENSE FOR COMMAND, CONTROL, COMMUNICATIONS, AND INTELLIGENCE.

Section 138(b)(3) of title 10, United States Code is amended to read as follows:

"(3) One of the Assistant Secretaries shall be the Assistant Secretary of Defense for Space and Information Superiority. The Assistant Secretary—

"(A) shall have as his principal duty the overall supervision of the functions of the Department of Defense that relate to space, intelligence, information security, information operations, command, control, communications, computers, surveillance, reconnaissance, and electromagnetic spectrum; and

"(B) shall be the Chief Information Officer of the Department of Defense.".

SEC. 903. AUTHORITY TO EXPAND THE NATIONAL DEFENSE UNIVERSITY.

Section 2165(b) of title 10, United States Code, is amended by adding at the end the following:

"(7) Any other educational institution of the Department of Defense that the Secretary considers appropriate and designates as an institution of the university.".

SEC. 904. REDUCTION IN DEPARTMENT OF DEFENSE HEADQUARTERS STAFF.

(a) REDUCTION REQUIRED.—(1) The Secretary of Defense shall reduce the number of Federal Government employees and members of the Armed Forces on the headquarters staffs of Department of Defense organizations in accordance with this section. The Secretary shall achieve the required reductions not later than September 30, 2003.

(2) The total number of Federal Government employees and members of the Armed Forces on the headquarters staffs of all organizations within a category of organizations described in paragraph (4) shall be reduced below the baseline number for the category by the percentage specified for the category in that paragraph. In the administration of this section, the number of employees employed on a basis other than a full time basis shall be converted to, and expressed as, the equivalent number of full time employees.

(3) For the purposes of this subsection, the baseline number for the organizations in a category is the total number of Federal Government employees and members of the Armed Forces on the headquarters staffs of those organizations on October 1, 1996.

(4) The categories of organizations, and the percentages applicable under paragraph (1) to the organizations in such categories, are as follows:

(A) The Office of the Secretary of Defense and associated activities, a reduction of 33 percent.

(B) Defense agencies, a reduction of 21 percent.

(C) Department of Defense field activities and other operating organizations reporting to the Office of the Secretary of Defense, a reduction of 36 percent.

(D) The Joint Staff and associated activities, a reduction of 29 percent.

(E) The headquarters of the combatant commands and associated activities, a reduction of 7 percent.

(F) Other headquarters elements (including the headquarters of the military departments and their major commands) and associated activities, a reduction of 29 percent.

(b) LIMITED RELIEF FROM PROHIBITION ON MANAGING BY END-STRENGTH.—(1) The Secretary may waive the requirements and restrictions of section 129 of title 10, United States Code, for an organization or activity covered by subsection (a) to the extent that the Secretary determines necessary to achieve the personnel reductions required by that subsection.

(2) Not later than 30 days after exercising the waiver authority under paragraph (1) in the case of an organization or activity, the Secretary shall notify the congressional defense committees of the scope and duration of the waiver and the reasons for granting the waiver.

(c) MANAGEMENT BY BUDGET.—(1) The Secretary shall waive the requirement under subsection (a) to reduce the number of personnel on the headquarters staff of an organization or activity if the Secretary determines that the budget authority available for the organization or activity for fiscal year 2003 has been reduced below the budget authority available for the organization or activity for fiscal year 1996 by at least the percentage equal to one-fifth of the percentage specified in subsection (a)(4) for the category of the organization or activity.

(2) In this subsection, the term "budget authority" has the meaning given that term in section 3(2)(A) of the Congressional Budget Act of 1974 (2 U.S.C. 622(2)(A)).

(d) JOINT AND DEFENSE-WIDE ACTIVITIES.—If the Secretary consolidates functions in a Department of Defense-wide or joint organization or activity described in subparagraph (A), (B), (C), (D), or (E) of subsection (a)(4) in order to meet the requirement for reduction in the personnel of the other headquarters (including the headquarters of the military departments and their major commands) referred to in subparagraph (F) of such subsection, the Secretary may apply to that organization or activity, instead of the percentage that would otherwise apply under such subsection, a lesser percentage that is appropriate to reflect the increased responsibilities of the organization or activity.

(e) REPORT.—Not later than March 1, 1999, the Secretary of Defense shall submit to the congressional defense committees a report containing a plan to implement the personnel reductions required by this section.

(f) CATEGORIES DEFINED.—In this section:

(1) The term "Office of the Secretary of Defense and associated activities" means the following organizations and activities:

(A) The Office of the Secretary of Defense, as defined in section 131 of title 10, United States Code.

(B) The defense support activities that perform technical and analytical support for the Office of the Secretary of Defense.

(2) The term "defense agencies" means the following organizations and activities:

(A) The Ballistic Missile Defense Organization.

(B) The Defense Advanced Research Projects Agency.

(C) The Defense Commissary Agency.

(D) The Defense Contract Audit Agency.

(E) The Defense Finance and Accounting Services.

(F) The Defense Information Systems Agency.

(G) The Defense Legal Services Agency.

(H) The Defense Logistics Agency.

(I) The Defense Security Assistance Agency.

(J) The Defense Security Service.

(K) The Defense Special Weapons Agency.

(L) The On-Site Inspection Agency.

(M) The Treaty Compliance and Threat Reduction Agency.

(3) The term "Department of Defense field activities and other operating organizations reporting to the Office of the Secretary of Defense" means the following organizations and activities:

(A) The American Forces Information Service.

(B) The TRICARE Support Office.

(C) The Office of Economic Adjustment.

(D) The Department of Defense Education Activity.

(E) Washington Headquarters Services.

(F) The Department of Defense Human Resources Activity.

(G) The Defense Prisoner of War/Missing Personnel Office.

(H) The Defense Medical Programs Activity.

(I) The Defense Technology Security Administration.

(J) The C4I Support Activity.

(K) The Plans and Program Analysis Support Center.

(L) The Defense Airborne Reconnaissance Office.

(M) The Defense Acquisition University.

(N) The Director of Military Support.

(O) The Defense Technical Information Center.

(P) The National Defense University.

(4) The term "Joint Staff and associated activities" means the following organizations and activities:

(A) The Joint Staff referred to in section 155 of title 10, United States Code.

(B) Department of Defense activities that are controlled by the Chairman of the Joint Chiefs of Staff and report directly to the Joint Staff.

(5) The term "headquarters of the combatant commands" means the headquarters of the combatant commands, as defined in section 161(c)(3) of title 10, United States Code.

(6) The term "other headquarters elements (including the headquarters of the military departments and their major commands)" means the following organizations and activities:

(A) The military department headquarters listed and defined in Department of Defense Directive 5100.73, "Department of Defense Management Headquarters and Headquarters Support Activities", as in effect on November 12, 1996.

(B) Other military headquarters elements defined in such directive that are not otherwise covered by paragraphs (1), (2), (3), (4), and (5).

(g) REPEAL OF SUPERSEDED PROVISIONS.—(1) Sections 130a and 194 of title 10, United States Code, are repealed.

(2)(A) The table of sections at the beginning of chapter 3 of such title is amended by striking out the item relating to section 130a.

(B) The table of sections at the beginning of chapter 8 of such title is amended by striking out the item relating to section 194.

SEC. 905. PERMANENT REQUIREMENT FOR QUADRENNIAL DEFENSE REVIEW.

(a) REVIEW REQUIRED.—Chapter 2 of title 10, United States Code, is amended by inserting after section 116 the following:

"§ 117. Quadrennial defense review

"(a) REVIEW REQUIRED.—The Secretary of Defense, in consultation with the Chairman of the Joint Chiefs of Staff, shall conduct in each year in which a President is inaugurated a comprehensive examination of the defense strategy, force structure, force modernization plans, infrastructure, budget plan, and other elements of the defense program and policies with a view toward determining and expressing the defense strategy of the United States and establishing a revised defense plan for the ensuing 10 years and a revised defense plan for the ensuing 20 years.

"(b) CONSIDERATION OF REPORTS OF NATIONAL DEFENSE PANEL.—In conducting the review, the Secretary shall take into consideration the reports of the National Defense Panel submitted under section 181(d) of this title.

"(c) REPORT TO CONGRESS.—The Secretary shall submit a report on each review to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives not later than September 30 of the year in which the review is conducted. The report shall include the following:

"(1) The results of the review, including a comprehensive discussion of the defense strategy of the United States and the force structure best suited to implement that strategy.

"(2) The threats examined for purposes of the review and the scenarios developed in the examination of such threats.

"(3) The assumptions used in the review, including assumptions relating to the cooperation of allies and mission-sharing, levels of acceptable risk, warning times, and intensity and duration of conflict.

"(4) The effect on the force structure of preparations for and participation in peace operations and military operations other than war.

"(5) The effect on the force structure of the utilization by the Armed Forces of technologies anticipated to be available for the ensuing 10 years and technologies anticipated to be available for the ensuing 20 years, including precision guided munitions, stealth, night vision, digitization, and communications, and the changes in doctrine and operational concepts that would result from the utilization of such technologies.

"(6) The manpower and sustainment policies required under the defense strategy to support engagement in conflicts lasting more than 120 days.

"(7) The anticipated roles and missions of the reserve components in the defense strategy and the strength, capabilities, and equipment necessary to assure that the reserve components can capably discharge those roles and missions.

"(8) The appropriate ratio of combat forces to support forces (commonly referred to as the "tooth-to-tail" ratio) under the defense strategy, including, in particular, the appropriate number and size of headquarter units and Defense Agencies for that purpose.

"(9) The air-lift and sea-lift capabilities required to support the defense strategy.

"(10) The forward presence, pre-positioning, and other anticipatory deployments necessary under the defense strategy for conflict deterrence and adequate military response to anticipated conflicts.

"(11) The extent to which resources must be shifted among two or more theaters under the defense strategy in the event of conflict in such theaters.

"(12) The advisability of revisions to the Unified Command Plan as a result of the defense strategy.

"(13) Any other matter the Secretary considers appropriate.".

(b) NATIONAL DEFENSE PANEL.—Chapter 7 of such title is amended by adding at the end the following:

"§ 181. National Defense Panel

"(a) ESTABLISHMENT.—Not later than January 1 of each year immediately preceding a year in which a President is to be inaugurated, the Secretary of Defense shall establish a nonpartisan, independent panel to be known as the National Defense Panel. The Panel shall have the duties set forth in this section.

"(b) MEMBERSHIP.—The Panel shall be composed of a chairman and eight other individuals appointed by the Secretary, in consultation with the chairman and ranking member of the Committee on Armed Services of the Senate and the chairman and ranking member of the Committee on National Security of the House of Representatives, from among individuals in the private sector who are recognized experts in matters relating to the national security of the United States.

"(c) DUTIES.—The Panel shall—

"(1) conduct and submit to the Secretary of Defense and to the Committee on Armed Services of the Senate and the Committee on

National Security of the House of Representatives a comprehensive assessment of the defense strategy, force structure, force modernization plans, infrastructure, budget plan, and other elements of the defense program and policies with a view toward recommending a defense strategy of the United States and a revised defense plan for the ensuing 10 years and a revised defense plan for the ensuing 20 years; and

"(2) identify issues that the Panel recommends for assessment during the next review to be conducted under section 117 of this title.

"(d) Report.—(1) The Panel, in the year that it is conducting an assessment under subsection (c), shall submit to the Secretary of Defense and to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives two reports on its activities and the findings and recommendations of the Panel, including any recommendations for legislation that the Panel considers appropriate, as follows:

"(A) An interim report not later than July 1 of the year.

"(B) A final report not later than December 1 of the year.

"(2) Not later than December 15 of the year in which the Secretary receive a final report under paragraph (1)(B), the Secretary shall submit to the committees referred to in subsection (b) a copy of the report together with the Secretary's comments on the report.

"(e) Information From Federal Agencies.—The Panel may secure directly from the Department of Defense and any of its components and from any other Federal department and agency such information as the Panel considers necessary to carry out its duties under this section. The head of the department or agency concerned shall ensure that information requested by the Panel under this subsection is promptly provided.

"(f) Personnel Matters.—(1) Each member of the Panel shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5 for each day (including travel time) during which the member is engaged in the performance of the duties of the Panel.

"(2) The members of the Panel shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5 while away from their homes or regular places of business in the performance of services for the Panel.

"(3)(A) The chairman of the Panel may, without regard to the civil service laws and regulations, appoint and terminate an executive director and a staff if the Panel determines that an executive director and staff are necessary in order for the Panel to perform its duties effectively. The employment of an executive director shall be subject to confirmation by the Panel.

"(B) The chairman may fix the compensation of the executive director without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5 relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

"(4) Any Federal Government employee may be detailed to the Panel without reimbursement of the employee's agency, and such detail shall be without interruption or loss of civil service status or privilege. The Secretary shall ensure that sufficient personnel are detailed to the Panel to enable the Panel to carry out its duties effectively.

"(5) To the maximum extent practicable, the members and employees of the Panel shall travel on military aircraft, military ships, military vehicles, or other military conveyances when travel is necessary in the performance of a duty of the Panel, except that no such aircraft, ship, vehicle, or other conveyance may be scheduled primarily for the transportation of any such member or employee when the cost of commercial transportation is less expensive.

"(g) Administrative Provisions.—(1) The Panel may use the United States mails and obtain printing and binding services in the same manner and under the same conditions as other departments and agencies of the Federal Government.

"(2) The Secretary shall furnish the Panel any administrative and support services requested by the Panel.

"(3) The Panel may accept, use, and dispose of gifts or donations of services or property.

"(h) Payment of Panel Expenses.—The compensation, travel expenses, and per diem allowances of members and employees of the Panel shall be paid out of funds available to the Department of Defense for the payment of compensation, travel allowances, and per diem allowances, respectively, of civilian employees of the Department. The other expenses of the Panel shall be paid out of funds available to the Department for the payment of similar expenses incurred by the Department.

"(i) Termination.—The Panel shall terminate at the end of the year following the year in which the Panel submits its final report under subsection (d)(1)(B). For the period that begins 90 days after the date of submittal of the report, the activities and staff of the panel shall be reduced to a level that the Secretary of Defense considers sufficient to continue the availability of the panel for consultation with the Secretary of Defense and with the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives.".

(c) Clerical Amendments.—(1) The table of sections at the beginning of chapter 2 of title 10, United States Code, is amended by inserting after the item relating to section 116 the following:

"117. Quadrennial defense review.".

(2) The table of sections at the beginning of chapter 7 of such title is amended by adding at the end the following:

"181. National Defense Panel.".

(d) Continuation of 1997 National Defense Panel.—Section 924(j) of the Military Force Structure Review Act of 1996 (subtitle B of title IX of Public Law 104–201; 110 Stat. 2626; 10 U.S.C. 111 note) is amended to read as follows:

"(j) Termination.—The Panel shall continue until the first National Defense Panel is established under section 181(a) of title 10, United States Code, and shall then terminate. The activities and staff of the panel shall be reduced to a level that the Secretary of Defense considers sufficient to continue the availability of the panel for consultation with the Secretary of Defense and with the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives.".

SEC. 906. MANAGEMENT REFORM FOR RESEARCH, DEVELOPMENT, TEST, AND EVALUATION.

(a) Requirements for Analysis and Plan.—(1) The Secretary of Defense, acting through the Under Secretary of Defense for Acquisition and Technology, shall analyze the structures and processes of the Department of Defense for management of its laboratories and test and evaluation centers and, taking into consideration the analysis, develop a plan for improving the management of the laboratories and centers. The plan shall include the reorganizations and reforms that the Secretary considers appropriate.

(2) The analysis shall include the following:

(A) Opportunities to achieve efficiency and reduce duplication of efforts by consolidating responsibilities for research, development, test, and evaluation, by area or function, in a military department as a lead agency or executive agent.

(B) Reforms of the management processes of Department of Defense laboratories and test and evaluation centers that would reduce costs and increase efficiency in the conduct of research, development, test, and evaluation.

(C) Opportunities for Department of Defense laboratories and test and evaluation centers to enter into partnership arrangements with laboratories in industry, academia, and other Federal agencies that demonstrate leadership, initiative, and innovation in research, development, test, and evaluation.

(D) The benefits of consolidating test ranges and test facilities under one management structure.

(E) Personnel demonstration projects and pilot projects that are being carried out to address the challenges for and constraints on recruitment and retention of scientists and engineers.

(F) The extent to which there is disseminated within the Department of Defense laboratories and test and evaluation centers information regarding initiatives that have successfully improved efficiency through reform of management processes and other means.

(G) Any cost savings that can be derived directly from reorganization of management structures.

(H) Options for reinvesting any such cost savings in the Department of Defense laboratories and test and evaluation centers.

(3) The Secretary shall submit the plan required under paragraph (1) to the congressional defense committees not later than 180 days after the date of the enactment of this Act.

(b) Cost-Based Management Information System.—(1) The Secretary of Defense shall develop a plan, including a schedule, for establishing a cost-based management information system for Department of Defense laboratories and test and evaluation centers. The system shall provide for accurately identifying and comparing the costs of operating each laboratory and each center.

(2) In preparing the plan, the Secretary shall assess the feasibility and desirability of establishing a common methodology for assessing costs. The Secretary shall consider the use of a revolving fund as one potential methodology.

(3) The Secretary shall submit the plan required under paragraph (1) to the congressional defense committees not later than 90 days after the date of the enactment of this Act.

SEC. 907. RESTRUCTURING OF ADMINISTRATION OF FISHER HOUSES.

(a) Administration as Nonappropriated Fund Instrumentality.—(1) Chapter 147 of title 10, United States Code, is amended by adding at the end the following:

"§2490b. Fisher Houses: administration as nonappropriated fund instrumentality

"(a) Fisher Houses and Suites.—(1) For the purposes of this section, a Fisher House is a housing facility that—

"(A) is located in proximity to a health care facility of the Army, the Air Force, or the Navy;

"(B) is available for residential use on a temporary basis by patients of that health care facility, members of the families of such patients, and others providing the equivalent of familial support for such patients; and

"(C) has been constructed and donated by—

"(i) the Zachary and Elizabeth M. Fisher Armed Services Foundation; or

"(ii) another source, if the Secretary designates the housing facility as a Fisher House.

"(2) For the purposes of this section, a Fisher Suite is one or more rooms that meet the requirements of subparagraph (A) and (B) of paragraph (1), are constructed, altered, or repaired and donated by a source described in subparagraph (C) of that paragraph, and are designated by the Secretary concerned as a Fisher Suite.

"(b) Nonappropriated Fund Instrumentality.—The Secretary of a military department shall administer all Fisher Houses and Fisher Suites associated with health care facilities of that military department as a nonappropriated fund instrumentality of the United States.

"(c) Governance.—The Secretary shall establish a system for the governance of the nonappropriated fund instrumentality.

"(d) Central Fund.—The Secretary shall establish a single fund as the source of funding for the operation, maintenance, and improvement of all Fisher Houses and Fisher Suites of the nonappropriated fund instrumentality.

"(e) Acceptance of Contributions and Fees.—The Secretary of a military department may accept money, property, and services donated for the support of a Fisher House or Fisher Suite, and may impose fees relating to the use of the Fisher Houses and Fisher Suites. All monetary donations, and the proceeds of the disposal of any other donated property, accepted by the Secretary under this subsection shall be credited to the fund established under subsection (d) for the Fisher Houses and Fisher Suites of that military department and shall be available for all Fisher Houses and Fisher Suites of that military department.

"(f) Annual Report.—Not later than January 15 of each year, the Secretary of each military department shall submit a report on Fisher House operations to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives. The report shall include, at a minimum, the following:

"(1) The amount in the fund established by the Secretary for the Fisher Houses and Fisher Suites under subsection (d), as of October 1 of the previous year.

"(2) The operation of the fund during the fiscal year ending on the day before that date, including—

"(A) all gifts, fees, and interest credited to the fund; and

"(B) the disbursements from the fund.

"(3) The budget for the operation of the Fisher Houses and Fisher Suites for the fiscal year in which the report is submitted.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following:

"2490b. Fisher Houses: administration as nonappropriated fund instrumentality.".

(b) Funding Transition.—(1) Not later than 90 days after the date of the enactment of this Act the Secretary of each military department shall—

(A) establish the fund required under section 2490b(d) of title 10, United States Code (as added by subsection (a)); and

(B) close the Fisher House trust fund for that department and transfer the amounts in the closed fund to the newly established fund.

(2) Of the amounts appropriated for the Navy pursuant to section 301, the Secretary of the Navy shall transfer to the fund established by the Secretary under section 2490b(d) of title 10, United States Code (as added by subsection (a)) such amount as the Secretary considers appropriate for establishing in the fund a corpus sufficient for operating Fisher Houses and Fisher Suites of the Navy.

(3) Of the amounts appropriated for the Air Force pursuant to section 301, the Secretary of the Air Force shall transfer to the fund established by the Secretary under section 2490b(d) of title 10, United States Code (as added by subsection (a)) such amount as the Secretary considers appropriate for establishing in the fund a corpus sufficient for operating Fisher Houses and Fisher Suites of the Air Force.

(4) The Secretary of each military department, upon completing the actions required of the Secretary under the preceding paragraphs of this subsection, shall submit to Congress a report containing—

(A) the Secretary's certification that those actions have been completed; and

(B) a statement of the amount deposited in the newly established fund.

(5) Amounts transferred to a fund established under section 2490b(d) of title 10, United States Code (as added by subsection (a)), shall be available without fiscal year limitation for the purposes for which the fund is established and shall be administered as nonappropriated funds.

(c) Conforming Repeals.—(1) Section 2221 of title 10, United States Code, and the item relating to that section in the table of sections at the beginning of chapter 131 of such title, are repealed.

(2) Section 1321(a) of title 31, United States Code, is amended by striking out paragraphs (92), (93), and (94).

(3) The amendments made by paragraphs (1) and (2) shall take effect 90 days after the date of the enactment of this Act.

SEC. 908. REDESIGNATION OF DIRECTOR OF DEFENSE RESEARCH AND ENGINEERING AS DIRECTOR OF DEFENSE TECHNOLOGY AND COUNTERPROLIFERATION AND TRANSFER OF RESPONSIBILITIES.

(a) Redesignation.—Subsection (a) of section 137 of title 10, United States Code, is amended by striking out "Director of Defense Research and Engineering" and inserting in lieu thereof "Director of Defense Technology and Counterproliferation".

(b) Duties.—Subsection (b) of such section 137 is amended to read as follows:

"(b) The Director of Defense Technology and Counterproliferation shall—

"(1) except as otherwise prescribed by the Secretary of Defense, perform such duties relating to research and engineering as the Under Secretary of Defense for Acquisition and Technology may prescribe;

"(2) advise the Secretary of Defense on matters relating to nuclear energy and nuclear weapons;

"(3) serve as the Staff Director of the Joint Nuclear Weapons Council under section 179 of this title; and

"(4) perform such other duties as the Secretary of Defense may prescribe.".

(c) Abolishment of Position of Assistant to the Secretary of Defense for Nuclear and Chemical and Biological Defense Programs.—Section 142 of such title is repealed.

(d) Conforming Amendments.—(1) Title 5, United States Code, is amended as follows:

(A) In section 5315, by striking out "Director of Defense Research and Engineering" and inserting in lieu thereof the following:

"Director of Defense Technology and Counterproliferation".

(B) In section 5316, by striking out "Assistant to the Secretary of Defense for Nuclear and Chemical and Biological Defense Programs, Department of Defense.".

(2) Title 10, United States Code, is amended as follows:

(A) In section 131(b), by striking out paragraph (6) and inserting in lieu thereof the following:

"(6) Director of Defense Technology and Counterproliferation.".

(B) In section 138(d), by striking out "Director of Defense Research and Engineering" and inserting in lieu thereof "Director of Defense Technology and Counterproliferation".

(C) In section 179(c)(2), by striking out "Assistant to the Secretary of Defense for Nuclear and Chemical and Biological Defense Programs" and inserting in lieu thereof "Director of Defense Technology and Counterproliferation".

(D) In section 2350a(g)(3), by striking out "Deputy Director, Defense Research and Engineering (Test and Evaluation)" and inserting in lieu thereof "Under Secretary of Defense for Acquisition and Technology".

(E) In section 2617(a), by striking out "Director of Defense Research and Engineering" and inserting in lieu thereof "Director of Defense Technology and Counterproliferation".

(F) In section 2902(b), by striking out paragraph (1) and inserting in lieu thereof the following:

"(1) The Director of Defense Technology and Counterproliferation.".

(3) Section 257(a) of the National Defense Authorization Act for Fiscal Year 1995 (10 U.S.C. 2358 note) is amended by striking out "Director of Defense Research and Engineering" and inserting in lieu thereof "Director of Defense Technology and Counterproliferation".

(4) The National Defense Authorization Act for Fiscal Year 1994 is amended as follows:

(A) In section 802(a) (10 U.S.C. 2358 note), by striking out "Director of Defense Research and Engineering" and inserting in lieu thereof "Director of Defense Technology and Counterproliferation".

(B) In section 1605(a)(5), (22 U.S.C. 2751 note) by striking out "Assistant to the Secretary of Defense for Nuclear and Chemical and Biological Defense Programs" and inserting in lieu thereof "Director of Defense Technology and Counterproliferation".

(e) Clerical Amendments.—(1) The section heading of section 137 of title 10, United States Code, is amended to read as follows:

"§137. Director of Defense Technology and Counterproliferation".

(2) The table of sections at the beginning of chapter 4 of title 10, United States Code, is amended—

(A) by striking out the item relating to section 137 and inserting in lieu thereof the following:

"137. Director of Defense Technology and Counterproliferation.";

and

(B) by striking out the item relating to section 142.

SEC. 909. CENTER FOR HEMISPHERIC DEFENSE STUDIES.

(a) FUNDING FOR CENTER FOR HEMISPHERIC DEFENSE STUDIES.—(1) Chapter 108 of title 10, United States Code, is amended by adding at the end the following:

"§ 2166. National Defense University: funding of component institution

"Funds available for the payment of personnel expenses under the Latin American cooperation authority set forth in section 1050 of this title are also available for the costs of the operation of the Center for Hemispheric Defense Studies.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following:

"2166. National Defense University: funding of component institution.".

(b) CONFORMING AMENDMENT.—Section 1050 of title 10, United States Code, is amended by inserting "Secretary of Defense or the" before "Secretary of a military department".

SEC. 910. MILITARY AVIATION ACCIDENT INVESTIGATIONS.

(a) FINDINGS.—Congress makes the following findings:

(1) In February 1996, the Government Accounting Office released a report highlighting a 75 percent reduction in aviation Class A mishaps, a 70 percent reduction in aviation mishap fatalities and a 65 percent reduction in Class A mishap rates from 1975–1995 (Military Aircraft Safety—Significant Improvements since 1975).

(2) In February 1998, the Government Accounting Office completed a follow-up review of military aircraft safety, noting that the military experienced fewer serious aviation mishaps in fiscal years 1996 and 1997 than in previous fiscal years (Military Aircraft Safety: Serious Accidents Remain at Historically Low Levels).

(3) The report required by section 1046 of the National Defense Authorization Act for fiscal year 1998 (Public Law 105–85; 111 Stat. 1888) concluded, "DoD found no evidence that changing existing investigation processes to more closely resemble those of the NTSB would help DoD to find more answers more quickly, or accurately".

(4) The Department of Defense must further improve its aviation safety by fully examining all options for improving or replacing its current aviation accident investigation processes.

(5) The inter-service working group formed as a result of that report has contributed to progress in military aviation accident investigations by identifying ways to improve family assistance, as has the formal policy direction coordinated by the Office of the Secretary of Defense.

(6) Such progress includes the issuance of Air Force Instruction 90–701 entitled "Assistance to Families of Persons Involved in Air Force Aviation Mishaps", that attempts to meet the need for a more timely flow of relevant information to families, a family liaison officer, and the establishment of the Air Force Office of Family Assistance. However, formal policy directions and Air Force instructions have not adequately addressed the failure to provide primary next of kin of members of the Armed Forces involved in military aviation accidents with interim reports regarding the course of investigations into such accidents, and the Department of Defense must improve its procedures for informing the families of the persons involved in military aviation mishaps.

(7) The report referred to in paragraph (3) concluded that the Department would "benefit from the disappearance of the misperception that the privileged portion of the safety investigation exists to hide unfavorable information".

(8) That report further specified that "[e]ach Military Department has procedures in place to place to provide redacted copies of the final [privileged] safety report to the families. However, families must formally request a copy of the final safety investigation report".

(9) Current efforts to improve family notification would be enhanced by the issuance by the Secretary of Defense of uniform regulations to improve the timeliness and reliability of information provided to the primary next of kin of persons involved in military aviation accidents during and following both the legal investigation and safety investigation phases of such investigations.

(b) EVALUATION OF DEPARTMENT OF DEFENSE AVIATION ACCIDENT INVESTIGATION PROCEDURES.—(1) The Secretary of Defense shall establish a task force to—

(A) review the procedures employed by the Department of Defense to conduct military aviation accident investigations; and

(B) identify mechanisms for improving such investigations and the military aviation accident investigation process.

(2) The Secretary shall appoint to the task force the following:

(A) An appropriate number of members of the Armed Forces, including both members of the regular components and the reserve components, who have experience relating to military aviation or investigations into military aviation accidents.

(B) An appropriate number of former members of the Armed Forces who have such experience.

(C) With the concurrence of the member concerned, a member of the National Transportation Safety Board.

(3)(A) The task force shall submit to Congress an interim report and a final report on its activities under this subsection. The interim report shall be submitted on December 1, 1998, and the final report shall be submitted on March 31, 1999.

(B) Each report under subparagraph (A) shall include the following:

(i) An assessment of the advisability of conducting all military aviation accident investigations through an entity that is independent of the military departments.

(ii) An assessment of the effectiveness of the current military aviation accident investigation process in identifying the cause of military aviation accidents and correcting problems so identified in a timely manner.

(iii) An assessment whether or not the procedures for sharing the results of military aviation accident investigations among the military departments should be improved.

(iv) An assessment of the advisability of centralized training and instruction for military aircraft investigators.

(v) An assessment of any costs or cost avoidances that would result from the elimination of any overlap in military aviation accident investigation activities conducted under the current so-called "two-track" investigation process.

(vi) Any improvements or modifications in the current military aviation accident investigation process that the task force considers appropriate to reduce the potential for aviation accidents and increase public confidence in the process.

(c) UNIFORM REGULATIONS FOR RELEASE OF INTERIM SAFETY INVESTIGATION REPORTS.—(1)(A) Not later than May 1, 1999, the Secretary of Defense shall prescribe regulations that provide for the release to the family members of persons involved in military aviation accidents, and to members of the public, of reports referred to in paragraph (2).

(B) The regulations shall apply uniformly to each military department.

(2) A report under paragraph (1) is a report on the findings of any ongoing privileged safety investigation into an accident referred to in that paragraph. Such report shall be in a redacted form or other form appropriate to preserve witness confidentiality and to minimize the effects of the release of information in such report on national security.

(3) Reports under paragraph (1) shall be made available—

(A) in the case of family members, at least once every 30 days or upon the development of a new or significantly changed finding during the course of the investigation concerned; and

(B) in the case of members of the public, on request.

TITLE X—GENERAL PROVISIONS

Subtitle A—Financial Matters

SEC. 1001. TRANSFER AUTHORITY.

(a) AUTHORITY TO TRANSFER AUTHORIZATIONS.—(1) Upon determination by the Secretary of Defense that such action is necessary in the national interest, the Secretary may transfer amounts of authorizations made available to the Department of Defense in this division for fiscal year 1999 between any such authorizations for that fiscal year (or any subdivisions thereof). Amounts of authorizations so transferred shall be merged with and be available for the same purposes as the authorization to which transferred.

(2) The total amount of authorizations that the Secretary may transfer under the authority of this section may not exceed $2,000,000,000.

(b) LIMITATIONS.—The authority provided by this section to transfer authorizations—

(1) may only be used to provide authority for items that have a higher priority than the items from which authority is transferred; and

(2) may not be used to provide authority for an item that has been denied authorization by Congress.

(c) EFFECT ON AUTHORIZATION AMOUNTS.—A transfer made from one account to another under the authority of this section shall be deemed to increase the amount authorized for the account to which the amount is transferred by an amount equal to the amount transferred.

(d) NOTICE TO CONGRESS.—The Secretary shall promptly notify Congress of each transfer made under subsection (a).

SEC. 1002. AUTHORIZATION OF EMERGENCY APPROPRIATIONS FOR FISCAL YEAR 1999.

(a) AUTHORIZATION OF APPROPRIATIONS.—Funds are hereby authorized to be appropriated for the Department of Defense for fiscal year 1999 for incremental costs of operations of the Armed Forces in and around Bosnia and Herzegovina in the total amount of $1,858,600,000, as follows:

(1) For military personnel, in addition to the amounts authorized to be appropriated in title IV of this Act:

(A) For the Army, $297,700,000.

(B) For the Navy, $9,700,000.

(C) For the Marine Corps, $2,700,000.

(D) For the Air Force, $33,900,000.

(E) For the Naval Reserve, $2,200,000.

(2) For operation and maintenance for the Overseas Contingency Operations Transfer

Fund, in addition to the total amount authorized to be appropriated for that fund in section 301(a)(25) of this Act, $1,512,400,000.

(b) Transfer Authority.—Upon determination by the Secretary of Defense that such action is necessary in the national interest, the Secretary may transfer amounts of authorizations made available to the Department of Defense in subsection (a)(2) for fiscal year 1999 to any of the authorizations for that fiscal year in section 301. Amounts of authorizations so transferred shall be merged with and be available for the same purposes as the authorization to which transferred. The transfer authority under this subsection is in addition to any other transfer authority provided in this Act.

(c) Designation as Emergency.—Funds authorized to be appropriated in accordance with subsection (a) are designated as emergency requirements pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985.

SEC. 1003. AUTHORIZATION OF PRIOR EMERGENCY SUPPLEMENTAL APPROPRIATIONS FOR FISCAL YEAR 1998.

Amounts authorized to be appropriated to the Department of Defense for fiscal year 1998 in the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85) are hereby adjusted, with respect to any such authorized amount, by the amount by which appropriations pursuant to such authorization were increased (by a supplemental appropriation) or decreased (by a rescission), or both, in the 1998 Supplemental Appropriations and Rescissions Act (Public Law 105–174).

SEC. 1004. PARTNERSHIP FOR PEACE INFORMATION SYSTEM MANAGEMENT.

Funds authorized to be appropriated under titles II and III of this Act shall be available for Partnership for Peace information management systems as follows:

(1) Of the amount authorized to be appropriated under section 201(4) for Defense-wide activities, $2,000,000.

(2) Of the amount authorized to be appropriated under section 301 for Defense-wide activities, $3,000,000.

SEC. 1005. REDUCTIONS IN FISCAL YEAR 1998 AUTHORIZATIONS OF APPROPRIATIONS FOR DIVISION A AND DIVISION B AND INCREASES IN CERTAIN AUTHORIZATIONS OF APPROPRIATIONS.

(a) Total Reduction.—Notwithstanding any other provision in this division, amounts authorized to be appropriated under other provisions of this division are reduced in accordance with subsection (b) by the total amount of $421,900,000 in order to reflect savings resulting from revised economic assumptions.

(b) Distribution of Reduction.—

(1) Procurement.—Amounts authorized to be appropriated for procurement under title I are reduced as follows:

(A) Army.—For the Army:

(i) Aircraft.—For aircraft under section 101(1), by $4,000,000.

(ii) Missiles.—For missiles under section 101(2), by $4,000,000.

(iii) Weapons and tracked combat vehicles.—For weapons and tracked combat vehicles under section 101(3), by $4,000,000.

(iv) Ammunition.—For ammunition under section 101(4), by $3,000,000.

(v) Other procurement.—For other procurement under section 101(5), by $9,000,000.

(B) Navy and marine corps.—For the Navy, Marine Corps, or both the Navy and Marine Corps:

(i) Aircraft.—For aircraft under section 102(a)(1), by $22,000,000.

(ii) Weapons.—For weapons, including missiles and torpedoes, under section 102(a)(2), by $4,000,000.

(iii) Shipbuilding and conversion.—For shipbuilding and conversion under section 102(a)(3), by $18,000,000.

(iv) Other procurement.—For other procurement under section 102(a)(4), by $12,000,000.

(v) Marine corps procurement.—For procurement for the Marine Corps under section 102(b), by $2,000,000.

(vi) Ammunition.—For ammunition under section 102(c), by $1,000,000.

(C) Air Force.—For the Air Force:

(i) Aircraft.—For aircraft under section 103(1), by $23,000,000.

(ii) Missiles.—For missiles under section 103(2), by $7,000,000.

(iii) Ammunition.—For ammunition under section 103(3), by $1,000,000.

(iv) Other procurement.—For other procurement under section 103(4), by $17,500,000.

(D) Defense-wide activities.—For the Department of Defense for Defense-wide activities under section 104, by $5,800,000.

(E) Chemical demilitarization program.—For the destruction of lethal chemical agents and munitions and of chemical warfare material under section 107, by $3,000,000.

(2) RDT&E.—Amounts authorized to be appropriated for research, development, test, and evaluation under title II are reduced as follows:

(A) Army.—For the Army under section 201(1), by $10,000,000.

(B) Navy.—For the Navy under section 201(2), by $20,000,000.

(C) Air force.—For the Air Force under section 201(3), by $39,000,000.

(D) Defense-wide activities.—For Defense-wide activities under section 201(4), by $26,700,000.

(3) Operation and maintenance.—Amounts authorized to be appropriated for operation and maintenance under title III are reduced as follows:

(A) Army.—For the Army under section 301(a)(1), by $24,000,000.

(B) Navy.—For the Navy under section 301(a)(2), by $32,000,000.

(C) Marine corps.—For the Marine Corps under section 301(a)(3), by $4,000,000.

(D) Air force.—For the Air Force under section 301(a)(4), by $31,000,000.

(E) Defense-wide activities.—For Defense-wide activities under section 301(a)(6), by $17,600,000.

(F) Army reserve.—For the Army Reserve under section 301(a)(7), by $2,000,000.

(G) Naval reserve.—For the Naval Reserve under section 301(a)(8), by $2,000,000.

(H) Air force reserve.—For the Air Force Reserve under section 301(a)(10), by $2,000,000.

(I) Army national guard.—For the Army National Guard under section 301(a)(11), by $4,000,000.

(J) Air national guard.—For the Air National Guard under section 301(a)(12), by $4,000,000.

(K) Environmental restoration, army.—For Environmental Restoration, Army under section 301(a)(15), by $1,000,000.

(L) Environmental restoration, navy.—For Environmental Restoration, Navy under section 301(a)(16), by $1,000,000.

(M) Environmental restoration, air force.—For Environmental Restoration, Air Force under section 301(a)(17), by $1,000,000.

(N) Environmental restoration, defense-wide.—For Environmental Restoration, Defense-wide under section 301(a)(18), by $1,000,000.

(O) Drug interdiction and counter-drug activities, defense-wide.—For Drug Interdiction and Counter-drug Activities, Defense-wide under section 301(a)(21), by $2,000,000.

(P) Medical programs, defense.—For Medical Programs, Defense under section 301(a)(23), by $36,000,000.

(4) Military construction, army.—Amounts authorized to be appropriated for military construction, Army, under title XXI by section 2104(a) are reduced by $5,000,000, of which $3,000,000 shall be a reduction of support of military family housing under section 2104(a)(5)(B).

(5) Military construction, navy.—Amounts authorized to be appropriated for military construction, Navy, under title XXII by section 2204(a) are reduced by $5,000,000, of which—

(A) $1,000,000 shall be a reduction of construction and acquisition of military family housing under section 2204(a)(5)(A); and

(B) $3,000,000 shall be a reduction of support of military family housing under section 2204(a)(5)(B).

(6) Military construction, air force.—Amounts authorized to be appropriated for military construction, Air Force, under title XXIII by section 2304(a) are reduced by $4,000,000, of which—

(A) $1,000,000 shall be a reduction of construction and acquisition of military family housing under section 2304(a)(5)(A); and

(B) $2,000,000 shall be a reduction of support of military family housing under section 2304(a)(5)(B).

(7) Military construction, defense agencies.—Amounts authorized to be appropriated for military construction, Defense Agencies, under title XXIV by section 2404(a) are reduced by $6,300,000, of which $5,000,000 shall be a reduction of defense base closure and realignment under section 2404(a)(10), of which—

(A) $1,000,000 shall be a reduction of defense base closure and realignment, Army;

(B) $2,000,000 shall be a reduction of defense base closure and realignment, Navy; and

(C) $2,000,000 shall be a reduction of defense base closure and realignment, Air Force.

(8) North atlantic treaty organization security investment program.—Amounts authorized to be appropriated for contributions to the North Atlantic Treaty Organization Security Investment program under title XXV by section 2502 are reduced by $1,000,000.

(c) Proportionate Reductions Within Accounts.—The amount provided for each budget activity, budget activity group, budget subactivity group, program, project, or activity under an authorization of appropriations reduced by subsection (b) is hereby reduced by the percentage computed by dividing the total amount of that authorization of appropriations (before the reduction) into the amount by which that total amount is so reduced.

(d) Increase in Certain Authorizations of Appropriations.—

(1) Operation and maintenance, army national guard.—The amount authorized to be appropriated by section 301(a)(11), as reduced by subsection (b)(3)(I), is increased by $120,000,000.

(2) Other defense programs, department of energy.—The amount authorized to be appropriated by section 3103 is increased by $20,000,000, which amount shall be available for verification and control technology under paragraph (1)(C) of that section.

SEC. 1006. AMOUNT AUTHORIZED FOR CONTRIBUTIONS FOR NATO COMMON-FUNDED BUDGETS.

(a) Total Amount.—Contributions are authorized to be made in fiscal year 1999 for the common-funded budgets of NATO, out of funds available for the Department of Defense for that purpose, in the total amount that is equal to the sum of (1) the amounts of the unexpended balances, as of the end of fiscal year 1998, of funds appropriated for fiscal years before fiscal year 1999 for payments for such budgets, (2) the amount authorized to be appropriated under section 301(a)(1) that is available for contributions for the NATO common-funded military budget under section 314, (3) the amount authorized to be appropriated under section 201(1) that is available for contribution for the NATO common-funded civil budget under section 219, and (4) the total amount of the contributions authorized to be made under section 2501.

(b) DEFINITION.—In this section, the term "common-funded budgets of NATO" means the Military Budget, the Security Investment Program, and the Civil Budget of NATO (and any successor or additional account or program of NATO).

Subtitle B—Naval Vessels

SEC. 1011. IOWA CLASS BATTLESHIP RETURNED TO NAVAL VESSEL REGISTER.

The U.S.S. Iowa shall be listed, and maintained, on the Naval Vessel Register under section 1011 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 421) instead of the U.S.S. New Jersey, which shall be stricken from the register. The preceding sentence does not affect the continued effectiveness of subsection (d) of such section.

SEC. 1012. LONG-TERM CHARTER OF THREE VESSELS IN SUPPORT OF SUBMARINE RESCUE, ESCORT, AND TOWING.

(a) AUTHORITY.—The Secretary of the Navy may to enter into one or more long-term charters in accordance with section 2401 of title 10, United States Code, for three vessels to support the rescue, escort, and towing of submarines.

(b) VESSELS.—The vessels that may be chartered under subsection (a) are as follows:

(1) The Carolyn Chouest (United States official number D102057).

(2) The Kellie Chouest (United States official number D1038519).

(3) The Dolores Chouest (United States official number D600288).

(c) CHARTER PERIOD.—The period for which a vessel is chartered under subsection (a) may not extend beyond October 1, 2004.

(d) FUNDING.—The funds used for charters entered into under subsection (a) shall be funds authorized to be appropriated under section 301(a)(2).

SEC. 1013. TRANSFERS OF CERTAIN NAVAL VESSELS TO CERTAIN FOREIGN COUNTRIES.

(a) AUTHORITY.—

(1) ARGENTINA.—The Secretary of the Navy is authorized to transfer to the Government of Argentina on a grant basis the tank landing ship Newport (LST 1179).

(2) BRAZIL.—The Secretary of the Navy is authorized to transfer vessels to the Government of Brazil as follows:

(A) On a sale basis, the Newport class tank landing ships Cayuga (LST 1186) and Peoria (LST 1183).

(B) On a combined lease-sale basis, the Cimarron class oiler Merrimack (AO 179).

(3) CHILE.—The Secretary of the Navy is authorized to transfer vessels to the Government of Chile on a sale basis as follows:

(A) The Newport class tank landing ship San Bernardino (LST 1189).

(B) The auxiliary repair dry dock Waterford (ARD 5).

(4) GREECE.—The Secretary of the Navy is authorized to transfer vessels to the Government of Greece as follows:

(A) On a sale basis, the following vessels:

(i) The Oak Ridge class medium dry dock Alamogordo (ARDM 2).

(ii) The Knox class frigates Vreeland (FF 1068) and Trippe (FF 1075).

(B) On a combined lease-sale basis, the Kidd class guided missile destroyers Kidd (DDG 993), Callaghan (DDG 994), Scott (DDG 995) and Chandler (DDG 996).

(C) On a grant basis, the following vessels:

(i) The Knox class frigate Hepburn (FF 1055).

(ii) The Adams class guided missile destroyers Strauss (DDG 16), Semmes (DDG 18), and Waddell (DDG 24).

(5) MEXICO.—The Secretary of the Navy is authorized to transfer to the Government of Mexico on a sale basis the auxiliary repair dry dock San Onofre (ARD 30) and the Knox class frigate Pharris (FF 1094).

(6) PHILIPPINES.—The Secretary of the Navy is authorized to transfer to the Government of the Philippines on a sale basis the Stalwart class ocean surveillance ship Triumph (T-AGOS 4).

(7) PORTUGAL.—The Secretary of the Navy is authorized to transfer to the Government of Portugal on a grant basis the Stalwart class ocean surveillance ship Assurance (T-AGOS 5).

(8) SPAIN.—The Secretary of the Navy is authorized to transfer to the Government of Spain on a sale basis the Newport class tank landing ships Harlan County (LST 1196) and Barnstable County (LST 1197).

(9) TAIWAN.—The Secretary of the Navy is authorized to transfer vessels to the Taipei Economic and Cultural Representative Office in the United States (which is the Taiwan instrumentality designated pursuant to section 10(a) of the Taiwan Relations Act) on a sale basis as follows:

(A) The Knox class frigates Peary (FF 1073), Joseph Hewes (FF 1078), Cook (FF 1083), Brewton (FF 1086), Kirk (FF 1087) and Barbey (FF 1088).

(B) The Newport class tank landing ships Manitowoc (LST 1180) and Sumter (LST 1181).

(C) The floating dry dock Competent (AFDM 6).

(D) The Anchorage class dock landing ship Pensacola (LSD 38).

(10) TURKEY.—The Secretary of the Navy is authorized to transfer vessels to the Government of Turkey as follows:

(A) On a sale basis, the following vessels:

(i) The Oliver Hazard Perry class guided missile frigates Mahlon S. Tisdale (FFG 27), Reid (FFG 30) and Duncan (FFG 10).

(ii) The Knox class frigates Reasoner (FF 1063), Fanning (FF 1076), Bowen (FF 1079), McCandless (FF 1084), Donald Beary (FF 1085), Ainsworth (FF 1090), Thomas C. Hart (FF 1092), and Capodanno (FF 1093).

(B) On a grant basis, the Knox class frigates Paul (FF 1080), Miller (FF 1091), W.S. Simms (FF 1059).

(11) VENEZUELA.—The Secretary of the Navy is authorized to transfer to the Government of Venezuela on a sale basis the unnamed medium auxiliary floating dry dock AFDM 2.

(b) BASES OF TRANSFER.—

(1) GRANT.—A transfer of a naval vessel authorized to be made on a grant basis under subsection (a) shall be made under section 516 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j).

(2) SALE.—A transfer of a naval vessel authorized to be made on a sale basis under subsection (a) shall be made under section 21 of the Arms Export Control Act (22 U.S.C. 2761).

(3) COMBINED LEASE-SALE.—(A) A transfer of a naval vessel authorized to be made on a combined lease-sale basis under subsection (a) shall be made under sections 61 and 21 of the Arms Export Control Act (22 U.S.C. 2796 and 2761, respectively) in accordance with this paragraph.

(B) For each naval vessel authorized by subsection (a) for transfer on a lease-sale basis, the Secretary of the Navy is authorized to transfer the vessel under the terms of a lease, with lease payments suspended for the term of the lease, if the country entering into the lease of the vessel simultaneously enters into a foreign military sales agreement for the transfer of title to the leased vessel. Delivery of title to the purchasing country shall not be made until the purchase price of the vessel has been paid in full. Upon delivery of title to the purchasing country, the lease shall terminate.

(C) If the purchasing country fails to make full payment of the purchase price by the date required under the sales agreement, the sales agreement shall be immediately terminated, the suspension of lease payments under the lease shall be vacated, and the United States shall retain all funds received on or before the date of the termination under the sales agreement, up to the amount of the lease payments due and payable under the lease and all other costs required by the lease to be paid to that date. No interest shall be payable to the recipient by the United States on any amounts that are paid to the United States by the recipient under the sales agreement and are not retained by the United States under the lease.

(c) REQUIREMENT FOR PROVISION IN ADVANCE IN AN APPROPRIATIONS ACT.—Authority to transfer vessels on a sale or combined lease-sale basis under subsection (a) shall be effective only to the extent that authority to effectuate such transfers, together with appropriations to cover the associated cost (as defined in section 502 of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 661a)), are provided in advance in an appropriations Act.

(d) NOTIFICATION OF CONGRESS.—Not later than 30 days after the date of the enactment of this Act, the Secretary of the Navy shall submit to Congress, for each naval vessel that is to be transferred under this section before January 1, 1999, the notifications required under section 516 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j) and section 525 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1998 (Public Law 105–118; 111 Stat. 2413).

(e) GRANTS NOT COUNTED IN ANNUAL TOTAL OF TRANSFERRED EXCESS DEFENSE ARTICLES.—The value of the naval vessels authorized by subsection (a) to be transferred on a grant basis under section 516 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j) shall not be counted for the purposes of that section in the aggregate value of excess defense articles transferred to countries under that section in any fiscal year.

(f) COSTS OF TRANSFERS.—Any expense of the United States in connection with a transfer authorized by subsection (a) shall be charged to the recipient (notwithstanding section 516(e)(1) of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j(e)(1)) in the case of a transfer authorized to be made on a grant basis under subsection (a)).

(g) REPAIR AND REFURBISHMENT IN UNITED STATES SHIPYARDS.—The Secretary of the Navy shall require, as a condition of the transfer of a vessel under this section, that the country to which the vessel is transferred have such repair or refurbishment of the vessel as is needed, before the vessel joins the naval forces of that country, performed at a shipyard located in the United States, including a United States Navy shipyard.

(h) EXPIRATION OF AUTHORITY.—The authority to transfer a vessel under subsection (a) shall expire at the end of the two-year period beginning on the date of the enactment of this Act.

SEC. 1014. SENSE OF CONGRESS CONCERNING THE NAMING OF AN LPD-17 VESSEL.

It is the sense of Congress that, consistent with section 1018 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 425), the next unnamed vessel of the LPD–17 class of amphibious vessels should be named the U.S.S. Clifton B. Cates, in honor of Marine General Clifton B. Cates (1893–1970), a native of Tennessee whose distinguished career of service in the Marine Corps included combat service in World War I so heroic that he became the most decorated Marine Corps officer of World War I, included exemplary combat leadership from Guadalcanal to Tinian and Iwo Jima and beyond in the Pacific Theater during World War II, and culminated in Lieutenant General Cates being appointed the 19th Commandant of the Marine Corps, a position in which he led the Marine Corps' efficient and alacritous response to the invasion of the Republic of South Korea by Communist North Korea.

SEC. 1015. CONVEYANCE OF NDRF VESSEL EX-U.S.S. LORAIN COUNTY.

(a) AUTHORITY TO CONVEY.—The Secretary of Transportation may convey all right, title, and interest of the Federal Government in and to the vessel ex-U.S.S. LORAIN COUNTY (LST–1177) to the Ohio War Memorial, Inc., located in Sandusky, Ohio (in this section referred to as the "recipient"), for use as a memorial to Ohio veterans.

(b) TERMS OF CONVEYANCE.—

(1) DELIVERY OF VESSEL.—In carrying out subsection (a), the Secretary shall deliver the vessel—

(A) at the place where the vessel is located on the date of conveyance;

(B) in its condition on that date; and

(C) at no cost to the Federal Government.

(2) REQUIRED CONDITIONS.—The Secretary may not convey a vessel under this section unless—

(A) the recipient agrees to hold the Government harmless for any claims arising from exposure to hazardous materials, including asbestos and polychlorinated biphenyls, after conveyance of the vessel, except for claims arising before the date of the conveyance of from use of the vessel by the Government after that date; and

(B) the recipient has available, for use to restore the vessel, in the form of cash, liquid assets, or a written loan commitment, financial resources of at least $100,000.

(3) ADDITIONAL TERMS.—The Secretary may require such additional terms and conditions in connection with the conveyance authorized by this section as the Secretary considers appropriate.

(c) OTHER UNNEEDED EQUIPMENT.—The Secretary may convey to the recipient of the vessel conveyed under this section any unneeded equipment from other vessels in the National Defense Reserve Fleet, for use to restore the vessel conveyed under this section to museum quality.

SEC. 1016. HOMEPORTING OF THE U.S.S. IOWA BATTLESHIP IN SAN FRANCISCO.

It is the sense of Congress that the U.S.S. Iowa should be homeported at the Port of San Francisco, California.

SEC. 1017. SHIP SCRAPPING PILOT PROGRAM.

(a) IN GENERAL.—The Secretary of the Navy shall carry out a vessel scrapping pilot program within the United States during fiscal years 1999 and 2000. The scope of the program shall be that which the Secretary determines is sufficient to gather data on the cost of scrapping Government vessels domestically and to demonstrate cost effective technologies and techniques to scrap such vessels in a manner that is protective of worker safety and health and the environment.

(b) CONTRACT AWARD.—(1) The Secretary shall award a contract or contracts under subsection (a) to the offeror or offerors that the Secretary determines will provide the best value to the United States, taking into account such factors as the Secretary considers appropriate.

(2) In making a best value determination under this subsection, the Secretary shall give a greater weight to technical and performance-related factors than to cost and price-related factors.

(3) The Secretary shall give significant weight to the technical qualifications and past performance of the contractor and the major subcontractors or team members of the contractor in complying with applicable Federal, State, and local laws and regulations for environmental and worker protection. In accordance with the requirements of the Federal Acquisition Regulation, in the case of an offeror without a record of relevant past performance or for whom information on past performance is not available, the offeror may not be evaluated favorably or unfavorably on past performance.

(c) CONTRACT TERMS AND CONDITIONS.—The contract or contracts awarded by the Secretary pursuant to subsection (b) shall, at a minimum, provide for—

(1) the transfer of the vessel or vessels to the contractor or contractors;

(2) the sharing, by any appropriate contracting method, of the costs of scrapping the vessel or vessels between the Government and the contractor or contractors;

(3) a performance incentive for a successful record of environmental and worker protection; and

(4) Government access to contractor records in accordance with the requirements of section 2313 of title 10, United States Code.

(d) REPORTS.—(1) Not later than September 30, 1999, the Secretary of the Navy shall submit an interim report on the pilot program to the congressional defense committees. The report shall contain the following:

(A) The procedures used for the solicitation and award of a contract or contracts under the pilot program.

(B) The contract or contracts awarded under the pilot program.

(2) Not later than September 30, 2000, the Secretary of the Navy shall submit a final report on the pilot program to the congressional defense committees. The report shall contain the following:

(A) The results of the pilot program and the performance of the contractors under such program.

(B) The Secretary's procurement strategy for future ship scrapping activities.

Subtitle C—Miscellaneous Report Requirements and Repeals

SEC. 1021. REPEAL OF REPORTING REQUIREMENTS.

(a) REPORTS REQUIRED BY TITLE 10.—

(1) HEALTH AND MEDICAL CARE STUDIES AND DEMONSTRATIONS.—Section 1092(a) of title 10, United States Code, is amended by striking out paragraph (3).

(2) ANNUAL REPORT ON USE OF MONEY RENTALS FOR LEASES OF NON-EXCESS PROPERTY.—Section 2667(d) of title 10, United States Code, is amended—

(A) in paragraph (1)(A)(ii), by striking out "paragraph (4) or (5)" and inserting in lieu thereof "paragraph (3) or (4)".

(B) by striking out paragraph (3); and

(C) by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

(b) REPORT REQUIRED BY MILITARY CONSTRUCTION AUTHORIZATION ACT.—Section 2819 of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100–456; 102 Stat. 2119; 10 U.S.C. 2391 note,), relating to the Commission on Alternative Utilization of Military Facilities, is amended—

(1) in subsection (a) by striking out "(a) ESTABLISHMENT OF COMMISSION.—"; and

(2) by striking out subsections (b) and (c).

SEC. 1022. REPORT ON DEPARTMENT OF DEFENSE FINANCIAL MANAGEMENT IMPROVEMENT PLAN.

Not later than 60 days after the date on which the Secretary of Defense submits the first biennial financial management improvement plan required by section 2222 of title 10, United States Code, the Comptroller General shall submit to Congress an analysis of the plan. The analysis shall include a discussion of the content of the plan and the extent to which the plan—

(1) complies with the requirements of such section 2222; and

(2) is a workable plan for addressing the financial management problems of the Department of Defense.

SEC. 1023. FEASIBILITY STUDY OF PERFORMANCE OF DEPARTMENT OF DEFENSE FINANCE AND ACCOUNTING FUNCTIONS BY PRIVATE SECTOR SOURCES OR OTHER FEDERAL GOVERNMENT SOURCES.

(a) STUDY REQUIRED.—The Secretary of Defense shall carry out a study of the feasibility and advisability of selecting on a competitive basis the source or sources for performing the finance and accounting functions of the Department of Defense from among private sector sources, the Defense Finance and Accounting Service of the Department of Defense, the military departments, and other Federal Government agencies.

(b) REPORT.—Not later than October 1, 1999, the Secretary shall submit a written report on the results of the study to Congress. The report shall include the following:

(1) A discussion of how the finance and accounting functions of the Department of Defense are performed, including the necessary operations, the operations actually performed, the personnel required for the operations, and the core competencies that are necessary for the performance of those functions.

(2) A comparison of the performance of the finance and accounting functions by the Defense Finance and Accounting Service with the performance of finance and accounting functions by the other sources referred to in subsection (a) that exemplify the best finance and accounting practices and results, together with a comparison of the costs of the performance of such functions by the Defense Finance and Accounting Service and the estimated costs of the performance of such functions by those other sources.

(3) The finance and accounting functions, if any, that are appropriate for performance by those other sources, together with a concept of operations that—

(A) specifies the mission;

(B) identifies the finance and accounting operations to be performed;

(C) describes the work force that is necessary to perform those operations;

(D) discusses where the operations are to be performed;

(E) describes how the operations are to be performed; and

(F) discusses the relationship between how the operations are to be performed and the mission.

(4) An analysis of how Department of Defense programs or processes would be affected by the performance of the finance and accounting functions of the Department of Defense by one or more of those other sources.

(5) The status of the efforts within the Department of Defense to consolidate and eliminate redundant finance and accounting systems and to better integrate the automated and manual systems of the department that provide input to financial management or accounting systems of the department.

(6) A description of a feasible and effective process for selecting, on a competitive basis, sources to perform the finance and accounting functions of the Department of Defense from among the sources referred to in subsection (a), including a discussion of the selection criteria considered appropriate.

(7) Any recommended policy for selecting sources to perform the finance and accounting functions of the Department of Defense on a competitive basis from among the sources referred to in subsection (a), together with such other recommendations that the Secretary considers appropriate.

(8) An analysis of the costs and benefits of the various policies and actions recommended.

(9) A discussion of any findings, analyses, and recommendations of the performance of the finance and accounting functions of the Department of Defense that have been made by the Task Force on Defense Reform appointed by the Secretary of Defense.

(c) MARKET RESEARCH.—In carrying out the study, the Secretary shall perform market research to determine whether the availability of responsible private sector sources of finance and accounting services is sufficient for there to be a reasonable expectation of meaningful competition for any contract for the procurement of finance and accounting services for the Department of Defense.

SEC. 1024. REORGANIZATION AND CONSOLIDATION OF OPERATING LOCATIONS OF THE DEFENSE FINANCE AND ACCOUNTING SERVICE.

(a) LIMITATION.—No operating location of the Defense Finance and Accounting Service may be closed before the date that is six months after the date on which the Secretary submits to Congress the plan required by subsection (b).

(b) PLAN REQUIRED.—The Secretary of Defense shall submit to Congress a strategic plan for improving the financial management operations at each of the operating locations of the Defense Finance and Accounting Service.

(c) CONTENT OF PLAN.—The plan shall include, at a minimum, the following:

(1) The workloads that it is necessary to perform at the operating locations each fiscal year.

(2) The capacity and number of operating locations that are necessary for performing the workloads.

(3) A discussion of the costs and benefits that could result from reorganizing the operating locations of the Defense Finance and Accounting Service on the basis of function performed, together with the Secretary's assessment of the feasibility of carrying out such a reorganization.

(d) SUBMITTAL OF PLAN.—The plan shall be submitted to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives not later than December 15, 1998.

SEC. 1025. REPORT ON INVENTORY AND CONTROL OF MILITARY EQUIPMENT.

(a) REPORT REQUIRED.—Not later than March 1, 1999, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report on the inventory and control of the military equipment of the Department of Defense as of the end of fiscal year 1998. The report shall address the inventories of each of the Army, Navy, Air Force, and Marine Corps separately.

(b) CONTENT.—The report shall include the following:

(1) For each item of military equipment in the inventory, stated by item nomenclature—

(A) the quantity of the item in the inventory as of the beginning of the fiscal year;

(B) the quantity of acquisitions of the item during the fiscal year;

(C) the quantity of disposals of the item during the fiscal year;

(D) the quantity of losses of the item during the performance of military missions during the fiscal year; and

(E) the quantity of the item in the inventory as of the end of the fiscal year.

(2) A reconciliation of the quantity of each item in the inventory as of the beginning of the fiscal year with the quantity of the item in the inventory as of the end of fiscal year.

(3) For each item of military equipment that cannot be reconciled—

(A) an explanation of why the quantities cannot be reconciled; and

(B) a discussion of the remedial actions planned to be taken, including target dates for accomplishing the remedial actions.

(4) Supporting schedules identifying the location of each item that are available to Congress or auditors of the Comptroller General upon request.

(c) MILITARY EQUIPMENT DEFINED.—For the purposes of this section, the term "military equipment" means all equipment that is used in support of military missions and is maintained on the visibility systems of the Army, Navy, Air Force, or Marine Corps.

(d) INSPECTOR GENERAL REVIEW.—Not later than June 1, 1999, the Inspector General of the Department of Defense shall review the report submitted to the committees under subsection (a) and shall submit to the committees any comments that the Inspector General considers appropriate.

SEC. 1026. REPORT ON CONTINUITY OF ESSENTIAL OPERATIONS AT RISK OF FAILURE BECAUSE OF COMPUTER SYSTEMS THAT ARE NOT YEAR 2000 COMPLIANT.

(a) FINDINGS.—Congress makes the following findings:

(1) Because of the way computers store and process dates, most computers will not function properly, or at all, after January 1, 2000, a problem that is commonly referred to as the year 2000 problem.

(2) The United States Government is currently conducting a massive program to identify and correct computer systems that suffer from the year 2000 problem.

(3) The cost to the Department of Defense of correcting this problem in its computer systems has been estimated to be more than $1,000,000,000.

(4) Other nations have failed to initiate aggressive action to identify and correct the year 2000 problem within their own computers.

(5) Unless other nations initiate aggressive actions to ensure the reliability and stability of certain communications and strategic systems, United States nationally security may be jeopardized.

(b) REPORT REQUIRED.—The Secretary of Defense and the Director of Central Intelligence shall jointly submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report on the plans of the Department of Defense and the intelligence community for ensuring the continuity of performance of essential operations that are at risk of failure because of computer systems and other information and support systems that are not year 2000 compliant.

(c) CONTENT.—The report shall contain, at a minimum, the following:

(1) A prioritization of mission critical systems to ensure that the most critical systems have the highest priority for efforts to reprogram computers to be year 2000 compliant.

(2) A discussion of the private and other public information and support systems relied on by the national security community, including the intelligence community, and the efforts under way to ensure that those systems are year 2000 compliant.

(3) The efforts under way to repair the underlying operating systems and infrastructure.

(4) The plans for comprehensive testing of Department of Defense systems, including simulated operational tests in mission areas.

(5) A comprehensive contingency plan, for the entire national security community, which provides for resolving emergencies resulting from a system that is not year 2000 compliant and includes provision for the creation of crisis action teams for use in resolving such emergencies.

(6) A discussion of the efforts undertaken to ensure the continued reliability of service on the systems used by the President and other leaders of the United States for communicating with the leaders of other nations.

(7) A discussion of the vulnerability of allied armed forces to failure systems that are not, or have critical components that are not, year 2000 compliant, together with an assessment of the potential problems for interoperability among the Armed Forces of the United States and allied armed forces because of the potential for failure of such systems.

(8) An estimate of the total cost of making the computer systems and other information and support systems comprising the computer networks of the Department of Defense and the intelligence community year 2000 compliant.

(9) The countries that have critical computer-based systems any disruption of which, due to not being year 2000 compliant, would cause a significant potential national security risk to the United States.

(10) A discussion of the cooperative arrangements between the United States and other nations to assist those nations in identifying and correcting (to the extent necessary to meet national security interests of the United States) any problems in their communications and strategic systems, or other systems identified by the Secretary of Defense, that make the systems not year 2000 compliant.

(11) A discussion of the threat posed to the national security interests of the United

States from any potential failure of strategic systems of foreign countries that are not year 2000 compliant.

(d) SUBMITTAL.—The report shall be submitted not later than March 31, 1999, in classified form and, as necessary, unclassified form.

(e) INTERNATIONAL COOPERATIVE ARRANGEMENTS.—The Secretary of Defense, with the concurrence of the Secretary of State may enter into a cooperative arrangement with a representative of any foreign government to provide for the United States to assist the foreign government in identifying and correcting (to the extent necessary to meet national security interests of the United States) any problems in communications, strategic, or other systems of that foreign government that make the systems not year 2000 compliant.

(f) YEAR 2000 COMPLIANT.—In this section, the term "year 2000 compliant", with respect to a computer system or any other information or support system, means that the programs of the system correctly recognize dates in years after 1999 as being dates after 1999 for the purposes of program functions for which the correct date is relevant to the performance of the functions.

SEC. 1027. REPORTS ON NAVAL SURFACE FIRE-SUPPORT CAPABILITIES.

(a) NAVY REPORT.—(1) Not later than March 31, 1999, the Secretary of the Navy shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report on battleship readiness for meeting requirements of the Armed Forces for naval surface fire support.

(2) The report shall contain the following:

(A) The reasons for the Secretary's failure to comply with the requirements of section 1011 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104-106; 110 Stat. 421) until February 1998.

(B) The requirements for Air-Naval Gunfire Liaison Companies.

(C) The plans of the Navy for retaining and maintaining 16-inch ammunition for the main guns of battleships.

(D) The plans of the Navy for retaining the hammerhead crane essential for lifting battleship turrets.

(E) An estimate of the cost of reactivating Iowa-class battleships for listing on the Naval Vessel Register, restoring the vessels to seaworthiness with operational capabilities necessary to meet requirements for naval surface fire-support, and maintaining the battleships in that condition for continued listing on the register, together with an estimate of the time necessary to reactivate and restore the vessels to that condition.

(3) The Secretary shall act through the Director of Expeditionary Warfare Division (N85) of the Office of the Chief of Naval Operations in preparing the report.

(b) GAO REPORT.—(1) The Comptroller General shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report on the naval surface fire-support capabilities of the Navy.

(2) The report shall contain the following:

(A) An assessment of the extent of the compliance by the Secretary of the Navy with the requirements of section 1011 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104-106; 110 Stat. 421).

(B) The plans of the Navy for executing the naval surface fire-support mission of the Navy.

(C) An assessment of the short-term costs and the long-term costs associated with the plans.

(D) An assessment of the short-term costs and the long-term costs associated with alternative methods for executing the naval surface fire-support mission of the Navy, including the alternative of reactivating two battleships.

SEC. 1028. REPORT ON ROLES IN DEPARTMENT OF DEFENSE AVIATION ACCIDENT INVESTIGATIONS.

(a) REPORT REQUIRED.—Not later than March 31, 1999, the Secretary of Defense shall submit to Congress a report on the roles of the Office of the Secretary of Defense and the Joint Staff in the investigation of Department of Defense aviation accidents.

(b) CONTENT OF REPORT.—The report shall include the following:

(1) An assessment of whether the Office of the Secretary of Defense and the Joint Staff should have more direct involvement in the investigation of military aviation accidents.

(2) The advisability of the Office of the Secretary of Defense, the Joint Staff, or another Department of Defense entity independent of the military departments supervising the conduct of aviation accident investigations.

(3) An assessment of the minimum training and experience required for aviation accident investigation board presidents and board members.

SEC. 1029. STRATEGIC PLAN FOR EXPANDING DISTANCE LEARNING INITIATIVES.

(a) PLAN REQUIRED.—The Secretary of Defense shall develop a strategic plan for guiding and expanding distance learning initiatives within the Department of Defense. The plan shall provide for an expansion of such initiatives over five consecutive fiscal years beginning with fiscal year 2000.

(b) CONTENT OF PLAN.—The strategic plan shall, at a minimum, contain the following:

(1) A statement of measurable goals and objectives and outcome-related performance indicators (consistent with section 1115 of title 31, United States Code, relating to agency performance plans) for the development and execution of distance learning initiatives throughout the Department of Defense.

(2) A detailed description of how distance learning initiatives are to be developed and managed within the Department of Defense.

(3) An assessment of the estimated costs and the benefits associated with developing and maintaining an appropriate infrastructure for distance learning.

(4) A statement of planned expenditures for the investments necessary to build and maintain the infrastructure.

(5) A description of the mechanisms that are to be used to supervise the development and coordination of the distance learning initiatives of the Department of Defense.

(c) RELATIONSHIP TO EXISTING INITIATIVE.—In developing the strategic plan, the Secretary may take into account the ongoing collaborative effort among the Department of Defense, other Federal agencies, and private industry that is known as the Advanced Distribution Learning initiative. However, the Secretary shall ensure that the strategic plan is specifically focused on the training and education goals and objectives of the Department of Defense.

(d) SUBMISSION TO CONGRESS.—The Secretary of Defense shall submit the strategic plan to Congress not later than March 1, 1999.

SEC. 1030. REPORT ON INVOLVEMENT OF ARMED FORCES IN CONTINGENCY AND ONGOING OPERATIONS.

(a) REPORT REQUIRED.—Not later than January 31, 1999, the Secretary of Defense shall submit to the congressional defense committees a report on the involvement of the Armed Forces of the United States in major contingency operations and major ongoing operations since the end of the Persian Gulf War, including such operations as the involvement in the Stabilization Force in Bosnia and Herzegovina, Operation Southern Watch, and Operation Northern Watch. The report shall contain the following:

(1) A discussion of the effects of that involvement on retention and reenlistment of personnel in the Armed Forces.

(2) The extent to which the use of combat support and combat service support personnel and equipment of the Armed Forces in the operations has resulted in shortages of Armed Forces personnel and equipment in other regions of the world.

(3) The accounts from which funds have been drawn to pay for the operations and the specific programs for which the funds were available until diverted to pay for the operations.

(4) The vital interests of the United States that are involved in each operation or, if none, the interests of the United States that are involved in each operation and a characterization of those interests.

(5) What clear and distinct objectives guide the activities of United States forces in each operation.

(6) What the President has identified on the basis of those objectives as the date, or the set of conditions, that defines the end of each operation.

(b) FORM OF REPORT.—The report shall be submitted in unclassified form, but may also be submitted in a classified form if necessary.

(c) MAJOR OPERATION DEFINED.—For the purposes of this section, a contingency operation or an ongoing operation is a major contingency operation or a major ongoing operation, respectively, if the operation involves more than 500 members of the Armed Forces.

SEC. 1031. SUBMISSION OF REPORT ON OBJECTIVES OF A CONTINGENCY OPERATION WITH FIRST REQUEST FOR FUNDING THE OPERATION.

(a) FINDINGS.—Congress makes the following findings:

(1) On May 3, 1994, the President issued Presidential Decision Directive 25 declaring that American participation in United Nations and other peace operations would depend in part on whether the role of United States forces is tied to clear objectives and an endpoint for United States participation can be identified.

(2) Between that date and mid-1998, the President and other executive branch officials have obligated or requested appropriations of approximately $9,400,000,000 for military-related operations throughout Bosnia and Herzegovina without providing to Congress, in conjunction with the budget submission for any fiscal year, a strategic plan for such operations under the criteria set forth in that Presidential Decision Directive.

(3) Between November 27, 1995, and mid-1998 the President has established three deadlines, since elapsed, for the termination of United States military-related operations throughout Bosnia and Herzegovina.

(4) On December 17, 1997, the President announced that United States ground combat forces would remain in Bosnia and Herzegovina for an unknown period of time.

(5) Approximately 47,880 United States military personnel (excluding personnel serving in units assigned to the Republic of Korea) have participated in 14 international contingency operations between fiscal years 1991 and 1998.

(6) The 1998 posture statements of the Navy and Air Force included declarations that the pace of military operations over fiscal year 1997 adversely affected the readiness of non-deployed forces, personnel retention rates, and spare parts inventories of the Navy and Air Force.

(b) Information To Be Reported With Funding Request.—Section 113 of title 10, United States Code, is amended by adding at the end the following:

"(l) Information To Accompany Initial Funding Request for Contingency Operation.—Whenever the President submits to Congress a request for appropriations for costs associated with a contingency operation that involves, or likely will involve, the deployment of more than 500 members of the armed forces, the Secretary of Defense shall submit to Congress a report on the objectives of the operation. The report shall include a discussion of the following:

"(1) What clear and distinct objectives guide the activities of United States forces in the operation.

"(2) What the President has identified on the basis of those objectives as the date, or the set of conditions, that defines the endpoint of the operation.".

SEC. 1032. REPORTS ON THE DEVELOPMENT OF THE EUROPEAN SECURITY AND DEFENSE IDENTITY.

(a) Requirement for Reports.—The Secretary of Defense shall submit to the congressional defense committees in accordance with this section reports on the development of the European Security and Defense Identity (ESDI) within the NATO Alliance that would enable the Western European Union (WEU), with the consent of the NATO Alliance, to assume the political control and strategic direction of NATO assets and capabilities made available by the Alliance.

(b) Reports To Be Submitted.—The reports required to be submitted under subsection (a) are as follows:

(1) An initial report, submitted not later than December 15, 1998, that contains a discussion of the actions taken, and the plans for future actions, to build the European Security and Defense Identity, together with the matters required under subsection (c).

(2) A semiannual report on the progress made toward establishing the European Security and Defense Identity, submitted not later than March 15 and December 15 of each year after 1998.

(c) Content of Reports.—The Secretary shall include in each report under this section the following:

(1) A discussion of the arrangements between NATO and the Western European Union for the release, transfer, monitoring, return, and recall of NATO assets and capabilities.

(2) A discussion of the development of such planning and other capabilities by the Western European Union that are necessary to provide political control and strategic direction of NATO assets and capabilities.

(3) A discussion of the development of terms of reference for the Deputy Supreme Allied Commander, Europe, with respect to the European Security and Defense Identity.

(4) A discussion of the arrangements for the assignment or appointment of NATO officers to serve in two positions concurrently (commonly referred to as "dual-hatting").

(5) A discussion of the development of the Combined Joint Task Force (CJTF) concept, including lessons-learning from the NATO-led Stabilization Force in Bosnia.

(6) Identification within the NATO Alliance of the types of separable but not separate capabilities, assets, and support assets for Western European Union-led operations.

(7) Identification of separable but not separate headquarters, headquarters elements, and command positions for command and conduct of Western European Union-led operations.

(8) The conduct by NATO, at the request of and in coordination with the Western European Union, of military planning and exercises for illustrative missions.

(9) A discussion of the arrangements between NATO and the Western European Union for the sharing of information, including intelligence.

(10) Such other information as the Secretary considers useful for a complete understanding of the establishment of the European Security and Defense Identity within the NATO Alliance.

(d) Termination of Semiannual Reporting Requirement.—No report is required under subsection (b)(2) after the Secretary submits under that subsection a report in which the Secretary states that the European Security and Defense Identity has been fully established.

SEC. 1033. REPORT ON REDUCTION OF INFRASTRUCTURE COSTS AT BROOKS AIR FORCE BASE, TEXAS.

(a) Requirement.—Not later than December 31, 1998, the Secretary of the Air Force shall, in consultation with the Secretary of Defense, submit to the congressional defense committees a report on means of reducing significantly the infrastructure costs at Brooks Air Force Base, Texas, while also maintaining or improving the support for Department of Defense missions and personnel provided through Brooks Air Force Base.

(b) Elements.—The report shall include the following:

(1) A description of any barriers (including barriers under law and through policy) to improved infrastructure management at Brooks Air Force Base.

(2) A description of means of reducing infrastructure management costs at Brooks Air Force Base through cost-sharing arrangements and more cost-effective utilization of property.

(3) A description of any potential public partnerships or public-private partnerships to enhance management and operations at Brooks Air Force Base.

(4) An assessment of any potential for expanding infrastructure management opportunities at Brooks Air Force Base as a result of initiative considered at the Base or at other installations.

(5) An analysis (including appropriate data) on current and projected costs of the ownership or lease of Brooks Air Force Base under a variety of ownership or leasing scenarios, including the savings that would accrue to the Air Force under such scenarios and a schedule for achieving such savings.

(6) Any recommendations relating to reducing the infrastructure costs at Brooks Air Force Base that the Secretary considers appropriate.

SEC. 1034. ANNUAL GAO REVIEW OF F/A-18E/F AIRCRAFT PROGRAM.

(a) Review and Report Required.—Not later than June 15 of each year, the Comptroller General shall review the F/A-18E/F aircraft program and submit to Congress a report on the results of the review. The Comptroller General shall also submit to Congress with each report a certification regarding whether the Comptroller General has had access to sufficient information to make informed judgments on the matters covered by the report.

(b) Content of Report.—The report submitted on the program each year shall include the following:

(1) The extent to which engineering and manufacturing development and operational test and evaluation under the program are meeting the goals established for engineering and manufacturing development and operational test and evaluation under the program, including the performance, cost, and schedule goals.

(2) The status of modifications expected to have a significant effect on the cost or performance of the F/A-18E/F aircraft.

(c) Duration of Requirement.—The Comptroller General shall submit the first report under this section not later than June 15, 1999. No report is required under this section after the full rate production contract is awarded under the program.

(d) Requirement To Support Annual GAO Review.—The Secretary of Defense and the prime contractors under the F/A-18E/F aircraft program shall timely provide the Comptroller General with such information on the program, including information on program performance, as the Comptroller General considers necessary to carry out the responsibilities under this section.

SEC. 1035. REVIEW AND REPORT REGARDING THE DISTRIBUTION OF NATIONAL GUARD RESOURCES AMONG STATES.

(a) Requirement for Review.—The Chief of the National Guard Bureau shall review the process used for allocating and distributing resources, including all categories of full-time manning, among the States for the National Guard of the States.

(b) Purpose of Review.—The purpose of the review is to determine whether the process provides for adequately funding the National Guard of the States that have within the National Guard no unit or few (15 or less) units categorized in readiness tiers I, II, and III.

(c) Matters Reviewed.—The matters reviewed shall include the following:

(1) The factors considered for the process of determining the distribution of resources, including the weights assigned to the factors.

(2) The extent to which the process results in funding for the units of the States described in subsection (b) at the levels necessary to optimize the preparedness of the units to meet the mission requirements applicable to the units.

(3) The effects that funding at levels determined under the process will have on the National Guard of those States in the future, including the effects on all categories of full-time manning, and unit readiness, recruitment, and continued use of existing National Guard armories and other facilities.

(d) Report.—Not later than March 15, 1999, the Chief of the National Guard Bureau shall submit a report on the results of the review to the congressional defense committees.

SEC. 1036. REPORT ON THE PEACEFUL EMPLOYMENT OF FORMER SOVIET EXPERTS ON WEAPONS OF MASS DESTRUCTION.

(a) Report Required.—Not later than January 31, 1999, the Secretary of Defense shall submit to the congressional defense committees a report on the need for and the feasibility of programs, other than those involving the development or promotion of commercially viable proposals, to further United States nonproliferation objectives regarding former Soviet experts in ballistic missiles or weapons of mass destruction. The report shall contain an analysis of the following:

(1) The number of such former Soviet experts who are, or are likely to become within the coming decade, unemployed, underemployed, or unpaid and, therefore, at risk

of accepting export orders, contracts, or job offers from countries developing weapons of mass destruction.

(2) The extent to which the development of nonthreatening, commercially viable products and services, with or without United States assistance, can reasonably be expected to employ such former experts.

(3) The extent to which projects that do not involve the development of commercially viable products or services could usefully employ additional such former experts.

(4) The likely cost and benefits of a 10-year program of United States or international assistance to projects of the sort discussed in paragraph (3).

(b) CONSULTATION REQUIREMENT.—The report shall be prepared in consultation with the Secretary of State, the Secretary of Energy, and such other officials as the Secretary of Defense considers appropriate.

Subtitle D—Other Matters

SEC. 1041. COOPERATIVE COUNTERPROLIFERATION PROGRAM.

(a) ASSISTANCE AUTHORIZED.—Subject to subsection (b), the Secretary of Defense may provide a foreign country or any of its instrumentalities with assistance that the Secretary determines necessary for destroying, removing, or obtaining from that country—

(1) weapons of mass destruction; or

(2) materials, equipment, or technology related to the delivery or development of weapons of mass destruction.

(b) CERTIFICATION REQUIRED.—(1) Not later than 15 days before providing assistance under subsection (a) regarding weapons, materials, equipment, or technology referred to in that subsection, the Secretary of Defense shall certify to the congressional defense committees that the weapons, materials, equipment, or technology meet each of the following requirements:

(A) The weapons, materials, equipment, or technology are at risk of being sold or otherwise transferred to a restricted foreign state or entity.

(B) The transfer of the weapons, materials, equipment, or technology would pose a significant threat to national security interests of the United States or would significantly advance a foreign country's weapon program that threatens national security interests of the United States.

(C) Other options for securing or otherwise preventing the transfer of the weapons, materials, equipment, or technology have been considered and rejected as ineffective or inadequate.

(2) The Secretary may waive the deadline for submitting a certification required under paragraph (1) in any case if the Secretary determines that compliance with the requirement would compromise national security objectives of the United States in that case. The Secretary shall promptly notify the Chairman and ranking minority members of the congressional defense committees regarding the waiver and submit the certification not later than 45 days after completing the action of providing the assistance in the case.

(3) No assistance may be provided under subsection (a) in any case unless the Secretary submits the certification required under paragraph (1) or a notification required under paragraph (2) in such case.

(c) ANNUAL REPORTS.—(1) Not later than January 30 of each year, the Secretary of Defense shall submit to the congressional defense committees a report on the activities carried out under this section. The first annual report shall be submitted not later than January 30, 2000.

(2) Each annual report shall set forth in separate sections for the previous year the following:

(A) The assistance provided under this section and the purposes for which provided.

(B) The sources of funds for the assistance provided.

(C) Any assistance provided for the Department of Defense under this section by any other department or agency of the Federal Government, together with the source or sources of that assistance.

(D) Any other information that the Secretary considers appropriate for informing the appropriate congressional committees about actions taken under this section.

(d) DEFINITIONS.—In this section:

(1) The term "restricted foreign state or entity", with respect to weapons, materials, equipment, or technology covered by a certification of the Secretary of Defense under subsection (b), means—

(A) any foreign country the government of which has repeatedly provided support for acts of international terrorism, as determined by the Secretary of State determines under section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371); or

(B) any foreign state or entity that the Secretary of Defense determines would constitute a military threat to the territory of the United States, national security interests of the United States, or allies of the United States, if that foreign state or entity were to possess the weapons, materials, equipment, or technology.

(2) The term "weapon of mass destruction" has the meaning given that term in section 1402 of the Defense Against Weapons of Mass Destruction Act of 1996 (50 U.S.C. 2302(1)).

SEC. 1042. EXTENSION OF COUNTERPROLIFERATION AUTHORITIES FOR SUPPORT OF UNITED NATIONS SPECIAL COMMISSION ON IRAQ.

Section 1505 of the Weapons of Mass Destruction Control Act of 1992 (title XV of Public Law 102–484; 22 U.S.C. 5859a) is amended—

(1) in subsection (d)(3), by striking out "or $15,000,000 for fiscal year 1998" and inserting in lieu thereof "or $15,000,000 for each of fiscal years 1998 and 1999"; and

(2) in subsection (f), by striking out "fiscal year 1998" and inserting in lieu thereof "fiscal year 1999".

SEC. 1043. ONE-YEAR EXTENSION OF LIMITATION ON RETIREMENT OR DISMANTLEMENT OF STRATEGIC NUCLEAR DELIVERY SYSTEMS.

Section 1302 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 1948) is amended—

(1) by striking out "during fiscal year 1998" each place it appears and inserting in lieu thereof "during any fiscal year"; and

(2) by adding at the end the following:

"(g) APPLICABILITY TO FISCAL YEARS 1998 and 1999.—This section applies to fiscal years 1998 and 1999.".

SEC. 1044. DIRECT-LINE COMMUNICATION BETWEEN UNITED STATES AND RUSSIAN COMMANDERS OF STRATEGIC FORCES.

(a) SENSE OF CONGRESS.—It is the sense of Congress that a direct line of communication between the commanders in chief of the United States Strategic and Space Commands and the Commander of the Russian Strategic Rocket Forces could be a useful confidence-building tool.

(b) REPORT.—Not later than two months after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and to the Committee on National Security of the House of Representatives a report on the feasibility of initiating discussions on direct-line communication described in subsection (a).

SEC. 1045. CHEMICAL WARFARE DEFENSE.

(a) REVIEW AND MODIFICATION OF POLICIES AND DOCTRINE.—The Secretary of Defense shall review the policies and doctrines of the Department of Defense on chemical warfare defense and modify the policies and doctrine as appropriate to achieve the objectives set forth in subsection (b).

(b) OBJECTIVES.—The objectives for the modification of policies and doctrines of the Department of Defense on chemical warfare defense are as follows:

(1) To provide for adequate protection of personnel from any low-level exposure to a chemical warfare agent that would endanger the health of exposed personnel because of the deleterious effects of—

(A) a single exposure to the agent;

(B) exposure to the agent concurrently with other dangerous exposures, such as exposures to—

(i) other potentially toxic substances in the environment, including pesticides, other insect and vermin control agents, and environmental pollutants;

(ii) low-grade nuclear and electromagnetic radiation present in the environment;

(iii) preventive medications (that are dangerous when taken concurrently with other dangerous exposures referred to in this paragraph); and

(iv) occupational hazards, including battlefield hazards; and

(C) repeated exposures to the agent, or some combination of one or more exposures to the agent and other dangerous exposures referred to in subparagraph (B), over time.

(2) To provide for—

(A) the prevention of and protection against, and the detection (including confirmation) of, exposures to a chemical warfare agent (whether intentional or inadvertent) at levels that, even if not sufficient to endanger health immediately, are greater than the level that is recognized under Department of Defense policies as being the maximum safe level of exposure to that agent for the general population; and

(B) the recording, reporting, coordinating, and retaining of information on possible exposures described in subparagraph (A), including the monitoring of the health effects of exposures on humans and animals, and the documenting and reporting of those health effects specifically by location.

(3) Provide solutions for the concerns and mission requirements that are specifically applicable for one or more of the Armed Forces in a protracted conflict when exposures to chemical agents could be complex, dynamic, and occurring over an extended period.

(c) RESEARCH PROGRAM.—The Secretary of Defense shall develop and carry out a plan to establish a research program for determining the effects of chronic and low-dose exposures to chemical warfare agents. The research shall be designed to yield results that can guide the Secretary in the evolution of policy and doctrine on low-level exposures to chemical warfare agents. The plan shall state the objectives and scope of the program and include a 5-year funding plan.

(d) REPORT.—Not later than May 1, 1999, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report on the results of the review under subsection (a) and on the research program developed under subsection (c). The report shall include the following:

(1) Each modification of chemical warfare defense policy and doctrine resulting from the review.

(2) Any recommended legislation regarding chemical warfare defense.

(3) The plan for the research program.

SEC. 1046. ACCOUNTING TREATMENT OF ADVANCE PAYMENT OF PERSONNEL.

(a) TREATMENT.—Section 1006 of title 37, United States Code, is amended by adding at the end the following:

"(l) Notwithstanding any provision of chapter 15 of title 31, an amount paid a member under this section in advance of the fiscal year in which the member's entitlement to that amount accrues—

"(1) shall be treated as being obligated and expended in that fiscal year; and

"(2) may not be treated as reducing the unobligated balance of the appropriations available for military personnel, Reserve personnel, or National Guard personnel, as the case may be, for the fiscal year in which paid.".

(b) APPLICABILITY.—Subsection (l) of section 1006 of title 37, United States Code (as added by subsection (a)), shall apply to advance payments made under such section in fiscal years beginning after September 30, 1997.

SEC. 1047. REINSTATEMENT OF DEFINITION OF FINANCIAL INSTITUTION IN AUTHORITIES FOR REIMBURSING DEFENSE PERSONNEL FOR GOVERNMENT ERRORS IN DIRECT DEPOSITS OF PAY.

(a) MEMBERS OF THE ARMED FORCES.—Section 1053(d)(1) of title 10, United States Code, is amended to read as follows:

"(1) The term 'financial institution' means a bank, savings and loan association or similar institution, or a credit union chartered by the United States Government or a State.".

(b) CIVILIAN EMPLOYEES.—Section 1594(d)(1) of title 10, United States Code, is amended to read as follows:

"(1) The term 'financial institution' means a bank, savings and loan association or similar institution, or a credit union chartered by the United States Government or a State.".

SEC. 1048. PILOT PROGRAM ON ALTERNATIVE NOTICE OF RECEIPT OF LEGAL PROCESS FOR GARNISHMENT OF FEDERAL PAY FOR CHILD SUPPORT AND ALIMONY.

(a) PROGRAM REQUIRED.—The Secretary of Defense shall conduct a pilot program on alternative notice procedures for withholding or garnishment of pay for the payment of child support and alimony under section 459 of the Social Security Act (42 U.S.C. 659).

(b) PURPOSE.—The purpose of the pilot program is to test the efficacy of providing notice in accordance with subsection (c) to the person whose pay is to be withheld or garnisheed.

(c) NOTICE REQUIREMENTS.—Under the pilot program, if an agent designated under paragraph (1) of section 459(c) of the Social Security Act for members of the Armed Forces or employees of the Department of Defense receives notice or service of a court order, notice to withhold, or other legal process regarding a child support or alimony obligation of such a member or employee, the agent may omit from the notice that the agent sends to the member or employee under paragraph (2)(A) of that section the copy of the notice or service received by the agent. The agent shall include in the notice, which shall be in writing, the following:

(1) A description of the court order, notice to withhold, or other legal process.

(2) The identity of the court, administrative agency, or official that issued the order.

(3) The case number assigned by the court, administrative agency, or official.

(4) The amount of the obligation.

(5) The name of each person for whom the support or alimony is provided.

(6) The name, address, and telephone number of the person or office from which a copy of the notice or service may be obtained.

(d) PERIOD OF PILOT PROGRAM.—The Secretary shall commence the pilot program not later than 90 days after the date of the enactment of this Act. The pilot program shall terminate on September 30, 2000.

(e) REPORT.—Not later than April 1, 2001, the Secretary shall submit a report on the pilot program to Congress. The report shall contain the following:

(1) The number of notices that were issued in accordance with subsection (c) during the period of the pilot program.

(2) The number of persons who requested copies of the notice or service of the court order, notice of withholding, or other legal process involved.

(3) Any communication received by the Secretary or an agent referred to in subsection (c) complaining about not being furnished a copy of the notice or service of the court order, notice of withholding, or other legal process with the agent's notice.

SEC. 1049. COSTS PAYABLE TO THE DEPARTMENT OF DEFENSE AND OTHER FEDERAL AGENCIES FOR SERVICES PROVIDED TO THE DEFENSE COMMISSARY AGENCY.

(a) LIMITATION.—Section 2482(b)(1) of title 10, United States Code, is amended by adding at the end the following: "However, the Defense Commissary Agency may not pay for any such service any amount that exceeds the price at which the service could be procured in full and open competition (as such term is defined in section 4(6) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(6)).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply with respect to services provided or obtained on or after that date.

SEC. 1050. COLLECTION OF DISHONORED CHECKS PRESENTED AT COMMISSARY STORES.

Section 2486 of title 10, United States Code, is amended by adding at the end the following:

"(g) COLLECTION OF DISHONORED CHECKS.—(1) The Secretary of Defense may impose a charge for the collection of a check accepted at a commissary store that is not honored by the financial institution on which the check is drawn. The imposition and amounts of charges shall be consistent with practices of commercial grocery stores regarding dishonored checks.

"(2)(A) The following persons are liable to the United States for the amount of a check referred to in paragraph (1) that is returned unpaid to the United States, together with any charge imposed under that paragraph:

"(i) The person who presented the check.

"(ii) Any person whose status and relationship to the person who presented the check provide the basis for that person's eligibility to make purchases at a commissary store.

"(B) Any amount for which a person is liable under subparagraph (A) may be collected by deducting and withholding such amount from any amounts payable to that person by the United States.

"(3) Amounts collected as charges imposed under paragraph (1) shall be credited to the commissary trust revolving fund.

"(4) Appropriated funds may be used to pay any costs incurred in the collection of checks and charges referred to in paragraph (1). An appropriation account charged a cost under the preceding sentence shall be reimbursed the amount of that cost out of funds in the commissary trust revolving fund.

"(5) In this subsection, the term 'commissary trust revolving fund' means the trust revolving fund maintained by the Department of Defense for surcharge collections and proceeds of sales of commissary stores.".

SEC. 1051. DEFENSE COMMISSARY AGENCY TELECOMMUNICATIONS.

(a) USE OF FTS 2000/2001.—The Secretary of Defense shall prescribe in regulations authority for the Defense Commissary Agency to meet its telecommunication requirements by obtaining telecommunication services and related items under the FTS 2000/2001 contract through a frame relay system procured for the agency.

(b) REPORT.—Upon the initiation of telecommunication service for the Defense Commissary Agency under the FTS 2000/2001 contract through the frame relay system, the Secretary of Defense shall submit to Congress a notification that the service has been initiated.

(c) DEFINITION.—In this section, the term "FTS 2000/2001 contract" means the contract for the provision of telecommunication services for the Federal Government that was entered into by the Defense Information Technology Contract Organization.

SEC. 1052. RESEARCH GRANTS COMPETITIVELY AWARDED TO SERVICE ACADEMIES.

(a) UNITED STATES MILITARY ACADEMY.—(1) Chapter 403 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 4358. Research grants: acceptance, application, and use

"(a) ACCEPTANCE OF COMPETITIVELY AWARDED GRANTS.—The Superintendent of the Academy may accept a research grant that is awarded on a competitive basis by a source referred to in subsection (b) for a research project that is to be carried out by a professor or instructor of the Academy for a scientific, literary, or educational purpose.

"(b) APPLICATION FOR GRANTS.—A professor or instructor of the Academy, together with the Superintendent, may apply for a research grant referred to in subsection (a) from any corporation, fund, foundation, educational institution, or similar entity that is organized and operated primarily for scientific, literary, or educational purposes.

"(c) ADMINISTRATION OF GRANT PROCEEDS.—The Superintendent shall establish a special account for administering the proceeds of a research grant accepted under subsection (a) and shall use the account for the administration of such proceeds in accordance with applicable regulations and the terms and conditions of the grant.

"(d) RELATED EXPENSES.—Subject to such limitations as may be provided in appropriations Acts, appropriations available for the Academy may be used to pay expenses incurred by the Academy in pursuit of an award of a research grant authorized to be accepted under subsection (a).

"(e) REGULATIONS.—The Secretary of the Army shall prescribe in regulations the requirements, restrictions, and conditions that the Secretary considers appropriate for the exercise and administration of the authority under this section.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"4358. Research grants: acceptance, application, and use.".

(b) UNITED STATES NAVAL ACADEMY.—(1) Chapter 603 of title 10, United States Code, is amended by adding at the end the following new section:

"§6977. Research grants: acceptance, application, and use

"(a) ACCEPTANCE OF COMPETITIVELY AWARDED GRANTS.—The Superintendent of the Academy may accept a research grant that is awarded on a competitive basis by a source referred to in subsection (b) for a research project that is to be carried out by a professor or instructor of the Academy for a scientific, literary, or educational purpose.

"(b) APPLICATION FOR GRANTS.—A professor or instructor of the Academy, together with the Superintendent, may apply for a research grant referred to in subsection (a) from any corporation, fund, foundation, educational institution, or similar entity that is organized and operated primarily for scientific, literary, or educational purposes.

"(c) ADMINISTRATION OF GRANT PROCEEDS.—The Superintendent shall establish a special account for administering the proceeds of a research grant accepted under subsection (a) and shall use the account for the administration of such proceeds in accordance with applicable regulations and the terms and conditions of the grant.

"(d) RELATED EXPENSES.—Subject to such limitations as may be provided in appropriations Acts, appropriations available for the Academy may be used to pay expenses incurred by the Academy in pursuit of an award of a research grant authorized to be accepted under subsection (a).

"(e) REGULATIONS.—The Secretary of the Navy shall prescribe in regulations the requirements, restrictions, and conditions that the Secretary considers appropriate for the exercise and administration of the authority under this section.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"6977. Research grants: acceptance, application, and use.".

(c) UNITED STATES AIR FORCE ACADEMY.—(1) Chapter 903 of title 10, United States Code, is amended by adding at the end the following new section:

"§9357. Research grants: acceptance, application, and use

"(a) ACCEPTANCE OF COMPETITIVELY AWARDED GRANTS.—The Superintendent of the Academy may accept a research grant that is awarded on a competitive basis by a source referred to in subsection (b) for a research project that is to be carried out by a professor or instructor of the Academy for a scientific, literary, or educational purpose.

"(b) APPLICATION FOR GRANTS.—A professor or instructor of the Academy, together with the Superintendent, may apply for a research grant referred to in subsection (a) from any corporation, fund, foundation, educational institution, or similar entity that is organized and operated primarily for scientific, literary, or educational purposes.

"(c) ADMINISTRATION OF GRANT PROCEEDS.—The Superintendent shall establish a special account for administering the proceeds of a research grant accepted under subsection (a) and shall use the account for the administration of such proceeds in accordance with applicable regulations and the terms and conditions of the grant.

"(d) RELATED EXPENSES.—Subject to such limitations as may be provided in appropriations Acts, appropriations available for the Academy may be used to pay expenses incurred by the Academy in pursuit of an award of a research grant authorized to be accepted under subsection (a).

"(e) REGULATIONS.—The Secretary of the Air Force shall prescribe in regulations the requirements, restrictions, and conditions that the Secretary considers appropriate for the exercise and administration of the authority under this section.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"9357. Research grants: acceptance, application, and use.".

SEC. 1053. CLARIFICATION AND SIMPLIFICATION OF RESPONSIBILITIES OF INSPECTORS GENERAL REGARDING WHISTLEBLOWER PROTECTIONS.

(a) ROLES OF INSPECTORS GENERAL OF THE ARMED FORCES.—(1) Subsection (c) of section 1034 of title 10, United States Code, is amended—

(A) by striking out paragraph (1) and inserting in lieu thereof the following:

"(1) If a member of the armed forces submits to an Inspector General an allegation that a personnel action prohibited by subsection (b) has been taken (or threatened) against the member with respect to a communication described in paragraph (2), the Inspector General of the Department of Defense or the Inspector General of the armed force concerned shall take the action required under paragraph (3)."; and

(B) by striking out paragraph (3) and inserting in lieu thereof the following:

"(3) The Inspector General receiving an allegation as described in paragraph (1) shall expeditiously determine whether there is sufficient evidence to warrant an investigation of the allegation. Upon determining that an investigation is warranted, the Inspector General shall expeditiously investigate the allegation. In the case of an allegation received by the Inspector General of the Department of Defense, the Inspector General may delegate that duty to the Inspector General of the armed force concerned. Neither an initial determination nor an investigation is required under this paragraph in the case of an allegation made more than 60 days after the date on which the member becomes aware of the personnel action that is the subject of the allegation.

"(4) If an Inspector General within a military department receives an allegation covered by this subsection, that Inspector General shall promptly notify the Inspector General of the Department of Defense of the allegation in accordance with regulations prescribed under subsection (h).

"(5) The Inspector General of the Department of Defense, or the Inspector General of the Department of Transportation (in the case of a member of the Coast Guard when the Coast Guard is not operating as a service in the Navy), shall ensure that the inspector general conducting the investigation of an allegation under this paragraph is outside the immediate chain of command of both the member submitting the allegation and the individual or individuals alleged to have taken the retaliatory action.".

(2) Subsection (d) of such section is amended—

(A) by striking out "the Inspector General shall conduct" and inserting in lieu thereof "an Inspector General shall conduct"; and

(B) by adding at the end the following: "In the case of an allegation received by the Inspector General of the Department of Defense, the Inspector General may delegate that duty to the Inspector General of the armed force concerned.".

(b) MISMANAGEMENT COVERED BY PROTECTED COMMUNICATIONS.—Subsection (c)(2)(B) of such section is amended by striking out "Mismanagement" and inserting in lieu thereof "Gross mismanagement".

(c) SIMPLIFIED REPORTING AND NOTICE REQUIREMENTS.—(1) Paragraph (1) of subsection (e) of such section is amended—

(A) by striking out "the Inspector General shall submit a report on" and inserting in lieu thereof "the Inspector General conducting the investigation shall provide"; and

(B) inserting "shall transmit a copy of the report on the results of the investigation to" before "the member of the armed forces".

(2) Paragraph (2) of such subsection is amended by adding at the end the following: "However, the copy need not include summaries of interviews conducted, nor any document acquired, during the course of the investigation. Such items shall be transmitted to the member if the member requests the items, whether before or after the copy of the report is transmitted to the member.".

(3) Paragraph (3) of such subsection is amended by striking out "90 days" and inserting in lieu thereof "120 days".

(d) REPEAL OF POST-INVESTIGATION INTERVIEW REQUIREMENT.—Subsection (h) of such section is repealed.

(e) INSPECTOR GENERAL DEFINED.—Subsection (j)(2) of such section is amended—

(1) by redesignating subparagraph (B) as subparagraph (G) and, in that subparagraph, by striking out "an officer" and inserting in lieu thereof "An officer";

(2) by striking out subparagraph (A) and inserting in lieu thereof the following:

"(A) The Inspector General of the Department of Defense.

"(B) The Inspector General of the Department of Transportation, in the case of a member of the Coast Guard when the Coast Guard is not operating as a service in the Navy.

"(C) The Inspector General of the Army, in the case of a member of the Army.

"(D) The Naval Inspector General, in the case of a member of the Navy.

"(E) The Inspector General of the Air Force, in the case of a member of the Air Force.

"(F) The Deputy Naval Inspector General for Marine Corps Matters, in the case of a member of the Marine Corps."; and

(3) in the matter preceding subparagraph (A), by striking out "means—" and inserting in lieu thereof "means the following:".

(f) TECHNICAL AND CONFORMING AMENDMENTS.—(1) Subsections (i) and (j) of such section are redesignated as subsections (h) and (i), respectively.

(2) Subsection (b)(1)(B)(ii) of such section is amended by striking out "subsection (j))" and inserting in lieu thereof "subsection (i)) or any other Inspector General appointed under the Inspector General Act of 1978".

SEC. 1054. AMOUNTS RECOVERED FROM CLAIMS AGAINST THIRD PARTIES FOR LOSS OR DAMAGE TO PERSONAL PROPERTY SHIPPED OR STORED AT GOVERNMENT EXPENSE.

(a) IN GENERAL.—Chapter 163 of title 10, United States Code, is amended by adding at the end the following new section:

"§2739. Amounts recovered from claims against third parties for loss or damage to personal property shipped or stored at Government expense

"(a) CREDITING OF COLLECTIONS.—Amounts collected as described in subsection (b) by or for a military department in any fiscal year shall be credited to the appropriation that is available for that fiscal year for the military department for the payment of claims for loss or damage of personal property shipped or stored at Government expense. Amounts so credited shall be merged with the funds in the appropriation and shall be available for the same period and purposes as the funds with which merged.

"(b) COLLECTIONS COVERED.—An amount authorized for crediting in accordance with subsection (a) is any amount that a military department collects under sections 3711, 3716, 3717 and 3721 of title 31 from a third party for a loss or damage to personal property that occurred during shipment or storage of the property at Government expense and for which the Secretary of the military department paid the owner in settlement of a claim.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2739. Amounts recovered from claims against third parties for loss or damage to personal property shipped or stored at government expense.".

SEC. 1055. ELIGIBILITY FOR ATTENDANCE AT DEPARTMENT OF DEFENSE DOMESTIC DEPENDENT ELEMENTARY AND SECONDARY SCHOOLS.

(a) MILITARY DEPENDENTS.—Subsection (a) of section 2164 of title 10, United States Code, is amended—

(1) by designating the first sentence as paragraph (1);

(2) by designating the second sentence as paragraph (2); and

(3) by adding at the end of paragraph (2), as so designated, the following: "The Secretary may also permit a dependent of a member of the armed forces to enroll in such a program if the dependent is residing in such a jurisdiction, whether on or off a military installation, while the member is assigned away from that jurisdiction on a remote or unaccompanied assignment under permanent change of station orders.".

(b) EMPLOYEE DEPENDENTS.—Subsection (c)(2) of such section is amended by striking out subparagraph (B) and inserting in lieu thereof the following:

"(B) The Secretary may extend the enrollment of a dependent referred to in subparagraph (A) in the program for more than five consecutive school years if the Secretary determines that the dependent is eligible under paragraph (1), space is available in the program, and adequate arrangements are made for reimbursement of the Secretary for the costs to the Secretary of the educational services provided for the dependent. An extension shall be for only one school year, but the Secretary may authorize a successive extension each year for the next school year upon making the determinations required under the preceding sentence for that next school year.".

(c) CUSTOMS SERVICE EMPLOYEE DEPENDENTS IN PUERTO RICO.—(1) Subsection (c) of such section is further amended by adding at the end the following:

"(4)(A) A dependent of a United States Customs Service employee who resides in Puerto Rico but not on a military installation may enroll in an educational program provided by the Secretary pursuant to subsection (a) in Puerto Rico.

"(B) Notwithstanding the limitation on duration of enrollment set forth in paragraph (2), a dependent described in subparagraph (A) who is enrolled in an education program described in that subparagraph may be removed from the program only for good cause (as determined by the Secretary). No requirement under that paragraph for reimbursement of the Secretary for the costs of educational services provided for the dependent shall apply with respect to the dependent.

"(C) In the event of the death in the line of duty of an employee described in subparagraph (A), a dependent of the employee may remain enrolled in an educational program described in that subparagraph until—

"(i) the end of the academic year in which the death occurs; or

"(ii) the dependent is removed for good cause (as so determined).".

(2) The amendment made by paragraph (1) shall take effect on the date of enactment of this Act and apply to academic years beginning on or after that date.

SEC. 1056. FEES FOR PROVIDING HISTORICAL INFORMATION TO THE PUBLIC.

(a) ARMY.—(1) Chapter 437 of title 10, United States Code, is amended by adding at the end the following:

"§4595. Army Military History Institute: fee for providing historical information to the public

"(a) AUTHORITY.—Except as provided in subsection (b), the Secretary of the Army may charge a person a fee for providing the person with information requested by the person that is provided from the United States Army Military History Institute.

"(b) EXCEPTIONS.—A fee may not be charged under this section—

"(1) to a person for information that the person requests to carry out a duty as a member of the armed forces or an officer or employee of the United States; or

"(2) for a release of information under section 552 of title 5.

"(c) LIMITATION ON AMOUNT OF FEE.—The amount of the fee charged under this section for providing information may not exceed the cost of providing the information.

"(d) RETENTION OF FEES.—Amounts received under subsection (a) for providing information in any fiscal year shall be credited to the appropriation or appropriations charged the costs of providing information to the public from the United States Army Military History Institute during that fiscal year.

"(e) DEFINITIONS.—In this section:

"(1) The term 'United States Army Military History Institute' means the archive for historical records and materials of the Army that the Secretary of the Army designates as the primary archive for such records and materials.

"(2) The terms 'officer of the United States' and 'employee of the United States' have the meanings given those terms in sections 2104 and 2105, respectively, of title 5.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following:

"4595. Army Military History Institute: fee for providing historical information to the public.".

(b) NAVY.—(1) Chapter 649 of such title 10 is amended by adding at the end the following new section:

"§7582. Naval and Marine Corps Historical Centers: fee for providing historical information to the public

"(a) AUTHORITY.—Except as provided in subsection (b), the Secretary of the Navy may charge a person a fee for providing the person with information requested by the person that is provided from the United States Naval Historical Center or the Marine Corps Historical Center.

"(b) EXCEPTIONS.—A fee may not be charged under this section—

"(1) to a person for information that the person requests to carry out a duty as a member of the armed forces or an officer or employee of the United States; or

"(2) for a release of information under section 552 of title 5.

"(c) LIMITATION ON AMOUNT OF FEE.—The amount of the fee charged under this section for providing information may not exceed the cost of providing the information.

"(d) RETENTION OF FEES.—Amounts received under subsection (a) for providing information from the United States Naval Historical Center or the Marine Corps Historical Center in any fiscal year shall be credited to the appropriation or appropriations charged the costs of providing information to the public from that historical center during that fiscal year.

"(e) DEFINITIONS.—In this section:

"(1) The term 'United States Naval Historical Center' means the archive for historical records and materials of the Navy that the Secretary of the Navy designates as the primary archive for such records and materials.

"(2) The term 'Marine Corps Historical Center' means the archive for historical records and materials of the Marine Corps that the Secretary of the Navy designates as the primary archive for such records and materials.

"(3) The terms 'officer of the United States' and 'employee of the United States' have the meanings given those terms in sections 2104 and 2105, respectively, of title 5.".

(2) The heading of such chapter is amended by striking out "**RELATED**".

(3)(A) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"7582. Naval and Marine Corps Historical Centers: fee for providing historical information to the public.".

(B) The item relating to such chapter in the tables of chapters at the beginning of subtitle C of title 10, United States Code, and the beginning of part IV of such subtitle is amended by striking out "Related".

(c) AIR FORCE.—(1) Chapter 937 of title 10, United States Code, is amended by adding at the end the following new section:

"§9594. Air Force Military History Institute: fee for providing historical information to the public

"(a) AUTHORITY.—Except as provided in subsection (b), the Secretary of the Air Force may charge a person a fee for providing the person with information requested by the person that is provided from the United States Air Force Military History Institute.

"(b) EXCEPTIONS.—A fee may not be charged under this section—

"(1) to a person for information that the person requests to carry out a duty as a member of the armed forces or an officer or employee of the United States; or

"(2) for a release of information under section 552 of title 5.

"(c) LIMITATION ON AMOUNT OF FEE.—The amount of the fee charged under this section for providing information may not exceed the cost of providing the information.

"(d) RETENTION OF FEES.—Amounts received under subsection (a) for providing information in any fiscal year shall be credited to the appropriation or appropriations charged the costs of providing information to the public from the United States Air Force Military History Institute during that fiscal year.

"(e) DEFINITIONS.—In this section:

"(1) The term 'United States Air Force Military History Institute' means the archive for historical records and materials of the Air Force that the Secretary of the Air Force designates as the primary archive for such records and materials.

"(2) The terms 'officer of the United States' and 'employee of the United States' have the meanings given those terms in sections 2104 and 2105, respectively, of title 5.".

(2) The table of sections at the beginning of such chapter 937 is amended by adding at the end the following new item:

"9594. Air Force Military History Institute: fee for providing historical information to the public.".

SEC. 1057. PERIODIC INSPECTION OF THE ARMED FORCES RETIREMENT HOME.

(a) INSPECTION BY INSPECTORS GENERAL OF THE ARMED FORCES.—Section 1518 of the Armed Forces Retirement Home Act of 1991 (24 U.S.C. 418) is amended to read as follows:

"SEC. 1518. INSPECTION OF RETIREMENT HOME.

"(a) TRIENNIAL INSPECTION.—Every three years the Inspector General of an armed force shall inspect the Retirement Home, including the records of the Retirement Home.

"(b) ALTERNATING DUTY AMONG INSPECTORS GENERAL.—The duty to inspect the Retirement Home shall alternate among the Inspector General of the Army, the Naval Inspector General, and the Inspector General of the Air Force on such schedule as the Secretary of Defense shall direct.

"(c) REPORTS.—Not later than 45 days after completing an inspection under subsection (a), the Inspector General carrying out the inspection shall submit to the Retirement Home Board, the Secretary of Defense, and Congress a report describing the results of the inspection and containing such recommendations as the Inspector General considers appropriate.".

(b) FIRST INSPECTION.—The first inspection under section 1518 of the Armed Forces Retirement Home Act of 1991, as amended by subsection (a), shall be carried out during fiscal year 1999.

SEC. 1058. TRANSFER OF F-4 PHANTOM II AIRCRAFT TO FOUNDATION.

(a) AUTHORITY.—The Secretary of the Air Force may convey, without consideration to the Collings' Foundation, Stow, Massachusetts (in this section referred to as the "foundation"), all right, title, and interest of the United States in and to one surplus F-4 Phantom II aircraft. The conveyance shall be made by means of a conditional deed of gift.

(b) CONDITION OF AIRCRAFT.—The Secretary may not convey ownership of the aircraft under subsection (a) until the Secretary determines that the foundation has altered the aircraft in such manner as the Secretary determines necessary to ensure that the aircraft does not have any capability for use as a platform for launching or releasing munitions or any other combat capability that it was designed to have. The Secretary is not required to repair or alter the condition of the aircraft before conveying ownership of the aircraft.

(c) REVERTER UPON BREACH OF CONDITIONS.—The Secretary shall include in the instrument of conveyance of the aircraft—

(1) a condition that the foundation not convey any ownership interest in, or transfer possession of, the aircraft to any other party without the prior approval of the Secretary of the Air Force;

(2) a condition that the operation and maintenance of the aircraft comply with all applicable limitations and maintenance requirements imposed by the Administrator of the Federal Aviation Administration; and

(3) a condition that if the Secretary of the Air Force determines at any time that the foundation has conveyed an ownership interest in, or transferred possession of, the aircraft to any other party without the prior approval of the Secretary, or has failed to comply with the condition set forth in paragraph (2), all right, title, and interest in and to the aircraft, including any repair or alteration of the aircraft, shall revert to the United States, and the United States shall have the right of immediate possession of the aircraft.

(d) CONVEYANCE AT NO COST TO THE UNITED STATES.—The conveyance of an aircraft authorized by this section shall be made at no cost to the United States. Any costs associated with such conveyance, costs of determining compliance with subsection (b), and costs of operation and maintenance of the aircraft conveyed shall be borne by the foundation.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary of the Air Force may require such additional terms and conditions in connection with the conveyance under this section as the Secretary considers appropriate to protect the interests of the United States.

(f) CLARIFICATION OF LIABILITY.—Notwithstanding any other provision of law, upon the conveyance of ownership of the F-4 Phantom II aircraft to the foundation under subsection (a), the United States shall not be liable for any death, injury, loss, or damage that results from any use of that aircraft by any person other than the United States.

SEC. 1059. ACT CONSTITUTING PRESIDENTIAL APPROVAL OF VESSEL WAR RISK INSURANCE REQUESTED BY THE SECRETARY OF DEFENSE.

Section 1205(b) of the Merchant Marine Act of 1936 (46 U.S.C. App. 1285(b)) is amended by adding at the end the following: "The signature of the President (or of an official designated by the President) on the agreement shall be treated as an expression of the approval required under section 1202(a) to provide the insurance.".

SEC. 1060. COMMENDATION AND MEMORIALIZATION OF THE UNITED STATES NAVY ASIATIC FLEET.

(a) FINDINGS.—Congress makes the following findings:

(1) The United States established the Asiatic Fleet of the Navy in 1910 to protect American nationals, policies, and possessions in the Far East.

(2) The sailors and Marines of the Asiatic Fleet ensured the safety of United States citizens and foreign nationals, and provided humanitarian assistance, in that region during the Chinese civil war, the Yangtze Flood of 1931, and the outbreak of Sino-Japanese hostilities.

(3) In 1940, due to deteriorating political relations and increasing tensions between the United States and Japan, a reinforced Asiatic Fleet began concentrating on the defense of the Philippines and engaged in extensive training to ensure maximum operational readiness for any eventuality.

(4) Following the declaration of war against Japan, the warships, submarines, and aircraft of the Asiatic Fleet singly or in task forces courageously fought many naval battles against a superior Japanese armada.

(5) The Asiatic Fleet directly suffered the loss of 22 ships, 1,826 men killed or missing in action, and 518 men captured and imprisoned under the worst of conditions with many of them dying while held as prisoners of war.

(b) COMMENDATION.—Congress—

(1) commends the personnel who served in the Asiatic Fleet of the United States Navy during the period 1910 to 1942; and

(2) honors those who gave their lives in the line of duty while serving in the Asiatic Fleet.

(c) UNITED STATES NAVY ASIATIC FLEET MEMORIAL DAY.—The President is authorized and requested to issue a proclamation designating March 1, 1999 as "United States Navy Asiatic Fleet Memorial Day" and calling upon the people of the United States to observe United States Navy Asiatic Fleet Memorial Day with appropriate programs, ceremonies, and activities.

SEC. 1061. PROGRAM TO COMMEMORATE 50TH ANNIVERSARY OF THE KOREAN WAR.

(a) REFERENCE TO KOREAN WAR.—Section 1083 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105-85; 111 Stat. 1918; 10 U.S.C. 113 note) is amended—

(1) in the section heading, by striking out "**KOREAN CONFLICT**" and inserting in lieu thereof "**KOREAN WAR**";

(2) by striking out "Korean conflict" each place it appears and inserting in lieu thereof "Korean War"; and

(3) in subsections (c) and (d)(1), by striking out "Korean Conflict" and inserting in lieu thereof "Korean War".

(b) LIMITATION ON EXPENDITURES.—Subsection (f) of such section is amended to read as follows:

"(f) LIMITATION ON EXPENDITURES.—The total amount expended for the commemorative program for fiscal years 1998 through 2004 by the Department of Defense 50th Anniversary of the Korean War Commemorative Committee established by the Secretary of Defense may not exceed $10,000,000.".

SEC. 1062. DEPARTMENT OF DEFENSE USE OF FREQUENCY SPECTRUM.

(a) FINDING.—Congress finds that the report submitted to Congress by the Secretary of Defense on April 2, 1998, regarding the reallocation of the frequency spectrum used or dedicated to the Department of Defense and the intelligence community, does not include a discussion of the costs to the Department of Defense that are associated with past and potential future reallocations of the frequency spectrum, although such a discussion was to be included in the report as directed in connection with the enactment of the National Defense Authorization Act for Fiscal Year 1998.

(b) ADDITIONAL REPORT.—The Secretary of Defense shall, not later than October 31, 1998, submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report that discusses the costs referred to in subsection (a).

(c) RELOCATION OF FEDERAL FREQUENCIES.—Section 113(g)(1) of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 923(g)(1)) is amended—

(1) by striking out "(1) IN GENERAL.—In order" and inserting in lieu thereof the following:

"(1) IN GENERAL.—

"(A) AUTHORITY OF FEDERAL ENTITIES TO ACCEPT COMPENSATION.—In order";

(2) in subparagraph (A), as so designated, by striking out the second, third, and fourth sentences and inserting in lieu thereof the following: "Any such Federal entity which proposes to so relocate shall notify the NTIA, which in turn shall notify the Commission, before the auction concerned of the

marginal costs anticipated to be associated with such relocation or with modifications necessary to accommodate prospective licensees. The Commission in turn shall notify potential bidders of the estimated relocation or modification costs based on the geographic area covered by the proposed licenses before the auction; and

(3) by adding at the end the following:

"(B) Requirement to compensate federal entities.—Any person on whose behalf a Federal entity incurs costs under subparagraph (A) shall compensate the Federal entity in advance for such costs. Such compensation may take the form of a cash payment or in-kind compensation.

"(C) Disposition of payments.—

"(i) Payment by electronic funds transfer.—A person making a cash payment under this paragraph shall make the cash payment by depositing the amount of the payment by electronic funds transfer in the account of the Federal entity concerned in the Treasury of the United States or in another account as authorized by law.

"(ii) Availability.—Subject to the provisions of authorization Acts and appropriations Acts, amounts deposited under this subparagraph shall be available to the Federal entity concerned to pay directly the costs of relocation under this paragraph, to repay or make advances to appropriations or funds which do or will initially bear all or part of such costs, or to refund excess sums when necessary.

"(D) Application to certain other relocations.—The provisions of this paragraph also apply to any Federal entity that operates a Federal Government station assigned to used electromagnetic spectrum identified for reallocation under subsection (a) if before August 5, 1997, the Commission has not identified that spectrum for service or assigned licenses or otherwise authorized service for that spectrum.

"(E) Implementation procedures.—The NTIA and the Commission shall develop procedures for the implementation of this paragraph, which procedures shall include a process for resolving any differences that arise between the Federal Government and commercial licensees regarding estimates of relocation or modification costs under this paragraph.

"(F) Inapplicability to certain relocations.—With the exception of spectrum located at 1710–1755 Megahertz, the provisions of this paragraph shall not apply to Federal spectrum identified for reallocation in the first reallocation report submitted to the President and Congress under subsection (a).".

(d) Reports on Costs of Relocations.—The head of each department or agency of the Federal Government shall include in the annual budget submission of such department or agency to the Director of the Office of Management and Budget a report assessing the costs to be incurred by such department or agency as a result of any frequency relocations of such department or agency that are anticipated under section 113 of the National Telecommunications Information Administration Organization Act (47 U.S.C. 923) as of the date of such report.

SEC. 1063. TECHNICAL AND CLERICAL AMENDMENTS.

(a) Title 10, United States Code.—Title 10, United States Code, is amended as follows:

(1) The item relating to section 484 in the table of sections at the beginning of chapter 23 is amended to read as follows:

"484. Annual report on aircraft inventory.".

(2) Section 517(a) is amended by striking out "Except as provided in section 307 of title 37, the" and inserting in lieu thereof "The".

(3) The item relating to section 2302c in the table of sections at the beginning of chapter 137 is amended to read as follows:

"2302c. Implementation of electronic commerce capability.".

(4) The table of subchapters at the beginning of chapter 148 is amended by striking out "2491" in the item relating to subchapter I and inserting in lieu thereof "2500".

(5) Section 7045(c) is amended by striking out "the" after "are subject to".

(6) Section 7572(b) is repealed.

(7) Section 12683(b)(2) is amended by striking out "; or" at the end and inserting in lieu thereof a period.

(b) Public Law 105–85.—Effective as of November 18, 1997, and as if included therein as enacted, the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85) is amended as follows:

(1) Section 1006(a) (111 Stat. 1869) is amended by striking out "or" in the quoted matter and inserting in lieu thereof "and".

(2) Section 3133(b)(3) (111 Stat. 2036) is amended by striking out "III" and inserting in lieu thereof "XIV".

(c) Other Acts.—

(1) Section 18(c)(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 416(c)(1)) is amended by striking out the period at the end of subparagraph (A) and inserting in lieu thereof a semicolon.

(2) Section 3(c)(2) of Public Law 101–533 (22 U.S.C. 3142(c)(2)) is amended by striking out "included in the most recent plan submitted to the Congress under section 2506 of title 10" and inserting in lieu thereof "identified in the most recent assessment prepared under section 2505 of title 10".

(d) Coordination With Other Amendments.—For purposes of applying amendments made by provisions of this Act other than provisions of this section, this section shall be treated as having been enacted immediately before the other provisions of this Act.

SEC. 1064. EXTENSION AND REAUTHORIZATION OF DEFENSE PRODUCTION ACT OF 1950.

(a) Extension of Termination Date.—Section 717(a) of the Defense Production Act of 1950 (50 U.S.C. App. 2166(a)) is amended by striking "September 30, 1998" and inserting "September 30, 1999".

(b) Extension of Authorization.—Section 711(b) of the Defense Production Act of 1950 (50 U.S.C. App. 2161(b)) is amended by striking "and 1998" and inserting "1998, and 1999".

SEC. 1065. BUDGETING FOR CONTINUED PARTICIPATION OF UNITED STATES FORCES IN NATO OPERATIONS IN BOSNIA AND HERZEGOVINA.

(a) Findings.—Congress makes the following findings:

(1) Funding levels in the Department of Defense budget have not been sufficient to pay for the deployment of United States ground combat forces in Bosnia and Herzegovina that began in fiscal year 1996.

(2) The Department of Defense has used funds from the operation and maintenance accounts of the Armed Forces to pay for the operations because the funding levels included in the defense budgets for fiscal years 1996 and 1997 have not been adequate to maintain operations in Bosnia and Herzegovina.

(3) Funds necessary to continue United States participation in the NATO operations in Bosnia and Herzegovina, and to replace operation and maintenance funds used for the operations, have been requested by the President as supplemental appropriations in fiscal years 1996 and 1997. The Department of Defense has also proposed to reprogram previously appropriated funds to make up the shortfall for continued United States operations in Bosnia and Herzegovina.

(4) In February 1998, the President certified to Congress that the continued presence of United States forces in Bosnia and Herzegovina after June 30, 1998, was necessary in order to meet national security interests of the United States.

(5) The discretionary spending limit established for the defense category for fiscal year 1998 in the Balanced Budget and Emergency Deficit Control Act of 1985 does not take into account the continued deployment of United States forces in Bosnia and Herzegovina after June 30, 1998. Therefore, the President requested emergency supplemental appropriations for the Bosnia and Herzegovina mission through September 30, 1998.

(6) Amounts for operations in Bosnia and Herzegovina were not included in the original budget proposed by the President for the Department of Defense for fiscal year 1999.

(7) The President requested $1,858,600,000 in emergency appropriations in his March 4, 1998 amendment to the fiscal year 1999 budget to cover the shortfall in funding in the fiscal year 1999 for the costs of extending the mission in Bosnia.

(b) Sense of Congress.—It is the sense of Congress that—

(1) the President should include in the budget for the Department of Defense that the President submits to Congress under section 1105(a) of title 31, United States Code, for each fiscal year sufficient amounts to pay for any proposed continuation of the participation of United States forces in NATO operations in Bosnia and Herzegovina for that fiscal year; and

(2) amounts included in the budget for that purpose should not be transferred from amounts that would otherwise be proposed in the budget of any of the Armed Forces in accordance with the future-years defense program related to that budget, or any other agency of the Executive Branch, but, instead, should be an overall increase in the budget for the Department of Defense.

SEC. 1066. NATO PARTICIPATION IN THE PERFORMANCE OF PUBLIC SECURITY FUNCTIONS OF CIVILIAN AUTHORITIES IN BOSNIA AND HERZEGOVINA.

(a) Findings.—Congress makes the following findings:

(1) The North Atlantic Treaty Organization (NATO) has approved the creation of a multi-national specialized unit of gendarmes- or para-military police composed of European security forces to help promote public security in Bosnia and Herzegovina as a part of the post-June 1998 mission for the Stabilization Force (SFOR) authorized under the United Nations Security Council Resolution 1088 (December 12, 1996).

(2) On at least four occasions, beginning in July 1997, the Stabilization Force (SFOR) has been involved, pursuant to military annex 1(A) of the Dayton Agreement, in carrying out missions for the specific purpose of detaining war criminals, and on at least one of those occasions United States forces were directly involved in carrying out the mission.

(b) Sense of Congress.—It is the sense of Congress that United States forces should not serve as civil police in Bosnia and Herzegovina.

(c) Requirement for Report.—The President shall submit to Congress, not later than

October 1, 1998, a report on the status of the NATO force of gendarmes or paramilitary police referred to in subsection (a)(1), including the mission of the force, the composition of the force, and the extent, if any, to which members of the Armed Forces of the United States are participating (or are to participate) in the force.

SEC. 1067. PILOT PROGRAM FOR REVITALIZING THE LABORATORIES AND TEST AND EVALUATION CENTERS OF THE DEPARTMENT OF DEFENSE.

(a) FINDINGS.—Congress makes the following findings:

(1) Officials of the Department of Defense are critically dependent on the science and technology laboratories and test and evaluation centers, of the department—

(A) to exploit commercial technology for unique military purposes;

(B) to develop advanced technology in precise areas;

(C) to provide the officials with objective advice and counsel on science and technology matters; and

(D) to lead the decisionmaking that identifies the most cost-effective procurements of military equipment and services.

(2) The laboratories and test and evaluation centers are facing a number of challenges that, if not overcome, could limit the productivity and self-sustainability of the laboratories and centers, including—

(A) the declining funding provided for science and technology in the technology base program of the Department of Defense;

(B) difficulties experienced in recruiting, retaining, and motivating high-quality personnel; and

(C) the complex web of policies and regulatory constraints that restrict authority of managers to operate the laboratories and centers in a businesslike fashion.

(3) Congress has provided tools to deal with the changing nature of technological development in the defense sector by encouraging closer cooperation with industry and university research and by authorizing demonstrations of alternative personnel systems.

(4) A number of laboratories and test and evaluation centers have addressed the challenges and are employing a variety of innovative methods, such as the so-called "Federated Lab Concept" undertaken at the Army Research Laboratory, to maintain the high quality of the technical program, to provide a challenging work environment for researchers, and to meet the high cost demands of maintaining facilities that are equal or superior in quality to comparable facilities anywhere in the world.

(b) COMMENDATION.—Congress commends the Secretary of Defense for the progress made by the science and technology laboratories and test and evaluation centers to achieve the results described in subsection (a)(4) and encourages the Secretary to take the actions necessary to ensure continued progress for the laboratories and test and evaluation centers in developing cooperative relationships with universities and other private sector entities for the performance of research and development functions.

(c) PILOT PROGRAM.—(1) In conjunction with the plan for restructuring and revitalizing the science and technology laboratories and test and evaluation centers of the Department of Defense that is required by section 906 of this Act, the Secretary of Defense may carry out a pilot program to demonstrate improved cooperative relationships with universities and other private sector entities for the performance of research and development functions.

(2) Under the pilot program, the Secretary of Defense shall provide the director of one science and technology laboratory, and the director of one test and evaluation center, of each military department with authority for the following:

(A) To explore innovative methods for quickly, efficiently, and fairly entering into cooperative relationships with universities and other private sector entities with respect to the performance of research and development functions.

(B) To waive any restrictions on the demonstration and implementation of such methods that are not required by law.

(C) To develop or expand innovative methods of operation that provide more defense research for each dollar of cost, including to carry out such initiatives as focusing on the performance of core functions and adopting more business-like practices.

(3) In selecting the laboratories and centers for participation in the pilot program, the Secretary shall consider laboratories and centers where innovative management techniques have been demonstrated, particularly as documented under sections 1115 through 1119 of title 31, United States Code, relating to Government agency performance and results.

(4) The Secretary may carry out the pilot program at each selected laboratory and center for a period of three years beginning not later than March 1, 1999.

(d) REPORTS.—(1) Not later than March 1, 1999, the Secretary of Defense shall submit a report on the implementation of the pilot program to Congress. The report shall include the following:

(A) Each laboratory and center selected for the pilot program.

(B) To the extent possible, a description of the innovative concepts that are to be tested at each laboratory or center.

(C) The criteria to be used for measuring the success of each concept to be tested.

(2) Promptly after the expiration of the period for participation of a laboratory or center in the pilot program, the Secretary of Defense shall submit to Congress a final report on the participation of the laboratory or center in the pilot program. The report shall contain the following:

(A) A description of the concepts tested.

(B) The results of the testing.

(C) The lessons learned.

(D) Any proposal for legislation that the Secretary recommends on the basis of the experience at the laboratory or center under the pilot program.

SEC. 1068. SENSE OF CONGRESS REGARDING THE HEROISM, SACRIFICE, AND SERVICE OF FORMER SOUTH VIETNAMESE COMMANDOS IN CONNECTION WITH UNITED STATES ARMED FORCES DURING THE VIETNAM CONFLICT.

(a) FINDINGS.—Congress makes the following findings:

(1) South Vietnamese commandos were recruited by the United States as part of OPLAN 34A or its predecessor or OPLAN 35 from 1961 to 1970.

(2) The commandos conducted covert operations in North Vietnam during the Vietnam conflict.

(3) Many of the commandos were captured and imprisoned by North Vietnamese forces, some for as long as 20 years.

(4) The commandos served and fought proudly during the Vietnam conflict.

(5) Many of the commandos lost their lives serving in operations conducted by the United States during the Vietnam conflict.

(6) Many of the Vietnamese commandos now reside in the United States.

(b) SENSE OF CONGRESS—Congress recognizes and honors the former South Vietnamese commandos for their heroism, sacrifice, and service in connection with United States armed forces during the Vietnam conflict.

SEC. 1069. SENSE OF THE SENATE REGARDING DECLASSIFICATION OF CLASSIFIED INFORMATION OF THE DEPARTMENT OF DEFENSE AND THE DEPARTMENT OF ENERGY.

It is the sense of the Senate that the Secretary of Defense and the Secretary of Energy should submit to Congress a request for funds in fiscal year 2000 for activities relating to the declassification of information under the jurisdiction of such Secretaries in order to fulfill the obligations and commitments of such Secretaries under Executive Order No. 12958 and the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) and to the stakeholders.

SEC. 1070. RUSSIAN NONSTRATEGIC NUCLEAR WEAPONS.

(a) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the 7,000 to 12,000 or more nonstrategic (or "tactical") nuclear weapons estimated by the United States Strategic Command to be in the Russian arsenal may present the greatest threat of sale or theft of a nuclear warhead in the world today;

(2) as the number of deployed strategic warheads in the Russian and United States arsenals declines to just a few thousand under the START accords, Russia's vast superiority in tactical nuclear warheads—many of which have yields equivalent to strategic nuclear weapons—could become strategically destabilizing;

(3) while the United States has unilaterally reduced its inventory of tactical nuclear weapons by nearly 90 percent since the end of the Cold War, Russia is behind schedule in implementing the steep tactical nuclear arms reductions pledged by former Soviet President Gorbachev in 1991 and Russian President Yeltsin in 1992, perpetuating the dangers from Russia's tactical nuclear stockpile; and

(4) the President of the United States should call on the Russian Federation to expedite reduction of its tactical nuclear arsenal in accordance with the promises made in 1991 and 1992.

(b) REPORT.—Not later than March 15, 1999, the Secretary of Defense shall submit to the Congress a report on Russia's nonstrategic nuclear weapons, including—

(1) estimates regarding the current numbers, types, yields, viability, and locations of such warheads;

(2) an assessment of the strategic implications of the Russian Federation's nonstrategic arsenal, including the potential use of such warheads in a strategic role or the use of their components in strategic nuclear systems;

(3) an assessment of the extent of the current threat of theft, sale, or unauthorized use of such warheads, including an analysis of Russian command and control as it concerns the use of tactical nuclear warheads; and

(4) a summary of past, current, and planned efforts to work cooperatively with the Russian Federation to account for, secure, and reduce Russia's stockpile of tactical nuclear warheads and associated fissile material.

(c) VIEWS.—This report shall include the views of the Director of Central Intelligence and the Commander in Chief of the United States Strategic Command.

SEC. 1071. SENSE OF SENATE ON NUCLEAR TESTS IN SOUTH ASIA.

(a) FINDINGS.—The Senate finds that—

(1) on May 11 and 13, 1998, the Government of India conducted a series of underground nuclear tests;

(2) on May 28 and 30, 1998, the Government of Pakistan conducted a series of underground nuclear tests;

(3) although not recognized or accepted as such by the United Nations Security Council, India and Pakistan have declared themselves nuclear weapon states;

(4) India and Pakistan have conducted extensive nuclear weapons research over several decades, resulting in the development of nuclear capabilities and the potential for the attainment of nuclear arsenals and the dangerous proliferation of nuclear weaponry;

(5) India and Pakistan have refused to enter into internationally recognized nuclear non-proliferation agreements, including the Comprehensive Test Ban Treaty, the Treaty on the Non-Proliferation of Nuclear Weapons, and full-scope safeguards agreements with the International Atomic Energy Agency;

(6) India and Pakistan, which have been at war with each other 3 times in the past 50 years, have urgent bilateral conflicts, most notably over the disputed territory of Kashmir;

(7) the testing of nuclear weapons by India and Pakistan has created grave and serious tensions on the Indian subcontinent; and

(8) the United States response to India and Pakistan's nuclear tests has included the imposition of wide-ranging sanctions as called for under the Arms Export Control Act and the Nuclear Proliferation Prevention Act of 1994.

(b) SENSE OF SENATE.—The Senate—

(1) strongly condemns the decisions by the governments of India and Pakistan to conduct nuclear tests in May 1998;

(2) supports the President's decision to carry out the provisions of the Nuclear Proliferation Prevention Act of 1994 with respect to India and Pakistan and invoke all sanctions in that Act;

(3) calls upon members of the international community to impose similar sanctions against India and Pakistan to those imposed by the United States;

(4) calls for the governments of India and Pakistan to commit not to conduct any additional nuclear tests;

(5) urges the governments of India and Pakistan to take immediate steps, bilaterally and under the auspices of the United Nations, to reduce tensions between them;

(6) urges India and Pakistan to engage in high-level dialogue aimed at reducing the likelihood of armed conflict, enacting confidence and security building measures, and resolving areas of dispute;

(7) commends all nations to take steps which will reduce tensions in South Asia, including appropriate measures to prevent the transfer of technology that could further exacerbate the arms race in South Asia, and thus avoid further deterioration of security there;

(8) calls upon the President to seek a diplomatic solution between the governments of India and Pakistan to promote peace and stability in South Asia and resolve the current impasse;

(9) encourages United States leadership in assisting the governments of India and Pakistan to resolve their 50-year conflict over the disputed territory in Kashmir;

(10) urges India and Pakistan to take immediate, binding, and verifiable steps to roll back their nuclear programs and come into compliance with internationally accepted norms regarding the proliferation of weapons of mass destruction; and

(11) urges the United States to reevaluate its bilateral relationship with India and Pakistan, in light of the new regional security realities in South Asia, with the goal of preventing further nuclear and ballistic missile proliferation, diffusing long-standing regional rivalries between India and Pakistan, and securing commitments from them which, if carried out, could result in a calibrated lifting of United States sanctions imposed under the Arms Export Control Act and the Nuclear Proliferation Prevention Act of 1994.

SEC. 1072. SENSE OF CONGRESS REGARDING CONTINUED PARTICIPATION OF UNITED STATES FORCES IN OPERATIONS IN BOSNIA AND HERZEGOVINA.

(a) FINDINGS.—Congress makes the following findings:

(1) The contributions of the people of the United States and other nations have, in large measure, resulted in the suspension of fighting and alleviated the suffering of the people of Bosnia and Herzegovina since December 1995.

(2) the people of the United States have expended approximately $9,500,000,000 in tax dollars between 1992 and mid-1998 just in support of the United States military operations in Bosnia to achieve those results.

(3) Efforts to restore the economy and political structure in Bosnia and Herzegovina have achieved some success in accordance with the Dayton Agreement.

(4) In February 1998, the President certified to Congress that the continued presence of United States forces in Bosnia and Herzegovina after June 30, 1998, was necessary in order to meet national security interests of the United States.

(5) There is, however, no accurate estimate of the time needed to accomplish the civilian implementation tasks outlined in the Dayton Agreement.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) United States ground combat forces should not remain in Bosnia and Herzegovina indefinitely in view of the world-wide commitments of the Armed Forces of the United States;

(2) the President should work with NATO allies and the other nations whose military forces are participating in the NATO-led Stabilization Force to withdraw United States ground combat forces from Bosnia and Herzegovina within a reasonable period of time, consistent with the safety of those forces and the accomplishment of the Stabilization Force's military tasks;

(3) a NATO-led force without the participation of United States ground combat forces in Bosnia and Herzegovina might be suitable for a follow-on force for Bosnia and Herzegovina if the European Security and Defense Identity is not sufficiently developed or is otherwise considered inappropriate for such a mission;

(4) the United States may decide to provide appropriate support to a Western European Union-led or NATO-led follow-on force for Bosnia and Herzegovina, including command and control, intelligence, logistics, and, if necessary, a ready reserve force in the region;

(5) the President should inform the European NATO allies of this expression of the sense of Congress and should strongly urge them to undertake preparations for establishing a Western European Union-led or a NATO-led force as a follow-on force to the NATO-led Stabilization Force if needed to maintain peace and stability in Bosnia and Herzegovina; and

(6) the President should consult closely with the congressional leadership and the congressional defense committees with respect to the progress being made toward achieving a sustainable peace in Bosnia and Herzegovina and the progress being made toward a reduction and ultimate withdrawal of United States ground combat forces from Bosnia and Herzegovina.

(c) ONE-TIME REPORTS.—The President shall submit to Congress the following reports:

(1) Not later than September 30, 1998, a report containing a discussion of the likely impact on the security situation in Bosnia and Herzegovina and on the prospects for establishing self-sustaining peace and stable local government there that would result from a phased reduction in the number of United States military personnel stationed in Bosnia and Herzegovina under the following alternatives:

(A) A phased reduction to 5,000 by February 2, 1999, to 3,500 by June 30, 1999, and to 2,500 by February 2, 2000.

(B) A phased reduction by February 2, 2000, to the number of personnel that is approximately equal to the mean average of—

(i) the number of military personnel of the United Kingdom that are stationed in Bosnia and Herzegovina on that date;

(ii) the number of military personnel of Germany that are stationed there on that date;

(iii) the number of military personnel of France that are stationed there on that date; and

(iv) the number of military personnel of Italy that are stationed there on that date.

(2) Not later than October 1, 1998, a report on the status of the NATO force of gendarmes or paramilitary police referred to in subsection (a)(1), including the mission of the force, the composition of the force, and the extent, if any, to which members of the Armed Forces of the United States are participating (or are to participate) in the force.

(d) REPORT TO ACCOMPANY EACH REQUEST FOR FUNDING.—(1) Each time that the President submits to Congress a proposal for funding continued operations of United States forces in Bosnia and Herzegovina, the President shall submit to Congress a report on the missions of United States forces there. The first report shall be submitted at the same time that the President submits the budget for fiscal year 2000 to Congress under section 1105(a) of title 31, United States Code.

(2) Each report under paragraph (1) shall include the following:

(A) The performance objectives and schedule for the implementation of the Dayton Agreement, including—

(i) the specific objectives for the reestablishment of a self-sustaining peace and a stable local government in Bosnia and Herzegovina, taking into account (I) each of the areas of implementation required by the Dayton Agreement, as well as other areas that are not covered specifically in the Dayton Agreement but are essential for reestablishing such a peace and local government and to permitting an orderly withdrawal of the international peace implementation force from Bosnia and Herzegovina, and (II) the benchmarks reported in the latest semiannual report submitted under section 7(b)(2) of the 1998 Supplemental Appropriations and Rescissions Act (revised as necessary to be current as of the date of the report submitted under this subsection); and

(ii) the schedule, specified by fiscal year, for achieving the objectives.

(B) The military and non-military missions that the President has directed for

United States forces in Bosnia and Herzegovina in support of the objectives identified pursuant to paragraph (1), including a specific discussion of—

(i) the mission of the United States forces, if any, in connection with the pursuit and apprehension of war criminals;

(ii) the mission of the United States forces, if any, in connection with civilian police functions;

(iii) the mission of the United States forces, if any, in connection with the resettlement of refugees; and

(iv) the missions undertaken by the United States forces, if any, in support of international and local civilian authorities.

(C) An assessment of the risk for the United States forces in Bosnia and Herzegovina, including, for each mission identified pursuant to subparagraph (B), the assessment of the Chairman of the Joint Chiefs of Staff regarding the nature and level of risk of the mission for the safety and well-being of United States military personnel.

(D) An assessment of the cost to the United States, by fiscal year, of carrying out the missions identified pursuant to subparagraph (B) for the period indicated in the schedule provided pursuant to subparagraph (A).

(E) A joint assessment by the Secretary of Defense and the Secretary of State of the status of planning for—

(i) the assumption of all remaining military missions inside Bosnia and Herzegovina by European military and paramilitary forces; and

(ii) the establishment and support of forward-based United States rapid response force outside of Bosnia and Herzegovina that would be capable of deploying rapidly to defeat military threats to a European follow-on force inside Bosnia and Herzegovina, and of providing whatever logistical, intelligence, and air support is needed to ensure that a European follow-on force is fully capable of accomplishing its missions under the Dayton Agreement.

(e) DAYTON AGREEMENT DEFINED.—In this section, the term "Dayton Agreement" means the General Framework Agreement for Peace in Bosnia and Herzegovina, together with annexes relating thereto, done at Dayton, November 10 through 16, 1995.

SEC. 1073. COMMISSION TO ASSESS THE RELIABILITY, SAFETY, AND SECURITY OF THE UNITED STATES NUCLEAR DETERRENT.

(a) ESTABLISHMENT.—There is hereby established a commission to be known as the "Commission for Assessment of the Reliability, Safety, and Security of the United States Nuclear Deterrent".

(b) COMPOSITION.—(1) The Commission shall be composed of six members who shall be appointed from among private citizens of the United States with knowledge and expertise in the technical aspects of design, maintenance, and deployment of nuclear weapons, as follows:

(A) Two members appointed by the Majority Leader of the Senate.

(B) One member appointed by the Minority Leader of the Senate.

(C) Two members appointed by the Speaker of the House of Representatives.

(D) One member appointed by the Minority Leader of the House of Representatives.

(2) The Senate Majority Leader and the Speaker of the House of Representatives shall each appoint one member to serve for five years and one member to serve for two years. The Minority Leaders of the Senate and House of Representatives shall each appoint one member to serve for five years. A member may be reappointed.

(3) Any vacancy in the Commission shall be filled in the same manner as the original appointment.

(4) All members of the Commission shall hold appropriate security clearances.

(c) CHAIRMAN.—The Majority Leader of the Senate, after consultation with the Speaker of the House of Representatives and the Minority Leaders of the Senate and House of Representatives, shall designate one of the members of the Commission, without regard to the term of appointment of that member, to serve as Chairman of the Commission.

(d) DUTIES OF COMMISSION.—(1) Each year the Commission shall assess, for Congress—

(A) the safety, security, and reliability of the nuclear deterrent forces of the United States; and

(B) the annual certification on the safety, security, and reliability of the nuclear weapons stockpile of the United States that is provided by the directors of the national weapons laboratories through the Secretary of Energy to the President.

(2) The Commission shall submit to Congress an annual report, in classified form, setting forth the findings and conclusions resulting from each assessment.

(e) COOPERATION OF OTHER AGENCIES.—(1) The Commission may secure directly from the Department of Energy, the Department of Defense, or any of the national weapons laboratories or plants or any other Federal department or agency information that the Commission considers necessary for the Commission to carry out its duties.

(2) For carrying out its duties, the Commission shall be provided full and timely cooperation by the Secretary of Energy, the Secretary of Defense, the Commander of United States Strategic Command, the Directors of the Los Alamos National Laboratory, the Lawrence Livermore National Laboratory, the Sandia National Laboratories, the Savannah River Site, the Y–12 Plant, the Pantex Facility, and the Kansas City Plant, and any other official of the United States that the Chairman determines as having information described in paragraph (1).

(3) The Secretary of Energy and the Secretary of Defense shall each designate at least one officer or employee of the Department of Energy and the Department of Defense, respectively, to serve as a liaison officer between the department and the Commission.

(f) COMMISSION PROCEDURES.—(1) The Commission shall meet at the call of the Chairman.

(2) Four members of the Commission shall constitute a quorum, except that the Commission may designate a lesser number of members as a quorum for the purpose of holding hearings. The Commission shall act by resolution agreed to by a majority of the members of the Commission.

(3) Any member or agent of the Commission may, if authorized by the Commission, take any action that the Commission is authorized to take under this section.

(4) The Commission may establish panels composed of less than the full membership of the Commission for the purpose of carrying out the Commission's duties. Findings and conclusions of a panel of the Commission may not be considered findings and conclusions of the Commission unless approved by the Commission.

(5) The Commission or, at its direction, any panel or member of the Commission, may, for the purpose of carrying out its duties, hold hearings, sit and act at times and places, take testimony, receive evidence, and administer oaths to the extent that the Commission or any panel or member considers advisable.

(g) PERSONNEL MATTERS.—(1) A member of the Commission shall be compensated at the daily equivalent of the rate of basic pay established for level V of the Executive Schedule under 5316 of title 5, United States Code, for each day on which the member is engaged in any meeting, hearing, briefing, or other work in the performance of duties of the Commission.

(2) A member of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from the member's home or regular place of business in the performance of services for the Commission.

(3) The Chairman of the Commission may, without regard to the provisions of the title 5, United States Code, governing appointments in the competitive service, appoint a staff director and such additional personnel as may be necessary to enable the Commission to perform its duties. The Chairman of the Commission may fix the pay of the staff director and other personnel without regard to the provisions of chapter 51, and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay fixed under this paragraph for the staff director may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(4) Upon the request of the Chairman of the Commission, the head of any Federal department or agency may detail, on a nonreimbursable basis, any personnel of that department or agency to the Commission to assist it in carrying out its duties.

(5) The Chairman of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay payable for level V of the Executive Schedule and under section 5316 of such title.

(h) MISCELLANEOUS ADMINISTRATIVE PROVISIONS.—(1) The Commission may use the United States mails and obtain printing and binding services in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(2) The Secretary of Defense and the Secretary of Energy shall furnish the Commission with any administrative and support services requested by the Commission and with office space within the Washington, District Columbia, metropolitan area that is sufficient for the administrative offices of the Commission and for holding general meetings of Commission.

(i) FUNDING.—The Secretary of Defense and the Secretary of Energy shall each contribute 50 percent of the amount of funds that are necessary for the Commission to carry out its duties. Upon receiving from the Chairman of the Commission a written certification of the amount of funds that is necessary for funding the activities of the Commission for a period, the Secretaries shall promptly make available to the Commission funds in the total amount specified in the certification. Funds available for the Department of Defense for Defense-wide research, development, test, and evaluation shall be available for the Department of Defense contribution. Funds available for the Department of Energy for atomic energy defense activities shall be available for the Department of Energy contribution.

(j) Termination of the Commission.—The Commission shall terminate three years after the date of the appointment of the member designated as Chairman.

(k) Initial Implementation.—All appointments to the Commission shall be made not later than 45 days after the date of the enactment of this Act. The Commission shall convene its first meeting not later than 30 days after the date as of which all members of the Commission have been appointed.

SEC. 1074. AUTHORITY FOR WAIVER OF MORATORIUM ON ARMED FORCES USE OF ANTIPERSONNEL LANDMINES.

Section 580 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996 (Public Law 104–107; 110 Stat. 751) is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting after subsection (a) the following new subsection (b):

"(b) Waiver Authority.—(1) The President may waive the moratorium set forth in subsection (a) if the President determines that the waiver is necessary in the national security interests of the United States.

"(2) The President shall notify the President pro tempore of the Senate and the Speaker of the House of Representatives of the exercise of the authority provided by paragraph (1).".

SEC. 1075. APPOINTMENT OF DIRECTOR AND DEPUTY DIRECTOR OF THE NAVAL HOME.

(a) Appointment and Qualifications of Director and Deputy Director.—Subsection (a) of section 1517 of the Armed Forces Retirement Home Act of 1991 (24 U.S.C. 417) is amended—

(1) in paragraph (2)—

(A) by striking out "Each Director" and inserting in lieu thereof "The Director of the United States Soldiers' and Airmen's Home"; and

(B) by striking out subparagraph (B) and inserting in lieu thereof the following:

"(B) meet the requirements of paragraph (4).";

(2) by redesignating paragraph (3) as paragraph (5); and

(3) by inserting after paragraph (2) the following new paragraphs (3) and (4):

"(3) The Director, and any Deputy Director, of the Naval Home shall be appointed by the Secretary of Defense from among persons recommended by the Secretaries of the military departments who—

"(A) in the case of the position of Director, are commissioned officers of the Armed Forces serving on active duty in a pay grade above 0–5;

"(B) in the case of the position of Deputy Director, are commissioned officers of the Armed Forces serving on active duty in a pay grade above 0–4; and

"(C) meet the requirements of paragraph (4).

"(4) Each Director shall have appropriate leadership and management skills, an appreciation and understanding of the culture and norms associated with military service, and significant military background.".

(b) Term of Director and Deputy Director.—Subsection (c) of such section is amended—

(1) by striking out "(c) Term of Director.—" and all that follows through "A Director" in the second sentence and inserting in lieu thereof "(c) Terms of Directors.—(1) The term of office of the Director of the United States Soldiers' and Airmen's Home shall be five years. The Director"; and

(2) by adding at the end the following new paragraph:

"(2) The Director and the Deputy Director of the Naval Home shall serve at the pleasure of the Secretary of Defense.".

(c) Definitions.—Such section is further amended by adding at the end the following:

"(g) Definitions.—In this section:

"(1) The term 'United States Soldiers' and Airmen's Home' means the separate facility of the Retirement Home that is known as the United States Soldiers' and Airmen's Home.

"(2) The term 'Naval Home' means the separate facility of the Retirement Home that is known as the Naval Home.".

(d) Effective Date.—The amendments made by this section shall take effect on October 1, 1998.

SEC. 1076. SENSE OF THE CONGRESS ON THE DEFENSE SCIENCE AND TECHNOLOGY PROGRAM.

(a) Funding Requirements for the Defense Science and Technology Program Budget.—It is the sense of the Congress that for each of the fiscal years 2000 through 2008, it should be an objective of the Secretary of Defense to increase the budget for the Defense Science and Technology Program for the fiscal year over the budget for that program for the preceding fiscal year by a percent that is at least two percent above the rate of inflation as determined by the Office of Management and Budget.

(b) Guidelines for the Defense Science and Technology Program.—

(1) Relationship of defense science and technology program to university research.—It is the sense of the Congress that the following should be key objectives of the Defense Science and Technology Program—

(A) the sustainment of research capabilities in scientific and engineering disciplines critical to the Department of Defense;

(B) the education and training of the next generation of scientists and engineers in disciplines that are relevant to future defense systems, particularly through the conduct of basic research; and

(C) the Continued support of the Defense Experimental Program to Stimulate Competitive Research and research programs at historically black colleges and universities and minority institutions.

(2) Relationship of the defense science and technology program to commercial research and technology.—

(A) It is the sense of the Congress that in supporting projects within the Defense Science and Technology Program, the Secretary of Defense should attempt to leverage commercial research, technology, products, and processes for the benefit of the Department of Defense.

(B) It is the sense of the Congress that funds made available for projects and programs of the Defense Science and Technology Program should be used only for the benefit of the Department of Defense, which includes—

(i) the development of technology that has only military applications;

(ii) the development of militarily useful, commercially viable technology; or

(iii) the adaption of commercial technology, products, or processes for military purposes.

(3) Synergistic management of research and development.—It is the sense of the Congress that the Secretary of Defense may allocate a combination of funds available for the Department of Defense for basic and applied research and for advanced development to support any individual project or program within the Defense Science and Technology Program. This flexibility is not intended to change the allocation of funds in any fiscal year among basic and applied research and advanced development.

(c) Definitions.—In this section:

(1) The term "Defense Science and Technology Program" means basic and applied research and advanced development.

(2) The term "basic and applied research" means work funded in program elements for defense research and development under Department of Defense R&D Budget Activities 1 or 2.

(3) The term "advanced development" means work funded in program elements for defense research and development under Department of Defense R&D Budget Activity 3.

SEC. 1077. DEMILITARIZATION AND EXPORTATION OF DEFENSE PROPERTY.

(a) Centralized Assignment of Demilitarization Codes for Defense Property.—(1) Chapter 153 of title 10, United States Code, is amended by inserting after section 2572 the following:

"§ 2573. Demilitarization codes for defense property

"(a) Authority.—The Secretary of Defense shall—

"(1) assign the demilitarization codes to the property (other than real property) of the Department of Defense; and

"(2) take any action that the Secretary considers necessary to ensure that the property assigned demilitarization codes is demilitarized in accordance with the assigned codes.

"(b) Supremacy of Codes.—A demilitarization code assigned to an item of property by the Secretary of Defense under this section shall take precedence over any demilitarization code assigned to the item before the date of enactment of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 by any other official in the Department of Defense.

"(c) Enforcement.—The Secretary of Defense shall commit the personnel and resources to the exercise of authority under subsection (a) that are necessary to ensure that—

"(1) appropriate demilitarization codes are assigned to property of the Department of Defense; and

"(2) property is demilitarized in accordance with the assigned codes.

"(d) Annual Report.—The Secretary of Defense shall include in the annual reports submitted to Congress under section 113(c)(1) of this title in 1999 and 2000 a discussion of the following:

"(1) The exercise of the authority under this section during the fiscal year preceding the fiscal year in which the report is submitted.

"(2) Any changes in the exercise of the authority that are taking place in the fiscal year in which the report is submitted or are planned for that fiscal year or any subsequent fiscal year.

"(e) Definitions.—In this section:

"(1) The term 'demilitarization code', with respect to property, means a code that identifies the extent to which the property must be demilitarized before disposal.

"(2) The term 'demilitarize', with respect to property, means to destroy the military offensive or defensive advantages inherent in the property, by mutilation, cutting, crushing, scrapping, melting, burning, or altering the property so that the property cannot be used for the purpose for which it was originally made.".

(2) The table of sections at the beginning of such chapter 153 is amended by inserting

after the item relating to section 2572 the following:

"2573. Demilitarization codes for defense property.".

(b) Criminal Offense.—(1) Chapter 27 of title 18, United States Code, is amended by adding at the end the following:

"§ 554. Violations of regulated acts involving the exportation of United States property

"(a) Any person who—

"(1) fraudulently or knowingly exports or otherwise sends from the United States (as defined in section 545 of this title), or attempts to export or send from the United States any merchandise contrary to any law of the United States; or

"(2) receives, conceals, buys, sells, or in any manner facilitates, the transportation, concealment, or sale of any merchandise prior to exportation, knowing that the merchandise is intended for exportation in violation of Federal law;

shall be fined under this title, imprisoned not more than 5 years, or both.

"(b) The penalties under this section shall be in addition to any other applicable criminal penalty.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following:

"554. Violations of regulated acts involving the exportation of United States property.".

SEC. 1078. DESIGNATION OF AMERICA'S NATIONAL MARITIME MUSEUM.

(a) Designation of America's National Maritime Museum.—The Mariners' Museum building located at 100 Museum Drive, Newport News, Virginia, and the South Street Seaport Museum buildings located at 207 Front Street, New York, New York, shall be known and designated as "America's National Maritime Museum".

(b) Reference to America's National Maritime Museum.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the buildings referred to in subsection (a) shall be deemed to be a reference to America's National Maritime Museum.

(c) Later Additions of Other Museums Not Precluded.—The designation of museums named in subsection (a) as America's National Maritime Museum does not preclude the addition of any other museum to the group of museums covered by that designation.

(d) Criteria for Later Additions.—A museum is appropriate for designation as a museum of America's National Maritime Museum if the museum—

(1) houses a collection of maritime artifacts clearly representing America's maritime heritage; and

(2) provides outreach programs to educate the public on America's maritime heritage.

SEC. 1079. BURIAL HONORS FOR VETERANS.

(a) Findings.—The Senate makes the following findings:

(1) Throughout the years, men and women have unselfishly answered the call to arms, at tremendous personal sacrifice. Burial honors for deceased veterans are an important means of reminding Americans of the sacrifices endured to keep the Nation free.

(2) The men and women who serve honorably in the Armed Forces, whether in war or peace, and whether discharged, separated, or retired, deserve commemoration for their military service at the time of their death by an appropriate military tribute.

(3) It is tremendously important to pay an appropriate final tribute on behalf of a grateful Nation to honor individuals who served the Nation in the Armed Forces.

(b) Conference on Military Burial Honor Practices.—(1) Not later than October 31, 1998, the Secretary of Defense shall, in consultation with the Secretary of Veterans Affairs, convene and preside over a conference for the purpose of determining means of improving and increasing the availability of military burial honors for veterans. The Secretary of Veterans Affairs shall also participate in the conference.

(2) The Secretaries shall invite and encourage the participation at the conference of appropriate representatives of veterans service organizations.

(3) The participants in the conference shall—

(A) review current policies and practices of the military departments and the Department of Veterans Affairs relating to the provision of military honors at the burial of veterans;

(B) analyze the costs associated with providing military honors at the burial of veterans, including the costs associated with utilizing personnel and other resources for that purpose;

(C) assess trends in the rate of death of veterans; and

(D) propose, consider, and determine means of improving and increasing the availability of military honors at the burial of veterans.

(4) Not later than 180 days after the date of enactment of this Act, the Secretary of Defense shall submit to Congress a report on the conference under this subsection. The report shall set forth any modifications to Department of Defense directives on military burial honors adopted as a result of the conference and include any recommendations for legislation that the Secretary considers appropriate as a result of the conference.

(c) Veterans Service Organization Defined.—In this section, the term "veterans service organization" means any organization recognized by the Secretary of Veterans Affairs under section 5902 of title 38, United States Code.

SEC. 1080. CHEMICAL STOCKPILE EMERGENCY PREPAREDNESS PROGRAM.

Section 1412 of the Department of Defense Authorization Act, 1986 (Public Law 99-145; 50 U.S.C. 1521) is amended by adding at the end of subsection (c) the following:

"(4)(A) The Director of the Federal Emergency Management Agency shall carry out a program to provide assistance to State and local governments in developing capabilities to respond to emergencies involving risks to the public health or safety within their jurisdictions that are identified by the Secretary as being risks resulting from—

"(i) the storage of any such agents and munitions at military installations in the continental United States; or

"(ii) the destruction of such agents and munitions at facilities referred to in paragraph (1)(B).

"(B) No assistance may be provided under this paragraph after the completion of the destruction of the United States stockpile of lethal chemical agents and munitions.".

SEC. 1081. SENSE OF SENATE REGARDING THE AUGUST 1995 ASSASSINATION ATTEMPT AGAINST PRESIDENT SHEVARDNADZE OF GEORGIA.

(a) Findings.—Congress makes the following findings:

(1) On Tuesday, August 29, 1995, President Eduard Shevardnadze of Georgia narrowly survived a car bomb attack as he departed his offices in the Georgian Parliament building to attend the signing ceremony for the new constitution of Georgia.

(2) The former Chief of the Georgian National Security Service, Lieutenant General Igor Giorgadze, after being implicated in organizing the August 29, 1995, assassination attempt on President Shevardnadze, fled Georgia from the Russian-controlled Varziani airbase on a Russian military aircraft.

(3) Lieutenant General Giorgadze has been seen openly in Moscow and is believed to have been given residence at a Russian government facility despite the fact that Interpol is conducting a search for Lieutenant General Giorgadze for his role in the assassination attempt against President Shervardnadze.

(4) The Russian Interior Ministry claims that it is unable to locate Lieutenant General Giorgadze in Moscow.

(5) The Georgian Security and Interior Ministries presented information to the Russian Interior Ministry on November 13, 1996; January 17, 1997; March 7, 1997; March 24, 1997 and August 12, 1997, which included the exact location in Moscow of where Lieutenant General Giorgadze's family lived, the exact location where Lieutenant General Giorgadze lived outside of Moscow in a dacha of the Russian Ministry of Defense; as well as the changing official Russian government license tag numbers and description of the automobile that Lieutenant General Giorgadze uses; the people he associates with; the apartments he visits, and the places including restaurants, markets, and companies, that he frequents.

(6) On May 12, 1998, the Moscow-based Russian newspaper Zavtra carried an interview with Lieutenant General Giorgadze in which Lieutenant General Giorgadze calls for the overthrow of the Government of Georgia.

(7) Title II of the Foreign Operations Appropriations, Export Financing, and Related Programs Appropriations Act, 1998 (Public Law 105–118) prohibits assistance to any government of the new independent states of the former Soviet Union if that government directs any action in violation of the national sovereignty of any other new independent state.

(b) Sense of the Senate.—It is the sense of the Senate that the Secretary of Defense should—

(1) urge the Government of the Russian Federation to extradite the former Chief of the Georgian National Security Service, Lieutenant General Igor Giorgadze, to Georgia for the purpose of standing trial for his role in the attempted assassination of Georgian President Eduard Shevardnadze on August 29, 1995;

(2) request cooperation from the Minister of Defense of the Russian Federation and the Government of the Russian Federation to ensure that Russian military bases on Georgian territory are no longer used to facilitate the escape of assassins seeking to kill the freely elected President of Georgia and to otherwise respect the national sovereignty of Georgia; and

(3) use all authorities available to the United States Government to provide urgent and immediate assistance to ensure to the maximum extent practicable the personal security of President Shevardnadze.

SEC. 1082. ISSUANCE OF BURIAL FLAGS FOR DECEASED MEMBERS AND FORMER MEMBERS OF THE SELECTED RESERVE.

Section 2301(a) of title 38, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (1);

(2) by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following:

"(3) deceased individual who—

"(A) was serving as a member of the Selected Reserve (as described in section 10143 of title 10) at the time of death;

"(B) had served at least one enlistment, or the period of initial obligated service, as a member of the Selected Reserve and was discharged from service in the Armed Forces under conditions not less favorable than honorable; or

"(C) was discharged from service in the Armed Forces under conditions not less favorable than honorable by reason of a disability incurred or aggravated in the line of duty during the individual's initial enlistment, or period of initial obligated service, as a member of the Selected Reserve.".

SEC. 1083. ELIMINATING SECRET SENATE HOLDS.

(a) STANDING ORDER.—It is a standing order of the Senate that a Senator who provides notice to leadership of his or her intention to object to proceeding to a motion or matter shall disclose the objection or hold in the Congressional Record not later than 2 session days after the date of the notice.

(b) RULEMAKING.—This section is adopted—

(1) as an exercise of the rulemaking power of the Senate and as such it is deemed a part of the rules of the Senate and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(2) with full recognition of the constitutional right of the Senate to change its rules at any time, in the same manner, and to the same extent as in the case of any other rule of the Senate.

SEC. 1084. DEFENSE BURDENSHARING.

(a) REVISED GOALS FOR EFFORTS TO INCREASE ALLIED BURDENSHARING.—Subsection (a) of section 1221 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 1935; 22 U.S.C. 1928 note) is amended to read as follows:

"(a) EFFORTS TO INCREASE ALLIED BURDENSHARING.—The President shall seek to have each nation that has cooperative military relations with the United States (including security agreements, basing arrangements, or mutual participation in multinational military organizations or operations) take one or more of the following actions:

"(1) For any nation in which United States military personnel are assigned to permanent duty ashore, increase its financial contributions to the payment of the nonpersonnel costs incurred by the United States Government for stationing United States military personnel in that nation, with a goal of achieving by September 30, 2000, 75 percent of such costs. An increase in financial contributions by any nation under this paragraph may include the elimination of taxes, fees, or other charges levied on United States military personnel, equipment, or facilities stationed in that nation.

"(2) Increase its annual budgetary outlays for national defense as a percentage of its gross domestic product by 10 percent or at least to a percentage level commensurate to that of the United States by September 30, 1999.

"(3) Increase the military assets (including personnel, equipment, logistics, support and other resources) that it contributes or has pledged to contribute to multinational military activities worldwide by 10 percent by September 30, 1999.

"(4) Increase its annual budgetary outlays for foreign assistance (funds to promote democratization, governmental accountability and transparency, economic stabilization and development, defense economic conversion, respect for the rule of law and internationally recognized human rights, or humanitarian relief efforts) by 10 percent, or to provide such foreign assistance at a minimum annual rate equal to one percent of its gross domestic product, by September 30, 1999.".

(b) REVISED REQUIREMENT FOR REPORT ON PROGRESS IN INCREASING ALLIED BURDENSHARING.—Subsection (c) of such section is amended to read as follows:

"(c) REPORT ON PROGRESS IN INCREASING ALLIED BURDENSHARING.—Not later than March 1, 1999, the Secretary of Defense shall submit to Congress a report on—

"(1) steps taken by other nations toward completing the actions described in subsection (a);

"(2) all measures taken by the President, including those authorized in subsection (b), to achieve the actions described in subsection (a);

"(3) the difference between the amount allocated by other nations for each of the actions described in subsection (a) during the period beginning on October 1, 1996, and ending on September 30, 1997, and during the period beginning on October 1, 1997, and ending on September 30, 1998, or, in the case of any nation for which the data for such periods is inadequate, the difference between the amounts for the latest periods for which adequate data is available; and

"(4) the budgetary savings to the United States that are expected to accrue as a result of the steps described under paragraph (1).".

(c) EXTENSION OF DEADLINE FOR REPORT REGARDING NATIONAL SECURITY BASES FOR FORWARD DEPLOYMENT AND BURDENSHARING RELATIONSHIPS.—Subsection (d)(2) of such section is amended by striking out "March 1, 1998" and inserting in lieu thereof "March 1, 1999".

SEC. 1085. REVIEW OF DEFENSE AUTOMATED PRINTING SERVICE FUNCTIONS.

(a) REVIEW REQUIRED.—The Secretary of Defense shall provide for a review of the functions of the Defense Automated Printing Service in accordance with this section and submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives the matters required under subsection (d) not later than March 31, 1999.

(b) PERFORMANCE BY INDEPENDENT ENTITY.—The Secretary of Defense shall select the General Accounting Office, an experienced entity in the private sector, or any other entity outside the Department of Defense to perform the review. The Comptroller General shall perform the review if the Secretary selects the Comptroller General to do so.

(c) REPORT.—The entity performing the review under this section shall submit to the Secretary of Defense a report that sets forth the findings and recommendations of that entity resulting from the review. The report shall contain the following:

(1) The functions that are inherently national security functions and, as such, need to be performed within the Department of Defense, together with a detailed justification for the determination for each such function.

(2) The functions that are appropriate for transfer to another appropriate entity to perform, including private sector entity.

(3) Any recommended legislation and any administrative action that is necessary for transferring or outsourcing the functions.

(4) A discussion of the costs or savings associated with the transfers or outsourcing.

(5) A description of the management structure of the Defense Automated Printing Service.

(6) A list of all sites where functions of the Defense Automated Printing Service are performed by the Defense Automated Printing Service.

(7) The total number of the personnel employed by the Defense Automated Printing Service and the locations where the personnel perform the duties as employees.

(8) A description of the functions performed by the Defense Automated Printing Service and, for each such function, the number of employees of the Defense Automated Printing Service that perform the function.

(9) For each site identified under paragraph (6), an assessment of each type of equipment at the site.

(10) The type and explanation of the networking and technology integration linking all of the sites referred to in paragraph (6).

(11) The current and future requirements of customers of the Defense Automated Printing Service.

(12) An assessment of the effectiveness of the current structure of the Defense Automated Printing Service in supporting current and future customer requirements and plans to address any deficiencies in supporting such requirements.

(13) A description and discussion of the best business practices that are used by the Defense Automated Printing Service and of other best business that could be used by the Defense Automated Printing Service.

(14) Options for maximizing the Defense Automated Printing Service structure and services to provide the most cost effective service to its customers.

(d) REVIEW AND COMMENTS OF SECRETARY OF DEFENSE.—(1) After reviewing the report, the Secretary of Defense shall submit the report to Congress, together with the Secretary's comments on the report and a plan to transfer or outsource from the Defense Automated Printing Service to another appropriate entity the functions of the Defense Automated Printing Service that—

(1) are not identified in the report as being inherently national security functions; and

(2) the Secretary believes should be transferred or outsourced for performance outside the Department of Defense in accordance with law.

(e) EXTENSION OF REQUIREMENT FOR COMPETITIVE PROCUREMENT OF SERVICES.—Section 351(a) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 266), as amended by section 351(a) of Public Law 104–201 (110 Stat. 2490) and section 387(a)(1) of Public Law 105–85 (111 Stat. 1713), is further amended by striking out "1998" and inserting in lieu thereof "1999".

SEC. 1086. INCREASED MISSILE THREAT IN ASIA-PACIFIC REGION.

(a) STUDY.—The Secretary of Defense shall carry out a study of the architecture requirements for the establishment and operation of a theater ballistic missile defense system in the Asia-Pacific region that would have the capability to protect key regional allies of the United States.

(b) REPORT.—(1) Not later than January 1, 1999, the Secretary shall submit to the Committee on National Security of the House of Representatives and the Committee on Armed Services of the Senate a report containing—

(A) the results of the study conducted under subsection (a);

(B) the factors used to obtain such results; and

(C) a description of any existing United States missile defense system that could be transferred to key allies of the United States in the Asia-Pacific region to provide for their self-defense against limited ballistic missile attacks.

(2) The report shall be submitted in both classified and unclassified form.

SEC. 1087. COOPERATION BETWEEN THE DEPARTMENT OF THE ARMY AND THE EPA IN MEETING CWC REQUIREMENTS.

(a) Findings.—The Senate finds that:

(1) Compliance with international obligations to destroy the United States chemical stockpile by April 28, 2007, as required under the Chemical Weapons Convention (CWC), is a national priority.

(2) The President should ensure that the Department of Defense and the Department of the Army receive all necessary assistance from Federal agencies in expediting and accelerating the destruction of the lethal chemical stockpile.

(3) The Environmental Protection Agency, as one of the Federal agencies with responsibilities to assist the Department of Defense and the Department of the Army, has asserted that it is not adequately funded to provide, or meet its National responsibilities under the Resource Conservation and Recovery Act (RCRA) permitting requirements, in order to assist the United States Government in meeting its international obligations to destroy its lethal chemical stockpile.

(4) The Environmental Protection Agency (EPA) should work in concert with the State and local governments in this process, and that they should properly budget for this process.

(b) Report Required.—The Department of Defense, in coordination with the Environmental Protection Agency, shall report to the congressional defense committees by April 1, 1999, on the following—

(1) responsibilities associated with obligations under the Resource Conservation and Recovery Act (RCRA) permitting process related to United States international obligations under the CWC to destroy the United States chemical stockpile;

(2) technical assistance provided by the EPA to its regional offices and the States and local governments in the permitting process, and how that assistance facilitates the issuance of the environmental permits at the various sites;

(3) responsibility of the Department of Defense to provide funding to the EPA, for the facilitation of meetings of the National Chemical Agent Demilitarization Workgroup, meetings between the Office of Solid Waste and the affected EPA Regional Offices and States, and meetings between the Office of Solid Waste, the Program Manager for Chemical Demilitarization and the Department of Defense; and

(4) responsibility of the Department of Defense and the Department of the Army to provide funds to the Environmental Protection Agency to hire full-time equivalents to assist in the formulation of RCRA permits.

TITLE XI—DEPARTMENT OF DEFENSE CIVILIAN PERSONNEL

SEC. 1101. REPEAL OF EMPLOYMENT PREFERENCE NOT NEEDED FOR RECRUITMENT AND RETENTION OF QUALIFIED CHILD CARE PROVIDERS.

Section 1792 of title 10, United States Code, is amended—

(1) by striking out subsection (d); and

SEC. 1102. MAXIMUM PAY RATE COMPARABILITY FOR FACULTY MEMBERS OF THE UNITED STATES AIR FORCE INSTITUTE OF TECHNOLOGY.

Section 9314(b)(2)(B) of title 10, United States Code, is amended by striking out "section 5306(e)" and inserting in lieu thereof "section 5373".

(2) by redesignating subsection (e) as subsection (d).

SEC. 1103. FOUR-YEAR EXTENSION OF VOLUNTARY SEPARATION INCENTIVE PAY AUTHORITY.

Section 5597(e) of title 5, United States Code, is amended by striking out "September 30, 2001" and inserting in lieu thereof "September 30, 2003".

SEC. 1104. DEPARTMENT OF DEFENSE EMPLOYEE VOLUNTARY EARLY RETIREMENT AUTHORITY.

(a) Civil Service Retirement System.—Section 8336 of title 5, United States Code, is amended—

(1) in subsection (d)(2), by inserting "except in the case of an employee described in subsection (o)(1)," after "(2)"; and

(2) by adding at the end the following:

"(o)(1) An employee of the Department of Defense who is separated from the service under conditions described in paragraph (2) after completing 25 years of service or after becoming 50 years of age and completing 20 years of service is entitled to an annuity.

"(2) Paragraph (1) applies to an employee who—

"(A) has been employed continuously by the Department of Defense for more than 30 days before the date on which the Secretary concerned requests the determinations required under subparagraph (D)(i);

"(B) is serving under an appointment that is not limited by time;

"(C) has not received a decision notice of involuntary separation for misconduct or unacceptable performance that is pending decision; and

"(D) is separated from the service voluntarily during a period in which—

"(i) the Department of Defense or the military department or subordinate organization within the Department of Defense or military department in which the employee is serving is undergoing a major reorganization, a major reduction in force, or a major transfer of function, and employees comprising a significant percentage of the employees serving in that department or organization are to be separated or subject to an immediate reduction in the rate of basic pay (without regard to subchapter VI of chapter 53, or comparable provisions of law), as determined by the Office of Personnel Management (under regulations prescribed by the Office) upon the request of the Secretary concerned; and

"(ii) the employee is within the scope of an offer of voluntary early retirement (as defined by organizational unit, occupational series or level, geographical location, any other similar factor that the Office of Personnel Management determines appropriate, or any combination of such definitions of scope), as determined by the Secretary concerned under regulations prescribed by the Office.

"(3) In this subsection, the term 'Secretary concerned' means—

"(A) the Secretary of Defense, with respect to an employee of the Department of Defense not employed in a position in a military department;

"(B) the Secretary of the Army, with respect to an employee of the Department of the Army;

"(C) the Secretary of the Navy, with respect to an employee of the Department of the Navy;

"(D) the Secretary of the Air Force, with respect to an employee of the Department of the Air Force.".

(b) Federal Employees' Retirement System.—Section 8414 of such title is amended—

(1) in subsection (b)(1)(B), inserting "except in the case of an employee described in subsection (d)(1)," after "(B)"; and

(2) by adding at the end the following:

"(d)(1) An employee of the Department of Defense who is separated from the service under conditions described in paragraph (2) after completing 25 years of service or after becoming 50 years of age and completing 20 years of service is entitled to an annuity.

"(2) Paragraph (1) applies to an employee who—

"(A) has been employed continuously by the Department of Defense for more than 30 days before the date on which the Secretary concerned requests the determinations required under subparagraph (D)(i);

"(B) is serving under an appointment that is not limited by time;

"(C) has not received a decision notice of involuntary separation for misconduct or unacceptable performance that is pending decision; and

"(D) is separated from the service voluntarily during a period in which—

"(i) the Department of Defense or the military department or subordinate organization within the Department of Defense or military department in which the employee is serving is undergoing a major reorganization, a major reduction in force, or a major transfer of function, and employees comprising a significant percentage of the employees serving in that department or organization are to be separated or subject to an immediate reduction in the rate of basic pay (without regard to subchapter VI of chapter 53, or comparable provisions of law), as determined by the Office of Personnel Management (under regulations prescribed by the Office) upon the request of the Secretary concerned; and

"(ii) the employee is within the scope of an offer of voluntary early retirement (as defined by organizational unit, occupational series or level, geographical location, any other similar factor that the Office of Personnel Management determines appropriate, or any combination of such definitions of scope), as determined by the Secretary concerned under regulations prescribed by the Office.

"(3) In this subsection, the term 'Secretary concerned' means—

"(A) the Secretary of Defense, with respect to an employee of the Department of Defense not employed in a position in a military department;

"(B) the Secretary of the Army, with respect to an employee of the Department of the Army;

"(C) the Secretary of the Navy, with respect to an employee of the Department of the Navy;

"(D) the Secretary of the Air Force, with respect to an employee of the Department of the Air Force.".

(c) Conforming Amendments.—(1) Section 8339(h) of such title is amended by striking out "or (j)" in the first sentence and inserting in lieu thereof "(j), or (o)".

(2) Section 8464(a)(1)(A)(i) of such title is amended by striking out "or (b)(1)(B)" and inserting in lieu thereof ", (b)(1)(B), or (d)".

SEC. 1105. DEFENSE ADVANCED RESEARCH PROJECTS AGENCY EXPERIMENTAL PERSONNEL MANAGEMENT PROGRAM FOR TECHNICAL PERSONNEL.

(a) PROGRAM AUTHORIZED.—During the 5-year period beginning on the date of the enactment of this Act, the Secretary of Defense may carry out a program of experimental use of special personnel management authority provided in this section in order to facilitate the recruitment of eminent experts in science or engineering for research and development projects administered by the Defense Advanced Research Projects Agency.

(b) SPECIAL PERSONNEL MANAGEMENT AUTHORITY.—Under the program, the Secretary may—

(1) appoint scientists and engineers from outside the civil service and uniformed services (as such terms are defined in section 2101 of title 5, United States Code) to not more than 20 scientific and engineering positions in the Defense Advanced Research Projects Agency without regard to any provision of title 5, United States Code, governing the appointment of employees in the civil service;

(2) prescribe the rates of basic pay for positions to which employees are appointed under paragraph (1) at rates not in excess of the maximum rate of basic pay authorized for senior-level positions under section 5376 of title 5, United States Code, notwithstanding any provision of such title governing the rates of pay or classification of employees in the executive branch; and

(3) pay any employee appointed under paragraph (1) payments in addition to basic pay within the limit applicable to the employee under subsection (d)(1).

(c) LIMITATION ON TERM OF APPOINTMENT.—(1) Except as provided in paragraph (2), the service of an employee under an appointment under subsection (b)(1) may not exceed four years.

(2) The Secretary may, in the case of a particular employee, extend the period to which service is limited under paragraph (1) by up to two years if the Secretary determines that such action is necessary to promote the efficiency of the Defense Advanced Research Projects Agency.

(d) LIMITATIONS ON ADDITIONAL PAYMENTS.—(1) The total amount of the additional payments paid to an employee under subsection (b)(3) for any 12-month period may not exceed the least of the following amounts:

(A) $25,000.

(B) The amount equal to 25 percent of the employee's annual rate of basic pay.

(C) The amount of the limitation that is applicable for a calendar year under section 5307(a)(1) of title 5, United States Code.

(2) An employee appointed under subsection (b)(1) is not eligible for any bonus, monetary award, or other monetary incentive for service except for payments authorized under subsection (b)(3).

(e) PERIOD OF PROGRAM.—(1) The program authorized under this section shall terminate at the end of the 5-year period referred to in subsection (a).

(2) After the termination of the program—

(A) no appointment may be made under paragraph (1) of subsection (b);

(B) a rate of basic pay prescribed under paragraph (2) of that subsection may not take effect for a position; and

(C) no period of service may be extended under subsection (c)(1).

(f) SAVINGS PROVISIONS.—In the case of an employee who, on the day before the termination of the program, is serving in a position pursuant to an appointment under subsection (b)(1)—

(1) the termination of the program does not terminate the employee's employment in that position before the expiration of the lesser of—

(A) the period for which the employee was appointed; or

(B) the period to which the employee's service is limited under subsection (c), including any extension made under paragraph (2) of that subsection before the termination of the program; and

(2) the rate of basic pay prescribed for the position under subsection (b)(2) may not be reduced for so long (within the period applicable to the employee under paragraph (1)) as the employee continues to serve in the position without a break in service.

(g) ANNUAL REPORT.—(1) Not later than October 15 of each year, beginning in 1999, the Secretary of Defense shall submit a report on the program to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives. The report submitted in a year shall cover the 12-month period ending on the day before the anniversary, in that year, of the date of the enactment of this Act.

(2) The annual report shall contain, for the period covered by the report, the following:

(A) A detailed discussion of the exercise of authority under this section.

(B) The sources from which appointees were recruited.

(C) The methodology used for identifying and selecting appointees.

(D) Any additional information that the Secretary considers helpful for assessing the utility of the authority under this section.

TITLE XII—JOINT WARFIGHTING EXPERIMENTATION

SEC. 1201. FINDINGS.

Congress makes the following findings:

(1) The collapse of the Soviet Union in 1991 and the unprecedented explosion of technological advances that could fundamentally redefine military threats and military capabilities in the future have generated a need to assess the defense policy, strategy, and force structure necessary to meet future defense requirements of the United States.

(2) The assessment conducted by the administration of President Bush (known as the "Base Force" assessment) and the assessment conducted by the administration of President Clinton (known as the "Bottom-Up Review") were important attempts to redefine the defense strategy of the United States and the force structure of the Armed Forces necessary to execute that strategy.

(3) Those assessments have become inadequate as a result of the pace of global geopolitical change and the speed of technological change, which have been greater than expected.

(4) The Chairman of the Joint Chiefs of Staff reacted to the changing environment by developing and publishing in May 1996 a vision statement, known as "Joint Vision 2010", to be a basis for the transformation of United States military capabilities. The vision statement embodies the improved intelligence and command and control that is available in the information age and sets forth the operational concepts of dominant maneuver, precision engagement, full-dimensional protection, and focused logistics to achieve the objective of full spectrum dominance.

(5) In 1996 Congress, concerned about the shortcomings in defense policies and programs derived from the Base-Force Review and the Bottom-Up Review, determined that there was a need for a new, comprehensive assessment of the defense strategy of the United States and the force structure of the Armed Forces necessary for meeting the threats to the United States in the 21st century.

(6) As a result of that determination, Congress passed the Military Force Structure Review Act of 1996 (subtitle B of title IX of the National Defense Authorization Act for Fiscal Year 1997), which required the Secretary of Defense to complete in 1997 a quadrennial defense review of the defense program of the United States. The review was required to include a comprehensive examination of the defense strategy, force structure, force modernization plans, infrastructure, and other elements of the defense program and policies with a view toward determining and expressing the defense strategy of the United States and establishing a revised defense program through 2005. The Act also established a National Defense Panel to assess the Quadrennial Defense Review and to conduct an independent, nonpartisan review of the strategy, force structure, and funding required to meet anticipated threats to the national security of the United States through 2010 and beyond.

(7) The Quadrennial Defense Review, completed by the Secretary of Defense in May 1997, defined the defense strategy in terms of "Shape, Respond, and Prepare Now". The Quadrennial Defense Review placed greater emphasis on the need to prepare now for an uncertain future by exploiting the revolution in technology and transforming the force toward Joint Vision 2010. It concluded that our future force will be different in character than our current force.

(8) The National Defense Panel Report, published in December 1997, concluded that "the Department of Defense should accord the highest priority to executing a transformation strategy for the United States military, starting now." The panel recommended the establishment of a Joint Forces Command with the responsibility to be the joint force integrator and provider and the responsibility for driving the process for transforming United States forces, including the conduct of joint experimentation, and to have the budget for carrying out those responsibilities.

(9) The assessments of both the Quadrennial Defense Review and the National Defense Panel provide Congress with a compelling argument that the future security environment and the military challenges to be faced by the United States in the future will be fundamentally different than the current environment and challenges. The assessments also reinforce the foundational premise of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 that warfare, in all of its varieties, will be joint warfare requiring the execution of developed joint operational concepts.

(10) A process of joint experimentation is necessary for—

(A) integrating advances in technology with changes in the organizational structure of the Armed Forces and the development of joint operational concepts that will be effective against national security threats anticipated for the future; and

(B) identifying and assessing the interdependent aspects of joint warfare that are key for transforming the conduct of military operations by the United States to meet those anticipated threats successfully.

(11) It is critical for future readiness that the Armed Forces of the United States innovatively investigate and test technologies, forces, and joint operational concepts in simulations, wargames, and virtual settings, as

well as in field environments under realistic conditions against the full range of future challenges. It is essential that an energetic and innovative organization be established and empowered to design and implement a process of joint experimentation to develop and validate new joint warfighting concepts, along with experimentation by the Armed Forces, that is directed at transforming the Armed Forces to meet the threats to the national security that are anticipated for the early 21st century. That process will drive changes in doctrine, organization, training and education, materiel, leadership, and personnel.

(12) The Department of Defense is committed to conducting aggressive experimentation as a key component of its transformation strategy.

(13) The competition of ideas is critical for achieving effective transformation. Experimentation by each of the Armed Forces has been, and will continue to be, a vital aspect of the pursuit of effective transformation. Joint experimentation leverages the effectiveness of each of the Armed Forces and the Defense Agencies.

SEC. 1202. SENSE OF CONGRESS.

(a) DESIGNATION OF COMMANDER TO HAVE JOINT WARFIGHTING EXPERIMENTATION MISSION.—It is the sense of Congress that Congress supports the initiative of the Secretary of Defense and the Chairman of the Joint Chiefs of Staff to designate a commander of a combatant command to have the mission for joint warfighting experimentation, consistent with the understanding of Congress that the Chairman of the Joint Chiefs of Staff will assign the designated commander the tasks to develop and validate new joint warfighting concepts and capabilities, and to determine the implications, for doctrine, organization, training and education, materiel, leadership, and personnel, of the Department of Defense strategy for transforming the Armed Forces to meet the national security threats of the future.

(b) RESOURCES OF COMMANDER.—It is, further, the sense of Congress that the commander designated to have the joint warfighting experimentation mission should—

(1) have sufficient freedom of action and authority over the necessary forces to successfully establish and conduct the process of joint warfighting experimentation;

(2) be provided resources adequate for the joint warfighting experimentation process; and

(3) have authority over the use of the resources for the planning, preparation, conduct, and assessment of joint warfighting experimentation.

(c) AUTHORITY AND RESPONSIBILITIES OF COMMANDER.—It is, further, the sense of Congress that, for the conduct of joint warfighting experimentation to be effective, it is necessary that the commander designated to have the joint warfighting experimentation mission also have the authority and responsibility for the following:

(1) Developing and implementing a process of joint experimentation to formulate and validate concepts critical for joint warfighting in the future, including (in such process) analyses, simulations, wargames, information superiority and other experiments, advanced concept technology demonstrations, and joint exercises conducted in virtual and actual field environments.

(2) Planning, preparing, and conducting the program of joint warfighting experimentation.

(3) Assessing the effectiveness of organizational structures, operational concepts, and technologies employed in joint experimentation, investigating opportunities for coordinating the evolution of the organizational structure of the Armed Forces compatibly with the concurrent evolution of advanced technologies, and investigating new concepts for transforming joint warfighting capabilities to meet the operational challenges expected to be encountered by the Armed Forces in the early 21st century.

(4) Coordinating with each of the Armed Forces and the Defense Agencies regarding the development of the equipment (including surrogate or real technologies, platforms, and systems) necessary for the conduct of joint experimentation, or, if necessary, developing such equipment directly.

(5) Coordinating with each of the Armed Forces and the Defense Agencies regarding the acquisition of the materiel, supplies, services, and surrogate or real technology resources necessary for the conduct of joint experimentation, or, if necessary, acquiring such items and services directly.

(6) Developing scenarios and measures of effectiveness for joint experimentation.

(7) Conducting so-called "red team" vulnerability assessments as part of joint experimentation.

(8) Assessing the interoperability of equipment and forces.

(9) Providing the Secretary of Defense and the Chairman of the Joint Chiefs of Staff with the commander's recommendations (developed on the basis of joint experimentation) for reducing unnecessary redundancy of equipment and forces.

(10) Providing the Secretary of Defense and the Chairman of the Joint Chiefs of Staff with the commander's recommendations (developed on the basis of joint experimentation) regarding synchronization of the fielding of advanced technologies among the Armed Forces to enable the development and execution of joint operational concepts.

(11) Submitting, reviewing, and making recommendations (in conjunction with the joint experimentation and evaluation process) to the Chairman of the Joint Chiefs of Staff on mission needs statements and operational requirements documents.

(12) Exploring new operational concepts (including those developed within the Office of the Secretary of Defense and Defense Agencies, other unified commands, the Armed Forces, and the Joint Staff), and integrating and testing in joint experimentation the systems and concepts that result from warfighting experimentation by the Armed Forces and the Defense Agencies.

(13) Developing, planning, refining, assessing, and recommending to the Secretary of Defense and the Chairman of the Joint Chiefs of Staff the most promising joint concepts and capabilities for experimentation and assessment.

(14) Assisting the Secretary of Defense and the Chairman of the Joint Chiefs of Staff to prioritize joint requirements and acquisition programs on the basis of joint warfighting experimentation.

(d) CONTINUED EXPERIMENTATION BY OTHER DEFENSE ORGANIZATIONS.—It is, further, the sense of Congress that—

(1) the Armed Forces are expected to continue to develop concepts and conduct intraservice and multiservice warfighting experimentation within their core competencies; and

(2) the commander of United States Special Operations Command is expected to continue to develop concepts and conduct joint experimentation associated with special operations forces.

(e) CONGRESSIONAL REVIEW.—It is, further, the sense of Congress that—

(1) Congress will carefully review the initial report and annual reports on joint warfighting experimentation required under section 1203 to determine the adequacy of the scope and pace of the transformation of the Armed Forces to meet future challenges to the national security; and

(2) if the progress is inadequate, Congress will consider legislation to establish a unified combatant command with the mission, forces, budget, responsibilities, and authority described in the preceding provisions of this section.

SEC. 1203. REPORTS ON JOINT WARFIGHTING EXPERIMENTATION.

(a) INITIAL REPORT.—(1) On such schedule as the Secretary of Defense shall direct, the commander of the combatant command assigned the mission for joint warfighting experimentation shall submit to the Secretary an initial report on the implementation of joint experimentation. Not later than April 1, 1999, the Secretary shall submit the report, together with any comments that the Secretary considers appropriate and any comments that the Chairman of the Joint Chiefs of Staff considers appropriate, to the Chairmen of the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives.

(2) The initial report of the commander shall include the following:

(A) The commander's understanding of the commander's specific authority and responsibilities and of the commander's relationship to the Secretary of Defense, the Chairman of the Joint Chiefs of Staff, the Joint Staff, the commanders of other combatant commands, the Armed Forces, and the Defense Agencies and activities.

(B) The organization of the commander's combatant command, and of its staff, for carrying out the joint warfighting experimentation mission.

(C) The process established for tasking forces to participate in joint warfighting experimentation and the commander's specific authority over the forces.

(D) Any forces designated or made available as joint experimentation forces.

(E) The resources provided for joint warfighting experimentation, including the personnel and funding for the initial implementation of joint experimentation, the process for providing the resources to the commander, the categories of the funding, and the authority of the commander for budget execution.

(F) The authority of the commander, and the process established, for the development and acquisition of the material, supplies, services, and equipment necessary for the conduct of joint warfighting experimentation, including the authority and process for development and acquisition by the Armed Forces and the Defense Agencies and the authority and process for development and acquisition by the commander directly.

(G) The authority of the commander to design, prepare, and conduct joint experiments (including the scenarios and measures of effectiveness used) for assessing operational concepts for meeting future challenges to the national security.

(H) The role assigned the commander for—

(i) integrating and testing in joint warfighting experimentation the systems that emerge from warfighting experimentation by the Armed Forces or the Defense Agencies;

(ii) assessing the effectiveness of organizational structures, operational concepts, and technologies employed in joint warfighting experimentation; and

(iii) assisting the Secretary of Defense and the Chairman of the Joint Chiefs of Staff in prioritizing acquisition programs in relationship to future joint warfighting capabilities.

(I) Any other comments that the commander considers appropriate.

(b) ANNUAL REPORT.—(1) On such schedule as the Secretary of Defense shall direct, the commander of the combatant command assigned the mission for joint warfighting experimentation shall submit to the Secretary an annual report on the conduct of joint experimentation activities for the fiscal year ending in the year of the report. Not later than December 1 of each year, the Secretary shall submit the report, together with any comments that the Secretary considers appropriate and any comments that the Chairman of the Joint Chiefs of Staff considers appropriate, to the Chairmen of the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives. The first annual report shall be submitted in 1999.

(2) The annual report of the commander shall include, for the fiscal year covered by the report, the following:

(A) Any changes in—

(i) the commander's authority and responsibilities for joint warfighting experimentation;

(ii) the commander's relationship to the Secretary of Defense, the Chairman of the Joint Chiefs of Staff, the Joint Staff, the commanders of the other combatant commands, the Armed Forces, or the Defense Agencies or activities;

(iii) the organization of the commander's command and staff for joint warfighting experimentation;

(iv) any forces designated or made available as joint experimentation forces;

(v) the process established for tasking forces to participate in joint experimentation activities or the commander's specific authority over the tasked forces;

(vi) the procedures for providing funding for the commander, the categories of funding, or the commander's authority for budget execution;

(vii) the authority of the commander, and the process established, for the development and acquisition of the materiel, supplies, services, and equipment necessary for the conduct of joint warfighting experimentation;

(viii) the commander's authority to design, prepare, and conduct joint experiments (including the scenarios and measures of effectiveness used) for assessing operational concepts for meeting future challenges to the national security; or

(ix) any role described in subsection (a)(2)(H).

(B) The conduct of joint warfighting experimentation activities, including the number of activities, the forces involved, the national security challenges addressed, the operational concepts assessed, and the scenarios and measures of effectiveness used.

(C) An assessment of the results of warfighting experimentation within the Department of Defense.

(D) The effect of warfighting experimentation on the process for transforming the Armed Forces to meet future challenges to the national security.

(E) Any recommendations that the commander considers appropriate regarding—

(i) the development or acquisition of advanced technologies; or

(ii) changes in organizational structure, operational concepts, or joint doctrine.

(F) An assessment of the adequacy of resources, and any recommended changes for the process of providing resources, for joint warfighting experimentation.

(G) Any recommended changes in the authority or responsibilities of the commander.

(H) Any additional comments that the commander considers appropriate.

DIVISION B—MILITARY CONSTRUCTION AUTHORIZATIONS

SEC. 2001. SHORT TITLE.

This division may be cited as the "Military Construction Authorization Act for Fiscal Year 1999".

TITLE XXI—ARMY

SEC. 2101. AUTHORIZED ARMY CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(1), the Secretary of the Army may acquire real property and carry out military construction projects for the installations and locations inside the United States, and in the amounts, set forth in the following table:

Army: Inside the United States

State	Installation or location	Amount
Alabama	Anniston Army Depot	$3,550,000
	Fort Rucker	$10,000,000
Alaska	Fort Wainwright	$22,600,000
California	Fort Irwin	$7,000,000
Georgia	Fort Benning	$28,600,000
	Fort Stewart	$17,000,000
Hawaii	Schofield Barracks	$67,500,000
Illinois	Rock Island Arsenal	$5,300,000
Indiana	Crane Army Ammunition Activity	$7,100,000
Kentucky	Bluegrass Army Depot	$5,300,000
	Fort Campbell	$41,000,000
Louisiana	Fort Polk	$8,300,000
Maryland	Fort Detrick	$3,550,000
	Fort Meade	$5,300,000
Missouri	Fort Leonard Wood	$5,200,000
New York	Fort Drum	$4,650,000
	United States Military Academy, West Point.	$85,000,000
North Carolina	Fort Bragg	$85,300,000
Oklahoma	Fort Sill	$13,800,000
	McAlester Army Ammunition Plant	$10,800,000
Texas	Fort Bliss	$4,100,000
	Fort Hood	$32,500,000
	Fort Sam Houston	$21,800,000
Utah	Tooele Army Depot	$3,900,000
Virginia	Charlottesville	$46,200,000
	Fort Eustis	$36,531,000
Washington	Fort Lewis	$18,200,000
CONUS Classified.	Classified Locations	$4,600,000
	Total:	$604,681,000

(b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(2), the Secretary of the Army may acquire real property and carry out military construction projects for the locations outside the United States, and in the amounts, set forth in the following table:

Army: Outside the United States

Country	Installation or location	Amount
Belgium	80th Area Support Group	$6,300,000
Germany	Schweinfurt	$18,000,000
	Wuerzburg	$4,250,000
Korea	Camp Casey	$13,400,000
	Camp Castle	$18,226,000
	Camp Humphreys	$8,500,000
	Camp Stanley	$5,800,000
Kwajalein	Kwajalein Atoll	$48,600,000
	Total:	$123,076,000

SEC. 2102. FAMILY HOUSING.

(a) CONSTRUCTION AND ACQUISITION.—Using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(5)(A), the Secretary of the Army may construct or acquire family housing units (including land acquisition) at the installations, for the purposes, and in the amounts set forth in the following table:

Army: Family Housing

State	Installation or location	Purpose	Amount
Alabama	Redstone Arsenal.	118 Units	$14,000,000
Hawaii	Schofield Barracks.	64 Units	$14,700,000
North Carolina.	Fort Bragg	170 Units	$19,800,000
Texas	Fort Hood	154 Units	$21,600,000
		Total:	$70,100,000

(b) PLANNING AND DESIGN.—Using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(5)(A), the Secretary of the Army may carry out architectural and engineering services and construction design activities with respect to the construction or improvement of family housing units in an amount not to exceed $7,490,000.

SEC. 2103. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.

Subject to section 2825 of title 10, United States Code, and using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(5)(A), the Secretary of the Army may improve existing military family housing units in an amount not to exceed $46,029,000.

SEC. 2104. AUTHORIZATION OF APPROPRIATIONS, ARMY.

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1998, for military construction, land acquisition, and military family housing functions of the Department of the Army in the total amount of $1,983,304,000 as follows:

(1) For military construction projects inside the United States authorized by section 2101(a), $516,681,000.

(2) For military construction projects outside the United States authorized by section 2101(b), $87,076,000.

(3) For unspecified minor construction projects authorized by section 2805 of title 10, United States Code, $10,000,000.

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $65,295,000.

(5) For military family housing functions:

(A) For construction and acquisition, planning and design, and improvement of military family housing and facilities, $123,619,000.

(B) For support of military family housing (including the functions described in section 2833 of title 10, United States Code), $1,104,733,000.

(6) For the Homeowners Assistance Program as authorized by section 2832 of title 10, United States Code, $12,800,000.

(7) For the construction of the missile software engineering annex, phase II, Redstone Arsenal, Alabama, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal Year 1998 (division B of Public Law 105–85; 111 Stat. 1966), $13,600,000.

(8) For the construction of a disciplinary barracks, phase II, Fort Leavenworth, Kansas, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal Year 1998, $29,000,000.

(9) For the construction of the whole barracks complex renewal, Fort Sill, Oklahoma, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal Year 1998, $20,500,000.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2101 of this Act may not exceed—

(1) the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a);

(2) $73,000,000 (the balance of the amount authorized to be appropriated under section 2101(a) of this Act for the construction of the Cadet Physical Development project at the United States Military Academy, West Point, New York);

(3) $15,000,000 (the balance of the amount authorized to be appropriated under section 2101(a) of this Act for the construction of a rail head facility at Fort Hood, Texas); and

(4) $36,000,000 (the balance of the amount authorized to be appropriated under section 2101(b) of this Act for the construction of a power plant on Roi Namur Island, Kwajalein Atoll).

(c) ADJUSTMENT.—The total amount authorized to be appropriated pursuant to paragraphs (1) through (5) of subsection (a) is the sum of the amounts authorized to be appropriated in such paragraphs reduced by $1,639,000, which represents the combination of project savings in military construction resulting from favorable bids, reduced overhead costs, and cancellations due to force structure changes.

(d) AVAILABILITY OF CERTAIN FUNDS.—Notwithstanding section 2701 or any other provision of law, the amounts appropriated pursuant to the authorization of appropriations in subsection (a)(6) shall remain available until expended.

SEC. 2105. MODIFICATION OF AUTHORITY TO CARRY OUT FISCAL YEAR 1998 PROJECT.

The table in section 2101(a) of the Military Construction Authorization Act for Fiscal Year 1998 (division B of Public Law 105–85; 111 Stat. 1967) is amended in the item relating to Fort Sill, Oklahoma, by striking out "$25,000,000" in the amount column and inserting in lieu thereof "$28,500,000".

(b) CONFORMING AMENDMENTS.—(1) The table in section 2101(a) of that Act is amended in the item relating to the total by striking out "$598,750,000" in the amount column and inserting in lieu thereof "$602,250,000".

(2) Section 2104 of that Act (111 Stat. 1968) is amended—

(A) in the matter preceding paragraph (1), by striking out "$2,010,466,000" and inserting in lieu thereof "$2,013,966,000"; and

(B) in paragraph (1), by striking out "$435,350,000" and inserting in lieu thereof "$438,850,000".

TITLE XXII—NAVY

SEC. 2201. AUTHORIZED NAVY CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(1), the Secretary of the Navy may acquire real property and carry out military construction projects for the installations and locations inside the United States, and in the amounts, set forth in the following table:

Navy: Inside the United States

State	Installation or location	Amount
Arizona	Marine Corps Air Station, Yuma	$11,010,000
	Naval Observatory Detachment, Flagstaff.	$990,000
California	Marine Corps Air Station, Miramar	$29,570,000
	Marine Corps Base, Camp Pendleton	$28,240,000
	Naval Air Station, Lemoore	$20,640,000
	Naval Air Warfare Center Weapons Division, China Lake	$3,240,000
	Naval Facility, San Clemente Island	$8,350,000
	Naval Submarine Base, San Diego	$11,400,000
Connecticut	Naval Submarine Base, New London	$12,510,000
District of Columbia.	Naval District, Washington	$790,000
Florida	Naval Air Station, Key West	$3,730,000
	Naval Air Station, Whiting Field	$1,400,000
Georgia	Naval Submarine Base, Kings Bay	$2,550,000
Hawaii	Marine Corps Air Station, Kaneohe Bay.	$27,410,000
	Marine Corps Base, Hawaii	$23,570,000
	Naval Communications & Telecommunications Area Master Station Eastern Pacific, Wahiawa.	$1,970,000
	Naval Shipyard, Pearl Harbor	$11,400,000
	Naval Submarine Base, Pearl Harbor	$8,060,000
	Navy Public Works Center, Pearl Harbor.	$28,967,000
	Fleet and Industrial Supply Center, Pearl Harbor.	$9,730,000
	Naval Station, Pearl Harbor	$18,180,000
Illinois	Naval Training Center, Great Lakes	$5,750,000
	Naval Training Center, Great Lakes	$7,410,000
Maryland	Naval Surface Warfare Center, Indian Head Division, Indian Head.	$6,680,000
	United States Naval Academy	$4,300,000
Mississippi	Naval Construction Battalion Center, Gulfport.	$10,670,000
North Carolina	Marine Corps Air Station, Cherry Point	$6,040,000
	Marine Corps Base, Camp Lejeune	$30,300,000
Rhode Island	Naval Education and Training Center, Newport.	$5,630,000
	Naval Undersea Warfare Center Division, Newport.	$9,140,000
South Carolina	Marine Corps Air Station, Beaufort	$1,770,000
	Marine Corps Recruit Depot, Parris Island.	$7,960,000
	Naval Weapons Station, Charleston	$9,737,000
Virginia	Fleet and Industrial Supply Center, Norfolk (Craney Island).	$1,770,000
	Fleet Training Center, Norfolk	$5,700,000
	Naval Shipyard, Norfolk, Portsmouth	$6,180,000
	Naval Station, Norfolk	$45,530,000
	Naval Surface Warfare Center, Dahlgren.	$5,130,000
	Tactical Training Group Atlantic, Dam Neck.	$2,430,000
Washington	Strategic Weapons Facility Pacific, Bremerton.	$2,750,000
	Naval Shipyard, Puget Sound, Bremerton.	$4,300,000
	Total	$442,884,000

(b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(2), the Secretary of the Navy may acquire real property and carry out military construction projects for the installations and locations outside the United States, and in the amounts, set forth in the following table:

Navy: Outside the United States

Country	Installation or location	Amount
Greece	Naval Support Activity, Souda Bay	$5,260,000
Guam	Naval Activities, Guam	$10,310,000
Italy	Naval Support Activity, Naples	$18,270,000
United Kingdom.	Joint Maritime Communications Center, St. Mawgan.	$2,010,000
	Total	$35,850,000

SEC. 2202. FAMILY HOUSING.

(a) CONSTRUCTION AND ACQUISITION.—Using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(5)(A), the Secretary of the Navy may construct or acquire family housing units (including land acquisition) at the installations, for the purposes, and in the amounts set forth in the following table:

Navy: Family Housing

State	Installation or location	Purpose	Amount
California.	Naval Air Station, Lemoore.	162 Units	$30,379,000
Hawaii	Navy Public Works Center, Pearl Harbor.	150 Units	$29,125,000
		Total.	$59,504,000

(b) PLANNING AND DESIGN.—Using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(5)(A), the Secretary of the Navy may carry out architectural and engineering services and construction design activities with respect to the construction or improvement of military family housing units in an amount not to exceed $15,618,000.

SEC. 2203. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.

Subject to section 2825 of title 10, United States Code, and using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(5)(A), the Secretary of the Navy may improve existing military family housing units in an amount not to exceed $211,991,000.

SEC. 2204. AUTHORIZATION OF APPROPRIATIONS, NAVY.

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1998, for military construction, land acquisition, and military family housing functions of the Department of the Navy in the total amount of $1,737,021,000 as follows:

(1) For military construction projects inside the United States authorized by section 2201(a), $429,384,000.

(2) For military construction projects outside the United States authorized by section 2201(b), $35,850,000.

(3) For unspecified minor construction projects authorized by section 2805 of title 10, United States Code, $8,900,000.

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $60,481,000.

(5) For military family housing functions:

(A) For construction and acquisition, planning and design, and improvement of military family housing and facilities, $287,113,000.

(B) For support of military housing (including functions described in section 2833 of title 10, United States Code), $915,293,000.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2201 of this Act may not exceed—

(1) the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a); and

(2) $13,500,000 (the balance of the amount authorized under section 2201(a) of this Act for the construction of a berthing pier at Naval Station, Norfolk, Virginia).

(c) ADJUSTMENT.—The total amount authorized to be appropriated pursuant to paragraphs (1) through (5) of subsection (a) is the sum of the amounts authorized to be appropriated in such paragraphs reduced by $6,323,000, which represents the combination of project savings in military construction resulting from favorable bids, reduced overhead costs, and cancellations due to force structure changes.

TITLE XXIII—AIR FORCE

SEC. 2301. AUTHORIZED AIR FORCE CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(1), the Secretary of the Air Force may acquire real property and carry out military construction projects for the installations and locations inside the United States, and in the amounts, set forth in the following table:

Air Force: Inside the United States

State	Installation or location	Amount
Alabama	Maxwell Air Force Base	$19,398,000
Alaska	Eielson Air Force Base	$10,552,000
Arkansas	Little Rock Air Force Base	$1,500,000
California	Edwards Air Force Base	$10,361,000
	Travis Air Force Base	$4,250,000
	Vandenberg Air Force Base	$18,709,000
Colorado	Falcon Air Force Station	$9,601,000
	United States Air Force Academy	$4,413,000
Delaware	Dover Air Force Base	$1,600,000
District of Columbia.	Bolling Air Force Base	$2,948,000
Florida	Eglin Air Force Base	$20,437,000
	Eglin Auxiliary Field 9	$3,837,000
	MacDill Air Force Base	$5,008,000
Georgia	Robins Air Force Base	$11,894,000
Hawaii	Hickam Air Force Base	$5,890,000
Idaho	Mountain Home Air Force Base	$17,897,000
Kansas	McConnell Air Force Base	$2,900,000
Maryland	Andrews Air Force Base	$4,448,000
Massachusetts	Hanscom Air Force Base	$10,000,000
Mississippi	Keesler Air Force Base	$35,526,000
	Columbus Air Force Base	$8,200,000
Montana	Malmstrom Air Force Base	$13,200,000
Nevada	Indian Springs	$15,013,000
	Nellis Air Force Base	$6,378,000
New Jersey	McGuire Air Force Base	$6,044,000
New Mexico	Cannon Air Force Base	$6,500,000
	Kirtland Air Force Base	$8,574,000
North Carolina	Seymour Johnson Air Force Base	$6,100,000
North Dakota	Grand Forks Air Force Base	$2,686,000
	Minot Air Force Base	$8,500,000
Ohio	Wright-Patterson Air Force Base	$22,000,000
Oklahoma	Altus Air Force Base	$4,000,000
	Tinker Air Force Base	$24,985,000
	Vance Air Force Base	$6,223,000
South Carolina	Charleston Air Force Base	$24,330,000
	Shaw Air Force Base	$8,500,000
South Dakota	Ellsworth Air Force Base	$6,500,000
Texas	Dyess Air Force Base	$1,400,000
	Lackland Air Force Base	$6,800,000
	Lackland Training Annex	$8,130,000
	Randolph Air Force Base	$3,166,000
Utah	Hill Air Force Base	$4,100,000
Washington	Fairchild Air Force Base	$11,520,000
	Total:	$465,865,000

(b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(2), the Secretary of the Air Force may acquire real property and carry out military construction projects for the installations and locations outside the United States, and in the amounts, set forth in the following table:

Air Force: Outside the United States

Country	Installation or location	Amount
Germany	Spangdahlem Air Base	$13,967,000
Korea	Kunsan Air Base	$5,958,000
	Osan Air Base	$7,496,000
Turkey	Incirlik Air Base	$2,949,000
United Kingdom.	Royal Air Force, Lakenheath	$15,838,000
	Royal Air Force, Mildenhall	$24,960,000
	Total:	$71,168,000

SEC. 2302. FAMILY HOUSING.

(a) CONSTRUCTION AND ACQUISITION.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(5)(A), the Secretary of the Air Force may construct or acquire family housing units (including land acquisition) at the installations, for the purposes, and in the amounts set forth in the following table:

Air Force: Family Housing

State	Installation or location	Purpose	Amount
Alabama	Maxwell Air Force Base	143 Units	$16,300,000
Alaska	Eielson Air Force Base	46 Units	$12,932,000
California	Edwards Air Force Base	48 Units	$12,580,000
	Vandenberg Air Force Base.	95 Units	$18,499,000
Delaware	Dover Air Force Base	55 Units	$8,998,000
Florida	MacDill Air Force Base	48 Units	$7,609,000
	Patrick Air Force Base	46 Units	$9,692,000
	Tyndall Air Force Base	122 Units	$14,500,000
Mississippi	Columbus Air Force Base.	52 Units	$6,800,000
	Keesler Air Force Base	52 Units	$6,800,000
Nebraska	Offutt Air Force Base	Housing Maintenance Facility.	$900,000
	Offutt Air Force Base	Housing Office.	$870,000
	Offutt Air Force Base	90 Units	$12,212,000
New Mexico	Kirtland Air Force Base	37 Units	$6,400,000
Ohio	Wright-Patterson Air Force Base.	40 Units	$5,600,000
Texas	Dyess Air Force Base	64 Units	$9,415,000
	Sheppard Air Force Base.	115 Units	$12,800,000
Washington	Fairchild Air Force Base	Housing Office and Maintenance Facility.	$1,692,000
	Fairchild Air Force Base	14 Units	$2,300,000
		Total:	$166,899,000

(b) PLANNING AND DESIGN.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(5)(A), the Secretary of the Air Force may carry out architectural and engineering services and construction design activities with respect to the construction or improvement of military family housing units in an amount not to exceed $12,622,000.

SEC. 2303. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.

Subject to section 2825 of title 10, United States Code, and using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(5)(A), the Secretary of the Air Force may improve existing military family housing units in an amount not to exceed $90,888,000.

SEC. 2304. AUTHORIZATION OF APPROPRIATIONS, AIR FORCE.

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1998, for military construction, land acquisition, and military family housing functions of the Department of the Air Force in the total amount of $1,649,334,000 as follows:

(1) For military construction projects inside the United States authorized by section 2301(a), $465,865,000.

(2) For military construction projects outside the United States authorized by section 2301(b), $71,168,000.

(3) For unspecified minor construction projects authorized by section 2805 of title 10, United States Code, $7,135,000.

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $44,762,000.

(5) For military housing functions:

(A) For construction and acquisition, planning and design, and improvement of military family housing and facilities, $270,409,000.

(B) For support of military family housing (including the functions described in section 2833 of title 10, United States Code), $789,995,000.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2301 of this Act may not exceed the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a).

(c) ADJUSTMENT.—The total amount authorized to be appropriated pursuant to paragraphs (1) through (5) of subsection (a) is the sum of the amounts authorized to be appropriated in such paragraphs reduced by $7,584,000, which represents the combination of project savings in military construction resulting from favorable bids, overhead costs, and cancellations due to force structure changes.

TITLE XXIV—DEFENSE AGENCIES

SEC. 2401. AUTHORIZED DEFENSE AGENCIES CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2404(a)(1), the Secretary of Defense may acquire real property and carry out military construction projects for the installations and locations inside the United States, and in the amounts, set forth in the following table:

Defense Agencies: Inside the United States

Agency	Installation or location	Amount
Chemical Demilitarization Program.	Aberdeen Proving Ground, Maryland	$186,350,000
	Newport Army Depot, Indiana	$191,550,000
Defense Logistics Agency.	Defense Fuel Support Point, Fort Sill, Oklahoma	$3,500,000
	Defense Fuel Support Point, Jacksonville Annex, Mayport, Florida	$11,020,000
	Defense Fuel Support Point, Jacksonville, Florida	$11,000,000
	Defense General Supply Center, Richmond (DLA), Virginia	$10,500,000
	Defense Fuel Supply Center, Camp Shelby, Mississippi	$5,300,000
	Defense Fuel Supply Center, Elmendorf Air Force Base, Alaska	$19,500,000
	Defense Fuel Supply Center, Pope Air Force Base, North Carolina	$4,100,000
	Various Locations	$1,300,000
Defense Medical Facilities Office.	Barksdale Air Force Base, Louisiana	$3,450,000
	Beale Air Force Base, California	$3,500,000
	Carlisle Barracks, Pennsylvania	$4,678,000
	Cheatham Annex, Virginia	$11,300,000
	Edwards Air Force Base, California	$6,000,000
	Eglin Air Force Base, Florida	$9,200,000
	Fort Bragg, North Carolina	$6,500,000
	Fort Hood, Texas	$14,100,000
	Fort Stewart/Hunter Army Air Field, Georgia	$10,400,000
	Grand Forks Air Force Base, North Dakota	$5,600,000

Defense Agencies: Inside the United States—Continued

Agency	Installation or location	Amount
	Holloman Air Force Base, New Mexico	$1,300,000
	Keesler Air Force Base, Mississippi	$700,000
	Marine Corps Air Station, Camp Pendleton, California	$6,300,000
	McChord Air Force Base, Washington	$20,000,000
	Moody Air Force Base, Georgia	$11,000,000
	Naval Air Station, Pensacola, Florida	$25,400,000
	Naval Hospital, Bremerton, Washington	$28,000,000
	Naval Hospital, Great Lakes, Illinois	$7,100,000
	Naval Station, San Diego, California	$1,350,000
	Naval Submarine Base, Bangor, Washington	$5,700,000
	Travis Air Force Base, California	$1,700,000
Defense Education Activity.	Marine Corps Base, Camp LeJeune, North Carolina	$16,900,000
	United States Military Academy, West Point, New York	$2,840,000
National Security Agency.	Fort Meade, Maryland	$668,000
Special Operations Command.	Eglin Auxiliary Field 3, Florida	$2,210,000
	Eglin Auxiliary Field 9, Florida	$2,400,000
	Fort Campbell, Kentucky	$15,000,000
	MacDill Air Force Base, Florida	$8,400,000
	Mississippi Army Ammunition Plant/Stennis Space Center, Mississippi	$5,500,000
	Naval Amphibious Base, Coronado, California	$3,600,000
	Total	$684,916,000

(b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2404(a)(2), the Secretary of Defense may acquire real property and carry out military construction projects for the installations and locations outside the United States, and in the amounts, set forth in the following table:

Defense Agencies: Outside the United States

Agency	Installation or location	Amount
Ballistic Missile Defense Organization.	Kwajalein Atoll, Kwajalein	$4,600,000
Defense Logistics Agency.	Lajes Field, Azores, Portugal	$7,700,000
Defense Medical Facilities Office.	Naval Air Station, Sigonella, Italy	$5,300,000
	Royal Air Force, Lakenheath, United Kingdom	$10,800,000
Defense Education Activity.	Fort Buchanan, Puerto Rico	$8,805,000
	Naval Activities, Guam	$13,100,000
Special Operations Command.	Naval Station, Roosevelt Roads, Puerto Rico	$9,600,000
	Total:	$59,905,000

SEC. 2402. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.

Subject to section 2825 of title 10, United States Code, and using amounts appropriated pursuant to the authorization of appropriation in section 2404(a)(11)(A), the Secretary of Defense may improve existing military family housing units in an amount not to exceed $345,000.

SEC. 2403. ENERGY CONSERVATION PROJECTS.

Using amounts appropriated pursuant to the authorization of appropriations in section 2404(a)(9), the Secretary of Defense may carry out energy conservation projects under section 2865 of title 10, United States Code.

SEC. 2404. AUTHORIZATION OF APPROPRIATIONS, DEFENSE AGENCIES.

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1998, for military construction, land acquisition, and military family housing functions of the Department of Defense (other than the military departments), in the total amount of $2,346,923,000 as follows:

(1) For military construction projects inside the United States authorized by section 2401(a), $340,866,000.

(2) For military construction projects outside the United States authorized by section 2401(b), $59,905,000.

(3) For military construction projects at Portsmouth Naval Hospital, Virginia, hospital replacement, authorized by section 2401(a) of the Military Construction Authorization Act for Fiscal Years 1990 and 1991 (division B of Public Law 101–189; 106 Stat. 1640), as amended by section 2406 of this Act, $17,954,000.

(4) For construction of the Ammunition Demilitarization Facility, Pine Bluff Arsenal, Arkansas, authorized by section 2401 of the Military Construction Authorization Act for Fiscal Year 1995 (division B of Public Law 103–337; 108 Stat. 3040), as amended by section 2407 of the Military Construction Authorization Act for Fiscal Year 1996 (division B of Public Law 104–106; 110 Stat. 539), section 2408 of the Military Construction Authorization Act for Fiscal Year 1998 (111 Stat. 1982), and section 2405 of this Act, $10,000,000.

(5) For construction of the Ammunition Demilitarization Facility, Umatilla Army Depot, Oregon, authorized by section 2401 of the Military Construction Authorization Act for Fiscal Year 1995, as amended by section 2407 of the Military Construction Authorization Act for Fiscal Year 1996, section 2408 of the Military Construction Authorization Act for Fiscal Year 1998, and section 2405 of this Act, $30,950,000.

(6) For unspecified minor construction projects under section 2805 of title 10, United States Code, $13,394,000.

(7) For contingency construction projects of the Secretary of Defense under section 2804 of title 10, United States Code, $9,390,000.

(8) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $42,566,000.

(9) For energy conservation projects authorized by section 2404, $46,950,000.

(10) For base closure and realignment activities as authorized by the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note), $1,730,704,000.

(11) For military family housing functions:

(A) For improvement of military family housing and facilities, $345,000.

(B) For support of military housing (including functions described in section 2833 of title 10, United States Code), $36,899,000 of which not more than $31,139,000 may be obligated or expended for the leasing of military family housing units worldwide.

(C) For credit to the Department of Defense Family Housing Improvement Fund established by section 2883(a)(1) of title 10, United States Code, $7,000,000.

(b) LIMITATION OF TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variations authorized by law, the total cost of all projects carried out under section 2401 of this Act may not exceed—

(1) the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a);

(2) $174,550,000 (the balance of the amount authorized under section 2401(a) of this Act for the construction of a chemical demilitarization facility at Newport Army Depot, Indiana); and

(3) $169,500,000 (the balance of the amount authorized under section 2401(a) of this Act for the construction of a chemical demilitarization facility at Aberdeen Proving Ground, Maryland).

SEC. 2405. MODIFICATION OF AUTHORITY TO CARRY OUT CERTAIN FISCAL YEAR 1995 PROJECTS.

The table in section 2401 of the Military Construction Authorization Act for Fiscal Year 1995 (division B of Public Law 103–337; 108 Stat. 3040), as amended by section 2407 of the Military Construction Authorization Act for Fiscal Year 1996 (division B of Public Law 104–106; 110 Stat. 539) and section 2408 of the Military Construction Authorization Act for Fiscal Year 1998 (division B of Public Law 105–85; 111 Stat. 1982), under the agency heading relating to Chemical Weapons and Munitions Destruction, is amended—

(1) in the item relating to Pine Bluff Arsenal, Arkansas, by striking out "$134,000,000" in the amount column and inserting in lieu thereof "$154,400,000"; and

(2) in the item relating to Umatilla Army Depot, Oregon, by striking out "$187,000,000" in the amount column and inserting in lieu thereof "$193,377,000".

SEC. 2406. MODIFICATION OF AUTHORITY TO CARRY OUT FISCAL YEAR 1990 PROJECT.

The table in section 2401(a) of the Military Construction Authorization Act for Fiscal Years 1990 and 1991 (division B of Public Law 100–189; 103 Stat. 1640) is amended in the item relating to Portsmouth Naval Hospital, Virginia, by striking out "$330,000,000" and inserting in lieu thereof "$351,354,000".

TITLE XXV—NORTH ATLANTIC TREATY ORGANIZATION SECURITY INVESTMENT PROGRAM

SEC. 2501. AUTHORIZED NATO CONSTRUCTION AND LAND ACQUISITION PROJECTS.

The Secretary of Defense may make contributions for the North Atlantic Treaty Organization Security Investment program as provided in section 2806 of title 10, United States Code, in an amount not to exceed the sum of the amount authorized to be appropriated for this purpose in section 2502 and the amount collected from the North Atlantic Treaty Organization as a result of construction previously financed by the United States.

SEC. 2502. AUTHORIZATION OF APPROPRIATIONS, NATO.

Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1998, for contributions by the Secretary of Defense under section 2806 of title 10, United States Code, for the share of the United States of the cost of projects for the North Atlantic Treaty Organization Security Investment program authorized by section 2501, in the amount of $159,000,000.

TITLE XXVI—GUARD AND RESERVE FORCES FACILITIES

SEC. 2601. AUTHORIZED GUARD AND RESERVE CONSTRUCTION AND LAND ACQUISITION PROJECTS.

There are authorized to be appropriated for fiscal years beginning after September 30, 1998, for the costs of acquisition, architectural and engineering services, and construction of facilities for the Guard and Reserve Forces, and for contributions therefor, under chapter 1803 of title 10, United States Code (including the cost of acquisition of land for those facilities), the following amounts:

(1) For the Department of the Army—

(A) for the Army National Guard of the United States, $122,574,000; and

(B) for the Army Reserve, $116,109,000.

(2) For the Department of the Navy, for the Naval and Marine Corps Reserve, $19,371,000.

(3) For the Department of the Air Force—

(A) for the Air National Guard of the United States, $161,932,000; and

(B) for the Air Force Reserve, $23,625,000.

SEC. 2602. REDUCTION IN FISCAL YEAR 1998 AUTHORIZATION OF APPROPRIATIONS FOR ARMY RESERVE MILITARY CONSTRUCTION.

Section 2601(a)(1)(B) of the Military Construction Authorization Act for Fiscal Year 1998 (division B of Public Law 105–85; 111 Stat. 1983) is amended by striking out "$66,267,000" and inserting in lieu thereof "$53,553,000".

SEC. 2603. NATIONAL GUARD MILITARY EDUCATIONAL FACILITY, FORT BRAGG, NORTH CAROLINA.

Of the amount authorized to be appropriated by section 2601(1)(A), $1,000,000 may be available for purposes of Planning and Design of the National Guard Military Educational Facility at Fort Bragg, North Carolina.

TITLE XXVII—EXPIRATION AND EXTENSION OF AUTHORIZATIONS

SEC. 2701. EXPIRATION OF AUTHORIZATIONS AND AMOUNTS REQUIRED TO BE SPECIFIED BY LAW.

(a) EXPIRATION OF AUTHORIZATIONS AFTER THREE YEARS.—Except as provided in subsection (b), all authorizations contained in titles XXI through XXVI for military construction projects, land acquisition, family housing projects and facilities, and contributions to the North Atlantic Treaty Organization Security Investment program (and authorizations of appropriations therefor) shall expire on the later of—

(1) October 1, 2001; or

(2) the date of enactment of an Act authorizing funds for military construction for fiscal year 2002.

(b) EXCEPTION.—Subsection (a) shall not apply to authorizations for military construction projects, land acquisition, family housing projects and facilities, and contributions to the North Atlantic Treaty Organization Security Investment program (and authorizations of appropriations therefor), for which appropriated funds have been obligated before the later of—

(1) October 1, 2001; or

(2) the date of enactment of an Act authorizing funds for fiscal year 2002 for military construction projects, land acquisition, family housing projects and facilities, or contributions to the North Atlantic Treaty Organization Security Investment program.

SEC. 2702. EXTENSION OF AUTHORIZATIONS OF CERTAIN FISCAL YEAR 1996 PROJECTS.

(a) EXTENSIONS.—Notwithstanding section 2701 of the Military Construction Authorization Act for Fiscal Year 1996 (division B of Public Law 104–106; 110 Stat. 541), authorizations for the projects set forth in the tables in subsection (b), as provided in sections 2201, 2302, or 2601 of that Act, shall remain in effect until October 1, 1999, or the date of enactment of an Act authorizing funds for military construction for fiscal year 2000, whichever is later.

(b) TABLES.—The tables referred to in subsection (a) are as follows:

Navy: Extension of 1996 Project Authorization

State	Installation or location	Project	Amount
Puerto Rico	Naval Station Roosevelt Roads.	Housing Office	$710,000

Air Force: Extension of 1996 Project Authorization

State	Installation or location	Project	Amount
Texas	Lackland Air Force Base.	Family Housing (67 units).	$6,200,000

Army National Guard: Extension of 1996 Project Authorization

State	Installation or location	Project	Amount
Mississippi	Camp Shelby ...	Multipurpose Range Complex (Phase I).	$5,000,000
Missouri	National Guard Training Site, Jefferson City.	Multipurpose Range.	$2,236,000
		Total:	$7,236,000

SEC. 2703. EXTENSION OF AUTHORIZATION OF FISCAL YEAR 1995 PROJECT.

(a) EXTENSION.—Notwithstanding section 2701 of the Military Construction Authorization Act for Fiscal Year 1995 (division B of Public Law 103–337; 108 Stat. 3046), the authorization for the project set forth in the table in subsection (b), as provided in section 2201 of that Act and extended by section 2702 of the Military Construction Authorization Act for Fiscal Year 1998 (division B of Public Law 105–85; 111 Stat. 1985), shall remain in effect until October 1, 1999, or the date of enactment of an Act authorizing funds for military construction for fiscal year 2000, whichever is later.

(b) TABLE.—The table referred to in subsection (a) is as follows:

Navy: Extension of 1995 Project Authorization

State	Installation or location	Project	Amount
Maryland	Indian Head Naval Surface Warfare Center.	Denitrification/ Acid Mixing Facility.	$6,400,000

SEC. 2704. AUTHORIZATION OF ADDITIONAL MILITARY CONSTRUCTION AND MILITARY FAMILY HOUSING PROJECTS.

(a) ADDITIONAL ARMY CONSTRUCTION PROJECTS INSIDE THE UNITED STATES.—In addition to the projects authorized by section 2101(a), and using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(1), as increased by subsection (d), the Secretary of the Army may also acquire real property and carry out military construction projects for the installations and locations inside the United States, and in the amounts, set forth in the following table:

Army: Inside the United States

State	Installation or location	Amount
Kansas	Fort Riley	$16,500,000
Kentucky	Fort Campbell	$15,500,000
Maryland	Fort Detrick	$7,100,000
New York	Fort Drum	$7,000,000
Texas	Fort Sam Houston	$5,500,000
Virginia	Fort Eustis	$4,650,000
	Fort Meyer	$6,200,000

(b) ADDITIONAL ARMY CONSTRUCTION PROJECT OUTSIDE THE UNITED STATES.—In addition to the projects authorized by section 2101(b), and using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(2), as increased by subsection (d), the Secretary of the Army may also acquire real property and carry out the military construction project for the location outside the United States, and in the amount, set forth in the following table:

Army: Outside the United States

Country	Installation or location	Amount
Korea	Camp Casey	$8,000,000

(c) IMPROVEMENT OF ARMY FAMILY HOUSING AT WHITE SANDS MISSILE RANGE, NEW MEXICO.—In addition to the projects authorized by section 2103, and using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(5)(A), as increased by subsection (d), the Secretary of the Army may also improve existing military family housing units (36 units) at White Sands Missile Range, New Mexico, in an amount not to exceed $3,650,000.

(d) ADDITIONAL AUTHORIZATIONS OF APPROPRIATIONS, ARMY MILITARY CONSTRUCTION.—(1) The total amount authorized to be appropriated by section 2104(a) is hereby increased by $74,100,000.

(2) The amount authorized to be appropriated by section 2104(a)(1) is hereby increased by $62,450,000.

(3) The amount authorized to be appropriated by section 2104(a)(2) is hereby increased by $8,000,000.

(4) The amount authorized to be appropriated by section 2104(a)(5)(A) is hereby increased by $3,650,000.

(e) ADDITIONAL NAVY CONSTRUCTION PROJECTS INSIDE THE UNITED STATES.—In addition to the projects authorized by section 2201(a), and using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(1), as increased by subsection (g), the Secretary of the Navy may also acquire real property and carry out military construction projects for the installations and locations inside the United States, and in the amounts, set forth in the following table:

Navy: Inside the United States

State	Installation or location	Amount
Florida	Naval Station, Mayport	$3,400,000
Maine	Naval Air Station, Brunswick	$15,220,000
Pennsylvania	Naval Inventory Control Point, Mechanisburg.	$1,600,000
	Naval Inventory Control Point, Philadelphia.	$1,550,000
South Carolina	Marine Corps Recruit Depot, Parris Island.	$8,030,000

(f) IMPROVEMENT OF NAVY FAMILY HOUSING AT WHIDBEY ISLAND NAVAL AIR STATION, WASHINGTON.—In addition to the projects authorized by section 2203, and using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(5)(A), as increased by subsection (g), the Secretary of the Navy may also improve existing military family housing units (80 units) at Whidbey Island Naval Air Station, Washington, in an amount not to exceed $5,800,000.

(g) ADDITIONAL AUTHORIZATIONS OF APPROPRIATIONS, NAVY MILITARY CONSTRUCTION.—(1) The total amount authorized to be appropriated by section 2204(a) is hereby increased by $35,600,000.

(2) The amount authorized to be appropriated by section 2204(a)(1) is hereby increased by $29,800,000.

(3) The amount authorized to be appropriated by section 2204(a)(5)(A) is hereby increased by $5,800,000.

(h) ADDITIONAL AIR FORCE CONSTRUCTION PROJECTS INSIDE THE UNITED STATES.—In addition to the projects authorized by section 2301(a), and using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(1), as increased by subsection (k), the Secretary of the Air Force may also acquire real property and carry out military construction projects for the installations and locations inside the United States, and in the amounts, set forth in the following table:

Air Force: Inside the United States

State	Installation or location	Amount
Colorado	Falcon Air Force Station	$5,800,000
Georgia	Robins Air Force Base	$6,000,000
Louisiana	Barksdale Air Force Base	$9,300,000
North Dakota	Grand Forks Air Force Base	$8,800,000
Ohio	Wright-Patterson Air Force Base	$4,600,000
Texas	Goodfellow Air Force Base	$7,300,000
Wyoming	F.E. Warren Air Force Base	$3,850,000

(i) CONSTRUCTION AND ACQUISITION OF AIR FORCE FAMILY HOUSING.—In addition to the projects authorized by section 2302(a), and using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(5)(A), as increased by subsection (k), the Secretary of the Air Force may also construct or acquire family housing units (including land acquisition) at the installation, for the purpose, and in the amount set forth in the following table:

Air Force: Family Housing

State	Installation or location	Purpose	Amount
Montana	Malmstrom Air Force Base	62 Units	$12,300,000

(j) IMPROVEMENT OF AIR FORCE FAMILY HOUSING.—In addition to the projects authorized by section 2303, and using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(5)(A), as increased by subsection (k), the Secretary of the Air Force may also improve existing military family housing units as follows:

(1) Travis Air Force Base, California, 105 units, in an amount not to exceed $10,500,000.

(2) Moody Air Force Base, Georgia, 68 units, in an amount not to exceed $5,220,000.

(3) McGuire Air Force Base, New Jersey, 50 units, in an amount not to exceed $5,800,000.

(4) Seymour Johnson Air Force Base, North Carolina, 95 units, in an amount not to exceed $10,830,000.

(k) ADDITIONAL AUTHORIZATIONS OF APPROPRIATIONS, AIR FORCE MILITARY CONSTRUCTION.—(1) The total amount authorized to be appropriated by section 2304(a) is hereby increased by $90,300,000.

(2) The amount authorized to be appropriated by section 2304(a)(1) is hereby increased by $45,650,000.

(3) The amount authorized to be appropriated by section 2304(a)(5)(A) is hereby increased by $44,650,000.

SEC. 2705. EFFECTIVE DATE.

Titles XXI, XXII, XXIII, XXIV, XXV, and XXVI shall take effect on the later of—

(1) October 1, 1998; or

(2) the date of enactment of this Act.

TITLE XXVIII—GENERAL PROVISIONS

Subtitle A—Military Construction Program and Military Family Housing Changes

SEC. 2801. MODIFICATION OF AUTHORITY RELATING TO ARCHITECTURAL AND ENGINEERING SERVICES AND CONSTRUCTION DESIGN.

(a) COVERED PROJECTS.—Subsection (a) of section 2807 of title 10, United States Code, is amended in the first sentence by striking out "not otherwise authorized by law." and inserting in lieu thereof "without regard to the authority under this chapter utilized in carrying out the projects and without regard to whether the projects are authorized by law.".

(b) INCREASE IN THRESHOLD FOR NOTICE TO CONGRESS.—Subsection (b) of that section is amended by striking out "$300,000" and inserting in lieu thereof "$500,000".

(c) AVAILABILITY OF APPROPRIATIONS.—Subsection (d) of that section is amended by striking out "study, planning, design, architectural, and engineering services" and inserting in lieu thereof "architectural and engineering services and construction design".

SEC. 2802. EXPANSION OF ARMY OVERSEAS FAMILY HOUSING LEASE AUTHORITY.

(a) ALTERNATIVE MAXIMUM UNIT AMOUNTS.—Section 2828(e) of title 10, United States Code, is amended—

(1) in paragraph (2), by inserting ", and the Secretary of the Army may lease not more than 500 units of family housing in Italy," after "family housing in Italy";

(2) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively; and

(3) by inserting after paragraph (2) the following new paragraph (3):

"(3) In addition to the 450 units of family housing referred to in paragraph (1) for which the maximum lease amount is $25,000 per unit per year, the Secretary of the Army may lease not more than 800 units of family housing in Korea subject to that maximum lease amount.".

(b) CONFORMING AMENDMENT.—Paragraph (4) of that section, as redesignated by subsection (a)(2) of this section, is amended by striking out "and (2)" and inserting in lieu thereof ", (2), and (3)".

Subtitle B—Real Property and Facilities Administration

SEC. 2811. INCREASE IN THRESHOLDS FOR REPORTING REQUIREMENTS RELATING TO REAL PROPERTY TRANSACTIONS.

Section 2662 of title 10, United States Code, is amended by striking out "$200,000" each place it appears in subsections (a), (b), and (e) and inserting in lieu thereof "$500,000".

SEC. 2812. EXCEPTIONS TO REAL PROPERTY TRANSACTION REPORTING REQUIREMENTS FOR WAR AND CERTAIN EMERGENCY AND OTHER OPERATIONS.

(a) EXCEPTIONS.—Section 2662 of title 10, United States Code, as amended by section 2811 of this Act, is further amended by adding at the end the following:

"(g) EXCEPTIONS FOR TRANSACTIONS FOR WAR AND CERTAIN EMERGENCY AND OTHER OPERATIONS.—(1) The reporting requirement set forth in subsection (a) shall not apply with respect to a real property transaction otherwise covered by that subsection, and the reporting requirement set forth in subsection (e) shall not apply with respect to a real property transaction otherwise covered by that subsection, if such transaction is made as a result of the following:

"(A) A declaration of war.

"(B) A declaration of a national emergency by the President pursuant to the National Emergencies Act (Public Law 94-412; 50 U.S.C. 1601 et seq.).

"(C) A declaration of an emergency or major disaster pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

"(D) The use of the militia or the armed forces after a proclamation to disperse under section 334 of this title.

"(E) A contingency operation.

"(2) The reporting requirement set forth in subsection (a) shall not apply with respect to a real property transaction otherwise covered by that subsection if the Secretary concerned determines that—

"(A) an event listed in paragraph (1) is imminent; and

"(B) the transaction is necessary for purposes of preparation for such event.

"(3) Not later than 30 days after entering into a real property transaction covered by paragraph (1) or (2), the Secretary concerned shall submit to the committees named in subsection (a) a report on the transaction. The report shall set forth any facts or information which would otherwise have been submitted in a report on the transaction under subsection (a) or (e), as the case may be, but for the operation of paragraph (1) or (2).".

(b) AMENDMENTS FOR STYLISTIC UNIFORMITY.—That section is further amended—

(1) in subsection (a), by inserting "GENERAL NOTICE AND WAIT REQUIREMENTS.—" after "(a)";

(2) in subsection (b), by inserting "ANNUAL REPORTS ON CERTAIN MINOR TRANSACTIONS.—" after "(b)";

(3) in subsection (c), by inserting "GEOGRAPHIC SCOPE; EXCEPTED PROJECTS.—" after "(c)";

(4) in subsection (d), by inserting "STATEMENTS OF COMPLIANCE IN TRANSACTION INSTRUMENTS.—" after "(d)";

(5) in subsection (e), by inserting "NOTICE AND WAIT REGARDING LEASES OF SPACE FOR DOD BY GSA.—" after "(e)"; and

(6) in subsection (f), by inserting "REPORTS ON TRANSACTIONS INVOLVING INTELLIGENCE COMPONENTS.—" after "(f)".

SEC. 2813. WAIVER OF APPLICABILITY OF PROPERTY DISPOSAL LAWS TO LEASES AT INSTALLATIONS TO BE CLOSED OR REALIGNED UNDER THE BASE CLOSURE LAWS.

Section 2667(f) of title 10, United States Code, is amended—

(1) by redesignating paragraphs (2) through (5) as paragraphs (3) through (6), respectively; and

(2) by inserting after paragraph (1) the following new paragraph (2):

"(2) The Secretary of a military department may waive the applicability of a provision of title II of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481 et seq.) that is inconsistent with a provision of this subsection if the waiver is required for purposes of a lease of property under this subsection.".

SEC. 2814. RESTORATION OF DEPARTMENT OF DEFENSE LANDS USED BY ANOTHER FEDERAL AGENCY.

(a) RESTORATION AS TERM OF AGREEMENT.—Section 2691 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(c)(1) As a condition of any lease, permit, license, or other grant of access entered into by the Secretary of a military department with another Federal agency authorizing the agency to use lands under the control of the Secretary, the Secretary may require the agency to agree to remove any improvements and to take any other action necessary in the judgment of the Secretary to restore the land used by the agency to its condition before its use by the agency.

"(2) In lieu of performing any removal or restoration work under paragraph (1), a Federal agency may elect, with the consent of the Secretary, to reimburse the Secretary for the costs incurred by the military department in performing such removal and restoration work.".

(b) CLERICAL AMENDMENTS.—(1) The heading of such section is amended to read as follows:

"§ 2691. Restoration of land used by permit or lease".

(2) The table of sections at the beginning of chapter 159 of title 10, United States Code, is amended by striking the item relating to section 2691 and inserting in lieu thereof the following new item:

"2691. Restoration of land used by permit or lease.".

Subtitle C—Land Conveyances

SEC. 2821. LAND CONVEYANCE, INDIANA ARMY AMMUNITION PLANT, CHARLESTOWN, INDIANA.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey to the Indiana Army Ammunition Plant Reuse Authority (in this section referred to as the "Reuse Authority") all right, title, and interest of the United States in and to a parcel of real property, including improvements thereon, consisting of up to approximately 4660 acres located at the Indiana Army Ammunition Plant, Charlestown, Indiana, for the purpose of developing the parcel as an industrial park to replace all or part of the economic activity lost at the inactivated plant.

(b) CONSIDERATION.—Except as provided in subsection (d), as consideration for the conveyance under subsection (a), the Reuse Authority shall pay to the Secretary an amount equal to the fair market value of the conveyed property as of the time of the conveyance, determined by the Secretary in accordance with Federal appraisal standards and procedures.

(c) TIME FOR PAYMENT.—The consideration required under subsection (b) shall be paid by the Reuse Authority at the end of the 10-year period beginning on the date on which the conveyance under subsection (a) is completed.

(d) EFFECT OF RECONVEYANCE OR LEASE.—(1) If the Reuse Authority reconveys all or any part of the conveyed property during the 10-year period specified in subsection (c), the Reuse Authority shall pay to the United States an amount equal to the fair market value of the reconveyed property as of the time of the reconveyance, excluding the value of any improvements made to the property by the Reuse Authority, determined by the Secretary in accordance with Federal appraisal standards and procedures.

(2) The Secretary may treat a lease of the property within such 10-year period as a reconveyance if the Secretary determines that the lease is being used to avoid application of paragraph (1).

(e) DEPOSIT OF PROCEEDS.—The Secretary shall deposit any proceeds received under subsection (b) or (d) in the special account established pursuant to section 204(h)(2) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 485(h)(2)).

(f) ADMINISTRATIVE EXPENSES.—In connection with the conveyance under subsection (a), the Secretary may accept amounts provided by the Reuse Authority or other persons to cover administrative expenses incurred by the Secretary in making the conveyance. Amounts received under this subsection for administrative expenses shall be credited to the appropriation, fund, or account from which the expenses were paid. Amounts so credited shall be merged with funds in such appropriation, fund, or account and shall be available for the same purposes and subject to the same limitations as the funds with which merged.

(g) DESCRIPTION OF PROPERTY.—The property to be conveyed under subsection (a) includes the administrative area of the Indiana Army Ammunition Plant as well as open space in the southern end of the plant. The exact acreage and legal description of the property to be conveyed shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the Reuse Authority.

(h) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2822. LAND CONVEYANCE, ARMY RESERVE CENTER, BRIDGTON, MAINE.

(a) CONVEYANCE AUTHORIZED.—(1) The Secretary of the Army may convey, without consideration, to the Town of Bridgton, Maine (in this section referred to as the "Town"), all right, title, and interest of the United States in and to a parcel of excess real property, including improvements thereon, consisting of approximately 3.65 acres and located in Bridgton, Maine, the site of the Army Reserve Center, Bridgton, Maine.

(2) The conveyance is for the public benefit and will facilitate the expansion of the municipal office complex in Bridgton, Maine.

(b) REVERSION.—If the Secretary determines at any time that the real property conveyed under subsection (a) is not being used by the Town for purposes of a municipal office complex, all right, title, and interest in and to the real property, including any improvements thereon, shall revert to the United States, and the United States shall have the right of immediate entry thereon.

(c) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the Town.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interest of the United States.

SEC. 2823. LAND CONVEYANCE, VOLUNTEER ARMY AMMUNITION PLANT, CHATTANOOGA, TENNESSEE.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey to Hamilton County, Tennessee (in this section referred to as the "County"), all right, title, and interest of the United States in and to a parcel of real property, including improvements thereon, consisting of approximately 1033 acres located at the Volunteer Army Ammunition Plant, Chattanooga, Tennessee, for the purpose of developing the parcel as an industrial park to replace all or part of the economic activity lost at the inactivated plant.

(b) CONSIDERATION.—Except as provided in subsection (d), as consideration for the conveyance under subsection (a), the County shall pay to the Secretary an amount equal to the fair market value of the conveyed property as of the time of the conveyance, determined by the Secretary in accordance with Federal appraisal standards and procedures.

(c) TIME FOR PAYMENT.—The consideration required under subsection (b) shall be paid by the County at the end of the 10-year period beginning on the date on which the conveyance under subsection (a) is completed.

(d) EFFECT OF RECONVEYANCE OR LEASE.—(1) If the County reconveys all or any part of the conveyed property during the 10-year period specified in subsection (c), the County shall pay to the United States an amount equal to the fair market value of the reconveyed property as of the time of the reconveyance, excluding the value of any improvements made to the property by the County, determined by the Secretary in accordance with Federal appraisal standards and procedures.

(2) The Secretary may treat a lease of the property within such 10-year period as a reconveyance if the Secretary determines that the lease is being used to avoid application of paragraph (1).

(e) DEPOSIT OF PROCEEDS.—The Secretary shall deposit any proceeds received under subsection (b) or (d) in the special account established pursuant to section 204(h)(2) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 485(h)(2)).

(f) EFFECT ON EXISTING LEASES.—The conveyance of the real property under subsection (a) shall not affect the terms or length of any contract entered into by the Secretary before the date of the enactment of this Act with regard to the property to be conveyed.

(g) ADMINISTRATIVE EXPENSES.—In connection with the conveyance under subsection (a), the Secretary may accept amounts provided by the County or other persons to cover administrative expenses incurred by the Secretary in making the conveyance. Amounts received under this subsection for administrative expenses shall be credited to the appropriation, fund, or account from which the expenses were paid. Amounts so credited shall be merged with funds in such appropriation, fund, or account and shall be available for the same purposes and subject to the same limitations as the funds with which merged.

(h) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the County.

(i) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2824. RELEASE OF INTERESTS IN REAL PROPERTY, FORMER KENNEBEC ARSENAL, AUGUSTA, MAINE.

(a) AUTHORITY TO RELEASE.—The Secretary of the Army may release, without consideration, all right, title, and interest of the United States in and to the real property described in subsection (b).

(b) COVERED PROPERTY.—The real property referred to in subsection (a) is the parcel of real property consisting of approximately 40 acres located in Augusta, Maine, and formerly known as the Kennebec Arsenal, which parcel was conveyed by the Secretary of War to the State of Maine under the provisions of the Act entitled "An Act Authorizing the Secretary of War to convey the Kennebec Arsenal property, situated in Augusta, Maine, to the State of Maine for public purposes", approved March 3, 1905 (33 Stat. 1270), as amended by section 771 of the Department of Defense Appropriations Act, 1981 (Public Law 96-527; 94 Stat. 3093).

(c) INSTRUMENT OF RELEASE.—The Secretary of the Army shall execute and file in the appropriate office a deed of release, amended deed, or other appropriate instrument effectuating the release of interests authorized by this section.

SEC. 2825. LAND EXCHANGE, NAVAL RESERVE READINESS CENTER, PORTLAND, MAINE.

(a) Conveyance Authorized.—(1) The Secretary of the Navy may convey to the Gulf of Maine Aquarium Development Corporation, Portland, Maine (in this section referred to as the "Corporation"), all right, title, and interest of the United States in and to a parcel of real property, including improvements thereon, consisting of approximately 3.72 acres in Portland, Maine, the site of the Naval Reserve Readiness Center, Portland, Maine.

(2) As part of the conveyance under paragraph (1), the Secretary shall also convey to the Corporation any interest of the United States in the submerged lands adjacent to the real property conveyed under that paragraph that is appurtenant to the real property conveyed under that paragraph.

(3) The purpose of the conveyance under this subsection is to facilitate economic development in accordance with the plan of the Corporation for the construction of an aquarium and marine research facility in Portland, Maine.

(b) Consideration.—(1) As consideration for the conveyance authorized by subsection (a), the Corporation shall provide for such facilities as the Secretary determines appropriate for the Naval Reserve to replace the facilities conveyed under that subsection—

(A) by—

(i) conveying to the United States all right, title, and interest in and to a parcel of real property determined by the Secretary to be an appropriate location for such facilities; and

(ii) designing and constructing such facilities on the parcel of real property conveyed under clause (i); or

(B) by designing and constructing such facilities on such parcel of real property under the jurisdiction of the Secretary as the Secretary shall specify.

(2) The Secretary shall select the form of consideration under paragraph (1) for the conveyance under subsection (a).

(c) Description of Property.—The exact acreage and legal description of the real property to be conveyed under subsection (a)(1), of any interest to be conveyed under subsection (a)(2), and of the real property, if any, to be conveyed under subsection (b)(1)(A)(i), shall be determined by surveys satisfactory to the Secretary. The cost of the surveys shall be borne by the Corporation.

(d) Additional Terms and Conditions.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interest of the United States.

SEC. 2826. LAND CONVEYANCE, AIR FORCE STATION, LAKE CHARLES, LOUISIANA.

(a) Conveyance Authorized.—The Secretary of the Air Force may convey, without consideration, to McNeese State University in Lake Charles, Louisiana (in this section referred to as the "University"), all right, title, and interest of the United States in and to approximately 4.38 acres of real property, including improvements thereon, located in Lake Charles, Louisiana, and comprising the Lake Charles Air Force Station.

(b) Conditions of Conveyance.—The conveyance under subsection (a) shall be subject to the following conditions:

(1) That the University accept the property subject to such easements or rights of way as the Secretary considers appropriate.

(2) That the University utilize the property as the site of a research facility.

(c) Reversion.—If the Secretary determines at any time that the real property conveyed under subsection (a) is not being used in accordance with subsection (b)(2), all right, title, and interest in and to the real property, including any improvements thereon, shall revert to the United States, and the United States shall have the right of immediate entry thereon.

(d) Description of Property.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the University.

(e) Additional Terms and Conditions.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interest of the United States.

SEC. 2827. EXPANSION OF LAND CONVEYANCE AUTHORITY, EGLIN AIR FORCE BASE, FLORIDA.

Section 809(c) of the Military Construction Authorization Act, 1979 (Public Law 95-356; 92 Stat. 587), as amended by section 2826 of the Military Construction Authorization Act, 1989 (division B of Public Law 100-456; 102 Stat. 2123), is further amended by striking out "and a third parcel containing forty-two acres" and inserting in lieu thereof ", a third parcel containing forty-two acres, a fourth parcel containing approximately 3.43 acres, and a fifth parcel containing approximately 0.56 acres".

SEC. 2828. CONVEYANCE OF WATER RIGHTS AND RELATED INTERESTS, ROCKY MOUNTAIN ARSENAL, COLORADO, FOR PURPOSES OF ACQUISITION OF PERPETUAL CONTRACTS FOR WATER.

(a) Conveyance Authorized.—Subject to subsection (c), the Secretary of the Army may convey any and all interest of the United States in the water rights and related rights at Rocky Mountain Arsenal, Colorado, described in subsection (b) to the City and County of Denver, Colorado, acting through its Board of Water Commissioners.

(b) Covered Water Rights and Related Rights.—The water rights and related rights authorized to be conveyed under subsection (a) are the following:

(1) Any and all interest in 300 acre rights to water from Antero Reservoir as set forth in Antero Reservoir Contract No. 382 dated August 22, 1923, for 160 acre rights; Antero Reservoir Contract No. 383 dated August 22, 1923, for 50 acre rights; Antero Reservoir Contract No. 384 dated October 30, 1923, for 40 acre rights; Antero Reservoir Contract No. 387 dated March 3, 1923, for 50 acre rights; and Supplemental Contract No. 382-383-384-387 dated July 24, 1932, defining the amount of water to be delivered under the 300 acre rights in the prior contracts as 220 acre feet.

(2) Any and all interest in the 305 acre rights of water from the High Line Canal, diverted at its headgate on the South Platte River and delivered to the Fitzsimons Army Medical Center and currently subject to cost assessments pursuant to Denver Water Department contract #001990.

(3) Any and all interest in the 2,603.55 acre rights of water from the High Line Canal, diverted at its headgate on the South Platte River and delivered to the Rocky Mountain Arsenal in Adams County, Colorado, and currently subject to cost assessments by the Denver Water Department, including 680 acre rights transferred from Lowry Field to the Rocky Mountain Arsenal by the October 5, 1943, agreement between the City and County of Denver, acting by and through its Board of Water Commissioners, and the United States of America.

(4) Any and all interest in 4,058.34 acre rights of water not currently subject to cost assessments by the Denver Water Department.

(5) A new easement for the placement of water lines approximately 50 feet wide inside the Southern boundary of Rocky Mountain Arsenal and across the Reserve Center along the northern side of 56th Avenue.

(6) A permanent easement for utilities where Denver has an existing temporary easement near the southern and western boundaries of Rocky Mountain Arsenal.

(c) Consideration.—(1) The Secretary of the Army may make the conveyance under subsection (a) only if the Board of Water Commissioners, on behalf of the City and County of Denver, Colorado—

(A) enters into a permanent contract with the Secretary of the Army for purposes of ensuring the delivery of nonpotable water and potable water to Rocky Mountain Arsenal; and

(B) enters into a permanent contract with the Secretary of the Interior for purposes of ensuring the delivery of nonpotable water and potable water to Rocky Mountain Arsenal National Wildlife Refuge, Colorado.

(2) Section 2809(e) of title 10, United States Code, shall not operate to limit the term of the contract entered into under paragraph (1)(A).

(d) Requirement Relating to Conveyance.—The Secretary of the Army may not make the conveyance authorized by subsection (a) until the execution of the proposed agreement provided for under subsection (c) between the City and County of Denver, Colorado, acting through its Board of Water Commissioners, the South Adams County Water and Sanitation District, the United States Fish and Wildlife Service, and the Army.

(e) Additional Terms and Conditions.—The Secretary of the Army may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2829. LAND CONVEYANCE, NAVAL AIR RESERVE CENTER, MINNEAPOLIS, MINNESOTA.

(a) Conveyance Authorized.—The Secretary of the Navy may convey, without any consideration other than the consideration provided for under subsection (c), to the Minneapolis-St. Paul Metropolitan Airports Commission, Minnesota (in this section referred to as the "Commission"), all right, title, and interest of the United States in and to a parcel of real property, including improvements thereon, consisting of approximately 32 acres located in Minneapolis, Minnesota, and comprising the Naval Air Reserve Center, Minneapolis, Minnesota. The purpose of the conveyance is to facilitate expansion of the Minneapolis-St. Paul International Airport.

(b) Alternative Lease Authority.—(1) The Secretary may, in lieu of the conveyance authorized by subsection (a), elect to lease the property referred to in that subsection to the Commission if the Secretary determines that a lease of the property would better serve the interests of the United States.

(2) Notwithstanding any other provision of law, the term of the lease under this subsection may not exceed 99 years.

(3) The Secretary may not require any consideration as part of the lease under this subsection other than the consideration provided for under subsection (c).

(c) Consideration.—As consideration for the conveyance under subsection (a), or the lease under subsection (b), the Commission shall—

(1) provide for such facilities as the Secretary considers appropriate for the Naval Reserve to replace the facilities conveyed or leased under this section—

(A) by—

(i) conveying to the United States, without any consideration other than the consideration provided for under subsection (a), all right, title, and interest in and to a parcel of real property determined by the Secretary to be an appropriate location for such facilities, if the Secretary elects to make the conveyance authorized by subsection (a); or

(ii) leasing to the United States, for a term of 99 years and without any consideration other than the consideration provided for under subsection (b), a parcel of real property determined by the Secretary to be an appropriate location for such facilities, if the Secretary elects to make the lease authorized by subsection (b); and

(B) assuming the costs of designing and constructing such facilities on the parcel conveyed or leased under subparagraph (A); and

(2) assume any reasonable costs incurred by the Secretary in relocating the operations of the Naval Air Reserve Center to the facilities constructed under paragraph (1)(B).

(d) Requirement Relating to Conveyance.—The Secretary may not make the conveyance authorized by subsection (a), or enter into the lease authorized by subsection (b), until the facilities to be constructed under subsection (c) are available for the relocation of the operations of the Naval Air Reserve Center.

(e) Agreement Relating to Conveyance.—If the Secretary determines to proceed with the conveyance authorized by subsection (a), or the lease authorized by subsection (b), the Secretary and the Commission shall enter into an agreement specifying the terms and conditions under which the conveyance or lease will occur.

(f) Description of Property.—The exact acreage and legal description of the real property to be conveyed under subsection (a), or leased under subsection (b), and to be conveyed or leased under subsection (c)(1)(A), shall be determined by surveys satisfactory to the Secretary. The cost of the surveys shall be borne by the Commission.

(g) Additional Terms and Conditions.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a), or the lease under subsection (b), as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2830. LAND CONVEYANCE, ARMY RESERVE CENTER, PEORIA, ILLINOIS.

(a) Conveyance Authorized.—The Secretary of the Army may convey, without consideration, to the Peoria School District #150 of Peoria, Illinois (in this section referred to as the "School District"), all right, title, and interest of the United States in and to a parcel of real property (including improvements thereon) comprising the location of the Army Reserve Center located at 1429 Northmoor Road in Peoria, Illinois, for the purposes of staff, student and community education and training, additional maintenance and transportation facilities, and for other purposes.

(b) Description of Property.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the School District.

(c) Reversion.—If the Secretary determines at any time that the real property conveyed under subsection (a) is not being used in accordance with subsection (a), all right, title, and interest in and to the real property, including any improvements thereon, shall revert to the United States, and the United States shall have the right of immediate entry thereon.

(d) Additional Terms and Conditions.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2830A. LAND CONVEYANCE, SKANEATELES, NEW YORK.

(a) Conveyance Authorized.—The Secretary of the Army may convey, without consideration, to the Town of Skaneateles, New York (in this section referred to as the "Town"), all right, title, and interest of the United States in and to a parcel of real property, together with any improvements thereon, consisting of approximately 147.10 acres in Skaneateles, New York, and commonly known as the "Federal Farm". The purpose of the conveyance is to permit the Town to develop the parcel for public benefit, including for recreational purposes.

(b) Reversion.—If the Secretary determines at any time that the real property conveyed under subsection (a) is not being used by the Town in accordance with that subsection, all right, title, and interest in and to the real property, including any improvements thereon, shall revert to the United States, and the United States shall have the right of immediate entry thereon.

(c) Description of Property.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the Town.

(d) Additional Terms and Conditions.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interest of the United States.

SEC. 2830B. REAUTHORIZATION OF LAND CONVEYANCE, ARMY RESERVE CENTER, YOUNGSTOWN, OHIO.

(a) Conveyance Authorized.—The Secretary of the Army may convey, without consideration, to the City of Youngstown, Ohio (in this section referred to as the "City"), all right, title, and interest of the United States in and to a parcel of excess real property, including improvements thereon, that is located at 399 Miller Street in Youngstown, Ohio, and contains the Kefurt Army Reserve Center.

(b) Condition of Conveyance.—The conveyance authorized under subsection (a) shall be subject to the condition that the City retain the conveyed property for purposes of activities relating to public schools in Youngstown, Ohio.

(c) Description of Property.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the City.

(d) Additional Terms and Conditions.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

(e) Repeal of Superseded Authority.—Section 2861 of the Military Construction Authorization Act for Fiscal Year 1996 (division B of Public Law 104–106; 110 Stat. 573) is repealed.

SEC. 2830C. CONVEYANCE OF UTILITY SYSTEMS, LONE STAR ARMY AMMUNITION PLANT, TEXAS.

(a) Conveyance Authorized.—The Secretary of the Army may convey at fair market value all right, title, and interest of the United States in and to any utility system, or part thereof, including any real property associated with such system, at the Lone Star Army Ammunition Plant, Texas, to the redevelopment authority for the Red River Army Depot, Texas, in conjunction with the disposal of property at the Depot under the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note).

(b) Construction.—Nothing in subsection (a) may be construed to prohibit or otherwise limit the Secretary from conveying any utility system referred to in that subsection under any other provision of law, including section 2688 of title 10, United States Code.

(c) Utility System Defined.—In this section, the term "utility system" has the meaning given that term in section 2688(g) of title 10, United States Code.

SEC. 2830D. MODIFICATION OF LAND CONVEYANCE AUTHORITY, FINLEY AIR FORCE STATION, FINLEY, NORTH DAKOTA.

Section 2835 of the Military Construction Authorization Act for Fiscal Year 1995 (division B of Public Law 103–337; 108 Stat. 3063) is amended—

(1) by striking out subsections (a), (b), and (c) and inserting in lieu thereof the following new subsections (a), (b), and (c):

"(a) Conveyance Authorized.—(1) The Secretary of the Air Force may convey, without consideration, to the City of Finley, North Dakota (in this section referred to as the 'City'), all right, title, and interest of the United States in and to the parcels of real property, including any improvements thereon, in the vicinity of Finley, North Dakota, described in paragraph (2).

"(2) The real property referred to in paragraph (1) is the following:

"(A) A parcel of approximately 14 acres that served as the support complex of the Finley Air Force Station and Radar Site.

"(B) A parcel of approximately 57 acres known as the Finley Air Force Station Complex.

"(C) A parcel of approximately 6 acres that includes a well site and wastewater treatment system.

"(3) The purpose of the conveyance authorized by paragraph (1) is to encourage and facilitate the economic redevelopment of Finley, North Dakota, following the closure of the Finley Air Force Station and Radar Site.

"(b) Reversion.—If the Secretary determines at any time that the real property conveyed under subsection (a) is not being used for purposes of the economic development of Finley, North Dakota, all right, title, and interest in and to the property, including any improvements thereon, shall revert to the United States, and the United States shall have the right of immediate entry thereon.

"(c) Abatement.—The Secretary of the Air Force may, prior to conveyance, abate any hazardous substances in the improvements to be conveyed.".

Subtitle D—Other Matters

SEC. 2831. PURCHASE OF BUILD-TO-LEASE FAMILY HOUSING AT EIELSON AIR FORCE BASE, ALASKA.

(a) Authority To Purchase.—The Secretary of the Air Force may purchase the entire interest of the developer in the military family housing project at Eielson Air Force

Base, Alaska, described in subsection (b) if the Secretary determines that the purchase is in the best economic interests of the Air Force.

(b) Description of Project.—The military family housing project referred to in this section is the 366-unit military family housing project at Eielson Air Force Base that was constructed by the developer and is being leased by the Secretary under the authority of former subsection (g) of section 2828 of title 10, United States Code (now section 2835 of such title), as added by section 801 of the Military Construction Authorization Act, 1984 (Public Law 98–115; 97 Stat. 782).

(c) Purchase Price.—The purchase price to be paid by the Secretary under this section for the interest of the developer in the military family housing project may not exceed an amount equal to the amount of the outstanding indebtedness of the developer to the lender for the project that would have remained at the time of the purchase under this section if the developer had paid down its indebtedness to the lender for the project in accordance with the original debt instruments for the project.

(d) Time for Purchase.—(1) Subject to paragraph (2), the Secretary may elect to make the purchase authorized by subsection (a) at any time during or after the term of the lease for the military family housing project.

(2) The Secretary may not make the purchase until 30 days after the date on which the Secretary notifies the congressional defense committees of the Secretary's election to make the purchase under paragraph (1).

SEC. 2832. BEACH REPLENISHMENT, SAN DIEGO, CALIFORNIA.

(a) Project Authorized.—The Secretary of the Navy may, using funds available under subsection (b), carry out beach replenishment in and around San Diego, California. The Secretary may use sand obtained from any location for the replenishment.

(b) Funding.—Subject to subsection (c), the Secretary shall carry out the beach replenishment authorized by subsection (a) using the following:

(1) Amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(1) of the Military Construction Authorization Act for Fiscal Year 1997 (division B of Public Law 104–201; 110 Stat. 2769) for the project authorized by section 2201(a) of that Act (110 Stat. 2766) at Naval Air Station North Island, California, that remain available for obligation and expenditure on the date of enactment of this Act.

(2) Amounts contributed to the cost of such project by the State of California and by local governments under the agreement under section 2205 of that Act (110 Stat. 2770).

(c) Limitation on United States Share of Cost.—The amount utilized by the Secretary under subsection (b)(1) for the beach replenishment authorized by subsection (a) may not exceed $9,630,000.

(d) Treatment of Contributions.—(1)(A) The Secretary shall credit any contributions that the Secretary receives from the State of California and local governments under the agreement referred to in subsection (b)(2) to the account to which amounts were appropriated pursuant to the authorization of appropriations referred to in subsection (b)(1) for the project referred to in such subsection (b)(1).

(B) Amounts credited under subparagraph (A) shall be merged with funds in the account to which credited.

(2) The amount of contributions credited under paragraph (1) may be applied only to costs of beach replenishment under this section that are incurred after the date of enactment of this Act.

(e) Notice and Wait.—The Secretary may not obligate funds to carry out the beach replenishment authorized by subsection (a) until 30 days after the date on which the Secretary submits to the congressional defense committees a report setting forth the following:

(1) An explanation why the sand originally proposed to be utilized for the purpose of beach replenishment under the project relating to Naval Air Station North Island authorized in section 2201(a)(1) of the Military Construction Authorization Act for Fiscal Year 1997 could not be utilized for that purpose.

(2) A comprehensive explanation why the beach replenishment plan at Naval Air Station North Island covered by such project was abandoned.

(3) A description of any administrative action taken against any agency or individual as a result of the abandonment of the plan.

(4) A statement of the total amount of funds available under subsection (b) for the beach replenishment authorized by subsection (a).

(5) A statement of the amount of the contributions of the State of California and local governments under the agreement referred to in subsection (b)(2).

(6) An estimate of the total cost of the beach replenishment authorized by subsection (a).

(7) The total amount of financial aid the State of California has received from the Federal Government for the purpose of beach restoration and replenishment during the 10-year period ending on the date of enactment of this Act.

(8) The amount of financial aid the State of California has requested from the Federal Government for the purpose of beach restoration or replenishment as a result of the 1997–1998 El Niño event.

(9) A current analysis that compares the costs and benefits of homeporting the U.S.S. John C. Stennis (CVN–74) at Naval Station North Island with the costs and benefits of homeporting that vessel at Naval Station Pearl Harbor, Hawaii, and the costs and benefits of homeporting that vessel at Naval Station Bremerton, Washington.

(f) Repeal of Superseded Authority.—Section 2205 of the Military Construction Authorization Act for Fiscal Year 1997 is repealed.

SEC. 2833. MODIFICATION OF AUTHORITY RELATING TO DEPARTMENT OF DEFENSE LABORATORY REVITALIZATION DEMONSTRATION PROGRAM.

(a) Program Requirements.—Subsection (c) of section 2892 of the National Defense Authorization for Fiscal Year 1996 (Public Law 104-106; 110 Stat. 590; 10 U.S.C. 2805 note) is amended to read as follows:

"(c) Program Requirements.—(1) Not later than 30 days before commencing the program, the Secretary shall establish procedures for the review and approval of requests from Department of Defense laboratories for construction under the program.

"(2) The laboratories at which construction may be carried out under the program may not include Department of Defense laboratories that are contractor-owned.".

(b) Report.—Subsection (d) of that section is amended to read as follows:

"(d) Report.—Not later than February 1, 2003, the Secretary shall submit to Congress a report on the program. The report shall include the Secretary's conclusions and recommendation regarding the desirability of making the authority set forth under subsection (b) permanent.".

(c) Extension.—Subsection (g) of that section is amended by striking out "September 30, 1998" and inserting in lieu thereof "September 30, 2003".

SEC. 2834. REPORT AND REQUIREMENT RELATING TO "1 PLUS 1 BARRACKS INITIATIVE".

(a) Report.—Not later than 180 days after the date of enactment of this Act, the Secretary of Defense shall, in consultation with the Secretaries of the military departments, submit to Congress a report on the costs and benefits of implementing the initiative to build single occupancy barracks rooms with a shared bath, the so-called "1 plus 1 barracks initiative".

(b) Elements.—The report under subsection (a) shall include the following:

(1) A justification for the initiative referred to in subsection (a), including a description of the manner in which the initiative is designed to assure the retention of first-term enlisted members of the Armed Forces in adequate numbers.

(2) A description of the experiences of the military departments with the retention of first-term enlisted members of the Armed Forces, including—

(A) a comparison of such experiences before implementation of the initiative with such experiences after implementation of the initiative; and

(B) an analysis of the basis for any change in retention rates of such members that has arisen since implementation of the initiative.

(3) Any information indicating that the lack of single occupancy barracks rooms with a shared bath has been or is the basis of the decision of first-term members of the Armed Forces not to reenlist in the Armed Forces.

(4) Any information indicating that the lack of such barracks rooms has hampered recruitment for the Armed Forces or that the construction of such barracks rooms would substantially improve recruitment.

(5) The cost for each Armed Force of implementing the initiative, including the amount of funds obligated or expended on the initiative before the date of enactment of this Act and the amount of funds required to be expended after that date to complete the initiative.

(6) The views of each of the Chiefs of Staff of the Armed Forces regarding the initiative and regarding any alternatives to the initiative having the potential of assuring the retention of first-term enlisted members of the Armed Forces in adequate numbers.

(7) A cost-benefit analysis of the initiative.

(c) Limitation on FY 2000 Funding Request.—The Secretary of Defense may not submit to Congress any request for funding for the so-called "1 plus 1 barracks initiative" in fiscal year 2000 unless the Secretary certifies to Congress that further implementation of the initiative is necessary in order to assure the retention of first-term enlisted members of the Armed Forces in adequate numbers.

SEC. 2835. DEVELOPMENT OF FORD ISLAND, HAWAII.

Not later than December 1, 1998, the Secretary of Defense shall submit to the President and the congressional defense committees a report regarding the potential for development of Ford Island within the Pearl Harbor Naval Complex, Oahu, Hawaii through an integrated resourcing plan incorporating both appropriated funds and one or more public-private ventures. This report shall consider innovative resource development measures, including but not limited to, an enhanced-use leasing program similar to that of the Department of Veterans Affairs as well as the sale or other disposal of land in Hawaii under the control of the Navy as part of an overall program for Ford Island development. The report shall include proposed legislation for carrying out the measures recommended therein.

SEC. 2836. REPORT ON LEASING AND OTHER ALTERNATIVE USES OF NON-EXCESS MILITARY PROPERTY.

(a) FINDINGS.—Congress makes the following findings:

(1) The Secretary of Defense, with the support of the chiefs of staff of the Armed Forces, is calling for the closure of additional military installations in the United States as a means of eliminating excess capacity in such installations.

(2) Excess capacity in Department of Defense installations is a valuable asset, and the utilization of such capacity presents a potential economic benefit for the Department and the Nation.

(3) The experiences of the Department have demonstrated that the military departments and private businesses can carry out activities at the same military installation simultaneously.

(4) Section 2667 of title 10, United States Code, authorizes the Secretaries of the military departments to lease, upon terms that promote the national defense or are in the public interest, real property that is—

(A) under the control of such departments;

(B) not for the time needed for public use; and

(C) not excess to the requirements of the United States.

(b) REPORT.—Not later than February 1, 1999, the Secretary shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report setting forth the following:

(1) The number and purpose of the leases entered into under section 2667 of title 10, United States Code, during the five-year period ending on the date of enactment of this Act.

(2) The types and amounts of payments received under the leases specified in paragraph (1).

(3) The costs, if any, foregone as a result of the leases specified in paragraph (1).

(4) A discussion of the positive and negative aspects of leasing real property and surplus capacity at military installations to the private sector, including the potential impact on force protection.

(5) A description of the current efforts of the Department of Defense to identify for the private sector any surplus capacity at military installations that could be leased or otherwise used by the private sector.

(6) A proposal for any legislation that the Secretary considers appropriate to enhance the ability of the Department to utilize surplus capacity in military installations in order to improve military readiness, achieve cost savings with respect to such installations, or decrease the cost of operating such installations.

(7) An estimate of the amount of income that could accrue to the Department as a result of the enhanced authority proposed under paragraph (6) during the five-year period beginning on the effective date of such enhanced authority.

(8) A discussion of the extent to which any such income should be reserved for the use of the installations exercising such authority and of the extent to which installations are likely to enter into such leases if they cannot retain such income.

SEC. 2837. EMERGENCY REPAIRS AND STABILIZATION MEASURES, FOREST GLEN ANNEX OF WALTER REED ARMY MEDICAL CENTER, MARYLAND.

Of the amounts authorized to be appropriated by this Act, $2,000,000 may be available for the completion of roofing and other emergency repairs and stabilization measures at the historic district of the Forest Glen Annex of Walter Reed Army Medical Center, Maryland, in accordance with the plan submitted under section 2865 of the National Defense Authorization Act for Fiscal Year 1997 (division B of Public Law 104–201; 110 Stat. 2806).

Subtitle E—Base Closures

SEC. 2851. MODIFICATION OF LIMITATIONS ON GENERAL AUTHORITY RELATING TO BASE CLOSURES AND REALIGNMENTS.

(a) ACTIONS COVERED BY NOTICE AND WAIT PROCEDURES.—Subsection (a) of section 2687 of title 10, United States Code, is amended by striking out paragraphs (1) and (2) and inserting in lieu thereof the following new paragraphs (1) and (2)—

"(1) the closure of any military installation at which at least 225 civilian personnel are authorized to be employed;

"(2) any realignment with respect to a military installation referred to in paragraph (1) if such realignment will result in an aggregate reduction in the number of civilian personnel authorized to be employed at such military installation during the fiscal year in which notice of such realignment is submitted to Congress under subsection (b) equal to or greater than—

"(A) 750 such civilian personnel; or

"(B) the number equal to 40 percent of the total number of civilian personnel authorized to be employed at such military installation at the beginning of such fiscal year; or".

(b) DEFINITIONS.—Subsection (e) of that section is amended—

(1) in paragraph (3), by inserting "(including a consolidation)" after "any action"; and

(2) by adding at the end the following:

"(5) The term 'closure' includes any action to inactivate or abandon a military installation or to transfer a military installation to caretaker status.".

SEC. 2852. PROHIBITION ON CLOSURE OF A BASE WITHIN FOUR YEARS AFTER A REALIGNMENT OF THE BASE.

(a) PROHIBITION.—(1) Chapter 159 of title 10, United States Code, is amended by inserting after section 2687 the following:

"§ 2688. Base closures and realignments: closure prohibited within four years after realignment in certain cases

"(a) PROHIBITION.—Notwithstanding any other provision of law, no action may be taken, and no funds appropriated or otherwise available to the Department of Defense may be obligated or expended, to effect or implement the closure of a military installation within 4 years after the completion of a realignment of the installation that, alone or with other causes, reduced the number of civilian personnel employed at that installation below 225.

"(b) DEFINITIONS.—In this section, the terms 'military installation', 'civilian personnel', and 'realignment' have the meanings given such terms in section 2687(e) of this title.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item related to section 2687 the following:

"2688. Base closures and realignments: closure prohibited within four years after realignment in certain cases.".

(b) CONFORMING AMENDMENT.—Section 2687(a) of such title is amended by inserting "(other than section 2688 of this title)" after "Notwithstanding any other provision of law".

SEC. 2853. SENSE OF THE SENATE ON FURTHER ROUNDS OF BASE CLOSURES.

(a) FINDINGS.—The Senate finds that:

(1) While the Department of Defense has proposed further rounds of base closures, there is no need to authorize in 1998 a new base closure commission that would not begin its work until three years from now, in 2001.

(2) While the Department of Defense has submitted a report to the Congress in response to section 2824 of the National Defense Authorization Act for Fiscal Year 1998, that report—

(A) based its estimates of the costs and savings of previous base closure rounds on data that the General Accounting Office has described as "inconsistent", "unreliable" and "incomplete";

(B) failed to demonstrate that the Defense Department is working effectively to improve its ability to track base closure costs and savings resulting from the 1993 and 1995 base closure rounds, which are ongoing;

(C) modeled the savings to be achieved as a result of further base closure rounds on the 1993 and 1995 rounds, which are as yet incomplete and on which the Department's information is faulty; and

(D) projected that base closure rounds in 2001 and 2005 would not produce substantial savings until 2008, a decade after the Federal Government will have achieved unified budget balance, and 5 years beyond the planning period for the current congressional budget and Future Years Defense Plan.

(3) Section 2824 required that the Congressional Budget Office and the General Accounting Office review the Defense Department's report, and—

(A) the General Accounting Office stated on May 1 that "we are now conducting our analysis to be able to report any limitations that may exist in the required level of detail. . . . [W]e are awaiting some supporting documentation from the military services to help us finish assessing the report's information.";

(B) the Congressional Budget Office stated on May 1 that its review is ongoing, and that "it is important that CBO take the time necessary to provide a thoughtful and accurate evaluation of DOD's report, rather than issue a preliminary and potentially inaccurate assessment.".

(4) The Congressional Budget Office recommended that "The Congress could consider authorizing an additional round of base closures if the Department of Defense believes that there is a surplus of military capacity after all rounds of BRAC have been carried out. That consideration, however, should follow an interval during which DOD and independent analysts examine the actual impact of the measures that have been taken thus far.".

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that—

(1) Congress should not authorize further rounds of base closures and realignments until all actions authorized by the Defense Base Closure and Realignment Act of 1990 are completed; and

(2) the Department of Defense should submit forthwith to the Congress the report required by section 2815 of Public Law 103–337,

analyzing the effects of base closures and realignments on the ability of the Armed Forces to remobilize, describing the military construction projects needed to facilitate such remobilization, and discussing the assets, such as air space, that would be difficult to reacquire in the event of such remobilization.

TITLE XXIX—JUNIPER BUTTE RANGE WITHDRAWAL

SEC. 2901. SHORT TITLE.

This title may be cited as the "Juniper Butte Range Withdrawal Act".

SEC. 2902. WITHDRAWAL AND RESERVATION.

(a) WITHDRAWAL.—Subject to valid existing rights and except as otherwise provided in this title, the lands at the Juniper Butte Range, Idaho, referred to in subsection (c), are withdrawn from all forms of appropriation under the public land laws, including the mining laws and the mineral and geothermal leasing laws, but not the Materials Act of 1947 (30 U.S.C. 601–604).

(b) RESERVED USES.—The lands withdrawn under subsection (a) are reserved for use by the Secretary of the Air Force for—

(1) a high hazard training area;

(2) dropping non-explosive training ordnance with spotting charges;

(3) electronic warfare and tactical maneuvering and air support; and

(4) other defense-related purposes consistent with the purposes specified in paragraphs (1), (2), and (3), including continued natural resource management and environmental remediation in accordance with section 2916.

(c) SITE DEVELOPMENT PLANS.—Site development plans shall be prepared prior to construction; site development plans shall be incorporated in the Integrated Natural Resource Management Plan identified in section 2909; and, except for any minimal improvements, development on the withdrawn lands of any facilities beyond those proposed and analyzed in the Air Force's Enhanced Training in Idaho Environmental Impact Statement, the Enhanced Training in Idaho Record of Decision dated March 10, 1998, and the site development plans shall be contingent upon review and approval of the Idaho State Director, Bureau of Land Management.

(d) GENERAL DESCRIPTION.—The public lands withdrawn and reserved by this section comprise approximately 11,300 acres of public land in Owhyee County, Idaho, as generally depicted on the map entitled "Juniper Butte Range Withdrawal—Proposed", dated June 1998, that will be filed in accordance with section 2903. The withdrawal is for an approximately 10,600-acre tactical training range, a 640-acre no-drop target site, four 5-acre no-drop target sites and nine 1-acre electronic threat emitter sites.

SEC. 2903. MAP AND LEGAL DESCRIPTION.

(a) IN GENERAL.—As soon as practicable after the effective date of this Act, the Secretary of the Interior shall—

(1) publish in the Federal Register a notice containing the legal description of the lands withdrawn and reserved by this title; and

(2) file a map or maps and the legal description of the lands withdrawn and reserved by this title with the Committee on Energy and Natural Resources of the Senate and with the Committee on Resources of the House of Representatives.

(b) INCORPORATION BY REFERENCE.—Such maps and legal description shall have the same force and effect as if included in this title.

(c) CORRECTION OF ERRORS.—The Secretary of the Interior may correct clerical and typographical errors in such map or maps and legal description.

(d) AVAILABILITY.—Copies of such map or maps and the legal description shall be available for public inspection in the office of the Idaho State Director of the Bureau of Land Management; the offices of the managers of the Lower Snake River District, Bureau Field Office and Jarbidge Field Office of the Bureau of Land Management; and the Office of the Commander, Mountain Home Air Force Base, Idaho. To the extent practicable, the Secretary of the Interior shall adopt the legal description and maps prepared by the Secretary of the Air Force in support of this title.

(e) The Secretary of the Air Force shall reimburse the Secretary of the Interior for the costs incurred by the Department of the Interior in implementing this section.

SEC. 2904. AGENCY AGREEMENT

The Bureau of Land Management and the Air Force have agreed upon additional mitigation measures associated with this land withdrawal as specified in the "ENHANCED TRAINING IN IDAHO Memorandum of Understanding Between The Bureau of Land Management and The United States Air Force" that is dated June 11, 1998. This agreement specifies that these mitigation measures will be adopted as part of the Air Force's Record of Decision for Enhanced Training in Idaho. Congress endorses this collaborative effort between the agencies and directs that the agreement be implemented: *Provided, however*, That the parties may, in accordance with the National Environmental Policy Act of 1969, as amended, mutually agree to modify the mitigation measures specified in the agreement in light of experience gained through the actions called for in the agreement or as a result of changed military circumstances: *Provided further*, That neither the agreement, any modification thereof, nor this section creates any right, benefit, or trust responsibility, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies, its officers, or any person.

SEC. 2905. RIGHT-OF-WAY GRANTS.

In addition to the withdrawal under section 2902 and in accordance with all applicable laws, the Secretary of the Interior shall process and grant the Secretary of the Air Force rights-of-way using the Department of the Interior regulations and policies in effect at the time of filing applications for the one-quarter acre electronic warfare threat emitter sites, roads, powerlines, and other ancillary facilities as described and analyzed in the Enhanced Training in Idaho Final Environmental Impact Statement, dated January 1998.

SEC. 2906. INDIAN SACRED SITES.

(a) MANAGEMENT.—In the management of the Federal lands withdrawn and reserved by this title, the Air Force shall, to the extent practicable and not clearly inconsistent with essential agency functions, (1) accommodate access to and ceremonial use of Indian sacred sites by Indian religious practitioners and (2) avoid adversely affecting the integrity of such sacred sites. The Air Force shall maintain the confidentiality of such sites where appropriate. The term "sacred site" shall mean any specific, discrete, narrowly delineated location on Federal land that is identified by an Indian tribe, or Indian individual determined to be an appropriately authoritative representative of an Indian religion, as sacred by virtue of its established religious significance to, or ceremonial use by, an Indian religion: *Provided*, That the tribe or appropriately authoritative representative of an Indian religion has informed the Air Force of the existence of such a site. The term "Indian tribe" means an Indian or Alaska Native tribe, band, nation, pueblo, village, or community that the Secretary of the Interior acknowledges to exist as an Indian tribe pursuant to Public Law 103–454 (108 Stat. 4791), and "Indian" refers to a member of such an Indian tribe.

(b) CONSULTATION.—Air Force officials at Mountain Home Air Force Base shall regularly consult with the Tribal Chairman of the Shoshone-Paiute Tribes of the Duck Valley Reservation to assure that tribal government rights and concerns are fully considered during the development of the Juniper Butte Range.

SEC. 2907. ACTIONS CONCERNING RANCHING OPERATIONS IN WITHDRAWN AREA.

The Secretary of the Air Force is authorized and directed to, upon such terms and conditions as the Secretary of the Air Force considers just and in the national interest, conclude and implement agreements with the grazing permittees to provide appropriate consideration, including future grazing arrangements. Upon the conclusion of these agreements, the Assistant Secretary, Land and Minerals Management, shall grant rights-of-way and approvals and take such actions as are necessary to implement promptly this title and the agreements with the grazing permittees. The Secretary of the Air Force and the Secretary of the Interior shall allow the grazing permittees for lands withdrawn and reserved by this title to continue their activities on the lands in accordance with the permits and their applicable regulations until the Secretary of the Air Force has fully implemented the agreement with the grazing permittees under this section. Upon the implementation of these agreements, the Bureau of Land Management is authorized and directed, subject to the limitations included in this section, to terminate grazing on the lands withdrawn.

SEC. 2908. MANAGEMENT OF WITHDRAWN AND RESERVED LANDS.

(a) IN GENERAL.—Except as provided in section 2916(d), during the withdrawal and reservation of any lands under this title, the Secretary of the Air Force shall manage such lands for purposes relating to the uses set forth in section 2902(b).

(b) MANAGEMENT ACCORDING TO PLAN.—The lands withdrawn and reserved by this title shall be managed in accordance with the provisions of this title under the integrated natural resources management plan prepared under section 2909.

(c) AUTHORITY TO CLOSE LAND.—If the Secretary of the Air Force determines that military operations, public safety, or the interests of national security require the closure to public use of any road, trail or other portion of the lands withdrawn by this title that are commonly in public use, the Secretary of the Air Force may take such action: *Provided*, That such closures shall be limited to the minimum areas and periods required for the purposes specified in this subsection. During closures, the Secretary of the Air Force shall keep appropriate warning notices posted and take appropriate steps to notify the public about the closure.

(d) LEASE AUTHORITY.—The Secretary of the Air Force may enter into leases for State lands with the State of Idaho in support of the Juniper Butte Range and operations at the Juniper Butte Range.

(e) PREVENTION AND SUPPRESSION OF FIRE.—

(1) The Secretary of the Air Force shall take appropriate precautions to prevent and

suppress brush fires and range fires that occur within the boundaries of the Juniper Butte Range, as well as brush and range fires occurring outside the boundaries of the Range resulting from military activities.

(2) Notwithstanding section 2465 of title 10, United States Code, the Secretary of the Air Force may obligate funds appropriated or otherwise available to the Secretary of the Air Force to enter into contracts for firefighting.

(3)(A) The memorandum of understanding under section 2910 shall provide for the Bureau of Land Management to assist the Secretary of the Air Force in the suppression of the fires described in paragraph (1).

(B) The memorandum of understanding shall provide that the Secretary of the Air Force reimburse the Bureau of Land Management for any costs incurred by the Bureau of Land Management under this paragraph.

(f) USE OF MINERAL MATERIALS.—Notwithstanding any other provision of this title or the Act of July 31, 1947 (commonly known as the "Materials Act of 1947") (30 U.S.C. 601 et seq.), the Secretary of the Air Force may use, from the lands withdrawn and reserved by this title, sand, gravel, or similar mineral material resources of the type subject to disposition under the Act of July 31, 1947, when the use of such resources is required for construction needs of the Juniper Butte Range.

SEC. 2909. INTEGRATED NATURAL RESOURCE MANAGEMENT PLAN.

(a) REQUIREMENT.—

(1) Not later than 2 years after the date of enactment of this title, the Secretary of the Air Force shall, in cooperation with the Secretary of the Interior, the State of Idaho and Owyhee County, develop an integrated natural resources management plan to address the management of the resources of the lands withdrawn and reserved by this title during their withdrawal and reservation under this title. Additionally, the Integrated Natural Resource Management Plan will address mitigation and monitoring activities by the Air Force for State and Federal lands affected by military training activities associated with the Juniper Butte Range. The foregoing will be done cooperatively between the Air Force and the Bureau of Land Management, the State of Idaho and Owyhee County.

(2) Except as otherwise provided under this title, the integrated natural resources management plan under this section shall be developed in accordance with, and meet the requirements of, section 101 of the Sikes Act (16 U.S.C. 670a).

(3) Site development plans shall be prepared prior to construction of facilities. These plans shall be reviewed by the Bureau of Land Management for Federal lands and the State of Idaho for State lands for consistency with the proposal assessed in the Enhanced Training in Idaho Environmental Impact Statement. The portion of the site development plans describing reconfigurable or replacement targets may be conceptual.

(b) ELEMENTS.—The integrated natural resources management plan under subsection (a) shall—

(1) include provisions for the proper management and protection of the natural, cultural, and other resources and values of the lands withdrawn and reserved by this title and for the use of such resources in a manner consistent with the uses set forth in section 2902(b);

(2) permit livestock grazing at the discretion of the Secretary of the Air Force in accordance with section 2907 or any other authorities relating to livestock grazing that are available to that Secretary;

(3) permit fencing, water pipeline modifications and extensions, and the construction of aboveground water reservoirs, and the maintenance and repair of these items on the lands withdrawn and reserved by this title, and on other lands under the jurisdiction of the Bureau of Land Management; and

(4) otherwise provide for the management by the Secretary of the Air Force of any lands withdrawn and reserved by this title while retained under the jurisdiction of that Secretary under this title.

(c) PERIODIC REVIEW.—The Secretary of the Air Force shall, in cooperation with the Secretary of the Interior and the State of Idaho, review the adequacy of the provisions of the integrated natural resources management plan developed under this section at least once every 5 years after the effective date of the plan.

SEC. 2910. MEMORANDUM OF UNDERSTANDING.

(a) REQUIREMENT.—The Secretary of the Air Force, the Secretary of the Interior, and the Governor of the State of Idaho shall jointly enter into a memorandum of understanding to implement the integrated natural resources management plan required under section 2909.

(b) TERM.—The memorandum of understanding under subsection (a) shall apply to any lands withdrawn and reserved by this title until their relinquishment by the Secretary of the Air Force under this title.

(c) MODIFICATION.—The memorandum of understanding under subsection (a) may be modified by agreement of all the parties specified in that subsection.

SEC. 2911. MAINTENANCE OF ROADS.

The Secretary of the Air Force shall enter into agreements with the Owyhee County Highway District, Idaho, and the Three Creek Good Roads Highway District, Idaho, under which the Secretary of the Air Force shall pay the costs of road maintenance incurred by such districts that are attributable to Air Force operations associated with the Juniper Butte Range.

SEC. 2912. MANAGEMENT OF WITHDRAWN AND ACQUIRED MINERAL RESOURCES.

Except as provided in subsection 2908(f), the Secretary of the Interior shall manage all withdrawn and acquired mineral resources within the boundaries of the Juniper Butte Range in accordance with the Act of February 28, 1958 (known as the Engle Act; 43 U.S.C. 155–158).

SEC. 2913. HUNTING, FISHING, AND TRAPPING.

All hunting, fishing, and trapping on the lands withdrawn and reserved by this title shall be conducted in accordance with the provision of section 2671 of title 10, United States Code.

SEC. 2914. WATER RIGHTS.

(a) LIMITATION.—The Secretary of the Air Force shall not seek or obtain any water rights associated with any water pipeline modified or extended, or aboveground water reservoir constructed, for purposes of consideration under section 2907.

(b) NEW RIGHTS.—

(1) Nothing in this title shall be construed to establish a reservation in favor of the United States with respect to any water or water right on the lands withdrawn and reserved by this title.

(2) Nothing in this title shall be construed to authorize the appropriation of water on the lands withdrawn and reserved by this title by the United States after the date of enactment of this title unless such appropriation is carried out in accordance with the laws of the State of Idaho.

(c) APPLICABILITY.—This section may not be construed to affect any water rights acquired by the United States before the date of enactment of this title.

SEC. 2915. DURATION OF WITHDRAWAL.

(a) TERMINATION.—

(1) Except as otherwise provided in this section and section 2916, the withdrawal and reservation of lands by this title shall, unless extended as provided herein, terminate at one minute before midnight on the 25th anniversary of the date of the enactment of this title.

(2) At the time of termination, the previously withdrawn lands shall not be open to the general land laws including the mining laws and the mineral and geothermal leasing laws until the Secretary of the Interior publishes in the Federal Register an appropriate order which shall state the date upon which such lands shall be opened.

(b) RELINQUISHMENT.—

(1) If the Secretary of the Air Force determines under subsection (c) of this section that the Air Force has no continuing military need for any lands withdrawn and reserved by this title, the Secretary of the Air Force shall submit to the Secretary of the Interior a notice of intent to relinquish jurisdiction over such lands back to the Secretary of the Interior.

(2) The Secretary of the Interior may accept jurisdiction over any lands covered by a notice of intent to relinquish jurisdiction under paragraph (1) if the Secretary of the Interior determines that the Secretary of the Air Force has completed the environmental review required under section 2916(a) and the conditions under section 2916(c) have been met.

(3) If the Secretary of the Interior decides to accept jurisdiction over lands under paragraph (2) before the date of termination, as provided for in subsection (a)(1) of this section, the Secretary of the Interior shall publish in the Federal Register an appropriate order which shall—

(A) revoke the withdrawal and reservation of such lands under this title;

(B) constitute official acceptance of administrative jurisdiction over the lands by the Secretary of the Interior; and

(C) state the date upon which such lands shall be opened to the operation of the general land laws, including the mining laws and the mineral and geothermal leasing laws, if appropriate.

(4) The Secretary of the Interior shall manage any lands relinquished under this subsection as multiple use status lands.

(5) If the Secretary of the Interior declines pursuant to paragraph (b)(2) of this section to accept jurisdiction of any parcel of the land proposed for relinquishment, that parcel shall remain under the continued administration of the Secretary of the Air Force pursuant to section 2916(d).

(c) EXTENSION.—

(1) IN GENERAL.—In the case of any lands withdrawn and reserved by this title that the Air Force proposes to include in a notice of extension because of continued military need under paragraph (2) of this subsection, the Secretary of the Air Force shall prior to issuing the notice under paragraph (2)—

(A) evaluate the environmental effects of the extension of the withdrawal and reservation of such lands in accordance with all applicable laws and regulations; and

(B) hold at least one public meeting in the State of Idaho regarding that evaluation.

(2) NOTICE OF NEED FOR EXTENSION OF WITHDRAWAL.—

(A) Not later than 2 years before the termination of the withdrawal and reservation of lands by this title under subsection (a), the

Secretary of the Air Force shall notify Congress and the Secretary of the Interior as to whether or not the Air Force has a continuing military need for any of the lands withdrawn and reserved by this title, and not previously relinquished under this section, after the termination date as specified in subsection (a) of this section.

(B) The Secretary of the Air force shall specify in the notice under subparagraph (A) the duration of any extension or further extension of withdrawal and reservation of such lands under this title: *Provided however*, That the duration of each extension or further extension shall not exceed 25 years.

(C) The notice under subparagraph (A) shall be published in the Federal Register and a newspaper of local distribution with the opportunity for comments, within a 60-day period, which shall be provided to the Secretary of the Air Force and the Secretary of the Interior.

(3) EFFECT OF NOTIFICATION.—

(A) Subject to subparagraph (B), in the case of any lands withdrawn and reserved by this title that are covered by a notice of extension under subsection (c)(2), the withdrawal and reservation of such lands shall extend under the provisions of this title after the termination date otherwise provided for under subsection (a) for such period as is specified in the notice under subsection (c)(2).

(B) Subparagraph (A) shall not apply with respect to any lands covered by a notice referred to in that paragraph until 90 legislative days after the date on which the notice with respect to such lands is submitted to Congress under paragraph (2).

SEC. 2916. ENVIRONMENTAL REMEDIATION OF RELINQUISHED WITHDRAWN LANDS OR UPON TERMINATION OF WITHDRAWAL.

(a) ENVIRONMENTAL REVIEW.—

(1) Before submitting under section 2915 a notice of an intent to relinquish jurisdiction over lands withdrawn and reserved by this title, and in all cases not later than 2 years prior to the date of termination of withdrawal and reservation, the Secretary of the Air Force shall, in consultation with the Secretary of the Interior, complete a review that fully characterizes the environmental conditions of such lands (including any water and air associated with such lands) in order to identify any contamination on such lands.

(2) The Secretary of the Air Force shall submit to the Secretary of the Interior a copy of the review prepared with respect to any lands under paragraph (1). The Secretary of the Air Force shall also submit at the same time any notice of intent to relinquish jurisdiction over such lands under section 2915.

(3) The Secretary of the Air Force shall submit a copy of any such review to Congress.

(b) ENVIRONMENTAL REMEDIATION OF LANDS.—The Secretary of the Air Force shall, in accordance with applicable State and Federal law, carry out and complete environmental remediation—

(1) before relinquishing jurisdiction to the Secretary of the Interior over any lands identified in a notice of intent to relinquish under subsection 2915(b); or

(2) prior to the date of termination of the withdrawal and reservation, except as provided under subsection (d) of this section.

(c) POSTPONEMENT OF RELINQUISHMENT.—The Secretary of the Interior shall not accept jurisdiction over any lands that are the subject of activities under subsection (b) of this section until the Secretary of the Interior determines that environmental conditions on the lands are such that—

(1) all necessary environmental remediation has been completed by the Secretary of the Air Force;

(2) the lands are safe for nonmilitary uses; and

(3) the lands could be opened consistent with the Secretary of the Interior's public land management responsibilities.

(d) JURISDICTION WHEN WITHDRAWAL TERMINATES.—If the determination required by section (c) cannot be achieved for any parcel of land subject to the withdrawal and reservation prior to the termination date of the withdrawal and reservation, the Secretary of the Air Force shall retain administrative jurisdiction over such parcels of land notwithstanding the termination date for the limited purposes of—

(1) environmental remediation activities under subsection (b); and.

(2) any activities relating to the management of such lands after the termination of the withdrawal reservation for military purposes that are provided for in the integrated natural resources management plan under section 2909.

(e) REQUEST FOR APPROPRIATIONS.—The Secretary of the Air Force shall request an appropriation pursuant to section 2919 sufficient to accomplish the remediation under this title.

SEC. 2917. DELEGATION OF AUTHORITY.

(a) AIR FORCE FUNCTIONS.—Except for executing the agreement referred to in section 2907, the Secretary of the Air Force may delegate that Secretary's functions under this title.

(b) INTERIOR FUNCTIONS.—

(1) Except as provided in paragraph (2), the Secretary of the Interior may delegate that Secretary's functions under this title.

(2) The order referred to in section 2915(b)(3) may be approved and signed only by the Secretary of the Interior, the Deputy Secretary of the Interior, or an Assistant Secretary of the Interior.

(3) The approvals granted by the Bureau of Land Management shall be pursuant to the decisions of the Secretary of the Interior, or the Assistant Secretary for Land and Minerals Management.

SEC. 2918. SENSE OF SENATE REGARDING MONITORING OF WITHDRAWN LANDS.

(a) FINDING.—The Senate finds that there is a need for the Department of the Air Force, the Bureau of Land Management, the State of Idaho, and Owyhee County to develop a cooperative effort to monitor the impact of military activities on the natural, cultural, and other resources and values of the lands withdrawn and reserved by this title as well as other Federal and State lands affected by military activities associated with the Juniper Butte Range.

(b) SENSE OF SENATE.—It is the sense of the Senate that the Secretary of the Air Force should ensure that the budgetary planning of the Department of the Air Force makes available sufficient funds to assure Air Force participation in the cooperative effort developed by the Department of the Air Force, the Bureau of Land Management, and the State of Idaho to monitor the impact of military activities on the natural, cultural, and other resources and values of the lands withdrawn and reserved by this title as well as other Federal and State lands affected by military activities associated with the Juniper Butte Range.

SEC. 2919. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this title.

DIVISION C—DEPARTMENT OF ENERGY NATIONAL SECURITY AUTHORIZATIONS AND OTHER AUTHORIZATIONS

TITLE XXXI—DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS

Subtitle A—National Security Programs Authorizations

SEC. 3101. WEAPONS ACTIVITIES.

(a) IN GENERAL.—Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1999 for weapons activities in carrying out programs necessary for national security in the amount of $4,519,700,000, to be allocated as follows:

(1) STOCKPILE STEWARDSHIP.—Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1999 for stockpile stewardship in carrying out weapons activities necessary for national security programs in the amount of $2,123,375,000, to be allocated as follows:

(A) For core stockpile stewardship, $1,556,375,000, to be allocated as follows:

(i) For operation and maintenance, $1,440,832,000.

(ii) For plant projects (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, and land acquisition related thereto), $115,543,000, to be allocated as follows:

Project 99–D–102, rehabilitation of maintenance facility, Lawrence Livermore National Laboratory, Livermore, California, $6,500,000.

Project 99–D–103, isotope sciences facilities, Lawrence Livermore National Laboratory, Livermore, California, $4,000,000.

Project 99–D–104, protection of real property (roof replacement-Phase II), Lawrence Livermore National Laboratory, Livermore, California, $7,300,000.

Project 99–D–105, central health physics calibration facility, TA–36, Los Alamos National Laboratory, Los Alamos, New Mexico, $3,900,000.

Project 99–D–106, model validation and system certification test center, Sandia National Laboratories, Albuquerque, New Mexico, $1,600,000.

Project 99–D–107, Joint Computational Engineering Laboratory, Sandia National Laboratories, Albuquerque, New Mexico, $1,800,000.

Project 99–D–108, renovate existing roadways, Nevada Test Site, Nevada, $2,000,000.

Project 97–D–102, dual-axis radiographic hydrotest facility (DARHT), Los Alamos National Laboratory, Los Alamos, New Mexico, $36,000,000.

Project 96–D–102, stockpile stewardship facilities revitalization, Phase VI, various locations, $20,423,000.

Project 96–D–103, ATLAS, Los Alamos National Laboratory, Los Alamos, New Mexico, $6,400,000.

Project 96–D–104, processing and environmental technology laboratory (PETL), Sandia National Laboratories, Albuquerque, New Mexico, $18,920,000.

Project 96–D–105, contained firing facility (CFF) addition, Lawrence Livermore National Laboratory, Livermore, California, $6,700,000.

(B) For inertial fusion, $498,000,000, to be allocated as follows:

(i) For operation and maintenance, $213,800,000.

(ii) For the following plant project (including maintenance, restoration, planning, construction, acquisition, and modification of facilities, and land acquisition related thereto), $284,200,000, to be allocated as follows:

Project 96–D–111, national ignition facility (NIF), Lawrence Livermore National Laboratory, Livermore, California, $284,200,000.

(C) For technology partnerships and education, $69,000,000, to be allocated as follows:

(i) For technology partnerships, $60,000,000.

(ii) For education, $9,000,000.

(2) STOCKPILE MANAGEMENT.—Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1999 for stockpile management in carrying out weapons activities necessary for national security programs in the amount of $2,140,825,000, to be allocated as follows:

(A) For operation and maintenance, $2,040,803,000.

(B) For plant projects (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, and land acquisition related thereto), $100,022,000, to be allocated as follows:

Project 99–D–122, rapid reactivation, various locations, $11,200,000.

Project 99–D–123, replace mechanical utility systems, Y–12 Plant, Oak Ridge, Tennessee, $1,900,000.

Project 99–D–125, replace boilers and controls, Kansas City Plant, Kansas City, Missouri, $1,000,000.

Project 99–D–127, stockpile management restructuring initiative, Kansas City Plant, Kansas City, Missouri, $13,700,000.

Project 99–D–128, stockpile management restructuring initiative, Pantex Plant, Amarillo, Texas, $1,108,000.

Project 99–D–132, nuclear materials safeguards and security upgrades project, Los Alamos National Laboratory, Los Alamos, New Mexico, $9,700,000.

Project 98–D–123, stockpile management restructuring initiative, tritium factory modernization and consolidation, Savannah River Site, Aiken, South Carolina, $27,500,000.

Project 98–D–124, stockpile management restructuring initiative, Y–12 Plant consolidation, Oak Ridge, Tennessee, $10,700,000.

Project 97–D–122, nuclear materials storage facility renovation, Los Alamos National Laboratory, Los Alamos, New Mexico, $4,864,000.

Project 97–D–123, structural upgrades, Kansas City Plant, Kansas City, Missouri, $6,400,000.

Project 96–D–122, sewage treatment quality upgrade (STQU), Pantex Plant, Amarillo, Texas, $3,700,000.

Project 95–D–102, chemistry and metallurgy research building (CMR) upgrades project, Los Alamos National Laboratory, Los Alamos, New Mexico, $5,000,000.

Project 93–D–122, life safety upgrades, Y–12 Plant, Oak Ridge, Tennessee, $3,250,000.

(3) PROGRAM DIRECTION.—Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1999 for program direction in carrying out weapons activities necessary for national security programs in the amount of $255,500,000.

(b) ADJUSTMENT.—The total amount authorized to be appropriated in paragraphs (1), (2), and (3) of subsection (a) is the sum of the amounts authorized to be appropriated by such paragraphs reduced by the sum of $145,000,000 for use of prior year balances.

SEC. 3102. ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT.

(a) IN GENERAL.—Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1999 for environmental restoration and waste management in carrying out programs necessary for national security in the amount of $5,323,143,000, to be allocated as follows:

(1) SITE AND PROJECT COMPLETION.—Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1999 for site project and completion in carrying out environmental restoration and waste management activities necessary for national security programs in the amount of $1,047,253,000, to be allocated as follows:

(A) For operation and maintenance, $848,090,000.

(B) For plant projects (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, and land acquisition related thereto), $199,163,000, to be allocated as follows:

Project 99–D–402, tank farm support services, F&H area, Savannah River Site, Aiken, South Carolina, $2,745,000.

Project 99–D–404, health physics instrumentation laboratory, Idaho National Engineering and Environmental Laboratory, Idaho Falls, Idaho, $950,000.

Project 98–D–401, H-tank farm storm water systems upgrade, Savannah River Site, Aiken, South Carolina, $3,120,000.

Project 98–D–453, plutonium stabilization and handling system for plutonium finishing plant, Richland, Washington, $26,814,000.

Project 98–D–700, road rehabilitation, Idaho National Engineering and Environmental Laboratory, Idaho Falls, Idaho, $7,710,000.

Project 97–D–450, actinide packaging and storage facility, Savannah River Site, Aiken, South Carolina, $79,184,000.

Project 97–D–470, regulatory monitoring and bioassay laboratory, Savannah River Site, Aiken, South Carolina, $7,000,000.

Project 96–D–406, spent nuclear fuels canister storage and stabilization facility, Richland, Washington, $38,680,000.

Project 96–D–408, waste management upgrades, Kansas City Plant, Kansas City, Missouri, and Savannah River Site, Aiken, South Carolina, $4,512,000.

Project 96–D–464, electrical and utility systems upgrade, Idaho Chemical Processing Plant, Idaho National Engineering and Environmental Laboratory, Idaho Falls, Idaho, $11,544,000.

Project 96–D–471, chlorofluorocarbon heating, ventilation, and air conditioning and chiller retrofit, Savannah River Site, Aiken South Carolina, $8,000,000.

Project 95–D–456, security facilities consolidation, Idaho Chemical Processing Plant, Idaho National Engineering and Environmental Laboratory, Idaho Falls, Idaho, $485,000.

Project 92–D–140, F-canyon and H-canyon exhaust upgrades, Savannah River Site, Aiken, South Carolina, $3,667,000.

Project 86–D–103, decontamination and waste treatment facility, Lawrence Livermore National Laboratory, Livermore, California, $4,752,000.

(2) POST 2006 COMPLETION.—Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1999 for post 2006 project completion in carrying out environmental restoration and waste management activities necessary for national security programs in the amount of $2,683,451,000, to be allocated as follows:

(A) For operation and maintenance, $2,602,195,000.

(B) For plant projects (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, and land acquisition related thereto), $81,256,000, to be allocated as follows:

Project 99–D–403, privatization phase I infrastructure support, Richland, Washington, $14,800,000.

Project 97–D–402, tank farm restoration and safe operations, Richland, Washington, $22,723,000.

Project 96–D–408, waste management upgrades, Richland, Washington, $171,000.

Project 94–D–407, initial tank retrieval systems, Richland, Washington, $32,860,000.

Project 93–D–187, high-level waste removal from filled waste tanks, Savannah River Site, Aiken, South Carolina, $10,702,000.

(3) CLOSURE PROJECTS.—Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1999 for closure projects carried out in accordance with section 3143 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2836; 42 U.S.C. 7274n) in the amount of $1,006,240,000.

(4) TECHNOLOGY DEVELOPMENT.—Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1999 for science and technology in carrying out environmental restoration and waste management activities necessary for national security programs in the amount of $250,000,000.

(5) PROGRAM DIRECTION.—Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1999 for program direction in carrying out environmental restoration and waste management activities necessary for national security programs in the amount of $336,199,000.

(b) ADJUSTMENT.—The total amount authorized to be appropriated in paragraphs (1), (2), (3), and (5) of subsection (a) is the sum of the amounts authorized to be appropriated by such paragraphs reduced by the sum of $21,000,000 for use of prior year balances.

SEC. 3103. OTHER DEFENSE ACTIVITIES.

Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1999 for other defense activities in carrying out programs necessary for national security in the amount of $1,672,160,000, to be allocated as follows:

(1) VERIFICATION AND CONTROL TECHNOLOGY.—For verification and control technology, $483,500,000, to be allocated as follows:

(A) For nonproliferation and verification research and development, $210,000,000.

(B) For arms control, $236,900,000.

(C) For intelligence, $36,600,000.

(2) NUCLEAR SAFEGUARDS AND SECURITY.—For nuclear safeguards and security, $53,200,000.

(3) SECURITY INVESTIGATIONS.—For security investigations, $30,000,000.

(4) EMERGENCY MANAGEMENT.—For emergency management, $23,700,000.

(5) PROGRAM DIRECTION.—For program direction, nonproliferation and national security, $84,900,000.

(6) WORKER AND COMMUNITY TRANSITION ASSISTANCE.—For worker and community transition assistance, $40,000,000, to be allocated as follows:

(A) For worker and community transition, $36,000,000.

(B) For program direction, worker and community transition assistance, $4,000,000.

(7) FISSILE MATERIALS CONTROL AND DISPOSITION.—For fissile materials control and disposition, $168,960,000, to be allocated as follows:

(A) For operation and maintenance, $111,372,000.

(B) For program direction, fissile materials control and disposition, $4,588,000.

(C) For plant projects (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and land acquisition related thereto), $53,000,000, to be allocated as follows:

Project 99–D–141, pit disassembly and conversion facility, location to be determined, $25,000,000.

Project 99–D–143, mixed oxide fuel fabrication facility, location to be determined, $28,000,000.

(8) Environment, safety, and health.—For environment, safety, and health, defense, $69,000,000, to be allocated as follows:

(A) For the Office of Environment, Safety, and Health (Defense), $64,231,000.

(B) For program direction, environment, safety, and health (defense), $4,769,000.

(9) Office of hearings and appeals.—For the Office of Hearings and Appeals, $2,400,000.

(10) International nuclear safety.—For international nuclear safety, $35,000,000.

(11) Naval reactors.—For naval reactors, $681,500,000, to be allocated as follows:

(A) For naval reactors development, $661,400,000, to be allocated as follows:

(i) For operation and maintenance, $639,600,000.

(ii) For plant projects (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, and land acquisition related thereto), $12,800,000, to be allocated as follows:

Project 98–D–200, site laboratory/facility upgrade, various locations, $7,000,000.

Project 90–N–102, expended core facility dry cell project, Naval Reactors facility, Idaho Falls, Idaho, $5,800,000.

(iii) For general plant projects, $9,000,000, to be allocated as follows:

Project GPN–101, general plant projects, various locations, $9,000,000.

(B) For program direction, naval reactors, $20,100,000.

SEC. 3104. DEFENSE NUCLEAR WASTE DISPOSAL.

Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1999 for payment to the Nuclear Waste Fund established in section 302(c) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222(c)) in the amount of $190,000,000.

SEC. 3105. DEFENSE ENVIRONMENTAL MANAGEMENT PRIVATIZATION.

(a) In General.—Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1999 for privatization initiatives in carrying out environmental restoration and waste management activities necessary for national security programs in the amount of $273,857,000, to be allocated as follows:

Project 99–PVT–1, remote handled transuranic waste transportation, Carlsbad, New Mexico, $19,605,000.

Project 98–PVT–2, spent nuclear fuel dry storage, Idaho Falls, Idaho, $20,000,000.

Project 98–PVT–5, waste disposal, Oak Ridge, Tennessee, $33,500,000.

Project 97–PVT–1, tank waste remediation system phase I, Hanford, Washington, $113,500,000.

Project 97–PVT–2, advanced mixed waste treatment facility, Idaho Falls, Idaho, $87,252,000.

(b) Adjustment.—The amount authorized to be appropriated in subsection (a) is the sum of the amounts authorized to be appropriated for the projects set forth in that subsection reduced by the sum of $32,000,000 for use of prior year balances of funds for defense environmental management privatization.

Subtitle B—Recurring General Provisions

SEC. 3121. REPROGRAMMING.

(a) In General.—Until the Secretary of Energy submits to the congressional defense committees the report referred to in subsection (b) and a period of 30 days has elapsed after the date on which such committees receive the report, the Secretary may not use amounts appropriated pursuant to this title for any program—

(1) in amounts that exceed, in a fiscal year—

(A) 110 percent of the amount authorized for that program by this title; or

(B) $1,000,000 more than the amount authorized for that program by this title; or

(2) which has not been presented to, or requested of, Congress.

(b) Report.—(1) The report referred to in subsection (a) is a report containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action.

(2) In the computation of the 30-day period under subsection (a), there shall be excluded any day on which either House of Congress is not in session because of an adjournment of more than 3 days to a day certain.

(c) Limitations.—(1) In no event may the total amount of funds obligated pursuant to this title exceed the total amount authorized to be appropriated by this title.

(2) Funds appropriated pursuant to this title may not be used for an item for which Congress has specifically denied funds.

SEC. 3122. LIMITS ON GENERAL PLANT PROJECTS.

(a) In General.—The Secretary of Energy may carry out any construction project under the general plant projects authorized by this title if the total estimated cost of the construction project does not exceed $5,000,000.

(b) Report to Congress.—If, at any time during the construction of any general plant project authorized by this title, the estimated cost of the project is revised because of unforeseen cost variations and the revised cost of the project exceeds $5,000,000, the Secretary shall immediately furnish a complete report to the congressional defense committees explaining the reasons for the cost variation.

SEC. 3123. LIMITS ON CONSTRUCTION PROJECTS.

(a) In General.—(1) Except as provided in paragraph (2), construction on a construction project may not be started or additional obligations incurred in connection with the project above the total estimated cost, whenever the current estimated cost of the construction project, which is authorized by section 3101, 3102, or 3103, or which is in support of national security programs of the Department of Energy and was authorized by any previous Act, exceeds by more than 25 percent the higher of—

(A) the amount authorized for the project; or

(B) the amount of the total estimated cost for the project as shown in the most recent budget justification data submitted to Congress.

(2) An action described in paragraph (1) may be taken if—

(A) the Secretary of Energy has submitted to the congressional defense committees a report on the actions and the circumstances making such action necessary; and

(B) a period of 30 days has elapsed after the date on which the report is received by the committees.

(3) In the computation of the 30-day period under paragraph (2), there shall be excluded any day on which either House of Congress is not in session because of an adjournment of more than 3 days to a day certain.

(b) Exception.—Subsection (a) shall not apply to any construction project which has a current estimated cost of less than $5,000,000.

SEC. 3124. FUND TRANSFER AUTHORITY.

(a) Transfer to Other Federal Agencies.—The Secretary of Energy may transfer funds authorized to be appropriated to the Department of Energy pursuant to this title to other Federal agencies for the performance of work for which the funds were authorized. Funds so transferred may be merged with and be available for the same purposes and for the same period as the authorizations of the Federal agency to which the amounts are transferred.

(b) Transfer Within Department of Energy.—(1) Subject to paragraph (2), the Secretary of Energy may transfer funds authorized to be appropriated to the Department of Energy pursuant to this title between any such authorizations. Amounts of authorizations so transferred may be merged with and be available for the same purposes and for the same period as the authorization to which the amounts are transferred.

(2) Not more than five percent of any such authorization may be transferred between authorizations under paragraph (1). No such authorization may be increased or decreased by more than five percent by a transfer under such paragraph.

(c) Limitation.—The authority provided by this section to transfer authorizations—

(1) may only be used to provide funds for items relating to activities necessary for national security programs that have a higher priority than the items from which the funds are transferred; and

(2) may not be used to provide funds for an item for which Congress has specifically denied funds.

(d) Notice to Congress.—The Secretary of Energy shall promptly notify the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives of any transfer of funds to or from authorizations under this title.

SEC. 3125. AUTHORITY FOR CONCEPTUAL AND CONSTRUCTION DESIGN.

(a) Requirement for Conceptual Design.—(1) Subject to paragraph (2) and except as provided in paragraph (3), before submitting to Congress a request for funds for a construction project that is in support of a national security program of the Department of Energy, the Secretary of Energy shall complete a conceptual design for that project.

(2) If the estimated cost of completing a conceptual design for a construction project exceeds $3,000,000, the Secretary shall submit to Congress a request for funds for the conceptual design before submitting a request for funds for the construction project.

(3) The requirement in paragraph (1) does not apply to a request for funds—

(A) for a construction project the total estimated cost of which is less than $5,000,000; or

(B) for emergency planning, design, and construction activities under section 3126.

(b) Authority for Construction Design.—(1) Within the amounts authorized by this title, the Secretary of Energy may carry out construction design (including architectural and engineering services) in connection with any proposed construction project if the total estimated cost for such design does not exceed $600,000.

(2) If the total estimated cost for construction design in connection with any construction project exceeds $600,000, funds for such design must be specifically authorized by law.

SEC. 3126. AUTHORITY FOR EMERGENCY PLANNING, DESIGN, AND CONSTRUCTION ACTIVITIES.

(a) AUTHORITY.—The Secretary of Energy may use any funds available to the Department of Energy pursuant to an authorization in this title, including those funds authorized to be appropriated for advance planning and construction design under sections 3101, 3102, and 3103, to perform planning, design, and construction activities for any Department of Energy national security program construction project that, as determined by the Secretary, must proceed expeditiously in order to protect public health and safety, to meet the needs of national defense, or to protect property.

(b) LIMITATION.—The Secretary may not exercise the authority under subsection (a) in the case of any construction project until the Secretary has submitted to the congressional defense committees a report on the activities that the Secretary intends to carry out under this section and the circumstances making such activities necessary.

(c) SPECIFIC AUTHORITY.—The requirement of section 3125(b)(2) does not apply to emergency planning, design, and construction activities conducted under this section.

SEC. 3127. FUNDS AVAILABLE FOR ALL NATIONAL SECURITY PROGRAMS OF THE DEPARTMENT OF ENERGY.

Subject to the provisions of appropriations Acts and section 3121, amounts appropriated pursuant to this title for management and support activities and for general plant projects are available for use, when necessary, in connection with all national security programs of the Department of Energy.

SEC. 3128. AVAILABILITY OF FUNDS.

(a) IN GENERAL.—Except as provided in subsection (b), when so specified in an appropriations Act, amounts appropriated for operation and maintenance or for plant projects may remain available until expended.

(b) EXCEPTION FOR PROGRAM DIRECTION FUNDS.—Amounts appropriated for program direction pursuant to an authorization of appropriations in subtitle A shall remain available to be expended only until the end of fiscal year 2001.

SEC. 3129. TRANSFERS OF DEFENSE ENVIRONMENTAL MANAGEMENT FUNDS.

(a) TRANSFER AUTHORITY FOR DEFENSE ENVIRONMENTAL MANAGEMENT FUNDS.—The Secretary of Energy shall provide the manager of each field office of the Department of Energy with the authority to transfer defense environmental management funds from a program or project under the jurisdiction of the office to another such program or project.

(b) LIMITATIONS.—(1) Only one transfer may be made to or from any program or project under subsection (a) in a fiscal year.

(2) The amount transferred to or from a program or project under subsection (a) may not exceed $5,000,000 in a fiscal year.

(3) A transfer may not be carried out by a manager of a field office under subsection (a) unless the manager determines that the transfer is necessary to address a risk to health, safety, or the environment or to assure the most efficient use of defense environmental management funds at the field office.

(4) Funds transferred pursuant to subsection (a) may not be used for an item for which Congress has specifically denied funds or for a new program or project that has not been authorized by Congress.

(c) EXEMPTION FROM REPROGRAMMING REQUIREMENTS.—The requirements of section 3121 shall not apply to transfers of funds pursuant to subsection (a).

(d) NOTIFICATION.—The Secretary, acting through the Assistant Secretary of Energy for Environmental Management, shall notify Congress of any transfer of funds pursuant to subsection (a) not later than 30 days after such transfer occurs.

(e) DEFINITIONS.—In this section:

(1) The term "program or project" means, with respect to a field office of the Department of Energy, any of the following:

(A) An activity carried out pursuant to paragraph (1), (2), or (3) of section 3102(a).

(B) A project or program not described in subparagraph (A) that is for environmental restoration or waste management activities necessary for national security programs of the Department, that is being carried out by the office, and for which defense environmental management funds have been authorized and appropriated before the date of enactment of this Act.

(2) The term "defense environmental management funds" means funds appropriated to the Department of Energy pursuant to an authorization for carrying out environmental restoration and waste management activities necessary for national security programs.

(f) DURATION OF AUTHORITY.—The managers of the field offices of the Department may exercise the authority provided under subsection (a) during the period beginning on October 1, 1998, and ending on September 30, 1999.

Subtitle C—Program Authorizations, Restrictions, and Limitations

SEC. 3131. INTERNATIONAL COOPERATIVE STOCKPILE STEWARDSHIP.

(a) FUNDING PROHIBITION.—No funds authorized to be appropriated or otherwise available to the Department of Energy for fiscal year 1999 may be obligated or expended to conduct any activities associated with international cooperative stockpile stewardship.

(b) EXCEPTIONS.—Subsection (a) does not apply to the following:

(1) Activities conducted between the United States and the United Kingdom.

(2) Activities conducted between the United States and France.

(3) Activities carried out under title III of this Act relating to cooperative threat reduction with states of the former Soviet Union.

SEC. 3132. PROHIBITION ON USE OF FUNDS FOR BALLISTIC MISSILE DEFENSE AND THEATER MISSILE DEFENSE.

No funds authorized to be appropriated or otherwise made available to the Department of Energy by this title for fiscal year 1999 may be obligated or expended for any activities (including research, development, test, and evaluation activities, demonstration activities, or studies) relating to ballistic missile defense or theater missile defense.

SEC. 3133. LICENSING OF CERTAIN MIXED OXIDE FUEL FABRICATION AND IRRADIATION FACILITIES.

(a) LICENSE REQUIREMENT.—Notwithstanding section 110 a. of the Atomic Energy Act of 1954 (42 U.S.C. 2140(a)), no person may construct or operate a facility referred to in subsection (b) without obtaining a license from the Nuclear Regulatory Commission.

(b) COVERED FACILITIES.—(1) Except as provided in paragraph (2), subsection (a) applies to any facility under a contract with and for the account of the Department of Energy that fabricates mixed plutonium-uranium oxide nuclear reactor fuel for use in a commercial nuclear reactor.

(2) Subsection (a) does not apply to any such facility that is utilized for research, development, demonstration, testing, or analysis purposes.

(c) AVAILABILITY OF FUNDS FOR LICENSING BY NRC.—Section 210 of the Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1981 (42 U.S.C. 7272) shall not apply to any licensing activities required as a result of subsection (a).

(d) APPLICABILITY OF OCCUPATIONAL SAFETY AND HEALTH REQUIREMENTS TO ACTIVITIES UNDER LICENSE.—Any activities carried out under a license referred to in subsection (a) shall be subject to regulation under the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.).

SEC. 3134. CONTINUATION OF PROCESSING, TREATMENT, AND DISPOSITION OF LEGACY NUCLEAR MATERIALS.

The Secretary of Energy shall continue operations and maintain a high state of readiness at the F–canyon and H–canyon facilities at the Savannah River site and shall provide technical staff necessary to operate and so maintain such facilities.

SEC. 3135. AUTHORITY FOR DEPARTMENT OF ENERGY FEDERALLY FUNDED RESEARCH AND DEVELOPMENT CENTERS TO PARTICIPATE IN MERIT-BASED TECHNOLOGY RESEARCH AND DEVELOPMENT PROGRAMS.

Section 217(f)(1) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2695) is amended by inserting "or of the Department of Energy" after "the Department of Defense".

SEC. 3136. SUPPORT FOR PUBLIC EDUCATION IN THE VICINITY OF LOS ALAMOS NATIONAL LABORATORY, NEW MEXICO.

(a) AVAILABILITY OF FUNDS.—Of the funds authorized to be appropriated or otherwise made available to the Department of Energy by this title, $5,000,000 shall be available for payment by the Secretary of Energy to the educational foundation chartered to enhance educational activities in the public schools in the vicinity of Los Alamos National Laboratory, New Mexico (in this section referred to as the "Foundation").

(b) USE OF FUNDS.—(1) The Foundation shall utilize funds provided under subsection (a) as a contribution to an endowment fund for the Foundation.

(2) The Foundation shall use the income generated from investments in the endowment fund that are attributable to the payment made under subsection (a) to fund programs to support the educational needs of children in public schools in the vicinity of Los Alamos National Laboratory.

SEC. 3137. COST-SHARING FOR OPERATION OF THE HAZARDOUS MATERIALS MANAGEMENT AND EMERGENCY RESPONSE TRAINING FACILITY, RICHLAND, WASHINGTON.

The Secretary of Energy may enter into partnership arrangements with Federal and non-Federal entities to share the costs of operating the Hazardous Materials Management and Emergency Response training facility authorized under section 3140 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 3088). Such arrangements may include the exchange of equipment and services.

SEC. 3138. HANFORD HEALTH INFORMATION NETWORK.

Of the funds authorized to be appropriated or otherwise made available to the Department of Energy by section 3102, $2,500,000 shall be available for activities relating to the Hanford Health Information Network established pursuant to the authority in section 3138 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1834), as amended by section 3138(b) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 3087).

SEC. 3139. NONPROLIFERATION ACTIVITIES.

(a) INITIATIVES FOR PROLIFERATION PREVENTION PROGRAM.—Of the amount authorized to be appropriated by section 3103(1)(B), $30,000,000 may be available for the Initiatives for Proliferation Prevention program.

(b) NUCLEAR CITIES INITIATIVE.—Of the amount authorized to be appropriated by section 3103(1)(B), $30,000,000 may be available for the purpose of implementing the initiative arising pursuant to the March 1998 discussions between the Vice President of the United States and the Prime Minister of the Russian Federation and between the Secretary of Energy of the United States and the Minister of Atomic Energy of the Russian Federation (the so-called "nuclear cities" initiative).

SEC. 3140. ACTIVITIES OF THE CONTRACTOR-OPERATED FACILITIES OF THE DEPARTMENT OF ENERGY.

(a) RESEARCH AND ACTIVITIES ON BEHALF OF NON-DEPARTMENT PERSONS AND ENTITIES.—(1) The Secretary of Energy may conduct research and other activities referred to in paragraph (2) through contractor-operated facilities of the Department of Energy on behalf of other departments and agencies of the Government, agencies of State and local governments, and private persons and entities.

(2) The research and other activities that may be conducted under paragraph (1) are those which the Secretary is authorized to conduct by law, and include, but are not limited to, research and activities authorized under the following:

(A) Section 33 of the Atomic Energy Act of 1954 (42 U.S.C. 2053).

(B) Section 107 of the Energy Reorganization Act of 1974 (42 U.S.C. 5817).

(C) The Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5901 et seq.).

(b) CHARGES.—(1) The Secretary shall impose on the department, agency, or person or entity for whom research and other activities are carried out under subsection (a) a charge for such research and activities equal to not more than the full cost incurred by the contractor concerned in carrying out such research and activities, which cost shall include—

(A) the direct cost incurred by the contractor in carrying out such research and activities; and

(B) the overhead cost including site-wide indirect costs associated with such research and activities.

(2)(A) Subject to subparagraph (B), the Secretary shall also impose on the department, agency, or person or entity concerned a Federal administrative charge (which includes any depreciation and imputed interest charges) in an amount not to exceed 3 percent of the full cost incurred by the contractor concerned in carrying out the research and activities concerned.

(B) The Secretary may waive the imposition of the Federal administrative charge required by subparagraph (A) in the case of research and other activities conducted on behalf of small business concerns, institutions of higher education, non-profit entities, and State and local governments.

(3) Not later than 2 years after the date of enactment of this Act, the Secretary shall terminate any waiver of charges under section 33 of the Atomic Energy Act of 1954 (42 U.S.C. 2053) that were made before such date, unless the Secretary determines that such waiver should be continued.

(c) PILOT PROGRAM OF REDUCED FACILITY OVERHEAD CHARGES.—(1) The Secretary may, with the cooperation of participating contractors of the contractor-operated facilities of the Department, carry out a pilot program under which the Secretary and such contractors reduce the facility overhead charges imposed under this section for research and other activities conducted under this section.

(2) The Secretary shall carry out the pilot program at contractor-operated facilities selected by the Secretary in consultation with the contractors concerned.

(3) The Secretary shall determine the facility overhead charges to be imposed under the pilot program based on their joint review of all items included in the overhead costs of the facility concerned in order to determine which items are appropriately incurred as facility overhead charges by the contractor in carrying out research and other activities at such facility under this section.

(4) The Secretary shall commence carrying out the pilot program not later than October 1, 1999, and shall terminate the pilot program on September 30, 2003.

(5) Not later than January 31, 2003, the Secretary shall submit to the congressional defense committees, the Committee on Energy and Natural Resources of the Senate, and other appropriate committees of the House of Representatives an interim report on the results of the pilot program under this subsection. The report shall include any recommendations for the extension or expansion of the pilot program, including the establishment of multiple rates of overhead charges for various categories of persons and entities seeking research and other activities in contractor-operated facilities of the Department.

(d) PARTNERSHIPS AND INTERACTIONS.—(1) The Secretary of Energy may encourage partnerships and interactions between each contractor-operated facility of the Department of Energy and universities and private businesses.

(2) The Secretary may take into account the progress of each contractor-operated facility of the Department in developing and expanding partnerships and interactions under paragraph (1) in evaluating the annual performance of such contractor-operated facility.

(e) SMALL BUSINESS TECHNOLOGY PARTNERSHIP PROGRAM.—(1) The Secretary may require that each contractor operating a facility of the Department establish a program at such facility under which the contractor may enter into partnerships with small businesses at such facility relating to technology.

(2) The amount of funds expended by a contractor under a program under paragraph (1) at a particular facility may not exceed an amount equal to 0.25 percent of the total operating budget of the facility.

(3) Amounts expended by a contractor under a program—

(A) shall be used to cover the costs (including research and development costs and technical assistance costs) incurred by the contractor in connection with activities under the program; and

(B) may not be used for direct grants to small businesses.

(4) The Secretary shall submit to the congressional defense committees, the Committee on Energy and Natural Resources of the Senate, and the appropriate committee of the House of Representatives, together with the budget of the President for each fiscal year that is submitted to Congress under section 1105 of title 31, United States Code, an assessment of the program under this subsection during the preceding year, including the effectiveness of the program in providing opportunities for small businesses to interact with and use the resources of the contractor-operated facilities of the Department, the cost of the program to the Federal Government and any impact on the execution of the Department's mission.

SEC. 3140A. RELOCATION OF NATIONAL ATOMIC MUSEUM, ALBUQUERQUE, NEW MEXICO.

The Secretary of Energy shall submit to the Defense Committees of Congress a plan for the design, construction, and relocation of the National Atomic Museum in Albuquerque, New Mexico.

Subtitle D—Other Matters

SEC. 3141. REPEAL OF FISCAL YEAR 1998 STATEMENT OF POLICY ON STOCKPILE STEWARDSHIP PROGRAM.

Section 3156 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 2045; 42 U.S.C. 2121 note) is repealed.

SEC. 3142. INCREASE IN MAXIMUM RATE OF PAY FOR SCIENTIFIC, ENGINEERING, AND TECHNICAL PERSONNEL RESPONSIBLE FOR SAFETY AT DEFENSE NUCLEAR FACILITIES.

Section 3161(a)(2) of the National Defense Authorization Act for Fiscal Year 1995 (42 U.S.C. 7231 note) is amended by striking out "level IV of the Executive Schedule under section 5315" and inserting in lieu thereof "level III of the Executive Schedule under section 5314".

SEC. 3143. SENSE OF SENATE REGARDING TREATMENT OF FORMERLY UTILIZED SITES REMEDIAL ACTION PROGRAM UNDER A NONDEFENSE DISCRETIONARY BUDGET FUNCTION.

It is the sense of the Senate that the Office of Management and Budget should, beginning with fiscal year 2000, transfer the Formerly Utilized Sites Remedial Action Program from the 050 budget function to a nondefense discretionary budget function.

SEC. 3144. EXTENSION OF AUTHORITY FOR APPOINTMENT OF CERTAIN SCIENTIFIC, ENGINEERING, AND TECHNICAL PERSONNEL.

Section 3161(c)(1) of the National Defense Authorization Act for Fiscal Year 1995 (42 U.S.C. 7231 note) is amended by striking out "September 30, 1999" and inserting in lieu thereof "September 30, 2000".

SEC. 3145. EXTENSION OF AUTHORITY OF DEPARTMENT OF ENERGY TO PAY VOLUNTARY SEPARATION INCENTIVE PAYMENTS.

(a) EXTENSION.—Notwithstanding subsection (c)(2)(D) of section 663 of the Treasury, Postal Service, and General Government Appropriations Act, 1997 (Public Law 104–208; 110 Stat. 3009–383; 5 U.S.C. 5597 note), the Department of Energy may pay voluntary separation incentive payments to qualifying employees who voluntarily separate (whether by retirement or resignation) before January 1, 2001.

(b) EXERCISE OF AUTHORITY.—The Department shall pay voluntary separation incentive payments under subsection (a) in accordance with the provisions of such section 663.

SEC. 3146. INSPECTION OF PERMANENT RECORDS PRIOR TO DECLASSIFICATION.

Section 3155 of the National Defense Authorization Act for Fiscal Year 1996 (P.L.

104–106) is amended by inserting the following:

"(c) Agencies, including the National Archives and Records Administration, shall conduct a visual inspection of all permanent records of historical value which are 25 years old or older prior to declassification to ascertain that they contain no pages with Restricted Data (RD) or Formerly Restricted Data (FRD) markings (as defined by the Atomic Energy Act of 1954, as amended). Record collection in which marked RD or FRD is found shall be set aside pending the completion of a review by the Department of Energy.".

SEC. 3147. SENSE OF SENATE REGARDING MEMORANDA OF UNDERSTANDING WITH THE STATE OF OREGON RELATING TO HANFORD.

(a) FINDINGS.—The Senate makes the following findings:

(1) The Department of Energy and the State of Washington have entered into memoranda of understanding with the State of Oregon to provide the State of Oregon greater involvement in decisions regarding the Hanford Reservation.

(2) Hanford has an impact on the State of Oregon, and the State of Oregon has an interest in the decisions made regarding Hanford.

(3) The Department of Energy and the State of Washington are to be congratulated for entering into the memoranda of understanding with the State of Oregon regarding Hanford.

(b) SENSE OF SENATE.—It is the sense of the Senate to—

(1) encourage the Department of Energy and the State of Washington to implement the memoranda of understanding regarding Hanford in ways that result in continued involvement by the State of Oregon in decisions of concern to the State of Oregon regarding Hanford; and

(2) encourage the Department of Energy and the State of Washington to continue similar efforts to permit ongoing participation by the State of Oregon in the decisions regarding Hanford that may affect the environment or public health or safety of the citizens of the State of Oregon.

SEC. 3148. REVIEW OF CALCULATION OF OVERHEAD COSTS OF CLEANUP AT DEPARTMENT OF ENERGY SITES.

(a) REVIEW.—(1) The Comptroller General shall—

(A) carry out a review of the methods currently used by the Department of Energy for calculating overhead costs (including direct overhead costs and indirect overhead costs) associated with the cleanup of Department sites; and

(B) pursuant to the review, identify how such costs are allocated among different program and budget accounts of the Department.

(2) The review shall include the following:

(A) All activities whose costs are spread across other accounts of a Department site or of any contractor performing work at a site.

(B) Support service overhead costs, including activities or services which are paid for on a per-unit-used basis.

(C) All fees, awards, and other profit on indirect and support service overhead costs or fees that are not attributed to performance on a single project.

(D) Any portion of contractor costs for which there is no competitive bid.

(E) All computer service and information management costs that have been previously reported as overhead costs.

(F) Any other costs that the Comptroller General considers appropriate to categorize as direct or indirect overhead costs.

(b) REPORT.—Not later than January 31, 1999, the Comptroller General shall submit to Congress a report setting forth the findings of the Comptroller as a result of the review under subsection (a). The report shall include the recommendations of the Comptroller regarding means of standardizing the methods used by the Department for allocating and reporting overhead costs associated with the cleanup of Department sites.

SEC. 3149. SENSE OF THE CONGRESS ON FUNDING REQUIREMENTS FOR THE NONPROLIFERATION SCIENCE AND TECHNOLOGY ACTIVITIES OF THE DEPARTMENT OF ENERGY.

(a) FUNDING REQUIREMENTS FOR THE NONPROLIFERATION SCIENCE AND TECHNOLOGY ACTIVITIES BUDGET.—It is the sense of the Congress that for each of the fiscal years 2000 through 2008, it should be an objective of the Secretary of Energy to increase the budget for the nonproliferation science and technology activities for the fiscal year over the budget for those activities for the preceding fiscal year by a percent that is at least two percent above the rate of inflation as determined by the Office of Management and Budget.

(b) NONPROLIFERATION SCIENCE AND TECHNOLOGY ACTIVITIES DEFINED.—In this section, the term "nonproliferation science and technology activities" means activities (including program direction activities) relating to preventing and countering the proliferation of weapons of mass destruction that are funded by the Department of Energy under the following programs and projects:

(1) The Verification and Control Technology program within the Office of Nonproliferation and National Security.

(2) Projects under the "Technology and Systems Development" element of the Nuclear Safeguards and Security program within the Office of Nonproliferation and National Security.

(3) Projects relating to a national capability to assess the credibility of radiological and extortion threats, or to combat nuclear materials trafficking or terrorism, under the Emergency Management program within the Office of Nonproliferation and National Security.

(4) Projects relating to the development or integration of new technology to respond to emergencies and threats involving the presence, or possible presence, of weapons of mass destruction, radiological emergencies, and related terrorist threats, under the Office of Defense Programs.

SEC. 3150. DEADLINE FOR SELECTION OF TECHNOLOGY FOR TRITIUM PRODUCTION.

(a) DEADLINE.—The Secretary of Energy shall select a technology for the production of tritium not later than December 31, 1998.

(b) OPTIONS AVAILABLE FOR SELECTION.—Notwithstanding any provision of the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.), after the completion of the Department of Energy's evaluation of their Interagency Review on the production of tritium, the Secretary shall make the selection for tritium production consistent with the laws, regulations and procedures of the Department of Energy as stated in subsection (a).

Subtitle E—Maximum Age for New Department of Energy Nuclear Materials Couriers

SEC. 3161. MAXIMUM AGE TO ENTER NUCLEAR COURIER FORCE.

Section 3307 of title 5, United States Code, is amended as follows—

(1) by striking in subsection (a) "and (d)" and inserting in its place "(d), (e), and (f)"; and

(2) by adding the following new subsection (f) after subsection (e):

"(f) The Secretary of Energy may determine and fix the maximum age limit for an original appointment to a position as a Department of Energy nuclear materials courier, so defined by section 8331(27) of this title.

SEC. 3162. DEFINITION.

Section 8331 of title 5, United States Code, is amended by adding the following new paragraph (27) after paragraph (26):

"(27) Department of Energy nuclear materials courier means an employee of the Department of Energy or its predecessor agencies, the duties of whose position are primarily to transport, and provide armed escort and protection during transit of, nuclear weapons, nuclear weapon components, strategic quantities of special nuclear materials or other materials related to national security, including an employee who remains fully certified to engage in this activity who is transferred to a supervisory, training, or administrative position.".

SEC. 3163. AMENDING SECTION 8334(a)(1) OF TITLE 5, U.S.C.

(a) The first sentence of section 8334(a)(1) of title 5, United States Code, is amended by striking "and a firefighter", and inserting in its place "a firefighter, and a Department of Energy nuclear materials courier,".

(b) Section 8334(c) of title 5, United States Code, is amended by adding the following new schedule after the schedule for a Member of the Capitol Police:

"Department of Energy nuclear materials courier for courier service (while employed by DOE and its predecessor agencies)	5	July 1, 1942 to June 30, 1948. July 1, 1948 to October 31, 1956.
	6	
	6½	November 1, 1956 to December 31, 1969.
	7	January 1, 1970 to December 31, 1974.
	7½	After December 31, 1974.".

SEC. 3164. AMENDING SECTION 8336(c)(1) OF TITLE 5, U.S.C.

Section 8336(c)(1) of title 5, United States Code, is amended by striking "or firefighter" and inserting in its place, "a firefighter, or a Department of Energy nuclear materials courier,".

SEC. 3165. AMENDING SECTION 8401 OF TITLE 5, U.S.C.

Section 8401 of title 5, United States Code, is amended by adding the following new paragraph (33) after paragraph (32):

"(33) Department of Energy nuclear materials courier means an employee of the Department of Energy or its predecessor agencies, the duties of whose position are primarily to transport, and provide armed escort and protection during transit of, nuclear weapons, nuclear weapons components, strategic quantities of special nuclear materials, or other materials related to national security, including an employee who remains fully certified to engage in this activity who is transferred to a supervisory, training, or administrative position.".

SEC. 3166. AMENDING SECTION 8412(d) OF TITLE 5, U.S.C.

Section 8412(d) of title 5, United States Code, is amended by striking "or firefighter" in paragraphs (1) and (2) and inserting in its place, "a firefighter, or a Department of Energy nuclear materials courier,".

SEC. 3167. AMENDING SECTION 8415(g) OF TITLE 5, U.S.C.

Section 8415(g) of title 5, United States Code, is amended by striking "firefighter" and inserting in its place "firefighter, Department of Energy nuclear materials courier,".

SEC. 3168. AMENDING SECTION 8422(a)(3) OF TITLE 5, U.S.C.

Section 8422(a)(3) of title 5, United States Code, is amended by striking "firefighter" in the schedule and inserting in its place "firefighter, Department of Energy nuclear materials courier,".

SEC. 3169. AMENDING SECTIONS 8423(a) (1)(B)(i) AND (3)(A) OF TITLE 5, U.S.C.

Sections 8423(a)(1)(B)(i) and 8423(a)(3)(A) of title 5, United States Code, are amended by striking "Firefighters" and inserting in its place "firefighters, Department of Energy nuclear materials couriers,".

SEC. 3170. AMENDING SECTION 8335(b) OF TITLE 5, U.S.C.

Section 8335(b) of title 5, United States Code, is amended by adding the words "or Department of Energy Nuclear Materials Couriers" after the word "officer" in the second sentence.

SEC. 3171. PAYMENTS.

Any payments made by the Department of Energy to the Civil Service Retirement or Disability Fund pursuant to this Act shall be made from the Weapons Activities account.

SEC. 3172. EFFECTIVE DATE.

These amendments are effective at the beginning of the first pay period in fiscal year 2000, and applies only to those employees who retire after fiscal year 1999.

TITLE XXXII—DEFENSE NUCLEAR FACILITIES SAFETY BOARD

SEC. 3201. AUTHORIZATION.

There are authorized to be appropriated for fiscal year 1999, $17,500,000 for the operation of the Defense Nuclear Facilities Safety Board under chapter 21 of the Atomic Energy Act of 1954 (42 U.S.C. 2286 et seq.).

TITLE XXXIII—NATIONAL DEFENSE STOCKPILE

SEC. 3301. DEFINITIONS.

In this title:

(1) The term "National Defense Stockpile" means the stockpile provided for in section 4 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98c).

(2) The term "National Defense Stockpile Transaction Fund" means the fund in the Treasury of the United States established under section 9(a) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h(a)).

SEC. 3302. AUTHORIZED USES OF STOCKPILE FUNDS.

(a) OBLIGATION OF STOCKPILE FUNDS.—During fiscal year 1999, the National Defense Stockpile Manager may obligate up to $83,000,000 of the funds in the National Defense Stockpile Transaction Fund for the authorized uses of such funds under section 9(b)(2) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h(b)(2)), including the disposal of hazardous materials that are environmentally sensitive.

(b) ADDITIONAL OBLIGATIONS.—The National Defense Stockpile Manager may obligate amounts in excess of the amount specified in subsection (a) if the National Defense Stockpile Manager notifies Congress that extraordinary or emergency conditions necessitate the additional obligations. The National Defense Stockpile Manager may make the additional obligations described in the notification after the end of the 45-day period beginning on the date Congress receives the notification.

(c) LIMITATIONS.—The authorities provided by this section shall be subject to such limitations as may be provided in appropriations Acts.

SEC. 3303. AUTHORITY TO DISPOSE OF CERTAIN MATERIALS IN NATIONAL DEFENSE STOCKPILE.

(a) DISPOSAL REQUIRED.—Subject to subsection (c), the President shall dispose of materials contained in the National Defense Stockpile and specified in the table in subsection (b) so as to result in receipts to the United States in the amount of $103,000,000 by the end of fiscal year 1999 and $377,000,000 by the end of fiscal year 2003.

(b) LIMITATION ON DISPOSAL QUANTITY.—The total quantities of materials authorized for disposal by the President under subsection (a) may not exceed the amounts set forth in the following table:

Authorized Stockpile Disposals

Material for disposal	Quantity
Beryllium Metal, vacuum cast	227 short tons
Chromium Metal—EL	8,511 short tons
Columbium Carbide Powder	21,372 pounds contained
Columbium Ferro	249,395 pounds contained
Columbium Concentrates	1,733,454 pounds contained
Chromium Ferroalloy	92,000 short tons
Diamond, Stones	3,000,000 carats
Germanium Metal	28,198 kilograms
Indium	14,248 troy ounces
Palladium	1,227,831 troy ounces
Platinum	439,887 troy ounces
Tantalum Carbide Powder	22,681 pounds contained
Tantalum Metal Powder	50,000 pounds contained
Tantalum Minerals	1,751,364 pounds contained
Tantalum Oxide	122,730 pounds contained
Tungsten Ferro	2,024,143 pounds
Tungsten Carbide Powder	2,032,954 pounds
Tungsten Metal Powder	1,898,009 pounds
Tungsten Ores & Concentrates	76,358,230 pounds.

(c) MINIMIZATION OF DISRUPTION AND LOSS.—The President may not dispose of materials under subsection (a) to the extent that the disposal will result in—

(1) undue disruption of the usual markets of producers, processors, and consumers of the materials proposed for disposal; or

(2) avoidable loss to the United States.

(d) RELATIONSHIP TO OTHER DISPOSAL AUTHORITY.—The disposal authority provided in subsection (a) is new disposal authority and is in addition to, and shall not affect, any other disposal authority provided by law regarding the materials specified in such subsection.

(e) AUTHORIZATION OF SALE.—The authority provided by this section to dispose of materials contained in the National Defense Stockpile so as to result in receipts of $100,000,000 of the amount specified for fiscal year 1999 in subsection (a) by the end of that fiscal year shall be effective only to the extent provided in advance in appropriation Acts.

SEC. 3304. USE OF STOCKPILE FUNDS FOR CERTAIN ENVIRONMENTAL REMEDIATION, RESTORATION, WASTE MANAGEMENT, AND COMPLIANCE ACTIVITIES.

Section 9(b)(2) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h(b)(2)) is amended—

(1) by redesignating subparagraphs (J) and (K) as subparagraphs (K) and (L), respectively; and

(2) by inserting after subparagraph (I) the following new subparagraph (J):

"(J) Performance of environmental remediation, restoration, waste management, or compliance activities at locations of the stockpile that are required under a Federal law or are undertaken by the Government under an administrative decision or negotiated agreement.".

TITLE XXXIV—NAVAL PETROLEUM RESERVES

SEC. 3401. AUTHORIZATION OF APPROPRIATIONS.

(a) AMOUNT.—There is hereby authorized to be appropriated to the Secretary of Energy $117,000,000 for fiscal year 1999 for the purposes of carrying out—

(1) activities under chapter 641 of title 10, United States Code, relating to the naval petroleum reserves (as defined in section 7420(2) of such title); and

(2) activities necessary to terminate the administration of Naval Petroleum Reserve Numbered 1 by the Secretary after the sale of that reserve under subtitle B of title XXXIV of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 10 U.S.C. 7420 note).

(b) AVAILABILITY.—Funds appropriated pursuant to the authorization in subsection (a) shall remain available until expended.

TITLE XXXV—PANAMA CANAL COMMISSION

SEC. 3501. SHORT TITLE; REFERENCES TO PANAMA CANAL ACT OF 1979.

(a) SHORT TITLE.—This title may be cited as the "Panama Canal Commission Authorization Act for Fiscal Year 1999".

(b) REFERENCES TO PANAMA CANAL ACT OF 1979.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Panama Canal Act of 1979 (22 U.S.C. 3601 et seq.).

SEC. 3502. AUTHORIZATION OF EXPENDITURES.

(a) IN GENERAL.—Subject to subsection (b), the Panama Canal Commission is authorized to use amounts in the Panama Canal Revolving Fund to make such expenditures within the limits of funds and borrowing authority available to it in accordance with law, and to make such contracts and commitments, as may be necessary under the Panama Canal Act of 1979 (22 U.S.C. 3601 et seq.) for the operation, maintenance, improvement, and administration of the Panama Canal for fiscal year 1999.

(b) LIMITATIONS.—For fiscal year 1999, the Panama Canal Commission may expend from funds in the Panama Canal Revolving Fund not more than $90,000 for official reception and representation expenses, of which—

(1) not more than $28,000 may be used for official reception and representation expenses of the Supervisory Board of the Commission;

(2) not more than $14,000 may be used for official reception and representation expenses of the Secretary of the Commission; and

(3) not more than $48,000 may be used for official reception and representation expenses of the Administrator of the Commission.

SEC. 3503. PURCHASE OF VEHICLES.

Notwithstanding any other provision of law, the funds available to the Commission shall be available for the purchase and transportation to the Republic of Panama of passenger motor vehicles, the purchase price of which shall not exceed $23,000 per vehicle.

SEC. 3504. EXPENDITURES ONLY IN ACCORDANCE WITH TREATIES.

Expenditures authorized under this title may be made only in accordance with the Panama Canal Treaties of 1977 and any law of the United States implementing those treaties.

SEC. 3505. DONATIONS TO THE COMMISSION.

Section 1102b (22 U.S.C. 3612b) is amended by adding at the end the following new subsection:

"(f)(1) The Commission may seek and accept donations of funds, property, and services from individuals, foundations, corporations, and other private and public entities for the purpose of carrying out its promotional activities.

"(2) The Commission shall establish written guidelines setting forth the criteria to be used in determining whether the acceptance of funds, property, or services authorized by paragraph (1) would reflect unfavorably upon the ability of the Commission (or any employee of the Commission) to carry out its responsibilities or official duties in a fair and objective manner or would compromise the integrity or the appearance of the integrity of its programs or of any official in those programs.".

SEC. 3506. AGREEMENTS FOR UNITED STATES TO PROVIDE POST-TRANSFER ADMINISTRATIVE SERVICES FOR CERTAIN EMPLOYEE BENEFITS.

Section 1110 (22 U.S.C. 3620) is amended by adding at the end the following new subsection:

"(c)(1) The Secretary of State may enter into one or more agreements to provide for the United States to furnish administrative services relating to the benefits described in paragraph (2) after December 31, 1999, and to establish appropriate procedures for providing advance funding for the services.

"(2) The benefits referred to in paragraph (1) are the following:

"(A) Pension, disability, and medical benefits provided by the Panama Canal Commission pursuant to section 1245.

"(B) Compensation for work injuries covered by chapter 81 of title 5, United States Code.".

SEC. 3507. SUNSET OF UNITED STATES OVERSEAS BENEFITS JUST BEFORE TRANSFER.

(a) REPEALS.—Effective 11:59 p.m. (Eastern Standard Time), December 30, 1999, the following provisions are repealed and any right or condition of employment provided for in, or arising from, those provisions is terminated: sections 1206 (22 U.S.C. 3646), 1207 (22 U.S.C. 3647), 1217(a), (22 U.S.C. 3657(a)), and 1224(11) (22 U.S.C. 3664(11)), subparagraphs (A), (B), (F), (G), and (H) of section 1231(a)(2) (22 U.S.C. 3671(a)(2)) and section 1321(e) (22 U.S.C. 3731(e)).

(b) SAVINGS PROVISION FOR BASIC PAY.—Notwithstanding subsection (a), benefits based on basic pay, as listed in paragraphs (1), (2), (3), (5), and (6) of section 1218 of the Panama Canal Act of 1979, shall be paid as if sections 1217(a) and 1231(a)(2) (A) and (B) of that Act had been repealed effective 12:00 p.m., December 31, 1999. The exception under the preceding sentence shall not apply to any pay for hours of work performed on December 31, 1999.

(c) NONAPPLICABILITY TO AGENCIES IN PANAMA OTHER THAN PANAMA CANAL COMMISSION.—Section 1212(b)(3) (22 U.S.C. 3652(b)(3)) is amended by striking out "the Panama Canal Transition Facilitation Act of 1997" and inserting in lieu thereof "the Panama Canal Transition Facilitation Act of 1997 (subtitle B of title XXXV of Public Law 105–85; 110 Stat. 2062), or the Panama Canal Commission Authorization Act for Fiscal Year 1999".

SEC. 3508. CENTRAL EXAMINING OFFICE.

Section 1223 (22 U.S.C. 3663) is repealed.

SEC. 3509. LIABILITY FOR VESSEL ACCIDENTS.

(a) COMMISSION LIABILITY SUBJECT TO CLAIMANT INSURANCE.—(1) Section 1411(a) (22 U.S.C. 3771(a)) is amended by inserting "to section 1419(b) of this Act and" after "Subject" in the first sentence.

(2) Section 1412 (22 U.S.C. 3772) is amended by striking out "The Commission" in the first sentence and inserting in lieu thereof "Subject to section 1419(b) of this Act, the Commission".

(3) Section 1416 (22 U.S.C. 3776) is amended by striking out "A claimant" in the first sentence and inserting in lieu thereof "Subject to section 1419(b) of this Act, a claimant".

(b) LIMITATION ON LIABILITY.—Section 1419 (22 U.S.C. 3779) is amended by designating the text as subsection (a) and by adding at the end the following:

"(b) The Commission may not consider or pay any claim under section 1411 or 1412 of this Act, nor may an action for damages lie thereon, unless the claimant is covered by one or more valid policies of insurance totalling at least $1,000,000 against the injuries specified in those sections. The Commission's liability on any such claim shall be limited to damages in excess of all amounts recovered or recoverable by the claimant from its insurers. The Commission may not consider or pay any claim by an insurer or subrogee of a claimant under section 1411 or 1412 of this Act.".

SEC. 3510. PLACEMENT OF UNITED STATES CITIZENS IN POSITIONS WITH THE UNITED STATES GOVERNMENT.

Section 1232 (22 U.S.C. 3672) is amended—

(1) by striking out subsection (d);

(2) by redesignating subsection (c) as subsection (d); and

(3) by inserting after subsection (b) the following new subsection (c):

"(c)(1) Upon the request of an employee or former employee of the Panama Canal Commission described in paragraph (2), the employee shall be afforded eligibility for appointment on a noncompetitive basis to vacant positions in the competitive service of the civil service within—

"(A) an area determined by the Director of the Office of Personnel Management as being within a reasonable commuting distance of the employee's residence; or

"(B) in the case of an employee in the Republic of Panama who chooses to so designate, any Standard Federal Region designated by the employee.

"(2) Paragraph (1) applies to a person who—

"(A) is a citizen of the United States;

"(B) was an employee of the Panama Canal Commission on or after July 1, 1998; and

"(C) is in receipt of a notice of separation by reason of a reduction in force.

"(3) A person's eligibility for a noncompetitive appointment under paragraph (1) expires one year after the date of the separation of that person from employment by the Panama Canal Commission.

"(4) For the purposes of paragraph (2)(B), an employee of the dissolution office established to manage Panama Canal Commission Dissolution Fund established by section 1305 is an employee of the Panama Canal Commission.

"(5) In this subsection, the terms 'civil service' and 'competitive service' have the meanings given such terms in sections 2101(1) and 2102, respectively, of title 5, United States Code.".

SEC. 3511. PANAMA CANAL BOARD OF CONTRACT APPEALS.

(a) ESTABLISHMENT AND PAY OF BOARD.—Section 3102(a) (22 U.S.C. 3862(a)) is amended—

(1) in paragraph (1), by striking out "shall" in the first sentence and inserting in lieu thereof "may"; and

(2) by adding at the end the following new paragraph:

"(3) Compensation for members of the Board of Contract Appeals shall be established by the Commission's supervisory board. The annual compensation established for members may not exceed the rate of basic pay established for level IV of the Executive Schedule under section 5315 of title 5, United States Code. The compensation of a member may not be reduced during the member's term of office from the level established at the time of the appointment of the member.".

(b) DEADLINE FOR COMMENCEMENT OF BOARD.—Section 3102(e) (22 U.S.C. 3862(e)) is amended by striking out ", but not later than January 1, 1999".

SEC. 3512. TECHNICAL AMENDMENTS.

(a) PANAMA CANAL ACT OF 1979.—The Panama Canal Act of 1979 is amended as follows:

(1) Section 1202(c) (22 U.S.C. 3642(c)) is amended—

(A) by striking out "the day before the date of the enactment of the Panama Canal Transition Facilitation Act of 1997" and inserting in lieu thereof "November 17, 1997,";

(B) by striking out "on or after that date"; and

(C) by striking out "the day before the date of enactment" and inserting in lieu thereof "that date".

(2) Section 1212(b)(3) (22 U.S.C. 3652(b)(3)) is amended by inserting "the" after "by the head of".

(3) Section 1313 (22 U.S.C. 3723) is amended by striking out "subsection (d)" in each of subsections (a), (b), and (d) and inserting in lieu thereof "subsection (c)".

(4) Sections 1411(a) and 1412 (22 U.S.C. 3771(a), 3772) are amended by striking out "the date of the enactment of the Panama Canal Transition Facilitation Act of 1997" and inserting in lieu thereof "by November 18, 1998".

(5) Section 1416 (22 U.S.C. 3776) is amended by striking out "the date of the enactment of the Panama Canal Transition Facilitation Act of 1997" and inserting in lieu thereof "by May 17, 1998".

(b) PUBLIC LAW 104–201.—Effective as of September 23, 1996, and as if included therein as enacted, section 3548(b)(3) of the Panama Canal Act Amendments of 1996 (subtitle B of title XXXV of Public Law 104–201; 110 Stat. 2869) is amended by striking out "section" in both items of quoted matter and inserting in lieu thereof "sections".

SEC. 3513. OFFICER OF THE DEPARTMENT OF DEFENSE DESIGNATED AS A MEMBER OF THE PANAMA CANAL COMMISSION SUPERVISORY BOARD.

(a) AUTHORITY.—Section 1102(a) (22 U.S.C. 3612(a)) is amended—

(1) by striking out the first sentence and inserting in lieu thereof the following: "The Commission shall be supervised by a Board composed of nine members. An officer of the Department of Defense designated by the Secretary of Defense shall be one of the members of the Board."; and

(2) in the last sentence, by striking out "Secretary of Defense or a designee of the Secretary of Defense" and inserting in lieu thereof "the officer of the Department of Defense designated by the Secretary of Defense to be a member of the Board".

(b) Repeal of Superseded Provision.—Section 302 of Public Law 105-18 (111 Stat. 168) is repealed.

TITLE XXXVI—COMMERCIAL ACTIVITIES OF PEOPLE'S LIBERATION ARMY

SEC. 3601. APPLICATION OF AUTHORITIES UNDER THE INTERNATIONAL EMERGENCY ECONOMIC POWERS ACT TO CHINESE MILITARY COMPANIES.

(a) Determination of Communist Chinese Military Companies.—

(1) In general.—Subject to paragraphs (2) and (3), not later than 90 days after the date of the enactment of this Act, the Secretary of Defense, in consultation with the Attorney General, the Director of Central Intelligence, and the Director of the Federal Bureau of Investigation, shall compile a list of persons who are Communist Chinese military companies and who are operating directly or indirectly in the United States or any of its territories and possessions, and shall publish the list of such persons in the Federal Register. On an ongoing basis, the Secretary of Defense, in consultation with the Attorney General, the Director of Central Intelligence, and the Director of the Federal Bureau of Investigation, shall make additions or deletions to the list based on the latest information available.

(2) Communist chinese military company.—For purposes of making the determination required by paragraph (1), the term "Communist Chinese military company"—

(A) means a person that is—

(i) engaged in providing commercial services, manufacturing, producing, or exporting, and

(ii) owned or controlled by the People's Liberation Army, and

(B) includes, but is not limited to, any person identified in the United States Defense Intelligence Agency publication numbered VP-1920-271-90, dated September 1990, or PC-1921-57-95, dated October 1995, and any update of such reports for the purposes of this title.

(b) Presidential Authority.—

(1) Authority.—The President may exercise the authorities set forth in section 203(a) of the International Emergency Economic Powers Act (50 U.S.C. 1702(a)) with respect to any commercial activity in the United States by a Communist Chinese military company (except with respect to authorities relating to importation), without regard to section 202 of that Act.

(2) Penalties.—The penalties set forth in section 206 of the International Emergency Economic Powers Act (50 U.S.C. 1705) shall apply to violations of any license, order, or regulation issued under paragraph (1).

SEC. 3602. DEFINITION.

For purposes of this title, the term "People's Liberation Army" means the land, naval, and air military services, the police, and the intelligence services of the Communist Government of the People's Republic of China, and any member of any such service or of such police.

TITLE XXXVII—FORCED OR INDENTURED LABOR

SEC. 3701. FINDINGS.

Congress makes the following findings:

(1) The United States Customs Service has identified goods, wares, articles, and merchandise mined, produced, or manufactured under conditions of convict labor, forced labor, or indentured labor, in several countries.

(2) The United States Customs Service has made limited attempts to prohibit the import of products made with forced labor, resulting in only a few seizures, detention orders, fines, and criminal prosecutions.

(3) The United States Customs Service has taken 21 formal administrative actions in the form of detention orders against different products destined for the United States market, found to have been made with forced labor, including products from the People's Republic of China.

(4) However, the United States Customs Service has never formally investigated or pursued enforcement with respect to attempts to import products made with forced or indentured child labor.

(5) The United States Customs Service can use additional resources and tools to obtain the timely and in-depth verification necessary to identify and interdict products made with forced labor or indentured labor, including forced or indentured child labor, that are destined for the United States market.

(6) The International Labor Organization estimates that approximately 250,000,000 children between the ages of 5 and 14 are working in developing countries, including millions of children in bondage or otherwise forced to work for little or no pay.

(7) Congress has clearly indicated in Public Law 105-61, Treasury-Postal Service Appropriations, 1998, that forced or indentured child labor constitutes forced labor under section 307 of the Tariff Act of 1930 (19 U.S.C. 1307).

SEC. 3702. AUTHORIZATION FOR ADDITIONAL CUSTOMS PERSONNEL TO MONITOR THE IMPORTATION OF PRODUCTS MADE WITH FORCED OR INDENTURED LABOR.

There are authorized to be appropriated $2,000,000 for fiscal year 1999 to the United States Customs Service to monitor the importation of products made with forced labor or indentured labor, including forced or indentured child labor, the importation of which violates section 307 of the Tariff Act of 1930 or section 1761 of title 18, United States Code.

SEC. 3703. REPORTING REQUIREMENT ON FORCED LABOR OR INDENTURED LABOR PRODUCTS DESTINED FOR THE UNITED STATES MARKET.

(a) Report to Congress.—Not later than 1 year after the date of enactment of this Act, the Commissioner of Customs shall prepare and transmit to Congress a report on products made with forced labor or indentured labor, including forced or indentured child labor that are destined for the United States market.

(b) Contents of Report.—The report under subsection (a) shall include information concerning the following:

(1) The extent of the use of forced labor or indentured labor, including forced or indentured child labor in manufacturing or mining products destined for the United States market.

(2) The volume of products made or mined with forced labor or indentured labor, including forced or indentured child labor that is—

(A) destined for the United States market,

(B) in violation of section 307 of the Tariff Act of 1930 or section 1761 of title 18, United States Code, and

(C) seized by the United States Customs Service.

(3) The progress of the United States Customs Service in identifying and interdicting products made with forced labor or indentured labor, including forced or indentured child labor that are destined for the United States market.

SEC. 3704. RENEGOTIATING MEMORANDA OF UNDERSTANDING ON FORCED LABOR.

It is the sense of Congress that the President should determine whether any country with which the United States has a memorandum of understanding with respect to reciprocal trade that involves goods made with forced labor or indentured labor, including forced or indentured child labor is frustrating implementation of the memorandum. If an affirmative determination be made, the President should immediately commence negotiations to replace the current memorandum of understanding with one providing for effective procedures for the monitoring of forced labor or indentured labor, including forced or indentured child labor. The memorandum of understanding should include improved procedures for requesting investigations of suspected work sites by international monitors.

SEC. 3705. DEFINITION OF FORCED LABOR.

(a) Definition.—In this Act, the term "forced labor" means convict labor, forced labor, or indentured labor, as such terms are used in section 307 of the Tariff Act of 1930. The term includes forced or indentured child labor—

(1) that is exacted from any person under 15 years of age, either in payment for the debts of a parent, relative, or guardian, or drawn under false pretexts; and

(2) with respect to which such person is confined against the person's will.

(b) Amendment to Tariff Act of 1930.—Section 307 of the Tariff Act of 1930 (19 U.S.C. 1307) is amended by adding at the end the following new paragraph:

"For purposes of this section, forced or indentured labor includes forced or indentured child labor.".

TITLE XXXVIII—FAIR TRADE IN AUTOMOTIVE PARTS

SEC. 3801. SHORT TITLE.

This title may be cited as the "Fair Trade in Automotive Parts Act of 1998".

SEC. 3802. DEFINITIONS.

In this title:

(1) Japanese markets.—The term "Japanese markets" refers to markets, including markets in the United States and Japan, where automotive parts and accessories, both original equipment and aftermarket, are purchased for use in the manufacture or repair of Japanese automobiles.

(2) Japanese and other Asian markets.—The term "Japanese and other Asian markets" refers to markets, including markets in the United States, Japan, and other Asian countries, where automotive parts and accessories, both original equipment and aftermarket, are purchased for use in the manufacture or repair of Japanese, American, or other Asian automobiles.

SEC. 3803. RE-ESTABLISHMENT OF INITIATIVE ON AUTOMOTIVE PARTS SALES TO JAPAN.

(a) In General.—The Secretary of Commerce shall re-establish the initiative to increase the sale of United States made automotive parts and accessories to Japanese markets.

(b) FUNCTIONS.—In carrying out this section, the Secretary shall—

(1) foster increased access for United States made automotive parts and accessories to Japanese companies, including specific consultations on access to Japanese markets;

(2) facilitate the exchange of information between United States automotive parts manufacturers and the Japanese automobile industry;

(3) collect data and market information on the Japanese automotive industry regarding needs, trends, and procurement practices, including the types, volume, and frequency of parts sales to Japanese automobile manufacturers;

(4) establish contacts with Japanese automobile manufacturers in order to facilitate contact between United States automotive parts manufacturers and Japanese automobile manufacturers;

(5) report on and attempt to resolve disputes, policies or practices, whether public or private, that result in barriers to increased commerce between United States automotive parts manufacturers and Japanese automobile manufacturers;

(6) take actions to initiate periodic consultations with officials of the Government of Japan regarding sales of United States-made automotive parts in Japanese markets; and

(7) transmit to Congress the annual report prepared by the Special Advisory Committee under section 3804(c)(5).

SEC. 3804. ESTABLISHMENT OF SPECIAL ADVISORY COMMITTEE ON AUTOMOTIVE PARTS SALES IN JAPANESE AND OTHER ASIAN MARKETS.

(a) IN GENERAL.—The Secretary of Commerce shall seek the advice of the United States automotive parts industry in carrying out this title.

(b) ESTABLISHMENT OF COMMITTEE.—The Secretary of Commerce shall establish a Special Advisory Committee for purposes of carrying out this title.

(c) FUNCTIONS.—The Special Advisory Committee established under subsection (b) shall—

(1) report to the Secretary of Commerce on barriers to sales of United States-made automotive parts and accessories in Japanese and other Asian markets;

(2) review and consider data collected on sales of United States-made automotive parts and accessories in Japanese and other Asian markets;

(3) advise the Secretary of Commerce during consultations with other governments on issues concerning sales of United States-made automotive parts in Japanese and other Asian markets;

(4) assist in establishing priorities for the initiative established under section 3803, and otherwise provide assistance and direction to the Secretary of Commerce in carrying out the intent of that section; and

(5) assist the Secretary in reporting to Congress by submitting an annual written report to the Secretary on the sale of United States-made automotive parts in Japanese and other Asian markets, as well as any other issues with respect to which the Committee provides advice pursuant to this title.

(d) AUTHORITY.—The Secretary of Commerce shall draw on existing budget authority in carrying out this title.

SEC. 3805. EXPIRATION DATE.

The authority under this title shall expire on December 31, 2003.

TITLE XXXIX —RADIO FREE ASIA

SEC. 3901. SHORT TITLE.

This title may be cited as the "Radio Free Asia Act of 1998".

SEC. 3902. FINDINGS.

The Congress makes the following findings:

(1) The Government of the People's Republic of China systematically controls the flow of information to the Chinese people.

(2) The Government of the People's Republic of China demonstrated that maintaining its monopoly on political power is a higher priority than economic development by announcing in January 1996 that its official news agency, Xinhua, will supervise wire services selling economic information, including Dow Jones-Telerate, Bloomberg, and Reuters Business, and in announcing in February 1996 the "Interim Internet Management Rules", which have the effect of censoring computer networks.

(3) Under the May 30, 1997, order of Premier Li Peng, all organizations that engage in business activities related to international computer networking must now apply for a license, increasing still further government control over access to the Internet.

(4) Both Radio Free Asia and the Voice of America, as a surrogate for a free press in the People's Republic of China, provide an invaluable source of uncensored information to the Chinese people, including objective and authoritative news of in-country and regional events, as well as accurate news about the United States and its policies.

(5) Enhanced broadcasting service to China and Tibet can efficiently be established through a combination of Radio Free Asia and Voice of America programming.

(6) Radio Free Asia and Voice of America, in working toward continuously broadcasting to the People's Republic of China in multiple languages, have the capability to establish 24-hour-a-day Mandarin broadcasting to that nation by staggering the hours of Radio Free Asia and Voice of America.

(7) Simultaneous broadcastings on Voice of America radio and Worldnet television 7 days a week in Mandarin are also important and needed capabilities.

SEC. 3903. AUTHORIZATION OF APPROPRIATIONS FOR INCREASED FUNDING FOR RADIO FREE ASIA AND VOICE OF AMERICA BROADCASTING TO CHINA.

(a) AUTHORIZATION OF APPROPRIATIONS FOR RADIO FREE ASIA.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for "Radio Free Asia" $30,000,000 for fiscal year 1998 and $22,000,000 for fiscal year 1999.

(2) LIMITATIONS.—Of the funds under paragraph (1) authorized to be appropriated for fiscal year 1998, $8,000,000 is authorized to be appropriated for one-time capital costs.

(3) SENSE OF CONGRESS.—It is the sense of Congress that of the funds under paragraph (1), a significant amount shall be directed towards broadcasting to China and Tibet in the appropriate languages and dialects.

(b) AUTHORIZATION OF APPROPRIATIONS FOR INTERNATIONAL BROADCASTING TO CHINA.—In addition to such sums as are otherwise authorized to be appropriated for "International Broadcasting Activities" for fiscal years 1998 and 1999, there are authorized to be appropriated for "International Broadcasting Activities" $5,000,000 for fiscal year 1998 and $3,000,000 for fiscal year 1999, which shall be available only for enhanced Voice of America broadcasting to China. Of the funds authorized under this subsection $100,000 is authorized to be appropriated for each of the fiscal years 1998 and 1999 for additional personnel to staff Hmong language broadcasting.

(c) AUTHORIZATION OF APPROPRIATIONS FOR RADIO CONSTRUCTION.—In addition to such sums as are otherwise authorized to be appropriated for "Radio Construction" for fiscal years 1998 and 1999, there are authorized to be appropriated for "Radio Construction" $10,000,000 for fiscal year 1998 and $2,000,000 for fiscal year 1999, which shall be available only for construction in support of enhanced broadcasting to China, including the timely augmentation of transmitters at Tinian, the Commonwealth of the Northern Mariana Islands.

SEC. 3904. REPORTING REQUIREMENT.

(a) REPORT.—Not later than 90 days after the date of enactment of this Act, the Broadcasting Board of Governors shall prepare and submit to the appropriate congressional committees an assessment of the board's efforts to increase broadcasting by Radio Free Asia and Voice of America to China and Tibet. This report shall include an analysis of Chinese government control of the media, the ability of independent journalists and news organizations to operate in China, and the results of any research conducted to quantify listenership.

(b) PURPOSES.—For purposes of this section, appropriate congressional committees are defined as the Senate Committees on Foreign Relations and Appropriations and the House Committees on International Relations and Appropriations.

DEPARTMENT OF ENERGY NATIONAL SECURITY ACT FOR FISCAL YEAR 1999

The Department of Energy National Security Act for Fiscal Year 1999 (S. 2058), passed by the Senate on June 25, 1998, is as follows:

S. 2058

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Department of Energy National Security Act for Fiscal Year 1999".

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.
Sec. 3. Congressional defense committees defined.

TITLE XXXI—DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS

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Sec. 3101. Weapons activities.
Sec. 3102. Environmental restoration and waste management.
Sec. 3103. Other defense activities.
Sec. 3104. Defense nuclear waste disposal.
Sec. 3105. Defense environmental management privatization.

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Sec. 3121. Reprogramming.
Sec. 3122. Limits on general plant projects.
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Sec. 3127. Funds available for all national security programs of the Department of Energy.
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Subtitle C—Program Authorizations, Restrictions, and Limitations

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Sec. 3133. Licensing of certain mixed oxide fuel fabrication and irradiation facilities.
Sec. 3134. Continuation of processing, treatment, and disposition of legacy nuclear materials.
Sec. 3135. Authority for Department of Energy federally funded research and development centers to participate in merit-based technology research and development programs.
Sec. 3136. Support for public education in the vicinity of Los Alamos National Laboratory, New Mexico.
Sec. 3137. Cost-sharing for operation of the Hazardous Materials Management and Emergency Response training facility, Richland, Washington.
Sec. 3138. Hanford Health Information Network.
Sec. 3139. Nonproliferation activities.
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Subtitle D—Other Matters

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Subtitle E—Maximum Age for New Department of Energy Nuclear Materials Couriers

Sec. 3161. Maximum age to enter nuclear courier force.
Sec. 3162. Definition.
Sec. 3163. Amending section 8334(a)(1) of title 5, U.S.C.
Sec. 3164. Amending section 8336(c)(1) of title 5, U.S.C.
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Sec. 3166. Amending section 8412(d) of title 5, U.S.C.
Sec. 3167. Amending section 8415(g) of title 5, U.S.C.
Sec. 3168. Amending section 8422(a)(3) of title 5, U.S.C.
Sec. 3169. Amending sections 8423(a) (1)(B)(i) and (3)(A) of title 5, U.S.C.
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Sec. 3172. Effective date.

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TITLE XXXIII—NATIONAL DEFENSE STOCKPILE

Sec. 3301. Definitions.
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TITLE XXXVI—COMMERCIAL ACTIVITIES OF PEOPLE'S LIBERATION ARMY

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TITLE XXXVIII—FAIR TRADE IN AUTOMOTIVE PARTS

Sec. 3801. Short title.
Sec. 3802. Definitions.
Sec. 3803. Re-establishment of initiative on automotive parts sales to Japan.
Sec. 3804. Establishment of special advisory committee on automotive parts sales in Japanese and other Asian markets.
Sec. 3805. Expiration date

TITLE XXXIX —RADIO FREE ASIA

Sec. 3901. Short title.
Sec. 3902. Findings.
Sec. 3903. Authorization of appropriations for increased funding for Radio Free Asia and Voice of America broadcasting to China.
Sec. 3904. Reporting requirement.

SEC. 3. CONGRESSIONAL DEFENSE COMMITTEES DEFINED.

For purposes of this Act, the term "congressional defense committees" means—

(1) the Committee on Armed Services and the Committee on Appropriations of the Senate; and

(2) the Committee on National Security and the Committee on Appropriations of the House of Representatives.

TITLE XXXI—DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS

Subtitle A—National Security Programs Authorizations

SEC. 3101. WEAPONS ACTIVITIES.

(a) In General.—Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1999 for weapons activities in carrying out programs necessary for national security in the amount of $4,519,700,000, to be allocated as follows:

(1) Stockpile stewardship.—Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1999 for stockpile stewardship in carrying out weapons activities necessary for national security programs in the amount of $2,123,375,000, to be allocated as follows:

(A) For core stockpile stewardship, $1,556,375,000, to be allocated as follows:

(i) For operation and maintenance, $1,440,832,000.

(ii) For plant projects (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, and land acquisition related thereto), $115,543,000, to be allocated as follows:

Project 99–D–102, rehabilitation of maintenance facility, Lawrence Livermore National Laboratory, Livermore, California, $6,500,000.

Project 99–D–103, isotope sciences facilities, Lawrence Livermore National Laboratory, Livermore, California, $4,000,000.

Project 99–D–104, protection of real property (roof replacement-Phase II), Lawrence Livermore National Laboratory, Livermore, California, $7,300,000.

Project 99–D–105, central health physics calibration facility, TA–36, Los Alamos National Laboratory, Los Alamos, New Mexico, $3,900,000.

Project 99–D–106, model validation and system certification test center, Sandia National Laboratories, Albuquerque, New Mexico, $1,600,000.

Project 99–D–107, Joint Computational Engineering Laboratory, Sandia National Laboratories, Albuquerque, New Mexico, $1,800,000.

Project 99–D–108, renovate existing roadways, Nevada Test Site, Nevada, $2,000,000.

Project 97–D–102, dual-axis radiographic hydrotest facility (DARHT), Los Alamos National Laboratory, Los Alamos, New Mexico, $36,000,000.

Project 96–D–102, stockpile stewardship facilities revitalization, Phase VI, various locations, $20,423,000.

Project 96–D–103, ATLAS, Los Alamos National Laboratory, Los Alamos, New Mexico, $6,400,000.

Project 96–D–104, processing and environmental technology laboratory (PETL), Sandia National Laboratories, Albuquerque, New Mexico, $18,920,000.

Project 96–D–105, contained firing facility (CFF) addition, Lawrence Livermore National Laboratory, Livermore, California, $6,700,000.

(B) For inertial fusion, $498,000,000, to be allocated as follows:

(i) For operation and maintenance, $213,800,000.

(ii) For the following plant project (including maintenance, restoration, planning, construction, acquisition, and modification of facilities, and land acquisition related thereto), $284,200,000, to be allocated as follows:

Project 96–D–111, national ignition facility (NIF), Lawrence Livermore National Laboratory, Livermore, California, $284,200,000.

(C) For technology partnerships and education, $69,000,000, to be allocated as follows:

(i) For technology partnerships, $60,000,000.

(ii) For education, $9,000,000.

(2) STOCKPILE MANAGEMENT.—Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1999 for stockpile management in carrying out weapons activities necessary for national security programs in the amount of $2,140,825,000, to be allocated as follows:

(A) For operation and maintenance, $2,040,803,000.

(B) For plant projects (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, and land acquisition related thereto), $100,022,000, to be allocated as follows:

Project 99–D–122, rapid reactivation, various locations, $11,200,000.

Project 99–D–123, replace mechanical utility systems, Y–12 Plant, Oak Ridge, Tennessee, $1,900,000.

Project 99–D–125, replace boilers and controls, Kansas City Plant, Kansas City, Missouri, $1,000,000.

Project 99–D–127, stockpile management restructuring initiative, Kansas City Plant, Kansas City, Missouri, $13,700,000.

Project 99–D–128, stockpile management restructuring initiative, Pantex Plant, Amarillo, Texas, $1,108,000.

Project 99–D–132, nuclear materials safeguards and security upgrades project, Los Alamos National Laboratory, Los Alamos, New Mexico, $9,700,000.

Project 98–D–123, stockpile management restructuring initiative, tritium factory modernization and consolidation, Savannah River Site, Aiken, South Carolina, $27,500,000.

Project 98–D–124, stockpile management restructuring initiative, Y–12 Plant consolidation, Oak Ridge, Tennessee, $10,700,000.

Project 97–D–122, nuclear materials storage facility renovation, Los Alamos National Laboratory, Los Alamos, New Mexico, $4,864,000.

Project 97–D–123, structural upgrades, Kansas City Plant, Kansas City, Missouri, $6,400,000.

Project 96–D–122, sewage treatment quality upgrade (STQU), Pantex Plant, Amarillo, Texas, $3,700,000.

Project 95–D–102, chemistry and metallurgy research building (CMR) upgrades project, Los Alamos National Laboratory, Los Alamos, New Mexico, $5,000,000.

Project 93–D–122, life safety upgrades, Y–12 Plant, Oak Ridge, Tennessee, $3,250,000.

(3) PROGRAM DIRECTION.—Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1999 for program direction in carrying out weapons activities necessary for national security programs in the amount of $255,500,000.

(b) ADJUSTMENT.—The total amount authorized to be appropriated in paragraphs (1), (2), and (3) of subsection (a) is the sum of the amounts authorized to be appropriated by such paragraphs reduced by the sum of $145,000,000 for use of prior year balances.

SEC. 3102. ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT.

(a) IN GENERAL.—Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1999 for environmental restoration and waste management in carrying out programs necessary for national security in the amount of $5,323,143,000, to be allocated as follows:

(1) SITE AND PROJECT COMPLETION.—Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1999 for site project and completion in carrying out environmental restoration and waste management activities necessary for national security programs in the amount of $1,047,253,000, to be allocated as follows:

(A) For operation and maintenance, $848,090,000.

(B) For plant projects (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, and land acquisition related thereto), $199,163,000, to be allocated as follows:

Project 99–D–402, tank farm support services, F&H area, Savannah River Site, Aiken, South Carolina, $2,745,000.

Project 99–D–404, health physics instrumentation laboratory, Idaho National Engineering and Environmental Laboratory, Idaho Falls, Idaho, $950,000.

Project 98–D–401, H-tank farm storm water systems upgrade, Savannah River Site, Aiken, South Carolina, $3,120,000.

Project 98–D–453, plutonium stabilization and handling system for plutonium finishing plant, Richland, Washington, $26,814,000.

Project 98–D–700, road rehabilitation, Idaho National Engineering and Environmental Laboratory, Idaho Falls, Idaho, $7,710,000.

Project 97–D–450, actinide packaging and storage facility, Savannah River Site, Aiken, South Carolina, $79,184,000.

Project 97–D–470, regulatory monitoring and bioassay laboratory, Savannah River Site, Aiken, South Carolina, $7,000,000.

Project 96–D–406, spent nuclear fuels canister storage and stabilization facility, Richland, Washington, $38,680,000.

Project 96–D–408, waste management upgrades, Kansas City Plant, Kansas City, Missouri, and Savannah River Site, Aiken, South Carolina, $4,512,000.

Project 96–D–464, electrical and utility systems upgrade, Idaho Chemical Processing Plant, Idaho National Engineering and Environmental Laboratory, Idaho Falls, Idaho, $11,544,000.

Project 96–D–471, chlorofluorocarbon heating, ventilation, and air conditioning and chiller retrofit, Savannah River Site, Aiken, South Carolina, $8,000,000.

Project 95–D–456, security facilities consolidation, Idaho Chemical Processing Plant, Idaho National Engineering and Environmental Laboratory, Idaho Falls, Idaho, $485,000.

Project 92–D–140, F-canyon and H-canyon exhaust upgrades, Savannah River Site, Aiken, South Carolina, $3,667,000.

Project 86–D–103, decontamination and waste treatment facility, Lawrence Livermore National Laboratory, Livermore, California, $4,752,000.

(2) POST 2006 COMPLETION.—Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1999 for post 2006 project completion in carrying out environmental restoration and waste management activities necessary for national security programs in the amount of $2,683,451,000, to be allocated as follows:

(A) For operation and maintenance, $2,602,195,000.

(B) For plant projects (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, and land acquisition related thereto), $81,256,000, to be allocated as follows:

Project 99–D–403, privatization phase I infrastructure support, Richland, Washington, $14,800,000.

Project 97–D–402, tank farm restoration and safe operations, Richland, Washington, $22,723,000.

Project 96–D–408, waste management upgrades, Richland, Washington, $171,000.

Project 94–D–407, initial tank retrieval systems, Richland, Washington, $32,860,000.

Project 93–D–187, high-level waste removal from filled waste tanks, Savannah River Site, Aiken, South Carolina, $10,702,000.

(3) CLOSURE PROJECTS.—Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1999 for closure projects carried out in accordance with section 3143 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2836; 42 U.S.C. 7274n) in the amount of $1,006,240,000.

(4) TECHNOLOGY DEVELOPMENT.—Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1999 for science and technology in carrying out environmental restoration and waste management activities necessary for national security programs in the amount of $250,000,000.

(5) PROGRAM DIRECTION.—Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1999 for program direction in carrying out environmental restoration and waste management activities necessary for national security programs in the amount of $336,199,000.

(b) ADJUSTMENT.—The total amount authorized to be appropriated in paragraphs (1), (2), (3), and (5) of subsection (a) is the sum of the amounts authorized to be appropriated by such paragraphs reduced by the sum of $21,000,000 for use of prior year balances.

SEC. 3103. OTHER DEFENSE ACTIVITIES.

Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1999 for other defense activities in carrying out programs necessary for national security in the amount of $1,672,160,000, to be allocated as follows:

(1) VERIFICATION AND CONTROL TECHNOLOGY.—For verification and control technology, $483,500,000, to be allocated as follows:

(A) For nonproliferation and verification research and development, $210,000,000.

(B) For arms control, $236,900,000.

(C) For intelligence, $36,600,000.

(2) NUCLEAR SAFEGUARDS AND SECURITY.—For nuclear safeguards and security, $53,200,000.

(3) SECURITY INVESTIGATIONS.—For security investigations, $30,000,000.

(4) EMERGENCY MANAGEMENT.—For emergency management, $23,700,000.

(5) PROGRAM DIRECTION.—For program direction, nonproliferation and national security, $84,900,000.

(6) WORKER AND COMMUNITY TRANSITION ASSISTANCE.—For worker and community transition assistance, $40,000,000, to be allocated as follows:

(A) For worker and community transition, $36,000,000.

(B) For program direction, worker and community transition assistance, $4,000,000.

(7) FISSILE MATERIALS CONTROL AND DISPOSITION.—For fissile materials control and disposition, $168,960,000, to be allocated as follows:

(A) For operation and maintenance, $111,372,000.

(B) For program direction, fissile materials control and disposition, $4,588,000.

(C) For plant projects (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and land acquisition related thereto), $53,000,000, to be allocated as follows:

Project 99–D–141, pit disassembly and conversion facility, location to be determined, $25,000,000.

Project 99–D–143, mixed oxide fuel fabrication facility, location to be determined, $28,000,000.

(8) ENVIRONMENT, SAFETY, AND HEALTH.—For environment, safety, and health, defense, $69,000,000, to be allocated as follows:

(A) For the Office of Environment, Safety, and Health (Defense), $64,231,000.

(B) For program direction, environment, safety, and health (defense), $4,769,000.

(9) OFFICE OF HEARINGS AND APPEALS.—For the Office of Hearings and Appeals, $2,400,000.

(10) INTERNATIONAL NUCLEAR SAFETY.—For international nuclear safety, $35,000,000.

(11) NAVAL REACTORS.—For naval reactors, $681,500,000, to be allocated as follows:

(A) For naval reactors development, $661,400,000, to be allocated as follows:

(i) For operation and maintenance, $639,600,000.

(ii) For plant projects (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, and land acquisition related thereto), $12,800,000, to be allocated as follows:

Project 98–D–200, site laboratory/facility upgrade, various locations, $7,000,000.

Project 90–N–102, expended core facility dry cell project, Naval Reactors facility, Idaho Falls, Idaho, $5,800,000.

(iii) For general plant projects, $9,000,000, to be allocated as follows:

Project GPN–101, general plant projects, various locations, $9,000,000.

(B) For program direction, naval reactors, $20,100,000.

SEC. 3104. DEFENSE NUCLEAR WASTE DISPOSAL.

Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1999 for payment to the Nuclear Waste Fund established in section 302(c) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222(c)) in the amount of $190,000,000.

SEC. 3105. DEFENSE ENVIRONMENTAL MANAGEMENT PRIVATIZATION.

(a) IN GENERAL.—Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1999 for privatization initiatives in carrying out environmental restoration and waste management activities necessary for national security programs in the amount of $273,857,000, to be allocated as follows:

Project 99–PVT–1, remote handled transuranic waste transportation, Carlsbad, New Mexico, $19,605,000.

Project 98–PVT–2, spent nuclear fuel dry storage, Idaho Falls, Idaho, $20,000,000.

Project 98–PVT–5, waste disposal, Oak Ridge, Tennessee, $33,500,000.

Project 97–PVT–1, tank waste remediation system phase I, Hanford, Washington, $113,500,000.

Project 97–PVT–2, advanced mixed waste treatment facility, Idaho Falls, Idaho, $87,252,000.

(b) ADJUSTMENT.—The amount authorized to be appropriated in subsection (a) is the sum of the amounts authorized to be appropriated for the projects set forth in that subsection reduced by the sum of $32,000,000 for use of prior year balances of funds for defense environmental management privatization.

Subtitle B—Recurring General Provisions

SEC. 3121. REPROGRAMMING.

(a) IN GENERAL.—Until the Secretary of Energy submits to the congressional defense committees the report referred to in subsection (b) and a period of 30 days has elapsed after the date on which such committees receive the report, the Secretary may not use amounts appropriated pursuant to this title for any program—

(1) in amounts that exceed, in a fiscal year—

(A) 110 percent of the amount authorized for that program by this title; or

(B) $1,000,000 more than the amount authorized for that program by this title; or

(2) which has not been presented to, or requested of, Congress.

(b) REPORT.—(1) The report referred to in subsection (a) is a report containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action.

(2) In the computation of the 30-day period under subsection (a), there shall be excluded any day on which either House of Congress is not in session because of an adjournment of more than 3 days to a day certain.

(c) LIMITATIONS.—(1) In no event may the total amount of funds obligated pursuant to this title exceed the total amount authorized to be appropriated by this title.

(2) Funds appropriated pursuant to this title may not be used for an item for which Congress has specifically denied funds.

SEC. 3122. LIMITS ON GENERAL PLANT PROJECTS.

(a) IN GENERAL.—The Secretary of Energy may carry out any construction project under the general plant projects authorized by this title if the total estimated cost of the construction project does not exceed $5,000,000.

(b) REPORT TO CONGRESS.—If, at any time during the construction of any general plant project authorized by this title, the estimated cost of the project is revised because of unforeseen cost variations and the revised cost of the project exceeds $5,000,000, the Secretary shall immediately furnish a complete report to the congressional defense committees explaining the reasons for the cost variation.

SEC. 3123. LIMITS ON CONSTRUCTION PROJECTS.

(a) IN GENERAL.—(1) Except as provided in paragraph (2), construction on a construction project may not be started or additional obligations incurred in connection with the project above the total estimated cost, whenever the current estimated cost of the construction project, which is authorized by section 3101, 3102, or 3103, or which is in support of national security programs of the Department of Energy and was authorized by any previous Act, exceeds by more than 25 percent the higher of—

(A) the amount authorized for the project; or

(B) the amount of the total estimated cost for the project as shown in the most recent budget justification data submitted to Congress.

(2) An action described in paragraph (1) may be taken if—

(A) the Secretary of Energy has submitted to the congressional defense committees a report on the actions and the circumstances making such action necessary; and

(B) a period of 30 days has elapsed after the date on which the report is received by the committees.

(3) In the computation of the 30-day period under paragraph (2), there shall be excluded any day on which either House of Congress is not in session because of an adjournment of more than 3 days to a day certain.

(b) EXCEPTION.—Subsection (a) shall not apply to any construction project which has a current estimated cost of less than $5,000,000.

SEC. 3124. FUND TRANSFER AUTHORITY.

(a) TRANSFER TO OTHER FEDERAL AGENCIES.—The Secretary of Energy may transfer funds authorized to be appropriated to the Department of Energy pursuant to this title to other Federal agencies for the performance of work for which the funds were authorized. Funds so transferred may be merged with and be available for the same purposes and for the same period as the authorizations of the Federal agency to which the amounts are transferred.

(b) TRANSFER WITHIN DEPARTMENT OF ENERGY.—(1) Subject to paragraph (2), the Secretary of Energy may transfer funds authorized to be appropriated to the Department of Energy pursuant to this title between any such authorizations. Amounts of authorizations so transferred may be merged with and be available for the same purposes and for the same period as the authorization to which the amounts are transferred.

(2) Not more than five percent of any such authorization may be transferred between authorizations under paragraph (1). No such authorization may be increased or decreased by more than five percent by a transfer under such paragraph.

(c) LIMITATION.—The authority provided by this section to transfer authorizations—

(1) may only be used to provide funds for items relating to activities necessary for national security programs that have a higher priority than the items from which the funds are transferred; and

(2) may not be used to provide funds for an item for which Congress has specifically denied funds.

(d) NOTICE TO CONGRESS.—The Secretary of Energy shall promptly notify the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives of any transfer of funds to or from authorizations under this title.

SEC. 3125. AUTHORITY FOR CONCEPTUAL AND CONSTRUCTION DESIGN.

(a) REQUIREMENT FOR CONCEPTUAL DESIGN.—(1) Subject to paragraph (2) and except as provided in paragraph (3), before submitting to Congress a request for funds for a construction project that is in support of a national security program of the Department of Energy, the Secretary of Energy shall complete a conceptual design for that project.

(2) If the estimated cost of completing a conceptual design for a construction project exceeds $3,000,000, the Secretary shall submit to Congress a request for funds for the conceptual design before submitting a request for funds for the construction project.

(3) The requirement in paragraph (1) does not apply to a request for funds—

(A) for a construction project the total estimated cost of which is less than $5,000,000; or

(B) for emergency planning, design, and construction activities under section 3126.

(b) AUTHORITY FOR CONSTRUCTION DESIGN.—(1) Within the amounts authorized by this title, the Secretary of Energy may carry out construction design (including architectural and engineering services) in connection with any proposed construction project if the total estimated cost for such design does not exceed $600,000.

(2) If the total estimated cost for construction design in connection with any construction project exceeds $600,000, funds for such design must be specifically authorized by law.

SEC. 3126. AUTHORITY FOR EMERGENCY PLANNING, DESIGN, AND CONSTRUCTION ACTIVITIES.

(a) AUTHORITY.—The Secretary of Energy may use any funds available to the Department of Energy pursuant to an authorization in this title, including those funds authorized to be appropriated for advance planning and construction design under sections 3101, 3102, and 3103, to perform planning, design, and construction activities for any Department of Energy national security program construction project that, as determined by the Secretary, must proceed expeditiously in order to protect public health and safety, to meet the needs of national defense, or to protect property.

(b) LIMITATION.—The Secretary may not exercise the authority under subsection (a) in the case of any construction project until the Secretary has submitted to the congressional defense committees a report on the activities that the Secretary intends to carry out under this section and the circumstances making such activities necessary.

(c) SPECIFIC AUTHORITY.—The requirement of section 3125(b)(2) does not apply to emergency planning, design, and construction activities conducted under this section.

SEC. 3127. FUNDS AVAILABLE FOR ALL NATIONAL SECURITY PROGRAMS OF THE DEPARTMENT OF ENERGY.

Subject to the provisions of appropriations Acts and section 3121, amounts appropriated pursuant to this title for management and support activities and for general plant projects are available for use, when necessary, in connection with all national security programs of the Department of Energy.

SEC. 3128. AVAILABILITY OF FUNDS.

(a) IN GENERAL.—Except as provided in subsection (b), when so specified in an appropriations Act, amounts appropriated for operation and maintenance or for plant projects may remain available until expended.

(b) EXCEPTION FOR PROGRAM DIRECTION FUNDS.—Amounts appropriated for program direction pursuant to an authorization of appropriations in subtitle A shall remain available to be expended only until the end of fiscal year 2001.

SEC. 3129. TRANSFERS OF DEFENSE ENVIRONMENTAL MANAGEMENT FUNDS.

(a) TRANSFER AUTHORITY FOR DEFENSE ENVIRONMENTAL MANAGEMENT FUNDS.—The Secretary of Energy shall provide the manager of each field office of the Department of Energy with the authority to transfer defense environmental management funds from a program or project under the jurisdiction of the office to another such program or project.

(b) LIMITATIONS.—(1) Only one transfer may be made to or from any program or project under subsection (a) in a fiscal year.

(2) The amount transferred to or from a program or project under subsection (a) may not exceed $5,000,000 in a fiscal year.

(3) A transfer may not be carried out by a manager of a field office under subsection (a) unless the manager determines that the transfer is necessary to address a risk to health, safety, or the environment or to assure the most efficient use of defense environmental management funds at the field office.

(4) Funds transferred pursuant to subsection (a) may not be used for an item for which Congress has specifically denied funds or for a new program or project that has not been authorized by Congress.

(c) EXEMPTION FROM REPROGRAMMING REQUIREMENTS.—The requirements of section 3121 shall not apply to transfers of funds pursuant to subsection (a).

(d) NOTIFICATION.—The Secretary, acting through the Assistant Secretary of Energy for Environmental Management, shall notify Congress of any transfer of funds pursuant to subsection (a) not later than 30 days after such transfer occurs.

(e) DEFINITIONS.—In this section:

(1) The term "program or project" means, with respect to a field office of the Department of Energy, any of the following:

(A) An activity carried out pursuant to paragraph (1), (2), or (3) of section 3102(a).

(B) A project or program not described in subparagraph (A) that is for environmental restoration or waste management activities necessary for national security programs of the Department, that is being carried out by the office, and for which defense environmental management funds have been authorized and appropriated before the date of enactment of this Act.

(2) The term "defense environmental management funds" means funds appropriated to the Department of Energy pursuant to an authorization for carrying out environmental restoration and waste management activities necessary for national security programs.

(f) DURATION OF AUTHORITY.—The managers of the field offices of the Department may exercise the authority provided under subsection (a) during the period beginning on October 1, 1998, and ending on September 30, 1999.

Subtitle C—Program Authorizations, Restrictions, and Limitations

SEC. 3131. INTERNATIONAL COOPERATIVE STOCKPILE STEWARDSHIP.

(a) FUNDING PROHIBITION.—No funds authorized to be appropriated or otherwise available to the Department of Energy for fiscal year 1999 may be obligated or expended to conduct any activities associated with international cooperative stockpile stewardship.

(b) EXCEPTIONS.—Subsection (a) does not apply to the following:

(1) Activities conducted between the United States and the United Kingdom.

(2) Activities conducted between the United States and France.

(3) Activities carried out under title III of this Act relating to cooperative threat reduction with states of the former Soviet Union.

SEC. 3132. PROHIBITION ON USE OF FUNDS FOR BALLISTIC MISSILE DEFENSE AND THEATER MISSILE DEFENSE.

No funds authorized to be appropriated or otherwise made available to the Department of Energy by this title for fiscal year 1999 may be obligated or expended for any activities (including research, development, test, and evaluation activities, demonstration activities, or studies) relating to ballistic missile defense or theater missile defense.

SEC. 3133. LICENSING OF CERTAIN MIXED OXIDE FUEL FABRICATION AND IRRADIATION FACILITIES.

(a) LICENSE REQUIREMENT.—Notwithstanding section 110 a. of the Atomic Energy Act of 1954 (42 U.S.C. 2140(a)), no person may construct or operate a facility referred to in subsection (b) without obtaining a license from the Nuclear Regulatory Commission.

(b) COVERED FACILITIES.—(1) Except as provided in paragraph (2), subsection (a) applies to any facility under a contract with and for the account of the Department of Energy that fabricates mixed plutonium-uranium oxide nuclear reactor fuel for use in a commercial nuclear reactor.

(2) Subsection (a) does not apply to any such facility that is utilized for research, development, demonstration, testing, or analysis purposes.

(c) AVAILABILITY OF FUNDS FOR LICENSING BY NRC.—Section 210 of the Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1981 (42 U.S.C. 7272) shall not apply to any licensing activities required as a result of subsection (a).

(d) APPLICABILITY OF OCCUPATIONAL SAFETY AND HEALTH REQUIREMENTS TO ACTIVITIES UNDER LICENSE.—Any activities carried out under a license referred to in subsection (a) shall be subject to regulation under the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.).

SEC. 3134. CONTINUATION OF PROCESSING, TREATMENT, AND DISPOSITION OF LEGACY NUCLEAR MATERIALS.

The Secretary of Energy shall continue operations and maintain a high state of readiness at the F-canyon and H-canyon facilities at the Savannah River site and shall provide technical staff necessary to operate and so maintain such facilities.

SEC. 3135. AUTHORITY FOR DEPARTMENT OF ENERGY FEDERALLY FUNDED RESEARCH AND DEVELOPMENT CENTERS TO PARTICIPATE IN MERIT-BASED TECHNOLOGY RESEARCH AND DEVELOPMENT PROGRAMS.

Section 217(f)(1) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103-337; 108 Stat. 2695) is amended by inserting "or of the Department of Energy" after "the Department of Defense".

SEC. 3136. SUPPORT FOR PUBLIC EDUCATION IN THE VICINITY OF LOS ALAMOS NATIONAL LABORATORY, NEW MEXICO.

(a) AVAILABILITY OF FUNDS.—Of the funds authorized to be appropriated or otherwise made available to the Department of Energy by this title, $5,000,000 shall be available for payment by the Secretary of Energy to the educational foundation chartered to enhance educational activities in the public schools in the vicinity of Los Alamos National Laboratory, New Mexico (in this section referred to as the "Foundation").

(b) USE OF FUNDS.—(1) The Foundation shall utilize funds provided under subsection (a) as a contribution to an endowment fund for the Foundation.

(2) The Foundation shall use the income generated from investments in the endowment fund that are attributable to the payment made under subsection (a) to fund programs to support the educational needs of children in public schools in the vicinity of Los Alamos National Laboratory.

SEC. 3137. COST-SHARING FOR OPERATION OF THE HAZARDOUS MATERIALS MANAGEMENT AND EMERGENCY RESPONSE TRAINING FACILITY, RICHLAND, WASHINGTON.

The Secretary of Energy may enter into partnership arrangements with Federal and non-Federal entities to share the costs of operating the Hazardous Materials Management and Emergency Response training facility authorized under section 3140 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 3088). Such arrangements may include the exchange of equipment and services.

SEC. 3138. HANFORD HEALTH INFORMATION NETWORK.

Of the funds authorized to be appropriated or otherwise made available to the Department of Energy by section 3102, $2,500,000 shall be available for activities relating to the Hanford Health Information Network established pursuant to the authority in section 3138 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1834), as amended by section 3138(b) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 3087).

SEC. 3139. NONPROLIFERATION ACTIVITIES.

(a) Initiatives for Proliferation Prevention Program.—Of the amount authorized to be appropriated by section 3103(1)(B), $30,000,000 may be available for the Initiatives for Proliferation Prevention program.

(b) Nuclear Cities Initiative.—Of the amount authorized to be appropriated by section 3103(1)(B), $30,000,000 may be available for the purpose of implementing the initiative arising pursuant to the March 1998 discussions between the Vice President of the United States and the Prime Minister of the Russian Federation and between the Secretary of Energy of the United States and the Minister of Atomic Energy of the Russian Federation (the so-called "nuclear cities" initiative).

SEC. 3140. ACTIVITIES OF THE CONTRACTOR-OPERATED FACILITIES OF THE DEPARTMENT OF ENERGY.

(a) Research and Activities on Behalf of Non-Department Persons and Entities.—(1) The Secretary of Energy may conduct research and other activities referred to in paragraph (2) through contractor-operated facilities of the Department of Energy on behalf of other departments and agencies of the Government, agencies of State and local governments, and private persons and entities.

(2) The research and other activities that may be conducted under paragraph (1) are those which the Secretary is authorized to conduct by law, and include, but are not limited to, research and activities authorized under the following:

(A) Section 33 of the Atomic Energy Act of 1954 (42 U.S.C. 2053).

(B) Section 107 of the Energy Reorganization Act of 1974 (42 U.S.C. 5817).

(C) The Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5901 et seq.).

(b) Charges.—(1) The Secretary shall impose on the department, agency, or person or entity for whom research and other activities are carried out under subsection (a) a charge for such research and activities equal to not more than the full cost incurred by the contractor concerned in carrying out such research and activities, which cost shall include—

(A) the direct cost incurred by the contractor in carrying out such research and activities; and

(B) the overhead cost including site-wide indirect costs associated with such research and activities.

(2)(A) Subject to subparagraph (B), the Secretary shall also impose on the department, agency, or person or entity concerned a Federal administrative charge (which includes any depreciation and imputed interest charges) in an amount not to exceed 3 percent of the full cost incurred by the contractor concerned in carrying out the research and activities concerned.

(B) The Secretary may waive the imposition of the Federal administrative charge required by subparagraph (A) in the case of research and other activities conducted on behalf of small business concerns, institutions of higher education, non-profit entities, and State and local governments.

(3) Not later than 2 years after the date of enactment of this Act, the Secretary shall terminate any waiver of charges under section 33 of the Atomic Energy Act of 1954 (42 U.S.C. 2053) that were made before such date, unless the Secretary determines that such waiver should be continued.

(c) Pilot Program of Reduced Facility Overhead Charges.—(1) The Secretary may, with the cooperation of participating contractors of the contractor-operated facilities of the Department, carry out a pilot program under which the Secretary and such contractors reduce the facility overhead charges imposed under this section for research and other activities conducted under this section.

(2) The Secretary shall carry out the pilot program at contractor-operated facilities selected by the Secretary in consultation with the contractors concerned.

(3) The Secretary shall determine the facility overhead charges to be imposed under the pilot program based on their joint review of all items included in the overhead costs of the facility concerned in order to determine which items are appropriately incurred as facility overhead charges by the contractor in carrying out research and other activities at such facility under this section.

(4) The Secretary shall commence carrying out the pilot program not later than October 1, 1999, and shall terminate the pilot program on September 30, 2003.

(5) Not later than January 31, 2003, the Secretary shall submit to the congressional defense committees, the Committee on Energy and Natural Resources of the Senate, and other appropriate committees of the House of Representatives an interim report on the results of the pilot program under this subsection. The report shall include any recommendations for the extension or expansion of the pilot program, including the establishment of multiple rates of overhead charges for various categories of persons and entities seeking research and other activities in contractor-operated facilities of the Department.

(d) Partnerships and Interactions.—(1) The Secretary of Energy may encourage partnerships and interactions between each contractor-operated facility of the Department of Energy and universities and private businesses.

(2) The Secretary may take into account the progress of each contractor-operated facility of the Department in developing and expanding partnerships and interactions under paragraph (1) in evaluating the annual performance of such contractor-operated facility.

(e) Small Business Technology Partnership Program.—(1) The Secretary may require that each contractor operating a facility of the Department establish a program at such facility under which the contractor may enter into partnerships with small businesses at such facility relating to technology.

(2) The amount of funds expended by a contractor under a program under paragraph (1) at a particular facility may not exceed an amount equal to 0.25 percent of the total operating budget of the facility.

(3) Amounts expended by a contractor under a program—

(A) shall be used to cover the costs (including research and development costs and technical assistance costs) incurred by the contractor in connection with activities under the program; and

(B) may not be used for direct grants to small businesses.

(4) The Secretary shall submit to the congressional defense committees, the Committee on Energy and Natural Resources of the Senate, and the appropriate committee of the House of Representatives, together with the budget of the President for each fiscal year that is submitted to Congress under section 1105 of title 31, United States Code, an assessment of the program under this subsection during the preceding year, including the effectiveness of the program in providing opportunities for small businesses to interact with and use the resources of the contractor-operated facilities of the Department, the cost of the program to the Federal Government and any impact on the execution of the Department's mission.

SEC. 3140A. RELOCATION OF NATIONAL ATOMIC MUSEUM, ALBUQUERQUE, NEW MEXICO.

The Secretary of Energy shall submit to the Defense Committees of Congress a plan for the design, construction, and relocation of the National Atomic Museum in Albuquerque, New Mexico.

Subtitle D—Other Matters

SEC. 3141. REPEAL OF FISCAL YEAR 1998 STATEMENT OF POLICY ON STOCKPILE STEWARDSHIP PROGRAM.

Section 3156 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 2045; 42 U.S.C. 2121 note) is repealed.

SEC. 3142. INCREASE IN MAXIMUM RATE OF PAY FOR SCIENTIFIC, ENGINEERING, AND TECHNICAL PERSONNEL RESPONSIBLE FOR SAFETY AT DEFENSE NUCLEAR FACILITIES.

Section 3161(a)(2) of the National Defense Authorization Act for Fiscal Year 1995 (42 U.S.C. 7231 note) is amended by striking out "level IV of the Executive Schedule under section 5315" and inserting in lieu thereof "level III of the Executive Schedule under section 5314".

SEC. 3143. SENSE OF SENATE REGARDING TREATMENT OF FORMERLY UTILIZED SITES REMEDIAL ACTION PROGRAM UNDER A NONDEFENSE DISCRETIONARY BUDGET FUNCTION.

It is the sense of the Senate that the Office of Management and Budget should, beginning with fiscal year 2000, transfer the Formerly Utilized Sites Remedial Action Program from the 050 budget function to a nondefense discretionary budget function.

SEC. 3144. EXTENSION OF AUTHORITY FOR APPOINTMENT OF CERTAIN SCIENTIFIC, ENGINEERING, AND TECHNICAL PERSONNEL.

Section 3161(c)(1) of the National Defense Authorization Act for Fiscal Year 1995 (42 U.S.C. 7231 note) is amended by striking out "September 30, 1999" and inserting in lieu thereof "September 30, 2000".

SEC. 3145. EXTENSION OF AUTHORITY OF DEPARTMENT OF ENERGY TO PAY VOLUNTARY SEPARATION INCENTIVE PAYMENTS.

(a) EXTENSION.—Notwithstanding subsection (c)(2)(D) of section 663 of the Treasury, Postal Service, and General Government Appropriations Act, 1997 (Public Law 104-208; 110 Stat. 3009-383; 5 U.S.C. 5597 note), the Department of Energy may pay voluntary separation incentive payments to qualifying employees who voluntarily separate (whether by retirement or resignation) before January 1, 2001.

(b) EXERCISE OF AUTHORITY.—The Department shall pay voluntary separation incentive payments under subsection (a) in accordance with the provisions of such section 663.

SEC. 3146. INSPECTION OF PERMANENT RECORDS PRIOR TO DECLASSIFICATION.

Section 3155 of the National Defense Authorization Act for Fiscal Year 1996 (P.L. 104-106) is amended by inserting the following:

"(c) Agencies, including the National Archives and Records Administration, shall conduct a visual inspection of all permanent records of historical value which are 25 years old or older prior to declassification to ascertain that they contain no pages with Restricted Data (RD) or Formerly Restricted Data (FRD) markings (as defined by the Atomic Energy Act of 1954, as amended). Record collection in which marked RD or FRD is found shall be set aside pending the completion of a review by the Department of Energy.".

SEC. 3147. SENSE OF SENATE REGARDING MEMORANDA OF UNDERSTANDING WITH THE STATE OF OREGON RELATING TO HANFORD.

(a) FINDINGS.—The Senate makes the following findings:

(1) The Department of Energy and the State of Washington have entered into memoranda of understanding with the State of Oregon to provide the State of Oregon greater involvement in decisions regarding the Hanford Reservation.

(2) Hanford has an impact on the State of Oregon, and the State of Oregon has an interest in the decisions made regarding Hanford.

(3) The Department of Energy and the State of Washington are to be congratulated for entering into the memoranda of understanding with the State of Oregon regarding Hanford.

(b) SENSE OF SENATE.—It is the sense of the Senate to—

(1) encourage the Department of Energy and the State of Washington to implement the memoranda of understanding regarding Hanford in ways that result in continued involvement by the State of Oregon in decisions of concern to the State of Oregon regarding Hanford; and

(2) encourage the Department of Energy and the State of Washington to continue similar efforts to permit ongoing participation by the State of Oregon in the decisions regarding Hanford that may affect the environment or public health or safety of the citizens of the State of Oregon.

SEC. 3148. REVIEW OF CALCULATION OF OVERHEAD COSTS OF CLEANUP AT DEPARTMENT OF ENERGY SITES.

(a) REVIEW.—(1) The Comptroller General shall—

(A) carry out a review of the methods currently used by the Department of Energy for calculating overhead costs (including direct overhead costs and indirect overhead costs) associated with the cleanup of Department sites; and

(B) pursuant to the review, identify how such costs are allocated among different program and budget accounts of the Department.

(2) The review shall include the following:

(A) All activities whose costs are spread across other accounts of a Department site or of any contractor performing work at a site.

(B) Support service overhead costs, including activities or services which are paid for on a per-unit-used basis.

(C) All fees, awards, and other profit on indirect and support service overhead costs or fees that are not attributed to performance on a single project.

(D) Any portion of contractor costs for which there is no competitive bid.

(E) All computer service and information management costs that have been previously reported as overhead costs.

(F) Any other costs that the Comptroller General considers appropriate to categorize as direct or indirect overhead costs.

(b) REPORT.—Not later than January 31, 1999, the Comptroller General shall submit to Congress a report setting forth the findings of the Comptroller as a result of the review under subsection (a). The report shall include the recommendations of the Comptroller regarding means of standardizing the methods used by the Department for allocating and reporting overhead costs associated with the cleanup of Department sites.

SEC. 3149. SENSE OF THE CONGRESS ON FUNDING REQUIREMENTS FOR THE NONPROLIFERATION SCIENCE AND TECHNOLOGY ACTIVITIES OF THE DEPARTMENT OF ENERGY.

(a) FUNDING REQUIREMENTS FOR THE NONPROLIFERATION SCIENCE AND TECHNOLOGY ACTIVITIES BUDGET.—It is the sense of the Congress that for each of the fiscal years 2000 through 2008, it should be an objective of the Secretary of Energy to increase the budget for the nonproliferation science and technology activities for the fiscal year over the budget for those activities for the preceding fiscal year by a percent that is at least two percent above the rate of inflation as determined by the Office of Management and Budget.

(b) NONPROLIFERATION SCIENCE AND TECHNOLOGY ACTIVITIES DEFINED.—In this section, the term "nonproliferation science and technology activities" means activities (including program direction activities) relating to preventing and countering the proliferation of weapons of mass destruction that are funded by the Department of Energy under the following programs and projects:

(1) The Verification and Control Technology program within the Office of Nonproliferation and National Security.

(2) Projects under the "Technology and Systems Development" element of the Nuclear Safeguards and Security program within the Office of Nonproliferation and National Security.

(3) Projects relating to a national capability to assess the credibility of radiological and extortion threats, or to combat nuclear materials trafficking or terrorism, under the Emergency Management program within the Office of Nonproliferation and National Security.

(4) Projects relating to the development or integration of new technology to respond to emergencies and threats involving the presence, or possible presence, of weapons of mass destruction, radiological emergencies, and related terrorist threats, under the Office of Defense Programs.

SEC. 3150. DEADLINE FOR SELECTION OF TECHNOLOGY FOR TRITIUM PRODUCTION.

(a) DEADLINE.—The Secretary of Energy shall select a technology for the production of tritium not later than December 31, 1998.

(b) OPTIONS AVAILABLE FOR SELECTION.—Notwithstanding any provision of the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.), after the completion of the Department of Energy's evaluation of their Interagency Review on the production of tritium, the Secretary shall make the selection for tritium production consistent with the laws, regulations and procedures of the Department of Energy as stated in subsection (a).

Subtitle E—Maximum Age for New Department of Energy Nuclear Materials Couriers

SEC. 3161. MAXIMUM AGE TO ENTER NUCLEAR COURIER FORCE.

Section 3307 of title 5, United States Code, is amended as follows—

(1) by striking in subsection (a) "and (d)" and inserting in its place "(d), (e), and (f)"; and

(2) by adding the following new subsection (f) after subsection (e):

"(f) The Secretary of Energy may determine and fix the maximum age limit for an original appointment to a position as a Department of Energy nuclear materials courier, so defined by section 8331(27) of this title.

SEC. 3162. DEFINITION.

Section 8331 of title 5, United States Code, is amended by adding the following new paragraph (27) after paragraph (26):

"(27) Department of Energy nuclear materials courier means an employee of the Department of Energy or its predecessor agencies, the duties of whose position are primarily to transport, and provide armed escort and protection during transit of, nuclear weapons, nuclear weapon components, strategic quantities of special nuclear materials or other materials related to national security, including an employee who remains fully certified to engage in this activity who is transferred to a supervisory, training, or administrative position.".

SEC. 3163. AMENDING SECTION 8334(a)(1) OF TITLE 5, U.S.C.

(a) The first sentence of section 8334(a)(1) of title 5, United States Code, is amended by striking "and a firefighter", and inserting in its place "a firefighter, and a Department of Energy nuclear materials courier,".

(b) Section 8334(c) of title 5, United States Code, is amended by adding the following new schedule after the schedule for a Member of the Capitol Police:

"Department of Energy nuclear materials courier for courier service (while employed by DOE and its predecessor agencies)	5	July 1, 1942 to June 30, 1948.
		July 1, 1948 to October 31, 1956.
	6	
	6½	November 1, 1956 to December 31, 1969.
	7	January 1, 1970 to December 31, 1974.
	7½	After December 31, 1974.".

SEC. 3164. AMENDING SECTION 8336(c)(1) OF TITLE 5, U.S.C.

Section 8336(c)(1) of title 5, United States Code, is amended by striking "or firefighter" and inserting in its place, "a firefighter, or a Department of Energy nuclear materials courier,".

SEC. 3165. AMENDING SECTION 8401 OF TITLE 5, U.S.C.

Section 8401 of title 5, United States Code, is amended by adding the following new paragraph (33) after paragraph (32):

"(33) Department of Energy nuclear materials courier means an employee of the Department of Energy or its predecessor agencies, the duties of whose position are primarily to transport, and provide armed escort and protection during transit of, nuclear weapons, nuclear weapons components, strategic quantities of special nuclear materials, or other materials related to national security, including an employee who remains fully certified to engage in this activity who is transferred to a supervisory, training, or administrative position.".

SEC. 3166. AMENDING SECTION 8412(d) OF TITLE 5, U.S.C.

Section 8412(d) of title 5, United States Code, is amended by striking "or firefighter" in paragraphs (1) and (2) and inserting in its place, "a firefighter, or a Department of Energy nuclear materials courier,".

SEC. 3167. AMENDING SECTION 8415(g) OF TITLE 5, U.S.C.

Section 8415(g) of title 5, United States Code, is amended by striking "firefighter" and inserting in its place "firefighter, Department of Energy nuclear materials courier,".

SEC. 3168. AMENDING SECTION 8422(a)(3) OF TITLE 5, U.S.C.

Section 8422(a)(3) of title 5, United States Code, is amended by striking "firefighter" in the schedule and inserting in its place "firefighter, Department of Energy nuclear materials courier,".

SEC. 3169. AMENDING SECTIONS 8423(a) (1)(B)(i) AND (3)(A) OF TITLE 5, U.S.C.

Sections 8423(a)(1)(B)(i) and 8423(a)(3)(A) of title 5, United States Code, are amended by striking "Firefighters" and inserting in its place "firefighters, Department of Energy nuclear materials couriers,".

SEC. 3170. AMENDING SECTION 8335(b) OF TITLE 5, U.S.C.

Section 8335(b) of title 5, United States Code, is amended by adding the words "or Department of Energy Nuclear Materials Couriers" after the word "officer" in the second sentence.

SEC. 3171. PAYMENTS.

Any payments made by the Department of Energy to the Civil Service Retirement or Disability Fund pursuant to this Act shall be made from the Weapons Activities account.

SEC. 3172. EFFECTIVE DATE.

These amendments are effective at the beginning of the first pay period in fiscal year 2000, and applies only to those employees who retire after fiscal year 1999.

TITLE XXXII—DEFENSE NUCLEAR FACILITIES SAFETY BOARD

SEC. 3201. AUTHORIZATION.

There are authorized to be appropriated for fiscal year 1999, $17,500,000 for the operation of the Defense Nuclear Facilities Safety Board under chapter 21 of the Atomic Energy Act of 1954 (42 U.S.C. 2286 et seq.).

TITLE XXXIII—NATIONAL DEFENSE STOCKPILE

SEC. 3301. DEFINITIONS.

In this title:

(1) The term "National Defense Stockpile" means the stockpile provided for in section 4 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98c).

(2) The term "National Defense Stockpile Transaction Fund" means the fund in the Treasury of the United States established under section 9(a) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h(a)).

SEC. 3302. AUTHORIZED USES OF STOCKPILE FUNDS.

(a) OBLIGATION OF STOCKPILE FUNDS.—During fiscal year 1999, the National Defense Stockpile Manager may obligate up to $83,000,000 of the funds in the National Defense Stockpile Transaction Fund for the authorized uses of such funds under section 9(b)(2) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h(b)(2)), including the disposal of hazardous materials that are environmentally sensitive.

(b) ADDITIONAL OBLIGATIONS.—The National Defense Stockpile Manager may obligate amounts in excess of the amount specified in subsection (a) if the National Defense Stockpile Manager notifies Congress that extraordinary or emergency conditions necessitate the additional obligations. The National Defense Stockpile Manager may make the additional obligations described in the notification after the end of the 45-day period beginning on the date Congress receives the notification.

(c) LIMITATIONS.—The authorities provided by this section shall be subject to such limitations as may be provided in appropriations Acts.

SEC. 3303. AUTHORITY TO DISPOSE OF CERTAIN MATERIALS IN NATIONAL DEFENSE STOCKPILE.

(a) DISPOSAL REQUIRED.—Subject to subsection (c), the President shall dispose of materials contained in the National Defense Stockpile and specified in the table in subsection (b) so as to result in receipts to the United States in the amount of $103,000,000 by the end of fiscal year 1999 and $377,000,000 by the end of fiscal year 2003.

(b) LIMITATION ON DISPOSAL QUANTITY.—The total quantities of materials authorized for disposal by the President under subsection (a) may not exceed the amounts set forth in the following table:

Authorized Stockpile Disposals

Material for disposal	Quantity
Beryllium Metal, vacuum cast	227 short tons
Chromium Metal—EL	8,511 short tons
Columbium Carbide Powder	21,372 pounds contained
Columbium Ferro	249,395 pounds contained
Columbium Concentrates	1,733,454 pounds contained
Chromium Ferroalloy	92,000 short tons
Diamond, Stones	3,000,000 carats
Germanium Metal	28,198 kilograms
Indium	14,248 troy ounces
Palladium	1,227,831 troy ounces
Platinum	439,887 troy ounces
Tantalum Carbide Powder	22,681 pounds contained
Tantalum Metal Powder	50,000 pounds contained
Tantalum Minerals	1,751,364 pounds contained
Tantalum Oxide	122,730 pounds contained
Tungsten Ferro	2,024,143 pounds
Tungsten Carbide Powder	2,032,954 pounds
Tungsten Metal Powder	1,898,009 pounds
Tungsten Ores & Concentrates	76,358,230 pounds.

(c) MINIMIZATION OF DISRUPTION AND LOSS.—The President may not dispose of materials under subsection (a) to the extent that the disposal will result in—

(1) undue disruption of the usual markets of producers, processors, and consumers of the materials proposed for disposal; or

(2) avoidable loss to the United States.

(d) RELATIONSHIP TO OTHER DISPOSAL AUTHORITY.—The disposal authority provided in subsection (a) is new disposal authority and is in addition to, and shall not affect, any other disposal authority provided by law regarding the materials specified in such subsection.

(e) AUTHORIZATION OF SALE.—The authority provided by this section to dispose of materials contained in the National Defense Stockpile so as to result in receipts of $100,000,000 of the amount specified for fiscal year 1999 in subsection (a) by the end of that fiscal year shall be effective only to the extent provided in advance in appropriation Acts.

SEC. 3304. USE OF STOCKPILE FUNDS FOR CERTAIN ENVIRONMENTAL REMEDIATION, RESTORATION, WASTE MANAGEMENT, AND COMPLIANCE ACTIVITIES.

Section 9(b)(2) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h(b)(2)) is amended—

(1) by redesignating subparagraphs (J) and (K) as subparagraphs (K) and (L), respectively; and

(2) by inserting after subparagraph (I) the following new subparagraph (J):

"(J) Performance of environmental remediation, restoration, waste management, or compliance activities at locations of the stockpile that are required under a Federal law or are undertaken by the Government under an administrative decision or negotiated agreement.".

TITLE XXXIV—NAVAL PETROLEUM RESERVES

SEC. 3401. AUTHORIZATION OF APPROPRIATIONS.

(a) AMOUNT.—There is hereby authorized to be appropriated to the Secretary of Energy $117,000,000 for fiscal year 1999 for the purposes of carrying out—

(1) activities under chapter 641 of title 10, United States Code, relating to the naval petroleum reserves (as defined in section 7420(2) of such title); and

(2) activities necessary to terminate the administration of Naval Petroleum Reserve Numbered 1 by the Secretary after the sale of that reserve under subtitle B of title XXXIV of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 10 U.S.C. 7420 note).

(b) AVAILABILITY.—Funds appropriated pursuant to the authorization in subsection (a) shall remain available until expended.

TITLE XXXV—PANAMA CANAL COMMISSION

SEC. 3501. SHORT TITLE; REFERENCES TO PANAMA CANAL ACT OF 1979.

(a) SHORT TITLE.—This title may be cited as the "Panama Canal Commission Authorization Act for Fiscal Year 1999".

(b) REFERENCES TO PANAMA CANAL ACT OF 1979.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Panama Canal Act of 1979 (22 U.S.C. 3601 et seq.).

SEC. 3502. AUTHORIZATION OF EXPENDITURES.

(a) IN GENERAL.—Subject to subsection (b), the Panama Canal Commission is authorized to use amounts in the Panama Canal Revolving Fund to make such expenditures within the limits of funds and borrowing authority available to it in accordance with law, and to make such contracts and commitments, as may be necessary under the Panama Canal Act of 1979 (22 U.S.C. 3601 et seq.) for the operation, maintenance, improvement, and administration of the Panama Canal for fiscal year 1999.

(b) LIMITATIONS.—For fiscal year 1999, the Panama Canal Commission may expend from funds in the Panama Canal Revolving Fund not more than $90,000 for official reception and representation expenses, of which—

(1) not more than $28,000 may be used for official reception and representation expenses of the Supervisory Board of the Commission;

(2) not more than $14,000 may be used for official reception and representation expenses of the Secretary of the Commission; and

(3) not more than $48,000 may be used for official reception and representation expenses of the Administrator of the Commission.

SEC. 3503. PURCHASE OF VEHICLES.

Notwithstanding any other provision of law, the funds available to the Commission shall be available for the purchase and transportation to the Republic of Panama of passenger motor vehicles, the purchase price of which shall not exceed $23,000 per vehicle.

SEC. 3504. EXPENDITURES ONLY IN ACCORDANCE WITH TREATIES.

Expenditures authorized under this title may be made only in accordance with the Panama Canal Treaties of 1977 and any law of the United States implementing those treaties.

SEC. 3505. DONATIONS TO THE COMMISSION.

Section 1102b (22 U.S.C. 3612b) is amended by adding at the end the following new subsection:

"(f)(1) The Commission may seek and accept donations of funds, property, and services from individuals, foundations, corporations, and other private and public entities for the purpose of carrying out its promotional activities.

"(2) The Commission shall establish written guidelines setting forth the criteria to be used in determining whether the acceptance of funds, property, or services authorized by paragraph (1) would reflect unfavorably upon the ability of the Commission (or any employee of the Commission) to carry out its responsibilities or official duties in a fair and objective manner or would compromise the integrity or the appearance of the integrity of its programs or of any official in those programs.".

SEC. 3506. AGREEMENTS FOR UNITED STATES TO PROVIDE POST-TRANSFER ADMINISTRATIVE SERVICES FOR CERTAIN EMPLOYEE BENEFITS.

Section 1110 (22 U.S.C. 3620) is amended by adding at the end the following new subsection:

"(c)(1) The Secretary of State may enter into one or more agreements to provide for the United States to furnish administrative services relating to the benefits described in paragraph (2) after December 31, 1999, and to establish appropriate procedures for providing advance funding for the services.

"(2) The benefits referred to in paragraph (1) are the following:

"(A) Pension, disability, and medical benefits provided by the Panama Canal Commission pursuant to section 1245.

"(B) Compensation for work injuries covered by chapter 81 of title 5, United States Code.".

SEC. 3507. SUNSET OF UNITED STATES OVERSEAS BENEFITS JUST BEFORE TRANSFER.

(a) REPEALS.—Effective 11:59 p.m. (Eastern Standard Time), December 30, 1999, the following provisions are repealed and any right or condition of employment provided for in, or arising from, those provisions is terminated: sections 1206 (22 U.S.C. 3646), 1207 (22 U.S.C. 3647), 1217(a), (22 U.S.C. 3657(a)), and 1224(11) (22 U.S.C. 3664(11)), subparagraphs (A), (B), (F), (G), and (H) of section 1231(a)(2) (22 U.S.C. 3671(a)(2)) and section 1321(e) (22 U.S.C. 3731(e)).

(b) SAVINGS PROVISION FOR BASIC PAY.—Notwithstanding subsection (a), benefits based on basic pay, as listed in paragraphs (1), (2), (3), (5), and (6) of section 1218 of the Panama Canal Act of 1979, shall be paid as if sections 1217(a) and 1231(a)(2) (A) and (B) of that Act had been repealed effective 12:00 p.m., December 31, 1999. The exception under the preceding sentence shall not apply to any pay for hours of work performed on December 31, 1999.

(c) NONAPPLICABILITY TO AGENCIES IN PANAMA OTHER THAN PANAMA CANAL COMMISSION.—Section 1212(b)(3) (22 U.S.C. 3652(b)(3)) is amended by striking out "the Panama Canal Transition Facilitation Act of 1997" and inserting in lieu thereof "the Panama Canal Transition Facilitation Act of 1997 (subtitle B of title XXXV of Public Law 105–85; 110 Stat. 2062), or the Panama Canal Commission Authorization Act for Fiscal Year 1999".

SEC. 3508. CENTRAL EXAMINING OFFICE.

Section 1223 (22 U.S.C. 3663) is repealed.

SEC. 3509. LIABILITY FOR VESSEL ACCIDENTS.

(a) COMMISSION LIABILITY SUBJECT TO CLAIMANT INSURANCE.—(1) Section 1411(a) (22 U.S.C. 3771(a)) is amended by inserting "to section 1419(b) of this Act and" after "Subject" in the first sentence.

(2) Section 1412 (22 U.S.C. 3772) is amended by striking out "The Commission" in the first sentence and inserting in lieu thereof "Subject to section 1419(b) of this Act, the Commission".

(3) Section 1416 (22 U.S.C. 3776) is amended by striking out "A claimant" in the first sentence and inserting in lieu thereof "Subject to section 1419(b) of this Act, a claimant".

(b) LIMITATION ON LIABILITY.—Section 1419 (22 U.S.C. 3779) is amended by designating the text as subsection (a) and by adding at the end the following:

"(b) The Commission may not consider or pay any claim under section 1411 or 1412 of this Act, nor may an action for damages lie thereon, unless the claimant is covered by one or more valid policies of insurance totaling at least $1,000,000 against the injuries specified in those sections. The Commission's liability on any such claim shall be limited to damages in excess of all amounts recovered or recoverable by the claimant from its insurers. The Commission may not consider or pay any claim by an insurer or subrogee of a claimant under section 1411 or 1412 of this Act.".

SEC. 3510. PLACEMENT OF UNITED STATES CITIZENS IN POSITIONS WITH THE UNITED STATES GOVERNMENT.

Section 1232 (22 U.S.C. 3672) is amended—

(1) by striking out subsection (d);

(2) by redesignating subsection (c) as subsection (d); and

(3) by inserting after subsection (b) the following new subsection (c):

"(c)(1) Upon the request of an employee or former employee of the Panama Canal Commission described in paragraph (2), the employee shall be afforded eligibility for appointment on a noncompetitive basis to vacant positions in the competitive service of the civil service within—

"(A) an area determined by the Director of the Office of Personnel Management as being within a reasonable commuting distance of the employee's residence; or

"(B) in the case of an employee in the Republic of Panama who chooses to so designate, any Standard Federal Region designated by the employee.

"(2) Paragraph (1) applies to a person who—

"(A) is a citizen of the United States;

"(B) was an employee of the Panama Canal Commission on or after July 1, 1998; and

"(C) is in receipt of a notice of separation by reason of a reduction in force.

"(3) A person's eligibility for a noncompetitive appointment under paragraph (1) expires one year after the date of the separation of that person from employment by the Panama Canal Commission.

"(4) For the purposes of paragraph (2)(B), an employee of the dissolution office established to manage Panama Canal Commission Dissolution Fund established by section 1305 is an employee of the Panama Canal Commission.

"(5) In this subsection, the terms 'civil service' and 'competitive service' have the meanings given such terms in sections 2101(1) and 2102, respectively, of title 5, United States Code.".

SEC. 3511. PANAMA CANAL BOARD OF CONTRACT APPEALS.

(a) ESTABLISHMENT AND PAY OF BOARD.—Section 3102(a) (22 U.S.C. 3862(a)) is amended—

(1) in paragraph (1), by striking out "shall" in the first sentence and inserting in lieu thereof "may"; and

(2) by adding at the end the following new paragraph:

"(3) Compensation for members of the Board of Contract Appeals shall be established by the Commission's supervisory board. The annual compensation established for members may not exceed the rate of basic pay established for level IV of the Executive Schedule under section 5315 of title 5, United States Code. The compensation of a member may not be reduced during the member's term of office from the level established at the time of the appointment of the member.".

(b) DEADLINE FOR COMMENCEMENT OF BOARD.—Section 3102(e) (22 U.S.C. 3862(e)) is amended by striking out ", but not later than January 1, 1999".

SEC. 3512. TECHNICAL AMENDMENTS.

(a) PANAMA CANAL ACT OF 1979.—The Panama Canal Act of 1979 is amended as follows:

(1) Section 1202(c) (22 U.S.C. 3642(c)) is amended—

(A) by striking out "the day before the date of the enactment of the Panama Canal Transition Facilitation Act of 1997" and inserting in lieu thereof "November 17, 1997,";

(B) by striking out "on or after that date"; and

(C) by striking out "the day before the date of enactment" and inserting in lieu thereof "that date".

(2) Section 1212(b)(3) (22 U.S.C. 3652(b)(3)) is amended by inserting "the" after "by the head of".

(3) Section 1313 (22 U.S.C. 3723) is amended by striking out "subsection (d)" in each of subsections (a), (b), and (d) and inserting in lieu thereof "subsection (c)".

(4) Sections 1411(a) and 1412 (22 U.S.C. 3771(a), 3772) are amended by striking out "the date of the enactment of the Panama Canal Transition Facilitation Act of 1997" and inserting in lieu thereof "by November 18, 1998".

(5) Section 1416 (22 U.S.C. 3776) is amended by striking out "the date of the enactment of the Panama Canal Transition Facilitation Act of 1997" and inserting in lieu thereof "by May 17, 1998".

(b) PUBLIC LAW 104-201.—Effective as of September 23, 1996, and as if included therein as enacted, section 3548(b)(3) of the Panama Canal Act Amendments of 1996 (subtitle B of title XXXV of Public Law 104-201; 110 Stat. 2869) is amended by striking out "section" in both items of quoted matter and inserting in lieu thereof "sections".

SEC. 3513. OFFICER OF THE DEPARTMENT OF DEFENSE DESIGNATED AS A MEMBER OF THE PANAMA CANAL COMMISSION SUPERVISORY BOARD.

(a) AUTHORITY.—Section 1102(a) (22 U.S.C. 3612(a)) is amended—

(1) by striking out the first sentence and inserting in lieu thereof the following: "The Commission shall be supervised by a Board composed of nine members. An officer of the Department of Defense designated by the Secretary of Defense shall be one of the members of the Board."; and

(2) in the last sentence, by striking out "Secretary of Defense or a designee of the Secretary of Defense" and inserting in lieu thereof "the officer of the Department of Defense designated by the Secretary of Defense to be a member of the Board".

(b) REPEAL OF SUPERSEDED PROVISION.—Section 302 of Public Law 105-18 (111 Stat. 168) is repealed.

TITLE XXXVI—COMMERCIAL ACTIVITIES OF PEOPLE'S LIBERATION ARMY

SEC. 3601. APPLICATION OF AUTHORITIES UNDER THE INTERNATIONAL EMERGENCY ECONOMIC POWERS ACT TO CHINESE MILITARY COMPANIES.

(a) DETERMINATION OF COMMUNIST CHINESE MILITARY COMPANIES.—

(1) IN GENERAL.—Subject to paragraphs (2) and (3), not later than 90 days after the date of the enactment of this Act, the Secretary of Defense, in consultation with the Attorney General, the Director of Central Intelligence, and the Director of the Federal Bureau of Investigation, shall compile a list of persons who are Communist Chinese military companies and who are operating directly or indirectly in the United States or any of its territories and possessions, and shall publish the list of such persons in the Federal Register. On an ongoing basis, the Secretary of Defense, in consultation with the Attorney General, the Director of Central Intelligence, and the Director of the Federal Bureau of Investigation, shall make additions or deletions to the list based on the latest information available.

(2) COMMUNIST CHINESE MILITARY COMPANY.—For purposes of making the determination required by paragraph (1), the term "Communist Chinese military company"—

(A) means a person that is—

(i) engaged in providing commercial services, manufacturing, producing, or exporting, and

(ii) owned or controlled by the People's Liberation Army, and

(B) includes, but is not limited to, any person identified in the United States Defense Intelligence Agency publication numbered VP-1920-271-90, dated September 1990, or PC-1921-57-95, dated October 1995, and any update of such reports for the purposes of this title.

(b) PRESIDENTIAL AUTHORITY.—

(1) AUTHORITY.—The President may exercise the authorities set forth in section 203(a) of the International Emergency Economic Powers Act (50 U.S.C. 1702(a)) with respect to any commercial activity in the United States by a Communist Chinese military company (except with respect to authorities relating to importation), without regard to section 202 of that Act.

(2) PENALTIES.—The penalties set forth in section 206 of the International Emergency Economic Powers Act (50 U.S.C. 1705) shall apply to violations of any license, order, or regulation issued under paragraph (1).

SEC. 3602. DEFINITION.

For purposes of this title, the term "People's Liberation Army" means the land, naval, and air military services, the police, and the intelligence services of the Communist Government of the People's Republic of China, and any member of any such service or of such police.

TITLE XXXVII—FORCED OR INDENTURED LABOR

SEC. 3701. FINDINGS.

Congress makes the following findings:

(1) The United States Customs Service has identified goods, wares, articles, and merchandise mined, produced, or manufactured under conditions of convict labor, forced labor, or indentured labor, in several countries.

(2) The United States Customs Service has made limited attempts to prohibit the import of products made with forced labor, resulting in only a few seizures, detention orders, fines, and criminal prosecutions.

(3) The United States Customs Service has taken 21 formal administrative actions in the form of detention orders against different products destined for the United States market, found to have been made with forced labor, including products from the People's Republic of China.

(4) However, the United States Customs Service has never formally investigated or pursued enforcement with respect to attempts to import products made with forced or indentured child labor.

(5) The United States Customs Service can use additional resources and tools to obtain the timely and in-depth verification necessary to identify and interdict products made with forced labor or indentured labor, including forced or indentured child labor, that are destined for the United States market.

(6) The International Labor Organization estimates that approximately 250,000,000 children between the ages of 5 and 14 are working in developing countries, including millions of children in bondage or otherwise forced to work for little or no pay.

(7) Congress has clearly indicated in Public Law 105-61, Treasury-Postal Service Appropriations, 1998, that forced or indentured child labor constitutes forced labor under section 307 of the Tariff Act of 1930 (19 U.S.C. 1307).

SEC. 3702. AUTHORIZATION FOR ADDITIONAL CUSTOMS PERSONNEL TO MONITOR THE IMPORTATION OF PRODUCTS MADE WITH FORCED OR INDENTURED LABOR.

There are authorized to be appropriated $2,000,000 for fiscal year 1999 to the United States Customs Service to monitor the importation of products made with forced labor or indentured labor, including forced or indentured child labor, the importation of which violates section 307 of the Tariff Act of 1930 or section 1761 of title 18, United States Code.

SEC. 3703. REPORTING REQUIREMENT ON FORCED LABOR OR INDENTURED LABOR PRODUCTS DESTINED FOR THE UNITED STATES MARKET.

(a) REPORT TO CONGRESS.—Not later than 1 year after the date of enactment of this Act, the Commissioner of Customs shall prepare and transmit to Congress a report on products made with forced labor or indentured labor, including forced or indentured child labor that are destined for the United States market.

(b) CONTENTS OF REPORT.—The report under subsection (a) shall include information concerning the following:

(1) The extent of the use of forced labor or indentured labor, including forced or indentured child labor in manufacturing or mining products destined for the United States market.

(2) The volume of products made or mined with forced labor or indentured labor, including forced or indentured child labor that is—

(A) destined for the United States market,

(B) in violation of section 307 of the Tariff Act of 1930 or section 1761 of title 18, United States Code, and

(C) seized by the United States Customs Service.

(3) The progress of the United States Customs Service in identifying and interdicting products made with forced labor or indentured labor, including forced or indentured child labor that are destined for the United States market.

SEC. 3704. RENEGOTIATING MEMORANDA OF UNDERSTANDING ON FORCED LABOR.

It is the sense of Congress that the President should determine whether any country with which the United States has a memorandum of understanding with respect to reciprocal trade that involves goods made with forced labor or indentured labor, including forced or indentured child labor is frustrating implementation of the memorandum. If an affirmative determination be made, the President should immediately commence negotiations to replace the current memorandum of understanding with one providing for effective procedures for the monitoring of forced labor or indentured labor, including forced or indentured child labor. The memorandum of understanding should include improved procedures for requesting investigations of suspected work sites by international monitors.

SEC. 3705. DEFINITION OF FORCED LABOR.

(a) DEFINITION.—In this Act, the term "forced labor" means convict labor, forced labor, or indentured labor, as such terms are used in section 307 of the Tariff Act of 1930. The term includes forced or indentured child labor—

(1) that is exacted from any person under 15 years of age, either in payment for the

debts of a parent, relative, or guardian, or drawn under false pretexts; and

(2) with respect to which such person is confined against the person's will.

(b) Amendment to Tariff Act of 1930.—Section 307 of the Tariff Act of 1930 (19 U.S.C. 1307) is amended by adding at the end the following new paragraph:

"For purposes of this section, forced or indentured labor includes forced or indentured child labor.".

TITLE XXXVIII—FAIR TRADE IN AUTOMOTIVE PARTS

SEC. 3801. SHORT TITLE.

This title may be cited as the "Fair Trade in Automotive Parts Act of 1998".

SEC. 3802. DEFINITIONS.

In this title:

(1) Japanese markets.—The term "Japanese markets" refers to markets, including markets in the United States and Japan, where automotive parts and accessories, both original equipment and aftermarket, are purchased for use in the manufacture or repair of Japanese automobiles.

(2) Japanese and other Asian markets.—The term "Japanese and other Asian markets" refers to markets, including markets in the United States, Japan, and other Asian countries, where automotive parts and accessories, both original equipment and aftermarket, are purchased for use in the manufacture or repair of Japanese, American, or other Asian automobiles.

SEC. 3803. RE-ESTABLISHMENT OF INITIATIVE ON AUTOMOTIVE PARTS SALES TO JAPAN.

(a) In General.—The Secretary of Commerce shall re-establish the initiative to increase the sale of United States made automotive parts and accessories to Japanese markets.

(b) Functions.—In carrying out this section, the Secretary shall—

(1) foster increased access for United States made automotive parts and accessories to Japanese companies, including specific consultations on access to Japanese markets;

(2) facilitate the exchange of information between United States automotive parts manufacturers and the Japanese automobile industry;

(3) collect data and market information on the Japanese automotive industry regarding needs, trends, and procurement practices, including the types, volume, and frequency of parts sales to Japanese automobile manufacturers;

(4) establish contacts with Japanese automobile manufacturers in order to facilitate contact between United States automotive parts manufacturers and Japanese automobile manufacturers;

(5) report on and attempt to resolve disputes, policies or practices, whether public or private, that result in barriers to increased commerce between United States automotive parts manufacturers and Japanese automobile manufacturers;

(6) take actions to initiate periodic consultations with officials of the Government of Japan regarding sales of United States-made automotive parts in Japanese markets; and

(7) transmit to Congress the annual report prepared by the Special Advisory Committee under section 3804(c)(5).

SEC. 3804. ESTABLISHMENT OF SPECIAL ADVISORY COMMITTEE ON AUTOMOTIVE PARTS SALES IN JAPANESE AND OTHER ASIAN MARKETS.

(a) In General.—The Secretary of Commerce shall seek the advice of the United States automotive parts industry in carrying out this title.

(b) Establishment of Committee.—The Secretary of Commerce shall establish a Special Advisory Committee for purposes of carrying out this title.

(c) Functions.—The Special Advisory Committee established under subsection (b) shall—

(1) report to the Secretary of Commerce on barriers to sales of United States-made automotive parts and accessories in Japanese and other Asian markets;

(2) review and consider data collected on sales of United States-made automotive parts and accessories in Japanese and other Asian markets;

(3) advise the Secretary of Commerce during consultations with other governments on issues concerning sales of United States-made automotive parts in Japanese and other Asian markets;

(4) assist in establishing priorities for the initiative established under section 3803, and otherwise provide assistance and direction to the Secretary of Commerce in carrying out the intent of that section; and

(5) assist the Secretary in reporting to Congress by submitting an annual written report to the Secretary on the sale of United States-made automotive parts in Japanese and other Asian markets, as well as any other issues with respect to which the Committee provides advice pursuant to this title.

(d) Authority.—The Secretary of Commerce shall draw on existing budget authority in carrying out this title.

SEC. 3805. EXPIRATION DATE.

The authority under this title shall expire on December 31, 2003.

TITLE XXXIX—RADIO FREE ASIA

SEC. 3901. SHORT TITLE.

This title may be cited as the "Radio Free Asia Act of 1998".

SEC. 3902. FINDINGS.

The Congress makes the following findings:

(1) The Government of the People's Republic of China systematically controls the flow of information to the Chinese people.

(2) The Government of the People's Republic of China demonstrated that maintaining its monopoly on political power is a higher priority than economic development by announcing in January 1996 that its official news agency, Xinhua, will supervise wire services selling economic information, including Dow Jones-Telerate, Bloomberg, and Reuters Business, and in announcing in February 1996 the "Interim Internet Management Rules", which have the effect of censoring computer networks.

(3) Under the May 30, 1997, order of Premier Li Peng, all organizations that engage in business activities related to international computer networking must now apply for a license, increasing still further government control over access to the Internet.

(4) Both Radio Free Asia and the Voice of America, as a surrogate for a free press in the People's Republic of China, provide an invaluable source of uncensored information to the Chinese people, including objective and authoritative news of in-country and regional events, as well as accurate news about the United States and its policies.

(5) Enhanced broadcasting service to China and Tibet can efficiently be established through a combination of Radio Free Asia and Voice of America programming.

(6) Radio Free Asia and Voice of America, in working toward continuously broadcasting to the People's Republic of China in multiple languages, have the capability to establish 24-hour-a-day Mandarin broadcasting to that nation by staggering the hours of Radio Free Asia and Voice of America.

(7) Simultaneous broadcastings on Voice of America radio and Worldnet television 7 days a week in Mandarin are also important and needed capabilities.

SEC. 3903. AUTHORIZATION OF APPROPRIATIONS FOR INCREASED FUNDING FOR RADIO FREE ASIA AND VOICE OF AMERICA BROADCASTING TO CHINA.

(a) Authorization of Appropriations for Radio Free Asia.—

(1) Authorization of appropriations.—There are authorized to be appropriated for "Radio Free Asia" $30,000,000 for fiscal year 1998 and $22,000,000 for fiscal year 1999.

(2) Limitations.—Of the funds under paragraph (1) authorized to be appropriated for fiscal year 1998, $8,000,000 is authorized to be appropriated for one-time capital costs.

(3) Sense of congress.—It is the sense of Congress that of the funds under paragraph (1), a significant amount shall be directed towards broadcasting to China and Tibet in the appropriate languages and dialects.

(b) Authorization of Appropriations for International Broadcasting to China.—In addition to such sums as are otherwise authorized to be appropriated for "International Broadcasting Activities" for fiscal years 1998 and 1999, there are authorized to be appropriated for "International Broadcasting Activities" $5,000,000 for fiscal year 1998 and $3,000,000 for fiscal year 1999, which shall be available only for enhanced Voice of America broadcasting to China. Of the funds authorized under this subsection $100,000 is authorized to be appropriated for each of the fiscal years 1998 and 1999 for additional personnel to staff Hmong language broadcasting.

(c) Authorization of Appropriations for Radio Construction.—In addition to such sums as are otherwise authorized to be appropriated for "Radio Construction" for fiscal years 1998 and 1999, there are authorized to be appropriated for "Radio Construction" $10,000,000 for fiscal year 1998 and $2,000,000 for fiscal year 1999, which shall be available only for construction in support of enhanced broadcasting to China, including the timely augmentation of transmitters at Tinian, the Commonwealth of the Northern Mariana Islands.

SEC. 3904. REPORTING REQUIREMENT.

(a) Report.—Not later than 90 days after the date of enactment of this Act, the Broadcasting Board of Governors shall prepare and submit to the appropriate congressional committees an assessment of the board's efforts to increase broadcasting by Radio Free Asia and Voice of America to China and Tibet. This report shall include an analysis of Chinese government control of the media, the ability of independent journalists and news organizations to operate in China, and the results of any research conducted to quantify listenership.

(b) Purposes.—For purposes of this section, appropriate congressional committees are defined as the Senate Committees on Foreign Relations and Appropriations and the House Committees on International Relations and Appropriations.

MILITARY CONSTRUCTION AUTHORIZATION ACT FOR FISCAL YEAR 1999

The Military Construction Authorization Act for Fiscal Year 1999 (S.

2059), passed by the Senate on June 25, 1998, is as follows:

S. 2059

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Military Construction Authorization Act for Fiscal Year 1999".

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.
Sec. 3. Congressional defense committees defined.

TITLE XXI—ARMY

Sec. 2101. Authorized Army construction and land acquisition projects.
Sec. 2102. Family housing.
Sec. 2103. Improvements to military family housing units.
Sec. 2104. Authorization of appropriations, Army.
Sec. 2105. Modification of authority to carry out fiscal year 1998 project.

TITLE XXII—NAVY

Sec. 2201. Authorized Navy construction and land acquisition projects.
Sec. 2202. Family housing.
Sec. 2203. Improvements to military family housing units.
Sec. 2204. Authorization of appropriations, Navy.

TITLE XXIII—AIR FORCE

Sec. 2301. Authorized Air Force construction and land acquisition projects.
Sec. 2302. Family housing.
Sec. 2303. Improvements to military family housing units.
Sec. 2304. Authorization of appropriations, Air Force.

TITLE XXIV—DEFENSE AGENCIES

Sec. 2401. Authorized Defense Agencies construction and land acquisition projects.
Sec. 2402. Improvements to military family housing units.
Sec. 2403. Energy conservation projects.
Sec. 2404. Authorization of appropriations, Defense Agencies.
Sec. 2405. Modification of authority to carry out certain fiscal year 1995 projects.
Sec. 2406. Modification of authority to carry out fiscal year 1990 project.

TITLE XXV—NORTH ATLANTIC TREATY ORGANIZATION SECURITY INVESTMENT PROGRAM

Sec. 2501. Authorized NATO construction and land acquisition projects.
Sec. 2502. Authorization of appropriations, NATO.

TITLE XXVI—GUARD AND RESERVE FORCES FACILITIES

Sec. 2601. Authorized Guard and Reserve construction and land acquisition projects.
Sec. 2602. Reduction in fiscal year 1998 authorization of appropriations for Army Reserve military construction.
Sec. 2603. National Guard Military Educational Facility, Fort Bragg, North Carolina.

TITLE XXVII—EXPIRATION AND EXTENSION OF AUTHORIZATIONS

Sec. 2701. Expiration of authorizations and amounts required to be specified by law.
Sec. 2702. Extension of authorizations of certain fiscal year 1996 projects.
Sec. 2703. Extension of authorization of fiscal year 1995 project.
Sec. 2704. Authorization of additional military construction and military family housing projects.
Sec. 2705. Effective date.

TITLE XXVIII—GENERAL PROVISIONS

Subtitle A—Military Construction Program and Military Family Housing Changes

Sec. 2801. Modification of authority relating to architectural and engineering services and construction design.
Sec. 2802. Expansion of Army overseas family housing lease authority.

Subtitle B—Real Property and Facilities Administration

Sec. 2811. Increase in thresholds for reporting requirements relating to real property transactions.
Sec. 2812. Exceptions to real property transaction reporting requirements for war and certain emergency and other operations.
Sec. 2813. Waiver of applicability of property disposal laws to leases at installations to be closed or realigned under the base closure laws.
Sec. 2814. Restoration of Department of Defense lands used by another Federal agency.

Subtitle C—Land Conveyances

Sec. 2821. Land conveyance, Indiana Army Ammunition Plant, Charlestown, Indiana.
Sec. 2822. Land conveyance, Army Reserve Center, Bridgton, Maine.
Sec. 2823. Land conveyance, Volunteer Army Ammunition Plant, Chattanooga, Tennessee.
Sec. 2824. Release of interests in real property, former Kennebec Arsenal, Augusta, Maine.
Sec. 2825. Land exchange, Naval Reserve Readiness Center, Portland, Maine.
Sec. 2826. Land conveyance, Air Force Station, Lake Charles, Louisiana.
Sec. 2827. Expansion of land conveyance authority, Eglin Air Force Base, Florida.
Sec. 2828. Conveyance of water rights and related interests, Rocky Mountain Arsenal, Colorado, for purposes of acquisition of perpetual contracts for water.
Sec. 2829. Land conveyance, Naval Air Reserve Center, Minneapolis, Minnesota.
Sec. 2830. Land conveyance, Army Reserve Center, Peoria, Illinois.
Sec. 2830A. Land conveyance, Skaneateles, New York.
Sec. 2830B. Reauthorization of land conveyance, Army Reserve Center, Youngstown, Ohio.
Sec. 2830C. Conveyance of utility systems, Lone Star Army Ammunition Plant, Texas.
Sec. 2830D. Modification of land conveyance authority, Finley Air Force Station, Finley, North Dakota.

Subtitle D—Other Matters

Sec. 2831. Purchase of build-to-lease family housing at Eielson Air Force Base, Alaska.
Sec. 2832. Beach replenishment, San Diego, California.
Sec. 2833. Modification of authority relating to Department of Defense Laboratory Revitalization Demonstration Program.
Sec. 2834. Report and requirement relating to "1 plus 1 barracks initiative".
Sec. 2835. Development of Ford Island, Hawaii.
Sec. 2836. Report on leasing and other alternative uses of non-excess military property.
Sec. 2837. Emergency repairs and stabilization measures, Forest Glen Annex of Walter Reed Army Medical Center, Maryland.

Subtitle E—Base Closures

Sec. 2851. Modification of limitations on general authority relating to base closures and realignments.
Sec. 2852. Prohibition on closure of a base within four years after a realignment of the base.
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TITLE XXIX—JUNIPER BUTTE RANGE WITHDRAWAL

Sec. 2901. Short title.
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Sec. 2910. Memorandum of understanding.
Sec. 2911. Maintenance of roads.
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Sec. 2913. Hunting, fishing, and trapping.
Sec. 2914. Water rights.
Sec. 2915. Duration of withdrawal.
Sec. 2916. Environmental remediation of relinquished withdrawn lands or upon termination of withdrawal.
Sec. 2917. Delegation of authority.
Sec. 2918. Sense of Senate regarding monitoring of withdrawn lands.
Sec. 2919. Authorization of appropriations.

SEC. 3. CONGRESSIONAL DEFENSE COMMITTEES DEFINED.

For purposes of this Act, the term "congressional defense committees" means—

(1) the Committee on Armed Services and the Committee on Appropriations of the Senate; and

(2) the Committee on National Security and the Committee on Appropriations of the House of Representatives.

TITLE XXI—ARMY

SEC. 2101. AUTHORIZED ARMY CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(1), the Secretary of the Army may acquire real property and carry out military construction projects for the installations and locations inside the United States, and in the amounts, set forth in the following table:

Army: Inside the United States

State	Installation or location	Amount
Alabama	Anniston Army Depot	$3,550,000
	Fort Rucker	$10,000,000
Alaska	Fort Wainwright	$22,600,000
California	Fort Irwin	$7,000,000
Georgia	Fort Benning	$28,600,000
	Fort Stewart	$17,000,000
Hawaii	Schofield Barracks	$67,500,000
Illinois	Rock Island Arsenal	$5,300,000
Indiana	Crane Army Ammunition Activity	$7,100,000
Kentucky	Bluegrass Army Depot	$5,300,000
	Fort Campbell	$41,000,000
Louisiana	Fort Polk	$8,300,000
Maryland	Fort Detrick	$3,550,000
	Fort Meade	$5,300,000
Missouri	Fort Leonard Wood	$5,200,000
New York	Fort Drum	$4,650,000
	United States Military Academy, West Point	$85,000,000
North Carolina	Fort Bragg	$85,300,000
Oklahoma	Fort Sill	$13,800,000
	McAlester Army Ammunition Plant	$10,800,000
Texas	Fort Bliss	$4,100,000
	Fort Hood	$32,500,000
	Fort Sam Houston	$21,800,000
Utah	Tooele Army Depot	$3,900,000
Virginia	Charlottesville	$46,200,000
	Fort Eustis	$36,531,000
Washington	Fort Lewis	$18,200,000
CONUS Classified	Classified Locations	$4,600,000
	Total:	$604,681,000

(b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(2), the Secretary of the Army may acquire real property and carry out military construction projects for the locations outside the United States, and in the amounts, set forth in the following table:

Army: Outside the United States

Country	Installation or location	Amount
Belgium	80th Area Support Group	$6,300,000
Germany	Schweinfurt	$18,000,000
	Wuerzburg	$4,250,000
Korea	Camp Casey	$13,400,000
	Camp Castle	$18,226,000
	Camp Humphreys	$8,500,000
	Camp Stanley	$5,800,000
Kwajalein	Kwajalein Atoll	$48,600,000
	Total:	$123,076,000

SEC. 2102. FAMILY HOUSING.

(a) CONSTRUCTION AND ACQUISITION.—Using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(5)(A), the Secretary of the Army may construct or acquire family housing units (including land acquisition) at the installations, for the purposes, and in the amounts set forth in the following table:

Army: Family Housing

State	Installation or location	Purpose	Amount
Alabama	Redstone Arsenal	118 Units	$14,000,000
Hawaii	Schofield Barracks	64 Units	$14,700,000
North Carolina	Fort Bragg	170 Units	$19,800,000
Texas	Fort Hood	154 Units	$21,600,000
		Total:	$70,100,000

(b) PLANNING AND DESIGN.—Using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(5)(A), the Secretary of the Army may carry out architectural and engineering services and construction design activities with respect to the construction or improvement of family housing units in an amount not to exceed $7,490,000.

SEC. 2103. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.

Subject to section 2825 of title 10, United States Code, and using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(5)(A), the Secretary of the Army may improve existing military family housing units in an amount not to exceed $46,029,000.

SEC. 2104. AUTHORIZATION OF APPROPRIATIONS, ARMY.

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1998, for military construction, land acquisition, and military family housing functions of the Department of the Army in the total amount of $1,983,304,000 as follows:

(1) For military construction projects inside the United States authorized by section 2101(a), $516,681,000.

(2) For military construction projects outside the United States authorized by section 2101(b), $87,076,000.

(3) For unspecified minor construction projects authorized by section 2805 of title 10, United States Code, $10,000,000.

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $65,295,000.

(5) For military family housing functions:

(A) For construction and acquisition, planning and design, and improvement of military family housing and facilities, $123,619,000.

(B) For support of military family housing (including the functions described in section 2833 of title 10, United States Code), $1,104,733,000.

(6) For the Homeowners Assistance Program as authorized by section 2832 of title 10, United States Code, $12,800,000.

(7) For the construction of the missile software engineering annex, phase II, Redstone Arsenal, Alabama, authorized by section

2101(a) of the Military Construction Authorization Act for Fiscal Year 1998 (division B of Public Law 105–85; 111 Stat. 1966), $13,600,000.

(8) For the construction of a disciplinary barracks, phase II, Fort Leavenworth, Kansas, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal Year 1998, $29,000,000.

(9) For the construction of the whole barracks complex renewal, Fort Sill, Oklahoma, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal Year 1998, $20,500,000.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2101 of this Act may not exceed—

(1) the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a);

(2) $73,000,000 (the balance of the amount authorized to be appropriated under section 2101(a) of this Act for the construction of the Cadet Physical Development project at the United States Military Academy, West Point, New York);

(3) $15,000,000 (the balance of the amount authorized to be appropriated under section 2101(a) of this Act for the construction of a rail head facility at Fort Hood, Texas); and

(4) $36,000,000 (the balance of the amount authorized to be appropriated under section 2101(b) of this Act for the construction of a power plant on Roi Namur Island, Kwajalein Atoll).

(c) ADJUSTMENT.—The total amount authorized to be appropriated pursuant to paragraphs (1) through (5) of subsection (a) is the sum of the amounts authorized to be appropriated in such paragraphs reduced by $1,639,000, which represents the combination of project savings in military construction resulting from favorable bids, reduced overhead costs, and cancellations due to force structure changes.

(d) AVAILABILITY OF CERTAIN FUNDS.—Notwithstanding section 2701 or any other provision of law, the amounts appropriated pursuant to the authorization of appropriations in subsection (a)(6) shall remain available until expended.

SEC. 2105. MODIFICATION OF AUTHORITY TO CARRY OUT FISCAL YEAR 1998 PROJECT.

The table in section 2101(a) of the Military Construction Authorization Act for Fiscal Year 1998 (division B of Public Law 105–85; 111 Stat. 1967) is amended in the item relating to Fort Sill, Oklahoma, by striking out "$25,000,000" in the amount column and inserting in lieu thereof "$28,500,000".

(b) CONFORMING AMENDMENTS.—(1) The table in section 2101(a) of that Act is amended in the item relating to the total by striking out "$598,750,000" in the amount column and inserting in lieu thereof "$602,250,000".

(2) Section 2104 of that Act (111 Stat. 1968) is amended—

(A) in the matter preceding paragraph (1), by striking out "$2,010,466,000" and inserting in lieu thereof "$2,013,966,000"; and

(B) in paragraph (1), by striking out "$435,350,000" and inserting in lieu thereof "$438,850,000".

TITLE XXII—NAVY

SEC. 2201. AUTHORIZED NAVY CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(1), the Secretary of the Navy may acquire real property and carry out military construction projects for the installations and locations inside the United States, and in the amounts, set forth in the following table:

Navy: Inside the United States

State	Installation or location	Amount
Arizona	Marine Corps Air Station, Yuma	$11,010,000
	Naval Observatory Detachment, Flagstaff	$990,000
California	Marine Corps Air Station, Miramar	$29,570,000
	Marine Corps Base, Camp Pendleton	$28,240,000
	Naval Air Station, Lemoore	$20,640,000
	Naval Air Warfare Center Weapons Division, China Lake	$3,240,000
	Naval Facility, San Clemente Island	$8,350,000
	Naval Submarine Base, San Diego	$11,400,000
Connecticut	Naval Submarine Base, New London	$12,510,000
District of Columbia	Naval District, Washington	$790,000
Florida	Naval Air Station, Key West	$3,730,000
	Naval Air Station, Whiting Field	$1,400,000
Georgia	Naval Submarine Base, Kings Bay	$2,550,000
Hawaii	Marine Corps Air Station, Kaneohe Bay	$27,410,000
	Marine Corps Base, Hawaii	$23,570,000
	Naval Communications & Telecommunications Area Master Station Eastern Pacific, Wahiawa	$1,970,000
	Naval Shipyard, Pearl Harbor	$11,400,000
	Naval Submarine Base, Pearl Harbor	$8,060,000
	Navy Public Works Center, Pearl Harbor	$28,967,000
	Fleet and Industrial Supply Center, Pearl Harbor	$9,730,000
	Naval Station, Pearl Harbor	$18,180,000
Illinois	Naval Training Center, Great Lakes	$5,750,000
	Naval Training Center, Great Lakes	$7,410,000
Maryland	Naval Surface Warfare Center, Indian Head Division, Indian Head	$6,680,000
	United States Naval Academy	$4,300,000
Mississippi	Naval Construction Battalion Center, Gulfport	$10,670,000
North Carolina	Marine Corps Air Station, Cherry Point	$6,040,000
	Marine Corps Base, Camp LeJeune	$30,300,000
Rhode Island	Naval Education and Training Center, Newport	$5,630,000
	Naval Undersea Warfare Center Division, Newport	$9,140,000
South Carolina	Marine Corps Air Station, Beaufort	$1,770,000
	Marine Corps Recruit Depot, Parris Island	$7,960,000
	Naval Weapons Station, Charleston	$9,737,000
Virginia	Fleet and Industrial Supply Center, Norfolk (Craney Island)	$1,770,000
	Fleet Training Center, Norfolk	$5,700,000
	Naval Shipyard, Norfolk, Portsmouth	$6,180,000
	Naval Station, Norfolk	$45,530,000
	Naval Surface Warfare Center, Dahlgren	$5,130,000
	Tactical Training Group Atlantic, Dam Neck	$2,430,000
Washington	Strategic Weapons Facility Pacific, Bremerton	$2,750,000
	Naval Shipyard, Puget Sound, Bremerton	$4,300,000
	Total	$442,884,000

(b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(2), the Secretary of the Navy may acquire real property and carry out military construction projects for the installations and locations outside the United States, and in the amounts, set forth in the following table:

Navy: Outside the United States

Country	Installation or location	Amount
Greece	Naval Support Activity, Souda Bay	$5,260,000
Guam	Naval Activities, Guam	$10,310,000

Navy: Outside the United States—Continued

Country	Installation or location	Amount
Italy	Naval Support Activity, Naples	$18,270,000
United Kingdom	Joint Maritime Communications Center, St. Mawgan	$2,010,000
	Total:	$35,850,000

SEC. 2202. FAMILY HOUSING.

(a) CONSTRUCTION AND ACQUISITION.—Using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(5)(A), the Secretary of the Navy may construct or acquire family housing units (including land acquisition) at the installations, for the purposes, and in the amounts set forth in the following table:

Navy: Family Housing

State	Installation or location	Purpose	Amount
California	Naval Air Station, Lemoore	162 Units	$30,379,000
Hawaii	Navy Public Works Center, Pearl Harbor	150 Units	$29,125,000
		Total:	$59,504,000

(b) PLANNING AND DESIGN.—Using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(5)(A), the Secretary of the Navy may carry out architectural and engineering services and construction design activities with respect to the construction or improvement of military family housing units in an amount not to exceed $15,618,000.

SEC. 2203. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.

Subject to section 2825 of title 10, United States Code, and using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(5)(A), the Secretary of the Navy may improve existing military family housing units in an amount not to exceed $211,991,000.

SEC. 2204. AUTHORIZATION OF APPROPRIATIONS, NAVY.

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1998, for military construction, land acquisition, and military family housing functions of the Department of the Navy in the total amount of $1,737,021,000 as follows:

(1) For military construction projects inside the United States authorized by section 2201(a), $429,384,000.

(2) For military construction projects outside the United States authorized by section 2201(b), $35,850,000.

(3) For unspecified minor construction projects authorized by section 2805 of title 10, United States Code, $8,900,000.

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $60,481,000.

(5) For military family housing functions:

(A) For construction and acquisition, planning and design, and improvement of military family housing and facilities, $287,113,000.

(B) For support of military housing (including functions described in section 2833 of title 10, United States Code), $915,293,000.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2201 of this Act may not exceed—

(1) the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a); and

(2) $13,500,000 (the balance of the amount authorized under section 2201(a) of this Act for the construction of a berthing pier at Naval Station, Norfolk, Virginia).

(c) ADJUSTMENT.—The total amount authorized to be appropriated pursuant to paragraphs (1) through (5) of subsection (a) is the sum of the amounts authorized to be appropriated in such paragraphs reduced by $6,323,000, which represents the combination of project savings in military construction resulting from favorable bids, reduced overhead costs, and cancellations due to force structure changes.

TITLE XXIII—AIR FORCE

SEC. 2301. AUTHORIZED AIR FORCE CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(1), the Secretary of the Air Force may acquire real property and carry out military construction projects for the installations and locations inside the United States, and in the amounts, set forth in the following table:

Air Force: Inside the United States

State	Installation or location	Amount
Alabama	Maxwell Air Force Base	$19,398,000
Alaska	Eielson Air Force Base	$10,552,000
Arkansas	Little Rock Air Force Base	$1,500,000
California	Edwards Air Force Base	$10,361,000
	Travis Air Force Base	$4,250,000
	Vandenberg Air Force Base	$18,709,000
Colorado	Falcon Air Force Station	$9,601,000
	United States Air Force Academy	$4,413,000
Delaware	Dover Air Force Base	$1,600,000
District of Columbia	Bolling Air Force Base	$2,948,000
Florida	Eglin Air Force Base	$20,437,000
	Eglin Auxiliary Field 9	$3,837,000
	MacDill Air Force Base	$5,008,000
Georgia	Robins Air Force Base	$11,894,000
Hawaii	Hickam Air Force Base	$5,890,000
Idaho	Mountain Home Air Force Base	$17,897,000
Kansas	McConnell Air Force Base	$2,900,000
Maryland	Andrews Air Force Base	$4,448,000
Massachusetts	Hanscom Air Force Base	$10,000,000
Mississippi	Keesler Air Force Base	$35,526,000
	Columbus Air Force Base	$8,200,000
Montana	Malmstrom Air Force Base	$13,200,000
Nevada	Indian Springs	$15,013,000
	Nellis Air Force Base	$6,378,000
New Jersey	McGuire Air Force Base	$6,044,000
New Mexico	Cannon Air Force Base	$6,500,000
	Kirtland Air Force Base	$8,574,000
North Carolina	Seymour Johnson Air Force Base	$6,100,000
North Dakota	Grand Forks Air Force Base	$2,686,000
	Minot Air Force Base	$8,500,000
Ohio	Wright-Patterson Air Force Base	$22,000,000
Oklahoma	Altus Air Force Base	$4,000,000

Air Force: Inside the United States—Continued

State	Installation or location	Amount
	Tinker Air Force Base	$24,985,000
	Vance Air Force Base	$6,223,000
South Carolina	Charleston Air Force Base	$24,330,000
	Shaw Air Force Base	$8,500,000
South Dakota	Ellsworth Air Force Base	$6,500,000
Texas	Dyess Air Force Base	$1,400,000
	Lackland Air Force Base	$6,800,000
	Lackland Training Annex	$8,130,000
	Randolph Air Force Base	$3,166,000
Utah	Hill Air Force Base	$4,100,000
Washington	Fairchild Air Force Base	$11,520,000
	Total	$465,865,000

(b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(2), the Secretary of the Air Force may acquire real property and carry out military construction projects for the installations and locations outside the United States, and in the amounts, set forth in the following table:

Air Force: Outside the United States

Country	Installation or location	Amount
Germany	Spangdahlem Air Base	$13,967,000
Korea	Kunsan Air Base	$5,958,000
	Osan Air Base	$7,496,000
Turkey	Incirlik Air Base	$2,949,000
United Kingdom	Royal Air Force, Lakenheath	$15,838,000
	Royal Air Force, Mildenhall	$24,960,000
	Total	$71,168,000

SEC. 2302. FAMILY HOUSING.

(a) CONSTRUCTION AND ACQUISITION.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(5)(A), the Secretary of the Air Force may construct or acquire family housing units (including land acquisition) at the installations, for the purposes, and in the amounts set forth in the following table:

Air Force: Family Housing

State	Installation or location	Purpose	Amount
Alabama	Maxwell Air Force Base	143 Units	$16,300,000
Alaska	Eielson Air Force Base	46 Units	$12,932,000
California	Edwards Air Force Base	48 Units	$12,580,000
	Vandenberg Air Force Base	95 Units	$18,499,000
Delaware	Dover Air Force Base	55 Units	$8,998,000
Florida	MacDill Air Force Base	48 Units	$7,609,000
	Patrick Air Force Base	46 Units	$9,692,000
	Tyndall Air Force Base	122 Units	$14,500,000
Mississippi	Columbus Air Force Base	52 Units	$6,800,000
	Keesler Air Force Base	52 Units	$6,800,000
Nebraska	Offutt Air Force Base	Housing Maintenance Facility	$900,000
	Offutt Air Force Base	Housing Office	$870,000
	Offutt Air Force Base	90 Units	$12,212,000
New Mexico	Kirtland Air Force Base	37 Units	$6,400,000
Ohio	Wright-Patterson Air Force Base	40 Units	$5,600,000
Texas	Dyess Air Force Base	64 Units	$9,415,000
	Sheppard Air Force Base	115 Units	$12,800,000
Washington	Fairchild Air Force Base	Housing Office and Maintenance Facility	$1,692,000
	Fairchild Air Force Base	14 Units	$2,300,000
		Total	$166,899,000

(b) PLANNING AND DESIGN.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(5)(A), the Secretary of the Air Force may carry out architectural and engineering services and construction design activities with respect to the construction or improvement of military family housing units in an amount not to exceed $12,622,000.

SEC. 2303. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.

Subject to section 2825 of title 10, United States Code, and using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(5)(A), the Secretary of the Air Force may improve existing military family housing units in an amount not to exceed $90,888,000.

SEC. 2304. AUTHORIZATION OF APPROPRIATIONS, AIR FORCE.

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1998, for military construction, land acquisition, and military family housing functions of the Department of the Air Force in the total amount of $1,649,334,000 as follows:

(1) For military construction projects inside the United States authorized by section 2301(a), $465,865,000.

(2) For military construction projects outside the United States authorized by section 2301(b), $71,168,000.

(3) For unspecified minor construction projects authorized by section 2805 of title 10, United States Code, $7,135,000.

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $44,762,000.

(5) For military housing functions:

(A) For construction and acquisition, planning and design, and improvement of military family housing and facilities, $270,409,000.

(B) For support of military family housing (including the functions described in section 2833 of title 10, United States Code), $789,995,000.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2301 of this Act may not exceed the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a).

(c) ADJUSTMENT.—The total amount authorized to be appropriated pursuant to paragraphs (1) through (5) of subsection (a) is the sum of the amounts authorized to be appropriated in such paragraphs reduced by $7,584,000, which represents the combination of project savings in military construction resulting from favorable bids, overhead costs, and cancellations due to force structure changes.

TITLE XXIV—DEFENSE AGENCIES

SEC. 2401. AUTHORIZED DEFENSE AGENCIES CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2404(a)(1), the Secretary of Defense may acquire real property and carry out military construction projects for the installations and locations inside the United States, and in the amounts, set forth in the following table:

Defense Agencies: Inside the United States

Agency	Installation or location	Amount
Chemical Demilitarization Program	Aberdeen Proving Ground, Maryland	$186,350,000
	Newport Army Depot, Indiana	$191,550,000
Defense Logistics Agency	Defense Fuel Support Point, Fort Sill, Oklahoma	$3,500,000
	Defense Fuel Support Point, Jacksonville Annex, Mayport, Florida	$11,020,000
	Defense Fuel Support Point, Jacksonville, Florida	$11,000,000
	Defense General Supply Center, Richmond (DLA), Virginia	$10,500,000
	Defense Fuel Supply Center, Camp Shelby, Mississippi	$5,300,000
	Defense Fuel Supply Center, Elmendorf Air Force Base, Alaska	$19,500,000
	Defense Fuel Supply Center, Pope Air Force Base, North Carolina	$4,100,000
	Various Locations	$1,300,000
Defense Medical Facilities Office	Barksdale Air Force Base, Louisiana	$3,450,000
	Beale Air Force Base, California	$3,500,000
	Carlisle Barracks, Pennsylvania	$4,678,000
	Cheatham Annex, Virginia	$11,300,000
	Edwards Air Force Base, California	$6,000,000
	Eglin Air Force Base, Florida	$9,200,000
	Fort Bragg, North Carolina	$6,500,000
	Fort Hood, Texas	$14,100,000
	Fort Stewart/Hunter Army Air Field, Georgia	$10,400,000
	Grand Forks Air Force Base, North Dakota	$5,600,000
	Holloman Air Force Base, New Mexico	$1,300,000
	Keesler Air Force Base, Mississippi	$700,000
	Marine Corps Air Station, Camp Pendleton, California	$6,300,000
	McChord Air Force Base, Washington	$20,000,000
	Moody Air Force Base, Georgia	$11,000,000
	Naval Air Station, Pensacola, Florida	$25,400,000
	Naval Hospital, Bremerton, Washington	$28,000,000
	Naval Hospital, Great Lakes, Illinois	$7,100,000
	Naval Station, San Diego, California	$1,350,000
	Naval Submarine Base, Bangor, Washington	$5,700,000
	Travis Air Force Base, California	$1,700,000
Defense Education Activity	Marine Corps Base, Camp LeJeune, North Carolina	$16,900,000
	United States Military Academy, West Point, New York	$2,840,000
National Security Agency	Fort Meade, Maryland	$668,000
Special Operations Command	Eglin Auxiliary Field 3, Florida	$2,210,000
	Eglin Auxiliary Field 9, Florida	$2,400,000
	Fort Campbell, Kentucky	$15,000,000
	MacDill Air Force Base, Florida	$8,400,000
	Mississippi Army Ammunition Plant/Stennis Space Center, Mississippi	$5,500,000
	Naval Amphibious Base, Coronado, California	$3,600,000
	Total:	$684,916,000

(b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2404(a)(2), the Secretary of Defense may acquire real property and carry out military construction projects for the installations and locations outside the United States, and in the amounts, set forth in the following table:

Defense Agencies: Outside the United States

Agency	Installation or location	Amount
Ballistic Missile Defense Organization	Kwajalein Atoll, Kwajalein	$4,600,000
Defense Logistics Agency	Lajes Field, Azores, Portugal	$7,700,000
Defense Medical Facilities Office	Naval Air Station, Sigonella, Italy	$5,300,000
	Royal Air Force, Lakenheath, United Kingdom	$10,800,000
Defense Education Activity	Fort Buchanan, Puerto Rico	$8,805,000
	Naval Activities, Guam	$13,100,000
Special Operations Command	Naval Station, Roosevelt Roads, Puerto Rico	$9,600,000
	Total:	$59,905,000

SEC. 2402. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.

Subject to section 2825 of title 10, United States Code, and using amounts appropriated pursuant to the authorization of appropriation in section 2404(a)(11)(A), the Secretary of Defense may improve existing military family housing units in an amount not to exceed $345,000.

SEC. 2403. ENERGY CONSERVATION PROJECTS.

Using amounts appropriated pursuant to the authorization of appropriations in section 2404(a)(9), the Secretary of Defense may carry out energy conservation projects under section 2865 of title 10, United States Code.

SEC. 2404. AUTHORIZATION OF APPROPRIATIONS, DEFENSE AGENCIES.

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1998, for military construction, land acquisition, and military family housing functions of the Department of Defense (other than the military departments), in the total amount of $2,346,923,000 as follows:

(1) For military construction projects inside the United States authorized by section 2401(a), $340,866,000.

(2) For military construction projects outside the United States authorized by section 2401(b), $59,905,000.

(3) For military construction projects at Portsmouth Naval Hospital, Virginia, hospital replacement, authorized by section 2401(a) of the Military Construction Authorization Act for Fiscal Years 1990 and 1991 (division B of Public Law 101–189; 106 Stat. 1640), as amended by section 2406 of this Act, $17,954,000.

(4) For construction of the Ammunition Demilitarization Facility, Pine Bluff Arsenal, Arkansas, authorized by section 2401 of the Military Construction Authorization Act for Fiscal Year 1995 (division B of Public Law 103–337; 108 Stat. 3040), as amended by section 2407 of the Military Construction Authorization Act for Fiscal Year 1996 (division B of Public Law 104–106; 110 Stat. 539), section 2408

of the Military Construction Authorization Act for Fiscal Year 1998 (111 Stat. 1982), and section 2405 of this Act, $10,000,000.

(5) For construction of the Ammunition Demilitarization Facility, Umatilla Army Depot, Oregon, authorized by section 2401 of the Military Construction Authorization Act for Fiscal Year 1995, as amended by section 2407 of the Military Construction Authorization Act for Fiscal Year 1996, section 2408 of the Military Construction Authorization Act for Fiscal Year 1998, and section 2405 of this Act, $30,950,000.

(6) For unspecified minor construction projects under section 2805 of title 10, United States Code, $13,394,000.

(7) For contingency construction projects of the Secretary of Defense under section 2804 of title 10, United States Code, $9,390,000.

(8) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $42,566,000.

(9) For energy conservation projects authorized by section 2404, $46,950,000.

(10) For base closure and realignment activities as authorized by the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note), $1,730,704,000.

(11) For military family housing functions:

(A) For improvement of military family housing and facilities, $345,000.

(B) For support of military housing (including functions described in section 2833 of title 10, United States Code), $36,899,000 of which not more than $31,139,000 may be obligated or expended for the leasing of military family housing units worldwide.

(C) For credit to the Department of Defense Family Housing Improvement Fund established by section 2883(a)(1) of title 10, United States Code, $7,000,000.

(b) Limitation of Total Cost of Construction Projects.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variations authorized by law, the total cost of all projects carried out under section 2401 of this Act may not exceed—

(1) the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a);

(2) $174,550,000 (the balance of the amount authorized under section 2401(a) of this Act for the construction of a chemical demilitarization facility at Newport Army Depot, Indiana); and

(3) $169,500,000 (the balance of the amount authorized under section 2401(a) of this Act for the construction of a chemical demilitarization facility at Aberdeen Proving Ground, Maryland).

SEC. 2405. MODIFICATION OF AUTHORITY TO CARRY OUT CERTAIN FISCAL YEAR 1995 PROJECTS.

The table in section 2401 of the Military Construction Authorization Act for Fiscal Year 1995 (division B of Public Law 103–337; 108 Stat. 3040), as amended by section 2407 of the Military Construction Authorization Act for Fiscal Year 1996 (division B of Public Law 104–106; 110 Stat. 539) and section 2408 of the Military Construction Authorization Act for Fiscal Year 1998 (division B of Public Law 105–85; 111 Stat. 1982), under the agency heading relating to Chemical Weapons and Munitions Destruction, is amended—

(1) in the item relating to Pine Bluff Arsenal, Arkansas, by striking out $134,000,000" in the amount column and inserting in lieu thereof "$154,400,000"; and

(2) in the item relating to Umatilla Army Depot, Oregon, by striking out "$187,000,000" in the amount column and inserting in lieu thereof "$193,377,000".

SEC. 2406. MODIFICATION OF AUTHORITY TO CARRY OUT FISCAL YEAR 1990 PROJECT.

The table in section 2401(a) of the Military Construction Authorization Act for Fiscal Years 1990 and 1991 (division B of Public Law 100–189; 103 Stat. 1640) is amended in the item relating to Portsmouth Naval Hospital, Virginia, by striking out "$330,000,000" and inserting in lieu thereof "$351,354,000".

TITLE XXV—NORTH ATLANTIC TREATY ORGANIZATION SECURITY INVESTMENT PROGRAM

SEC. 2501. AUTHORIZED NATO CONSTRUCTION AND LAND ACQUISITION PROJECTS.

The Secretary of Defense may make contributions for the North Atlantic Treaty Organization Security Investment program as provided in section 2806 of title 10, United States Code, in an amount not to exceed the sum of the amount authorized to be appropriated for this purpose in section 2502 and the amount collected from the North Atlantic Treaty Organization as a result of construction previously financed by the United States.

SEC. 2502. AUTHORIZATION OF APPROPRIATIONS, NATO.

Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1998, for contributions by the Secretary of Defense under section 2806 of title 10, United States Code, for the share of the United States of the cost of projects for the North Atlantic Treaty Organization Security Investment program authorized by section 2501, in the amount of $159,000,000.

TITLE XXVI—GUARD AND RESERVE FORCES FACILITIES

SEC. 2601. AUTHORIZED GUARD AND RESERVE CONSTRUCTION AND LAND ACQUISITION PROJECTS.

There are authorized to be appropriated for fiscal years beginning after September 30, 1998, for the costs of acquisition, architectural and engineering services, and construction of facilities for the Guard and Reserve Forces, and for contributions therefor, under chapter 1803 of title 10, United States Code (including the cost of acquisition of land for those facilities), the following amounts:

(1) For the Department of the Army—

(A) for the Army National Guard of the United States, $122,574,000; and

(B) for the Army Reserve, $116,109,000.

(2) For the Department of the Navy, for the Naval and Marine Corps Reserve, $19,371,000.

(3) For the Department of the Air Force—

(A) for the Air National Guard of the United States, $161,932,000; and

(B) for the Air Force Reserve, $23,625,000.

SEC. 2602. REDUCTION IN FISCAL YEAR 1998 AUTHORIZATION OF APPROPRIATIONS FOR ARMY RESERVE MILITARY CONSTRUCTION.

Section 2601(a)(1)(B) of the Military Construction Authorization Act for Fiscal Year 1998 (division B of Public Law 105–85; 111 Stat. 1983) is amended by striking out "$66,267,000" and inserting in lieu thereof "$53,553,000".

SEC. 2603. NATIONAL GUARD MILITARY EDUCATIONAL FACILITY, FORT BRAGG, NORTH CAROLINA.

Of the amount authorized to be appropriated by section 2601(1)(A), $1,000,000 may be available for purposes of Planning and Design of the National Guard Military Educational Facility at Fort Bragg, North Carolina.

TITLE XXVII—EXPIRATION AND EXTENSION OF AUTHORIZATIONS

SEC. 2701. EXPIRATION OF AUTHORIZATIONS AND AMOUNTS REQUIRED TO BE SPECIFIED BY LAW.

(a) Expiration of Authorizations After Three Years.—Except as provided in subsection (b), all authorizations contained in titles XXI through XXVI for military construction projects, land acquisition, family housing projects and facilities, and contributions to the North Atlantic Treaty Organization Security Investment program (and authorizations of appropriations therefor) shall expire on the later of—

(1) October 1, 2001; or

(2) the date of enactment of an Act authorizing funds for military construction for fiscal year 2002.

(b) Exception.—Subsection (a) shall not apply to authorizations for military construction projects, land acquisition, family housing projects and facilities, and contributions to the North Atlantic Treaty Organization Security Investment program (and authorizations of appropriations therefor), for which appropriated funds have been obligated before the later of—

(1) October 1, 2001; or

(2) the date of enactment of an Act authorizing funds for fiscal year 2002 for military construction projects, land acquisition, family housing projects and facilities, or contributions to the North Atlantic Treaty Organization Security Investment program.

SEC. 2702. EXTENSION OF AUTHORIZATIONS OF CERTAIN FISCAL YEAR 1996 PROJECTS.

(a) Extensions.—Notwithstanding section 2701 of the Military Construction Authorization Act for Fiscal Year 1996 (division B of Public Law 104–106; 110 Stat. 541), authorizations for the projects set forth in the tables in subsection (b), as provided in sections 2201, 2302, or 2601 of that Act, shall remain in effect until October 1, 1999, or the date of enactment of an Act authorizing funds for military construction for fiscal year 2000, whichever is later.

(b) Tables.—The tables referred to in subsection (a) are as follows:

Navy: Extension of 1996 Project Authorization

State	Installation or location	Project	Amount
Puerto Rico	Naval Station Roosevelt Roads	Housing Office	$710,000

Air Force: Extension of 1996 Project Authorization

State	Installation or location	Project	Amount
Texas	Lackland Air Force Base	Family Housing (67 units)	$6,200,000

Army National Guard: Extension of 1996 Project Authorization

State	Installation or location	Project	Amount
Mississippi	Camp Shelby	Multipurpose Range Complex (Phase I).	$5,000,000
Missouri	National Guard Training Site, Jefferson City	Multipurpose Range	$2,236,000
		Total:	$7,236,000

SEC. 2703. EXTENSION OF AUTHORIZATION OF FISCAL YEAR 1995 PROJECT.

(a) EXTENSION.—Notwithstanding section 2701 of the Military Construction Authorization Act for Fiscal Year 1995 (division B of Public Law 103–337; 108 Stat. 3046), the authorization for the project set forth in the table in subsection (b), as provided in section 2201 of that Act and extended by section 2702 of the Military Construction Authorization Act for Fiscal Year 1998 (division B of Public Law 105–85; 111 Stat. 1985), shall remain in effect until October 1, 1999, or the date of enactment of an Act authorizing funds for military construction for fiscal year 2000, whichever is later.

(b) TABLE.—The table referred to in subsection (a) is as follows:

Navy: Extension of 1995 Project Authorization

State	Installation or location	Project	Amount
Maryland	Indian Head Naval Surface Warfare Center	Denitrification/Acid Mixing Facility.	$6,400,000

SEC. 2704. AUTHORIZATION OF ADDITIONAL MILITARY CONSTRUCTION AND MILITARY FAMILY HOUSING PROJECTS.

(a) ADDITIONAL ARMY CONSTRUCTION PROJECTS INSIDE THE UNITED STATES.—In addition to the projects authorized by section 2101(a), and using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(1), as increased by subsection (d), the Secretary of the Army may also acquire real property and carry out military construction projects for the installations and locations inside the United States, and in the amounts, set forth in the following table:

Army: Inside the United States

State	Installation or location	Amount
Kansas	Fort Riley	$16,500,000
Kentucky	Fort Campbell	$15,500,000
Maryland	Fort Detrick	$7,100,000
New York	Fort Drum	$7,000,000
Texas	Fort Sam Houston	$5,500,000
Virginia	Fort Eustis	$4,650,000
	Fort Meyer	$6,200,000

(b) ADDITIONAL ARMY CONSTRUCTION PROJECT OUTSIDE THE UNITED STATES.—In addition to the projects authorized by section 2101(b), and using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(2), as increased by subsection (d), the Secretary of the Army may also acquire real property and carry out the military construction project for the location outside the United States, and in the amount, set forth in the following table:

Army: Outside the United States

Country	Installation or location	Amount
Korea	Camp Casey	$8,000,000

(c) IMPROVEMENT OF ARMY FAMILY HOUSING AT WHITE SANDS MISSILE RANGE, NEW MEXICO.—In addition to the projects authorized by section 2103, and using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(5)(A), as increased by subsection (d), the Secretary of the Army may also improve existing military family housing units (36 units) at White Sands Missile Range, New Mexico, in an amount not to exceed $3,650,000.

(d) ADDITIONAL AUTHORIZATIONS OF APPROPRIATIONS, ARMY MILITARY CONSTRUCTION.—(1) The total amount authorized to be appropriated by section 2104(a) is hereby increased by $74,100,000.

(2) The amount authorized to be appropriated by section 2104(a)(1) is hereby increased by $62,450,000.

(3) The amount authorized to be appropriated by section 2104(a)(2) is hereby increased by $8,000,000.

(4) The amount authorized to be appropriated by section 2104(a)(5)(A) is hereby increased by $3,650,000.

(e) ADDITIONAL NAVY CONSTRUCTION PROJECTS INSIDE THE UNITED STATES.—In addition to the projects authorized by section 2201(a), and using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(1), as increased by subsection (g), the Secretary of the Navy may also acquire real property and carry out military construction projects for the installations and locations inside the United States, and in the amounts, set forth in the following table:

Navy: Inside the United States

State	Installation or location	Amount
Florida	Naval Station, Mayport	$3,400,000
Maine	Naval Air Station, Brunswick	$15,220,000
Pennsylvania	Naval Inventory Control Point, Mechanisburg.	$1,600,000
	Naval Inventory Control Point, Philadelphia.	$1,550,000
South Carolina	Marine Corps Recruit Depot, Parris Island.	$8,030,000

(f) IMPROVEMENT OF NAVY FAMILY HOUSING AT WHIDBEY ISLAND NAVAL AIR STATION, WASHINGTON.—In addition to the projects authorized by section 2203, and using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(5)(A), as increased by subsection (g), the Secretary of the Navy may also improve existing military family housing units (80 units) at Whidbey Island Naval Air Station, Washington, in an amount not to exceed $5,800,000.

(g) ADDITIONAL AUTHORIZATIONS OF APPROPRIATIONS, NAVY MILITARY CONSTRUCTION.—(1) The total amount authorized to be appropriated by section 2204(a) is hereby increased by $35,600,000.

(2) The amount authorized to be appropriated by section 2204(a)(1) is hereby increased by $29,800,000.

(3) The amount authorized to be appropriated by section 2204(a)(5)(A) is hereby increased by $5,800,000.

(h) ADDITIONAL AIR FORCE CONSTRUCTION PROJECTS INSIDE THE UNITED STATES.—In addition to the projects authorized by section 2301(a), and using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(1), as increased by subsection (k), the Secretary of the Air Force may also acquire real property and carry out military construction projects for the installations and locations inside the United States, and in the amounts, set forth in the following table:

Air Force: Inside the United States

State	Installation or location	Amount
Colorado	Falcon Air Force Station	$5,800,000
Georgia	Robins Air Force Base	$6,000,000
Louisiana	Barksdale Air Force Base	$9,300,000
North Dakota	Grand Forks Air Force Base	$8,800,000
Ohio	Wright-Patterson Air Force Base	$4,600,000
Texas	Goodfellow Air Force Base	$7,300,000
Wyoming	F.E. Warren Air Force Base	$3,850,000

(i) CONSTRUCTION AND ACQUISITION OF AIR FORCE FAMILY HOUSING.—In addition to the projects authorized by section 2302(a), and using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(5)(A), as increased by subsection (k), the Secretary of the Air Force may also construct or acquire family housing units (including land acquisition) at the installation, for the purpose, and in the amount set forth in the following table:

Air Force: Family Housing

State	Installation or location	Purpose	Amount
Montana	Malmstrom Air Force Base	62 Units	$12,300,000

(j) IMPROVEMENT OF AIR FORCE FAMILY HOUSING.—In addition to the projects authorized by section 2303, and using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(5)(A), as increased by subsection (k), the Secretary of the Air Force may also improve existing military family housing units as follows:

(1) Travis Air Force Base, California, 105 units, in an amount not to exceed $10,500,000.

(2) Moody Air Force Base, Georgia, 68 units, in an amount not to exceed $5,220,000.

(3) McGuire Air Force Base, New Jersey, 50 units, in an amount not to exceed $5,800,000.

(4) Seymour Johnson Air Force Base, North Carolina, 95 units, in an amount not to exceed $10,830,000.

(k) ADDITIONAL AUTHORIZATIONS OF APPROPRIATIONS, AIR FORCE MILITARY CONSTRUCTION.—(1) The total amount authorized to be appropriated by section 2304(a) is hereby increased by $90,300,000.

(2) The amount authorized to be appropriated by section 2304(a)(1) is hereby increased by $45,650,000.

(3) The amount authorized to be appropriated by section 2304(a)(5)(A) is hereby increased by $44,650,000.

SEC. 2705. EFFECTIVE DATE.

Titles XXI, XXII, XXIII, XXIV, XXV, and XXVI shall take effect on the later of—

(1) October 1, 1998; or

(2) the date of enactment of this Act.

TITLE XXVIII—GENERAL PROVISIONS

Subtitle A—Military Construction Program and Military Family Housing Changes

SEC. 2801. MODIFICATION OF AUTHORITY RELATING TO ARCHITECTURAL AND ENGINEERING SERVICES AND CONSTRUCTION DESIGN.

(a) COVERED PROJECTS.—Subsection (a) of section 2807 of title 10, United States Code, is amended in the first sentence by striking out "not otherwise authorized by law." and inserting in lieu thereof "without regard to the authority under this chapter utilized in carrying out the projects and without regard to whether the projects are authorized by law.".

(b) INCREASE IN THRESHOLD FOR NOTICE TO CONGRESS.—Subsection (b) of that section is amended by striking out "$300,000" and inserting in lieu thereof "$500,000".

(c) AVAILABILITY OF APPROPRIATIONS.—Subsection (d) of that section is amended by striking out "study, planning, design, architectural, and engineering services" and inserting in lieu thereof "architectural and engineering services and construction design".

SEC. 2802. EXPANSION OF ARMY OVERSEAS FAMILY HOUSING LEASE AUTHORITY.

(a) ALTERNATIVE MAXIMUM UNIT AMOUNTS.—Section 2828(e) of title 10, United States Code, is amended—

(1) in paragraph (2), by inserting ", and the Secretary of the Army may lease not more than 500 units of family housing in Italy," after "family housing in Italy";

(2) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively; and

(3) by inserting after paragraph (2) the following new paragraph (3):

"(3) In addition to the 450 units of family housing referred to in paragraph (1) for which the maximum lease amount is $25,000 per unit per year, the Secretary of the Army may lease not more than 800 units of family housing in Korea subject to that maximum lease amount.".

(b) CONFORMING AMENDMENT.—Paragraph (4) of that section, as redesignated by subsection (a)(2) of this section, is amended by striking out "and (2)" and inserting in lieu thereof ", (2), and (3)".

Subtitle B—Real Property and Facilities Administration

SEC. 2811. INCREASE IN THRESHOLDS FOR REPORTING REQUIREMENTS RELATING TO REAL PROPERTY TRANSACTIONS.

Section 2662 of title 10, United States Code, is amended by striking out "$200,000" each place it appears in subsections (a), (b), and (e) and inserting in lieu thereof "$500,000".

SEC. 2812. EXCEPTIONS TO REAL PROPERTY TRANSACTION REPORTING REQUIREMENTS FOR WAR AND CERTAIN EMERGENCY AND OTHER OPERATIONS.

(a) EXCEPTIONS.—Section 2662 of title 10, United States Code, as amended by section 2811 of this Act, is further amended by adding at the end the following:

"(g) EXCEPTIONS FOR TRANSACTIONS FOR WAR AND CERTAIN EMERGENCY AND OTHER OPERATIONS.—(1) The reporting requirement set forth in subsection (a) shall not apply with respect to a real property transaction otherwise covered by that subsection, and the reporting requirement set forth in subsection (e) shall not apply with respect to a real property transaction otherwise covered by that subsection, if such transaction is made as a result of the following:

"(A) A declaration of war.

"(B) A declaration of a national emergency by the President pursuant to the National Emergencies Act (Public Law 94-412; 50 U.S.C. 1601 et seq.).

"(C) A declaration of an emergency or major disaster pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

"(D) The use of the militia or the armed forces after a proclamation to disperse under section 334 of this title.

"(E) A contingency operation.

"(2) The reporting requirement set forth in subsection (a) shall not apply with respect to a real property transaction otherwise covered by that subsection if the Secretary concerned determines that—

"(A) an event listed in paragraph (1) is imminent; and

"(B) the transaction is necessary for purposes of preparation for such event.

"(3) Not later than 30 days after entering into a real property transaction covered by paragraph (1) or (2), the Secretary concerned shall submit to the committees named in subsection (a) a report on the transaction. The report shall set forth any facts or information which would otherwise have been submitted in a report on the transaction under subsection (a) or (e), as the case may be, but for the operation of paragraph (1) or (2).".

(b) AMENDMENTS FOR STYLISTIC UNIFORMITY.—That section is further amended—

(1) in subsection (a), by inserting "GENERAL NOTICE AND WAIT REQUIREMENTS.—" after "(a)";

(2) in subsection (b), by inserting "ANNUAL REPORTS ON CERTAIN MINOR TRANSACTIONS.—" after "(b)";

(3) in subsection (c), by inserting "GEOGRAPHIC SCOPE; EXCEPTED PROJECTS.—" after "(c)";

(4) in subsection (d), by inserting "STATEMENTS OF COMPLIANCE IN TRANSACTION INSTRUMENTS.—" after "(d)";

(5) in subsection (e), by inserting "NOTICE AND WAIT REGARDING LEASES OF SPACE FOR DoD BY GSA.—" after "(e)"; and

(6) in subsection (f), by inserting "REPORTS ON TRANSACTIONS INVOLVING INTELLIGENCE COMPONENTS.—" after "(f)".

SEC. 2813. WAIVER OF APPLICABILITY OF PROPERTY DISPOSAL LAWS TO LEASES AT INSTALLATIONS TO BE CLOSED OR REALIGNED UNDER THE BASE CLOSURE LAWS.

Section 2667(f) of title 10, United States Code, is amended—

(1) by redesignating paragraphs (2) through (5) as paragraphs (3) through (6), respectively; and

(2) by inserting after paragraph (1) the following new paragraph (2):

"(2) The Secretary of a military department may waive the applicability of a provision of title II of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481 et seq.) that is inconsistent with a provision of this subsection if the waiver is required for purposes of a lease of property under this subsection.".

SEC. 2814. RESTORATION OF DEPARTMENT OF DEFENSE LANDS USED BY ANOTHER FEDERAL AGENCY.

(a) RESTORATION AS TERM OF AGREEMENT.—Section 2691 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(c)(1) As a condition of any lease, permit, license, or other grant of access entered into by the Secretary of a military department with another Federal agency authorizing the agency to use lands under the control of the Secretary, the Secretary may require the agency to agree to remove any improvements and to take any other action necessary in the judgment of the Secretary to restore the land used by the agency to its condition before its use by the agency.

"(2) In lieu of performing any removal or restoration work under paragraph (1), a Federal agency may elect, with the consent of the Secretary, to reimburse the Secretary for the costs incurred by the military department in performing such removal and restoration work.".

(b) CLERICAL AMENDMENTS.—(1) The heading of such section is amended to read as follows:

"§ 2691. Restoration of land used by permit or lease".

(2) The table of sections at the beginning of chapter 159 of title 10, United States Code, is amended by striking the item relating to section 2691 and inserting in lieu thereof the following new item:

"2691. Restoration of land used by permit or lease.".

Subtitle C—Land Conveyances

SEC. 2821. LAND CONVEYANCE, INDIANA ARMY AMMUNITION PLANT, CHARLESTOWN, INDIANA.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey to the Indiana Army Ammunition Plant Reuse Authority (in this section referred to as the "Reuse

Authority") all right, title, and interest of the United States in and to a parcel of real property, including improvements thereon, consisting of up to approximately 4660 acres located at the Indiana Army Ammunition Plant, Charlestown, Indiana, for the purpose of developing the parcel as an industrial park to replace all or part of the economic activity lost at the inactivated plant.

(b) CONSIDERATION.—Except as provided in subsection (d), as consideration for the conveyance under subsection (a), the Reuse Authority shall pay to the Secretary an amount equal to the fair market value of the conveyed property as of the time of the conveyance, determined by the Secretary in accordance with Federal appraisal standards and procedures.

(c) TIME FOR PAYMENT.—The consideration required under subsection (b) shall be paid by the Reuse Authority at the end of the 10-year period beginning on the date on which the conveyance under subsection (a) is completed.

(d) EFFECT OF RECONVEYANCE OR LEASE.—(1) If the Reuse Authority reconveys all or any part of the conveyed property during the 10-year period specified in subsection (c), the Reuse Authority shall pay to the United States an amount equal to the fair market value of the reconveyed property as of the time of the reconveyance, excluding the value of any improvements made to the property by the Reuse Authority, determined by the Secretary in accordance with Federal appraisal standards and procedures.

(2) The Secretary may treat a lease of the property within such 10-year period as a reconveyance if the Secretary determines that the lease is being used to avoid application of paragraph (1).

(e) DEPOSIT OF PROCEEDS.—The Secretary shall deposit any proceeds received under subsection (b) or (d) in the special account established pursuant to section 204(h)(2) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 485(h)(2)).

(f) ADMINISTRATIVE EXPENSES.—In connection with the conveyance under subsection (a), the Secretary may accept amounts provided by the Reuse Authority or other persons to cover administrative expenses incurred by the Secretary in making the conveyance. Amounts received under this subsection for administrative expenses shall be credited to the appropriation, fund, or account from which the expenses were paid. Amounts so credited shall be merged with funds in such appropriation, fund, or account and shall be available for the same purposes and subject to the same limitations as the funds with which merged.

(g) DESCRIPTION OF PROPERTY.—The property to be conveyed under subsection (a) includes the administrative area of the Indiana Army Ammunition Plant as well as open space in the southern end of the plant. The exact acreage and legal description of the property to be conveyed shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the Reuse Authority.

(h) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2822. LAND CONVEYANCE, ARMY RESERVE CENTER, BRIDGTON, MAINE.

(a) CONVEYANCE AUTHORIZED.—(1) The Secretary of the Army may convey, without consideration, to the Town of Bridgton, Maine (in this section referred to as the "Town"), all right, title, and interest of the United States in and to a parcel of excess real property, including improvements thereon, consisting of approximately 3.65 acres and located in Bridgton, Maine, the site of the Army Reserve Center, Bridgton, Maine.

(2) The conveyance is for the public benefit and will facilitate the expansion of the municipal office complex in Bridgton, Maine.

(b) REVERSION.—If the Secretary determines at any time that the real property conveyed under subsection (a) is not being used by the Town for purposes of a municipal office complex, all right, title, and interest in and to the real property, including any improvements thereon, shall revert to the United States, and the United States shall have the right of immediate entry thereon.

(c) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the Town.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interest of the United States.

SEC. 2823. LAND CONVEYANCE, VOLUNTEER ARMY AMMUNITION PLANT, CHATTANOOGA, TENNESSEE.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey to Hamilton County, Tennessee (in this section referred to as the "County"), all right, title, and interest of the United States in and to a parcel of real property, including improvements thereon, consisting of approximately 1033 acres located at the Volunteer Army Ammunition Plant, Chattanooga, Tennessee, for the purpose of developing the parcel as an industrial park to replace all or part of the economic activity lost at the inactivated plant.

(b) CONSIDERATION.—Except as provided in subsection (d), as consideration for the conveyance under subsection (a), the County shall pay to the Secretary an amount equal to the fair market value of the conveyed property as of the time of the conveyance, determined by the Secretary in accordance with Federal appraisal standards and procedures.

(c) TIME FOR PAYMENT.—The consideration required under subsection (b) shall be paid by the County at the end of the 10-year period beginning on the date on which the conveyance under subsection (a) is completed.

(d) EFFECT OF RECONVEYANCE OR LEASE.—(1) If the County reconveys all or any part of the conveyed property during the 10-year period specified in subsection (c), the County shall pay to the United States an amount equal to the fair market value of the reconveyed property as of the time of the reconveyance, excluding the value of any improvements made to the property by the County, determined by the Secretary in accordance with Federal appraisal standards and procedures.

(2) The Secretary may treat a lease of the property within such 10-year period as a reconveyance if the Secretary determines that the lease is being used to avoid application of paragraph (1).

(e) DEPOSIT OF PROCEEDS.—The Secretary shall deposit any proceeds received under subsection (b) or (d) in the special account established pursuant to section 204(h)(2) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 485(h)(2)).

(f) EFFECT ON EXISTING LEASES.—The conveyance of the real property under subsection (a) shall not affect the terms or length of any contract entered into by the Secretary before the date of the enactment of this Act with regard to the property to be conveyed.

(g) ADMINISTRATIVE EXPENSES.—In connection with the conveyance under subsection (a), the Secretary may accept amounts provided by the County or other persons to cover administrative expenses incurred by the Secretary in making the conveyance. Amounts received under this subsection for administrative expenses shall be credited to the appropriation, fund, or account from which the expenses were paid. Amounts so credited shall be merged with funds in such appropriation, fund, or account and shall be available for the same purposes and subject to the same limitations as the funds with which merged.

(h) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the County.

(i) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2824. RELEASE OF INTERESTS IN REAL PROPERTY, FORMER KENNEBEC ARSENAL, AUGUSTA, MAINE.

(a) AUTHORITY TO RELEASE.—The Secretary of the Army may release, without consideration, all right, title, and interest of the United States in and to the real property described in subsection (b).

(b) COVERED PROPERTY.—The real property referred to in subsection (a) is the parcel of real property consisting of approximately 40 acres located in Augusta, Maine, and formerly known as the Kennebec Arsenal, which parcel was conveyed by the Secretary of War to the State of Maine under the provisions of the Act entitled "An Act Authorizing the Secretary of War to convey the Kennebec Arsenal property, situated in Augusta, Maine, to the State of Maine for public purposes", approved March 3, 1905 (33 Stat. 1270), as amended by section 771 of the Department of Defense Appropriations Act, 1981 (Public Law 96–527; 94 Stat. 3093).

(c) INSTRUMENT OF RELEASE.—The Secretary of the Army shall execute and file in the appropriate office a deed of release, amended deed, or other appropriate instrument effectuating the release of interests authorized by this section.

SEC. 2825. LAND EXCHANGE, NAVAL RESERVE READINESS CENTER, PORTLAND, MAINE.

(a) CONVEYANCE AUTHORIZED.—(1) The Secretary of the Navy may convey to the Gulf of Maine Aquarium Development Corporation, Portland, Maine (in this section referred to as the "Corporation"), all right, title, and interest of the United States in and to a parcel of real property, including improvements thereon, consisting of approximately 3.72 acres in Portland, Maine, the site of the Naval Reserve Readiness Center, Portland, Maine.

(2) As part of the conveyance under paragraph (1), the Secretary shall also convey to the Corporation any interest of the United States in the submerged lands adjacent to the real property conveyed under that paragraph that is appurtenant to the real property conveyed under that paragraph.

(3) The purpose of the conveyance under this subsection is to facilitate economic development in accordance with the plan of the Corporation for the construction of an aquarium and marine research facility in Portland, Maine.

(b) CONSIDERATION.—(1) As consideration for the conveyance authorized by subsection (a), the Corporation shall provide for such facilities as the Secretary determines appropriate for the Naval Reserve to replace the facilities conveyed under that subsection—

(A) by—

(i) conveying to the United States all right, title, and interest in and to a parcel of real property determined by the Secretary to be an appropriate location for such facilities; and

(ii) designing and constructing such facilities on the parcel of real property conveyed under clause (i); or

(B) by designing and constructing such facilities on such parcel of real property under the jurisdiction of the Secretary as the Secretary shall specify.

(2) The Secretary shall select the form of consideration under paragraph (1) for the conveyance under subsection (a).

(c) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a)(1), of any interest to be conveyed under subsection (a)(2), and of the real property, if any, to be conveyed under subsection (b)(1)(A)(i), shall be determined by surveys satisfactory to the Secretary. The cost of the surveys shall be borne by the Corporation.

(d) ADDITIONAL TERMS AND CONDITIONS.–The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interest of the United States.

SEC. 2826. LAND CONVEYANCE, AIR FORCE STATION, LAKE CHARLES, LOUISIANA.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Air Force may convey, without consideration, to McNeese State University in Lake Charles, Louisiana (in this section referred to as the "University"), all right, title, and interest of the United States in and to approximately 4.38 acres of real property, including improvements thereon, located in Lake Charles, Louisiana, and comprising the Lake Charles Air Force Station.

(b) CONDITIONS OF CONVEYANCE.—The conveyance under subsection (a) shall be subject to the following conditions:

(1) That the University accept the property subject to such easements or rights of way as the Secretary considers appropriate.

(2) That the University utilize the property as the site of a research facility.

(c) REVERSION.—If the Secretary determines at any time that the real property conveyed under subsection (a) is not being used in accordance with subsection (b)(2), all right, title, and interest in and to the real property, including any improvements thereon, shall revert to the United States, and the United States shall have the right of immediate entry thereon.

(d) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the University.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interest of the United States.

SEC. 2827. EXPANSION OF LAND CONVEYANCE AUTHORITY, EGLIN AIR FORCE BASE, FLORIDA.

Section 809(c) of the Military Construction Authorization Act, 1979 (Public Law 95-356; 92 Stat. 587), as amended by section 2826 of the Military Construction Authorization Act, 1989 (division B of Public Law 100-456; 102 Stat. 2123), is further amended by striking out "and a third parcel containing forty-two acres" and inserting in lieu thereof ", a third parcel containing forty-two acres, a fourth parcel containing approximately 3.43 acres, and a fifth parcel containing approximately 0.56 acres".

SEC. 2828. CONVEYANCE OF WATER RIGHTS AND RELATED INTERESTS, ROCKY MOUNTAIN ARSENAL, COLORADO, FOR PURPOSES OF ACQUISITION OF PERPETUAL CONTRACTS FOR WATER.

(a) CONVEYANCE AUTHORIZED.—Subject to subsection (c), the Secretary of the Army may convey any and all interest of the United States in the water rights and related rights at Rocky Mountain Arsenal, Colorado, described in subsection (b) to the City and County of Denver, Colorado, acting through its Board of Water Commissioners.

(b) COVERED WATER RIGHTS AND RELATED RIGHTS.—The water rights and related rights authorized to be conveyed under subsection (a) are the following:

(1) Any and all interest in 300 acre rights to water from Antero Reservoir as set forth in Antero Reservoir Contract No. 382 dated August 22, 1923, for 160 acre rights; Antero Reservoir Contract No. 383 dated August 22, 1923, for 50 acre rights; Antero Reservoir Contract No. 384 dated October 30, 1923, for 40 acre rights; Antero Reservoir Contract No. 387 dated March 3, 1923, for 50 acre rights; and Supplemental Contract No. 382-383-384-387 dated July 24, 1932, defining the amount of water to be delivered under the 300 acre rights in the prior contracts as 220 acre feet.

(2) Any and all interest in the 305 acre rights of water from the High Line Canal, diverted at its headgate on the South Platte River and delivered to the Fitzsimons Army Medical Center and currently subject to cost assessments pursuant to Denver Water Department contract #001990.

(3) Any and all interest in the 2,603.55 acre rights of water from the High Line Canal, diverted at its headgate on the South Platte River and delivered to the Rocky Mountain Arsenal in Adams County, Colorado, and currently subject to cost assessments by the Denver Water Department, including 680 acre rights transferred from Lowry Field to the Rocky Mountain Arsenal by the October 5, 1943, agreement between the City and County of Denver, acting by and through its Board of Water Commissioners, and the United States of America.

(4) Any and all interest in 4,058.34 acre rights of water not currently subject to cost assessments by the Denver Water Department.

(5) A new easement for the placement of water lines approximately 50 feet wide inside the Southern boundary of Rocky Mountain Arsenal and across the Reserve Center along the northern side of 56th Avenue.

(6) A permanent easement for utilities where Denver has an existing temporary easement near the southern and western boundaries of Rocky Mountain Arsenal.

(c) CONSIDERATION.—(1) The Secretary of the Army may make the conveyance under subsection (a) only if the Board of Water Commissioners, on behalf of the City and County of Denver, Colorado—

(A) enters into a permanent contract with the Secretary of the Army for purposes of ensuring the delivery of nonpotable water and potable water to Rocky Mountain Arsenal; and

(B) enters into a permanent contract with the Secretary of the Interior for purposes of ensuring the delivery of nonpotable water and potable water to Rocky Mountain Arsenal National Wildlife Refuge, Colorado.

(2) Section 2809(e) of title 10, United States Code, shall not operate to limit the term of the contract entered into under paragraph (1)(A).

(d) REQUIREMENT RELATING TO CONVEYANCE.—The Secretary of the Army may not make the conveyance authorized by subsection (a) until the execution of the proposed agreement provided for under subsection (c) between the City and County of Denver, Colorado, acting through its Board of Water Commissioners, the South Adams County Water and Sanitation District, the United States Fish and Wildlife Service, and the Army.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary of the Army may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2829. LAND CONVEYANCE, NAVAL AIR RESERVE CENTER, MINNEAPOLIS, MINNESOTA.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Navy may convey, without any consideration other than the consideration provided for under subsection (c), to the Minneapolis-St. Paul Metropolitan Airports Commission, Minnesota (in this section referred to as the "Commission"), all right, title, and interest of the United States in and to a parcel of real property, including improvements thereon, consisting of approximately 32 acres located in Minneapolis, Minnesota, and comprising the Naval Air Reserve Center, Minneapolis, Minnesota. The purpose of the conveyance is to facilitate expansion of the Minneapolis-St. Paul International Airport.

(b) ALTERNATIVE LEASE AUTHORITY.—(1) The Secretary may, in lieu of the conveyance authorized by subsection (a), elect to lease the property referred to in that subsection to the Commission if the Secretary determines that a lease of the property would better serve the interests of the United States.

(2) Notwithstanding any other provision of law, the term of the lease under this subsection may not exceed 99 years.

(3) The Secretary may not require any consideration as part of the lease under this subsection other than the consideration provided for under subsection (c).

(c) CONSIDERATION.—As consideration for the conveyance under subsection (a), or the lease under subsection (b), the Commission shall—

(1) provide for such facilities as the Secretary considers appropriate for the Naval Reserve to replace the facilities conveyed or leased under this section—

(A) by—

(i) conveying to the United States, without any consideration other than the consideration provided for under subsection (a), all right, title, and interest in and to a parcel of real property determined by the Secretary to be an appropriate location for such facilities, if the Secretary elects to make the conveyance authorized by subsection (a); or

(ii) leasing to the United States, for a term of 99 years and without any consideration other than the consideration provided for under subsection (b), a parcel of real property determined by the Secretary to be an appropriate location for such facilities, if the Secretary elects to make the lease authorized by subsection (b); and

(B) assuming the costs of designing and constructing such facilities on the parcel conveyed or leased under subparagraph (A); and

(2) assume any reasonable costs incurred by the Secretary in relocating the operations of the Naval Air Reserve Center to the facilities constructed under paragraph (1)(B).

(d) Requirement Relating to Conveyance.—The Secretary may not make the conveyance authorized by subsection (a), or enter into the lease authorized by subsection (b), until the facilities to be constructed under subsection (c) are available for the relocation of the operations of the Naval Air Reserve Center.

(e) Agreement Relating to Conveyance.—If the Secretary determines to proceed with the conveyance authorized by subsection (a), or the lease authorized by subsection (b), the Secretary and the Commission shall enter into an agreement specifying the terms and conditions under which the conveyance or lease will occur.

(f) Description of Property.—The exact acreage and legal description of the real property to be conveyed under subsection (a), or leased under subsection (b), and to be conveyed or leased under subsection (c)(1)(A), shall be determined by surveys satisfactory to the Secretary. The cost of the surveys shall be borne by the Commission.

(g) Additional Terms and Conditions.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a), or the lease under subsection (b), as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2830. LAND CONVEYANCE, ARMY RESERVE CENTER, PEORIA, ILLINOIS.

(a) Conveyance Authorized.—The Secretary of the Army may convey, without consideration, to the Peoria School District #150 of Peoria, Illinois (in this section referred to as the "School District"), all right, title, and interest of the United States in and to a parcel of real property (including improvements thereon) comprising the location of the Army Reserve Center located at 1429 Northmoor Road in Peoria, Illinois, for the purposes of staff, student and community education and training, additional maintenance and transportation facilities, and for other purposes.

(b) Description of Property.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the School District.

(c) Reversion.—If the Secretary determines at any time that the real property conveyed under subsection (a) is not being used in accordance with subsection (a), all right, title, and interest in and to the real property, including any improvements thereon, shall revert to the United States, and the United States shall have the right of immediate entry thereon.

(d) Additional Terms and Conditions.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2830A. LAND CONVEYANCE, SKANEATELES, NEW YORK.

(a) Conveyance Authorized.—The Secretary of the Army may convey, without consideration, to the Town of Skaneateles, New York (in this section referred to as the "Town"), all right, title, and interest of the United States in and to a parcel of real property, together with any improvements thereon, consisting of approximately 147.10 acres in Skaneateles, New York, and commonly known as the "Federal Farm". The purpose of the conveyance is to permit the Town to develop the parcel for public benefit, including for recreational purposes.

(b) Reversion.—If the Secretary determines at any time that the real property conveyed under subsection (a) is not being used by the Town in accordance with that subsection, all right, title, and interest in and to the real property, including any improvements thereon, shall revert to the United States, and the United States shall have the right of immediate entry thereon.

(c) Description of Property.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the Town.

(d) Additional Terms and Conditions.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interest of the United States.

SEC. 2830B. REAUTHORIZATION OF LAND CONVEYANCE, ARMY RESERVE CENTER, YOUNGSTOWN, OHIO.

(a) Conveyance Authorized.—The Secretary of the Army may convey, without consideration, to the City of Youngstown, Ohio (in this section referred to as the "City"), all right, title, and interest of the United States in and to a parcel of excess real property, including improvements thereon, that is located at 399 Miller Street in Youngstown, Ohio, and contains the Kefurt Army Reserve Center.

(b) Condition of Conveyance.—The conveyance authorized under subsection (a) shall be subject to the condition that the City retain the conveyed property for purposes of activities relating to public schools in Youngstown, Ohio.

(c) Description of Property.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the City.

(d) Additional Terms and Conditions.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

(e) Repeal of Superseded Authority.—Section 2861 of the Military Construction Authorization Act for Fiscal Year 1996 (division B of Public Law 104–106; 110 Stat. 573) is repealed.

SEC. 2830C. CONVEYANCE OF UTILITY SYSTEMS, LONE STAR ARMY AMMUNITION PLANT, TEXAS.

(a) Conveyance Authorized.—The Secretary of the Army may convey at fair market value all right, title, and interest of the United States in and to any utility system, or part thereof, including any real property associated with such system, at the Lone Star Army Ammunition Plant, Texas, to the redevelopment authority for the Red River Army Depot, Texas, in conjunction with the disposal of property at the Depot under the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note).

(b) Construction.—Nothing in subsection (a) may be construed to prohibit or otherwise limit the Secretary from conveying any utility system referred to in that subsection under any other provision of law, including section 2688 of title 10, United States Code.

(c) Utility System Defined.—In this section, the term "utility system" has the meaning given that term in section 2688(g) of title 10, United States Code.

SEC. 2830D. MODIFICATION OF LAND CONVEYANCE AUTHORITY, FINLEY AIR FORCE STATION, FINLEY, NORTH DAKOTA.

Section 2835 of the Military Construction Authorization Act for Fiscal Year 1995 (division B of Public Law 103–337; 108 Stat. 3063) is amended—

(1) by striking out subsections (a), (b), and (c) and inserting in lieu thereof the following new subsections (a), (b), and (c):

"(a) Conveyance Authorized.—(1) The Secretary of the Air Force may convey, without consideration, to the City of Finley, North Dakota (in this section referred to as the 'City'), all right, title, and interest of the United States in and to the parcels of real property, including any improvements thereon, in the vicinity of Finley, North Dakota, described in paragraph (2).

"(2) The real property referred to in paragraph (1) is the following:

"(A) A parcel of approximately 14 acres that served as the support complex of the Finley Air Force Station and Radar Site.

"(B) A parcel of approximately 57 acres known as the Finley Air Force Station Complex.

"(C) A parcel of approximately 6 acres that includes a well site and wastewater treatment system.

"(3) The purpose of the conveyance authorized by paragraph (1) is to encourage and facilitate the economic redevelopment of Finley, North Dakota, following the closure of the Finley Air Force Station and Radar Site.

"(b) Reversion.—If the Secretary determines at any time that the real property conveyed under subsection (a) is not being used for purposes of the economic development of Finley, North Dakota, all right, title, and interest in and to the property, including any improvements thereon, shall revert to the United States, and the United States shall have the right of immediate entry thereon.

"(c) Abatement.—The Secretary of the Air Force may, prior to conveyance, abate any hazardous substances in the improvements to be conveyed.".

Subtitle D—Other Matters

SEC. 2831. PURCHASE OF BUILD-TO-LEASE FAMILY HOUSING AT EIELSON AIR FORCE BASE, ALASKA.

(a) Authority To Purchase.—The Secretary of the Air Force may purchase the entire interest of the developer in the military family housing project at Eielson Air Force Base, Alaska, described in subsection (b) if the Secretary determines that the purchase is in the best economic interests of the Air Force.

(b) Description of Project.—The military family housing project referred to in this section is the 366-unit military family housing project at Eielson Air Force Base that was constructed by the developer and is being leased by the Secretary under the authority of former subsection (g) of section 2828 of title 10, United States Code (now section 2835 of such title), as added by section 801 of the Military Construction Authorization Act, 1984 (Public Law 98–115; 97 Stat. 782).

(c) Purchase Price.—The purchase price to be paid by the Secretary under this section for the interest of the developer in the military family housing project may not exceed an amount equal to the amount of the outstanding indebtedness of the developer to the lender for the project that would have remained at the time of the purchase under this section if the developer had paid down its indebtedness to the lender for the project in accordance with the original debt instruments for the project.

(d) TIME FOR PURCHASE.—(1) Subject to paragraph (2), the Secretary may elect to make the purchase authorized by subsection (a) at any time during or after the term of the lease for the military family housing project.

(2) The Secretary may not make the purchase until 30 days after the date on which the Secretary notifies the congressional defense committees of the Secretary's election to make the purchase under paragraph (1).

SEC. 2832. BEACH REPLENISHMENT, SAN DIEGO, CALIFORNIA.

(a) PROJECT AUTHORIZED.—The Secretary of the Navy may, using funds available under subsection (b), carry out beach replenishment in and around San Diego, California. The Secretary may use sand obtained from any location for the replenishment.

(b) FUNDING.—Subject to subsection (c), the Secretary shall carry out the beach replenishment authorized by subsection (a) using the following:

(1) Amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(1) of the Military Construction Authorization Act for Fiscal Year 1997 (division B of Public Law 104–201; 110 Stat. 2769) for the project authorized by section 2201(a) of that Act (110 Stat. 2766) at Naval Air Station North Island, California, that remain available for obligation and expenditure on the date of enactment of this Act.

(2) Amounts contributed to the cost of such project by the State of California and by local governments under the agreement under section 2205 of that Act (110 Stat. 2770).

(c) LIMITATION ON UNITED STATES SHARE OF COST.—The amount utilized by the Secretary under subsection (b)(1) for the beach replenishment authorized by subsection (a) may not exceed $9,630,000.

(d) TREATMENT OF CONTRIBUTIONS.—(1)(A) The Secretary shall credit any contributions that the Secretary receives from the State of California and local governments under the agreement referred to in subsection (b)(2) to the account to which amounts were appropriated pursuant to the authorization of appropriations referred to in subsection (b)(1) for the project referred to in such subsection (b)(1).

(B) Amounts credited under subparagraph (A) shall be merged with funds in the account to which credited.

(2) The amount of contributions credited under paragraph (1) may be applied only to costs of beach replenishment under this section that are incurred after the date of enactment of this Act.

(e) NOTICE AND WAIT.—The Secretary may not obligate funds to carry out the beach replenishment authorized by subsection (a) until 30 days after the date on which the Secretary submits to the congressional defense committees a report setting forth the following:

(1) An explanation why the sand originally proposed to be utilized for the purpose of beach replenishment under the project relating to Naval Air Station North Island authorized in section 2201(a)(1) of the Military Construction Authorization Act for Fiscal Year 1997 could not be utilized for that purpose.

(2) A comprehensive explanation why the beach replenishment plan at Naval Air Station North Island covered by such project was abandoned.

(3) A description of any administrative action taken against any agency or individual as a result of the abandonment of the plan.

(4) A statement of the total amount of funds available under subsection (b) for the beach replenishment authorized by subsection (a).

(5) A statement of the amount of the contributions of the State of California and local governments under the agreement referred to in subsection (b)(2).

(6) An estimate of the total cost of the beach replenishment authorized by subsection (a).

(7) The total amount of financial aid the State of California has received from the Federal Government for the purpose of beach restoration and replenishment during the 10-year period ending on the date of enactment of this Act.

(8) The amount of financial aid the State of California has requested from the Federal Government for the purpose of beach restoration or replenishment as a result of the 1997–1998 El Niño event.

(9) A current analysis that compares the costs and benefits of homeporting the U.S.S. John C. Stennis (CVN–74) at Naval Station North Island with the costs and benefits of homeporting that vessel at Naval Station Pearl Harbor, Hawaii, and the costs and benefits of homeporting that vessel at Naval Station Bremerton, Washington.

(f) REPEAL OF SUPERSEDED AUTHORITY.—Section 2205 of the Military Construction Authorization Act for Fiscal Year 1997 is repealed.

SEC. 2833. MODIFICATION OF AUTHORITY RELATING TO DEPARTMENT OF DEFENSE LABORATORY REVITALIZATION DEMONSTRATION PROGRAM.

(a) PROGRAM REQUIREMENTS.—Subsection (c) of section 2892 of the National Defense Authorization for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 590; 10 U.S.C. 2805 note) is amended to read as follows:

"(c) PROGRAM REQUIREMENTS.—(1) Not later than 30 days before commencing the program, the Secretary shall establish procedures for the review and approval of requests from Department of Defense laboratories for construction under the program.

"(2) The laboratories at which construction may be carried out under the program may not include Department of Defense laboratories that are contractor-owned.".

(b) REPORT.—Subsection (d) of that section is amended to read as follows:

"(d) REPORT.—Not later than February 1, 2003, the Secretary shall submit to Congress a report on the program. The report shall include the Secretary's conclusions and recommendation regarding the desirability of making the authority set forth under subsection (b) permanent.".

(c) EXTENSION.—Subsection (g) of that section is amended by striking out "September 30, 1998" and inserting in lieu thereof "September 30, 2003".

SEC. 2834. REPORT AND REQUIREMENT RELATING TO "1 PLUS 1 BARRACKS INITIATIVE".

(a) REPORT.—Not later than 180 days after the date of enactment of this Act, the Secretary of Defense shall, in consultation with the Secretaries of the military departments, submit to Congress a report on the costs and benefits of implementing the initiative to build single occupancy barracks rooms with a shared bath, the so-called "1 plus 1 barracks initiative".

(b) ELEMENTS.—The report under subsection (a) shall include the following:

(1) A justification for the initiative referred to in subsection (a), including a description of the manner in which the initiative is designed to assure the retention of first-term enlisted members of the Armed Forces in adequate numbers.

(2) A description of the experiences of the military departments with the retention of first-term enlisted members of the Armed Forces, including—

(A) a comparison of such experiences before implementation of the initiative with such experiences after implementation of the initiative; and

(B) an analysis of the basis for any change in retention rates of such members that has arisen since implementation of the initiative.

(3) Any information indicating that the lack of single occupancy barracks rooms with a shared bath has been or is the basis of the decision of first-term members of the Armed Forces not to reenlist in the Armed Forces.

(4) Any information indicating that the lack of such barracks rooms has hampered recruitment for the Armed Forces or that the construction of such barracks rooms would substantially improve recruitment.

(5) The cost for each Armed Force of implementing the initiative, including the amount of funds obligated or expended on the initiative before the date of enactment of this Act and the amount of funds required to be expended after that date to complete the initiative.

(6) The views of each of the Chiefs of Staff of the Armed Forces regarding the initiative and regarding any alternatives to the initiative having the potential of assuring the retention of first-term enlisted members of the Armed Forces in adequate numbers.

(7) A cost-benefit analysis of the initiative.

(c) LIMITATION ON FY 2000 FUNDING REQUEST.—The Secretary of Defense may not submit to Congress any request for funding for the so-called "1 plus 1 barracks initiative" in fiscal year 2000 unless the Secretary certifies to Congress that further implementation of the initiative is necessary in order to assure the retention of first-term enlisted members of the Armed Forces in adequate numbers.

SEC. 2835. DEVELOPMENT OF FORD ISLAND, HAWAII.

Not later than December 1, 1998, the Secretary of Defense shall submit to the President and the congressional defense committees a report regarding the potential for development of Ford Island within the Pearl Harbor Naval Complex, Oahu, Hawaii through an integrated resourcing plan incorporating both appropriated funds and one or more public-private ventures. This report shall consider innovative resource development measures, including but not limited to, an enhanced-use leasing program similar to that of the Department of Veterans Affairs as well as the sale or other disposal of land in Hawaii under the control of the Navy as part of an overall program for Ford Island development. The report shall include proposed legislation for carrying out the measures recommended therein.

SEC. 2836. REPORT ON LEASING AND OTHER ALTERNATIVE USES OF NON-EXCESS MILITARY PROPERTY.

(a) FINDINGS.—Congress makes the following findings:

(1) The Secretary of Defense, with the support of the chiefs of staff of the Armed Forces, is calling for the closure of additional military installations in the United

States as a means of eliminating excess capacity in such installations.

(2) Excess capacity in Department of Defense installations is a valuable asset, and the utilization of such capacity presents a potential economic benefit for the Department and the Nation.

(3) The experiences of the Department have demonstrated that the military departments and private businesses can carry out activities at the same military installation simultaneously.

(4) Section 2667 of title 10, United States Code, authorizes the Secretaries of the military departments to lease, upon terms that promote the national defense or are in the public interest, real property that is—

(A) under the control of such departments;

(B) not for the time needed for public use; and

(C) not excess to the requirements of the United States.

(b) REPORT.—Not later than February 1, 1999, the Secretary shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report setting forth the following:

(1) The number and purpose of the leases entered into under section 2667 of title 10, United States Code, during the five-year period ending on the date of enactment of this Act.

(2) The types and amounts of payments received under the leases specified in paragraph (1).

(3) The costs, if any, foregone as a result of the leases specified in paragraph (1).

(4) A discussion of the positive and negative aspects of leasing real property and surplus capacity at military installations to the private sector, including the potential impact on force protection.

(5) A description of the current efforts of the Department of Defense to identify for the private sector any surplus capacity at military installations that could be leased or otherwise used by the private sector.

(6) A proposal for any legislation that the Secretary considers appropriate to enhance the ability of the Department to utilize surplus capacity in military installations in order to improve military readiness, achieve cost savings with respect to such installations, or decrease the cost of operating such installations.

(7) An estimate of the amount of income that could accrue to the Department as a result of the enhanced authority proposed under paragraph (6) during the five-year period beginning on the effective date of such enhanced authority.

(8) A discussion of the extent to which any such income should be reserved for the use of the installations exercising such authority and of the extent to which installations are likely to enter into such leases if they cannot retain such income.

SEC. 2837. EMERGENCY REPAIRS AND STABILIZATION MEASURES, FOREST GLEN ANNEX OF WALTER REED ARMY MEDICAL CENTER, MARYLAND.

Of the amounts authorized to be appropriated by this Act, $2,000,000 may be available for the completion of roofing and other emergency repairs and stabilization measures at the historic district of the Forest Glen Annex of Walter Reed Army Medical Center, Maryland, in accordance with the plan submitted under section 2865 of the National Defense Authorization Act for Fiscal Year 1997 (division B of Public Law 104–201; 110 Stat. 2806).

Subtitle E—Base Closures

SEC. 2851. MODIFICATION OF LIMITATIONS ON GENERAL AUTHORITY RELATING TO BASE CLOSURES AND REALIGNMENTS.

(a) ACTIONS COVERED BY NOTICE AND WAIT PROCEDURES.—Subsection (a) of section 2687 of title 10, United States Code, is amended by striking out paragraphs (1) and (2) and inserting in lieu thereof the following new paragraphs (1) and (2)—

"(1) the closure of any military installation at which at least 225 civilian personnel are authorized to be employed;

"(2) any realignment with respect to a military installation referred to in paragraph (1) if such realignment will result in an aggregate reduction in the number of civilian personnel authorized to be employed at such military installation during the fiscal year in which notice of such realignment is submitted to Congress under subsection (b) equal to or greater than—

"(A) 750 such civilian personnel; or

"(B) the number equal to 40 percent of the total number of civilian personnel authorized to be employed at such military installation at the beginning of such fiscal year; or".

(b) DEFINITIONS.—Subsection (e) of that section is amended—

(1) in paragraph (3), by inserting "(including a consolidation)" after "any action"; and

(2) by adding at the end the following:

"(5) The term 'closure' includes any action to inactivate or abandon a military installation or to transfer a military installation to caretaker status.".

SEC. 2852. PROHIBITION ON CLOSURE OF A BASE WITHIN FOUR YEARS AFTER A REALIGNMENT OF THE BASE.

(a) PROHIBITION.—(1) Chapter 159 of title 10, United States Code, is amended by inserting after section 2687 the following:

"§2688. Base closures and realignments: closure prohibited within four years after realignment in certain cases

"(a) PROHIBITION.—Notwithstanding any other provision of law, no action may be taken, and no funds appropriated or otherwise available to the Department of Defense may be obligated or expended, to effect or implement the closure of a military installation within 4 years after the completion of a realignment of the installation that, alone or with other causes, reduced the number of civilian personnel employed at that installation below 225.

"(b) DEFINITIONS.—In this section, the terms 'military installation', 'civilian personnel', and 'realignment' have the meanings given such terms in section 2687(e) of this title.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item related to section 2687 the following:

"2688. Base closures and realignments: closure prohibited within four years after realignment in certain cases.".

(b) CONFORMING AMENDMENT.—Section 2687(a) of such title is amended by inserting "(other than section 2688 of this title)" after "Notwithstanding any other provision of law".

SEC. 2853. SENSE OF THE SENATE ON FURTHER ROUNDS OF BASE CLOSURES.

(a) FINDINGS.—The Senate finds that:

(1) While the Department of Defense has proposed further rounds of base closures, there is no need to authorize in 1998 a new base closure commission that would not begin its work until three years from now, in 2001.

(2) While the Department of Defense has submitted a report to the Congress in response to section 2824 of the National Defense Authorization Act for Fiscal Year 1998, that report—

(A) based its estimates of the costs and savings of previous base closure rounds on data that the General Accounting Office has described as "inconsistent", "unreliable" and "incomplete";

(B) failed to demonstrate that the Defense Department is working effectively to improve its ability to track base closure costs and savings resulting from the 1993 and 1995 base closure rounds, which are ongoing;

(C) modeled the savings to be achieved as a result of further base closure rounds on the 1993 and 1995 rounds, which are as yet incomplete and on which the Department's information is faulty; and

(D) projected that base closure rounds in 2001 and 2005 would not produce substantial savings until 2008, a decade after the Federal Government will have achieved unified budget balance, and 5 years beyond the planning period for the current congressional budget and Future Years Defense Plan.

(3) Section 2824 required that the Congressional Budget Office and the General Accounting Office review the Defense Department's report, and—

(A) the General Accounting Office stated on May 1 that "we are now conducting our analysis to be able to report any limitations that may exist in the required level of detail. . . . [W]e are awaiting some supporting documentation from the military services to help us finish assessing the report's information.";

(B) the Congressional Budget Office stated on May 1 that its review is ongoing, and that "it is important that CBO take the time necessary to provide a thoughtful and accurate evaluation of DOD's report, rather than issue a preliminary and potentially inaccurate assessment.".

(4) The Congressional Budget Office recommended that "The Congress could consider authorizing an additional round of base closures if the Department of Defense believes that there is a surplus of military capacity after all rounds of BRAC have been carried out. That consideration, however, should follow an interval during which DOD and independent analysts examine the actual impact of the measures that have been taken thus far.".

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that—

(1) Congress should not authorize further rounds of base closures and realignments until all actions authorized by the Defense Base Closure and Realignment Act of 1990 are completed; and

(2) the Department of Defense should submit forthwith to the Congress the report required by section 2815 of Public Law 103–337, analyzing the effects of base closures and realignments on the ability of the Armed Forces to remobilize, describing the military construction projects needed to facilitate such remobilization, and discussing the assets, such as air space, that would be difficult to reacquire in the event of such remobilization.

TITLE XXIX—JUNIPER BUTTE RANGE WITHDRAWAL

SEC. 2901. SHORT TITLE.

This title may be cited as the "Juniper Butte Range Withdrawal Act".

SEC. 2902. WITHDRAWAL AND RESERVATION.

(a) Withdrawal.—Subject to valid existing rights and except as otherwise provided in this title, the lands at the Juniper Butte Range, Idaho, referred to in subsection (c), are withdrawn from all forms of appropriation under the public land laws, including the mining laws and the mineral and geothermal leasing laws, but not the Materials Act of 1947 (30 U.S.C. 601-604).

(b) Reserved Uses.—The lands withdrawn under subsection (a) are reserved for use by the Secretary of the Air Force for—

(1) a high hazard training area;

(2) dropping non-explosive training ordnance with spotting charges;

(3) electronic warfare and tactical maneuvering and air support; and

(4) other defense-related purposes consistent with the purposes specified in paragraphs (1), (2), and (3), including continued natural resource management and environmental remediation in accordance with section 2916.

(c) Site Development Plans.—Site development plans shall be prepared prior to construction; site development plans shall be incorporated in the Integrated Natural Resource Management Plan identified in section 2909; and, except for any minimal improvements, development on the withdrawn lands of any facilities beyond those proposed and analyzed in the Air Force's Enhanced Training in Idaho Environmental Impact Statement, the Enhanced Training in Idaho Record of Decision dated March 10, 1998, and the site development plans shall be contingent upon review and approval of the Idaho State Director, Bureau of Land Management.

(d) General Description.—The public lands withdrawn and reserved by this section comprise approximately 11,300 acres of public land in Owhyee County, Idaho, as generally depicted on the map entitled "Juniper Butte Range Withdrawal—Proposed", dated June 1998, that will be filed in accordance with section 2903. The withdrawal is for an approximately 10,600-acre tactical training range, a 640-acre no-drop target site, four 5-acre no-drop target sites and nine 1-acre electronic threat emitter sites.

SEC. 2903. MAP AND LEGAL DESCRIPTION.

(a) In General.—As soon as practicable after the effective date of this Act, the Secretary of the Interior shall—

(1) publish in the Federal Register a notice containing the legal description of the lands withdrawn and reserved by this title; and

(2) file a map or maps and the legal description of the lands withdrawn and reserved by this title with the Committee on Energy and Natural Resources of the Senate and with the Committee on Resources of the House of Representatives.

(b) Incorporation by Reference.—Such maps and legal description shall have the same force and effect as if included in this title.

(c) Correction of Errors.—The Secretary of the Interior may correct clerical and typographical errors in such map or maps and legal description.

(d) Availability.—Copies of such map or maps and the legal description shall be available for public inspection in the office of the Idaho State Director of the Bureau of Land Management; the offices of the managers of the Lower Snake River District, Bureau Field Office and Jarbidge Field Office of the Bureau of Land Management; and the Office of the Commander, Mountain Home Air Force Base, Idaho. To the extent practicable, the Secretary of the Interior shall adopt the legal description and maps prepared by the Secretary of the Air Force in support of this title.

(e) The Secretary of the Air Force shall reimburse the Secretary of the Interior for the costs incurred by the Department of the Interior in implementing this section.

SEC. 2904. AGENCY AGREEMENT

The Bureau of Land Management and the Air Force have agreed upon additional mitigation measures associated with this land withdrawal as specified in the "ENHANCED TRAINING IN IDAHO Memorandum of Understanding Between The Bureau of Land Management and The United States Air Force" that is dated June 11, 1998. This agreement specifies that these mitigation measures will be adopted as part of the Air Force's Record of Decision for Enhanced Training in Idaho. Congress endorses this collaborative effort between the agencies and directs that the agreement be implemented: *Provided, however*, That the parties may, in accordance with the National Environmental Policy Act of 1969, as amended, mutually agree to modify the mitigation measures specified in the agreement in light of experience gained through the actions called for in the agreement or as a result of changed military circumstances: *Provided further*, That neither the agreement, any modification thereof, nor this section creates any right, benefit, or trust responsibility, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies, its officers, or any person.

SEC. 2905. RIGHT-OF-WAY GRANTS.

In addition to the withdrawal under section 2902 and in accordance with all applicable laws, the Secretary of the Interior shall process and grant the Secretary of the Air Force rights-of-way using the Department of the Interior regulations and policies in effect at the time of filing applications for the one-quarter acre electronic warfare threat emitter sites, roads, powerlines, and other ancillary facilities as described and analyzed in the Enhanced Training in Idaho Final Environmental Impact Statement, dated January 1998.

SEC. 2906. INDIAN SACRED SITES.

(a) Management.—In the management of the Federal lands withdrawn and reserved by this title, the Air Force shall, to the extent practicable and not clearly inconsistent with essential agency functions, (1) accommodate access to and ceremonial use of Indian sacred sites by Indian religious practitioners and (2) avoid adversely affecting the integrity of such sacred sites. The Air Force shall maintain the confidentiality of such sites where appropriate. The term "sacred site" shall mean any specific, discrete, narrowly delineated location on Federal land that is identified by an Indian tribe, or Indian individual determined to be an appropriately authoritative representative of an Indian religion, as sacred by virtue of its established religious significance to, or ceremonial use by, an Indian religion: *Provided*, That the tribe or appropriately authoritative representative of an Indian religion has informed the Air Force of the existence of such a site. The term "Indian tribe" means an Indian or Alaska Native tribe, band, nation, pueblo, village, or community that the Secretary of the Interior acknowledges to exist as an Indian tribe pursuant to Public Law 103-454 (108 Stat. 4791), and "Indian" refers to a member of such an Indian tribe.

(b) Consultation.—Air Force officials at Mountain Home Air Force Base shall regularly consult with the Tribal Chairman of the Shoshone-Paiute Tribes of the Duck Valley Reservation to assure that tribal government rights and concerns are fully considered during the development of the Juniper Butte Range.

SEC. 2907. ACTIONS CONCERNING RANCHING OPERATIONS IN WITHDRAWN AREA.

The Secretary of the Air Force is authorized and directed to, upon such terms and conditions as the Secretary of the Air Force considers just and in the national interest, conclude and implement agreements with the grazing permittees to provide appropriate consideration, including future grazing arrangements. Upon the conclusion of these agreements, the Assistant Secretary, Land and Minerals Management, shall grant rights-of-way and approvals and take such actions as are necessary to implement promptly this title and the agreements with the grazing permittees. The Secretary of the Air Force and the Secretary of the Interior shall allow the grazing permittees for lands withdrawn and reserved by this title to continue their activities on the lands in accordance with the permits and their applicable regulations until the Secretary of the Air Force has fully implemented the agreement with the grazing permittees under this section. Upon the implementation of these agreements, the Bureau of Land Management is authorized and directed, subject to the limitations included in this section, to terminate grazing on the lands withdrawn.

SEC. 2908. MANAGEMENT OF WITHDRAWN AND RESERVED LANDS.

(a) In General.—Except as provided in section 2916(d), during the withdrawal and reservation of any lands under this title, the Secretary of the Air Force shall manage such lands for purposes relating to the uses set forth in section 2902(b).

(b) Management According to Plan.—The lands withdrawn and reserved by this title shall be managed in accordance with the provisions of this title under the integrated natural resources management plan prepared under section 2909.

(c) Authority To Close Land.—If the Secretary of the Air Force determines that military operations, public safety, or the interests of national security require the closure to public use of any road, trail or other portion of the lands withdrawn by this title that are commonly in public use, the Secretary of the Air Force may take such action: *Provided*, That such closures shall be limited to the minimum areas and periods required for the purposes specified in this subsection. During closures, the Secretary of the Air Force shall keep appropriate warning notices posted and take appropriate steps to notify the public about the closure.

(d) Lease Authority.—The Secretary of the Air Force may enter into leases for State lands with the State of Idaho in support of the Juniper Butte Range and operations at the Juniper Butte Range.

(e) Prevention and Suppression of Fire.—

(1) The Secretary of the Air Force shall take appropriate precautions to prevent and suppress brush fires and range fires that occur within the boundaries of the Juniper Butte Range, as well as brush and range fires occurring outside the boundaries of the Range resulting from military activities.

(2) Notwithstanding section 2465 of title 10, United States Code, the Secretary of the Air Force may obligate funds appropriated or otherwise available to the Secretary of the Air Force to enter into contracts for firefighting.

(3)(A) The memorandum of understanding under section 2910 shall provide for the Bureau of Land Management to assist the Secretary of the Air Force in the suppression of the fires described in paragraph (1).

(B) The memorandum of understanding shall provide that the Secretary of the Air Force reimburse the Bureau of Land Management for any costs incurred by the Bureau of Land Management under this paragraph.

(f) USE OF MINERAL MATERIALS.—Notwithstanding any other provision of this title or the Act of July 31, 1947 (commonly known as the "Materials Act of 1947") (30 U.S.C. 601 et seq.), the Secretary of the Air Force may use, from the lands withdrawn and reserved by this title, sand, gravel, or similar mineral material resources of the type subject to disposition under the Act of July 31, 1947, when the use of such resources is required for construction needs of the Juniper Butte Range.

SEC. 2909. INTEGRATED NATURAL RESOURCE MANAGEMENT PLAN.

(a) REQUIREMENT.—

(1) Not later than 2 years after the date of enactment of this title, the Secretary of the Air Force shall, in cooperation with the Secretary of the Interior, the State of Idaho and Owyhee County, develop an integrated natural resources management plan to address the management of the resources of the lands withdrawn and reserved by this title during their withdrawal and reservation under this title. Additionally, the Integrated Natural Resource Management Plan will address mitigation and monitoring activities by the Air Force for State and Federal lands affected by military training activities associated with the Juniper Butte Range. The foregoing will be done cooperatively between the Air Force and the Bureau of Land Management, the State of Idaho and Owyhee County.

(2) Except as otherwise provided under this title, the integrated natural resources management plan under this section shall be developed in accordance with, and meet the requirements of, section 101 of the Sikes Act (16 U.S.C. 670a).

(3) Site development plans shall be prepared prior to construction of facilities. These plans shall be reviewed by the Bureau of Land Management for Federal lands and the State of Idaho for State lands for consistency with the proposal assessed in the Enhanced Training in Idaho Environmental Impact Statement. The portion of the site development plans describing reconfigurable or replacement targets may be conceptual.

(b) ELEMENTS.—The integrated natural resources management plan under subsection (a) shall—

(1) include provisions for the proper management and protection of the natural, cultural, and other resources and values of the lands withdrawn and reserved by this title and for the use of such resources in a manner consistent with the uses set forth in section 2902(b);

(2) permit livestock grazing at the discretion of the Secretary of the Air Force in accordance with section 2907 or any other authorities relating to livestock grazing that are available to that Secretary;

(3) permit fencing, water pipeline modifications and extensions, and the construction of aboveground water reservoirs, and the maintenance and repair of these items on the lands withdrawn and reserved by this title, and on other lands under the jurisdiction of the Bureau of Land Management; and

(4) otherwise provide for the management by the Secretary of the Air Force of any lands withdrawn and reserved by this title while retained under the jurisdiction of that Secretary under this title.

(c) PERIODIC REVIEW.—The Secretary of the Air Force shall, in cooperation with the Secretary of the Interior and the State of Idaho, review the adequacy of the provisions of the integrated natural resources management plan developed under this section at least once every 5 years after the effective date of the plan.

SEC. 2910. MEMORANDUM OF UNDERSTANDING.

(a) REQUIREMENT.—The Secretary of the Air Force, the Secretary of the Interior, and the Governor of the State of Idaho shall jointly enter into a memorandum of understanding to implement the integrated natural resources management plan required under section 2909.

(b) TERM.—The memorandum of understanding under subsection (a) shall apply to any lands withdrawn and reserved by this title until their relinquishment by the Secretary of the Air Force under this title.

(c) MODIFICATION.—The memorandum of understanding under subsection (a) may be modified by agreement of all the parties specified in that subsection.

SEC. 2911. MAINTENANCE OF ROADS.

The Secretary of the Air Force shall enter into agreements with the Owyhee County Highway District, Idaho, and the Three Creek Good Roads Highway District, Idaho, under which the Secretary of the Air Force shall pay the costs of road maintenance incurred by such districts that are attributable to Air Force operations associated with the Juniper Butte Range.

SEC. 2912. MANAGEMENT OF WITHDRAWN AND ACQUIRED MINERAL RESOURCES.

Except as provided in subsection 2908(f), the Secretary of the Interior shall manage all withdrawn and acquired mineral resources within the boundaries of the Juniper Butte Range in accordance with the Act of February 28, 1958 (known as the Engle Act; 43 U.S.C. 155–158).

SEC. 2913. HUNTING, FISHING, AND TRAPPING.

All hunting, fishing, and trapping on the lands withdrawn and reserved by this title shall be conducted in accordance with the provision of section 2671 of title 10, United States Code.

SEC. 2914. WATER RIGHTS.

(a) LIMITATION.—The Secretary of the Air Force shall not seek or obtain any water rights associated with any water pipeline modified or extended, or aboveground water reservoir constructed, for purposes of consideration under section 2907.

(b) NEW RIGHTS.—

(1) Nothing in this title shall be construed to establish a reservation in favor of the United States with respect to any water or water right on the lands withdrawn and reserved by this title.

(2) Nothing in this title shall be construed to authorize the appropriation of water on the lands withdrawn and reserved by this title by the United States after the date of enactment of this title unless such appropriation is carried out in accordance with the laws of the State of Idaho.

(c) APPLICABILITY.—This section may not be construed to affect any water rights acquired by the United States before the date of enactment of this title.

SEC. 2915. DURATION OF WITHDRAWAL.

(a) TERMINATION.—

(1) Except as otherwise provided in this section and section 2916, the withdrawal and reservation of lands by this title shall, unless extended as provided herein, terminate at one minute before midnight on the 25th anniversary of the date of the enactment of this title.

(2) At the time of termination, the previously withdrawn lands shall not be open to the general land laws including the mining laws and the mineral and geothermal leasing laws until the Secretary of the Interior publishes in the Federal Register an appropriate order which shall state the date upon which such lands shall be opened.

(b) RELINQUISHMENT.—

(1) If the Secretary of the Air Force determines under subsection (c) of this section that the Air Force has no continuing military need for any lands withdrawn and reserved by this title, the Secretary of the Air Force shall submit to the Secretary of the Interior a notice of intent to relinquish jurisdiction over such lands back to the Secretary of the Interior.

(2) The Secretary of the Interior may accept jurisdiction over any lands covered by a notice of intent to relinquish jurisdiction under paragraph (1) if the Secretary of the Interior determines that the Secretary of the Air Force has completed the environmental review required under section 2916(a) and the conditions under section 2916(c) have been met.

(3) If the Secretary of the Interior decides to accept jurisdiction over lands under paragraph (2) before the date of termination, as provided for in subsection (a)(1) of this section, the Secretary of the Interior shall publish in the Federal Register an appropriate order which shall—

(A) revoke the withdrawal and reservation of such lands under this title;

(B) constitute official acceptance of administrative jurisdiction over the lands by the Secretary of the Interior; and

(C) state the date upon which such lands shall be opened to the operation of the general land laws, including the mining laws and the mineral and geothermal leasing laws, if appropriate.

(4) The Secretary of the Interior shall manage any lands relinquished under this subsection as multiple use status lands.

(5) If the Secretary of the Interior declines pursuant to paragraph (b)(2) of this section to accept jurisdiction of any parcel of the land proposed for relinquishment, that parcel shall remain under the continued administration of the Secretary of the Air Force pursuant to section 2916(d).

(c) EXTENSION.—

(1) IN GENERAL.—In the case of any lands withdrawn and reserved by this title that the Air Force proposes to include in a notice of extension because of continued military need under paragraph (2) of this subsection, the Secretary of the Air Force shall prior to issuing the notice under paragraph (2)—

(A) evaluate the environmental effects of the extension of the withdrawal and reservation of such lands in accordance with all applicable laws and regulations; and

(B) hold at least one public meeting in the State of Idaho regarding that evaluation.

(2) NOTICE OF NEED FOR EXTENSION OF WITHDRAWAL.—

(A) Not later than 2 years before the termination of the withdrawal and reservation of lands by this title under subsection (a), the Secretary of the Air Force shall notify Congress and the Secretary of the Interior as to whether or not the Air Force has a continuing military need for any of the lands withdrawn and reserved by this title, and not previously relinquished under this section, after the termination date as specified in subsection (a) of this section.

(B) The Secretary of the Air force shall specify in the notice under subparagraph (A) the duration of any extension or further extension of withdrawal and reservation of such lands under this title: *Provided however*, That the duration of each extension or further extension shall not exceed 25 years.

(C) The notice under subparagraph (A) shall be published in the Federal Register and a newspaper of local distribution with the opportunity for comments, within a 60-day period, which shall be provided to the Secretary of the Air Force and the Secretary of the Interior.

(3) EFFECT OF NOTIFICATION.—

(A) Subject to subparagraph (B), in the case of any lands withdrawn and reserved by this title that are covered by a notice of extension under subsection (c)(2), the withdrawal and reservation of such lands shall extend under the provisions of this title after the termination date otherwise provided for under subsection (a) for such period as is specified in the notice under subsection (c)(2).

(B) Subparagraph (A) shall not apply with respect to any lands covered by a notice referred to in that paragraph until 90 legislative days after the date on which the notice with respect to such lands is submitted to Congress under paragraph (2).

SEC. 2916. ENVIRONMENTAL REMEDIATION OF RELINQUISHED WITHDRAWN LANDS OR UPON TERMINATION OF WITHDRAWAL.

(a) ENVIRONMENTAL REVIEW.—

(1) Before submitting under section 2915 a notice of an intent to relinquish jurisdiction over lands withdrawn and reserved by this title, and in all cases not later than 2 years prior to the date of termination of withdrawal and reservation, the Secretary of the Air Force shall, in consultation with the Secretary of the Interior, complete a review that fully characterizes the environmental conditions of such lands (including any water and air associated with such lands) in order to identify any contamination on such lands.

(2) The Secretary of the Air Force shall submit to the Secretary of the Interior a copy of the review prepared with respect to any lands under paragraph (1). The Secretary of the Air Force shall also submit at the same time any notice of intent to relinquish jurisdiction over such lands under section 2915.

(3) The Secretary of the Air Force shall submit a copy of any such review to Congress.

(b) ENVIRONMENTAL REMEDIATION OF LANDS.—The Secretary of the Air Force shall, in accordance with applicable State and Federal law, carry out and complete environmental remediation—

(1) before relinquishing jurisdiction to the Secretary of the Interior over any lands identified in a notice of intent to relinquish under subsection 2915(b); or

(2) prior to the date of termination of the withdrawal and reservation, except as provided under subsection (d) of this section.

(c) POSTPONEMENT OF RELINQUISHMENT.—The Secretary of the Interior shall not accept jurisdiction over any lands that are the subject of activities under subsection (b) of this section until the Secretary of the Interior determines that environmental conditions on the lands are such that—

(1) all necessary environmental remediation has been completed by the Secretary of the Air Force;

(2) the lands are safe for nonmilitary uses; and

(3) the lands could be opened consistent with the Secretary of the Interior's public land management responsibilities.

(d) JURISDICTION WHEN WITHDRAWAL TERMINATES.—If the determination required by section (c) cannot be achieved for any parcel of land subject to the withdrawal and reservation prior to the termination date of the withdrawal and reservation, the Secretary of the Air Force shall retain administrative jurisdiction over such parcels of land notwithstanding the termination date for the limited purposes of—

(1) environmental remediation activities under subsection (b); and,

(2) any activities relating to the management of such lands after the termination of the withdrawal reservation for military purposes that are provided for in the integrated natural resources management plan under section 2909.

(e) REQUEST FOR APPROPRIATIONS.—The Secretary of the Air Force shall request an appropriation pursuant to section 2919 sufficient to accomplish the remediation under this title.

SEC. 2917. DELEGATION OF AUTHORITY.

(a) AIR FORCE FUNCTIONS.—Except for executing the agreement referred to in section 2907, the Secretary of the Air Force may delegate that Secretary's functions under this title.

(b) INTERIOR FUNCTIONS.—

(1) Except as provided in paragraph (2), the Secretary of the Interior may delegate that Secretary's functions under this title.

(2) The order referred to in section 2915(b)(3) may be approved and signed only by the Secretary of the Interior, the Deputy Secretary of the Interior, or an Assistant Secretary of the Interior.

(3) The approvals granted by the Bureau of Land Management shall be pursuant to the decisions of the Secretary of the Interior, or the Assistant Secretary for Land and Minerals Management.

SEC. 2918. SENSE OF SENATE REGARDING MONITORING OF WITHDRAWN LANDS.

(a) FINDING.—The Senate finds that there is a need for the Department of the Air Force, the Bureau of Land Management, the State of Idaho, and Owyhee County to develop a cooperative effort to monitor the impact of military activities on the natural, cultural, and other resources and values of the lands withdrawn and reserved by this title as well as other Federal and State lands affected by military activities associated with the Juniper Butte Range.

(b) SENSE OF SENATE.—It is the sense of the Senate that the Secretary of the Air Force should ensure that the budgetary planning of the Department of the Air Force makes available sufficient funds to assure Air Force participation in the cooperative effort developed by the Department of the Air Force, the Bureau of Land Management, and the State of Idaho to monitor the impact of military activities on the natural, cultural, and other resources and values of the lands withdrawn and reserved by this title as well as other Federal and State lands affected by military activities associated with the Juniper Butte Range.

SEC. 2919. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this title.

DEPARTMENT OF DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1999

The Department of Defense Authorization Act for Fiscal Year 1999 (S. 2060), passed by the Senate on June 25, 1998, is as follows:

S. 2060

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Department of Defense Authorization Act for Fiscal Year 1999".

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

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SEC. 3. CONGRESSIONAL DEFENSE COMMITTEES DEFINED.

For purposes of this Act, the term "congressional defense committees" means—

(1) the Committee on Armed Services and the Committee on Appropriations of the Senate; and

(2) the Committee on National Security and the Committee on Appropriations of the House of Representatives.

TITLE I—PROCUREMENT

Subtitle A—Authorization of Appropriations

SEC. 101. ARMY.

Funds are hereby authorized to be appropriated for fiscal year 1999 for procurement for the Army as follows:

(1) For aircraft, $1,466,508,000.

(2) For missiles, $1,175,539,000.

(3) For weapons and tracked combat vehicles, $1,443,108,000.

(4) For ammunition, $1,010,155,000.

(5) For other procurement, $3,565,927,000.

SEC. 102. NAVY AND MARINE CORPS.

(a) Navy.—Funds are hereby authorized to be appropriated for fiscal year 1999 for procurement for the Navy as follows:

(1) For aircraft, $7,499,934,000.

(2) For weapons, including missiles and torpedoes, $1,370,045,000.

(3) For shipbuilding and conversion, $6,067,272,000.

(4) For other procurement, $4,052,012,000.

(b) Marine Corps.—Funds are hereby authorized to be appropriated for fiscal year 1999 for procurement for the Marine Corps in the amount of $910,558,000.

(c) Navy and Marine Corps Ammunition.—Funds are hereby authorized to be appropriated for procurement of ammunition for the Navy and the Marine Corps in the amount of $476,539,000.

SEC. 103. AIR FORCE.

Funds are hereby authorized to be appropriated for fiscal year 1999 for procurement for the Air Force as follows:

(1) For aircraft, $8,303,839,000.

(2) For missiles, $2,354,745,000.

(3) For ammunition, $384,161,000.

(4) For other procurement, $6,792,081,000.

SEC. 104. DEFENSE-WIDE ACTIVITIES.

Funds are hereby authorized to be appropriated for fiscal year 1999 for Defense-wide procurement in the amount of $2,029,250,000.

SEC. 105. RESERVE COMPONENTS.

Funds are hereby authorized to be appropriated for fiscal year 1999 for procurement of aircraft, vehicles, communications equipment, and other equipment for the reserve components of the Armed Forces as follows:

(1) For the Army National Guard, $10,000,000.

(2) For the Air National Guard, $10,000,000.

(3) For the Army Reserve, $10,000,000.

(4) For the Naval Reserve, $10,000,000.

(5) For the Air Force Reserve, $10,000,000.

(6) For the Marine Corps Reserve, $10,000,000.

SEC. 106. DEFENSE INSPECTOR GENERAL.

Funds are hereby authorized to be appropriated for fiscal year 1999 for procurement for the Inspector General of the Department of Defense in the amount of $1,300,000.

SEC. 107. CHEMICAL DEMILITARIZATION PROGRAM.

There is hereby authorized to be appropriated for fiscal year 1999 the amount of $780,150,000 for—

(1) the destruction of lethal chemical agents and munitions in accordance with section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521); and

(2) the destruction of chemical warfare material of the United States that is not covered by section 1412 of such Act.

SEC. 108. DEFENSE HEALTH PROGRAMS.

Funds are hereby authorized to be appropriated for fiscal year 1999 for the Department of Defense for procurement for carrying out health care programs, projects, and activities of the Department of Defense in the total amount of $402,387,000.

SEC. 109. DEFENSE EXPORT LOAN GUARANTEE PROGRAM.

Funds are hereby authorized to be appropriated for fiscal year 1999 for the Department of Defense for carrying out the Defense Export Loan Guarantee Program under section 2540 of title 10, United States Code, in the total amount of $1,250,000.

Subtitle B—Army Programs

SEC. 111. MULTIYEAR PROCUREMENT AUTHORITY FOR LONGBOW HELLFIRE MISSILE PROGRAM.

Beginning with the fiscal year 1999 program year, the Secretary of the Army may, in accordance with section 2306b of title 10, United States Code, enter into a multiyear procurement contract for the procurement of the Longbow Hellfire missile. The contract may be for a term of five years.

SEC. 112. CONDITION FOR AWARD OF MORE THAN ONE MULTIYEAR CONTRACT FOR THE FAMILY OF MEDIUM TACTICAL VEHICLES.

Before awarding a multiyear procurement contract for the production of the Family of Medium Tactical Vehicles to more than one contractor under the authority of section 112(b) of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 1648), the Secretary of the Army shall certify in writing to the congressional defense committees that—

(1) the total quantity of Family of Medium Tactical Vehicles trucks required by the Army to be delivered in any 12-month period exceeds the production capacity of any single prime contractor; or

(2)(A) the total cost of the procurements to the Army under all such contracts over the period of the contracts will be the same as or lower than the amount that would be the total cost of the procurements if only one such contract were awarded; and

(B) the vehicles to be produced by all contractors under the contracts will be produced with common components that will be interchangeable among similarly configured models.

SEC. 113. ARMORED SYSTEM MODERNIZATION.

(a) Limitation.—Of the funds authorized to be appropriated under section 101(3), $20,300,000 of the funds available for the M1A1D Application Integration Kit may not be obligated for the procurement of the Kit until 30 days after the Secretary of the Army submits the report required under subsection (b).

(b) Report.—Not later than January 31, 1999, the Secretary of the Army shall submit a report on armored system modernization to the congressional defense committees. The report shall contain an assessment of the current acquisition and fielding strategies for the M1A2 Abrams Tank and M2A3 Bradley Fighting Vehicle and an assessment of alternatives to those strategies. The report shall specifically include an assessment of an alternative fielding strategy that provides for placing all of the armored vehicles configured in the latest variant into one heavy corps. The assessment of each alternative strategy shall include the following:

(1) The relative effects on warfighting capabilities in terms of operational effectiveness and training and support efficiencies, taking into consideration the joint warfighting context.

(2) How the alternative strategy would facilitate the transition to the Future Scout and Cavalry System, the Future Combat System, or other armored systems for the future force structure known as the Army After Next.

(3) How the alternative strategy fits into the context of overall armored system modernization through 2020.

(4) Budgetary implications.

(5) Implications for the national technology and industrial base.

SEC. 114. REACTIVE ARMOR TILES.

(a) Limitation.—None of the funds authorized to be appropriated under section 101(3) or 102(b) may be obligated for the procurement of reactive armor tiles until 30 days after the date on which the Secretary of Defense submits to the congressional defense committees the study required by subsection (c).

(b) Exception.—The limitation in subsection (a) does not apply to the obligation of any funds for the procurement of armor tiles for an armored vehicle for which the Secretary of the Army or, in the case of the Marine Corps, the Secretary of the Navy, had established a requirement for such tiles before the date of the enactment of this Act.

(c) Study Required.—(1) The Secretary of Defense shall contract with an entity independent of the Department of Defense to conduct a study of the present and future operational requirements of the Army and the Marine Corps for reactive armor tiles for armored vehicles and to submit to the Secretary a report on the results of the study.

(2) The study shall include the following:

(A) A detailed assessment of the operational requirements of the Army and the Marine Corps for reactive armor tiles for each of the armored vehicles presently in use, including the requirements for each vehicle in its existing configurations and in configurations proposed for the vehicle.

(B) For each armored vehicle, an analysis of the costs and benefits of the procurement and installation of the tiles, including a comparison of those costs and benefits with the costs and benefits of any existing upgrade program for the armored vehicle.

(3) The entity carrying out the study shall request the views of the Secretary of the Army and the Secretary of the Navy.

(d) Submission to Congress.—Not later than April 1, 1999, the Secretary of Defense shall submit to the congressional defense committees—

(1) the report on the study;

(2) the comments of the Secretary of the Army and the Secretary of the Navy on the study; and

(3) for each vehicle for which it is determined that a requirement for reactive armor tiles exists, the Secretary's recommendations as to the number of vehicles to be equipped with the tiles.

SEC. 115. ANNUAL REPORTING OF COSTS ASSOCIATED WITH TRAVEL OF MEMBERS OF CHEMICAL DEMILITARIZATION CITIZENS' ADVISORY COMMISSION.

(a) Information To Be Included in Annual Report on Chemical Demilitarization

PROGRAM.—Section 1412(g)(2) of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521(g)(2)) is amended by adding at the end the following:

"(C) An accounting of all funds expended (for the fiscal year covered by the report) for travel and associated travel costs for Citizens' Advisory Commissioners under section 172(g) of Public Law 102–484 (50 U.S.C. 1521 note).".

(b) TECHNICAL AMENDMENT.—Section 1412(g) of section 1412 of such Act is amended by striking out "(g) PERIODIC REPORTS.—" and inserting in lieu thereof "(g) ANNUAL REPORT.—".

SEC. 116. EXTENSION OF AUTHORITY TO CARRY OUT ARMAMENT RETOOLING AND MANUFACTURING SUPPORT INITIATIVE.

Section 193(a) of the Armament Retooling and Manufacturing Support Act of 1992 (subtitle H of title I of Public Law 102–484; 10 U.S.C. 2501 note) is amended by striking out "During fiscal years 1993 through 1998" and inserting in lieu thereof "During fiscal years 1993 through 1999".

SEC. 117. ALTERNATIVE TECHNOLOGIES FOR DESTRUCTION OF ASSEMBLED CHEMICAL WEAPONS.

(a) PROGRAM MANAGEMENT.—The program manager for the Assembled Chemical Weapons Assessment shall continue to manage the development and testing (including demonstration and pilot-scale testing) of technologies for the destruction of lethal chemical munitions that are potential or demonstrated alternatives to incineration. In performing such function, the program manager shall act independently of the program manager for the baseline chemical demilitarization program and shall report to the Under Secretary of Defense for Acquisition and Technology.

(b) POST-DEMONSTRATION ACTIVITIES.—(1) The program manager for the Assembled Chemical Weapons Assessment may undertake the activities that are necessary to ensure that an alternative technology for the destruction of lethal chemical munitions can be implemented immediately after—

(A) the technology has been demonstrated successful; and

(B) the Under Secretary of Defense for Acquisition and Technology has submitted a report on the demonstration to Congress.

(2) To prepare for the immediate implementation of any such technology, the program manager may, during fiscal years 1998 and 1999, take the following actions:

(A) Establish program requirements.

(B) Prepare procurement documentation.

(C) Develop environmental documentation.

(D) Identify and prepare to meet public outreach and public participation requirements.

(E) Prepare to award a contract for the design, construction, and operation of a pilot facility for the technology to the provider team for the technology not later than June 1, 1999.

(c) INDEPENDENT EVALUATION.—The Under Secretary of Defense for Acquisition and Technology shall provide for two evaluations of the cost and schedule of the Assembled Chemical Weapons Assessment to be performed, and for each such evaluation to be submitted to the Under Secretary, not later than September 30, 1999. One of the evaluations shall be performed by a nongovernmental organization qualified to make such an evaluation, and the other evaluation shall be performed separately by the Cost Analysis Improvement Group of the Department of Defense.

(d) PILOT FACILITIES CONTRACTS.—(1) The Under Secretary of Defense for Acquisition and Technology shall determine whether to proceed with pilot-scale testing of a technology referred to in paragraph (2) in time to award a contract for the design, construction, and operation of a pilot facility for the technology to the provider team for the technology not later than December 30, 1999. If the Under Secretary determines to proceed with such testing, the Under Secretary shall (exercising the acquisition authority of the Secretary of Defense) so award a contract not later than such date.

(2) Paragraph (1) applies to an alternative technology for the destruction of lethal chemical munitions, other than incineration, that the Under Secretary—

(A) certifies in writing to Congress is—

(i) as safe and cost effective for disposing of assembled chemical munitions as is incineration of such munitions; and

(ii) is capable of completing the destruction of such munitions on or before the later of the date by which the destruction of the munitions would be completed if incineration were used or the deadline date for completing the destruction of the munitions under the Chemical Weapons Convention; and

(B) determines as satisfying the Federal and State environmental and safety laws that are applicable to the use of the technology and to the design, construction, and operation of a pilot facility for use of the technology.

(3) The Under Secretary shall consult with the National Research Council in making determinations and certifications for the purpose of paragraph (2).

(4) In this subsection, the term "Chemical Weapons Convention" means the Convention on the Prohibition of Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction, opened for signature on January 13, 1993, together with related annexes and associated documents.

(e) FUNDING.—(1) Of the total amount authorized to be appropriated under section 107, $18,000,000 shall be available for the program manager for the Assembled Chemical Weapons Assessment for the following:

(A) Demonstrations of alternative technologies under the Assembled Chemical Weapons Assessment.

(B) Planning and preparation to proceed from demonstration of an alternative technology immediately into the development of a pilot-scale facility for the technology, including planning and preparation for—

(i) continued development of the technology leading to deployment of the technology for use;

(ii) satisfaction of requirements for environmental permits;

(iii) demonstration, testing, and evaluation;

(iv) initiation of actions to design a pilot plant;

(v) provision of support at the field office or depot level for deployment of the technology for use; and

(vi) educational outreach to the public to engender support for the deployment.

(C) The independent evaluation of cost and schedule required under subsection (c).

(2) Funds authorized to be appropriated under section 107(1) are authorized to be used for awarding contracts in accordance with subsection (d) and for taking any other action authorized in this section.

(f) ASSEMBLED CHEMICAL WEAPONS ASSESSMENT DEFINED.—In this section, the term "Assembled Chemical Weapons Assessment" means the pilot program carried out under section 8065 of the Department of Defense Appropriations Act, 1997 (section 101(b) of Public Law 104–208; 110 Stat. 3009–101; 50 U.S.C. 1521 note).

Subtitle C—Navy Programs

SEC. 121. CVN–77 NUCLEAR AIRCRAFT CARRIER PROGRAM.

Of the amount authorized to be appropriated under section 102(a)(3) for fiscal year 1999, $124,500,000 is available for the advance procurement and advance construction of components (including nuclear components) for the CVN–77 nuclear aircraft carrier program.

SEC. 122. INCREASED AMOUNT TO BE EXCLUDED FROM COST LIMITATION FOR SEAWOLF SUBMARINE PROGRAM.

Section 123(a) of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 1650) is amended by striking out "$272,400,000" and inserting in lieu thereof "$557,600,000".

SEC. 123. MULTIYEAR PROCUREMENT AUTHORITY FOR THE MEDIUM TACTICAL VEHICLE REPLACEMENT.

Beginning with the fiscal year 1999 program year, the Secretary of the Navy may, in accordance with section 2306b of title 10, United States Code, enter into a multiyear procurement contract for the procurement of the Medium Tactical Vehicle Replacement. The contract may be for a term of five years.

SEC. 124. MULTIYEAR PROCUREMENT AUTHORITY FOR CERTAIN AIRCRAFT PROGRAMS.

Beginning with the fiscal year 1999 program year, the Secretary of the Navy may, in accordance with section 2306b of title 10, United States Code, enter into multiyear contracts for the procurement of the following aircraft:

(1) The AV–8B aircraft.

(2) The E–2C aircraft.

(3) The T–45 aircraft.

Subtitle D—Air Force Programs

SEC. 131. JOINT SURVEILLANCE TARGET ATTACK RADAR SYSTEM.

(a) AMOUNT FOR FOLLOW-ON OPTIONS.—Of the amount authorized to be appropriated under section 103(1) for the Joint Surveillance Target Attack Radar System (JSTARS) program, $72,000,000 is available for funding the following options:

(1) Advance procurement of long-lead items for two additional E–8C JSTARS aircraft.

(2) Payment of expenses associated with termination of production of JSTARS aircraft, together with augmentation of other funding for the program for development of an improved joint surveillance target attack radar, known as the radar technology insertion program.

(b) LIMITATION.—None of the funds available in accordance with subsection (a) for funding an option described in that subsection may be obligated until 30 days after the date on which the Secretary of Defense submits to Congress a plan for using the funds. The plan shall specify the option selected, the reasons for the selection of that option, and details about how the funds are to be used for that option.

SEC. 132. LIMITATION ON REPLACEMENT OF ENGINES ON MILITARY AIRCRAFT DERIVED FROM BOEING 707 AIRCRAFT.

None of the funds authorized to be appropriated under this title may be obligated or expended for the replacement of engines on aircraft of the Department of Defense that are derived from the Boeing 707 aircraft until the Secretary of Defense has submitted the analysis required by section 133 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 1652).

SEC. 133. F-22 AIRCRAFT PROGRAM.

(a) Limitation on Advance Procurement.—(1) Amounts available for the Department of Defense for any fiscal year for the F-22 aircraft program may not be obligated for advance procurement for the six Lot II F-22 aircraft before the date that is 30 days after date that is applicable under paragraph (2) or (3).

(2) The applicable date for the purposes of paragraph (1) is the date on which the Secretary of Defense submits a certification under subsection (b)(1) unless the Secretary submits a report under subsection (b)(2).

(3) If the Secretary submits a report under subsection (b)(2), the applicable date for the purposes of paragraph (1) is the later of—

(A) the date on which the Secretary of Defense submits the report; or

(B) the date on which the Director of Operational Test and Evaluation submits the certification required under subsection (c).

(b) Certification by Secretary of Defense.—(1) Upon the completion of 433 hours of flight testing of F-22 flight test vehicles, the Secretary of Defense shall submit to the congressional defense committees a certification of the completion of that amount of flight testing. A certification is not required under this paragraph if the Secretary submits a report under paragraph (2).

(2) If the Secretary determines that a number of hours of flight testing of F-22 flight test vehicles less than 433 hours provides the Defense Acquisition Board with a sufficient basis for deciding to proceed into production of Lot II F-22 aircraft, the Secretary may submit a report to the congressional defense committees upon the completion of that lesser number of hours of flight testing. A report under this paragraph shall contain the following:

(A) A certification of the number of hours of flight testing completed.

(B) The reasons for the Secretary's determination that the lesser number of hours is a sufficient basis for a decision by the board.

(C) A discussion of the extent to which the Secretary's determination is consistent with each decision made by the Defense Acquisition Board since January 1997 in the case of a major aircraft acquisition program that the amount of flight testing completed for the program was sufficient or not sufficient to justify a decision to proceed into low-rate initial production.

(D) A determination by the Secretary that it is more financially advantageous for the Department to' proceed into production of Lot II F-22 aircraft than to delay production until completion of 433 hours of flight testing, together with the reasons for that determination.

(c) Certification by the Director of Operational Test and Evaluation.—Upon the completion of 183 hours of the flight testing of F-22 flight test vehicles provided for in the test and evaluation master plan for the F-22 aircraft program, as in effect on October 1, 1997, the Director of Operational Test and Evaluation shall submit to the congressional defense committees a certification of the completion of that flight testing.

SEC. 134. C-130J AIRCRAFT PROGRAM.

Not later than March 1, 1999, the Secretary of Defense shall review the C-130J aircraft program and submit a report on the program to the congressional defense committees. The report shall include at least the following:

(1) A discussion of the testing planned and the testing conducted under the program, including—

(A) the testing schedule intended at the beginning of the program;

(B) the testing schedule as of when the testing commenced; and

(C) an explanation of the time taken for the testing.

(2) The cost and schedule of the program, including—

(A) whether the Department has exercised or plans to exercise contract options for fiscal years 1996, 1997, 1998, and 1999;

(B) when the Department expects the aircraft to be delivered and how the delivery dates compare to the delivery dates specified in the contract;

(C) whether the Department expects to make any modification to the negotiated contract price for these aircraft, and the amount and basis for any such modification; and

(D) whether the Department expects the reported delays and overruns in the development of the aircraft to have any other impact on the cost, schedule, or performance of the aircraft.

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

Subtitle A—Authorization of Appropriations

SEC. 201. AUTHORIZATION OF APPROPRIATIONS.

Funds are hereby authorized to be appropriated for fiscal year 1999 for the use of the Department of Defense for research, development, test, and evaluation as follows:

(1) For the Army, $4,838,145,000.

(2) For the Navy, $8,219,997,000.

(3) For the Air Force, $13,673,993,000.

(4) For Defense-wide activities, $9,583,822,000, of which—

(A) $249,106,000 is authorized for the activities of the Director, Test and Evaluation; and

(B) $25,245,000 is authorized for the Director of Operational Test and Evaluation.

SEC. 202. AMOUNT FOR BASIC AND APPLIED RESEARCH.

(a) Fiscal Year 1999.—Of the amounts authorized to be appropriated by section 201, $4,186,817,000 shall be available for basic research and applied research projects.

(b) Basic Research and Applied Research Defined.—For purposes of this section, the term "basic research and applied research" means work funded in program elements for defense research and development under Department of Defense category 6.1 or 6.2.

Subtitle B—Program Requirements, Restrictions, and Limitations

SEC. 211. CRUSADER SELF-PROPELLED ARTILLERY SYSTEM PROGRAM.

(a) Limitation.—Of the amount authorized to be appropriated for the Army pursuant to section 201(1), not more than $223,000,000 may be obligated for the Crusader self-propelled artillery system program until 30 days after the date on which the Secretary of the Army submits the report required under subsection (b).

(b) Requirement for Report.—The Secretary of the Army shall submit to the congressional defense committees a report on the Crusader self-propelled artillery system. The report shall include the following:

(1) An assessment of the risks associated with the current Crusader program technology.

(2) The total requirements for the Crusader system, taking into consideration revisions in force structure resulting from the redesign of heavy and light divisions to achieve a force structure known as the Army After Next.

(3) The potential for reducing the weight of the Crusader system by as much as 50 percent.

(4) The potential for using alternative propellants for the artillery projectile for the Crusader system and the effects on the overall program schedule that would result from taking the actions and time necessary to develop mature technologies for alternative propellants.

(5) An analysis of the costs and benefits of delaying procurement of Crusader to avoid affordability issues associated with the current schedule and to allow for maturation of weight and propellant technologies.

(c) Submission of Report.—The Secretary of the Army shall submit the report not later than March 1, 1999.

SEC. 212. CVN-77 NUCLEAR AIRCRAFT CARRIER PROGRAM.

(a) Amount for New Technologies.—Of the amounts authorized to be appropriated under section 201(2) for aircraft carrier system development, $50,000,000 shall be available only for research, development, test, and evaluation, and for acquisition, of technologies described in subsection (b) for use in the CVN-77 nuclear aircraft carrier program.

(b) Technologies.—The technologies for which amounts are available under subsection (a) are technologies that are designed—

(1) for a transition from the CVN-77 aircraft carrier program to the CV(X) aircraft carrier program; and

(2) for—

(A) demonstrating enhanced capabilities for the CV(X) aircraft carrier program; or

(B) mitigating the cost or technical risks of that program.

SEC. 213. UNMANNED AERIAL VEHICLE PROGRAMS.

(a) Termination of Dark Star Program.—The Secretary of Defense shall terminate the Dark Star unmanned aerial vehicle program. Except as provided in subsection (b), funds available for that program may be obligated after the date of the enactment of this Act only for costs necessary for terminating the program.

(b) Global Hawk Program.—Of the unobligated balance of the funds available for the Dark Star unmanned aerial vehicle program, $32,500,000 shall be available for the procurement of three Global Hawk unmanned aerial vehicles. However, none of the funds made available for the Global Hawk unmanned aerial vehicle program under the preceding sentence may be obligated or expended for that program until phase II testing of the Global Hawk unmanned aerial vehicle has been completed.

SEC. 214. AIRBORNE LASER PROGRAM.

(a) Findings.—Congress makes the following findings:

(1) The development plan of the Department of Defense for the Airborne Laser Program does not include the basic validation of certain key technologies until 2002, which is shortly before the program is scheduled to enter the engineering and manufacturing development phase of development.

(2) It is possible that the technical risk of the Airborne Laser Program could be substantially reduced by restructuring the program to include a technology demonstration using a low power laser device to collect optical data in an operationally representative environment.

(3) Department of Defense officials are currently planning to have expended approximately $1,300,000,000 on the Airborne Laser Program by the end of fiscal year 2002, and a total of $6,300,000,000 by the end of fiscal year 2008 for the development of the system and the procurement of seven airborne laser aircraft.

(4) Due to the likely vulnerability of an airborne laser system to air defense threats,

the limited lethal range of the laser device, and other operational limitations of the system, the utility of the airborne laser system will be severely restricted under a wide range of operational scenarios.

(b) ASSESSMENT OF TECHNICAL AND OPERATIONAL LIMITATIONS.—The Secretary of Defense shall conduct an assessment of the technical obstacles and operational shortcomings expected for the Airborne Laser Program. In conducting the assessment, the Secretary shall—

(1) require the Panel on Reducing Risk in Ballistic Missile Defense Test Programs to evaluate the adequacy of the test program for the Airborne Laser Program; and

(2) establish an independent team of persons from outside the Department of Defense who are experts in relevant fields to review the operational limitations and issues associated with the Airborne Laser Program.

(c) REPORT ON ASSESSMENT.—Not later than March 15, 1999, the Secretary shall submit a report on the assessment to Congress. The report shall include the Secretary's findings and any recommendations that the Secretary considers appropriate.

(d) FUNDING FOR PROGRAM.—Of the amount authorized to be appropriated under section 201(3), $195,219,000 shall be available for the Airborne Laser Program.

(e) LIMITATION.—Of the amount made available pursuant to subsection (d), not more than $150,000,000 may be obligated until 30 days after the Secretary submits the report required under subsection (c).

SEC. 215. ENHANCED GLOBAL POSITIONING SYSTEM PROGRAM.

(a) FINDINGS.—Congress makes the following findings:

(1) Section 152(b) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1578) prohibits the obligation of funds, after September 30, 2000, to modify or procure any Department of Defense aircraft, ship, armored vehicle, or indirect-fire weapon system that is not equipped with a Global Positioning System receiver.

(2) Section 279(b) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 243) requires the Secretary of Defense to prepare a plan for enhancing the Global Positioning System and to provide in that plan for—

(A) the development of capabilities to deny hostile military forces the ability to use the Global Positioning System without hindering the ability of United States military forces and civil users to have access to and use of the system; and

(B) the development and acquisition of receivers for the Global Positioning System and other techniques for weapons and weapon systems that provide substantially improved resistance to jamming and other forms of electronic interference or disruption.

(3) Section 2281 of title 10, United States Code, requires the Secretary of Defense—

(A) to develop appropriate measures for preventing hostile use of the Global Positioning System so as to make it unnecessary for the Secretary to use the selective availability feature of the system continuously while not hindering the use of the Global Positioning System by the United States and its allies for military purposes;

(B) to ensure that the Armed Forces of the United States have the capability to use the Global Positioning System effectively despite hostile attempts to prevent the use of the system by such forces; and

(C) to develop measures for preventing hostile use of the Global Positioning System in a particular area without hindering peaceful civil use of the system elsewhere.

(b) POLICY ON PRIORITY FOR DEVELOPMENT OF ENHANCED GPS SYSTEM.—The development of an enhanced Global Positioning System is an urgent national security priority.

(c) DEVELOPMENT REQUIRED.—To fulfill the requirements described in subsection (a), the Secretary of Defense shall develop an enhanced Global Positioning System in accordance with the priority declared in subsection (b). The enhanced Global Positioning System shall consist of the following elements:

(1) An evolved satellite system that includes dynamic frequency reconfiguration and regional-level directional signal enhancements.

(2) Enhanced receivers and user equipment that are capable of providing military users with direct access to encrypted Global Positioning System signals.

(3) To the extent funded by the Secretary of Transportation, additional civil frequencies and other enhancements for civil users.

(d) SENSE OF CONGRESS REGARDING FUNDING.—It is the sense of Congress that—

(1) the Secretary of Defense should ensure that the future-years defense program provides for sufficient funding to develop and deploy an enhanced Global Positioning System system in accordance with the priority declared in subsection (b); and

(2) the Secretary of Transportation should provide sufficient funding to support additional civil frequencies for the Global Positioning System and other enhancements of the system for civil users.

(e) PLAN FOR DEVELOPMENT OF ENHANCED GLOBAL POSITIONING SYSTEM.—Not later than April 15, 1999, the Secretary of Defense shall submit to Congress a plan for carrying out the requirements of subsection (c).

(f) DELAYED EFFECTIVE DATE FOR LIMITATION ON PROCUREMENT OF SYSTEMS NOT GPS-EQUIPPED.—Section 152(b) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1578) is amended by striking out "2000" and inserting in lieu thereof "2005".

(g) FUNDING FROM AUTHORIZED APPROPRIATIONS FOR FISCAL YEAR 1999.—Of the amounts authorized to be appropriated under section 201(3), $44,000,000 shall be available to establish and carry out an enhanced Global Positioning System program.

SEC. 216. MANUFACTURING TECHNOLOGY PROGRAM.

(a) COMPETITION AND COST SHARING.—Subsection (d) of section 2525 of title 10, United States Code, is amended by striking out paragraphs (2), (3), and (4) and inserting in lieu thereof the following:

"(2) Except as provided in paragraph (3), the costs of a project carried out under the program shall be shared by the Department of Defense and the other parties to the grant, contract, cooperative agreement, or other transaction involved if any results of the project are likely to have an immediate and direct commercial application. The cost share—

"(A) in the case of a grant, contract, cooperative agreement, or other transaction that is awarded using a competitive selection process, shall be the cost share proposed in the application or offer selected for the award; or

"(B) in a case in which there is only one applicant or offeror, shall be the cost share negotiated with the applicant or offeror that provides the best value for the Government.

"(3)(A) Cost-sharing is not required of the non-Federal Government parties to a grant, contract, cooperative agreement, or other transaction under paragraph (2) if the project is determined as being sufficiently high risk to discourage cost-sharing by non-Federal Government sources.

"(B) A determination under subparagraph (A) that cost-sharing is not required in the case of a particular grant, contract, cooperative agreement or other transaction shall be made by—

"(i) the Secretary of the military department awarding the grant or entering into the contract, cooperative agreement, or other transaction; or

"(ii) the Secretary of Defense for any other grant, contract, cooperative agreement, or transaction.

"(C) The transaction file for a case in which cost-sharing is determined as not being required shall include written documentation of the reasons for the determination.".

(b) FIVE-YEAR PLAN.—Subsection (e)(2) of such section is amended to read as follows:

"(2) The plan shall include the following:

"(A) An assessment of the effectiveness of the program.

"(B) An assessment of the extent to which the costs of projects are being shared by the following:

"(i) Commercial enterprises in the private sector.

"(ii) Department of Defense program offices, including weapon system program offices.

"(iii) Departments and agencies of the Federal Government outside the Department of Defense.

"(iv) Institutions of higher education.

"(v) Other institutions not operated for profit.

"(vi) Other sources.".

SEC. 217. AUTHORITY FOR USE OF MAJOR RANGE AND TEST FACILITY INSTALLATIONS BY COMMERCIAL ENTITIES.

(a) PERMANENT AUTHORITY.—Subsection (g) of section 2681 of title 10, United States Code, is repealed.

(b) REPEAL OF EXECUTED REPORTING REQUIREMENT.—Subsection (h) of such section is repealed.

SEC. 218. EXTENSION OF AUTHORITY TO CARRY OUT CERTAIN PROTOTYPE PROJECTS.

Section 845(c) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 10 U.S.C. 2371 note) is amended by striking out "September 30, 1999" and inserting in lieu thereof "September 30, 2001".

SEC. 219. NATO ALLIANCE GROUND SURVEILLANCE CONCEPT DEFINITION.

Amounts authorized to be appropriated under subtitle A are available for a NATO alliance ground surveillance concept definition that is based on the Joint Surveillance Target Attack Radar System (Joint STARS) Radar Technology Insertion Program (RTIP) sensor of the United States, as follows:

(1) Of the amount authorized to be appropriated under section 201(1), $6,400,000.

(2) Of the amount authorized to be appropriated under section 201(3), $3,500,000.

SEC. 220. NATO COMMON-FUNDED CIVIL BUDGET.

Of the amount authorized to be appropriated by section 201(1), $750,000 shall be available for contributions for the common-funded Civil Budget of NATO.

SEC. 221. PERSIAN GULF ILLNESSES.

(a) ADDITIONAL AMOUNT FOR PERSIAN GULF ILLNESSES.—The total amount authorized to be appropriated under this title for research and development relating to Persian Gulf illnesses is the total amount authorized to be appropriated for such purpose under the other provisions of this title plus $10,000,000.

(b) REDUCED AMOUNT FOR ARMY COMMERCIAL OPERATIONS AND SUPPORT SAVINGS PROGRAM.—Of the amount authorized to be appropriated under section 201(1), $23,600,000 shall be available for the Army Commercial Operations and Support Savings Program.

SEC. 222. DOD/VA COOPERATIVE RESEARCH PROGRAM.

(a) AVAILABILITY OF FUNDS.—(1) The amount authorized to be appropriated by section 201(4) is hereby increased by $10,000,000.

(2) Of the amount authorized to be appropriated by section 201(4), as increased by paragraph (1), $10,000,000 shall be available for the DOD/VA Cooperative Research Program.

(b) OFFSET.—(1) The amount authorized to be appropriated by section 201(2) is hereby decreased by $10,000,000.

(2) Of the amount authorized to be appropriated by section 201(2), as decreased by paragraph (1), not more than $18,500,000 shall be available for the Commercial Operations and Support Savings Program.

(c) EXECUTIVE AGENT.—The Secretary of Defense, acting through the Army Medical Research and Materiel Command and the Naval Operational Medicine Institute, shall be the executive agent for the utilization of the funds made available by subsection (a).

SEC. 223. LOW COST LAUNCH DEVELOPMENT PROGRAM.

Of the total amount authorized to be appropriated under section 201(3), $5,000,000 is available for the Low Cost Launch Development Program.

Subtitle C—Other Matters

SEC. 231. POLICY WITH RESPECT TO BALLISTIC MISSILE DEFENSE COOPERATION.

As the United States proceeds with efforts to develop defenses against ballistic missile attack, it should seek to foster a climate of cooperation with Russia on matters related to missile defense. In particular, the United States and its NATO allies should seek to cooperate with Russia in such areas as early warning.

SEC. 232. REVIEW OF PHARMACOLOGICAL INTERVENTIONS FOR REVERSING BRAIN INJURY.

(a) REVIEW AND REPORT REQUIRED.—The Assistant Secretary of Defense for Health Affairs shall review research on pharmacological interventions for reversing brain injury and, not later than March 31, 1999, submit a report on the results of the review to Congress.

(b) CONTENT OF REPORT.—The report shall include the following:

(1) The potential for pharmacological interventions for reversing brain injury to reduce mortality and morbidity in cases of head injuries incurred in combat or resulting from exposures to chemical weapons or agents.

(2) The potential utility of such interventions for the Armed Forces.

(3) A conclusion regarding whether funding for research on such interventions should be included in the budget for the Department of Defense for fiscal year 2000.

SEC. 233. LANDMINES.

(a) AVAILABILITY OF FUNDS.—(1) Of the amounts authorized to be appropriated in section 201, $17,200,000 shall be available for activities relating to the identification, adaptation, modification, research, and development of existing and new tactics, technologies, and operational concepts that—

(A) would provide a combat capability that is comparable to the combat capability provided by anti-personnel landmines, including anti-personnel landmines used in mixed mine systems; and

(B) comply with the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction.

(2) The amount available under paragraph (1) shall be derived as follows:

(A) $12,500,000 shall be available from amounts authorized to be appropriated by section 201(1).

(B) $4,700,000 shall be available from amounts authorized to be appropriated by section 201(4).

(b) STUDIES.—(1) Not later than 30 days after the date of enactment of this Act, the Secretary of Defense shall enter into a contract with each of two appropriate scientific organizations for purposes of identifying existing and new tactics, technologies, and concepts referred to in subsection (a).

(2) Each contract shall require the organization concerned to submit a report to the Secretary and to Congress, not later than one year after the execution of such contract, describing the activities under such contract and including recommendations with respect to the adaptation, modification, and research and development of existing and new tactics, technologies, and concepts identified under such contract.

(3) Amounts available under subsection (a) shall be available for purposes of the contracts under this subsection.

(c) REPORTS.—Not later than April 1 of each of 1999 through 2001, the Secretary shall submit to the congressional defense committees a report describing the progress made in identifying and deploying tactics, technologies, and concepts referred to in subsection (a).

(d) DEFINITIONS.—In this section:

(1) ANTI-PERSONNEL LANDMINE.—The term "anti-personnel landmine" has the meaning given the term "anti-personnel mine" in Article 2 of the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction.

(2) MIXED MINE SYSTEM.—The term "mixed mine system" includes any system in which an anti-vehicle landmine or other munition is constructed with or used with one or more anti-personnel landmines, but does not include an anti-handling device as that term is defined in Article 2 of the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction.

TITLE III—OPERATION AND MAINTENANCE

Subtitle A—Authorization of Appropriations

SEC. 301. OPERATION AND MAINTENANCE FUNDING.

(a) AMOUNTS AUTHORIZED.—Funds are hereby authorized to be appropriated for fiscal year 1999 for the use of the Armed Forces and other activities and agencies of the Department of Defense for expenses, not otherwise provided for, for operation and maintenance, in amounts as follows:

(1) For the Army, $17,395,563,000.

(2) For the Navy, $22,001,302,000.

(3) For the Marine Corps, $2,621,703,000.

(4) For the Air Force, $19,213,404,000.

(5) For the Special Operations Command, $1,251,503,000.

(6) For Defense-wide activities, $9,025,598,000.

(7) For the Army Reserve, $1,217,622,000.

(8) For the Naval Reserve, $943,639,000.

(9) For the Marine Corps Reserve, $134,593,000.

(10) For the Air Force Reserve, $1,759,696,000.

(11) For the Army National Guard, $2,476,815,000.

(12) For the Air National Guard, $3,113,933,000.

(13) For the Defense Inspector General, $130,764,000.

(14) For the United States Court of Appeals for the Armed Forces, $7,324,000.

(15) For Environmental Restoration, Army, $370,640,000.

(16) For Environmental Restoration, Navy, $274,600,000.

(17) For Environmental Restoration, Air Force, $372,100,000.

(18) For Environmental Restoration, Defense-wide, $23,091,000.

(19) For Environmental Restoration, Formerly Used Defense Sites, $195,000,000.

(20) For Overseas Humanitarian, Demining, and CINC Initiatives, $50,000,000.

(21) For Drug Interdiction and Counter-drug Activities, Defense-wide, $727,582,000.

(22) For the Kaho'olawe Island Conveyance, Remediation, and Environmental Restoration Trust Fund, $15,000,000.

(23) For Medical Programs, Defense, $9,653,435,000.

(24) For Cooperative Threat Reduction programs, $440,400,000.

(25) For Overseas Contingency Operations Transfer Fund, $746,900,000.

(26) For Impact Aid, $35,000,000.

(b) GENERAL LIMITATION.—Notwithstanding paragraphs (1) through (25) of subsection (a), the total amount authorized to be appropriated for fiscal year 1999 under those paragraphs is $93,875,207,000.

SEC. 302. WORKING CAPITAL FUNDS.

Funds are hereby authorized to be appropriated for fiscal year 1999 for the use of the Armed Forces and other activities and agencies of the Department of Defense for providing capital for working capital and revolving funds in amounts as follows:

(1) For the Defense Working Capital Funds, Air Force, $30,800,000.

(2) For Defense Working-Capital Fund, Defense-wide, $63,700,000.

(3) For the National Defense Sealift Fund, $669,566,000.

SEC. 303. ARMED FORCES RETIREMENT HOME.

There is hereby authorized to be appropriated for fiscal year 1999 from the Armed Forces Retirement Home Trust Fund the sum of $70,745,000 for the operation of the Armed Forces Retirement Home, including the United States Soldiers' and Airmen's Home and the Naval Home.

SEC. 304. TRANSFER FROM THE NATIONAL DEFENSE STOCKPILE TRANSACTION FUND.

(a) TRANSFER AUTHORITY.—To the extent provided in appropriations Acts, not more than $150,000,000 is authorized to be transferred from the National Defense Stockpile Transaction Fund to operation and maintenance accounts for fiscal year 1999 in amounts as follows:

(1) For the Army, $50,000,000.

(2) For the Navy, $50,000,000.

(3) For the Air Force, $50,000,000.

(b) TREATMENT OF TRANSFERS.—Amounts transferred under this section—

(1) shall be merged with, and be available for the same purposes and the same period as, the amounts in the accounts to which transferred; and

(2) may not be expended for an item that has been denied authorization of appropriations by Congress.

(c) RELATIONSHIP TO OTHER TRANSFER AUTHORITY.—The transfer authority provided in this section is in addition to the transfer authority provided in section 1001.

Subtitle B—Program Requirements, Restrictions, and Limitations

SEC. 311. SPECIAL OPERATIONS COMMAND COUNTERPROLIFERATION AND COUNTERTERRORISM ACTIVITIES.

Of the amount authorized to be appropriated under section 301(a)(5), the $18,500,000 available for the Special Operations Command that is not needed for the operation of six of the patrol coastal craft of the Department of Defense in the Caribbean Sea and Eastern Pacific Ocean in support of the drug interdiction efforts of the United States Southern Command by reason of section 331 shall be available for increased training and related operations in support of that command's counterproliferation of weapons of mass destruction and the command's counterterrorism activities. The amount available under the preceding sentence is in addition to other funds authorized to be appropriated under section 301(a)(5) for the Special Operations Command for such purposes.

SEC. 312. TAGGING SYSTEM FOR IDENTIFICATION OF HYDROCARBON FUELS USED BY THE DEPARTMENT OF DEFENSE.

(a) AUTHORITY TO CONDUCT PILOT PROGRAM.—The Secretary of Defense may conduct a pilot program using existing technology to determine—

(1) the feasibility of tagging hydrocarbon fuels used by the Department of Defense for the purposes of analyzing and identifying such fuels;

(2) the deterrent effect of such tagging on the theft and misuse of fuels purchased by the Department; and

(3) the extent to which such tagging assists in determining the source of surface and underground pollution in locations having separate fuel storage facilities of the Department and of civilian companies.

(b) SYSTEM ELEMENTS.—The tagging system under the pilot program shall have the following characteristics:

(1) The tagging system does not harm the environment.

(2) Each chemical used in the tagging system is—

(A) approved for use under the Toxic Substances Control Act (15 U.S.C. 2601 et seq.); and

(B) substantially similar to the fuel to which added, as determined in accordance with criteria established by the Environmental Protection Agency for the introduction of additives into hydrocarbon fuels.

(3) The tagging system permits a determination if a tag is present and a determination if the concentration of a tag has changed in order to facilitate identification of tagged fuels and detection of dilution of tagged fuels.

(4) The tagging system does not impair or degrade the suitability of tagged fuels for their intended use.

(c) REPORT.—Not later than 30 days after the completion of the pilot program, the Secretary shall submit to Congress a report setting forth the results of the pilot program and including any recommendations for legislation relating to the tagging of hydrocarbon fuels by the Department that the Secretary considers appropriate.

(d) FUNDING.—Of the amounts authorized to be appropriated under section 301(a)(6) for operation and maintenance for defense-wide activities, not more than $5,000,000 shall be available for the pilot program.

SEC. 313. PILOT PROGRAM FOR ACCEPTANCE AND USE OF LANDING FEES CHARGED FOR USE OF DOMESTIC MILITARY AIRFIELDS BY CIVIL AIRCRAFT.

(a) PILOT PROGRAM AUTHORIZED.—The Secretary of each military department may carry out a pilot program to demonstrate the use of landing fees as a source of funding for the operation and maintenance of airfields of the department.

(b) IMPOSITION OF LANDING FEES.—Under a pilot program carried out under this section, the Secretary of a military department may prescribe and impose landing fees for use of any military airfield of the department in the United States by civil aircraft during fiscal years 1999 and 2000. No fee may be charged under the pilot program for a landing after September 30, 2000.

(c) USE OF PROCEEDS.—Amounts received for a fiscal year in payment of landing fees imposed under the pilot program for use of a military airfield shall be credited to the appropriation that is available for that fiscal year for the operation and maintenance of the military airfield, shall be merged with amounts in the appropriation to which credited, and shall be available for that military airfield for the same period and purposes as the appropriation is available.

(d) REPORT.—Not later than March 31, 2000, the Secretary of Defense shall submit to Congress a report on the pilot programs carried out under this section by the Secretaries of the military departments. The report shall specify the amounts of fees received and retained by each military department under the pilot program as of December 31, 1999.

SEC. 314. NATO COMMON-FUNDED MILITARY BUDGET.

Of the amount authorized to be appropriated by section 30(a)(1), $227,377,000 shall be available for contributions for the common-funded Military Budget of NATO.

Subtitle C—Environmental Provisions

SEC. 321. TRANSPORTATION OF POLYCHLORINATED BIPHENYLS FROM ABROAD FOR DISPOSAL IN THE UNITED STATES.

(a) AUTHORITY.—Chapter 157 of title 10, United States Code, is amended by adding at the end the following:

"§ 2646. Transportation of polychlorinated biphenyls from abroad; disposal

"(a) AUTHORITY TO TRANSPORT.—(1) Subject to paragraph (2), the Secretary of the Defense and the Secretaries of the military departments may provide for the transportation into the customs territory of the United States of polychlorinated biphenyls generated by or under the control of the Department of Defense for purposes of their disposal, treatment, or storage in the customs territory of the United States.

"(2) Polychlorinated biphenyls may be transported into the customs territory of the United States under paragraph (1) only if the Administrator of the Environmental Protection Agency determines that the transportation will not result in an unreasonable risk of injury to health or the environment.

"(b) DISPOSAL.—(1) The disposal, treatment, and storage of polychlorinated biphenyls transported into the customs territory of the United States under subsection (a) shall be governed by the provisions of the Toxic Substances Control Act (15 U.S.C. 2601 et seq.).

"(2) A chemical waste landfill may not be used for the disposal, treatment, or storage of polychlorinated biphenyls transported into the customs territory of the United States under subsection (a) unless the landfill meets all of the technical requirements specified in section 761.75(b)(3) of title 40, Code of Federal Regulations, as in effect on the date that was one year before the date of enactment of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999.

"(c) CUSTOMS TERRITORY OF THE UNITED STATES DEFINED.—In this section, the term 'customs territory of the United States' has the meaning given that term in General Note 2. of the Harmonized Tariff Schedule of the United States.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of that chapter is amended by adding at the end the following:

"2646. Transportation of polychlorinated biphenyls from abroad; disposal.".

SEC. 322. MODIFICATION OF DEADLINE FOR SUBMITTAL TO CONGRESS OF ANNUAL REPORTS ON ENVIRONMENTAL ACTIVITIES.

Section 2706 of title 10, United States Code, is amended by striking out "not later than 30 days" each place it appears in subsections (a), (b), (c), and (d) and inserting in lieu thereof "not later than 45 days".

SEC. 323. SUBMARINE SOLID WASTE CONTROL.

(a) SOLID WASTE DISCHARGE REQUIREMENTS.—Subsection (c)(2) of section 3 of the Act to Prevent Pollution from Ships (33 U.S.C. 1902) is amended—

(1) in subparagraph (A), by adding at the end the following:

"(iii) With regard to submersibles, nonplastic garbage that has been compacted and weighted to ensure negative buoyancy."; and

(2) in subparagraph (B)(ii), by striking out "subparagraph (A)(ii)" and inserting in lieu thereof "clauses (ii) and (iii) of subparagraph (A)".

(b) CONFORMING AMENDMENT.—Subsection (e)(3)(A) of that section is amended by striking out "garbage that contains more than the minimum amount practicable of".

SEC. 324. PAYMENT OF STIPULATED PENALTIES ASSESSED UNDER CERCLA.

The Secretary of Defense may pay, from amounts in the Department of Defense Base Closure Account 1990 established by section 2906(a)(1) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note), not more than $15,000 as payment of pay stipulated civil penalties assessed under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) against McClellan Air Force Base, California.

SEC. 325. AUTHORITY TO PAY NEGOTIATED SETTLEMENT FOR ENVIRONMENTAL CLEANUP OF FORMERLY USED DEFENSE SITES IN CANADA.

(a) FINDINGS.—Congress makes the following findings with respect to the authorization of payment of settlement with Canada in subsection (b) regarding environmental cleanup at formerly used defense sites in Canada:

(1) A unique and longstanding national security alliance exists between the United States and Canada.

(2) The sites covered by the settlement were formerly used by the United States and Canada for their mutual defense.

(3) There is no formal treaty or international agreement between the United States and Canada regarding the environmental cleanup of the sites.

(4) Environmental contamination at some of the sites could pose a substantial risk to the health and safety of the United States

citizens residing in States near the border between the United States and Canada.

(5) The United States and Canada reached a negotiated agreement for an ex-gratia reimbursement of Canada in full satisfaction of claims of Canada relating to environmental contamination which agreement was embodied in an exchange of Notes between the Government of the United States and the Government of Canada.

(6) There is a unique factual basis for authorizing a reimbursement of Canada for environmental cleanup at sites in Canada after the United States departure from such sites.

(7) The basis for and authorization of such reimbursement does not extend to similar claims by other nations.

(8) The Government of Canada is committed to spending the entire $100,000,000 of the reimbursement authorized in subsection (b) in the United States, which will benefit United States industry and United States workers.

(b) AUTHORITY TO MAKE PAYMENTS.—(1) Subject to paragraph (3), the Secretary of Defense may, using funds specified under subsection (c), make a payment described in paragraph (2) in each of fiscal years 1999 through 2008 for purposes of the ex-gratia reimbursement of Canada in full satisfaction of any and all claims asserted against the United States by Canada for environmental cleanup of sites in Canada that were formerly used for the mutual defense of the United States and Canada.

(2) A payment referred to in paragraph (1) is a payment of $10,000,000, in constant fiscal year 1996 dollars, into the Foreign Military Sales Trust Account for purposes of Canada.

(3) A payment may be made under paragraph (1) in any fiscal year after fiscal year 1999 only if the Secretary of Defense submits to Congress with the budget for such fiscal year under section 1105 of title 31, United States Code, evidence that the cumulative amount expended by the Government of Canada for environmental cleanup activities in Canada during any fiscal years before such fiscal year in which a payment under that paragraph was authorized was an amount equal to or greater than the aggregate amount of the payments under that paragraph during such fiscal years.

(c) SOURCE OF FUNDS.—A payment may be made under subsection (b) in a fiscal year from amounts appropriated pursuant to the authorization of appropriations for the Department of Defense for such fiscal year for Operation and Maintenance, Defense-Wide.

SEC. 326. SETTLEMENT OF CLAIMS OF FOREIGN GOVERNMENTS FOR ENVIRONMENTAL CLEANUP OF OVERSEAS SITES FORMERLY USED BY THE DEPARTMENT OF DEFENSE.

(a) NOTICE OF NEGOTIATIONS.—The President shall notify Congress before entering into any negotiations for the ex-gratia settlement of the claims of a government of another country against the United States for environmental cleanup of sites in that country that were formerly used by the Department of Defense.

(b) AUTHORIZATION REQUIRED FOR USE OF FUNDS FOR PAYMENT OF SETTLEMENT.—Notwithstanding any other provision of law, no funds may be utilized for any payment under an ex-gratia settlement of any claims described in subsection (a) unless the use of the funds for that purpose is specifically authorized by law, treaty, or international agreement.

SEC. 327. ARCTIC MILITARY ENVIRONMENTAL COOPERATION PROGRAM.

(a) FINDINGS.—Congress makes the following findings:

(1) The Secretary of Defense has developed a program to address environmental matters relating to the military activities of the Department of Defense in the Arctic region. The program is known as the "Arctic Military Environmental Cooperation Program".

(2) The Secretary has carried out the Arctic Military Environmental Cooperation Program using funds appropriated for Cooperative Threat Reduction programs.

(b) ACTIVITIES UNDER PROGRAM.—(1) Subject to paragraph (2), activities under the Arctic Military Environmental Cooperation Program shall include cooperative activities on environmental matters in the Arctic region with the military departments and agencies of other countries, including the Russian Federation.

(2) Activities under the Arctic Military Environmental Cooperation Program may not include any activities for purposes for which funds for Cooperative Threat Reduction programs have been denied, including the purposes for which funds were denied by section 1503 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2732).

(c) AVAILABILITY OF FISCAL YEAR 1999 FUNDS.—(1) Of the amount authorized to be appropriated by section 301(a)(6), $4,000,000 shall be available for carrying out the Arctic Military Environmental Program.

(2) Amounts available for the Arctic Military Environmental Cooperation Program under paragraph (1) may not be obligated or expended for that Program until 45 days after the date on which the Secretary of Defense submits to the congressional defense committees a plan for the Program under paragraph (3).

(3) The plan for the Arctic Military Environmental Cooperation Program under this paragraph shall include the following:

(A) A statement of the overall goals and objectives of the Program.

(B) A statement of the proposed activities under the Program and the relationship of such activities to the national security interests of the United States.

(C) An assessment of the compatibility of the activities set forth under subparagraph (B) with the purposes of the Cooperative Threat Reduction programs of the Department of Defense (including with any prohibitions and limitations applicable to such programs).

(D) An estimate of the funding to be required and requested in future fiscal years for the activities set forth under subparagraph (B).

(E) A proposed termination date for the Program.

SEC. 328. SENSE OF SENATE REGARDING OIL SPILL PREVENTION TRAINING FOR PERSONNEL ON BOARD NAVY VESSELS.

(a) FINDINGS.—The Senate makes the following findings:

(1) There have been six significant oil spills in Puget Sound, Washington, in 1998, five at Puget Sound Naval Shipyard (including three from the U.S.S. Kitty Hawk, one from the U.S.S. Carl Vinson, and one from the U.S.S. Sacramento) and one at Naval Station Everett from the U.S.S. Paul F. Foster.

(2) Navy personnel on board vessels, and not shipyard employees, were primarily responsible for a majority of these oil spills at Puget Sound Naval Shipyard.

(3) Oil spills have the potential to damage the local environment, killing microscopic organisms, contributing to air pollution, harming plants and marine animals, and increasing overall pollution levels in Puget Sound.

(b) SENSE OF SENATE.—It is the sense of the Senate that the Secretary of the Navy should take immediate action to significantly reduce the risk of vessel oil spills, including the minimization of fuel oil transfers, the assurance of proper training and qualifications of all Naval personnel in occupations that may contribute to or minimize the risk of shipboard oil spills, and the improvement of liaison with local authorities concerning oil spill prevention and response activities.

Subtitle D—Counter-Drug Activities

SEC. 331. PATROL COASTAL CRAFT FOR DRUG INTERDICTION BY SOUTHERN COMMAND.

Of the funds authorized to be appropriated under section 301(a)(21), relating to drug interdiction and counter-drug activities, $18,500,000 shall be available for the equipping and operation of six of the Cyclone class coastal defense ships of the Department of Defense in the Caribbean Sea and Eastern Pacific Ocean in support of the drug interdiction efforts of the United States Southern Command.

SEC. 332. PROGRAM AUTHORITY FOR DEPARTMENT OF DEFENSE SUPPORT FOR COUNTER-DRUG ACTIVITIES.

(a) EXTENSION OF AUTHORITY.—Subsection (a) of section 1004 of the National Defense Authorization Act for Fiscal Year 1991 (10 U.S.C. 374 note) is amended by striking out "through 1999" and inserting in lieu thereof "through 2004".

(b) BASES AND FACILITIES SUPPORT.—(1) Subsection (b)(4) of such section is amended by inserting "of the Department of Defense or any Federal, State, local, or foreign law enforcement agency" after "counter-drug activities".

(2) Section 1004 of such Act is further amended by adding at the end the following:

"(h) CONGRESSIONAL NOTIFICATION OF FACILITIES PROJECTS.—(1) Not later than 21 days before obligating funds for beginning the work on a project described in paragraph (2), the Secretary of Defense shall submit to the congressional defense committees a notification of the project, including the scope and estimated total cost of the project.

"(2) Paragraph (1) applies to a project for the modification or repair of a Department of Defense facility for the purpose set forth in subsection (b)(4) that is estimated to cost more than $500,000.".

SEC. 333. SOUTHWEST BORDER FENCE.

(a) LIMITATION OF FUNDING FOR EXPANSION.—None of the funds authorized to be appropriated for the Department of Defense by this Act may be used to expand the Southwest border fence until the Secretary of Defense submits the report required by subsection (b).

(b) REPORT.—The Secretary of Defense shall submit to the congressional defense committees a report on the extent to which the Southwest border fence has reduced the illegal transportation of narcotics and other drugs into the United States.

(c) SOUTHWEST BORDER FENCE DEFINED.—In this section, the term "Southwest border fence" means the fence that was constructed, at Department of Defense expense, along the southwestern border of the United States for the purpose of preventing or reducing the illegal transportation of narcotics and other drugs into the United States.

SEC. 334. REVISION AND CLARIFICATION OF AUTHORITY FOR FEDERAL SUPPORT OF NATIONAL GUARD DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES.

(a) PROCUREMENT OF EQUIPMENT.—Subsection (a)(3) of section 112 of title 32, United

States Code, is amended by striking out "and leasing of equipment" and inserting in lieu thereof "and equipment, and the leasing of equipment,".

(b) Training and Readiness.—Subsection (b)(2) of such section is amended to read as follows:

"(2)(A) A member of the National Guard serving on full-time National Guard duty under orders authorized under paragraph (1) shall participate in the training required under section 502(a) of this title in addition to the duty performed for the purpose authorized under that paragraph. The pay, allowances, and other benefits of the member while participating in the training shall be the same as those to which the member is entitled while performing duty for the purpose of carrying out drug interdiction and counter-drug activities.

"(B) Appropriations available for the Department of Defense for drug interdiction and counter-drug activities may be used for paying costs associated with a member's participation in training described in subparagraph (A). The appropriation shall be reimbursed in full, out of appropriations available for paying those costs, for the amounts paid. Appropriations available for paying those costs shall be available for making the reimbursements.".

(c) Assistance to Youth and Charitable Organizations.—Subsection (b)(3) of such section is amended to read as follows:

"(2) A unit or member of the National Guard of a State may be used, pursuant to a State drug interdiction and counter-drug activities plan approved by the Secretary of Defense under this section, to provide services or other assistance (other than air transportation) to an organization eligible to receive services under section 508 of this title if—

"(A) the State drug interdiction and counter-drug activities plan specifically recognizes the organization as being eligible to receive the services or assistance;

"(B) in the case of services, the provision of the services meets the requirements of paragraphs (1) and (2) of subsection (a) of section 508 of this title; and

"(C) the services or assistance is authorized under subsection (b) or (c) of such section or in the State drug interdiction and counter-drug activities plan.".

(d) Definition of Drug Interdiction and Counter-drug Activities.—Subsection (i)(1) of such section is amended by inserting after "drug interdiction and counter-drug law enforcement activities" the following: ", including drug demand reduction activities,".

SEC. 335. SENSE OF CONGRESS REGARDING PRIORITY OF DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES.

It is the sense of Congress that the Secretary of Defense should revise the Global Military Force Policy of the Department of Defense—

(1) to treat the international drug interdiction and counter-drug activities of the department as a military operation other than war, thereby elevating the priority given such activities under the policy to the next priority below the priority given to war under the policy and to the same priority as is given to peacekeeping operations under the policy; and

(2) to allocate the assets of the department to drug interdiction and counter-drug activities in accordance with the priority given those activities.

Subtitle E—Other Matters

SEC. 341. LIQUIDITY OF WORKING-CAPITAL FUNDS.

(a) Increased Cash Balances.—The Secretary of Defense shall administer the working-capital funds of the Department of Defense during fiscal year 1999 so as to ensure that the total amount of the cash balances in such funds on September 30, 1999, exceeds the total amount of the cash balances in such funds on September 30, 1998, by $1,300,000,000.

(b) Actions Regarding Unbudgeted Losses and Gains.—(1) In order to achieve the increase in cash balances in working-capital funds required under subsection (a), the Under Secretary of Defense (Comptroller) shall—

(A) assess surcharges on the rates charged to Department of Defense activities for the performance of depot-level maintenance and repair workloads for those activities in fiscal year 1999 as necessary to recoup for the working-capital funds the amounts of any operational losses that are incurred in the performance of those workloads in excess of the amounts of the losses that are budgeted for fiscal year 1999; and

(B) return to Department of Defense activities any amounts that—

(i) are realized for the working-capital funds for depot-level maintenance and repair workloads in excess of the estimated revenues budgeted for the performance of those workloads that originate in those activities; and

(ii) are not needed to achieve the required increase in cash balances.

(2) The Under Secretary of Defense (Comptroller) shall prescribe policies and procedures for carrying out paragraph (1). The policies and procedures shall include a prohibition on applying assessments of surcharges to a Department of Defense activity more frequently than once every six months.

(c) Waiver.—(1) The Secretary of Defense may waive the requirements of this section upon certifying to Congress, in writing, that the waiver is necessary to meet requirements associated with—

(A) a contingency operation (as defined in section 101(a)(13) of title 10, United States Code); or

(B) an operation of the Armed Forces that commenced before October 1, 1998, and continues during fiscal year 1999.

(2) The waiver authority under paragraph (1) may not be delegated to any official other than the Deputy Secretary of Defense.

(3) The waiver authority under paragraph (1) does not apply to the limitation in subsection (d) or the limitation in section 2208(l)(3) of title 10, United States Code (as added by subsection (e)).

(d) Fiscal Year 1999 Limitation on Advance Billings.—(1) The total amount of the advance billings rendered or imposed for the working-capital funds of the Department of Defense and the Defense Business Operations Fund in fiscal year 1999—

(A) for the Department of the Navy, may not exceed $500,000,000; and

(B) for the Department of the Air Force, may not exceed $500,000,000.

(2) In paragraph (1), the term "advance billing" has the meaning given such term in section 2208(l) of title 10, United States Code.

(e) Permanent Limitation on Advance Billings.—(1) Section 2208(l) of title 10, United States Code, is amended—

(A) by redesignating paragraph (3) as paragraph (4); and

(B) by inserting after paragraph (2) the following new paragraph (3):

"(3) The total amount of the advance billings rendered or imposed for all working-capital funds of the Department of Defense in a fiscal year may not exceed $1,000,000,000.".

(2) Section 2208(l)(3) of such title, as added by paragraph (1), applies to fiscal years after fiscal year 1999.

(f) Semiannual Report.—(1) The Under Secretary shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives—

(A) not later than May 1, 1999, a report on the administration of this section for the 6-month period ending on March 31, 1999; and

(B) not later than November 1, 1999, a report on the administration of this section for the 6-month period ending on September 30, 1999.

(2) Each report shall include, for the 6-month period covered by the report, the following:

(A) The profit and loss status of each working-capital fund activity.

(B) The actions taken by the Secretary of each military department to use assessments of surcharges to correct for unbudgeted losses and gains.

SEC. 342. TERMINATION OF AUTHORITY TO MANAGE WORKING-CAPITAL FUNDS AND CERTAIN ACTIVITIES THROUGH THE DEFENSE BUSINESS OPERATIONS FUND.

(a) Revision of Certain DBOF Provisions and Reenactment To Apply to Working-Capital Funds Generally.—Section 2208 of title 10, United States Code, is amended by adding at the end the following:

"(m) Capital Asset Subaccounts.—Amounts charged for depreciation of capital assets shall be credited to a separate capital asset subaccount established within a working-capital fund.

"(n) Separate Accounting, Reporting, and Auditing of Funds and Activities.—The Secretary of Defense, with respect to the working-capital funds of each Defense Agency, and the Secretary of each military department, with respect to the working-capital funds of the military department, shall provide in accordance with this subsection for separate accounting, reporting, and auditing of funds and activities managed through the working-capital funds.

"(o) Charges for Goods and Services Provided Through the Fund.—(1) Charges for goods and services provided for an activity through a working-capital fund shall include the following:

"(A) Amounts necessary to recover the full costs of the goods and services provided for that activity.

"(B) Amounts for depreciation of capital assets, set in accordance with generally accepted accounting principles.

"(2) Charges for goods and services provided through a working-capital fund may not include the following:

"(A) Amounts necessary to recover the costs of a military construction project (as defined in section 2801(b) of this title), other than a minor construction project financed by the fund pursuant to section 2805(c)(1) of this title.

"(B) Amounts necessary to cover costs incurred in connection with the closure or realignment of a military installation.

"(C) Amounts necessary to recover the costs of functions designated by the Secretary of Defense as mission critical, such as ammunition handling safety, and amounts for ancillary tasks not directly related to the mission of the function or activity managed through the fund.

"(p) Procedures for Accumulation of Funds.—The Secretary of Defense, with respect to each working-capital fund of a Defense Agency, and the Secretary of a military department, with respect to each working-capital fund of the military department, shall establish billing procedures to ensure that the balance in that working-capital fund does not exceed the amount necessary to provide for the working-capital requirements of that fund, as determined by the Secretary concerned.

"(q) Annual Reports and Budget.—The Secretary of Defense, with respect to each working-capital fund of a Defense Agency, and the Secretary of each military department, with respect to each working-capital fund of the military department, shall annually submit to Congress, at the same time that the President submits the budget under section 1105 of title 31, the following:

"(1) A detailed report that contains a statement of all receipts and disbursements of the fund (including such a statement for each subaccount of the fund) for the fiscal year ending in the year preceding the year in which the budget is submitted.

"(2) A detailed proposed budget for the operation of the fund for the fiscal year for which the budget is submitted.

"(3) A comparison of the amounts actually expended for the operation of the fund for the fiscal year referred to in paragraph (1) with the amount proposed for the operation of the fund for that fiscal year in the President's budget.

"(4) A report on the capital asset subaccount of the fund that contains the following information:

"(A) The opening balance of the subaccount as of the beginning of the fiscal year in which the report is submitted.

"(B) The estimated amounts to be credited to the subaccount in the fiscal year in which the report is submitted.

"(C) The estimated amounts of outlays to be paid out of the subaccount in the fiscal year in which the report is submitted.

"(D) The estimated balance of the subaccount at the end of the fiscal year in which the report is submitted.

"(E) A statement of how much of the estimated balance at the end of the fiscal year in which the report is submitted will be needed to pay outlays in the immediately following fiscal year that are in excess of the amount to be credited to the subaccount in the immediately following fiscal year.".

(b) Repeal of Authority To Manage Through the Defense Business Operations Fund.—(1) Section 2216a of title 10, United States Code, is repealed.

(2) The table of sections at the beginning of chapter 131 of such title is amended by striking out the item relating to section 2216a.

SEC. 343. CLARIFICATION OF AUTHORITY TO RETAIN RECOVERED COSTS OF DISPOSALS IN WORKING-CAPITAL FUNDS.

Section 2210(a) of title 10, United States Code, is amended to read as follows:

"(a)(1) A working-capital fund established pursuant to section 2208 of this title may retain so much of the proceeds of disposals of property referred to in paragraph (2) as is necessary to recover the expenses incurred by the fund in disposing of such property. Proceeds from the sale or disposal of such property in excess of amounts necessary to recover the expenses may be credited to current applicable appropriations of the Department of Defense.

"(2) Paragraph (1) applies to disposals of supplies, material, equipment, and other personal property that were not financed by stock funds established under section 2208 of this title.".

SEC. 344. BEST COMMERCIAL INVENTORY PRACTICES FOR MANAGEMENT OF SECONDARY SUPPLY ITEMS.

(a) Development and Submission of Schedule.—Not later than 180 days after the date of the enactment of this Act, the Secretary of each military department shall develop and submit to Congress a schedule for implementing within the military department, for secondary supply items managed by that military department, inventory practices identified by the Secretary as being the best commercial inventory practices for the acquisition and distribution of such supply items consistent with military requirements. The schedule shall provide for the implementation of such practices to be completed not later than five years after the date of the enactment of this Act.

(b) Definition.—For purposes of this section, the term "best commercial inventory practice" includes cellular repair processes, use of third-party logistics providers, and any other practice that the Secretary determines will enable the military department to reduce inventory levels and holding costs while improving the responsiveness of the supply system to user needs.

(c) GAO Reports on Military Department and Defense Logistics Agency Schedules.—(1) Not later than 240 days after the date of the enactment of this Act, the Comptroller General shall submit to Congress a report evaluating the extent to which the Secretary of each military department has complied with the requirements of this section.

(2) Not later than 18 months after the date on which the Director of the Defense Logistics Agency submits to Congress a schedule for implementing best commercial inventory practices under section 395 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 1718; 10 U.S.C. 2458 note), the Comptroller General shall submit to Congress an evaluation of the extent to which best commercial inventory practices are being implemented in the Defense Logistics Agency in accordance with that schedule.

SEC. 345. INCREASED USE OF SMART CARDS.

(a) Funding for Increased Use Generally.—Of the funds available for the Navy for fiscal year 1999 for operation and maintenance, the Secretary of the Navy shall allocate sufficient amounts, up to $25,000,000, to making significant progress toward ensuring that smart cards having a multi-application, multi-technology automated reading capability are issued and used throughout the Navy and the Marine Corps for purposes for which such cards are suitable.

(b) Deployment of Smart Cards.—(1) Not later than March 31, 1999, the Secretary of the Navy shall equip with smart card technology at least one carrier battle group, one carrier air wing, and one amphibious readiness group (including the Marine Corps units embarked on the vessels of such battle and readiness groups) in each of the United States Atlantic Command and the United States Pacific Command.

(2) None of the funds appropriated pursuant to any authorization of appropriations in this Act may be expended after March 31, 1999, for the procurement of the Joint Uniformed Services Identification card for, or for the issuance of such card to, members of the Navy or the Marine Corps until the Secretary of the Navy certifies in writing to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives that the Secretary has completed the issuance of smart cards in accordance with paragraph (1).

(c) Plan.—Not later than March 31, 1999, the Secretary of the Navy shall submit to the congressional defense committees a plan for equipping all operational naval units with smart card technology. The Secretary shall include in the plan estimates of the costs of, and the savings to be derived from, carrying out the plan.

(d) Smart Card Defined.—In this section, the term "smart card" means a credit card size device that contains one or more integrated-circuits.

SEC. 346. PUBLIC-PRIVATE COMPETITION IN THE PROVISION OF SUPPORT SERVICES.

(a) Sense of the Senate.—It is the sense of the Senate that the Secretary of Defense should take action to initiate public-private competitions pursuant to Office of Management and Budget Circular A–76 for functions of the Department of Defense involving not fewer than a number of employees equivalent to 30,000 full-time employees for each of fiscal years 1999, 2000, 2001, 2002, 2003, and 2004.

(b) Small Functions Qualified for a Waiver of the Notification and Reporting Requirements for Conversion to Contractor Performance.—(1) Section 2461(d) of title 10, United States Code, is amended by striking out "20 or fewer" and inserting in lieu thereof "50 or fewer".

(2) Notwithstanding any other provision of law, no study, notification, or report may be required pursuant to subsection (a), (b), or (c) of section 2461 of title 10, United States Code, or Office of Management and Budget Circular A–76 for functions that are being performed by 50 or fewer Department of Defense civilian employees.

(c) Best Overall Value to the Taxpayer.—Section 2462(a) of title 10, United States Code, is amended by striking out "at a cost that is lower" and all that follows through the period at the end and inserting in lieu thereof: "at a lower cost than the cost at which the Department can provide the same supply or service or at a better overall value than the value that the Department can provide for the same supply or service. Each determination regarding relative cost or relative overall value shall be based on an objective evaluation of cost and performance-related factors and shall include the consideration of any cost differential required by law, Executive order, or regulation.".

(d) Effective Date.—Subsections (b) and (c), and the amendments made by such subsections, shall take effect on January 1, 2001.

SEC. 347. CONDITION FOR PROVIDING FINANCIAL ASSISTANCE FOR SUPPORT OF ADDITIONAL DUTIES ASSIGNED TO THE ARMY NATIONAL GUARD.

(a) Competitive Source Selection.—Section 113(b) of title 32, United States Code, is amended to read as follows:

"(b) Covered Activities.—(1) Except as provided in paragraph (2), financial assistance may be provided for the performance of an activity by the Army National Guard under subsection (a) only if—

"(A) the activity is carried out in the performance of a responsibility of the Secretary of the Army under paragraph (6), (10), or (11) of section 3013(b) of title 10; and

"(B) the Army National Guard was selected to perform the activity under competitive procedures that permit all responsible private-sector sources to submit offers and be considered for selection to perform the activity on the basis of the offers.

"(2) Paragraph (1)(B) does not apply to an activity that, on the date of the enactment of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999, was performed for the Federal Government by employees of the Federal Government or employees of a State.".

(b) PROSPECTIVE APPLICABILITY.—Subparagraph (B) of section 113(b)(1) of title 32, United States Code (as amended by subsection (a) of this section), does not apply to—

(1) financial assistance provided under that section before October 1, 1998; or

(2) financial assistance for an activity that, on or before May 8, 1998, the Secretary of the Army identified in writing as being under consideration for supporting with financial assistance under such section.

SEC. 348. REPEAL OF PROHIBITION ON JOINT USE OF GRAY ARMY AIRFIELD, FORT HOOD, TEXAS.

Section 319 of the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99-661; 100 Stat. 3855), relating to a prohibition on the joint military-civilian use of Robert Gray Army Airfield, Fort Hood, Texas, is repealed.

SEC. 349. INVENTORY MANAGEMENT OF IN-TRANSIT SECONDARY ITEMS.

(a) REQUIREMENT FOR PLAN.—Not later than March 1, 1999, the Secretary of Defense shall submit to Congress a plan to address problems with Department of Defense management of the department's inventories of in-transit secondary items as follows:

(1) The vulnerability of in-transit secondary items to loss through fraud, waste, and abuse.

(2) Loss of oversight of in-transit secondary items, including any loss of oversight when items are being transported by commercial carriers.

(3) Loss of accountability for in-transit secondary items due to either a delay of delivery of the items or a lack of notification of a delivery of the items.

(b) CONTENT OF PLAN.— The plan shall include, for each of the problems described in subsection (a), the following information:

(1) The actions to be taken to correct the problems.

(2) Statements of objectives.

(3) Performance measures and schedules.

(4) An identification of any resources that may be necessary for correcting the problem, together with an estimate of the annual costs.

(c) GAO REVIEWS.—(1) Not later than 60 days after the date on which the Secretary of Defense submits the plan to Congress, the Comptroller General shall review the plan and submit to Congress any comments that the Comptroller General considers appropriate regarding the plan.

(2) The Comptroller General shall monitor any implementation of the plan and, not later than one year after the date referred to in paragraph (1), submit to Congress an assessment of the extent to which the plan has been implemented.

SEC. 350. PERSONNEL REDUCTIONS IN ARMY MATERIEL COMMAND.

Not later than March 31, 1999, the Comptroller General shall submit to the congressional defense committees a report concerning—

(1) the effect that the quadrennial defense review's proposed personnel reductions in the Army Materiel Command will have on workload and readiness if implemented; and

(2) the projected cost savings from such reductions and the manner in which such savings are expected to be achieved.

SEC. 351. PROHIBITIONS REGARDING EVALUATION OF MERIT OF SELLING MALT BEVERAGES AND WINE IN COMMISSARY STORES AS EXCHANGE SYSTEM MERCHANDISE.

Neither the Secretary of Defense nor any other official of the Department of Defense may—

(1) by contract or otherwise, conduct a survey of eligible patrons of the commissary store system to determine patron interest in having commissary stores sell malt beverages and wine as exchange store merchandise; or

(2) conduct a demonstration project to evaluate the merit of selling malt beverages and wine in commissary stores as exchange store merchandise.

TITLE IV—MILITARY PERSONNEL AUTHORIZATIONS

Subtitle A—Active Forces

SEC. 401. END STRENGTHS FOR ACTIVE FORCES.

The Armed Forces are authorized strengths for active duty personnel as of September 30, 1999, as follows:

(1) The Army, 480,000.

(2) The Navy, 372,696.

(3) The Marine Corps, 172,200.

(4) The Air Force, 370,882.

SEC. 402. LIMITED EXCLUSIONS OF JOINT DUTY OFFICERS FROM LIMITATIONS ON NUMBER OF GENERAL AND FLAG OFFICERS.

(a) ONE ADDITIONAL EXEMPTION FROM PERCENTAGE LIMITATION ON NUMBER OF LIEUTENANT GENERALS AND VICE ADMIRALS.—Section 525(b)(4)(B) of title 10, United States Code, is amended by striking out "six" and inserting in lieu thereof "seven".

(b) EXTENSION OF AUTHORITY TO EXCLUDE UP TO 12 JOINT DUTY OFFICERS FROM LIMITATION ON AUTHORIZED GENERAL AND FLAG OFFICER STRENGTH.—Section 526(b)(2) of such title is amended by striking out "October 1, 1998" and inserting in lieu thereof "October 1, 2002".

SEC. 403. LIMITATION ON DAILY AVERAGE OF PERSONNEL ON ACTIVE DUTY IN GRADES E-8 AND E-9.

(a) FISCAL YEAR BASIS FOR APPLICATION OF LIMITATION.—The first sentence of section 517(a) of title 10, United States Code, is amended—

(1) by striking out "a calendar year" and inserting in lieu thereof "a fiscal year"; and

(2) by striking out "January 1 of that year" and inserting in lieu thereof "the first day of that fiscal year".

(b) CORRECTION OF CROSS REFERENCE.—Such sentence is further amended by striking out "Except as provided in section 307 of title 37, the" and inserting in lieu thereof "The".

SEC. 404. REPEAL OF PERMANENT END STRENGTH REQUIREMENT FOR SUPPORT OF TWO MAJOR REGIONAL CONTINGENCIES.

(a) REPEAL.—Section 691 of title 10, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 39 of such title is amended by striking out the item relating to section 691.

Subtitle B—Reserve Forces

SEC. 411. END STRENGTHS FOR SELECTED RESERVE.

(a) IN GENERAL.—The Armed Forces are authorized strengths for Selected Reserve personnel of the reserve components as of September 30, 1999, as follows:

(1) The Army National Guard of the United States, 357,000.

(2) The Army Reserve, 208,000.

(3) The Naval Reserve, 90,843.

(4) The Marine Corps Reserve, 40,018.

(5) The Air National Guard of the United States, 106,991.

(6) The Air Force Reserve, 74,242.

(7) The Coast Guard Reserve, 8,000.

(b) WAIVER AUTHORITY.—The Secretary of Defense may vary an end strength authorized by subsection (a) by not more than 2 percent.

(c) ADJUSTMENTS.—The end strengths prescribed by subsection (a) for the Selected Reserve of any reserve component shall be proportionately reduced by—

(1) the total authorized strength of units organized to serve as units of the Selected Reserve of such component which are on active duty (other than for training) at the end of the fiscal year, and

(2) the total number of individual members not in units organized to serve as units of the Selected Reserve of such component who are on active duty (other than for training or for unsatisfactory participation in training) without their consent at the end of the fiscal year.

Whenever such units or such individual members are released from active duty during any fiscal year, the end strength prescribed for such fiscal year for the Selected Reserve of such reserve component shall be proportionately increased by the total authorized strengths of such units and by the total number of such individual members.

SEC. 412. END STRENGTHS FOR RESERVES ON ACTIVE DUTY IN SUPPORT OF THE RESERVES.

Within the end strengths prescribed in section 411(a), the reserve components of the Armed Forces are authorized, as of September 30, 1999, the following number of Reserves to be serving on full-time active duty or full-time duty, in the case of members of the National Guard, for the purpose of organizing, administering, recruiting, instructing, or training the reserve components:

(1) The Army National Guard of the United States, 21,763.

(2) The Army Reserve, 11,804.

(3) The Naval Reserve, 15,590.

(4) The Marine Corps Reserve, 2,362.

(5) The Air National Guard of the United States, 10,930.

(6) The Air Force Reserve, 991.

SEC. 413. END STRENGTHS FOR MILITARY TECHNICIANS (DUAL STATUS).

The reserve components of the Army and the Air Force are authorized strengths for military technicians (dual status) as of September 30, 1999, as follows:

(1) For the Army Reserve, 5,205.

(2) For the Army National Guard of the United States, 22,179.

(3) For the Air Force Reserve, 9,761.

(4) For the Air National Guard of the United States, 22,408.

SEC. 414. EXCLUSION OF ADDITIONAL RESERVE COMPONENT GENERAL AND FLAG OFFICERS FROM LIMITATION ON NUMBER OF GENERAL AND FLAG OFFICERS WHO MAY SERVE ON ACTIVE DUTY.

Section 526(d) of title 10, United States Code, is amended to read as follows:

"(d) EXCLUSION OF CERTAIN RESERVE OFFICERS.—(1) Subject to paragraph (2), the limitations of this section do not apply to the following reserve component general or flag officers:

"(A) A general or flag officer who is on active duty for training.

"(B) A general or flag officer who is on active duty under a call or order specifying a period of less than 180 days.

"(C) A general or flag officer who is on active duty under a call or order specifying a period of more than 179 days.

"(2) The number of general or flag officers of an armed force that are excluded from the applicability of the limitations of this section under paragraph (1)(C) at any one time may not exceed the number equal to three percent of the number specified for that armed force under subsection (a).".

SEC. 415. INCREASE IN NUMBERS OF MEMBERS IN CERTAIN GRADES AUTHORIZED TO BE ON ACTIVE DUTY IN SUPPORT OF THE RESERVES.

(a) OFFICERS.—The table in section 12011(a) of title 10, United States Code, is amended to read as follows:

"Grade	Army	Navy	Air Force	Marine Corps
Major or Lieutenant Commander	3,219	1,071	791	140
Lieutenant Colonel or Commander	1,524	520	713	90
Colonel or Navy Captain	438	188	297	30".

(b) SENIOR ENLISTED MEMBERS.—The table in section 12012(a) of title 10, United States Code, is amended to read as follows:

"Grade	Army	Navy	Air Force	Marine Corps
E-9	623	202	395	20
E-8	2,585	429	997	94".

SEC. 416. CONSOLIDATION OF STRENGTH AUTHORIZATIONS FOR ACTIVE STATUS NAVAL RESERVE FLAG OFFICERS OF THE NAVY MEDICAL DEPARTMENT STAFF CORPS.

Section 12004(c) of subtitle E of title 10, United States Code, is amended—

(1) in the table in paragraph (1)—

(A) by striking out the item relating to the Medical Corps and inserting in lieu thereof the following:

"Medical Department staff corps ... 9";
and

(B) by striking out the items relating to the Dental Corps, the Nurse Corps, and the Medical Service Corps; and

(2) by adding at the end the following:

"(4)(A) For the purposes of paragraph (1), the Medical Department staff corps referred to in the table are as follows:

"(i) The Medical Corps.

"(ii) The Dental Corps.

"(iii) The Nurse Corps.

"(iv) The Medical Service Corps.

"(B) Each of the Medical Department staff corps is authorized one rear admiral (lower half) within the strength authorization distributed to the Medical Department staff corps under paragraph (1). The Secretary of the Navy shall distribute the remainder of the strength authorization for the Medical Department staff corps under that paragraph among those staff corps as the Secretary determines appropriate to meet the needs of the Navy.".

Subtitle C—Authorization of Appropriations

SEC. 421. AUTHORIZATION OF APPROPRIATIONS FOR MILITARY PERSONNEL.

There is hereby authorized to be appropriated to the Department of Defense for military personnel for fiscal year 1999 a total of $70,434,386,000. The authorization in the preceding sentence supersedes any other authorization of appropriations (definite or indefinite) for such purpose for fiscal year 1999.

TITLE V—MILITARY PERSONNEL POLICY

Subtitle A—Officer Personnel Policy

SEC. 501. STREAMLINED SELECTIVE RETENTION PROCESS FOR REGULAR OFFICERS.

(a) REPEAL OF REQUIREMENT FOR DUPLICATIVE BOARD.—Section 1183 of title 10, United States Code, is repealed.

(b) CONFORMING AMENDMENTS.—(1) Section 1182(c) of such title is amended by striking out "send the record of proceedings to a board of review convened under section 1183 of this title" and inserting in lieu thereof "recommend to the Secretary concerned that the officer not be retained on active duty".

(2) Section 1184 of such title is amended by striking out "board of review convened under section 1183 of this title" and inserting in lieu thereof "board of inquiry convened under section 1182 of this title".

(c) CLERICAL AMENDMENTS.—(1) The heading for section 1184 of such title is amended by striking out "**review**" and inserting in lieu thereof "**inquiry**".

(2) The table of sections at the beginning of chapter 60 of such title is amended by striking out the items relating to sections 1183 and 1184 and inserting in lieu thereof the following:

"1184. Removal of officer: action by Secretary upon recommendation of board of inquiry.".

SEC. 502. PERMANENT APPLICABILITY OF LIMITATIONS ON YEARS OF ACTIVE NAVAL SERVICE OF NAVY LIMITED DUTY OFFICERS IN GRADES OF COMMANDER AND CAPTAIN.

(a) COMMANDERS.—Section 633 of title 10, United States Code, is amended—

(1) by striking out "Except an officer" and all that follows through "or section 6383 of this title applies" and inserting in lieu thereof "Except an officer of the Navy or Marine Corps who is an officer designated for limited duty to whom section 5596(e) or 6383 of this title applies"; and

(2) by striking out the second sentence.

(b) CAPTAINS.—Section 634 of such title is amended—

(1) by inserting "an officer of the Navy who is designated for limited duty to whom section 6383(a)(4) of this title applies and except" in the first sentence after "Except"; and

(2) by striking out the second sentence.

(c) YEARS OF ACTIVE NAVAL SERVICE.—Section 6383(a) of such title is amended by striking out paragraph (5).

(d) LIMITATIONS ON SELECTIVE RETENTIONS.—Section 6383(k) of such title is amended by striking out the last sentence.

SEC. 503. INVOLUNTARY SEPARATION PAY DENIED FOR OFFICER DISCHARGED FOR FAILURE OF SELECTION FOR PROMOTION REQUESTED BY THE OFFICER.

(a) INELIGIBILITY FOR SEPARATION PAY.—Section 1174(a) of title 10, United States Code, is amended by adding at the end the following:

"(3) Notwithstanding paragraphs (1) and (2), an officer discharged for twice failing of selection for promotion to the next higher grade is not entitled to separation pay under this section if the officer submitted a request not to be selected for promotion to any selection board that considered and did not select the officer for promotion to that grade.".

(b) REPORT OF SELECTION BOARD TO NAME OFFICERS REQUESTING NONSELECTION.—Section 617 of such title is amended by adding at the end the following:

"(c) A selection board convened under section 611(a) of this title shall include in its report to the Secretary concerned the name of any regular officer considered and not recommended by the board for promotion who submitted to the board a request not to be selected for promotion.".

(c) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect on the date of the enactment of this Act and shall apply with respect to selection boards convened under section 611(a) of title 10, United States Code, on or after that date.

SEC. 504. TERM OF OFFICE OF THE CHIEF OF THE AIR FORCE NURSE CORPS.

Section 8069(b) of title 10, United States Code, is amended in the third sentence by striking out "and" and inserting in lieu thereof the following: "except that the Secretary may increase the limit to four years in any case in which the Secretary determines that special circumstances justify a longer term of service in the position. An officer appointed as Chief".

SEC. 505. ATTENDANCE OF RECIPIENTS OF NAVAL RESERVE OFFICERS' TRAINING CORPS SCHOLARSHIPS AT PARTICIPATING COLLEGES OR UNIVERSITIES.

Section 2107 of title 10, United States Code, is amended by adding at the end the following:

"(l)(1) Notwithstanding any other provision of law or any policy or regulation of the Department of Defense or of the Department of the Navy, recipients of Naval Reserve Officers' Training Corps scholarships who live in a State which has more scholarship awardees than slots available under the Navy quotas in their State colleges and universities may attend any college or university of their choice in their State to which they have been accepted, so long as the college or university is a participant in the Naval Reserve Officers' Training Corps program.

"(2) The Department of Defense and the Department of the Navy are prohibited from setting maximum limits on the number of Naval Reserve Officers' Training Corps scholarship students who can be enrolled at any college or university participating in the Naval Reserve Officers' Training Corps program in such State.".

Subtitle B—Reserve Component Matters

SEC. 511. SERVICE REQUIRED FOR RETIREMENT OF NATIONAL GUARD OFFICER IN HIGHER GRADE.

(a) REVISION OF REQUIREMENT.—Subparagraph (E) of section 1370(d)(3) of title 10, United States Code, is amended to read as follows:

"(E) To the extent authorized by the Secretary of the military department concerned, a person who, after having been found qualified for Federal recognition in a higher grade by a board under section 307 of title 32, serves in a position for which that grade is the minimum authorized grade and is appointed as a reserve officer in that grade may be credited for the purposes of subparagraph (A) as having served in that grade. The period of the service for which credit is afforded under the preceding sentence may only be the period for which the person served in the position after the Senate provides advice and consent for the appointment.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply with respect to appointments to higher grades that take effect after that date.

SEC. 512. REDUCED TIME-IN-GRADE REQUIREMENT FOR RESERVE GENERAL AND FLAG OFFICERS INVOLUNTARILY TRANSFERRED FROM ACTIVE STATUS.

(a) MINIMUM SERVICE IN ACTIVE STATUS.—Section 1370(d)(3) of title 10, United States Code, as amended by section 511, is further amended by adding at the end the following new subparagraph:

"(F) A person covered by subparagraph (A) who has completed at least six months of satisfactory service in a grade above colonel or (in the case of the Navy) captain and, while serving in an active status in such grade, is involuntarily transferred (other than for cause) from active status may be credited with satisfactory service in the grade in which serving at the time of such transfer, notwithstanding failure of the person to complete three years of service in that grade.".

(b) Effective Date.—Subparagraph (F) of such section, as added by subsection (a), shall take effect on the date of the enactment of this Act and shall apply with respect to transfers referred to in such subparagraph that are made on or after that date.

SEC. 513. ELIGIBILITY OF ARMY AND AIR FORCE RESERVE BRIGADIER GENERALS TO BE CONSIDERED FOR PROMOTION WHILE ON INACTIVE STATUS LIST.

(a) Waiver of Active Status Requirement.—Chapter 1405 of title 10, United States Code, is amended by adding at the end the following:

"§ 14318. Officers on inactive status list: eligibility of Army and Air Force reserve brigadier generals for consideration for promotion

"(a) Waiver of One-Year Active Status Rule.—The Secretary concerned may waive the eligibility requirements in section 14301(a) of this title (and the requirement in section 140101(a) of this title that an officer be on a reserve active-status list) in the case of a general officer referred to in subsection (b) and authorize the officer to be considered for promotion under this chapter by a promotion board convened under section 14101(a) of this title.

"(b) Applicability.—Subsection (a) applies to a reserve officer of the Army or Air Force who—

"(1) is on the inactive status list of the Standby Reserve in the grade of brigadier general pursuant to a transfer under section 14314(a)(2) of this title;

"(2) has been on the inactive status list pursuant to the transfer for less than one year as of the date of the convening of the promotion board that is to consider the officer for promotion; and

"(3) during the one-year period ending on the date of the transfer to the inactive status list, continuously performed service on either the reserve active-status list, the active-duty list, or a combination of both lists.".

(b) Clerical Amendment.—The table of sections at the beginning of such chapter is amended by adding at the end the following:

"14318. Officers on inactive status list: eligibility of Army and Air Force reserve brigadier generals for consideration for promotion.".

SEC. 514. COMPOSITION OF SELECTIVE EARLY RETIREMENT BOARDS FOR REAR ADMIRALS OF THE NAVAL RESERVE AND MAJOR GENERALS OF THE MARINE CORPS RESERVE.

Section 14705(b) of title 10, United States Code, is amended—

(1) by inserting "(1)" after "(b) Boards.—"; and

(2) by adding at the end the following:

"(2) In the case of a board convened to consider the early retirement of officers in the grade of rear admiral in the Naval Reserve or major general in the Marine Corps Reserve, the Secretary of the Navy may prescribe the composition of the board notwithstanding section 14102(b) of this title. In doing so, however, the Secretary shall ensure that each regular commissioned officer of the Navy or the Marine Corps appointed to the board holds a permanent grade higher than the grade of the officers under consideration by the board and that at least one member of the board is a reserve officer who holds the grade of rear admiral or major general.".

SEC. 515. USE OF RESERVES FOR EMERGENCIES INVOLVING WEAPONS OF MASS DESTRUCTION.

(a) Order to Active Duty.—(1) Section 12304 of title 10, United States Code, is amended—

(A) in subsection (a), by inserting "or is necessary to provide assistance referred to in subsection (b)" after "to augment the active forces for any operational mission";

(B) in subsection (b)—

(i) by striking out "(b)" and inserting in lieu thereof "(c) Limitations.—(1)"; and

(ii) by striking out ", or to provide" and inserting in lieu thereof "or, except as provided in subsection (b), to provide";

(C) by redesignating subsection (c) as paragraph (2); and

(D) by inserting after subsection (a) the following new subsection (b):

"(b) Support for Responses to Certain Emergencies.—The authority under subsection (a) includes authority to order a unit or member to active duty to provide assistance in responding to an emergency involving a use or threatened use of a weapon of mass destruction.".

(2) Subsection (i) of such section is amended to read as follows:

"(i) Definitions.—For purposes of this section:

"(1) The term 'Individual Ready Reserve mobilization category' means, in the case of any reserve component, the category of the Individual Ready Reserve described in section 10144(b) of this title.

"(2) The term 'weapon of mass destruction' has the meaning given such term in section 1402 of the Defense Against Weapons of Mass Destruction Act of 1996 (50 U.S.C. 2302(1)).".

(3) Such section is further amended—

(A) in subsection (a), by inserting "Authority.—" after "(a)";

(B) in subsection (d), by inserting "Exclusion From Strength Limitations.—" after "(d)";

(C) in subsection (e), by inserting "Policies and Procedures.—" after "(e)";

(D) in subsection (f), by inserting "Notification of Congress.—" after "(f)";

(E) in subsection (g), by inserting "Termination of Duty.—" after "(g)"; and

(F) in subsection (h), by inserting "Relationship to War Powers Resolution.—" after "(h)".

(b) Use of Active Guard and Reserve Personnel.—Section 12310 of title 10, United States Code, is amended by adding at the end the following:

"(c)(1) A Reserve on active duty as described in subsection (a), or a Reserve who is a member of the National Guard serving on full-time National Guard duty under section 502(f) of title 32 in connection with functions referred to in subsection (a), may perform any duties in support of emergency preparedness programs to prepare for or to respond to any emergency involving the use of a weapon of mass destruction (as defined in section 1402 of the Defense Against Weapons of Mass Destruction Act of 1996 (50 U.S.C. 2302(1))).

"(2) The costs of the pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for a Reserve performing duties under the authority of paragraph (1) shall be paid from the appropriation that is available to pay such costs for other members of the reserve component of that Reserve who are performing duties as described in subsection (a).".

Subtitle C—Other Matters

SEC. 521. ANNUAL MANPOWER REQUIREMENTS REPORT.

Section 115a(a) of title 10, United States Code, is amended by striking out the first sentence and inserting in lieu thereof the following: "The Secretary of Defense shall submit an annual manpower requirements report to Congress each year, not later than 45 days after the date on which the President submits the budget for the next fiscal year to Congress under section 1105(a) of title 31.".

SEC. 522. FOUR-YEAR EXTENSION OF CERTAIN FORCE REDUCTION TRANSITION PERIOD MANAGEMENT AND BENEFITS AUTHORITIES.

(a) Active Force Early Retirement.—Section 4403(i) of the National Defense Authorization Act for Fiscal Year 1993 (10 U.S.C. 1293 note) is amended by striking out "October 1, 1999" and inserting in lieu thereof "October 1, 2003".

(b) Special Separation Benefits Program.—Section 1174a(h) of title 10, United States Code, is amended by striking out "September 30, 1999" and inserting in lieu thereof "September 30, 2003".

(c) Voluntary Separation Incentive.—Section 1175(d)(3) of such title is amended by striking out "September 30, 1999" and inserting in lieu thereof "September 30, 2003".

(d) Selective Early Retirement Boards.—Section 638a(a) of such title, is amended by striking out "nine-year period" and inserting in lieu thereof "13-year period".

(e) Retired Grade.—Section 1370(a)(2)(A) of such title is amended by striking out "nine-year period" and inserting in lieu thereof "13-year period".

(f) Minimum Commissioned Service for Voluntary Retirement.—Sections 3911(b), 6323(a)(2), and 8911(b) of such title are amended by striking out "nine-year period" and inserting in lieu thereof "13-year period".

(g) Travel, Transportation, and Storage Benefits.—(1) Subsections (c)(1)(C) and (f)(2)(B)(v) of section 404 of title 37, United States Code, and subsections (a)(2)(B)(v) and (g)(1)(C) of section 406 of such title are amended by striking out "nine-year period" and inserting in lieu thereof "13-year period".

(2) Section 503(c)(1) of the National Defense Authorization Act for Fiscal Year 1991 (37 U.S.C. 406 note) is amended by striking out "nine-year period" and inserting in lieu thereof "13-year period".

(h) Educational Leave for Public and Community Service.—Section 4463(f) of the National Defense Authorization Act for Fiscal Year 1993 (10 U.S.C. 1143a note) is amended by striking out "September 30, 1999" and inserting in lieu thereof "September 30, 2003".

(i) Health Benefits.—Section 1145 of title 10, United States Code, is amended—

(1) in subsections (a)(1) and (c)(1), by striking out "nine-year period" and inserting in lieu thereof "13-year period"; and

(2) in subsection (e), by striking out "five-year period" and inserting in lieu thereof "nine-year period".

(j) Commissary and Exchange Benefits.—Section 1146 of such title is amended—

(1) by striking out "nine-year period" in the first sentence and inserting in lieu thereof "13-year period"; and

(2) by striking out "five-year period" in the second sentence and inserting in lieu thereof "nine-year period".

(k) Use of Military Housing.—Section 1147(a) of such title 10 is amended—

(1) in paragraph (1), by striking out "nine-year period" and inserting in lieu thereof "13-year period"; and

(2) in paragraph (2), by striking out "five-year period" and inserting in lieu thereof "nine-year period".

(l) Continued Enrollment of Dependents in Defense Dependents' Education System.—Section 1407(c)(1) of the Defense Dependents' Education Act of 1978 (20 U.S.C. 926(c)(1)) is amended by striking out "nine-year period" and inserting in lieu thereof "13-year period".

(m) Guard and Reserve Transition Initiatives.—Title XLIV of the National Defense Authorization Act for Fiscal Year 1993 (10 U.S.C. 12681 note) is amended—

(1) in section 4411, by striking out "September 30, 1999" and inserting in lieu thereof "September 30, 2003"; and

(2) in section 4416(b)(1), by striking out "October 1, 1999" and inserting in lieu thereof "October 1, 2003".

(n) Retired Pay for Nonregular Service-Age and Service Requirements.—(1) Section 12731(f) of title 10, United States Code, is amended by striking out "September 30, 1999" and inserting in lieu thereof "September 30, 2003".

(2) Subsections (a)(1)(B) and (b) of section 12731a of such title are amended by striking out "October 1, 1999" and inserting in lieu thereof "October 1, 2003".

(o) Reduction of Time-in-Grade Requirement for Retention of Grade Upon Voluntary Retirement.—Section 1370(d) of such title is amended by adding at the end the following new paragraph:

"(5) The Secretary of Defense may authorize the Secretary of a military department to reduce the three-year period required by paragraph (3)(A) to a period not less than two years in the case of retirements effective during the period beginning on the date of the enactment of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 and ending September 30, 2003. The number of the reserved commissioned officers of an armed force in the same grade for whom a reduction is made during any fiscal year in the period of service-in-grade otherwise required under this paragraph may not exceed the number equal to two percent of the strength authorized for that fiscal year for reserve commissioned officers of that armed force in an active status in that grade.".

(p) Affiliation With Guard and Reserve Units; Waiver of Certain Limitations.—Section 1150(a) of such title is amended by striking out "nine-year period" and inserting in lieu thereof "13-year period".

(q) Time for Use of Montgomery G.I. Bill Entitlement.—Section 16133(b)(1)(B) of such title is amended by striking out "September 30, 1999" and inserting in lieu thereof "September 30, 2003".

SEC. 523. CONTINUATION OF ELIGIBILITY FOR VOLUNTARY SEPARATION INCENTIVE AFTER INVOLUNTARY LOSS OF MEMBERSHIP IN READY OR STANDBY RESERVE.

(a) Period of Eligibility.—Subsection (a) of section 1175 of title 10, United States Code, is amended—

(1) by inserting "(1)" after "(a)";

(2) by striking out ", for the period of time the member is serving in a reserve component"; and

(3) by adding at the end the following:

"(2)(A) Except as provided in subparagraph (B), a financial incentive provided a member under this section shall be paid for the period equal to twice the number of years of service of the member, computed as provided in subsection (e)(5).

"(B) If, before the expiration of the period otherwise applicable under subparagraph (A) to a member receiving a financial incentive under this section, the member is separated from a reserve component or is transferred to the Retired Reserve, the period for payment of a financial incentive to the member under this section shall terminate on the date of the separation or transfer unless—

"(i) the separation or transfer is required by reason of the age or number of years of service of the member;

"(ii) the separation or transfer is required by reason of the failure of selection for promotion or the medical disqualification of the member, except in a case in which the Secretary of Defense or the Secretary of Transportation determines that the basis for the separation or transfer is a result of a deliberate action taken by the member with the intent to avoid retention in the Ready Reserve or Standby Reserve; or

"(iii) in the case of a separation, the member is separated from the reserve component for appointment or enlistment in or transfer to another reserve component of an armed force for service in the Ready Reserve or Standby Reserve of that armed force.".

(b) Repeal of Superseded Provision.—Subsection (e)(1) of such section is amended by striking out the second sentence.

SEC. 524. REPEAL OF LIMITATIONS ON AUTHORITY TO SET RATES AND WAIVE REQUIREMENT FOR REIMBURSEMENT OF EXPENSES INCURRED FOR INSTRUCTION AT SERVICE ACADEMIES OF PERSONS FROM FOREIGN COUNTRIES.

(a) United States Military Academy.—Section 4344(b) of title 10, United States Code, is amended—

(1) in the second sentence of paragraph (2), by striking out ", except that the reimbursement rates may not be less than the cost to the United States of providing such instruction, including pay, allowances, and emoluments, to a cadet appointed from the United States"; and

(2) by striking out paragraph (3).

(b) Naval Academy.—Section 6957(b) of such title is amended—

(1) in the second sentence of paragraph (2), by striking out ", except that the reimbursement rates may not be less than the cost to the United States of providing such instruction, including pay, allowances, and emoluments, to a midshipman appointed from the United States"; and

(2) by striking out paragraph (3).

(c) Air Force Academy.—Section 9344(b) of such title is amended—

(1) in the second sentence of paragraph (2), by striking out ", except that the reimbursement rates may not be less than the cost to the United States of providing such instruction, including pay, allowances, and emoluments, to a cadet appointed from the United States"; and

(2) by striking out paragraph (3).

SEC. 525. REPEAL OF RESTRICTION ON CIVILIAN EMPLOYMENT OF ENLISTED MEMBERS.

(a) Repeal.—Section 974 of title 10, United States Code, is repealed.

(b) Clerical Amendment.—The table of sections at the beginning of chapter 49 of such title is amended by striking out the item relating to section 974.

SEC. 526. EXTENSION OF REPORTING DATES FOR COMMISSION ON MILITARY TRAINING AND GENDER-RELATED ISSUES.

(a) Interim Report.—Subsection (e)(1) of section 562 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 1754; 10 U.S.C. 113 note) is amended by striking out "April 15, 1998" and inserting in lieu thereof "October 15, 1998".

(b) Final Report.—Subsection (e)(2) of such section is amended by striking out "September 16, 1998" and inserting in lieu thereof "March 15, 1999".

SEC. 527. MORATORIUM ON CHANGES OF GENDER-RELATED POLICIES AND PRACTICES PENDING COMPLETION OF THE WORK OF THE COMMISSION ON MILITARY TRAINING AND GENDER-RELATED ISSUES.

Notwithstanding any other provision of law, officials of the Department of Defense are prohibited from implementing any change of policy or official practice in the department regarding separation or integration of members of the Armed Forces on the basis of gender that is within the responsibility of the Commission on Military Training and Gender-Related Issues to review under subtitle F of title V of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 1750), before the date on which the commission terminates under section 564 of such Act.

SEC. 528. TRANSITIONAL COMPENSATION FOR ABUSED DEPENDENT CHILDREN NOT RESIDING WITH THE SPOUSE OR FORMER SPOUSE OF A MEMBER CONVICTED OF DEPENDENT ABUSE.

(a) Entitlement Not Conditioned on Forfeiture of Spousal Compensation.—Subsection (d) of section 1059 of title 10, United States Code, is amended—

(1) by striking out paragraph (1) and inserting in lieu thereof the following:

"(1) If the individual was married at the time of the commission of the dependent-abuse offense resulting in the separation, the spouse or former spouse to whom the individual was married at that time shall be paid such compensation, including an amount (determined under subsection (f)(2)) for each, if any, dependent child of the individual described in subsection (b) who resides in the same household as that spouse or former spouse.";

(2) in paragraph (2)—

(A) by striking out "(but for subsection (g)) would be eligible" and inserting in lieu thereof "is or, but for subsection (g), would be eligible"; and

(B) by striking out "such compensation" and inserting in lieu thereof "compensation under this section"; and

(3) in paragraph (4), by striking out "For purposes of paragraphs (2) and (3)" and inserting in lieu thereof "For purposes of this subsection".

(b) Amount of Payment.—Subsection (f)(2) of such section is amended by striking out "has custody of a dependent child or children of the member" and inserting in lieu thereof "has custody of a dependent child of the member who resides in the same household as that spouse or former spouse".

(c) Prospective Applicability.—No benefits shall accrue by reason of the amendments made by this section for any month that begins before the date of the enactment of this Act.

SEC. 529. PILOT PROGRAM FOR TREATING GED AND HOME SCHOOL DIPLOMA RECIPIENTS AS HIGH SCHOOL GRADUATES FOR DETERMINATIONS OF ELIGIBILITY FOR ENLISTING IN THE ARMED FORCES.

(a) Program Required.—The Secretary of Defense shall establish a pilot program to assess whether the Armed Forces could better meet recruiting requirements by treating GED recipients and home school diploma recipients as having graduated from high school with a high school diploma for the purpose of determining the eligibility of those persons to enlist in the Armed Forces. The Secretary of each military department shall administer the pilot program for the armed force or armed forces under the jurisdiction of the Secretary.

(b) ELIGIBLE RECIPIENTS.—(1) Under the pilot program, a person shall be treated as having graduated from high school with a high school diploma for the purpose described in subsection (a) if the person—

(A) has completed a general education development program while participating in the National Guard Challenge Program and is a GED recipient; or

(B) is a home school diploma recipient and provides a transcript demonstrating completion of high school to the military department involved under the pilot program.

(2) For the purposes of this section, a person is a GED recipient if the person, after completing a general education development program, has obtained certification of high school equivalency by meeting State requirements and passing a State approved exam that is administered for the purpose of providing an appraisal of the person's achievement or performance in the broad subject matter areas usually required for high school graduates.

(3) For the purposes of this section, a person is a home school diploma recipient if the person has received a diploma for completing a program of education through the high school level at a home school, without regard to whether the home school is treated as a private school under the law of the State in which located.

(c) ANNUAL LIMIT ON NUMBER.—Not more than 1,250 GED recipients, and not more than 1,250 home school diploma recipients, enlisted by an armed force in any fiscal year may be treated under the pilot program as having graduated from high school with a high school diploma.

(d) PERIOD FOR PILOT PROGRAM.—The pilot program shall be in effect for five fiscal years beginning on October 1, 1998.

(e) REPORT.—(1) Not later than February 1, 2004, the Secretary of Defense shall submit a report on the pilot program to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives.

(2)(A) The report shall include the assessment of the Secretary of Defense, and any assessment of any of the Secretaries of the military departments, regarding the value of, and any necessity for, authority to treat GED recipients and home school diploma recipients as having graduated from high school with a high school diploma for the purpose of determining the eligibility of those persons to enlist in the Armed Forces.

(B) The Secretary shall also set forth in the report, by armed force for each fiscal year of the pilot program, a comparison of the performance of the persons who enlisted in that armed force during the fiscal year as GED or home school diploma recipients treated under the pilot program as having graduated from high school with a high school diploma with the performance of the persons who enlisted in that armed force during the same fiscal year after having graduated from high school with a high school diploma, with respect to the following:

(i) Attrition.

(ii) Discipline.

(iii) Adaptability to military life.

(iv) Aptitude for mastering the skills necessary for technical specialties.

(v) Reenlistment rates.

(f) REFERENCE TO NATIONAL GUARD CHALLENGE PROGRAM.—The National Guard Challenge Program referred to in this section is a program conducted under section 509 of title 32, United States Code.

(g) STATE DEFINED.—In this section, the term "State" has the meaning given that term in section 509(l)(1) of title 32, United States Code.

SEC. 530. WAIVER OF TIME LIMITATIONS FOR AWARD OF CERTAIN DECORATIONS TO CERTAIN PERSONS.

(a) WAIVER.—Any limitation established by law or policy for the time within which a recommendation for the award of a military decoration or award must be submitted shall not apply to awards of decorations described in this section, the award of each such decoration having been determined by the Secretary of the military department concerned to be warranted in accordance with section 1130 of title 10, United States Code.

(b) DISTINGUISHED-SERVICE CROSS.—Subsection (a) applies to award of the Distinguished-Service Cross of the Army as follows:

(1) To Isaac Camacho of El Paso, Texas, for extraordinary heroism in actions at Camp Hiep Hoa in Vietnam on November 24, 1963, while serving as a member of the Army.

(2) To Bruce P. Crandall of Mesa, Arizona, for extraordinary heroism in actions at Landing Zone X-Ray in Vietnam on November 14, 1965, while serving as a member of the Army.

(3) To Leland B. Fair of Jessieville, Arkansas, for extraordinary heroism in actions in the Philippine Islands on July 4, 1945, while serving as a member of the Army.

(c) DISTINGUISHED-SERVICE MEDAL.—Subsection (a) applies to award of the Distinguished-Service Medal of the Army to Richard P. Sakakida of Fremont, California, for exceptionally meritorious service while a prisoner of war in the Philippine Islands from May 7, 1942, to September 14, 1945, while serving as a member of the Army.

(d) DISTINGUISHED FLYING CROSS.—Subsection (a) applies to award of the Distinguished Flying Cross for service during World War II or Korea (including multiple awards to the same individual) in the case of each individual (not covered by section 573(d) of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105-85; 111 Stat. 1757)) concerning whom the Secretary of the Navy (or an officer of the Navy acting on behalf of the Secretary) submitted to the Committee on National Security of the House of Representatives and the Committee on Armed Services of the Senate, before the date of the enactment of this Act, a notice as provided in section 1130(b) of title 10, United States Code, that the award of the Distinguished Flying Cross to that individual is warranted and that a waiver of time restrictions prescribed by law for recommendation for such award is recommended.

SEC. 531. PROHIBITION ON ENTRY INTO CORRECTIONAL FACILITIES FOR PRESENTATION OF DECORATIONS TO PERSONS WHO COMMIT CERTAIN CRIMES BEFORE PRESENTATION.

(a) PROHIBITION.—Chapter 57 of title 10, United States Code, is amended by adding at the end the following:

"§ 1132. Presentation of decorations: prohibition on entering into correctional facilities for certain presentations

"(a) PROHIBITION.—No member of the armed forces may enter into a Federal, State, or local correctional facility for purposes of presenting a decoration to a person who has been convicted of a serious violent felony.

"(b) DEFINITIONS.—In this section:

"(1) The term 'decoration' means any decoration or award that may be presented or awarded to a member of the armed forces.

"(2) The term 'serious violent felony' has the meaning given that term in section 3559(c)(2)(F) of title 18.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of that chapter is amended by adding at the end the following:

"1132. Presentation of decorations: prohibition on entering into correctional facilities for certain presentations.".

SEC. 532. ADVANCEMENT OF BENJAMIN O. DAVIS, JUNIOR, TO GRADE OF GENERAL.

(a) AUTHORITY.—The President is authorized to advance Benjamin O. Davis, Junior, to the grade of general on the retired list of the Air Force.

(b) ADDITIONAL BENEFITS NOT TO ACCRUE.—An advancement of Benjamin O. Davis, Junior, to the grade of general on the retired list of the Air Force under subsection (a) shall not increase or change the compensation or benefits from the United States to which any person is now or may in the future be entitled based upon the military service of the said Benjamin O. Davis, Junior.

TITLE VI—COMPENSATION AND OTHER PERSONNEL BENEFITS

Subtitle A—Pay and Allowances

SEC. 601. INCREASE IN BASIC PAY FOR FISCAL YEAR 1999.

(a) WAIVER OF SECTION 1009 ADJUSTMENT.—Any adjustment required by section 1009 of title 37, United States Code, in the rates of monthly basic pay authorized members of the uniformed services by section 203(a) of such title to become effective during fiscal year 1999 shall not be made.

(b) INCREASE IN BASIC PAY.—Effective on January 1, 1999, the rates of basic pay of members of the uniformed services are increased by 3.6 percent.

(c) OFFSETTING REDUCTIONS IN AUTHORIZATIONS OF APPROPRIATIONS.—(1) Notwithstanding any other provision of title I, the total amount authorized to be appropriated under title II is hereby reduced by $150,000,000.

(2) Notwithstanding any other provision of title II, the total amount authorized to be appropriated under title II is hereby reduced by $275,000,000.

SEC. 602. RATE OF PAY FOR CADETS AND MIDSHIPMEN AT THE SERVICE ACADEMIES.

(a) INCREASED RATE.—Section 203(c) of title 37, United States Code, is amended by striking out "$558.04" and inserting in lieu thereof "$600.00".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on January 1, 1999.

SEC. 603. PAYMENTS FOR MOVEMENTS OF HOUSEHOLD GOODS ARRANGED BY MEMBERS.

(a) MONETARY ALLOWANCE AUTHORIZED.—Subsection (b)(1) of section 406 of title 37, United States Code, is amended—

(1) in subparagraph (A)—

(A) by striking out ", or reimbursement therefor,"; and

(B) by inserting after the second sentence the following: "Alternatively, a member may be paid reimbursement or a monetary allowance under subparagraph (F)."; and

(2) by adding at the end the following:

"(F) A member entitled to transportation of baggage and household effects under subparagraph (A) may, as an alternative to the provision of transportation, be paid reimbursement or, at the member's request, a monetary allowance in advance for the cost of transportation of the baggage and household effects. The monetary allowance may be paid only if the amount of the allowance does not exceed the cost that would be incurred by the Government under subparagraph (A) for the transportation of the baggage and household effects. Appropriations available to the Department of Defense, the Department of Transportation, and the Department of Health and Human Services for providing transportation of baggage or household effects of members of the uniformed services shall be available to pay a reimbursement or monetary allowance under this subparagraph. The Secretary concerned may prescribe the manner in which the risk of liability for damage, destruction, or loss of baggage or household effects arranged, packed, crated, or loaded by a member is allocated among the member, the United States, and any contractor when a reimbursement or monetary allowance is elected under this subparagraph.".

(b) Repeal of Superseded Provision.—Such section is further amended by striking out subsection (j).

SEC. 604. LEAVE WITHOUT PAY FOR SUSPENDED ACADEMY CADETS AND MIDSHIPMEN.

(a) Authority.—Section 702 of title 10, United States Code, is amended—

(1) by designating the second sentence of subsection (b) as subsection (d);

(2) by redesignating subsection (b) as subsection (c); and

(3) by inserting after subsection (a) the following new subsection (b):

"(b) Leave Without Pay.—(1) Under regulations prescribed under subsection (d), the Superintendent of the United States Military Academy, the United States Naval Academy, the United States Air Force Academy, or the United States Coast Guard Academy may order a cadet or midshipman of the Academy to be placed on leave involuntarily for any period during which the cadet or midshipman is suspended from duty at the Academy—

"(A) pending separation from the Academy;

"(B) pending return to the Academy to repeat an academic semester or year; or

"(C) for other good cause.

"(2) A cadet or midshipman placed on involuntary leave under paragraph (1) is not entitled to any pay under section 230(c) of title 37 for the period of the leave.

"(3) A return of a cadet or midshipman to a pay status at the Academy from an involuntary leave status under paragraph (1) does not restore any entitlement of the cadet or midshipman to pay for the period of the involuntary leave.".

(b) Subsection Headings.—Such section, as amended by subsection (a), is further amended—

(1) in subsection (a), by inserting "Graduation Leave.—" after "(a)";

(2) in subsection (c), by inserting "Inapplicable Leave Provisions.—" after "(c)"; and

(3) in subsection (d), by inserting "Regulations.—" after "(d)".

Subtitle B—Bonuses and Special and Incentive Pays

SEC. 611. THREE-MONTH EXTENSION OF CERTAIN BONUSES AND SPECIAL PAY AUTHORITIES FOR RESERVE FORCES.

(a) Special Pay for Health Professionals in Critically Short Wartime Specialties.—Section 302g(f) of title 37, United States Code, is amended by striking out "September 30, 1999" and inserting in lieu thereof "December 31, 1999".

(b) Selected Reserve Reenlistment Bonus.—Section 308b(f) of title 37, United States Code, is amended by striking out "September 30, 1999" and inserting in lieu thereof "December 31, 1999".

(c) Selected Reserve Enlistment Bonus.—Section 308c(e) of title 37, United States Code, is amended by striking out "September 30, 1999" and inserting in lieu thereof "December 31, 1999".

(d) Special Pay for Enlisted Members Assigned to Certain High Priority Units.—Section 308d(c) of title 37, United States Code, is amended by striking out "September 30, 1999" and inserting in lieu thereof "December 31, 1999".

(e) Selected Reserve Affiliation Bonus.—Section 308e(e) of title 37, United States Code, is amended by striking out "September 30, 1999" and inserting in lieu thereof "December 31, 1999".

(f) Ready Reserve Enlistment and Reenlistment Bonus.—Section 308h(g) of title 37, United States Code, is amended by striking out "September 30, 1999" and inserting in lieu thereof "December 31, 1999".

(g) Prior Service Enlistment Bonus.—Section 308i(f) of title 37, United States Code, as redesignated by section 622, is amended by striking out "September 30, 1999" and inserting in lieu thereof "December 31, 1999".

(h) Repayment of Education Loans for Certain Health Professionals Who Serve in the Selected Reserve.—Section 16302(d) of title 10, United States Code, is amended by striking out "October 1, 1999" and inserting in lieu thereof "January 1, 2000".

SEC. 612. THREE-MONTH EXTENSION OF CERTAIN BONUSES AND SPECIAL PAY AUTHORITIES FOR NURSE OFFICER CANDIDATES, REGISTERED NURSES, AND NURSE ANESTHETISTS.

(a) Nurse Officer Candidate Accession Program.—Section 2130a(a)(1) of title 10, United States Code, is amended by striking out "September 30, 1999" and inserting in lieu thereof "December 31, 1999".

(b) Accession Bonus for Registered Nurses.—Section 302d(a)(1) of title 37, United States Code, is amended by striking out "September 30, 1999" and inserting in lieu thereof "December 31, 1999".

(c) Incentive Special Pay for Nurse Anesthetists.—Section 302e(a)(1) of title 37, United States Code, is amended by striking out "September 30, 1999" and inserting in lieu thereof "December 31, 1999".

SEC. 613. THREE-MONTH EXTENSION OF AUTHORITIES RELATING TO PAYMENT OF OTHER BONUSES AND SPECIAL PAYS.

(a) Aviation Officer Retention Bonus.—Section 301b(a) of title 37, United States Code, is amended by striking out "September 30, 1999," and inserting in lieu thereof "December 31, 1999,".

(b) Reenlistment Bonus for Active Members.—Section 308(g) of title 37, United States Code, is amended by striking out "September 30, 1999" and inserting in lieu thereof "December 31, 1999".

(c) Enlistment Bonuses for Members With Critical Skills.—Sections 308a(c) and 308f(c) of title 37, United States Code, are each amended by striking out "September 30, 1999" and inserting in lieu thereof "December 31, 1999".

(d) Special Pay for Nuclear-Qualified Officers Extending Period of Active Service.—Section 312(e) of title 37, United States Code, is amended by striking out "September 30, 1999" and inserting in lieu thereof "December 31, 1999".

(e) Nuclear Career Accession Bonus.—Section 312b(c) of title 37, United States Code, is amended by striking out "September 30, 1999" and inserting in lieu thereof "December 31, 1999".

(f) Nuclear Career Annual Incentive Bonus.—Section 312c(d) of title 37, United States Code, is amended by striking out "October 1, 1999" and inserting in lieu thereof "October 1, 1998, and the 15-month period beginning on that date and ending on December 31, 1999".

SEC. 614. ELIGIBILITY OF RESERVES FOR SELECTIVE REENLISTMENT BONUS WHEN REENLISTING OR EXTENDING TO PERFORM ACTIVE GUARD AND RESERVE DUTY.

Section 308(a)(1)(D) of title 37, United States Code, is amended by inserting after "a regular component of the service concerned" the following: ", or in a reserve component of the service concerned in the case of a member reenlisting or extending to perform active Guard and Reserve duty (as defined in section 101(d)(6) of title 10),".

SEC. 615. REPEAL OF TEN-PERCENT LIMITATION ON PAYMENTS OF SELECTIVE REENLISTMENT BONUSES IN EXCESS OF $20,000.

Section 308(b) of title 37, United States Code, is amended—

(1) by striking out paragraph (2); and

(2) in paragraph (1), by striking out "(1)".

SEC. 616. INCREASE OF MAXIMUM AMOUNT AUTHORIZED FOR ARMY ENLISTMENT BONUS.

Section 308f(a) of title 37, United States Code, is amended by striking out "$4,000" and inserting in lieu thereof "$6,000".

SEC. 617. EDUCATION LOAN REPAYMENT PROGRAM FOR HEALTH PROFESSIONS OFFICERS SERVING IN SELECTED RESERVE.

(a) Eligible Persons.—Subsection (b)(2) of section 16302 of title 10, United States Code, is amended by inserting ", or is enrolled in a program of education leading to professional qualifications," after "possesses professional qualifications".

(b) Increased Benefits.—Subsection (c) of such section is amended—

(1) in paragraph (2), by striking out "$3,000" and inserting in lieu thereof "$20,000"; and

(2) in paragraph (3), by striking out "$20,000" and inserting in lieu thereof "$50,000".

SEC. 618. INCREASE IN AMOUNT OF BASIC EDUCATIONAL ASSISTANCE UNDER ALL-VOLUNTEER FORCE PROGRAM FOR PERSONNEL WITH CRITICALLY SHORT SKILLS OR SPECIALTIES.

Section 3015(d) of title 38, United States Code, is amended by striking out "$700" and inserting in lieu thereof "$950".

SEC. 619. RELATIONSHIP OF ENTITLEMENTS TO ENLISTMENT BONUSES AND BENEFITS UNDER THE ALL-VOLUNTEER FORCE EDUCATIONAL ASSISTANCE PROGRAM.

(a) Entitlements Not Exclusive.—(1) Subchapter II of chapter 30 of title 38, United States Code, is amended by adding at the end the following:

"§ 3019A. Relationship to entitlement to certain enlistment bonuses

"The entitlement of an individual to benefits under this chapter is not affected by receipt by that individual of an enlistment bonus under section 308a or 308f of title 37.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 3019 the following:

"3019A. Relationship to entitlement to certain enlistment bonuses.".

(b) Repeal of Related Limitation.—Section 8013(a) of Public Law 105–56 (111 Stat. 1222) is amended—

(1) by striking out "of this Act—" and all that follows through "nor shall any amounts" and inserting in lieu thereof "of this Act enlists in the armed services for a period of active duty of less that three years, nor shall any amounts"; and

(2) in the first proviso, by striking out "in the case of a member covered by clause (1),".

SEC. 620. HARDSHIP DUTY PAY.

(a) DUTY FOR WHICH PAY AUTHORIZED.—Subsection (a) of section 305 of title 37, United States Code, is amended by striking out "on duty at a location" and all that follows and inserting in lieu thereof "performing duty in the United States or outside the United States that is designated by the Secretary of Defense as hardship duty.".

(b) REPEAL OF EXCEPTION FOR MEMBERS RECEIVING CAREER SEA PAY.—Subsection (c) of such section is repealed.

(c) CONFORMING AMENDMENTS.—(1) Subsections (b) and (d) of such section are amended by striking out "hardship duty location pay" and inserting in lieu thereof "hardship duty pay".

(2) Subsection (d) of such section is redesignated as subsection (c).

(3) The heading for such section is amended by striking out **"location"**.

(4) Section 907(d) of title 37, United States Code, is amended by striking out "duty at a hardship duty location" and inserting in lieu thereof "hardship duty".

(d) CLERICAL AMENDMENT.—The item relating to section 305 in the table of sections at the beginning of chapter 5 of such title is amended to read as follows:

"305. Special pay: hardship duty pay.".

SEC. 620A. INCREASED HAZARDOUS DUTY PAY FOR AERIAL FLIGHT CREW-MEMBERS IN PAY GRADES E-4 TO E-9.

(a) RATES.—The table in section 301(b) of title 37, United States Code, is amended by striking out the items relating to pay grades E-4, E-5, E-6, E-7, E-8, and E-9, and inserting in lieu thereof the following:

"E-9	240
E-8	240
E-7	240
E-6	215
E-5	190
E-4	165".

(b) EFFECTIVE DATE.—This section and the amendment made by this section shall take effect on October 1, 1998, and shall apply with respect to months beginning on or after that date.

SEC. 620B. DIVING DUTY SPECIAL PAY FOR DIVERS HAVING DIVING DUTY AS A NON-PRIMARY DUTY.

(a) ELIGIBILITY FOR MAINTAINING PROFICIENCY.—Section 304(a)(3) of title 37, United States Code, is amended to read as follows:

"(3) either—

"(A) actually performs diving duty while serving in an assignment for which diving is a primary duty; or

"(B) meets the requirements to maintain proficiency as described in paragraph (2) while serving in an assignment that includes diving duty other than as a primary duty.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1998, and shall apply with respect to months beginning on or after that date.

SEC. 620C. RETENTION INCENTIVES INITIATIVE FOR CRITICALLY SHORT MILITARY OCCUPATIONAL SPECIALTIES.

(a) REQUIREMENT FOR NEW INCENTIVES.—The Secretary of Defense shall establish and provide for members of the Armed Forces qualified in critically short military occupational specialties a series of new incentives that the Secretary considers potentially effective for increasing the rates at which those members are retained in the Armed Forces for service in such specialties.

(b) CRITICALLY SHORT MILITARY OCCUPATIONAL SPECIALTIES.—For the purposes of this section, a military occupational specialty is a critically short military occupational specialty for an armed force if the number of members retained in that armed force in fiscal year 1998 for service in that specialty is less than 50 percent of the number of members of that armed force that were projected to be retained in that armed force for service in the specialty by the Secretary of the military department concerned as of October 1, 1997.

(c) INCENTIVES.—It is the sense of Congress that, among the new incentives established and provided under this section, the Secretary of Defense should include the following incentives:

(1) Family support and leave allowances.

(2) Increased special reenlistment or retention bonuses.

(3) Repayment of educational loans.

(4) Priority of selection for assignment to preferred permanent duty station or for extension at permanent duty station.

(5) Modified leave policies.

(6) Special consideration for Government housing or additional housing allowances.

(d) RELATIONSHIP TO OTHER INCENTIVES.—Incentives provided under this section are in addition to any special pay or other benefit that is authorized under any other provision of law.

(e) REPORTS.—(1) Not later than December 1, 1998, the Secretary of Defense shall submit to the congressional defense committees a report that identifies, for each of the Armed Forces, the critically short military occupational specialties to which incentives under this section are to apply.

(2) Not later than April 15, 1999, the Secretary of Defense shall submit to the congressional defense committees a report that specifies, for each of the Armed Forces, the incentives that are to be provided under this section.

Subtitle C—Travel and Transportation Allowances

SEC. 621. TRAVEL AND TRANSPORTATION FOR REST AND RECUPERATION IN CONNECTION WITH CONTINGENCY OPERATIONS AND OTHER DUTY.

Section 411c of title 37, United States Code, is amended—

(1) in subsection (a)—

(A) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B); and

(B) by inserting "IN GENERAL.—(1)" after "(a)";

(2) in subsection (b), by striking out "(b) The transportation authorized by this section" and inserting in lieu thereof "(2) The transportation authorized by paragraph (1)"; and

(3) by adding at the end the following:

"(b) CONTINGENCY OPERATIONS AND OTHER SPECIAL SITUATIONS.—(1) Under uniform regulations prescribed by the Secretaries concerned, a member of the armed forces serving a tour of duty at a duty station, and under conditions, described in paragraph (2) may be paid for or provided transportation to a location described in subsection (a)(1) as part of a program of rest and recuperation specifically authorized for members of the armed forces serving under those conditions at that duty station by the Secretary concerned in advance of the commencement of the member's travel.

"(2) Paragraph (1) applies to a member of the armed forces serving at a duty station outside the United States if—

"(A) the member is participating in a contingency operation at or from that duty station; or

"(B) the payment for or provision of transportation would be in the best interests of members of the armed forces and the United States because of unusual conditions at the duty station, as determined by the Secretary concerned.

"(3) Transportation may not be paid for or provided to a member under this subsection for travel that begins—

"(A) more than 24 months after the commencement of the tour of duty for which the transportation is authorized; or

"(B) after the tour of duty ends.

"(4) The transportation authorized by this subsection is limited to one round-trip during any tour of at least 6, but less than 24, consecutive months.

"(5) Transportation paid for or provided to a member under this subsection may not be counted as transportation for which the member is eligible under subsection (a).".

SEC. 622. PAYMENT FOR TEMPORARY STORAGE OF BAGGAGE OF DEPENDENT STUDENT NOT TAKEN ON ANNUAL TRIP TO OVERSEAS DUTY STATION OF SPONSOR.

Section 430(b) of title 37, United States Code, is amended by striking out the second sentence and inserting in lieu thereof the following: "The allowance authorized by this section may be prescribed by the Secretaries concerned as transportation in kind or reimbursement therefor, including an amount for the temporary storage of any baggage not taken with the child on the annual trip if determined advantageous to the Government.".

SEC. 623. COMMERCIAL TRAVEL OF RESERVES AT FEDERAL SUPPLY SCHEDULE RATES FOR ATTENDANCE AT INACTIVE DUTY TRAINING ASSEMBLIES.

(a) AUTHORITY.—Chapter 1217 of title 10, United States Code is amended by adding at the end the following:

"§ 12603. Commercial travel at Federal supply schedule rates for attendance at inactive duty training assemblies

"(a) FEDERAL SUPPLY SCHEDULE TRAVEL.—Commercial travel under Federal supply schedules is authorized for the travel of a Reserve to the location of inactive duty training to be performed by the Reserve or from that location upon completion of the training.

"(b) REGULATIONS.—The Secretary of Defense shall prescribe in regulations the requirements, conditions, and restrictions for travel under the authority of subsection (a) that the Secretary considers appropriate. The regulations shall include policies and procedures for preventing abuses of the travel authority.

"(c) REIMBURSEMENT NOT AUTHORIZED.—A Reserve is not entitled to Government reimbursement for the cost of travel authorized under subsection (a).

"(d) TREATMENT OF TRANSPORTATION AS USE BY MILITARY DEPARTMENTS.—For the purposes of section 201(a) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481(a)), travel authorized under subsection (a) shall be treated as transportation for the use of a military department.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following:

"12603. Commercial travel at Federal supply schedule rates for attendance at inactive duty training assemblies.".

Subtitle D—Retired Pay, Survivor Benefits, and Related Matters

SEC. 631. PAID-UP COVERAGE UNDER SURVIVOR BENEFIT PLAN.

(a) Paid Up at 30 Years of Service and Age 70.—Section 1452 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(j) Coverage Paid Up at 30 Years and Attainment of Age 70.—(1) Coverage of a survivor of a member under the Plan shall be considered paid up as of the end of the later of—

"(A) the 360th month in which the member's retired pay has been reduced under this section; or

"(B) the month in which the member attains 70 years of age.

"(2) The retired pay of a member shall not be reduced under this section to provide coverage of a survivor under the Plan after the month when the coverage is considered paid up under paragraph (1).".

(b) Effective Date.—Section 1452(j) of title 10, United States Code (as added by subsection (a)), shall take effect on October 1, 2003.

SEC. 632. COURT-REQUIRED SURVIVOR BENEFIT PLAN COVERAGE EFFECTUATED THROUGH ELECTIONS AND DEEMED ELECTIONS.

(a) Elimination of Disparity in Effective Date Provisions.—Section 1448(b)(3) of title 10, United States Code, is amended—

(1) in subparagraph (C)—

(A) by striking out the second sentence; and

(B) by striking out "effective date," in the heading; and

(2) by adding at the end the following:

"(E) Effective date.—An election under this paragraph—

"(i) in the case of a person required (as described in section 1450(f)(3)(B) of this title) to make the election, is effective as of the first day of the first month which begins after the date of the court order or filing that requires the election; and

"(ii) in all other cases, is effective as of the first day of the first calendar month following the month in which the election is received by the Secretary concerned.".

(b) Conformity by Cross Reference.—Section 1450(f)(3)(D) of such title is amended by striking out "the first day of the first month which begins after the date of the court order or filing involved" and inserting in lieu thereqf "the day referred to in section 1448(b)(3)(E)(i) of this title".

SEC. 633. RECOVERY, CARE, AND DISPOSITION OF REMAINS OF MEDICALLY RETIRED MEMBER WHO DIES DURING HOSPITALIZATION THAT BEGINS WHILE ON ACTIVE DUTY.

(a) In General.—Section 1481(a)(7) of title 10, United States Code, is amended to read as follows:

"(7) A person who—

"(A) dies as a retired member of an armed force under the Secretary's jurisdiction during a continuous hospitalization of the member as a patient in a United States hospital that began while the member was on active duty for a period of more than 30 days; or

"(B) is not covered by subparagraph (A) and, while in a retired status by reason of eligibility to retire under chapter 61 of this title, dies during a continuous hospitalization of the person that began while the person was on active duty as a Regular of an armed force, or a member of an armed force without component, under the Secretary's jurisdiction.".

(b) Effective Date.—The amendment made by subsection (a) takes effect on the date of the enactment of this Act and applies with respect to deaths occurring on or after that date.

SEC. 634. SURVIVOR BENEFIT PLAN OPEN ENROLLMENT PERIOD.

(a) Persons Not Currently Participating in Survivor Benefit Plan.—

(1) Election of sbp coverage.—An eligible retired or former member may elect to participate in the Survivor Benefit Plan during the open enrollment period specified in subsection (d).

(2) Election of supplemental annuity coverage.—An eligible retired or former member who elects under paragraph (1) to participate in the Survivor Benefit Plan may also elect during the open enrollment period to participate in the Supplemental Survivor Benefit Plan.

(3) Eligible retired or former member.—For purposes of paragraphs (1) and (2), an eligible retired or former member is a member or former member of the uniformed services who on the day before the first day of the open enrollment period is not a participant in the Survivor Benefit Plan and—

(A) is entitled to retired pay; or

(B) would be entitled to retired pay under chapter 1223 of title 10, United States Code (or chapter 67 of such title as in effect before October 5, 1994), but for the fact that such member or former member is under 60 years of age.

(4) Status under sbp of persons making elections.—

(A) Standard annuity.—A person making an election under paragraph (1) by reason of eligibility under paragraph (3)(A) shall be treated for all purposes as providing a standard annuity under the Survivor Benefit Plan.

(B) Reserve-component annuity.—A person making an election under paragraph (1) by reason of eligibility under paragraph (3)(B) shall be treated for all purposes as providing a reserve-component annuity under the Survivor Benefit Plan.

(b) Manner of Making Elections.—

(1) In general.—An election under this section must be made in writing, signed by the person making the election, and received by the Secretary concerned before the end of the open enrollment period. Except as provided in paragraph (2), any such election shall be made subject to the same conditions, and with the same opportunities for designation of beneficiaries and specification of base amount, that apply under the Survivor Benefit Plan or the Supplemental Survivor Benefit Plan, as the case may be. A person making an election under subsection (a) to provide a reserve-component annuity shall make a designation described in section 1448(e) of title 10, United States Code.

(2) Election must be voluntary.—An election under this section is not effective unless the person making the election declares the election to be voluntary. An election to participate in the Survivor Benefit Plan under this section may not be required by any court. An election to participate or not to participate in the Survivor Benefit Plan is not subject to the concurrence of a spouse or former spouse of the person.

(c) Effective Date for Elections.—Any such election shall be effective as of the first day of the first calendar month following the month in which the election is received by the Secretary concerned.

(d) Open Enrollment Period Defined.—The open enrollment period is the one-year period beginning on March 1, 1999.

(e) Effect of Death of Person Making Election Within Two Years of Making Election.—If a person making an election under this section dies before the end of the two-year period beginning on the effective date of the election, the election is void and the amount of any reduction in retired pay of the person that is attributable to the election shall be paid in a lump sum to the person who would have been the deceased person's beneficiary under the voided election if the deceased person had died after the end of such two-year period.

(f) Applicability of Certain Provisions of Law.—The provisions of sections 1449, 1453, and 1454 of title 10, United States Code, are applicable to a person making an election, and to an election, under this section in the same manner as if the election were made under the Survivor Benefit Plan or the Supplemental Survivor Benefit Plan, as the case may be.

(g) Premiums for Open Enrollment Election.—

(1) Premiums to be charged.—The Secretary of Defense shall prescribe in regulations premiums which a person electing under this section shall be required to pay for participating in the Survivor Benefit Plan pursuant to the election. The total amount of the premiums to be paid by a person under the regulations shall be equal to the sum of—

(A) the total amount by which the retired pay of the person would have been reduced before the effective date of the election if the person had elected to participate in the Survivor Benefit Plan (for the same base amount specified in the election) at the first opportunity that was afforded the member to participate under chapter 73 of title 10, United States Code;

(B) interest on the amounts by which the retired pay of the person would have been so reduced, computed from the dates on which the retired pay would have been so reduced at such rate or rates and according to such methodology as the Secretary of Defense determines reasonable; and

(C) any additional amount that the Secretary determines necessary to protect the actuarial soundness of the Department of Defense Military Retirement Fund against any increased risk for the fund that is associated with the election.

(2) Premiums to be credited to retirement fund.—Premiums paid under the regulations shall be credited to the Department of Defense Military Retirement Fund.

(h) Definitions.—In this section:

(1) The term "Survivor Benefit Plan" means the program established under subchapter II of chapter 73 of title 10, United States Code.

(2) The term "Supplemental Survivor Benefit Plan" means the program established under subchapter III of chapter 73 of title 10, United States Code.

(3) The term "retired pay" includes retainer pay paid under section 6330 of title 10, United States Code.

(4) The terms "uniformed services" and "Secretary concerned" have the meanings given those terms in section 101 of title 37, United States Code.

(5) The term "Department of Defense Military Retirement Fund" means the Department of Defense Military Retirement Fund established under section 1461(a) of title 10, United States Code.

SEC. 635. ELIGIBILITY FOR PAYMENTS OF CERTAIN SURVIVORS OF CAPTURED AND INTERNED VIETNAMESE OPERATIVES WHO WERE UNMARRIED AND CHILDLESS AT DEATH.

Section 657(b) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2585) is amended by adding at the end the following:

"(3) In the case of a decedent who had not been married at the time of death—

"(A) to the surviving parents; or

"(B) if there are no surviving parents, to the surviving siblings by blood of the decedent, in equal shares.".

SEC. 636. CLARIFICATION OF RECIPIENT OF PAYMENTS TO PERSONS CAPTURED OR INTERNED BY NORTH VIETNAM.

Section 657(f)(1) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2585) is amended by striking out "The actual disbursement" and inserting in lieu thereof "Notwithstanding any agreement (including a power of attorney) to the contrary, the actual disbursement".

SEC. 637. PRESENTATION OF UNITED STATES FLAG TO MEMBERS OF THE ARMED FORCES.

(a) Army.—(1) Chapter 353 of title 10, United States Code, is amended by inserting after the table of sections the following:

"§3681. Presentation of flag upon retirement at end of active duty service

"(a) Requirement.—The Secretary of the Army shall present a United States flag to a member of any component of the Army upon the release of the member from active duty for retirement.

"(b) Multiple Presentations Not Authorized.—A member is not eligible for a presentation of a flag under subsection (a) if the member has previously been presented a flag under this section or section 6141 or 8681 of this title.

"(c) No Cost to Recipient.—The presentation of a flag under his section shall be at no cost to the recipient.".

(2) The table of sections at the beginning of such chapter is amended by inserting before the item relating to section 3684 the following:

"3681. Presentation of flag upon retirement at end of active duty service.".

(b) Navy and Marine Corps.—(1) Chapter 561 of title 10, United States Code, is amended by inserting after the table of sections the following:

"§6141. Presentation of flag upon retirement at end of active duty service

"(a) Requirement.—The Secretary of the Navy shall present a United States flag to a member of any component of the Navy or Marine Corps upon the release of the member from active duty for retirement or for transfer to the Fleet Reserve or the Fleet Marine Corps Reserve.

"(b) Multiple Presentations Not Authorized.—A member is not eligible for a presentation of a flag under subsection (a) if the member has previously been presented a flag under this section or section 3681 or 8681 of this title.

"(c) No Cost to Recipient.—The presentation of a flag under his section shall be at no cost to the recipient.".

(2) The table of sections at the beginning of such chapter is amended by inserting before the item relating to section 6151 the following:

"6141. Presentation of flag upon retirement at end of active duty service.".

(c) Air Force.—(1) Chapter 853 of title 10, United States Code, is amended by inserting after the table of sections the following:

"§8681. Presentation of flag upon retirement at end of active duty service

"(a) Requirement.—The Secretary of the Air Force shall present a United States flag to a member of any component of the Air Force upon the release of the member from active duty for retirement.

"(b) Multiple Presentations Not Authorized.—A member is not eligible for a presentation of a flag under subsection (a) if the member has previously been presented a flag under this section or section 3681 or 6141 of this title.

"(c) No Cost to Recipient.—The presentation of a flag under his section shall be at no cost to the recipient.".

(2) The table of sections at the beginning of such chapter is amended by inserting before the item relating to section 8684 the following:

"8681. Presentation of flag upon retirement at end of active duty service.".

(d) Requirement for Advance Appropriations.—The Secretary of a military department may present flags under authority provided the Secretary in section 3681, 6141, or 8681 title 10, United States Code (as added by this section), only to the extent that funds for such presentations are appropriated for that purpose in advance.

(e) Effective Date.—Sections 3681, 6141, and 8681 of title 10, United States Code (as added by this section shall take effect on October 1, 1998, and shall apply with respect to releases described in those sections on or after that date.

SEC. 638. ELIMINATION OF BACKLOG OF UNPAID RETIRED PAY.

(a) Requirement.—The Secretary of the Army shall take such actions as are necessary to eliminate, by December 31, 1998, the backlog of unpaid retired pay for members and former members of the Army (including members and former members of the Army Reserve and the Army National Guard).

(b) Report.—Not later than 30 days after the date of the enactment of this Act, the Secretary of the Army shall submit to Congress a report on the backlog of unpaid retired pay. The report shall include the following:

(1) The actions taken under subsection (a).

(2) The extent of the remaining backlog.

(3) A discussion of any additional actions that are necessary to ensure that retired pay is paid in a timely manner.

(c) Funding.—Of the amount authorized to be appropriated under section 421, $1,700,000 shall be available for carrying out this section.

Subtitle E—Other Matters

SEC. 641. DEFINITION OF POSSESSIONS OF THE UNITED STATES FOR PAY AND ALLOWANCES PURPOSES.

Section 101(2) of title 37, United States Code, is amended by striking out "the Canal Zone,".

SEC. 642. FEDERAL EMPLOYEES' COMPENSATION COVERAGE FOR STUDENTS PARTICIPATING IN CERTAIN OFFICER CANDIDATE PROGRAMS.

(a) Periods of Coverage.—Subsection (a)(2) of section 8140 of title 5, United States Code, is amended to read as follows:

"(2) during the period of the member's attendance at training or a practice cruise under chapter 103 of title 10, beginning when the authorized travel to the training or practice cruise begins and ending when authorized travel from the training or practice cruise ends.".

(b) Line of Duty.—Subsection (b) of such section is amended to read as follows:

. "(b) For the purpose of this section, an injury, disability, death, or illness of a member referred to in subsection (a) may be considered as incurred or contracted in line of duty only if the injury, disability, or death is incurred, or the illness is contracted, by the member during a period described in that subsection. Subject to review by the Secretary of Labor, the Secretary of the military department concerned (under regulations prescribed by that Secretary), shall determine whether an injury, disability, or death was incurred, or an illness was contracted, by a member in line of duty.".

(c) Clarification of Casualties Covered.—Subsection (a) of such section, as amended by subsection (a) of this section, is further amended by inserting ", or an illness contracted," after "death incurred" in the matter preceding paragraph (1).

(d) Effective Date and Applicability.—The amendments made by subsections (a) and (b) shall take effect on the date of the enactment of this Act and apply with respect to injuries, illnesses, disabilities, and deaths incurred or contracted on or after that date.

SEC. 643. AUTHORITY TO PROVIDE FINANCIAL ASSISTANCE FOR EDUCATION OF CERTAIN DEFENSE DEPENDENTS OVERSEAS.

Section 1407(b) of the Defense Dependents' Education Act of 1978 (20 U.S.C. 926(b)) is amended—

(1) by striking out "(b) Under such circumstances as he may by regulation prescribe, the Secretary of Defense" and inserting in lieu thereof "(b) Tuition and Assistance When Schools Unavailable.—(1) Under such circumstances as the Secretary of Defense may prescribe in regulations, the Secretary"; and

(2) by adding at the end the following:

"(2)(A) The Secretary of Defense, and the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service of the Navy, may provide financial assistance to sponsors of dependents in overseas areas where schools operated by the Secretary of Defense under subsection (a) are not reasonably available in order to assist the sponsors to defray the costs incurred by the sponsors for the attendance of the dependents at schools in such areas other than schools operated by the Secretary of Defense.

"(B) The Secretary of Defense and the Secretary of Transportation shall each prescribe regulations relating to the availability of financial assistance under subparagraph (A). Such regulations shall, to the maximum extent practicable, be consistent with Department of State regulations relating to the availability of financial assistance for the education of dependents of Department of State personnel overseas.".

SEC. 644. VOTING RIGHTS OF MILITARY PERSONNEL.

(a) Guarantee of Residency.—Article VII of the Soldiers' and Sailors' Civil Relief Act of 1940 (50 U.S.C. App. 590 et seq.) is amended by adding at the end the following:

"Sec. 704. (a) For purposes of voting for an office of the United States or of a State, a person who is absent from a State in compliance with military or naval orders shall not, solely by reason of that absence—

"(1) be deemed to have lost a residence or domicile in that State;

"(2) be deemed to have acquired a residence or domicile in any other State; or

"(3) be deemed to have become resident in or a resident of any other State.

"(b) In this section, the term 'State' includes a territory or possession of the United States, a political subdivision of a State, territory, or possession, and the District of Columbia.".

(b) State Responsibility To Guarantee Military Voting Rights.—(1) Section 102 of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff-1) is amended—

(A) by inserting "(a) ELECTIONS FOR FEDERAL OFFICES.—" before "Each State shall—"; and

(B) by adding at the end the following:

"(b) ELECTIONS FOR STATE AND LOCAL OFFICES.—Each State shall—

"(1) permit absent uniformed services voters to use absentee registration procedures and to vote by absentee ballot in general, special, primary, and runoff elections for State and local offices; and

"(2) accept and process, with respect to any election described in paragraph (1), any otherwise valid voter registration application from an absent uniformed services voter if the application is received by the appropriate State election official not less than 30 days before the election.".

(2) The heading of title I of such Act is amended by striking out "FOR FEDERAL OFFICE".

TITLE VII—HEALTH CARE

SEC. 701. DEPENDENTS' DENTAL PROGRAM.

(a) INFLATION-INDEXED PREMIUM.—(1) Section 1076a(b)(2) of title 10, United States Code, is amended—

(A) by inserting "(A)" after "(2)"; and

(B) by adding at the end the following:

"(B) Effective as of January 1 of each year, the amount of the premium required under subparagraph (A) shall be increased by the percent equal to the lesser of—

"(i) the percent by which the rates of basic pay of members of the uniformed services are increased on such date; or

"(ii) the sum of one-half percent and the percent computed under section 5303(a) of title 5 for the increase in rates of basic pay for statutory pay systems for pay periods beginning on or after such date.".

(2) The amendment made by subparagraph (B) of paragraph (1) shall take effect on January 1, 1999, and shall apply to months after 1998 as if such subparagraph had been in effect since December 31, 1993.

(b) OFFER OF PLAN UNDER TRICARE.—(1) Section 1097 of such title is amended by adding at the end the following:

"(f) DEPENDENTS' DENTAL PLAN.—A basic dental benefits plan established for eligible dependents under section 1076a of this title may be offered under the TRICARE program.".

(2) Subsection (e) of such section is amended by adding at the end the following: "Charges for a basic dental benefits plan offered under the TRICARE program pursuant to subsection (f) shall be those provided for under section 1076a of this title.".

SEC. 702. EXTENSION OF AUTHORITY FOR USE OF PERSONAL SERVICES CONTRACTS FOR PROVISION OF HEALTH CARE AT MILITARY ENTRANCE PROCESSING STATIONS AND ELSEWHERE OUTSIDE MEDICAL TREATMENT FACILITIES.

Section 1091(a)(2) of title 10, United States Code, is amended in the second sentence by striking out "the end of the one-year period beginning on the date of the enactment of this paragraph" and inserting in lieu thereof "June 30, 1999".

SEC. 703. TRICARE PRIME AUTOMATIC ENROLLMENTS AND RETIREE PAYMENT OPTIONS.

(a) PROCEDURES.—(1) Chapter 55 of title 10, United States Code, is amended by inserting after section 1097 the following new section:

"§1097a. TRICARE Prime: automatic enrollments; payment options

"(a) AUTOMATIC ENROLLMENT OF CERTAIN DEPENDENTS.—Each dependent of a member of the uniformed services in grade E4 or below who is entitled to medical and dental care under section 1076(a)(2)(A) of this title and resides in the catchment area of a facility of a uniformed service offering TRICARE Prime shall be automatically enrolled in TRICARE Prime at the facility. The Secretary concerned shall provide written notice of the enrollment to the member. The enrollment of a dependent of the member may be terminated by the member or the dependent at any time.

"(b) AUTOMATIC RENEWAL OF ENROLLMENTS OF COVERED BENEFICIARIES.—(1) An enrollment of a covered beneficiary in TRICARE Prime shall be automatically renewed upon the expiration of the enrollment unless the renewal is declined.

"(2) Not later than 15 days before the expiration date for an enrollment of a covered beneficiary in TRICARE Prime, the Secretary concerned shall—

"(A) transmit a written notification of the pending expiration and renewal of enrollment to the covered beneficiary or, in the case of a dependent of a member of the uniformed services, to the member; and

"(B) afford the beneficiary or member, as the case may be, an opportunity to decline the renewal of enrollment.

"(c) PAYMENT OPTIONS FOR RETIREES.—A member or former member of the uniformed services eligible for medical care and dental care under section 1074(b) of this title may elect to have any fee payable by the member or former member for an enrollment in TRICARE Prime withheld from the member's retired pay, retainer pay, or equivalent pay, as the case may be, or to be paid from a financial institution through electronic transfers of funds. The fee shall be paid in accordance with the election.

"(d) REGULATIONS.—The administering Secretaries shall prescribe regulations, including procedures, for carrying out this section.

"(e) DEFINITIONS.—In this section:

"(1) The term 'TRICARE Prime' means the managed care option of the TRICARE program.

"(2) The term 'catchment area', with respect to a facility of a uniformed service, means the service area of the facility, as designated under regulations prescribed by the administering Secretaries.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1097 the following new item:

1097a. TRICARE Prime: automatic enrollments; payment options.".

(b) DEADLINE FOR IMPLEMENTATION.—The regulations required under subsection (d) of section 1097a of title 10, United States Code (as added by subsection (a)), shall be prescribed to take effect not later than January 1, 1999. The section shall be applied under TRICARE Prime on and after the date on which the regulations take effect.

SEC. 704. LIMITED CONTINUED CHAMPUS COVERAGE FOR PERSONS UNAWARE OF A LOSS OF CHAMPUS COVERAGE RESULTING FROM ELIGIBILITY FOR MEDICARE.

(a) CONTINUATION OF ELIGIBILITY.—The eligibility of a person described in subsection (b) for care under CHAMPUS may be continued under regulations prescribed by the administering Secretaries if it is determined under the regulations that the continuation of the eligibility is appropriate in order to ensure that the person has adequate access to health care.

(b) ELIGIBLE PERSONS.—Subsection (a) applies to a person who—

(1) has been eligible for health care under CHAMPUS;

(2) loses eligibility for health care under CHAMPUS solely by reason of paragraph (1) of section 1086(d), United States Code;

(3) is unaware of the loss of eligibility; and

(4) satisfies the conditions set forth in subparagraphs (A) and (B) of paragraph (2) of such section 1086(d) at the time health care is provided under CHAMPUS pursuant to a continuation of eligibility in accordance with this section.

(c) PERIOD OF CONTINUED ELIGIBILITY.—A continuation of eligibility under this section shall apply with regard to health care provided on or after October 1, 1998, and before July 1, 1999.

(d) DEFINITIONS.—In this section:

(1) The term "administering Secretaries" has the meaning given such term in paragraph (3) of section 1072 of title 10, United States Code.

(2) The term "CHAMPUS" means the Civilian Health and Medical Program of the Uniformed Services, as defined in paragraph (4) of such section.

SEC. 705. ENHANCED DEPARTMENT OF DEFENSE ORGAN AND TISSUE DONOR PROGRAM.

(a) FINDINGS.—Congress makes the following findings:

(1) Organ and tissue transplantation is one of the most remarkable medical success stories in the history of medicine.

(2) Each year, the number of people waiting for organ or tissue transplantation increases. It is estimated that there are approximately 39,000 patients, ranging in age from babies to those in retirement, awaiting transplants of kidneys, hearts, livers, and other solid organs.

(3) The Department of Defense has made significant progress in increasing the awareness of the importance of organ and tissue donations among members of the Armed Forces.

(4) The inclusion of organ and tissue donor elections in the Defense Enrollment Eligibility Reporting System (DEERS) central database through the Real-time Automated Personnel Identification System (RAPIDS) represents a major step in ensuring that organ and tissue donor elections are a matter of record and are accessible in a timely manner.

(b) RESPONSIBILITIES OF THE SECRETARY OF DEFENSE.—The Secretary of Defense shall ensure that the advanced systems developed for recording Armed Forces members' personal data and information (such as the SMARTCARD, MEDITAG, and Personal Information Carrier) include the capability to record organ and tissue donation elections.

(c) RESPONSIBILITIES OF THE SECRETARIES OF THE MILITARY DEPARTMENTS.—The Secretaries of the military departments shall ensure that—

(1) appropriate information about organ and tissue donation is provided to each recruit and officer candidate of the Armed Forces during initial training;

(2) members of the Armed Forces are given recurring, specific opportunities to elect to be organ or tissue donors during service in the Armed Forces and upon retirement; and

(3) members of the Armed Forces electing to be organ or tissue donors are encouraged to advise their next of kin concerning the donation decision and any subsequent change of that decision.

(d) RESPONSIBILITIES OF THE SURGEONS GENERAL OF THE MILITARY DEPARTMENT.—The Surgeons General of the Armed Forces shall ensure that—

(1) appropriate training is provided to enlisted and officer medical personnel to facilitate the effective operation of organ and tissue donation activities under garrison conditions and, to the extent possible, under operational conditions; and

(2) medical logistical activities can, to the extent possible without jeopardizing operational requirements, support an effective organ and tissue donation program.

(e) REPORT.—Not later than September 1, 1999, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report on the status of the implementation of this section.

SEC. 706. JOINT DEPARTMENT OF DEFENSE AND DEPARTMENT OF VETERANS AFFAIRS REVIEWS RELATING TO INTERDEPARTMENTAL COOPERATION IN THE DELIVERY OF MEDICAL CARE.

(a) FINDINGS.—Congress makes the following findings:

(1) The military health care system of the Department of Defense and the Veterans Health Administration of the Department of Veterans Affairs are national institutions that collectively manage more than 1,500 hospitals, clinics, and health care facilities worldwide to provide services to more than 11,000,000 beneficiaries.

(2) In the post-Cold War era, these institutions are in a profound transition that involves challenging opportunities.

(3) During the period from 1988 to 1998, the number of military medical personnel has declined by 15 percent and the number of military hospitals has been reduced by one-third.

(4) During the two years since 1996, the Department of Veterans Affairs has revitalized its structure by decentralizing authority into 22 Veterans Integrated Service Networks.

(5) In the face of increasing costs of medical care, increased demands for health care services, and increasing budgetary constraints, the Department of Defense and the Department of Veterans Affairs have embarked on a variety of dynamic and innovative cooperative programs ranging from shared services to joint venture operations of medical facilities.

(6) In 1984, there was a combined total of 102 Department of Veterans Affairs and Department of Defense facilities with sharing agreements. By 1997, that number had grown to 420. During the six years from fiscal year 1992 through fiscal year 1997, shared services increased from slightly over 3,000 services to more than 6,000 services ranging from major medical and surgical services, laundry, blood, and laboratory services to unusual speciality care services.

(7) The Department of Defense and the Department of Veterans Affairs are conducting four health care joint ventures in New Mexico, Nevada, Texas, Oklahoma, and are planning to conduct four more such ventures in Alaska, Florida, Hawaii, and California.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the Department of Defense and the Department of Veterans Affairs are to be commended for the cooperation between the two departments in the delivery of medical care, of which the cooperation involved in the establishment and operation of the Department of Defense and the Department of Veterans Affairs Executive Council is a praiseworthy example;

(2) the two departments are encouraged to continue to explore new opportunities to enhance the availability and delivery of medical care to beneficiaries by further enhancing the cooperative efforts of the departments; and

(3) enhanced cooperation is encouraged for—

(A) the general areas of access to quality medical care, identification and elimination of impediments to enhanced cooperation, and joint research and program development; and

(B) the specific areas in which there is significant potential to achieve progress in cooperation in a short term, including computerization of patient records systems, participation of the Department of Veterans Affairs in the TRICARE program, pharmaceutical programs, and joint physical examinations.

(c) JOINT SURVEY OF POPULATIONS SERVED.—(1) The Secretary of Defense and the Secretary of Veterans Affairs shall jointly conduct a survey of their respective medical care beneficiary populations to identify, by category of beneficiary (defined as the Secretaries consider appropriate), the expectations of, requirements for, and behavior patterns of the beneficiaries with respect to medical care. The two Secretaries shall develop the protocol for the survey jointly, but shall obtain the services of an entity independent of the Department of Defense and the Department of Veterans Affairs for carrying out the survey.

(2) The survey shall include the following:

(A) Demographic characteristics, economic characteristics, and geographic location of beneficiary populations with regard to catchment or service areas.

(B) The types and frequency of care required by veterans, retirees, and dependents within catchment or service areas of Department of Defense and Veterans Affairs medical facilities and outside those areas.

(C) The numbers of, characteristics of, and types of medical care needed by the veterans, retirees, and dependents who, though eligible for medical care in Department of Defense or Department of Veterans Affairs treatment facilities or other federally funded medical programs, choose not to seek medical care from those facilities or under those programs, and the reasons for that choice.

(D) The obstacles or disincentives for seeking medical care from such facilities or under such programs that veterans, retirees, and dependents perceive.

(E) Any other matters that the Secretary of Defense and the Secretary of Veterans Affairs consider appropriate for the survey.

(3) The Secretary of Defense and the Secretary of Veterans Affairs shall submit a report on the results of the survey to the appropriate committees of Congress. The report shall contain the matters described in paragraph (2) and any proposals for legislation that the Secretaries recommend for enhancing Department of Defense and Department of Veterans Affairs cooperative efforts with respect to the delivery of medical care.

(d) REVIEW OF LAW AND POLICIES.—(1) The Secretary of Defense and the Secretary of Veterans Affairs shall jointly conduct a review to identify impediments to cooperation between the Department of Defense and the Department of Veterans Affairs regarding the delivery of medical care. The matters reviewed shall include the following:

(A) All laws, policies, and regulations, and any attitudes of beneficiaries of the health care systems of the two departments, that have the effect of preventing the establishment, or limiting the effectiveness, of cooperative health care programs of the departments.

(B) The requirements and practices involved in the credentialling and licensure of health care providers.

(C) The perceptions of beneficiaries in a variety of categories (defined as the Secretaries consider appropriate) regarding the various Federal health care systems available for their use.

(2) The Secretaries shall jointly submit a report on the results of the review to the appropriate committees of Congress. The report shall include any proposals for legislation that the Secretaries recommend for eliminating or reducing impediments to interdepartmental cooperation that are identified during the review.

(e) PARTICIPATION IN TRICARE.—(1) The Secretary of Defense shall review the TRICARE program to identify opportunities for increased participation by the Department of Veterans Affairs in that program. The ongoing collaboration between Department of Defense officials and Department of Veterans Affairs officials regarding increasing the participation shall be included among the matters reviewed.

(2) The Secretary of Defense and the Secretary of Veterans Affairs shall jointly submit to the appropriate committees of Congress a semiannual report on the status of the review and on efforts to increase the participation of the Department of Veterans Affairs in the TRICARE program. No report is required under this paragraph after the submission of a semiannual report in which the Secretaries declare that the Department of Veterans Affairs is participating in the TRICARE program to the extent that can reasonably be expected to be attained.

(f) PHARMACEUTICAL BENEFITS AND PROGRAMS.—(1) The Federal Pharmaceutical Steering Committee shall—

(A) undertake a comprehensive examination of existing pharmaceutical benefits and programs for beneficiaries of Federal medical care programs, including matters relating to the purchasing, distribution, and dispensing of pharmaceuticals and the management of mail order pharmaceuticals programs; and

(B) review the existing methods for contracting for and distributing medical supplies and services.

(2) The committee shall submit a report on the results of the examination to the appropriate committees of Congress.

(g) STANDARDIZATION OF PHYSICAL EXAMINATIONS FOR DISABILITY.—The Secretary of Defense and the Secretary of Veterans Affairs shall submit to the appropriate committees of Congress a report on the status of the efforts of the Department of Defense and the Department of Veterans Affairs to standardize physical examinations administered by the two departments for the purpose of determining or rating disabilities.

(h) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—For the purposes of this section, the appropriate committees of Congress are as follows:

(1) The Committee on Armed Services and the Committee on Veterans' Affairs of the Senate.

(2) The Committee on National Security and the Committee on Veterans' Affairs of the House of Representatives.

(i) DEADLINES FOR SUBMISSION OF REPORTS.—(1) The report required by subsection (c)(3) shall be submitted not later than January 1, 2000.

(2) The report required by subsection (d)(2) shall be submitted not later than March 1, 1999.

(3) The semiannual report required by subsection (e)(2) shall be submitted not later than March 1 and September 1 of each year.

(4) The report on the examination required under subsection (f) shall be submitted not later than 60 days after the completion of the examination.

(5) The report required by subsection (g) shall be submitted not later than March 1, 1999.

SEC. 707. DEMONSTRATION PROJECTS TO PROVIDE HEALTH CARE TO CERTAIN MEDICARE-ELIGIBLE BENEFICIARIES OF THE MILITARY HEALTH CARE SYSTEM.

(a) IN GENERAL.—(1) The Secretary of Defense shall, after consultation with the other administering Secretaries, carry out three demonstration projects (described in subsections (d), (e), and (f)) in order to assess the feasibility and advisability of providing certain medical care coverage to the medicare-eligible individuals described in subsection (b).

(2) The Secretary shall commence the demonstration projects not later than January 1, 2000, and shall terminate the demonstration projects not later than December 31, 2003.

(3) The aggregate costs incurred by the Secretary under the demonstration projects in any year may not exceed $60,000,000.

(b) ELIGIBLE INDIVIDUALS.—An individual eligible to participate in a demonstration project under subsection (a) is a member or former member of the uniformed services described in section 1074(b) of title 10, United States Code, a dependent of the member described in section 1076(a)(2)(B) or 1076(b) of that title, or a dependent of a member of the uniformed services who died while on active duty for a period of more than 30 days, who—

(1) is 65 years of age or older;

(2) is entitled to hospital insurance benefits under part A of title XVIII of the Social Security Act (42 U.S.C. 1395c et seq.);

(3) is enrolled in the supplemental medical insurance program under part B of such title XVIII (42 U.S.C. 1395j et seq.); and

(4) resides in an area of the demonstration project selected by the Secretary under subsection (c).

(c) AREAS OF DEMONSTRATION PROJECTS.—(1) Subject to paragraph (3), the Secretary shall carry out each demonstration project under this section in two separate areas selected by the Secretary.

(2) Of the two areas selected for each demonstration project—

(A) one shall be an area outside the catchment area of a military medical treatment facility in which—

(i) no eligible organization has a contract in effect under section 1876 of the Social Security Act (42 U.S.C. 1395mm) and no Medicare+Choice organization has a contract in effect under part C of title XVIII of that Act (42 U.S.C. 1395w–21); or

(ii) the aggregate number of enrollees with an eligible organization with a contract in effect under section 1876 of that Act or with a Medicare+Choice organization with a contract in effect under part C of title XVIII of that Act is less than 2.5 percent of the total number of individuals in the area who are entitled to hospital insurance benefits under part A of title XVIII of that Act; and

(B) one shall be an area outside the catchment area of a military medical treatment facility in which—

(i) at least one eligible organization has a contract in effect under section 1876 of that Act or one Medicare+Choice organization has a contract in effect under part C of title XVIII of that Act; and

(ii) the aggregate number of enrollees with an eligible organization with a contract in effect under section 1876 of that Act or with a Medicare+Choice organization with a contract in effect under part C of title XVIII of that Act exceeds 10 percent of the total number of individuals in the area who are entitled to hospital insurance benefits under part A of title XVIII of that Act.

(3) The Secretary may not carry out a demonstration project under this section in any area in which the Secretary is carrying out any other medical care demonstration project unless the Secretary determines that the conduct of such other medical care demonstration project will not interfere with the conduct or evaluation of the demonstration project under this section.

(d) FEHBP AS SUPPLEMENT TO MEDICARE DEMONSTRATION.—(1)(A) Under one of the demonstration projects under this section, the Secretary shall permit eligible individuals described in subsection (b) who reside in the areas of the demonstration project selected under subsection (c) to enroll in the health benefits plans offered through the Federal Employees Health Benefits program under chapter 89 of title 5, United States Code.

(B) The Secretary shall carry out the demonstration project under this subsection under an agreement with the Office of Personnel Management.

(2)(A) An eligible individual described in paragraph (1) shall not be required to satisfy any eligibility criteria specified in chapter 89 of title 5, United States Code, as a condition for enrollment in the health benefits plans offered through the Federal Employee Health Benefits program under the demonstration project under this subsection.

(B) Each eligible individual who enrolls in a health benefits plan under the demonstration project shall be required to remain enrolled in the supplemental medical insurance program under part B of title XVIII of the Social Security Act while participating in the demonstration project.

(3)(A) The authority responsible for approving retired or retainer pay or equivalent pay in the case of a member or former member shall manage the participation of the members or former members who enroll in health benefits plans offered through the Federal Employee Health Benefits program pursuant to paragraph (1).

(B) Such authority shall distribute program information to eligible individuals, process enrollment applications, forward all required contributions to the Employees Health Benefits Fund established under section 8909 of title 5, United States Code, in a timely manner, assist in the reconciliation of enrollment records with health plans, and prepare such reports as the Office of Personnel Management may require in its administration of chapter 89 of such title.

(4)(A) The Office of Personnel Management shall require health benefits plans under chapter 89 of title 5, United States Code, that participate in the demonstration project to maintain a separate risk pool for purposes of establishing premium rates for eligible individuals who enroll in such plans in accordance with this subsection.

(B) The Office shall determine total subscription charges for self only or for family coverage for eligible individuals who enroll in a health benefits plan under chapter 89 of such title in accordance with this subsection, which shall include premium charges paid to the plan and amounts described in section 8906(c) of title 5, United States Code, for administrative expenses and contingency reserves.

(5) The Secretary shall be responsible for the Government contribution for an eligible individual who enrolls in a health benefits plan under chapter 89 of title 5, United States Code, in accordance with this subsection, except that the amount of the contribution may not exceed the amount of the Government contribution which would be payable if such individual were an employee enrolled in the same health benefits plan and level of benefits.

(6) The cancellation by a eligible individual of coverage under the Federal Employee Health Benefits program shall be irrevocable during the term of the demonstration project under this subsection.

(e) TRICARE AS SUPPLEMENT TO MEDICARE DEMONSTRATION.—(1) Under one of the demonstration projects under this section, the Secretary shall permit eligible individuals described in subsection (b) who reside in each area of the demonstration project selected under subsection (c) to enroll in the TRICARE program. The demonstration project under this subsection shall be known as the "TRICARE Senior Supplement".

(2) Payment for care and services received by eligible individuals who enroll in the TRICARE program under the demonstration project shall be made as follows:

(A) First, under title XVIII of the Social Security Act, but only the extent that payment for such care and services is provided for under that title.

(B) Second, under the TRICARE program, but only to the extent that payment for such care and services is provided under that program and is not provided for under subparagraph (A).

(C) Third, by the eligible individual concerned, but only to the extent that payment for such care and services is not provided for under subparagraphs (B) and (C).

(3)(A) The Secretary shall require each eligible individual who enrolls in the TRICARE program under the demonstration project to pay an enrollment fee. The Secretary may provide for payment of the enrollment fee on a periodic basis.

(B) The amount of the enrollment fee of an eligible individual under subparagraph (A) in any year may not exceed an amount equal to 75 percent of the total subscription charges in that year for self-only or family, fee-for-service coverage under the health benefits plan under the Federal Employees Health Benefits program under chapter 89 of title 5, United States Code, that is most similar in coverage to the TRICARE program.

(f) TRICARE MAIL ORDER PHARMACY BENEFIT SUPPLEMENT TO MEDICARE DEMONSTRATION.—(1) Under one of the demonstration projects under this section, the Secretary shall permit eligible individuals described in subsection (b) who reside in each area of the demonstration project selected under subsection (c) to participate in the mail order pharmacy benefit available under the TRICARE program.

(2) The Secretary may collect from eligible individuals who participate in the mail order pharmacy benefit under the demonstration project any premiums, deductibles, copayments, or other charges that the Secretary would otherwise collect from individuals similar to such eligible individuals for participation in the benefit.

(g) INDEPENDENT EVALUATION.—(1) The Secretary shall provide for an evaluation of the demonstration projects conducted under this section by an appropriate person or entity that is independent of the Department of Defense.

(2) The evaluation shall include the following:

(A) An analysis of the costs of each demonstration project to the United States and to the eligible individuals who enroll or participate in such demonstration project.

(B) An assessment of the extent to which each demonstration project satisfied the requirements of such eligible individuals for the health care services available under such demonstration project.

(C) An assessment of the effect, if any, of each demonstration project on military medical readiness.

(D) A description of the rate of the enrollment or participation in each demonstration project of the individuals who were eligible to enroll or participate in such demonstration project.

(E) An assessment of which demonstration project provides the most suitable model for a program to provide adequate health care services to the population of individuals consisting of the eligible individuals.

(F) An evaluation of any other matters that the Secretary considers appropriate.

(3) The Comptroller General shall review the evaluation conducted under paragraph (1). In carrying out the review, the Comptroller General shall—

(A) assess the validity of the processes used in the evaluation; and

(B) assess the validity of any findings under the evaluation.

(4)(A) The Secretary shall submit a report on the results of the evaluation under paragraph (1), together with the evaluation, to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives not later than December 31, 2003.

(B) The Comptroller General shall submit a report on the results of the review under paragraph (3) to the committees referred to in subparagraph (A) not later than February 15, 2004.

(h) ADDITIONAL REQUIREMENTS RELATING TO FEHBP DEMONSTRATION PROJECT.—(1) Notwithstanding subsection (a)(2), the Secretary shall commence the demonstration project under subsection (d) on July 1, 1999.

(2) Notwithstanding subsection (c), the Secretary shall carry out the demonstration project under subsection (d) in four separate areas, of which—

(A) two shall meet the requirements of subsection (c)(1)(A); and

(B) two others shall meet the requirements of subsection (c)(1)(B).

(3)(A) Notwithstanding subsection (f), the Secretary shall provide for an annual evaluation of the demonstration project under subsection (d) that meets the requirements of subsection (f)(2).

(B) The Comptroller shall review each evaluation provided for under subparagraph (A).

(C) Not later than September 15 in each of 2000 through 2004, the Secretary shall submit a report on the results of the evaluation under subparagraph (A) during such year, together with the evaluation, to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives.

(D) Not later than December 31 in each of 2000 through 2004, the Comptroller General shall submit a report on the results of the review under subparagraph (B) during such year to the committees referred to in subparagraph (C).

(i) DEFINITIONS.—In this section:

(1) The term "administering Secretaries" has the meaning given that term in section 1072(3) of title 10, United States Code.

(2) The term "TRICARE program" has the meaning given that term in section 1072(7) of title 10, United States Code.

(j) COMPETITION FOR SERVICES.—The program under this section will allow retail to compete for services in delivery of pharmacy benefits without increasing costs to the Government or the beneficiaries.

SEC. 708. PROFESSIONAL QUALIFICATIONS OF PHYSICIANS PROVIDING MILITARY HEALTH CARE.

(a) REQUIREMENT FOR UNRESTRICTED LICENSE.—Section 1094(a)(1) of title 10, United States Code, is amended by adding at the end the following: "In the case of a physician, the physician may not provide health care as a physician under this chapter unless the current license is an unrestricted license that is not subject to limitation on the scope of practice ordinarily granted to other physicians for a similar specialty by the jurisdiction that granted the license.".

(b) SATISFACTION OF CONTINUING MEDICAL EDUCATION REQUIREMENTS.—(1) Chapter 55 of title 10, United States Code, is amended by inserting after section 1094 the following new section:

"§ 1094a. Continuing medical education requirements: system for monitoring physician compliance

"The Secretary of Defense shall establish a mechanism for ensuring that each person under the jurisdiction of the Secretary of a military department who provides health care under this chapter as a physician satisfies the continuing medical education requirements applicable to the physician.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"1094a. Continuing medical education requirements: system for monitoring physician compliance.".

(c) EFFECTIVE DATES.—(1) The amendment made by subsection (a) shall take effect on October 1, 1998.

(2) The system required by section 1094a of title 10, United States Code (as added by subsection (b)), shall take effect on the date that is three years after the date of the enactment of this Act.

SEC. 709. ASSESSMENT OF ESTABLISHMENT OF INDEPENDENT ENTITY TO EVALUATE POST-CONFLICT ILLNESSES AMONG MEMBERS OF THE ARMED FORCES AND HEALTH CARE PROVIDED BY THE DEPARTMENT OF DEFENSE AND DEPARTMENT OF VETERANS AFFAIRS BEFORE AND AFTER DEPLOYMENT OF SUCH MEMBERS.

(a) AGREEMENT FOR ASSESSMENT.—The Secretary of Defense shall seek to enter into an agreement with the National Academy of Sciences, or other appropriate independent organization, under which agreement the Academy shall carry out the assessment referred to in subsection (b).

(b) ASSESSMENT.—(1) Under the agreement, the Academy shall assess the need for and feasibility of establishing an independent entity to—

(A) evaluate and monitor interagency coordination on issues relating to the post-deployment health concerns of members of the Armed Forces, including coordination relating to outreach and risk communication, recordkeeping, research, utilization of new technologies, international cooperation and research, health surveillance, and other health-related activities;

(B) evaluate the health care (including preventive care and responsive care) provided to members of the Armed Forces both before and after their deployment on military operations;

(C) monitor and direct government efforts to evaluate the health of members of the Armed Forces upon their return from deployment on military operations for purposes of ensuring the rapid identification of any trends in diseases or injuries among such members as a result of such operations;

(D) provide and direct the provision of ongoing training of health care personnel of the Department of Defense and the Department of Veterans Affairs in the evaluation and treatment of post-deployment diseases and health conditions, including nonspecific and unexplained illnesses; and

(E) make recommendations to the Department of Defense and the Department of Veterans Affairs regarding improvements in the provision of health care referred to in subparagraph (B), including improvements in the monitoring and treatment of members referred to in that subparagraph.

(2) The assessment shall cover the health care provided by the Department of Defense and, where applicable, by the Department of Veterans Affairs.

(c) REPORT.—(1) The agreement shall require the Academy to submit to the committees referred to in paragraph (3) a report on the results of the assessment under this section not later than one year after the date of enactment of this Act.

(2) The report shall include the following:

(A) The recommendation of the Academy as to the need for and feasibility of establishing an independent entity as described in subsection (b) and a justification of such recommendation.

(B) If the Academy recommends that an entity be established, the recommendations of the Academy as to—

(i) the organizational placement of the entity;

(ii) the personnel and other resources to be allocated to the entity;

(iii) the scope and nature of the activities and responsibilities of the entity; and

(iv) mechanisms for ensuring that any recommendations of the entity are carried out by the Department of Defense and the Department of Veterans Affairs.

(3) The report shall be submitted to the following:

(A) The Committee on Armed Services and the Committee on Veterans' Affairs of the Senate.

(B) The Committee on National Security and the Committee on Veterans' Affairs of the House of Representatives.

SEC. 710. LYME DISEASE.

Of the amounts authorized to be appropriated by this Act for Defense Health Programs, $3,000,000 shall be available for research and surveillance activities relating to Lyme disease and other tick-borne diseases.

SEC. 711. ACCESSIBILITY TO CARE UNDER TRICARE.

(a) REHABILITATIVE SERVICES FOR HEAD INJURIES.—The Secretary of Defense shall revise the TRICARE policy manual to clarify that rehabilitative services are available to a patient for a head injury when the treating physician certifies that such services would be beneficial for the patient and there is potential for the patient to recover from the injury.

(b) REVIEW OF ADEQUACY OF PROVIDER NETWORK.—The Secretary of Defense shall review the administration of the TRICARE Prime health plans to determine whether, for the region covered by each such plan, there is a sufficient number, distribution, and variety of qualified participating health care providers to ensure that all covered health care services, including specialty services, are available and accessible in a timely manner to all persons covered by the plan. If the Secretary determines during the review that, in the region, there is an inadequate network of providers to provide the covered benefits in proximity to the permanent duty stations of covered members of the uniformed services in the region, or in proximity to the residences of other persons covered by the plan in the region, the Secretary shall take such actions as are necessary to ensure that the TRICARE Prime plan network of providers in the region is adequate to provide for all covered benefits to be available and accessible in a timely manner to all persons covered by the plan.

SEC. 712. HEALTH BENEFITS FOR ABUSED DEPENDENTS OF MEMBERS OF THE ARMED FORCES.

Paragraph (1) of section 1076(e) of title 10, United States Code, is amended to read as follows:

"(1) The administering Secretary shall furnish an abused dependent of a former member of a uniformed service described in paragraph (4), during that period that the abused dependent is in receipt of transitional compensation under section 1059 of this title, with medical and dental care, including mental health services, in facilities of the uniformed services in accordance with the same eligibility and benefits as were applicable for that abused dependent during the period of active service of the former member.".

SEC. 713. PROCESS FOR WAIVING INFORMED CONSENT REQUIREMENT FOR ADMINISTRATION OF CERTAIN DRUGS TO MEMBERS OF ARMED FORCES.

(a) Limitation and Waiver.—(1) Section 1107 of title 10, United States Code, is amended—

(A) by redesignating subsection (f) as subsection (g); and

(B) by inserting after subsection (e) the following new subsection (f):

"(f) Limitation and Waiver.—(1) An investigational new drug or a drug unapproved for its applied use may not be administered to a member of the armed forces pursuant to a request or requirement referred to in subsection (a) unless—

"(A) the member provides prior consent to receive the drug in accordance with the requirements imposed under the regulations required under paragraph (4) of section 505(i) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(i)); or

"(B) the Secretary obtains—

"(i) under such section a waiver of such requirements; and

"(ii) a written statement that the President concurs in the determination of the Secretary required under paragraph (2) and with the Secretary's request for the waiver.

"(2) The Secretary of Defense may request a waiver referred to in paragraph (1)(B) in the case of any request or requirement to administer a drug under this section if the Secretary determines that obtaining consent is not feasible, is contrary to the best interests of the members involved, or is not in the best interests of national security. Only the Secretary may exercise the authority to make the request for the Department of Defense, and the Secretary may not delegate that authority.

"(3) The Secretary shall submit to the chairman and ranking minority member of each congressional defense committee a notification of each waiver granted pursuant to a request of the Secretary under paragraph (2), together with the concurrence of the President under paragraph (1)(B) that relates to the waiver and the justification for the request or requirement under subsection (a) for a member to receive the drug covered by the waiver.

"(4) In this subsection, the term 'congressional defense committee' means each of the following:

"(A) The Committee on Armed Services and the Committee on Appropriations of the Senate.

"(B) The Committee on National Security and the Committee on Appropriations of the House of Representatives.".

(2) The requirements for a concurrence of the President and a notification of committees of Congress that are set forth in section 1107(f) of title 10, United States Code (as added by paragraph (1)(B)) shall apply with respect to—

(A) each waiver of the requirement for prior consent imposed under the regulations required under paragraph (4) of section 505(i) of the Federal Food, Drug, and Cosmetic Act (or under any antecedent provision of law or regulations) that—

(i) has been granted under that section (or antecedent provision of law or regulations) before the date of the enactment of this Act; and

(ii) is applied after that date; and

(B) each waiver of such requirement that is granted on or after that date.

(b) Time and Form of Notice.—(1) Subsection (b) of such section is amended by striking out ", if practicable" and all that follows through "first administered to the member".

(2) Subsection (c) of such section is amended by striking out "unless the Secretary of Defense determines" and all that follows through "alternative method".

TITLE VIII—ACQUISITION POLICY, ACQUISITION MANAGEMENT, AND RELATED MATTERS

SEC. 801. PARA-ARAMID FIBERS AND YARNS.

(a) Authorized Sources.—Chapter 141 of title 10, United States Code is amended by adding at the end the following:

"§2410n. Foreign manufactured para-aramid fibers and yarns: procurement

"(a) Authority.—The Secretary of Defense may procure articles containing para-aramid fibers and yarns manufactured in a foreign country referred to in subsection (b).

"(b) Foreign Countries Covered.—The authority under subsection (a) applies with respect to a foreign country that—

"(1) is a party to a defense memorandum of understanding entered into under section 2531 of this title; and

"(2) permits United States firms that manufacture para-aramid fibers and yarns to compete with foreign firms for the sale of para-aramid fibers and yarns in that country, as determined by the Secretary of Defense.

"(c) Applicability to Subcontracts.—The authority under subsection (a) applies with respect to subcontracts under Department of Defense contracts as well as to such contracts.

"(d) Definitions.—In this section, the terms 'United States firm' and 'foreign firm' have the meanings given such terms in section 2532(d) of this title.".

(b) Clerical Amendment.—The table of sections at the beginning of such chapter is amended by adding at the end the following:

"2410n. Foreign manufactured para-aramid fibers and yarns: procurement.".

SEC. 802. PROCUREMENT OF TRAVEL SERVICES FOR OFFICIAL AND UNOFFICIAL TRAVEL UNDER ONE CONTRACT.

(a) Authority.—Chapter 147 of title 10, United States Code, is amended by inserting after section 2490a the following new section:

"§2490b. Travel services: procurement for official and unofficial travel under one contract

"(a) Authority.—The head of an agency may enter into a contract for travel-related services that provides for the contractor to furnish services for both official travel and unofficial travel.

"(b) Credits, Discounts, Commissions, Fees.—(1) A contract entered into under this section may provide for credits, discounts, or commissions or other fees to accrue to the Department of Defense. The accrual and amounts of credits, discounts, or commissions or other fees may be determined on the basis of the volume (measured in the number or total amount of transactions or otherwise) of the travel-related sales that are made by the contractor under the contract.

"(2) The evaluation factors applicable to offers for a contract under this section may include a factor that relates to the estimated aggregate value of any credits, discounts, commissions, or other fees that would accrue to the Department of Defense for the travel-related sales made under the contract.

"(3) Commissions or fees received by the Department of Defense as a result of travel-related sales made under a contract entered into under this section shall be distributed as follows:

"(A) For amounts relating to sales for official travel, credit to appropriations available for official travel for the fiscal year in which the amounts were charged.

"(B) For amounts relating to sales for unofficial travel, deposit in nonappropriated fund accounts available for morale, welfare, and recreation programs.

"(c) Definitions.—In this section:

"(1) The term 'head of an agency' has the meaning given that term in section 2302(1) of this title.

"(2) The term 'official travel' means travel at the expense of the Federal Government.

"(3) The term 'unofficial travel' means personal travel or other travel that is not paid for or reimbursed by the Federal Government out of appropriated funds.

"(d) Inapplicability to Coast Guard and NASA.—This section does not apply to the Coast Guard when it is not operating as a service in the Navy, nor to the National Aeronautics and Space Administration.".

(b) Clerical Amendment.—The table of sections at the beginning of such chapter is amended by adding at the end the following:

"2490b. Travel services: procurement for official and unofficial travel under one contract.".

SEC. 803. LIMITATION ON USE OF PRICE PREFERENCE UPON ATTAINMENT OF CONTRACT GOAL FOR SMALL AND DISADVANTAGED BUSINESSES.

Section 2323(e)(3) of title 10, United States Code, is amended—

(1) by inserting "(A)" after "(3)";

(2) by inserting ", except as provided in (B)," after "the head of an agency may" in the first sentence; and

(3) by adding at the end the following:

"(B) The head of an agency may not exercise the authority under subparagraph (A) to enter into a contract for a price exceeding fair market cost in the fiscal year following a fiscal year in which the Department of Defense attained the 5 percent goal required by subsection (a).".

SEC. 804. DISTRIBUTION OF ASSISTANCE UNDER THE PROCUREMENT TECHNICAL ASSISTANCE COOPERATIVE AGREEMENT PROGRAM.

(a) Correction of Description of Geographic Unit.—Section 2413(c) of title 10, United States Code, is amended by striking out "region" and inserting in lieu thereof "district".

(b) ALLOCATION OF FUNDS.—(1) Section 2415 of title 10, United States Code, is repealed.

(2) The table of sections at the beginning of chapter 142 of such title is amended by striking the item relating to section 2415.

SEC. 805. DEFENSE COMMERCIAL PRICING MANAGEMENT IMPROVEMENT.

(a) SHORT TITLE.—This section may be cited as the "Defense Commercial Pricing Management Improvement Act of 1998".

(b) COMMERCIAL ITEMS EXEMPT FROM COST OR PRICING DATA CERTIFICATION REQUIREMENTS.—For the purposes of this section, the term "exempt item" means a commercial item that is exempt under subsection (b)(1)(B) of section 2306a of title 10, United States Code, or subsection (b)(1)(B) of section 304A of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254b), from the requirements for submission of certified cost or pricing data under that section.

(c) COMMERCIAL PRICING REGULATIONS.—(1) The Federal Acquisition Regulation issued in accordance with sections 6 and 25 of the Office of Federal Procurement Policy Act shall be revised to clarify the procedures and methods to be used for determining the reasonableness of prices of exempt items.

(2) The regulations shall, at a minimum, provide specific guidance on—

(A) the appropriate application and precedence of such price analysis tools as catalog-based pricing, market-based pricing, historical pricing, parametric pricing, and value analysis;

(B) the circumstances under which contracting officers should require offerors of exempt items to provide—

(i) uncertified cost or pricing data; or

(ii) information on prices at which the offeror has previously sold the same or similar items;

(C) the role and responsibility of Department of Defense support organizations, such as the Defense Contract Audit Agency, in procedures for determining price reasonableness; and

(D) the meaning and appropriate application of the term "purposes other than governmental purposes" in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12)).

(3) This subsection shall cease to be effective one year after the date on which final regulations prescribed pursuant to paragraph (1) take effect.

(d) UNIFIED MANAGEMENT OF PROCUREMENT OF EXEMPT COMMERCIAL ITEMS.—The Secretary of Defense shall develop and implement procedures to ensure that, to the maximum extent that is practicable and consistent with the efficient operation of the Department of Defense, a single item manager or contracting officer is responsible for negotiating and entering into all contracts for the procurement of exempt items from a single contractor.

(e) COMMERCIAL PRICE TREND ANALYSIS.—(1) The Secretary of Defense shall develop and implement procedures that, to the maximum extent that is practicable and consistent with the efficient operation of the Department of Defense, provide for the collection and analysis of information on price trends for categories of exempt items described in paragraph (2).

(2) A category of exempt items referred to in paragraph (1) consists of exempt items—

(A) that are in a single Federal Supply Group or Federal Supply Class, are provided by a single contractor, or are otherwise logically grouped for the purpose of analyzing information on price trends; and

(B) for which there is a potential for the price paid to be significantly higher (on a percentage basis) than the prices previously paid in procurements of the same or similar items for the Department of Defense, as determined by the head of the procuring Department of Defense agency or the Secretary of the procuring military department on the basis of criteria prescribed by the Secretary of Defense.

(3) The head of a Department of Defense agency or the Secretary of a military department shall take appropriate action to address any unreasonable escalation in prices being paid for items procured by that agency or military department as identified in an analysis conducted pursuant to paragraph (1).

(4)(A) Not later than 180 days after the date of the enactment of this Act, the Under Secretary of Defense for Acquisition and Technology shall submit to the congressional defense committees a report describing the procedures prescribed under paragraph (1), including a description of the criteria established for the selection of categories of exempt items for price trend analysis.

(B) Not later than April 1 of each of fiscal years 2000, 2001, and 2002, the Under Secretary of Defense for Acquisition and Technology shall submit to the congressional defense committees a report on the analyses of price trends that were conducted for categories of exempt items during the preceding fiscal year under the procedures prescribed pursuant to paragraph (1). The report shall include a description of the actions taken to identify and address any unreasonable price escalation for the categories of items.

(f) SECRETARY OF DEFENSE TO ACT THROUGH UNDER SECRETARY OF DEFENSE FOR ACQUISITION AND TECHNOLOGY.—The Secretary of Defense shall act through the Under Secretary of Defense for Acquisition and Technology to carry out subsections (d) and (e).

SEC. 806. DEPARTMENT OF DEFENSE PURCHASES THROUGH OTHER AGENCIES.

(a) EXTENSION OF REGULATIONS.—Not later than three months after the date of the enactment of this Act, the Secretary of Defense shall revise the regulations issued pursuant to section 844 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1720; 31 U.S.C. 1535 note) to cover all purchases of goods and services by the Department of Defense under contracts entered into or administered by any other agency pursuant to the authority of section 2304a of title 10, United States Code, or section 303H of the Federal Property and Administrative Services Act (41 U.S.C. 253h).

(b) TERMINATION.—This section shall cease to be effective 1 year after the date on which final regulations prescribed pursuant to subsection (a) take effect.

SEC. 807. SUPERVISION OF DEFENSE ACQUISITION UNIVERSITY STRUCTURE BY UNDER SECRETARY OF DEFENSE FOR ACQUISITION AND TECHNOLOGY.

Section 1702 of title 10, United States Code, is amended by adding at the end the following: "The Under Secretary shall prescribe policies and requirements for the educational programs of the defense acquisition university structure established under section 1746 of this title.".

SEC. 808. REPEAL OF REQUIREMENT FOR DIRECTOR OF ACQUISITION EDUCATION, TRAINING, AND CAREER DEVELOPMENT TO BE WITHIN THE OFFICE OF THE UNDER SECRETARY OF DEFENSE FOR ACQUISITION AND TECHNOLOGY.

Section 1703 of title 10, United States Code, is amended by striking out "within the office of the Under Secretary".

SEC. 809. ELIGIBILITY OF INVOLUNTARILY DOWNGRADED EMPLOYEE FOR MEMBERSHIP IN AN ACQUISITION CORPS.

Section 1732(c) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(3) Paragraph (1) of subsection (b) shall not apply to an employee who—

"(A) having previously served in a position within a grade referred to in subparagraph (A) of that paragraph, is currently serving in the same position within a grade below GS–13, or in another position within that grade, by reason of a reduction in force or the closure or realignment of a military installation, or for any other reason other by reason of an adverse personnel action for cause; and

"(B) except as provided in paragraphs (1) and (2), satisfies the educational, experience, and other requirements prescribed under paragraphs (2), (3), and (4) of that subsection.".

SEC. 810. PILOT PROGRAMS FOR TESTING PROGRAM MANAGER PERFORMANCE OF PRODUCT SUPPORT OVERSIGHT RESPONSIBILITIES FOR LIFE CYCLE OF ACQUISITION PROGRAMS.

(a) DESIGNATION OF PILOT PROGRAMS.—The Secretary of Defense, acting through the Secretaries of the military departments, shall designate 10 acquisition programs of the military departments as pilot programs on program manager responsibility for product support.

(b) RESPONSIBILITIES OF PROGRAM MANAGERS.—The program manager for each acquisition program designated as a pilot program under this section shall have the responsibility for ensuring that the product support functions for the program are properly carried out over the entire life cycle of the program.

(c) REPORT.—Not later than February 1, 1999, the Secretary of Defense shall submit to the congressional defense committees a report on the pilot programs. The report shall contain the following:

(1) A description of the acquisition programs designated as pilot programs under subsection (a).

(2) For each such acquisition program, the specific management actions taken to ensure that the program manager has the responsibility for oversight of the performance of the product support functions.

(3) Any proposed change to law, policy, regulation, or organization that the Secretary considers desirable, and determines feasible to implement, for ensuring that the program managers are fully responsible under the pilot programs for the performance of all such responsibilities.

SEC. 811. SCOPE OF PROTECTION OF CERTAIN INFORMATION FROM DISCLOSURE.

Section 2371(i)(2)(A) of title 10, United States Code, is amended by striking out "cooperative agreement that includes a clause described in subsection (d)" and inserting in lieu thereof "cooperative agreement for performance of basic, applied, or advanced research authorized by section 2358 of this title".

SEC. 812. PLAN FOR RAPID TRANSITION FROM COMPLETION OF SMALL BUSINESS INNOVATION RESEARCH INTO DEFENSE ACQUISITION PROGRAMS.

(a) PLAN REQUIRED.—Not later than February 1, 1999, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a plan for facilitating the rapid transition into Department of Defense acquisition programs of successful first phase and second phase activities under the Small Business Innovation Research program under section 9 of the Small Business Act (15 U.S.C. 638).

(b) CONDITIONS.—The plan submitted under subsection (a) shall—

(1) be consistent with the Small Business Innovation Research program and with recent acquisition reforms that are applicable to the Department of Defense; and

(2) provide—

(A) a high priority for funding the projects under the Small Business Innovation Research program that are likely to be successful under a third phase agreement entered into pursuant to section 9(r) of the Small Business Act (15 U.S.C. 638(r)); and

(B) for favorable consideration, in the acquisition planning process, for funding projects under the Small Business Innovation Research program that are subject to a third phase agreement described in subparagraph (A).

SEC. 813. SENIOR EXECUTIVES COVERED BY LIMITATION ON ALLOWABILITY OF COMPENSATION FOR CERTAIN CONTRACTOR PERSONNEL.

(a) DEFENSE CONTRACTS.—Section 2324(l)(5) of title 10, United States Code, is amended to read as follows:

"(5) The term 'senior executive', with respect to a contractor, means the five most highly compensated employees in management positions at each home office and segment of the contractor.".

(b) NON-DEFENSE CONTRACTS.—Section 306(m)(2) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 256(m)(2)) is amended to read as follows:

"(2) The term 'senior executive', with respect to a contractor, means the five most highly compensated employees in management positions at each home office and segment of the contractor.".

(c) CONFORMING AMENDMENT.—Section 39(c)(2) of the Office of Federal Procurement Policy Act (41 U.S.C. 435(c)(2)) is amended to read as follows:

"(2) The term 'senior executive', with respect to a contractor, means the five most highly compensated employees in management positions at each home office and segment of the contractor.".

SEC. 814. SEPARATE DETERMINATIONS OF EXCEPTIONAL WAIVERS OF TRUTH IN NEGOTIATION REQUIREMENTS FOR PRIME CONTRACTS AND SUBCONTRACTS.

(a) DEFENSE PROCUREMENTS.—Section 2306a(a)(5) of title 10, United States Code, is amended to read as follows:

"(5) A waiver of requirements for submission of certified cost or pricing data that is granted under subsection (b)(1)(C) in the case of a contract or subcontract does not waive the requirement under paragraph (1)(C) for submission of cost or pricing data in the case of subcontracts under that contract or subcontract unless the head of the agency concerned determines that the requirement under that paragraph should be waived in the case of such subcontracts and justifies in writing the reasons for the determination.".

(b) NON-DEFENSE PROCUREMENTS.—Section 304A(a)(5) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254b(a)(5)) is amended to read as follows:

"(5) A waiver of requirements for submission of certified cost or pricing data that is granted under subsection (b)(1)(C) in the case of a contract or subcontract does not waive the requirement under paragraph (1)(C) for submission of cost or pricing data in the case of subcontracts under that contract or subcontract unless the head of the executive agency concerned determines that the requirement under that paragraph should be waived in the case of such subcontracts and justifies in writing the reasons for the determination.".

SEC. 815. FIVE-YEAR AUTHORITY FOR SECRETARY OF THE NAVY TO EXCHANGE CERTAIN ITEMS.

(a) BARTER AUTHORITY.—The Secretary of the Navy may enter into a barter agreement to exchange trucks and other tactical vehicles for the repair and remanufacture of ribbon bridges for the Marine Corps in accordance with section 201(c) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481(c)), except that the requirement for items exchanged under that section to be similar items shall not apply to the authority under this subsection.

(b) PERIOD OF AUTHORITY.—The authority to enter into agreements under subsection (a) and to make exchanges under any such agreement is effective during the 5-year period beginning on October 1, 1998, and ending at the end of September 30, 2003.

SEC. 816. CLARIFICATION OF RESPONSIBILITY FOR SUBMISSION OF INFORMATION ON PRICES PREVIOUSLY CHARGED FOR PROPERTY OR SERVICES OFFERED.

(a) ARMED SERVICES PROCUREMENTS.—Section 2306a(d)(1) of title 10, United States Code is amended—

(1) by striking out "the data submitted shall" in the second sentence and inserting in lieu thereof the following: "the contracting officer shall require that the data submitted"; and

(2) by adding at the end the following: "Submission of data required of an offeror under the preceding sentence in the case of a contract or subcontract shall be a condition for the eligibility of the offeror to enter into the contract or subcontract.".

(b) CIVILIAN AGENCY PROCUREMENTS.—Section 304A(d)(1) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254b(d)(1)), is amended—

(1) by striking out "the data submitted shall" in the second sentence and inserting in lieu thereof the following: "the contracting officer shall require that the data submitted"; and

(2) by adding at the end the following: "Submission of data required of an offeror under the preceding sentence in the case of a contract or subcontract shall be a condition for the eligibility of the offeror to enter into the contract or subcontract.".

(c) CRITERIA FOR CERTAIN DETERMINATIONS.—Not later than 180 days after the date of the enactment of this Act, the Federal Acquisition Regulation shall be amended to include criteria for contracting officers to apply for determining the specific price information that an offeror should be required to submit under section 2306(d) of title 10, United States Code, or section 304A(d) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254b(d)).

SEC. 817. DENIAL OF QUALIFICATION OF A SMALL DISADVANTAGED BUSINESS SUPPLIER.

(a) No later than December 1, 1998, the Secretary shall submit to the Congress a report recommending alternative means through which a refiner that qualifies as a small disadvantaged business and that delivers fuel by barge to Defense Energy Supply Point-Anchorage under a contract with the Defense Energy Supply Center can—

(1) fulfill its contractual obligations,

(2) maintain its status as a small disadvantaged business, and

(3) receive the small disadvantaged business premium for the total amount of fuel under the contract,

when ice conditions in Cook Inlet threaten physical delivery of such fuel.

(b) Any inability by such refiner to satisfy its contractual obligations to the Defense Energy Supply Center for the delivery of fuel to Defense Energy Supply Point-Anchorage may not be used as a basis for the denial of such refiner's small disadvantaged business status or small disadvantaged business premium for the total amount of fuel under the contract, where such inability is a result of ice conditions, as determined by the United States Coast Guard, in Cook Inlet through February 1999, and if the Secretary of Defense determines that such inability will result in an inequity to the refiner.

TITLE IX—DEPARTMENT OF DEFENSE ORGANIZATION AND MANAGEMENT

SEC. 901. REDUCTION IN NUMBER OF ASSISTANT SECRETARY OF DEFENSE POSITIONS.

(a) NINE POSITIONS.—Section 138(a) of title 10, United States Code, is amended by striking out "ten" and insert in lieu thereof "nine".

(b) CONFORMING AMENDMENT.—The item relating to the Assistant Secretaries of Defense in section 5315 of title 5, United States Code, is amended to read as follows:

"Assistant Secretaries of Defense (9).".

SEC. 902. RENAMING OF POSITION OF ASSISTANT SECRETARY OF DEFENSE FOR COMMAND, CONTROL, COMMUNICATIONS, AND INTELLIGENCE.

Section 138(b)(3) of title 10, United States Code is amended to read as follows:

"(3) One of the Assistant Secretaries shall be the Assistant Secretary of Defense for Space and Information Superiority. The Assistant Secretary—

"(A) shall have as his principal duty the overall supervision of the functions of the Department of Defense that relate to space, intelligence, information security, information operations, command, control, communications, computers, surveillance, reconnaissance, and electromagnetic spectrum; and

"(B) shall be the Chief Information Officer of the Department of Defense.".

SEC. 903. AUTHORITY TO EXPAND THE NATIONAL DEFENSE UNIVERSITY.

Section 2165(b) of title 10, United States Code, is amended by adding at the end the following:

"(7) Any other educational institution of the Department of Defense that the Secretary considers appropriate and designates as an institution of the university.".

SEC. 904. REDUCTION IN DEPARTMENT OF DEFENSE HEADQUARTERS STAFF.

(a) REDUCTION REQUIRED.—(1) The Secretary of Defense shall reduce the number of Federal Government employees and members of the Armed Forces on the headquarters staffs of Department of Defense organizations in accordance with this section. The Secretary shall achieve the required reductions not later than September 30, 2003.

(2) The total number of Federal Government employees and members of the Armed Forces on the headquarters staffs of all organizations within a category of organizations

described in paragraph (4) shall be reduced below the baseline number for the category by the percentage specified for the category in that paragraph. In the administration of this section, the number of employees employed on a basis other than a full time basis shall be converted to, and expressed as, the equivalent number of full time employees.

(3) For the purposes of this subsection, the baseline number for the organizations in a category is the total number of Federal Government employees and members of the Armed Forces on the headquarters staffs of those organizations on October 1, 1996.

(4) The categories of organizations, and the percentages applicable under paragraph (1) to the organizations in such categories, are as follows:

(A) The Office of the Secretary of Defense and associated activities, a reduction of 33 percent.

(B) Defense agencies, a reduction of 21 percent.

(C) Department of Defense field activities and other operating organizations reporting to the Office of the Secretary of Defense, a reduction of 36 percent.

(D) The Joint Staff and associated activities, a reduction of 29 percent.

(E) The headquarters of the combatant commands and associated activities, a reduction of 7 percent.

(F) Other headquarters elements (including the headquarters of the military departments and their major commands) and associated activities, a reduction of 29 percent.

(b) LIMITED RELIEF FROM PROHIBITION ON MANAGING BY END-STRENGTH.—(1) The Secretary may waive the requirements and restrictions of section 129 of title 10, United States Code, for an organization or activity covered by subsection (a) to the extent that the Secretary determines necessary to achieve the personnel reductions required by that subsection.

(2) Not later than 30 days after exercising the waiver authority under paragraph (1) in the case of an organization or activity, the Secretary shall notify the congressional defense committees of the scope and duration of the waiver and the reasons for granting the waiver.

(c) MANAGEMENT BY BUDGET.—(1) The Secretary shall waive the requirement under subsection (a) to reduce the number of personnel on the headquarters staff of an organization or activity if the Secretary determines that the budget authority available for the organization or activity for fiscal year 2003 has been reduced below the budget authority available for the organization or activity for fiscal year 1996 by at least the percentage equal to one-fifth of the percentage specified in subsection (a)(4) for the category of the organization or activity.

(2) In this subsection, the term "budget authority" has the meaning given that term in section 3(2)(A) of the Congressional Budget Act of 1974 (2 U.S.C. 622(2)(A)).

(d) JOINT AND DEFENSE-WIDE ACTIVITIES.—If the Secretary consolidates functions in a Department of Defense-wide or joint organization or activity described in subparagraph (A), (B), (C), (D), or (E) of subsection (a)(4) in order to meet the requirement for reduction in the personnel of the other headquarters (including the headquarters of the military departments and their major commands) referred to in subparagraph (F) of such subsection, the Secretary may apply to that organization or activity, instead of the percentage that would otherwise apply under such subsection, a lesser percentage that is appropriate to reflect the increased responsibilities of the organization or activity.

(e) REPORT.—Not later than March 1, 1999, the Secretary of Defense shall submit to the congressional defense committees a report containing a plan to implement the personnel reductions required by this section.

(f) CATEGORIES DEFINED.—In this section:

(1) The term "Office of the Secretary of Defense and associated activities" means the following organizations and activities:

(A) The Office of the Secretary of Defense, as defined in section 131 of title 10, United States Code.

(B) The defense support activities that perform technical and analytical support for the Office of the Secretary of Defense.

(2) The term "defense agencies" means the following organizations and activities:

(A) The Ballistic Missile Defense Organization.

(B) The Defense Advanced Research Projects Agency.

(C) The Defense Commissary Agency.

(D) The Defense Contract Audit Agency.

(E) The Defense Finance and Accounting Services.

(F) The Defense Information Systems Agency.

(G) The Defense Legal Services Agency.

(H) The Defense Logistics Agency.

(I) The Defense Security Assistance Agency.

(J) The Defense Security Service.

(K) The Defense Special Weapons Agency.

(L) The On-Site Inspection Agency.

(M) The Treaty Compliance and Threat Reduction Agency.

(3) The term "Department of Defense field activities and other operating organizations reporting to the Office of the Secretary of Defense" means the following organizations and activities:

(A) The American Forces Information Service.

(B) The TRICARE Support Office.

(C) The Office of Economic Adjustment.

(D) The Department of Defense Education Activity.

(E) Washington Headquarters Services.

(F) The Department of Defense Human Resources Activity.

(G) The Defense Prisoner of War/Missing Personnel Office.

(H) The Defense Medical Programs Activity.

(I) The Defense Technology Security Administration.

(J) The C4I Support Activity.

(K) The Plans and Program Analysis Support Center.

(L) The Defense Airborne Reconnaissance Office.

(M) The Defense Acquisition University.

(N) The Director of Military Support.

(O) The Defense Technical Information Center.

(P) The National Defense University.

(4) The term "Joint Staff and associated activities" means the following organizations and activities:

(A) The Joint Staff referred to in section 155 of title 10, United States Code.

(B) Department of Defense activities that are controlled by the Chairman of the Joint Chiefs of Staff and report directly to the Joint Staff.

(5) The term "headquarters of the combatant commands" means the headquarters of the combatant commands, as defined in section 161(c)(3) of title 10, United States Code.

(6) The term "other headquarters elements (including the headquarters of the military departments and their major commands)" means the following organizations and activities:

(A) The military department headquarters listed and defined in Department of Defense Directive 5100.73, "Department of Defense Management Headquarters and Headquarters Support Activities", as in effect on November 12, 1996.

(B) Other military headquarters elements defined in such directive that are not otherwise covered by paragraphs (1), (2), (3), (4), and (5).

(g) REPEAL OF SUPERSEDED PROVISIONS.—(1) Sections 130a and 194 of title 10, United States Code, are repealed.

(2)(A) The table of sections at the beginning of chapter 3 of such title is amended by striking out the item relating to section 130a.

(B) The table of sections at the beginning of chapter 8 of such title is amended by striking out the item relating to section 194.

SEC. 905. PERMANENT REQUIREMENT FOR QUADRENNIAL DEFENSE REVIEW.

(a) REVIEW REQUIRED.—Chapter 2 of title 10, United States Code, is amended by inserting after section 116 the following:

"§117. Quadrennial defense review

"(a) REVIEW REQUIRED.—The Secretary of Defense, in consultation with the Chairman of the Joint Chiefs of Staff, shall conduct in each year in which a President is inaugurated a comprehensive examination of the defense strategy, force structure, force modernization plans, infrastructure, budget plan, and other elements of the defense program and policies with a view toward determining and expressing the defense strategy of the United States and establishing a revised defense plan for the ensuing 10 years and a revised defense plan for the ensuing 20 years.

"(b) CONSIDERATION OF REPORTS OF NATIONAL DEFENSE PANEL.—In conducting the review, the Secretary shall take into consideration the reports of the National Defense Panel submitted under section 181(d) of this title.

"(c) REPORT TO CONGRESS.—The Secretary shall submit a report on each review to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives not later than September 30 of the year in which the review is conducted. The report shall include the following:

"(1) The results of the review, including a comprehensive discussion of the defense strategy of the United States and the force structure best suited to implement that strategy.

"(2) The threats examined for purposes of the review and the scenarios developed in the examination of such threats.

"(3) The assumptions used in the review, including assumptions relating to the cooperation of allies and mission-sharing, levels of acceptable risk, warning times, and intensity and duration of conflict.

"(4) The effect on the force structure of preparations for and participation in peace operations and military operations other than war.

"(5) The effect on the force structure of the utilization by the Armed Forces of technologies anticipated to be available for the ensuing 10 years and technologies anticipated to be available for the ensuing 20 years, including precision guided munitions, stealth, night vision, digitization, and communications, and the changes in doctrine and operational concepts that would result from the utilization of such technologies.

"(6) The manpower and sustainment policies required under the defense strategy to support engagement in conflicts lasting more than 120 days.

"(7) The anticipated roles and missions of the reserve components in the defense strategy and the strength, capabilities, and equipment necessary to assure that the reserve components can capably discharge those roles and missions.

"(8) The appropriate ratio of combat forces to support forces (commonly referred to as the "tooth-to-tail" ratio) under the defense strategy, including, in particular, the appropriate number and size of headquarter units and Defense Agencies for that purpose.

"(9) The air-lift and sea-lift capabilities required to support the defense strategy.

"(10) The forward presence, pre-positioning, and other anticipatory deployments necessary under the defense strategy for conflict deterrence and adequate military response to anticipated conflicts.

"(11) The extent to which resources must be shifted among two or more theaters under the defense strategy in the event of conflict in such theaters.

"(12) The advisability of revisions to the Unified Command Plan as a result of the defense strategy.

"(13) Any other matter the Secretary considers appropriate.".

(b) NATIONAL DEFENSE PANEL.—Chapter 7 of such title is amended by adding at the end the following:

"§ 181. National Defense Panel

"(a) ESTABLISHMENT.—Not later than January 1 of each year immediately preceding a year in which a President is to be inaugurated, the Secretary of Defense shall establish a nonpartisan, independent panel to be known as the National Defense Panel. The Panel shall have the duties set forth in this section.

"(b) MEMBERSHIP.—The Panel shall be composed of a chairman and eight other individuals appointed by the Secretary, in consultation with the chairman and ranking member of the Committee on Armed Services of the Senate and the chairman and ranking member of the Committee on National Security of the House of Representatives, from among individuals in the private sector who are recognized experts in matters relating to the national security of the United States.

"(c) DUTIES.—The Panel shall—

"(1) conduct and submit to the Secretary of Defense and to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a comprehensive assessment of the defense strategy,' force structure, force modernization plans, infrastructure, budget plan, and other elements of the defense program and policies with a view toward recommending a defense strategy of the United States and a revised defense plan for the ensuing 10 years and a revised defense plan for the ensuing 20 years; and

"(2) identify issues that the Panel recommends for assessment during the next review to be conducted under section 117 of this title.

"(d) REPORT.—(1) The Panel, in the year that it is conducting an assessment under subsection (c), shall submit to the Secretary of Defense and to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives two reports on its activities and the findings and recommendations of the Panel, including any recommendations for legislation that the Panel considers appropriate, as follows:

"(A) An interim report not later than July 1 of the year.

"(B) A final report not later than December 1 of the year.

"(2) Not later than December 15 of the year in which the Secretary receive a final report under paragraph (1)(B), the Secretary shall submit to the committees referred to in subsection (b) a copy of the report together with the Secretary's comments on the report.

"(e) INFORMATION FROM FEDERAL AGENCIES.—The Panel may secure directly from the Department of Defense and any of its components and from any other Federal department and agency such information as the Panel considers necessary to carry out its duties under this section. The head of the department or agency concerned shall ensure that information requested by the Panel under this subsection is promptly provided.

"(f) PERSONNEL MATTERS.—(1) Each member of the Panel shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5 for each day (including travel time) during which the member is engaged in the performance of the duties of the Panel.

"(2) The members of the Panel shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5 while away from their homes or regular places of business in the performance of services for the Panel.

"(3)(A) The chairman of the Panel may, without regard to the civil service laws and regulations, appoint and terminate an executive director and a staff if the Panel determines that an executive director and staff are necessary in order for the Panel to perform its duties effectively. The employment of an executive director shall be subject to confirmation by the Panel.

"(B) The chairman may fix the compensation of the executive director without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5 relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

"(4) Any Federal Government employee may be detailed to the Panel without reimbursement of the employee's agency, and such detail shall be without interruption or loss of civil service status or privilege. The Secretary shall ensure that sufficient personnel are detailed to the Panel to enable the Panel to carry out its duties effectively.

"(5) To the maximum extent practicable, the members and employees of the Panel shall travel on military aircraft, military ships, military vehicles, or other military conveyances when travel is necessary in the performance of a duty of the Panel, except that no such aircraft, ship, vehicle, or other conveyance may be scheduled primarily for the transportation of any such member or employee when the cost of commercial transportation is less expensive.

"(g) ADMINISTRATIVE PROVISIONS.—(1) The Panel may use the United States mails and obtain printing and binding services in the same manner and under the same conditions as other departments and agencies of the Federal Government.

"(2) The Secretary shall furnish the Panel any administrative and support services requested by the Panel.

"(3) The Panel may accept, use, and dispose of gifts or donations of services or property.

"(h) PAYMENT OF PANEL EXPENSES.—The compensation, travel expenses, and per diem allowances of members and employees of the Panel shall be paid out of funds available to the Department of Defense for the payment of compensation, travel allowances, and per diem allowances, respectively, of civilian employees of the Department. The other expenses of the Panel shall be paid out of funds available to the Department for the payment of similar expenses incurred by the Department.

"(i) TERMINATION.—The Panel shall terminate at the end of the year following the year in which the Panel submits its final report under subsection (d)(1)(B). For the period that begins 90 days after the date of submittal of the report, the activities and staff of the panel shall be reduced to a level that the Secretary of Defense considers sufficient to continue the availability of the panel for consultation with the Secretary of Defense and with the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives.".

(c) CLERICAL AMENDMENTS.—(1) The table of sections at the beginning of chapter 2 of title 10, United States Code, is amended by inserting after the item relating to section 116 the following:

"117. Quadrennial defense review.".

(2) The table of sections at the beginning of chapter 7 of such title is amended by adding at the end the following:

"181. National Defense Panel.".

(d) CONTINUATION OF 1997 NATIONAL DEFENSE PANEL.—Section 924(j) of the Military Force Structure Review Act of 1996 (subtitle B of title IX of Public Law 104–201; 110 Stat. 2626; 10 U.S.C. 111 note) is amended to read as follows:

"(j) TERMINATION.—The Panel shall continue until the first National Defense Panel is established under section 181(a) of title 10, United States Code, and shall then terminate. The activities and staff of the panel shall be reduced to a level that the Secretary of Defense considers sufficient to continue the availability of the panel for consultation with the Secretary of Defense and with the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives.".

SEC. 906. MANAGEMENT REFORM FOR RESEARCH, DEVELOPMENT, TEST, AND EVALUATION.

(a) REQUIREMENTS FOR ANALYSIS AND PLAN.—(1) The Secretary of Defense, acting through the Under Secretary of Defense for Acquisition and Technology, shall analyze the structures and processes of the Department of Defense for management of its laboratories and test and evaluation centers and, taking into consideration the analysis, develop a plan for improving the management of the laboratories and centers. The plan shall include the reorganizations and reforms that the Secretary considers appropriate.

(2) The analysis shall include the following:

(A) Opportunities to achieve efficiency and reduce duplication of efforts by consolidating responsibilities for research, development, test, and evaluation, by area or function, in a military department as a lead agency or executive agent.

(B) Reforms of the management processes of Department of Defense laboratories and test and evaluation centers that would reduce costs and increase efficiency in the conduct of research, development, test, and evaluation.

(C) Opportunities for Department of Defense laboratories and test and evaluation centers to enter into partnership arrangements with laboratories in industry, academia, and other Federal agencies that demonstrate leadership, initiative, and innovation in research, development, test, and evaluation.

(D) The benefits of consolidating test ranges and test facilities under one management structure.

(E) Personnel demonstration projects and pilot projects that are being carried out to address the challenges for and constraints on recruitment and retention of scientists and engineers.

(F) The extent to which there is disseminated within the Department of Defense laboratories and test and evaluation centers information regarding initiatives that have successfully improved efficiency through reform of management processes and other means.

(G) Any cost savings that can be derived directly from reorganization of management structures.

(H) Options for reinvesting any such cost savings in the Department of Defense laboratories and test and evaluation centers.

(3) The Secretary shall submit the plan required under paragraph (1) to the congressional defense committees not later than 180 days after the date of the enactment of this Act.

(b) COST-BASED MANAGEMENT INFORMATION SYSTEM.—(1) The Secretary of Defense shall develop a plan, including a schedule, for establishing a cost-based management information system for Department of Defense laboratories and test and evaluation centers. The system shall provide for accurately identifying and comparing the costs of operating each laboratory and each center.

(2) In preparing the plan, the Secretary shall assess the feasibility and desirability of establishing a common methodology for assessing costs. The Secretary shall consider the use of a revolving fund as one potential methodology.

(3) The Secretary shall submit the plan required under paragraph (1) to the congressional defense committees not later than 90 days after the date of the enactment of this Act.

SEC. 907. RESTRUCTURING OF ADMINISTRATION OF FISHER HOUSES.

(a) ADMINISTRATION AS NONAPPROPRIATED FUND INSTRUMENTALITY.—(1) Chapter 147 of title 10, United States Code, is amended by adding at the end the following:

"§2490b. Fisher Houses: administration as nonappropriated fund instrumentality

"(a) FISHER HOUSES AND SUITES.—(1) For the purposes of this section, a Fisher House is a housing facility that—

"(A) is located in proximity to a health care facility of the Army, the Air Force, or the Navy;

"(B) is available for residential use on a temporary basis by patients of that health care facility, members of the families of such patients, and others providing the equivalent of familial support for such patients; and

"(C) has been constructed and donated by—

"(i) the Zachary and Elizabeth M. Fisher Armed Services Foundation; or

"(ii) another source, if the Secretary designates the housing facility as a Fisher House.

"(2) For the purposes of this section, a Fisher Suite is one or more rooms that meet the requirements of subparagraph (A) and (B) of paragraph (1), are constructed, altered, or repaired and donated by a source described in subparagraph (C) of that paragraph, and are designated by the Secretary concerned as a Fisher Suite.

"(b) NONAPPROPRIATED FUND INSTRUMENTALITY.—The Secretary of a military department shall administer all Fisher Houses and Fisher Suites associated with health care facilities of that military department as a nonappropriated fund instrumentality of the United States.

"(c) GOVERNANCE.—The Secretary shall establish a system for the governance of the nonappropriated fund instrumentality.

"(d) CENTRAL FUND.—The Secretary shall establish a single fund as the source of funding for the operation, maintenance, and improvement of all Fisher Houses and Fisher Suites of the nonappropriated fund instrumentality.

"(e) ACCEPTANCE OF CONTRIBUTIONS AND FEES.—The Secretary of a military department may accept money, property, and services donated for the support of a Fisher House or Fisher Suite, and may impose fees relating to the use of the Fisher Houses and Fisher Suites. All monetary donations, and the proceeds of the disposal of any other donated property, accepted by the Secretary under this subsection shall be credited to the fund established under subsection (d) for the Fisher Houses and Fisher Suites of that military department and shall be available for all Fisher Houses and Fisher Suites of that military department.

"(f) ANNUAL REPORT.—Not later than January 15 of each year, the Secretary of each military department shall submit a report on Fisher House operations to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives. The report shall include, at a minimum, the following:

"(1) The amount in the fund established by the Secretary for the Fisher Houses and Fisher Suites under subsection (d), as of October 1 of the previous year.

"(2) The operation of the fund during the fiscal year ending on the day before that date, including—

"(A) all gifts, fees, and interest credited to the fund; and

"(B) the disbursements from the fund.

"(3) The budget for the operation of the Fisher Houses and Fisher Suites for the fiscal year in which the report is submitted.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following:

"2490b. Fisher Houses: administration as nonappropriated fund instrumentality.".

(b) FUNDING TRANSITION.—(1) Not later than 90 days after the date of the enactment of this Act the Secretary of each military department shall—

(A) establish the fund required under section 2490b(d) of title 10, United States Code (as added by subsection (a)); and

(B) close the Fisher House trust fund for that department and transfer the amounts in the closed fund to the newly established fund.

(2) Of the amounts appropriated for the Navy pursuant to section 301, the Secretary of the Navy shall transfer to the fund established by the Secretary under section 2490b(d) of title 10, United States Code (as added by subsection (a)) such amount as the Secretary considers appropriate for establishing in the fund a corpus sufficient for operating Fisher Houses and Fisher Suites of the Navy.

(3) Of the amounts appropriated for the Air Force pursuant to section 301, the Secretary of the Air Force shall transfer to the fund established by the Secretary under section 2490b(d) of title 10, United States Code (as added by subsection (a)) such amount as the Secretary considers appropriate for establishing in the fund a corpus sufficient for operating Fisher Houses and Fisher Suites of the Air Force.

(4) The Secretary of each military department, upon completing the actions required of the Secretary under the preceding paragraphs of this subsection, shall submit to Congress a report containing—

(A) the Secretary's certification that those actions have been completed; and

(B) a statement of the amount deposited in the newly established fund.

(5) Amounts transferred to a fund established under section 2490b(d) of title 10, United States Code (as added by subsection (a)), shall be available without fiscal year limitation for the purposes for which the fund is established and shall be administered as nonappropriated funds.

(c) CONFORMING REPEALS.—(1) Section 2221 of title 10, United States Code, and the item relating to that section in the table of sections at the beginning of chapter 131 of such title, are repealed.

(2) Section 1321(a) of title 31, United States Code, is amended by striking out paragraphs (92), (93), and (94).

(3) The amendments made by paragraphs (1) and (2) shall take effect 90 days after the date of the enactment of this Act.

SEC. 908. REDESIGNATION OF DIRECTOR OF DEFENSE RESEARCH AND ENGINEERING AS DIRECTOR OF DEFENSE TECHNOLOGY AND COUNTERPROLIFERATION AND TRANSFER OF RESPONSIBILITIES.

(a) REDESIGNATION.—Subsection (a) of section 137 of title 10, United States Code, is amended by striking out "Director of Defense Research and Engineering" and inserting in lieu thereof "Director of Defense Technology and Counterproliferation".

(b) DUTIES.—Subsection (b) of such section 137 is amended to read as follows:

"(b) The Director of Defense Technology and Counterproliferation shall—

"(1) except as otherwise prescribed by the Secretary of Defense, perform such duties relating to research and engineering as the Under Secretary of Defense for Acquisition and Technology may prescribe;

"(2) advise the Secretary of Defense on matters relating to nuclear energy and nuclear weapons;

"(3) serve as the Staff Director of the Joint Nuclear Weapons Council under section 179 of this title; and

"(4) perform such other duties as the Secretary of Defense may prescribe.".

(c) ABOLISHMENT OF POSITION OF ASSISTANT TO THE SECRETARY OF DEFENSE FOR NUCLEAR AND CHEMICAL AND BIOLOGICAL DEFENSE PROGRAMS.—Section 142 of such title is repealed.

(d) CONFORMING AMENDMENTS.—(1) Title 5, United States Code, is amended as follows:

(A) In section 5315, by striking out "Director of Defense Research and Engineering" and inserting in lieu thereof the following:

"Director of Defense Technology and Counterproliferation".

(B) In section 5316, by striking out "Assistant to the Secretary of Defense for Nuclear and Chemical and Biological Defense Programs, Department of Defense.".

(2) Title 10, United States Code, is amended as follows:

(A) In section 131(b), by striking out paragraph (6) and inserting in lieu thereof the following:

"(6) Director of Defense Technology and Counterproliferation.".

(B) In section 138(d), by striking out "Director of Defense Research and Engineering" and inserting in lieu thereof "Director of Defense Technology and Counterproliferation".

(C) In section 179(c)(2), by striking out "Assistant to the Secretary of Defense for Nuclear and Chemical and Biological Defense Programs" and inserting in lieu thereof "Director of Defense Technology and Counterproliferation".

(D) In section 2350a(g)(3), by striking out "Deputy Director, Defense Research and Engineering (Test and Evaluation)" and inserting in lieu thereof "Under Secretary of Defense for Acquisition and Technology".

(E) In section 2617(a), by striking out "Director of Defense Research and Engineering" and inserting in lieu thereof "Director of Defense Technology and Counterproliferation".

(F) In section 2902(b), by striking out paragraph (1) and inserting in lieu thereof the following:

"(1) The Director of Defense Technology and Counterproliferation.".

(3) Section 257(a) of the National Defense Authorization Act for Fiscal Year 1995 (10 U.S.C. 2358 note) is amended by striking out "Director of Defense Research and Engineering" and inserting in lieu thereof "Director of Defense Technology and Counterproliferation".

(4) The National Defense Authorization Act for Fiscal Year 1994 is amended as follows:

(A) In section 802(a) (10 U.S.C. 2358 note), by striking out "Director of Defense Research and Engineering" and inserting in lieu thereof "Director of Defense Technology and Counterproliferation".

(B) In section 1605(a)(5), (22 U.S.C. 2751 note) by striking out "Assistant to the Secretary of Defense for Nuclear and Chemical and Biological Defense Programs" and inserting in lieu thereof "Director of Defense Technology and Counterproliferation".

(e) CLERICAL AMENDMENTS.—(1) The section heading of section 137 of title 10, United States Code, is amended to read as follows:

"§137. Director of Defense Technology and Counterproliferation".

(2) The table of sections at the beginning of chapter 4 of title 10, United States Code, is amended—

(A) by striking out the item relating to section 137 and inserting in lieu thereof the following:

"137. Director of Defense Technology and Counterproliferation.";

and

(B) by striking out the item relating to section 142.

SEC. 909. CENTER FOR HEMISPHERIC DEFENSE STUDIES.

(a) FUNDING FOR CENTER FOR HEMISPHERIC DEFENSE STUDIES.—(1) Chapter 108 of title 10, United States Code, is amended by adding at the end the following:

"§2166. National Defense University: funding of component institution

"Funds available for the payment of personnel expenses under the Latin American cooperation authority set forth in section 1050 of this title are also available for the costs of the operation of the Center for Hemispheric Defense Studies.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following:

"2166. National Defense University: funding of component institution.".

(b) CONFORMING AMENDMENT.—Section 1050 of title 10, United States Code, is amended by inserting "Secretary of Defense or the" before "Secretary of a military department".

SEC. 910. MILITARY AVIATION ACCIDENT INVESTIGATIONS.

(a) FINDINGS.—Congress makes the following findings:

(1) In February 1996, the Government Accounting Office released a report highlighting a 75 percent reduction in aviation Class A mishaps, a 70 percent reduction in aviation mishap fatalities and a 65 percent reduction in Class A mishap rates from 1975–1995 (Military Aircraft Safety—Significant Improvements since 1975).

(2) In February 1998, the Government Accounting Office completed a follow-up review of military aircraft safety, noting that the military experienced fewer serious aviation mishaps in fiscal years 1996 and 1997 than in previous fiscal years (Military Aircraft Safety: Serious Accidents Remain at Historically Low Levels).

(3) The report required by section 1046 of the National Defense Authorization Act for fiscal year 1998 (Public Law 105–85; 111 Stat. 1888) concluded, "DoD found no evidence that changing existing investigation processes to more closely resemble those of the NTSB would help DoD to find more answers more quickly, or accurately".

(4) The Department of Defense must further improve its aviation safety by fully examining all options for improving or replacing its current aviation accident investigation processes.

(5) The inter-service working group formed as a result of that report has contributed to progress in military aviation accident investigations by identifying ways to improve family assistance, as has the formal policy direction coordinated by the Office of the Secretary of Defense.

(6) Such progress includes the issuance of Air Force Instruction 90–701 entitled "Assistance to Families of Persons Involved in Air Force Aviation Mishaps", that attempts to meet the need for a more timely flow of relevant information to families, a family liaison officer, and the establishment of the Air Force Office of Family Assistance. However, formal policy directions and Air Force instructions have not adequately addressed the failure to provide primary next of kin of members of the Armed Forces involved in military aviation accidents with interim reports regarding the course of investigations into such accidents, and the Department of Defense must improve its procedures for informing the families of the persons involved in military aviation mishaps.

(7) The report referred to in paragraph (3) concluded that the Department would "benefit from the disappearance of the misperception that the privileged portion of the safety investigation exists to hide unfavorable information".

(8) That report further specified that "[e]ach Military Department has procedures in place to place to provide redacted copies of the final [privileged] safety report to the families. However, families must formally request a copy of the final safety investigation report".

(9) Current efforts to improve family notification would be enhanced by the issuance by the Secretary of Defense of uniform regulations to improve the timeliness and reliability of information provided to the primary next of kin of persons involved in military aviation accidents during and following both the legal investigation and safety investigation phases of such investigations.

(b) EVALUATION OF DEPARTMENT OF DEFENSE AVIATION ACCIDENT INVESTIGATION PROCEDURES.—(1) The Secretary of Defense shall establish a task force to—

(A) review the procedures employed by the Department of Defense to conduct military aviation accident investigations; and

(B) identify mechanisms for improving such investigations and the military aviation accident investigation process.

(2) The Secretary shall appoint to the task force the following:

(A) An appropriate number of members of the Armed Forces, including both members of the regular components and the reserve components, who have experience relating to military aviation or investigations into military aviation accidents.

(B) An appropriate number of former members of the Armed Forces who have such experience.

(C) With the concurrence of the member concerned, a member of the National Transportation Safety Board.

(3)(A) The task force shall submit to Congress an interim report and a final report on its activities under this subsection. The interim report shall be submitted on December 1, 1998, and the final report shall be submitted on March 31, 1999.

(B) Each report under subparagraph (A) shall include the following:

(i) An assessment of the advisability of conducting all military aviation accident investigations through an entity that is independent of the military departments.

(ii) An assessment of the effectiveness of the current military aviation accident investigation process in identifying the cause of military aviation accidents and correcting problems so identified in a timely manner.

(iii) An assessment whether or not the procedures for sharing the results of military aviation accident investigations among the military departments should be improved.

(iv) An assessment of the advisability of centralized training and instruction for military aircraft investigators.

(v) An assessment of any costs or cost avoidances that would result from the elimination of any overlap in military aviation accident investigation activities conducted under the current so-called "two-track" investigation process.

(vi) Any improvements or modifications in the current military aviation accident investigation process that the task force considers appropriate to reduce the potential for aviation accidents and increase public confidence in the process.

(c) UNIFORM REGULATIONS FOR RELEASE OF INTERIM SAFETY INVESTIGATION REPORTS.—(1)(A) Not later than May 1, 1999, the Secretary of Defense shall prescribe regulations that provide for the release to the family members of persons involved in military aviation accidents, and to members of the public, of reports referred to in paragraph (2).

(B) The regulations shall apply uniformly to each military department.

(2) A report under paragraph (1) is a report on the findings of any ongoing privileged safety investigation into an accident referred to in that paragraph. Such report shall be in a redacted form or other form appropriate to preserve witness confidentiality and to minimize the effects of the release of information in such report on national security.

(3) Reports under paragraph (1) shall be made available—

(A) in the case of family members, at least once every 30 days or upon the development of a new or significantly changed finding during the course of the investigation concerned; and

(B) in the case of members of the public, on request.

TITLE X—GENERAL PROVISIONS

Subtitle A—Financial Matters

SEC. 1001. TRANSFER AUTHORITY.

(a) Authority To Transfer Authorizations.—(1) Upon determination by the Secretary of Defense that such action is necessary in the national interest, the Secretary may transfer amounts of authorizations made available to the Department of Defense in this division for fiscal year 1999 between any such authorizations for that fiscal year (or any subdivisions thereof). Amounts of authorizations so transferred shall be merged with and be available for the same purposes as the authorization to which transferred.

(2) The total amount of authorizations that the Secretary may transfer under the authority of this section may not exceed $2,000,000,000.

(b) Limitations.—The authority provided by this section to transfer authorizations—

(1) may only be used to provide authority for items that have a higher priority than the items from which authority is transferred; and

(2) may not be used to provide authority for an item that has been denied authorization by Congress.

(c) Effect on Authorization Amounts.—A transfer made from one account to another under the authority of this section shall be deemed to increase the amount authorized for the account to which the amount is transferred by an amount equal to the amount transferred.

(d) Notice to Congress.—The Secretary shall promptly notify Congress of each transfer made under subsection (a).

SEC. 1002. AUTHORIZATION OF EMERGENCY APPROPRIATIONS FOR FISCAL YEAR 1999.

(a) Authorization of Appropriations.—Funds are hereby authorized to be appropriated for the Department of Defense for fiscal year 1999 for incremental costs of operations of the Armed Forces in and around Bosnia and Herzegovina in the total amount of $1,858,600,000, as follows:

(1) For military personnel, in addition to the amounts authorized to be appropriated in title IV of this Act:

(A) For the Army, $297,700,000.

(B) For the Navy, $9,700,000.

(C) For the Marine Corps, $2,700,000.

(D) For the Air Force, $33,900,000.

(E) For the Naval Reserve, $2,200,000.

(2) For operation and maintenance for the Overseas Contingency Operations Transfer Fund, in addition to the total amount authorized to be appropriated for that fund in section 301(a)(25) of this Act, $1,512,400,000.

(b) Transfer Authority.—Upon determination by the Secretary of Defense that such action is necessary in the national interest, the Secretary may transfer amounts of authorizations made available to the Department of Defense in subsection (a)(2) for fiscal year 1999 to any of the authorizations for that fiscal year in section 301. Amounts of authorizations so transferred shall be merged with and be available for the same purposes as the authorization to which transferred. The transfer authority under this subsection is in addition to any other transfer authority provided in this Act.

(c) Designation as Emergency.—Funds authorized to be appropriated in accordance with subsection (a) are designated as emergency requirements pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985.

SEC. 1003. AUTHORIZATION OF PRIOR EMERGENCY SUPPLEMENTAL APPROPRIATIONS FOR FISCAL YEAR 1998.

Amounts authorized to be appropriated to the Department of Defense for fiscal year 1998 in the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85) are hereby adjusted, with respect to any such authorized amount, by the amount by which appropriations pursuant to such authorization were increased (by a supplemental appropriation) or decreased (by a rescission), or both, in the 1998 Supplemental Appropriations and Rescissions Act (Public Law 105–174).

SEC. 1004. PARTNERSHIP FOR PEACE INFORMATION SYSTEM MANAGEMENT.

Funds authorized to be appropriated under titles II and III of this Act shall be available for Partnership for Peace information management systems as follows:

(1) Of the amount authorized to be appropriated under section 201(4) for Defense-wide activities, $2,000,000.

(2) Of the amount authorized to be appropriated under section 301 for Defense-wide activities, $3,000,000.

SEC. 1005. REDUCTIONS IN FISCAL YEAR 1998 AUTHORIZATIONS OF APPROPRIATIONS FOR DIVISION A AND DIVISION B AND INCREASES IN CERTAIN AUTHORIZATIONS OF APPROPRIATIONS.

(a) Total Reduction.—Notwithstanding any other provision in this division, amounts authorized to be appropriated under other provisions of this division are reduced in accordance with subsection (b) by the total amount of $421,900,000 in order to reflect savings resulting from revised economic assumptions.

(b) Distribution of Reduction.—

(1) Procurement.—Amounts authorized to be appropriated for procurement under title I are reduced as follows:

(A) Army.—For the Army:

(i) Aircraft.—For aircraft under section 101(1), by $4,000,000.

(ii) Missiles.—For missiles under section 101(2), by $4,000,000.

(iii) Weapons and tracked combat vehicles.—For weapons and tracked combat vehicles under section 101(3), by $4,000,000.

(iv) Ammunition.—For ammunition under section 101(4), by $3,000,000.

(v) Other procurement.—For other procurement under section 101(5), by $9,000,000.

(B) Navy and marine corps.—For the Navy, Marine Corps, or both the Navy and Marine Corps:

(i) Aircraft.—For aircraft under section 102(a)(1), by $22,000,000.

(ii) Weapons.—For weapons, including missiles and torpedoes, under section 102(a)(2), by $4,000,000.

(iii) Shipbuilding and conversion.—For shipbuilding and conversion under section 102(a)(3), by $18,000,000.

(iv) Other procurement.—For other procurement under section 102(a)(4), by $12,000,000.

(v) Marine corps procurement.—For procurement for the Marine Corps under section 102(b), by $2,000,000.

(vi) Ammunition.—For ammunition under section 102(c), by $1,000,000.

(C) Air Force.—For the Air Force:

(i) Aircraft.—For aircraft under section 103(1), by $23,000,000.

(ii) Missiles.—For missiles under section 103(2), by $7,000,000.

(iii) Ammunition.—For ammunition under section 103(3), by $1,000,000.

(iv) Other procurement.—For other procurement under section 103(4), by $17,500,000.

(D) Defense-wide activities.—For the Department of Defense for Defense-wide activities under section 104, by $5,800,000.

(E) Chemical demilitarization program.—For the destruction of lethal chemical agents and munitions and of chemical warfare material under section 107, by $3,000,000.

(2) RDT&E.—Amounts authorized to be appropriated for research, development, test, and evaluation under title II are reduced as follows:

(A) Army.—For the Army under section 201(1), by $10,000,000.

(B) Navy.—For the Navy under section 201(2), by $20,000,000.

(C) Air force.—For the Air Force under section 201(3), by $39,000,000.

(D) Defense-wide activities.—For Defense-wide activities under section 201(4), by $26,700,000.

(3) Operation and maintenance.—Amounts authorized to be appropriated for operation and maintenance under title III are reduced as follows:

(A) Army.—For the Army under section 301(a)(1), by $24,000,000.

(B) Navy.—For the Navy under section 301(a)(2), by $32,000,000.

(C) Marine corps.—For the Marine Corps under section 301(a)(3), by $4,000,000.

(D) Air force.—For the Air Force under section 301(a)(4), by $31,000,000.

(E) Defense-wide activities.—For Defense-wide activities under section 301(a)(6), by $17,600,000.

(F) Army reserve.—For the Army Reserve under section 301(a)(7), by $2,000,000.

(G) Naval reserve.—For the Naval Reserve under section 301(a)(8), by $2,000,000.

(H) Air force reserve.—For the Air Force Reserve under section 301(a)(10), by $2,000,000.

(I) Army national guard.—For the Army National Guard under section 301(a)(11), by $4,000,000.

(J) Air national guard.—For the Air National Guard under section 301(a)(12), by $4,000,000.

(K) Environmental restoration, army.—For Environmental Restoration, Army under section 301(a)(15), by $1,000,000.

(L) Environmental restoration, navy.—For Environmental Restoration, Navy under section 301(a)(16), by $1,000,000.

(M) Environmental restoration, air force.—For Environmental Restoration, Air Force under section 301(a)(17), by $1,000,000.

(N) Environmental restoration, defense-wide.—For Environmental Restoration, Defense-wide under section 301(a)(18), by $1,000,000.

(O) Drug interdiction and counter-drug activities, defense-wide.—For Drug Interdiction and Counter-drug Activities, Defense-wide under section 301(a)(21), by $2,000,000.

(P) Medical programs, defense.—For Medical Programs, Defense under section 301(a)(23), by $36,000,000.

(4) Military construction, army.—Amounts authorized to be appropriated for military construction, Army, under title XXI by section 2104(a) are reduced by $5,000,000, of which $3,000,000 shall be a reduction of support of military family housing under section 2104(a)(5)(B).

(5) Military construction, navy.—Amounts authorized to be appropriated for military construction, Navy, under title XXII by section 2204(a) are reduced by $5,000,000, of which—

(A) $1,000,000 shall be a reduction of construction and acquisition of military family housing under section 2204(a)(5)(A); and

(B) $3,000,000 shall be a reduction of support of military family housing under section 2204(a)(5)(B).

(6) Military construction, air force.—Amounts authorized to be appropriated for military construction, Air Force, under title XXIII by section 2304(a) are reduced by $4,000,000, of which—

(A) $1,000,000 shall be a reduction of construction and acquisition of military family housing under section 2304(a)(5)(A); and

(B) $2,000,000 shall be a reduction of support of military family housing under section 2304(a)(5)(B).

(7) Military construction, defense agencies.—Amounts authorized to be appropriated for military construction, Defense Agencies, under title XXIV by section 2404(a) are reduced by $6,300,000, of which $5,000,000 shall be a reduction of defense base closure and realignment under section 2404(a)(10), of which—

(A) $1,000,000 shall be a reduction of defense base closure and realignment, Army;

(B) $2,000,000 shall be a reduction of defense base closure and realignment, Navy; and

(C) $2,000,000 shall be a reduction of defense base closure and realignment, Air Force.

(8) North atlantic treaty organization security investment program.—Amounts authorized to be appropriated for contributions to the North Atlantic Treaty Organization Security Investment program under title XXV by section 2502 are reduced by $1,000,000.

(c) Proportionate Reductions Within Accounts.—The amount provided for each budget activity, budget activity group, budget subactivity group, program, project, or activity under an authorization of appropriations reduced by subsection (b) is hereby reduced by the percentage computed by dividing the total amount of that authorization of appropriations (before the reduction) into the amount by which that total amount is so reduced.

(d) Increase in Certain Authorizations of Appropriations.—

(1) Operation and maintenance, army national guard.—The amount authorized to be appropriated by section 301(a)(11), as reduced by subsection (b)(3)(I), is increased by $120,000,000.

(2) Other defense programs, department of energy.—The amount authorized to be appropriated by section 3103 is increased by $20,000,000, which amount shall be available for verification'and control technology under paragraph (1)(C) of that section.

SEC. 1006. AMOUNT AUTHORIZED FOR CONTRIBUTIONS FOR NATO COMMON-FUNDED BUDGETS.

(a) Total Amount.—Contributions are authorized to be made in fiscal year 1999 for the common-funded budgets of NATO, out of funds available for the Department of Defense for that purpose, in the total amount that is equal to the sum of (1) the amounts of the unexpended balances, as of the end of fiscal year 1998, of funds appropriated for fiscal years before fiscal year 1999 for payments for such budgets, (2) the amount authorized to be appropriated under section 301(a)(1) that is available for contributions for the NATO common-funded military budget under section 314, (3) the amount authorized to be appropriated under section 201(1) that is available for contribution for the NATO common-funded civil budget under section 219, and (4) the total amount of the contributions authorized to be made under section 2501.

(b) Definition.—In this section, the term "common-funded budgets of NATO" means the Military Budget, the Security Investment Program, and the Civil Budget of NATO (and any successor or additional account or program of NATO).

Subtitle B—Naval Vessels

SEC. 1011. IOWA CLASS BATTLESHIP RETURNED TO NAVAL VESSEL REGISTER.

The U.S.S. Iowa shall be listed, and maintained, on the Naval Vessel Register under section 1011 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 421) instead of the U.S.S. New Jersey, which shall be stricken from the register. The preceding sentence does not affect the continued effectiveness of subsection (d) of such section.

SEC. 1012. LONG-TERM CHARTER OF THREE VESSELS IN SUPPORT OF SUBMARINE RESCUE, ESCORT, AND TOWING.

(a) Authority.—The Secretary of the Navy may to enter into one or more long-term charters in accordance with section 2401 of title 10, United States Code, for three vessels to support the rescue, escort, and towing of submarines.

(b) Vessels.—The vessels that may be chartered under subsection (a) are as follows:

(1) The Carolyn Chouest (United States official number D102057).

(2) The Kellie Chouest (United States official number D1038519).

(3) The Dolores Chouest (United States official number D600288).

(c) Charter Period.—The period for which a vessel is chartered under subsection (a) may not extend beyond October 1, 2004.

(d) Funding.—The funds used for charters entered into under subsection (a) shall be funds authorized to be appropriated under section 301(a)(2).

SEC. 1013. TRANSFERS OF CERTAIN NAVAL VESSELS TO CERTAIN FOREIGN COUNTRIES.

(a) Authority.—

(1) Argentina.—The Secretary of the Navy is authorized to transfer to the Government of Argentina on a grant basis the tank landing ship Newport (LST 1179).

(2) Brazil.—The Secretary of the Navy is authorized to transfer vessels to the Government of Brazil as follows:

(A) On a sale basis, the Newport class tank landing ships Cayuga (LST 1186) and Peoria (LST 1183).

(B) On a combined lease-sale basis, the Cimarron class oiler Merrimack (AO 179).

(3) Chile.—The Secretary of the Navy is authorized to transfer vessels to the Government of Chile on a sale basis as follows:

(A) The Newport class tank landing ship San Bernardino (LST 1189).

(B) The auxiliary repair dry dock Waterford (ARD 5).

(4) Greece.—The Secretary of the Navy is authorized to transfer vessels to the Government of Greece as follows:

(A) On a sale basis, the following vessels:

(i) The Oak Ridge class medium dry dock Alamogordo (ARDM 2).

(ii) The Knox class frigates Vreeland (FF 1068) and Trippe (FF 1075).

(B) On a combined lease-sale basis, the Kidd class guided missile destroyers Kidd (DDG 993), Callaghan (DDG 994), Scott (DDG 995) and Chandler (DDG 996).

(C) On a grant basis, the following vessels:

(i) The Knox class frigate Hepburn (FF 1055).

(ii) The Adams class guided missile destroyers Strauss (DDG 16), Semmes (DDG 18), and Waddell (DDG 24).

(5) Mexico.—The Secretary of the Navy is authorized to transfer to the Government of Mexico on a sale basis the auxiliary repair dry dock San Onofre (ARD 30) and the Knox class frigate Pharris (FF 1094).

(6) Philippines.—The Secretary of the Navy is authorized to transfer to the Government of the Philippines on a sale basis the Stalwart class ocean surveillance ship Triumph (T-AGOS 4).

(7) Portugal.—The Secretary of the Navy is authorized to transfer to the Government of Portugal on a grant basis the Stalwart class ocean surveillance ship Assurance (T-AGOS 5).

(8) Spain.—The Secretary of the Navy is authorized to transfer to the Government of Spain on a sale basis the Newport class tank landing ships Harlan County (LST 1196) and Barnstable County (LST 1197).

(9) Taiwan.—The Secretary of the Navy is authorized to transfer vessels to the Taipei Economic and Cultural Representative Office in the United States (which is the Taiwan instrumentality designated pursuant to section 10(a) of the Taiwan Relations Act) on a sale basis as follows:

(A) The Knox class frigates Peary (FF 1073), Joseph Hewes (FF 1078), Cook (FF 1083), Brewton (FF 1086), Kirk (FF 1087) and Barbey (FF 1088).

(B) The Newport class tank landing ships Manitowoc (LST 1180) and Sumter (LST 1181).

(C) The floating dry dock Competent (AFDM 6).

(D) The Anchorage class dock landing ship Pensacola (LSD 38).

(10) Turkey.—The Secretary of the Navy is authorized to transfer vessels to the Government of Turkey as follows:

(A) On a sale basis, the following vessels:

(i) The Oliver Hazard Perry class guided missile frigates Mahlon S. Tisdale (FFG 27), Reid (FFG 30) and Duncan (FFG 10).

(ii) The Knox class frigates Reasoner (FF 1063), Fanning (FF 1076), Bowen (FF 1079), McCandless (FF 1084), Donald Beary (FF 1085), Ainsworth (FF 1090), Thomas C. Hart (FF 1092), and Capodanno (FF 1093).

(B) On a grant basis, the Knox class frigates Paul (FF 1080), Miller (FF 1091), W.S. Simms (FF 1059).

(11) Venezuela.—The Secretary of the Navy is authorized to transfer to the Government of Venezuela on a sale basis the unnamed medium auxiliary floating dry dock AFDM 2.

(b) Bases of Transfer.—

(1) Grant.—A transfer of a naval vessel authorized to be made on a grant basis under subsection (a) shall be made under section 516 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j).

(2) Sale.—A transfer of a naval vessel authorized to be made on a sale basis under subsection (a) shall be made under section 21 of the Arms Export Control Act (22 U.S.C. 2761).

(3) Combined lease-sale.—(A) A transfer of a naval vessel authorized to be made on a combined lease-sale basis under subsection (a) shall be made under sections 61 and 21 of the Arms Export Control Act (22 U.S.C. 2796 and 2761, respectively) in accordance with this paragraph.

(B) For each naval vessel authorized by subsection (a) for transfer on a lease-sale basis, the Secretary of the Navy is authorized to transfer the vessel under the terms of a lease, with lease payments suspended for the term of the lease, if the country entering into the lease of the vessel simultaneously enters into a foreign military sales agreement for the transfer of title to the leased vessel. Delivery of title to the purchasing country shall not be made until the purchase price of the vessel has been paid in full. Upon delivery of title to the purchasing country, the lease shall terminate.

(C) If the purchasing country fails to make full payment of the purchase price by the date required under the sales agreement, the sales agreement shall be immediately terminated, the suspension of lease payments under the lease shall be vacated, and the United States shall retain all funds received on or before the date of the termination under the sales agreement, up to the amount of the lease payments due and payable under the lease and all other costs required by the lease to be paid to that date. No interest shall be payable to the recipient by the United States on any amounts that are paid to the United States by the recipient under the sales agreement and are not retained by the United States under the lease.

(c) REQUIREMENT FOR PROVISION IN ADVANCE IN AN APPROPRIATIONS ACT.—Authority to transfer vessels on a sale or combined lease-sale basis under subsection (a) shall be effective only to the extent that authority to effectuate such transfers, together with appropriations to cover the associated cost (as defined in section 502 of the Congressional Budget and Impoundment Control Act of 1974 (2 U.S.C. 661a)), are provided in advance in an appropriations Act.

(d) NOTIFICATION OF CONGRESS.—Not later than 30 days after the date of the enactment of this Act, the Secretary of the Navy shall submit to Congress, for each naval vessel that is to be transferred under this section before January 1, 1999, the notifications required under section 516 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j) and section 525 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1998 (Public Law 105–118; 111 Stat. 2413).

(e) GRANTS NOT COUNTED IN ANNUAL TOTAL OF TRANSFERRED EXCESS DEFENSE ARTICLES.—The value of the naval vessels authorized by subsection (a) to be transferred on a grant basis under section 516 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j) shall not be counted for the purposes of that section in the aggregate value of excess defense articles transferred to countries under that section in any fiscal year.

(f) COSTS OF TRANSFERS.—Any expense of the United States in connection with a transfer authorized by subsection (a) shall be charged to the recipient (notwithstanding section 516(e)(1) of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j(e)(1)) in the case of a transfer authorized to be made on a grant basis under subsection (a)).

(g) REPAIR AND REFURBISHMENT IN UNITED STATES SHIPYARDS.—The Secretary of the Navy shall require, as a condition of the transfer of a vessel under this section, that the country to which the vessel is transferred have such repair or refurbishment of the vessel as is needed, before the vessel joins the naval forces of that country, performed at a shipyard located in the United States, including a United States Navy shipyard.

(h) EXPIRATION OF AUTHORITY.—The authority to transfer a vessel under subsection (a) shall expire at the end of the two-year period beginning on the date of the enactment of this Act.

SEC. 1014. SENSE OF CONGRESS CONCERNING THE NAMING OF AN LPD–17 VESSEL.

It is the sense of Congress that, consistent with section 1018 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 425), the next unnamed vessel of the LPD–17 class of amphibious vessels should be named the U.S.S. Clifton B. Cates, in honor of Marine General Clifton B. Cates (1893–1970), a native of Tennessee whose distinguished career of service in the Marine Corps included combat service in World War I so heroic that he became the most decorated Marine Corps officer of World War I, included exemplary combat leadership from Guadalcanal to Tinian and Iwo Jima and beyond in the Pacific Theater during World War II, and culminated in Lieutenant General Cates being appointed the 19th Commandant of the Marine Corps, a position in which he led the Marine Corps' efficient and alacritous response to the invasion of the Republic of South Korea by Communist North Korea.

SEC. 1015. CONVEYANCE OF NDRF VESSEL EX-U.S.S. LORAIN COUNTY.

(a) AUTHORITY TO CONVEY.—The Secretary of Transportation may convey all right, title, and interest of the Federal Government in and to the vessel ex-U.S.S. LORAIN COUNTY (LST–1177) to the Ohio War Memorial, Inc., located in Sandusky, Ohio (in this section referred to as the "recipient"), for use as a memorial to Ohio veterans.

(b) TERMS OF CONVEYANCE.—

(1) DELIVERY OF VESSEL.—In carrying out subsection (a), the Secretary shall deliver the vessel—

(A) at the place where the vessel is located on the date of conveyance;

(B) in its condition on that date; and

(C) at no cost to the Federal Government.

(2) REQUIRED CONDITIONS.—The Secretary may not convey a vessel under this section unless—

(A) the recipient agrees to hold the Government harmless for any claims arising from exposure to hazardous materials, including asbestos and polychlorinated biphenyls, after conveyance of the vessel, except for claims arising before the date of the conveyance of from use of the vessel by the Government after that date; and

(B) the recipient has available, for use to restore the vessel, in the form of cash, liquid assets, or a written loan commitment, financial resources of at least $100,000.

(3) ADDITIONAL TERMS.—The Secretary may require such additional terms and conditions in connection with the conveyance authorized by this section as the Secretary considers appropriate.

(c) OTHER UNNEEDED EQUIPMENT.—The Secretary may convey to the recipient of the vessel conveyed under this section any unneeded equipment from other vessels in the National Defense Reserve Fleet, for use to restore the vessel conveyed under this section to museum quality.

SEC. 1016. HOMEPORTING OF THE U.S.S. IOWA BATTLESHIP IN SAN FRANCISCO.

It is the sense of Congress that the U.S.S. Iowa should be homeported at the Port of San Francisco, California.

SEC. 1017. SHIP SCRAPPING PILOT PROGRAM.

(a) IN GENERAL.—The Secretary of the Navy shall carry out a vessel scrapping pilot program within the United States during fiscal years 1999 and 2000. The scope of the program shall be that which the Secretary determines is sufficient to gather data on the cost of scrapping Government vessels domestically and to demonstrate cost effective technologies and techniques to scrap such vessels in a manner that is protective of worker safety and health and the environment.

(b) CONTRACT AWARD.—(1) The Secretary shall award a contract or contracts under subsection (a) to the offeror or offerors that the Secretary determines will provide the best value to the United States, taking into account such factors as the Secretary considers appropriate.

(2) In making a best value determination under this subsection, the Secretary shall give a greater weight to technical and performance-related factors than to cost and price-related factors.

(3) The Secretary shall give significant weight to the technical qualifications and past performance of the contractor and the major subcontractors or team members of the contractor in complying with applicable Federal, State, and local laws and regulations for environmental and worker protection. In accordance with the requirements of the Federal Acquisition Regulation, in the case of an offeror without a record of relevant past performance or for whom information on past performance is not available, the offeror may not be evaluated favorably or unfavorably on past performance.

(c) CONTRACT TERMS AND CONDITIONS.—The contract or contracts awarded by the Secretary pursuant to subsection (b) shall, at a minimum, provide for—

(1) the transfer of the vessel or vessels to the contractor or contractors;

(2) the sharing, by any appropriate contracting method, of the costs of scrapping the vessel or vessels between the Government and the contractor or contractors;

(3) a performance incentive for a successful record of environmental and worker protection; and

(4) Government access to contractor records in accordance with the requirements of section 2313 of title 10, United States Code.

(d) REPORTS.—(1) Not later than September 30, 1999, the Secretary of the Navy shall submit an interim report on the pilot program to the congressional defense committees. The report shall contain the following:

(A) The procedures used for the solicitation and award of a contract or contracts under the pilot program.

(B) The contract or contracts awarded under the pilot program.

(2) Not later than September 30, 2000, the Secretary of the Navy shall submit a final report on the pilot program to the congressional defense committees. The report shall contain the following:

(A) The results of the pilot program and the performance of the contractors under such program.

(B) The Secretary's procurement strategy for future ship scrapping activities.

Subtitle C—Miscellaneous Report Requirements and Repeals

SEC. 1021. REPEAL OF REPORTING REQUIREMENTS.

(a) REPORTS REQUIRED BY TITLE 10.—

(1) HEALTH AND MEDICAL CARE STUDIES AND DEMONSTRATIONS.—Section 1092(a) of title 10, United States Code, is amended by striking out paragraph (3).

(2) ANNUAL REPORT ON USE OF MONEY RENTALS FOR LEASES OF NON-EXCESS PROPERTY.—Section 2667(d) of title 10, United States Code, is amended—

(A) in paragraph (1)(A)(ii), by striking out "paragraph (4) or (5)" and inserting in lieu thereof "paragraph (3) or (4)".

(B) by striking out paragraph (3); and

(C) by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

(b) REPORT REQUIRED BY MILITARY CONSTRUCTION AUTHORIZATION ACT.—Section 2819 of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100–456; 102 Stat. 2119; 10 U.S.C. 2391 note,), relating to the Commission on Alternative Utilization of Military Facilities, is amended—

(1) in subsection (a) by striking out "(a) ESTABLISHMENT OF COMMISSION.—"; and

(2) by striking out subsections (b) and (c).

SEC. 1022. REPORT ON DEPARTMENT OF DEFENSE FINANCIAL MANAGEMENT IMPROVEMENT PLAN.

Not later than 60 days after the date on which the Secretary of Defense submits the first biennial financial management improvement plan required by section 2222 of title 10, United States Code, the Comptroller General shall submit to Congress an analysis of the plan. The analysis shall include a discussion of the content of the plan and the extent to which the plan—

(1) complies with the requirements of such section 2222; and

(2) is a workable plan for addressing the financial management problems of the Department of Defense.

SEC. 1023. FEASIBILITY STUDY OF PERFORMANCE OF DEPARTMENT OF DEFENSE FINANCE AND ACCOUNTING FUNCTIONS BY PRIVATE SECTOR SOURCES OR OTHER FEDERAL GOVERNMENT SOURCES.

(a) STUDY REQUIRED.—The Secretary of Defense shall carry out a study of the feasibility and advisability of selecting on a competitive basis the source or sources for performing the finance and accounting functions of the Department of Defense from among private sector sources, the Defense Finance and Accounting Service of the Department of Defense, the military departments, and other Federal Government agencies.

(b) REPORT.—Not later than October 1, 1999, the Secretary shall submit a written report on the results of the study to Congress. The report shall include the following:

(1) A discussion of how the finance and accounting functions of the Department of Defense are performed, including the necessary operations, the operations actually performed, the personnel required for the operations, and the core competencies that are necessary for the performance of those functions.

(2) A comparison of the performance of the finance and accounting functions by the Defense Finance and Accounting Service with the performance of finance and accounting functions by the other sources referred to in subsection (a) that exemplify the best finance and accounting practices and results, together with a comparison of the costs of the performance of such functions by the Defense Finance and Accounting Service and the estimated costs of the performance of such functions by those other sources.

(3) The finance and accounting functions, if any, that are appropriate for performance by those other sources, together with a concept of operations that—

(A) specifies the mission;

(B) identifies the finance and accounting operations to be performed;

(C) describes the work force that is necessary to perform those operations;

(D) discusses where the operations are to be performed;

(E) describes how the operations are to be performed; and

(F) discusses the relationship between how the operations are to be performed and the mission.

(4) An analysis of how Department of Defense programs or processes would be affected by the performance of the finance and accounting functions of the Department of Defense by one or more of those other sources.

(5) The status of the efforts within the Department of Defense to consolidate and eliminate redundant finance and accounting systems and to better integrate the automated and manual systems of the department that provide input to financial management or accounting systems of the department.

(6) A description of a feasible and effective process for selecting, on a competitive basis, sources to perform the finance and accounting functions of the Department of Defense from among the sources referred to in subsection (a), including a discussion of the selection criteria considered appropriate.

(7) Any recommended policy for selecting sources to perform the finance and accounting functions of the Department of Defense on a competitive basis from among the sources referred to in subsection (a), together with such other recommendations that the Secretary considers appropriate.

(8) An analysis of the costs and benefits of the various policies and actions recommended.

(9) A discussion of any findings, analyses, and recommendations of the performance of the finance and accounting functions of the Department of Defense that have been made by the Task Force on Defense Reform appointed by the Secretary of Defense.

(c) MARKET RESEARCH.—In carrying out the study, the Secretary shall perform market research to determine whether the availability of responsible private sector sources of finance and accounting services is sufficient for there to be a reasonable expectation of meaningful competition for any contract for the procurement of finance and accounting services for the Department of Defense.

SEC. 1024. REORGANIZATION AND CONSOLIDATION OF OPERATING LOCATIONS OF THE DEFENSE FINANCE AND ACCOUNTING SERVICE.

(a) LIMITATION.—No operating location of the Defense Finance and Accounting Service may be closed before the date that is six months after the date on which the Secretary submits to Congress the plan required by subsection (b).

(b) PLAN REQUIRED.—The Secretary of Defense shall submit to Congress a strategic plan for improving the financial management operations at each of the operating locations of the Defense Finance and Accounting Service.

(c) CONTENT OF PLAN.—The plan shall include, at a minimum, the following:

(1) The workloads that it is necessary to perform at the operating locations each fiscal year.

(2) The capacity and number of operating locations that are necessary for performing the workloads.

(3) A discussion of the costs and benefits that could result from reorganizing the operating locations of the Defense Finance and Accounting Service on the basis of function performed, together with the Secretary's assessment of the feasibility of carrying out such a reorganization.

(d) SUBMITTAL OF PLAN.—The plan shall be submitted to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives not later than December 15, 1998.

SEC. 1025. REPORT ON INVENTORY AND CONTROL OF MILITARY EQUIPMENT.

(a) REPORT REQUIRED.—Not later than March 1, 1999, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report on the inventory and control of the military equipment of the Department of Defense as of the end of fiscal year 1998. The report shall address the inventories of each of the Army, Navy, Air Force, and Marine Corps separately.

(b) CONTENT.—The report shall include the following:

(1) For each item of military equipment in the inventory, stated by item nomenclature—

(A) the quantity of the item in the inventory as of the beginning of the fiscal year;

(B) the quantity of acquisitions of the item during the fiscal year;

(C) the quantity of disposals of the item during the fiscal year;

(D) the quantity of losses of the item during the performance of military missions during the fiscal year; and

(E) the quantity of the item in the inventory as of the end of the fiscal year.

(2) A reconciliation of the quantity of each item in the inventory as of the beginning of the fiscal year with the quantity of the item in the inventory as of the end of fiscal year.

(3) For each item of military equipment that cannot be reconciled—

(A) an explanation of why the quantities cannot be reconciled; and

(B) a discussion of the remedial actions planned to be taken, including target dates for accomplishing the remedial actions.

(4) Supporting schedules identifying the location of each item that are available to Congress or auditors of the Comptroller General upon request.

(c) MILITARY EQUIPMENT DEFINED.—For the purposes of this section, the term "military equipment" means all equipment that is used in support of military missions and is maintained on the visibility systems of the Army, Navy, Air Force, or Marine Corps.

(d) INSPECTOR GENERAL REVIEW.—Not later than June 1, 1999, the Inspector General of the Department of Defense shall review the report submitted to the committees under subsection (a) and shall submit to the committees any comments that the Inspector General considers appropriate.

SEC. 1026. REPORT ON CONTINUITY OF ESSENTIAL OPERATIONS AT RISK OF FAILURE BECAUSE OF COMPUTER SYSTEMS THAT ARE NOT YEAR 2000 COMPLIANT.

(a) FINDINGS.—Congress makes the following findings:

(1) Because of the way computers store and process dates, most computers will not function properly, or at all, after January 1, 2000, a problem that is commonly referred to as the year 2000 problem.

(2) The United States Government is currently conducting a massive program to identify and correct computer systems that suffer from the year 2000 problem.

(3) The cost to the Department of Defense of correcting this problem in its computer systems has been estimated to be more than $1,000,000,000.

(4) Other nations have failed to initiate aggressive action to identify and correct the year 2000 problem within their own computers.

(5) Unless other nations initiate aggressive actions to ensure the reliability and stability of certain communications and strategic systems, United States nationally security may be jeopardized.

(b) REPORT REQUIRED.—The Secretary of Defense and the Director of Central Intelligence shall jointly submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report on the plans of the Department of Defense and the intelligence community for ensuring the continuity of performance of essential operations that are at risk of failure because of computer systems and other information and support systems that are not year 2000 compliant.

(c) CONTENT.—The report shall contain, at a minimum, the following:

(1) A prioritization of mission critical systems to ensure that the most critical systems have the highest priority for efforts to reprogram computers to be year 2000 compliant.

(2) A discussion of the private and other public information and support systems relied on by the national security community, including the intelligence community, and the efforts under way to ensure that those systems are year 2000 compliant.

(3) The efforts under way to repair the underlying operating systems and infrastructure.

(4) The plans for comprehensive testing of Department of Defense systems, including simulated operational tests in mission areas.

(5) A comprehensive contingency plan, for the entire national security community, which provides for resolving emergencies resulting from a system that is not year 2000 compliant and includes provision for the creation of crisis action teams for use in resolving such emergencies.

(6) A discussion of the efforts undertaken to ensure the continued reliability of service on the systems used by the President and other leaders of the United States for communicating with the leaders of other nations.

(7) A discussion of the vulnerability of allied armed forces to failure systems that are not, or have critical components that are not, year 2000 compliant, together with an assessment of the potential problems for interoperability among the Armed Forces of the United States and allied armed forces because of the potential for failure of such systems.

(8) An estimate of the total cost of making the computer systems and other information and support systems comprising the computer networks of the Department of Defense and the intelligence community year 2000 compliant.

(9) The countries that have critical computer-based systems any disruption of which, due to not being year 2000 compliant, would cause a significant potential national security risk to the United States.

(10) A discussion of the cooperative arrangements between the United States and other nations to assist those nations in identifying and correcting (to the extent necessary to meet national security interests of the United States) any problems in their communications and strategic systems, or other systems identified by the Secretary of Defense, that make the systems not year 2000 compliant.

(11) A discussion of the threat posed to the national security interests of the United States from any potential failure of strategic systems of foreign countries that are not year 2000 compliant.

(d) SUBMITTAL.—The report shall be submitted not later than March 31, 1999, in classified form and, as necessary, unclassified form.

(e) INTERNATIONAL COOPERATIVE ARRANGEMENTS.—The Secretary of Defense, with the concurrence of the Secretary of State may enter into a cooperative arrangement with a representative of any foreign government to provide for the United States to assist the foreign government in identifying and correcting (to the extent necessary to meet national security interests of the United States) any problems in communications, strategic, or other systems of that foreign government that make the systems not year 2000 compliant.

(f) YEAR 2000 COMPLIANT.—In this section, the term "year 2000 compliant", with respect to a computer system or any other information or support system, means that the programs of the system correctly recognize dates in years after 1999 as being dates after 1999 for the purposes of program functions for which the correct date is relevant to the performance of the functions.

SEC. 1027. REPORTS ON NAVAL SURFACE FIRE-SUPPORT CAPABILITIES.

(a) NAVY REPORT.—(1) Not later than March 31, 1999, the Secretary of the Navy shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report on battleship readiness for meeting requirements of the Armed Forces for naval surface fire support.

(2) The report shall contain the following:

(A) The reasons for the Secretary's failure to comply with the requirements of section 1011 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 421) until February 1998.

(B) The requirements for Air-Naval Gunfire Liaison Companies.

(C) The plans of the Navy for retaining and maintaining 16-inch ammunition for the main guns of battleships.

(D) The plans of the Navy for retaining the hammerhead crane essential for lifting battleship turrets.

(E) An estimate of the cost of reactivating Iowa-class battleships for listing on the Naval Vessel Register, restoring the vessels to seaworthiness with operational capabilities necessary to meet requirements for naval surface fire-support, and maintaining the battleships in that condition for continued listing on the register, together with an estimate of the time necessary to reactivate and restore the vessels to that condition.

(3) The Secretary shall act through the Director of Expeditionary Warfare Division (N85) of the Office of the Chief of Naval Operations in preparing the report.

(b) GAO REPORT.—(1) The Comptroller General shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report on the naval surface fire-support capabilities of the Navy.

(2) The report shall contain the following:

(A) An assessment of the extent of the compliance by the Secretary of the Navy with the requirements of section 1011 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 421).

(B) The plans of the Navy for executing the naval surface fire-support mission of the Navy.

(C) An assessment of the short-term costs and the long-term costs associated with the plans.

(D) An assessment of the short-term costs and the long-term costs associated with alternative methods for executing the naval surface fire-support mission of the Navy, including the alternative of reactivating two battleships.

SEC. 1028. REPORT ON ROLES IN DEPARTMENT OF DEFENSE AVIATION ACCIDENT INVESTIGATIONS.

(a) REPORT REQUIRED.—Not later than March 31, 1999, the Secretary of Defense shall submit to Congress a report on the roles of the Office of the Secretary of Defense and the Joint Staff in the investigation of Department of Defense aviation accidents.

(b) CONTENT OF REPORT.—The report shall include the following:

(1) An assessment of whether the Office of the Secretary of Defense and the Joint Staff should have more direct involvement in the investigation of military aviation accidents.

(2) The advisability of the Office of the Secretary of Defense, the Joint Staff, or another Department of Defense entity independent of the military departments supervising the conduct of aviation accident investigations.

(3) An assessment of the minimum training and experience required for aviation accident investigation board presidents and board members.

SEC. 1029. STRATEGIC PLAN FOR EXPANDING DISTANCE LEARNING INITIATIVES.

(a) PLAN REQUIRED.—The Secretary of Defense shall develop a strategic plan for guiding and expanding distance learning initiatives within the Department of Defense. The plan shall provide for an expansion of such initiatives over five consecutive fiscal years beginning with fiscal year 2000.

(b) CONTENT OF PLAN.—The strategic plan shall, at a minimum, contain the following:

(1) A statement of measurable goals and objectives and outcome-related performance indicators (consistent with section 1115 of title 31, United States Code, relating to agency performance plans) for the development and execution of distance learning initiatives throughout the Department of Defense.

(2) A detailed description of how distance learning initiatives are to be developed and managed within the Department of Defense.

(3) An assessment of the estimated costs and the benefits associated with developing and maintaining an appropriate infrastructure for distance learning.

(4) A statement of planned expenditures for the investments necessary to build and maintain the infrastructure.

(5) A description of the mechanisms that are to be used to supervise the development and coordination of the distance learning initiatives of the Department of Defense.

(c) RELATIONSHIP TO EXISTING INITIATIVE.—In developing the strategic plan, the Secretary may take into account the ongoing collaborative effort among the Department of Defense, other Federal agencies, and private industry that is known as the Advanced Distribution Learning initiative. However, the Secretary shall ensure that the strategic plan is specifically focused on the training and education goals and objectives of the Department of Defense.

(d) SUBMISSION TO CONGRESS.—The Secretary of Defense shall submit the strategic plan to Congress not later than March 1, 1999.

SEC. 1030. REPORT ON INVOLVEMENT OF ARMED FORCES IN CONTINGENCY AND ONGOING OPERATIONS.

(a) REPORT REQUIRED.—Not later than January 31, 1999, the Secretary of Defense shall submit to the congressional defense committees a report on the involvement of the Armed Forces of the United States in major contingency operations and major ongoing operations since the end of the Persian Gulf War, including such operations as the involvement in the Stabilization Force in Bosnia and Herzegovina, Operation Southern Watch, and Operation Northern Watch. The report shall contain the following:

(1) A discussion of the effects of that involvement on retention and reenlistment of personnel in the Armed Forces.

(2) The extent to which the use of combat support and combat service support personnel and equipment of the Armed Forces in the operations has resulted in shortages of Armed Forces personnel and equipment in other regions of the world.

(3) The accounts from which funds have been drawn to pay for the operations and the specific programs for which the funds were available until diverted to pay for the operations.

(4) The vital interests of the United States that are involved in each operation or, if none, the interests of the United States that are involved in each operation and a characterization of those interests.

(5) What clear and distinct objectives guide the activities of United States forces in each operation.

(6) What the President has identified on the basis of those objectives as the date, or the set of conditions, that defines the end of each operation.

(b) Form of Report.—The report shall be submitted in unclassified form, but may also be submitted in a classified form if necessary.

(c) Major Operation Defined.—For the purposes of this section, a contingency operation or an ongoing operation is a major contingency operation or a major ongoing operation, respectively, if the operation involves more than 500 members of the Armed Forces.

SEC. 1031. SUBMISSION OF REPORT ON OBJECTIVES OF A CONTINGENCY OPERATION WITH FIRST REQUEST FOR FUNDING THE OPERATION.

(a) Findings.—Congress makes the following findings:

(1) On May 3, 1994, the President issued Presidential Decision Directive 25 declaring that American participation in United Nations and other peace operations would depend in part on whether the role of United States forces is tied to clear objectives and an endpoint for United States participation can be identified.

(2) Between that date and mid-1998, the President and other executive branch officials have obligated or requested appropriations of approximately $9,400,000,000 for military-related operations throughout Bosnia and Herzegovina without providing to Congress, in conjunction with the budget submission for any fiscal year, a strategic plan for such operations under the criteria set forth in that Presidential Decision Directive.

(3) Between November 27, 1995, and mid-1998 the President has established three deadlines, since elapsed, for the termination of United States military-related operations throughout Bosnia and Herzegovina.

(4) On December 17, 1997, the President announced that United States ground combat forces would remain in Bosnia and Herzegovina for an unknown period of time.

(5) Approximately 47,880 United States military personnel (excluding personnel serving in units assigned to the Republic of Korea) have participated in 14 international contingency operations between fiscal years 1991 and 1998.

(6) The 1998 posture statements of the Navy and Air Force included declarations that the pace of military operations over fiscal year 1997 adversely affected the readiness of non-deployed forces, personnel retention rates, and spare parts inventories of the Navy and Air Force.

(b) Information To Be Reported With Funding Request.—Section 113 of title 10, United States Code, is amended by adding at the end the following:

"(l) Information To Accompany Initial Funding Request for Contingency Operation.—Whenever the President submits to Congress a request for appropriations for costs associated with a contingency operation that involves, or likely will involve, the deployment of more than 500 members of the armed forces, the Secretary of Defense shall submit to Congress a report on the objectives of the operation. The report shall include a discussion of the following:

"(1) What clear and distinct objectives guide the activities of United States forces in the operation.

"(2) What the President has identified on the basis of those objectives as the date, or the set of conditions, that defines the endpoint of the operation.".

SEC. 1032. REPORTS ON THE DEVELOPMENT OF THE EUROPEAN SECURITY AND DEFENSE IDENTITY.

(a) Requirement for Reports.—The Secretary of Defense shall submit to the congressional defense committees in accordance with this section reports on the development of the European Security and Defense Identity (ESDI) within the NATO Alliance that would enable the Western European Union (WEU), with the consent of the NATO Alliance, to assume the political control and strategic direction of NATO assets and capabilities made available by the Alliance.

(b) Reports To Be Submitted.—The reports required to be submitted under subsection (a) are as follows:

(1) An initial report, submitted not later than December 15, 1998, that contains a discussion of the actions taken, and the plans for future actions, to build the European Security and Defense Identity, together with the matters required under subsection (c).

(2) A semiannual report on the progress made toward establishing the European Security and Defense Identity, submitted not later than March 15 and December 15 of each year after 1998.

(c) Content of Reports.—The Secretary shall include in each report under this section the following:

(1) A discussion of the arrangements between NATO and the Western European Union for the release, transfer, monitoring, return, and recall of NATO assets and capabilities.

(2) A discussion of the development of such planning and other capabilities by the Western European Union that are necessary to provide political control and strategic direction of NATO assets and capabilities.

(3) A discussion of the development of terms of reference for the Deputy Supreme Allied Commander, Europe, with respect to the European Security and Defense Identity.

(4) A discussion of the arrangements for the assignment or appointment of NATO officers to serve in two positions concurrently (commonly referred to as "dual-hatting").

(5) A discussion of the development of the Combined Joint Task Force (CJTF) concept, including lessons-learning from the NATO-led Stabilization Force in Bosnia.

(6) Identification within the NATO Alliance of the types of separable but not separate capabilities, assets, and support assets for Western European Union-led operations.

(7) Identification of separable but not separate headquarters, headquarters elements, and command positions for command and conduct of Western European Union-led operations.

(8) The conduct by NATO, at the request of and in coordination with the Western European Union, of military planning and exercises for illustrative missions.

(9) A discussion of the arrangements between NATO and the Western European Union for the sharing of information, including intelligence.

(10) Such other information as the Secretary considers useful for a complete understanding of the establishment of the European Security and Defense Identity within the NATO Alliance.

(d) Termination of Semiannual Reporting Requirement.—No report is required under subsection (b)(2) after the Secretary submits under that subsection a report in which the Secretary states that the European Security and Defense Identity has been fully established.

SEC. 1033. REPORT ON REDUCTION OF INFRASTRUCTURE COSTS AT BROOKS AIR FORCE BASE, TEXAS.

(a) Requirement.—Not later than December 31, 1998, the Secretary of the Air Force shall, in consultation with the Secretary of Defense, submit to the congressional defense committees a report on means of reducing significantly the infrastructure costs at Brooks Air Force Base, Texas, while also maintaining or improving the support for Department of Defense missions and personnel provided through Brooks Air Force Base.

(b) Elements.—The report shall include the following:

(1) A description of any barriers (including barriers under law and through policy) to improved infrastructure management at Brooks Air Force Base.

(2) A description of means of reducing infrastructure management costs at Brooks Air Force Base through cost-sharing arrangements and more cost-effective utilization of property.

(3) A description of any potential public partnerships or public-private partnerships to enhance management and operations at Brooks Air Force Base.

(4) An assessment of any potential for expanding infrastructure management opportunities at Brooks Air Force Base as a result of initiative considered at the Base or at other installations.

(5) An analysis (including appropriate data) on current and projected costs of the ownership or lease of Brooks Air Force Base under a variety of ownership or leasing scenarios, including the savings that would accrue to the Air Force under such scenarios and a schedule for achieving such savings.

(6) Any recommendations relating to reducing the infrastructure costs at Brooks Air Force Base that the Secretary considers appropriate.

SEC. 1034. ANNUAL GAO REVIEW OF F/A-18E/F AIRCRAFT PROGRAM.

(a) Review and Report Required.—Not later than June 15 of each year, the Comptroller General shall review the F/A-18E/F aircraft program and submit to Congress a report on the results of the review. The Comptroller General shall also submit to Congress with each report a certification regarding whether the Comptroller General has had access to sufficient information to make informed judgments on the matters covered by the report.

(b) Content of Report.—The report submitted on the program each year shall include the following:

(1) The extent to which engineering and manufacturing development and operational test and evaluation under the program are meeting the goals established for engineering and manufacturing development and operational test and evaluation under the program, including the performance, cost, and schedule goals.

(2) The status of modifications expected to have a significant effect on the cost or performance of the F/A-18E/F aircraft.

(c) DURATION OF REQUIREMENT.—The Comptroller General shall submit the first report under this section not later than June 15, 1999. No report is required under this section after the full rate production contract is awarded under the program.

(d) REQUIREMENT TO SUPPORT ANNUAL GAO REVIEW.—The Secretary of Defense and the prime contractors under the F/A-18E/F aircraft program shall timely provide the Comptroller General with such information on the program, including information on program performance, as the Comptroller General considers necessary to carry out the responsibilities under this section.

SEC. 1035. REVIEW AND REPORT REGARDING THE DISTRIBUTION OF NATIONAL GUARD RESOURCES AMONG STATES.

(a) REQUIREMENT FOR REVIEW.—The Chief of the National Guard Bureau shall review the process used for allocating and distributing resources, including all categories of full-time manning, among the States for the National Guard of the States.

(b) PURPOSE OF REVIEW.—The purpose of the review is to determine whether the process provides for adequately funding the National Guard of the States that have within the National Guard no unit or few (15 or less) units categorized in readiness tiers I, II, and III.

(c) MATTERS REVIEWED.—The matters reviewed shall include the following:

(1) The factors considered for the process of determining the distribution of resources, including the weights assigned to the factors.

(2) The extent to which the process results in funding for the units of the States described in subsection (b) at the levels necessary to optimize the preparedness of the units to meet the mission requirements applicable to the units.

(3) The effects that funding at levels determined under the process will have on the National Guard of those States in the future, including the effects on all categories of full-time manning, and unit readiness, recruitment, and continued use of existing National Guard armories and other facilities.

(d) REPORT.—Not later than March 15, 1999, the Chief of the National Guard Bureau shall submit a report on the results of the review to the congressional defense committees.

SEC. 1036. REPORT ON THE PEACEFUL EMPLOYMENT OF FORMER SOVIET EXPERTS ON WEAPONS OF MASS DESTRUCTION.

(a) REPORT REQUIRED.—Not later than January 31, 1999, the Secretary of Defense shall submit to the congressional defense committees a report on the need for and the feasibility of programs, other than those involving the development or promotion of commercially viable proposals, to further United States nonproliferation objectives regarding former Soviet experts in ballistic missiles or weapons of mass destruction. The report shall contain an analysis of the following:

(1) The number of such former Soviet experts who are, or are likely to become within the coming decade, unemployed, underemployed, or unpaid and, therefore, at risk of accepting export orders, contracts, or job offers from countries developing weapons of mass destruction.

(2) The extent to which the development of nonthreatening, commercially viable products and services, with or without United States assistance, can reasonably be expected to employ such former experts.

(3) The extent to which projects that do not involve the development of commercially viable products or services could usefully employ additional such former experts.

(4) The likely cost and benefits of a 10-year program of United States or international assistance to projects of the sort discussed in paragraph (3).

(b) CONSULTATION REQUIREMENT.—The report shall be prepared in consultation with the Secretary of State, the Secretary of Energy, and such other officials as the Secretary of Defense considers appropriate.

Subtitle D—Other Matters

SEC. 1041. COOPERATIVE COUNTERPROLIFERATION PROGRAM.

(a) ASSISTANCE AUTHORIZED.—Subject to subsection (b), the Secretary of Defense may provide a foreign country or any of its instrumentalities with assistance that the Secretary determines necessary for destroying, removing, or obtaining from that country—

(1) weapons of mass destruction; or

(2) materials, equipment, or technology related to the delivery or development of weapons of mass destruction.

(b) CERTIFICATION REQUIRED.—(1) Not later than 15 days before providing assistance under subsection (a) regarding weapons, materials, equipment, or technology referred to in that subsection, the Secretary of Defense shall certify to the congressional defense committees that the weapons, materials, equipment, or technology meet each of the following requirements:

(A) The weapons, materials, equipment, or technology are at risk of being sold or otherwise transferred to a restricted foreign state or entity.

(B) The transfer of the weapons, materials, equipment, or technology would pose a significant threat to national security interests of the United States or would significantly advance a foreign country's weapon program that threatens national security interests of the United States.

(C) Other options for securing or otherwise preventing the transfer of the weapons, materials, equipment, or technology have been considered and rejected as ineffective or inadequate.

(2) The Secretary may waive the deadline for submitting a certification required under paragraph (1) in any case if the Secretary determines that compliance with the requirement would compromise national security objectives of the United States in that case. The Secretary shall promptly notify the Chairman and ranking minority members of the congressional defense committees regarding the waiver and submit the certification not later than 45 days after completing the action of providing the assistance in the case.

(3) No assistance may be provided under subsection (a) in any case unless the Secretary submits the certification required under paragraph (1) or a notification required under paragraph (2) in such case.

(c) ANNUAL REPORTS.—(1) Not later than January 30 of each year, the Secretary of Defense shall submit to the congressional defense committees a report on the activities carried out under this section. The first annual report shall be submitted not later than January 30, 2000.

(2) Each annual report shall set forth in separate sections for the previous year the following:

(A) The assistance provided under this section and the purposes for which provided.

(B) The sources of funds for the assistance provided.

(C) Any assistance provided for the Department of Defense under this section by any other department or agency of the Federal Government, together with the source or sources of that assistance.

(D) Any other information that the Secretary considers appropriate for informing the appropriate congressional committees about actions taken under this section.

(d) DEFINITIONS.—In this section:

(1) The term "restricted foreign state or entity", with respect to weapons, materials, equipment, or technology covered by a certification of the Secretary of Defense under subsection (b), means—

(A) any foreign country the government of which has repeatedly provided support for acts of international terrorism, as determined by the Secretary of State determines under section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371); or

(B) any foreign state or entity that the Secretary of Defense determines would constitute a military threat to the territory of the United States, national security interests of the United States, or allies of the United States, if that foreign state or entity were to possess the weapons, materials, equipment, or technology.

(2) The term "weapon of mass destruction" has the meaning given that term in section 1402 of the Defense Against Weapons of Mass Destruction Act of 1996 (50 U.S.C. 2302(1)).

SEC. 1042. EXTENSION OF COUNTERPROLIFERATION AUTHORITIES FOR SUPPORT OF UNITED NATIONS SPECIAL COMMISSION ON IRAQ.

Section 1505 of the Weapons of Mass Destruction Control Act of 1992 (title XV of Public Law 102-484; 22 U.S.C. 5859a) is amended—

(1) in subsection (d)(3), by striking out "or $15,000,000 for fiscal year 1998" and inserting in lieu thereof "or $15,000,000 for each of fiscal years 1998 and 1999"; and

(2) in subsection (f), by striking out "fiscal year 1998" and inserting in lieu thereof "fiscal year 1999".

SEC. 1043. ONE-YEAR EXTENSION OF LIMITATION ON RETIREMENT OR DISMANTLEMENT OF STRATEGIC NUCLEAR DELIVERY SYSTEMS.

Section 1302 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105-85; 111 Stat. 1948) is amended—

(1) by striking out "during fiscal year 1998" each place it appears and inserting in lieu thereof "during any fiscal year"; and

(2) by adding at the end the following:

"(g) APPLICABILITY TO FISCAL YEARS 1998 AND 1999.—This section applies to fiscal years 1998 and 1999.".

SEC. 1044. DIRECT-LINE COMMUNICATION BETWEEN UNITED STATES AND RUSSIAN COMMANDERS OF STRATEGIC FORCES.

(a) SENSE OF CONGRESS.—It is the sense of Congress that a direct line of communication between the commanders in chief of the United States Strategic and Space Commands and the Commander of the Russian Strategic Rocket Forces could be a useful confidence-building tool.

(b) REPORT.—Not later than two months after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and to the Committee on National Security of the House of Representatives a report on the feasibility of initiating discussions on direct-line communication described in subsection (a).

SEC. 1045. CHEMICAL WARFARE DEFENSE.

(a) REVIEW AND MODIFICATION OF POLICIES AND DOCTRINE.—The Secretary of Defense shall review the policies and doctrines of the Department of Defense on chemical warfare defense and modify the policies and doctrine as appropriate to achieve the objectives set forth in subsection (b).

(b) OBJECTIVES.—The objectives for the modification of policies and doctrines of the Department of Defense on chemical warfare defense are as follows:

(1) To provide for adequate protection of personnel from any low-level exposure to a chemical warfare agent that would endanger the health of exposed personnel because of the deleterious effects of—

(A) a single exposure to the agent;

(B) exposure to the agent concurrently with other dangerous exposures, such as exposures to—

(i) other potentially toxic substances in the environment, including pesticides, other insect and vermin control agents, and environmental pollutants;

(ii) low-grade nuclear and electromagnetic radiation present in the environment;

(iii) preventive medications (that are dangerous when taken concurrently with other dangerous exposures referred to in this paragraph); and

(iv) occupational hazards, including battlefield hazards; and

(C) repeated exposures to the agent, or some combination of one or more exposures to the agent and other dangerous exposures referred to in subparagraph (B), over time.

(2) To provide for—

(A) the prevention of and protection against, and the detection (including confirmation) of, exposures to a chemical warfare agent (whether intentional or inadvertent) at levels that, even if not sufficient to endanger health immediately, are greater than the level that is recognized under Department of Defense policies as being the maximum safe level of exposure to that agent for the general population; and

(B) the recording, reporting, coordinating, and retaining of information on possible exposures described in subparagraph (A), including the monitoring of the health effects of exposures on humans and animals, and the documenting and reporting of those health effects specifically by location.

(3) Provide solutions for the concerns and mission requirements that are specifically applicable for one or more of the Armed Forces in a protracted conflict when exposures to chemical agents could be complex, dynamic, and occurring over an extended period.

(c) RESEARCH PROGRAM.—The Secretary of Defense shall develop and carry out a plan to establish a research program for determining the effects of chronic and low-dose exposures to chemical warfare agents. The research shall be designed to yield results that can guide the Secretary in the evolution of policy and doctrine on low-level exposures to chemical warfare agents. The plan shall state the objectives and scope of the program and include a 5-year funding plan.

(d) REPORT.—Not later than May 1, 1999, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report on the results of the review under subsection (a) and on the research program developed under subsection (c). The report shall include the following:

(1) Each modification of chemical warfare defense policy and doctrine resulting from the review.

(2) Any recommended legislation regarding chemical warfare defense.

(3) The plan for the research program.

SEC. 1046. ACCOUNTING TREATMENT OF ADVANCE PAYMENT OF PERSONNEL.

(a) TREATMENT.—Section 1006 of title 37, United States Code, is amended by adding at the end the following:

"(l) Notwithstanding any provision of chapter 15 of title 31, an amount paid a member under this section in advance of the fiscal year in which the member's entitlement to that amount accrues—

"(1) shall be treated as being obligated and expended in that fiscal year; and

"(2) may not be treated as reducing the unobligated balance of the appropriations available for military personnel, Reserve personnel, or National Guard personnel, as the case may be, for the fiscal year in which paid.".

(b) APPLICABILITY.—Subsection (l) of section 1006 of title 37, United States Code (as added by subsection (a)), shall apply to advance payments made under such section in fiscal years beginning after September 30, 1997.

SEC. 1047. REINSTATEMENT OF DEFINITION OF FINANCIAL INSTITUTION IN AUTHORITIES FOR REIMBURSING DEFENSE PERSONNEL FOR GOVERNMENT ERRORS IN DIRECT DEPOSITS OF PAY.

(a) MEMBERS OF THE ARMED FORCES.—Section 1053(d)(1) of title 10, United States Code, is amended to read as follows:

"(1) The term 'financial institution' means a bank, savings and loan association or similar institution, or a credit union chartered by the United States Government or a State.".

(b) CIVILIAN EMPLOYEES.—Section 1594(d)(1) of title 10, United States Code, is amended to read as follows:

"(1) The term 'financial institution' means a bank, savings and loan association or similar institution, or a credit union chartered by the United States Government or a State.".

SEC. 1048. PILOT PROGRAM ON ALTERNATIVE NOTICE OF RECEIPT OF LEGAL PROCESS FOR GARNISHMENT OF FEDERAL PAY FOR CHILD SUPPORT AND ALIMONY.

(a) PROGRAM REQUIRED.—The Secretary of Defense shall conduct a pilot program on alternative notice procedures for withholding or garnishment of pay for the payment of child support and alimony under section 459 of the Social Security Act (42 U.S.C. 659).

(b) PURPOSE.—The purpose of the pilot program is to test the efficacy of providing notice in accordance with subsection (c) to the person whose pay is to be withheld or garnisheed.

(c) NOTICE REQUIREMENTS.—Under the pilot program, if an agent designated under paragraph (1) of section 459(c) of the Social Security Act for members of the Armed Forces or employees of the Department of Defense receives notice or service of a court order, notice to withhold, or other legal process regarding a child support or alimony obligation of such a member or employee, the agent may omit from the notice that the agent sends to the member or employee under paragraph (2)(A) of that section the copy of the notice or service received by the agent. The agent shall include in the notice, which shall be in writing, the following:

(1) A description of the court order, notice to withhold, or other legal process.

(2) The identity of the court, administrative agency, or official that issued the order.

(3) The case number assigned by the court, administrative agency, or official.

(4) The amount of the obligation.

(5) The name of each person for whom the support or alimony is provided.

(6) The name, address, and telephone number of the person or office from which a copy of the notice or service may be obtained.

(d) PERIOD OF PILOT PROGRAM.—The Secretary shall commence the pilot program not later than 90 days after the date of the enactment of this Act. The pilot program shall terminate on September 30, 2000.

(e) REPORT.—Not later than April 1, 2001, the Secretary shall submit a report on the pilot program to Congress. The report shall contain the following:

(1) The number of notices that were issued in accordance with subsection (c) during the period of the pilot program.

(2) The number of persons who requested copies of the notice or service of the court order, notice of withholding, or other legal process involved.

(3) Any communication received by the Secretary or an agent referred to in subsection (c) complaining about not being furnished a copy of the notice or service of the court order, notice of withholding, or other legal process with the agent's notice.

SEC. 1049. COSTS PAYABLE TO THE DEPARTMENT OF DEFENSE AND OTHER FEDERAL AGENCIES FOR SERVICES PROVIDED TO THE DEFENSE COMMISSARY AGENCY.

(a) LIMITATION.—Section 2482(b)(1) of title 10, United States Code, is amended by adding at the end the following: "However, the Defense Commissary Agency may not pay for any such service any amount that exceeds the price at which the service could be procured in full and open competition (as such term is defined in section 4(6) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(6)).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply with respect to services provided or obtained on or after that date.

SEC. 1050. COLLECTION OF DISHONORED CHECKS PRESENTED AT COMMISSARY STORES.

Section 2486 of title 10, United States Code, is amended by adding at the end the following:

"(g) COLLECTION OF DISHONORED CHECKS.—(1) The Secretary of Defense may impose a charge for the collection of a check accepted at a commissary store that is not honored by the financial institution on which the check is drawn. The imposition and amounts of charges shall be consistent with practices of commercial grocery stores regarding dishonored checks.

"(2)(A) The following persons are liable to the United States for the amount of a check referred to in paragraph (1) that is returned unpaid to the United States, together with any charge imposed under that paragraph:

"(i) The person who presented the check.

"(ii) Any person whose status and relationship to the person who presented the check provide the basis for that person's eligibility to make purchases at a commissary store.

"(B) Any amount for which a person is liable under subparagraph (A) may be collected by deducting and withholding such amount from any amounts payable to that person by the United States.

"(3) Amounts collected as charges imposed under paragraph (1) shall be credited to the commissary trust revolving fund.

"(4) Appropriated funds may be used to pay any costs incurred in the collection of checks and charges referred to in paragraph (1). An appropriation account charged a cost under the preceding sentence shall be reimbursed the amount of that cost out of funds in the commissary trust revolving fund.

"(5) In this subsection, the term 'commissary trust revolving fund' means the trust revolving fund maintained by the Department of Defense for surcharge collections and proceeds of sales of commissary stores.".

SEC. 1051. DEFENSE COMMISSARY AGENCY TELECOMMUNICATIONS.

(a) Use of FTS 2000/2001.—The Secretary of Defense shall prescribe in regulations authority for the Defense Commissary Agency to meet its telecommunication requirements by obtaining telecommunication services and related items under the FTS 2000/2001 contract through a frame relay system procured for the agency.

(b) Report.—Upon the initiation of telecommunication service for the Defense Commissary Agency under the FTS 2000/2001 contract through the frame relay system, the Secretary of Defense shall submit to Congress a notification that the service has been initiated.

(c) Definition.—In this section, the term "FTS 2000/2001 contract" means the contract for the provision of telecommunication services for the Federal Government that was entered into by the Defense Information Technology Contract Organization.

SEC. 1052. RESEARCH GRANTS COMPETITIVELY AWARDED TO SERVICE ACADEMIES.

(a) United States Military Academy.—(1) Chapter 403 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 4358. Research grants: acceptance, application, and use

"(a) Acceptance of Competitively Awarded Grants.—The Superintendent of the Academy may accept a research grant that is awarded on a competitive basis by a source referred to in subsection (b) for a research project that is to be carried out by a professor or instructor of the Academy for a scientific, literary, or educational purpose.

"(b) Application for Grants.—A professor or instructor of the Academy, together with the Superintendent, may apply for a research grant referred to in subsection (a) from any corporation, fund, foundation, educational institution, or similar entity that is organized and operated primarily for scientific, literary, or educational purposes.

"(c) Administration of Grant Proceeds.—The Superintendent shall establish a special account for administering the proceeds of a research grant accepted under subsection (a) and shall use the account for the administration of such proceeds in accordance with applicable regulations and the terms and conditions of the grant.

"(d) Related Expenses.—Subject to such limitations as may be provided in appropriations Acts, appropriations available for the Academy may be used to pay expenses incurred by the Academy in pursuit of an award of a research grant authorized to be accepted under subsection (a).

"(e) Regulations.—The Secretary of the Army shall prescribe in regulations the requirements, restrictions, and conditions that the Secretary considers appropriate for the exercise and administration of the authority under this section.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"4358. Research grants: acceptance, application, and use.".

(b) United States Naval Academy.—(1) Chapter 603 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 6977. Research grants: acceptance, application, and use

"(a) Acceptance of Competitively Awarded Grants.—The Superintendent of the Academy may accept a research grant that is awarded on a competitive basis by a source referred to in subsection (b) for a research project that is to be carried out by a professor or instructor of the Academy for a scientific, literary, or educational purpose.

"(b) Application for Grants.—A professor or instructor of the Academy, together with the Superintendent, may apply for a research grant referred to in subsection (a) from any corporation, fund, foundation, educational institution, or similar entity that is organized and operated primarily for scientific, literary, or educational purposes.

"(c) Administration of Grant Proceeds.—The Superintendent shall establish a special account for administering the proceeds of a research grant accepted under subsection (a) and shall use the account for the administration of such proceeds in accordance with applicable regulations and the terms and conditions of the grant.

"(d) Related Expenses.—Subject to such limitations as may be provided in appropriations Acts, appropriations available for the Academy may be used to pay expenses incurred by the Academy in pursuit of an award of a research grant authorized to be accepted under subsection (a).

"(e) Regulations.—The Secretary of the Navy shall prescribe in regulations the requirements, restrictions, and conditions that the Secretary considers appropriate for the exercise and administration of the authority under this section.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"6977. Research grants: acceptance, application, and use.".

(c) United States Air Force Academy.—(1) Chapter 903 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 9357. Research grants: acceptance, application, and use

"(a) Acceptance of Competitively Awarded Grants.—The Superintendent of the Academy may accept a research grant that is awarded on a competitive basis by a source referred to in subsection (b) for a research project that is to be carried out by a professor or instructor of the Academy for a scientific, literary, or educational purpose.

"(b) Application for Grants.—A professor or instructor of the Academy, together with the Superintendent, may apply for a research grant referred to in subsection (a) from any corporation, fund, foundation, educational institution, or similar entity that is organized and operated primarily for scientific, literary, or educational purposes.

"(c) Administration of Grant Proceeds.—The Superintendent shall establish a special account for administering the proceeds of a research grant accepted under subsection (a) and shall use the account for the administration of such proceeds in accordance with applicable regulations and the terms and conditions of the grant.

"(d) Related Expenses.—Subject to such limitations as may be provided in appropriations Acts, appropriations available for the Academy may be used to pay expenses incurred by the Academy in pursuit of an award of a research grant authorized to be accepted under subsection (a).

"(e) Regulations.—The Secretary of the Air Force shall prescribe in regulations the requirements, restrictions, and conditions that the Secretary considers appropriate for the exercise and administration of the authority under this section.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"9357. Research grants: acceptance, application, and use.".

SEC. 1053. CLARIFICATION AND SIMPLIFICATION OF RESPONSIBILITIES OF INSPECTORS GENERAL REGARDING WHISTLEBLOWER PROTECTIONS.

(a) Roles of Inspectors General of the Armed Forces.—(1) Subsection (c) of section 1034 of title 10, United States Code, is amended—

(A) by striking out paragraph (1) and inserting in lieu thereof the following:

"(1) If a member of the armed forces submits to an Inspector General an allegation that a personnel action prohibited by subsection (b) has been taken (or threatened) against the member with respect to a communication described in paragraph (2), the Inspector General of the Department of Defense or the Inspector General of the armed force concerned shall take the action required under paragraph (3)."; and

(B) by striking out paragraph (3) and inserting in lieu thereof the following:

"(3) The Inspector General receiving an allegation as described in paragraph (1) shall expeditiously determine whether there is sufficient evidence to warrant an investigation of the allegation. Upon determining that an investigation is warranted, the Inspector General shall expeditiously investigate the allegation. In the case of an allegation received by the Inspector General of the Department of Defense, the Inspector General may delegate that duty to the Inspector General of the armed force concerned. Neither an initial determination nor an investigation is required under this paragraph in the case of an allegation made more than 60 days after the date on which the member becomes aware of the personnel action that is the subject of the allegation.

"(4) If an Inspector General within a military department receives an allegation covered by this subsection, that Inspector General shall promptly notify the Inspector General of the Department of Defense of the allegation in accordance with regulations prescribed under subsection (h).

"(5) The Inspector General of the Department of Defense, or the Inspector General of the Department of Transportation (in the case of a member of the Coast Guard when the Coast Guard is not operating as a service in the Navy), shall ensure that the inspector general conducting the investigation of an allegation under this paragraph is outside the immediate chain of command of both the member submitting the allegation and the individual or individuals alleged to have taken the retaliatory action.".

(2) Subsection (d) of such section is amended—

(A) by striking out "the Inspector General shall conduct" and inserting in lieu thereof "an Inspector General shall conduct"; and

(B) by adding at the end the following: "In the case of an allegation received by the Inspector General of the Department of Defense, the Inspector General may delegate that duty to the Inspector General of the armed force concerned.".

(b) Mismanagement Covered by Protected Communications.—Subsection (c)(2)(B) of such section is amended by striking out "Mismanagement" and inserting in lieu thereof "Gross mismanagement".

(c) SIMPLIFIED REPORTING AND NOTICE REQUIREMENTS.—(1) Paragraph (1) of subsection (e) of such section is amended—

(A) by striking out "the Inspector General shall submit a report on" and inserting in lieu thereof "the Inspector General conducting the investigation shall provide"; and

(B) inserting "shall transmit a copy of the report on the results of the investigation to" before "the member of the armed forces".

(2) Paragraph (2) of such subsection is amended by adding at the end the following: "However, the copy need not include summaries of interviews conducted, nor any document acquired, during the course of the investigation. Such items shall be transmitted to the member if the member requests the items, whether before or after the copy of the report is transmitted to the member.".

(3) Paragraph (3) of such subsection is amended by striking out "90 days" and inserting in lieu thereof "120 days".

(d) REPEAL OF POST-INVESTIGATION INTERVIEW REQUIREMENT.—Subsection (h) of such section is repealed.

(e) INSPECTOR GENERAL DEFINED.—Subsection (j)(2) of such section is amended—

(1) by redesignating subparagraph (B) as subparagraph (G) and, in that subparagraph, by striking out "an officer" and inserting in lieu thereof "An officer";

(2) by striking out subparagraph (A) and inserting in lieu thereof the following:

"(A) The Inspector General of the Department of Defense.

"(B) The Inspector General of the Department of Transportation, in the case of a member of the Coast Guard when the Coast Guard is not operating as a service in the Navy.

"(C) The Inspector General of the Army, in the case of a member of the Army.

"(D) The Naval Inspector General, in the case of a member of the Navy.

"(E) The Inspector General of the Air Force, in the case of a member of the Air Force.

"(F) The Deputy Naval Inspector General for Marine Corps Matters, in the case of a member of the Marine Corps."; and

(3) in the matter preceding subparagraph (A), by striking out "means—" and inserting in lieu thereof "means the following:".

(f) TECHNICAL AND CONFORMING AMENDMENTS.—(1) Subsections (i) and (j) of such section are redesignated as subsections (h) and (i), respectively.

(2) Subsection (b)(1)(B)(ii) of such section is amended by striking out "subsection (j))" and inserting in lieu thereof "subsection (i)) or any other Inspector General appointed under the Inspector General Act of 1978".

SEC. 1054. AMOUNTS RECOVERED FROM CLAIMS AGAINST THIRD PARTIES FOR LOSS OR DAMAGE TO PERSONAL PROPERTY SHIPPED OR STORED AT GOVERNMENT EXPENSE.

(a) IN GENERAL.—Chapter 163 of title 10, United States Code, is amended by adding at the end the following new section:

"§2739. Amounts recovered from claims against third parties for loss or damage to personal property shipped or stored at Government expense

"(a) CREDITING OF COLLECTIONS.—Amounts collected as described in subsection (b) by or for a military department in any fiscal year shall be credited to the appropriation that is available for that fiscal year for the military department for the payment of claims for loss or damage of personal property shipped or stored at Government expense. Amounts so credited shall be merged with the funds in the appropriation and shall be available for the same period and purposes as the funds with which merged.

"(b) COLLECTIONS COVERED.—An amount authorized for crediting in accordance with subsection (a) is any amount that a military department collects under sections 3711, 3716, 3717 and 3721 of title 31 from a third party for a loss or damage to personal property that occurred during shipment or storage of the property at Government expense and for which the Secretary of the military department paid the owner in settlement of a claim.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2739. Amounts recovered from claims against third parties for loss or damage to personal property shipped or stored at government expense.".

SEC. 1055. ELIGIBILITY FOR ATTENDANCE AT DEPARTMENT OF DEFENSE DOMESTIC DEPENDENT ELEMENTARY AND SECONDARY SCHOOLS.

(a) MILITARY DEPENDENTS.—Subsection (a) of section 2164 of title 10, United States Code, is amended—

(1) by designating the first sentence as paragraph (1);

(2) by designating the second sentence as paragraph (2); and

(3) by adding at the end of paragraph (2), as so designated, the following: "The Secretary may also permit a dependent of a member of the armed forces to enroll in such a program if the dependent is residing in such a jurisdiction, whether on or off a military installation, while the member is assigned away from that jurisdiction on a remote or unaccompanied assignment under permanent change of station orders.".

(b) EMPLOYEE DEPENDENTS.—Subsection (c)(2) of such section is amended by striking out subparagraph (B) and inserting in lieu thereof the following:

"(B) The Secretary may extend the enrollment of a dependent referred to in subparagraph (A) in the program for more than five consecutive school years if the Secretary determines that the dependent is eligible under paragraph (1), space is available in the program, and adequate arrangements are made for reimbursement of the Secretary for the costs to the Secretary of the educational services provided for the dependent. An extension shall be for only one school year, but the Secretary may authorize a successive extension each year for the next school year upon making the determinations required under the preceding sentence for that next school year.".

(c) CUSTOMS SERVICE EMPLOYEE DEPENDENTS IN PUERTO RICO.—(1) Subsection (c) of such section is further amended by adding at the end the following:

"(4)(A) A dependent of a United States Customs Service employee who resides in Puerto Rico but not on a military installation may enroll in an educational program provided by the Secretary pursuant to subsection (a) in Puerto Rico.

"(B) Notwithstanding the limitation on duration of enrollment set forth in paragraph (2), a dependent described in subparagraph (A) who is enrolled in an education program described in that subparagraph may be removed from the program only for good cause (as determined by the Secretary). No requirement under that paragraph for reimbursement of the Secretary for the costs of educational services provided for the dependent shall apply with respect to the dependent.

"(C) In the event of the death in the line of duty of an employee described in subparagraph (A), a dependent of the employee may remain enrolled in an educational program described in that subparagraph until—

"(i) the end of the academic year in which the death occurs; or

"(ii) the dependent is removed for good cause (as so determined).".

(2) The amendment made by paragraph (1) shall take effect on the date of enactment of this Act and apply to academic years beginning on or after that date.

SEC. 1056. FEES FOR PROVIDING HISTORICAL INFORMATION TO THE PUBLIC.

(a) ARMY.—(1) Chapter 437 of title 10, United States Code, is amended by adding at the end the following:

"§4595. Army Military History Institute: fee for providing historical information to the public

"(a) AUTHORITY.—Except as provided in subsection (b), the Secretary of the Army may charge a person a fee for providing the person with information requested by the person that is provided from the United States Army Military History Institute.

"(b) EXCEPTIONS.—A fee may not be charged under this section—

"(1) to a person for information that the person requests to carry out a duty as a member of the armed forces or an officer or employee of the United States; or

"(2) for a release of information under section 552 of title 5.

"(c) LIMITATION ON AMOUNT OF FEE.—The amount of the fee charged under this section for providing information may not exceed the cost of providing the information.

"(d) RETENTION OF FEES.—Amounts received under subsection (a) for providing information in any fiscal year shall be credited to the appropriation or appropriations charged the costs of providing information to the public from the United States Army Military History Institute during that fiscal year.

"(e) DEFINITIONS.—In this section:

"(1) The term 'United States Army Military History Institute' means the archive for historical records and materials of the Army that the Secretary of the Army designates as the primary archive for such records and materials.

"(2) The terms 'officer of the United States' and 'employee of the United States' have the meanings given those terms in sections 2104 and 2105, respectively, of title 5.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following:

"4595. Army Military History Institute: fee for providing historical information to the public.".

(b) NAVY.—(1) Chapter 649 of such title 10 is amended by adding at the end the following new section:

"§7582. Naval and Marine Corps Historical Centers: fee for providing historical information to the public

"(a) AUTHORITY.—Except as provided in subsection (b), the Secretary of the Navy may charge a person a fee for providing the person with information requested by the person that is provided from the United States Naval Historical Center or the Marine Corps Historical Center.

"(b) EXCEPTIONS.—A fee may not be charged under this section—

"(1) to a person for information that the person requests to carry out a duty as a member of the armed forces or an officer or employee of the United States; or

"(2) for a release of information under section 552 of title 5.

"(c) Limitation on Amount of Fee.—The amount of the fee charged under this section for providing information may not exceed the cost of providing the information.

"(d) Retention of Fees.—Amounts received under subsection (a) for providing information from the United States Naval Historical Center or the Marine Corps Historical Center in any fiscal year shall be credited to the appropriation or appropriations charged the costs of providing information to the public from that historical center during that fiscal year.

"(e) Definitions.—In this section:

"(1) The term 'United States Naval Historical Center' means the archive for historical records and materials of the Navy that the Secretary of the Navy designates as the primary archive for such records and materials.

"(2) The term 'Marine Corps Historical Center' means the archive for historical records and materials of the Marine Corps that the Secretary of the Navy designates as the primary archive for such records and materials.

"(3) The terms 'officer of the United States' and 'employee of the United States' have the meanings given those terms in sections 2104 and 2105, respectively, of title 5.".

(2) The heading of such chapter is amended by striking out "related".

(3)(A) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"7582. Naval and Marine Corps Historical Centers: fee for providing historical information to the public.".

(B) The item relating to such chapter in the tables of chapters at the beginning of subtitle C of title 10, United States Code, and the beginning of part IV of such subtitle is amended by striking out "Related".

(c) Air Force.—(1) Chapter 937 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 9594. Air Force Military History Institute: fee for providing historical information to the public

"(a) Authority.—Except as provided in subsection (b), the Secretary of the Air Force may charge a person a fee for providing the person with information requested by the person that is provided from the United States Air Force Military History Institute.

"(b) Exceptions.—A fee may not be charged under this section—

"(1) to a person for information that the person requests to carry out a duty as a member of the armed forces or an officer or employee of the United States; or

"(2) for a release of information under section 552 of title 5.

"(c) Limitation on Amount of Fee.—The amount of the fee charged under this section for providing information may not exceed the cost of providing the information.

"(d) Retention of Fees.—Amounts received under subsection (a) for providing information in any fiscal year shall be credited to the appropriation or appropriations charged the costs of providing information to the public from the United States Air Force Military History Institute during that fiscal year.

"(e) Definitions.—In this section:

"(1) The term 'United States Air Force Military History Institute' means the archive for historical records and materials of the Air Force that the Secretary of the Air Force designates as the primary archive for such records and materials.

"(2) The terms 'officer of the United States' and 'employee of the United States' have the meanings given those terms in sections 2104 and 2105, respectively, of title 5.".

(2) The table of sections at the beginning of such chapter 937 is amended by adding at the end the following new item:

"9594. Air Force Military History Institute: fee for providing historical information to the public.".

SEC. 1057. PERIODIC INSPECTION OF THE ARMED FORCES RETIREMENT HOME.

(a) Inspection by Inspectors General of the Armed Forces.—Section 1518 of the Armed Forces Retirement Home Act of 1991 (24 U.S.C. 418) is amended to read as follows:

"SEC. 1518. INSPECTION OF RETIREMENT HOME.

"(a) Triennial Inspection.—Every three years the Inspector General of an armed force shall inspect the Retirement Home, including the records of the Retirement Home.

"(b) Alternating Duty Among Inspectors General.—The duty to inspect the Retirement Home shall alternate among the Inspector General of the Army, the Naval Inspector General, and the Inspector General of the Air Force on such schedule as the Secretary of Defense shall direct.

"(c) Reports.—Not later than 45 days after completing an inspection under subsection (a), the Inspector General carrying out the inspection shall submit to the Retirement Home Board, the Secretary of Defense, and Congress a report describing the results of the inspection and containing such recommendations as the Inspector General considers appropriate.".

(b) First Inspection.—The first inspection under section 1518 of the Armed Forces Retirement Home Act of 1991, as amended by subsection (a), shall be carried out during fiscal year 1999.

SEC. 1058. TRANSFER OF F-4 PHANTOM II AIRCRAFT TO FOUNDATION.

(a) Authority.—The Secretary of the Air Force may convey, without consideration to the Collings Foundation, Stow, Massachusetts (in this section referred to as the "foundation"), all right, title, and interest of the United States in and to one surplus F-4 Phantom II aircraft. The conveyance shall be made by means of a conditional deed of gift.

(b) Condition of Aircraft.—The Secretary may not convey ownership of the aircraft under subsection (a) until the Secretary determines that the foundation has altered the aircraft in such manner as the Secretary determines necessary to ensure that the aircraft does not have any capability for use as a platform for launching or releasing munitions or any other combat capability that it was designed to have. The Secretary is not required to repair or alter the condition of the aircraft before conveying ownership of the aircraft.

(c) Reverter Upon Breach of Conditions.—The Secretary shall include in the instrument of conveyance of the aircraft—

(1) a condition that the foundation not convey any ownership interest in, or transfer possession of, the aircraft to any other party without the prior approval of the Secretary of the Air Force;

(2) a condition that the operation and maintenance of the aircraft comply with all applicable limitations and maintenance requirements imposed by the Administrator of the Federal Aviation Administration; and

(3) a condition that if the Secretary of the Air Force determines at any time that the foundation has conveyed an ownership interest in, or transferred possession of, the aircraft to any other party without the prior approval of the Secretary, or has failed to comply with the condition set forth in paragraph (2), all right, title, and interest in and to the aircraft, including any repair or alteration of the aircraft, shall revert to the United States, and the United States shall have the right of immediate possession of the aircraft.

(d) Conveyance at No Cost to the United States.—The conveyance of an aircraft authorized by this section shall be made at no cost to the United States. Any costs associated with such conveyance, costs of determining compliance with subsection (b), and costs of operation and maintenance of the aircraft conveyed shall be borne by the foundation.

(e) Additional Terms and Conditions.—The Secretary of the Air Force may require such additional terms and conditions in connection with the conveyance under this section as the Secretary considers appropriate to protect the interests of the United States.

(f) Clarification of Liability.—Notwithstanding any other provision of law, upon the conveyance of ownership of the F-4 Phantom II aircraft to the foundation under subsection (a), the United States shall not be liable for any death, injury, loss, or damage that results from any use of that aircraft by any person other than the United States.

SEC. 1059. ACT CONSTITUTING PRESIDENTIAL APPROVAL OF VESSEL WAR RISK INSURANCE REQUESTED BY THE SECRETARY OF DEFENSE.

Section 1205(b) of the Merchant Marine Act of 1936 (46 U.S.C. App. 1285(b)) is amended by adding at the end the following: "The signature of the President (or of an official designated by the President) on the agreement shall be treated as an expression of the approval required under section 1202(a) to provide the insurance.".

SEC. 1060. COMMENDATION AND MEMORIALIZATION OF THE UNITED STATES NAVY ASIATIC FLEET.

(a) Findings.—Congress makes the following findings:

(1) The United States established the Asiatic Fleet of the Navy in 1910 to protect American nationals, policies, and possessions in the Far East.

(2) The sailors and Marines of the Asiatic Fleet ensured the safety of United States citizens and foreign nationals, and provided humanitarian assistance, in that region during the Chinese civil war, the Yangtze Flood of 1931, and the outbreak of Sino-Japanese hostilities.

(3) In 1940, due to deteriorating political relations and increasing tensions between the United States and Japan, a reinforced Asiatic Fleet began concentrating on the defense of the Philippines and engaged in extensive training to ensure maximum operational readiness for any eventuality.

(4) Following the declaration of war against Japan, the warships, submarines, and aircraft of the Asiatic Fleet singly or in task forces courageously fought many naval battles against a superior Japanese armada.

(5) The Asiatic Fleet directly suffered the loss of 22 ships, 1,826 men killed or missing in action, and 518 men captured and imprisoned under the worst of conditions with many of them dying while held as prisoners of war.

(b) Commendation.—Congress—

(1) commends the personnel who served in the Asiatic Fleet of the United States Navy during the period 1910 to 1942; and

(2) honors those who gave their lives in the line of duty while serving in the Asiatic Fleet.

(c) UNITED STATES NAVY ASIATIC FLEET MEMORIAL DAY.—The President is authorized and requested to issue a proclamation designating March 1, 1999 as "United States Navy Asiatic Fleet Memorial Day" and calling upon the people of the United States to observe United States Navy Asiatic Fleet Memorial Day with appropriate programs, ceremonies, and activities.

SEC. 1061. PROGRAM TO COMMEMORATE 50TH ANNIVERSARY OF THE KOREAN WAR.

(a) REFERENCE TO KOREAN WAR.—Section 1083 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 1918; 10 U.S.C. 113 note) is amended—

(1) in the section heading, by striking out "**KOREAN CONFLICT**" and inserting in lieu thereof "**KOREAN WAR**";

(2) by striking out "Korean conflict" each place it appears and inserting in lieu thereof "Korean War"; and

(3) in subsections (c) and (d)(1), by striking out "Korean Conflict" and inserting in lieu thereof "Korean War".

(b) LIMITATION ON EXPENDITURES.—Subsection (f) of such section is amended to read as follows:

"(f) LIMITATION ON EXPENDITURES.—The total amount expended for the commemorative program for fiscal years 1998 through 2004 by the Department of Defense 50th Anniversary of the Korean War Commemorative Committee established by the Secretary of Defense may not exceed $10,000,000.".

SEC. 1062. DEPARTMENT OF DEFENSE USE OF FREQUENCY SPECTRUM.

(a) FINDING.—Congress finds that the report submitted to Congress by the Secretary of Defense on April 2, 1998, regarding the reallocation of the frequency spectrum used or dedicated to the Department of Defense and the intelligence community, does not include a discussion of the costs to the Department of Defense that are associated with past and potential future reallocations of the frequency spectrum, although such a discussion was to be included in the report as directed in connection with the enactment of the National Defense Authorization Act for Fiscal Year 1998.

(b) ADDITIONAL REPORT.—The Secretary of Defense shall, not later than October 31, 1998, submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives a report that discusses the costs referred to in subsection (a).

(c) RELOCATION OF FEDERAL FREQUENCIES.—Section 113(g)(1) of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 923(g)(1)) is amended—

(1) by striking out "(1) IN GENERAL.—In order" and inserting in lieu thereof the following:

"(1) IN GENERAL.—

"(A) AUTHORITY OF FEDERAL ENTITIES TO ACCEPT COMPENSATION.—In order";

(2) in subparagraph (A), as so designated, by striking out the second, third, and fourth sentences and inserting in lieu thereof the following: "Any such Federal entity which proposes to so relocate shall notify the NTIA, which in turn shall notify the Commission, before the auction concerned of the marginal costs anticipated to be associated with such relocation or with modifications necessary to accommodate prospective licensees. The Commission in turn shall notify potential bidders of the estimated relocation or modification costs based on the geographic area covered by the proposed licenses before the auction; and

(3) by adding at the end the following:

"(B) REQUIREMENT TO COMPENSATE FEDERAL ENTITIES.—Any person on whose behalf a Federal entity incurs costs under subparagraph (A) shall compensate the Federal entity in advance for such costs. Such compensation may take the form of a cash payment or in-kind compensation.

"(C) DISPOSITION OF PAYMENTS.—

"(i) PAYMENT BY ELECTRONIC FUNDS TRANSFER.—A person making a cash payment under this paragraph shall make the cash payment by depositing the amount of the payment by electronic funds transfer in the account of the Federal entity concerned in the Treasury of the United States or in another account as authorized by law.

"(ii) AVAILABILITY.—Subject to the provisions of authorization Acts and appropriations Acts, amounts deposited under this subparagraph shall be available to the Federal entity concerned to pay directly the costs of relocation under this paragraph, to repay or make advances to appropriations or funds which do or will initially bear all or part of such costs, or to refund excess sums when necessary.

"(D) APPLICATION TO CERTAIN OTHER RELOCATIONS.—The provisions of this paragraph also apply to any Federal entity that operates a Federal Government station assigned to used electromagnetic spectrum identified for reallocation under subsection (a) if before August 5, 1997, the Commission has not identified that spectrum for service or assigned licenses or otherwise authorized service for that spectrum.

"(E) IMPLEMENTATION PROCEDURES.—The NTIA and the Commission shall develop procedures for the implementation of this paragraph, which procedures shall include a process for resolving any differences that arise between the Federal Government and commercial licensees regarding estimates of relocation or modification costs under this paragraph.

"(F) INAPPLICABILITY TO CERTAIN RELOCATIONS.—With the exception of spectrum located at 1710–1755 Megahertz, the provisions of this paragraph shall not apply to Federal spectrum identified for reallocation in the first reallocation report submitted to the President and Congress under subsection (a).".

(d) REPORTS ON COSTS OF RELOCATIONS.—The head of each department or agency of the Federal Government shall include in the annual budget submission of such department or agency to the Director of the Office of Management and Budget a report assessing the costs to be incurred by such department or agency as a result of any frequency relocations of such department or agency that are anticipated under section 113 of the National Telecommunications Information Administration Organization Act (47 U.S.C. 923) as of the date of such report.

SEC. 1063. TECHNICAL AND CLERICAL AMENDMENTS.

(a) TITLE 10, UNITED STATES CODE.—Title 10, United States Code, is amended as follows:

(1) The item relating to section 484 in the table of sections at the beginning of chapter 23 is amended to read as follows:

"484. Annual report on aircraft inventory.".

(2) Section 517(a) is amended by striking out "Except as provided in section 307 of title 37, the" and inserting in lieu thereof "The".

(3) The item relating to section 2302c in the table of sections at the beginning of chapter 137 is amended to read as follows:

"2302c. Implementation of electronic commerce capability.".

(4) The table of subchapters at the beginning of chapter 148 is amended by striking out "2491" in the item relating to subchapter I and inserting in lieu thereof "2500".

(5) Section 7045(c) is amended by striking out "the" after "are subject to".

(6) Section 7572(b) is repealed.

(7) Section 12683(b)(2) is amended by striking out "; or" at the end and inserting in lieu thereof a period.

(b) PUBLIC LAW 105–85.—Effective as of November 18, 1997, and as if included therein as enacted, the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85) is amended as follows:

(1) Section 1006(a) (111 Stat. 1869) is amended by striking out "or" in the quoted matter and inserting in lieu thereof "and".

(2) Section 3133(b)(3) (111 Stat. 2036) is amended by striking out "III" and inserting in lieu thereof "XIV".

(c) OTHER ACTS.—

(1) Section 18(c)(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 416(c)(1)) is amended by striking out the period at the end of subparagraph (A) and inserting in lieu thereof a semicolon.

(2) Section 3(c)(2) of Public Law 101–533 (22 U.S.C. 3142(c)(2)) is amended by striking out "included in the most recent plan submitted to the Congress under section 2506 of title 10" and inserting in lieu thereof "identified in the most recent assessment prepared under section 2505 of title 10".

(d) COORDINATION WITH OTHER AMENDMENTS.—For purposes of applying amendments made by provisions of this Act other than provisions of this section, this section shall be treated as having been enacted immediately before the other provisions of this Act.

SEC. 1064. EXTENSION AND REAUTHORIZATION OF DEFENSE PRODUCTION ACT OF 1950.

(a) EXTENSION OF TERMINATION DATE.—Section 717(a) of the Defense Production Act of 1950 (50 U.S.C. App. 2166(a)) is amended by striking "September 30, 1998" and inserting "September 30, 1999".

(b) EXTENSION OF AUTHORIZATION.—Section 711(b) of the Defense Production Act of 1950 (50 U.S.C. App. 2161(b)) is amended by striking "and 1998" and inserting "1998, and 1999".

SEC. 1065. BUDGETING FOR CONTINUED PARTICIPATION OF UNITED STATES FORCES IN NATO OPERATIONS IN BOSNIA AND HERZEGOVINA.

(a) FINDINGS.—Congress makes the following findings:

(1) Funding levels in the Department of Defense budget have not been sufficient to pay for the deployment of United States ground combat forces in Bosnia and Herzegovina that began in fiscal year 1996.

(2) The Department of Defense has used funds from the operation and maintenance accounts of the Armed Forces to pay for the operations because the funding levels included in the defense budgets for fiscal years 1996 and 1997 have not been adequate to maintain operations in Bosnia and Herzegovina.

(3) Funds necessary to continue United States participation in the NATO operations in Bosnia and Herzegovina, and to replace operation and maintenance funds used for the operations, have been requested by the President as supplemental appropriations in fiscal years 1996 and 1997. The Department of Defense has also proposed to reprogram previously appropriated funds to make up the shortfall for continued United States operations in Bosnia and Herzegovina.

(4) In February 1998, the President certified to Congress that the continued presence of United States forces in Bosnia and Herzegovina after June 30, 1998, was necessary in order to meet national security interests of the United States.

(5) The discretionary spending limit established for the defense category for fiscal year 1998 in the Balanced Budget and Emergency Deficit Control Act of 1985 does not take into account the continued deployment of United States forces in Bosnia and Herzegovina after June 30, 1998. Therefore, the President requested emergency supplemental appropriations for the Bosnia and Herzegovina mission through September 30, 1998.

(6) Amounts for operations in Bosnia and Herzegovina were not included in the original budget proposed by the President for the Department of Defense for fiscal year 1999.

(7) The President requested $1,858,600,000 in emergency appropriations in his March 4, 1998 amendment to the fiscal year 1999 budget to cover the shortfall in funding in the fiscal year 1999 for the costs of extending the mission in Bosnia.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the President should include in the budget for the Department of Defense that the President submits to Congress under section 1105(a) of title 31, United States Code, for each fiscal year sufficient amounts to pay for any proposed continuation of the participation of United States forces in NATO operations in Bosnia and Herzegovina for that fiscal year; and

(2) amounts included in the budget for that purpose should not be transferred from amounts that would otherwise be proposed in the budget of any of the Armed Forces in accordance with the future-years defense program related to that budget, or any other agency of the Executive Branch, but, instead, should be an overall increase in the budget for the Department of Defense.

SEC. 1066. NATO PARTICIPATION IN THE PERFORMANCE OF PUBLIC SECURITY FUNCTIONS OF CIVILIAN AUTHORITIES IN BOSNIA AND HERZEGOVINA.

(a) FINDINGS.—Congress makes the following findings:

(1) The North Atlantic Treaty Organization (NATO) has approved the creation of a multi-national specialized unit of gendarmes- or para-military police composed of European security forces to help promote public security in Bosnia and Herzegovina as a part of the post-June 1998 mission for the Stabilization Force (SFOR) authorized under the United Nations Security Council Resolution 1088 (December 12, 1996).

(2) On at least four occasions, beginning in July 1997, the Stabilization Force (SFOR) has been involved, pursuant to military annex 1(A) of the Dayton Agreement, in carrying out missions for the specific purpose of detaining war criminals, and on at least one of those occasions United States forces were directly involved in carrying out the mission.

(b) SENSE OF CONGRESS.—It is the sense of Congress that United States forces should not serve as civil police in Bosnia and Herzegovina.

(c) REQUIREMENT FOR REPORT.—The President shall submit to Congress, not later than October 1, 1998, a report on the status of the NATO force of gendarmes or paramilitary police referred to in subsection (a)(1), including the mission of the force, the composition of the force, and the extent, if any, to which members of the Armed Forces of the United States are participating (or are to participate) in the force.

SEC. 1067. PILOT PROGRAM FOR REVITALIZING THE LABORATORIES AND TEST AND EVALUATION CENTERS OF THE DEPARTMENT OF DEFENSE.

(a) FINDINGS.—Congress makes the following findings:

(1) Officials of the Department of Defense are critically dependent on the science and technology laboratories and test and evaluation centers, of the department—

(A) to exploit commercial technology for unique military purposes;

(B) to develop advanced technology in precise areas;

(C) to provide the officials with objective advice and counsel on science and technology matters; and

(D) to lead the decisionmaking that identifies the most cost-effective procurements of military equipment and services.

(2) The laboratories and test and evaluation centers are facing a number of challenges that, if not overcome, could limit the productivity and self-sustainability of the laboratories and centers, including—

(A) the declining funding provided for science and technology in the technology base program of the Department of Defense;

(B) difficulties experienced in recruiting, retaining, and motivating high-quality personnel; and

(C) the complex web of policies and regulatory constraints that restrict authority of managers to operate the laboratories and centers in a businesslike fashion.

(3) Congress has provided tools to deal with the changing nature of technological development in the defense sector by encouraging closer cooperation with industry and university research and by authorizing demonstrations of alternative personnel systems.

(4) A number of laboratories and test and evaluation centers have addressed the challenges and are employing a variety of innovative methods, such as the so-called "Federated Lab Concept" undertaken at the Army Research Laboratory, to maintain the high quality of the technical program, to provide a challenging work environment for researchers, and to meet the high cost demands of maintaining facilities that are equal or superior in quality to comparable facilities anywhere in the world.

(b) COMMENDATION.—Congress commends the Secretary of Defense for the progress made by the science and technology laboratories and test and evaluation centers to achieve the results described in subsection (a)(4) and encourages the Secretary to take the actions necessary to ensure continued progress for the laboratories and test and evaluation centers in developing cooperative relationships with universities and other private sector entities for the performance of research and development functions.

(c) PILOT PROGRAM.—(1) In conjunction with the plan for restructuring and revitalizing the science and technology laboratories and test and evaluation centers of the Department of Defense that is required by section 906 of this Act, the Secretary of Defense may carry out a pilot program to demonstrate improved cooperative relationships with universities and other private sector entities for the performance of research and development functions.

(2) Under the pilot program, the Secretary of Defense shall provide the director of one science and technology laboratory, and the director of one test and evaluation center, of each military department with authority for the following:

(A) To explore innovative methods for quickly, efficiently, and fairly entering into cooperative relationships with universities and other private sector entities with respect to the performance of research and development functions.

(B) To waive any restrictions on the demonstration and implementation of such methods that are not required by law.

(C) To develop or expand innovative methods of operation that provide more defense research for each dollar of cost, including to carry out such initiatives as focusing on the performance of core functions and adopting more business-like practices.

(3) In selecting the laboratories and centers for participation in the pilot program, the Secretary shall consider laboratories and centers where innovative management techniques have been demonstrated, particularly as documented under sections 1115 through 1119 of title 31, United States Code, relating to Government agency performance and results.

(4) The Secretary may carry out the pilot program at each selected laboratory and center for a period of three years beginning not later than March 1, 1999.

(d) REPORTS.—(1) Not later than March 1, 1999, the Secretary of Defense shall submit a report on the implementation of the pilot program to Congress. The report shall include the following:

(A) Each laboratory and center selected for the pilot program.

(B) To the extent possible, a description of the innovative concepts that are to be tested at each laboratory or center.

(C) The criteria to be used for measuring the success of each concept to be tested.

(2) Promptly after the expiration of the period for participation of a laboratory or center in the pilot program, the Secretary of Defense shall submit to Congress a final report on the participation of the laboratory or center in the pilot program. The report shall contain the following:

(A) A description of the concepts tested.

(B) The results of the testing.

(C) The lessons learned.

(D) Any proposal for legislation that the Secretary recommends on the basis of the experience at the laboratory or center under the pilot program.

SEC. 1068. SENSE OF CONGRESS REGARDING THE HEROISM, SACRIFICE, AND SERVICE OF FORMER SOUTH VIETNAMESE COMMANDOS IN CONNECTION WITH UNITED STATES ARMED FORCES DURING THE VIETNAM CONFLICT.

(a) FINDINGS.—Congress makes the following findings:

(1) South Vietnamese commandos were recruited by the United States as part of OPLAN 34A or its predecessor or OPLAN 35 from 1961 to 1970.

(2) The commandos conducted covert operations in North Vietnam during the Vietnam conflict.

(3) Many of the commandos were captured and imprisoned by North Vietnamese forces, some for as long as 20 years.

(4) The commandos served and fought proudly during the Vietnam conflict.

(5) Many of the commandos lost their lives serving in operations conducted by the United States during the Vietnam conflict.

(6) Many of the Vietnamese commandos now reside in the United States.

(b) SENSE OF CONGRESS—Congress recognizes and honors the former South Vietnamese commandos for their heroism, sacrifice, and service in connection with United States armed forces during the Vietnam conflict.

SEC. 1069. SENSE OF THE SENATE REGARDING DECLASSIFICATION OF CLASSIFIED INFORMATION OF THE DEPARTMENT OF DEFENSE AND THE DEPARTMENT OF ENERGY.

It is the sense of the Senate that the Secretary of Defense and the Secretary of Energy should submit to Congress a request for funds in fiscal year 2000 for activities relating to the declassification of information under the jurisdiction of such Secretaries in order to fulfill the obligations and commitments of such Secretaries under Executive Order No. 12958 and the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) and to the stakeholders.

SEC. 1070. RUSSIAN NONSTRATEGIC NUCLEAR WEAPONS.

(a) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the 7,000 to 12,000 or more nonstrategic (or "tactical") nuclear weapons estimated by the United States Strategic Command to be in the Russian arsenal may present the greatest threat of sale or theft of a nuclear warhead in the world today;

(2) as the number of deployed strategic warheads in the Russian and United States arsenals declines to just a few thousand under the START accords, Russia's vast superiority in tactical nuclear warheads—many of which have yields equivalent to strategic nuclear weapons—could become strategically destabilizing;

(3) while the United States has unilaterally reduced its inventory of tactical nuclear weapons by nearly 90 percent since the end of the cold war, Russia is behind schedule in implementing the steep tactical nuclear arms reductions pledged by former Soviet President Gorbachev in 1991 and Russian President Yeltsin in 1992, perpetuating the dangers from Russia's tactical nuclear stockpile; and

(4) the President of the United States should call on the Russian Federation to expedite reduction of its tactical nuclear arsenal in accordance with the promises made in 1991 and 1992.

(b) REPORT.—Not later than March 15, 1999, the Secretary of Defense shall submit to the Congress a report on Russia's nonstrategic nuclear weapons, including—

(1) estimates regarding the current numbers, types, yields, viability, and locations of such warheads;

(2) an assessment of the strategic implications of the Russian Federation's nonstrategic arsenal, including the potential use of such warheads in a strategic role or the use of their components in strategic nuclear systems;

(3) an assessment of the extent of the current threat of theft, sale, or unauthorized use of such warheads, including an analysis of Russian command and control as it concerns the use of tactical nuclear warheads; and

(4) a summary of past, current, and planned efforts to work cooperatively with the Russian Federation to account for, secure, and reduce Russia's stockpile of tactical nuclear warheads and associated fissile material.

(c) VIEWS.—This report shall include the views of the Director of Central Intelligence and the Commander in Chief of the United States Strategic Command.

SEC. 1071. SENSE OF SENATE ON NUCLEAR TESTS IN SOUTH ASIA.

(a) FINDINGS.—The Senate finds that—

(1) on May 11 and 13, 1998, the Government of India conducted a series of underground nuclear tests;

(2) on May 28 and 30, 1998, the Government of Pakistan conducted a series of underground nuclear tests;

(3) although not recognized or accepted as such by the United Nations Security Council, India and Pakistan have declared themselves nuclear weapon states;

(4) India and Pakistan have conducted extensive nuclear weapons research over several decades, resulting in the development of nuclear capabilities and the potential for the attainment of nuclear arsenals and the dangerous proliferation of nuclear weaponry;

(5) India and Pakistan have refused to enter into internationally recognized nuclear non-proliferation agreements, including the Comprehensive Test Ban Treaty, the Treaty on the Non-Proliferation of Nuclear Weapons, and full-scope safeguards agreements with the International Atomic Energy Agency;

(6) India and Pakistan, which have been at war with each other 3 times in the past 50 years, have urgent bilateral conflicts, most notably over the disputed territory of Kashmir;

(7) the testing of nuclear weapons by India and Pakistan has created grave and serious tensions on the Indian subcontinent; and

(8) the United States response to India and Pakistan's nuclear tests has included the imposition of wide-ranging sanctions as called for under the Arms Export Control Act and the Nuclear Proliferation Prevention Act of 1994.

(b) SENSE OF SENATE.—The Senate—

(1) strongly condemns the decisions by the governments of India and Pakistan to conduct nuclear tests in May 1998;

(2) supports the President's decision to carry out the provisions of the Nuclear Proliferation Prevention Act of 1994 with respect to India and Pakistan and invoke all sanctions in that Act;

(3) calls upon members of the international community to impose similar sanctions against India and Pakistan to those imposed by the United States;

(4) calls for the governments of India and Pakistan to commit not to conduct any additional nuclear tests;

(5) urges the governments of India and Pakistan to take immediate steps, bilaterally and under the auspices of the United Nations, to reduce tensions between them;

(6) urges India and Pakistan to engage in high-level dialogue aimed at reducing the likelihood of armed conflict, enacting confidence and security building measures, and resolving areas of dispute;

(7) commends all nations to take steps which will reduce tensions in South Asia, including appropriate measures to prevent the transfer of technology that could further exacerbate the arms race in South Asia, and thus avoid further deterioration of security there;

(8) calls upon the President to seek a diplomatic solution between the governments of India and Pakistan to promote peace and stability in South Asia and resolve the current impasse;

(9) encourages United States leadership in assisting the governments of India and Pakistan to resolve their 50-year conflict over the disputed territory in Kashmir;

(10) urges India and Pakistan to take immediate, binding, and verifiable steps to roll back their nuclear programs and come into compliance with internationally accepted norms regarding the proliferation of weapons of mass destruction; and

(11) urges the United States to reevaluate its bilateral relationship with India and Pakistan, in light of the new regional security realities in South Asia, with the goal of preventing further nuclear and ballistic missile proliferation, diffusing long-standing regional rivalries between India and Pakistan, and securing commitments from them which, if carried out, could result in a calibrated lifting of United States sanctions imposed under the Arms Export Control Act and the Nuclear Proliferation Prevention Act of 1994.

SEC. 1072. SENSE OF CONGRESS REGARDING CONTINUED PARTICIPATION OF UNITED STATES FORCES IN OPERATIONS IN BOSNIA AND HERZEGOVINA.

(a) FINDINGS.—Congress makes the following findings:

(1) The contributions of the people of the United States and other nations have, in large measure, resulted in the suspension of fighting and alleviated the suffering of the people of Bosnia and Herzegovina since December 1995.

(2) the people of the United States have expended approximately $9,500,000,000 in tax dollars between 1992 and mid-1998 just in support of the United States military operations in Bosnia to achieve those results.

(3) Efforts to restore the economy and political structure in Bosnia and Herzegovina have achieved some success in accordance with the Dayton Agreement.

(4) In February 1998, the President certified to Congress that the continued presence of United States forces in Bosnia and Herzegovina after June 30, 1998, was necessary in order to meet national security interests of the United States.

(5) There is, however, no accurate estimate of the time needed to accomplish the civilian implementation tasks outlined in the Dayton Agreement.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) United States ground combat forces should not remain in Bosnia and Herzegovina indefinitely in view of the world-wide commitments of the Armed Forces of the United States;

(2) the President should work with NATO allies and the other nations whose military forces are participating in the NATO-led Stabilization Force to withdraw United States ground combat forces from Bosnia and Herzegovina within a reasonable period of time, consistent with the safety of those forces and the accomplishment of the Stabilization Force's military tasks;

(3) a NATO-led force without the participation of United States ground combat forces in Bosnia and Herzegovina might be suitable for a follow-on force for Bosnia and Herzegovina if the European Security and Defense Identity is not sufficiently developed or is otherwise considered inappropriate for such a mission;

(4) the United States may decide to provide appropriate support to a Western European Union-led or NATO-led follow-on force for Bosnia and Herzegovina, including command and control, intelligence, logistics, and, if necessary, a ready reserve force in the region;

(5) the President should inform the European NATO allies of this expression of the sense of Congress and should strongly urge them to undertake preparations for establishing a Western European Union-led or a NATO-led force as a follow-on force to the NATO-led Stabilization Force if needed to maintain peace and stability in Bosnia and Herzegovina; and

(6) the President should consult closely with the congressional leadership and the

congressional defense committees with respect to the progress being made toward achieving a sustainable peace in Bosnia and Herzegovina and the progress being made toward a reduction and ultimate withdrawal of United States ground combat forces from Bosnia and Herzegovina.

(c) ONE-TIME REPORTS.—The President shall submit to Congress the following reports:

(1) Not later than September 30, 1998, a report containing a discussion of the likely impact on the security situation in Bosnia and Herzegovina and on the prospects for establishing self-sustaining peace and stable local government there that would result from a phased reduction in the number of United States military personnel stationed in Bosnia and Herzegovina under the following alternatives:

(A) A phased reduction to 5,000 by February 2, 1999, to 3,500 by June 30, 1999, and to 2,500 by February 2, 2000.

(B) A phased reduction by February 2, 2000, to the number of personnel that is approximately equal to the mean average of—

(i) the number of military personnel of the United Kingdom that are stationed in Bosnia and Herzegovina on that date;

(ii) the number of military personnel of Germany that are stationed there on that date;

(iii) the number of military personnel of France that are stationed there on that date; and

(iv) the number of military personnel of Italy that are stationed there on that date.

(2) Not later than October 1, 1998, a report on the status of the NATO force of gendarmes or paramilitary police referred to in subsection (a)(1), including the mission of the force, the composition of the force, and the extent, if any, to which members of the Armed Forces of the United States are participating (or are to participate) in the force.

(d) REPORT TO ACCOMPANY EACH REQUEST FOR FUNDING.—(1) Each time that the President submits to Congress a proposal for funding continued operations of United States forces in Bosnia and Herzegovina, the President shall submit to Congress a report on the missions of United States forces there. The first report shall be submitted at the same time that the President submits the budget for fiscal year 2000 to Congress under section 1105(a) of title 31, United States Code.

(2) Each report under paragraph (1) shall include the following:

(A) The performance objectives and schedule for the implementation of the Dayton Agreement, including—

(i) the specific objectives for the reestablishment of a self-sustaining peace and a stable local government in Bosnia and Herzegovina, taking into account (I) each of the areas of implementation required by the Dayton Agreement, as well as other areas that are not covered specifically in the Dayton Agreement but are essential for reestablishing such a peace and local government and to permitting an orderly withdrawal of the international peace implementation force from Bosnia and Herzegovina, and (II) the benchmarks reported in the latest semiannual report submitted under section 7(b)(2) of the 1998 Supplemental Appropriations and Rescissions Act (revised as necessary to be current as of the date of the report submitted under this subsection); and

(ii) the schedule, specified by fiscal year, for achieving the objectives.

(B) The military and non-military missions that the President has directed for United States forces in Bosnia and Herzegovina in support of the objectives identified pursuant to paragraph (1), including a specific discussion of—

(i) the mission of the United States forces, if any, in connection with the pursuit and apprehension of war criminals;

(ii) the mission of the United States forces, if any, in connection with civilian police functions;

(iii) the mission of the United States forces, if any, in connection with the resettlement of refugees; and

(iv) the missions undertaken by the United States forces, if any, in support of international and local civilian authorities.

(C) An assessment of the risk for the United States forces in Bosnia and Herzegovina, including, for each mission identified pursuant to subparagraph (B), the assessment of the Chairman of the Joint Chiefs of Staff regarding the nature and level of risk of the mission for the safety and well-being of United States military personnel.

(D) An assessment of the cost to the United States, by fiscal year, of carrying out the missions identified pursuant to subparagraph (B) for the period indicated in the schedule provided pursuant to subparagraph (A).

(E) A joint assessment by the Secretary of Defense and the Secretary of State of the status of planning for—

(i) the assumption of all remaining military missions inside Bosnia and Herzegovina by European military and paramilitary forces; and

(ii) the establishment and support of forward-based United States rapid response force outside of Bosnia and Herzegovina that would be capable of deploying rapidly to defeat military threats to a European follow-on force inside Bosnia and Herzegovina, and of providing whatever logistical, intelligence, and air support is needed to ensure that a European follow-on force is fully capable of accomplishing its missions under the Dayton Agreement.

(e) DAYTON AGREEMENT DEFINED.—In this section, the term "Dayton Agreement" means the General Framework Agreement for Peace in Bosnia and Herzegovina, together with annexes relating thereto, done at Dayton, November 10 through 16, 1995.

SEC. 1073. COMMISSION TO ASSESS THE RELIABILITY, SAFETY, AND SECURITY OF THE UNITED STATES NUCLEAR DETERRENT.

(a) ESTABLISHMENT.—There is hereby established a commission to be known as the "Commission for Assessment of the Reliability, Safety, and Security of the United States Nuclear Deterrent".

(b) COMPOSITION.—(1) The Commission shall be composed of six members who shall be appointed from among private citizens of the United States with knowledge and expertise in the technical aspects of design, maintenance, and deployment of nuclear weapons, as follows:

(A) Two members appointed by the Majority Leader of the Senate.

(B) One member appointed by the Minority Leader of the Senate.

(C) Two members appointed by the Speaker of the House of Representatives.

(D) One member appointed by the Minority Leader of the House of Representatives.

(2) The Senate Majority Leader and the Speaker of the House of Representatives shall each appoint one member to serve for five years and one member to serve for two years. The Minority Leaders of the Senate and House of Representatives shall each appoint one member to serve for five years. A member may be reappointed.

(3) Any vacancy in the Commission shall be filled in the same manner as the original appointment.

(4) All members of the Commission shall hold appropriate security clearances.

(c) CHAIRMAN.—The Majority Leader of the Senate, after consultation with the Speaker of the House of Representatives and the Minority Leaders of the Senate and House of Representatives, shall designate one of the members of the Commission, without regard to the term of appointment of that member, to serve as Chairman of the Commission.

(d) DUTIES OF COMMISSION.—(1) Each year the Commission shall assess, for Congress—

(A) the safety, security, and reliability of the nuclear deterrent forces of the United States; and

(B) the annual certification on the safety, security, and reliability of the nuclear weapons stockpile of the United States that is provided by the directors of the national weapons laboratories through the Secretary of Energy to the President.

(2) The Commission shall submit to Congress an annual report, in classified form, setting forth the findings and conclusions resulting from each assessment.

(e) COOPERATION OF OTHER AGENCIES.—(1) The Commission may secure directly from the Department of Energy, the Department of Defense, or any of the national weapons laboratories or plants or any other Federal department or agency information that the Commission considers necessary for the Commission to carry out its duties.

(2) For carrying out its duties, the Commission shall be provided full and timely cooperation by the Secretary of Energy, the Secretary of Defense, the Commander of United States Strategic Command, the Directors of the Los Alamos National Laboratory, the Lawrence Livermore National Laboratory, the Sandia National Laboratories, the Savannah River Site, the Y-12 Plant, the Pantex Facility, and the Kansas City Plant, and any other official of the United States that the Chairman determines as having information described in paragraph (1).

(3) The Secretary of Energy and the Secretary of Defense shall each designate at least one officer or employee of the Department of Energy and the Department of Defense, respectively, to serve as a liaison officer between the department and the Commission.

(f) COMMISSION PROCEDURES.—(1) The Commission shall meet at the call of the Chairman.

(2) Four members of the Commission shall constitute a quorum, except that the Commission may designate a lesser number of members as a quorum for the purpose of holding hearings. The Commission shall act by resolution agreed to by a majority of the members of the Commission.

(3) Any member or agent of the Commission may, if authorized by the Commission, take any action that the Commission is authorized to take under this section.

(4) The Commission may establish panels composed of less than the full membership of the Commission for the purpose of carrying out the Commission's duties. Findings and conclusions of a panel of the Commission may not be considered findings and conclusions of the Commission unless approved by the Commission.

(5) The Commission or, at its direction, any panel or member of the Commission, may, for the purpose of carrying out its duties, hold hearings, sit and act at times and places, take testimony, receive evidence, and administer oaths to the extent that the Commission or any panel or member considers advisable.

(g) PERSONNEL MATTERS.—(1) A member of the Commission shall be compensated at the daily equivalent of the rate of basic pay established for level V of the Executive Schedule under 5316 of title 5, United States Code, for each day on which the member is engaged in any meeting, hearing, briefing, or other work in the performance of duties of the Commission.

(2) A member of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from the member's home or regular place of business in the performance of services for the Commission.

(3) The Chairman of the Commission may, without regard to the provisions of the title 5, United States Code, governing appointments in the competitive service, appoint a staff director and such additional personnel as may be necessary to enable the Commission to perform its duties. The Chairman of the Commission may fix the pay of the staff director and other personnel without regard to the provisions of chapter 51, and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay fixed under this paragraph for the staff director may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(4) Upon the request of the Chairman of the Commission, the head of any Federal department or agency may detail, on a nonreimbursable basis, any personnel of that department or agency to the Commission to assist it in carrying out its duties.

(5) The Chairman of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay payable for level V of the Executive Schedule and under section 5316 of such title.

(h) MISCELLANEOUS ADMINISTRATIVE PROVISIONS.—(1) The Commission may use the United States mails and obtain printing and binding services in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(2) The Secretary of Defense and the Secretary of Energy shall furnish the Commission with any administrative and support services requested by the Commission and with office space within the Washington, District Columbia, metropolitan area that is sufficient for the administrative offices of the Commission and for holding general meetings of Commission.

(i) FUNDING.—The Secretary of Defense and the Secretary of Energy shall each contribute 50 percent of the amount of funds that are necessary for the Commission to carry out its duties. Upon receiving from the Chairman of the Commission a written certification of the amount of funds that is necessary for funding the activities of the Commission for a period, the Secretaries shall promptly make available to the Commission funds in the total amount specified in the certification. Funds available for the Department of Defense for Defense-wide research, development, test, and evaluation shall be available for the Department of Defense contribution. Funds available for the Department of Energy for atomic energy defense activities shall be available for the Department of Energy contribution.

(j) TERMINATION OF THE COMMISSION.—The Commission shall terminate three years after the date of the appointment of the member designated as Chairman.

(k) INITIAL IMPLEMENTATION.—All appointments to the Commission shall be made not later than 45 days after the date of the enactment of this Act. The Commission shall convene its first meeting not later than 30 days after the date as of which all members of the Commission have been appointed.

SEC. 1074. AUTHORITY FOR WAIVER OF MORATORIUM ON ARMED FORCES USE OF ANTIPERSONNEL LANDMINES.

Section 580 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996 (Public Law 104-107; 110 Stat. 751) is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting after subsection (a) the following new subsection (b):

"(b) WAIVER AUTHORITY.—(1) The President may waive the moratorium set forth in subsection (a) if the President determines that the waiver is necessary in the national security interests of the United States.

"(2) The President shall notify the President pro tempore of the Senate and the Speaker of the House of Representatives of the exercise of the authority provided by paragraph (1).".

SEC. 1075. APPOINTMENT OF DIRECTOR AND DEPUTY DIRECTOR OF THE NAVAL HOME.

(a) APPOINTMENT AND QUALIFICATIONS OF DIRECTOR AND DEPUTY DIRECTOR.—Subsection (a) of section 1517 of the Armed Forces Retirement Home Act of 1991 (24 U.S.C. 417) is amended—

(1) in paragraph (2)—

(A) by striking out "Each Director" and inserting in lieu thereof "The Director of the United States Soldiers' and Airmen's Home"; and

(B) by striking out subparagraph (B) and inserting in lieu thereof the following:

"(B) meet the requirements of paragraph (4).";

(2) by redesignating paragraph (3) as paragraph (5); and

(3) by inserting after paragraph (2) the following new paragraphs (3) and (4):

"(3) The Director, and any Deputy Director, of the Naval Home shall be appointed by the Secretary of Defense from among persons recommended by the Secretaries of the military departments who—

"(A) in the case of the position of Director, are commissioned officers of the Armed Forces serving on active duty in a pay grade above 0-5;

"(B) in the case of the position of Deputy Director, are commissioned officers of the Armed Forces serving on active duty in a pay grade above 0-4; and

"(C) meet the requirements of paragraph (4).

"(4) Each Director shall have appropriate leadership and management skills, an appreciation and understanding of the culture and norms associated with military service, and significant military background.".

(b) TERM OF DIRECTOR AND DEPUTY DIRECTOR.—Subsection (c) of such section is amended—

(1) by striking out "(c) TERM OF DIRECTOR.—" and all that follows through "A Director" in the second sentence and inserting in lieu thereof "(c) TERMS OF DIRECTORS.—(1) The term of office of the Director of the United States Soldiers' and Airmen's Home shall be five years. The Director"; and

(2) by adding at the end the following new paragraph:

"(2) The Director and the Deputy Director of the Naval Home shall serve at the pleasure of the Secretary of Defense.".

(c) DEFINITIONS.—Such section is further amended by adding at the end the following:

"(g) DEFINITIONS.—In this section:

"(1) The term 'United States Soldiers' and Airmen's Home' means the separate facility of the Retirement Home that is known as the United States Soldiers' and Airmen's Home.

"(2) The term 'Naval Home' means the separate facility of the Retirement Home that is known as the Naval Home.".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1998.

SEC. 1076. SENSE OF THE CONGRESS ON THE DEFENSE SCIENCE AND TECHNOLOGY PROGRAM.

(a) FUNDING REQUIREMENTS FOR THE DEFENSE SCIENCE AND TECHNOLOGY PROGRAM BUDGET.—It is the sense of the Congress that for each of the fiscal years 2000 through 2008, it should be an objective of the Secretary of Defense to increase the budget for the Defense Science and Technology Program for the fiscal year over the budget for that program for the preceding fiscal year by a percent that is at least two percent above the rate of inflation as determined by the Office of Management and Budget.

(b) GUIDELINES FOR THE DEFENSE SCIENCE AND TECHNOLOGY PROGRAM.—

(1) RELATIONSHIP OF DEFENSE SCIENCE AND TECHNOLOGY PROGRAM TO UNIVERSITY RESEARCH.—It is the sense of the Congress that the following should be key objectives of the Defense Science and Technology Program—

(A) the sustainment of research capabilities in scientific and engineering disciplines critical to the Department of Defense;

(B) the education and training of the next generation of scientists and engineers in disciplines that are relevant to future defense systems, particularly through the conduct of basic research; and

(C) the Continued support of the Defense Experimental Program to Stimulate Competitive Research and research programs at historically black colleges and universities and minority institutions.

(2) RELATIONSHIP OF THE DEFENSE SCIENCE AND TECHNOLOGY PROGRAM TO COMMERCIAL RESEARCH AND TECHNOLOGY.—

(A) It is the sense of the Congress that in supporting projects within the Defense Science and Technology Program, the Secretary of Defense should attempt to leverage commercial research, technology, products, and processes for the benefit of the Department of Defense.

(B) It is the sense of the Congress that funds made available for projects and programs of the Defense Science and Technology Program should be used only for the benefit of the Department of Defense, which includes—

(i) the development of technology that has only military applications;

(ii) the development of militarily useful, commercially viable technology; or

(iii) the adaption of commercial technology, products, or processes for military purposes.

(3) SYNERGISTIC MANAGEMENT OF RESEARCH AND DEVELOPMENT.—It is the sense of the Congress that the Secretary of Defense may allocate a combination of funds available for the Department of Defense for basic and applied research and for advanced development to support any individual project or program within the Defense Science and Technology Program. This flexibility is not intended to

change the allocation of funds in any fiscal year among basic and applied research and advanced development.

(c) Definitions.—In this section:

(1) The term "Defense Science and Technology Program" means basic and applied research and advanced development.

(2) The term "basic and applied research" means work funded in program elements for defense research and development under Department of Defense R&D Budget Activities 1 or 2.

(3) The term "advanced development" means work funded in program elements for defense research and development under Department of Defense R&D Budget Activity 3.

SEC. 1077. DEMILITARIZATION AND EXPORTATION OF DEFENSE PROPERTY.

(a) Centralized Assignment of Demilitarization Codes for Defense Property.—(1) Chapter 153 of title 10, United States Code, is amended by inserting after section 2572 the following:

"§ 2573. Demilitarization codes for defense property

"(a) Authority.—The Secretary of Defense shall—

"(1) assign the demilitarization codes to the property (other than real property) of the Department of Defense; and

"(2) take any action that the Secretary considers necessary to ensure that the property assigned demilitarization codes is demilitarized in accordance with the assigned codes.

"(b) Supremacy of Codes.—A demilitarization code assigned to an item of property by the Secretary of Defense under this section shall take precedence over any demilitarization code assigned to the item before the date of enactment of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 by any other official in the Department of Defense.

"(c) Enforcement.—The Secretary of Defense shall commit the personnel and resources to the exercise of authority under subsection (a) that are necessary to ensure that—

"(1) appropriate demilitarization codes are assigned to property of the Department of Defense; and

"(2) property is demilitarized in accordance with the assigned codes.

"(d) Annual Report.—The Secretary of Defense shall include in the annual reports submitted to Congress under section 113(c)(1) of this title in 1999 and 2000 a discussion of the following:

"(1) The exercise of the authority under this section during the fiscal year preceding the fiscal year in which the report is submitted.

"(2) Any changes in the exercise of the authority that are taking place in the fiscal year in which the report is submitted or are planned for that fiscal year or any subsequent fiscal year.

"(e) Definitions.—In this section:

"(1) The term 'demilitarization code', with respect to property, means a code that identifies the extent to which the property must be demilitarized before disposal.

"(2) The term 'demilitarize', with respect to property, means to destroy the military offensive or defensive advantages inherent in the property, by mutilation, cutting, crushing, scrapping, melting, burning, or altering the property so that the property cannot be used for the purpose for which it was originally made.".

(2) The table of sections at the beginning of such chapter 153 is amended by inserting after the item relating to section 2572 the following:

"2573. Demilitarization codes for defense property.".

(b) Criminal Offense.—(1) Chapter 27 of title 18, United States Code, is amended by adding at the end the following:

"§ 554. Violations of regulated acts involving the exportation of United States property

"(a) Any person who—

"(1) fraudulently or knowingly exports or otherwise sends from the United States (as defined in section 545 of this title), or attempts to export or send from the United States any merchandise contrary to any law of the United States; or

"(2) receives, conceals, buys, sells, or in any manner facilitates, the transportation, concealment, or sale of any merchandise prior to exportation, knowing that the merchandise is intended for exportation in violation of Federal law;

shall be fined under this title, imprisoned not more than 5 years, or both.

"(b) The penalties under this section shall be in addition to any other applicable criminal penalty.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following:

"554. Violations of regulated acts involving the exportation of United States property.".

SEC. 1078. DESIGNATION OF AMERICA'S NATIONAL MARITIME MUSEUM.

(a) Designation of America's National Maritime Museum.—The Mariners' Museum building located at 100 Museum Drive, Newport News, Virginia, and the South Street Seaport Museum buildings located at 207 Front Street, New York, New York, shall be known and designated as "America's National Maritime Museum".

(b) Reference to America's National Maritime Museum.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the buildings referred to in subsection (a) shall be deemed to be a reference to America's National Maritime Museum.

(c) Later Additions of Other Museums Not Precluded.—The designation of museums named in subsection (a) as America's National Maritime Museum does not preclude the addition of any other museum to the group of museums covered by that designation.

(d) Criteria for Later Additions.—A museum is appropriate for designation as a museum of America's National Maritime Museum if the museum—

(1) houses a collection of maritime artifacts clearly representing America's maritime heritage; and

(2) provides outreach programs to educate the public on America's maritime heritage.

SEC. 1079. BURIAL HONORS FOR VETERANS.

(a) Findings.—The Senate makes the following findings:

(1) Throughout the years, men and women have unselfishly answered the call to arms, at tremendous personal sacrifice. Burial honors for deceased veterans are an important means of reminding Americans of the sacrifices endured to keep the Nation free.

(2) The men and women who serve honorably in the Armed Forces, whether in war or peace, and whether discharged, separated, or retired, deserve commemoration for their military service at the time of their death by an appropriate military tribute.

(3) It is tremendously important to pay an appropriate final tribute on behalf of a grateful Nation to honor individuals who served the Nation in the Armed Forces.

(b) Conference on Military Burial Honor Practices.—(1) Not later than October 31, 1998, the Secretary of Defense shall, in consultation with the Secretary of Veterans Affairs, convene and preside over a conference for the purpose of determining means of improving and increasing the availability of military burial honors for veterans. The Secretary of Veterans Affairs shall also participate in the conference.

(2) The Secretaries shall invite and encourage the participation at the conference of appropriate representatives of veterans service organizations.

(3) The participants in the conference shall—

(A) review current policies and practices of the military departments and the Department of Veterans Affairs relating to the provision of military honors at the burial of veterans;

(B) analyze the costs associated with providing military honors at the burial of veterans, including the costs associated with utilizing personnel and other resources for that purpose;

(C) assess trends in the rate of death of veterans; and

(D) propose, consider, and determine means of improving and increasing the availability of military honors at the burial of veterans.

(4) Not later than 180 days after the date of enactment of this Act, the Secretary of Defense shall submit to Congress a report on the conference under this subsection. The report shall set forth any modifications to Department of Defense directives on military burial honors adopted as a result of the conference and include any recommendations for legislation that the Secretary considers appropriate as a result of the conference.

(c) Veterans Service Organization Defined.—In this section, the term "veterans service organization" means any organization recognized by the Secretary of Veterans Affairs under section 5902 of title 38, United States Code.

SEC. 1080. CHEMICAL STOCKPILE EMERGENCY PREPAREDNESS PROGRAM.

Section 1412 of the Department of Defense Authorization Act, 1986 (Public Law 99–145; 50 U.S.C. 1521) is amended by adding at the end of subsection (c) the following:

"(4)(A) The Director of the Federal Emergency Management Agency shall carry out a program to provide assistance to State and local governments in developing capabilities to respond to emergencies involving risks to the public health or safety within their jurisdictions that are identified by the Secretary as being risks resulting from—

"(i) the storage of any such agents and munitions at military installations in the continental United States; or

"(ii) the destruction of such agents and munitions at facilities referred to in paragraph (1)(B).

"(B) No assistance may be provided under this paragraph after the completion of the destruction of the United States stockpile of lethal chemical agents and munitions.".

SEC. 1081. SENSE OF SENATE REGARDING THE AUGUST 1995 ASSASSINATION ATTEMPT AGAINST PRESIDENT SHEVARDNADZE OF GEORGIA.

(a) Findings.—Congress makes the following findings:

(1) On Tuesday, August 29, 1995, President Eduard Shevardnadze of Georgia narrowly survived a car bomb attack as he departed his offices in the Georgian Parliament building to attend the signing ceremony for the new constitution of Georgia.

(2) The former Chief of the Georgian National Security Service, Lieutenant General

Igor Giorgadze, after being implicated in organizing the August 29, 1995, assassination attempt on President Shevardnadze, fled Georgia from the Russian-controlled Varziani airbase on a Russian military aircraft.

(3) Lieutenant General Giorgadze has been seen openly in Moscow and is believed to have been given residence at a Russian government facility despite the fact that Interpol is conducting a search for Lieutenant General Giorgadze for his role in the assassination attempt against President Shervardnadze.

(4) The Russian Interior Ministry claims that it is unable to locate Lieutenant General Giorgadze in Moscow.

(5) The Georgian Security and Interior Ministries presented information to the Russian Interior Ministry on November 13, 1996; January 17, 1997; March 7, 1997; March 24, 1997 and August 12, 1997, which included the exact location in Moscow of where Lieutenant General Giorgadze's family lived, the exact location where Lieutenant General Giorgadze lived outside of Moscow in a dacha of the Russian Ministry of Defense; as well as the changing official Russian government license tag numbers and description of the automobile that Lieutenant General Giorgadze uses; the people he associates with; the apartments he visits, and the places including restaurants, markets, and companies, that he frequents.

(6) On May 12, 1998, the Moscow-based Russian newspaper Zavtra carried an interview with Lieutenant General Giorgadze in which Lieutenant General Giorgadze calls for the overthrow of the Government of Georgia.

(7) Title II of the Foreign Operations Appropriations, Export Financing, and Related Programs Appropriations Act, 1998 (Public Law 105–118) prohibits assistance to any government of the new independent states of the former Soviet Union if that government directs any action in violation of the national sovereignty of any other new independent state.

(b) Sense of the Senate.—It is the sense of the Senate that the Secretary of Defense should—

(1) urge the Government of the Russian Federation to extradite the former Chief of the Georgian National Security Service, Lieutenant General Igor Giorgadze, to Georgia for the purpose of standing trial for his role in the attempted assassination of Georgian President Eduard Shevardnadze on August 29, 1995;

(2) request cooperation from the Minister of Defense of the Russian Federation and the Government of the Russian Federation to ensure that Russian military bases on Georgian territory are no longer used to facilitate the escape of assassins seeking to kill the freely elected President of Georgia and to otherwise respect the national sovereignty of Georgia; and

(3) use all authorities available to the United States Government to provide urgent and immediate assistance to ensure to the maximum extent practicable the personal security of President Shevardnadze.

SEC. 1082. ISSUANCE OF BURIAL FLAGS FOR DECEASED MEMBERS AND FORMER MEMBERS OF THE SELECTED RESERVE.

Section 2301(a) of title 38, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (1);

(2) by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following:

"(3) deceased individual who—

"(A) was serving as a member of the Selected Reserve (as described in section 10143 of title 10) at the time of death;

"(B) had served at least one enlistment, or the period of initial obligated service, as a member of the Selected Reserve and was discharged from service in the Armed Forces under conditions not less favorable than honorable; or

"(C) was discharged from service in the Armed Forces under conditions not less favorable than honorable by reason of a disability incurred or aggravated in line of duty during the individual's initial enlistment, or period of initial obligated service, as a member of the Selected Reserve.".

SEC. 1083. ELIMINATING SECRET SENATE HOLDS.

(a) Standing Order.—It is a standing order of the Senate that a Senator who provides notice to leadership of his or her intention to object to proceeding to a motion or matter shall disclose the objection or hold in the Congressional Record not later than 2 session days after the date of the notice.

(b) Rulemaking.—This section is adopted—

(1) as an exercise of the rulemaking power of the Senate and as such it is deemed a part of the rules of the Senate and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(2) with full recognition of the constitutional right of the Senate to change its rules at any time, in the same manner, and to the same extent as in the case of any other rule of the Senate.

SEC. 1084. DEFENSE BURDENSHARING.

(a) Revised Goals for Efforts To Increase Allied Burdensharing.—Subsection (a) of section 1221 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 1935; 22 U.S.C. 1928 note) is amended to read as follows:

"(a) Efforts To Increase Allied Burdensharing.—The President shall seek to have each nation that has cooperative military relations with the United States (including security agreements, basing arrangements, or mutual participation in multinational military organizations or operations) take one or more of the following actions:

"(1) For any nation in which United States military personnel are assigned to permanent duty ashore, increase its financial contributions to the payment of the nonpersonnel costs incurred by the United States Government for stationing United States military personnel in that nation, with a goal of achieving by September 30, 2000, 75 percent of such costs. An increase in financial contributions by any nation under this paragraph may include the elimination of taxes, fees, or other charges levied on United States military personnel, equipment, or facilities stationed in that nation.

"(2) Increase its annual budgetary outlays for national defense as a percentage of its gross domestic product by 10 percent or at least to a percentage level commensurate to that of the United States by September 30, 1999.

"(3) Increase the military assets (including personnel, equipment, logistics, support and other resources) that it contributes or has pledged to contribute to multinational military activities worldwide by 10 percent by September 30, 1999.

"(4) Increase its annual budgetary outlays for foreign assistance (funds to promote democratization, governmental accountability and transparency, economic stabilization and development, defense economic conversion, respect for the rule of law and internationally recognized human rights, or humanitarian relief efforts) by 10 percent, or to provide such foreign assistance at a minimum annual rate equal to one percent of its gross domestic product, by September 30, 1999.".

(b) Revised Requirement for Report on Progress in Increasing Allied Burdensharing.—Subsection (c) of such section is amended to read as follows:

"(c) Report on Progress in Increasing Allied Burdensharing.—Not later than March 1, 1999, the Secretary of Defense shall submit to Congress a report on—

"(1) steps taken by other nations toward completing the actions described in subsection (a);

"(2) all measures taken by the President, including those authorized in subsection (b), to achieve the actions described in subsection (a);

"(3) the difference between the amount allocated by other nations for each of the actions described in subsection (a) during the period beginning on October 1, 1996, and ending on September 30, 1997, and during the period beginning on October 1, 1997, and ending on September 30, 1998, or, in the case of any nation for which the data for such periods is inadequate, the difference between the amounts for the latest periods for which adequate data is available; and

"(4) the budgetary savings to the United States that are expected to accrue as a result of the steps described under paragraph (1).".

(c) Extension of Deadline for Report Regarding National Security Bases for Forward Deployment and Burdensharing Relationships.—Subsection (d)(2) of such section is amended by striking out "March 1, 1998" and inserting in lieu thereof "March 1, 1999".

SEC. 1085. REVIEW OF DEFENSE AUTOMATED PRINTING SERVICE FUNCTIONS.

(a) Review Required.—The Secretary of Defense shall provide for a review of the functions of the Defense Automated Printing Service in accordance with this section and submit to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives the matters required under subsection (d) not later than March 31, 1999.

(b) Performance by Independent Entity.—The Secretary of Defense shall select the General Accounting Office, an experienced entity in the private sector, or any other entity outside the Department of Defense to perform the review. The Comptroller General shall perform the review if the Secretary selects the Comptroller General to do so.

(c) Report.—The entity performing the review under this section shall submit to the Secretary of Defense a report that sets forth the findings and recommendations of that entity resulting from the review. The report shall contain the following:

(1) The functions that are inherently national security functions and, as such, need to be performed within the Department of Defense, together with a detailed justification for the determination for each such function.

(2) The functions that are appropriate for transfer to another appropriate entity to perform, including private sector entity.

(3) Any recommended legislation and any administrative action that is necessary for transferring or outsourcing the functions.

(4) A discussion of the costs or savings associated with the transfers or outsourcing.

(5) A description of the management structure of the Defense Automated Printing Service.

(6) A list of all sites where functions of the Defense Automated Printing Service are performed by the Defense Automated Printing Service.

(7) The total number of the personnel employed by the Defense Automated Printing Service and the locations where the personnel perform the duties as employees.

(8) A description of the functions performed by the Defense Automated Printing Service and, for each such function, the number of employees of the Defense Automated Printing Service that perform the function.

(9) For each site identified under paragraph (6), an assessment of each type of equipment at the site.

(10) The type and explanation of the networking and technology integration linking all of the sites referred to in paragraph (6).

(11) The current and future requirements of customers of the Defense Automated Printing Service.

(12) An assessment of the effectiveness of the current structure of the Defense Automated Printing Service in supporting current and future customer requirements and plans to address any deficiencies in supporting such requirements.

(13) A description and discussion of the best business practices that are used by the Defense Automated Printing Service and of other best business that could be used by the Defense Automated Printing Service.

(14) Options for maximizing the Defense Automated Printing Service structure and services to provide the most cost effective service to its customers.

(d) REVIEW AND COMMENTS OF SECRETARY OF DEFENSE.—(1) After reviewing the report, the Secretary of Defense shall submit the report to Congress, together with the Secretary's comments on the report and a plan to transfer or outsource from the Defense Automated Printing Service to another appropriate entity the functions of the Defense Automated Printing Service that—

(1) are not identified in the report as being inherently national security functions; and

(2) the Secretary believes should be transferred or outsourced for performance outside the Department of Defense in accordance with law.

(e) EXTENSION OF REQUIREMENT FOR COMPETITIVE PROCUREMENT OF SERVICES.—Section 351(a) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106; 110 Stat. 266), as amended by section 351(a) of Public Law 104–201 (110 Stat. 2490) and section 387(a)(1) of Public Law 105–85 (111 Stat. 1713), is further amended by striking out "1998" and inserting in lieu thereof "1999".

SEC. 1086. INCREASED MISSILE THREAT IN ASIA-PACIFIC REGION.

(a) STUDY.—The Secretary of Defense shall carry out a study of the architecture requirements for the establishment and operation of a theater ballistic missile defense system in the Asia-Pacific region that would have the capability to protect key regional allies of the United States.

(b) REPORT.—(1) Not later than January 1, 1999, the Secretary shall submit to the Committee on National Security of the House of Representatives and the Committee on Armed Services of the Senate a report containing—

(A) the results of the study conducted under subsection (a);

(B) the factors used to obtain such results; and

(C) a description of any existing United States missile defense system that could be transferred to key allies of the United States in the Asia-Pacific region to provide for their self-defense against limited ballistic missile attacks.

(2) The report shall be submitted in both classified and unclassified form.

SEC. 1087. COOPERATION BETWEEN THE DEPARTMENT OF THE ARMY AND THE EPA IN MEETING CWC REQUIREMENTS.

(a) FINDINGS.—The Senate finds that:

(1) Compliance with international obligations to destroy the United States chemical stockpile by April 28, 2007, as required under the Chemical Weapons Convention (CWC), is a national priority.

(2) The President should ensure that the Department of Defense and the Department of the Army receive all necessary assistance from Federal agencies in expediting and accelerating the destruction of the lethal chemical stockpile.

(3) The Environmental Protection Agency, as one of the Federal agencies with responsibilities to assist the Department of Defense and the Department of the Army, has asserted that it is not adequately funded to provide, or meet its National responsibilities under the Resource Conservation and Recovery Act (RCRA) permitting requirements, in order to assist the United States Government in meeting its international obligations to destroy its lethal chemical stockpile.

(4) The Environmental Protection Agency (EPA) should work in concert with the State and local governments in this process, and that they should properly budget for this process.

(b) REPORT REQUIRED.—The Department of Defense, in coordination with the Environmental Protection Agency, shall report to the congressional defense committees by April 1, 1999, on the following—

(1) responsibilities associated with obligations under the Resource Conservation and Recovery Act (RCRA) permitting process related to United States international obligations under the CWC to destroy the United States chemical stockpile;

(2) technical assistance provided by the EPA to its regional offices and the States and local governments in the permitting process, and how that assistance facilitates the issuance of the environmental permits at the various sites;

(3) responsibility of the Department of Defense to provide funding to the EPA, for the facilitation of meetings of the National Chemical Agent Demilitarization Workgroup, meetings between the Office of Solid Waste and the affected EPA Regional Offices and States, and meetings between the Office of Solid Waste, the Program Manager for Chemical Demilitarization and the Department of Defense; and

(4) responsibility of the Department of Defense and the Department of the Army to provide funds to the Environmental Protection Agency to hire full-time equivalents to assist in the formulation of RCRA permits.

TITLE XI—DEPARTMENT OF DEFENSE CIVILIAN PERSONNEL

SEC. 1101. REPEAL OF EMPLOYMENT PREFERENCE NOT NEEDED FOR RECRUITMENT AND RETENTION OF QUALIFIED CHILD CARE PROVIDERS.

Section 1792 of title 10, United States Code, is amended—

(1) by striking out subsection (d); and

(2) by redesignating subsection (e) as subsection (d).

SEC. 1102. MAXIMUM PAY RATE COMPARABILITY FOR FACULTY MEMBERS OF THE UNITED STATES AIR FORCE INSTITUTE OF TECHNOLOGY.

Section 9314(b)(2)(B) of title 10, United States Code, is amended by striking out "section 5306(e)" and inserting in lieu thereof "section 5373".

SEC. 1103. FOUR-YEAR EXTENSION OF VOLUNTARY SEPARATION INCENTIVE PAY AUTHORITY.

Section 5597(e) of title 5, United States Code, is amended by striking out "September 30, 2001" and inserting in lieu thereof "September 30, 2003".

SEC. 1104. DEPARTMENT OF DEFENSE EMPLOYEE VOLUNTARY EARLY RETIREMENT AUTHORITY.

(a) CIVIL SERVICE RETIREMENT SYSTEM.—Section 8336 of title 5, United States Code, is amended—

(1) in subsection (d)(2), by inserting "except in the case of an employee described in subsection (o)(1)," after "(2)"; and

(2) by adding at the end the following:

"(o)(1) An employee of the Department of Defense who is separated from the service under conditions described in paragraph (2) after completing 25 years of service or after becoming 50 years of age and completing 20 years of service is entitled to an annuity.

"(2) Paragraph (1) applies to an employee who—

"(A) has been employed continuously by the Department of Defense for more than 30 days before the date on which the Secretary concerned requests the determinations required under in subparagraph (D)(i);

"(B) is serving under an appointment that is not limited by time;

"(C) has not received a decision notice of involuntary separation for misconduct or unacceptable performance that is pending decision; and

"(D) is separated from the service voluntarily during a period in which—

"(i) the Department of Defense or the military department or subordinate organization within the Department of Defense or military department in which the employee is serving is undergoing a major reorganization, a major reduction in force, or a major transfer of function, and employees comprising a significant percentage of the employees serving in that department or organization are to be separated or subject to an immediate reduction in the rate of basic pay (without regard to subchapter VI of chapter 53, or comparable provisions of law), as determined by the Office of Personnel Management (under regulations prescribed by the Office) upon the request of the Secretary concerned; and

"(ii) the employee is within the scope of an offer of voluntary early retirement (as defined by organizational unit, occupational series or level, geographical location, any other similar factor that the Office of Personnel Management determines appropriate, or any combination of such definitions of scope), as determined by the Secretary concerned under regulations prescribed by the Office.

"(3) In this subsection, the term 'Secretary concerned' means—

"(A) the Secretary of Defense, with respect to an employee of the Department of Defense not employed in a position in a military department;

"(B) the Secretary of the Army, with respect to an employee of the Department of the Army;

"(C) the Secretary of the Navy, with respect to an employee of the Department of the Navy;

"(D) the Secretary of the Air Force, with respect to an employee of the Department of the Air Force.".

(b) Federal Employees' Retirement System.—Section 8414 of such title is amended—

(1) in subsection (b)(1)(B), inserting "except in the case of an employee described in subsection (d)(1)," after "(B)"; and

(2) by adding at the end the following:

"(d)(1) An employee of the Department of Defense who is separated from the service under conditions described in paragraph (2) after completing 25 years of service or after becoming 50 years of age and completing 20 years of service is entitled to an annuity.

"(2) Paragraph (1) applies to an employee who—

"(A) has been employed continuously by the Department of Defense for more than 30 days before the date on which the Secretary concerned requests the determinations required under subparagraph (D)(i);

"(B) is serving under an appointment that is not limited by time;

"(C) has not received a decision notice of involuntary separation for misconduct or unacceptable performance that is pending decision; and

"(D) is separated from the service voluntarily during a period in which—

"(i) the Department of Defense or the military department or subordinate organization within the Department of Defense or military department in which the employee is serving is undergoing a major reorganization, a major reduction in force, or a major transfer of function, and employees comprising a significant percentage of the employees serving in that department or organization are to be separated or subject to an immediate reduction in the rate of basic pay (without regard to subchapter VI of chapter 53, or comparable provisions of law), as determined by the Office of Personnel Management (under regulations prescribed by the Office) upon the request of the Secretary concerned; and

"(ii) the employee is within the scope of an offer of voluntary early retirement (as defined by organizational unit, occupational series or level, geographical location, any other similar factor that the Office of Personnel Management determines appropriate, or any combihation of such definitions of scope), as determined by the Secretary concerned under regulations prescribed by the Office.

"(3) In this subsection, the term 'Secretary concerned' means—

"(A) the Secretary of Defense, with respect to an employee of the Department of Defense not employed in a position in a military department;

"(B) the Secretary of the Army, with respect to an employee of the Department of the Army;

"(C) the Secretary of the Navy, with respect to an employee of the Department of the Navy;

"(D) the Secretary of the Air Force, with respect to an employee of the Department of the Air Force.".

(c) Conforming Amendments.—(1) Section 8339(h) of such title is amended by striking out "or (j)" in the first sentence and inserting in lieu thereof "(j), or (o)".

(2) Section 8464(a)(1)(A)(i) of such title is amended by striking out "or (b)(1)(B)" and inserting in lieu thereof ", (b)(1)(B), or (d)".

SEC. 1105. DEFENSE ADVANCED RESEARCH PROJECTS AGENCY EXPERIMENTAL PERSONNEL MANAGEMENT PROGRAM FOR TECHNICAL PERSONNEL.

(a) Program Authorized.—During the 5-year period beginning on the date of the enactment of this Act, the Secretary of Defense may carry out a program of experimental use of special personnel management authority provided in this section in order to facilitate the recruitment of eminent experts in science or engineering for research and development projects administered by the Defense Advanced Research Projects Agency.

(b) Special Personnel Management Authority.—Under the program, the Secretary may—

(1) appoint scientists and engineers from outside the civil service and uniformed services (as such terms are defined in section 2101 of title 5, United States Code) to not more than 20 scientific and engineering positions in the Defense Advanced Research Projects Agency without regard to any provision of title 5, United States Code, governing the appointment of employees in the civil service;

(2) prescribe the rates of basic pay for positions to which employees are appointed under paragraph (1) at rates not in excess of the maximum rate of basic pay authorized for senior-level positions under section 5376 of title 5, United States Code, notwithstanding any provision of such title governing the rates of pay or classification of employees in the executive branch; and

(3) pay any employee appointed under paragraph (1) payments in addition to basic pay within the limit applicable to the employee under subsection (d)(1).

(c) Limitation on Term of Appointment.—(1) Except as provided in paragraph (2), the service of an employee under an appointment under subsection (b)(1) may not exceed four years.

(2) The Secretary may, in the case of a particular employee, extend the period to which service is limited under paragraph (1) by up to two years if the Secretary determines that such action is necessary to promote the efficiency of the Defense Advanced Research Projects Agency.

(d) Limitations on Additional Payments.—(1) The total amount of the additional payments paid to an employee under subsection (b)(3) for any 12-month period may not exceed the least of the following amounts:

(A) $25,000.

(B) The amount equal to 25 percent of the employee's annual rate of basic pay.

(C) The amount of the limitation that is applicable for a calendar year under section 5307(a)(1) of title 5, United States Code.

(2) An employee appointed under subsection (b)(1) is not eligible for any bonus, monetary award, or other monetary incentive for service except for payments authorized under subsection (b)(3).

(e) Period of Program.—(1) The program authorized under this section shall terminate at the end of the 5-year period referred to in subsection (a).

(2) After the termination of the program—

(A) no appointment may be made under paragraph (1) of subsection (b);

(B) a rate of basic pay prescribed under paragraph (2) of that subsection may not take effect for a position; and

(C) no period of service may be extended under subsection (c)(1).

(f) Savings Provisions.—In the case of an employee who, on the day before the termination of the program, is serving in a position pursuant to an appointment under subsection (b)(1)—

(1) the termination of the program does not terminate the employee's employment in that position before the expiration of the lesser of—

(A) the period for which the employee was appointed; or

(B) the period to which the employee's service is limited under subsection (c), including any extension made under paragraph (2) of that subsection before the termination of the program; and

(2) the rate of basic pay prescribed for the position under subsection (b)(2) may not be reduced for so long (within the period applicable to the employee under paragraph (1)) as the employee continues to serve in the position without a break in service.

(g) Annual Report.—(1) Not later than October 15 of each year, beginning in 1999, the Secretary of Defense shall submit a report on the program to the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives. The report submitted in a year shall cover the 12-month period ending on the day before the anniversary, in that year, of the date of the enactment of this Act.

(2) The annual report shall contain, for the period covered by the report, the following:

(A) A detailed discussion of the exercise of authority under this section.

(B) The sources from which appointees were recruited.

(C) The methodology used for identifying and selecting appointees.

(D) Any additional information that the Secretary considers helpful for assessing the utility of the authority under this section.

TITLE XII—JOINT WARFIGHTING EXPERIMENTATION

SEC. 1201. FINDINGS.

Congress makes the following findings:

(1) The collapse of the Soviet Union in 1991 and the unprecedented explosion of technological advances that could fundamentally redefine military threats and military capabilities in the future have generated a need to assess the defense policy, strategy, and force structure necessary to meet future defense requirements of the United States.

(2) The assessment conducted by the administration of President Bush (known as the "Base Force" assessment) and the assessment conducted by the administration of President Clinton (known as the "Bottom-Up Review") were important attempts to redefine the defense strategy of the United States and the force structure of the Armed Forces necessary to execute that strategy.

(3) Those assessments have become inadequate as a result of the pace of global geopolitical change and the speed of technological change, which have been greater than expected.

(4) The Chairman of the Joint Chiefs of Staff reacted to the changing environment by developing and publishing in May 1996 a vision statement, known as "Joint Vision 2010", to be a basis for the transformation of United States military capabilities. The vision statement embodies the improved intelligence and command and control that is available in the information age and sets forth the operational concepts of dominant maneuver, precision engagement, full-dimensional protection, and focused logistics to achieve the objective of full spectrum dominance.

(5) In 1996 Congress, concerned about the shortcomings in defense policies and programs derived from the Base-Force Review and the Bottom-Up Review, determined that there was a need for a new, comprehensive assessment of the defense strategy of the

United States and the force structure of the Armed Forces necessary for meeting the threats to the United States in the 21st century.

(6) As a result of that determination, Congress passed the Military Force Structure Review Act of 1996 (subtitle B of title IX of the National Defense Authorization Act for Fiscal Year 1997), which required the Secretary of Defense to complete in 1997 a quadrennial defense review of the defense program of the United States. The review was required to include a comprehensive examination of the defense strategy, force structure, force modernization plans, infrastructure, and other elements of the defense program and policies with a view toward determining and expressing the defense strategy of the United States and establishing a revised defense program through 2005. The Act also established a National Defense Panel to assess the Quadrennial Defense Review and to conduct an independent, nonpartisan review of the strategy, force structure, and funding required to meet anticipated threats to the national security of the United States through 2010 and beyond.

(7) The Quadrennial Defense Review, completed by the Secretary of Defense in May 1997, defined the defense strategy in terms of "Shape, Respond, and Prepare Now". The Quadrennial Defense Review placed greater emphasis on the need to prepare now for an uncertain future by exploiting the revolution in technology and transforming the force toward Joint Vision 2010. It concluded that our future force will be different in character than our current force.

(8) The National Defense Panel Report, published in December 1997, concluded that "the Department of Defense should accord the highest priority to executing a transformation strategy for the United States military, starting now." The panel recommended the establishment of a Joint Forces Command with the responsibility to be the joint force integrator and provider and the responsibility for driving the process for transforming United States forces, including the conduct of joint experimentation, and to have the budget for carrying out those responsibilities.

(9) The assessments of both the Quadrennial Defense Review and the National Defense Panel provide Congress with a compelling argument that the future security environment and the military challenges to be faced by the United States in the future will be fundamentally different than the current environment and challenges. The assessments also reinforce the foundational premise of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 that warfare, in all of its varieties, will be joint warfare requiring the execution of developed joint operational concepts.

(10) A process of joint experimentation is necessary for—

(A) integrating advances in technology with changes in the organizational structure of the Armed Forces and the development of joint operational concepts that will be effective against national security threats anticipated for the future; and

(B) identifying and assessing the interdependent aspects of joint warfare that are key for transforming the conduct of military operations by the United States to meet those anticipated threats successfully.

(11) It is critical for future readiness that the Armed Forces of the United States innovatively investigate and test technologies, forces, and joint operational concepts in simulations, wargames, and virtual settings, as well as in field environments under realistic conditions against the full range of future challenges. It is essential that an energetic and innovative organization be established and empowered to design and implement a process of joint experimentation to develop and validate new joint warfighting concepts, along with experimentation by the Armed Forces, that is directed at transforming the Armed Forces to meet the threats to the national security that are anticipated for the early 21st century. That process will drive changes in doctrine, organization, training and education, materiel, leadership, and personnel.

(12) The Department of Defense is committed to conducting aggressive experimentation as a key component of its transformation strategy.

(13) The competition of ideas is critical for achieving effective transformation. Experimentation by each of the Armed Forces has been, and will continue to be, a vital aspect of the pursuit of effective transformation. Joint experimentation leverages the effectiveness of each of the Armed Forces and the Defense Agencies.

SEC. 1202. SENSE OF CONGRESS.

(a) DESIGNATION OF COMMANDER TO HAVE JOINT WARFIGHTING EXPERIMENTATION MISSION.—It is the sense of Congress that Congress supports the initiative of the Secretary of Defense and the Chairman of the Joint Chiefs of Staff to designate a commander of a combatant command to have the mission for joint warfighting experimentation, consistent with the understanding of Congress that the Chairman of the Joint Chiefs of Staff will assign the designated commander the tasks to develop and validate new joint warfighting concepts and capabilities, and to determine the implications, for doctrine, organization, training and education, materiel, leadership, and personnel, of the Department of Defense strategy for transforming the Armed Forces to meet the national security threats of the future.

(b) RESOURCES OF COMMANDER.—It is, further, the sense of Congress that the commander designated to have the joint warfighting experimentation mission should—

(1) have sufficient freedom of action and authority over the necessary forces to successfully establish and conduct the process of joint warfighting experimentation;

(2) be provided resources adequate for the joint warfighting experimentation process; and

(3) have authority over the use of the resources for the planning, preparation, conduct, and assessment of joint warfighting experimentation.

(c) AUTHORITY AND RESPONSIBILITIES OF COMMANDER.—It is, further, the sense of Congress that, for the conduct of joint warfighting experimentation to be effective, it is necessary that the commander designated to have the joint warfighting experimentation mission also have the authority and responsibility for the following:

(1) Developing and implementing a process of joint experimentation to formulate and validate concepts critical for joint warfighting in the future, including (in such process) analyses, simulations, wargames, information superiority and other experiments, advanced concept technology demonstrations, and joint exercises conducted in virtual and actual field environments.

(2) Planning, preparing, and conducting the program of joint warfighting experimentation.

(3) Assessing the effectiveness of organizational structures, operational concepts, and technologies employed in joint experimentation, investigating opportunities for coordinating the evolution of the organizational structure of the Armed Forces compatibly with the concurrent evolution of advanced technologies, and investigating new concepts for transforming joint warfighting capabilities to meet the operational challenges expected to be encountered by the Armed Forces in the early 21st century.

(4) Coordinating with each of the Armed Forces and the Defense Agencies regarding the development of the equipment (including surrogate or real technologies, platforms, and systems) necessary for the conduct of joint experimentation, or, if necessary, developing such equipment directly.

(5) Coordinating with each of the Armed Forces and the Defense Agencies regarding the acquisition of the materiel, supplies, services, and surrogate or real technology resources necessary for the conduct of joint experimentation, or, if necessary, acquiring such items and services directly.

(6) Developing scenarios and measures of effectiveness for joint experimentation.

(7) Conducting so-called "red team" vulnerability assessments as part of joint experimentation.

(8) Assessing the interoperability of equipment and forces.

(9) Providing the Secretary of Defense and the Chairman of the Joint Chiefs of Staff with the commander's recommendations (developed on the basis of joint experimentation) for reducing unnecessary redundancy of equipment and forces.

(10) Providing the Secretary of Defense and the Chairman of the Joint Chiefs of Staff with the commander's recommendations (developed on the basis of joint experimentation) regarding synchronization of the fielding of advanced technologies among the Armed Forces to enable the development and execution of joint operational concepts.

(11) Submitting, reviewing, and making recommendations (in conjunction with the joint experimentation and evaluation process) to the Chairman of the Joint Chiefs of Staff on mission needs statements and operational requirements documents.

(12) Exploring new operational concepts (including those developed within the Office of the Secretary of Defense and Defense Agencies, other unified commands, the Armed Forces, and the Joint Staff), and integrating and testing in joint experimentation the systems and concepts that result from warfighting experimentation by the Armed Forces and the Defense Agencies.

(13) Developing, planning, refining, assessing, and recommending to the Secretary of Defense and the Chairman of the Joint Chiefs of Staff the most promising joint concepts and capabilities for experimentation and assessment.

(14) Assisting the Secretary of Defense and the Chairman of the Joint Chiefs of Staff to prioritize joint requirements and acquisition programs on the basis of joint warfighting experimentation.

(d) CONTINUED EXPERIMENTATION BY OTHER DEFENSE ORGANIZATIONS.—It is, further, the sense of Congress that—

(1) the Armed Forces are expected to continue to develop concepts and conduct intraservice and multiservice warfighting experimentation within their core competencies; and

(2) the commander of United States Special Operations Command is expected to continue to develop concepts and conduct joint experimentation associated with special operations forces.

(e) Congressional Review.—It is, further, the sense of Congress that—

(1) Congress will carefully review the initial report and annual reports on joint warfighting experimentation required under section 1203 to determine the adequacy of the scope and pace of the transformation of the Armed Forces to meet future challenges to the national security; and

(2) if the progress is inadequate, Congress will consider legislation to establish a unified combatant command with the mission, forces, budget, responsibilities, and authority described in the preceding provisions of this section.

SEC. 1203. REPORTS ON JOINT WARFIGHTING EXPERIMENTATION.

(a) Initial Report.—(1) On such schedule as the Secretary of Defense shall direct, the commander of the combatant command assigned the mission for joint warfighting experimentation shall submit to the Secretary an initial report on the implementation of joint experimentation. Not later than April 1, 1999, the Secretary shall submit the report, together with any comments that the Secretary considers appropriate and any comments that the Chairman of the Joint Chiefs of Staff considers appropriate, to the Chairmen of the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives.

(2) The initial report of the commander shall include the following:

(A) The commander's understanding of the commander's specific authority and responsibilities and of the commander's relationship to the Secretary of Defense, the Chairman of the Joint Chiefs of Staff, the Joint Staff, the commanders of other combatant commands, the Armed Forces, and the Defense Agencies and activities.

(B) The organization of the commander's combatant command, and of its staff, for carrying out the joint warfighting experimentation mission.

(C) The process established for tasking forces to participate in joint warfighting experimentation and the commander's specific authority over the forces.

(D) Any forces designated or made available as joint experimentation forces.

(E) The resources provided for joint warfighting experimentation, including the personnel and funding for the initial implementation of joint experimentation, the process for providing the resources to the commander, the categories of the funding, and the authority of the commander for budget execution.

(F) The authority of the commander, and the process established, for the development and acquisition of the material, supplies, services, and equipment necessary for the conduct of joint warfighting experimentation, including the authority and process for development and acquisition by the Armed Forces and the Defense Agencies and the authority and process for development and acquisition by the commander directly.

(G) The authority of the commander to design, prepare, and conduct joint experiments (including the scenarios and measures of effectiveness used) for assessing operational concepts for meeting future challenges to the national security.

(H) The role assigned the commander for—

(i) integrating and testing in joint warfighting experimentation the systems that emerge from warfighting experimentation by the Armed Forces or the Defense Agencies;

(ii) assessing the effectiveness of organizational structures, operational concepts, and technologies employed in joint warfighting experimentation; and

(iii) assisting the Secretary of Defense and the Chairman of the Joint Chiefs of Staff in prioritizing acquisition programs in relationship to future joint warfighting capabilities.

(I) Any other comments that the commander considers appropriate.

(b) Annual Report.—(1) On such schedule as the Secretary of Defense shall direct, the commander of the combatant command assigned the mission for joint warfighting experimentation shall submit to the Secretary an annual report on the conduct of joint experimentation activities for the fiscal year ending in the year of the report. Not later than December 1 of each year, the Secretary shall submit the report, together with any comments that the Secretary considers appropriate and any comments that the Chairman of the Joint Chiefs of Staff considers appropriate, to the Chairmen of the Committee on Armed Services of the Senate and the Committee on National Security of the House of Representatives. The first annual report shall be submitted in 1999.

(2) The annual report of the commander shall include, for the fiscal year covered by the report, the following:

(A) Any changes in—

(i) the commander's authority and responsibilities for joint warfighting experimentation;

(ii) the commander's relationship to the Secretary of Defense, the Chairman of the Joint Chiefs of Staff, the Joint Staff, the commanders of the other combatant commands, the Armed Forces, or the Defense Agencies or activities;

(iii) the organization of the commander's command and staff for joint warfighting experimentation;

(iv) any forces designated or made available as joint experimentation forces;

(v) the process established for tasking forces to participate in joint experimentation activities or the commander's specific authority over the tasked forces;

(vi) the procedures for providing funding for the commander, the categories of funding, or the commander's authority for budget execution;

(vii) the authority of the commander, and the process established, for the development and acquisition of the material, supplies, services, and equipment necessary for the conduct of joint warfighting experimentation;

(viii) the commander's authority to design, prepare, and conduct joint experiments (including the scenarios and measures of effectiveness used) for assessing operational concepts for meeting future challenges to the national security; or

(ix) any role described in subsection (a)(2)(H).

(B) The conduct of joint warfighting experimentation activities, including the number of activities, the forces involved, the national security challenges addressed, the operational concepts assessed, and the scenarios and measures of effectiveness used.

(C) An assessment of the results of warfighting experimentation within the Department of Defense.

(D) The effect of warfighting experimentation on the process for transforming the Armed Forces to meet future challenges to the national security.

(E) Any recommendations that the commander considers appropriate regarding—

(i) the development or acquisition of advanced technologies; or

(ii) changes in organizational structure, operational concepts, or joint doctrine.

(F) An assessment of the adequacy of resources, and any recommended changes for the process of providing resources, for joint warfighting experimentation.

(G) Any recommended changes in the authority or responsibilities of the commander.

(H) Any additional comments that the commander considers appropriate.

CONVENTION FOR THE PROTECTION OF PLANTS

(The text of the resolution of ratification as agreed to by the Senate on June 26, 1998, follows:)

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of The International Convention for the Protection of New Varieties of Plants of December 2, 1961, as revised at Geneva on November 10, 1972, on October 23, 1978, and on March 19, 1991 and signed by the United States on October 25, 1991 (Treaty Doc. 104-17), subject to the reservation of subjection (a), the declarations of subsection (b), and the proviso of subjection (c).

(a) Reservation.—The advice and consent of the Senate is subject to the following reservation, which shall be included in the instrument of ratification and shall be binding on the President:

Protection for Asexually Reproduced Varieties.—Pursuant to Article 35(2), the United States will continue to provide protection for asexually reproduced varieties by an industrial property title other than a breeder's right and will not, therefore, apply the terms of this Convention to those varieties.

(b) Declarations.—The advice and consent of the Senate is subject to the following declarations:

(1) Limited reservations provisions.—It is the Sense of the Senate that a "limited reservations" provision, such as that contained in Article 35, has the effect of inhibiting the Senate in its exercise of its constitutional duty to give advice and consent to ratification of a treaty, and the Senate's approval of this treaty should not be construed as a precedent of acquiescence to future treaties containing such a provision.

(2) Treaty interpretation.—The Senate affirms the applicability to all treaties of the constitutionally based principles of treaty interpretation set forth in Condition (1) of the resolution of ratification of the INF Treaty, approved by the Senate on May 27, 1988, and Condition (8) of the resolution of ratification of the Document Agreed Among the States Parties to the Treaty on Conventional Armed Forces in Europe, approved by the Senate on May 14, 1997.

(c) Proviso.—The resolution of ratification is subject to the following proviso, which shall be binding on the President:

Supremacy of the Constitution.—Nothing in the Treaty requires or authorizes legislation or other action by the United States of America that is prohibited by the Constitution of the United States as interpreted by the United States.

INTERNATIONAL GRAINS AGREEMENT, 1995

(The text of the resolution of ratification as agreed to by the Senate on June 26, 1998, follows:)

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of The Grains Trade Convention and Food Aid Convention Constituting the International Grains Agreement, 1995, signed by the United States on June 26, 1995 (Treaty Doc. 105-4), subject to the declaration of subsection (a), and the proviso of subsection (b).

(a) DECLARATION.—The advice and consent of the Senate is subject to the following declaration.

TREATY INTERPRETATION.—The Senate affirms the applicability to all treaties of the constitutionally based principles of treaty interpretation set forth in Condition (1) of the resolution of ratification of the INF Treaty, approved by the Senate on May 27, 1988, and Condition (8) of the resolution of ratification of the Document Agreed Among the States Parties to the Treaty on Conventional Armed Forces in Europe, approved by the Senate on May 14, 1997.

(a) PROVISO.—The resolution of ratification is subject to the following proviso, which shall be binding on the President:

SUPREMACY OF THE CONSTITUTION.—Nothing in the Treaty requires or authorizes legislation or other action by the United States of America that is prohibited by the Constitution of the United States as interpreted by the United States.

TRADEMARK LAW TREATY WITH REGULATIONS

(The text of the resolution of ratification as agreed to by the Senate on June 26, 1998, follows:)

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of The Trademark Law Treaty done at Geneva October 27, 1994, with Regulations, signed by the United States on October 28, 1994 (Treaty Doc. 105-35), subject to the declarations of subsection (a), and the proviso of subsection (b).

(a) DECLARATIONS.—The advice and consent of the Senate is subject to the following declarations:

(1) LIMITED RESERVATIONS PROVISIONS.—It is the Sense of the Senate that a "limited reservations" provision, such as that contained in Article 21, has the effect of inhibiting the Senate in its exercise of its constitutional duty to give advice and consent to ratification of a treaty, and the Senate's approval of this treaty should not be construed as a precedent for acquiescence to future treaties containing such a provision.

(2) TREATY INTERPRETATION.—The Senate affirms the applicability to all treaties of the constitutionally based principles of treaty interpretation set forth in Condition (1) of the resolution of ratification of the INF Treaty, approved by the Senate on May 27, 1988, and Condition (8) of the resolution of ratification of the Document Agreed Among the States Parties to the Treaty on Conventional Armed Forces in Europe, approved by the Senate on May 14, 1997.

(b) PROVISO.—The resolution of ratification is subject to the following proviso, which shall be binding on the President.

SUPREMACY OF THE CONSTITUTION.—Nothing in the Treaty requires or authorizes legislation or other action by the United States of America that is prohibited by the Constitution of the United States as interpreted by the United States.

AMENDMENTS TO THE CONVENTION ON THE INTERNATIONAL MARITIME ORGANIZATION

(The text of the resolution of ratification as agreed to by the Senate on June 26, 1998, follows:)

Resolved, (two-thirds of the Senators present concurring therein). That the Senate advise and consent to the ratification of the Amendments to the Convention on the International Maritime Organization, adopted on November 7, 1991, and November 4, 1993 (Treaty Doc. 104-36), subject to the declaration of subsection (a), and the proviso of subsection (b).

(a) DECLARATION.—The advice and consent of the Senate is subject to the following declaration:

TREATY INTERPRETATION.—The Senate affirms the applicability to all treaties of the constitutionally based principles of treaty interpretation set forth in Condition (1) of the resolution of ratification of the INF Treaty, approved by the Senate on May 27, 1988, and Condition (8) of the resolution of ratification of the Document Agreed Among the States Parties to the Treaty on Conventional Armed Forces in Europe, approved by the Senate on May 14, 1997.

(b) PROVISO.—The resolution of ratification is subject to the following proviso, which shall be binding on the President:

SUPREMACY OF THE CONSTITUTION.—Nothing in the Treaty requires or authorizes legislation or other action by the United States of America that is prohibited by the Constitution of the United States as interpreted by the United States.

MEASURE READ THE FIRST TIME—H.R. 2431

Mr. BOND. Madam President, I understand that H.R. 2431 has arrived from the House and is at the desk. I now ask for its first reading.

The PRESIDING OFFICER. The clerk will read the bill for the first time.

The legislative clerk read as follows:

A bill (H.R. 2431) to establish an Office of Religious Persecution Monitoring, to provide for the imposition of sanctions against countries engaged in a pattern of religious persecution, and for other purposes.

Mr. BOND. I now ask for its second reading and object to my own request.

The PRESIDING OFFICER. The bill will remain at the desk and have its next reading on the next legislative day.

MEASURE READ THE FIRST TIME—H.R. 3150

Mr. BOND. Madam President, I understand that H.R. 3150 is also at the desk, and I now ask for its first reading.

The PRESIDING OFFICER. The clerk will read the bill for the first time.

The legislative clerk read as follows:

A bill (H.R. 3150) to amend title 11 of the United States Code, and for other purposes.

Mr. BOND. I now ask for its second reading and object to my own request.

The PRESIDING OFFICER. The bill will remain at the desk and have its second reading on the next legislative day.

ORDERS FOR TUESDAY, JULY 7, 1998

Mr. BOND. Madam President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m. on Tuesday, July 7. I further ask that when the Senate reconvenes on Tuesday, immediately following the prayer, the routine requests through the morning hour be granted.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOND. I further ask that the Senate stand in recess from 12:30 until 2:15 p.m. to allow the weekly party caucuses to meet.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. BOND. Madam President, for the information of all Senators, when the Senate reconvenes Tuesday morning at 9:30 a.m., there will immediately be a vote on the motion to invoke cloture on the motion to proceed to the product liability bill. If cloture is invoked, the Senate will debate the motion to proceed until the policy luncheons at 12:30. Following the policy luncheons, it is expected that the Senate will resume consideration of the VA-HUD bill. It is our hope that Members will come to the floor during Tuesday's session to offer and debate amendments to the VA-HUD bill. The Senate may also consider the IRS reform conference report Tuesday night, hopefully, under a short time agreement, with a vote occurring on adoption of the conference report Wednesday morning.

The majority leader would like to remind Members that July will be a very busy month with late-night sessions and votes. The cooperation of all Members will be necessary for the Senate to complete its work prior to the August recess.

Ms. MIKULSKI. Madam President, I would like to echo for all staffs and Senators returning from the Fourth of July work period that we really would like to see a definite list of amendments to the VA-HUD appropriations bill so that when we take it up, we can move as expeditiously as possible.

ORDER FOR ADJOURNMENT

Mr. BOND. Madam President, if there is no further business to come before the Senate, I now ask that the Senate stand in adjournment under the previous order following the remarks of the Senator from North Dakota.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from North Dakota is recognized.

IRS REFORM BILL

Mr. DORGAN. Madam President, I have come to the floor to talk a bit about the crisis in agriculture, especially the crisis facing family farmers in my State of North Dakota. But before I do that, I would like to talk just for a moment about a piece of legislation that I understand may be brought to the floor of the Senate tomorrow—probably tomorrow evening. It is the so-called IRS reform bill.

In my judgement, there is much in the IRS reform bill that has merit. The hearings that were held in the Senate, which reviewed cases of harassment of taxpayers, some unacceptable behavior by Internal Revenue Service agents, and some other items clearly made the case for the need for some changes with respect to the Internal Revenue Service. Much of this piece of legislation, as I indicated, has merit. But I want to object to something that was done in legislative darkness in putting this conference report together. It is a provision that was not in either the House or Senate bills. It is a provision that had never been debated. It had not been put in either bill in the House or Senate. Yet at the last moment, in legislative darkness, it was stuck in this conference report in the conference committee. I don't understand by what rules they operate when they say we are going to stick something in the conference report that is not in either the House or Senate bill.

Here is what they did. They said in the conference report that they will reduce the holding period of assets for capital gains from 18 months to 12 months. What does that mean? Well, it means that those with incomes in this country of over $100,000 a year are going to get 90 percent of the benefit of a $2 billion tax break. That is $2 billion in tax breaks. Ninety percent of it will go to people who make over $100,000 in income. In fact, 76 percent goes to people making over $200,000 a year or more. This was done without debate. This was one of those little nuggets that was stuck in the bill. It was not debated by the House or the Senate.

The same day they said we have $2 billion to give away to the upper-income people, they said we don't have enough money to provide for low-income heating assistance during the winter for low-income folks in the northern climates. This majority in Congress doesn't have enough money for that. They don't have enough money for low-income people who are trying to heat their homes. They say we are out of money, so we will cut that program off. They don't have enough money for summer jobs for disadvantaged youth. Gee, there is not enough money for that. They say there is not enough money for school construction in Indian schools, where the schools are falling apart and kids are walking through school doors into classrooms of which we all ought to be ashamed. No, there is not enough money for that.

But in the dark of the legislative night, there is enough money to stick $2 billion into the purses of the richest Americans. This is done with no debate in this Congress. To the people who behave and operate like that and carry those knapsacks full of money to the upper-income folks, I just say that is a terrible way to legislate. On one hand you say you can't afford to help people who really need help, and that you have to abolish low-income energy assistance. Yet, on the other side there is plenty of money to reduce the capital gains holding period, without even a discussion in Congress about who it is going to benefit. It seems to me this is not a very happy day, when you talk about what should be our legislative priorities around this Capitol Building. I will talk more about that when the bill comes to the floor of the Senate tomorrow evening.

FAMILY FARM CRISIS

Mr. DORGAN. Madam President, for the RECORD, I want to read a letter from Joni Flaten from Langdon, ND. I visited with her this afternoon. She sent me a letter some while ago. She is a farm wife. We have a huge farm crisis not only in my State of North Dakota, but also in the entire wheat belt. Grain prices have collapsed. We have been hit with the toughest, worst outbreak of crop disease in a century in North Dakota. So you take crop disease that devastates the crop and then you add collapsed prices, and you have a calamity for a lot of family farmers.

Joni Flaten writes:

> My husband has been farming now for 18 years. He is a third generation farmer, and with my oldest son graduating last Sunday, we were looking forward to some day having the fourth generation. However, that will no longer be possible for we have been unable to get an operating loan this season due to low grain prices . . .
>
> I have 3 children and have stayed home for 18 years to raise them and help my husband on the farm. We are now going to be forced into giving up the family farm, and I'm not sure if there is a lot of need for a 38-year-old combine operator/tractor driver/trucker/run for parts person and be a mother in the work force in North Dakota. We have been a true family operation since the boys were able to see over the steering wheels . . . We have not been able to hire an extra man to help us, but we have pulled together as a family at planting and harvest times to get the job done. Now Farm Credit tells us we are unable to get a loan to operate our farm. FAHS tells us we can't have a loan and the sad truth is such a blow to all of my family. Not that you or anyone can do much about this but maybe somehow you can stop it from happening to some other family in the future. It is a good life here in ND but I think you will be 5 people less come this winter!!!

This is from a woman named Joni Flaten, a farm wife, has been a farm wife for 18 years, and they are losing their livelihood, losing their family farm.

Let me show you a picture of Bev and Jim McAllister from Oriska, ND. Jim McAllister came to a meeting that I had in Mandan, ND, a few months ago. You can see Jim is a pretty big guy. He stood up at that meeting and began talking about his family farm. He said his granddad farmed it, his dad farmed it, and he has farmed it for 23 years. Then his chin began to quiver and he got tears in his eyes. Then he said he is going to have to quit farming. Jim and Bev McAllister love farming. They are family farmers. They have raised their family on the farm. It is a way of life they say they wouldn't have traded for anything, and yet they are having to leave the farm. There family farm will be history. No more family farming for the McAllister family.

Why is this happening?

This is a picture of an auction sale in North Dakota. You can see what an auction sale looks like. There are a lot of folks standing around with an auctioneer auctioning off farm machinery. Here are pages from a North Dakota newspaper. It shows about 150 auction sales. It is all advertised in the same week's paper. These auction sales go out for a good number of weeks. This listing includes some 150 auction sales.

They have had so many auction sales on North Dakota farms that they have had to call retired auctioneers back from retirement to handle the auction sales. Every one of these auction sales represents a family farmer who has tried to invest everything they have, and have worked hard, to run a family farm. And then they discover they can't make it.

Why can't they make it? Well, farmers are beset by a whole range of problems these days. First, they wrote a new farm program in Congress two years ago. I didn't vote for it. I thought it was a terrible farm program. But those who voted for it—and the President reluctantly signed it—essentially said we are going to pull the safety net out from under family farmers. It doesn't matter what the circumstances are. If grain prices collapse, somehow we are going to still pull the safety net out from under family farmers and instead set up a decreasing scale of price supports, eventually hoping that family farmers will deal in whatever is the open market. They called this program Freedom to Farm.

It would be like saying to the people in the workforce we are going to reduce the minimum wage to $1 an hour and we are going to call it "Freedom to Work." It is the same logic, exactly the same logic. If they cut the minimum wage to $1 an hour and call it "Freedom to Work," it would make as much sense as what they have done to family farmers.

Here is what family farmers face in my State. Wheat costs somewhere around $4.50 to $5 a bushel to raise. When farmers plant it in the spring, in order to plant it they have to have equipment. They have to buy fuel for the tractor. They have to buy seed to plant in the ground. They have to buy fertilizer to fertilize it. They till and seed the ground, and hope and pray and cross their fingers and hope they get enough moisture. If they get enough moisture for that, and if they grow wheat, barley, or corn, they hope it doesn't hail and destroy the crop. Then they hope the insects don't come and eat the crop. And, they hope they don't experience crop disease that will in other ways ravage and decimate the crop. If all of that is avoided, then maybe in the fall they will have a crop that has come out of the ground and is high enough to harvest. Then they will buy fuel for the combine and they will go harvest the crop. When all of that is done, if they have been very lucky, they will have raised a crop that cost them $4.50 or $5 a bushel to raise, and they truck it to the county elevator, and they may get $3.10 a bushel for it. That means they go broke.

On top of the collapsed prices, in North Dakota and a couple of other States, we have been ravaged by the worst possible crop disease. It is called scab. The technical name is fusarium head blight. I am told that this is the worst crop disease in this century. So these family farmers are trying to fight a crop disease that decimates their crop and then a price that is in the tank. The question is: Does anybody care? Does anybody care at all?

We had a group of Senators a week and a half ago who held a press conference that said, "Gee, this farm bill is working just fine. We think things are on the right track." What planet could they have possibly come from? Where on Earth did they get off the mother ship? How could they say, "This farm bill is working just fine?"

I would encourage anyone who thinks that to go buy a quarter section of land and plant yourself a crop. After you plant it, raise the crop, and then sell it, then you will have the big loss that you are going to get under this farm program. After you have done that, then come and gloat about how the farm program is working. I dare you. See, if you have the courage of your convictions. Any one of those who think this farm program is working just fine, should go buy a farm and have the opportunity to lose some money for awhile. Then you will have your banker tell you it is not working out. Only then should you come back and give us your theory and tell us how great the farm program is working. Just do it. But don't come in here and preach these platitudes about a program working when it is a disaster. Freedom to Farm has been a disaster for family farmers.

Let me tell you what else is facing family farmers. There are hundreds of thousands of family farmers out there. There are almost two million of them out there. You see them with a yard light on at night dotting the countryside. They are raising a family and planting crops. Let s say they are raising livestock and they go to market. Let's assume they are taking some cows to market. What they find at the marketplace is the neck of that bottle up through which they are trying to market is squeezed by four beef packing plants. Four beef packing companies in this country control 87 percent of the market. That is right. Four firms with 87 percent of the market. Ten years ago, it was 67 percent. Now those four control 87 percent of the market. They set the market. They tell somebody out there who is herding cows and raising cattle exactly what they are going to pay them. If they don't like it, tough luck.

If you are not raising cows, maybe you are raising hogs. The top four pork packers in this country control 60 percent of that market. If you go into a packing house that slaughters hogs, 60 percent of the market is controlled by only four companies. With sheep, it is 73 percent of the market that is controlled by the top four companies.

How about raising grain? The top four firms in flour milling in this country have 62 percent of the market. The top four grain elevator firms control nearly 60 percent of the Nation's elevator facilities at our ports. The top four corn milling firms control 74 percent of the market. In soybean crushing, the top four firms have 76 percent of the market. When farmers try to market through the neck of this bottle, it is squeezed with an iron grip by increasing monopoly pricing power by corporations that press down on these farm prices.

If that is not enough for our farmers to face, then they have to haul their grain to the markets on railroads that are increasingly monopolistic. In 1980, there were 40 class-one railroads in this country. Now there are only four.

In our State, when they come through with the railroad cars, they charge $2,300 to ship a carload of wheat from Bismarck, ND, to Minneapolis. The railroad charges $1,000 to ship a carload of wheat from Minneapolis to Chicago, which is the same distance. What is the difference? The difference is that on one segment there is competition and, therefore, lower prices. In North Dakota, there is not. Therefore, they charge us more than double. We get overcharged because there isn't competition.

If farmers aren't discouraged enough by prices that are in the tank or by markets that are controlled by increasingly monopolistic tendencies, then they are beset by trade problems.

The Canadian trade agreement that we have is unforgivable in the way it was negotiated. The United States negotiator went to Canada and negotiated a United States-Canada trade agreement and fundamentally sold out agricultural interests. I say that understanding exactly what I am saying. I am sure the trade ambassador got other concessions. But family farmers had the rug pulled out from under them. Every day we have carloads and carloads of grain coming across from Canada into our marketplace. In my judgment this is in contravention of U.S. law. Yet, the Canadians refuse to open their books to GAO audits. In fact, they just recently refused once again to allow the GAO at my request to go up and audit their books. I think they are guilty of violating American trade laws. But they say, "No. We are going to ship all of this product into your country and we don't intend to open our books to you."

The United States-Canada free trade agreement is an outrage. It takes money right out of the pockets of family farmers, and it has gone on for a number of years, and nobody seems to care much. It is not just grain that comes in from Canada. It is also truckload after truckload of livestock. But nobody seems to care much.

It seems to me that farmers are told in every way that somehow it is a free market out there. They are told to go participate in that free market. Yet, when it comes to this country deciding that it wants to impose sanctions on Cuba, farmers are told: Oh, by the way, you can't sell grain to Cuba. Or they are told, by the way, you can't sell grain to Iran; and, you can't sell grain to Iraq; and, you can't sell grain to Libya.

Farmers are told, you have to pay the cost of those markets that are closed to you. Farmers are told they have to pay the cost of lost wheat sales to China, because we don't have the backbone to stand up to China. We should say to China, if you send us your shirts, your trousers, your shoes, and your trinkets, you then have to buy our wheat. Yet, because we don't have the backbone to say to China that as a condition of our market absorbing all her products that China must buy American grain. Farmers bear the consequences of those kinds of incompetent trade agreements and the lack of will and the lack of nerve and the lack of backbone. Farmers bear the consequence of that.

Most people probably don't know much about farming. Most people probably don't care much about farming. They probably in many cases think that food comes from a carton somewhere at the grocery store.

I had a fellow come to North Dakota once. He was a Member of Congress, who had never been on a farm. I decided that since he votes on farm policy issues that I should really take him out and show him a farm. And we did. We went to a dairy barn. And the dairy business is as tough a business as there is. It is hard. You get up early in the morning and milk cows. The last thing you do at the end of the day is milk cows. There is no tougher job in the country.

My friend was standing there in a blue-striped suit, which is the uniform for Congress, and he saw how hard this was. This fellow and his wife were in the dairy barn on a little farm north of New Salem, ND, and they were milking about 90 cows. That is tough. It was about 5:30 in the evening. The light was shafting through the barn, and it was beautiful. And my friend, this Congressman, watched this go on, and finally he said to the farmer, "How often do you have to do this?" The farmer was hooking up the milk machines. It is very tough work. He says, "How often do you have to do this?" The farmer, whose name was George, said, "Well, you have to do it twice a day. You have to do it every morning and you have to do it every evening."

And my friend, the Congressman from out east, thought about that a bit, and then he said, "George, do you have to do this on weekends, too?" And he didn't know. Of course, you have to do it on weekends. You milk 7 days a week twice a day. But he didn't know it. He had never been on a farm.

Family farmers work hard, risk everything they have. In every circumstance, all they want to do is make a decent living. And what we are finding in North Dakota and across the farm belt these days is that we have the goofiest, most detrimental farm program you can possibly conceive. What does our farm program say to our family farmers out there? What does it say to some lonely farm family living on the farm with a yard light on at night, 5 miles from the nearest neighbor?

What we say to them is that you are on your own. You fight the big grain trade firms. You fight the railroad companies. You fight the meat packing plants. And, when you are done with those fights, which by the way you are going to lose, then you go ahead and fight the European Union, because they are subsidizing their farmers. You fight China which keeps your wheat out. You fight Japan that doesn't buy enough beef. You go ahead and fight Canada that floods your market and takes money out of your pocket.

We tell our farmers that they have to wage those fights alone, and we know they are going to lose. Yet, we have people on the floor of the Senate who chant, "Free market." All they can do is chant, "Free market." There has never been a free market in agriculture. There never has been, and there probably never will be.

Nobody would like it more than I would if farmers could go to the grain elevator with their 2-ton truck, haul their wheat in and get a decent price. Nobody would like that better than I would, because farmers ought to be able to get a decent price from the marketplace. What if farmers can't? Does this country care whether there are any family farmers left? It is questionable whether at least some in the Congress care at all. But, if this country cares about whether there are family farmers left, then if farmers can't get the price at the grain elevator because the market is a manipulated market that is not a free market at all, then there has to be some mechanism, as other countries have done, that says to family farmers, here is a support price in the event you can't get a decent price at the marketplace. It is the only way we will keep family farmers on the farm.

Now, we don't have much choice, it seems to me, in the coming weeks. We are going to have to decide that we are either going to do something to respond to this farm crisis or we are going to see wholesale farm bankruptcies all across the country. The very survival of family farms is what is at stake.

Let me just briefly go through a couple of charts.

Here is what has happened to wheat prices. Wheat prices have fallen 53 percent in the 2 years since the farm bill was passed. That is what has happened to wheat prices under Freedom to Farm. If you love Freedom to Farm, then vote Freedom to Farm. But here is what has happened to wheat prices. You can chant "Freedom" all you like, and it is not going to help families on the farm stay on the farm. As I said when I started, chanting "Freedom to Farm" and pulling the rug out from family farmers, would be the same thing as coming to the floor and saying what we propose is to cut the minimum wage to a dollar an hour and we will call it freedom to work. It is exactly the same principle.

That is what has happened to grain prices. They have dropped from $5.75 per bushel to $2.72 per bushel. That is why farmers are in such significant trouble.

Secondly, in addition to that, there is no longer a disaster program. Now when you suffer disasters, we cannot respond to it. That is also part of the Freedom-to-Farm approach. I want to show you what has happened to family farmers in North Dakota.

This is only one State. The red area means that these counties and those farmers living in those counties have been living in a county declared a disaster area for 5 years in a row. The orange areas have had disasters 4 out of 5 years. You can see that takes up the entire eastern half of the State. Incidentally, this half of my State is equal to five times Massachusetts in land mass. North Dakota is 10 times the size of Massachusetts in land size. But this half of North Dakota has had a disaster declaration for every county 4 out of 5 years. A third of our counties have been declared a disaster every year. All of our counties were declared a disaster area this past year.

Family farmers can't make it when they have disaster after disaster after disaster. Yet, we have people in Congress saying to them, "Well, so what. Go to the marketplace. It's a free market." It is not a free market.

When you have crop disease and disasters, resulting from the wet cycle, and collapsed prices, here is what happens to income: In 1 year, there was a 98 percent reduction in net farm income. Family farmers as a group in North Dakota lost 98 percent of their net income. Think of it. Can you think of anyone else in your neighborhood, anyone in your town, who would still be on their feet if they lost 98 percent of their net income? I don't think so; not with a 98 percent loss in net income.

Here is what happened to the production costs for family farmers. They have to buy tractors, right? In 20 years, here is what happened to the price of a tractor? In the past 20 years, here is what happened to the price of a combine. Look at what has happened to the fertilizer costs and what has happened to the price of diesel fuel. And then I showed you what happened to wheat prices. All of those input costs increased dramatically and wheat prices come down.

Well, there are a lot of solutions to this, some of which will appease no one in this Chamber, I suppose. Yet, we must decide as a Congress whether this matters.

If we have big corporations in this country that get into trouble, gosh, there are all kinds of friends there willing to fluff up their pillow and give them an aspirin and get them to bed for a short nap, maybe give them a transitional loan.

It is really interesting. While I am describing to you the problems in family farming, think of what has happened during this period of time when family farmers like Jim McAllister and Joni Flaten and others are losing everything they have. Yes, absolutely everything. What is happening on the front page of your newspaper? All the biggest companies in the country are finding romance once again. They are dating, and then they are getting married, and so we have these big mergers and combinations. Gosh, they love each other. The bigger, the better. At the upper end of this economic system, things are just swimming, I guess. There are record profits, and the largest mergers in the history of humankind. And at the bottom, the folks who are out there trying to raise a family and keep a yard light on and run a family farm are going broke in record numbers.

There is something really wrong with that. There is something wrong with a system that doesn't reward what this country should value most and that doesn't connect effort and reward. You talk about effort? You know, family farmers are the ones who invest everything they have, work hard, risk everything they have, and then discover at the end of it that they don't have the capability of continuing. And this country has a policy that says that is fine; we don't care about that?

We are going to have a big fight in this Chamber this summer to see who cares. Some people may say they don't care. Or they may say they care, but they have constructed these goof-ball policies and they just want to stand over in a corner and chant about free markets. That is one solution, I guess. But that solution will simply continue this decline, this spiral of failing our family farms.

But there are other ways to address this. One is for this Congress to write a simple farm plan that starts with one single sentence, and that sentence says: The purpose of this farm bill is to maintain a network of family farms in this country.

Otherwise, you will have corporate agrifactories farm from California to Maine. There won't be anybody living in the country, and the price of food will go up. That can happen and probably will happen unless this country decides that family farmers are in this country's best interests. Thomas Jefferson used to say that it is in this country's best interests to maintain a broad network of ownership in this country. Broad-based economic ownership is critical to the success of this country.

Even if one doesn't care about family farmers, one ought to care about the disparity that exists here. We should care about the massive failure at the bottom of the system affecting people who really produce real things, and the orgy of mergers that is occurring at the top with the big getting bigger.

One of the things that bothers me the most about all of this is the people who are out there raising a kernel of wheat or corn or barley to take it to the market are the very ones who are failing. And then everybody else who gets hold of that seems to be making record profits. Go to the grocery store and buy a box of cereal and look at the price. Somebody took that kernel of wheat or corn or grain of rice and they might have puffed it. Now that it is made into puffed wheat, does its price bear any relationship to the price that the farmer gets for the wheat? No, not at all. The farmer gets a pitiful price that is insufficient to keep the farmer in business. But those who process it, those who haul it, those who puff it, those who crisp it, those who shred it, they are all making record profits. There is something wrong with that. There is something wrong with the method by which this system values what people contribute to our economic system.

Some people might say to me, "Gee, you come from North Dakota and you have a different view of economics. You didn't go to the University of Chicago, the School of Economics; you don't understand free markets," and so on. No, I understand it. I understand the difference between the theory, the chanting and all the nonsense and the reality that exists every day confronting people who produce every day.

So I know there will be some in this Chamber who will be upset this summer that we are going to push them very hard on these policies. Those of us who have other ideas and believe there is a better way and different approach and believe there is a way for this Congress to stand up for family farming. We need to say to our family farmers, just as the Europeans have said to their family farmers and other countries have said to theirs, that you matter. Your presence as a producer, as a family farmer in this country, makes a difference to us. It strengthens this country. It nurtures this country.

The formation of family values in America always came from family farms. The seed bed of family values came from family farms. They have rolled into small towns and rolled into the cities, nurturing and refreshing the family values of this country. So, therefore, family farming matters. It is more than just dollars and cents, and it is more than just economics. Family farming, as an economic and social policy, matters in this country.

Those who have currently gained the upper hand politically on this issue have constructed a farm policy that says, "We are going to pull the rug out from under you even as we negotiate bad trade agreements. We are going to pull the rug out from under you on support and there will be no disaster programs for massive crop disease." Those folks are not going to like what some of us feel we must do this summer to try to force the issue to deal with family farming.

Mr. President, I think of Joni Flaten, a 38-year-old woman from Langdon, ND, who writes a letter with resignation. She and her husband have invested in their farm and in fact they are losing their farm, and they wonder what to do next. She says, ". . . I'm not sure if there is a lot of need for a 38-year-old combine operator/tractor driver/trucker/run for parts person and be a mother in the workforce in North Dakota." That is what you do to run a farm. Everybody does everything.

Some, I guess, as the old saying goes, understand the cost of everything and the value of nothing. That is what we have here, in my judgment. We went through this debate a couple of years ago on the Freedom to Farm bill and I was never made quite so despondent about a U-turn in public policy as I was by those who said, "Gee, family farmers really don't matter very much. We have this market system they can work in."

Everybody here knows. The statistics I have just used are not foreign to anybody here. They say to the family farmer: You operate in this market system. We understand the grain trading firms have a hammerlock on price; we understand the railroads have a hammerlock on your transportation; we understand that meat packing plants have a hammerlock on your marketing system, but, still, you go ahead and operate in the free market.

I think it would be perfectly understandable for farmers to start their tractors and gas them up and head them towards the byways and highways that haul policy makers to legislative forums where they extol about a free market that doesn't exist and see if they cannot persuade them that family farming matters and that their futures and their fortunes matter as well.

We expect in the coming weeks to have discussions about a disaster program or an indemnification program, either one; about a price support program; about a range of other issues that need to be addressed, including the question of concentration in the meat packing industry and other issues. But through it all, I expect we will debate these issues in the month of July.

Now that the Senate will be back voting tomorrow, we will see work on appropriations bills. Will we see business as usual? Will we see the kind of legislative sleight of hand that I mentioned at the start of this discussion? Will we see conference committees come to the floor of the Senate in which a $2 billion item was offered in legislative darkness that will butter the bread of the richest folks in America? Then the same people who decide they want to do that will say, "Gee, we don't have enough money to help poor people who can't afford home heating."

We will see all that kind of thing that goes on around here because people can do it, and they do do it, and that is unfortunate. That is not the bright side of legislating. That is the dark side of legislating. But, hopefully, enough of us will force enough of others of us in this Chamber to confront these questions. Does farm policy work when farmers are told that whatever they get in the marketplace is all there is, and the marketplace collapses like a used accordion, and the farmers are then told, well, it's tough luck; some big corporation will come and farm all that land and America will be just as well off with an agrifactory?

In my judgment, it won't. I recognize I come from a town of 300 people in a small rural area of North Dakota. But the people who farm in North Dakota and up and down the farm belt are some of the best people in this country. They don't deserve to be whipsawed by an economic system that is unfair to them, that treats them fundamentally unfairly with respect to trade agreements and sanctions, and markets that are unfair, markets that are clogged. It is not the right way for this country to treat its family farmers.

So, again, Mr. President, in the coming couple of weeks, the leadership of the Senate should expect to confront these issues. I hope those who feel strongly about the current farm policy will bring their notebooks, bring their theory, and sharpen their chants, because they are going to have an opportunity to tell us about free markets once again. We will have an opportunity to visit about farm families who are going broke under that very same set of circumstances.

Mr. President, I yield the floor.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

The PRESIDING OFFICER. The Senate, under the previous order, will stand adjourned until 9:30 a.m., Tuesday, July 7, 1998.

Thereupon, the Senate, at 5:19 p.m., adjourned until Tuesday, July 7, 1998, at 9:30 a.m.

EXTENSIONS OF REMARKS

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, July 7, 1998, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JULY 8

9:00 a.m.

Judiciary

To hold hearings to examine certain provisions of S.J.Res. 40, proposing an amendment to the Constitution of the United States authorizing Congress to prohibit the physical desecration of the flag of the United States (pending on Senate calendar).

SD–226

9:30 a.m.

Commerce, Science, and Transportation

To hold hearings to examine the transition to high definition television.

SR–253

Indian Affairs

To hold hearings on S. 1905, to provide for equitable compensation for the Cheyenne River Sioux Tribe, H.R. 700, to remove the restriction on the distribution of certain revenues from the Mineral Springs parcel to certain members of the Agua Caliente Band of Cahuilla Indians, S. 391, to provide for the disposition of certain funds appropriated to pay judgment in favor of the Mississippi Sioux Indians, and S. 1419, to deem the activities of the Miccosukee Tribe on the Tamiani Indian Reserve to be consistent with the purposes of the Everglades National Park.

SR–485

10:00 a.m.

Foreign Relations

International Economic Policy, Export and Trade Promotion Subcommittee

To hold hearings on the implementation of United States policy on Caspian Sea oil exports.

SD–419

Select on Intelligence

To resume closed hearings on the investigation of the impacts to United States national security from advanced satellite technology exports to China and Chinese efforts to influence United States policy.

SH–219

1:00 p.m.

Judiciary

To hold hearings on S. 1529, to enhance Federal enforcement of hate crimes.

SD–226

2:00 p.m.

Commerce, Science, and Transportation

To hold hearings on S. 2107, to enhance electronic commerce by promoting the reliability and integrity of commercial transactions through establishing authentication standards for electronic communications.

SR–253

Governmental Affairs

International Security, Proliferation and Federal Services Subcommittee

To resume hearings to examine whether the Department of Commerce's commercial satellite export control policy and process toward China is adequate to prevent technology transfers which pose a threat to United States security.

SD–342

2:30 p.m.

Select on Intelligence

To hold hearings on the nomination of L. Britt Snider, of Virginia, to be Inspector General, Central Intelligence Agency.

SH–216

JULY 9

9:00 a.m.

Environment and Public Works

To hold hearings on S. 1222, Estuary Habitat Restoration Partnership Act, S. 1321, National Estuary Conservation Act, and H.R. 2207, Coastal Pollution Reduction Act.

SD–406

Judiciary

Business meeting, to consider pending calendar business.

SD–226

9:30 a.m.

Commerce, Science, and Transportation

Business meeting, to consider pending calendar business.

SR–253

Finance

To hold hearings to examine the President's proposed renewal of normal trade relations with China.

SD–215

Governmental Affairs

Permanent Subcommittee on Investigations

To resume hearings to examine the adequacy of procedures and systems used by the Department of Agriculture Food Safety and Inspection Service and the Department of Health and Human Services Food and Drug Administration to oversee the safety of food imported into the United States, focusing on the outbreak of Cyclospora associated with fresh raspberries imported into the U.S. from Central America.

SD–342

10:00 a.m.

Armed Services

To hold hearings to examine United States export control and nonproliferation policy and the role and responsibility of the Department of Defense.

SR–222

Banking, Housing, and Urban Affairs

Business meeting, to mark up S. 1405, to provide for improved monetary policy and regulatory reform in financial institution management and activities, to streamline financial regulatory agency actions, and to provide for improved consumer credit disclosure.

SD–538

2:00 p.m.

Energy and Natural Resources

National Parks, Historic Preservation, and Recreation Subcommittee

To hold hearings on S. 1333, to amend the Land and Water Conservation Act of 1965 to allow national park units that cannot charge an entrance or admission fee to retain other fees and charges, S. 2129, to eliminate restrictions on the acquisition of certain land contiguous to Hawaii Volcanoes National Park, S. 2232, to establish the Little Rock Central High School National Historic Site in Arkansas, and S. 2106 and H.R. 2283, bills to expand the boundaries of Arches National Park, Utah, to include portions of certain drainages that are under the jurisdiction of the Bureau of Land Management, and to include a portion of Fish Seep Draw owned by the State of Utah.

SD–366

Judiciary

To hold hearings on the nomination of Beth Nolan, of New York, to be an Assistant Attorney General, Department of Justice.

SD–226

JULY 14

9:30 a.m.

Energy and Natural Resources

To hold hearings on H.R. 856, to provide a process leading to full self-government for Puerto Rico, and S. 472, to provide for referenda in which the residents of Puerto Rico may express democratically their preferences regarding the political status of the territory.

SH–216

Environment and Public Works

Transportation and Infrastructure Subcommittee

To hold hearings on S. 1647, to authorize funds and make reforms to programs authorized by the Public Works and Economic Development Act of 1965, and other pending measures.

SD–406

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

2:30 p.m.
Energy and Natural Resources
Water and Power Subcommittee
To hold hearings on S. 1515, to increase authorization levels for State and Indian tribal, municipal, rural, and industrial water supplies, to meet current and future water quantity and quality needs of the Red River Valley, S. 2111, to establish the conditions under which the Bonneville Power Administration and certain Federal agencies may enter into a memorandum of agreement concerning management of the Columbia/Snake River Basin, and S. 2117, to authorize the construction of the Perkins County Rural Water System and authorize financial assistance to the Perkins County Rural Water System, Inc., a nonprofit corporation, in the planning and construction of the water supply system.
SD–366

JULY 15

9:00 a.m.
Agriculture, Nutrition, and Forestry
To hold hearings to review a recent concept release by the Commodity Futures Trading Commission on over-the-counter derivatives, and on related proposals by the Treasury Department, the Board of Governors of the Federal Reserve System and the Securities and Exchange Commission.
SR–332

9:30 a.m.
Indian Affairs
To hold hearings on S. 2097, to encourage and facilitate the resolution of conflicts involving Indian tribes.
SR–485

JULY 16

9:30 a.m.
Commerce, Science, and Transportation
To hold hearings to examine universal service's schools and libraries program.
SR–253

2:00 p.m.
Energy and Natural Resources
National Parks, Historic Preservation, and Recreation Subcommittee
To hold hearings on S. 155, to redesignate General Grant National Memorial as Grant's Tomb National Monument, S. 1408, to establish the Lower East Side Tenement National Historic Site, S. 1718, to amend the Weir Farm National Historic Site Establishment Act of 1990 to authorize the acquisition of additional acreage for the historic site to permit the development of visitor and administrative facilities and to authorize appropriation of additional amounts for the acquisition of real and personal property, and S. 1990, to authorize expansion of Fort Davis National Historic Site in Fort Davis, Texas.
SD–366

JULY 21

10:00 a.m.
Judiciary
To hold oversight hearings to examine the Department of Justice's implementation of the Violence Against Women Act.
SD–226

Labor and Human Resources
To hold hearings on S.766, to require equitable coverage of prescription contraceptive drugs and devices, and contraceptive services under health plans.
SD–430

2:30 p.m.
Energy and Natural Resources
Forests and Public Land Management Subcommittee
To hold hearings on S. 1964, to provide for the sale of certain public land in the Ivanpah Valley, Nevada, to the Clark County Department of Aviation, and Land Management to use vegetation sales contracts in managing land at Fort Stanton and certain nearby acquired land along the Rio Bonita in Lincoln County, New Mexico.
SD–366

JULY 22

9:30 a.m.
Indian Affairs
To hold joint hearings with the House Resources Committee on S. 1770, to elevate the position of Director of the Indian Health Service to Assistant Secretary of Health and Human Services, and to provide for the organizational independence of the Indian Health Service within the Department of Health and Human Services, and H.R. 3782, to compensate certain Indian tribes for known errors in their tribal trust fund accounts, and to establish a process for settling other disputes regarding tribal trust fund accounts.
SR–485

JULY 28

9:30 a.m.
Commerce, Science, and Transportation
To hold hearings to examine the future of cable rates.
SR–253

OCTOBER 6

9:30 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs on the legislative recommendations of the American Legion.
345 Cannon Building

SENATE—*Tuesday, July 7, 1998*

The Senate met at 9:30 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Gracious God, our prayer is not to overcome Your reluctance to help us know and do Your will, for You have created us to love, serve, and obey Your guidance. Rather, our prayer is to lay hold of Your willingness to accomplish Your plans through us. You have told us to call on You, to trust You completely, to put You first in our priorities, and to express our devotion to You in our patriotism. Sometimes, pride blocks our response, and we who want to keep control find it difficult to turn the control of our lives over to You. When we are self-sufficient, we do not pray; when we are self-satisfied, we will not pray; when we are self-righteous, we cannot pray. And yet, Father, when we are honest with ourselves, we know that, by ourselves, we are insufficient. We admit our profound need for Your presence, Your wisdom, and Your solutions to our problems. May this be a great day, lived to the fullest, trusting You each step of the way. Through our Lord and Saviour. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The able majority leader, Senator LOTT of Mississippi, is recognized.

Mr. LOTT. Thank you, Mr. President. Welcome back.

SCHEDULE

Mr. LOTT. Mr. President, this morning the Senate will immediately proceed to a vote on a motion to invoke cloture on the motion to proceed to the product liability bill. If cloture is invoked, the Senate will debate the motion to proceed until the policy luncheons at 12:30 p.m., and following the policy luncheons, it is expected the Senate will resume consideration of the HUD-VA appropriations bill. It is hoped that Members will come to the floor this afternoon to offer and debate amendments to the HUD-VA bill. I understand there are some amendments and some very legitimate amendments. I hope we will get started on those early in the afternoon so that we can have a reasonable debate, but under a time agreement, and get to a conclusion as soon as we can this week on the VA-HUD bill.

The Senate also this week will consider the IRS reform conference report. We are not sure exactly when that will begin. We thought about possibly tonight. It will depend on what happens on product liability and the HUD-VA bill, but we are definitely taking up the IRS reform and restructuring conference report before the end of the week to get a vote. I think this will be a tremendous reward for the American people for their patience, and also to help address the serious problems we have had with the IRS in recent years.

I also remind Members that July is expected to be a very busy month with late-night sessions and votes, and votes on most Fridays and Mondays. If anything develops to the contrary, of course, we will notify Members as soon as we can. Members have to expect votes late on Monday afternoons and on Fridays also. We certainly need all Senators' cooperation to get this work done. We did get time agreements at the end of the session before we went out for the Fourth of July recess period on higher education and also on a package of energy bills. So we will work those in at the earliest possible opportunity this week or next week. I yield the floor, Mr. President.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER (Mr. FRIST). Under the previous order, leadership time is reserved.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will report.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provision of Rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the motion to proceed to Calendar No. 90, S. 648, the products liability bill:

Trent Lott, Don Nickles, Slade Gorton, Phil Gramm, John McCain, Spencer Abraham, Daniel Coats, Richard G. Lugar, Lauch Faircloth, John H. Chafee, Sam Brownback, Ted Stevens, Jon Kyl, Jeff Sessions, Michael B. Enzi, and Judd Gregg.

CALL OF THE ROLL

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on the motion to proceed to S. 648, the product liability bill, shall be brought to a close? The yeas and nays are required under the rule. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Texas (Mrs. HUTCHISON) is necessarily absent.

I also announce that the Senator from Pennsylvania (Mr. SPECTER) is absent because of illness.

Mr. FORD. I announce that the Senator from Hawaii (Mr. INOUYE), the Senator from Maryland (Ms. MIKULSKI), and the Senator from Maryland (Mr. SARBANES) are necessarily absent.

The yeas and nays resulted—yeas 71, nays 24, as follows:

[Rollcall Vote No. 184 Leg.]

YEAS—71

Abraham
Allard
Ashcroft
Bennett
Bingaman
Bond
Brownback
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Coats
Cochran
Collins
Coverdell
Craig
Daschle
DeWine
Dodd
Domenici
Dorgan
Enzi
Faircloth
Frist
Glenn
Gorton
Gramm
Grams
Grassley
Gregg
Hagel
Hatch
Helms
Hutchinson
Inhofe
Jeffords
Johnson
Kempthorne
Kerrey
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Moynihan
Murkowski
Nickles
Reed
Reid
Robb
Roberts
Rockefeller
Santorum
Sessions
Smith (NH)
Smith (OR)
Snowe
Stevens
Thomas
Thompson
Thurmond
Warner
Wyden

NAYS—24

Akaka
Baucus
Biden
Boxer
Breaux
Cleland
Conrad
D'Amato
Durbin
Feingold
Feinstein
Ford
Graham
Harkin
Hollings
Kennedy
Kerry
Levin
Moseley-Braun
Murray
Roth
Shelby
Torricelli
Wellstone

NOT VOTING—5

Hutchison
Inouye
Mikulski
Sarbanes
Specter

The PRESIDING OFFICER (Mr. ROBERTS). On this vote, the yeas are 71, the nays are 24. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

PRODUCT LIABILITY REFORM ACT OF 1997—MOTION TO PROCEED

The PRESIDING OFFICER. The question is on the motion to proceed. Is there further debate on the motion?

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Mr. THURMOND. Mr. President, I ask unanimous consent to speak for twelve minutes as in the morning hour.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

(The remarks of Mr. THURMOND pertaining to the introduction of S. 2266 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. THURMOND. I yield the floor, Mr. President.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The distinguished Senator from Washington is recognized.

Mr. GORTON. Mr. President, is the business before the Senate the motion to proceed to S. 648?

The PRESIDING OFFICER. The Senator is correct.

Mr. GORTON. Mr. President, S. 648 is a bill relating to product liability reported about 1 year ago by the Senate Commerce Committee. That bill is identical or nearly identical to the product liability legislation that passed both Houses of Congress in the last Congress and was vetoed by President Clinton.

As and when the motion to proceed is agreed to, Senator ROCKEFELLER and I will propose an amendment in the nature of a substitute on the same subject, product liability, somewhat more modest in scope than the bill that was vetoed by the President. It is the result of more than 1 year of careful and detailed negotiation involving myself, other members of this party, Senator ROCKEFELLER and various of his allies, and the Office of the President of the United States.

The willingness of the President of the United States to sign a product liability bill in the form of this substitute is due to the untiring and diligent efforts of the junior Senator from West Virginia, who has literally been tireless in pursuing a solution to a question that involved his time and my time for well over a decade, and a willingness to pursue it in a White House from which a veto emanated almost 2 years ago.

The bill, of course, is not as broad as the one that was then vetoed or the bill that was passed out by the Commerce Committee. Nevertheless, it does bring a significant degree of rationality and predictability to product liability litigation. It removes a number of severe inhibitions that stand in the way of research and development for new and approved products in the commerce of the United States. That may be its most important single feature, because we have an economy in which litigation has provided a severe inhibition to the improvement of our products, to the development of new products. Perhaps the single most vivid illustration of the value of product liability litigation is in the field of piston-driven aircraft, a subject with which the Presiding Officer is more than familiar, where a limitation on product liability litigation, a modest limitation, passed half a dozen years ago, has resulted in the recovery of an industry that had almost disappeared in the United States of America. So we are not speaking about a theory when we talk about the inhibitions placed on various forms of business enterprise, industrial and otherwise, by the present state of the law varying from State to State through 50 States and several other jurisdictions.

While I would prefer broader product liability legislation, and while I believe the Senator from West Virginia might prefer it to be somewhat broader than it is at this point, this legislation nevertheless is good for the economy of the United States, and it is good for those who are injured by the actual or real negligence of manufacturers or sellers. It does, however, say that in the case of the seller, the seller is only going to be liable when the seller itself is negligent. It does put some rational basis on the award of punitive damages with an actual cap on punitive damages for modest and for small businesses. In that regard, it sets a uniform national standard for punitive damages in those States that allow punitive damages—my own, for example, does not—raising the bar to require clear, cogent, and convincing evidence for the award of punitive damages, a higher standard than exists in most States at the present time, with a cap on punitive damages for small businesses.

The National Federation of Independent Business has just come out with a study as to who is impacted by that, and while the definition of a small business in this bill is 25 employees or $5 million a year in sales, their table shows that 73 percent of all the manufacturers in the United States have fewer than 20 employees, 88 percent of all the retailers in the United States have fewer than 20 employees, and 85 percent of the wholesalers in the United States fall within the same category. So, for the vast majority of business enterprises in the United States, there will be a cap on punitive damages that is realistic in nature and is something that the business might conceivably be able to pay, rather than simply being driven out of business by such a verdict.

With respect to product sellers, it simply states that the product seller avoids liability if the product seller is not itself negligent or otherwise liable. Manufacturers, under those circumstances—since they can't be joined in litigation with the product seller—can almost always achieve what amounts to fraudulent joinder and thus get diversity of citizenship, a diversity of citizenship that allows them to get into a Federal court rather than into State courts where the great majority of notorious and unwarranted verdicts in product liability cases have taken place in the past.

Product manufacturers have been frustrated by the unavailability of a "misuse" defense. They have that, to a greater extent, as a result of this bill. The bill includes a statute of repose, a very modest and narrow statute of repose but a statute of repose nevertheless, one of 18 years for durable goods used in the workplace where the plaintiff already has available to that plaintiff workers compensation or industrial insurance.

Finally, a strong biomaterials bill, particularly important, in my view, as the materials that go into implants—for example, heart monitors and the like—are often very inexpensive. They are various forms of plastic tubing and the like. Yet the biomaterials manufacturer almost always finds itself as a defendant in a product liability suit directed primarily at the manufacturer or the assembler of the implant. And the cost, in the case of many relatively large corporations, of successfully defending lawsuits based on those implants literally exceeds the total sales price of the materials that they have sold that go into those items. So a rational manufacturer of the materials that go into various very important cutting-edge medical devices—the rational manufacturer simply won't sell them. There is not much point in selling $100,000 worth of materials in a year if it is going to cost you $1 million a year successfully to defend yourself against lawsuits directed primarily at the person who has used the materials that you have manufactured.

Some of those companies have continued in the business just as a matter of being good citizens, but we cannot call on them or believe that they will continue to do so for an extended period of time. To the best of our knowledge, we do not have any who have actually lost these lawsuits, but the defense against these lawsuits is important in any event.

We have a system that is sick, a system in which the greater percentage of the money that goes into product liability litigation goes to lawyers, insurance companies, insurance agents and the like, and only a relatively modest portion of it ever gets to the actual victims of actual negligence. We have a situation in which there are highly publicized and outrageously large punitive damage awards in a handful of States of the United States, but where, in the vast majority of cases in which some at least modest compensation is due, the compensation is less than actual damages.

This bill is a modest attempt to improve the compensation system for defective products in the United States and it modestly improves it. It is a modest move in the direction of uniformity. It certainly doesn't create uniformity everywhere, but at least it is a modest step in that direction. And it is a significant step in the direction of encouraging companies to continue to be at the cutting edge of the development of new products, new products used both in the workplace and by individuals all across the United States—the kind of innovation and development which have marked the United States from the very beginning of our history and of our economy, and the kind of innovation and leadership in the world economy that is vitally important. So I hope we will be soon able to move to the bill, to pass the bill in the form as it has been worked out by the Senator from West Virginia and myself with the cooperation of the White House, its passage by the House, and its signing by the President of the United States.

I dare not say in a body like this that this issue has occupied us for more years than any other in which there has not been any actual legislation passed, but if it doesn't rank No. 1 in that score, it ranks very, very close to No. 1. We now have a real opportunity, if we are constructive, to see to it that we are modestly successful, and I hope in the course of the next week or 10 days that is exactly what we will do.

The PRESIDING OFFICER. The distinguished Senator from West Virginia is recognized.

PRIVILEGE OF THE FLOOR

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that Rosalind Wood, of my staff, be accorded floor privileges for the duration of the consideration of the pending product liability bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROCKEFELLER. Mr. President, here we are again. As always, I am very proud to be standing across the aisle from my dear colleague, Senator GORTON. Senator LIEBERMAN is very much a part of this. There are many who are very much a part of this.

I can report that we are in a position, as the Senator from Washington has indicated, to pass and to have signed a product liability bill for the first time in my living memory, at least, in the Senate. This is, I guess, my 11th year on this subject.

We have a chance to have the bill signed, however, by the President, only if we maintain the bill in its current very limited form. I, obviously, congratulate Senator GORTON—who does a prodigious job in all events—on this subject and many others, but he has also been extraordinary in the way that he has accepted and rejected and negotiated not only with myself, but also with the White House in his discussions with the majority leader to, in effect, finally bring a product liability bill to the floor which actually can pass, and if it does pass, will be signed by the President, provided that it is in its current limited form.

It is a good feeling to have a bill that can be signed. I am much more accustomed to being here promoting a bill that I know would be a good bill, but, on the other hand, which I know in the end isn't going to be signed. When you know something is going to be signed, that says two things: One is that you are dealing with some folks in the White House who have been very honorable and consistent; and, second, you have a very limited bill.

The Senator from Washington used a much more tactful phrase. He said a "somewhat more limited bill." I will be more direct and say that it is a very much more limited bill. The logic for that is very simple. If it was other than its current form, we might be able to pass it, but it would not be signed. I just somehow fail to see the logic or the wisdom of, once again, passing a bill that is vetoed. I don't see the point in that. It takes up a lot of our time.

We have all worked at this for years and years. If we are going to do something, let's get what we can. I think that is one of the lessons we learned from health care reform—one which I myself did not learn easily—that when we try to do the whole job, or at least a large chunk of the job, the Congress is not willing to accept it. I now refer to myself on health care reform as a "raging incrementalist." I have had to accept that position. On product liability reform, I now think the more limited approach makes a great deal more sense.

I say again to my colleagues and those who work with them, that when I say there is not a lot of room for deviation in this bill, the Senator from West Virginia really means that. This is a process in which I worked for a very long period of time negotiating with the White House, knowing that it was fruitless to come forward with a bill which would not meet with their approval. In essence, we had to look at all of those things which were displeasing to the White House last year when the veto took place and then simply excise all of those or anything related to those, and proceed to craft a bill which did not meet their objections. They were very tough about it, but they were very fair about it. They were very consistent. I really respect them for that. I can name the people who did that, and I will at the appropriate time, but I really honor them for their consistency and their willingness to let it be known where they stood.

Then, my obligation this is to let my colleagues know that this is not one of those bills where we can come in and do all kinds of things to it or else it will be vetoed, and only the President holds the pen. He always does, but sometimes there is more room for movement. On this one, I think there is very little room for movement.

Senators know our legislative calendar is growing very short. That is why I have been so adamant about urging floor consideration for the reform agreement that has been reached with the White House and which will be signed if passed. Senator GORTON and I recently completed work on some technical changes which the White House had agreed to accept but, again, technical, no substantive changes. No substantive changes were contemplated by the White House; no substantive changes were agreed to by the White House, only some technical changes.

Why? Because they are the controlling element here. They are the ones who have the pen. They can veto it, or they can sign it. Therefore, their leverage is considerable. I can pretend we are otherwise, but it doesn't do me much good. That is the case. Therefore, if we are going to have some form of bill, then let's proceed to get what we can. That is the way Senator GORTON and I have proceeded on this bill.

I reemphasize to my colleagues that the White House has publicly committed to signing this bill if it remains in this form. That will grate on some of my colleagues. I have also had private assurances this bill will be signed if it is unamended. It is now up to the full Senate to decide if they want a campaign issue or if they want to pass a moderate, balanced, responsible reform bill that helps small business, product sellers, renters, lessors, as well as consumers, but which, in the end, is a fairly modest bill.

My colleagues know there are many of us who have worked very hard to gain a meaningful and fair reform. I have taken on this task, not because I am a lawyer, which I am not; not because I am heavily involved in following these matters in the trade press, but for a very simple reason. And that is I genuinely believe that in an international global economy, we have to keep up with the competition.

I just returned from 10 days in China with the President. It is just absolutely stunning to see what is going on there, the way that economy, in spite of the Asian troubles, is leaping ahead. This is true all over Asia. The Asia crisis is going to pass. It is going to be a couple of years. It is going to pass. They are going to come back. The Asian countries are predestined to be successful economically.

All the European Union nations have a single product liability law. I know, just as a matter of common sense, that when something is manufactured in a State, if it is an average State, 70 percent of the manufactured products will be exported on an interstate, if not international, basis. Therefore, State law, having had meaning at some point, has much less meaning when it comes to interstate commerce, much less international commerce. Again, it is not just a question of the laws, but it is also a question of are we being competitive or not. What is the added cost for liability insurance to our products as we compete in Europe and Japan now, for example, which has also taken on a single national uniform product liability law.

All of these things are extremely important. I also think having 50 States with separate laws is confusing. It means that people forum shop. They go to the State where they can get the best deal. I think it is true—I am not sure it is true this year—but it is true that last year, 85 percent of all of the punitive damages awarded in this country came out of Alabama, Texas, and California. That means that people knew where to go to get into a court system which would, in a sense, respond sympathetically. I don't think that is a wise way to carry on the business of our country or the commerce of our country.

All of these States having different laws is very, very complex and very difficult in allowing us to compete, and in fact, in even allowing us to adjudicate in product liability cases where people have, in fact, been injured and do, in fact, deserve payment and, in some cases, punitive damages.

The plain fact to this Senator's way of thinking is that our current system is simply unable to handle this problem in the modern marketplace and much less—or more so, really—in the global marketplace. States cannot deal with product liability problems that occur out of their borders. They can't do that.

In contrast to the circumstances that existed when our tort system was evolving, most goods, as I indicated, move outside of the State. That is important. When our tort system was evolving, the States could handle it. The States did handle it. Exporting from McDowell County, WV, to Braxton County, WV, was the way life went on some time ago. Now if you export to Ohio, much less the State of California, much less Indonesia, Japan, or China, you have to be much more sophisticated in the way you handle these problems. I think a Federal product liability law does make sense. That does not mean in all respects, and this bill does not do that in all respects, and I think that is an important point.

I was a member of the National Governors' Association for 8 years, and, like other companies, I was protective of States rights on all issues. But they have fairly consistently recognized the importance of establishing a Federal statute on product liability. I think that is very significant and deserves the consideration of my colleagues.

There is another bipartisan group called the American Legislative Exchange Council, a group of over 3,000 State legislators from all over the country. They have repeatedly urged Congress to enact Federal product liability reform—Federal product liability reform.

The bill we are proposing would address the problems in our product liability reform system which we know exist. It would provide increased predictability for business. It would improve the system for consumers at the same time. Is it gigantic on any side? No, because it is not a big bill. That we constantly bear in mind, because if it were a bigger bill, it would not get signed. We want to get the bill signed. This is not the "nose under the tent" theory. It simply would be nice to get some sort of uniform Federal standards on product liability going.

Under today's product liability system, companies have a disincentive to invent, to innovate. That means there are a lot of beneficial upgrades that are not done. People do not undertake certain kinds of biomedical research or pharmaceutical production or other things just because they fear the result of getting sued. It isn't really so much the number of suits. Those who oppose this Senator's position are always talking about, "The Senator from West Virginia is always talking about the explosion of litigation."

I have never talked about explosion of litigation. There is no explosion of litigation. But the psychological factor of a company sitting down and trying to decide whether it will go into a line of research and development which could lead to a cure for some disease, the present laws pull them back. Look at Viagra. It now has had about 300 deaths. I don't know what will happen with Viagra. Maybe they deserve to get sued, maybe they don't, I don't know. But you can see when people are looking at doing some kind of research that they want to pull back. In the case of Viagra, maybe they should have in the first place. Or maybe their warnings were not adequate.

I am not here to defend Viagra, as I was never here to defend Ford Pinto—that was always the example. Ford Pinto is undefendable. They should have been sued, they were sued, and that was the right thing to do.

Keeping products off the market that can do remarkable good for people is not in the American tradition; protecting consumers is in the American tradition. But we have always managed to find a balance where we both protect consumers and we move forward, strongly, in terms of innovation. We have always been the country of basic research. Other countries have been the countries of applied research. Basic research is not undertaken unless you can foresee it ending up someday in the marketplace. If you don't, then you don't do it.

We can help all of this by establishing a set of Federal rules for product liability cases. The compromise bill that Senator GORTON and I were able to work out with the White House, and which was introduced on June 25, creates a national framework for a more rational process for litigation regarding products, and products alone. If a manufacturer was, in fact, responsible for injury, it would remain accountable. If the seller of a product failed in its responsibility, it would be held accountable. The legislation is limited, meaningful, and signable.

I ask unanimous consent a section-by-section analysis of the bill appear in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See Exhibit 1.)

Mr. ROCKEFELLER. I will briefly run through a list of the bill's major provisions for my colleagues in the hope that some of them and some of their staff they work with are listening.

No. 1, the bill, as the Senator from Washington indicated, protects product sellers, renters, and lessors from suits that should be brought against manufacturers, not the product sellers, renters, or the lessors. Product sellers, renters, or lessors will be held liable for their own negligence, make no mistake. For their own negligence they will be held accountable, or their failure to comply with express warranty, but not for the negligence that is beyond their own control. That comports, it seems to me, with common sense.

The product seller, renter, or lessor remains liable if the manufacturer cannot be brought into court. So, again, a consumer protection. Or they remain liable if the manufacturer is unable to pay judgments. All of this is in order to ensure that consumers retain a source of recovery. So, product sellers, renters, or lessors, et cetera, are protected, but they are not protected in the ultimate sense. That is, if manufacturers don't show up, are broke, can't pay, they—the consumer, injured consumer—will still get recovery.

No. 2, this bill will create a defense in a product liability case if a plaintiff is found to have been under the influence of illegal drugs or alcohol and was responsible for more than 50 percent of his or her own injuries. That has always struck me as a commonsense idea. We should help discourage abuse of illegal drugs or alcohol. Maybe it will, maybe it won't. But in any event, if people are responsible for their own use of alcohol or drugs and responsible for more than 50 percent of their injury, there should be an absolute defense against that.

No. 3, if a claimant's harm is attributable to the misuse or alteration of a product, defendant's liability will be reduced by whatever extent the harm is due to that misuse or alteration.

No. 4, consumers will have 2 full years to file a complaint from the time he or she discovers or should have discovered the harm and—this is new—the cause of the injury. A lot of States have the harm, the discovery of the harm, but there are not as many that have the cause. So, this is very, very strongly in favor of the consumer. This is particularly true—on the veterans committee, I have worked very hard on a variety of issues, including the Persian Gulf War Syndrome, all kinds of things in the world we are moving into, like toxic harm, et cetera, where the cause becomes much more important, because often things don't show up until much later.

No. 5, the bill's 18-year statute of repose applies to only durable goods in the workplace, and only in those situations which are covered by State worker compensation laws, and specifically excludes injuries caused by toxic harm. I just mentioned toxic harm. Well, toxic harm has no place, there is no remedy for it, in this bill. This means that only people who can recover for their injuries under State worker compensation laws are subject to the statute of repose. The statute of repose does not begin until after the product's express warranty expires. This provision is good for consumers, and, frankly, it is good for business. Businesses are relieved of unlimited liability, and consumers have a source of recovery.

No. 6, alternative dispute resolution—this is not the most potent part of the bill that I can imagine—we have an alternative dispute resolution that avoids protracted legal battles. That is encouraged under this bill. Either party can request alternative dispute resolution using existing State ADR procedures.

No. 7, one of the main provisions of this bill limits punitive damages for truly small businesses (under 25 employees with $5 million in revenue), individuals (with incomes of $500,000 or less), and local governments. It creates a Federal standard for awarding punitive damages which are reserved for the most egregious cases—clear and convincing. We simply take the Federal standard, uniform standard, and put it, frankly, where I think most people agree it should be. The bill sets the limit for these punitives for small businesses to $250,000, or two times the economic and noneconomic damages. This limit means that businesses will still have to pay punitives, should that be the judgment of the court, but they are less likely to be bankrupted by the cost of the penalty. This bill does not create punitive damages in States that do not permit punitive damages. That needs to be said clearly. If the State does not have it, this bill will not create it.

The bill includes a workplace safety incentive by affecting an employer's right to recover worker compensation benefits from a manufacturer whose product harms a worker if the employer's fault was a substantial cause of the injury.

Finally, Senator LIEBERMAN's biomaterials access assurance bill is the second title of product liability reform. I should say, in all due candor, this was something that was worked out between the White House, Senator LIEBERMAN, and other parties. I concentrated, as did Senator GORTON, on the products aspect of this. Senator LIEBERMAN did the biomaterial section of that and did a very good job. The White House has accepted it and it is part of the bill. This provision is designed to alleviate the shortage of certain biomaterials due to biomaterials suppliers who are increasingly unwilling—as those who would wish to do basic research—to supply products that produce very little revenue, but which would have high litigation costs attached to them. It should ensure the availability of life-saving and life-enhancing medical devices.

Specifically, the provision will protect suppliers of biomaterials by allowing them to seek early dismissal from claims against a medical device manufacturer, so long as the supplier did not manufacture or sell the device and met its contract requirements.

In sum, then, Mr. President, this bill, I think, is balanced in its treatment of consumers and business. Again, it is not a large bill. I think it should have strong, bipartisan support.

I believe in the need to develop a Federal-level framework. To me, the free flow of interstate commerce demands some form of a rational and fair approach. I think that involves, to a certain extent, Federal standards. We are, after all, in a global economy, and the world has changed almost totally in the last 10 years as regards to this product liability subject, and the need for the legislation is greater than ever.

I am not naive. As we head into this debate, there is long experience—over a decade—of filibusters and vetoes on products legislation. That is why I am so pleased that we have succeeded in negotiating a new bill with the President and his team. This bill has a firm commitment from the White House that it will be signed if it is unaltered. My colleagues do not like to hear the phrase "if it is unaltered." The Senate does have a right to work its will, but if the Senate works its will and the White House is displeased, of course, there will be no bill. That is a choice the Senate will have to make.

So to hit the highlights again—one gives this speech only once during the course of debate—we would gain strong protections for product sellers, renters, lessors and suppliers; strong protections for biomaterials suppliers; uniform Federal statute of limitations and workplace durable goods statute of repose; uniform Federal rules on alcohol and drugs; uniform Federal rules on misuse or alteration; uniform Federal legal and evidentiary standard for punitive damages—the key word being "uniform"—strong protections for small business from punitive damage awards; States' advances on joint and several liability determination would remain in place; more uniform rules of preemption (punitive damages and statute of repose changes). And then, as I indicated, there are incentives to resolve litigation, although they are not mighty in their nature. Nevertheless, they are there.

I am fully aware that some have reservations about the limited nature of the product liability compromise that we secured with the White House, believing that it does not go far enough. That is a view that in other places or at other times, perhaps, might have my concurrence. But we are not in other places and in other times; we are here and now. It is not my view that we will move forward toward enactment of anything if we make changes to this bill.

For the RECORD, let me acknowledge that we will face amendments that go beyond the compromise that Senator SLADE GORTON and I have now secured with the White House. That was true in the last attempt to move product liability reform, and it resulted in—guess what? A veto, and no law. Those expansions will not have my support. I will not support them, and they cannot be signed into law.

As I have stated many times before, I don't intend to support product liability reform provisions for the sake of doing it, so that I can say I did it. I want to see a law. I want to see something come from this process after all these years. As the Senate proceeds with debate on product liability reform, I sincerely hope and believe that the majority leader will take advantage of what I consider to be virtually the last opportunity to enact limited Federal reform of our product liability laws in the foreseeable future.

Mr. President, that is all I have to say at the present time. I thank the Presiding Officer and yield the floor.

(EXHIBIT 1)

PRODUCT LIABILITY REFORM ACT OF 1998

SECTION-BY-SECTION SUMMARY

1. Short Title; Table of Contents.

2. Findings; Purposes.

TITLE 1—PRODUCT LIABILITY REFORM

101. Definitions.

102. Applicability; Preemption.

The Act covers product liability actions brought in federal or state court on any theory for harm caused by a product, but excludes actions for: (i) commercial loss; (ii) negligent entrustment; (iii) negligence per se concerning firearms and ammunition; (iv) dram-shop; (v) harm caused by a tobacco product; or (vi) harm caused by a silicone breast implant.

State law is superseded only to the extent it applies to a matter covered by the Act. Matters not governed by the Act, including the standard of liability applicable to a manufacturer, continue to be governed by applicable federal or state law.

103. Liability Rules Applicable to Product Sellers, Renters, and Lessors

Product sellers, rentors, and lessors will be liable only for their own failures and misdeeds: a product seller, rentor or lessor is liable if the harm that is the subject of the action was caused by (i) his failure to exercise reasonable care, (ii) his intentional wrongdoing, or (iii) the product's failure to conform to his express warranty; failure to inspect the product will not constitute failure to exercise reasonable care if there was no opportunity to inspect the product or an inspection wouldn't have revealed the problem; product sellers are liable as manufacturers if the manufacturer is judgment-proof or not subject to service of process, in which case the statute of limitations is tolled until judgment is entered against the manufacturer; and rentors and lessors are not liable solely by reason of ownership.

104. Defense Based on Claimant's Use of Alcohol

It is a complete defense in a product liability action if the claimant was under the influence of drugs or alcohol and, as a result, was more than 50 percent responsible for the harm.

105. Misuse or Alteration.

Damages for which a defendant is otherwise liable under state or federal law are reduced in proportion to the percentage of harm caused by misuse or alteration of a product if such misuse or alteration was in violation of a manufacturer's warning or involved a risk that was or should have been known by an ordinary person who uses the product. Such damages are not reduced by the percentage of harm attributable to an employer who is immune from suit.

106. Statute of Limitations.

The Act creates a uniform, 2-year statute of limitations—product liability claims in all states must be filed within 2 years of the date the harm and the cause of the harm was, or reasonably should have been, discovered.

107. Statute of Repose for Durable Goods Used in a Trade or Business.

The Act creates a uniform 18-year statute of repose for harm (other than toxic harm) caused by durable workplace goods where the claimant has workers compensation coverage, with exceptions for general aviation, transportation of passengers for hire, and products with an express warranty of safety of life expectancy beyond 18 years.

108. Transitional Provision.

Claimants have a full year after enactment to bring a claim, regardless of the impact of the new federal statute of limitations or statute of repose.

109. Alternative Dispute Resolution.

Claimants and defendants are encouraged to use voluntary, non-binding ADR as available under state law.

110. Punitive Damages Reforms

Uniform Standard. The Act creates a uniform legal and evidentiary standard for punitive damages—the claimant must establish by clear and convincing evidence that the harm was the result of conduct carried out with a conscious, flagrant indifference to the rights or safety of others. Punitive damages are explicitly not created in states that do not otherwise allow them.

Bifurcation. Any party can request that punitive damages be determined in a separate proceeding and that evidence relevant only to the punitive damages determination not be introduced in the underlying action.

Small Business Limit. Punitive damages awards against small businesses may not exceed 2 times the amount of compensatory damages or $250,000, whichever is less. Small business is defined to cover entities with 25 or fewer employees and less than $5 million in annual revenue. Limitation also applies to local governments and individuals with net worth under $500,000.

111. Liability for Certain Claims Relating to Death.

Provisions regarding punitive damages will not apply for one year in states that, in wrongful death actions, permit recovery only for punitive damages.

112. Workers Compensation Subrogation

An employer or insurer may lose its lien against a judgment or settlement in a products liability case involving a workplace accident if the employer's conduct was a substantial factor in causing the claimant's harm—thereby providing an incentive for safer workplaces and ensuring workers receive full recovery for their injuries.

TITLE II—BIOMATERIALS ACCESS ASSURANCE

A supplier of biomaterials (component or raw materials used in the manufacture of implantable devices) is permitted to seek early dismissal from claims unless he (i) manufactured the device; (ii) sold the device; or (iii) furnished materials that failed to meet contract requirements or specifications. In the event that the manufacturer or other responsible party is bankrupt or judgment-proof, a supplier will be brought back into the suit if there is evidence of his liability. Lawsuits involving silicone gel breast implants are expressly excluded.

TITLE III—LIMITATIONS ON APPLICABILITY; EFFECTIVE DATE

301. Federal Cause of Action Precluded.

No federal causes of action are created.

302. Effective Date.

The Act applies to all actions commenced on or after the date of enactment.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER (Mr. THOMAS). The distinguished Senator from South Carolina is recognized.

Mr. HOLLINGS. I thank the Chair. Mr. President, in a phrase, we ought to "bail this buzzard." This bill ought to be killed outright. It is nothing more than a political farce. The distinguished Senator from West Virginia says 10 years; it is 20 years, really. What sustains a 20-year drive is nothing more than political polling. I was elected some 50 years ago, and if I have watched a dismaying trend, it is the lack of really addressing the true needs of a State or the Nation, and instead addressing the needs of the individual politician, as reflected in the political poll.

Now, Mr. President, right to the point. We all have heard Shakespeare's comment that Dick the butcher calls out in Henry VI, "First, we must kill all the lawyers." That is in response to the intent of fomenting anarchy, imposing tyranny; and Dick the butcher, like Adolf Hitler himself, wanted to get rid of the lawyers first. Dick the butcher says, "First, we must kill all the lawyers," because he knew that as long as you have lawyers standing for individual rights, you cannot have anarchy; you cannot have tyranny. But ask people about lawyers—until they need one; just like doctors, until they need one—and they will say get rid of all the lawyers. And over the 20-year period, I have kept my good friend Victor Schwartz in business. Maybe he will go out of business now with this jury-built nonsense called an amendment that we only got on yesterday, and I haven't had a chance—that is why I have been scurrying around here at the desk—to pick up the thrust of this latest assault.

But back to the initial point—we have been taken over by the pollsters.

Only the week before last, the House of Representatives, the most central organ of our representative government, the body that controls the purse strings, voted overwhelmingly to do away with tax revenues, some $970 billion—just gut the source to pay the bills—that we are going to spend and spend and spend. They use substitutes now of borrowing from yourself. We passed section 13301 of the Budget Act to forbid it. They disregard it regularly, borrowing so much from Social Security, the highway trust fund, the airport trust fund, the civil service pension fund, the military retirees pension fund, and the Federal Financing Bank—at this point over $111 billion—to bring about talks of surplus.

In fact, this year we are spending over $111 billion more than we are taking in—a deficit, if you please. But with all of the jargon around and the news media coverage that is supposed to educate and illuminate and keep us to the truth, politicians have joined in the conspiracy. They babble "surplus, surplus"— everywhere they call "surplus." Well, there isn't any surplus.

Of course, this bill here is intended strictly to get at the lawyers—not as the distinguished gentleman used the expression of "in the American tradition." "In the American tradition." Heavens above. The American tradition, Mr. President, has been for the States to regulate our torts. They have done so commendably. There isn't any question. All the farcical preambles—they try to really get away from the preambles and just some dribble about interstate commerce. I use the expression "dribble" and otherwise, because we know otherwise.

The reality, heavens above, is that we have a great economy and booming small businesses. The National Federation of Independent Businesses says small businesses are having the best of times. My staff completed a Lexis-Nexis search for small businesses that couldn't operate on account of product liability. You know what—they couldn't find any large and serious cases against small businesses. But I presume during the debate this legislation's supporters will bring us some, and we will see how many they bring.

The fact remains that there isn't a problem. But there is a political interest. There is a political problem. Oh, yes. We have to say we did something—we did something to get rid of the lawyers. We showed those lawyers. And, as a result, they not only voted away the tax system—now here on the Senate side for a nonproblem they come up and talk about the American tradition whereby they ask, and the gentleman says, "There goes that trial lawyer crowd." You are right. They are the ones who have really been keeping the system honest. They haven't succeeded but in 27 percent of the product liability cases. But they still, when they have the clients who have been injured, try to keep the system honest. And what happens is that we have the States here—not only the trial lawyers but we have the States—and the American Bar Association.

So I am very proud to stand here with the State legislature. Don't tell me about the Governors. I have been one of those, just like the Senator from West Virginia. And when we had Democratic Governors, then they voted against this thing right on down the line. Now the Republican Governors, the last time they got together and even bothered to take action was 6 or 7 years ago. They are not really bothered by it. But the State legislatures are bothered by it.

We have an update here of June 18, less than a month ago. Here is what they really said when this was proposed, again on this particular bill, before with the amendment, which is to be introduced, I take it, later on. This is from the National Conference of State Legislatures:

> As you know, product liability legislation, in some form, may come to the Senate floor before Congress adjourns in November. I urge you, on behalf of the National Conference of State Legislatures, to vote against any such bill, for the simple reason that this is an issue best resolved by state legislatures.
>
> A good deal of lip service is given today to the advantages of our constitutional system of federalism and to the advantages of devolving authority to the states. But, from the point of view of state legislators, this rhetoric belies the reality of an accelerating trend toward concentration of power in Washington. Every year, Congress passes more laws and federal agencies adopt more rules that preempt state authority. Little consideration is given to the cumulative effect of preemption piled upon preemption. Little thought is given to the shrinking policy jurisdiction of state legislatures.
>
> Moreover, little consideration is given to whether state legislatures are responsibly exercising their authority. The threat to preempt state product liability law, for example, comes at a time when state legislatures have been particularly active in passing reform bills. As the attached article from the June issue of The States' Advocate shows, over the past ten years, thirty-three product liability reform bills have been enacted in the states. In addition, states have been reforming their tort law generally. As of December 1996, 34 states had revised their rules of joint and several liability and 31 had acted to curb punitive damages.
>
> Just as the preemption contemplated by a national products law is unprecedented, so the intrusion on the operation of state courts is both unprecedented and disturbing. National products standards would be grafted onto state law. In a sense, Congress would act as a state legislature to amend selected elements of state law, thus blurring the lines of political accountability in ways that raise several Tenth Amendment issues. Given the Supreme Court's recent interpretation of the Tenth Amendment in Printz v. United States, the legislation might even be unconstitutional.
>
> Our constitutional tradition of federalism deserves more than lip service. It's time to vote "no" on product liability and similar proposals to unjustifiably preempt state law.

That is from the president of the conference and the president-elect of the National Conference of State Legislatures, which now has been updated in a letter to this Senator dated June 18, 1998.

> DEAR SENATOR HOLLINGS: I write on behalf of the National Conference of State Legislatures in opposition to S. 648, a bill that would supplant state liability laws with federal standards.
>
> For the National Conference of State Legislatures, this is a simple matter of federalism and states' rights. Tort reform is an issue for state legislatures, not Congress. There is no precedent for such a federal intrusion into such an important area of civil law. Moreover, we regard it as highly inappropriate and perhaps unconstitutional for the state courts to be commandeered as instruments of federal policy in the fashion contemplated by S. 648.
>
> The states have made considerable progress in reforming their state law, including product liability law, over the past decade. State legislatures are in a good position to balance the needs of the business community and those of consumers, not just in the abstract but in a way that reflects local values and local economic conditions. This is as the Founders intended it when they established a federal republic rather than a unitary state.
>
> The issue then is not finding the right compromise between consumer and business interests in crafting the language of S. 648. The issue is whether we will take a giant step toward nationalizing the civil law, to the detriment of our constitutional system of Federalism. Again, please oppose S. 648.

That is from the Conference of State Legislatures, which, of course, is once again over this 20-year period bolstered by the American Bar Association in a letter dated July 1, 1998.

> DEAR SENATOR: We understand that on July 7, broad federal product liability legislation will be the subject of a cloture vote on the Senate floor. I am writing to you to express the American Bar Association's opposition to S. 648, the bill reported by the Commerce Committee, and S. 2236, the compromise proposal introduced by Senators Gorton and Rockefeller. The ABA believes that improvements in the tort liability system should continue to be implemented at the state level and not be preempted by broad Federal law.
>
> S. 648 and S. 2236, which would federalize portions of tort law, would deprive consumers in the United States of the guidance of the well-developed product liability laws of their individual states. This legislation would also deprive the states of their traditional flexibility to refine carefully the product liability laws through their state courts and state legislatures.
>
> The ABA has worked extensively to improve our civil justice system, including developing extensive recommendations on punitive damages and on other aspects of the tort liability system for consideration at the state level. Broad federal product liability legislation, however, would constitute an unwise and unnecessary intrusion of major proportion on the long-standing authority of the states to promulgate tort law. Such preemption would cause the whole body of state tort law to become unsettled and create new complexities for the federal system. Unequal results would occur when product liability litigation is combined with other types of law that have differing rules of law. An example of this would be a situation where a product liability claim is joined with a medical malpractice claim. If state tort laws differ from the federal law in areas such as caps on punitive damages, conflicts and uncertainly would likely result; one defendant in an action could well be treated entirely different than another. Having one set of rules to try product liability cases and another set of rules to try other tort cases is not consistent with the sound and equitable administration of justice.
>
> The ABA opposes the product seller provisions of section 103 of S. 648 and S. 2236 because those provisions remove the motivation of the only party with direct contact with the consumer, the seller; to ensure that the shelves in American businesses are stocked only with safe products. Seller liability is an effective way of maintaining and improving product safety. Manufacturers traditionally rely on sellers to market their products. Through their purchasing and marketing power, sellers have influenced manufacturers to design and produce safer consumer goods.
>
> Ambiguity in the language of S. 648 and S. 2236 may result in unintentionally eliminating grounds for liability which promote safety. For example, the two bills expressly eliminate a product seller's liability for breach of warranty except for breach of express warranties. This Uniform Commercial Code, long regarded as a reasonable, balanced law, holds sellers responsible for breach of implied warranties as well. By their vague and ambiguous language, S. 648 and S. 2236 may result in preempting these long established grounds of liability.
>
> We urge you to vote no on federal product liability legislation as it is an unwise and unnecessary intrusion on the long-standing authority of the states to promulgate tort law.

Now, Mr. President, we all know the majority crowd and how they came to power in 1995. The election in 1994 said that Contract sounds pretty good, and one of the big things about that Contract was regulation, regulation, regulation. They wanted to diminish regulation. Well, heavens above, as they said in the American Bar Association letter, you have two bills expressly eliminating a product seller's liability and thereby coming and taking the Uniform Commercial Code and standing it on its head.

So we surgically are running into the Uniform Commercial Code, tried and true at the State level, and you have the most complex regulatory mess you have ever seen. All in the attempt to diminish litigation, they compound it. Oh, yes, all in essence to protect the 10th amendment.

The first vote we had was the particular vote with respect to unfunded mandates upon the States, and what-have-you. And here is an unfunded mandate, constitutional mandate, if you please, because they don't give a Federal cause of action. They come with an unfunded mandate on the States and say we know best up here in the Congress in the light of the most dynamic economy we have ever seen.

Where is Mr. Greenspan's statement.

> Federal Reserve Board Chairman Alan Greenspan offered a decidedly upbeat assessment of the Nation's economic health yesterday—

This is dated June 11—

> pronouncing the current expansion "as impressive as any I have witnessed in nearly half a century of daily operation."

Where is the small business response?

Let's get the rebound. This is another quote.

> "The rebound in the optimism index, coupled with other national economic indicators, suggests economic growth for this year will be a lot closer to last year's level than many have predicted," said National Federation of Independent Business Foundation Chief Economist William Dunkelberg.
>
> Far from worrying the expansion has just about played itself out, more and more small business owners feel the best is yet to come.

Dunkelberg noted that, "Small business capital investment remains exceptionally strong."

On and on, on and on, Mr. President. There is no foundation for claims that trial lawyers are undermining small business entrepreneurs. That is why I say this is a political farce responding to the political poll. It is not responding to the needs of small business. It is not responding to the needs of the States, their inability to handle product liability law. It is in response to the needs of the political poll and the drive of trying to get rid of trial by jury and lawyers.

They know, in business, they are in their heyday here, and they are onto a real binge here, having a wonderful time—that they can come in now with this particular Congress ready to do away with the income tax—let's do away with the lawyers and trial by jury. Whoopee. They get Gallup at the White House, and the White House follows the polls too, so they get together on this jury-built thing that is really an embarrassment for a lawyer to read.

They have a statute of repose in here for the individual but not for the business, so the individual injured is barred by the statute of repose, but the business he is working for, they can sue for the particular product and get a verdict. I never heard of a more selfish instrument than that presented here, just crassly selfish, trying to do away with trial by juries, the States and lawyers. Pell-mell, in a rush, this body now just writes in such things.

And what about tobacco? Here we have been debating for a month one of the most injurious products that everybody agrees upon. Do you know what? This bill says exempt tobacco. The unmitigated gall of the White House and these authors that write this thing—it is just unforgivable to come forth here, now, after 4 weeks and everybody charged up, we are going to do something about the victims of tobacco; how it is habit-forming and everything else of that kind, so many deaths, more than heart attacks, more than cancer, more than all the rest, the injury—the unmitigated gall to come and have a product liability that exempts tobacco. You would never get my name on such a charade, a political farce as this, all in the name of the political poll. Kill all the lawyers, that is right. Just kill all the lawyers. So we really got it.

Small businesses are not asking for it. The States are not asking for it. They are trying to force Federal law upon the States over their objections. I was just amazed when the distinguished Senator from West Virginia started talking about competition with Japan. I cannot keep them out of my State. They are running all over me. We just broke ground for Honda at Timmonsville. We just broke ground for another division of Fuji photographic equipment and the little speed cameras. They make 60,000 a day. This is the fourth increment of Fuji, a $1 billion investment there. There are 58 Japanese plants, 100 German plants—foreign competition? They are buying us up. Yet they find out we cannot compete with the foreigners.

I make a habit of visiting these industries. We shake hands, of course, with all, if they will allow us in the plant. I went through the GE plant.

Incidentally, they think we are nothing but textiles. Tell them keep on thinking. We lost, since NAFTA, 24,000 textile and apparel jobs in South Carolina. Little South Carolina lost 24,000 textile and apparel jobs. That is from the National Bureau of Labor Statistics as of the end of April this year. And we have had, in May-June, several other closings. So that is the April figure by the Bureau of Labor Statistics. We were proud of those jobs. We hate to lose them. But we have these other industries here and they are exporting like gangbusters.

I was in that GE plant. I would say of those gas turbines, almost 100 percent are exported. One turbine was ready for delivery at Riyadh, Saudi Arabia; another one was ready for delivery to Tokyo, Japan. The same is true for all of these Torrington and other industries. They are in the context of manufacture.

I said do you have any problem here with product liability? They almost—well, at Bosch they got insulted. "What do you mean, product liability?" They went over there and showed me the antilock brake that they got a contract for from Mercedes, Toyota, and all of General Motors. They said, "Here is a number. We know it immediately. We never have had product liability. We practice safety, Senator." As if I had insulted them with the question.

We have a result from these wonderful trial lawyers that nobody wants to talk about. We have the safest society in the entire world. Let's talk about competitiveness. We have Europe. The Pacific Rim—economically, competitively on the ropes. And here they want to put in a bill to compete with Japan, and Japan is coming here and saying we love it in America. The other States have always had Japanese plants coming. I have yet to have one of them say I can't come because of your product liability and the litigation explosion and all, torts. What is all these silly expressions they have here in these preambles? Here is what they have been referring to ever since last year: that the civil justice system is overcrowded, sluggish, and costly.

Mr. President, what is the actual fact? The National Center for State Courts, on State civil filings, their most recent statistics show that product liability cases constitute only 4 percent of all State tort filings, and a mere $^{36}/_{100}$ of 1 percent of all civil cases. Explosion? Come on. Where is the support? They just use this language around here that the distinguished Senator from Washington put in, these preambles here, "excessive, unpredictable and often arbitrary damage awards."

What does the Justice Department say here? In a recent report, they validate all the studies and the witnesses who appeared before our committees, and said, "Juries nationwide have become much tougher on plaintiffs." According to the Department of Justice report, "Plaintiffs prevailed in only 27 percent of the product liability cases that were filed in Federal court between 1994 and 1995."

In 1992, Professors James Henderson, a supporter of tort reform, and Theodore Eisenberg, of Cornell University, released a study, "Inside the Quiet Revolution in Products Liability," which also found "notable declines in the number of product liability cases filed, as well as significant decreases in the size of awards." The study concludes that:

> By most measures, product liability has returned to where it was at the beginning of the decade.

The study confirmed Professors Henderson and Eisenberg's findings in an earlier study which found:

> A quiet revolution away from extending the boundaries of products liability and toward placing significant limitations on plaintiffs' rights to recover in tort for product-related injuries.

And then the other preamble about all the punitive damages.

There is another study. The American Bar Foundation conducted a nationwide study overseen by Dr. Steven

Daniels of 25,000 civil jury awards, and it found that punitive damages were only awarded in 4.9 percent of the cases reviewed. Can you imagine that, only 4.9 percent?

He stated that the debate over punitive damages "changed in the eighties as the part of an intense, well-organized and well-financed political campaign by interest groups seeking fundamental reforms in the civil justice system benefiting themselves."

Did you hear that?—A "political campaign by interest groups."

Then the American Bar Foundation went on to state that this "politicization of the punitive damages debate makes the debate more emotional and manipulative and less reasoned. The reformers appeal to emotions, fear and anxiety in this political effort, while avoiding reason and rational discourse."

He concluded that punitive damages were not routinely awarded, were awarded in modest amounts, were awarded more often in financial and property harm cases than in product liability cases, which, of course, is like Pennzoil suing Texaco with a $12 billion award in Texas, which was more than all the oil product liability verdicts given cumulatively since the beginning of product liability law. Just add them all up, and you will never get to $12 billion. But there it goes from the American Bar on down.

I think there was one particular study that showed there were only 350 punitive damage awards. I want to find out the exact period of time. This is Professor Rustid of the Suffolk University Law School and Professor Thomas Kearney of Northeastern University. The Supreme Court recently referred to this report. This is our U.S. Supreme Court:

> The most exhaustive study of punitive damages . . .

Professors Rustid and Kearney reviewed all product liability awards from 1965 to 1990 in both State and Federal courts. During that time, punitive damages were awarded in only 355 cases —355 cases. That is what we find, as a matter of Federal interest, to violate the tenth amendment, to violate the Republican contract of trying to get Government back to the people, trying to preserve and not have unfunded mandates upon the States.

We can go on and on, Mr. President. But what really has happened—and it is why this Senator is somewhat disarmed because I have seen it occur over the past 20 years—Mr. Victor Schwartz with the National Association of Manufacturers has buddied up now with the Chamber of Commerce, my friend, Tom Donahue. He is a fighter, and I respect him. Also, the Business Roundtable and the Conference Board, they seek out the candidates before they even get here.

They say, "We would like to help you, but are you for tort reform?"

"Of course."

With respect to the general expression "tort reform" and "torts"—"Yeah, yeah, yeah, I'm for tort reform." So you see them marching like sheep up to the voting table down in the well voting, by gosh, to stop debate on one of the most heinous bills that has ever been presented in the U.S. Senate, because politically they remember their campaigns and politically they were asked and politically they answered, "Yes, I'm for reform," and they know that if they don't vote that way, some opponent is going to come and say, "Here is what you said and then flip-flopped."

They didn't even know the facts of the case. In essence, the jury is fixed. The jury is fixed, Mr. President, before I can get to them, before the National Conference of State Legislatures can get to them, before the American Bar Association can get to them, before the Supreme Court citing the most exhaustive study on punitive damages can get to them.

There are no facts to support this particular initiative. This is just jerry-built from the word go. They say, "Let's remove the seller from strict liability on toxic"—by the way, they have some very dangerous language in here, because some of the lawyers know how to word this language to get rid of the Dalkon Shield cases.

Let me quote this particular finding:

> The difficulty in using the toxic nature of a product as a means of statutorily differentiating between products covered by the statute of repose is highlighted by the following scenario that occurred in an asbestos case brought against Owens-Corning Fiberglas Corp. In their opening statement, the Owens-Corning Fiberglas Corp.'s counsel pronounced that their product, Kaylo [K-A-Y-L-O, Kaylo] an insulation product containing 1.5 percent amosite and chrysotile [C-H-R-Y-S-O-T-I-L-E] asbestos was not toxic. OC's counsel relied on the 1964 article in the Journal of the American Medical Association that stated that asbestos was not considered toxic because it does not produce systemic poisoning.

I can tell you right now, that is trying to get rid of the asbestosis cases and the Dalkon Shield cases, when they give to women $250,000 for the stay-at-home mom. Where have I heard that expression, the "stay-at-home mom"? Oh, they were so disturbed on tobacco for the stay-at-home mom who doesn't economically win anything. I never heard of the husband paying the wife a salary. Maybe that happens somewhere else. It doesn't happen in South Carolina, I can tell you that.

So there is no economic loss. You can come in with a Dalkon Shield case, be injured for life, never be able to reproduce, never have that family, and buy it off for $250,000. That is easy pickings, easy pickings.

Let me tell you, Mr. President, this thing is a dangerous measure, as well as a political farce. When they come out with, for example, punitive damages, I go back to that 1978 case. I remind my colleagues of the wonderful result of punitive damages.

In 1978, Mr. Mark Robinson in San Diego brought the Pinto case against Ford Motor Co. The verdict—the Presiding Officer is a good trial lawyer—the verdict, I think, was $3.5 million actual damages and $125 million punitive damages.

Now, Mr. Robinson had not been able to collect a red cent of that $125 million, but, boy, oh, boy, hasn't that brought safety practices galore, saving lives, saving injury galore over the past 20 years.

They had a recall; it was on the radio this morning; Ford Motor just recalled—I know they recalled about 1.5 million about 2 months ago because the wheels were coming off, but they had another recall, here, of how many vehicles involved in this—another 11,200 recalled yesterday. I remember Chrysler, at the end of the year, recalled 1.5 million hatchbacks. We will get in the debate the National Safety Transportation Administration's statistical recalls, but recall upon recall upon recall didn't impoverish the businesses but it sure made safer this society in which we live.

I came when we were talking about toxic fumes of the Love Canal up there in Buffalo, NY. We put in the Environmental Protection Agency, the impact statements, and they are a matter of habit now. We look environmentally, and we have the dump costs and everything else that has to take care of in this Congress, I hope before we leave. But it has been a wonderful result, so that environmentally we know now that we are not inhaling the fumes and otherwise on account of the Environmental Protection Agency.

We then had the little babies burning up in the cribs—flammable blankets. Since my time, we have instituted a Consumer Product Safety Commission. At one time, J.C. Penney's took me up to their safety lab in New York and showed how, not just blankets, but toys and the various products that they sold, they were testing in this particular lab to make sure, so they put in safety ahead of giving it to the seller and otherwise. So we got the Consumer Product Safety Commission.

And right to tobacco. Of course, they haven't won a class action. That was an individual suit down in Florida; all the rest have been turned aside. So when they whine on the floor of the U.S. Senate, "Why could you give this particular industry immunity from liability? Why are we doing this?"—because the jurors of America have given them, time and time and time again, immunity. They say, look, the Congress, in its wisdom, has required "smoking is dangerous to your health" notification on every one of those packs of cigarettes. It is your assumption of risk. You could have stopped.

More people have stopped smoking than have started smoking in America this minute.

So the jurors, in their wisdom—but, oh, no, they want to exempt tobacco on the one hand here, and the cases brought by the attorneys general and the trial lawyers have done more to save people from cancer than Dr. Koop and Dr. Kessler and the American Cancer Society for the last 30 years that I have been up here. They really have gotten us aware, and more people have stopped smoking, like I say, than are smoking this minute in the United States of America.

So when we go to the hearings where we used to have an ashtray and the room was clouded with smoke and my distinguished beloved former chairman, the Senator from Washington, Senator Magnuson, with that cigar right there—we don't have that anymore. But we don't have it not on account of Dr. Koop and Dr. Kessler but on account of the trial lawyers. They are the ones who got into the records. They are the ones bringing the truth out. They are the ones bringing the class action suits, bringing about settlements in Florida, Mississippi, Texas, and Minnesota, and they continue to bring the cases.

They had an orderly process to end all litigation and get a sweetheart deal in the interest of society whereby they would advertise negatively—we can't control their advertising under the first amendment, but they agreed to it—whereby they would have a look-back provision whereby we could come in and control that and fine them if they didn't control it. But instead, that case now is temporarily on hold—tobacco—and these particular authors want to make sure that tobacco, the most injurious of products, is exempted from this so-called product liability bill.

Mr. FAIRCLOTH. Mr. President, I rise in strong support of this bill, and it is long overdue. In a way, this is a tax cut bill, because it will cut the "trial lawyer tax" often referred to as the "tort tax."

The "trial lawyer tax" is equivalent to the amount of liability insurance that people pay to protect themselves from trial lawyers. They pay it because no one is safe anymore.

We're looking at product liability cases here, but the problem extends far beyond product liability, and I remain committed to broad civil justice reform.

If any Senators think this narrow bill is sufficient, let me mention a few recent verdicts from the tort capital of the United States, New York City. I am convinced that Senators will think twice before they put civil justice reform on the back burner after they hear these horror stories.

A mugger on the New York City subway who was preying on the elderly became a multimillionaire when a Manhattan jury awarded him $4.3 million for being shot as he fled from the scene of a crime. A Bronx jury gave $500,000 to a woman who broke her toe in a pothole. Another Bronx jury awarded $6 million to the family of a drunk who fell in front of a subway train after the jury found the drunk wholly without fault. Another jury in a medical malpractice case awarded $27 million to an injured patient and another $6 million to the members of his family—even though they hadn't even sued.

Mr. President, let me return to the subject at hand, which is limited product liability reform. The tort system is really a "trial lawyer tax" that costs American consumers more than $132 billion per year.

This is a 125 percent increase over the past 10 years. In fact, between 1930 and 1994, tort costs grew four times faster than the growth rate of the economy.

This tort tax costs the average American consumer $616 per year. The civil justice system, in effect, deputizes the trial lawyers as tax collectors. Further, because they often sue under a contingent fee arrangement, the trial lawyers are bounty hunters.

They all want to bag the big case—the trophy case—and raid those "deep pockets."

The U.S. tort system is the most expensive in the world and costs 2.2 percent of gross domestic product.

This is a jobs issue, Mr. President, because tort reform is good for economic development. The evidence is clear: when States pass tort reform, productivity increases, and employment rises. Let me offer a few examples of the "trial lawyer tax" in action. A heart pacemaker costs $18,000; $3,000 of that is the "trial lawyer tax." A motorized wheelchair averages $1,000; $170 of that is the "trial lawyer tax." A doctor's fee for removing tonsils averages $578; $191 of that is the "trial lawyer tax." A two-day maternity stay averages $3,367; $500 is the "trial lawyer tax."

These are the costs of the "trial lawyer tax." Now let's contrast that with the benefits of product liability reform.

Before federal legislation was enacted, production of single engine aircraft had fallen 95 percent from the previous highs of the late 1970s.

Plants were closed and more than 100,000 jobs were lost. In 1986, Cessna Aircraft Company discontinued production of the single engine aircraft. However, Cessna pledged that it would resume production if Congress passed product liability legislation to protect the general aviation industry from the predatory practices of the trial lawyers.

When the Congress finally passed the General Aviation Revitalization Act, Cessna invested $55 million in facilities and equipment, and it now employs 650 people and plans to double that number.

That is the choice, Mr. President, jobs or lawsuits. Money for working Americans or rapacious trial lawyers. Productivity or litigation.

I'll side with working Americans, not fat-cat trial lawyers, and I hope the Senate will invoke cloture on this landmark bill.

I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. SESSIONS). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BROWNBACK. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BROWNBACK. Mr. President, I ask unanimous consent to proceed for a period of up to 15 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

JUVENILE CRIME

Mr. BROWNBACK. Mr. President, today, Senator LIEBERMAN and I will host a policy forum entitled "The Young and the Violent: What is Behind the Spread of Juvenile Violence—and What Can Be Done About It?"

The horror of the killings in Jonesboro, Arkansas; Paducah, Kentucky; Edinboro, Pennsylvania, Springfield, Oregon; Fayetteville, Tennessee, among other places, shattered forever the illusion that "it can't happen here." The young and the violent are found in small towns as well as big cities, and their numbers, as well as their crimes, are growing.

We will hear today from some of the most respected criminologists in the nation—as well as those who are working to transform their communities and solve their problems locally. Their insights on the causes, catalysts and consequences of the spread of juvenile crime are helpful in grappling with the most important questions of our time, namely: why has crime risen and civility declined? How have we failed to civilize our children? What is happening to our national character?

Make no mistake, our culture has changed radically over the past few decades. Since the mid-1960s, violent juvenile crime has increased more than 500 percent. And even though teen violence has dropped over the past three years, teen murders have jumped dramatically since even the early 1980s—and there is reason to believe that they will continue to increase.

Not only have the rates and number of juvenile crimes increased, but they have changed in nature as well. Juvenile crime has grown increasingly predatory—where teens kill strangers for the most trivial of matters—a jacket, or a dirty look—or even worse, for sport.

Moreover, the young and the violent are found in rural and suburban areas, as well as the inner cities. Gangs and guns are even more visible in our schools. Fistfights begin to seem quaint by comparison. Violence that was once unthinkable now fails to shock. In our schools, and across the nation, we have, to borrow a phrase from my colleague Senator MOYNIHAN, "defined deviancy down."

This forum seeks answers to the questions of why kids kill, why teen violence is on the rise, and what can be done about it. Of course, there are no easy answers. But there are a lot of contributing factors.

Perhaps the single most important factor is the continued breakdown of the American family. Today, almost a third of all children are born out of wedlock. Around half of all children will live in a broken home before they turn 18. Tens of millions of little boys and girls will grow up without a loving and committed father.

There are other cultural warning signs. Popular entertainment continues to glamorize violence. Movies and computer games grow ever more gory and grisly. Chart-topping songs feature lyrics celebrating torture, rape, and murder.

Glorifying violence in popular entertainment—whether it be music, or movies, or video games—is dangerous. It is dangerous because a society that glorifies violence will grow more violent.

We had a hearing recently on the issue of music lyrics. One person made the point along this line and said that if John Philip Sousa's music makes us feel patriotic, and if other music, like Frank Sinatra's, makes us feel romantic, what does music that is violent make us feel? If it is hateful, if it is anti-women, if it is oriented towards death and destruction, we think that is going to make us feel that way—that music will just wrap around your soul and cause some distortions to take place.

But most importantly, this discussion will focus on ways to prevent, curtail, and combat teen violence—whether on the Congressional, state, local, or societal level.

I hope that we will gain insight not only on the proper government policies to deter and combat crime, but also on non-governmental initiatives—including those by churches, faith-based organizations, and charities—that have reached out to troubled youth, and succeeded where government has failed.

One of the great things about our nation is that for each of our problems, there are people who are living and working the solution. In churches, youth groups, schools, charities, and families across the nation, miracles are every day taking place. These groups show what is possible by what is actual—that is, their real-life success stories should inspire us with the possibilities.

We in Congress need to enact wise and prudent crime-fighting policies. But we also need to allow these small, often faith-based groups to touch the souls and transform the lives of those in need.

Mr. President, I know that you, as the Presiding Officer and a Senator in this body, know full well the problems that we are facing in this culture and in this society, and the increase in the violent nature of what is happening here. We are all troubled and very perplexed by it.

What we are hoping with this discussion and policy forum that Senator LIEBERMAN and I have today is that we will be able to begin the national dialog—actually not only begin but continue the national dialog—about what each of us can do now to become a more civilized country to stop the violence from growing.

Abe Lincoln made a point that the United States frequently is a nation that moves to a common thought. I think today we have decided we have focused in on saying this is a major problem. Youth violence is a major problem. What can each of us in our individual capacities and our capacities in this body, or in other places—in our communities and homes, in our churches and synagogues—do to solve this problem?

That is what we are going to focus on today—some of the individual solutions that have taken place, what are appropriate governmental policies. But, more importantly, let's get to the common thought on how to start solving this growing problem in America.

I invite my colleagues to tune in to this policy forum that we will have starting today at 2:30. I hope some of them will be willing to join us and follow the subsequent proceedings as we pick up this debate and try to carry it on forward.

Mr. President, I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that the session be put into recess until after the caucuses.

The PRESIDING OFFICER. Is there objection to that request?

Mr. BROWNBACK. I object to that.

The PRESIDING OFFICER. Objection is heard.

Mr. ROCKEFELLER. I withdraw the request.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, what is the parliamentary situation?

The PRESIDING OFFICER. The Senate is debating a motion to proceed on S. 648.

Mr. LEAHY. I thank the Chair.

JUDICIAL NOMINATIONS

Mr. LEAHY. Mr. President, I noticed we were in a quorum call. I was going to mention a situation that we have today that we may want to think about as we consider moving to proceed. Tonight much of America is going to observe a midsummer tradition, the major league baseball All-Star Game.

A number of teams are having outstanding seasons, including the New York Yankees, Atlanta Braves and San Diego Padres. Adding special interest to this season is the possibility that the single-season records for home runs and runs batted in may be broken.

Now, when Roger Maris and Mickey Mantle were chasing the home run record in 1961, they finished the first half of the season at 33 and 28 homers, respectively. At this year's All-Star break, Mark McGwire already has 37 homers, Ken Griffey, Jr., 35, and Sammy Sosa 33, as they head toward Maris' record of 61.

Some may recall from baseball history what Babe Ruth said when he was asked about his $80,000 contract for 1930—it was 10 years before I was born—and at the time it was the highest salary ever agreed to be paid to a baseball player. In a response to a reporter's comment that he was earning more money than the President of the United States, the Babe remarked, "Why not? I had a better year than he did."

So, too, when the American people consider how the Senate is meeting its responsibilities with respect to judicial vacancies, we are going to have to conclude that Mark McGwire is having a better year than the Senate. In light of the All-Star Game being played tonight, let us compare the Senate's pace in confirming much-needed Federal judges to Mark McGwire's home run pace. The Senate got off to an early lead this year. From January through the end of April, the Senate confirmed 22 judges. The Senate's pace, though, slowed in May. We have not been able to generate any real momentum through the spring and early summer. The number of Federal judges confirmed all year is only 33.

Of course, the Senate's early lead on McGwire started to vanish once the baseball season started on March 31, which happens to be my birthday. It took "Big Mac" only 10 weeks to match the Senate's total. By June 8 he had caught and passed the Senate's total and he has been looking back at us ever since. McGwire is on a pace to shatter Maris' record and total 70 home runs in a single season.

You can see on my chart: July—judges confirmed by the Senate, 33; McGwire's home runs, 37; October projections—for the Senate only 51; but for McGwire, 70.

Unfortunately, the Senate is nowhere near a record pace. As recently as 1994—coincidentally, the last year in which the Senate majority was Democrats—the Senate confirmed 101 judges. It has taken the Republican Senate three years to reach the century mark and to do what a Democratic Senate was able to achieve in a single session.

As Chief Justice Rehnquist—and I have no idea if like Justice Blackmun, he is a baseball fan or not—but he correctly observed: "The Senate confirmed only 17 judges in 1996 and 36 in 1997, well under the 101 judges it confirmed in 1994."

This chart also shows you where the Senate is today as compared to our total of judges confirmed in 1994, when we had confirmed 44 judges in July on our way to 101 confirmations. That out paced even Mark McGwire. Here again are our October projections: Judges confirmed at the current pace, probably around 51. I think Mark McGwire is on a pace to get 70. And, of course, the Congress, when last controlled by the Democrats confirmed 101.

I hope that some think about this when we are watching the All-Star Game tonight. Would not the Senate be more productive if we could do just a little more and get a bit closer to the pace being set by some of our favorite baseball players? We are supposed to be the stars of the legislative firmament, but we certainly aren't All-Stars when it comes to this.

We began this year with the criticism of the Chief Justice of the U.S. Supreme Court ringing in our ears: "Vacancies cannot remain at such high levels indefinitely without eroding the quality of justice that traditionally has been associated with the federal judiciary."

Both the Second Circuit and the Ninth Circuit have had to cancel hearings over the past couple of years due to judicial vacancies. Chief Judge Winter of the Second Circuit has had to declare a circuit emergency and to proceed with only one circuit judge on their three-judge panels.

In response to the criticism of the Chief Justice, the Republican leadership has argued that the Senate is on a steady course and making steady progress. So was the Titanic as it headed towards the icebergs. It was only in the last 9 weeks of the last session that the Senate achieved any real progress. In that period, in conjunction with the President's national radio address on the crisis, the Senate confirmed 27 judges in 9 weeks.

I began this year challenging the Senate to maintain that pace. Instead, we confirmed only 33 judicial nominees in 18 weeks in session instead of the 54 we would have confirmed if we had maintained last year's pace.

I have reissued my challenge for the last 10 weeks in session, which are all that remain to the Senate this entire year. We can confirm another 30 nominees by the end of the session if the Senate will work at the pace it achieved at the end of last year.

We have held only seven judicial nomination hearings all year. I recall in 1994, the most recent year in which the Democrats constituted the majority, the Judiciary Committee held 25 judicial confirmation hearings, including hearings to confirm a Supreme Court Justice, which automatically take far, far more time than others. That is 25 hearings as compared with seven.

They had no vacancy on the Supreme Court this year, but nine of the current nominees for the courts of appeals need their hearings and they need them promptly. We have 25 currently pending nominees to the district courts, and only one of those is less than 30 days old.

We should not tolerate upwards of 73 vacancies in the Federal courts, with more on the horizon. Almost one in 10 judgeships remains unfilled, and from the looks of things, they are going to remain unfilled into the future. The Judiciary Committee needs to do a better job, and the Senate needs to proceed more promptly and to consider nominees reported to it.

The nomination held the longest on the Senate calendar is Judge Sonia Sotomayor for a critical vacancy in the Second Circuit. I have already mentioned that in that circuit, which is my own, the Chief Judge has declared an emergency situation. Chief Judge Winter recently issued his annual report in which he notes that the court now has the greatest backlog it ever had.

Ironically, it was Judge Sotomayor who issued a key decision in 1995 that brought an end to the work stoppage in major league baseball. How wonderful it would be if today, at the time of this year's All-Star Game, the Senate would end its work stoppage with respect to her nomination and proceed to consider and confirm her.

This brings me back to the All-Star Game, Mr. President. We will applaud these outstanding players and we will cheer the baseball teams represented. As a New Englander, I historically applaud the Red Sox, no matter how they do—although they had a pretty good first half. Every one of us has favorite players and teams. We stick with them even when they fall behind. But none of these teams has fallen as far behind where they should be as the U.S. Senate has, none has been so disappointing.

Let us try harder. Let us try to confirm at least as many judges as Mark McGwire is going to hit home runs. If we do not want to use the Constitution as an inspiration, if we do not want to use judicial vacancies and the harm they cause as an inspiration, if we do not want to use the potential collapse of the Federal judicial system as an inspiration, maybe some can take inspiration from America's pastime and say, "If Mark McGwire can do it, so can the U.S. Senate."

We have not yet, but hope springs eternal. Let us take his effort and commitment as inspiration. Let us not keep hitting foul balls. Let the Senate hit a home run now and then. It would be a home run for the American people if the Senate stopped holding the Federal judiciary hostage. We should help fill these vacancies. Let's do it.

We have 45 judicial nominations pending, some of whom were first received over three years ago. There are currently nine qualified nominees on the Senate calendar who have been reported favorably by the Judiciary Committee.

In addition, there are 36 nominees pending before the Judiciary Committee and more nominees are being received from the President every week. I hope that the Committee will schedule prompt hearings for each of the judicial nominees currently pending in Committee and for the nominees we expect to be receiving over the next several weeks so that they may have an opportunity to be considered by the Committee and confirmed by the Senate.

At the conclusion of the debate on the nomination of Merrick Garland to the United States Court of Appeals for the District of Columbia, as 23 Republicans were preparing to vote against that exceptionally well-qualified nominee whose confirmation had been delayed 18 months, Senator HATCH said "playing politics with judges is unfair, and I am sick of it." I agree with him. I look forward to a return to the days when judicial nominations are treated with the respect and attention that they deserve.

I calculate that the average number of days for those few lucky nominees who are finally confirmed is continuing to escalate. In 1994 and 1995 judicial nominees took on average 86 or 87 days from nomination to confirmation. In 1996, that number rose to a record 183 days on average. Some would discount that number because it was a presidential election year, but even they cannot ignore that it shattered the previous record.

Last year, the average number of days from nomination to confirmation rose dramatically yet again, and this in the first year of a presidential term. From initial nomination to confirmation, the average time it took for Senate action on the 36 judges confirmed in 1997 broke the 200-day barrier for the first time in our history. It was 212 days. Unfortunately, that time is still growing and the average is still rising to the detriment of the administration of justice. The average time from nomination to confirmation is now over 260 days. That is three times the time it took before this partisan slowdown began in earnest.

The Chief Justice of the United States Supreme Court has called the number of judicial vacancies "the most immediate problem we face in the federal judiciary."

I have urged those who have been stalling the consideration of the President's judicial nominations to reconsider and work to fulfill this constitutional responsibility. Those who delay or prevent the filling of these vacancies must understand that they are delaying or preventing the administration of justice. Courts cannot try cases, incarcerate the guilty or resolve civil disputes without judges.

The Republican Senate leadership seems to be operating under several false assumptions. As recently as June 22, they have stated that there is no problem with the scores of long-standing judicial vacancies because the federal judiciary has 767 active judges, which are more than the number of active judges sitting during the Reagan and Bush administrations.

Unfortunately, their statement fails to consider the enormous growth in the workload of the federal courts over the last two decades. The federal judiciary's workload was at least 60 percent lower than it is today when the Reagan-Bush administrations took office. The federal court's criminal docket alone is up from 28,921 cases in 1980 to 50,363 last year. That is an increase of over 70 percent in the criminal case filings in the federal courts.

Moreover, if the Republicans have their way, this Congress will add more and more cases to the federal courts' workload. Among their priorities are a products liability bill, a so-called "takings" bill and a version of a juvenile crime bill that each federalizes huge portions of what have traditionally been cases handled through state courts.

In recognition of the growing federal court workload, Congress authorized an additional 85 authorized judgeships back in 1984. The vacancies were then filed without delay by Congress, including the 100th Congress in which there was a Democratic majority. Indeed, in 1987 and 1988, the last two years of the Reagan administration, a Democratic Senate confirmed 96 judges, leaving only 23 vacancies at the end of that Congress.

In 1990, a Democratic Congress created 85 additional judgeships during the Bush administration. That brought an anomalous spike in the vacancy numbers. During the 102nd Congress, in 1991 and 1992, the last two years of the Bush administration, the Senate Judiciary Committee under the chairmanship of a Democrat, held 30 confirmation hearings and the Democratic Senate confirmed 124 Bush nominees to the federal bench. In fact, in 1992, during President Bush's last year in office a Democratic Senate confirmed 66 of his nominations.

Thus, during the Reagan and Bush years, both Democratic and Republican Senates not only promptly considered and confirmed judges but also authorized 167 new judgeships in response to the increasing workload of the federal judiciary. Authorized judgeships have increased in number by 25 percent since 1980 while the workload of the federal courts has grown by over 60 percent during the same period. That is why the prolonged vacancies being perpetuated by delays in the confirmation process are creating such strains within the federal courts.

Presidents Reagan and Bush were able to appoint 579 federal judges, including 291 confirmed by a Democratic Senate from 1987 through 1992. In the last two years of the Bush administration, 1991 and 1992, a Democratic Senate held 30 hearings and confirmed 124 judges nominated by a President of the other party, with 66 coming in 1992, a presidential election year.

When Republicans note that President Clinton has appointed 273 federal judges over the past six years, they invariably fail to mention that 129 of these nominees were confirmed by a Democratic Senate in 1993 and 1994. Over the past four years, Republican have confirmed a total of fewer than 145 federal judges, during a time in which the judicial vacancy rate has continued to hover between 70 and 110 longstanding vacancies and the workload of federal courts continues to grow.

So unlike other periods in which judicial vacancies could be attributed to newly-created judgeships, during the past four years the vacancies crisis has been created by the Senate's failure to move quickly to consider nominees to longstanding vacancies.

Republicans also suggest that maintaining as many as 60 vacancies is "virtually full employment" on the federal bench. I disagree. In the early and mid-1980's, vacancies were between 25 and 34 at the beginning of each session of Congress. By the fall of 1983, the vacancies for the entire federal judiciary had been reduced to only 16.

With attrition and the 85 new judgeships created in 1984, vacancies reached 123 at the beginning of President Reagan's second term, but those vacancies were reduced to only 33 within two years, by the fall of 1986. A Democratic Senate in 1987 and 1988 reduced the vacancies still further to only 23 at the end of the 100th Congress.

It was not until the additional judges were created in 1990 that the next significant spike in vacancies occurred and then, again, the Democratic Senate responsibly set about the task of helping fill those vacancies with qualified nominees. Although President Bush was notoriously slow to nominate, the Democratic Senate confirmed 124 nominees in President Bush's last two years and cut the vacancies in half.

Republicans also contend, erroneously, that the Clinton administration has stated that 63 vacancies is acceptable and "virtually full employment." They misinterpret a press release from October 1994. That press release was pointing out that if the Senate had proceeded to confirm the 14 nominees then on the Senate calendar it would have brought the total judges confirmed during President Clinton's first two years to over 140 and would have reduced the judicial vacancy rate to 4.7 percent, which the press release then proceeded to compare to a favorable unemployment rate of under 5 percent.

This was not a statement of administration position or even a policy statement but a poorly designed press release that included an ill-conceived. Job vacancy rates and unemployment rates are not comparable. Judicial vacancy rates have significance beyond general unemployment statistics.

When I learned that some Republicans had for partisan purposes seized upon this press release, taken it out of context, ignored what the press release actually said and were manipulating it into a misstatement of Clinton administration policy, I asked the Attorney General, in 1997, whether there was any level or percentage of judicial vacancies that the administration considered acceptable or equal to "full employment."

The Department responded:

> There is no level or percentage of vacancies that justifies a slow down in the Senate on the confirmation of nominees for judicial positions. While the Department did once, in the fall of 1994, characterize a 4.7 percent vacancy rate in the federal judiciary as the equivalent of the Department of Labor 'full employment' standard, that characterization was intended simply to emphasize the hard work and productivity of the Administration and the Senate in reducing the extraordinary number of vacancies in the federal Article III judiciary in 1993 and 1994. Of course, there is a certain small vacancy rate, due to retirements and deaths and the time required by the appointment process, that will always exist. The current vacancy rate is 11.3 percent. It did reach 12 percent this past summer. The President and the Senate should continually be working diligently to fill vacancies as they arise, and should always

strive to reach 100 percent capacity for the federal bench.

At no time has the Clinton administration stated that it believes that 60 vacancies on the federal bench is acceptable or a virtually full federal bench. Only Republicans have expressed that opinion. As the Department noted last year, the Senate should be "working diligently to fill vacancies as they arise, and should always strive to reach 100 percent capacity for the federal bench."

With respect to the question of vacancies, it is also important to note that in 1997 the Judiciary Conference of the United States requested an additional 53 judgeships be created and the Republican Congress has refused to consider that workload justified request. My bill to meet that request, S.678, the Federal Judgeship Act of 1997, has received no attention since I introduced it over a year ago. Had those additional judgeships been created, as they were in 1984 and 1990 under Republican Presidents, current judicial vacancies would number 123 and total almost 14 percent of the federal judiciary.

I hope that the Judiciary Committee and the Senate will proceed to consider and confirm judicial nominees more promptly and without the months of delay that now accompany so many nominations. I hope the Committee will not delay in scheduling the additional hearings we need to hold to consider the fine men and women whom the President has nominated to fill these important positions.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GORTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS

Mr. GORTON. Mr. President, I ask unanimous consent that the Senate now stand in recess under the previous order.

There being no objection, the Senate, at 12:29 p.m., recessed until 2:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. COATS).

Mr. LOTT. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEPARTMENT OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1999

Mr. BOND. I ask unanimous consent that the Senate now resume consideration of the VA-HUD appropriations bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

A bill (S. 2168) making appropriations for the Department of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, commissions, corporations, and offices for the fiscal year ending September 30, 1999.

The Senate resumed consideration of the bill.

Mr. BOND. Mr. President, I think the distinguished Senator from Arkansas is ready to proceed with an amendment.

The PRESIDING OFFICER. The Senator from Arkansas.

AMENDMENT NO. 3062

(Purpose: To terminate the Space Station and provide additional funding for veterans and low-income housing)

Mr. BUMPERS. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arkansas [Mr. BUMPERS], for himself, Mr. BRYAN, Mr. WELLSTONE, Mr. HUTCHINSON, Mr. LEAHY, Mr. KOHL, Mr. WYDEN, Mr. FEINGOLD and Mr. DURBIN, proposes an amendment numbered 3062.

Mr. BUMPERS. Mr. President, I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike line 21 on page 76 through line 4 on page 77 and insert the following:

"For termination of the International Space Station project, $850,000,000. In addition to the other provisions of this Act, $1,000,000,000 shall be available for the Veterans Health Administration Medical Care account and $450,000,000 shall be available for the Housing Certificate Fund account within the Department of Housing and Urban Development's budget."

Mr. BUMPERS. Mr. President, this will be the eighth year that I have stood here and debated whether or not America should go forward with a space station. I didn't like the idea of the Space Station *Freedom*, but it was probably a bargain compared to what the International Space Station is turning out to be.

First, I would like to pose a question to my colleagues: Why is it that we continue to fund a program called the International Space Station, when every cellular biologist, every medical researcher, and every physicist in America who isn't involved in the program itself is vehemently opposed to it? These are some of the most brilliant people in America. Before we start off spending $100 billion, we ought to ask ourselves, Why are they opposed? Well, for very good reasons, and I will come back to those in just a minute.

It is a mystery that here in Congress we talk seriously about a program which in the last 3 years has become almost laughable. If it weren't so serious and the amount of money so enormous, it would be almost a comedy—a comedy of errors.

The cost began to spiral in 1996—maybe before that, but that was the first time we really knew it. The Russians have had space stations up for almost 30 years. The Mir is the seventh space station that the Russians have had up since 1971. And what do they have to show for it? Absolutely nothing.

In a little while, I will come back and quote some of the top Nobel Prize winners, some of the top physicists in America, cellular biologists—you name it. I will come back and quote several of them and what they have had to say about the space station as a research vehicle.

Now, you should bear in mind throughout this debate that when you talk about research on the space station, there is only one reason—one reason—you have to believe that the kind of research we are going to do, which NASA says will cure ingrown toenails, warts, cancer, sties—it will cure everything—you have to believe that research of whatever kind—mostly medical, and some of it molecular biology—but you have to believe that something happens in a microgravity situation that you can't emulate on earth, and not only is something going to happen in a microgravity situation, but it is going to be good. Again, I will come back to what the top scientists in this country have to say about it. But right now I will quote Professor Bloembergen, who is a top physicist at Harvard University. When he was President of the American Physical Society, which consists of 40,000 physicists, and, he summed it up when he said, "microgravity is of micro importance."

JOHN GLENN came to the Senate with me. We developed a warm friendship the first day we met and we have remained friends. I consider him one of my dearest friends, except when I bring this amendment up. But Senator GLENN is not going to deny that about all you get out of this is whatever you can get from microgravity research that can be emulated on earth; but there is no need to emulate it on earth. You are going to hear all this business about gallium arsenide crystals, which is "bunk." Even if you could build crystals on the space station, nobody on earth could afford to use them.

Well, Mr. President, why are all these people opposed? Why are the top people on whom we rely for all of our medical research, cellular research—the top scientists in America—why are they outraged by spending $100 billion on one orbiting space station with a crew of, at first three people, and subsequently six or seven people? Why are they outraged? Well, one reason might be that they come up here pleading for money for honest-to-God research every year, and we give them a few shekels and off they go to do the best they can with it.

Think about the National Institutes of Health getting about $13 billion a year, and they do research on everything—honest research. They send out money to every university in the country that has a medical school to do research. Well, if we ever get this thing in space, just the annual operating cost will be enough to fund 6,000 researchers at NIH and universities across America for a year. We are going to have six people on the space station doing what the National Research Council estimates to be 24 hours of research each day, at a cost at which we could hire 6,000 researchers on earth.

Do you want to hear another one? Once we get it deployed, we are going to leave it in space for 10 years. You multiply the man-hours by 10 years that we are going to get in research, and if you don't just divide the annual operating costs, which, as I said a moment ago, would produce 6,000 researchers on earth, but divide it into the entire $100 billion cost, which is a legitimate thing to do because, after all, we are spending $100 billion to put the space station up and do research—whether you are going to build crystals or cure ingrown toenails, it is all research. But when you do that, the cost of each man-hour of research on the space station is $11.5 million per hour.

Now, if that doesn't stagger people, what would? Here we starve the National Institutes of Health, we starve the Food and Drug Administration, we starve the Centers for Disease Control, and we are embarking on a program that will cost $100 billion, which translates into $11.5 million for every hour of research that will be done on that thing over a 10-year period. So can you see why I raise my voice? I can't believe it. It is so patently absurd and outrageous. And the ordinary layman in America thinks the space station is a pretty good idea. The Russians did it, why shouldn't we?

But let's go to the original promises. Mr. President, not only are all of the scientists in America opposed to it, I will give you another reason that Congress ought to be opposed to it. It is because we have just had one broken promise after another from NASA. My good friend from Ohio has heard me say this many times. Let me get this off my conscience right now. I believe in NASA and I believe in the space program. I thought the Mars Pathfinder Program was wonderful. We sent an unmanned rover to Mars, and it took magnificent pictures and sent them back to earth. It gave us a much, much better comprehension, for whatever it may be worth, of what is on Mars. So I want everybody to understand that this is not an anti-NASA speech or amendment; this is an antispace station amendment.

In September 1993, there was a solemn promise that was made to Congress and, therefore, to the American people. This is what a briefing paper on NASA's Web site says:

> In September 1993, a program implementation program called PIP had been developed in the baseline for the new International Space Station. The plan was coordinated with and agreed to by all existing partners. Based on this PIP, NASA reached agreement with the Clinton administration and with Congress that the International Space Station would be implemented with a flat budget of $2.1 billion a year.

Let me indelibly ingrain that on your brain. NASA said we will do this for $2.1 billion a year.

And we will build it. Bear in mind, there are three stages: Building it, deploying it, and operating it. The NASA briefing paper goes on to say:

> NASA promised that the program would remain on schedule and within the annual $2.1 billion and the runout $17.4 billion budget and that no additional funds will be sought. In exchange the program will be required to redesign and rescope the station.

A solemn promise of $2.1 billion. But, as they say, something happened on the way to the forum. We are now up to $98 billion-plus and heading north.

They also promised us that this thing would be finished by June of 2002. Again, something happened on the way to the forum. I will come back to that in just a moment.

But we should have noticed back in 1996. If we had been paying attention in 1996, we would have known that something was happening. Precisely what was happening was, NASA transferred $235 billion from other programs within NASA to the space station. They did that with the approval of the appropriate committees of Congress here. I assume it was the Commerce and Appropriations Committees. But what else did they do? They then changed their accounting system so they could transfer another $100 million over to the space station. That $300 million didn't count against the $17.4 billion that the cost of this thing was supposed to be. It didn't count against the $2.1 billion they promised they would use every year and not ask for more.

In 1997, guess what. The same song, second verse. In 1997, they transferred $200 million from the shuttle program to the space station because they had decided that Russia was not going to be able to come through with its part of the bargain their very first component—building the service module. They decided they might have to build it. So they transferred $200 million from the shuttle program to build what they call an interim control module. Then they again transferred $100 million from other accounts—mostly scientific accounts.

So we are not going to get as much science as we planned, because they have already taken $100 million of that out, and this $300 million did not count against the annual $2.1 billion appropriations.

Then in a hearing before the Senate Commerce Committee last year—I think it was in May—Boeing, the prime contractor, and NASA both appeared before the Senate Commerce Committee. Boeing said, in a rare admission, that their part of the program was going to cost $600 million more than we anticipated. That didn't include the $600 million that had already been transferred by NASA from other accounts. NASA said that is true. But in that same hearing, they said the figure was not going to be $600 million in cost overrun, it would be $817 million. They also said in 1998 that they are going to need still another $430 million extra.

I mean we are getting bombarded by transfers from other accounts, transfers with and without the permission of Congress, admitted cost overruns of $817 million on top of that. And we are going to need another $430 million in 1998.

So, Mr. President, the thing is beginning to sort of roll out of control. And Dan Goldin, Administrator of NASA, takes the extra precaution, with, I think, a little prodding by Congress, to appoint a task force to look into this whole thing. He made Jay Chabrow, one of the premier space technology analysts in America, chairman of what is called the Chabrow Commission. They were formulated, I think, and appointed in September and went to work in November. And on April 15, 1998, they came back to the Congress and to NASA and said that the $21.3 billion that NASA admitted the station would cost in its FY 1999 budget was not enough. I should have mentioned that before. In their budget for 1999 NASA admitted that the space station was not going to cost $17.4 but, rather, $21.3 billion. They wish.

Jay Chabrow, in whom Dan Goldin obviously put a great deal of confidence, comes back and says, "Would you believe $24.7 billion?" That is a $7.3 billion overrun—43 percent—just to build it on the ground before we have put the first piece of hardware in space. Chabrow went ahead to say you are not going to finish it in the year 2002. It is going to take 10 to 38 months longer to deploy the space station than you have admitted, more likely 2 years. So, instead of the year 2003, it is going to be finished in late 2005, or early 2006 at best.

Do you know what those kinds of delays mean in a program like this?

Billions. If this had been anybody other than somebody like Jay Chabrow, with the credibility and reputation he has, everybody could have swatted it like a fly. But you cannot ignore this prestigious commission.

Do you know what else? The Chabrow Commission went ahead to say this $7.3 billion overrun assumes that the Russians, our big partner in the space station, will perform on time.

Mr. President, let's go to the next stage, deploying the space station. It is going to take, according to the latest figures from NASA, about 83 launches to deploy it. That means taking all of these parts into space over the period of the next 63 months, putting them together in space, and becoming what we call the International Space Station. When Jay Chabrow's commission said the cost overrun is going to be $7.3 billion, he went ahead to say "if the Russians fulfill their part of this bargain." The Russians were scheduled to deploy the service module—a very important element in the space station—April 1998. Then it was going to be December 1998. Now we are up to April 1999.

Do you know what those delays do? They cost billions.

Do you know something else? Colleagues, let me ask you. Do you think the Russians can fulfill their part of this program? The Russians, who just barely have enough money to get a rescue team up to the Mir and rescue them, and whose electricity has been cut off at their primary cosmodrome at Baikonur. The electricity has been cut off because they won't pay their bills, and the reason they don't pay their bills is that they do not have the money. The reason they don't have the money is that the central government doesn't have the money to send to the Russian Space Agency.

The Russians are our partners. I feel sorry for them. This statement is not intended to condemn the Russians. But to think that we are gambling $100 billion on assuming that the Russians will provide 49 of the 83 launches it is going to take to put this thing in orbit. We are depending on the Russians to do that? Do you remember when the Vice President went over to talk to Chernomyrdin and Chernomyrdin told the Vice President not to worry, that the money is going to be coming?

The money did not come. The money has not come.

Now, Mr. President, there is one admission I want to make right now. I would tell Daniel Goldin and the administration at NASA, forget Russia. I don't know what it is going to cost for the United States to assume its share of this burden, but whatever it is will be less than waiting for them to perform. They cannot perform. It is sad, and I am sorry, but the Russians are not going to be able to hold up their share of the bargain.

The European Space Agency—I think there are 14 countries in the European Space Agency—is in this, and you are going to hear all these loud laments: We can't quit now; it is an international project.

It is an international project with the United States putting up $100 billion and everybody else putting up $15 billion. The French are members of the European Space Agency. They have a very clever Space Minister, Claude Allegre. Do you know what he said? "It is time to get out. This was a mistake." He went ahead to say, "People often do stupid things. There is no rule that says we have to applaud them."

They are in for 27 percent of the European Space Agency's share, which is around $9 billion to $10 billion, and they want out. They do not want to hear all these patriotic songs on the Senate floor about how this international cooperation is just wonderful. They want to save their 27 percent and get out while the getting is good. And as Claude Allegre, the Space Minister, said, "I have never seen any research that would justify this kind of expenditure."

Mr. President, some studies have been done which indicate that even if Russia could perform right on time, out of those 83 launches, 5 of the Russian launches could be failures under the best of circumstances—5 of those launches would be failures and 1 United States launch would be a failure.

In addition there will be launch delays. You have a 5-minute window. Senator GLENN is familiar with all of this. You have a 5-minute window to launch those things. If you don't do it in the 5 minutes, Lord knows how long you have to wait. To assume that 83 launches to just get this thing into orbit are going to go off without a hitch, without a flaw, is naive and simplistic in the extreme.

Going back to NASA's promises, in 1993, they said that in order to assemble this thing in space, it is going to require our astronauts to engage in what they called "extravehicular activity," space walks for short, and it will take 434 man-hours, 434 man-hours of space walking to assemble this thing.

In 1995, they said, no, it is going to take 888, a little over twice as many as we first said. In 1996, they said, no, it is going to take 1,104 hours of space walking. In 1997, in April, they said, no, it is going to take 1,520 hours. And in December of 1997, they said, no, it is going to take 1,729 hours. There is a nice, solid 400-percent increase or, if you choose, a 400-percent mistake.

Mr. President, we ought to expect something as a return on our investment. We send our children and grandchildren, our most precious possessions, off to school every morning. All of us got teary-eyed as we sent our children off to school the first time. And incidentally, we sent them for 7 or 8 hours that day to be with a teacher who was going to have almost as much, and possibly more, influence on that child than the parents.

How many debates have you heard in this Chamber about how the school buildings in this country are deteriorating? And how many debates have you heard about how we have to lower the size of the classes? Incidentally, that is a lot bigger issue. I haven't had any children in school in some time. I have grandchildren, and one of my daughters-in-law told me the other day my grandson was in a class with 34 students, and that is not extraordinary; that is fairly common, even though every educator will tell you anytime a classroom is bigger than 20 students, the chances of that child getting a decent education go down dramatically. Twenty is the optimum size for classrooms. So we wail endlessly on the floor of the Senate about our commitment to the education of these children, to teachers. That teacher to whom we send our child off to be with 7, 8 hours a day in my State, his or her entry level salary is in the $20- to $25,000 range.

Just as an aside—this doesn't cost anybody anything—if I were President Clinton, I would tell the American people I hope to raise teacher's salaries to $50,000 a year. I married a schoolteacher, and I can tell you categorically it is the roughest, toughest job in America. I would work for the Washington sanitation department before I would teach elementary and secondary education. And we pay tribute to them but we don't pay them money.

Around here you hear all of these things. When we were marking the Agriculture Appropriations bill, virtually every Member of the Senate came to Senator COCHRAN or me or both saying, please, help me with this little project back home; we just need $400,000 for this; if we could just get $1.5 million for that. Do you know what Senator COCHRAN and I were dealing with? A budget that was $1 billion less than last year, a little over $13 billion for the whole Agriculture Department of America. This cost overrun just to build the space station on Earth would fund 50 percent of the agriculture budget. Think what it would do to send children to college. Think what it would do to improve teacher's salaries. We tried to appropriate $5 billion to upgrade the classrooms in this country. And we are talking about a $7.3 billion overrun here.

Well, you trust the teacher with your child because oftentimes it is a joy to do it and sometimes because you have to.

I started off this debate by saying that Congress is arrogating to itself a knowledge it does not possess as to what kind of research is likely to go on on the space station. If you think it can only happen on a space station, or if you think there is something peculiar about microgravity that we have to do all of this research in a vacuum, let me read to you, at the expense of boring you to tears, a few quotes.

Here is Dr. Ursula Goodenough, a cell biologist from the University of Washington and past president of the American Society for Cell Biology. She wrote to Dan Goldin, the Administrator of NASA, and said:

> The frontier of microgravity never did interest first-rate scientists, physical or biological. And this is all the more true now that it is clear that nothing of any real interest has emerged from the many in-flight studies on the effects of microgravity on this or that.

John Pike, of the American Federation of Scientists:

> As soon as the most visible justification for piloted space craft becomes science, you got BS detectors going off all over America.

Here is Marcia Smith. Marcia Smith is with the Congressional Research Service and probably knows as much or more about space than any person in America. She has done a report that is very current, issued in the month of July, that before any Senator votes to continue spending up to $100 billion or $150 billion, that Senator ought to read. Here is what she said in a publication in 1995:

> I don't know of any breakthroughs that have come out of Russian space station programs in terms of new or cheaper-to-produce materials or scientific discoveries. Mostly, they have learned how to operate a space station for longer periods of time.

Longer periods of time—nothing in there about cancer, AIDS, myopia—nothing. They say the Russians have had space stations up for almost 30 years, Mir being the last one, and what have they learned? They have learned how to keep space stations up for longer periods of time.

Here is a quote from Tim Beardsley, Scientific American. He, in turn, is quoting Elliott C. Levinthal, a former program director of the Defense Advanced Research Projects Agency. And he says:

> Levinthal, who has been a professor of genetics and mechanical engineering at Stanford University, asserts that no neutral committee handing out funds for basic research in biology would support microgravity studies.

James Ferris, Rensselaer Polytechnic Institute, June 1996:

> Nothing has come out of microgravity research to convince me that a material can be fabricated in orbit that is going to be better than what you can make on Earth.

Why are we spending $150 billion if you believe that?

Here is Dr. James Van Allen. Did you ever hear of the Van Allen radiation belt? One and the same person.

> With the benefit of over three decades in space flight, it is now clear that the conduct of scientific and applicational missions in space by human crews is of very limited value.

He goes on to say:

> For almost all scientific and utilitarian purposes a human crew in space is neither necessary nor significantly useful.

That is pretty powerful stuff from a man like Van Allen, isn't it—not necessary or useful?

Here is Dr. Allen Bromley, Presidential Science Adviser, March 11, 1991, in a letter to the Vice President:

> The space station is needed to find means of maintaining human life during long space flights. This is the only scientific justification, in our view, and all future design efforts should be focused on this one purpose.

That is George Bush's Vice President, Dan Quayle. That is back before AL GORE and Bill Clinton. And Dr. Bromley is writing to the Vice President, saying bear in mind that the only scientific justification should be focused on one purpose and that is maintaining human life during long flights.

The American College of Physicians—medical doctors. The American College of Physicians:

> We agree that much, if not all, of the money slated for the space station, the superconducting super collider, SDI, and for Defense Intelligence could be better spent on improving the health of our citizens, stimulating economic growth, and reducing the deficit.

That was in 1992 when people thought the deficit was absolutely out of control and so was Congress. And sometimes I wonder about Congress today, when I see us appropriating money to keep this thing going.

Here is one from the American Physical Society, all the physicists in America:

> The principal scientific mission of the station is to study the effects on humans of prolonged exposure to a space environment.

Listen to this:

> Medical researchers scoff at claims that these studies might lead to cures for disease on Earth.

Why, you are going to hear all these things about, "We don't know what is up there; we have to go up there and find out." We have been going up there for 30 years. We have been in space for 30 years. The space station will keep us there longer, but we have been there before.

On cancer research—that is one of the things you always hear about, cancer research. Everybody deplores and is so frightened of cancer and AIDS and other terminal diseases like that. All you have to do is throw "cancer research" out and you can have all the money you want. And here is what Dr. David Rosenthal at the Harvard Medical School said on behalf of the American Cancer Society:

> We cannot find valid scientific justification for these claims and believe it is unrealistic to base a decision on funding the space station on that information. . . . Based on the information we have seen thus far, we do not agree that a strong case has been made for choosing to do cancer research in space over critically needed research [right] here on Earth.

Mr. President, I will save some of the other quotes. I know it gets a little tiresome listening to somebody read on the Senate floor. I get a little wrought-up in debating this issue. But you show me somebody who can't get wrought-up over an issue and he ought not to be on the floor of the Senate. If you don't feel strongly enough about it to get excited and agitated about it, maybe you should not offer it in the first place.

This is my last year in the Senate. This is my eighth and last effort to kill this program. But this year I am doing something a little different. Of the $2.3 billion we are talking about putting in the program for 1999—I would terminate the space station. It will cost roughly $800 million to terminate it. I would take $1 billion that is left over and put it in veterans medicine. The veterans have been squealing like a pig under a gate about how they have been mistreated this year, and they have been mistreated. If anybody in this body wants to redeem themselves, here is a chance to ingratiate themselves with every veterans organization in this country, who are totally wired to the fact that they have been shorted by the tune of about $1 billion.

So I will put $1 billion of this in veterans programs. And I will put $450 million into low-rent housing. We are doing a magnificent job during this unprecedented era of prosperity; 67 percent of the people in this country own their own homes, or like me, have a fighting interest in one. But people who are poor and people who work that are poor, 60 percent of them spend over 50 percent of their wages on a home, on a house, on rents.

The poor people always get the shaft, don't they? I have always thought they did. If it hadn't been for the Government providing me with the GI bill to go to a prestigious law school, I wouldn't be standing here right now. It was that mean old Government that everybody talks about how terrible it is that gave my brother and me a great education and gave us a fighting chance that we might otherwise not have had.

People don't like to admit it, but the truth of the matter is, most people who make it in this world make it because they had a little luck along the way or because the Government gave them a little hand with an education or a small business loan or some kind of Government assistance. A lot of them, like me, got all three—luck, Government help, and I chose my parents well. Everybody doesn't get that chance. A lot of people do a miserable job of choosing their parents, but they can't help it.

We can help it. We can do something for the least among us. I call on my colleagues for one time to rise above the politics of this. Eighty-five percent of the money goes to Alabama, California, and Texas. The rest don't have that much money in your State to warrant voting a bad vote. Anybody who can't justify a "no" vote on the space program doesn't have much business being here. Maybe you feel strongly about it, and I am not going to quarrel about that, but if you are looking for a political justification, anybody who can't justify voting to kill that thing has no business being in the debate on the floor of the Senate.

Mr. President, I yield the floor.

Mr. GLENN addressed the Chair.

The PRESIDING OFFICER (Mr. KEMPTHORNE). The Senator from Ohio.

Mr. GLENN. Mr. President, I have listened very carefully to the statements made by my distinguished colleague from Arkansas, Senator BUMPERS. Some of his statements I agree with, and, obviously, some of them I do not agree with. One I agree with very strongly is, when he and I arrived here together, we became closest friends. He is one of my best friends, if not the best friend, I have in the Senate today. We vote in a very similar fashion on most things. But every year it seems we lock horns on this particular issue. I am sorry that is the case, but I feel as strongly in the other direction with regard to the space station as he does on the other side.

Let me put this in a little larger context perhaps. Let me start out with the big picture of this country and what made this country great, because I have always believed that there is one thing that does set this country apart from other nations around the world.

By the very nature of people coming to this country in the early days and their expansion across the unknown territory that we know today as America, they exhibited a questing curiosity, a questing spirit that led them not only to explore lands and oceans and skies and geography, but also to do not just the macro exploration, but the micro exploration in laboratories, classrooms of our Nation, and express our curiosity in learning new things. And that is at the heart of science. The heart of science is learning the new and putting it to use in ways to better our lives and understanding of the world around us—indeed, the universe around us.

This questing spirit is at the heart of our history, from those first settlers who landed on our rocky shores, to Lewis and Clark pushing into hostile lands west of the Mississippi, to Thomas Edison and the electric light, to the Wright brothers struggling to break the bond of gravity, to the past and present-day pioneers in our country's space program.

Along the way, there have always been plenty of doubters about our efforts to explore, to learn the new. There have always been those who said, "Well, we haven't solved all of our problems yet, so we should spend our money on the here and now until we get those answers and never look into other new areas; don't waste money on what might be."

There have been plenty of doubters about our efforts to explore the new, and one of the most famous is one I have quoted on this floor before, a distinguished orator and Senator, Daniel Webster.

Daniel Webster used to get very impassioned. All you have to do is see the desk on the other side of the aisle which is always reserved for the senior Senator from New Hampshire. That is the only desk in the U.S. Senate that has a solid top on it. It does not raise. It does not have hinges. That is because Daniel Webster became so impassioned on the Senate floor, he used to bang so hard on the desks during his speeches, that he broke the tops of the desks. They finally got so tired of replacing the tops that they put on a solid top of additional thickness so he couldn't break it. That is how impassioned he became about some of the matters in which he believed.

He rose in the Senate when our Government was considering buying lands west of the Mississippi from Spain and Mexico, lands that now make up more than half of the area mass of today's United States. Daniel Webster would rise during floor debate to say words to the effect of these: "What use can this area west of the Mississippi be, this area of cactus and prairie dogs, of blowing sand, mountains of snow, impenetrable snow to their very base? Mr. President, I will not vote one cent from the public Treasury to move the Pacific one inch closer to Boston than it now is."

We can see in the past we have had some of our greatest statesmen who have taken a rather myopic view of branching out and looking into the new and unknown. The Wright brothers faced their skeptics, too. Some people said at that time that if God wanted us to fly, God would have made feathers on us so we could fly. Yet, their curiosity and persistence led to airplanes and the aviation industry and really have changed the nature of the world and commerce and how we do business over this Earth.

I hate to say we face reincarnation of some of those skeptics when debating our space program. I think people who take some of these views are just as misled as Daniel Webster and critics of the Wright brothers were years ago. Each year they ask, "Why do we invest billions of taxpayers' dollars for space exploration and research"—even though it does have a great promise, which I will go into in a few moments—"while we still have other problems right here on Earth we haven't solved? It is not just exploring the West. So why do we put new money into research and laboratories when we haven't solved the problems on which we are already working?"

You can look at the macro research or micro research area, either one. We do research for one reason, and I can give a short answer for that: We do it to benefit people right here on Earth and to address those very problems they raise, and that has been true ever since I was involved in the space program many years ago during Project Mercury, and it is true today.

I cannot think of one area of our society, whether it is communications or transportation or medicine, manufacturing, agriculture, the environment, education—that has not demonstrably benefited from our space program.

I know my distinguished colleague from Arkansas, Senator BUMPERS, will say he is not against the space program—and that is true, he is not, he votes for it—that he is just against the space station. Yet, the space station, to my mind, is one of the most preeminent examples of where we stand the potential of benefits for the future beyond anything we can foresee at the outset right now. That is the nature of basic research. That is the nature of geographical research and exploration or research in laboratories.

This year, as in years past, we will debate what the benefits are of the International Space Station. Fortunately, we have continued to fund the space station. I think it is one of the greatest cooperative scientific enterprises in the history of this world—in fact, the greatest. A total of 16 nations have teamed up to launch the most ambitious technical undertaking known to man. The first components will be launched later this year. As a matter of fact, the scheduled date is December 3 when the first U.S. node will be put up. The Russians will launch their first component, the Functioning Cargo Block on November 20.

The station will be a laboratory in permanent orbit. Much of its research will be a continuation of work currently being done on the shuttle, which is more limited as a research facility because of several things, including space available inside it, and because of technical considerations and the length of time it can be in space. That is the main one, the length of time that it can actually stay in orbit.

Let me go into a little bit about some of this research that I do believe is important. We had a recent set of experiments called Neurolab in April of this year. It was started on the shuttle and will be continued on the space station to a greater extent. It will deal with probably the greatest single frontier, the greatest unknown, the greatest area for potential advancement of anything we could think about, and that is a study of our human brain and our nervous system and how they operate. It can't be much more important than that. That is the part of the human body that is most complex and least understood by scientists.

Neurolab flew this past April carrying seven astronauts and a whole host of different animals. It is NASA's view that it is the most complex and scientifically sophisticated research mission they have ever flown. Researchers used state-of-the-art techniques and technologies to gather information about how the nervous system's control of various body functions changes in the microgravity of space and how gravity influences the development of our nervous system right here on Earth—trying to get an insight from the lack of gravity as to how these whole systems work.

A Neurolab lab performed research in the area of our vestibular system, balance; cardiovascular functions; spatial orientation and development biology; and circadian rhythms. The lay person listening to me recite those might wonder what all these terms involving research with a bunch of astronauts have to do with me right here on Earth. That is a good question. But there are some very ready answers to that.

The vestibular system relates to how the inner ear links to our sense of balance which is disrupted when the astronauts are in microgravity and space. The research lab will help to better understand how balance is disrupted and then restored. Is that of importance here? There are 12.5 million Americans right now over the age of 65 who suffer from balance disorders just as a pure result of the aging process. In fact, balance disorders affect most people at some point in their lives, and hopefully this may give us a new approach to those problems.

Cardiovascular Functions: Blood pressure control is upset in space. Many astronauts faint or become dizzy when they come back to Earth. This "orthostatic intolerance" also affects 500,000 Americans. Neurolab's research will be helpful in developing treatments for those who suffer from inadequate regulation of their blood pressure.

Spatial Orientation and Development Biology—that's a big title: Research in this area examines the development of motor skills like walking and manual dexterity. Findings could be helpful in learning how the nervous system connects to motor development, which could have applications in treating children whose motor development is retarded by disease or genetic defect, or for people who are seeking to regain motor function after a stroke or an accident.

Sleep and Circadian Rhythms: Astronauts in space have trouble sleeping. So do millions of Americans, especially older Americans, and those who work night shifts. But trials on Neurolab examine the hormone Melatonin and its efficacy as a sleep aid. For those over 65 in this country, it is estimated about one-third of those people have serious enough sleep problems that it really interferes with their lives. So this may give us a handle on looking into some of those problems.

All of the Neurolab's research is not something NASA just dreams up and says, hey, I think we will put something on this flight that might be a good idea; it looks pretty cool. We will try that next time out and see what we find out. No, that is not the way it is done. All the research has been peer reviewed and the Neurolab research involved collaboration between NASA and the National Institutes of Health, the Office of Naval Research, and some of the world's leading scientific experts in this area. Neurolab will be continued on the space station in a longer and more sustained way. I think we are only scratching the surface now of what will be learned.

Neurolab is not the only research being done that has benefits right here on Earth. One field of research we have talked about on the floor before that I find most intriguing and I know this is denigrated somewhat as being sort of esoteric, but it is anything but that. It is very important. That is protein crystal growth in space. Most people are probably not aware—outside of the medical profession, that is—most people are probably not aware of the importance of protein crystals or proteins in our bodies and the fact that in space there is a big difference.

Contrary to what was said on the floor a few moments ago, there are differences in microgravity, there are differences in "zero-G" as to the kind of research you can do. You can't do all these things on Earth. In space, the protein crystals grow to a larger size and a greater purity than anything you can do here on Earth because of disruption caused by gravity. Research going on now with drug companies is fascinating and it brings a whole new input to medicine, to the thousands of different proteins and combinations that make up our bodies and literally stands to transform the way medicine looks at itself and the way we treat disease and what we can do with regard to immunities by these things we are learning from changes in protein crystal growth in space. Some of our leading drug manufacturers are cooperating very, very closely in that particular area.

Let me give an example dealing with the treatment of flu. The flu remedy is being developed with space-grown crystals where you can find out how the flu bug itself reacts. As far as flu is concerned, the loss of productivity due to flu is staggering—with some estimates as high as $20 billion a year that it costs our economy—with the high mutation rates of the flu virus. New data from the protein crystals grown in space and on Earth appear to unlock some of the secrets of the flu bug and reveal its Achilles' heel. This gets rather technical, but the secret lies in a small molecule attached to the host cell surface and each flu virus, no matter what strain, must remove this small molecule to escape the host cell to spread infection. But using data from space and space-grown crystals, researchers from the Center for Macromolecular Crystallography are designing drugs to bind with this protein's site. In other words, they lock on this site, and this lock and key reduces the spread of flu in the body by blocking its escape route.

I think that is fascinating. It gets a little technical for discussion on the Senate floor, again, but for critics to say there is no benefit coming from this research is just not right. These are very, very promising medical breakthroughs that are coming from the fact that we can grow protein crystals in space of far greater purity and size than we can here on Earth in a one-G environment.

The Center for Macromolecular Crystallography, in collaboration with a private sector affiliate, has developed several potent inhibitors of viral influenza. It is anticipated that phase I human trials will begin this year. This is an excellent example of the kind of research in our space program that has direct relevance to us here on Earth. We have 20 to 40 million people every year that get the flu, causing some 20,000 deaths a year in the U.S. alone. This new data on space-grown crystals has helped unlock a secret to let us treat flu in a different way. That is just one example.

Another benefit from these same kind of space-grown crystals is trauma from open-heart surgery that can lead to complications due to massive inflammation of heart tissue. Factor D plays a key role in the biological steps that activate the immune response. Being able to block factor D's effects could enable heart-surgery patients to recover more rapidly, and data from space-grown crystals allowed researchers to develop inhibitors which specifically block factor D. The industrial partner for these activities recently received approval to start human clinical trials.

Another example is space crystals in the fight on AIDS. A new combination of drugs, including protease inhibitors, has proven immensely successful in treating AIDS. In an ongoing experiment with DuPont Merck, NASA has crystallized HIV protease enzymes with an inhibitor to support structure-based drug design research. This may be a successful second generation approach to treat this disease.

A final example: the CMC has determined the structure of NAD synthetase, a protein found in all bacteria. Several leading drug candidates have been developed that have shown positive effects against E. coli, salmonella, strep pneumonia and tuberculosis.

Think how helpful these discoveries might be. On E. coli alone, we have all become unfortunately aware in the last couple of years of its breakout in tainted meat and the resulting illnesses and deaths in many children across the country.

Protein crystal growth is only one field of research which has already benefited from access to space. Another area of research which shows great potential is advanced cell culture research. Researchers will take advantage of the weightless environment of space to study tissues as they grow and develop in three dimensions without settling to the bottom of the vessel. The rotating wall bioreactor, developed by NASA to mimic this capability on the ground is already finding wide application in medical research here on Earth. The bioreactor has the potential for changing disease treatment through tissue transplants.

Forthcoming experiments plan to grow human pancreatic islet cells in the bioreactor for possible transplantation into diabetic patients. If the upcoming experiments are successful, diabetic patients will not need to rely as heavily on insulin injections and will have less complications from their disease.

Another example: Modeling colon cancer with bioreactor. Mr. President, 166,000 cases of colon cancer are diagnosed each year in the United States, and it is one of the leading causes of death. Colon cancer tissue grown in a bioreactor develops remarkably similar to tumors extracted from humans. Studying these tissues outside the human body may allow researchers to understand how cancer spreads, as well as identifying new therapies which may prevent it.

This bioreactor is a marvelous thing. It lets tissues be cultured in the same way they occur in the human body. If you go into a laboratory and try to do experiments there, quite often the experiment becomes two-dimensional because it wants to settle to the bottom of the petri dish. A bioreactor in space, with all the right fluids that simulate the body, allows growth in a 3-D situation. They can be studied better so possible treatments can be put into a culture that is very similar to what occurs in the human body.

Growing cartilage with the bioreactor is another potential application. An application of the bioreactor is culturing cartilage tissue for replacement and transplantation. Experiments with the bioreactor indicate it can successfully culture cartilage tissue that is quite similar to human cartilage.

I use these few examples today just to illustrate how relevant this research is to our future on Earth. The international space station will make it possible to continue some of the same experiments for longer periods of time. A longer duration of time is absolutely critical for the success of many of these experiments.

In this regard, I quote a friend and one of the most respected surgeons in this country—as a matter of fact, in the world—Dr. Michael DeBakey, chancellor and chairman of the department of surgery, Baylor College of Medicine, who said:

> The space station is not a luxury any more than a medical research center at Baylor College of Medicine is a luxury. Present technology on the shuttle allows for stays in space of only about 2 weeks. We do not limit medical researchers to only a few hours in the laboratory and expect cures for cancer. We need much longer missions in space—in months to years—to obtain research results that may lead to the development of new knowledge and breakthroughs.

NASA has already had some 1,000 or more proposals per year for ground-based and flight investigations involving precursor research for the International Space Station project. Selection of principal investigators and commercial developers is beginning this year for limited flight opportunities starting in 1999, and this population will increase from 650 to 900 principal investigators and from 100 to 200 industrial affiliates by the time the station assembly is complete.

About 650 life and microgravity sciences principal investigators are now participating at over 100 institutions of higher learning around the country, and the number of investigators is expected to grow to over 900 before assembly is completed. These researchers, in turn, employ about 1,400 graduate students at present, with that number expected to grow.

What are they looking into? Well, a number of different areas, and I won't be able to go into all of them today. Biotechnology with an x-ray diffraction system, for instance. Microgravity allows researchers to produce superior protein crystals, which I mentioned a moment ago, for drug development and to grow three-dimensional tissues, including cancer tumors, for research and cartilage for possible transplant.

Another area that can be looked into on the international space station also is in the area of materials science. Researchers use low gravity to advance our understanding of the relationships among the structure, the processing and the properties of physical materials.

The long-term benefits: We advance the understanding of processes for manufacturing semiconductors, metals, ceramics, polymers, and other materials. We also determine fundamental physical properties of molten metal, semiconductors, and other materials with precision impossible on Earth.

Another area being looked into, and this too is a fascinating one, is combustion science. Scientists are using low gravity to simplify the study of complex combustion processes, burning processes. Since combustion is used to produce 85 percent of Earth's energy, even small improvements in efficiency will have large environmental and economic benefits.

Now, that is an interesting one because if you light a candle in space, you don't have the flame standing up. There is no convection current, no rise of air from heating. It gathers in a mass around that burning area. So it enables combustion to be studied in ways that were never possible before.

These are only highlights of some of the prestation research that have already occurred. Dr. Robert Cheng and Dr. Larry Kostiuk, combustion science researchers at Lawrence Berkeley National Laboratory under contract to NASA, were awarded a patent for a ring flame stabilizer, which significantly reduces pollution from natural gas burners. Fitted into an off-the-shelf home heating surface, the device from natural gas burners. Fitted into an off-the-shelf home heating surface, the device reduces nitrogen oxide emissions by a factor of 10 by increasing efficiency by 2 percent, and the device can be readily sized to industrial scales. That kind of experiment will continue on the space station.

Furthermore, the international space station will continue research into fundamental physics. Scientists use low gravity to test fundamental theories of physics with degrees of accuracy that far exceed the capacity of earthbound science. Physics and low gravity expand our understanding of changes in the state of matter, including those changes responsible for high-temperature superconductivity.

Scientists will study gravity's influence on the development, the growth and the internal processes of plants and animals, and their results will expand fundamental knowledge to benefit medical, agricultural, and other industries.

In that regard, on plant studies, I sat in a classroom at Houston during some of the training I have been doing there just last week. One of the experiments was explained. We will have growth of certain seeds and exactly how they differ in growth patterns in microgravity was assessed, and the different tissue that makes up these plant cells will be a subject of study on the flight that I will be on in October of this year. We were learning how to go about getting those samples, preserve them and bring them back to earth so they can be studied here.

Furthermore, the space station will be a unique platform from which to observe the Earth and the universe. That is planned with Earth Observation and Space Science, the Alpha Magnetic Spectrometer, and SAGE to be deployed in 2001. This research will further expand our knowledge of the solar system and beyond, as well as of the Earth itself.

I cite these examples to briefly indicate what a wide variety of scientific effort will go on with the international space station. There will undoubtedly be many unintended or "spin-off" benefits as well, especially if NASA's past record in this area is of any indication. There have been over 30,000 different spin-off benefits from our space program since its inception. I'd like to give just one of the latest examples that is highlighted in NASA's publication Spinoff 97. Several years ago, the agency developed a highly sensitive infrared detector, otherwise known as a QWIP, to observe the plume created by the shuttle when it is launched. Subsequently, QWIPs have been modified for use for other applications. They were used to track the Malibu fires in 1996 and served as an early warning system on hot spots not visible to the naked eye from the air. Recently, a QWIP was tested by surgeons at the Texas Heart Institute to see which arteries are carrying blood during heart surgery.

Now, let me address these next remarks about something that happens to all of us. As much as some might wish otherwise, there is no cure for the common birthday and as we advance in years our bodies start to change as we age. So research of the aging process has a direct relevance to all of us.

For several years now, NASA and the National Institute of Aging, which is part of the NIH, were working on a project looking at what happens to astronauts in space. I have been personally involved with this over the last several years. I will be flying as a test subject on board the space shuttle Discovery later this year, due to be launched October 29. Let me address how this whole thing came about because I think it is of interest and will be of interest to so many Americans that are in their senior years. Back about 3 years ago, I was looking at some of the results of what happens to the human body in space. NASA has been able to chart, through the years, over 50 changes that occur in the human body in space. Cardiovascular changes, osteoporosis, muscle system changes, coordination, immune system changes—things like that—sleep pattern changes, it seemed to me as I read the list as I was getting ready for debate on the Senate floor at that time—as we do every year—it seemed to me, when I read this list, that there are several things that appear to be part of the natural process of aging right here on Earth. I talked to some of the doctors over at NASA, and they said they noticed some of those things. But we didn't have any projects to go ahead research these observations. So I went out and talked to the people at the National Institute on Aging who said yes, they noticed some of the same changes and thought that sometime we ought to look into it.

I looked at these changes. I was able to take the Merck manual on geriatrics, the handbook that most doctors have on their desks in their offices, and go back through and chart the different things where there is a special process that occurs just from aging, and a similar thing occurs with the younger astronauts in space in a much shorter time period.

Out of that we came up with a number of them: Osteoporosis; cardiovascular changes; orthostatic—the ability of the body to keep blood in the upper part of the body and keep it distributed so the brain keeps functioning; muscle degradation, or deterioration of the muscle systems that change in weightlessness; but also change is part of the natural process of aging right here on Earth; coordination; immune system changes. The body's immune system becomes less responsive for the aged right here on Earth and for younger astronauts in space right now.

Sleep changes: About one-third of our population of those over 65 have very serious sleep problems right here on Earth, as do astronauts in space. The ability of the body to even take in nutrients and absorb them, drugs and nutrients; changes in space and changes for the elderly here on Earth. Those are a number of things that we noted.

When I talked to people, they thought that we should be establishing a project to look into these things, with the ultimate objective of trying to find out what turns the body's systems on and off in these particular areas, both for astronauts and for the elderly right here on Earth. We have some 34 million Americans right now who are beyond the age of 65. That is due to double by the year 2030 and due to triple to almost 100 million by the year 2050.

So this is an area of growing concern as we have so many more of our people enter some of these areas of frailties of old age. That is what we are trying to look into: What if I as an older person go up into space, and what if my immune system or my reactions are different than those people who are already up there now of a younger age? Will the things happening to them be additive to me, or will I be immune from them because those things may have occurred to me here on Earth as part of the natural process of aging?

This is the kind of research we are trying to look into. We can't look into them all at once. But some of the problems we can look into are some of the muscle system changes. Muscle turnover experiments, which I will take part in, where I will have isotope injections and take blood-urine samples on a regular basis to see what is causing the body to break down its own cells in space, which happens right here on Earth to the elderly; doing a sleep experiment in which I will have on a "sleep net," as it is called, with a net put over the head that has leads over it, which picks up EEG—all the brain waves—picks up rapid eye movement with sensors here, sensors under the chin, a respiration sensor across here, as well as EKG measurements, as well as monitoring deep body core temperatures; swallowing of a pill that transmits the little signal, with temperature accurate to one-tenth of a degree, as recorded on a monitor card around your waist all the time as that pill works its way through your body.

This will be the most comprehensive study of sleep ever made. It will continue what was done on the Neurolab flight where several people were there provided good baseline data. NASA and NIA will now be able to compare data, at least with one person anyway of an older nature, such as myself. We will be able to start this kind of research then, which I think has the potential of being extremely valuable into the future. These are the things that have to be done in zero-G and can't be done right here on Earth.

The ultimate objective is to get a handle on what turns these body systems on and off, which will benefit not only the astronauts up there in space by allowing them to take preventive medicine, before these effects occur but also be used here on Earth to hopefully treat some of the frailties of old age that afflict too many people right here on Earth. We are all familiar with the syndrome of broken bones in the elderly through falling and breaking a hip. If we can learn how to strengthen bones with this kind of study, it would be of tremendous value.

That is what we will be starting some of the research on this fall, in October of this year. I will be a data point of one when we come back from the mission. Some people say we don't learn anything from a data point of one. My response to that is, well, you start to build a data bank with a data point of one.

I hope that through the years NASA will continue this kind of research. I hope we can bring back enough good information that they will continue this research through the years and see the value of this kind of research so it builds the storage of knowledge that we have and I think can be extremely valuable into the future. It can open up a whole new area of NASA and NIA research that will be so important into the future. I am looking forward very, very much to participating in that kind of research, as well as the other things that are going on on board the flight that I will be on.

I think the current number of research projects on STS–95, which will be the flight going up in October, is 83 separate research projects. It is going to keep everybody busy on a very tight timeline all during that flight to even keep up with that amount of research. There will be a tremendous amount of research going on on that particular flight.

I could talk for hours on that subject. I have all sorts of material that I brought to the floor today that I thought I might get to—we don't have time to do it today, but I learned in some of the briefings that NASA had in Houston. I think it would be a tragedy if we didn't continue to fund the space station where this research can be carried out in the future to a far better degree than they have ever been able to be done just on the orbiter itself.

Let me say a few words about the importance of international cooperation in space research.

If you had told me some 36 years ago when I made my flight in 1962—that in 1997 United States astronauts would take up residence on a Russian space station and work together with a Russian crew, I would not have believed it possible. I am a veteran of the cold war and the space race. I guess I could not be more pleased to see this kind of progress. Obviously, there is tremendous symbolic value also when former enemies work together cooperatively. But symbolism isn't the most important reason we cooperate. Again, it gets back to the basic research when we can do it better together working together in laboratories all around the world. Yes, we can.

The quality of research is going to improve if we have the best and brightest from 16 nations working on these various projects. The shuttle-Mir program also was called Phase I of the International Space Station. It is a perfect example of the benefits of such cooperation. The program consisted of nine shuttle-Mir docking missions. The program has helped both the United States and Russia learn countless valuable lessons which will be put to use on the International Space Station.

Just a few of those accomplishments, and I will just read them off: American astronauts had a presence on Mir for 812 days; conducted nine shuttle-Mir docking missions; Russian and American engineers, astronauts and cosmonauts, in performing joint operations, have developed a mutual understanding in these areas, even though we come from different cultures, and that is important for the future. We have learned how to plan and execute typical shuttle missions to station rendezvous and docking, joint ground and mission control, extravehicular activity, exchange of supplies, and on and on.

Most importantly, we are working together on joint research projects. Over 45 different research papers are expected to be published by the end of this year just on the experiments off of Mir. They encompass work on bone loss, bone marrow growth, growth of cancer cells and cartilage, protein to crystal growth research, and measurement of the Earth's magnetic field—a wide range of scientific matters.

They put us in an excellent position for assembly and subsequent operation of the International Space Station with reduced risk, greater confidence, and a reduced learning curve which will save us time and money.

Now, we had a number of charts here on the station. I think in the interest of time I will not put those up right now and take more time for discussion.

To summarize this particular part, we will have for the first time in history 16 nations involved in an International Space Station, cooperating instead of fighting each other. Working together, using the best and brightest of each of these countries to do research is a benefit to people right here on Earth. This is a new model for how people can reach across borders to work together to solve problems common to all mankind. It is truly a monumental and historic effort, and I am proud and honored to be able to support it.

I think there is one other important factor here too that I run into all the time going around the country, and that is—and this is, rather, an intangible benefit. I think our efforts in scientific research in these areas is something that the kids look up to: our young people in school are encouraged to study math and science and to work harder in school. We run into that all the time. We meet with teachers, and we will be doing some discussion from the flight that I will be on this fall. We will be doing some talking back and forth to Earth in this educational area to hopefully inspire some of our young people in their academic efforts.

Now, the Senate will be debating an amendment that would, if passed, terminate the space station. I hope that the Bumpers amendment will be defeated. I urge my colleagues to oppose it, or any other amendments to cut back or restrict space station funding because I believe the difficult task of building and launching the station is being done in a most cost-effective manner while keeping safety paramount.

I think it is very, very difficult task. This is not like going to Detroit and saying, General Motors, we want to buy 5,000 trucks. What is your cost? And we will know within a dollar what we are going to get them for, and we will probably get them on time without any change in capability. We are dealing in an area that is out on the cutting edge of science, setting up a vehicle that will be used to initiate projects and do research on the cutting edge of science and is less amenable to accurate cost accounting.

I think it is difficult when we say we are expecting NASA to be able to foresee some of the things that have happened such as, for instance, congressional cutbacks in funding from time to time, cutbacks of programs and building up later on, cutbacks again. One estimate by one of the studies was that 80 percent of the overruns of the last few years, where there has been a budget increase, has been caused by that very factor alone. So perhaps we have to look at ourselves here in Congress a little bit as to what caused some of these increases.

This year's cost for the station, $2.3 billion in this particular bill, that is just $30 million above the President's 1999 budget that we are talking about here today. Back years ago, we were talking about a continuing basis of $2.1 billion per year. That is when we thought the total cost was going to be $17.4 billion. So for a scientific project like this, I don't see that that is too far out of line. This is not like going out and buying something that is a commonplace product, off the shelf in this country, or wherever.

It is not true that all scientists are opposed to the station as my colleague stated earlier, and it is not true, I don't think, that NASA has broken their promises. I think they have basically made the best estimates they could, and they have tried to live with them.

So I hope my colleagues will join me in defeating this amendment to terminate the space station because I think it is very valuable for the future. The voting patterns in the past in the Senate have shown that most in the Senate believe that, and I hope it continues today. Most of the hardware is either under construction or actually completed now, and the first nodes will be launched later this year. And we will get it onstream over the next couple of years so that we can start this research that is going to benefit all mankind.

I think one of the best decisions ever made by this country way back in the earliest days of the space program when NASA was just being formed was—the decision was made by Dwight Eisenhower—that our program would be open for the whole world to participate in. And here we are at the end of the cold war participating now with 16 nations in the greatest engineering effort ever made in the history of the world. It is inspiring to our young people. It has the tremendous benefit of a research laboratory we have never been able to have. In all the tens of thousands of years as people looked up and wondered what was up there, and the Wright brothers made the first flight off the surface of the Earth, and ever higher, and now we have the chance to use this for the benefit of all people on the Earth, I think it should continue and I hope my colleagues will vote to defeat this amendment.

I yield the floor.

Mr. BOND addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, we are in the process of seeking to reach a time agreement and have the measure set aside for a vote about 6:30. We have not yet cleared the time agreement. I intend to make some remarks now and would want those remarks charged against the time agreement if and when we do reach that time agreement. It is our hope that we will have this vote and be able to take another matter that is very important that Senator McCAIN is going to offer after this and vote on them at 6:30 and thereafter this evening. So for the information of all Senators, that is what we are working on, and we hope to have word from the Cloakrooms shortly.

There are many points that can be made. I certainly appreciate the very knowledgeable comments of our distinguished colleague from Ohio, a man who speaks about space from personal knowledge that none of the rest of us have, and I know that we are all very, very enlightened by his description of the work that could go on, the scientific inquiry that can go on. But I want to address a point that was made earlier, just one of them that I think is very important.

There was a statement made about 1½ hours ago that all scientists in America are opposed to it. Clearly, there are many scientists whose disciplines have not yet identified enhancements that might come from the microgravity environment of space. It is not surprising that many of these scientists would rather see money for science go into one of their disciplines. But taking money away from NASA does not automatically make that money available for other research programs for other Federal agencies.

Let me just indicate some of the scientific groups that have expressed support for the space station. The Federation of American Societies for Experimental Biology has called for a 58-percent increase in funding for NASA's live science research in its annual consensus report.

In a 1997 report, the National Research Council said in something called "Future Materials Science Research on the International Space Station":

> The microgravity environment . . . of space provides a unique opportunity to further our understanding of various materials phenomena involving the molten, fluidic, and gaseous states by reducing or eliminating buoyancy-driven convection effects. . . . the anticipated scientific results of microgravity materials-science research range from establishing baselines for fundamental materials processes to generating results of more direct commercial significance."

I am not sure all of our colleagues understand exactly what they mean, but I get the drift of it, and that is that scientific investigation in space is good and they are going to make breakthroughs in areas that are very important.

The National Research Council further stated, in Microgravity Opportunities for the 1990's:

> Increasingly, fundamental processes that were thought to be well understood under terrestrial (1-g) conditions have, in fact, proved to be behave in altered and even startlingly unfamiliar ways when observed and measured in reduced gravity environments. Space experiments in areas such as combustion, fluid flow and transport, phase separation fundamental physics, and biology, have revealed new phenomena and have demonstrated new and occasionally unpredicted behavior.

NASA and the National Institutes of Health have executed over 20 cooperative agreements in life sciences. The American Medical Association has passed a resolution in support of the International Space Station. In addition, we have quotes from people like Dr. Samuel C.C. Ting from the Massachusetts Institute of Technology, Laboratory for Nuclear Science. Dr. Ting is a Nobel laureate. He said:

> From my experience conducting experiments in particle accelerators for over thirty years, I conclude that the space station is an ideal place to address fundamental issues in physics. In the final analysis, the construction of the Space Station this year will provide scientists from many disciplines with the unprecedented opportunity to carry out large scale, precision, and long-duration experiments unimpeded by the effects of the Earth's atmosphere and gravity.

I might cite Professor of Engineering Physics and Combustion, Director of the Center for Energy and Combustion Research at the University of California, San Diego, Professor Forman A. Williams, who said:

> The practical objective of learning how to burn our precious fossil fuels more cleanly, efficiently and safely certainly would benefit from the fundamental studies that the Space Station would allow us to pursue. Considering the astronomical costs of petroleum, the investment in Space Station thus seems to me very well conceived.

Obviously, we have statements from other scientists who indicate the importance of this scientific research. But when you look at it, realize that the space station is not just justified in terms of science alone. The international space station is not and never has been simply a science platform. It serves many other functions, not the least of which is the greatest peaceful, international, scientific endeavor in history.

It will offer practical applications beyond the realm of research, as a testbed for manufacturing, for technology. It has a potential for great commercial involvement in manufacturing, in materials processing. If we choose, as a matter of policy, the station also can play a key role in civilization, taking another step beyond Earth's orbit. It is not just science. It is a laboratory with the capability that many of our top scientists are eager to begin using, and many who would hope to commercialize and provide benefits through the private sector, not only through investigations, scientific explorations, but actual production in space, may be able to realize.

For these reasons, I hope, when the time comes for a tabling motion, an overwhelming majority of my colleagues will join us in so tabling the amendment.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. GORTON). The Senator from Maryland.

Ms. MIKULSKI. Mr. President, I, too, rise in opposition to the Bumpers amendment to strike the funding for the space station.

We have heard, prior to Senator BOND's speech, from a distinguished American. Senator BOND is also a distinguished American, but Senator BUMPERS, the Senator from Arkansas, has really raised very important and significant flashing yellow lights regarding the space station. He has raised questions related to the funding of the space station; also, as to whether we are getting our money's worth in terms of research, wouldn't it be better deployed in other areas? And he has consistently raised many of those questions over the years.

The result of that has been that, while he has not always won his amendment, he has certainly won our attention, that of those on the Appropriations Committee, and the attention also of the space agency itself that has resulted, I believe, in greater management efficiencies and a greater focus on specific research outcomes than would have been the case had those important issues not been raised.

Senator BUMPERS has been a champion particularly in the area of health care and medical research. I remember when I first arrived in the Senate, he was the leading advocate to make sure we had adequate immunization for the children of the United States of America, and what is now a standard public policy he raised and he supported, and we thank him for that.

He also speaks eloquently of the funding for the National Institutes of Health, and I, too, join him on that. I hope by the year 2000 or thereabouts, in the new century, we double the funding for the National Institutes of Health, an agency that resides in my own State but really belongs to all of America and really benefits the entire world.

I feel so strongly about the benefits that could be derived from the collaboration between NIH and NASA that I encouraged then Administrator Goldin and the Director of NIH then, Dr. Bernadine Healy, to really develop joint research projects. And they actually entered into a memorandum of agreement that stands today to ensure collaborative research in that area, a great deal of which is being manifested in the space station research arena.

So, we thank Senator BUMPERS for the yellow flashing lights that he continues to signal to the committee. We thank him for his steadfast advocacy for biomedical research. And we want to thank him for his important contribution.

However, having then said those accolades, we do not want his amendment supported. I think another wonderful American, Senator JOHN GLENN, has outlined very clearly and extensively why we should continue to support Space Station *Freedom.* I would not duplicate, but hope to amplify, Senator GLENN's remarks. I recall I was a young social worker when Senator GLENN himself had just finished orbiting the Earth looking for these important scientific breakthroughs, and I think of the year 1968 when we also orbited the Moon and our astronauts read from Genesis in space to remind us all of our link between here, the planet Earth, and outer space.

I also remember that many Democrats, members of my own party, ridiculed the whole effort to go to the Moon and to take that "one giant step for mankind." In fact, one Senator from Minnesota at that time called it "moondoggle." No one looks back on the success of that endeavor, what it meant to our country both in terms of national prestige and scientific breakthroughs in that era of the cold war, and no one would call that program, now, "moondoggle." I hope we will not also just dismiss, in the same way, Space Station *Freedom.*

This endeavor was begun under Ronald Reagan, sustained under President George Bush, and continues to be supported by President Bill Clinton. But it is not only the Presidential support that gives this program validity, it is also the support of the scientific community. I would like to bring to the committee's attention the Nobel laureate, Dr. Samuel Ting, who has played a major role in developing much of the research on the space station.

Another Nobel laureate, Dr. Herbert Hauptman, has addressed the Biomedical Research Caucus of Congress on the value of orbital research for biomedicine.

Dr. Michael DeBakey of Baylor Medicine said:

> The space station is not a luxury any more than a medical research center at Baylor College of Medicine is a luxury.

Since 1992; NASA has signed 20 different cooperative agreements with NIH. The National Academy of Sciences has repeatedly expressed its support for research on the space station. The Planetary Society supports it. The American Medical Association has adopted a resolution in support of it. The Society for In Vitro Biology hosts an annual workshop on what culturing cells in microgravity will mean.

Who knows what breakthroughs we will find?

I have five pages of quotes from different deans and professors of medical schools from all over the United States of America in support of this. They range from MIT, to Harvard Medical School, to the Harvard Institutes of Medicine; Brigham and Women's Hospital. I could go on about it.

Let me quote Dr. Jessup who heads up the Deaconess Hospital, Harvard Medical School:

> The space program offers a chance to improve out models of cancer and to develop new drugs and treatments as well as to gain knowledge about how cancer spreads . . .

The space station is the place to do it.

Mr. President, my family was affected by two major diseases: Alzheimer's and diabetes. My very dear father died of Alzheimer's, and I am deeply committed to continuing the research to find either the cure or the ability to stretch out the intellectual ability for anyone who has it. My dear mother was stricken with diabetes and overcame her in her final years and resulted in her death.

What I think about now, as I listen to scientists brief us on what this means, is it is outstanding, in those two areas, and what it will mean. Let me tell you about what Dr. Ken Kosik of the Harvard Institute says:

> By raising rats in an environment that lacks gravity, we have the opportunity to zero in specifically on the brain system that controls orientation. This brain system is exactly the part of the brain attacked by Alzheimer's disease. We will use the rats to search for the specific molecules which fail to appear in the brain circuits controlling orientation.

And this could lead to incredible breakthroughs in knowing how to help those who have Alzheimer's or a propensity to it.

I have a quote from a letter from Dr. Jim Mulvihill, the president and CEO of the Juvenile Diabetes Foundation International encouraging the support of the space station because of what it will mean.

Dr. Murray Loew, member of the Juvenile Diabetes Foundation, Lay Review Committee, at Georgetown says:

> Although it may not be immediately apparent, persons with diabetes and astronauts share some of the same challenges. Consequently, NASA and the Juvenile Diabetes Foundation last May signed a joint Space Act Agreement so that both organizations can together begin fully sharing information . . .

And research in juvenile diabetes, there are links here to do this. I could elaborate on this, but I turn to my colleague from Missouri, and ask him if the time agreement is ready.

Mr. BOND. It is in the process.

Ms. MIKULSKI. Mr. President, I ask unanimous consent to have printed in the RECORD these statements unsolicited from scientists who do both basic research and applied clinical research, not only on diabetes and Alzheimer's, but on many other diseases. I want their testimony to speak for itself.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

August F. Witt, Ford Professor of Engineering, Massachusetts Institute of Technology:

. . . your program is now generally recognized as absolutely critical in efforts to maintain for the U.S. a competitive position in the development of new materials. The facilities and scientific infrastructure provided by your Agency [are] a unique national asset which will unquestionably even increase in value, with the establishment of the International Space Station.—Letter to Administrator Goldin, April 22, 1998.

G. Paul Neitzel, Professor, Virginia Institute of Technology:

The presence of a "permanent" manned platform on orbit will provide unprecedented opportunities for long-term experimentation in a weightless, or "microgravity" environment. . . . the results of research done outside the confines of gravity may be able to point the way to the improvement of processes and products produced here on Earth.—Letter to Administrator Goldin, April 22, 1998.

Forman A. Williams, Professor of Engineering Physics and Combustion, Director, Center for Energy and Combustion Research, University of California, San Diego:

The practical objective of learning how to burn our precious fossil fuels more cleanly, efficiently and safely certainly would benefit from the fundamental studies that the Space Station would allow us to pursue. Considering the astronomical costs of petroleum, the investment in Space Station thus seems to me to be very well conceived.—Letter to Administrator Goldin, April 20, 1998.

Charles A. Czeisler, Ph.D., M.D., Associate Professor of Medicine, Harvard Medical School, Chief, Circadian, Neuroendocrine and Sleep Disorders Medicine, Brigham and Women's Hospital:

[The ISS] provides an ideal platform to explore the long-term effects of space flight on human physiology, and will provide critical information for us scientists to assess the feasibility of extended duration space flight such as will be required for a flight to Mars.—Letter to Administrator Goldin, April, 1998.

Samuel C.C. Ting, Massachusetts Institute of Technology, Laboratory for Nuclear Science [Dr. Ting is a Nobel laureate]:

From my experience conducting experiments at particle accelerators for over thirty years, I conclude that the space station is an ideal place to address fundamental issues in physics. In the final analysis, the construction of the Space Station this year will provide scientists from many disciplines with the unprecedented opportunity to carry out large scale, precision, and long duration experiments unimpeded by the effects of the earth's atmosphere and gravity.—Letter to Administrator Goldin, April 17, 1998.

Dr. Murray Loew, Member, JDF Lay Review Committee, Professor of Engineering, Georgetown University:

Although it may not be immediately apparent, persons with diabetes and astronauts share some of the same challenges. Consequently, NASA and JDF last May signed a joint Space Act Agreement so that both organizations can together begin fully sharing information and ideas.—Testimony of the Juvenile Diabetes Foundation International before the House Appropriations Subcommittee on VA, HUD, and Independent Agencies, April 22, 1998.

James E. Mulvihill, DMD, President and CEO, Juvenile Diabetes Foundation International:

Again, on behalf of the 16 million Americans with diabetes and their loved ones, I appreciate your partnership in the search for a cure. We look forward to continuing our close working relationship.—Letter to Administrator Goldin, April 21, 1998.

William T. Shearer, M.D., Ph.D., Professor of Pediatrics and of Microbiology and Immunology Baylor College of Medicine; Chief, Allergy and Immunology Service, Texas Children's Hospital:

All in all, the investment in International Space Station laboratories will yield rich rewards, in terms of the health of human astronauts.—Letter to Administrator Goldin, May 1, 1998.

Harry R. Jacobson, M.D., Vice Chancellor for Health Affairs, Vanderbilt University David Robertson, M.D. Director of the Clinical Research Center, Vanderbilt University:

The study will give us critical insights into how the brain regulates blood pressure and heart rate in human beings in the unique environment of microgravity, and this information directly relates to the clinical work we are doing regarding the abnormalities in the autonomic nervous system and its control of critical aspects of physiology, such as blood flow to the brain. Using the laboratory of space to examine the underlying regulatory mechanism in the absence of the confounding factor of gravity will allow us to understand these mechanisms at a level not previously possible.—Letter to Administrator Goldin Re Neurolab, April 28, 1998.

Gail H. Cassell, Ph.D., Vice President Infectious Diseases Drug Discovery Research and Clinical Investigation, Lilly Research Laboratories, Eli Lilly and Company:

As you know, Eli Lilly is interested in working with the Center for Macromolecular Crystallograph (CMC) in two different areas. First, because of the Center's expertise in macromolecular crystal growth in both 1-g and μg environments, we would like to fund the CMC to crystallize a large number of biologically important proteins that Lilly scientists have identified from a variety of sources including our own genomics data base. Second, because of our mutual interest in infectious disease, we would like to work with the CMC on the crystallization and structure determinations for several key proteins associated with a number of bacterial and viral pathogens. . . . In this regard, we hope to support and have access to your NASA-funded microgravity flight program.—Letter to Dr. Lawrence J. DeLucas, Director, Center for Macromolecular Crystallography, April 8, 1998.

Kenneth S. Kosik, M.D., Harvard Institutes of Medicine; Brigham and Women's Hospital:

By raising rats in an environment that lacks gravity, we have the opportunity to zero in specifically on the brain system that controls orientation. This brain system is exactly the part of the brain attacked by Alzheimer's disease. We will use the rats to search for the specific molecules which fail to appear in the brain circuits controlling orientation.—Letter to Administrator Goldin Re Neurolab, April 20, 1998.

Dr. V. Reggie Edgerton, Vice Chair and Professor of Physiological Science for the Division of Life Sciences at The University of California, Los Angeles:

The significant advantage of studying the ability of the nervous system to adapt to a microgravity environment, known as plasticity, is the ability to identify the potential of the normal nervous system. This information is critical because it will allow us to differentiate the potential for plasticity of the nervous system in response to trauma and disease, in comparison to that associated with altered use of the normal nervous system.—Testimony before the U.S. House of Representatives Committee on Science, Subcommittee on Space and Aeronautics, April 10, 1997.

Ms. MIKULSKI. Mr. President, I acknowledge the validity of what Senator BUMPERS has raised about cost overruns, and I also raise the validity about what Senator BUMPERS has raised with NASA over the fact that the cost overruns in the space station could lead to raids on other well-managed NASA programs. To that end, working on a bipartisan basis with our colleague from Missouri, the chairman of the subcommittee, we established a separate account dedicated solely to the space station to create better accountability and financial management of this program and transparency in terms of the total cost of what the International Space Station is.

So it is not a million bucks here, 100 million tucked in over here, and so on. We are going to have a separate account providing accountability and transparency.

I would like to continue with my arguments, but we have reached a time agreement. I temporarily yield the floor to my colleague from Missouri so he can propound his unanimous consent request. I ask unanimous consent to return to speaking on the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS CONSENT AGREEMENT

Mr. BOND. Mr. President, I think we have reached a time agreement. It may be a little convoluted, but if you will stick with me.

I ask unanimous consent that there be 1 hour 30 minutes for debate prior to a motion to table, and that the vote on the motion to table occur at 6:30 p.m. this evening. I further ask unanimous consent that the time be divided as follows: 40 minutes under my control, and we will charge the 15 minutes used to this point by Senator MIKULSKI and myself against that 40 minutes; 50 minutes under the control of Senator BUMPERS; that just prior to the vote on the motion to table, there be 10 minutes equally divided for closing remarks; that following the debate, the amendment be laid aside until 6:20 p.m. this evening, and at that time, I be recognized to move to table amendment No. 3062.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Reserving the right to object, and I am most reluctant to, I would like, in this eighth year of my travail, to get an up-or-down vote on this.

Mr. BOND. Mr. President, in response to that, I had offered to offer a separate amendment naming the space station after Senator BUMPERS.

Ms. MIKULSKI. It will be called the "Bumper crop."

Mr. BOND. In spite of that, I personally will forego the motion to table and ask that the vote be an up-or-down vote on the Bumpers amendment.

Mr. BUMPERS. I thank the Senator. I am more than happy to forego having the space station named after me.

The PRESIDING OFFICER. Is there objection to the unanimous consent request as amended?

Ms. MIKULSKI. There is no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOND. Mr. President, for the further information of all Senators, it is my understanding that Senator MCCAIN will be in position next to offer an amendment. It is our hope we can have a vote on that matter, or relating to that matter, perhaps on a Budget Act point of order, following the vote on amendment No. 3062. That is not part of the consent agreement. That is for information only. I thank my colleague from Maryland, and I yield the floor.

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. Mr. President, how much time have I consumed?

The PRESIDING OFFICER. The Senator from Maryland has used 11 minutes 9 seconds.

Ms. MIKULSKI. Thank you very much, Mr. President.

I believe this amendment is a choice between the future and the past. We must be willing to embrace science and technology, to take the bold risk in scientific endeavors of the future like the space station. Investments in science and technology will be determinative of the 21st century in what nations will continue to lead the world. I do not want the American century to come to a close without a continued commitment to science and technology.

We must use American ingenuity and know-how through this unique environment of the space station to tackle understanding of diseases or develop new techniques, like I just elaborated on a few minutes ago. Some will argue this type of research can be done more cost effectively on Earth. Other scientists will disagree because you cannot create a low gravity environment on Earth to perform many of these unique activities.

One is microgravity research and providing better research in better pharmaceuticals, medical advancement to develop new materials to use on Earth, such as new fire resistant materials. My gosh, wouldn't our fighters have benefitted from that in Florida?

Others might ask why this type of research cannot be done on the shuttle. The answer is we cannot rush the development of new technologies and science. If we did it on the shuttle, it means you would have 2 weeks maximum to be able to do it. I know no scientist working at my beloved NIH who could do research in 2 weeks, take a break, wait for another launch and go back for 2 weeks.

One of the arguments we hear every year is space station-related costs and, sure, the space station does cost money, but the fact is that over $51 billion of the $96 billion discussed by Senator BUMPERS is really related to shuttle missions, and those missions will fly whether we do the space station or not.

One of the real questions, too, is what is the cost to the United States of America and its taxpayers if we do not continue or stay the course for the space station? We hear about the cost to maintain it and to build it. The actual work on the space station means 15,000 highly skilled engineering and production contract jobs supporting the space station. There are 35,000 contract workers and 5,000 civil servants who work on the shuttle, who is our major customer. This is a major employer. About 2,000 pounds of hardware have already been built for the U.S. station.

What else do we lose? U.S. credibility with our international partners. Japan, Canada, and European Space Agency have all made this a truly international program. We have worked closely with the Russians. Like many, I am disappointed in the way the Russians have failed to deliver their promised technology on time, for which we paid. They have improved these actions, and I know President Clinton is moving on this.

U.S. competitiveness can only be maintained by continuing the long-term, cutting-edge, high-risk research and development that we have done. I am not going to elaborate any further on what Senator JOHN GLENN said. For all who are listening, we want to amplify that the space station is an important public investment and scientific breakthrough, where the very technology of doing the space station will lead to new breakthroughs in life science, information technology, and new kinds of materials—ceramic and so on—that will be very important to maintaining America's cutting edge.

I reserve further time on my time for when we need to conclude our debate.

I urge the defeat of the Bumpers amendment. Vote for the future and defeat the Bumpers amendment.

Mr. GRAHAM. Mr. President, I rise today to ask for your attention to an issue of great importance to the future of science and space exploration: the International Space Station. We have debated the merits of this project on many occasions. It is time to end this debate and declare our permanent support. We must press ahead with mankind's exploration of the cosmos.

President Franklin Roosevelt once said:

> The only limit to our realization of tomorrow will be our doubts of today. Let us move forward with strong and active faith.

I ask my colleagues to embrace Franklin Roosevelt's vision and support efforts to move the International Space Station forward.

The International Space Station is one of the most promising space projects in history. Over 60 percent of the station hardware, nearly half a million pounds, will be assembled by the end of this year. More than 75 percent of the developmental activities are completed. The end result of this 16-nation effort will be an international university in low-earth orbit and a launching pad for further exploration of the stars.

Mr. President, constructing this space station will not be simple or cheap. But why would we expect it to be? For the first time in the history of manned space exploration, we are assembling a laboratory, energy plant, and apartment complex the size of a football field in orbit 200 miles above the Earth. This is an ambitious technical feat.

Our Nation's exploration of the galaxy has never been easy. While we prefer to remember glorious moments like our distinguished colleague JOHN GLENN's first orbit, Neil Armstrong's first moon landing, and the majestic first launch of the space shuttle, we should not forget that America's four decade adventure in space has also been plagued by technical difficulties and political struggles. We've faced tragedies—namely the three brave astronauts who lost their lives in the Apollo I fire, and the seven others who perished on the *Challenger*. Space exploration has been exciting, but it has never been easy.

But perseverance and patience have powered our space program past these difficulties, and they will be necessary ingredients in our effort to construct and maintain this International Space Station. Without the perseverance and patience of early space pioneers, we might not have been the first nation to land on the moon or successfully operate a reusable launch vehicle.

The International Space Station will excite the Nation and the world. I cannot imagine any other project that will so readily inspire young people across our country to focus their attention on math and science. The first launch of space station components will cultivate the next generation of mechanical engineers, software designers, flight controllers, and of course, our astronaut corps. Throughout its lifetime, the space station will include student experiments and teleconferencing and telescience projects.

For this investment, we will have a permanent facility in space in which we can conduct numerous scientific and medical experiments, the end results possibly being cures for diseases known and unknown.

For instance, space-grown insulin crystals created in a microgravity environment are larger and better defined than those developed on Earth. Scientists from NASA and the pharmaceutical industry hope to develop drugs that will bind insulin and attack the third leading cause of death in this country, diabetes.

Microgravity can also be used to study proteins and three-dimensional tissue samples. Previous success in advanced cell-culturing has led to partnerships with the National Institutes of Health in the study of transmission of the AIDS virus. This application of space technology has also led to new studies of cancer tumors.

Space flight is particularly applicable to studying the aging process, since astronauts experience many of the same symptoms seen in the elderly, such as anemia, loss of muscle, and imbalance. Women are five times more likely to suffer from osteoporosis, the medical term for weakening bones. What better way to study it than to simulate it in space? The results could be fewer broken bones in the years to come as baby boomers advance in age.

In addition to the tremendous health benefits we will reap from medical studies on the space station, our daily lives will be affected by numerous spin-offs and product developments. Aerogel is the lightest known solid, only three times heavier than air. Space-manufactured samples are four times better in quality than any produced on earth, allowing for the creation of super-insulators. Fortune magazine predicts the aerogel market could result in 800 potential product lines, from satellite parts to surfboard material.

Finally, as demonstrated by the devastating Florida fires, combustion represents a threat in many forms. Fires cause 5,000 deaths and $26 billion in property losses every year, a figure I am certain will be higher due to the terrible losses we have suffered in Florida. How can a space station help? In space, researchers can study flames without the interference of the earth's gravity. Such studies will help us better understand how combustion happens and better address problems such as air pollution and forest fires.

The House and Senate share a vision for the future of space and we must continue to act together on behalf of this visionary project. The future will soon be upon us. We don't want to see it pass us by. I urge my colleagues to vote against this amendment and endorse the International Space Station. We must not let the doubts of today stand in the way of the possibilities of tomorrow.

Mr. AKAKA. Mr. President, as the Senate considers funding for the International Space Station, I want to remind my colleagues about the achievements of the National Aeronautics and Space Administration (NASA).

Since 1915, American aviators, astronauts, and spacecrafts have expanded human knowledge. The advancements made by NASA are found in virtually every aircraft in use today. One example, used by Continental Airlines, is a NASA-developed device that warns of dangerous wind-shear conditions. In addition, NASA made valuable contributions to medicine by allowing scientists to utilize microgravity conditions in space to grow larger breast cancer cells, allowing different growth stages of these cells to be studied.

NASA technology has produced a pacemaker that can be programmed from outside the body and developed instruments to measure bone loss and bone density without penetrating the skin. NASA research led to the development of a three-inch implant for diabetes that provides more precise control of blood sugar levels, thereby freeing diabetics from the burden of daily insulin injections. These are just a few of the scientific and medical advances developed from NASA technology.

A panel of experts headed by aerospace consultant Jay Chabrow recently concluded that the space station's cost through the assembly stage could be $24.7 billion, which is $3 billion more than NASA now projects. While the overrun projected in the Chabrow report is a concern, the estimate in the report is modest in historic terms. For example, the initial contract for the lunar excursion module was $350 million. By the end of the contract, the cost had escalated to $2.3 billion, seven times the original cost. For the entire Apollo, Mercury, and Gemini programs, NASA spent approximately $100 billion to reach the moon. These programs, much like the International Space Station, ventured into unknown territory and were considered inherently risky.

It is also important to note that while the panel indicated that there may be cost overruns and schedule delays, the panel also recognized that NASA's management of the Space Station has been "resourceful and effective" in addressing the many challenges that have resulted from this project. With over 400,000 pounds of flight hardware completed, NASA and its international partners believe that by the end of this year, over half a million pounds will be completed and the first two elements of the station will be in orbit. Although Russia has only been able to complete 95 percent of the module, the Russian government has reiterated its commitment to the station. However, NASA continues to evaluate other contingency plans to address possible delays by Russia.

Once completed, the International Space Station will be the most complex structure ever sent into orbit, encompassing a laboratory and living quarters the size of two football fields. As demonstrated by several experiments conducted on the Russian Mir space station, Skylab, and space shuttle flights, advancements in science will be enhanced by the International Space Station. These experiments have been used to determine or refine existing protein structure models, create new drugs to battle viruses, such as AIDS, and develop inhibitors, such as those used to alleviate the complication of inflammation associated with heart surgery.

Mr. President, as I have mentioned, the importance of the International Space Station is evident. The technological advancements that may be achieved by this project are monumental. I urge my colleagues to continue funding the International Space Station and maintain American's leadership in space research and exploration.

Mr. FEINGOLD. Mr. President, I come to the floor to lend my support to the amendment offered by the Senator from Arkansas.

Senator BUMPERS has led a long, and often lonely, battle against the International Space Station. Since I joined this body in 1993, I have supported his efforts to terminate the program on the basis of its extraordinary cost and its crushing burden on the Federal budget deficit.

We now see that the space station is not only far more expensive than previous cost estimates, but also significantly behind schedule and losing the support of partner nations, including the Russians failing to keep its financial commitments. The reasons for terminating the space station are now more compelling than ever. Senator BUMPERS has been prescient in his efforts to save our tax dollars on this wasteful program.

In a May, 1998, report, the General Accounting Office stated that the new cost estimate for the space station had risen to almost $96 billion. And this extraordinary cost doesn't even include the cost of decommissioning and deorbiting the space station at the end of its useful life. This, in and of itself, will cost billions more.

Even a NASA-appointed commission found that NASA's own cost estimates were vastly underestimated. The blue ribbon Cost Assessment and Validation Task Force recently reported that the cost of simply developing and building space station hardware will probably cost $24.7 billion. Just last year, NASA officials promised Congress that developing and building space station hardware would cost $17.4 billion. Mr. President, how in the world did cost estimates rocket up by 42 percent in the course of one year?

The same blue ribbon panel also estimates it will take two years longer to assemble the space station than NASA now plans. The report pushes the completion of the space station back to early 2006. Let me remind my colleagues that in September, 1994, NASA said it would complete assembly of the space station by June, 2002. The schedule has slipped by four years, let me repeat, four years since 1994. Ironically, NASA recently announced a delay in launching the first piece of the space station by five months. According to the commission, each month of delay will add about $100 million to the final cost of the project.

Finally, Mr. President, NASA enlisted the support of Russia as a means of fostering collaborative energy and as a means of defraying program cost. As we know, Russia is in the midst of economic instability and an unreliable space program, witness the problems with the Mir space station.

NASA estimated that the American taxpayers would save $2 billion by working with the Russians on this new space station. That savings is already gone. On top of that, the Russian Space Agency doesn't even have the money to safely deorbit Mir. How, then, can we safely rely on Russia to fulfill its obligations for the International Space Station?

Even our European partners in the European Space Agency are beginning to reconsider their commitment to the International Space Station. French Space Minister Claude Allegre said of the International Space Station project, "People often do stupid things. There is no reason we should applaud them."

Fortunately, Congressional leaders are growing skeptical of NASA's plans. Last month, the chairman and ranking member of the House Science Committee wrote the President asking for a plan for controlling cost growth and delays on the space station. Given the Administration's reluctance to offer such a plan and NASA's resistance to cutting back the program, I don't see how we can support putting good money after bad.

Mr. President, it is time to end this program.

Mr. SHELBY. Mr. President, today the Senator from Arkansas takes his final shot at terminating funding for the International Space Station. For the eighth consecutive year, he argues that America should abandon its commitment as the leader of this historic endeavor.

The Space Station is real and well on its way to orbit. Last year, NASA employees and contractors at the Marshall Space Flight Center in Huntsville, Alabama finished construction of Node 1, the first significant piece of flight hardware. Since then, the Pressurized Mating Adapters, Integrated Electrical Assembly, Z1 Truss, Long Spacer, FGB Control Module are being prepared for integration tests and launch.

Those who do not believe that America should maintain its leadership in space exploration speak only of the expense of building man's next great adventure of the space age. While I also am concerned about cost overruns and Russian participation, it is reasonable to expect some unforeseen costs given the complexity of the station. The critics also fail to mention that past funding for the space station now exceeds proposed future investment. More than 50 percent of the costs have been paid, and more than 80 percent of the development will be complete by the end of the current fiscal year. It does not make sense to abort this mission at this time.

It goes without saying that termination of the International Space Station will undermine the credibility of the United States with its international partners who have already invested nearly $10 billion. The other nations participating in the development of the space station reaffirmed their commitment by signing partner agreements in January 1998. At the same time, the U.S. has taken the lead in developing the space station and have made commitments to the international community to see it through. Leadership requires resolve and character. It is not in the American nature to break our promises and abandon our friends and partners, especially when we are on the verge of launching the first elements of the space station.

Continued development of the space station is the right course for the United States to take. The history of mankind, and especially of Americans, is one of curiosity and exploration. The same pioneer spirit that led past generations to explore the frontiers has manifest itself in our present journey to space. The United States is the undisputed leader in space technology development, and it would be arbitrary and reckless for the Senate to reject our destiny of discovery through the space station. I ask my colleagues to join me in reaffirming our country's commitment to our future by opposing this shortsighted attempt to strip funding from the space station.

The PRESIDING OFFICER. Who yields time?

Mr. BOND. Mr. President, I think the majority leader has asked for time. We ask unanimous consent he be granted such time, not to be charged against the debate on this amendment.

The PRESIDING OFFICER. The majority leader.

Mr. LOTT. Mr. President, I thank the Chair.

Mr. President, I do this in order to introduce a resolution. I am joining today with Senator TORRICELLI and a number of others in introducing a resolution on Taiwan. I ask now that additional cosponsors be added to this resolution until the end of business today.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. LOTT and Mr. TORRICELLI pertaining to the submission of S. Con. Res. 107 are printed in today's RECORD under "Submission of Concurrent and Senate Resolutions.")

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I yield 15 minutes to my colleague from Arkansas.

The PRESIDING OFFICER. The Senator from Arkansas, Mr. HUTCHINSON, is recognized.

Mr. HUTCHINSON. Mr. President, I thank my colleague from Arkansas for yielding the time.

I ask unanimous consent to be added as a cosponsor to the Bumpers amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUTCHINSON. Mr. President, I rise in support of the Bumpers amendment, and I join him in his 8th year of travail on what I think has been an important provision. When I came to Congress in 1993, I came with great alarm about the cost overruns, the delays, the projected increases in spending, and what appeared to be a black hole absorbing precious taxpayer dollars. I also came with a willingness to be convinced that was going to change. I was promised that they were going to tighten their belts, slim it down and trim it down, that it was going to become a responsible kind of program and project. Well, the most recent GAO report—the 1998 GAO report—has convinced me that we need to cut our losses, that it is not going to happen, that it has not happened and, in fact, the projections are that we are going to continue to see exorbitant cost increases if we continue down the road of building the space station.

My colleague from Maryland spoke much of the value of microgravity and the need for the space station and microgravity research. I would like to quote Professor Robert Park of the Department of Physics at the University of Maryland in College Park, Maryland. Doctor Park said:

> Microgravity is the only unique property of a space station environment, and the station was originally envisioned as a sort of microgravity R&D laboratory. The microgravity research that was envisioned for the international space station has already been largely completed, either on the shuttle or on Mir.

So there you have it. The original and primary justification for building the space station has largely been realized by ongoing R&D, either on the shuttle or on Mir.

By cutting the international space station's lifeline, today the Senate has the opportunity to save billions of dollars that have been floating away now for over a decade. I want to commend Senator BUMPERS for his resolve, for his eloquence, and for his persistence on this issue. My distinguished colleague from Maryland said that in appreciation for Senator BUMPERS' efforts, he had turned on the yellow light. I can only say that what we need to do is turn on the red light on this project. It needs to be a stop light.

From fiscal year 1985 to fiscal year 1997, it has already cost the American people $19 billion. In its current form, the Senate appropriations bill would pour another $2.3 billion into this project. My distinguished colleague from Arkansas has offered an amendment to the VA-HUD appropriations bill which would end this cycle of waste. The Bumpers amendment would provide $850 million for the termination of the International Space Station, make $450 million available to HUD, and most important, redirect $1 billion of the savings from the space station and make that money available to the Veterans' Health Administration medical care account.

Since its inception, the International Space Station has become a looming monstrosity of skyrocketing costs and scientific indefensibility. According to the latest GAO estimate, this will now cost the American taxpayers $96 billion. That is up $2 billion from 1995—only 3 years ago. This enormous figure includes the costs of design, construction, launching, and 10 years of operation, but it does not include future schedule slippage, additional shuttle launches to test the crew return vehicle, deconstruction at the end of the station's life, as well as possible delays by our partners on their obligations to the project. With these additional factors, the space station will undoubtedly take several more years and several billion more taxpayer dollars. It is a record we have seen time after time on the space station.

Costs have been increasing steadily. So far, the American people have paid $19 billion into the project. Since the space station was conceived, cost estimates have risen dramatically. Under the original space station concept, space station *Freedom*, the Reagan administration estimated a cost of $8 billion in 1983. NASA's estimate rose to $16 billion by 1987. By 1993, the cost of developing and building the space station *Freedom* rose to $30 billion, with an additional $60 billion for 30 years of operation. In the same year, the GAO estimated a grand total of $118 billion for all space station costs, including launches. Now, under the revised concept of the International Space Station, NASA estimated $72 billion in costs, including 10 years of operations and shuttle costs. Those are a lot of figures. What is the American taxpayer to think? What are they to believe?

In the past 3 years, the GAO's cost estimate for the station has increased by $1.7 billion. You can believe that. From $93.9 billion in June of 1995 to $95.6 billion in April of 1998. Why have the costs increased? According to Allen Li, Associate Director of Defense Acquisitions at the GAO, during his June 24, 1998, testimony before the House Science Committee, there are a number of factors why that happened.

> The higher development costs—$21.9 billion [1998] versus $17.4 billion [1995]—are attributable to schedule delays, additional prime contractor effort, not covered by funding reserves, additional crew return vehicle costs, and costs incurred as a result of delays in the Russian-made Service Module.

My colleague spoke eloquently about Russia's role in the space station and their delays in the cost overruns, and the fact that they simply are not capable of bearing their share of this burden.

In other words, schedule delays and increased shuttle flights have driven costs up dramatically. Unfortunately, these delays are not new to the space station project. Phase II of the project, which involves construction of a U.S.-Russian space station that can be permanently occupied by three astronauts, was originally scheduled to occur from 1997 to 1998. NASA pushed phase II to occur from 1998 to 2000. Phase III, which involves additional construction, including the addition of European, Japanese and Canadian components, has been postponed from 1998 through 2002 to the years 2000 through 2004. The first launch for phase II was originally scheduled for November of 1997, later postponed to June of 1998, and is now scheduled for November of 1998. The completion date for the station, originally scheduled for June of 2002, then 2003, is now scheduled for January of 2004. On and on we could go with these delays.

Clearly, delays and launches are likely to increase, driving costs even to newer heights. There is much that I would like to say. When I came up here, NASA lobbied me hard, telling me that though there had been mistakes and there had been cost overruns, they were going to tighten their belt, that it was going to be a new kind of project with a new kind of fiscal austerity. I believe that the GAO report, in addition to the cost assessment and validation task force that gave a similar report, provides compelling evidence that NASA is not capable or is unwilling to make those kinds of tough decisions. This is a project it is time to end.

I remember all of the eloquent arguments that my colleague from the House side from the State of Texas made in defense of the Super Collider. "We have to have the Super Collider." Almost every argument I heard today was made in defense of the Super Collider and the benefits, the spinoff benefits, we were going to receive in society. Congress made a tough decision that it could be better used in other forms of scientific research, and we cut our losses.

I cite the Cost Assessment and Validation Task Force established by NASA in September 1997 to independently review and assess the cost schedules and performance schedules on the International Space Station. That was led by Mr. Jay Chabrow. They issued a report this past April. This is what they said. The most optimistic estimate of the cost growth for the space station was over $2.195 billion. The most pessimistic estimate was $7.5 billion. It estimated that it will take 2 years longer to assemble the space station, pushing the completion date to 2006. Personnel requirements spiral from 1,285 originally predicted, to over 2,000.

I would say to my conservative friends on the Republican side of the aisle that we were not sent up here to build up more government. We were not sent up here to support projects that are good sounding, that have noble objectives, but have a track record of wasting taxpayer dollars. That is not why we were sent up here. That is the record of this project. If we just step back and set aside our conservative Republican prejudices on this issue, and ask if it were any other project, would we defend it; were it any other project with these kind of cost overruns, delays, and wasteful spending record, would we defend it? I would suggest to you we would not. But this is our little baby that we are going to protect at all costs regardless of how much taxpayer dollars it wastes. We were not sent up to float a barrel of pork in outer space.

I want to say one other thing before I end my remarks. We go from the extraterrestrial to the terrestrial, because I think it is good that we are taking $1 billion of what is being wasted on this project and putting it toward veterans health care.

There are 26 million veterans in this country. We hear from them. We hear of the waiting lines. We have 173 hospitals, and we have not built a new one in a long, long time. We are rightly moving to outpatient care. We cannot open enough clinics for veterans. We cannot make health care accessible enough. The average age of veterans is increasing, necessitating more frequent care and longer convalescence. These are going to be greater needs as the World War II generation of veterans faces greater and greater health care needs. The increased demand in care strains the resources of VA medical facilities. Many of them have to drive many miles to get health care. High-quality medical personnel shy away from VA hospitals because they find them less appealing and less lucrative. Nurse practitioners rather than doctors have become the norm in many VA facilities.

This is an opportunity for us to do a service to this country by stopping a program that needs to be stopped. This is not—and I emphasize this is not—an antiscience, an antitechnology vote. NASA will continue to have over $11 billion in fiscal year 1999. This is a protechnology Congress. We consistently voted for increased funding for NIH and NAS, the National Academy of Sciences. This is not an antiscience and antitechnology vote. It is a vote to say here is one area that has been so egregious in wasteful spending that we draw the line, we cut our losses, we stop the bleeding, and we are going to take those savings and put it in where we know it is going to be an investment in human beings in VA health care.

Michael Daly, a seventh grader from Sherwood, AR, wrote me a letter asking me the value of a future in the military. Do you know what that young seventh grader is thinking about? He is thinking not only about our commitment to our Armed Forces, but how well we are going to meet our commitment to our men and women who have served as they leave the armed services and as they become the veterans of this country. Are we going to remember them?

This is an opportunity for us to do a twin service to our veterans and to the taxpayers of this country in stopping an indefensible wasteful spending program. I urge my colleagues to support Senator BUMPERS, who has been sometimes a lonely voice in pointing to the catastrophic waste in the space station, and join us in ending that program this year and support our veterans at the same time.

I thank my colleague from Arkansas for yielding me this time.

Mr. BOND addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri submitted a written unanimous consent agreement to include material that he did not state orally; namely a prohibition against second-degree amendments to amendment number 3062. Did he mean that to be a part of this unanimous consent agreement?

Mr. BOND. Yes. Mr. President, we amended that written statement as it first appeared to ask that it be a straight up-or-down vote on the Bumpers amendment pursuant to the request raised by the Senator from Arkansas who said there would not be any other motion.

The PRESIDING OFFICER. The material is a prohibition against second-degree amendments. Does the Senator from Missouri wish to include second-degree amendments?

Mr. BOND. Yes. We included in the amendment that there would be no second-degree amendments.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from Missouri.

Mr. BOND. I thank the Chair. I yield 10 minutes to the distinguished senior Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, I thank our colleague from Missouri for yielding.

Mr. President, it is certainly true that Congress has terminated many science programs in the recent past. In fact, in 1965 we were investing 5.7 cents out of every dollar spent by the Federal Government in non-defense research in science and technology. But as a result of political decisions that have been made for more than 30 years, we are now investing only 1.9 cents out of every dollar of government spending in science and technology research for the future.

You have to ask the question when so many of our colleagues are so quick to point out that they are not antiscience—and I believe them—how is it that the science budget in the budget of the U.S. Government, a budget which has exploded since 1965—"exploded" is the only word for it—how is it that as the total budget has grown in leaps and bounds, our commitment to invest in science and technology and to invest in the future has declined from 5.7 percent of the Federal budget to 1.9 percent?

I submit, Mr. President, that our colleagues, Members of the House and Senate, are not antiscience. Their problem, however, is that they are constantly forced to choose in the process of spending the taxpayers' money between spending that money on programs that have big constituencies in the next election and investing that money in science and technology in the future that really has a constituency in the next generation. The problem with maintaining science and technology spending is that the value only comes in the future, whereas by spending money on programs with big political constituencies, the benefits politically come in the next election. The next election now is only a few months away.

It is not that Congress doesn't value investment in science and technology that would develop new products and new technologies, new know-how, and a scientific base that can create jobs in the 21st century and perhaps yield a capacity to heal some dreaded disease. It is that the benefits of such spending don't appear between now and November 3rd. They come to fruition over long periods of time as a result of the accumulation of scientific knowledge. Our problem, then, is not that Congress is antiscience, but that Congress invests in the next election rather than the next generation.

The amendment we have before us is an old amendment. We have debated this subject on many occasions. This is just the latest version of a long debate. But basically what the amendment before us proposes that we do is to cut the Nation's premier science project, and to use the money to invest in two programs that have very large and vocal constituencies. Both of these programs are good programs. They both are obviously very desirable. But the point is that we have a very limited science budget now. It has been reduced from 5.7 percent of our budget in 1965 to 1.9 percent today, and this latest effort to reduce it further comes at the very time when we are beginning to get interest in the country in an initiative to double our expenditure on science and technology and research, because we believe investment in the future is critically important if we are going to continue to lead the world in science and technology job creation. I think this amendment is simply a movement in the wrong direction.

I do not doubt the sincerity of our colleague from Arkansas. He has offered this amendment, it is my understanding, for 8 years. It seems we have debated it for a longer period of time than that.

I remind my colleagues that we have killed science projects. We killed the SSC. We have cut science expenditures in real dollar terms in virtually every area of the Federal budget. But the question is, Have we benefited as a nation from doing that? We killed the premier scientific project in the world when we killed the SSC, which was high-energy physics aimed at understanding the fundamental building blocks of nature. And while understanding atomic physics does not sound very sexy in Congress, I remind my colleagues that 40 percent of the GNP of our country is now based on scientific research that has occurred mostly in America since the 1920s and where high-energy physics has yielded products from the computer to the television.

So the point is that when America was investing in those programs, they were going to yield benefits 10 or 20 or 30 years in the future. They have always been politically disadvantaged. I would simply like to conclude by reminding my colleagues, we have an enormous Federal budget. We are spending a lot of money on programs that have big, powerful, political constituencies, and in a sense, politics is about listening and responding to those constituencies.

But I remind my colleague that there is another constituency, and that constituency is called the future. America has invested more money in science than any country in the history of the world, and in my opinion, there are two principal things that are responsible for the unique achievements of America. One is we have had a country with broad-based opportunities so ordinary people could do extraordinary things, and the other has been an investment in and a commitment to science. I think we are moving away from that commitment. I think we have already moved too far. I wish we were here today debating cutting other programs to invest in science and technology in the future, but we are here talking about terminating the premier scientific project in America which we have undertaken with many nations around the world.

I hope and trust this amendment will be defeated, and it should be defeated. This amendment will not lower federal spending by a nickel. This amendment simply reduces money going to the space station and to science and technology and to the future. So for that reason, I oppose the amendment.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. BOND. Mr. President, I believe the Senator from Alaska has a unanimous-consent request to speak as if in morning business.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that I may speak as if in morning business for not more than 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Alaska is recognized.

Mr. MURKOWSKI. I thank the Chair.

(The remarks of Mr. MURKOWSKI pertaining to the submission of S. Con. Res. 107 are located in today's RECORD under "Submission of Concurrent and Senate Resolutions.")

Mr. BOND. I yield to my distinguished colleague from Arkansas.

Mr. BUMPERS. Mr. President, I yield my distinguished colleague from Iowa 10 minutes.

The PRESIDING OFFICER (Mr. SMITH of Oregon). The Senator from Iowa.

Mr. HARKIN. Mr. President, I thank the Senator for yielding me this time. More than that, I thank Senator BUMPERS for his relentless pursuit, over the years, of shedding more and more light on this issue of the space station. I say at the outset that a vote for the Bumpers amendment is a vote for space exploration. A vote against Bumpers is a vote for the status quo. It is a vote for the myopic approach to space exploration and it is a vote for wasteful spending for science that can be done better and cheaper.

I am foursquare with Senator BUMPERS on his approach on the space station. It is a boondoggle and a waste of money. Maybe Senator BUMPERS and I are not foursquare on the issue of space exploration itself. That may be for another time and another debate. But on this issue, Senator BUMPERS is absolutely right.

I have been a longtime supporter of aviation, aviation research, aviation technology, pushing the boundaries of aviation technology through science and technology and also for space. For 10 years, I served in the House on the House Science and Technology Committee. I was proud to chair the Aviation and Materials Subcommittee of that committee. I was proud to work to try to get more and more funds for space exploration. But I watched, during those 10 years in the House on the Science and Technology Committee, I watched in dismay as NASA shifted, gradually but determinatively, shifted from a civilian space agency to an arm of the military. That can be seen through the way that the space agency shifted in the late 1960s and early 1970s. It became more and more an arm of the Air Force. It became more and more an arm of our military establishment.

I can remember the debates we had on that in the Science and Technology Committee back in the mid-1970s. I kind of understood that. We were in a cold war with the Soviet Union. Space was being used more and more for military purposes—spy satellites, that kind of thing. But another interesting thing happened. We began to develop a thing called the space shuttle, which I believe was driven more by the desire of Air Force pilots to fly than anything else. I think it was driven more by the desire to be more than just a monkey sitting on a seat.

I remember when the first shuttle took off. I was there for the launch, and I remember we had the first shuttle astronauts back in the committee room for a hearing. I remember Neil Armstrong was there. One Congressmen stated how proud he was to see them land with dignity as they came back, rather than plopping in the ocean as they used to in the space capsules. I thought at the time, what a tremendous expenditure of money just so that we could land that thing on a runway rather than plopping it in the ocean.

Let's remember, the first man to set foot on the Moon was not a military person, it was a civilian, a civilian test pilot by the name of Neil Armstrong, and that was not happenstance. It was not an accident that happened that way, because we believed and our Government believed at that time that space should be a civilian exploration enterprise. Then we watched as two things happened; as NASA became more and more militarized and as we retreated from Moon exploration to near-Earth orbits.

Then we were sold the space shuttle. Oh, it was going to be a great flying machine. It was going to reduce the cost of launching material into near-Earth orbit by a factor of 10. I remember being told that. I was on the Science and Technology Committee. It was going to reduce launch cost by a factor of 10. We were going to have these reusable rockets and all that kind of stuff. We are still waiting. We are still waiting for that factor of 10 reduction. It has never happened.

I am convinced today, perhaps more than I was at that time, that the shuttle should never have been built. I am convinced that, had we not gone ahead with the space shuttle but had commenced and continued our space exploration with the Saturn, that we could have had a fully operational Moon base at this time with all that would mean for the world and for our country and, yes, for science and technology.

Now, that brings me to the present time. If we build this space station for $98 billion and counting, it will effectively suck all of the dollars out of space exploration. That is why I said, in an oddly curious way, a vote for the Bumpers amendment is a vote for space exploration. A vote against him—forget about it. You are not going to do anything in space, because this is going to suck all the money out of it. Suck money out for what, scientific experiments?

I listened to the speech given on the floor by my good friend, Senator GLENN from Ohio, on all of the wonderful science that is going to be done and the experimentation. We estimate the cost per man-hour for those scientific experiments to be about $155,000 per man-hour. NIH can do it for less than $300 an hour. The Senator from Ohio says, "Just think how much this is going to energize young people to go into science and into medical research." If you want to encourage young people to go into medical research in this country, take that kind of money and put it into NIH. You will hire thousands of times more researchers doing that than you will spending $155,000 per man-hour for scientific research on this space station. Put the money into NIH.

I think it is time to cut our losses. Do you know what this reminds me of, I say to Senator BUMPERS, this debate we are having on the space station and listening to Senator GRAMM from Texas? It reminds me of the debates we had on something called the Clinch River breeder reactor. How many years we debated that; how much good it was going to do for our country and the science and the research. Billions of dollars we poured down the rat hole on that one. We finally terminated it. We came to our senses and terminated it. How many billions of dollars, though, did we waste?

And then, most recently, something called the Superconducting Super Collider that was going to be built in Texas. Oh, my gosh, to listen to the debates that went on around this floor about that—why, if we ended that one, all science was going to come to a halt. Why, building the Superconducting Super Collider was going to unlock and unravel the mysteries of the universe for us. Nonsense. Stuff and nonsense, that is what it was.

We came to our senses and we killed it—rightfully so, because the Superconducting Super Collider would have had the same effect on physical sciences as the space station is going to have on medical science. It is going to suck all the money right out of it, because once you build the space station, then you have to justify it. How do you justify it? Through medical research at $155,000 per man-hour. Where is the money going to come from for NIH? Where is the money going to come from for the research that has to be done here? It will not be left around. This will do to medical research just what the Superconducting Super Collider would have done to physical science research. And that is why so many physicists and scientists were opposed to the Superconducting Super Collider. They were right. That is why so many scientists are opposed to the space station. They are right. It is time to cut our losses.

I remember—I was not here then, but I know my history—back in the 1950s, the Atomic Energy Commission, the head of it, Lewis Strauss, testified before a Senate committee and said that atomic energy would be so cheap in making electricity we wouldn't even have to meter it. We are still waiting. But look at the billions of dollars that we have spent on nuclear power. I am not saying it hasn't done some good, that we don't get power from it. My gosh, we are still fighting the battles of what we are going to do with the waste. Of course, we know now it is more expensive than anything else. If we build this space station, forget about it, there will be no money left.

The PRESIDING OFFICER. The Senator has spoken for 10 minutes.

Mr. HARKIN. If I can have an additional 5 minutes.

Mr. BUMPERS. I yield an additional 5 minutes to the Senator from Iowa.

Mr. HARKIN. The microgravity kind of research that has been talked about can be done on the shuttle. We don't need a space station to do that. Or it can be done other ways.

In 1994, Mr. President, I read an article that was in Discover magazine and became entranced with it. Just today, I had a long talk on the phone with Ed Belbruno, a former NASA mathematician. He has devised a new way of space exploration. I won't go into it. I don't have the time. I think it is fascinating, however.

Because of his theories, we could use 40 percent less energy to go to the Moon and beyond—40 percent less—and it has already been proven. He did it once already in the early nineties. The Japanese space agency is looking at it more, and so are the Europeans. I am sure my friend from Ohio will recognize it by using what we call the "weak stability boundary theory."

I won't go into all the theories of it, but physically it is fascinating about how we can use the gravity of the Sun, the Moon, and the Earth to launch vehicles from here to the Moon or to Mars or beyond and use 40 percent less energy.

What that means is today we have the ability to return to the Moon and beyond using a lot less than we did before. Think of the excitement in that. Think of what we can do with exploration if we actually build a Moon base. Think of what that will mean in terms of scientific research and technological advancements. Think of what that will mean to us if we want to explore the universe, not from the space station, that is not going to help it one single bit, but now we have the theory and it has been proven; it has already been done once.

Mr. President, this weekend I was in Iceland. It occurred to me that in about the year 900, around the year 1000, Leif Ericson sailed to the New World, from Norway to Iceland to Greenland to Newfoundland, almost all the way down to what we now consider to be New York City. And they did it for years. Almost 500 years later, Christopher Columbus decided to go a different route, and it took him forever.

But you see, the Vikings had it right. They could sail the North Sea on the new great circle route, come to the New World, turn around, and catch the Gulf Stream and zip back. They had it figured out. You can't hardly blame Columbus. They didn't have it figured out. They didn't know. They sailed the southern ocean, down through the doldrums, and it took them a long time. They never quite figured it out. The Vikings did. You can't really blame Christopher Columbus. They didn't have that knowledge.

You can't blame us. We now know that there are cheaper and better routes for space exploration than building a space station. We know that there are better and cheaper ways of doing microgravity research than on a space station. We know there are better and cheaper ways of doing medical research than spending $155,000 per man-hour on the space station.

If we rush ahead with this space station, we have no one to blame but ourselves. I ask my colleagues to think back to the promises of the fifties when we were going to meet our energy needs so cheaply with nuclear power. Think about the Clinch River breeder reactor and how many votes were cast for that and all the promises it was going to give us. Think about the Superconducting Super Collider and what that was going to do for us. And then think about the scientists who opposed the Clinch River breeder reactor. Think about the scientists who opposed the Superconducting Super Collider. And now think about the scientists who oppose this space station.

Senator BUMPERS had it right. I saw a quote that he sent around in a "Dear Colleague" letter where the scientists were saying, basically, why would you want to spend so much money on something—here it is, Discover magazine. Here we are back to my favorite magazine:

> Is it possible to imagine a technological undertaking so enormous that could garner less respect from the scientific community?

Discover magazine, May 1997.

They know why. If we build this space station, it is going to suck so much money out of here, there won't be anything left. Oh, I suppose, as Senator BUMPERS said, it will lose. I hope not. I hope it wins. I hope we come to our senses.

I do believe this: The space station is not going to be built. It will never be completed. We may put up a module. We will do some shuttle flights. The Russians will never come through with their, what, 50 flights or 60 flights? Forget about it, the Russians are not going to do it. They don't have the money. So who is going to pick up that slack? Our taxpayers? We can take that $98 billion and start multiplying it out.

That is why I say today, this will be like Clinch River; it will be like the Superconducting Super Collider. We built some trenches down there. We spent a couple billion dollars on it. We spent a couple billion on the Clinch River breeder reactor also, and we finally came to our senses and said it was a boondoggle. That is what will happen with the space station. It is not going to be built, but what we can do is take this money and do something a lot cheaper and a lot better than building the space station.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. BUMPERS. Does the Senator from Maryland wish the floor?

Ms. MIKULSKI. If we are going to rotate time, I know that the Senator from Ohio had a few minutes that he wanted to use. I yield the Senator from Ohio no more than 5 minutes for his comments.

Mr. GLENN. Just 2 minutes.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. GLENN. Mr. President, I thank the floor manager of the bill, the distinguished Senator from Maryland.

I want to make a point on a comment that was made by the other Senator from Arkansas, Senator HUTCHINSON, about the cost overruns and the budget situation, because the Chabrow task force report has been alluded to today, sometimes correctly and sometimes incorrectly.

In this case, it was referred to incorrectly because, contrary to the assertion that the program has a large overrun, the Chabrow task force reported that the program was—and this is a quote:

> Diligent and resourceful in managing the unique challenges of this complex venture given the significant complexity and uncertainty of international involvement and the difficult task of staying within annual and total funding caps established prior to final program content definition.

That indicates that there has been very responsible management. That is in the Chabrow task force report.

Further, the task force stated, referring to the ISS, the International Space Station Program specifically, and their quote is out of their report:

> Although cost and schedule growth have occurred, the magnitude of such growth has not been unusual, even when compared with other developmental programs of lesser complexity.

I think that is a compliment. I think we should also note that many defense research and development programs have exceeded development cost estimates by 20 to 40 percent, way out of the ball park of what we are talking about here, which indicates to me that major technical developmental programs have a degree of complexity that makes cost assessment very, very difficult—the point that I made in my original, more lengthy statement.

We need to keep in mind what the Chabrow report said in their task force report, which is, to my way of thinking, complimentary to NASA about how they managed this program and kept things under control. NASA personnel numbers are way, way down. The NASA budget has been flat over the last couple of years, and yet we have gone ahead with more efficient management within NASA and I think they should be complimented for given the complex management environment in which they have to work. So the Chabrow report has been quoted here today, but I think the two quotes out of the Chabrow report should be noted.

I reserve the balance of my time.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I yield myself such time as I may consume.

Mr. President, first of all, let me remind my colleagues of how this all started. This is a classic case of a space station looking for justification. This chart shows where we started years ago, with a crew size of eight and a cost of $8 billion. Here are the capabilities we were told that the space station would have.

First of all, it would be a staging base to go on to Mars with. Carl Sagan said that was a justification for it. He didn't think much of its research potential. But as a staging base to Mars, he thought it was a great idea.

A manufacturing facility—make gallium arsenide crystals, I suppose; space-based observatory; a transportation node; a servicing facility, to service shuttles or whoever might come up to visit the space station; assembly facility—I don't know what they were going to assemble; a storage facility.

One by one, every single one of those missions was eliminated as a justification for the space station. We have one remaining, and that is a research laboratory. So that is the reason you hear about how we are going to cure AIDS, cancer, and all these magnificent things that will happen in medical research in the space station—because that is the last only justification anybody can dream up.

If you are having difficulty with that, write NASA and ask Administrator Goldin to send you a copy of his Chamber of Commerce glossy. It has it all in here. It has it all. If you are a conservative—and most people in this body profess to be conservatives—and you have any pang of conscience about spending $100 billion for a boondoggle, for utterly no redeemable purpose, if you are having problems with that, write to NASA and get their glossy brochure. It will just make you sleep so much better.

Mr. President, I can remember, as the Senator from Iowa has pointed out, it took me 4 years to kill the Clinch River breeder. Howard Baker was majority leader, and no matter how close we got, he always had two more votes he could pull out of his pocket. I remember that fateful date when we had too many votes for him to pull out of his hip pocket, and he turned everybody loose, and we got 75 or 80 votes to torpedo the Clinch River breeder. Who has lost any sleep about the Clinch River breeder? And we saved billions. Everybody said, "They have broken ground; it is too late. We can't quit now; we have our nose under the tent." We quit, and it has been God's blessing ever since we did.

The Superconducting Super Collider, the gigantic hole in the ground in Texas—all I can think about is the Senator from Texas, the senior Senator from Texas, who defended the hole in the ground until the last dog died. I was arguing all along that there was a superconducting super collider in Switzerland, at the European consortium called CERN. No, the SSC's supporters said, our's got to be bigger than that one; got to be more expensive than that; got to have a 50-mile racetrack; none of that 20 mile racetrack business. We finally killed it after we spent $2 billion. And who here has lost any sleep over the Superconducting Super Collider? Everybody ought to rejoice every night that we saved $10 billion.

So now here we go. How can a good conservative justify the kind of cost overruns we are looking at? How can you justify $100 billion when you think of the unmet needs in health care and education in this country? This program as a research vehicle is precisely 1,000 times less effective than doing the same research on Earth. So you ask, why are we doing it?

The Senator from Texas has a very legitimate reason for standing on the floor and defending the space station. Texas gets $661 million a year out of it. In all candor, I might be standing here up here arguing on the other side if Arkansas got $661 million a year. For my colleagues who think you have a few jobs in your State, 85 percent of this money goes to Alabama, Texas, and California. The rest of you are just barely a layer; you are nothing.

If you consider yourselves a conservative but only when it fits your convenience, you go ahead and vote against my amendment. But if you say you are a conservative and you don't believe in squandering billions and billions of dollars of the taxpayers' money, ask yourself a very simple question: What is your threshold? How high would this thing have to go before you would have to rethink your position? Forty-three percent cost overrun, just to build it on the ground? Is that not troubling to you? Is the $7.3 billion overrun just announced in the past 8 months, is that not troubling to you? Is the fact that we are already acknowledging a $7.3 billion cost overrun and headed in for the launching of this thing into space, and depending on the Russians for 49 launches, does that bother you? Who here believes that the Russians will be a player in this 1 year from now? They are not going to meet their deadline right now for launching the service module or what they call the functional cargo.

If we are going to keep the Russians in the program, buy them out right now. They are not going to participate. They can't. Let me reiterate. The Russian Cosmodrome at Baikonur, the principal launching place, which is in Kazakhstan, has the electricity cut off because they don't pay their bills. How can you launch a space station from a cosmodrome that has had its utilities cut off?

My junior colleague from Arkansas, Senator HUTCHINSON, invited you to read the GAO report. Let me add the Congressional Research Service report to that. You don't have to believe what I say or what Senator HARKIN said or Senator HUTCHINSON. Read the reports that you always rely on, and see what they say.

Take a look at this chart. This summarizes the so-called Chabrow report. The Chabrow Commission was appointed by Dan Goldin to analyze the space station. They were appointed by Goldin, and Jay Chabrow is considered one of the best space technology analysts in America. He says it will not cost $17.4 billion as NASA promised as recently as last year; it will cost $24.7 billion—a little over $7.3 billion cost overrun. How many children in America could you educate with that? How many teachers' salaries could you educate with that? How many classrooms could you build with that? How many students could you cut out of classrooms with $7 billion? We act like it is nothing around here. Nobody even gasps; nobody drew a deep breath when I started throwing these figures out.

I commend my distinguished colleague from Maryland, and I thank her most heartily and profoundly for her kind words about my efforts on this. She mentioned the yellow lights that I had thrown up. I attended a meeting that she and the distinguished chairman of the subcommittee allowed me to attend, and in that hearing—incidentally, Daniel Goldin was testifying—I asked this question: "Mr. Goldin, is there a threshold for you? Is there a figure beyond which you are not willing to go? Is there a cost figure on the space station you are not willing to go beyond?" He must have paused at least 15 seconds. Finally, he said, "I really hadn't thought about it."

I have thought a lot about it. I have thought almost of nothing else since I started working on this.

So I ask my colleagues, what is your threshold? In 1984, when Ronald Reagan first started talking about a space station at $8 billion, and now we are talking about $100 billion.

Let me show you something. You see this $98 billion figure here? That is not all of it. No. 1, the cost overruns are going to skyrocket from here on. But even if they didn't, this does not include getting the space station down. Add $3 billion for that. So you are already well over $100 billion. When Ronald Reagan said it would be $8 billion to build this thing, I can only shutter to think what Ronald Reagan might think today if his $8 million was up to $100 billion. The conservatives who were in the Senate when Ronald Reagan was President would be gasping for breath. Nobody ever believed we were headed for such a pickle.

If you believe that all the premier scientists in America don't know what they are talking about when they say microgravity research is of micro importance, vote no, vote against my amendment. If you think we are already spending enough at NIH on cancer, Alzheimer's, cardiovascular illnesses, vote no. If you think $11.5 million per man-hour for every hour of research that goes on in the space station is reasonable, vote against my amendment. That is right, $11.5 million an hour—as the Senator from Iowa has already said, at NIH you can get researchers who are the best in the country for $300 an hour. Divide the man-hours for research that you are going to get for this program for 10 years into $100 billion, it comes out to a cool $11.5 million per man-hour.

Is nobody disturbed by this?

Mr. President, I am reluctant to start reading it to you again. But I do want to quote Dr. Robert Park, a professor of physics at the University of Maryland and who has long been the spokesman for the American Physical Society, which is all the physicists in America. Here is what he said while testifying before a committee in the House on July 1, 1993. He was speaking for the American Physical Society, which is 40,000 physicists. I promise you that virtually every one of them—except those who are employed by NASA—are opposed to this. Dr. Park, in testimony, speaking for all those physicists, said:

> It is in the view of the American Physical Society that scientific justification is lacking for a permanently manned space station in Earth's orbit. We are concerned that the potential contribution of a manned space station to the physical sciences has been greatly overstated and that many of the scientific objectives currently planned for the space station could be accomplished more effectively, with a much lower cost, on Earth.

It goes on and on. He has a magnificent statement. He says:

> The only unique property for the space station environment is microgravity. In 23 years of research, it has found little to no advantage from such an environment.

Mr. President, what are we afraid of? Here we have a chance to save $80 billion. That "ain't" beanbags. We are going to spend an additional $80 billion minimum on this program, plus the 20-something billion we have already spent. If we continue to rely on the Russians, you can depend on the space station costing $120 billion to $150 billion, easily—the most monumentally expensive scientific undertaking in the history of the world, all at the expense of the taxpayers.

I plead with you—plead with you—to use your common sense. You don't have to abandon common sense when you come on to the floor of the Senate. I promise you that you can justify this to your constituents. I said earlier, and I will say again, if you can't justify a vote against this program, you have no business being in the U.S. Senate.

Mr. President, I know there are legitimate concerns by people who have honest differences with me. I would certainly never denigrate my friend, JOHN GLENN. I know he believes fervently in this. We all wish him well in the endeavor he is about to take in another trip to space, and we applaud him. As far as I am concerned, I hope they get some beneficial research out of him. But I can tell you that he didn't have to go into a research project. If he just wanted to go up there and look out the window, it would be fine with me, and it would be fine with everybody else in America, too. Before I ever met him, he was a hero of mine. I had tears in my eyes, like every American did, when we saw JOHN GLENN get out of that capsule. We all shared in his joy. We have shared the joy of JOHN and Annie ever since he came to the Senate. We love him and we wish him well on everything—except the vote on this space station.

I yield the floor.

Mr. BOND. Mr. President, the offer still stands. I would be delighted to offer an amendment to name it after the distinguished Senator from Arkansas.

I now yield 5 minutes to the Senator from Tennessee.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. FRIST. Mr. President, I rise in support of the continued funding of the International Space Station. Mr. President, there is no denying that the International Space Station has problems. It has had real problems with the prime contractor, the performance of foreign partners and program management, all of which are acknowledged, but all of which, I repeat, are being addressed by NASA and the U.S. Congress.

In the Commerce Committee, a price cap was approved for the International Space Station. This price cap, in my opinion, begins to address many of the guiding principles that I have discussed here on the Senate floor—guiding principles which direct our investment in research and development, and that is good science, fiscal accountability, and program effectiveness. This program, indeed, represents a long-term investment, and it is very hard for us on the floor of the U.S. Senate and in this Congress to understand the importance of long-term investments. But this provides a long-term investment in a one-of-a-kind research facility.

Although the price tag of this facility is approaching $100 billion over the life of the station, the potential of the research to be conducted in this space station is enormous. As a scientist, as one who has conducted research, I understand that there are no guarantees in research. However, if we are to continue to dream, to continue to want to improve the quality of our lives, continue to promote the economic stability of this country, vis-a-vis our neighbors, we must continue to conduct such research, investing long-term.

The space station will provide a unique environment for research with a complete absence of gravity, allowing new insights into human health that we simply cannot explore today in any environment: research on cardiovascular disease, disease of the heart and the vessels of the body, understanding cancer, understanding hormonal disorders and osteoporosis and how the immune system functions. Yes, we have heard a lot about it in the last several hours—the whole issue of cost. We spent over $20 billion on this effort since its inception in 1985. Since the major redesign and the inclusion of the Russians in 1994, the program has spent an additional $11 billion. These amounts are for development only and don't include the costs associated with the shuttle to visit the Mir station.

The real question is, Should we sacrifice this $20 billion investment and terminate this project by some action today? By ending this project, we not only forego the importance of research to be conducted aboard the station, but also the technology development that will be necessary to build and operate the space station. Research and development simply has played too important a role in the economic vitality of our Nation to put it at such great risk. There are many that expect the next great industry to be space. And, yes; I hope the Senate will soon take up consideration of the Commercial Space Act of 1997 as a new industry. Commercial space accounted for $7 billion in 1995. By one estimate space could be a $120 billion worldwide business by the year 2000. This type of growth will mean substantial changes in how things are currently done.

Historically, the government has taken the lead on many long-term research projects. Many are high risk. The outcome we simply don't know. The benefits of that research we cannot predict.

The Federal Government should continue this tradition by continuing to build the International Space Station. However, NASA simply cannot be given a blank check. We, the Members of this body, must continue to hold NASA accountable for good management of the program.

We must be prepared to deal with the various risks associated with the program. There are many challenges; many we can't predict in assembling the components of the space station. The men and women who will make this happen need and will continue to need the support of the American people.

There has been much discussion of the report on the Cost Assessment and Validation Task Force. They don't recommend ending the program. They simply say the program plan shall be revised so that it is achievable within the financial resources available. I think Congress should determine what resources are available for the program and allow NASA to complete it accordingly.

Mr. President, I look forward to the launching of the first element of the station this fall, and I hope that we will soon see the beginning of another successful NASA project.

Mr. President, I urge support for continued funding of the International Space Station.

I yield the floor.

Mr. BOND. Mr. President, is the Senator prepared to yield back time?

Mr. BUMPERS. Mr. President, happily we have a Senator here. I have 4 minutes 20 seconds remaining. I would like to yield that to Senator DURBIN.

Mr. DURBIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Thank you, Mr. President.

Ms. MIKULSKI. Mr. President, if the Senator will withhold, a question to the Senator from Arkansas: Will he yield back the time, or is he going to use it all?

Mr. BUMPERS. I only have 4 minutes 20 seconds. I fully expect the Senator from Illinois to use all of that. My time will be used.

Ms. MIKULSKI. I expect it, too.

Mr. BUMPERS. Under the unanimous-consent agreement we will still have 5 minutes each prior to the vote. Is that correct?

Ms. MIKULSKI. That is correct. If the Senator will withhold a second, I wish to advise the Chair that I will leave the floor and delegate my authority to Senator GLENN until I return.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Illinois is recognized.

Mr. DURBIN. Mr. President, before I start, I believe there is an inquiry as to whether there is any time remaining on the other side on this amendment.

The PRESIDING OFFICER. There are 4 minutes.

Mr. DURBIN. Mr. President, I rise in support of the Bumpers amendment. I thank the Senator from Arkansas. This is a battle he has been waging for many years. I joined him as a Member of the House, and I am happy to join him as a Member of the Senate.

Some might ask if I have taken leave of my senses to be on the floor of the U.S. Senate debating the elements of the space program with JOHN GLENN on the other side. How do I find myself in that predicament? In this instance, I have to say I disagree with my friend from Ohio and my long-time hero. I believe the Senator from Arkansas is right. In 1984, President Reagan said to the American people that he had a dramatic announcement to make. A permanent-manned space station, an international cooperative effort, is going to be a staging area for further space exploration. It is a great opportunity, and we will be able, at the cost of $8 billion from the U.S. taxpayers to make this happen. Over the years, we have watched the concept diminish and the price explode.

As the Senator from Arkansas explains to us, just last year, after a thorough professional study was done, they gave us an estimate that the first phase of this project would cost—no, not $17 billion, but in fact $24.7 billion, a 40-percent cost overrun. Those who have been watching this project since its inception and suggestion in 1984 have to wonder whether there is any end in sight.

For each year the cost of this project continues to mushroom, the uncertainty grows and the scope of the project diminishes. Over the years, the debate over this space station has been enlarged to go way beyond its original intent. It is now going to be a research laboratory.

I have listened to those who have argued for the space station say with a straight face, "If we could just have this space station, then we might one day find a cure for AIDS, a cure for cancer. We need to get up in a weightless atmosphere with microgravity research, and that might be the breakthrough."

Competent scientists rebut that conclusion, and common sense does as well, because we in the United States of America today fund only 20 percent of the approved applications for medical research at the National Institutes of Health. Here on God's green Earth we are unable to come up with the money for sound research to find a cure for diabetes, Alzheimer's, cancer, and heart disease, and instead, we are going to take another $80 billion and plow it into this project and send it up into space.

I know that some people are energized with the idea of space exploration, and I am one of them. I can remember JOHN GLENN, and I can remember the walk on the Moon, and so many other experiences in life, and going down to Cape Kennedy for a liftoff, and to feel that Earth rumble under your feet when that rocket takes off is something you will never forget. That is exciting.

Let me tell you what else is exciting. It is exciting to pick up the morning paper and to read that we have found a cure for a disease. It is exciting to be able to tell the parent of a child that their baby can live, that we have come through with a new medical breakthrough. It is exciting for us to know that the next generation may not have to worry as much about Parkinson's and Alzheimer's. I find these revelations just as exciting, if not more so, than a space liftoff.

The Senator from Arkansas presents a challenge to us today. He basically is saying to this Chamber, Will you look at the facts as presented? Will you acknowledge the dramatic increase in cost of this space station? Will you come to the understanding, as we did with the Superconducting Super Collider—that big tunnel in Texas, which we finally decided was headed for nowhere—come to the conclusion that this $80 billion could be better spent right here on Earth for real needs of real people, whether it is in the area of medical research or education?

I urge my colleagues to join me in supporting the Senator from Arkansas and to defeat this funding for the space station.

Thank you, Mr. President.

Mr. GLENN addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. GLENN. Mr. President, how much time?

The PRESIDING OFFICER. Two minutes.

Mr. GLENN. I thank the Chair.

Mr. President, I want to reply to a couple of things which Senator HARKIN indicated a little bit earlier. I was a little bit disquieted by the fact that he indicated that NASA is now an arm of the military Air Force. I don't know where on Earth that came from because NASA has never been that. Military payloads have been put up. But it has not spilled over in that direction at all. It is still going along as a civilian agency. It was declared to be by Dwight Eisenhower, and has continued to be that every since.

As far as money being sucked out, there is $98 billion. We are talking about $2.3 billion in this bill for the next year for the International Space Station. Most of the hardware has already been constructed, or is in the final stages of being constructed.

The fact is that we have doubled the budget for NIH over the last couple of years. It is not that we are not doing things in that area.

I repeat what I said earlier. If we are to wait until every problem in our country is solved before we put money into basic fundamental research out there, that is just the wrong way to go.

Senator DURBIN talks about child diseases. Some of the protein crystal growth advances we are making these days is something that we can look forward to as maybe helping solve some of those childhood diseases.

Back to what the Senator from Iowa said again, though, I will point out that on the very flight that I will be on this fall in October, we have three different areas of commercialization of space in which one of the projects is commercial protein crystal growth. I will not go into details. My 2 minutes won't permit. But in that area, we are in the commercialization of protein crystal growth experiments. We are into another one on the commercial generic bioprocessing apparatus that we are taking up in space. We have another one. I have already been briefed on these. We will be taking part in some of the research that is being done at that time.

The other one is on what is called the cybex mission, and it is to perform IDA-funded, corporate microgravity biomedical cancer research; second purpose: perform other IDA corporate commercial microgravity research, and provide a turnkey service of commercial access to space.

That is the way NASA has been going. That is the direction they want to go.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. GLENN. So this is almost built. It would be foolish to cut back now and waste the money we put into it right when it is just about to pay off in a great way, I think.

The PRESIDING OFFICER. The Senator from Missouri has 1 minute.

Mr. BOND. Mr. President, we have heard much discussion today about the cost of the space station. We have seen from independent analysis by leading scientists that there are truly significant scientific advances which can come from the International Space Station, and we noted it serves many other functions. As the international scientific endeavor is furthered, it offers practical applications in research and potentially commercial manufacturing and materials processing. This is a tremendous step forward. We have heard about the Chabrow report. In it the NASA advisory council says that the task force members, with considerable experience, found the program to be consistent with the level of funding and that they have endorsed it. We think that it is an important measure. We would urge when the vote occurs that Members oppose the amendment offered by Senator BUMPERS.

The PRESIDING OFFICER. All time has expired.

Under the previous order, the amendment is set aside until 6:20.

Mrs. HUTCHISON. Mr. President, I would like to take a moment to commend an extraordinarily successful collaboration between NASA and the JASON Project, a private foundation which is working to engage middle school students in grades 5–8 in science and technology. Each year, JASON electronically takes hundreds of thousands of our students on real scientific expeditions with world class scientists, researchers and explorers to work together with them on projects of discovery. NASA participates through three of its research centers and the expertise of many of its scientists. This collaboration is bringing real science to many students and teachers in the U.S. and abroad, and I wanted to commend NASA's work with JASON as a model for public/private partnerships and educational leadership.

Mr. BOND. The committee is aware of NASA's partnership with JASON and we encourage NASA to continue and to expand this work during the next fiscal year.

HOUSING FOR THE MENTALLY ILL

Mr. DOMENICI. Mr. President, I would like to raise the issue of housing for the mentally ill as the Senate discusses this important VA–HUD–Independent Agencies Appropriations bill.

I have worked for many years to focus attention on the serious diseases that are mental illnesses. These are devastating diseases that can leave a person significantly disabled and in need of a variety of services, including affordable housing.

Mr. President, I recently met with representatives of a non-profit organization, Cornerstone, Inc., that has provided capital funding to construct quality housing for the seriously and chronically mentally ill who reside in the District of Columbia. This program began in 1994 when Congress directed that $5 million of funding previously for St. Elizabeth's Hospital be allocated for community-based housing. With $3 million of this funding, Cornerstone has leveraged other resources to a total of $15 million that has been used to construct over 300 units of housing for those with mental illness.

Cornerstone is now into its final year of funding under the original program. Continuation of this program with another $5 million in capital funding would enable over 350 patients currently residing at St. Elizabeth's to be housed in affordable housing at significant savings over continued residence at the Hospital. Housing supported by Cornerstone, Inc., costs less than $40,000 per unit compared to an estimated cost of $100,000 per patient at St. Elizabeth's Hospital. This is the type of public-private partnership that can do so much to help our communities.

Would the Chairman agree that it would be worthwhile for the Secretary of Housing and Urban Development to consider a proposal for continued funding of the Cornerstone, Inc. affordable housing program for the seriously and chronically mentally ill as the Department distributes its 1999 funding?

Mr. BOND. I understand the concern of the distinguished Senator from New Mexico in providing sufficient housing for the mentally ill. I know that here in the District of Columbia the supply of supportive housing is of ongoing concern. I would concur with my colleague from New Mexico that the Secretary of Housing and Urban Development should consider a proposal from Cornerstone, Inc., to continue constructing affordable housing for the seriously and chronically mentally ill in the District of Columbia.

Mr. DOMENICI. I thank the distinguished Chairman for his consideration of this important matter. I join him in urging the Secretary of Housing and Urban Development to work with Cornerstone, Inc., on the continuation of an affordable housing program for the mentally ill in the Nation's Capital.

Mr. LUGAR. Mr. President, Senator COATS and I have shared with you this year our strong support for $2 million through the HUD Economic Development Initiative Account for the Midwest Proton Radiation Institute (MPRI). The MPRI is an important economic development and cancer treatment initiative at Indiana University, Bloomington, Indiana. This is an important effort for the University, the City of Bloomington, and the State of Indiana. Funding for this project was not included as one of the 87 projects listed for this account in S. Rept. 105–216. The MPRI project—like several science-related projects slated to receive funding as listed in S. Rept. 105–216—is beneficial from an economic development perspective as well as in the area of health sciences research and cancer treatment. This is our only project request from the VA–HUD Subcommittee this year. As you move forward with consideration of the final VA–HUD Appropriations bill, I hope you will give consideration to including funds for this valuable and worthwhile economic development project of importance to my State.

Mr. BOND. I appreciate the Senator's strong interest in the Midwest Proton Radiation Institute. I believe this project will create economic growth in Indiana and contribute to improving our Nation's cancer treatment activities. As we move to conference with the House on S. 2168, we will give this project every consideration for funding.

Mr. LUGAR. I thank the Chairman, for his comments and for his interest in this project.

Mr. COATS. Of the $85 million set aside for the EDI account in S. 2168—as stated in S. Rept. 105–216—only $67 million earmarked for individual projects in 40 states. It appears funding is available for additional projects within the appropriated spending provided in the bill. I believe the Midwest Proton Radiation Institute is an important effort that will be of great benefit to the city of Bloomington and to Indiana University. In addition, Senator LUGAR and I believe the MPRI is a worthwhile and appropriate project for funding under community development programs at the Department of Housing and Urban Development. I join with Senator LUGAR in requesting your assistance and consideration for funding for this important project as you move to conference with the House on the FY '99 VA–HUD Appropriations bill.

Mr. BOND. Yes, I share the Senator's view that the MPRI project is a meritorious one that should receive serious consideration for funding by HUD in FY 1999. I am pleased to know of your support for this MPRI initiative, and that you join with Sen. LUGAR in seeking funds for this effort.

Mr. COATS. I thank the Chairman.

SMALL SYSTEM TECHNICAL ASSISTANCE AND THE SAFE DRINKING WATER ACT

Mr. CHAFEE. Mr. President, page 67 of the committee report accompanying the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations bill of 1999 includes $8 million for the National Rural Water Association. In addition to the appropriation to the National Rural Water Association, the Committee notes that "States are authorized to set aside 2 percent of the funds provided under their drinking water State revolving fund allotment."

I ask my friend from Missouri if he and other members of the Appropriations Committee are implying that the 2 percent set aside authorized in Section 1452(g)(2) of the Safe Drinking Water Act Amendments of 1996 is to be used for grants made to the National Rural Water Association and various regional community action organizations?

Mr. BOND. Mr. President, I am not making such an argument. It was not the Committee's intention to imply, encourage or require States to use the 2 percent set aside authorized in Section 1452(g)(2) for the so called "circuit rider" program. The Committee is aware that Section 1452(g)(2) gives States the discretion to use up to 2 percent of their allotted revolving loan funds to provide technical assistance to small public water systems. The language was included in recognition of the fact that States have the ability to increase funding in this area above the $8 million provided directly in this bill at their discretion.

Mr. CHAFEE. Mr. President, I thank the chairman of the Subcommittee on VA, HUD and Independent Agencies for clarifying the report.

ENHANCED VOUCHERS

Mr. MACK. Mr. President, in the last two appropriations acts, the Congress provided enhanced section 8 tenant-based subsidies to low-income residents of certain multifamily housing properties whose owners have elected to prepay their FHA-insured mortgages. These enhanced vouchers were provided to protect residents from displacement from their homes. I understand, however, that the Department of Housing and Urban Development (HUD) has interpreted the appropriations language so that previously assisted residents would pay an amount based on the same amount of rent on the date of prepayment regardless of a change in their adjusted income. In other words, HUD would require previously assisted residents to no longer base their rent contribution as a percentage of income. This policy interpretation will likely force a section 8 assisted resident to pay a higher percentage of their income in rent if their income decreased and potentially result in displacement.

Mr. President, HUD's interpretation seems contrary to the intent of the appropriations language and the statutory requirements under section 8 or other rental assistance programs. I would like to ask the Chairman of the VA, HUD Appropriations Subcommittee if HUD has correctly interpreted the intent of the appropriations language.

Mr. BOND. I appreciate the Senator's attention to this issue. HUD has incorrectly interpreted the enhanced voucher language. Previously assisted residents who receive enhanced vouchers should be paying the same percentage of income for rent as they had before they had received the enhanced voucher. This means that if a resident's income decreases, their rental contribution should also decrease. The purpose of providing enhanced vouchers to previously assisted residents was to ensure that these residents would be protected from displacement or unaffordable rent increases.

I would also like to state that I expect HUD to administer the enhanced voucher program in a manner that will ensure a smooth transition for residents in prepayment developments. I have heard of some administrative problems with the enhanced voucher program that has created undue and unnecessary hardship for the residents. I would like to reemphasize that the transition should be administered so that residents are able to continue their tenancy with as little disturbance as possible.

Mr. MACK. I appreciate the Senator's response and his leadership in protecting low-income families.

EXCEPTION RENTS FOR RURAL AREAS

Mr. HARKIN. Mr. President, under last year's VA/HUD appropriations act, the Congress created a program called "mark-to-market" to reduce overmarket section 8 contract rents on FHA-insured multifamily properties. Section 514(g)(2)(A) of the mark-to-market program would authorize the Secretary of Housing and Urban Development (HUD) to allow for exception rents over the 120 percent of fair market rent (FMR) limit for up to five percent of the restructured units in a year. There is some confusion, however, if this five percent waiver is a national limit or a geographical limit. I am concerned that certain areas, such as the upper Midwest, the need for waivers may exceed five percent because of the proportion of elderly facilities and the way FMRs compare to the relative costs of operating those facilities in certain areas as well as the random circumstances that may occur in certain geographical areas in a given year.

I would like to ask the Chairmen of the HUD authorizing and appropriations subcommittees for their clarification on the congressional intent of this issue.

Mr. MACK. I thank my colleague from Iowa for raising this issue. The five percent waiver is a national limit, and the Secretary should exercise his authority in waiving this limitation for areas such as the upper Midwest.

Mr. BOND. I also thank my colleague from Iowa for raising this issue. I concur with the Chairman of the Housing Subcommittee that the five percent waiver is a national limit. This provision was included in mark-to-market to ensure that properties, especially those that serve elderly persons in rural areas, are not adversely affected by the debt refinancing and rent reduction process.

Mr. HARKIN. I thank the two Senators for their assistance in this matter and for their work on housing issues.

Mr. MACK. Mr. President, the "mark-to-market" program that was enacted last year in the VA/HUD appropriations act was expected to be implemented by late October of this year. While I applaud the efforts of the Secretary of Housing and Urban Development (HUD) in preparing the implementation of the law, I am still concerned about its progress and ability to meet the October deadline.

I am concerned about the President's failure after 9 months to nominate a Director of the Office of Multifamily Housing Assisted Restructuring and that interim regulations have not yet been published. I, however, would like to focus on the fact that HUD has not begun the process for selecting participating administrative entities (PAE). Without them, the program will not work. In the original mark-to-market legislation that passed the Senate as part of the Balanced Budget Act of 1997, State and local housing finance agencies (HFA) that had qualified under the mark-to-market demonstration and FHA risk-sharing programs would automatically qualify as PAEs. The Banking Committee felt strongly that HFAs not only were the best entities to administer mark-to-market, but it also had concerns about HUD's ability to select qualified entities in a timely and objective manner.

Mr. BOND. I thank Senator MACK for raising these concerns. I completely agree that it is critical that the PAEs be in place by October if the program is to be able to operate at that time. I also add that the consequences of not implementing mark-to-market in a timely manner are serious and could create havoc with contract expirations and renewals. Even if the program is only delayed, HUD may have to extend the contracts at above market levels to provide the PAEs adequate time to restructure the properties. This will result in additional costs to the government and result in shortfalls in the appropriation for renewals. Further, the uncertainty surrounding the rules and regulations of the program will make it difficult for project owners and residents to prepare for mark-to-market.

Mr. President, based on the Administration's less-than-adequate performance in selecting restructuring agents under the mark-to-market demonstration programs, I would say that the concerns expressed by the Chairman of the Housing Subcommittee are valid.

Mr. MACK. I thank the Chairman of the VA/HUD Appropriations Subcommittee for his response and shared concerns. I would like to stress that the credibility of HUD is directly linked to its successful implementation of the mark-to-market program. It is imperative that the Department not only ensures that the program is implemented in time and in compliance with the letter and spirit of the law, but it also ensures a smooth transition. I believe that the legislation provides the Secretary with sufficient flexibility in selecting PAEs and would highly recommend that the Secretary use its current restructuring agents to continue as PAEs under the permanent program, especially if the program is to be implemented in time. As I have advocated before, I would specifically recommend the use of State and local HFAs as PAEs.

HFAs have proven that they have the capacity and willingness to serve as the Federal Government's partners in affordable housing. Thirty HFAs have been qualified by HUD to participate under the mark-to-market demonstration program. Twenty-eight HFAs are participating in the FHA risk-sharing program. Almost every State HFA has administered the successful Low Income Housing Tax Credit program since the Congress created it in 1986. HFAs have financed more than 200,000 section 8 units and administer section 8 contracts on behalf of HUD in many cases. Thirty-four HFAs administer the HOME program, under which multifamily properties are being financed every year.

It is clear from this evidence that the HFAs are the most qualified to act as PAEs under the mark-to-market program and more importantly, they are publicly accountable and have missions that are aligned with HUD. I expect HUD to approve many HFAs as PAEs and provide them as much flexibility as possible within appropriate parameters to administer the program.

Mr. BOND. Based on their demonstrated performance as the Senator from Florida has pointed out and my own knowledge of the Missouri Housing Finance Agency, I would also expect HUD to approve many HFAs as PAEs. I also agree that HUD should not require the HFAs that act as PAEs to go through any unnecessary administrative steps in restructuring properties. I would especially be concerned if HUD created impediments in the HFAs ability to provide financing, such as risk-sharing, for restructuring transactions.

OWNERS' RIGHT TO PREPAY FHA MORTGAGES

Mr. MACK. Mr. President, I understand that the Manager's Amendment to the VA/HUD Appropriations Bill contains an important provision that allows owners to prepay its FHA-insured multifamily housing mortgage. This provision would continue current policy.

I would like to ask Senator BOND, the Chairman of the VA, HUD Appropriations Subcommittee, if he could confirm this.

Mr. BOND. I thank the Chairman of the Housing Subcommittee for raising this issue. The Senator is correct that the Manager's Amendment contains language regarding the owner's right to prepay its mortgage and continues current housing policy that has been in effect for the past three years. This policy change was originally made in past appropriations legislation.

Under the appropriations legislation and this year's legislation, the Congress restored the owner's right to prepay its mortgage under the Low Income Housing Preservation and Resident Homeownership Act of 1990 (LIHPRHA). However, as a condition of prepayment, some resident protections were included in the appropriations law to prevent hardship for affected residents. Specifically, upon prepayment, an owner could not raise rents for 60 days and eligible residents were provided enhanced or "sticky" vouchers so that they could choose to remain in their homes at an affordable rent. The provision of sticky vouchers were provided in lieu of the resident protections under LIHPRHA. In other words, the provision of sticky vouchers and the prevention of raising rents for 60 days permanently replaces the LIHPRHA resident protections that included (1) providing relocation benefits, (2) keeping rents at levels existing at the time of prepayment for three years, and (3) requiring owners to accept voucher holders.

Mr. MACK. I thank my colleague for his assistance.

Mr. ROCKEFELLER. Mr. President, as the ranking member of the Committee on Veterans' Affairs, I am pleased to offer my support for S. 2168, the FY 1999 Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies appropriation bill, and most particularly for Title I, the section outlining funding for VA.

Once again, the chair of the VA-HUD Subcommittee, Senator BOND, the ranking member, Senator MIKULSKI, and the other members of the Subcommittee, have taken a reduced allocation and tremendous limitations on funding, and have miraculously created a bill which adequately addresses the needs of America's veterans. While I would always want to increase support for veterans programs further, I am enormously pleased with the result of their efforts. I would like to highlight several accomplishments in particular.

On the health care side of the ledger, the Committee on Appropriations recommended $17.25 billion for VA medical care, a substantial increase of $222 million over the President's request and $192 million above the FY 1998 level. When these funds—$17.25 billion—are coupled with receipts collected under the Medical Care Cost Fund, the Veterans Health Administration will have access to $17.92 billion in discretionary resources to care for sick and disabled veterans.

I am also particularly gratified by the Committee's report language on the need for community-based outpatient clinics (CBOCs) in the Eastern Panhandle of my home state of West Virginia. Indeed, the Committee noted that clinics in Petersburg and Franklin will benefit approximately 2,000 veterans who have been forced to drive long distances and spend the entire day at VA medical center for routine health care. I am hopeful that VA will begin providing needed health care services by the end of this year, if not sooner.

I must also mention the extraordinary work done by the Committee to appropriate substantial funds for the VA medical and prosthetic research account. For the first time in many years, the Administration had proposed funding this account at the level of $300 million. Although this amount represents an increase compared to last year, unfortunately, this level of funding is not sufficient even to keep up with inflation, much less provide for any real growth.

For many years, the VA research program has suffered from flatline funding that has hampered its ability to improve the quality of care provided to veterans, attract well-trained physicians, and advance medical treatments that can benefit the nation as a whole. In light of this, the Committee has gone beyond the $300 million mark and allocated an additional $10 million. These additional funds will produce research discoveries which will benefit veterans and non-veterans alike.

The bill before us also includes a substantial increase for grants for construction of state extended care facilities. The Committee recognized the important role State Veterans Homes play in providing domiciliary and nursing home care to veterans and chose to recommend $90 million for this program. This recommendation is $10 million more than the fiscal year 1998 funding.

The Committee also included report language which emphasizes the need for VA to ensure funding for grants and per diem payment assistance to community-based providers of services to homeless veterans. In the past three years, VA has closed approximately 4,500 acute mental health and substance abuse beds. At the same time, the number of unique patients receiving outpatient mental health and substance abuse treatment has increased by 8 percent. There is no question that outpatient based treatment for homeless veterans with mental illnesses and substance abuse disorders can be effective, but such treatment must be coupled with safe, supervised transitional housing programs. VA grant programs help to fill the void caused by the closure of inpatient services.

On the benefits side, I was very pleased to see that the Committee included an increase of $5 million for the Veterans Benefits Administration and tied the release of these funds to submission of a plan implementing the recommendations of the National Academy of Public Administration. VA continues to struggle to correctly adjudicate veterans' benefits claims in a timely manner, and faces a backlog of pending cases and an increase in new claims being filed. Additional funding, spent in a targeted manner, should greatly improve VA's decisionmaking ability.

The Committee has also recommended a $2.2 million increase in funds allocated for the Office of the General Counsel (OGC), Professional Group VII, which represents the Secretary before the U.S. Court of Veterans Appeals. There is a growing backlog of cases at the Court created by the loss of experienced attorneys and increased productivity of the Board of Veterans' Appeals (BVA). Our veterans should not have to wait additional time for a decision because the OGC does not have the staff to litigate their cases.

Mr. President, in closing, I am pleased with what the Committee on Appropriations has been able to do for VA. I applaud the leadership of all the members of the Appropriations Committee, and especially those members on the VA-HUD Subcommittee.

AMENDMENT NO. 3057

Mr. CHAFEE. Mr. President, I would like to thank Senators BOND and MIKULSKI for including a provision in the manager's amendment that makes it explicit that State Clean Water State Revolving Loan Fund programs may continue the practice of collecting a loan service fee to help cover the cost of administering the loans and managing the revolving loan fund.

Mr. President, there are approximately fourteen States that charge a loan administration fee to revolving loan fund borrowers to cover some of the costs associated with the loan transaction. As a service to the borrower, most of the States roll this fee into the loan so that it is repaid with interest over the duration of the loan. This is a tremendous help to the borrower, who is often unable to pay the fee upfront. The Environmental Protection Agency (EPA) has recently objected to this practice despite the fact that it has been used since the inception of the revolving loan fund. EPA contends that this practice violates the four percent limitation on administrative fees in Title VI of the Clean Water Act.

The language included in the manager's amendment will resolve this problem by allowing States to charge administrative fees regardless of whether they exceed the four percent limitation. To ensure that this practice is not abused, the fees cannot exceed an amount the Administrator of EPA deems reasonable.

Mr. President, without this amendment many of the Clean Water State Revolving Loan Fund programs would face severe financial hardship that would be detrimental to the health of the revolving loan fund program.

Once again, I would like to thank Senators BOND and MIKULSKI for including this very important amendment in their manager's package.

FEMA

Mr. LEAHY. Mr. President, I have a great appreciation for the fine work Senator MIKULSKI and Senator BOND have put into crafting this difficult bill. The VA, HUD and Independent Agencies Appropriations bill in particular deals with many tough issues and competing demands. One of the smaller agencies which I would like to bring attention to today is the Federal Emergency Management Agency (FEMA).

Just a few weeks ago FEMA invited Lamoille County in Vermont to become a part of Project Impact, FEMA's pre-disaster mitigation program. This is a program that is partnering with communities, and the private sector, to make communities more resistant to natural disaster.

The importance of this kind of predisaster planning was driven home this past weekend as Lamoille, along with Addison, Chittenden, Franklin, Orange, Rutland, Washington, and Windsor Counties in Vermont were again devastated by severe storms and flooding. On June 30th, the President declared these areas in Vermont a major disaster. I toured the area with FEMA officials last week and, thanks to the hard work and spirit of the people of Vermont, the local public safety forces and FEMA, those communities are beginning to recover. Project Impact could help counties like Lamoille take steps to reduce the costs and public health risks of these kinds of disasters in the future.

FEMA Director, James Lee Witt is a friend to just about every member of the Senate. He and his staff, both here and in the regional offices, have been there for our states through all manner of natural disasters. To maintain FEMA's capability to respond so quickly to the needs of our states, I believe Congress should support the levels of funding for FEMA recommended in the President's budget. Again, I congratulate Senator BOND and Senator MIKULSKI for their fine work and know they share my support for FEMA and the work it does.

ENVIRONMENTAL SELF-EVALUATIONS

Mr. ALLARD. Mr. President I was prepared to offer an amendment to the VA/HUD Appropriations bill that would have taken away EPA's authority to withdraw Colorado's delegated environmental programs. EPA has been threatening Colorado's authorization to administer delegated programs because of an environmental self-evaluation law the State passed in 1994. As many listening know, self-evaluation laws allow companies, individuals, and local governments to go above and beyond what is required in seeking out environmental problems under their jurisdiction. In return the entity who performed the audit is protected from fines. Colorado's law makes good sense, in fact in the short time it has been in existence those who have availed themselves of it have found and corrected many environmental problems that otherwise would have gone undetected.

However, last February I became aware that EPA may not have been taking the State of Colorado seriously with respect to negotiations on the self-evaluation law. At that time I stated my intention to object to an EPA nominee. Subsequently, I dropped my objection to their nominee after speaking with Assistant Administrator Herman about my concerns. He agreed to do his best to ensure that negotiations occurred in good faith and that they were inclusive of Colorado's elected officials who had an interest in the manner. Over the past several weeks I became concerned that EPA had not followed through on this commitment.

I was particularly distressed at the prospect that EPA had promised me they would take an action and then turned around and ignored their promise. Earlier today Assistant Administrator Herman called me and assured me that he had been faithful with respect to the previous agreement we had made. However, he agreed to redouble his efforts in negotiating an agreement to the audit issue in Colorado that has broad based support because of broad based involvement among policy makers and other local officials.

While my inclination is still to offer my amendment, I am willing to forego it in this instance. However, should I find that EPA is attempting to exclude people from negotiations on Colorado's environmental audit law I will revisit this issue soon.

VETERANS' TOBACCO-RELATED ILLNESSES AND DISABILITY

Mr. MCCAIN. Mr. President, I had every intention to offer an amendment to the Veterans' Affairs/Housing and Urban Development Appropriations bill that would restore the $10.5 billion in funding that was so egregiously and eagerly taken from our nation's veterans to fund pork-laden highway programs in the Intermodal Surface Transportation Efficiency Act of 1998 (ISTEA). Unfortunately, there was simply no possibility that this amendment would be adopted, simply because of the inflexibility of the Appropriations Committee's allocation of funds between the Transportation and VA/HUD Subcommittees.

Because of the arcane rules of the Senate, I and my cosponsors are precluded from righting this profound wrong that has been perpetrated against those who have served and sacrificed for our country.

This amendment would not have been my first attempt to rectify this shameful treatment of our Veterans. On the tobacco bill, I sponsored legislation that would provide not less than $600 million per year to the Department of Veterans Affairs for veterans' health care activities for tobacco-related illnesses and disability and directed the Secretary of Veterans Affairs to assist such veterans as is appropriate. The amendment would have provided a minimum of $3 billion over five years for those veterans that are afflicted with tobacco-related illnesses and disability. Additionally, the amendment would have provided smoking cessation care to veterans from various programs established under the tobacco bill. Unfortunately, when the tobacco bill was returned to the Commerce, Science, and Transportation Committee, the funding vehicle for those afflicted veterans suffering from smoking-related illnesses, went with it.

The failure to address the tobacco-related health care needs of our men and women who faithfully served their country in uniform would be wrong. Congress cannot continue to rob from veterans, whose programs have been seriously underfunded for years, to pay for special interest projects.

Mr. President, I want to assure my colleagues, and more importantly, our veterans, that this issue is far from dead. I am even more compelled and committed to find a vehicle to restore the critical funding that was so selfishly taken by members of this body.

Mr. President, our veterans—those who served and sacrificed, those who trusted, and in this case were betrayed by their government—deserve no less.

AMENDMENT NO. 3063

(Purpose: To amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage)

Mr. DASCHLE. Mr. President, I have an amendment and I send it to the desk.

The PRESIDING OFFICER. The clerk will report.

Mr. DASCHLE. Mr. President, I know there is an understanding that we will go to the veterans amendment at some point, and I would be happy to lay aside this amendment to accommodate Senator MCCAIN and others who may wish to offer their amendment, with the understanding that we might have a vote on both amendments at some point in the future. But I wanted to lay this amendment down, and I will be brief because I know the distinguished Senator from New Mexico also wishes to speak.

The PRESIDING OFFICER. If the leader will withhold, the clerk needs to report.

The assistant legislative clerk read as follows:

> The Senator from South Dakota [Mr. DASCHLE] proposes an amendment numbered 3063.

Mr. DASCHLE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is printed in today's RECORD under "Amendments Submitted."

Mr. DASCHLE. Mr. President, the issue of patient protection is among the most important health questions facing the American people today. In survey after survey, the American people have said without equivocation that they want Congress to deal with this issue. More and more, from places all over the country, we hear reports about victims of our current system and cries for reform. The need to address this issue, this year, has become more and more pronounced.

For many months, we have worked in concert with the White House and with our House colleagues to come up with a way to comprehensively respond to the growing array of concerns and problems that people from all over the country have raised as they talk about the current situation we face with regard to health insurance and HMOs.

After a great deal of attention, study, thoughtful analysis, and working with over 100 organizations from all philosophical and political persuasions, we have introduced legislation that provides a number of very basic patient protections: providing access to needed specialists including pediatric specialists for children; ensuring access to an independent appeal board when insurance companies deny care and requiring timely resolution of those appeals; guaranteeing access to the closest emergency room so that people don't have to waste precious time as they drive miles to save their insurance company a few dollars; allowing patients to see the same doctor through a pregnancy or a difficult treatment even if their doctor stops participating in an HMO; allowing women direct access to their ob/gyn without asking their insurance company for permission; preventing drive-through mastectomies and other inappropriate insurance company interference with good medical practice; and holding HMOs accountable when their decisions to deny or delay health care result in injury or death.

These provisions, and a number of others that I will not list now, were very carefully thought through before we incorporated them in this patient protection bill. I do not know of another piece of legislation that has higher priority. I do not know of another piece of legislation that deserves the attention of the Senate more than this one.

Every day we fail to act on basic patient protections, the list of families who suffer continues to grow. We have fewer than 10 weeks remaining before the end of the session. We have yet to spend 1 day talking about the Patients' Bill of Rights, debating patient protections, and dealing with this issue in a comprehensive way. My hope is that we can work through this amendment and come up with a way in which to address this issue on this bill.

I also would like very much to be able to schedule debate and a vote on this legislation. To date, we have not been able to do that. So I offer this amendment in good faith and hope that we can finally come to closure on what I consider to be the single most important piece of health legislation facing the Congress and our country today.

I yield the floor.

Mr. BOND addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, I regret that the minority leader has chosen to add a totally new subject to this debate. I know there have been discussions at the leadership level about scheduling debate on it.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. BOND. Objection.

The PRESIDING OFFICER. Objection is heard.

The assistant legislative clerk continued with the call of the roll.

Mr. BOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. INHOFE). Without objection, it is so ordered.

AMENDMENT NO. 3062

The PRESIDING OFFICER. The pending question is the Bumpers amendment No. 3062.

Mr. BUMPERS. Mr. President, I yield myself 3 minutes.

I assume most everybody in this Senate now understands that we are debating an amendment that would terminate the space station, save $80 billion over the next 15 years, and this year alone put $1 billion in veterans medicine, $450 million into low-rent housing.

I hate to call a program that has been successful in most ways, almost comical, but there is no way to describe what is going on with the space station right now any other way. We have been told from the beginning it would cost $17.4 billion to build the station on Earth. There are three stages: No. 1, you have to build it; No. 2, you have to put it in space; No. 3, you have to operate it for 10 years.

What are we looking at? We are looking at a $100 billion cost today. Since last October 1, since last October 1, the Chabrow Commission, appointed by Daniel Goldin, the administrator of NASA, Jay Chabrow, probably the best space policy analyst in America, comes back and says the first part is not going to cost $17.4 billion; NASA is going to take 10 to 38 months longer than they told you, and it will cost $24.7 billion. That is $7.3 billion—a 43-percent cost overrun and we haven't even finished building it yet.

If you think that is a cost overrun, wait until the Russians start reneging. Jay Chabrow says you will not have this thing finished in early 2003. You will be lucky to have it finished early 2006. So when the Russians start reneging on their part of it, we have about 80 launches to deploy this thing, and the Russians are going to be responsible for about 40 of them, between 40 and 49. Who here believes that a country who can't even pay the electric bill at their principal cosmodrome is going to come through on their commitment with that many flights? Every time they renege it will cost us close to $1 billion.

I asked my colleagues this afternoon, and I repeat the challenge, I have talked endlessly about the cost overruns we are experiencing and the ones we are going to experience, and according to the way we have debated this thing this afternoon, those cost overruns are like Ross Perot's crazy aunt in the basement; we ignore it. I can tell you that crazy aunt in the basement will have a lot of company unless we kill this program now.

You can save $80 billion. We have yet to spend $80 billion. If the cost overruns are anything even close to what they are looking at now, what Jay Chabrow says is a distinct possibility, you are talking about $100 billion to $150 billion, and every research scientist in America says it is of highly questionable value. As a matter of fact, virtually every one of them are adamantly opposed to it.

I reserve the balance of my time.

Mr. BOND. I yield 2 minutes to the distinguished Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. I want to thank Senator BOND very much for allowing me to be in the summation. Because of a family emergency I just arrived.

Mr. President, I do admire the tenacity of the Senator from Arkansas, for he has tried 15 straight times to submarine the space station, in a mixed metaphor. But I do think the Senator is wrong.

I think the Senate will rise above his arguments, which would have the world's greatest superpower saying to all of the other nations that have put their money into this project, we are going to walk away from an experimental project, 90 percent complete. This project is succeeding. What we are going to be able to do has already begun to be tested in the early stages, and that is use microgravity conditions to grow tissue, which you can't do on Earth. You can't simulate this procedure on Earth. It means we will be able to take defective tissues, without harming the patient, and experimenting without harming the patient. It is biomedical research. We have partners—the United States, Canada, Italy, Belgium, Netherlands, Denmark, Norway, Spain, France, Germany, the UK, Japan, and Russia—in this project. Yes, the Russians are having trouble. We know that. Does that mean we will walk away from all of our other international partners? The United States has been the leader in technical advances. It is why we have been able to get all of the benefits that we have seen from space research, because we have been willing to take the risk. Experiments are not precise. You make mistakes when you are the first one out there.

You can't draw the budget for the first time and say you have to stay within this budget. Yes, it may take a couple more years. But if we can find a cure for ovarian cancer, for breast cancer, for osteoporosis, then I think a couple of years or 3 years working this out together, perhaps getting new partners, which is what we ought to be doing, instead of saying let's walk away, 90 percent into a project, with all of the other countries that have depended on us.

We are the world's greatest superpower. We are not going to walk away from our partnership. We are not going to walk away from the leadership, at least that is not the country I represent. Most certainly, I don't think the Senate would do something so narrow.

Mr. BUMPERS. The Senator from Texas just alluded to curing breast cancer and curing several other diseases. You could fund the National Institutes of Health God knows how many times for what this thing will cost. You are not going to cure anything with this. That is the reason America's physicists, cell biologists, and medical scientists are all opposed to it.

You know what this space station is going to cost per man-hour of research?—$11.5 million per hour. Can you imagine us, with our eyes wide open, saying we are going to build a space station for research purposes that will cost $11.5 million an hour. It is the height of irresponsibility.

The American people have a right to expect us to be fiscally responsible. I want to ask my colleagues in closing, how far are you willing to go? What is the threshold beyond which you are not willing to go? We have gone from $8 billion to $100 billion for the space station and we are headed for $150 to $200 billion. We kill the Super Collider, we kill the Clinch River Breeder, and who here misses them? We save America billions of dollars. You have a chance to save $80 billion right now and help veterans, help veterans and help people who are desperately needing low-rent housing.

I plead with my opponents to support this amendment.

Mr. BOND. Mr. President, I yield the remaining time on this side to the distinguished Senator from Ohio.

Mr. GLENN. Mr. President, how much time remains?

The PRESIDING OFFICER. There are 2 minutes 48 seconds remaining.

Mr. GLENN. Mr. President, we have addressed costs here. This $96 billion is a fictitious figure; $40 billion of that, by NASA estimates, includes shuttle costs that are going to go on anyway. Besides all those big figures taken into a 15-year account here, what we are talking about in this bill is for fiscal 1999? We are talking about $2.3 billion versus $2.1 billion for last year, not a huge increase.

Now, there are always going to be competing needs for every bit of research. If we ever tried to solve all problems and to do everything we wanted to do before we made research, we would never have moved off the east coast. Basic research is a way of life, fundamental. This is a new laboratory we are working on. It is our experience that dollars spent on research seem to have a way of paying off in the future beyond anything we ever foresee at the outset. That has been the history of this country. We have gotten to the place now where much of the space program is increasingly going commercial.

On the flight we will be on, STS-95, we will have three specific projects. We will have basic research, besides what we are talking about, in the physical sciences, in the bio area. We will have the Spartan spacecraft making the measurements of the Sun and solar winds. We will have research on aging, with which I will be involved. We will have ultraviolet measurements that will be probably the most accurate ever made in space. These things cannot be done except in zero-G, not on the ground.

We are talking about payoffs in commercial areas with three different projects on STS-95. We are almost there. The figure was quoted a moment ago that 90 percent of our hardware has been built. I think 75 percent of the milestones have already been passed. The first elements are due to be launched later this year. I think the Russians are due to launch the first node, module, on November 20, and we are scheduled to launch the first United States one on December 3.

It is a 16-nation commitment that we have. Certainly, it is better to be working peacefully together than to be thinking about war, which we were a few years ago. It is the biggest, most incredible scientific engineering experiment ever tried internationally. I think there can be incredible scientific possibilities and results from this, not only in medicine, but learning about our world and our solar system, inspiring our young people to explore and to learn. The benefits are not out there in space. The benefits are for us right here on Earth. That is the important part of this whole thing. The Chabrow report said this. Although costs in scheduled growth have occurred, the magnitude of such growth has not been unusual, even when compared with other developmental programs of lesser complexity.

The PRESIDING OFFICER. The question occurs on amendment No. 3062 offered by the Senator from Arkansas.

Mr. BOND. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Hawaii (Mr. INOUYE) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 33, nays 66, as follows:

[Rollcall Vote No. 185 Leg.]

YEAS—33

Abraham
Ashcroft
Baucus
Bryan
Bumpers
Byrd
Chafee
Coats
Collins
Conrad
Daschle
Dorgan

Durbin
Feingold
Harkin
Hollings
Hutchinson
Jeffords
Johnson
Kennedy
Kohl
Lautenberg
Leahy
Levin
Lugar
Moynihan
Reed
Snowe
Specter
Thomas
Warner
Wellstone
Wyden

NAYS—66

Akaka
Allard
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Burns
Campbell
Cleland
Cochran
Coverdell
Craig
D'Amato
DeWine
Dodd
Domenici
Enzi
Faircloth
Feinstein
Ford
Frist
Glenn
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Hagel
Hatch
Helms
Hutchison
Inhofe
Kempthorne
Kerrey
Kerry
Kyl
Landrieu
Lieberman
Lott
Mack
McCain
McConnell
Mikulski
Moseley-Braun
Murkowski
Murray
Nickles
Reid
Robb
Roberts
Rockefeller
Roth
Santorum
Sarbanes
Sessions
Shelby
Smith (NH)
Smith (OR)
Stevens
Thompson
Thurmond
Torricelli

NOT VOTING—1

Inouye

The amendment (No. 3062) was rejected.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. LOTT. Mr. President, for the information of all Senators, this vote in relation to the space station was the last vote of the evening. Wednesday, the Senate will consider the IRS conference report. I expect a considerable amount of time for debate to occur with respect to this IRS reform and restructure bill. A lot of Senators put a lot of time into it. There are some important provisions I know they will want to emphasize. Therefore, a late afternoon or early evening vote can be expected to occur with respect to the IRS reform legislation.

WELCOME BACK, SENATOR SPECTER

Mr. LOTT. Also, at this point I would like to welcome back our colleague, the senior Senator from Pennsylvania, Mr. SPECTER, who is recently back from surgery, and he just made this vote this afternoon.

(Applause, Senators rising.)

Mr. LOTT. I am sure he was watching that on TV essentially, but he did make this vote, and we are glad to have him back.

PRODUCT LIABILITY REFORM ACT OF 1997—MOTION TO PROCEED

The Senate continued with the consideration of the motion.

Mr. LOTT. Mr. President, I know of no further requests for time on the pending motion to proceed to the product liability bill.

Mr. DASCHLE. Mr. President, could we have order?

The PRESIDING OFFICER. The Senate will come to order. Senators will take their conversations outside.

Mr. LOTT. I believe the question is on the motion?

The PRESIDING OFFICER. That is the regular order.

Is there further debate on the motion?

The motion was agreed to.

PRODUCT LIABILITY REFORM ACT OF 1997

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 648) to establish legal standards and procedures for product liability litigation, and for other purposes.

The Senate proceeded to consider the bill.

AMENDMENT NO. 3064

Mr. LOTT. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Mississippi [Mr. LOTT] proposes an amendment 3064.

Mr. LOTT. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is printed in today's RECORD under "Amendments Submitted."

CLOTURE MOTION

Mr. LOTT. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the pending amendment to Calendar No. 90, S. 648, the Product Liability Reform Act of 1997:

Mr. LOTT. Mr. President, this is the cloture motion on the substitute product liability bill, and so for the information of all Senators, this vote will occur on Thursday of this week. I will consult with the Democratic leader as to exactly what time that will be.

And I now ask that the mandatory quorum under rule XXII be waived.

Mr. BYRD. Mr. President, reserving the right to object, and I do not intend to object, may we have a reading of those Members who signed the cloture motion.

The PRESIDING OFFICER. The clerk will continue to read.

The legislative clerk continued the reading of the cloture motion.

Senators Trent Lott, Don Nickles, Slade Gorton, Phil Gramm, John McCain, Spencer Abraham, Dan Coats, Dick Lugar, Lauch Faircloth, John Chafee, Sam Brownback, Ted Stevens, Jon Kyl, Jeff Sessions, Mike Enzi, and Judd Gregg.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. As a reminder, then, to all Senators, under the provisions of rule XXII, all first-degree amendments must be filed by 1 p.m. on Wednesday, and all second-degree amendments must be filed 1 hour prior to the cloture vote.

INTERNAL REVENUE SERVICE RESTRUCTURING AND REFORM ACT OF 1998—CONFERENCE REPORT

Mr. LOTT. I now move to proceed to the conference report to accompany H.R. 2676, the IRS reform bill.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill, H.R. 2676, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The Senate proceeded to consider the conference report.

(The conference report is printed in the House proceedings of the RECORD of June 24, 1998.)

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The minority leader is recognized.

Mr. DASCHLE. Mr. President, my reaction is, here we go again. Yet another piece of legislation laid down without any opportunity——

Mr. FORD. Mr. President, may we have order? I make a point of order the Senate is not in order.

The PRESIDING OFFICER. The Senate will come to order. The minority leader has the right to be heard. The Senate will come to order.

The minority leader.

Mr. DASCHLE. I thank the distinguished Senator from Kentucky.

Mr. President, I am very disappointed with the action just taken by my good friend, the majority leader. He has filed cloture on one of the most controversial, complex, far-reaching pieces of legal legislation that we will address in this decade. We have done this before, and it would seem to me that our colleagues would understand that when this happens, we are denying the very function of the U.S. Senate, the right of every Senator to offer amendments, the right to have a deliberative——

Mr. DODD. Mr. President, the Senate is not in order.

(Mr. ALLARD assumed the Chair.)

Mr. DASCHLE. It is the right of all Senators to fulfill the functions of their responsibilities as U.S. Senators to offer amendments, to have a debate. For us to file cloture, for the Senate to file cloture on a bill of this import, without one speech, without one amendment, without any consideration, is absolutely reprehensible.

I am very, very disappointed that the majority leader has seen fit to do it. I guess I would ask, What are they afraid of? What is it they don't want us to offer? What is it about the amendment process that worries our colleagues on the other side? What is it about not having a good debate that so appeals to them? Mr. President, I don't know.

But I do know this. Senators on this side of the aisle will continue to fight for our rights to offer amendments, regardless of circumstance. There are many of our colleagues who may support this bill on final passage, and I respect their rights even though I disagree. I personally think this bill is as bad as all the others that have been proposed, and I hope that we have a good debate about how good or how bad this legislation truly is. But for us to start the debate by saying that there will be little or no debate, especially when it comes to our opportunity to offer amendments, precluding the very right of every Senator to be heard, precluding the opportunity for us to offer ways in which we think it could be improved.

So we will have this debate over and over and over again. But on so many occasions now, our colleagues on the other side insist on denying the rights of every Senator to be heard. That doesn't have to happen. This is not the House of Representatives. This is not the most deliberative body in the world so long as we continue to utilize this practice. There is a time and a place for cloture, but that time and that place is not as soon as the bill is laid down. Many of us could have objected to the motion to proceed. We could have voted against going to the motion to proceed. We could have even filibustered the motion to proceed. We didn't do that. Why? Because, in good faith, we felt it was important to get on to the bill. But now what do we have? Another in a continued pattern by our Republican colleagues to curtail debate, to curtail thoughtful consideration of a very important issue.

I don't know of a more complicated bill that any one of us will have to address in this session of Congress than product liability. We could offer a pop quiz today, and I am sure many of our colleagues would probably fail simply because we are not familiar with all the ramifications of this issue. So for us, now, just at the beginning of the debate to say we don't want amendments, we are not even sure we want a lot of debate, we are just going to get this out of our way so we can move on to other things, that is not the way the Senate ought to work. That is not what we ought to be doing here.

What goes around comes around. This issue is going to come around again and again and again. We will not be denied our rights.

So I am just very hopeful that even many of our Republican colleagues who may have misgivings about this bill will join Democrats in defeating cloture when the occasion arises on Thursday.

Several Senators addressed the Chair.

Mr. DASCHLE. I would be happy to yield to the Senator from Massachusetts.

Mr. KERRY. Mr. President, I would simply ask the minority leader if he might draw any parallel or distinction between the way this bill is now being handled and other bills are handled, versus the tobacco legislation and the question of cloture on that?

Mr. DASCHLE. I think the Senator from Massachusetts raises a very important point. Exactly. We have seen this in a series of different episodes over the course of the year. It is a dangerous precedent to be setting. It is a remarkable admission from the other side that they are unwilling to face the reality here, to face the opportunity to have a good debate on key votes having to do with improvement of the bill, having to do with different views on a bill. Just as we saw with tobacco.

I yield to the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, am I correct that the Senator from South Dakota had offered an amendment to the appropriations bill on the Patients' Bill of Rights and that, if we had not had the majority leader's requests at this time, tonight we in this body would be debating the Patients' Bill of Rights? Am I correct?

Mr. DASCHLE. The Senator from Massachusetts raises a very important note here. It seems that our colleagues on the other side are reverting to two practices: One is to file cloture as soon as a bill is laid down. That is what they did in this case. That is what they did—what they did on the Coverdell bill. The other practice is to offer a bill, and as soon as we offer an amendment that is in disagreement with their larger scheme, they pull the bill. That is what happened to the Ag appropriations bill when we offered tobacco on Ag appropriations. That is what just happened on the VA-HUD bill.

So it seems to me there are two actions taken by our Republican colleagues with some frequency here: File cloture, deny the colleagues the right to offer amendments because of cloture; or pull the bill and move on to something else and never come back. So the Senator from Massachusetts raises a very good point.

Mr. KENNEDY. If the Senator will further yield, as I understand it now, as a result of the action of the majority leader, the Ag appropriations bill has returned to the calendar and the VA-HUD appropriations bill has returned to the calendar. So it appears, would the Senator not agree with me, that it is not the Democrats who are holding up the appropriations process and procedure—we were prepared to move ahead—but evidently it is the majority leader who has sent these matters back to the calendar when it is our responsibility to go forward?

I am just wondering if the leader can tell us whether he has had any opportunity to talk to the majority leader about when we will have an opportunity to at least have discussion or debate on the measures that evidently are objectionable to the majority leader? Are we going to have any opportunity to debate these measures, or are we going to be required to continue this charade and continue to try to offer these amendments on other appropriations as well?

Mr. DASCHLE. Unfortunately, I have to report to the Senator from Massachusetts that there doesn't appear to be any end in sight to this gagging of Democrats, to this notion that you either proceed on our terms or we won't proceed at all.

As the Senator from Massachusetts just noted, we are no longer in a position where the regular order is to go back to an appropriations bill. They have been shelved. They have been put back on the calendar. Now, we have to move to a motion to proceed to bring the bills back, where at least before we had the bills as the regular order should we fail to reach any kind of an agreement on how to proceed on a current bill.

Mr. KENNEDY. Just finally, and I thank the Senator, does he find it somewhat ironic that the Republican leadership is effectively gagging the Senate from debating rules on HMOs which are gagging doctors from giving the best health care advice? That we are being gagged here on the floor of the U.S. Senate, so to speak, as well, by Republican leadership who have refused to permit a debate on this issue? There is a certain irony in that.

Mr. DASCHLE. That is the irony, I would say to the Senator from Massachusetts. And the real sad thing is that this goes beyond the bill. This goes to the fact that 3,000 kids a day start smoking. It goes to the tremendous number of victims of managed care abuses all over this country, in every State of the Union, who have said if you do anything in Congress this year, we want you to fix managed care. We don't want you to wait until we lose more people. We want you to solve this problem this year. And that is what we are trying to do. We have 10 weeks to go, fewer than 40 legislative days. If we don't do it now, when are we going to do it?

The Senator from Massachusetts makes a very important point. I yield to the Senator from Vermont.

Mr. LEAHY. Mr. President, if the Democratic leader can yield for a question, I ask the Senator from South Dakota—and I am looking around the floor, and I see a number of Senators on the floor. I see only two who have served here longer than I. I ask my question in the form of that context.

In the 24 years I have been here, Democrats have been twice in the majority, twice in the minority. Thus, the Republicans twice in the minority and twice in the majority. Would it not be the experience of the Senator from South Dakota, as it has been mine, that no matter which party was in the majority, the Senate and the Senate rules and those who have led the Senate have always reflected the need of the Senate rules to protect both sides, both the majority and the minority, so that the United States of America would know that there was a full debate on real issues where all voices were heard, not just the voice maybe of temporarily the majority, but all voices would be heard?

And would it not be the experience of the Senator from South Dakota that this procedure, something I have not seen in my 24 years here, this procedure is said to make sure there will not be a vote where all Americans are heard, will make sure there is not a debate where all Americans are heard, but will be done in such a way that only one segment of our country will be heard? Will that not be the experience of the Senator from South Dakota?

Mr. DASCHLE. The Senator from Vermont speaks with a wealth of experience that goes well beyond what this Senator has had in his 12 years in the Senate. But like him, I have not seen this practice used with the frequency and the amazing degree of persistence demonstrated by the majority leader to cut off debate, to gag the Senate, to stop an open opportunity for us to debate key issues, complicated issues such as this.

The Senator is right, this experience is one that I think really bears a great deal of explanation to the American people. Why on key issue after issue—why on education, why on tobacco, why on all these issues that we face this year—does the Senate majority persist in precluding a good opportunity to have the kind of debate the American people expect and want and need. The Senator from Vermont is absolutely right.

This is not the Senate's brightest moment. This is a very, very disappointing episode in what has been a pattern all year long, and it is disappointing not only to us but the American people. I yield to the Senator from Illinois.

Mr. DURBIN. I say to the Senator, I agree completely with his comments.

If the Members of the U.S. Senate serving in the 2d session of the 105th Congress were charged in court with having passed meaningful legislation to help America, I am afraid there is not enough evidence to convict us, because if you look at what we have been about over the last several months, with the exception of renaming Washington National Airport, we have little to show for the time we have spent in Washington and only 10 weeks to go.

The Senator is so correct, the President, in his State of the Union Address, challenged this Congress, leaders on both sides of the aisle, to address the issues America really cares about: Saving Social Security, campaign finance reform, tobacco legislation, education, child care, doing the things that American families would really applaud, responding to their needs.

Yet, we stand here today in the first week of July and we hear, again, an effort by the majority leader to not only stop the train in an effort to stop legislation moving forward, but to stop the debate in what is supposed to be the world's greatest deliberative body.

It is a disappointment to me, and I think to a lot of people who are following this session of the U.S. Senate, that we are back here this week and not about the business that people really care about across America.

I stand in support of what our leader, Senator DASCHLE, said, that it is a deprivation of our responsibility as U.S. Senators representing States across this country and as representing families who expect us to respond to these needs, when you think of the opportunities we have already missed—the campaign finance reform bill killed on the floor of the Senate by the Republican leadership, and then we turned around with an opportunity to protect millions of our children from tobacco addiction, killed on the floor of the U.S. Senate by the Republican leadership time and time again.

Here is an effort by the Democrats to bring out legislation to protect families and patients who go to their doctors wanting the very best in medical care and find themselves twisted in knots by the insurance industry and, once again, efforts on the Republican side to stop us.

I am afraid that when all is said and done this will turn out to be one of the worst Congresses in this century in terms of its productivity. And if we are to be measured by our productivity, I am not sure that many Senators can collect their paychecks and talk about their pensions based on what we have been able to do or failed to do in the last few months.

Mr. DASCHLE. The Senator from Illinois is absolutely right.

The PRESIDING OFFICER. If the Senator will suspend, I remind Senators on the floor that they must pose a question——

Mr. DURBIN. Does the Senator agree?

The PRESIDING OFFICER. And then the speaker who has the floor will yield. Otherwise, I request they go through the Chair.

The Senator from South Dakota is recognized.

Mr. DASCHLE. I thank the Chair for the clarification. Let me just say, the Senator from Illinois is absolutely right, he was asking if I agreed with his characterization of the way this Senate has performed.

Sometime this year, our Republican colleagues will be asked, "Tell us what you did on tobacco." They will say nothing.

Our Republican colleagues will be asked, "Tell us what you did on campaign reform." Our colleagues will say nothing.

Our Republican colleagues will be asked, "Well, tell us what you did on education; what did you do to build infrastructure; what did you do to reduce class size?" And our Republican colleagues will have to say nothing.

Our Republican colleagues are going to be asked, "Well, tell us what did you do, then, on trying to address one of the most important health care questions our country is facing today in managed care?" And, again, our Republican colleagues will say nothing.

Mr. President, the list continues to grow. Why? Because they appear to be afraid of a debate, appear to be afraid to take this issue to its successful conclusion. If we don't go along, we don't do anything on that particular issue. That isn't the way this Senate is supposed to perform.

I yield to the Senator from Connecticut.

Mr. DODD. Mr. President, I inquire of the distinguished Democratic leader if he is not aware of what the effect of this cloture motion may be on the product liability legislation? I raise that question of the Democratic leader because I am a cosponsor of this bill. I am one of a handful of Democrats who have supported the work of my good friend, Senator GORTON from the State of Washington, and Senator JAY ROCKEFELLER, our colleague from West Virginia, who are the lead sponsors of this legislation.

I raise the point with the Democratic leader; I go back to the days of Jack Danforth and working on a proposal some 10 years ago on product liability legislation, tort reform. As someone who authored, along with Senator DOMENICI, the securities litigation reform bill and uniform standards, I am very interested in seeing us get a bill done here. We have indications the White House is going to be supportive of this legislation. For the first time, we might be able to do something about this issue.

I am inclined to agree with the managers and principal authors of this bill that we probably ought to keep this bill pretty clean. So I am sympathetic to that notion.

But I cannot imagine at this point filing cloture on this bill. I disagree with the majority of my colleagues on this side who disagree with this bill, but I will fight with every power in me as a Member of this body to see to it that any Member has a right to raise amendments about this bill.

I may vote against all the amendments, but if we reach a point here, Mr. President—and I say this to ask a question of the Democratic leader—if we reach the level where we end up becoming sort of a mirror image of the House, the other body, where we deprive the minority, as the rules of the House allow, to cut off debate where the will of the majority prevails, then we turn this institution into nothing more than a mirror image of the institution down the hall. But in this body it is something different. Here, the rights of the minority are to be protected. And so the right to offer amendments, to be heard, is sacrosanct when dealing with the U.S. Senate.

So it is with a deep sense of regret that I inform my colleagues, who have worked hard on this bill, that I will oppose a cloture motion. I hope other Democrats who support this bill will do likewise, so that we can get back to the business of debating this bill, take the day or 2 that it needs to be debated here, let the amendments be offered, let us defeat them if we have a majority here, and get about the business of passing this legislation so that this Congress might deal with product liability legislation.

I raise that, Mr. President, in the form of a question to my colleague, the Democratic leader, because I am saddened by this. Why are we filing cloture on this bill? We are coming this close to, for the first time, dealing with tort reform, really dealing with this issue, not in as comprehensive a way as some would like, but a real chance for the first time ever. And you are taking people like me who support this bill and asking me to vote in a way that would disallow my colleagues from offering amendments on this legislation and thereby killing this bill. It will destroy this bill on tort reform over this procedure.

So I raise the question to the Democratic leader, if in fact it is not unwittingly maybe what the majority leader, who has offered the cloture motion, is achieving by forcing those of us who support this bill to oppose a cloture motion and then depriving us of legislation being heard and fully debated?

Mr. DASCHLE. Well, the Senator from Connecticut has demonstrated his characteristic eloquence again. I would answer in the affirmative. I do not know what motivation there may have been on the part of the majority leader, but I must say this, that it complicates dramatically the position of those who support this legislation, complicates it dramatically. As the Senator from Connecticut correctly points out, it could actually kill the very bill they are trying to pass.

Now, for those of us who want to protect Senators' rights, we are surprised and I guess somewhat amazed at the actions just taken by the majority. Keep in mind, if we pass cloture, all relevant amendments will be barred. And yet our Republican colleagues have already laid an amendment down, an amendment, I might add, that nobody has seen. You talk about a legislative pig in a poke; there isn't a Senator on this side, maybe with one exception, who has seen the amendment just laid down by the majority leader—not one, with one exception perhaps. I have not talked to Senator ROCKEFELLER.

So I am astounded that our Republican colleagues would say, "We want our amendments, but we don't want you to have any. We're going to pass our amendment, but on the chance that you could pass one of yours, we're going to preclude them all."

Mr. President, the Senate cannot work that way. As the Senator from Connecticut just pointed out, we are acting more and more like the House of Representatives. If any one of our colleagues wishes to run, let them declare their candidacy. There are all kinds of open seats, uncontested seats, on the other side. Go run. But if you want to be a U.S. Senator, live up to the responsibilities of the U.S. Senate. This is supposed to be the greatest deliberative body in the world.

How deliberative can we be when, vote after vote, amendment after amendment, bill after bill, this side is precluded from offering amendments either because the majority leader pulls the bill or they file cloture immediately upon filing? That cannot work, Mr. President.

So I appreciate the wisdom of the Senator from Connecticut, and I must say the courage, because clearly there could be Senators who misinterpret, were it not for his eloquent explanation just now, why he is going to work to protect Senators' rights.

I must say, there will be Senators on the other side who will want their rights protected at some point. Majority or minority, it does not matter, it happens to all of us.

So I appreciate the position taken by the Senator from Connecticut. I hope all of our colleagues have heard his explanation and his reasons. And I hope a lot of our Republican colleagues will join us. Cloture must be defeated. We must protect Senators' rights, and we must protect the institution of the U.S. Senate.

I yield the floor.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, this Senator is puzzled, truly puzzled, by the remarks which he has just had the privilege of hearing. The minority leader protests that we cannot have a debate on product liability because cloture has been filed on this substitute amendment. He is joined by one of the supporters of the bill, the senior Senator from Connecticut, who evidently wants a debate on product liability.

But it is overwhelmingly evident from the remarks of the Senator from Massachusetts, the Senator from Illinois, and the responses to those remarks on the part of the minority leader, that they do not have the slightest interest in a debate on product liability—not the slightest interest in a debate on product liability.

They want a debate on their agenda. And they want a debate on their agenda whether it has already occupied weeks of the Senate's time or not, whether they have already been offered a debate on that agenda or not in a reasonable time, at which they could be taken up as individual matters.

No. The net result, Mr. President, of the remarks of the minority leader is that they wish the right, at any time and under any set of circumstances, to set the agenda of the Senate, the subject matter that the Senate will be debating, and they want to engage in that agenda not once, not twice, but on an unlimited basis whenever they wish to bring it up.

The Senator from Illinois implied, at least, that he wanted another debate on what he calls "campaign reform," on a proposal blatantly unconstitutional, a proposal clearly violating the free speech guarantees in the first amendment to the Constitution of the United States, a debate which the Senate had for more than 2 weeks and a debate which the Senator from Illinois and the minority leader lost—lost only after threatening a filibuster themselves against any campaign reform advocated by a majority of the Members on this side, campaign reforms based on seeing to it that individuals did not have to contribute to campaigns with which they did not agree, campaign reform based on bringing light into the source of the kind of money that so devastated and discredited the Presidential election of 1996.

Then the Senator from Illinois, and I believe the Senator from Massachusetts, spoke about tobacco legislation. Tobacco legislation, Mr. President? Does my memory fail me? Did we not debate tobacco legislation for the better part of 4 weeks on a bill relating to tobacco? I believe that we did. And I believe that the positions taken by most of the Members on the other side of the aisle ended up unsuccessful. And so what have we had since then? Four weeks is not enough?

Immediately thereafter, they attempted to redebate tobacco on another issue important to the people of the United States. They have now destroyed the debate on a bill for the support of the Department of Agriculture and all of our agricultural across the United States by insisting that we can't debate agriculture for 2 days and pass a bill without having another 4, 6 or 8 weeks on their tobacco agenda.

The Senator from Illinois says that nothing was done with respect to education. I seem to remember at least a week, maybe 2 weeks, debating the subject of reform of education in the United States. In fact, I believe it was just 2 weeks ago that we passed a bill on that subject and sent it to the President who has determined that he will veto. This Senator proposed to this body a true reform in the way in which we deal with education, one that would have trusted our State education officials, our local education officials, our teachers and our parents to make decisions about the education of their children without the constant interference of bureaucrats in Washington, DC, who impose more than half of the rules regulating the conduct in our schools, while coming up with 7 or 8 percent of the money. Not a single Member on that side of the aisle was willing to vote for that proposal, and they said the entire education reform bill would be filibustered to death if it were included in any bill sent to the President of the United States.

Oh, no, Mr. President, we have debated education reform. We have passed in this body true education reform. I don't think at this point that there is much point in going over it again.

Here today we were debating a vitally important appropriations bill for veterans, for the Department of Housing and Urban Development. We had a thoughtful debate, dividing both parties on the space station. We were about to debate mortgage limitations and do the business of the Senate when the minority leader says, oh, no; we are not going to let the majority of the Appropriations Committee go through an appropriations bill. We will debate our proposal for health care changes, and we will do it right now.

Now, he did that in spite of the fact that when I was sitting in your seat as the acting President of the Senate, the majority leader 3 weeks ago came down here and offered a full opportunity to the minority to debate their health care proposals together with our health care proposals and to have direct votes on those proposals before the end of this month of July 1998. That offer was totally rejected by the very people who now demand we engage in that debate today as a part of an important bill on a totally and completely different subject.

Mr. KENNEDY. Will the Senator yield?

Mr. GORTON. No, the Senator will not yield. The Senator will not yield.

So this Senate has debated a change in our campaign reform laws. It has debated education reform and passed a bill on the subject. It has debated tobacco legislation. And it is more than willing and will debate health care legislation with the proposals of both parties considered in that connection.

But no majority party, no majority leader, has ever permitted a set of circumstances under which the minority not only determines the agenda, but when the agenda is to be debated and how many times it is to be debated, even though that prevents a debate on vitally important appropriations bills for the conduct of the government, and in this case a debate on an important product liability bill. As the manager of that bill, had the minority leader said we would like to do what we did just 2 years ago and have a debate and several amendments about product liability, the way that the senior Senator from Connecticut was speaking about the subject a few moments ago, I have no doubt that that desire would be granted. I have no doubt that proposed changes in the substitute bill that is now before the Senate would have been debated. I think those proposed changes would have been defeated.

Two years ago this Congress did spend, I think, a full week or more on a much broader and more all-encompassing product liability bill. It was debated then by the minority party as a product liability bill without the attempt to move on to a totally and completely unrelated subject. It was passed. It was sent to the President of the United States for reasons that this Senator did not consider to be particularly persuasive. The President of the United States vetoed that bill.

Then the junior Senator from West Virginia, Senator ROCKEFELLER, and I worked diligently for almost 2 years in coming up with a bill to be proposed here on that subject with which the President of the United States would agree and with which the President of the United States does agree. We are now told that an attempt actually to debate that subject and to vote on this bill is somehow or another an infringement on the rights of the minority party.

I heard during the course of the last week over this, the minority party does want one change in the bill on product liability having to do with guns. That amendment, I am informed by the Parliamentarian, will be germane after cloture. It can be debated and it can be voted upon. For all practical purposes, any limitation of an already modest bill on product liability can be debated and voted upon after cloture. It is difficult to persuade this Senator that anyone on this side of the aisle wants to expand this product liability bill and cause it to cover a greater field related to product liability than it does at the present time.

That was the pretense set forth in the initial remarks of the minority leader, that he wishes a fuller and more complete debate on product liability. But that pretense was shattered instantly by the Senators who asked him to yield to questions and simply stated, and I repeat it again, that they wanted to debate subjects totally unrelated to product liability. Three of the four subjects they mentioned have already been debated at length on the floor of this Senate and decided—decided in a way they don't like—but decided pursuant to the rules of the Senate of the United States.

The fourth will clearly be debated, will be debated on its own merits, and will be debated at a time at which both the members of the minority party and the members of the majority party can set forth their proposals and have the merits of their proposal both fully debated and determined and decided under the rules of the Senate.

This artificial fury that we have listened to here for most of the last hour is directed partly at party politics and partly as a highly skillful way of destroying a product liability bill to which the President of the United States, the leader of their party, has agreed. It may well be successful. The Senator from Connecticut is right if he refuses to support a bill that he has supported through his entire career because it won't also carry debates on campaign laws, health care, education, and tobacco, then unfortunately all of the work of which he was a part, and the Senator from West Virginia was a part, and many of us were a part of on this side, and the President of the United States was a part, may be wasted.

I think that may very well be the goal of those who engage in this artificial outrage about whether or not we should deal with product liability for a few days and debate that issue, finish it, have a vote on it, finish our appropriations bills, have votes on each of them, and deal with a health care debate before the end of this month. That only is the desire of the majority leader in the normal management of the Senate, just as it was the desire under identical circumstances when the majority leader was on the other side of the aisle.

It is probably a more open debate on issues of interest to the minority than I could remember during the course of Congresses in which my party was in the minority. But this rhetoric this afternoon here has little, if anything, to do with product liability, or a debate on this product liability bill, or attempts to improve or to amend this product liability bill with product liability provisions. It has to do with the demand of the minority leader that he determine not only the agenda, not only the subjects that the Senate will debate, but the length of time that debate will take, the number of times the debates on particular subjects will be taken.

The Senate cannot operate under those sets of circumstances. It ought not to operate under those circumstances. I have little hope for those who simply oppose any legal reform whatsoever, even when the President has agreed to it. I do hope that those who believe in product liability, those who were on the other side on each of the three issues that have already been debated, and those who will have the opportunity to debate health care when they wish to do so, will have the courage to see to it that we are able to debate this product liability bill and reach a conclusion on it in a reasonable period of time, so that we can go on to other subjects that are of importance to the Senate and to the American people.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I compliment my colleague. I am disappointed in the minority leader's statement, and also its tone. A lot of us came back from the one-week break for the Fourth of July and said we have work to do, we have appropriations bills to pass, we have product liability reform bill to pass, we have the IRS reform bill. And then somebody says this is an unbelievable procedure. No, it is not. We are moving to a conference report. That has priority under the rules of the Senate. We are moving to a conference report on a bill that already passed the House and the Senate, and, hopefully, the President will sign it. I think it may be one of the most notable and significant achievements of this Congress.

Then our colleagues say, wait a minute, you are denying us an opportunity to offer an amendment. I disagree. The Senator from Arkansas had an amendment on the space station that lasted most of the afternoon. We were clearly willing to take amendments. We had an amendment that Senator KOHL from Wisconsin and I were going to offer dealing with FHA. That was bipartisan. We were trying to do the Senate's work. As a matter of fact, the Senate was planning on staying on the VA appropriations bill so we could finish tonight, tomorrow, or the next day, to do our work. The minority leader tried to place an amendment—or did file an amendment called the Patients' Bill of Rights on the appropriations bill. He has a right to do so, but he knows it is not the time or place to do it.

For the information of our colleagues and the viewing public, the majority leader has already said we will take up the so-called issue dealing with health care and the regulation of managed care, with the very nice title of "The Patients' Bill of Rights." We will take it up this month. But in the meantime, let's finish our work, let's pass the IRS reform bill, let's pass appropriations bills.

We are willing to have a decent amount of time on the so-called Patients' Bill of Rights this month and to consider alternatives. The Senator from Massachusetts has an alternative. I am working on an alternative. I may have a couple of other ideas. And we are willing to consider relevant amendments. I think it is a mistake to do it all month. Maybe some want to. Maybe they think there is political fodder to be gained. Some of us know we have some work to do. That is our intention.

The majority leader made it clear that we have work to do. We are going to be voting on Mondays and Fridays. We should be passing bills. We have only passed 2 appropriations bills; we have 13 to do. The House passed five, and next week they will probably pass another five. We are, in the meantime, hoping to get two bills done this week. Unfortunately, instead, the minority said we need to put the Patients' Bill of Rights on one and then the smoking bill—even though we have spent 4 weeks on the tobacco bill. Maybe if they came up with a better alternative, we could pass a bill. But they came up with one that would cost hundreds of billions of dollars, and I think we rightfully rejected it.

They said, "We don't have an opportunity to debate our issues." They had 4 weeks on the so-called tobacco bill. Campaign finance reform has been in the Senate on numerous occasions, including this Congress. We insisted on having one amendment that said campaign contributions would be voluntary. Most of our colleagues on the Democrat side said, "No, no, we can't have voluntary campaign contributions. That would be unheard of. We can't have that kind of reform."

One of our colleagues said that the Senate can't work this way. Really, what they are trying to say is, "We want to have product liability reform on the floor, and we want to dump our entire Democrat agenda on," half of which they tried and could not get passed previously. They want to dump it on this bill or on the appropriations bills, and they will keep trying until maybe something will stick.

And then they said, "Wait a minute, if you file cloture"—cloture, for the information of people not aware of the Senate rules, it would eliminate a lot of extraneous amendments. They are acting like that hasn't happened before. George Mitchell, as majority leader, was the instigator of the quick-draw cloture motion. He would file cloture so fast, it would make your head spin. He did it time and time again. I don't like cloture. I think it happens to be too restrictive.

The Senator from Washington, who was managing the bill, has said we are perfectly willing to work with colleagues if they have amendments they want to discuss on product liability. We can work that up and come up with an agreement. Obviously, our colleagues on the minority side said, "No. We want to put our whole agenda on. We want another debate on tobacco and the Patients' Bill of Rights, and debate on schools or education"—you name it. They want to put everything on there except product liability.

In other words, they don't really want product liability. They have that right, but we also have a right to try to get the Senate's business done. So we are going to pass the conference report on IRS reform. We are going to take that up tomorrow. Again, I hope all of my colleagues will support that. We are going to have a vote on cloture on product liability reform. If colleagues are really interested in having legitimate amendments dealing with that issue, they could make a proposal and we could probably work that out—if we keep the amendments relevant. Are we going to say you can dump your entire agenda on it? No. At least it is my hope that we don't do that. That is the reason we have cloture—to keep amendments germane, finish our work, and be done with it.

So I am disappointed in the rhetoric and the tone that we heard tonight. I hope we will come back and say, wait a minute, we only have 4 weeks this month and a few weeks in September—all of the month of September, and maybe part of October to finish the Senate's business. We have to pass a lot of appropriations bills. I still hope we will get a budget. I hope we will pass tax relief. So we have some significant reform that needs to happen, and we need to do the work of the Senate.

I notice my friend from Massachusetts on the floor. He has a bill called the Patients' Bill of Rights. I am perfectly willing to debate that issue. We are willing to spend some time on that issue and give colleagues a vote on the Democrat proposal, which has been recently introduced—I guess today—on the VA-HUD appropriations bill. It doesn't belong on an appropriations bill. There is a point of order. That is legislation on an appropriations bill. That is the reason we have the rule. It does not belong there. The majority leader said we will take it up sometime this month, and with some amendments dealing with that issue, relevant health care amendments.

If our colleagues are just interested in rhetorical flourishes and maybe campaign issues, they can make that attempt. But that won't legislate. That won't change the law. If they are interested in changing the law, I urge them to work with us. Let's come up with an agreement where we can bring the issue up, have an adequate amount of debate on the so-called Patients' Bill of Rights, and have different alternatives considered and voted on.

I make that point. This side is willing. We had a significant debate on tobacco. We are willing to have a debate on the so-called Patients' Bill of Rights. We have had debate on campaign reform. We have had debate on education. Now we have to finish the appropriations bills. We have to do the work of the Senate. It is going to take both sides working together to make that happen.

I hope we will have greater cooperation exhibited in the future for the Senate to really get its work done in a timely, efficient, and productive manner.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I am encouraged certainly by the comments of the acting floor leader now that he says we will have an opportunity to debate the issues on the Patients' Bill of Rights. We look forward to that opportunity. But I will just take a few moments of the Senate's time—I will not take a great deal of time—to really correct the record.

As the Senator from Oklahoma remembers, and should remember very clearly, the U.S. Senate overturned in 1995 the longstanding rule that we would not have legislation on appropriations. And it was the Republican Party that overturned that concept. Every single Republican, including the Senator from Oklahoma, voted to overturn the ruling of the chair and allow legislation on appropriations. So, now we have legislation on appropriations. I think it is regrettable, and should the Republican leader want to alter and change that, I think he would find that there would be strong support for that.

But, Mr. President, I want to get back and talk for just a moment or two about what the issues really are. We have just listened to our friends from the States of Washington and Oklahoma speak on the floor about what cannot be done, or what should not be done.

Earlier this afternoon, in a time-honored process and procedure, the minority leader, Senator DASCHLE, sent to the desk of the U.S. Senate an amendment to provide for a Patients' Bill of Rights, a recognition that in this country too often those who are making health care decisions are actually insurance company accountants rather than doctors. Too often the doctors, who represent the best interests of the patients, are caught in this extraordinary dilemma and understand that they are put between a rock and a hard place. Too often in our country we find that managed care is mismanaged care. And we have heard examples of this on the Senate floor time and time again over the period of these past weeks. I dare say that we have had few days that have gone by when Senators have not spoken about particular tragedies that have been experienced in their States.

Senator DASCHLE's amendment should have allowed the Senate to debate the issue of the Patients' Bill of Rights, debate it this afternoon, debate it this evening, debate it tomorrow, but debate it and reach some kind of a conclusion on the issue. The President has spoken. He spoke as recently as this afternoon in support of the legislation that was included in Senator DASCHLE's proposal.

That is what this is about. We have that opportunity to debate managed care reform. The Democratic leader offered the Patients' Bill of Rights. It is an issue that Republicans and Democrats across the country want us to do something about. We are being denied that opportunity because the majority leader pulled the bill down and put it back on the calendar, as was his wont to do, and we are again denied the opportunity to debate this critically important issue.

So our efforts to move toward that debate have been temporarily deferred—deferred perhaps for a day or two, but certainly not longer than a day or two. We are going to come back to that issue and keep coming back. And our friends on the majority side better get used to it. They may get into a situation where they are going to put appropriations bill after appropriations bill after appropriations bill back on the calendar because the Senate will want to debate a Patients' Bill of Rights, and the Republican Leadership will want to continue to deny us that opportunity. Mr. President, we will continue to demand debate because the American people are demanding it.

You can say, Why are we in this kind of a situation? Why aren't we following a regular order, the procedure that everyone learns in civics class and in their study of American history, that says when legislation is introduced, it goes to the committee, the committee marks it up, it comes to the floor, it is acted upon on the floor, the two bodies get together in a conference, and, if they agree, they send it to the President of the United States?

The reason the Senator from South Dakota offered the amendment is because we could not get a markup and we could not get a hearing in the appropriate committee. We were denied that opportunity—denied it, turned down, thumbs down to the Senators who supported that legislation. No, you can't have a hearing on that legislation in our committee. The Republicans told those of us on the Labor and Human Resources Committee that not only can't you have that hearing, but, if you introduce the legislation, we will not give you a markup on it. We will not let you have a debate in the committee. We are going to obstruct the whole committee process so you will not be able to advance your issues, and the issues of the American people.

I did not hear that talked about by the Senator from Washington. I did not hear that talked about from the Senator from Oklahoma. The majority leader has put forward several lists of his priorities for the session, and the Patients' Bill of Rights is not on any one of them—not on any one of them. The Republican leadership wants to stonewall—stonewall on this issue, which is of such great importance to families all across the country. That is why the Democratic leader offered this amendment, because the Republican leadership is trying to stonewall it.

So, Mr. President, are we going to say—those of us who favor patient protection legislation—that we are going to be denied consideration of the committee, we are going to be denied a markup in the committee, and we are going to be denied floor debate by the majority leader and the Republican leadership, that we are not even going to consider this issue in the U.S. Senate?

No. That is not the kind of U.S. Senate that our Founding Fathers intended, nor has today been one of our best and greatest days. But we are going to debate this issue, and we are going to act on it. Make no mistake about it.

And we are going to come right back after that and consider an increase in the minimum wage. Our Republican friends better hear that as well. We can't get the markup on the increase in the minimum wage for workers in this country—workers who have not benefited by the extraordinary explosion of the stock markets and the extraordinary increase in the accumulation of wealth. These are men and women who are working 40 hours a week, 52 weeks of the year, primarily single women, primarily women who are heads of households with children. This is a women's issue. It is a children's issue. It is a fairness issue. And we are going to consider it this year. We know Republican leaders are opposed to that.

What else is new? They were opposed to it last time. And we were able to be successful. It wasn't on the Republican agenda the last time we saw an increase in the minimum wage. The increase in the minimum wage has never been on the Republican agenda. Yet we have been successful in doing so. And we will be successful in doing so this time.

So that is why we find ourselves where we do this evening. And here the Democratic leader offers our amendment, makes a brief comment—a brief comment—about it. And then, bingo, the bill is pulled. Now we hear from the Republican leadership that, Oh, well, you objected to a consent agreement that could get this proposal before the Senate and to act on it.

I would love to take the time of the Senate to go through this, but let me just include the appropriate parts of this proposal. Let me just mention a very interesting aspect of the consent agreement, to which the Senator from Washington referred. I asked him to yield so we could go through this agreement together. He refused the opportunity to do so. I can understand why, too. I might have wanted to do the same if I had to defend this proposed agreement. This is what was included in the agreement. And I will include the whole agreement. But let me read a section:

> I ask unanimous consent that the Chair not entertain a motion to adjourn or recess for the August recess prior to a vote on or in relation to the majority leader's bill and the minority leader's amendment.

And that following those votes:

> It be in order for the majority leader—

Listen to this—

> to return the legislation to the calendar.

"Return the legislation to the calendar."

And the Senator from Washington has the audacity to say on the floor of the Senate that the consent that was offered by the majority leader would have actually gotten these measures up?

You know what this proposal is effectively saying? This says that after the votes, even if we win the Patients' Bill of Rights with a majority of the Members of the Senate, it will be in order for the majority leader to—send it to the President of the United States if the House has already acted on it? No. To send it to the House of Representatives if they have not acted on it? No. Under the majority leader's proposal, if we pass it, after a debate, the majority leader sends it right back up there to the desk. It is over. Good-bye, farewell, so long, to protections for the patients of this country.

Now, that is a farce, an absolute farce. I could go through the whole consent agreement, but it should not be given any more attention because it is a farce offered, evidently, only to make a political point.

The Patients' Bill of Rights is a commonsense plan that guarantees fundamental protections that every good insurance company already provides and that every American who pays insurance premiums deserves to have when serious illness strikes.

But the Republican leader's position is to protect the insurance industry instead of protecting the patients. They know they cannot do that in the light of day, so their strategy is to work behind closed doors to kill the bill, keep it bottled up in committee, no markup, no floor debate, no vote. That has been the strategy. Ask any Member of this body whether they can contest that. They cannot. No markup, no floor debate, no vote, no fair time agreement.

Mr. Willis Gradison, the head of the Health Insurance Association of America, when asked in an interview published in the Rocky Mountain News to sum up the strategy of the businesses opposed to patient protections, replied:

> There's a lot to be said for "just say no."

"Just say no." The author of the article goes on to report that at a strategy session last month called by a top aide to Senator DON NICKLES, Gradison advised Republicans to avoid taking public positions that could draw fire during the election campaign. Opponents will rely on Republican leaders in both Chambers to keep managed care legislation bottled up.

Well, they have done a good job of bottling it up tonight. We would have had an opportunity for debate if they had not pulled down the underlying legislation. But, no, they bottled it up by sending the bill right back to the calendar.

That has been the strategy for the past year—keep the Patients' Bill of Rights bottled up, engage in a campaign of misinformation and disinformation, cater to the special interests, ignore insurance company abuses, and ignore the will of the American people. We are seeing that strategy in this Chamber this evening.

Now, Mr. President, the rights that are included in our legislation are commonsense components of quality care that every family believes they were promised when they signed up for insurance coverage and paid their premiums. Virtually all of the protections that this legislation provides already apply to Medicare, are recommended by the National Association of Insurance Commissioners, which is a bipartisan group, or were recommended by the President's Advisory Commission, another nonpartisan group, or even established as voluntary standards by the managed care industry itself through their trade association.

These commonsense rights include access to appropriate specialists when a patient's condition requires specialty care. It would allow people with chronic illnesses or disabilities to have referrals to the specialists they need on a regular basis.

It assures that patients whose plans cover prescription drugs can have access to drugs needed to save their life or protect their health even if the drugs are not included on their plan's restricted list.

They are assured that persons suffering from serious symptoms can go to the nearest emergency room without worrying that their plan will deny coverage. No patients with the symptoms of a heart attack should be forced to put their life at risk by driving past the emergency room down the street to the managed care hospital farther away, and that is happening here in the United States tonight.

No patient with symptoms of a stroke should be forced to delay treatment to the point where paralysis and disability are permanent because an accountant in the managed care headquarters does not respond promptly and appropriately.

Reforms must protect the integrity of the doctor-patient relationship. Gag clauses and improper incentive arrangements should have no place in American medicine. They are absolutely appalling, Mr. President.

This amendment only says that any reform worthy of the name must guarantee that insurance plans meet the special needs of women and children. Women should have access to gynecologists for needed services. No woman with breast cancer should be forced to endure a drive-through mastectomy against the advice of her doctor or be denied reconstructive surgery following breast cancer surgery if that is her choice.

No child with a childhood cancer should be told that a urologist who happens to be in the plan's network will treat him, even if that urologist has no experience or expertise with children or with that type of cancer.

Patients should have the right to appeal their plans' decisions to independent third parties. Today, if a health plan breaks its promise, the only recourse for most patients is to go to court, a time-consuming, costly process that may not provide relief in time to save a life or prevent a disability.

Independent review was recommended unanimously by the President's Commission. Republicans and Democrats alike recommended independent review unanimously. It has worked successfully in Medicare for more than three decades. Families deserve the basic fairness that only a timely, impartial appeal can provide.

Without such a mechanism, any rights guaranteed to patients exist on paper only, and they are often worth no more than the paper on which they are printed. When the issues are sickness and health, and often as serious as life and death, no health insurance company should be allowed to be both judge and jury.

When health plan's misconduct results in serious injury or death, patients and their families should be able to hold those plans accountable for their actions. Every other industry in America can be held responsible for its actions. Why should health plans whose decisions can truly mean the difference between life and death enjoy this unique immunity?

We had a debate on the issues of immunity not long ago with regard to the tobacco industry, and this body voted overwhelmingly not to give immunity to tobacco. These health plans have immunity today under the ERISA provisions. That is not right and we ought to address it. Every day and every night that we delay it, the health, the good health of American families is threatened. You would think, when you listen to the Republican leadership talk about scheduling, that it doesn't matter a twiddle whether this debate goes on today or tomorrow or next week or next month or next year. It does. And every day we delay means that more families' health protections are threatened.

Under the Employee Retirement and Income Security Act, patients whose lives have been devastated or destroyed by the reckless behavior of their health plan have no ability to go to court to obtain appropriate redress. ERISA preempts all State remedies, so patients are limited to Federal ERISA remedies, which will only cover the cost of the procedure for which the plan failed to pay.

Just the cost of the procedure—some remedy. You can be crippled for life by cancer of the spine because the plan refused to authorize a test costing a few hundred dollars to detect the cancer in its early stages, and all you can get back to help support your family is the cost of the test. That is no remedy. That is wrong. And our bill does something about it.

During the debate on the tobacco legislation, as I mentioned, Republicans and Democrats alike voted overwhelmingly to support the proposition that no industry in America should be exempt from accountability because of its actions, but because of the ERISA preemption, one industry alone—the health insurance industry—enjoys this protection. That is wrong and today the Senate should have the opportunity to say it is wrong.

ERISA preemption applies to the millions of Americans who get their coverage through a private employer, but it does not apply to 23 million State and local employees and their families. It does not apply to Medicaid patients. It does not apply to Medicare. And we have not heard a shred of evidence that the ability of State and local employees, Medicaid patients and Medicare patients to sue their health plans has imposed significant costs on those plans. That case has not been made.

Mr. President, 23 million State and county employees have that kind of ability to sue, and we have not seen that the costs of their plans have been higher than others. So I challenge my colleagues who oppose this provision to explain to the American people why State and local government employees should be able to hold their taxpayer-financed health plans accountable if they are injured or killed by the plan's behavior, but equally hard-working Americans employed by private companies should be denied this basic right. Explain that to me.

Our legislation simply removes the Federal preemption provision. It creates no Federal right to sue and lets States take whatever steps they see fit. So many of those who oppose this legislation are fond of talking about the need to keep Washington out of decisions by States, but when the profits of special interests are at stake, it suddenly becomes better for bureaucrats in Washington rather than elected State and local officials to decide what is best for people in their State. This amendment should not be controversial for any Member of the Senate who is serious about protecting patients from insurance company abuse. It is supported by the American Medical Association—and more than 170 other organizations, Mr. President. Let me just give you a few.

The Patients' Bill of Rights is supported by the American Medical Association, the Consortium of Citizens with Disabilities, the American Cancer Society, the National Alliance for the Mentally Ill, the National Partnership for Women and Families, the National Association of Children's Hospitals, the AFL–CIO, the American Association of Retired Persons and many other groups representing physicians, health care providers, children, women, families, consumers, persons with disabilities, small businesses, Americans with serious illnesses, religious organizations, and working families.

Find me another piece of pending legislation that has that kind of support. But we are told we cannot even debate it tonight. We are told we cannot even consider it tonight. We are told we cannot even move this legislation to have a rollcall vote to see who is for it and who is against it.

It is rare for such a broad and diverse coalition to come together in support of legislation. But they have done so to end the flagrant abuses that hurt so many families. The choice is clear. The Senate should stand with patients, families and physicians, not the well-heeled special interests that put profits ahead of patients.

The American people know what is going on. Movie audiences across the country erupt in cheers when actress Helen Hunt attacks the abuses of managed care in the film "As Good As It Gets." Helen Hunt won an Oscar for that performance, but managed care is not winning any Oscars from the American people. Everyone knows that managed care today is not as good as it gets.

It is time for Congress to end the abuses of patients and physicians by HMOs and managed care health plans. Too often, managed care is mismanaged care. No amount of distortions or smokescreens by insurance companies can change those facts. A Patients' Bill of Rights can stop these abuses, and let's pass it before more patients have to suffer.

We want to tell our friends on the other side of the aisle that they are going to see this amendment day after day after day after day, until this body has a chance to debate it and vote on it. Let me give the assurance of that.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. BROWNBACK). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SESSIONS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SESSIONS. I ask that I be allowed to proceed as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEBATING THE HEALTH CARE BILL

Mr. SESSIONS. Mr. President, I know there has been some brouhaha this afternoon about not being able to debate a health care bill, and I came down here earlier today to talk about the bill we were on, the VA–HUD bill, an extremely important piece of legislation that was set regularly on this agenda. Amendments were being offered to it. Everybody has known for some time that we were going to be dealing with health care and managed care and HMOs and that sort of thing. It is certainly going to be coming up on our agenda when the time is right, and everybody will have full opportunity to debate that issue. I hope we do. I expect we can make some improvement in our health care policy in America.

But the bill that we were on was important. I submit it was a political act by people in this body to derail where we were going, to introduce onto the VA–HUD bill this kind of massive change in agenda to try to create a debate on health care when this body was on another item. That is what the majority leader is for, to try to set agenda in a rational way. He has done that. We are going to be on health care later, but we should have stayed on the bill that we were on.

NASA

Mr. SESSIONS. Mr. President, I am disappointed the administration has seen fit to reduce NASA's budget by $183 million this year. Frankly, I think it ought to be increased. I would like to share a couple of thoughts about that with the Members of this body and the people who may be listening.

From 1983 to 1992, NASA's budget went up from $7 to $14 billion. That is less than 1 percent of the national budget in this country, but that was a significant increase. During that time, they made two planetary launches. In the last number of years, that budget has seen a significant reduction. In fact, according to a committee that was formed in 1991, a committee on the future of space formed by President Bush, they had the expenditures for NASA going up to as high as $40 or $50 billion. As it turned out, under the previously agreed-upon budget for NASA, we should be at about $16 or $18 billion. In fact, that budget has been cut every year, and over the last 5 years they have sustained a $27 billion reduction in what was projected for their budget even under our last budget agreement.

People say, "Jeff, that is just numbers; it doesn't mean much." NASA has cut its employees since 1993 by 25 percent. They have cut their employees 25 percent. There is no agency in this American Government that has done a better job of producing more for less than they have.

In fact, the fiscal year 1994 budget for NASA was $14.5 billion, and the fiscal year 1998 for NASA is $13.6 billion.

During this same time, they have been sustaining these substantial losses in income. They are now making planetary launches one every 10 weeks. Whereas they used to do two planetary launches in 9 years, they are now doing them one every 10 weeks, even though their budget is down and employees are down 25 percent. They are doing some remarkable things.

Last July 4, the Martian lander landed, and we saw those vivid photographs that were shipped all over the world. The American people and the people of the world stood in amazement as we saw the actual ground of the planet Mars. It was an exciting time. My family and I watched that in our home with amazement and pride at what this country had accomplished.

Let me point this out: 20 years before, we had done another Martian landing. We had not had one in 20 years. The Martian landing 20 years before, in actual dollars, cost 10 times as much as the one last year. They were able to accomplish this landing last year for one-tenth of the cost 20 years before.

This is the kind of achievement that is important for our country. The whole world watched it. Mr. Dan Goldin, who directs the NASA program, told us that they had more hits on their web site from around the world than they even had in the United States. It was by far the biggest single time of people tuning in to the NASA web site from all over the world.

The world was watching America. We are the leader in space. We need to remain the leader in space. We are a nation of explorers. That is our heart and soul. That is our national characteristic. We have explored this Earth pretty well. We are now exploring the heavens. We need to continue forward with that.

Sure, the space station has gone over, but from the numbers I have just told you, even though the space station has cost more than it should—and a lot of that is involved with trying to work with the Russians, who have not been very effective in fulfilling their portion of it, and we need to evaluate that—everything else they have been doing has been doing more for less.

We are going to be able to continue to have repeat launches at less cost and more success and highly technical launches that can bring us the kind of science and improvements in our life that can benefit the entire world. This is the kind of thing with which America needs to be involved. I am excited about it.

I wish we were still on that bill. I had some things to say about it. We are going to handle health care as we go down the road, but I think it is important for the people of America to note that we moved off that bill because the other party sought to change the agenda that was set, to go off on an entirely new tangent, attaching to this bill an entirely different subject matter that requires a great deal of debate and discussion. That was not the appropriate thing to do, and the majority leader did the only thing he could, which is pull down the bill.

Mr. President, I thank you for this time, and I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SESSIONS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Monday, July 6, 1998, the federal debt stood at $5,529,920,619,100.92 (Five trillion, five hundred twenty-nine billion, nine hundred twenty million, six hundred nineteen thousand, one hundred dollars and ninety-two cents).

Five years ago, July 6, 1993, the federal debt stood at $4,337,116,000,000 (Four trillion, three hundred thirty-seven billion, one hundred sixteen million).

Ten years ago, July 6, 1988, the federal debt stood at $2,554,838,000,000 (Two trillion, five hundred fifty-four billion, eight hundred thirty-eight million).

Fifteen years ago, July 6, 1983, the federal debt stood at $1,328,674,000,000 (One trillion, three hundred twenty-eight billion, six hundred seventy-four million).

Twenty-five years ago, July 6, 1973, the federal debt stood at $454,404,000,000 (Four hundred fifty-four billion, four hundred four million) which reflects a debt increase of more than $5 trillion—$5,075,516,619,100.92 (Five trillion, seventy-five billion, five hundred sixteen million, six hundred nineteen thousand, one hundred dollars and ninety-two cents) during the past 25 years.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTVIE MESSAGES REFERRED

As in executive session the President Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE RECEIVED DURING RECESS

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

Under the authority of the order of the Senate of January 7, 1997, the Secretary of the Senate, on July 7, 1998, during the recess of the Senate, received a message from the House of Representatives announcing that the Speaker has signed the following enrolled bills and joint resolution:

S. 731. An act to extend the legislative authority for construction of the National Peace Garden memorial, and for other purposes.

H.R. 651. An act to extend the deadline under the Federal Power Act for construction of a hydroelectric project located in the State of Washington, and for other purposes.

H.R. 652. An Act to extend the deadline under the Federal Power Act for the construction of a hydroelectric project located in the State of Washington, and for other purposes.

H.R. 848. An act to extend the deadline under the Federal Power Act applicable to the construction of the AuSable Hydroelectric Project in New York, and for other purposes.

H.R. 960. An act to validate certain conveyances in the City of Tulare, Tulare County, California, and for other purposes.

H.R. 1184. An act to extend the deadline under the Federal Power Act for the construction of the Bear Creek Hydroelectric Project in the State of Washington, and for other purposes.

H.R. 1217. An act to extend the deadline under the Federal Power Act for construction of a hydroelectric project located in the State of Washington, and for other purposes.

H.R. 2202. An act to amend the Public Health Service Act to revise and extend the bone marrow donor program, and for other purposes.

H.R. 2864. An act requiring the Secretary of Labor to establish a program under which employers may consult with State officials respecting compliance with occupational safety and health requirements.

H.R. 2877. An act to amend the Occupational Health Act of 1970.

H.R. 3035. An act to establish an advisory commission to provide advice and recommendations on the creation of an integrated, coordinated Federal policy designed to prepare for and respond to serious drought emergencies.

H.R. 3130. An act to provide for an alternative penalty procedure for States that fail to meet Federal child support data processing requirements, to reform Federal incentive payments for effective child support performance, to provide for a more flexible penalty procedure for States that violate interjurisdictional adoption requirements, and for other purposes.

H.J. Res. 113. Joint resolution approving the location of a Martin Luther King, Jr., Memorial in the Nation's Capitol.

The enrolled bills and joint resolution were signed subsequently by the President pro tempore (Mr. Thurmond).

MEASURES PLACED ON THE CALENDAR

The following bills were read the second time and placed on the calendar:

H.R. 2431. An act to establish an Office of Religious Persecution Monitoring, to provide for the imposition of sanctions against countries engaged in a pattern of religious persecution, and for other purposes.

H.R. 3150. An act to amend title 11, of the United States Code, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communication was laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC 5802. A communication from the Secretary of Energy, transmitting a draft of proposed legislation entitled "The Comprehensive Electricity Competition Act"; to the Committee on Energy and Natural Resources.

REPORTS OF COMMITTEES

The following report of committee was submitted:

By Mr. HATCH, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S.J. Res. 44. A Joint Resolution proposing an amendment to the Constitution of the United States to protect the rights of crime victims.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. TORRICELLI (for himself and Mr. Wellstone):

S. 2265. A bill to amend the Social Security Act to waive the 24-month waiting period for Medicare coverage of individuals disabled with amyotrophic lateral sclerosis (ALS), to provide Medicare coverage of drugs used for treatment of ALS, and to amend the Public Health Service Act to increase Federal funding for research on ALS; to the Committee on Finance.

By Mr. THURMOND (for himself and Mr. Helms):

S. 2266. A bill to amend the Americans with Disabilities Act of 1990 and the Rehabilitation Act of 1973 to exempt State and local agencies operating prisons from the provisions relating to public services; to the Committee on Labor and Human Resources.

By Mr. D'AMATO (for himself and Mr. Murkowski):

S. 2267. A bill to amend the Internal Revenue Code of 1986 to grant relief to participants in multiemployer plans from certain section 415 limits on defined benefit pension plans; to the Committee on Finance.

By Mr. BINGAMAN:

S. 2268. A bill to amend the Internal Revenue Code of 1986 to improve the research and experimentation tax credit, and for other purposes; to the Committee on Finance.

By Mr. D'AMATO (for himself and Mr. Torricelli):

S. 2269. A bill to establish a cultural and training program for disadvantaged individuals from Northern Ireland and the Republic of Ireland; to the Committee on Foreign Relations.

By. Mr. FAIRCLOTH:

S. 2270. A bill to amend the Federal Deposit Insurance Act with respect to raising the level of the Deposit Insurance Fund reserve ratio and with respect to refunds of excess assessments, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By. Mr. SESSIONS (for Mr. Hatch):

S. 2271. A bill to simplify and expedite access to the Federal courts for injured parties whose rights and privileges, secured by the United States Constitution, have been deprived by final actions of Federal agencies, or other government officials or entities acting under color of State law, and for other purposes; read the first time.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. LOTT (for himself, Mr. Torricelli, Mr. Murkowski, Mr. Helms, Mr. Lugar, Mr. Mack, Mr. Gorton, Mr. Thomas, Mr. McCain, Mr. Gramm, Mr. Hutchinson, Mr. Bond, Mr. Domenici, Mr. Kempthorne, Mr. Kyl, Mr. Abraham, Mr. Hatch, Mr. Burns, Mr. Warner, Mr. Coverdell, Mr. Faircloth, Mr. McConnell, Mr. Craig, Mr. Smith of New Hampshire, and Mr. Brownback):

S. Con. Res. 107. A concurrent resolution affirming United States commitments to Taiwan; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. TORRICELLI (for himself and Mr. Wellstone):

S. 2265. A bill to amend the Social Security Act to waive the 24-month waiting period for Medicare coverage of individuals disabled with amyotrophic lateral sclerosis (ALS), to provide Medicare coverage of drugs used for treatment of ALS, and to amend the Public Health Service Act to increase Federal funding for research on ALS; to the Committee on Finance.

AMYOTROPHIC LATERAL SCLEROSIS (ALS) RESEARCH, TREATMENT, AND ASSISTANCE ACT OF 1998

• Mr. TORRICELLI. Mr. President, today I introduce legislation that will improve the lives of 30,000 Americans, 850 of whom live in my State of New Jersey, who are stricken with Amyotrophic Lateral Sclerosis (ALS). Many of us know ALS as the disease that struck down the famed Yankees 1st baseman, Lou Gehrig. Today, few of us are aware of the tragic effects ALS still has on its victims.

First diagnosed over 130 years ago, ALS is a fatal neurological disorder that usually strikes individuals over 50 years old. Each year, over 5,000 new cases are diagnosed, and tragically, life expectancy is only 3 to 5 years. The financial costs to families of persons with ALS can be up to $200,000 a year.

Mr. President, the legislation I introduce today addresses the need for the Federal Government to provide increased medical services and research for ALS. First, the bill waives the 24-month waiting period that ALS patients must endure in order to receive Medicare services. Since the life-expectancy for ALS patients is only a few short years, it is crucial that these individuals have access to Medicare services as soon as possible. It makes absolutely no sense to require individuals to wait 2 years to receive Medicare services when their life expectancy is only 3 to 5 years.

Next, the legislation will ensure Medicare provides coverage for all Food and Drug Administration (FDA) drugs used to treat ALS. Medicare typically does not provide coverage for drug therapies, but in the case of ALS, the need for an exception is clear. In addition, expanding Medicare coverage for ALS therapies will hopefully stimulate further research.

Finally, the bill recognizes the need to increase critical research into ALS by authorizing $25 million to the National Institutes of Health.

Mr. President, this legislation is simple, it's modest, and the logic is overwhelming. ALS is a disease that strikes at every community, with the potential for every American. No one is immune, and everyone is vulnerable. I am pleased to be joined by my colleague Senator Wellstone in introducing legislation that represents a first real step toward improving the quality of life for people with ALS while bringing us much closer to finding a cause and a cure.

Mr. President, I ask unanimous consent that the text of the bill, in its entirety, be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2265

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; FINDINGS; PURPOSES.

(a) SHORT TITLE.—This Act may be cited as the "Amyotrophic Lateral Sclerosis (ALS) Research, Treatment, and Assistance Act of 1998".

(b) FINDINGS.—Congress finds the following:

(1) Amyotrophic lateral sclerosis (ALS), commonly known as Lou Gehrig's Disease, is a progressive neuromuscular disease characterized by a degeneration of the nerve cells of the brain and spinal cord leading to the wasting of muscles, paralysis, and eventual death.

(2) Approximately 30,000 individuals in the United States are afflicted with ALS at any time, with approximately 5,000 new cases appearing each year.

(3) ALS usually strikes individuals who are 50 years of age or older.

(4) The life expectancy of an individual with ALS is 3 to 5 years from the time of diagnosis.

(5) There is no known cure or cause for ALS.

(6) Aggressive treatment of the symptoms of ALS can extend the lives of those with the disease. Recent advances in ALS research have produced promising leads, many related to shared disease processes that appear to operate in many neurodegenerative diseases.

(c) PURPOSES.—The purposes of this Act are—

(1) to assist individuals suffering from ALS by waiving the 24-month waiting period for medicare eligibility on the basis of disability for ALS patients and to provide medicare coverage for outpatient drugs and therapies for ALS; and

(2) to increase Federal funding of research into the cause, treatment, and cure of ALS.

SEC. 2. WAIVER OF 24-MONTH WAITING PERIOD FOR MEDICARE COVERAGE OF INDIVIDUALS DISABLED WITH AMYOTROPHIC LATERAL SCLEROSIS (ALS).

(a) IN GENERAL.—Section 226 of the Social Security Act (42 U.S.C. 426) is amended—

(1) by redesignating subsection (h) as subsection (j); and

(2) by inserting after subsection (g) the following new subsection:

"(h) For purposes of applying this section in the case of an individual medically determined to have amyotrophic lateral sclerosis (ALS), the following special rules apply:

"(1) Subsection (b) shall be applied as if there were no requirement for any entitlement to benefits, or status, for a period longer than 1 month.

"(2) The entitlement under such subsection shall begin with the first month (rather than twenty-fifth month) of entitlement or status.

"(3) Subsection (f) shall not be applied.".

(b) CONFORMING AMENDMENT.—Section 1837 of such Act (42 U.S.C. 1395p) is amended by adding at the end the following new subsection:

"(j) In applying this section in the case of an individual who is entitled to benefits under part A pursuant to the operation of section 226(h), the following special rules apply:

"(1) The initial enrollment period under subsection (d) shall begin on the first day of the first month in which the individual satisfies the requirement of section 1836(1).

"(2) In applying subsection (g)(1), the initial enrollment period shall begin on the first day of the first month of entitlement to disability insurance benefits referred to in such subsection.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to benefits for months beginning after the date of enactment of this Act.

SEC. 3. MEDICARE COVERAGE OF DRUGS TO TREAT AMYOTROPHIC LATERAL SCLEROSIS (ALS).

(a) IN GENERAL.—Section 1861(s)(2) of the Social Security Act (42 U.S.C. 1395x(s)(2)) is amended—

(1) by striking "and" at the end of subparagraph (S);

(2) by striking the period at the end of subparagraph (T) and inserting "; and"; and

(3) by adding at the end the following:

"(U) any drug (which is approved by the Federal Food and Drug Administration) prescribed for use in the treatment or alleviation of symptoms relating to amyotrophic lateral sclerosis (ALS);".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to drugs furnished on or after the first day of the first month beginning after the date of enactment of this Act.

SEC. 4. INCREASED FEDERAL FUNDS FOR RESEARCH INTO AMYOTROPHIC LATERAL SCLEROSIS (ALS).

For the purpose of conducting or supporting research on amyotrophic lateral sclerosis through the National Institutes of Health, there are authorized to be appropriated $25,000,000 for fiscal year 1999, and such sums as may be necessary for each of the fiscal years 2000 through 2003. Such authorization is in addition to any other authorization of appropriations that may be available for such purpose.●

By Mr. THURMOND (for himself and Mr. HELMS):

S. 2266. A bill to amend the Americans with Disabilities Act of 1990 and the Rehabilitation Act of 1973 to exempt State and local agencies operating prisons from the provisions relating to public services; to the Committee on Labor and Human Resources.

STATE AND LOCAL PRISON RELIEF ACT

Mr. THURMOND. Mr. President, I rise today to introduce legislation to address an undue burden that has arisen out of the Americans with Disabilities Act.

The purpose of the ADA to give disabled Americans the opportunity to fully participate in society and contribute to it. This was a worthy goal. But even legislation with the best of intentions often has unintended consequences. I submit that one of those is the application of the ADA to state and local prisons throughout America.

Last month, the Supreme Court ruled in Pennsylvania Department of Corrections versus Yeskey that the ADA applies to every state prison and local jail in this country. The circuit courts were split on the issue. The Fourth Circuit Court of Appeals, my home circuit, forcefully concluded that the ADA, as well as its predecessor and companion law, the Rehabilitation Act, did not apply to state prisoners, focusing on federalism concerns and the fact that the Congress did not make clear that it intended to involve itself to this degree in an activity traditionally reserved to the states.

However, the Supreme Court did not agree, holding that the language of the Act is broad enough to clearly cover state prisons. It is not an issue on the Federal level because the Federal Bureau of Prisons voluntarily complies with the Act. The Supreme Court did not say whether applying the ADA to state prisons exceeded the Congress' powers under the Commerce Clause or the Fourteenth Amendment, but we should not wait on the outcome of this argument to act. Although it was rational for the Supreme Court to read the broad language of the ADA the way it did, it is far from clear that we in the Congress considered the application of this sweeping new social legislation in the prison environment.

The Seventh Circuit recognized that the "failure to exclude prisoners may well have been an oversight." The findings and purpose of the law seem to support this. The introductory language of the ADA states, "The Nation's proper goals regarding individuals with disabilities are to assure quality of opportunity, full participation, independent living, and economic self-sufficiency" to allow "people with disabilities * * * to compete on an equal basis and to pursue those opportunities for which our free society is justifiably famous." Of course, a prison is not a free society, as the findings and purpose of the Act envisioned. Indeed, it is quite the opposite. In short, as the Ninth Circuit explained, "The Act was not designed to deal specifically with the prison environment; it was intended for general societal application."

In any event, now that the Supreme Court has spoken, it is time for the Congress to confront this issue. The Congress should act now to exempt state and local prisons from the ADA. If we do not, this law will have broad adverse implications for the management of these institutions. Prisoners will file an endless number of lawsuits demanding special privileges, which will involve Federal judges in the intricate details of running our state and local prisons.

Mr. President, we should continuously remind ourselves that the Constitution created a Federal government of limited, enumerated powers. Those powers not delegated to the Federal government were reserved to the states or the people. As James Madison wrote in Federalist No. 45, "the powers delegated to the Federal government are few and definite. * * * [The powers] which are to remain in the State governments are numerous and indefinite." The Federal government should avoid intrusion into matters traditionally reserved for the states. We must respect this delicate balance of power. Unfortunately, federalism is more often spoken about than respected.

Although the entire ADA raises federalism concerns, the problem is especially acute in the prison context. There are few powers more traditionally reserved for the states than crime.

The crime laws have always been the province of the states, and the vast majority of prisoners have always been housed in state prisons. The First Congress enacted a law asking the states to house Federal prisoners in their jails for fifty cents per month. The first Federal prison was not built until over 100 years later, and only three existed before 1925.

Even today, as the size and scope of Federal government has grown immensely, only about 6% of prisoners are housed in Federal institutions. Managing that other 94% is a core state function. As the Supreme Court has stated,

> Maintenance of penal institutions is an essential part of one of government's primary functions—the preservation of societal order through enforcement of the criminal law. It is difficult to imagine an activity in which a State has a stronger interest, or one that is more intricately bound up with state laws, regulations, and procedures.

The primary function of prisons is to house criminals. Safety and security are the overriding concerns of prison administration. The rules and regulations, the daily schedules, the living and working arrangements—these all revolve around protecting prison employees, inmates, and the public. But the goal of the ADA is to take away any barrier to anyone with any disability. It requires the authorities to provide "reasonable accommodation" for essentially any disability unless doing so would impose an "undue burden" or "a direct threat to the health or safety of others," as broadly defined by the courts. Accommodating inmates will interfere with the ability of prison administrators to keep safety and security their overriding concern.

The practical effect of the ADA will be that prison officials will have to grant special privileges to certain inmates and to excuse others from complying with generally-applicable prison rules.

The ADA presents a perfect opportunity for prisoners to try to beat the system, and use the courts to do it. There are over 1.6 million inmates in state prisons and local jails, and the numbers are rising every year. Indeed, the total prison population has grown about 6.5% per year since 1990. Prisons have a substantially greater percentage of persons with disabilities that are covered by the ADA than the general population, including AIDS, mental retardation, psychological disorders, learning disabilities, drug addiction, and alcoholism. Further, administrators control every aspect of prisoners' lives, such as assigning educational and vocational training, recreation, and jobs in prison industries. Combine these facts, and the opportunities for lawsuits are endless.

For example, in most state prison systems, inmates are classified and assigned based in part on their disabilities. This helps administrators meet the disabled inmates' needs in a cost-effective manner. However, under the ADA, prisoners probably will be able to claim that they must be assigned to a prison without regard to their disability. Were it not for their disability, they may have been assigned to the prison closest to their home, and in that case, every prison would have to be able to accommodate every disability. That could mean every prison having, for example, mental health treatment centers, services for hearing-impaired inmates, and dialysis treatment. The cost is potentially enormous.

Adequate funding is hard for prisons to achieve, especially in state and local communities where all government funds are scarce. The public is angry about how much money they have to spend to house prisoners. Even with prison populations rising, they do not want more of their money spent on prisoners. Often, there is simply not enough money to make the changes in challenged programs to accommodate the disabled. If prison administrators do not have the money to change a program, they will probably have to eliminate it. Thus, accommodation could mean the elimination of worthwhile educational, recreational, and rehabilitative programs, making all inmates worse off.

Apart from money, accommodation may mean modifying the program in such a way as to take away its beneficial purpose. A good example is the Supreme Court's Yeskey case itself. Yeskey was declared medically ineligible to participate in a boot camp program because he had high blood pressure. So, he sued under the ADA. The boot camp required rigorous physical activity, such as work projects. If the program has to be changed to accommodate his physical abilities, it may not meet its basic goals, and the authorities may eliminate it. Thus, the result could be that everyone loses the benefit of an otherwise effective correctional tool.

Another impact of the ADA may be to make an already volatile prison environment even more difficult to control. Many inmates are very sensitive to the privileges and benefits that others get in a world where privileges are relatively few. Some have irrational suspicions and phobias. An inmate who is not disabled may be angry if he believes a disabled prisoner is getting special treatment, without rationally accepting that the law requires it, and could take out his anger on others around him, including the disabled prisoner.

We must keep in mind that it is judges who will be making these policy decisions. To determine what vague phrases like "reasonable accommodation" and "undue burden" mean, judges must get involved in intricate, fact-intensive issues. Essentially, the ADA requires judges to micromanage prisons. Judges are not qualified to second-guess prison administrators and make these complex, difficult decisions. Prisons cannot be run by judicial decree.

The Supreme Court in recent years has recognized this. In apply Constitutional rights to prisoners, the Court has tried to get away from micromanagement and has viewed prisoner claims deferentially in favor of the expertise of prison officials. It has stated that we will not "substitute our judgment on difficult and sensitive matters of institutional administration for the determinations of those charged with the formidable task of running a prison. This approach ensures the ability of corrections officials to anticipate security problems and to adopt innovative solutions to the intractable problems of prison administration, and avoid unnecessary intrusion of the judiciary into problems particularly ill-suited to resolution by decree."

Take for example a case from the Fourth Circuit, my home circuit, from 1995. The Court explained that a morbidly obese inmate presented corrections officials "with a lengthy and ever-increasing list of modifications which he insisted were necessary to accommodate his obese condition. Thus, he demanded a larger cell, a cell closer to support facilities, handrails to assist him in using the toilet, wider entrances to his cell and the showers, non-skid matting in the lobby area, and alternative outdoor recreational activities to accommodate his inability to stand or walk for long periods." It is not workable for judges to resolve all of these questions.

It is noteworthy that a primary purpose of the Prison Litigation Reform Act was to stop judges from micromanaging prisons and to reduce the burdens of prison litigation. As the Chief Justice of the Supreme Court recently recognized, the PLRA is having some success. However, this most recent Supreme Court decision will hamper that progress.

Moreover, the ADA delegated to Federal agencies the authority to create regulations to implement the law. State and local correction authorities must fall in line behind these regulations. In yet another way, we will have the Justice Department exercising regulatory oversight over our state and local communities.

Prisons are fundamentally different from other places in society. Prisoners are not entitled to all of the rights and privileges of law-abiding citizens, but they often get them. They have cable television. They have access to better gyms and libraries than most Americans. The public is tired of special privileges for prisoners. Applying the ADA to prisons is a giant step in the wrong direction. Prisoners will abuse the ADA to get privileges they were previously denied, and the reason will be the overreaching hand of the Federal government. We should not let this happen.

Mr. President, the National Government has gone full circle. We have gone from asking the states to house Federal prisoners to dictating to the states how they must house their own prisoners. There must be some end to the powers of the Federal government, and to the privileges it grants the inmates of this Nation. I propose that we start by passing this important legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2266

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "State and Local Prison Relief Act".

SEC. 2. EXEMPTIONS FOR STATE AND LOCAL AGENCIES OPERATING PRISONS.

(a) AMERICANS WITH DISABILITIES ACT OF 1990.—Section 201(1) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12131(1)) is amended by adding at the end the following: "The term 'public entity' does not include any department, agency, district, or instrumentality of a State or local government that operates a prison, as defined in section 3626(g) of title 18, United States Code, with respect to the services, programs, or activities relating to the prison.".

(b) REHABILITATION ACT OF 1973.—Section 504(b) of the Rehabilitation Act of 1973 (29 U.S.C. 794(b)) is amended by adding at the end of the following: "Notwithstanding the preceding sentence, for the purposes of this section, the term 'program or activity' does not include any operations relating to a prison, as defined in section 3626(g) of title 18, United States Code, by any entity described in any of paragraphs (1) through (4).".

By Mr. D'AMATO (for himself and Mr. MURKOWSKI):

S. 2267. A bill to amend the Internal Revenue Code of 1986 to grant relief to participants in multiemployer plans from certain section 415 limits on defined benefit pension plans; to the Committee on Finance.

MULTIEMPLOYER DEFINED BENEFIT PENSION LEGISLATION

Mr. D'AMATO. Mr. President, today I introduce legislation with my friend and colleague, Senator MURKOWSKI, to correct an inequity in the Tax Code that deprives working people of hard earned pension benefits. The problem is section 415 of the Internal Revenue Code, which sets compensation based limits and a dollar limit on pension plans. In effect, these section 415 limits discourage retirement savings.

Workers are being denied the full benefits that they have earned through many years of labor and on which they and their spouses have counted in planning their retirement. We can all appreciate the frustration and anger of workers who are told, upon applying for their pension, that the federal government won't let their pension plan pay them the full amount of the benefits that they earned under the rules of their plan. For some workers, this benefit cutback means that they will not be able to retire when they wanted or needed to. For other workers, it means retirement with less income to live on, and in some cases, retirement without health care coverage and other necessities of life.

The bill that Senator MURKOWSKI and I are introducing today will give these workers relief from the most confiscatory provisions of section 415 and enable them to receive the full measure of their retirement savings, consistent with the policy goals of the National Summit on Retirement Savings recently sponsored by the President and the Congress.

Mr. President, Congress has recognized and corrected the adverse effects of section 415 on government employee pension plans. In fact, as part of the Small Business Jobs Protection Act of 1996 and the Tax Relief Act of 1997, we exempted government employee pension plans from the compensation-based limit, from certain early retirement limits, and from other provisions of section 415. Relief measures for workers covered by multiemployer plans have been passed three times by the Senate, most recently in the Senate version of the Taxpayer Relief Act of 1997. Unfortunately, those changes were not maintained in the Senate/House Conference Report.

Section 415 was enacted more than two decades ago when the pension world was quite different than today. The section 415 limits were designed to contain the tax-sheltered pensions that could be received by highly paid executives and professionals. The passage of time and Congressional action has stood this original design on its head. Today, the limits are forcing cutbacks in the pensions of rank-and-file workers. Executives and professionals are now able to receive pensions far in excess of the section 415 limits by establishing non-qualified supplemental retirement programs.

Generally, section 415 limits the benefits payable to a worker by defined benefit pension plans to the lesser of (1) the worker's average annual compensation for the three consecutive years when his compensation was the highest (the compensation-based limit); and (2) a dollar limit that is sharply reduced if a worker retires before the Social Security normal retirement age of 65 or 66.

The compensation-based limit assumes that the pension earned under a plan is linked to each worker's salary, as is typical in corporate pension plans (e.g., a percentage of the worker's final year's salary for each year of employment). That assumption is wrong as applied to multiemployer pension plans. Multiemployer plans, which cover more than ten million individuals, have long based their benefits on the collectively bargained contribution rates and years of covered employment with one or more of the multiple employers which contribute to the plan. In other words, benefits earned under a multiemployer plan generally have no relationship to the wages received by a worker from the contributing employers. The same benefit level is paid to all workers with the same contribution and covered employment records regardless of their individual wage histories.

A second assumption underlying the compensation based limit is that workers' salaries increase steadily over the course of their careers so that the three highest salary years will be the last three consecutive years. While this salary history may be the norm in the corporate world, it is unusual in the multiemployer plan world. In multiemployer plan industries like building and construction, a worker's wage earnings typically fluctuate from year-to-year according to several variables including the availability of covered work and whether the worker is unable to work due to illness or disability. An individual worker's wage history may include many dramatic ups-and-downs. Because of these fluctuations, the three highest years of compensation for many multiemployer plan participants are not consecutive. Consequently, the section 415 compensation-based limit for these workers is artificially low; lower than it should be if they were covered by corporate plans.

The dollar limit under section 415 is forcing severe cutbacks in the earned pensions of workers who retire under multiemployer pension plans before they reach age 65. For example, construction work is physically hard, and is often performed under harsh climatic conditions. Workers are worn down sooner than those in most other industries. Often, early retirement is a must. Multiemployer pension plans accommodate these needs of their covered worker by providing for early retirement, disability, and service pensions that provide a subsidized, partial or full pension benefit.

As it stands now, section 415 is forcing cutbacks in these pensions because the dollar limit is severely reduced for each year you are under the normal Social Security retirement age. For a worker who retires at age 50, the dollar limit restricts their pension at about $40,000 per year.

This reduced limit applies regardless of the circumstances under which the worker retires and regardless of his plan's rules regarding retirement age. A multiemployer plan participant who becomes disabled and is forced into early retirement is nonetheless subject to the reduced limit. In addition, a construction worker who, after 30 years of demanding labor, has well-earned a 30-and-out service pension at age 50, is nonetheless subject to the reduced limit.

Our bill will ease this early retirement benefit cutback by extending to workers covered by multiemployer plans some of the more favorable early retirement rules that now apply to government employee pension plans and other retirement plans. These rules still provide for a reduced dollar limit for retirements earlier than age 62, but the reduction is less severe than under the current rules that apply to multiemployer plans.

Mr. President, I am particularly concerned that early retirees who suffer pension benefit cutbacks will not be able to afford the health care coverage that they need. Workers who retire before they become eligible for Medicare are typically required to pay all or a substantial part of the cost of their health insurance. Section 415 pension cutbacks deprive workers of income they need to bear these health care costs. This is contrary to the sound public policy of encouraging workers and retirees to responsibly provide for their health care.

I urge my colleagues on both sides of the aisle to cosponsor this important and necessary legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2267

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TREATMENT OF MULTIEMPLOYER PLANS UNDER SECTION 415 LIMIT ON DEFINED BENEFIT PENSION PLAN BENEFITS.

(a) Dollar Limit Reduction.—Subparagraph (F) of section 415(b)(2) of the Internal Revenue Code of 1986 (relating to plans maintained by governments and tax-exempt organizations) is amended—

(1) by striking "AND TAX-EXEMPT ORGANIZATIONS" in the heading and inserting ", TAX-EXEMPT ORGANIZATIONS, AND MULTIEMPLOYER PLANS", and

(2) by inserting in the first sentence "a multiemployer plan (as defined in section 414(f))," after "subtitle".

(b) Average Compensation Limit.—Paragraph (11) of section 415(b) of such Code (relating to a special limitation rule for governmental plans) is amended to read as follows:

"(11) Special limitation rule for governmental and multiemployer plans.—In the case of a governmental plan (as defined in section 414(d)) or a multiemployer plan (as defined in section 414(f)), subparagraph (B) of paragraph (1) shall not apply.".

(c) Combining and Aggregation of Plans.—

(1) Combining of plans.—Subsection (f) of section 415 of such Code (relating to combining of plans) is amended by adding at the end the following:

"(3) Exception for multiemployer plan.—Notwithstanding paragraph (1) and subsection (g), a multiemployer plan (as defined in section 414(f)) shall not be combined or aggregated with any other plan maintained by an employer for purposes of applying the limitations established in this section.".

(2) Conforming amendment for aggregation of plans.—Subsection (g) of section 415 of such Code (relating to aggregation of plans) is amended by striking "The Secretary" and inserting "Except as provided in subsection (f)(3), the Secretary".

(d) Effective Date.—The amendments made by this section shall apply to plan years beginning after December 31, 1997.

By Mr. BINGAMAN:

S. 2268. A bill to amend the Internal Revenue Code of 1986 to improve the research and experimentation tax credit, and for other purposes; to the Committee on Finance.

RESEARCH AND EXPERIMENTATION TAX CREDIT LEGISLATION

Mr. BINGAMAN. Mr. President, last Tuesday, June 30, 1998, the research and experimentation tax credit expired, once again. Once again, U.S. industry was left in a state of uncertainty as to how to value its investments in research and development, which are really investments in the economic future of our country. Today, I am introducing a bill to extend permanently and improve the research and experimentation tax credit. It is the fruit of analysis from the staff of the Joint Economic Committee, of which I am the ranking member. It is also the product of consultations with a spectrum of groups who share my concern for our Nation's future scientific and technological strength. The bill would, briefly, make the existing R&E tax credit permanent, improve the economic efficiency and practicality of the alternative incremental credit, convert the existing basic research credit into a flat credit, and accompany the basic research credit (which is aimed mostly at research in universities) with a new credit for nonprofit research consortia. The bill also makes a number of technical and clarifying adjustments to the basic research credit, so that it will be easier to use.

I am not the first Member of this body to propose to make the R&E tax credit permanent, or to propose improvements in its functioning. I plan to work with other similarly-minded Senators in the days to come to see if we can construct an even broader coalition to make these permanent improvements in the R&E tax credit a reality this year.

I ask unanimous consent that the text of this bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2268

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.

SECTION 1. PERMANENT EXTENSION OF RESEARCH CREDIT.

(a) In General.—Section 41 of the Internal Revenue Code of 1986 (relating to credit for increasing research activities) is amended by striking subsection (h).

(b) Conforming Amendment.—Section 45C(b)(1) of the Internal Revenue Code of 1986 is amended by striking subparagraph (D).

SEC. 2. IMPROVED ALTERNATIVE INCREMENTAL CREDIT.

(a) In General.—Section 41 of the Internal Revenue Code of 1986 (as amended by section 1 of this Act) is amended by adding at the end the following new subsection:

"(h) Election of Alternative Incremental Credit.—

"(1) In general.—At the election of the taxpayer, the credit under subsection (a)(1) shall be determined under this subsection by taking into account the modifications provided by this subsection.

"(2) Determination of base amount.—

"(A) In general.—In computing the base amount under subsection (c)—

"(i) notwithstanding subsection (c)(3), the fixed-based percentage shall be equal to 85 percent of the percentage which the aggregate qualified research expenses of the taxpayer for the base period is of the aggregate gross receipts of the taxpayer for the base period, and

"(ii) the minimum base amount under subsection (c)(2) shall not apply.

"(B) Start-up and small taxpayers.—In computing the base amount under subsection (c), the gross receipts of a taxpayer for any taxable year in the base period shall be treated as at least equal to $1,000,000.

"(C) Base period.—For purposes of this subsection, the base period is the 8-taxable year period preceding the taxable year (or, if shorter, the period the taxpayer (and any predecessor) has been in existence).

"(3) Qualified research.—

"(A) In general.—Notwithstanding subsection (d), the term 'qualified research' means research with respect to which expenditures are treated as research and development costs for the purposes of a report or statement concerning such taxable year—

"(i) to shareholders, partners, or other proprietors, or to beneficiaries, or

"(ii) for credit purposes.

Such term shall not include any research described in subparagraph (F) of (H) of subsection (d)(4).

"(B) Financial accounting standards.—

"(i) In general.—Subparagraph (A) shall only apply to the extent that the treatment of expenditures as research and development costs is consistent with the Statement of Financial Accounting Standards No. 2 Accounting for Research and Development Costs.

"(ii) Significant changes.—If the Secretary determines that there is any significant change in the accounting standards described in clause (i) after the date of enactment of this subsection—

"(I) the Secretary shall notify the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate of such change, and

"(II) such change shall not be taken into account for any taxable year beginning before the date which is 1 year after the date of notice under subclause (I).

"(C) Transition rule.—At the election of the taxpayer, this paragraph shall not apply in computing the base amount for any taxable year in the base period beginning before January 1, 1999.

"(4) Election.—An election under this subsection shall apply to the taxable year for which made and all succeeding taxable years unless revoked with the consent of the Secretary."

(b) ASSISTANCE TO SMALL AND START-UP BUSINESSES.—The Secretary of the Treasury or his delegate shall take such actions as are appropriate to—

(1) provide assistance to small and start-up businesses in complying with the requirements of section 41 of the Internal Revenue Code of 1986, and

(2) reduce the costs of such compliance.

(c) CONFORMING AMENDMENT.—Section 41(c) of the Internal Revenue Code of 1986 is amended by striking paragraph (4) and redesignating paragraphs (5) and (6) as paragraphs (4) and (5), respectively.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1998.

SEC. 3. MODIFICATIONS TO CREDIT FOR BASIC RESEARCH.

(a) ELIMINATION OF INCREMENTAL REQUIREMENT.—

(1) IN GENERAL.—Paragraph (1) of section 41(e) of the Internal Revenue Code of 1986 is amended to read as follows:

"(1) IN GENERAL.—The amount of basic research payments taken into account under subsection (a)(2) shall be determined in accordance with this subsection.".

(2) CONFORMING AMENDMENTS.—

(A) Section 41(a)(2) of such Code is amended by striking "determined under subsection (e)(1)(A)" and inserting "for the taxable year".

(B) Section 41(e) of such code is amended by striking paragraphs (3), (4), and (5) and by redesignating paragraphs (6) and (7) as paragraphs (3) and (4), respectively.

(C) Section 41(e)(4) of such Code (as redesignated) is amended by striking subparagraph (B) and by redesignating subparagraphs (C), (D), and (E) as subparagraphs (B), (C), and (D), respectively.

(D) Clause (i) of section 170(e)(4)(B) of such Code is amended by striking "section 41(e)(6)" and inserting "section 41(e)(3)".

(b) BASIC RESEARCH.—

(1) SPECIFIC COMMERCIAL OBJECTIVE.—Section 41(e)(4) of the Internal Revenue Code of 1986 (relating to definitions and special rules) is amended by adding at the end the following new subparagraph:

"(F) SPECIFIC COMMERCIAL OBJECTIVE.—For purposes of subparagraph (A), research shall not be treated as having a specific commercial objective if all results of such research are to be published in such a manner as to be available to the general public prior to their use for a commercial purpose."

(2) EXCLUSIONS FROM BASIC RESEARCH.—Section 41(e)(4)(A) of the Internal Revenue Code of 1986 (as redesignated by subsection (a)) is amended by striking clause (ii) and inserting the following:

"(ii) basic research in the arts or humanities."

(c) EXPANSION OF CREDIT TO RESEARCH AT FEDERAL LABORATORIES.—Section 41(e)(3) of the Internal Revenue Code of 1986 (as redesignated by subsection (a)(2)(C) of this section) is amended by adding at the end the following new subparagraph:

"(E) FEDERAL LABORATORIES.—Any organization which is a federal laboratory within the meaning of that term in section 4(6) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3703(6))."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1998.

SEC. 4. CREDIT FOR EXPENSES ATTRIBUTABLE TO CERTAIN COLLABORATIVE RESEARCH CONSORTIA.

(a) CREDIT FOR EXPENSES ATTRIBUTABLE TO CERTAIN COLLABORATIVE RESEARCH CONSORTIA.—Subsection (a) of section 41 of the Internal Revenue Code of 1986 (relating to credit for increasing research activities) is amended by—

(1) striking "and" at the end of paragraph (1);

(2) striking the period at the end of paragraph (2) and inserting ", and"; and

(3) adding at the end the following new paragraph:

"(3) 20 percent of the amounts paid or incurred during the taxable year (including as contributions) to a qualified research consortium."

(b) QUALIFIED RESEARCH CONSORTIUM DEFINED.—Subsection (f) of such Code is amended by adding at the end the following new paragraph:

"(6) QUALIFIED RESEARCH CONSORTIUM.—The term 'qualified research consortium' means any organization which—

"(A) is described in section 501(c)(3) and is exempt from tax under section 501(a).

"(B) is organized and operated primarily to conduct scientific or engineering research,

"(C) is not a private foundation,

"(D) to which at least 15 unrelated persons paid or incurred (including as contributions), during the calendar year in which the taxable year of the organization begins, amounts to such organization for scientific or engineering research,

"(E) to which no 3 unrelated persons paid or incurred (including as contributions) during such calendar year more than 50 percent of the total amounts received by such organization during such calendar year for scientific or engineering research, and

"(F) to which no single person paid or incurred (including as contributions) more than 25 percent of such total amounts.

All persons treated as a single employer under subsection (a) or (b) of section 52 shall be treated as related persons for purposes of subparagraphs (D) and (E), and as a single person for purposes of subparagraph (F)."

(c) CONFORMING AMENDMENT.—Paragraph (3) of section 41(b) of such Code is amended by striking subparagraph (C).

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1998.

By Mr. FAIRCLOTH:

S. 2270. A bill to amend the Federal Deposit Insurance Act with respect to raising the level of the Deposit Insurance Fund reserve ratio and with respect to refunds of excess assessments, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

LEGISLATION TO PROVIDE A REFUND OF EXCESS RESERVES IN THE BANK INSURANCE FUND

Mr. FAIRCLOTH. Mr. President, in 1991, the Congress reformed the FDIC and mandated that the fund keep a reserve to deposit ratio of 1.25%. Fortunately, no government funds were used to keep the FDIC solvent when this was mandated in 1991. It was thought by many that it would take years for the fund to reach that level, but, enough funds flowed into the Bank Insurance Fund that this reserve level was met relatively quickly.

What has been happening for the past few years, however, is that the Fund is generating billions in interest and is now well over the designated reserve ratio of 1.25%. The Fund can only be used to provide for losses to the insurance fund, however, because the BIF is considered on budget these excess funds are effectively being used to exaggerate the government surplus. The law envisioned a stop in the need for additional premiums once that fund hit its legal limit, but it never made provisions for excess reserves building and building year after year.

Rather than this money piling up in the Bank Insurance Fund, I think it would be put to greater use if these funds were recycled back into the banking system, and back into our economy.

Today, I am introducing legislation that would require that the Fund provide a refund of this excess revenue when it reaches a reserve level of 1.5%. This means that the Fund could maintain a cushion of 20% above the level that is required by law, but once that outer level is reached, the excess would have to be refunded.

Mr. President, the Bank Insurance Fund is composed entirely of non-government funds. The money in this Fund is derived from assessments on the banking industry. The Congress chose a level at which the Fund could operate safely, and that level is being met, in fact, it is being exceeded. At the end of 1997, the Fund held nearly $28 billion. I think it is wrong, however, to use the money paid by the banking industry to earn revenue for the government and not recycle that money back into the economy. The Fund earned nearly $1.5 billion in interest last year.

If this amount of money were put back into the economy, $1.5 billion in capital could sustain another $15 billion in loans.

I do not know when the Fund will reach 1.5% reserve to deposit ratio. The FDIC is projecting that the reserve ratio could be anywhere between 1.36% and 1.43% by the end of this year. Clearly, my legislation means that sometime within the next two years, there will be a level reached at which this money will be put back into the economy.

When I first came to Washington, I noticed that many believed money was simply appropriated. Actually, money has to be created. Somebody, somewhere had to do something, drive a truck, wait on a table, build a house—somebody had to create wealth. This is the point of this legislation—we need to send money back into the private sector so that it can be used to create new wealth, new jobs and new opportunities. Letting this money accumulate in Washington will not create new opportunities for the American people. That is why I am introducing this legislation, which I think is balancing the need for both a safe and sound deposit insurance fund and the need to keep dollars in banking system for new lending and new growth.

ADDITIONAL COSPONSORS

S. 236

At the request of Mr. GRAMS, the name of the Senator from Colorado [Mr. ALLARD] was added as a cosponsor of S. 236, a bill to abolish the Department of Energy, and for other purposes.

S. 358

At the request of Mr. DEWINE, the names of the Senator from North Dakota [Mr. DORGAN] and the Senator from Washington [Mr. GORTON] were added as cosponsors of S. 358, a bill to provide for compassionate payments with regard to individuals with blood-clotting disorders, such as hemophilia, who contracted human immunodeficiency virus due to contaminated blood products, and for other purposes.

S. 374

At the request of Mr. ROBB, the name of the Senator from Nebraska [Mr. HAGEL] was added as a cosponsor of S. 374, a bill to amend title 38, United States Code, to extend eligibility for hospital care and medical services under chapter 17 of that title to veterans who have been awarded the Purple Heart, and for other purposes.

S. 411

At the request of Mrs. HUTCHISON, the name of the Senator from Pennsylvania [Mr. SANTORUM] was added as a cosponsor of S. 411, a bill to amend the Internal Revenue Code of 1986 to provide a tax credit for investment necessary to revitalize communities within the United States, and for other purposes.

S. 484

At the request of Mr. DEWINE, the name of the Senator from Ohio [Mr. GLENN] was added as a cosponsor of S. 484, a bill to amend the Public Health Service Act to provide for the establishment of a pediatric research initiative.

S. 1252

At the request of Mr. D'AMATO, the names of the Senator from Georgia [Mr. COVERDELL] and the Senator from Virginia [Mr. ROBB] were added as cosponsors of S. 1252, a bill to amend the Internal Revenue Code of 1986 to increase the amount of low-income housing credits which may be allocated in each State, and to index such amount for inflation.

At the request of Mr. GRAHAM, the name of the Senator from Georgia [Mr. CLELAND] was added as a cosponsor of S. 1252, supra.

S. 1423

At the request of Mr. HAGEL, the name of the Senator from Idaho [Mr. KEMPTHORNE] was added as a cosponsor of S. 1423, a bill to modernize and improve the Federal Home Loan Bank System.

S. 1529

At the request of Mr. KENNEDY, the names of the Senator from Maryland [Mr. SARBANES] and the Senator from Hawaii [Mr. AKAKA] were added as cosponsors of S. 1529, a bill to enhance Federal enforcement of hate crimes, and for other purposes.

S. 1563

At the request of Mr. SMITH, the name of the Senator from Kentucky [Mr. MCCONNELL] was added as a cosponsor of S. 1563, a bill to amend the Immigration and Nationality Act to establish a 24-month pilot program permitting certain aliens to be admitted into the United States to provide temporary or seasonal agricultural services pursuant to a labor condition attestation.

S. 1684

At the request of Mr. HUTCHINSON, the name of the Senator from Ohio [Mr. DEWINE] was added as a cosponsor of S. 1684, a bill to allow the recovery of attorneys' fees and costs by certain employers and labor organizations who are prevailing parties in proceedings brought against them by the National Labor Relations Board.

S. 1757

At the request of Ms. SNOWE, the name of the Senator from Illinois [Ms. MOSELEY-BRAUN] was added as a cosponsor of S. 1757, a bill to amend the Public Health Service Act to extend the program of research on breast cancer.

S. 1868

At the request of Mr. NICKLES, the names of the Senator from Texas [Mrs. HUTCHISON] and the Senator from Mississippi [Mr. LOTT] were added as cosponsors of S. 1868, a bill to express United States foreign policy with respect to, and to strengthen United States advocacy on behalf of, individuals persecuted for their faith worldwide; to authorize United States actions in response to religious persecution worldwide; to establish an Ambassador at Large on International Religious Freedom within the Department of State, a Commission on International Religious Persecution, and a Special Adviser on International Religious Freedom within the National Security Council; and for other purposes.

S. 1924

At the request of Mr. MACK, the name of the Senator from Arizona [Mr. MCCAIN] was added as a cosponsor of S. 1924, a bill to restore the standards used for determining whether technical workers are not employees as in effect before the Tax Reform Act of 1986.

S. 1993

At the request of Ms. COLLINS, the name of the Senator from South Dakota [Mr. JOHNSON] was added as a cosponsor of S. 1993, a bill to amend title XVIII of the Social Security Act to adjust the formula used to determine costs limits for home health agencies under medicare program, and for other purposes.

S. 2017

At the request of Mr. D'AMATO, the name of the Senator from West Virginia [Mr. ROCKEFELLER] was added as a cosponsor of S. 2017, a bill to amend title XIX of the Social Security Act to provide medical assistance for breast and cervical cancer-related treatment services to certain women screened and found to have breast or cervical cancer under a Federally funded screening program.

S. 2040

At the request of Mr. BAUCUS, the name of the Senator from Iowa [Mr. HARKIN] was added as a cosponsor of S. 2040, a bill to amend title XIX of the Social Security Act to extend the authority of State medicaid fraud control units to investigate and prosecute fraud in connection with Federal health care programs and abuse of residents of board and care facilities.

S. 2049

At the request of Mr. KERREY, the name of the Senator from Alaska [Mr. MURKOWSKI] was added as a cosponsor of S. 2049, a bill to provide for payments to children's hospitals that operate graduate medical education programs.

S. 2154

At the request of Mrs. BOXER, the name of the Senator from North Carolina [Mr. FAIRCLOTH] was added as a cosponsor of S. 2154, a bill to promote research to identify and evaluate the health effects of silicone breast implants, and to ensure that women and their doctors receive accurate information about such implants.

S. 2157

At the request of Mr. CLELAND, the name of the Senator from Illinois [Mr. DURBIN] was added as a cosponsor of S. 2157, a bill to amend the Small Business Act to increase the authorized funding level for women's business centers.

S. 2158

At the request of Mr. ROBERTS, the name of the Senator from South Dakota [Mr. JOHNSON] was added as a cosponsor of S. 2158, a bill to amend the Arms Export Control Act to provide that certain sanctions provisions relating to prohibitions on credit, credit guarantees, or other financial assistance not apply with respect to programs of the Department of Agriculture for the purchase or other provision of food or other agricultural commodities.

S. 2180

At the request of Mr. LOTT, the names of the Senator from Washington [Mrs. MURRAY], the Senator from Mississippi [Mr. COCHRAN], the Senator from Alabama [Mr. SESSIONS], and the Senator from Connecticut [Mr. LIEBERMAN] were added as cosponsors of S. 2180, a bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of

1980 to clarify liability under that Act for certain recycling transactions.

S. 2234

At the request of Mr. DORGAN, the name of the Senator from South Dakota [Mr. JOHNSON] was added as a cosponsor of S. 2234, a bill to require the Secretary of Agriculture to carry out a trade compensation assistance program if the President, any other member of the executive branch, or any other provision of law causes exports from the United States to any country to be suspended for reasons of national security policy, and to require the Secretary of Defense to reimburse the Commodity Credit Corporation for the cost of each such program.

S. 2245

At the request of Mr. LAUTENBERG, the names of the Senator from Massachusetts [Mr. KENNEDY], the Senator from New Jersey [Mr. TORRICELLI], the Senator from Connecticut [Mr. DODD], and the Senator from Rhode Island [Mr. REED] were added as cosponsors of S. 2245, a bill to require employers to notify local emergency officials, under the appropriate circumstances, of workplace emergencies, and for other purposes.

SENATE JOINT RESOLUTION 50

At the request of Mr. BOND, the names of the Senator from California [Mrs. BOXER] and the Senator from Colorado [Mr. ALLARD] were added as cosponsors of Senate Joint Resolution 50, a joint resolution to disapprove the rule submitted by the Health Care Financing Administration, Department of Health and Human Services on June 1, 1998, relating to surety bond requirements for home health agencies under the medicare and medicaid programs.

SENATE CONCURRENT RESOLUTION 103

At the request of Mr. MOYNIHAN, the names of the Senator from Wisconsin [Mr. KOHL] and the Senator from Iowa [Mr. GRASSLEY] were added as cosponsors of Senate Concurrent Resolution 103, a concurrent resolution expressing the sense of the Congress in support of the recommendations of the International Commission of Jurists on Tibet and on United States policy with regard to Tibet.

SENATE RESOLUTION 193

At the request of Mr. REID, the names of the Senator from South Dakota [Mr. JOHNSON] and the Senator from Hawaii [Mr. INOUYE] were added as cosponsors of Senate Resolution 193, a resolution designating December 13, 1998, as "National Children's Memorial Day."

SENATE RESOLUTION 199

At the request of Mr. TORRICELLI, the names of the Senator from North Dakota [Mr. CONRAD] and the Senator from Illinois [Mr. DURBIN] were added as cosponsors of Senate Resolution 199, a resolution designating the last week of April of each calendar year as "National Youth Fitness Week."

AMENDMENT NO. 3013

At the request of Mr. CAMPBELL the name of the Senator from Nevada [Mr. REID] was added as a cosponsor of amendment No. 3013 intended to be proposed to S. 1112, a bill to require the Secretary of the Treasury to mint coins in commemoration of Native American history and culture.

SENATE CONCURRENT RESOLUTION 107—AFFIRMING U.S. COMMITMENTS TO TAIWAN

Mr. LOTT (for himself, Mr. TORRICELLI, Mr. MURKOWSKI, Mr. HELMS, Mr. LUGAR, Mr. MACK, Mr. GORTON, Mr. THOMAS, Mr. MCCAIN, Mr. GRAMM, Mr. HUTCHINSON, Mr. BOND, Mr. DOMENICI, Mr. KEMPTHORNE, Mr. KYL, Mr. ABRAHAM, Mr. HATCH, Mr. BURNS, Mr. WARNER, Mr. COVERDELL, Mr. FAIRCLOTH, Mr. MCCONNELL, Mr. CRAIG, Mr. SMITH of New Hampshire, and Mr. BROWNBACK) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 107

Whereas at no time since the establishment of the People's Republic of China on October 1, 1949, has Taiwan been under the control of the People's Republic of China;

Whereas the United States began its long, peaceful, friendly relationship with Taiwan in 1949;

Whereas since the enactment of the Taiwan Relations Act in 1979, the policy of the United States has been based on the expectation that the future relationship between the People's Republic of China and Taiwan would be determined by peaceful means;

Whereas in March 1996, the People's Republic of China held provocative military maneuvers, including missile launch exercises in the Taiwan Strait, in an attempt to intimidate the people of Taiwan during their historic, free and democratic presidential election;

Whereas officials of the People's Republic of China refuse to renounce the use of force against democratic Taiwan;

Whereas Taiwan has achieved significant political and economic strength as one of the world's premier democracies and as the 19th largest economy in the world;

Whereas Taiwan is the seventh largest trading partner of the United States and imports more than twice as much annually from the United States as does the People's Republic of China;

Whereas no treaties exist between the People's Republic of China and Taiwan that determine the future status of Taiwan: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) affirms its long standing commitment to Taiwan and the people of Taiwan in accordance with the Taiwan Relations Act (Public Law 96-8);

(2) affirms its expectation, consistent with the Taiwan Relations Act, that the future of Taiwan will be determined by peaceful means, with the consent of the people of Taiwan, and considers any effort to determine the future of Taiwan by other than peaceful means a threat to the peace and security of the Western Pacific and of grave concern to the United States;

(3) affirms its commitment, consistent with the Taiwan Relations Act, to make available to Taiwan such defense articles and defense services in such quantities as may be necessary to enable Taiwan to maintain a sufficient self-defense capability;

(4) affirms its commitment, consistent with the Taiwan Relations Act, that only the President and Congress shall determine the nature and quantity of defense articles and services for Taiwan based solely upon their judgment of the needs of Taiwan; and

(5) urges the President of the United States to seek a public renunciation by the People's Republic of China of any use of force, or threat to use force, against democratic Taiwan.

Mr. LOTT. Mr. President, this resolution does not break new ground with regard to Taiwan. It simply reaffirms our support of the principles of the 1979 Taiwan Relations Act. It calls on the President to seek a Chinese renunciation of the use of force to affect Taiwan's future.

President Clinton gave two impressive performances at Beijing University and at the joint press conference, but I am very much concerned about the perception of what he had to say, of what the effect is of what he had to say with regard to Taiwan. Instead of pressing Beijing to renounce the use of force against Taiwan, President Clinton accepted Beijing's position on Taiwan. By ending the ambiguity of the U.S. position, we have harmed democratic Taiwan's position.

Congress has pressed previous administrations to change its policies with regard to Taiwan. In fact, the Taiwan Relations Act of 1979 was a clear example of congressional restraint on executive actions on Taiwan. In 1995, we urged the President to grant a visa to Taiwan's President to enter the U.S. for a college reunion. The administration changed its position after Congress took that action.

This resolution is necessary to correct the effects of the statements that were made in Shanghai. Before Shanghai, U.S. policy was to acknowledge Beijing's position. Now we have prepared to make Beijing's position our policy.

China refuses to take the use of force off the table. We should not unilaterally deny Taiwan membership to international organizations, and we should not take action in concert with the dictatorship in Beijing without even consulting the 21 million people under democratic rule in Taiwan.

Instead of undermining Taiwan, we should support our fundamental national interest in the peaceful resolution of differences. We do not want to see a war in the Taiwan Straits. Deterrence is the way to avoid such a possibility.

We should support the provision of missile defenses to Taiwan so that they can protect their democracy from a dictatorship's missiles. We should support Taiwan's membership in international organizations where they are willing and able to help an organization's goals—such as free trade and economic stability.

There is a second resolution, S. Con. Res. 30, on the issue of Taiwan's membership in the IMF and the World Bank. It has already been passed out of the Foreign Affairs Committee by unanimous vote. I hope we can pass that resolution this week.

I thank Senator TORRICELLI and the rest of our cosponsors. I urge other colleagues to join us because this is certainly a bipartisan issue. I look forward to rapid Senate action on the resolution to reaffirm our relationship with Taiwan and the primacy of the Taiwan Relations Act.

I ask unanimous consent, Mr. President, that editorials from the Wall Street Journal and the Washington Post be printed in the RECORD at this point.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Washington Post, July 2, 1998]

SIDING WITH THE DICTATORS

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Past administrations recognized the Beijing government as the legitimate government of China and "acknowledged" China's position with regard to Taiwan. But "acknowledge" did not mean "accept." The ultimate fate of Taiwan was something for Taiwan and China to work out, peacefully. Beyond that, the United States deliberately left its policy shrouded in ambiguity.

But recently officials of the Clinton administration have explicitly adopted a "three no's" formula much more pleasing to the Communist Chinese: no support for one Taiwan-one China; no support for Taiwan independence; no support for Taiwan membership in international organizations such as the United Nations. Now Mr. Clinton has given that policy a presidential stamp of approval—and on Chinese soil, to boot.

Why does it matter? Because Taiwan's 21 million people have forged a prosperous democracy over the past decades. There is no justification for the United States to oppose their right eventually to determine their own future. It would be fine for U.S. officials to reiterate that such a determination must take place peacefully and to encourage Taiwan-China dialogue. It would be fine for U.S. officials to warn Taiwan not to expect U.S. support for a unilateral declaration of independence. What's not fine is for the United States at this time to rule out independence or any other option the Taiwanese people eventually might choose.

When China threatened Taiwan militarily in 1996, Mr. Clinton responded with admirable resolve. But now he is trading away the human rights of Taiwan's 21 million people and sending an unfortunate signal to other democracies that might hope to rely on U.S. moral support.

As a practical matter, he's also significantly weakening Taiwan's bargaining power if and when Taiwan and China begin negotiations. China's main card always has been the threat of force; Taiwan's has been its campaign to establish sovereignty through membership in world organizations and other means. By explicitly and needlessly slamming the door on that campaign, Mr. Clinton has sided with the dictators against the democrats. To pretend this is no change only heightens the offense.

[From the Wall Street Journal, July 2, 1998]

BILL'S KOWTOW

Just when we were giving President Clinton credit for sounding the right notes in China, he managed to turn his visit into a fiasco after all. His kowtowing to China's "three no's" over Taiwan is likely to set off a cycle of reactions and counterreactions that ultimately will damage rather than improve Sino-American relations.

The bedrock of U.S. policy toward Taiwan has always been the Shanghai Communiqué, issued in 1972 as the two nations began their rapprochement, and affirmed in later agreements and the Taiwan Relations Act of 1979. In this document the U.S. declared that it "acknowledges that all Chinese on either side of the Taiwan Strait maintain there is but one China and that Taiwan is part of China. The United States government does not challenge that position. It reaffirms its interest in a peaceful settlement of the Taiwan question by the Chinese themselves." This was careful ambiguity, for example in not dealing with the possibility that what the U.S. acknowledged might someday no longer be true.

A shred of this policy remained, of course, in President Clinton's remark that U.S. policy "has been" that reunification "has to be done peacefully." This is something short of a demand that China renounce the use of force. And Mr. Clinton's mouthing of the "three no's" formula took place only in a carefully choreographed exchange with a specially selected Chinese scholar, with National Security Adviser Sandy Berger rushing around with notes. That is to say, it was something the Administration was rather ashamed of, despite the claim that is was no change in previous policy.

On that point, consider the President's language: "We don't support independence for Taiwan; or two Chinas; or one Taiwan, one China. And we don't believe that Taiwan should be a member in any organization for which statehood is a requirement." Anyone who reads English can see that this is miles beyond the careful language Richard Nixon and Henry Kissinger crafted in 1972.

So President Clinton got access to Chinese TV for some statements about human rights and Tibet, giving him the aura he wanted back home, and we continue to believe, some beneficial impact within China. Mr. Clinton also got a dollop of personal frosting with Jiang Zemin's public assurance that his government had investigated "the so-called political contributions in the United States" and discovered "there never was such a thing." There were also some trade contracts.

Yet even with the President in Shanghai, the on-again, off-again U.S. visit by a local opera company was definitely called off. This is not a trifle, since the pique of some petty official overrode contracts supported by both the Chinese parties and the U.S. parties. This is precisely the danger of business with China, as a visiting U.S. President should take time to notice.

President Jiang, by contrast, got his number one priority, Mr. Clinton carving the next slice of salami toward the Chinese goal of getting the U.S. to coerce Taiwan to join China, or alternatively to stand aside while China invades. Only two years ago, after all, the People's Liberation Army was "testing" its missiles over the Taiwan Strait, closing Taiwan's major ports and forcing the U.S. to dispatch two aircraft carrier battle groups to the area.

The issue of Taiwanese membership in international organizations is especially ridiculous. We can dismiss the United Nations as congenitally symbolic, and the sovereignty requirement would not preclude Taiwan's application to the World Trade Organization, which recognizes "customs territories." But Taiwan is already excluded from presumably serious organizations such as the International Monetary Fund and the World Bank, though it is among the world's top 20 economies and holds enormous monetary reserves. The world's remaining superpower should be acting to curb this ongoing farce, not entrench it.

Mr. Clinton climbed to the pinnacle of politics by pleasing the audience of the moment, but the ultimate impact of his démarche will depend on others offstage, on Taiwan and Capitol Hill. The Taiwanese are understandably upset, with their foreign ministry declaring that the U.S. and China "are in no position to conduct bilateral negotiations on anything related to our future." Even more to the point, Parris Chang, a leader of the pro-independence Democratic Progressive Party said, "It's wrong, morally and politically, for Clinton to collude with the Communist dictatorship to restrict the future of a democratic country, Taiwan."

The Democratic Progressives' position is that Taiwan is plainly a separate country, and that recognizing reality is always progress. They are already likely to form the next government in Taipei, and Mr. Clinton's acceding to the three no's almost surely improved their standing among Taiwan's voters. Back in Washington, Congress, historically supportive of Taiwan and already restive over its foreign-policy prerogatives, will resist Mr. Clinton's unilateral change in long-standing American policy.

Taiwan is now plainly a democratic nation, and has every right to determine its own future. In the end, the U.S. will not resist this principle, whatever Mr. Clinton said in Shanghai this week. The danger in Mr. Clinton's words is that the Chinese leaders who heard them will not only be disappointed but turn truculent.

Mr. LOTT. These articles, certainly newspapers that don't always take the same editorial positions, certainly agree in this case and express their concern about siding with Beijing on this very important issue relating to the freedom and the democracy of Taiwan.

I thank the handlers of this bill and the managers for yielding of this time. We wanted to get this submission done this afternoon.

I am glad to yield to Senator TORRICELLI.

Mr. TORRICELLI. I want to thank the majority leader for yielding the time. I am very pleased to join with the majority leader and my colleagues in offering this resolution regarding the commitment of the United States to Taiwan.

Like the majority leader, I, too, want to congratulate President Clinton for an extraordinarily successful visit to the People's Republic of China. He covered the issues of human rights, security, our economic relationships—I believe there was real progress made.

Mr. President, it is sometimes said that international conflicts begin more often from miscalculation than design. I believe it is of service to the Senate and to our country to make clear upon President Clinton's return both what was said and accomplished and, indeed, what remains in place with regard to the U.S. relations with the people and the government on Taiwan.

American policy toward Taiwan is governed by the Taiwan Relations Act. There are 4 principle components of this Act, accepted by this Congress, the bedrock policy of this country, and they remain unchanged.

First, the future of Taiwan will be determined by peaceful means. The Taiwan Relations Act does not say that the people of Taiwan and the mainland will be reunited by peaceful means. It says the future will be determined by peaceful means. That has not been altered.

Second, the United States affirms that one of its principle objectives is the preservation and enhancement of the human rights of the people of Taiwan.

Third, that the United States does not maintain as its policy the isolation of Taiwan, its government, or its people but there are many members of this institution, and, indeed, in this government, that believe it would enhance the security of the region and both peoples if Taiwan were admitted to international organizations.

Fourth, the United States remains committed to sell those defensive means necessary for the security of the people of Taiwan.

Mr. President, at a time of economic turbulence in Asia, it is notable that there is one government and one people that are a bedrock of economic stability. Taiwan is a model of development of democratic capitalism. It is a leader in technology and international trade, with a standard of living obtained for its people that is the envy of Asia. It is also notable that at a time when it is necessary for the President of the United States to discuss human rights with other countries, to discuss their means of government, that Taiwan remains a stable democracy, respecting the freedom of religion and of speech and of expression, where people choose their own leadership.

For all these reasons, Mr. President, it is important that there not be any miscalculation. The policy of this country toward Taiwan is governed by the Taiwan Relations Act. We remain committed to that democracy and to its security. This is not of some small moment. This is, after all, the 19th largest economy in the world. Taiwan is the seventh largest trading partner of the United States—a vibrant democracy in the family of democratic nations.

There are many of us who believe that in future years the security of the region would be enhanced by Taiwan's enhanced relationship with the United Nations, by its entry into the World Trade Organization and the Asian Development Bank, where its economic power could be heard and, indeed, enhance its economic stability.

Mr. President, for all those who have watched this recent trip to Asia, it bears reminding that this Congress wrote the Taiwan Relations Act. The Taiwan Relations Act governs the relationship between the United States and all issues affecting the future of Taiwan and its people. Only this Congress can change the Taiwan Relations Act.

Mr. President, we are all proud of President Clinton's trip to China. I believe that he came home with real substantive accomplishments. I believe it is also useful, as the majority leader has pointed out, to make clear both what has changed and what has not. The American commitment to Taiwan has not changed. It will not change. It is a bedrock of the American commitment to maintain special relationships with nations that choose their own leaders and live in the democratic family of countries.

I thank the majority leader for his leadership on this issue. I am proud to join with him on this concurrent resolution.

Mr. MURKOWSKI. Mr. President, I rise to speak on the issue of Taiwan and the events concerning Taiwan which transpired during our President's trip to China. While President Clinton maintains that he did not make any concessions on Taiwan, or in any way alter our longstanding policy towards Taiwan, I am concerned that, indeed, he may have; and I think the facts back me up and show that President Clinton may have, in no small way, initiated changes in our policy towards Taiwan.

I am specifically concerned with two incidents, Mr. President. First, during a question-and-answer period at Beijing University, President Clinton responded to a question on Taiwan. He remarked that "when the United States and China reached agreement that we would have a one China policy, we also reached agreement that reunification would occur by peaceful means."

Well, Mr. President, to my knowledge, the United States and China have never reached an agreement that the Taiwan question would be resolved through reunification. While the United States has not ruled out reunification as a possibility, we have also not ruled out the possibility that the question of Taiwan could be resolved in some other manner, as long as it was done peacefully. So there is a difference.

Our Federal law on this question is quite clear. Section 2(b)(3) of the Taiwan Relations Act states that "The future of Taiwan will be determined by peaceful means." The United States has also signed three joint communiques with the People's Republic of China which further elaborate our position on Taiwan. While they all speak to the peaceful resolution of the Taiwan question, none—none—go so far as to speak to the question of reunification.

So why am I concerned with the President's choice of words while he was in China? Because I think it is misleading, dangerously misleading. It indicates to the Chinese and the Taiwanese that our policy on Taiwan has changed, when the President says it has not.

The second incident which raises concern, Mr. President, is when President Clinton seemingly adopted the "Three-No's" policy long advocated by China. The "Three-No's" policy states the United States does not support one Taiwan, one China; the United States does not support Taiwan independence; and the United States does not support Taiwan's membership in nation-state based international organizations.

As the July 2, 1998, editorial in the Washington Post correctly points out, the United States has long "acknowledged" China's position on Taiwan, but has never ever accepted China's position on Taiwan. There is a significant difference.

I ask unanimous consent that a copy of this editorial be printed in the CONGRESSIONAL RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See Exhibit 1.)

Mr. MURKOWSKI. Considered collectively, which I know the Chinese Government is doing, this could appear to be a major concession by the United States on the issue of Taiwan. My guess is that the Chinese now believe that if the Taiwanese people declare independence, the United States will not support them. What does that say for democracy and the ideals that we have sworn to uphold and support?

In 1996, when the Chinese military conducted military exercises off the coast of Taiwan in order to influence Taiwan's national Presidential elections, President Clinton rightly responded: swiftly and with resolve. He showed that the United States will not tolerate the threat of the use of force against Taiwan, just as we will not tolerate the use of force against Taiwan.

Mr. President, I am concerned that the President's statements made in China have now sent the wrong message, and one that could be destabilizing both to Taiwan and to the entire Asian theater.

I think the United States should pursue our own "three-no's" policy on the question of Taiwan, and they are: We will not accept any nonpeaceful resolution of the Taiwan question; we will not force Taiwan to the table with China, nor will we be an intermediary in resolving this dispute; and we will not turn our backs on democracy and the right of the Taiwanese people, or any people, to live according to free democratic principles.

So finally, Mr. President, well in advance of President Clinton's trip to China, I and a number of colleagues in the Senate sent a letter to the President urging him to press the Chinese Government on renouncing the threat of the use of force against Taiwan.

I ask unanimous consent that a copy of this letter be printed in the CONGRESSIONAL RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See Exhibit 2.)

Mr. MURKOWSKI. I, again, call on the President to insist that the Chinese Government renounce the threat of the use of force against Taiwan and take great effort to clarify that our position in support of Taiwan and our commitment to Taiwan has not changed.

Mr. President, I yield the floor, and I thank the floor manager, Senator BOND, for the courtesy extended me at this time.

Mr. BOND. Mr. President, I thank the Senator from Alaska.

I ask unanimous consent that I be added as a cosponsor to the resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXHIBIT 1

SIDING WITH THE DICTATORS

The outlines of a deal are beginning to emerge. China gives President Clinton air time for his speech. Mr. Clinton says what China wants to hear on Taiwan. Then, in classic Clinton fashion, the White House tries to have things both ways, denying that U.S. policy has changed when in fact it has, and not for the better.

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As a practical matter, he's also significantly weakening Taiwan's bargaining power if and when Taiwan and China begin negotiations. China's main card always has been the threat of force; Taiwan's has been its campaign to establish sovereignty through membership in world organizations and other means. By explicitly and needlessly slamming the door on that campaign, Mr. Clinton has sided with the dictators against the democrats. To pretend this is no change only heightens the offense.

EXHIBIT 2

UNITED STATES SENATE,
Washington, DC, May 21, 1998.

Hon. WILLIAM J. CLINTON,
The President, The White House,
Washington, DC.

DEAR MR. PRESIDENT: As you prepare for your summit with the leaders of the People's Republic of China in Beijing, we thought it appropriate to share with you our thoughts regarding U.S. relations with the people and the government of Taiwan. We believe Taiwan has made extraordinary progress in recent years as the Republic of China has moved to establish a vibrant democracy with free elections, free press, and improved trading practices.

We believe the American people are united in their support for freedom and democracy in Taiwan. Time and again, Congress has made clear our commitment to Taiwan, beginning with the 1979 Taiwan Relations Act, and through many resolutions and bills since then.

Although we do not know what will be on the summit agenda, we do know that the PRC is often eager to try and persuade the United States to compromise our support for Taiwan and its democracy. Mr. President, we urge you to oppose any efforts at the summit by the PRC leadership to diminish American support for Taiwan. We believe it is important for the United States to make clear at the summit that while the U.S. supports a peaceful dialogue between Taipei and Beijing, the U.S. has committed not to pressure Taiwan on this issue and to not play any mediation role. You should reiterate statements made recently by members of your administration calling on the PRC to renounce the use of force or the threat of force against Taiwan.

Further, we urge you to reject any plans for a "Fourth Communique" on issues related to Taiwan; to not weaken our defensive arms sales commitment to Taiwan (either by agreeing to set an end date or by agreeing to hold prior consultations with the PRC); to not make any commitment to limit future visits by the elected representatives of the Republic of China; to not agree to revise the Taiwan Relations Act; and to not alter the U.S. position regarding sovereignty over Taiwan.

We in Congress are prepared to reiterate the commitment of the American people to freedom and democracy for the people and government of Taiwan. We look forward to your reassurance on these issues in advance of the summit.

Sincerely,

FRANK H. MURKOWSKI.
ROBERT G. TORRICELLI.
TRENT LOTT.
JESSE HELMS.

ALFONSE D'AMATO.
TIM JOHNSON.
TOM DASCHLE.
CRAIG THOMAS.
CHUCK HAGEL.
LARRY E. CRAIG.
CONNIE MACK.

AMENDMENTS SUBMITTED

PRODUCT LIABILITY REFORM ACT OF 1998

FEINGOLD AMENDMENT NO. 3061

(Ordered to lie on the table.)

Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill (S. 648) to establish legal standards and procedures for product liability litigation, and for other purposes; as follows:

After section 302, add the following:

TITLE IV—EQUAL ACCESS TO JUSTICE REFORM

SEC. 401. EQUAL ACCESS TO JUSTICE REFORM.

(a) SHORT TITLE.—This title may be cited as the "Equal Access to Justice Reform Amendments of 1998".

(b) AWARD OF COSTS AND FEES.—

(1) ADMINISTRATIVE PROCEEDINGS.—Section 504(a)(2) of title 5, United States Code, is amended by inserting after "(2)" the following: "At any time after the commencement of an adversary adjudication covered by this section, the adjudicative officer may ask a party to declare whether such party intends to seek an award of fees and expenses against the agency should such party prevail.".

(2) JUDICIAL PROCEEDINGS.—Section 2412(d)(1)(B) of title 28, United States Code, is amended by inserting after "(B)" the following: "At any time after the commencement of an adversary adjudication covered by this section, the court may ask a party to declare whether such party intends to seek an award of fees and expenses against the agency should such party prevail.".

(c) HOURLY RATE FOR ATTORNEY FEES.—

(1) ADMINISTRATIVE PROCEEDINGS.—Section 504(b)(1)(A)(ii) of title 5, United States Code, is amended by striking all beginning with "$125 per hour" and inserting "$125 per hour unless the agency determines by regulation that an increase in the cost-of-living based on the date of final disposition justifies a higher fee);".

(2) JUDICIAL PROCEEDINGS.—Section 2412(d)(2)(A)(ii) of title 28, United States Code, is amended by striking all beginning with "$125 per hour" and inserting "$125 per hour unless the court determines that an increase in the cost-of-living based on the date of final disposition justifies a higher fee);".

(d) PAYMENT FROM AGENCY APPROPRIATIONS.—

(1) ADMINISTRATIVE PROCEEDINGS.—Section 504(d) of title 5, United States Code, is amended by adding at the end the following: "Fees and expenses awarded under this subsection may not be paid from the claims and

judgments account of the Treasury from funds appropriated pursuant to section 1304 of title 31.''.

(2) JUDICIAL PROCEEDINGS.—Section 2412(d)(4) of title 28, United States Code, is amended by adding at the end the following: "Fees and expenses awarded under this subsection may not be paid from the claims and judgments account of the Treasury from funds appropriated pursuant to section 1304 of title 31.''.

(e) OFFERS OF SETTLEMENT.—

(1) ADMINISTRATIVE PROCEEDINGS.—Section 504 of title 5, United States Code, is amended—

(A) by redesignating subsections (e) and (f) as subsections (f) and (g), respectively; and

(B) by inserting after subsection (d) the following new subsection:

"(e)(1) At any time after the filing of an application for fees and other expenses under this section, an agency from which a fee award is sought may serve upon the applicant an offer of settlement of the claims made in the application. If within 10 days after service of the offer the applicant serves written notice that the offer is accepted, either party may then file the offer and notice of acceptance together with proof of service thereof.

"(2) An offer not accepted shall be deemed withdrawn. The fact that an offer is made but not accepted shall not preclude a subsequent offer. If any award of fees and expenses for the merits of the proceeding finally obtained by the applicant is not more favorable than the offer, the applicant shall not be entitled to receive an award for attorneys' fees or other expenses incurred in relation to the application for fees and expenses after the date of the offer.''.

(2) JUDICIAL PROCEEDINGS.—Section 2412 of title 28, United States Code, is amended—

(A) by redesignating subsections (e) and (f) as subsections (f) and (g), respectively; and

(B) by inserting after subsection (d) the following new subsection:

"(e)(1) At any time after the filing of an application for fees and other expenses under this section, an agency of the United States from which a fee award is sought may serve upon the applicant an offer of settlement of the claims made in the application. If within 10 days after service of the offer the applicant serves written notice that the offer is accepted, either party may then file the offer and notice of acceptance together with proof of service thereof.

"(2) An offer not accepted shall be deemed withdrawn. The fact that an offer is made but not accepted shall not preclude a subsequent offer. If any award of fees and expenses for the merits of the proceeding finally obtained by the applicant is not more favorable than the offer, the applicant shall not be entitled to receive an award for attorneys' fees or other expenses incurred in relation to the application for fees and expenses after the date of the offer.''.

(f) ELIMINATION OF SUBSTANTIAL JUSTIFICATION STANDARD.—

(1) ADMINISTRATIVE PROCEEDINGS.—Section 504 of title 5, United States Code, is amended—

(A) in subsection (a)(1), by striking ", unless the adjudicative officer" through "expenses are sought"; and

(B) in subsection (a)(2), by striking "The party shall also allege that the position of the agency was not substantially justified.''.

(2) JUDICIAL PROCEEDINGS.—Section 2412(d) of title 28, United States Code, is amended—

(A) in paragraph (1)(A), by striking ", unless the court finds that the position of the United States was substantially justified or that special circumstances make an award unjust";

(B) in paragraph (1)(B), by striking "The party shall also allege that the position of the United States was not substantially justified. Whether or not the position of the United States was substantially justified shall be determined on the basis of the record (including the record with respect to the action or failure to act by the agency upon which the civil action is based) which is made in the civil action for which fees and other expenses are sought."; and

(C) in paragraph (3), by striking ", unless the court finds that during such adversary adjudication the position of the United States was substantially justified, or that special circumstances make an award unjust".

(g) REPORTS TO CONGRESS.—

(1) ADMINISTRATIVE PROCEEDINGS.—No later than 180 days after the date of the enactment of this Act, the Administrative Conference of the United States shall submit a report to Congress—

(A) providing an analysis of the variations in the frequency of fee awards paid by specific Federal agencies under the provisions of section 504 of title 5, United States Code; and

(B) including recommendations for extending the application of such sections to other Federal agencies and administrative proceedings.

(2) JUDICIAL PROCEEDINGS.—No later than 180 days after the date of the enactment of this Act, the Department of Justice shall submit a report to Congress—

(A) providing an analysis of the variations in the frequency of fee awards paid by specific Federal districts under the provisions of section 2412 of title 28, United States Code; and

(B) including recommendations for extending the application of such sections to other Federal judicial proceedings.

(h) EFFECTIVE DATE.—The provisions of this title and the amendments made by this title shall take effect 30 days after the date of the enactment of this Act and shall apply only to an administrative complaint filed with a Federal agency or a civil action filed in a United States court on or after such date.

DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1999

BUMPERS (AND OTHERS) AMENDMENT NO. 3062

Mr. BUMPERS (for himself, Mr. BRYAN, Mr. WELLSTONE, Mr. LEAHY, Mr. KOHL, Mr. WYDEN, Mr. FEINGOLD, Mr. DURBIN, and Mr. HUTCHINSON) proposed an amendment to the bill (S. 2168) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, commissions, corporations, and offices for the fiscal year ending September 30, 1999, and for other purposes; as follows:

Strike line 21 on page 76 through line 4 on page 77 and insert the following:

"For termination of the International Space Station project, $850,000,000. In addition to the other provisions of this Act, $1,000,000,000 shall be available for the Veterans Health Administration Medical Care account and $450,000,000 shall be available for the Housing Certificate Fund account within the Department of Housing and Urban Development's budget."

DASCHLE AMENDMENT NO. 3063

Mr. DASCHLE proposed an amendment to the bill, S. 2168, supra; as follows:

At the appropriate place, insert the following:

TITLE ___—PATIENTS' BILL OF RIGHTS

SEC. ___001. SHORT TITLE.

This title may be cited as the "Patients' Bill of Rights Act of 1998".

Subtitle A—Health Insurance Bill of Rights

CHAPTER 1—ACCESS TO CARE

SEC. ___101. ACCESS TO EMERGENCY CARE.

(a) COVERAGE OF EMERGENCY SERVICES.—

(1) IN GENERAL.—If a group health plan, or health insurance coverage offered by a health insurance issuer, provides any benefits with respect to emergency services (as defined in paragraph (2)(B)), the plan or issuer shall cover emergency services furnished under the plan or coverage—

(A) without the need for any prior authorization determination;

(B) whether or not the health care provider furnishing such services is a participating provider with respect to such services;

(C) in a manner so that, if such services are provided to a participant, beneficiary, or enrollee by a nonparticipating health care provider—

(i) the participant, beneficiary, or enrollee is not liable for amounts that exceed the amounts of liability that would be incurred if the services were provided by a participating health care provider, and

(ii) the plan or issuer pays an amount that is not less than the amount paid to a participating health care provider for the same services; and

(D) without regard to any other term or condition of such coverage (other than exclusion or coordination of benefits, or an affiliation or waiting period, permitted under section 2701 of the Public Health Service Act, section 701 of the Employee Retirement Income Security Act of 1974, or section 9801 of the Internal Revenue Code of 1986, and other than applicable cost-sharing).

(2) DEFINITIONS.—In this section:

(A) EMERGENCY MEDICAL CONDITION BASED ON PRUDENT LAYPERSON STANDARD.—The term "emergency medical condition" means a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in a condition described in clause (i), (ii), or (iii) of section 1867(e)(1)(A) of the Social Security Act.

(B) EMERGENCY SERVICES.—The term "emergency services" means—

(i) a medical screening examination (as required under section 1867 of the Social Security Act) that is within the capability of the emergency department of a hospital, including ancillary services routinely available to the emergency department to evaluate an emergency medical condition (as defined in subparagraph (A)), and

(ii) within the capabilities of the staff and facilities available at the hospital, such further medical examination and treatment as are required under section 1867 of such Act to stabilize the patient.

(b) Reimbursement for Maintenance Care and Post-Stabilization Care.—In the case of services (other than emergency services) for which benefits are available under a group health plan, or under health insurance coverage offered by a health insurance issuer, the plan or issuer shall provide for reimbursement with respect to such services provided to a participant, beneficiary, or enrollee other than through a participating health care provider in a manner consistent with subsection (a)(1)(C) if the services are maintenance care or post-stabilization care covered under the guidelines established under section 1852(d)(2) of the Social Security Act (relating to promoting efficient and timely coordination of appropriate maintenance and post-stabilization care of an enrollee after an enrollee has been determined to be stable), or, in the absence of guidelines under such section, such guidelines as the Secretary shall establish to carry out this subsection.

SEC. 102. OFFERING OF CHOICE OF COVERAGE OPTIONS UNDER GROUP HEALTH PLANS.

(a) Requirement.—

(1) Offering of point-of-service coverage option.—Except as provided in paragraph (2), if a group health plan (or health insurance coverage offered by a health insurance issuer in connection with a group health plan) provides benefits only through participating health care providers, the plan or issuer shall offer the participant the option to purchase point-of-service coverage (as defined in subsection (b)) for all such benefits for which coverage is otherwise so limited. Such option shall be made available to the participant at the time of enrollment under the plan or coverage and at such other times as the plan or issuer offers the participant a choice of coverage options.

(2) Exception.—Paragraph (1) shall not apply with respect to a participant in a group health plan if the plan offers the participant—

(A) a choice of health insurance coverage through more than one health insurance issuer; or

(B) two or more coverage options that differ significantly with respect to the use of participating health care providers or the networks of such providers that are used.

(b) Point-of-Service Coverage Defined.—In this section, the term "point-of-service coverage" means, with respect to benefits covered under a group health plan or health insurance issuer, coverage of such benefits when provided by a nonparticipating health care provider. Such coverage need not include coverage of providers that the plan or issuer excludes because of fraud, quality, or similar reasons.

(c) Construction.—Nothing in this section shall be construed—

(1) as requiring coverage for benefits for a particular type of health care provider;

(2) as requiring an employer to pay any costs as a result of this section or to make equal contributions with respect to different health coverage options; or

(3) as preventing a group health plan or health insurance issuer from imposing higher premiums or cost-sharing on a participant for the exercise of a point-of-service coverage option.

(d) No Requirement for Guaranteed Availability.—If a health insurance issuer offers health insurance coverage that includes point-of-service coverage with respect to an employer solely in order to meet the requirement of subsection (a), nothing in section 2711(a)(1)(A) of the Public Health Service Act shall be construed as requiring the offering of such coverage with respect to another employer.

SEC. 103. CHOICE OF PROVIDERS.

(a) Primary Care.—A group health plan, and a health insurance issuer that offers health insurance coverage, shall permit each participant, beneficiary, and enrollee to receive primary care from any participating primary care provider who is available to accept such individual.

(b) Specialists.—

(1) In general.—Subject to paragraph (2), a group health plan and a health insurance issuer that offers health insurance coverage shall permit each participant, beneficiary, or enrollee to receive medically necessary or appropriate specialty care, pursuant to appropriate referral procedures, from any qualified participating health care provider who is available to accept such individual for such care.

(2) Limitation.—Paragraph (1) shall not apply to specialty care if the plan or issuer clearly informs participants, beneficiaries, and enrollees of the limitations on choice of participating providers with respect to such care.

SEC. 104. ACCESS TO SPECIALTY CARE.

(a) Obstetrical and Gynecological Care.—

(1) In general.—If a group health plan, or a health insurance issuer in connection with the provision of health insurance coverage, requires or provides for a participant, beneficiary, or enrollee to designate a participating primary care provider—

(A) the plan or issuer shall permit such an individual who is a female to designate a participating physician who specializes in obstetrics and gynecology as the individual's primary care provider; and

(B) if such an individual has not designated such a provider as a primary care provider, the plan or issuer—

(i) may not require authorization or a referral by the individual's primary care provider or otherwise for coverage of routine gynecological care (such as preventive women's health examinations) and pregnancy-related services provided by a participating health care professional who specializes in obstetrics and gynecology to the extent such care is otherwise covered, and

(ii) may treat the ordering of other gynecological care by such a participating physician as the authorization of the primary care provider with respect to such care under the plan or coverage.

(2) Construction.—Nothing in paragraph (1)(B)(ii) shall waive any requirements of coverage relating to medical necessity or appropriateness with respect to coverage of gynecological care so ordered.

(b) Specialty Care.—

(1) Specialty care for covered services.—

(A) In general.—If—

(i) an individual is a participant or beneficiary under a group health plan or an enrollee who is covered under health insurance coverage offered by a health insurance issuer,

(ii) the individual has a condition or disease of sufficient seriousness and complexity to require treatment by a specialist, and

(iii) benefits for such treatment are provided under the plan or coverage,

the plan or issuer shall make or provide for a referral to a specialist who is available and accessible to provide the treatment for such condition or disease.

(B) Specialist defined.—For purposes of this subsection, the term "specialist" means, with respect to a condition, a health care practitioner, facility, or center (such as a center of excellence) that has adequate expertise through appropriate training and experience (including, in the case of a child, appropriate pediatric expertise) to provide high quality care in treating the condition.

(C) Care under referral.—A group health plan or health insurance issuer may require that the care provided to an individual pursuant to such referral under subparagraph (A) be—

(i) pursuant to a treatment plan, only if the treatment plan is developed by the specialist and approved by the plan or issuer, in consultation with the designated primary care provider or specialist and the individual (or the individual's designee), and

(ii) in accordance with applicable quality assurance and utilization review standards of the plan or issuer.

Nothing in this subsection shall be construed as preventing such a treatment plan for an individual from requiring a specialist to provide the primary care provider with regular updates on the specialty care provided, as well as all necessary medical information.

(D) Referrals to participating providers.—A group health plan or health insurance issuer is not required under subparagraph (A) to provide for a referral to a specialist that is not a participating provider, unless the plan or issuer does not have an appropriate specialist that is available and accessible to treat the individual's condition and that is a participating provider with respect to such treatment.

(E) Treatment of nonparticipating providers.—If a plan or issuer refers an individual to a nonparticipating specialist pursuant to subparagraph (A), services provided pursuant to the approved treatment plan (if any) shall be provided at no additional cost to the individual beyond what the individual would otherwise pay for services received by such a specialist that is a participating provider.

(2) Specialists as primary care providers.—

(A) In general.—A group health plan, or a health insurance issuer, in connection with the provision of health insurance coverage, shall have a procedure by which an individual who is a participant, beneficiary, or enrollee and who has an ongoing special condition (as defined in subparagraph (C)) may receive a referral to a specialist for such condition who shall be responsible for and capable of providing and coordinating the individual's primary and specialty care. If such an individual's care would most appropriately be coordinated by such a specialist, such plan or issuer shall refer the individual to such specialist.

(B) Treatment as primary care provider.—Such specialist shall be permitted to treat the individual without a referral from the individual's primary care provider and may authorize such referrals, procedures, tests, and other medical services as the individual's primary care provider would otherwise be permitted to provide or authorize, subject to the terms of the treatment plan (referred to in paragraph (1)(C)(i)).

(C) Ongoing special condition defined.—In this paragraph, the term "special condition" means a condition or disease that—

(i) is life-threatening, degenerative, or disabling, and

(ii) requires specialized medical care over a prolonged period of time.

(D) Terms of referral.—The provisions of subparagraphs (C) through (E) of paragraph

(1) apply with respect to referrals under subparagraph (A) of this paragraph in the same manner as they apply to referrals under paragraph (1)(A).

(3) STANDING REFERRALS.—

(A) IN GENERAL.—A group health plan, and a health insurance issuer in connection with the provision of health insurance coverage, shall have a procedure by which an individual who is a participant, beneficiary, or enrollee and who has a condition that requires ongoing care from a specialist may receive a standing referral to such specialist for treatment of such condition. If the plan or issuer, or if the primary care provider in consultation with the medical director of the plan or issuer and the specialist (if any), determines that such a standing referral is appropriate, the plan or issuer shall make such a referral to such a specialist.

(B) TERMS OF REFERRAL.—The provisions of subparagraphs (C) through (E) of paragraph (1) apply with respect to referrals under subparagraph (A) of this paragraph in the same manner as they apply to referrals under paragraph (1)(A).

SEC. 105. CONTINUITY OF CARE.

(a) IN GENERAL.—

(1) TERMINATION OF PROVIDER.—If a contract between a group health plan, or a health insurance issuer in connection with the provision of health insurance coverage, and a health care provider is terminated (as defined in paragraph (3)), or benefits or coverage provided by a health care provider are terminated because of a change in the terms of provider participation in a group health plan, and an individual who is a participant, beneficiary, or enrollee in the plan or coverage is undergoing a course of treatment from the provider at the time of such termination, the plan or issuer shall—

(A) notify the individual on a timely basis of such termination, and

(B) subject to subsection (c), permit the individual to continue or be covered with respect to the course of treatment with the provider during a transitional period (provided under subsection (b)).

(2) TREATMENT OF TERMINATION OF CONTRACT WITH HEALTH INSURANCE ISSUER.—If a contract for the provision of health insurance coverage between a group health plan and a health insurance issuer is terminated and, as a result of such termination, coverage of services of a health care provider is terminated with respect to an individual, the provisions of paragraph (1) (and the succeeding provisions of this section) shall apply under the plan in the same manner as if there had been a contract between the plan and the provider that had been terminated, but only with respect to benefits that are covered under the plan after the contract termination.

(3) TERMINATION.—In this section, the term “terminated” includes, with respect to a contract, the expiration or nonrenewal of the contract, but does not include a termination of the contract by the plan or issuer for failure to meet applicable quality standards or for fraud.

(b) TRANSITIONAL PERIOD.—

(1) IN GENERAL.—Except as provided in paragraphs (2) through (4), the transitional period under this subsection shall extend for at least 90 days from the date of the notice described in subsection (a)(1)(A) of the provider's termination.

(2) INSTITUTIONAL CARE.—The transitional period under this subsection for institutional or inpatient care from a provider shall extend until the discharge or termination of the period of institutionalization and also shall include institutional care provided within a reasonable time of the date of termination of the provider status if the care was scheduled before the date of the announcement of the termination of the provider status under subsection (a)(1)(A) or if the individual on such date was on an established waiting list or otherwise scheduled to have such care.

(3) PREGNANCY.—If—

(A) a participant, beneficiary, or enrollee has entered the second trimester of pregnancy at the time of a provider's termination of participation, and

(B) the provider was treating the pregnancy before date of the termination,

the transitional period under this subsection with respect to provider's treatment of the pregnancy shall extend through the provision of post-partum care directly related to the delivery.

(4) TERMINAL ILLNESS.—If—

(A) a participant, beneficiary, or enrollee was determined to be terminally ill (as determined under section 1861(dd)(3)(A) of the Social Security Act) at the time of a provider's termination of participation, and

(B) the provider was treating the terminal illness before the date of termination,

the transitional period under this subsection shall extend for the remainder of the individual's life for care directly related to the treatment of the terminal illness.

(c) PERMISSIBLE TERMS AND CONDITIONS.—A group health plan or health insurance issuer may condition coverage of continued treatment by a provider under subsection (a)(1)(B) upon the provider agreeing to the following terms and conditions:

(1) The provider agrees to accept reimbursement from the plan or issuer and individual involved (with respect to cost-sharing) at the rates applicable prior to the start of the transitional period as payment in full (or, in the case described in subsection (a)(2), at the rates applicable under the replacement plan or issuer after the date of the termination of the contract with the health insurance issuer) and not to impose cost-sharing with respect to the individual in an amount that would exceed the cost-sharing that could have been imposed if the contract referred to in subsection (a)(1) had not been terminated.

(2) The provider agrees to adhere to the quality assurance standards of the plan or issuer responsible for payment under paragraph (1) and to provide to such plan or issuer necessary medical information related to the care provided.

(3) The provider agrees otherwise to adhere to such plan's or issuer's policies and procedures, including procedures regarding referrals and obtaining prior authorization and providing services pursuant to a treatment plan (if any) approved by the plan or issuer.

(d) CONSTRUCTION.—Nothing in this section shall be construed to require the coverage of benefits which would not have been covered if the provider involved remained a participating provider.

SEC. 106. COVERAGE FOR INDIVIDUALS PARTICIPATING IN APPROVED CLINICAL TRIALS.

(a) COVERAGE.—

(1) IN GENERAL.—If a group health plan, or health insurance issuer that is providing health insurance coverage, provides coverage to a qualified individual (as defined in subsection (b)), the plan or issuer—

(A) may not deny the individual participation in the clinical trial referred to in subsection (b)(2);

(B) subject to subsection (c), may not deny (or limit or impose additional conditions on) the coverage of routine patient costs for items and services furnished in connection with participation in the trial; and

(C) may not discriminate against the individual on the basis of the enrollee's participation in such trial.

(2) EXCLUSION OF CERTAIN COSTS.—For purposes of paragraph (1)(B), routine patient costs do not include the cost of the tests or measurements conducted primarily for the purpose of the clinical trial involved.

(3) USE OF IN-NETWORK PROVIDERS.—If one or more participating providers is participating in a clinical trial, nothing in paragraph (1) shall be construed as preventing a plan or issuer from requiring that a qualified individual participate in the trial through such a participating provider if the provider will accept the individual as a participant in the trial.

(b) QUALIFIED INDIVIDUAL DEFINED.—For purposes of subsection (a), the term “qualified individual” means an individual who is a participant or beneficiary in a group health plan, or who is an enrollee under health insurance coverage, and who meets the following conditions:

(1)(A) The individual has a life-threatening or serious illness for which no standard treatment is effective.

(B) The individual is eligible to participate in an approved clinical trial according to the trial protocol with respect to treatment of such illness.

(C) The individual's participation in the trial offers meaningful potential for significant clinical benefit for the individual.

(2) Either—

(A) the referring physician is a participating health care professional and has concluded that the individual's participation in such trial would be appropriate based upon the individual meeting the conditions described in paragraph (1); or

(B) the participant, beneficiary, or enrollee provides medical and scientific information establishing that the individual's participation in such trial would be appropriate based upon the individual meeting the conditions described in paragraph (1).

(c) PAYMENT.—

(1) IN GENERAL.—Under this section a group health plan or health insurance issuer shall provide for payment for routine patient costs described in subsection (a)(2) but is not required to pay for costs of items and services that are reasonably expected (as determined by the Secretary) to be paid for by the sponsors of an approved clinical trial.

(2) PAYMENT RATE.—In the case of covered items and services provided by—

(A) a participating provider, the payment rate shall be at the agreed upon rate, or

(B) a nonparticipating provider, the payment rate shall be at the rate the plan or issuer would normally pay for comparable services under subparagraph (A).

(d) APPROVED CLINICAL TRIAL DEFINED.—

(1) IN GENERAL.—In this section, the term “approved clinical trial” means a clinical research study or clinical investigation approved and funded (which may include funding through in-kind contributions) by one or more of the following:

(A) The National Institutes of Health.

(B) A cooperative group or center of the National Institutes of Health.

(C) Either of the following if the conditions described in paragraph (2) are met:

(i) The Department of Veterans Affairs.

(ii) The Department of Defense.

(2) CONDITIONS FOR DEPARTMENTS.—The conditions described in this paragraph, for a

study or investigation conducted by a Department, are that the study or investigation has been reviewed and approved through a system of peer review that the Secretary determines—

(A) to be comparable to the system of peer review of studies and investigations used by the National Institutes of Health, and

(B) assures unbiased review of the highest scientific standards by qualified individuals who have no interest in the outcome of the review.

(e) CONSTRUCTION.—Nothing in this section shall be construed to limit a plan's or issuer's coverage with respect to clinical trials.

SEC. 107. ACCESS TO NEEDED PRESCRIPTION DRUGS.

(a) IN GENERAL.—If a group health plan, or health insurance issuer that offers health insurance coverage, provides benefits with respect to prescription drugs but the coverage limits such benefits to drugs included in a formulary, the plan or issuer shall—

(1) ensure participation of participating physicians and pharmacists in the development of the formulary;

(2) disclose to providers and, disclose upon request under section 121(c)(6) to participants, beneficiaries, and enrollees, the nature of the formulary restrictions; and

(3) consistent with the standards for a utilization review program under section 115, provide for exceptions from the formulary limitation when a non-formulary alternative is medically indicated.

(b) COVERAGE OF APPROVED DRUGS AND MEDICAL DEVICES.—

(1) IN GENERAL.—A group health plan (or health insurance coverage offered in connection with such a plan) that provides any coverage of prescription drugs or medical devices shall not deny coverage of such a drug or device on the basis that the use is investigational, if the use—

(A) in the case of a prescription drug—

(i) is included in the labeling authorized by the application in effect for the drug pursuant to subsection (b) or (j) of section 505 of the Federal Food, Drug, and Cosmetic Act, without regard to any postmarketing requirements that may apply under such Act; or

(ii) is included in the labeling authorized by the application in effect for the drug under section 351 of the Public Health Service Act, without regard to any postmarketing requirements that may apply pursuant to such section; or

(B) in the case of a medical device, is included in the labeling authorized by a regulation under subsection (d) or (3) of section 513 of the Federal Food, Drug, and Cosmetic Act, an order under subsection (f) of such section, or an application approved under section 515 of such Act, without regard to any postmarketing requirements that may apply under such Act.

(2) CONSTRUCTION.—Nothing in this subsection shall be construed as requiring a group health plan (or health insurance coverage offered in connection with such a plan) to provide any coverage of prescription drugs or medical devices.

SEC. 108. ADEQUACY OF PROVIDER NETWORK.

(a) IN GENERAL.—Each group health plan, and each health insurance issuer offering health insurance coverage, that provides benefits, in whole or in part, through participating health care providers shall have (in relation to the coverage) a sufficient number, distribution, and variety of qualified participating health care providers to ensure that all covered health care services, including specialty services, will be available and accessible in a timely manner to all participants, beneficiaries, and enrollees under the plan or coverage.

(b) TREATMENT OF CERTAIN PROVIDERS.—The qualified health care providers under subsection (a) may include Federally qualified health centers, rural health clinics, migrant health centers, and other essential community providers located in the service area of the plan or issuer and shall include such providers if necessary to meet the standards established to carry out such subsection.

SEC. 109. NONDISCRIMINATION IN DELIVERY OF SERVICES.

(a) APPLICATION TO DELIVERY OF SERVICES.—Subject to subsection (b), a group health plan, and health insurance issuer in relation to health insurance coverage, may not discriminate against a participant, beneficiary, or enrollee in the delivery of health care services consistent with the benefits covered under the plan or coverage or as required by law based on race, color, ethnicity, national origin, religion, sex, age, mental or physical disability, sexual orientation, genetic information, or source of payment.

(b) CONSTRUCTION.—Nothing in subsection (a) shall be construed as relating to the eligibility to be covered, or the offering (or guaranteeing the offer) of coverage, under a plan or health insurance coverage, the application of any pre-existing condition exclusion consistent with applicable law, or premiums charged under such plan or coverage.

CHAPTER 2—QUALITY ASSURANCE

SEC. 111. INTERNAL QUALITY ASSURANCE PROGRAM.

(a) REQUIREMENT.—A group health plan, and a health insurance issuer that offers health insurance coverage, shall establish and maintain an ongoing, internal quality assurance and continuous quality improvement program that meets the requirements of subsection (b).

(b) PROGRAM REQUIREMENTS.—The requirements of this subsection for a quality improvement program of a plan or issuer are as follows:

(1) ADMINISTRATION.—The plan or issuer has a separate identifiable unit with responsibility for administration of the program.

(2) WRITTEN PLAN.—The plan or issuer has a written plan for the program that is updated annually and that specifies at least the following:

(A) The activities to be conducted.

(B) The organizational structure.

(C) The duties of the medical director.

(D) Criteria and procedures for the assessment of quality.

(3) SYSTEMATIC REVIEW.—The program provides for systematic review of the type of health services provided, consistency of services provided with good medical practice, and patient outcomes.

(4) QUALITY CRITERIA.—The program—

(A) uses criteria that are based on performance and patient outcomes where feasible and appropriate;

(B) includes criteria that are directed specifically at meeting the needs of at-risk populations and covered individuals with chronic conditions or severe illnesses, including gender-specific criteria and pediatric-specific criteria where available and appropriate;

(C) includes methods for informing covered individuals of the benefit of preventive care and what specific benefits with respect to preventive care are covered under the plan or coverage; and

(D) makes available to the public a description of the criteria used under subparagraph (A).

(5) SYSTEM FOR REPORTING.—The program has procedures for reporting of possible quality concerns by providers and enrollees and for remedial actions to correct quality problems, including written procedures for responding to concerns and taking appropriate corrective action.

(6) DATA ANALYSIS.—The program provides, using data that include the data collected under section 112, for an analysis of the plan's or issuer's performance on quality measures.

(7) DRUG UTILIZATION REVIEW.—The program provides for a drug utilization review program in accordance with section 114.

(c) DEEMING.—For purposes of subsection (a), the requirements of—

(1) subsection (b) (other than paragraph (5)) are deemed to be met with respect to a health insurance issuer that is a qualified health maintenance organization (as defined in section 1310(c) of the Public Health Service Act); or

(2) subsection (b) are deemed to be met with respect to a health insurance issuer that is accredited by a national accreditation organization that the Secretary certifies as applying, as a condition of certification, standards at least as stringent as those required for a quality improvement program under subsection (b).

(d) VARIATION PERMITTED.—The Secretary may provide for variations in the application of the requirements of this section to group health plans and health insurance issuers based upon differences in the delivery system among such plans and issuers as the Secretary deems appropriate.

SEC. 112. COLLECTION OF STANDARDIZED DATA.

(a) IN GENERAL.—A group health plan and a health insurance issuer that offers health insurance coverage shall collect uniform quality data that include a minimum uniform data set described in subsection (b).

(b) MINIMUM UNIFORM DATA SET.—The Secretary shall specify (and may from time to time update) the data required to be included in the minimum uniform data set under subsection (a) and the standard format for such data. Such data shall include at least—

(1) aggregate utilization data;

(2) data on the demographic characteristics of participants, beneficiaries, and enrollees;

(3) data on disease-specific and age-specific mortality rates and (to the extent feasible) morbidity rates of such individuals;

(4) data on satisfaction of such individuals, including data on voluntary disenrollment and grievances; and

(5) data on quality indicators and health outcomes, including, to the extent feasible and appropriate, data on pediatric cases and on a gender-specific basis.

(c) AVAILABILITY.—A summary of the data collected under subsection (a) shall be disclosed under section 121(b)(9). The Secretary shall be provided access to all the data so collected.

(d) VARIATION PERMITTED.—The Secretary may provide for variations in the application of the requirements of this section to group health plans and health insurance issuers based upon differences in the delivery system among such plans and issuers as the Secretary deems appropriate.

SEC. 113. PROCESS FOR SELECTION OF PROVIDERS.

(a) IN GENERAL.—A group health plan and a health insurance issuer that offers health insurance coverage shall, if it provides benefits through participating health care professionals, have a written process for the selection of participating health care professionals, including minimum professional requirements.

(b) Verification of Background.—Such process shall include verification of a health care provider's license and a history of suspension or revocation.

(c) Restriction.—Such process shall not use a high-risk patient base or location of a provider in an area with residents with poorer health status as a basis for excluding providers from participation.

(d) Nondiscrimination Based on Licensure.—

(1) In general.—Such process shall not discriminate with respect to participation or indemnification as to any provider who is acting within the scope of the provider's license or certification under applicable State law, solely on the basis of such license or certification.

(2) Construction.—Paragraph (1) shall not be construed—

(A) as requiring the coverage under a plan or coverage of particular benefits or services or to prohibit a plan or issuer from including providers only to the extent necessary to meet the needs of the plan's or issuer's participants, beneficiaries, or enrollees or from establishing any measure designed to maintain quality and control costs consistent with the responsibilities of the plan or issuer; or

(B) to override any State licensure or scope-of-practice law.

(e) General Nondiscrimination.—

(1) In general.—Subject to paragraph (2), such process shall not discriminate with respect to selection of a health care professional to be a participating health care provider, or with respect to the terms and conditions of such participation, based on the professional's race, color, religion, sex, national origin, age, sexual orientation, or disability (consistent with the Americans with Disabilities Act of 1990).

(2) Rules.—The appropriate Secretary may establish such definitions, rules, and exceptions as may be appropriate to carry out paragraph (1), taking into account comparable definitions, rules, and exceptions in effect under employment-based nondiscrimination laws and regulations that relate to each of the particular bases for discrimination described in such paragraph.

SEC. ___114. DRUG UTILIZATION PROGRAM.

A group health plan, and a health insurance issuer that provides health insurance coverage, that includes benefits for prescription drugs shall establish and maintain, as part of its internal quality assurance and continuous quality improvement program under section ___111, a drug utilization program which—

(1) encourages appropriate use of prescription drugs by participants, beneficiaries, and enrollees and providers, and

(2) takes appropriate action to reduce the incidence of improper drug use and adverse drug reactions and interactions.

SEC. ___115. STANDARDS FOR UTILIZATION REVIEW ACTIVITIES.

(a) Compliance With Requirements.—

(1) In general.—A group health plan, and a health insurance issuer that provides health insurance coverage, shall conduct utilization review activities in connection with the provision of benefits under such plan or coverage only in accordance with a utilization review program that meets the requirements of this section.

(2) Use of outside agents.—Nothing in this section shall be construed as preventing a group health plan or health insurance issuer from arranging through a contract or otherwise for persons or entities to conduct utilization review activities on behalf of the plan or issuer, so long as such activities are conducted in accordance with a utilization review program that meets the requirements of this section.

(3) Utilization review defined.—For purposes of this section, the terms "utilization review" and "utilization review activities" mean procedures used to monitor or evaluate the clinical necessity, appropriateness, efficacy, or efficiency of health care services, procedures or settings, and includes prospective review, concurrent review, second opinions, case management, discharge planning, or retrospective review.

(b) Written Policies and Criteria.—

(1) Written policies.—A utilization review program shall be conducted consistent with written policies and procedures that govern all aspects of the program.

(2) Use of written criteria.—

(A) In general.—Such a program shall utilize written clinical review criteria developed pursuant to the program with the input of appropriate physicians. Such criteria shall include written clinical review criteria described in section ___111(b)(4)(B).

(B) Continuing use of standards in retrospective review.—If a health care service has been specifically pre-authorized or approved for an enrollee under such a program, the program shall not, pursuant to retrospective review, revise or modify the specific standards, criteria, or procedures used for the utilization review for procedures, treatment, and services delivered to the enrollee during the same course of treatment.

(c) Conduct of Program Activities.—

(1) Administration by health care professionals.—A utilization review program shall be administered by qualified health care professionals who shall oversee review decisions. In this subsection, the term "health care professional" means a physician or other health care practitioner licensed, accredited, or certified to perform specified health services consistent with State law.

(2) Use of qualified, independent personnel.—

(A) In general.—A utilization review program shall provide for the conduct of utilization review activities only through personnel who are qualified and, to the extent required, who have received appropriate training in the conduct of such activities under the program.

(B) Peer review of sample of adverse clinical determinations.—Such a program shall provide that clinical peers (as defined in section ___191(c)(2)) shall evaluate the clinical appropriateness of at least a sample of adverse clinical determinations.

(C) Prohibition of contingent compensation arrangements.—Such a program shall not, with respect to utilization review activities, permit or provide compensation or anything of value to its employees, agents, or contractors in a manner that—

(i) provides incentives, direct or indirect, for such persons to make inappropriate review decisions, or

(ii) is based, directly or indirectly, on the quantity or type of adverse determinations rendered.

(D) Prohibition of conflicts.—Such a program shall not permit a health care professional who provides health care services to an individual to perform utilization review activities in connection with the health care services being provided to the individual.

(3) Accessibility of review.—Such a program shall provide that appropriate personnel performing utilization review activities under the program are reasonably accessible by toll-free telephone during normal business hours to discuss patient care and allow response to telephone requests, and that appropriate provision is made to receive and respond promptly to calls received during other hours.

(4) Limits on frequency.—Such a program shall not provide for the performance of utilization review activities with respect to a class of services furnished to an individual more frequently than is reasonably required to assess whether the services under review are medically necessary or appropriate.

(5) Limitation on information requests.—Under such a program, information shall be required to be provided by health care providers only to the extent it is necessary to perform the utilization review activity involved.

(d) Deadline for Determinations.—

(1) Prior authorization services.—Except as provided in paragraph (2), in the case of a utilization review activity involving the prior authorization of health care items and services for an individual, the utilization review program shall make a determination concerning such authorization, and provide notice of the determination to the individual or the individual's designee and the individual's health care provider by telephone and in printed form, as soon as possible in accordance with the medical exigencies of the cases, and in no event later than 3 business days after the date of receipt of information that is reasonably necessary to make such determination.

(2) Continued care.—In the case of a utilization review activity involving authorization for continued or extended health care services for an individual, or additional services for an individual undergoing a course of continued treatment prescribed by a health care provider, the utilization review program shall make a determination concerning such authorization, and provide notice of the determination to the individual or the individual's designee and the individual's health care provider by telephone and in printed form, as soon as possible in accordance with the medical exigencies of the cases, and in no event later than 1 business day after the date of receipt of information that is reasonably necessary to make such determination. Such notice shall include, with respect to continued or extended health care services, the number of extended services approved, the new total of approved services, the date of onset of services, and the next review date, if any.

(3) Previously provided services.—In the case of a utilization review activity involving retrospective review of health care services previously provided for an individual, the utilization review program shall make a determination concerning such services, and provide notice of the determination to the individual or the individual's designee and the individual's health care provider by telephone and in printed form, within 30 days of the date of receipt of information that is reasonably necessary to make such determination.

(4) Reference to special rules for emergency services, maintenance care, and post-stabilization care.—For waiver of prior authorization requirements in certain cases involving emergency services and maintenance care and post-stabilization care, see subsections (a)(1) and (b) of section ___101, respectively.

(e) Notice of Adverse Determinations.—

(1) In general.—Notice of an adverse determination under a utilization review program shall be provided in printed form and shall include—

(A) the reasons for the determination (including the clinical rationale);

(B) instructions on how to initiate an appeal under section 132; and

(C) notice of the availability, upon request of the individual (or the individual's designee) of the clinical review criteria relied upon to make such determination.

(2) Specification of any additional information.—Such a notice shall also specify what (if any) additional necessary information must be provided to, or obtained by, the person making the determination in order to make a decision on such an appeal.

SEC. 116. HEALTH CARE QUALITY ADVISORY BOARD.

(a) Establishment.—The President shall establish an advisory board to provide information to Congress and the administration on issues relating to quality monitoring and improvement in the health care provided under group health plans and health insurance coverage.

(b) Number and Appointment.—The advisory board shall be composed of the Secretary of Health and Human Services (or the Secretary's designee), the Secretary of Labor (or the Secretary's designee), and 20 additional members appointed by the President, in consultation with the Majority and Minority Leaders of the Senate and House of Representatives. The members so appointed shall include individuals with expertise in—

(1) consumer needs;

(2) education and training of health professionals;

(3) health care services;

(4) health plan management;

(5) health care accreditation, quality assurance, improvement, measurement, and oversight;

(6) medical practice, including practicing physicians;

(7) prevention and public health; and

(8) public and private group purchasing for small and large employers or groups.

(c) Duties.—The advisory board shall—

(1) identify, update, and disseminate measures of health care quality for group health plans and health insurance issuers, including network and non-network plans;

(2) advise the Secretary on the development and maintenance of the minimum data set in section 112(b); and

(3) advise the Secretary on standardized formats for information on group health plans and health insurance coverage.

The measures identified under paragraph (1) may be used on a voluntary basis by such plans and issuers. In carrying out paragraph (1), the advisory board shall consult and cooperate with national health care standard setting bodies which define quality indicators, the Agency for Health Care Policy and Research, the Institute of Medicine, and other public and private entities that have expertise in health care quality.

(d) Report.—The advisory board shall provide an annual report to Congress and the President on the quality of the health care in the United States and national and regional trends in health care quality. Such report shall include a description of determinants of health care quality and measurements of practice and quality variability within the United States.

(e) Secretarial Consultation.—In serving on the advisory board, the Secretaries of Health and Human Services and Labor (or their designees) shall consult with the Secretaries responsible for other Federal health insurance and health care programs.

(f) Vacancies.—Any vacancy on the board shall be filled in such manner as the original appointment. Members of the board shall serve without compensation but shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties. Administrative support, scientific support, and technical assistance for the advisory board shall be provided by the Secretary of Health and Human Services.

(g) Continuation.—Section 14(a)(2)(B) of the Federal Advisory Committee Act (5 U.S.C. App.; relating to the termination of advisory committees) shall not apply to the advisory board.

CHAPTER 3—Patient Information

SEC. 121. PATIENT INFORMATION.

(a) Disclosure Requirement.—

(1) Group health plans.—A group health plan shall—

(A) provide to participants and beneficiaries at the time of initial coverage under the plan (or the effective date of this section, in the case of individuals who are participants or beneficiaries as of such date), and at least annually thereafter, the information described in subsection (b) in printed form;

(B) provide to participants and beneficiaries, within a reasonable period (as specified by the appropriate Secretary) before or after the date of significant changes in the information described in subsection (b), information in printed form on such significant changes; and

(C) upon request, make available to participants and beneficiaries, the applicable authority, and prospective participants and beneficiaries, the information described in subsection (b) or (c) in printed form.

(2) Health insurance issuers.—A health insurance issuer in connection with the provision of health insurance coverage shall—

(A) provide to individuals enrolled under such coverage at the time of enrollment, and at least annually thereafter, the information described in subsection (b) in printed form;

(B) provide to enrollees, within a reasonable period (as specified by the appropriate Secretary) before or after the date of significant changes in the information described in subsection (b), information in printed form on such significant changes; and

(C) upon request, make available to the applicable authority, to individuals who are prospective enrollees, and to the public the information described in subsection (b) or (c) in printed form.

(b) Information Provided.—The information described in this subsection with respect to a group health plan or health insurance coverage offered by a health insurance issuer includes the following:

(1) Service area.—The service area of the plan or issuer.

(2) Benefits.—Benefits offered under the plan or coverage, including—

(A) covered benefits, including benefit limits and coverage exclusions;

(B) cost sharing, such as deductibles, coinsurance, and copayment amounts, including any liability for balance billing, any maximum limitations on out of pocket expenses, and the maximum out of pocket costs for services that are provided by non participating providers or that are furnished without meeting the applicable utilization review requirements;

(C) the extent to which benefits may be obtained from nonparticipating providers;

(D) the extent to which a participant, beneficiary, or enrollee may select from among participating providers and the types of providers participating in the plan or issuer network;

(E) process for determining experimental coverage; and

(F) use of a prescription drug formulary.

(3) Access.—A description of the following:

(A) The number, mix, and distribution of providers under the plan or coverage.

(B) Out-of-network coverage (if any) provided by the plan or coverage.

(C) Any point-of-service option (including any supplemental premium or cost-sharing for such option).

(D) The procedures for participants, beneficiaries, and enrollees to select, access, and change participating primary and specialty providers.

(E) The rights and procedures for obtaining referrals (including standing referrals) to participating and nonparticipating providers.

(F) The name, address, and telephone number of participating health care providers and an indication of whether each such provider is available to accept new patients.

(G) Any limitations imposed on the selection of qualifying participating health care providers, including any limitations imposed under section 103(b)(2).

(H) How the plan or issuer addresses the needs of participants, beneficiaries, and enrollees and others who do not speak English or who have other special communications needs in accessing providers under the plan or coverage, including the provision of information described in this subsection and subsection (c) to such individuals and including the provision of information in a language other than English if 5 percent of the number of participants, beneficiaries, and enrollees communicate in that language instead of English.

(4) Out-of-area coverage.—Out-of-area coverage provided by the plan or issuer.

(5) Emergency coverage.—Coverage of emergency services, including—

(A) the appropriate use of emergency services, including use of the 911 telephone system or its local equivalent in emergency situations and an explanation of what constitutes an emergency situation;

(B) the process and procedures of the plan or issuer for obtaining emergency services; and

(C) the locations of (i) emergency departments, and (ii) other settings, in which plan physicians and hospitals provide emergency services and post-stabilization care.

(6) Percentage of premiums used for benefits (loss-ratios).—In the case of health insurance coverage only (and not with respect to group health plans that do not provide coverage through health insurance coverage), a description of the overall loss-ratio for the coverage (as defined in accordance with rules established or recognized by the Secretary of Health and Human Services).

(7) Prior authorization rules.—Rules regarding prior authorization or other review requirements that could result in noncoverage or nonpayment.

(8) Grievance and appeals procedures.—All appeal or grievance rights and procedures under the plan or coverage, including the method for filing grievances and the time frames and circumstances for acting on grievances and appeals, who is the applicable authority with respect to the plan or issuer, and the availability of assistance through an ombudsman to individuals in relation to group health plans and health insurance coverage.

(9) Quality assurance.—A summary description of the data on quality collected

under section 112(a), including a summary description of the data on satisfaction of participants, beneficiaries, and enrollees (including data on individual voluntary disenrollment and grievances and appeals) described in section 112(b)(4).

(10) SUMMARY OF PROVIDER FINANCIAL INCENTIVES.—A summary description of the information on the types of financial payment incentives (described in section 1852(j)(4) of the Social Security Act) provided by the plan or issuer under the coverage.

(11) INFORMATION ON ISSUER.—Notice of appropriate mailing addresses and telephone numbers to be used by participants, beneficiaries, and enrollees in seeking information or authorization for treatment.

(12) AVAILABILITY OF INFORMATION ON REQUEST.—Notice that the information described in subsection (c) is available upon request.

(c) INFORMATION MADE AVAILABLE UPON REQUEST.—The information described in this subsection is the following:

(1) UTILIZATION REVIEW ACTIVITIES.—A description of procedures used and requirements (including circumstances, time frames, and appeal rights) under any utilization review program under section 115, including under any drug formulary program under section 107.

(2) GRIEVANCE AND APPEALS INFORMATION.—Information on the number of grievances and appeals and on the disposition in the aggregate of such matters.

(3) METHOD OF PHYSICIAN COMPENSATION.—An overall summary description as to the method of compensation of participating physicians, including information on the types of financial payment incentives (described in section 1852(j)(4) of the Social Security Act) provided by the plan or issuer under the coverage.

(4) SPECIFIC INFORMATION ON CREDENTIALS OF PARTICIPATING PROVIDERS.—In the case of each participating provider, a description of the credentials of the provider.

(5) CONFIDENTIALITY POLICIES AND PROCEDURES.—A description of the policies and procedures established to carry out section 122.

(6) FORMULARY RESTRICTIONS.—A description of the nature of any drug formula restrictions.

(7) PARTICIPATING PROVIDER LIST.—A list of current participating health care providers.

(d) FORM OF DISCLOSURE.—

(1) UNIFORMITY.—Information required to be disclosed under this section shall be provided in accordance with uniform, national reporting standards specified by the Secretary, after consultation with applicable State authorities, so that prospective enrollees may compare the attributes of different issuers and coverage offered within an area.

(2) INFORMATION INTO HANDBOOK.—Nothing in this section shall be construed as preventing a group health plan or health insurance issuer from making the information under subsections (b) and (c) available to participants, beneficiaries, and enrollees through an enrollee handbook or similar publication.

(3) UPDATING PARTICIPATING PROVIDER INFORMATION.—The information on participating health care providers described in subsection (b)(3)(C) shall be updated within such reasonable period as determined appropriate by the Secretary. Nothing in this section shall prevent an issuer from changing or updating other information made available under this section.

(e) CONSTRUCTION.—Nothing in this section shall be construed as requiring public disclosure of individual contracts or financial arrangements between a group health plan or health insurance issuer and any provider.

SEC. 122. PROTECTION OF PATIENT CONFIDENTIALITY.

Insofar as a group health plan, or a health insurance issuer that offers health insurance coverage, maintains medical records or other health information regarding participants, beneficiaries, and enrollees, the plan or issuer shall establish procedures—

(1) to safeguard the privacy of any individually identifiable enrollee information;

(2) to maintain such records and information in a manner that is accurate and timely, and

(3) to assure timely access of such individuals to such records and information.

SEC. 123. HEALTH INSURANCE OMBUDSMEN.

(a) IN GENERAL.—Each State that obtains a grant under subsection (c) shall provide for creation and operation of a Health Insurance Ombudsman through a contract with a not-for-profit organization that operates independent of group health plans and health insurance issuers. Such Ombudsman shall be responsible for at least the following:

(1) To assist consumers in the State in choosing among health insurance coverage or among coverage options offered within group health plans.

(2) To provide counseling and assistance to enrollees dissatisfied with their treatment by health insurance issuers and group health plans in regard to such coverage or plans and with respect to grievances and appeals regarding determinations under such coverage or plans.

(b) FEDERAL ROLE.—In the case of any State that does not provide for such an Ombudsman under subsection (a), the Secretary shall provide for the creation and operation of a Health Insurance Ombudsman through a contract with a not-for-profit organization that operates independent of group health plans and health insurance issuers and that is responsible for carrying out with respect to that State the functions otherwise provided under subsection (a) by a Health Insurance Ombudsman.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Health and Human Services such amounts as may be necessary to provide for grants to States for contracts for Health Insurance Ombudsmen under subsection (a) or contracts for such Ombudsmen under subsection (b).

(d) CONSTRUCTION.—Nothing in this section shall be construed to prevent the use of other forms of enrollee assistance.

CHAPTER 4—GRIEVANCE AND APPEALS PROCEDURES

SEC. 131. ESTABLISHMENT OF GRIEVANCE PROCESS.

(a) ESTABLISHMENT OF GRIEVANCE SYSTEM.—

(1) IN GENERAL.—A group health plan, and a health insurance issuer in connection with the provision of health insurance coverage, shall establish and maintain a system to provide for the presentation and resolution of oral and written grievances brought by individuals who are participants, beneficiaries, or enrollees, or health care providers or other individuals acting on behalf of an individual and with the individual's consent, regarding any aspect of the plan's or issuer's services.

(2) SCOPE.—The system shall include grievances regarding access to and availability of services, quality of care, choice and accessibility of providers, network adequacy, and compliance with the requirements of this subtitle.

(b) GRIEVANCE SYSTEM.—Such system shall include the following components with respect to individuals who are participants, beneficiaries, or enrollees:

(1) Written notification to all such individuals and providers of the telephone numbers and business addresses of the plan or issuer personnel responsible for resolution of grievances and appeals.

(2) A system to record and document, over a period of at least 3 previous years, all grievances and appeals made and their status.

(3) A process providing for timely processing and resolution of grievances.

(4) Procedures for follow-up action, including the methods to inform the person making the grievance of the resolution of the grievance.

(5) Notification to the continuous quality improvement program under section 111(a) of all grievances and appeals relating to quality of care.

SEC. 132. INTERNAL APPEALS OF ADVERSE DETERMINATIONS.

(a) RIGHT OF APPEAL.—

(1) IN GENERAL.—A participant or beneficiary in a group health plan, and an enrollee in health insurance coverage offered by a health insurance issuer, and any provider or other person acting on behalf of such an individual with the individual's consent, may appeal any appealable decision (as defined in paragraph (2)) under the procedures described in this section and (to the extent applicable) section 133. Such individuals and providers shall be provided with a written explanation of the appeal process and the determination upon the conclusion of the appeals process and as provided in section 121(b)(8).

(2) APPEALABLE DECISION DEFINED.—In this section, the term "appealable decision" means any of the following:

(A) Denial, reduction, or termination of, or failure to provide or make payment (in whole or in part) for, a benefit, including a failure to cover an item or service for which benefits are otherwise provided because it is determined to be experimental or investigational or not medically necessary or appropriate.

(B) Failure to provide coverage of emergency services or reimbursement of maintenance care or post-stabilization care under section 101.

(C) Failure to provide a choice of provider under section 103.

(D) Failure to provide qualified health care providers under section 103.

(E) Failure to provide access to specialty and other care under section 104.

(F) Failure to provide continuation of care under section 105.

(G) Failure to provide coverage of routine patient costs in connection with an approval clinical trial under section 106.

(H) Failure to provide access to needed drugs under section 107(a)(3) or 107(b).

(I) Discrimination in delivery of services in violation of section 109.

(J) An adverse determination under a utilization review program under section 115.

(K) The imposition of a limitation that is prohibited under section 151.

(b) INTERNAL APPEAL PROCESS.—

(1) IN GENERAL.—Each group health plan and health insurance issuer shall establish and maintain an internal appeal process under which any participant, beneficiary, enrollee, or provider acting on behalf of such an individual with the individual's consent,

who is dissatisfied with any appealable decision has the opportunity to appeal the decision through an internal appeal process. The appeal may be communicated orally.

(2) Conduct of review.—

(A) In general.—The process shall include a review of the decision by a physician or other health care professional (or professionals) who has been selected by the plan or issuer and who has not been involved in the appealable decision at issue in the appeal.

(B) Availability and participation of clinical peers.—The individuals conducting such review shall include one or more clinical peers (as defined in section 191(c)(2)) who have not been involved in the appealable decision at issue in the appeal.

(3) Deadline.—

(A) In general.—Subject to subsection (c), the plan or issuer shall conclude each appeal as soon as possible after the time of the receipt of the appeal in accordance with medical exigencies of the case involved, but in no event later than—

(i) 72 hours after the time of receipt of an expedited appeal, and

(ii) except as provided in subparagraph (B), 30 business days after such time (or, if the participant, beneficiary, or enrollee supplies additional information that was not available to the plan or issuer at the time of the receipt of the appeal, after the date of supplying such additional information) in the case of all other appeals.

(B) Extension.—In the case of an appeal that does not relate to a decision regarding an expedited appeal and that does not involve medical exigencies, if a group health plan or health insurance issuer is unable to conclude the appeal within the time period provided under subparagraph (A)(ii) due to circumstances beyond the control of the plan or issuer, the deadline shall be extended for up to an additional 10 business days if the plan or issuer provides, on or before 10 days before the deadline otherwise applicable, written notice to the participant, beneficiary, or enrollee and the provider involved of the extension and the reasons for the extension.

(4) Notice.—If a plan or issuer denies an appeal, the plan or issuer shall provide the participant, beneficiary, or enrollee and provider involved with notice in printed form of the denial and the reasons therefore, together with a notice in printed form of rights to any further appeal.

(c) Expedited Review Process.—

(1) In general.—A group health plan, and a health insurance issuer, shall establish procedures in writing for the expedited consideration of appeals under subsection (b) in situations in which the application of the normal timeframe for making a determination could seriously jeopardize the life or health of the participant, beneficiary, or enrollee or such an individual's ability to regain maximum function.

(2) Process.—Under such procedures—

(A) the request for expedited appeal may be submitted orally or in writing by an individual or provider who is otherwise entitled to request the appeal;

(B) all necessary information, including the plan's or issuer's decision, shall be transmitted between the plan or issuer and the requester by telephone, facsimile, or other similarly expeditious available method; and

(C) the plan or issuer shall expedite the appeal if the request for an expedited appeal is submitted under subparagraph (A) by a physician and the request indicates that the situation described in paragraph (1) exists.

(d) Direct Use of Further Appeals.—In the event that the plan or issuer fails to comply with any of the deadlines for completion of appeals under this section or in the event that the plan or issuer for any reason expressly waives its rights to an internal review of an appeal under subsection (b), the participant, beneficiary, or enrollee involved and the provider involved shall be relieved of any obligation to complete the appeal involved and may, at such an individual's or provider's option, proceed directly to seek further appeal through any applicable external appeals process.

SEC. 133. EXTERNAL APPEALS OF ADVERSE DETERMINATIONS.

(a) Right to External Appeal.—

(1) In general.—A group health plan, and a health insurance issuer offering group health insurance coverage, shall provide for an external appeals process that meets the requirements of this section in the case of an externally appealable decision described in paragraph (2). The appropriate Secretary shall establish standards to carry out such requirements.

(2) Externally appealable decision defined.—For purposes of this section, the term "externally appealable decision" means an appealable decision (as defined in section 132(a)(2)) if—

(A) the amount involved exceeds a significant threshold; or

(B) the patient's life or health is jeopardized as a consequence of the decision.

Such term does not include a denial of coverage for services that are specifically listed in plan or coverage documents as excluded from coverage.

(3) Exhaustion of internal appeals process.—A plan or issuer may condition the use of an external appeal process in the case of an externally appealable decision upon completion of the internal review process provided under section 132, but only if the decision is made in a timely basis consistent with the deadlines provided under this chapter.

(b) General Elements of External Appeals Process.—

(1) Contract with qualified external appeal entity.—

(A) Contract requirement.—Subject to subparagraph (B), the external appeal process under this section of a plan or issuer shall be conducted under a contract between the plan or issuer and one or more qualified external appeal entities (as defined in subsection (c)).

(B) Restrictions on qualified external appeal entity.—

(i) By state for health insurance issuers.—With respect to health insurance issuers in a State, the State may provide for external review activities to be conducted by a qualified external appeal entity that is designated by the State or that is selected by the State in such a manner as to assure an unbiased determination.

(ii) By federal government for group health plans.—With respect to group health plans, the appropriate Secretary may exercise the same authority as a State may exercise with respect to health insurance issuers under clause (i). Such authority may include requiring the use of the qualified external appeal entity designated or selected under such clause.

(iii) Limitation on plan or issuer selection.—If an applicable authority permits more than one entity to qualify as a qualified external appeal entity with respect to a group health plan or health insurance issuer and the plan or issuer may select among such qualified entities, the applicable authority—

(I) shall assure that the selection process will not create any incentives for external appeal entities to make a decision in a biased manner, and

(II) shall implement a procedures for auditing a sample of decisions by such entities to assure that no such decisions are made in a biased manner.

(C) Other terms and conditions.—The terms and conditions of a contract under this paragraph shall be consistent with the standards the appropriate Secretary shall establish to assure there is no real or apparent conflict of interest in the conduct of external appeal activities. Such contract shall provide that the direct costs of the process (not including costs of representation of a participant, beneficiary, or enrollee) shall be paid by the plan or issuer, and not by the participant, beneficiary, or enrollee.

(2) Elements of process.—An external appeal process shall be conducted consistent with standards established by the appropriate Secretary that include at least the following:

(A) Fair process; de novo determination.—The process shall provide for a fair, de novo determination.

(B) Determination concerning externally appealable decisions.—A qualified external appeal entity shall determine whether a decision is an externally appealable decision and related decisions, including—

(i) whether such a decision involves an expedited appeal;

(ii) the appropriate deadlines for internal review process required due to medical exigencies in a case; and

(iii) whether such a process has been completed.

(C) Opportunity to submit evidence, have representation, and make oral presentation.—Each party to an externally appealable decision—

(i) may submit and review evidence related to the issues in dispute,

(ii) may use the assistance or representation of one or more individuals (any of whom may be an attorney), and

(iii) may make an oral presentation.

(D) Provision of information.—The plan or issuer involved shall provide timely access to all its records relating to the matter of the externally appealable decision and to all provisions of the plan or health insurance coverage (including any coverage manual) relating to the matter.

(E) Timely decisions.—A determination by the external appeal entity on the decision shall—

(i) be made orally or in writing and, if it is made orally, shall be supplied to the parties in writing as soon as possible;

(ii) be binding on the plan or issuer;

(iii) be made in accordance with the medical exigencies of the case involved, but in no event later than 60 days (or 72 hours in the case of an expedited appeal) from the date of completion of the filing of notice of external appeal of the decision;

(iv) state, in layperson's language, the basis for the determination, including, if relevant, any basis in the terms or conditions of the plan or coverage; and

(v) inform the participant, beneficiary, or enrollee of the individual's rights to seek further review by the courts (or other process) of the external appeal determination.

(c) Qualifications of External Appeal Entities.—

(1) In general.—For purposes of this section, the term "qualified external appeal entity" means, in relation to a plan or issuer,

an entity (which may be a governmental entity) that is certified under paragraph (2) as meeting the following requirements:

(A) There is no real or apparent conflict of interest that would impede the entity conducting external appeal activities independent of the plan or issuer.

(B) The entity conducts external appeal activities through clinical peers.

(C) The entity has sufficient medical, legal, and other expertise and sufficient staffing to conduct external appeal activities for the plan or issuer on a timely basis consistent with subsection (b)(3)(E).

(D) The entity meets such other requirements as the appropriate Secretary may impose.

(2) CERTIFICATION OF EXTERNAL APPEAL ENTITIES.—

(A) IN GENERAL.—In order to be treated as a qualified external appeal entity with respect to—

(i) a group health plan, the entity must be certified (and, in accordance with subparagraph (B), periodically recertified) as meeting the requirements of paragraph (1) by the Secretary of Labor (or under a process recognized or approved by the Secretary of Labor); or

(ii) a health insurance issuer operating in a State, the entity must be certified (and, in accordance with subparagraph (B), periodically recertified) as meeting such requirements by the applicable State authority (or, if the States has not established an adequate certification and recertification process, by the Secretary of Health and Human Services, or under a process recognized or approved by such Secretary).

(B) RECERTIFICATION PROCESS.—The appropriate Secretary shall develop standards for the recertification of external appeal entities. Such standards shall include a specification of—

(i) the information required to be submitted as a condition of recertification on the entity's performance of external appeal activities, which information shall include the number of cases reviewed, a summary of the disposition of those cases, the length of time in making determinations on those cases, and such information as may be necessary to assure the independence of the entity from the plans or issuers for which external appeal activities are being conducted; and

(ii) the periodicity which recertification will be required.

(d) CONTINUING LEGAL RIGHTS OF ENROLLEES.—Nothing in this subtitle shall be construed as removing any legal rights of participants, beneficiaries, enrollees, and others under State or Federal law, including the right to file judicial actions to enforce rights.

CHAPTER 5—PROTECTING THE DOCTOR-PATIENT RELATIONSHIP

SEC. 141. PROHIBITION OF INTERFERENCE WITH CERTAIN MEDICAL COMMUNICATIONS.

(a) PROHIBITION.—

(1) GENERAL RULE.—The provisions of any contract or agreement, or the operation of any contract or agreement, between a group health plan or health insurance issuer in relation to health insurance coverage (including any partnership, association, or other organization that enters into or administers such a contract or agreement) and a health care provider (or group of health care providers) shall not prohibit or restrict the provider from engaging in medical communications with the provider's patient.

(2) NULLIFICATION.—Any contract provision or agreement described in paragraph (1) shall be null and void.

(b) RULES OF CONSTRUCTION.—Nothing in this section shall be construed—

(1) to prohibit the enforcement, as part of a contract or agreement to which a health care provider is a party, of any mutually agreed upon terms and conditions, including terms and conditions requiring a health care provider to participate in, and cooperate with, all programs, policies, and procedures developed or operated by a group health plan or health insurance issuer to assure, review, or improve the quality and effective utilization of health care services (if such utilization is according to guidelines or protocols that are based on clinical or scientific evidence and the professional judgment of the provider) but only if the guidelines or protocols under such utilization do not prohibit or restrict medical communications between providers and their patients; or

(2) to permit a health care provider to misrepresent the scope of benefits covered under the group health plan or health insurance coverage or to otherwise require a group health plan health insurance issuer to reimburse providers for benefits not covered under the plan or coverage.

(c) MEDICAL COMMUNICATION DEFINED.—In this section:

(1) IN GENERAL.—The term "medical communication" means any communication made by a health care provider with a patient of the health care provider (or the guardian or legal representative of such patient) with respect to—

(A) the patient's health status, medical care, or treatment options;

(B) any utilization review requirements that may affect treatment options for the patient; or

(C) any financial incentives that may affect the treatment of the patient.

(2) MISREPRESENTATION.—The term "medical communication" does not include a communication by a health care provider with a patient of the health care provider (or the guardian or legal representative of such patient) if the communication involves a knowing or willful misrepresentation by such provider.

SEC. 142. PROHIBITION AGAINST TRANSFER OF INDEMNIFICATION OR IMPROPER INCENTIVE ARRANGEMENTS.

(a) PROHIBITION OF TRANSFER OF INDEMNIFICATION.—

(1) IN GENERAL.—No contract or agreement between a group health plan or health insurance issuer (or any agent acting on behalf of such a plan or issuer) and a health care provider shall contain any provision purporting to transfer to the health care provider by indemnification or otherwise any liability relating to activities, actions, or omissions of the plan, issuer, or agent (as opposed to the provider).

(2) NULLIFICATION.—Any contract or agreement provision described in paragraph (1) shall be null and void.

(b) PROHIBITION OF IMPROPER PHYSICIAN INCENTIVE PLANS.—

(1) IN GENERAL.—A group health plan and a health insurance issuer offering health insurance coverage may not operate any physician incentive plan (as defined in subparagraph (B) of section 1876(i)(8) of the Social Security Act) unless the requirements described in subparagraph (A) of such section are met with respect to such a plan.

(2) APPLICATION.—For purposes of carrying out paragraph (1), any reference in section 1876(i)(8) of the Social Security Act to the Secretary, an eligible organization, or an individual enrolled with the organization shall be treated as a reference to the applicable authority, a group health plan or health insurance issuer, respectively, and a participant, beneficiary, or enrollee with the plan or organization, respectively.

SEC. 143. ADDITIONAL RULES REGARDING PARTICIPATION OF HEALTH CARE PROFESSIONALS.

(a) PROCEDURES.—Insofar as a group health plan, or health insurance issuer that offers health insurance coverage, provides benefits through participating health care professionals, the plan or issuer shall establish reasonable procedures relating to the participation (under an agreement between a professional and the plan or issuer) of such professionals under the plan or coverage. Such procedures shall include—

(1) providing notice of the rules regarding participation;

(2) providing written notice of participation decisions that are adverse to professionals; and

(3) providing a process within the plan or issuer for appealing such adverse decisions, including the presentation of information and views of the professional regarding such decision.

(b) CONSULTATION IN MEDICAL POLICIES.—A group health plan, and health insurance issuer that offers health insurance coverage, shall consult with participating physicians (if any) regarding the plan's or issuer's medical policy, quality, and medical management procedures.

SEC. 144. PROTECTION FOR PATIENT ADVOCACY.

(a) PROTECTION FOR USE OF UTILIZATION REVIEW AND GRIEVANCE PROCESS.—A group health plan, and a health insurance issuer with respect to the provision of health insurance coverage, may not retaliate against a participant, beneficiary, enrollee, or health care provider based on the participant's, beneficiary's, enrollee's or provider's use of, or participation in, a utilization review process or a grievance process of the plan or issuer (including an internal or external review or appeal process) under this subtitle.

(b) PROTECTION FOR QUALITY ADVOCACY BY HEALTH CARE PROFESSIONALS.—

(1) IN GENERAL.—A group health plan or health insurance issuer may not retaliate or discriminate against a protected health care professional because the professional in good faith—

(A) discloses information relating to the care, services, or conditions affecting one or more participants, beneficiaries, or enrollees of the plan or issuer to an appropriate public regulatory agency, an appropriate private accreditation body, or appropriate management personnel of the plan or issuer; or

(B) initiates, cooperates, or otherwise participates in an investigation or proceeding by such an agency with respect to such care, services, or conditions.

If an institutional health care provider is a participating provider with such a plan or issuer or otherwise receives payments for benefits provided by such a plan or issuer, the provisions of the previous sentence shall apply to the provider in relation to care, services, or conditions affecting one or more patients within an institutional health care provider in the same manner as they apply to the plan or issuer in relation to care, services, or conditions provided to one or more participants, beneficiaries, or enrollees; and for purposes of applying this sentence, any reference to a plan or issuer is deemed a reference to the institutional health care provider.

(2) GOOD FAITH ACTION.—For purposes of paragraph (1), a protected health care professional is considered to be acting in good faith with respect to disclosure of information or participation if, with respect to the information disclosed as part of the action—

(A) the disclosure is made on the basis of personal knowledge and is consistent with that degree of learning and skill ordinarily possessed by health care professionals with the same licensure or certification and the same experience;

(B) the professional reasonably believes the information to be true;

(C) the information evidences either a violation of a law, rule, or regulation, of an applicable accreditation standard, or of a generally recognized professional or clinical standard or that a patient is in imminent hazard of loss of life or serious injury; and

(D) subject to subparagraphs (B) and (C) of paragraph (3), the professional has followed reasonable internal procedures of the plan, issuer, or institutional health care provider established or the purpose of addressing quality concerns before making the disclosure.

(3) EXCEPTION AND SPECIAL RULE.—

(A) GENERAL EXCEPTION.—Paragraph (1) does not protect disclosures that would violate Federal or State law or diminish or impair the rights of any person to the continued protection of confidentiality of communications provided by such law.

(B) NOTICE OF INTERNAL PROCEDURES.—Subparagraph (D) of paragraph (2) shall not apply unless the internal procedures involved are reasonably expected to be known to the health care professional involved. For purposes of this subparagraph, a health care professional is reasonably expected to know of internal procedures if those procedures have been made available to the professional through distribution or posting.

(C) INTERNAL PROCEDURE EXCEPTION.—Subparagraph (D) of paragraph (2) also shall not apply if—

(i) the disclosure relates to an imminent hazard of loss of life or serious injury to a patient;

(ii) the disclosure is made to an appropriate private accreditation body pursuant to disclosure procedures established by the body; or

(iii) the disclosure is in response to an inquiry made in an investigation or proceeding of an appropriate public regulatory agency and the information disclosed is limited to the scope of the investigation or proceeding.

(4) ADDITIONAL CONSIDERATIONS.—It shall not be a violation of paragraph (1) to take an adverse action against a protected health care professional if the plan, issuer, or provider taking the adverse action involved demonstrates that it would have taken the same adverse action even in the absence of the activities protected under such paragraph.

(5) NOTICE.—A group health plan, health insurance issuer, and institutional health care provider shall post a notice, to be provided or approved by the Secretary of Labor, setting forth excerpts from, or summaries of, the pertinent provisions of this subsection and information pertaining to enforcement of such provisions.

(6) CONSTRUCTIONS.—

(A) DETERMINATIONS OF COVERAGE.—Nothing in this subsection shall be construed to prohibit a plan or issuer from making a determination not to pay for a particular medical treatment or service or the services of a type of health care professional.

(B) ENFORCEMENT OF PEER REVIEW PROTOCOLS AND INTERNAL PROCEDURES.—Nothing in this subsection shall be construed to prohibit a plan, issuer, or provider from establishing and enforcing reasonable peer review or utilization review protocols or determining whether a protected health care professional has complied with those protocols or from establishing and enforcing internal procedures for the purpose of addressing quality concerns.

(C) RELATION TO OTHER RIGHTS.—Nothing in this subsection shall be construed to abridge rights of participants, beneficiaries, enrollees, and protected health care professionals under other applicable Federal or State laws.

(7) PROTECTED HEALTH CARE PROFESSIONAL DEFINED.—For purposes of this subsection, the term "protected health care professional" means an individual who is a licensed or certified health care professional and who—

(A) with respect to a group health plan or health insurance issuer, is an employee of the plan or issuer or has a contract with the plan or issuer for provision of services for which benefits are available under the plan or issuer; or

(B) with respect to an institutional health care provider, is an employee of the provider or has a contract or other arrangement with the provider respecting the provision of health care services.

CHAPTER 6—PROMOTING GOOD MEDICAL PRACTICE

SEC. 151. PROMOTING GOOD MEDICAL PRACTICE.

(a) PROHIBITING ARBITRARY LIMITATIONS OR CONDITIONS FOR THE PROVISION OF SERVICES.—

(1) IN GENERAL.—A group health plan, and a health insurance issuer in connection with the provision of health insurance coverage, may not arbitrarily interfere with or alter the decision of the treating physician regarding the manner or setting in which particular services are delivered if the services are medically necessary or appropriate for treatment or diagnosis to the extent that such treatment or diagnosis is otherwise a covered benefit.

(2) CONSTRUCTION.—Paragraph (1) shall not be construed as prohibiting a plan or issuer from limiting the delivery of services to one or more health care providers within a network of such providers.

(3) MANNER OR SETTING DEFINED.—In paragraph (1), the term "manner or setting" means the location of treatment, such as whether treatment is provided on an inpatient or outpatient basis, and the duration of treatment, such as the number of days in a hospital. Such term does not include the coverage of a particular service or treatment.

(b) NO CHANGE IN COVERAGE.—Subsection (a) shall not be construed as requiring coverage of particular services the coverage of which is otherwise not covered under the terms of the plan or coverage or from conducting utilization review activities consistent with this subsection.

(c) MEDICAL NECESSITY OR APPROPRIATENESS DEFINED.—In subsection (a), the term "medically necessary or appropriate" means, with respect to a service or benefit, a service or benefit which is consistent with generally accepted principles of professional medical practice.

SEC. 152. STANDARDS RELATING TO BENEFITS FOR CERTAIN BREAST CANCER TREATMENT.

(a) INPATIENT CARE.—

(1) IN GENERAL.—A group health plan, and a health insurance issuer offering group health insurance coverage, that provides medical and surgical benefits shall ensure that inpatient coverage with respect to the treatment of breast cancer is provided for a period of time as is determined by the attending physician, in his or her professional judgment consistent with generally accepted medical standards, in consultation with the patient, to be medically appropriate following—

(A) a mastectomy;

(B) a lumpectomy; or

(C) a lymph node dissection for the treatment of breast cancer.

(2) EXCEPTION.—Nothing in this section shall be construed as requiring the provision of inpatient coverage if the attending physician and patient determine that a shorter period of hospital stay is medically appropriate.

(b) PROHIBITIONS.—A group health plan, and a health insurance issuer offering group health insurance coverage in connection with a group health plan, may not—

(1) deny to a woman eligibility, or continued eligibility, to enroll or to renew coverage under the terms of the plan, solely for the purpose of avoiding the requirements of this section;

(2) provide monetary payments or rebates to women to encourage such women to accept less than the minimum protections available under this section;

(3) penalize or otherwise reduce or limit the reimbursement of an attending provider because such provider provided care to an individual participant or beneficiary in accordance with this section;

(4) provide incentives (monetary or otherwise) to an attending provider to induce such provider to provide care to an individual participant or beneficiary in a manner inconsistent with this section; or

(5) subject to subsection (c)(3), restrict benefits for any portion of a period within a hospital length of stay required under subsection (a) in a manner which is less favorable than the benefits provided for any preceding portion of such stay.

(c) RULES OF CONSTRUCTION.—

(1) Nothing in this section shall be construed to require a woman who is a participant or beneficiary—

(A) to undergo a mastectomy or lymph node dissection in a hospital; or

(B) to stay in the hospital for a fixed period of time following a mastectomy or lymph node dissection.

(2) This section shall not apply with respect to any group health plan, or any group health insurance coverage offered by a health insurance issuer, which does not provide benefits for hospital lengths of stay in connection with a mastectomy or lymph node dissection for the treatment of breast cancer.

(3) Nothing in this section shall be construed as preventing a group health plan or issuer from imposing deductibles, coinsurance, or other cost-sharing in relation to benefits for hospital lengths of stay in connection with a mastectomy or lymph node dissection for the treatment of breast cancer under the plan (or under health insurance coverage offered in connection with a group health plan), except that such coinsurance or other cost-sharing for any portion of a period within a hospital length of stay required under subsection (a) may not be greater than such coinsurance or cost-sharing for any preceding portion of such stay.

(d) LEVEL AND TYPE OF REIMBURSEMENTS.—Nothing in this section shall be construed to prevent a group health plan or a health insurance issuer offering group health insurance coverage from negotiating the level and type of reimbursement with a provider for care provided in accordance with this section.

(e) EXCEPTION FOR HEALTH INSURANCE COVERAGE IN CERTAIN STATES.—

(1) IN GENERAL.—The requirements of this section shall not apply with respect to health insurance coverage if there is a State law (as defined in section 2723(d)(1) of the Public Health Service Act) for a State that regulates such coverage that is described in any of the following subparagraphs:

(A) Such State law requires such coverage to provide for at least a 48-hour hospital length of stay following a mastectomy performed for treatment of breast cancer and at least a 24-hour hospital length of stay following a lymph node dissection for treatment of breast cancer.

(B) Such State law requires, in connection with such coverage for surgical treatment of breast cancer, that the hospital length of stay for such care is left to the decision of (or required to be made by) the attending provider in consultation with the woman involved.

(2) CONSTRUCTION.—Section 2723(a)(1) of the Public Health Service Act and section 731(a)(1) of the Employee Retirement Income Security Act of 1974 shall not be construed as superseding a State law described in paragraph (1).

SEC. 153. STANDARDS RELATING TO BENEFITS FOR RECONSTRUCTIVE BREAST SURGERY.

(a) REQUIREMENTS FOR RECONSTRUCTIVE BREAST SURGERY.—

(1) IN GENERAL.—A group health plan, and a health insurance issuer offering group health insurance coverage, that provides coverage for breast surgery in connection with a mastectomy shall provide coverage for reconstructive breast surgery resulting from the mastectomy. Such coverage shall include coverage for all stages of reconstructive breast surgery performed on a nondiseased breast to establish symmetry with the diseased when reconstruction on the diseased breast is performed and coverage of prostheses and complications of mastectomy including lymphedema.

(2) RECONSTRUCTIVE BREAST SURGERY DEFINED.—In this section, the term "reconstructive breast surgery" means surgery performed as a result of a mastectomy to reestablish symmetry between two breasts, and includes augmentation mammoplasty, reduction mammoplasty, and mastopexy.

(3) MASTECTOMY DEFINED.—In this section, the term "mastectomy" means the surgical removal of all or part of a breast.

(b) PROHIBITIONS.—

(1) DENIAL OF COVERAGE BASED ON COSMETIC SURGERY.—A group health plan, and a health insurance issuer offering group health insurance coverage in connection with a group health plan, may not deny coverage described in subsection (a)(1) on the basis that the coverage is for cosmetic surgery.

(2) APPLICATION OF SIMILAR PROHIBITIONS.—Paragraphs (2) through (5) of section 152 shall apply under this section in the same manner as they apply with respect to section 152.

(c) RULES OF CONSTRUCTION.—

(1) Nothing in this section shall be construed to require a woman who is a participant or beneficiary to undergo reconstructive breast surgery.

(2) This section shall not apply with respect to any group health plan, or any group health insurance coverage offered by a health insurance issuer, which does not provide benefits for mastectomies.

(3) Nothing in this section shall be construed as preventing a group health plan or issuer from imposing deductibles, coinsurance, or other cost-sharing in relation to benefits for reconstructive breast surgery under the plan (or under health insurance coverage offered in connection with a group health plan), except that such coinsurance or other cost-sharing for any portion may not be greater than such coinsurance or cost-sharing that is otherwise applicable with respect to benefits for mastectomies.

(e) LEVEL AND TYPE OF REIMBURSEMENTS.—Nothing in this section shall be construed to prevent a group health plan or a health insurance issuer offering group health insurance coverage from negotiating the level and type of reimbursement with a provider for care provided in accordance with this section.

(f) EXCEPTION FOR HEALTH INSURANCE COVERAGE IN CERTAIN STATES.—

(1) IN GENERAL.—The requirements of this section shall not apply with respect to health insurance coverage if there is a State law (as defined in section 2723(d)(1) of the Public Health Service Act) for a State that regulates such coverage and that requires coverage of at least the coverage of reconstructive breast surgery otherwise required under this section.

(2) CONSTRUCTION.—Section 2723(a)(1) of the Public Health Service Act and section 731(a)(1) of the Employee Retirement Income Security Act of 1974 shall not be construed as superseding a State law described in paragraph (1).

CHAPTER 7—DEFINITIONS

SEC. 191. DEFINITIONS.

(a) INCORPORATION OF GENERAL DEFINITIONS.—The provisions of section 2971 of the Public Health Service Act shall apply for purposes of this subtitle in the same manner as they apply for purposes of title XXVII of such Act.

(b) SECRETARY.—Except as otherwise provided, the term "Secretary" means the Secretary of Health and Human Services, in consultation with the Secretary of Labor and the Secretary of the Treasury and the term "appropriate Secretary" means the Secretary of Health and Human Services in relation to carrying out this subtitle under sections 2706 and 2751 of the Public Health Service Act, the Secretary of Labor in relation to carrying out this subtitle under section 713 of the Employee Retirement Income Security Act of 1974, and the Secretary of the Treasury in relation to carrying out this subtitle under chapter 100 and section 4980D of the Internal Revenue Code of 1986.

(c) ADDITIONAL DEFINITIONS.—For purposes of this subtitle:

(1) APPLICABLE AUTHORITY.—The term "applicable authority" means—

(A) in the case of a group health plan, the Secretary of Health and Human Services and the Secretary of Labor; and

(B) in the case of a health insurance issuer with respect to a specific provision of this subtitle, the applicable State authority (as defined in section 2791(d) of the Public Health Service Act), or the Secretary of Health and Human Services, if such Secretary is enforcing such provision under section 2722(a)(2) or 2761(a)(2) of the Public Health Service Act.

(2) CLINICAL PEER.—The term "clinical peer" means, with respect to a review or appeal, a physician (allopathic or osteopathic) or other health care professional who holds a non-restricted license in a State and who is appropriately credentialed in the same or similar specialty as typically manages the medical condition, procedure, or treatment under review or appeal and includes a pediatric specialist where appropriate; except that only a physician may be a clinical peer with respect to the review or appeal of treatment rendered by a physician.

(3) HEALTH CARE PROVIDER.—The term "health care provider" includes a physician or other health care professional, as well as an institutional provider of health care services.

(4) NONPARTICIPATING.—The term "nonparticipating" means, with respect to a health care provider that provides health care items and services to a participant, beneficiary, or enrollee under group health plan or health insurance coverage, a health care provider that is not a participating health care provider with respect to such items and services.

(5) PARTICIPATING.—The term "participating" means, with respect to a health care provider that provides health care items and services to a participant, beneficiary, or enrollee under group health plan or health insurance coverage offered by a health insurance issuer, a health care provider that furnishes such items and services under a contract or other arrangement with the plan or issuer.

SEC. 192. PREEMPTION; STATE FLEXIBILITY; CONSTRUCTION.

(a) CONTINUED APPLICABILITY OF STATE LAW WITH RESPECT TO HEALTH INSURANCE ISSUERS.—

(1) IN GENERAL.—Subject to paragraph (2), this subtitle shall not be construed to supersede any provision of State law which establishes, implements, or continues in effect any standard or requirement solely relating to health insurance issuers in connection with group health insurance coverage except to the extent that such standard or requirement prevents the application of a requirement of this subtitle.

(2) CONTINUED PREEMPTION WITH RESPECT TO GROUP HEALTH PLANS.—Nothing in this subtitle shall be construed to affect or modify the provisions of section 514 of the Employee Retirement Income Security Act of 1974 with respect to group health plans.

(b) RULES OF CONSTRUCTION.—Except as provided in sections 152 and 153, nothing in this subtitle shall be construed as requiring a group health plan or health insurance coverage to provide specific benefits under the terms of such plan or coverage.

(c) DEFINITIONS.—For purposes of this section:

(1) STATE LAW.—The term "State law" includes all laws, decisions, rules, regulations, or other State action having the effect of law, of any State. A law of the United States applicable only to the District of Columbia shall be treated as a State law rather than a law of the United States.

(2) STATE.—The term "State" includes a State, the Northern Mariana Islands, any political subdivisions of a State or such Islands, or any agency or instrumentality of either.

SEC. 193. REGULATIONS.

The Secretaries of Health and Human Services, Labor, and the Treasury shall issue such regulations as may be necessary or appropriate to carry out this subtitle. Such regulations shall be issued consistent with section 104 of Health Insurance Portability and Accountability Act of 1996. Such Secretaries may promulgate any interim final rules as the Secretaries determine are appropriate to carry out this subtitle.

Subtitle B—Application of Patient Protection Standards to Group Health Plans and Health Insurance Coverage Under Public Health Service Act

SEC. 201. APPLICATION TO GROUP HEALTH PLANS AND GROUP HEALTH INSURANCE COVERAGE.

(a) IN GENERAL.—Subpart 2 of part A of title XXVII of the Public Health Service Act is amended by adding at the end the following new section:

“SEC. 2706. PATIENT PROTECTION STANDARDS.

“(a) IN GENERAL.—Each group health plan shall comply with patient protection requirements under subtitle A of the Patients' Bill of Rights Act of 1998, and each health insurance issuer shall comply with patient protection requirements under such subtitle with respect to group health insurance coverage it offers, and such requirements shall be deemed to be incorporated into this subsection.

“(b) NOTICE.—A group health plan shall comply with the notice requirement under section 711(d) of the Employee Retirement Income Security Act of 1974 with respect to the requirements referred to in subsection (a) and a health insurance issuer shall comply with such notice requirement as if such section applied to such issuer and such issuer were a group health plan.”.

(b) CONFORMING AMENDMENT.—Section 2721(b)(1)(A) of such Act (42 U.S.C. 300gg-21(b)(1)(A)) is amended by inserting “(other than section 2706)” after “requirements of such subparts”.

SEC. 202. APPLICATION TO INDIVIDUAL HEALTH INSURANCE COVERAGE.

Part B of title XXVII of the Public Health Service Act is amended by inserting after section 2751 the following new section:

“SEC. 2752. PATIENT PROTECTION STANDARDS.

“(a) IN GENERAL.—Each health insurance issuer shall comply with patient protection requirements under subtitle A of the Patients' Bill of Rights Act of 1998 with respect to individual health insurance coverage it offers, and such requirements shall be deemed to be incorporated into this subsection.

“(b) NOTICE.—A health insurance issuer under this part shall comply with the notice requirement under section 711(d) of the Employee Retirement Income Security Act of 1974 with respect to the requirements of such subtitle as if such section applied to such issuer and such issuer were a group health plan.”.

Subtitle C—Amendments to the Employee Retirement Income Security Act of 1974

SEC. 301. APPLICATION OF PATIENT PROTECTION STANDARDS TO GROUP HEALTH PLANS AND GROUP HEALTH INSURANCE COVERAGE UNDER THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

(a) IN GENERAL.—Subpart B of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 is amended by adding at the end the following new section:

“SEC. 713. PATIENT PROTECTION STANDARDS.

“(a) IN GENERAL.—Subject to subsection (b), a group health plan (and a health insurance issuer offering group health insurance coverage in connection with such a plan) shall comply with the requirements of subtitle A of the Patients' Bill of Rights Act of 1998 (as in effect as of the date of the enactment of such Act), and such requirements shall be deemed to be incorporated into this subsection.

“(b) PLAN SATISFACTION OF CERTAIN REQUIREMENTS.—

“(1) SATISFACTION OF CERTAIN REQUIREMENTS THROUGH INSURANCE.—For purposes of subsection (a), insofar as a group health plan provides benefits in the form of health insurance coverage through a health insurance issuer, the plan shall be treated as meeting the following requirements of subtitle A of the Patients' Bill of Rights Act of 1998 with respect to such benefits and not be considered as failing to meet such requirements because of a failure of the issuer to meet such requirements so long as the plan sponsor or its representatives did not cause such failure by the issuer:

“(A) section 101 (relating to access to emergency care).

“(B) Section 102(a)(1) (relating to offering option to purchase point-of-service coverage), but only insofar as the plan is meeting such requirement through an agreement with the issuer to offer the option to purchase point-of-service coverage under such section.

“(C) Section 103 (relating to choice of providers).

“(D) Section 104 (relating to access to specialty care).

“(E) Section 105(a)(1) (relating to continuity in case of termination of provider contract) and section 105(a)(2) (relating to continuity in case of termination of issuer contract), but only insofar as a replacement issuer assumes the obligation for continuity of care.

“(F) section 106 (relating to coverage for individuals participating in approved clinical trials.)

“(G) section 107 (relating to access to needed prescription drugs).

“(H) Section 108 (relating to adequacy of provider network).

“(I) Chapter 2 (relating to quality assurance).

“(J) Section 143 (relating to additional rules regarding participation of health care professionals).

“(K) Section 152 (relating to standards relating to benefits for certain breast cancer treatment).

“(L) Section 153 (relating to standards relating to benefits for reconstructive breast surgery).

“(2) INFORMATION.—With respect to information required to be provided or made available under section 121, in the case of a group health plan that provides benefits in the form of health insurance coverage through a health insurance issuer, the Secretary shall determine the circumstances under which the plan is not required to provide or make available the information (and is not liable for the issuer's failure to provide or make available the information), if the issuer is obligated to provide and make available (or provides and makes available) such information.

“(3) GRIEVANCE AND INTERNAL APPEALS.—With respect to the grievance system and internal appeals process required to be established under sections 131 and 132, in the case of a group health plan that provides benefits in the form of health insurance coverage through a health insurance issuer, the Secretary shall determine the circumstances under which the plan is not required to provide for such system and process (and is not liable for the issuer's failure to provide for such system and process), if the issuer is obligated to provide for (and provides for) such system and process.

“(4) EXTERNAL APPEALS.—Pursuant to rules of the Secretary, insofar as a group health plan enters into a contract with a qualified external appeal entity for the conduct of external appeal activities in accordance with section 133, the plan shall be treated as meeting the requirement of such section and is not liable for the entity's failure to meet any requirements under such section.

“(5) APPLICATION TO PROHIBITIONS.—Pursuant to rules of the Secretary, if a health insurance issuer offers health insurance coverage in connection with a group health plan and takes an action in violation of any of the following sections, the group health plan shall not be liable for such violation unless the plan caused such violation:

“(A) Section 109 (relating to nondiscrimination in delivery of services).

“(B) Section 141 (relating to prohibition of interference with certain medical communications).

“(C) Section 142 (relating to prohibition against transfer of indemnification or improper incentive arrangements).

“(D) Section 144 (relating to prohibition on retaliation).

“(E) Section 151 (relating to promoting good medical practice).

“(6) CONSTRUCTION.—Nothing in this subsection shall be construed to affect or modify the responsibilities of the fiduciaries of a group health plan under part 4 of subtitle B.

“(7) APPLICATION TO CERTAIN PROHIBITIONS AGAINST RETALIATION.—With respect to compliance with the requirements of section 144(b)(1) of the Patients' Bill of Rights Act of 1998, for purposes of this subtitle the term ‘group health plan’ is deemed to include a reference to an institutional health care provider.

“(c) ENFORCEMENT OF CERTAIN REQUIREMENTS.—

“(1) COMPLAINTS.—Any protected health care professional who believes that the professional has been retaliated or discriminated against in violation of section 144(b)(1) of the Patients' Bill of Rights Act of 1998 may file with the Secretary a complaint within 180 days of the date of the alleged retaliation or discrimination.

“(2) INVESTIGATION.—The Secretary shall investigate such complaints and shall determine if a violation of such section has occurred and, if so, shall issue an order to ensure that the protected health care professional does not suffer any loss of position, pay, or benefits in relation to the plan, issuer, or provider involved, as a result of the violation found by the Secretary.

“(d) CONFORMING REGULATIONS.—The Secretary may issue regulations to coordinate the requirements on group health plans under this section with the requirements imposed under the other provisions of this title.”.

(b) SATISFACTION OF ERISA CLAIMS PROCEDURE REQUIREMENT.—Section 503 of such Act (29 U.S.C. 1133) is amended by inserting “(a)” after “SEC. 503.” and by adding at the end the following new subsection:

“(b) In the case of a group health plan (as defined in section 733) compliance with the requirements of chapter 4 (and section 115) of subtitle A of the Patients' Bill of Rights Act of 1998 in the case of a claims denial shall be deemed compliance with subsection (a) with respect to such claims denial.”.

(c) CONFORMING AMENDMENTS.—(1) Section 732(a) of such Act (29 U.S.C. 1185(a)) is amended by striking “section 711” and inserting “sections 711 and 713”.

(2) The table of contents in section 1 of such Act is amended by inserting after the item relating to section 712 the following new item:

“Sec. 713. Patient protection standards.”.

(3) Section 502(b)(3) of such Act (29 U.S.C. 1132(b)(3)) is amended by inserting "(other than section 144(b))" after "part 7".

SEC. 302. ERISA PREEMPTION NOT TO APPLY TO CERTAIN ACTIONS INVOLVING HEALTH INSURANCE POLICYHOLDERS.

(a) IN GENERAL.—Section 514 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144) is amended by adding at the end the following subsection:

"(e) PREEMPTION NOT TO APPLY TO CERTAIN ACTIONS ARISING OUT OF PROVISION OF HEALTH BENEFITS.—

"(1) IN GENERAL.—Except as provided in this subsection, nothing in this title shall be construed to invalidate, impair, or supersede any cause of action brought by a plan participant or beneficiary (or the estate of a plan participant or beneficiary) under State law to recover damages resulting from personal injury or for wrongful death against any person—

"(A) in connection with the provision of insurance, administrative services, or medical services by such person to or for a group health plan (as defined in section 733), or

"(B) that arises out of the arrangement by such person for the provision of such insurance, administrative services, or medical services by other persons.

For purposes of this subsection, the term 'personal injury' means a physical injury and includes an injury arising out of the treatment (or failure to treat) a mental illness or disease.

"(2) EXCEPTION FOR EMPLOYERS AND OTHER PLAN SPONSORS.—

"(A) IN GENERAL.—Subject to subparagraph (B), paragraph (1) does not authorize—

"(i) any cause of action against an employer or other plan sponsor maintaining the group health plan (or against an employee of such an employer or sponsor acting within the scope of employment), or

"(ii) a right of recovery or indemnity by a person against an employer or other plan sponsor (or such an employee) for damages assessed against the person pursuant to a cause of action under paragraph (1).

"(B) SPECIAL RULE.—Subparagraph (A) shall not preclude any cause of action described in paragraph (1) against an employer or other plan sponsor (or against an employee of such an employer or sponsor acting within the scope of employment) if—

"(i) such action is based on the employer's or other plan sponsor's (or employee's) exercise of discretionary authority to make a decision on a claim for benefits covered under the plan or health insurance coverage in the case at issue; and

"(ii) the exercise by such employer or other plan sponsor (or employee) of such authority resulted in personal injury or wrongful death.

"(3) CONSTRUCTION.—Nothing in this subsection shall be construed as permitting a cause of action under State law for the failure to provide an item or service which is not covered under the group health plan involved.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to acts and omissions occurring on or after the date of the enactment of this title from which a cause of action arises.

Subtitle D—Application to Group Health Plans Under the Internal Revenue Code of 1986.

SEC. 401. AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986.

Subchapter B of chapter 100 of the Internal Revenue Code of 1986 (as amended by section 1531(a) of the Taxpayer Relief Act of 1997) is amended—

(1) in the table of sections, by inserting after the item relating to section 9812 the following new item:

"Sec. 9813. Standard relating to patient freedom of choice."; and

(2) by inserting after section 9812 the following:

"SEC. 9813. STANDARD RELATING TO PATIENTS' BILL OF RIGHTS.

"A group health plan shall comply with the requirements of subtitle A of the Patients' Bill of Rights Act of 1998 (as in effect as of the date of the enactment of such Act), and such requirements shall be deemed to be incorporated into this section.".

Subtitle E—Effective Dates; Coordination in Implementation

SEC. 501. EFFECTIVE DATES.

(a) GROUP HEALTH COVERAGE.—

(1) IN GENERAL.—Subject to paragraph (2), the amendments made by sections 2201(a) and 2301 (and subtitle A insofar as it relates to such sections) shall apply with respect to group health plans, and health insurance coverage offered in connection with group health plans, for plan years beginning on or after July 1, 1999 (in this section referred to as the "general effective date").

(2) TREATMENT OF COLLECTIVE BARGAINING AGREEMENTS.—In the case of a group health plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified before the date of enactment of this title, the amendments made by sections 2201(a) and 2301 (and subtitle A insofar as it relates to such sections) shall not apply to plan years beginning before the later of—

(A) the date on which the last collective bargaining agreements relating to the plan terminates (determined without regard to any extension thereof agreed to after the date of enactment of this title), or

(B) the general effective date.

For purposes of subparagraph (A), any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by this title shall not be treated as a termination of such collective bargaining agreement.

(b) INDIVIDUAL HEALTH INSURANCE COVERAGE.—The amendments made by section 202 shall apply with respect to individual health insurance coverage offered, sold, issued, renewed, in effect, or operated in the individual market on or after the general effective date.

SEC. 502. COORDINATION IN IMPLEMENTATION.

Section 104(1) of Health Insurance Portability and Accountability Act of 1996 is amended by inserting "or under subtitle A of the Patients' Bill of Rights Act of 1998 (and the amendments made by such title)" after "section 401)".

SEC. 503. NO IMPACT ON SOCIAL SECURITY TRUST FUND.

Nothing in this title shall be construed to alter or amend the Social Security Act (or any regulation promulgated under that Act). To the extent that this title may have a negative effect on the balances of any trust fund established under the Social Security Act, such sums as may be necessary shall be transferred from the general revenues of the Federal Government to ensure that the income and balances of such trust funds are not reduced as a result of the enactment of this title.

Subtitle F—Revenue

SEC. 601. EXTENSION OF HAZARDOUS SUBSTANCE SUPERFUND TAXES.

(a) EXTENSION OF TAXES.—

(1) ENVIRONMENTAL TAX.—Section 59A(e) of the Internal Revenue Code of 1986 is amended to read as follows:

"(e) APPLICATION OF TAX.—The tax imposed by this section shall apply to taxable years beginning after December 31, 1986, and before January 1, 1996, and to taxable years beginning after December 31, 1999, and before January 1, 2009."

(2) EXCISE TAXES.—Section 4611(e) of such Code is amended to read as follows:

"(e) APPLICATION OF HAZARDOUS SUBSTANCE SUPERFUND FINANCING RATE.—The Hazardous Substance Superfund financing rate under this section shall apply after December 31, 1986, and before January 1, 1996, and after December 31, 1999, and before October 1, 2008."

(b) EFFECTIVE DATES.—

(1) INCOME TAX.—The amendment made by subsection (a)(1) shall apply to taxable years beginning after December 31, 1999.

(2) EXCISE TAX.—The amendment made by subsection (a)(2) shall take effect on January 1, 2000.

SEC. 602. CLARIFICATION OF DEFINITION OF SPECIFIED LIABILITY LOSS.

(a) IN GENERAL.—Subparagraph (B) of section 172(f)(1) of the Internal Revenue Code of 1986 (defining specified liability loss) is amended to read as follows:

"(B) Any amount (not described in subparagraph (A)) allowable as a deduction under this chapter which is attributable to a liability—

"(i) under a Federal or State law requiring the reclamation of land, decommissioning of a nuclear power plant (or any unit thereof), dismantlement of an offshore drilling platform, remediation of environmental contamination, or payment of workmen's compensation, and

"(ii) with respect to which the act (or failure to act) giving rise to such liability occurs at least 3 years before the beginning of the taxable year."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to net operating losses for taxable years beginning after the date of the enactment of this Act.

SEC. 603. PROPERTY SUBJECT TO A LIABILITY TREATED IN SAME MANNER AS ASSUMPTION OF LIABILITY.

(a) REPEAL OF PROPERTY SUBJECT TO A LIABILITY TEST.—

(1) SECTION 357.—Section 357(a) of the Internal Revenue Code of 1986 (relating to assumption of liability) is amended by striking ", or acquires from the taxpayer property subject to a liability" in paragraph (2).

(2) SECTION 358.—Section 358(d)(1) of such Code (relating to assumption of liability) is amended by striking "or acquired from the taxpayer property subject to a liability".

(3) SECTION 368.—

(A) Section 368(a)(1)(C) of such Code is amended by striking ", or the fact that property acquired is subject to a liability,".

(B) The last sentence of section 368(a)(2)(B) of such Code is amended by striking ", and the amount of any liability to which any property acquired from the acquiring corporation is subject,".

(b) CLARIFICATION OF ASSUMPTION OF LIABILITY.—Section 357(c) of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

"(4) DETERMINATION OF AMOUNT OF LIABILITY ASSUMED.—For purposes of this section, section 358(d), section 368(a)(1)(C), and section 368(a)(2)(B)—

"(A) a liability shall be treated as having been assumed to the extent, as determined on the basis of facts and circumstances, the transferor is relieved of such liability or any portion thereof (including through an indemnity agreement or other similar arrangement), and

"(B) in the case of the transfer of any property subject to a nonrecourse liability, unless the facts and circumstances indicate otherwise, the transferee shall be treated as assuming with respect to such property a ratable portion of such liability determined on the basis of the relative fair market values (determined without regard to section 7701(g)) of all assets subject to such liability.

(c) Application to Provisions Other Than Subchapter C.—

(1) Section 584.—Section 584(h)(3) of the Internal Revenue Code of 1986 is amended—

(A) by striking ", and the fact that any property transferred by the common trust fund is subject to a liability," in subparagraph (A),

(B) by striking clause (ii) of subparagraph (B) and inserting:

"(ii) Assumed liabilities.—For purposes of clause (i), the term 'assumed liabilities' means any liability of the common trust fund assumed by any regulated investment company in connection with the transfer referred to in paragraph (1)(A).

"(C) Assumption.—For purposes of this paragraph, in determining the amount of any liability assumed, the rules of section 357(c)(4) shall apply."

(2) Section 1031.—The last sentence of section 1031(d) of such Code is amended—

(A) by striking "assumed a liability of the taxpayer or acquired from the taxpayer property subject to a liability" and inserting "assumed (as determined under section 357(c)(4)) a liability of the taxpayer", and

(B) by striking "or acquisition (in the amount of the liability)".

(d) Conforming Amendments.—

(1) Section 351(h)(1) of the Internal Revenue Code of 1986 is amended by striking ", or acquires property subject to a liability,".

(2) Section 357 of such Code is amended by striking "or acquisition" each place it appears in subsection (a) or (b).

(3) Section 357(b)(1) of such Code Is amended by striking "or acquired".

(4) Section 357(c)(1) of such Code is amended by striking ", plus the amount of the liabilities to which the property is subject,".

(5) Section 357(c)(3) of such Code is amended by striking "or to which the property transferred is subject".

(6) Section 358(d)(1) of such Code is amended by striking "or acquisition (in the amount of the liability)".

(e) Effective Date.—The amendments made by this section shall apply to transfers after the date of the enactment of this Act.

SEC. 604. EXCISE TAX ON PURCHASE OF STRUCTURED SETTLEMENT AGREEMENTS.

(a) In General.—Subtitle D of the Internal Revenue Code of 1986 (relating to miscellaneous excise taxes) is amended by adding at the end the following:

"CHAPTER 48—STRUCTURED SETTLEMENT AGREEMENTS

"Sec. 5000A. Tax on purchases of structured settlement agreements.

"SEC. 5000A. TAX ON PURCHASES OF STRUCTURED SETTLEMENT AGREEMENTS.

"(a) Imposition of Tax.—There is hereby imposed on any person who purchases the right to receive payments under a structured settlement agreement a tax equal to 10 percent of the amount of the purchase price.

"(b) Exception for Court-Ordered Purchases.—Subsection (a) shall not apply to any purchase which is pursuant to a court order which finds that such purchase is necessary because of the extraordinary and unanticipated needs of the individual with the personal injuries or sickness giving rise to the structured settlement agreement.

"(c) Structured Settlement Agreement.—For purposes of this section, the term 'structured settlement agreement' means—

"(1) any right to receive (whether by suit or agreement) periodic payments as damages on account of personal injuries or sickness, or

"(2) any right to receive periodic payments as compensation for personal injuries or sickness under any workmen's compensation act.

"(d) Purchase.—For purposes of this section, the term 'purchase' has the meaning given such term by section 179(d)(2)."

(b) Conforming Amendment.—The table of chapters for subtitle D of the Internal Revenue Code of 1986 is amended by adding at the end the following:

"Chapter 48. Structured settlement agreements."

(c) Effective Date.—The amendments made by this section shall apply to purchases after the date of enactment of this Act.

SEC. 605. CLARIFICATION AND EXPANSION OF MATHEMATICAL ERROR ASSESSMENT PROCEDURES.

(a) TIN Deemed Incorrect if Information on Return Differs With Agency Records.—Section 6213(g)(2) of the Internal Revenue Code of 1986 (defining mathematical or clerical error) is amended by adding at the end the following flush sentence:

"A taxpayer shall be treated as having omitted a correct TIN for purposes of the preceding sentence if information provided by the taxpayer on the return with respect to the individual whose TIN was provided differs from the information the Secretary obtains from the person issuing the TIN."

(b) Expansion of Mathematical Error Procedures to Cases Where TIN Establishes Individual Not Eligible for Tax Credit.—Section 6213(g)(2) of the Internal Revenue Code of 1986 is amended by striking "and" at the end of subparagraph (I), by striking the period at the end of the first subparagraph (J) (relating to higher education credit) and inserting a comma, by redesignating the second subparagraph (J) (relating to earned income credit) as subparagraph (K) and by striking the period at the end and inserting ", and", and by adding at the end the following new subparagraph:

"(L) the inclusion of a TIN on a return with respect to an individual for whom a credit is claimed under section 21, 24, or 32 if, on the basis of data obtained by the Secretary from the person issuing the TIN, it is established that the individual does not meet any applicable age requirements for such credit."

(c) Effective Date.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

SEC. 606. MODIFICATION TO FOREIGN TAX CREDIT CARRYBACK AND CARRYOVER PERIODS.

(a) In General.—Section 904(c) of the Internal Revenue Code of 1986 (relating to limitation on credit) is amended—

(1) by striking "in the second preceding taxable year,", and

(2) by striking "or fifth" and inserting "fifth, sixth, or seventh".

(b) Effective Date.—The amendment made by subsection (a) shall apply to credits arising in taxable years beginning after December 31, 2001.

SEC. 607. DEPOSIT REQUIREMENTS FOR FUTA TAXES.

(a) In General.—Section 6157 of the Internal Revenue Code of 1986 (relating to payment of Federal unemployment tax on quarterly or other time period basis) is amended by adding at the end the following new subsection:

"(d) Deposits of FUTA Taxes.—

"(1) General rule.—Except as otherwise provided in this subsection or in regulations prescribed by the Secretary, the taxes imposed by section 3301 which are attributable to wages paid during any calendar quarter shall be deposited on or before the last day of the first month following the close of such calendar quarter.

"(2) Monthly deposit rule.—

"(A) In general.—In the case of a monthly depositor for any calendar year, the taxes imposed by section 3301 which are attributable to wages paid during any month in such calendar year shall be deposited on or before the last day of the following month.

"(B) Monthly depositor.—For purposes of subparagraph (A), an employer is a monthly depositor for any calendar year if the employer's liability for taxes imposed by section 3301 for the preceding calendar year was equal to or greater than $1,100. All persons treated as one employer under subsection (a) or (b) shall be treated as one employer for purposes of this subparagraph.

"(C) Safe harbor for monthly depositors.—No penalties shall be imposed under this title with respect to—

"(i) deposits required under this paragraph for the first month of a calendar quarter if the amount deposited by the last day of the second month of such quarter is at least equal to the lesser of—

"(I) 30 percent of the taxes imposed by section 3301 which are attributable to wages paid during such quarter, or

"(II) 90 percent of the taxes imposed by section 3301 which are attributable to wages paid during the first month of such quarter, and

"(ii) deposits required under this paragraph for the second month of a calendar quarter if the amount deposited by the last day of the third month of such quarter is at least equal to the lesser of—

"(I) 60 percent of the taxes imposed by section 3301 which are attributable to wages paid during such quarter, or

"(II) 90 percent of the taxes imposed by section 3301 which are attributable to wages paid during the first 2 months of such quarter.

"(3) Deposit required only on banking days.—If taxes are required to be deposited under this subsection on any day which is not a banking day, such taxes shall be treated as timely deposited if deposited on the first banking day thereafter.

"(4) Wages.—For purposes of this subsection, the term 'wages' has the meaning given to such term by section 3306(b)."

(b) Application to Deposits Required by State Governments.—

(1) In general.—Section 303 of the Social Security Act (42 U.S.C. 503) is amended by adding at the end the following new subsection:

"(k)(1) The State agency charged with the administration of the State law shall provide that any deposit required under the State law to the unemployment fund of the State with respect to wages paid for any month during a calendar year by an employer is required to be made by the last day of the following month if such employer is treated as a monthly depositor for such calendar year for purposes of section 6157(d) of the Internal Revenue Code of 1986 (or if the State so elects, at such other time as is not later than the time provided under subparagraph (C) of section 6157(d)(2) of such Code).

"(2) Whenever the Secretary of Labor, after reasonable notice and opportunity for hearing to the State agency charged with the administration of State law, finds that there is a failure to comply substantially with the requirements of paragraph (1), the Secretary of Labor shall notify such State agency that further payments will not be made to the State until the Secretary is satisfied that there is no longer any such failure. Until the Secretary of Labor is so satisfied, he shall make no further certification to the Secretary of the Treasury with respect to such State."

(2) Conforming amendment.—Section 304(a)(2) of the Social Security Act (42 U.S.C. 504(a)(2)) is amended by striking "or (j)" and inserting "(j), or (k)".

(c) Conforming Amendments.—

(1) The last sentence of section 6157(a) of the Internal Revenue Code of 1986 is amended by striking "and such time".

(2) Section 6157(b) of such Code is amended by striking "referred to in paragraph (1) or (2) of subsection (a)".

(d) Effective Date.—The amendments made by this section shall apply to months beginning after December 31, 2003.

SEC. ___608. INFORMATION REQUIREMENTS.

(a) Information From Group Health Plans.—Section 1862(b) of the Social Security Act (42 U.S.C. 1395y(b)) is amended by adding at the end the following:

"(7) Information from group health plans.—

"(A) Provision of information by group health plans.—The administrator of a group health plan subject to the requirements of paragraph (1) shall provide to the Secretary such of the information elements described in subparagraph (C) as the Secretary specifies, and in such manner and at such times as the Secretary may specify (but not more frequently than four times per year), with respect to each individual covered under the plan who is entitled to any benefits under this title.

"(B) Provision of information by employers and employee organizations.—An employer (or employee organization) that maintains or participates in a group health plan subject to the requirements of paragraph (1) shall provide to the administrator of the plan such of the information elements required to be provided under subparagraph (A), and in such manner and at such times as the Secretary may specify, at a frequency consistent with that required under subparagraph (A) with respect to each individual described in subparagraph (A) who is covered under the plan by reason of employment with that employer or membership in the organization.

"(C) Information elements.—The information elements described in this subparagraph are the following:

"(i) Elements concerning the individual.—

"(I) The individual's name.

"(II) The individual's date of birth.

"(III) The individual's sex.

"(IV) The individual's social security insurance number.

"(V) The number assigned by the Secretary to the individual for claims under this title.

"(VI) The family relationship of the individual to the person who has or had current or employment status with the employer.

"(ii) Elements concerning the family member with current or former employment status.—

"(I) The name of the person in the individual's family who has current or former employment status with the employer.

"(II) That person's social security insurance number.

"(III) The number or other identifier assigned by the plan to that person.

"(IV) The periods of coverage for that person under the plan.

"(V) The employment status of that person (current or former) during those periods of coverage.

"(VI) The classes (of that person's family members) covered under the plan.

"(iii) Plan elements.—

"(I) The items and services covered under the plan.

"(II) The name and address to which claims under the plan are to be sent.

"(iv) Elements concerning the employer.—

"(I) The employer's name.

"(II) The employer's address.

"(III) The employer identification number of the employer.

"(D) Use of identifiers.—The administrator of a group health plan shall utilize a unique identifier for the plan in providing information under subparagraph (A) and in other transactions, as may be specified by the Secretary, related to the provisions of this subsection. The Secretary may provide to the administrator the unique identifier described in the preceding sentence.

"(E) Penalty for noncompliance.—Any entity that knowingly and willfully fails to comply with a requirement imposed by the previous subparagraphs shall be subject to a civil money penalty not to exceed $1,000 for each incident of such failure. The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under the previous sentence in the same manner as those provisions apply to a penalty or proceeding under section 1128A(a).".

(b) Effective Date.—The amendment made by subsection (a) shall take effect 180 days after the date of enactment of this Act.

PRODUCT LIABILITY REFORM ACT OF 1998

LOTT AMENDMENT NO. 3064

Mr. LOTT proposed an amendment to the bill, S. 648, supra; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the "Product Liability Reform Act of 1998".

(b) Table of Contents.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings; purposes.

TITLE I—PRODUCT LIABILITY REFORM

Sec. 101. Definitions.
Sec. 102. Applicability; preemption.
Sec. 103. Liability rules applicable to product sellers, renters, and lessors.
Sec. 104. Defense based on claimant's use of alcohol or drugs.
Sec. 105. Reduction in damages for misuse or alteration.
Sec. 106. Statute of limitations.
Sec. 107. Statute of repose for durable goods used in a trade or business.
Sec. 108. Transitional provision relating to extension of period for bringing certain actions.
Sec. 109. Alternative dispute resolution procedures.
Sec. 110. Punitive damages reforms.
Sec. 111. Liability for certain claims relating to death.
Sec. 112. Workers' compensation subrogation.

TITLE II—BIOMATERIALS ACCESS ASSURANCE

Sec. 201. Short title.
Sec. 202. Findings.
Sec. 203. Definitions.
Sec. 204. General requirements; applicability; preemption.
Sec. 205. Liability of biomaterials suppliers.
Sec. 206. Procedures for dismissal of civil actions against biomaterials suppliers.
Sec. 207. Subsequent impleader of dismissed defendant.

TITLE III—LIMITATIONS ON APPLICABILITY; EFFECTIVE DATE

Sec. 301. Federal cause of action precluded.
Sec. 302. Effective date.

SEC. 2. FINDINGS; PURPOSES.

(a) Findings.—Congress finds that—

(1) although damage awards in product liability actions can encourage the production of safer products, they also can have a direct effect on interstate commerce and our Nation's consumers by, among other things, increasing the cost and decreasing the availability of products;

(2) some of the rules of law governing product liability actions are inconsistent within and among the States, resulting in differences in State laws that can be inequitable to both plaintiffs and defendants and can impose burdens on interstate commerce;

(3) product liability awards can jeopardize the financial well-being of individuals and industries, particularly the Nation's small businesses;

(4) because the product liability laws of one State can have adverse effects on consumers and businesses in many other States, it is appropriate for the Federal Government to enact national, uniform product liability laws that preempt State laws; and

(5) it is the constitutional role of the Federal Government to remove barriers to interstate commerce.

(b) Purposes.—Based on the powers under clause 3 of section 8 of article I of the United States Constitution, the purposes of this Act are to promote the free flow of goods and services and to lessen burdens on interstate commerce by—

(1) establishing certain uniform legal principles of product liability that provide a fair balance among the interests of product users, manufacturers, and product sellers;

(2) providing for reasonable standards concerning, and limits on, punitive damages over and above the actual damages suffered by a claimant;

(3) ensuring the fair allocation of liability in product liability actions;

(4) reducing the unacceptable costs and delays in product liability actions caused by excessive litigation that harm both plaintiffs and defendants;

(5) establishing greater fairness, rationality, and predictability in product liability actions; and

(6) providing fair and expeditious judicial procedures that are necessary to complement and effectuate the legal principles established by this Act.

TITLE I—PRODUCT LIABILITY REFORM

SEC. 101. DEFINITIONS.

In this title:

(1) Alcoholic product.—The term "alcoholic product" includes any product that contains not less than ½ of 1 percent of alcohol by volume and is intended for human consumption.

(2) Claimant.—The term "claimant" means any person who brings an action covered by this title and any person on whose behalf such an action is brought. If such an action is brought through or on behalf of an estate, the term includes the claimant's decedent. If such an action is brought through or on behalf of a minor or incompetent, the term includes the claimant's legal guardian.

(3) Claimant's benefits.—The term "claimant's benefits" means the amount paid to an employee as workers' compensation benefits.

(4) Clear and convincing evidence.—The term "clear and convincing evidence" is that measure or degree of proof that will produce in the mind of the trier of fact a firm belief or conviction as to the truth of the allegations sought to be established. The level of proof required to satisfy that standard is more than that required under a preponderance of the evidence, but less than that required for proof beyond a reasonable doubt.

(5) Commercial loss.—The term "commercial loss" means—

(A) any loss or damage solely to a product itself;

(B) loss relating to a dispute over the value of a product; or

(C) consequential economic loss.

(6) Compensatory damages.—The term "compensatory damages" means damages awarded for economic and noneconomic loss.

(7) Dram-shop.—The term "dram-shop" means a drinking establishment where alcoholic products are sold to be consumed on the premises.

(8) Durable good.—The term "durable good" means any product, or any component of any such product, which—

(A)(i) has a normal life expectancy of 3 or more years; or

(ii) is of a character subject to allowance for depreciation under the Internal Revenue Code of 1986; and

(B) is—

(i) used in a trade or business;

(ii) held for the production of income; or

(iii) sold or donated to a governmental or private entity for the production of goods, training, demonstration, or any other similar purpose.

(9) Economic loss.—The term "economic loss" means any pecuniary loss resulting from harm (including the loss of earnings or other benefits related to employment, medical expense loss, replacement services loss, loss due to death, burial costs, and loss of business or employment opportunities) to the extent recovery for that loss is allowed under applicable State law.

(10) Harm.—The term "harm"—

(A) means any physical injury, illness, disease, or death, or damage to property caused by a product; and

(B) does not include commercial loss.

(11) Insurer.—The term "insurer" means the employer of a claimant if the employer is self-insured or if the employer is not self-insured, the workers' compensation insurer of the employer.

(12) Manufacturer.—The term "manufacturer" means—

(A) any person who is engaged in a business to produce, create, make, or construct any product (or component part of a product) and who—

(i) designs or formulates the product (or component part of the product); or

(ii) has engaged another person to design or formulate the product (or component part of the product);

(B) a product seller, but only with respect to those aspects of a product (or component part of a product) which are created or affected when, before placing the product in the stream of commerce, the product seller—

(i) produces, creates, makes, constructs and designs, or formulates an aspect of the product (or component part of the product) made by another person; or

(ii) has engaged another person to design or formulate an aspect of the product (or component part of the product) made by another person; or

(C) any product seller not described in subparagraph (B) which holds itself out as a manufacturer to the user of the product.

(13) Noneconomic loss.—The term "noneconomic loss" means subjective, nonmonetary loss resulting from harm, including pain, suffering, inconvenience, mental suffering, emotional distress, loss of society and companionship, loss of consortium, injury to reputation, and humiliation.

(14) Person.—The term "person" means any individual, corporation, company, association, firm, partnership, society, joint stock company, or any other entity (including any governmental entity).

(15) Product.—

(A) In general.—The term "product" means any object, substance, mixture, or raw material in a gaseous, liquid, or solid state that—

(i) is capable of delivery itself or as an assembled whole, in a mixed or combined state, or as a component part or ingredient;

(ii) is produced for introduction into trade or commerce;

(iii) has intrinsic economic value; and

(iv) is intended for sale or lease to persons for commercial or personal use.

(B) Exclusion.—The term "product" does not include—

(i) tissue, organs, blood, and blood products used for therapeutic or medical purposes, except to the extent that such tissue, organs, blood, and blood products (or the provision thereof) are subject, under applicable State law, to a standard of liability other than negligence; or

(ii) electricity, water delivered by a utility, natural gas, or steam.

(16) Product liability action.—The term "product liability action" means a civil action brought on any theory for harm caused by a product.

(17) Product seller.—

(A) In general.—The term "product seller" means a person who in the course of a business conducted for that purpose—

(i) sells, distributes, rents, leases, prepares, blends, packages, labels, or otherwise is involved in placing a product in the stream of commerce; or

(ii) installs, repairs, refurbishes, reconditions, or maintains the harm-causing aspect of the product.

(B) Exclusion.—The term "product seller" does not include—

(i) a seller or lessor of real property;

(ii) a provider of professional services in any case in which the sale or use of a product is incidental to the transaction and the essence of the transaction is the furnishing of judgment, skill, or services; or

(iii) any person who—

(I) acts in only a financial capacity with respect to the sale of a product; or

(II) leases a product under a lease arrangement in which the lessor does not initially select the leased product and does not during the lease term ordinarily control the daily operations and maintenance of the product.

(18) Punitive damages.—The term "punitive damages" means damages awarded against any person or entity to punish or deter that person or entity, or others, from engaging in similar behavior in the future.

(19) State.—The term "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and any other territory or possession of the United States or any political subdivision of any of the foregoing.

(20) Tobacco product.—The term "tobacco product" means—

(A) a cigarette, as defined in section 3 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1332);

(B) a little cigar, as defined in section 3 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1332);

(C) a cigar, as defined in section 5702(a) of the Internal Revenue Code of 1986;

(D) pipe tobacco;

(E) loose rolling tobacco and papers used to contain that tobacco;

(F) a product referred to as smokeless tobacco, as defined in section 9 of the Comprehensive Smokeless Tobacco Health Education Act of 1986 (15 U.S.C. 4408); and

(G) any other form of tobacco intended for human consumption.

SEC. 102. APPLICABILITY; PREEMPTION.

(a) Preemption.—

(1) In general.—Except as provided in paragraph (2) and title II, this title governs any product liability action brought in any Federal or State court on any theory for harm caused by a product.

(2) Actions excluded.—

(A) Actions for commercial loss.—A civil action brought for commercial loss shall be governed only by applicable commercial law, including applicable State law based on the Uniform Commercial Code.

(B) Actions for negligent entrustment; negligence per se concerning firearms and ammunition; dram-shop.—

(i) Negligent entrustment.—A civil action for negligent entrustment shall not be subject to the provisions of this title governing product liability actions, but shall be subject to any applicable Federal or State law.

(ii) Negligence per se concerning firearms and ammunition.—A civil action brought under a theory of negligence per se concerning the use of a firearm or ammunition shall not be subject to the provisions of this title governing product liability actions, but shall be subject to any applicable Federal or State law.

(iii) Dram-shop.—A civil action brought under a theory of dram-shop or third-party liability arising out of the sale or providing of an alcoholic product to an intoxicated person or minor shall not be subject to the provisions of this title, but shall be subject to any applicable Federal or State law.

(C) Actions involving harm caused by a tobacco product.—A civil action brought for harm caused by a tobacco product shall not be subject to the provisions of this title governing product liability actions, but shall be subject to any applicable Federal or State law.

(D) Actions involving harm caused by a breast implant.—A civil action brought for harm caused by either the silicone gel or the silicone envelope utilized in a breast implant containing silicone gel shall not be subject to the provisions of this title governing product liability actions, but shall be subject to any applicable Federal or State law.

(b) RELATIONSHIP TO STATE LAW.—This title supersedes a State law only to the extent that the State law applies to a matter covered by this title. Any matter that is not governed by this title, including any standard of liability applicable to a manufacturer, shall be governed by any applicable Federal or State law.

(c) EFFECT ON OTHER LAW.—Nothing in this title shall be construed to—

(1) waive or affect any defense of sovereign immunity asserted by any State under any law;

(2) supersede or alter any Federal law;

(3) waive or affect any defense of sovereign immunity asserted by the United States;

(4) affect the applicability of any provision of chapter 97 of title 28, United States Code;

(5) preempt State choice-of-law rules with respect to claims brought by a foreign nation or a citizen of a foreign nation;

(6) affect the right of any court to transfer venue or to apply the law of a foreign nation or to dismiss a claim of a foreign nation or of a citizen of a foreign nation on the ground of inconvenient forum; or

(7) supersede or modify any statutory or common law, including any law providing for an action to abate a nuisance, that authorizes a person to institute an action for civil damages or civil penalties, cleanup costs, injunctions, restitution, cost recovery, punitive damages, or any other form of relief, for remediation of the environment (as defined in section 101(8) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(8)).

SEC. 103. LIABILITY RULES APPLICABLE TO PRODUCT SELLERS, RENTERS, AND LESSORS.

(a) GENERAL RULE.—

(1) IN GENERAL.—In any product liability action that is subject to this title, a product seller other than a manufacturer shall be liable to a claimant only if the claimant establishes that—

(A)(i) the product that allegedly caused the harm that is the subject of the complaint was sold, rented, or leased by the product seller;

(ii) the product seller failed to exercise reasonable care with respect to the product; and

(iii) the failure to exercise reasonable care was a proximate cause of the harm to the claimant;

(B)(i) the product seller made an express warranty applicable to the product that allegedly caused the harm that is the subject of the complaint, independent of any express warranty made by a manufacturer as to the same product;

(ii) the product failed to conform to the warranty; and

(iii) the failure of the product to conform to the warranty caused the harm to the claimant; or

(C)(i) the product seller engaged in intentional wrongdoing, as determined under applicable State law; and

(ii) the intentional wrongdoing caused the harm that is the subject of the complaint.

(2) REASONABLE OPPORTUNITY FOR INSPECTION.—For purposes of paragraph (1)(A)(ii), a product seller shall not be considered to have failed to exercise reasonable care with respect to a product based upon an alleged failure to inspect the product, if—

(A) the failure occurred because there was no reasonable opportunity to inspect the product; or

(B) the inspection, in the exercise of reasonable care, would not have revealed the aspect of the product that allegedly caused the claimant's harm.

(b) SPECIAL RULE.—

(1) IN GENERAL.—A product seller shall be deemed to be liable as a manufacturer of a product for harm caused by the product, if—

(A) the manufacturer is not subject to service of process under the laws of any State in which the action may be brought; or

(B) the court determines that the claimant is or would be unable to enforce a judgment against the manufacturer.

(2) STATUTE OF LIMITATIONS.—For purposes of this subsection only, the statute of limitations applicable to claims asserting liability of a product seller as a manufacturer shall be tolled from the date of the filing of a complaint against the manufacturer to the date that judgment is entered against the manufacturer.

(c) RENTED OR LEASED PRODUCTS.—

(1) DEFINITION.—For purposes of paragraph (2), and for determining the applicability of this title to any person subject to that paragraph, the term "product liability action" means a civil action brought on any theory for harm caused by a product or product use.

(2) LIABILITY.—Notwithstanding any other provision of law, any person engaged in the business of renting or leasing a product (other than a person excluded from the definition of product seller under section 101(17)(B)) shall be subject to liability in a product liability action under subsection (a), but any person engaged in the business of renting or leasing a product shall not be liable to a claimant for the tortious act of another solely by reason of ownership of that product.

SEC. 104. DEFENSE BASED ON CLAIMANT'S USE OF ALCOHOL OR DRUGS.

(a) GENERAL RULE.—In any product liability action that is subject to this title, it shall be a complete defense to a claim made by a claimant, if the defendant proves that the claimant—

(1) was intoxicated or was under the influence of alcohol or any drug when the accident or other event which resulted in that claimant's harm occurred; and

(2) as a result of the influence of the alcohol or drug, was more than 50 percent responsible for that harm.

(b) CONSTRUCTION.—For purposes of subsection (a)—

(1) the determination of whether a person was intoxicated or was under the influence of alcohol or any drug shall be made pursuant to applicable State law; and

(2) the term "drug" means any controlled substance as defined in the Controlled Substances Act (21 U.S.C. 802(6)) that was not legally prescribed for use by the claimant or that was taken by the claimant other than in accordance with the terms of a lawfully issued prescription.

SEC. 105. REDUCTION IN DAMAGES FOR MISUSE OR ALTERATION.

(a) GENERAL RULE.—

(1) IN GENERAL.—In any product liability action that is subject to this title, the damages for which a defendant is otherwise liable under Federal or State law shall be reduced by the percentage of responsibility for the claimant's harm attributable to misuse or alteration of a product by any person if the defendant establishes that such percentage of the claimant's harm was proximately caused by a use or alteration of a product—

(A) in violation of, or contrary to, a defendant's express warnings or instructions if the warnings or instructions are adequate as determined pursuant to applicable Federal or State law; or

(B) involving a risk of harm which was known or should have been known by the ordinary person who uses or consumes the product with the knowledge common to the class of persons who used or would be reasonably anticipated to use the product.

(2) USE INTENDED BY A MANUFACTURER IS NOT MISUSE OR ALTERATION.—For purposes of this title, a use of a product that is intended by the manufacturer of the product does not constitute a misuse or alteration of the product.

(b) WORKPLACE INJURY.—Notwithstanding subsection (a), and except as otherwise provided in section 112, the damages for which a defendant is otherwise liable under State law shall not be reduced by the percentage of responsibility for the claimant's harm attributable to misuse or alteration of the product by the claimant's employer who is immune from suit by the claimant pursuant to the State law applicable to workplace injuries.

SEC. 106. STATUTE OF LIMITATIONS.

(a) IN GENERAL.—Except as provided in subsection (b) and subject to section 107, a product liability action that is subject to this title may be filed not later than 2 years after the date on which the claimant discovered or, in the exercise of reasonable care, should have discovered, the harm that is the subject of the action and the cause of the harm.

(b) EXCEPTIONS.—

(1) PERSON WITH A LEGAL DISABILITY.—A person with a legal disability (as determined under applicable law) may file a product liability action that is subject to this title not later than 2 years after the date on which the person ceases to have the legal disability.

(2) EFFECT OF STAY OR INJUNCTION.—If the commencement of a civil action that is subject to this title is stayed or enjoined, the running of the statute of limitations under this section shall be suspended until the end of the period that the stay or injunction is in effect.

SEC. 107. STATUTE OF REPOSE FOR DURABLE GOODS USED IN A TRADE OR BUSINESS.

(a) IN GENERAL.—Except as provided in subsections (b) and (c), no product liability action that is subject to this title concerning a durable good alleged to have caused harm (other than toxic harm) for which the claimant has received or is eligible to receive workers' compensation may be filed after the 18-year period beginning at the time of delivery of the durable good to its first purchaser or lessee.

(b) EXTENSION OF STATUTE OF REPOSE.—Notwithstanding any other provision of this section and except as provided in section 106(b), a product liability action may be commenced within 2 years after the date of discovery or date on which discovery should have occurred, if the harm, and the cause of the harm, leading to a product liability action described in subsection (a) are discovered or, in the exercise of reasonable care, should have been discovered, before the expiration of the 18-year period under this section.

(c) EXCEPTIONS.—

(1) IN GENERAL.—A motor vehicle, vessel, aircraft, or train, that is used primarily to transport passengers for hire, shall not be subject to this section.

(2) CERTAIN EXPRESS WARRANTIES.—Subsection (a) does not bar a product liability

action against a defendant who made an express warranty in writing as to the safety or life expectancy of the specific product involved which was longer than 18 years, except that such subsection shall apply at the expiration of that warranty.

(3) AVIATION LIMITATIONS PERIOD.—Subsection (a) does not affect the limitations period established by the General Aviation Revitalization Act of 1994 (49 U.S.C. 40101 note).

SEC. 108. TRANSITIONAL PROVISION RELATING TO EXTENSION OF PERIOD FOR BRINGING CERTAIN ACTIONS.

If any provision of section 106 or 107 shortens the period during which a product liability action could be otherwise brought pursuant to another provision of law, the claimant may, notwithstanding sections 106 and 107, bring the product liability action not later than 1 year after the date of enactment of this Act.

SEC. 109. ALTERNATIVE DISPUTE RESOLUTION PROCEDURES.

(a) SERVICE OF OFFER.—A claimant or a defendant in a product liability action that is subject to this title may serve upon an adverse party an offer to proceed pursuant to any voluntary, nonbinding alternative dispute resolution procedure established or recognized under the law of the State in which the product liability action is brought or under the rules of the court in which that action is maintained, not later than 60 days after the later of—

(1) service of the initial complaint; or

(2) the expiration of the applicable period for a responsive pleading.

(b) WRITTEN NOTICE OF ACCEPTANCE OR REJECTION.—

(1) IN GENERAL.—Except as provided in subsection (c), not later than 20 days after the service of an offer to proceed under subsection (a), an offeree shall file a written notice of acceptance or rejection of the offer.

(2) EFFECT OF NOTICE.—The filing of a written notice under paragraph (1) shall not constitute a waiver of any objection or defense in the action, including any objection on the grounds of jurisdiction.

(c) EXTENSION.—

(1) IN GENERAL.—The court may, upon motion by an offeree made before the expiration of the 20-day period specified in subsection (b), extend the period for filing a written notice under such subsection for a period of not more than 60 days after the date of expiration of the period specified in subsection (b).

(2) PERMITTED DISCOVERY.—Discovery may be permitted during the period described in paragraph (1).

SEC. 110. PUNITIVE DAMAGES REFORMS.

(a) GENERAL RULE.—

(1) UNIFORM STANDARD FOR AWARD OF PUNITIVE DAMAGES.—To the extent punitive damages are permitted by applicable State law, punitive damages may be awarded against a defendant in any product liability action that is subject to this title if the claimant establishes by clear and convincing evidence that the harm that is the subject of the action was the result of conduct carried out by the defendant with a conscious, flagrant indifference to the rights or safety of others.

(2) BIFURCATION AT REQUEST OF ANY PARTY.—

(A) IN GENERAL.—At the request of any party, the trier of fact in any action that is subject to this section shall consider in a separate proceeding, held subsequent to the determination of the amount of compensatory damages, whether punitive damages are to be awarded for the harm that is the subject of the action and the amount of the award.

(B) INADMISSIBILITY OF EVIDENCE RELATIVE ONLY TO A CLAIM OF PUNITIVE DAMAGES IN A PROCEEDING CONCERNING COMPENSATORY DAMAGES.—If any party requests a separate proceeding under paragraph (1), in a proceeding to determine whether the claimant may be awarded compensatory damages, any evidence, argument, or contention that is relevant only to the claim of punitive damages, as determined by applicable State law, shall be inadmissible.

(b) SPECIAL RULE FOR CERTAIN PERSONS AND ENTITIES.—

(1) IN GENERAL.—In any action described in subsection (a) against a person or entity described in paragraph (2), an award of punitive damages shall not exceed the lesser of—

(A) 2 times the amount of compensatory damages awarded; or

(B) $250,000.

(2) PERSONS AND ENTITIES DESCRIBED.—

(A) IN GENERAL.—A person or entity described in this paragraph is—

(i) an individual whose net worth does not exceed $500,000; or

(ii) an owner of an unincorporated business, or any partnership, corporation, association, unit of local government, or organization that has—

(I) annual revenues of less than or equal to $5,000,000; and

(II) fewer than 25 full-time employees.

(B) ANNUAL REVENUES AND EMPLOYEES.—For the purpose of determining the applicability of this subsection to a corporation, the calculation of—

(i) the annual revenues of that corporation shall include the annual revenues of any parent corporation (or other subsidiary of the parent corporation), subsidiary, branch, division, department, or unit of that corporation; and

(ii) the number of employees of that corporation shall include the number of employees of any parent corporation (or other subsidiary of the parent corporation), subsidiary, branch, division, department, or unit of that corporation.

(C) REFERENCE POINT FOR DETERMINING APPLICABILITY.—In determining the applicability of this subsection, the standards in subparagraphs (A) and (B) shall be applied as of the date of commencement of any action that is subject to this title. The defendant shall have the burden of proving the applicability of this subsection.

SEC. 111. LIABILITY FOR CERTAIN CLAIMS RELATING TO DEATH.

(a) IN GENERAL.—Subject to subsection (b), a defendant may be liable for damages that are only punitive in nature without regard to section 110 in any product liability action that is subject to this title—

(1) in which the alleged harm to the claimant is death; and

(2) that is subject to an applicable State law that, as of the date of enactment of this Act, provides, or is construed to provide, for damages that are only punitive in nature.

(b) LIMITATION.—Subsection (a) shall apply to an action that meets the requirements of paragraphs (1) and (2) of that subsection only during such period as the State law provides, or is construed to provide, for damages that are only punitive in nature.

(c) SUNSET.—This section shall cease to be effective on September 1, 1999.

SEC. 112. WORKERS' COMPENSATION SUBROGATION.

(a) GENERAL RULE.—

(1) RIGHT OF SUBROGATION.—

(A) IN GENERAL.—An insurer shall have a right of subrogation against a manufacturer or product seller to recover any claimant's benefits relating to harm that is the subject of a product liability action that is subject to this title.

(B) WRITTEN NOTIFICATION.—To assert a right of subrogation under subparagraph (A), the insurer shall provide written notice to the court in which the product liability action is brought.

(C) INSURER NOT REQUIRED TO BE A PARTY.—An insurer shall not be required to be a necessary and proper party in a product liability action covered under subparagraph (A).

(2) SETTLEMENTS AND OTHER LEGAL PROCEEDINGS.—

(A) IN GENERAL.—In any proceeding relating to harm or settlement with the manufacturer or product seller by a claimant who files a product liability action that is subject to this title, an insurer may participate to assert a right of subrogation for claimant's benefits with respect to any payment made by the manufacturer or product seller by reason of that harm, without regard to whether the payment is made—

(i) as part of a settlement;

(ii) in satisfaction of judgment;

(iii) as consideration for a covenant not to sue; or

(iv) in another manner.

(B) WRITTEN NOTIFICATION.—Except as provided in subparagraph (C), an employee shall not make any settlement with or accept any payment from the manufacturer or product seller without written notification to the insurer.

(C) EXEMPTION.—Subparagraph (B) shall not apply in any case in which the insurer has been compensated for the full amount of the claimant's benefits.

(3) HARM RESULTING FROM ACTION OF EMPLOYER.—

(A) IN GENERAL.—If, with respect to a product liability action that is subject to this title, the manufacturer or product seller chooses to raise to the trier of fact pursuant to the provisions of this section that the harm to the claimant was caused in whole or in part by the claimant's employer, the issue of employer fault shall be submitted to the trier of fact, but only after the manufacturer or product seller has provided timely written notice to the insurer that it is proceeding pursuant to the provisions of this section.

(B) RIGHTS OF INSURER.—Notwithstanding any other provision of law, with respect to an issue of fault submitted to a trier of fact pursuant to subparagraph (A), an insurer shall, in the same manner as any party in the action (even though the insurer is not a named party in the action), have the right to—

(i) appear;

(ii) be represented;

(iii) introduce evidence;

(iv) cross-examine adverse witnesses; and

(v) present arguments to the trier of fact.

(C) REDUCTION OF DAMAGES.—If the trier of fact finds by clear and convincing evidence that the fault of the employer was a substantial factor in causing the harm to the claimant that is the subject of the product liability action—

(i) the court shall reduce by the amount of the claimant's benefits and amounts for which payment, prior to the date of final judgment in the product liability action, has not yet been made for workers' compensation benefits received prior to such date or is otherwise due pursuant to State workers' compensation law—

(I) the damages awarded against the manufacturer or product seller; and

(II) any corresponding insurer's subrogation lien; and

(ii) the manufacturer or product seller shall have no further right by way of contribution or otherwise against the employer.

(D) CERTAIN RIGHTS NOT AFFECTED.—Notwithstanding a finding by the trier of fact described in subparagraph (C), the insurer shall not lose—

(i) any right of subrogation related to any—

(I) intentional tort committed against the claimant by a coemployee; or

(II) act committed by a coemployee outside the scope of normal work practices; or

(ii) any rights to credits against future liability established pursuant to applicable State workers' compensation law.

(b) ATTORNEY'S FEES.—If, in a product liability action that is subject to this section, the manufacturer or product seller raises the issue of employer fault pursuant to this section and the trier of fact finds that the fault of the employer was not a substantial factor in causing the harm to the claimant, the court shall require the manufacturer or product seller to reimburse the insurer for reasonable attorney's fees and court costs, as determined by the court, incurred by the insurer in litigating the issue of employer fault, unless the court finds that the position of the manufacturer or product seller was substantially justified or that special circumstances make such a reimbursement unjust.

TITLE II—BIOMATERIALS ACCESS ASSURANCE

SEC. 201. SHORT TITLE.

This title may be cited as the "Biomaterials Access Assurance Act of 1998".

SEC. 202. FINDINGS.

Congress find that—

(1) each year millions of citizens of the United States depend on the availability of lifesaving or life-enhancing medical devices, many of which are permanently implantable within the human body;

(2) a continued supply of raw materials and component parts is necessary for the invention, development, improvement, and maintenance of the supply of the devices;

(3) most of the medical devices are made with raw materials and component parts that—

(A) move in interstate commerce;

(B) are not designed or manufactured specifically for use in medical devices; and

(C) come in contact with internal human tissue;

(4) the raw materials and component parts also are used in a variety of nonmedical products;

(5) because small quantities of the raw materials and component parts are used for medical devices, sales of raw materials and component parts for medical devices constitute an extremely small portion of the overall market for the raw materials and component parts;

(6) under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), manufacturers of medical devices are required to demonstrate that the medical devices are safe and effective, including demonstrating that the products are properly designed and have adequate warnings or instructions;

(7) notwithstanding the fact that raw materials and component parts suppliers do not design, produce, or test a final medical device, the suppliers have been the subject of actions alleging inadequate—

(A) design and testing of medical devices manufactured with materials or parts supplied by the suppliers; or

(B) warnings related to the use of such medical devices;

(8) even though suppliers of raw materials and component parts have very rarely been held liable in such actions, such suppliers have ceased supplying certain raw materials and component parts for use in medical devices for a number of reasons, including concerns about the costs of such litigation;

(9) unless alternate sources of supply can be found, the unavailability of raw materials and component parts for medical devices will lead to unavailability of lifesaving and life-enhancing medical devices;

(10) because other suppliers of the raw materials and component parts in foreign nations are refusing to sell raw materials or component parts for use in manufacturing certain medical devices in the United States, the prospects for development of new sources of supply for the full range of threatened raw materials and component parts for medical devices are remote;

(11) it is unlikely that the small market for such raw materials and component parts in the United States could support the large investment needed to develop new suppliers of such raw materials and component parts;

(12) attempts to develop such new suppliers would raise the cost of medical devices;

(13) courts that have considered the duties of the suppliers of the raw materials and component parts have generally found that the suppliers do not have a duty—

(A) to evaluate the safety and efficacy of the use of a raw material or component part in a medical device; and

(B) to warn consumers concerning the safety and effectiveness of a medical device;

(14) because medical devices and the raw materials and component parts used in their manufacture move in interstate commerce, a shortage of such raw materials and component parts affects interstate commerce;

(15) in order to safeguard the availability of a wide variety of lifesaving and life-enhancing medical devices, immediate action is needed—

(A) to clarify the permissible bases of liability for suppliers of raw materials and component parts for medical devices; and

(B) to provide expeditious procedures to dispose of unwarranted suits against the suppliers in such manner as to minimize litigation costs;

(16) the several States and their courts are the primary architects and regulators of our tort system; Congress, however, must, in certain circumstances involving the national interest, address tort issues, and a threatened shortage of raw materials and component parts for life-saving medical devices is one such circumstance; and

(17) the protections set forth in this title are needed to assure the continued supply of materials for life-saving medical devices; however, negligent suppliers should not be protected.

SEC. 203. DEFINITIONS.

As used in this title:

(1) BIOMATERIALS SUPPLIER.—

(A) IN GENERAL.—The term "biomaterials supplier" means an entity that directly or indirectly supplies a component part or raw material for use in the manufacture of an implant.

(B) PERSONS INCLUDED.—Such term includes any person who—

(i) has submitted master files to the Secretary for purposes of premarket approval of a medical device; or

(ii) licenses a biomaterials supplier to produce component parts or raw materials.

(2) CLAIMANT.—

(A) IN GENERAL.—The term "claimant" means any person who brings a civil action, or on whose behalf a civil action is brought, arising from harm allegedly caused directly or indirectly by an implant, including a person other than the individual into whose body, or in contact with whose blood or tissue, the implant is placed, who claims to have suffered harm as a result of the implant.

(B) ACTION BROUGHT ON BEHALF OF AN ESTATE.—With respect to an action brought on behalf of or through the estate of an individual into whose body, or in contact with whose blood or tissue the implant is placed, such term includes the decedent that is the subject of the action.

(C) ACTION BROUGHT ON BEHALF OF A MINOR OR INCOMPETENT.—With respect to an action brought on behalf of or through a minor or incompetent, such term includes the parent or guardian of the minor or incompetent.

(D) EXCLUSIONS.—Such term does not include—

(i) a provider of professional health care services, in any case in which—

(I) the sale or use of an implant is incidental to the transaction; and

(II) the essence of the transaction is the furnishing of judgment, skill, or services;

(ii) a person acting in the capacity of a manufacturer, seller, or biomaterials supplier;

(iii) a person alleging harm caused by either the silicone gel or the silicone envelope utilized in a breast implant containing silicone gel, except that—

(I) neither the exclusion provided by this clause nor any other provision of this title may be construed as a finding that silicone gel (or any other form of silicone) may or may not cause harm; and

(II) the existence of the exclusion under this clause may not—

(aa) be disclosed to a jury in any civil action or other proceeding; and

(bb) except as necessary to establish the applicability of this title, otherwise be presented in any civil action or other proceeding.

(3) COMPONENT PART.—

(A) IN GENERAL.—The term "component part" means a manufactured piece of an implant.

(B) CERTAIN COMPONENTS.—Such term includes a manufactured piece of an implant that—

(i) has significant nonimplant applications; and

(ii) alone, has no implant value or purpose, but when combined with other component parts and materials, constitutes an implant.

(4) HARM.—

(A) IN GENERAL.—The term "harm" means—

(i) any injury to or damage suffered by an individual;

(ii) any illness, disease, or death of that individual resulting from that injury or damage; and

(iii) any loss to that individual or any other individual resulting from that injury or damage.

(B) EXCLUSION.—The term does not include any commercial loss or loss of or damage to an implant.

(5) IMPLANT.—The term "implant" means—

(A) a medical device that is intended by the manufacturer of the device—

(i) to be placed into a surgically or naturally formed or existing cavity of the body for a period of at least 30 days; or

(ii) to remain in contact with bodily fluids or internal human tissue through a surgically produced opening for any period of time,

(B) suture materials used in implant procedures; and

(C) containers and their related products to be used to collect fluids or tissue from the body or to infuse or otherwise introduce fluids or tissue into the body, in conjunction with a medical device described in the above subparagraph (A).

(6) Manufacturer.—The term "manufacturer" means any person who, with respect to an implant—

(A) is engaged in the manufacture, preparation, propagation, compounding, or processing (as defined in section 510(a)(1)) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360(a)(1)) of the implant; and

(B) is required—

(i) to register with the Secretary pursuant to section 510 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360) and the regulations issued under such section; and

(ii) to include the implant on a list of devices filed with the Secretary pursuant to section 510(j) of such Act (21 U.S.C. 360(j)) and the regulations issued under such section.

(7) Medical device.—The term "medical device" means a device, as defined in section 201(h) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(h)) and includes any device component of any combination product as that term is used in section 503(g) of such Act (21 U.S.C. 353(g)).

(8) Raw material.—The term "raw material" means a substance or product that—

(A) has a generic use; and

(B) may be used in an application other than an implant.

(9) Secretary.—The term "Secretary" means the Secretary of Health and Human Services.

(10) Seller.—

(A) In general.—The term "seller" means a person who, in the course of a business conducted for that purpose, sells, distributes, leases, packages, labels, or otherwise places an implant in the stream of commerce.

(B) Exclusions.—The term does not include—

(i) a seller or lessor of real property;

(ii) a provider of professional services, in any case in which the sale or use of an implant is incidental to the transaction and the essence of the transaction is the furnishing of judgment, skill, or services; or

(iii) any person who acts in only a financial capacity with respect to the sale of an implant.

SEC. 204. GENERAL REQUIREMENTS; APPLICABILITY; PREEMPTION.

(a) General Requirements.—

(1) In general.—In any civil action covered by this title, a biomaterials supplier may raise as a defense the exclusion from liability set forth in section 205(a).

(2) Procedures.—Notwithstanding any other provision of law, the Federal or State court in which a civil action covered by this title is pending shall, in connection with a motion for dismissal or judgment based on a defense described in paragraph (1), use the procedures set forth in section 206.

(b) Applicability.—

(1) In general.—Except as provided in paragraph (2), notwithstanding any other provision of law, this title applies to any civil action brought by a claimant, whether in a Federal or State court, against a manufacturer, seller, or biomaterials supplier, on the basis of any legal theory, for harm allegedly caused by an implant.

(2) Exclusion.—A civil action brought by a purchaser of a medical device for use in providing professional services against a manufacturer, seller, or biomaterials supplier for loss or damage to an implant or for commercial loss to the purchaser—

(A) shall not be considered an action that is subject to this title; and

(B) shall be governed by applicable commercial or contract law.

(c) Scope of Preemption.—

(1) In general.—This title supersedes any State law regarding recovery for harm caused by an implant and any rule of procedure applicable to a civil action to recover damages for such harm only to the extent that this title establishes a rule of law applicable to the recovery of such damages.

(2) Applicability of other laws.—Any issue that arises under this title and that is not governed by a rule of law applicable to the recovery of damages described in paragraph (1) shall be governed by applicable Federal or State law.

(d) Statutory Construction.—Nothing in this title may be construed—

(1) to affect any defense available to a defendant under any other provisions of Federal or State law in an action alleging harm caused by an implant; or

(2) to create a cause of action or Federal court jurisdiction pursuant to sections 1331 or 1337 of title 28, United States Code, that otherwise would not exist under applicable Federal or State law.

SEC. 205. LIABILITY OF BIOMATERIALS SUPPLIERS.

(a) In General.—

(1) Exclusion from liability.—Except as provided in paragraph (2) or section 207, a biomaterials supplier shall not be liable for harm to a claimant caused by an implant.

(2) Liability.—A biomaterials supplier that—

(A) is a manufacturer may be liable for harm to a claimant described in subsection (b);

(B) is a seller may be liable for harm to a claimant described in subsection (c); and

(C) furnishes raw materials or component parts that fail to meet applicable contractual requirements or specifications may be liable for harm to a claimant described in subsection (d).

(b) Liability as Manufacturer.—

(1) In general.—A biomaterials supplier may, to the extent required and permitted by any other applicable law, be liable for harm to a claimant caused by an implant if the biomaterials supplier is the manufacturer of the implant.

(2) Grounds for liability.—The biomaterials supplier may be considered the manufacturer of the implant that allegedly caused harm to a claimant only if the biomaterials supplier—

(A)(i) has or should have registered with the Secretary pursuant to section 510 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360) and the regulations issued under such section; and

(ii) included or should have included the implant on a list of devices filed with the Secretary pursuant to section 510(j) of such Act (21 U.S.C. 360(j)) and the regulations issued under such section;

(B) is the subject of a declaration issued by the Secretary pursuant to paragraph (3) that states that the supplier, with respect to the implant that allegedly caused harm to the claimant, was required to—

(i) register with the Secretary under section 510 of such Act (21 U.S.C. 360), and the regulations issued under such section, but failed to do so; or

(ii) include the implant on a list of devices filed with the Secretary pursuant to section 510(j) of such Act (21 U.S.C. 360(j)) and the regulations issued under such section, but failed to do so; or

(C) is related by common ownership or control to a person meeting all the requirements described in subparagraph (A) or (B), if the court deciding a motion to dismiss in accordance with section 206(c)(3)(B)(i) finds, on the basis of affidavits submitted in accordance with section 206, that it is necessary to impose liability on the biomaterials supplier as a manufacturer because the related manufacturer meeting the requirements of subparagraph (A) or (B) lacks sufficient financial resources to satisfy any judgment that the court feels it is likely to enter should the claimant prevail.

(3) Administrative procedures.—

(A) In general.—The Secretary may issue a declaration described in paragraph (2)(B) on the motion of the Secretary or on petition by any person, after providing—

(i) notice to the affected persons; and

(ii) an opportunity for an informal hearing.

(B) Docketing and final decision.—Immediately upon receipt of a petition filed pursuant to this paragraph, the Secretary shall docket the petition. Not later than 120 days after the petition is filed, the Secretary shall issue a final decision on the petition.

(C) Applicability of statute of limitations.—Any applicable statute of limitations shall toll during the period during which a claimant has filed a petition with the Secretary under this paragraph.

(c) Liability as Seller.—A biomaterials supplier may, to the extent required and permitted by any other applicable law, be liable as a seller for harm to a claimant caused by an implant only if—

(1) the biomaterials supplier—

(A) held title to the implant that allegedly caused harm to the claimant as a result of purchasing the implant after—

(i) the manufacture of the implant; and

(ii) the entrance of the implant in the stream of commerce; and

(B) subsequently resold the implant; or

(2) the biomaterials supplier is related by common ownership or control to a person meeting all the requirements described in paragraph (1), if a court deciding a motion to dismiss in accordance with section 206(c)(3)(B)(ii) finds, on the basis of affidavits submitted in accordance with section 206, that it is necessary to impose liability on the biomaterials supplier as a seller because the related seller meeting the requirements of paragraph (1) lacks sufficient financial resources to satisfy any judgment that the court feels it is likely to enter should the claimant prevail.

(d) Liability for Violating Contractual Requirements or Specifications.—A biomaterials supplier may, to the extent required and permitted by any other applicable law, be liable for harm to a claimant caused by an implant, if the claimant in an action shows, by a preponderance of the evidence, that—

(1) the raw materials or component parts delivered by the biomaterials supplier either—

(A) did not constitute the product described in the contract between the biomaterials supplier and the person who contracted for delivery of the product; or

(B) failed to meet any specifications that were—

(i) accepted, pursuant to applicable law, by the biomaterials supplier;

(ii)(I) published by the biomaterials supplier;

(II) provided to the manufacturer by the biomaterials supplier; or

(III) contained in a master file that was submitted by the biomaterials supplier to the Secretary and that is currently maintained by the biomaterials supplier for purposes of premarket approval of medical devices; or

(iii) included in the submissions for purposes of premarket approval or review by the Secretary under section 510, 513, 515, or 520 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360, 360c, 360e, or 360j), and received clearance from the Secretary if such specifications were accepted, pursuant to applicable law, by the biomaterials supplier; and

(2) such conduct was an actual and proximate cause of the harm to the claimant.

SEC. 206. PROCEDURES FOR DISMISSAL OF CIVIL ACTIONS AGAINST BIOMATERIALS SUPPLIERS.

(a) Motion To Dismiss.—In any action that is subject to this title, a biomaterials supplier who is a defendant in such action may, at any time during which a motion to dismiss may be filed under an applicable law, move to dismiss the action against it on the grounds that—

(1) the defendant is a biomaterials supplier; and

(2)(A) the defendant should not, for the purposes of—

(i) section 205(b), be considered to be a manufacturer of the implant that is subject to such section; or

(ii) section 205(c), be considered to be a seller of the implant that allegedly caused harm to the claimant; or

(B)(i) the claimant has failed to establish, pursuant to section 205(d), that the supplier furnished raw materials or component parts in violation of contractual requirements or specifications; or

(ii) the claimant has failed to comply with the procedural requirements of subsection (b).

(b) Manufacturer of Implant Shall Be Named a Party.—The claimant shall be required to name the manufacturer of the implant as a party to the action, unless—

(1) the manufacturer is subject to service of process solely in a jurisdiction in which the biomaterials supplier is not domiciled or subject to a service of process; or

(2) an action against the manufacturer is barred by applicable law or rule of practice.

(c) Proceeding on Motion To Dismiss.—The following rules shall apply to any proceeding on a motion to dismiss filed under this section:

(1) Affidavits relating to listing and declarations.—

(A) In general.—The defendant in the action may submit an affidavit demonstrating that the defendant has not included the implant on a list, if any, filed with the Secretary pursuant to section 510(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360(j)).

(B) Response to motion to dismiss.—In response to the motion to dismiss, the claimant may submit an affidavit demonstrating that—

(i) the Secretary has, with respect to the defendant and the implant that allegedly caused harm to the claimant, issued a declaration pursuant to section 205(b)(2)(B); or

(ii) the defendant who filed the motion to dismiss is a seller of the implant who is liable under section 205(c).

(2) Effect of motion to dismiss on discovery.—

(A) In general.—If a defendant files a motion to dismiss under paragraph (1) or (2) of subsection (a), no discovery shall be permitted in connection to the action that is the subject of the motion, other than discovery necessary to determine a motion to dismiss for lack of jurisdiction, until such time as the court rules on the motion to dismiss in accordance with the affidavits submitted by the parties in accordance with this section.

(B) Discovery.—If a defendant files a motion to dismiss under subsection (a)(2)(B)(i) on the grounds that the biomaterials supplier did not furnish raw materials or component parts in violation of contractual requirements or specifications, the court may permit discovery, as ordered by the court. The discovery conducted pursuant to this subparagraph shall be limited to issues that are directly relevant to—

(i) the pending motion to dismiss; or

(ii) the jurisdiction of the court.

(3) Affidavits relating status of defendant.—

(A) In general.—Except as provided in clauses (i) and (ii) of subparagraph (B), the court shall consider a defendant to be a biomaterials supplier who is not subject to an action for harm to a claimant caused by an implant, other than an action relating to liability for a violation of contractual requirements or specifications described in section 205(d).

(B) Responses to motion to dismiss.—The court shall grant a motion to dismiss any action that asserts liability of the defendant under subsection (b) or (c) of section 205 on the grounds that the defendant is not a manufacturer subject to such section 205(b) or seller subject to section 205(c), unless the claimant submits a valid affidavit that demonstrates that—

(i) with respect to a motion to dismiss contending the defendant is not a manufacturer, the defendant meets the applicable requirements for liability as a manufacturer under section 205(b); or

(ii) with respect to a motion to dismiss contending that the defendant is not a seller, the defendant meets the applicable requirements for liability as a seller under section 205(c).

(4) Basis of ruling on motion to dismiss.—

(A) In general.—The court shall rule on a motion to dismiss filed under subsection (a) solely on the basis of the pleadings of the parties made pursuant to this section and any affidavits submitted by the parties pursuant to this section.

(B) Motion for summary judgment.—Notwithstanding any other provision of law, if the court determines that the pleadings and affidavits made by parties pursuant to this section raise genuine issues concerning material facts with respect to a motion concerning contractual requirements and specifications, the court may deem the motion to dismiss to be a motion for summary judgment made pursuant to subsection (d).

(d) Summary Judgment.—

(1) In general.—

(A) Basis for entry of judgment.—A biomaterials supplier shall be entitled to entry of judgment without trial if the court finds there is no genuine issue concerning any material fact for each applicable element set forth in paragraphs (1) and (2) of section 205(d).

(B) Issues of material fact.—With respect to a finding made under subparagraph (A), the court shall consider a genuine issue of material fact to exist only if the evidence submitted by claimant would be sufficient to allow a reasonable jury to reach a verdict for the claimant if the jury found the evidence to be credible.

(2) Discovery made prior to a ruling on a motion for summary judgment.—If, under applicable rules, the court permits discovery prior to a ruling on a motion for summary judgment made pursuant to this subsection, such discovery shall be limited solely to establishing whether a genuine issue of material fact exists as to the applicable elements set forth in paragraphs (1) and (2) of section 205(d).

(3) Discovery with respect to a biomaterials supplier.—A biomaterials supplier shall be subject to discovery in connection with a motion seeking dismissal or summary judgment on the basis of the inapplicability of section 205(d) or the failure to establish the applicable elements of section 205(d) solely to the extent permitted by the applicable Federal or State rules for discovery against nonparties.

(e) Stay Pending Petition for Declaration.—If a claimant has filed a petition for a declaration pursuant to section 205(b)(3)(A) with respect to a defendant, and the Secretary has not issued a final decision on the petition, the court shall stay all proceedings with respect to that defendant until such time as the Secretary has issued a final decision on the petition.

(f) Dismissal With Prejudice.—An order granting a motion to dismiss or for summary judgment pursuant to this section shall be entered with prejudice, except insofar as the moving defendant may be rejoined to the action as provided in section 207.

(g) Manufacturer Conduct of Litigation.—The manufacturer of an implant that is the subject of an action covered under this title shall be permitted to conduct litigation on any motion for summary judgment or dismissal filed by a biomaterials supplier who is a defendant under this section on behalf of such supplier if the manufacturer and any other defendant in such action enter into a valid and applicable contractual agreement under which the manufacturer agrees to bear the cost of such litigation or to conduct such litigation.

SEC. 207. SUBSEQUENT IMPLEADER OF DISMISSED DEFENDANT.

(a) Impleading of Dismissed Defendant.—A court, upon motion by a manufacturer or a claimant within 90 days after entry of a final judgment in an action by the claimant against a manufacturer, and notwithstanding any otherwise applicable statute of limitations, may implead a biomaterials supplier who has been dismissed from the action pursuant to this title if—

(1) the manufacturer has made an assertion, either in a motion or other pleading filed with the court or in an opening or closing statement at trial, or as part of a claim for contribution or indemnification, and the court makes a finding based on the court's independent review of the evidence contained in the record of the action, that under applicable law—

(A) the negligence or intentionally tortious conduct of the dismissed supplier was an actual and proximate cause of the harm to the claimant; and

(B) the manufacturer's liability for damages should be reduced in whole or in part because of such negligence or intentionally tortious conduct; or

(2) the claimant has moved to implead the supplier and the court makes a finding based on the court's independent review of the evidence contained in the record of the action, that under applicable law—

(A) the negligence or intentionally tortious conduct of the dismissed supplier was an actual and proximate cause of the harm to the claimant; and

(B) the claimant is unlikely to be able to recover the full amount of its damages from the remaining defendants.

(b) STANDARD OF LIABILITY.—Notwithstanding any preliminary finding under subsection (a), a biomaterials supplier who has been impleaded into an action subject to this title, as provided for in this section—

(1) may, prior to entry of judgment on the claim against it, supplement the record of the proceeding that was developed prior to the grant of the motion for impleader under subsection (a); and

(2) may be found liable to a manufacturer or a claimant only to the extent required and permitted by any applicable Federal or State law other than this title in an action alleging harm caused by an implant.

(c) DISCOVERY.—Nothing in this section shall give a claimant or any other party the right to obtain discovery from a biomaterials supplier defendant at any time prior to grant of a motion for impleader beyond that allowed under section 206.

TITLE III—LIMITATIONS ON APPLICABILITY; EFFECTIVE DATE

SEC. 301. FEDERAL CAUSE OF ACTION PRECLUDED.

The district courts of the United States shall not have jurisdiction pursuant to this Act based on section 1331 or 1337 of title 28, United States Code.

SEC. 302. EFFECTIVE DATE.

This Act shall apply with respect to any action commenced on or after the date of enactment of this Act without regard to whether the harm that is the subject of the action or the conduct that caused the harm occurred before that date of enactment.

DEPARTMENT OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1999

BROWNBACK AMENDMENT NO. 3065

(Ordered to lie on the table.)

Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill, S. 2168, supra; as follows:

On page 93, between lines 18 and 19, insert the following:

SEC. 423. USE OF STATE REVOLVING LOAN FUNDS FOR MUNICIPALITIES FOR DEVELOPMENT OF WATER SYSTEMS.

Section 1452(a)(2) of the Safe Drinking Water Act (42 U.S.C. 300j-12(a)(2)) is amended in the first sentence by striking "community water systems and nonprofit noncommunity water systems" and inserting "community water systems, nonprofit noncommunity water systems, and municipalities for the development of such water systems".

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. GORTON. Mr. President, I ask unanimous consent that the full Committee on Environment and Public Works be granted permission to conduct a hearing Tuesday, July 7, 9:00 a.m., Hearing Room (SD-406) on the following wildlife legislation: S. 2094, Fish and Wildlife Revenue Enhancement Act of 1998; S. 361, Rhino and Tiger Product Labeling Act; H.R. 2807, Rhino and Tiger Product Labeling Act; H.R. 3113, Rhinoceros and Tiger Conservation Reauthorization Act of 1998; S. 263, Bear Protection Act; S. 659, Great Lakes Fish and Wildlife Restoration Act of 1997; S. 2244, National Wildlife Refuge System Volunteer and Partnership Enhancement Act of 1998; and S. 1970, the Neotropical Migratory Bird Conservation Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. GORTON. Mr. President, I ask unanimous consent that the Committee on the Judiciary, be authorized to hold an executive business meeting during the session of the Senate on Tuesday, July 7, 1998, at 10:30 a.m., in room 226, of the Senate Dirksen Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ANTITRUST, BUSINESS RIGHTS, AND COMPETITION

Mr. GORTON. Mr. President, I ask unanimous consent that the Subcommittee on Antitrust, Business Rights, and Competition, of the Senate Judiciary Committee, be authorized to meet during the session of the Senate on Tuesday, July 7, 1998 at 9:00 a.m. to hold a hearing in room 342, Senate Dirksen Building, on: "Covergence and Consolidation in the Entertainment and Information Industries: What Does the Future Hold?"

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON INTERNATIONAL TRADE

Mr. GORTON. Mr. President, the Finance Committee Subcommittee on International Trade requests unanimous consent to conduct a hearing on Tuesday, July 7, 1998, beginning at 10:00 a.m. in room 215 Dirksen.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SOCIAL SECURITY AND FAMILY POLICY

Mr. GORTON. Mr. President, the Finance Committee Subcommittee on Social Security and Family Policy requests unanimous consent to conduct a hearing on Tuesday, July 7, 1998, beginning at 2:00 p.m. in room 215 Dirksen.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

TRIBUTE TO JENNY CHUASIRIPORN

● Ms. MIKULSKI. Mr. President, I rise today to pay tribute to an outstanding young Maryland woman, Jenny Chuasiriporn. Yesterday, Jenny, a 20-year-old amateur golfer, placed second in the U.S. Women's Open following a "sudden death" round with the ultimate winner, Se Ri Pak. Although Jenny did not place first in the U.S. Women's Open, she won a place in my heart and in the hearts of many others.

Jenny Chuasiriporn is a senior at Duke University and is from Timonium, Maryland. Her pursuit of excellence in golf is truly a family affair. Her 21-year-old brother, Joey, was her caddy and coach. Her parents were also at the Blackwolf Run Golf Course in Wisconsin to cheer on their daughter, having closed up their family business, the Bangkok Place restaurant on York Road, to be with her.

Now, I will be the first to admit that I do not share much with Jenny in regard to the quality of my golf game. My golf handicap is pretty close to the height of the Washington Monument! But I do think I'm a pretty good putter. And I know from first hand experience that the game of golf takes an extraordinary amount of concentration and consistency to drive down the fairway, angle that chip shot, and putt slowly and surely. Jenny has that great concentration and consistency. She is and will be a great golfer. I, on the other hand, will stick with the Senate!

Jenny also exhibited strong endurance. On Sunday, she hit a forty foot birdie putt that forced the tournament into a playoff round. After an 18-hole playoff round, the game was still tied between Jenny and Se Ri. Then the tournament went into what they call a "sudden death" round. It was the first sudden death round in the U.S. Women's Open 53-year history. Finally, on the second hole of "sudden death", Se Ri Pak hit an 18-foot birdie to win the tournament. But Jenny Chuasiriporn, the young Maryland amateur, had held on tight for five long days of golf and can surely call herself a winner.

More and more Americans are turning to golf as a recreational sport. Jenny Chuasiriporn's game is not recreational. Hers is a game of hard work. Jenny and Se Ri went through weeds and water trying to win the tournament. That is not your typical Saturday afternoon golf game. Jenny played tough golf against seasoned professionals for five days, on the tough Blackwolf Run Golf Course in Wisconsin. That does not even count the endless hours she put in at school and home practicing for this day. She takes this game seriously and works hard at being the best.

She went further in the 1998 U.S. Women's Open than any other amateur in 30 years. No one has done what Jenny Chuasiriporn did in 30 years. Once again Jenny, I pay tribute to your achievement, and your amazing concentration, endurance, and hard work. You make Maryland and our Nation proud.●

HEALTH CARE

• Mr. SPECTER. Mr. President, I am pleased to return to my Senate duties today after a relatively brief period of convalescence following by-pass surgery at Jefferson Medical College of Thomas Jefferson University, one of our nation's great medical institutions.

This experience has again led me to marvel at our health care system and to make me more determined than ever to support federal funding for biomedical research and to make health care available to all Americans.

At Jefferson Medical College of Thomas Jefferson University, I was the beneficiary of outstanding hospital care and a superbly qualified medical team headed by renowned cardiologist, Dr. Howard Weitz and distinguished surgeons Dr. Richard Edie and Dr. James Diehl. (Dr. Weitz has assisted me for many years going back to his student days when he volunteered for my campaign for Mayor of Philadelphia.)

My concern about health care has long pre-dated my own personal benefits from the MRI and other diagnostic and curative procedures. My concern about health care began many years ago and has been intensified by my service on the Appropriations Subcommittee on Labor, Health and Human Services and Education which I now have the honor to chair.

As the RECORD shows, I have introduced and cosponsored legislation going back to the 98th Congress designed to provide health care coverage to all Americans. Among my proposals were the Health Care Cost Containment Act of 1983 (S. 2051), the Community Based Disease Prevention and Health Promotion Projects Act of 1985 (S. 1873), the Health Care Affordability and Quality Improvement Act of 1992 (S. 3176), the Comprehensive Health Care Act of 1993 (S. 18), the Health Care Assurance Acts of 1995 and 1997 (S. 18 and S. 24), and the Healthy Children's Pilot Program Act of 1997.

In conjunction with the distinguished ranking member of the Subcommittee, Senator TOM HARKIN, our Subcommittee has taken the lead to increase NIH funding from $11.3 billion in FY95 to $11.9 billion in FY96 to $12.7 billion in FY97 to $13.6 billion in FY98. This year we are targeting an increase of $2 billion which will be difficult considering the Subcommittee's other priorities; but, I think, attainable.

I have long been convinced that our Federal budget of $1,700,000,000,000 could provide sufficient funding for America's needs if we establish our real priorities. The real question is whether we have enough doctors, hospitals, medical personnel, etc. to take care of Americans in need of medical attention. I am convinced that we do. The part which has yet to be accomplished is to work out the financing for the delivery of such health care. As specified in the legislation which I have introduced, I am convinced that sufficient savings are possible within the current system to provide health care to all Americans within the current expenditures.

I return to the Senate today with renewed commitment that every American should have the quality medical care I had at Jefferson Medical College of Thomas Jefferson University. In recognition of health care providers everywhere in America, I consider it appropriate to identify, compliment and thank members of the medical team which provided my superb medical care at Jefferson Medical College of Thomas Jefferson University:

Dr. Stephen McNulty, Dr. Michael Savage, Dr. Herbert Patrick, Dr. Beckie Michael, Dr. Geno Merli, Dr. Arnold Greenspon, Dr. A. J. DiMarino, Dr. Rodney Bell, Dr. Phyllis Flomemerg and the following nurses: Leslie Amme, Grace Baillargeon, Tara Baldino, Jenna Briggs, Kathleen Bryan-Donahue, Susan Burton, Joanne Cannon, Mary Cavanaugh, Stephanie Cozzi, Danielle Delpais, Nancy Derivan, Linda Dib, Pam Dioguardo, Tim Dunn, Diane Ellingsworth, Robin Estadt, Marcia Gazdzinski, Debbie Granese, Karen Hartnett, Suzanne Henrick, Kelly Hollenbach, Charles Huckel, Suzanne James-Harmon, Leonida Josue-Peralta, Eileen C. Kelly, Eileen M. Kelly, Matt Kuhar, Kate Kuhns, Tracey Lee, Hermie Lichtman, Esther Loyola, Debra Lynn-McHale, Ida Magee, Nancy McCash, Dennis McFadden, Kathy McGurk, Tricia McNichol, Mark Metropole, Michelle Munday, Tim Peal, Kellyanne Petrone, Don Rank, Tim Schultz, Margaret Shanks, Lori Smith, Meg Smith, Valerie Winn, Mina Yasuoka, Nancy Masterson, Wil Crew, Jason McConomy, Colleen Schuh, Bill Nicholl, Jackie Robinson, Karen Crisfulla, Elly Negron-Lopez, Pauline Heater, Diane Falk, Terry Meehan, Dolly Kowal, Dan Zaborowski, Joyce McGrory, Kathy Peterson, Patty Lynch, Rene Ekeland, Michelle Hellstem, Barb Salapata, Kathy Byrne, Erin Moran, Marlowe Macapagal, Cindy Miller, Susan Cook, Angela Dages, Nicki Hoffman, Bill Hepner, Chuck O'Toole, Dan Cifelle, Rose Shaffer, Selina Frazier and Mary Seals.•

TRIBUTE TO SHERRIE M. SUZUKI

• Mr. AKAKA. Mr. President, I rise today to honor Sherrie M. Suzuki of Hawaii Baptist Academy in Hawaii for winning first place in the 11th Annual National Peace Essay state-level competition. More than 5,000 participants from various countries around the world, including the United States and U.S. territories entered this contest. Each student wrote on issues concerning war crimes and human rights violations in various international conflicts.

Miss Suzuki's essay entitled, "Cleansing the Wounds of War", sheds light on an ongoing issue concerning how war criminals should be brought to justice. Her solution examines the United Nations' tribunal expected to be permanently implemented in 1998. She writes "an international tribunal is one logical solution" to the problem of making war criminals pay for their atrocities. Her essay discusses the positive outcomes of the Nuremberg trials and the negative effects of Rwanda's mistakes.

Mr. President, it is inspiring to witness the active role that young people play in enhancing their understanding about peace relations. Ms. Suzuki is proof that young students today are getting more involved in activities that address peacemaking issues. I am proud that Ms. Suzuki has received such a prestigious award. Her determination to expand her knowledge of peace and conflicts that arise in a changing global environment is admirable. I ask my colleagues to join me in honoring a young woman of outstanding potential and achievement.•

25TH ANNIVERSARY OF THE NATIONAL COMMITTEE FOR EMPLOYER SUPPORT OF THE GUARD AND RESERVE

• Mr. KEMPTHORNE. Mr. President, today I wish to congratulate the National Committee for Employer Support of the Guard and Reserve (NCESGR)—its 4,200 volunteers and DoD staff —marking 25 years of service to this Nation.

The National Committee for Employer Support of the Guard and Reserve was established in 1972, the year the United States ended the Selective Service System and established an all-volunteer military force. The Department of Defense realized that a loss of support from employers and communities could be a roadblock to maintaining Reserve component membership. NCESGR was created to obtain employer and community support for the National Guard and Reserve and to promote the role of Reserve forces in the national defense.

NCESGR has lived up to that task and accomplished much more. Since 1972, with the help of the Advertising Council, Inc., NCESGR has benefited from more than $591 million in pro bono advertising reaching the six million employers with one or more employees in the United States.

Employers have, in turn, signed NCESGR Statements of Support, publicly committing to support the National Guard and Reserve. The former Chairman of the Board and CEO of General Motors, Mr. James H. Roche signed the first Statement of Support in the Office of the Secretary of Defense on December 13, 1972. The next day, President Richard Nixon signed a

Statement of Support covering all Federal civilian employees. Since the inception of this program, Presidents Ford, Carter, Reagan, Bush and Clinton have all signed Statements of Support, along with hundreds of thousands of employers. To date, over 300,000 employers have signed statements of support.

NCESGR offers Ombudsman services designed to provide information to employers and Reservists regarding their rights and responsibilities under the law and to resolve conflicts through informal mediation. This program is operated in cooperation with the Department of Labor, which is responsible for conducting formal investigations. Hundreds of thousands of hours and dollars are saved through the use of community volunteers.

Mr. President, the National Committee for Employer Support of the National Guard and Reserve is smart government in action. The small National Committee staff in Washington, DC, under the direction of the Assistant Secretary of Defense for Reserve Affairs, provides guidance and support to a network of 4,200 volunteer business, civic, and community leaders.

These volunteers educate employers on their rights and obligations under the law and recognize employers who actively support employee participation in the National Guard and Reserve. Volunteers also educate members of the National Guard and Reserve regarding their rights and responsibilities and the value of employer support. Committees can be found in all 50 states, the District of Columbia, Puerto Rico, the Virgin Islands, and Guam.

With the end of the Cold War, the Reserve components have been called upon with increasing frequency. During the Gulf War in 1990-91, more than 250,000 Reserve component members were called to active duty to support military operations in the Persian Gulf. Last year, National Guardsmen and Reservists contributed nearly 13 million mandays in support of Active duty operations and exercises.

Mr. President, thousands of employers, local and State government officials, Active and Reserve component leaders, and military members from across the Nation and around the world request NCESGRs employer support expertise on a daily basis. When National Guardsmen and Reservists return home following mobilization, ESGR committee members are there to provide information and support services to those in need.

The U.S. Congress passed the Uniformed Services Employment and Reemployment Rights Act, (USERRA) of 1994, and updated it in 1996. This law completely revised the Veterans Reemployment Rights Act of 1940. USERRA articulates the rights and responsibilities of the Reservist with regard to job protection and explains employer rights under federal law. NCESGR helps employers and Reservists understand this law and helps them informally resolve any employment conflicts that may arise.

Mr. President, again, I want to congratulate NCESGR and its 54 ESGR committees on their 25 years of service and commend this network of over 4,200 volunteer patriots for their time and talent. They are serving their country and maintaining the much needed support of our employers and communities for the Guard and Reserve. Through the efforts of people like Mr. Robert J. Cameron, the State Chair of the Great State of Idaho, we can call on our Reserve forces to answer our Nation's call without the fear of job loss. Thank you Mr. President, and thank you, NCESGR.•

TRIBUTE TO MAJOR GENERAL ROBERT A. McINTOSH

• Mr. CLELAND. Mr. President, today I want to recognize Major General Robert A. McIntosh for his distinguished service to our Nation. General McIntosh epitomizes our Air Force Reserve citizen-airman. He has demonstrated exceptional leadership as chief of Air Force Reserve, Headquarters U.S. Air Force, Washington, D.C., and commander, Air Force Reserve, Robins Air Force Base, Georgia for the past three and a half years.

General McIntosh served as the principal advisor to the Chief of Staff of the Air Force and to the Secretary of the Air Force on all Air Force Reserve matters. As commander of the Air Force Reserve Command, he had overall responsibility for the command, control, and supervision of all U.S. Air Force Reserve units around the world.

General McIntosh performed outstanding service and exhibited exceptional commitment to the Air Force Reserve. His in-depth knowledge of Air Force and Reserve Component issues was a tremendous asset to the Congress as we deliberated the major national defense issues impacting both our Active and Reserve Forces. His insight into Reserve issues was also instrumental in his well-deserved selection to this new position as the Assistant on Reserve Matters to the Chairman of the Joint Chiefs of Staff.

Commissioned through the Reserve Officer Training Corps Program at Ohio University in 1966, General McIntosh's early training prepared him well for his later assignments commanding Reserve fighter units in Louisiana, Missouri and Texas. Ultimately, he rose to command the more than 70,000 member Air Force Reserve.

He is a highly-decorated Vietnam veteran for his extraordinary aerial achievement and devotion to duty while assigned as an A-37 pilot with the 604th Special Operations Squadron at Bien Hoa Air Base in South Vietnam.

General McIntosh separated from active duty in August 1971 to join the air reserve technician program as a full-time civil service employee with active participation as an Air Force reservist. He is a command pilot with more than 4,000 flying hours in the A-10, A-37, C-130 and F-4. His military awards include the Distinguished Service Medal; Legion of Merit; Distinguished Flying Cross; Meritorious Service Medal with oak leaf cluster; Air Medal with 18 oak leaf clusters; Air Force Commendation Medal with oak leaf cluster; and Vietnam Service Medal with three service stars.

Throughout his distinguished career, he has commanded an Air Force Reserve wing, two Reserve numbered Air Forces, served as the vice commander of the Air Force Reserve, and his most recent position as the chief of the Air Force Reserve and commander of the Air Force Reserve Command—a dual hatted position.

General McIntosh's outstanding leadership, sense of purpose and singular dedication to duty was crucial in the continuing successful integration of the Air Force Reserve into the total Air Force, culminating in the Congressionally-directed activation of Air Force Reserve Command as the service's ninth major command.

Through initiatives he has sponsored, the Air Force Reserve has successfully entered new mission areas during his service as the chief of the Air Force Reserve, including the Reserve instructor pilot program; Space Command Group; Fighter Reserve Associate Test; Airborne Warning and Control System; and Combat Camera.

In today's environment of shrinking budgets, downsizing and the increased role the Reserve Component plays in the national defense of our country, General McIntosh has provided us with a clear and concise view of the contributions and the versatility of our citizen-airmen. In that regard, he has provided us with a full spectrum of Air Force Reserve issues which helped in our decision making process.

The United States is indebted to General McIntosh for his many contributions to this Nation. As his hallmark, he left a stronger Air Force Reserve. We thank Bob and his wife, Susie, for their selfless service to the men and women of the Air Force Reserve, and wish him the best in his new challenging position on the Joint Chiefs of Staff and their future endeavors.•

ANOKA POLICE DEPARTMENT JUVENILE JUSTICE ALTERNATIVE POLICE ACCOUNTABILITY CONFERENCING PROGRAM

• Mr. GRAMS. Mr. President, I rise today to congratulate the City of Anoka Police Department on its selection as a semifinalist in the 1998 Innovations in American Government Awards competition.

As my colleagues may know, Innovations in American Government is considered one of the most prestigious public-service awards granted each year in the United States. This awards program is sponsored by the Ford Foundation, and administered by Harvard University's John F. Kennedy School of Government in partnership with the Council for Excellence in Government.

Since 1986, Innovation awards have been given to those programs and policies that represent effective and innovative government initiatives. This year, the City of Anoka Police Department Juvenile Justice Alternative Police Accountability Conferencing Program has been selected as a semifinalist from among 1,400 applications submitted by federal, state, county, and city and town organizations. Later this year, the number of semifinalists will be narrowed to 25 finalists, ten of which will receive awards for $100,000 from the Ford Foundation. The remaining 15 finalists will each receive $20,000.

At a time when juvenile crime is on the rise in my home state of Minnesota and across the country, I am pleased that the Anoka Police Department has been recognized for its unique and effective efforts to address this important public safety issue in our communities. Initiatives such as those implemented by the Anoka Police Department will help to ensure that the young first-time offenders of today do not become the career criminals of tomorrow.

Through the leadership of Police Chief Andrew Revering, the Anoka Police Department developed a program in 1994 to address the challenge of rising juvenile crime and the increasing rate of repeat juvenile offenders. The Juvenile Justice Alternative Police Accountability Conferencing Program allows for specially trained police officers to facilitate and supervise meetings between first time offenders, so the offender can be held accountable for his or her actions such as minor theft, vandalism, assault or disorderly conduct.

Under this program, the offender is required to admit guilt to the police, and with parental consent, he or she takes part in a police accountability conference. The Police Accountability Conferencing Program ensures victims of crime, offenders, and communities a right to participate in the process of determining how to address the consequences which result from criminal behavior.

Through interaction with police and victims, offenders develop a greater understanding of the effect their actions have on a victim and his or her family. More importantly, this program has demonstrated a proven record of success since only a small number of those who have entered the Anoka Police Accountability Conferencing Program have become repeat offenders.

The Anoka Police Department's success with this program has led many agencies in Minnesota and throughout the country to begin implementing similar programs. To its credit, Anoka Police have also educated and trained officers from Arizona, Colorado, California, Iowa, Indiana, Minnesota and North Carolina about the police conferencing program. Clearly, the City of Anoka and its Police Department have demonstrated exceptional leadership in fulfilling a local government's primary responsibility: to protect citizens from crime and its debilitating effect on communities.

Mr. President, I am pleased to have shared the success of this innovative program with my colleagues in the Senate. I look forward to visiting this program in the future, and learning more about similar initiatives in Minnesota that will help to prevent crime and keep our citizens safe.•

IN HONOR OF PAUL O'DWYER

• Mr. MOYNIHAN. Mr. President, on Saturday, June 28, as Congress began its most recent recess, New York City bid a fond farewell to one of County Mayo's finest gifts to our city and nation.

Paul O'Dwyer, former New York City Council President and champion of countless progressive causes, was a towering figure in our politics for well over half a century, playing a significant role in such disparate movements as the efforts to create a United Ireland and an independent State of Israel, the American civil rights and peace movements and the New York City reform movement that remade the face of our city's politics in the late 1950's.

From running guns to the Irgun in 1947 to organizing black voters in Mississippi in 1964, Paul O'Dwyer was on the cutting edge of every major social and political issue that shaped our nation's politics. He may have only won two of the dozen elections he contested in his long and colorful career, but his legacy lives on in the lives he touched and the issues he championed. Paul O'Dwyer and I were not always on the same side of every issue. You could question his strategy or even his judgement, but you could never question his abiding integrity or his remarkable capacity to sustain passion about human dignity and equal justice.

Paul O'Dwyer was born on June 29, 1907 in the Irish village of Behola, the eleventh and last surviving child of Patrick and Bridget McNicholas O'Dwyer. He arrived on our shores in 1925, working on the docks as he went to night classes, first at Fordham University and then at St. John's Law School.

It is a measure of how quickly he moved through life that he had to receive special permission from Chief Justice Benjamin Nathan Cordoza of the New York Court of Appeals to take his bar exam in 1929, four years after arriving from Ireland and two years before he could receive citizenship or be formally admitted to the bar. As the younger brother of Tammany Hall fixture (and future mayor) William O'Dwyer, he might have easily become a successfully well-connected lawyer. But that was simply not the way Paul O'Dwyer chose to live his life.

"If I thought at the end of the year that all I did was make a living, I'd regard it as a pretty incomplete year", he once said of his rich life as an agitator within the system. He must, on retrospect, have had paying clients during his 67 years as an attorney, but they were hardly the reason every segment of New York City's diverse political and ethnic spectrum joined in mourning this remarkable individual.

New York City and our nation are inspired by the quality of Paul O'Dwyer's example and enriched by the legacy of his accomplishments. I ask to have printed in the CONGRESSIONAL RECORD The New York Times' report on Paul O'Dwyer's funeral.

The report follows:

[From the New York Times, June 28, 1998]

POLITICAL ELITE OUT IN FORCE TO MOURN DEMOCRAT O'DWYER

[By Mike Allen]

New York's political royalty packed an Upper West Side sanctuary yesterday for the funeral Mass of Paul O'Dwyer, the gritty liberal who once led the City Council.

Mr. O'Dwyer, who died Tuesday, was remembered for the crunch of his eyebrows and the splay of his glasses as he fought for causes as perpetual as Irish nationalism and as fleeting as a strike by flight attendants. Tomorrow, which would have been his 91st birthday, his ashes are to be scattered at his birthplace, his family's three-and-a-half-acre farmstead in County Mayo, in western Ireland.

The bagpipes and drums of the Police Department's Emerald Society led the cortege to Holy Trinity Roman Catholic Church, stepping off to the anthem of Irish rebellion, "A Nation Once Again."

Mayor Rudolph W. Giuliani sat with his arms folded in a front pew. He was separated from the recent nemesis, Peter F. Vallone, the Council Speaker, by Barrie Robinson, the Irish consul general.

Frank Durkan, a nephew and law partner of Mr. O'Dwyer, used his eulogy to reel off a list of public officials Mr. O'Dwyer had known and tormented.

"Mayor Giuliani," Mr. Durkan said, "you're lucky, in a way, that you're not in his line of fire at the moment." The congregation of 700, mostly Mr. O'Dwyer's fellow Democrats, laughed and applauded.

In the homily, the Rev. Thomas P. Leonard, Holy Trinity's pastor, said Mr. O'Dwyer's style was "confrontation, with wit and sagacity." Father Leonard told of a conversation he had overheard Thursday afternoon in the rectory between two friends who were reading Mr. O'Dwyer's obituary.

"One said, 'Wasn't he an anarchist?" Father Leonard said. "The other answered, 'No, no, no! He was Irish.'"

Percy E. Sutton, the former Manhattan Borough President, remembered Mr. O'Dwyer's flights to help Soviet Jews, and bus rides to help elect a black man in Alabama.

"You see," Mr. Sutton said, "Paul O'Dwyer was not just Irish. Paul O'Dwyer was Italian. Paul O'Dwyer was Jewish. Paul O'Dwyer was Greek. He was Polish. Paul O'Dwyer was also African-American. In his involvement in the causes that were not necessarily his, Paul O'Dwyer was us."

Mr. Sutton concluded, "At that place, where he should finally rest, you can bet one thing: There'll be an organizing of protests there. Because that is the nature of Paul O'Dwyer."

A niece, Joan O'Dwyer Savarese, invoked the notion that at death, life plays back like a movie. "Uncle Paul," she said, "what a show you're in for."

That show would have included boarding house life and night law school after immigrating to Manhattan, defense of Irish Republican Army members facing extradition, registration of black voters in Mississippi, marches against the Vietnam War, four losing races for United States Senate, and election as Councilman at Large in Manhattan and City Council President.

His wife, Patricia, recalled a Board of Estimate meeting when a fight broke out between landlords and tenants ("Odd, that," she said to appreciative laughter), and Mr. O'Dwyer descended into the skirmish as peacemaker. She went on to say that her husband "is truly not dead."

"We have evidence of his physical passing," Mrs. O'Dwyer said. "But that spirit and that passion—it will stay alive if we all leave here today committed to making the lives of our fellow human beings better."

At the service's close, the white pall that shrouded the coffin was replaced by the Irish flag. Friends, certain Mr. O'Dwyer would be delighted to be wrapped in the tricolor, gave a standing ovation as the casket passed by.●

TRIBUTE TO LAURIE DONOVAN

● Mr. BOND. Mr. President, I rise today to pay tribute to one of Missouri's finest legislators, State Representative Laurie Donovan. She has served Missouri's 74th District since 1982, and done so with a combination of conviction, oompassion, and just plain good humor.

There is no question that Laurie has been a maverick. She has marched to her own drummer, voting only in accordance with her conscience. Laurie has stood second to no one in her support for early childhood education—a topic upon which I share her intense interest. Her efforts on behalf of the mentally ill likewise are the stuff of Missouri legislative legend.

It is clear that State Representative Laurie Donovan's retirement is a loss for every Missouri citizen. I join all Missourians in wishing her well, and thanking her for her many years of dedicated service.●

NORTH DAKOTANS DARIN ERSTAD AND RICK HELLING

● Mr. CONRAD. Mr. President, I want to call the Senate's attention today to two young men from my state who are making their marks this year where few North Dakotans have before: in major league baseball. They are Darin Erstad of the Anaheim Angels and Rick Helling of the Texas Rangers. A few weeks ago, ESPN referred to Darin Erstad as "the all-star no one's heard of." That will change after his introduction tonight at the Major League Baseball All-Star Game in Denver. Although baseball fans did not elect Darin to the all-star team, the American League coaching staff recognized his brilliant play and named him as a reserve. So far this season, the Jamestown, North Dakota, native is batting .313, and his 115 hits ranks second in the American League. He currently leads his Angels' teammates in home runs (18) and runs batted in (59). I am sure that few who watched him play as a youngster in North Dakota, or as a college player with the Nebraska Cornhuskers, are surprised at his success at the major league level. He is clearly a disciplined, hard-working player, and his election to this year's all-star team is well deserved.

Rick Helling's success in Texas this summer has been no less spectacular. As a starting pitcher with the Rangers, the Devils Lake, North Dakota, native finished the first half of the season with an impressive record of 11 wins, 4 losses, and an earned run average of 4.40. Only two pitchers in the American League have posted more wins this season. Unfortunately, Rick was not chosen to the all-star squad. That is a shame, but the rosters for the game are limited and each year deserving players are left out. Rick deserved to be on the team and his omission should not overshadow what has so far been an outstanding year. He is well on a pace to win 20 games, the benchmark all starting major league pitchers strive for. I know he has the talent to do it and I wish him continued success.

Considering how few North Dakotans have ever played in the major leagues, my state is understandably proud that two of them are achieving such terrific success at the same time. But it is even more fitting that Darin Erstad and Rick Helling are having breakthrough seasons this year. Those who follow baseball know that the summer's biggest story has been the attempt by several players, most notably Mark McGwire, Ken Griffey, Jr., and Sammy Sosa, to break the single season record for most home runs. That enduring record of 61 home runs, which has stood for nearly four decades, was set by the New York Yankees' slugger Roger Maris. Roger Maris, I am very proud to say, was raised in Fargo, North Dakota.●

16TH ANNUAL METRO DETROIT YOUTH DAY

● Mr. ABRAHAM. Mr. President, I rise today to recognize a special event that will take place in the City of Detroit. July 8, 1998 will mark the 16th Annual Metro Detroit Youth Day on Belle Isle in Detroit. This event is designed to help improve relationships between young people and community businesses in the Metro Detroit area. More than 16,000 young people are expected to take part in the daylong activities.

This event is significant in that community volunteers, from across Metro Detroit, have come together to make a difference in young people's lives. The many organizers of this event have recognized the need for more youth activities, emphasizing physical education and good sportsmanship in improving the lives of Metro Detroit Youth. It is for this reason that they have sponsored this wonderful program that has grown more successful each year.

Over the course of the last 16 years, this event has garnered tremendous support from the people within the Metro Detroit community from both the private sector and from all levels of government. This year over ninety organizations serve as co-sponsors. At this time I would like to extend my appreciation and best wishes to Mr. Ed Deeb who has again chaired this event and brought it to new levels of success. I wish all the children participating and the sponsors tremendous success.●

IRAN MISSILE TECHNOLOGY

● Mrs. BOXER. Mr. President, I would like to express my serious concern about Iran's continuing efforts to obtain missile technology.

It has been widely reported that Iran has produced chemical weapons and is actively pursuing the development of biological and nuclear weapons. When these deadly technologies are coupled with advanced ballistic missiles, they become true weapons of mass destruction, posing a grave and direct threat to U.S. troops stationed in the Persian Gulf are as well as our key ally in the Middle East, the State of Israel.

Iran's quest to develop ballistic missiles has been aided by several Russian corporations, who have sold Iran key technology and provided important technical support. Public reports indicate that Iran is extremely close to deploying advanced ballistic missiles. If we fail to take meaningful action quickly, Iran could deploy chemical-tipped ballistic missiles within one year.

Congress reacted appropriately to this threat by passing the Iran Missile Proliferation Sanctions Act in May by a vote of 90-4. The bill would impose sanctions on individual companies—not governments—that assist Iran in developing ballistic missile technology.

To its credit, the government of Russia, after considerable prodding from the U.S. State Department, has taken meaningful steps toward halting the export of sensitive technology. Unfortunately, these measures alone are not sufficient to freeze the Iranian missile program. The Iran Missile Proliferation Sanctions Act is needed.

I regret the Administration's decision to veto this important bill. I understand its view that the Executive Branch alone should attempt to resolve this issue. However, I believe the proliferation of weapons of mass destruction is an issue of such tremendous importance that legislation is warranted.

I hope the Majority Leader will schedule a vote on the veto message soon, and I hope my colleagues will continue to show strong support for the Iran Missile Proliferation Sanctions Act.•

TRIBUTE TO RICK METTS: 1998 GREATER DERRY CHAMBER OF COMMERCE "CITIZEN OF THE YEAR"

• Mr. SMITH of New Hampshire. Mr. President, I rise today to congratulate Rick Metts of Derry, New Hampshire, on being named the 1998 "Citizen of the Year" by the Greater Derry Chamber of Commerce. Rick has earned this very special honor as a result of his many years of volunteer work for a variety of different organizations in the City of Derry.

At the Derry Village Rotary Club, Rick has been Sergeant at Arms for the past seven years and has participated in every fundraiser, project and event the club has held. As a member of the club's Social Committee, Rick has helped organize Pot-Luck suppers and Yankee Swaps, and has served as the Master of Ceremonies for Pictionary Games. Rick has also demonstrated his commitment to education, as he and his family have co-sponsored scholarships given to outstanding vocational students.

In addition to his work at the Rotary Club, Rick is also active in a number of other organizations in his community. He is currently serving his second three-year term on the Derry School Board and has held the position of Chair twice. Rick also has shown his true dedication to children through his work with the Boys & Girls Club of Greater Derry. For the past two years, Rick has chaired the Club's largest fundraiser, which features a gourmet dinner as well as both a silent and live auction. He has also coached and refereed many basketball games for the club and recreation teams. Rick has also been a longtime member and supporter of the Greater Derry Chamber of Commerce.

According to one of his close friends, Rick Metts "never has to be asked, he always volunteers." The many ways Rick has found to be involved in his community are a true testament to that statement. Rick embodies that great spirit of volunteerism that helped make this nation great. I want to again congratulate Rick Metts on being named "Citizen of the Year" and it is with great pride that I represent him in the United States Senate.•

NEED FOR HMO REFORM

• Mr. DORGAN. Mr. President, our health care system is in a state of crisis—a crisis of confidence. Many Americans no longer believe that their insurance companies can provide them with the access to care or quality of service they need.

Today I continue our series of stories describing how some managed care plans seem to have put cost saving before life-saving. The experience of Jacqueline Lee is just one more example of the pressing need for Congress to act now to protect the rights of patients.

Jacqueline Lee lives in Bethesda, Maryland. A lover of the outdoors, she took a trip to hike in the Shenandoah Mountains in the summer of 1996. While walking on one of the trails, she lost her footing, and plummeted off of a 40-foot cliff to the ground below.

Luckily for Jacqueline, she was quickly airlifted from the mountain to a hospital in Virginia. Amazingly, she survived the fall, sustaining fractures in her arms, pelvis, and her skull.

Incredibly, her HMO refused to pay the more than $10,000 in hospital bills. They said Ms. Lee had failed to gain "pre-authorization" for her emergency room visit. To this insurer, the fact that she was unconscious was no exception. For over a year, she challenged her HMO and faced personal bankruptcy. Ultimately, the Maryland Insurance Administration ordered the insurer to pay the hospital and fined them as well for their initial refusal to cover Ms. Lee's medical expenses.

Yet her struggle wasn't over. Within a year, after follow-up surgery for her injuries, Ms. Lee found herself back in the emergency room, fearing that she was suffering complications from surgery. Not wanting to go through another ordeal, this time she called her HMO beforehand. They told her they would pay only for her screening fees because the visit was not considered "a medical emergency."

Mr. President, we must take up and pass meaningful patient protections this year. We have a bill, S. 1890, that would prevent situations like this from occurring. Under our bill, Jacqueline Lee would have access to emergency care without preauthorization, and when she feels her life is in danger—not when the insurance company tells her it's okay. Under our bill, Jacqueline would have been covered for her injuries—she would not have had the rug pulled out from under her by the HMO.

We have only a few weeks of legislative business left to act. Whatever we do will not alleviate the stress that Jacqueline Lee has endured, but we can ensure that others do not have to spend time fighting insurers that would be better spent fighting for their health. We must guarantee patients the peace of mind that comes with knowing that their health plan will be there to help them recuperate, not deny payment because it improves their bottom line.•

MEASURE READ FOR THE FIRST TIME—S. 2271

Mr. SESSIONS. Mr. President, I send to the desk a bill and ask that it be read for the first time.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

> A bill (S. 2271) to simplify and expedite access to the Federal courts for injured parties whose rights and privileges, secured by the United States Constitution, have been deprived by final actions of Federal agencies, or other government officials or entities acting under color of State law, and for other purposes.

Mr. SESSIONS. Mr. President, I ask for its second reading, and I object to my own request.

The PRESIDING OFFICER. Objection is heard.

MEASURES PLACED ON THE CALENDAR—H.R. 2431 AND H.R. 3150

Mr. SESSIONS. Mr. President, I understand that there are two bills at the desk that are due for their second reading, and I ask that the first be read.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

> A bill (H.R. 2431) to establish an Office of Religious Persecution Monitoring, to provide for the imposition of sanctions against countries engaged in a pattern of religious persecution, and for other purposes.

Mr. SESSIONS. I object to further proceedings on this matter at this time. I ask that the second bill be read.

The PRESIDING OFFICER. The bill will be placed on the calendar. The clerk will report.

The legislative clerk read as follows:

> A bill (H.R. 3150) to amend title 11 of the United States Code, and for other purposes.

Mr. SESSIONS. Mr. President, I object to further proceedings on this matter at this time as well.

The PRESIDING OFFICER. The bill will be placed on the calendar.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nomination on the Executive Calendar: Calendar No. 495.

I further ask unanimous consent that the nomination be confirmed; that the motion to reconsider be laid upon the table; that the President be immediately notified of the Senate's action;

and that the Senate then return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nomination considered and confirmed is as follows:

ENVIRONMENTAL PROTECTION AGENCY

Sallyanne Harper, of Virginia, to be Chief Financial Officer, Environmental Protection Agency.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

ORDERS FOR WEDNESDAY, JULY 8, 1998

Mr. SESSIONS. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m. on Wednesday, July 8. I further ask unanimous consent that when the Senate reconvenes on Wednesday, immediately following the prayer, the routine requests through the morning hour be granted and that the Senate then resume consideration of the IRS reform conference report.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. SESSIONS. Mr. President, for the information of all Senators, tomorrow morning the Senate will immediately resume consideration of the IRS reform conference report. It is expected that there will be lengthy debate during Wednesday's session on the conference report with a final vote occurring by late afternoon. In addition to the conference report, the Senate may consider any other legislative or executive items that may be cleared for action. Members are reminded that a cloture motion was filed to the substitute amendment to the product liability bill, and, therefore, Senators have until 1 p.m. on Wednesday to file first-degree amendments to the substitute.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. SESSIONS. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 8:27 p.m., adjourned until Wednesday, July 7, 1998, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate July 7, 1998:

DEPARTMENT OF DEFENSE

CAROLYN H. BECRAFT, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF THE NAVY, VICE BERNARD DANIEL ROSTKER.

RUBY BUTLER DEMESME, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF THE AIR FORCE, VICE RODNEY A. COLEMAN, RESIGNED.

DEPARTMENT OF DEFENSE

PATRICK T. HENRY, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF THE ARMY, VICE SARA E. LISTER, RESIGNED.

DEPARTMENT OF STATE

BERT T. EDWARDS, OF MARYLAND, TO BE CHIEF FINANCIAL OFFICER, DEPARTMENT OF STATE, VICE RICHARD L. GREENE, RESIGNED.

JOSEPH H. MELROSE, JR., OF PENNSYLVANIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF SIERRA LEONE.

JOHN SHATTUCK, OF MASSACHUSETTS, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE CZECH REPUBLIC.

PUBLIC HEALTH SERVICE

THE FOLLOWING CANDIDATES FOR PERSONNEL ACTION IN THE REGULAR COMPONENT OF THE PUBLIC HEALTH SERVICE COMMISSIONED CORPS SUBJECT TO QUALIFICATIONS THEREFOR AS PROVIDED BY LAW AND REGULATIONS:

1. FOR APPOINTMENT

To be assistant surgeon

MARIE A. COFFEY
WILLIAM H. DUNN, JR.
DAVID R. GAHN
JOHN M. HARDIN
TANIA A. HURLBUTT
DOROTHY A. JENSON
PAUL D. MAHER
ANN M. SMITH
JOHN W. VANDERHOFF
JULIA C. WATKINS

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

LT. GEN. JOHN W. HANDY, 5379

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

LT. GEN. NICHOLAS B. KEHOE III, 3315

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. MAXWELL C. BAILEY, 0835

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be general

LT. GEN. JOHN N. ABRAMS, 5774

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. DAVID H. OHLE, 2815

THE FOLLOWING ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be major general

BRIG. GEN. EDWARD A. FERGUSON, JR., 5889
BRIG. GEN. PAUL J. GLAZAR, 2517
BRIG. GEN. JOHN R. GROVES, JR., 2716
BRIG. GEN. DAVID T. HARTLEY, 1609
BRIG. GEN. LLOYD E. KRASE, 3636
BRIG. GEN. BENNETT C. LANDRENEAU, 0645
BRIG. GEN. BENNY M. PAULINO, 5606
BRIG. GEN. JEAN A. ROMNEY, 1872
BRIG. GEN. ALLEN E. TACKETT, 5032

To be brigadier general

COL. RICHARD W. AVERITT, 7139
COL. DANIEL P. COFFEY, 4196
COL. HOWARD A. DILLON, JR., 1659
COL. BARRY A. GRIFFIN, 8148
COL. LARRY D. HAUB, 3445
COL. ROBERT J. HAYES, 7789
COL. LAWRENCE F. LAFRENZ, 4984
COL. VICTOR C. LANGFORD III, 4215
COL. THOMAS P. MANCINO, 3133
COL. DENNIS C. MERRILL, 5790
COL. WALTER A. PAULSON, 4766
COL. ROBLEY S. RIGDON, 7740
COL. KENNETH B. ROBINSON, 8162
COL. ROY M. UMBARGER, 9266
COL. JIMMY R. WATSON, 5571
COL. PAUL H. WIECK, 5055

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be vice admiral

REAR ADM. JOSEPH S. MOBLEY, 1731

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be vice admiral

REAR ADM. EDWARD MOORE, JR., 0064

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES NAVAL RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be rear admiral (lower half)

CAPT. JAMES S. ALLAN, 7214
CAPT. MAURICE B. HILL, JR., 6455
CAPT. DURET S. SMITH, 6254
CAPT. JAMES M. WALLEY, JR., 5129
CAPT. JERRY D. WEST, 5130

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS DIRECTOR OF ADMISSIONS, UNITED STATES AIR FORCE ACADEMY UNDER TITLE 10, U.S.C., SECTION 9333(C):

To be colonel

HEDY C. PINKERTON, 9434

THE FOLLOWING NAMED OFFICERS FOR REGULAR APPOINTMENT IN THE GRADES INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 531:

To be colonel

WINSTON H. BLAKE, 7584
RICHARD G. GRIFFITH, 0934
COURTNEY D. SCOTT, JR., 9085

To be lieutenant colonel

MARK A. EDIGER, 6172
PHILIP M. SHUE, 5698

IN THE NAVY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be commander

PAUL S. WEBB, 9661

To be lieutenant commander

WESLEY P. RITCHIE, 7645

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S., SECTION 624:

To be lieutenant commander

KEVIN J. BEDFORD, 9938

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE AND FOR REGULAR APPOINTMENT (IDENTIFIED BY AN ASTERISK (*)) UNDER TITLE 10, U.S.C., SECTIONS 624 AND 531:

To be major

JOHN J. ABBATIELLO, 8225
KENNETH F. ABEL, 0674
DAVID ABERCROMBIE, 0674
MARK A. ABRAMSON, 8198
MICHAEL T. ACOBA, 4358
DONALD R. ADAMS, JR., 0216
HERBERT P. ADAMS III, 6194
JORDAN C. ADAMS, 8280
DALE R. ADDINGTON, 4372
MICHAEL A. ADDISON, JR., 6426
REX E. ADEE, 5682
KEVIN P. ADELSEN, 4917
DEAN J. ADKINS, 6947
ANDREW J. ADRIAN, 3957
CARA A. AGHAJANIAN, 0495
DAVID M. AGINS, 0248
STEPHEN AHRENS, 7238
DERRICK A. AIKEN, 4950
ARCADIO ALANIZ, JR., 8601
SUSAN R. ALANIZ, 1928
MARY E. ALDRIAN, 6004
TERESA M. ALESCH, 2394
JAMES E. ALEXANDER, 5727
*RONALD W. ALEXANDER, JR., 7685

MARTIN ALEXIS, 2208
RONNY G. ALFORD, 6116
RODGER C. ALLEM, 5008
DIANE BREIVIK ALLEN, 9078
JAMES T. ALLEN, 5417
JARA N. ALLEN, 8312
LANNIE G. ALLEN, 1118
JONAS C. ALLMAN, 6370
*GREGORY C. ANDERS, 6249
ALBERT J. ANDERSON, 4830
BRUCE P. ANDERSON, 7895
DAVID J. ANDERSON, 8263
DAVID T. ANDERSON, 3292
DEAN J. ANDERSON, 1187
DONALD R. ANDERSON, 5333
JEFFREY L. ANDERSON, 6545
JOEL D. ANDERSON, 6174
JOHN H. ANDERSON, 3023
JOHN T. ANDERSON, 1159
JON K. ANDERSON, 0573
KEVIN J. ANDERSON, 7203
THEODORE B. ANDERSON, 7054
THOMAS M. ANDERSON, 3960
TIMOTHY A. ANDERSON, 3824
TIMOTHY C. ANDERSON, 6620
TIMOTHY J. ANDERSON, 3951
TERENCE S. ANDRE, 0674
LINDA M. ANDRY, 3300
MICHAEL J. ANGWIN, 8819
*RICHARD J. ANTOLIK, JR., 0930
JOHN B. APOSTOLIDES, 1136
TIMOTHY M. APPLEGATE, 0266
*JOSEPH E. ARCATE, 4344
GLEN E. ARCHER, 6656
RUTH A. ARCHER, 1298
DEBORA A. ARCHULETA, 5062
KENNETH A. ARCOLEO, 6351
CHARLES P. ARMENTROUT, 7340
JOHN N. ARMITSTEAD, 1718
BRENDA S. ARMSTRONG, 3249
DOUGLAS A. ARMSTRONG, 0533
DIANE M. ARNOLD, 1402
MICHAEL J. ARNOLD, 1781
MARVIN A. AROSTEGUI, 7022
WILLIAM C. ARTHUR, 8733
CHRISTINE H. ASHENFELTER, 2275
JOHN M. ASKEW, 8595
DANIEL H. ATCHLEY, 8541
KORVIN D. AUCH, 7250
GREG H. AULD, 6386
KURT L. AUSTIN, 3640
MARK A. AUSTIN, 8968
MARK A. AVERY, 0232
DAVID S. BABYAK, 9999
STEVEN E. BACHELOR, 2074
DAVID M. BACHLER, 6547
KENNETH W. BACKES, 3849
*MARK R. BACON, 8647
THOMAS N. BAILEY, 1645
THOMAS N. BAILEY, 3928
DAVID H. BAIRD, 5241
JAMES H. BAKER, 9331
LYLE D. BAKER, 3469
MATTHEW C. BAKER, 4900
SCOTT W. BAKER, 2797
CHRISTOPHER P. BAKKE, 3318
REGIS J. BALDAUFF, 9632
JOHN J. BALKE, 0264
*ROBERT W. BALLARD, 9671
RICHARD L. BALTES, 1306
MATTHEW W. BAMPTON, 3702
NEAL L. BANIK, 5611
BRENDAN EDWARD BANKOS, 6503
DARWYN O. BANKS, 7016
RONALD L. BANKS, 2558
*WILLIAM J. BANKS, 1813
GEORGE A. BARBER, JR., 7233
CHRIS BARGERY, 4197
DAVID R. BARKDULL, 8667
BARRY K. BARKER, 0812
KAREN L. BARLOW, 9878
*CLAYTON M. BARNARD, 3616
THOMAS E. BARRETT III, 1494
*WILLIAM M. BARRETT, 5624
BRADLEY D. BARTELS, 9269
MARK N. BARTELT, 7771
GEORGE C. BARTH, 0791
ALEXANDER R. BARTHE, 8167
PHILIP J. BARTON, 8557
ALAN J. BARYS, 1945
STEVEN L. BASHAM, 2045
EDWARD J. BASNETT, 7380
HARIDEV S. BASUDEV, 2917
STEVEN P. BATES, 0587
*RONALD J. BATTERSBY, 9093
PAUL D. BAUER, 1252
*KENNETH J. BAUMER, 7645
*JAMES R. BAUMGARDNER, 1700
PATRICK J. BAUMHOVER, 6091
PAUL A. BAXTER, 7324
*EDWIN S. BAYBA, 3673
JOHN T. BAYNES, JR., 0946
LONNY E. BEAL, 3854
ALAN K. BEATY, 6356
JOHN P. BEAUCHEMIN, 5282
THOMAS BECHT, 6310
JOHN P. BECK, 9095
JAMES M. BECKER, 1503
DAVID T. BECKWITH, 0728
MARK BEDNAR, 2393
JAMES M. BEEBE, 1148
DAVID B. BEEN, 1167
THOMAS W. BEHNKE, 0294
BRUCE C. BELCHER, 5250
JON A. BELIVEAU, 9316
*GARY W. BELL, 2514
SANDRA J. BENEWAY, 7614
BARRY D. BENNETT, JR., 6570
SCOTT N. BENSON, 2708
CLAY BENTON, 4470
BRETT E. BERG, 8290
CRAIG N. BERG, 2267
ZACHARY D. BERGAZIN, 0508
*MITCH L. BERGER, 6014
WILLIE A. BERGES, 7718
RODNEY K. BERK, 1728
BRENDA K. BERNAL, 3987
MICHAEL C. BERNERT, 9779
HARRY A. BERRY, 4229
JAMES B. BERRY, 2961
LAURA W. BERRY, 2659
WILLIAM A. BERRY, 5660
JOSEPH J. BERTE III, 7681
JOHN C. BERTHA, 5024
PATRICK D. BERTLSHOFER, 3111
DAVID ALLEN BETHANY, 9521
MICHAEL P. BETTNER, 8219
*ERNEST W. BIE, JR., 5453
JOHN D. BIEGGER, 9794
JOHN D. BIRD II, 2101
LINDA L. L. BIRGE, 3179
MICHAEL R. BIRGENHEIR, 4755
DANIEL J. BIRRENKOTT, 6143
BRUCE A. BLACK, 1472
STEVEN E. BLACK, 1071
*ROBERT B. BLANKE, 9598
DAVID P. BLANKS, 0592
DAVID W. BLIESNER, 1979
PETER J. BLOOM, 4899
ROBERT S. BLUE, 7341
THOMAS W. BLUHM, 6516
ALAN L. BLUMHAGEN, 7371
ERIC A. BOE, 7358
ROBERT BOLHA, 0497
JOHN A. BOLIN, 4754
BRADLEY J. BOLSTAD, 8940
RICHARD W. BOLTZ, 7017
MILDRED E. BONILLALUCIA, 4715
BARBARA R. BONNER, 1644
JOE B. BONORDEN, 1096
MARK D. BONTRAGER, 2752
AARON J. BOOHER, 0485
ALVIN L. BOONE, 5579
*DAVID R. BOONE, 1711
KEITH P. BOONE, 0718
DAVID M. BOOTS, 7372
MARK W. BORDEN, 0470
STEVEN M. BORDEN, 3413
THOMAS BOROWIEC, 3843
*ANDREW R. BOUCK, 8685
SCOTT J. BOURGEOIS, 5667
MARK A. BOVA, 1165
DAVID M. BOWER, 7338
DAVID E. BOYER, 9757
KEITH M. BOYER, 7986
PATRICK H. BOYKIN, 8513
*WILLIAM D. BRACKEN, 1531
MARK T. BRADLEY, 3666
MATTHEW C. BRAND, 5061
RICHARD H. BRANNAN, JR., 6628
JEFFREY G. BRANTING, 3863
DUWAYNE E. BREDVIK, 9454
DAVID SCOTT BREED, 7036
JOHN J. BREEDEN, 1125
MACK L. BREELAND, 9801
CHARLES R. BRENNAN, 6551
*TAMELA JO BRESLER, 1692
*RALPH J. BRESNAN, 3650
TIMOTHY O. BRETT, 4591
STEVEN G. BREWER, 4729
*JOHN M. BRIGHT, 0224
LISA A. BRIGHT, 5178
GUY J. BRILANDO, 1161
DONALD J. BRINKMAN, 5255
*DAROLD S. BRINLEY, 8177
DOUGLAS J. BRISTOW, 6510
KEVIN A. BRITT, 2664
KENNETH W. BROCKMANN, 8850
*SEAN C. BRODERICK, 6632
DARYL T. BRONDUM, 6495
JOHN P. BROOKER, 1510
KEVIN B. BROOKER, 2473
GARY S. BROOKS, 3524
KIM R. BROOKS, 8063
HAROLD E. BROSOFSKY, 2667
BYRON K. BROUSSARD, 9063
BENJAMIN B. BROWN, 4239
CRAIG E. BROWN, 6726
CYNTHIA ANN THON BROWN, 4266
DANIEL J. BROWN, 2184
EDWARD B. BROWN, JR., 6733
EDWARD R. BROWN, 7223
ELIZABETH A. BROWN, 7099
ERIC D. BROWN, 7540
JEFFREY D. BROWN, 9093
JEFFREY G. BROWN, 8904
JEFFREY S. BROWN, 3410
KELLEY A. BROWN, 4663
*LAWRENCE E. BROWN, 4398
MARK W. BROWN, 1522
MICHAEL D. BROWN, 3343
RICHARD H. BROWN, 8942
*ROGER A. BROWN, 6475
SCOTT F. BROWN, 2839
STEPHEN E. BROWN, 6417
BRENTON L. BROWNING, 7998
STEPHEN M. BROWNING, 1185
JAY E. BRUHL, 5483
LAWRENCE A. BRUNDIDGE, 1448
MARTIN F. BRUNNER, 6710
ELSA S. BRUNO, 0485
JAMES W. BRUNS, 1215
SHAWN T. BRYAN, 0799
JOSEPH P. BUBULKA, 6251
SCOTT T. BUCHANAN, 4057
ALAN R. BUCK, 6053
DONALD R. BUCKLEY, 5101
RONALD D. BUCKLEY, 0518
ERIC N. BUECHELE, 1779
CARL A. BUHLER, 2126
ROBERT D. BUNCH, 6236
SHERRY M. BUNCH, 1447
RICHARD L. BURCHFIELD, 2169
JON R. BURGOYNE, 9298
CHRISTOPHER G. BURKE, 6302
RANDALL D. BURKE, 7582
ALAN BURKET, 4885
*STEPHEN J. BURLING, 8742
ROLANDA BURNETT, 6100
JOHN P. BURNS, 0254
DAVID M. BURRIS, 2401
MICHAEL R. BURTON, 3363
JOHN M. BUSCH, 0983
WILLIAM C. BUSCH, 2512
DAVID S. BUSENITZ, 0107
MITCHEL H. BUTIKOFER, 8291
*LEWIS E. BUTLER, 2474
RHETT L. BUTLER, 1945
ARTURO M. BUXO, 6108
*COREY T. BYRD, 2543
STEPHEN J. BYRNES, 4842
WILLIAM B. CADE III, 2732
DEBORAH A. CAFARELLI, 4929
*DAVID A. CAFFEE, 4352
JOSEPH H. CAGLE, 2382
SCOTT E. CAINE, 8245
DEAN C. CALDWELL, 0902
KATHLEEN D. CALLAHAN, 2337
PAUL M. CALTAGIRONE, 4757
ELIZABETH CALVANOCARPENTER, 8567
WALTER E. CALVO, 7034
MARK D. CAMERER, 6575
DAVID P. CAMIRE, 2842
ROBERT S. CAMPBELL, 0319
DAWN M. CAMPBELLCURRIE, 9036
BRADY W. CANFIELD, 0204
ARTHUR R. CANNE, 1308
JOHN J. CAPOBIANCO, 1115
JOSEPH J. CAPPELLO, JR, 8174
RONALD E. CARDEN, 7403
MANUEL A. CARDENAS, 5762
CARL C. CARHUFF, 3363
PAUL J. CARLIN, 0193
LEWIS H. CARLISLE, 2635
JOSEPH D. CARLSON, 6533
LISA A. CARNEY, 2327
COLIN N. CARR, 6941
*JOHN E. CARR, 9078
MARY F. CARR, 1656
MICHAEL W. CARRELL, 9633
RUSSELL G. CARRIKER, 2259
PETER A. CARRION, 6375
DAVID A. CARROLL, 0345
JOHN M. CARROLL III, 8959
ORAN Y. CARROLL, 1910
DAVID M. CARTER, 2117
TED E. CARTER, JR., 6132
SCOTT A. CARTER, 3136
EDWARD V. CASSIDY, 2937
DOUGLAS C. CATO, JR., 9895
MIKE S. CAUDLE, 1047
PAUL M. CAULWELL, 3351
SEAN M. CAVANAUGH, 5694
PAUL E. CAVE, 7077
DANNY A. CECIL, 4765
JAMES M. CENEY, 9506
MARK D. CERROW, 6097
*JACK M. CESSNA, 0671
WALTER S. D. CHAI, 9106
KENNETH M. CHAISSON, 6463
JAMES G. CHAMBERS, 0956
ALBERT T. CHAMILLARD, 3133
DAVID B. CHANDLER, 9639
SHELLEY Z. CHANDLER, 8013
STEVEN E. CHANDLER, 7980
*JAMES E. CHAPMAN, 8000
JOSEPH F. CHAPMAN, 6036
GEORGE G. CHAPPEL, JR., 2232
FREDERIC CHARLES, 0189
DENNIS L. CHARTRAW, 6851
BRADY C. CHEEK, 5633
EVANGELINE M. CHEEKS, 9139
JAMES A. CHERREY, 8774
DARREN E. CHILDERS, 4094
MICHAEL R. CHISHOLM, 3233
STANLEY F. CHMURA, JR., 4947
WALTER C. CHRISTIE, JR., 9821
TIMOTHY C. CHUSTZ, 3507
RICHARD A. CIARAMELLA, 3520
EVELYN M. CIRCEO, 9924
LEO D. CISSELL, 2538
CHARLES A. CIUZIO, 8864
GREGORY W. CLARK, 9900
MURRAY R. CLARK, 8866
*PATRICK J. CLARK, 6243
RANDALL J. CLARK, 8304

ROLAND D. CLARK, 8238
JOSEPH L. CLAVIN, 2703
GREGORY S. CLAWSON, 9737
TAMMY K. CLAY, 9687
TIMOTHY R. CLAYTON, 2957
PETER C. CLEMENT, 2669
SCOTT R. CLEVERINGA, 4624
ROBERT V. I. CLEWIS, 1371
JEFFREY C. CLIATT, 9293
*ELIZABETH ANN COATES, 2284
KENNETH E. COBURN, 4417
GEORGE A. COGGINS, 6088
DAVID M. COHEN, 4650
DONALD R. COLBY, 6238
KERRI A. COLE, 2665
ROBERT H. COLE, 4698
EDWARD J. COLEMAN, 1790
ROBERT M. COLEMAN, 9347
MICHAEL L. COLLAT, 0255
STEPHEN J. COLLINS, 0494
*JOSE E. COLON, 7211
JEFFREY R. COLPITTS, 0129
KEVIN E. COLYOTT, 5675
DANNY D. COMEAU, 1650
STEPHEN P. COMEAUX, 3530
MONICA K. CONCHOLAR, 4327
THOMAS J. CONNARE, 5297
JOSEPH P. CONNELL, 2514
DAVID M. CONNER, 4434
KIMERLEE L. CONNER, 7248
LYNN F. CONNETT, 9622
MARK S. CONNOLLY, 5553
EDWARD P. CONROY, 8566
RICHARD H. CONVERSE, 4184
*KATHLEEN A. COOK, 2735
JACK R. COOLEY, 7171
MARY M. COOLEY, 5652
JAMES M. COON, 0686
*TIMOTHY COONS, 0989
CRAIG A. COOPER, 0833
DANE S. COOPER, 5575
GARY L. COOPER, II, 3710
MICHAEL J. COOPER, 1515
HERBERT L. CORK III, 4128
KAREN M. CORRENTE, 0861
BRIAN M. CORRY, 4753
JANELLE E. COSTA, 4922
ROBERT COSTA, 4348
DANIEL S. COSTELLO, JR., 9646
RICHARD M. COTMAN, 7540
JOHN E. COULAHAN, JR., 9866
RONALD C. COURNOYER, 0340
SHANE P. COURVILLE, 5279
RICHARD A. COVENO, 0228
JEFFREY L. COWAN, 9826
STEVEN A. COWLES, 1957
KAREN L. COX, 0694
KEITH M. COX, 7324
RICHARD K. COX, 1469
KENNETH B. CRAIB, JR., 1777
KEVIN L. CRAIG, 8151
PATRICIA M. CRAIG, 2774
GEORGE S. CRAWFORD, 7179
*MICHAEL W. CRAWFORD, 1753
BRET A. CRENWELGE, 5577
JONATHAN A. CRERIE, 2825
RORY C. CREWS, 1443
ROBERT B. CRONE, 4819
DANIEL J. CROSSLEY, 2311
FRANCIS M. CROTTY, 1588
RICHARD T. CROUCH, 9040
JEFFREY L. CROW, 6661
JAMES W. CROWHURST, 8649
MICHAEL E. CROWLEY, 2750
MICHAEL J. CRUPE, 0215
*DALERICK R. CRUVER, 0239
STEVEN R. CSABAI, 8814
EARL F. CULEK, 0668
CHARLES J. CUNNINGHAM, 2371
BRYAN J. CURRIER, 3780
HARMON H. CURRY, JR., 0173
JAMES J. CURTIS, 4066
*DAVID W. CZZOWITZ, 5789
KIMBERLY E. DAEGER, 0422
DANNY P. DAGHER, 8261
DAVID H. DAHL, 7452
MILES D. DAHLBY, 0448
KEITH A. DAHLGREN, 4057
PETER J. DAHLIN, 0868
KEVIN S. DAILEY, 6459
STEPHEN M. DALE, 3731
JOHN V. DALLIN, 6767
STEVEN D. DAMANDA, 5061
PETER DAMICO, 2276
THOMAS E. DANEK, JR., 6371
GARY R. DANIELSON, 2391
WILLIAM B. DANSKINE, 1412
ELISA L. DANTONIO, 5616
LAUREN E. DARE, 2036
MICHAEL J. DARGENIO, 5983
CHARLES W. DARNELL, JR., 5741
TODD S. DART, 3331
STEPHEN M. DASILVA, 1951
KEITH R. DASTUR, 9438
*BARBARA D. DAUERTY, 8334
*MICHAEL H. DAUSEL, 4048
TAYLOR ANDREW A. DAVIDSON, 2234
MARTINEZ KELLIE L. DAVILA, 3236
BRADFORD C. DAVIS, 0578
DANIEL W. DAVIS, 2002
HOWARD C. DAVIS, 9175
JAMES A. DAVIS, 5054
JAMES E. DAVIS, 4460
KATHY B. DAVIS, 8294
KENNETH R. DAVIS, 1220
MICHEAL D. DAVIS, 7441
REGINALD F. DAVIS, 6397
*RICKY A. DAVIS, 4326
ROBERT D. DAVIS, 9247
ROBERT R. DAVIS, 7233
MICHAEL T. DAVISON, 0811
*DENNIS R. DAVOREN, 8659
MARK A. DAWSON, 3353
ROBERT A. DAWSON, 8949
AMY L. DAYTON, 2682
DANIEL R. DEBREE, 1379
KEVIN G. DECKARD, 6026
DOUGLAS D. DECKER, 3279
SCOTT E. DECKER, 6977
JOHN C. DEEMS, 2310
FREDERICK DEFRANZA, 4449
DIANE S. DEGEER, 7294
MONTGOMERY C. DEIHL, 0577
BRADEN P. DELAUDER, 5209
JOHN C. DELBARGA, 9007
*RICHARD B. DELEON, 5530
MARK D. DELONG, 6939
NICHOLAS J. DEMARCO, 0917
WILLIAM C. DEMASO, 3871
BYRON G. DEMBY, 9760
KENNETH M. DEMKOWICZ, 8888
CHARLES E. DENMARK, 6548
JOSEPH B. DENNIS, 7684
*KENNETH A. DENNISON, 4577
RICHARD M. DENTON, 2010
WAYNE M. DESCHENEAU, 4528
ERNEST J. DESIMONE, 7055
ROBERT A. DESTASIO, 8666
DOUGLAS M. DEUITCH, 6826
MICHELE A. DEWERTH, 5253
DAVID L. DEY, 3749
ANGEL A. DIAZ, 0912
ROLANDO DIAZ, JR., 5583
JOEL C. DICKINSON, 8982
CRAIG ALAN DICUS, 1364
QUENTIN J. DIERKS, 0638
MARK S. DIERLAM, 3544
STEVEN D. DIESSNER, 7526
JAMES E. DILLARD, 3963
NORMAN B. DIMOND, 8524
LEVENCHI L. DINGLE, 7104
DONALD J. DISHONG, 7466
*DAVID C. DISIPIO, 8618
RHEA E. DOBSON, 3796
WAYNE S. DOCKERY, 2160
PETER A. DODGE, SR., 5952
CARRIE M. V. DODSON, 6265
PATRICK J. DOHERTY, 4726
MICHAEL J. DOLAN, 5882
JOSEPH S. DOMBROWSKI, 4415
JAMES M. DONNELLY, 4902
RICHARD E. DONNELLY, 9031
JIMMY D. DONOHUE, 1757
PAMELA S. DONOVAN, 3457
STUART L. DORNFELD, 7985
THOMAS R. DOSTER, 2621
PAUL T. DOUBLE, 5296
ANTONIO T. DOUGLAS, 9302
ROBERT A. DOUGLAS, 2152
JOHN C. DOWD, 0869
CONSTANCE A. DOWLER, 8137
DEBORAH A. DOWNES, 0764
ARTHUR L. DOZIER IV, 5013
JAMES K. DRAKE, 0493
JOHN P. DREHER, 3664
WILLIAM D. DRIES, JR., 7894
DANIEL A. DRISCOLL, 3997
MERVIN C. DRISKELL, 7124
VINCENT A. DRODDY, 0887
JOHN F. DROHAN, 7700
DONALD F. DUBOIS, 6312
WAYNE F. DUBOSE, 9750
FRANCIS A. DUCHARME III, 7747
KENNETH E. DUCK, 7263
DONALD P. DUCKETT, JR., 3672
MAHENDER DUDANI, 8853
JOSEPH L. DUDGEON, 0964
JAMES R. DUDLEY, 0876
BRIAN K. DUFFEK, 8325
VALERIE LYNN DUFFY, 4865
STERLING K. DUGGER, 5904
ROBERT T. DUNCAN, 6507
ANDREW G. DUNNAM, 9124
THERESE C. DUNPHY, 3227
DAVID DUQUE, 3105
ERIN B. DURHAM, 4544
PHILLIP T. DUROCHER, 1759
THOMAS G. DUSEK, 8935
STEVEN A. DUTKUS, SR., 4681
DUNCAN A. DVERSDALL, 6888
MICHAEL J. DWYER, 4290
*RICHARD B. EAGIN, 1627
DAVID B. EASLEY, 1753
JAMES DAVID EATON III, 1126
MICHAEL R. EATON, 6051
STANLEY D. EBNER, 2439
JUAN C. ECHEVERRY, 2173
JAMES K. ECK, 4020
BRIAN K. ECKERSON, 4333
STEVEN B. EDINGTON, 0576
JAMES E. EDMONDS, 4217
GLORIA J. EDWARDS, 8387
PHILLIP T. EDWARDS, 2386
MICHAEL E. EFFERSON, 3684
BRAD R. EGGINTON, 7967
ROBERT S. EHLERS, JR., 2788
DAVID G. EHRHARD, 2566
TIMOTHY A. EICHHORN, 3036
MARK H. EICHIN, 9124
JOHN T. EICHNER, 9899
BRAXTON R. EISEL, 7950
LINDA L. EISEL, 9648
GOLDA T. ELDRIDGE, JR., 2095
ERIK H. ELIEL, 3508
GEOFFREY S. ELLAZAR, JR., 1138
RAYMOND A. ELLIOTT, 9422
WILLIAM A. ELLIS, 8669
CARSON A. ELMORE, 5579
KIRK E. EMIG, 2702
*TODD W. ENDERSON, 5654
LEE D. ENEMARK, 9394
*PETER A. ENGELMANN, 3691
SCOTT A. ENOLD, 5730
SCOTT B. ENRIGHT, 7761
MICHAEL A. EOVINE, 4555
JERI A. ERGINKARA, 9794
MARK A. ERICKSON, 1345
SCOTT J. ERICKSON, 6895
BLAINE E. ESCOE, 8633
JERRY ESQUENAZI, 5911
RICHARD E. ESS, 4784
ROBERT P. ESSAD, 5874
*ROBERT E. EUBANKS, 4772
DAVID P. EVANS, 6780
MATTHEW E. EVANS, 4422
TODD R. EVANS, 0062
JOSEPH L. EVERSOLE, 4804
JONATHAN E. FAIR, 4403
ROBERT S. FANEUFF, 8105
JOYCE D. FARAH, 4464
PAUL M. FARKAS, 6075
THOMAS R. FARLEIGH, 7290
RICHARD W. FARNUM, 7964
DAVID L. FARR, 3767
TIMOTHY A. FARRELL, 5541
WILLIAM E. FARRELL, 9497
JEFFREY E. FASON, 1181
ROBERT S. FAULK, JR., 9700
SCOTT A. FAWAZ, 6503
TIMOTHY G. FAY, 5555
THOMAS J. FELDHAUSEN, 6979
RUSSELL D. FELLERS, 9502
JAMES A. FELLOWS, 4316
SCOTT A. FENSTERMAKER, 0650
MICHAEL A. FERRIS, 1608
JOSEPH T. FETSCH, 9457
CHARLES R. FETTERS, 4926
MATTHEW P. FICK, 6109
DIANE C. FICKE, 8652
ROBERT G. FIDDLER, JR., 9489
WILLIAM A. FIEDLER, 3163
VINCENT L. FILIPKOWSKI, 9352
EDWARD M. FINCKE, 9061
CHRISTOPHER E. FINDALL, 1752
MERRILL P. FINK, 2535
*CHARLES E. FIQUETT, 9443
ERIC C. FIRKIN, 6542
BRADLEY J. FISHEL, 4124
JOHN A. FISHER, 1275
TYRON FISHER, 2852
WAYNE A. FISHER, 0714
*WILLIAM D. FISHER, 2696
NATHAN A. FITE, 4492
PHILIP R. FITTANTE, 5947
BRIAN W. FITZGERALD, 6276
FREDRIC S. FITZSIMMONS, 6938
PETER G. FITZSIMMONS, 0744
TIMOTHY C. FLACH, 6086
ROBERT P. FLEISHAUER, 9180
MARGARET N. FLEMING, 2275
KEITH W. FLETCHER, 4841
JOHN D. FLINT, 9856
JAMES A. FLORENCE, 4378
*THOMAS A. FLORING, 1809
JEFFREY J. FLORY, 9840
BERNARD FLOWERS, 2521
MARK T. FLYNN, 1543
GREGORY M. FOLCIK, 8890
MICHAEL J. FOLKERTS, 2016
PAUL E. FOLLETT, 9156
RIVERA JOSE M. FONSECA, 5448
NEAL D. FONTANA, 9125
KEITH K. FORMAN, 9531
ERIC S. FORREST, 1817
CHRISTOPHER E. FORSETH, 1664
ROGER L. FORSYTHE, 0126
JOHN A. FORTE, JR., 8642
JOSEPH C. FORTNEY, 7726
MYRON K. FORTSON, 5086
LAURENT J. FOX, 2833
SCOTT M. FOX, 1944
PAUL R. FRANCIS, 3636
MARK E. FRANCK, 0582
MICHAEL A. FRANCKOWIAK, 7274
MICHAEL R. FRANKEL, 2361
CEPHAS L. FRANKLIN, 7748
BERNADETTE I. FRASER, 5479
DARREN A. FRASER, 5294
ALEXANDER A. FREDERICK, 5955
GERALD A. FREDERICK, JR., 8856
TODD M. FREECE, 2263
RAY A. FREEDLINE, 7786
PHILIP B. FREELS, 9448
THOMAS H. FREEMAN, 7195
JONATHAN FRENCH, 5896
CHRIS T. FROEHLICH, 4388

JAMES A. FROM, 7339
FRANCIS X. FRONCEK, 7266
*JEFFREY L. FRYE, 2316
BRYAN A. KEA FUJIMOTO, 9085
LISA J. FULCHER, 4719
WALTER J. FULDA, 3906
HOLLY M. FUNK, 4576
STACY A.K. FURCINI, 8540
*KENNETH A. FURMAN, 2595
DOUGLAS A. FURST, 2457
ARNOLD FUST, 9913
SARAH R. FUTTERMAN, 7053
GREGORY S. GADDIS, 2646
ELLEN A. GALLAGHER, 5396
JOHN D. GALLOWAY, 6069
ROY D. GARCIA, 1401
ROD R. GARD, 4871
*PAUL R. GARDETTO, 2654
THEODORE E. GARDINER, 8763
KEVIN L. GARDNER, 9165
PETER M. GARDZINA, 0163
STEVEN D. GARLAND, 3523
CHRISTOPHER A. GARRETT, 0690
DAVID S. GARRETT, 9405
JAMES A. GARRETT, 8694
MICHAEL T. GARRICK, 5262
STEPHEN A. GARSTKA, 5621
STEPHANIE A. GASS, 7811
JAMES P. GATES, 8209
KENNETH E. GATES, 2563
WILLIAM B. GAUTIER, 3018
DAVID A. GEESEY, 0710
PAUL A. GEHRED, 8069
ANDREW J. GENCO, 9624
ADAM C. GEORGE, 6147
CEDRIC D. GEORGE, 8811
DAVID L. GEORGE, 0984
LAURA J. GEORGE, 8300
BASIL D. GEORGIADIS, 5522
SCOTT C. GERICKE, 8901
DANIEL W. GERNERT, 5738
PETER E. GERSTEN, 9296
MICHAEL J. GEYSER, 8013
DARREN P. GIBBS, 4201
DAVID J. GIBSON, 3440
THOMAS L. GIBSON, 0824
ALEXANDER V. GICZY, 5393
BERNARD L. GIEGLER, 4807
JEFFREY C. GILLEN, 5938
FRANK M. GILLESPIE, JR., 3091
SHEILA M. GILLIARD, 1607
COLLEEN A. GILMOUR, 6015
ROBERT J. GINGELL II, 0090
GREGG A. GIRTIN, 5803
JANET A. GIRTON, 9420
MARVIN J. GLASS, JR., 4492
DENNIS R. GLEASON, 9242
PAUL D. GLOYD, 5001
*MICHAEL R. GLUECK, 7664
FRANK J. GODSHALL, 0829
JAMES R. GOFF, 3719
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ANDREW L. GOGAN, 1381
JAMES P. GOLDEN, 3734
MACE CLARK GOLDEN, 0007
GARY P. GOLDSTONE, 4043
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DANIEL B. GORDON, 3282
ELAN M. GORDON, 1754
JAMES A. GORDON, 7051
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JOHN C. GORLA, JR., 8594
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TODD W. GOSSETT, 4768
GARY J. GOTTSCHALL, 8678
DAVID C. GOULD II, 6560
KEITH A. GRAHAM, 3637
WILLIAM V. GRAHAM, 5233
DEBRA J. GRAVELLE, 6219
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PETER R. GRAVES, 1874
ROBERT S. GRAVES, 2399
MICHAEL J. GRECO, 7699
PHILIP T. GRECO, 4120
FORREST G. GREEN, 4036
RODNEY F. GREEN, 6028
KIMBERLY K. L. GREENE, 5486
DANIEL A. GREENWOOD, 0718
*BRIAN J. GREER, 4771
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SANDRA M. GREGORY, 5234
GORDON C. GRIFFIN, 5958
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MARY E. GRISWOLD, 3604
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PATRICK J. GRONDIN, 4384
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RONALD L. GROVE, 1682
FUSUN S. K. GRUMBACH, 8493
JOSEPH T. GUASTELLA, JR., 5670
LARRY D. GUDGEL, 4047
PAUL H. GUEMMER, 4554
LAWRENCE R. GUICHARD, 3449
PHILIP W. GUILL, 0302
PHILIP W. GUIMOND, 6786
JON E. GULLETT, 9611
DAVID P. GUNDERSEN, 6691
BRUCE F. GUNN, 7846
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THOMAS W. HALE, 8857
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ROBERT C. HALL, 6684
STEPHEN R. HALL, 9653
TIMOTHY J. HALL, 3433
DAVID R. EDW HALLA, 4850
PAUL M. HALLIDAY, 2234
JAMES A. HALLMAN, 4156
TIMOTHY J. HALLORAN, 9838
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*THOMAS S. HALSTEAD, 8658
MICHAEL J. HAMBY, 0272
*RODNEY D. HAMILTON, 1717
DOUGLAS S. HAMMEN, 0446
LARRY D. HAMMERBECK, 6143
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DANIEL B. HANCOCK, 6071
*WILLIAM P. HANCOCK, 7207
MICHAEL D. HAND, 5406
KERRY D. HANES, 4229
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JAMES M. HANSCOM, 2375
ALLEN D. HANSEN, 7240
ANN E. HANSEN, 7290
DAVID S. HANSEN, 5368
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JAMES W. HARDY, 0567
LESLIE HARGETT, 5538
LORING C. HARKEY, 2531
DOUGLAS H. HARLER, 7017
TIMOTHY W. HARMS, 6437
CHRISTOPHER D. HARNESS, 8039
BRIAN S. HARPER, 3300
CHRISTOPHER P. HARPER, 8215
MARK P. L. HARPER, 2502
SEAN P. HARRINGTON, 8757
ALAN C. HARRIS, 0345
ALLAN D. HARRIS, 3881
JOHN H. HARRIS, 5584
KEITH W. HARRIS, 2672
MARK W. HARRIS, 9393
*MICHAEL O. HARRIS, 8248
MIKE S. HARRIS, 1392
PAUL D. HARRIS, 0242
DOUGLAS L. HARRISON, 5673
*ROBERT H. HARRISON, JR., 1942
SHAWN D. HARRISON, 0598
CURTIS J. HARVEY, 8038
JOSEPH M. HARVEY, 5616
MARK C. HARYSCH, 7869
TIMOTHY A. HASELTINE, 5229
DENNIS E. HASKIN, 0147
SCOTT A. HATFIELD, 7971
CLARENCE E. HAUCK, 2123
ANTHONY L. HAUGRUD, 3824
SCOTT M. HAVERKATE, 2986
DANIEL F. HAWKINS, 8723
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DAVID C. HAYES, 6348
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MICHAEL A. HAZLETT, 7471
*MARION HEARD, 8477
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ANDREW G. HECHT, 7375
JAMES B. HECKER, 2041
MARK E. HEDGEPETH, 4843
PHILLIP R. HEFNER, 0593
DARIN S. HELGESON, 9569
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BRIAN D. HENDERSHOT, 5031
*JOSEPH W. HENDERSON, 7363
BRENT S. HENDRICKS, 7962
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*COLIE T. HENKEL, 8652
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STEVEN W. HERMAN, 4667
AILEEN E. HERMANN, 1374
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TODD R. HERMLING, 6158
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SEAN R. HERR, 4487
CARY A. HERRERA, 0302
MARGARET A. HERRING, 2732
TIMOTHY L. HERSHBERGER, 0762
JEFFREY M. HESS, 1511
ROBERT M. HESSIN, 6081
TERRY J. HESTERMAN, 6368
JAMES R. HETHERINGTON, 0256
TROY D. HEWGLEY, 3005
CAROLYN J. HEYDT, 3534
JOSEPH C. HICKOX, 8444
ALLEN D. HICKS, 1047
MARK S. HICKS, 5943
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JOHN M. HIGGINS, 8881
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*MITCHELL L. HILDEBRAND, 3900
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*GARY W. HILL, 8626
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THOR O. HIMLEY, 6282
CLARK D. HINGA, 5369
ELLWOOD P. HINMAN IV, 1587
LEE C. HINRICHSEN, 9557
FRANKLIN J. HINSON, JR., 6670
ERIC W. HITTMEIER, 1407
DAVID A. HLATKY, 7412
DEREK S. HO, 8270
*ELLIE HO, 6022
DOUGLAS C. HODGE, 3636
*DANIEL M. HODGKISS, 2049
DANIEL J. HODGSON, 7295
DARRYL R. HOFFMAN, 3531
SCOTT B. HOFFMAN, 8258
DEREK R. HOFFNUNG, 7098
MICHAEL W. HOH, 2358
ERIK E. HOIHJELLE, 2335
JOHN J. HOKAJ, 2060
ALEXANDER L. HOLDER, 7537
DALE A. HOLLAND, 9579
DANIEL K. HOLLAND, 3564
BRUCE D. HOLLENBECK, 7430
BLAINE S. HOLMAN, 9770
GILES B. HOLMAN, 5816
BLAINE D. HOLT, 6217
DAVID W. HOLT, 1469
KEITH E. HOLTGREWE, 2927
CARLOS L. HONESTY II, 0497
JEANIE I. HOOD, 9255
PAUL T. HOOD, 5813
GARTH W. HOOPER, 8225
CHRISTOPHER J. HOPE, 4924
RUSSELL H. HOPKINSON, 3613
TODD C. HOPPE, 9171
*ERIC R. HOPWOOD, 4484
STEVEN T. HORMEL, 7712
MICHAEL J. HORNITSCHEK, 7457
ALBERT B. HORNSBY III, 0075
WILLIAM J. HOSTETLER, 7425
RICHARD H. HOUGHTON, 8782
KAREN M. HOUSE, 8230
ANTHONY M. HOUSTON, 0911
*EDDIE R. HOWARD, 2232
KEITH J. HOWARD, 2918
RANDALL L. HOWARD, 3590
ROBERT M. HOWARD III, 1197
GARY P. HOWE, 2072
*CHARLES C. HOWELL, 7924
FARRELL B. HOWELL, JR., 9479
LESLIE D. HOWELL, 9074
SCOTT A. HOWELL, 8759
DENNIS M. HOWRY, 3816
JOHN T. HRUBY, 6611
PETER G. HUDDLE, 4084
KENNETH W. HUDELSTON III, 0832
JAMES F. HUFF, JR., 4637
SUSAN L. HUFFAKER, 5556
SUZANNE C. HUFFMAN, 8659
PETER J. HUGHES, 2820
MARSHALL A. HUGUES, 6504
RUSSELL R. HULA, 4888
SHAWN D. HULLIHEN, 3830
*DAVID R. HULTMAN, 3160
DONALD E. HUME, JR., 8657
LISA J. HUMMLER, 0895
JENNIFER A. HUMMON, 9099
FREDERICK E. HUMPHREY, 1653
ROBERT L. HUNKELER II, 6645
ROBERT P. HUNT, JR., 8894
TERRY E. HUNTER, 7179
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JOHNNY R. HUSAK, 8576
ROBERT E. HUTCHENS, 5912
BRONWYN S. HUTCHINS, 9246
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EDWARD L. ICENHOUR, 6177
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GARY K. INGHAM, 1939
ALLEN B. INGLE, 4055
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*PARLEY V. IPSON, 1485
JON C. IVERSON, 0543
HERBERT E. JACKSON, JR., 1037
JACQUELINE R. JACKSON, 2612
THOMAS E. JACKSON, 7071
TRACY E. JACKSON, 1553
YOLANDA JACKSON, 2892
DOUGLAS J. JAMES, 2914
SCOTT E. JAMES, 3497
MARC S. JAMISON, 4677
STEVEN J. JANECZKO, 8571
STEPHEN I.R. JANKELSON, 0155
SHAWN J. JANSEN, 9041
*CLARENCE E. JANSON, 3051
DOUGLAS L. JANTZEN, 4904
JOSEPH MICHAEL JANUKATYS, 4505
DOUGLAS W. JAQUISH, 0439
CHARLENE D. JEFFERSON, 5373
DEREK A. JEFFRIES, 5806
DANIEL K. JENKINS, 4512
WILLIAM K. JENKINS, 8445
JIM E. JENNINGS, 6989
DAVID L. JENSEN, 3305
JAY D. JENSEN, 1683
KERI L. JENSEN, 1538

LANCE S. JENSEN, 4325
ANDREW P. JESELSON, 8956
CURTIS E. JOHANSON, 1695
BRADLEY T. JOHNS, 1504
BARRY K. JOHNSON, 9225
BRIAN D. JOHNSON, 6265
BRYAN T. JOHNSON, 5194
DARRYL W. JOHNSON, 6759
DOUGLAS B. JOHNSON, 8281
GREGORY C. JOHNSON, 6103
JAMES C. JOHNSON, 0140
*JAMES S. JOHNSON, 2403
JEFFERY A. JOHNSON, 6018
KIRK P. JOHNSON, 0542
KURT R. JOHNSON, 1697
MARK K. JOHNSON, 2107
MICHAEL W. JOHNSON, 4711
ORESTE M. JOHNSON, 3339
PETER R. JOHNSON, 3562
RONALD S. JOHNSON, 0907
TATE A. JOHNSON, 3586
*TODD S. JOHNSTON, 5375
ALAIN L.M. JONES, 3383
GREGORY C. JONES, 6151
ISAAC O. JONES, JR., 7823
JAMES R. JONES, JR., 2123
TONISH E. JONES, 5775
TRACY A. JONES, 7156
JACQUELINE R. JONESAMOS, 9774
ERIC A. JORDAN, 7889
DONALD S. JORGENSEN, 7740
ERIC A. JORGENSEN, 4068
RICHARD J. JORGENSEN, 8888
KEVIN D. JOST, 2568
WILLIAM E. JOY, 5489
MICHAEL S. JOYAL, 8312
JULIE E. JOYCE, 6919
DAVID L. JUDSON, JR., 9753
EMIL B. KABBAN, 5686
STEVEN T. KAEGI, 8145
EDWIN W. KALER III, 4970
CHRISTOPHER M. KALIVODA, 9474
JEFFREY K. KAMASAKI, 0592
PHYLLIS L. KAMPMEYER, 3726
DAVID H. KANESHIRO, 4861
SAMUEL S. KANG, 6871
ROSS A. KANTRA, 1706
RUSTAM KARMALI, 8439
JOSEPH C. KATUZIENSKI, 3636
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CHRISTOPHER J. KAUFMAN, 9795
PAMELA J. KAUFMAN, 8530
THOMAS J. KAUTH, 5714
SEAN E. KAVANAGH, 3937
CHARLES B. KEARNEY III, 0607
JOSEPH C. KEELON, 7322
SUSAN B. KEFFER, 7435
*KIRK L. KEHRLEY, 5324
ROBERT B. KELLAS, 9251
STEPHEN L. KELLER, 2353
JOHN J. KELLEY, 6373
KEVIN J. KELLY, 9008
RANDAL G. KELLY, 8613
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MICHAEL R. KENEMUTH, 9905
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JONATHAN P. KENNEDY, 5875
SEAN L. KENNEDY, 8698
THOMAS J. KENNETT, 7216
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GREGORY J. KERN, 2192
JEFFREY D. KERSTEN, 4275
DOUGLAS J. KIESER, 7372
JOHN F. JOS. KIESLER, 0861
RICHARD E. KILLMEYER, 0424
WILLIAM J. KILROY, 1300
JOHN A. KIMBALL III, 9990
HANS M. KIMM, 0942
SCOTT A. KINDSVATER, 2670
JACK E. KING, JR., 2052
JAMES R. KING, JR., 7613
LEMUEL L. KING, 1078
SCOTT D. KING, 3650
MARK J. KINNEY, 2145
NEDIM KIRIMCA, 2052
DONALD E. KIRKLAND, 8446
BRIAN W. KIRKWOOD, 3039
ROBERT S. KITOWSKI, 5091
KENNETH S. KLEIN, 7323
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THOMAS R. KLETT, 5291
ANDREA J. KLINE, 3154
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FREDERICK M. KMIECIK, 8749
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KEVIN J. KNECHT, 2633
ANTONE A. KNETTER, 7274
TAMMY M. KNIERIM, 6386
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JEFFRY D. KNIPPEL, 3035
JOEL E. KNISELY, 7912
RICHARD L. KNOTT, 6911
MICHAEL R. KOBOLD, 7550
TAMI L. KOBOLD, 3001
JEFFREY A. KOCH, 8892
STEVEN M. KOKORA, 2283
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DANIEL P. KOLOTA, 2667
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ANNE M. KONNATH, 9625
MONICA KOPF, 7160
MICHAEL W. KOPFER, 7556
KEVIN H. KOPPENHAVER, 0194
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JAMES M. KORMANIK, 4744
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TODD J. KRAMBEER, 6013
EDWARD R. KRAMER, 3190
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RICHARD D. KRASNER, 1049
SCOTT A. KRAUSE, 2681
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WESLEY D. KREMER, 9303
DENNIS L. KREPP, 3051
ERIC J. KREUL, 6621
DAVID R. KROEGER, 7015
JEFFREY B. KROMER, 9646
JEROME A. KRUEGER, 4558
*ANDREA R. KRULL, 5730
PAUL M. KUCHAREK, 7615
*KENNETH L. KUEKER, 0527
DIANA L. KUHN, 1511
CHRISTOPHER T. KUKLINSKI, 2921
PATRICK T. KUMASHIRO, 6814
LYNDEN C. KUNZ, 4953
FRANK J. KUSKA, 9097
EDGAR J. LABENNE, 2645
ROBERT D. LABRUTTA, 8291
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DEO A. LACHMAN, 6846
KENNETH E. LACY, 4047
PHILIP D. LADD, 2297
MARK D. LAFOND, 9156
JOEL T. LAGASSE, 0313
JAMES C. LAIBLE, 5294
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RICHARD S. LAMARRE, 7976
JEFFREY A. LAMB, 3366
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STEPHEN C. LAMB, 1090
BRUCE A. LAMBERT, 3523
EDWARD L. LAMBORN, 3632
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JAMES A. LANCE, 9140
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MARK G. LANGENDERFER, 6504
ROBERT A. LANGHILL, 2926
*RANDALL L. LANGSTEN, 8537
CARL J. LANIER, II, 5288
CHERYL L. LANKE, 0216
JOSEPH LANZETTA, 3687
PATIENCE C. LARKIN, 7886
MARK H. LARSEN, 1281
WAYNE A. LARSEN, 0520
BRIAN M. LARSON, 9986
WENDY M. LARSON, 4872
JOSEPH M. LASK, 4618
HANS C. LAUDERBACH, 4845
*LANA T. LAURINO, 8279
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JUDITH A. LAW, 2279
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STEVEN E. LAWRENCE, 6798
GLEN K. LAWSON, 3357
RANDOLPH S. LAWSON, 8899
RICHARD E. LEATHERMAN, 2796
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JON P. LEE, 9887
RONALD L. LEE, 3285
STEVEN W. LEGRAND, 4503
WILLIAM S LEISTER, 6588
BODEN J. LEMAY, 2166
HELEN M. LENTO, 0792
*MICHAEL E. LEPCHENSKE, 8913
PATRICIA A. LESLIE, 0534
JOSEPH A. LESS, 4938
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MARK P. LEWANDOWSKI, 3175
CHRISTOPHER N. LEWIS, 7439
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WILLIAM K. LEWIS, 2155
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ROBERT C. LIGHTNER, 7394
MARK D. LILLY, 0063
ROBERT P. LINARES, 1782
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JEFFREY S. LINN, 6927
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JACK R. LOCKHART, 7164
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*MARIANNE LONG, 8789
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MICHAEL C. LONG, 5671
SCOTT C. LONG, 6902
PATRICK J. LORZING, 0252
*SARA L. LOUGHRAN, 3852
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WAYNE R. LOVELESS, 5709
TODD A. LOVELL, 0898
STEVEN S. LOVING, 0633
MICHAEL G. LOWRY, 4713
MARK C. LUCHS, 4632
CHRISTOPHER J. LUEDTKE, 2182
PAUL C. LUETKEMEYER, 8551
JOSEPH G. LUKOWSKI, 1608
STUART A. LUM, 0642
*TRACY B. LUNT, 9258
TERRENCE E. LUTHER, 2275
THOMAS J. LYGA, 1344
*EDWARD R. LYLE, 5852
MANBOI P. MA, 9984
MICHAEL P. MAAG, 3119
ROBERT P. MACDONALD, 6790
MATTHEW M.D. MACE, 3945
JEFFREY MACEACHRON, 9686
JAMES L. MACFARLANE, 2041
RUSSELL L. MACK, 9538
DAVID R. MACKENZIE, 1789
MARK J. MACLEAN, 6017
MARY E. MACLEOD, 8286
VINCENT MADRID, 5736
ERIC P. MAGEE, 8685
DAVID L. MAHER, 9121
RONALD L MAHN, 6273
DEIRDRE A. MAHON, 4842
*MICHAEL D. MAHONEY, 3828
CHARLES K. MAKEKAU, 1790
JEFFREY MALCOLM, 2336
ANGEL M. MALDONADO, 0443
VICTOR L. MALLOY, 6922
*MICHAEL L. MALONE, 4887
MICHAEL N. MALOY, 8556
BRYAN S. MANES, 2093
BRENDA P. MANGENTE, 3207
THOMAS W. MANION, 2937
JENNIFER L. MANN, 7506
ROBERT W. MANN, 2024
TIMOTHY J. MANNING, 0753
CHAD T. MANSKE, 0037
PETER J. MANTHEY, 3610
GENE D. MAPLES, JR., 4919
*STEVEN F. MARBLE, 1386
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FRED H. MARHEINE, JR., 8885
THOMAS A. MARKLAND, 8287
JOHN M. MARKLE, 0026
PETER A. MARKLE, 9522
BRENT P. MARKOWSKI, 5978
JOHN P. MARKS, 9302
THOMAS ANTHONY MAROCCHINI, 7386
ROBERT A. MARRAZZO, 6355
ALLEN M. MARSHALL, JR., 0115
DAVID I. MARSHALL, 5308
JAMES A. MARSHALL, 2055
CHRISTOPHER S. MARTIN, 4887
MANUEL D. MARTIN, 8455
MICHAEL M. MARTIN, 1108
ROBERT S. MARTIN, 2283
*SAMUEL B. MARTIN, 4929
*STEVEN G. MARTIN, 4953
RAMIRO MARTINEZ, 9493
DAVID A. MARTINSON, 5968
DAVID W. MARTTALA, 2020
MARK S. MARYAK, 7264
MICHAEL A. MARZEC, 1796
STEVEN G. MAS, 0085
SCOTT M. MASER, 3110
RODNEY M. MASON, 5837
GRIFFITH S. MASSEY, 1370
LIA MASTRONARDI, 7945
BYRON P. MATHEWSON, 5532
TIMOTHY J. MATSON, 7298
MARK J. MATSUSHIMA, 5628
VAN E. MATTHEWS, 8782
RICHARD W. MATTON, JR., 6969
RANDY A. MAULDIN, 1078
*STEVEN P. MAUS, 0639
RANDALL T. MAXFIELD, 1933
HAROLD J. MCALDUFF, 2020
ROBERT S. MCALLUM, 2108
PAUL J. MCANENY, 4568
BRETT W. MCCANN, 7615
GREGORY S. MCCARTHY, 9967
PAUL MCCARTHY, 0945
THOMAS C. MCCLOSKEY, 6479
JEFFREY C. MCCONIE, 0266
*RICHARD I. MCCOOL, 8275
MEGAN MCCORMICK, 5119
*RANDALL E. MCCORMICK, 9443
WILLIAM B. MCCORMICK, 1377
DOUGLAS P. MCCOSH, 0045
TODD G. MCCREADY, 1206
JANI L. MCCREARY, 1014
ROBERT A. MCCRORY, JR., 1885
ERICK D. MCCROSKEY, 2094
TODD J. MCCUBBIN, 5805
MARK C. MCCULLOHS, 7028
BRIAN F. MCDERMOTT, 4022
*CHRISTOPHER C. MCDONALD, 9763
DANIEL J. MCDONALD, 4065
RICHARD L. MCDONALD, JR., 0384
ROBERT D. MCDONALD, 7636
JOHN P. MCDONNELL, 6652
JOSEPH P. MCDONNELL, 0188
PAUL J. MCDOWELL, 8271
KEVIN J. MCELROY, 4854
DAVID V. MCELVEEN, 9288
JAMES A. MCGANN, 7079
JENNIFER A. MCGARVA, 8690

MICHAEL P. MCGEE, 9765
JAMES R. MCGINN, 5015
MILES L. MCGINNIS, 4621
JAMES J. MCGOVERN, 2902
THOMAS R. MCGRAW, 8383
MICHAEL T. MCGUIRE, 6797
WILLIAM P. MCHUGH, 0199
ROBERT E. MCKEAND, 1594
SCOTT J. MCKENZIE, 0038
SHARON R. MCKENZIE, 9442
SCOTT E. MCKINNEY, 7655
MARTIN G. MCKINNON, 7931
MICHAEL T. MCLAUGHLIN, 0005
MARK A. MCLEAN, 0924
PATRICK K. MCLEOD, 5772
CATHERINE G. MCLOUD, 2137
NAOMI P. MCMILLAN, 3802
STEVEN D. MCNEELY, 3746
WILLIAM A. MCNEILL, 5035
ROSS T. MCNUTT, 4830
SHAWN K. MECHAM, 1921
TRACEY M. MECK, 3967
THOMAS C. MEDARA, 5949
RONALD S. MEDLEY, 0946
MICHAEL J. MEE, 2468
RACHEL M. MEEK, 0239
DONALD S. MEEKER, 4096
RONALD L. MELE, 4039
PABLO F. MELENDEZ, 9723
WILLIAM W. MELLING, 9632
EDWARD C. MELTON III, 1212
JAMES A. MELVIN, 1755
ROBERT C. MENARD, 8402
ROBERT K. MENDENHALL, 8463
TERRY L. MENELEY, 0819
WILLIAM E. MENGERS, 4975
BARBARA J. MERCER, 8455
KENNETH G. MERKEL II, 1747
LAURENCE D. MERKLE, 3698
*DAVID S. MERRIFIELD, 8136
JOHN E. MESKEL, 7591
MICHAEL S. METRUCK, 4707
JEFFREY D. METZ, 8579
TAL W. METZGAR, 1630
ALAN R. METZLER, 4695
DAVID J. MEYER, 4063
MARK A. MEYER, 9557
RUSSELL W. MEYER, 7819
JEFFREY W. MEYERS, 4889
DOUGLAS T. MICHEL, 6028
THOMAS L. MICK, 2596
RAYMONE G. MIJARES, 4928
GALEN W. MILLARD, 2788
RICHARD P. MILLARD, 1083
DAVID A. MILLER, 4772
*EDWARD J. MILLER, 0886
KEITH S. MILLER, 6246
MICHAEL A. MILLER, 6428
MICHAEL J. MILLER, 3976
MICHAEL J. MILLER, 1697
MICHELLE C. MILLER, 3524
RICHARD R. MILLER, 0484
SCOTT R. MILLER, 0239
STEPHEN R. MILLER, 5205
TERRY R. MILLER, 5729
THOMAS E. MILLER, 4624
HUNTER H. MILLS, 0863
PATRICK G. MINTO, 8385
VINCENT J. MIRABITO, 6463
BRIAN K. MISIAK, 1488
SARAH L. MISIAK, 7038
MICHAEL MISTRETTA, JR., 9053
DONNA A. MITCHELL, 7879
MICHELE RM. MITCHELL, 7967
THOMAS L. MITCHELL, JR., 6001
*LEONARD A. MITCHNER, 7798
CRAIG S. MITTELSTADT, 3541
*ADAM M. MLOT, 3907
NORMAN R. MODLIN, 5514
PHILLIP M. MOESSNER, 1691
*PHILIP T. MOHACSI, 9330
STEPHEN P. MOLLICK, 3219
ROBERT M. MONARCH, 7086
RAFFAELE A. MONETTI, 9036
ANTHONY D. MONINSKI, 6557
KIRK A. MONTGOMERY, 6813
NOEL D. MONTGOMERY, 1417
RICHARD A. MOON, 9770
CAROLYN A. MOORE, 4561
CHARLES L. MOORE, JR., 5200
ELLEN M. MOORE, 0584
KENNETH R. MOORE, 3442
MICHAEL S. MOORE, 0449
STUART S. MOORE, 6245
HIRAM A. MORALES, JR., 9148
HUMBERTO E. MORALES, 7228
MICHAEL JOHN MORAN, 6325
PATRICK X. MORDENTE, 7087
ERIC MORGAN, 3158
STEVEN E. MORLEY, 9362
CHRISTINA M. MORRIS, 3305
MANSON O. MORRIS, 6678
MARK R. MORRIS, 1178
MICHAEL J. MORRIS, 8388
SHAUN Q. MORRIS, 5056
GREGORY J. MORRISON, 7436
MATTHEW H. MORROW, 2895
PATRICK L. MORROW, 0799
CHARLES C. MORSE, 2583
ROBERT M. MORSE, 5545
*SAMUEL P. MORTHLAND, 4139
LISA C. MOSHIER, 8784
EUGENE B. MOTY, JR., 3011
SEAN MOULTON, 1534
RICHARD S. MOUNTAIN, 5735
ANDRE J. MOUTON, 0556
THOMAS S. MOWLE, 5138
PAMELA A. MOXLEY, 9940
MARY E. MOYNIHAN, 0870
WALTER C. MOYNIHAN, 4344
STEVEN A. MOZEL, 0664
*RUSTY W. MUELLER, 5930
AMANDA K. MULLINS, 7965
JAMES A. MULLINS, 3301
KEVIN W. MUNDORFF, 7577
ANTHONY J. MURCH, 6418
KENNETH R. MURPHY, 4615
*MAUREEN C. MURPHY, 3230
MICHAEL L. MURPHY, 2496
PAUL R. MURPHY, 4739
JUDIANNA MURRAY, 7831
KEVIN R. MURRAY, 0152
ROGER S. MURRAY, 7148
SCOTT F. MURRAY, 1454
SCOTT L. MUSSER, 8853
CHARLES H. MYERS, 1302
GREGORY A. MYERS, 7627
LYNDA D. MYERS, 3073
ROBERT M. MYERS, JR., 5092
RUSSELL S. MYERS, 8707
DAVID W. MYHRE, JR., 1215
WILLIAM A. NACE, 9591
MICHAEL F. NAHORNIAK, 5890
TIMOTHY P. NALEWAIK, 1770
DOUGLAS R. NARMOUR, 0479
KENNETH E. NEALY, 6530
KIRK M. NEIL, 0459
JEFFREY A. NEILSON, 0477
*DANA J. NELSON, 3693
ERIC S. NELSON, 7884
JAMES G. NELSON, 2033
KIM M. NELSON, 3499
LOWELL A. NELSON, 3279
MARTIN H. NELSON, 9055
RICHARD G. NELSON, 6504
RICHARD S. NELSON, 2620
SAMUEL F. NELSON, 4868
*TIMOTHY D. NELSON, 5061
WILLIAM D. NEUENSWANDER, 5527
BRIAN D. NEUMANN, 2903
TIMOTHY P. NEWMAN, 3044
*TIMOTHY A. NEYLON, 9432
DON F. NICHOLS, 0492
WILLIAM S. NICHOLS, 1828
*GLENN W. NICHOLSON, 1486
GREGORY W. NICODEMUS, 3718
STEVEN R. NIELSEN, 0862
LUCIAN L. NIEMEYER II, 4404
WILLIAM H. NOBLE, 6991
SALMAN M. NODJOMIAN, 7434
CRAIG W. NORDLIE, 3034
PAMELA J. NORKAITIS, 1770
DIAN L. NORRIS, 0877
ROGER K. NORRIS, 3213
PARKER W. NORTHRUP III, 8767
MICHAEL J. NOVOTNY, 0392
MICHAEL A. NOWACZYK, 8808
RONALD T. NOWALK, 9217
MICHAEL J. NUTTER, 9934
BARTON C. OAKS, 4818
MARY F. O'BRIEN, 6916
BRUCE E. O'CAIN, 2063
DANIEL J. O'CONNOR, 4119
STEPHEN D. O'CONNOR, 4385
JOHN S. OECHSLE, 1128
PETER R. OERTEL, 7807
MICHAEL W. OLDENKAMP, 6889
DANIEL R. O'LEARY, 6426
JEFFREY G. OLESEN, 4210
STEPHEN W. OLIVER, JR., 3787
TODD R. OLIVER, 0818
STEVEN A. OLMOS, 4168
DELBERT ROMAN OLMSCHEID, 4481
KENNETH M. OLSEN, 7023
RICHARD C. OLSON, 5914
RAYMOND P. O'MARA, 0893
BARBARA M. OMSTEAD, 6742
JIMMIE L. O'NEAL, JR., 4937
MARK S. OORDT, 2790
DAVID OPPEDISANO, 7844
*DANIEL D. OSBORNE, 1106
ALAN P. OSTENBERG, 8395
STEPHAN K. OTTO, 4592
BRIAN A. OUELLETTE, 5979
ALISON L. OVERBAY, 0492
BRETT L. OWENS, 1517
WILLIAM B. OWENS, JR., 6320
VINCENT A. PACELLA, JR., 7461
LAYNE B. PACKER, 0351
LYNN D. PAGE, 4287
JOHN M. PALMER, JR., 1461
ELIZABETH A. PANGRAC, 6793
KEITH J. PANNABECKER, 2944
TROY W. PANNEBECKER, 9818
DANIEL J. PARENT, 8928
ANN MARIE PARKER, 8806
JAMES T. PARKER, 8068
*JEFFREY A. PARKER, 1849
JOHN L. PARKER, 9911
THOMAS G. PARKER, JR., 8393
KEVIN D. PARR, 6849
DALE P. PARTRIDGE, 4737
JOHN C. PASCHALL, 7285
PHILLIP G. PATE, 2994
RONALD J. PATRICK, 7213
JOHN T. PATRICOLA, 3134
MARK ALLAN PATTERSON, 0821
DOUGLAS J. PATTON, 8252
SAMUEL PAYAN, 6258
ERIC J. PAYNE, 5044
VALERIE S. PAYNE, 4787
RICHARD E. PEARCY, 6166
FRANK C. PEARSON II, 7848
KENNETH G. PEARSON, 7400
BRIAN G. PECK, 4265
SANDRA S. PEDERSON, 1416
MICHAEL E. PEET, 0708
CHRISTOPHER J. PEHRSON, 1752
*PAUL C. PEKAREK, 9687
SANDERS DARLENE PELLETIER, 3028
MICHAEL W. PENLAND, 3146
GREGORY S. PENNING, 9591
WALLACE A. PENNINGTON, 3916
RONALD L. PERRILLOUX, 7573
MONTY R. PERRY, 4542
PATRICK J. PETERS, 5361
MICHAEL E. PETERSON, 5458
ERIC L. PETSCH, 8686
DEAN E. PFAB, 7022
TIMOTHY J. PFEIFER, 0074
BRIAN J. PFEIFFER, 2277
TRACY G. PHELPS, 1656
ALTON P. PHILLIPS, 4980
BRISON B. PHILLIPS, 7851
DANIEL B. PHILLIPS, 1510
DARCI J. PHILLIPS, 4006
MARK R. PHILLIPS, 9580
MATTHEW T. PHILLIPS, 1162
MICHAEL K. PHILLIPS, 7944
BRYANT D. PHILP, 1040
TRENT A. PICKERING, 5527
KIRK S. PIERCE, 6117
MICHAEL J. PIERCE, 8645
RICHARD G. PIERCE, 5173
ROGER S. PIERCE, 6278
SCOTT D. PIERCE, 3595
BLAKE C. PIERSON, 8445
CHARLENE A. PIERSONLASSITER, 5824
RICHARD A. PINGREY, 5794
CHRISTOPHER D. PIRKL, 5491
MICHAEL S. PITTS, 7760
DANIEL J. PIXLEY, 7844
CHRISTOPHER E. PLAMP, 2277
MATTHEW L. PLASS, 0629
FRANZ M. PLESCHA, 0289
SCOTT L. PLEUS, 0750
JOHN EDWARD POAST III, 3465
DANIEL J. POLAHAR, JR., 3537
BRENT G. POLGLASE, 0916
SUSAN L. POLLMAN, 6835
ADRIAN C. PONE, 5205
ALEJANDRO R. PONTAOE, JR., 8700
DAVID L. POOLE, JR., 3553
LAURA R. POPE, 8974
RONALD E. PORTE, 1135
TODD J. POSPISIL, 9801
*KENNETH S. POST, 8635
CARLOS POVEDA, 7729
DANA POWELL, 4056
GLENN E. POWELL, JR., 7141
MARK W. POWER, 2420
SCOTT A. POWERS, 5616
JOHN C. PRATER, 1630
PHILLIP R.J. PRATZNER, 0456
JOHN B. PRECHTEL, 1839
LANCE S. PRESS, 1192
TIMOTHY P. PRESS, 1666
DAVID L. PRESTON, 6587
ARTHUR C. PRICE, 9761
JEFFREY K. PRICE, 3543
JODY A. PRICE, 0176
LARRY G. PRICE, 6356
ROBERT J. PROVOST, 0842
HELEN PRUITT, 2831
JEFFREY N. PRUITT, 4342
SHARON K. PRUITT, 8809
CHRISTOPHER E. PRUSAK, 9398
JAMES A. PRYOR, 4693
JEANNA L. PRYOR, 4312
CLIFFORD T. PUCKETT, 7394
*MICHAEL W. PUFFENBARGER, 8939
MARY M. PULLIAM, 6626
HOWARD P. PURCELL, 2322
ALDON E. PURDHAM, JR., 4389
JOHN R. QUATTRONE, 8428
STEVEN P. QUIGLEY, 3545
MARY L. QUINT, 3949
ROGER ARLANTICO QUINTO, 8412
RAYMOND S. SM RABANO, 8980
NICK P. RADOVCICH, 1011
DAVID J. RAGGIO, 8270
*GEORGE R. RAIHALA, 8182
KIMBERLEY A. RAMOS, 2985
STEVEN A. RANALLI, 4519
PAMELA J. RANDALL, 4873
WESLEY S. RANDALL, 4898
*DEAN J. RASDALL, 4489
THOMAS F. RATHBUN, 7124
GLENN R. RATTELL, 9092
JOHN T. RAUCH, JR., 4156
JAMES A. RAULERSON, 8503
RONALD M. RAWLINGS, 7640
*DAVID G. RAY, 9838
STEPHEN A. RAY, 1087
RICHARD M. REDDECLIFF, 5222
DON L. REDFORD, 2310

STEPHEN D. REDMOND, 7156
MICHAEL D. REED, 8073
RICHARD N. REED, 4687
TIMOTHY S. REED, 0756
DONALD REESE, 6330
MARC E. REESE, 4925
WILLIAM A. REESE, 4486
MARTIN D. REGISTER, 4643
DANIEL S. REIFSCHNEIDER, 8996
ROBERT W. REIMAN, 1539
PAUL E. REIMERS, 5949
CHRISTOPHER E. RENNER, 5546
ROBERT A. RENNER, 5527
ROBERT P. REPASS, 9528
ELONZO D. REYES, 4821
DALE D. REYNOLDS, JR., 5878
NELSON J. REYNOLDS, 9340
MARK A. RHONEMUS, 8479
ROBERT L. RHYNE, 2960
LANCE G. RIBORDY, 4632
ARTHUR E. RICE, 1237
CARLOS F. RICE, 8408
LAURENCE H. RICE, JR., 0777
TIMOTHY S. RICE, 5997
JOHN C. RICHARD, 2026
LONDON S. RICHARD, 0137
ROBERT S. RICHARDS, 3975
*ALTON R. RICHARDSON, 2151
DUKE Z. RICHARDSON, 1509
LISA D. RICHTER, 6468
VICTOR L. RICK, 2063
TIMOTHY L. RILEY, 1664
ANTHONY P. RING, 7919
WAYNE M. RINGELBERG, 2639
LLOYD E. RINGGOLD, JR., 8850
RICHARD J. RINI, 0612
TIMOTHY M. RIORDAN, 9601
PAUL M. RITCHIE, 1973
CYNTHIA M. RIVERAPRESTGARD, 0938
JOHN D. ROACH, 7189
KEVIN J. ROBBINS, 2879
MICHAEL G. ROBBINS, 5776
DAVID W. ROBERTS, 0779
*GERALD V. ROBERTS, 7086
GLENN E. ROBERTS, 6854
GREGORY D. ROBERTS, 4996
JEFFREY W. ROBERTS, 5834
LESTER N. ROBERTS, 3361
RICHARD G. ROBERTS, 9035
DOUGLAS A. ROBERTSON, 0052
RANDY K. ROBERTSON, 3991
AARON N. ROBINSON, 4336
BRIAN S. ROBINSON, 2656
BRYAN K. ROBINSON, 7743
CHRISTOPHER S. ROBINSON, 3062
JAMES H. ROCKHILL, 2577
TIMOTHY J. ROCKWELL, 1403
VENANCIO RODARTE, JR., 8515
RONALD K. ROESEBERG, 1750
RAYMOND E. ROESSLER, 7109
GEORGE M. ROGERS, 9303
HAROLD E. ROGERS, JR., 4495
JOSEPH S. ROGERS, 5351
KENNETH H. ROGERS, 8982
MARK D. ROGERS, 0262
PAUL J. ROGERSON, 4625
PETER C. ROLLER, 7318
WILLIAM H. RONES, JR., 7719
KRIS G. RONGONE, 6622
JENNIFER L. ROOKE, 3411
DARLENE M. ROQUEMORE, 5138
LUIS E. ROSABERRIOS, 9394
ORLANDO ROSADO, 4302
STEVEN V. ROSE, 3543
DEAN E. ROSENQUIST, 1774
DAVID A. ROSS, 8807
DONALD W. ROSS, 3730
WILLIAM G. ROSS, 3357
KURT S. ROSSELIT, 9979
JOSEPH W. ROTH, 9135
ROBERT W. ROTH, 0116
JAMES A. ROTHENFLUE, 5343
STEPHEN D. ROTTA, 0293
WILLIAM G. ROUTT, 9932
RANDALL S. ROWE, 7972
*RANDY J. ROWE, 2307
WILLIAM H. RUDD III, 1123
DON A. RUFFIN, 9461
STEVEN A. RUGG, 0030
JEFFREY N. RUMRILL, 0661
BRADFORD L. RUPERT, 6106
MARK A. RUSE, 4188
BARBARA J. RUSNAK, 8197
MICHAEL J. RUSSEL, 6778
DAVID L. RUSSELL II, 0658
GRANT G. RUTLIN, 1167
JOHN D. RYAN, 3720
RONALD G. RYDER, 7604
DAVID M. RYER, 5679
CHRISTOPHER J. SABO, 6676
PER I. SAELID, 9811
KATHLEEN C. SAKURA, 3872
ARLENE L. SALMON, 8223
DAVID G. SALOMON, 4588
ROBERT J. SALSBERRY, 9020
MICHAEL J. SALYARDS, 5359
JOHN R. SAMMARTINO, 5126
JOE M. SANCHEZ, 0470
WILLIAM G. SANDERS, 4789
DERREK D. SANKS, 0715
JOHN A. SANTANIELLO, 8494
DEXTER M. SAPINOSO, 0017
DIANE W. SARTORI, 4618
CATHERINE J. SAUCHUK, 4294
SCOTT H. SAUL, 2208
ROBERT K. SAUNDERS, 1981
SCOTT A. SAVOIE, 6112
BARBARA L. SAWYER, 6990
THOMAS R. SAXON, 2526
FRANK W. SCHADDELEE, 3825
THOMAS P. SCHADEGG, 6404
GREGORY SCHAELLING, 8530
GEORGE P. SCHAUB, 7384
DONALD M. SCHAUBER, JR., 9046
CAMERON J. SCHEEL, 0265
GEORGE E. SCHERZER, JR., 2257
STEPHEN B. J. SCHIFANI, 9253
JON SCHILDER, 6935
ANDREW J. SCHLACHTER, 6663
SCOTT H. SCHLIEPER, 2143
DANIEL M. SCHMIDT, 1473
JOHN J. SCHMITT, JR., 4603
LAWRENCE J. SCHMITT, 5242
JAMES C. SCHNEIDER, 5935
KIRK A. SCHNEIDER, 5984
JEFFREY R. SCHOLLMEYER, 5932
RICHARD L. SCHOONMAKER, 6074
DAVID M. SCHROEDER, 4364
PHIL J. SCHROEDER, 0830
RICK E. SCHROEDER, 0748
JOEL J. SCHUBBE, 0285
PAUL F. SCHULTZ, 0400
WILLIAM F. SCHUPP, JR., 4018
JAMES B. SCHUSTER, 6180
GREGORY J. SCHWARTZ, 9940
MARK F. SCHWARZ, 1534
DAVID A. SCHWARZE, 7738
CHRIS H. SCHWEINSBERG, 8219
SHANE P. SCOGGINS, 7911
BRYON L. SCOTT, 1835
JEFFERY C. SCOTT, 2083
SHELIA P. SCOTT, 2739
BRETT H. SCUDDER, 1382
KURT A. SEARFOSS, 7798
SCOTT D. SEAVERS, 3496
KENNETH D. SEBEK, 3728
BARRE R. SEGUIN, 2391
JAMES P. SELADIS, 2258
KERRY W. SELF, 2850
DAVID K. SELLARS III, 6666
SCOTT E. SENTER, 7898
KENNETH C. SERSUN, 6992
SHAWN P. SHANLEY, 1885
SCOTT D. SHAPIRO, 7033
JOHN S. SHAPLAND, 7996
GRANT M. SHARP, 6910
MARC S. SHAVER, 5573
ANTHONY C. SHAW, 4425
WAYNE K. SHAW, 0105
WAYNE L. SHAW III, 3144
ALAN C. SHEASLEY, 4364
WILLIAM K. SHEDD, 6154
*SCOTT C. G. SHEPARD, 5025
GLEN A. SHEPHERD, 4908
ROBERT HARDING SHEPHERD, 3409
JEFFREY A. SHEPPARD, 1018
DANIEL J. SHERIDAN, 0907
BRADLEY D. SHERLOCK, 4952
CYNTHIA A. SHEWELL, 5431
LEE D. SHIBLEY, 2465
JOHN R. SHIELDS, 7614
DAVID K. SHINTAKU, 5954
DAVID H. SHIPLEY, 4338
ARNETHA R. SHIPMAN, 3402
DAVID R. SHONK, JR., 8871
HOWARD A SHRUM III, 0632
PAUL D. SIEBELS, 6169
ERIC SILKOWSKI, 3295
ALBERT A. SILVANI, 4083
FRANK W. SIMCOX IV, 7992
SCOTT P. SIMCOX, 5632
KEVIN HUGH SIMMONS, 0161
*SAMUEL A. SIMPLICIANO, 7438
NIGEL J. SIMPSON, 4210
WILSON T. SIMS, JR., 5804
PAUL L. J. SINOPOLI, 8880
TIMOTHY J. SIPES, 8711
ROBERT A. SISSON, 9578
ROBERT D. SKELTON, 5611
LYNDEN P. SKINNER, 1318
ROBERT J. SKINNER, 4093
WARDLAW E. SKINNER III, 3256
MICHAEL B. SLACK, 0713
JOHN S. SLATON, 4706
STEVEN R. SLATTER, 9667
TIMOTHY A. SLAUENWHITE, 0019
ANDREW T. SLAWSON, 7382
JAMES C. SLIFE, 1260
RICHARD E. SLOOP, JR., 7767
STEVEN E. SMILEY, 1973
ANDREW J. SMITH, 0988
BRIAN P. SMITH, 8264
DIANE M. SMITH, 0579
GARY D. SMITH, 6360
*GILES K. SMITH, 3774
JEFFREY D. SMITH, 3042
*JEFFREY J. SMITH, 0651
JOHN D. SMITH, 8838
KELVIN B. SMITH, 0752
KENNETH P. SMITH, 2396
MARK R. SMITH, 9537
MARTIN G. SMITH, 6419
MATTHEW N. SMITH, 7751
MICHAEL E. SMITH, 6621
MICHAEL J. SMITH, 7483
RANDOLPH G. SMITH, 8538
RICHARD E. SMITH III, 6464
ROBERT J. SMITH, JR., 6626
RUDOLPH A. SMITH, JR., 8366
RYAN J. SMITH, 3018
STEPHEN A. SMITH, 5740
STEVEN A. SMITH, 0733
*STEVEN J. SMITH, 1844
THOMAS L. SMITH, 4067
WESLEY E. SMITH, 7916
DAVID A. SMITHHART, 8641
TAMI A. SMOLIK, 8686
AARON D. SMOLLER, 5480
DAVID M. SNOW, 4581
CARL R. SNYDER, 6640
DONALD A. SNYDER, 7664
STEVEN P. SNYDER, 3524
THOMAS J. SNYDER, 1343
KATHLEEN F. SOLI, 4844
MARTIN SOLIS, 8648
MIGUEL A. SOLIS, 8959
PATRICE A. SOLORZANO, 0384
INEZ A. SOOKMA, 3871
JAY C. SORENSEN, 7628
CRAIG A. SOUZA, 6350
CHRISTOPHER F. SPAGNUOLO, 6414
DONALD R. SPAIN, 3654
KAY L. SPANNUTH, 5536
KEVIN L. SPARKS, 7590
RANDALL A. SPEAR, JR., 4516
JENNIFER LYNN SPEARS, 8106
*COY R. SPEER, 0306
LAWRENCE P. SPEER, 7534
DAVID J. SPELTZ, 8067
MICHAEL W. SPENCER, 7669
JOSEPH M. SPIESS, 2291
KURT M. SPILGER, 6530
MARK S. SPILLMAN, 8338
*BRUCE J. SPRECHER, 7806
CHRISTOPHER STAFFORD, 6330
DANIEL J. STAGGENBORG, 2356
DAVID G. STAMOS, 7656
*KATHLEEN A. STANCIK, 4187
DARRYL L. STANKEVITZ, 9134
*NANCY NAOMI STANLEY, 0619
DAVID M. STANTON, 2027
VALISE A. STANTON, 3352
ALLISON M. STARING, 4401
SCOTT A. STARK, 1988
WAYNE W. STARK, 8398
DON C. STARKWEATHER, 6988
JAMES M. STARLING, 4610
ROBERT B. STARNES, 8117
DONALD C. STARR, 6468
RANDOLPH J. STAUDENRAUS, 2795
PETER D. STAVROS, 5730
GERALD C. STCYR, 8467
CHARLES F. J. STEBBINS, 3195
DEAN A. STEELE, 1337
DENIS F. STEELE, 0315
KEVIN B. STEELE, 8439
THOMAS M. STEELE, 7085
ELDON R. STEEN, 2317
ALLEN M. STEENHOEK, 9097
CHARLES A. STEEVES, 9199
DOUGLAS K. STENGER, 8561
DANIEL P. STENSON, 9260
ALAN G. STEPANEK, 1593
MATTHEW T. STEPHENS, 7473
BRUCE W. STEPHENSON, 7019
CHAD M. STEVENSON, 3795
RAYMOND S. STEVENSON, 7504
ALBERT K. STEWART, 4074
DAVID T. STEWART, 0070
ERIC C. STEWART, 2507
JAMES A. STEWART, 9426
MICHAEL A. STEWART, 9617
BARRY W. STGERMAIN, 6394
BRUCE C. STINAR, 7937
FRED P. STONE, 8824
KEVIN L. STONE, 0050
TROY R. STONE, 5626
CHARLES R. STONER, 8548
RONALD K. STORY, 3333
FERDINAND B. STOSS, 9490
*BRIAN R. STOTLER, 4035
MICHAEL K. STOWERS, 1369
WALTER W. STRADER, JR., 1430
JESSE L. STRICKLAND III, 5574
LEWIS H. STROUGH, 2739
RONALD R. STUMBO, 5332
BOBBY F. SUELL, 4547
MICHAEL SULEK, 5492
DAVID M. SULLIVAN, 9677
*EDWARD J. SULLIVAN, 9638
RUSSELL E. SULLIVAN, 6929
SEAN M. SULLIVAN, 9013
STEPHEN T. SULLIVAN, 2088
JOHNNY D. SUMMERS, 8862
THOMAS A. SUMMERS, 9447
DAVID G. SVEDEN, JR., 2286
AARON R. SWAIN, 6473
CARLTON L. SWANEY, 6844
BRADLEY A. SWANSON, 6134
BRANDON E. SWEAT, 2507
MARK J. SWEENEY, 3717
GERALD A. SWIFT, 5068
*JEFFREY S. SWINEY, 3020
ALAN J. SWYGERT, 5090
MICHAEL T. SYMOCK, 0535
JOHN A. TALARICO, 3302

MICHAEL J. TAMBOS, 5687
WILLIAM M. TART, 8351
RICHARD W. TATEM, 2507
RICHARD D. TAVENNER, 2696
ANDREW M. TAYLOR, 1491
DARRYL S. TAYLOR, 4953
JAMES M. TAYLOR, 2112
JOHN W. TAYLOR, JR., 5023
MARK J. TAYLOR, 5444
PATRICK W. TAYLOR, 0160
ROBERT L. TAYLOR, JR., 8058
RODERICK K. TAYLOR, 6532
RODNEY L. TAYLOR, 6125
CHESTER M. TEEL, 9664
BRETT P. TELFORD, 1011
SCOTT J. TEW, 2459
KENNETH R. THERIOT, 0520
*JAMES M. THOMAS, 9798
JON T. THOMAS, 1747
SAM E. THOMAS, 1125
SHARON C. THOMAS, 1501
TRAIRONG P. THOMAS, 7822
WALTER D. THOMAS, 7231
BILLY D. THOMPSON, 5592
CHRISTOPHER E. THOMPSON, 5510
DEBORAH E. THOMPSON, 2959
HENRY C. THOMPSON, 5355
JEFFREY A. THOMPSON, 8872
ROBERT A. THOMPSON, 1241
ROBERT E. THOMPSON, 6783
STEPHEN R. THOMPSON, 3095
ROBERT C. THOMSON, 2703
ANGELA V. THRASHER, 5667
MICHAEL D. THURBER, 5559
GREGORY S. THURGOOD, 0605
ANDREW J. THURLING, 5916
LISA M. TICE, 8456
MICHAEL A. TICHENOR, 0607
KATHLEEN V. TIGHESMITH, 2604
MICHAEL J. TILLEMA, 2071
ROBERT C. TILLEY, 4469
*JOHN L. TILLMAN, 5901
*WILLIAM R. TIMMONS, 9155
FREDERICK C. TINDAL, 6611
BRIAN J. TINGSTAD, 7955
MICHAEL D. TISDEL, 8735
JAMES M. TITTINGER, 9590
RICHARD G. TOBASCO, 8111
JULIAN H. TOLBERT, 8791
JOHN S. TOMJACK, 9745
JEFFREY S. TOMLINSON, 3552
CHARLES F. TOPLIKAR, 6743
GARY A. TOPPERT, 0822
EDWARD M. TOPPS, 6951
*DAVID K. TORRACA, 0326
*TIMOTHY M. TORRES, 1186
ANDREW J. TOTH, 8283
JOHN H. TOUCHTON III, 6716
TIMOTHY P. TOWNES, 9547
NHAT D. TRAN, 6646
JAMES D. TRAVERSE, 2561
JAMES E. TRELEAVEN, 8321
MICHAEL B. TRINCHITELLA, 6232
MATTHEW A. TRIPPY, 7211
KEVIN T. TRISSELL, 7939
GERALD J. TROMBLEY, 6694
*MARIO J. TRONCOSO, 2439
TODD M. TRUAX, 6750
MARK TRUCHAN, 9914
RICHARD G. TRUSSELL II, 5890
BRIAN L. TUCK, 7947
GIOVANNI K. TUCK, 5957
EDSON C. TUNG, JR., 6237
MARK J. TURCOTTE, 4363
SHAUN B. TURNER, 3454
STEPHEN E. TURNER, JR., 1323
RICHARD E. UNIS, 4876
DAVID S. URE, 7615
MARK H. USTASZEWSKI, 8416
MICHAEL J. VACCARO, 9679
VICTOR J. VALDEZ, 7742
DAVID D. VALLIERE, 2048
DE WALLE CURT ALAN VAN, 6609
LJ VANBELKUM, 7619
KRISTEN M. VANCE, 4269
PETER L. VANDEUSEN, 0613
MICHAEL A. VANDOREN, 6747
ALVIN M. VANN, JR., 1043
GILLES K. VANNEDERVEEN, 2987
PETER W. VANPELT, 5791
GLENN R. VANVLIET, 1538
JUAN R. VASQUEZ, 1204
BRIAN T. VAUGHN, 7893
OSCAR R. VAUGHN, 8702
*ROBBIN F. VAUGHN, 4974
ROBERT S. VAUGHN, 1041
AGUSTIN E. VELEZ, 5284
PATRICIA O. VELEZ, 2017
THOMAS A. VENTRIGLIA, 0419
LEE A. VENTURINO, 8357
LASZLO A. VERES, 2917
SCOTT A. VESPER, 0246
EDWARD J. VEST, 6976
RICHARD A. VETSCH, 8998
PATRICK H. VETTER, 0246
GEORGE VICARI, JR., 3509
THOMAS B. VICHOT II, 0795
JOSEPH H. VIERECKL, 8338
JOSEPH A. VILLACREZ, JR., 5379
*STEPHEN H. VINING, 0108
STEVEN A. VLASAK, 4081
*ROBERT A. VOEGTLY, 4474
RANDALL L. VOGEL, 3228
WILLIAM J. VOGT, JR., 1479
JESSIE H. VOISIN, JR., 1832
DAVID J. VOLLMER, 9431
DAVID C. VONBROCK, 3904
PAUL C. VONOSTERHELDT, 6004
CHRISTINE M. VOSS, 5982
PAUL E. WADE, 6313
KEITH C. WAGNER, 1248
*THEODORE M. WAGNER, 4618
DONALD R. WAHONICK, JR., 5737
BARRY C. WAITE, 9922
MARK K. WAITE, 9496
SCOTT A. WAITE, 6060
SCOTT E. WALCHLI, 9480
FEDERICO G. WALDROND, 6425
RENEE G. WALDROP, 1676
CHRISTOPHER P. WALKER, 4012
DOUGLAS M. WALKER, 3784
MALCOLM C. WALKER, 7222
MICHAEL J. WALKER, 7457
THOMAS M. WALKER, 1832
WARD A. WALKER, 4475
TODD T. WALKOWICZ, 3362
DAVID E. WALLACE, 4020
DARRELL E. WALLIS, JR., 5546
DANIEL J. WALTER, 9418
STEPHEN D. WALTERS, 3518
MARK A. WARACK, 3208
CARL E. WARD, 8868
MICHAEL T. WARD, 4703
MICHAEL T. WARD, 6249
WILLIAM R. WARD, 2907
MICHAEL S. WASSON, 7321
DOUGLAS A. WATKINS, 2352
ERIC E. WATKINS, 8226
*CECELIA R. WATSON, 8160
PHILIP R. WATSON, 7069
BRYAN C. WATT, 3755
HOSEA R. WEARING, 7992
SHANNON D. WEATHERMAN, 4804
JOSEPH G. WEAVER, 8109
*WILLIAM M. WEAVER, 2018
JEROME G. WEBB, 5993
JOLISA WEBB, 8511
JEFFERY D. WEBBER, 9847
SCOTT D. WEBER, 9122
THOMAS J. WEBER, 5834
TIMOTHY F. WEBER, 7908
RAYMOND J. WEBSTER III, 1317
JEFFREY R. WEED, 6009
JAMES C. WEIGLE, 3393
JAMES L. WEINGARTNER, 6160
RICHARD A. WEIR, 5212
CLYDE A. WEIRICK, 5963
REBECCA E. WEIRICK, 9889
DOUGLAS P. WEITZEL, 3354
*JAMES H. WELBORN, JR., 2691
PATRICIA K. WELCH, 3356
*SUSAN K. WELCH, 3405
STEVEN M. WELD, 2258
DOUGLAS H. WELLS, 9637
SCOTT R. WELLS, 5274
RUSSELL P. WELSCH, 4332
DERON L. WENDT, 2437
MICHAEL R. WENZL, 4010
GUY C. WERNER, 1897
GARY F. WESSELMANN, 7183
KENNETH T. WESSELS, JR., 8034
DENISE M. WEST, 3555
JOHN E. WEST, JR., 4097
JOHN W. WEST, 9730
RITCHIE L. WEST, 9208
ROBERT A. WEST, 0999
KERSHAW L. WESTON, 3216
JAMES E. WEYER, 1778
MARK S. WHINNERY, 8161
ANDREW C. WHITE, 0785
DAVID T. WHITE, 3719
NATHAN A. WHITE, 2162
NATHAN T. WHITE, 7208
RANDALL G. WHITE, 7684
TODD D. WHITE, 0762
WILLIAM G. WHITE, 9547
SHANNON L. WHITED, 7064
STEPHEN N. WHITING, 6886
JAMIE S. WHITLEY, 7165
*JAMES T. WHITLOW, 6477
JAMES T. WICKER, 5052
*MICHAEL H. WIDMER, 3650
JIM R. WIEDE, 0613
JEFFREY J. WIEGAND, 8262
MARSHA W. WIERSCHKE, 9319
STEVEN D. WILCOX, 5949
LEAF SANDRA L. WILKERSON, 2250
WILLIAM D. WILKIE, 3032
JOHN W. WILKINSON, 4596
JOHN A. WILLCOCKSON, 4672
CHARLES D. WILLIAMS III, 0047
CHRISTOPHER R. WILLIAMS, 7477
DARRYL R. WILLIAMS, 6326
GRETCHEN D. WILLIAMS, 4567
JOHN A. WILLIAMS, 6285
JOHN A. WILLIAMS II, 6615
JOHN D. WILLIAMS, 2774
STEPHEN H. WILLIAMS, 9278
TIMOTHY N. WILLIAMS, 3431
WALTER B. WILLIAMS, 5066
WILLIE J. WILLIAMS, JR., 3949
DAVID D. WILLIS, 2117
STEVEN E. WILLIS, 1726
ROBERT W. WILLOUGHBY, 1361
MARK E. WILLS, 8878
BRYAN L. WILMUNEN, 2093
CRAIG D. WILSON, 3848
EVA C. WILSON, 3978
GAVIN P. WILSON, 4135
HAROLD L. WILSON, 0632
JEFFREY H. WILSON, 3370
KENNEDY B. WILSON, JR., 3111
PAUL G. WILSON, 0789
ROBERT D. WILSON, 6433
*TRISHA L. WILSON, 4181
WILLIAM J. WILSON, 7508
DAVID W. WIMS, 5671
DONALD W. WINGATE, JR., 2351
JAMES D. WINGO, JR., 9263
MARK S. WINGREEN, 0749
ANNE M. WINKLER, 5312
JOHN S. WINSTEAD, 4370
ROHINI T. S. WINTERS, 1592
JON K. WISHAM, 4467
JAMES W. WISNOWSKI, 8866
ROGER J. WITEK, 3021
RANDY L. WITHAM, 6906
DANNY R. WOLF, 7657
JULIA A. WOLF, 2935
DANIEL D. WOLFER, JR., 3155
JOHN C. WOLLSLAGER, 6643
DIANE C. WOLTERING, 2259
THOMAS J. WOLVERTON, 8486
DAVID P. WONCHALA, 1795
WILLIAM P. WONDRA, 7846
ENOCH K. WONG, 5706
DAVID R. WOOD, 9916
KENTON T. WOOD, 4691
PAUL R. WOOD, 2645
DOUGLAS A. WOODBURY, 7826
WILLIAM A. WOODCOCK, 7470
CHRISTOPHER R. WOODHEAD, 0280
THIERRY C. WOODS, 5185
TIMOTHY A. WOODS, 1536
RONALD J. WORTMAN, 4583
COLIN J. WRIGHT, 0647
CONNIE L. WRIGHT, 1909
DAVID C. WRIGHT, 9999
DEAN N. WRIGHT, 3447
CHRISTOPHER J. WYMAN, 9572
JOHN P. WYNNE, 3040
JOSEPH M. YAKUBIK, 5269
KAREN C. YAMAGUCHI, 1380
BARBARA J. YANCEY, 4109
THOMAS W. YARGER, JR., 8479
BRIAN E. YATES, 0739
ROBERT E. YATES, 0218
*ROGER C. YGBUHAY, 7187
*FRANK C. D. YOUNG, 9832
MONTE W. YOUNG, 3115
ROBERT B. YOUNG, JR., 7626
SEANTA C. YOUNG, 9281
STEPHANIE P. YOUNG, 2989
MICHAEL S. YOUNGLING, 2058
MICHAEL J. YOUNGSON, 9244
DAVID R. YOUTSEY, 0647
SARAH E. ZABEL, 6883
JAMES RICHARD ZAGATA, 8345
JOSEPH A. ZAHN, 2048
*ANTHONY M. ZANCA, 6180
*JOSEPH S. ZAREN, 1726
PAUL ALBERT ZAVISLAK, JR., 6419
CATHERINE M. ZEITLER, 5416
BRIAN P. ZEMBRASKI, 0045
ARTHUR E. ZEMKE, 9961
LEON D. ZERA, 3303
WILLIAM H. ZIENER, JR.', 8802
JAMES A. ZIETLOW, 7509
TIMOTHY A. ZOERLEIN, 3956
DAVID R. ZORZI, 2719
JEFFREY R. ZOUBEK, 3710
MICHEL P. ZUMWALT, 3616

IN THE ARMY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY AND FOR REGULAR APPOINTMENT IN THE MEDICAL CORPS AND DENTAL CORPS (IDENTIFIED BY AN ASTERISK (*)) UNDER TITLE 10, U.S.C., SECTIONS 624, 531, AND 3064:

To be lieutenant colonel

KEVIN C. ABBOTT, 6462
MAUREEN A. ARENDT, 9305
GREGORY J. ARGYROS, 4661
JOHN H. ARMSTRONG, 4881
KENNETH S. AZAROW, 5203
MATTHEW S. BACHINSKI, 7582
DEAN E. BAIRD, 7959
*GEORGE R. BARBER, 6297
CAROL L. BAREKMAN, 9820
DAVID J. BARILLO, 9867
*MARK R. BAUS, 2560
JEFFREY A. BECKER, 7822
CONRAD S. BELNAP, 7949
RICHARD H. BIRDSONG, 8365
CHRISTOPHER P. BLACK, 2782
ERIN M. BOHEN, 5441
PAMELA S. BOSTIC, 2558
DAVID J. BOWER, 1039
KERRY M. BRADY, 8674
STEVEN E. BRAVERMAN, 5049
JOHN J. BROZETTI, 0453
MICHAEL R. BRUMAGE, 4224
THOMAS R. BURKLOW, 0691
KAREN L. BURMEISTER, 6427

LOUIS F. CAMPANA II, 0899
KEVIN R. CANNARD, 9786
VALERIE A. CARREGAL, 2678
FRED A. CARUSO, 6969
JOHN M. CHO, 1179
*GEORGE H. CLAYTON, 3678
KIMBERLY P. COCKERHAM, 4250
MARY C. CONAWAY, 8633
*LARRINGTON R. CONNELL, 9529
JAMES E. COOK, 1440
LISE A. COTE, 5197
THOMAS G. CRABTREE, 7106
BRIAN J. CRISP, 3233
DAVID J. CROYLE, 6622
PAUL J. CUTTING, 7070
LYNN F. DAHL, 8492
*DEBORAH L. DALVIT, 1339
MELVIN J. DAVIS, 4284
HARRIETT E. DEISSLER, 1810
DAVID J. DESILETS, 7751
CARROLL J. DIEBOLD, 5876
RICHARD T. DOMBROSKI, 3045
PAUL J. DOUGHERTY, 2257
*RICHARD F. DRUCKMAN, 4449
DARYL G. DYKES, 8994
JAMES M. ECKLUND, 4093
RANDALL A. ESPINOSA, 2051
MARY F. FARLEY, 9054
*CHRISTOPHER G. FIELDING, 2556
MICHAEL J. FINGER, 0643
JOEL T. FISHBAIN, 2474
*LARRY B. FISHER, 9195
DIANE M. FLYNN, 3687
JOHN L. FONTANA, 7279
JEFFREY M. GAMBEL, 1416
THOMAS P. GARIGAN, JR., 3872
*MICHAEL E. GARVIN, 5248
BENNY T. GEE, 0864
ROGER K. GEORGE, 5692
CARL A. GIBSON, 3470
WILLIAM R. GILLILAND, 7503
*JIHAD I. HADDAD, 5589
KATHY L. HARRINGTON, 0057
KENNETH C. HARRIS, 9687
ROBERT M. HARRIS, 3234
ROMAN A. HAYDA, 5043
PATRICK T. HEALEY, 1556
ARTHUR HERPOLSHEIMER, 7698
KENNETH HIGBY, 3790
ROGER M. HINSON, 6601
DALLAS W. HOMAS, 8527
*NAOMI J. HOROWITZ, 4301
JAMES S. HU, 0131
CRAIG M. HUDAK, 3378
RICHARD A. JORDAN, 9434
WILLIAM J. KAISER, 9183
ROBERT J. KAZRAGIS, JR., 3401
CHRISTOPHER K. KIM, 3443
*KENNETH R. KLIER, 8458
RICHARD W. KNIGHT, 6026
STEVEN J. KNORR, 3418
PHILLIP KOHANSKI, 7605
JOHN F. KRAGH, JR., 0340
STEPHEN J. KRIVDA, 4737
TIMOTHY R. KUKLO, 5383
ALEXANDER L. LAMBERT, 7982
WILLIAM L. LANG, 7916
KEVIN E. LEAHY, 2163
HON S. LEE, 6358
MARK R. LEE, 9363
ERNEST G. LOCKROW, 4836
ARTHUR W. LOESEVITZ, 5067
DANIEL I. LOUBE, 0972
MARK A. LOWRY, 8751
MICHAEL H. LUSZCZAK, 9523
*JULIA A. LYNCH, 0216
*MICHAEL P. MAHONEY, 9742
*RANDALL J. MALCHOW, 4316
*TIMOTHY M. MALLON, 2386
*GONZALEZ R. MARIN, 3566
*JESUS A. MARQUEZ, 1420
*WILLIAM S. MARSH, III, 1387
*JOHN P. MATLOCK, 2158
*MICHAEL D. MATTHEWS, 8961
*JOSEPH F. MC KEON, 6736
*JENNIFER J. MC NEIL, 1413
*MARK D. MENICH, 9028
*ROBERT J. MILLER, 0750
*WILLIAM J. MILUSZUSKY, 4137
*JOHN H. MITCHELL, 7637
*JOHN C. MOAD, 9533
*WILLIAM T. MONACCI, 2367
*PAUL D. MONGAN, 6995
*JOHN B. MOODY, 1290
*LEON E. MOORES, 4925
*ALLEN F. MOREY, 9613
*MICHAEL J. MORRIS, 5340
*KEVIN P. MURPHY, 2935
*MARK A. MYERS, 9468
*ROBERTO N. NANG, 2484
*JAMES F. NEWCITY, 5884
*JOHN D. NG, 6801
*PETER E. NIELSEN, 1770
*JOSE E. OLAZAGASTI, 3020
*JOSEPH PAFUMY, 5449
*PHILIP J. PANDOLFI, 5083
*CATHY J. PARSELLS, 3264
*MARK F. PEAKE, 0416
*FELICIA F. PEHRSON, 4752
*JONATHAN A. PERKINS, 0756
*STEPHEN C. PHILLIPS, 6976
*JOSEPH C. PIERSON, 4857
*JOSEPH S. PINA, 2405
*SIMON H. PINCUS, 6516
*JOSEPH P. PULCINI, 8336
*WILLIAM B. REECE, 6273
*KEVIN G. RODGERS, 5802
*NEREIDA ROMERO, 2376
*JOHN R. ROWE, 9907
*ERIC J. RUBEL, 5736
*WILLIAM F. RUNYON, JR., 6067
*DAVID T. SCHACHTER, 1449
*DOMINIQUE H. SCHIFFER, 2518
*RICHARD B. SCHWARTZ, 6226
*KEVIN C. SHANDERA, 8292
*MICHAEL J. SIGMON, 4459
*RONALD E. SMITH, JR., 2079
*SCOTT A. STANEK, 2384
*WILLIAM R. STEVENS, 5240
*CAROLYN A. SULLIVAN, 3153
*ALLEN J. TAYLOR, JR., 7566
*RAY N. TAYLOR, 4317
*STEVEN A. TAYLOR, 9967
*JOACHIM J. TENUTA, 0665
*JOHN A. THAYER, 9696
*ASHTON C. * TRIER, 1431
*RICHARD F. TROTTA, 4580
*RICHARD P. VINSON, 7669
*VINCENT P. VISSICHELLI, 5902
*DOUGLAS S. WALSH, 6716
*WINSTON J. WARME, 9884
*PETER V. WEBER, 5150
*THOMAS G. WICHGERS, 6645
*RICHARD J. WINDHORN, 5223
*MARK G. ZIEMBA, 4548

IN THE ARMY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY AND FOR REGULAR APPOINTMENT IN THE ARMY NURSE CORPS, MEDICAL SERVICE CORPS, ARMY MEDICAL SPECIALIST CORPS, AND VETERINARY CORPS (IDENTIFIED BY AN ASTERISK (*)) UNDER TITLE 10, U.S.C., SECTIONS 624, 531, AND 3064:

To be major

*CELETHIA M. ABNER, 5627
*KENNETH N. ABNEY, 8534
*BARBARA A. AGEN, 6503
*EDWIN M. ALBERTO, 0336
*SUZANNE D. ALEXANDER, 3180
*JAMES R. ANDREWS, 5880
*IAN R. ASHCROFT, 8313
*THELDA J. ATKIN, 1827
*SCOTT B. AVERY, 5836
*THOMAS P. AXTMAN, 5244
*TIMOTHY L. BAKER, 4745
*BRENDA J. BALL, 3063
*DONALD W. BANKS, 6718
*KENNETH L. BATEY, 6545
*RISA D. BATOR, 3382
*MICHAEL P. BEATTY, 6181
*TANYA M. BEECHER, 1903
*CONSTANCE A. BELL, 9197
*THERESA L. BIRON, 7335
*CASSANDRA E. BLAKLEY, 7341
*PAUL D. BLIESE, 7580
*KARL C. BOLTON, 8196
*JODY L. BORG, 8406
*CAROL A. BOSSONE, 8800
*ANTHONY C. BOSTICK, 3504
*CLANHOPE A. BOWLIN, 3697
*CARLTON C. BRINKLEY, 6328
*KRISTINE M. BRISTOW, 4760
*RAE M. BROADNAX, 2755
*EDYTHE A. BROWNE, 5654
*STEVEN H. BULLOCK, 6553
*M. L. BULLOCK, 3704
*KARL D. BUSCH, 3428
*JOHN D. BUTLER, 6688
*MYRNA C. CALLISON, 0091
*NOEL J. CARDENAS, 4722
*VICKI L. CARR, 1578
*MARY K. CARSON, 5271
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*RUTH GARBETT, 6450
*ANN M. GARVEY, 6161
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*LISA S. GENTES, 1349
*BRIAN J. GENTILE, 4432
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*PAUL A. HIRD, 7238
*RUTH E. HOLJE, 9533
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*DANNY B. JAGHAB, 6117
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*JAMES T. SHEETS, 4162
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*MARY K. SHULER, 2087
*ANNE S. SIGOUIN, 6316
*KATHLEEN M. SILKA, 7941
*BETTY J. SIMMONS, 8348
*THOMAS SIMPKINS, 6511
*JAMES K. SJOVALL, 1866
*BRUCE A. SLACK, 6541
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*OLIVE M. SMITH, 4271
*STEVEN D. SMITH, 8880
*JAMES B. SNOW, 1568
*BEVERLY K. SNYDER, 6154
*IVAN D. SPEIGHTS, SR., 6372
*MIRIAM A. SPELLS, 6438
*SARA T. SPROAT, 6729
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*WILLIAM B. TILSON, 1646
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*GARY W. TRYNISZEWSKI, 5038
*RANDY H. TUREK, 0752
*JAMES B. UPTON, 2531
JOSEPH J. VANCOSKY, JR., 2412
*PAULA A. VINCENT, 8080
*TERSCH R. VON, 2438
*MICHAEL R. VOORHIES, 7329
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*TROY L. WALKER, 8148
*FRANCES K. WARD, 3622
*JANET L. WASHINGTON, 4690
SANDRA D. WASHINGTON, 6836
*LORNA L. WEBER, 7608
HOBERT W. WELLS III, 6570
*LARRY D. WEST, 6032
*NEVA J. WESTHOFF, 9507
MARK R. WHITE, 9600
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HARRY L. WHITLOCK, II, 0942
*CHRISTINE E. WIECZOREK, 4071
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*ERIN V. WILKINSON, 2052
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*MARK T. WORD, 9578
*JULIO A. ZAYAS, 4930
*SUSAN C. ZAYASGRUBER, 7002
*ALEX P. ZOTOMAYOR, 2177
*SHANDA M. ZUGNER, 0780

DEPARTMENT OF STATE

DAVID G. CARPENTER, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF STATE, VICE ERIC JAMES BOSWELL, RESIGNED.

DAVID G. CARPENTER, OF VIRGINIA, TO BE DIRECTOR OF THE OFFICE OF FOREIGN MISSIONS, AND TO HAVE THE RANK OF AMBASSADOR DURING HIS TENURE OF SERVICE, VICE ERIC JAMES BOSWELL.

RICHARD HENRY JONES, OF NEBRASKA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF KAZAKHSTAN.

CHARLES F. KARTMAN, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, FOR THE RANK OF AMBASSADOR DURING HIS TENURE OF SERVICE AS SPECIAL ENVOY FOR THE KOREAN PEACE TALKS.

KATHRYN DEE ROBINSON, OF TENNESSEE, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF GHANA.

ROBERT PATRICK JOHN FINN, OF NEW YORK, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF TAJIKISTAN.

CONFIRMATION

Executive nomination confirmed by the Senate July 7, 1998:

ENVIRONMENTAL PROTECTION AGENCY

SALLYANNE HARPER, OF VIRGINIA, TO BE CHIEF FINANCIAL OFFICER, ENVIRONMENTAL PROTECTION AGENCY.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

SENATE—*Wednesday, July 8, 1998*

The Senate met at 9:30 a.m., and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Dear Father, we come to You as Your daughters and sons because there is no other place we can go where love is as freely given, costly forgiveness as graciously offered, assurance of our value more creatively communicated, and where our hurts are more effectively healed. You know us as we are. In a world where we are not permitted to be weak, You receive us with our weaknesses and make us strong. In an atmosphere where we are compelled to win and spin, it is good to be able to be real with You. May the strength and security of this quiet moment with You prepare us for a day in which we can enjoy life, work creatively together in spite of misunderstandings, and bring delight to the people You have entrusted to be our family and friends. Through our Lord and Saviour. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able acting majority leader is recognized.

Mr. ROTH. Thank you, Mr. President.

SCHEDULE

Mr. ROTH. Mr. President, this morning the Senate will immediately resume consideration of the IRS reform conference report. It is expected that there will be lengthy debate during today's session on the conference report, with a final vote occurring by late afternoon. In addition to the conference report, the Senate may consider any other legislative or executive items that may be cleared for action.

Members are reminded that a cloture motion was filed last night to the substitute amendment to the product liability bill. Therefore, Senators have until 1 p.m. today to file first-degree amendments to the substitute. The cloture vote will occur on Thursday, July 9, at a time to be determined by the two leaders.

Once again, the majority leader would like to remind Members that July will be a busy month, with late night sessions and votes. The cooperation of all Members will be necessary for the Senate to complete its work prior to the August recess.

I thank my colleagues for their attention.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER (Mr. ALLARD). Under the previous order, the leadership time is reserved.

INTERNAL REVENUE SERVICE RESTRUCTURING AND REFORM ACT OF 1998—CONFERENCE REPORT

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of the conference report accompanying H.R. 2676, which the clerk will report.

The assistant legislative clerk read as follows:

Conference report to accompany H.R. 2676, an act to amend the Internal Revenue Code of 1986, to restructure and reform the Internal Revenue Service, and for other purposes.

The Senate resumed consideration of the conference report.

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. Mr. President, if my colleagues' July Fourth recess was anything like mine, then they heard a great deal from their constituents concerning the bill that we bring to the floor today. The Internal Revenue Service Restructuring and Reform Act of 1998 is legislation that not only has the interests but the support of Americans everywhere, and with good reason.

For far too long, the Internal Revenue Service has been allowed to consolidate immense power without the counterbalance of accountability. For far too long, the agency has been allowed to operate in darkness, hiding behind section 6103 authority, using authority granted them by Congress to, in some cases, bludgeon taxpayers.

Last summer, the National Commission on Restructuring the IRS, following an extensive review of the IRS, issued a report that called for major changes to the agency.

In September, the Finance Committee held 3 days of hearings which identified numerous additional problems and some terrible, even unconscionable taxpayer and IRS-employee abuses within the IRS.

Those hearings were followed by others which demonstrated clearly that the Service was in need of serious reform. And we heard from taxpayers, tax collectors, tax practitioners. We heard from small business men and women. We heard from innocent spouses. And we listened to outrageous stories from innocent Americans who, for no valid reason, got caught in the crosshairs of an organization that was driven by quotas and lacking in oversight.

Our outrage knew no partisan line. Colleagues on both sides of the aisle were offended by many of the stories. To the witnesses—many of whom testified without knowing what their efforts would bring—we apologized as best we could. We said that we would press forward, and we promised reform. That, Mr. President, is what we are delivering today.

This is the bipartisan conference agreement on a plan that will effectively change the way the Internal Revenue Service does business. It represents the most comprehensive overhaul of the IRS ever enacted. It combines the House and Senate bills and incorporates the many good suggestions offered by the Agency's new Commissioner, Charles Rossotti.

Let me be clear on just how important Mr. Rossotti has been to our efforts. Following our Finance Committee hearings, he had courage enough to release a report that validated the concerns we raised. Rather than try to throw up a wall or confuse issues, he made a commitment to reform. Every step we have taken he has taken with us.

Commissioner Rossotti and I have met on many occasions, and he has testified before our committee. We have attended taxpayer service days together. He has advocated a new management plan that could revolutionize the way the Internal Revenue Service does business.

I am also grateful for the taxpayers and the many current and former IRS employees who came before our committee. These were courageous individuals, and without them, there would be no reform. And they represent only a fraction of those who met with us, who wrote to us, who called, and, in the process, moved our investigation forward. Likewise, I am grateful to my colleagues—Senator MOYNIHAN, a defining presence in the Senate, if ever there was one. I am grateful to Senators CHARLES GRASSLEY and BOB KERREY and their efforts on the National Restructuring Commission.

Working with Congressman PORTMAN, and others, they got the ball rolling early on, and were leaders in this effort. I thank Chairman BILL ARCHER for the work he did on the Ways and Means Committee, for the spirit of cooperation he brought to the conference, and for the success he had two weeks ago in getting this legislation approved overwhelmingly in the House.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Now, the time has come, Mr. President, to pass it here—legislation that will open the door to real restructuring and reform of what can only be considered the most powerful agency in the United States government.

This legislation is built on four principles:

The first principle is to establish independent oversight of the agency to prevent abuses against taxpayers and against employees. One of the major concerns we heard throughout our oversight initiative was that the taxpayers who get caught in the IRS hall of mirrors have no place to turn that is truly independent and structured to represent their concerns. This legislation requires the agency to establish an independent Office of Appeals—one that may not be influenced by tax collection employees or auditors.

Appeals officers will be made available in every state, and they will be better able to work with taxpayers who proceed through the appeals process.

Mr. President, agency employees made it clear that there is no dependable and consistent mechanism in place to represent taxpayer interests. Just as this bill will give the appeals process greater independence, it will also make the Office of Taxpayer Advocate as well as local problem resolution officers more independent.

In the future, the Secretary of Treasury, rather than the Commissioner will appoint the National Taxpayer Advocate. And the Taxpayer Advocate will be just that. Criteria to fill this position will include that the Advocate must not be an IRS employee two years before and five years after holding this position. In addition, this bill provides the Advocate with greater ability to issue an assistance order to help taxpayers.

To ensure that independent review and accountability become part of the IRS culture—top to bottom—our legislation creates a nine-member IRS Oversight Board—a board composed of six experts from various professional fields in the private sector, the Commissioner, the Secretary of Treasury, and a full-time Federal employee, or a representative of employees. This board will be independent of influence from management and the senior executive corps. It will be able to monitor and hold managers and executives accountable for their actions, and the actions of their employees.

Under our legislation, the Oversight Board will have broad responsibility and will ensure that the IRS has procedures in place to carry out its mission. I anticipate that the Board will be able to nip problems in the bud so that the IRS will not have to endure embarrassing Congressional hearings that expose systemic problems that should have been identified and addressed.

These measures will go a long way toward protecting taxpayers and IRS personnel. To further protect IRS employees, this legislation creates a new Treasury Inspector General for Tax Administration. We heard far too often in our hearings that the current IRS Office of Chief Inspector does not have sufficient independence to adequately fulfill its obligation. Likewise, the current Treasury Inspector General lacks resources and has experienced problems of its own in providing seamless oversight of the agency.

The new Treasury IG for Tax Administration will have greater independence than the IRS Chief Inspector.

This provision is supported by Secretary Rubin and Commissioner Rossotti, and it will create a structure where the new Treasury IG for Tax Administration will not allow oversight to fall through the cracks. This new Treasury IG for Tax Administration will provide independent investigations of alleged IRS employee misconduct without management interference.

The new Treasury IG will also respond in a timely manner to requests to investigate or audit made by the Commissioner or the IRS Oversight Board.

Now, these measures will go a long way toward combating the intimidating culture that witnesses testified exists within the agency. They will provide independent protections and promote an agency that the public trusts—an agency that the employees can be proud of.

The second principle incorporated in this legislation is to hold IRS employees accountable for their actions and to reward those who treat the taxpayer fairly. One of the problems we discovered in our hearings is that the Commissioner did not have the kind of authority that is necessary to streamline management and remove managers who contaminate the culture of the agency. Additionally, we found that the Commissioner does not have sufficient authority to hire those who will work toward making the kinds of changes that are necessary.

This legislation changes that. It provides the Commissioner the tools he needs to hire top-flight managers who are experts in their field. It gives the Commissioner the wherewithal to transform the agency's work force by providing bonuses and other incentives, and to sufficiently discipline employees whose inappropriate actions harm the image and effectiveness of the agency.

This bill requires the IRS to terminate an employee if it is proven that the employee willfully failed to obtain required authorization to seize a taxpayer's property, committed perjury material to a taxpayer's matter, or falsified or destroyed documents to conceal the employee's mistakes with respect to a taxpayer's case. It allows terminations to take place if an IRS employee engages in abuses or egregious misconduct.

Conditions for which an employee can be dismissed include, but are not limited to, assaulting or battering a taxpayer or other IRS employee, violating the civil rights of a taxpayer or other IRS employee, or breaking the law, regulations, or IRS policies for the purpose of retaliating or harassing a taxpayer or other IRS employee. Our legislation also allows an employee to be fired for willfully misusing section 6103 authority to conceal information from Congress.

As I have said before, an environment that allows employees guilty of these kinds of behaviors to continue to work within the system is not acceptable to me, the Finance Committee, or to the American people. We have heard enough excuses. The time has come for change. And this legislation allows needed changes to take place.

The third principle advocated by this legislation is to ensure that taxpayers are protected, that they have due process during collections activities. This includes requiring the IRS to obtain court approval before seizing a home.

It also ensures that the burden of proof be lifted off the shoulders of the taxpayer when it's appropriate and placed on the agency. It allows necessary and long-overdue reforms to the interest and penalty system. This will guard taxpayers against the outrageous and often overbearing financial liability that occurs when the agency moves too slowly.

With this legislation, the burden of proof is shifted to the IRS if the taxpayer maintains records, cooperates with the agency, and provides credible evidence to the court. In addition, the IRS will have the burden of proving a taxpayer's income if it uses arbitrary statistics to determine that income.

Another major taxpayer protection in this legislation is our provision to strengthen innocent spouse relief. Some of the most tragic stories our committee heard concerned innocent spouses whose lives have been ruined by the unrelenting pursuit of IRS collections officers.

This legislation allows divorced or separated spouses to elect to limit their liability for a tax deficiency to the amount of the tax that is attributable to their income. In this way, they will not be held liable for income earned by their spouse. Beyond expanding innocent spouse relief, this legislation allows the Secretary of the Treasury to provide equitable relief if innocent spouse relief is otherwise unavailable. It makes relief retroactive to help those innocent spouses who are still being hounded by the IRS.

Let me say, however, that relief will not be available in cases of fraud, or if the IRS proves the taxpayer claiming innocent spouse relief had actual knowledge of an item giving rise to the tax liability.

Beyond this, with this legislation, we make necessary and important changes to how penalties and interest are applied. In order to prevent IRS employees from arbitrarily using penalties as leverage against taxpayers, this bill requires non-computer determined penalties to be approved by management.

Furthermore, each notice to taxpayers which includes a penalty or interest must specify how the amount was calculated. If a taxpayer enters into an installment agreement, the monthly failure-to-pay-penalty is cut in half.

Under this bill, if the IRS does not provide a notice of deficiency—or other form of notification of the specific amount of taxes due—within eighteen months after a return is timely filed, then interest and penalties will be suspended until the taxpayer is actually notified.

This eighteen month period will be reduced to twelve months in the year 2004, as the agency improves its ability to notify taxpayers of their deficiencies. In this way it is the IRS, not the taxpayer, who bears the burden of IRS delay.

These enhanced rights are meant to protect honest taxpayers. We do not excuse those who evade their responsibility or cheat on their income tax returns. The protections contained in this legislation exclude the failure to file, failure to pay, and penalties related to fraud.

Finally, Mr. President, the fourth principle this legislation advances is to provide the Commissioner the tools necessary to take the IRS into the 21st century. It directs Commissioner Rossotti to eliminate the current national office, regional office and district office structure of the IRS.

It gives him the authority to replace these antiquated management models with operating units that will directly serve particular groups of taxpayers, better meeting their needs and making the agency much more efficient and user-friendly. As I have said before, Commissioner Rossotti should be complimented on his tremendous work and managerial skills. His plan to restructure the agency is as bold as it is necessary, and this legislation gives him the authority he needs to move forward.

And moving forward is what this legislation is all about—to usher the IRS into a new era of accountability—to provide taxpayers with the protections they deserve—to bring efficiency and modern management to an organizational structure that dates back to before the industrial age. With this legislation, we bring a promise of hope to honest taxpayers and hard-working employees who have waited far too long. We bring responsibility and greater openness.

We focus on the need for service and fairness. With this legislation, Commissioner Rossotti will be able to transform the IRS, make it more effective and intolerant of corruption and abuse of power.

I appreciate all the work that has gone into this bill—for the many hours and weekends given by Senators, Congressmen, and staff. Particularly, I want to thank Frank Polk, Mark Prater, Tom Roesser, Mark Patterson, Nick Giordano, and our committee investigators.

I want to thank Lindy Paull, and the staff on the Joint Tax Committee—Barry Wold, Mel Schwarz, Cecily Rock and Mike Udell. Again, I am grateful to Senator MOYNIHAN—for his leadership and dedication to this cause. I am grateful to my colleagues on both sides of the aisle who stood firm for legislation with teeth—who, in seeking change, demanded real change—real reforms. That's what we offer today. I am proud of this bill. Americans have every reason to celebrate. They have let their desire be known, and, Mr. President, they have been heard.

SEC. 1101–IRS OVERSIGHT BOARD

Mr. President, there has been substantial debate on whether a Treasury employees union representative should have a designated seat on the IRS Oversight Board. I agree with many of my colleagues that a representative of IRS employees should not be provided a position on the IRS Oversight Board because such member would be subject to a substantial conflict of interest. I did not include an IRS employee representative on the IRS Oversight Board in my original chairman's mark. However, the members of the Finance Committee voted to include an IRS employees representative on the board and to waive the criminal conflict of interest laws for this particular board member. Amendments to these provisions were considered by the full Senate and defeated.

During conference negotiations, the Department of Justice opined that "The employee-representative restriction in the bill would impermissiby limit the President's appointment power in violation of the Constitution." The Department of Justice suggested alternative language to avoid the Constitutional problem. In response to the Constitutional problems raised by the Department of Justice, the conferees agreed that one member of the IRS Oversight Board shall be a full time Federal employee or a representative of employees. The conferees also incorporated Justice's recommendation that this board member receive the same compensation as other board members who are not government employees. The Department of Justice also recommended that the employee representative should not be exempt from the conflict of interest laws. As a compromise, the conferees agreed to delete the provision which would exempt the employee representative from the conflict of interest laws. However, at the time of nominating this particular board member, the President could seek a waiver of the criminal conflict of interest laws to the extent such waiver is necessary to allow such member to participate in the decisions of the Board.

Waiving criminal conflict of interest laws for one person is a very serious matter and should not be taken lightly. As such, the bill requires the President to submit a written intent of waiver along with the actual waiver language to the Senate with the nomination of such member. I anticipate that the President would seriously consider the ramifications of nonminating an individual with inherent conflicts of interests. If, in the President's judgment, such an individual must be on the IRS Oversight Board, the President must submit a written statement of intent to waive the criminal conflict of interest laws. To be effective, the waiver must be provided verbatim with the nomination of such individual.

While I would have preferred the language in my original chairman's mark, this conference agreement addresses the competing concerns of my colleagues as well as the Constitutional problems raised by the Administration.

In September 1997 and April 1998, the Finance Committee held several days of oversight hearings regarding IRS practices and procedures. These eye-opening hearings revealed improper and inappropriate IRS practices and in some situations violation of the law. I, along with those taxpayers who watched the hearings, was shocked and deeply troubled with the practices of the IRS. I believe that proper oversight by Congress and the Administration should have reduced or even prevented such activity from occurring. One of the most important functions of the IRS Oversight Board is to prevent taxpayer abuse. The Oversight Board must have access to information that will enable the board to reveal problems, bring problems to the attention of the Commissioner to address, and inform Congress if the Commissioner does not address problems. The Oversight Board should have "big picture" oversight authority over law enforcement activity, including examinations, collection activity, and criminal investigations. Taxpayers must be protected from improper and/or illegal activity. Hopefully, the Oversight Board, rather than a congressional committee, will nip problems in the bud and keep the IRS on a straight course.

SEC. 1102—COMMISSIONER AND OTHER OFFICIALS

The bill alters the reporting relationship between the IRS Chief Counsel and the Treasury General Counsel. The bill requires the IRS Chief Counsel to report directly to the Commissioner except for the extremely limited situations where an issue relates solely to tax policy. It is intended that "tax policy" would be limited to recommendations relating to tax legislation and the drafting of treaties. The Chief Counsel will report to both the Commissioner and to the Treasury General Counsel with respect to tax litigation and legal advice or interpretation of the tax law not relating solely to tax policy. In the rare circumstance where there is a dispute between the Commissioner and the Treasury General Counsel, the matter must be submitted to the Secretary or Deputy Secretary for resolution. The Commissioner, as the client, must be able to make a decision based upon the legal advice provided by the Chief Counsel. Neither the Treasury General Counsel nor any other Treasury official (other than the Secretary or Deputy Secretary) may overrule the Commissioner's decisions. The Secretary or Deputy Secretary may not delegate this authority to someone else. For example, the Commissioner should be able to decide whether to proceed with a litigation matter or recommend that a case be appealed. If the Treasury General Counsel disagrees, then the issue should be resolved only by the Secretary or Deputy Secretary. Furthermore, the Commissioner should have the ability to interpret the tax law and issue guidance in various forms. The Commissioner should be able to expeditiously issue guidance including regulations, revenue ruling and revenue procedures, technical advice and other similar memoranda, private letter rulings and other published guidance. Once again, if there is a disagreement between the Commissioner and the Treasury General Counsel, the issue must be resolved by the Secretary or the Deputy Secretary.

SEC. 1103—TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION

The bill transfers the IRS Office of Chief Inspector's function to a new Treasury Inspector General for Tax Administration which will provide more effective and efficient oversight over the IRS. The current system in which the Treasury Inspector General, with its limited resources and tax expertise, attempted to provide oversight along with the IRS Office of Chief Inspector which some believed lacked sufficient independence from management, simply did not provide adequate and independent oversight. I was appalled with the current system which allowed issues to fall through the cracks, included little or no ability to follow up on issues, or even to timely investigate media allegations of outrageous taxpayer abuse.

The time has come to provide a new, credible Treasury Inspector General for Tax Administration which has the resources and expertise to independently audit and investigate problems within the IRS. Coupled with the IRS Oversight Board and a new more independent National Taxpayer Advocate, this provision in the bill will provide yet another check on the bureaucracy within the IRS to ensure that taxpayers and their problems don't slip through the cracks. While the vast majority of IRS employees are honest, hardworking, and law-abiding, enhanced oversight will help ensure that taxpayers are treated properly.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, I rise in the first instance to thank our revered chairman, Senator ROTH, chairman of the Finance Committee, who brings this measure to the floor with the unanimous vote of the Finance Committee. From the first, ours has been, under his direction, a nonpartisan effort to deal with a nonpartisan issue of the first order of consequence. We are equally, in turn, grateful for the work of the National Commission on Restructuring the Internal Revenue Service. Senators KERREY and GRASSLEY of our committee and Congressmen PORTMAN and COYNE from the House side contributed significantly to shaping the concept of the Internal Revenue Service as a customer-based agency, as they put it.

I believe, sir, that we have done this. We have done it with the aid and the cooperation and the participation of Chairman BILL ARCHER and ranking member CHARLES B. RANGEL of the Committee on Ways and Means in the House, who worked with us on the committee of conference. Senator ROTH was chairman. And the result before you is an exceptional piece of legislation—and not an everyday event.

The Internal Revenue Service became a permanent part of our government in 1862 as part of the Civil War Income Tax Act, which was signed into law July 1, 1862, by President Abraham Lincoln. That was almost a century and a half ago. Yet it was not until just last September that the full Finance Committee of the Senate exercised its oversight jurisdiction to ask, how is this enterprise working and where is it going? The hearing illustrated the need for changes at the IRS and encouraged the thinking on the subject which has produced the measure we bring before you today.

As evidence of the process already underway by the unanimous confirmation of this body, Mr. Charles O. Rossotti became the Commissioner of Internal Revenue. This was a stroke of administrative inspiration by Secretary Rubin, who went out into the private sector looking not for a tax lawyer—an honorable profession; normally the Commissioners of the IRS have been tax lawyers—but instead for an administrator. He found the head of a large company that specialized in information services of a wide variety, and who was prepared to do this as a public service and not to continue in the line that has been of a particular profession, the practice of tax law.

We have established an IRS oversight board of six private persons, the Secretary of the Treasury, and the representative of the IRS employees, and finally the Commissioner of the IRS itself. The board will be responsible for setting the strategic direction and goals of the agency, while the Commissioner will continue to manage day-to-day operations. The Finance Committee—and then the Senate—specifically voted to include the Secretary and employee representative on the board.

The conference agreement, which maintained this arrangement, passed the House by a vote of 402 to 8. With the Secretary of the Treasury on the board, the board will know things it cannot otherwise learn. The U.S. Secretary of the Treasury is a world figure. His presence on the board gives it stature within the Government and with the public. The fear was that otherwise it would lapse into a sort of advisory mode that would fail to serve the objectives of this "reform and restructuring" legislation.

We are pleased that the agreement maintains the position on the board for a representative of the IRS employees. The representative will be able to work cooperatively on the inside rather than working in opposition from the outside.

An ongoing problem is how to attract top executives to a government activity which has its counterpart in the private sector where compensation—if I may use that term—is often very high, if not indeed exorbitant, because the amounts of money involved are very large.

So to recognize the disparity between government and private sector salary structures, the conference agreement adopted the Senate provision authorizing the appointment by the Commissioner of up to 40 persons to critical positions for 4-year terms with an annual compensation equivalent to the pay of the Vice President of the United States; that is to say, currently $175,400. These will be persons chosen for their particular skills. They will be there for a 4-year period. They will be departing the private sector for an interval of public service at something approaching the salaries they normally enjoy.

Other provisions will permit the establishment of a new performance management system focused on individual accountability, and allow for the creation of an incentive award system bringing the IRS into contemporary management modes—out of the model of the civil service that was developed a century ago when we set up the Civil Service Commission, again establishing grades for employees with salaries that were low, but careers that were guaranteed for life. That effort was very controversial at that time. I can record that two Senators from New York State resigned from the Senate when the newly elected President appointed a collector of customs in the port of New York of whom they did not approve. One was Roscoe Conkling; the other, Thomas P. Platt. Mr. Conkling was no friend of civil service reform and once observed that when Dr. Johnson declared patriotism to be the last refuge of a scoundrel, he underestimated the potential of reform.

And yet reform didn't come about, a century passed, and we found that the system had not the internal energies to change itself, to adapt to new technologies and new management modes. We hope the IRS will with these new arrangements—the infusion of new people, and a clear understanding that we expect the system to be open, innovative, and "user friendly," in the term the chairman frequently used in our hearings. And we shall see.

There are several other measures, Mr. President. I should point out that the conferees were heroic in their determination not to include all manner of extraneous or narrowly-applicable provisions, as is often the case in a tax bill but is not the case, with very few exceptions, in ours.

There are two provisions in the conference report, however, that are of special interest to the Senator from New York. The first adopts the Senate provision for a complexity analysis requirement. It requires the staff of the Joint Committee on Taxation to provide an analysis of the complexity and administrative issues associated with tax legislation reported by the Finance Committee and Ways and Means Committee. The provision is intended to provide notice, prior to floor consideration, about provisions that have widespread applicability and may be unduly burdensome for taxpayers to understand and comply with, or difficult for the IRS to interpret and administer, or both.

I might interject that when this was before us in the Finance Committee, the distinguished chief of staff of the Joint Committee on Taxation said that she looked forward to this, but that she was fearful as to whether the joint committee could begin this complicated effort so long as it was burdened with the task of determining which items in tax legislation were subject to the line-item veto, a detailed and exhaustive analysis of every tax bill, which was a new responsibility for the joint committee. I am happy to say, in the weeks since that exchange took place, the Supreme Court has dutifully and properly declared the line-item veto to be unconstitutional. So one of the unintended consequences—I cannot imagine the Court had this very much in mind—is that the joint committee is now in a position to begin a type of analysis which is new to American legislation.

We are in the practice of having an increasingly complex Tax Code. There can surely be no question that we are dealing with the problems that we found in the Internal Revenue Service because the Internal Revenue Service has to administer a Tax Code that is frequently incomprehensible. An almost priestly hierarchy understands its meanings and can work them through the tax courts and such like. But to the public and, too, the Congress, they are often simply incomprehensible.

I remember standing on this floor a year and a half ago with an 800-page tax bill, Mr. President, and that was the only copy of the tax bill on the Senate floor, which we were about to vote for 92–8. A copy provided to the distinguished chairman had been promptly appropriated by the Budget Committee to see if there were any budget points of order, and so the one copy was here on this desk, and Senators on both sides of the aisle would come up and ask whether a provision they had an interest in was in the bill, and I would say, "I hope in good spirit I can find out, but what will you pay me?" Indeed, there was no other way for the Senator to learn. And this is not an unusual event.

I am going to say this not once but twice because we have to start attending to our own behavior in these matters. I was one of the participants in the enactment of the Tax Reform Act of 1986. This was a wonderful, collegial experience led by our good friend and former colleague, Senator Packwood, along with Senator CHAFEE, Senator Danforth, a "core group," as we called ourselves, of about six of us. We would meet for coffee at 8 o'clock every morning in Senator Packwood's office, and it would be my job, rather as the dean in a cathedral, to provide a reading for the morning. I would make sure I got the Wall Street Journal early, and without a great deal of effort I would find the advertisements where you would see a little classified ad which would say, "Rocky Mountain sheep, guaranteed losses." And the Wall Street Journal would tell you how you would be certain to lose money in such a manner that the code would eventually reward you for your losses, which is an interesting game to play if you are interested in C notes but not a very productive form of economic activity.

Well, we cleaned up that Tax Code. We brought the rates down from, oh, half a dozen income tax rates to 28 percent and 15 percent—two rates. We did "base broadening" as the term was; more and more income became subject to taxation, so the rates of taxation could be lowered. And when it was all over, to our surprise and rather to the consternation of the tax bar, you might say, we had, indeed, produced a fairly simple and comprehensible Tax Code. That was 1986—1986, Mr. President.

What you have before you, sir, what we have in the Senate before us—and my revered chairman will know this better than anyone else present—we have the 65th public law to amend the Internal Revenue Code since the Tax Reform Act of 1986. We have passed 65 tax bills. That comes to about six a year. If you were assigned that task, you would say it would be impossible to achieve; it would be asking too much of our staffs and our Members. But we have done this heroic, if absurd, task, and it has to be said again that simplification is the essence of justice and efficiency in the code. We are a large, complex economy, an international economy. We are not going to have a simple code, but there is no reason we should have an incomprehensible one, particularly when the complexities often reflect the influence of special interest in the code.

In this regard, not many weeks ago we heard testimony from one of our Nation's most distinguished and accomplished economists, Murray Weidenbaum, who had been chairman of the Council of Economic Advisers in the administration of President Reagan. I served with him in the administration of President Nixon. At that time he took it upon himself to explain and popularize the idea of revenue sharing—get Federal revenue out to cities and States, let them decide how to spend it, and reduce the dependency on administrative judgments, decisions, and statutes here in Washington. That was a very fine idea which we lost to the budget deficits of the 1980s.

But Murray Weidenbaum made a powerful point, coming from a powerful mind. He said, if you spend all your income, the American Tax Code is simple. You just fill out a one-page form: I made $50,000 last year, spent $50,000; I made $100,000, I made $100 million—God in heaven knows there are some who do—but I spent it all, and my taxes are as follows. It is only when you begin to save that the Tax Code gets complicated.

Of course, our largest economic question right now is the rate of savings in the American economy. The fact that we have large trade deficits basically reflects that we are importing capital. We have the lowest savings rate of any industrial country in the world—or any prime industrial country of which I am aware. It is quite striking. I would not argue this is the principal factor, but it is the fact that if you save money you can get in trouble with the Internal Revenue Code. Whatever else, that should not be the case. It is the case.

I think the complexity analysis, particularly if it is directed with this kind of issue in mind, has the potential of a very important innovation in the development of tax legislation. Don't expect it to change anything in the next 3 or 4 years, but in 20 years' time we might find that this small provision in this large legislation had large consequences.

One other item. In the interval since this legislation was agreed to, the majority and minority leaders have created a special committee on the year 2000 problem, with a hurry-up reporting date. But during the Finance Committee's consideration of the bill, Commissioner Rossotti specifically noted, in a six-page letter, that some of the changes the chairman has described in such admirable detail would overburden the IRS's ongoing efforts to upgrade its computers to allow for the century date change. In time we came to see the need for the effective-date changes he recommended—and Secretary Rubin reinforced this in a typically succinct one-page letter. We have, in the main, accommodated the Commissioner in this regard. I think this is probably the first statutory recognition of the year 2000 problem, which we are going to know a lot more about in very short order.

Now, briefly, a few matters of concern. Contrary to the unanimous opposition of the tax profession, this legislation includes a provision that shifts the burden of proof in civil cases from the taxpayer to the IRS. We all live in the real world and no one on the surface would ever think it right that the burden of proof be on a taxpayer, not the Government. But reality can be different. Four former IRS Commissioners, who appeared on a bipartisan panel before the committee, testified that shifting the burden of proof would cause more harm than good to the taxpayer. Similar sentiment was expressed by dozens of professors of tax law. Their concern is that this provision will result in more intrusive IRS audits, create additional complexity and litigation, and create confusion for taxpayers and the IRS as to when an issue needs to be resolved in court and when the burden has shifted. I recognize the political popularity of the provision, but I fear it may actually prove to work against the taxpayer. Be warned—persons who have the best reason to be impartial in their judgment have said this is not going to help, it is going to make things yet more difficult.

Another provision certain to cause confusion and to lead to additional litigation with the IRS is the expansion of the privilege of confidentiality to tax advice furnished by accountants. This new privilege may be asserted in noncriminal tax proceedings before the IRS and in Federal courts. However, like the current attorney-client privilege, information disclosed for the purposes of preparing a new tax form is not privileged and the conference agreement precludes application of the expanded privilege to written communications to a corporation "in connection with the promotion of the direct or indirect participation of such corporations in any tax shelter." This is a right that most taxpayers will never be eligible to assert, and many will be surprised to learn about its limitations.

One provision that the bill does not include, and should, is the correction of a drafting error in the 1997 act which gives a windfall to the few estates in this country with a value of more than $17 million. It costs nothing to fix, and the joint committee estimates that the failure to correct this error would cost taxpayers $900 million in the next 10 years. The Senate bill fixed it. But somehow the conferees could not reach agreement.

Finally, Mr. President, and possibly most important, I direct the Senate's attention to a modest, but hugely significant, semantic triumph that has been included in this legislation.

Section 5003 of the conference agreement replaces in U.S. trade law the confusing 17th century phrase "most-favored nation," which begins with the French phrase "la nation la plus favorisee."

We now replace that term with the plain American term "normal trade relations." This relieves the President and the Congress of the burden of having to ask, why is this typically not-very-popular country being made a most-favored nation?

Why, for example, is there now a dispute about whether Vietnam should be given most-favored-nation status? Of course, it is not most-favored nation; it simply means you get the same treatment that the most-favored nation, some other nation most favored, gets. It is antique usage that immediately confuses everyone involved, and now we will be able to say we propose "normal trade relations." It is plain English and avoids the needless misunderstandings that have accompanied that other term.

I do not want to overburden the Senate with detail, but the most-favored-nation concept is well over 700 years old. It has been traced by historians to a clause in the treaty of November 8, 1226, in which Frederick II, Emperor of the Holy Roman Empire, conceded to the city of Marseilles the privileges previously granted to the citizens of Pisa and Genoa. Not greater privileges, but merely the same.

The term itself is perhaps a little more recent. The first use that we can come across specifically is in the treaty of 1659 between France and Spain, which guaranteed that the subjects of each sovereign, while in the realm of the other, would be treated as the most-favored nation. Again, the phrase "le plus favorablement," or in modern French, "la nation la plus favorisee"—having the same rights as were granted the English and the Dutch.

In the main, the usage has become counterproductive. It confuses the public as to what is being proposed. I think it is fair to say sometimes it confuses the Congress as well, and we are well to be rid of it. I think it is past time and, if I may say, this is a matter that the Finance Committee has had in mind for some while. The distinguished and revered chairman and I introduced legislation last year for this purpose, and now we see it about to become law.

Mr. President, I thank you for your courtesy, and I have said my piece on the matter. I yield the floor.

Mr. GREGG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Does the Senator from Nebraska wish to speak?

Mr. KERREY. I am prepared to proceed.

Mr. GREGG. I am going to speak about 10 minutes. Will that be an inconvenience to the Senator, or does he have to get somewhere?

Mr. KERREY. One of the things I want to do, and I will be pleased to step aside for 10 minutes, I want to engage in a short colloquy with the distinguished Senator from New York on this bill. I will try to be as brief as possible and then yield back to the Senator. I have a longer statement I will make on this legislation.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. KERREY. I thank the Chair, and I thank the distinguished Senator from New Hampshire. One of the things the Senator from New York has referenced—and I will later in my remarks praise both he and the chairman of this committee for what they have done in bringing this legislation to the floor—one of the things the Senator referenced in his comments was the 1986 Tax Reform Act. Indeed, this bill, it should be noted by colleagues, amends that act. So this would be the, I guess, the 65th tax bill we have passed since 1986.

I wonder if the Senator from New York can engage briefly in a discussion for the benefit of the Senator from New Hampshire and for those who happen to be watching this debate. One of the things that we struggle to do as citizens is to understand what it is that the government is doing and why.

Under our constitutional authorities as a Congress we have a whole range of things we are charged with doing. One of the most difficult things we are charged with doing, once we have decided we are going to have a government of any kind at all, is we have to collect taxes and what to use those taxes for and we then have to decide who is going to pay the taxes, and we write the law accordingly. We then distribute the money to the various agencies of government that we previously created.

I wonder if the Senator from New York, with his understanding of the rest of the world, can talk a little bit about how much we take for granted our capacity to voluntarily collect. We have a voluntary system of tax collection, unlike many other nations on Earth.

I know right now one of the most difficult problems, for example, that the newly democratic Russia is facing is their capacity to collect tax revenues in sometimes a not-so-voluntary fashion.

I wonder if the Senator can talk a little bit about the constitutional issues of us raising the taxes to pay for the government and the importance of our being able to maintain a voluntary system of tax collection.

Mr. MOYNIHAN. I certainly will. I will be succinct, because nothing could be more clear.

The United States is blessed with a citizenry that pays its taxes on time and in full. There are exceptions, but we do it voluntarily. Technically, we self-assess; we decide ourselves what we owe the government. The rate of compliance is very high.

Up until just recently, and it is just beginning to change, for example, in the United Kingdom, which we associate with and we think of as a free society, and it certainly is, the subjects of the queen did not decide how much taxes he or she owed; the queen decided. They were sent a bill. You are free to contest it in court, and you can contest it in court the rest of your life, but you still have to pay the bill.

So the idea of complexity in this system, making it so difficult to know what it is you owe jeopardizes a precious institution, which is the faith of the public in the good intentions and performance of the government itself. That, I think, was one of the reasons the Kerrey Commission called for the reforms that are in this legislation of the IRS. You can have an openness and a sense that things are on the level here and government is doing the right thing.

Mr. KERREY. I thank the Senator for delaying his exit from the floor. I appreciate very much that reference.

Mr. President, I believe this piece of legislation goes to the heart of our capacity to maintain government of, by and for the people. Our republican form of government is at risk if people feel they are not getting a fair shake with this voluntary system of collection.

Congressman PORTMAN and I cochaired this restructuring commission. We noted U.S. tax collection is the most efficient in the world. Less than half of a percent of the total revenues collected is in cost. In the face of mounting criticism, problems, it seems to me it is very important to make certain that as we write the laws that will determine how this money is collected, that we not throw the proverbial baby out with the bathwater. We have problems, and this legislation attempts to correct the problems. But underneath these problems is a relatively efficient system of collecting taxes that enables the citizens to fund their Government, and in a relatively efficient fashion.

Mr. MOYNIHAN. Indeed.

Mr. GREGG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, I wish to join with what I am sure will be numerous Senators in congratulating the Senator from Delaware and the Senator from New York and the Committee on Finance for bringing forward this exceptionally good bill which is truly timely.

Many of us, as we have tried to help folks out in our States, have run into situations where people have been treated in ways which can only be described as abusive by the Internal Revenue Service, where the Internal Revenue Service has gone way beyond the appropriate action for the purposes of collecting the revenues of the country and has treated American citizens in a way that you might expect were they to be living in a police state instead of in a democracy.

In my experience, probably one of the worst cases I have ever seen of Government excesses involves a family known as Barron in New Hampshire. That family, unfortunately, got into some tax trouble, failed to pay its taxes, and the IRS, in an appropriate way, attempted to collect those taxes—at least appropriately at the beginning. But then it got carried away. And as a result of getting carried away, it put that family through an extraordinary trauma, to a point where Mr. Barron ended up committing suicide. And his wife, Shirley Barron, who is now responsible for the family, found herself in a situation which was beyond all reason, which was untenable and which was horrible.

A lien had been put on her house. Her children's bank accounts had been taken. Her bank accounts had been taken. The IRS was even making it impossible for her to pay her electric fee, her utility fees. This all occurred after a time period when they thought they had reached an agreement with the Internal Revenue Service. They thought an understanding had been reached, and, in fact, an understanding had been reached. Then the IRS, in a manner which can only be called bait and switch, backed out of that agreement and assessed them with even more penalties and interest. And on an original tax bill which was, I believe, somewhere in the vicinity of $20,000 or $40,000, they ended up with an obligation, according to the Internal Revenue Service, of multiple hundreds of thousands of dollars.

It was a situation which was so horrendously handled that it literally drove Mr. Barron to commit suicide, destroyed the lives of this family. And it has become a cause celebre in New Hampshire, and to some degree nationally. It would be terrible in and of itself, because there is really nothing we can do as a Government to correct what happened to Mrs. Barron and the treatment she received. Her life has been irreparably harmed, and her family will always suffer as a result of this.

It would be terrible enough if it were the only instance of this type of situation occurring, but as we saw from the hearings which the Senate Finance Committee held under Chairman ROTH, it was not the only instance. Regrettably, on too many occasions the Internal Revenue Service has acted in this almost malicious but certainly abusive way.

This does not mean that the Internal Revenue Service is populated with people who wish to treat American citizens, taxpayers, in a manner that is totally inappropriate. No. In fact, just the opposite. The Internal Revenue Service is filled with good and conscientious people, in my opinion; but there are bad apples.

More importantly than that, the Service has created an atmosphere, a way of management, a culture, which has allowed the excesses to proceed in the actions against taxpayers which are beyond the pale of reasonableness to become commonplace, through the lack of management and, in my opinion, due to lack of structure, both legal and managerial. So this bill attempts to correct that.

The most important thing it does, or one of the most important things it does, is it shifts the burden of proof, gets us back to where we should have been to begin with, which is to presume that the taxpayer is innocent rather than presuming that the taxpayer is guilty until the taxpayer has proven himself or herself innocent. That is very important, so that the taxpayer goes in at least on some level of a playing field which has some levelness to it versus a playing field which was radically tilted against the taxpayer under the present structure.

In addition, the bill protects the innocent spouse. In so many instances, the spouse is a part of the familial activity as being part of a family; signs the return without a great deal of knowledge of what is in that return, sometimes without any great knowledge of what is in that return, but signs it and then finds out later on, as was the case in Mrs. Barron's situation, that action has been taken that was inappropriate and liability exists. And when the spouse who is responsible disappears, as a result of divorce, or in this case as a result of death, the innocent spouse ends up with an obligation which is totally inappropriate. So the protection of the innocent spouse is absolutely critical and a very, very good part of this bill.

In addition, the bill takes what I think is a critical step in the area of managing the Internal Revenue Service's procedures because it limits the ability of the Internal Revenue Service to assess interest and penalties in a manner which uses the interest and penalties to basically force settlements on the taxpayer, even when the taxpayer feels they did not owe the obligation.

There is no question but that the basic collection process at the Internal Revenue Service proceeds with, in many instances, running up the interest and penalty obligations so when they get into negotiations with the taxpayer, even if the taxpayer knows they do not owe the taxes, the utility of proceeding becomes so expensive, it becomes so impossible to ever want to proceed in a manner which would put you at risk for the interest and penalties which have been run up that you end up paying the underlying tax and negotiating out the interest and penalties. That is a collection process which, regrettably, has become the modus operandi of the Internal Revenue Service.

This bill puts some limitation on that by limiting the ability of the Internal Revenue Service to run those interest and penalties up if they have not notified the taxpayer within a timely manner—18 months initially, 12 months as time goes out—that an obligation is due or they perceive that an obligation is due. This is an extremely important change in the collection process. In addition, the bill provides much better services to the taxpayer, which is critical.

Thus, I am extremely supportive of this effort. I say this. It does not resolve the problem. The problem goes to the basic law. The fact is that we have created a tax law which is so complex, so convoluted, such a mishmash of regulations and cross-purpose legislation, that it becomes basically unenforceable because it is not comprehendible.

After finishing law school, I went back to school for 3 years and got a graduate degree in tax policy with an LL.M. I have to say, I do not fill out my own tax return because it is simply too complex. Now, if I cannot do it, how can somebody who is just working every day and trying to make ends meet be able to do it? Obviously, they cannot.

And what we see in the collection atmosphere is that the Internal Revenue agents, regrettably, because of the complexity in many instances, do not understand it because it is not understandable.

So the law itself is a basic problem here, and we simply have to reform the law if we really want to correct this problem. We have to go to a much simpler law, a fairer law, something that can be managed in a way that is comprehendible to people who are working every day and trying to fill out their return, who don't happen to be specialists.

As an interim step, as an effort to try to correct what is basically a law that is not enforceable effectively but is being enforced in a manner which in many cases is abusive—as an interim step, this bill makes great progress. Thus, I congratulate the committee for their efforts. I hope it will not be looked at as the end of the process but will be looked at as a step in the process to reforming our tax laws so that they can be administered in a way which will regain the confidence of the American people that they are fair and that they are reasonable.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. THOMAS. Mr. President, I come to the floor, as many other Members have, to speak in favor of the IRS reform bill that is before the Senate. As the Senator from New Hampshire indicated, I want to take just a little bit of a different approach. We talk about this as one of the steps in the changes that do need to be made.

I do come to the floor to express my support for the package. The agency, of course, has basically run roughshod over American taxpayers for too long. This is the first significant reform in this agency in over four decades.

Congress should do more of this kind of oversight. It seems to me in this whole business of funding the Government, this whole business of appropriations, that we need to find a way to have more time for oversight. That is why I am supporting and continue to support a biennial budget in the appropriations process, so we would have off years to do this kind of thing for many other agencies.

Basically, I guess my point is that this is an important part of the Republican agenda, of our agenda, to do things about taxes. No. 1, of course, is to have tax reduction. I think American families deserve that. I think it is good for the economy. It has to do with having less Government and a smaller Government. IRS reform is part of it, and this is a great step in that direction.

Certainly, the third point is simplification of the Tax Code. I think, also, that is a necessary element before we find satisfaction with our Tax Code.

So, reducing taxes, IRS reform, and simplification comprise a three-pronged agenda, one which I support. Last year we made some progress in terms of reducing taxes, reduced them in capital gains, reduced estate taxes, installed a $500-per-child tax credit, expanded IRAs, and passed other important small business tax reductions.

I would like to go forward in that area, and I hope we shall. Further reducing capital gains, eliminating estate taxes, reducing and eliminating the marriage tax penalty are areas in which we can make progress.

This year we will reform IRS, the Federal agency that has interaction with more Americans than any other agency. I salute Senator ROTH and the Senator from New York and members of the Finance Committee for holding fast against the initial White House reluctance and opposition to reforms in this agency. His hearings, the committee's hearings, brought to light many unbelievable abuses of taxpayers by this agency.

This reform package, then, increases the oversight on IRS, holds IRS employees more accountable, makes IRS a more service-friendly agency, puts the law on the side of the taxpayer, has some very key provisions: Taxpayer confidentiality, extends the attorney-client privilege to accountants, reverses the burden of proof from the taxpayer to the IRS, guarantees 30 days to request a hearing of disputes, gives new powers to the taxpayers who petition the courts to contest decisions, and reforms the management of the IRS.

These are all good things.

The third part of our agenda, which is still there and I believe is of paramount importance if we are to really change the tax atmosphere: I think we have to address the basic underlying Tax Code. Hopefully, that will take place in the next year or two. We plan to significantly reform the Tax Code and to eliminate the complexity that is now there. There seems to be some misunderstanding about one of the proposals now which would terminate the current Tax Code in the year 2001. It does not eliminate the Tax Code, it simply gives a time certain in which a new Tax Code needs to be devised.

The IRS is responsible for creating many of the problems the taxpayers have, but Congress needs to bear the burden of fixing the current Tax Code. There are 17,000 pages of inherently confusing data that need to be changed. Taxpayers spend $200 billion and 5.4 billion hours to comply with the tax law. The IRS employs over 100,000 people, more than five times the number of the FBI. After 80 years of abuses by lawmakers, lobbyists, and special interests, the tax system is unfair, complex, it is costly and punishes work, savings, and investment.

Certainly there is a great opportunity for basic recodification of the Tax Code. I support plans, of course, that have the basic elements of fairness, of simplicity, reducing the overall tax burden.

It is interesting, as you go about in your State, my State of Wyoming, and ask how many people like the Tax Code the way it is now, nobody responds, of course. Then you say: What do you want to do about it? Do you like sales tax? Do you like flat tax? Do you like consumption tax? But we haven't come, yet, to a consensus on what the replacement ought to be. That is the challenge before us.

I am pleased we are about to pass this historic bill, complete the second part of a three-pronged tax agenda. I hope soon we will move to finish the job and fundamentally reform the Tax Code.

I yield the floor.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, I rise in support of the conference report on IRS reform.

What I would like to do is very briefly give a summary of the two philosophical approaches that were initially embodied in the debate, why I believe we chose the better of the two, and then I will outline the few issues in the bill that I feel very strongly about.

First of all, when we started learning of IRS abuses—something that most of our offices heard about from constituents from the very beginning of our congressional service—and then when we saw it in its rawest form in testimony before the Finance Committee, I think there were two basic approaches or responses people had. I think one view was that people at the IRS had become insensitive, that there was something wrong with them, and that what we needed was a massive effort to try to sensitize people in the IRS. I have to say, that is the administration's initial viewpoint. It was as if they thought we could solve the problem simply by hiring every sociologist in the country and have them sit down individually with IRS employees and encourage them to be good people.

My own view, and the view that I believe dominates this bill, was a view that by and large, with a few notable exceptions, there was nothing wrong with people who work with the IRS. They are ordinary people. They have families. They own dogs. They are pretty much like us. The problem is, as the ancient Greeks observed, power corrupts. In the Internal Revenue Service, you have an agency of government that has tremendous power. As compared to the criminal justice system, for example, the IRS in its dealings with us on tax matters is literally the police, the investigator, the prosecutor, the judge, and the jury. And as a result of the fact that the IRS has so much unchecked power, that created an environment in which abuse occurred.

What bothered me most in listening to the testimony was not that you had people do bad things. We know that even good people sometimes do bad things. We know smart people sometimes do dumb things. But what alarmed me about the testimony over and over was the fact that nothing bad happened to bad people, that when people did bad things in the IRS, they were seldom, if ever, punished. And when people did good things like trying to raise the level of awareness in the IRS that abuses were occurring, often bad things happened to them.

That convinced me and, I believe, convinced the majority of the members of the Finance Committee, and ultimately the majority of Members of both Houses of Congress, that the system needed changing, that we had a system that reinforced bad behavior, and what we, of course, want is a system that reinforces good behavior.

I don't know what we are going to get from the oversight board we have established. I hope it will be productive. I certainly am supportive of it. I am not sure how well that approach will work, but there is a secondary approach in the bill that I am convinced will work, and that is an approach that really aims to curb this unbridled power.

The first change we made in the bill, which I think is vitally important, is we shift the burden of proof from the individual taxpayer to the Internal Revenue Service. We do that not only on income taxes, but we do it on estate taxes. I believe this is a very important change. Now, critics of this change said that only the taxpayer knows the facts, only the taxpayer has real access to the records, and so if you shift the burden of proof, the taxpayer will have an incentive to destroy records.

I think we came up with an excellent compromise in this area, and that compromise is that if taxpayers keep records that a prudent person could be expected to keep, if they turn those records over to the Internal Revenue Service on a timely basis, at that point the burden of proof shifts. I believe that this is a vitally important provision. It is a provision of the bill that basically guarantees honest taxpayers the same rights that criminals have in the criminal justice system. I think this is a major step in the right direction.

The next change that I believe will change the relationship between the tax collector and the taxpayer is a provision that is basically a version of loser-pay. This is an important principle, it seems to me. I would personally like to see it throughout our legal system. I have always been amazed that the British had the best legal system in the world and one of the poorest health care systems in the world, but we are interested in adopting their health care system and not their legal system. But the brilliance of their system, which actually dates back to ancient Greece, is that if you bring a lawsuit and lose, you have to pay the costs—costs incurred by the court, costs incurred by the defendant in defending their rights.

Now, we have a variant of that in this bill, and I think it is a very important provision. What this bill says is, if you are audited by the Internal Revenue Service, and you end up in a running dispute with them, and in the process you are forced to hire attorneys and to hire accountants to defend yourself, at the end of the process, if it is found that you did not violate the law, then the Internal Revenue Service is liable for the costs you incurred in hiring lawyers and accountants and defending yourself. I believe that by shifting the burden of proof and expanding the loser pays concept, that the rights of the taxpayer—the honest taxpayer—will be strengthened because it will change the behavior of the Internal Revenue Service.

In a related provision, we have language in the bill where, if you offer to settle with the Internal Revenue Service and offer to make a payment to them and they refuse to accept that payment, and instead they take the taxpayer to court, if at the end of the day the court rules that you owe the amount you offered, or less—not counting interest and penalties that might have been imposed by the Internal Revenue Service in the interim—then the IRS again becomes liable for payment of the cost of legal and accounting expenses incurred from the point that you made the offer to settle until the final judgment was reached in the court of law. It seems to me that is another vitally important change.

The third and, I believe, final major section of the bill has to do with the flexibility of the Internal Revenue Service hiring people. Under our current system, basically, you have to be in the Internal Revenue Service for 25 years to have a major supervisory, decision-making post. One of the things we have done in this bill is waive a number of the general procedures under civil service. We are allowing the Internal Revenue Service to go outside the system and bring in private expertise—some on a permanent basis, some on a temporary basis—and in the process, we are bringing in new people with private experience, many of whom will go back into the private sector. The net result, I believe, will be a more efficient and basically a more balanced Internal Revenue Service.

Finally, related to this third issue is the whole issue of people who violate the law and people who behave in ways that you can, under no circumstance, justify, nor should you ever tolerate in a government agency—or any other entity, for that matter. What we have done in this bill is not only given the new IRS chief flexibility in hiring new people from the outside, including very highly skilled and highly compensated individuals, but we have also given the Internal Revenue Service Director the ability to fire people—to fire people for a list of violations, and in the process strengthen his power to hold the agency accountable to the taxpayer.

So I want to congratulate Senator ROTH for his leadership on this bill. The major provisions of the bill relating to the burden of proof and to the loser-pay provision were provisions that the chairman insisted on and made part of this bill. They are dramatic changes. I want to congratulate

Senator MOYNIHAN as well as Senator KERREY and Senator GRASSLEY who served on the commission whose recommendations we built on in developing this legislation and did adopt many of its proposals. I think we have put together a good bill that will shift the burden of proof, that will force the IRS to pay when it is wrong, that enhances the ability to hire and fire—hire on the basis of competence, fire on the basis of incompetence, and on the basis of illegal or reprehensible behavior. I think it is a good bill.

I simply want to say this: Anybody who sat through all those hearings that we had in Finance—and I did—had to be convinced that the time had come for a fundamental change in the relationship between the taxpayer in this country and the agency that is charged with collecting taxes. We needed substantial changes that enhanced the power and standing of the taxpayer and that diminished the unbridled power of the Internal Revenue Service. I believe this bill achieves those goals. Nobody claims this solves every problem in the country. Nobody claims this makes our Tax Code any more decipherable. Nobody would claim that every problem is solved. But this is a major step forward.

I am strongly in favor of this bill, and I hope we can follow this bill next year with an effort to reform the Tax Code, to make it simpler and fairer. I think everyone believes that would be an improvement. The trick, obviously, is to make it happen. But I congratulate those that have been involved in the bill. I am proud to support it. I think it is certainly one of the highlights of this Congress and recent years, and I am glad to have been a small part of it.

I yield the floor.

Mr. KERREY addressed the Chair.

The PRESIDING OFFICER (Mr. HUTCHINSON). The Senator from Nebraska.

Mr. KERREY. Mr. President, I also rise in support of the conference report, the Internal Revenue Service Restructuring and Reform Act of 1998. I would like to begin my comments with high praise for the Chairman of the Finance Committee, both for calling the hearings last fall and again this year, and for his efforts every step of the way to make certain that this was a responsible bill, a balanced bill, and a bill that reflected the high values of the American people. I appreciate very much his leadership, as well as the ranking member of the Finance Committee, Senator MOYNIHAN. The chairman, I think conducted the hearings in a very responsible way and in a way that enabled the American people to see that the laws governing the IRS were in urgent need of changing. It simply would not have happened without Senator ROTH's diligence and willingness to bring to the American people's attention many of the problems that they saw last fall and again this year.

Mr. President, representative democracy is a very difficult system. We all know it. We all view it to be the best. With all of its faults, it still is the best system around. But it is a difficult system, because the people themselves have to decide what they want their laws to be. We, as their representatives, have to reflect their wishes and desires. But at the end of the day, you have to write a law and decide which words they ought to be. What goes into those laws very often is an attempt to resolve conflicts.

This piece of legislation I believe is in an area of government that in many ways is the most difficult of all. I would put law enforcement closely behind it as being both the most important and the most difficult. You always have conflicts between law enforcement and the desire for public safety, which is an overriding concern in the desire to protect individual rights. It is always there. It will never end. It is a never-ending battle. It is a never-ending argument. It is a never-ending struggle to try to resolve those conflicts.

Likewise, when it comes to paying for government—and all of us, I presume, are careful in how we spend the taxpayers' money—many of us are of the view that government itself needs to be watched very carefully, in an attempt, especially at the Federal level, to reduce it as much as possible so that taxpayers get to keep as much of their money as possible. The bottom line is, we are going to have some government.

I was very struck watching President Jiang Zemin in China. I didn't see any demonstrators over in China. And the reason is, they don't have a law protecting them. They don't have government of, by, and for the people. That is a law that protects, but it also costs us money.

We have to decide how we are going to organize our police force, fire department, and all the rest of it. When, at the Federal level we decide we want an Army, a Navy, an Air Force, and a Marine Corps, which we authorized not too long ago for the defense of this Nation, we have to decide how we are going to collect the money. So we write a law that not only decides how that money is going to be collected but we write a law that authorizes the collection agency—in this case, the IRS.

I begin with those basics because sometimes I hear people describe the IRS as if it is a Sears & Roebuck or a private-sector operation. It is not. It is a creation of law. If you wanted to get rid of the IRS completely—I have heard some people argue that—you could come down here and offer an amendment to abolish the IRS. The IRS needs a law. The IRS—and in its current form, for those who are in the private sector and used to working with private-sector organizations—the IRS has a board of directors composed of 535 Members of Congress, 100 in the Senate and 435 in the House. Again, it is important to understand that.

We come—all of us—with different views, different ideas. The distinguished occupant of the Chair represents the good people of Arkansas. I represent the good people of Nebraska. The chairman of the committee so responsible for this legislation represents the good people of Delaware. We come with a variety of ideas in the way that we want the IRS to be governed. We bring those ideas typically forcefully to the floor, or to our respective committees, to try to get things done.

I say that because sometimes those ideas are in conflict. Sometimes at the very moment we are calling for tax simplification, we are voting "aye" on something that makes the code more complicated. As the distinguished Senator from New York said, this piece of legislation amends the 1986 act, which itself was called, I think, the Tax Simplification Act of 1986. It was enacted before I arrived in the Senate. Fortunately, I could blame all of the problems that thing created on those who voted for it. But that legislation has been amended 64 times, and each time, typically, it makes the code a bit more complicated.

We talk about wanting the IRS to do a better job of collecting revenue. It doesn't take long, after they have been trained and get up to speed, before the private sector puts an offer on the table to try to pull the good people away, hire them away. Sometimes the IRS says, "We want to modernize so as to have good computer operating systems." Sometimes we fail to appropriate the money that they need to get the job done.

All of this, and more besides, describes the difficulty of writing a law that enables the IRS to do the things that the American people want, which is to collect the amount of money that is owed in a voluntary fashion and to create an environment so that those who are willing to pay in a voluntary fashion—those who are volunteering to pay their fair share—get the answer to the question, "How much do I owe?" in as efficient a way as possible and get their taxes paid in as efficient a way as possible with the least amount of cost and harassment on their side, while still preserving the power of the IRS to go after individuals who are not willing to voluntarily comply, don't want to pay their fair share, and who, I think it is fair to say, burden those who are voluntarily complying by withholding their fair share.

So the IRS restructuring legislation is an attempt to improve the law. I believe it does that in a number of very, very significant ways. I would like to describe a few of those for my colleagues. Indeed, at the press conference, after the conference work was done, I heard a number of people in the press ask—and I have been asked as well in Nebraska—"How will we notice the changes in this law? How will the changes be noticed by me, a taxpayer who has a relationship with the IRS?" I would like to identify a few of those.

First, the law that creates governance for the IRS has been dramatically changed. It has been changed in the executive branch side. But it also has been changed in the legislative branch side.

It must be noted, I think, in fairness, that we first started noticing problems with the IRS a half-dozen years ago when the tax system modernization program that we had appropriated money for wasn't functioning very well. The GAO was requested to do an examination. The GAO came back and said that as much as $3 billion had been wasted. At the time, I had the high honor of serving on the Appropriations Committee under Chairman BYRD and the ranking Republican, Senator Hatfield. Our Subcommittee on Treasury-Postal Appropriations tried to fence the money for a couple of years. We tried to work with the IRS to figure out some way to make this work better.

In 1995, what Senator SHELBY and I were going to do was withhold the money entirely. We took an alternative course to create in 1995 this restructuring commission that Congressman PORTMAN and I had the high honor to be cochairs of in 1996 and 1997. We were just one of six committees, and still are, that the IRS had to report to. They had to come to the Appropriations Committee, the Finance Committee, and they go to the Governmental Affairs Committee. And they had to go to all three of their counterparts on the House side. They are required under law to go to each one of those.

What the GAO reported—both at that time and later to the restructuring commission—was that you need to reorganize that, that you are not going to be able to make good investments in computers and operating systems and the software for those computers. You will make a mistake when you spend the taxpayers' money unless you get to a point in some environment where there is a shared agreement on how that money is to be spent: What is the purpose? What is the goal? Where is it that you are trying to go?

This legislation creates on the executive branch side a new board of governance which the President appoints. They have a considerable amount of power and independence. These individuals will come from the private sector with a variety of different experiences to be able to assist the Commissioner in making a decision about what kinds of management objectives and what kinds of computer systems and software systems are going to be in place. But that board will have the opportunity as well under this legislation to meet with a single committee on an annual basis to review IRS operations and management.

So the appropriators, the Finance Committee, and the Governmental Affairs people, in both the House and the Senate, will be meeting with this board of directors in reaching agreement. It is much more likely in this kind of environment—whatever plan the IRS comes up with and the Commissioner comes up with—that the Congress will support that plan, and support that plan on a consistent basis.

This governing board is also much more likely to provide taxpayers with a sense that the IRS is more directly accountable to them. There will be an opportunity for citizens to go to that board, and it is much more likely that we in our offices will be able to follow up on cases that are brought to our attention.

So the governance board on the executive branch under this law and the change in governance on the legislative branch are the first things that I believe taxpayers are going to see. They are going to see better decisions and more consistent support being provided for those decisions as a consequence of the changes in this law. They were very controversial for a long period of time. The administration reached agreement with the Congress on what those provisions were going to be. But I believe every single taxpayer is going to see a benefit as a consequence of improved governance and improved decisionmaking being made by the Commissioner of the IRS.

The second big area where people are going to notice a change is the new management powers and authorities that are granted to the Commissioner.

First of all, under law, the Commissioner will be able to serve a full 5-year term. Over the past, I think, 5 years now, we have had three different Commissioners. There has been substantial turnover and difficulty as a consequence of maintaining continuity. And the maintenance of continuity is a very important objective of this legislation. The IRS Commissioner not only will have the power to make management decisions in an affirmative way by providing incentives for people to perform and rewarding them when they do perform but new authorities to terminate employees who are not performing up to the highest standards of the American people and the American taxpayer.

In addition, the Commissioner is not only given authority but directed to change the way we manage the IRS from the current system, which is a district and regional geographical organization, to functional lines of governance. Every single taxpayer is going to notice that change, Mr. President, not this year but certainly over the next 2 or 3 years. Our taxpayers are going to say it is an awful lot easier now that the Commissioner has organized the IRS by individual taxpayers, by corporate taxpayers small, by corporate taxpayers big, and by nonprofits. It is going to be a lot more likely that the Commissioner is going to be able to give each one of those entities the continuity of service they are asking for.

As individuals move from one part of the country to another, they find themselves in a different region, in a different district. It is much more likely that the Commissioner is going to be coming to the Congress saying: Here are some changes we could make to decrease the cost of compliance and make it easier for larger taxpayers, for smaller taxpayers, for individual taxpayers—much more likely when we organize around functional lines.

And with the increased authority under the law the Commissioner will have, it is much more likely that every single taxpayer will say: It has gotten much easier for me to pay my taxes. They may still think they are too high. They may still say: It should be a consumption tax or some other way of paying my taxes, but it has gotten easier; I have gotten the information more quickly; there is an operating system here, a computer system here, an information system here, that has made it easier for me to acquire the information if I have a complaint or discrepancy.

And you hear it all the time. Somebody calls up and says: I am making $10,000 a year; I got a bill for $140,000; it's ridiculous; something is wrong. I call up my IRS office. They don't have the ability to reassure me that a mistake has been made. It takes months and months and months.

With this new governance structure, with this new authority, we are providing the Commissioner what I think every single Senator and every single Representative is going to hear citizens saying: I am able to call up and get an immediate change. If I have a change of address and my refund check hasn't arrived, it is going to be much more likely I am going to get immediate attention, same day attention, to that and shorten the amount of time that is required to get the problem resolved.

Mr. President, not only do taxpayers save money because the IRS will spend less money, but the taxpayers themselves downstream will save a lot more money, not having to chase around and solve the problem.

The third big area is in taxpayer rights, and there are a lot of changes. I am just going to list a few of them. The chairman talked extensively about the burden of proof shift. I think it is a reasonable compromise, although there is still some cause for concern. If we find ourselves with some problems as a consequence of this provision, which I don't think we will, Congress can always make some modifications. It shifts the burden of proof in all forms of income at the Tax Court. There are changes in the way taxpayers' proceedings are handled at the IRS, including such issues as to how costs are awarded and apportioned, civil damages if the IRS is negligent.

One of the things we are trying to do all the way through the rights provision is make certain that when the IRS sends out a collection notice, they are going after a taxpayer for doing something, that they have relatively high certainty the taxpayer has done something wrong. The burden is on them to make a judgment with this new law, because if we find that the IRS has been negligent, the IRS has done something wrong, under these new provisions the IRS can be held not only responsible but liable for payment to the taxpayer—much more likely, as a consequence, taxpayers are going to see fewer collection notices that are sent out when no collection is warranted.

There is relief for innocent spouses, changes in interest and penalty, new protections under audit, new disclosure requirements to taxpayers—extremely important provisions, Mr. President. The taxpayer very often just doesn't get the information, doesn't know what is going on. As a consequence, they are not able to make a judgment about how much they owe.

There are provisions in the bill to create low-income clinics, a very important provision as well. We all know that the higher your income, the more likely it is you are going to have somebody do your taxes for you. With all the tax simplification and complexity issues that we hear, as income gets more complicated, it is more and more likely as a result that your income is going to be higher and more likely that somebody else is going to do your tax return for you. But for that lower-income American, these low-income clinics are going to be, I think, an extremely important part of our overall effort to make certain that all Americans say, whether it is the IRS or the FBI or the USDA or whatever it is, it is still Government of, by, and for the people. And the law has to be on the side of all Americans, not just those of higher incomes but on the side of middle-income Americans and lower-income Americans. And I think this low-income clinic provision is a very important part of it.

In addition, under the rights provision, the IRS will be required to catalog complaints it can bring to Congress, and we can sort out and see if there are any repetitive problems here and make judgments about whether or not, as a result of those repetitive problems, we need to make further changes in the law.

The fourth big area is the area of simplicity. The distinguished Senator from New York commented on that at length. I would only point out that I think, again, Members are going to hear taxpayers saying: Well, finally we have some things in there that help us deal with this problem, estimated to be $100- to $200-billion a year, of costs to the taxpayer to comply with the current code.

Now, it has to be said, as long as you tax income, it is going to be invasive. That is my own belief. If you tax income, it is almost going to be true that it is going to feel invasive if you are in an audit situation. This law will give taxpayers, I think, some new evidence that we are getting the word out on simplification.

First of all, for the first time under law, the Commissioner is empowered to make comments and to be there when laws are being written. Right now, you will have to search your memory bank, and I think in vain, to find a time when you have ever heard an IRS Commissioner say: Great idea, Mr. President; great idea, Senator Blowhard—for some new tax break—but here is what it is going to cost the taxpayer to comply.

We heard in the restructuring commission examples, and we filed them as a part of our index, of situations where provisions in the code cost far more to enforce than they generate in revenue. The cost to the taxpayer and the cost to the IRS to collect the money is greater than the benefit measured in the amount of money that is collected.

So in addition to putting the Tax Commissioner at the table and giving him authority to comment, as the distinguished Senator from New York mentioned earlier, there is a new simplicity analysis that will be done and prepared so we can judge whether or not an idea that we have is going to either increase or decrease the cost to the American people to comply.

There are new provisions, next, Mr. President, in the area of the Taxpayer Advocate, making the advocate more independent, making the Advocate more likely to help in the resolution of problems—a very important section. And I think every single taxpayer who has a problem with the IRS is going to see that this new Taxpayer Advocate is more likely under this new law to be able to help resolve in an expeditious fashion any complaint or problem they have.

Last, Mr. President, in the section dealing with electronic filing, those of us who have spent some time on this believe, No. 1, that if you are trying to reduce the cost, the most important thing is to reduce the number of errors. In the electronic world, there is less than half of 1 percent errors. In the paper world, it is 20 to 25 percent errors being made both by the IRS and the individuals who are filling out the forms. The electronic world offers us a tremendous opportunity to decrease the cost to comply for both the taxpayer and the IRS.

The language of this bill says that the IRS would encourage private sector competition. Again, I must say I think it is very important that Congress pay attention to this. Though I want the IRS to be able to offer services to the American taxpayer, I want to make certain that there is vigorous competition out in the private sector for the delivery of these services.

All in all, I believe this piece of legislation represents a good-faith effort on the part of Members of this body and the House to do something that is extremely difficult, and that is to write the laws governing the collection of our taxes in a way that resolves all the various conflicts that you have when you are trying to write any piece of legislation dealing with something where you are simultaneously trying to make it easy for taxpayers to comply and make it difficult for people who are not willing to comply to live outside the letter, the spirit, and the intent of the law.

I close with what I said at the beginning. I have high praise for Chairman ROTH for his good work, his balance, and his determination to finally get this done. I have high praise as well for Senator GRASSLEY, who served on the restructuring commission, for Congressman PORTMAN, who was my chairman, as well as Congressman CARDIN and the senior Senator from New York, Senator MOYNIHAN, the ranking Democrat on the committee.

I look forward to final passage, and I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, America is a great country. It is not perfect, but it is a great country. It is a country where the voice of the people is usually heard. That is what this is all about today. The American public, for some time, has been upset about the way their tax collector has been handling a very important aspect of the business of this country. Today we are dealing with something that is very important to the American people.

I also must say that this IRS restructuring and reform bill would not have been possible but for the senior Senator from Nebraska. The senior Senator from Nebraska has worked long and hard on this issue. Even before this legislation was introduced, as he has just briefly outlined, when he was a member of the Appropriations Committee and a member of the subcommittee that had jurisdiction over the IRS, he started this legislation. It seems it was only yesterday, even though it was much longer. It was last year that Senators GRASSLEY, KERREY, and I stood to introduce this legislation.

When we introduced this legislation, we didn't have a lot of people who wanted to help us. There was a sparse group of people from the Senate supporting us—Senator KERREY, from Nebraska, Senator Pryor, from Arkansas, and Senator GRASSLEY, from Iowa. But I commend and applaud the Senator from Nebraska for his vision and, most of all, for his tenacity on this legislation. I am glad we are finally at a point now where we can pass this because this IRS restructuring and reform bill is important.

Mr. President, when I first came to the Congress, I came with the feeling that something had to be done about the IRS. I was elected in 1982. During that period of time, the State of Nevada was going through some very difficult times with the Internal Revenue Service. The reason for that is that the resort industry had been in a battle that had gone on for several decades as to whether people in the gambling business, when they received a gratuity from somebody who was playing cards or dice, could treat that gratuity as a gift, or whether it was taxable by the Internal Revenue Service.

This battle was taken to the court structure and the courts determined that this was taxable income. It took several decades to do this. After the decision was made by the courts, many of the people in the resort field owed money to the IRS. They acknowledged their debt, and made arrangements with the Internal Revenue Service, saying I owe $20,000 or I owe $4,000, whatever the amount might be, and they would repay it at whatever rate they could work out with the IRS agent, for example, $200 a month or $600 a month. The problem was, the IRS would keep reneging on their deals. A new IRS agent would come along and say, "You are not going to pay $200 a month, you have to pay $400 a month." They would say, "We already made an arrangement with you to pay at $200 a month." The IRS agent would say, "I'm a new agent; I will make the deal with you that I think is appropriate."

This went on and on. The people in the resort business had their property seized and their bank accounts levied. It was a very chaotic situation. As a result of this experience, when I came to the Congress, I introduced a bill in the House called the Taxpayer Bill of Rights.

On the day I introduced that legislation, I appeared on the "Charlie Rose" show. At that time, Charlie Rose came on at 2 o'clock in the morning. I thought the legislation I introduced had impact only on the people of the State of Nevada. I was surprised, amazed, and impressed to learn that it was not only a Nevada problem. After I appeared on this TV program that aired at 2 a.m., I came to the office the next day and to find hundreds of telegrams. The phone wouldn't stop ringing. This problem was a problem throughout our country, not just in the State of Nevada. All over the country the IRS had not been treating people appropriately.

I was not able to move the legislation in the House for various reasons. The chairman of the subcommittee in the House liked the IRS more than he liked my legislation. I was elected in 1986 to the Senate. My maiden speech in the Senate related to the same Taxpayer Bill of Rights that I introduced in the House and that I said I was going to introduce here. Very fortunately for me, and I hope for the country—I feel confident that is true—presiding over the Senate that day was the subcommittee chair of the Finance Committee subcommittee that had jurisdiction over the Internal Revenue Service, David Pryor, from Arkansas. Senator Pryor sent a note to me by a page, after I finished my speech, saying: I like what you have said. I want to work with you on this.

Also, that same day, CHARLES GRASSLEY, a Republican Senator from Iowa, made contact with me saying: I want to work with you on the Taxpayer Bill of Rights. So I had two very senior Members of the Senate who wanted to work with a brand new Senator's legislation that we now call the Taxpayer Bill of Rights. We conducted hearings and we learned some amazing things.

I would relate to the chairman of the Finance Committee, even back then we had some very courageous people who were the beginning of some of the people who came forward in the latest round of hearings relating to the IRS restructuring reform bill. For example, we had one IRS employee from Los Angeles who put his job at risk, because the IRS testified that they did not promote people on the basis of how much money they collected. This IRS employee came in and said, "That's not true." He said, "In our office there were big glass windows in the inner offices and there were big pieces of paper there saying: 'Seizure fever, catch it.'" That was a message to all the IRS agents that they should go out and seize all the property they could. That would get them promotions. We therefore outlawed promotions on the basis of how much money was collected and we outlawed quotas.

The Taxpayer Bill of Rights passed, and on November 10, 1988, President Ronald Reagan signed into law the Taxpayer Bill of Rights that I had written. But I acknowledge I could not have gotten that done without the tremendous support from Senators Pryor and GRASSLEY. They were champions. They were on the Finance Committee, and they were the ones who were responsible for working with me and moving that legislation.

The Taxpayer Bill of Rights, signed by President Reagan, really did create new rights that taxpayers had never had before. For the first time in the history of the country, the taxpayer was put on a more equal footing with the tax collector. Note I say "on a more equal footing with the tax collector." The tax collector still had some serious advantages. Because of that, Senators Pryor, GRASSLEY, and I moved forward with the Taxpayer Bill of Rights 2.

We had some difficulty with that. It was vetoed on a couple of different occasions, not because of the substantive nature of our bill, but because it was part of a tax bill. It was part of partisan wrangling which took place here, and President Bush vetoed the bill twice. Included in that bill was our Taxpayer Bill of Rights 2.

However, in July 1996, we achieved a crucial milestone on the road to IRS reform when President Clinton signed the Taxpayer Bill of Rights 2 as Public Law 104–168.

I underline and underscore, President Bush did not oppose our bill when he vetoed the tax bill. I repeat, it was part of an overall tax problem that caused him to veto the whole tax package. So we had Taxpayer Bill of Rights 1 and 2. They both did things to help the taxpayer versus the tax collector.

I served as an appointed member, by then-Leader George Mitchell, on the Entitlement Commission. I served there with Senator KERREY and others. I came to the realization at that time that the IRS, even though we had Taxpayer Bill of Rights 1 and 2, still needed significant work, principally because of how much money it cost the American taxpayer and the government to collect the taxes. It was estimated during the entitlement hearings that it cost about $500 billion a year just to collect the income tax of this country.

In the autumn of 1997, Senator GRASSLEY, Senator KERREY of Nebraska and I introduced the IRS Restructuring and Reform Act of 1997. I was happy to join in that. Someone asked me in an interview, "The President doesn't support this; why are you out on front on this?" I said, "I believe he is going to have to get out of the way or the steamroller is going to run over him," and, in fact, that was true. Within a few weeks, the President and many others joined in this legislation which initially had very little support.

The bill we introduced was referred to the Ways and Means Committee, and the chairman of the Finance Committee in the Senate, the senior Senator from Delaware—I say through the Chair to my friend, the chairman of the committee, as a matter of information, are you the senior Senator from Delaware? Yes, he is. Both Senators have served a long time, and I wasn't certain which one was the senior member.

The chairman of the Finance Committee, the senior Senator from Delaware, held some hearings that I thought were very probative, very important to get the American people behind this legislation. The witnesses were carefully chosen. I thought the timing of those hearings was very good to add impetus to this legislation.

In his State of the Union Address, President Clinton challenged the Congress to pass the IRS reform bill as its first order of business. I am glad it is one of the things that we have worked on very quickly.

This bill has been outlined on several occasions today. It shifts the burden of proof; it expands IRS authority to award administration and litigation costs; it expands current law to allow taxpayers to sue the Federal Government; it requires the IRS to fire an employee for misconduct relating to the employee's official duties; it creates an oversight board to watch over IRS administration, management and conduct; and it does something that I think is so important—it creates confidentiality between the tax preparer and the taxpayer. I think that is very important.

The bill also contains a provision addressing the meals tax. As a matter of good-faith bargaining between an employer and employee, if they say that an employee should have a meal on the premises, that meal is not going to be taxed by the IRS.

Also, there is something I call the "rewards for rats" program, where private citizens are encouraged to turn in those who they believe are not paying their fair share of taxes. The IRS is directed to examine the conduct of this program. It is important to find ways to prevent such things from taking place.

It also does very important work related to an innocent spouses. The other issues that are covered here have been elaborated upon in some detail, but innocent spouse status I want to talk about a little bit.

My daughter—I have one daughter and four boys—my daughter had a wonderful teacher. She was a second grade teacher who had moved from the Midwest to the Las Vegas area and had recently gone through a divorce. Her husband had been a bank officer, and had embezzled huge amounts of money. Totally unaware of this was the second grade schoolteacher in Las Vegas.

The fact of the matter is, though, the IRS—and I won't talk about the woman's name—were relentless in going after this woman's wages. She was a schoolteacher. She had no money other than her limited salary from teaching, and they just harassed and badgered this poor soul unbelievably. At the time I said, some day I hope I have an opportunity to prevent further acts against people like Mrs.—I won't mention her name. And we are doing that today.

In the future, innocent spouses will have an opportunity to explain their situation as innocent spouses. This is important legislation. Why should somebody who steals huge amounts of money from a bank, as in this example, shift the burden of proof to an innocent spouse? It is not fair, and this legislation will solve that problem.

I believe Congress works best when it works together. This legislation is bipartisan legislation. This legislation is a testimony to the power of bipartisanship and how we need to act together to focus on the problems that relate to the American public.

This legislation is legislation the American public wants. It is legislation in which this Congress has joined together in a bipartisan fashion under the leadership of the chairman of the Finance Committee. I am a member of the other party from this Senator, but I say publicly that under his leadership, this legislation has moved along to a point where we are now passing a bill.

I am sure the senior Senator from Delaware has many things that he is proud of having done in his long legislative career, but I hope today's resolution of this very important issue will be near the top of his legislative list of accomplishments. I am very happy with having worked with him, with the senior Senator from Nebraska, and with Senator GRASSLEY from Iowa, to the point that the legislation which we introduced a year or so ago is now going to become law. I also want to recognize the essential role played by my good friend the ranking member of the Finance Committee, Senator MOYNIHAN.

I, again think this legislation is reflective of how our country works when the people of this country speak out loud enough for us to get the message. We have gotten the message. Hopefully, we have answered the concerns of the American public. I am confident that we have.

Mr. KERREY addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. KERREY. Mr. President, the Senator from Nevada and I have had the occasion to work together on a number of things. I appreciate his early support, not just of this piece of legislation, but his early support for changing laws giving taxpayers more rights when dealing with the Internal Revenue Service. This is just a continuation of Taxpayer Bill of Rights 1 and 2 with which I know the Senator from Nevada was very much involved.

I also thank him for bringing to our attention this issue of meals deductibility. That was a judgment that was being made by the Treasury Department. I understand it is one of those situations that sort of makes sense if all you are doing is pushing a pencil and trying to make your numbers and the law come together. Had he not brought that to our attention, we would have had one more example, one more situation where the Code becomes enormously complicated, enormously burdensome. What happens is, people just lose confidence in their government. They say, "How could you do something so stupid?"

I appreciate him bringing it to our attention. It had not been brought to our attention. Not only would the people of Nevada have been up in arms about it, but I say throughout the country. I say to my friend from Nevada there would have been an awful lot of people knocking on our doors talking to us about "How could you do something that required people of average means to reach even farther to try to stay on the right side of the law?" I was happy to assist in this matter, but I assisted not just to help the people of Nevada who have such able leadership in the Senator from Nevada, but I believe everybody from the United States of America is going to benefit as a consequence of that change.

Mr. BRYAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. BRYAN. I thank the Chair. Mr. President, let me preface my comments by joining the senior Senator from Nebraska in commending my senior Senator from Nevada for his untiring efforts for taxpayers not only in Nevada, but across the country, in terms of his efforts on the earlier variations of the bill of rights and the strong support of the legislation that we are debating today and that will be signed into law very shortly by the President.

Mr. President, I come to the floor this morning as a member of the Senate Finance Committee to offer my strong support for this historic legislation. It has been a long time coming. It has been a difficult process, but it is clear that the American people will benefit greatly as a result of this legislation which will soon be signed into law by the President.

None of us really enjoy paying our taxes. But the vast majority of Americans do make a good-faith effort to pay their fair share. And while the IRS will never be popular, the legislation that we will soon vote on will go a long way in providing fairness to taxpayers in their dealings with the IRS and will assist Commissioner Rossotti to meet his goals of making the IRS a more efficient and customer-oriented service.

Mr. President, the American tax system is essentially one of voluntary compliance. And implicit in that relationship is a sense on the part of the taxpayer that he or she is receiving fair treatment. To the extent that that perception is diminished, it undermines the public confidence in our system, it reduces the level of tax compliance, and it creates problems for those of us who do comply with this system and who will be paying a disproportionate share, larger than our fair burden, for those who do not.

So it is a responsibility of the Congress to make sure, in its oversight capacity and the laws which we enact, that the IRS operate in a fair, evenhanded way in dealing with the taxpayer. And I must say, as a result of the hearings that the chairman of the committee held, the abuses that were pointed out, in several instances, are rampant. And I will comment on those in just a moment.

I think it is fair to put this in some perspective as well, and that is that the great majority of employees of the IRS are really very dedicated public servants. They try to do their very best in performing the duties that they have. Much of the criticism that is directed against them properly ought to be directed against us. It is the Congress that enacts the code, and it is by every standard extraordinarily complicated, complex. Each year that we seek to make improvements to the code, at the same time it is also fair to say that we add additional complexity to it.

That having been said, that their job, being the IRS and the employees of that Service have a very difficult job, there is absolutely no excuse for the kind of conduct that we saw evidenced in the hearings that the chairman had this year and last year. That is totally unacceptable conduct. I believe that several of the reforms that are addressed here in this legislation will help to alleviate those kinds of conditions.

In addition to the obvious problems that were pointed out in the hearings, other problems are a bit more subtle, but they are also damaging to the taxpayer. And that is poor and inefficient management, inadequate and outdated computer systems, or the corporate culture that we saw much evidence of—the view of the taxpayer as the adversary instead of the customer. That has been deeply entrenched.

One example that comes to mind is the quota system. There had been an attempt, in previous legislation, to send clear, unmistakable direction to the IRS that a quota system is not to be employed. A quota system forces the revenue agent to look at a taxpayer who comes into his or her office, not as a customer who has a problem that needs to be dealt with, but as a quota, that is that he or she is to be viewed as an individual from which that revenue agent must collect a certain amount of dollars, much like a traffic cop who is told by his or her boss that some 15 or 20 tickets must be issued each day. And that is what creates this adversarial system.

We thought that we had eliminated that practice and that abuse. But no sooner had the chairman convened the hearings last fall that I received in my office, from an employee in the IRS office in Las Vegas, an internal document that gave every appearance of being a quota. Those in charge asserted that it was not a quota, but in point of fact, clearly, the revenue agent was given the impression that each individual was to be assessed a certain amount of money in terms of additional tax to be brought in. And clearly implicit in that direction was the fact that that employee's future and career prospects with the Internal Revenue Service would be judged based upon his or her performance. Hence, this confrontational relationship that I described continued to be deeply ingrained as part of this culture.

Now, those are not easy things to root out. I must say that Commissioner Rossotti and the interim director, in response to questions that I raised during the course of those hearings, reaffirmed the policy that no quota system would exist and that the practice which had been conducted in Las Vegas, and perhaps other district offices as well, was not to be continued. And to the best of my knowledge, there has been no indication that it has.

However, I do think that one of the fundamental changes made in this piece of legislation—the creation of a citizen oversight board, involving six members from the private sector—can be very helpful in monitoring the kinds of activity which comes to our attention as Members of Congress and, hopefully, will be helpful in eliminating that practice. Although it does not have the pizzazz of some of the other provisions, I believe the power that we invest in the new Commissioner to make changes at the top level of management will also have some far-reaching consequences.

It is clear that those who are steeped in this corporate culture, this deeply ingrained practice that I and others who have spoken on this issue have described, simply are unable to make that change, that the frame of mind that allows that to continue has been such a part of the daily operational conduct of the agency that in some instances at the top level individuals simply have to be replaced.

I think it is important to point out that in Commissioner Rossotti we have the first Commissioner whose background is not tax accounting law, but he is an individual who is a businessman, not a lawyer, who has committed to provide the kind of management reforms that we need to change that corporate culture. So the powers that we give him to make those kinds of changes, which no previous Commissioner has had, I think will help to send a very powerful message at the top that this is not business as usual and that we want not only a more efficient and a more responsive agency, but we want an agency that eliminates the kinds of abuses that were provided during the course of the hearings.

Some years back the Congress intended to provide an ombudsman, as it was initially called, later a Taxpayer Advocate, to represent the individual. Those intentions, I think, were well conceived. Indeed, in their implementation, I think an effort was made to create such a position. But in point of fact, individuals who were chosen to serve in this capacity came directly from the IRS, returned to the IRS, and because that individual's ultimate career plan in the IRS could be impacted by his or her performance as a Taxpayer Advocate, the Taxpayer Advocate Office did not achieve its desired purpose to provide independent representation and advocacy on behalf of the taxpayer.

I believe in the legislation that will be signed into law, as a product of this bill, that we have created that kind of independence by making it clear that this is not an individual who can come directly from the IRS and immediately, upon completion of his or her tenure in the Office of Independent Advocate, once again continue a career path within the IRS. That independence, in fact, as well as perception, I think, will provide invaluable help to America's taxpayers.

Much criticism is directed at the agency and much is warranted. Let me comment, in the interest of balance, on something that the agency has done an excellent job in doing and that is the implementation of telefiling. It is a paperless tax filing system. In 1997, nearly 5 million taxpayers took advantage of that by simply picking up their telephone and filing their return. Its calculation is done on the other end. It is paperless. It is fast. Those taxpayers who have a refund coming to them will receive that refund much more quickly than in the process in which one files a paper return that is processed. It also is less cumbersome for the IRS in terms of the paperwork which has been generated, thousands and thousands of different forms and millions and millions of returns. So it helps us achieve the goal of efficiency in terms of the IRS' response.

I am pleased to note in 1998, nearly 6 million taxpayers took advantage of the telefiling. That is an increase of nearly 27 percent. Indeed, that is just the tip of the iceberg. The potential is significantly greater. Other types of electronic filing have also been developed. In 1997, we had about 14 million who filed electronically. In 1998, some 18 million. That is 28 percent. That also provides for a faster evaluation of the return, provides less opportunity for errors, for misdirected paperwork, and I think will be extremely helpful in providing the standard of service to which the American taxpayer is entitled.

Among the more significant things, dramatically significant, is a shift in the burden of proof for taxpayers and small businesses when their dispute with the IRS reaches the Tax Court level. That shifts the burden of proof from the taxpayer to the IRS. That will be another significant change. Perhaps if there is any one change that more dramatically signals what we are trying to accomplish in this legislation in trying to provide fairness to the American people who are attempting to comply with a very complicated tax system, this is an indicator.

Having practiced law in years past, I am not unmindful of a situation which innocent spouses are frequently victimized by the conduct of their spouses, oftentimes in the context of separation or divorce, in which the spouse involved in business is involved in either concealing or fraudulently filing a return, that return is jointly signed by the other spouse who has no involvement in the business and no culpability. The offending or culpable spouse is no longer available and the IRS turns to the innocent spouse. By any fair standard, that is conduct we should not endorse. An innocent spouse truly not involved, not culpable, should not be victimized by the conduct of his or her spouse. This legislation provides expanded benefits and protection for the innocent spouse.

In addition, we do several other things. That is, we provide for additional authority to award litigation costs to taxpayers who prevail in court disputes with the IRS. It costs a great deal of money to engage counsel. Most American taxpayers are not in the position to afford that kind of expense. It is only fair when that taxpayer prevails that, indeed, the cost of the litigation be recovered in favor of the taxpayer. We send a very strong message that the kind of misconduct which was much in evidence during the hearings last year and this year is not to be tolerated. We say to the American taxpayer, to those who have been victimized by such conduct, that a cause of action for civil damages based on claims of negligence by IRS employees will now be available to such taxpayers.

We improve taxpayers' rights during audits, collections, including prohibiting the IRS from seizing residences for deficiencies of under $5,000 and prohibiting the IRS from seizing a residence without a court order, increasing the availability of taxpayer assistance, reducing penalties for taxpayers making good-faith efforts. I think this might require an additional word of embellishment.

For those taxpayers who for whatever reason have failed to pay their full amount of taxes due, who are on a schedule of payment, only to find that the compounding effect of penalties and fines makes it virtually impossible for them ever to reduce the amount of principal that is the original amount they failed to pay, nothing could be more frustrating, nothing could be more discouraging, and it is a disincentive to those taxpayers who say, look, I recognize I owe the money, but I don't have it all. Establish a schedule of payments so I can make my payments. We heard testimony of people who had paid for extended periods of time and after having made such payments really had not reduced their principal; if at all, very minimally. This legislation addresses such an issue, and I think will be an incentive and encouragement for taxpayers to, indeed, begin making payments and to see the proverbial light at the end of the tunnel.

Greater disclosure and notice to taxpayers, including details of the computations of any penalties and interest due; more detailed explanations of the entire audit and collection process in the first deficiency notice; disclosure of taxpayers' rights at interviews with the IRS; disclosure of the criteria for examination—all part of the process to make one's visit to the IRS less of a mysterious and frightful experience, but to provide the taxpayer a broader understanding of the circumstances that bring him or her to the office—rationale for the deficiency, for any that is assessed, what that taxpayers' rights are in terms of responding.

In sum, Mr. President, all of these provisions should result in a more efficient and friendly IRS in the future.

I want to commend the chairman of our committee with whom I have had the great pleasure of working in this Congress as a newly appointed member to the Senate Finance Committee, the ranking member, the senior Senator from New York, and my colleague who sits to my right, the senior Senator from Nebraska, Senator GRASSLEY and others, who have labored in the vineyards for many years to provide fairness to the Code. It has taken us a long time. I freely acknowledge that some of us have been frustrated and thought this ought to have been done last year, but there can be no doubt that our work product that will ultimately be signed into law will be a vast improvement for the American taxpayer, and it does enjoy the imprimatur of bipartisan effort and support.

Finally, I will address an issue that has been of concern for literally tens of thousands of Nevadans who work in the hotel industry in our State. It is not a provision that is confined or limited to Nevada only because the practice in the hotel industry not only in my own State but across America is to provide for the convenience of the employee, by the employer, a meal at the business location. For more decades than I can remember, that benefit has been provided and it has been viewed as a nontaxable benefit. That is to say that the meal is provided and that there is no tax liability attached to that benefit that the employee must pay as a result of receiving that meal at the employer's expense, on the job, at the employer's place of business.

A year ago, a decision of the Tax Court astounded most of us who are familiar with the practice and created a situation that would be monstrously unfair to literally tens of thousands of taxpayers in my own State where this issue was widely publicized, but would have the potential of affecting hundreds and hundreds of thousands of employees in every State in the Union. Not only would it be unfair to those employees who no longer would receive that benefit—and there would have been hundreds of thousands, as I say, across the country—but it would have created the anomaly that some employees in some occupational categories may continue to receive the benefit, their coworkers who worked alongside them in a different capacity would not have received that benefit, thereby creating an inherent morale problem within the workforce and a nightmare for employers to administer. That decision sent a shockwave throughout the hotel industry in my State, and employees were much concerned.

The consequence of the Tax Court's decision, uncorrected, would have imposed several hundreds of dollars of additional tax liability each year. We are not talking about those who are part of a senior executive class, whose salaries are six figures or greater. By and large, we are talking about people who tend to be at the bottom end of the pay scale in the hotel industry—those who are porters and maids and in other categories. So hundreds of dollars, for them, had a major impact.

I am pleased to say that as a result of the bipartisan support and the efforts of Nevada's delegation and the leadership on both the Ways and Means Committee and the Senate Finance Committee, and several of our colleagues who served as conferees—I acknowledge that the senior Senator from Nebraska and the senior Senator from Louisiana who, in addition to the chairman and ranking member on our side, were extremely helpful—that consequence is not going to be visited upon the tens of thousands of employees in my own State and the hundreds of thousands elsewhere.

In effect, a provision that is incorporated in this conference report will reverse the Tax Court's decision and will continue a practice that was established in terms of fairness and equity and will allow those employees to continue to receive those benefits without the additional tax consequences that the court decision would have imposed upon such employees. I want to publicly acknowledge all who were involved in helping to make that provision part of this provision.

So, finally, Mr. President, this will not make this code a perfect code. I suspect that this will not be the end of our endeavors to provide additional ways in which we can provide fairness to the American taxpayers. But, hopefully, as a consequence of this legislation, the word will come from this Congress to the American people that we heard the complaints, we understand their legitimacy, we recognize that in a system such as our own, in which the compliance is essentially voluntary, we have an obligation to make sure that those who are trying to comply with the provisions of our complex Tax Code are treated fairly and, when problems are called to our attention, we will correct them.

Again, I salute our colleagues who worked on this. I thank the chairman and the ranking member of the Finance Committee for their courtesies in hearing the concerns that I and other members of the committee brought.

I yield the floor.

Mr. HUTCHINSON addressed the Chair.

The PRESIDING OFFICER (Mr. BURNS). The Senator from Arkansas.

Mr. HUTCHINSON. Mr. President, I rise in strong support of the Internal Revenue Service Restructuring and Reform Act. I want to take this opportunity to commend Senator ROTH for the outstanding work he has done on this legislation. As a new Senator, I was impressed with the hearings that Senator ROTH conducted and which have galvanized this institution to move on something that was a compelling need. They were dramatic hearings not because they were highly choreographed or because there was sophisticated promotion; they were dramatic because of the impact and the gripping nature of the stories that were told to the committee and to the American people.

I think our country and this institution owe a great debt of gratitude to the Senator from Delaware for the role that he has played in calling the attention of the American people to the abuses. It became evident during the course of both sets of hearings that these stories were not isolated incidents but were all too typical, as we found from the response of the American people in calling our offices all over Capitol Hill about similar incidents that had occurred.

I want to take just a moment to praise my predecessor in the U.S. Senate, the former senior Senator from Arkansas, Senator Pryor. Senator REID spoke of his role in taxpayer rights in the past. I think that the work Senator Pryor did as a Senator from Arkansas has helped to lay the groundwork for the step that we are taking as a body today. I want to express my appreciation on behalf of the people of Arkansas and on behalf of taxpayers across this country for Senator Pryor's unfailing efforts and untiring efforts to provide protections for the taxpayers of this country. And although the Taxpayer Bill of Rights was not the ultimate solution, and the Taxpayer Bill of Rights 2 was not signed into law, it helped to call our attention to it and to galvanize the American people to push for this action. I want to pay my highest regards to Senator Pryor, who I know is pleased with the action that the U.S. Senate is taking today.

I think the protection provisions in this legislation will take a big step toward assuring the American people that we are still on their side and that the tax system of this country is not stacked against them. We should remind ourselves of the things that this does not do. It would be, I think, a shame if this legislation were to be the release on the pressure that has built up over the years to demand comprehensive tax reform. This is an essential step, and it moves the ball in the right direction. It does not simplify the code. The code is still a labyrinth of confusion, incomprehensible to many people, tax preparers, and to many in the IRS themselves. It does not provide the lower rates the American people deserve, and it does not eliminate inequities in the code, like the marriage penalty and the exorbitant estate tax rates. I know Senator ROTH will continue to push for comprehensive tax reform for the taxpayers of this country.

I believe that one way we can do that is to set a sunset date, a date certain in which this Tax Code will be eliminated and we will require ourselves to take action in providing comprehensive tax reform, a lower tax rate, a fairer Tax Code for the American people. We may disagree on that, but it is imperative that this be one more step in moving toward what is essential, which is comprehensive tax reform for the American people.

I will conclude with a statement that President Clinton made during his recent trip to China, in which he addressed the students at Beijing University and spoke to them about the nature of freedom, about our heritage of freedom in this country. I believe that what he said—and said eloquently—applies to the ongoing debate about IRS reform and restructuring and making the Tax Code of this country fairer for the American people. He said:

> In America, we tend to view freedom as the freedom from Government abuse or from Government control. That is our heritage. Our founders came here to escape the monarchy in England.

Then he said this:

> Sometimes freedom requires affirmative steps by Government.

I simply say that this legislation, which Senator ROTH has led the way on, is an affirmative step that this Government must take to ensure that the American people truly enjoy the fruits of freedom, which is our legacy and heritage.

I yield the floor.

Mr. BREAUX addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. BREAUX. Mr. President, I want to make a few comments on the IRS Reform Act, which is now on the floor. This is indeed, in my opinion, a very historic day. Never before in the history of the Internal Revenue Service have we ever had legislation that brought about massive changes to an institution that is not thought of too well by the American people. This legislation goes far beyond anything that Congress has ever done in trying to reform the Internal Revenue Service.

I want to join with others in commending a couple of people for the work they have done, particularly the chairman of our committee, the distinguished Senator ROTH, who chaired the hearings, which really woke up a number of Members of Congress to the massive problems that were out there. It was really very moving to hear American citizens come in and actually tell about their experiences and the abuses they had suffered as a result of the Internal Revenue Service.

I would, I think, fairly and properly add, however, that the vast majority of the people who both work for and work at the IRS are good, honest, decent citizens of this country, who are very loyal to what America stands for and respect the rights of taxpayers in this country. But as in any institution, whether it be government or private, there are abuses. What the hearings were able to do was to lay out in a public forum the problems with the current bureaucracy that represents the Internal Revenue Service.

I want to commend, in addition to Senator ROTH, Senator MOYNIHAN for the work he has been doing, and I think Senator HUTCHINSON was proper in pointing out also the work done by a former Member of this body who used to sit right about over there on the Democratic side, a member of the Democratic leadership, David Pryor. He is not with us today, he is residing in Arkansas, but he is with us in spirit in the sense that we are discussing today something that he started a long, long time ago with his Taxpayer Bill of Rights.

Long before the Roth hearings, David Pryor was working on this particular problem in bringing our attention to the defects that the IRS had. He always stood up for the individual taxpayers of America. I know that wherever he is in Arkansas, or wherever today, he is justifiably proud of the work that is being done today because he led the way in that area.

The final person is Senator KERREY in this body from the great State of Nebraska who chaired an IRS reform commission. As one who chairs a commission right now, I know how difficult it is to try to get people to agree and make recommendations on how to reform legislation. Many times a commission has so many experts on it that it is difficult to get any kind of consensus about change. But Senator KERREY led the way in getting a commission to focus in on this problem and help produce legislation and recommendations. Without his work on the committee itself this product would not be in the good shape that it is in today.

I am reminded of the old stories, which are repeated in Louisiana. You have various versions of this. One of them heard is about the two greatest lies ever told. The first one is people who say, "I am from the Federal Government. I am here to help you." Of course, the second greatest lie could be just about anything that you want to add to it. And I have heard various variations, which I would not care to repeat on the floor of the Senate. But the first one is, "I am from the Federal Government. I am here to help you."

It is true in a sense that people have a great deal of mistrust in many institutions of government. That is unfortunate. When most people think of the Internal Revenue Service, they do not think of the word "service." They think of fear, they think of intimidation, they think of threats, and they think of all sorts of things, none of which are very good. The last thing they think of is service.

This legislation today will go a long way to restoring service to the Internal Revenue Service and letting that agency of our government know that their principal function is to serve the people of this country. They work for the taxpayers—not the other way around. The taxpayers in Louisiana should know this is a major improvement in how that agency is going to have to operate in the future, so that no longer if you get a letter from the Internal Revenue Service should there be a fear of opening it. No longer if you get a call to come down and meet with someone from the IRS should you be intimidated about having to fulfill that request.

Some have advocated: "Just abolish the agency." That is a good headline. That will get you 15 seconds of fame perhaps. But is it responsible? No. Is saying, "We are going to abolish the Tax Code; and don't worry, sometime in the future we may replace it with something we hope might be better than we have now," responsible? How do you buy a house if you do not know what the Tax Code is going to be? How do you make a business investment if you do not know what the tax laws are going to be in 12 months? While it is very simple to say, "Let's abolish everything and hopefully one day we will replace it with something that will be better than we have today," I question whether that is the responsible thing to do. It is much easier to, as they say, kick down the barn than it is to construct a new one.

But what we are trying to do with the Roth legislation and people who put this package together is to say we want to repair what is broken. We want to reform what needs reform. We want to tell the American taxpayers there will be predictability in how and when and how much tax they legally owe to run the government functions that are important to this country.

This legislation accomplishes what I think is incredibly the most massive change in the IRS that we have ever had since the agency was created—to restore service, to restore confidence, to restore fairness to the American people when they have to deal with their government, which hopefully will treat them in a fashion that makes all of us much prouder of the work that we have done with this legislation.

Let me just make a comment about one particular aspect of the legislation which I think is important.

The government, it is clear, has thousands of lawyers working for the IRS on behalf of the government—when a taxpayer is called upon, and it is said that they are deficient in some kind of a way—to represent the government's interests. Now, under this legislation we will have a taxpayer advocate who will now be called the National Taxpayer Advocate. We have done more than just change the name. We have changed the functions. Taxpayers should know that they will have someone who will be on their side when they have a problem to discuss with the IRS—someone who will represent their interests, and not just represent the interests of the government against them, but represent their interests before their own government. I think that is incredibly important.

The National Taxpayer Advocate will be appointed by the Secretary of the Treasury, but only after consulting with the Commissioner of the IRS and the new IRS oversight board.

It is very important to further point out that the Advocate would have to have experience in customer service representing customers—not representing just the government. You will have a requirement that he also—or she—has to have experience in tax law and have experience representing individual taxpayers. You would think you would not have to spell that out. But we have to make sure that person who is going to be in that position has experience representing individual taxpayers, has a knowledge of the tax law of this country, and also has background in customer service, also getting back to the point that this is a service organization of our government.

I think it is particularly important to ensure their independence—that we have also required in this legislation that the Taxpayer Advocate cannot have been an IRS employee within 2 years of his or her appointment, and must agree not to work for the IRS for 5 years after serving in this position. Why is that important? I think it is pretty obvious—to ensure their independence. We just do not want to pull someone out of the IRS and have them serve in this position representing taxpayers knowing that one day they will go right back to the IRS, or to have a career in the IRS and have that mindset guiding what they do representing the individual taxpayers. No. We have done just the opposite. We say that the Taxpayer Advocate has to have experience in representing the taxpayer and have experience in customer relations and not be an employee of the IRS, and not go to the IRS within 5 years after they leave this job.

What that will ensure is that we will have a National Taxpayer Advocate who will be truly interested representing the individual taxpayer, so that taxpayer will know that there is someone on his or her side for a change when they have to present their case.

I also point out that people believe lots of Americans are audited. That is not true. It is not true at all. Less than 2 percent of the people in the country are ever audited by the IRS. Ninety-eight percent of the people, plus—more than 98 percent—file their taxes, pay their taxes, maybe get a refund, and maybe have to owe something. But that is it. Ninety-eight percent plus of the people in this country are never audited, and abide by the law. Less than 2 percent ever have a problem with having to be audited. But when a person falls into that situation, under the new IRS service they will be assured of the fact that there will be an advocate who will stand by their side and represent their interests, and not just be an IRS employee, saying, "Don't worry, we will take care of you."

This is a major part of the reform that we will be voting on today.

I would just say that this is monumental change. It is important. I think everyone who has worked and contributed to this effort, of which there have been many, would conclude with me that when we work in a bipartisan fashion we produce good results. And that is what we are voting on today—good legislation for all of America.

I yield the floor.

Mr. JEFFORDS. Mr. President, our passage today of the IRS restructuring bill is a tribute to the dogged and determined efforts of Finance Committee Chairman ROTH. This reform effort originated with the report of the bipartisan National Commission on Restructuring the Internal Revenue Service, filed just over a year ago. It was given further impetus by the historic Finance Committee IRS oversight hearings held last year. Those hearings were the first comprehensive oversight hearings ever undertaken by the Finance Committee. They showed us how miserable the lives of average, law-abiding taxpayers could be when they ran afoul of a tax collection agency that was at best uncaring, and at worst abusive. Many taxpayers' suffering was prolonged; their cases got lost in an IRS black hole and took years to resolve. These oversight hearings really struck a nerve with the public, which flooded our offices, and the Finance Committee, with further complaints of abuse, mistreatment, and inattention. There were widespread calls for IRS reform. This public response not only led to further oversight hearings, but it also showed that any reform effort needed to be comprehensive, addressing a range of issues broader than those that surfaced during our oversight hearings. To his credit, Chairman ROTH resisted calls for a quick fix, adopting instead a methodical, thoughtful approach to reform.

The result represents the most comprehensive reform of the Internal Revenue Service in more than 45 years. This bill contains over 50 new taxpayer rights, leveling the playing field for taxpayers. It calls for an innovative oversight board. It assures that Congress will no longer shirk from oversight responsibilities. It calls for innocent spouse relief for taxpayers, usually women, who were the unknowing victims of former spouses that underpaid their taxes.

There are three aspects of this bill that I believe are especially significant and on which I want to focus my remarks. The first is the new organizational structure at the IRS. Until now, the IRS has been administered by the Commissioner and his or her subordinates, many of whom have spent their entire career at the IRS. Since World War II, every commissioner has been a tax lawyer. Last year, Commissioner Charles Rossotti, a non-attorney, skilled in the areas of information management and familiar with the problems inherent in running a large organization, took the reins. With over 100,000 employees, the IRS presents a significant management challenge. Effectively managing an agency the size of the IRS requires skills other than those necessary for tax law enforcement. With a fresh viewpoint, Commissioner Rossotti has already made some proposals for reform that look promising. He has proposed to restructure the agency on a functional, rather than geographic, basis. This will allow functional units of the IRS to develop in-depth expertise in specific aspects of tax law and to provide more efficient service. The re-structuring bill builds on this fresh point of view, directing the Commissioner to implement an organizational structure with units serving particular groups of taxpayers with similar needs.

Further, this legislation bill will assure that the IRS continues to benefit from fresh ideas. Administration of the IRS will be supplemented by new nine-member board, responsible for oversight of administration, management, conduct, direction of the IRS, as well as administration and execution of the tax laws. The majority of the board will be outsiders with expertise in such areas as customer service and management of large service organizations. These outsiders, not wedded to the current way of doing things, will be able to offer valuable input on new ways of doing business and will provide an important link to expertise from the private sector. To my knowledge, this type of public-private management partnership is unprecedented.

An IRS employee representative is also on the oversight board. The presence of an employee representative on the board generated a substantial amount of controversy. In my view, inclusion of this representative will be key to the success of any future reform efforts. Reforming the IRS is not going to work unless it enjoys the support and understanding of those charged with carrying out the reforms. The employee representative's input will be very valuable, enabling board members unfamiliar with the day-to-day IRS operations to better assess the impact and workability of reform proposals.

Another aspect of this act that I think is particularly important is its emphasis on quicker and fairer dispute resolution. Taxpayers I have talked to are really bothered by the length of time it takes to resolve problems at the IRS. While cases await resolution, interest and penalties on unpaid taxes continue to accumulate. Frequently, the amount of interest due on unpaid taxes ends up exceeding the amount of taxes themselves. This bill contains several provisions that should make dispute resolution faster and more efficient. First, it provides that if the IRS doesn't contact taxpayers within a year after they file their returns, interest and penalties will not continue to accrue until the IRS sends the taxpayer a notice that additional taxes are due.

Second, the bill mandates that the Commissioner's restructuring of the IRS include an independent appeals function. This appeals unit is intended to provide a place for taxpayers to turn when they disagree with the determination of front-line employees. A truly independent appeals unit will assure that someone takes a fresh look at taxpayers' cases, rather than merely rubber-stamping the earlier determination.

This legislation also broadens the powers of the IRS Taxpayer Advocate. This will be especially important to taxpayers who find themselves facing immediate and serious harm as the result of actions taken by the IRS. In cases of hardship, the Taxpayer Advocate can intervene to issue taxpayer assistance orders, requiring the IRS to release seized property or otherwise refrain from taking action that could result in a significant hardship. The definition of "significant hardship" is expanded. This should make taxpayer assistance orders more widely available. In addition, the bill provides that persons appointed to the post of Taxpayer Advocate must agree not to accept employment with the IRS during the five-year period following their tenure. This will assure that they won't hesitate to overturn IRS actions out of concern about offending future bosses or coworkers.

These provisions represent important steps to cut down on the time it takes to resolve disputes. In addition, the bill provides for informal Tax Court proceedings in certain types of small cases, giving more taxpayers, usually without lawyers, a greater opportunity to resolve disputes that cannot be resolved administratively. Expanded criteria for installment agreements and offers-in-compromise should mean that more taxpayers will be able to take advantage of those settlement tools.

The last aspect on which I want to comment is the role that Congress will play in these reforms. With more frequent Congressional oversight, perhaps a bill of this scope might never have been necessary. With more oversight, we in Congress might better to be able to identify and address problems when they first arise. This bill imposes oversight responsibilities on Congress. It will assure that the Committees of Congress with jurisdiction over the IRS will hold an oversight hearing at least once a year.

In addition, this measure requires that when Congress passes a tax bill, it must consider the practical consequences of tax law changes. Our tax system is built on the principles of self-reporting and self-assessment. Luckily, we have relatively high compliance rates from individual taxpayers. The increasing complexity of our tax laws, however, threatens to undermine voluntary compliance. The more complex the law becomes, the more difficult we make it for taxpayers to comply. The bill provides that IRS should comment on the administrability of tax law amendments when they are under consideration by the tax-writing committees. The IRS must also submit an annual report on sources of complexity in administering the tax code. Finally, the bill requires committee reports to include an analysis by the Joint Committee on Taxation of complexity and administrability issues. When we considered the tax law proposals in the Taxpayer Reform Act of 1997, it would have been helpful to know how those proposals would translate into new record keeping and paperwork requirements for taxpayers. This analysis will be a helpful, welcome addition to the legislative process.

I suspect that nothing we do will make the IRS loved, but this bill makes it a kinder and gentler agency. It will be an agency guided by principles of fairness, rather than the bottom line and an agency held accountable for its actions, no longer out of control. Any organization the size of the IRS is going to experience some problems, and adoption of this conference report isn't going to solve every problem in our tax collection process. Still, it is our obligation here in Congress to see that those problems are minimized to the largest degree possible. This bill marks the beginning of fundamental structural changes at the IRS; it changes the way the IRS does business. It also provides important new protections for taxpayers embroiled in a dispute with the IRS. Most taxpayers pay their taxes and never again hear from the IRS. These taxpayers may not appreciate any immediate consequences of the new taxpayer protections. All of us, however, should benefit from a more efficient and effective tax collection process that I hope will result from the sweeping reforms we initiate today.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Mr. President, I believe in the order I was the next to speak, but our colleague from Utah has a committee hearing to chair, and so I would ask that he be recognized next, reserving my right to speak after Senator HATCH, in the hopes that my colleague from Montana could be recognized after my remarks so we maintain the balance of speakers on either side of the aisle. I also ask unanimous consent that for the duration of the consideration of this conference report Mr. Jason McNamara, Ms. Catharine Cyr, Mr. Brian O'Hara, and Mr. Michael Magidson of my staff be accorded floor privileges.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Utah is recognized.

Mr. HATCH. Mr. President, I thank my colleague for allowing me to make my remarks ahead of his. It is very accommodative and I appreciate it.

Mr. President, today we will cast one of the most important votes of the 105th Congress. Today, we vote to enhance the power of the individual taxpayer and to reduce the opportunity for abuse by an arm of the federal government. We will vote on the conference report to H.R. 2676, the Internal Revenue Service Restructuring and Reform Act of 1998. This legislation is a tremendous leap forward in enhancing the credibility and effectiveness of the IRS.

But Mr. President, this bill is about more than just changing the way one federal agency works. This bill is about reflecting American values and priorities; it is about remembering who the federal government is here to serve and what it is here to do.

Of all the powers bestowed upon a government, the power of taxation is the one most open to abuse. As the agency responsible for implementing and enforcing the tax laws that we here in Congress pass, no other agency touches the lives of American citizens more completely than the IRS.

I believe that Americans understand and appreciate that they have to pay taxes. Without their tax dollars, there would be no national defense; no Social Security, Medicare, or Medicaid; no environmental protections; no assistance for education or job training; no national parks, food inspection, or funds for highways and bridges.

But, everywhere I go in Utah, I hear from my constituents about their frustrations. My office receives numerous letters each month detailing taxpayer interactions with the IRS. It seems that everyone has had, or knows someone who has had, a bad experience with the IRS. This adds to the impression of the IRS as an unfeeling, impersonal machine that will run roughshod over anyone in its way.

I, myself, have seen abuses at the hands of the IRS. One of the reasons I ran for the U.S. Senate over twenty years ago was because of the abuses I saw. As an attorney, I had occasion to represent taxpayers against the IRS. The treatment these taxpayers received appalled me—and that was twenty years ago. The stories have not changed all that much over the years; in fact, they seem to be occurring more and more frequently.

The stories range from small annoyances such as unanswered phones or long periods of time spent on hold to shocking abuses such as unwarranted seizures of assets or criminal investigations being based on false information for the purpose of personal revenge. It is small wonder that the taxpayers are scared and frustrated. These stories illustrate a disturbing trend. They are dramatic reminders of the failure of Congress to exercise adequate oversight over a powerful federal agency.

I have been here long enough to know that we are never going to be able to achieve a system where people do not get frustrated about paying their taxes—both the process of paying taxes and the amounts. Let's face it: paying taxes is not something we will ever enjoy doing.

We must, however, achieve a system of collection that is efficient, fair, and, above all, honest. While not perfect, the conference report before us today moves us a long way toward a better system.

During our oversight hearings and through letters to my office, I have heard several horror stories from taxpayers, innocent spouses, IRS employees, and those who have been the subjects of criminal raids and investigations. While these are the minority of the cases dealt with by the IRS, they still illustrate the nature of the abuses occurring.

We are not talking about appropriate enforcement of the law. We are talking about heavy-handed abuses of enforcement powers. At best, such tactics are counterproductive; at worst, it is reprehensible behavior by big government. It must stop.

The conference report before us is a comprehensive approach to reforming the IRS. No one provision can stand alone as the silver bullet that brought down the bear. Taken as a whole, however, this legislation provides a strong foundation for a new IRS by changing the way the IRS operates and interacts with individual taxpayers.

The bill before us today gives the IRS Commissioner great flexibility to carry out a fundamental reorganization of the agency. But, it also places the IRS under an independent, mostly private sector board to oversee the big picture of operations at the agency. Through this board, the American taxpayer will now have a focused advocate examining the operations of the IRS and input into the way the agency runs. These are two very important elements to creating a new culture at the IRS: responsible leadership and accountability.

I commend the new Commissioner for the steps he has taken so far to rectify these problems at the IRS, and I encourage him to keep going. And, I hope he will not feel constrained by "business as usual" attitudes among those who have an interest in maintaining the current methods. I hope the new Commissioner will shake the dead wood out of the trees.

But, Mr. Rossotti needs to know that Congress will hold him and the agency accountable. And, our expectations—and the expectations of the American people—are not hard to fathom.

We do not expect tax delinquents or cheats to go undetected or unpenalized. But, we do expect the IRS to enforce our tax laws appropriately. We expect the IRS to assist taxpayers to understand and comply with complicated laws and regulations. We expect taxpayers to be treated courteously. We expect taxpayers' questions to be answered promptly and their returns processes efficiently. And, we expect any penalties to fit the crime.

Today, we will vote on a bill that takes a leap forward in eradicating a culture that has allowed corruption and abuse to occur over and over again and to taint the efforts of honorable IRS employees. There has been a lot of talk about changing the IRS into a service-oriented agency, and the bill before us goes a long way towards doing just that. We cannot stop there, however.

While customer service is an important part of the equation, we must go further and address taxpayer rights. The conference report removes taxpayers from the reach of IRS excesses by instituting over 70 new rights and protections. The way the taxpayer deals with the IRS, individual IRS employees, and the courts will be changed.

The conference report shifts the burden of proof in selected situations off of the taxpayer and onto the IRS. It also ensures that compromise is more accessible to taxpayers by making offers-in-compromise and installment agreements easier to achieve and the terms of these agreements more flexible.

The conference report also contains some much-needed assistance for innocent spouses. The understatement thresholds are lowered and it is now easier for taxpayers to receive innocent spouse protections. In addition, limited proportional liability will now be available to a spouse who is legally separated and living apart for at least one year from the person with whom a taxpayer originally filed a joint return.

Interest and penalty accrual will be suspended after a year in some cases when the IRS fails to notify a taxpayer of a liability for additional taxes within 18 months of filing a tax return. This period will be shortened to within one year of filing the tax return after the year 2004.

The conference report also makes significant changes to the Taxpayer Advocate's Office to ensure that it will be an empowered and independent voice for the taxpayers.

A long list of procedural due process safeguards are also provided in reaction to IRS collection abuses. These include a 30-day period to appeal before liens and levies are put into place, early referral to a strengthened and more independent appeals division, and implementation of fair debt collection practices.

The conference report increases congressional accountability for the performance of the IRS through provisions such as streamlined congressional oversight and an independent voice for the IRS in the tax-writing process.

This legislation also contains legislative incentives for tax law simplification by requiring a tax complexity analysis for new legislation.

In this vein, the conference report goes one step further and simplifies one of the most embarrassingly complex computations for today's taxpayers by retroactively reducing the holding period to qualify for the preferential capital gains tax rate from 18 months to 12 months. This provision not only simplifies the process, it also reduces capital gains taxes and encourages further investment.

The legislation before us today will fundamentally change how the IRS works. It is a necessary and bold set of initiatives. But, we cannot just declare victory and bask in the glow of a job well done. We must remember how we got to this point in the first place.

The IRS was not born evil, and it is not an inherently bad organization. Rather, it has suffered from decades of neglect and inadequate oversight. Once we have set the agency on the road to recovery and given it the tools it needs to move forward, we must continue to guide it and ensure that the agency continues down the right road. Passage of this bill does not mean we can pat ourselves on the back and tell ourselves what a great job we did.

We must continue to exercise our oversight responsibility. We must have continued hearings, reviews, and cooperation. We must remain vigilant in our search for areas where further reform is needed and ways to simplify the tax code. Left alone, any entity with power and authority will lose its way. Without continued oversight and cooperation, we will soon see this debate repeated on the Senate floor.

This legislation can be summed up in one word—accountability. For too long, the IRS and its employees have operated in an environment with little or no accountability. This bill changes all that. The legislation before us makes individual IRS employees accountable for their actions. It makes management more accountable for the treatment given taxpayers and other employees. Finally, it makes the agency as a whole more accountable to the Congress and the American taxpayer.

This debate has focused largely on the negative—and there is plenty of negative to focus on. But, we must also put these abuses and misdeeds in perspective. I believe that they are the exception and not the rule. Just as a vast majority of the taxpayers are honestly trying to comply with the tax code, the vast majority of IRS employees are honest and hard working individuals doing their best in a very difficult and unpopular job.

Yes, abuses do occur, and we must reform the system to prevent improper activities. At the same time, we must make sure that we acknowledge those employees who are doing their jobs with competence and integrity. I have to look only as far as my own state of Utah to find numerous examples of this type of employee.

I'd like to take a moment to recognize the exemplary work of several IRS employees in the Ogden, Utah, office of the IRS. I daresay that my colleagues could find IRS personnel in their states who share this dedication to service.

Milt Flinders has worked with the IRS for 26 years, 13 of them as a manager. He currently has 20 IRS employees working under his supervision. Mr. Flinders has great management skills, and has a well-known reputation for being fair both to IRS employees and to the taxpayers with whom he comes in contact.

Avon Wales has worked with the IRS for 20 years. She currently works as an office collection representative/revenue officer aide. Ms. Wales is a very conscientious employee who makes sure she knows the relevant rules and procedures regarding each case she works on. She treats taxpayers with kindness and patience, often putting in hours at a time with an individual taxpayer who is confused about the rules or needs additional assistance.

Susan Vail, a revenue officer, has worked with the IRS for 31 years. She makes sure she stays current with the complex laws and procedures surrounding the collection of taxes—no easy task there. She is fair and even-handed in her dealings with taxpayers. She gets positive marks from her supervisors and other IRS employees, but, perhaps most importantly from taxpayers themselves who have worked with her.

These three, and other employees like them, are the reason that most taxpayers today, even if frustrated by the forms and irritated with the amount of their tax bill, continue to comply with our voluntary tax collection system. Thank goodness for these employees.

Is this conference report perfect? No. There are some things I would like to see changed. For example, I have some serious concerns about the creation of an accountant-client privilege in this context. I am concerned that we are using the Internal Revenue Code to effectively amend the Federal Rules of Evidence. We have a clear procedure for amending these rules already set out. Changing these rules is no simple matter. It should only be done through careful, deliberate evaluation of the change and the effect it will have on the judicial system. It should only be done with input from the Judicial Conference of the United States and others.

Despite these misgivings, I want to reiterate the importance of the bill before us today. The IRS touches more taxpayers in more aspects of their lives than probably any other agency. The American taxpayers have every right to expect a higher level of professionalism, customer service, and fair treatment from an agency charged with enforcing the law in an area as important and pervasive as is the area of taxation.

The conference report before us stays true to the ultimate goal of the IRS reform legislation—it protects both the honest taxpayer trying to comply with our complex tax laws and those honest employees struggling to enforce an almost incomprehensible set of tax laws with integrity. This conference report takes on and accomplishes the difficult task of striking the right balance between granting taxpayers the experience of paying taxes without abusive treatment while providing the tools necessary to fund the Government.

There is no question that we have come a long way, with this bill, to resolve many of the conflicts and problems that do exist between taxpayers and those who serve the taxpayers at the IRS. This bill makes gigantic steps forward, to try to make the system more fair. I think we on the Finance Committee and those on the Ways and Means Committee in the House have certainly all worked very hard to get this done.

In particular, I commend Senators ROTH and MOYNIHAN, Representatives ARCHER and RANGEL, and my colleagues on the IRS Conference Committee for the hard work they put into crafting the conference report before us today. I was proud to add my name to the conference report as a conferee. I wholeheartedly support its passage and urge my colleagues to do the same.

This is the right thing to do. Once we have this done, then, it seems to me, Democrats and Republicans have to get together to see if we can simplify our tax system in whatever way is best in the interests of the taxpayers of America. This is only step one, but it is an important step. It is a step that will make a lot of difference in people's lives. It is a step that will make this system much more fair than it has been in the past.

But it is only the first step. If we can get together and come up with a way of simplifying the Tax Code so everybody can fill out their own tax forms, for the most part, and also make it more fair to everybody in America, then I think in the end we will have done things that no other group of people in the history of our country would have done. I know we have colleagues here on both committees, the Finance Committee and the Ways and Means Committee, who have the capacity to do this, both on the Democrat side and on the Republican side. I call on all our colleagues to do that, whether it be by a flat tax, a value-added tax, a sales tax, or any other of a number of approaches. We have to look into this and get this code so it is not the monstrosity that we all know it to be today.

Having said this, I thank again my dear colleague from Florida for his kindness and also my colleague from Montana. I appreciate their deferring to me so I could make these few remarks. I really appreciate it. Thanks very much.

I yield the floor.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. GRAHAM. Mr. President, I wish to express my appreciation to my colleague and good friend from Utah for his kind remarks, as well as for his excellent analysis of this legislation. I join him in the same enthusiastic reform of the Internal Revenue Service and see this as an important chapter in a longer book which will soon bring us to the pages of simplification of the Internal Revenue Code.

Mr. President, this legislation does mark a new era for the Internal Revenue Service. The hearings that we had disclosed some of the culture of the IRS as it has operated in the past. We focused on how to change that cultural orientation. Let me just mention three areas that we uncovered.

One was typical of many large organizations, public or private, and that is a loss of focus on the mission and a tendency to become too internal in the way in which issues were reviewed. That tendency to become incestuous, to answer questions based on what is in the best interests of the organization rather than what is in the best interests of the customers—in this case, the taxpayers served by the organization—is, unfortunately, a typical transformation and a transformation which we found that the IRS had succumbed to. The new IRS will begin to analyze issues from the perspective of their customers, the American taxpayers, and, with that new reorientation, will become more effective in carrying out its mission and will be seen by the taxpayers as being less intrusive in their lives.

A second aspect of the old IRS was its evaluation of employees based on how much money was collected. This is analogous to a police department which requires its officers to issue so many parking tickets or speeding tickets per day. It changes the priorities, it changes the perspective, it changes the public respect of the organization. I am pleased that the new IRS will evaluate employees based on how they deal with taxpayers as well as on their collection efforts.

A third factor in the old IRS was the tendency to threaten taxpayers with enforcement action if they didn't agree to extend terms of payment or enter into other measures that would make tax collection easier for the IRS. We had an example of this recently, in which the IRS—and I commend them for having come forward with this—became aware that there were threats being made to taxpayers who already had entered into a multiyear installment payment, where a portion of that installment payment would be beyond the statute of limitations, beyond the reach of the IRS. Taxpayers in that circumstance were being threatened that, if they did not agree to waive the statute of limitations, they would be subjected to immediate cancellation of their installment agreement and required to make full payment at that time.

The IRS had uncovered that there were approximately 22,000 instances of that improper threat and are in the process of notification. I am pleased to say on June 29 of this year, in Tampa, FL, the first actual check of over $1,500 was paid to a taxpayer as a refund because of the consequences of such a threat.

Mr. Carl Junstrom, who was the taxpayer receiving that refund, has become a hero of American taxpayers because of his efforts to overcome the travails to which he was subjected and now has become a symbol that individual taxpayers can prevail in their own cases and can benefit many thousands of others.

One of the significant parts of this reform effort is that it was a grassroots-up effort. It was an effort that didn't start by Washington telling American taxpayers what their problems with the IRS were, but rather listening, understanding, and then being willing to act on what we had heard.

This is in the best tradition of democracy. Many of these individual issues came to the attention of the IRS and to congressional offices through taxpayers who had specific problems with the IRS, and they brought them to the attention of a taxpayer advocate in the IRS or to their Member of Congress.

That kind of information began to accumulate, and it was seen that the problems were not specific and focused, but rather began to disclose a pattern of IRS problems, a pattern of needs for taxpayers to have a new relationship with their tax collection agency.

Those individual taxpayer concerns then became the focus of hearings that were held by the Senate Finance Committee and the House Ways and Means Committee. Some of those were held here in Washington; others were held across the Nation. In January of this year, I participated in such a hearing with Congresswoman KAREN THURMAN in Orlando, FL, in which we heard, again, some of the specifics of taxpayer concerns which had previously been the subject of specific constituent complaints. Let me just mention a couple of those.

Karen Andreasen, from Hillsborough County, FL, when filing for divorce discovered that her soon-to-be ex-husband had failed to file tax returns for 1993 and 1994. She then found that the IRS, having launched its case against her ex-husband, swiftly turned its attention to her. Tax liens were placed on her home; the bank holding her mortgage threatened her with foreclosure.

A separation or divorce is painful enough for both of the parties and the children and others who are affected, without suddenly realizing—like Karen Andreasen, a spouse who had placed confidence in her ex-husband and signed joint returns—they are subject to a deficit of thousands of dollars in back taxes on income they never earned and on tax returns that they never understood.

Congress has now recognized the problem of Karen Andreasen and, in this legislation, we have provided that divorced or separated spouses can elect to be responsible for only their proportionate share of the taxes.

We have also liberalized the circumstances under which other taxpayers may obtain innocent-spouse relief, and we have made this retroactive to currently opened cases so that Karen Andreasen and thousands of other spouses like her will be able to get the benefit of these new provisions.

Thomas Jones was a decorated Naval veteran from Clearwater, FL. His business partner absconded with the company's payroll taxes. Mr. Jones did what a responsible citizen should do: He notified the authorities. IRS initially thanked him for his assistance, then proceeded to hold him 100 percent responsible for the partnership debt. Under pressure and unable to afford legal representation, Mr. Jones elected a monthly payment plan.

When I met with him at an IRS reform hearing in Orlando, he told me that he was bankrupt. Interest and penalties were piling up at a staggering $2,000 a month. Twice during his 13-year-long fight, Thomas had offered to compromise with the IRS, but was summarily rejected by the same collection agent who a few days earlier had been bugging him for additional money.

Good news. Thomas Jones may be the last taxpayer to suffer from such unfair conflict of interest, because this reform legislation expands the authority of the IRS to accept offers of compromise and guarantees to Americans an independent third party review of their offers and compromise. This will prevent the same IRS division from serving as prosecutor, judge, jury and executioner.

Mr. President, those are just two examples of Americans with specific problems who now have contributed to relief for themselves and for thousands of current and future taxpayers.

There are some lessons in this experience which I think we in Congress need to understand, appreciate and absorb into our future actions.

First, much of our success, in addition to taking advantage of the experiences of individual Americans, was the result of an IRS reform commission which was established 2 years ago. I applaud Senator GRASSLEY, who is with us this afternoon, and Senator BOB KERREY, for the work they did on that IRS reform commission. That gave to us the basis of thoughtful recommendations and analyses which substantially accelerated the work of the Congress and the effectiveness of that work.

This indicates to me that we need to commit ourselves as a Congress to ongoing oversight of the IRS; that we can't wait until there is an occasional commission formed to review this matter; that we must have an ongoing responsibility to see that this agency does not slip back into the patterns of conduct that necessitated the legislation that we will be adopting later today.

Second, we must recognize that this is but a chapter in the larger book of how to make the Internal Revenue Code more understandable, more appropriate, more taxpayer friendly. I suggest that the next chapter, which will be simplification of the Tax Code, use some of these lessons that we have just learned. That it, too, take advantage of the experience of individual Americans in what they would like to see, based on their own experience, in a more simplified tax structure for America; that we look to the use of expert panels, such as the IRS reform commission, to help give us indepth advice and advance our ability to engage in this next step of simplification of the Tax Code.

My own sense is that a third lesson learned is that Congress can make substantial steps if it does it in digestible increments. I suggest that as we look at the Internal Revenue Code we ask the question: What are the building blocks of the Internal Revenue Code? How can we take each of these blocks in turn and systematically have it reviewed based on taxpayer experience, based on expert review and then, finally, congressional hearings and congressional action?

I believe if we take that digestible, incremental approach, in a reasonable period of time we will be able to say to the American people that we have reformed not only the administration, but also the Tax Code itself, and reformed it in a way that will make it more understandable and more acceptable to the American taxpayer.

I conclude by applauding Senator ROTH for his great leadership and Senator MOYNIHAN in holding the hearings that first exposed the problems of the IRS. I urge that we continue our active involvement as we see that this legislation achieves its intended result and move to the next chapter of simplification of the Internal Revenue Code.

Mr. President, this is a happy day. I will, with enthusiasm, join what I am confident will be a large majority of my colleagues in voting for this conference report which will move us substantially towards the goal of an IRS Code that all Americans, that all those affected by its administration, will feel prouder about as citizens and will make their task of compliance with their tax responsibilities somewhat easier. Thank you, Mr. President.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader, Senator LOTT, is recognized.

Mr. LOTT. Mr. President, will the Senator from Montana allow me to make a brief statement before he proceeds?

Mr. BAUCUS. The Senator from Montana is absolutely delighted to allow the majority leader to proceed.

UNANIMOUS CONSENT REQUEST—EXTENDING TIME TO FILE FIRST DEGREE AMENDMENTS TO S. 648

Mr. LOTT. Mr. President, as all Members are aware, when a cloture motion is filed in the Senate, the provisions of rule XXII, the cloture rule, require all first-degree amendments must be filed at the desk by 1 p.m. the day before the cloture vote occurs.

Last evening, I filed cloture on the substitute amendment to the product liability bill. Realizing and observing how upset the Democratic leader was when cloture was filed last night, I checked with the desk as to exactly how many amendments had been filed to the product liability bill by our Democratic colleagues. To my dismay, earlier only two had been filed, but still a very small number, and only 21 Democratic amendments have been filed, and it is almost 1 p.m., the deadline time.

The Democratic leader stated last evening that many Members on his side of the aisle had amendments they wish to offer on this bill. And he also stated, "It is the right of all Senators to fulfill the functions of their responsibilities to offer amendments." Well, where are the amendments? And why have Members on the Democratic side of the aisle chosen not to file amendments within the timeframe that is outlined under rule XXII?

Could it be that our colleagues had never been prepared to exercise their right to offer amendments when it comes to the legislation? Instead, have our colleagues on the other side of the aisle just decided they would vote against cloture with the intention of never attempting to offer amendments that would have been intended, I am sure, to "improve the bill," as Senator DASCHLE suggested?

Since there have only been 21 amendments filed, it seems to me that maybe our Democratic colleagues are not serious about addressing this important issue which is, by the way, a bill that has been laboriously worked out. It is a compromise bill. Senator GORTON of Washington, Senator ROCKEFELLER of West Virginia, have spent hours, days, months working on this. And this legislation has been approved by the administration, by the White House. They have indicated they would sign it. So why in the world would there not be a serious attempt here to pass this legislation?

But having said all that, I am prepared to offer a consent agreement that would extend the filing time for first-degree amendments until 5 p.m. this afternoon, if that would help accommodate our colleagues on the Democratic side or, for that matter, on the Republican side.

Therefore, I do now ask unanimous consent that, notwithstanding rule XXII, that the filing deadline for the first-degree amendments with respect to the product liability bill be extended to 5 p.m. this afternoon.

The PRESIDING OFFICER (Mr. GREGG). Is there objection?

Mr. BAUCUS. Reserving the right to object, I consulted with my Democrat colleagues, knowing this request would come up, and it is our belief that the consent should not be granted. Accordingly, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. LOTT. I yield the floor, Mr. President.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

INTERNAL REVENUE SERVICE RESTRUCTURING AND REFORM ACT OF 1998—CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

Mr. BAUCUS. Mr. President, I would like to speak a little bit about the conference report that is before us, the IRS restructuring bill.

Today, the Senate reaches the end of a journey that has been 2 long years in the making. It is actually a journey that began a couple years ago when the National Commission on Restructuring the IRS was charged with investigating the IRS' repeated failure to modernize its computer systems. There are many stories of the IRS computer systems falling down, crashing, systems not meshing; and essentially the commission felt that it was their charge to try to find the answer to all these problems.

It became very clear, Mr. President, as the commission began trying to find a solution to the computer problems, that it was just touching the tip of the iceberg, that there are a lot more problems in the IRS that had to be addressed; namely, the abuse of too many agents, too many rogue agents, the insensitivity, too often, of its IRS employees toward taxpayers. Frankly, it led the commission to dig much more deeply into problems facing the IRS. Accordingly, the commission proceeded to look at other areas in addition to computers. The commission probed various problems that the taxpayers face in our country.

Under the leadership of Senators KERREY and GRASSLEY and Representatives PORTMAN and COYNE of the House, the commission, I think, produced a series of very good recommendations that have become the foundation of the bill before us.

Again, it was a restructuring commission. They spent a lot of time looking at the problems of the IRS. They presented their recommendations to the Congress, and essentially, the bill before the Congress today is the manifestation, the outgrowth of those recommendations by the commission.

In addition, Mr. President, under the leadership of our chairman of the Finance Committee, BILL ROTH, with his very extensive hearings, we were able to draw out many more abuses, many more problems that our American people were facing with the IRS. As a consequence, I think we have a better bill. We were able to fine-tune some of those Restructuring Commission recommendations. In fact, we were able to add a few more. So altogether, I do think it is a combination of very good effort on the part of both the commission and the conference. And I think, Mr. President, that the result is going to turn out to be quite good for the American people—not perfect, but certainly an improvement.

Justice John Marshall once said, "The power to tax involves the power to destroy." We all know that the corollary to that is that the power of the tax collector must be very carefully balanced, because the tax collector, him or herself, has inordinate power when he or she tries to collect taxes. Any tax collection agency must be strong enough to make sure that everyone is paying his or her fair share of taxes, but not so powerful as to trample on the rights of ordinary citizens.

It is quite clear, through the testimony of our witnesses before our committee and comments from our constituents at home, that the IRS has lost that balance over the years.

Let me give you one example.

This is a plea for help from a constituent of mine in Montana. "The problem with the IRS started in 1997. John"—that is not this person's real name—"and I"—in this case it is John's wife—"had just bought a house. I was a semester away from graduating from college, and we thought the [failed] business [that we had] was behind us. The last week in July 1997, I returned home after a day of working at my part-time job to find a nasty note on my front door from [an agent] stating that he had 'tracked' us down and expected a phone call or [else] action would be taken. I promptly called him to find out [what was going on]. He was very rude and reluctant to give me any information, [saying he could not talk to me, did not want to talk to me because he was not talking to my husband]."

The long and the short of it is—and I am paraphrasing the letter here—". . . he began talking to me in a [very] degrading manner. He said, '. . . I expect to [get taxes] in full,' [and said it in a very rude way]. When I asked him to explain, he . . . [treated me like] a criminal who was running [away] from the IRS."

Continuing further, Mr. President, basically, the agent in this case put a lien on everything this person owned, also made many personal comments. He obviously investigated the personal lives of these taxpayers and basically was so rude and so arrogant as to performing almost Gestapo tactics against my constituents. My constituent ends up, Mr. President, in her letter by saying that very clearly the Government was not working for the people, but rather was working against the people.

I think this letter sums up the issue in a nutshell; that is, to make the Government work much more for people, not against them, that is, put service back into the Internal Revenue Service instead of being arrogant and degrading people as much as the Service has in the past.

Now, we certainly do not want to tie the IRS' hands so much that tax cheats are encouraged. The rest of us, as we all know, end up picking up the tab when someone else cheats. At the same time, we also can't have the IRS harassing innocent citizens and assuming everyone is guilty the minute they walk into the door. We have to find that balance. It is not an easy matter. I believe this legislation will help the IRS find its way back to that balance.

What does it do? It creates a board made up chiefly of private citizens, subject to the confirmation powers of the Senate, giving the Senate an opportunity to ask lots of questions of these new board members to see whether or not they fill the bill.

The board will also keep an eye on the IRS budget, report independently to the Congress its recommendations on IRS budget matters, and not have to go through the regular Government channels. The board will focus on long-term goals. It will also make sure the Service stays on track to meet these goals. It will also ferret out problems to help the IRS itself find solutions.

The bill creates much more personnel flexibility, making it easier for the new Commissioner, with his enthusiasm, who wants to get things shaped up, giving him flexibility to reward employees doing well. I think this flexibility will help the IRS attract competent people, people who are technically competent and management experts. You get what you pay for. If you want to get good people, you have to be able to pay them well and you have to give them the wherewithal to do the job right. There has not been sufficient flexibility to this point in the IRS.

This bill also reorganizes the IRS, somewhat in the same vein as a major American company, IBM, was reorganized when IBM years ago realized it was falling behind, that it was not serving customers, customers were not No. 1. It made dramatic changes. Mr. Rossotti was part of those changes at IBM, and we are hopeful some of the changes will work here.

What are some examples? One major example: Currently, when a taxpayer has a problem with the IRS and it involves several kinds of problems—say, income tax or payroll tax or a corporate tax is involved—the agent who handles the case transfers all the files over to the person responsible, say, for payroll taxes; if it is a corporate tax file, it is transferred to a corporate tax person; and if it is another problem, it is transferred to that person, essentially passing the buck. So when an individual taxpayer tries to find out what in the world is going on with his file, sometimes the file is lost, the person he or she calls doesn't know the answer to the question; it is just a mess.

How do we attempt to solve it? Essentially, the IRS now will be divided into four separate divisions: One for small business, one for large corporations, a third for tax-exempt institutions, and a fourth for individual taxpayers. Now, when you, a taxpayer, have a question for the IRS, one person is in charge of your file—one person, more accountability. If you are a small business person, it is the small business section; an individual taxpayer, the individual taxpayer section—even though you may have questions involving different parts of the code. That should help reduce "buck passing."

The bill also adds important new taxpayer protections to help protect citizens against arbitrary actions. There are penalty and interest provisions suspended or reduced. Too often, the IRS has taken advantage of the penalty and the interest provisions in the law to browbeat taxpayers. A number of due process requirements are created. For example, legislation would require the IRS to give a delinquent taxpayer 30 days' notice to request a hearing before property is seized. In addition, the IRS is required here to seize business property only as a last resort. That has not always been the case. It further prohibits the seizure of a personal residence without court approval. That is a major change.

The bill further makes it easier for an innocent spouse to get relief from tax debts that the guilty spouse may have accumulated. It shifts the burden of proof from the taxpayer to the IRS in court proceedings so long as the taxpayer keeps appropriate records and cooperates with the agency.

I am not positive this is exactly tailored the way it should be. Currently, in our judicial system, the burden of proof is on the Government when they bring an action against a citizen. That is the way it should be. Up to this point, that has not been the case with respect to our tax laws, the theory being that the taxpayer is the one who keeps the books and records so the taxpayer should have the obligation to show that he or she should not have to pay the taxes the IRS is seeking. The burden of proof still is on, probably, the wrong place. We have tried to find the right balance here. I hope this provision in the statute works. Only time will tell. If there are problems, we will have to address them.

The bill further extends the attorney-client privilege in most cases to accountants and to others authorized to practice before the IRS. Again, I am not sure how good an idea this is. It will make it more difficult for major accounting firms to sign off as to the financial statements of a company they are auditing. They may feel compromised because of this new provision. I hope this works. It may not. If not, we will have to come back and revisit it as well.

Finally, the bill before the Senate takes a first step toward addressing what may be the biggest contributor to taxpayer problems with our Tax Code; namely, all of us, Congress itself.

Witness after witness at our hearings complained about the complexity of the code. This bill requires that every tax bill in the future be accompanied by an analysis of whether it will further complicate the code, how hard it will be for taxpayers to comply with new laws. As we strive to achieve fairness in our code, we sacrifice simplicity. With this bill, we will theoretically be able to more clearly understand the extent of that sacrifice. I hope this works.

We need to address the complexity of the code. I am not certain this will work as well as it is cracked up to. This will only work if the Congress focuses with utmost intensity on this part of the change and focuses on how proposed change adds to the complexity. I worry that this will otherwise be window dressing, that the Service and the administration, Treasury, IRS, Congress, might gloss over this provision. It sounds good right now, but we will not follow up, do the hard work and heavy lifting, when the new provision is before us. It really depends upon us. It is like the Pogo cartoon, "I have met the enemy, and he is us." This will work, the anticomplexity provision, only if we make it work. Time will tell.

This bill certainly clips the wings of IRS agents, but we all know that clipping the Government's wings too closely presents its own dangers. The Service estimates that the so-called tax gap, which is the measure of how much legitimately owed tax is not being collected, is now almost $200 billion a year. This amounts to more than $1,600 per year for every tax return filed by the rest of us—$1,600 per return, filed by the rest of us, is not being collected. Addressing this problem, unfortunately, is not in this bill. That has been left to another day.

I truly hope we have not done anything in this bill which will exacerbate the problem further, because this bill may be sending a message to some American, "Hey, the IRS' wings are getting clipped; I can get away with more; I don't have to report everything so much." That is not the message of this bill. The message of this bill is, the Service will treat individual taxpayers more like people and provide a service that it should be providing; that is, remembering that people are actually the employers in this outfit and the IRS is the employee.

We have a second problem not addressed in this bill, and that is the tax gap. I hope that is addressed in the not too distant future because it is a problem that is mounting with each passing day. Partly it is caused by the complexity in the code.

I am also concerned about how we pay for the lost revenues in this bill. I don't think it is the best result we could come up with. And I have further concern that the bill's provision may result in extended litigation, further slowing down our court system, because these are new provisions; they have to be interpreted. Lawyers are going to try to put one spin on it; another lawyer, another spin. A lot of the problems may end up in the courts.

I firmly believe we must not let another tax session go by without at least the taxpayer protections in this bill. I am pleased to support the conference report. I am pleased I can go back to my constituents, including the young lady who wrote that letter, to say: We have tried to fix your problem, we have gone a long way toward fixing your problem; it is not perfect, but it goes a long, long way.

In the end, Mr. President, the effectiveness of these provisions depends very much on the degree to which the White House, the administration, the Treasury, and the Congress continue to oversee the IRS, continue to have hearings into the IRS' operations, praising them when they are doing a good job, criticizing them when they are doing a bad job.

We are here today, passing this legislation, in many respects because both the administration and the Congress for way too many years have let the IRS drift.

There has been virtually no oversight. Treasury hasn't paid much attention to the IRS. Congress hasn't paid much attention to the IRS. As a consequence, they have kind of gone off in a direction that has not been as praiseworthy as we would like. So it is up to us, the people's representatives, to continue vigorous, aggressive oversight, if these provisions enacted today turn out to be as good as we all say they are and hope them to be.

I yield the floor.

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. GRASSLEY. Mr. President, there are two people I would like to mention before I make my remarks. I commend the chairman of the Finance Committee, Senator ROTH, for improving this bill as it has made its way through the legislative process. Too often, I see bills deteriorate as they are worked on by various subcommittees, committees, and on floors of the Houses of

Congress. They sometimes deteriorate in the process to a lesser bill than we originally sought. This piece of legislation started out as a product of the National Commission on the Restructuring of the IRS and, for the most part, the recommendations of the commission were not changed as it went through the legislative process. But there were considerable additions made to this legislation. Senator ROTH needs to be complimented for making this a better bill as it is now in this conference report. Each step of the way it was improved, which is the result of the hearings that he had last fall and in the spring of this year.

The second person that I compliment is not part of the legislative process, but is the new Commissioner of the Internal Revenue Service, Mr. Charles O. Rossotti. He was appointed by the President last fall and confirmed and has been on the job now 8 or 9 months. I compliment him because he has not waited for Congress to act before making much-needed changes in the administration of the Internal Revenue Service.

What I sought when I wrote to President Clinton in December of 1996 was to urge that the President appoint a nonlawyer to be IRS Commissioner—the first time that that has been done in four decades. I recommended that it be somebody from the private sector, a nonlawyer, who would know how to run an organization. This person would know how to make the IRS be: oriented toward serving the taxpayers. I didn't know that the President would take my suggestion so seriously. But he did. He appointed Mr. Rossotti.

Mr. Rossotti comes from a very successful career in the private sector, having formed a corporation of his own, from a few employees to thousands of employees. He left that environment—a very successful business—to serve the people of this country as IRS Commissioner. Being successful, as he was, would not have happened if he had not tried to serve his customers. So having that attitude come into the IRS will result in a breath of fresh air. It should make the IRS oriented toward consumer satisfaction. I have hope that his insight will help the IRS respect the taxpayer, and as a result, it will make the collection of taxes much more efficient as well.

Mr. Rossotti has not waited for Congress to act until he started to institute a lot of reforms. I say that he, from day one, started to carry out the spirit of the commission's recommendations before they were ever enacted into law. He needs to be complimented for doing that.

On the first day that the Restructuring Commission met in the fall of 1996, various commission members were asked to tell what they thought we ought to try to accomplish through the coming year's work. When they got to me as one of the four congressional members of the commission, I said that I wanted to make sure that the IRS becomes more consumer friendly. If it became more consumer friendly, the taxpayer would honestly enjoy working with the Internal Revenue Service. I hope that is what this legislation does. Obviously, we won't know for several years if that sort of reform has been brought about, but that was my goal in the fall of 1996, and I think the commission's recommendations tended to go in that direction.

As I have complimented Chairman ROTH, I think the bill has even gone beyond our committee recommendations in that direction—ultimately, to eliminate the culture of intimidation within the IRS and to make sure that the IRS sets a standard for the taxpayers of this country. This bill will make the IRS deliver accurate information in a timely fashion and in a courteous way. In other words, this bill should make the IRS treat the taxpayer exactly as the IRS expects the taxpayer to treat it. The IRS expects prompt and accurate filing on April 15.

So today is a very proud day for me. It is a proud day for the U.S. Senate. Maybe it brings a little common sense to Washington nonsense as well. Today, we declare a victory—a victory for the American taxpayer and for Congress. We have done something very good in this legislation. This is Government serving the people at its finest. It is for causes such as this that I am in public service.

Let me explain why we did what this conference report does. I want to give you an example to explain why we found it necessary to pass a bill that comprehensively restructures and reforms the Internal Revenue Service. One Christmas Day, maybe 5 or 6 years ago, as I sat around the Christmas tree opening presents with my family, the telephone rang. On such a glorious day of good cheer and hope, I answered my telephone in high spirits. The woman at the other end of the line, a constituent of mine, was in tears. Her husband was critically ill and the IRS was coming after them for everything that they owned. I don't mean that they were coming after them on Christmas Day, but it was Christmas Day that this taxpayer of mine was bothered by this thought of dealing with the IRS.

The taxpayer of mine owned very little, but the IRS was after it. She had no idea what to do. She had nowhere else to turn. So on Christmas Day, that day of hope to us, she picked up the telephone and called me. I have my name listed in the telephone book, so I am easy to get ahold of. She called someone she had never met, someone she only knew by reputation. This woman was at the end of her rope and she had nowhere else to turn. She didn't understand what was happening to her. She only knew that the IRS was harassing her to pay the debt that she didn't know they had, and it was not willing to work with her on that debt.

Let's think back to the hearings the Senate Finance Committee held in the last year. We heard from victims of the IRS, about harassment and about abuse. We heard from IRS employees about the culture of intimidation at the IRS, which results in taxpayer abuse and keeps good employees from climbing the career ladder. These hearings touched a nerve with the American public, and they did so for a very good reason. We all saw ourselves in those stories—either in the victim, or we knew that it could have been us.

There are critics of this legislation. To the critics I say this: We have different friends; we talk to different people. I am convinced that the critics have never spoken to a taxpayer facing the loss of his home, wondering where his family will sleep that night. They have never spoken with a woman who had IRS agents screaming and threatening her in front of her family. They have never spoken with the average taxpayer who works hard to make ends meet, pays his taxes on time and doesn't want to spend his kids' college fund on attorneys to fight the IRS. These are the people to whom I talk. These happen to be my constituents. These are the people who send me to represent them. This bill is for those constituents of mine.

It is for the average American taxpayer, who is neither an accountant nor a lawyer. It is for the average American taxpayer who is not sure how to navigate the system, but who wants to stand up for himself in true American fashion. It is for the IRS employee who wants integrity in his workplace and reward for a job well done.

This legislation is not a rash effort. It was not hatched overnight. Rather, it is the product of years of study and work. Senator KERREY and I were honored to serve on the National Commission on Restructuring the Internal Revenue Service. In June, 1997 this commission released an 80-page report of recommendations to radically restructure the IRS. These recommendations were turned into legislation, which Senator KERREY and I introduced in the Senate, and Congressman PORTMAN introduced in the House.

There are many people who worked on the effort you see before you today. I have already complimented Senator ROTH, the Chairman of the Finance Committee, for holding two series of important oversight hearings. These gave us further insight into the IRS and gave this legislation the momentum it needed. He also has shown great leadership in strengthening the House-passed bill, and navigating it through the conference committee.

Senator D'AMATO and Senator GRAHAM should be thanked for their leadership to provide relief for innocent spouses. Senator MACK should be thanked for his leadership in creating confidentiality between an accountant and his client. And, of course, my friends Senator KERREY and Congressman PORTMAN must be recognized for their untiring work, for endless hours on endless days, on the Restructuring Commission and this legislation.

Let's talk about what this bill does. First, it provides oversight and it mandates accountability. It was Justice Louis Brandeis who said, "sunlight is said to be the best of disinfectants; electric light the most efficient policeman." This legislation provides sunlight and electric light throughout the IRS.

First, this bill creates a new Inspector General for Tax Administration within the Treasury Department. This new IG will be dedicated solely to oversight of the IRS. He or she will have all of the powers and responsibilities given by the Inspector General statute. This office will also assume most of the responsibilities now performed by the IRS' Inspection Service. This change moves the oversight function out of the IRS and into the Treasury Department where it can be more impartial and effective.

This bill also requires that this Inspector General for Tax Administration randomly audit IRS denials of public information requests. I have found, and have heard from others, that the IRS sometimes hides improprieties by claiming the information is protected for taxpayer confidentiality or law enforcement reasons. However, upon further investigation, it has been discovered that the redacted information has nothing to do with either taxpayer confidentiality or law enforcement. It simply admits IRS error, and it gives them an opportunity to hide from public scrutiny. Claiming taxpayer confidentiality or law enforcement as a reason to redact or fail to release information lets the IRS avoid oversight by Congress, the press and the public.

To help guide this agency and keep it on track, this legislation also creates an Oversight Board. This Board should be comprised mainly of management experts, who will guide the IRS and keep it honest and well administered.

In addition, this bill makes it easier to hold IRS agents accountable for their actions—both good and bad. The bill makes it easier to fire bad IRS employees, and easier to reward outstanding IRS employees. It also makes it easier to sue the IRS for the actions of its agents. It expands the cause of action in civil court to permit up to $100,000 in civil damages or harm caused by an officer or employee of the IRS who negligently disregards the rules of that agency.

Another major achievement of this bill is that it increases taxpayer rights. As an author of the first two Taxpayer Bills of Rights, I am particularly qualified to testify to the importance of this section of the bill—the Taxpayer Bill of Rights 3, as we refer to it. This bill will help even the playing field even more between the taxpayer—particularly the average taxpayer who can't afford to spend a lot of money for counsel—and the IRS. It will help taxpayers to understand the process. It will help put customer service back into the Internal Revenue Service.

Specifically, this legislation shifts the burden of proof from the taxpayer to the IRS is many tax disputes. This bill also gives relief to innocent spouses. Innocent spouses are people who didn't take part in the tax shelter or tax planning that results in a tax assessment. Their marriage has broken down and they are left with little except the IRS pounding on their door—the door of the innocent spouse. It is important that we collect tax when it is due, but also that we don't collect money from people who are not at fault and who don't owe it.

Another important step—this bill increases the independence of the Taxpayer Advocate. The taxpayer advocate is renamed the National Taxpayer Advocate and the local problem resolution officers will become local taxpayer advocates. The local taxpayer advocates will report to the National Taxpayer Advocate rather than to the district director to avoid the intimidation that comes from such relationship with district directors.

This bill also gives the taxpayer relief from interest and penalties in some situations. For example, this bill suspends penalties while an installment agreement is in effect. It suspends the statute of limitations to file for a refund during times of disability. It gives taxpayers more due process rights before the IRS can levy or seize property, and makes it easier to contest the placement of a lien. And the IRS can't seize a principle place of residence or a small business until it has exhausted all other payment options.

In addition, this legislation makes important strides towards empowering taxpayers. I sincerely believe that educating the taxpayer is half of the battle. Americans are generally strong, self-reliant people. Letting them know their rights and responsibilities gives them the ammunition to stand up for themselves. For example, this bill requires the IRS to make extra effort to alert taxpayers to the joint and several liability incurred just by signing an income tax form. It requires the IRS to rewrite Publication 1, which is called "Your Rights as a Taxpayer" to more clearly inform taxpayers of their rights to be represented at interviews with the IRS, and if the taxpayer is represented, that the interview cannot proceed without the presence of the taxpayer's representative unless the taxpayer consents. The IRS also must include with the first letter of deficiency a description of the entire process from examination through collection, including the assistance available to taxpayers from the taxpayer advocate at various points in the process. And now any taxpayer in an installment agreement will receive an annual statement of the initial balance owed, the payments made during the year, and the remaining balance.

This bill also provides greater taxpayer protection during the audit process. It extends the attorney-client confidentiality privilege to some communications between an accountant and a client. This bill makes it impossible for the IRS and the taxpayer to agree to extend the statute of limitations on collection actions beyond 10 years unless there is an installment agreement in place. Then the statute of limitations can only be extended until the end of the installment agreement, plus 90 days.

Further, the IRS must always inform the taxpayer of his or her right to refuse to extend the statute of limitation and to limit an extension to specific issues.

These are just some important aspects of this legislation. I think it is landmark legislation, at least landmark for the last 45 years. I am proud to be a part of this effort. This legislation reflects hard work by so many of us. This effort will be rewarded by the sunlight that will shine into the IRS, giving it the oversight that it needs and the accountability that the taxpayer deserves.

This is a great day. It will be a greater day if down the road a few years I come to the conclusion that this legislation has effectively eliminated the culture of intimidation within the IRS. Today this bill sets a standard for the IRS to treat the taxpayer the way they expect the taxpayer to treat the IRS. In other words, this bill helps the taxpayer get timely information, accurate information, and courteous service—because that is what the IRS expects of the taxpayer on April 15 each year.

I yield the floor.

Ms. MOSELEY-BRAUN addressed the Chair.

The PRESIDING OFFICER (Mr. SANTORUM). The Senator from Illinois.

Ms. MOSELEY-BRAUN. I thank the Chair.

I am pleased that we are finally completing action on one of the most important pieces of legislation this body will act upon, and that is the IRS Reform and Restructuring Act of 1998. This bill represents that first step toward restoring the confidence the American people have to have in our voluntary system of tax compliance.

Since its creation in 1862, the Internal Revenue Service has grown to become one of the largest Federal agencies, employing some 100,000 workers. In addition, it is an agency with massive responsibilities. In just 1997 alone, the IRS collected approximately $1.5 trillion and processed some 200 million tax returns. The revenues collected by the IRS are sufficient to fund the necessary activities of our Government. In concept, it is one of the most civilized tax systems in the world.

But it is no secret that taxpayers have lost confidence in our tax system. The public has lost patience with abuses that for years have been all too common within the IRS. In the interest of fixing this system, Congress created the National Commission on Restructuring the IRS almost 2 years ago. This important commission, which was made up of some 17 members and professional staff, examined the IRS for a year and developed a comprehensive report on changes that were needed to overhaul it. The work of this commission required hundreds of hours of private sessions with both the public and private sector experts, academics, and citizen groups to review IRS operations and services. The commission met privately with over 500 individuals, including senior level and frontline IRS employees across the country.

The work of this commission, which provided many of the recommendations included in this legislation, was invaluable in getting us to where we are today. I applaud my colleagues on the Finance Committee, and in particular Senator KERREY of Nebraska, for the leadership they provided as members of the national commission. I also thank our chairman, Senator ROTH, and ranking member MOYNIHAN for taking the next step and holding extensive hearings on this most important topic. Certainly without the hard work of these gentlemen we would not be here today.

The lack of confidence felt by the American people was made all too obvious during the many hearings that were held by the Finance Committee over the last 9 months. We heard from taxpayers, attorneys, accountants, and IRS employees who discussed their personal experiences with the complexities and frustrations of the IRS. I was outraged—I think we all were outraged—by the stories of armed raids on innocent taxpayers' property, unauthorized and unnecessary audits of working-class families, and excessive fees and penalties charged to taxpayers who were trying to pay their tax bills in a timely and responsible manner, and all sorts of other outrages.

The tales that were told at these hearings were appalling, but they were nothing new to thousands of taxpayers who themselves have had to experience it or know someone who has.

At one time in my legal career, back when I was an assistant U.S. attorney, I represented the Internal Revenue Service in its dealings with taxpayers. It was back then, frankly, I learned in dealing with the Internal Revenue Service the devil is in the details. I learned firsthand you have to focus on details when it comes to any issue when dealing with a bureaucracy as large as the IRS. And that is why I am so proud of playing a role in this legislative response.

I believe the details of this legislation will make a difference, a real difference. This bill attacks a big problem in sensible ways, and it brings much-needed change to the operation of the internal revenue system. It does it in ways that are fair, reasonable, and equitable for all taxpayers. It increases the protections and rights of American citizens in regard to the Service and the system.

I am pleased that one particular amendment I promoted was included in the bill. This provision will expand the ability of the taxpayer to recover their costs when involved in defending themselves before the IRS and the taxpayer wins. I think this provision is essential to ensuring that taxpayers are not forced to pay for IRS' mistakes.

There are other changes that I especially like. As the only woman on the Senate Finance Committee, I was particularly pleased that this legislation includes some relief for innocent spouses. All too often women are stuck holding the bills of their ex-husbands, only then finding out that their ex-spouse had not legally filed a tax return.

I was contacted by one of my constituents from Illinois who had been told by the IRS that she could lose her new home, be prosecuted for income tax evasion, and have her wages garnished if she refused to pay a tax bill that was owed by her ex-husband due to a fraudulent tax return he had filed during their tumultuous marriage, even though she had, in fact, signed it.

When she explained to the IRS that she had never been employed during the course of the marriage and could put them in touch with her ex-husband regarding that, the agent told her, "What do we need him for? We've got you."

Well, this legislation will make certain that those kinds of abuses against innocent spouses will no longer occur. This bill ensures that cases such as this never happen again, hopefully, and that the IRS will be encouraged to pursue both spouses and do the work that is needed to find out who owes what.

It provides greater protection for women by giving them notice of their rights and their obligations up front before signing on to a joint tax return.

The other list of positive changes that this bill makes to the current operation of the IRS, as well as the list of additional taxpayer rights, is quite extensive. This bill will allow taxpayers to enjoy a greater ability to sue the Internal Revenue Service when the IRS blatantly and intentionally disregards the law. It has a provision that will give the Secretary of the Treasury authority to provide up to $3 million annually in matching grants to assist low-income taxpayer clinics. There is a provision that will eliminate the penalty for failure to pay taxes when a taxpayer is paying those taxes under an installment agreement, which has been a huge problem. People find themselves with more penalties than they had to pay in underlying taxes.

For those taxpayers who undergo an audit, the bill includes procedures to ensure that due process is afforded to them. Also, with regard to seizures, before property is seized, there must be a process so that any lien, levy, or seizure will be approved by a supervisor.

Taxpayers will also be given greater access to installment payment agreements with the IRS, greater access to information about the appeals and collections process, and greater access to statements regarding payments and balance owed in installment agreements.

There is one other provision, Mr. President, that I am especially happy to see in the bill, and that is the provision that extends the confidentiality privilege to accountants in civil matters before the Internal Revenue Service. This provision, which some 78 percent of the American taxpayers support, will give all taxpayers equal confidentiality protections for their discussion, not just with their lawyers but also the federally authorized tax advisers. Low-income taxpayers who often cannot afford attorneys will, therefore, be provided the same privileges and benefits that other taxpayers have.

All of these changes are needed to amend the current operation of the IRS. The bill provides us with the historic opportunity to overhaul the Internal Revenue Service and transform it into an efficient, modern, and responsive agency. The IRS interacts with more citizens than any other Government agency or private sector business in America, and it collects 95 percent of the revenue needed to fund our Government. The bill we have before us is a thorough bill and makes vital changes to every aspect of the Internal Revenue Service's structure.

Mr. President, it is a sad reflection of the reality of our lack of confidence that, much like this cartoon, many Americans do not believe that this bill will cure what ails the system. I am sure the Presiding Officer can see it. The IRS is here as Dracula in the coffin with a stake through his heart, asking his gnome, "You took names?" "Of course"—while the Senate celebrates. A lot of people think while we take the action we will take here, it is not going to really cure what ails the IRS —that after the Congress has had its say, they fear the IRS will go back to the bad old ways that undermined its reputation in the first place.

To that issue, I want to suggest to anyone listening that the answer lies, I think, in both cooperation and vigilance. We all need to work together to do our part to make sure that the accountability of the IRS remains assured. The Service has started to reform itself, and we have high hopes that the new Commissioner, Mr. Rossotti, will actually be able to implement the management changes directed toward putting the "service" back into the Internal Revenue Service, back into the IRS.

IRS employees, some of whom bravely stepped forward during the hearings to lament the state of affairs in the agency, can and must help with the healing and reconciliation of the Service with the American people. The Congress today is beginning to do its part. Much more needs to be done, to be sure. But because Congress, after all, is not blameless in creating the confusion and the complications that provided cover for excess and abuse, we need to take up tax simplification with the same purpose as we have taken up tax administration.

I am hopeful that the Finance Committee as a whole—or, if necessary, as a commission modeled on the Kerrey-Grassley commission—will take up tax simplification so the average citizen or small business will be able voluntarily to comply with our tax laws without incurring the huge transaction costs just to pay people to interpret the law for them. Tax simplification will also go a long way toward restoring confidence in our system of voluntary tax compliance.

In the final analysis, however, it will be the American people who do the most to keep the IRS on the right track. Abraham Lincoln once said, "In this country, public opinion is all." He is right. The people got fed up with the abuse, and the Congress was moved to action. In this Republic, in this democracy, the Government is, after all, all of us. And so the passage of this bill will really be a reflection of public opinion operating in classic fashion in this country. It is, therefore, a victory that every citizen can and should celebrate. But keeping this victory will require our eternal vigilance.

Again, I commend the chairman of the committee for the brilliant hearings that gave rise to this legislation and for the purposefulness with which he has moved this bill to the floor.

I yield the floor.

Mr. ENZI addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. Mr. President, I, too, rise in support of the conference report to the IRS Restructuring and Reform Act of 1998. Passage of this legislation marks a monumental step in making the Internal Revenue Service more responsible to "We, the people," the American taxpayers.

As the hearings before the Senate Finance Committee demonstrated, the IRS has all too often in recent years taken an adversarial posture against taxpayers. We in the Senate heard reports about IRS employees who were promoted based on the number of liens and collection actions against taxpayers. We heard stories about the IRS targeting low-income individuals and small businesses for audits, since they often did not have the resources to fight the IRS and are therefore forced to settle. We were told about audits and investigations based purely on political motives. We were informed of times the IRS had destroyed businesses, where they had wreaked havoc on private citizens' personal lives and seized assets based on accounting mistakes and clerical errors by the IRS itself. It is time these activities came to an end. This IRS reform bill will make the institution more service oriented and accountable to "We, the people."

Through the newly created oversight board, the Service will receive the direction and effective strategic planning it desperately needs. By shifting the burden of proof in factual tax disputes from the taxpayer to the IRS, this bill gives American taxpayers important procedural protections that even criminal defendants have enjoyed in this country for over 200 years. "We, the people," will have due process before confiscation of personal property. The taxpayer will know the charges and have the right of appeal.

By expanding the confidential communications to cover accountants and enrolled agents as well as attorneys, this reform bill gives taxpayers greater freedom to seek tax advice from the tax adviser of their own choosing.

In requiring the IRS to collect allegations and document cases of employee misconduct and report this misconduct to Congress every year, the IRS reform bill requires the IRS to investigate itself and answer to Congress for any misconduct of IRS employees.

This reform bill even simplifies the Tax Code by reducing the holding period for optimal capital gains treatment from 18 months to the standard 12 months.

While the IRS reform bill does not provide all the solutions to our country's tax problems, it marks a significant chapter in bringing greater accountability to our Federal tax collection agency and greater respect for hard-working American taxpayers. The IRS reform bill moves us in the right direction, toward a system that is simpler and more fair for all Americans.

Yes, "We, the people," have won a big one here. I congratulate Chairman ROTH and the Finance Committee. I also congratulate all the folks who shared—even though they were living in fear of their own Government. I am glad we were able to take these steps and look forward to the results.

I yield the floor.

The PRESIDING OFFICER (Mr. THOMAS). The Senator from North Carolina.

Mr. FAIRCLOTH. Mr. President, I rise to add my support to the IRS conference report. But before I do, one issue has just come to my attention that I want to mention. I have been told the IRS is challenging the charitable contribution status of funds used to purchase a special stamp, a stamp that I sponsored along with my colleagues, Senator FEINSTEIN and Senator D'AMATO, to fund breast cancer research. The IRS has now come along and challenged whether that contribution is going to be deductible or not.

I can tell them it will be. I hope the IRS does not fight the Congress and the American people in their effort to fight breast cancer. It is a worthwhile charitable cause, and it should not even be questioned. But I want to say to the IRS, if they continue to fight the breast cancer initiative, I will offer a legislative rider to the Treasury appropriations bill that will clarify and override their objections.

Turning to the bill before us, if ever there was an agency of the Federal Government that needed overhaul, it is the Internal Revenue Service. For years the American people have been telling the Congress that IRS was out of control, punishing taxpayers with crushing penalties and interest, and a nightmare of rules and regulations that no one understood, and that included the IRS. I held a hearing on IRS abuse in Raleigh, NC, last December. The stories I heard were absolutely heartrending. If we had not known they were true, we could not have believed them.

I introduced legislation to create a private citizens oversight board that would rein in the IRS. I propose giving the oversight board authority to cut through that impenetrable cloak of secrecy this agency has been showing the public for years. I want the board to have access to Internal Revenue working documents. I am pleased to see that much of what had been proposed has been put into this conference report. Chairman ROTH deserves tremendous credit for putting this bill together.

The IRS reform bill will create a new oversight board of private citizens.

The board will have authority to review the policies and practices of the IRS. It will have access to documents which were previously shielded from the public and the Congress.

This new board will help root out the abuses that were highlighted in the hearings that I held and the equally shocking hearings that the Finance Committee held. I don't think any of us were aware of what really was going on within the IRS and its relationship with the American taxpayers.

The bill will provide protection from excessive penalties and interest and protect the spouse from tax cheats.

This is not the end but the beginning of fundamental reform of the IRS—reform and a change of attitude.

Make no mistake, many in the Internal Revenue Service will not be happy with this bill, and they will either want to foot drag the changes or alter them. But let me say that one great thing has happened to the IRS, and that is the new Commissioner, Mr. Charles Rossotti. He is going to bring a breath of fresh air to a very stale-air organization. He has experience in the private sector, and he is taking this job at great personal sacrifice. He has spent a major part of his career in data processing and in the type of electronic data processing and handling that the IRS needs, but in which they are so woefully inadequate. In fact, they spent $3 billion for new equipment and found that it did not work after they had spent the money.

As a member of the Appropriations Committee which overseas the IRS budget, I intend to watch the IRS, and I will be there closely watching to see if they follow the reforms that this bill mandates. In particular, I am going to watch the IRS union representative who was made a member of the oversight board, despite my objections, as well as the objections of Senator ROTH and others. My message to the unions and to the union representative and the rest of the IRS personnel and bureaucracy is this: Do not oppose IRS reform, but accept and take it and get going with making it the law of the land. The Congress and the American people have spoken, and this agency is going to be cleaned up with or without your acquiescence. If you try to undermine these reforms, there will be more legislation and stricter legislation in future sessions of the Congress.

In summary, let me say to the IRS personnel and its representatives and the entire IRS bureaucracy that Congress is very closely observing the actions and will be observing the actions of the IRS in how it deals with the American people. Do not oppose us, support us, and we will have a great revenue collection service. Do not go back to the old ways, but move into the new law and do it with enthusiasm.

Mr. President, I thank you, and I yield back the remainder of my time.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Thank you, Mr. President.

Mr. President, I bring to the attention of my colleagues a couple of issues that relate to this IRS conference report that is before us.

First of all, my colleague from North Carolina was conveying a message to labor. He was talking about the fact that he was going to be very vigilant and he was going to be watching closely what happens with the oversight board. I think we should be vigilant and pay attention to what happened in this conference committee.

I bring a couple of matters to the attention of my colleagues. I, first of all, will start out talking about veterans. I know that my colleague from West Virginia, who has been such a powerful advocate for veterans, will also speak about this, and I understand my colleague from Washington will be on the floor later taking action, and I will be pleased to join her.

Let me go through this very briefly. As the highway bill—called the ISTEA or TEA-21 bill—moved to the House, and Members of the House wanted to add on more projects, the question was how to fund it. The way it was funded was to take an estimate from the Office of Management and Budget having to do with whether or not there would be compensation to veterans for illnesses caused by their addiction to tobacco. Cigarettes were handed out like candy to veterans when they were in the service.

The decision was made that veterans should not receive this compensation. OMB said this would lead to a savings of about $17 billion. I think CBO said more like $10 billion, but conferees used the $17 billion. That money, I say to my colleagues, if not going to direct compensation for veterans, at the very least should go to veterans' health care.

I cannot even tell you how many calls we get in our Minnesota office from veterans. It is really shocking the number of veterans who fall between the cracks. We have an aging veterans population. We don't know what to do as more veterans reach the age of 85 or how they will be taken care of in the veterans' health care system. We have Vietnam vets suffering with PTSD who drop in our office who still need a lot of help. A third of the homeless people in this country are veterans, many struggling with substance abuse, who need help. We have a VA health care system that has been put on a flat-line budget that won't work. We are talking about whether or not we are going to live up to our commitment to veterans.

There was a technical corrections bill to this highway bill. Senator ROCKEFELLER and I intended to have an amendment knocking out this $17 billion transfer of funds that should be going to veterans and instead was put into the highway bill. That is correct, I say to my colleagues, that is exactly what happened. I didn't vote for the bill for that reason.

The majority leader did not want to afford us the opportunity to have an up-or-down vote on our amendment on the technical corrections bill. So he took the technical corrections bill and had the conferees put this into the IRS conference report. Therefore, we can't amend it.

I bring to the attention of my colleagues that this was outside the scope of conference, as I see it. I think Senator MURRAY and others will have more to say about this.

Certainly, in this IRS reform bill that passed the Senate and the House, we didn't do this, but in the conference report, things were loaded on, and one of them was essentially this technical corrections bill that did not give us the opportunity to knock out this transfer—OMB says $17 billion; I think that is too high. That $17 billion either should have gone directly into compensation for veterans, vis-a-vis their tobacco addiction, or at the very least should have gone into veterans' health care.

Therefore, questions should be raised about this conference report that is before us. I say to my colleagues, Democrats and Republicans alike, the VA-HUD appropriations bill, of course, has been pulled. But the first opportunity I get, I will be back with an amendment to knock out this provision that took $17 billion, or thereabouts, that should have gone to veterans and instead put it into highway projects. We will come back to this, and we will have an up-or-down vote. First point.

Second point. Boy, I will tell you, conference committees! I say to my colleague from Wyoming, I used to teach political science classes. I have to tell you. You know, I feel guilty. I need to refund tuition to students for those 2 weeks I taught classes on the Congress. I was so off in terms of a lot of the decisionmaking.

I should have focused on the conference committees as the third House of the Congress, because these folks can do any number of different things. And the thing that drives me crazy is you can have a situation where the Senate did not have a provision in the bill, the House did not have a provision in the bill, and the conference committee just puts it in the bill. Then it comes back for an up-or-down vote. No opportunity to amend.

Or you can have a situation where the Senate and the House pass bills with a provision in them and the conference takes it out. It is, I think, the least accountable part of decisionmaking in the Congress.

Now, we have a couple of provisions of this bill that I think are worth talking about. One of them is a provision that was a drafting error. I would like to include in the RECORD a piece by David Rosenbaum of the New York Times of June 24: "A Mistake Prevails, as Certainly as Death and Taxes." I ask unanimous consent that this be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

A MISTAKE PREVAILS, AS CERTAINLY AS DEATH AND TAXES

(By David E. Rosenbaum)

WASHINGTON, June 23—The tax code is chock full of benefits for the wealthy. Most of them were put in on purpose. But last year, one got in accidentally.

Now a powerful Congressman has used his influence to keep on the books this tax break for rich people that no one intended to be in the law in the first place.

The only beneficiaries of the mistake are the heirs of a few hundred people who die each year and leave estates worth more than $17 million. Each of those estates will be saved more than $200,000 in taxes. The Government will lose an estimated $880 million in revenue over the next decade.

After the mistake was caught, the Treasury Department and the Senate took steps to correct it before it could be taken advantage of.

But Representative Bill Archer, the chairman of the House Ways and Means Committee, blocked them. At his insistence, a House-Senate conference committee decided last week to keep the tax break in the law. Mr. Archer says he prevented the correction to express his fervent opposition to inheritance taxes, which he calls "death taxes." Mr. Archer, a Republican, represents a district in Houston that is one of the wealthiest in the country and presumably one of the likeliest to have someone die and leave an estate worth more than $17 million.

This all started when someone on Congress' technical staff made a mistake in the drafting of the mammoth balanced budget and tax cut law that Congress approved and President Clinton signed last summer.

Such mistakes are common in big, complicated tax bills. Several years ago, for instance, a measure dealing with tax write-offs for race horses referred to "houses" instead of "horses." Normally the errors are repaired in what is known as the technical-corrections section of the next tax bill to go through Congress.

The 1997 tax law increased the amount in estates that is exempt from Federal taxation. Under the old law, the first $600,000 of an estate's value went untaxed. The new law raised the excluded amount to $625,000 in 1998, to $650,000 in 1999 and, in continued increments, to $1 million in 2006.

The exclusion is particularly important to heirs because the estate tax rate is high, beginning at 18 percent and rising to 55 percent on the taxable amount over $3 million.

The old law required the value of the exclusion to be gradually eliminated, a process called a phase-out, on estates worth more than $17,184,000.

According to the Internal Revenue Service, about 300 tax returns were filed on estates worth more than $20 million in 1995, the last year for which statistics are available. Because stock prices on average have doubled since then, it is safe to assume that more such estates will be taxed this year. But the total number should not be more than several hundred.

Everyone agrees that the lawmakers who voted to increase the exclusion intended to retain the phase-out. But somehow in the drafting, that did not happen.

The error was quickly caught. A private tax lawyer apparently spotted it and called it to the attention of the Congressional tax staff. The tax staff recommended that it be corrected, and tax specialists at the Treasury Department agreed.

It looked like one of the dozens of mistakes that would be routinely repaired in this year's technical corrections bill before anyone's taxes could be affected. Indeed, the Senate included a correction in its version of the bill. But in the House, Mr. Archer balked. And when the measure—a small part of the legislation to overhaul the IRS—got to conference, he refused to budge.

Since no one in the Senate felt as strongly about correcting the mistake as Mr. Archer felt about about letting it go uncorrected, the conferees agreed last week to leave the tax break in the law.

Mr. Archer explained his position in a letter he wrote this month to the National Federation of Independent Businesses, an organization representing small businesses that opposes estate taxes but did not specifically lobby on the provision in question.

"While some might argue that the proposed change is a mere correction of a drafting error made last year, I view it as an increase in Federal death tax rates," Mr. Archer wrote.

The letter added: "I believe we should reduce or eliminate the unfair death tax. Accordingly, I cannot support any change in law that would go in the opposite direction by increasing death tax rates."

Mr. Archer's spokesman, L. Ari Fleischer, said the chairman's position well illustrated the importance in which party controls Congress.

"When the Democrats controlled Congress and drafting errors worked against the taxpayers, the Democrats let them stay in the law," Mr. Fleischer said. "Now, when one works against the Government and for the taxpayers, we're in no rush to correct it."

Mr. WELLSTONE. Chairman ARCHER wanted to make sure that for those Americans with estates worth more than $17 million, that we give them a special break. That is correct. Those Americans who are struggling with estates worth more than $17 million, they got, roughly speaking, an additional $200,000 break by mistake in last year's budget bill. The Senate corrected that mistake, but the correction got taken out in this conference committee.

I hear my colleagues talk about IRS reform. How does that add up to reform? We have these Orwellian titles. We call everything "reform." To most people in the country, when they find out about it, they do not think it is reform. We have paycheck protection that does not protect the paycheck; we have the Family Friendly Workplace Act which isn't friendly to the family; we have the TEAM Act which has nothing to do with teamwork, so on and so forth. Now this is called reform, and we give this break to folks with estates worth more than $17 million.

The second issue in the conference committee had to do with capital gains. I ask unanimous consent that a piece by Richard Stevenson of the New York Times on June 24 called "Break in Capital Gains Tax Is Added to I.R.S. Overhaul" be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

BREAK IN CAPITAL GAINS TAX IS ADDED TO I.R.S. OVERHAUL

(By Richard W. Stevenson)

WASHINGTON, June 23—Congressional leaders agreed today on a plan to give investors a break on capital gains taxes, attaching the measure to an overhaul of the Internal Revenue Service that appears headed toward speedy final passage.

The change, agreed to over several days of negotiations among members of both parties, would reduce to 12 months from 18 months the period that investors must hold stocks, bonds and other assets to qualify for the most favorable capital gains tax rate. The change would be retroactive, effective for all sales as of Jan. 1, 1998.

Although the 18-month holding period was created by last year's tax law at the Clinton Administration's insistence in an effort to reward long-term investment and discourage speculation, Administration officials said tonight that they expected the President to sign the new legislation after final passage by both houses.

Republican leaders are trying to keep their tax-cutting efforts in the limelight as they begin gearing up for the Congressional elections this fall. So, now that they have won agreement to reduce the holding period necessary for the most favorable tax rate on capital gains, they plan to turn to efforts to reduce the rate itself. Speaker Newt Gingrich will propose on Wednesday that the top rate on capital gains be reduced to 15 percent from 20 percent, adding the proposal to an already lengthy tax-cutting wish list that Republicans have yet to find the money to pay for.

The change to the capital gains holding period was one of a number of issues settled today as House and Senate negotiators reconciled the slightly differing versions of the I.R.S. overhaul bill passed with overwhelming bipartisan support by both chambers. Republican leaders said they expected the final version of the bill to win passage in the House this week and in the Senate next month.

The bill would set in motion the most sweeping overhaul of the tax collection agency in four decades. It would create an independent oversight board, provide taxpayers a range of new legal protections in disputes with the I.R.S. and spur a broad internal reorganization of the agency.

It was precisely the bill's broad bipartisan support, and the likelihood that President Clinton would not dare veto it, that emboldened Republicans to add the provision shortening the capital gains holding period.

The provision was proposed by Representative Bill Archer of Texas, the chairman of the House Ways and Means Committee, who early this year made the change a top legislative priority. Mr. Archer said today that the measure would make calculating capital gains taxes simpler for millions of people who, as a result of the 1997 law, had to grapple this year with a three-tier rate system that many taxpayers complained was excessively complex.

But the change would also amount to a tax cut for people who sold stocks or other assets after holding them between a year and 18 months. Here is why:

Under last year's tax law, gains on investments held for 12 months or less were taxed as ordinary income. Gains on investments held from 12 to 18 months were also taxed as ordinary income, although only to a maximum rate of 28 percent. Gains on investments held more than 18 months were taxed at a maximum rate of 20 percent, except for people in the 15 percent income tax bracket, who faced a maximum capital gains rate of 10 percent.

But if the agreement struck today becomes law, only gains on investments held a year or less will be taxed as ordinary income, while gains on investments held more than a year will be subject to the 10 percent capital gains rate for people in the 15 percent bracket and the 20 percent maximum capital gains rate for everyone else.

The I.R.S. has not yet determined how many people paid the intermediate rate—the

> rate on assets held between 12 and 18 months—in calculating their taxes for 1997. For 1996, the most recent year for which figures are available, 16.6 million tax returns reported a capital gain.
>
> Congressional aides said Mr. Archer's provision would cost the Government about $2 billion over 10 years, by effectively reducing the tax bill for people who sell investments after holding them between 12 and 18 months.
>
> Capital gains taxes have been debated by economists and politicians for decades, and have been the source of bitter political disputes between Democrats, who say cutting the rates amounts to a giveaway to the rich, and Republicans, who say that lower rates spur investment and help improve the economy's long-term growth capacity.
>
> In proposing a rate cut, Mr. Gingrich seems determined to reopen that debate. Aides say he will argue that Congress has more room to cut capital gains taxes than official revenue estimates would suggest because Congress has consistently underestimated how much revenue will flow into Government coffers after a rate cut.
>
> Many Republicans believe that capital gains are no longer an issue only for the wealthy, given the wide-spread stock holdings among the middle class. But Republicans have already promised to push this year for a reduction in the so-called marriage penalty, the anomaly in the tax code that yields a higher tax bill for many two-income married couples than for two single people with the same incomes. They are also pressing for reductions in estate taxes.
>
> But Mr. Clinton has signaled his opposition to any large-scale tax cut this year. And Republicans are feuding among themselves over how deeply they are willing to cut.
>
> In all, the I.R.S. legislation will cost $13 billion over 10 years, mostly from revenue that the Government will not collect because of the new rules protecting taxpayers from aggressive collection action by the agency.
>
> To help pay for the bill, House and Senate negotiators agreed to a provision offered by Senator William V. Roth Jr. of Delaware, the chairman of the Senate Finance Committee, that will encourage some relatively wealthy elderly people to shift savings from one form of individual retirement account to another.
>
> While the shift has long-term benefits to the individual, it creates an immediate tax liability that will generate an estimated $8 billion over 10 years. Democrats had strongly opposed the provision, saying that by the second decade it would start costing the Government billions of dollars a year in lost revenue.

Mr. WELLSTONE. So now we have an addition, in the dark of night, where the conference committee sneaks in another indefensible tax cut to wealthy people. That was not the bill that passed out of the Senate. I do not think it was in the House version. But in the conference committee it was put in.

So, colleagues, I think there will be another effort on the floor, and I am pleased to join with my colleagues in doing this—with Senator DORGAN and others—which will essentially say this is outside the scope of conference. It was not passed by either body and should not be in there. We will have a ruling by the Chair, and maybe we will have an up-or-down vote.

But I just point out that while there are some very good things in this piece of legislation—my colleague from Nebraska was one of the leaders in this effort with very, very good things that people around the country appreciate. But then we go to the conference committee, and we have a couple things that happen which are not democratic, with a small "d," not accountable, not decisionmaking that I think makes a whole lot of sense.

To the veterans, I say on the floor of the Senate: count on my support, working with Senator ROCKEFELLER, working with Senator MURRAY, and working with others to, one way or another, try to knock out this transfer of funding, however it is estimated, $17 billion or less, that should be going to veterans in direct compensation or should be going to veterans' health care, as opposed to being put into the highway bill for different projects.

And the second thing I want to bring to everyone's attention is cuts in capital gains for the wealthy, in the dark of night, added in the conference committee. And then finally the estate tax break—and I see my colleague from Nebraska here—which was actually corrected in the Senate bill and then dropped in conference. So we had a correction which would not have given the break to these poor folks with estates worth $17 million and more. And it could have easily been put in the conference committee. That is what we did on the Senate side. But, no, it was dropped.

So, colleagues, we are going to, I think, have some debate and some action on the floor this afternoon on this. I will be pleased to join other colleagues on both of these questions. And before you start calling this a reform bill, take a very close look at what was added to this bill, or what was dropped from this bill, in the conference.

I yield the floor.

Mr. DURBIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Thank you, Mr. President.

I thank my colleague from Minnesota for the remarks which he has made.

The Internal Revenue Service, the agency we love to hate every April 15. We write out those checks. It is our responsibility as citizens of this country. But it hurts—all the money we send them. Then these hearings were held, and we found out that this agency, collecting taxes, has been using heavy-handed tactics, sometimes with not the most basic courtesy. We have a right to be upset, and because of that, Congress—the House and the Senate; Democrats and Republicans—and the President said, let us do something about it. And we set out to make some rather significant changes in the way the Internal Revenue Service does business.

I am glad to see that happen. But I have to be a little bit wary of what the result might be. You see, in my home office in Springfield, IL, I received a phone call in the midst of this debate. And a gentleman said to one of my staffers, "Thank goodness this Senate has finally awakened to these thugs at the Internal Revenue Service. Their abusive conduct is just horrible. And now finally you're going to change this system." And my staffer said, "Have you had a personal experience?" "Well, yes, I did," he said. "And these people from the Internal Revenue Service just hounded me and my family to no end." And he said, "Thank goodness you're finally doing something about it."

My staffer said, "Was it a serious problem?" "Well," he said, "they made it out to be a serious problem." He said, "I had a little problem with reporting on my income tax."

My staffer said, "What was the problem?" He said, "Well, I failed to file my income tax return." My staffer said, "You didn't file your tax return?" He said, "Well, that's right." And my staffer said, "Well, that can be serious." He said, "Well, it was an oversight." My staffer said, "How many times have you failed to file a return?" He said, "3 or 4 years," and added, "You would think that was a crime by the way these people act." Well, it is a crime.

I hope that those who are critical of the Internal Revenue Service understand that we still rely on them and give them an important responsibility. The 99-plus percent of Americans who dutifully, willfully, voluntarily file their income tax returns each year are counting on the Internal Revenue Service making sure everybody else does, too. We are all part of the same American family. We all bear this responsibility.

So as we talk about reforming this agency, let us not lose sight of the bottom line. They have an important job to do to collect the money to provide for our national defense, education, highways, and so many other things on which we rely.

This bill went through a lot of different incarnations. I think the final bill, as it applies to the Internal Revenue Service, is a good one because it makes some rather significant changes.

I commend Senator GRASSLEY and Senator BOB KERREY of Nebraska, who was just with me on the floor. They headed the IRS Restructuring Commission. And under their leadership, the IRS commission produced a collection of very thoughtful recommendations, many of which are included in this conference report. Senators ROTH and MOYNIHAN have led a real truly bipartisan effort to make the commission's recommendations a reality.

I also commend the gentleman whose name was mentioned a moment ago, and that is the new IRS Commissioner, Charles Rossotti. His is not an easy job. He came from the private sector at great personal and financial sacrifice in the true spirit of public service to lead this important agency.

One of the first things that hit him between the eyes is the so-called Y2K problem, the computer problem that when we switch over in the next century, will the computers get it right? Will they know we are going to the year 2000 and not the year 1900? It sounds so simple. When you look at all the computers in America and all the programs and look at the Internal Revenue Service, you can understand that Mr. Rossotti and most of the people at the IRS are consumed with the responsibility of getting it right and making these computers understand we are headed to the 21st century and not to restart the 20th century.

There are parts of this bill that, I think, are very positive. The restructuring of the management and governance of the IRS so it operates more like the private sector—that certainly is a step in the right direction. The Commissioner asked for, and received, greater flexibility in managing his IRS workforce. We now make it easier for taxpayers to file their returns electronically by extending the due date for these returns from February 28 to March 31. The bill also requires the Secretary to develop a procedure that will allow taxpayers to confirm their return without having to send in their signature.

We establish taxpayers' rights. As a practicing attorney before I was elected to the House of Representatives, I represented clients before the Internal Revenue Service. That was no mean feat. It is one of the few experiences in the law in America where you are guilty until proven innocent, and we assembled the data necessary to prove our innocence and did our very best. I didn't understand the gravity of that challenge until my own small business was audited in Springfield, IL, and then I went through it personally. I am glad to say we didn't have tax liability added to it as a result of the audit, but I learned first hand how daunting it is to challenge the Internal Revenue Service.

Our bill says the burden of proof will be on the IRS in disputes that come up before the IRS Tax Court dealing with income, estate, and gift taxes, provided the taxpayer is cooperating by providing access to information and documents related to the return. So that gives the individual taxpayer, the business person, a little better chance of being treated fairly.

There was also a provision in the law which was brought out during the course of the committee hearings which was very troubling. A lot of innocent spouses who may have put their name on the tax return at the request of their husband or wife, not knowing the contents, found out in later years, even after a divorce, that if something was wrong in that return, they, too, could have been held liable—in fact, criminally liable in some instances. We have tried in this law to define "innocent spouse" in a way so that those who are truly innocent do not bear that responsibility.

We ease interest and penalties. Currently, for example, if a taxpayer makes an honest mistake—underline "honest mistake"—it might be several years before the IRS discovers it. Even if it is an honest mistake, it makes sense for the IRS to impose a penalty just as any other business would if you were underpaying bills. What doesn't make sense is for the IRS to charge interest and penalties during the time in which the taxpayer is unaware of the mistake. That is corrected in this bill.

There is more congressional accountability, and that has been referred to on the floor. Yes, it is true, Congress will be watching the Internal Revenue Service more closely.

There is another provision which I think is important so that taxpayers across America don't get the wrong impression. We ask the Internal Revenue Service and the Treasury to report to us annually in terms of compliance; that is, what percentage of American taxpayers are meeting their legal obligations and filing their taxes and what percent are not. If we see an increase in those who are not meeting their legal obligation after we pass this, we are going to have to address it again, because, as I said, the vast majority of Americans do pay their taxes and pay them on time.

Those are the good parts of the bill, and they are extremely good parts of the bill. I think the bill, when viewed in this context, is a plus. Unfortunately, in the dead of night, in the depths of the conference, some people couldn't leave well enough alone. They thought this bill was so popular and so destined for success, they couldn't wait to put their own amendments on the bill, none of which has anything to do with reforming the Internal Revenue Service, but all of which have something to do with our Tax Code and our Treasury and whether or not we are creating breaks in this bill that we shouldn't.

One tax break has to do with a change in individual retirement accounts. I like IRAs. I think they have been good for America. A lot of people were able to save money, they are glad they did, and now it has grown over time and it will help them retire. I think we should expand IRAs, particularly for working families so they have a way to put a little money aside for their future needs. The Senator from the State of Delaware, Senator ROTH, created the so-called Roth IRA. I kid him so much about the publicity he is receiving. No one will ever be able to defeat him. He is the author of the Roth IRA, and he will be remembered for that and many other things for years to come. It expanded the idea of an individual retirement account and gave Americans more options.

Unfortunately, in this bill we have taken a new twist on this IRA, and created even more tax opportunities for those at higher incomes, under the name of an individual retirement account. Do you know what it will cost us when it is all said and done? It will cost the taxpayers some $13 billion—that is "billion dollars"—$13 billion.

A year ago, this Senate was consumed with the debate over amending the Constitution to balance the budget. We had given up on the idea of balancing the books here and said, "That is it, put it in the Constitution, and let the courts enforce it." That debate went on and on and on. The amendment failed by one vote. So here we are, a year later. Are we talking about the deficit and balancing the budget? No. Instead, in this bill and others, we are talking about a surplus and spending $13 billion we don't have to create tax breaks for wealthy individuals. I don't think that makes sense. I think that is very shortsighted. In the long haul, I think we will regret it.

There is a reference, as well, to a provision in this bill which has nothing to do with the underlying legislation about the Internal Revenue Service, a provision that will deny veterans medical benefits. Why? Why, in God's name, would that be included in the Internal Revenue Service reform bill? It shouldn't be.

So I find myself in a dilemma as a member of the conference. When I saw all of the baggage being loaded on to this bill, I refused to sign the conference report. I said I would not put my name to this, not because the underlying bill is bad—I think it is good—but because of all of the people who just couldn't suppress the urge to add another ornament to the tree, something they personally wanted.

Now this bill comes to the floor, and those of us who like the underlying bill and despise the amendments added to it are in a real dilemma. I will probably end up voting for it, but it will be reluctantly. I can guarantee you this: If this passes—and I guess it will—I hope that others will join me, Democrats and Republicans, to make sure that we strip out these little baubles that have been added to the bill that, frankly, are not in the best interest of this Nation. They benefit a handful of wealthy people instead of Americans who deserve the real help and the real break in this legislation.

Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent for such time as I need to complete my statement concerning the Internal Revenue Service

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MURKOWSKI. Mr. President, as a member of the conference committee, I rise in support of the conference report on this historic piece of legislation which will overhaul the agency that is most feared by the American people, the Internal Revenue Service.

However, I want to make sure that the RECORD reflects my compliments to those many dedicated IRS employees who were not, and are not, a part of the abuses or the horror stories that we heard during the Internal Revenue Service hearings held before the Finance Committee. These are the many dedicated individuals doing their job in a satisfactory manner.

With the Finance Committee hearings that began last September and ended in April, the American public heard some chilling testimony, testimony of an agency that is simply out of control and an agency with no or little accountability.

For fishermen in Alaska, the conference report retains an important change that was proposed by Senator STEVENS and myself. Under our amendment, it will be far more difficult for the IRS to seize limited entry fishing permits. IRS will have to factor in the amount of money a fisherman will earn if he kept his fishing permit before embarking on a seizure. And even if IRS determines that future earnings will not be sufficient to pay a tax debt, the fisherman will, for the first time, be able to appeal that decision—the point being, once the fisherman loses his or her fishing permit, they do not have a source of revenue for payment of taxes; as a consequence, the IRS is very unlikely to make a recovery.

Another important change we've made prevents IRS from harassing the divorced woman for her ex-husband's tax cheating. Under the Conference agreement, divorced or separated innocent spouses will only he held accountable for taxes on their own income, not on the taxes owed by their spouse.

We heard some horror stories in testimony, Mr. President, from women who were subjected to harassment by the IRS when, clearly, their husbands were cheating on their own taxes in an effort to evade taxes through tax shelters, and so on, without any knowledge of the spouse.

In addition, we've added a rule suspending interest and penalties when the IRS does not provide appropriate notice to taxpayers within 18 months of filing. Although I preferred the Senate provision suspending interest and penalties if IRS fails to notify the taxpayer within 12 months, I was persuaded to delay the 12-month rule for 5 years to enable IRS to update all of its computers to meet this standard.

The important thing for taxpayers to know is that long notification delays by IRS will no longer benefit the Service because it will not be able to stack penalties and interest on taxpayers who may have unwittingly made a mistake on their returns.

We've also changed the burden of proof in cases coming before the Tax Court. This is a long overdue change. When American citizens go into a court, they should be presumed innocent, not guilty until they can prove their innocence. That principle is enshrined in our Constitution and must apply in tax cases as well as any other cases. Now it will.

Mr. President, as I said earlier, the culture at the IRS must change. This bill makes very important changes that should give the American public more confidence that if they make a mistake on their tax returns, they will be treated fairly by their government and not subjected to threats and harassment.

But this bill is just a first step. It is incumbent on the Finance Committee to hold the agency accountable for implementing this bill. More oversight is needed because it is only through oversight that we can hold this agency accountable to the American people.

Finally, I note that problems between the IRS and taxpayers could be greatly minimized if we overhauled the far-too-complex tax code that is so intimidating that less than half of all taxpayers have the confidence to fill out their returns by themselves.

I ask each of my colleagues to address his or her own tax situation relative to how many Members of this body do their own tax returns. I must admit that I, for one, do not, simply because of the complexity.

I believe fundamental tax reform is the most important thing we can do to restore public confidence in the tax system. This conference report takes a small, but much needed step toward simplification. It changes the holding period for capital gains from 18 months to 12 months. I strongly support this change on both economic grounds and because this will significantly simplify tax filing for any individual who owns a mutual fund or shares of stock.

Mr. President, this bill is an historic milestone and I expect it will pass with overwhelming bi-partisan support. I hope that next year we can produce fundamental tax reform that will have similar bi-partisan support.

Mr. President, the conferees included a provision which is unrelated to IRS reform but will have an important effect in our on-going debates about international trade. We have included a provision that changes the name of "most favored nation" trade status to "normal trade relations."

This is a long overdue change that I strongly support. For many years, we have debated extending normal trade status to some of our former adversaries such as China. In determining whether to treat imports from these countries in the same way as we treat imports from our allies, such as Japan and Great Britain, the term "most favored nation" has historically been used.

That term "MFN" has caused confusion among many members of the public, for it implies that we are granting a special favored status that is better than what we grant our other trading partners.

As my colleagues in the Senate know, MFN—most favored nation—merely grants equal status, not greater status, for those countries. Changing MFN to normal trading relations should do a lot to clear up public confusion and allow us to debate the issues with a clearer focus.

Mr. President, my hope is that my colleagues will support the conference committee's report with regard to the IRS, and, as a consequence, I thank the President and I yield the floor.

Mr. COATS addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. COATS. Mr. President, I don't intend to speak for more than about 5 minutes. I thank the chairman of the Finance Committee for granting me this time. I also want to thank my colleague and friend, Senator ROCKEFELLER from West Virginia, for deferring so I can maintain a schedule. I will be brief.

I am enthusiastically supporting the product brought out of the Finance Committee that we will be voting on shortly to rein in what has been in many instances an out-of-control agency that has, I think, trampled upon some liberties of the American people. I commend the Finance Committee for doing this. It is much needed reform. I am glad that we are finally here on the floor debating and, hopefully, ready to pass this.

Former Chief Justice John Marshall, in a landmark case many of us learned in law school, McCulloch v. Maryland, said that "the power to tax involves the power to destroy." We understand that the power to tax is a power that is granted to Congress. So we have no one to point a finger at in that regard other than ourselves. But the power to destroy, I am sure, Marshall was referring to was the fact that taxation, if improperly applied, can destroy.

But there is a second point to that which I think is important; and that is, if the administration of the power to tax is abused, it can also have the power to destroy.

We have heard about the documented, systemic abuse of taxpayers in the oversight hearings that have been held. This bill will, hopefully—and I believe will—effectively end the agency's disregard of taxpayers rights. We have heard the horror stories of taxpayer mistreatment by armed IRS agents raiding taxpayers' homes and Americans being subjected to years of harassment, unsubstantiated audits, audits that are targeted at low-income and favor high-income, audits that are targeted at those of modest education, quota goals, disregard for rules and regulations, and even laws, in order to achieve a certain product goal. Those are abuses that have been documented, have been discussed, and really form the basis for the legislation that we are addressing today.

I would like to relate just one story that was relayed to me by one of my constituents in Indiana. He gave me permission to tell this story but requested that I only tell it if I did not disclose his name. "Why?" I asked. He said, "Because I fear retribution." I said, "You have nothing to fear." He said, "No. I fear retribution. I have been through so much, I don't want to give that agency or anybody associated with that agency any cause to come after me again. I cannot go through that again. So use my story but don't use my name."

The history is that as he was preparing for Christmas and shopping to purchase both gifts and food for his Christmas dinner for his family, he was shocked to learn that his credit was denied because he was told he had no money in his bank account. His entire savings had been wiped clean by the IRS for back taxes and penalties. He immediately called the IRS, and he was told that the reason for this was that 10 years ago, in 1987, the IRS discovered that his 1987 tax return was not on file and that he had not answered any of the registered letters that were sent to him. Of course, he never received those registered letters because he had not lived at that address since 1987.

Subsequently, he had filed returns for each year, which the IRS had processed, and he had received responses back from the IRS at his new address. So all of the subsequent years, the IRS knew where he was. But in 1987, with a previous address, because they had lost his return and because the registered letters notifying him of that were sent to his old address, the two computers didn't match, or the two agents didn't check with each other. And, therefore, my constituent found that his entire savings had been wiped out just before Christmas, and he learned about it when his credit was denied as he was shopping for his family.

That is just one tale. But it doesn't end there. That is horrific enough.

A few months later, after some paper shuffling at the IRS, this gentleman was told—based on the information that he had to provide again to the IRS—they actually owed him a refund of $1,500 for his 1987 return. He had supplied duplicate information again to the IRS. However, they said since the statute of limitations had run, he was no longer entitled to his refund.

That is the kind of thing that causes your mouth to drop open and I guess you pull your hair out. I don't think that is why I lost my hair. But had I been that taxpayer, the outrage that would have ensued I think is something that all of us can identify with.

After a lot of intervention and a lot more paper shuffling, he did finally get his $1,500. Only the IRS could pull off something like this.

These stories of abuse and mismanagement go on and on. I will not detail those in the interest of time.

It is unfortunate and sometimes, I think, disgraceful that an agency of the greatest democracy in the world could have attributes that could best be described or identified as a paramilitary wing of a despotic regime.

So it is past time, I believe, that this legislation pass the Congress, and be signed by the President, and that we urge the new Commissioner of the IRS, Mr. Rossotti, to conduct a thorough housecleaning based on what we have put in this legislation.

The IRS exists to serve the American people, not the other way around. There has to be accountability for this agency. There has to be more protection for the taxpayer. Efficiency and integrity need to be the twin goals of the IRS. Therefore, passing this legislation is a very important step to achieving this end.

I want to close, Mr. President, with a quote that is etched into the stone of the IRS building headquarters here in Washington. It is a quote from Supreme Court Justice Oliver Wendell Holmes, who said, "Taxes are what we pay for a civilized society." If that in fact is the case, if taxes are what we pay for a civilized society, then we have every right to demand that the tax collector act in a civilized manner. The IRS has not done that. The tax collector has not acted in a civilized manner. We pay our taxes. We expect a civilized processing of those taxes. Hopefully, this bill will take us toward that end or achieve that end.

Mr. President, with that, I yield the floor.

Mr. ROCKEFELLER addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, I am very happy to be making comments while the Senator from the State of Wyoming is presiding.

Mr. President, I wish to say that there may hopefully be some encouraging news with respect to the negotiations going on about product liability. As you know, the majority leader came to the floor and said that a cloture vote would continue as planned for tomorrow morning, and that amendments would be allowed up until 5 o'clock, which collectively allowed for about 4 hours of amendments.

I think it is very important, in the relationship between the majority and the minority, for the minority to be able to make amendments. And I think there has been some—no, not some, but a great deal of concern from our side about the pattern of using cloture motions, rather than as a chance to shut off debate, as simply a chance to shut off amendments. But now I understand that there is some consideration being given to perhaps postponing the cloture vote for a period of days so that there can be some discussion on the subject of amendments on the product liability bill.

It is actually very interesting. In all the years—I was reflecting on it this morning with Senator GORTON—that this Senator from West Virginia has been working on product liability, there has really been no debate about product liability, only speeches. There have been speeches on the topic or a filibuster would commence and continue, and a series of speeches, but really never debate, never questions and answers back and forth, people probing each other.

So I hope, anyway, that this possibility will come to pass. I think we do need debate. I think we do need a chance to offer amendments.

Having said that, however, the Senator from West Virginia wishes to reiterate his position that I reached an agreement with the White House. It was an arduous, long process, but one in which honor and faith was kept on both sides, and I feel bound by the position of the White House as it stands now, or however it develops—and it probably won't develop—but that has to be my position. I am a defender of the faith, so to speak, in terms of the negotiation that I carried out with the White House to produce a rather minimal bill with respect to product liability but, on the other hand, a bill which moves the subject forward.

Mr. President, my real purpose today is to speak about veterans' rights. I should start out by saying that I very much respect the chairman of the Finance Committee, whom I specifically and directly remove from any criticism which I might be about to make, because it should not be directed at him at all. That goes also for the ranking member, Mr. MOYNIHAN, for his part in bringing the IRS debate and bill to a conclusion. But I am not happy and I think my colleagues know that.

Veterans' rights have been bartered away, in deals without the full scrutiny of the Senate or even the authorizing committee. There are many here who believe very strongly in the authorizing process; not everything is appropriating. Authorizing has to come first. That is the way of the Senate. That has been quietly and very definitely thrown aside in this whole process.

I am referring to the denial of veterans' disability rights which were enacted as part of TEA 21, and in the process now going on with regard to the technical corrections bill needed to amend drafting errors which were admittedly made in that bill.

America's veterans, indeed, all Americans, are being subjected to what amounts to an unprecedented power play, conducted behind closed doors, as part of the highway reauthorization process. This is a kind of process which one can talk about on the Senate floor and very few choose to listen to it, because it sounds like what everybody doesn't like about Washington and, in fact, it is what everybody should not like about Washington.

This is an example of a process run amok, where any provision, no matter how heinous or unrelated, can be added in conference under cover of darkness.

Now, of course, if you add something in conference, all of us understand that the conference report is unamendable. So you vote yea, or you vote nay on the report, but you cannot amend it; thus the power to use this process is a formidable power, and thus we need to do things correctly in this body.

I think the process that has gone on here is a process all Members are going to come to lament. This process is backroom, back-door politics. It is not democracy, and, Mr. President, veterans have earned better than this.

Veterans have earned more from their government than a process that denies their rights without any accountability. Veterans have earned more than a process where the denial of veterans' rights can be inserted into unamendable conference reports, under the cover of darkness. They have earned more than a process where, in the name of expediency, extraneous provisions are placed in conference reports to avoid accountability, and where the majority has, in effect, destroyed the normal protections.

Why is it, I ask myself time and time again, why is it that this Senate is willing to look the other way on this? Why is it that we are allowing such an abuse of power to go on?

It is clearly unfair. I do not think that it was the original purpose of the conferees or the original people doing ISTEA to deny benefits that are in the current law for tobacco-addicted veterans who have disabilities, veterans who have gone through an unbelievably difficult process at the Department of Veterans Affairs to qualify for service connection for their disabilities. But, in fact, under the highway bill, current law has been rescinded, wiped from the books, and nobody has done anything about it, and nobody can do anything about it. And we sit here, stand here, talk here, silently, knowingly doing nothing about it at all.

Now, IRS reform, highway spending, these are two things that I very much favor. I voted for the underlying bills. In terms of the IRS reform conference report, had that come up clean, I would have voted for it now. I voted for it in committee. I am on the Finance Committee. However, I cannot support its passage at the expense of America's veterans.

You say, well, but that is just one group of people and this is a very large issue. Well, veterans are more than just one group of people, Mr. President. They are symbolic of the tenor of a nation, the moral attitude of a country towards its citizens who have maintained its freedom. Veterans are at all times to be taken very seriously because of the sacrifices that many of them have made, and in this case in particular, where their disability has been fostered by the Government's actions in a number of ways.

My colleagues know I have been fighting for many months to correct the injustice that we did to veterans. It is my duty, it is my honor to do so, and I am going to continue to do so here. But I must stop and ask, why, why is it that the majority continues to use their power to deny full Senate consideration of H.R. 3978, the highway corrections bill?

If we brought it up, we could have a time agreement of a half hour, divide it in two, 15 minutes each side, and we could have an up-or-down vote. But, of course, all of that is just talk at this point, because we are on a conference report and it cannot happen, and I understand that. But that will not keep me from standing here and voicing my outrage at a process which so undoes veterans who have suffered, and does it so unfairly.

Why has the leadership endorsed, in fact induced, conferees to take such action? Why have they decided to totally ignore the needs of America's veterans on the way to what amounts to a 44-percent increase in highway spending over the last budget cycle.

I am all for highway spending. I remind my colleagues I come from the State of West Virginia, where only 4 percent of the land is flat, so if you don't have a highway somewhere around you, you are in pretty big trouble pretty quickly. So highways are important to me.

But instead of bringing this bill to the floor for debate and a single amendment, the majority simply said they would find another way to pass this bill, quietly, covertly, out of the light of day. And it turned out that the other way of doing this was the IRS conference report, which we are debating today.

We are evading the usual process that would have allowed this to be fully aired and debated in the Veterans' Affairs Committee, which has jurisdiction over veterans compensation matters. People say, well, jurisdiction, who cares? Well, jurisdiction matters, and there are a lot of people in this body who place great weight on jurisdiction. Authorizing committees have jurisdiction for some things; the Appropriations Committee has jurisdiction for other things, but jurisdiction is important.

Jurisdiction has been bypassed, abrogated, tossed aside in this whole process, and now we are taking away a benefit which was granted to disabled veterans under existing law. Some are going to argue we are giving veterans a new benefit. That is absurd. We have removed a benefit which was there under the current law for veterans who are tobacco addicted to the point of disability, after going through a series of VA tests which are so rigorous that at this point, only a relatively few hundred have been able to qualify for those benefits. So it is extremely unfair.

Once again, we sidestep the regular process. The IRS conferees failed to restore the benefits. Once again, I exempt the ranking member of the Finance Committee and the chairman of the full committee. I exempt them from blame for this. We failed to restore the cuts. And this is at the direction of the majority. This has been a complete mockery of our budget process and of regular order in the Senate.

So, this is what I have called a "midnight raid" on veterans' benefits. To put it bluntly, America's veterans have been wronged, deeply wronged, by backdoor trickery. Funding for veterans' benefits has been cut; imaginary savings have been diverted to pay for highways; and veterans' disability rights have been placed in jeopardy, to say the least.

I had hoped to offer an amendment to the corrections bill that would have struck the veterans' disability compensation offset from the underlying conference report. But that was all pushed aside. I no longer have that option.

I will say that the IRS restructuring conference report has slightly improved the language pertaining to veterans. I will give them credit for that, since credit must be given where credit is due. The conference report strikes references to smoking being "willful misconduct." You understand I am talking about a veterans population, for the most part older, which was encouraged to smoke by the Government, told to take a smoking break, where they were sold cigarettes at a reduced price, and where the warnings about the dangers of tobacco were not even produced or shown on cigarettes used in the military until 5 years after that was happening as a routine matter for the civilian population in the United States.

So, this is another nail in the veterans' benefits' coffin. I am very, very angry about it. America's veterans will not be fooled by backroom, backdoor legislating, no matter how anybody chooses to try to clean up the record on this. They will see through this charade. They will remember it on Veterans' Day, on Memorial Day, on the Fourth of July, when we all give our speeches about veterans. And then we come in, in the darkness of night, and take away benefits from disabled veterans, who under current law have disability compensation rights, and we take them away. We take them away and will not restore them. I cannot be a part of that, and I urge my colleagues to join me in voting to oppose the IRS reform conference report.

I yield the floor.

The PRESIDING OFFICER (Ms. COLLINS). The Senator from Rhode Island is recognized.

Mr. CHAFEE. Madam President, the conference report before the Senate includes the TEA 21, that is the Transportation Efficiency Act of the 21st century, which some call the ISTEA II Restoration Act. It includes a technical corrections measure to that bill. The technical correction measure, which is part of the legislation before us, remedies errors made in H.R. 2400, which was the surface transportation bill we passed just before the Memorial Day recess.

As everyone knows, just before we went out on that break for Memorial Day, there was a great desire to complete the legislation before us. We completed negotiations on Thursday evening and delivered a very complex bill that had over 900 pages the first thing on Friday morning. In other words, we completed the negotiations on Thursday night, and by the next morning we had a bill of over 900 pages before us. Inevitably, some errors were made.

We have before us legislation to correct those errors. I emphasize this is just a technical corrections bill. Many Members have come to us in the ensuing days suggesting new items or changes that they wanted to be made because they felt in the original legislation they did not obtain them. But we resisted all such requests. This bill merely carries out the agreements of that conference on H.R. 2400. I will refer to it sometimes by the number. That is the original transportation legislation that we passed.

The technical corrections in the legislation before us have been developed jointly by the House and the Senate conferees, with valuable input from the U.S. Department of Transportation. I think it is important to note this legislation before us does not change the formula allocations agreed to in the conference. The technical changes in this legislation relate to apportionments. Those that exist are made to ensure that the legislative instructions to the Department of Transportation on the formula will produce an apportionment to the States just as we agreed upon. In other words, the only changes we made in this legislation, so-called technical corrections, are to take care of things that were left out inadvertently or to clarify an intent that was there and clearly recognized in order to carry out that intent.

This bill also corrects drafting errors relating to veterans' smoking-related disability benefits. This is to what the Senator from West Virginia was referring. The provisions of H.R. 2400 were intended merely to reverse a recent decision by the general counsel of the Veterans' Administration, which decision had not yet been implemented. It is very important to remember that. We have been advised that the bill may be interpreted to deny benefits to some veterans who were eligible for benefits prior to the general counsel's decision. In other words, it has come to our attention there may be situations that have arisen that, as a result of the language as we drew it, denied benefits to some veterans who were receiving them. What we meant to do was to reverse the general counsel's decision as it might apply to future applicants in an entirely new category of benefits opened by the general counsel. And with this technical corrections bill, we reach that objective.

There was an article in the Washington Post several weeks ago that has caused serious concern. That article suggested that Congress had declared smoking "willful misconduct" by America's veterans. That was just plain wrong. That statement in the Washington Post, that we included smoking as "willful misconduct" by American veterans, gave great offense to some. I want everyone to know that was an incorrect reading of the legislation.

Section 1110 of title 38, which is the existing law and has nothing to do with the transportation legislation, entitled veterans to compensation if they are disabled by service-related illness or injury. There are two exceptions to this entitlement in current law. The first exception is "willful misconduct." A veteran cannot get disability compensation if the illness or injury results from willful misconduct. That is the law. It has been the law a long time. The second exception denies benefits if the illness or injury resulted from alcohol or drugs. These two exceptions are in the current law. That is where they are.

Now, H.R. 2400, the transportation legislation, added a third exception. It would have denied benefits where the illness results from smoking. This did not make smoking willful misconduct. This was a third exception to the provision that entitles a veteran to disability benefits. The first was willful misconduct, the second was alcohol or drugs, and the third was smoking related.

From where did we get that language? That was suggested by the Senate legislative counsel as the most straightforward means to reverse the great opening of benefits under the general counsel's decision.

This language had the unintended consequence of denying benefits to some veterans who would have qualified prior to the decision. This bill drops the language suggested by the Senate legislative counsel. We just got away from all that language that we had in there and returned to the language which was suggested by the administration, which reverses the general counsel's decision as it might apply to future applicants.

No veteran now entitled to benefits as a result of adjudication, or who has applied for such benefits, will be affected.

This bill makes the following changes to the veterans subtitle:

One, it clarifies that veterans who file claims for smoking-related benefits are grandfathered. That filing isn't going to be eliminated.

Second, it makes clear that those active-duty service personnel who contracted a smoking-related illness while in the service continue to qualify for disability compensation. We don't change that.

Third, we ensure that survivors and their dependents will receive a 20-percent increase in education assistance benefits.

Madam President, we prepared a summary of this technical corrections bill, and I ask unanimous consent that this summary be printed in the RECORD after my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. CHAFEE. I also point out, Madam President, that we voted on the underlying veterans issue three times in this Senate. Each time it has approved the action that we took here.

HOME HEATING OIL PILOT PROGRAM

The Department of Transportation Secretary has been given new authority under section 4007, of the newly passed Transportation Efficiency Act for the 21st Century (TEA 21), for waivers, exemptions and pilot programs. Therefore, section 1221(j), the home heating oil pilot program is redundant and no longer necessary. Striking this pilot program is not intended to suggest that a home heating oil pilot program should not be conducted. On the contrary, because of the unique seasonal nature of the heating oil industry, it is essential that a pilot program be implemented on or before December 1, to be valuable the following winter. The home heating oil pilot program was first authorized in section 346 of the National Highway System Designation of 1995. However, this pilot program was never fully implemented by the Department of Transportation.

EXHIBIT 1

HOUSE/SENATE JOINT SUMMARY OF TECHNICAL CORRECTIONS TO TRANSPORTATION EQUITY ACT FOR THE 21ST CENTURY

This legislation: (1) restories provisions agreed to by the conferees; (2) makes technical corrections to provisions included in H.R. 2400; and (3) eliminates duplicative program authorizations.

This legislation does not change the formula allocations contained in the Conference Report to the Transportation Equity Act for the 21st Century.

The following is a section by section description of provisions included in the TEA-21 Restoration Act:

Section 9001 Short Title

Section 9002 Authorization and Program Subtitle

Adjusts funding levels for high priority projects to conform with list in the conference report and to correct other errors.

Adjusts funding levels for Highway Use Tax Evasion projects to allow for implementation of the Excise Fuel Tracking System.

Corrects the obligation limitation levels for mathematical consistency and conforms obligation limitation treatment to current practice for research programs.

Makes other conforming and technical changes such as renumbering sections and correcting cross reference.

Section 9003 Restorations to General Provisions Subtitle

Restores the National Historic Covered Bridge Preservation program.

Restores the Substitute Project for the Barney Circle Freeway, Washington, D.C.

Restores Fiscal, Administrative and Other Amendments included in both House and Senate bills.

Removes section 1211(j) regarding winter home heating oil delivery.

Makes technical corrections to section 1211, Amendments to Prior Surface Transportation laws and section 1212, Miscellaneous Provisions.

Clarifies program funding categories for Puerto Rico and continues current law penalties for Puerto Rico for non-compliance with the federal minimum drinking age requirements.

Clarifies that contract authority is authorized for provisions contained in section 1215, Designated Transportation Enhancement Activities.

Modifies Sec. 1217(j) to allow for effective implementation of this subsection. Modifies Magnetic Levitation Deployment Program to clarify eligibility of low-speed magnetic levitation technologies.

Corrects reference to Special Olympics.

Section 9004 Restorations to Program Streamlining and Flexibility Subtitle

Restores Discretionary Grant Selection Criteria provisions.

Conforms Environmental Streamlining provisions to include mass transit projects.

Section 9005 Restorations to Safety Subtitle

Restores the Open Container Law safety program.

Restores the Minimum Penalties for Repeat Offenders for Driving while Intoxicated program.

Section 9006 Elimination of Duplicate Provisions

Eliminates duplicate provisions for San Mateo County, California, the Value Pricing Pilot Program, and National Defense Highways Outside the United States Restores the Minnesota Transportation History Network provision.

Section 9007 Highway Finance

Updates the Transportation Infrastructure Finance and Innovation Act program to begin in 1999 rather than in 1998.

Conforms the credit levels in the Transportation Infrastructure Finance and Innovation program to agreed upon distribution levels of budget authority.

Section 9008 High Priority Projects Technical Corrections

Makes technical corrections, description changes and previously agreed upon additions to high priority projects.

Section 9009 Federal Transit Administration programs

Makes corrections to transit planning provisions to conform to provisions in title 23.

Clarifies eligibility of clean diesel under clean fuels program.

Makes technical corrections to section 5309 and clarifies the Secretary's full funding grant agreement authority.

Funds University Transportation Centers authorized under title 5.

Restores requirement that transit grantees accept non-disputed audits of other government agencies when awarding contracts.

Makes corrections to the authorizations for planning, University Transportation Centers, the National Transit Institute and the additional amounts for new starts.

Makes technical corrections, description changes, and previously agreed upon additions to new starts projects.

Makes technical corrections to the access to jobs and reverse commute programs.

Corrects funding level for the Rural Transportation Accessibility Incentive Program and makes other technical corrections.

Makes technical corrections to study on transit in national parks.

Makes corrections to obligation limitation levels.

Section 9010 Motor Carrier Safety Technical Correction

Conforms section references for the Motor Carrier Safety program.

Section 9011 Restorations to Research Title

Adjusts authorization levels for university transportation centers to conform with modifications made in the Transit title in section 9.

Restores eligibility of Intelligent Transportation System activities for innovative financing.

Corrects drafting errors to 5116 (e) and (f).

Makes technical and conforming changes to university research provisions.

Corrects references to the Director of the Bureau of Transportation Statistics.

Corrects drafting errors to Fundamental Properties of Asphalts and Modified Asphalts research program.

Section 9012 Automobile Safety and Information

Corrects reference to the National Highway Traffic Safety Administration.

Makes conforming changes to provisions in Subtitle D of Title VII.

Section 903 Technical Corrections Regarding Subtitle A of Title VIII.

Makes corrections to offsetting adjustments for discretionary spending limits.

Makes other technical and conforming changes to Title VIII.

Section 9014 Corrections to Veterans Subtitle

The TEA-21 Restoration Act corrects drafting errors to Sec. 8201.

The provision included in the Conference Report on TEA-21 to use the Veterans smoking-related disability benefits for transportation was drafted incorrectly and had the unintended consequence of identifying smoking as an act of "willful misconduct" by veterans. The provision in the TEA-21 Restoration Act corrects any reference to smoking as an act of "willful misconduct" by veterans.

This provision also clarifies that veterans who have filed claims for smoking-related benefits are grandfathered.

The provision also makes clear that those active-duty service personnel who contract a smoking-related illness while *in* service continue to qualify for disability compensation.

Another correction in this bill relates to ensuring that survivors and their dependents will receive a 20% increase in education assistance benefits.

Section 9015 Technical Corrections Regarding Title IX

Makes technical corrections to the Revenue title.

Section 9016 Effective Date

Provides for the effective date of this act to conform with the effective date of TEA-21.

MAGLEV DEPLOYMENT PROGRAM

Mr. MOYNIHAN. Madam President, the Maglev Deployment Program in the ISTEA reauthorization legislation contains contract authority of $60 million for pre-construction activities including investment analyses, environmental impact statements and other corridor development activities. The program then provides authorization of $950 million for construction of a project.

I wish to ask the chairman to confirm my understanding that these pre-construction activities are to be funded in the same fashion as other transportation programs, that is to say, with an 80 percent Federal match. The Federal role in the actual construction program, however, is limited to not more than a two-thirds match. Is that also the chairman's understanding?

Mr. CHAFEE. Yes, that is my understanding and that is indeed what the committee intended in passing this program.

Mr. MOYNIHAN. Madam President, I thank the chairman.

SECTION 105(e)

Mr. GRAHAM. Madam President, I commend the distinguished chairman of the Environment and Public Works Committee for his hard work and dedication to the Transportation Equity Act for the 21st century that passed the Congress on May 22. I am honored to have been a participant on the conference committee. Mr. President, I would like to enter into a colloquy with the distinguished chairman to clarify a provision in the TEA 21 legislation.

Mr. CHAFEE. Madam President, I will enter into a colloquy with the senior Senator from Florida to clarify a provision in the TEA 21 legislation.

Mr. GRAHAM. I would like to clarify section 105(e), special rule, that states if in any of fiscal years 1999 through 2003, the amount authorized under subsection (d) is more than 30 percent higher than the amount authorized under subsection (d) in fiscal year 1998, the Secretary shall use the apportionment factors under sections 104 and 144 as in effect on the date of enactment of this section. Does this provision jeopardize the 90.5 guarantee rate of return even if a State's gas tax revenues to the highway trust fund are to grow significantly over the life of the bill?

Mr. CHAFEE. No, my understanding is that the intent of this section is to prevent the dollar amount of the minimum guarantee from growing out of proportion far beyond that which the conferees anticipate. The intent of the Congress is that no State will receive less than a 90.5 percent rate of return on their gas tax contributions to the highway trust fund, of the funds distributed to the States which are covered by the minimum guarantee provision.

Mr. ROTH. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. McCAIN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCAIN. Madam President, I rise in support of the IRS Restructuring and Reform Act of 1998. I want to thank the Chairman, and other members of the Finance Committee for their work in crafting this much-needed measure.

This legislation is about more than merely reforming one Government agency. This bill is about fundamental fairness and the role of the Federal Government in our lives. The out-of-control IRS is a prime example of intrusive and unnecessary big government.

Madam President, I have spent 15 years in Congress fighting to lower taxes, cut spending, and shrink the size of our bloated and intrusive Federal Government.

Earlier this year, Senator COVERDELL and I introduced the Middle Class Tax Relief Act of 1998, which is a step toward a simpler, flatter, fairer Tax Code. The Middle Class Tax Relief Act would deliver sweeping tax relief to 29 million lower- and middle-income taxpayers by increasing the number of individuals and married couples who pay the lowest tax rate, which is 15 percent.

The bill raises the limit for the 15 percent bracket to $35,000 for an individual taxpayer. In addition, this bill significantly lessens the effect of one of the Tax Code's most onerous and inequitable provisions—the marriage penalty—by allowing married couples to earn as much as $70,000 and still pay only 15 percent in taxes.

It is essential that we provide American families with relief from the excessive rate of taxation that saps job growth and robs them of the opportunity to provide for their needs and save for the future. The Middle-Class Tax Relief Act permits individuals to keep more of the money they earn. With this extra income, Americans will be able to save and invest more. Increased savings and investment are key to sustaining our Nation's current economic growth.

Last year, Congress passed a major tax-relief bill, the Taxpayer Relief Act of 1997, which provided an estimated $96 billion in tax relief to Americans at all income levels. And I and others have sponsored numerous legislative proposals to eventually repeal the current Tax Code, and to lower or eliminate taxes on families, estates, charitable giving, farmers, Social Security benefits, tip income, Internet access and services, gasoline, and conservation efforts.

Cutting taxes is only a part of the solution to the problems of big government. We must also cut spending.

For 10 years, I fought to enact the line item veto legislation, which would have helped eliminate unnecessary and wasteful spending of taxpayer dollars from annual appropriations bills. When the Supreme Court struck down the 1996 law, Senator COATS and I introduced a revised line item veto authority, called separate enrollment. Our bill would avoid the Constitutional questions surrounding the original line-item veto, and we intend to push for its early enactment.

Clearly, the line-item veto is a necessary tool to curb the Federal Government's appetite for pork-barrel spending. Last year alone, Congress added more than $8 billion in wasteful, unnecesssary, and low-priority spending to the appropriations bills. This year, with only about half the bills done, nearly $7.5 billion has been set aside for congressional earmarks. I intend to continue to oppose such wasteful spending when these bills come before the Senate, because these earmarks take money right out of the pockets of the taxpayers.

In 1997, I supported the Balanced Budget Act which cut spending by $270 billion and led to the first balanced Federal budget in 30 years. In addition to refraining from adding unnecessary programs to the various agency budgets, we should be looking for savings and efficiencies in all areas of the Federal budget, including Congress' own funding. With the likelihood of significant budget surpluses on the horizon, we must now work to ensure that any extra money is returned to the people in the form of tax relief—not spent on pork-barrel projects or big-government programs.

Some are probably wondering what this discussion of tax relief and spending cuts has to do with IRS reform. On the surface, the IRS reform bill is simply about reforming a Government agency. But this bill is about more, it is about fundamental fairness and the role of the Government in our lives.

As the people's elected representatives, we cannot merely point the finger at this runaway agency. We have a responsibility to protect the American public's individual freedom and dignity from the IRS and any other agency that oversteps its boundaries and unduly infringes upon the American public's day-to-day existence.

The reforms in this bill are carefully crafted structural reforms. They are reforms that will not only change the practices and procedures of the IRS, but its fundamental culture as well. These reforms will ensure that the IRS treats taxpayers fairly and with the respect they deserve.

The IRS Restructuring Act of 1998 implants additional oversight and outside expertise into the management of the IRS. An entire title of this bill is devoted to taxpayer protection and taxpayer rights. Most important, this bill shifts the burden of proof from the taxpayer to the IRS. This measure has relief for innocent spouses from tax liabilities incurred by former spouses from whom they have been divorced or legally separated for at least 12 months. The fear of an audit looms over the heads of even honest taxpayers. After passage of this legislation, honest taxpayers will now have greater protections throughout the audit process.

These management and administrative provisions are key to restoring fairness and efficiency to the management and administration of our tax laws.

In addition, this conference agreement builds on last year's Taxpayer Relief Act. It provides $12.9 billion over the next 10 years in much-needed taxpayer relief for millions of hard-working Americans by eliminating the complex 18-month holding period that was required to realize the lowest applicable tax rate for capital gains. This provision is vital to America's middle class. Capital gains are no longer exclusively for the rich and powerful. The world of mutual funds, discount brokers, and the Internet has empowered the middle class with newfound prosperity. Simplifying and lowering the capital gains tax helps ensure the financial stability of our Nation's hard-working middle class.

Let me close by saying that the IRS Restructuring Act of 1998 illustrates our continuing effort to change the way we collect our taxes, and on a larger note, the role of Government in our everyday lives. This bill is a step toward smaller and more efficient Government—less taxes and less spending, means less big government.

Swift passage of this measure will send a loud and clear message to America. The message is that Congress hears your call for smaller, less intrusive Federal Government and for lowering the excessive tax burden, which saps job growth and robs Americans of the opportunity to provide for their needs and save for their future.

Mr. KYL. Madam President, I rise in strong support of the Internal Revenue Service reform bill that is before us today.

Mr. President, last fall, the Finance Committee held a series of hearings to expose problems in the Internal Revenue Service's dealings with taxpayers. Although we all knew that there were serious problems with the way the IRS does business, it is safe to say that all of us were truly shocked at what we learned from the hearings.

As Senator ROTH put it at the time, we found that the IRS far too often targets vulnerable taxpayers, treats them with hostility and arrogance, uses unethical and even illegal tactics to collect money that sometimes is not even owed, and uses quotas to evaluate employees. It is behavior that is not only unacceptable, but reprehensible.

Madam President, the IRS reform bill begins to address the kind of problems that were uncovered by the Finance Committee's hearings. For example, it shifts the burden of proof in tax disputes from the taxpayer to the IRS, and increases penalties for IRS violations of taxpayer rights. It provides relief for innocent spouses from tax liabilities incurred by individuals from whom they have been divorced, legally separated, or living apart for at least 12 months. It provides relief in certain interest and penalty situations. And it extends greater taxpayer protection in the audit process.

These are important changes, and they deserve our support today. There is no excuse for not reforming an agency that has too often abused innocent taxpayers. The House passed the IRS reform bill on June 25 by the overwhelming vote of 402 to 8, and my hope is that it will pass by a similarly resounding margin here. I predict that it will.

But I also predict that even a good IRS reform bill will not solve the myriad problems that exist. Our nation's Tax Code, as currently written, amounts to thousands of pages of confusing, seemingly contradictory tax-law provisions. We need to reform the IRS, but unless that reform is followed up with a more fundamental overhaul of the Internal Revenue Code itself, problems with collections and enforcement are likely to persist. If the Tax Code cannot be deciphered, it does not matter what kind of personnel or procedural changes we make at the agency. Complexity invites different interpretations of the tax laws from different people, and that is where most of the problems at the IRS arise.

Replacing the Tax Code with a simpler, fairer, flatter tax would facilitate compliance by taxpayers, offer fewer occasions for intrusive IRS investigations, and eliminate the need for special interests to lobby for complicated tax loopholes.

There are a variety of approaches to fundamental reform that are pending before Congress: a flat-rate income tax, a national sales tax, and the Kemp Commission's simpler single-rate tax, to name a few. Each has its passionate advocates in Congress and around the country, and any one of these options would be preferable to the existing income-tax system.

But the fact is, there has not yet emerged sufficient public consensus in favor of a sales tax over a flat tax or some alternative. And it is likely to take a public consensus, the likes of which we have not seen in recent years, to drive a tax-overhaul plan through Congress and past the President. Realistically, it is probably going to take several more years to develop the kind of support that will be necessary to pass tax reform into law.

Until then, we can continue to lay a solid foundation for reform. We can continue to cut taxes every year. Last year, we cut taxes for families with children, for young people trying to get a college education, and for seniors who were looking for relief from heavy death taxes and taxes on capital gains. Another modest increment of tax relief is provided in the IRS reform bill today. It will give senior citizens more opportunities to participate in Roth IRA plans. It will simplify the capital-gains tax by eliminating the 18-month holding period that was added to last year's bill at the last minute without any debate.

Madam President, this legislation is not an end in itself. It is a step—a step in the direction of fundamental tax reform. Let us pass it and move on to the next stage in addressing the American people's desire for tax relief and a simpler, fairer Tax Code. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. FAIRCLOTH). Without objection, it is so ordered.

Mr. DORGAN. Mr. President, let me begin by complimenting Senator ROTH from Delaware. He is a serious, thoughtful legislator who does some awfully good work. There are times when I disagree very strongly with him; there are other times when I agree with his proposals. I think he does some excellent work in the Senate. I appreciate it.

The conference report that is before the Senate contains some important legislative accomplishments. Some of the provisions in this conference report are useful, necessary, long overdue, and accomplishments that I very much support. I voted for this bill when we sent it to conference, and now it comes back from conference to the Senate as a conference report for our consideration.

While this legislation has much to commend it and addresses some very important issues, it also, as is the case with a number of conference reports, attracted some lint, some dust, and some other material as it was massaged and manipulated in conference.

One little provision that is, in fact, not so little, is section 5001 of the bill. Page 332 of the statement of the managers explains this provision, and I want to read it for the RECORD. On page 332 of the report, it says:

> TITLE V. ADDITIONAL PROVISIONS
>
> A. Elimination of 18-Month Holding Period for Capital Gains.

And then it says:

> House Bill
> No provision.
> Senate Amendment
> No provision.

And it goes on to describe the "conference agreement."

That means, with respect to this issue, there was nothing in the House, nothing in the Senate, no debate, no discussion, no amendment, no vote. And all of a sudden, from the legislative darkness, a proposal emerged from the conference. It is like pulling a rabbit out of a hat, I guess. It is not surprising to those of us who watch conference committees. Senator BYRD was telling me today that he calls the conference committees "the Third House." There is the House, the Senate, and then there is a separate body called "Conference Committees."

This is an example of what can happen in conference committees, of what can happen in that third body.

Let me describe what this proposal is. This proposal expands favorable tax treatment for capital gains—that is, the lower tax rate for capital gains. It does that by reducing the holding period for eligibility for the lower capital gains tax rate from 18 months to 12 months. To get the lower tax rate, you only need to hold onto an investment for 12 months under this provision, rather than 18 months, as the law stands now. This proposal costs about $2 billion—$2 billion.

Who will it benefit? Here is a chart that shows who it will benefit. Citizens for Tax Justice put these figures together. In shortening the holding period for capital gains from 18 months to 12 months, 90 percent of the benefit will go to taxpayers with incomes over $100,000 a year; over three-fourths of the benefit will go to taxpayers with incomes over $200,000 a year.

I suppose those who talk about capital gains a lot will say, gee, this benefits everybody. Yes, it is kind of the cake and crumbs theory, with the cake at this end of the chart and a few crumbs down here. But the chart is clear enough. The benefit, by far, will inure to those whose incomes are very large. And the reduction, therefore, of the holding period from 18 months to 12 months is, in effect, a reduction in revenue of $2 billion, the benefit of which will go to the folks largely making $100,000 a year or more.

As I indicated, that proposal was offered to the conference committee at the last minute, had never been considered by the House, had never been considered by the Senate, and was never debated or voted upon by either body.

One would probably ask the question: Well, if there is $2 billion that is available to be used for one thing or another, how might it be used? Perhaps reducing the Federal debt. That might be one approach. The presiding officer shakes his head vigorously at that. I assume that a number of people would think maybe using that to reduce the Federal debt would be useful.

Others still might say, well, this was done on about the same day, I believe, or within a day or two of the decision by the other body in this Congress—the House of Representatives—that they can't afford any longer to provide low-income energy assistance for home heating for poor people who live in cold climates. In the view of some members of the House majority, there is not enough money for that, so we will get rid of that.

Or there is not enough money really to fully fund summer jobs for disadvantaged youth. So, what we will do is, we will just cut back on that.

However, there are $2 billion available here, there is plenty of money for this—without debate, and without a separate vote in either the House or the Senate. But there is not enough money for some of those other priorities—priorities, for example, which I have come to the floor to talk about, of the needed investment in Indian schools.

Indian schools—those are schools that are our responsibility, under the federal trust responsibility. I have talked about the condition of those schools and the repairs and investment that those schools need. I have talked about going into schools where the stench of sewer gas comes up into the classroom and requires children to be escorted out of the classrooms. I talked about schools I visited with 160 people sharing 1 water fountain and 2 bathrooms. It appears we don't have enough money to be helpful there. But someone found $2 billion all on its lonesome in the legislative darkness to be stuck into a piece of legislation, without debate in the House or the Senate, in a manner that will benefit a very few—benefit, in fact, those who probably need it least.

So, what do we do about that? The conference report comes to the Senate and we are told: There is nothing you can do about that; that is the way it is. It is true you didn't have a chance to debate or discuss or vote on it. That is life. That is the way the system works.

The problem is, there is a rule in the Senate called rule XXVIII, paragraph 2. I want to read the rule. This part of the Standing Rules of the Senate states that "conferees shall not insert in their report matter not committed to them by either House."

Let me read that again: "Conferees"—talking about the conference committee and the conferees on the committee—"shall not insert in their report matter not committed to them by either House." That means if something isn't either in the House bill or the Senate bill, it is not an item that can be considered by the conference. That is the standing rule of the Senate, rule XXVIII, paragraph 2.

So how does this provision get here? How do we, in the legislative crevices of conference committees, as they finish their work and as the world isn't watching quite so closely, discover that $2 billion can be spent just like that when a Senate rule says "conferees shall not insert in their report matter not committed to them by either House"?

Mr. President, I think the Senate will be advantaged, and I believe the other body will be advantaged, by a process that does not bring to us a piece of legislation dealing with the restructuring of the Internal Revenue Service that contains revenue provisions of this type.

I don't have a problem with someone coming to the floor of the Senate and saying let's debate changing the capital gains provisions of the current Tax Code, let's debate changing the holding period, let's debate changing the rate; that is not a problem. I think it is perfectly appropriate that we have that debate. But I think it is inappropriate that the debate be prevented, as is now the case, when they stick in, during a conference, a provision that was neither in the House bill nor in the Senate bill—literally in the last few minutes of the conference—and there it sits as a $2 billion revenue item that a good number of other Members of the Senate might have used much differently—as I indicated, perhaps to reduce the Federal debt, or perhaps to restore money for low-income energy assistance for the poor, or for a number of other things.

But this practice now exists that provides a way to avoid all the unpleasantness of debating these things on their own. So we now are in a situation where the conference report, which is a piece of legislation that has a great deal of merit and much to be commended, contains a provision to reduce the holding period for capital gains from 18 months to 12 months, which will provide $2 billion of tax reductions, 90 percent of which will accrue to those with over $100,000 in income, with no debate and no vote. In my judgment, that is not the best of what the Senate ought to be offering the American people.

POINT OF ORDER

So, Mr. President, with that in mind, I will make a point of order, and let me state the point of order. Section 5001 of the conference report contains matter that was not in either the House bill nor the Senate bill. Rule XXVIII, paragraph 2 of the Standing Rules of the Senate states that "conferees shall not insert in their report matter not committed to them by either House." Pursuant to rule XXVIII, I make a point of order against section 5001 of the conference report.

Mr. President, before I formally make that point of order, let me say that those who will respond to the point of order saying, "Oh, gosh, this will kill the bill," are wrong. This will not kill the bill. We have waited on this bill month after month after month after month. It is a good bill, and it has a lot to commend it. All stripping out the $2 billion item that was added in the legislative darkness at the end of this conference would do would be to require the conference to reconvene, take that portion out, and ship it back to the House and Senate. You might say the House is not in today, and that is correct. So it might take a couple of days. But this would not kill the bill. Those who will argue that it will kill the bill will argue something that is specious.

Let us decide as a Senate that this is not the way to do serious tax policy. This bill is too good for this provision. This is a set of circumstances where the chairman of the committee brings a bill to the floor, which causes me to commend him for the work he has done. I did that at the start of my discussion. But it is a bill that contains a provision that should never have been part of this bill.

I recognize that the chairman of the committee and the ranking member were not the authors. At least from press reports I believe they were not the authors of this legislation added in conference. I fully understand that some things are not necessarily within their control, as conferences work.

But I still feel strongly that this provision should not remain in the bill and, for that reason, Mr. President, I make the point of order under rule XXVIII of the Standing Rules.

The PRESIDING OFFICER. The Chair is constrained by the precedent of October 3, 1996, not to sustain the point of order.

Mr. DORGAN. In that event, I appeal the ruling of the Chair and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. ROTH. Mr. President, I do not wish to unnecessarily prolong the debate, but I would like to remind the Senate of the process by which the 18-month holding period became law. The 18-month holding period arose from the final negotiations between the congressional leadership and the administration on the conference agreement to the Taxpayer Relief Act of 1997. The 18-month holding period was not in either the House or the Senate bill. No House or Senate Member proposed this additional holding period. No hearing was held on its tax policy or compliance implications.

Therefore, from the standpoint of process, today, we are reversing what was done about 1 year ago. In this conference agreement, we are eliminating a provision that was added in conference, a provision that was itself not contained in any House or Senate bill before its enactment.

Mr. President, the most important factor to consider is this. If the point of order succeeds, the IRS conference report falls. All of the meritorious provisions that Members have addressed will also fall. One of the best chances to reform the IRS in over 40 years could well be lost if the appeal of the Chair's ruling succeeds. No one can guarantee what would happen if the distinguished Senator from North Dakota would prevail. Therefore, Mr. President, I move to table the motion made by the Senator from North Dakota, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the——

Mr. DORGAN addressed the Chair.

Mr. ROTH. Regular order.

The PRESIDING OFFICER. The motion to table is not debatable.

Mr. DORGAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS CONSENT AGREEMENT

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the Senator from North Dakota be allowed to speak for 3 minutes in response to the remarks by our chairman, the Senator from Delaware, and that the chairman, in turn, have 3 minutes, and that these two 3-minute speeches be the only comments made before we proceed to a vote on the motion to sustain the ruling.

Mr. WELLSTONE. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I had come down to join the Senator from North Dakota. I will not take more than a few minutes, but I wanted to speak on this. I don't mean to complicate matters, but I came down to speak on this question.

Mr. ROTH. I must object, Mr. President.

Mr. MOYNIHAN. Mr. President, I have to say to my friend from Minnesota that we entered into a very special arrangement to have the two comments and no more. And the chairman feels that if there were to be one more allowed that it would extend indefinitely. And the agreement having been reached, I feel that we will not be able to.

Mr. WELLSTONE. Mr. President, I regret objecting then, because I don't quite understand why it would be that we wouldn't want to have a discussion, I think, on the issue that my colleague raised, and as a Senator I certainly want to speak on it.

Mr. DORGAN. Mr. President, if I might respond.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. I didn't know of any intention of delaying this. I don't think it would be a problem giving a couple of minutes to the Senator from Minnesota. I know he spoke earlier on the floor on the subject. As far as I am concerned, we are almost ready for a vote, except that the tabling motion came almost immediately. My appeal of the ruling of the Chair is a debatable motion, and the Senator from Delaware moved almost immediately to table, which prevented this from being a significant debate. That is the Senator's right, and I made my comments. But I wanted to respond briefly to the comments the Senator from Delaware made. I mean it seems to me that it wouldn't be a problem if I am allowed to speak for 3 minutes and the Senator from Delaware and the Senator from Minnesota for a couple of minutes, and we can have a vote. It seems to me to be quicker to get it done that way.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. I amend my unanimous consent request to have 2 minutes for the Senator from North Dakota, two 2 minutes for the Senator from Minnesota, and no other speakers other than the chairman.

Mr. WELLSTONE. Mr. President, if the Senator will yield for just a minute, the Senator from North Dakota can have the 4 minutes, and we will go forward. I did speak earlier. People will be accountable on the vote. The discussion is taking place. We can come back to it if we need to come back to it. My colleague has been taking the leadership on this. Just go ahead.

Mr. DORGAN. Mr. President, let me go ahead, and if that consent is agreed to——

The PRESIDING OFFICER. Is there objection?

Mr. ROTH. Point of order.

Mr. MOYNIHAN. The Senator from North Dakota has 4 minutes, the Senator from Delaware has 4 minutes, and no other.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. DORGAN. Mr. President, we are never going to be accused of legislative speeding around here. It is fascinating to me that this bill has been kicking around for what, 10 months or so? And all of a sudden in the last couple of minutes we are dealing with $1 billion a minute, if I get 2 minutes. If I get $1 billion a minute, and he gets $1 billion a minute, it is a $2 billion tax break provided in the closing minutes of a conference report. Gosh. Month after month after month has gone by. Then all of sudden we have to get to the intersection in a nanosecond.

That is fine. Some days I might have objected, but I am in such an awfully good mood today that I am persuaded to speak for 2 or 3 minutes and then sit down.

First point: It is not going to kill the bill if we dump a $2 billion provision stuck in the middle of this piece of legislation by folks that didn't want a debate on it, didn't want votes in the House or the Senate on it. Getting rid of that provision won't kill the bill. Do not be fooled by that. Nobody is talking about killing this bill. We are just talking about taking a sow's ear out of this bill. You know the old saying in my area, which is farm country, "You can't make a silk purse out of a sow's ear." There is nothing in this provision that you can make a silk purse out of, I guarantee you.

This was not done in the regular way. The chairman indicated the 18-month holding period came not from the House or Senate. It came as part of a deal made by the White House and legislative leaders. That is true. That was a deal. It was a deal with respect to changing tax policy, and there was a lot of negotiation going on back and forth.

That was a tax bill. That was a big tax bill. This is an IRS restructuring bill. All of a sudden, you have substantive changes in tax policy with no debate. That is the point I am making.

Finally, it makes sense, in my judgment, to move in the direction of incentives for long-term holdings, not short-term holdings. That is precisely what the 18-month-rule did. It says there is a benefit to holding investments for the long term. Those who think in the longer term invest in the longer term. That is precisely what builds this country.

But today we hear people say let's go back to the shorter term, let's think short-term, and let's provide big tax breaks to upper-income people who think that way. Those that have a couple hundred thousand dollars a year or more, if they will just think in the shorter term they get a big tax break.

You talk about marching in the wrong direction. Get some drums and bugles here and just quicken the cadence. This doesn't make any sense at all.

The reason I appeal the ruling of the Chair is we never had a chance to debate this.

And I might add that the point of order that I raised would have been sustained prior to October 3, 1996, because for decades, going back to the 1930s, the rule that I cited had force. "Conferees shall not insert in their report matter not committed to them by another House." That rule of the Senate would have persuaded the Presiding Officer to rule in my favor.

But on October 3, 1996, the Senate did something, in my judgment, that was very ill-advised. It overturned a ruling by the Chair, and we forever changed this rule until the Senate votes to change it back. This would be a good opportunity to do that, because this is precisely the kind of mischief—$2 billion worth of mischief—that occurs in a conference committee with an item that was never in the House bill, never in the Senate bill, never debated, and never voted on. But here we find it folded neatly between the covers of this bill, which was supposed to have dealt with IRS restructuring.

You got $2 billion you want to use for something. I say to Members of the Senate, you got $2 billion you want to use for something. What is your priority? What is your priority? To search out those with $200,000 or more in income and say, "You know what you need. You need a tax cut, and that is the priority of the U.S. Senate. It is the priority of the U.S. House." Boy. I don't think that would match the priority most people would want to expose in the middle of the day here in the Senate in a debate.

So that is the reason I have asked for this vote.

Once again, I appreciate the Senator from Delaware and the work he has done. Much of what is in this piece of legislation I commend. It has great merit, but this provision should never have been stuck in that bill. I think everybody in the Senate knows it.

If we will vote to overturn the ruling of the Chair, we will solve this problem without killing the bill.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. ROTH. Parliamentary inquiry: How much time does the Senator from North Dakota have left?

The PRESIDING OFFICER. He consumed all of his time.

Mr. ROTH. Mr. President, let me emphasize what I said earlier, that if his appeal should be sustained, there is no question but what it kills the conference report. That is a matter of great seriousness. For no one can guarantee, if we go back to the conference table, what will come out of that negotiation. I can assure my friends on both sides of the aisle that I objected and fought many other provisions, some of which I think they would feel just as strongly about, if not more strongly.

Mr. MOYNIHAN. Will the Senator yield for a question?

Mr. ROTH. Yes.

Mr. MOYNIHAN. Is it not the case that once a House passes a conference report the conference committee is dissolved?

Mr. ROTH. That is correct.

Mr. MOYNIHAN. So it no longer exists. So we would have to create a new one.

Mr. ROTH. We would have to create a new one. The distinguished Senator is absolutely correct.

The other point I want to make, Mr. President, is that the 18-month holding period resulted from exactly the same process to which the distinguished Senator from North Dakota is objecting. But I recall no one from that side of the aisle objecting to the 18 months on the same grounds that it is objecting to the reduction of 12 months.

So, again, what I am saying is that we are correcting something that was done a year ago. And for that reason, I must urge that——

Mr. DORGAN. Will the Senator yield for a question?

Mr. ROTH. I will not yield for any more time. I think we have had the 4 minutes.

I yield the remainder of my time and call for the regular order.

The PRESIDING OFFICER. The question is on the motion of the Senator from Delaware to lay on the table the appeal of the ruling of the Chair by the Senator from North Dakota.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Texas (Mrs. HUTCHISON) and the Senator from Arizona (Mr. KYL) are necessarily absent.

The result was announced—yeas 76, nays 22, as follows:

[Rollcall Vote No. 186 Leg.]

YEAS—76

Abraham
Akaka
Allard
Ashcroft
Baucus
Bennett
Biden
Bond
Boxer
Breaux
Brownback
Bryan
Burns
Campbell
Chafee
Coats
Cochran
Collins
Coverdell
Craig
D'Amato
DeWine
Dodd
Domenici
Enzi
Faircloth
Feinstein
Ford
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hagel
Hatch
Helms
Hutchinson
Inhofe
Inouye
Jeffords
Kempthorne
Kerrey
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Moseley-Braun
Moynihan
Murkowski
Nickles
Reid
Robb
Roberts
Roth
Santorum
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Torricelli
Warner
Wyden

NAYS—22

Bingaman
Bumpers
Byrd
Cleland
Conrad
Daschle
Dorgan
Durbin
Feingold
Glenn
Graham
Harkin
Hollings
Johnson
Kennedy
Levin
Mikulski
Murray
Reed
Rockefeller
Sarbanes
Wellstone

NOT VOTING—2

Hutchison
Kyl

The motion was agreed to.

The PRESIDING OFFICER. The decision of the Chair stands.

Mr. ROTH. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. MOYNIHAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Is there further debate on the conference report?

Mr. BOND addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, I rise to commend the chairman and ranking member for the excellent job that has been done on the Internal Revenue Service Restructuring and Reform Act. The conferees have taken very good ideas and have made the strongest possible bill.

Mr. MOYNIHAN. Mr. President, the Senator deserves to be heard. May we have order?

The PRESIDING OFFICER. If anybody wishes to speak, they may after the Senator from Missouri, but at the present time, he is speaking.

Mr. BOND. I thank the Chair. Mr. President, I have a loud voice, but not that loud, and I appreciate the chance to share my thoughts with my colleagues.

As I was saying, this measure is very important for the citizens of this country, all across the Nation. We have not only seen and heard of the abuses that were brought out before the Finance Committee, but I think each one of us in our home States has heard the concerns expressed. This is the time now for us to move forward, for the Senate to add its voice and pass this bill for America's taxpayers.

This is a historic opportunity to make some far-reaching changes in the operation of the Internal Revenue Service to strengthen taxpayers' rights. I believe the conferees have delivered, and it is now up to us to deliver. For too long, taxpayers have had to put up with poor service from the IRS, often to the tune of larger tax bills because of interest and penalties that accrue during the lengthy delays caused by the IRS in settling the disputes.

For my part, I have asked people across Missouri for their suggestions on how to fix the IRS and protect taxpayers' rights. And as chairman of the Committee on Small Business, I have also asked small businesses to give me their ideas. We have had hundreds of people who have taken the time and made the effort to share their views with us.

I introduced a measure, called Putting Taxpayers First, in February. In that measure, we proposed things that are included in this conference report:

No. 1, a requirement that the IRS restructure its operations to serve specific groups of taxpayers with similar needs, like individuals, small businesses, the self-employed, and corporations;

No. 2, greater due process protections for taxpayers to guard against unreasonable seizures by the IRS;

No. 3, expansion of the current attorney-client privilege of confidentiality to cover accountants and other tax practitioners who provide tax advice;

No. 4, reform of the penalty and interest rules so they do not stand in the way of taxpayers who try to settle their accounts and get on with their lives;

No. 5, clarification that a taxpayer may recover attorney's fees and costs when the IRS discloses information about the taxpayer without permission and when an IRS employee improperly browses a taxpayer's records.

In addition, I am delighted to see: A requirement that the IRS establish an independent appeals process for taxpayers; a prohibition against the IRS contacting third parties, such as a business's customers or suppliers, without notifying the taxpayer first; improvements to the offer-in-compromise program; and prohibition on communications between an appeals officer and the IRS auditor or collection agent handling the case without permitting the taxpayer to be present.

These are some of the abuses that we can and we will deal with in this bill.

During the floor consideration in the Senate, I worked with Senator MOSELEY-BRAUN on an amendment which would provide clear direction that the IRS expansion of electronic filing of tax and information returns will be voluntary and not another Government mandate on the taxpayers of America. I am sorry that the conference agreement omitted this important provision, but rest assured that we will be keeping a careful eye on the IRS to ensure that Americans use electronic filing because it is simple, convenient, and easy to do so, not because they are forced to do so.

While our ultimate goal must be simpler and less burdensome tax law, taxpayers need help today when dealing with the IRS. Like the bill introduced earlier this year, the IRS Restructuring and Reform Act provides that help by putting America's taxpayers first.

Mr. President, I appreciate the good work and the effort that has gone into this, the many people who have taken a lead in sponsorship of this, and the work that has been done in the committees. I know that the big challenge will lie ahead of us in the next couple years to embark upon a full-fledged reform of the IRS Code. That is the next step. But today we are taking the very first step.

When I first argued for this bill, and pointed out that common criminals had more rights than taxpayers, my colleague from Texas asked if we really wanted to treat taxpayers like common criminals. And the answer is, we certainly do not want to treat them worse. This at least gives the American taxpayers the rights that all citizens should have in the United States. And we believe that it will end abuses in the IRS without curtailing the IRS' ability—an important responsibility—to collect the taxes that are owed.

I commend the measure, and I thank the leaders on both sides. I hope that we can adopt the measure and send it to the President without further delay or distraction.

I yield the floor and thank the Chair.

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the distinguished Senator from Idaho.

Mr. CRAIG. Mr. President, I will be brief, but I did want to recognize the chairman of the Finance Committee and the ranking member for the tremendous work they have done on this bill to reform the IRS. Many of my colleagues have come to the floor today to speak about the reforms embodied in H.R. 2676.

While the House moved very rapidly, the Senate engaged in a more deliberative process, appropriately, and reviewed in greater depth, in great detail, the changes we believed would be necessary. We did not want to make symbolic changes in the IRS, but wanted to change the very culture, the very thinking of the IRS, the way it functions, the way it treats the taxpayers of this country.

I have been in the Congress of the United States now a few years. And not by my vote, but by the collective vote of past Congresses, we have seen the Internal Revenue Code expand and expand and become more complicated. And every time the government decided it needed more money, it hired more IRS agents. Control spending? No. Demand a leaner, more efficient bureaucracy? No. Review policies and repeal or reform uneconomic ones? No. Raise taxes and encourage the tax collector to squeeze the taxpayer harder—that was the way 40 years of liberal Congresses claimed they were addressing the fiscal problems of our country.

So the IRS was an agency that Congress created and allowed to grow. And as the Tax Code became more complicated, the agency became larger, and by its very character it became a much more complicated and demanding agency.

Times have changed. I believe we are able to bring about reform of the IRS today for a variety of reasons, not just because we discovered abuses, but also because this Congress is committed to downsizing, to right-sizing, Government. For the first time, we are talking, not about budget deficits, but about surpluses. For the first time, we are succeeding in our efforts to create a less intrusive IRS. In fact, we are talking about tax reform, not in some symbolic way, but fundamentally changing the way we tax the American people are asked to pay for the Government services and programs for which they ask. That is why we are able to be here today in a bipartisan mode, to talk about the changes that are embodied in this very, very significant document.

So, I honor my chairman and ranking member here today, and my colleagues, who have stood forthright on this issue. When a citizen of our country, a taxpayer, receives a letter from the IRS, and it goes on the dinner table, with the family fearful to open it because they do not know what is inside, they are fearful there may be an audit announced, or that somehow they failed to comply with the code that is so complicated that they and their tax accountant, or even a tax attorney, cannot understand it. It is wrong for Americans to live in fear of their government like that. That bleak day is ending. The Congress well ought to have responded long ago to sense of dread on the part of American families. Some of us tried to. Because no American citizen, no taxpayer ought to fear their Government.

Without question, taxpayers have feared the IRS. Some of that will now change as the reforms embodied in this conference report are implemented and become functional, and as they are carried out in the regulation and enforcement process.

Two hundred twenty-two years ago, the American Revolution began, in large part, over an oppressive tax system. Today, for the first time in two hundred years, the Congress is taking significant power away from the tax collector and giving it back to the taxpayer. Today we reverse direction on a two hundred-year trend. Today we keep faith with the spirit that has been at the core American values and traditions from the start. Today, the Congress is taking long-overdue action to restore some of the liberty that an insatiable government has spent years eroding.

But the day of change is not over, nor should it be. I, like others, believe we should move now to significantly change our country's Internal Revenue Code. The tax laws of our country should not be used for social engineering, nor should they be designed in such a way to tempt and enable legislators and bureaucrats to manipulate social policy in this country, to decide for the taxpayers what is good for them, and to use the tax code and the IRS to force them to behave accordingly. That impulse for social engineering, directed from a Washington, DC, that thought it was all-knowing, is what grew the tax code and gave the IRS its power. Decades of tax-and-spend Congress empowered and encouraged the tax collector to step outside the due process Americans expect in every other encounter with their government, and went about structuring social policy through tax law; and they gained power and they gained control.

Today, we make a first step. This reform bill is an important symbol, but it is more than symbolic. It is the first installment on our commitment to do more. I believe if we restructure the tax code by reforming it in a significant way, by simplifying it and restoring a sense of freedom and fairness, we can come back to the very agency we are changing today and restructure it once again, because: As goes the code, so goes the character of the tax collector.

So once again, I stand, like many of my colleagues do today, ready to vote for this conference report as a major first step in doing what the American taxpayer has said needs to be done for a long while and maybe lessening the fear that the taxpayer has of their Government and of the IRS just a little bit.

I hope that we will return next year—in the very next year—not only to review the work we have done here but to reform the tax code in a more significant way and once again improve the tax collecting agency of our country, the Internal Revenue Service.

I yield the floor.

Mrs. MURRAY. Mr. President, I am so pleased we are finally acting to send this bill to the President. This important legislation has been delayed long enough. It has been over a year since the Kerrey/Portman IRS Reform Commission reported their findings to Congress and the American people. The Commission's report was extremely clear. The IRS had become a monster agency feared by law abiding citizens. It acted with total disregard for the rights of American taxpayers and ruled not through law or practice, but fear and fear alone.

I urge swift Senate action on the conference report to accompany H.R. 2676, the IRS Restructuring and Reform Act. The American people cannot afford any further delay or political grandstanding. The House passed their bill on November 5, 1997 and we passed a reform bill on May 7, 1998. We should have been acting on a final conference report months ago. Unfortunately, despite the extensive analysis contained in the Kerrey/Portman Commission's report, some in Congress chose to engage in partisan politics using IRS abuses as a mechanism for talking about the evils of "big government." The American taxpayer deserved better.

The problems at the IRS are not about "big government" but rather an agency with a conflicting mission and little guidance from Congress. In each Congress, new and in some cases sweeping changes in the tax code are enacted into law. The IRS must then swiftly implement these complex and difficult changes in the tax code. Excessive contracting restrictions and little managerial oversight results in an actions that border on the extreme.

I am pleased to have supported historic taxpayer Bill of Rights provisions in the 1993 deficit reduction plan. But, it became obvious from the Kerrey/Portman Commission report that additional taxpayer protection reforms were necessary. We could no longer allow the agency to rule by fear. American taxpayers should not fear challenging any decision made by the IRS. This should be the right of every American to challenge any decision by any federal agency. If an individual feels that the Social Security Administration erred in denying benefits, this individual can challenge this decision without fear of retaliation. No one should ever fear challenging the decision of any federal agency. But, sadly this had become the case with the IRS.

Many taxpayers simply were convinced that they had no choice but to submit and pay the often times excessive penalties and interest demanded by the agency. There simply was no assumption of innocence.

Taxpayers need this bill. This is not about those who do not honor their financial responsibilities. It is about protecting those that voluntarily pay their fair share. It is also about providing guidance to the agency responsible for implementing the laws that we pass. It is about leveling the playing field to ensure that taxpayers have the same rights and protections when dealing with the IRS.

The conference report adopts many of the provisions included in S. 1096, the original Kerrey/Grassley IRS reform bill which I cosponsored shortly after it was introduced. These provisions are essential if we truly hope to reform the IRS. The legislation will shift the burden of proof in many of the cases in U.S. Tax Court from the taxpayer to the IRS. Under current law, it is the responsibility of the taxpayer to disprove any charges brought by the IRS. This is counter to criminal law and makes it difficult for a taxpayer to disprove charges brought by an agency without almost unlimited resources. The legislation also mitigates interest charges and penalties for some tax cases. No longer with the interest charges and penalties significantly amount to more than that total taxes owned the IRS.

The conference report also includes new restrictions on the ability of the IRS to seize property. Too many times overzealous actions by the IRS resulted in the seizure of a business or the home devastating working families and leaving no means to repay taxes owed. What is even more outrageous is I have heard of cases where decisions to seize property were later overturned. The seizure of one's economic security cannot be part of a normal enforcement strategy for the IRS. It must be an extreme and final solution, not simply a compliance mechanism.

I am also pleased that the final agreement maintains an independent board to oversee actions within the agency. I have heard from many IRS employees about internal problems that create major obstacles to reform. An independent board drawing from the private and public sectors will provide some real strategic planning assistance for the Commissioner. It also ensures effective citizen oversight.

The IRS needs to put the idea of service back into the Internal Revenue Service. Its mission must be to serve the public and provide a cooperative environment for those voluntarily complying with their financial obligation.

The legislation will make a difference. No longer will a convicted criminal have more rights and protections than an honest taxpayer challenging the IRS. We should have acted many months ago. Every day the Republicans delayed this bill in the Senate resulted in more taxpayer abuses. More fear and more abuse. Today's actions will make sure this all stops.

Currently, honest taxpayers and business pay an average of $1,600 per person for those who do not meet their financial obligations. An estimated $120 billion a year goes uncollected by the IRS. We should be doing more to encourage more Americans to come forward and meet their obligations. But, so many taxpayers have simply given up. There is wide-spread belief that you cannot find fairness or respect at the IRS.

We need to give the IRS the tools and the guidance to bring respect back to the IRS. If we want American taxpayers to respect their government we must ensure that they are treated with respect and dignity. The legislation we are not considering meets this test.

I urge my colleagues to join with me in supporting effective and comprehensive IRS reform and restructuring.

Mr. LEAHY. Mr. President, I am gratified that the Senate finally has before it today the final language of The Internal Revenue Service (IRS) Restructuring and Reform Act. I continue to support this bill, which has been making its way through the Congress for many months and which is long overdue. I commend Chairman ROTH and Senator MOYNIHAN for their conscientious work on this legislation. I also commend Senator GRASSLEY and Senator KERREY for introducing the original IRS reform bill, of which I am a cosponsor.

I have heard from many Vermonters who support the reining in of the IRS. They want the IRS to be more responsive to their questions and more respectful of their rights, and that is exactly what they deserve from their government. I will be pleased to return home and tell Vermonters that the Senate has acted in their interests and passed legislation that will make the IRS more responsive to the average taxpayer and that gives the average taxpayer more rights when dealing with the IRS.

This bipartisan legislation will bring many significant reforms into reality, including:

Burden of Proof. The burden of proof is on the IRS in all court cases for tax years beginning after the date of enactment of this bill.

Innocent Spouse Relief. Innocent spouses and former spouses will no longer be held responsible for tax liabilities incurred by the other spouse.

Interest and Penalties. If the IRS fails to notify the taxpayer of a delinquency within 18 months, the taxpayer will not be held responsible for penalties and interest accrued during that time.

IRS Accountability. IRS employees will be held more accountable for their actions and advancement will be based on a system of merit.

Low-Income Taxpayer Clinics. $6 million will be provided in matching grants to establish taxpayer clinics to provide tax assistance to low-income taxpayers.

Oversight Board. A nine-member IRS Oversight Board will be established. This board will consist of the Secretary of the Treasury, the Commissioner of the IRS, a representative of IRS employees or a full-time Federal employee, and six members from the private sector.

Collections. This bill establishes formal procedures to ensure due process for any liens or levies placed on a taxpayer.

Confidential Communications. Privileged communications will be expanded to include tax advice between an accountant or tax advisor and a taxpayer.

I am also pleased that two amendments offered by Senator ASHCROFT and myself have been retained in the final conference report. One amendment, based on our bill, the Taxpayer Internet Assistance Act of 1998, requires the IRS to provide taxpayers with speedy access to tax forms, publications and other published guidance via the Internet. This legislation provides for online posting of documents created during the most recent five years.

The second amendment requires the IRS to treat an electronically authenticated document the same as a paper document. This is required as more and more people file their returns online and use electronic signatures. This bill will ensure that people who use an electronic signature will have no less or no greater status in the tax context than those using a physical signature. By retaining these two amendments, the Senate is recognizing the importance of the Internet and its potential to give taxpayers greater access to information and service.

In addition, Senator RUSS FEINGOLD and I introduced the Equal Access to Justice for Taxpayers Act of 1998, S. 1612. Under current law, many taxpayers are unable to recover their legal fees and other costs when the IRS takes unjust actions against them. Our bill would modify the Equal Access to Justice Act to give taxpayers the same rights as other citizens to fight unjust governmental action. Provisions similar to the Equal Access to Justice for Taxpayers Act were included in the IRS Restructuring and Reform Act.

The bipartisan bill before us will institute a wide range of constructive and sensible steps to reshape the IRS and to improve the way it deals with the American taxpayers they are intended to serve.

Ms. SNOWE. Mr. President, I rise today in support of the conference report to H.R. 2676, the IRS Restructuring and Reform Act.

Mr. President, the people of this nation have watched as Congress has finally taken serious strides toward the reform of our federal tax collection arm—the Internal Revenue Service. They have watched and they have waited because they know that meaningful changes in the way in which we collect income taxes in this country is sorely needed and long overdue.

Well, today we have an opportunity to send to the President a reform package that is not only meaningful, but one that will strike at the heart of some of the most serious abuses exemplified by some of the real-life horror stories we've all heard over the past few months.

Indeed, the Senate Finance Committee in their hearings during the past year uncovered an agency that, in many instances, simply ran roughshod over taxpayers rights and the IRS' very own rules.

Agents misused files, violated privacy, made arbitrary decisions concerning the payment of delinquent taxes, demoted those who sought to report improper tactics. They were evaluated on statistics based on seizures of personal property and finances; they lied and misled the public. In short, the high level of trust that must exist when people's privacy, dignity, and very livelihood are at stake had disintegrated into a quagmire of duplicity and dishonesty.

Now, that's not to say that everyone at the IRS engages in such dubious practices. I have no doubt that the majority of Americans who work for the IRS are attempting to do an often unpleasant and thankless job with integrity and the best interests of the taxpayers at heart.

Unfortunately, as is always the case, it is the transgressions of the few that foster the decay of the whole. In fact, I'm sure that the majority of the honest, hardworking people of the IRS would welcome a cleanup of the system just as much as any American taxpayer.

This conference report provides such relief from the practices of the past and is a giant step forward in rebuilding the trust that has slowly but steadily been eroded over the years. It provides $12.9 billion over the next 10 years for reforms, which will include an oversight board to keep careful watch over the management and administration of the IRS. It shifts the burden of proof from the taxpayer to the IRS, where it belongs. It provides relief for divorced or separated spouses who unwittingly become embroiled in the tax liabilities of their estranged husbands or wives. It requires the IRS to report annually to Congress regarding employee misconduct. In short, it helps put government back in the hands of those it is supposed to serve.

We still have a long way to go in terms of simplifying our tax system—something we must do if we are to follow through on our promise to not only reduce the burdens of our archaic tax structure but to reduce instances of abuse. So, even with the passage of this legislation, our work will be far from done. But this bill will create a more level playing field between the IRS and taxpayers, and it will make the IRS more accountable to the American taxpayer. As I said when I spoke on this issue in May, the issue comes down to trust. The people of this nation must be able to trust that their government will be fair, will be discreet, will be responsive. Taxpayers should not fear the very institutions that are supposed to be serving them.

The House put their overwhelming stamp of approval on their version of the legislation with a 426 to 4 vote, and passed the conference report 402–8. In the Senate, there was not one vote against the measure when we last considered it. It's now time that we send this bill to the President with the message that it has strong, bipartisan backing in Congress and the overwhelming support of the American people. I hope my colleagues will join me in voting for this Reform Act and putting "service" back into the IRS.

TECHNICAL CORRECTIONS TO TEA-21

Mr. DOMENICI. Mr. President, Subtitle A of title IX of the conference report on H.R. 2676, the IRS Restructuring and Reform Act, contains a number of technical corrections to the Transportation Equity Act for the Twenty-first Century (TEA-21). This subtitle is essentially identical to H.R. 3978, which passed the House by voice vote but has been held up in the Senate due to objections chiefly over provisions concerning Veterans smoking benefits.

Mr. President, I want to focus my remarks on the technical corrections to title VIII of TEA-21. This title of the transportation bill did two things. First, it provided roughly $17.5 billion in offsets to pay for the cost of the additional highway and transit spending in TEA-21. With respect to the offsets in TEA-21, the technical corrections in this conference report make a number of changes in the Veterans provisions which will provide a net $959 million increase in Veterans spending as a result of correcting a drafting errors in TEA-21.

This technical corrections bill modifies provisions in TEA-21 that inadvertently labeled smoking an act of willful misconduct on the part of the veteran. Further, this bill reverses provisions included in TEA-21 that extended the change in compensation law to include those people who are currently serving in the military or have recently left the service but are still within certain statutory presumptive periods where any illness is presumed to be service connected. The technical correction also clarifies that the grandfather clause will include those veterans who have filed a claim before the enactment date, not only those with adjudicated claims upon enactment. Finally, the corrections bill adds a new section which extends the GI bill reimbursement increase to a veteran's survivor and dependents. This rate increase was intended to be included in the original bill but was inadvertently left out.

Second, TEA-21 established a rather elaborate regimen under our budget laws to ensure a minimum amount of discretionary funding would be set aside for highway and transit programs. The conference report on TEA-21 did not include an explanation of the budget process changes in title VIII and I did not have a chance to discuss these changes in detail when we considered the conference report on TEA-21.

TEA-21'S HIGHWAY AND TRANSIT "FIREWALLS"

The Balanced Budget Act of 1997 extended through 2002 the spending limits, or caps, on spending provided in the annual appropriations process, what we call "discretionary" spending. The Balanced Budget Act also provided separate limits on defense, nondefense, and violent crime discretionary spending, which are frequently referred to as "firewalls". These separate spending limits, or firewalls, effectively segregate a specified amount of spending for defense and violent crime reduction.

Highways and transit spending are considered nondefense discretionary spending and must compete with other programs under the nondefense discretionary cap. While the Balanced Budget Act made transportation spending a priority, there was a strong desire to provide a means to allow the taxes collected by the Highway Trust Fund to be made available for highway spending. The House-passed transportation bill took highways off-budget. The Senate developed a mechanism in the budget resolution to direct savings from reductions in direct spending programs to the Appropriations Committees to pay for increased transportation spending.

Trying to find a mechanism to provide a guarantee for discretionary spending for highways without breaking the budget proved to be one of the more difficult tasks for the conferees on the transportation bill. We ended up with a complicated mechanism that kept highways and transit funding subject to the appropriations process, the budget process, and the discretionary caps.

Subtitle A of Title VIII of TEA-21 amended the Balanced Budget and Emergency Deficit Control Act to establish new categories on highway and transit spending at outlay levels for certain programs in TEA-21. The Act also made reductions to the nondefense discretionary limits by an amount equal to OMB's estimate of base level of funding for these programs.

These highway and transit categories are very similar to the current defense and violent crime categories in the Balanced Budget and Emergency Deficit Control Act with two notable exceptions. Unlike the defense or crime caps, TEA-21 amended section 250(c) of the Balanced Budget and Emergency Deficit Control Act to add a special rule that provides that any spending in excess of the highway and transit limits be charged to the nondefense discretionary or discretionary spending limits.

Next, TEA-21 amended section 251(b)(1) of the Balanced Budget and Emergency Deficit Control Act to provide for two adjustment to the highway outlay limits and one adjustment for the transit outlay limit.

One of our objectives in TEA-21 was to ensure that highway revenues would be spent. To meet this objective, the first adjustment ensures the highway outlay limit fluctuates with changes in gasoline tax levels. The highway spending levels and the outlay limits established by TEA-21 are based on the Congressional Budget Office's (CBO) February 1998 estimates of tax revenues to the highway trust fund. To the extent actual revenue levels are different than these 1998 estimated levels or the Office of Management and Budget's (OMB) updated estimates for the budget year is different than these levels, OMB is required to adjust highway obligation levels in TEA-21. Next, OMB is required to calculate the outlay changes that would result from the change in the obligation levels and adjust the highway outlay limits by that amount.

A second concern was raised that purely technical changes in outlay estimates could cause the highway or transit outlay limits to be exceeded. The second adjustment TEA-21 added to section 251(b)(1) of the Balanced Budget and Emergency Deficit Control Act was to provide adjustments to the highway and transit outlay limits due to purely technical estimating changes. This was a challenge to draft because it is difficult to distinguish between changes in outlays for technical as compared to policy reasons. Under this second adjustment, OMB is required to estimate the outlays that would result from TEA-21 in its final sequester report this fall. Each year, as part of the President's budget submission, OMB is required to update its estimate of the outlays resulting from TEA-21 and adjust the outlay limits by any change in outlays due to technical re-estimates.

On this technical adjustment for outlays, our intent is that OMB only adjust the outlay limits because of purely technical estimating changes. To the extent Congress makes changes in the appropriations process or takes other actions in legislation that effect the level of outlays for highways or transit, the resulting change in outlays should be absorbed by the respective limits and OMB should make no adjustments to those limits.

Mr. President, section 251(b)(1)(D)(ii) is vague with respect to how OMB is to adjust the estimate it is required to make pursuant to clause (i) in this fall's final sequester report of the outlays resulting from TEA-21. Our intent is that OMB adjust this estimate of outlays by the adjustments it will make to the outlay limits pursuant to subparagraphs (B) (to align spending with revenues) and (C) (adjustments for technical outlay re-estimates).

Mr. President, the highway and transit firewalls we established in TEA-21 was a compromise with the House and the Administration. I would have preferred a much simpler and much less rigid approach. I am particularly concerned, and share the concerns of the distinguished Chairman of the Appropriations Committee, that these new firewalls unnecessarily impinge on the appropriations process. Finally, I am troubled by the complexity of this mechanism and the reliance we have placed on OMB estimates, particularly with respect to the adjustments allowed for the outlay limits.

In conclusion Mr. President, let me say this. Even with my reservations and concerns about our new discretionary firewalls and the outlay adjustments that will be made to them, I strongly support TEA-21. The conference report is the culmination of over 14 months of effort by many members of the House and Senate. Our compromise allows for highway funds to once again be released to states and avoid delay in this year's construction season. Most importantly, TEA-21 provides increased funding for our nation's infrastructure while maintaining fiscal discipline and our balanced budget. I support this bill and am proud to have played an integral role in its development.

Mr. MACK. Mr. President, first I commend Finance Committee Chairman ROTH, and my Finance Committee colleagues Senator KERREY of Nebraska and Senator GRASSLEY, for their invaluable contributions to this important step in cleaning up the IRS. The IRS reform bill that we are about to pass would never have seen the light of day were it not for the efforts of the IRS restructuring commission and the determined leadership of Chairman ROTH, who presided over the first meaningful IRS oversight hearings that this body has had in decades.

The IRS reform bill is a landmark achievement, a shot across the bow to the IRS letting them know that "business as usual" will no longer be tolerated. But this bill—although it contains the largest assortment of taxpayer rights ever enacted into law, and reforms the IRS with such important innovations as the new Treasury Inspector General for Tax Administration—is only the first step in a continuing process to curb the abuses of the IRS. More important than the new taxpayer rights, more important than the procedural and structural reforms, is the process that we used to fashion this bill. Simply stated, the oversight power of the Congress is the single most powerful tool that we have to root out the abuses and injustices that have become ingrained in the corrupted culture of the IRS. I strongly support the concept of regular oversight hearings of the full Finance Committee to make sure that past mistakes are corrected, that past misconduct is punished, and that the attitude and modus operandi at the IRS are changed permanently.

The corrupt culture of the IRS can change only if the old regime at the IRS is completely swept away. I am encouraged by the recent announcement of a high-level resignation at the Service, in an office which seemed to be a black hole for disciplinary investigations completed against IRS officials. But one change in office is not enough. Our oversight hearings exposed a rogue agency that was literally out of control. We heard testimony that armed agents use SWAT-team tactics to raid businesses, that IRS officials callously ignored the life-threatening health problems of a taxpayer, that a sexual harasser was promoted to be national director of Equal Employment Opportunity, and that statistics of property seizures were used to evaluate the performance of IRS employees.

Most incredible but all-too-believable was the story of one of my constituents, an IRS employee who blew the whistle on a renegade special agent with a drinking and substance abuse problem. This renegade agent had fabricated allegations of political corruption against several public officials, including the former Majority Leader of this body. This renegade was protected instead of punished by his supervisors, and the IRS employees with the courage and public spirit to report the misconduct ended up being the targets of retaliation. In this instance, as in most of the horror stories brought before the Finance Committee, the misconduct could not have occurred without the encouragement or acquiescence of IRS management. Yet, we were told that one of the IRS managers responsible for this cover-up and retaliation was still on the job.

Congress cannot let up on the IRS. We must follow through on the misconduct exposed by the bright spotlight of our oversight hearings. I am calling on Commissioner Rossotti to testify again before the Finance Committee, prior to the end of this legislative session, to bring us up to date on the disciplinary actions taken as a result of our hearings. Has the member of IRS management who covered up the scheme to frame Senator Howard Baker been fired? Have the IRS employees responsible for the abuses of power recounted to the Finance Committee been identified and terminated? Have the members of IRS management who condoned such behavior, or who ignored it through complete incompetence, been found and disciplined? We cannot fall into the trap of thinking that things are fixed at the IRS just because this reform bill will soon become law. The Senate has an obligation to continue its vigilance over the actions of the IRS, to follow through on the abuses that have been exposed and root out those that perpetuate. Experience has shown conclusively that the IRS cannot be trusted to police itself.

This IRS reform bill is a step in the right direction. The comprehensive taxpayer bill of rights section is of the most value to taxpayers, although it is my belief that these provisions could have gone further to strengthen the rights of our taxpayers. Unfortunately, under our rules, overly aggressive and abusive IRS collections activity is apparently built into the budget baseline, and can only be redressed by raising new taxes as an offset. Any system that requires us to raise taxes to replace money that the IRS picks from the pockets of our taxpayers is a system that is broken and needs fixing.

I am particularly pleased that the provisions of my Taxpayer Confidentiality Act are included in the conference report. These provisions afford uniform confidentiality protection to taxpayers for the tax advice they receive from federally authorized tax practitioners in noncriminal matters before the IRS and during subsequent court proceedings. Under current law, communications between taxpayers and lawyers concerning tax advice can often be protected from disclosure to the IRS by the common law attorney-client privilege, but communications with other federally-authorized tax practitioners—certified public accountants, enrolled agents, enrolled actuaries, and attorneys providing advice in the role of a tax practitioner—are not protected. The new tax practitioner-client privilege eliminates this unfair penalty imposed on taxpayers based on their choice of tax advisor.

I am concerned, though, about an amendment to this provision that was inserted at the 11th hour while the bill was in conference. The amendment was meant to target written promotional and solicitation materials used by the peddlers of corporate tax shelters, but appears to me to be vague and unfortunately employs an ambiguous definition of tax shelter that some argue could be read to include all tax planning.

I discussed the problems inherent in this last-minute attempt to create an exception for the marketing of corporate tax shelters in meetings and discussions with the Majority Leader, Chairman ROTH, their counterparts in the House, and the Speaker. It was agreed that the language would be clarified to alleviate these concerns and ensure that the amendment does not cover routine tax advice and normal tax planning designed to minimize a corporation's federal tax liability. The language of the conference report, however, could be interpreted in a manner which does not fully reflect our understanding and thus undermines the intended benefit to taxpayers.

Our oversight hearings have given us ample reason not to trust the IRS to interpret this exception to the new privilege in a narrow manner. Nor can taxpayers rely on timely clarification through judicial interpretations, as these will be many years in the making. This is an item we will have to address at the soonest possible instance, in the next tax bill.

One excuse we often hear from apologists for the IRS is that our tax laws are too complicated, and that this is the source of the tensions between taxpayers and the Service. I cannot accept this as the reason why armed raids are conducted on the homes and businesses of peaceful citizens, or why laws and internal IRS rules are broken with gusto and impunity. But it is true that the complexity of the code is a drain on the resources of our taxpayers, and is one of the reasons I support tax reform. In this regard, it is a big relief to all taxpayers, big and small, young and old, that the provisions of my Capital Gains Simplification Act have been incorporated in the IRS reform bill. Restoring the 12-month holding period for long-term capital gains will dramatically reduce tax compliance costs, lessen the punitive lock-in effect on capital, and yield additional federal revenues in the first 2 years.

There is one final point I would like to make concerning the IRS reform bill, as one of the primary advocates of the Sense of the Senate Resolution and the moratorium on Notice 98-11 regulations. Notice 98-35, issued by Treasury to announce its intention to withdraw the proposed and temporary regulations issued under Notice 98-11, has raised some concern for high-tech industries. For instance, Notice 98-35 does not make clear the grandfather rules for licenses—it is important that this be clarified, as the income of many high tech businesses comes from royalties tied to licensing agreements. Also, the asset test described in Notice 98-35 may put high tech businesses at a disadvantage—as the assets of high tech business consists mainly of intangible assets, which the Notice does not adequately take into account. It is my hope that the Treasury Department will clarify these and other issues unique to high tech businesses.

Mr. President, final passage of the IRS reform bill is an important step in the on-going process of reining in the IRS. Let no defender of the status quo at the Service be mistaken on this point: This is the beginning, not the end, of our reform efforts.

Mr. KERRY. Mr. President, I join my colleagues in support of the Conference Report on the IRS Restructuring and Reform Act of 1998. This legislation is a victory for the American taxpayer, and I applaud the work of my colleagues, Senators ROTH, BOB KERREY, GRASSLEY, and others, who have demonstrated such determination, vision and leadership on this important issue.

I believe that the average American taxpayer is fundamentally honorable, willing to play by the rules and carry his or her fair share of public obligations. Most public servants at the Internal Revenue Service (IRS) perform their jobs responsibly. But, sadly, there are exceptions on both sides of this equation, and those exceptions lead to contentious circumstances which must receive careful IRS management attention. Regrettably, that has too often not been forthcoming.

It is clear that the Internal Revenue Service is subject to some difficult challenges. After downsizing in recent years, the remaining IRS agents are strained as they try to meet the demands of increased audit and collection work. The management structure within the IRS has made these problems even more difficult to solve. Regardless of the reason, the abusive and humiliating tactics which were brought to light during the Senate Finance Committee hearings are intolerable and must be stopped. This legislation is an important step in the process of reinstituting control at the IRS.

I have previously supported reform efforts that were intended to make tax collection fairer, and the IRS more accountable. In 1988, I cosponsored the Taxpayers Bill of Rights which expanded the procedural and disclosure rights of taxpayers when dealing with the IRS, prohibited the use of collection results in IRS employee evaluations, and banned revenue collection quotas. During the 104th Congress, I cosponsored the Senate version of the Taxpayers Bill of Rights II, which created the Office of Taxpayer Advocate, allowed installment payments of tax liabilities of less than $10,000, and imposed notification and disclosure requirements on the IRS. Last year, we enacted the Taxpayer Browsing Protection Act, which imposes civil and criminal penalties on Federal employees who gain unauthorized access to tax returns and other taxpayer information.

The Internal Revenue Service Restructuring and Reform Act of 1998 will restructure and reorganize the Internal Revenue Service. It will create a new IRS Oversight Board to review and approve strategic plans and operational functions that are crucial to the future of the agency and will ensure the proper treatment of taxpayers by the IRS.

It would allow taxpayers to sue the IRS for up to $100,000 in civil damages caused by negligent disregard of the law. It also expands the ability of taxpayers to recover the costs of such litigation, including the repeal of the ceiling on hourly attorneys' fees.

The Conference Report expands the protections provided to "innocent spouses" who find themselves liable for taxes, interest, or penalties because of actions by their spouse about which they had no knowledge and could not have reasonably expected to know.

I remain concerned about the provision included in the Conference Report that shifts the burden of proof from the taxpayer to the IRS in court if the taxpayer complies with the Internal Revenue Code and regulations, maintains required records and cooperates with IRS requests for information. This provision could give comfort to a small number of Americans who will do anything to avoid paying their taxes but may make the system of tax collection even more complicated.

I support the idea of expanding every American's ability to save for retirement and I was a cosponsor of the Roth IRA bill to promote savings for every American. However, I am concerned that the proposed changes to the IRS included in the Conference Report are being paid for not by reducing spending or by eliminating an unnecessary corporate tax break, but instead by giving a tax reduction to allow some elderly taxpayers to convert their existing Individual Retirement Accounts into Roth IRAs. The Joint Committee on Taxation estimates that this tax change will not provide enough revenue to cover the cost of IRS reform after the year 2007. I would have preferred that a more suitable offset were included to pay for the important changes in this Conference Report and I believe that this offset should have been included in a tax bill.

Americans merit an efficient and a respectful government. In the course of history, we have fought for freedom from despotic bureaucracies. At the essence of our democracy is our right to alter any public institution which fails significantly to deal respectfully and competently with American citizens. I believe the changes this legislation will make will regain the balance that has been lost in the relationship of the taxpayers to the IRS while permitting the IRS to do the difficult job it was created to do.

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the distinguished Senator from New York.

Mr. D'AMATO. Mr. President, first, I would like to thank my colleague, who has been waiting so patiently, for giving me the opportunity of sharing some thoughts with respect to the IRS reform package. I assure you I will keep my remarks to a minimum.

But I would like to congratulate the manager of the bill, the chairman of the Finance Committee, Senator ROTH, and the ranking member, my friend, the distinguished senior Senator from New York, Senator MOYNIHAN. They have done an outstanding job. I would like to commend Senator BOB KERREY for his work. His work truly has helped bring together the Senate and the Finance Committee in a way in which we can pass this legislation that will be helping millions of taxpayers and change, I think, the culture—the culture—in which the IRS has been operating.

Indeed, the litany of witnesses and stories—anecdotal and otherwise—that demonstrated that there seemed to be a pattern that none of us could be proud of—the abuse of the little guy, not the big corporate giant, but the small business entrepreneur, the average-day citizen who lived in fear and, indeed, tyranny, and in some cases was rampant tyranny. And in no case was it worse than as it related to the innocent spouse. And every year approximately 50,000 cases were opened. And the revenuer was after a spouse who had little, if anything, to do with not paying their fair share of taxes—innocent of the fact—and in 90 percent of the cases they were women. They signed a joint return, and in some cases didn't even sign a return. We had some cases where their signature was forged, but we were so desperate for money, they were hunted down. Indeed, some had to give up their jobs and some had to live in fear, and some even left their spouses, their new spouses because they were afraid that the new spouse and his family would have the revenue agent after them. Horrendous. Incredible.

I take this opportunity to salute a courageous person who came and testified before our committee, a citizen of New York, Beth Cockrell, who epitomized this tragedy and whose case went all the way up to the Supreme Court. And because of the manner in which the law was written, why, the court ruled against her. But nonetheless—nonetheless—she is a person who was abused by the revenue code and the agents who pursued her.

Indeed, now they will be free, hundreds and hundreds of thousands—mostly women—who have lived for years with open cases against them, who had accumulations of interest and penalties, in some cases that go into the hundreds and hundreds of thousands, if not millions, of dollars, and they can hopefully now begin to resume a more normal life and clear away that pattern of abuse with which they have had to live. Hundreds of thousands will be free. And, yes, tens of thousands on a regular basis no longer will have to face this because they were married, and someone—their mate—did not pay his or her proper taxes, they were then held responsible. They would be totally innocent and unaware of this fact.

I have heard colleagues speak to many issues in terms of what this bill does. I think it is important so the culture, hopefully, will be changed.

I think one of the most significant provisions, one that I was proud to author along with Senator GRAHAM of Florida and Senator MOYNIHAN, the Innocent Spouse Relief Act of 1998, a bill that would give protection to innocent spouses, and is supported by all of our colleagues, will now be the law of the land, and those who are innocent will no longer have to live in fear for the actions of someone else.

I thank my colleague for giving me this opportunity, Senator McCAIN of Arizona, to make these remarks.

I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Arizona.

Mr. McCAIN. I ask unanimous consent to address the Senate as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNITED STATES RELATIONS WITH CHINA

Mr. McCAIN. Mr. President, our relationship with the People's Republic of China is perhaps the most complex of any within the realm of foreign policy. Absent the scale of confrontation the United States experienced with the Soviet Union throughout the Cold War, U.S. diplomacy must, for the foreseeable future, walk a very fine line between cooperation and challenge with the world's most populous nation. The very nature of the Soviet threat provided a level of clarity absent in our attempts at formulating a long-term policy for dealing with China. There is no justification for a policy of containment when there is no reason to believe that Chinese foreign policy is inherently expansionist. Indeed, there is no reason to believe that China's external ambitions extend beyond those with which we are already familiar: island chains in the South China Sea and the most dangerous issue of all dividing our two countries, the status of Taiwan.

The complexity inherent in U.S.-China relations simply allows for neither the demonization of China, as many here would have it, nor the kind of alliance we enjoy with our closest allies. The issues are too varied, and the emotions surrounding them run too deep. The issues with which the United States takes exception relative to China, especially in the area of human rights and religious persecution, are too central to our values as a nation for us to ignore. With every dissident thrown into prison, for every item produced with forced prison labor, for the memory of those killed in Tiananmen Square, those charged with the conduct of American foreign policy must take the government in Beijing to task and demand, not ask, a measure of justice none of us really expects to materialize soon enough. And therein lies the dilemma we face in dealing with China: We demand of it something it has never had—freedom.

President Jiang Zemin made clear the high priority his government places on social stability at the expense of personal liberty. President Clinton, to his credit, offered an articulate defense of the emphasis the United States places on freedom, and he placed it squarely in the context of an emerging world power struggling with the dichotomies of economic development and dictatorship. Economic freedom cannot forever coexist with authoritarian dictates in the political, social and cultural realms.

The kind of technological innovation and rapid transition from laboratory to marketplace common to advanced industrialized countries is not possible when individual freedom is constrained and lacking essential legal protections. China's poor record on protection of intellectual property is symptomatic of this phenomenon. Furthermore, that it views religious and political freedom as a threat is a sign that it has some distance to go before it can join the community of nations represented in the G–7, as no nation can reach its full potential that fears the free expression of ideas by its own people.

To a very large degree, the ongoing controversy involving technology transfers to China has its seeds in the inability of dictatorial societies to draw upon reservoirs of talent that cannot be created where the flow of information is tightly controlled and where the kind of intellectual exchanges that resulted in the great technological innovations of the 20th Century are constrained. It is no accident that the wealthiest nations on Earth are those that, since the Second World War, have pursued market economies within the framework of democratic forms of government. Japan and Singapore are completely lacking in natural resources, yet enjoy among the highest standards of living in the world. The Asian economic crisis is a serious warning of the need to reform certain government policies and business practices, but the accomplishments of the economic systems still warrant respect.

President Clinton's trip to China has to be viewed within the context of what could realistically be expected of China. In one significant respect, his trip was a success. The access afforded him to the Chinese public was unprecedented, and the President did a fine job of expressing the importance of democratic values to the Chinese people. He further deserves gratitude for his denunciation of the Tiananmen Square massacre, an event of singular importance for post-Cold War relations between the two countries. The events of May and June 1989, occurring as they did while the central front of the Cold War was undergoing dramatic transformations that would reshape most of the world, were a sad reminder of the extremes to which governments that do not rule with the consent of the people will go to maintain their hold on power. By conveying the message directly to the Chinese people that the leader of what has historically been known as the "Free World" condemns the events of 4 June 1989, President Clinton communicated to pro-democracy elements in China the vital message that the United States supports their efforts.

To the extent the President is criticized for a mission for which the only success was symbolic, it must be admitted there is little of substance to show for the effort. It is apparent that his sights were set low, and his achievements accordingly modest. To be fair, the kinds of change we hope to witness in China will not materialize over night; China is a country that thinks in terms of its thousands of years of history, and that history is replete with repression, foreign invasion and civil war. It is a deeply scarred nation, neither willing nor able to lose sight of its legacy of exploitation at the hands of others. But China today stands on the brink of becoming one of the world's premier powers and, as such, must understand that more is expected of it. The role it seeks to play, regionally and globally, must be firmly rooted in a moral foundation in which the worth of the individual lies at the center of its system of governance. Repression is alien to such a system, as is the insecurity all too often manifested in expressions of external aggression. If its goal is to instill in its neighbors a fear of its looming shadow, all it will have to show for its efforts is an element of regional hegemony in a region where countries have fought ferociously to resist such intimidation. It will then suffer economically, with the risk of social instability that President Jiang emphasized is one of his greatest concerns.

The areas of trade, proliferation, the status of Tibet, and the future of Taiwan all remain largely unresolved—the latter dangerously so. The President's rejection of Taiwanese independence is consistent with previous Administration statements and U.S. policy going back to 1972, but only if loosely interpreted. United States policy remains "one China," but the context in which the President's statement was made and the manner in which it was declared were painfully close to resolving the issue of Taiwan's status by fiat and in Beijing's favor.

Taiwan is a complex country. It is torn internally between an historically indigenous Formosan population that claims independence from mainland China, and the large segment of the population that represents the mass migration from the mainland following the communist victory in 1949. The latter claims to be the legitimate government of all of China. The reality on the ground, of course, does not allow for a policy predicated upon such a claim. To have reaffirmed as the President did the so-called "three noes" policy, however, served only to exacerbate concerns in Taiwan about its security—legitimate concerns irrespective of where one stands on the issue of its independence—while possibly emboldening Beijing. Given how close our two nations came to armed confrontation in March 1996 over Taiwan's security and right to exist as a democratic country, a more sensitive articulation of U.S. policy was in order.

Since coming to Congress, I have been a staunch advocate of free trade. The unprecedented period of economic growth that the United States has experienced is owed in no small part to our level of trade. We cannot and should not, however, expect the American public to countenance a level of Chinese imports that is not reciprocated. Trade deficits that result from the natural dynamics of free market mechanisms should not be feared; deficits that occur as a result of systematic imposition of barriers to free trade must be confronted. In this respect, the President's trip was an abject failure. U.S. companies must have unfettered access to the Chinese market, and ought not be compelled to compete with companies owned by the Chinese military, which comprise a disappointing number of those in the southern economic zone.

On the extremely contentious issue of technology transfers, an entirely separate discussion is warranted to do it justice. At issue as far as U.S. exports are concerned is dual-use technology that, by its nature, presents considerable regulatory difficulty. As we in the Congress press the Department of Defense to make more use of commercial technologies, we should not be surprised that the Chinese are doing precisely that. The Commerce Committee will be holding hearings into the export licensing process, and I am aware of the number of hearings held in both chambers of Congress by various committees. Suffice to say for now, though, that we need to get a better handle on this issue. For American companies, the stakes are high; for our national security, they are higher. The latter must take precedence. It is questionable whether the President agrees with that supposition.

This Administration's handling of export controls warrants close examination, as there is considerable evidence that dual-use technologies are finding their way into Chinese weapon systems. While I do not fear the kind of global confrontation with China that existed relative to the Soviet Union, I fear the threat to regional stability that can and will arise should Chinese military modernization enable it to project military power at the expense of its neighbors. And I fear for the future of Taiwan should China develop the means to militarily subdue that democratic bastion. China has a right to defend itself; it has a right to a modern army. The Pacific Rim is too fraught with tension, however, to ignore the regional and global implications of modernization untempered by moral or practical constraints.

In the area of proliferation, the outcome of the China summit is unclear. China's continued refusal to join the Missile Technology Control Regime augurs ill for our ability to rein in its export of destabilizing military technologies. The recent nuclear detonations by India and Pakistan were testament to the dangers implicit in policies that seek to resolve border disputes through the brandishing of ever more destructive forms of weaponry. China's support of other countries' nuclear weapons programs is extremely dangerous. Its support of their development of the means of delivering those weapons is even more so.

The one true consensus in the realm of national security affairs is the danger of proliferation of weapons of mass destruction and their means of delivery. A cloud will continue to hang over U.S.-China relations until we are confident that China respects our concerns, as it expects us to respect its concerns. We should certainly not be exacerbating that problem through exports of our own to China that benefit its military-industrial complex. Administration policies in this regard deserve the close scrutiny they are now receiving.

China will always act in its self-interest. It will always view the world through the prism of its own unique history, and through its own unique culture. Such perspective does not excuse its repressive domestic policies, and U.S. policy ought not make allowances for those policies. We should be under no illusions that China will be a strategic partner; in all likelihood, it will not. It is a relationship that should be managed, and that should start from the premise that Chinese foreign policy will, at times, run counter to our own. Our export policy must take that into account, even if that comes at the expense of business.

Mr. President, it is sometimes said that the business of government is business. It is not. There is no constitutional prerogative for governmental intervention in the marketplace. There is a constitutional prerogative to provide for the common defense. As in any area of life, to some degree there is an element of balance that needs to be maintained. The current Administration's great failing is its inability to appreciate that fundamental requirement and to provide for the common defense. We should and do work with China for our mutual benefit. We must do so, however, without losing sight of the nature of the Chinese regime. President Jiang may prove an able leader; effusive praise usually reserved for Jeffersonian democrats, however, obscures the depth of the chasm that remains in the Sino-American relationship and the origins of the leadership of the Chinese Communist Party. That is not ideologically-driven rhetoric; it is a view of a dictatorial government through the prism of history.

I yield the floor.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I thank my colleague from Arizona for his remarks. For a moment, I want to respond to some of what my colleague from Arizona said. He need not stay, but I did want to amplify on some of his remarks.

I have had the honor of being able to work closely with Congresswoman PELOSI, who I think has been a very courageous leader in the human rights area. I have worked with a lot of human rights organizations, and Wei Jingsheng and others in China, who have had the courage to speak up. I, too, want to give credit where credit is due. I think it is terribly important that the President speak out about human rights—terribly important. I think it was perhaps even more important that this was on television and radio and people in China had an opportunity to hear this discussion.

I also believe, however, that really the question is, What next? I think that is really the question in regard to the whole issue of weapons of mass destruction and exporting of technology—dangerous technologies—in regard to trade. I think last year China exported something like $40 billion worth of products to our country and we exported $15 billion to China. That is clearly a policy that doesn't serve the people in our country well at all.

I think also in the human rights area, which is very near and dear to my heart, I wish the President had met with some of the human rights advocates in China. I wish he had met with some of the families of the victims of Tiananmen Square or, for that matter, of those who are now in prison. But most important, on the "what next" part, I really hope that we will see some changes. There are, at minimum, some 2,000 men and women in prison in China just for the practice of their religion or because they have spoken out; many have spoken out for democracy, which is what we cherish in our country. We just celebrated 222 years of our noble experiment in self-rule. Those prisoners of conscience should be released.

We meet all the time in our country very courageous men and women, now living in the United States of America. Many of them can't go back to China. They have been "blacklisted." They should be able to go back to their country. It is not enough to say, because the Government released Wei Jingsheng, who served 16, 17, 18 years in prison because he had the courage to stand alone and to speak out for democracy, that this represents progress, because he is now in exile. He can't go back to his country to see his family, to see his loved ones.

Quite clearly, the discussion about Tibet was good, but what we absolutely have to see are some negotiations with the Dalai Lama, a specific timetable to put an end to what has been absolute pressure on the people in Tibet. Last year, things got worse in Tibet. There has been no improvement whatsoever in human rights. Every time I have an opportunity to speak out about human rights on the floor of the Senate, I don't miss that opportunity.

I say to the President that I appreciated someone who was pushing and pushing the President to speak out on human rights. I am glad he did. I think the credit should be given to the President for raising a lot of other terribly important questions that deal with our national security and our national defense. I also believe, however, in the human rights equation, which I think should be part of the foundation of our foreign policy. The whole way we need to measure the success of the President's trip is, what next? What next? The proof will be in the pudding. We have to wait and see. We have to continue to press and press and press.

INTERNAL REVENUE SERVICE RESTRUCTURING AND REFORM ACT OF 1998—CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

Mr. WELLSTONE. Mr. President, I know I am going to be joined on the floor in a moment. I had a chance to speak earlier today on the floor of the Senate. But unless there is some tabling motion—and there may not be opportunity for full debate and discussion—I told my colleague from Washington that I would just begin to speak about an issue that she is going to raise on the floor of the Senate. I guess the Senator from West Virginia, Senator ROCKEFELLER, will also speak to this because he has been raising this question over and over again. The three of us really have focused on this.

This, again, has to do with what I talked about earlier today on the floor of the Senate—compensation to veterans with tobacco-related illnesses.

There was the hope on the part of the veterans community—the Chair, I think, would be interested in this—that there would be compensation to veterans having to do with addiction to tobacco. That is to say, in many ways it was handed out like candy. These veterans say, "Look, if there are going to be rules for compensation, the same rules should apply to us." That seems fair to deal with some of the health care struggles and illnesses with which they have to deal.

That was the first preference. I want to go on to add—now I am speaking for myself—if not direct compensation for veterans, then at least the money that is saved by not providing that compensation should go to veterans. The Office of Management and Budget, I think, estimated savings of something like $17 billion. I personally think that is too high an estimate, but that is a whole other issue. But if not the $17 billion for compensation, then at least it seems to me that money ought to go to veterans' health care.

I could spend hours and hours—I will not—talking about all the ways in which veterans fall between the cracks. I actually found this to be, I think, probably the greatest education I have had since I have been a U.S. Senator, having to do with my dealings with veterans. I have been just amazed by how much veterans really need health care coverage, and it is not provided; veterans that are homeless; veterans struggling with PTSD, on and on. I think there is a whole lot that needs to be done.

Let me say to those who follow veterans' health care issues that we have a flat-line budget that does not take into account really the inflation in medical costs, and I don't think takes into account demography, because more veterans are living to older age. We have a reliance on third-party payments that I am not sure is going to come through. If we ever get back to the VA housing bill—I hope we will—I will have an amendment that deals with that. We have, as I said before, a population that is living to be 85 and beyond, and I don't think we have figured out yet what to do about that.

We also have the problem of compensation for atomic veterans who have been waiting years for justice. I intend to be out here with a piece of legislation for an up-or-down vote on this. These are men and women that went to ground zero in Nevada and Utah without any protective gear. So many of them have died from cancer. So many of their children and grandchildren have had illnesses. So many of them have struggled. We should expand the list of radiogenic diseases that are covered, that are presumptive diseases, because they still aren't getting compensation. It was a terrible thing the government did. It was a terrible thing. We lied to them. They should have been given protective gear. They should have been told what they were going to be exposed to. They weren't.

My point is that on each and every one of these issues, whether they get direct compensation or not, at the very least that money ought to be put into veterans' health care. Instead, what happened is when the ISTEA highway bill went from the Senate to the House, all of a sudden a whole bunch of new projects got added on. The question becomes, How can we afford it? What is the "offset"? For those watching this discussion on the floor of the Senate, that means, Where do you get the money from? Where the money was taken from was the $17 billion that the veterans community thought would, in fact, go to direct compensation for them and their families, or at the very least would go into veterans' health care. That is exactly what happened. That is what happened on the bill.

When that bill came back here, when it passed the Senate, I voted against that bill. Then for complicated reasons there were some changes that needed to be made in a technical correction bill, and Senator ROCKEFELLER stepped forward. I was pleased to join him. And he said, "Look, when that technical correction bill comes before the floor of the Senate, I will have an amendment to essentially knock out the provision that took $17 billion, or however you score it, away from the veterans community." We went through a debate on this. We reached an impasse.

The majority leader then decided the way he would deal with this is we would just put the technical corrections for the highway bill in the IRS conference report. So this conference committee dealing with this Internal Revenue Service bill essentially took the technical corrections for ISTEA and put it into the IRS conference report, which means we can't amend it.

So when Senator MURRAY comes to the floor of the Senate, she is going to be, I think, appealing the ruling of the Chair. She is going to talk about what happened having been outside the scope of the IRS conference committee. In other words, there was no chance for discussion on the technical corrections bill about what happens to veterans compensation and health care, and so on and so forth. The technical corrections just got put into the IRS conference committee.

So we will have that debate on the floor of the Senate. Senator MURRAY will be out here taking the lead. I thank her for that, because I actually think that what was done was a real injustice.

Let me say to colleagues, I think the Congressional Budget Office scored this at about $10 billion, and then the OMB scored it at $17 billion. In some ways, it gets to be sort of funny money. But in any case, the higher figure was chosen because that gave some of our colleagues the opportunity to load more projects onto the ISTEA highway bill and gave them more of an offset. But in all due respect, I say this to all of my colleagues, the veterans community is going to hold us accountable on this.

I hope people will listen very carefully to what Senator MURRAY has to say, and I hope we have an initiative similar to the initiative which Senator DORGAN took. And we will have a very strong vote.

For my own part, if we don't win on this—and I hope we do—I think it ought to go back to conference committee. I think this provision dealing with the technical corrections should be knocked out because I think we should have a separate vote on the technical corrections bill. Then we should be able to come out here with an amendment and have an up-or-down vote as to whether or not the $17 billion that should have gone to compensation for veterans and their families, or at least into health care for the veterans community, should or should not be there as opposed to transferring it to the highway bill.

That is the issue. There is no way people here are going to be able to avoid it. One way or another, I think people are going to hear from the veterans community. And they should hear from the veterans community.

So we will shortly, when Senator MURRAY returns, have this discussion. I assume that this question will be before the Senate.

For my own part, if we don't win, though I hope we do win, I think what I want to do is keep coming back over and over again and basically raise the same question and forcing votes. We can have the same votes over and over and over again. People can play around this however they want to. People can vote against the proposition that we honestly ought to have taken the $17 billion that should have gone for veterans' compensation and health care and kept it there, or people can vote whether it should be transferred to the highway bill for different projects that were added on in the House. We should have a strong vote in the Senate on this question. Or people can vote one way, and then kind of just look the other way while in the conference committee it gets done.

But regardless of what we do procedurally, regardless of what we do process-wise, I want to remind colleagues one more time on the floor of the Senate that this was a real injustice. I don't know how people justify it. I don't know how people justify it.

First issue: The veterans community says, "Look, if we are going to be talking about compensation for people who are addicted to tobacco, do you know what happened to us when we were serving our country? Cigarettes were handed out to us like candy." So we asked for some compensation. We are paying the price for that addiction to tobacco. We asked for the compensation. They don't get the compensation. Then I say, and I think other veterans say this as well, if not the direct compensation, at least over the next 5 years put it into veterans' health care. Put it into the veterans' health care system. There is not one Senator here who spends any time back in his or her State with the veterans community who doesn't know that this is a system in need of reform. Dr. Kizer has moved forward with some good initiatives; some other initiatives I question. I think he has provided good leadership. But we should be doing much, much more. Much, much more.

What about Vietnam vets? More drop-in centers? Senator AKAKA has done a great job of leading the way for drop-in centers for Vietnam vets and other veterans. What about other veterans who struggle with post-traumatic stress syndrome? What about veterans who are homeless, many of them struggling with substance abuse? What about elderly veterans? What about veterans who fall between the cracks, and they don't have a direct service-connected disability illness and they are not low-income and therefore they are not eligible? And so on and so forth.

This is a system that needs to be put on a more solid financial footing. This is a system that needs to do better by way of veterans. This is a health care system that faces many challenges. And what we did is we took the $17 billion that should have been direct compensation for these veterans who are addicted to tobacco—or at a minimum should have been put into veterans' health care—and we used the money to offset the cost of a whole variety of different projects, mainly highway projects added on to the ISTEA bill in the House of Representatives. And then when Senator ROCKEFELLER and some of the rest of us wanted to amend the technical corrections bill to knock out that transfer of funds away from the veterans community to highways, we never had the opportunity to do so. The majority leader didn't want an up-or-down vote.

You can do all you want with procedure and process. But you still have to be held accountable. But instead, we got another end run. We have the technical corrections bill folded into the conference report, completely outside the scope, as far as I can see, of any IRS reform bill, thus denying us the opportunity to have an up-or-down vote.

Senator MURRAY will come here and challenge that, saying it was beyond the scope of the conference committee, and we will vote on this issue. I look forward to when she comes out in the Chamber and when we have that vote. And I say to colleagues, please, focus your attention on what was done, because I do not see how we explain this away to people in the veterans community.

I hope I am not boring people with this argument. I keep repeating it over and over again, but I don't see how you explain to people that the money which should have gone to them by way of compensation—and, as a second choice, at least into their health care system—instead got transferred to paying for people's highway projects.

Does anybody want to debate anybody in the veterans community about this? Does anybody want to defend this in any VFW hall or American Legion hall? How about the Vietnam Vets of America? How about the Paralyzed Veterans of America? How about the Disabled American Veterans? How about the Atomic Veterans? How about the Military Order of the Purple Heart? Do any of my colleagues want to defend this? I think this is a tough one, and I hope that we can take corrective action.

I yield the floor.

Mr. CHAFEE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mrs. MURRAY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. MURRAY. Mr. President, let me begin my remarks today by reiterating my strong support for the underlying bill that is before us to reform the Internal Revenue Service. This is a good bill and it is really long overdue. I want to join my numerous colleagues who have complimented Senator ROTH and Senator MOYNIHAN and others who have worked very hard and long on this legislation. I have listened to my colleagues all day talk about the benefits of that bill, and I add my comments to that in support of that as well.

Despite my strong support for this underlying bill, I am deeply concerned about title IX of this conference report, because hidden deep within this bill in title IX is language to take some $17 billion from America's veterans. Several of my colleagues have been addressing this issue today, and I associate myself with the remarks of Senator ROCKEFELLER, Senator WELLSTONE, and Senator DURBIN. I know Senator WELLSTONE has taken quite a bit of time to outline what is in this bill, and I thank him for his words, his comments, and his support.

Title IX is the technical corrections language for the transportation legislation. Hidden within that is a provision that takes away disability benefits from veterans whose illness resulted from smoking. Many of these veterans, as my colleagues know, were encouraged to smoke during wartime service with free cigarettes that were provided by our armed services. I am outraged by this language, and I am sure that many of my colleagues in the Senate are as well. I know Senator CHAFEE, who is the distinguished chairman of the Environment and Public Works Committee, has spoken to this issue. I have immense respect for Senator CHAFEE and for his leadership in crafting the very important TEA 21 legislation, the transportation bill that passed. Transportation is a critical and important issue.

However, let me be very clear. I continue to oppose the veterans offset used to fund the increases in transportation. The chairman argued that this is not a controversial matter, that the Senate has already spoken. With all due respect, I disagree. If this issue is so noncontroversial, why are we debating it within the IRS reform bill? This legislation has nothing to do with the veterans bill. If this issue is truly noncontroversial, then let's have a standalone debate on the issue of cutting $17 billion in veterans' benefits. The technical corrections bill is at the desk. We could have a time agreement on that. It could pass very quickly. It does not need to be included in the IRS reform legislation. It has nothing to do with the IRS reform legislation.

I ask, and I believe all of my colleagues should ask the question, Why on Earth is the IRS reform legislation used to take money from our American veterans? It is a very legitimate question. The original Senate version of the IRS reform did, of course, not target veterans, and neither did the House bill, the IRS reform bill. Somehow the conference committee agreed to add the technical corrections for the highway legislation to this bill on IRS reform. I am assuming that this action was taken at the direction of leadership, since I know that the Finance Committee does not have jurisdiction over the veterans funding issue. The IRS bill is viewed as politically popular and a cinch to pass. That, I would guess, is why the veterans cuts were added to this bill. The proponents of this veterans grab want to avoid accountability. That is wrong, and that is why I am opposed to title IX of the underlying bill being included in this bill. The proponents figured that we would just roll over and accept these wrongful cuts because everyone wants to reform the IRS.

I have been fighting this veterans grab all year. It was in the President's budget, and I opposed it. At the Budget Committee, I voted against Democratic and Republican proposals that included these disastrous cuts to veterans health. On the Senate floor, I voted against the budget one final time in opposition to these cuts to veterans. During consideration of the budget, I was pleased to join with Senator ROCKEFELLER and others to fight against these cuts. I voted against the Craig-Domenici amendment to validate the $10 billion cut in veterans funding. Sadly, the Senate budget resolution paved the way for the transportation bill to use the veterans savings to offset the increased transportation funding.

I want to be sure that my colleagues are aware that the technical corrections language punishing veterans that is included in this IRS bill is opposed by virtually every veterans service organization. Many of them have written and contacted me in opposition to the cuts, including the American Legion, the Veterans of Foreign Wars, the Paralyzed Veterans of America, the Vietnam Veterans of America, and the Disabled American Veterans.

Senators need to know that this issue has touched a nerve with America's veterans. They are deeply offended that the Congress and the administration would divert money targeted to care for sick veterans to pay for other spending priorities. This issue is not going to go away. America's veterans and many in Congress will continue to fight this battle. We simply must revisit this issue and do the right thing for America's veterans, and the time is now. The best way to do that is to remove the language from this nonrelated IRS reform bill and vote on the issue separately.

I ask unanimous consent now to have printed in the RECORD a letter from the American Legion that I recently received.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE AMERICAN LEGION,
Washington, DC, July 2, 1998.

DEAR SENATOR: The American Legion ask you to recommit the IRS Restructuring conference report back to the conferees with instructions to strip out H.R. 3978, the technical corrections language to the Transportation Equity Act for the 21st Century (TEA 21).

Urge the Senate leadership to allow H.R. 3978 to be debated on the floor as a stand alone bill. Also encourage the Senate leadership to allow an "up-or-down" vote on Senator Rockefeller's amendment to H.R. 3978 that would strike the veteran's disability compensation offset included in the TEA 21 highway legislation. The TEA 21 correction bill should not be part of the IRS Restructuring conference report.

Subsidizing the highway trust fund with $15.4 billion in offsets from veterans compensation is just plain wrong. This is a grave injustice to America's disabled veterans who became addicted to tobacco during military service. The suggestion that approximately 500,000 veterans would file tobacco-related claims each year is ridiculous. Since 1993, approximately 8,000 veterans have filed claims for tobacco-related illnesses and less than 300 claims have been granted.

The American Legion fully acknowledges that Members of Congress recognize and appreciate veterans' contributions to our country. Unfortunately, many legislators have not been provided an honest opportunity to cast a fair vote with regard to veterans suffering from tobacco-related illnesses as demonstrated by the recent vote on the TEA 21.

Once again, The American Legion ask you to recommit the IRS Restructuring conference report back to the conferees with instructions to strip out H.R. 3978, the technical corrections language to TEA 21. Encourage the leadership to debate H.R. 3978 as a stand alone bill and ask for the opportunity to have an "up-or-down" vote on the Rockefeller amendment. Veterans and Members of Congress deserve a fair vote! Thank you for your consideration in this matter.

Sincerely,

STEVE A. ROBERTSON,
National Legislative Commission.

Mrs. MURRAY. Mr. President, the Legion again urges all U.S. Senators to reject this language targeting veterans. I implore all Senators to review this letter before casting a vote today on this issue. I am here to urge my colleagues to join me and others to free America's veterans from the IRS reform legislation. Free the cuts in Veterans Affairs to a genuine and a very public debate.

We are going to have a vote on this issue today. Regardless of whether it is procedural or a straight-up vote, one thing is very clear—it will be a veterans vote. I ask my colleagues to vote with me and with America's veterans.

POINT OF ORDER

Therefore, Mr. President, I make a point of order that title IX of the conference report is outside the scope of the conference, pursuant to paragraph 2 of rule XXVIII of the Standing Rules of the Senate, which states:

> Conferees shall not insert in their report matter not committed to them by either House. . . . If new matter is inserted in the report . . . a point of order may be made against the report, and if the point of order is sustained, the report is rejected. . . .

The PRESIDING OFFICER. The point of order is not sustained.

Mrs. MURRAY. Mr. President, I appeal the ruling of the Chair.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, at the proper time I will move to table the appeal of the distinguished Senator from the State of Washington, but I want to let people debate on this. Obviously, a motion to table is not debatable, so I am not going to raise the motion to table until everybody has had a chance to have his or her say here.

Mr. President, I would make a correction, if I might, to what I understood the Senator from Washington was saying. She seemed to indicate that this technical corrections measure that is included within the IRS reform—she indicates it takes $17 billion from veterans. I argue, of course, whether there is any taking from veterans at all, period. But the important point is that the technical corrections measure is strictly a technical corrections measure. The $17 billion that the Senator from Washington is referring to was a provision that was in the conference report on H.R. 2400—in other words, the conference report on the transportation legislation which I like to call ISTEA II.

That was adopted by the Senate here, 88 to 5. That is where we handled that particular measure. Then we came to the technical corrections, and there, those technical corrections indeed do deal strictly with technicalities.

As perhaps some will recall, we finished that bill on a Thursday evening; we finished the negotiations with the House of Representatives. Everybody was anxious to get off on the Memorial Day recess, and the staff and all worked all night long and came forward with the so-called H.R. 2400, the ISTEA II, if you would, on Friday, the day after we negotiated late into the evening.

There we voted on the printed version, which was, to the best of our ability, correct. But there were technical mistakes in it. At the time, we recognized that there would be. But there is nothing, no technical mistake about the money that, through a general counsel's opinion, had been going to the veterans. That was taken care of, in the legislation that we voted on, on that Friday. And this technical corrections measure has nothing to do with that.

So I am not quite sure why the distinguished Senator from Washington refers to this technical correction measure as taking $17 billion from veterans. It just plain does not do that. We believe that the technical corrections that are included in the IRS reform bill are strictly technical and noncontroversial.

By the way, I didn't flesh out the part about what a monstrous job this was, not only finishing it on that Thursday evening, the negotiations and voting on the bill, but it is a 900-page bill. It presented tremendous challenges, and inevitably some errors were made.

This technical corrections bill which has been developed jointly by us—the Senate and the House conferees, with some input from the U.S. Department of Transportation—is truly a technical corrections measure. It doesn't do anything with formula allocations.

It is true that this veterans thing gets very, very confusing. The general counsel of the Veterans' Administration came forward with a decision that would have greatly enlarged the benefits that were available to those who had smoking-related illnesses.

By the way, that never truly went into effect. There were some who made applications for grants or benefits under it. But to the best of my knowledge, I don't believe anybody actually received benefits. Their requests were being considered.

The administration itself realized that this went way beyond anything they were intending, and the administration itself pulled back from that general counsel's decision and reversed it. We—that is the Senate of the United States, the Congress—went along with that reversal and used those funds that would otherwise have been available for general purposes for this transportation legislation.

Mr. President, I think it is a mistake to suggest that this technical corrections measure is anything other than what it is labeled, a technical corrections measure that covers some of the problems that were raised as a result of the haste that we were under with this massive legislation when we were trying to recess for the Memorial Day recess.

I don't know whether there is further debate to take place on this. I am not trying to cut people off peremptorily. If the Senator from Washington has further comments, I will give her an opportunity to speak if she wishes.

Mrs. MURRAY addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Mr. President, let me simply say the chairman states correctly that the transportation bill did go through in a hurry right before a recess, and we are now looking at technical corrections to that bill. That bill is at the desk, and we should have an opportunity to take a look at it, offer amendments, and vote it up or down.

Being as it is included within the IRS conference report, we don't have the ability to do that. I think many Members would very much like the opportunity to speak out on this issue. As we went home for the Fourth of July recess, many people heard from veterans in their States who are outraged this was included in the transportation bill. They would like the opportunity to make their voices heard on that.

If we are able to override the ruling of the Chair, we will have the opportunity to do that. That is simply what we are asking for today. It will not hold up the IRS reform bill. We can simply move that next week. It will allow Members to make their statements known and their views known on a very critical issue to many veterans in our country.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. I wonder if I might ask the floor manager a question.

Mr. CHAFEE. Certainly.

Mr. DOMENICI. Is it not true that one of the technical corrections has to do with the fact that those who helped write the provisions of the law that attempted to rescind the general counsel's regulation expanding benefits for those who smoked while in the military, that in doing that, actually the drafter expanded that to reduce other benefits that were for veterans who were never even intended to be covered? That is one of the technical corrections, to return it to what it should be, rather than to have an expanded reduction in benefits that go to veterans. Is that not true?

Mr. CHAFEE. The Senator from New Mexico is absolutely correct: Set aside the big expansion of the program that took place as a result of the general counsel's opinion. Set that aside. There were some veterans receiving benefits under other programs that were related to smoking disability problems that occurred while they were on active duty.

Inadvertently, the language in the original legislation—that is the ISTEA conference report—eliminated some of those benefits. This technical corrections bill that we have before us will straighten that out and restore those benefits. In an odd way, should the Senator from Washington prevail and this technical corrections measure be eliminated in some fashion, it will result in a failure to cure a problem that has arisen inadvertently.

Mr. DOMENICI. I thank the Senator.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, I rise to note with great pleasure that I will have to support the conference committee report for the reason that the Senator from Rhode Island has just stated in response to the question from the Senator from New Mexico. As now provided, absent these technical corrections, we will have existing benefits to veterans taken away.

I am correct in my understanding, am I not, that there are existing benefits which would be canceled in this way. I am not the least happy about the administration's decision to override the ruling of the general counsel of the Veterans' Administration, but that is history. What we have here is the correction that will really be a clear injustice to a many great persons, never intended by anybody.

So, Mr. President, I will have to support the conference report and vote for the motion to table.

Mr. ROCKEFELLER. Mr. President, I thank the distinguished Senator from Rhode Island. I happened to be upstairs in the Hart Building working on something else and listening to Senator PATTY MURRAY from the State of Washington raising this very strong argument about veterans. I previously spoke on veterans; therefore, one might think I wasn't going to come down and give the same speech again. But when I heard the powerful argument from the Senator from Washington and I heard some of the responses, the Senator from West Virginia had to come down, because this is really the only way that we can protect veterans. We have no other choice.

I believe the Senator from Rhode Island—although I didn't hear him say it, I know he said it in the past—this is somehow expansion of the benefit, this is some new benefit that goes to veterans. I don't know how to make this clear, but what we are talking about here is that, through however it worked, the legislators who were working on this particular piece of legislation, that started out with ISTEA and now has come to the IRS conference report, rescinded current law.

They took current law which says that if you go through all the steps that you have to go through in the VA to prove that you are a disabled American veteran by virtue of your addiction to nicotine and that it was caused and continued and it was because of your service, and all of these steps that you have to go through, that you are entitled to appropriated funds.

I will agree it is not money that comes from highways. I have always said this is not money that comes from highways, either ISTEA I or ISTEA II. But we have rescinded current law and, therefore, veterans are being denied and will be denied—unless as the distinguished Senator from Washington is trying to do in making a point of order—disability benefits which are rightfully theirs under current law.

How do we come to this point? How do we allow ourselves not to correct this? It is not a matter of spending money. It is not a matter of taking money away from this or that highway project. It never has been. It is simply reinstating current law which, in fact, at this particular moment only affects 300 veterans throughout the United States of America, because out of the 8,000 who have applied for this disability, only 300 to this point have made it.

Now, I think we are probably talking about $200 or $300 million total. The administration, of course, participated in this sham by coming up with this $17 billion. Then it was $10.5 billion. And who knew what it was, which was basically to pay for programs which they wanted. Unfortunately, the majority party joined in on this.

So here are the veterans with nobody to speak for them, with no legislative tools available to them, left on an unamendable conference report on IRS which has nothing to do with veterans. And the Senator from Washington is doing the only thing that she can do in her desire to protect veterans, keeping their current law ability to use appropriated funds to pay for their disability benefits. That is what the Senator from Washington is trying to accomplish.

Mrs. MURRAY addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. I know the Senator from Rhode Island wants to move to a vote on this. Let me just conclude by saying that veterans know this issue very clearly. They know that the language we have included in the IRS reform validates the cuts to their ability to get health care, if they were smoking when they were young and they now have disabilities due to that.

They are very clear on this vote. They are very clear in what they are saying to us. They were very clear to me over the last month. This bill, if we vote on it this way, will cut the health care benefits of many of our service people who started smoking when they were young.

I think that the veterans are going to be watching this issue closely. I hope that my colleagues will support me on this so that we can move to separately deal with the technical corrections bill in a way that does not undermine the health care benefits of the many veterans across this country who served our country well.

Mr. CHAFEE. Mr. President, I do want to stress, once again, as I said before, that killing the technical corrections bill is not going to restore any $17 billion. The technical corrections bill has nothing to do with that. It does not mention it, does not involve it at all. That was all taken care of in the conference report.

Indeed, we voted three times on that measure. We voted on the whole matter of the $17 billion being used in connection with the ISTEA II legislation. We voted on it twice in connection with the budget, and we voted on it once when we did the conference report here.

So, Mr. President, I do want to stress that should Senator MURRAY's appeal of the ruling of the Chair be successful, the entire IRS reform bill would effectively die. And so I urge my colleagues to uphold the ruling of the Chair.

I now move to table Senator MURRAY's appeal of the ruling of the Chair.

Mr. DOMENICI. I ask for the yeas and nays.

Mr. ROCKEFELLER. Would the Senator yield?

Mr. CHAFEE. Yes.

Mr. ROCKEFELLER. Would the Senator not agree that if the Senator from Washington prevailed on her point, that, in fact, it would not vitiate the IRS bill, but would simply mean that the conferees would have to go back, the conferees themselves, and do this work and perhaps straighten out the veterans situation and then come back to us?

Mr. CHAFEE. My understanding is there are no House conferees. The conference has been dissolved.

Mr. ROCKEFELLER. That does not mean there could not be new conferees. I mean, this is an important point.

Mr. CHAFEE. Well, it is a complicated way of proceeding, but it is my understanding that this would actually kill the IRS reform.

Mr. ROCKEFELLER. This Senator believes that is incorrect. It would simply be the reestablishment of the conference committee, which could then clear up this matter which the Senator from Washington is trying to clear up.

Mr. DOMENICI. Mr. President, would the Senator yield for 1 minute?

Mr. CHAFEE. Sure.

Mr. DOMENICI. Let me make a point to the Senate. If you do not table this, and you accept the proposal of the distinguished Senator from Washington, you have done two things—both of which are probably very, very bad for our country: One, you will kill this bill; secondly, you will dramatically cut veterans' benefits beyond anything anybody intended. Because to eliminate these technical corrections, you leave in place a law that is signed. The highway bill is signed into law, and it has a mistake in it. And the mistake dramatically cuts veterans' benefits beyond what was intended.

So it may not be the intention of the sponsors, but you will accomplish two things, and I just stated them. And I believe that is the case.

I yield the floor.

Mr. ROCKEFELLER. Would the Senator yield——

Mr. CHAFEE. No. I would like to press forward with the——

Mr. ROCKEFELLER. Simply because it is this Senator's judgment that what the Senator from New Mexico has said is in two respects incorrect. This Senator would like to simply give his opinion, and that would be that, No. 1, the ISTEA bill would in no way be affected. That is signed. It would in no way be affected. Second, the IRS bill would in no way be affected at all. It is simply a matter that the conferees—again, new conferees—would come back, not debating the IRS bill, but simply clearing up this matter which is of extreme importance to this country's moral obligations to veterans.

Mr. CHAFEE. Mr. President, at this time I move to table Senator MURRAY's appeal of the ruling of the Chair. And I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

They yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the appeal of the ruling of the Chair. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Texas (Mrs. HUTCHISON) and the Senator from Arizona (Mr. KYL) are necessarily absent.

The result was announced—yeas 50, nays 48, as follows:

[Rollcall Vote No. 187 Leg.]

YEAS—50

Abraham
Allard
Ashcroft
Baucus
Bennett
Brownback
Burns
Campbell
Chafee
Coats
Cochran
Coverdell
Craig
DeWine
Domenici
Enzi
Faircloth
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hagel
Hatch
Helms
Hutchinson
Inhofe
Jeffords
Kempthorne
Lott
Lugar
Mack
McConnell
Moynihan
Murkowski
Nickles
Roberts
Roth
Santorum
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Stevens
Thomas
Thompson
Thurmond
Warner

NAYS—48

Akaka
Biden
Bingaman
Bond
Boxer
Breaux
Bryan
Bumpers
Byrd
Cleland
Collins
Conrad
D'Amato
Daschle
Dodd
Dorgan
Durbin
Feingold
Feinstein
Ford
Glenn
Graham
Harkin
Hollings
Inouye
Johnson
Kennedy
Kerrey
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
McCain
Mikulski
Moseley-Braun
Murray
Reed
Reid
Robb
Rockefeller
Sarbanes
Specter
Torricelli
Wellstone
Wyden

NOT VOTING—2

Hutchison
Kyl

The motion to lay on the table was agreed to.

Mr. ROTH. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. MOYNIHAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER (Mr. HAGEL). The Senator from Iowa.

MORNING BUSINESS

Mr. GRASSLEY. Mr. President, I ask unanimous consent that there be a period for the transaction of morning business with Senators permitted to speak for up to 15 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

A HISTORICAL TREATISE ON THE FALSE CLAIMS ACT

Mr. GRASSLEY. Mr. President, I rise today to speak about an important issue for the taxpayers of this country. My purpose today is to:

First, inform my colleagues;

Second, alert future Members of this body; and

Third, create a historical public record so that future Congresses will not repeat the mistakes of the past. The issue is the integrity of the Government's present and future efforts to stop widespread fraud, waste and abuse against taxpayer funded programs.

The Government's strongest and most effective tool against fraud is the False Claim Act. In recent years, the False Claims Act has been under attack from industries targeted by the Government's anti-fraud efforts. Since 1986, when Congress passed amendments that I sponsored to toughen the law, more than $4 billion has been recovered through the False Claims Act. Hundreds of billions more in fraud have been saved through the deterrent effect that this law has upon those who would betray the public's interest.

In addition to the recovery of money and the deterrent effect of this law, the False Claims Act is important for another, perhaps, more important reason. The fact is that the False Claims Act is being used, day after day, by prosecutors to maintain the integrity of countless Federal programs funded by American taxpayers. For example, the False Claims Act is being used in the health care industry to ensure that nursing home residents receive quality care—like enough food.

Nonetheless, this Congress just witnessed an unconscionable assault on the False Claims Act. The law has thus far escaped unharmed. But, there is a "clear and present danger" lurking in the shadows. It is for this reason that I speak today, Mr. President—to chronicle the events that occurred over the past 7 or so months.

The perpetrator of this assault on the False Claims Act was the American Hospital Association (AHA). The AHA used its notable clout to systematically and cleverly orchestrate a major grassroots campaign to "gut" the False Claims Act. In the final analysis, its effort fell apart because the approach taken by the AHA lacked an essential ingredient—"credibility." You see, the AHA appealed to a great many legislators by using horror stories from hospitals in their respective states and districts. But the horror stories, in the end, had no bearing on what the AHA peddled as the solution—gutting the False Claims Act.

The correct solution was not to change the law—indeed there was, and is, no problem with the language of the False Claims Act. Rather, the solution was to correct a number of missteps made by the Department of Justice in implementing the law through its national initiatives. The AHA was abundantly aware of this fact. But AHA chose instead to pursue a strategy of bait and switch. The AHA allegedly backed a bill to gut the law simply to strong arm the Justice Department into changing how the False Claims Act was implemented. The strategy succeeded. Unfortunately, it comes at the expense of a serious loss of credibility, in my eyes, for the AHA.

Before describing the events of the past months, some historical context is in order. The False Claims Act was fathered by President Abraham Lincoln. Lincoln had become frustrated by the widespread fraud against the Union Army by defense contracts during the Civil War. Contractors would sell the same horses twice to the Army; they would sell sand instead of gun powder; and sawdust instead of muskets.

Included in the anti-fraud arsenal of the False Claims Act was a provision called qui tam. Qui tam is a concept that dates back to feudal times. It allows private citizens who know of fraud against the taxpayers to bring a lawsuit against the perpetrators. In other words, the citizen acts as a partner with the government. As an incentive, the citizen shares in any monetary recovery to the U.S. Treasury.

Over the decades, the False Claims Act, and especially the qui tam provisions, proved to be effective, both in catching and deterring fraud. Think about it, Mr. President: The most effective way to catch fraud or other wrongdoing is to have "insider" information. Insiders help make investigations more targeted, more effective and more efficient. Congress has long recognized the value of insiders. That is why Congress established laws to encourage and protect whistle blowers. We know the value of inside information, and the role it plays in our constitutional system of checks and balances.

Then, in 1943, things changed. That is when private industry played a role in amending the False Claims Act. The amendments neutralized the law's effectiveness—instead of having a powerful tool against fraud perpetrated against the government we had a toothless piece of legislation. Would-be perpetrators of fraud now had every reason to be celebrating in the streets; and taxpayers had suffered a major blow.

During the early 1980s, our defense budget was rising rapidly to counter the Soviet threat. It rose so rapidly, in fact, that it was beyond our ability to manage the money properly. As one defense official said, it was as if we opened up the money bags at both ends, laid them on the doorstep of the Pentagon, and told the contractors to "come and get it."

Fraud against the government was suddenly out of control. I recall at one point that eight out of the top ten defense contractors were under federal investigation for fraud. Amazing!!!

Not coincidentally, that is the year Congress restored the teeth to the False Claims Act that were removed some 40 years earlier. It was in 1986 that I sponsored, along with HOWARD BERMAN of the House of Representatives, amendments to the False Claims Act intended to put the "bite" back in the statute. Since that time, the law has been a tremendous success. It has recovered more than $4 billion for the taxpayers, and continues to deter fraud in amounts estimated in the hundreds of billions.

Since passage of the 1986 amendments to the False Claims Act, private industry has been plotting to once again gut the law. Even before the amendments were passed, a major effort was underway by the defense and other industries to undermine passage. Even supporters of my amendments suddenly turned against my bill. There were curious instances, as I read in news accounts, of campaign money being given in close proximity to actions taken by Members to stop my bill. In the final analysis, the public's concern about fraud prevailed. My amendments passed and the False Claims Act has demonstrated itself to be one of the most powerful tools in the war against fraud.

I knew at the time, Mr. President, that it would only be a matter of time before some industry would mount yet another assault on the False Claims Act. It is for that reason I have come to be ever vigilant. There are many citizen groups around the country that have joined me in this vigil. They have the taxpayers' best interests in mind.

One such assault occurred in 1990, led by the defense contracting community. It was unsuccessful. One main reason for the failure of the defense contracting community was because that industry lacked credibility. The public grew skeptical of that industry's attempts to exempt itself—under the guise of competitiveness—from anti-fraud statutes.

This year, the defense industry succeeded in persuading the Department of Defense to propose an exemption for that industry from the False Claims Act. Fortunately, the Department of Justice, with the assistance of the Inspector General's Office at the Department of Defense preempted the plans of the defense industry.

A major and well orchestrated assault on the False Claims Act came in 1998 from the health care industry, and more particularly, from the hospitals. The hospital industry has a great deal of credibility with members of Congress. We all have hospitals in our states and districts, and we work closely with them in addressing their concerns.

So, while the defense industry sat back after their attempt failed, the hospital industry took the lead in seeking to carve out an exemption from the False Claims Act for the entire health care industry. The health care industry played heavily on its credibility with the public in pursuing its agenda to exempt itself from the False Claims Act. It was reported to me that all the while, the defense industry watched in awe as progress was made. We all knew that if the hospitals succeeded in carving out an exemption from the False Claims Act, the defense industry would be next in line. And soon other industries would be lining up, too.

The AHA's official and public assault on the False Claims Act began early this year. On January 30, 1998, the AHA met with staff members of the Committee on Aging, which I chair. It was determined at that meeting that the AHA's concerns were not with the language of the False Claims Act, but with the Justice Department's implementation of that law. The AHA alleged that the Justice Department was heavy-handed in its implementation of the law and was not separating innocent billing errors from actual fraud. All this from an industry where a recent survey found that the majority of hospitals pooled did not even have a compliance officer who is responsible (1) for developing and maintaining compliance programs, (2) investigating compliance issues, (3) overseeing Medicare and Medicaid reimbursement, (4) overseeing billing and coding, as well as (5) overseeing tax-related issues.

A few days later, my staff met with the Iowa Hospital Association, which expressed the same concerns as the national association. As a result of these meetings, I took a personal interest in the allegations of the AHA. Consequently, I met with Attorney General Reno on March 3, 1998, to discuss the AHA's concerns. Furthermore, I urged the Attorney General to take whatever action was necessary to insure that the implementation of the False Claims Act was being done properly, and if not, to take expeditious action to correct the situation. She agreed.

I also met with Congressman MCCOLLUM of Florida who had expressed an interest in introducing a bill to amend the False Claims Act. During that meeting, he agreed to a one month reprieve before introducing the bill so that I could, among other things, facilitate a dialogue between the Justice Department and the AHA in the hope of reaching a resolution. Unfortunately, I was dismayed when Mr. MCCOLLUM introduced H.R. 3523 on March 19, 1998—a little over a week after our meeting. This changed the debate dramatically. As opposed to concentrating on resolving the concerns of the AHA through dialogue and communication, I was forced to expend my energies protecting the False Claims Act and the Medicare Trust Funds. Sometime later, on April 29, 1998, two of my Senate colleagues, Senators COCHRAN and HOLLINGS introduced S. 2007, a parallel bill to H.R. 3523.

The bills introduced in the House and Senate were characterized as innocuous by, among others, Representative MCCOLLUM and the AHA. But, the changes were not simple, the changes were not minor and the changes were not clarifying. Quite the contrary, the changes were devastating to the future use of the False Claims Act against the health care industry. So stated the Justice Department, the American Association of Retired Persons and others. Even the Clinton Administration voiced its concern with the bills and was prepared to issue a veto order if it became necessary.

The House bill demonstrated itself to be popular among House members, Indeed, H.R. 3523 enjoys bipartisan support, boasting 201 co-sponsors. However, the McCollum bill stumbled.

On June 3, 1998 the Department of Justice issued written guidance on the appropriate use of the False Claims Act in health care matters. This guidance was issued in response to concerns relating to the Justice Department's enforcement strategies in national health care projects. In response, Congressman DELAHUNT, co-sponsor of H.R. 3523, determined that the written guidance made this new legislation inadvisable. Mr. DELAHUNT then courageously decided to pull back his support for H.R. 3523. Shortly thereafter Congressmen BLILEY, BARTON, DINGELL, STARK, and BERMAN stated in a Dear Colleague that: "The Department's guidelines are quite extensive and sufficient time must be given to allow for their appropriate implementation. A non-legislative solution is the appropriate manner to address their issues."

At this juncture it must be said that the Department of Justice, despite the attacks, despite the rhetoric and despite the misinformation, raised itself up from its bootstraps and, in good faith, issued guidance documenting its implementation of the False Claims Act. And even more amazing, Congressman McCOLLUM, it is reported, still plans to move forward with the bill that would gut the False Claims Act.

I suppose there are certain people associated with this effort who just don't get it. Who don't mind moving forward despite major questions of credibility. There are many more important issues that I and my staff could have been working on for the last seven months on behalf of the taxpayers. Instead we spent seven months of negative energy trying to put out brush fires as the False Claims Act came under assault.

How anyone could ever suggest someone would enjoy that kind of politics is beyond me. To say the bill is "innocuous" is beyond me. And that's what I mean, Mr. President, when I talk about major questions of credibility.

In the Senate, my colleagues, Senators COCHRAN and HOLLINGS, played a critical role in having the Department of Justice issue responsible guidance to the health care industry without gutting the False Claims Act. In addition, my Senate colleagues worked hand-in-hand with me to develop legislative and report language that assures the future integrity of the False Claims Act and the good faith implementation of the guidance by the Department of Justice. I thank you, Senator COCHRAN and Senator HOLLINGS.

All in all, the history of the assault of the False Claims Act sends us on a long and winding road. But it is important to recognize that future attacks on the False Claims Act are undoubtedly around the corner—this despite the fact that the law's success is in many ways unparalleled in the enforcement community.

Consequently, the False Claims Act is, and will remain, a target of those industries that accept billions and billions of taxpayer dollars annually and balk at strict accountability. I ask only that we, as legislators, remember the history of the assault made upon the False Claims Act by the AHA in the present. I ask further that we agree to be strong despite the strength of an industry, simply because it is the "right" thing to do. Taxpayers deserve no less—and as legislators, we should deliver no less.

DEATH OF ELLISON "BUBBY" McKISSICK, JR.

Mr. THURMOND. Mr. President, while the Senate was recessed last week, South Carolina lost one of its most prominent citizens, Ellison "Bubby" McKissick, Jr., who was best known as a leader in the textile industry both in the Palmetto State and throughout the United States.

Bubby McKissick passed away, after a long illness, at the rather young age of 69. Though his passing came too soon, he distinguished himself in many ways throughout his life. Not the least of these achievements was serving as the Chairman of Alice Manufacturing, the McKissick family mill and one of the largest textile companies in the Southeast. Additionally, he was a past president of the American Textile Manufacturers Institute, and a forceful advocate for measures that would make the textile industry more competitive, including promoting education.

While his career ultimately took him to the boardroom, Bubby McKissick learned the textile business from the ground floor of one of his family's facilities, working in some of the most demanding jobs in any mill operation. Additionally, Bubby McKissick served in the United States Marine Corps during the Korean War, earning the rank of Sergeant, and having the unenviable distinction of being wounded in combat. This was a man who truly did not have anything handed to him on a silver platter, and who knew well the valuable lessons that one can only learn from experience and hard work.

Bubby McKissick's passing is all the more saddening because he was a loyal supporter, and more importantly, a valued friend. I had known Bubby almost literally from the day he was born as his family was well known to me. I was pleased to watch the successes and achievements of this man, both professional and personal, and I take consolation in the fact that he lived a full and rewarding life.

Mr. President, Bubby McKissick's passing leaves a tremendous void not only in our state's corporate community, but in the lives of the many men and women who called him friend. Bubby McKissick will not soon be forgotten, and I am certain that all those who knew him would join me in sending condolences to his family.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Tuesday, July 7, 1998, the federal debt stood at $5,530,116,137,980.45 (Five trillion, five hundred thirty billion, one hundred sixteen million, one hundred thirty-seven thousand, nine hundred eighty dollars and forty-five cents).

One year ago, July 7, 1997, the federal debt stood at $5,355,915,000,000 (Five trillion, three hundred fifty-five billion, nine hundred fifteen million).

Five years ago, July 7, 1993, the federal debt stood at $4,337,775,000,000 (Four trillion, three hundred thirty-seven billion, seven hundred seventy-five million).

Ten years ago, July 7, 1988, the federal debt stood at $2,555,671,000,000 (Two trillion, five hundred fifty-five billion, six hundred seventy-one million).

Fifteen years ago, July 7, 1983, the federal debt stood at $1,328,914,000,000 (One trillion, three hundred twenty-eight billion, nine hundred fourteen million) which reflects a debt increase of more than $4 trillion—$4,201,202,137,980.45 (Four trillion, two hundred one billion, two hundred two million, one hundred thirty-seven thousand, nine hundred eighty dollars and forty-five cents) during the past 15 years.

NEED FOR ACTION ON KOSOVO

Mr. LEVIN. Mr. President, the use of indiscriminate force by units of the Serbian special police and the Yugoslav armed forces in Kosovo must stop. If unchecked, the violence there could well spillover into Albania and Macedonia and could at some point involve other nations in the region, including our NATO allies.

Acting at the direction of Yugoslav President Slobodan Milosevic, the Serbian police and military units have brutally targeted civilians and used scorched earth tactics with a plan to drive ethnic Albanians out of their towns and villages. According to the United Nations High Commissioner for Refugees Sadako Ogata, around 65,000 people have been forced to flee their homes in Kosovo since March and prior to the latest Serbian special police and troop attack on the town of Belacevac.

Of that number, around 12,000 have fled to neighboring Albania across treacherous mountains—some children had to walk barefoot for days. About 8,000 have fled to Montenegro and small numbers have sought refuge in Macedonia, where the United States maintains about 350 Army personnel as part of the United Nations Preventive Deployment Force.

Before I comment further on what I believe should be done to address the crisis in Kosovo, I would like to briefly describe how this crisis came about.

Kosovo, with a population of 2 million of which more than 90 percent are ethnic Albanians, enjoyed autonomous province status under the 1974 Yugoslav Constitution. However, changes to the Serbian constitution in 1989 through 1991 revoked that autonomous province status and abolished the Parliament and Government of Kosovo. Since that time, Serbian authorities have carried out a policy of repression: firing ethnic Albanians from all public jobs and using arrests, brutal and often fatal beatings and other forms of intimidation in violation of commonly accepted human rights standards. In the face of this repressive policy, ethnic Albanians pursued a policy of nonviolent resistance. They boycotted Serbian institutions and built their own parallel set of political, economic and social institutions. In 1992, they elected Ibrahim Rugova as president and a 130-member parliament.

When the policy of non-violent resistance failed to make any progress, some ethnic Albanians turned to violence and over the past two years, the Kosovo Liberation Army has conducted attacks on Serbian police and other officials. On the night of February 28 of this year, Serbian special police reportedly killed more than 20 ethnic Albanians in a sweep through the Drenica region of Kosovo. Since late February, it is estimated that more than 200 ethnic Albanians have been killed in Kosovo at the hands of Serbian special police and military forces. As Serbian police forces have increased their violence against civilians, more and more ethnic Albanians have joined the Kosovo Liberation Army.

Mr. President, the actions of Slobodan Milosevic and his henchmen have been condemned by the entire international community. Russia, at the conclusion of the NATO-Russia Permanent Joint Council meeting on June 12, 1998, joined the NATO defense ministers in condemning "Belgrade's massive and disproportionate use of force as well as violent attacks by Kosovar Albanian extremists."

The United Nations Security Council, by resolution 1160 adopted on March 31, 1998, condemned the excessive use of force by Serbian police forces against civilians and peaceful demonstrators in Kosovo and acting under Chapter VII of the Charter imposed a comprehensive arms embargo on Yugoslavia and urged the Prosecutor for the International Criminal Tribunal for Former Yugoslavia to begin gathering information related to the violence in Kosovo.

The Security Council's action is important because, by taking under Chapter VII of the United Nations Charter, the Security Council has determined that the violence in Kosovo is a threat to international peace and security. This is important because, there is a possibility that Russia may use its veto to prevent the Security Council from authorizing the use of all necessary means to stop the violence in Kosovo. In this regard, I note with approval that both Secretary of State Albright and Secretary of Defense Cohen took the position that the Security Council's authorization was desirable but not required for NATO action to intervene in Kosovo.

Mr. President, I applaud NATO's decision to conduct an air exercise in Albania and Macedonia to demonstrate its capability to project power rapidly in the region. I regret that Russian President Yeltsin was unable to gain Milosevic's commitment to withdraw Serbian special units from Kosovo, when they met in Moscow on June 16. Milosevic has already defaulted on his commitment to President Yeltsin to carry out no repressive actions against civilians.

Mr. President, we all hope that this tragic situation will be resolved peacefully, but that does not appear to be likely. Bosnia has taught us that quick and decisive action can prevent a crisis from getting out of hand. We must not allow Milosevic to draw this crisis out, while the ethnic Albanian people of Kosovo suffer. The international community must let Milosevic know that he must halt the systematic campaign of repression and expulsions in Kosovo. He must withdraw his special police from Kosovo and return his military forces to their barracks. And he must engage in bona fide negotiations to restore a significant degree of autonomy to Kosovo. Anything else will be insufficient and justify strong action by the international community.

MEASURES PLACED ON THE CALENDAR

The following bill was read the second time and placed on the calendar:

S. 2271. An act to simplify and expedite access to the Federal courts for injured parties whose rights and privileges, secured by the United States Constitution, have been deprived by final action of Federal agencies, or other government official or entities acting under color of State law, and for other purposes.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on July 8, 1998, he had presented to the President of the United States, the following enrolled bill:

S. 731. An act to extend the legislative authority for construction of the National Peace Garden memorial, and for other purposes.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. THOMPSON, from the Committee on Governmental Affairs, without amendment:

S. 2071: A bill to extend a quarterly financial report program administered by the Secretary of Commerce (Rept. No. 105–241).

By Mr. HATCH, from the Committee on the Judiciary:

Report to accompany the bill (H.R. 1534) to simplify and expedite access to the Federal courts for injured parties whose rights and privileges, secured by the United States Constitution, have been deprived by final actions of Federal agencies, or other government officials or entities acting under color of State law; to prevent Federal courts from abstaining from exercising Federal jurisdiction in actions where no State law claim is alleged; to permit certification of unsettled State law questions that are essential to resolving Federal claims arising under the Constitution; and to clarify when government action is sufficiently final to ripen certain Federal claims arising under the Constitution (Rept. No. 105–242).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. BURNS:

S. 2272. A bill to amend the boundaries of Grant-Kohrs Ranch National Historic Site in the State of Montana; to the Committee on Energy and Natural Resources.

By Mr. SPECTER:

S. 2273. A bill to increase, effective as of December 1, 1998, the rates of disability compensation for veterans with service-connected disabilities, and the rates of dependency and indemnity compensation for survivors of certain service-connected disabled veterans, and for other purposes; to the Committee on Veterans Affairs.

By Mr. BINGAMAN:

S. 2274. A bill for relief of Richard M. Barlow of Santa Fe, New Mexico; to the Committee on the Judiciary.

By Mr. LUGAR (for himself, Mr. SANTORUM, Ms. COLLINS, Mr. HARKIN, Mr. LEAHY, and Ms. SNOWE):

S. 2275. A bill to make technical corrections to the Agricultural Research Extension, and Education Reform Act of 1998; considered and passed.

By Ms. LANDRIEU (for herself and Mr. BREAUX):

S. 2276. A bill to amend the National Trails System Act to designate El Camino Real de los Tejas as a National Historic Trail; to the Committee on Energy and Natural Resources.

By Mr. GRASSLEY:

S. 2277. A bill to protect employees of air carriers who serve as whistleblowers under applicable Federal law, or who refuse to violate an applicable law, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. GRAHAM (for himself and Mr. COVERDELL):

S. 2278. A bill to exclude certain veterans' educational benefits from being considered a resource in the computation of financial aid; to the Committee on Veterans Affairs.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BINGAMAN:

S. Res. 256. A resolution to refer S. 2274 entitled "A bill for the relief of Richard M. Barlow of Santa Fe, New Mexico" to the chief judge of the United States Court of Federal Claims for a report thereon; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BURNS:

S. 2272. A bill to amend the boundaries of Grant-Kohrs Ranch National Historic Site in the State of Montana; to the Committee on Energy and Natural Resources.

GRANT-KOHRS RANCH NATIONAL HISTORIC SITE

Mr. BURNS. Mr. President, I am pleased to rise today and introduce legislation which will amend the boundaries of the Grant-Kohrs Ranch National Historic Site in the State of Montana.

Congress authorized the Grant-Kohrs Ranch National Historic Site on August 25, 1972 to preserve the Grant-Kohrs Ranch that operated from 1860–

1972. Preserving the ranch also preserved a historic reminder of our Nation's frontier cattle era. The ranch's intact 120-year archive, 26,000 artifacts, and 88 historic structures capture the heritage of the American cowboy and cattlemen.

Today the area is the hub of a thriving tourism industry and also provides unique educational opportunities. Tourists are constantly in search of a feel for the true American West. The Grant-Kohrs Ranch offers a vivid recollection of life on the frontier while providing a great experience for visitors and jobs for local residents. The ranch has been designated a National Historic Landmark and is a true asset to Montana.

The legislation that I am proposing will incorporate an additional 120 acres of land into the authorized boundary of the Grant-Kohrs Ranch National Historic Site. The 120 acres that will be included in the new boundary of the ranch are already owned by the National Park Service and their inclusion in the ranch's boundary is recommended as a means of conserving the property of the original ranch from future development.

I ask unanimous consent that the administration's letter of transmittal, the bill, and a section-by-section analysis of the legislation be printed in the RECORD for the information of my colleagues.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

S. 2272

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Grant-Kohrs Ranch National Historic Site Boundary Adjustment Act of 1997."

SEC. 2 ADDITIONS TO GRANT-KOHRS RANCH NATIONAL HISTORIC SITE.

The Act entitled "An Act to authorize the establishment of the Grant-Kohrs Ranch National Historic Site in the State of Montana, and for other purposes", approved August 25, 1972 (86 Stat. 632) is amended by striking the last sentence in the first section and inserting:

"The boundary of the National Historic Site shall be as generally described on a map entitled, "Boundary Map, Grant-Kohrs Ranch National Historic Site", numbered 80030–B, and dated January, 1998, which shall be on file and available for public inspection in the local and Washington, District of Columbia, offices of the National Park Service, Department of the Interior.".

SECTION BY SECTION ANALYSIS—GRANT-KOHRS RANCH NATIONAL HISTORIC SITE BOUNDARY ADJUSTMENT ACT OF 1997

Section 1: Short title.

Section 2: Amends the Historic Site's enabling Act by incorporating 120 acres of land already owned by the National Park Service into the boundaries of Grant-Kohrs Ranch National Historic Site.

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, DC, March 5, 1998.

Hon. ALBERT GORE, JR.,
President of the Senate, Washington, DC.

DEAR MR. PRESIDENT: Enclosed is a draft bill "to amend the boundaries of Grant-Kohrs Ranch National Historic Site in the State of Montana."

We recommend the bill be introduced, referred to the appropriate committee for consideration, and enacted.

The enclosed draft bill would incorporate 120 acres of land, purchased by the Federal government as an uneconomic remnant in 1988 and administered by the National Park Service, into the authorized boundary of Grant-Kohrs Ranch National Historic Site. Adjusting the boundary to incorporate this tract is recommended by the site's 1993 General Management Plan and 1995 Management Assessment, both of which had extensive public involvement and review.

This parcel is a critical component of the cultural landscape and a defining character of Grant-Kohrs Ranch implicit in its National Register designations as a National Historic Landmark and Agricultural Historic District. The property also augments the Ranch in conserving open space amid the continued growth of Deer Lodge and Powell County, Montana.

The Office of Management and Budget has advised that there is no objection to the enactment of the enclosed draft legislation from the standpoint of the Administration's program.

Sincerely,

——— ———

Acting Assistant Secretary for
Fish and Wildlife and Parks.

Enclosures.

By Mr. SPECTER:

S. 2273. A bill to increase, effective as of December 1, 1998, the rates of disability compensation for veterans with service-connected disabilities, and the rates of dependency and indemnity compensation for survivors of certain service-connected disabled veterans, and for other purposes; to the Committee on Veterans Affairs.

VETERANS' COMPENSATION COST-OF-LIVING ADJUSTMENT ACT OF 1998

• Mr. SPECTER. Mr. President, as Chairman of the Senate Committee on Veterans' Affairs, I introduce legislation today to grant a Cost-of-Living-Adjustment (COLA) increase, to take effect at the beginning of next year, to recipients of certain Department of Veterans Affairs (VA) benefits.

Mr. President, this legislation is simple and straightforward. It would grant a COLA increase to recipients of various VA benefits—most notably, compensation benefits received by veterans with service-connected disabilities, and the Dependency and Indemnity Compensation or "DIC" benefits received by the survivors of veterans who died in service or died after service as a result of service-connected injuries or illnesses. The COLA to be awarded under this legislation would be, as in past years, the same COLA awarded to recipients of Social Security benefits.

It is a matter of great importance that VA compensation checks keep pace with inflation. I know this from personal experience; in Depression days, all that kept the wolf from the door of the Specter household was a small veterans disability check. The Congress has not failed to grant cost-of-living adjustments in past years, and I know it will not fail now. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2273

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Veterans' Compensation Cost-of-Living Adjustment Act of 1998".

SEC. 2. INCREASE IN COMPENSATION RATES AND LIMITATIONS.

(a) IN GENERAL.—(1) The Secretary of Veterans Affairs shall, as provided in paragraph (2), increase, effective December 1, 1998, the rates of and limitations on Department of Veterans Affairs disability compensation and dependency and indemnity compensation.

(2) The Secretary shall increase each of the rates and limitations in sections 1114, 1115(1), 1162, 1311, 1313, and 1314 of title 38, United States Code, that were increased by the amendments made by the Veterans' Compensation Rate Amendments of 1997 (Public Law 105–98; 111 Stat. 2155). This increase shall be made in such rates and limitations as in effect on November 30, 1998, and shall be by the same percentage that benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 et seq.) are increased effective December 1, 1998, as a result of a determination under section 215(i) of such Act (42 U.S.C. 415(i)).

(3) In the computation of increased dollar amounts pursuant to paragraph (2), any amount which as so computed is not an even multiple of $1 shall be rounded to the next lower whole dollar amount.

(b) SPECIAL RULE.—The Secretary may adjust administratively, consistent with the increases made under subsection (a), the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85–857 (72 Stat. 1263) who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

(c) PUBLICATION REQUIREMENT.—At the same time as the matters specified in section 215(i)(2)(D) of the Social Security Act (42 U.S.C. 415(i)(2)(D)) are required to be published by reason of a determination made under section 215(i) of such Act during fiscal year 1998, the Secretary shall publish in the Federal Register the rates and limitations referred to in subsection (a)(2) as increased under this section.•

By Mr. BINGAMAN:

S. 2274. A bill for relief of Richard M. Barlow of Santa Fe, New Mexico; to the Committee on the Judiciary.

PRIVATE RELIEF BILL FOR RICHARD BARLOW

• Mr. BINGAMAN. Mr. President, I introduce a private relief bill on behalf of a constituent from Sante Fe, New Mexico, Mr. Richard Barlow. It appears to me that his case represents a misuse of authority within the government in response to a public servant's concern that the Congress receive accurate information about important matters of national security. In recent years, the Congress has adopted measures to protect "whistle blowers" who step forward to identify grievous errors or abuses that occur within the government. Mr. Barlow's case involves government reprisal against a man who never actually blew the whistle, but indicated to his superiors that he might do so if they failed to correct misinformation that they had supplied to the Congress. Let me provide you with a brief outline of the case that I believe justifies filing this bill on his behalf.

In the summer of 1989 officials from the Department of Defense provided information to the Congress on the sale of F–16 aircraft to Pakistan. Mr. Barlow concluded that the information provided was incorrect and misleading and indicated to his supervisor that he intended to correct that information. What followed is a history of reprisal leading to the loss of career, family, and income. The Department of Defense (DoD) suspended Mr. Barlow's high level security clearances and transferred him to other duties, while conducting its own investigation into the matter. When that investigation led to DoD's decision to terminate his employment, Mr. Barlow resigned. Because of that experience, Mr. Barlow has had significant personal problems including the dissolution of his marriage and long periods of under- and unemployment.

As a constituent, Mr. Barlow asked for our help. In 1993, I asked the Inspector General of the DoD to review this case to see if it had been handled fairly. Because of the nature of the issue, Inspectors General (IG) from DoD, the Central Intelligence Agency, and the State Department reviewed the matter. The former two concluded that DoD had handled the matter fairly; the IG from the State Department disagreed.

Mr. Barlow again appealed for my assistance to enlist the support of the Senate Armed Services Committee in investigating the case. Senators THURMOND and NUNN requested the General Accounting Office (GAO) to review the findings of the IG offices. Last summer, the GAO concluded that there was insufficient evidence to support the findings of the DoD and CIA Inspectors General that Mr. Barlow's case had been handled fairly.

Given those findings, I requested the Secretary of Defense to review the case to determine if Mr. Barlow should be compensated for the losses he incurred. The Secretary replied that, after a careful review, no compensation was warranted.

Mr. President, I continue to believe that from the evidence I have reviewed, Mr. Barlow has been unfairly treated and is worthy of compensation for the price he has paid.

Mr. President, I am introducing this bill today not only because I believe a constituent has been wronged, but because this case involves an issue that's virtually important to the effective functioning of the government. In my view, private relief bills are not undertaken lightly. They are appropriate in cases of individuals who have been wronged, who have exhausted all possible remedies for resolution, and whose case represents matters of important legal or policy matters. In Mr. Barlow's case, in order for the Congress to do its job, it must rely on timely and accurate information from all the agencies of the government, particularly when it involves matters of national security. In 1989 Mr. Barlow was very concerned about efforts in Pakistan to initiate a nuclear weapons program and that the Congress needed to know the full implications of selling nuclear capable F–16 aircraft to Pakistan. Recent history indicates how important those concerns were.

Mr. President, although I believe compensation may be due to Mr. Barlow, I believe that such judgments require careful review by those experienced in such matters such as the Court of Claims. The Court will report its findings back to the Senate to guide our deliberations before determining the outcome of this bill. I hope that the Court will perform its review quickly and report their findings to the Senate in order for us to resolve this matter before the end of this session of the Congress.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2274

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. COMPENSATION OF CERTAIN LOSSES.

(a) IN GENERAL.—The Secretary of the Treasury shall pay, out of any money in the Treasury not otherwise appropriated, to Mr. Richard M. Barlow of Santa Fe, New Mexico, the sum of $1,100,000 for compensation for losses incurred by Mr. Richard M. Barlow relating to and a direct consequence of—

(1) personnel actions taken by the Department of Defense affecting Mr. Barlow's employment at the Department (including Mr. Barlow's top secret security clearance) during the period of August 4, 1989, through February 27, 1992; and

(2) Mr. Barlow's separation from service with the Department of Defense on February 27, 1992.

(b) NO INFERENCE OF LIABILITY.—Nothing in this section shall be construed as an inference of liability on the part of the United States.

(c) LIMITATION ON AGENTS AND ATTORNEYS FEES.—No more than 10 percent of the payment authorized by this Act may be paid to or received by any agent or attorney for services rendered in connection with obtaining such payment, any contact to the contrary notwithstanding. Any person who violates this subsection shall be guilty of a misdemeanor and shall be subject to a fine in the amount provided in title 18, United States Code.

(d) NON-TAXABILITY OF PAYMENT.—The payment authorized by this Act is in partial reimbursement for losses incurred by Mr. Barlow as a result of the personnel actions taken by the Department of Defense and is not subject to Federal, State, or local income taxes.●

By Ms. LANDRIEU (for herself and Mr. BREAUX):

S. 2276. A bill to amend the National Trails System Act to designate El Camino Real de los Tejas as a National Historic Trail; to the Committee on Energy and Natural Resources.

EL CAMINO REAL DE LOS TEJAS NATIONAL HISTORIC TRAIL ACT OF 1998

● Ms. LANDRIEU. Mr. President, today I introduce legislation on behalf of myself and Senator BREAUX that is very important to the States of Texas and Louisiana, as well as to our neighboring country of Mexico. This bill will designate the El Camino Real de los Tejas Trail in Texas and Louisiana as a National Historic Trail. This legislation is the culmination of efforts by interested parties in Texas, Louisiana and Mexico, including legislators and members of academia, to study the feasibility and suitability of designating this exceptional complex of roads as part of the National Trails System.

El Camino Real, comprised of economically important roads in Mexico and the United States, was used by Native Americans and the colonial powers of Spain, France and England during the seventeenth, eighteenth and nineteenth centuries. These viceregal roads were used for exploration, conquest, mission supply, settlement, cultural exchange and military campaigns, connecting a series of Spanish missions and posts between Monclova, Mexico and Los Adaes, the first capital of the province of Texas, now located in the Red River Valley of Louisiana. In the late seventeenth century, French interests expanded westward from the Mississippi River Valley into Spanish Texas. The official Spanish response was retaliatory. As a result, routes were extended from Mexico north and east into Louisiana. The historic remnants of these efforts can be found today at the Spanish outpost of Los Adaes in northwest Louisiana and the French frontier post of Fort St. Jean the Baptiste near Natchitoches, Louisiana.

El Camino Real de los Tejas, named for the Indian tribes living in what is now east Texas and northwest Louisiana, begins in Maverick County, Texas and extends into Sabine and Natchitoches Parishes in Louisiana. Historically, the trail was composed of several routes, including Camino Pita, Upper Presidio Road, Upper Road, Lower Road, Lower Presidio Road, Camino de en Medio, and the Laredo

Road. These roads were established beginning in 1689. The Old San Antonio Road, sometimes called the Camino de Arriba, the nineteenth century route between San Antonio and Natchitoches, is a separate road system that in part followed El Camino Real and overlaps it in many segments. It was used by famous politicians and expansionists, such as Sam Houston and Davy Crockett. Altogether, the roads in the United States make up approximately 2,500 miles of changing routes in Texas and eighty miles in Louisiana. As an important observation, there may well be evidence procured in the future that will show that El Camino Real de los Tejas extended all the way to the Natchez Trace.

In July, the National Park Service will complete its study of the El Camino Real de los Tejas with a positive determination of suitability and feasibility for establishment of a national historic trail. This comes after enthusiastic support from the Natchitoches community, including Northwestern State University and the Louisiana Department of Culture, Recreation and Tourism. Strong support and contribution to the research and potential of trail designation came from the Texas Department of Transportation, the Texas Historical Commission, consultants, and many others. Trail designation would make possible coordination of activities along the length of the trail. It also would mean increased opportunities for coordination with the Mexican government on respective resource preservation and research, as well as enhanced opportunities for cooperative educational programs and tourism related to El Camino Real de los Tejas. The study anticipates little, if any, federal acquisition of private land, and only on a willing seller basis. Instead, the management of the trail would depend on cooperative partnerships between the National Park Service and other administering agencies, interested property owners or land managers, and other entities.

Mr. President, this bill represents truly successful efforts on behalf of the National Park Service and State and local governments and associations to commemorate the settlement of Texas and Louisiana. The El Camino Real de los Tejas will make a fine addition to the National Trails System, and I urge its speedy consideration and approval by this body. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2276

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "El Camino Real de los Tejas National Historic Trail Act of 1998".

SEC. 2. FINDINGS.

Congress finds that—

(1) El Camino Real de los Tejas (the Royal Road to the Tejas), served as the primary route between the Spanish viceregal capital of Mexico City and the Spanish provincial capital of Tejas at Los Adaes (1721-1773) and San Antonio (1773-1821).

(2) The seventeenth, eighteenth, and early nineteenth century rivalries among the European colonial powers of Spain, France, and England and after their independence, Mexico and the United States, for dominion over lands fronting the Gulf of Mexico, were played out along the evolving travel routes in this immense area.

(3) The future of several American Indian nations, whose prehistoric trails were later used by the Spaniards for exploration and colonization, was tied to these larger forces and events and the nations were fully involved in and affected by the complex cultural interactions that ensued.

(4) The Old San Antonio Road, was a series of routes established in the early 19th century sharing the same corridor and some routes of El Camino Real, and carried American immigrants from the east, contributing to the formation of the Republic of Texas, and its annexation to the United States.

(5) The exploration, conquest, colonization, settlement, migration, military occupation, religious conversion, and cultural exchange that occurred in a large area of the borderland was facilitated by El Camino Real de los Tejas as it carried Spanish and Mexican influences northeastward, and by its successor, the Old San Antonio Road, which carried American influence westward, during a historic period which extended from 1689 to 1850.

(6) The portions of El Camino Real de los Tejas in what is now the United States extended from the Rio Grande near Eagle Pass and Loredo, Texas and involved routes that changed through time, that total almost 2,600 miles in combined length, generally coursing northeasterly through San Antonio, Bastrop, Nacogdoches, and San Augustine in Texas to Natchitoches, Louisiana, a general corridor distance of 550 miles.

SEC. 3. AUTHORIZATION AND ADMINISTRATION.

Section 5(a) of the National Trails System Act (16 U.S.C. 1244(a) is amended—

(1) by designating the paragraphs relating to the California National Historic Trail, the Pony Express National Historic Trail, and the Selma to Montgomery National Historic Trail as paragraphs (18), (19), and (20), respectively; and

(2) by adding at the end the following:

"(21) EL CAMINO REAL DE LOS TEJAS.—

"(A) IN GENERAL.—El Camino Real de los Tejas (The Royal Road to the Tejas) National Historic Trail, a combination of routes totaling 2,580 miles in length from the Rio Grande near Eagle Pass and Laredo, Texas to Natchitoches, Louisiana, and including the Old San Antonio Road, as generally depicted on the maps entitled 'El Camino Real de los Tejas', contained in the report prepared pursuant to subjection (b) entitled 'National Historic Trail Feasibility Study and Environmental Assessment: El Camino Real de los Tejas, Texas-Louisiana', dated 1998. A map generally depicting the trail shall be on file and available for public inspection in the Office of the National Park Service, Department of the Interior. The trail shall be administered by the Secretary of the Interior. No land or interest in land outside the exterior boundaries of any federally administered area may be acquired by the United States for the trail except with the consent of the owner of the land or interest in land.

"(B) COORDINATION OF ACTIVITIES.—The Secretary of the Interior may coordinate with United States and Mexican public and non-governmental organizations, academic institutions, and, in consultation with the Secretary of State, the government of Mexico and its political subdivisions, for the purpose of exchanging trail information and research, fostering trail preservation and educational programs, providing technical assistance, and working to establish an international historic trail with complementary preservation and education programs in each nation."●

By Mr. GRAHAM (for himself and Mr. COVERDELL):

S. 2278. A bill to exclude veterans' educational benefits from being considered a resource in the computation of financial aid; to the Committee on Veterans' Affairs.

VETERANS EDUCATIONAL BENEFITS PROTECTION ACT OF 1998

Mr. GRAHAM. Mr. President, I rise today to speak about an issue which is of vital importance to our nation's brave veterans and their families.

The Montgomery GI bill, which was made permanent on June 1, 1987, guarantees basic educational assistance for most persons who are, or have been, members of the Armed Forces or the Selected Reserve for significant periods of time.

The Montgomery GI bill was created to help veterans in their readjustment to civilian life, to aid in recruitment and retention of qualified personnel in the Armed Forces, and to develop a more highly educated and productive work force.

Currently, Montgomery GI benefits are considered "other financial aid" in the determination of need.

In other words, when a veteran applies for financial aid, colleges and universities are required to consider veterans' educational benefits as a resource when computing the financial award.

The ultimate result is that the total financial aid award is reduced.

This penalty does not exist for other Americans who serve our country.

The National Community Service Act of 1990 decrees that a national service educational award or post-service benefit shall not be treated as financial assistance.

Mr. President, this inequity is an affront to the many veterans who have sacrificed to defend our nation from harm.

Today, I am introducing the Veterans Educational Benefits Protection Act of 1998 to prevent GI bill benefits from being considered a resource in the computation of financial aid.

Let me read to you from a letter that I received from a Florida veteran. He writes:

> I do not think that VA education benefits should be calculated into the financial aid equation for two reasons.
>
> First, I paid for the Montgomery GI Bill, albeit only $1200, but more so with a sacrifice of time serving my country.

> I previously paid for these benefits and am currently being penalized for that through financial aid . . . I did not qualify for any type of federal educational grant this year in part because my veterans benefits were counted as financial aid in my package.

It's ironic, Mr. President.

We created the Montgomery GI bill to reward veterans for their dedication to the defense of our liberties.

They earn its benefits through years of service and help to finance them through paycheck deduction.

But current law unfairly penalizes the 94 percent of veterans who sign up for the program and the 40 percent who actually use the benefits to which they are entitled.

Our bill will revoke this self-defeating approach and restore common sense to this important veterans educational program.

If it is enacted, Montgomery GI bill benefits will no longer be treated as other financial assistance for purposes of the need analysis formula.

This is a critical change.

It is well-known and well-documented that education has a dramatic impact on earning potential and employment success.

Employees with a college education are more likely to earn higher salaries—and less likely to become unemployed—than those workers who did not advance beyond high school.

Even worse, failure to enact this legislation will harm our efforts to attract our best and brightest young people to the armed services.

The Department of Defense has identified the Montgomery GI bill as its best available recruitment tool.

Mr. President, just over fifty years ago, in 1945, tens of thousands of American servicemen returned home from defeating totalitarian aggression around the globe.

Because Congress had enacted the original GI bill a year earlier, they arrived with the assurance that the federal government would reward their brave defense of freedom and heroic sacrifice with a chance for a better life.

When Congress passed that first GI bill, it made a covenant with the men and women who put their lives on the line to protect our cherished freedom and democracy.

By making it more difficult for veterans to finance higher education once they leave the armed services, current law has undermined that compact.

I am confident that the Veterans Education Benefits Protection Act will help us reaffirm our commitment to these courageous Americans, and give veterans access to the higher education that they so richly deserve.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2278

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Veterans' Educational Benefits Protection Act of 1998".

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Having served their country with honor, veterans of the Armed Forces deserve the Nation's gratitude and support.

(2) Recognizing that education is a key element of economic success and reintegration into civilian life, Congress has for more than 50 years provided aid to veterans seeking postsecondary education.

(3) The escalating costs of postsecondary education make veterans more dependent than ever on veterans' educational benefits.

(4) Recipients of veterans' educational benefits should not be disadvantaged with respect to any other recipients of Federal educational aid programs.

SEC. 3. TREATMENT OF VETERANS' EDUCATIONAL BENEFITS.

Section 480(j)(3) (20 U.S.C. 1087vv(j)(3)) is amended by inserting after "paragraph (1)," the following: "a post-service benefit under chapter 30 of title 38, United States Code, or".

ADDITIONAL COSPONSORS

S. 1089

At the request of Mr. SPECTER, the name of the Senator from Minnesota (Mr. WELLSTONE) was added as a cosponsor of S. 1089, a bill to terminate the effectiveness of certain amendments to the foreign repair station rules of the Federal Aviation Administration, and for other purposes.

S. 1147

At the request of Mr. WELLSTONE, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 1147, a bill to amend the Public Health Service Act, Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to provide for nondiscriminatory coverage for substance abuse treatment services under private group and individual health coverage.

S. 1252

At the request of Mr. D'AMATO, the name of the Senator from Ohio (Mr. GLENN) was added as a cosponsor of S. 1252, a bill to amend the Internal Revenue Code of 1986 to increase the amount of low-income housing credits which may be allocated in each State, and to index such amount for inflation.

S. 1578

At the request of Mr. MCCAIN, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 1578, a bill to make available on the Internet, for purposes of access and retrieval by the public, certain information available through the Congressional Research Service web site.

S. 1919

At the request of Mr. MURKOWSKI, the name of the Senator from Texas (Mr. GRAMM) was added as a cosponsor of S. 1919, a bill to provide for the energy security of the Nation through encouraging the production of domestic oil and gas resources from stripper wells on federal lands, and for other purposes.

S. 1920

At the request of Mr. MURKOWSKI, the name of the Senator from Texas (Mr. GRAMM) was added as a cosponsor of S. 1920, a bill to improve the administration of oil and gas leases on Federal lands, and for other purposes.

S. 2007

At the request of Mr. COCHRAN, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 2007, a bill to amend the false claims provisions of chapter 37 of title 31, United States Code.

S. 2078

At the request of Mr. GRASSLEY, the name of the Senator from Georgia (Mr. COVERDELL) was added as a cosponsor of S. 2078, a bill to amend the Internal Revenue Code of 1986 to provide for Farm and Ranch Risk Management Accounts, and for other purposes.

S. 2091

At the request of Mr. GRAMS, the names of the Senator from Hawaii (Mr. INOUYE) and the Senator from North Carolina (Mr. FAIRCLOTH) were added as cosponsors of S. 2091, a bill to amend title XVIII of the Social Security Act to ensure medicare reimbursement for certain ambulance services, and to improve the efficiency of the emergency medical system, and for other purposes.

S. 2154

At the request of Mrs. BOXER, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 2154, a bill to promote research to identify and evaluate the health effects of silicone breast implants, and to ensure that women and their doctors receive accurate information about such implants.

S. 2162

At the request of Mr. MACK, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 2162, a bill to amend the Internal Revenue Code of 1986 to more accurately codify the depreciable life of printed wiring board and printed wiring assembly equipment.

At the request of Mr. MACK, the name of the Senator from Ohio (Mr. GLENN) was withdrawn as a cosponsor of S. 2162, supra.

S. 2170

At the request of Mr. ALLARD, the name of the Senator from Texas (Mrs. HUTCHISON) was added as a cosponsor of S. 2170, a bill to amend the Internal Revenue Code of 1986 to eliminate the temporary increase in unemployment tax.

S. 2175

At the request of Mr. CRAIG, the name of the Senator from Wyoming

(Mr. ENZI) was added as a cosponsor of S. 2175, a bill to safeguard the privacy of certain identification records and name checks, and for other purposes.

S. 2201

At the request of Mr. TORRICELLI, the name of the Senator from North Carolina (Mr. HELMS) was added as a cosponsor of S. 2201, a bill to delay the effective date of the final rule promulgated by the Secretary of Health and Human Services regarding the Organ Procurement and Transplantation Network.

S. 2213

At the request of Mr. FRIST, the names of the Senator from Michigan (Mr. LEVIN), the Senator from Kentucky (Mr. MCCONNELL), and the Senator from Nebraska (Mr. HAGEL) were added as cosponsors of S. 2213, a bill to allow all States to participate in activities under the Education Flexibility Partnership Demonstration Act.

S. 2236

At the request of Mr. GORTON, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 2236, a bill to establish legal standards and procedures for product liability litigation, and for other purposes.

SENATE CONCURRENT RESOLUTION 95

At the request of Mr. DODD, the name of the Senator from Arizona (Mr. MCCAIN) was added as a cosponsor of Senate Concurrent Resolution 95, a concurrent resolution expressing the sense of Congress with respect to promoting coverage of individuals under long-term care insurance.

SENATE RESOLUTION 193

At the request of Mr. REID, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of Senate Resolution 193, a resolution designating December 13, 1998, as "National Children's Memorial Day."

SENATE RESOLUTION 237

At the request of Mr. FEINGOLD, the names of the Senator from North Dakota (Mr. DORGAN) and the Senator from Connecticut (Mr. LIEBERMAN) were added as cosponsors of Senate Resolution 237, a resolution expressing the sense of the Senate regarding the situation in Indonesia and East Timor.

SENATE RESOLUTION 256—RELATIVE TO PRIVATE RELIEF LEGISLATION AND THE UNITED STATES COURT OF FEDERAL CLAIMS

Mr. BINGAMAN submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 256

Resolved, That (a) S. 2274 entitled "A bill for the relief of Richard M. Barlow of Santa Fe, New Mexico" now pending in the Senate, together with all the accompanying papers, is referred to the chief judge of the United States Court of Federal Claims.

(b) The chief judge shall—

(1) proceed according to the provisions of sections 1492 and 2509 of title 28, United States Code; and

(2) report back to the Senate, at the earliest practicable date, providing—

(A) such findings of fact and conclusions that are sufficient to inform the Congress of the nature, extent, and character of the claim for compensation referred to in such bill as a legal or equitable claim against the United States or a gratuity; and

(B) the amount, if any, legally or equitably due from the United States to Mr. Richard M. Barlow of Santa Fe, New Mexico.

AMENDMENTS SUBMITTED

PRODUCT LIABILITY REFORM ACT OF 1998

ROBB AMENDMENT NO. 3066

(Ordered to lie on the table.)

Mr. ROBB submitted an amendment intended to be proposed by him to the bill (S. 648) to establish legal standards and procedures for product liability litigation, and for other purposes; as follows:

In section 107(a), after "other than toxic harm" insert the following: "(including any illness caused by exposure to asbestos)".

DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1999

KERREY (AND HAGEL) AMENDMENTS NOS. 3067-3068

Mr. KERREY (for himself and Mr. HAGEL) submitted two amendments intended to be proposed by them to the bill (S. 2168) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, commissions, corporations, and offices for the fiscal year ending September 30, 1999, and for other purposes; as follows:

AMENDMENT NO. 3067

On page 93, between lines 18 and 19, insert the following:

SEC. 423. TEMPORARY PROHIBITION ON IMPLEMENTATION OR ENFORCEMENT OF PUBLIC WATER SYSTEM TREATMENT REQUIREMENTS FOR COPPER ACTION LEVEL.

(a) IN GENERAL.—None of the funds made available by this or any other Act for any fiscal year may be used by the Administrator of the Environmental Protection Agency to implement or enforce the national primary drinking water regulations for lead and copper in drinking water promulgated under the Safe Drinking Water Act (42 U.S.C. 300f et seq.), to the extent that the regulations pertain to the public water system treatment requirements related to the copper action level, until—

(1) the Administrator and the Director of the Centers for Disease Control and Prevention jointly conduct a study to establish a reliable dose-response relationship for the adverse human health effects that may result from exposure to copper in drinking water, that—

(A) includes an analysis of the health effects that may be experienced by groups within the general population (including infants) that are potentially at greater risk of adverse health effects as the result of the exposure;

(B) is conducted in consultation with interested States;

(C) is based on the best available science and supporting studies that are subject to peer review and conducted in accordance with sound and objective scientific practices; and

(D) is completed not later than 30 months after the date of enactment of this Act; and

(2) based on the results of the study and, once peer reviewed and published, the 2 studies of copper in drinking water conducted by the Centers for Disease Control and Prevention in the State of Nebraska and the State of Delaware, the Administrator establishes an action level for the presence of copper in drinking water that protects the public health against reasonably expected adverse effects due to exposure to copper in drinking water.

(b) CURRENT REQUIREMENTS.—Nothing in this section precludes a State from implementing or enforcing the national primary drinking water regulations for lead and copper in drinking water promulgated under the Safe Drinking Water Act (42 U.S.C. 300f et seq.) that are in effect on the date of enactment of this Act, to the extent that the regulations pertain to the public water system treatment requirements related to the copper action level.

AMENDMENT NO. 3068

On page 93, between lines 18 and 19, insert the following:

SEC. 423. TEMPORARY PROHIBITION ON IMPLEMENTATION OR ENFORCEMENT OF PUBLIC WATER SYSTEM TREATMENT REQUIREMENTS FOR COPPER ACTION LEVEL.

(a) IN GENERAL.—None of the funds made available by this or any other Act for any fiscal year may be used by the Administrator of the Environmental Protection Agency to implement or enforce the national primary drinking water regulations for lead and copper in drinking water promulgated under the Safe Drinking Water Act (42 U.S.C. 300f et seq.), to the extent that the regulations pertain to the public water system treatment requirements related to the copper action level, until—

(1) the Administrator and the Director of the Centers for Disease Control and Prevention jointly conduct a study to establish a reliable dose-response relationship for the adverse human health effects that may result from exposure to copper in drinking water, that—

(A) includes an analysis of the health effects that may be experienced by groups within the general population (including infants) that are potentially at greater risk of adverse health effects as the result of the exposure;

(B) is conducted in consultation with interested States;

(C) is based on the best available science and supporting studies that are subject to peer review and conducted in accordance with sound and objective scientific practices; and

(D) is completed not later than 30 months after the date of enactment of this Act; and

(2) based on the results of the study and, once peer reviewed and published, the 2 studies of copper in drinking water conducted by the Centers for Disease Control and Prevention in the State of Nebraska and the State of Delaware, the Administrator establishes an action level for the presence of copper in drinking water that protects the public health against reasonably expected adverse effects due to exposure to copper in drinking water.

(b) CURRENT REQUIREMENTS.—Nothing in this section precludes a State from implementing or enforcing the national primary drinking water regulations for lead and copper in drinking water promulgated under the Safe Drinking Water Act (42 U.S.C. 300f et seq.) that are in effect on the date of enactment of this Act, to the extent that the regulations pertain to the public water system treatment requirements related to the copper action level.

PRODUCT LIABILITY REFORM ACT OF 1998

TORRICELLI (AND OTHERS) AMENDMENT NO. 3069

(Ordered to lie on the table)

Mr. TORRICELLI (for himself, Mrs. FEINSTEIN, Mrs. BOXER, and Mr. LAUTENBERG) submitted an amendment intended to be proposed by them to the bill, S. 648, supra; as follows:

In section 101, after paragraph (9), insert the following:

(9A) FIREARM.—The term "firearm"—

(A) has the meaning given that term in section 921(3) of title 18, United States Code; and

(B) includes any firearm included under the definition of that term under section 5845 of the Internal Revenue Code of 1986.

In the heading of section 102(a)(2)(B), strike "NEGLIGENCE PER SE CONCERNING FIREARMS AND AMMUNITION".

In section 102(a)(2)(B), strike clause (ii) and redesignate clause (iii) as clause (ii).

Amend section 102(a)(2) by adding at the end the following:

(E) ACTIONS INVOLVING HARM CAUSED BY A FIREARM OR AMMUNITION.—A civil action brought for harm caused by a firearm or ammunition shall not be subject to the provisions of this title governing product liability actions, but shall be subject to any applicable Federal or State law.

BOXER AMENDMENTS. NOS. 3070–3078

(Ordered to lie on the table)

Mrs. BOXER submitted nine amendments intended to be proposed by her to the bill, S. 648, supra;

AMENDMENT NO. 3070

Amend section 102(a)(2) by adding at the end the following:

(E) ACTIONS INVOLVING HARM THAT RESULTS IN A DISABILITY THAT RENDERS AN INJURED PARTY INCAPABLE OF CONTINUING TO WORK IN THE OCCUPATION OF THE PARTY.—A civil action brought for harm caused by a product that results in a disability that renders an injured party incapable of continuing to work in the occupation that that party was engaged in at the time of the injury shall not be subject to the provisions of this title governing product liability actions, but shall be subject to any applicable Federal or State law.

AMENDMENT NO. 3071

Amend section 102(a)(2) by adding at the end the following:

(E) ACTIONS INVOLVING A LOSS OF FERTILITY.—A civil action brought for harm caused by a product that includes a loss of fertility caused by that product shall not be subject to the provisions of this title governing product liability actions, but shall be subject to any applicable Federal or State law.

AMENDMENT NO. 3072

Amend section 102(a)(2) by adding at the end the following:

(E) ACTIONS INVOLVING SEVERE DISFIGUREMENT.—A civil action brought for harm caused by a product that includes severe disfigurement caused by that product shall not be subject to the provisions of this title governing product liability actions, but shall be subject to any applicable Federal or State law.

AMENDMENT NO. 3073

Amend section 102(a)(2) by adding at the end the following:

(E) ACTIONS INVOLVING BLINDNESS.—A civil action brought for harm caused by a product that includes blindness caused by that product shall not be subject to the provisions of this title governing product liability actions, but shall be subject to any applicable Federal or State law.

AMENDMENT NO. 3074

Amend section 102(a)(2) by adding at the end the following:

(E) ACTIONS INVOLVING PERMANENT PARALYSIS.—A civil action brought for harm caused by a product that includes permanent paralysis caused by that product shall not be subject to the provisions of this title governing product liability actions, but shall be subject to any applicable Federal or State law.

AMENDMENT NO. 3075

Amend section 102(a)(2) by adding at the end the following:

(E) ACTIONS INVOLVING MULTIPLE LIMB LOSS.—A civil action brought for harm caused by a product that includes multiple limb loss caused by that product shall not be subject to the provisions of this title governing product liability actions, but shall be subject to any applicable Federal or State law.

AMENDMENT NO. 3076

On page 14, between lines 19 and 20, insert the following:

(E) ACTIONS INVOLVING HARM CAUSED BY A HANDGUN.—

(i) IN GENERAL.—A civil action against a transferor of a handgun (as defined in section 921(a) of title 18, United States Code) for harm caused by the handgun shall not be subject to the provisions of this title governing product liability actions, but shall be subject to any applicable Federal or State law, unless the transferee was provided with a locking device for that handgun at the time of transfer.

(ii) DEFINITION OF LOCKING DEVICE.—In this subparagraph, the term "locking device" means a device or locking mechanism—

(I) that—

(aa) if installed on a firearm and secured by means of a key or a mechanically, electronically, or electromechanically operated combination lock, is designed to prevent the firearm from being discharged without first deactivating or removing the device by means of a key or mechanically, electronically, or electromechanically operated combination lock;

(bb) if incorporated into the design of a firearm, is designed to prevent discharge of the firearm by any person who does not have access to the key or other device designed to unlock the mechanism and thereby allow discharge of the firearm; or

(cc) is a safe, gun safe, gun case, lock box, or other device that is designed to store a firearm, and that is designed to be unlocked only by means of a key, a combination, or other similar means; and

(II) that is approved by a licensed firearms manufacturer (as defined in section 921(a) of title 18, United States Code) for use on the handgun with which the device or locking mechanism is sold, delivered, or transferred.

AMENDMENT NO. 3077

Amend section 102(a)(2) by adding at the end the following:

(E) ACTIONS INVOLVING SEVERE BRAIN DAMAGE THAT RENDERS AN INJURED PARTY INCAPABLE OF UNASSISTED LIVING.—A civil action brought for harm caused by a product that includes severe brain damage caused by that product that renders an injured party incapable of unassisted living shall not be subject to the provisions of this title governing product liability actions, but shall be subject to any applicable Federal or State law.

AMENDMENT NO. 3078

Amend section 102(a)(2) by adding at the end the following:

(E) ACTIONS INVOLVING INTERNAL ORGAN DAMAGE THAT RESULTS IN A NEED FOR AN ORGAN TRANSPLANT.—A civil action brought for harm caused by a product that includes internal organ damage caused by that product that results in a need for an organ transplant shall not be subject to the provisions of this title governing product liability actions, but shall be subject to any applicable Federal or State law.

CONRAD AMENDMENT NO. 3079

(Ordered to lie on the table)

Mr. CONRAD submitted an amendment intended to be proposed by them to the bill, S. 648, supra; as follows:

Amend section 102(a)(2) by adding at the end the following:

(E) ACTIONS RELATING TO HARM CAUSED BY VIOLENT, PORNOGRAPHIC, OBSCENE, OR INDECENT MATERIALS.—

(i) IN GENERAL.—A civil action brought for harm caused by any violent, pornographic, obscene, or indecent material shall not be subject to the provisions of this title governing product liability actions, but shall be subject to any applicable Federal or State law.

(ii) MATERIALS INCLUDED.—The materials referred to in clause (i) include any movie, television show, videotape, record, audio tape recording, CD-ROM, or other visual, audio, or electronic media that is violent, pornographic, obscene, or indecent.

LEAHY AMENDMENTS NOS. 3080–3081

(Ordered to lie on the table)

Mr. LEAHY sumbitted two amendments intended to be proposed by him to the bill, S. 648, supra; as follows:

AMENDMENT NO. 3080

In section 102(a)(2), strike subparagraph (A) and insert the following:

(A) ACTIONS FOR COMMERCIAL LOSS, ECONOMIC LOSS, AND NONECONOMIC LOSS.—

(i) COMMERCIAL LOSS.—A civil action brought for commercial loss shall be governed only by applicable commercial law, including applicable State law based on the Uniform Commercial Code.

(ii) ECONOMIC LOSS AND NONECONOMIC LOSS.—A civil action brought for economic loss or noneconomic loss shall be governed only by applicable State law.

AMENDMENT NO. 3081

In section 102(a)(2)—

(1) strike subparagraph (A); and

(2) redesignate subparagraphs (B) through (D) as subparagraphs (A) through (C), respectively.

LEVIN AMENDMENT NO. 3082

(Ordered to lie on the table)

Mr. LEVIN submitted an amendment intended to be proposed by him to the bill, S. 648, supra; as follows:

In section 110(a)(1), in the first sentence, strike "To the extent punitive damages are permitted by applicable State law, punitive damages" and insert "Punitive damages".

KERRY (AND HOLLINGS) AMENDMENT NO. 3083

(Ordered to lie on the table.)

Mr. KERRY (for himself and Mr. HOLLINGS) submitted an amendment intended to be proposed by them to the bill, S. 648, supra; as follows:

To the pending substitute amendment, on page 22, line 23, after the period, add the following: "As used in this section, the term 'toxic harm' shall mean any harm caused by acute or repeated exposure to asbestos or any radioactive compounds or any other chemical or hazardous substance listed by the Centers for Disease Control Agency or the Toxic Substances and Disease Registry."

WELLSTONE AMENDMENTS. NOS. 3084–3085

(Ordered to lie on the table.)

Mr. WELLSTONE submitted two amendments intended to be proposed by him to the bill, S. 648, supra; as follows:

AMENDMENT NO. 3084

At the end of the substitute add the following:

TITLE IV—PROTECTIVE ORDERS AND SEALING OF CASES AND SETTLEMENTS RELATING TO PUBLIC HEALTH OR SAFETY IN PRODUCT LIABILITY CASES

SEC. 401. PROTECTIVE ORDERS AND SEALING OF CASES AND SETTLEMENTS RELATING TO PUBLIC HEALTH OR SAFETY PRODUCT LIABILITY CASES.

(a) SHORT TITLE.—This section may be cited as the "Sunshine in Litigation Act of 1998".

(b) PROTECTIVE ORDERS AND SEALING OF CASES AND SETTLEMENTS RELATING TO PUBLIC HEALTH OR SAFETY.—Chapter 111 of title 28, United States Code, is amended by adding at the end the following new section:

"§1660. Protective orders and sealing of cases and settlements relating to public health or safety in product liability cases

"(a)(1) In any civil action brought in any Federal or State court on any theory for harm caused by a product, a court shall enter an order restricting the disclosure of information obtained through discovery or an order restricting access to court records in a civil case only after making particularized findings of fact that—

"(A) such order would not restrict the disclosure of information which is relevant to the protection of public health or safety; or

"(B)(i) the public interest in disclosure of potential health or safety hazards is clearly outweighed by a specific and substantial interest in maintaining the confidentiality of the information or records in question; and

"(ii) the requested protective order is no broader than necessary to protect the privacy interest asserted.

"(2) No order entered in accordance with paragraph (1) shall continue in effect after the entry of final judgment, unless at or after such entry the court makes a separate particularized finding of fact that the requirements of paragraph (1) (A) or (B) have been met.

"(b) The party who is the proponent for the entry of an order, as provided under this section, shall have the burden of proof in obtaining such an order.

"(c)(1) No agreement between or among parties in a civil action brought on any theory for harm caused by a product may contain a provision that prohibits or otherwise restricts a party from disclosing any information relevant to such civil action to any Federal or State agency with authority to enforce laws regulating an activity relating to such information.

"(2) Any disclosure of information to a Federal or State agency as described under paragraph (1) shall be confidential to the extent provided by law.".

(c) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 111 of title 28, United States Code, is amended by adding after the item relating to section 1659 the following:

"1660. Protective orders and sealing of cases and settlements relating to public health or safety in product liability cases.".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect 30 days after the date of enactment of this Act and shall apply only to orders entered in civil actions or agreements entered into on or after such date.

AMENDMENT NO. 3085

At the end of the substitute add the following:

TITLE IV—PROTECTIVE ORDERS AND SEALING OF CASES AND SETTLEMENTS RELATING TO PUBLIC HEALTH OR SAFETY IN PRODUCT LIABILITY CASES

SEC. 401. PROTECTIVE ORDERS AND SEALING OF CASES AND SETTLEMENTS RELATING TO PUBLIC HEALTH OR SAFETY PRODUCT LIABILITY CASES.

(a) SHORT TITLE.—This section may be cited as the "Sunshine in Litigation Act of 1998".

(b) PROTECTIVE ORDERS AND SEALING OF CASES AND SETTLEMENTS RELATING TO PUBLIC HEALTH OR SAFETY.—Chapter 111 of title 28, United States Code, is amended by adding at the end the following new section:

"§1660. Protective orders and sealing of cases and settlements relating to public health or safety in product liability cases

"(a)(1) In any civil action brought in any Federal or State court on any theory for harm caused by a product, a court shall enter an order restricting the disclosure of information obtained through discovery or an order restricting access to court records in a civil case only after making particularized findings of fact that—

"(A) such order would not restrict the disclosure of information which is relevant to the protection of public health or safety; or

"(B)(i) the public interest in disclosure of potential health or safety hazards is clearly outweighed by a specific and substantial interest in maintaining the confidentiality of the information or records in question; and

"(ii) the requested protective order is no broader than necessary to protect the privacy interest asserted.

"(2) No order entered in accordance with paragraph (1) shall continue in effect after the entry of final judgment, unless at or after such entry the court makes a separate particularized finding of fact that the requirements of paragraph (1) (A) or (B) have been met.

"(b) The party who is the proponent for the entry of an order, as provided under this section, shall have the burden of proof in obtaining such an order.

"(c)(1) No agreement between or among parties in a civil action brought on any theory for harm caused by a product may contain a provision that prohibits or otherwise restricts a party from disclosing any information relevant to such civil action to any Federal or State agency with authority to enforce laws regulating an activity relating to such information.

"(2) Any disclosure of information to a Federal or State agency as described under paragraph (1) shall be confidential to the extent provided by law.".

(c) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 111 of title 28, United States Code, is amended by adding after the item relating to section 1659 the following:

"1660. Protective orders and sealing of cases and settlements relating to public health or safety in product liability cases.".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect 30 days after the date of enactment of this Act and shall apply only to orders entered in civil actions or agreements entered into on or after such date.

STEVENS AMENDMENT NO. 3086

(Ordered to lie on the table.)

Mr. STEVENS submitted an amendment intended to be proposed by him to the bill, S. 648, supra; as follows:

On page 11, at the end of line 16 insert the following new sentence: "The term shall not be construed to mean attorney fees awarded pursuant to state law authorizing attorney fee awards to the prevailing party in a civil action."

FAIRCLOTH AMENDMENT NO. 3087

(Ordered to lie on the table.)

Mr. FAIRCLOTH submitted an amendment intended to be proposed by him to the bill, S. 648, supra; as follows:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Legal Reform Commission Act of 1998".

SEC. 2. ESTABLISHMENT OF COMMISSION.

(a) ESTABLISHMENT.—There is established a commission to be known as the Legal Reform Commission (hereafter in this Act referred to as the "Commission").

(b) MEMBERSHIP.—

(1) COMPOSITION.—The Commission shall be composed of 11 members of whom—

(A) one shall be appointed by the President;

(B) one shall be appointed by the President pro tempore of the Senate;

(C) one shall be appointed by the Speaker of the House of Representatives;

(D) two shall be appointed by the Majority Leader of the Senate;

(E) two shall be appointed by the Minority Leader of the Senate;

(F) two shall be appointed by the Majority Leader of the House of Representatives; and

(G) two shall be appointed by the Minority Leader of the House of Representatives.

(2) CHAIRMAN AND VICE CHAIRMAN.—The members of the Commission shall select a Chairman and a Vice Chairman from the members.

(3) PROHIBITION.—

(A) CHAIRMAN.—The Chairman of the Commission may not be an employee or former employee of the Federal Government.

(B) MEMBERS.—No member of the Commission may be a member or former member of the Bar of any State.

(4) DATE.—The appointments of the members of the Commission shall be made no later than June 1, 1998.

(c) PERIOD OF APPOINTMENT; VACANCIES.—Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(d) INITIAL MEETING.—No later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold its first meeting.

(e) MEETINGS.—The Commission shall meet at the call of the Chairman.

(f) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

SEC. 3. DUTIES OF THE COMMISSION.

(a) STUDY.—

(1) IN GENERAL.—The Commission shall conduct a thorough study of all matters relating to the reform and simplification of the United States legal system.

(2) MATTERS STUDIED.—The matters studied by the Commission shall include reform of—

(A) Federal law;

(B) State law;

(C) criminal law;

(D) civil law;

(E) judicial, trial, and appellate processes;

(F) the Federal Rules of Evidence;

(G) the Federal Rules of Civil Procedure; and

(H) the Federal Rules of Criminal Procedure.

(b) RECOMMENDATIONS.—The Commission shall develop recommendations on all matters studied under subsection (a) relating to reform of the United States legal system.

(c) REPORT.—No later than 2 years after the date of enactment of this Act, the Commission shall submit a report to the President and Congress which shall contain a detailed statement of the findings and conclusions of the Commission, together with its recommendations for such legislation and administrative actions as it considers appropriate.

SEC. 4. POWERS OF THE COMMISSION.

(a) HEARINGS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out the purposes of this Act.

(b) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out the provisions of this Act. Upon request of the Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.

(c) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(d) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

SEC. 5. COMMISSION PERSONNEL MATTERS.

(a) COMPENSATION OF MEMBERS.—Each member of the Commission who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission. All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(b) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(c) STAFF.—

(1) IN GENERAL.—The Chairman of the Commission may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Commission to perform its duties. The employment of an executive director shall be subject to confirmation by the Commission.

(2) COMPENSATION.—The Chairman of the Commission may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(d) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(e) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairman of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

SEC. 6. TERMINATION OF THE COMMISSION.

The Commission shall terminate 90 days after the date on which the Commission submits its report under section 3.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated such sums as are necessary to the Commission to carry out the purposes of this Act.

(b) AVAILABILITY.—Any sums appropriated under the authorization contained in this section shall remain available, without fiscal year limitation, until expended.

HOLLINGS (AND CONRAD) AMENDMENT NO. 3088

(Ordered to lie on the table.)

Mr. HOLLINGS (for himself and Mr. CONRAD) submitted an amendment intended to be proposed by them to the bill, S. 648, supra; as follows:

On page 14, between lines 19 and 20, insert the following:

(E) PORNOGRAPHIC MATERIALS.—A civil action brought for harm caused by violent or pornographic, obscene, or indecent materials, including movies, television shows, videotapes, records, audio tape recordings, CD-ROMs, and other visual, audio, or electronic media or products, shall not be subject to the provisions of this title governing product liability actions, but shall be subject to any other applicable Federal or State law.

HOLLINGS AMENDMENTS. NOS. 3089–3093

(Ordered to lie on the table.)

Mr. HOLLINGS submitted five amendments intended to be proposed by him to the bill, S. 648, supra; as follows:

AMENDMENT NO. 3089

On page 14, strike lines 6 through 11.

AMENDMENT NO. 3090

On page 10, strike line 2 and insert the following:

utility, natural gas, or steam; or

(iii) toys or other articles intended for use by children.

AMENDMENT NO. 3091

On page 12, between lines 17 and 18, insert the following:

(21) TOXIC HARM.—The term "toxic harm" means harm caused by acute or repeated exposure to naturally-occurring or synthesized minerals or mineral products, organic compounds, microorganisms, biological products, radioactive compounds, or any chemical or hazardous substance listed by the Centers for Disease Control Agency for Toxic Substances and Disease Registry.

AMENDMENT NO. 3092

On page 9, between lines 14 and 15, insert the following:

(iv) meets the Federal Trade Commission's definition of "Made in the United States"; and

AMENDMENT NO. 3093

On page 25. beginning with line 20, strike through line 24 on page 28.

FEINGOLD AMENDMENT NO. 3094

(Ordered to lie on the table.)

Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill, S. 648, supra; as follows:

In section 102(b), strike "that the State law applies to a matter covered by this title" and insert "an issue is covered under this Act".

In section 110(a)(1), in the first sentence, strike "To the extent punitive damages are permitted by applicable State law, punitive damages" and insert "Punitive damages".

At the end of section 107, add the following:

(b) PREEMPTION OF STATE LAW.—To the extent that a State has established a term-of-years limitation on the filing of actions of the type set forth in this section, that limitation is preempted without regard to whether the period is less than or greater than 18 years.

BREAUX AMENDMENT NO. 3095

(Ordered to lie on the table.)

Mr. BREAUX submitted an amendment intended to be proposed by him to the bill, S. 648, supra; as follows:

In lieu of the language proposed to be inserted, insert the following:

SEC. 1. SHORT TITLE AND FINDINGS.

(a) SHORT TITLE.—This Act may be cited as the "Product Safety and Liability Fairness Act of 1997".

(b) FINDINGS.—The Congress finds the following:

(1) For too long, the Congress has engaged in a contentious debate over federal product liability legislation without making significant progress in addressing the legitimate concerns of all sides to the debate;

(2) As the Congress has always been presented with only the two extreme positions of the proponents and opponents of federal product liability legislation, it is time for a true common sense middle ground;

(3) While the opponents of federal product liability legislation contend that there is no need for any reform at all, there is real concern among businesses and others about the effect of the product liability system that Congress should examine;

(4) While the proponents of federal product liability legislation speak forcefully about the problem of frivolous lawsuits and slow and costly litigation, the bills supported by the proponents often fail to address these issues while instead placing restrictions and limitations on legitimate claims;

(5) While no persons with legitimate claims should be denied redress and their constitutional rights to a trial by jury, and while the product liability system does and must continue to provide valuable deterrence to the manufacture and sale of dangerous or defective products, there is no role in our legal system for frivolous product liability lawsuits;

(6) The several states and their courts can and must continue to be the primary architects and regulators of the tort system, with only infrequent and limited intervention by the federal government;

(7) If the Congress is to intervene in this traditional province of the states, it should do so only to address real issues while balancing the interest of all sides to the debate;

(8) Federal legislation that seeks to limit frivolous product liability lawsuits and which encourages alternative and less costly forms of dispute resolution fits this narrow role for the federal government to take in the area of product liability law.

SEC. 2. TABLE OF CONTENTS.

The table of contents of this Act is as follows:

TABLE OF CONTENTS

Sec. 1. Short title and findings.
Sec. 2. Table of contents.
Sec. 3. Definitions.
Sec. 4. Applicability; preemption.
Sec. 5. Jurisdiction of Federal courts.
Sec. 6. Effective date.

TITLE I—DETERRENCE OF FRIVOLOUS PRODUCT LIABILITY ACTIONS

Sec. 101. Requirement of an affidavit in product liability actions.
Sec. 102. Sanctions for frivolous product liability suits.
Sec. 103. Amendments to Federal Rules of Civil Procedures and Evidence for product liability cases.
Sec. 104. Special rules of procedure applicable in courts of the states in product liability cases.

TITLE II—OFFERS OF JUDGMENT AND ALTERNATIVE DISPUTE RESOLUTION PROCEDURES FOR PRODUCT LIABILITY CASES

Sec. 201. Offers of judgment.
Sec. 202. Alternative dispute resolution procedures.

TITLE III—UNIFORM PROCEDURES AND STANDARDS FOR PUNITIVE DAMAGES IN PRODUCT LIABILITY CASES

Sec. 301. Uniform standards for punitive damages.
Sec. 302. Determining amount of punitive damages.

TITLE IV—STATUTE OF LIMITATIONS IN PRODUCT LIABILITY CASES

Sec. 401. Uniform statute of limitations.

TITLE V—USEFUL SAFE LIFE

Sec. 501 Statute of repose beyond useful safe life in product liability cases.

TITLE VI—PRODUCT LIABILITY CLASS ACTIONS

Sec. 601. Notification requirement of class action certification or settlement.

TITLE VII—STUDY OF PRODUCT LIABILITY SYSTEM

Sec. 701. Study of Product Liability System.

SEC. 3. DEFINITIONS.

As used in this Act, the term—

(1) "capital good" means any product, or any component of any such product, which is of a character subject to allowance for depreciation under the Internal Revenue Code of 1986, and which was—

(A) used in a trade or a business;

(B) held for the production of income; or,

(C) sold or donated to a governmental or private entity for the production of goods, for training, for demonstration, or for other similar purposes.

(2) "claimant" means any person who brings a civil action subject to this Act, and any person on whose behalf such an action is brought; if such an action is brought through or on behalf of an estate, the term includes the claimant's decedent, or if it is brought through or on behalf of a minor or incompetent, the term includes the claimant's parent or guardian;

(3) "defendant" means a person against whom a claimant brings a civil action subject to this Act;

(4) "economic loss" means any pecuniary loss resulting from harm (including but not limited to medical expense loss, work loss, replacement services loss, loss due to death, burial costs, and loss of business or employment opportunities), to the extent recovery for such loss is allowed under applicable State law;

(5) "harm" means any injury to a person, including illness, disease, or death resulting from that injury, and including injury consisting of economic or pecuniary loss;

(6) "manufacturer" means—

(A) any person who is engaged in a business to produce, create, make, or construct any product (or component part of a product) and who designs or formulates the product (or component part of the product) or has engaged another person to design or formulate the product (or component part of the product);

(B) a product seller, but only with respect to those aspects of a product (or component part of a product) which are created or affected when, before placing the product in the stream of commerce, the product seller produces, creates, makes, or constructs and designs or formulates, or has engaged another person to design or formulate, an aspect of a product (or component part of a product) made by another; or

(V) any product seller not described in subparagraph (B) which holds itself out as a manufacturer to the user of a product;

(7) "noneconomic loss" means subjective, nonmonetary loss resulting from harm, including but not limited to pain, suffering, inconvenience, mental suffering, emotional distress, loss of society and companionship, loss of consortium, injury to reputation, and humiliation; the term does not include economic loss;

(8) "person" means any individual, corporation, company, association, firm, partnership, society, joint stock company, or any other entity (including any governmental entity);

(9) "product" means any object, substance, mixture, or raw material in a gaseous, liquid, or solid state—

(A) which is capable of delivery itself or as an assembled whole, in a mixed or combined state, or as a component part or ingredient;

(B) which is produced for introduction into interstate trade or commerce;

(C) which has intrinsic economic value; and

(D) which is intended for sale or lease to persons for commercial or personal use; the term does not include human tissue, blood and blood products, or organs unless specially recognized as a product pursuant to State law;

(10) "product seller" means a person who, in the course of a business conducted for that purpose sells, distributes, leases, prepares, blends, packages, labels, or otherwise is involved in placing a product in the stream of commerce, or who installs, repairs, or maintains the harm-causing aspect of a product; the term does not include—

(A) a seller or lessor of real property;

(B) a provider of professional services in any case in which the sale or use of a product is incidental to the transaction and the essence of the transaction is the furnishing of judgment, skill or services; or

(C) any person who—

(i) acts in only a financial capacity with respect to the sale of a product; and

(ii) leases a product under a lease arrangement in which the selection, possession, maintenance, and operation of the product are controlled by a person other than the lessor.

(11) "State" means any State of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and any other territory or possession of the United States, or any political sub-division thereof.

(12) "time of delivery" means the time when a product is delivered to its first purchaser or lessee who was not involved in the business of manufacturing or selling such product or using it as a component part of another product to be sold.

(13) "useful safe life" means the period beginning at the time of delivery of the product and extending for the time during which

the product would normally be likely to perform in a safe manner."

SEC. 4. APPLICABILITY; PREEMPTION.

(A) Applicability to Product Liability Actions.—This Act applies to any civil action brought against a manufacturer or product seller for harm caused by a product.

(b) Scope of Preemption.—This Act supersedes any State law regarding recovery for harm caused by a product only to the extent that this Act establishes a rule of law applicable to any such recovery and that is inconsistent with State law. Any issue arising under this Act that is not governed by any such rule of law shall be governed by applicable State or Federal law.

(c) Effect on Other Law.—Nothing in this Act shall be construed to—

(1) waive or affect any defense of sovereign immunity asserted by any State under any provision of law;

(2) waive or affect any defense of sovereign immunity asserted by the United States;

(3) affect any provision of chapter 97 of title 28, United States Code;

(4) preempt State choice-of-law rules with respect to claims brought by a foreign nation or a citizen of a foreign nation;

(5) affect the right of any court to transfer venue or to apply the law of a foreign nation or to dismiss a claim of a foreign nation or of a citizen of a foreign nation on the ground of inconvenient forum; or

(6) supersede any statutory or common law, including an action to abate a nuisance, that authorizes a State or person to institute an action for civil damages or civil penalties, cleanup costs, injunctions, restitution, cost recovery, punitive damages, or any other form of relief resulting from contamination or pollution of the environment (as defined in section 101(8) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980; 42 U.S.C. 9601(8)), or the threat of such contamination or pollution.

(7) affect any provision of chapter 2 of title 45, United States Code;

SEC. 5. JURISDICTION OF FEDERAL COURTS.

This Act shall not establish jurisdiction in the district courts of the United States pursuant to section 1331 or 1337 of title 28, United States Code.

SEC. 6. EFFECTIVE DATE.

This Act shall take effect on the date of its enactment and shall apply to civil actions commenced on or after such date, including any action in which the harm or the conduct which caused the harm occurred before the effect date of this Act.

TITLE I—DETERRENCE OF FRIVOLOUS PRODUCT LIABILITY ACTIONS

SEC. 101. REQUIREMENT OF AN AFFIDAVIT IN PRODUCT LIABILITY ACTIONS.

(a) Submission of an Affidavit With Complaint.—In any civil action subject to this Act, the claimant's shall be accompanied by an affidavit signed by the attorney of record for the claimant, or if unrepresented, by the claimant.

(b) Contents of the Affidavit.—The affidavit shall:

(1) certify that the affiant conducted a reasonable inquiry into the circumstances averred in the claim for relief as they pertain to each defendant, and

(2) attest that the affiant has a sound reason to believe that the circumstances as averred in the claim for relief are confirmed by the inquiry referred to in (1) and are in all respects supportable by facts which the affiant reasonably believes to be true and provable at trial.

SEC. 102. SANCTIONS FOR FRIVOLOUS PRODUCT LIABILITY SUITS.

If a claimant submits in bad faith, or fails to submit, an affidavit pursuant to section 101 of this title, the court, upon motion made within the time for responsive pleadings, shall impose upon the claimant an appropriate sanction which may include an order to pay to the other party or parties the amount of reasonable expenses, including reasonable attorney's fees, incurred up to the time of the disposition of the motion.

SEC. 103. AMENDMENTS TO FEDERAL RULES OF CIVIL PROCEDURE AND EVIDENCE IN PRODUCT LIABILITY CASES.

(a) Mandatory Sanctions Under FRCP 11.—Rule 11 of the Federal Rules of Civil Procedure (28 U.S.C. App.) is amended by adding at the end of subsection (c)—

"If in an action subject to [this bill] alleging harm caused by a product, the court finds a violation of subsection (b), sanctions shall be mandatory."

(b) Pleadings With Particularity Under FRCP 9.—Rule 9 of the Federal Rule of Civil Procedure (28 U.S.C. App.) is amended by adding—

(i) Punitive Damages. The basis for claims of punitive damages in any complaint alleging harm caused by a product [as defined at ______] shall be stated with particularity and shall include such supporting particulars as are within the pleader's knowledge.

(c) Evidence of Intoxication or Impairment of Drugs.—Rule 403 of the Federal Rules of Evidence (28 U.S.C.   ) is amended by designating the existing paragraph "(a)" and adding—

"(b) Evidence that a claimant was under the influence of drugs or alcohol at the time of the injury shall be presumed admissible in all actions subject to [this bill]."

SEC. 104. SPECIAL RULES OF PROCEDURE APPLICABLE IN THE COURTS OF THE STATES IN PRODUCT LIABILITY CASES.

For all actions subject to this Act brought in courts other than the courts of the United States, the following rules shall apply:

(a) Mandatory Sanctions.—If a court, upon motion or its own accord, finds that a party to an action subject to this Act has put forth a pleading, motion, petition or claim that was—

(1) made for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in costs;

(2) not warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law; or

(3) lacking evidentiary support and unlikely to have evidentiary support after reasonable opportunity for further investigation or discovery,

the court shall impose sanctions sufficient to deter repetition of such conduct or comparable conduct by others similarly situated.

(b) Pleading Claims for Punitive Damages With Particularity.—The basis for claims of punitive damages in any complaint in an action subject to this Act shall be stated with particularity and shall include such supporting particulars as are within the pleader's knowledge.

(c) Evidence of Intoxication or Impairment of Drugs.—Evidence that a claimant was under the influence of drugs or alcohol at the time of the injury shall be presumed admissible in all actions subject to this Act.

TITLE II—OFFERS OF JUDGMENT AND ALTERNATIVE DISPUTE RESOLUTION PROCEDURES FOR PRODUCT LIABILITY CASES

SEC. 201. OFFERS OF JUDGMENT.

(a) Claimant's Offer of Judgment.—Any claimant may, at any time after the filing of a complaint subject to this Act, serve an offer of judgment to be entered against a defendant for a specific dollar amount as complete satisfaction of the claim.

(b) Defendant's Offer.—A defendant may serve an offer to allow judgment to be entered against that defendant for a specific dollar amount as complete satisfaction of the claim.

(c) Extension of Response Period.—In any case in which an offer of judgment is served pursuant to subsection (a) or (b), the court may, upon motion by the offeree made prior to the expiration of the applicable period for response, enter an order extending such period. Any such order shall contain a schedule for discovery of evidence material to the issue of the appropriate amount of relief, and shall not extend such period for more than sixty days. Any such motion shall be accompanied by a supporting affidavit of the moving party setting forth the reasons why such extension is necessary to promote the interests of justice and stating that the information likely to be discovered is material and is not, after reasonable inquiry, otherwise available to the moving party.

(d) Defendant's Penalty for Rejection of Offer.—If a defendant, as offeree, does not serve on a claimant a written notification of acceptance of an offer of judgment served by a claimant in accordance with subsection (a) within the time permitted pursuant to State law for a responsive pleading or, if such pleading includes a motion to dismiss in accordance with applicable law, within thirty days after the court's denial of such motion, and a final judgment, including all compensatory, punitive, exemplary or other damages, is entered in such action in an amount greater than the specific dollar amount of such offer of judgment, the court shall modify the judgment against that defendant by including in the judgment an additional amount not to exceed the lesser of $50,000 or the difference between the offer and the judgment.

(e) Claimant's Penalty for Rejection of Offer.—If the claimant, as offeree, does not serve on the defendant a written notice of acceptance of an offer of judgment served by a defendant in accordance with subsection (b) within thirty days after such service and a final judgment is entered in such an amount less than the specific dollar amount of such offer of judgment, the court shall reduce the amount of the final judgment in such action by the amount of any punitive damages awarded. If the claimant is not the prevailing party in such action, the claimant's refusal to accept an offer of judgment shall not result in the payment of any penalty under this subsection.

(f) Evidence of Offer.—An offer not accepted shall be deemed withdrawn and evidence thereof is not admissible except in a proceeding to determine attorney's fees and costs.

SEC. 102. ALTERNATIVE DISPUTE RESOLUTION PROCEDURES IN PRODUCT LIABILITY CASES.

(a) In General.—A claimant or defendant in a civil action subject to this Act may, within the time permitted for making an offer of judgment under section 201, serve upon an adverse party an offer to proceed pursuant to any voluntary, nonbinding alternative dispute resolution procedure established or recognized under the law of the State in which the civil action is brought or under the rules of the court in which such action is maintained. An offeree shall, within ten days of such service, file a written notice of acceptance or rejection of the offer; except that the court may, upon motion by the offeree make prior to the expiration of such ten-day period, extend the period for response for up to sixty days, during which discovery may be permitted.

(b) DEFENDANT'S PENALTY FOR UNREASONABLE REFUSAL.—The court shall assess reasonable attorney's fees and costs against the offeree, if—

(1) a defendant as offeree refuses to proceed pursuant to such alternative dispute resolution procedure;

(2) final judgment is entered against the defendant for harm caused by a product; and

(3) the defendant's refusal to proceed pursuant to such alternative dispute resolution procedure was unreasonable or not in good faith.

(c) GOOD FAITH REFUSAL.—In determining whether an offeree's refusal to proceed pursuant to such alternative dispute resolution procedure was unreasonable or not in good faith, the court shall consider such factors as the court deems appropriate.

TITLE III—UNIFORM PROCEDURES AND STANDARDS FOR PUNITIVE DAMAGES IN PRODUCT LIABILITY CASES

SEC. 301. UNIFORM STANDARDS FOR AWARD OF PUNITIVE DAMAGES.

Punitive damages may be awarded in any civil action subject to this Act to any claimant who establishes by clear and convincing evidence that the harm suffered by the claimant was the result of conduct manifesting a manufacturer's or product seller's reckless, egregious, willful or wanton misconduct, or conscious, flagrant indifference to the safety of those persons who might be harmed by the product. A failure to exercise reasonable care in choosing among alternative product designs, formulations, instructions, or warnings is not of itself such conduct.

SEC. 302. DETERMINING AMOUNT OF PUNITIVE DAMAGES.

In determining the amount of punitive damages, the trier of fact shall, unless deemed significantly prejudicial by the court, consider all of the following facts—

(1) the financial condition of the manufacturer or product seller;

(2) the severity of the harm caused by the conduct of the manufacturer or product seller;

(3) the duration of the conduct or any concealment of it by the manufacturer or product seller;

(4) the profitability of the conduct to the manufacturer or product seller;

(5) the number of products sold by the manufacturer or product seller of the kind causing the harm complained of by the claimant;

(6) awards of punitive or exemplary damages to persons similarly situated to the claimant;

(7) prospective awards of compensatory damages to persons similarly situated to the claimant;

(8) any criminal penalties imposed on the manufacturer or product seller as a result of the conduct complained of by the claimant; and

(9) the amount of any civil fines assessed against the defendant as a result of the conduct complained of by the claimant.

TITLE IV—STATUTE OF LIMITATIONS IN PRODUCT LIABILITY CASES

SEC. 401. UNIFORM STATUTE OF LIMITATIONS.

(a) IN GENERAL.—Except as provided in paragraph (b), a product liability action may be filed not later than 2 years after the date on which the claimant discovered or, in the exercise of reasonable care, should have discovered—

(1) the harm that is the subject of the action; and

(2) the cause of the harm.

(b) EXCEPTION.—A person with a legal disability (as determined under applicable law) may file a product liability action not later than 2 years after the date on which the person ceases to have a legal disability.

TITLE V—USEFUL SAFE LIFE OF PRODUCTS

SEC. 501. STATUTE OF REPOSE BEYOND USEFUL SAFE LIFE IN PRODUCT LIABILITY CASES.

(a) IN GENERAL.—Except as provided in Subsection (a)(2), in any civil action subject to this Act against a product manufacturer or seller for harm caused by a product that is a capital good, such defendant shall not be liable for damages if the defendant proves by a preponderance of the evidence that the harm was caused by use of the product after its useful safe life.

(1) In determining the useful safe life of the product, the trier of fact shall consider, among other things, the following:

(A) the number of years the product has been in use and the frequency of product use;

(B) the average age of similar or like products still in similar uses;

(C) the normal practices of the product user, similar product users, and the product manufacturer or seller with respect to the circumstances, frequency, and purposes of the use of the product;

(D) any representations, instructions, or warnings made by the product manufacturer or seller concerning the proper use of the product or the expected useful safe life of the product; and

(E) any modification or alteration of the product by a user or third party.

(2) A product manufacturer or seller may be liable for damages caused by a product used beyond its useful safe life if:

(A) the product manufacturer or seller expressly or implied warranted that the product may be utilized safely for a longer period; or

(B) the product manufacturer or seller intentionally misrepresented facts about the product, or fraudulently concealed information about the product, and such conduct was a substantial cause of the claimant's damages.

(b) PRESUMPTION REGARDING USEFUL SAFE LIFE.—If the harm was caused more than twenty (20) years after the time of delivery, a presumption arises that the harm was caused by use of the product after its useful safe life. This presumption may be rebutted by a preponderance of evidence.

TITLE VI—PRODUCT LIABILITY CLASS ACTIONS

SEC. 601 NOTIFICATION REQUIREMENT OF CLASS ACTION CERTIFICATION OR SETTLEMENT.

(a) IN GENERAL.—Part V of title 28, United States Code, is amended by inserting after chapter 113 the following new chapter:

CHAPTER 114—PRODUCT LIABILITY CLASS ACTIONS

Sec. 1711. Notification of class action certifications and settlements.

1711. NOTIFICATION OF CLASS ACTION CERTIFICATIONS AND SETTLEMENTS.

(a) For purposes of this section, the term—

(1) "class" means a group of similarly situated individuals, defined by a class certification order, that comprise a party in a class action lawsuit;

(2) "class action" means a lawsuit file pursuant to rule 23 of the Federal Rules of Civil Procedure or similar State rules of procedure authorizing a lawsuit to be brought by 1 or more representative individuals on behalf of a class;

(3) "class certification order" means an order issued by a court approving the treatment of a lawsuit as a class action;

(4) "class member" means a person that falls within the definition of the class;

(5) "class counsel" means the attorneys representing the class in a class action;

(6) "electronic legal databases" means computer services available to subscribers containing text of judicial opinions and other legal materials, such as LEXIS OR WESTLAW;

(7) "official court reporter" means a publicly available compilation of published judicial opinions;

(8) "plaintiff class action" means a class action in which the plaintiff is a class; and

(9) "proposed settlement" means a settlement agreement between the parties in a class action that is subject to court approval before it becomes binding on the parties.

(b) This section shall not apply except to product liability cases subject to [this bill]. This section shall apply to—

(1) all product liability plaintiff class actions filed in Federal court; and

(2) all product liability plaintiff class actions filed in State court in which—

(A) any class member resides outside the State in which the action is filed; and

(B) the transaction or occurrence that gave rise to the lawsuit occurred in more than one State.

(c) No later than 10 days after a proposed settlement in a class action is filed in court, and at least 14 days prior to a court order approving such settlement, class counsel shall serve the State attorney general of each State in which a class member resides and the Department of Justice as if they were parties in the class action with—

(1) a copy of the complaint and any materials filed with the compliant and any amended complaints;

(2) notice of any future scheduled judicial hearing in the class action;

(3) any proposed or final notification to class members of—

(A) their rights to request exclusion from the class action; and

(B) a proposed settlement of a class action;

(4) any proposed or final class action settlement;

(5) any settlement or other agreement contemporaneously made between class counsel and counsel for the defendants;

(6) any final judgment or notice of dismissal;

(7)(A) if feasible the names of class members who reside in each State attorney general's respective State and their estimated proportionate claim to the entire settlement; or

(B) if not feasible, a reasonable estimate of the number of class members residing in each attorney general's State and their estimated proportionate claim to the entire settlement; and

(8) any written judicial opinion relating to the materials described under paragraphs (3) through (6).

(d) A hearing to consider final approval of a proposed settlement may not be held earlier than 120 days after the date on which the State attorneys general and the Department of Justice are served notice under subsection (c).

(e) Any court with jurisdiction over a plaintiff class action shall require that—

(1) any written notice provided to the class through the mail or publication in printed

media contain a short summary written in plain, easily understood language, describing—

(A) the subject matter of the class action;

(B) the legal consequences of joining the class action;

(C) if the notice is informing class members of a proposed settlement agreement—

(i) the benefits that will accrue to the class due to the settlement;

(ii) the rights that class members will lose or waive through the settlement;

(iii) obligations that will be imposed on the defendants by the settlement;

(iv) a good faith estimate of the dollar amount of any attorney's fee if possible; and

(v) an explanation of how any attorney's fee will be calculated and funded; and

(D) any other material matter; and

(2) any notice provided through television or radio to inform the class of its rights to be excluded from a class action or a proposed settlement shall, in plain, easily understood language—

(A) describe the individuals that may potentially become class members in the class action; and

(B) explain that the failure of individuals falling within the definition of the class to exercise their right to be excluded from a class action will result in the individual's inclusion in the class action.

(f) Compliance with this section shall not immunize any party from any legal action under Federal or State law, including actions for malpractice or fraud.

(g)(1) A class member may refuse to comply with and may choose not to be bound by a settlement agreement or consent decree in a class action lawsuit if the class member resides in a State where the State attorney general has not been provided notice and materials under subsection (c). The rights created by this subsection shall apply only to class members or any person acting on their behalf, and shall not be construed to limit any other rights affecting a class member's participation in the settlement.

(2) Nothing in this chapter shall be construed to impose any obligations, duties, or responsibilities upon State attorneys general or the attorney general of the United States.

(b) Technical and Conforming Amendment.—The Table of chapters of part V of title 28, United States Code, is amended by inserting after the item relating to chapter 113 the following:

"114. Class Actions .... 1711."

TITLE VII—STUDY OF PRODUCT LIABILITY SYSTEM

SEC. 701. STUDY OF THE PRODUCT LIABILITY SYSTEM.

(a) Study by the Secretary of Commerce.—The Secretary of Commerce, in conjunction with the Attorney General of the United States, shall, in consultation with the courts of the several states and the attorneys general of the states, complete a study of the product liability system in the state and federal courts. Such study shall focus on—

(1) The relative caseload in the courts of product liability claims;

(2) The size and frequency of awards of punitive damages in products liability cases and the need for further reform in that area;

(3) Whether damage awards differ according to location of litigation and the impact of any such finding on the filing and resolution of product liability claims;

(4) Whether damage awards in product liability cases for economic and non-economic losses differ according to the sex, race or ethnicity of the claimant;

(5) The cost and availability of liability insurance and the impact of the product liability system on that cost and availability.

(6) The effects of this Act on the resolution of product liability claims.

(b) Report to Congress.—The Secretary of Commerce shall report to Congress on the findings of this study within 24 months of the date of enactment.

SESSIONS AMENDMENTS NOS. 3096–3097

(Ordered to lie on the table)

Mr. SESSIONS submitted two amendments intended to be proposed by him to the bill, S. 648, supra; as follows:

Amendment No. 3096

On page 2, beginning with line 1, strike through line 19 on page 34 and insert in lieu thereof the following:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the "Product Liability Reform Act of 1998".

(b) Table of Contents.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—PRODUCT LIABILITY REFORM

Sec. 101. Definitions.
Sec. 102. Applicability; preemption.
Sec. 103. Liability rules applicable to product sellers, renters, and lessors.
Sec. 107. Statute of repose for durable goods used in a trade or business.
Sec. 109. Alternative dispute resolution procedures.
Sec. 110. Punitive damages reforms.

TITLE II—BIOMATERIALS ACCESS ASSURANCE

Sec. 201. Short title.
Sec. 202. Findings.
Sec. 203. Definitions.
Sec. 204. General requirements; applicability; preemption.
Sec. 205. Liability of biomaterials suppliers.
Sec. 206. Procedures for dismissal of civil actions against biomaterials suppliers.
Sec. 207. Subsequent impleader of dismissed defendant.

TITLE I—PRODUCT LIABILITY REFORM

SEC. 101. DEFINITIONS.

In this title:

(1) Alcoholic product.—The term "alcoholic product" includes any product that contains not less than ½ of 1 percent of alcohol by volume and is intended for human consumption.

(2) Claimant.—The term "claimant" means any person who brings an action covered by this title and any person on whose behalf such an action is brought. If such an action is brought through or on behalf of an estate, the term includes the claimant's decedent. If such an action is brought through or on behalf of a minor or incompetent, the term includes the claimant's legal guardian.

(3) Claimant's benefits.—The term "claimant's benefits" means the amount paid to an employee as workers' compensation benefits.

(4) Clear and convincing evidence.—The term "clear and convincing evidence" is that measure or degree of proof that will produce in the mind of the trier of fact a firm belief or conviction as to the truth of the allegations sought to be established. The level of proof required to satisfy that standard is more than that required under a preponderance of the evidence, but less than that required for proof beyond a reasonable doubt.

(5) Commercial loss.—The term "commercial loss" means—

(A) any loss or damage solely to a product itself;

(B) loss relating to a dispute over the value of a product; or

(C) consequential economic loss.

(6) Compensatory damages.—The term "compensatory damages" means damages awarded for economic and noneconomic loss.

(7) Dram-shop.—The term "dram-shop" means a drinking establishment where alcoholic products are sold to be consumed on the premises.

(8) Durable good.—The term "durable good" means any product, or any component of any such product, which—

(A)(i) has a normal life expectancy of 3 or more years; or

(ii) is of a character subject to allowance for depreciation under the Internal Revenue Code of 1986; and

(B) is—

(i) used in a trade or business;

(ii) held for the production of income; or

(iii) sold or donated to a governmental or private entity for the production of goods, training, demonstration, or any other similar purpose.

(9) Economic loss.—The term "economic loss" means any pecuniary loss resulting from harm (including the loss of earnings or other benefits related to employment, medical expense loss, replacement services loss, loss due to death, burial costs, and loss of business or employment opportunities) to the extent recovery for that loss is allowed under applicable State law.

(10) Harm.—The term "harm"—

(A) means any physical injury, illness, disease, or death, or damage to property caused by a product; and

(B) does not include commercial loss.

(11) Insurer.—The term "insurer" means the employer of a claimant if the employer is self-insured or if the employer is not self-insured, the workers' compensation insurer of the employer.

(12) Manufacturer.—The term "manufacturer" means—

(A) any person who is engaged in a business to produce, create, make, or construct any product (or component part of a product) and who—

(i) designs or formulates the product (or component part of the product); or

(ii) has engaged another person to design or formulate the product (or component part of the product);

(B) a product seller, but only with respect to those aspects of a product (or component part of a product) which are created or affected when, before placing the product in the stream of commerce, the product seller—

(i) produces, creates, makes, constructs and designs, or formulates an aspect of the product (or component part of the product) made by another person; or

(ii) has engaged another person to design or formulate an aspect of the product (or component part of the product) made by another person; or

(C) any product seller not described in subparagraph (B) which holds itself out as a manufacturer to the user of the product.

(13) Noneconomic loss.—The term "noneconomic loss" means subjective, nonmonetary loss resulting from harm, including pain, suffering, inconvenience, mental suffering, emotional distress, loss of society and companionship, loss of consortium, injury to reputation, and humiliation.

(14) Person.—The term "person" means any individual, corporation, company, association, firm, partnership, society, joint stock company, or any other entity (including any governmental entity).

(15) Product.—

(A) In general.—The term "product" means any object, substance, mixture, or raw material in a gaseous, liquid, or solid state that—

(i) is capable of delivery itself or as an assembled whole, in a mixed or combined state, or as a component part or ingredient;

(ii) is produced for introduction into trade or commerce;

(iii) has intrinsic economic value; and

(iv) is intended for sale or lease to persons for commercial or personal use.

(B) Exclusion.—The term "product" does not include—

(i) tissue, organs, blood, and blood products used for therapeutic or medical purposes, except to the extent that such tissue, organs, blood, and blood products (or the provision thereof) are subject, under applicable State law, to a standard of liability other than negligence; or

(ii) electricity, water delivered by a utility, natural gas, or steam.

(16) Product liability action.—The term "product liability action" means a civil action brought on any theory for harm caused by a product.

(17) Product seller.—

(A) In general.—The term "product seller" means a person who in the course of a business conducted for that purpose—

(i) sells, distributes, rents, leases, prepares, blends, packages, labels, or otherwise is involved in placing a product in the stream of commerce; or

(ii) installs, repairs, refurbishes, reconditions, or maintains the harm-causing aspect of the product.

(B) Exclusion.—The term "product seller" does not include—

(i) a seller or lessor of real property;

(ii) a provider of professional services in any case in which the sale or use of a product is incidental to the transaction and the essence of the transaction is the furnishing of judgment, skill, or services; or

(iii) any person who—

(I) acts in only a financial capacity with respect to the sale of a product; or

(II) leases a product under a lease arrangement in which the lessor does not initially select the leased product and does not during the lease term ordinarily control the daily operations and maintenance of the product.

(18) Punitive damages.—The term "punitive damages" means damages awarded against any person or entity to punish or deter that person or entity, or others, from engaging in similar behavior in the future.

(19) State.—The term "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and any other territory or possession of the United States or any political subdivision of any of the foregoing.

(20) Tobacco product.—The term "tobacco product" means—

(A) a cigarette, as defined in section 3 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1332);

(B) a little cigar, as defined in section 3 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1332);

(C) a cigar, as defined in section 5702(a) of the Internal Revenue Code of 1986;

(D) pipe tobacco;

(E) loose rolling tobacco and papers used to contain that tobacco;

(F) a product referred to as smokeless tobacco, as defined in section 9 of the Comprehensive Smokeless Tobacco Health Education Act of 1986 (15 U.S.C. 4408); and

(G) any other form of tobacco intended for human consumption.

SEC. 102. APPLICABILITY; PREEMPTION.

(a) Preemption.—

(1) In general.—Except as provided in paragraph (2) and title II, this title governs any product liability action brought in any Federal or State court on any theory for harm caused by a product.

(2) Actions excluded.—

(A) Actions for commercial loss.—A civil action brought for commercial loss shall be governed only by applicable commercial law, including applicable State law based on the Uniform Commercial Code.

(B) Actions for negligent entrustment; negligence per se concerning firearms and ammunition; dram-shop.—

(i) Negligent entrustment.—A civil action for negligent entrustment shall not be subject to the provisions of this title governing product liability actions, but shall be subject to any applicable Federal or State law.

(ii) Negligence per se concerning firearms and ammunition.—A civil action brought under a theory of negligence per se concerning the use of a firearm or ammunition shall not be subject to the provisions of this title governing product liability actions, but shall be subject to any applicable Federal or State law.

(iii) Dram-shop.—A civil action brought under a theory of dram-shop or third-party liability arising out of the sale or providing of an alcoholic product to an intoxicated person or minor shall not be subject to the provisions of this title, but shall be subject to any applicable Federal or State law.

(C) Actions involving harm caused by a tobacco product.—A civil action brought for harm caused by a tobacco product shall not be subject to the provisions of this title governing product liability actions, but shall be subject to any applicable Federal or State law.

(D) Actions involving harm caused by a breast implant.—A civil action brought for harm caused by either the silicone gel or the silicone envelope utilized in a breast implant containing silicone gel shall not be subject to the provisions of this title governing product liability actions, but shall be subject to any applicable Federal or State law.

(b) Relationship to State Law.—Nothing in this Act shall be construed to pre-empt or supercede any Federal or State law to the extent that such law would further limit the award of punitive damages in civil actions. Any matter that is not specifically covered by this title shall be governed by any applicable Federal or State law.

(c) Effect on Other Law.—Nothing in this title shall be construed to—

(1) waive or affect any defense of sovereign immunity asserted by any State under any law;

(2) supersede or alter any Federal law;

(3) waive or affect any defense of sovereign immunity asserted by the United States;

(4) affect the applicability of any provision of chapter 97 of title 28, United States Code;

(5) preempt State choice-of-law rules with respect to claims brought by a foreign nation or a citizen of a foreign nation;

(6) affect the right of any court to transfer venue or to apply the law of a foreign nation or to dismiss a claim of a foreign nation or of a citizen of a foreign nation on the ground of inconvenient forum; or

(7) supersede or modify any statutory or common law, including any law providing for an action to abate a nuisance, that authorizes a person to institute an action for civil damages or civil penalties, cleanup costs, injunctions, restitution, cost recovery, punitive damages, or any other form of relief, for remediation of the environment (as defined in section 101(8) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(8)).

SEC. 103. LIABILITY RULES APPLICABLE TO PRODUCT SELLERS, RENTERS, AND LESSORS.

(a) General Rule.—

(1) In general.—In any product liability action that is subject to this title, a product seller other than a manufacturer shall be liable to a claimant only if the claimant establishes that—

(A)(i) the product that allegedly caused the harm that is the subject of the complaint was sold, rented, or leased by the product seller;

(ii) the product seller failed to exercise reasonable care with respect to the product; and

(iii) the failure to exercise reasonable care was a proximate cause of the harm to the claimant;

(B)(i) the product seller made an express warranty applicable to the product that allegedly caused the harm that is the subject of the complaint, independent of any express warranty made by a manufacturer as to the same product;

(ii) the product failed to conform to the warranty; and

(iii) the failure of the product to conform to the warranty caused the harm to the claimant; or

(C)(i) the product seller engaged in intentional wrongdoing, as determined under applicable State law; and

(ii) the intentional wrongdoing caused the harm that is the subject of the complaint.

(2) Reasonable opportunity for inspection.—For purposes of paragraph (1)(A)(ii), a product seller shall not be considered to have failed to exercise reasonable care with respect to a product based upon an alleged failure to inspect the product, if—

(A) the failure occurred because there was no reasonable opportunity to inspect the product; or

(B) the inspection, in the exercise of reasonable care, would not have revealed the aspect of the product that allegedly caused the claimant's harm.

(b) Special Rule.—

(1) In general.—A product seller shall be deemed to be liable as a manufacturer of a product for harm caused by the product, if—

(A) the manufacturer is not subject to service of process under the laws of any State in which the action may be brought; or

(B) the court determines that the claimant is or would be unable to enforce a judgment against the manufacturer.

(2) Statute of limitations.—For purposes of this subsection only, the statute of limitations applicable to claims asserting liability of a product seller as a manufacturer shall be tolled from the date of the filing of a complaint against the manufacturer to the date that judgment is entered against the manufacturer.

(c) Rented or Leased Products.—

(1) Definition.—For purposes of paragraph (2), and for determining the applicability of this title to any person subject to that paragraph, the term "product liability action"

means a civil action brought on any theory for harm caused by a product or product use.

(2) LIABILITY.—Notwithstanding any other provision of law, any person engaged in the business of renting or leasing a product (other than a person excluded from the definition of product seller under section 101(17)(B)) shall be subject to liability in a product liability action under subsection (a), but any person engaged in the business of renting or leasing a product shall not be liable to a claimant for the tortious act of another solely by reason of ownership of that product.

SEC. 107. STATUTE OF REPOSE FOR DURABLE GOODS USED IN A TRADE OR BUSINESS.

(a) IN GENERAL.—Except as provided in subsections (b) and (c), no product liability action that is subject to this title concerning a durable good alleged to have caused harm (other than toxic harm) for which the claimant has received or is eligible to receive workers' compensation may be filed after the 18-year period beginning at the time of delivery of the durable good to its first purchaser or lessee.

(b) EXTENSION OF STATUTE OF REPOSE.—Notwithstanding any other provision of this section and except as provided in section 106(b), a product liability action may be commenced within 2 years after the date of discovery or date on which discovery should have occurred, if the harm, and the cause of the harm, leading to a product liability action described in subsection (a) are discovered or, in the exercise of reasonable care, should have been discovered, before the expiration of the 18-year period under this section.

(c) EXCEPTIONS.—

(1) IN GENERAL.—A motor vehicle, vessel, aircraft, or train, that is used primarily to transport passengers for hire, shall not be subject to this section.

(2) CERTAIN EXPRESS WARRANTIES.—Subsection (a) does not bar a product liability action against a defendant who made an express warranty in writing as to the safety or life expectancy of the specific product involved which was longer than 18 years, except that such subsection shall apply at the expiration of that warranty.

(3) AVIATION LIMITATIONS PERIOD.—Subsection (a) does not affect the limitations period established by the General Aviation Revitalization Act of 1994 (49 U.S.C. 40101 note).

SEC. 109. ALTERNATIVE DISPUTE RESOLUTION PROCEDURES.

(a) SERVICE OF OFFER.—A claimant or a defendant in a product liability action that is subject to this title may serve upon an adverse party an offer to proceed pursuant to any voluntary, nonbinding alternative dispute resolution procedure established or recognized under the law of the State in which the product liability action is brought or under the rules of the court in which that action is maintained, not later than 60 days after the later of—

(1) service of the initial complaint; or

(2) the expiration of the applicable period for a responsive pleading.

(b) WRITTEN NOTICE OF ACCEPTANCE OR REJECTION.—

(1) IN GENERAL.—Except as provided in subsection (c), not later than 20 days after the service of an offer to proceed under subsection (a), an offeree shall file a written notice of acceptance or rejection of the offer.

(2) EFFECT OF NOTICE.—The filing of a written notice under paragraph (1) shall not constitute a waiver of any objection or defense in the action, including any objection on the grounds of jurisdiction.

(c) EXTENSION.—

(1) IN GENERAL.—The court may, upon motion by an offeree made before the expiration of the 20-day period specified in subsection (b), extend the period for filing a written notice under such subsection for a period of not more than 60 days after the date of expiration of the period specified in subsection (b).

(2) PERMITTED DISCOVERY.—Discovery may be permitted during the period described in paragraph (1).

SEC. 110. PUNITIVE DAMAGES REFORMS.

(a) GENERAL RULE.—

(1) UNIFORM STANDARD FOR AWARD OF PUNITIVE DAMAGES.—To the extent punitive damages are permitted by applicable State law, punitive damages may be awarded against a defendant in any product liability action that is subject to this title if the claimant establishes by clear and convincing evidence that the harm that is the subject of the action was the result of conduct carried out by the defendant with a conscious, flagrant indifference to the rights or safety of others.

(2) BIFURCATION AT REQUEST OF ANY PARTY.—

(A) IN GENERAL.—At the request of any party, the trier of fact in any action that is subject to this section shall consider in a separate proceeding, held subsequent to the determination of the amount of compensatory damages, whether punitive damages are to be awarded for the harm that is the subject of the action and the amount of the award.

(B) INADMISSIBILITY OF EVIDENCE RELATIVE ONLY TO A CLAIM OF PUNITIVE DAMAGES IN A PROCEEDING CONCERNING COMPENSATORY DAMAGES.—If any party requests a separate proceeding under paragraph (1), in a proceeding to determine whether the claimant may be awarded compensatory damages, any evidence, argument, or contention that is relevant only to the claim of punitive damages, as determined by applicable State law, shall be inadmissible.

(b) SPECIAL RULE FOR CERTAIN PERSONS AND ENTITIES.—

(1) IN GENERAL.—In any action described in subsection (a) against a person or entity described in paragraph (2), an award of punitive damages shall not exceed the lesser of—

(A) 2 times the amount of compensatory damages awarded; or

(B) $250,000.

(2) PERSONS AND ENTITIES DESCRIBED.—

(A) IN GENERAL.—A person or entity described in this paragraph is—

(i) an individual whose net worth does not exceed $500,000; or

(ii) an owner of an unincorporated business, or any partnership, corporation, association, unit of local government, or organization that has—

(I) annual revenues of less than or equal to $5,000,000; and

(II) fewer than 25 full-time employees.

TITLE II—BIOMATERIALS ACCESS ASSURANCE

SEC. 201. SHORT TITLE.

This title may be cited as the "Biomaterials Access Assurance Act of 1998".

AMENDMENT NO. 3097

On page 14, beginning with line 20, strike through line 25, and insert the following:

(b) RELATIONSHIP TO STATE LAW—Nothing in this Act shall be construed to pre-empt or supercede any Federal or State law to the extent that such law would further limit the award of punitive damages in civil actions. Any matter that is not specifically covered by this title shall be governed by any applicable Federal State law.

GRAMM AMENDMENTS NOS. 3098–3101

(Ordered to lie on the table.)

Mr. GRAMM submitted four amendments intended to be proposed by him to the bill, S. 648, supra; as follows:

AMENDMENT NO. 3098

In section 105(b), strike "and except as otherwise provided in section 112".

AMENDMENT NO. 3099

In section 105(b) add at the end: "Nothing in this Section shall preclude consideration of misuse or alteration of the product by the claimant's employer or any co-employee who is immune from suit pursuant to state law applicable to workplace injuries for purposes of determining liability."

AMENDMENT NO. 3100

Section 105(b) is amended to read as follows:

(b) WORKPLACE INJURY.—Notwithstanding subsection (a) the damages for which a defendant is otherwise liable under State law shall not be reduced by the percentage of responsibility for the claimant's harm attributable to misuse or alteration of the product by the claimant's employer who is immune from suit by the claimant pursuant to the State law applicable to workplace injuries. Nothing in this section shall preclude consideration of sophisticated user or bulk seller issues relating to employer responsibility for purposes of determining liability.

AMENDMENT NO. 3101

Section 105(b) is amended to read as follows:

(b) WORKPLACE INJURY.—Notwithstanding subsection (a) the damages for which a defendant is otherwise liable under State law shall not be reduced by the percentage of responsibility for the claimant's harm attributable to misuse or alteration of the product by the claimant's employer who is immune from suit by the claimant pursuant to the State law applicable to workplace injuries. Nothing in this section shall preclude consideration of misuse or alteration of the product by the claimant's employer or any co-employee who is immune from suit pursuant to state law applicable to workplace injuries for purposes of determining liability.

HARKIN AMENDMENTS NOS. 3102–3103

(Ordered to lie on the table.)

Mr. HARKIN submitted two amendments intended to be proposed by him to the bill, S. 648, supra; as follows:

AMENDMENT NO. 3102

Amend section 102(a)(2) by adding at the end the following:

(E) ACTIONS INVOLVING MINORS.—A civil action brought for harm caused by a product that includes harm involving permanent disability, disfigurement, or death, caused by that product to an individual under the age of 18 shall not be subject to the provisions of this title governing product liability actions, but shall be subject to any applicable Federal or State law.

AMENDMENT NO. 3103

Strike subsections (a) and (b) of section 107 and insert the following:

(a) USEFUL SAFE LIFE DEFINED.—

(1) IN GENERAL.—For purposes of this subsection, the term "useful safe life" means,

with respect to a product, the period beginning at the time of delivery of the product and ending on the date on which the product would not likely perform in a safe manner.

(2) FACTORS FOR CONSIDERATION.—In making a determination of what constitutes the useful safe life of a product, the court may consider evidence that is probative in determining whether the useful safe life of the product had expired, including—

(A) the amount of wear and tear on the product;

(B) the effect of deterioration from natural causes, climate, and other conditions under which the product was used or stored;

(C) the normal practices of the user, similar users, and the defendant with respect to—

(i) the circumstances and frequency of the use of the product;

(ii) the purposes of the use of the product; and

(iii) any repair, renewal, or replacement made with respect to the product;

(D) any representation, instruction, or warning made by the defendant concerning—

(i) the proper maintenance, storage, or use of the product; or

(ii) the expected useful safe life of the product; and

(E) any modification or alteration to the product made by a user or a third party.

(b) EXEMPTION; PRESUMPTION.—

(1) EXEMPTION FROM LIABILITY.—Except as provided in subsection (c), and subject to paragraph (2), in any product liability action concerning a product that is a durable good alleged to have caused harm (other than toxic harm), the defendant shall not be subject to liability to a claimant for damages resulting from harm caused by the durable good if the defendant proves by a preponderance of the evidence that the harm was caused after the expiration of the useful safe life of the product.

(2) LIABILITY OF DEFENDANT.—A defendant may be subject to liability for damages resulting from harm caused by a durable good after the expiration of the useful safe life of the product if—

(A) the defendant expressly warranted that the product could be utilized safely for a period longer than the useful safe life of the product; or

(B) the defendant intentionally misrepresented facts concerning the product, or fraudulently concealed information concerning the product, and that conduct was a substantial cause of the damages.

(3) PRESUMPTION REGARDING USEFUL SAFE LIFE.—If harm resulting in damages was caused by a durable good after the 18-year period beginning on the date of delivery of the product to the initial purchaser or lessee, there shall be a rebuttable presumption that the harm occurred after the expiration of the useful safe life of the product. The presumption may be rebutted by a preponderance of the evidence.

SESSIONS AMENDMENTS NOS. 3104–3105

(Ordered to lie on the table.)

Mr. SESSIONS submitted two amendments intended to be proposed by him to the bill, S. 648, supra; as follows:

AMENDMENT NO. 3104

Strike section 2.

Strike section 102(b) and insert the following:

(b) RELATIONSHIP TO STATE LAW.—Nothing in this Act shall be construed to preempt or supersede any Federal or State law to the extent that such law would further limit the award of punitive damages. Any matter that is not specifically covered by this title shall be governed by applicable Federal or State law.

Strike sections 104 through 106.

Redesignate section 107 as section 104.

Strike section 108.

Redesignate sections 109 through 112 as sections 105 through 108, respectively.

AMENDMENT NO. 3105

Strike section 102(b) and insert the following:

(b) RELATIONSHIP TO STATE LAW.—Nothing in this Act shall be construed to preempt or supersede any Federal or State law to the extent that such law would further limit the award of punitive damages in civil actions. Any matter that is not specifically covered by this title shall be governed by applicable Federal or State law.

NOTICES OF HEARINGS

COMMITTEE ON SMALL BUSINESS

Mr. BOND. Mr. President, I wish to announce that the Committee on Small Business will hold a hearing entitled "Home Health Care: Can Small Agencies Survive New Regulations?" The hearing will be held on Wednesday, July 15, 1998, beginning at 10:00 a.m. in room 428A of the Russell Senate Office Building. For further information, please contact Suey Howe at 224–5175.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MURKOWSKI. Mr. President, I would like to announce for the public that a hearing has been scheduled before the Committee on Energy and Natural Resources.

The hearing will take place on July 28, 1998 at 9:30 p.m. in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of this hearing is to receive testimony on the March 31, 1998, Government Accounting Office report on the Forest Service: Review of the Alaska Region's Operating Costs.

Those who wish to submit written statements should write to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510. For further information, please call Amie Brown or Mark Rey at (202) 224–6170.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Senate Committee on Commerce, Science, and Transportation be authorized to meet on Wednesday, July 8, 1998, at 9:30 am on High Definition Television (HDTV).

The PRESIDING OFFICER. Without objection, it is ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Senate Committee on Commerce, Science, and Transportation be authorized to meet on Wednesday, July 8, 1998, at 2:00 pm on S. 2105—Government Paperwork Elimination Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON INDIAN AFFAIRS

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Senate Committee on Indian Affairs be authorized to meet during the session of the Senate on Wednesday, July 8, 1998 at 9:30 a.m. to conduct a hearing on S. 1419, Miccousukee Land, S. 391, Cheyenne River Sioux Compensation, S. 1905, Mississippi Sioux Judgment Funds and H.R. 700, Agua Caliente. The hearing will be held in room 485 of the Russell Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Committee on The Judiciary be authorized to meet during the session of the Senate on Wednesday, July 8, 1998 at 9:00 a.m. in room 226 of the Senate Dirksen Office Building to hold a hearing on S.J. Res. 40, Joint Resolution Proposing an amendment to the Constitution of the United States authorizing Congress to prohibit the physical desecration of the flag of the United States.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Committee on The Judiciary be authorized to meet during the session of the Senate on Wednesday, July 8, 1998 at 1:00 p.m. in Room 226 of the Senate Dirksen Office Building to hold a hearing on S. 1529, The Hate Crimes Prevention Act of 1998.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, July 8, 1998 at 10:00 a.m. to hold a closed hearing on Intelligence Matters and at 2:30 p.m. to hold an open confirmation hearing on the nomination of L. Britt Snider to be Inspector General of CIA.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON INTERNATIONAL ECONOMIC POLICY, EXPORT, AND TRADE PROMOTION

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Subcommittee on International Economic Policy, Export and Trade Promotion be authorized to meet during the session of the Senate on Wednesday, July 8, 1998 at 10:00 am to hold a hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON INTERNATIONAL SECURITY, PROLIFERATION, AND FEDERAL SERVICES

Mr. JEFFORDS. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Subcommittee on International Security, Proliferation, and Federal Services to meet on Wednesday, July 8, 1998 at 2:00 p.m. for a hearing on The Adequacy of Commerce Department Satellite Export Controls.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

TOBACCO SETTLEMENT LEGISLATION

• Mr. ABRAHAM. Mr. President, I rise today to comment on Senate action last month on S. 1415, the comprehensive tobacco settlement legislation, and to explain the votes I cast on various amendments, motions to invoke cloture, and other procedural matters relating to this legislation.

At the outset, I would like to thank the floor manager of the legislation, Senator McCAIN, for his absolutely outstanding work on the tobacco settlement legislation. As Chairman of the Senate Commerce Committee, the distinguished Senator from Arizona took on the difficult task of bringing our Committee together to report out comprehensive tobacco settlement legislation.

Mr. President, I believe that passing a tobacco bill would be good, but only if it is the right bill. In my judgment, if we are to pass such a bill, it should follow a number of important principles. First, it should increase funding for research on tobacco-related illnesses. Second, it should provide funds for smoking cessation programs, anti-tobacco education programs, and counter-advertising. Third, it should include programs to combat drug abuse among our kids, a crisis that demands just as much attention as youth smoking. Fourth, it should not place unfair burdens on our small businesses. And finally, it should accomplish these goals without imposing a huge net tax increase on the American people.

Last summer, the tobacco industry started this process when it entered into a settlement with the Attorneys General of several States, a settlement which required congressional action. I voted to report out this legislation from the Commerce Committee, with the hope that it could be modified in ways to achieve the above-stated goals through more amendments to the legislation, through consideration in the House, and through an eventual conference. While many improvements were added to the legislation—such as the addition of the Coverdell-Craig-Abraham "Drug Free Neighborhoods Act" and the Gramm amendment to reduce the marriage penalty tax—more were clearly needed to achieve the goals set forth above.

My vote for cloture was designed to move the process ahead in the hope that we could pass a bill and that it would meet the standards set forth above. It did not signal my intent to vote for final passage of any legislation that remained following the amendment process. Had cloture succeeded, it was my intention to work with others in offering amendments to modify the bill to achieve my aforestated goals.

Following the failure to invoke cloture, it became clear that we were not going to be able to move the bill forward in the way I would have liked. In light of this, and my belief as a member of the Budget Committee that we should keep the budget balanced, I voted with Senator STEVENS on his budget point of order. Senator STEVENS raised a point of order that the tobacco legislation was inconsistent with the budget agreement reached last year between the Congress and the President. I voted against the motion to waive that point of order, which sent the legislation back to the Commerce Committee where, perhaps, we can devise a more acceptable bill.

Mr. President, let me just comment briefly on some of the major amendments that were voted on during the course of the floor consideration of this bill.

I joined Senators CRAIG and COVERDELL in offering the "Drug Free Neighborhoods Act" as an amendment to the tobacco legislation. We are falling very far behind in the war on drugs, and teenage drug use has particularly become much worse in recent years. In the last six years, for instance, the percentage of high school seniors admitting that they had used an illicit drug has risen by more than half. Sadly, nearly 20 percent of our eighth graders use illegal drugs. This amendment provided needed resources for drug interdiction and deterrence and particularly addressed the alarming trends in drug use among teenagers. As we address the harmful health consequences of tobacco, we need to also remember that drug use among teenagers is worsening and is even more unhealthy, dangerous, and unacceptable.

I voted for Senator GRAMM's amendment to reduce the size of the net tax increase proposed in the bill by reducing the marriage penalty tax for working families earning less than $30,000. Under the bill as reported out of Committee, the burden of the price or tax increase from 65 cents to $1.10 per pack of cigarettes would have fallen disproportionately on working class Americans. I believed that we ought to give some of this revenue back in the form of relief from the unfair marriage penalty tax, which requires married people to pay higher taxes than they would if they were single.

On the Reed amendment, which would have denied the advertising deduction for any business found in violation of FDA tobacco advertising regulations, I opposed this amendment and felt that the legislation had begun to stray further away from the core goals that should concern the Congress. Under that amendment, which was narrowly adopted, if the FDA finds that one advertisement of a tobacco product failed to comply with marketing and advertising rules issued by the FDA nearly two years ago and still under litigation, the offending company would lose the entire business expense deduction for all of its advertising in that year. The Congress should not be giving the FDA or any other regulatory agency such expansive and punitive authority. The possibility of such a penalty could chill advertising and deter legitimate, protected speech. In my view, this raises serious constitutional concerns and liberty interests that should at the minimum be seriously considered in the appropriate committees. This is unsound public policy, unsound tax policy, and an unwise expansion of federal regulatory authority. It also sets poor precedent and raises constitutional concerns. No matter what we think of the uses of advertising, the Constitution protects the right of free speech.

I supported Senator GREGG's amendment to eliminate the liability caps that had been included in the manager's amendment. I had concerns about our taking action to limit the liability of the tobacco industry without enacting other legal reforms that are desperately needed by so many industries. I found it highly incongruous that we would not extend the same liability protections to industries that produce life-saving products as we do for the tobacco industry.

For example, I would have liked to see us include reforms to permit the development and manufacturing of beneficial products, such as pacemakers and other medical devices. Too often, biomaterials needed to manufacture those products have been unavailable due to litigation concerns. I had supported Senator ASHCROFT's amendment in the Commerce Committee that would have added the Biomaterials Access Assurance Act to the tobacco settlement legislation. The biomaterials legislation, of which I am a cosponsor, offers liability protections to manufacturers of biomaterials, which are needed to produce life-saving devices but which have been tragically unavailable in some instances because of litigation concerns. Such important health-related legislation as the biomaterials bill would be appropriate to include as part of tobacco settlement legislation, and, in my view, should in fact be directly linked to and included in the legislation.

In summary, I would like to again commend my colleagues for their hard work on the legislation and the majority leader for bringing this important legislation to the floor and giving the full Senate ample opportunity to debate and consider the bill. While I had hoped we could come together on the issue, I think it became far more complex than any of us had imagined. A number of amendments, many of which I supported, changed the nature of the legislation so fundamentally that the legislation really must be revisited from square one. With almost no restrictions on payments for damages and penalties, for instance, it became clear that the industry would never agree to voluntary advertising restrictions. In my view, tobacco advertising is one of the most powerful factors in influencing the decisions of teenagers with respect to smoking, and it was one of the key parts of that legislation that we were not going to get.

I will continue to work with my colleagues on this issue, and with my own Governor and state legislature. I am pleased that Leader LOTT is considering setting up a bipartisan task force to revisit this important issue. There is much that can still be done on it, and I believe that we have learned a great deal in going through this process once.●

TAX DEDUCTIBILITY OF THE BREAST CANCER STAMP

● Mrs. FEINSTEIN. Mr. President, I was concerned to learn this morning that the IRS will not allow individuals who purchase a special stamp intended to raise funds for breast cancer research to list the donation as a charitable gift for tax deduction purposes.

Last year, Congress passed legislation that authorized the U.S. Postal Service to issue a stamp priced at 40 cents, with the additional 8 cents going to the National Institute of Health and the Department of Defense to fund breast cancer research. The clear intent of my legislation was that gifts made to fund breast cancer research through the purchase of the breast cancer stamp are to be considered as a charitable donation. For the IRS to treat them in any other way violates the spirit of the law.

Breast cancer is one of the greatest health risks facing America today. More than 2.6 million women are living with breast cancer right now, one million of them have yet to be diagnosed. Breast cancer is still the number one killer of women between the ages of 35 and 52. The disease claims another woman's life every 12 minutes in the U.S.

Despite increases in the last few years, research dollars are still desperately needed to fund cancer research. In 1996, the National Cancer Institute could fund only 26% of the research grant applications, a decline from 60% in the 1970's.

Clearly, there needs to be innovative ways to offset this reduction in research spending. The breast cancer stamp is one such idea. It has the potential to raise millions of badly needed cancer research dollars. I am disturbed that the IRS has chosen to make it more difficult to raise this money. My legislation was designed to encourage contributions for breast cancer research and I hope the IRS will help fulfill its intent.●

TRIBUTE TO DR. BRUCE CANADAY

● Mr. FAIRCLOTH. Mr. President, I am happy to announce that one of North Carolina's own has been elected president of the American Society of Health-System Pharmacists (ASHP). As president for the 1998-1999 season, Dr. Bruce R. Canaday, Pharm.D., FASHP will lead the nation's pharmacists in developing new and innovative patient care methods. His job will also include representing pharmacists from an array of varying disciplines such as hospitals, health maintenance organizations, long-term care facilities and home health care to name just a few.

After earning his B.S. in pharmacy from Purdue University, Dr. Canaday went on to earn his Doctor of Pharmacy degree from the University of Tennessee. Dr. Canaday's previous experience include serving as Chair of the ASHP House of Delegates and member of the Board of Directors, and as president of the North Carolina Society of Health-System Pharmacists.

When Dr. Canaday is not teaching future pharmacists under his title—Clinical Professor—at the University of North Carolina at Chapel Hill, he is working as Director of the Department of Pharmacotherapy for the Coastal Area Health Education Centers in Wilmington, N.C. At both the coastal centers and at UNC, Dr. Canaday's contributions to the field of pharmacy have taught pharmacy students the information necessary for delivering effective and efficient healthcare to those in need.

Mr. President, if those credentials are not enough for my colleagues to get a good idea of all this fine North Carolinian has done and continues to do, may I add that Dr. Canaday is a board certified pharmacotherapy specialist. As a specialist, he maintains a clinical practice at New Hanover Regional Medical Center in New Hanover, Tennessee.

I am confident, Mr. President, that Dr. Canaday will do a fine job and be a successful leader for the American Pharmacy. Good leadership is important. And I think it is especially true today because of the complexity and command that healthcare and healthcare reform has in this evolutionary age.

Mr. President, North Carolina continues to be blessed by the outstanding achievements of its men and women. The rise of Dr. Bruce R. Canaday to president of the American Society of Health-System Pharmacists is a recent example. I hope that my colleagues will join me in congratulating Dr. Canaday for his latest achievement.●

SHOLL'S COLONIAL CAFETERIA

● Mr. CLELAND. Mr. President, I would like to take this opportunity to salute Washington, DC's beloved Sholl's Colonial Cafeteria for 70 years of prospering business and never-ending dedication to its customers and employees. People have come from all around the world simply for a sampling of Sholl's down home hospitality and great food.

I cannot count the number of meals I have eaten at this Washington institution, but as I am sure many of you who have also visited this landmark know, the memories of dining at Sholl's are endless. Each person who has dined at Sholl's has their own memory of what has made it so special to them. For some it was simply a piece of their apple or rhubarb pie. For others it was the unique experience of dining amongst close friends, colleagues or even new friends you made during a visit.

But for everyone who has frequented Sholl's, there are fond memories of the wonderful people who worked at this restaurant and made it such an enjoyable place to start or end your day. The friendly hello from the late Evan Sholl, Cafeteria founder, and his beloved wife, Gertrude, or their son-in-law and current proprietor, George Fleishell has kept us all returning to Sholl's over the years.

Patrons of Sholl's have described members of the Sholl family, who have owned and operated Sholl's over the last 70 years, as having the biggest hearts in Washington.

Sholl's is not just a business. It is more like a home where friends meet regularly to get together and enjoy some good food and have a good time. Whenever I dine at Sholl's, it is like going to dinner at a friend's house.

I have enjoyed eating at Sholl's Colonial Cafeteria for many years—since the days when I was an intern in 1963 until today. I hope that we will all be able to enjoy many more home cooked meals at Sholl's Cafeteria for many more years to come.

Recently reporter James P. McGrath chronicled the "70 Years of Nourishing Body and Soul" of Sholl's Colonial Cafeteria in an article in the Washington Post. I ask that this inspirational story of hard work, perseverance and determination be printed in the RECORD.

The article follows:

[From the Washington Post, March 15, 1998]

(By James P. McGrath)

Most city dwellers of a certain age have fond memories of a great cafeteria they patronized at some point in their lives. Given

> the velocity and scope of urban redevelopment, however, many of those grand, old dining palaces are gone, but, happily, the flagship of them all survives: Sholl's Colonial Cafeteria at K and 20th streets NW in downtown Washington. Although the Sholl's at Vermont and K closed in 1984, the Sholl's cafeteria a half-dozen blocks away managed to survive, and today it celebrates its 70th year of operation.
>
> In this city of monuments, Sholl's is a monument unto itself. Long before multiculturalism came into fashion, diversity was its hallmark. Its current staff of 40 represents 17 nations, and at one time or another, every Latin American country has had a representative on staff.
>
> Humanity, generosity and kindness also have been Sholl's standards. A family atmosphere permeates the place—from the lounge at the entrance, to the vastly long steam table laden with delectable food, to the huge dining room, where customers can seek out a seat in their favorite nook or cranny.
>
> Sholl's is not interested in political correctness, and it makes no bones about its religious sentiments. While its owners don't proselytize, neither do they hide their convictions. On a simple plate in the cafeteria lobby is a supply of 'grace-before-meals' prayer cards, featuring Protestant, Catholic and Jewish devotions. Cafeteria founder Evan Sholl and his beloved wife, Gertrude, both devout Catholics, regularly invited visiting clergy of all denominations for complimentary meals.
>
> Those meals were and are as basic and all-American as apple pie (and, boy, what delicious apple pie Sholl's makes). The cafeteria's famous powder-milk biscuits are world-class (eat your heart out, Garrison Keillor). Food preparation at Sholl's emphasizes freshness too, with all items prepared daily from scratch, on the premises, in as-needed quantities, with no leftovers for the next day.
>
> Some might consider such Sholl's fare 'square,' but the cafeteria routinely ranks among Phyllis Richman's 'Best 50 Restaurants in Washington.' In an Oct. 19 review, The Post's food critic wrote, 'Every city needs a down-home cafeteria, and few have one with more character than Sholl's. It's been a D.C. fixture . . . long enough to qualify for Medicare. . . .'
>
> Sholl's has attracted its share of notables over its long career. When Harry S. Truman was vice president, he enjoyed dining there, as did H. L. Hunt, the parsimonious billionaire from Dallas. It is easy to imagine Truman and Hunt sitting across from one another and enjoying a good old fashioned 'rhubarb.' That, of course, would be rhubarb pie, a daily Sholl's delicacy.
>
> The late Evan Sholl, who died in 1983 at the age of 85, and his son-in-law and current proprietor, George Fleishell, are responsible for the cafeteria's amalgam of great food and good works. Both gentlemen have dispensed generosity, wholesale and retail. The amount of free food distributed by Sholl's over the years would have fed an army many times over. In addition, shortly before his death, Evan Sholl distributed a year's profits in bonuses to his employees on the basis of $100 for each year of service.
>
> Many believe that a nation's greatness is best measured by how it treats its old, its disabled and its young. Using that yardstick as a standard, also has earned high marks, giving meal passes to the needy, many of them elderly and/or disabled, and donating thousands of food baskets to the poor at Thanksgiving and Christmas. The cafeteria keeps its prices down too, and low-, modest- and fixed-income people, many of whom are elderly, flock to the cafeteria. Dining room employees gently guide infirm customers to convenient tables, carry their trays for them and routinely decline tips.
>
> Sholl's is popular with the young and hale too. Tourist buses, looking for the best food buy for the buck, routinely drop off throngs of kids at the cafeteria's doors, and from the decibel level, the kids seem to be having a whale of a time.
>
> The dining room walls at Sholl's are covered with wonderful memorabilia and pictures of yesteryear as well as awards from the food industry and other organizations. The one that says it best, however, is from the Cosmopolitan Club, which saluted Evan Sholl in 1982 as 'the citizen who has performed the most outstanding, unselfish service to the Washington Metropolitan Community.'•

JERUSALEM POST EDITORIAL ON AMENDING THE PLO COVENANT

• Mr. MACK. Mr. President, there is much discussion in the news about the slow progress of the Middle East Peace Process. Unfortunately, much of the criticism is pointed at Israel's Prime Minister Benyamin Netanyahu. I was pleased to read, however, the Jerusalem Post's editorial of July 6 titled "The Missing Summit" which correctly identifies Arafat's failure to revise the PLO Covenant as a major obstacle to peace. The editorial reads as follows:

> The summer heat tends to slow everything down, even diplomacy. In the absence of real movement in the peace process, talk of summits is proliferating. Prime Minister Binyamin Netanyahu has unsuccessfully pushed for a "Madrid 2" international conference, France and Egypt have a proposal, and yesterday Egyptian President Hosni Mubarak, Jordan's King Hussein, and Palestinian Authority Chairman Yasser Arafat met in Cairo. However, the only summit missing is the one that is most necessary—between Netanyahu and Arafat.
>
> When Mubarak, Hussein, and Arafat last met in September, they could hardly have expected that by now there would still be no deal on the much-anticipated second redeployment. Much of the blame for delay has fallen on Netanyahu's doorstep, and indeed Netanyahu seems to be a master at drawing matters out. Next to Arafat, however, Netanyahu's delaying skills seem almost amateur.
>
> In the current stalemate, one of the main issues in contention is Israel's demand that the Palestinians amend the PLO Covenant to erase its multiple calls for Israel's destruction. Arafat's promise to do so is as old as the Oslo process itself. The Oslo era officially began with an exchange of letters between prime minister Yitzhak Rabin and Arafat, days before the signing of the Declaration of Principles on the White House lawn. Arafat's September 9, 1993 letter to Rabin states the Covenant's denials of Israel's right to exist "are now inoperative" and that he pledges to "submit to the Palestinian National Council for formal approval the necessary changes in regard to the Palestinian Covenant."
>
> At that time, amending the Covenant seemed imminent. It is now almost six years later, and Arafat's commitment is yet to be implemented. In April 1996, the Peres government attempted to negotiate a formula to resolve the issue, but the resolution actually passed by the PNC again made no specific amendment to the Covenant. Then in January 1997, as part of the Hebron Accords, Arafat again committed to "complete the process" of amending the Covenant.
>
> Since then, Arafat has sent letters to President Bill Clinton and Prime Minister Tony Blair retroactively listing the articles of the Covenant that were supposedly canceled by the 1996 PNC resolution. But this, too, can only be taken as a statement of intentions, since the Covenant states that it can only be amended by a two-thirds vote of the PNC, and numerous PLO officials have stated that it has been "frozen," not amended. Now Netanyahu is seen to be delaying matters by demanding that the Palestinians finally carry out a commitment that is a foundation stone of the entire process.
>
> Since the beginning of the Oslo process, Israel has—despite fits and starts, internal division, and even the assassination of the prime minister—demonstrated its commitment to the process by transferring territorial control to the Palestinians. Even under Netanyahu, this process continued with the redeployment in Hebron, and now a major further redeployment is on the table. In this context, it is not unreasonable to characterize the situation as Netanyahu did to the diplomatic corps on Friday: "The issue is not what Israel is prepared to give—it is prepared to give considerably—but it is the Palestinians' unwillingness to give anything of substance."
>
> In the Gaza Strip on Friday, the Palestinian Police cut off Israeli settlements after the IDF refused passage on an Israeli security road to a convoy led by a Palestinian minister. The standoff, which could have broken out into a full-fledged shooting war, was a reminder of how dangerous the current situation is. But the lesson is not just that Israel has an interest in resolving the existing impasse, but that the Palestinians do as well.
>
> Now that Clinton has returned from China and the end of the Knesset summer session approaches, the fate of the redeployment package will be determined. So far, the United States has not rejected Israel's concerns regarding the package on the table, but it has not subjected the Palestinians to the same public pressure that Israel has been under. The sticking point is no longer the size of the redeployment, since creative solutions can be found for the territory surrounding the Israeli settlements that will be isolated by the withdrawal. The more significant question is whether Arafat will be pressed to deliver something much less tangible than what Israel is delivering, but no less necessary for the ultimate success of the peace process. Amending the Covenant is such a fundamental building block, as is an end to the long boycott by Arafat of direct negotiations with Netanyahu.

Mr. President, the Palestinian Authority has promised since 1993 to change the PLO Covenant so that the Israeli people can be confident in the Palestinian regime's acceptance of the existence of the State of Israel. To this day, this most basic and vital action has not been done. As the Jerusalem Post correctly points out, the U.S. Government has ". . . not subjected the Palestinians to the same public pressure that Israel has been under."

The Palestinian Authority must formally and officially amend the Covenant. Until they do so, United States influence should be focused on this failed Palestinian promise.●

RECOGNITION OF THE DEROSSI AND SON COMPANY

● Mr. TORRICELLI. Mr. President, I rise today in recognition of DeRossi and Son Company, which has been recently honored by the Small Business Administration. DeRossi and Son Company was nominated as the Regional Small Business Prime Contractor of the Year and recognized as one of the top small business prime contractors in the State of New Jersey. As a result of this nomination, DeRossi and Son has earned the U.S. Small Business Administration "Administrator's Award for Excellence" certificate. It is a pleasure for me to be able to note these accomplishments and congratulate DeRossi and Son on a job well done.

Since 1926, when Angelo and Dominick DeRossi founded the company, DeRossi and Son has manufactured military dress coats for the United States Government. The company provided clothing for the United States Armed Forces during World War II, the Korean War, and the Vietnam War. DeRossi and Son has a long history of excellence, beginning in 1943 when it received the Army Navy E Award during World War II. This was an award issued for excellence in production and quality during the war. Mr. DeRossi believes that the success of the company is due to the training he received from his grandfather and father and to the great dedication and effort his staff and employees have in serving the customer.

Small businesses face enormous odds for success in the corporate world. There are tremendous obstacles every day, yet DeRossi and Son has been able to rise above adversity. This award is a wonderful testament to its strength and perseverance among small businesses in the State of New Jersey and across the country. Few companies are able to make this claim, and I am honored to be able to say that one has been from my home state.

Both the DeRossi Family, and the company they built over the last seventy-two years, are excellent examples of an immigrant success story. The DeRossi Family's contributions have done much for the future of the town of Vineland, the State of New Jersey, and the United States as a whole. I congratulate DeRossi and Son on a job well done, and I wish both them and their employees the best of luck in the future.●

CRIME VICTIMS WITH DISABILITIES

● Mr. ABRAHAM. Mr. President, I rise to join my colleagues Senator DEWINE and Senator LEAHY in sponsoring the Crime Victims with Disabilities Awareness Act. This legislation will help us better understand and prevent crimes against Americans with disabilities.

Mr. President, Americans with disabilities are four to ten times as likely as other Americans to be the victims of crimes. That means that 54 million Americans are at increased risk of victimization because they suffer from one or more disabilities.

We have long known that criminals are opportunists, and that they target the weakest members of society for exploitation. As a result we have initiated programs to heighten public awareness of crime against women, children, and the elderly. Americans with developmental disabilities deserve the same consideration.

Many disabled Americans have been the victims of crime, Mr. President. Indeed, many of these Americans have been repeat victims because their condition renders them less likely to report incidents to the proper authorities.

If some Americans are unsafe from crime, Mr. President, all Americans are unsafe. Criminals who prey on the disabled are not only showing their lack of morality and victimizing a particularly vulnerable segment of our society, they are degrading our entire nation. To the extent they are allowed to continue their criminal activities they endanger all Americans.

That is why this legislation is so important. It will direct the Attorney General, in conjunction with the National Research Council, to develop a research program to help us better understand and prevent crimes against the disabled. It also directs the Attorney General to include in the annual National Crime Victims Survey statistics regarding crimes against victims with developmental disabilities.

These measures, Mr. President, will help us to heighten awareness of crime against the disabled and help us put a stop to it. It will help us to make our streets and our homes safer for all Americans by protecting the most vulnerable among us.

I urge my colleagues to support this important legislation.●

DR. NILS DAULAIRE

● Mr. LEAHY. Mr. President, when most of us think about health we think about it on a personal or local level. Perhaps a child is suffering from an ear infection or an outbreak of chicken pox has emptied the local elementary school. But when Dr. Nils Daulaire thinks about health it is from a global perspective, and I am delighted to report that Nils was recently named the next President and CEO of the National Council for International Health.

I have known Nils for many years. He is a fellow Vermonter and a trusted friend whose advice I have valued enormously. Nils' boundless energy and devotion to helping others is an inspiration to everyone who knows him. He is as comfortable tending to a sick child in a remote village in Nepal as he is representing the United States Government in international health policy negotiations. Over the years, Nils has earned a reputation as a leading authority in the public health field.

During his tenure as Senior Health Adviser at the Agency for International Development, Nils worked to ensure that international health is a major focus of AID's efforts worldwide. He played a central role in convening a conference of health agencies and organizations to develop a multi-year U.S. strategy to strengthen global surveillance and control of infectious disease. Nils' leadership was instrumental in the strategy that emerged from that conference, which should, over time, result in a significant reduction in the number of deaths from infectious disease. As the new head of NCIH whose membership includes over 1,000 medical professionals and organizations, Nils' continued involvement in this initiative will be critical to its success.

The NCIH's mission to improve global health is a monumental task. I cannot think of a person more capable of leading NCIH into the next century than Nils Daulaire. He is a straight talker and he knows what he is talking about. He understands the medical issues and he understands the political issues. Once Nils begins his new job on August 1, NCIH's operations will be split between Nils in Vermont and his other capable staff in Washington. I look forward to continuing our close working relationship on infectious disease, on maternal health, and other important issues.

Mr. President a June 24, 1998, article in the Washington Post described Nils Daulaire's contribution to the field of international health. I ask that the article be printed in the RECORD.

The article follows:

[From the Washington Post, June 24, 1998]

A MAN TO MAKE HEALTH A GLOBAL ISSUE

(By Judy Mann)

Nils Daulaire, the U.S. government's leading authority on international health, is leaving his post as senior health adviser to the Agency for International Development to become president and CEO of the National Council on International Health.

The NCIH is an organization of more than 1,000 medical professionals and organizations; pharmaceutical companies such as Merck and Becton Dickinson & Co.; government agencies such as the Peace Corps and the Centers for Disease Control and Prevention; international relief organizations such as CARE, Save the Children and Project Hope; Planned Parenthood; religious relief agencies; and universities such as Harvard and Johns Hopkins. It receives funding from the MacArthur, Kellogg, Ford and Turner foundations, and some government financing.

Based in the United States, its mission is to advance policies and programs that improve health around the world. But a recent blue-ribbon panel headed by former surgeon general C. Everett Koop recommended a major restructuring of the organization. The new NCIH will focus on the need for improving global health and making health one of the cornerstones of globalization, on a par with international trade, currency flows and information and communication. A 32-member board is being replaced by a smaller board where leading medical experts can cross-fertilize ideas with experts in development and leaders in the private sector.

The Koop report also recommended hiring a president and CEO with international stature, which the board has done: Daulaire, 49, is a Phi Beta Kappa and summa cum laude graduate of Harvard College and received his medical degree from Harvard Medical School. He has a master's in public health from Johns Hopkins. He has spent two decades in fieldwork, including five years in Nepal, and has provided technical assistance in more than 20 countries. He speaks seven languages.

He was the lead U.S. negotiator at the Cairo International Conference on Population and Development in 1994, the Beijing World Conference on Women in 1995 and the Rome World Food Summit in 1996. He has represented the United States in the last five World Health Organization assemblies and was helpful in the election of Gro Brundtland, former prime minister of Norway, to be director general-elect of WHO with a mission to revitalize it.

New leadership of both of these organizations holds enormous potential for putting health at the center of efforts to improve living conditions around the world. NCIH plans to change its name to the Global Health Council and aims to become, within five years, the preeminent nongovernmental source of information, practical experience, analysis and public advocacy for the most pressing global health issues.

"You can get more done from the outside than the inside," Daulaire says. "In terms of my work over the last five years, if I had had an outside organization that was highly effective in explaining things to the public, tying people together, involving the private sector, it would have made my job much more effective. When you look at the whole movement toward a globalized economy, you can't have enormous differentials in health status. You can't have disruption of economies and trade due to the spread of disease.

"A reason disease is uncorrected is people accept it as natural," Daulaire says. "One of the consequences of the global communications revolution is people [elsewhere] will be aware of how good we have it. They will see their poor conditions and have an awareness that this is not a necessary condition."

When he first arrived in Nepal 20 years ago, "I thought I'd landed in the 14th century. Kids had never seen a wheeled vehicle. When I went back five years ago, there were satellite dishes and cellular phones." The use of information technology as a tool for health care workers and educating people in poor, rural areas has led to astounding changes in the last 15 years, he says.

Currently, the council's top health priorities are AIDS, maternal health, family planning and infectious diseases. It plans to increase public and private funding to improve effectiveness in these areas through sharing information about what works best. Using cutting-edge technology and communication is a key component of its plans. It plans to be ready for emerging diseases.

Daulaire believes the damage to foreign assistance programs by congressional budget hackers has to be reversed, but he also recalls a conversation with a staffer who works for a prominent Republican. He bluntly told Daulaire that these programs may be the right things to do but they have no constituency and so they were "going to get hammered."

The new NCIH plans to develop that constituency so that people, governments and the private sector understand that countries can't participate in the global economy when they are dragged down by health care costs that can be avoided. Daulaire sees a major role for the private sector in promoting global health, and already Becton Dickinson & Co., a multinational medical technology company, has indicated a keen interest in developing a major partnership with the new NCIH.

Daulaire's appointment is to be announced officially tomorrow at the NCIH's 25th annual meeting. He takes office Aug. 1, bringing to the post a rare blend of medical expertise, optimism, fieldwork, knowledge of bureaucracies, a network of relationships with health experts and politicians around the world, and an unusual ability to articulate complicated health and development issues to the media.

Global health is not them; it is all of us. Daulaire is the person to move that principle into the center of efforts to raise standards of living around the world.●

HONORING AN IDAHO CIVIC LEADER

● Mr. KEMPTHORNE. Mr. President, I rise to pay tribute to an Idahoan who has distinguished himself in both the public and private sector.

Kirk Sullivan is retiring after 27 years with the Boise Cascade Corporation. But to simply say that Kirk enjoyed a long and productive career with a company is not adequate and doesn't do this outstanding individual justice.

While not a native Idahoan, Kirk has worked most of his adult life to make the state a better place to live. And over the years he's dedicated himself to helping others.

Idaho's children are of particular interest to Kirk. He has used his education and business experience to act as a tremendous resource to our children, from elementary school to the university level.

As an active member of the Business Week Foundation, Kirk served as a mentor to Idaho high school students eager to learn how business operates and how to be successful in the workplace.

As the founder of the Bishop Kelly Foundation, Kirk raised money for Boise's private high school.

Kirk has not just played a supporting role in those ventures, nor in others. When Kirk sets out to do something, he takes charge. He actively raised money for the Children's Home Society of Idaho, he is leading a $500,000 fund drive for the Boise Master Chorale, and he raises funds for the University of Idaho.

Kirk's boundless energy is contagious. I have seen him take on so many different issues and set lofty goals. He doesn't know the word "no." When he's asked to do something, it is always "yes." I've seen him gather some of the very talented people in the state of Idaho and tackle some of these major projects and come up with major results. It is so invigorating to see how he weaves his magic.

In fact, even though Kirk Sullivan is not an alumnus of the University of Idaho, he has received the school's Presidential Citation for giving to the University and its community.

I must add, Mr. President, that the University of Idaho is not the only beneficiary of Kirk Sullivan's efforts and enthusiasm. He has served as President of the Bronco Athletic Association at Boise State University and is currently a member of the Commission on the Future of Clemson University, his alma mater. He also is on Clemson's College of Engineering and Science Leadership Committee, with a fundraising goal of $100 million.

So you can see, Mr. President, that Kirk and his wife, Betty, are valuable assets and cherished members of our community.

While Kirk is retiring, I'm confident in the knowledge that his good works and commitment to his state will never wane. Idaho is a much better place because of the dedication and tireless efforts of Kirk Sullivan.

I take pride in congratulating him today, and I know all Idahoans salute him.●

IOWA'S BILL FITCH

● Mr. HARKIN. Mr. President, our former colleague, Senator John Culver of Iowa, brought to my attention an article, which recently appeared in the Cedar Rapids Gazette, about Bill Fitch. Mr. Fitch was an outstanding athlete when he attended Cedar Rapids' Wilson High School and, also, during his college years at Coe College in Cedar Rapids. Later on, Mr. Fitch coached at Coe College, Creighton University (where he coached Bob Gibson, the famous baseball pitcher), and North Dakota (where he coached Phil Jackson, now coach of the Chicago Bulls). He won the 1981 NBA title as the Boston Celtics' coach with Larry Bird. He coached in the NBA for 25 years and was the only person to coach 2,000 regular-season games and his 944 wins ranked second only to NBA coach Lenny Wilkens. I am grateful to Mike Hlas of the Cedar Rapids Gazette for writing this column about one of Iowa's great athletes, and I am thankful to my friend, Senator John Culver, for bringing it to my attention.

At this point, I ask that Mr. Hlas' article be printed in the RECORD.

The article follows:

[From The Gazette, Apr. 22, 1998]

C.R.'S FITCH A BIG WINNER

(By Mike Hlas)

No one will ever put a sign at Cedar Rapids' city limits proclaiming it the hometown of the NBA's all-time losingest coach.

That's good. Bill Fitch, who attended Wilson back when it was a high school and coached at Coe, deserves respect.

You don't last long enough to lose 1,106 times unless you were good. You don't become the only coach in NBA history to coach 2,050 times in the regular season unless you were good.

Fitch, fired by the Los Angeles Clippers Monday at age 63, was good.

But as Casey Stengel once said, I managed good, they just played bad.

Perhaps none of Fitch's 25 NBA squads was as bad as the 1997-98 Clippers, who won 17 and lost 65, and did so without a hint of style.

It didn't even feel this rotten for Fitch in 1970, when he and the Cleveland Cavaliers spent their first years in the NBA together. The original Cavs were so bad they were unaffectionately nicknamed the Cadavers. Somehow, Fitch kept a sense of humor and his sanity.

By the time Fitch's nine-year engagement closed in Cleveland, the Cavs had made the playoffs three times.

As the years passed, Cedar Rapids could take more and more pride in calling Fitch a homeboy. Especially when NBA coaching legend Red Auerbach, then a general manager—brought him to Boston to coach the then-stale Celtics.

When surrounded by people who could play the game better than anyone, Fitch turned out to be quite a coach. He had three consecutive 60-game winners in Boston, and won the NBA title in 1981 with young Larry Bird.

Houston was Fitch's next stop. The Rockets had four winning seasons in five years under Fitch, and once reached the NBA finals, only to lose to Bird's Celtics.

The NBA's heights were great, but Fitch was one of the few coaches who could survive in its depths. His last seven teams were in New Jersey and Los Angeles, where talent was inadequate. Last year, though, he did lead a very young Clipper club to the playoffs.

The promise gave way to a nightmare season. A very good player (Bo Outlaw) left as a free agent, and another star (Loy Vaught) missed most of the year with a bad back.

So the coach got fired because he's 63 years old, because his players supposedly began to tune him out, and because the Clippers are about to move into a big new arena in downtown Los Angeles and want a sharper image.

Fitch, who had worked with Bird and Kevin McHale and Moses Malone, was surrounded in his final season with youngsters who had never won a thing in the NBA. They were tuning him out? He should have turned them out.

For anyone to endure four years with the Clipper's and 25 seasons in the NBA as a coach is semi-amazing. If meddling management isn't giving you a headache, some underachieving knucklehead player is giving you heartache.

You need a cast-iron stomach to coach in the NBA for 25 years. To be the only person to coach 2,000 regular-season games in the league tells how highly regarded Fitch was held. His 944 wins rank second only to Lenny Wilkens. It is something worth honoring.

As any coach will tell you, losing one game tears you apart. To drop 1,106 and keep plugging is wonderful.

"It's depressing," Fitch said about this season, days before he was fired. "But it's also one that makes you want to say, 'Never again,' We'll get it going in the right direction again."

If you spend four years with the Bad News Clippers and can still say a thing like that, you are a winner for the ages.●

CAPITAL GAINS TAX CUT

● Mr. ABRAHAM. Mr. President, I rise to support the Majority Leader's legislation, S. 2214, reducing the top capital gains tax rate from 20 to 15 percent, and reducing from 18 to 12 months the holding period required on capital gains.

Mr. President, this legislation is good news for the economy, and it is good news for America's working families.

Ours is a global economy, Mr. President. And in my view it is crucial, if we want to continue enjoying our current prosperity, that we do more to maintain our competitive edge. Even with last year's capital gains tax cut, at 20 percent America's long term capital gains tax rate remains among the industrialized world's highest. Further, countries like Australia and the United Kingdom, which have higher rates, also allow taxpayers to index the cost of the asset on which they make gains.

We pay a high price for our high capital gains tax, Mr. President. As Stanford Dean John B. Shoven points out, higher capital gains rates increase the cost of investing in capital and equipment. As a percentage of Gross National Product, the United States invested less in nonresidential projects from 1973 to 1992 than any of our major competitors. And investment in plant and equipment has fallen to only half the level of the 1960's and 1970's.

Without updated plant and equipment, productivity lags and we cannot compete with other nations. Lowered capital gains taxes would directly address this problem. National Council of Policy Assessment Senior Fellows Gary and Aldona Robbins predicted, before last year's reduction in the top capital gains tax rate, that a cut of 50 percent in that rate, to 14 percent, would lower the cost of capital by 5 percent. This would induce investors to increase the capital stock by $2.2 trillion in 5 years. And that larger stock of capital would create 721,000 new jobs and increase GDP cumulatively by almost $1 trillion.

That's a lot of jobs and a lot of growth, Mr. President. Particularly when we can achieve them simply by allowing the American people to keep more of what they earn. And we are well on our way to spurring this growth and job creation. For example, Mr. President, Congress' Joint Committee on Taxation estimates that the recent cut in the top capital gains tax rate from 28 to 20 percent will increase capital gains realizations by $1 trillion over the next 10 years. That's a trillion dollars, Mr. President, that will be freed from stagnant investments for more productive purposes.

We should also keep in mind, Mr. President, that this tax cut will benefit the vast majority of the American people. In addition to creating jobs and keeping our businesses competitive in the global marketplace, this capital gains tax cut will directly aid America's working families.

It is time to recognize, Mr. President, that America's middle class is fully integrated into our free market economy. The vast majority of working Americans are not just wage-earners, they are investors as well.

Americans who own stocks, bonds and other investments on which they may take capital gains are investors. Small business owners, nonprofessional salaried employees and blue collar workers with a company retirement plan are investors.

As economist Lawrence Kudlow points out, "Today's investor class could total as many as 125 million people. That's equivalent to virtually the entire working population of the U.S.."

How does Mr. Kudlow come up with this number? According to a recent Nasdaq survey, 43 percent of all Americans own stocks—more than double the 21 percent reported in 1980. An NBC/Wall Street Journal poll found that 51 percent of Americans own at least $5,000 in stocks, mutual funds or other retirement saving vehicles. And the American Savings Education Council reports that nearly half of all American workers contribute an average of 5 percent of their gross income to 401(k) individual retirement plans.

Forty-nine percent of America's investors are women, 38 percent are nonprofessional salaried workers—and both groups have annual incomes of $75,000 or less. Nearly two thirds of investor families have incomes under $50,000.

Mr. President, these responsible, hard-working, middle class Americans are concerned about their futures; they are attempting to build and nurture a nest-egg for themselves, their retirement and their children.

These Americans know that wealth is created through innovation and hard work in free markets. They know that saving is crucial to their future and to the future of this nation. They saw the dangers big-government social engineering posed to our economy and brought about the most significant political revolution in this country in 50 years, putting the free-market Republican party in control of both Houses of Congress.

Mr. President, middle class investors in America support our nation through disproportionate savings and investment. In return these middle class Americans seek fair treatment. They seek policies that do not penalize them for their hard work and financial responsibility. And in my view it is time we gave it to them. And that means lowering the capital gains tax to 15 percent.

It is also important to note, Mr. President, that it is the moderate income person who is penalized most by high capital gains tax rates. The increase in moderate income workers reporting capital gains is largely due to the increasing use of mutual funds. These funds allow more and more Americans to invest in the stock market by pooling resources in the hands of a fund manager who buys and sells stocks.

The only down side to this profitable arrangement, Mr. President, is created by the tax code. Individuals investing in mutual funds cannot balance their capital gains by selling off other stocks showing capital losses as wealthy people can. This means that a significant proportion of mutual fund investors show capital gains on a regular basis—and see their returns reduced because of capital gains taxes—even though they are not controlling individual investment decisions.

If we want Americans to save more, Mr. President, in my view it makes sense to make savings pay more by taxing it less. This cut in capital gains taxes will make savings and investment more attractive to Americans by increasing the net return on investments.

Finally, Mr. President, I believe it is important at this point to address the fear expressed by a number of people that this tax cut would bust the budget. Fortunately for us, that simply is not true.

As I have already mentioned, the Joint Committee on Taxation has estimated that the most recent cut in the capital gains tax rate will produce $1 trillion over the next 10 years in increased capital gains realizations. That translates, Mr. President, into an increase of $47 billion in federal revenues. This further cut in the top marginal capital gains tax rate will only magnify that increase in revenue.

Indeed, Congress' own Joint Economic Committee last year published a study, written by economists James Gwartney and Randall Holcombe of Florida State University, finding that revenue from the capital gains tax would be maximized at 15 percent. Thus, the tax cut we are considering today would achieve the maximum federal revenue possible from this tax, while in addition spurring economic growth and job creation.

This is a truly win-win situation, Mr. President. We now have an opportunity to encourage savings and investment, spur continued economic growth and maximize federal revenues. I urge my colleagues to grant the American people the benefits of this important legislation.●

CORRECTING THE AGRICULTURAL RESEARCH, EXTENSION, AND EDUCATION REFORM ACT OF 1998

Mr. GRASSLEY. Mr. President, for the leader I ask unanimous consent that the Senate proceed to the immediate consideration of S. 2275, which was introduced earlier today by Senator Lugar.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

A bill (S. 2275) to make technical corrections to the Agricultural Research, Extension, and Education Reform Act of 1998.

The Senate proceeded to consider the bill.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the bill be considered read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill appear at this point in the Record.

There being no objection, the bill (S. 2275) was considered read the third time and passed as follows:

S. 2275

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TECHNICAL CORRECTIONS TO AGRICULTURAL RESEARCH, EXTENSION, AND EDUCATION REFORM ACT OF 1998.

(a) Forest and Rangeland Renewable Resources Research.—Section 3(d)(3) of the Forest and Rangeland Renewable Resources Research Act of 1978 (16 U.S.C. 1642(d)(3)) (as amended by section 253(b) of the Agricultural Research, Extension, and Education Reform Act of 1998) is amended by striking "The Secretary" and inserting "At the request of the Governor of the State of Maine, New Hampshire, New York, or Vermont, the Secretary".

(b) Honey Research, Promotion, and Consumer Information.—Section 7(e)(2) of the Honey Research, Promotion, and Consumer Information Act (7 U.S.C. 4606(e)(2)) (as amended by section 605(f)(3) of the Agricultural Research, Extension, and Education Reform Act of 1998) is amended by striking "$0.0075" each place it appears and inserting "$0.01".

(c) Effective Date.—The amendments made by this section take effect on the date of enactment of the Agricultural Research, Extension, and Education Reform Act of 1998.

ORDERS FOR THURSDAY, JULY 9, 1998

Mr. GRASSLEY. Mr. President, for the leader I ask unanimous consent that when the Senate completes its business today it stand in adjournment until 9 a.m. on Thursday, July 9. I further ask that when the Senate reconvenes on Thursday, immediately following the prayer, the routine requests through the morning hour be granted.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. I further ask that there be a period for morning business for 1 hour, with the first 30 minutes under the control of Senator Daschle, and the next 30 minutes under the control of Senator Lott.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. At the hour of 10 a.m., under the provisions of rule XXII, a cloture vote will occur on the Gorton substitute to the product liability bill. Following that vote, regardless of the outcome, I ask unanimous consent that a vote occur on adoption of the IRS conference report.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. I ask it be in order now to request the yeas and nays.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

PROGRAM

Mr. GRASSLEY. For the information of all Senators, when the Senate reconvenes on Thursday, a cloture vote will occur at 10 a.m. Immediately following that vote, a second vote will occur on the adoption of the IRS conference report.

Following those two back-to-back votes, it will be the leader's intention to begin the anti-agriculture sanctions legislation for India and Pakistan, hopefully under a brief time agreement. Following that legislation, it will be the leader's intention to begin the higher education bill under the consent agreement of June 25, 1998.

Therefore, several votes will occur during Thursday's session of the Senate, with the first two votes occurring back-to-back at 10 a.m.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEASURE PLACED ON THE CALENDAR—S. 2271

Mr. GRASSLEY. Mr. President, there is a bill at the desk due for its second reading.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 2271) to simplify and expedite access to the Federal courts for injured parties whose rights and privileges, secured by the United States Constitution, have been deprived by final actions of Federal agencies, or other government officials or entities acting under color of State law, and for other purposes.

Mr. GRASSLEY. I object to further consideration at this time.

The PRESIDING OFFICER. The bill will be placed on the calendar.

Mr. GRASSLEY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT

Mr. GORTON. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order following the remarks of the Senator from Massachusetts, the Senator from Florida, and this Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Massachusetts is recognized.

MANAGED CARE

Mr. KENNEDY. Mr. President, the unholy alliance between the Republican leadership in Congress and the health insurance industry is working overtime to prevent enactment of meaningful patient protections to end the abuses of HMOs and managed care health plans. The tactics of the Republican leadership yesterday made that crystal clear—and continue the obstruction that has been taking place since the beginning of this Congress.

Yesterday, the Democratic leader, Senator DASCHLE, offered our Patients' Bill of Rights as an amendment to an appropriations bill, to address the worst abuses of managed care. The Republican leadership didn't want to debate our amendment in the Senate, because they know that they cannot sustain a position that protects insurance industry profits at the expense of patients.

So what did they do? They pulled down the important appropriations bill in order to avoid a vote on the Patient's Bill of Rights. Then they filed an immediate cloture petition on the Product Liability Bill, to avoid having to debate the Patient's Bill of Rights on that legislation. And I have no doubt that they will continue to engage in any other parliamentary maneuver they can devise—in an attempt to avoid debating and voting on the Patient's Bill of Rights. They are ready to impose a gag rule on the United States Senate, if that is necessary to prevent us from ending gag rules on the Nation's doctors.

It is long past time for Congress to act on the issue of reforming managed care. Individuals and families are increasingly apprehensive about how they will be treated when they are sick. A survey last year found that an astonishing 80 percent of Americans believe that their quality of care is often compromised by their insurance plan to save money. And, too often, their belief is well-founded.

Our Patients' Bill of Rights will end abuses of HMOs and managed care plans across the country. Too often today, managed care is mis-managed care. Decisions on health care should be made by doctors and their patients, not by insurance industry accountants bent on protecting profits instead of patients.

For more than a year, the Republican leadership has been delaying action. I introduced patient protection legislation with Congressman JOHN DINGELL nearly a year and a half ago. Since that time, the President's non-partisan blue ribbon commission has recommended nearly identical protections. Under Senator DASCHLE's leadership, we have introduced the Patients' Bill of Rights legislation in both the House and Senate—and it is supported not only by Democrats but by Republicans as well.

More than 170 organizations have endorsed it. These groups represent tens of millions of patients, doctors, nurses, persons with disabilities or chronic illnesses, those in the mental health community, workers and families, consumers, small businesses, religious organizations, non-physician providers and many others.

Yet, despite this support and the obvious need for action, the Senate leadership continues to delay. The special interests that profit from the status quo have designed a campaign of misinformation to obscure the real issues and prevent action.

There is no mystery about what is going on. The Republican leadership's position is to protect the insurance industry instead of protecting patients. They know they can't do that in the light of day. So their strategy has been to work behind closed doors to kill the bill. Keep it bottled up in committee. Prevent any debate or vote by the full Senate.

Willis Gradison, the head of the Health Insurance Association of America, was asked in an interview published in the Rocky Mountain News to sum up their strategy. According to the article, Mr. Gradison replied "There's a lot to be said for 'Just say no.'" The author of the article goes on to report that

> At a strategy session . . . called by a top aide to Senator Don Nickles, Gradison advised Republicans to avoid taking public positions that could draw fire during the election campaign. Opponents will rely on Republican leaders in both chambers to keep managed care legislation bottled up in committee.

Instead of participating in a productive debate on how to give patients the protections they need, insurance companies and their allies in the business community have heeded the call of the Republican leadership, in the words of a leadership aide acting on behalf of Senator LOTT, to "get off their butts and get off their wallets." They are contributing hundreds of thousands of dollars to GOP candidates who toe their line, while simultaneously preparing to spend millions of dollars on TV ads to defeat the Patients' Bill of Rights.

But before we swallow their phony charges of excessive increases in costs and in the number of the uninsured, let's examine their credibility on this issue.

Insurers say it is too costly to guarantee that treatment decisions are made by doctors and patients. Yet, they pay their CEOs and high-ranking executives multi-million dollar compensation packages and spend millions of dollars on luxury accommodations for corporate headquarters.

How can the insurance industry tell the American people with a straight face that this legislation will raise costs, when it is spending millions of dollars—derived from premiums paid by hard working families—on a scare campaign to intimidate patients and deny them the protections they need, deserve, and thought they had paid for?

Mr. President, we have, and I will include in the RECORD, a summary of the various protections that are included in this legislation. But before I do, I think it is interesting to know where we are with regard to the scheduling of this particular provision.

The Patient's Bill of Rights was offered last evening by the Senator from South Dakota, Senator DASCHLE, and was sent back to the desk. We have been denied an opportunity for a mark-up on this legislation in the Labor and Human Resources Committee. The Republican leadership has refused to schedule this legislation on the floor of the U.S. Senate, with the exception of the phony unanimous consent request. The consent request indicated that when we had the debate on this legislation, and after a vote on or in relation to this legislation, it would be in order for the majority leader to return the legislation to the calendar. That means that after we voted on the legislation, even if we voted for good legislation that protects the consumers in this country, under this consent request, the Republican leader would have been able to send it back to the calendar. The Republican leader would not send it to the House of Representatives for action. The Republican leader would not even take legislation if it was sent over from the House of Representatives and we acted upon it. The Republican leader would not send it to the President of the United States: instead, the Republican leader would put the legislation back on the calendar.

This is a phony initiative by the Republican leadership. There isn't a Member of this body who wouldn't read it and understand how phony it is. It is insulting to the millions of patients in this country who have suffered to say that if we take action to try to protect you, and we have a positive vote in the Senate of the United States, the leader of the Republican Party can put it back on the calendar and frustrate every other Member in the Senate.

This is the first time in 36 years I have ever seen a consent request like this. Last night, the Republican leaders said, "But, oh, wasn't the Senator from Massachusetts here when there was objection to the leader's request?"

Here is the consent request. I will put it all in the Record, Mr. President: "it be in order for the majority leader to return the legislation to the calendar," effectively killing it. To add insult to injury, Mr. President, it points out that we will not be in order to offer any other health care measures for the rest of the session.

Isn't that a beauty? We will not be able to offer any other health measures for the rest of the session. We will not be able to deal with medical records confidentiality issues; we will not be able to deal with Medicare issues. We will not be able to deal with any other health care issue for the remainder of this session.

Why? What is it about debating the health care issues which are of such fundamental importance to families in this country that we cannot get a debate on it? What is it, Mr. President? What does the Republican leadership fear about debating these issues on the floor of the U.S. Senate that are of central concern to every family in America? That is the question we ask.

And you know what our answer is? You know what our answer is, Mr. President? Our answer is that tomorrow at 10 o'clock we are going to vote on the IRS conference report. We are going to vote on cloture of the product liability bill. Are we then going to proceed to health care? No. We are instead going to have a 2-hour debate on agricultural sanctions. Then are we going to proceed to health care? No. We are instead going to the higher education reauthorization. With the higher education reauthorization, by prior agreement that was made many weeks ago, we are prohibited from offering any amendments. And then this week is finished. It is gone. Starting tomorrow, thirty-five more days are left in this session. This week is gone without any opportunity to debate this important issue.

I see members of the Republican leadership here. Maybe the Senator from Oklahoma can explain why we cannot debate health care issues on the floor of the U.S. Senate. We had the opportunity to have health care raised yesterday by the Senator from South Dakota. And here we have the Republican leadership agenda. The vote on the IRS conference report is important and we are going to vote on it.

But is the conference report on the IRS more important than the fact that tonight, across this country, insurance company agents are making decisions on health care that will imperil the health of families? Can we say that the IRS is more important? What about the vote on the product liability bill? Is that more important than this debate? The Republican leadership says that we're going to have a 2-hour debate on agricultural sanctions. And it goes on and on.

Mr. NICKLES. Will the Senator yield?

Mr. KENNEDY. Just let me make a brief comment because I was denied the opportunity last evening by the Republicans to have a conversation or ask questions last night. I will make a brief statement, and then I will yield.

Last night, my friend from the State of Washington said: "Republicans will decide whether this great body is going to debate health care. I want to say that to the Senator from Massachusetts. Republicans will. They'll make the decision. Democrats won't. And we decided that because the Senator from South Dakota has raised this issue we are not going to permit a debate on this issue on the floor of the U.S. Senate." That is what they have said.

Mr. NICKLES. Will the Senator yield?

Mr. KENNEDY. The Republican leadership, in issuing their list of priorities about what we are going to consider during July and during September, has denied us the opportunity to debate the health care issue.

Mr. NICKLES. Will the Senator yield?

Mr. KENNEDY. In 1 more minute I will yield. It has been the Republican leadership who has denied us the opportunity to mark up this legislation in committee, to move it to the calendar, and to permit any certainty about when we would debate it. That is the record.

I will be glad to yield for a question to the Senator from Oklahoma.

Mr. NICKLES. Will the Senator yield? I appreciate——

Mr. KENNEDY. For a question.

Mr. NICKLES. I would like to rebut some of the things the Senator said.

Mr. KENNEDY. The Senator will have an opportunity to do so. I waited last night until after the Senator finished. But I will be glad to yield to respond to a question, if you have one, or I will continue.

Mr. NICKLES. Please continue. I will make the statement afterwards.

Mr. KENNEDY. Mr. President, in the area of the Patients' Bill of Rights, we have provisions supported by four different groups. One group is the President's Quality Commission. The Commission is made up of a number of extraordinary individuals from the insurance industry, from HMOs, from consumer groups. This is a bipartisan group that is universally respected.

Another group is the NAIC, which is the National Association of Insurance Commissioners. The NAIC includes both Republicans and Democrats alike across the country. A third group is the American Association of Health Plans, which is the trade organization of HMOs.

The PRESIDING OFFICER. The Senator's 15 minutes have expired.

Mr. KENNEDY. I ask unanimous consent for 10 more minutes.

The PRESIDING OFFICER. Is there objection?

Mr. NICKLES. Reserving the right to object, and I will not object. I would like to modify the Senator's request, that following his additional 10 minutes, I have 10 minutes to respond.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. KENNEDY. Thank you. And I yield 8 minutes to myself of the 10 minutes.

So we have provisions supported by these four organizations: Medicare; the National Association of Insurance Commissioners; the President's Quality Commission; and the American Association of Health Plans.

Now, we come to the provision regarding access to emergency care to permit individuals to go to the nearest emergency room. All four organizations agree with this. My time tonight is going to be short, so I will get back to this issue at another time when we debate it.

Another provision is access to specialty care, for example when a child has cancer and ought to be able to go to an oncologist. Oh this provision, we have support from three out of the four organizations. The President's Quality Commission, the HMO trade association, and Medicare all say yes.

For the direct access by women to OB-GYNs, the President's Quality Commission says yes.

Continuity of care allows an individual to be able to continue to get treatment by their doctor if the doctor is dropped from an HMO. This provision is effectively favored by all of the various groups.

What in these particular areas can our Republican friends complain about? Let us go on.

Coverage of an individual to participate in clinical trials is absolutely essential if we are going to get breakthroughs, particularly in breast cancer, and allow patients to take advantage of cutting-edge new technology. Access to clinical trials is supported by the American Association of Health Plans.

Provider networks need to ensure adequacy. If you are going to represent yourself as an HMO, all of these groups say you ought to have a balanced number of participating professionals and hospitals.

Nondiscrimination in delivery of services. You cannot discriminate against sick people and cannot discriminate in the delivery of health care by race or religion. Three out of the four groups agree with this provision.

Patients need information about copays, deductibles and standard information so they can make comparisons between different groups. Who can complain about this? All four groups support this provision.

Prohibition on gag rules. All four groups agreed with us on this position. You should not prevent doctors from being able to tell you what is in the best interest of your health.

Prohibition of improper incentive arrangements. Can you imagine we have to put legislate to prevent HMOs from putting the kind of improper incentives into their arrangements with the medical profession? It is extraordinary that we have to do this, but it is necessary.

Internal appeals to have a fair appeal in cases. All four groups agree on that.

The external appeals, to have a third party group. The President's Quality Commission recommends it and Medicare has been doing it for years.

And finally, to hold plans accountable in State courts. We had a vote here in the U.S. Senate the other day not to give blanket freedom of any kind of liability for the tobacco industry, and it passed by two-thirds to three-quarters of the U.S. Senate. We want to give the same kind of protections and accountability on the issues of health care. We will have a chance to debate that. If the Republicans don't want us to do that, then let's have a rollcall vote on that.

These are the essential aspects of the Patients' Bill of Rights. They have been taken from these four different organizations. Most of these items are supported by two, three, in many instances all four, of the different groups. This is a commonsense protection for the patients of this country. If Republicans differ with those kind of protections, let us stand up and debate them. Let us hear their alternative.

We have heard in the last few days that the right to hold plans accountable is going to drive the health care costs through the roof. Read in the Wall Street Journal today an article on a study by Coopers & Lybrand that showed it will only cost pennies a day for this protection. Don't just read the Journal article, but also look at what has happened to the 23 million Americans—most of them State and county officials—who have those kinds of protections, and look at the cost of their premiums. Their premiums are not any higher. This result is better than any study that can be done by the Chamber of Commerce or other group that is wholeheartedly opposed to this legislation.

These are the essential elements of the Patients' Bill of Rights, introduced by Senator DASCHLE. Perhaps they have to be altered, or maybe they ought to be strengthened, or maybe others in this body have better ideas to achieve these kinds of protections. But let us hear the opposition and the reasons for it. Let us hear the reasons. Let them advance those causes. But the silence is deafening. The American public deserve better.

The Republican leadership will have a chance to debate the issue, because Senator DASCHLE and others will continue to press it until we get a time to debate it. If that is wrong, so be it. Some of us are committed to protecting the American family, to make sure that doctors and nurses and patients are going to be making the health care decisions and not the insurance companies. That is the issue, plain and simple. We will challenge the Republican leadership tonight, tomorrow, and every other day for the 35 days remaining in this session, to give us a time to debate this issue.

It is interesting that the essence of this legislation is supported by Republicans in the House of Representatives, including Congressman GANSKE, who is a doctor and was at our press conference. Congressman GANSKE didn't believe this ought to be a partisan issue. Dr. NORWOOD, a Republican, didn't believe this ought to be a partisan issue. But here in the U.S. Senate, the Republicans are making this a partisan issue. Here in the U.S. Senate we are told: No, not only you won't have any one of us support it, but we won't even give you the time to debate it. That is wrong.

How much time remains?

The PRESIDING OFFICER (Mr. BROWNBACK). The Senator has used his 8 minutes.

Mr. KENNEDY. I yield myself the last 2 minutes.

In summary, the Patients' Bill of Rights guarantees the access to specialists, emergency rooms, and other needed care. It expands choices. It ensures independent appeals. It holds plans accountable for the medical decisions, restores doctor-patient relationship, establishes quality and information standards.

The American people are entitled to these rights in their health care. Children in this country are entitled to them. Senior citizens in the country are entitled to them. Hard-working men and women in this country are entitled to them. Doctors are entitled to the kind of protections we provide. The major insurance companies and HMOs should be held to a standard like every other industry in this country.

If that is wrong, let's call the roll and find out who believes in it and who does not.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. I will respond to a couple of comments made by my colleague and friend from Massachusetts.

One, he is absolutely, totally, completely wrong on many of the statements that he made, particularly in saying the Republican leadership wouldn't allow this bill to come to the floor, allow a debate to happen on the floor of the Senate on health care. As the Senator should be aware, we have already made a couple of offers that we would try to accommodate some type of time agreement to bring up this issue this month. We are still working on it.

My colleague was absolutely incorrect when he said the Republicans were insisting that, if we win, we can still put this bill back on the calendar. That wasn't our request. That wasn't our statement. It is not our last request.

I am reading the unanimous consent request given on June 25 or 26 which said votes held on final passage—if read the third time, the Senate votes on passage of the bill without any intervening action or debate. The Senate will request a conference with the House, the chair will be authorized to appoint conferees, and the Senate-House care bill will be placed on the calendar.

I make those points. We are willing to have debate on the bill. We are willing to consider different options—both the House and the Senate, the proposal by my friend and colleague from Massachusetts, as well as the substitute that I am working on with some of our other colleagues.

We will have a debate on the floor. We are willing to work out a time agreement to where we will have it this month. We don't intend to spend 2 months on this bill or even 1 month on this bill, but we are willing to have a debate on health care legislation. It goes under the title of Patients' Bill of Rights. I happen to think that is a very good title.

I might also mention that the President's Commission on Health Care Quality came up with a lot of recommendations. They have several things that they recommend be included in all health care plans, but they said they should be included voluntarily. I might mention that the bill that our colleague from Massachusetts is promoting mandates; it doesn't have voluntary compliance. It mandates a lot of things that aren't included in the President's Commission—many things. And many of those things have a lot of cost. We have asked the Congressional Budget Office to give us cost estimates of Senator KENNEDY's bill, the Patients' Bill of Rights, and we don't have that. I hope we can get it before we commence debate.

We have stated, and I just want to repeat to all of our colleagues, we are willing to discuss this issue. We are willing to have time on the Democrats' alternative. I might mention, the Democrats' alternative, I believe, to my knowledge, no Republican in the Senate has cosponsored, nor should they, because I think it is a bad bill. I think it definitely would increase consumer cost, drive up the cost of health care insurance, the cost of health care, period, and the net result would be, fewer people would have health care. I don't think that is a result that we want to have. I am willing to say that I am willing to work to try to come up with a package that we can support.

I see my friend and colleague from Florida. Maybe we can come up with a bipartisan package. I am willing to do that. I know the Senator from Florida has met with other Senators in a bipartisan way to see if we can come up with items that will make sense, that will not have dramatic increases in consumer cost, in health care cost, but try to see if we can't work out some things to help cover some of the problems that have arisen with managed care. I am willing to do that. I am not one who says we don't need any legislation whatever. Some people have taken that position. That is not this Senator's position. I am willing to try to legislate responsibly in health care. I don't want to do something we will find out will do damage, like how significant health care cost increases affect our consumers. I don't think they are asking for increased health care costs. I don't think that would be helpful.

So I will repeat to my colleague from Massachusetts and other Senators on the floor—and I know, because I have talked to the majority leader day in and day out—we are working on trying to come up with an arrangement where we will have adequate time, but not an unlimited amount of time, to consider health care legislation—maybe under the guise of the Patients' Bill of Rights—and to allow a couple different alternatives. My colleague from Massachusetts has an alternative; he has a proposal. Some of us are working on a different proposal. There may be some of those things in common. But certainly there will be very significant differences—big differences, philosophically, in cost, in premium increases, and so we need to discuss those.

We need to have an adequate time to discuss those and to consider the different alternatives and then to have a vote. We expect to do so. We don't expect to change the rules of the Senate. We don't expect to guarantee that one side or the other side will have a victory in the process, but we have stated—and, again, as assistant majority leader, I am telling our colleagues on the Democrat side of the aisle that we are willing to try to work out an arrangement, and we will have adequate time to discuss this issue on the floor this month. I think that is fair enough.

The majority leader has been fair. What we are not willing to do is stop the Senate from doing any work. So, yes, we are going to pass IRS reform and we are going to pass it tomorrow. I think it is a giant step in the right direction. Yes, we are going to take up higher education reform, and we need to do that. It is very important to colleges, universities, and students all across the country. That needs to happen. Yes, we need to pass appropriations bills. I think it was very unfortunate that the minority leader of the Senate introduced the Patients' Bill of Rights on the VA-HUD bill, the veterans and housing appropriations bill. It doesn't belong there. He knows that. We have already indicated a willingness and a commitment to bring up the so-called Patients' Bill of Rights this month. Someone might say, wait a minute, you have not passed the tobacco bill. We spent 4 weeks on the tobacco bill. They didn't win. I believe they are not going to win on the Patients' Bill of Rights.

Senator KENNEDY said, "We are going to bring up minimum wage." They have that right. But they don't have a right to have their agenda totally dominate the Senate. The Senate needs to do its work. We will consider some of their issues and some of ours, like IRS reform. We are going to take that up, and, hopefully, we will pass that tomorrow.

So I mention to all of our colleagues that I want them to be aware of the fact that we are trying to be fair, we will be fair, and we will consider this issue. We will have different alternatives—I think significantly different alternatives. I believe the alternative that the Republicans will be offering will be in stark contrast to the Democrats'. Maybe some things will be in common. We are going to offer greater choice and opportunity and competition. Hopefully, that will help change buyer behavior and get health care costs down, instead of the increases that would be achieved by Senator KENNEDY's proposal.

So there will be differences. But that is fine, that is good, that is legitimate. We will have that debate, and we will have adequate time for that. But it can't consume 2 months. It will probably consume 2 or 3 days. The Senate needs to decide what it wants to do. I expect that we will.

So I make that commitment to our colleagues. This is going to be a busy month. We need to pass a lot of appropriations bills. We have a couple appropriations bills we are working on right now that, unfortunately, people have tried to load up with bills that are extraneous, like the tobacco amendment on the agriculture appropriations bill or the Patients' Bill of Rights on the VA-HUD bill. That is not acceptable. It is not going anywhere. It may be good for political posturing, but it is not going to help pass their legislation. We have committed to bring up the legislation in due time this month, have adequate debate and consideration of a couple of different alternatives, and go from there. So I make that commitment to our colleagues. I think we should lower the rhetoric and the volume it has had and see if we can't work together in a bipartisan way to make some positive improvements in health care legislation.

Mr. President, I thank my colleague from Florida. I know he had a unanimous consent request to speak. I didn't mean to delay him. I apologize for interjecting, but I did think it was important to respond to the Senator from Massachusetts for his comments. I appreciate the accommodation.

I yield the floor.

Mr. GRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. GRAHAM. Mr. President, I thank my colleague from Oklahoma and my colleague from Massachusetts for a very interesting, exciting debate which, from the comments of the Senator from Oklahoma, will be a teaser to a future debate that we will look forward to having on these issues in the next few days.

Mr. NICKLES. I thank my colleague.

(The remarks of Mr. GRAHAM pertaining to the introduction of S. 2278 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

THE PEOPLE OF TAIWAN

Mr. GORTON. Mr. President, yesterday the majority leader of the Senate, Senator LOTT, the senior Senator from New Jersey, Mr. TORRICELLI, and a number of other Senators, myself included, introduced a resolution reaffirming our commitment to the right of self-determination on the part of the people of the Republic of China on Taiwan. We did so in shock at the seeming abandonment of those people by the President of the United States on his trip to mainland China. The resolution was referred to the Foreign Relations Committee, and I hope will be reported back favorably and promptly for debate and passage by the Senate of the United States.

For decades it has been the policy of the United States to call for all of the relationships between the people and government on Taiwan and the People's Republic of China to be peaceful. It has been our policy that the people of Taiwan should be permitted to determine their own future, much of which has now been undercut by President Clinton's overwhelming desire for approval on the part of a still Communist dictatorship in mainland China.

In fact, Mr. President, on his trip to China and in the policies immediately preceding that trip, the President of the United States has managed to impose sanctions on the world's most populous democracy, India, for its natural reaction to our assistance to the missile capabilities of the People's Republic of China; has managed to impose sanctions on Pakistan which is greatly harmful to the economy of the United States because of Pakistan's natural reaction to India's nuclear test; has insulted and weakened the people of Japan, a long-time and vitally important democratic ally of the United States, by a refusal to visit Japan on this trip to East Asia; and has undercut one of the most vital democracies anywhere in the world, and particularly East Asia on Taiwan.

As the Washington Post's editors wrote on July 2, and I quote:

> Mr. Clinton has sided with the dictators against the democrats.

It seems vital to me that we should reaffirm our commitment to the rights of self-determination on the part of the people of Taiwan, and encourage them on the successful path they have now traveled for almost half a century.

Mr. President, at the end of the Chinese civil war, when the nationalists were left only with an outpost on Taiwan, a group of Chinese began a separate existence with almost no promise of a bright future, poverty stricken on an island that had just emerged from half a century of Japanese imperialism, threatened by the overwhelming armed force of mainland China, without natural resources, with nothing to sustain them but the brilliance and dedication and the hardworking nature of the Chinese people on Taiwan, and an absolute commitment to their own freedom.

They have been perhaps the most successful example of what can happen to a people who are dedicated to the ideals that have moved the United States since its founding.

On Taiwan, the Chinese people first created a magnificently successful economy—an economy so successful that to this day they purchase more American goods and services than does all of mainland China, and following immediately upon that economic success the creation of a life and vibrant democratic system of government. Where under such threat in the entire world do we see anything remotely similar? Perhaps in Israel, perhaps in Israel under a similar threat from the outside, but I think, Mr. President, nowhere else in the world have we seen such a magnificent success in the building of a free and successful economy and a free and successful democracy.

It seems to me, Mr. President, that it should be our policy in the future that we laud and support that degree of success, that we encourage the Chinese on the mainland to follow that example rather than impliedly tell the people in Taiwan they must follow the example of the mainland.

We as Americans simply cannot abandon those free people on Taiwan. We must clearly indicate to mainland China that it cannot attempt to solve its differences with them by the use of force. We must clearly indicate to mainland China that the people of Taiwan must be in charge of determining their own future. We can, of course, hope for one China, but a one China that has institutions and is created in a fashion that respects the views, the desire for continued freedom, on the part of the people of Taiwan.

How it is that we have managed because of deterioration in our relationship with four democratic nations in east and south Asia without gaining anything of substance, of any real substance in our relationship with China, is beyond my power to explain. But at this point a mild resolution totally consistent with the Taiwan Relations Act passed by this Senate, reaffirming our support for the freedom and rights of self-determination of the people of Taiwan, is, I believe, the minimum we can do to make up for the disastrous remarks of President Clinton on his trip to China.

I repeat, I hope that the Foreign Relations Committee will report this bipartisan resolution promptly, that it will be passed by both the Senate and the House of Representatives. Only in that fashion can we show our dedication for the cause of a country that has followed our leadership, adopted our ideals, and deserves our support.

ADJOURNMENT UNTIL 9 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands in adjournment until 9 a.m. tomorrow morning.

Thereupon, at 7:31 p.m., the Senate adjourned until 9 a.m. Thursday, July 9, 1998, at 9 a.m.

EXTENSIONS OF REMARKS

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, July 9, 1998, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JULY 10

9:30 a.m.
Appropriations
Business meeting, to mark up proposed legislation making appropriations for the Department of Transportation and Related Agencies for the fiscal year ending September 30, 1999, and proposed legislation making appropriations for the Department of the Treasury, Postal Service and general government for the fiscal year ending September 30, 1999.
SD–106

JULY 13

3:00 p.m.
Foreign Relations
Near Eastern and South Asian Affairs Subcommittee
To hold hearings to examine the status of India and Pakistan nuclear weapons potential.
SD–419

JULY 14

9:00 a.m.
Judiciary
To hold oversight hearings to examine activities of the Department of Justice, focusing on the Civil Rights Division.
SD–226

9:30 a.m.
Energy and Natural Resources
To hold hearings on H.R. 856, to provide a process leading to full self-government for Puerto Rico, and S. 472, to provide for referenda in which the residents of Puerto Rico may express democratically their preferences regarding the political status of the territory.
SH–216

Environment and Public Works
Transportation and Infrastructure Subcommittee
To hold hearings on S. 1647, to authorize funds and make reforms to programs authorized by the Public Works and Economic Development Act of 1965, and other pending measures.
SD–406

2:30 p.m.
Energy and Natural Resources
Water and Power Subcommittee
To hold hearings on S. 1515, to increase authorization levels for State and Indian tribal, municipal, rural, and industrial water supplies, to meet current and future water quantity and quality needs of the Red River Valley, S. 2111, to establish the conditions under which the Bonneville Power Administration and certain Federal agencies may enter into a memorandum of agreement concerning management of the Columbia/Snake River Basin, and S. 2117, to authorize the construction of the Perkins County Rural Water System and authorize financial assistance to the Perkins County Rural Water System, Inc., a nonprofit corporation, in the planning and construction of the water supply system.
SD–366

JULY 15

9:00 a.m.
Agriculture, Nutrition, and Forestry
To hold hearings to review a recent concept release by the Commodity Futures Trading Commission on over-the-counter derivatives, and on related proposals by the Treasury Department, the Board of Governors of the Federal Reserve System and the Securities and Exchange Commission.
SR–332

Environment and Public Works
To hold hearings on the nomination of Nikki Rush Tinsley, of Maryland, to be Inspector General, Environmental Protection Agency.
SD–406

Judiciary
To continue oversight hearings to examine activities of the Department of Justice.
SD–226

9:30 a.m.
Indian Affairs
To hold hearings on S. 2097, to encourage and facilitate the resolution of conflicts involving Indian tribes.
SR–485

10:00 a.m.
Governmental Affairs
Business meeting, to consider pending calendar business.
SD–342

Small Business
To hold hearings to examine the impact of new home health care regulations on small business agencies.
SR–428A

1:30 p.m.
Special on Aging
To hold hearings to examine how an increase in the retirement age will affect the solvency of the Social Security system, the impact on workers, and how employers may adjust to an increase in the number of older workers.
SD–628

2:30 p.m.
Select on Intelligence
To resume hearings on the investigation of the impacts to United States national security from advanced satellite technology exports to China and Chinese efforts to influence United States policy.
SH–216

JULY 16

9:00 a.m.
Judiciary
Business meeting, to consider pending calendar business.
SD–226

9:30 a.m.
Commerce, Science, and Transportation
To hold hearings to examine the General Accounting Office's investigation of the Universal Service, Schools and Libraries program.
SR–253

2:00 p.m.
Energy and Natural Resources
National Parks, Historic Preservation, and Recreation Subcommittee
To hold hearings on S. 155, to redesignate General Grant National Memorial as Grant's Tomb National Monument, S. 1408, to establish the Lower East Side Tenement National Historic Site, S. 1718, to amend the Weir Farm National Historic Site Establishment Act of 1990 to authorize the acquisition of additional acreage for the historic site to permit the development of visitor and administrative facilities and to authorize appropriation of additional amounts for the acquisition of real and personal property, and S. 1990, to authorize expansion of Fort Davis National Historic Site in Fort Davis, Texas.
SD–366

Judiciary
To hold hearings on pending nominations.
SD–226

JULY 21

10:00 a.m.
Judiciary
To hold oversight hearings to examine the Department of Justice's implementation of the Violence Against Women Act.
SD–226

Labor and Human Resources
To hold hearings on S.766, to require equitable coverage of prescription contraceptive drugs and devices, and contraceptive services under health plans.
SD–430

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

2:30 p.m.
Energy and Natural Resources
Forests and Public Land Management Subcommittee
To hold hearings on S. 1964, to provide for the sale of certain public land in the Ivanpah Valley, Nevada, to the Clark County Department of Aviation, and S. 1509, to authorize the Bureau of Land Management to use vegetation sales contracts in managing land at Fort Stanton and certain nearby acquired land along the Rio Bonita in Lincoln County, New Mexico.
SD–366

JULY 22

9:30 a.m.
Indian Affairs
To hold joint hearings with the House Resources Committee on S. 1770, to elevate the position of Director of the Indian Health Service to Assistant Secretary of Health and Human Services, and to provide for the organizational independence of the Indian Health Service within the Department of Health and Human Services, and H.R. 3782, to compensate certain Indian tribes for known errors in their tribal trust fund accounts, and to establish a process for settling other disputes regarding tribal trust fund accounts.
SR–485

JULY 27

1 p.m.
Special on Aging
To hold hearings to examine allegations of neglect in certain California nursing homes.
SH–216

JULY 28

9:30 a.m.
Commerce, Science, and Transportation
To hold hearings to examine why cable rates continue to increase.
SR–253
Energy and Natural Resources
To hold hearings to examine the March 31, 1998 Government Accounting Office report on the Forest Service, focusing on Alaska region operating costs.
SD–366

10 a.m.
Special on Aging
To continue hearings to examine allegations of neglect in certain California nursing homes.
SH–216

JULY 29

10:00 a.m.
Banking, Housing, and Urban Affairs
Business meeting, to mark up S. 1405, to provide for improved monetary policy and regulatory reform in financial institution management and activities, to streamline financial regulatory agency actions, and to provide for improved consumer credit disclosure.
SD–538

OCTOBER 6

9:30 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans Affairs on the legislative recommendations of the American Legion.
345 Cannon Building

SENATE—*Thursday, July 9, 1998*

The Senate met at 9 a.m. and was called to order by the President pro tempore (Mr. THURMOND).

The PRESIDENT pro tempore. Today's prayer will be offered by the guest Chaplain, Rev. James Lupton, retired, St. Albans Episcopal Church, Stuttgart, AR.

We are pleased to have you with us.

PRAYER

The guest Chaplain, Rev. James Lupton, retired, St. Albans Episcopal Church, Stuttgart, AR, offered the following prayer:

Let us pray:

Almighty God, Lord of heaven and earth, in whom we live and move and have our being, we ask Your blessing on this great country. From many races, creeds, and nations You called us into united purpose as a Nation of peoples with diverse talents, unique strengths, and boundless energy. You instilled in us a lust for liberty, justice, and peace. We are set in the midst of natural beauty and wealth beyond compare. Mighty oceans, majestic mountains, lakes and rivers, lush forests, sweeping prairies, fertile land, and the abundance of Your bounty sustain our lives. For Your gifts we give You hearty thanks and praise.

We ask Your special blessing today on these men and women elected to serve as our Senators. Look graciously upon them. Grant them knowledge, strength, courage, and wisdom as they reflect on and debate the vast and complex issues of our age. Bring forth from their talents and skills wise laws that we may be governed in peace, prosperity, and happiness. Keep Your beacon of divine love and eternal truth ever before them.

All these things we ask in Your holy Name, You who live and reign forever and ever. Amen.

The PRESIDENT pro tempore. Glad to have you with us. A beautiful prayer.

REV. JAMES LUPTON, GUEST CHAPLAIN

Mr. BUMPERS. Mr. President, this morning's prayer was offered by the Reverend James Lupton. Reverend Lupton retired in May 1997 after eight years at St. Alban's Episcopal Church in Stuttgart, AR.

During this ministry in Stuttgart, Reverend Lupton also served the people of St. Peter's Episcopal Church in Tollville, AR. Prior to that, he served for four years in a Texas ministry.

Reverend Lupton received his call to the ministry later in life after a twenty-five year career as an architect. James comes from a long line of Arkansans. His mother's family was one of the first pioneer families to settle in Arkansas, coming to the state with Arkansas' first Governor, James Sevier Conway.

I am pleased that this individual with deep roots in my state was given the opportunity to offer today's prayer. We thank him for his inspiration.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able acting majority leader is recognized.

SCHEDULE

Mr. INHOFE. Mr. President, this morning the Senate will be in a period of morning business until 10 o'clock. Following morning business, the Senate will proceed to a cloture vote on the substitute amendment to the product liability bill. Following that vote, a second vote will occur on adoption of the IRS conference report.

Following those two back-to-back votes, it will be the leader's intention to begin the Agriculture Export Relief Act or sanctions legislation. Hopefully, that bill will be considered under a brief time agreement of 2 hours.

Following that legislation, it is expected that the Senate will begin consideration of the higher education bill under the consent agreement of June 25, 1998. Therefore, several votes will occur during today's session of the Senate, with the first two votes occurring back to back at 10 a.m.

UNANIMOUS-CONSENT AGREEMENT

Mr. INHOFE. Mr. President, I ask unanimous consent that Senators have until 10 a.m. in order to file second-degree amendments to the product liability substitute.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. INHOFE. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CONRAD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. INHOFE). Without objection, it is so ordered.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, leadership time is reserved.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of morning business for not to exceed 1 hour. There will now be 30 minutes under the control of the Democratic leader.

Mr. CONRAD addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

A STEALTH DISASTER IN NORTH DAKOTA

Mr. CONRAD. Mr. President, I have just returned after spending a week in my home State of North Dakota. On six previous occasions, I have come to the floor to describe to my colleagues what is happening there. I have described it as a stealth disaster. Last year, we faced a remarkable set of disasters, with the worst winter in our history, followed by the most powerful winter storm in 50 years, followed then by the 500-year flood, and, in the midst of all that, an outbreak of fire that destroyed much of downtown Grand Forks.

Those disasters received enormous attention. Daily, the national news media covered what was happening, so people all across America saw what was happening in North Dakota, and the people of the United States moved to respond. They responded with extraordinary generosity. We deeply appreciate what the people of this country did for North Dakota last year.

Mr. President, the disaster continues this year. Only this year, it is attended by almost no national news coverage and there is very little understanding of the depths of the crisis. This is a disaster nonetheless. This disaster is not as visible because it is a disaster occurring on the 30,000 farms of the State of North Dakota. From 1996 to 1997, according to the Government's own figures, farm income in North Dakota dropped 98 percent. That is not a misstatement, that is what the Government's own figures reveal, that farm income from 1996 to 1997 dropped 98 percent in the State of North Dakota. We led the Nation in farm income decline. And, by whatever measure one takes, this is a disaster.

It is a disaster caused by bad prices, bad weather, and bad policy. We have the lowest prices on record when adjusted for inflation. We have a continuation of the weather cycle that led to

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

the incredible storms and flooding of last year. Now we are caught up in a wet weather cycle that has led to an outbreak of disastrous disease—scab infects the crops of North Dakota. Last year, it cost about a third of the crop. But not only did it damage the crop, it also reduced the grade of the grain that we produce, so that farmers got a lower price. That, in the midst of the weakest prices, adjusted for inflation, that we have seen in the grain markets for 30 years.

The result is, farmers cannot cash-flow. The result is, farmers are being forced off the land. The result is, we have massive auction sales all across the State of North Dakota. The result is, farmers coming to me and bankers coming to me and Main Street business people coming to me saying, "Senator, there is something radically wrong, and something has to be done or we are going to lose a vast number of our farmers." Mr. President, we now start to see that prophecy unfold.

I brought with me upcoming auctions that appeared in the local newspaper. These auctions tell a story. These auctions are of farm after farm after farm being put up for sale because the farmers cannot cash-flow.

This starts on Monday, March 9, at 11 a.m. and runs right through March. Every day there is sale after sale after sale of farms in North Dakota. I just had farmers tell me that for the first time in 100 years, there is land that will not be farmed.

Some say, "Well, North Dakota is a marginal State. North Dakota has marginal weather to begin with." That is true in part of North Dakota, but this is happening in the richest part of North Dakota. This is happening in the Red River Valley of North Dakota. This is the richest farmland in the world. I grew up being told there had never been a crop failure in the Red River Valley. Never in history had there been a crop failure. For the last 5 years, farmers have not had a normal crop in the Red River Valley of North Dakota.

I just went through the southeastern corner of our State. What I saw in six counties was extraordinary. They are under water. They have 2 and 3 feet of water in the fields. They have had more rain in the first 6 months than they normally get in a year and a half. There is not going to be a normal crop in those six counties, and that is the southeastern part of the State. It has been the northeastern part that has been so hard hit in the last year.

This weather pattern seems to be expanding, taking in more and more land, more and more farms inundated, more and more farmers who aren't going to have a crop or going to have a badly diminished crop and, on top of that, are going to have very weak prices. The result will be even more auctions.

Already we anticipate losing one in every 10 of our farmers this year. Experts that we met with when the Secretary of Agriculture came to North Dakota 3 weeks ago told us next year we might anticipate losing one of every three farmers. This is a disaster of enormous scope, Mr. President, and I hope I can convince my colleagues that it is critically important that we respond.

This chart shows 141 farm auctions scheduled between the beginning of March and the end of June. That is nearly two auctions every day for 4 months.

Who are these farmers who are advertising auctions? I am very sorry to report to my colleagues that these are not farmers of retirement age. Many of these farmers are young farmers who simply can't take the debt load; they simply can't take being in a circumstance of bad weather, bad prices and bad policy. The result is they are leaving farming.

One has to ask, Who is going to farm this land in the future? Who is going to provide the food stocks for the American people, because if there is ever a breadbasket State, it is North Dakota. We are No. 1 in the production of crop after crop after crop. We are No. 1 in durum that goes to produce pasta. Over 65 percent of the durum wheat produced in the United States is produced in North Dakota; No. 1 in barley; No. 1 in sunflower; No. 1 in canola; No. 1 in many of the other wheat categories. North Dakota literally is a breadbasket State, and North Dakota is in disaster. There is no other way to describe it. The result is going to be a calamity unless there is a response.

We see these auctions. This is a typical one: April 14, 1998. This fellow is going to have an auction. It says:

> Darryl has rented out the farm and, therefore, will liquidate the following large line of top quality equipment by public auction.

If you look at what is being auctioned, it is very revealing: A 1995 row crop drill; 1996 row lifter; 1996 cultivator; 1997 field sprayer.

What does that tell us? Farmers thinking they are going out of business are not buying new equipment in 1997. They are not buying new equipment in 1996. They are not buying new equipment in 1998. They have been hit by a calamity, a calamity that is forcing them off the land and out of business. No one who is planning to quit in 1998 buys a sprayer in 1997.

Another auction advertisement states that two farmers have discontinued their farming operations. Again, we see new equipment being sold. Again, we find that this is, as described in the ad, single-owner equipment, and yet they have equipment purchased as recently as 1997.

These are not small investments. Many of these pieces of equipment cost $50,000, $60,000, $70,000, and they just bought them last year and they are going out of business this year. Not one, not two, but hundreds and hundreds and thousands, and it is because there is a collapse of farm income. There is a collapse of production, and we don't have a safety net in place.

It is very interesting if you compare what we are doing in this country to what our chief competitors are doing. Our chief competitors are the Europeans. They are spending $50 billion a year supporting their farmers—$50 billion, 10 times as much as what we are spending. We spend $5 billion a year. As I have said to my colleagues many times, the Europeans have a plan, and they have a strategy. Their plan and their strategy is to dominate world agricultural markets. Why? Because the Europeans have been hungry twice, and they never intend to be hungry again. They understand full well the importance of agricultural dominance, and they are ready to do what it takes. They are doing it the old-fashioned way: They are buying the markets.

We are sending our farmers out saying, "You go compete against the French farmer and the German farmer." Fair enough. We are ready to compete against any farmer anywhere, anytime. But in addition, we are saying to our farmers, "While you are at it, you go compete against the French Government and the German Government and good luck," because those countries have decided they are going to stand with their producers, and they are going to fight, and they are going to win. If you look at what is happening in world agriculture, you can see that strategy and that plan is working, because the Europeans are on the ascent while the United States is descending. They are going in the right direction; we are going in the wrong direction, and we wonder why.

Mr. HOLLINGS. Mr. President, will the distinguished Senator yield? I don't want to lose my time. We were allocated a few minutes before we vote on cloture. The Senator is into, I think, my segment of the 9:15-to-9:30 time. I don't want to disturb the distinguished Senator, but I don't want to lose my time. Is that the regular order?

The PRESIDING OFFICER. The regular order was for the Democratic leader to control half of the 1-hour time; that is 30 minutes. The Senator from North Dakota is recognized.

Mr. TORRICELLI. Mr. President, did the Democratic leader distinguish how that time would be divided?

The PRESIDING OFFICER. No, he did not.

Mr. CONRAD. Mr. President, I would be glad to enter an agreement right here with my colleague so that the Senator from South Carolina would have time before the cloture vote and so my colleague from New Jersey would have time. I would be happy to wrap up very quickly so they can have sufficient time before the cloture vote.

Mr. HOLLINGS. Sufficient time is 15 minutes. I am almost down to 10 minutes. I ask unanimous consent that I be permitted to speak for 15 minutes prior to the cloture vote.

The PRESIDING OFFICER. Is there objection?

Mr. THURMOND. Mr. President, I object.

The PRESIDING OFFICER. There is objection.

Mr. HOLLINGS. Well——

Mr. CONRAD. Mr. President, let me reclaim my time, and let me just end so the Senator from South Carolina has as much time as he can remaining. My understanding was that I had 15 minutes this morning.

But I would be glad to wrap up and simply say that what I have described this morning is an ongoing crisis in my State. And I am going to be asking my colleagues to respond, as they so graciously responded last year. Let me say, it is just not my State, because what is happening in my State is an early warning signal to others as to what can happen. We are headed for a calamity in my State. Others will experience the same thing unless we find a way to fix it.

I thank the Chair and yield the floor so that my colleagues can have the remaining time.

Mr. TORRICELLI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. TORRICELLI. How much time is remaining?

The PRESIDING OFFICER. There are 13 minutes 11 seconds remaining.

Mr. TORRICELLI. Thirteen minutes. I offer to the Senator from South Carolina to divide the time. I don't see any other choice. I would be glad at this point to divide the time with the Senator from South Carolina.

Mr. HOLLINGS. I appreciate the distinguished Senator from New Jersey permitting me that opportunity.

What really happened is I was told from 9:15 to 9:30. And I will try to wrap it up as quickly as I possibly can.

The PRESIDING OFFICER. The Senator from South Carolina.

PRODUCT LIABILITY REFORM ACT

Mr. HOLLINGS. Mr. President, what really occurs is we are back now—the leadership says after 10 years—really after 20 years. And much has occurred during that 20-year period. Practically all of the States have faced up—the State of Oklahoma, the State of South Carolina have all enacted product liability reform. It is not a particular problem. The small businesses, for example, are enjoying the best of investment, the best of new initiatives in small business.

The small business folks, the National Federation of Independent Businesses, are really quoted as saying here that—and I quote an economist for the NFIB—"Far from worrying that the expansion has just about played itself out, more and more small-business owners feel that the best is yet to come." So the small businesses really are not having any problem.

The idea of the litigation explosion has been answered, that you could not get insurance to get insurance. Foreign competition—the foreign companies are flowing into America without any problem of product liability. So now they try to say it is the small business thing. And, of course, the small businesses say the best is yet to come and they are having one of the finest clips that they have ever had. So they are not having problems.

We searched Lexis-Nexis to find where these egregious verdicts are that this particular measure would take care of. They are nonexistent. So we looked at the bill itself. And you find out really what is a politically rigged instrument to take care of the political needs, not the business needs, of America, whereby you take a poll and kill all the lawyers. And we have been into that.

The lawyers have become unpopular until everybody needs one. And the best of the best lawyers, who have been bringing these cases and succeeding and everything else, are to be sidelined in this drive by big business, all under the cover of small business.

The bill itself, Mr. President, is an atrocity. I say that because now the plea, in the preamble of the Rockefeller-Gorton measure, is uniformity. And they start off immediately saying, with punitive damages, those States who regulate the punitive damages or control them are not applied to by this particular measure; but those States that have it, this bill would apply. So there is no uniformity on the very face or attempt to get uniformity itself. It is not just for small businesses. That is for all businesses, large and small, relative to the matter of uniformity and relative, of course, to the matter of small businesses itself.

But we come, Mr. President, with the phone ringing all during the weekend and last night with respect to the sellers being exempted under this bill. They know what they are doing. There are dozens and dozens of cases up in New York to the effect that the sellers—only one—the hospital, where they have incurred AIDS, hemophiliacs have incurred AIDS, through tainted blood transfusions or otherwise. And obviously they cannot find out the individual, but you know it is applied by the hospital. You want to get the safety practice by the hospital or the seller. Now, this vitiates dozens and dozens of cases over the country, and particularly in the New York area.

Again, with respect to asbestos cases, they know exactly what they are writing. They are saying, with respect to toxic materials, that, of course, this does not apply to toxic materials, that the asbestos is exempted from the 18-year statute imposed because the reference is to the exclusion of toxic harm. But, of course, asbestos is not toxic in the eyes of the Owens Corning counsel. He announced asbestos is not toxic, so they get rid of that group of cases.

Otherwise, they really come with the statute of repose, which is the most egregious thing I have ever seen. Here we are trying, in product liability, to protect consumers and individuals, and they say now that they would exempt an injured person from a defective product; but the purchaser or owner of that particular product for whom the injured person is working, he or she or it can sue that manufacturer. So the rights of businesses are protected to the detriment of injured consumers in America. The unmitigated gall of including that particular provision in this bill, talking about product liability is just unheard of.

But in any event, the lower-income worker, the matter of the punitive damages of $250,000 or less—you can well see that lower-income worker from McDonald's who is making $15,000 or $17,000 a year—double the economic injury; namely, double that salary loss of $34,000 for a Dalkon Shield user, that we have the Dow Chemical implant on the front page, the settlement, this morning, $3.2 billion. But under the Dalkon Shield here, that particular individual——

The PRESIDING OFFICER. The Senator's time has expired.

Mr. HOLLINGS. We still have until half past the hour, Mr. President.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. HOLLINGS. What time has expired? I got 15 minutes.

The PRESIDING OFFICER. The Senator's time has expired. There was agreement to divide the time equally that was remaining. That was 13 minutes. Your time has expired.

Mr. HOLLINGS. I would question the ruling of the Chair. I was told I would have the 15 minutes. I don't know how the Chair can change that ruling. That was the understanding.

The PRESIDING OFFICER. There was objection to your unanimous consent request. That was not the case.

Mr. HOLLINGS. I am sorry I could not sneak in the majority leader's handwritten amendment. He can amend but we can't.

Mr. TORRICELLI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. TORRICELLI. The Senate will soon be considering the product liability legislation. If enacted, the Senate would be continuing an unfortunate practice in this country where manufacturers of firearms have some special protection outside of consumer products.

Mr. President, as indicated by this chart, for many years this country has regulated the manufacture and the sale of consumer products, items as seemingly as innocent as teddy bears, for recall, safety standards. And yet firearms were outside the design requirements, the safety requirements, and the recall requirements.

This issue comes before the Senate again under product liability, because it is my intention, with the Senator from California, Mrs. FEINSTEIN, to offer an amendment to exempt gun manufacturers from the $250,000 punitive damages protection.

Through all these years, the Congress has failed—by design requirements for safety, for distribution requirements—to ensure that firearms get to legitimate owners, to provide the American people with real protection. What the Congress has failed to do, the courts have begun to recognize. Suits are being filed across America by parents when they lose their children to weapons that get in illegitimate hands, by neighborhoods, by police officers, by cities, seeking damages caused by weapons that could have been designed more safely, with child restraint provisions. If, indeed, this product liability legislation is enacted without our amendment, those suits will not proceed.

Yesterday at a press conference in the Senate, we heard from a Steven Young, a father of a murdered teenage boy in the streets of Chicago. He has joined with three families to sue gun manufacturers because, in his judgment, they knowingly allow these weapons to be sold to criminals. The families of the young people killed in Jonesboro, AR, in a school shooting are planning to file suit because those weapons had no safety mechanisms on them. Mayor Rendell of Philadelphia and Mayor Daley of Chicago are both preparing suits on behalf of the citizens of their cities to recover the costs from gun violence because manufacturers have not been responsible in design and manufacture. If this Senate does not enact this amendment and, indeed, tries to prohibit it by voting cloture shortly, the suits may never happen.

Families and cities, the people of our country, are in a similar position with gun manufacturers to where we were 40 years ago with the tobacco companies. Congress has not acted, so people pursue the law in the courts. Indeed, it took 40 years and hundreds of cases before tobacco companies began to understand they needed to act responsibly. If these cases can proceed against gun manufacturers, there will be discovery, documents will be produced. As liability mounts, gun manufacturers will be careful who sells these weapons, who is able to buy these weapons, that the law is complied with, and that there is every possible safety feature built into these weapons. The liability of the gun manufacturers can work to protect our families. Thirty-six thousand people died from gun violence last year. This is the leading cause of death among young people in our cities. We ask the Congress to do nothing but to allow the courts to proceed in offering people protection.

The shield that would be offered to gun manufacturers involves many of the weapons sold in this country. Twenty-three percent of all 38-caliber pistols, 2 of the 10 guns most often found at crime scenes, are made by small manufacturers who would be protected under product liability. One company alone, Davis Industries, produces 50,000 Saturday-night specials a year. In all, 20 percent of the weapons produced in America will be shielded from any liability above the $250,000 in punitive damages if we enact this product liability reform without our amendment.

It has often been said by the National Rifle Association that it is their responsibility to protect gun owners. If the National Rifle Association opposes this measure, they will be taking a clear stand against gun owners. It is gun owners who will have the right to go to court if a product is improperly sold, improperly manufactured. The only people who will be jeopardized are people who are either victims of these guns or own these guns. This is a chance for the gun lobby to do something responsible. They claim they want to be on the side of the gun owner and law enforcement and innocent victims—take a stand.

I urge my colleagues to defeat the cloture motion, allow us to proceed on the amendment, and offer this protection to the American people.

I yield the floor.

The PRESIDING OFFICER. The minority leader.

Mr. DASCHLE. Mr. President, I yield 5 minutes of my leader time in addition to the 8 minutes that Senator HOLLINGS has in the remaining part of our morning business time to Senator HOLLINGS.

The PRESIDING OFFICER. There is no time remaining.

Mr. DASCHLE. As I understood it, Senator HOLLINGS had 8 minutes remaining. If he does not, I yield 10 minutes to the Senator from South Carolina from my leader time.

The PRESIDING OFFICER. The Senator from South Carolina is recognized for 10 minutes.

Mr. HOLLINGS. I thank the distinguished leader.

Mr. President, what I was trying to emphasize was the particular so-called compromise. I know the plea is, wait a minute here, we have been trying and trying and trying and trying, and of course as long as Victor Schwartz and that crowd is paid, they will continue to try.

But the fact of the matter is, there is no need. The States object to this particular mode. The Republican contract objects to this particular thing. They are trying to put and retain things back at the States when it comes to crime. They want the particular States to take care of it. When it comes to education, they want to do away with the Department, let the States handle it. They want to do everything else, except when you get with all the lawyers and, namely, the injured parties in America, which are bringing this magnificent safety record.

So what happens is that without any demand from the States, but, rather, the opposition of the States—I ask unanimous consent that a letter from the National Conference of State Legislatures dated last year, October 27, 1997, be printed in the RECORD with the updated letter from the National Conference of State Legislatures, June 18, 1998.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

NATIONAL CONFERENCE OF
STATE LEGISLATURES,
Washington, DC, October 27, 1997.

Hon. ERNEST F. HOLLINGS,
U.S. Senate, Washington, DC.

DEAR SENATOR HOLLINGS: As you know, product liability legislation, in some form, may come to the Senate floor before Congress adjourns in November. I urge you, on behalf of the National Conference of State Legislatures, to vote against any such bill, for the simple reason that this is an issue best resolved by state legislatures.

A good deal of lip service is given today to the advantages of our constitutional system of federalism and to the advantages of devolving authority to the states. But, from the point of view of state legislators, this rhetoric belies the reality of an accelerating trend toward concentration of power in Washington. Every year, Congress passes more laws and federal agencies adopt more rules that preempt state authority. Little consideration is given to the cumulative effect of preemption piled upon preemption. Little thought is given to the shrinking policy jurisdiction of state legislatures.

Moreover, little consideration is given to whether state legislatures are responsibly exercising their authority. The threat to preempt state product liability law, for example, comes at a time when state legislatures have been particularly active in passing reform bills. As the attached article from the June issue of The States' Advocate shows, over the past ten years, thirty-three product liability reform bills have been enacted in the states. In addition, states have been reforming their tort law generally. As of December 1996, 34 states had revised their rules of joint and several liability and 31 had acted to curb punitive damages.

Just as the preemption contemplated by a national products law is unprecedented, so the intrusion on the operation of state courts is both unprecedented and disturbing. National products standards would be grafted onto state law. In a sense, Congress would act as a state legislature to amend selected elements of state law, thus blurring the lines of political accountability in ways that raise several Tenth Amendment issues. Given the Supreme Court's recent interpretation of the

Tenth Amendment in *Printz* v. *United States*, the legislation might even be unconstitutional.

Our constitutional tradition of federalism deserves more than lip service. It's time to vote "no" on product liability and similar proposals to unjustifiably preempt state law.

Sincerely,

RICHARD FINAN,
President, Ohio Senate, President, NCSL.
DAN BLUE,
North Carolina House of Representatives, President-elect, NCSL.

NATIONAL CONFERENCE OF
STATE LEGISLATURES,
Washington, DC, June 18, 1998.

Hon. ERNEST F. HOLLINGS,
U.S. Senate, Washington, DC.

DEAR SENATOR HOLLINGS: I write on behalf of the National Conference of State Legislatures (NCSL) in opposition to S. 2236, a bill that would supplant state product liability laws with federal standards.

For NCSL, this is a simple matter of federalism and states' rights. Tort reform is an issue for state legislatures, not Congress. There is no precedent for such a federal intrusion into such an important area of civil law. Moreover, we regard it as highly inappropriate and perhaps unconstitutional for the state courts to be commandeered as instruments of federal policy in the fashion contemplated by S. 2236.

The states have made considerable progress in reforming their tort law, including product liability law, over the past decade. State legislatures are in a good position to balance the needs of the business community and those of consumers, not just in the abstract but in a way that reflects local values and local economic conditions. This is as the Founders intended it when they established a federal republic rather than a unitary state.

The issue then is not finding the right compromise between consumer and business interests in crafting the language of S. 2236. The issue is whether we will take a giant step toward nationalizing the civil law, to the detriment of our constitutional system of federalism. Again, please oppose S. 2236.

Sincerely,

DONNA SYTEK,
Speaker, New Hampshire House of Representatives, Chair, NCSL Assembly on Federal Issues.

Mr. HOLLINGS. Mr. President, again, it is not a national problem, as I have emphasized.

From July 1, 1998, I ask unanimous consent that the American Bar Association letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

AMERICAN BAR ASSOCIATION,
GOVERNMENTAL AFFAIRS OFFICE,
Washington, DC, July 1, 1998.

DEAR SENATOR: We understand that on July 7, broad federal product liability legislation will be the subject of a cloture vote on the Senate floor. I am writing to you to express the American Bar Association's opposition to S. 648, the bill reported by the Commerce Committee, and S. 2236, the compromise proposal introduced by Senators Gorton and Rockefeller. The ABA believes that improvements in the tort liability system should continue to be implemented at the state level and not be preempted by broad federal law.

S. 648 and S. 2236, which would federalize portions of tort law, would deprive consumers in the United States of the guidance of the well-developed product liability laws of their individual states. This legislation would also deprive the states of their traditional flexibility to refine carefully the product liability laws through their state courts and state legislatures.

The ABA has worked extensively to improve our civil justice system, including developing extensive recommendations on punitive damages, and on other aspects of the tort liability system, for consideration at the state level. Broad federal product liability legislation, however, would constitute an unwise and unnecessary intrusion of major proportion on the long-standing authority of the states to promulgate tort law. Such preemption would cause the whole body of state tort law to become unsettled and create new complexities for the federal system. Unequal results would occur when product liability litigation is combined with other types of law that have differing rules of law. An example of this would be a situation where a product liability claim is joined with a medical malpractice claim. If state tort laws differ from the federal law in areas such as caps on punitive damages, conflicts and uncertainty would likely result; one defendant in an action could well be treated entirely differently than another. Having one set of rules to try product liability cases and another set of rules to try other tort cases is not consistent with the sound and equitable administration of justice.

The ABA opposes the product seller provisions of Section 103 of S. 648 and S. 2236 because those provisions remove the motivation of the only party with direct contact with the consumer, the seller, to ensure that the shelves in American businesses are stocked only with safe products. Seller liability is an effective way of maintaining and improving product safety. Manufacturers traditionally rely on sellers to market their products. Through their purchasing and marketing power, sellers have influenced manufacturers to design and produce safer consumer goods.

Ambiguity in the language of S. 648 and S. 2236 may result in unintentionally eliminating grounds for liability which promote safety. For example, the two bills expressly eliminate a product seller's liability for breach of warranty except for breach of express warranties. The Uniform Commercial Code, long regarded as a reasonable, balanced law, holds sellers responsible for breach of implied warranties as well. By their vague and ambiguous language, S. 648 and S. 2236 may result in preempting these long established grounds of liability.

We urge you to vote no on broad federal product liability legislation as it is an unwise and unnecessary intrusion on the long-standing authority of the states to promulgate tort law.

Sincerely,

ROBERT D. EVANS,
Director.

Mr. HOLLINGS. Reading one line:

The ABA believes that improvements in the tort liability system should continue to be implemented at the state level and not be preempted by broad federal law.

So, they are talking about the compromise, and after all this give and take, and it is not quite an orderly bill, but those things that occur in time are compromises—not to mitigate against uniformity in the name of uniformity where they apply punitive damages to one group of States and not to the other group of States, not in the name of small business when they apply to big business where they were sneaked in—oh, no, we will have cloture; you can't offer any amendments. We are steamrolling this thing. Here we go. We are going to have a little handwritten amendment, by the majority leader, sneaked in at the last minute.

We saw this occur with the tobacco bill where they sneaked in an amendment that had been before the Agriculture Committee, the Lugar bill, that never was reported out of the Agriculture Committee, but they sneaked that in. Now they want to sneak in an amendment not just to take care of small business but large business. I refer to this morning's headline of the New York Times: "Don't Amend This Bill, Lott Says," and then proceeds to weigh in.

So you have a little handwritten amendment here that the majority leader sneaked in—he can really take and amend his own bill, but this is a compromise worked out with the White House. This is a conspiracy in the U.S. Senate. I am not part of that conspiracy. I am for the consumers. I am for safety in America. I can tell you here and now, this is the most egregious conduct I have ever seen.

Finally, with respect to the poor stay-at-home moms, because I see my distinguished colleague from Texas, who has got everyone sitting around the kitchen table time and, again, and stay-at-home moms. So the stay-at-home mom can get at the most, $250,000 or double, or less than that, whatever is less. I don't know what she gets when she stays at home and doesn't have any economic damage.

Or take the employee at McDonald's, a young woman who gets $15,000 or $17,000 a year working away, just married, taking the Dalkon Shield, totally injured, can't reproduce, her life is ruined. Oh, we are going to be liberal here. We will protect the small business and not the injured party and go right to the heart of the matter and give her twice her economic damage, twice $17,000, or $34,000, and the companies will write that off in a flash. We know it. You know it and I know it. It will just be a cost of doing business. And safety in America is really downgraded.

We have the most interesting safe operating businesses in the country as a result of this product liability.

There is not an explosion, Mr. President. All the reports before the committee say, wait a minute, there has been an explosion in business suing business—Pennzoil suing Texaco in Texas for a verdict of $12 billion. But, no, that is the consummate verdicts of all the product liability cases put together. There are businesses suing businesses all over. That is fine business. But when the poor injured party comes, and on a contingent basis finds a lawyer willing to take her case, do the investigating, do the trial, appeal work, and win a percentage if successful, oh, that is terrible for the economy in America; it is terrible for international competition.

Mr. President, in this global economy American firms contend at home and abroad against competitive foreign firms which operate in America. We have over 100 German plants, and over 50 Japanese plants. We have the BMWs, the Fuji Films, the Hoffman-Laroches—all these industries are coming to South Carolina, and not one is saying anything about product liability. They like what the States are doing, but we find a political problem because we have a representative downtown who is retained to get to the Chamber of Commerce, the Business Roundtable, the conference board, and now the National Federation of Independent Business, saying this is just a small business. Oh, boy, it is not for large injury, I can tell you that. It is not for large injury. It is not for the consumer, Mr. President. The whole setup here is ramroded through. I can personally, just in my handwriting, sneak a little amendment on at the desk, but the rest of us can't because we have cloture.

I yield the floor.

The PRESIDING OFFICER. There will now be 27 minutes under the control of the majority leader.

Mr. LUGAR addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana is recognized.

THE AFRICAN GROWTH AND OPPORTUNITY ACT

Mr. LUGAR. Mr. President, I rise to discuss the African Growth and Opportunity Act which has passed the House in March and is now before the Finance Committee and the Foreign Relations Committee. I am the principal Senate sponsor of the bill which I introduced some fourteen months ago. There are ten co-sponsors.

I introduced the Africa bill because I believe that our policy towards sub-Saharan Africa should be revised to reflect changing global and regional realities. For too long, our policy has been based on country-by-country aid relationships and devoid of any comprehensive strategy towards the continent. As important as our child survival, health, agriculture, educational and humanitarian programs have been, they have not promoted much economic development, political stability or self-reliance. Nor have they benefitted the American economy. For that reason, it is time to re-evaluate our policy. That is the purpose of the African bill.

The African Growth and Opportunity Act is the first serious attempt to formulate a new American strategy towards Africa. It provides a general road map for expanding economic engagement and involvement in Africa through enhanced trade and investment. It seeks to establish the foundation for a more mature partnership with those countries in Africa undertaking serious economic and political reforms.

I'm pleased to note that virtually all African Ambassadors have endorsed this bill. It has wide support in the American business community, non-governmental organizations, the African-American community, and the Administration. Indeed, President Clinton mentioned the bill in his State of the Union address in January and Secretary of State Albright included it in her list of the top four leadership challenges for 1998.

Let me summarize the bill.

First, it urges the President to negotiate free trade agreements with African countries with the ultimate goal of a U.S.-Sub-Saharan Africa Free Trade Area. The President will need Fast Track authority to negotiate this and other free trade measures and I strongly support that effort as well.

The bill establishes a US-Africa Economic Cooperation Forum to facilitate senior level discussions on trade and investment. No such dialogue now exists and there exists no long term agenda involving the private sectors here and in Africa. Doing business in Africa will require high-level dialogue and this Forum will signal to the investment and trading communities that we take Africa seriously.

Africa lacks the infrastructure needed to promote and sustain economic growth and development. The bill establishes two privately-managed funds to leverage private financing for small and medium sized companies. The two funds would operate under OPIC guidelines and require no official USG appropriations. One is a $150 million equity fund, the other a $500 million infrastructure fund. Given the enormity of the needs, these are modest sized funds.

Each of these initiatives will take time to mature. They have worked in other parts of the world.

The initiatives in the bill that would bring more immediate economic benefits to Africa and the United States would provide greater access to our markets for African exports. The bill authorizes the President to grant duty-free treatment for products now excluded from the GSP program—subject to a sensitivity analysis by the International Trade Commission. It extends the GSP program to Africa for 10 years, which is important for business planning and predictability.

The bill also eliminates quotas on textiles and apparel from Kenya and Mauritius, the two countries in sub-Saharan Africa which do not have quota-free access to the United States. They would receive this status only after adopting a visa system to guard against illegal transhipment of goods. Since global textile quotas are scheduled to disappear in the year 2005 under terms of the GATT, our bill merely gives Africa a small head start in a more competitive textile market of the future.

Some have argued that granting quota-free and duty-free access to American markets will weaken our domestic textile industries. If that were true, I would not be advocating this provision. African imports of textiles and apparel now account for less than one percent of our total textile imports. The International Trade Commission looked at this issue and concluded that enactment of our bill would increase U.S. imports of textiles and apparel from Africa to between one and two percent of our total textile and apparel imports, a negligible impact.

While this amount is small in terms of our overall textile and apparel imports, it can have sizable benefits for Africa. The lower costs of African textiles will also benefit American retailers and American consumers.

Warnings about the illegal transhipment of Asian-origin garments through Africa, under liberalized arrangements, are false alarms. The House strengthened these safeguards substantially during its consideration of the bill.

Mr. President, let me conclude by saying that we have an historic opportunity to help integrate African countries into the world economy and to wind down our excessive dependency on public assistance as the signature of our ties with Africa. Africa is one of the last frontiers of untapped markets in the world. There are nearly 700 million people in sub-Saharan Africa. Yet, 33 of the world's forty-eight least developed countries are in Africa. Despite this, prospects for enhanced trade and investment are bright. Our exports now are twenty percent greater than to all the states of the former Soviet Union combined. Economic growth in Africa will create new markets and new opportunities for U.S. goods but that won't happen if we don't act to make it happen.

We now have an opportunity to help strengthen civil societies and political institutions and to assist African societies on the path to greater self-reliance, economic growth and political stability. Nearly thirty countries in the region have conducted democratic elections.

Private investment tends to follow good governance and economic reform but the private sector takes cues from government policies and involvement. It is very much in our interest to play a constructive role in the evolving political and economic transition in Africa.

That transition is taking place and must continue. If we had ignored Taiwan and Korea in the 1960s when they were at stages of economic development comparable to many African societies today, we would have missed enormous opportunities in East Asia. Years from now, I hope we can look back and be able to say that we were there at a crucial juncture in Africa's growth and development, that we played a constructive role in that change and that we did the right thing at the right time.

Mr. President, if the United States is a major player, a pro-active player in Africa's economic and political development, we will also be a major beneficiary.

I'm pleased the Finance Committee will be marking up the African bill later this month. I hope this bill will be brought to the floor as soon as possible for full Senate consideration.

I urge all members to take a close look at the Africa Growth and Opportunity Act, look at the mutual long-term benefits it brings to Africa and to our country and support this important bill when it reaches the floor.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, I rise today to join my colleague from Indiana in urging the Senate to move forward on the Africa trade bill. Who among us has not stood on the floor of the Senate when we voted on foreign aid and watched hundreds of millions of dollars spent by our government, knowing that this money was probably not going to be used in the end to help people, but instead would likely have a net product that was either crony capitalism or socialism, who among us has watched such a vote and not wished for an alternative?

We have an alternative today. That alternative is trade. The wonderful thing about trade is that it makes people equal in free transactions of buyers and sellers, producers and consumers. It creates jobs and opportunities, and we benefit together with those who are engaged in trade with us.

What we have in the Africa trade bill is a very modest proposal. The bill would allow the President, in those cases where a country in Sub-Saharan Africa has taken steps toward establishing a market-based economy, where a country is not engaged in a violation of human rights, and where a country is not engaged in activities contrary to the U.S. national security and foreign policy interests, to expand our markets and increase out trade with that country.

I think it is clear that there are business opportunities in Africa. I would like to see us as leaders in the effort to expand our mutual business relations. But the bottom line is we are dealing with countries that are hopelessly poor, and where poverty is a crushing presence in everyday life. We have an opportunity by expanding trade to help lift that weight of poverty, promote free enterprise, democracy, and the things that we believe in here at home, the things that we want people around the world to benefit from.

There are those who will oppose this bill because it will mean that people in Africa will be producing textiles to sell in the United States.

First of all, we must understand that today we do not have limits on textile imports from any of the countries in this region of Africa except two. Second, I think it is important to note, as Senator LUGAR mentioned, that currently all of Sub-Saharan Africa sells to us less than two-thirds of 1 percent of all the textiles we import. The International Trade Commission has estimated that under the best of circumstances, where this region of Africa experienced as much investment in producing textiles as possible, their degree of exports could never exceed, in the period of time we are talking about under this bill, about 3 percent of our textile import market.

Here is the question: Is it worth it to us to open up trade, and in the process bring goods into our country that our consumers can choose to buy or not buy if they believe that those goods are better or cheaper, and in the process make it possible for 750 million of our fellow human beings on this planet to have some of the opportunities we have?

Quite frankly, while the President went to Africa, gave a lot of speeches, did a lot of photo-ops, he has done far too little to push the passage of the Africa trade bill. Most of the opponents of this bill are in the President's party.

My basic position is this: I am tired of giving away foreign aid that does not work, that does not help anybody. We have an opportunity to let people produce products to sell on the world market. The worst thing that could happen to us from the provisions of this bill is that some poor working family in America would have lower priced textile products, could buy a shirt that is cheaper, or a shirt that they wanted more.

It seems to me that we ought not to allow greedy special interests who are already ripping off the American consumer—as we are paying more than the world market prices for textiles every single day in every store in America—we ought to be ashamed of ourselves to let a small number of special interest groups prevent a very modest bill from passing, a bill that could literally represent a turning point for 750 million human beings on this planet.

So I feel strongly about this bill. I think it is outrageous that we are not moving ahead on it. It does so little already that there can be no good objection to taking this very modest step.

I remind my colleagues that under the current agreements we have under the World Trade Organization, in the year 2005 all these textile quotas are coming off anyway. So all we are trying to do with this bill is help this continent, which is so poor, which has so much hopelessness, get a head start in producing textiles. We can help them lift themselves out of their grinding poverty.

There are some who will say, "OK; great. Let's let them. Let's make them use American cloth, and let's make them use American thread." The problem is that the costs in this competitive industry are such that you cannot ship all of this thread and fabric to Africa and have products produced there, and bring them back here to compete with products from those who are doing the same thing in Mexico for virtually no transportation costs.

So I urge my colleagues, when we are talking about nothing in terms of impact on our domestic textile market, when at worst we as American consumers will benefit, let us take this opportunity to try to open up trade with Africa, to let people enjoy the one system we know works—trade, economic growth, economic freedom.

I hope we will move ahead on this bill. It is going to be my goal, if we cannot get this bill to the floor through the committee, to offer it as an amendment on some other bill. I want us to vote on Africa trade, and move ahead.

Mr. HOLLINGS. Mr. President, the distinguished Senator from Indiana and the distinguished Senator from Texas raised the question of the sub-Sahara bill. I had heard the expression that "trade," says the Senator from Texas, "makes people equal," and then went on, of course, to say that the sub-Sahara bill should not be blocked by "greedy special interests"; they shouldn't prevent the passage of the bill; "special interests," namely, of course, the textile industry.

What happens, in all candor, is almost like the Community Chest and the United Fund, "giving at the office," doing your fair share.

This started way, way back in the 1950s. This particular Senator appeared as Governor back before the International Tariff Commission at the time that Tom Dewey represented the Japanese industry, and chased me around the hearing at that particular time whereby we were concerned that 10 percent of the consumption of textiles and apparels in America was represented by imports. And they had a provision in law under the national security section that you had to find before a President could take action, that there be a finding that the particular product was important to our national security.

President Kennedy, when he took office, appointed his Secretaries of State, Labor, Commerce, Defense, and Treasury—Secretary Dillon, at that particular time, Secretary Goldberg, Secretary Dean Rusk, Secretary Hodges, and then, of course, Secretary Freeman from Labor. And we presented the witnesses. The findings were that next to steel textiles was the second most important to national security; that we couldn't send them to war in a Japanese uniform.

Since that time, of course, there have been various initiatives whereby we have given more than "at the office." We have given more than our "fair share," so that in the limited time let me categorically state that two-thirds of the clothing in this Chamber this minute is imported. We gradually are going out of business, and more particularly, since NAFTA, have gone out of business.

What happens in my State, so as to understand, is that we have lost 24,000 textile and apparel jobs since the enactment of NAFTA in the State of South Carolina. We actually had 1 million apparel workers over the country when President Clinton came in, and we are down now to 781,000 in 1998. We have lost 219,000.

Rather than being "greedy," Mr. President—that is what I really want to correct—the textile industry is geared up competitively.

You ought to go into one. Incidentally, calling them "greedy," I have been through, I think, 13 of the Milliken plants. There is no bigger Republican than Roger Milliken. So you don't want to go around saying "greedy" Republican interests. Let's get away from that connotation, because the truth of the matter is you will find no more competitive industry than Milliken Textiles. They have won the Baldrige Award. They have set the pace for modernization, computerization, mechanization, and otherwise, electronically controlled. You ought to visit those people. They have cut back and downsized, and are extremely competitive, with the industry itself investing over $2 billion a year each year for the past 10 years, and trying to stay competitive and exist as an industry—not "greedy" at all.

But what really happens is that these jobs are extremely important to our economy. They average around $7 to $10. It is up to $10 now.

I am showing you a headline of Thursday, July 9, on breaking news in South Carolina.

I ask unanimous consent that the entire article be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SOUTH CAROLINA'S FACTORY WORKERS LOWEST PAID IN SOUTHEAST ECONOMIC GRADE

COLUMBIA, SC (AP)—For years, South Carolina has sold itself as a low-cost, low-wage place for businesses to expand or locate factories, College of Charleston economist Frank Hefner says.

"The kind of industry that comes . . . creates low-wage jobs," he said.

South Carolina doesn't win the engineering-intensive and research-and-development jobs that surround corporate headquarters. "We're the piece shop," Hefner said.

But factory workers do not appear to have shared equally in the state's much-heralded economic boom, according to federal statistics that rank them the worst paid in the Southeast.

Still, there is some good news in the wage numbers. The factory jobs "pay higher wages higher wages than farm workers and service workers," Hefner said.

Between 1990 and 1998's first quarter, the average wages of South Carolina factory workers grew by 17 percent to $10.44 an hour. During the same period, average factory wages increased 24 percent in the Southeast to $11.68 an hour.

As he seeks re-election, Republican Gov. David Beasley has proclaimed his administration successful in attracting new and higher-paying jobs to the state. His opponent, Democrat Jim Hodges, says workers have missed out on the economic good times.

The Hodges campaign this week pointed to an annual economic development study that graded South Carolina an F in economic performance.

However, the latest figures from the Corporation for Enterprise Development show South Carolina has improved to a C.

The 1998 study said strong employment conditions were key to the recovery. South Carolina had the third-fastest employment growth over the preceding year and the 13th-lowest unemployment rate.

Beasley says since his 1995 inauguration, South Carolina has attracted $16.5 billion in economic investment, creating 80,000 jobs. His administration, however, has been unable to provide documentation for some of its economic development numbers.

Some of the promised investments, for instance, may not be fulfilled for years and the state has said it does not check which ones actually are completed. It also has refused to identify all the companies doing the investing, thwarting easy checks.

Those new jobs largely have paid more than the state's low average manufacturing wage, Beasley spokesman Gary Karr said.

"The jobs we've announced over the last two or three years are getting close to $30,000 a year," Karr said. "That's a huge increase (compared with) the average wage."

The national average for manufacturing workers is $36,000 a year, according to Bureau of Labor Statistics.

Karr said the bureau numbers miss the point. The low average factory wage does not reflect that higher-wage jobs are growing more rapidly than lower-wage jobs, he said.

First Union economist Mark Vitner agrees. "The majority of (job) growth is occurring in industries that pay 20 percent above the average manufacturing wage," Vitner said. At the same time, the state is losing low-paying manufacturing jobs, particularly in textiles and apparel.

Still, low-paying textile companies with a total of 77,500 workers represent about one-fifth of South Carolina's manufacturing work force.

Mr. HOLLINGS. I thank the Chair.

"South Carolina's factory workers lowest paid in SoutheastEconomic Grade."

So, on the one hand, we are "greedy," because we are not giving our jobs to the Sub Sahara Africa bill. And, on the other hand, we are low paying and slovenly because we are not paying them enough as the industry and labor sees it.

So the textile manufacturers are caught between a rock and a hard place. There is no question that they are just as competitive as all that get out.

But Washington should sober up from this global competition singsong. Specifically, let's go to Oneita, a manufacturing plant in Andrews, SC, that made T-shirts. They had 487 workers. They closed down because they went to Mexico because anybody can make a T-shirt.

What happens, as we politicians say, "Wait a minute." Before you open Oneita, you have to have clean air, you have to have clean water, Social Security, Medicare, Medicaid, minimum wage, plant-closing notice, parental leave, safe workplace, safe working machinery. All of that goes into the cost of the product. You go down to 58 cents an hour in Mexico and have none of those requirements. So if your competition leaves, you have to leave. So you are losing the jobs.

So the stance of the textile industry and the concern over the sub-Sahara bill is not "greed;" so-called "trade" makes people equal. Trade makes people unemployed.

That is what has occurred. We are here to represent the industrial backbone, the manufacturing backbone of this Nation. As Akio Morita said some years back, talking about Third World countries, they have got to develop a strong manufacturing sector in order to become a nation state. And then, looking at me, he said, "Senator, that world power that ceases to have its manufacturing capacity will cease to be a world power."

So we have the three-legged stool. On the first leg, the one of values, we are strong; the second leg, the one of military, we are strong; but the third leg over the past 50 years has been fractured economically. It has shortened. And that is the danger to the Nation's economy, and not just to the textile workers of South Carolina. It is a fundamental concern that these excellent jobs and excellent industries receive fair treatment.

We have done more than our fair share to spread capitalism in the Pacific rim, into Korea and everywhere else, down to Mexico, over into Europe initially after the Marshall Plan, and now to Africa. But let's see that we contain that industry in America's economic self-interest.

I yield the floor and thank the distinguished Chair.

Mr. DEWINE addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. DEWINE. Mr. President, how much time remains on this side?

The PRESIDING OFFICER. Thirteen minutes.

Mr. DEWINE. I ask the Chair to notify me after I have used 6 minutes.

PRIVILEGE OF THE FLOOR

Mr. DEWINE. Mr. President, I ask unanimous consent that a member of my staff, Jason Small, be granted floor privileges for the day.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DEWINE. Mr. President, let me first join my colleagues, Senator LUGAR and Senator GRAMM, in support of the African Trade Group and Opportunities Act, and the reasons they have stated this is the right thing to do. It is in our national self-interest. It will do a lot of good.

(The remarks of Mr. DEWINE pertaining to the introduction of S. 2283 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. DEWINE. Mr. President, I thank the Chair and yield the floor.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

PRODUCT LIABILITY REFORM ACT

Mr. GORTON. Mr. President, we are about to vote on cloture on a product liability bill, a product liability bill worked out with great care over the course of the last year and a half by the distinguished Senator from West Virginia, Mr. ROCKEFELLER, and myself, and the White House, to meet all of the objections contained in the President's veto message on the bill passed on the same subject about 2 years ago. Nevertheless, the demand to party loyalty on the part of the minority leader will almost certainly defeat this vote for cloture. That is highly regrettable as the arguments against it are entirely devoid of merit.

Just a few minutes ago you heard the junior Senator from New Jersey protest about the fact that cloture would prohibit the bringing of lawsuits based on gun violence. That is entirely specious for two reasons. The first is the amendment on that subject that is at the desk will be germane after cloture and can be debated and voted on. Secondly, and more importantly, the lawsuits by various States against gun manufacturers based on the tobacco litigation are not product liability lawsuits. Tobacco litigation was not a product liability lawsuit at all, and neither are these lawsuits. They simply are not affected by this legislation.

The real protest was outlined a couple of nights ago by the minority leader who said, "I hope that we have a good debate about how good or bad this legislation is. I hope we have an opportunity to propose amendments to this litigation."

Yesterday, about an hour before the time ran out for the filing of amendments, the majority leader came to the floor when only two or so amendments had been filed to ask unanimous consent for further time to put in amendments. The minority leader's representative objected to adding to that time. Nevertheless, there are 38 amendments on the desk on this bill, 28 of them by Democrats, 10 by Republicans. Many of those amendments, including several by the Senator from South Carolina, are germane and can be debated on and voted on after cloture.

Yesterday afternoon the majority leader offered to extend the time for this vote so that there could be debates on amendments before cloture took place. The minority leader turned down that informal request. In other words, there is no desire on the part of the opponents of this bill to debate amendments to the bill, amendments further restricting it or amendments on any other element of the subject. None whatsoever. It is a simple smokescreen to persuade Members who would otherwise be willing to vote for cloture and vote for the bill not to do so.

Night before last, other Members on that side of the aisle complained bitterly about their inability to debate totally irrelevant matters to product liability. They mentioned campaign finance laws. We had 2 weeks of debate on that subject. They mentioned tobacco legislation. We debated that subject for 4 weeks. They mentioned education reform. We debated that subject for 2 weeks and passed a bill which has now gone to the President of the United States. And they spoke of health care reform on which they have already rejected offers for debate but will probably accept some next week.

No, the claim that there has not been an opportunity to debate this legislation is based on one fact and one fact only—the desire to persuade Members who would otherwise vote for this bill to vote against the cloture motion and therefore to kill the bill. They will probably succeed in doing so, and it is a paradox that a bill that is much more narrow than the one passed by a significant majority of Members of this body 2 years ago and vetoed by the President, which now meets all of the requirements of the President, will be opposed by some Members among those who voted for the bill 2 years ago. It is, I regret to say, pure politics and has very little to do with the merits of the bill itself.

Mr. ROCKEFELLER addressed the Chair.

The PRESIDING OFFICER (Mr. HUTCHINSON). The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, the Senator notes it is after 10 o'clock. I ask unanimous consent to speak for 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROCKEFELLER. I thank the Chair.

I had very much hoped that the argument of politics would not be used in discussing this. I agree with much of what my distinguished colleague over these many years has said. But I think, frankly, that on the question of product liability tort reform there has been enough, sort of acting and sort of wanderlust faith on both sides of the aisle that we don't need to point fingers at each other.

My view towards this is that I would like to see, as the Senator from Washington indicated, a very modest bill which would be signed by the President to go forward. And I, after 11 years of working on this, am not willing to give up. I am not willing to say that I am going to put product liability to death. I am not going to be a part of that.

I will, therefore, vote no on this cloture vote because I still think that, arguments about politics to the contrary, neither side having totally clean hands on all of this, the controlling factor ought to be the substance of the bill, which I think is good, and that the controlling factor on a vote ought to be how one feels about whether or not one can continue to debate product liability and hope that the leadership will come together in some kind of an arrangement, as, indeed, in this sort of Kabuki dance there has been.

The majority leader last night vitiated cloture for today. The minority leader objected. The majority leader yesterday said there would be a period for filing of votes. A Democrat objected. On the other hand, there have been many problems on the other side.

So what I am trying to do is to promote product liability in a very modest form which will be signed by the President. And, therefore, I hope my colleagues will vote no on the pending cloture motion so we might have a chance to continue this discussion and hopefully work out something on this modest but helpful bill.

I thank the Presiding Officer.

PRODUCT LIABILITY REFORM

Mr. McCAIN. Mr. President, this nation needs legal reform. This bill before us—if passed into law—will deliver exactly that. While this legislation is not perfect, it does a great deal for small businesses across this nation. And for that reason, it should be supported and I hope it will become law.

Before I discuss this matter further, I want to thank Senator GORTON for his tireless pursuit of legal reform in the area of product liability. Senator GORTON has worked hard on this important legislation for many years. I also want to thank Senator ROCKEFELLER for all his efforts.

Mr. President, I do have concerns regarding this bill. My primary concern with this measure is the narrow nature of the reforms it would institute. I had hoped we could pass a broader bill that would do more. But again, I want to repeat, the proposal has important features that would improve some imperfections in our legal landscape.

I am especially encouraged that the bill before the Senate includes, as Title II, legislation that I introduced with Senator LIEBERMAN to ensure the continued access to biomaterials. Biomaterials are used to produce implantable medical devices that both enhance and extend the lives of so many Americans.

I am also pleased with other provisions taken from the bill as reported by the Commerce Committee. Those provisions include valuable revisions to the liability rules applicable to product sellers, renters, and lessors; a limitation on the amount of punitive damages that may be awarded against small businesses; and a provision to provide for the reduction of damages when a product has been misused or altered.

My concern is not so much with what is in this compromise but in what it does not contain. The bill reported by the Commerce Committee has been significantly narrowed to appease the Administration. For example, the compromise would not provide a statute of repose applicable to all products, it would not reform joint and several liability, and it would not limit the amount of punitive damages that may be awarded certain sized business enterprise.

The compromise proposal would provide limited reforms in the area of product liability. Those reforms, although limited, may be valuable and worth doing but they do not constitute comprehensive reform of product liability.

I know that comprehensive product liability reform is not politically possible in this Congress due to the Administration's opposition. That, however, does not change the fact that comprehensive product liability reform is essential for America's consumers and for our businesses both large and small. Comprehensive product liability reform would make a larger array of products available to consumers at a lower price. Comprehensive product liability reform would create more jobs for American workers and make American businesses more competitive in international markets.

General aviation is the best example of the benefits of legal reform. The general aviation industry was nearly dead in the United States. Production of new airplanes was declining steeply, and new technology was not being incorporated into the planes that were being built. As a result jobs were lost and consumers were deprived of better and safer airplanes. The General Aviation Revitalization Act rescued this industry by instituting a very narrow statute of repose. Due to this reform, thousands of new jobs have been created and more advanced airplanes are now available to the flying public.

To best bring the advantages of legal reform to all consumers and industries, the country desperately needs product liability reform. Comprehensive reform would include common sense revisions to joint and several liability, limitations on punitive damages, and a statute of repose applicable to all products. All of these reforms were contained in the bill as reported by the Senate Commerce Committee.

My deepest concern about the compromise proposal that Senator GORTON has negotiated is a fear that once Congress has acted on this compromise, the public will assume it is comprehensive legislation and the drive for additional necessary reforms will be hampered. I fear that a narrow product liability bill that makes incremental improvements will be used by the powerful interests that oppose any legal reform to claim that the narrow bill was supposed to solve all the problems and thereby condemn any further reform.

But that fact withstanding, I still strongly support the bill before us. Obviously, a narrow bill cannot solve all of the numerous problems in our current system. I believe a narrow bill can make significant headway on some of those problems. As I began, this bill will help reform the legal system and will greatly benefit small business. I hope that its passage of this bill is the first step in a process of reform, not the beginning of the end. This measure deserves our support and I hope we will act quickly to pass it and send the bill to the President for his signature.

Mr. LEAHY. Mr. President, I rise today in opposition to the Product Liability Reform Act of 1998. I understand the concerns raised by a few well-publicized cases of outsized punitive damages awards in product liability cases. In seeking to address those concerns, however, this bill simply goes too far. It overly restricts an injured person's right to seek legal redress from the makers and sellers of dangerous products, and tramples on states' rights in the process.

In fact, this legislation could leave consumers with a more dangerous marketplace. The bill caps punitive damages at the lesser of $250,000 or twice an individual's loss for smaller businesses. This cap will allow a company to calculate with a much greater degree of certainty the economic cost of placing a dangerous product into the market. If that cost is less than the cost of the design or manufacturing changes necessary to make the product safe, companies may choose to sell the dangerous product and rely on the damages cap in this legislation to limit their losses when people are hurt and file claims.

I am at a loss to understand the need for such drastic reform. The Senate just concluded debate on a tobacco bill that would not have occurred but for an individual's ability in the current civil justice system to recover punitive damages against the maker, in this case, of a killer product. Individual states have recovered billions of dollars in damages from the tobacco industry in the same system. Despite all of the high-minded rhetoric of the tobacco industry, the threat of punitive damages was a key factor in bringing the companies to the table.

Mr. President, the civil justice system works. The threat of punitive damages should be preserved as a powerful deterrent to manufacturing dangerous products. Damage awards should not be a calculable, fixed business expense to be coldly measured against the consumer's welfare.

If the concern is frivolous lawsuits, we do not need federal legislation. Federal and state court judges already have the power to dismiss such actions under Rules 12 and 56 of the Federal Rules of Civil Procedure and similar state procedural rules. The Supreme Court's Daubert decision has established rigorous standards for the admissibility of expert testimony in product liability cases.

In addition, many states already have enacted comprehensive tort reform laws of their own that include product liability provisions. If the Vermont State Legislature wants to enact restrictions on product liability lawsuits or caps on punitive damages, then they are free to do so. And the Vermont State Legislature is free to not change Vermont's civil justice system.

And that's as it should be. The law of torts has always been the province of the states. This bill, though, would inject a federal standard into every state's negligence law and into every state's punitive damages proof threshold. The federal government should not dictate state tort law standards in any event, and particularly in this case, as states already have taken many steps to reform their own product liability laws.

Why do we now want to pass a Federal law to override these State laws that have addressed product liability reforms? Do we in the United States Senate now know better than our state legislatures? What happened to state's rights?

I do not believe the false threat of frivolous lawsuits justifies this bill. Instead, this bill is a solution in search of a problem. There is no product liability litigation crisis in Vermont or the rest of the country. In fact, less than one percent of new case filings in state courts are brought by injured consumers in products liability lawsuits.

And while the bill restricts consumers' rights and imposes tort standards on states, the legislation will not apply to lawsuits involving commercial interests—what hypocrisy! While consumers may have their hands tied, businesses will be free to pursue their claims without any limitations. Because almost half of all civil litigation is commercial in nature, almost half of all civil litigation will be completely unaffected by this bill. If the problems in product liability litigation truly are serious enough to warrant handcuffing consumers and dictating tort law to the states, then businesses should be bound by this bill's restrictions as well.

In what appears to be the height of corporate welfare, a new paragraph has been slipped into this bill that grants immunity from products liability lawsuits for a Mississippi medical products company, Baxter International, Inc. This new paragraph would exempt from products liability lawsuits any manufacturers who make the raw materials used in intravenous bags, which just happens to benefit Baxter International, Inc.

Mr. President, the civil justice system is not perfect, but it works. This legislation would not improve the system. Rather, it will make it more difficult for consumers to fight against unsafe or dangerous products, and may result in a more dangerous marketplace overall. I urge my colleagues to reject this bill.

Mr. FAIRCLOTH. Mr. President, I am appalled that the special interests and their Senate retainers triumphed again in their efforts to extend the "trial lawyer tax" imposed on the American people. The ultimate Washington special interest—the trial lawyers—will continue to line their pockets at the expense of American consumers and small businesses.

As you know, I continue to advocate broad civil justice reform, and this was just a start. I want to recount a recent case that underscores the need for greater reform than the bill that we considered earlier today. A group of trial lawyers filed a class action lawsuit against the Bank of Boston over credits for mortgage escrow balances. This case, however, exposes the outrageous greed that motivates these trial lawyers eager to don the cloaks of the "consumer advocate." The 715,000 depositors each received $2.19 in back interest from the lawsuit, but the current mortgage holders footed the bill for the lawyers to the tune of $91.33 each. That's right, Mr. President, they received $2.19 but their accounts were debited $91.33 for lawyers fees.

I also read a 1995 gasoline price-fixing case in which 19 lawyers who won a $1 judgment were actually awarded more than $2 million in lawyers' fees in an Alabama federal court. This is outrageous!

Therefore, Mr. President, I remain committed to broad and comprehensive civil justice reform. This was a modest bill, too modest in my opinion, but it was a first step. However, as the Majority Leader said, the trial lawyers control the modern Democratic Party. There is no other explanation for the stalwart liberal opposition to the most modest reforms to help American consumers and small businesses. The trial lawyers are the most powerful and feared special interest in Washington.

Can you imagine Senators voting against this bill for any other reason? This was the essence of modest reform.

This bill would have prevented litigation against retailers and wholesalers unless they altered products. It would have barred damage awards if the product was misused or altered by the consumer or if the user was influenced by drugs or alcohol. It would have limited punitive damages, but its limits on punitive damages would apply only to small businesses, which it defined as companies with fewer than 25 employees or with annual revenues of less than $5 million. It would have allowed punitive damages only where there was evidence of "conscious, flagrant disregard" for safety by the manufacturer and set limits at $250,000 or twice the actual damages a person suffered.

Not exactly radical legislation, Mr. President, just common sense reform of a system run amok.

We need to repeal, not just cut, the "trial lawyer tax." The tort system that costs American consumers more than $132 billion per year. This is a 125% increase over the past 10 years. In fact, between 1930 and 1994, tort costs grew four times faster than the growth rate of the economy.

Mr. President, this tort tax costs the average American consumer $616 per year, and it establishes the trial lawyers as tax collectors. These trial lawyers often sue under a contingent fee arrangement, an arrangement that remains illegal in England due to its dubious ethical basis, so the trial lawyers are bounty hunters.

I am just increduous that we are unable to relieve the "trial lawyer tax" and to let the American people keep more of what they earn, because it is their money, not the trial lawyers' money! The trial lawyers are the most powerful special interest in Washington and I, for one, will continue to fight for the American people. I stand with the average American, Mr. President, not the well-heeled trial lawyer lobbyists and their big campaign checks.

Mr. LIEBERMAN. Mr. President, I rise today to offer my strong support for the pending amendment and for the substitute Product Liability Reform Act of 1998, S. 2236. This is a good bill, and I am proud to be one of its original co-sponsors. It is the product of incredibly hard work and tremendous dedication by Senator ROCKEFELLER and Senator GORTON, and I want to congratulate—and thank—them and their staffs for what they have been able to achieve. I also want to thank the President for his willingness to work with us to come up with a package that now has his full support.

I, frankly, would have liked a stronger bill, like the one we passed last Congress, but the President vetoed that bill. That is something that I think all those of us who support reform have to keep in mind as we move forward with this bill. Because even if it doesn't incorporate everything we wanted, this bill does offer much—together with the promise of the President's signature.

The President's promise is important not just to those of us who have long supported legal reform. It also should be important to my colleagues who have not. I hope it prompts them to take a serious look at this bill—to put aside preconceived notions they may have of product liability reform, and to take a fresh look at what we have done. Many of the provisions they have complained about in the past are gone—the bill does nothing to limit joint and several liability, for example, and it does not impose any caps on punitive damages for any but the smallest of businesses.

PROBLEMS WITH THE LEGAL SYSTEM

But it does, Mr. President, offer some small, incremental steps towards legal reform—towards fixing a tort system that is not working as it should be. That system is supposed to be a place where people involved in accidents can go to get a fair and impartial judgment as to who should, in the words of a great lawyer and judge from Connecticut, bear the cost of accidents. The tort system is supposed to act fairly—to make sure that companies or individuals at fault who wrongly cause an injury bear the responsibility for the harm they have done, but also to make sure that no one—whether it be an individual or a company —be held accountable or forced to pay for something that was not their fault.

Unfortunately, a system that is intended to fairly determine fault and to efficiently provide for those deserving of compensation has, in many cases, been converted into something quite different. Instead of reflecting that bedrock American value of fair and neutral justice, we now have a system that too often arbitrarily imposes costs on innocent individuals and businesses, just because they may have deep pockets with some money in them.

Whenever someone is injured, it seems, a lawsuit gets filed against everyone in sight, without regard to whether there really is justification for that suit. And, unfortunately, the tort rules in place in many cases make it so costly for many to defend against those suits that many companies just choose to pay costly settlements to get rid of a case. Other times, otherwise legitimate suits yield damages awards—particularly punitive damage awards—that are far greater than necessary to compensate the plaintiff and that are wildly out of proportion to any wrong done by the defendant.

This has costs for us all. By imposing high insurance costs and legal fees on businesses, it drives up their costs, which means that all of us pay more for the products we buy. It stifles innovation by making companies unwilling to bring new products to the market, which means we don't have products we should have. And by diminishing the value our nation places on taking responsibility for our own actions and not seeking to profit unfairly at the expense of others, it has a demeaning and degrading effect on the moral fiber of our society.

These are points that my constituents continually drive home to me as I travel around my home state of Connecticut. Small businesspeople—the bedrock of the American economy—tell me about the constant fear they have of lawsuits, and the truly harmful effects those fears have—in stifling innovation, in increasing a company's cost of doing business, in increasing the cost of products.

Mr. President, this bill is a balanced and fair response to those problems. It offers meaningful and fair reform of our legal system to redress these abuses while at the same time protecting consumers' rights. It makes sure that those deserving of compensation get it, but it also makes some changes—small changes—aimed at bringing fairness back into the system. My colleagues Senators GORTON and ROCKEFELLER already have gone over the bill's main provisions, but let me touch on a couple of its highlights.

PUNITIVE DAMAGES

One of the most important provisions offers a uniform standard for awarding punitive damages, requiring anyone trying to get punitive damages in a product liability lawsuit to prove by clear and convincing evidence that the defendant acted with a conscious, flagrant indifference to the rights or safety of others. That provision applies to all defendants. The bill also limits punitive damages against small businesses—those with annual revenues of less than $5 million and fewer than 25 employees.

Now, I have heard some say that this is unfair—that these provisions limit the ability of plaintiffs to be made whole. But, Mr. President, punitive damages have nothing to do with making plaintiffs whole—that is what we have compensatory damages for, and this bill allows full recovery of those damages. What punitive damages are for is to punish—to say that a particular defendant's conduct is so wrong, so outrageous and beyond acceptability that the defendant not only should have to compensate a plaintiff, but should also be punished as well.

Unfortunately, Mr. President, in many places, punitive damages no longer are reserved for that purpose. Instead, plaintiffs claim them willy-nilly, knowing that putting a claim for punitive damages in a complaint—offering the threat of an enormous punitive verdict that could put a company out of business—is enough to force companies into settlements regardless of whether those settlements—or the amounts of them—are deserved. By making clear that punitive damages should be assessed only when a defendant truly has acted in a manner deserving of punishment, this bill will make sure that punitive damages are awarded only when they should be. At the same time, it also makes sure that the threat of punitive damages remains available to deter companies from engaging in behavior deserving of punishment.

BIOMATERIALS

The bill also contains the provisions of the Biomaterials Access Assurance Act—a bill that I am proud to co-sponsor with Senator McCAIN. The Biomaterials bill is the response to a crisis affecting more than 7 million Americans annually who rely on implantable life-saving or life-enhancing medical devices—things like pacemakers, heart valves, artificial blood vessels, hydrocephalic shunts, and hip and knee joints. They are at risk of losing access to the devices because many companies that supply the raw materials and component parts that go into the devices are refusing to sell them to device manufacturers. Why? Because suppliers no longer want to risk having to pay enormous legal fees to defend against product liability suits when those legal fees far exceed any profit they make from supplying the raw materials for use in implantable devices.

Let me emphasize that I am speaking here about—and the bill addresses—the suppliers of raw materials and component parts—not about the companies that make the medical devices themselves. The materials these suppliers sell—things like resins and yarns—are basically generic materials that they sell for a variety of uses in many, many different products. Their sales to device manufacturers usually make up only a very small part of their markets—often less than one percent. As a result—and because of the small amount of the materials that go into the implants—these suppliers make very little money from supplying implant manufacturers. Just as importantly, these suppliers generally have nothing to do with the design, manufacture or sale of the product.

But despite the fact that they generally have nothing to do with making the product, because of the common practice of suing everyone involved in any way with a product when something goes wrong, these suppliers often get brought into lawsuits claiming problems with the implants. One company, for example, was hauled into to 651 lawsuits involving 1,605 implant recipients based on a total of 5 cents worth of that company's product in each implant. In other words, in exchange for selling less than $100 of its product, this supplier received a bill for perhaps millions of dollars of legal fees it spent in its ultimately successful effort to defend against these lawsuits.

The results from such experiences should not surprise anyone. Even though not a single biomaterials supplier has ultimately been held liable so far—let me say that again: Not a single biomaterials supplier has ultimately been held liable so far—the message nevertheless is clear for any rational business. Why would any business stay in a market that yields them little profit, but exposes them to huge legal costs? An April 1997 study of this issue found that 75 percent of suppliers surveyed were not willing to sell their raw materials to implant manufacturers under current conditions. That study predicts that unless this trend is reversed, patients whose lives depend on implantable devices may no longer have access to them.

What's at stake here, let me be clear, is not protecting suppliers from liability and not even just making raw materials available to the manufacturers of medical devices. Those things in and of themselves might not be enough to bring me here. What's at stake is the health and lives of millions of Americans who depend on medical devices for their every day survival. What's at stake are the lives of children with hydrocephalus who rely on brain shunts to keep fluid from accumulating around their brains. What's at stake are the lives of adults whose hearts would stop beating without implanted automatic defibrillators. What's at stake are the lives of seniors who need pacemakers because their hearts no longer generate enough of an electrical pulse to get their heart to beat. Without implants, none of these individuals could survive.

We must do something soon to deal with this problem. We simply cannot allow the current situation to continue to put at risk the millions of Americans who owe their health to medical devices.

Senator McCAIN and I have crafted what we think is a reasonable response to this problem. The Biomaterials provisions of this bill would do two things. First, with an important exception I'll talk about in a minute, the bill would immunize suppliers of raw materials and component parts from product liability suits, unless the supplier falls into one of three categories: (1) the supplier also manufactured the implant alleged to have caused harm; (2) the supplier sold the implant alleged to have caused harm; or (3) the supplier furnished raw materials or component parts that failed to meet applicable contractual requirements or specifications.

Second, the bill would provide suppliers with a mechanism for making that immunity meaningful by obtaining early dismissal from lawsuits. By guaranteeing suppliers in advance that they will not face needless litigation costs, this bill should spur suppliers to remain in or come back to the biomaterial market, and so ensure that people who need implantable medical devices will still have access to them.

Now, it is important to emphasize that in granting suppliers immunity, we would not be depriving anyone injured by a defective implantable medical device of the right to compensation for their injuries. Injured parties will still have their full rights against anyone involved in the design, manufacture or sale of an implant, and they can sue implant manufacturers, or any other allegedly responsible party, and collect for their injuries from them if that party is at fault.

We also have added a new provision to this version of the bill, one that resulted from lengthy negotiations with representatives of the implant manufacturers, the American Trial Lawyers Association—ATLA—the White House and others. This provision responds to concerns that the previous version of the bill would have left injured implant recipients without a means of seeking compensation if the manufacturer or other responsible party is bankrupt or otherwise judgment-proof. As now drafted, the bill provides that in such cases, a plaintiff may bring the raw materials supplier back into a lawsuit after judgment if a court concludes that evidence exists to warrant holding the supplier liable.

Finally, let me add that the bill does not cover lawsuits involving silicone gel breast implants.

In short, Mr. President, the Biomaterials provisions of this bill are—and I am not engaging in hyperbole when I say this—potentially a matter of life and death for the millions of Americans who rely on implantable medical devices to survive. This bill would make sure that implant manufacturers still have access to the raw materials they need for their products, while at the same time ensuring that those injured by implants are able to get compensation for injuries caused by defective implants.

In closing, let me once again congratulate Senator ROCKEFELLER, Senator GORTON and the President for their success in forging this compromise bill. I urge my colleagues to support it.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

PRODUCT LIABILITY REFORM ACT OF 1997

CLOTURE MOTION

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the pending amendment to Calendar No. 90, S. 648, the Product Liability Reform Act of 1997:

Trent Lott, Don Nickles, Slade Gorton, Phil Gramm, John McCain, Spencer Abraham, Dan Coats, Dick Lugar, Lauch Faircloth, John Chafee, Sam Brownback, Ted Stevens, Jon Kyl, Jeff Sessions, Mike Enzi, and Judd Gregg.

CALL OF THE ROLL

The PRESIDING OFFICER. By unanimous consent, the quorum call has been waived.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on the amendment No. 3064 to S. 648, the Product Liability Reform Act, shall be brought to a close?

The yeas and nays are required. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Texas (Mrs. HUTCHISON) and the Senator from Arizona (Mr. KYL) are necessarily absent.

I further announce that if present and voting, the Senator from Arizona (Mr. KYL) would vote "yes."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The yeas and nays resulted—yeas 51, nays 47, as follows:

[Rollcall Vote No. 188 Leg.]

YEAS—51

Abraham
Allard
Ashcroft
Bennett
Bond
Brownback
Burns
Campbell
Chafee
Coats
Cochran
Collins
Coverdell
Craig
D'Amato
DeWine
Domenici
Enzi
Faircloth
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hagel
Hatch
Helms
Hutchinson
Inhofe
Jeffords
Kempthorne
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Roberts
Santorum
Sessions
Smith (NH)
Smith (OR)
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner

NAYS—47

Akaka
Baucus
Biden
Bingaman
Boxer
Breaux
Bryan
Bumpers
Byrd
Cleland
Conrad
Daschle
Dodd
Dorgan
Durbin
Feingold
Feinstein
Ford
Glenn
Graham
Harkin
Hollings
Inouye
Johnson
Kennedy
Kerrey
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Moynihan
Murray
Reed
Reid
Robb
Rockefeller
Roth
Sarbanes
Shelby
Torricelli
Wellstone
Wyden

NOT VOTING—2

Hutchison
Kyl

The PRESIDING OFFICER. On this vote the yeas are 51, the nays are 47. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

INTERNAL REVENUE SERVICE RESTRUCTURING AND REFORM ACT OF 1998—CONFERENCE REPORT

The PRESIDING OFFICER. Under the previous order, the Senate will now vote on the adoption of the conference report to accompany H.R. 2676, which the clerk will report.

The legislative clerk read as follows:

Conference report to accompany H.R. 2676, an act to amend the Internal Revenue Code of 1986, to restructure and reform the Internal Revenue Service, and for other purposes.

The Senate resumed consideration of the conference report.

Mr. DASCHLE. Mr. President, I would like to express my gratitude to all of our colleagues, Democratic and Republican, who have worked so hard for so long on the Internal Revenue Service Restructuring Act of 1998. This bipartisan legislation builds on the recommendations of the year-long National Commission on Restructuring of the IRS and addresses many of the concerns raised during Congressional hearings. These reforms have been a long time coming, and I am pleased to support them today on the last leg of their journey through the legislative process.

We would not be here today, poised to enact the most sweeping restructuring of the Internal Revenue Service in living memory, if it were not for the vision, diligence, and persistence of the senior Senator from Nebraska, BOB KERREY. Today's vote represents nearly three years of concerted effort on the part of Senator KERREY. He developed the legislation to create the commission in 1995, co-chaired its proceedings to a successful conclusion in 1997, and has worked assiduously since then with Members of Congress and the Administration to shepherd the legislation to today's final vote. On behalf of the Senate and taxpayers across the country, I thank Senator KERREY for his inspired public service.

This legislation has two essential goals: to make the IRS more accountable to private citizens and to transform its culture into one that resembles the customer service orientation of a well-run business.

Too often lately, South Dakota business owners, farmers and others have told me stories that make IRS tax collectors sound a lot more like a team of overzealous special prosecutors. With this agreement, we send a strong message that the abuse, intimidation, harassment, quota systems, and patterns of targeting middle and lower-income people—or any segment of the public—will no longer be tolerated. IRS reform will ensure that taxpayers receive the fair and equal treatment they deserve. It will also pave the way for restoring the public's confidence in our Nation's tax collector.

I support this conference report because it will make the IRS more accountable to, and respectful of, taxpayers.

The extensive public hearings held by the Commission and Congressional committees have highlighted management problems within the IRS as well as individual cases of abuse and harassment by some IRS employees. The new IRS Commissioner, Charles Rossotti, has begun to implement significant changes to the structure and culture of the agency. By approving the conference report, the Senate can at last give him the tools he needs to expedite these necessary changes.

The bill establishes a new series of taxpayer rights, including one that places the burden of proof on the IRS in disputes before the tax court. It also permits a taxpayer to sue for civil damages if any IRS employee, in connection with any collection activity, negligently disregards the law. I am also pleased that the legislation provides a number of specific protections for taxpayers subject to audit or collection activities and establishes a private board of directors to oversee the IRS.

In addition, the conference agreement begins the important process of coming to grips with the complexity of the tax code. Thanks to this legislation, in the future, Congress will have an opportunity to hear from IRS technical experts concerning the likely compliance difficulties posed by individual tax legislation proposals. I am hopeful that involving these IRS tax experts early in the drafting process will help us attain our ultimate goal of a simpler and less burdensome tax law.

Nevertheless, there is one aspect of this conference agreement I find wholly unbecoming of a piece of legislation intended to protect taxpayers. Mr. President, we should be paying for this bill just like every other tax bill. Regrettably, the conference report fails to uphold the spirit of fiscal responsibility that brought us last year's historic balanced budget agreement. Our Republican colleagues have chosen to employ a blatant gimmick to cover the costs of the bill over the 10-year period required by budget rules by pushing the costs out beyond that 10-year period. In so doing, they tarnish an otherwise important victory for taxpayers.

Protecting taxpayers is not limited to improving the fairness and efficiency of their tax collection system; it also involves maintaining discipline in government finances. There is no good reason why these two goals could not have been achieved simultaneously.

Specifically, the Roth IRA revenue offset in the conference report raises revenue for only 3 years. Thereafter, it loses more revenue than all the other revenue raisers in the bill combined. Indeed, this bill will drain more than $30 billion from the Treasury in the second 10 years following enactment. This burden on the federal government's finances will occur at precisely the time baby boomers begin to retire in large numbers, Medicare is projected to become insolvent, and the Social Security system's finances come under pressure. I will vote for the conference report because of the many good things in it. Nevertheless, I hope that at the next opportunity Congress will correct this serious flaw in the legislation.

I am also disappointed that the conference report to the IRS reform bill includes the technical corrections for the new surface transportation law. Like many veterans' advocates, I had hoped the Republican leadership would allow the Senate to debate this matter separately and reconsider its unwise and unfair decision to use $17 billion set aside for veterans' disability compensation to pay for new transportation projects.

As I have stated many times, I strongly believe that veterans suffering from smoking-related illnesses as a result of their military service should be compensated. That is why I voted against efforts to eliminate this compensation during consideration of the Republican Budget Resolution earlier this year. And that is why I supported the point of order that was raised by Senator PATTY MURRAY on this matter yesterday. Although both efforts were narrowly defeated, I look forward to continuing to work with Senator MURRAY, Senator ROCKEFELLER, the ranking member of the Senate Veterans' Affairs Committee, and others in an effort to ensure that veterans receive the disability compensation they deserve.

Mr. President, despite my objections to these particular provisions, my vote in favor of this conference agreement comes down to what I believe is in the best interests of working families. The American people deserve some assurance that, if they work hard and play by the rules, they can expect fair treatment from the IRS. I am convinced this legislation can make a difference for honest taxpayers who come into contact with our tax collectors. We should pass the conference report in order to give Commissioner Rossotti the authority he needs to carry out his plans to restructure this troubled agency as rapidly as possible. I have been attempting to expedite passage of this legislation since January, and I believe that American taxpayers should not have to wait one day longer.

Mr. DOMENICI. Mr. President, there are more than 168 ways that this bill makes the IRS more service oriented, and taxpayer friendly. It cracks down on abuses highlighted in the hearings. It corrects some problems called to my attention by constituents. Chairman ROTH and the Finance Committee should be commended for the fine job they did on this bill.

Often when we pass legislation, I ask the question: Who cares?

I can assure you that this is one piece of legislation that everyone cares about. No agency touches more Americans than the IRS. As I said before one out of two Americans said they would rather be mugged than be audited by the IRS. This bill should reverse that prevailing view. Among the key provisions the bill strives for better management; better use of technology; reinstatement of a checks and balances system so that the IRS will no longer be the judge, jury and executioner; discipline for rogue IRS agents; taxpayer protections including the right to a speedier resolution of a dispute with the IRS; fundamental due process and a long overdue reorganization. Hopefully, these reforms will change the environment and change the culture at the IRS.

The bill prohibits the IRS from contacting taxpayers directly if they are represented by a lawyer or an accountant. The IRS called this practice by bypassing the tax professional and visiting the taxpayer at work or at dinner "aggressive collection" techniques, my constituents called it harassment.

The bill attempts to make the IRS employees more accountable for their actions by putting their jobs on the line when they deal abusively with taxpayers.

The bill requires the IRS to terminate an employee if any of the following conduct relating to the employees official duties is proven in a final administrative or judicial determination:

Failure to obtain the required approval signatures on documents authorizing the seizure of a taxpayer's home, personal belongings, or business assets.

Falsifying or destroying documents to conceal mistakes made by the employee with respect to a matter involving a taxpayer.

Assault or battery on a taxpayer or other IRS employee.

Under the bill, the IRS will no longer be allowed to send out tax bills with huge penalties compounded with interest and cascading penalties just because the IRS was years behind in its work.

If the IRS does not provide a notice of additional taxes due, a deficiency, within 18 months after a return is timely filed, then interest and penalties will not start to be assessed and compounded until 21 days after demand for payment is made by the IRS. This excludes penalties for failure to file; failure to pay, and fraud. It is not fair for the IRS to wait years before contacting a taxpayer who honestly believes he has paid the correct amount, only to deliver to him years later a tax bill with interest and penalties that dwarfs the original underpayment. I had a constituent who was told he owed an additional dollar—one dollar—in taxes but owed more than $2,500 in penalties and interest! The IRS agent's response when asked about it was, "Well, I guess we gotch ya good."

Small businesses have been the target of some of the worst abusers. I will always remember the day a good friend, a restaurant owner in New Mexico called my office, justifiably hysterical. The IRS had just padlocked her restaurant. What was she to do? What could I do?

This bill codifies the proposition that all men and women, even if they work for the IRS, shall follow fundamental due process requirements. Padlocks and raids should be a last resort under this bill.

The bill requires the IRS to provide notice to taxpayers 30 days before the IRS files a notice of Federal tax lien, levies, or seizes a taxpayer's property.

The bill gives taxpayers 30 days to request a hearing. No collection activity would be allowed until after the hearing.

The bill requires IRS to notify taxpayers before the IRS contacts or summons customers, vendors, and neighbors and other third parties.

The bill requires the IRS to implement a review process under which liens, levies, and seizures would be approved by a supervisor.

The bill legislates common sense. It prohibits the IRS from seizing a personal residence to satisfy unpaid liabilities less than $5,000, and provides that a principal residence or business property should be seized as a last resort.

In addition, the bill expands the attorney client privilege to accountants and other tax practitioners.

Under this bill, the IRS could no longer insist that a taxpayer waive his rights. In particular, the IRS could no longer insist that a taxpayer waive the statute of limitations before the IRS would settle a case. The bill requires the IRS to provide taxpayers with a notice of their rights regarding the waiver of the statute of limitations on assessment.

If the IRS cannot locate the taxpayer's file, the bill prohibits the IRS from rejecting the taxpayer's offer-in-compromise based upon doubt as to the taxpayer's liability. I have known constituents who are left in an IRS twilight zone because the IRS lost their file. I know of one constituent who had his file lost five times. Fortunately, he kept a copy of the file himself, and worked next door to a Kinko's copying center.

This bill allows for a prevailing taxpayer to be reimbursed for his or her costs and attorney's fees if the IRS is found not to be substantially justified. The substantially justified standard is consistent with the little-guy-can-fight-the-federal-government-and-win philosophy. I am glad this standard is being expanded, and incorporated into this bill. Originally, the notion that a citizen should be able to recoup attorney's fees and costs when the Federal Government was not substantially justified was a concept in the Equal Access to Justice Act which I authored in the early 1980's. It is historically interesting to note, and perhaps prophetic, that the IRS lobbied very hard to be exempt from that law. In fact, the IRS was exempt when the bill was first enacted. When the Equal Access to Justice was reauthorized 5 years later, Senator GRASSLEY and I worked to include the IRS. It was a big fight but Congress prevailed and got the IRS under the Equal Access to Justice Act's umbrella. The Federal Government with its deep pockets shouldn't be allowed to simply "outlast" the average American taxpayer. That isn't what our justice system is about.

The bill also clarifies that attorney fees may be recovered in a civil action in which the United States is a party for unauthorized browsing or disclosure of taxpayer information. I have heard a lot about this abuse both from constituents and from the witnesses in the campaign finance investigation.

If a taxpayer makes an offer to settle his or her tax bill and the IRS rejects it and the IRS ultimately obtains a judgment against the taxpayer in the amount equal to, or less than the amount of the taxpayer's statutory offer, the IRS must pay the taxpayer's fees and costs incurred from the date of the statutory offer. I am pleased this provision is included in this bill. The offer and settlement provisions are patterned after the securities litigation reform bill which Senator DODD and I authored last Congress.

I can't believe we have to pass a Federal statute to accomplish this next task but apparently we do.

The bill requires all IRS notices and correspondence to include the name, phone number, and address of an IRS employee the taxpayer should contact regarding the notice. To the extent practicable and if advantageous to the taxpayer, one IRS employee should be assigned to handle a matter until resolved.

In New Mexico, a notice can come from the Albuquerque, Dallas, Phoenix, or Ogden IRS center. Taxpayers are often left with no option but to contact my office asking for help in simply identifying who they should talk to at the IRS to settle their tax matter. The caseworkers are experts, but it would take them 2 days to track down the right IRS office so that the constituent could try and solve their problem. It was so commonly befuddling to constituents that my caseworkers asked that this identification provision be included in this bill.

Movie stars, rock singers, and hermits like, and need unlisted phone numbers. The same is not true for Federal agencies. The bill also requires the IRS to publish their phone number in the phone book along with the address. We have a beautiful new IRS building in Albuquerque, but the only phone number for the IRS is the toll free number that is too frequently busy. If you did not know the IRS building in Albuquerque existed, you would not find a clue of its location in the telephone book.

I am pleased that the Senate was willing to accept a Domenici amendment, cosponsored by Senators D'AMATO, and MCCAIN that requires IRS helplines to include the capability for taxpayers to have their questions answered in Spanish.

In addition, the bill establishes a toll free number for taxpayers to register complaints of misconduct by IRS employees and publish the number.

The bill requires the IRS to place a priority on employee training and adequately fund employee training programs. The IRS is making progress. The accuracy of the advice that taxpayers received when they called the IRS was very bad. For example, in 1989, the advice was correct only 67 percent of the time. The accuracy has fortunately improved. Training is the key.

The bill requires the Treasury to make matching grants for the development expansion or continuation of certain low-income taxpayer clinics.

The bill requires at least one local taxpayer advocate in each state who has the authority to issue a "Taxpayer Assistance Order" when the taxpayer advocate believes it is appropriate.

Mr. President, many, in fact most, IRS employees work very hard and do a good job. Perhaps the best way to reform the IRS is to reform the code to make it simpler. The doubling from $100 billion to $195 billion of the tax gap—the difference between the amount of taxes owed and the amount actually paid—is evidence that the system is breaking down.

I am also pleased that the bill simplifies the capital gains holding period and makes it easier for taxpayers to calculate their capital gains.

Mr. LEVIN. Mr. President, I support the IRS Restructuring Act of 1998.

Ten years ago, I worked with former Senator Pryor on the Taxpayer Bill of Rights. That legislation grew out of hearings before the Governmental Affairs Committee which highlighted abuses by IRS employees against the taxpayers they are hired to serve. The Taxpayer Bill of Rights was landmark legislation that outlined the rights taxpayers have when dealing with the IRS including the right of the taxpayer to legal representation and the right to recover civil damages and attorneys fees from the IRS where they have engaged in abusive practices.

While that legislation and the subsequent Taxpayer Bill of Rights II addressed some of the most egregious abuses, some abuses continue. The Finance Committee hearings have again shed light on abuses of taxpayer by some overzealous employees. While all of us want the IRS to be diligent in their collection of taxes owed to the federal government, we don't want the IRS to abuse its authority. This legislation is another step in the right direction.

The bill contains an IRS Oversight Board which is intended to bring some private sector management and customer service expertise to the IRS. This Board is made up of nine members, six of whom are from the private sector and have an expertise in management of large organizations, tax laws, information technology and the concerns of taxpayers. The Board will review and approve strategic plans, operational functions and plans for major reorganization. In addition they will review operations at the IRS to monitor the Agency's treatment of taxpayers in general.

The Taxpayers Bill of Rights II contained an office of Taxpayer Advocate. The Taxpayer Advocate has the responsibility of aiding taxpayers in their disputes with the IRS and reporting to Congress annually with suggestions outlining the most serious problems faced in working with IRS. Taxpayers can request that the taxpayer advocate issue a taxpayer assistance order if the taxpayer is suffering or about to suffer a significant hardship as a result of the manner in which the tax laws are being administered. A taxpayer assistance order may require the IRS to release property, cease any action or refrain from taking action. The bill before us expands the circumstances when a taxpayer assistance order may be issued.

Currently, the direct point of contact for taxpayers seeking taxpayer assistance orders is a problem resolution officer appointed by a District Director. This bill replaces the present law problem resolution system with a system of local Taxpayer Advocates who report directly to the National Taxpayer Advocate. Under the bill, the local Taxpayer Advocate will have a phone number published and available to taxpayers, they must tell taxpayers that they are operated independently of any IRS office, and they are required to tell taxpayers that they do not disclose any information from the taxpayer to the IRS. In addition, the IRS is required to publish the right to contact the local Taxpayer Advocate on the statutory notice of deficiency.

The Taxpayer Advocate will be required to publish an annual report to identify areas of the tax law that impose significant compliance burdens on taxpayers and the IRS, including recommendations and identify the ten most litigated issues for each category of taxpayer including recommendations on how to mitigate those problems.

The bill contains other provisions that will improve the management of the agency. It also includes innocent spouse relief for those spouses who find themselves liable for taxes, interest or penalties due to the actions of their spouse. There's increased protections for taxpayers in the area of interest and penalty charges as well as in audit and collections. I am also especially encouraged by the stronger requirements imposed on the IRS to provide taxpayers with better information in regards to taxpayers rights, the appeals and collection process and potential liabilities when filing joint returns.

While all of these reforms are steps in the right direction, there is nothing in this bill to simplify the tax code. Since the 1986 Tax Reform Act, Congress has amended the tax code 63 times. Just this past year, Congress passed and the President signed a tax bill which contained over 800 changes to the Internal Revenue Code. Now that this legislation is prepared to move to the President's desk for signature, it is time that we set our sights on tax simplification.

TEFRA PARTNERSHIP

Mr. LEVIN. Mr. President, I'm glad to see Section 3507 regarding tax matters partners in the conference report. It strikes me as unfair that the IRS has not been notifying partners of a TEFRA partnership when the IRS appoints a successor tax matters partner. Under the effective date provision, Section 3507 applies to selections of tax matters partners made by the IRS after the date of enactment. Does the enactment of Section 3507 create any inference that the IRS is not required to give such notice to partners of TEFRA partnerships under the due process clause of the United States Constitution?

Mr. BAUCUS. The effective date provision creates no such inference.

Ms. MIKULSKI. Mr. President, I rise to support the Internal Revenue Service Restructuring and Reform Act conference report that is before us today. I supported the Senate bill in May and, although this report has unrelated items that should be debated on their own merits, I will support this conference report because it will change the culture of the IRS by focusing on customer service. This new culture will improve the way the IRS interacts with individual taxpayers, IRS employees, and tax-exempt groups.

As we know from our constituents, the IRS has engaged in some horrible management practices. It has been rightfully described as an agency out of control. I am particularly furious about the documented harassment of taxpayers. In my state of Maryland, I have heard from many Veterans groups across the state and a volunteer fire company in Western Maryland about harassment at the hands of the IRS.

Let me give you some examples. The Veterans of Foreign Wars and the American Legion Posts in my state have been systematically audited over the past five to six years because they sell drinks and food to members' guests. The Veterans groups tell me that their sign-in book was confiscated, people were subpoenaed, and IRS agents threatened to lock them up. Amazingly, the American Legion was told by the IRS that they could not hire an attorney or a CPA out of Post funds to help them with the audits!

These Posts offer our vets fellowship, entertainment, and a place to bring their families for an affordable meal. Yet, their very existence has been put in doubt by the actions of the IRS. What is their crime? They sell drinks and food to their post members and their guests, a little beer and a little bingo and a lot of the IRS. Let me tell you, this has got to end.

In Frederick County, the Emmitsburg volunteer fire company used "tip jars" to raise money to purchase a fire truck. The Frederick County Commissioners passed a local gaming law that makes it legal and less bureaucratic for non-profits like the fire company to place "tips jars" in local taverns by eliminating the need for county tax processors to get involved. However, the fire company was audited by the IRS and was told it owes close to $29,000 in back federal taxes because the money raised was not funneled through the local county tax authority in the customary manner.

I find it very troubling that any of our government agencies would accuse the men and women who protected our country of being tax evaders and tax cheaters. I take much satisfaction that these methods will not be tolerated in the new IRS. After we pass this legislation, the IRS will be a more customer focused organization and will have a separate division dedicated solely to working with members of the tax-exempt sector, like our veterans groups and volunteer fire companies.

Mr. President, I also want to recognize the hard work of many at the Internal Revenue Service. We need to recognize that most IRS workers are good, faithful employees, doing their best to serve the public. Many employees at the IRS are my constituents. I know that every day they go to work, do a good job, and then return to their families, their neighborhoods and their communities throughout Maryland.

In light of all the negative talk about the IRS recently, I want them to know that I value their work as faithful employees and I thank them. I realize that the front-line employees of the IRS often receive little recognition and little thanks. It pleases me that this legislation will help the employees at the IRS make their voices heard, and to receive the updated technology they need to allow the cultural and technological changes to succeed at the new IRS.

Finally, I wish to address what I consider to be a major abuse of the legislative process that I mentioned before. As we all know and are suppose to respect, the purpose of a House-Senate conference is to produce a report that irons out the differences between similar legislation passed by the two houses of Congress. It is not intended to be a backdoor, behind-the-scenes, under-the-table method of getting controversial items passed on popular bills. There are two such provisions included in this conference report today and that's why I supported Senators DORGAN and MURRAY in their efforts to recommit the conference report back to conference.

The first goes against one of my principles for maintaining our robust economy. I believe that we should reward patient capital. We should discourage the two-hour investments in hot IPOs and encourage the two-year or longer investments in start-up biotech firms that are important for our new global economy. That's why I was pleased that the 1997 Taxpayer Relief Act included a lower capital gains rate for assets held for 18 months or longer. I am disappointed that this IRS reform conference report includes language that will remove that important economic incentive.

The other provision that was inserted in the legislative darkness was a backdoor way of preventing serious debate on technical corrections to the ISTEA legislation. Many of us in the Senate are concerned because the ISTEA bill deprived our Veterans of important benefits. It was agreed that these benefits should be restored in a corrections bill. However, the leadership thought it would be best to include these "corrections" in this conference report, where they can't be amended. But our veterans will be harmed by this backdoor strategy and I will join with my colleagues to restore these benefits to our honored veterans who served their country.

Mr. President, I am very pleased this conference report to restructure the Internal Revenue Service has arrived. I urge my colleagues to support this legislation so that every American taxpayer is treated with respect and dignity when dealing with the Internal Revenue Service.

Mr. THOMPSON. Mr. President, I rise to express my support for Senate approval of the conference report on the Internal Revenue Service Restructuring and Reform Act. This landmark legislation, which is the product of years of hard work by many parties, will make long-overdue reforms to the IRS. As a member of the Conference Committee responsible for crafting this agreement, I believe we have made great strides in developing a statutory framework to increase the accountability of the IRS and to protect the rights of taxpayers in their dealings with the IRS.

There have been numerous congressional hearings over the past year that have clearly highlighted the need to overhaul IRS operations. In the course of these hearings, Congress has reviewed all aspects of the Service's operations and found an agency in serious need of reform and repair, especially in the area of taxpayer service.

As the Chairman of the Committee on Governmental Affairs, I had a particular interest in how the IRS's management structure could be improved to better serve the American public. To that end, I am pleased that this conference agreement will overhaul the structure of the IRS and provide significant new management and personnel tools to assist the IRS Commissioner in restructuring the Service. Commissioner Rossotti has demonstrated his commitment to working with Congress to meet this mandate.

The conference agreement creates a new Oversight Board for the IRS to direct these reform initiatives. The Board is composed primarily of private individuals with expertise in the areas of management, customer service, information technology and taxpayer compliance, and it has been granted wide-ranging authority to oversee management of the IRS and the administration of tax laws.

Of great interest to me have been the issues surrounding membership on the Oversight Board of an IRS employee or employee representative. The conference agreement does provide for an IRS employee or employee representative to serve on the Oversight Board, and I am pleased that the conferees adopted my proposal to eliminate the Senate bill's blanket waiver of criminal conflict of interest ethics laws as they applied to the employee representative on the Board. However, I still oppose Congress giving the President the authority to waive these criminal laws for the employee board member. There are many individuals qualified to be an effective employee representative who would not need to be exempted from federal ethics laws in order to serve on the Board. Waiving criminal laws in order to accommodate one member of the Board establishes a troubling and dangerous precedent.

The conference agreement also grants significant new personnel authorities to the IRS. These new authorities are intended to help Commissioner Rossotti bring in high-quality private sector professional, administrative and technical personnel to address the many management problems facing the agency. These authorities break new ground in terms of federal personnel pay and management policies. By granting these authorities to the IRS, Congress will have high expectations that the reform agenda is indeed carried through.

Mr. President, the provisions I have noted are only a part of the important reforms contained in this restructuring bill. The conference agreement also contains many changes that will directly affect the relationship between the IRS and taxpayer to provide greater protections of the rights of taxpayers. For example, this legislation will shift the burden of proof in tax disputes from the taxpayer to the IRS, and it will increase penalties against the IRS for violations of these rights. The conference agreement would provide relief to so-called "innocent spouses" who, under current law, can be held responsible for huge tax bills incurred by a former spouse. The agreement also provides significant relief to taxpayers with regard to interest and penalties that are applied by the IRS.

Finally, it should be noted that this legislation provides further tax relief for Americans. The conference agreement will eliminate the 18 month holding period that was included in the Taxpayer Relief Act of 1997 for assets in order to qualify for the lowest tax rate on capital gains. Under this agreement, any gain realized on the sale of assets held for at least one year will be taxed at a rate of 10 percent for taxpayers in the 15 percent tax bracket, and at a rate of 20 percent for all other taxpayers. In addition to reducing the tax burden on Americans, this provision will simplify the unnecessarily complex capital gains provision that was included in the 1997 bill.

Mr. President, enacting these far-reaching reforms is only one step Congress can take to provide relief to taxpayers. Next, we need to do away with the current complex tax code and replace it with one that is simpler and fairer. In approving these reforms, we should also keep in mind that our ultimate goal is to reduce the tax burden on hard-working American families.

Mr. REED. Mr. President, I rise to express my support for the conference report on the IRS reform legislation, but also to raise concerns about several provisions in the bill.

Mr. President, I believe this legislation goes a long way in making a number of important organizational and management reforms at the IRS that will enable the agency to become more efficient and taxpayer-friendly. Such steps are welcome and should help to address the concerns of millions of taxpayers. In addition, the bill includes provisions to encourage electronic filing and promote the use of digital signatures—advances which will substantially improve tax administration for filers and the IRS.

However, Mr. President, I am concerned about the long-term cost of provisions in the bill that will make it easier for the wealthiest Americans to convert traditional IRAs to Roth IRAs which allow tax-free withdrawals. Under last year's budget agreement, individuals with an annual adjusted gross income of less than $100,000 are permitted to convert traditional IRAs into

Roth IRAs. Currently, individuals over the age of 70½ must withdraw a minimum amount from an IRA each year and these withdrawals count toward the income threshold for conversion to a Roth IRA. Provisions in the conference report, however, would exclude required annual withdrawals when determining an individual's eligibility to convert a traditional IRA into a Roth IRA. As a result, some of America's wealthiest will be able to rollover large IRA balances into Roth IRAs, thus exempting themselves and their heirs from future taxes.

While the Roth IRA provisions will raise tax revenues initially because they will encourage taxable conversions, the long-term costs resulting from foregone revenue will be significant. In fact, in recognition of this issue, the conferees delayed implementation of the conversion provision until 2005, thereby putting the revenue losses outside of the 10-year budget scoring window.

Mr. President, I am also concerned about provisions that reduce the holding period for investments from 18 months to 12 months to qualify for a lower capital gains rate. In the Taxpayer Relief Act passed in 1997, Congress reduced the capital gains tax rate, but lengthened the holding period necessary to take advantage of the new lower rate. It was thought that lengthening the holding period would discourage churning, and encourage long-term savings and investment. By reducing the holding period, we are abandoning one important condition of last year's capital gains reduction, and we may be encouraging short-term profit-taking at the expense of long-term investment. I believe such a provision is unwise and costly in view of the dismally low savings rate which currently exists in the U.S.

Finally, I am concerned that the conferees knowingly failed to close a loophole accidentally created in the Taxpayer Relief Act which benefits several hundred of the wealthiest Americans. Specifically, the loophole benefits the heirs of individuals whose estates are worth more than $17 million, saving each estate approximately $200,000 in taxes. The cost of this loophole is $880 million over 10 years. In view of its significant cost and limited benefit, I believe the conferees should have used the IRS reform legislation as an opportunity to close this loophole, not affirm it.

Again, Mr. President, on balance I believe this is a good bill. However, I would hope that my colleagues consider the concerns I have raised when the Senate debates tax legislation in the future.

Mr. DODD. Mr. President, I rise today in support of the conference report for H.R. 2676, the Internal Revenue Service Restructuring and Reform Act of 1998. I commend my colleagues on the Senate Finance Committee, namely Chairman ROTH and Senator MOYNIHAN for crafting a bill that takes an important step forward in the effort to protect the rights of our nation's taxpayers.

The IRS is an agency that has earned widespread, deeply felt, and entirely justified criticism. For too long the IRS has permitted practices that harass rather than help taxpayers. In my view, a full-scale, top-to-bottom overhaul of this agency is long overdue.

Recent Congressional hearings have chronicled a litany of official neglect, heavy-handed threats, and outright abuse of innocent citizens. Clearly, Mr. President, no one likes to pay taxes. But that duty should not be made even more difficult by the unacceptable behavior of the agency responsible for collecting those taxes.

Many of my constituents in Connecticut have sought assistance from my office in their efforts to remedy what they feel is unhelpful, unpleasant, and at times unfair treatment by officers of the IRS.

I heard from one gentleman who went to the IRS to pay several hundred dollars he owed in back taxes—only to be handed a tax bill that, with penalties and interest, totaled upwards of $30,000. Other Connecticut residents have told me stories of the IRS losing their tax payments—and then charging them interest and penalties on the very funds that the agency lost. They have told of calling the IRS and finding it impossible to locate a person who will simply answer their questions.

The list goes on and on, Mr. President, and the more people you talk to, the more nightmares you hear. The problems at the IRS, however, go far beyond the actions of a few agents at the IRS. For years, the agency has fostered a climate where taxpayers feel scorned rather than served, and that is why the IRS reform legislation before us today is so important.

This legislation contains more than 50 new taxpayer rights and protections. Most importantly, it will shift the burden of proof away from the taxpayer and onto the IRS. Today, when someone is accused of a crime like bank robbery, they're presumed to be innocent until proven guilty. Yet, if the IRS says you didn't pay enough taxes, you're presumed guilty until proven innocent. That, Mr. President, is wrong.

For too long we've seen a "shoot first, ask questions later" approach to enforcement by the IRS. By shifting the burden of proof, this bill will require that the IRS prove its allegations with evidence. It will help ensure that the IRS exercises appropriate caution and consideration prior to commencing an enforcement action against any taxpayer.

This reform bill also protects people from paying penalties and interest that they should never have been required to pay. Under current law, taxpayers must pay penalties and interest whether or not they knew that back taxes are due. As a result, some taxpayers were assessed hundreds, if not thousands, of dollars in fines without ever having actually been told by the IRS that money was owed. This bill suspends penalties if the taxpayer has not been appropriately notified of the debt. It also requires that each penalty notice include a computation itemizing the penalties or interest due. It's only fair that a taxpayer should have adequate notice of any financial liability and know exactly why he or she is paying a fine.

The bill also offers relief to an innocent spouse who would otherwise become liable for his or her ex-spouse's tax obligations. I'm sure that many of my colleagues have heard stories similar to those I've heard in Connecticut, about people who have become financially wiped out when they find themselves liable for taxes, interest, and penalties because of actions by their then-spouse of which they were unaware. The innocent spouse provisions of the bill would help prevent such scenarios from occurring in the future. It's a matter of simple fairness: a spouse who did not know of an ex-spouse's misdeeds should not be held liable for them.

In addition, this legislation requires the IRS Commissioner to fire employees for certain egregious violations—especially those that mistreat taxpayers. This provision will send a clear message to agency employees that neglect and abuse of taxpayers will simply not be tolerated.

Lastly, the bill contains a modest tax cut for people who own stocks, bonds, and other assets. I don't object to this provision itself. I do, however, wish that the Congress had considered additional tax relief targeted to working families—such as expanding the child care tax credit. I hope that such relief will be on the Congressional agenda in the future.

I would be remiss if I did not comment about the fact that the conferees added a title to this conference report containing the technical corrections to the Transportation Equity Act for the 21st Century, which was signed into law several weeks ago.

That law contains a provision affecting Veterans Administration benefits for veterans with smoking-related illnesses. I was concerned that by adopting these technical corrections in the IRS conference report, we would lose a valuable opportunity to restore some or all of these benefits for deserving veterans.

It is well known that during their time of active service, many of these individuals received free cigarettes from the federal government and were thereby encouraged to smoke. As a result, many of these individuals developed smoking-related illnesses. For that reason, I supported Senator MURRAY's motion to remove this extraneous title from the legislation we considered today. Unfortunately, this motion was tabled by a vote of 50 to 48. It is my hope, however, that the Senate will continue to seek ways to ensure that the government fulfills its obligation to help veterans with smoking-related ailments.

Overall, Mr. President, I am very pleased to support the legislation before us today which enjoys broad, bipartisan support. In my view, it is a tremendous step forward in our effort to protect the rights of our nation's taxpayers. Our nation's taxpayers deserve an IRS that meets the highest standards of efficiency, competence, and courtesy. This legislation takes a major step forward in achieving that goal.

Mr. KOHL. Mr. President, I want to make just a brief statement to emphasize my strong support for the IRS Reform bill which passed the Senate earlier today. Many thanks to Senators ROTH and MOYNIHAN and the Finance Committee members for their efforts, and especially Senator BOB KERREY, whose year long effort on the Restructuring Commission made this reform package possible.

The IRS Reform bill contains significant measures that will improve the life of every American by improving an agency that touches the lives of every American. The bill will reform IRS management by enhancing private sector input through the creation of the Oversight Board. It will also strengthen internal IRS management by providing increased flexibility to hire the best people, recognize those IRS employees who do their jobs well and fire those who do not.

Perhaps most importantly, the IRS Reform Bill is grounded in the principles of consumer protection and accountability. We all agree that the IRS should run more like a business, focusing on management efficiency and high standards of performance. But businesses answer to shareholders and the bottom line. The IRS must answer to the American people. And for too long, the agency has operated as if it answered to no one.

We have witnessed this regrettable circumstance in my home state of Wisconsin where for two and a half years we have worked to address allegations of misconduct and discrimination at the Milwaukee-Waukesha IRS Offices. These allegations were so serious that some IRS employees felt the need to sneak into my office in Milwaukee to report on abuses. I am pleased that the debate on IRS reform allowed us to move forward in our attempts to address the Milwaukee situation and am convinced that in approving this historic legislation, we will be taking significant steps to prevent similar incidences from occurring in the future.

Mr. President, I do want to mention my regret at the decision to include the tax policy change involving Roth IRA conversion rules. While I support the IRS reform bill, I disagreed with the policy decision to loosen the conversion rules so that it will be easier for wealthy retirees to convert from traditional IRAs to Roth IRAs. This may cover the cost of the IRS bill and generate income for the Treasury in the short term, but it will cost the Treasury and the American taxpayer dearly in the long run. This change, which is really just an accounting gimmick, will benefit those who do not need help and may undermine our efforts to maintain the progress we've made in balancing the budget. In addition, it may jeopardize other pressing long term issues such as making sure that Social Security is available to needy retirees in years to come.

That said, however, I am still pleased to have been part of the creation of a more consumer-friendly, efficient and responsible IRS.

The PRESIDING OFFICER. The question is on agreeing to the conference report. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. NICKLES. I announce that the Senator from Texas (Mrs. HUTCHISON) and the Senator from Arizona (Mr. KYL) are necessarily absent.

I further announce that, if present and voting, the Senator from Texas (Mrs. HUTCHISON) and the Senator from Arizona (Mr. KYL) would each vote "yes."

The result was announced—yeas 96, nays 2, as follows:

[Rollcall Vote No. 189 Leg.]

YEAS—96

Abraham
Akaka
Allard
Ashcroft
Baucus
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Cleland
Coats
Cochran
Collins
Conrad
Coverdell
Craig
D'Amato
Daschle
DeWine
Dodd
Domenici
Dorgan
Durbin
Enzi
Faircloth
Feingold
Feinstein
Ford
Frist
Glenn
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Hagel
Harkin
Hatch
Helms
Hollings
Hutchinson
Inhofe
Inouye
Jeffords
Johnson
Kempthorne
Kennedy
Kerrey
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Mikulski
Moseley-Braun
Moynihan
Murkowski
Murray
Nickles
Reed
Reid
Robb
Roberts
Roth
Santorum
Sarbanes
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Torricelli
Warner
Wyden

NAYS—2

Rockefeller
Wellstone

NOT VOTING—2

Hutchison
Kyl

The conference report was agreed to.

Mr. ROTH. Mr. President, I move to reconsider the vote.

Mr. MOYNIHAN. I move to lay that on the table.

The motion to lay on the table was agreed to.

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. ROTH. Mr. President, I want to just take a few seconds to thank my colleagues for their support in this most important initiative. It has been less than a year that we have really been dealing with this problem. Today, we have seen the enactment of truly historic legislation.

It is my firm conviction that because of this reform legislation, it will mean a new day for the American taxpayer. And the reason I think this legislation has had such broad support is that it is not only good for the American taxpayer, but it is good for the agency itself, it is good for the employees who work there. All we seek is an agency that provides service, ·stability, and fairness to the American people.

I can tell you that we would not have succeeded in this effort if we had not had bipartisan support.

I particularly want to pay my respect and thanks to the ranking member, PAT MOYNIHAN, who is a joy to work with, and who always is able to help move along desirable legislation. It was not only due to his efforts, but to many others too many to enumerate. But I particularly want to thank the staff of the Finance Committee, both Republican and Democrat, and of the Joint Committee on Taxation for their contribution. I can tell you that much of the staff worked day in and day out, night after night, and on weekends to make this possible today.

I, again, want to thank all those who contributed so much. We look forward to seeing an agency that is reformed become service-oriented.

I believe, I say to Senator MOYNIHAN, that we have given the tools to the new Commissioner, Rossotti, that will enable him to make the changes we all seek in a bipartisan fashion.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER (Mr. SANTORUM). The Senator from New York.

Mr. MOYNIHAN. Mr. President, may I first thank our esteemed chairman for his characteristically generous remarks, and all involved—to agree with him; to point out that this is the first such legislation since the Internal Revenue Service was established under Abraham Lincoln in 1862. Our purpose was to renew the 19th century agency, to invigorate it, and to give to the employees, the public servants, the respect to which they are entitled as public servants. Respect is one of the principal rewards for public service. I hope we have done that with the overwhelming support here on the floor, and the unanimous vote in the Finance Committee.

Once again, our chairman has managed to bring us together and produce yet another major legislation out of the Finance Committee unanimously, which presents itself so clearly to the entire Senate floor.

I would not want to close without mentioning again the role of Senators KERREY and GRASSLEY in the commission that preceded our work, and the staff that did heroic work. I would particularly mention on our side Mark Patterson, and Nick Giordano, whose encyclopedic knowledge, in fact, made our contribution hopefully of substance.

So concludes a long year's work. I say well done to the chairman. I thank the chairman.

VISIT TO THE SENATE BY THE PRIME MINISTER OF POLAND, JERZY BUZEK

Mr. HELMS. Mr. President, I shall ask unanimous consent in just a moment that the Senate stand in recess for perhaps 5 minutes so that Senators may greet a distinguished guest.

It is my distinct pleasure to introduce to the Senate Prime Minister Buzek of Poland, a friend of democracy, a friend of America, and leader of our newest NATO ally.

I hope Senators will join in welcoming him to the U.S. Senate.

RECESS

Mr. HELMS. Mr. President, I ask unanimous consent that the Senate stand in recess for 5 minutes.

There being no objection, the Senate, at 11:39 a.m., recessed until 11:44 a.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. GREGG).

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

RECESS

Mr. HELMS. Mr. President, I ask unanimous consent that the Senate stand in recess for an additional 3 minutes.

There being no objection, at 11:47 a.m., the Senate recessed until 11:49 a.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. GREGG).

HIGHER EDUCATION AMENDMENTS OF 1998

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Senate now turn to the consideration of S. 1882, the higher education bill, under the consent agreement of June 25, 1998.

The PRESIDING OFFICER. Under the previous order, the clerk will report the bill.

The bill clerk read as follows:

A bill (S. 1882) to reauthorize the Higher Education Act of 1965, and for other purposes.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Labor and Human Resources, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Higher Education Amendments of 1998".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. References.

TITLE I—GENERAL PROVISIONS

Sec. 101. General provisions.
Sec. 102. Federal control of education prohibited.
Sec. 103. National Advisory Committee on Institutional Quality and Integrity.
Sec. 104. Prior rights and obligations; recovery of payments.
Sec. 105. Technical and conforming amendments.

TITLE II—IMPROVING TEACHER QUALITY

Sec. 201. Improving teacher quality.

TITLE III—INSTITUTIONAL AID

Sec. 301. Transfers and redesignations.
Sec. 302. Findings.
Sec. 303. Strengthening institutions.
Sec. 304. Strengthening HBCU's.
Sec. 305. Endowment challenge grants.
Sec. 306. HBCU capital financing.
Sec. 307. Minority science and engineering improvement program.
Sec. 308. General provisions.

TITLE IV—STUDENT ASSISTANCE

PART A—GRANTS TO STUDENTS IN ATTENDANCE AT INSTITUTIONS OF HIGHER EDUCATION

Sec. 411. Repeals and redesignations.
Sec. 412. Federal Pell grants.
Sec. 413. TRIO programs.
Sec. 414. National early intervention scholarship and partnership program.
Sec. 415. Federal supplemental educational opportunity grants.
Sec. 416. Leveraging educational assistance partnership program.
Sec. 417. HEP and CAMP.
Sec. 418. Robert C. Byrd honors scholarship program.
Sec. 419. Child care access means parents in school.

PART B—FEDERAL FAMILY EDUCATION LOAN PROGRAM

Sec. 421. Advances for reserve funds.
Sec. 422. Federal Student Loan Reserve Fund.
Sec. 423. Agency Operating Fund.
Sec. 424. Applicable interest rates.
Sec. 425. Federal payments to reduce student interest costs.
Sec. 426. Voluntary flexible agreements with guaranty agencies.
Sec. 427. Federal PLUS loans.
Sec. 428. Federal consolidation loans.
Sec. 429. Requirements for disbursements of student loans.
Sec. 430. Default reduction program.
Sec. 431. Unsubsidized loans.
Sec. 432. Loan forgiveness for teachers.
Sec. 433. Loan forgiveness for child care providers.
Sec. 434. Common forms and formats.
Sec. 435. Student loan information by eligible lenders.
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SEC. 2. REFERENCES.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.).

TITLE I—GENERAL PROVISIONS

SEC. 101. GENERAL PROVISIONS.

(a) REPEAL; TRANSFER AND REDESIGNATION.—The Act (20 U.S.C. 1001 et seq.) is amended—

(1) by repealing title I (20 U.S.C. 1001 et seq.);

(2) by repealing sections 1203, 1206, 1211, and 1212 (20 U.S.C. 1143, 1145a, 1145e, and 1145f);

(3) by striking the heading for title XII (20 U.S.C. 1141 et seq.);

(4) by inserting before title III (20 U.S.C. 1051 et seq.) the following:

"**TITLE I—GENERAL PROVISIONS**";

(5) by transferring sections 1201, 1202, 1204 (as renumbered by Public Law 90–575), 1204 (as added by Public Law 96–374), 1205, 1207, 1208, 1209, 1210, and 1213 (20 U.S.C. 1141, 1142, 1144, 1144a, 1145, 1145b, 1145c, 1145d, 1145d–1, and 1145g) to follow the heading for title I (as inserted by paragraph (4)); and

(6) by redesignating sections 1201, 1202, 1204 (as renumbered by Public Law 90–575), 1204 (as added by Public Law 96–374), 1205, 1207, 1208, 1209, 1210, and 1213 as sections 101, 102, 103, 104, 105, 106, 107, 108, 109, and 110, respectively.

SEC. 102. FEDERAL CONTROL OF EDUCATION PROHIBITED.

Section 103 (as redesignated by section 101(a)(6)) (20 U.S.C. 1144) is amended by striking "(b)".

SEC. 103. NATIONAL ADVISORY COMMITTEE ON INSTITUTIONAL QUALITY AND INTEGRITY.

Section 105 (as redesignated by section 101(a)(6)) (20 U.S.C. 1145) is amended—

(1) by striking the last sentence of subsection (a);

(2) by redesignating subsections (c) through (f) as subsections (d) through (g), respectively;

(3) by inserting after subsection (b) the following:

"(c) PUBLIC NOTICE.—The Secretary shall—

"(1) annually publish in the Federal Register a list containing the name of each member of the Committee and the date of the expiration of the term of office of the member; and

"(2) publicly solicit nominations for each vacant position or expiring term of office on the Committee.";

(4) in subsection (d) (as redesignated by paragraph (2))—

(A) by striking paragraph (6); and

(B) by redesignating paragraphs (7) and (8) as paragraphs (6) and (7), respectively; and

(5) in subsection (g) (as redesignated by paragraph (2)), by striking "1998" and inserting "2004".

SEC. 104. PRIOR RIGHTS AND OBLIGATIONS; RECOVERY OF PAYMENTS.

Title I (20 U.S.C. 1001 et seq.) is amended by adding after section 110 (as redesignated by section 101(a)(6)) the following:

"SEC. 111. PRIOR RIGHTS AND OBLIGATIONS.

"(a) AUTHORIZATION OF APPROPRIATIONS.—

"(1) PRE-1987 PARTS C AND D OF TITLE VII.—There are authorized to be appropriated such sums as may be necessary for fiscal year 1999 and for each of the 4 succeeding fiscal years to pay obligations incurred prior to 1987 under parts C and D of title VII, as such parts were in effect before the effective date of the Higher Education Amendments of 1992.

"(2) POST-1992 AND PRE-1998 PART C OF TITLE VII.—There are authorized to be appropriated such sums as may be necessary for fiscal year 1999 and for each of the 4 succeeding fiscal years to pay obligations incurred prior to the date of enactment of the Higher Education Amendments of 1998 under part C of title VII, as such part was in effect during the period—

"(A) after the effective date of the Higher Education Amendments of 1992; and

"(B) prior to the date of enactment of the Higher Education Amendments of 1998.

"(b) LEGAL RESPONSIBILITIES.—

"(1) PRE-1987 TITLE VII.—All entities with continuing obligations incurred under parts A, B, C, and D of title VII, as such parts were in effect before the effective date of the Higher Education Amendments of 1992, shall be subject to the requirements of such part as in effect before the effective date of the Higher Education Amendments of 1992.

"(2) POST-1992 AND PRE-1998 PART C OF TITLE VII.—All entities with continuing obligations incurred under part C of title VII, as such part was in effect during the period—

"(A) after the effective date of the Higher Education Amendments of 1992; and

"(B) prior to the date of enactment of the Higher Education Amendments of 1998,

shall be subject to the requirements of such part as such part was in effect during such period.

"SEC. 112. RECOVERY OF PAYMENTS.

"(a) PUBLIC BENEFIT.—Congress declares that, if a facility constructed with the aid of a grant under part A of title VII as such part A was in effect prior to the date of enactment of the Higher Education Amendments of 1998, or part B of such title as such part B was in effect prior to the date of enactment of the Higher Education Amendments of 1992, is used as an academic facility for 20 years following completion of such construction, the public benefit accruing to the United States will equal in value the amount of the grant. The period of 20 years after completion of such construction shall therefore be deemed to be the period of Federal interest in such facility for the purposes of such title as so in effect.

"(b) RECOVERY UPON CESSATION OF PUBLIC BENEFIT.—If, within 20 years after completion of construction of an academic facility which has been constructed, in part with a grant under part A of title VII as such part A was in effect prior to the date of enactment of the Higher Education Amendments of 1998, or part B of title VII as such part B was in effect prior to the date of enactment of the Higher Education Amendments of 1992—

"(1) the applicant under such parts as so in effect (or the applicant's successor in title or possession) ceases or fails to be a public or nonprofit institution, or

"(2) the facility ceases to be used as an academic facility, or the facility is used as a facility excluded from the term 'academic facility' (as such term was defined under title VII, as so in effect), unless the Secretary determines that there is good cause for releasing the institution from its obligation,

the United States shall be entitled to recover from such applicant (or successor) an amount which bears to the value of the facility at that time (or so much thereof as constituted an approved project or projects) the same ratio as the amount of Federal grant bore to the cost of the facility financed with the aid of such grant. The value shall be determined by agreement of the parties or by action brought in the United States district court for the district in which such facility is situated.

"(c) PROHIBITION ON USE FOR RELIGION.—Notwithstanding the provisions of subsections (a) and (b), no project assisted with funds under title VII (as in effect prior to the date of enactment of the Higher Education Amendments of 1998) shall ever be used for religious worship or a sectarian activity or for a school or department of divinity.".

SEC. 105. TECHNICAL AND CONFORMING AMENDMENTS.

(a) CONFORMING AMENDMENTS CORRECTING REFERENCES TO SECTION 1201.—

(1) AGRICULTURE.—

(A) STUDENT INTERNSHIP PROGRAMS.—Section 922 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 2279c) is amended—

(i) in subsection (a)(1)(B)—

(I) by striking "1201" and inserting "101"; and

(II) by striking "(20 U.S.C. 1141)"; and

(ii) in subsection (b)(1)—

(I) by striking "1201" and inserting "101"; and

(II) by striking "(20 U.S.C. 1141)".

(B) AGRICULTURAL SCIENCES EDUCATION.—Section 1417(h)(1)(A) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3152(h)(1)(A)) is amended—

(i) by striking "1201(a)" and inserting "101(a)"; and

(ii) by striking "(20 U.S.C. 1141(a))".

(2) ARMED FORCES.—

(A) SCIENCE AND MATHEMATICS EDUCATION IMPROVEMENT PROGRAM.—Section 2193(c)(1) of title 10, United States Code, is amended—

(i) by striking "1201(a)" and inserting "101(a)"; and

(ii) by striking "(20 U.S.C. 1141(a))".

(B) SUPPORT OF SCIENCE, MATHEMATICS, AND ENGINEERING EDUCATION.—Section 2199(2) of title 10, United States Code, is amended—

(i) by striking "1201(a)" and inserting "101(a)"; and

(ii) by striking "(20 U.S.C. 1141(a))".

(C) ALLOWABLE COSTS UNDER DEFENSE CONTRACTS.—Section 841(c)(2) of the National Defense Authorization Act for fiscal year 1994 (10 U.S.C. 2324 note) is amended—

(i) by striking "1201(a)" and inserting "101(a)"; and

(ii) by striking "(20 U.S.C. 1141(a))".

(D) ENVIRONMENTAL RESTORATION INSTITUTIONAL GRANTS FOR TRAINING DISLOCATED DEFENSE WORKERS AND YOUNG ADULTS.—Section 1333(i)(3) of the National Defense Authorization Act for fiscal year 1994 (10 U.S.C. 2701 note) is amended—

(i) by striking "1201(a)" and inserting "101(a)"; and

(ii) by striking "(20 U.S.C. 1141(a))".

(E) ENVIRONMENTAL EDUCATION OPPORTUNITIES PROGRAM.—Section 1334(k)(3) of the National Defense Authorization Act for fiscal year 1994 (10 U.S.C. 2701 note) is amended—

(i) by striking "1201(a)" and inserting "101(a)"; and

(ii) by striking "(20 U.S.C. 1141(a))".

(F) ENVIRONMENTAL SCHOLARSHIP AND FELLOWSHIP PROGRAMS.—Section 4451(b)(1) of the National Defense Authorization Act for 1993 (10 U.S.C. 2701 note) is amended—

(i) by striking "1201(a)" and inserting "101(a)"; and

(ii) by striking "(20 U.S.C. 1141(a))".

(3) APPLICATION OF ANTITRUST LAWS TO AWARD OF NEED-BASED EDUCATIONAL AID.—Section 568(c)(3) of the Improving America's Schools Act of 1994 (15 U.S.C. 1 note) is amended—

(A) by striking "1201(a)" and inserting "101(a)"; and

(B) by striking "(20 U.S.C. 1141(a))".

(4) RESTRICTIONS ON FORMER OFFICERS, EMPLOYEES, AND ELECTED OFFICIALS OF THE EXECUTIVE AND LEGISLATIVE BRANCHES.—Section 207(j)(2)(B) of title 18, United States Code, is amended by striking "1201(a)" and inserting "101(a)".

(5) EDUCATION.—

(A) HIGHER EDUCATION AMENDMENTS OF 1992.—Section 1(c) of the Higher Education Amendments of 1992 (20 U.S.C. 1001 note) is amended by striking "1201" and inserting "101".

(B) PART F DEFINITIONS.—Section 481 of the Higher Education Act of 1965 (20 U.S.C. 1088) is amended—

(i) in subsection (a)—

(I) in the matter preceding paragraph (1)(A), by striking "1201(a)" and inserting "101(a)";

(II) in paragraph (1)(C), by striking "1201(a)" and inserting "101(a)";

(III) in the first sentence of the matter preceding clause (i) of paragraph (2)(A), by striking "1201(a)" and inserting "101(a)"; and

(IV) in the matter following paragraph (2)(B)(ii), by striking "1201(a)" and inserting "101(a)";

(ii) in subsection (b)—

(I) in the first sentence—

(aa) in paragraph (2), by striking "1201(a)" and inserting "101(a)"; and

(bb) in paragraph (3), by striking "1201(a)" and inserting "101(a)"; and

(II) in the second sentence, by striking "1201(a)" and inserting "101(a)"; and

(iii) in subsection (c)—

(I) in the first sentence, by striking "1201(a)" and inserting "101(a)"; and

(II) in the second sentence, by striking "1201(a)" and inserting "101(a)".

(C) TREATMENT OF BRANCHES.—Section 498(j)(2) of the Higher Education Act of 1965 (20 U.S.C. 1099c(j)(2)) is amended by striking "1201(a)(2)" and inserting "101(a)(2)".

(D) INTERNATIONAL EDUCATION PROGRAMS.—Section 631(a)(8) of the Higher Education Act of 1965 (20 U.S.C. 1132(a)(8)) is amended by striking "1201(a)" each place it appears and inserting "101(a)".

(E) DWIGHT D. EISENHOWER LEADERSHIP PROGRAM.—Section 1081(d) of the Higher Education Act of 1965 (20 U.S.C. 1135f(d)) is amended by striking "1201" and inserting "101".

(F) DISCLOSURE REQUIREMENTS.—Section 429(d)(2)(B)(ii) of the General Education Provisions Act (20 U.S.C. 1228c(d)(2)(B)(ii)) is amended by striking "1201(a)" and inserting "101(a)".

(G) HARRY S. TRUMAN SCHOLARSHIPS.—Section 3(4) of the Harry S. Truman Memorial Scholarship Act (20 U.S.C. 2002(4)) is amended by striking "1201(a)" and inserting "101(a)".

(H) TECH-PREP EDUCATION.—Section 347(2)(A) of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2394e(2)(A)) is amended by striking "1201(a)" and inserting "101(a)".

(I) EDUCATION FOR ECONOMIC SECURITY.—Section 3(6) of the Education for Economic Security Act (20 U.S.C. 3902(6)) is amended by striking "1201(a)" and inserting "101(a)".

(J) JAMES MADISON MEMORIAL FELLOWSHIPS.—Section 815 of the James Madison Memorial Fellowship Act (20 U.S.C. 4514) is amended—

(i) in paragraph (3), by striking "1201(a)" and inserting "101(a)"; and

(ii) in paragraph (4), by striking "1201(d) of the Higher Education Act of 1965" and inserting "14101 of the Elementary and Secondary Education Act of 1965".

(K) BARRY GOLDWATER SCHOLARSHIPS.—Section 1403(4) of the Barry Goldwater Scholarship and Excellence in Education Act (20 U.S.C. 4702(4)) is amended—

(i) by striking "1201(a)" and inserting "101(a)"; and

(ii) by striking "(20 U.S.C. 1141(a))".

(L) MORRIS K. UDALL SCHOLARSHIPS.—Section 4(6) of the Morris K. Udall Scholarship and Excellence in National Environmental and Native American Public Policy Act of 1992 (20 U.S.C. 5602(6)) is amended by striking "1201(a)" and inserting "101(a)".

(M) BILINGUAL EDUCATION, AND LANGUAGE ENHANCEMENT AND ACQUISITION.—Section 7501(4) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7601(4)) is amended by striking "1201(a)" and inserting "101(a)".

(N) GENERAL DEFINITIONS.—Section 14101(17) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801(17)) is amended by striking "1201(a)" and inserting "101(a)".

(O) NATIONAL EDUCATION STATISTICS.—Section 402(c)(3) of the National Education Statistics Act of 1994 (20 U.S.C. 9001(c)(3)) is amended by striking "1201(a)" and inserting "101(a)".

(6) FOREIGN RELATIONS.—

(A) ENVIRONMENT AND SUSTAINABLE DEVELOPMENT EXCHANGE PROGRAM.—Section 240(d) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (22 U.S.C. 2452 note) is amended by striking "1201(a)" and inserting "101(a)".

(B) SAMANTHA SMITH MEMORIAL EXCHANGE PROGRAM.—Section 112(a)(8) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2460(a)(8)) is amended—

(i) by striking "1201(a)" and inserting "101(a)"; and

(ii) by striking "(20 U.S.C. 1141(a))".

(C) SOVIET-EASTERN EUROPEAN TRAINING.—Section 803(1) of the Soviet-Eastern European Research and Training Act of 1983 (22 U.S.C. 4502(1)) is amended by striking "1201(a)" and inserting "101(a)".

(D) DEVELOPING COUNTRY SCHOLARSHIPS.—Section 603(d) of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (22 U.S.C. 4703(d)) is amended by striking "1201(a)" and inserting "101(a)".

(7) INDIANS.—

(A) SNYDER ACT.—The last paragraph of section 410 of the Act entitled "An Act authorizing appropriations and expenditures for the administration of Indian Affairs, and for other purposes", approved November 2, 1921 (25 U.S.C. 13) (commonly known as the Snyder Act) is amended by striking "1201" and inserting "101".

(B) TRIBALLY CONTROLLED COMMUNITY COLLEGE ASSISTANCE.—Section 2(a)(5) of the Tribally Controlled Community College Assistance Act (25 U.S.C. 1801(a)(5)) is amended by striking "1201(a)" and inserting "101(a)".

(C) CONSTRUCTION OF NEW FACILITIES.—Section 113(b)(2) of the Tribally Controlled Community College Assistance Act (25 U.S.C. 1813(b)(2)) is amended—

(i) by striking "1201(a)" and inserting "101(a)"; and

(ii) by striking "(20 U.S.C. 1141(a))".

(D) AMERICAN INDIAN TEACHER TRAINING.—Section 1371(a)(1)(B) of the Higher Education Amendments of 1992 (25 U.S.C. 3371(a)(1)(B)) is amended by striking "1201(a)" and inserting "101(a)".

(8) LABOR.—

(A) REHABILITATION DEFINITIONS.—Section 7(32) of the Rehabilitation Act of 1973 (29 U.S.C. 706(32)) is amended—

(i) by striking "1201(a)" and inserting "101(a)"; and

(ii) by striking "(20 U.S.C. 1141(a))".

(B) STATE PLANS.—Section 101(a)(7)(A)(iv)(II) of the Rehabilitation Act of 1973 (29 U.S.C. 721(a)(7)(A)(iv)(II)) is amended—

(i) by striking "1201(a)" and inserting "101(a)"; and

(ii) by striking "(20 U.S.C. 1141(a))".

(C) JTPA DEFINITIONS.—Section 4(12) of the Job Training Partnership Act (29 U.S.C. 1503(12)) is amended by striking "1201(a)" and inserting "101(a)".

(D) TUITION CHARGES.—Section 141(d)(3)(B) of the Job Training Partnership Act (29 U.S.C. 1551(d)(3)(B)) is amended—

(i) by striking "1201(a)" and inserting "101(a)"; and

(ii) by striking "(20 U.S.C. 1141(a))".

(9) SURFACE MINING CONTROL.—Section 701(32) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1291(32)) is amended by striking "1201(a)" and inserting "101(a)".

(10) POLLUTION PREVENTION.—Section 112(a)(1) of the Federal Water Pollution Control Act (33 U.S.C. 1262(a)(1)) is amended by striking "1201" and inserting "101".

(11) POSTAL SERVICE.—Section 3626(b)(3) of title 39, United States Code, is amended—

(A) by striking "1201(a)" and inserting "101(a)"; and

(B) by striking "(20 U.S.C. 1141(a))".

(12) PUBLIC HEALTH AND WELFARE.—

(A) SCIENTIFIC AND TECHNICAL EDUCATION.—Section 3(g) of the Scientific and Advanced-Technology Act of 1992 (42 U.S.C. 1862i(g)) is amended—

(i) in paragraph (2)—

(I) by striking "1201(a)" and inserting "101(a)"; and

(II) by striking "(20 U.S.C. 1141(a))"; and

(ii) in paragraph (3)—

(I) by striking "1201(a)" and inserting "101(a)"; and

(II) by striking "(20 U.S.C. 1141(a))".

(B) OLDER AMERICANS.—Section 102(32) of the Older Americans Act of 1965 (42 U.S.C. 3002(32)) is amended—

(i) by striking "1201(a)" and inserting "101(a)"; and

(ii) by striking "(20 U.S.C. 1141(a))".

(C) JUSTICE SYSTEM IMPROVEMENT.—Section 901(17) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3791(17)) is amended—

(i) by striking "1201(a)" and inserting "101(a)"; and

(ii) by striking "(20 U.S.C. 1141(a))".

(D) ENERGY TECHNOLOGY COMMERCIALIZATION SERVICES PROGRAM.—Section 362(f)(5)(A) of the Energy Policy and Conservation Act (42 U.S.C. 6322(f)(5)(A)) is amended—

(i) by striking "1201(a)" and inserting "101(a)"; and

(ii) by striking "(20 U.S.C. 1141(a))".

(E) ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT.—Section 3132(b)(1) of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (42 U.S.C. 7274e(b)(1)) is amended—

(i) by striking "1201(a)" and inserting "101(a)"; and

(ii) by striking "(20 U.S.C. 1141(a))".

(F) HEAD START.—Section 649(c)(3) of the Head Start Act (42 U.S.C. 9844(c)(3)) is amended—

(i) by striking "1201(a)" and inserting "101(a)"; and

(ii) by striking "(20 U.S.C. 1141(a))".

(G) STATE DEPENDENT CARE DEVELOPMENT GRANTS.—Section 670G(5) of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9877(5)) is amended by striking "1201(a)" and inserting "101(a)".

(H) INSTRUCTIONAL ACTIVITIES FOR LOW-INCOME YOUTH.—The matter preceding subparagraph (A) of section 682(b)(1) of the Community Services Block Grant Act (42 U.S.C. 9910c(b)(1)) is amended by striking "1201(a)" and inserting "101(a)".

(I) DRUG ABUSE EDUCATION.—Section 3601(7) of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 11851(7)) is amended—

(i) by striking "1201(a)" and inserting "101(a)"; and

(ii) by striking "(20 U.S.C. 1141(a))".

(J) NATIONAL AND COMMUNITY SERVICE.—Section 101(13) of the National and Community Service Act of 1990 (42 U.S.C. 12511(13)) is amended—

(i) by striking "1201(a)" and inserting "101(a)"; and

(ii) by striking "(20 U.S.C. 1141(a))".

(K) CIVILIAN COMMUNITY CORPS.—Section 166(6) of the National and Community Service Act of 1990 (42 U.S.C. 12626(6)) is amended—

(i) by striking "1201(a)" and inserting "101(a)"; and

(ii) by striking "(20 U.S.C. 1141(a))".

(L) COMMUNITY SCHOOLS YOUTH SERVICES AND SUPERVISION GRANT PROGRAM.—The definition of public school in section 30401(b) of the Community Schools Youth Services and Supervision Grant Program Act of 1994 (42 U.S.C. 13791(b)) is amended—

(i) by striking "1201" each place it appears and inserting "101"; and

(ii) by striking "(20 U.S.C. 1141(i))".

(M) POLICE CORPS.—The definition of institution of higher education in section 200103 of the Police Corps Act (42 U.S.C. 14092) is amended—

(i) by striking "1201(a)" and inserting "101(a)"; and

(ii) by striking "(20 U.S.C. 1141(a))".

(N) LAW ENFORCEMENT SCHOLARSHIP PROGRAM.—The definition of institution of higher education in section 200202 of the Law Enforcement Scholarship and Recruitment Act (42 U.S.C. 14111) is amended—

(i) by striking "1201(a)" and inserting "101(a)"; and

(ii) by striking "(20 U.S.C. 1141(a))".

(13) TELECOMMUNICATIONS.—Section 223(h)(4) of the Telecommunications Act of 1934 (47 U.S.C. 223(h)(4)) is amended—

(A) by striking "1201" and inserting "101"; and

(B) by striking "(20 U.S.C. 1141)".

(14) WAR AND NATIONAL DEFENSE.—Section 808(3) of the David L. Boren National Security Education Act of 1991 (50 U.S.C. 1908(3)) is amended—

(A) by striking "1201(a)" and inserting "101(a)"; and

(B) by striking "(20 U.S.C. 1141(a))".

(b) CROSS REFERENCES.—The Act (20 U.S.C. 1001 et seq.) is amended—

(1) in section 402A(c)(2) (20 U.S.C. 1070a–11(c)(2)), by striking "1210" and inserting "110";

(2) in section 481 (20 U.S.C. 1088)—

(A) in subsection (a)—

(i) in paragraph (1)—

(I) in the matter preceding subparagraph (A), by striking "1201(a)" and inserting "101(a)"; and

(II) in subparagraph (C), by striking "1201(a)" and inserting "101(a)"; and

(ii) in paragraph (2)—

(I) in the matter preceding clause (i) of subparagraph (A), by striking "1201(a)" and inserting "101(a)"; and

(II) in the matter following clause (ii) of subparagraph (B), by striking "1201(a)" and inserting "101(a)";

(B) in subsection (b), by striking "1201(a)" each place the term appears and inserting "101(a)"; and

(C) in subsection (c), by striking "1201(a)" each place the term appears and inserting "101(a)";

(3) in section 485(f)(1)(I) (20 U.S.C. 1092(f)(1)(I)), by striking "1213" and inserting "111";

(4) in section 498(j)(2) (20 U.S.C. 1099c(j)(2)), by striking "1201(a)(2)" and inserting "101(a)(2)";

(5) in section 591(d)(2) (20 U.S.C. 1115(d)(2)), by striking "1201(a)" and inserting "101(a)";

(6) in section 631(a)(8) (20 U.S.C. 1132(a)(8))—

(A) by striking "section 1201(a)" each place the term appears and inserting "section 101(a)"; and

(B) by striking "of 1201(a)" and inserting "of section 101(a)"; and

(7) in section 1081(d) (20 U.S.C. 1135f(d)), by striking "1201" and inserting "101(a)".

TITLE II—IMPROVING TEACHER QUALITY

SEC. 201. IMPROVING TEACHER QUALITY.

The Act (20 U.S.C. 1001) is amended by inserting after section 112 (as added by section 104) the following:

"TITLE II—IMPROVING TEACHER QUALITY

"SEC. 201. PURPOSES.

"The purpose of this title is to—

"(1) improve student achievement;

"(2) improve the quality of the current and future teaching force by improving the preparation of prospective teachers and enhancing professional development activities; and

"(3) hold institutions of higher education accountable for preparing teachers who have the necessary teaching skills and are highly competent in the academic content areas in which the teachers plan to teach, including training in the effective uses of technologies in the classroom.

"PART A—TEACHER QUALITY

"Subpart 1—Teacher Quality Enhancement Grants

"SEC. 211. GRANTS AUTHORIZED.

"(a) IN GENERAL.—The Secretary is authorized to award grants to States to enable the States to carry out the activities described in section 212. Each grant may be awarded for a period of not more than 5 years.

"(b) STATE DESIGNATION.—

"(1) IN GENERAL.—A State desiring a grant under this subpart shall, consistent with State law, designate the chief individual or entity in the State responsible for the State supervision of education, to administer the activities assisted under this subpart.

"(2) CONSULTATION.—The individual or entity designated under paragraph (1) shall consult with the Governor, State board of education, or State educational agency, as appropriate.

"(3) CONSTRUCTION.—Nothing in this subpart shall be construed to negate or supersede the legal authority under State law of any State agency, State entity, or State public official over programs that are under the jurisdiction of the agency, entity, or official.

"(c) MATCHING REQUIREMENT.—Each State receiving a grant under this subpart shall provide, from non-Federal sources, an amount equal to ½ of the amount of the grant, in cash or in kind, to carry out the activities supported through the grant.

"SEC. 212. USE OF FUNDS.

"A State that receives a grant under this subpart shall use the grant funds to reform teacher preparation requirements, and to ensure that current and future teachers possess the necessary teaching skills and academic content knowledge in the subject areas in which the teachers are assigned to teach, by carrying out 1 or more of the following activities:

"(1) REFORMS.—Implementing reforms that hold institutions of higher education with teacher preparation programs accountable for preparing teachers who are highly competent in the academic content areas in which the teachers plan to teach, which may include the use of rigorous subject matter competency tests and the requirement that a teacher have an academic major in the subject area, or related discipline, in which the teacher plans to teach.

"(2) CERTIFICATION OR LICENSURE REQUIREMENTS.—Reforming teacher certification or licensure requirements to ensure that new teachers have the necessary teaching skills and academic content knowledge in the subject areas in which teachers are assigned to teach.

"(3) ALTERNATIVES TO TRADITIONAL PREPARATION FOR TEACHING.—Providing prospective teachers alternatives to traditional preparation for teaching through programs at colleges of arts and sciences or at nonprofit educational organizations.

"(4) ALTERNATIVE ROUTES.—Funding programs that establish, expand, or improve alternative routes to State certification for highly qualified individuals from other occupations and recent college graduates with records of academic distinction, including support during the initial teaching experience.

"(5) RECRUITMENT; PAY; REMOVAL.—Developing and implementing effective mechanisms to *ensure that schools are able to effectively recruit highly qualified teachers, to financially reward those teachers and principals whose students have made significant progress toward high academic performance, such as through performance-based compensation systems and access to ongoing professional development opportunities for teachers and administrators, and to remove teachers who are not qualified.*

“(6) INNOVATIVE EFFORTS.—Development and implementation of innovative efforts aimed at reducing the shortage of highly qualified teachers in high poverty urban and rural areas, that may include the recruitment of highly qualified individuals from other occupations through alternative certification programs.

“(7) SOCIAL PROMOTION.—Development and implementation of efforts to address the problem of social promotion and to prepare teachers to effectively address the issues raised by ending the practice of social promotion.

“SEC. 213. COMPETITIVE AWARDS.

“(a) ANNUAL AWARDS; COMPETITIVE BASIS.—The Secretary shall award grants under this subpart annually and on a competitive basis.

“(b) PEER REVIEW PANEL.—The Secretary shall provide the applications submitted by States under section 214 to a peer review panel for evaluation. With respect to each application, the peer review panel shall initially recommend the application for funding or for disapproval.

“(c) PRIORITY.—In recommending applications for funding to the Secretary, the panel shall give priority to applications from States that describe activities that—

“(1) include innovative reforms to hold institutions of higher education with teacher preparation programs accountable for preparing teachers who are highly competent in the academic content areas in which the teachers plan to teach; and

“(2) involve the development of innovative efforts aimed at reducing the shortage of highly qualified teachers in high poverty urban and rural areas.

“SEC. 214. APPLICATIONS.

“(a) IN GENERAL.—Each State desiring a grant under this subpart shall submit an application to the Secretary at such time, in such manner and accompanied by such information as the Secretary may require.

“(b) CONTENT OF APPLICATIONS.—Such application shall include a description of how the State intends to use funds provided under this subpart.

“Subpart 2—Teacher Training Partnerships Grants

“SEC. 221. GRANTS AUTHORIZED.

“(a) IN GENERAL.—The Secretary is authorized to award grants to teacher training partnerships to enable the partnerships to carry out the activities described in section 222. Each grant may be awarded for a period of not more than 5 years.

“(b) DEFINITIONS.—In this part:

“(1) TEACHER TRAINING PARTNERSHIPS.—

“(A) IN GENERAL.—The term ‘teacher training partnership’ means a partnership that—

“(i) shall include a school of arts and sciences, a school or program of education, a local educational agency, and a kindergarten through grade 12 school;

“(ii) shall include a high need local educational agency or kindergarten through grade 12 school; and

“(iii) may include a State educational agency, a pre-kindergarten program, a nonprofit educational organization, a business, or a teacher organization.

“(B) HIGH NEED.—A local educational agency or kindergarten through grade 12 school shall be considered high need for purposes of subparagraph (A)(ii) if the agency or school serves an area within a State in which there is—

“(i) a large number of individuals from families with incomes below the poverty line;

“(ii) a high percentage of teachers not teaching in the content area in which the teachers were trained to teach; or

“(iii) a high teacher turnover rate.

“(2) KINDERGARTEN THROUGH GRADE 12 SCHOOL.—The term ‘kindergarten through grade 12 school’ means a school having any one of the grades kindergarten through grade 12.

“(c) PRIORITY.—In awarding grants under this subpart the Secretary shall give priority to partnerships that involve businesses.

“(d) CONSIDERATION.—In awarding grants under this subpart the Secretary shall take into consideration—

“(1) providing an equitable geographic distribution of the grants throughout the United States; and

“(2) the proposed project's potential for creating improvement and positive change.

“(e) MATCHING FUNDS.—Each partnership receiving a grant under this subpart shall provide, from sources other than this subpart, an amount equal to 25 percent of the grant in the first year, 35 percent in the second such year, and 50 percent in each succeeding such year, of the amount of the grant, in cash or in kind, to carry out the activities supported by the grant.

“(f) ONE-TIME AWARD.—A partnership may receive a grant under this section only once.

“SEC. 222. USE OF FUNDS.

“(a) IN GENERAL.—Grant funds under this part shall be used to—

“(1) coordinate with the activities of the Governor, State board of education, and State educational agency, as appropriate;

“(2) provide sustained and high quality preservice clinical experiences including the mentoring of prospective teachers by veteran teachers;

“(3) work with a school of arts and sciences to provide increased academic study in a proposed teaching specialty area, through activities such as—

“(A) restructuring curriculum;

“(B) changing core course requirements;

“(C) increasing liberal arts focus;

“(D) providing preparation for board certification; and

“(E) assessing and improving alternative certification, including mentoring and induction support;

“(4) substantially increasing interaction and 2-way collaboration between—

“(A) faculty at institutions of higher education; and

“(B) new and experienced teachers, principals, and other administrators at elementary schools or secondary schools;

“(5) prepare teachers to use technology effectively in the classroom;

“(6) integrate reliable research-based teaching methods into the curriculum;

“(7) broadly disseminate information on effective practices used by the partnership; and

“(8) provide support, including preparation time, for interaction between faculty at an institution of higher education and classroom teachers.

“(b) SPECIAL RULE.—No individual member of a partnership shall retain more than 50 percent of the funds made available to the partnership under this subpart.

“SEC. 223. APPLICATIONS.

“Each teacher training partnership desiring a grant under this subpart shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require. Each such application shall—

“(1) describe the composition of the partnership and the involvement of each partner in the development of the application;

“(2) contain a needs assessment that includes an analysis of the needs of all the partners with respect to teaching and learning;

“(3) contain a resource assessment that includes—

“(A) an analysis of resources available to the partnership;

“(B) a description of the intended use of the grant funds;

“(C) a description of how the partnership will coordinate with other teacher training or professional development programs, including Federal, State, local, private, and other programs;

“(D) a description of how the activities assisted under this subpart are consistent with educational reform activities that promote student achievement; and

“(E) a description of the commitment of the resources of the partnership to the activities assisted under this subpart, including financial support, faculty participation, and time commitments;

“(4) describe how the partnership will include the participation of the schools, colleges, or departments of arts and sciences within an institution of higher education to ensure the integration of teaching techniques and content in teaching preparation;

“(5) describe how the partnership will restructure and improve teaching, teacher training, and development programs, and how such systemic changes will contribute to increased student achievement;

“(6) describe how the partnership will prepare teachers to work with diverse student populations, including individuals with disabilities and limited English proficient individuals;

“(7) describe how the partnership will prepare teachers to use technology;

“(8) contain a dissemination plan regarding knowledge and information with respect to effective teaching practices, and a description of how such knowledge and information will be implemented in elementary schools or secondary schools as well as institutions of higher education;

“(9) describe the commitment of the partnership to continue the activities assisted under this subpart without grant funds provided under this subpart; and

“(10) describe how the partnership will involve and include parents in the reform process.

“Subpart 3—General Provisions

“SEC. 231. ACCOUNTABILITY AND EVALUATION.

“(a) TEACHER QUALITY ENHANCEMENT GRANTS.—

“(1) ACCOUNTABILITY REPORT.—A State that receives a grant under subpart 1 shall submit an annual accountability report to the Secretary, the Committee on Labor and Human Resources of the Senate, and the Committee on Education and the Workforce of the House of Representatives. Such report shall include a description of the degree to which the State, in using funds provided under subpart 1, has made substantial progress in meeting the following goals:

“(A) STUDENT ACHIEVEMENT.—Increasing student achievement for all students, as measured by increased graduation rates, decreased dropout rates, or higher scores on local, State or other assessments.

“(B) RAISING STANDARDS.—Raising the State academic standards required to enter the teaching profession, including, where appropriate, incentives to incorporate the requirement of an academic major in the subject, or related discipline, in which the teacher plans to teach.

“(C) INITIAL CERTIFICATION OR LICENSURE.—Increasing success in the passage rate for initial State teacher certification or licensure, or increasing numbers of highly qualified individuals being certified or licensed as teachers through alternative programs.

“(D) CORE ACADEMIC SUBJECTS.—(i) Increasing the percentage of secondary school classes

taught in core academic subject areas by teachers—

"(I) with academic majors in those areas or in a related field;

"(II) who can demonstrate a high level of competence through rigorous academic subject area tests; or

"(III) who can demonstrate high levels of competence through experience in relevant content areas.

"(ii) Increasing the percentage of elementary school classes taught by teachers—

"(I) with academic majors in the arts and sciences; or

"(II) who can demonstrate high levels of competence through experience in relevant content areas.

"(E) DECREASING SHORTAGES FOR PROFESSIONAL DEVELOPMENT.—Decreasing shortages of qualified teachers in poor urban and rural areas.

"(F) INCREASING OPPORTUNITIES.—Increasing opportunities for enhanced and ongoing professional development that improves the academic content knowledge of teachers in the subject areas in which the teachers are certified to teach or in which the teachers are working toward certification to teach.

"(G) TECHNOLOGY INTEGRATION.—Increasing the number of teachers prepared to integrate technology in the classroom.

"(2) TEACHER QUALIFICATIONS PROVIDED TO PARENT UPON REQUEST.—Any local educational agency that benefits from the activities assisted under subpart 1 shall make available, upon request and in an understandable and uniform format, to any parent of a student attending any school served by the local educational agency, information regarding the qualifications of the student's classroom teacher with regard to the subject matter in which the teacher provides instruction. The local educational agency shall inform parents that the parents are entitled to receive the information upon request.

"(b) TEACHER TRAINING PARTNERSHIP EVALUATION PLAN.—Each teacher training partnership receiving a grant under subpart 2 shall establish an evaluation plan that includes strong performance objectives established in negotiation with the Secretary at the time of the grant award. The plan shall include objectives and measures for—

"(1) increased student achievement for all students as measured by increased graduation rates, decreased dropout rates, or higher scores on local, State, or other assessments for a year compared to student achievement as determined by the rates or scores, as the case may be, for the year prior to the year for which a grant under this part is received;

"(2) increased teacher retention in the first 3 years of a teacher's career;

"(3) increased success in the passage rate for initial State certification or licensure of teachers;

"(4) increased percentages of secondary school classes taught in core academic subject areas by teachers—

"(A) with academic majors in those areas or in a related field;

"(B) who can demonstrate a high level of competence through rigorous academic subject area tests; and

"(C) increasing the percentage of elementary school classes taught by teachers with academic majors in the arts and sciences;

"(5) increased integration of technology in teacher preparation and in classroom instruction;

"(6) restructuring or change of methodology courses to reflect best practices learned from elementary schools, secondary schools or other entities;

"(7) increased dissemination of information about effective teaching strategies and practices; and

"(8) other effects of increased integration among members of the partnership.

"SEC. 232. REVOCATION OF GRANT.

"Each State or teacher training partnership receiving a grant under this part shall report annually on progress toward meeting the purposes of this part, and the goals, objectives and measures described in section 231. If the Secretary, after consultation with the peer review panel described in section 213(b) determines that the State or partnership is not making substantial progress in meeting the purposes, goals, objectives and measures, as appropriate, by the end of the second year of the grant, the grant shall not be continued for the third year of the grant.

"SEC. 233. EVALUATION AND DISSEMINATION.

"The Secretary shall evaluate the activities funded under this part and report the Secretary's findings to the Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives. The Secretary shall broadly disseminate successful practices developed by the States and teacher training partnerships under this part, and shall broadly disseminate information regarding such practices so developed that were found to be ineffective.

"SEC. 234. INTERNATIONAL STUDY AND REPORT.

"(a) STUDY.—The Secretary shall conduct a study through the National Center for Education Statistics regarding the ways teachers are trained and the extent to which teachers in the United States and other comparable countries are teaching in areas other than the teachers' field of study or expertise. The study will examine specific fields and will outline the nature and extent of the problem of out-of-field teaching in the United States and in other countries that are considered comparable to the United States. The study shall include, at a minimum, all the countries that participated in the Third International Mathematics and Science Study (TIMSS).

"(b) REPORT.—The Secretary shall report to Congress regarding the results of the study described in subsection (a).

"SEC. 235. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this part $300,000,000 for fiscal year 1999 and such sums as necessary for each of the 4 succeeding fiscal years, of which—

"(1) 50 percent shall be available for each fiscal year to carry out subpart 1; and

"(2) 50 percent shall be available for each fiscal year to carry out subpart 2.

"PART B—RECRUITING NEW TEACHERS FOR UNDERSERVED AREAS

"SEC. 251. STATEMENT OF PURPOSE.

"It is the purpose of this part to—

"(1) provide scholarships and, as necessary, support services for students with high potential to become effective teachers, particularly minority students;

"(2) increase the quality and number of new teachers nationally; and

"(3) increase the ability of schools in underserved areas to recruit a qualified teaching staff.

"SEC. 252. DEFINITIONS.

"In this part—

"(1) ELIGIBLE PARTNERSHIP.—

"(A) IN GENERAL.—The term 'eligible partnership' means a partnership consisting of—

"(i) an institution of higher education that awards baccalaureate degrees and prepares teachers for their initial entry into the teaching profession; and

"(ii) one or more local educational agencies that serve underserved areas.

"(B) ADDITIONAL PARTNERS.—Such a partnership may also include—

"(i) 2-year institutions of higher education that operate teacher preparation programs and maintain articulation agreements, with the institutions of higher education that award baccalaureate degrees for the transfer of credits in teacher preparation;

"(ii) State agencies that have responsibility for policies related to teacher preparation and teacher certification or licensure; and

"(iii) other public and private, nonprofit agencies and organizations that serve, or are located in, communities served by the local educational agencies in the partnership, and that have an interest in teacher recruitment, preparation, and induction.

"(2) SUPPORT SERVICES.—The term 'support services' means—

"(A) academic advice and counseling;

"(B) tutorial services;

"(C) mentoring; and

"(D) child care and transportation, if funding for those services cannot be arranged from other sources.

"(3) UNDERSERVED AREA.—The term 'underserved area' means—

"(A) the area served by the 3 local educational agencies in the State that have the highest numbers of children, ages 5 through 17, from families below the poverty level (based on data satisfactory to the Secretary); and

"(B) the area served by any other local educational agency in which the percentage of such children is at least 20 percent, or the number of such children is at least 10,000.

"SEC. 253. GRANT AUTHORITY AND CONDITIONS.

"(a) GRANTS AUTHORIZED.—

"(1) GRANTS.—

"(A) IN GENERAL.—From amounts appropriated under section 262 the Secretary shall award grants, on a competitive basis, to eligible partnerships to enable the eligible partnerships to pay the Federal share of the cost of carrying out the activities described in section 255.

"(B) DURATION.—Each grant awarded under subparagraph (A) shall be awarded for a period not to exceed 5 years.

"(2) CONTINUING ELIGIBILITY; REVIEW OF PROGRESS.—The Secretary shall—

"(A) continue to make grant payments for the second and succeeding years of a grant awarded under this part, only after determining that the eligible partnership is making satisfactory progress in carrying out the activities under the grant; and

"(B) conduct an intensive review of the eligible partnerships's progress under the grant, with the assistance of outside experts, before making grant payments for the fourth year of the grant.

"(3) MAXIMUM NUMBER.—No eligible partnership may receive more than 2 grants under this subsection.

"(b) MATCHING REQUIREMENT.—

"(1) FEDERAL SHARE.—The Federal share of the cost of activities carried out under a grant made under subsection (a) shall not exceed—

"(A) 70 percent of the cost in the first year of the grant;

"(B) 60 percent in the second year;

"(C) 60 percent in the third year;

"(D) 50 percent in the fourth year; and

"(E) 50 percent in the fifth year and any succeeding year (including each year of the second grant, if any).

"(2) NON-FEDERAL SHARE.—The non-Federal share of activities carried out with a grant under subsection (a) may be provided in cash or in kind, fairly evaluated, and may be obtained from any non-Federal public or private source.

"(c) PLANNING GRANTS.—

"(1) IN GENERAL.—The Secretary may award planning grants to eligible partnerships that are not ready to implement programs under subsection (a).

"(2) DURATION.—Each planning grant shall be for a period of not more than 1 year, which *shall be in addition to the period of any grant under subsection (a).*

"(3) REQUIREMENT.—Any recipient of a planning grant under this subsection that wishes to receive a grant under subsection (a)(1) shall separately apply for a grant under that subsection.

"SEC. 254. GRANT APPLICATIONS.

"(a) APPLICATIONS REQUIRED.—Any eligible partnership desiring to receive a grant under this part shall submit an application to the Secretary at such time, in such form, and containing such information as the Secretary may require.

"(b) APPLICATION CONTENTS.—Each application for a grant under section 253(a) shall include—

"(1) a designation of the institution or agency, within the eligible partnership, that will serve as the fiscal agent for the grant;

"(2) information on the quality of the teacher preparation program of the institution of higher education participating in the eligible partnership and how the eligible partnership will ensure, through improvements in the eligible partnership's teacher preparation practices or other appropriate strategies, that scholarship recipients will receive high-quality preparation;

"(3) a description of the assessment the members of the eligible partnership have undertaken—

"(A) to determine—

"(i) the most critical needs of the local educational agencies, particularly the needs of schools in high-poverty areas, for new teachers (which may include teachers in particular subject areas or at certain grade levels); and

"(ii) how the project carried out under the grant will address those needs; and

"(B) that reflects the input of all significant entities in the community (including organizations representing teachers and parents) that have an interest in teacher recruitment, preparation, and induction;

"(4) a description of the project the eligible partnership will carry out with the grant, including information regarding—

"(A) the recruitment and outreach efforts the eligible partnership will undertake to publicize the availability of scholarships and other assistance under the program;

"(B)(i) the number and types of students that the eligible partnership will serve under the program, which may include education paraprofessionals seeking to achieve full teacher certification or licensure; teachers whom the partner local educational agencies have hired under emergency certification or licensure procedures; or former military personnel, mid-career professionals, or AmeriCorps or Peace Corps volunteers, who desire to enter teaching; and

"(ii) the criteria that the eligible partnership will use in selecting the students, including criteria to determine whether individuals have the capacity to benefit from the program, complete teacher certification requirements, and become effective teachers;

"(C) the activities the eligible partnership will carry out under the grant, including a description of, and justification for, any support services the institution of higher education participating in the eligible partnership will offer to participating students;

"(D) the number and funding range of the scholarships the institution will provide to students; and

"(E) the procedures the institution will establish for entering into, and enforcing, agreements with scholarship recipients regarding the recipients' fulfillment of the service commitment described in section 259;

"(5) a description of how the institution will use funds provided under the grant only—

"(A) to increase the number of students—

"(i) with high potential to be effective teachers;

"(ii) participating in the institution's teacher preparation programs; or

"(iii) in the particular type or types of preparation programs that the grant will support; or

"(B) to increase the number of graduates, who are minority individuals, with high potential to be effective teachers;

"(6) a description of the commitments, by the local educational agencies participating in the partnership, to hire qualified scholarship recipients in the schools served by the agencies and in the subject areas or grade levels for which the scholarship recipients will be trained, and a description of the actions the participating institution of higher education, the participating local educational agencies, and the other partners will take to facilitate the successful transition of the recipients into teaching; and

"(7) a description of the eligible partnership's plan for institutionalizing the activities the partnership is carrying out under this part, so that the activities will continue once Federal funding ceases.

"SEC. 255. USES OF FUNDS.

"(a) IN GENERAL.—Each eligible partnership receiving a grant under section 523(a) shall use the grant funds for the following:

"(1) SCHOLARSHIPS.—Scholarships to help students pay the costs of tuition, room, board, and other expenses of completing a teacher preparation program.

"(2) SUPPORT SERVICES.—Support services, if needed to enable scholarship recipients to complete postsecondary education programs.

"(3) FOLLOWUP SERVICES.—Followup services provided to former scholarship recipients during the recipients' first 3 years of teaching.

"(4) PAYMENTS.—Payments to partner local educational agencies, if needed to enable the agencies to permit paraprofessional staff to participate in teacher preparation programs (such as the cost of release time for the staff).

"(5) ADDITIONAL COURSES.—If appropriate, and if no other funds are available for, paying the costs of additional courses taken by former scholarship recipients during the recipients' initial 3 years of teaching.

"(b) PLANNING GRANTS.—A recipient of a planning grant under section 253(c) shall use the grant funds for the costs of planning for the implementation of a grant under section 253(a).

"SEC. 256. SELECTION OF APPLICANTS.

"(a) PEER REVIEW.—The Secretary, using a peer review process, shall select eligible partnerships to receive funding under this part on the basis of—

"(1) the quality of the teacher preparation program offered by the institution participating in the partnership;

"(2) the quality of the program carried out under the application; and

"(3) the capacity of the partnership to carry out the grant successfully.

"(b) CRITERIA.—

"(1) IN GENERAL.—In awarding grants under section 253(a), the Secretary shall seek to ensure that—

"(A) in the aggregate, eligible partnerships carry out a variety of approaches to preparing new teachers; and

"(B) there is an equitable geographic distribution of the grants.

"(2) SPECIAL CONSIDERATION.—In addition to complying with paragraph (1), the Secretary shall give special consideration to—

"(A) applications most likely to result in the preparation of increased numbers of individuals with high potential for effective teaching who are minority individuals; and

"(B) applications from partnerships that have as members of the partnerships historically Black colleges and universities, Hispanic-serving institutions, and Tribal Colleges and Universities.

"(c) SECOND FIVE-YEAR GRANTS.—In selecting eligible partnerships to · receive second year grant payments under this part, the Secretary shall give a preference to eligible partnerships whose projects have resulted in—

"(1) the placement and retention of a substantial number of high-quality graduates in teaching positions in underserved, high-poverty schools;

"(2) the adoption of effective programs that meet the teacher preparation needs of high-poverty urban and rural areas; and

"(3) effective partnerships with elementary schools and secondary schools that are supporting improvements in student achievement.

"SEC. 257. DURATION AND AMOUNT OF ASSISTANCE; RELATION TO OTHER ASSISTANCE.

"(a) DURATION OF ASSISTANCE.—No individual may receive scholarship assistance under this part—

"(1) for more than 5 years of postsecondary education; and

"(2) unless that individual satisfies the requirements of section 484(a)(5).

"(b) AMOUNT OF ASSISTANCE.—No individual may receive a scholarship awarded under this part that exceeds the cost of attendance, as defined in section 472, at the institution of higher education the individual is attending.

"(c) RELATION TO OTHER ASSISTANCE.—A scholarship awarded under this part—

"(1) shall not be reduced on the basis of the individual's receipt of other forms of Federal student financial assistance; and

"(2) shall be regarded as other financial assistance available to the student, within the meaning of sections 471(3) and 480(j)(1), in determining the student's eligibility for grant, loan, or work assistance under title IV.

"SEC. 258. SCHOLARSHIP CONDITIONS.

"(a) IN GENERAL.—A recipient of a scholarship under this part shall continue to receive the scholarship assistance only as long as the recipient is—

"(1) enrolled as a full-time student and pursuing a course of study leading to teacher certification, unless the recipient is working in a public school (as a paraprofessional, or as a teacher under emergency credentials) while participating in the program; and

"(2) maintaining satisfactory progress as determined by the institution of higher education participating in the partnership.

"(b) SPECIAL RULE. Each eligible partnership shall modify the application of section 257(a)(1) and of subsection (a)(1) to the extent necessary to accommodate the rights of individuals with disabilities under section 504 of the Rehabilitation Act of 1973.

"SEC. 259. SERVICE REQUIREMENTS.

"(a) REQUIREMENT.—Each eligible partnership receiving a grant under this part shall enter into an agreement, with each student to whom the partnership awards a scholarship under this part, providing that a scholarship recipient who completes a teacher preparation program under this part shall, within 7 years of completing that program, teach full-time for at least 5 years in a high-poverty school in an underserved geographic area or repay the amount of the scholarship, under the terms and conditions established by the Secretary.

"(b) REGULATIONS. The Secretary shall prescribe regulations relating to the requirements of subsection (a), including any provisions for waiver of those requirements.

"SEC. 260. EVALUATION.

"The Secretary shall provide for an evaluation of the program carried out under this part, which shall asses such issues as—

"(1) whether institutions participating in the eligible partnerships are successful in preparing scholarship recipients to teach to high State and local standards;

"(2) whether scholarship recipients are successful in completing teacher preparation programs, becoming fully certified teachers, and obtaining teaching positions in underserved areas, and whether the recipients continue teaching in those areas over a period of years;

"(3) the national impact of the program in assisting local educational agencies in underserved areas to recruit, prepare, and retain diverse, high-quality teachers in the areas in which the agencies have the greatest needs;

"(4) the long-term impact of the grants on teacher preparation programs conducted by institutions of higher education participating in the eligible partnership and on the institutions' relationships with their partner local educational agencies and other members of the partnership; and

"(5) the relative effectiveness of different approaches for preparing new teachers to teach in underserved areas, including their effectiveness in preparing new teachers to teach to high content and performance standards.

"SEC. 261. NATIONAL ACTIVITIES.

"The Secretary may reserve not more than 5 percent of the funds appropriated for this part for any fiscal year for—

"(1) peer review of applications;

"(2) conducting the evaluation required under section 260; and

"(3) technical assistance.

"SEC. 262. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this part $37,000,000 for fiscal year 1999 and such sums as may be necessary for each of the 4 succeeding fiscal years.".

TITLE III—INSTITUTIONAL AID

SEC. 301. TRANSFERS AND REDESIGNATIONS.

(a) In General.—Title III (20 U.S.C. 1051 et seq.) is amended—

(1) by redesignating part D as part F;

(2) by redesignating sections 351, 352, 353, 354, 356, 357, 358, and 360 (20 U.S.C. 1066, 1067, 1068, 1069, 1069b, 1069c, 1069d, and 1069f) as sections 391, 392, 393, 394, 395, 396, 397, and 398, respectively;

(3) by transferring part B of title VII (20 U.S.C. 1132c et seq.) to title III to follow part C of title III (20 U.S.C. 1065 et seq.), and redesignating such part B as part D;

(4) by redesignating sections 721 through 728 (20 U.S.C. 1132c and 1132c–7) as sections 341 through 348, respectively;

(5) by transferring subparts 1 and 3 of part B of title X (20 U.S.C. 1135b et seq. and 1135d et seq.) to title III to follow part D of title III (as redesignated by paragraph (3)), and redesignating such subpart 3 as subpart 2;

(6) by inserting after part D of title III (as redesignated by paragraph (3)) the following:

"PART E—MINORITY SCIENCE IMPROVEMENT PROGRAM";

(7) by redesignating sections 1021 through 1024 (20 U.S.C. 1135b and 1135b–3), and sections 1041, 1042, 1043, 1044, 1046, and 1047 (20 U.S.C. 1135d, 1135d–1, 1135d–2, 1135d–3, 1135d–5, and 1135d–6) as sections 351 through 354, and sections 361, 362, 363, 364, 365, and 366, respectively; and

(8) by repealing section 366 (as redesignated by paragraph (7)) (20 U.S.C. 1135d–6).

(b) Conforming Amendment.—Section 361 (as redesignated by subsection (a)(7)) (20 U.S.C. 1135d) is amended—

(1) in paragraph (1), by inserting "and" after the semicolon;

(2) in paragraph (2), by striking "; and" and inserting a period; and

(3) by striking paragraph (3).

(c) Cross References.—Title III (20 U.S.C. 1051 et seq.) is amended—

(1) in section 311(b) (20 U.S.C. 1057(b)), by striking "360(a)(1)" and inserting "398(a)(1)";

(2) in section 312 (20 U.S.C. 1058)—

(A) in subsection (b)(1)(B), by striking "352(b)" and inserting "392(b)"; and

(B) in subsection (c)(2), by striking "352(a)" and inserting "392(a)";

(3) in section 313(b) (20 U.S.C. 1059(b)), by striking "354(a)(1)" and inserting "394(a)(1)";

(4) in section 342 (as redesignated by subsection (a)(4)) (20 U.S.C. 1132c–1)—

(A) in paragraph (3), by striking "723(b)" and inserting "343(b)";

(B) in paragraph (4), by striking "723" and inserting "343";

(C) in the matter preceding subparagraph (A) of paragraph (5), by striking "724(b)" and inserting "344(b)";

(D) in paragraph (8), by striking "725(1)" and inserting "345(1)"; and

(E) in paragraph (9), by striking "727" and inserting "347";

(5) in section 343 (as redesignated by subsection (a)(4)) (20 U.S.C. 1132c–2)—

(A) in subsection (a), by striking "724" and inserting "344"; and

(B) in subsection (b)—

(i) in the matter preceding paragraph (1), by striking "725(1) and 726" and inserting "345(1) and 346";

(ii) in paragraph (10), by striking "724" and inserting "344"; and

(iii) in subsection (d), by striking "723(c)(1)" and inserting "343(c)(1)";

(6) in section 345(2) (as redesignated by subsection (a)(4)) (20 U.S.C. 1132c–4(2)), by striking "723" and inserting "343";

(7) in section 348 (as redesignated by subsection (a)(4)) (20 U.S.C. 1132c–7), by striking "725(1)" and inserting "345(1)";

(8) in section 353(a) (as redesignated by subsection (a)(7)) (20 U.S.C. 1135b–2(a))—

(A) in paragraph (1), by striking "1046(6)" and inserting "365(6)";

(B) in paragraph (2), by striking "1046(7)" and inserting "365(7)";

(C) in paragraph (3), by striking "1046(8)" and inserting "365(8)"; and

(D) in paragraph (4), by striking "1046(9)" and inserting "365(9)";

(9) in section 361(1) (as redesignated by subsection (a)(7)) (20 U.S.C. 1135d(1)), by striking "1046(3)" and inserting "365(3)";

(10) in section 362(a) (as redesignated by subsection (a)(7)) (20 U.S.C. 1135d–1(a))—

(A) in the matter preceding paragraph (1), by striking "1041" and inserting "361"; and

(B) in paragraph (1), by striking "1021(b)" and inserting "351(b)"; and

(11) in section 391(b)(6) (as redesignated by subsection (a)(2)), by striking "357" and inserting "396".

SEC. 302. FINDINGS.

Section 301(a) (20 U.S.C. 1051(a)) is amended—

(1) by redesignating paragraphs (3) through (7) as paragraphs (4) through (8), respectively; and

(2) by inserting after paragraph (2) the following:

"(3) in order to be competitive and provide a high-quality education for all, institutions of higher education should improve their technological capacity and make effective use of technology;".

SEC. 303. STRENGTHENING INSTITUTIONS.

(a) Grants.—Section 311 (20 U.S.C. 1057) is amended—

(1) in subsection (b)(3)(D), by inserting ", including high technology equipment," after "equipment"; and

(2) by adding at the end the following:

"(c) Endowment Fund.—

"(1) In general.—An eligible institution may use not more than 20 percent of the grant funds provided under this part to establish or increase an endowment fund at such institution.

"(2) Matching requirement.—In order to be eligible to use grant funds in accordance with paragraph (1), the eligible institution shall provide matching funds, in an amount equal to the Federal funds used in accordance with paragraph (1), for the establishment or increase of the endowment fund.

"(3) Comparability.—The provisions of part C, regarding the establishment or increase of an endowment fund, that the Secretary determines are not inconsistent with this subsection, shall apply to funds used under paragraph (1).".

(b) Duration of Grant.—Section 313 (20 U.S.C. 1059) is amended by adding at the end the following:

"(d) Wait-Out-Period.—Each eligible institution that received a grant under this part for a 5-year period shall not be eligible to receive an additional grant under this part until 2 years after the date on which the 5-year grant period terminates.

(c) American Indian Tribally Controlled Colleges and Universities.—Section 316 (20 U.S.C. 1059c) is amended to read as follows:

"SEC. 316. AMERICAN INDIAN TRIBALLY CONTROLLED COLLEGES AND UNIVERSITIES.

"(a) Program Authorized.—The Secretary shall provide grants and related assistance to American Indian Tribal Colleges and Universities to enable such institutions to improve and expand their capacity to serve Indian students.

"(b) Definitions.—In this section:

"(1) Indian.—The term 'Indian' has the meaning given the term in section 2 of the Tribally Controlled College or University Assistance Act of 1978.

"(2) Indian tribe.—The term 'Indian tribe' has the meaning given the term in section 2 of the Tribally Controlled College or University Assistance Act of 1978.

"(3) Tribal college or university.—The term 'Tribal College or University' has the meaning give the term 'tribally controlled college or university' in section 2 of the Tribally Controlled College or University Assistance Act of 1978, and includes an institution listed in the Equity in Educational Land Grant Status Act of 1994.

"(4) Institution of higher education.—The term 'institution of higher education' means an institution of higher education as defined in section 1201(a), except that paragraph (2) of such section shall not apply.

"(c) Authorized Activities.—

"(1) In general.—Grants awarded under this section shall be used by Tribal Colleges or Universities to assist such institutions to plan, develop, undertake, and carry out activities to improve and expand such institutions' capacity to serve Indian students.

"(2) Examples of authorized activities.—The activities described in paragraph (1) may include—

"(A) purchase, rental, or lease of scientific or laboratory equipment for educational purposes, including instructional and research purposes;

"(B) construction, maintenance, renovation, and improvement in classrooms, libraries, laboratories, and other instructional facilities, including purchase or rental of telecommunications technology equipment or services;

"(C) support of faculty exchanges, faculty development, and faculty fellowships to assist in attaining advanced degrees in the faculty's field of instruction;

"(D) academic instruction in disciplines in which American Indians are underrepresented;

"(E) purchase of library books, periodicals, and other educational materials, including telecommunications program material;

"(F) tutoring, counseling, and student service programs designed to improve academic success;

"(G) funds management, administrative management, and acquisition of equipment for use in strengthening funds management;

"(H) joint use of facilities, such as laboratories and libraries;

"(I) establishing or improving a development office to strengthen or improve contributions from alumni and the private sector;

"(J) establishing or enhancing a program of teacher education designed to qualify students to teach in elementary schools or secondary schools, with a particular emphasis on teaching American Indian children and youth, that shall include, as part of such program, preparation for teacher certification;

"(K) establishing community outreach programs that encourage American Indian elementary school and secondary school students to develop the academic skills and the interest to pursue postsecondary education;

"(L) other activities proposed in the application submitted pursuant to subsection (d) that—

"(i) contribute to carrying out the activities described in subparagraphs (A) through (K); and

"(ii) are approved by the Secretary as part of the review and acceptance of such application.

"(3) ENDOWMENT FUND.—

"(A) IN GENERAL.—A Tribal College or University may use not more than 20 percent of the grant funds provided under this section to establish or increase an endowment fund at the institution.

"(B) MATCHING REQUIREMENT.—In order to be eligible to use grant funds in accordance with subparagraph (A), the Tribal College or University shall provide matching funds, in an amount equal to the Federal funds used in accordance with subparagraph (A), for the establishment or increase of the endowment fund.

"(C) COMPARABILITY.—The provisions of part C regarding the establishment or increase of an endowment fund, that the Secretary determines are not inconsistent with this paragraph, shall apply to funds used under subparagraph (A).

"(d) APPLICATION PROCESS.—

"(1) INSTITUTIONAL ELIGIBILITY.—To be eligible to receive assistance under this section, a Tribal College or University shall be an institution that—

"(A) is an eligible institution under section 312(b);

"(B) is eligible to receive assistance under the Tribally Controlled College or University Assistance Act of 1978; or

"(C) is eligible to receive funds under the Equity in Educational Land Grant Status Act of 1994.

"(2) APPLICATION.—Any Tribal College or University desiring to receive assistance under this section shall submit an application to the Secretary at such time, and in such manner, as the Secretary may by regulation reasonably require. Each such application shall include—

"(A) a 5-year plan for improving the assistance provided by the Tribal College or University to Indian students, increasing the rates at which Indian secondary school students enroll in higher education, and increasing overall postsecondary retention rates for Indian students; and

"(B) such enrollment data and other information and assurances as the Secretary may require to demonstrate compliance with subparagraph (A) or (B) of paragraph (1).

"(3) SPECIAL RULE.—For the purposes of this part, no Tribal College or University that is eligible for and receives funds under this section may concurrently receive other funds under this part or part B.".

SEC. 304. STRENGTHENING HBCU's.

(a) GRANTS.—Section 323 (20 U.S.C. 1062) is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting after subsection (a) the following:

"(b) ENDOWMENT FUND.—

"(1) IN GENERAL.—An institution may use not more than 20 percent of the grant funds provided under this part to establish or increase an endowment fund at the institution.

"(2) MATCHING REQUIREMENT.—In order to be eligible to use grant funds in accordance with paragraph (1), the eligible institution shall provide matching funds, in an amount equal to the Federal funds used in accordance with paragraph (1), for the establishment or increase of the endowment fund.

"(3) COMPARABILITY.—The provisions of part C regarding the establishment or increase of an endowment fund, that the Secretary determines are not inconsistent with this subsection, shall apply to funds used under paragraph (1).".

(b) PROFESSIONAL OR GRADUATE INSTITUTIONS.—Section 326 (20 U.S.C. 1063b) is amended—

(1) in subsection (a), by adding at the end of paragraph (2) the following: "If a grant of less than $500,000 is made under this section, matching funds provided from non-Federal sources are not required. If a grant equal to or in excess of $500,000 is made under this section, match funds provided from non-Federal sources are required only with respect to the amount of the grant that exceeds $500,000."; and

(2) in subsection (e)(1)—

(A) in subparagraph (E), by inserting ", and any Tuskegee University qualified graduate program" before the semicolon;

(B) in subparagraph (F), by inserting ", and any Xavier University qualified graduate program" before the semicolon;

(C) in subparagraph (G), by inserting ", and any Southern University qualified graduate program" before the semicolon;

(D) in subparagraph (H), by inserting ", and any Texas Southern University qualified graduate program" before the semicolon;

(E) in subparagraph (I), by inserting ", and any Florida A&M University qualified graduate program" before the semicolon; and

(F) in subparagraph (J), by inserting ", and any North Carolina Central University qualified graduate program" before the semicolon.

SEC. 305. ENDOWMENT CHALLENGE GRANTS.

Paragraph (2) of section 331(b) (20 U.S.C. 1065(b)) is amended by striking subparagraphs (B) and (C) and inserting the following:

"(B) The Secretary may make a grant under this part to an eligible institution in any fiscal year if the institution—

"(i) applies for a grant in an amount not exceeding $500,000; and

"(ii) has deposited in the eligible institution's endowment fund established under this section an amount which is equal to ½ of the amount of such grant.

"(C) An eligible institution of higher education that is awarded a grant under subparagraph (B) shall not be eligible to receive an additional grant under subparagraph (B) until 10 years after the date on which the grant period terminates.".

SEC. 306. HBCU CAPITAL FINANCING.

(a) DEFINITION.—Section 342(5) (as redesignated by section 301(a)(4)) (20 U.S.C. 1132c–1(5)) is amended—

(1) by redesignating subparagraphs (B), (C), and (D) as subparagraphs (C), (F), and (G);

(2) by inserting after subparagraph (A) the following:

"(B) a facility for the administration of an educational program, or a student center or student union, except that not more than 5 percent of the loan proceeds provided under this part may be used for the facility, center or union if the facility, center or union is owned, leased, managed, or operated by a private business, that, in return for such use, makes a payment to the eligible institution;";

(3) by inserting after subparagraph (C) (as redesignated by paragraph (1)) the following:

"(D) a maintenance, storage, or utility facility that is essential to the operation of a facility, a library, a dormitory, equipment, instrumentation, a fixture, real property or an interest therein, described in this paragraph;

"(E) a facility designed to provide primarily outpatient health care for students or faculty;"; and

(4) in subparagraph (G) (as redesignated by paragraph (2)), by striking "(C)" and inserting "(F)".

(b) FULL FAITH AND CREDIT.—Section 343 (as redesignated by section 301(a)(4)) (20 U.S.C. 1132c–2) is amended by adding at the end the following:

"(e) Notwithstanding any other provision of law, the Secretary may sell a qualified bond guaranteed under this part to any party that offers terms that the Secretary determines are in the best interest of the eligible institution.".

SEC. 307. MINORITY SCIENCE AND ENGINEERING IMPROVEMENT PROGRAM.

Section 365(4) (as redesignated by section 301(a)(7)) (20 U.S.C. 1135d–5(4)) is amended by inserting "behavioral," after "physical,".

SEC. 308. GENERAL PROVISIONS.

(a) APPLICATIONS.—Paragraph (1) of section 391(b) (as redesignated by section 301(a)(2)) (20 U.S.C. 1066(b)) is amended by inserting ", D or E" after "part C".

(b) APPLICATION REVIEW PROCESS.—Section 393 (as redesignated by section 301(a)(2)) (20 U.S.C. 1068) is amended by adding at the end the following:

"(d) EXCLUSION.—The provisions of this section shall not apply to applications submitted under part D.".

(c) WAIVERS.—Paragraph (2) of section 395(b) (as redesignated by section 301(a)(2)) (20 U.S.C. 1069b(b)) is amended by striking "title IV, VII, or VIII" and inserting "part D or title IV".

(d) AUTHORIZATION OF APPROPRIATIONS.—Section 398(a) (as redesignated by section 301(a)(2)) (20 U.S.C. 1069f) is amended—

(1) in paragraph (1)—

(A) in subparagraph (A), by striking "1993" and inserting "1999"; and

(B) in subparagraph (B)—

(i) in clause (i), by striking "$45,000,000 for fiscal year 1993" and inserting "$5,000,000 for fiscal year 1999";

(ii) by striking clause (ii); and

(iii) by striking "(B)(i) There" and inserting "(B) There";

(2) in paragraph (2)—

(A) in subparagraph (A), by striking "1993" and inserting "1999"; and

(B) in subparagraph (B), by striking "$20,000,000 for fiscal year 1993" and inserting "$30,000,000 for fiscal year 1999";

(3) in paragraph (3), by striking "$50,000,000 for fiscal year 1993" and inserting "$10,000,000 for fiscal year 1999"; and

(4) by adding at the end the following:

"(4) PART D.—There are authorized to be appropriated to carry out part D, $110,000 for fiscal year 1999, and such sums as may be necessary for each of the 4 succeeding fiscal years.

"(5) PART E.—There are authorized to be appropriated to carry out part E, $10,000,000 for fiscal year 1999, and such sums as may be necessary for each of the 4 succeeding fiscal years.".

TITLE IV—STUDENT ASSISTANCE

PART A—GRANTS TO STUDENTS IN ATTENDANCE AT INSTITUTIONS OF HIGHER EDUCATION

SEC. 411. REPEALS AND REDESIGNATIONS.

Title IV (20 U.S.C. 1070 et seq.) is amended—

(1) in part A (20 U.S.C. 1070 et seq.)—

(A) in subpart 2 (20 U.S.C. 1070a–11), by repealing chapters 3 through 8 (20 U.S.C. 1070a–31 et seq. and 1070a–81 et seq.); and

(B) by repealing subpart 8 (20 U.S.C. 1070f); and

(2) in part H (20 U.S.C. 1099a et seq.)—

(A) by repealing subpart 1 (20 U.S.C. 1099a et seq.); and

(B) by redesignating subparts 2 and 3 (20 U.S.C. 1099b et seq. and 1099c et seq.) as subparts 1 and 2, respectively.

SEC. 412. FEDERAL PELL GRANTS.

(a) AMENDMENT TO SUBPART HEADING.—The heading for subpart 1 of part A of title IV (20 U.S.C. 1070a et seq.) is amended by striking "**Basic Educational Opportunity Grants**" and inserting "**Federal Pell Grants**".

(b) FEDERAL PELL GRANTS.—Section 401 (20 U.S.C. 1070a) is amended—

(1) in the section heading, by striking "**BASIC EDUCATIONAL OPPORTUNITY GRANTS**" and inserting "**FEDERAL PELL GRANTS**";

(2) in subsection (a)(1)—

(A) in the first sentence, by striking "shall, during the period beginning July 1, 1972, and ending September 30, 1998," and inserting ", for each fiscal year through fiscal year 2004, shall"; and

(B) in the second sentence, by inserting "until such time as the Secretary determines and publishes in the Federal Register with an opportunity for comment, an alternative payment system that provides payments to institutions in an accurate and timely manner," after "pay eligible students";

(3) in subsection (b)—

(A) in paragraph (2)(A), by striking clauses (i) through (v), and inserting the following:

"(i) $5,000 for academic year 1999–2000;

"(ii) $5,200 for academic year 2000–2001;

"(iii) $5,400 for academic year 2001–2002;

"(iv) $5,600 for academic year 2002–2003; and

"(v) $5,800 for academic year 2003–2004.";

(B) by amending paragraph (3) to read as follows:

"(3) For any academic year for which an appropriation Act provides a maximum basic grant in an amount in excess of $2,400, the amount of a student's basic grant shall equal $2,400 plus—

"(A) one-half of the amount by which such maximum basic grant exceeds $2,400; plus

"(B) the lesser of—

"(i) the remaining one-half of such excess; or

"(ii) the sum of the student's tuition, fees, and if the student has dependent care expenses (as described in section 472(8) or disability-related expenses (as described in section 472(9)), an allowance determined by the institution for such expenses.";

(C) in paragraph (5), by striking "$400, except" and all that follows through "grant of $400" and insert "$200"; and

(D) in paragraph (6)—

(i) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(ii) by inserting "(A)" after the paragraph designation; and

(iii) by adding at the end the following:

"(B) The Secretary shall promulgate regulations implementing this paragraph."; and

(4) in subsection (c)—

(A) by amending paragraph (1) to read as follows: "(1)(A) Except as provided in subparagraph (B), the period during which a student may receive a basic grant shall be the period, required for the completion of the first undergraduate baccalaureate course of study pursued by the student at the institution at which the student is in attendance, that does not exceed 150 percent of the period normally required by a full-time student (or the equivalent period, in the case of a part-time student) to complete the course of study at the institution, as determined by the institution.

"(B) A student may receive basic grants under this subpart for a period that exceeds the period described in subparagraph (A) to the extent the institution in which the student is enrolled determines necessary to accommodate the rights of students with disabilities under section 504 of the Rehabilitation Act of 1973."; and

(B) in paragraph (2)—

(i) by striking "Nothing" and inserting "(A) Except as provided in subparagraph (B), nothing";

(ii) by striking "or, in the case" and all that follows through "or skills"; and

(iii) by adding at the end the following:

"(B)(i) A student may receive a basic grant to attend English language instruction that is a separate course of instruction only if—

"(I) students enrolled in such a course are required to take an independently administered standardized test of English language proficiency upon completion of the course; and

"(II) not less than a minimum percentage of such students achieve a passing score on that test.

"(ii) The Secretary shall promulgate regulations that specify 1 or more standardized tests of English proficiency, the minimum percentage of students who must achieve a passing score on the tests, and such other requirements as the Secretary determines are necessary to implement clause (i).".

SEC. 413. TRIO PROGRAMS.

(a) PROGRAM AUTHORITY.—Section 402A (20 U.S.C. 1070a–11) is amended—

(1) in subsection (b)(3)—

(A) in subparagraph (A), by striking "$170,000 for fiscal year 1993" and inserting "$190,000 for each fiscal year";

(B) in subparagraph (B), by striking "$180,000 for fiscal year 1994" and inserting "$200,000 for each fiscal year"; and

(C) in subparagraph (C), by striking "$190,000 for fiscal year 1995" and inserting "$210,000 for each fiscal year";

(2) in subsection (c)(6), by amending the last sentence to read as follows: "The Secretary shall permit a Director of a program assisted under this chapter to also administer 1 or more additional programs for disadvantaged students operated by the sponsoring entity regardless of the funding source of such additional program."; and

(3) in subsection (f), by striking "$650,000,000 for fiscal year 1993" and inserting "$700,000,000 for fiscal year 1999".

(b) TALENT SEARCH.—Section 402B(b)(5) (20 U.S.C. 1070a–12(b)(5)) is amended by inserting ", or activities designed to acquaint individuals from disadvantaged backgrounds with careers in which the individuals are particularly underrepresented" before the semicolon.

(c) UPWARD BOUND.—Section 402C (20 U.S.C. 1070a–13) is amended—

(1) in subsection (b)—

(A) in paragraph (9), by striking "and" after the semicolon;

(B) by redesignating paragraph (10) as paragraph (11);

(C) by inserting after paragraph (9) the following:

"(10) work-study positions where youth participating in the project are exposed to careers requiring a postsecondary degree; and"; and

(D) in paragraph (11) (as redesignated by subparagraph (B)), by striking "(9)" and inserting "(10)"; and

(2) in subsection (e), by striking "and not in excess of $40 per month during the remaining period of the year." and inserting "except that youth participating in a work-study position under subsection (b)(10) may be paid a stipend of $300 per month during June, July, and August. Youths participating in a project proposed to be carried out under any application may be paid stipends not in excess of $40 per month during the remaining period of the year.".

(d) STUDENT SUPPORT SERVICES.—Paragraph (6) of section 402D(c) (20 U.S.C. 1070a–14(c)(6)) is amended to read as follows:

"(6) consider, in addition to such other criteria as the Secretary may prescribe, the institution's effort, and where applicable past history, in—

"(A) providing sufficient financial assistance to meet the full financial need of each student at the institution; and

"(B) maintaining the loan burden of each such student at a manageable level.".

(e) EVALUATION AND DISSEMINATION.—Section 402H (20 U.S.C. 1070a–18) is amended to read as follows:

"SEC. 402H. EVALUATIONS AND GRANTS FOR PROJECT IMPROVEMENT AND DISSEMINATION PARTNERSHIP PROJECTS.

"(a) EVALUATIONS.—

"(1) IN GENERAL.—For the purpose of improving the effectiveness of the programs and projects assisted under this subpart, the Secretary may make grants to or enter into contracts with institutions of higher education and other public and private institutions and organizations to evaluate the effectiveness of the programs and projects assisted under this subpart.

"(2) PRACTICES.—The evaluations described in paragraph (1) shall identify institutional, community, and program or project practices that are particularly effective in enhancing the access of low-income individuals and first-generation college students to postsecondary education, the preparation of the individuals and students for postsecondary education, and the success of the individuals and students in postsecondary education.

"(b) GRANTS.—The Secretary may award grants to institutions of higher education or other private and public institutions and organizations, that are carrying out a program or project assisted under this subpart prior to the date of enactment of the Higher Education Amendments of 1998, to enable the institutions and organizations to expand and leverage the success of such programs or projects by working in partnership with other institutions, community-based organizations, or combinations of such institutions and organizations, that are not receiving assistance under this subpart and are serving low-income students and first generation college students, in order to—

"(1) disseminate and replicate best practices of programs or projects assisted under this subpart; and

"(2) provide technical assistance regarding programs and projects assisted under this subpart.

"(c) RESULTS.—In order to improve overall program or project effectiveness, the results of evaluations and grants described in this section shall be disseminated by the Secretary to similar programs or projects assisted under this subpart, as well as other individuals concerned with postsecondary access for and retention of low-income individuals and first-generation college students.".

SEC. 414. NATIONAL EARLY INTERVENTION SCHOLARSHIP AND PARTNERSHIP PROGRAM.

Section 404G (20 U.S.C. 1070a–27) is amended by striking "1993" and inserting "1999".

SEC. 415. FEDERAL SUPPLEMENTAL EDUCATIONAL OPPORTUNITY GRANTS.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 413A(b) (20 U.S.C. 1070b) is amended by striking "$675,000,000 for fiscal year 1993" and inserting "$700,000,000 for fiscal year 1999".

(b) USE OF FUNDS FOR LESS-THAN-FULL-TIME STUDENTS.—Subsection (d) of section 413C (20 U.S.C. 1070b–2) is amended to read as follows:

"(d) USE OF FUNDS FOR LESS-THAN-FULL-TIME STUDENTS.—If the institution's allocation under this subpart is directly or indirectly based in part on the financial need demonstrated by *students who are independent students or attending the institution on less than a full-time basis, a reasonable proportion of the allocation shall be made available to such students.".*

(c) CARRYOVER, CARRYBACK, AND REALLOCATION.—Subpart 3 of part A of title IV (20 U.S.C. 1070b et seq.) is amended by adding at the end the following:

"SEC. 413E. CARRYOVER, CARRYBACK, AND REALLOCATION.

"(a) CARRYOVER AUTHORITY.—Of the sums made available to an eligible institution under this subpart for a fiscal year, not more than 10 percent may, at the discretion of the institution, remain available for expenditure during the succeeding fiscal year to carry out the program under this subpart.

"(b) CARRYBACK AUTHORITY.—Of the sums made available to an eligible institution under this subpart for a fiscal year, not more than 10 percent may, at the discretion of the institution, be used by the institution for expenditure for the fiscal year preceding the fiscal year for which the sums were appropriated.

"(c) REALLOCATION.—Any of the sums made available to an eligible institution under this subpart for a fiscal year that are not needed by the institution to award supplemental grants during that fiscal year, that the institution does not wish to use during the succeeding fiscal year as authorized in subsection (a), and that the institution does not wish to use for the preceding fiscal year as authorized in subsection (b), shall be made available to the Secretary for reallocation under section 413D(e) until the end of the second fiscal year after the fiscal year for which such sums were appropriated.".

SEC. 416. LEVERAGING EDUCATIONAL ASSISTANCE PARTNERSHIP PROGRAM.

(a) AMENDMENT TO SUBPART HEADING.—

(1) IN GENERAL.—The heading for subpart 4 of part A of title IV (20 U.S.C. 1070c et seq.) is amended to read as follows:

"SUBPART 4—LEVERAGING EDUCATIONAL ASSISTANCE PARTNERSHIP PROGRAM".

(2) CONFORMING AMENDMENTS.—Subpart 4 of part A of title IV (20 U.S.C. 1070c et seq.) is amended—

(A) in section 415B(b) (20 U.S.C. 1070c–1(b)), by striking "State student grant incentive" and inserting "leveraging educational assistance partnership"; and

*(B) in the heading for section 415C (20 U.S.C. 1070c–2), by striking "**STATE STUDENT INCENTIVE GRANT**" and inserting "**LEVERAGING EDUCATIONAL ASSISTANCE PARTNERSHIP**".*

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 415A(b) (20 U.S.C. 1070c(b)) is amended—

(1) in paragraph (1), by striking "1993" and inserting "1999";

(2) by redesignating paragraph (2) as paragraph (3); and

(3) by inserting after paragraph (1) the following:

"(2) RESERVATION.—For any fiscal year for which the amount appropriated under paragraph (1) exceeds $35,000,000, the excess shall be available to carry out section 415E.".

(c) SPECIAL LEVERAGING EDUCATIONAL ASSISTANCE PARTNERSHIP PROGRAM.—Subpart 4 of part A of title IV (20 U.S.C. 1070c et seq.) is amended—

(1) by redesignating section 415E as 415F;

(2) by inserting after section 415D the following:

"SEC. 415E. SPECIAL LEVERAGING EDUCATIONAL ASSISTANCE PARTNERSHIP PROGRAM.

"(a) IN GENERAL.—From amounts reserved under section 415A(b)(2) for each fiscal year, the Secretary shall—

"(1) make allotments among States in the same manner as the Secretary makes allotments among States under section 415B; and

"(2) award grants to States, from allotments under paragraph (1), to enable the States to pay the Federal share of the cost of the authorized activities described in subsection (c).

"(b) APPLICABILITY RULE.—The provisions of this subpart which are not inconsistent with this section shall apply to the program authorized by this section.

"(c) AUTHORIZED ACTIVITIES.—Each State receiving a grant under this section may use the grant funds for—

"(1) increasing the dollar amount of grants awarded under section 415B to eligible students who demonstrate financial need;

"(2) carrying out transition programs from secondary school to postsecondary education for eligible students who demonstrate financial need;

"(3) making funds available for community service work-study activities for eligible students who demonstrate financial need;

"(4) creating a postsecondary scholarship program for eligible students who demonstrate financial need and wish to enter teaching;

"(5) creating a scholarship program for eligible students who demonstrate financial need and wish to enter a program of study leading to a degree in mathematics, computer science, or engineering;

"(6) carrying out early intervention programs, mentoring programs, and career education programs for eligible students who demonstrate financial need; and

"(7) awarding merit or academic scholarships to eligible students who demonstrate financial need.

"(d) MAINTENANCE OF EFFORT REQUIREMENT.—Each State receiving a grant under this section for a fiscal year shall provide the Secretary an assurance that the aggregate amount expended per student or the aggregate expenditures by the State, from funds derived from non-Federal sources, for the authorized activities described in subsection (c) for the preceding fiscal year were not less than the amount expended per student or the aggregate expenditures by the State for the activities for the second preceding fiscal year.

"(e) FEDERAL SHARE.—The Federal share of the cost of the authorized activities described in subsection (c) for any fiscal year shall be 33⅓ percent."; and

(3) by adding at the end the following:

"SEC. 415G. FEDERAL-STATE RELATIONSHIPS; STATE AGREEMENTS.

"(a) IN GENERAL.—Any State that desires to receive assistance under this subpart shall enter into an agreement with the Secretary pursuant to subsection (b) setting forth the terms and conditions for the relationship between the Federal Government and that State for the purposes set forth under this subpart.

"(b) CONTENTS.—

"(1) IN GENERAL.—Such agreement shall consist of assurances by the State, including a description of the means to be used by the State to fulfill the assurances, that—

"(A) the State will provide for such methods of administration as are necessary for the proper and efficient administration of the program under this subpart in keeping with the purposes set forth under this subpart;

"(B) the State will provide for such fiscal control and fund accounting procedures as may be necessary to ensure proper disbursement of, and accounting for, Federal funds paid to the State under this subpart;

"(C) the State will follow policies and practices of administration that will ensure that non-Federal funds will not be supplanted by Federal funds, and that equitable and appropriate criteria will be used in evaluation of applications or proposals for grants under this subpart; and

"(D) the State has a comprehensive planning or policy formulation process that—

"(i) considers the relation between State administration of the program under this subpart, and administration of similar State programs or processes;

"(ii) encourages State policies designed to consider effects on declining enrollments on all sectors of postsecondary education in the State;

"(iii) considers the postsecondary education needs of unserved and underserved individuals within the State, including individuals beyond the traditional college age;

"(iv) considers the resources of institutions, organizations, or agencies (both public and private) within the State capable of providing postsecondary educational opportunities in the State; and

"(v) provides for direct, equitable, and active participation in the comprehensive planning or policy formulation process or processes of representatives of institutions of higher education (including community colleges, proprietary institutions, and independent colleges and universities), students, other providers of postsecondary education services, and the general public in the State.

"(2) SPECIAL RULE.—Participation under paragraph (1)(D)(v) shall, consistent with State law, be achieved through membership on State planning commissions, State advisory councils, or other State entities established by the State to conduct federally assisted comprehensive planning or policy formulation.

"(c) SPECIAL RULE.—The information and assurances provided by a State in accordance with subparagraphs (A), (B), and (C) of subsection (b)(1), and regulations issued by the Secretary related directly to such assurances, shall be satisfactory for the purposes of, and shall be considered in lieu of, any comparable requirements for information and assurances in any program under this subpart.

"(d) AGREEMENT DURATION; COMPLIANCE.—

"(1) AGREEMENT DURATION.—An agreement of a State shall remain in effect subject to modification as changes in information or circumstances require.

"(2) COMPLIANCE.—Whenever the Secretary, after reasonable notice and opportunity for a hearing has been given to the State, finds that there is a failure to comply substantially with the assurances required in subparagraph (A), (B), or (C) of subsection (b)(1), the Secretary shall notify the State that the State is no longer eligible to participate in the program under this subpart until the Secretary is satisfied that there is no longer any such failure to comply.

"(e) SPECIAL RULES.—

"(1) ENTITIES ENTERING INTO AGREEMENTS.—For the purpose of this section, the selection of the State entity or entities authorized to act on behalf of the State for the purpose of entering into an agreement with the Secretary shall be in accordance with the State law of each individual State with respect to the authority to make legal agreements between the State and the Federal Government.

"(2) CONSTRUCTION.—

"(A) STATE STRUCTURE.—Nothing in this section shall be construed to authorize the Secretary to require any State to adopt, as a condition for entering into an agreement, or for participation in a program under this subpart, a specific State organizational structure for achieving participation in the planning, or administration of programs, or for statewide planning, coordination, governing, regulating, or administering of postsecondary education agencies, institutions, or programs in the State.

"(B) STATE AUTHORITY.—Nothing in this section shall be construed as a limitation on the authority of any State to adopt a State organizational structure for postsecondary education

agencies, institutions, or programs that is appropriate to the needs, traditions, and circumstances of that State, or as a limitation on the authority of a State entering into an agreement pursuant to this section to modify the State organizational structure at any time subsequent to entering into such an agreement.".

(d) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) PURPOSE.—Subsection (a) of section 415A (20 U.S.C. 1070c(a)) is amended to read as follows:

"(a) PURPOSE OF SUBPART.—It is the purpose of this subpart to make incentive grants available to States to assist States in—

"(1) providing grants to—

"(A) eligible students attending institutions of higher education or participating in programs of study abroad that are approved for credit by institutions of higher education at which such students are enrolled; and

"(B) eligible students for campus-based community service work-study; and

"(2) carrying out the activities described in section 415F.".

(2) ALLOTMENT.—Section 415B(a)(1) (20 U.S.C. 1070c–1(a)(1)) is amended by inserting "and not reserved under section 415A(b)(2)" after "415A(b)(1)".

SEC. 417. HEP AND CAMP.

Section 418A(g) (20 U.S.C. 1070d–2(g)) is amended—

(1) in paragraph (1), by striking "$15,000,000 for fiscal year 1993" and inserting "$25,000,000 for fiscal year 1999"; and

(2) in paragraph (2), by striking "$5,000,000 for fiscal year 1993" and inserting "$10,000,000 for fiscal year 1999".

SEC. 418. ROBERT C. BYRD HONORS SCHOLARSHIP PROGRAM.

Section 419K (20 U.S.C. 1070d–41) is amended by striking "$10,000,000 for fiscal year 1993" and inserting "$45,000,000 for fiscal year 1999".

SEC. 419. CHILD CARE ACCESS MEANS PARENTS IN SCHOOL.

Part A of title IV (20 U.S.C. 1070 et seq.) is amended by inserting after subpart 6 (20 U.S.C. 1070d–31 et seq.) the following:

"Subpart 7—Child Care Access Means Parents in School

"SEC. 419N. CHILD CARE ACCESS MEANS PARENTS IN SCHOOL.

"(a) PURPOSE.—The purpose of this section is to support the participation of low-income parents in postsecondary education through the provision of campus-based child care services.

"(b) PROGRAM AUTHORIZED.—

"(1) AUTHORITY.—The Secretary may award grants to institutions of higher education to assist the institutions in providing campus-based child care services primarily to low-income students.

"(2) AMOUNT OF GRANTS.—

"(A) IN GENERAL.—The amount of a grant awarded to an institution of higher education under this section for a fiscal year shall not exceed 1 percent of the total amount of all Federal Pell Grant funds awarded to students enrolled at the institution of higher education for the preceding fiscal year.

"(B) MINIMUM.—A grant under this section shall be awarded in an amount that is not less than $10,000.

"(3) DURATION; RENEWAL; AND PAYMENTS.—

"(A) DURATION.—The Secretary shall award a grant under this section for a period of 3 years.

"(B) RENEWAL.—A grant under this section may be renewed for a period of 3 years.

"(C) PAYMENTS.—Subject to subsection (e)(2), the Secretary shall make annual grant payments under this section.

"(4) ELIGIBLE INSTITUTIONS.—An institution of higher education shall be eligible to receive a grant under this section for a fiscal year if the total amount of all Federal Pell Grant funds awarded to students enrolled at the institution of higher education for the preceding fiscal year equals or exceeds $350,000.

"(5) USE OF FUNDS.—Grant funds under this section shall be used by an institution of higher education to support or establish a campus-based child care program primarily serving the needs of low-income students enrolled at the institution of higher education.

"(6) CONSTRUCTION.—Nothing in this section shall be construed to prohibit an institution of higher education that receives grant funds under this section from serving the child care needs of the community served by the institution.

"(7) DEFINITION OF LOW-INCOME STUDENT.—For the purpose of this section, the term "low-income student" means a student who is eligible to receive a Federal Pell Grant for the fiscal year for which the determination is made.

"(c) APPLICATIONS.—An institution of higher education desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require. Each application shall—

"(1) demonstrate that the institution is an eligible institution described in subsection (b)(4);

"(2) specify the amount of funds requested;

"(3) demonstrate the need of low-income students at the institution for campus-based child care services by including in the application—

"(A) information regarding student demographics;

"(B) an assessment of child care capacity on or near campus;

"(C) information regarding the existence of waiting lists for existing child care;

"(D) information regarding additional needs created by concentrations of poverty or by geographic isolation; and

"(E) other relevant data;

"(4) contain a description of the activities to be assisted, including whether the grant funds will support an existing child care program or a new child care program;

"(5) identify the resources, including technical expertise and financial support, the institution will draw upon to support the child care program and the participation of low-income students in the program, such as accessing social services funding, using student activity fees to help pay the costs of child care, using resources obtained by meeting the needs of parents who are not low-income students, and accessing foundation, corporate or other institutional support, and demonstrate that the use of the resources will not result in increases in student tuition;

"(6) contain an assurance that the institution will meet the child care needs of low-income students through the provision of services, or through a contract for the provision of services;

"(7) describe the extent to which the child care program will coordinate with the institution's early childhood education curriculum, to the extent the curriculum is available, to meet the needs of the students in the early childhood education program at the institution, and the needs of the parents and children participating in the child care program assisted under this section;

"(8) in the case of an institution seeking assistance for a new child care program—

"(A) provide a timeline, covering the period from receipt of the grant through the provision of the child care services, delineating the specific steps the institution will take to achieve the goal of providing low-income students with child care services;

"(B) specify any measures the institution will take to assist low-income students with child care during the period before the institution provides child care services; and

"(C) include a plan for identifying resources needed for the child care services, including space in which to provide child care services, and technical assistance if necessary;

"(9) contain an assurance that any child care facility assisted under this section will meet the applicable State or local government licensing, certification, approval, or registration requirements; and

"(10) contain a plan for any child care facility assisted under this section to become accredited within 3 years of the date the institution first receives assistance under this section.

"(d) PRIORITY.—The Secretary shall give priority in awarding grants under this section to institutions of higher education that submit applications describing programs that—

"(1) leverage significant local or institutional resources, including in-kind contributions, to support the activities assisted under this section; and

"(2) utilize a sliding fee scale for child care services provided under this section in order to support a high number of low-income parents pursuing postsecondary education at the institution.

"(e) REPORTING REQUIREMENTS; CONTINUING ELIGIBILITY.—

"(1) REPORTING REQUIREMENTS.—

"(A) REPORTS.—Each institution of higher education receiving a grant under this section shall report to the Secretary 18 months, and 36 months, after receiving the first grant payment under this section.

"(B) CONTENTS.—The report shall include—

"(i) data on the population served under this section;

"(ii) information on campus and community resources and funding used to help low-income students access child care services;

"(iii) information on progress made toward accreditation of any child care facility; and

"(iv) information on the impact of the grant on the quality, availability, and affordability of campus-based child care services.

"(2) CONTINUING ELIGIBILITY.—The Secretary shall make the third annual grant payment under this section to an institution of higher education only if the Secretary determines, on the basis of the 18-month report submitted under paragraph (1), that the institution is making a good faith effort to ensure that low-income students at the institution have access to affordable, quality child care services.

"(f) CONSTRUCTION.—No funds provided under this section shall be used for construction, except for minor renovation or repair to meet applicable State or local health or safety requirements.

"(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $60,000,000 for fiscal year 1999 and such sums as may be necessary for each of the 4 succeeding fiscal years.".

PART B—FEDERAL FAMILY EDUCATION LOAN PROGRAM

SEC. 421. ADVANCES FOR RESERVE FUNDS.

Section 422 (20 U.S.C. 1072) is amended—

(1) in subsection (c)—

(A) in paragraph (6)(B)(i), by striking "written" and inserting "written, electronic"; and

(B) in paragraph (7)(A), by striking "during the transition from the Federal Family Education Loan Program under this part to the Federal Direct Student Loan Program under part D of this title";

(2) in the matter preceding subparagraph (A) of subsection (g)(1), by striking "or the program authorized by part D of this title" each place the term appears; and

(3) by adding at the end the following:

"(i) ADDITIONAL RECALL OF RESERVES.—

"(1) IN GENERAL.—Notwithstanding any other provision of law and subject to paragraph (4), the Secretary shall recall $40,000,000 for each of the fiscal years 1999, 2000, 2001, 2002, and 2003 from reserve funds held in the Federal Student Loan Reserve Funds established under section 422A by guaranty agencies.

"(2) DEPOSIT.—Funds recalled by the Secretary under this subsection shall be deposited in the Treasury.

"(3) REQUIRED SHARE.—The Secretary shall require each guaranty agency to return reserve funds under paragraph (1) annually on the basis of ⅕ of the agency's required share. For purposes of this paragraph, a guaranty agency's required share shall be determined as follows:

"(A) EQUAL PERCENTAGE.—The Secretary shall require each guaranty agency to return an equal percentage reduction in the amount of reserve funds held by the agency on September 30, 1996.

"(B) CALCULATION.—The equal percentage reduction shall be the percentage obtained by dividing—

"(i) $200,000,000, by

"(ii) the total amount of all guaranty agencies' reserve funds held on September 30, 1996.

"(4) OFFSET OF REQUIRED SHARES.—If any guaranty agency returns to the Secretary any reserve funds in excess of the amount required under this subsection or subsection (h), the total amount required to be returned under paragraph (1) shall be reduced by the amount of such excess reserve funds returned.

"(5) DEFINITION OF RESERVE FUNDS.—The term 'reserve funds' when used with respect to a guaranty agency—

"(A) includes any reserve funds in cash or liquid assets held by the guaranty agency, or held by, or under the control of, any other entity; and

"(B) does not include buildings, equipment, or other nonliquid assets.".

SEC. 422. FEDERAL STUDENT LOAN RESERVE FUND.

Part B of title IV (20 U.S.C. 1071 et seq.) is amended by inserting after section 422 (20 U.S.C. 1072) the following:

"SEC. 422A. FEDERAL STUDENT LOAN RESERVE FUND.

"(a) ESTABLISHMENT.—Each guaranty agency shall, not later than 45 days after the date of enactment of this section, deposit all funds, securities, and other liquid assets contained in the reserve fund established pursuant to section 422 into a Federal Student Loan Reserve Fund (in this section referred to as the 'Federal Fund'), in an account of a type selected by the agency, with the approval of the Secretary.

"(b) INVESTMENT OF FUNDS.—Funds transferred to the Federal Fund shall be invested in obligations issued or guaranteed by the United States or a State, or in other similarly low-risk securities selected by the guaranty agency, with the approval of the Secretary. Earnings from the Federal Fund shall be the sole property of the Federal Government.

"(c) ADDITIONAL DEPOSITS.—After the establishment of the Federal Fund, a guaranty agency shall deposit into the Federal Fund—

"(1) all amounts received from the Secretary as payment of reinsurance on loans pursuant to section 428(c)(1);

"(2) from amounts collected on behalf of the obligation of a defaulted borrower, a percentage amount equal to the complement of the reinsurance percentage in effect when payment under the guaranty agreement was made with respect to the defaulted loan pursuant to section 428(c)(6)(A)(i); and

"(3) the amount of the insurance premium collected from borrowers pursuant to section 428(b)(1)(H).

"(d) USES OF FUNDS.—Subject to subsection (f), the Federal Fund may only be used by a guaranty agency—

"(1) to pay lender claims pursuant to sections 428(b)(1)(G), 428(j), 437, and 439(q); and

"(2) to pay into the Agency Operating Fund established pursuant to section 422B a default prevention fee in accordance with section 428(l).

"(e) OWNERSHIP OF FEDERAL FUND.—The Federal Fund administered by the guaranty agency, regardless of who holds or controls the reserve funds or assets, and any nonliquid assets that were purchased with Federal reserve funds, shall be considered to be the property of the United States to be used in the operation of the program authorized by this part, as provided in subsection (d). The Secretary may direct a guaranty agency, or such agency's officers or directors, to cease any activity involving expenditure, use, or transfer of the Federal Fund administered by the guaranty agency that the Secretary determines is a misapplication, misuse, or improper expenditure of such funds or assets.

"(f) TRANSITION.—

"(1) IN GENERAL.—In order to establish the Agency Operating Fund established by section 422B, each agency may transfer not more than 180 days cash expenses for normal operating expenses, as a working capital reserve as defined in Office of Management and Budget Circular A–87 (Cost Accounting Standards) for use in the performance of the agency's duties under this part. Such transfers may occur during the first 3 years following the establishment of the Agency Operating Fund, except that no agency may transfer in excess of 40 percent of the Federal Fund balance to the agency's Agency Operating Fund during any fiscal year. In determining the amount necessary for transfer, the agency shall assure that sufficient funds remain in the Federal Fund to pay lender claims within the required time periods and to meet the reserve funds recall requirements of subsection (b).

"(2) REPAYMENT PROVISIONS.—Each guaranty agency shall begin repayment of sums transferred pursuant to this subsection not later than 3 years after the establishment of the Agency Operating Fund, and shall repay all sums transferred not later than 5 years from the date of the establishment of the Agency Operating Fund. The guaranty agency shall provide to the Secretary a schedule for repayment of the sums transferred and an annual financial analysis demonstrating the agency's ability to comply with the schedule and repay all outstanding sums transferred.

"(3) PROHIBITION.—If a guaranty agency transfers funds from the Federal Fund in accordance with this section, and fails to make scheduled repayments to the Federal Fund, the agency may not receive any other funds under this part until the Secretary determines that the agency has made such repayments.

"(4) WAIVER.—The Secretary may waive the requirements of paragraph (3) for a guaranty agency described in such paragraph if the Secretary determines there are extenuating circumstances beyond the control of the agency that justify such a waiver.

"(5) INVESTMENT OF FEDERAL FUNDS.—Funds transferred from the Federal Fund to the Agency Operating Fund for operating expenses shall be invested in obligations issued or guaranteed by the United States or a State, or in other similarly low-risk securities selected by the guaranty agency, with the approval of the Secretary.

"(6) SPECIAL RULE.—In applying the minimum reserve level required by section 428(c)(9)(A), the Secretary shall include all amounts owed to the Federal Fund by the guaranty agency in the calculation.".

SEC. 423. AGENCY OPERATING FUND.

Part B of title IV (20 U.S.C. 1071 et seq.) is amended further by inserting after section 422A (as added by section 422) the following:

"SEC. 422B. AGENCY OPERATING FUND.

"(a) ESTABLISHMENT.—Each guaranty agency shall, not later than 45 days after the date of enactment of this section, establish a fund designated as the Agency Operating Fund (in this section referred to as the 'Operating Fund').

"(b) INVESTMENT OF FUNDS.—Funds deposited into the Operating Fund, with the exception of funds transferred from the Federal Student Loan Reserve Fund pursuant to section 422A(f), shall be invested at the discretion of the guaranty agency.

"(c) ADDITIONAL DEPOSITS.—After the establishment of the Operating Fund, the guaranty agency shall deposit into the Operating Fund—

"(1) the loan processing and issuance fee paid by the Secretary pursuant to section 428(f);

"(2) the portfolio maintenance fee paid by the Secretary in accordance with section 458;

"(3) the default prevention fee paid in accordance with section 428(l); and

"(4) amounts remaining pursuant to section 428(c)(6)(A)(ii) from collection on defaulted loans held by the agency, after payment of the Secretary's equitable share, excluding amounts deposited in the Federal Student Loan Reserve Fund pursuant to section 422A(c)(2).

"(d) USES OF FUNDS.—

"(1) IN GENERAL.—Funds in the Operating Fund shall be used for application processing, loan disbursement, enrollment and repayment status management, default prevention activities (including those described in section 422(h)(8), default collection activities, school and lender training, compliance monitoring, and other student financial aid related activities as determined by the Secretary.

"(2) SPECIAL RULE.—The guaranty agency may, in the agency's discretion, transfer funds from the Operating Fund to the Federal Student Loan Reserve Fund for use pursuant to section 422A. Such transfer shall be irrevocable, and any funds so transferred shall become the sole property of the United States.

"(3) DEFINITIONS.—For purposes of this subsection:

"(A) DEFAULT COLLECTION ACTIVITIES.—The term 'default collection activities' means activities of a guaranty agency that are directly related to the collection of the loan on which a default claim has been paid to the participating lender, including the attributable compensation of collection personnel (and in the case of personnel who perform several functions for such an agency only the portion of the compensation attributable to the collection activity), attorney's fees, fees paid to collection agencies, postage, equipment, supplies, telephone, and similar charges.

"(B) DEFAULT PREVENTION ACTIVITIES.—The term 'default prevention activities' means activities of a guaranty agency, including those described in section 422(h)(8), that are directly related to providing collection assistance to the lender on a delinquent loan, prior to the loan's being in a default status, including the attributable compensation of appropriate personnel (and in the case of personnel who perform several functions for such an agency only the portion of compensation attributable to the default prevention activity), fees paid to locate a missing borrower, postage, equipment, supplies, telephone, and similar charges.

"(C) ENROLLMENT AND REPAYMENT STATUS MANAGEMENT.—The term 'enrollment and repayment status management' means activities of a guaranty agency that are directly related to ascertaining the student's enrollment status, including prompt notification to the lender of such status, an audit of the note or written agreement to determine if the provisions of that note or agreement are consistent with the records of the guaranty agency as to the principal amount of the loan guaranteed, and an examination of the note or agreement to assure that the repayment provisions are consistent with the provisions of this title.

"(e) OWNERSHIP OF OPERATING FUND.—The Operating Fund, with the exception of funds transferred from the Federal Student Loan Reserve Fund in accordance with section 422A(f), shall be considered to be the property of the guaranty agency. The Secretary may not regulate the uses or expenditure of moneys in the Operating Fund, but the Secretary may require such necessary reports and audits as provided in section 428(b)(2). However, during any period in which funds are owed to the Federal Student Loan Reserve Fund as a result of transfer under 422A(f), moneys in the Operating Fund may only be used for expenses related to the student loan programs authorized under this part.

"(f) AUTHORITY OF SECRETARY TO DISPOSE OF NONLIQUID ASSETS.—The Secretary may allow a guaranty agency to purchase nonliquid assets of the agency originally acquired with student loan reserve funds, except that an agency may not purchase any nonliquid assets during any period in which funds are owed to the Federal Student Loan Reserve Fund as a result of a transfer under section 422A(f). The purchase amount shall be available for expenditure under section 458.".

SEC. 424. APPLICABLE INTEREST RATES.

(a) APPLICABLE INTEREST RATES.—

(1) AMENDMENT.—Section 427A (20 U.S.C. 1077a et seq.) is amended to read as follows:

"SEC. 427A. APPLICABLE INTEREST RATES.

"(a) INTEREST RATES FOR NEW LOANS ON OR AFTER JULY 1, 1998.—

"(1) IN GENERAL.—Subject to paragraph (2), with respect to any loan made, insured, or guaranteed under this part (other than a loan made pursuant to section 428B or 428C) for which the first disbursement is made on or after July 1, 1998, the applicable rate of interest shall, during any 12-month period beginning on July 1 and ending on June 30, be determined on the preceding June 1 and be equal to—

"(A) the bond equivalent rate of 91-day Treasury bills auctioned at the final auction held prior to such June 1; plus

"(B) 2.3 percent,

except that such rate shall not exceed 8.25 percent.

"(2) IN SCHOOL AND GRACE PERIOD RULES.—With respect to any loan under this part (other than a loan made pursuant to section 428B or 428C) for which the first disbursement is made on or after July 1, 1998, the applicable rate of interest for interest which accrues—

"(A) prior to the beginning of the repayment period of the loan; or

"(B) during the period in which principal need not be paid (whether or not such principal is in fact paid) by reason of a provision described in section 428(b)(1)(M) or 427(a)(2)(C),

shall be determined under paragraph (1) by substituting '1.7 percent' for '2.3 percent'.

"(3) PLUS LOANS.—With respect to any loan under section 428B for which the first disbursement is made on or after July 1, 1998, the applicable rate of interest shall be determined under paragraph (1)—

"(A) by substituting '3.1 percent' for '2.3 percent'; and

"(B) by substituting '9.0 percent' for '8.25 percent'.

"(b) LESSER RATES PERMITTED.—Nothing in this section or section 428C shall be construed to prohibit a lender from charging a borrower interest at a rate less than the rate which is applicable under this part.

"(c) CONSULTATION.—The Secretary shall determine the applicable rate of interest under this section after consultation with the Secretary of the Treasury and shall publish such rate in the Federal Register as soon as practicable after the date of determination.".

(2) CONFORMING AMENDMENT.—Section 428B(d)(4) (20 U.S.C. 1078–2(d)(4)) is amended by striking "section 427A(c)" and inserting "section 427A(a)(3)".

(b) SPECIAL ALLOWANCES.—

(1) AMENDMENT.—Section 438(b)(2)(F) (20 U.S.C. 1087–1(b)(2)(F)) is amended to read as follows:

"(F) LOANS DISBURSED AFTER JULY 1, 1998.—

"(i) IN GENERAL.—Subject to paragraph (4) and clauses (ii), (iii), and (iv) of this subparagraph, the special allowance paid pursuant to this subsection on loans for which the first disbursement is made on or after July 1, 1998, shall be computed—

"(I) by determining the average of the bond equivalent rates of 91-day Treasury bills auctioned for such 3-month period;

"(II) by subtracting the applicable interest rates on such loans from such average bond equivalent rate;

"(III) by adding 2.8 percent to the resultant percent; and

"(IV) by dividing the resultant percent by 4.

"(ii) IN SCHOOL AND GRACE PERIOD.—In the case of any loan for which the first disbursement is made on or after July 1, 1998, and for which the applicable rate of interest is described in section 427A(a)(2), clause (i)(III) of this subparagraph shall be applied by substituting '2.2 percent' for '2.8 percent'.

"(iii) PLUS LOANS.—In the case of any loan for which the first disbursement is made on or after July 1, 1998, and for which the applicable rate of interest is described in section 427A(a)(3), clause (i)(III) of this subparagraph shall be applied by substituting '3.1 percent' for '2.8 percent', subject to clause (iv) of this subparagraph.

"(iv) LIMITATION ON SPECIAL ALLOWANCES FOR PLUS LOANS.—In the case of loans disbursed on or after July 1, 1998, for which the interest rate is determined under section 427A(a)(3), a special allowance shall not be paid for a loan made under section 428B unless the rate determined for any 12-month period under section 427A(a)(3) exceeds 9 percent.".

(2) CONFORMING AMENDMENT.—Section 438(b)(2)(C)(ii) is amended by striking "In the case" and inserting "Subject to subparagraph (F), in the case".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to any loan made, insured, or guaranteed under part B of title IV of the Higher Education Act of 1965 for which the first disbursement is made on or after July 1, 1998.

SEC. 425. FEDERAL PAYMENTS TO REDUCE STUDENT INTEREST COSTS.

(a) FEDERAL INTEREST SUBSIDIES.—Section 428(a) (20 U.S.C. 1078(a)) is amended—

(1) in paragraph (2)—

(A) in subparagraph (A)—

(i) in clause (i), by striking subclauses (I), (II), and (III) and inserting the following:

"(I) sets forth the loan amount for which the student shows financial need; and

"(II) sets forth a schedule for disbursement of the proceeds of the loan in installments, consistent with the requirements of section 428G; and"; and

(ii) by amending clause (ii) to read as follows:

"(ii) meets the requirements of subparagraph (B); and";

(B) by amending subparagraph (B) to read as follows:

"(B) For the purpose of clause (ii) of subparagraph (A), a student shall qualify for a portion of an interest payment under paragraph (1) (and a loan amount pursuant to section 428H) if the eligible institution has determined and documented the student's amount of need for a loan based on the student's estimated cost of attendance, estimated financial assistance, and, for the purpose of an interest payment pursuant to this section, the expected family contribution (as determined under part F), subject to the provisions of subparagraph (D).";

(C) by amending subparagraph (C) to read as follows:

"(C) For the purpose of subparagraph (B) and this paragraph—

"(i) a student's cost of attendance shall be determined under section 472;

"(ii) a student's estimated financial assistance means, for the period for which the loan is sought, the amount of assistance such student will receive under subpart 1 of part A (as determined in accordance with section 484(b)), subpart 3 of part A, parts C and E, and any veterans' education benefits paid because of enrollment in a postsecondary education institution, including veterans' education benefits (as defined in section 480(c)), plus other scholarship, grant, or loan assistance; and

"(iii) the determination of need and of the amount of a loan by an eligible institution under subparagraph (B) with respect to a student shall, with the exception of loans made under section 428H, be calculated in accordance with part F."; and

(D) by striking subparagraph (F); and

(2) in paragraph (3)(A)(v)—

(A) in subclause (I), by inserting "by the institution" after "disbursement"; and

(B) in clause (II), by inserting "by the institution" after "disbursement".

(b) INSURANCE PROGRAM AGREEMENTS.—Section 428(b) (20 U.S.C. 1078(b)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (A)—

(i) in the matter preceding clause (i), by inserting ", as defined in section 481(d)(2)," after "academic year";

(ii) in clause (iv), by striking "and" after the semicolon;

(iii) in clause (v), by inserting "and" after the semicolon; and

(iv) by inserting before the matter following clause (v) the following:

"(vi) in the case of a student enrolled in coursework specified in sections 484(b)(3)(B) and 484(b)(4)(B)—

"(I) $2,625 for coursework necessary for enrollment in an undergraduate degree or certificate program, and $5,500 for coursework necessary for enrollment in a graduate or professional degree or certification program; and

"(II) $5,500 for coursework necessary for a professional credential or certification from a State required for employment as a teacher in an elementary or secondary school;";

(B) by amending subparagraph (E) to read as follows:

"(E) subject to subparagraphs (D) and (L), and except as provided by subparagraph (M), provides that—

"(i) not more than 6 months prior to the date on which the borrower's first payment is due, the lender shall offer the borrower of a loan made, insured, or guaranteed under this section or section 428H, the option of repaying the loan in accordance with a graduated, income-sensitive, or extended repayment schedule (as described in paragraph (9)) established by the lender in accordance with regulations provided by the Secretary; and

"(ii) repayment of loans shall be in installments in accordance with the repayment plan selected under paragraph (9) and commencing at the beginning of the repayment period determined under paragraph (7)";

(C) in subparagraph (L)(i), by inserting "except as otherwise provided by a repayment plan selected by the borrower under clause (ii) or (iii) of paragraph (9)(A)," before "during any"; and

(D) in subparagraph (U)(iii)(I), by inserting "that originates or holds more than $5,000,000 in *loans made under this title for any fiscal year (except that each lender described in section 435(d)(1)(A)(ii)(III) shall annually submit the results of an audit required by this clause)," before "at least once a year"; and*

(2) by adding at the end the following:

"(9) Repayment Plans.—

"(A) Design and Selection.—In accordance with regulations promulgated by the Secretary, the lender shall offer a borrower of a loan made under this part the plans described in this subparagraph for repayment of such loan, including principal and interest thereon. Except as provided in paragraph (1)(L)(i), no plan may require a borrower to repay a loan in less than 5 years. The borrower may choose from—

"(i) a standard repayment plan, with a fixed annual repayment amount paid over a fixed period of time, not to exceed 10 years;

"(ii) a graduated repayment plan paid over a fixed period of time, not to exceed 10 years;

"(iii) an income-sensitive repayment plan, with income-sensitive repayment amounts paid over a fixed period of time, not to exceed 10 years, except that the borrower's scheduled payments shall not be less than the amount of interest due; and

"(iv) for first-time borrowers on or after the date of enactment of the Higher Education Amendments of 1998 with outstanding loans under this part totaling more than $30,000, an extended repayment plan, with a fixed annual or graduated repayment amount paid over an extended period of time, not to exceed 25 years, except that the borrower shall repay annually a minimum amount determined in accordance with paragraph (2)(L).

"(B) Lender Selection of Option if Borrower Does Not Select.—If a borrower of a loan made under this part does not select a repayment plan described in subparagraph (A), the lender shall provide the borrower with a repayment plan described in subparagraph (A)(i).

"(C) Changes in Selection.—The borrower of a loan made under this part may change the borrower's selection of a repayment plan under subparagraph (B), as the case may be, under such conditions as may be prescribed by the Secretary in regulation.

"(D) Acceleration Permitted.—Under any of the plans described in this paragraph, the borrower shall be entitled to accelerate, without penalty, repayment on the borrower's loans under this part.".

(c) Guaranty Agreements for Reimbursing Losses.—Section 428(c) (20 U.S.C. 1078(c)) is amended—

(1) in paragraph (1)—

(A) in the fourth sentence of subparagraph (A), by striking "as reimbursement under this subsection shall be equal to 98 percent" and inserting "as reimbursement for loans for which the first disbursement is made on or after the date of enactment of the Higher Education Amendments of 1998 shall be equal to 95 percent";

(B) in subparagraph (B)—

(i) in clause (i), by striking "88 percent of the amount of such excess" and inserting "85 percent of the amount of such excess for loans for which the first disbursement is made on or after the date of enactment of the Higher Education Amendments of 1998"; and

(ii) in clause (ii), by striking "78 percent of the amount of such excess" and inserting "75 percent of the amount of such excess for loans for which the first disbursement is made on or after the date of enactment of the Higher Education Amendments of 1998";

(C) in subparagraph (E)—

(i) in clause (i), by striking "98 percent" and inserting "95 percent";

(ii) in clause (ii), by striking "88 percent" and inserting "85 percent"; and

(iii) in clause (iii), by striking "78 percent" and inserting "75 percent"; and

(D) in subparagraph (F)—

(i) in clause (i), by striking "98 percent" and inserting "95 percent"; and

(ii) in clause (ii), by striking "88 percent" and inserting "85 percent";

(2) in paragraph (3)—

(A) in subparagraph (A)(i), by inserting "or electronic" after "written";

(B) in subparagraph (B), by striking "and" after the semicolon;

(C) in subparagraph (C), by striking the period and inserting "; and"; and

(D) by inserting before the matter following subparagraph (C) the following:

"(D) shall contain provisions that specify that forbearance for a period not to exceed 60 days may be granted if the lender determines that such a suspension of collection activity is warranted following a borrower's request for forbearance in order to collect or process appropriate supporting documentation related to the request, and that during such period interest shall not be capitalized.";

(3) by amending paragraph (6) to read as follows:

"(6) Secretary's Equitable Share.—For the purpose of paragraph (2)(D), the Secretary's equitable share of payments made by the borrower shall be that portion of the payments remaining after the guaranty agency with which the Secretary has an agreement under this subsection has deducted from such payments—

"(A) a percentage amount equal to the complement of the reinsurance percentage in effect when payment under the guaranty agreement was made with respect to the loan; and

"(B) an amount equal to 24 percent of such payments for use in accordance with section 422B.";

(4) in paragraph (8)—

(A) by striking "(A) If" and inserting "If"; and

(B) by striking subparagraph (B); and

(5) in paragraph (9)—

(A) in subparagraph (A), by striking "maintain a current minimum reserve level of at least .5 percent" and inserting "maintain in the agency's Federal Student Loan Reserve Fund established under section 422A a current minimum reserve level of at least 0.25 percent";

(B) in subparagraph (C)—

(i) by striking "80 percent" and inserting "78 percent";

(ii) by striking ", as appropriate,"; and

(iii) by striking "30 working" and inserting "45 working";

(C) in subparagraph (E)—

(i) in clause (iv), by inserting "or" after the semicolon;

(ii) in clause (v), by striking "; or" and inserting a period; and

(iii) by striking clause (vi);

(D) in subparagraph (F), by amending clause (vii) to read as follows:

"(vii) take any other action the Secretary determines necessary to avoid disruption of the student loan program, to ensure the continued availability of loans made under this part to residents of each State in which the guaranty agency did business, to ensure the full honoring of all guarantees issued by the guaranty agency prior to the Secretary's assumption of the functions of such agency, and to ensure the proper servicing of loans guaranteed by the guaranty agency prior to the Secretary's assumption of the functions of such agency."; and

(E) in subparagraph (K), by striking "and the progress of the transition from the loan programs under this part to the direct student loan programs under part D of this title".

(d) Payment for Lender Referral Services.—Subsection (e) of section 428 (20 U.S.C. 1078) is repealed.

(e) Payment of Certain Costs.—Subsection (f) of section 428 (20 U.S.C. 1078) is amended to read as follows:

"(f) Payments of Certain Costs.—

"(1) Payment for Certain Activities.—

"(A) In General.—The Secretary, for loans originated on or after October 1, 1998, and in accordance with the provisions of this paragraph, shall pay to each guaranty agency, a loan processing and issuance fee equal to 0.65 percent of the total principal amount of the loans on which insurance was issued under this part during such fiscal year by such agency.

"(B) Payment.—The payment required by subparagraph (A) shall be paid on a quarterly basis. The guaranty agency shall be deemed to have a contractual right against the United States to receive payments according to the provisions of this subparagraph. Payments shall be made promptly and without administrative delay to any guaranty agency submitting an accurate and complete application therefore under this subparagraph.".

(f) Lenders-of-Last-Resort.—Paragraph (3) of section 428(j) (20 U.S.C. 1078(j)) is amended—

(1) in the paragraph heading, by striking "During Transition to Direct Lending"; and

(2) in subparagraph (A), by striking "during the transition from the Federal Family Education Loan Program under this part to the Federal Direct Student Loan Program under part D of this title";

(g) Default Aversion Assistance.—Subsection (l) of section 428 (20 U.S.C. 1078) is amended to read as follows:

"(l) Default Aversion Assistance.—

"(1) Assistance Required.—Upon receipt of a proper request from the lender not earlier than the 60th nor later than the 90th day of delinquency, a guaranty agency having an agreement with the Secretary under subsection (c) shall engage in default aversion activities designed to prevent the default by a borrower on a loan covered by such agreement.

"(2) Default Prevention Fee Required.—

"(A) In General.—A guaranty agency, in accordance with the provisions of this paragraph, may transfer from the Federal Student Loan Reserve Fund to the Agency Operating Fund a default prevention fee. Such fee shall be paid for any loan on which a claim for default has not been presented that the guaranty agency successfully brings into current repayment status on or before the 210th day after the loan becomes 60 days delinquent.

"(B) Amount.—The default prevention fee shall be equal to 1 percent of the total unpaid principal and accrued interest on the loan calculated at the time the request is submitted by the lender. Such fee shall not be paid more than once on any loan for which the guaranty agency averts the default unless the borrower remained current in payments for at least 24 months prior to the subsequent delinquency. A guaranty agency may transfer such fees earned under this subsection not more frequently than monthly.

"(C) Definition of Current Repayment Status.—For the purpose of this paragraph, the term 'current repayment status' means that the borrower is not delinquent, in any respect, in the payment of principal and interest on the loan at the time the guaranty agency qualifies for the default prevention fee.".

(h) State Share of Default Costs.—Subsection (n) of section 428 (20 U.S.C. 1078) is repealed.

SEC. 426. VOLUNTARY FLEXIBLE AGREEMENTS WITH GUARANTY AGENCIES.

Part B of title IV (20 U.S.C. 1071 et seq.) is amended by inserting after section 428 (20 U.S.C. 1078) the following:

"SEC. 428A. VOLUNTARY FLEXIBLE AGREEMENTS WITH GUARANTY AGENCIES.

"(a) Voluntary Agreements.—

"(1) AUTHORITY.—The Secretary may enter into a voluntary, flexible agreement, subject to paragraph (2), with guaranty agencies under this section, in lieu of agreements with a guaranty agency under subsections (b) and (c) of section 428. The Secretary may waive or modify any requirement under such subsections, except that the Secretary may not waive any statutory requirement pertaining to the terms and conditions attached to student loans, default claim payments made to lenders, or the prohibitions on inducements contained in section 428(b)(3).

"(2) ELIGIBILITY.—During fiscal years 1999, 2000, and 2001, the Secretary may enter into a voluntary, flexible agreement with not more than 6 guaranty agencies that had 1 or more agreements with the Secretary under subsections (b) and (c) of section 428 as of the day before the date of enactment of the Higher Education Amendments of 1998. Beginning in fiscal year 2002, any guaranty agency or consortium thereof may enter into a similar agreement with the Secretary.

"(3) REPORT REQUIRED.—Not later than September 30, 2001, the Secretary shall report to the Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives regarding the impact that the voluntary flexible agreements have had upon program integrity, program and cost efficiencies, and the availability and delivery of student financial aid. Such report shall include—

"(A) a description of each voluntary flexible agreement and the performance goals established by the Secretary for each agreement;

"(B) a list of participating guaranty agencies and the specific statutory or regulatory waivers provided to each guaranty agency;

"(C) a description of the standards by which each agency's performance under the agency's voluntary flexible agreement was assessed and the degree to which each agency achieved the performance standards; and

"(D) an analysis of the fees paid by the Secretary, and the costs and efficiencies achieved under each voluntary agreement.

"(b) TERMS OF AGREEMENT.—An agreement between the Secretary and a guaranty agency under this section—

"(1) shall be developed by the Secretary, in consultation with the guaranty agency, on a case-by case basis;

"(2) may be secured by the parties;

"(3) may include provisions—

"(A) specifying the responsibilities of the guaranty agency under the agreement, such as—

"(i) administering the issuance of insurance on loans made under this part on behalf of the Secretary;

"(ii) monitoring insurance commitments made under this part;

"(iii) default aversion activities;

"(iv) review of default claims made by lenders;

"(v) payment of default claims;

"(vi) collection of defaulted loans;

"(vii) adoption of internal systems of accounting and auditing that are acceptable to the Secretary, and reporting the result thereof to the Secretary in a timely manner, and on an accurate, and auditable basis;

"(viii) timely and accurate collection and reporting of such other data as the Secretary may require to carry out the purposes of the programs under this title;

"(ix) monitoring of institutions and lenders participating in the program under this part;

"(x) the performance of other program functions by the guaranty agency or the agency's affiliates; and

"(xi) informational outreach to schools and students in support of access to higher education;

"(B) regarding the fees the Secretary shall pay, in lieu of revenues that the guaranty agency may otherwise receive under this part, to the guaranty agency under the agreement, and other funds that the guaranty agency may receive or retain under the agreement, except that in no case may the cost to the Secretary of the agreement, as reasonably projected by the Secretary, exceed the cost to the Secretary, as similarly projected, in the absence of the agreement;

"(C) regarding the use of net revenues, as described in the agreement under this section, for such other activities in support of postsecondary education as may be agreed to by the Secretary and the guaranty agency;

"(D) regarding the standards by which the guaranty agency's performance of the agency's responsibilities under the agreement will be assessed, and the consequences for a guaranty agency's failure to achieve a specified level of performance on one or more performance standards;

"(E) regarding the circumstances in which a guaranty agency's agreement under this section may be ended in advance of the agreement's expiration date;

"(F) regarding such other businesses, previously purchased or developed with reserve funds, that relate to the program under this part and in which the Secretary permits the guaranty agency to engage; and

"(G) such other provisions as the Secretary may determine to be necessary to protect the United States from the risk of unreasonable loss and to promote the purposes of this part; and

"(4) shall provide for uniform lender participation with the guaranty agency under the terms of the agreement.

"(c) TERMINATION.—At the expiration or early termination of an agreement under this section, the Secretary shall reinstate the guaranty agency's prior agreements under subsections (b) and (c) of section 428, subject only to such additional requirements as the Secretary determines to be necessary in order to ensure the efficient transfer of responsibilities between the agreement under this section and the agreements under subsections (b) and (c) of section 428, and including the guaranty agency's compliance with reserve requirements under sections 422 and 428.".

SEC. 427. FEDERAL PLUS LOANS.

Section 428B (20 U.S.C. 1078–2) is amended—

(1) by amending subsection (a) to read as follows:

"(a) AUTHORITY TO BORROW.—

"(1) AUTHORITY AND ELIGIBILITY.—Parents of a dependent student shall be eligible to borrow funds under this section in amounts specified in subsection (b), if—

"(A) the parents do not have an adverse credit history as determined pursuant to regulations promulgated by the Secretary; and

"(B) the parents meet such other eligibility criteria as the Secretary may establish by regulation, after consultation with guaranty agencies, eligible lenders, and other organizations involved in student financial assistance.

"(2) TERMS, CONDITIONS, AND BENEFITS.—Except as provided in subsections (c), (d), and (e), loans made under this section shall have the same terms, conditions, and benefits as all other loans made under this part.

"(3) SPECIAL RULE.—Whenever necessary to carry out the provisions of this section, the terms "student" and "borrower" as used in this part shall include a parent borrower under this section."; and

(2) by adding at the end the following:

"(f) VERIFICATION OF IMMIGRATION STATUS AND SOCIAL SECURITY NUMBER.—A parent who wishes to borrow funds under this section shall be subject to verification of the parent's—

"(1) immigration status in the same manner as immigration status is verified for students under section 484(g); and

"(2) social security number in the same manner as social security numbers are verified for students under section 484(p).".

SEC. 428. FEDERAL CONSOLIDATION LOANS.

Section 428C(a)(3) (20 U.S.C. 1078–3(a)(3)) is amended—

(1) by amending subparagraph (A) to read as follows: "(A) For the purpose of this section, the term 'eligible borrower' means a borrower who—

"(i) is not subject to a judgment secured through litigation or an order for wage garnishment under section 488A; or

"(ii) at the time of application for a consolidation loan—

"(I) is in repayment status;

"(II) is in a grace period preceding repayment; or

"(III) is a defaulted borrower who has made arrangements to repay the obligation on the defaulted loans satisfactory to the holders of the defaulted loans."; and

(2) in subparagraph (B)(i)—

(A) in subclause (I), by striking "and" after the semicolon;

(B) by redesignating subclause (II) as subclause (III);

(C) by inserting after subclause (I) the following:

"(II) with respect to eligible student loans received prior to the date of consolidation that the borrower may wish to include with eligible loans specified in subclause (I) in a later consolidation loan; and"; and

(D) in subclause (III) (as redesignated by subparagraph (B)—

(i) by striking "that loans" and inserting "with respect to loans"; and

(ii) by inserting "that" before "may be added".

SEC. 429. REQUIREMENTS FOR DISBURSEMENTS OF STUDENT LOANS.

Section 428G (20 U.S.C. 1078G) is amended—

(1) in subsection (a)(1), by striking "The proceeds" and inserting "Except for a loan made for the final period of enrollment, that is less than an academic year, in a student's baccalaureate program of study, at an institution with a cohort default rate (as calculated under section 435(m)) that is 5 percent or less, the proceeds"; and

(2) in subsection (b)(1), by striking "The first" and inserting "Except for a loan made to a student borrower entering an institution with a cohort default rate (as calculated under section 435(m)) of less than 5 percent, the first".

SEC. 430. DEFAULT REDUCTION PROGRAM.

The heading for subsection (b) of section 428F (20 U.S.C. 1078–6) is amended by striking "SPECIAL RULE" and inserting "SATISFACTORY REPAYMENT ARRANGEMENTS TO RENEW ELIGIBILITY".

SEC. 431. UNSUBSIDIZED LOANS.

Section 428H (20 U.S.C. 1078–8) is amended—

(1) by amending subsection (b) to read as follows:

"(b) ELIGIBLE BORROWERS.—Any student meeting the requirements for student eligibility under section 484 (including graduate and professional students as defined in regulations promulgated by the Secretary) shall be entitled to borrow an unsubsidized Stafford loan if the eligible institution at which the student has been accepted for enrollment, or at which the student is in attendance, has—

"(1) determined and documented the student's need for the loan based on the student's estimated cost of attendance (as determined under section 472) and the student's estimated financial assistance, including a loan which qualifies for interest subsidy payments under section 428; and

"(2) provided the lender a statement—

"(A) certifying the eligibility of the student to receive a loan under this section and the

amount of the loan for which such student is eligible, in accordance with subsection (c); and

"(B) setting forth a schedule for disbursement of the proceeds of the loan in installments, consistent with the requirements of section 428G.";

(2) in subsection (d)—

(A) in paragraph (2)—

(i) in the matter preceding subparagraph (A)—

(I) by inserting ", as defined in section 481(d)(2)," after "academic year"; and

(II) by striking "or in any period of 7 consecutive months, whichever is longer,";

(ii) in subparagraph (C), by inserting "and" after the semicolon; and

(iii) by inserting before the matter following subparagraph (C) the following:

"(D) in the case of a student enrolled in coursework specified in sections 484(b)(3)(B) and 484(b)(4)(B)—

"(i) $4,000 for coursework necessary for enrollment in an undergraduate degree or certificate program, and $5,000 for coursework necessary for enrollment in a graduate or professional program; and

"(ii) $5,000 for coursework necessary for a professional credential or certification from a State required for employment as a teacher in an elementary or secondary school;"; and

(B) in paragraph (3), by adding at the end the following: "The maximum aggregate amount shall not include interest capitalized from an in-school period."; and

(3) in subsection (e)(6), by striking "10 year repayment period under section 428(b)(1)(D)" and inserting "repayment period under section 428(b)(9)".

SEC. 432. LOAN FORGIVENESS FOR TEACHERS

Section 428J (20 U.S.C. 1078–10) is amended to read as follows:

"SEC. 428J. LOAN FORGIVENESS FOR TEACHERS.

"(a) Statement of Purpose.—It is the purpose of this section to encourage individuals to enter and continue in the teaching profession.

"(b) Program Authorized.—The Secretary is authorized to carry out a program, through the holder of the loan, of assuming the obligation to repay a loan made under section 428 that is eligible for interest subsidy, for any new borrower on or after the date of enactment of the Higher Education Amendments of 1998, who—

"(1) has been employed as a full-time teacher for 3 consecutive complete school years—

"(A) in a school that qualifies under section 465(a)(2)(A) for loan cancellation for Perkins loan recipients who teach in such schools;

"(B) if employed as a secondary school teacher, is teaching a subject area that is relevant to the borrower's academic major as certified by the chief administrative officer of the public or nonprofit private secondary school in which the borrower is employed; and

"(C) if employed as an elementary school teacher, has demonstrated, in accordance with State teacher certification or licensing requirements and as certified by the chief administrative officer of the public or nonprofit private elementary school in which the borrower is employed, knowledge and teaching skills in reading, writing, mathematics and other areas of the elementary school curriculum; and

"(2) is not in default on a loan for which the borrower seeks forgiveness.

"(c) Regulations.—The Secretary is authorized to issue such regulations as may be necessary to carry out the provisions of this section.

"(d) Loan Repayment During Continuing Teaching Service.—

"(1) In general.—The Secretary shall assume the obligation to repay through reimbursement to the holder—

"(A) 30 percent of the total outstanding amount and applicable interest of subsidized Federal Stafford loans owed by the student borrower after the completion of the fourth or fifth complete school year of service described in subsection (b);

"(B) 40 percent of such total amount after the completion of the sixth complete school year of such service; and

"(C) a total amount for any borrower that shall not exceed $10,000.

"(2) Construction.—Nothing in this section shall be construed to authorize any refunding of any repayment of a loan.

"(e) List.—If the list of schools in which a teacher may perform service pursuant to subsection (b) is not available before May 1 of any year, the Secretary may use the list for the year preceding the year for which the determination is made to make such service determination.

"(f) Continued Eligibility.—Any teacher who performs service in a school that—

"(1) meets the requirements of subsection (b)(1)(A) in any year during such service; and

"(2) in a subsequent year fails to meet the requirements of such subsection, may continue to teach in such school and shall be eligible for loan forgiveness pursuant to subsection (b).".

SEC. 433. LOAN FORGIVENESS FOR CHILD CARE PROVIDERS.

Part B (20 U.S.C. 1071 et seq.) is amended by inserting after section 428J (as added by section 432) (20 U.S.C. 1078–10) the following:

"SEC. 428K. LOAN FORGIVENESS FOR CHILD CARE PROVIDERS.

"(a) Purpose.—It is the purpose of this section—

"(1) to bring more highly trained individuals into the early child care profession; and

"(2) to keep more highly trained child care providers in the early child care field for longer periods of time.

"(b) Definitions.—In this section:

"(1) Child care facility.—The term 'child care facility' means a facility, including a home, that—

"(A) provides child care services; and

"(B) meets applicable State or local government licensing, certification, approval, or registration requirements, if any.

"(2) Child care services.—The term 'child care services' means activities and services provided for the education and care of children from birth through age 5 by an individual who has a degree in early childhood education.

"(3) Degree.—The term 'degree' means an associate's or bachelor's degree awarded by an institution of higher education.

"(4) Early childhood education.—The term 'early childhood education' means education in the areas of early child education, child care, or any other educational area related to child care that the Secretary determines appropriate.

"(5) Institution of higher education.—The term 'institution of higher education' has the meaning given the term in section 101.

"(c) Demonstration Program.—

"(1) In general.—The Secretary may carry out a demonstration program of assuming the obligation to repay, pursuant to subsection (d), a loan made, insured or guaranteed under this part or part D (excluding loans made under sections 428B and 428C) for any new borrower after the date of enactment of the Higher Education Amendments of 1998, who—

"(A) completes a degree in early childhood education;

"(B) obtains employment in a child care facility; and

"(C) is working full-time and is earning an amount which does not exceed the greater of an amount equal to 100 percent of the poverty line for a family of 2 as determined in accordance with section 673(2) of the Community Services Block Grant Act.

"(2) Award basis; priority.—

"(A) Award basis.—Subject to subparagraph (B), loan repayment under this section shall be on a first-come, first-served basis and subject to the availability of appropriations.

"(B) Priority.—The Secretary shall give priority in providing loan repayment under this section for a fiscal year to student borrowers who received loan repayment under this section for the preceding fiscal year.

"(3) Regulations.—The Secretary is authorized to prescribe such regulations as may be necessary to carry out the provisions of this section.

"(d) Loan Repayment.—

"(1) In general.—The Secretary shall assume the obligation to repay—

"(A) after the second year of employment described in subparagraphs (B) and (C) of subsection (c)(1), 20 percent of the total amount of all loans made after date of enactment of the Higher Education Amendments of 1998, to a student under this part or part D;

"(B) after the third year of such employment, 20 percent of the total amount of all such loans; and

"(C) after each of the fourth and fifth years of such employment, 30 percent of the total amount of all such loans.

"(2) Construction.—Nothing in this section shall be construed to authorize the refunding of any repayment of a loan made under this part or part D.

"(3) Interest.—If a portion of a loan is repaid by the Secretary under this section for any year, the proportionate amount of interest on such loan which accrues for such year shall be repaid by the Secretary.

"(4) Special rule.—In the case where a student borrower who is not participating in loan repayment pursuant to this section returns to an institution of higher education after graduation from an institution of higher education for the purpose of obtaining a degree in early childhood education, the Secretary is authorized to assume the obligation to repay the total amount of loans made under this part or part D incurred for a maximum of two academic years in returning to an institution of higher education for the purpose of obtaining a degree in early childhood education. Such loans shall only be repaid for borrowers who qualify for loan repayment pursuant to the provisions of this section, and shall be repaid in accordance with the provisions of paragraph (1).

"(5) Ineligibility of national service award recipients.—No student borrower may, for the same volunteer service, receive a benefit under both this section and subtitle D of title I of the National and Community Service Act of 1990 (42 U.S.C. 12601 et seq.).

"(e) Repayment to Eligible Lenders.—The Secretary shall pay to each eligible lender or holder for each fiscal year an amount equal to the aggregate amount of loans which are subject to repayment pursuant to this section for such year.

"(f) Application for Repayment.—

"(1) In general.—Each eligible individual desiring loan repayment under this section shall submit a complete and accurate application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

"(2) Conditions.—An eligible individual may apply for loan repayment under this section after completing each year of qualifying employment. The borrower shall receive forbearance while engaged in qualifying employment unless the borrower is in deferment while so engaged.

"(g) Evaluation.—

"(1) In general.—The Secretary shall conduct, by grant or contract, an independent national evaluation of the impact of the demonstration program assisted under this section on the field of early childhood education.

"(2) Competitive basis.—The grant or contract described in subsection (b) shall be awarded on a competitive basis.

"(3) Contents.—The evaluation described in this subsection shall—

"(A) determine the number of individuals who were encouraged by the demonstration program assisted under this section to pursue early childhood education;

"(B) determine the number of individuals who remain employed in a child care facility as a result of participation in the program;

"(C) identify the barriers to the effectiveness of the program;

"(D) assess the cost-effectiveness of the program in improving the quality of—

"(i) early childhood education; and

"(ii) child care services;

"(E) identify the reasons why participants in the program have chosen to take part in the program;

"(F) identify the number of individuals participating in the program who received an associate's degree and the number of such individuals who received a bachelor's degree; and

"(G) identify the number of years each individual participates in the program.

"(4) Interim and Final Evaluation Reports.—The Secretary shall prepare and submit to the President and the Congress such interim reports regarding the evaluation described in this subsection as the Secretary deems appropriate, and shall prepare and so submit a final report regarding the evaluation by January 1, 2002.

"(h) Authorization of Appropriations.—There are authorized to be appropriated to carry out this section $10,000,000 for fiscal year 1999, and such sums as may be necessary for each of the 4 succeeding fiscal years.".

SEC. 434. COMMON FORMS AND FORMATS.

Section 432 (20 U.S.C. 1082) is amended—

(1) in subsection (m)(1)—

(A) in subparagraph (A), by striking "a common application form and promissory note" and inserting "common application forms and promissory notes, or multiyear promissory notes,";

(B) by striking subparagraph (C);

(C) by redesignating subparagraph (D) as subparagraph (C); and

(D) in subparagraph (C) (as redesignated by subparagraph (C))—

(i) by inserting ", application and other" after "electronic"; and

(ii) by adding at the end the following: "Guaranty agencies, borrowers, and lenders may use electronically printed versions of common forms approved for use by the Secretary."; and

(2) in subsection (p), by striking "State postsecondary reviewing entities designated under subpart 1 of part H,".

SEC. 435. STUDENT LOAN INFORMATION BY ELIGIBLE LENDERS.

Section 433 (20 U.S.C. 1083) is amended—

(1) in subsection (a), by amending the matter preceding paragraph (1) to read as follows:

"(a) Required Disclosure Before Disbursement.—Each eligible lender shall, at or prior to the time such lender disburses a loan that is insured or guaranteed under this part (other than a loan made under section 428C), provide thorough and accurate loan information on such loan to the borrower. Any disclosure required by this subsection may be made by an eligible lender by written or electronic means, including as part of the application material provided to the borrower, as part of the promissory note evidencing the loan, or on a separate written form provided to the borrower. Each lender shall provide a telephone number, and may provide an electronic address, to each borrower through which additional loan information can be obtained. The disclosure shall include—"; and

(2) in subsection (b), by amending the matter preceding paragraph (1) to read as follows:

"(b) Required Disclosure Before Repayment.—Each eligible lender shall, at or prior to the start of the repayment period of the student borrower on loans made, insured, or guaranteed under this part, disclose to the borrower by written or electronic means the information required under this subsection. Each eligible lender shall provide a telephone number, and may provide an electronic address, to each borrower through which additional loan information can be obtained. For any loan made, insured, or guaranteed under this part, other than a loan made under section 428B or 428C, such disclosure required by this subsection shall be made not less than 30 days nor more than 240 days before the first payment on the loan is due from the borrower. The disclosure shall include—".

SEC. 436. DEFINITIONS.

(a) Eligible Institution.—Section 435(a) (20 U.S.C. 1085(a)) is amended—

(1) in paragraph (2)—

(A) by adding after the matter following subparagraph (A)(ii) the following:

"If an institution continues to participate in a program under this part, and the institution's appeal of the loss of eligibility is unsuccessful, the institution shall be required to pay to the Secretary an amount equal to the amount of interest, special allowance, reinsurance, and any related payments made by the Secretary (or which the Secretary is obligated to make) with respect to loans made under this part to students attending, or planning to attend, that institution during the pendency of such appeal. In order to continue to participate during an appeal under this paragraph, the institution shall provide a letter of credit in favor of the Secretary or other third-party financial guarantees satisfactory to the Secretary in an amount determined by the Secretary to be sufficient to satisfy the institution's potential liability on such loans under the preceding sentence."; and

(B) by amending subparagraph (C) to read as follows:

"(C)(i) This paragraph shall not apply to any institution described in clause (ii), and any such institution that exceeds the threshold percentage in subparagraph (A)(ii) for 2 consecutive years shall submit to the Secretary a default management plan satisfactory to the Secretary and containing criteria designed, in accordance with the regulations of the Secretary, to demonstrate continuous improvement by the institution in the institution's cohort default rate. If the institution fails to submit the required plan, or to satisfy the criteria in the plan, the institution shall be subject to a loss of eligibility in accordance with this paragraph, except as the Secretary may otherwise specify in regulations.

"(ii) An institution referred to in clause (i) is—

"(I) a part B institution within the meaning of section 322(2);

"(II) a Tribally Controlled College or University within the meaning of section 2(a)(4) of the Tribally Controlled College or University Assistance Act of 1978; or

"(III) a Navajo Community College under the Navajo Community College Act.";

(2) in the matter following subparagraph (C)—

(A) by inserting "for a reasonable period of time, not to exceed 30 days," after "access"; and

(B) by striking "of the affected guaranty agencies and loan servicers for a reasonable period of time, not to exceed 30 days" and inserting "used by a guaranty agency in determining whether to pay a claim on a defaulted loan"; and

(3) by adding at the end the following:

"(4) Participation Rate Index.—

"(A) In General.—An institution that demonstrates to the Secretary that the institution's participation rate index is equal to or less than 0.0375 for any of the 3 applicable participation rate indices shall not be subject to paragraph (2). The participation rate index shall be determined by multiplying the institution's cohort default rate for loans under part B or D, or weighted average cohort default rate for loans under parts B and D, by the percentage of the institution's regular students, enrolled on at least a half-time basis, who received a loan made under part B or D for a 12-month period ending during the 6 months immediately preceding the fiscal year for which the cohort of borrowers used to calculate the institution's cohort default rate is determined.

"(B) Data.—An institution shall provide the Secretary with sufficient data to determine the institution's participation rate index within 30 days after receiving an initial notification of the institution's draft cohort default rate.

"(C) Notification.—Prior to publication of a final cohort default rate for an institution that provides the data described in subparagraph (B), the Secretary shall notify the institution of the institution's compliance or noncompliance with subparagraph (A).".

(b) Eligible Lender.—Section 435(d)(1)(A)(ii) (20 U.S.C. 1085(d)(1)(A)(ii) is amended—

(1) by striking "or" after "1992,"; and

(2) by inserting before the semicolon the following: ", or (III) it is a bank (as defined in section 3(a)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1813(a)(1)) that is a wholly owned subsidiary of a nonprofit foundation, the foundation is described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(1) of such Code, and the bank makes loans under this part only to undergraduate students who are age 22 or younger and has a portfolio of such loans that is not more than $5,000,000".

(c) Cohort Default Rate.—Section 435(m)(1)(B) (20 U.S.C. 1085(m)(1)(B)) is amended by striking "insurance, and, in considering appeals with respect to cohort default rates pursuant to subsection (a)(3), exclude" and inserting "insurance. In considering appeals with respect to cohort default rates pursuant to subsection (a)(3), the Secretary shall exclude, from the calculation of the number of students who entered repayment and from the calculation of the number of students who default,".

SEC. 437. DELEGATION OF FUNCTIONS.

Section 436 (20 U.S.C. 1086) is amended to read as follows:

"SEC. 436. DELEGATION OF FUNCTIONS.

"(a) In General.—An eligible lender or guaranty agency that contracts with another entity to perform any of the lender's or agency's functions under this title, or otherwise delegates the performance of such functions to such other entity—

"(1) shall not be relieved of the lender's or agency's duty to comply with the requirements of this title; and

"(2) shall monitor the activities of such other entity for compliance with such requirements.

"(b) Special Rule.—A lender that holds a loan made under part B in the lender's capacity as a trustee is responsible for complying with all statutory and regulatory requirements imposed on any other holder of a loan made under this part.".

SEC. 438. SPECIAL ALLOWANCES.

(a) Amendments.—Section 438 (20 U.S.C. 1087–1) is amended—

(1) in subsection (c), by amending paragraph (1) to read as follows:

"(1) Deduction from Interest and Special Allowance Subsidies.—(A) Notwithstanding subsection (b), the Secretary shall collect the amount the lender is authorized to charge as an origination fee in accordance with paragraph (2) of this subsection—

"(i) by reducing the total amount of interest and special allowance payable under section

428(a)(3)(A) and subsection (b) of this section, respectively, to any holder; or

"(ii) directly from the holder of the loan, if the lender fails or is not required to bill the Secretary for interest and special allowance or withdraws from the program with unpaid loan origination fees.

"(B) If the Secretary collects the origination fee under this subsection through the reduction of interest and special allowance, and the total amount of interest and special allowance payable under section 428(a)(3)(A) and subsection (b) of this section, respectively, is less than the amount the lender was authorized to charge borrowers for origination fees in that quarter, the Secretary shall deduct the excess amount from the subsequent quarters' payments until the total amount has been deducted.";

(2) in subsection (d), by amending paragraph (1) to read as follows:

"(1) DEDUCTION FROM INTEREST AND SPECIAL ALLOWANCE SUBSIDIES.—

"(A) IN GENERAL.—Notwithstanding subsection (b), the Secretary shall collect a loan fee in an amount determined in accordance with paragraph (2)—

"(i) by reducing the total amount of interest and special allowance payable under section 428(a)(3)(A) and subsection (b), respectively, to any holder of a loan; or

"(ii) directly from the holder of the loan, if the lender—

"(I) fails or is not required to bill the Secretary for interest and special allowance payments; or

"(II) withdraws from the program with unpaid loan fees.

"(B) SPECIAL RULE.—If the Secretary collects loan fees under this subsection through the reduction of interest and special allowance payments, and the total amount of interest and special allowance payable under section 428(a)(3)(A) and subsection (b), respectively, is less than the amount of such loan fees, then the Secretary shall deduct the amount of the loan fee balance from the amount of interest and special allowance payments that would otherwise be payable, in subsequent quarterly increments until the balance has been deducted."; and

(3) in subsection (e)—

(A) by striking paragraphs (1) and (2); and

(B) by redesignating paragraphs (3) and (4) as paragraphs (1) and (2), respectively.

(b) CONFORMING AMENDMENT.—Section 432(f)(1)(D) is amended by striking "required to file a plan for doing business under section 438(d)" and inserting "that meets the requirements of section 438(e)".

SEC. 439. STUDY OF MARKET-BASED MECHANISMS FOR DETERMINING STUDENT LOAN INTEREST RATES.

(a) STUDY REQUIRED.—

(1) IN GENERAL.—The Secretary of the Treasury shall conduct a study of the feasibility of employing market-based mechanisms, including some form of auction, for determining student loan interest rates under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.). The study shall include—

(A) analysis of the potential impact of the mechanisms on the delivery of student financial aid;

(B) analysis of the implications of the mechanisms with respect to student and institutional access to student loan capital;

(C) analysis of the potential impact of the mechanisms on the costs of the programs under such title for students and the Federal Government; and

(D) a plan for structuring and implementing the mechanisms in such a manner that ensures the cost-effective availability of student loans for students and their families.

(b) CONSULTATION.—In conducting the study described in paragraph (1), the Secretary shall consult with lenders, secondary markets, guaranty agencies, institutions of higher education, student loan borrowers, and other participants in the student loan programs under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.).

(c) REPORT TO CONGRESS.—The Secretary of the Treasury shall report to the Committee on Labor and Human Resources of the Senate, and the Committee on Education and the Workforce of the House of Representatives not later than September 30, 1999, regarding the results of the study described in subsection (a).

PART C—FEDERAL WORK-STUDY PROGRAMS

SEC. 441. AUTHORIZATION OF APPROPRIATIONS; COMMUNITY SERVICES.

Section 441 (20 U.S.C. 2751) is amended—

(1) in subsection (b), by striking "$800,000,000 for fiscal year 1993" and inserting "$900,000,000 for fiscal year 1999"; and

(2) in subsection (c)—

(A) in paragraph (1), by inserting "(including child care services provided on campus)" after "child care"; and

(B) in paragraph (3), by inserting ", including students with disabilities who are enrolled at the institution" before the semicolon.

SEC. 442. GRANTS FOR FEDERAL WORK-STUDY PROGRAMS.

Section 443(b) (20 U.S.C. 2753(b)) is amended—

(1) in paragraph (1), by inserting ", including internships or research assistanceships as determined by the Secretary," after "part-time employment";

(2) by amending paragraph (3) to read as follows:

"(3) provide that in the selection of students for employment under such work-study program, only students who demonstrate financial need in accordance with part F of this title and meet the requirements of section 484 will be assisted, except that if the institution's grant under this part is directly or indirectly based in part on the financial need demonstrated by students who are (A) attending the institution on less than a full-time basis, or (B) independent students, a reasonable portion of the allocation shall be made available to such students;";

(3) in paragraph (5)—

(A) by striking "provide that" and inserting "(A) provide that";

(B) by striking "1993–1994" and inserting "1999–2000";

(C) by inserting "and" after the semicolon; and

(D) by adding at the end the following:

"(B) provide that the Federal share of the compensation of students employed in community service shall not exceed 90 percent;"; and

(4) in paragraph (6), by striking ", and to make" and all that follows through "such employment".

SEC. 443. WORK COLLEGES.

Section 448 (20 U.S.C. 2756b) is amended—

(1) in subsection (b)(2)—

(A) in subparagraph (C), by striking "and" after the semicolon;

(B) in subparagraph (D)(ii), by striking the period and inserting a semicolon; and

(C) by adding at the end the following:

"(E) coordinate and carry out joint projects and activities to promote work service learning; and

"(F) carry out a comprehensive, longitudinal study of student academic progress and academic and career outcomes, relative to student self-sufficiency in financing their higher education, repayment of student loans, continued community service, kind and quality of service performed, and career choice and community service selected after graduation."; and

(2) in subsection (f), by striking "$5,000,000 for fiscal year 1993" and inserting "$7,000,000 for fiscal year 1999".

PART D—WILLIAM D. FORD FEDERAL DIRECT LOAN PROGRAM

SEC. 451. SELECTION OF INSTITUTIONS.

Section 453(c) (20 U.S.C. 1087c(c)) is amended—

(1) in paragraph (2)—

(A) in the paragraph heading, by striking "TRANSITION";

(B) by striking subparagraph (E); and

(C) by redesignating subparagraphs (F), (G), and (H) as subparagraphs (E), (F), and (G), respectively; and

(2) in paragraph (3)—

(A) in the paragraph heading, by striking "AFTER TRANSITION"; and

(B) by striking "For academic year 1995–1996 and subsequent academic years, the" and inserting "The".

SEC. 452. TERMS AND CONDITIONS.

(a) INTEREST RATES.—Section 455(b) (20 U.S.C. 1087e(b)) is amended to read as follows:

"(b) INTEREST RATE.—

"(1) RATES FOR FDSL AND FDUSL.—For Federal Direct Stafford/Ford Loans and Federal Direct Unsubsidized Stafford/Ford Loans for which the first disbursement is made on or after July 1, 1998, the applicable rate of interest shall, during any 12-month period beginning on July 1 and ending on June 30, be determined on the preceding June 1 and be equal to—

"(A) the bond equivalent rate of 91-day Treasury bills auctioned at the final auction held prior to such June 1; plus

"(B) 2.3 percent,

except that such rate shall not exceed 8.25 percent.

"(2) IN SCHOOL AND GRACE PERIOD RULES.—With respect to any Federal Direct Stafford/Ford Loan or Federal Direct Unsubsidized Stafford/Ford Loan for which the first disbursement is made on or after July 1, 1998, the applicable rate of interest for interest which accrues—

"(A) prior to the beginning of the repayment period of the loan; or

"(B) during the period in which principal need not be paid (whether or not such principal is in fact paid) by reason of a provision described in section 428(b)(1)(M) or 427(a)(2)(C),

shall be determined under paragraph (1) by substituting '1.7 percent' for '2.3 percent'.

"(3) PLUS LOANS.—With respect to Federal Direct PLUS Loan for which the first disbursement is made on or after July 1, 1998, the applicable rate of interest shall be determined under paragraph (1)—

"(A) by substituting '3.1 percent' for '2.3 percent'; and

"(B) by substituting '9.0 percent' for '8.25 percent'.

"(4) PUBLICATION.—The Secretary shall determine the applicable rates of interest under this subsection after consultation with the Secretary of the Treasury and shall publish such rate in the Federal Register as soon as practicable after the date of the determination.

"(5) REPAYMENT INCENTIVES.—

"(A) IN GENERAL.—Notwithstanding any other provision of this part, the Secretary is authorized to prescribe by regulation such reductions in the interest rate paid by a borrower of a loan made under this part as the Secretary determines appropriate to encourage on-time repayment of the loan. Such reductions may be offered only if the Secretary determines the reductions are cost neutral and in the best financial interest of the Federal Government. Any increase in subsidy costs resulting from such reductions shall be completely offset by corresponding savings in funds available for the William D. Ford Federal Direct Loan Program in that fiscal year from section 458 and other administrative accounts.

"(B) ACCOUNTABILITY.—The Secretary shall ensure the cost neutrality of such reductions by obtaining an official report from the Director of the Office of Management and Budget and the Director of the Congressional Budget Office that any such reductions will be completely cost neutral. The reports shall be transmitted to the Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives not less than 60 days prior to the publication of regulations proposing such reductions.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to any loan made under part D of title IV of the Higher Education Act of 1965 for which the first disbursement is made on or after July 1, 1998.

SEC. 453. CONTRACTS.

Section 456(b) (20 U.S.C. 1087f(b)) is amended—

(1) in paragraph (3), by inserting "and" after the semicolon;

(2) by striking paragraph (4); and

(3) by redesignating paragraph (5) as paragraph (4).

SEC. 454. FUNDS FOR ADMINISTRATIVE EXPENSES.

Section 458 (20 U.S.C. 1087h) is amended—

(1) by amending subsection (a) to read as follows:

"(a) ADMINISTRATIVE EXPENSES.—

"(1) IN GENERAL.—Each fiscal year there shall be available to the Secretary, from funds not otherwise appropriated, funds to be obligated for—

"(A) administrative costs under this part and part B, including the costs of the direct student loan programs under this part; and

"(B) account maintenance fees payable to guaranty agencies under part B and calculated in accordance with paragraph (2), not to exceed (from such funds not otherwise appropriated) $626,000,000 in fiscal year 1999, $726,000,000 in fiscal year 2000, $770,000,000 in fiscal year 2001, $780,000,000 in fiscal year 2002, and $795,000,000 in fiscal year 2003.

"(2) ACCOUNT MAINTENANCE FEES.—Account maintenance fees under subparagraph (B) shall be paid quarterly and deposited in the Agency Operating Fund established under section 422B.

"(3) CARRYOVER.—The Secretary may carry over funds made available under this section to a subsequent fiscal year."; and

(2) by amending subsection (b) to read as follows:

"(b) CALCULATION BASIS.—Account maintenance fees payable to guaranty agencies under paragraph (1)(B) shall be calculated—

"(1) for fiscal years 1999 and 2000, on the basis of 0.12 percent of the original principal amount of outstanding loans on which insurance was issued under part B; and

"(2) for fiscal year 2001, 2002, and 2003, on the basis of 0.10 percent of the original principal amount of outstanding loans on which insurance was issued under part B.".

SEC. 455. LOAN CANCELLATION FOR TEACHERS.

Part D of title IV (20 U.S.C. 1087a et seq.) is amended by adding at the end the following:

"SEC. 459. LOAN CANCELLATION FOR TEACHERS.

"(a) STATEMENT OF PURPOSE.—It is the purpose of this section to encourage individuals to enter and continue in the teaching profession.

"(b) PROGRAM AUTHORIZED.—The Secretary is authorized to carry out a program of canceling the obligation to repay a Federal Direct Stafford/Ford Loan made under this part that is eligible for an interest subsidy, for any new borrower on or after the date of enactment of the Higher Education Amendments of 1998, who—

"(1) has been employed as a full-time teacher for 3 consecutive complete school years—

"(A) in a school that qualifies under section 465(a)(2)(A) for loan cancellation for Perkins loan recipients who teach in such schools;

"(B) if employed as a secondary school teacher, is teaching a subject area that is relevant to the borrower's academic major as certified by the chief administrative officer of the public or non-profit private secondary school in which the borrower is employed; and

"(C) if employed as an elementary school teacher, has demonstrated, in accordance with State teacher certification or licensing requirements and as certified by the chief administrative officer of the public or nonprofit private elementary school in which the borrower is employed, knowledge and teaching skills in reading, writing, mathematics and other areas of the elementary school curriculum; and

"(2) is not in default on a loan for which the borrower seeks forgiveness.

"(c) REGULATIONS.—The Secretary is authorized to issue such regulations as may be necessary to carry out the provisions of this section.

"(d) LOAN CANCELLATION DURING CONTINUING TEACHING SERVICE.—

"(1) IN GENERAL.—The Secretary shall cancel the obligation to repay—

"(A) 30 percent of the total outstanding amount and applicable interest of subsidized Federal Direct Stafford/Ford loans owed by the student borrower after the completion of the fourth or fifth complete school year of service described in subsection (b);

"(B) 40 percent of such total amount after the completion of the sixth complete school year of such service; and

"(C) a total amount for any borrower that shall not exceed $ 10,000.

"(2) CONSTRUCTION.—Nothing in this section shall be construed to authorize any refunding of any canceled loan.

"(e) LIST.—If the list of schools in which a teacher may perform service pursuant to subsection (b) is not available before May 1 of any year, the Secretary may use the list for the year preceding the year for which the determination is made to make such service determination.

"(f) CONTINUED ELIGIBILITY.—Any teacher who performs service in a school that—

"(1) meets the requirements of subsection (b)(1)(A) in any year during such service; and

"(2) in a subsequent year fails to meet the requirements of such subsection, may continue to teach in such school and shall be eligible for loan cancellation pursuant to subsection (b).".

PART E—FEDERAL PERKINS LOANS

SEC. 461. AUTHORIZATION OF APPROPRIATIONS.

Subsection (b) of section 461 (20 U.S.C. 1087aa) is amended—

(1) in paragraph (1), by striking "1993" and inserting "1999"; and

(2) in paragraph (2), by striking "1997" each place the term appears and inserting "2003".

SEC. 462. ALLOCATION OF FUNDS.

(a) AMENDMENTS.—Section 462 (20 U.S.C. 1087bb) is amended—

(1) in the matter preceding subparagraph (A) of subsection (d)(3), by striking "the Secretary, for" and all that follows through "years,";

(2) by amending subsection (f) to read as follows:

"(f) DEFAULT PENALTIES.—

"(1) IN GENERAL.—For fiscal year 1998 and any succeeding fiscal year, any institution with a cohort default rate (as defined under subsection (h)) that equals or exceeds 25 percent shall have a default penalty of zero.

"(2) INELIGIBILITY.—

"(A) IN GENERAL.—For fiscal year 1998 and any succeeding fiscal year, any institution with a cohort default rate (as defined in subsection (h)) that equals or exceeds 50 percent for each of the 3 most recent years for which data are available shall not be eligible to participate in a program under this part for the fiscal year for which the determination is made and the 2 succeeding fiscal years, unless, within 30 days of receiving notification from the Secretary of the loss of eligibility under this paragraph, the institution appeals the loss of eligibility to the Secretary. The Secretary shall issue a decision on any such appeal within 45 days after the submission of the appeal. Such decision may permit the institution to continue to participate in a program under this part if—

"(i) the institution demonstrates to the satisfaction of the Secretary that the calculation of the institution's cohort default rate is not accurate, and that recalculation would reduce the institution's cohort default rate for any of the 3 fiscal years below 50 percent; or

"(ii) there are, in the judgment of the Secretary, exceptional mitigating circumstances such as a small number of borrowers entering repayment, that would make the application of this subparagraph inequitable.

"(B) CONTINUED PARTICIPATION.—During an appeal under subparagraph (A), the Secretary may permit the institution to continue to participate in a program under this part.

"(C) DEFINITION.—For the purposes of subparagraph (A), the term 'loss of eligibility' shall be defined as the mandatory liquidation of an institution's student loan fund, and assignment of the institution's outstanding loan portfolio to the Secretary.";

(3) by amending paragraph (1) of subsection (g) to read as follows: "(1) For award year 1998 and subsequent years, the maximum cohort default rate is 25 percent."; and

(4) in subsection (h)—

(A) in the subsection heading, by striking "DEFINITIONS OF DEFAULT RATE AND" and inserting "DEFINITION OF";

(B) by striking paragraphs (1) and (2);

(C) by redesignating paragraphs (3) and (4) as paragraphs (1) and (2), respectively;

(D) in paragraph (1) (as redesignated by subparagraph (C))—

(i) by striking subparagraph (B); and

(ii) by redesignating subparagraphs (C) through (G) as subparagraphs (B) through (F), respectively; and

(E) in the matter preceding subparagraph (A) of paragraph (2) (as redesignated by subparagraph (C)), by striking "A loan" and inserting "For purposes of calculating the cohort default rate under this subsection, a loan".

(b) CONFORMING AMENDMENTS.—Section 462 (20 U.S.C. 1087bb) is amended—

(1) in the matter following paragraphs (1)(B) and (2)(D)(ii) of subsection (a), by inserting "cohort" before "default" each place the term appears;

(2) in the matter following paragraphs (2)(B) and (3)(C) of subsection (c), by inserting "cohort" before "default" each place the term appears;

(3) in subsection (e)(2), by inserting "cohort" before "default"; and

(4) in subsection (h)(1)(F) (as redesignated by subparagraphs (C) and (D)(ii) of subsection (a)(4)), by inserting "cohort" before "default".

SEC. 463. AGREEMENTS WITH INSTITUTIONS OF HIGHER EDUCATION.

Section 463 (20 U.S.C. 1087cc) is amended—

(1) by amending subparagraph (B) of subsection (a)(2) to read as follows:

"(B) a capital contribution by an institution in an amount equal to one-third of the Federal capital contributions described in subparagraph (A);";

(2) in subsection (c)—

(A) in paragraph (2)—

(i) in the matter preceding subparagraph (A), by striking "by the Secretary" and all that follows through "of—" and inserting "by the Secretary or an institution, as the case may be, to such organizations, with respect to any loan held by the Secretary or the institution, respectively,
of—";

(ii) by amending subparagraph (A) to read as follows:

"(A) the date of disbursement and the amount of such loans made to any borrower under this part at the time of disbursement of the loan;";

(iii) in subparagraph (B)—

(I) by inserting "the repayment and" after "concerning"; and

(II) by striking "any defaulted" and inserting "such"; and

(iv) in subparagraph (C), by inserting ", or upon cancellation or discharge of the borrower's obligation on the loan for any reason" before the period;

(B) in paragraph (3)—

(i) in the matter preceding subparagraph (A), by striking "until—" and inserting "until the loan is paid in full."; and

(ii) by striking subparagraphs (A) and (B); and

(C) by amending paragraph (4) to read as follows:

"(4)(A) Except as provided in subparagraph (B), an institution of higher education, after consultation with the Secretary and pursuant to the agreements entered into under paragraph (1), shall disclose at least annually to any credit bureau organization with which the Secretary has such an agreement the information set forth in paragraph (2), and shall disclose promptly to such credit bureau organization any changes to the information previously disclosed.

"(B) The Secretary may promulgate regulations establishing criteria under which an institution of higher education may cease reporting the information described in paragraph (2) before a loan is paid in full.".

SEC. 464. TERMS OF LOANS.

Section 464 (20 U.S.C. 1087dd) is amended—

(1) in subsection (a), by amending paragraph (2) to read as follows:

"(2)(A) Except as provided in paragraph (4), the total of loans made to a student in any academic year or its equivalent by an institution of higher education from a loan fund established pursuant to an agreement under this part shall not exceed—

"(i) $4,000, in the case of a student who has not successfully completed a program of undergraduate education; or

"(ii) $6,000, in the case of a graduate or professional student (as defined in regulations issued by the Secretary).

"(B) Except as provided in paragraph (4), the aggregate of the loans for all years made to a student by institutions of higher education from loan funds established pursuant to agreements under this part may not exceed—

"(i) $40,000, in the case of any graduate or professional student (as defined by regulations issued by the Secretary, and including any loans from such funds made to such person before such person became a graduate or professional student);

"(ii) $20,000, in the case of a student who has successfully completed 2 years of a program of education leading to a bachelor's degree but who has not completed the work necessary for such a degree (determined under regulations issued by the Secretary, and including any loans from such funds made to such person before such person became such a student); and

"(iii) $8,000, in the case of any other student.

"(C)(i) The total of loans made to a student described in clause (ii) in any academic year or its equivalent by an institution of higher education from loan funds established pursuant to agreements under this part may not exceed—

"(I) $8,000 for each of the third and fourth years of the program of instruction leading to a bachelor's degree; or

"(II) $10,000 for the first year of graduate study (as defined in regulations issued by the Secretary).

"(ii) A student referred to in clause (i) is any student—

"(I) who is a junior in a program of instruction leading to a bachelor's degree;

"(II) who states in writing that the student will pursue a course of study to become an elementary or secondary school teacher; and

"(III) who states in writing that the student intends to become a full-time teacher in a school which meets the requirements of section 465(a)(2)(A).

"(iii) Each institution shall provide a report to the Secretary annually containing the number of loans under this subparagraph that are made, the amount of each loan, and whether students benefiting from the higher loan limits met the requirements for receiving those loans.

"(iv) If 3 years after the date of enactment of the Higher Education Amendments of 1998, the Secretary determines that an institution has engaged in a pattern of abuse of this subparagraph, the Secretary may reduce or terminate the institution's Federal capital contribution.";

(2) in subsection (b), by amending paragraph (2) to read as follows:

"(2) If the institution's capital contribution under section 462 is directly or indirectly based in part on the financial need demonstrated by students who are (A) attending the institution less than full time; or (B) independent students, a reasonable portion of the loans made from the institution's student loan fund containing the contribution shall be made available to such students.";

(3) in subsection (c)(1)—

(A) in subparagraph (D), by striking "(i) 3 percent" and all that follows through "or (iii)";

(B) by redesignating subparagraphs (H) and (I) as subparagraphs (I) and (J), respectively; and

(C) by inserting after subparagraph (G) the following:

"(H) shall provide that, in the case of a loan made on or after July 1, 1999, the loan shall be considered in default (except as otherwise provided in section 462(h)) if the borrower of a loan made under this part fails to make an installment payment when due, or to meet any other term of the promissory note or written repayment agreement, and such failure persists for—

"(i) 180 days in the case of a loan that is repayable in monthly installments; or

"(ii) 240 days in the case of a loan that is repayable in less frequent installments;"; and

(4) by adding at the end the following:

"(g) DISCHARGE.—

"(1) IN GENERAL.—If a student borrower who received a loan made under this part on or after January 1, 1986, is unable to complete the program in which such student is enrolled due to the closure of the institution, then the Secretary shall discharge the borrower's liability on the loan (including the interest and collection fees) by repaying the amount owed on the loan and shall subsequently pursue any claim available to such borrower against the institution and the institution's affiliates and principals, or settle the loan obligation pursuant to the financial responsibility standards described in section 498(c).

"(2) ASSIGNMENT.—A borrower whose loan has been discharged pursuant to this subsection shall be deemed to have assigned to the United States the right to a loan refund in an amount that does not exceed the amount discharged against the institution and the institution's affiliates and principals.

"(3) ELIGIBILITY FOR ADDITIONAL ASSISTANCE.—The period during which a student was unable to complete a course of study due to the closing of the institution shall not be considered for purposes of calculating the student's period of eligibility for additional assistance under this title.

"(4) SPECIAL RULE.—A borrower whose loan has been discharged pursuant to this subsection shall not be precluded, because of that discharge, from receiving additional grant, loan, or work assistance under this title for which the borrower would be otherwise eligible (but for the default on the discharged loan). The amount discharged under this subsection shall not be considered income for purposes of the Internal Revenue Code of 1986.

"(5) REPORTING.—The Secretary or institution, as the case may be, shall report to credit bureaus with respect to loans that have been discharged pursuant to this subsection.

"(h) REHABILITATION OF LOANS.—

"(1) REHABILITATION.—

"(A) IN GENERAL.—If the borrower of a loan made under this part who has defaulted on the loan makes 12 ontime, consecutive, monthly payments of amounts owed on the loan, as determined by the institution, the loan shall be considered rehabilitated, and the institution that made that loan (or the Secretary, in the case of a loan held by the Secretary) shall instruct any credit bureau organization or credit reporting agency to which the default was reported to remove the default from the borrower's credit history.

"(B) COMPARABLE CONDITIONS.—As long as the borrower continues to make scheduled repayments on a loan rehabilitated under this paragraph, the rehabilitated loan shall be subject to the same terms and conditions, and qualify for the same benefits and privileges, as other loans made under this part.

"(C) ADDITIONAL ASSISTANCE.—The borrower of a rehabilitated loan shall not be precluded by section 484 from receiving additional grant, loan, or work assistance under this title (for which the borrower is otherwise eligible) on the basis of defaulting on the loan prior to such rehabilitation.

"(D) LIMITATIONS.—A borrower only once may obtain the benefit of this paragraph with respect to rehabilitating a loan under this part.

"(2) RESTORATION OF ELIGIBILITY.—If the borrower of a loan made under this part who has defaulted on that loan makes 6 ontime, consecutive, monthly payments of amounts owed on such loan, the borrower's eligibility for grant, loan, or work assistance under this title shall be restored. A borrower only once may obtain the benefit of this paragraph with respect to restored eligibility.

"(i) INCENTIVE REPAYMENT PROGRAM.—

"(1) IN GENERAL.—Each institution of higher education may establish, with the approval of the Secretary, an incentive repayment program designed to reduce default and to replenish student loan funds established under this part. Each such incentive repayment program may—

"(A) offer a reduction of the interest rate on a loan on which the borrower has made 48 ontime, consecutive, monthly repayments, but in no event may the rate be reduced by more than 1 percent;

"(B) provide for a discount on the balance owed on a loan on which the borrower pays the principal and interest in full prior to the end of the applicable repayment period, but in no event may the discount exceed 5 percent of the unpaid principal balance due on the loan at the time the early repayment is made; and

"(C) include such other incentive repayment options as the institution determines will carry out the objectives of this subsection.

"(2) LIMITATION.—No incentive repayment option under an incentive repayment program authorized by this subsection may be paid for with Federal funds, including any Federal funds from the student loan fund, nor can an incentive repayment option be paid for with institutional funds from the student loan fund.".

SEC. 465. DISTRIBUTION OF ASSETS FROM STUDENT LOAN FUNDS.

Section 466 (20 U.S.C. 1087ff) is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1)—

(i) by striking "1996" and inserting "2003"; and

(ii) by striking "1997" and inserting "2004"; and

(B) in paragraph (1), by striking "1996" and inserting "2003";

(2) in subsection (b)—

(A) by striking "2005" and inserting "2012"; and

(B) by striking "1996" and inserting "2003"; and

(3) in subsection (c), by striking "1997" and inserting "2004".

SEC. 466. PERKINS LOAN REVOLVING FUND.

(a) Repeal.—Subsection (c) of section 467 (20 U.S.C. 1087gg(c)) is repealed.

(b) Transfer of Balance.—Any funds in the Perkins Loan Revolving Fund on the date of enactment of this Act shall be transferred to and deposited in the Treasury.

PART F—NEED ANALYSIS

SEC. 471. COST OF ATTENDANCE.

Section 472 (20 U.S.C. 1087ll) is amended—

(1) in paragraph (3)—

(A) in subparagraph (A), by striking "of not less than $1,500" and inserting "determined by the institution"; and

(B) in subparagraph (C), by striking ", except that the amount may not be less than $2,500"; and

(2) in paragraph (11), by striking "placed" and inserting "engaged".

SEC. 472. FAMILY CONTRIBUTION FOR DEPENDENT STUDENTS.

Section 475 (20 U.S.C. 1087oo) is amended—

(1) in subsection (g)—

(A) in paragraph (2)—

(i) in subparagraph (D)—

(I) by striking "$1,750" and inserting "$2,200"; and

(II) by striking "and" after the semicolon;

(ii) in subparagraph (E), by striking the period and inserting "; and"; and

(iii) by adding at the end the following:

"(F) an allowance for parents' negative available income, determined in accordance with paragraph (6)."; and

(B) by adding at the end the following:

"(6) Allowance for Parents' Negative Available Income.—The allowance for parents' negative available income is the amount, if any, by which the sum of the amounts deducted under subparagraphs (A) through (F) of paragraph (1) exceeds the parents' total income (as defined in section 480)."; and

(2) by adding at the end the following:

"(j) Adjustments to Students Contribution for Enrollment Periods of Less Than Nine Months.—For periods of enrollment of less than 9 months, the student's contribution from adjusted available income (as determined under subsection (g)) is determined, for purposes other than subpart 2 of part A, by dividing the amount determined under such subsection by 9, and multiplying the result by the number of months in the period of enrollment.".

SEC. 473. FAMILY CONTRIBUTION FOR INDEPENDENT STUDENTS WITHOUT DEPENDENTS OTHER THAN A SPOUSE.

Section 476(b)(1)(A)(iv) (20 U.S.C. 1087pp(b)(1)(A)(iv)) is amended—

(1) in subclause (I), by striking "$3,000" and inserting "$4,250";

(2) in subclause (II), by striking "$3,000" and inserting "$4,250"; and

(3) in subclause (III), by striking "$6,000" and inserting "$7,250".

SEC. 474. REGULATIONS; UPDATED TABLES AND AMOUNTS.

Section 478(b) (20 U.S.C. 1087rr(b)) is amended—

(1) by striking "For each academic year" and inserting the following:

"(1) Revised Tables.—For each academic year"; and

(2) by adding at the end the following new paragraph:

"(2) Revised Amounts.—For each academic year after academic year 1999–2000, the Secretary shall publish in the Federal Register revised income protection allowances for the purpose of sections 475(g)(2)(D) and 476(b)(1)(A)(iv). Such revised allowances shall be developed by increasing each of the dollar amounts contained in such section by a percentage equal to the estimated percentage increase in the Consumer Price Index (as determined by the Secretary) between December 1998 and the December next preceding the beginning of such academic year, and rounding the result to the nearest $10.".

SEC. 475. REFUSAL OR ADJUSTMENT OF LOAN CERTIFICATIONS.

Subsection (c) of section 479A (20 U.S.C. 1087tt) is amended to read as follows:

"(c) Refusal or Adjustment of Loan Certifications.—An eligible institution may refuse to certify a statement that permits a student to receive a loan under part B, or refuse to make a loan under part D, or may certify a loan amount or make a loan that is less than the student's determination of need (as determined under this part), if the reason for the action is documented and provided in written form to the student. No eligible institution shall discriminate against any borrower or applicant in obtaining a loan on the basis of race, national origin, religion, sex, marital status, age, or disability status.".

PART G—GENERAL PROVISIONS

SEC. 481. MASTER CALENDAR.

Section 482 (20 U.S.C. 1089) is amended—

(1) in subsection (a), by adding at the end the following:

"(3) To the extent feasible, the Secretary shall notify eligible institutions and vendors by December 1 prior to the start of an award year of minimal hardware and software requirements necessary to administer programs under this title."; and

(2) by amending subsection (c) to read as follows:

"(c) Delay of Effective Date of Late Publications.—(1) Except as provided in paragraph (2), any regulatory changes initiated by the Secretary affecting the programs under this title that have not been published in final form by November 1 prior to the start of the award year shall not become effective until the beginning of the second award year after such November 1 date.

"(2)(A) The Secretary may designate any regulatory provision that affects the programs under this title and is published in final form after November 1 as one that an entity subject to the provision may, in the entity's discretion, choose to implement prior to the effective date described in paragraph (1). The Secretary may specify in the designation when, and under what conditions, an entity may implement the provision prior to that effective date. The Secretary shall publish any designation under this subparagraph in the Federal Register.

"(B) If an entity chooses to implement a regulatory provision prior to the effective date described in paragraph (1), as permitted by subparagraph (A), the provision shall be effective with respect to that entity in accordance with the terms of the Secretary's designation.".

SEC. 482. FORMS AND REGULATIONS.

Section 483 (20 U.S.C. 1090) is amended—

(1) in subsection (a)—

(A) in the subsection heading, by striking "Form" and inserting "Form Development";

(B) by amending paragraph (1) to read as follows:

"(1) Single Form Requirements.—The Secretary, in cooperation with representatives of agencies and organizations involved in student financial assistance, shall produce, distribute, and process free of charge a common financial reporting form (which shall include electronic versions of the form) to be used—

"(A) to determine the need (including the expected family contribution and, if appropriate, cost of attendance) and eligibility of a student for financial assistance under parts A, C, D, and E; and

"(B) to determine the need (including the expected family contribution and cost of attendance) of a student for the purposes of part B.

"(2) State Data Items.—The Secretary shall include on the form developed under this subsection such data items, selected in consultation with the States to assist the States in awarding State student financial assistance, as the Secretary determines are appropriate for inclusion.

"(3) Parent's Social Security Number.—The Secretary shall include on the form developed under this paragraph space for the social security number of parents of dependent students seeking financial assistance under this title.

"(4) Use.—The Secretary shall require that the form developed under this paragraph be used for the purpose of collecting eligibility and other data for purposes of part B, including the applicant's choice of lender."; and

(C) in paragraph (3)—

(i) by striking "Institutions of higher education and States shall receive" and inserting "The Secretary shall provide"; and

(ii) by striking "by the Secretary"; and

(2) by adding at the end the following:

"(g) Payment for Data.—The Secretary may pay such charges as the Secretary determines are necessary to obtain data that the Secretary considers essential to the efficient administration of the programs under this title.

"(h) Multiyear Promissory Note.—The Secretary shall require, for loans made under this title for periods of enrollment beginning on or after July 1, 2000, the use of a promissory note applicable to more than 1 academic year, or more than 1 type of loan made under this title. Prior to implementing this subsection, the Secretary shall develop and test such a promissory note on a limited or pilot basis.".

SEC. 483. STUDENT ELIGIBILITY.

(a) Amendments.—Section 484 (20 U.S.C. 1091) is amended—

(1) in subsection (d)—

(A) in the matter preceding paragraph (1), by striking "either"; and

(B) by adding at the end the following:

"(3) The student has completed a high school education in a home school setting and has met any State requirements with respect to such education in a home school setting."; and

(2) by adding at the end the following:

"(q) Verification of IRS Return Information.—The Secretary shall verify the information reported by all applicants for assistance on the form prescribed under section 483 with the return information (as defined in section 6103 of the Internal Revenue Code of 1986) available to the Secretary of the Treasury. Notwithstanding section 6103 of such Code the Secretary of the Treasury shall provide the return information to the Secretary. In the case of a dependent student the return information shall include the return information of the parent of the student. The form prescribed by the Secretary under section 483 shall contain a prominent notice of the verification of the information and a warning to all the applicants of the penalties for misrepresentation, with respect to the information, under the United States Code.

"(r) Suspension of Eligibility for Drug-Related Offenses.—

"(1) In general.—A student who has been convicted of any offense under any Federal or

State law involving the possession or sale of a controlled substance shall not be eligible to receive any grant, loan, or work assistance under this title during the period beginning on the date of such conviction and ending after the interval specified in the following table:

''If convicted of an offense involving:

The possession of a controlled substance:	***Ineligibility period is:***
First offense	*1 year*
Second offense	*2 years*
Third offense	*Indefinite.*

The sale of a controlled substance:	***Ineligibility period is:***
First offense	*2 years*
Second offense	*Indefinite.*

''(2) REHABILITATION.—A student whose eligibility has been suspended under paragraph (1) may resume eligibility before the end of the ineligibility period determined under such paragraph if the student satisfactorily completes a drug rehabilitation program that complies with such criteria as the Secretary shall prescribe in regulations for purposes of this paragraph.

''(3) DEFINITIONS.—In this subsection, the term 'controlled substance' has the meaning given the term in section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)).''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a)(2) regarding suspension of eligibility for drug-related offenses, shall apply with respect to financial assistance to cover the costs of attendance for periods of enrollment beginning after the date of enactment of this Act.

SEC. 484. INSTITUTIONAL REFUNDS.

Section 484B (20 U.S.C. 1091b) is amended—

(1) in subsection (b)—

(A) in paragraph (1), by inserting ''or'' after the semicolon;

(B) by striking paragraph (2); and

(C) by redesignating paragraph (3) as paragraph (2); and

(2) in subsection (c)—

(A) in paragraph (1), by striking ''last day of attendance by the student'' and inserting ''day the student withdrew'';

(B) in subparagraph (A) of paragraph (2), by striking ''last recorded day of attendance by the student'' and inserting ''day the student withdrew''; and

(C) by adding at the end the following:

''(3) For the purpose of this section, the term 'day a student withdrew'—

''(A) is the date that was the last recorded day of attendance by the student; or

''(B) in instances where attendance is not recorded, is the date on which—

''(i) the student began the withdrawal process prescribed by the institution; or

''(ii) the student otherwise provided notification to the institution of the intent to withdraw.''.

SEC. 485. INSTITUTIONAL AND FINANCIAL ASSISTANCE INFORMATION FOR STUDENTS.

(a) INFORMATION DISSEMINATION ACTIVITIES.—Section 485(a) (20 U.S.C. 1092(a)) is amended—

(1) in paragraph (1)—

(A) in the second sentence, by striking ''and mailings, to all current'' and inserting '', mailings, and electronic media, to all enrolled'';

(B) by inserting after the second sentence the following: ''Each eligible institution annually shall provide to all students enrolled at the institution, a list of the information that is required by this section, together with a statement of the procedures required to obtain the information.'';

(C) in subparagraph (M)(ii), by striking ''and'' after the semicolon;

(D) in subparagraph (N), by striking the period and inserting ''; and''; and

(E) by adding at the end the following:

''(O) the requirements and procedures for student withdrawal prior to the end of a period of enrollment and the consequences to the student, with respect to receipt of a refund, of the student's failing to provide notification of withdrawal.'';

(2) in paragraph (2), by inserting ''an application for'' after ''concerning''; and

(3) in paragraph (3), by amending subparagraph (A) to read as follows:

''(A) shall be made available by July 1 each year to current and prospective students prior to enrolling or entering into any financial obligation; and''.

(b) EXIT COUNSELING FOR BORROWERS.—Section 485(b) (20 U.S.C. 1092(b)) is amended—

(1) in paragraph (1)(A), by striking ''(individually or in groups)''; and

(2) in paragraph (2), by adding at the end the following:

''(C) Nothing in this subsection shall be construed to prohibit an institution of higher education from utilizing electronic means to provide personalized exit counseling.''.

(c) DISCLOSURES REQUIRED WITH RESPECT TO ATHLETICALLY RELATED STUDENT AID.—Section 485(e) (20 U.S.C. 1092(e)) is amended—

(1) by amending paragraph (2) to read as follows:

''(2) When an institution described in paragraph (1) offers a potential student athlete athletically related student aid, such institution shall provide to the student, the student's parents, the student's guidance counselor, and the student's coach the information contained in the report submitted by such institution pursuant to paragraph (1). If the institution is a member of a national collegiate athletic association that compiles graduation rate data on behalf of its member institutions, that the Secretary determines is substantially comparable to the information described in the previous sentence, the distribution of the compilation to all secondary schools shall fulfill the responsibility of the institution to provide the information to a prospective student athlete's guidance counselor and coach.''; and

(2) by amending paragraph (9) to read as follows:

''(9) The reports required by this subsection shall be due each July 1 and shall cover the 1-year period ending August 31 of the preceding year.''.

(d) DISCLOSURE OF CAMPUS SECURITY POLICY AND CAMPUS CRIME STATISTICS.—Section 485(f) (20 U.S.C. 1092(f)) is amended—

(1) by amending subparagraph (F) of paragraph (1) to read as follows:

''(F) Statistics concerning the occurrence on campus, during the most recent calendar year, and during the 2 preceding calendar years for which data are available—

''(i) of the following criminal offenses reported to campus security authorities or local police agencies—

''(I) homicide, including murder or nonnegligent manslaughter or negligent manslaughter;

''(II) sex offenses, forcible or nonforcible;

''(III) robbery;

''(IV) aggravated assault;

''(V) burglary;

''(VI) motor vehicle theft; and

''(VII) arson;

''(ii) of the crimes described in subclauses (I) through (VII), and vandalism and simple assault, that manifest evidence of prejudice based on actual or perceived race, gender, religion, sexual orientation, ethnicity, or disability that are reported to campus security authorities or local police agencies, which data shall be collected and reported according to category of prejudice.'';

(2) by redesignating paragraphs (4) through (7) as paragraphs (5) through (8), respectively;

(3) by inserting after paragraph (3) the following:

''(4)(A) Each institution participating in any program under this title which maintains either a police or security department of any kind shall make, keep, and maintain a daily log, written in a form that can be easily understood, recording all crimes reported to such police or security department, including—

''(i) the nature, date, time, and general location of each crime; and

''(ii) the disposition of the complaint, if known.

''(B)(i) All entries that are required pursuant to this paragraph shall, except where disclosure of such information is prohibited by law or such disclosure would jeopardize the confidentiality of the victim, be open to public inspection within 2 business days of the initial report being made to the department or a campus security authority.

''(ii) If new information about an entry into a log becomes available to a police or security department, then the new information shall be recorded in the log not later than 2 business days after the information becomes available to the police or security department.

''(iii) Where there is clear and convincing evidence that the release of such information would jeopardize an ongoing criminal investigation or the safety of an individual, cause a suspect to flee or evade detection, or result in the destruction of evidence, such information may be withheld until that damage is no longer likely to occur from the release of such information.

''(iv) Notwithstanding clause (iii), an institution of higher education shall record all criminal incidents occurring on campus and shall make the reports open to public inspection not later than 2 business days after the requirements of clause (iii) are met.'';

(4) in paragraph (7) (as redesignated by subparagraph (B)), by inserting at the end the following: ''Such statistics shall not identify victims of crimes or persons accused of crimes, except as permitted by State or local law.''; and

(5) by adding at the end the following:

''(9) STUDY.—

''(A) IN GENERAL.—The Secretary, in consultation with the Attorney General, shall provide for a national study to examine procedures undertaken after an institution of higher education receives a report of sexual assault.

''(B) REPORT.—The study required by subparagraph (A) shall include an analysis of—

''(i) the existence and publication of the institution of higher education's and State's definition of sexual assault;

''(ii) the existence and publication of the institution's policy for campus sexual assaults;

''(iii) the individuals to whom reports of sexual assault are given most often and—

''(I) how the individuals are trained to respond to the reports; and

''(II) the extent to which the individuals are trained;

''(iv) the reporting options that are articulated to the victim or victims of the sexual assault regarding—

''(I) on-campus reporting and procedure options; and

''(II) off-campus reporting and procedure options;

''(v) the resources available for victims' safety, support, medical health, and confidentiality, including—

''(I) how well the resources are articulated both specifically to the victim of sexual assault and generally to the campus at large; and

''(II) the security of the resources in terms of confidentiality or reputation;

''(vi) policies and practices that may prevent or discourage the reporting of campus sexual assaults to local crime authorities, or that may

otherwise obstruct justice or interfere with the prosecution of perpetrators of campus sexual assaults;

"(vii) policies and practices found successful in aiding the report and any ensuing investigation or prosecution of a campus sexual assault;

"(viii) the on-campus procedures for investigation and disciplining the perpetrator of a sexual assault, including—

"(I) the format for collecting evidence; and

"(II) the format of the investigation and disciplinary proceeding, including the faculty responsible for running the disciplinary procedure and the persons allowed to attend the disciplinary procedure; and

"(ix) types of punishment for offenders, including—

"(I) whether the case is directed outside for further punishment; and

"(II) how the institution punishes perpetrators.

"(C) SUBMISSION OF REPORT.—The report required by subparagraph (B) shall be submitted to Congress not later than September 1, 1999.

"(D) DEFINITION.—For purposes of this section, the term 'campus sexual assaults' means sexual assaults occurring at institutions of higher education and sexual assaults committed against or by students or employees of such institutions.

"(E) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $1,000,000 for fiscal year 1999.".

(e) DATA REQUIRED.—Section 485(g) (20 U.S.C. 1092(g)) is amended—

(1) in paragraph (1), by adding at the end the following:

"(I)(i) The total revenues, and the revenues from football, men's basketball, women's basketball, all other men's sports combined, and all other women's sports combined, derived by the institution from the institution's intercollegiate athletics activities.

"(ii) For the purpose of clause (i) revenues from intercollegiate athletics activities allocable to a sport shall include, without limitation, gate receipts, broadcast revenues, appearance guarantees and options, concessions and advertising, except that revenues such as student activities fees or alumni contributions not so allocable shall be included in the calculation of total revenues only.

"(J)(i) The total expenses, and the expenses attributable to football, men's basketball, women's basketball, all other men's sports combined and all other women's sports combined, made by the institution for the institution's intercollegiate athletics activities.

"(ii) For the purpose of clause (i) expenses for intercollegiate athletics activities allocable to a sport shall include without limitation grants-in-aid, salaries, travel, equipment, and supplies, except that expenses such as general and administrative overhead not so allocable shall be included in the calculation of total expenses only.

"(K) A statement of any reduction that will, or is likely to, occur during the ensuing 4 academic years in the number of athletes that will be permitted to participate in any collegiate sport, or in the financial resources that the institution will make available for any such sport, and the reasons for any such reduction, to the extent the reduction is known.";

(2) by striking paragraph (5);

(3) by redesignating paragraph (4) as paragraph (5); and

(4) by inserting after paragraph (3) the following:

"(4) SUBMISSION; REPORT; INFORMATION AVAILABILITY.—(A) Each institution of higher education described in paragraph (1) shall provide to the Secretary, within 15 days of the date that the institution makes available the report under paragraph (1), the information contained in the report.

"(B) The Secretary shall prepare a report regarding the information received under subparagraph (A) for each year by April 1 of the year. The report shall—

"(i) summarize the information and identify trends in the information;

"(ii) aggregate the information by divisions of the National Collegiate Athletic Association; and

"(iii) contain information on each individual institution of higher education.

"(C) The Secretary shall ensure that the report described in subparagraph (B) is made available on the Internet within a reasonable period of time.

"(D) The Secretary shall notify, not later than 180 days after the date of enactment of the Higher Education Amendments of 1998, all secondary schools in all States regarding the availability of the information reported under subparagraph (B) and the information made available under paragraph (1), and how such information may be accessed.".

(f) GEPA AMENDMENT.—Section 444(a)(4)(B) of the General Education Provisions Act (20 U.S.C. 1232g(a)(4)(B)) is amended—

(1) by redesignating clauses (iii) and (iv) as clauses (iv) and (v), respectively; and

(2) by inserting after clause (ii) the following:

"(iii) records that are maintained by local police or campus security officers of an educational agency or institution about—

"(I) individuals who have been found guilty of, or have pled guilty to, committing or participating in any criminal activity as defined in Federal, State, or local law that has occurred while the individual was a student in attendance, including audit or noncredit, at an educational institution; and

"(II) findings of guilt of criminal misconduct and related sanctions from any previously attended educational agencies or institutions where such records were created on or after September 1, 1999, and that are maintained by the institution currently or most recently attended by the individual;".

SEC. 486. NATIONAL STUDENT LOAN DATA BANK SYSTEM.

Section 485B (20 U.S.C. 1092b) is amended by adding at the end the following:

"(h) STUDENT STATUS CONFIRMATION REPORT.—In order to reduce unnecessary paperwork and to increase the efficient administration, the Secretary shall assure that borrowers under part E are included in the Student Status Confirmation Report in the same manner as borrowers under parts B and D.".

SEC. 487. TRAINING IN FINANCIAL AID SERVICES.

Section 486 (20 U.S.C. 1093) is amended to read as follows:

"SEC. 486. INFORMATION ON THE COSTS OF HIGHER EDUCATION.

"(a) IN GENERAL.—For the purpose of providing comparative information to families about the costs of higher education—

"(1) the National Center for Education Statistics shall—

"(A) develop a standard definition for the following data elements:

"(i) Tuition and fees.

"(ii) Total cost of attendance, including costs such as housing, books, supplies, and transportation.

"(iii) Average amount of financial assistance received by a student who attends an institution of higher education, in terms of the following:

"(I) Grants and loans.

"(II) Institutional and other assistance.

"(iv) Percentage of students receiving student financial assistance, in terms of the following:

"(I) Grants and loans.

"(II) Institutional and other assistance;

"(B) report the definitions to each institution of higher education and the Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives not later than 90 days after the date of enactment of the Higher Education Amendments of 1998;

"(C) collect information regarding the data elements described in subparagraph (A) with respect to all institutions of higher education, and make available the information each year in a timely fashion through the integrated postsecondary education data system, beginning with the information from the 1999–2000 academic year;

"(D) provide the public notice when the information described in subparagraph (C) is available for public inspection; and

"(E) publish in a timely fashion a report after the third year of collection of the information described in subparagraph (C) that compares the information described in subparagraph (C) longitudinally by institution, which information shall be presented in a form that is easily understandable, including clear definitions of the data elements described in subparagraph (A), to allow parents and students to make informed decisions about attending college; and

"(2) institutions of higher education shall provide information regarding each data element described in paragraph (1)(A) to the National Center for Education Statistics by March 1 of each year, beginning in the year 2000.

"(b) STUDY.—

"(1) IN GENERAL.—In consultation with the Bureau of Labor Statistics, the National Center for Education Statistics shall conduct a national study of expenditures at institutions of higher education. Such study shall include information about—

"(A) expenditures for—

"(i) faculty salaries and benefits;

"(ii) administrative salaries, benefits, and expenses;

"(iii) academic support services;

"(iv) research;

"(v) construction; and

"(vi) technology;

"(B) how such expenditures change over time; and

"(C) how such expenditures relate to college costs.

"(2) FINAL REPORT.—The National Center for Education Statistics shall submit a report regarding the findings of the study required by paragraph (1) to the Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives not later than September 30, 2001.

"(c) HIGHER EDUCATION MARKET BASKET.—In consultation with the Bureau of Labor Statistics, the National Center for Education Statistics shall develop a Higher Education Market Basket that identifies the items that comprise the costs of higher education. The National Center for Education Statistics shall provide a report on the market basket to the Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives not later than September 30, 2002.

"(d) FINES.—In addition to the actions authorized in section 487(c), the Secretary may impose a fine in an amount not to exceed $25,000 on an institution of higher education for failure to provide the information described in subsection (a)(2) in a timely or accurate manner, or for failure to otherwise cooperate with the National Center for Education Statistics regarding efforts to obtain data on the cost of higher education under such subsection.".

SEC. 488. PROGRAM PARTICIPATION AGREEMENTS.

Section 487 (20 U.S.C. 1094) is amended—

(1) in subsection (a)—

(A) in paragraph (3)—

(i) by striking subparagraph (B); and

(ii) by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively;

(B) in paragraph (9), by striking "part B" and inserting "part B or D";

(C) in paragraph (14)—

(i) in subparagraph (A), by striking "part B" and inserting "part B or D"; and

(ii) in subparagraph (B)—

(I) by inserting "for-profit" after "Any";

(II) by striking "and any eligible institution which" and inserting "or"; and

(III) by striking "part B" and inserting "part B or D";

(D) in paragraph (15), by striking "State review entities" and inserting "the State agencies";

(E) by striking paragraph (18);

(F) by redesignating paragraphs (19) through (22) as paragraphs (18) through (21), respectively; and

(G) by amending paragraph (20) (as redesignated by subparagraph (F)) to read as follows:

"(20) The institution will meet the requirements established by the Secretary and accrediting agencies or associations, and will provide evidence to the Secretary that the institution has the authority to operate within a State."; and

(2) in subsection (c)—

(A) in paragraph (1)(A)(i), by striking "State review entities referred to in" and inserting "appropriate State agency notifying the Secretary under";

(B) in paragraph (4), by striking ", after consultation with each State review entity designated under subpart 1 of part H,"; and

(C) in paragraph (5), by striking "State review entities designated" and inserting "State agencies notifying the Secretary".

SEC. 489. REGULATORY RELIEF AND IMPROVEMENT.

Section 487A (20 U.S.C. 1094a) is amended to read as follows:

"SEC. 487A. REGULATORY RELIEF AND IMPROVEMENT.

"(a) Quality Assurance Program.—

"(1) In general.—The Secretary is authorized to select institutions for voluntary participation in a Quality Assurance Program that provides participating institutions with an alternative management approach through which individual schools develop and implement their own comprehensive systems, including processing and disbursement of student financial aid, verification of student financial aid application data, and entrance and exit interviews, thereby enhancing program integrity within the student aid delivery system. The Quality Assurance Program authorized by this section shall be based on criteria that include demonstrated institutional performance, as determined by the Secretary, and shall take into consideration current quality assurance goals, as determined by the Secretary.

"(2) Waiver.—The Secretary is authorized to waive for any institution participating in the Quality Assurance Program any regulations dealing with reporting or verification requirements in this title that are addressed by the institution's alternative management system, and may substitute such quality assurance reporting as the Secretary determines necessary to ensure accountability and compliance with the purposes of the programs under this title.

"(3) Determination.—The Secretary is authorized to determine—

"(A) when an institution that is unable to administer the Quality Assurance Program shall be removed from such program; and

"(B) when institutions desiring to cease participation in such program will be required to complete the current award year under the requirements of the Quality Assurance Program.

"(4) Review and evaluation.—The Secretary shall review and evaluate the Quality Assurance Program conducted by each participating institution and, on the basis of that evaluation, make recommendations regarding amendments to this Act that will streamline the administration and enhance the integrity of Federal student assistance programs. Such recommendations shall be submitted to the Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives.

"(b) Regulatory Improvement and Streamlining Experiments.—

"(1) In general.—The Secretary shall review and evaluate the experience of institutions participating as experimental sites during the period of 1993 through 1998 under this section (as such section was in effect on the day before the date of enactment of the Higher Education Amendments of 1998), and shall submit a report based on this review and evaluation to the Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives not later than 6 months after the enactment of the Higher Education Amendments of 1998. Such report shall include—

"(A) a list of participating institutions and the specific statutory or regulatory waivers granted to each institution;

"(B) the findings and conclusions reached regarding each of the experiments conducted; and

"(C) recommendations for amendments to improve and streamline this Act, based on the results of the experiment.

"(2) Selection.—

"(A) In general.—The Secretary is authorized to select a limited number of institutions for voluntary participation as experimental sites to provide recommendations to the Secretary on the impact and effectiveness of proposed regulations or new management initiatives, except that additional institutions may not be selected by the Secretary until the report required by subsection (b)(1) has been submitted to Congress.

"(B) Consultation.—Prior to approving any additional experimental sites, the Secretary shall consult with the Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives and shall provide—

"(i) a list of institutions proposed for participation in the experiment and the specific statutory or regulatory waivers proposed to be granted to each institution;

"(ii) the objectives to be achieved through the experiment; and

"(iii) the period of time over which the experiment is to be conducted.

"(C) Waivers.—The Secretary is authorized to waive, for any institution participating as an experimental site under subparagraph (A), any requirements in this title, or regulations prescribed under this title, that will bias experimental results.

"(c) Definitions.—For purposes of this section, the term 'current award year' is defined as the award year during which the participating institution indicates the institution's intention to cease participation.".

SEC. 489A. DISTANCE EDUCATION DEMONSTRATION PROGRAMS.

Part G (20 U.S.C. 1088 et seq.) is amended by inserting after section 487B (20 U.S.C. 1094a) the following:

"SEC. 487C. DISTANCE EDUCATION DEMONSTRATION PROGRAMS.

"(a) Purpose.—It is the purpose of this section—

"(1) to allow demonstration programs that are strictly monitored by the Department to test the quality and viability of expanded distance education programs currently restricted under this Act;

"(2) to help determine the specific statutory and regulatory requirements which should be altered to provide greater access to high quality distance education programs; and

"(3) to help determine the appropriate level of Federal assistance for students enrolled in distance education programs.

"(b) Demonstration Programs Authorized.—

"(1) In general.—The Secretary, in accordance with the provisions of subsection (d), is authorized to select institutions of higher education or consortia of such institutions for voluntary participation in a Distance Education Demonstration Program that provides participating institutions with the ability to offer distance education programs that do not meet all or a portion of the sections or regulations described in paragraph (2).

"(2) Waivers.—The Secretary is authorized to waive, for any institution or consortia participating in a Distance Education Demonstration Program, 1 or more of the requirements of section 472(5) as the section relates to computer costs, sections 472(10), 481(a)(3)(A), 481(a)(3)(B), 484(l)(1), or 1 or more of the regulations prescribed for distance education under part F or G.

"(3) Special rule.—An institution of higher education, as defined in section 481(a), is eligible to participate in the demonstration program authorized under this section if such institution awards a degree, except that—

"(A) such institutions that are described in section 481(a)(1)(C) shall not be eligible to participate; and

"(B) subject to subparagraph (A), such institutions that meet the requirements of subsection (a) of section 481, other than the requirements of paragraph (3)(A) or (3)(B) of such subsection, shall be eligible to participate.

"(c) Application.—

"(1) In general.—Each institution or consortia of institutions desiring to participate in a demonstration program under this section shall submit an application to the Secretary at such time and in such manner as the Secretary may require.

"(2) Contents.—Each application shall include—

"(A) a description of the institution or consortium's consultation with a recognized accrediting agency or association with respect to quality assurances for the distance education programs to be offered;

"(B) a description of the statutory and regulatory requirements described in subsection (b)(2) for which a waiver is sought and the reasons for which the waiver is sought;

"(C) a description of the distance education programs to be offered;

"(D) a description of the students to whom distance education programs will be offered;

"(E) an assurance that the institution or consortium will offer full cooperation with the ongoing evaluations of the demonstration program provided for in this section; and

"(F) such other information as the Secretary may require.

"(d) Selection.—The Secretary is authorized to select not more than 5 institutions or consortia to participate in the initial year of the demonstration program authorized under this section. If expansion of the demonstration program can be supported on the basis of the evaluations conducted pursuant to subsections (f) and (g), the Secretary may select not more than 10 additional institutions or consortia, taking into account the number and quality of applications received and the Department's capacity to oversee and monitor each demonstration program. To the extent feasible, the Secretary shall

select a representative sample of institutions for participation. In selecting institutions for participation, the Secretary shall take into consideration the institution's financial and administrative capability and the type of program or programs being offered via distance education course offerings.

"(e) NOTIFICATION.—The Secretary shall make available to the public and to the Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives a list of institutions or consortia selected to participate in the demonstration program authorized by this section. Such notice shall include a listing of the specific statutory and regulatory requirements being waived for each institution or consortia and a description of the distance education courses to be offered.

"(f) EVALUATIONS AND REPORTS.—

"(1) EVALUATION.—The Secretary, on an annual basis, shall evaluate the demonstration programs authorized under this section. Such evaluations shall specifically review—

"(A) the number and types of students participating in the programs being offered, including the progress of participating students toward recognized associate, bachelor's, or graduate degrees, and the degree to which participation in such programs increased;

"(B) issues related to student financial assistance for distance education; and

"(C) the extent to which statutory or regulatory requirements not waived under the demonstration program present difficulties for students or institutions.

"(2) POLICY ANALYSIS.—In addition, the Secretary shall review current policies and identify those policies which present impediments to the development and use of distance education and other nontraditional methods of expanding access to education.

"(3) REPORTS.—

"(A) IN GENERAL.—Within 18 months of the initiation of the demonstration program, the Secretary shall report to the Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives with respect to—

"(i) the evaluations of the demonstration programs authorized under this section; and

"(ii) any proposed statutory changes designed to enhance the use of distance education.

"(B) ADDITIONAL REPORTS.—The Secretary shall provide additional reports to the Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives on an annual basis regarding the demonstration programs authorized under this section.

"(g) INDEPENDENT EVALUATION.—

"(1) IN GENERAL.—The Secretary shall enter into a contract with the National Academy of Sciences to study the quality of and student learning outcomes in distance education programs. Such study shall include—

"(A) identification of the elements by which quality in distance education can be assessed, such as subject matter, interactivity, and student outcomes; and

"(B) identification of the types of students which can most benefit from distance education in areas such as access to higher education, persistence, and graduation.

"(2) SCOPE.—Such study shall include distance education programs offered by the institutions or consortia participating in the demonstration program authorized by this section, as well as the distance education programs offered by other institutions.

"(3) INTERIM AND FINAL REPORTS.—The Secretary shall request that the National Academy of Sciences submit an interim report to the Secretary, the Committee on Labor and Human Resources of the Senate, and the Committee on Education and the Workforce of the House of Representatives not later than December 31, 2000, and a final report not later than December 31, 2002, regarding the study.

"(4) FUNDING.—The Secretary shall make available not more than $1,000,000 for the study required by this subsection.

"(h) OVERSIGHT.—In conducting the demonstration program authorized under this section, the Secretary shall, on a continuing basis—

"(1) assure compliance of institutions or consortia with the requirements of this title (other than the sections and regulations that are waived under subsection (b)(2));

"(2) provide technical assistance;

"(3) monitor fluctuations in the student population enrolled in the participating institutions or consortia; and

"(4) consult with appropriate accrediting agencies or associations and appropriate State regulatory authorities.

"(i) DEFINITION.—For the purpose of this section, the term 'distance education' means an educational process that is characterized by the separation, in time or place, between instructor and student. Distance education may include courses offered principally through the use of—

"(1) television, audio, or computer transmission, such as open broadcast, closed circuit, cable, microwave, or satellite transmission;

"(2) audio or computer conferencing;

"(3) video cassettes or discs; or

"(4) correspondence.".

SEC. 489B. ADVISORY COMMITTEE ON STUDENT FINANCIAL ASSISTANCE.

Section 491 (20 U.S.C. 1098) is amended—

(1) in subsection (b)—

(A) in the second sentence, by striking "and expenditures" and inserting ", expenditures and staffing levels"; and

(B) by inserting after the third sentence the following: "Reports, publications, and other documents, including such reports, publications, and documents in electronic form, shall not be subject to review by the Secretary.";

(2) in subsection (e)—

(A) by redesignating paragraphs (3), (4), and (5), as paragraphs (4), (5), and (6), respectively; and

(B) by inserting after paragraph (2) the following:

"(3) No officers or full-time employees of the Federal Government shall serve as members of the Advisory Committee.";

(3) in subsection (g), by striking "(1) Members" and all that follows through "of the United States may" and inserting "Members of the Advisory Committee may";

(4) in subsection (h)(1)—

(A) by inserting "determined" after "as may be"; and

(B) by adding at the end the following: "The Advisory Committee may appoint not more than 1 full-time equivalent, nonpermanent, consultant without regard to the provisions of title 5, United States Code. The Advisory Committee shall not be required by the Secretary to reduce personnel to meet agency personnel reduction goals.";

(5) in subsection (i), by striking "$750,000" and inserting "$800,000";

(6) by amending subsection (j) to read as follows:

"(j) SPECIAL ANALYSES AND ACTIVITIES.—The Advisory Committee shall—

"(1) monitor and evaluate the modernization of student financial aid systems and delivery processes, including the implementation of a performance-based organization within the Department, and report to Congress regarding such modernization on not less than an annual basis, including recommendations for improvement;

"(2) assess the adequacy of current methods for disseminating information about programs under this title and recommend improvements, as appropriate, regarding early needs assessment and information for first-year secondary school students;

"(3) assess and make recommendations concerning the feasibility and degree of use of appropriate technology in the application for, and delivery and management of, financial assistance under this title, as well as policies that promote use of such technology to reduce cost and enhance service and program integrity, including electronic application and reapplication, just-in-time delivery of funds, reporting of disbursements and reconciliation;

"(4) assess the implications of distance education on student eligibility and other requirements for financial assistance under this title, and make recommendations that will enhance access to postsecondary education through distance education while maintaining access, through on-campus instruction at eligible institutions, and program integrity; and

"(5) make recommendations to the Secretary regarding redundant or outdated provisions of and regulations under this Act, consistent with the Secretary's requirements under section 498A(b)(3).";

(7) in subsection (k), by striking "1998" and inserting "2004"; and

(8) by repealing subsection (l).

SEC. 489C. REGIONAL MEETINGS AND NEGOTIATED RULEMAKING.

Section 492 (20 U.S.C. 1098a) is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by inserting ", after the enactment of each Act to reauthorize this Act that contains an amendment to this title," after "The Secretary"; and

(ii) by inserting "D," after "B,"; and

(B) in paragraph (2)—

(i) by inserting "D," after "B,"; and

(ii) by striking "1992" and inserting "1998, and for the implementation of this title as amended by each Act to reauthorize this Act enacted after the date of enactment of the Higher Education Amendments of 1998 that contains an amendment to this title"; and

(2) in subsection (b)—

(A) by striking "After" and inserting the following:

"(1) IN GENERAL.—After";

(B) in paragraph (1) (as redesignated by subparagraph (A))—

(i) by inserting "D," after "B,"; and

(ii) by striking "1992" and inserting "1998, and for the implementation of this title as amended by each Act to reauthorize this Act enacted after the date of enactment of the Higher Education Amendments of 1998 that contains an amendment to this title,"; and

(C) by adding at the end the following:

"(2) EXPANSION OF NEGOTIATED RULEMAKING IN STUDENT LOAN PROGRAMS.—All regulations pertaining to the student assistance programs in parts B, D, G, and H, that are promulgated after the date of enactment of this paragraph, shall be subject to the negotiated rulemaking process, unless the Secretary determines that exceptional circumstances exist making negotiated rulemaking impractical with respect to given regulations and publishes the basis for such determination in the Federal Register at the same time as the proposed regulations in questions are first published. All published proposed regulations shall conform, unless impracticable, to agreements resulting from such negotiated rulemaking. Such negotiated rulemaking shall be conducted in accordance with the provisions of paragraph (1).".

PART H—PROGRAM INTEGRITY TRIAD

SEC. 491. STATE ROLE AND RESPONSIBILITIES.

Subpart 1 of part H of title IV (20 U.S.C. 1099a et seq.) is amended to read as follows:

"Subpart 1—State Role

"SEC. 495. STATE RESPONSIBILITIES.

"(a) STATE RESPONSIBILITIES.—As part of the integrity program authorized by this part, each State, through 1 State agency or several State agencies selected by the State, shall—

"(1) furnish the Secretary, upon request, information with respect to the process for licensing or other authorization for institutions of higher education to operate within the State;

"(2) notify the Secretary promptly whenever the State revokes a license or other authority to operate an institution of higher education; and

"(3) notify the Secretary promptly whenever the State has credible evidence that an institution of higher education within the State—

"(A) has committed fraud in the administration of the student assistance programs authorized by this title; or

"(B) has substantially violated a provision of this title.

"(b) INSTITUTIONAL RESPONSIBILITY.—Each institution of higher education shall provide evidence to the Secretary that the institution has authority to operate within a State at the time the institution is certified under subpart 3.".

SEC. 492. ACCREDITING AGENCY RECOGNITION.

(a) AMENDMENTS TO HEADINGS.—Subpart 2 of part H of title IV (20 U.S.C. 1099b et seq.) is amended—

(1) in the subpart heading, by striking "**Approval**" and inserting "**Recognition**"; and

(2) in the heading for section 496, by striking "**approval**" and inserting "**recognition**".

(b) RECOGNITION OF ACCREDITING AGENCY OR ASSOCIATION.—Section 496 (20 U.S.C. 1099b) is amended—

(1) in the heading for subsection (a), by striking "STANDARDS" and inserting "CRITERIA";

(2) in subsection (a)—

(A) in the matter preceding paragraph (1), by striking "standards" each place the term appears and inserting "criteria";

(B) in paragraph (4)—

(i) by striking "at the institution" and inserting "offered by the institution"; and

(ii) by inserting ", including distance education courses or programs," after "higher education"; and

(C) in paragraph (5)—

(i) by striking subparagraph (I);

(ii) by redesignating subparagraphs (A) through (H) as subparagraphs (B) through (I), respectively;

(iii) by inserting before subparagraph (B) the following:

"(A) success with respect to student achievement in relation to the institution's mission, including, as appropriate, consideration of course completion, State licensing examination, and job placement rates;";

(iv) in subparagraph (I) (as redesignated by clause (ii)), by striking "in clock hours or credit hours"; and

(v) in subparagraph (L)—

(I) by inserting "record of" before "compliance";

(II) by striking "Act, including any" and inserting "Act based on the";

(III) by inserting "any" after "reviews, and"; and

(IV) in the matter following subparagraph (L), by striking "(G),";

(3) by amending paragraph (1) of subsection (l) to read as follows: "(1)(A)(i) If the Secretary determines that an accrediting agency or association has failed to apply effectively the standards in this section, or is otherwise not in compliance with the requirements of this section, the Secretary shall—

"(I) after notice and opportunity for a hearing, limit, suspend, or terminate the approval of the agency or association; or

"(II) require the agency or association to take appropriate action to bring the agency or association into compliance with such requirements within a timeframe specified by the Secretary, except that—

"(aa) such timeframe shall not exceed 12 months unless the Secretary extends such period for good cause; and

"(bb) if the agency or association fails to bring the agency or association into compliance within such timeframe, the Secretary shall, after notice and opportunity for a hearing, limit, suspend, or terminate the approval of the agency or association."; and

(4) in subsection (n)(3), by adding at the end the following: "When the Secretary decides to recognize an accrediting agency or association, the Secretary shall determine the agency or association's scope of recognition. If the agency or association reviews institutions offering distance education courses or programs and the Secretary determines that the agency or association meets the requirements of this section, then the agency shall be recognized and the scope of recognition shall include accreditation of institutions offering distance education courses or programs.".

SEC. 493. ELIGIBILITY AND CERTIFICATION PROCEDURES.

(a) SINGLE APPLICATION FORM.—Section 498(b) (20 U.S.C. 1099c(b)) is amended—

(1) in paragraph (1), by striking "and capability" and inserting "financial responsibility, and administrative capability";

(2) by amending paragraph (3) to read as follows:

"(3) requires—

"(A) a description of the third party servicers of an institution of higher education; and

"(B) the institution to maintain a copy of any contract with a financial aid service provider or loan servicer, and provide a copy of any such contract to the Secretary upon request;";

(3) in paragraph (4), by striking the period and inserting "; and"; and

(4) by adding at the end the following:

"(5) provides, at the option of the institution, for participation in 1 or more of the programs under part B or D.".

(b) FINANCIAL RESPONSIBILITY STANDARDS.—Section 498(c) (20 U.S.C. 1099c(c)) is amended—

(1) in paragraph (2), by striking "with respect to operating losses, net worth, asset to liabilities ratios, or operating fund deficits" and inserting "regarding ratios that demonstrate financial responsibility,";

(2) in paragraph (3)(A), by striking "Secretary third party" and all that follows through "payable to the Secretary" and inserting "Secretary any third party guarantees, which the Secretary determines are reasonable, that"; and

(3) in paragraph (4)—

(A) in the matter preceding subparagraph (A), by striking "ratio of current assets to current liabilities" and inserting "criteria"; and

(B) in subparagraph (C), by striking "current operating ratio requirement" and inserting "criteria".

(c) FINANCIAL GUARANTEES FROM OWNERS.—Section 498(e) (20 U.S.C. 1099c(e)) is amended—

(1) in the subsection heading, by inserting "OF FOR-PROFIT INSTITUTIONS" after "OWNERS";

(2) in paragraph (1)(A), by striking "from an" and inserting "from a for-profit";

(3) in paragraph (2)—

(A) in the matter preceding clause (i) of subparagraph (A), by inserting "for-profit" after "or more";

(B) in subparagraph (B), by inserting "for-profit" after "or more"; and

(4) in paragraph (3), by striking "operation of, an institution or" and inserting "operation of, a for-profit institution or the".

(d) APPLICATIONS AND SITE VISITS.—Section 498(f) (20 U.S.C. 1099c(f)) is amended—

(1) in the subsection heading by striking "; SITE VISITS AND FEES" and inserting "AND SITE VISITS";

(2) in the second sentence, by striking "shall" and inserting "may";

(3) in the third sentence, strike "may" and insert "shall"; and

(4) by striking the fourth sentence.

(e) TIME LIMITATIONS ON, AND RENEWAL OF, ELIGIBILITY.—Subsection (g) of section 498 (20 U.S.C. 1099c) is amended to read as follows:

"(g) TIME LIMITATIONS ON, AND RENEWAL OF, ELIGIBILITY.—

"(1) GENERAL RULE.—After the expiration of the certification of any institution under the schedule prescribed under this section (as in effect prior to the enactment of the Higher Education Act Amendments of 1998), or upon request for initial certification from an institution not previously certified, the Secretary may certify the eligibility for the purposes of any program authorized under this title of each such institution for a period not to exceed 6 years.

"(2) NOTIFICATION.—The Secretary shall notify each institution of higher education not later than 6 months prior to the date of the expiration of the institution's certification.

"(3) INSTITUTIONS OUTSIDE THE UNITED STATES.—The Secretary shall promulgate regulations regarding the recertification requirements applicable to an institution of higher education outside of the United States that meets the requirements of section 481(a)(1)(C) and received less than $500,000 in funds under part B for the most recent year for which data are available.".

(f) PROVISIONAL CERTIFICATION.—Section 498(h) (20 U.S.C. 1099c(h)) is amended—

(1) in paragraph (1)(B)(ii), by striking "an eligible" and inserting "a for-profit eligible"; and

(2) in paragraph (2), by striking "the approval" and inserting "the recognition".

(g) TREATMENT OF CHANGES OF OWNERSHIP.—Section 498(i) (20 U.S.C. 1099c(i)) is amended—

(1) in the subsection heading, by inserting "OF FOR-PROFIT INSTITUTIONS" after "OWNERSHIP"; and

(2) in paragraph (2)—

(A) in subparagraph (A), by inserting "for-profit" before "institution";

(B) in subparagraph (C), by striking "two" and inserting "a for-profit institution with one";

(C) in subparagraph (D), by inserting "for-profit" before "institutions";

(D) in subparagraph (E), by inserting "for-profit" before "institutions"; and

(E) in subparagraph (F), by inserting "for-profit" before "institution".

(h) TREATMENT OF BRANCHES.—The second sentence of section 498(j)(1) (20 U.S.C. 1099c(j)(1)) is amended by inserting "after the branch is certified by the Secretary as a branch campus participating in a program under title IV," after "2 years".

SEC. 494. PROGRAM REVIEW AND DATA.

Section 498A (20 U.S.C. 1099c–1) is amended—

(1) in subsection (a)—

(A) in paragraph (2)—

(i) in the matter preceding subparagraph (A), by striking "may" and inserting "shall";

(ii) by amending subparagraph (C) to read as follows:

"(C) institutions with a significant fluctuation in Federal Stafford Loan volume, Federal Direct Stafford/Ford Loan volume, or Federal Pell Grant award volume, or any combination thereof, in the year for which the determination is made, compared to the year prior to such year, that are not accounted for by changes in the Federal Stafford Loan program, the Federal Direct Stafford/Ford Loan program, or the Pell Grant program, or any combination thereof;";

(iii) by amending subparagraph (D) to read as follows:

"(D) institutions reported to have deficiencies or financial aid problems by the State licensing or authorizing agency, or by the appropriate accrediting agency or association;";

(iv) in subparagraph (E), by inserting "and" after the semicolon; and

(v) by striking subparagraphs (F) and (G), and inserting the following:

"(F) such other institutions that the Secretary determines may pose a significant risk of failure to comply with the administrative capability or financial responsibility provisions of this title; and"; and

(B) in paragraph (3)(A), by inserting "relevant" after "all"; and

(2) by amending subsection (b) to read as follows:

"(b) SPECIAL ADMINISTRATIVE RULES.—

"(1) IN GENERAL.—In carrying out paragraphs (1) and (2) of subsection (a) and any other relevant provisions of this title, the Secretary shall—

"(A) establish guidelines designed to ensure uniformity of practice in the conduct of program reviews of institutions of higher education;

"(B) make available to each institution participating in programs authorized under this title complete copies of all review guidelines and procedures used in program reviews;

"(C) permit the institution to correct or cure an administrative, accounting, or recordkeeping error if the error is not part of a pattern of error and there is no evidence of fraud or misconduct related to the error;

"(D) base any civil penalty assessed against an institution of higher education resulting from a program review or audit on the gravity of the violation, failure, or misrepresentation; and

"(E) inform the appropriate State and accrediting agency or association whenever the Secretary takes action against an institution of higher education under this section, section 498, or section 432.

"(2) UNIFORMITY OF APPLICATION OF REGULATIONS.—The Secretary shall review the regulations of the Department and the application of such regulations to ensure the uniformity of interpretation and application of the regulations.

"(3) NONDUPLICATION AND COORDINATION.—The Secretary shall establish a process for ensuring that eligibility and compliance issues, such as institutional audit, program review, and recertification, are considered simultaneously, and shall establish a process for identifying unnecessary duplication of reporting and related regulatory requirements. In developing such processes, the Secretary shall consult with relevant representatives of institutions participating in the programs authorized by this title.".

PART I—ADMINISTRATIVE PROVISIONS FOR DELIVERY OF STUDENT FINANCIAL ASSISTANCE

SEC. 495. PERFORMANCE-BASED ORGANIZATION FOR THE DELIVERY OF FEDERAL STUDENT FINANCIAL ASSISTANCE.

Title IV (20 U.S.C. 1070 et seq.) is amended by adding at the end the following:

"PART I—ADMINISTRATIVE PROVISIONS FOR DELIVERY OF STUDENT FINANCIAL ASSISTANCE

"SEC. 499. PERFORMANCE-BASED ORGANIZATION FOR THE DELIVERY OF FEDERAL STUDENT FINANCIAL ASSISTANCE.

"(a) ESTABLISHMENT.—The Secretary shall establish in the Department a performance-based organization (hereafter in this part referred to as the 'PBO') to administer various functions relating to student financial assistance programs authorized under this title.

"(b) OVERSIGHT AND AUTHORITY.—

"(1) POLICY OVERSIGHT AND DIRECTION.—The Secretary shall maintain responsibility for the policy relating to functions managed by the PBO, and the PBO shall remain subject to the Secretary's oversight and direction.

"(2) AUDITS AND REVIEW.—The PBO shall be subject to the usual and customary Federal audit procedures and to review by the Inspector General of the Department.

"(3) CHANGES.—

"(A) IN GENERAL.—The Secretary and the Chief Operating Officer shall consult concerning the effects of policy, market, or other changes on the ability of the PBO to achieve the goals and objectives established in the performance plan described in subsection (e).

"(B) REVISIONS TO AGREEMENT.—The Secretary and the Chief Operating Officer may revise the annual performance agreement described in subsection (f)(2) in light of policy, market, or other changes that occur after the Secretary and the PBO enter into the agreement.

"(c) PURPOSES OF PBO.—The purposes of the PBO are—

"(1) to improve service to students and other participants in the student financial assistance programs authorized under this title, including making those programs more understandable to students and their parents;

"(2) to reduce the costs of administering those programs;

"(3) to increase the accountability of the officials responsible for administering those programs;

"(4) to provide greater flexibility in the administration of those programs;

"(5) to improve and integrate the information and delivery systems that support those programs; and

"(6) to develop and maintain a student financial assistance system that contains complete, accurate, and timely data to ensure program integrity.

"(d) FUNCTIONS.—

"(1) IN GENERAL.—Subject to subsection (b) of this section, the PBO shall be responsible for administration of the information and financial systems that support student financial assistance programs authorized under this title, including—

"(A) collecting, processing, and transmitting applicant data to students, institutions, and authorized third parties, as provided for in section 483;

"(B) contracting for the information and financial systems supporting student financial assistance programs under this title;

"(C) developing technical specifications for software and systems that support those programs; and

"(D) providing all customer service, training, and user support related to systems that support those programs.

"(2) ADDITIONAL FUNCTIONS.—The Secretary may allocate to the PBO such additional functions as the Secretary determines necessary or appropriate to achieve the purposes of the PBO.

"(e) PERFORMANCE PLAN AND REPORT.—

"(1) PERFORMANCE PLAN.—

"(A) IN GENERAL.—Each year, the Secretary and Chief Operating Officer shall agree on, and make available to the public, a performance plan for the PBO for the succeeding 5 years that establishes measurable goals and objectives for the organization.

"(B) CONSULTATION.—In developing the 5-year performance plan, the Secretary and the Chief Operating Officer shall consult with students, institutions of higher education, Congress, lenders, and other interested parties not less than 30 days prior to the implementation of the performance plan.

"(C) AREAS.—The plan shall address the PBO's responsibilities in the following areas:

"(i) IMPROVING SERVICE.—Improving service to students and other participants in student financial aid programs authorized under this title, including making those programs more understandable to students and their parents.

"(ii) REDUCING COSTS.—Reducing the costs of administering those programs.

"(iii) IMPROVEMENT AND INTEGRATION OF SUPPORT SYSTEMS.—Improving and integrating the information and delivery systems that support those programs.

"(iv) DELIVERY AND INFORMATION SYSTEM.—Developing an open, common, and integrated delivery and information system for programs authorized under this title.

"(v) OTHER AREAS.—Any other areas identified by the Secretary.

"(2) ANNUAL REPORT.—Each year, the Chief Operating Officer shall prepare and submit to Congress, through the Secretary, an annual report on the performance of the PBO, including an evaluation of the extent to which the PBO met the goals and objectives contained in the 5-year performance plan described in paragraph (1) for the preceding year.

"(f) CHIEF OPERATING OFFICER.—

"(1) APPOINTMENT.—

"(A) IN GENERAL.—The management of the PBO shall be vested in a Chief Operating Officer who shall be appointed by the Secretary to a term of not less than 3 and not more than 5 years and compensated without regard to chapters 33, 51, and 53 of title 5, United States Code.

"(B) BASIS.—The appointment shall be made on the basis of demonstrated ability in management and experience in information technology or financial services, without regard to political affiliation or activity.

"(C) REAPPOINTMENT.—The Secretary may reappoint the Chief Operating Officer to subsequent terms of not less than 3 and not more than 5 years, so long as the performance of the Chief Operating Officer, as set forth in the performance agreement described in paragraph (2), is satisfactory.

"(2) PERFORMANCE AGREEMENT.—

"(A) IN GENERAL.—Each year, the Secretary and the Chief Operating Officer shall enter into an annual performance agreement, that shall set forth measurable organization and individual goals for the Chief Operating Officer.

"(B) TRANSMITTAL.—The final agreement shall be transmitted to the Committee on Education and the Workforce of the House of Representatives and the Committee on Labor and Human Resources of the Senate, and made publicly available.

"(3) COMPENSATION.—

"(A) IN GENERAL.—The Chief Operating Officer is authorized to be paid at an annual rate of basic pay not to exceed the maximum rate of basic pay for the Senior Executive Service under section 5382 of title 5, United States Code, including any applicable locality-based comparability payment that may be authorized under section 5304(h)(2)(C) of such title.

"(B) BONUS.—In addition, the Chief Operating Officer may receive a bonus in an amount that does not exceed 50 percent of such annual rate of basic pay, based upon the Secretary's evaluation of the Chief Operating Officer's performance in relation to the goals set forth in the performance agreement described in paragraph (2).

"(C) PAYMENT.—Payment of a bonus under this subparagraph (B) may be made to the Chief Operating Officer only to the extent that such payment does not cause the Chief Operating Officer's total aggregate compensation in a calendar year to equal or exceed the amount of the President's salary under section 102 of title 3, United States Code.

"(4) REMOVAL.—The Chief Operating Officer shall be removable—

"(A) by the President; or

"(B) by the Secretary for misconduct or failure to meet the goals set forth in the performance agreement described in paragraph (2).

"(g) SENIOR MANAGEMENT.—

"(1) APPOINTMENT.—

"(A) IN GENERAL.—The Chief Operating Officer may appoint such senior managers as that

officer determines necessary without regard to the provisions of title 5, United States Code, governing appointments in the competitive service.

"(B) COMPENSATION.—The senior managers described in subparagraph (A) may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

"(2) PERFORMANCE AGREEMENT.—Each year, the Chief Operating Officer and each senior manager appointed under this subsection shall enter into an annual performance agreement that sets forth measurable organization and individual goals.

"(3) COMPENSATION.—

"(A) IN GENERAL.—A senior manager appointed under this subsection may be paid at an annual rate of basic pay of not more than the maximum rate of basic pay for the Senior Executive Service under section 5382 of title 5, United States Code, including any applicable locality-based comparability payment that may be authorized under section 5304(h)(2)(C) of such title 5.

"(B) BONUS.—In addition, a senior manager may receive a bonus in an amount such that the manager's total annual compensation does not exceed 125 percent of the maximum rate of basic pay for the Senior Executive Service, including any applicable locality-based comparability payment, based upon the Chief Operating Officer's evaluation of the manager's performance in relation to the goals set forth in the performance agreement described in paragraph (2).

"(4) REMOVAL.—A senior manager shall be removable by the Secretary or by the Chief Operating Officer.

"(h) AUTHORIZATION OF APPROPRIATIONS.—The Secretary shall allocate from funds made available under section 458 such funds as are appropriate to the functions assumed by the PBO. In addition, there are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section, including transition costs.".

TITLE V—GRADUATE AND POSTSECONDARY IMPROVEMENT PROGRAMS

SEC. 501. REPEALS, TRANSFERS, AND REDESIGNATIONS.

(a) IN GENERAL.—Title V (20 U.S.C. 1101 et seq.) is amended—

(1) by amending the title heading to read as follows:

"TITLE V—GRADUATE AND POSTSECONDARY IMPROVEMENT PROGRAMS";

(2) by repealing parts A, B, C, D, E, and F of title V (20 U.S.C. 1102 et seq., 1103 et seq., 1104 et seq., 1107 et seq., 1111 et seq., and 1113 et seq.);

(3) by transferring part C of title IX, part D of title IX, part A of title XI, and part A of title X (20 U.S.C. 1134h et seq., 1134l et seq., 1136 et seq., and 1135 et seq.) to title V and redesignating such parts as parts A, B, C, and D, respectively;

(4) by redesignating sections 931 through 935 (20 U.S.C. 1134h et seq. and 1134k–1 et seq.) as sections 511 through 515, respectively;

(5) by redesignating sections 941 through 947 (20 U.S.C. 1134l and 1134q–1) as section 521 through 527, respectively;

(6) by redesignating sections 1101 through 1109 (20 U.S.C. 1136 through 1136h) as sections 531 through 539, respectively; and

(7) by redesignating sections 1001, 1002, 1003, 1004, and 1011 (20 U.S.C. 1135, 1135a–1, 1135a–2, 1135a–3, and 1135a–11) as sections 541, 542, 543, 544, and 551, respectively.

(b) CROSS REFERENCE CONFORMING AMENDMENTS.—

(1) JACOB K. JAVITS FELLOWSHIP PROGRAM.—Section 514(a) (as redesignated by subsection (a)(4)) (20 U.S.C. 1134k(a)) is amended by striking "933" and inserting "513".

(2) GRADUATE ASSISTANCE IN AREAS OF NATIONAL NEED.—Part B of title V (as redesignated by paragraphs (3) and (5) of subsection (a)) (20 U.S.C. 1134l et seq.) is amended—

(A) in section 524(b)(7) (as redesignated by subsection (a)(5)) (20 U.S.C. 1134o(b)(7)), by striking "945" and inserting "525"; and

(B) in section 525(c) (as redesignated by subsection (a)(5)) (20 U.S.C. 1134p(c))—

(i) by striking "946(a)" and inserting "526(a)"; and

(ii) by striking "944(b)(2)" and inserting "524(b)(2)".

(3) URBAN AND COMMUNITY SERVICE.—Part C of title V (as redesignated by paragraphs (3) and (6) of subsection (a)) (20 U.S.C. 1136 et seq.) is amended—

(A) in section 532(b) (20 U.S.C. 1136a(b)), by striking "1104" and inserting "534";

(B) in section 534(12) (20 U.S.C. 1136c(12)), by striking "1103(a)(2)(B)" and inserting "533(a)(2)(B)"; and

(C) in section 538(1) (20 U.S.C. 1136g(1)), by striking "1103" and inserting "533".

(4) FIPSE.—Subsections (b) and (c) of section 544 (as redesignated by subsection (a)(7)) (20 U.S.C. 1135a–3) each are amended by striking "1001(b)" and inserting "541(b)".

SEC. 502. PURPOSE.

Section 500 (20 U.S.C. 1101) is amended to read as follows:

"SEC. 500. PURPOSE.

"It is the purpose of this title—

"(1) to authorize national graduate fellowship programs—

"(A) in order to attract students of superior ability and achievement, exceptional promise, and demonstrated financial need, into high-quality graduate programs and provide the students with the financial support necessary to complete advanced degrees; and

"(B) that are designed to—

"(i) sustain and enhance the capacity for graduate education in areas of national need; and

"(ii) encourage talented students to pursue scholarly careers in the humanities, social sciences, and the arts; and

"(2) to promote postsecondary programs.".

PART A—JACOB K. JAVITS FELLOWSHIP PROGRAM

SEC. 511. AWARD OF FELLOWSHIPS.

(a) AWARD OF JACOB K. JAVITS FELLOWSHIPS.—Section 511 (as redesignated by section 501(4)) is amended—

(1) in subsection (a)—

(A) in the first sentence, by inserting ", financial need," after "demonstrated achievement";

(B) in the second sentence—

(i) by striking "students intending" and inserting "students who are eligible to receive any grant, loan, or work assistance pursuant to section 484 and intend"; and

(ii) by striking "commonly accepted" and all that follows through "degree-granting institution" and inserting "the terminal highest degree awarded in the area of study"; and

(C) in the third sentence, by inserting "following the fiscal year" after "July 1 of the fiscal year"; and

(2) by adding at the end the following:

"(d) PROCESS AND TIMING OF COMPETITION.—The Secretary shall make applications for fellowships under this part available not later than October 1 of the academic year preceding the academic year for which fellowships will be awarded, and shall announce the recipients of fellowships under this section not later than March 1 of the academic year preceding the academic year for which the fellowships are awarded.

"(e) AUTHORITY TO CONTRACT.—The Secretary is authorized to enter into a contract with a nongovernmental agency to administer the program assisted under this part if the Secretary determines that entering into the contract is an efficient means of carrying out the program.".

(b) ALLOCATION OF FELLOWSHIPS.—Section 512 (as redesignated by section 501(4)) (20 U.S.C. 1134i) is amended—

(1) in subsection (a)—

(A) in the third sentence of paragraph (1), by striking "knowledgeable about and have experience" and inserting "representative of a range of disciplines"; and

(B) in paragraph (2)—

(i) by amending subparagraph (B) to read as follows:

"(B) establish general criteria for the award of fellowships in academic fields identified by the Board, or, in the event that the Secretary enters into a contract with a nongovernmental entity to administer the program assisted under this part, by such nongovernmental entity;"; and

(ii) in subparagraph (C), by inserting "except that, in the event that the Secretary enters into a contract with a nongovernmental entity to administer the program, such panels may be appointed by such nongovernmental entity" before the semicolon; and

(2) in the first sentence of subsection (b), by inserting "except that in the event that the Secretary enters into a contract with a nongovernmental entity to administer the program, such panels may be appointed by such nongovernmental entity" before the period.

(c) STIPENDS.—Section 513 (as redesignated by section 501(4)) (20 U.S.C. 1134j) is amended—

(1) in subsection (a)—

(A) by striking "1993-1994" and inserting "1999-2000"; and

(B) by striking "according to measurements of need approved by the Secretary" and inserting "determined in accordance with part F of title IV"; and

(2) in subsection (b)(1)(A)—

(A) in clause (i)—

(i) by striking "$6,000" and inserting "$10,000"; and

(ii) by striking "1993–1994" and inserting "1999–2000"; and

(B) in clause (ii)—

(i) in the matter preceding subclause (I), by striking "1993–1994" and inserting "1999–2000";

(ii) in subclause (I), by striking "$9,000 for the academic year 1993–1994" and inserting "$10,000 for the academic year 1999–2000"; and

(iii) in subclause (II), by striking "$9,000" and inserting "$10,000".

(d) AUTHORIZATION OF APPROPRIATIONS.—Section 515 (as redesignated by section 501(4)) (20 U.S.C. 1134k–1) is amended by striking "1993" and inserting "1999".

PART B—GRADUATE ASSISTANCE IN AREAS OF NATIONAL NEED

SEC. 521. GRADUATE ASSISTANCE IN AREAS OF NATIONAL NEED.

(a) DESIGNATION OF AREAS OF NATIONAL NEED.—Subsection (b) of section 523 (as redesignated by section 501(5)) (20 U.S.C. 1134n) is amended to read as follows:

"(b) DESIGNATION OF AREAS OF NATIONAL NEED.—After consultation with the National Science Foundation, the National Academy of Sciences, and other appropriate Federal and nonprofit agencies and organizations, the Secretary shall designate areas of national need. In making such designations, the Secretary shall take into consideration—

"(1) the extent to which the national interest in the area is compelling;

"(2) the extent to which other Federal programs support postbaccalaureate study in the area concerned; and

"(3) an assessment of how the program may achieve the most significant impact with available resources.".

(b) CONTENT OF APPLICATIONS.—Section 524(b) (as redesignated by section 501(5)) (20 U.S.C. 1134o(b)) is amended—

(1) in paragraph (2)—

(A) by striking "funds" and inserting "sources"; and

(B) by inserting ", which contribution may be in cash or in kind, fairly valued" before the semicolon;

(2) by redesignating paragraphs (4) through (9) as paragraphs (5) through (10), respectively;

(3) by inserting after paragraph (3) the following:

"(4) describe the number, types, and amounts of the fellowships that the applicant intends to offer with grant funds provided under this part;" and

(4) in paragraph (5)(A) (as redesignated by paragraph (2)), by striking "criteria developed by the institution" and inserting "part F of title IV".

(c) AWARDS.—Section 525 (as redesignated by section 501(5)) (20 U.S.C. 1134p) is amended—

(1) in the third sentence of subsection (b)—

(A) by striking "1993–1994" and inserting "1999–2000"; and

(B) by striking "according to measurements of need approved by the Secretary" and inserting "determined in accordance with part F of title IV"; and

(2) in subsection (c), by striking "such payments" and inserting "such excess".

(d) INSTITUTIONAL PAYMENTS.—Section 526(a)(1) (as redesignated by section 501(5)) (20 U.S.C. 1134q(a)(1)) is amended—

(1) in subparagraph (A)—

(A) by striking "$6,000 annually" and inserting "$10,000 for each academic year,"; and

(B) by striking "1993–1994" and inserting "1999–2000"; and

(2) in subparagraph (B)—

(A) in the matter preceding clause (i), by striking "1993–1994" and inserting "1999–2000";

(B) in clause (i), by striking "$9,000 for the academic year 1993–1994" and inserting "$10,000 for the academic year 1999–2000"; and

(C) in clause (ii), by striking "$9,000" and inserting "$10,000".

(e) AUTHORIZATION OF APPROPRIATIONS.—Section 527 (as redesignated by section 501(5)) (20 U.S.C. 1134q–1) is amended by striking "$40,000,000 for fiscal year 1993" and inserting "$30,000,000 for fiscal year 1999".

PART C—URBAN COMMUNITY SERVICE

SEC. 531. URBAN COMMUNITY SERVICE.

(a) PRIORITY.—Section 533(b) (as redesignated by section 501(a)(6)) (20 U.S.C. 1136b(b)) is amended by adding at the end the following: "In addition, the Secretary shall give priority to eligible institutions submitting applications that demonstrate the eligible institution's commitment to urban community service.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 539 (as redesignated by section 501(a)(6)) (20 U.S.C. 1136h) is amended by striking "1993" and inserting "1999".

PART D—FUND FOR THE IMPROVEMENT OF POSTSECONDARY EDUCATION

SEC. 541. FUND FOR THE IMPROVEMENT OF POSTSECONDARY EDUCATION.

(a) AUTHORITY.—Section 541(a) (as redesignated by section 501(a)(7)) (20 U.S.C. 1135(a)) is amended—

(1) in the matter preceding paragraph (1)—

(A) by striking "or combinations of such institutions" and inserting ", combinations of such institutions,"; and

(B) by striking "institutions and combinations of such institutions" and inserting "institutions, combinations, and agencies"; and

(2) in paragraph (2)—

(A) by striking "and programs involving new" and inserting ", programs and joint efforts involving"; and

(B) by striking "new combinations" and inserting "combinations".

(b) TECHNICAL EMPLOYEES.—Section 543(a) (as redesignated by section 501(a)(7)) (20 U.S.C. 1135a–2(a)) is amended by striking "5 technical" and inserting "7 technical".

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 544 (as redesignated by section 501(a)(7)) (20 U.S.C. 1135a–3) is amended—

(1) in subsection (a), by striking "$20,000,000 for fiscal year 1993" and inserting "$26,000,000 for fiscal year 1999"; and

(2) in subsection (b), by striking "1993" and inserting "1999".

(d) AREAS OF NATIONAL NEED.—

(1) AREAS.—Section 551(c) (as redesignated by section 501(a)(7)) (20 U.S.C. 1135a–11(c)) is amended—

(A) in paragraph (2), by striking "Campus climate and culture" and inserting "Institutional restructuring to improve learning and promote cost efficiencies";

(B) in paragraph (3), by inserting "of model programs" after "dissemination"; and

(C) by adding at the end the following:

"(4) Articulation between 2-year and 4-year institutions of higher education, including developing innovative methods for ensuring the successful transfer of students from 2-year to 4-year institutions of higher education.".

(2) AUTHORIZATION OF APPROPRIATIONS.—Section 551(d) (as redesignated by section 501(a)(7)) (20 U.S.C. 1135a–11(d)) is amended by striking "1993" and inserting "1999".

PART E—HIGHER EDUCATION ACCESS FOR STUDENTS WITH DISABILITIES; HISPANIC-SERVING INSTITUTIONS; GENERAL PROVISIONS

SEC. 551. HIGHER EDUCATION ACCESS FOR STUDENTS WITH DISABILITIES; HISPANIC-SERVING INSTITUTIONS; GENERAL PROVISIONS.

Title V (20 U.S.C. 1101 et seq.) is amended further by adding at the end the following:

"PART E—HIGHER EDUCATION ACCESS FOR STUDENTS WITH DISABILITIES

"SEC. 571. HIGHER EDUCATION ACCESS FOR STUDENTS WITH DISABILITIES.

"(a) PURPOSE.—It is the purpose of this part—

"(1) to support the development of model programs to provide technical assistance or training, and professional development, for faculty and administrators in institutions of higher education, as defined in section 481(a), to provide the faculty and administrators with the skills and assistance to teach effectively students with disabilities; and

"(2) to ensure effective evaluation and dissemination of such model programs.

"(b) GRANTS AUTHORIZED.—

"(1) IN GENERAL.—The Secretary is authorized to award grants to institutions of higher education to carry out the purposes of this part.

"(2) MODEL PROGRAMS.—To the extent feasible, the model programs developed under this part shall be developed for a range of types and sizes of institutions of higher education.

"(3) GEOGRAPHIC DISTRIBUTION.—In awarding grants under this part, the Secretary shall consider—

"(A) providing an equitable geographic distribution of such grants; and

"(B) distributing such grants to urban and rural areas.

"(4) APPROACHES.—The Secretary shall award grants under this part for a range of approaches to providing support to faculty and administrators, such as in-service training, professional development, customized and general technical assistance, workshops, summer institutes, distance learning and the use of educational technology.

"(c) DISSEMINATION OF GRANTS.—The Secretary may award grants to institutions of higher education that have demonstrated exceptional programs for students with disabilities under this part in order to disseminate those programs.

"(d) APPLICATIONS.—Each institution of higher education desiring a grant under this part shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require. Each such application shall include—

"(1) a plan to assess the needs of the institution of higher education in order to meet the purposes of this part, in consultation with a broad range of persons within that institution; and

"(2) a plan for coordinating with or collaborating with the office within the institution that provides services to students with disabilities, and the equal opportunity office within the institution, if the offices exist.

"(e) USE OF FUNDS.—Any institution of higher education receiving a grant under this part—

"(1) shall use the grant funds to—

"(A) meet the purposes of this section; and

"(B) ensure that projects assisted under this part include components for model development, demonstration, evaluation, and dissemination to other institutions of higher education; and

"(2) may include, to the extent practicable, graduate teaching assistants in the services provided under the grant.

"(f) GRANT AWARDS.—The Secretary shall award grants under this part for a period of 3 years.

"(g) CONSTRUCTION.—Nothing in this section shall be construed to impose any additional duty, obligation, or responsibility on an institution of higher education, or on the institution's administrators, faculty, or staff, in addition to the requirements of section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990.

"(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $10,000,000 for fiscal year 1999 and such sums as may be necessary for each of the 4 succeeding fiscal years.

"PART F—HISPANIC-SERVING INSTITUTIONS

"SEC. 581. PURPOSE.

"The purpose of this part is to—

"(1) expand educational opportunities for, and improve the academic attainment of, Hispanic students; and

"(2) expand and enhance the academic offerings, program quality, and institutional stability of colleges and universities that are educating the majority of Hispanic college students and helping large numbers of Hispanic students and other low-income individuals complete postsecondary degrees.

"SEC. 582. PROGRAM AUTHORIZED.

"(a) IN GENERAL.—The Secretary shall provide grants and related assistance to Hispanic-serving institutions to enable such institutions to improve and expand their capacity to serve Hispanic students and other low-income individuals.

"(b) AUTHORIZED ACTIVITIES.—

"(1) TYPES OF ACTIVITIES AUTHORIZED.—Grants awarded under this section shall be used by Hispanic-serving institutions of higher education to assist such institutions to plan, develop, undertake, and carry out programs to improve and expand such institutions' capacity to serve Hispanic students and other low-income students.

"(2) EXAMPLES OF AUTHORIZED ACTIVITIES.—The programs described in paragraph (1) may include—

"(A) purchase, rental, or lease of scientific or laboratory equipment for educational purposes, including instructional and research purposes;

"(B) renovation and improvement in classroom, library, laboratory, and other instructional facilities;

"(C) support of faculty exchanges, and faculty development and faculty fellowships to assist in attaining advanced degrees in their field of instruction;

"(D) curriculum development and academic instruction;

"(E) purchase of library books, periodicals, microfilm, and other educational materials;

"(F) funds and administrative management, and acquisition of equipment for use in strengthening funds management;

"(G) joint use of facilities such as laboratories and libraries;

"(H) academic tutoring and counseling programs and student support services; and

"(I) expanding the number of Hispanic and other underrepresented graduate and professional students that can be served by the institution by expanding courses and institutional resources.

"(3) ENDOWMENT FUND.—

"(A) IN GENERAL.—A Hispanic-serving institution may use not more than 20 percent of the grant funds provided under this part to establish or increase an endowment fund at the institution.

"(B) MATCHING REQUIREMENT.—In order to be eligible to use grant funds in accordance with subparagraph (A), the Hispanic-serving institution shall provide matching funds, in an amount equal to the Federal funds used in accordance with subparagraph (A), for the establishment or increase of the endowment fund.

"(C) COMPARABILITY.—The provisions of part C of title III regarding the establishment or increase of an endowment fund, that the Secretary determines are not inconsistent with this paragraph, shall apply to funds used under subparagraph (A).

"(c) WAIT-OUT-PERIOD.—Each Hispanic-serving institution that receives a grant under this part shall not be eligible to receive an additional grant under this part until 2 years after the date on which the preceding grant period terminates.

"SEC. 583. APPLICATION PROCESS.

"(a) INSTITUTIONAL ELIGIBILITY.—Each Hispanic-serving institution desiring to receive assistance under this part shall submit to the Secretary such enrollment data as may be necessary to demonstrate that the institution is a Hispanic-serving institution as defined in section 585, along with such other data and information as the Secretary may by regulation require.

"(b) APPLICATIONS.—Any institution which is determined by the Secretary to be a Hispanic-serving institution (on the basis of the data and information submitted under subsection (a)) may submit an application for assistance under this part to the Secretary. Such application shall include—

"(1) a 5-year plan for improving the assistance provided by the Hispanic-serving institution to Hispanic students and other low-income individuals; and

"(2) such other information and assurance as the Secretary may require.

"(c) PRIORITY.—With respect to applications for assistance under this section, the Secretary shall give priority to an application that contains satisfactory evidence that the Hispanic-serving institution has entered into or will enter into a collaborative arrangement with at least one local educational agency or community-based organization to provide such agency or organization with assistance (from funds other than funds provided under this part) in reducing dropout rates for Hispanic students, improving rates of academic achievement for Hispanic students, and increasing the rates at which Hispanic secondary school graduates enroll in higher education.

"SEC. 584. SPECIAL RULE.

"No Hispanic-serving institution that is eligible for and receives funds under this part may receive funds under part A or B of title III during the period for which funds under this part are awarded.

"SEC. 585. DEFINITIONS.

"For purposes of this part:

"(1) HISPANIC-SERVING INSTITUTION.—The term 'Hispanic-serving institution' means an institution of higher education which—

"(A) is an eligible institution under section 312(b);

"(B) at the time of application, has an enrollment of undergraduate full-time equivalent students that is at least 25 percent Hispanic students; and

"(C) provides assurances that not less than 50 percent of its Hispanic students are low-income individuals.

"(2) LOW-INCOME INDIVIDUAL.—The term 'low-income individual' means an individual from a family whose taxable income for the preceding year did not exceed 150 percent of an amount equal to the poverty level determined by using criteria of poverty established by the Bureau of the Census.

"SEC. 586. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this part $45,000,000 for fiscal year 1999 and such sums as may be necessary for each of the 4 succeeding fiscal years.

"PART G—GENERAL PROVISIONS

"SEC. 591. ADMINISTRATIVE PROVISIONS FOR PARTS A AND B.

"(a) COORDINATED ADMINISTRATION.—In carrying out the purpose described in section 500(1), the Secretary shall provide for coordinated administration and regulation of graduate programs assisted under parts A and B with other Federal programs providing assistance for graduate education in order to minimize duplication and improve efficiency to ensure that the programs are carried out in a manner most compatible with academic practices and with the standard timetables for applications for, and notifications of acceptance to, graduate programs.

"(b) HIRING AUTHORITY.—For purposes of carrying out parts A and B, the Secretary shall appoint, without regard to the provisions of title 5, United States Code, that govern appointments in the competitive service, such administrative and technical employees, with the appropriate educational background, as shall be needed to assist in the administration of such parts. The employees shall be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

"(c) USE FOR RELIGIOUS PURPOSES PROHIBITED.—No institutional payment or allowance under section 513(b) or 526 shall be paid to a school or department of divinity as a result of the award of a fellowship under part A or B, respectively, to an individual who is studying for a religious vocation.

"(d) EVALUATION.—The Secretary shall evaluate the success of assistance provided to individuals under part A or B with respect to graduating from their degree programs, and placement in faculty and professional positions.

"(e) CONTINUATION AWARDS.—The Secretary, using funds appropriated to carry out parts A and B, and before awarding any assistance under such parts to a recipient that did not receive assistance under part C or D of title IX (as such parts were in effect prior to the date of enactment of the Higher Education Amendments of 1998) shall continue to provide funding to recipients of assistance under such part C or D (as so in effect), as the case may be, pursuant to any multiyear award of such assistance.".

TITLE VI—INTERNATIONAL EDUCATION PROGRAMS

SEC. 601. INTERNATIONAL AND FOREIGN LANGUAGE STUDIES.

Part A of title VI (20 U.S.C. 1121 et seq.) is amended to read as follows:

"PART A—INTERNATIONAL AND FOREIGN LANGUAGE STUDIES

"SEC. 601. FINDINGS AND PURPOSES.

"(a) FINDINGS.—The Congress finds that—

"(1) the well-being of the United States, its economy and long-range security, is dependent on the education and training of Americans in international and foreign language studies and on a strong research base in these areas;

"(2) knowledge of other countries and the ability to communicate in other languages is essential to the promotion of mutual understanding and cooperation among nations; and

"(3) systematic efforts are necessary to enhance the capacity of institutions of higher education in the United States for—

"(A) producing graduates with international and foreign language expertise and knowledge; and

"(B) research regarding such expertise and knowledge.

"(b) PURPOSES.—It is the purpose of this part—

"(1) to assist in the development of knowledge, international study, resources and trained personnel;

"(2) to stimulate the attainment of foreign language acquisition and fluency;

"(3) to develop a pool of international experts to meet national needs; and

"(4) to coordinate the programs of the Federal Government in the areas of foreign language, area and other international studies, including professional international affairs education, and research.

"SEC. 602. GRADUATE AND UNDERGRADUATE LANGUAGE AND AREA CENTERS AND PROGRAMS.

"(a) NATIONAL LANGUAGE AND AREA CENTERS AND PROGRAMS AUTHORIZED.—

"(1) CENTERS AND PROGRAMS.—

"(A) IN GENERAL.—The Secretary is authorized—

"(i) to make grants to institutions of higher education, or combinations thereof, for the purpose of establishing, strengthening, and operating comprehensive language and area centers and programs; and

"(ii) to make grants to such institutions or combinations for the purpose of establishing, strengthening, and operating a diverse network of undergraduate language and area centers and programs.

"(B) NATIONAL RESOURCES.—The centers and programs referred to in paragraph (1) shall be national resources for—

"(i) teaching of any modern foreign language;

"(ii) instruction in fields needed to provide full understanding of areas, regions, or countries in which such language is commonly used;

"(iii) research and training in international studies, and the international and foreign language aspects of professional and other fields of study; and

"(iv) instruction and research on issues in world affairs which concern one or more countries.

"(2) AUTHORIZED ACTIVITIES.—Any such grant may be used to pay all or part of the cost of establishing or operating a center or program, including the cost of—

"(A) faculty, staff, and student travel in foreign areas, regions, or countries;

"(B) teaching and research materials;

"(C) curriculum planning and development;

"(D) bringing visiting scholars and faculty to the center to teach or to conduct research;

"(E) establishing and maintaining linkages with overseas institutions of higher education and other organizations that may contribute to the teaching and research of the center or program; and

"(F) training and improvement of the staff, for the purpose of, and subject to such conditions as the Secretary finds necessary for, carrying out this section.

"(3) GRANTS TO MAINTAIN LIBRARY COLLECTIONS.—The Secretary may make grants to centers described in paragraph (1) having important library collections, as determined by the Secretary, for the maintenance of such collections.

"(4) OUTREACH GRANTS AND SUMMER INSTITUTES.—The Secretary may make additional grants to centers described in paragraph (1) for any one or more of the following purposes:

"(A) Programs of linkage or outreach between foreign language, area studies, and other international fields and professional schools and colleges.

"(B) Programs of linkage or outreach with 2-year and 4-year colleges and universities.

"(C) Programs of linkage or outreach with departments or agencies of Federal and State Governments.

"(D) Programs of linkage or outreach with the news media, business, professional, or trade associations.

"(E) Summer institutes in foreign area, foreign language, and other international fields designed to carry out the programs of linkage and outreach in subparagraphs (A), (B), (C), and (D).

"(b) STIPENDS FOR FOREIGN LANGUAGE AND AREA STUDIES.—

"(1) IN GENERAL.—The Secretary is authorized to make grants to institutions of higher education or combinations of such institutions for the purpose of paying stipends to individuals undergoing advanced training in any center or program approved by the Secretary.

"(2) REQUIREMENTS.—Students receiving stipends described in paragraph (1) shall be individuals who are engaged in an instructional program with stated performance goals for functional foreign language use or in a program developing such performance goals, in combination with area studies, international studies, or the international aspects of a professional studies program.

"(3) ALLOWANCES.—Stipends awarded to graduate level recipients may include allowances for dependents and for travel for research and study in the United States and abroad.

"(c) SPECIAL RULE WITH RESPECT TO TRAVEL.—No funds may be expended under this part for undergraduate travel except in accordance with rules prescribed by the Secretary setting forth policies and procedures to assure that Federal funds made available for such travel are expended as part of a formal program of supervised study.

"SEC. 603. LANGUAGE RESOURCE CENTERS.

"(a) LANGUAGE RESOURCE CENTERS AUTHORIZED.—The Secretary is authorized to make grants to and enter into contracts with institutions of higher education, or combinations of such institutions, for the purpose of establishing, strengthening, and operating a small number of national language resource and training centers, which shall serve as resources to improve the capacity to teach and learn foreign languages effectively.

"(b) AUTHORIZED ACTIVITIES.—The activities carried out by the centers described in subsection (a)—

"(1) shall include effective dissemination efforts, whenever appropriate; and

"(2) may include—

"(A) the conduct and dissemination of research on new and improved teaching methods, including the use of advanced educational technology;

"(B) the development and dissemination of new teaching materials reflecting the use of such research in effective teaching strategies;

"(C) the development, application, and dissemination of performance testing appropriate to an educational setting for use as a standard and comparable measurement of skill levels in all languages;

"(D) the training of teachers in the administration and interpretation of performance tests, the use of effective teaching strategies, and the use of new technologies;

"(E) the publication and dissemination to individuals and organizations in the foreign language field of instructional materials in the less commonly taught languages;

"(F) the development and dissemination of materials designed to serve as a resource for foreign language teachers at the elementary and secondary school levels; and

"(G) the operation of intensive summer language institutes to train advanced foreign language students, provide professional development, and improve language instruction through preservice and inservice language training for teachers.

"(c) CONDITIONS FOR GRANTS.—Grants under this section shall be made on such conditions as the Secretary determines to be necessary to carry out the provisions of this section.

"SEC. 604. UNDERGRADUATE INTERNATIONAL STUDIES AND FOREIGN LANGUAGE PROGRAMS.

"(a) INCENTIVES FOR THE CREATION OF NEW PROGRAMS AND THE STRENGTHENING OF EXISTING PROGRAMS IN UNDERGRADUATE INTERNATIONAL STUDIES AND FOREIGN LANGUAGES.—

"(1) AUTHORITY.—The Secretary is authorized to make grants to institutions of higher education, combinations of such institutions, or partnerships between nonprofit educational institutions and institutions of higher education, to assist such institutions, combinations or partnerships in planning, developing, and carrying out programs to improve undergraduate instruction in international studies and foreign languages. Such grants shall be awarded to institutions, combinations or partnerships seeking to create new programs or to strengthen existing programs in area studies, foreign languages, and other international fields.

"(2) FEDERAL SHARE AND USE OF FUNDS.—Grants made under this section may be used to pay not more than 50 percent of the cost of projects and activities which are an integral part of such a program, such as—

"(A) planning for the development and expansion of undergraduate programs in international studies and foreign languages;

"(B) teaching, research, curriculum development, faculty training in the United States or abroad, and other related activities, including the expansion of library and teaching resources;

"(C) expansion of opportunities for learning foreign languages, including less commonly taught languages;

"(D) programs under which foreign teachers and scholars may visit institutions as visiting faculty;

"(E) programs designed to develop or enhance linkages between 2-year and 4-year institutions of higher education, or baccalaureate and post-baccalaureate programs or institutions;

"(F) the development of undergraduate study abroad programs in locations abroad in which such study opportunities are not otherwise available and the integration of these programs into specific on-campus degree programs;

"(G) the development of model programs to enhance the effectiveness of study abroad, including predeparture and post return programs;

"(H) the development of programs designed to integrate professional and technical education with area studies, foreign languages, and other international fields;

"(I) the conduct of summer institutes in foreign area, foreign language, and other international fields for purposes that are consistent with the projects and activities described in this subsection; and

"(J) the development of partnerships between institutions of higher education and the private sector, government, and elementary and secondary education institutions to enhance international knowledge.

"(3) NON-FEDERAL SHARE.—The non-Federal share of the cost of the programs assisted under this subsection may be provided either in cash or in kind. Such assistance may be composed of institutional and noninstitutional funds, including State, private sector, corporation, or foundation contributions.

"(4) PRIORITY.—In awarding grants under this section, the Secretary shall give priority to applications from institutions of higher education, combinations or partnerships that require entering students to have successfully completed at least 2 years of secondary school foreign language instruction or that require each graduating student to earn 2 years of postsecondary credit in a foreign language (or have demonstrated equivalent competence in the foreign language) or, in the case of a 2-year degree granting institution, offer 2 years of postsecondary credit in a foreign language.

"(5) GRANT CONDITIONS.—Grants under this subsection shall be made on such conditions as the Secretary determines to be necessary to carry out this subsection.

"(6) APPLICATION.—Each application for assistance under this subsection shall include—

"(A) evidence that the applicant has conducted extensive planning prior to submitting the application;

"(B) an assurance that the faculty and administrators of all relevant departments and programs served by the applicant are involved in ongoing collaboration with regard to achieving the stated objectives of the application;

"(C) an assurance that students at the applicant institutions, as appropriate, will have equal access to, and derive benefits from, the program assisted under this subsection; and

"(D) an assurance that each institution, combination or partnership will use the Federal assistance provided under this subsection to supplement and not supplant funds expended by the institution, prior to the receipt of the Federal assistance, for programs to improve undergraduate instruction in international studies and foreign languages.

"(7) EVALUATION.—The Secretary may establish requirements for program evaluations and require grant recipients to submit annual reports that evaluate the progress and performance of students participating in programs assisted under this subsection.

"(b) PROGRAMS OF NATIONAL SIGNIFICANCE.—The Secretary may also award grants to public and private nonprofit agencies and organizations, including professional and scholarly associations, whenever the Secretary determines such grants will make an especially significant contribution to improving undergraduate international studies and foreign language programs.

"SEC. 605. RESEARCH; STUDIES; ANNUAL REPORT.

"(a) AUTHORIZED ACTIVITIES.—The Secretary may, directly or through grants or contracts, conduct research and studies that contribute to achieving the purposes of this part. Such research and studies may include—

"(1) studies and surveys to determine needs for increased or improved instruction in foreign language, area studies, or other international fields, including the demand for foreign language, area, and other international specialists

in government, education, and the private sector;

"(2) studies and surveys to assess the utilization of graduates of programs supported under this title by governmental, educational, and private sector organizations and other studies assessing the outcomes and effectiveness of programs so supported;

"(3) evaluation of the extent to which programs assisted under this title that address national needs would not otherwise be offered;

"(4) comparative studies of the effectiveness of strategies to provide international capabilities at institutions of higher education;

"(5) research on more effective methods of providing instruction and achieving competency in foreign languages;

"(6) the development and publication of specialized materials for use in foreign language, area studies, and other international fields, or for training foreign language, area, and other international specialists;

"(7) studies and evaluations of effective practices in the dissemination of international information, materials, research, teaching strategies, and testing techniques throughout the education community, including elementary and secondary schools; and

"(8) the application of performance tests and standards across all areas of foreign language instruction and classroom use.

"(b) Annual Report.—The Secretary shall prepare, publish, and announce an annual report listing the books and research materials produced with assistance under this section.

"SEC. 606. SELECTION OF CERTAIN GRANT RECIPIENTS.

"(a) Competitive Grants.—The Secretary shall award grants under section 602 competitively on the basis of criteria that separately, but not less rigorously, evaluates the applications for comprehensive and undergraduate language and area centers and programs.

"(b) Selection Criteria.—The Secretary shall set criteria for grants awarded under section 602 by which a determination of excellence shall be made to meet the differing objectives of graduate and undergraduate institutions.

"(c) Equitable Distribution of Grants.—The Secretary shall, to the extent practicable, award grants under this part (other than section 602) in such manner as to achieve an equitable distribution of the grant funds throughout the United States, based on the merit of a proposal as determined pursuant to a peer review process involving broadly representative professionals.

"SEC. 607. EQUITABLE DISTRIBUTION OF CERTAIN FUNDS.

"(a) Selection Criteria.—The Secretary shall make excellence the criterion for selection of grants awarded under section 602.

"(b) Equitable Distribution.—To the extent practicable and consistent with the criterion of excellence, the Secretary shall award grants under this part (other than section 602) in such a manner as will achieve an equitable distribution of funds throughout the United States.

"(c) Support for Undergraduate Education.—The Secretary shall also award grants under this part in such manner as to ensure that an appropriate portion of the funds appropriated for this part (as determined by the Secretary) are used to support undergraduate education.

"SEC. 608. AMERICAN OVERSEAS RESEARCH CENTERS.

"(a) Centers Authorized.—The Secretary is authorized to make grants to and enter into contracts with any American overseas research center that is a consortium of institutions of higher education (hereafter in this section referred to as a "center") to enable such center to promote postgraduate research, exchanges and area studies.

"(b) Use of Grants.—Grants made and contracts entered into pursuant to this section may be used to pay all or a portion of the cost of establishing or operating a center or program, including—

"(1) the cost of faculty and staff stipends and salaries;

"(2) the cost of faculty, staff, and student travel;

"(3) the cost of the operation and maintenance of overseas facilities;

"(4) the cost of teaching and research materials;

"(5) the cost of acquisition, maintenance, and preservation of library collections;

"(6) the cost of bringing visiting scholars and faculty to a center to teach or to conduct research;

"(7) the cost of organizing and managing conferences; and

"(8) the cost of publication and dissemination of material for the scholarly and general public.

"(c) Limitation.—The Secretary shall only award grants to and enter into contracts with centers under this section that—

"(1) receive more than 50 percent of their funding from public or private United States sources;

"(2) have a permanent presence in the country in which the center is located; and

"(3) are organizations described in section 501(c)(3) of the Internal Revenue Code of 1986 which are exempt from taxation under section 501(a) of such Code.

"(d) Development Grants.—The Secretary is authorized to make grants for the establishment of new centers. The grants may be used to fund activities that, within 1 year, will result in the creation of a center described in subsection (c).

"SEC. 609. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this part $80,000,000 for fiscal year 1999, and such sums as may be necessary for each of the 4 succeeding fiscal years.".

SEC. 602. BUSINESS AND INTERNATIONAL EDUCATION PROGRAMS.

Part B of title VI (20 U.S.C. 1130 et seq.) is amended—

(1) in section 612 (20 U.S.C. 1130–1)—

(A) in subsection (c)—

(i) in paragraph (1)—

(I) in subparagraph (B), by striking "advanced"; and

(II) in subparagraph (C), by striking "evening or summer"; and

(ii) in paragraph (2)(C), by inserting "foreign language," after "studies,"; and

(B) in subsection (d)(2)(G), by inserting ", such as a representative of a community college in the region served by the center" before the period; and

(2) in section 614 (20 U.S.C. 1130b)—

(A) in subsection (a), by striking "1993" and inserting "1999"; and

(B) in subsection (b), by striking "1993" and inserting "1999".

SEC. 603. INSTITUTE FOR INTERNATIONAL PUBLIC POLICY.

Part C of title VI (20 U.S.C. 1131 et seq.) is amended—

(1) in section 621(e) (20 U.S.C. 1131(e))—

(A) by striking "one-fourth" and inserting "one-half"; and

(B) by adding at the end the following: "The non-Federal contribution shall be made from private sector sources.";

(2) by redesignating sections 622 through 627 (20 U.S.C. 1131a and 1131f) as sections 623 through 628, respectively; and

(3) by inserting after section 621 (20 U.S.C. 1131) the following:

"SEC. 622. INSTITUTIONAL DEVELOPMENT.

"(a) In General.—The Institute shall award grants, from amounts available to the Institute for each fiscal year, to historically Black colleges and universities, Hispanic-serving institutions, Tribally Controlled Colleges or Universities, and minority institutions, to enable such colleges, universities, and institutions to strengthen international affairs programs.

"(b) Application.—No grant may be made by the Institute unless an application is made by the college, university, or institution at such time, in such manner, and accompanied by such information as the Institute may require.

"(c) Definitions.—In this section—

"(1) the term 'historically Black college and university' has the meaning given the term in section 322;

"(2) the term 'Hispanic-serving institution' has the meaning given the term in section 585;

"(3) the term 'Tribally Controlled College or University' has the meaning given the term in section 2 of the Tribally Controlled College or University Assistance Act of 1978 (25 U.S.C. 1801); and

"(4) the term 'minority institution' has the meaning given the term in section 365.";

(4) in section 623 (as redesignated by paragraph (2))—

(A) in the section heading, by striking "**JUNIOR YEAR**" and inserting "**STUDY**";

(B) in subsection (b)(2)—

(i) by inserting ", or completing the third year of study in the case of a summer abroad program," after "study"; and

(ii) by striking "junior year" and inserting "study";

(C) in subsection (c)—

(i) in the matter preceding paragraph (1), by striking "junior year" and inserting "study";

(ii) in paragraph (1), by striking "junior year" and inserting "study"; and

(iii) in paragraph (2)—

(I) by striking "one-half" and inserting "one-third"; and

(II) by striking "junior year" and inserting "study";

(5) in section 627 (as redesignated by paragraph (2)) (20 U.S.C. 1131e), by striking "625" and inserting "626"; and

(6) in section 628 (as redesignated by paragraph (2)) (20 U.S.C. 1131f), by striking "1993" and inserting "1999".

SEC. 604. GENERAL PROVISIONS.

Section 632 (20 U.S.C. 1132–1) is repealed.

TITLE VII—RELATED PROGRAMS AND AMENDMENTS TO OTHER ACTS

PART A—INDIAN EDUCATION PROGRAMS

SEC. 711. TRIBALLY CONTROLLED COMMUNITY COLLEGE ASSISTANCE ACT OF 1978.

(a) Reauthorization.—

(1) Amount of Grants.—Section 108(a)(2) of the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1808(a)(2)) is amended by striking "$5,820" and inserting "$6,000".

(2) Authorization of Appropriations.—

(A) Title I.—Section 110(a) of the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1810(a)) is amended—

(i) in paragraph (1), by striking "1993" and inserting "1999";

(ii) in paragraph (2), by striking "$30,000,000 for fiscal year 1993" and inserting "$40,000,000 for fiscal year 1999";

(iii) in paragraph (3), by striking "1993" and inserting "1999"; and

(iv) in paragraph (4), by striking "1993" and inserting "1999".

(B) Title III.—Section 306(a) of the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1836(a)) is amended by striking "1993" and inserting "1999".

(C) Title IV.—Section 403 of the Tribal Economic Development and Technology Related Education Assistance Act of 1990 (25 U.S.C.

1852) is amended by striking "1993" and inserting "1999".

(b) NAME CHANGE.—The Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1801 et seq.) is amended—

(1) by striking "community college" each place the term appears and inserting "college or university";

(2) by striking "Community College" each place the term appears (other than when such term is preceded by the term "Navajo") and inserting "College or University";

(3) by striking "community colleges" each place the term appears and inserting "colleges or universities";

(4) by striking "such college" each place the term appears and inserting "such college or university"; and

(5) by striking "community college's" and inserting "college or university's".

SEC. 712. AMERICAN INDIAN, ALASKA NATIVE, AND NATIVE HAWAIIAN CULTURE AND ART DEVELOPMENT.

Section 1531 of the American Indian, Alaska Native, and Native Hawaiian Culture and Art Development Act (20 U.S.C. 4451) is amended to read as follows:

"SEC. 1531. AUTHORIZATION OF APPROPRIATIONS.

"There is authorized to be appropriated to carry out part A $5,000,000 for fiscal year 1999.".

PART B—ADVANCED PLACEMENT INCENTIVE PROGRAM

SEC. 721. ADVANCED PLACEMENT INCENTIVE PROGRAM.

(a) PROGRAM ESTABLISHED.—The Secretary of Education is authorized to make grants to States having applications approved under subsection (d), from allotments under subsection (b), to enable the States to reimburse low-income individuals to cover part or all of the cost of advanced placement test fees, if the low-income individuals—

(1) are enrolled in an advanced placement class; and

(2) plan to take an advanced placement test.

(b) ALLOTMENT.—From the sum appropriated under subsection (j) for a fiscal year, the Secretary shall allot to each State an amount that bears the same relation to the sum as the number of low-income individuals in the State bears to the number of low-income individuals in all States.

(c) INFORMATION DISSEMINATION.—The State educational agency may use not more than 5 percent of grant funds received for a fiscal year to disseminate information regarding the availability of test fee payments under this section to eligible individuals through secondary school teachers and guidance counselors.

(d) REQUIREMENTS FOR APPROVAL OF APPLICATIONS.—In approving applications for grants the Secretary of Education shall—

(1) require that each such application contain a description of the advance placement test fees the State will pay on behalf of individual students;

(2) require an assurance that any funds received under this section, other than funds used in accordance with subsection (c), shall be used only to pay advanced placement test fees; and

(3) contain such information as the Secretary may require to demonstrate that the State will ensure that a student is eligible for payments under this section, including the documentation required by chapter 1 of subpart 2 of part A of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070a–11 et seq.).

(e) FUNDING RULE.—Funds provided under this section shall be used to supplement and not supplant other Federal, State, local or private funds available to assist low-income individuals in paying for advanced placement testing, except that such funds may be used to supplant the funds so available if the funds used to supplant are used to increase the participation of low-income individuals in advanced placement courses through teacher training and other activities directly related to increasing the availability of advanced placement courses.

(f) SPECIAL RULE.—The Secretary of Education shall only award grants under this section for a fiscal year if the amount the College Board spends for the College Board's fee assistance program for low-income students for the fiscal year is not less than the amount the College Board spent for such program for the preceding fiscal year.

(g) REGULATIONS.—The Secretary of Education shall prescribe such regulations as are necessary to carry out this section.

(h) REPORT.—Each State annually shall report to the Secretary of Education regarding—

(1) the number of low-income individuals in the State who receive assistance under this section; and

(2) the teacher training and other activities described in subsection (e).

(i) DEFINITION.—In this section:

(1) ADVANCED PLACEMENT TEST.—The term "advanced placement test" includes only an advanced placement test approved by the Secretary of Education for the purposes of this section.

(2) LOW-INCOME INDIVIDUAL.—The term "low-income individual" has the meaning given the term in section 402A(g)(2) of the Higher Education Act of 1965 (20 U.S.C. 1070a–11(g)(2)).

(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $10,000,000 for fiscal year 1999 and such sums as may be necessary for each of the 4 succeeding fiscal years to carry out this section.

PART C—UNITED STATES INSTITUTE OF PEACE

SEC. 731. AUTHORITIES OF THE UNITED STATES INSTITUTE OF PEACE.

The United States Institute of Peace Act (22 U.S.C. 4601 et seq.) is amended—

(1) in section 1705 (22 U.S.C. 4604)—

(A) in subsection (f), by inserting "personal service and other" after "may enter into"; and

(B) in subsection (o), by inserting after "Services" the following: "and use all sources of supply and services of the General Services Administration";

(2) in section 1710(a)(1) (22 U.S.C. 4609(a)(1))—

(A) by striking "1993" and inserting "1999"; and

(B) by striking "6" and inserting "4"; and

(3) in the second and third sentences of section 1712 (22 U.S.C. 4611), by striking "shall" each place the term appears and inserting "may".

PART D—COMMUNITY SCHOLARSHIP MOBILIZATION

SEC. 741. SHORT TITLE.

This part may be cited as the "Community Scholarship Mobilization Act."

SEC. 742. FINDINGS.

Congress finds that—

(1) the local community, when properly organized and challenged, is one of the best sources of academic support, motivation toward achievement, and financial resources for aspiring postsecondary students;

(2) local communities, working to complement or augment services currently offered by area schools and colleges, can raise the educational expectations and increase the rate of postsecondary attendance of their youth by forming locally-based organizations that provide both academic support (including guidance, counseling, mentoring, tutoring, encouragement, and recognition) and tangible, locally raised, effectively targeted, publicly recognized, financial assistance;

(3) proven methods of stimulating these community efforts can be promoted through Federal support for the establishment of regional, State or community program centers to organize and challenge community efforts to develop educational incentives and support for local students; and

(4) using Federal funds to leverage private contributions to help students from low-income families attain educational and career goals is an efficient and effective investment of scarce taxpayer-provided resources.

SEC. 743. DEFINITIONS.

In this part:

(1) REGIONAL, STATE OR COMMUNITY PROGRAM CENTER.—The term "regional, State or community program center" means an organization that—

(A) is a division of, responsible to, and overseen by, the national organization; and

(B) is staffed by professionals trained to create, develop, and sustain local entities in towns, cities, and neighborhoods.

(2) LOCAL ENTITY.—The term "local entity" means an organization that—

(A) is a nonprofit organization that is described in section 501(c)(3) of the Internal Revenue Code of 1986, and exempt from taxation under section 501(a) of such Code (or shall meet this criteria through affiliation with the national organization);

(B) is formed for the purpose of providing educational scholarships and academic support for residents of the local community served by such organization;

(C) solicits broad-based community support in its academic support and fund-raising activities;

(D) is broadly representative of the local community in the structures of its volunteer-operated organization and has a board of directors that includes leaders from local neighborhood organizations and neighborhood residents, such as school or college personnel, parents, students, community agency representatives, retirees, and representatives of the business community;

(E) awards scholarships without regard to age, sex, marital status, race, creed, color, religion, national origin or disability; and

(F) gives priority to awarding scholarships for postsecondary education to deserving students from low-income families in the local community.

(3) NATIONAL ORGANIZATION.—The term "national organization" means an organization that—

(A) has the capacity to create, develop and sustain local entities and affiliated regional, State or community program centers;

(B) has the capacity to sustain newly created local entities in towns, cities, and neighborhoods through ongoing training support programs;

(C) is described in section 501(c)(3) of the Internal Revenue Code of 1986, and exempt from taxation under section 501(a) of such Code;

(D) is a publicly supported organization within the meaning of section 170(b)(1)(A)(iv) of such Code;

(E) ensures that each of the organization's local entities meet the criteria described in subparagraphs (C) and (D); and

(F) has a program for or experience in cooperating with secondary and postsecondary institutions in carrying out the organization's scholarship and academic support activities.

(4) HIGH POVERTY AREA.—The term "high poverty area" means a community with a higher percentage of children from low-income families than the national average of such percentage and a lower percentage of children pursuing postsecondary education than the national average of such percentage.

(5) STUDENTS FROM LOW-INCOME FAMILIES.—The term "students from low-income families"

means students determined, pursuant to part F of title IV of the Higher Education Act of 1965 (20 U.S.C. 1087kk et seq.), to be eligible for a Federal Pell Grant under subpart 1 of part A of title IV of such Act (20 U.S.C. 1070a).

SEC. 744. PURPOSE, ENDOWMENT GRANT AUTHORITY.

(a) PURPOSE.—It is the purpose of this part to establish and support regional, State or community program centers to enable such centers to foster the development of local entities in high poverty areas that promote higher education goals for students from low-income families by—

(1) providing academic support, including guidance, counseling, mentoring, tutoring, and recognition; and

(2) providing scholarship assistance for the cost of postsecondary education.

(b) ENDOWMENT GRANT AUTHORITY.—From the funds appropriated pursuant to the authority of section 746, the Secretary shall award an endowment grant, on a competitive basis, to a national organization to enable such organization to support the establishment or ongoing work of regional, State or community program centers that foster the development of local entities in high poverty areas to improve high school graduation rates and postsecondary attendance through the provision of academic support services and scholarship assistance for the cost of postsecondary education.

SEC. 745. GRANT AGREEMENT AND REQUIREMENTS.

(a) IN GENERAL.—The Secretary shall award one or more endowment grants described in section 744(b) pursuant to an agreement between the Secretary and a national organization. Such agreement shall—

(1) require the national organization to establish an endowment fund in the amount of the grant, the corpus of which shall remain intact and the interest income from which shall be used to support the activities described in paragraphs (2) and (3);

(2) require the national organization to use 70 percent of the interest income from the endowment fund in any fiscal year to support the establishment or ongoing work of regional, State or community program centers to enable such centers to work with local communities to establish local entities in high poverty areas and provide ongoing technical assistance, training workshops, and other activities to help ensure the ongoing success of the local entities;

(3) require the national organization to use 30 percent of the interest income from the endowment fund in any fiscal year to provide scholarships for postsecondary education to students from low-income families, which scholarships shall be matched on a dollar-for-dollar basis from funds raised by the local entities;

(4) require that at least 50 percent of all the interest income from the endowment be allocated to establish new local entities or support regional, State or community program centers in high poverty areas;

(5) require the national organization to submit, for each fiscal year in which such organization uses the interest from the endowment fund, a report to the Secretary that contains—

(A) a description of the programs and activities supported by the interest on the endowment fund;

(B) the audited financial statement of the national organization for the preceding fiscal year;

(C) a plan for the programs and activities to be supported by the interest on the endowment fund as the Secretary may require; and

(D) an evaluation of the programs and activities supported by the interest on the endowment fund as the Secretary may require; and

(E) data indicating the number of students from low-income families who receive scholarships from local entities, and the amounts of such scholarships;

(6) contain such assurances as the Secretary may require with respect to the management and operation of the endowment fund; and

(7) contain an assurance that if the Secretary determines that such organization is not in substantial compliance with the provisions of this part, then the national organization shall pay to the Secretary an amount equal to the corpus of the endowment fund plus any accrued interest on such fund that is available to the national organization on the date of such determination.

(b) RETURNED FUNDS.—All funds returned to the Secretary pursuant to subsection (a)(7) shall be available to the Secretary to carry out any scholarship or grant program assisted under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.).

SEC. 746. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this part $10,000,000 for fiscal year 2000.

PART E—GRANTS TO STATES FOR WORKPLACE AND COMMUNITY TRANSITION TRAINING FOR INCARCERATED YOUTH OFFENDERS

SEC. 751. GRANTS TO STATES FOR WORKPLACE AND COMMUNITY TRANSITION TRAINING FOR INCARCERATED YOUTH OFFENDERS.

(a) FINDINGS.—Congress makes the following findings:

(1) Over 150,000 youth offenders age 21 and younger are incarcerated in the Nation's jails, juvenile facilities, and prisons.

(2) Most youth offenders who are incarcerated have been sentenced as first-time adult felons.

(3) Approximately 75 percent of youth offenders are high school dropouts who lack basic literacy and life skills, have little or no job experience, and lack marketable skills.

(4) The average incarcerated youth has attended school only through grade 10.

(5) Most of these youths can be diverted from a life of crime into productive citizenship with available educational, vocational, work skills, and related service programs.

(6) If not involved with educational programs while incarcerated, almost all of these youths will return to a life of crime upon release.

(7) The average length of sentence for a youth offender is about 3 years. Time spent in prison provides a unique opportunity for education and training.

(8) Even with quality education and training provided during incarceration, a period of intense supervision, support, and counseling is needed upon release to ensure effective reintegration of youth offenders into society.

(9) Research consistently shows that the vast majority of incarcerated youths will not return to the public schools to complete their education.

(10) There is a need for alternative educational opportunities during incarceration and after release.

(b) DEFINITION.—For purposes of this part, the term "youth offender" means a male or female offender under the age of 25, who is incarcerated in a State prison, including a prerelease facility.

(c) GRANT PROGRAM.—The Secretary of Education (in this section referred to as the "Secretary") shall establish a program in accordance with this section to provide grants to the State correctional education agencies in the States, from allocations for the States under subsection (i), to assist and encourage incarcerated youths to acquire functional literacy, life, and job skills, through the pursuit of a postsecondary education certificate, or an associate of arts or bachelor's degree while in prison, and employment counseling and other related services which start during incarceration and continue through prerelease and while on parole.

(d) APPLICATION.—To be eligible for a grant under this section, a State correctional education agency shall submit to the Secretary a proposal for a youth offender program that—

(1) identifies the scope of the problem, including the number of incarcerated youths in need of postsecondary education and vocational training;

(2) lists the accredited public or private educational institution or institutions that will provide postsecondary educational services;

(3) lists the cooperating agencies, public and private, or businesses that will provide related services, such as counseling in the areas of career development, substance abuse, health, and parenting skills;

(4) describes the evaluation methods and performance measures that the State correctional education agency will employ, which methods and measures—

(A) shall be appropriate to meet the goals and objectives of the proposal; and

(B) shall include measures of—

(i) program completion;

(ii) student academic and vocational skill attainment;

(iii) success in job placement and retention; and

(iv) recidivism;

(5) describes how the proposed programs are to be integrated with existing State correctional education programs (such as adult education, graduate education degree programs, and vocational training) and State industry programs;

(6) addresses the educational needs of youth offenders who are in alternative programs (such as boot camps); and

(7) describes how students will be selected so that only youth offenders eligible under subsection (f) will be enrolled in postsecondary programs.

(e) PROGRAM REQUIREMENTS.—Each State correctional education agency receiving a grant under this section shall—

(1) integrate activities carried out under the grant with the objectives and activities of the school-to-work programs of such State, including—

(A) work experience or apprenticeship programs;

(B) transitional worksite job training for vocational education students that is related to the occupational goals of such students and closely linked to classroom and laboratory instruction;

(C) placement services in occupations that the students are preparing to enter;

(D) employment-based learning programs; and

(E) programs that address State and local labor shortages;

(2) annually report to the Secretary and the Attorney General on the results of the evaluations conducted using the methods and performance measures contained in the proposal; and

(3) provide to each State for each student eligible under subsection (f) not more than $1,500 annually for tuition, books, and essential materials, and not more than $300 annually for related services such as career development, substance abuse counseling, parenting skills training, and health education, for each eligible incarcerated youth.

(f) STUDENT ELIGIBILITY.—A youth offender shall be eligible for participation in a program receiving a grant under this section if the youth offender—

(1) is eligible to be released within 5 years (including a youth offender who is eligible for parole within such time); and

(2) is 25 years of age or younger.

(g) LENGTH OF PARTICIPATION.—A State correctional education agency receiving a grant under this section shall provide educational and related services to each participating youth offender for a period not to exceed 5 years, 1 year

of which may be devoted to study in a graduate education degree program or to remedial education services for students who have obtained a secondary school diploma. Educational and related services shall start during the period of incarceration in prison or prerelease and may continue during the period of parole.

(h) Education Delivery Systems.—State correctional education agencies and cooperating institutions shall, to the extent practicable, use high-tech applications in developing programs to meet the requirements and goals of this section.

(i) Allocation of Funds.—From the amounts appropriated pursuant to subsection (j), the Secretary shall allot to each State an amount that bears the same relationship to such funds as the total number of students eligible under subsection (f) in such State bears to the total number of such students in all States.

(j) Authorization of Appropriations.—There are authorized to be appropriated to carry out this section $14,000,000 for fiscal year 1999 and such sums as may be necessary for each of the 4 succeeding fiscal years.

PART F—EDUCATION OF THE DEAF

SEC. 761. SHORT TITLE.

This part may be cited as the ''Education of the Deaf Amendments of 1998''.

SEC. 762. ELEMENTARY AND SECONDARY EDUCATION PROGRAMS.

Section 104(b) of the Education of the Deaf Act of 1986 (20 U.S.C. 4034(b)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (A), by inserting ''and'' after the semicolon;

(B) in subparagraph (B), by striking ''; and'' and inserting a period; and

(C) by striking subparagraph (C);

(2) in the matter preceding subparagraph (A) of paragraph (2)—

(A) by striking ''paragraph (1)'' and inserting ''paragraph (1)(B)''; and

(B) by striking ''section 618(b)'' and inserting ''section 618(a)(1)(A)'';

(3) in paragraph (3), by striking ''intermediate educational unit'' and inserting ''educational service agency'';

(4) in paragraph (4)—

(A) in subparagraph (A), by striking ''intermediate educational unit'' and inserting ''educational service agency''; and

(B) in subparagraph (B), by striking ''intermediate educational units'' and inserting ''educational service agencies''; and

(5) by amending subparagraph (C) to read as follows:

''(C) provide the child a free appropriate public education in accordance with part B of the Individuals with Disabilities Education Act and procedural safeguards in accordance with the following provisions of section 615 of such Act:

''(i) paragraphs (1), and (3) through (6), of subsection (b).

''(ii) Subsections (c) through (g).

''(iii) Subsection (h), except for the matter in paragraph (4) pertaining to transmission of findings and decisions to a State advisory panel.

''(iv) Paragraphs (1) and (2) of subsection (i).

''(v) Subsection (j)—

''(I) except that such subsection shall not be applicable to a decision by the University to refuse to admit a child; or

''(II) to dismiss a child, except that, before dismissing any child, the University shall give at least 60 days written notice to the child's parents and to the local educational agency in which the child resides, unless the dismissal involves a suspension, expulsion, or other change in placement covered under section 615(k).

''(vi) Subsections (k) through (m).''.

SEC. 763. AGREEMENT WITH GALLAUDET UNIVERSITY.

Section 105(a) of the Education of the Deaf Act of 1986 (20 U.S.C. 4305(a)) is amended—

(1) by striking ''within 1 year after enactment of the Education of the Deaf Act Amendments of 1992, a new'' and inserting ''and periodically update, an''; and

(2) by amending the second sentence to read as follows: ''The Secretary or the University shall determine the necessity for the periodic update described in the preceding sentence.''.

SEC. 764. AGREEMENT FOR THE NATIONAL TECHNICAL INSTITUTE FOR THE DEAF.

Paragraph (2) of section 112(a) of the Education of the Deaf Act of 1986 (20 U.S.C. 4332(a)) is amended to read as follows:

''(2) The Secretary and the institution of higher education with which the Secretary has an agreement under this section—

''(A) shall periodically assess the need for modification of the agreement; and

''(B) shall periodically update the agreement as determined necessary by the Secretary or the institution.''.

SEC. 765. DEFINITIONS.

Section 201 of the Education of the Deaf Act of 1986 (20 U.S.C. 4351) is amended—

(1) in paragraph (1)(C), by striking ''Palau (but only until the Compact of Free Association with Palau takes effect),''; and

(2) in paragraph (5)—

(A) by inserting ''and'' after ''Virgin Islands,''; and

(B) by striking '', and Palau (but only until the Compact of Free Association with Palau takes effect)''.

SEC. 766. GIFTS.

Subsection (b) of section 203 of the Education of the Deaf Act of 1986 (20 U.S.C. 4353) is amended to read as follows:

''(b) Independent Financial and Compliance Audit.—

''(1) In General.—Gallaudet University shall have an annual independent financial and compliance audit made of the programs and activities of the University, including the national mission and school operations of the elementary and secondary education programs at Gallaudet. The institution of higher education with which the Secretary has an agreement under section 112 shall have an annual independent financial and compliance audit made of the programs and activities of such institution of higher education, including NTID, and containing specific schedules and analyses for all NTID funds, as determined by the Secretary.

''(2) Compliance.—As used in paragraph (1), compliance means compliance with sections 102(b), 105(b)(4), 112(b)(5), and 203(c), paragraphs (2) and (3) of section 207(b), subsections (b)(2), (b)(3), and (c) through (f), of section 207, and subsections (b) and (c) of section 210.

''(3) Submission of Audits.—A copy of each audit described in paragraph (1) shall be provided to the Secretary within 15 days of acceptance of the audit by the University or the institution authorized to establish and operate the NTID under section 112(a), as the case may be, but not later than January 10 of each year.''.

SEC. 767. REPORTS.

Section 204(3) of the Education of the Deaf Act of 1986 (20 U.S.C. 4354(3)) is amended—

(1) in subparagraph (A), by striking ''The annual'' and inserting ''A summary of the annual''; and

(2) in subparagraph (B), by striking ''the annual'' and inserting ''a summary of the annual''.

SEC. 768. MONITORING, EVALUATION, AND REPORTING.

Section 205(c) of the Education of the Deaf Act of 1986 (20 U.S.C. 4355(c)) is amended by striking ''1993, 1994, 1995, 1996, and 1997'' and inserting ''1998 through 2003''.

SEC. 769. INVESTMENTS.

Section 207 of the Education of the Deaf Act of 1986 (20 U.S.C. 4357) is amended—

(1) in subsection (c)(1), by inserting ''the Federal contribution of'' after ''shall invest'';

(2) in subsection (d)(3)(A), by striking ''prior'' and inserting ''current''; and

(3) in subsection (h)—

(A) in paragraph (1), by striking ''1993 through 1997'' and inserting ''1998 through 2003''; and

(B) in paragraph (2), by striking ''1993 through 1997'' and inserting ''1998 through 2003''

SEC. 770. INTERNATIONAL STUDENTS.

Section 210(a) of the Education of the Deaf Act of 1986 (20 U.S.C. 4359a(a)) is amended by inserting before the period '', except that in any school year no United States citizen who is qualified to be admitted to the University or NTID and applies for admission to the University or NTID shall be denied admission because of the admission of an international student''.

SEC. 771. RESEARCH PRIORITIES.

Section 211 of the Education of the Deaf Act of 1986 (20 U.S.C. 4360) is amended to read as follows:

"SEC. 211. RESEARCH PRIORITIES.

''(a) Research Priorities.—Gallaudet University and the National Technical Institute for the Deaf shall each establish and disseminate priorities for their national mission with respect to deafness related research, development, and demonstration activities, that reflect public input, through a process that includes consumers, constituent groups, and the heads of other federally funded programs. The priorities for the University shall include activities conducted as part of the University's elementary and secondary education programs under section 104.

''(b) Research Reports.—The University and NTID shall each prepare and submit an annual research report, to the Secretary, the Committee on Education and the Workforce of the House of Representatives, and the Committee on Labor and Human Resources of the Senate, not later than January 10 of each year, that shall include—

''(1) a summary of the public input received as part of the establishment and dissemination of priorities required by subsection (a), and the University's and NTID's response to the input; and

''(2) a summary description of the research undertaken by the University and NTID, the start and projected end dates for each research project, the projected cost and source or sources of funding for each project, and any products resulting from research completed in the prior fiscal year.''.

SEC. 772. AUTHORIZATION OF APPROPRIATIONS.

Title II of the Education of the Deaf Act of 1986 (20 U.S.C. 4351 et seq.) is amended by adding at the end the following:

"SEC. 212. AUTHORIZATION OF APPROPRIATIONS.

''(a) Gallaudet University.—There are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1998 through 2003 to carry out the provisions of titles I and II, relating to—

''(1) Gallaudet University;

''(2) Kendall Demonstration Elementary School; and

''(3) the Model Secondary School for the Deaf.

''(b) National Technical Institute for the Deaf.—There are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1998 through 2003 to carry out the provisions of titles I and II relating to the National Technical Institute for the Deaf.''.

SEC. 773. COMMISSION ON EDUCATION OF THE DEAF.

The Education of the Deaf Act of 1986 (20 U.S.C. 4301 et seq.) is amended by adding at the end the following:

"TITLE III—COMMISSION ON EDUCATION OF THE DEAF

"SEC. 301. COMMISSION ESTABLISHED.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—The Secretary shall establish a Commission on the Education of the Deaf to identify those education-related factors in the lives of individuals who are deaf that result in barriers to successful postsecondary education experiences and employment, and those education-related factors in the lives of individuals who are deaf that contribute to successful postsecondary education experiences and employment.

"(2) DEFINITION OF INDIVIDUALS WHO ARE DEAF.—In this title, the term 'individuals who are deaf' means all persons with hearing impairments, including those who are hard-of-hearing, those deafened later in life, and those who are profoundly deaf.

"(b) COMPOSITION.—

"(1) IN GENERAL.—The Commission shall be composed of 13 members appointed by the Secretary from recommendations made by the National Association of the Deaf, the American Society for Deaf Children, the Alexander Graham Bell Association, the President of Gallaudet, the Vice President of the National Technical Institute for the Deaf, State Schools for the Deaf, projects to train teachers of the deaf funded under section 673(b) of the Individuals with Disabilities Education Act, parent training and information centers funded under section 682 of such Act, the Regional Centers on Postsecondary Education for Individuals who are Deaf funded under section 672 of such Act, Self-Help for Hard of Hearing People, and the Cothe Council on Education of the Deaf.

"(2) QUALIFICATIONS.—

"(A) IN GENERAL.—Members of the Commission shall be appointed from among individuals who have broad experience and expertise in deafness, program evaluation, education, rehabilitation, and job training generally, which expertise and experience shall be directly relevant to the issues to be addressed by the Commission.

"(B) DEAF INDIVIDUALS.—At least 1/3 of members of the Commission shall be individuals who are deaf.

"(C) CHAIRPERSON.—The chairperson of the Commission shall be elected by a simple majority of the Commission.

"(D) ASSISTANT SECRETARY.—One member of the Commission shall be the Assistant Secretary for Special Education and Rehabilitative Services.

"(3) DATE.—Members of the Commission shall be appointed not later than 90 days after the date of enactment of the Education of the Deaf Amendments of 1998.

"SEC. 302. DUTIES, REPORT, AND DURATION OF THE COMMISSION.

"(a) IDENTIFICATION OF FACTORS.—The Commission shall identify, with respect to individuals who are deaf, factors that pose barriers to or factors that facilitate—

"(1) educational performance and progress of students who are deaf in high school;

"(2) educational performance and progress of students who are deaf in postsecondary education;

"(3) career exploration and selection;

"(4) job performance and satisfaction in initial postsecondary employment; and

"(5) career advancement and satisfaction.

"(b) REPORT.—The Commission shall report to the President and Congress such interim reports that the Commission deems appropriate, and not later than 18 months after the date of enactment of the Education of the Deaf Amendments of 1998, a final report containing the findings of the Commission with respect to the factors identified under subsection (a). The final report shall include recommendations, including legislative proposals, that the Commission deems advisable.

"(c) TERMINATION.—The Commission shall terminate 90 days after the date on which the Commission submits the Commission's final report described in subsection (b).

"SEC. 303. ADMINISTRATIVE PROVISIONS.

"(a) PERSONNEL.—

"(1) IN GENERAL.—The Commission may appoint such personnel, including a staff director, as the Commission deems necessary without regard to the provisions of title 5, United States Code, except that the rate pay for any employee of the Commission may not exceed the rate payable for level V of the Executive Schedule under section 5316 of title 5, United States Code.

"(2) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairperson of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

"(b) HEARINGS; QUORUM.—

"(1) HEARINGS.—The Commission or, with the authorization of the Commission, any committee of the Commission, may, for the purpose of carrying out the provisions of this title, hold such hearings, sit, and act at such times and such places in the United States as the Commission or such committee may deem advisable.

"(2) QUORUM.—Seven members of the Commission shall constitute a quorum, but 2 or more members may conduct hearings.

"(3) HEARINGS AND PUBLIC INPUT.—In conducting hearings and acquiring public input under this title, the Commission may use various telecommunications media, including teleconferencing, video-conferencing, the Internet, and other media.

"(c) CONSULTATION; INFORMATION AND STATISTICS; AGENCY COOPERATION.—

"(1) IN GENERAL.—In carrying out the Commission's duties under this title and to the extent not prohibited by Federal law, the Commission is authorized to secure consultation, information, statistics, and cooperation from Federal agencies, entities funded by the Federal Government, and other entities the Commission deems advisable.

"(2) SPECIAL RULE.—The Commission is authorized to use, with their consent, the services, personnel, information, and facilities of other Federal, State, local, and private agencies with or without reimbursement.

"SEC. 304. COMPENSATION OF MEMBERS.

"(a) UNITED STATES OFFICER AND EMPLOYEE MEMBERS.—Members of the Commission who are officers or full-time employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States; but may be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

"(b) PUBLIC MEMBERS.—Members of the Commission who are not officers or full-time employees of the United States shall receive compensation at a rate that does not exceed the daily rate payable for level V of the Executive Schedule under section 5316 of title 5, United States Code, for each day (including travel time) during which such members are engaged in the actual performance of the duties of the Commission. In addition, such members may be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

"SEC. 305. AUTHORIZATIONS OF APPROPRIATIONS.

"There is authorized to be appropriated to carry out this title such sums as may be necessary for each of the fiscal years 1999 and 2000.".

PART G—REPEALS

SEC. 781. REPEALS.

(a) HIGHER EDUCATION ACT OF 1965.—The following provisions of the Act (20 U.S.C. 1001 et seq.) are repealed:

(1) The heading for, sections 701 and 702 of, and parts A, C, D, and E of, title VII (20 U.S.C. 1132a, 1132a–1, 1132b et seq., 1132d et seq., 1132f et seq., and 1132i et seq.).

(2) Title VIII (20 U.S.C. 1133 et seq.).

(3) The heading for, section 901 of, and parts A, B, E, F, and G of, title IX (20 U.S.C. 1134, 1134a et seq., 1134d et seq., 1134r et seq., 20 U.S.C. 1134s et seq., and 1134u et seq.).

(4) The heading for, subpart 2 of part B of, and parts C, D and E of, title X (20 U.S.C. 1135c et seq., 1135e et seq., 1135f, and 1135g et seq.).

(5) The heading for, and part B of, title XI (20 U.S.C. 1137 et seq.).

(b) HIGHER EDUCATION AMENDMENTS OF 1992.—The following provisions of the Higher Education Amendments of 1992 (Public Law 102–325; 106 Stat 448) are repealed:

(1) Parts E, F, and G of title XIII of the Higher Education Amendments of 1992 (25 U.S.C. 3332 et seq., 3351 et seq., 3371) are repealed.

(2) Title XIV.

(3) Title XV.

PART H—MISCELLANEOUS

SEC. 791. YEAR 2000 COMPUTER PROBLEM.

(a) SENSE OF CONGRESS.—With the year 2000 fast approaching, it is the sense of Congress that the Department of Education should—

(1) assess immediately the extent of the risk to the operations of the student financial aid system posed by the year 2000 computer problem;

(2) give the highest priority to correcting all 2-digit date-related problems in the Department's computer systems to ensure that those systems continue to operate effectively in the year 2000 and beyond; and

(3) develop contingency plans, with respect to the year 2000 computer problem, for those computer systems that the Department is unable to correct in time.

(b) REPORT REQUIRED.—Not later than March 1, 1999, the Secretary of Education shall provide a report to the Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives describing the compliance status of all mission critical systems at the Department, and contingency plans for those computer systems in the Department that the Department will be unable to correct in time, with respect to the year 2000 computer problem.

MODIFICATION TO COMMITTEE SUBSTITUTE

The PRESIDING OFFICER. Under the previous order, the manager is recognized to modify the bill.

Mr. JEFFORDS. Mr. President, under the order, I send a modification of the committee-reported substitute to the desk.

The PRESIDING OFFICER. The amendment is so modified.

The modification is as follows:

On page 339, after line 24, insert the following:

SEC. 104. GRANTS AND RECOGNITION AWARDS.

Section 110 (as redesignated by section 101(a)(6)) (20 U.S.C. 1145g) is amended by adding at the end the following:

"(e) Alcohol and Drug Abuse Prevention Grants.—

"(1) Program authority.—The Secretary may make grants to institutions of higher education or consortia of such institutions, and enter into contracts with such institutions, consortia, and other organizations, to develop, implement, operate, improve, and disseminate programs of prevention, and education (including treatment-referral) to reduce and eliminate the illegal use of drugs and alcohol and the violence associated with such use. Such grants or contracts may also be used for the support of a higher education center for alcohol and drug abuse prevention that will provide training, technical assistance, evaluation, dissemination, and associated services and assistance to the higher education community as determined by the Secretary and institutions of higher education.

"(2) Awards.—Grants and contracts shall be awarded under paragraph (1) on a competitive basis.

"(3) Applications.—An institution of higher education, a consortium of such institutions, or another organization that desires to receive a grant or contract under paragraph (1) shall submit an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require by regulation.

"(4) Additional requirements.—

"(A) Participation.—In awarding grants under this subsection the Secretary shall make every effort to ensure—

"(i) the equitable participation of private and public institutions of higher education (including community and junior colleges); and

"(ii) the equitable geographic participation of such institutions.

"(B) Consideration.—In awarding grants and contracts under this subsection the Secretary shall give appropriate consideration to institutions of higher education with limited enrollment.

"(5) Authorization of appropriations.—There are authorized to be appropriated to carry out this subsection $5,000,000 for fiscal year 1999 and such sums as may be necessary for each of the 4 succeeding fiscal years.

"(f) National Recognition Awards.—

"(1) Purpose.—It is the purpose of this subsection to provide models of innovative and effective alcohol prevention programs in higher education and to focus national attention on exemplary alcohol prevention efforts.

"(2) Awards.—

"(A) In general.—The Secretary shall make 10 National Recognition Awards, on an annual basis, to institutions of higher education that—

"(i) have developed and implemented innovative and effective alcohol prevention programs; and

"(ii) demonstrate in the application submitted under paragraph (3) that the institution has undertaken efforts designed to change the culture of college drinking consistent with the objectives described in paragraph (4)(B).

"(B) Ceremony.—The awards shall be made at a ceremony in Washington, D.C.

"(C) Document.—The Secretary shall publish a document describing the alcohol prevention programs of institutions of higher education that receive the awards under this subsection and disseminate the document nationally to all public and private secondary school guidance counselors for use by secondary school juniors and seniors preparing to enter an institution of higher education. The document shall be disseminated not later than January 1 of each academic year.

"(D) Amount and use.—Each institution of higher education selected to receive an award under this subsection shall receive an award in the amount of $50,000. Such award shall be used for the maintenance and improvement of the institution's alcohol prevention program for the academic year following the academic year for which the award is made.

"(3) Application.—

"(A) In general.—Each institution of higher education desiring an award under this subsection shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require. Each such application shall contain—

"(i) a clear description of the goals and objectives of the alcohol program of the institution;

"(ii) a description of program activities that focus on alcohol policy issues, policy development, modification, or refinement, policy dissemination and implementation, and policy enforcement;

"(iii) a description of activities that encourage student and employee participation and involvement in activity development and implementation;

"(iv) the objective criteria used to determine the effectiveness of the methods used in the program and the means used to evaluate and improve the program efforts; and

"(v) a description of the activities to be assisted that meet the criteria described in subparagraph (C).

"(B) Application review.—The Secretary shall appoint a committee to review applications submitted under this paragraph. The committee may include representatives of Federal departments or agencies the programs of which include alcohol abuse prevention and education efforts, directors or heads (or their representatives) of professional associations that focus on alcohol abuse prevention efforts, and non-Federal scientists who have backgrounds in social science evaluation and research methodology and in education. Decisions of the committee shall be made directly to the Secretary without review by any other entity in the Department.

"(C) Review criteria.—The committee described in subparagraph (B) shall develop specific review criteria for reviewing and evaluating applications submitted under this paragraph. Such criteria shall include whether the institution of higher education has policies in effect that—

"(i) prohibit alcoholic beverage sponsorship of athletic events, and prohibit alcoholic beverage advertising inside athletic facilities;

"(ii) prohibit alcoholic beverage marketing on campus, which may include efforts to ban alcohol advertising in institutional publications or efforts to prohibit alcohol-related advertisements at campus events;

"(iii) establish or expand upon alcohol-free living arrangements for all college students;

"(iv) establish partnerships with community members and organizations to further alcohol prevention efforts on campus and the areas surrounding campus; and

"(v) establish innovative communications programs involving students and faculty in an effort to educate students about alcohol-related risks.

"(4) Eligibility.—

"(A) In general.—In order to be eligible to receive a National Recognition Award an institution of higher education shall—

"(i) offer an associate or baccalaureate degree;

"(ii) have established an alcohol abuse prevention and education program;

"(iii) nominate itself or be nominated by others, such as professional associations or student organizations, to receive the award; and

"(iv) not have received an award under this subsection during the 5 academic years preceding the academic year for which the determination is made.

"(B) Objectives.—In order to receive a National Recognition Award an institution shall demonstrate in the application submitted under paragraph (3) that the institution has accomplished all of the following objectives:

"(i) The elimination of alcoholic beverage sponsorship of athletic events, and the elimination of alcoholic beverage advertising inside athletic facilities.

"(ii) The elimination of alcoholic beverage marketing on campus that may include efforts to ban alcohol advertising in institutional publications or prohibit alcohol-related advertisements at campus events.

"(iii) The establishment or expansion of alcohol-free living arrangements for all college students.

"(iv) The establishment of partnerships with community members and organizations to further alcohol prevention efforts on campus and the surrounding areas.

"(v) The establishment of innovative communications programs involving students and faculty in an effort to educate students about alcohol-related risks.

"(5) Authorization of appropriations.—

"(A) In general.—There is authorized to be appropriated to carry out this subsection $750,000 for fiscal year 1999.

"(B) Availability.—Funds appropriated under subparagraph (A) shall remain available until expended.".

On page 343, line 16, strike the end quotation marks and the second period.

On page 343, between lines 16 and 17, insert the following:

"SEC. 113. STUDENT-RELATED DEBT STUDY REQUIRED.

"(a) In General.—The Secretary shall conduct a study that analyzes the distribution and increase in student-related debt in terms of—

"(1) demographic characteristics, such as race or ethnicity, and family income;

"(2) type of institution and whether the institution is a public or private institution;

"(3) loan source, such as Federal, State, institutional or other, and, if the loan source is Federal, whether the loan is or is not subsidized;

"(4) academic field of study;

"(5) parent loans, and whether the parent loans are federally guaranteed, private, or property-secured such as home equity loans; and

"(6) relation of student debt or anticipated debt to—

"(A) students' decisions about whether and where to enroll in college and whether or how much to borrow in order to attend college;

"(B) the length of time it takes students to earn baccalaureate degrees;

"(C) students' decisions about whether and where to attend graduate school;

"(D) graduates' employment decisions;

"(E) graduates' burden of repayment as reflected by the graduates' ability to save for retirement or invest in a home; and

"(F) students' future earnings.

"(b) Report.—After conclusion of the study required by subsection (a), the Secretary shall submit a final report regarding the findings of the study to the Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives not later than 18 months after the date of enactment of the Higher Education Amendments of 1998.

"(c) Information.—After the study and report under this section are concluded, the Secretary shall determine which information described in subsection (a) would be useful for families to know and shall include such information as part of the comparative information provided to families about the costs of higher education under the provisions of section 486(a)(1).

"SEC. 114. STUDY OF FORECLOSED PROPERTY OR ASSETS.

"Not later than 90 days after the date of enactment of the Higher Education Amendments of 1998, the Comptroller General, in consultation with the Inspector General of the Department, shall submit a report to the Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives that provides the following:

"(1) Descriptions of legislative changes that can be made to strengthen laws governing the transfer of foreclosed property or assets by the Department to individuals or their agents that have had prior dealings with the Department. Such descriptions shall address the transfer of property to individuals or their agents who have been in positions of management or oversight at postsecondary educational institutions that have failed, or are failing, to make payments to the Department on property loans, or defaulted on any property or asset loan from a Federal agency.

"(2) Changes that can be implemented at the Department to strengthen all rules and regulations governing the transfer of foreclosed property or assets by the Department to individuals or their agents as described in paragraph (1).

"SEC. 115. STATE REQUIREMENT.

"(a) In General.—Except as provided in subsection (b), each State, that has individuals who reside in the State and who receive financial assistance under this Act, shall provide an appropriate number of mail voter registration forms (as described in section 6(a) of the National Voter Registration Act (42 U.S.C. 1973gg-4(a))) to each eligible institution under section 487 in the State, not later than 60 days before each date that is the last day to register to vote for a regularly scheduled—

"(1) election (as defined in section 301(1) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(1)); or

"(2) election for Governor or other chief executive within such State.

"(b) Nonapplicability to Certain States.—The requirement of subsection (a) shall not apply to a State which is described in section 4(b) of the National Voter Registration Act (42 U.S.C. 1973gg-2(b)).

"SEC. 116. STUDY OF OPPORTUNITIES FOR PARTICIPATION IN ATHLETICS PROGRAMS.

"(a) Study.—The Comptroller General shall conduct a study of the opportunities for participation in intercollegiate athletics. The study shall address issues including—

"(1) the extent to which the number of—

"(A) secondary school athletic teams has increased or decreased in the 20 years preceding 1998 (in aggregate terms); and

"(B) intercollegiate athletic teams has increased or decreased in the 20 years preceding 1998 (in aggregate terms) at 2-year and 4-year institutions of higher education;

"(2) the extent to which participation by student-athletes in secondary school and intercollegiate athletics has increased or decreased in the 20 years preceding 1998 (in aggregate terms);

"(3) over the 20-year period preceding 1998, a list of the men's and women's secondary school and intercollegiate sports, ranked in order of the sports most affected by increases or decreases in levels of participation and numbers of teams (in the aggregate);

"(4) all factors that have influenced campus officials to add or discontinue sports teams at secondary schools and institutions of higher education, including—

"(A) institutional mission and priorities;

"(B) budgetary pressures;

"(C) institutional reforms and restructuring;

"(D) escalating liability insurance premiums;

"(E) changing student and community interest in a sport;

"(F) advancement of diversity among students;

"(G) lack of necessary level of competitiveness of the sports program;

"(H) club level sport achieving a level of competitiveness to make the sport a viable varsity level sport;

"(I) injuries or deaths; and

"(J) conference realignment;

"(5) the actions that institutions of higher education have taken when decreasing the level of participation in intercollegiate sports, or the number of teams, in terms of providing information, advice, scholarship maintenance, counseling, advance warning, and an opportunity for student-athletes to be involved in the decisionmaking process;

"(6) the administrative processes and procedures used by institutions of higher education when determining whether to increase or decrease intercollegiate athletic teams or participation by student-athletes;

"(7) the budgetary or fiscal impact, if any, of a decision by an institution of higher education—

"(A) to increase or decrease the number of intercollegiate athletic teams or the participation of student-athletes; or

"(B) to be involved in a conference realignment; and

"(8) the alternatives, if any, institutions of higher education have pursued in lieu of eliminating, or severely reducing the funding for, an intercollegiate sport, and the success of such alternatives.

"(b) Report.—The Comptroller General shall submit a report regarding the results of the study to the Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives.

"SEC. 117. SPECIAL RULE.

"Notwithstanding any other provision of law, the sum of financial assistance received under this Act and other Federal financial assistance for postsecondary education received by an individual shall not exceed the individual's cost of attendance as defined in section 472, except that no individual shall have the amount of a Federal Pell Grant for which the individual is eligible reduced as a result of the application of this section.".

On page 365, line 8, insert "and in school districts with disproportionately high numbers of limited English proficient students," after "areas,".

On page 370, between lines 19 and 20, insert the following:

"(c) Construction.—Nothing in this part shall be construed to prohibit a teacher training partnership from using grant funds to coordinate with the activities of more than 1 Governor, State board of education, or State educational agency.

On page 390, line 20, strike "and".

On page 390, line 25, strike the period and insert "; or".

On page 390, after line 25, insert the following:

"(C) applications from partnerships that propose to carry out programs that use innovative means, including technology, to recruit for participation in the activities assisted under the programs students who are Native Hawaiian, Alaska Native, or Native American Pacific Islander.

On page 407, between lines 8 and 9, insert the following:

(d) Alaska Native and Native Hawaiian-Serving Institutions.—Part A of title III (20 U.S.C. 1057 et seq.) is amended by adding at the end the following:

"SEC. 317. ALASKA NATIVE AND NATIVE HAWAIIAN-SERVING INSTITUTIONS.

"(a) Program Authorized.—The Secretary shall provide grants and related assistance to Alaska Native-serving institutions and Native Hawaiian-serving institutions to enable such institutions to improve and expand their capacity to serve Alaska Natives and Native Hawaiians.

"(b) Definitions.—For the purpose of this section—

"(1) the term 'Alaska Native' has the meaning given the term in section 9308 of the Elementary and Secondary Education Act of 1965;

"(2) the term 'Alaska Native-serving institution' means an institution of higher education that—

"(A) is an eligible institution under section 312(b); and

"(B) at the time of application, has an enrollment of undergraduate students that is at least 20 percent Alaska Native students;

"(3) the term 'Native Hawaiian' has the meaning given the term in section 9212 of the Elementary and Secondary Education Act of 1965; and

"(4) the term 'Native Hawaiian-serving institution' means an institution of higher education which—

"(A) is an eligible institution under section 312(b); and

"(B) at the time of application, has an enrollment of undergraduate students that is at least 10 percent Native Hawaiian students.

"(c) Authorized Activities.—

"(1) Types of activities authorized.—Grants awarded under this section shall be used by Alaska Native-serving institutions and Native Hawaiian-serving institutions to assist such institutions to plan, develop, undertake, and carry out programs.

"(2) Examples of authorized activities.—Such programs may include—

"(A) purchase, rental, or lease of scientific or laboratory equipment for educational purposes, including instructional and research purposes;

"(B) renovation and improvement in classroom, library, laboratory, and other instructional facilities;

"(C) support of faculty exchanges, and faculty development and faculty fellowships to assist in attaining advanced degrees in their field of instruction;

"(D) curriculum development and academic instruction;

"(E) purchase of library books, periodicals, microfilm, and other educational materials;

"(F) funds and administrative management, and acquisition of equipment for use in strengthening funds management;

"(G) joint use of facilities such as laboratories and libraries; and

"(H) academic tutoring and counseling programs and student support services.

"(d) APPLICATION PROCESS.—

"(1) INSTITUTIONAL ELIGIBILITY.—Each Alaska Native-serving institution and Native Hawaiian-serving institution desiring to receive assistance under this section shall submit to the Secretary such enrollment data as may be necessary to demonstrate that it is an Alaska Native-serving institution or a Native Hawaiian-serving institution as defined in subsection (b), along with such other information and data as the Secretary may by regulation require.

"(2) APPLICATIONS.—Any institution which is determined by the Secretary to be an Alaska Native-serving institution or a Native Hawaiian-serving institution may submit an application for assistance under this section to the Secretary. Such application shall include—

"(A) a 5-year plan for improving the assistance provided by the Alaska Native-serving institution or the Native Hawaiian-serving institution to Alaska Native or Native Hawaiian students; and

"(B) such other information and assurance as the Secretary may require.

"(e) SPECIAL RULE.—For the purposes of this section, no Alaska Native-serving institution or Native Hawaiian-serving institution which is eligible for and receives funds under this section may concurrently receive other funds under this part or part B.".

On page 408, strike line 10, and insert the following:

(1) in subsection (a)—

(A) in paragraph (2), by striking "$500,000" and inserting "$1,000,000"; and

(B) by adding at the end of

On page 408, line 12, strike "$500,000" and insert "$1,000,000".

On page 408, line 14, strike "$500,000" and insert "$1,000,000".

On page 408, line 17, strike "$500,000" and insert "$1,000,000".

On page 408, between lines 17 and 18, insert the following:

(2) in subsection (d)(2), by striking "$500,000" and inserting "$1,000,000".

On page 409, line 9, strike "and" after the semicolon.

On page 409, line 13, strike the period and insert a semicolon.

On page 409, between lines 13 and 14, insert the following:

(G) in subparagraph (O), by striking "and" after the semicolon.

(H) in subparagraph (P)—

(i) by inserting "University" after "State"; and

(ii) by striking the period and inserting a semicolon;

(I) by adding at the end the following:

"(Q) Norfolk State University qualified graduate program; and

"(R) Tennessee State University qualified graduate program.";

(4) in subsection (f)—

(A) in paragraph (1), by striking "$12,000,000" and inserting "$15,000,000";

(B) in paragraph (2)—

(i) in the matter preceding subparagraph (A), by striking "$12,000,000" and inserting "$15,000,000 but not in excess of $28,000,000";

(ii) in subparagraph (A), by striking "$500,000" and inserting "$1,000,000"; and

(iii) in subparagraph (B)—

(I) by striking "(A) through (P)" and inserting "(Q) and (R)"; and

(II) by striking the period and inserting "; and

(C) by adding at the end the following:

"(3) any amount appropriated in excess of $28,000,000 shall be available for the purpose of making grants to institutions or programs described in subparagraphs (A) through (R), on a competitive basis and through a peer review process that takes into consideration—

"(A) the ability of the institution to match Federal funds with non-Federal funds;

"(B) the number of students enrolled in the institution or program for which funds are sought;

"(C) the percentage of students enrolled in the institution or program for which funds are sought who are eligible for need-based student aid;

"(D) the percentage of students enrolled in the institution or program for which funds are sought who complete their degrees within a reasonable period of time as determined by the Secretary; and

"(E) the quality of the proposal."; and

(5) by adding at the end the following:

"(g) SPECIAL RULE.—No institution or program described in subsection (e)(1) that received a grant under this section for fiscal year 1998 and that is eligible to receive a grant under this section in a subsequent fiscal year shall receive a grant under this section in any subsequent fiscal year in an amount that is less than the grant amount received for fiscal year 1996 or 1997, whichever is greater, unless—

"(1) the amount appropriated for the subsequent fiscal year is not sufficient to provide grants under this section to all such institutions or programs; or

"(2) the institution or program cannot provide sufficient matching funds to meet the requirements of this section.".

On page 411, between lines 20 and 21, insert the following:

(a) MINORITY SCIENCE IMPROVEMENT PROGRAM FINDINGS.—Subpart 1 of part E of title III (as redesignated by paragraphs (6) and (7) of section 301) (20 U.S.C. 1135b et seq.) is amended by inserting after the subpart heading the following:

"SEC. 350. FINDINGS.

"Congress makes the following findings:

"(1) It is incumbent on the Federal Government to support the technological and economic competitiveness of the United States by improving and expanding the scientific and technological capacity of the United States. More and better prepared scientists, engineers, and technical experts are needed to improve and expand such capacity.

"(2) As the Nation's population becomes more diverse, it is important that the educational and training needs of all Americans are met. Underrepresentation of minorities in science and technological fields diminishes our Nation's competitiveness by impairing the quantity of well prepared scientists, engineers, and technical experts in these fields.

"(3) Despite significant limitations in resources, minority institutions provide an important educational opportunity for minority students, particularly in science and engineering fields. Aid to minority institutions is a good way to address the underrepresentation of minorities in science and technological fields.

"(4) There is a strong Federal interest in improving science and engineering programs at minority institutions as such programs lag behind in program offerings and in student enrollment compared to such programs at other institutions of higher education.".

On page 411, line 21, insert "(b) DEFINITIONS.—" before "Section 365(4)".

On page 412, line 19, strike "and" after the semicolon.

On page 412, line 26, insert "and" after the semicolon.

On page 412, after line 26, insert the following:

(C) by adding at the end the following:

"(C) There are authorized to be appropriated to carry out section 317, $5,000,000 for fiscal year 1999 and such sums as may be necessary for each of the 4 succeeding fiscal years.";

On page 413, line 23, strike "Title" and insert "Part A of title".

On page 413, strike line 24.

On page 414, line 1, strike "(A)" and insert "(1)".

On page 414, line 4, strike "(B)" and insert "(2)".

On page 414, line 5, strike "; and" and insert a period.

On page 414, strike lines 6 through 11.

On page 418, between lines 10 and 11, insert the following:

"(I) not less than a minimum percentage of the students enrolled in the course complete the course;

On page 418, line 11, strike "such a" and insert "the".

On page 418, line 17, strike "such students" and insert "the students enrolled in the course".

On page 418, line 20, insert "the minimum percentage of students who complete the course of instruction," after "specify".

On page 419, line 20, strike "and".

On page 419, line 23, strike the period and insert "; and".

On page 419, between lines 23 and 24, insert the following:

(4) in subsection (g), by adding at the end the following:

"(4) WAIVER.—The Secretary may waive the service requirements in subparagraph (A) or (B) of paragraph (3) if the Secretary determines the application of the service requirements to a veteran will defeat the purpose of a program under this chapter.".

On page 419, line 24, strike "Section" and insert the following:

"(1) AMENDMENT TO SECTION 402B(b)(5).—Section".

On page 420, between lines 2 and 3, insert the following:

(2) AMENDMENT TO SECTION 402B(b)(9).—Section 402B(b)(9) (20 U.S.C. 1070a–12(b)(9)) is amended by inserting "or counselors" after "teachers".

On page 420, strike lines 6 and 7, and insert the following:

(A) in paragraph (9)—

(i) by inserting "or counselors" after "teachers"; and

(ii) by striking "and" after the semicolon.

On page 421, between lines 13 and 14, insert the following:

(e) STAFF DEVELOPMENT ACTIVITIES.—Section 402G(a) (20 U.S.C. 1070a–17(a)) is amended by inserting "participating in," after "leadership personnel employed in,".

On page 423, strike lines 10 through 13, and insert the following:

SEC. 414. CONNECTIONS PROGRAM.

Chapter 2 of subpart 2 of part A of title IV (20 U.S.C. 1070a–21 et seq.) is amended to read as follows:

"CHAPTER 2—CONNECTIONS PROGRAM

"SEC. 404A. EARLY INTERVENTION AND COLLEGE AWARENESS PROGRAM AUTHORIZED.

"(a) IN GENERAL.—The Secretary is authorized, in accordance with the requirements of this chapter, to establish a program that—

"(1) encourages eligible entities to provide or maintain a guarantee to eligible low-income students who obtain a secondary school diploma (or its recognized equivalent), of the financial assistance necessary to permit the students to attend an institution of higher education; and

"(2) supports eligible entities in providing—

"(A) additional counseling, mentoring, academic support, outreach, and supportive services to elementary, middle, and secondary school students who are at risk of dropping out of school; and

"(B) information to students and their parents about the advantages of obtaining a postsecondary education and their college financing options.

"(b) Awards.—

"(1) In general.—The Secretary may award grants to eligible entities to carry out the program authorized under subsection (a).

"(2) Priority.—In making the awards described in paragraph (1), the Secretary shall—

"(A) give priority to eligible entities that—

"(i) carried out, prior to the date of enactment of the Higher Education Amendments of 1998, successful educational opportunity programs; and

"(ii) have a prior, demonstrated commitment to early intervention leading to college access through collaboration and replication of successful strategies; and

"(B) ensure that students served under this chapter prior to the date of enactment of the Higher Education Amendments of 1998 continue to receive service through the completion of secondary school.

"(c) Definitions.—For the purposes of this chapter, the term 'eligible entity' means—

"(1) a State; or

"(2) a partnership consisting of—

"(A) 1 or more local educational agencies acting on behalf of—

"(i) 1 or more public schools; and

"(ii) the public secondary schools that students from the schools described in clause (i) would normally attend;

"(B) 1 or more degree granting institutions of higher education; and

"(C) at least 2 community organizations or entities, such as businesses, professional associations, community-based organizations, philanthropic organizations, State agencies, institutions or agencies sponsoring programs authorized under subpart 4, or other public or private agencies or organizations.

"(d) Coordination.—Each eligible entity shall ensure, that the activities assisted under this chapter are, to the extent practicable, coordinated with, and complement and enhance—

"(1) services under this chapter provided by other eligible entities serving the same school district or State; and

"(2) related services under other Federal or non-Federal programs.

"SEC. 404B. ELIGIBILITY ENTITY PLANS.

"(a) Plan Required for Eligibility.—

"(1) In general.—In order for an eligible entity to qualify for a grant under this chapter, the eligible entity shall submit to the Secretary a plan for carrying out the program under this chapter. Such plan shall provide for the conduct of both a scholarship component in accordance with section 404D and an early intervention component in accordance with section 404C.

"(2) Contents.—Each plan submitted pursuant to paragraph (1) shall be in such form, contain or be accompanied by such information or assurances, and be submitted at such time as the Secretary may require by regulation. Each such plan shall—

"(A) describe the activities for which assistance under this chapter is sought; and

"(B) provide such additional assurances as the Secretary determines necessary to ensure compliance with the requirements of this chapter.

"(b) Matching Requirement.—

"(1) In general.—The Secretary shall not approve a plan submitted under subsection (a) unless such plan—

"(A) provides that the eligible entity will provide, from State, local, institutional, or private funds, not less than ½ the cost of the program, which matching funds may be provided in cash or in kind;

"(B) specifies the methods by which such share of the costs will be paid; and

"(C) includes provisions designed to ensure that funds provided under this chapter shall supplement and not supplant funds expended for existing programs.

"(2) Special rule.—The Secretary may change the share of the costs required to be provided under paragraph (1)(A) for eligible entities defined in section 402A(c)(2).

"(c) Methods for Complying With Matching Requirement.—An eligible entity may count toward the share of the costs required by subsection (b)(1)(A)—

"(1) the amount of the grants paid to students from State, local, institutional, or private funds under this chapter;

"(2) the amount of tuition, fees, room or board waived or reduced for recipients of grants under this chapter; and

"(3) the amount expended on documented, targeted, long-term mentoring and counseling provided by volunteers or paid staff of nonschool organizations, including businesses, religious organizations, community groups, postsecondary educational institutions, nonprofit and philanthropic organizations, and other organizations.

"(d) Cohort Approach.—

"(1) In general.—The Secretary may require that eligible entities—

"(A) provide services under this chapter to at least 1 grade level of students, beginning not later than 7th grade, in a participating public school that has a 7th grade and in which at least 50 percent of the students enrolled are eligible for free or reduced-price lunch (or, if an eligible entity determines that it would promote the effectiveness of a project, an entire grade level of students, beginning not later than the 7th grade, who reside in public housing as defined in section 3(b)(1) of the United States Housing Act of 1937); and

"(B) ensure that the services are provided through the 12th grade to students in the participating grade level.

"(2) Coordination requirement.—In order for the Secretary to require the cohort approach described in paragraph (1), the Secretary shall, where applicable, ensure that the cohort approach is done in coordination and collaboration with existing early intervention programs and does not duplicate the services already provided to a school or community.

"SEC. 404C. EARLY INTERVENTION.

"(a) Services.—

"(1) In order to receive a grant under this chapter, an eligible entity shall demonstrate to the satisfaction of the Secretary, in the plan submitted under section 404B, that the eligible entity will provide comprehensive mentoring, counseling, outreach, and supportive services to students participating in programs under this chapter who are enrolled in any of the grades preschool through grade 12. Such counseling shall include financial aid counseling that provides—

"(A) information regarding the opportunities for financial assistance under this title; and

"(B) activities or information regarding—

"(i) fostering and improving parent involvement in promoting postsecondary information regarding the advantages of a college education, academic admission requirements, and the need to take college preparation courses;

"(ii) admissions and achievement tests; and

"(iii) application procedures.

"(2) Methods.—The eligible entity shall demonstrate in such plan, pursuant to regulations of the Secretary, the methods by which the eligible entity will target services on priority students.

"(b) Uses of Funds.—

"(1) In general.—The Secretary shall, by regulation, establish criteria for determining whether comprehensive mentoring, counseling, outreach, and supportive services programs may be used to meet the requirements of subsection (a).

"(2) Allowable providers.—For those eligible entities defined in section 404A(c)(1), the activities required by subsection (a) may be provided by service providers such as community-based organizations, schools, institutions of higher education, public and private agencies, nonprofit and philanthropic organizations, businesses, institutions and agencies sponsoring programs authorized under subpart 4 of this part, and other organizations the State deems appropriate.

"(3) Permissible activities.—Examples of activities that meet the requirements of subsection (a) include the following:

"(A) Providing eligible students in preschool through grade 12 with a continuing system of mentoring and advising that—

"(i) is coordinated with the Federal and State community service initiatives; and

"(ii) may include such support services as after school and summer tutoring, assistance in obtaining summer jobs, career mentoring, and academic counseling.

"(B) Requiring each student to enter into an agreement under which the student agrees to achieve certain academic milestones, such as completing a prescribed set of courses and maintaining satisfactory academic progress described in section 484(c), in exchange for receiving tuition assistance for a period of time to be established by each State.

"(C) Activities designed to ensure secondary school completion and college enrollment of at-risk children, including identification of at-risk children, after school and summer tutoring, assistance in obtaining summer jobs, academic counseling, volunteer and parent involvement, providing former or current scholarship recipients as mentor or peer counselors, skills assessment, providing access to rigorous core courses that reflect challenging academic standards, personal counseling, family counseling and home visits, staff development, and programs and activities described in this subparagraph that are specially designed for students of limited English proficiency.

"(D) Summer programs for individuals planning to attend an institution of higher education in the next academic year that—

"(i) are carried out at an institution of higher education that also has programs of academic year supportive services for disadvantaged students through projects authorized under section 402D or through comparable projects funded by the State or other sources;

"(ii) provide for the participation of the individuals who are eligible for assistance under section 402D or who are eligible for comparable programs funded by the State;

"(iii)(I) provide summer instruction in remedial, developmental or supportive courses;

"(II) provide such summer services as counseling, tutoring, or orientation; and

"(III) provide grant aid to the individuals to cover the individuals' summer costs for books, supplies, living costs, and personal expenses; and

"(iv) provide the individuals with financial aid during each academic year the individuals are enrolled at the participating institution after the summer program.

"(E) Requiring eligible students to meet other standards or requirements as the State determines necessary to meet the purposes of this section.

"(c) PRIORITY STUDENTS.—In administering the early intervention component, the eligible entity shall treat as priority students any student in preschool through grade 12 who is eligible—

"(1) to be counted under section 1005(c) of the Elementary and Secondary Education Act of 1965;

"(2) for free or reduced price meals pursuant to the National School Lunch Act; or

"(3) for assistance pursuant to part A of title IV of the Social Security Act.

"SEC. 404D. SCHOLARSHIP COMPONENT.

"(a) IN GENERAL.—

"(1) STATES.—In order to receive a grant under this chapter, an eligible entity described in section 404A(c)(1) shall establish or maintain a financial assistance program that awards grants to students in accordance with the requirements of this section. The Secretary shall encourage the eligible entity to ensure that the tuition assistance provided pursuant to this section is available to an eligible student for use at any institution of higher education.

"(2) PARTNERSHIPS.—An eligible entity described in section 404A(c)(2) may award scholarships to eligible students.

"(b) GRANT AMOUNTS.—The maximum amount of the grant that an eligible student shall be eligible to receive under this section shall be established by the State. The minimum amount of the grant for each fiscal year shall not be less than the lesser of—

"(1) 75 percent of the average cost of attendance for an in-State student, in a 4-year program of instruction, at public institutions of higher education in such State, as determined in accordance with regulations prescribed by the Secretary; or

"(2) the maximum Federal Pell Grant funded under section 401 for such fiscal year.

"(c) RELATION TO OTHER ASSISTANCE.—Tuition assistance provided under this chapter shall not be considered for the purpose of awarding Federal grant assistance under this title, except that in no case shall the total amount of student financial assistance awarded to a student under this title exceed such student's total cost of attendance.

"(d) ELIGIBLE STUDENTS.—A student eligible for assistance under this section is a student who—

"(1) is less than 22 years old at time of first grant award under this section;

"(2) receives a secondary school diploma or its recognized equivalent on or after January 1, 1993;

"(3) is enrolled or accepted for enrollment in a program of undergraduate instruction at an institution of higher education that is located within the State's boundaries, except that, at the State's option, an eligible entity may offer grant program portability for recipients who attend institutions of higher education outside such State; and

"(4) who participated in the early intervention component required under section 404C.

"(e) PRIORITY.—The Secretary shall ensure that each eligible entity places a priority on awarding scholarships to students who will receive a Federal Pell Grant for the academic year for which the scholarship is awarded under this section.

"(f) SPECIAL RULE.—An eligible entity may consider students who have successfully participated in programs funded under chapter 1 of this subpart to have met the requirements of subsection (d)(4).

"SEC. 404E. 21ST CENTURY SCHOLAR CERTIFICATES.

"(a) AUTHORITY.—The Secretary, using funds appropriated under section 404G, not to exceed $200,000 annually—

"(1) shall ensure that certificates, to be known as 21st Century Scholar Certificates, are provided to all students participating in programs under this chapter; and

"(2) may, as practicable, ensure that such certificates are provided to all students in grades 6 through 12 who attend schools at which at least 50 percent of the students enrolled are eligible for a free or reduced price lunch.

"(b) INFORMATION REQUIRED.—A 21st Century Scholar Certificate shall be personalized for each student and indicate the amount of Federal financial aid for college which a student may be eligible to receive.

"SEC. 404F. EVALUATION AND REPORT.

"(a) EVALUATION.—Each eligible entity receiving a grant under this chapter shall biennially evaluate the early intervention program assisted under this chapter in accordance with the standards described in subsection (b) and shall submit to the Secretary a copy of such evaluation. The evaluation shall permit service providers to track eligible student progress during the period such students are participating in the program assisted under this section and shall be consistent with the standards developed by the Secretary pursuant to subsection (b).

"(b) EVALUATION STANDARDS.—The Secretary shall prescribe standards for the evaluation described in subsection (a). Such standards shall—

"(1) provide for input from eligible entities and service providers; and

"(2) ensure that data protocols and procedures are consistent and uniform.

"(c) FEDERAL EVALUATION.—In order to evaluate and improve the impact of the program assisted under this chapter, the Secretary shall, with funds appropriated under section 404G, make grants to, and enter into contracts and cooperative agreements with public and private institutions and organizations, to evaluate the effectiveness of the program and, as appropriate, disseminate the results of the evaluation.

"(d) REPORT.—The Secretary shall biennially report to Congress on the activities assisted under this chapter and the evaluations conducted pursuant to this section.

"SEC. 404G. APPROPRIATIONS.

"There are authorized to be appropriated to carry out this chapter $200,000,000 for fiscal year 1999 and such sums as may be necessary for each of the 4 succeeding fiscal years.".

On page 436, line 24, insert "Grant funds under this section may be used to provide before and after school services to the extent necessary to enable low-income students enrolled at the institution of higher education to pursue postsecondary education." after the period.

On page 442, between lines 8 and 9, insert the following:

SEC. 419A. LEARNING ANYTIME ANYWHERE PARTNERSHIPS.

Part A of title IV (20 U.S.C. 1070 et seq.) is amended further by adding at the end the following:

"Subpart 9—Learning Anytime Anywhere Partnerships

"SEC. 420D. FINDINGS.

"Congress makes the following findings:

"(1) The nature of postsecondary education delivery is changing, and new technology and other related innovations can provide promising education opportunities for individuals who are currently not being served, particularly for individuals without easy access to traditional campus-based postsecondary education or for whom traditional courses are a poor match with education or training needs.

"(2) Individuals, including individuals seeking basic or technical skills or their first postsecondary experience, individuals with disabilities, dislocated workers, individuals making the transition from welfare-to-work, and individuals who are limited by time and place constraints can benefit from nontraditional, noncampus-based postsecondary education opportunities and appropriate support services.

"(3) The need for high-quality, nontraditional, technology-based education opportunities is great, as is the need for skill competency credentials and other measures of educational progress and attainment that are valid and widely accepted, but neither need is likely to be adequately addressed by the uncoordinated efforts of agencies and institutions acting independently and without assistance.

"(4) Partnerships, consisting of institutions of higher education, community organizations, or other public or private agencies or organizations, can coordinate and combine institutional resources—

"(A) to provide the needed variety of education options to students; and

"(B) to develop new means of ensuring accountability and quality for innovative education methods.

"SEC. 420E. PURPOSE; PROGRAM AUTHORIZED.

"(a) PURPOSE.—It is the purpose of this subpart to enhance the delivery, quality, and accountability of postsecondary education and career-oriented lifelong learning through technology and related innovations.

"(b) PROGRAM AUTHORIZED.—

"(1) GRANTS.—

"(A) IN GENERAL.—The Secretary may, from funds appropriated under section 420J make grants to, or enter into contracts or cooperative agreements with, eligible partnerships to carry out the authorized activities described in section 420G.

"(B) DURATION.—Grants under this subpart shall be awarded for periods that do not exceed 5 years.

"(2) DEFINITION OF ELIGIBLE PARTNERSHIP.—For purposes of this subpart, the term 'eligible partnership' means a partnership consisting of 2 or more independent agencies, organizations, or institutions. The agencies, organizations, or institutions may include institutions of higher education, community organizations, and other public and private institutions, agencies, and organizations.

"SEC. 420F. APPLICATION.

"(a) REQUIREMENT.—An eligible partnership desiring to receive a grant under this subpart shall submit an application to the Secretary, in such form and containing such information, as the Secretary may require.

"(b) CONTENTS.—Each application shall include—

"(1) the name of each partner and a description of the responsibilities of the partner, including the designation of a nonprofit organization as the fiscal agent for the partnership;

"(2) a description of the need for the project, including a description of how the project will build on any existing services and activities;

"(3) a listing of human, financial (other than funds provided under this subpart), and other resources that each member of the partnership will contribute to the partnership, and a description of the efforts each member of the partnership will make in seeking additional resources; and

"(4) a description of how the project will operate, including how funds awarded under this subpart will be used to meet the purpose of this subpart.

"SEC. 420G. AUTHORIZED ACTIVITIES.

"Funds awarded to an eligible partnership under this subpart shall be used to—

"(1) develop and assess model distance learning programs or innovative educational software;

"(2) develop methodologies for the identification and measurement of skill competencies;

"(3) develop and assess innovative student support services; or

"(4) support other activities that are consistent with the purpose of this subpart.

"SEC. 420H. MATCHING REQUIREMENT.

"Federal funds shall provide not more than 50 percent of the cost of a project under this subpart. The non-Federal share of project costs may be in cash or in kind, fairly evaluated, including services, supplies, or equipment.

"SEC. 420I. PEER REVIEW.

"The Secretary shall use a peer review process to review applications under this subpart and to make recommendations for funding under this subpart to the Secretary.

"SEC. 420J. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this subpart $30,000,000 for fiscal year 1999 and such sums as may be necessary for each of the 4 succeeding fiscal years.".

On page 443, line 2, insert "FOR FISCAL YEARS 1999, 2000, 2001, AND 2002" after "RESERVES".

On page 443, line 5, strike "$40,000,000" and insert "$21,250,000".

On page 443, line 6, strike "2002, and 2003" and insert "and 2002".

On page 443, line 15, strike "⅓" and insert "¼".

On page 444, line 4, strike "$200,000,000" and insert "$85,000,000".

On page 444, between lines 7 and 8, insert the following:

"(C) SPECIAL RULE.—Notwithstanding subparagraphs (A) and (B), the percentage reduction under subparagraph (B) shall not result in the depletion of the reserve funds of any agency which charges the 1.0 percent insurance premium pursuant to section 428(b)(1)(H) below an amount equal to the amount of lender claim payments paid 90 days prior to the date of the return under this subsection. If any additional amount is required to be returned after deducting the total of the required shares under subparagraph (B) and as a result of the preceding sentence, such additional amount shall be obtained by imposing on each guaranty agency to which the preceding sentence does not apply, an equal percentage reduction in the amount of the agency's remaining reserve funds.

On page 444, line 22, strike the end quotation marks and the second period.

On page 444, after line 22, insert the following:

"(j) ADDITIONAL RECALL OF RESERVES ON SEPTEMBER 1, 2007.—

"(1) IN GENERAL.—Notwithstanding any other provision of law and subject to paragraph (4), the Secretary shall recall, on September 1, 2007, $165,000,000 from reserve funds held in the Federal Student Loan Reserve Funds established under section 422A by guaranty agencies.

"(2) DEPOSIT.—Funds recalled by the Secretary under this subsection shall be deposited in the Treasury.

"(3) EQUAL PERCENTAGE REDUCTION.—The Secretary shall require each guaranty agency to return reserve funds under paragraph (1) by requiring an equal percentage reduction in the amount of reserve funds held by the agency on September 30, 1996.

"(4) OFFSET OF REQUIRED SHARES.—If any guaranty agency returns to the Secretary any reserve funds in excess of the amount required under this subsection, subsection (h), or subsection (i), the total amount required to be returned under paragraph (1) shall be reduced by the amount of such excess reserve funds returned.

"(5) DEFINITION OF RESERVE FUNDS.—The term 'reserve funds' when used with respect to a guaranty agency—

"(A) includes any reserve funds in cash or liquid assets held by the guaranty agency, or held by, or under the control of, any other entity; and

"(B) does not include buildings, equipment, or other nonliquid assets.".

On page 446, beginning with line 17, strike all through page 447, line 4, and insert the following:

"(e) OWNERSHIP OF FEDERAL FUND.—The Federal Fund, and any nonliquid asset (such as a building or equipment) developed or purchased by the guaranty agency in whole or in part with Federal reserve funds, regardless of who holds or controls the Federal reserve funds or such asset, shall be considered to be the property of the United States, prorated based on the percentage of such asset developed or purchased with Federal reserve funds, which property shall be used in the operation of the program authorized by the part, as provided in subsection (d). The Secretary may restrict or regulate the use of such asset only to the extent necessary to reasonably protect the Secretary's prorated share of the value of such asset. The Secretary may direct a guaranty agency, or such agency's officers or directors, to cease any activity involving expenditures, use, or transfer of the Federal Fund administered by the guaranty agency that the Secretary determines is a misapplication, misuse, or improper expenditures of the Federal fund or the Secretary's share of such asset.".

On page 448, line 15, insert "The Secretary shall pay to the guaranty agency any funds withheld in accordance with this paragraph immediately upon making the determination that the guaranty agency has made all such repayments." after the period.

On page 450, line 1, insert "administrative cost allowances paid under section 458, as such section was in effect on the day preceding the date of enactment of the Higher Education Amendments of 1998, and" after "(2)".

On page 453, strike lines 9 through 17.

On page 453, between lines 17 and 18, insert the following:

SEC. 424. SCOPE AND DURATION OF FEDERAL LOAN INSURANCE PROGRAM.

Section 424(a) (20 U.S.C. 1074(a)) is amended—

(1) by striking "October 1, 2002" and inserting "October 1, 2004"; and

(2) by striking "September 30, 2006" and inserting "September 30, 2008".

On page 453, beginning with line 18, strike all through page 458, line 2, and insert the following:

SEC. 425. APPLICABLE INTEREST RATES.

(a) APPLICABLE INTEREST RATES.—

(1) AMENDMENT.—Section 427A (20 U.S.C. 1077a et seq.) is amended by amending subsection (j) to read as follows:

"(j) INTEREST RATES FOR NEW LOANS ON OR AFTER OCTOBER 1, 1998, AND BEFORE JULY 1, 2003.—

"(1) IN GENERAL.—Notwithstanding subsection (h) and subject to paragraph (2), with respect to any loan made, insured, or guaranteed under this part (other than a loan made pursuant to section 428B or 428C) for which the first disbursement is made on or after October 1, 1998, and before July 1, 2003, the applicable rate of interest shall, during any 12-month period beginning on July 1 and ending on June 30, be determined on the preceding June 1 and be equal to—

"(A) the bond equivalent rate of 91-day Treasury bills auctioned at the final auction held prior to such June 1; plus

"(B) 2.3 percent,

except that such rate shall not exceed 8.25 percent.

"(2) IN SCHOOL AND GRACE PERIOD RULES.—Notwithstanding subsection (h), with respect to any loan under this part (other than a loan made pursuant to section 428B or 428C) for which the first disbursement is made on or after October 1, 1998, and before July 1, 2003, the applicable rate of interest for interest which accrues—

"(A) prior to the beginning of the repayment period of the loan; or

"(B) during the period in which principal need not be paid (whether or not such principal is in fact paid) by reason of a provision described in section 428(b)(1)(M) or 427(a)(2)(C),

shall be determined under paragraph (1) by substituting '1.7 percent' for '2.3 percent'.

"(3) PLUS LOANS.—Notwithstanding subsection (h), with respect to any loan under section 428B for which the first disbursement is made on or after October 1, 1998, and before July 1, 2003, the applicable rate of interest shall be determined under paragraph (1)—

"(A) by substituting '3.1 percent' for '2.3 percent'; and

"(B) by substituting '9.0 percent' for '8.25 percent'.

"(4) CONSULTATION.—The Secretary shall determine the applicable rate of interest under this subsection after consultation with the Secretary of the Treasury and shall publish such rate in the Federal Register as soon as practicable after the date of determination.".

(2) CONFORMING AMENDMENT.—Section 428B(d)(4) (20 U.S.C. 1078-2(d)(4)) is amended by striking "section 427A(c)" and inserting "section 427A(j)(3)".

(b) SPECIAL ALLOWANCES.

(1) AMENDMENT.—Section 438(b)(2)(G) (20 U.S.C. 1087-1(b)(2)(G)) is amended to read as follows:

"(G) LOANS DISBURSED BETWEEN OCTOBER 1, 1998, AND BEFORE JULY 1, 2003.—

"(i) IN GENERAL.—Subject to paragraph (4) and clauses (ii), (iii), and (iv) of this subparagraph, and except as provided in subparagraph (B), the special allowance paid pursuant to this subsection on loans for which the first disbursement is made on or after October 1, 1998, and before July 1, 2003, shall be computed—

"(I) by determining the average of the bond equivalent rates of 91-day Treasury bills auctioned for such 3-month period;

"(II) by subtracting the applicable interest rates on such loans from such average bond equivalent rate;

"(III) by adding 2.8 percent to the resultant percent; and

"(IV) by dividing the resultant percent by 4.

"(ii) In school and grace period.—In the case of any loan for which the first disbursement is made on or after October 1, 1998, and before July 1, 2003, and for which the applicable rate of interest is described in section 427A(j)(2), clause (i)(III) of this subparagraph shall be applied by substituting '2.2 percent' for '2.8 percent'.

"(iii) PLUS loans.—In the case of any loan for which the first disbursement is made on or after October 1, 1998, and before July 1, 2003, and for which the applicable rate of interest is described in section 427A(j)(3), clause (i)(III) of this subparagraph shall be applied by substituting '3.1 percent' for '2.8 percent', subject to clause (iv) of this subparagraph.

"(iv) Limitation on special allowances for plus loans.—In the case of loans disbursed on or after October 1, 1998, and before July 1, 2003, for which the interest rate is determined under section 427A(j)(3), a special allowance shall not be paid for a loan made under section 428B unless the rate determined for any 12-month period under section 427A(j)(3) exceeds 9 percent.".

(2) Conforming amendment.—Section 438(b)(2)(C)(ii) is amended by striking "In the case" and inserting "Subject to subparagraph (G), in the case".

(c) Effective Date.—The amendments made by this section shall apply with respect to any loan made, insured, or guaranteed under part B of title IV of the Higher Education Act of 1965 for which the first disbursement is made on or after October 1, 1998, and before July 1, 2003.

On page 460, line 9, strike "and" after the semicolon.

On page 460, line 14, strike the period and insert "; and".

On page 460, between lines 14 and 15, insert the following:

(3) in paragraph (5)—

(A) by striking "September 30, 2002" and inserting "September 30, 2004"; and

(B) by striking "September 30, 2006" and inserting "September 30, 2008".

On page 463, line 2, strike "and" after the semicolon.

On page 463, between lines 2 and 3, insert the following:

(2) in paragraph (7), by adding at the end the following:

"(D) There shall be excluded from the 6-month period that begins on the date on which a student ceases to carry at least one-half the normal full-time academic workload as described in subparagraph (A)(i) any period not to exceed 3 years during which a borrower who is a member of a reserve component of the Armed Forces named in section 10101 of title 10, United States Code, is called or ordered to active duty for a period of more than 30 days (as defined in section 101(d)(2) of such title). Such period of exclusion shall include the period necessary to resume enrollment at the borrower's next available regular enrollment period."; and

On page 468, line 5, insert ", except that, beginning on September 30, 2003, this subparagraph shall be applied by substituting '23 percent' for '24 percent'" before the period.

On page 470, line 5, strike "The Secretary, for" and insert the following: "The Secretary—

"(i) for

On page 470, line 6, insert "and before October 1, 2003," after "1998,".

On page 470, line 12, strike the period and insert "; and".

On page 470, between lines 12 and 13, insert the following:

"(ii) for loans originated on or after October 1, 2003, and in accordance with the provisions of this paragraph, shall pay to each guaranty agency, a loan processing and issuance fee equal to 0.40 percent of the total principal amount of the loans on which insurance was issued under this part during such fiscal year by such agency.

On page 472, line 2, strike "210th" and insert "300th".

On page 475, strike line 10 and all that follows through page 476, line 15, and insert the following:

"(3) may only include provisions—

"(A) specifying the responsibilities of the guaranty agency under the agreement, with respect to—

"(i) administering the issuance of insurance on loans made under this part on behalf of the Secretary;

"(ii) monitoring insurance commitments made under this part;

"(iii) default aversion activities;

"(iv) review of default claims made by lenders;

"(v) payment of default claims;

"(vi) collection of defaulted loans;

"(vii) adoption of internal systems of accounting and auditing that are acceptable to the Secretary, and reporting the result thereof to the Secretary in a timely manner, and on an accurate, and auditable basis;

"(viii) timely and accurate collection and reporting of such other data as the Secretary may require to carry out the purposes of the programs under this title;

"(ix) monitoring of institutions and lenders participating in the program under this part; and

"(x) informational outreach to schools and students in support of access to higher education;

On page 477, line 25, strike "and" after the semicolon.

On page 478, line 3, strike the period and insert "; and".

On page 478, between lines 3 and 4, insert the following:

"(5) shall not prohibit or restrict borrowers from selecting a lender of the borrower's choosing, subject to the prohibitions and restrictions applicable to the selection under this Act.

"(c) Public Notice.—

"(1) In general.—The Secretary shall publish in the Federal Register a notice to all guaranty agencies that sets forth—

"(A) an invitation for the guaranty agencies to enter into agreements under this section; and

"(B) the criteria that the Secretary will use for selecting the guaranty agencies with which the Secretary will enter into agreements under this section.

"(2) Agreement notice.—The Secretary shall notify the Chairperson and the Ranking Minority Members of the Committee on Labor and Human Resources of the Senate, and the Committee on Education and Workforce of the House of Representatives, and shall publish a notice in the Federal Register, with a request for public comment, at least 30 days prior to concluding an agreement under this section. The notice shall contain—

"(A) a description of the voluntary flexible agreement and the performance goals established by the Secretary for the agreement;

"(B) a list of participating guaranty agencies and the specific statutory or regulatory waivers provided to each guaranty agency;

"(C) a description of the standards by which each guaranty agency's performance under the agreement will be assessed; and

"(D) a description of the fees that will be paid to each participating guaranty agency.

"(3) Public availability.—The text of any voluntary flexible agreement, and any subsequent revisions, shall be readily available to the public.

"(4) Modification notice.—The Secretary shall notify the Chairperson and the Ranking Minority Member of the Committee on Labor and Human Resources of the Senate, and the Committee on Education and Workforce of the House of Representatives 30 days prior to any modifications to an agreement under this section.

On page 481, between lines 11 and 12, insert the following:

SEC. 429. FEDERAL CONSOLIDATION LOANS.

Section 428C(e) (20 U.S.C. 1078–3(e)) is amended by striking "September 30, 2002" and inserting "September 30, 2004".

On page 481, line 14, insert "(a) In General.—" before "Section".

On page 481, line 21, strike "and" after the semicolon.

On page 482, line 2, strike the period and insert "; and".

On page 482, between lines 2 and 3, insert the following:

(3) in subsection (e)—

(A) by striking "or made" and inserting ", made"; and

(B) by inserting ", or made to a student to cover the cost of attendance in a program of study abroad approved by the home eligible institution if the home eligible institution has a cohort default rate (as calculated under section 435(m)) of less than 5 percent" before the period.

(b) Effective Date.—The amendment made by subsection (a)(2) shall be effective during the period beginning on October 1, 1998, and ending on September 30, 2002.

On page 482, line 9, insert "(a) In General.—" before "Section".

On page 484, line 14, strike "and" after the semicolon.

On page 484, between lines 14 and 15, insert the following:

(3) in subsection (e)—

(A) by amending paragraph (2) to read as follows:

"(2) Capitalization of interest.—Interest on loans made under this section for which payments of principal are not required during the in-school and grace periods or for which payments are deferred under sections 427(a)(2)(C) and 428(b)(1)(M) shall, if agreed upon by the borrower and the lender—

"(A) be paid monthly or quarterly; or

"(B) be added to the principal amount of the loan by the lender only—

"(i) when the loan enters repayment;

"(ii) at the expiration of a grace period, in the case of a loan that qualifies for a grace period;

"(iii) at the expiration of a period of deferment; or

"(iv) when the borrower defaults."; and

On page 484, line 15, strike "(3) in subsection (e)(6)" and insert "(B) in paragraph (6)".

On page 484, between lines 17 and 18, insert the following:

(b) Sense of the Senate on Loan Limit Flexibility.—

(1) FINDINGS.—The Senate finds that—

(A) due to the annual borrowing ceilings on the Federal student loan programs, increasing numbers of needy students are borrowing from more expensive private sector loan programs than from the Federal loan programs;

(B) according to the College Board, in academic year 1996–1997, students borrowed approximately $1,200,000,000 from private sector loan programs;

(C) the alternative private sector loan programs are not only more expensive, but the interest rates are not capped, leaving students vulnerable to higher monthly payments when interest rates increase; and

(D) with more flexible Federal annual loan ceilings, students could be kept in Federal student loan programs, thereby making available to the students the debt management advantages of loan consolidation and alternative repayment options that are available under Federal student loan programs, and lowering the costs of monthly payments.

(2) SENSE OF THE SENATE.—It is the sense of the Senate that Congress should consider the growing problem described in paragraph (1) by continuing to examine the potential for adding borrowing flexibility to the annual, but not the aggregate, amounts that both undergraduate and graduate students are allowed to borrow under section 428H of the Higher Education Act of 1965.

On page 485, line 3, insert "qualifying" before "loan made".

On page 485, lines 5 and 6, strike "the date of enactment of the Higher Education Amendments of 1998" and insert "October 1, 1998".

On page 486, between lines 4 and 5, insert the following:

"(c) QUALIFYING LOANS.—For purposes of this section, a loan is a qualifying loan if—

"(1) the loan was obtained to cover the cost of instruction for an academic year after the first and second years of undergraduate education; and

"(2) the loan did not cover the costs of instruction for more than 2 academic years, or 3 academic years in the case of a program of instruction normally requiring 5 years to complete.

On page 486, line 15, insert "that are qualifying loans and are" after "loans".

On page 486, line 23, strike "$10,000" and insert "$8,000".

On page 489, strike lines 18 through 23 and insert:

"(C) has worked full time for the 2 consecutive years preceding the year for which the determination is made as a child care provider in a low-income community.

"(2) LOW-INCOME COMMUNITY.—For the purposes of this subsection, the term 'low-income community' means a community in which 70 percent of households within the community earn less than 85 percent of the State median household income.

On page 490, line 16, insert "consecutive" after "second".

On page 490, line 22, insert "consecutive" after "third".

On page 491, line 1, insert "consecutive" after "fifth".

On page 495, line 2, strike "multiyear" and insert "master".

On page 500, between lines 16 and 17, insert the following:

(b) EFFECTIVE DATE.—The amendment made by subsection (a)(1)(B) shall be effective during the period beginning on the date of enactment of this Act and ending on September 30, 2002.

On page 501, between lines 5 and 6, insert the following:

(d) DEFINITION OF DEFAULT.—

(1) AMENDMENT.—Section 435(*l*) (20 U.S.C. 1085*l*) is amended—

(A) by striking "180 days" and inserting "270 days"; and

(B) by striking "240 days" and inserting "330 days".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply with respect to loans for which the first day of delinquency occurs on or after the date of enactment of this Act.

On page 501, between lines 14 and 15, insert the following:

SEC. 436A. STUDY OF THE EFFECTIVENESS OF COHORT DEFAULT RATES FOR INSTITUTIONS WITH FEW STUDENT LOAN BORROWERS.

Part A of title IV (20 U.S.C. 1071 et seq.) is amended by adding after section 435 the following:

"SEC. 435A. STUDY OF THE EFFECTIVENESS OF COHORT DEFAULT RATES FOR INSTITUTIONS WITH FEW STUDENT LOAN BORROWERS.

"(a) STUDY REQUIRED.—The Secretary shall conduct a study of the effectiveness of cohort default rates as an indicator of administrative capability and program quality for institutions of higher education at which less than 15 percent of students eligible to borrow participate in the Federal student loan programs under this title and fewer than 30 borrowers enter repayment in any fiscal year. At a minimum, the study shall include—

"(1) identification of the institutions included in the study and of the student populations the institutions serve;

"(2) analysis of cohort default rates as indicators of administrative shortcomings and program quality at the institutions;

"(3) analysis of the effectiveness of cohort default rates as a means to prevent fraud and abuse in the programs assisted under this title;

"(4) analysis of the extent to which the institutions with high cohort default rates are no longer participants in the Federal student loan programs under this title; and

"(5) analysis of the costs incurred by the Department for the calculation, publication, correction, and appeal of cohort default rates for the institutions in relation to any benefits to taxpayers.

"(b) CONSULTATION.—In conducting the study described in subsection (a), the Secretary shall consult with institutions of higher education.

"(c) REPORT TO CONGRESS.—The Secretary shall report to the Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives not later than September 30, 1999, regarding the results of the study described in subsection (a).".

On page 508, line 4, insert "and" after the semicolon.

On page 508, strike lines 5 through 10, and insert the following:

(C) by inserting "and (B) provide that the Federal share of the compensation of students employed in community service shall not exceed 90 percent for academic years 1999–2000 and succeeding academic years," after "academic years,"; and

On page 510, beginning with line 4, strike all through page 513, line 8, and insert the following:

(a) DIRECT LOAN INTEREST RATES.—Section 455(b) (20 U.S.C. 1087e(b)) is amended by amending paragraph (5) to read as follows:

"(5) INTEREST RATE PROVISION.—

"(A) RATES FOR FDSL AND FDUSL.—Notwithstanding the preceding paragraphs of this subsection, for Federal Direct Unsubsidized Stafford/Ford Loans for which the first disbursement is made on or after October 1, 1998, and before July 1, 2003, the applicable rate of interest shall, during any 12-month period beginning on July 1 and ending on June 30, be determined on the preceding June 1 and be equal to—

"(i) the bond equivalent rate of 91-day Treasury bills auctioned at the final auction held prior to such June 1; plus

"(ii) 2.3 percent,

except that such rate shall not exceed 8.25 percent.

"(B) IN SCHOOL AND GRACE PERIOD RULES.—Notwithstanding the preceding paragraphs of this subsection, with respect to any Federal Direct Stafford/Ford Loan or Federal Direct Unsubsidized Stafford/Ford Loan for which the first disbursement is made on or after October 1, 1998, and before July 1, 2003, the applicable rate of interest for interest which accrues—

"(i) prior to the beginning of the repayment period of the loan; or

"(ii) during the period in which principal need not be paid (whether or not such principal is in fact paid) by reason of a provision described in section 428(b)(1)(M) or 427(a)(2)(C),

shall be determined under subparagraph (A) by substituting '1.7 percent' for '2.3 percent'.

"(C) PLUS LOANS.—Notwithstanding the preceding paragraphs of this subsection, with respect to Federal Direct PLUS Loan for which the first disbursement is made on or after October 1, 1998, and before July 1, 2003, the applicable rate of interest shall be determined under subparagraph (A)—

"(i) by substituting '3.1 percent' for '2.3 percent'; and

"(ii) by substituting '9.0 percent' for '8.25 percent'.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to any loan made under part D of title IV of the Higher Education Act of 1965 for which the first disbursement is made on or after October 1, 1998, and before July 1, 2003.

(c) REPAYMENT INCENTIVES.—Section 455(b) (20 U.S.C. 1087e(b)) is amended further by adding at the end the following:

"(7) REPAYMENT INCENTIVES.—

"(A) IN GENERAL.—Notwithstanding any other provision of this part, the Secretary is authorized to prescribe by regulation such reductions in the interest rate paid by a borrower of a loan made under this part as the Secretary determines appropriate to encourage on-time repayment of the loan. Such reductions may be offered only if the Secretary determines the reductions are cost neutral and in the best financial interest of the Federal Government. Any increase in subsidy costs resulting from such reductions shall be completely offset by corresponding savings in funds available for the William D. Ford Federal Direct Loan Program in that fiscal year from section 458 and other administrative accounts.

"(B) ACCOUNTABILITY.—The Secretary shall ensure the cost neutrality of such reductions by obtaining an official report from the Director of the Office of Management and Budget and the Director of the Congressional Budget Office that any such reductions will be completely cost neutral. The reports shall be transmitted to the Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives not less than 60 days prior to the publication of regulations proposing such reductions.".

On page 514, strike line 6, and insert the following:

in accordance with subsections (b) and (c), not to exceed

On page 514, strike line 8, and insert the following:

$617,000,000 in fiscal year 1999, $735,000,000

On page 514, line 13, strike "subparagraph (B)" and insert "paragraph (1)(B)".

On page 514, line 18, strike "and".

On page 514, line 21, strike "Account" and insert "Except as provided in subsection (c), account".

On page 515, line 6, strike the second period and insert a semicolon.

On page 515, between lines 6 and 7, insert the following:

(3) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(4) by inserting after subsection (b) the following:

"(c) Special Rules.—

"(1) Fee cap.—The total amount of account maintenance fees payable under this section—

"(A) for fiscal year 1999, shall not exceed $177,000,000;

"(B) for fiscal year 2000, shall not exceed $180,000,000;

"(C) for fiscal year 2001, shall not exceed $170,000,000;

"(D) for fiscal year 2002, shall not exceed $180,000,000; and

"(E) for fiscal year 2003, shall not exceed $195,000,000.

"(2) Insufficient funding.—

"(A) In general.—Notwithstanding section 422A(d), if the amount made available under subsection (a) is insufficient to pay the account maintenance fees payable to guaranty agencies under paragraph (1) for a fiscal year, the Secretary shall pay the insufficiency by requiring guaranty agencies to transfer funds from the Federal Student Loan Reserve Funds under section 422A to the Agency Operating Funds under section 422B.

"(B) Entitlement.—A guaranty agency shall be deemed to have a contractual right against the United States to receive payments according to the provisions of subparagraph (A).".

On page 515, line 17, insert "and is a qualifying loan" after "subsidy".

On page 515, lines 18 and 19, strike "the date of enactment of the Higher Education Amendments of 1998" and insert "October 1, 1998".

On page 516, between lines 17 and 18, insert the following:

"(c) Qualifying Loans.—For purposes of this section, a loan is a qualifying loan if—

"(1) the loan was obtained to cover the cost of instruction for an academic year after the first and second years of undergraduate education; and

"(2) the loan did not cover the costs of instruction for more than 2 academic years, or 3 academic years in the case of a program of instruction normally requiring 5 years to complete.

On page 517, line 3, insert "that are qualifying loans and are" after "loans".

On page 517, line 11, strike "$10,000" and insert "$8,000".

On page 528, line 16, strike "and" after the semicolon.

On page 528, between lines 16 and 17, insert the following:

(4) in subsection (c), by adding at the end the following:

"(7) There shall be excluded from the 9-month period that begins on the date on which a student ceases to carry at least one-half the normal full-time academic workload as described in paragraph (1)(A) any period not to exceed 3 years during which a borrower who is a member of a reserve component of the Armed Forces named in section 10101 of title 10, United States Code, is called or ordered to active duty for a period of more than 30 days (as defined in section 101(d)(2) of such title). Such period of exclusion shall include the period necessary to resume enrollment at the borrower's next available regular enrollment period."; and

On page 529, line 23, strike "The" and all that follows through page 530, line 2.

On page 537, between lines 5 and 6, insert the following:

SEC. 475. SIMPLIFIED NEEDS TEST; ZERO EXPECTED FAMILY CONTRIBUTION.

Section 479 (20 U.S.C. 1087ss) is amended—

(1) in subsection (b)(3)—

(A) in subparagraph (A), by striking "or" after the semicolon;

(B) by redesignating subparagraph (B) as subparagraph (C); and

(C) by inserting after subparagraph (A) the following:

"(B) a form 1040 (including any prepared or electronic version of such form) required pursuant to the Internal Revenue Code of 1986, except that such form shall be considered a form described in this paragraph only if the student or family files such form in order to take a tax credit under section 25A of the Internal Revenue Code of 1986, and would otherwise be eligible to file a form described in subparagraph (A); or"; and

(2) in subsection (c)—

(A) in paragraph (1), by amending subparagraph (A) to read as follows:

"(A)(i) the student's parents file, or are eligible to file, a form described in subsection (b)(3), or the parents certify to the Secretary that the parents are not required to file an income tax return; and

"(ii) the student files, or is eligible to file, a form described in subsection (b)(3), or the student certifies to the Secretary that the student is not required to file an income tax return; and"; and

(B) in paragraph (2), by amending subparagraph (A) to read as follows:

"(A) the student (and the student's spouse, if any) files, or is eligible to file, a form described in subsection (b)(3), or the student certifies to the Secretary that the student (and the student's spouse, if any) is not required to file an income tax return; and".

On page 537, strike lines 8 and 9, and insert the following:

Section 479A (20 U.S.C. 1087tt) is amended—

(1) in subsection (a), by inserting "Special circumstances may include tuition expenses at an elementary school or secondary school, medical or dental expenses not covered by insurance, other changes in a family's income or assets, or changes in a student's status." after "absence of special circumstances."; and

(2) by amending subsection (c) to read as follows:

On page 537, between lines 21 and 22, insert the following:

SEC. 481. DEFINITION OF INSTITUTION OF HIGHER EDUCATION.

Subparagraph (A) of section 481(a)(2) (20 U.S.C. 1088(a)(2)) is amended—

(1) in the second sentence, by inserting "or veterinary" after "case of a graduate medical";

(2) by striking "attending a graduate medical school" and inserting "attending such school"; and

(3) by amending clause (ii) to read as follows:

"(ii) the institution has a clinical training program that was approved by a State as of January 1, 1992, or students enrolled in the institution complete their clinical training at an approved veterinary school located in the United States.".

On page 541, strike lines 6 through 13, and insert the following:

"(h) Master Promissory Note.—

"(1) In general.—The Secretary shall develop and require the use of a master promissory note, for loans made under this title for periods of enrollment beginning on or after July 1, 2000, that may be applicable to more than 1 academic year, or more than 1 type of loan made under this title. Prior to implementing the master promissory note for all loans made under this title, the Secretary may develop, test, and require the use of such a master promissory note on a limited or pilot basis.

"(2) Consultation.—In developing the master promissory note under this subsection, the Secretary shall consult with representatives of guaranty agencies, eligible lenders, institutions of higher education, students, and organizations involved in student financial assistance.

"(3) Sale; assignment; enforceability.—Notwithstanding any other provision of law, each loan made under a master promissory note under this subsection may be sold or assigned independently of any other loan made under the same promissory note and each such loan shall be separately enforceable in all Federal and State courts on the basis of an original or copy of the master promissory note in accordance with the terms of the master promissory note.".

On page 541, between lines 24 and 25, insert the following:

(2) in subsection (l), by amending paragraph (1) to read as follows:

"(1) Relation to correspondence courses.—

"(A) In general.—A student enrolled in a course of instruction at an institution of higher education that is offered in whole or in part through telecommunications and leads to a recognized certificate for a program of study of 1 year or longer, or a recognized associate, baccalaureate, or graduate degree, conferred by such institution, shall not be considered to be enrolled in correspondence courses unless the total amount of telecommunications and correspondence courses at such institution equals or exceeds 50 percent of the total amount of all courses at the institution.

"(B) Requirement.—An institution of higher education referred to in subparagraph (A) is an institution of higher education—

"(i) that is not an institute or school described in section 521(4)(C) of the Carl D. Perkins Vocational and Applied Technology Education Act; and

"(ii) for which at least 50 percent of the programs of study offered by the institution lead to the award of a recognized associate, baccalaureate, or graduate degree."; and

On page 543, strike lines 4 through 8, and insert the following:

riod determined under such paragraph if—

"(A) the student satisfactorily completes a drug rehabilitation program that—

"(i) complies with such criteria as the Secretary shall prescribe in regulations for purposes of this paragraph; and

"(ii) includes 2 unannounced drug tests; or

"(B) the conviction is expunged by pardon, reversed, set aside, or otherwise rendered nugatory.

On page 543, strike line 19 and all that follows through page 544, line 25, and insert the following:

Section 484B (20 U.S.C. 1091b) is amended to read as follows:

"SEC. 484B. INSTITUTIONAL REFUNDS.

"(a) RETURN OF TITLE IV FUNDS.—

"(1) IN GENERAL.—If a recipient of assistance under this title withdraws from a payment period in which the recipient began attendance, the amount of grant (other than assistance received under part C of this title) or loan assistance to be returned to the title IV programs is calculated according to paragraph (2) and returned in accordance with subsection (b).

"(2) CALCULATION OF AMOUNT OF TITLE IV ASSISTANCE EARNED.—

"(A) IN GENERAL.—The amount of grant or loan assistance under this title that is earned by the recipient for purposes of this section is calculated by—

"(i) determining the percentage of grant and loan assistance under this title that has been earned by the student, as described in subparagraph (B); and

"(ii) applying such percentage to the total amount of such grant and loan assistance that was disbursed (and that could have been disbursed) to the student, or on the student's behalf, for the payment period, as of the day the student withdrew.

"(B) PERCENTAGE EARNED.—For purposes of subparagraph (A)(i), the percentage of grant or loan assistance under this title that has been earned by the student is—

"(i) equal to the percentage of the payment period completed (as determined in accordance with subsection (d)) as of the day the student withdrew, provided that such date occurs on or before the completion of 60 percent of the payment period; or

"(ii) 100 percent, if the day the student withdrew occurs after the student has completed 60 percent of the payment period.

"(C) PERCENTAGE NOT EARNED.—For purposes of subsection (b), the amount of grant and loan assistance awarded under this title that has not been earned by the student shall be calculated by—

"(i) determining the complement of the percentage of grant or loan assistance under this title has been earned by the student described in subparagraph (B); and

"(ii) applying the percentage determined under clause (i) to the total amount of such grant and loan assistance that was disbursed (and that could have been disbursed) to the student, or on the student's behalf, for the payment period, as of the day the student withdrew.

"(3) DIFFERENCES BETWEEN AMOUNTS EARNED AND AMOUNTS RECEIVED.—

"(A) IN GENERAL.—If the student has received less grant or loan assistance than the amount earned, as calculated under paragraph (2)(B), the institution of higher education shall comply with the procedures for late disbursement specified by the Secretary in regulations.

"(B) RETURN.—If the student has received more grant or loan assistance than the amount earned, as calculated under paragraph (2)(B), the unearned funds shall be returned by the institution or the student, or both, as may be required under paragraphs (1) and (2) of subsection (b), to the programs under this title in the order specified in subsection (b)(3).

"(b) RETURN OF TITLE IV PROGRAM FUNDS.—

"(1) RESPONSIBILITY OF THE INSTITUTION.—The institution shall return, in the order specified in paragraph (3), the lesser of—

"(A) the amount of grant and loan assistance awarded under this title that has not been earned by the student, as calculated under subsection (a)(2)(C); or

"(B) an amount equal to—

"(i) the total institutional charges for the payment period; multiplied by

"(ii) the percentage of grant and loan assistance awarded under this title that has not been earned by the student, as described in subsection (a)(2)(C).

"(2) RESPONSIBILITY OF THE STUDENT.—

"(A) IN GENERAL.—The student shall return assistance that has not been earned by the student as described in subsection (a)(2)(C) in the order specified in paragraph (3) minus the amount the institution is required to return under paragraph (1).

"(B) SPECIAL RULE.—The student shall return or repay, as appropriate, the amount determined under subparagraph (A) to—

"(i) a loan program under this title in accordance with the terms of the loan; and

"(ii) a grant program under this title, as an overpayment of such grant and shall be subject to overpayment collection procedures prescribed by the Secretary.

"(3) ORDER OF RETURN OF TITLE IV FUNDS.—

"(A) IN GENERAL.—Excess funds returned by the institution or the student, as appropriate, in accordance with paragraph (1) or (2), respectively, shall be credited to outstanding balances on loans made under this title to the student or on behalf of the student for the payment period for which a return of funds is required. Such excess funds shall be credited in the following order:

"(i) To outstanding balances on loans made under section 428H for the payment period for which a return of funds is required.

"(ii) To outstanding balances on loans made under section 428 for the payment period for which a return of funds is required.

"(iii) To outstanding balances on unsubsidized loans (other than parent loans) made under part D for the payment period for which a return of funds is required.

"(iv) To outstanding balances on subsidized loans made under part D for the payment period for which a return of funds is required.

"(v) To outstanding balances on loans made under part E for the payment period for which a return of funds is required.

"(vi) To outstanding balances on loans made under section 428B for the payment period for which a return of funds is required.

"(vii) To outstanding balances on parent loans made under part D for the payment period for which a return of funds is required.

"(B) REMAINING EXCESSES.—If excess funds remain after repaying all outstanding loan amounts, the remaining excess shall be credited in the following order:

"(i) To awards under subpart 1 of part A for the payment period for which a return of funds is required.

"(ii) To awards under subpart 3 of part A for the payment period for which a return of funds is required.

"(iii) To other assistance awarded under this title for which a return of funds is required.

"(c) WITHDRAWAL DATE.—

"(1) IN GENERAL.—In this section, the term 'day the student withdrew'—

"(A) is the date that the institution determines—

"(i) the student began the withdrawal process prescribed by the institution;

"(ii) the student otherwise provided official notification to the institution of the intent to withdraw; or

"(iii) in the case of a student who does not begin the withdrawal process or otherwise notify the institution of the intent to withdraw, the date that the payment period ends for which aid under this title was disbursed; or

"(B) for schools required to take attendance, is determined by the institution from such attendance records.

"(2) SPECIAL RULE.—Notwithstanding paragraph (1), if the institution determines that a student was not able to begin the withdrawal process, or otherwise notify the institution of the intent to withdraw, due to illness, accident, grievous personal loss, or other such circumstances beyond the student's control, the institution may determine the appropriate withdrawal date.

"(d) PERCENTAGE OF THE PAYMENT PERIOD COMPLETED.—For purposes of subsection (a)(2)(B)(i), the percentage of the payment period completed is determined—

"(1) in the case of a program that is measured in credit hours, by dividing the total number of calendar days comprising the payment period into the number of calendar days completed in that period as of the day the student withdrew; and

"(2) in the case of a program that is measured in clock hours, by dividing the total number of clock hours comprising the payment period into the number of clock hours completed by the student in that payment period as of the day the student withdrew.".

On page 545, strike lines 6 through 9, and insert the following:

(A) in the second sentence, by striking ", through appropriate publications and mailings, to all current students, and to any prospective student upon request." and inserting "upon request, through appropriate publications, mailings, and electronic media to an enrolled student, and to any prospective student.";

On page 545, between lines 14 and 15, insert the following:

(C) by amending subparagraph (F) to read as follows:

"(F) a statement of—

"(i) the requirements of any refund policy with which the institution is required to comply;

"(ii) the requirements under section 484B for the return of grant or loan assistance provided under this title; and

"(iii) the requirements for officially withdrawing from the institution;";

On page 545, line 16, insert "and" after the semicolon.

On page 545, line 18, strike "and" after the second semicolon.

On page 545, strike lines 19 through 25.

On page 550, between lines 16 and 17, insert the following:

(4) in paragraph (6) (as redesignated by paragraph (2)), by amending subparagraph (A) to read as follows: "(A) For purposes of this section the term 'campus' means—

"(i) any building or property owned or controlled by an institution of higher education within the same reasonably contiguous geographic area of the institution, including a building or property owned by the institution, but controlled by another person, such as a food or other retail vendor;

"(ii) any building or property owned or controlled by a student organization recognized by the institution;

"(iii) all public property that is within the same reasonably contiguous geographic area of the institution, such as a sidewalk, a street, other thoroughfare, or parking facility, that is adjacent to a facility owned or controlled by the institution;

"(iv) any building or property (other than a branch campus) owned or controlled by an institution of higher education that is used in direct support of, or in relation to, the institution's educational purposes, is used by students, and is not within the same reasonably contiguous geographic area of the institution; and

"(v) all dormitories or other student residential facilities owned or controlled by the institution.";

On page 550, line 20, strike "permitted" and insert "required".

On page 553, line 25, strike the end quotation marks and the second period.

On page 553, after line 25, insert the following:

"(10)(A) The Secretary shall report to the appropriate committees of Congress each institution of higher education that the Secretary determines is not in compliance with the reporting requirements of this subsection.

"(B) The Secretary shall provide to an institution of higher education that the Secretary determines is having difficulty, or is not in compliance, with the reporting requirements of this subsection—

"(i) data and analysis regarding successful practices employed by institutions of higher education to reduce campus crime; and

"(ii) technical assistance.

"(11) For purposes of reporting the statistics described in paragraphs (1)(F) and (1)(H), an institution of higher education shall distinguish, by means of separate categories, any criminal offenses that occur—

"(A) on publicly owned sidewalks, streets, or other thoroughfares, or in parking facilities, that are adjacent to facilities owned by the institution; and

"(B) in dormitories or other residential facilities for students on campus.

"(12)(A) Upon determination, after reasonable notice and opportunity for a hearing on the record, that an institution of higher education—

"(i) has violated or failed to carry out any provision of this subsection or any regulation prescribed under this subsection; or

"(ii) has substantially misrepresented the number, location, or nature of the crimes required to be reported under this subsection, the Secretary shall impose a civil penalty upon the institution of not to exceed $25,000 for each violation, failure, or misrepresentation.

"(B) Any civil penalty may be compromised by the Secretary. In determining the amount of such penalty, or the amount agreed upon in compromise, the appropriateness of the penalty to the size of the institution of higher education subject to the determination, and the gravity of the violation, failure, or misrepresentation shall be considered. The amount of such penalty, when finally determined, or the amount agreed upon in compromise, may be deducted from any sums owing by the United States to the institution charged.

"(13)(A) Nothing in this subsection may be construed to—

"(i) create a cause of action against any institution of higher education or any employee of such an institution for any civil liability; or

"(ii) establish any standard of care.

"(B) Notwithstanding any other provision of law, evidence regarding compliance or noncompliance with this subsection shall not be admissible as evidence in any proceeding of any court, agency, board, or other entity, except with respect to an action to enforce this subsection

"(14) This subsection may be cited as the 'Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act'.".

On page 555, line 7, insert end quotation marks and a period after the period.

On page 555, strike lines 8 through 15.

On page 557, line 24, strike ", and that" and all that follows through page 558, line 2, and insert a semicolon, end quotation marks, and a period.

On page 558, line 24, strike "Tuition and fees" and insert "Tuition and fees for a full-time undergraduate student".

On page 559, strike lines 1 through 16, and insert the following:

"(ii) Cost of attendance for a full-time undergraduate student, consistent with the provisions of section 472.

"(iii) Average amount of financial assistance received by an undergraduate student who attends an institution of higher education, including—

"(I) each type of assistance or benefit described in section 428(a)(2)(C)(i);

"(II) fellowships; and

"(III) institutional and other assistance.

"(iv) Percentage of students receiving financial assistance described in each of subclauses (I), (II), and (III) of clause (iii);

On page 560, line 1, insert "at least" after "all".

On page 560, line 1, insert "participating in the program under this title" after "education".

On page 561, between lines 11 and 12, insert the following:

"(v) operations and maintenance;

On page 561, between lines 13 and 14, insert the following:

"(B) the replacement cost of instructional buildings and equipment;

On page 561, line 14, strike "such expenditures" and insert "the expenditures described in subparagraph (A)".

On page 561, line 16, strike "such expenditures" and insert "the expenditures described in subparagraph (A) and the replacement cost described in subparagraph (B)".

On page 562, line 20, strike "Section" and insert "(a) IN GENERAL.—Section".

On page 564, strike lines 7 through 10, and insert the following:

(A) in paragraph (1)(A)—

(i) in clause (i)—

(I) by striking "clause (ii)" and inserting "clauses (ii) and (iii)";

(II) by striking "State review entities referred to in" and inserting "appropriate State agency notifying the Secretary under"; and

(III) by striking "or" after the semicolon;

(ii) in clause (ii), by inserting "or" after the semicolon; and

(iii) by adding at the end the following:

"(iii) with regard to an eligible institution (other than an eligible institution described in section 481(a)(1)(C)) that has obtained less than $200,000 in funds under this title during each of the 2 award years that precede the audit period and submits a letter of credit payable to the Secretary equal to not less than ½ of the annual potential liabilities of such institution as determined by the Secretary, deeming an audit conducted every 3 years to satisfy the requirements of clause (i), except for the award year immediately preceding renewal of the institution's eligibility under section 498(g);";

On page 564, between lines 16 and 17, insert the following:

(b) PROVISION OF VOTER REGISTRATION FORMS.—

(1) PROGRAM PARTICIPATION REQUIREMENT.—Section 487(a) (20 U.S.C. 1094(a)) is amended by adding at the end the following:

"(23) The institution, if located in a State to which section 113 applies, will make a good faith effort to provide a mail voter registration form, received from such State, to each student enrolled in a degree or certificate program and in attendance at the institution and to make such forms widely available to students at the institution.".

(2) REGULATION PROHIBITED.—No officer of the executive branch is authorized to instruct the State in the manner in which the amendment made by this subsection is carried out.

On page 568, between lines 22 and 23, insert the following:

"(c) REGULATORY AND STATUTORY RELIEF FOR SMALL VOLUME INSTITUTIONS.—The Secretary, following discussions with representatives of eligible institutions (other than eligible institutions described in section 481(a)(1)(C)) that have obtained in each of the 2 most recent award years prior to the date of enactment of the Higher Education Amendments of 1998 less than $200,000 in funds through this title, shall review and evaluate ways in which regulations under and provisions of this Act affecting the institutions may be improved, streamlined, or eliminated, and shall submit, not later than 1 year after the enactment of the Higher Education Amendments of 1998, a report to the Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives detailing the Secretary's findings and recommendations, including a timetable for implementation of any recommended changes.

On page 570, strike line 6 and all that follows through page 571, line 2, and insert the following:

"(2) WAIVERS.—The Secretary is authorized to waive for any institution of higher education, system of institutions of higher education, or consortium participating in a Distance Education Demonstration Program, the requirements of section 472(5) as the section relates to computer costs, sections 481(d) and 481(e) as such sections relate to requirements for a minimum number of weeks of instruction, sections 472(10), 481(a)(3)(A), 481(a)(3)(B), 484(l)(1), or 1 or more of the regulations prescribed under this part or part F which inhibit the operation of quality distance education programs.

"(3) SPECIAL RULES.—

"(A) ELIGIBLE INSTITUTIONS.—Only an institution of higher education that provides at least a 2-year, or 4-year program of instruction for which the institution awards an associate or a baccalaureate degree, or provides a graduate degree, shall be eligible to participate in the demonstration program authorized under this section.

"(B) PROHIBITION.—An institution of higher education described in section 481(a)(1)(C) shall not be eligible to participate in the demonstration program authorized under this section.

"(C) SPECIAL RULE.—Subject to subparagraph (B), an institution of higher education that meets the requirements of subsection (a) of section 481, other than the requirement of paragraph (3)(A) or (3)(B) of such subsection, shall be eligible to participate in the demonstration program authorized under this section.

"(D) REQUIREMENT.—Notwithstanding any other provision of this paragraph, Western Governors University shall be considered eligible to participate in the demonstration program authorized under this section, and the Secretary may, in addition to the waivers described in paragraph (2), waive for such university such other requirements of this title as the Secretary determines to be appropriate because of the unique characteristics of such university. In carrying out the preceding sentence, the Secretary shall ensure that adequate program integrity and accountability measures apply to such university's participation in the demonstration program authorized under this section.

On page 572, strike lines 5 through 20, and insert the following:

"(d) SELECTION.—

"(1) IN GENERAL.—For the first year of the demonstration program authorized under this section, the Secretary is authorized to select for participation in the program not more than 15 institutions, systems of institutions, or consortia of institutions. For the third year of the demonstration program authorized under this title, the Secretary may select not more than 35 institutions, systems, or consortia, in addition to the institutions, systems, or consortia selected pursuant to the preceding sentence, to participate in the demonstration program if the Secretary determines that such expansion is warranted based on the evaluations conducted in accordance with subsections (f) and (g).

"(2) CONSIDERATIONS.—In selecting institutions to participate in the demonstration program in the first or succeeding years of the program, the Secretary shall take into account—

"(A) the number and quality of applications received;

"(B) the Department's capacity to oversee and monitor each institution's participation; and

"(C) an institution's—

"(i) financial responsibility;

"(ii) administrative capability; and

"(iii) program or programs being offered via distance education.

On page 574, strike lines 21 and 22, and insert the following:

nual basis regarding—

"(i) the demonstration programs authorized under this section; and

"(ii) the number and types of students receiving assistance under this title for instruction leading to a recognized certificate, as provided for in section 484(l)(1), including the progress of such students toward recognized certificates and the degree to which participation in such programs leading to such certificates increased.

On page 580, strike lines 11 through 24, and insert the following:

(i) by inserting "D," after "B,"; and

(ii) by striking "Such meetings shall include" and inserting "The Secretary shall obtain the advice of and recommendations from"; and

(B) in paragraph (2)—

(i) by striking "During such meetings the" and inserting "The";

(ii) by inserting "D," after "B,"; and

(iii) by striking "1992" and inserting "1998 through such mechanisms as regional meetings and electronic exchanges of information"; and

On page 581, strike lines 6 through 13, and insert the following:

(i) by striking "holding regional meetings" and inserting "obtaining the advice and recommendations described in subsection (a)(1)";

(ii) by inserting "D," after "B,";

(iii) by striking "1992" and inserting "1998"; and

(iv) by striking "The Secretary shall follow the guidance provided in sections 305.82–4 and 305.85–5 of chapter 1, Code of Federal Regulations, and any successor recommendation, regulation, or law."; and

On page 581, line 22, strike "impractical" and insert "unnecessary or inadvisable".

On page 582, between lines 5 and 6, insert the following:

SEC. 489D. PROCEDURES FOR CANCELLATIONS AND DEFERMENTS FOR ELIGIBLE DISABLED VETERANS.

Part G of title IV (20 U.S.C. 1088 et seq.) is amended by adding at the end the following:

"SEC. 493A. PROCEDURES FOR CANCELLATIONS AND DEFERMENTS FOR ELIGIBLE DISABLED VETERANS.

"The Secretary, in consultation with the Secretary of Veterans Affairs, shall develop and implement a procedure to permit Department of Veterans Affairs physicians to provide the certifications and affidavits needed to enable disabled veterans enrolled in the Department of Veterans Affairs health care system to document such veterans' eligibility for deferments or cancellations of student loans made, insured, or guaranteed under this title. Not later than 6 months after the date of enactment of the Higher Education Amendments of 1998, the Secretary and the Secretary of Veterans Affairs jointly shall report to Congress on the progress made in developing and implementing the procedure.".

On page 588, line 19, strike "and" after the semicolon.

On page 588, line 22, strike the period and insert "; and".

On page 588, between lines 22 and 23, insert the following:

(5) by adding at the end the following:

"(6) Notwithstanding any other provision of law, any individual, whom the Secretary determines, in accordance with paragraph (2), exercises substantial control over an institution participating in, or seeking to participate in, a program under this title, required to pay, on behalf of a student or borrower, a refund of unearned institutional charges to a lender, or to the Secretary, who willfully fails to pay such refund or willfully attempts in any manner to evade payment of such refund, shall, in addition to other penalties provided by law, be liable to the Secretary for the amount of the refund not paid, to the same extent with respect to such refund that such an individual would be liable as a responsible person for a penalty under section 6672(a) of Internal Revenue Code of 1986 with respect to the nonpayment of taxes.".

On page 596, line 8, strike "PBO" and insert "Chief Operating Officer".

On page 598, line 12, insert "and any revision to the plan" after "plan".

On page 598, line 17, insert "or revision" after "plan".

On page 599, line 14, strike "Each year" and insert the following:

"(A) IN GENERAL.—Each year".

On page 599, between lines 20 and 21, insert the following:

"(B) CONSULTATION WITH STAKEHOLDERS.—The Chief Operating Officer, in preparing the report described in subparagraph (A), shall establish appropriate means to consult with borrowers, institutions, lenders, guaranty agencies, secondary markets, and others involved in the delivery system of student aid under this title—

"(i) regarding the degree of satisfaction with the delivery system; and

"(ii) to seek suggestions on means to improve the delivery system.

On page 600, lines 7 and 8, strike ", without regard to political affiliation or activity".

On page 600, line 22, insert ", and any revision to the final agreement," after "agreement".

On page 604, between lines 3 and 4, insert the following:

"(h) REPORT.—The Secretary and the Chief Operating Officer, not later than 180 days after the date of enactment of the Higher Education Amendments of 1998, shall report to Congress on the proposed budget and sources of funding for the operation of the PBO.

On page 604, line 9, strike "section" and insert "part".

On page 604, line 9, strike the end quotation marks and the second period.

On page 604, between lines 9 and 10, insert the following:

"SEC. 499A. PERSONNEL FLEXIBILITIES.

"(a) GENERAL PROVISIONS.—

"(1) CERTAIN LIMITATIONS NOT APPLICABLE.—The PBO shall not be subject to any limitation related to the number or grade of its employees.

"(2) APPLICABLE PROVISIONS OF TITLE 5.—

"(A) PROVISIONS.—Any flexibilities provided under this section shall be exercised in a manner consistent with the following provisions of title 5, United States Code:

"(i) Chapter 23, relating to merit system principles and prohibited personnel practices.

"(ii) Provisions relating to preference eligibles.

"(iii) Section 5307, relating to the aggregate limitation on pay.

"(iv) Chapter 71, relating to labor-management relations, except to the extent provided by paragraph (3).

"(B) EXERCISE OF AUTHORITY.—The exercise of any authorities provided under this section shall be subject to subsections (b) and (c) of section 1104 of title 5, United States Code, as though such authorities were delegated to the PBO under subsection (a)(2) of such section. The PBO shall provide the Office of Personnel Management with any information the Office requires in carrying out its responsibilities under this subsection.

"(3) LABOR ORGANIZATION AGREEMENTS.—Employees within a unit to which a labor organization is accorded exclusive recognition under chapter 71 of title 5, United States Code, shall not be subject to any flexibility provided under this section unless the exclusive representative and PBO have entered into a written agreement which specifically provides for the exercise of that flexibility. A written agreement may not be imposed by the Federal Services Impasses Panel under section 7119 of title 5, United States Code.

"(4) FLEXIBILITIES.—

"(A) PRIOR APPROVAL.—The PBO may exercise any of the flexibilities provided under subsections (b), (c)(1), and (d) without prior approval of the Office of Personnel Management.

"(B) PLAN AND APPROVAL.—The PBO may exercise the flexibilities described in subsection (c)(2) only after a specific plan for implementation of those flexibilities is submitted to and approved by the Director of the Office of Personnel Management.

"(5) DEMONSTRATION PROJECTS.—

"(A) IN GENERAL.—The exercise of any flexibilities under this section shall not affect the authority of the PBO to implement a demonstration project subject to chapter 47 of title 5, United States Code, and as provided in subparagraph (B).

"(B) APPLICATION OF TITLE 5.—In applying section 4703 of title 5, United States Code, to a project described in subparagraph (A)—

"(i) section 4703(b)(1) shall be deemed to read as follows:

"'(1) develop a plan for such project which describes its purpose, the employees to be covered, the project itself, its anticipated outcomes, and the method of evaluating the project;';

"(ii) section 4703(b)(3) shall not apply;

"(iii) the 180-day notification period in section 4703(b)(4) shall be deemed to be a 30-day notification period;

"(iv) section 4703(b)(6) shall be deemed to read as follows:

"'(6) provide each House of Congress with the final version of the plan.';

"(v) section 4703(c)(1) shall be deemed to read as follows:

"'(1) subchapter V of chapter 63 or subpart G of part III of this title;';

"(vi) section 4703(d) shall not apply; and

"(vii) section 4703(f) shall not apply, and, in lieu thereof, paragraph (3) of this subsection shall apply as though the demonstration project were a flexibility authority provided under this subsection.

"(b) Performance Management.—

"(1) In general.—The PBO shall establish a performance management system that—

"(A) maintains individual accountability by—

"(i) establishing 1 or more retention standards for each employee related to the work of the employee and expressed in terms of individual performance, and communicating such retention standards to employees;

"(ii) making periodic determinations of whether each employee meets or does not meet the employee's established retention standards; and

"(iii) taking actions, in accordance with applicable laws and regulations, with respect to any employee whose performance does not meet established retention standards, including denying any increase in basic pay, promotions, and credit for performance under section 3502 of title 5, United States Code, and taking 1 or more of the following actions:

"(I) Reassignment;

"(II) An action under chapter 43 or 75 of title 5, United States Code; or

"(III) Any other appropriate action to resolve the performance problem; and

"(B) strengthens its effectiveness by providing for—

"(i) establishing goals or objectives for individual, group, or organizational performance (or any combination thereof), consistent with the annual performance agreement described in section 499(f)(2) and PBO performance planning procedures, including those established under the Government Performance and Results Act of 1993, and communicating such goals or objectives to employees;

"(ii) using such goals and objectives to make performance distinctions among employees or groups of employees; and

"(iii) using performance assessments as a basis for granting employee awards, adjusting an employee's rate of basic pay, and other appropriate personnel actions, in accordance with applicable provisions or law and regulation.

"(2) Performance.—

"(A) Assessment.—For purposes of paragraph (1)(B), the term 'performance assessment' means a determination of whether or not retention standards established under paragraph (1)(A)(i) are met, and any additional performance determination made on the basis of performance goals and objectives established under paragraph (1)(B)(i).

"(B) Unacceptable performance.—For purposes of title 5, United States Code, the term 'unacceptable performance' with respect to an employee of the PBO means performance of the employee which fails to meet a retention standard established under paragraph (1)(A)(i).

"(3) Awards program.—

"(A) In general.—The PBO may establish an awards program designed to provide incentives for and recognition of organizational, group, and individual achievements by providing for granting awards to employees who, as individuals or members of a group, contribute to meeting the performance goals and objectives established under this part by such means as a superior individual or group accomplishment, a documented productivity gain, or sustained superior performance.

"(B) Limitation.—Notwithstanding section 4502(b) of title 5, United States Code, the PBO may grant a cash award in an amount not exceeding $25,000, with the approval of the Chief Operating Officer.

"(c) Classification and Pay Flexibilities.—

"(1) In general.—

"(A) Definition.—For purposes of this section, the term 'broad-banded system' means a system for grouping positions for pay, job evaluation, and other purposes that is different from the system established under chapter 51 and subchapter III of chapter 53 of title 5, United States Code, as a result of combining grades and related ranges of rates of pay in 1 or more occupational series.

"(B) Establishment.—The PBO may, subject to criteria to be prescribed by the Office of Personnel Management, establish 1 or more broad-banded systems covering all or any portion of its workforce. The Office may require the PBO to submit to the Office such information relating to its broad-banded systems as the Office may require. Laws and regulations pertaining to General Schedule employees (other than chapter 52 and subchapter II of chapter 53 of title 5, United States Code) shall continue to be applicable to employees under a broad-banded system.

"(C) Criteria.—The criteria to be prescribed by the Office of Personnel Management shall, at a minimum—

"(i) ensure that the structure of any broad-banded system maintains, through linkage to the General Schedule, the principle of equal pay for substantially equal work;

"(ii) establish the minimum and maximum number of grades that may be combined into pay bands;

"(iii) establish requirements for adjusting the pay of an employee within a pay band;

"(iv) establish requirements for setting the pay of a supervisory employee whose position is in a pay band or who supervises employees whose positions are in pay bands; and

"(v) establish requirements and methodologies for setting the pay of an employee upon conversion to a broad-banded system, initial appointment, change of position or type of appointment (including promotion, demotion, transfer, reassignment, reinstatement, placement in another pay band, or movement to a different geographic location), and movement between a broad-banded system and another pay system.

"(2) Alternative job evaluation systems flexibilities.—

"(A) In general.—With the approval of the Office of Personnel Management in accordance with subsection (a)(4)(B), the PBO may establish 1 or more alternative job evaluation systems that include any positions or groups of positions that the PBO determines, for reasons of effective administration—

"(i) should not be classified under chapter 51 of title 5, United States Code, or paid under the General Schedule;

"(ii) should not be classified or paid under subchapter IV of chapter 53 of such title; or

"(iii) should not be paid under section 5376 of such title.

"(B) Pay.—

"(i) General limitation.—An alternative job evaluation system established under this section that includes positions described in clause (i) or (ii), or both, of subparagraph (A) may not provide a rate of basic pay for any employee in excess of the maximum rate of pay under the General Schedule.

"(ii) Specific limitation.—An alternative job evaluation system established under this section that includes positions described in clause (iii) of subparagraph (A) may not provide a rate of basic pay for any employee in excess of the annual rate of basic pay of the Chief Operating Officer under the first sentence of section 499(f)(3).

"(C) Implementation.—An alternative job evaluation system established under this section shall be implemented in such a way as to ensure the maintenance of the principle of equal pay for substantially equal work.

"(D) Applicability of laws.—Except as otherwise provided under this part, employees under an alternative job evaluation system shall continue to be subject to the laws and regulations covering employees under the pay system that would otherwise apply to them. If the alternative job evaluation system combines employees from different pay systems into a single system, the plan submitted under subsection (a)(4)(B) shall address the applicability of the laws and regulations for the different pay systems.

"(d) Staffing Flexibilities.—

"(1) Appointment.—

"(A) Conditions.—Except as otherwise provided under this subsection, an employee of the PBO may be selected for a permanent appointment in the competitive service in the PBO through internal competitive promotion procedures if—

"(i) the employee has completed, in the competitive service, 2 years of current continuous service under a term appointment or any combination of term appointments;

"(ii) such term appointment or appointments were made under competitive procedures prescribed for permanent appointments;

"(iii) the employee's performance under such term appointment or appointments met established retention standards; and

"(iv) the vacancy announcement for the term appointment from which the conversion is made stated that there was a potential for subsequent conversion to a permanent appointment.

"(B) Similar appointment.—An appointment under this section may be made only to a position in the same line of work as a position to which the employee received a term appointment under competitive procedures.

"(2) Category rating systems.—

"(A) In general.—Notwithstanding subchapter I of chapter 33 of title 5, United States Code, the PBO may establish category rating systems for evaluating job applicants for positions in the competitive service. Qualified candidates under such rating systems shall be divided into 2 or more quality categories on the basis of relative degrees of merit, rather than assigned individual numerical ratings. Each applicant who meets the minimum qualification requirements for the position to be filled shall be assigned to an appropriate category based on an evaluation of the applicant's knowledge, skills, and abilities relative to those needed for successful performance in the position to be filled.

"(B) Preference eligibles.—Within each quality category established under subparagraph (A), preference eligibles shall be listed ahead of individuals who are not preference eligibles. For other than scientific and professional positions at or higher than level

GS-9 (or equivalent), preference eligibles who have a compensable service-connected disability of 10 percent or more, and who meet the minimum qualification standards, shall be listed in the highest quality category.

“(C) Selection.—An appointing authority may select any applicant from the highest quality category or, if fewer than 3 candidates have been assigned to the highest quality category, from a merged category consisting of the highest and second highest quality categories. Notwithstanding the preceding sentence, the appointing authority may not pass over a preference eligible in the same or higher category from which selection is made, unless the requirements of section 3317(b) or 3318(b) of title 5, United States Code, as applicable, are satisfied.

“(3) Excepted service.—The Chief Operating Officer may appoint, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, not more than 25 technical and professional employees to administer the functions of the PBO. These employees may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

“(4) Rule of construction.—Notwithstanding paragraphs (1) through (3), no provision of this subsection exempts the PBO from—

“(A) any employment priorities established under direction of the President for the placement of surplus or displaced employees; or

“(B) its obligations under any court order or decree relating to the employment practices of the PBO or the Department of Education.

“SEC. 499B. PROCUREMENT FLEXIBILITY.

“(a) Procurement Authority.—Subject to the authority, direction, and control of the Secretary, the Chief Operating Officer of a PBO may exercise the authority of the Secretary to procure property and services in the performance of functions managed by the PBO. For the purposes of this section, the term ‘PBO’ includes the Chief Operating Officer of the PBO and any employee of the PBO exercising procurement authority under the preceding sentence.

“(b) Applicability of Procurement Laws.—Except to the extent otherwise authorized in this section, a PBO shall comply with all laws and regulations that are generally applicable to procurements of property and services by the head of an executive agency of the Federal Government.

“(c) Use of Mutual Benefit Corporation.—The PBO may acquire services related to the title IV delivery system from any mutual benefit corporation that has the capability and capacity to meet the requirements for the system, as determined by the Chief Operating Officer of the PBO.

“(d) Two-Phase Source-Selection Procedures.—

“(1) In general.—The PBO may use a two-phase process for selecting a source for a procurement of property or services.

“(2) First phase.—The procedures for the first phase of the process for a procurement are as follows:

“(A) Publication of notice.—The contracting officer for the procurement shall publish a notice of the procurement in accordance with section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) and subsections (e), (f), and (g) of section 8 of the Small Business Act (15 U.S.C. 637), except that the notice shall include only the following:

“(i) A general description of the scope or purpose of the procurement that provides sufficient information on the scope or purpose for sources to make informed business decisions regarding whether to participate in the procurement.

“(ii) A description of the basis on which potential sources are to be selected to submit offers in the second phase.

“(iii) A description of the information that is to be required under subparagraph (B).

“(iv) Any additional information that the contracting officer determines appropriate.

“(B) Information submitted by offerors.—Each offeror for the procurement shall submit basic information, such as information on the offeror's qualifications, the proposed conceptual approach, costs likely to be associated with the proposed conceptual approach, and past performance of the offeror on Federal Government contracts, together with any additional information that is requested by the contracting officer.

“(C) Selection for second phase.—The contracting officer shall select the offerors that are to be eligible to participate in the second phase of the process. The contracting officer shall limit the number of the selected offerors to the number of sources that the contracting officer determines is appropriate and in the best interests of the Federal Government.

“(3) Second phase.—

“(A) In general.—The contracting officer shall conduct the second phase of the source selection process in accordance with sections 303A and 303B of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253a and 253b).

“(B) Eligible participants.—Only the sources selected in the first phase of the process shall be eligible to participate in the second phase.

“(C) Single or multiple procurements.—The second phase may include a single procurement or multiple procurements within the scope, or for the purpose, described in the notice pursuant to paragraph (2)(A).

“(4) Procedures considered competitive.—The procedures used for selecting a source for a procurement under this subsection shall be considered competitive procedures for all purposes.

“(e) Use of Simplified Procedures for Commercial Items.—Whenever the PBO anticipates that commercial items will be offered for a procurement, the PBO may use (consistent with the special rules for commercial items) the special simplified procedures for the procurement without regard to—

“(1) any dollar limitation otherwise applicable to the use of those procedures; and

“(2) the expiration of the authority to use special simplified procedures under section 4202(e) of the Clinger-Cohen Act of 1996 (110 Stat. 654; 10 U.S.C. 2304 note).

“(f) Flexible Wait Periods and Deadlines for Submission of Offers of Noncommercial Items.—

“(1) Authority.—In carrying out a procurement, the PBO may—

“(A) apply a shorter waiting period for the issuance of a solicitation after the publication of a notice under section 18 Office of Federal Procurement Policy Act (41 U.S.C. 416) than is required under subsection (a)(3)(A) of such section; and

“(B) notwithstanding subsection (a)(3) of such section, establish any deadline for the submission of bids or proposals that affords potential offerors a reasonable opportunity to respond to the solicitation.

“(2) Inapplicability to commercial items.—Paragraph (1) does not apply to a procurement of a commercial item.

“(3) Consistency with applicable international agreements.—If an international agreement is applicable to the procurement, any exercise of authority under paragraph (1) shall be consistent with the international agreement.

“(g) Modular Contracting.—

“(1) In general.—The PBO may satisfy the requirements of the PBO for a system incrementally by carrying out successive procurements of modules of the system. In doing so, the PBO may use procedures authorized under this subsection to procure any such module after the first module.

“(2) Utility requirement.—A module may not be procured for a system under this subsection unless the module is useful independently of the other modules or useful in combination with another module previously procured for the system.

“(3) Conditions for use of authority.—The PBO may use procedures authorized under paragraph (4) for the procurement of an additional module for a system if—

“(A) competitive procedures were used for awarding the contract for the procurement of the first module for the system; and

“(B) the solicitation for the first module included—

“(i) a general description of the entire system that was sufficient to provide potential offerors with reasonable notice of the general scope of future modules;

“(ii) other information sufficient for potential offerors to make informed business judgments regarding whether to submit offers for the contract for the first module; and

“(iii) a statement that procedures authorized under this subsection could be used for awarding subsequent contracts for the procurement of additional modules for the system.

“(4) Procedures.—If the procurement of the first module for a system meets the requirements set forth in paragraph (3), the PBO may award a contract for the procurement of an additional module for the system using any of the following procedures:

“(A) Sole source.—Award of the contract on a sole-source basis to a contractor who was awarded a contract for a module previously procured for the system under competitive procedures or procedures authorized under subparagraph (B).

“(B) Adequate competition.—Award of the contract on the basis of offers made by—

“(i) a contractor who was awarded a contract for a module previously procured for the system after having been selected for award of the contract under this subparagraph or other competitive procedures; and

“(ii) at least one other offeror that submitted an offer for a module previously procured for the system and is expected, on the basis of the offer for the previously procured module, to submit a competitive offer for the additional module.

“(C) Other.—Award of the contract under any other procedure authorized by law.

“(5) Notice requirement.—

“(A) Publication.—Not less than 30 days before issuing a solicitation for offers for a contract for a module for a system under procedures authorized under subparagraph (A) or (B) of paragraph (4), the PBO shall publish in the Commerce Business Daily a notice of the intent to use such procedures to enter into the contract.

“(B) Exception.—Publication of a notice is not required under this paragraph with respect to a use of procedures authorized under paragraph (4) if the contractor referred to in that subparagraph (who is to be solicited to submit an offer) has previously provided a module for the system under a contract that contained cost, schedule, and performance goals and the contractor met those goals.

"(C) CONTENT OF NOTICE.—A notice published under subparagraph (A) with respect to a use of procedures described in paragraph (4) shall contain the information required under section 18(b) of the Office of Federal Procurement Policy Act (41 U.S.C. 416(b)), other than paragraph (4) of such section, and shall invite the submission of any assertion that the use of the procedures for the procurement involved is not in the best interest of the Federal Government together with information supporting the assertion.

"(6) DOCUMENTATION.—The basis for an award of a contract under this subsection shall be documented. However, a justification pursuant to section 303(f) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(f)) or section 8(h) of the Small Business Act (15 U.S.C. 637(h)) is not required.

"(7) SIMPLIFIED SOURCE-SELECTION PROCEDURES.—The PBO may award a contract under any other simplified procedures prescribed by the PBO for the selection of sources for the procurement of modules for a system, after the first module, that are not to be procured under a contract awarded on a sole-source basis.

"(h) USE OF SIMPLIFIED PROCEDURES FOR SMALL BUSINESS SET-ASIDES FOR SERVICES OTHER THAN COMMERCIAL ITEMS.—

"(1) AUTHORITY.—The PBO may use special simplified procedures for a procurement of services that are not commercial items if—

"(A) the procurement is in an amount not greater than $1,000,000;

"(B) the procurement is conducted as a small business set-aside pursuant to section 15(a) of the Small Business Act (15 U.S.C. 644(a)); and

"(C) the price charged for supplies associated with the services procured are items of supply expected to be less than 20 percent of the total contract price.

"(2) INAPPLICABILITY TO CERTAIN PROCUREMENTS.—The authority set forth in paragraph (1) may not be used for—

"(A) an award of a contract on a sole-source basis; or

"(B) a contract for construction.

"(i) GUIDANCE FOR USE OF AUTHORITY.—

"(1) ISSUANCE BY PBO.—The Chief Operating Officer of the PBO, in consultation with the Administrator for Federal Procurement Policy, shall issue guidance for the use by PBO personnel of the authority provided in this section.

"(2) GUIDANCE FROM OFPP.—As part of the consultation required under paragraph (1), the Administrator for Federal Procurement Policy shall provide the PBO with guidance that is designed to ensure, to the maximum extent practicable, that the authority under this section is exercised by the PBO in a manner that is consistent with the exercise of the authority by the heads of the other performance-based organizations.

"(3) COMPLIANCE WITH OFPP GUIDANCE.—The head of the PBO shall ensure that the procurements of the PBO under this section are carried out in a manner that is consistent with the guidance provided for the PBO under paragraph (2).

"(j) LIMITATION ON MULTIAGENCY CONTRACTING.—No department or agency of the Federal Government may purchase property or services under contracts entered into or administered by a PBO under this section unless the purchase is approved in advance by the senior procurement official of that department or agency who is responsible for purchasing by the department or agency.

"(k) LAWS NOT AFFECTED.—Nothing in this section shall be construed to waive laws for the enforcement of civil rights or for the establishment and enforcement of labor standards that are applicable to contracts of the Federal Government.

"(l) DEFINITIONS.—In this section:

"(1) COMMERCIAL ITEM.—The term 'commercial item' has the meaning given the term in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12)).

"(2) COMPETITIVE PROCEDURES.—The term 'competitive procedures' has the meaning given the term in section 309(b) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 259(b)).

"(3) MUTUAL BENEFIT CORPORATION.—The term 'mutual benefit corporation' means a corporation organized and chartered as a mutual benefit corporation under the laws of any State governing the incorporation of nonprofit corporations.

"(4) SOLE-SOURCE BASIS.—The term 'sole-source basis', with respect to an award of a contract, means that the contract is awarded to a source after soliciting an offer or offers from, and negotiating with, only that source.

"(5) SPECIAL RULES FOR COMMERCIAL ITEMS.—The term 'special rules for commercial items' means the regulations set forth in the Federal Acquisition Regulation pursuant to section 303(g)(1) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(g)(1)) and section 31 of the Office of Federal Procurement Policy Act (41 U.S.C. 427).

"(6) SPECIAL SIMPLIFIED PROCEDURES.—The term 'special simplified procedures' means the procedures applicable to purchases of property and services for amounts not greater than the simplified acquisition threshold that are set forth in the Federal Acquisition Regulation pursuant to section 303(g)(1)(B) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(g)(1)(A)) and section 31(a)(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 427(a)(1)).".

SEC. 496. STUDENT LOAN OMBUDSMAN OFFICE.

Title IV (20 U.S.C. 1070 et seq.) is amended by adding after part I (as added by section 495) the following:

"PART J—STUDENT LOAN OMBUDSMAN OFFICE

"SEC. 499F. STUDENT LOAN OMBUDSMAN OFFICE.

"(a) OFFICE ESTABLISHED.—The Secretary shall establish, within the Department, a Student Loan Ombudsman Office.

"(b) INDEPENDENCE OF STUDENT LOAN OMBUDSMAN OFFICE.—In the exercise of its functions, powers, and duties, the Student Loan Ombudsman Office shall be independent of the Secretary and the other offices and officers of the Department.

"(c) STUDENT LOAN OMBUDSMAN.—The Student Loan Ombudsman Office shall be managed by the Student Loan Ombudsman, who shall be appointed by the Secretary to a 5-year term. The Secretary shall appoint the Student Loan Ombudsman not later than 6 months after the date of enactment of the Higher Education Amendments of 1998. The appointment shall be made without regard to political affiliation or activity. The Secretary may reappoint the Student Loan Ombudsman to subsequent terms.

"(d) DUTIES AND RESPONSIBILITIES.—The Student Loan Ombudsman Office shall—

"(1) directly assist student loan borrowers with loans made, insured, or guaranteed under this title;

"(2) ensure that student loan borrower complaints and requests for assistance are promptly resolved and responded to by the Secretary, contractors or servicers, guaranty agencies, lenders, and other loan holders, or the agents of such individuals or entities;

"(3) investigate and resolve complaints of student loan borrowers;

"(4) provide information on the experience of borrowers with respect to existing and proposed statutes, regulations, and Department directives and actions;

"(5) track and analyze complaint data by loan program, institution, lender, guaranty agency, and servicer, as applicable; and

"(6) report annually to the appropriate committees of Congress, which report shall be made available to the public, regarding the responsibilities and performance of the Student Loan Ombudsman Office, including an analysis of complaint data described in paragraph (5).

"(e) STUDENT LOAN OMBUDSMAN OFFICE ACCESS TO RECORDS.—The Student Loan Ombudsman Office shall, upon presentation of a signed release form from a student loan borrower, have full and complete access to all records regarding the borrower's loan and education program that are necessary to carry out the Student Loan Ombudsman's duties. The Student Loan Ombudsman shall maintain personal identifying information in the strictest confidence and use such information only for the purpose of assisting the borrower in pursuing resolution of the individual's complaint, unless written authorization is obtained to use such information for other specified purposes.

"(f) ACCESSIBILITY FOR BORROWERS.—The Student Loan Ombudsman Office shall maintain a toll-free telephone number and Internet web site for receiving borrower complaints.

"(g) NOTIFICATION TO BORROWERS.—The Student Loan Ombudsman Office shall encourage maximum outreach to borrowers by all appropriate parties, including the Department, Congress, lenders, institutions of higher education, loan servicers, and guaranty agencies, to provide ongoing notice, to student loan borrowers, of the Student Loan Ombudsman Office. Such notice, including the toll-free telephone number, at a minimum, shall be given to borrowers in publications and on Internet web sites.

"(h) CONFLICT OF INTEREST.—Employees of the Student Loan Ombudsman Office shall not be employees or officers of any participant in the student loan programs under this Act (other than the Department), including any lender, guaranty agency, proprietary institution of higher education, postsecondary vocational institution, institution of higher education, loan servicer, collections agency, or trade association or education advocacy group representing any such entity. The Student Loan Ombudsman Office shall avoid all conflicts of interest and appearances of impropriety.

"(i) SUPPLEMENT AND NOT SUPPLANT.—The remedies and procedures of the Student Loan Ombudsman Office shall supplement and not supplant any other consumer remedies and procedures available to borrowers.

"(j) FUNDING.—In each fiscal year, not less than $2,000,000 of the amount appropriated for the fiscal year for salaries and expenses at the Department shall be available to carry out this section.".

On page 605, line 3, strike "C, and D" and insert "D, and E".

On page 605, line 6, strike "511 through 515" and insert "501 through 505".

On page 605, lines 8 and 9, strike "521 through 527" and insert "511 through 517".

On page 605, line 19, strike "514(a)" and insert "504(a)".

On page 605, line 21, strike "513" and insert "503".

On page 606, line 1, strike "524(b)(7)" and insert "514(b)(7)".

On page 606, line 3, strike "525" and insert "515".

On page 606, line 4, strike "525(c)" and insert "515(c)".

On page 606, line 7, strike "526(a)" and insert "516(a)".

On page 606, line 9, strike "524(b)(2)" and insert "514(b)(2)".

On page 607, line 17, strike "and".

On page 607, between lines 20 and 21, insert the following:

"(iii) encourage talented individuals from underrepresented groups to pursue faculty careers in higher education; and

On page 607, line 26, strike "511" and insert "501".

On page 609, line 8, strike "512" and insert "502".

On page 610, line 14, strike "513" and insert "503".

On page 611, line 16, strike "515" and insert "505".

On page 611, line 23, strike "523" and insert "513".

On page 612, line 16, strike "524(b)" and insert "514(b)".

On page 613, line 11, strike "525" and insert "515".

On page 613, line 22, strike "526(a)(1)" and insert "516(a)(1)".

On page 614, line 15, strike "527" and insert "517".

On page 614, between lines 17 and 18, insert the following:

PART C—FACULTY DEVELOPMENT PROGRAM

SEC. 531. FACULTY DEVELOPMENT PROGRAM REAUTHORIZED.

Title V (20 U.S.C. 1101 et seq.) is amended further by inserting after part B (as redesignated by section 501(a)(3)) the following:

"PART C—FACULTY DEVELOPMENT FELLOWSHIPS

"SEC. 521. FACULTY DEVELOPMENT FELLOWSHIPS AUTHORIZED.

"(a) In General.—The Secretary shall make grants to institutions of higher education, or consortia of such institutions, to enable such institutions to award fellowships to talented graduate students in order to increase the access of individuals from underrepresented groups to pursue graduate study, and to teach in institutions of higher education.

"(b) Underrepresented Groups Defined.—For the purpose of this part, the term 'underrepresented groups' means African Americans, Hispanic Americans, Asian Americans, Native Americans, Pacific Islanders, Native Hawaiians, and individuals who are pursuing graduate study in academic disciplines in which the individuals are underrepresented for the individuals' gender.

"(c) Preference.—In making awards under this part, the Secretary shall give preference to applicants with a demonstrated record of—

"(1) admitting students from the Ronald E. McNair Postbaccalaureate Achievement Program or a program with a similar purpose;

"(2) graduating individuals from groups underrepresented in graduate education; and

"(3) placing the graduates of the institution or consortium in faculty positions in institutions of higher education.

"(d) Reporting.—Each institution of higher education or consortium receiving a grant under this section shall, on an annual basis, provide to the Secretary evidence regarding—

"(1) the success of the institution in attracting underrepresented students into graduate programs;

"(2) graduating the students; and

"(3) the success of each graduate in obtaining a faculty position in an institution of higher education.

"(e) Application Required.—

"(1) In general.—Each academic department or program of an institution of higher education desiring a grant under this part shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.

"(2) Additional assurances.—Each application submitted pursuant to paragraph (1) shall—

"(A) provide an assurance that, in the event that funds made available to the academic department or program under this part are insufficient to provide assistance due a student under a commitment entered into between the academic department and the student, the academic department or program will endeavor, from funds available to the department or program, to fulfill the commitment made to the student; and

"(B) contain such other assurances as the Secretary may reasonably require.

"(3) Approval of applications.—The Secretary shall prescribe criteria for the approval of applications submitted under paragraph (1).

"(f) Authorization of Appropriations.—There are authorized to be appropriated to carry out this part $30,000,000 for fiscal year 1999 and such sums as may be necessary for each of the 4 succeeding fiscal years.".

On page 614, line 18, strike "**PART C**" and insert "**PART D**".

On page 614, line 19, strike "**531**" and insert "**541**".

On page 615, line 5, strike "**PART D**" and insert "**PART E**".

On page 615, line 7, strike "**541**" and insert "**551**".

On page 617, line 7, strike "**PART E**" and insert "**PART F**".

On page 617, line 10, strike "**551**" and insert "**561**".

On page 617, line 15, strike "**PART E**" and insert "**PART F**".

On page 620, line 19, strike "**PART F**" and insert "**PART G**".

On page 620, between lines 19 and 20, insert the following:

SEC. 580. FINDINGS.

Congress makes the following findings:

(1) Hispanic Americans are at high risk of not enrolling or graduating from institutions of higher education.

(2) Disparities between the enrollment of non-Hispanic white students and Hispanic students in postsecondary education are increasing. Between 1973 and 1994, enrollment of white secondary school graduates in 4-year institutions of higher education increased at a rate 2 times higher than that of Hispanic secondary school graduates.

(3) Despite significant limitations in resources, Hispanic-serving institutions provide a significant proportion of postsecondary opportunities for Hispanic students.

(4) Relative to other institutions of higher education, Hispanic-serving institutions are underfunded. Such institutions receive significantly less in State and local funding, per full-time equivalent student, than other institutions of higher education.

(5) Hispanic-serving institutions are succeeding in educating Hispanic students despite significant resource problems that—

(A) limit the ability of such institutions to expand and improve the academic programs of such institutions; and

(B) could imperil the financial and administrative stability of such institutions.

(6) There is a national interest in remedying the disparities described in paragraphs (2) and (4) and ensuring that Hispanic students have an equal opportunity to pursue postsecondary opportunities.

On page 626, line 11, strike "**PART G**" and insert "**PART H**".

On page 626, lines 12 and 13, strike "**PARTS A AND B**" and insert "**PARTS A, B, AND C**".

On page 626, line 17, strike "parts A and B" and insert "parts A, B, and C".

On page 626, line 25, strike "parts A and B" and insert "parts A, B, and C".

On page 627, line 10, strike "513(b)" and insert "503(b)".

On page 627, line 11, strike "526" and insert "516".

On page 627, lines 16 and 17, strike "part A or B" and insert "part A, B, or C".

On page 626, strike line 11, and insert the following:

"PART G—THURGOOD MARSHALL LEGAL EDUCATIONAL OPPORTUNITY PROGRAM

"SEC. 588. LEGAL EDUCATIONAL OPPORTUNITY PROGRAM.

"(a) Program Authority.—The Secretary shall carry out a program to be known as the 'Thurgood Marshall Legal Educational Opportunity Program' designed to provide low-income, minority, or disadvantaged college students with the information, preparation, and financial assistance to gain access to and complete law school study.

"(b) Eligibility.—A college student is eligible for assistance under this section if the student is—

"(1) from a low-income family;

"(2) a minority; or

"(3) from an economically or otherwise disadvantaged background.

"(c) Contract or Grant Authorized.—The Secretary is authorized to enter into a contract with, or make a grant to, the Council on Legal Education Opportunity, for a period of not less than 5 years—

"(1) to identify college students who are from low-income families, are minorities, or are from disadvantaged backgrounds described in subsection (b)(3);

"(2) to prepare such students for study at accredited law schools;

"(3) to assist such students to select the appropriate law school, make application for entry into law school, and receive financial assistance for such study;

"(4) to provide support services to such students who are first-year law students to improve retention and success in law school studies; and

"(5) to motivate and prepare such students with respect to law school studies and practice in low-income communities.

"(d) Services Provided.—In carrying out the purposes described in subsection (c), the contract or grant shall provide for the delivery of services through prelaw information resource centers, summer institutes, midyear seminars, and other educational activities, conducted under this section. Such services may include—

"(1) information and counseling regarding—

"(A) accredited law school academic programs, especially tuition, fees, and admission requirements;

"(B) course work offered and required for graduation;

"(C) faculty specialties and areas of legal emphasis; and

"(D) undergraduate preparatory courses and curriculum selection;

"(2) tutoring and academic counseling, including assistance in preparing for bar examinations;

"(3) prelaw mentoring programs, involving law school faculty, members of State and local bar associations, and retired and sitting judges, justices, and magistrates;

"(4) assistance in identifying preparatory courses and material for the law school aptitude or admissions tests;

"(5) summer institutes for Thurgood Marshall Fellows that expose the Fellows to a rigorous curriculum that emphasizes abstract thinking, legal analysis, research, writing, and examination techniques; and

"(6) midyear seminars and other educational activities that are designed to reinforce reading, writing, and studying skills of Thurgood Marshall Fellows.

"(e) DURATION OF THE PROVISION OF SERVICES.—The services described in subsection (d) may be provided—

"(1) prior to the period of law school study;

"(2) during the period of law school study; and

"(3) during the period following law school study and prior to taking a bar examination.

"(f) SUBCONTRACTS AND SUBGRANTS.—For the purposes of planning, developing, or delivering one or more of the services described in subsection (d), the Council on Legal Education Opportunity shall enter into subcontracts with, and make subgrants to, institutions of higher education, law schools, public and private agencies and organizations, and combinations of such institutions, schools, agencies, and organizations.

"(g) STIPENDS.—The Secretary shall annually establish the maximum stipend to be paid (including allowances for participant travel and for the travel of the dependents of the participant) to Thurgood Marshall Fellows for the period of participation in summer institutes and midyear seminars. A Fellow may be eligible for such a stipend only if the Fellow maintains satisfactory academic progress toward the Juris Doctor or Bachelor of Laws degree, as determined by the respective institutions.

"(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $5,000,000 for fiscal year 1999 and each of the 4 succeeding fiscal years.

"PART H—GENERAL PROVISIONS

On page 651, between lines 17 and 18, insert the following:

SEC. 713. NAVAJO COMMUNITY COLLEGE ACT.

Section 5(a)(1) of the Navajo Community College Act (25 U.S.C. 640c-1(a)(1)) is amended by striking "1993" and inserting "1999".

On page 657, line 8, insert "or member" after "division".

On page 657, line 9, strike "the" and insert "a".

On page 661, line 6, strike "the" and insert "a".

On page 661, line 11, strike "the" and insert "a".

On page 661, line 20, strike "the" and insert "a".

On page 662, line 5, strike "the" and insert "a".

On page 670, between lines 7 and 8, insert the following:

PART F—WEB-BASED EDUCATION COMMISSION

SEC. 753. SHORT TITLE; DEFINITIONS.

(a) IN GENERAL.—This part may be cited as the "Web-Based Education Commission Act".

(b) DEFINITIONS.—In this part:

(1) COMMISSION.—The term "Commission" means the Web-Based Education Commission established under section 754.

(2) INFORMATION TECHNOLOGY.—The term "information technology" has the meaning given that term in section 5002 of the Information Technology Management Reform Act of 1996 (110 Stat. 679).

(3) STATE.—The term "State" means each of the several States of the United States and the District of Columbia.

SEC. 754. ESTABLISHMENT OF WEB-BASED EDUCATION COMMISSION.

(a) ESTABLISHMENT.—There is established a commission to be known as the Web-Based Education Commission.

(b) MEMBERSHIP.—

(1) COMPOSITION.—The Commission shall be composed of 14 members, of which—

(A) 3 members shall be appointed by the President, from among individuals representing the Internet technology industry;

(B) 3 members shall be appointed by the Secretary, from among individuals with expertise in accreditation, establishing statewide curricula, and establishing information technology networks pertaining to education curricula;

(C) 2 members shall be appointed by the Majority Leader of the Senate;

(D) 2 members shall be appointed by the Minority Leader of the Senate;

(E) 2 members shall be appointed by the Speaker of the House of Representatives; and

(F) 2 members shall be appointed by the Minority Leader of the House of Representatives.

(2) DATE.—The appointments of the members of the Commission shall be made not later than 45 days after the date of enactment of this Act.

(c) PERIOD OF APPOINTMENT; VACANCIES.—Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(d) INITIAL MEETING.—No later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold its first meeting.

(e) MEETINGS.—The Commission shall meet at the call of the Chairperson.

(f) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(g) CHAIRPERSON AND VICE CHAIRPERSON.—The Commission shall select a chairperson and vice chairperson from among its members.

SEC. 755. DUTIES OF THE COMMISSION.

(a) STUDY.—

(1) IN GENERAL.—The Commission shall conduct a thorough study to assess the educational software available in retail markets for secondary and postsecondary students who choose to use such software.

(2) PUBLIC HEARINGS.—As part of the study conducted under this subsection, the Commission shall hold public hearings in each region of the United States concerning the assessment referred to in paragraph (1).

(3) EXISTING INFORMATION.—To the extent practicable, in carrying out the study under this subsection, the Commission shall identify and use existing information related to the assessment referred to in paragraph (1).

(b) REPORT.—Not later than 6 months after the first meeting of the Commission, the Commission shall submit a report to the President and Congress that shall contain a detailed statement of the findings and conclusions of the Commission resulting from the study, together with its recommendations—

(1) for such legislation and administrative actions as the Commission considers to be appropriate; and

(2) regarding the appropriate Federal role in determining quality educational software products.

(c) FACILITATION OF EXCHANGE OF INFORMATION.—In carrying out the study under subsection (a), the Commission shall, to the extent practicable, facilitate the exchange of information concerning the issues that are the subject of the study among—

(1) officials of the Federal Government, and State governments and political subdivisions of States; and

(2) educators from Federal, State, and local institutions of higher education and secondary schools.

SEC. 756. POWERS OF THE COMMISSION.

(a) HEARINGS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out the purposes of this part.

(b) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out the provisions of this part. Upon request of the Chairperson of the Commission, the head of such department or agency shall furnish such information to the Commission.

(c) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(d) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

SEC. 757. COMMISSION PERSONNEL MATTERS.

(a) COMPENSATION OF MEMBERS.—Except as provided in subsection (b), each member of the Commission who is not an officer or employee of the Federal Government shall serve without compensation. All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(b) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(c) STAFF.—

(1) IN GENERAL.—The Chairperson of the Commission may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Commission to perform its duties. The employment of an executive director shall be subject to confirmation by the Commission.

(2) COMPENSATION.—The Chairperson of the Commission may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed

the rate payable for level V of the Executive Schedule under section 5316 of such title.

(d) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(e) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairperson of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals that do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

SEC. 758. TERMINATION OF THE COMMISSION.

The Commission shall terminate on the date that is 90 days after the date on which the Commission submits its report under section 755(b).

SEC. 759. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated $650,000 for fiscal year 1999 to the Commission to carry out this part.

(b) AVAILABILITY.—Any sums appropriated under the authorization contained in this section shall remain available, without fiscal year limitation, until expended.

On page 686, beginning with line 15, strike all through page 687, line 12, and insert the following:

SEC. 791. YEAR 2000 REQUIREMENTS AT THE DEPARTMENT OF EDUCATION.

In order to ensure that the processing, delivery, and administration of grant, loan, and work assistance provided under title IV of the Higher Education Act of 1965 is not interrupted due to operational problems related to the inability of computer systems to indicate accurately dates after December 31, 1999, the Secretary shall—

(1) take such actions as are necessary to ensure that all internal and external systems, hardware and data exchange infrastructure administered by the Department of Education that are necessary for the processing, delivery, and administration of the grant, loan, and work assistance are year 2000 compliant, such that there will be no business interruption after December 31, 1999;

(2) ensure that the Robert T. Stafford Federal Student Loan Program and the William D. Ford Federal Direct Loan Program are equal in level of priority with respect to addressing, and' that resources are managed to provide for successful resolution of, the year 2000 computer problem in both programs by December 31, 1999;

(3) work with institutions of higher education, guaranty agencies, third party servicers, and other persons to ensure successful data exchanges necessary for the processing, delivery, and administration of the grant, loan, and work assistance;

(4) ensure that the Inspector General of the Department of Education (or an external, independent entity selected by the Inspector General) performs and publishes a risk assessment of the systems and hardware under the Department's management, that has been reviewed by an independent entity, and make such assessment publicly available not later than 60 days after the date of enactment of the Higher Education Amendments of 1998;

(5) not later than June 30, 1999, ensure that the Inspector General (or an external, independent entity selected by the Inspector General) conducts a review of the Department's Year 2000 compliance for the processing, delivery, and administration systems and data exchange systems for the grant, loan, and work assistance, and submits a report reflecting the results of that review to the Chairperson of the Committee on Labor and Human Resources of the Senate and the Chairperson of the Committee on Education and the Workforce of the House of Representatives;

(6) develop a contingency plan to ensure the programs under title IV of the Higher Education Act of 1965 will continue to run uninterrupted in the event of a computer failure after December 31, 1999, which the contingency plan shall include a prioritization of mission critical systems and strategies to allow data partners to transfer data; and

(7) alert Congress at the earliest possible time if mission critical deadlines will not be met.

On page 687, after line 12, add the following:

SEC. 792. GRANTS TO COMBAT VIOLENT CRIMES AGAINST WOMEN ON CAMPUSES.

(a) GRANTS AUTHORIZED.—

(1) IN GENERAL.—The Attorney General is authorized to make grants to institutions of higher education, for use by consortia consisting of campus personnel, student organizations, campus administrators, security personnel, and regional crisis centers affiliated with the institution, to develop and strengthen effective security and investigation strategies to combat violent crimes against women on campuses, and to develop and strengthen victim services in cases involving violent crimes against women on campuses, which may include partnerships with local criminal justice authorities and community-based victim services agencies.

(2) AWARD BASIS.—The Attorney General shall award grants and contracts under this section on a competitive basis.

(3) EQUITABLE PARTICIPATION.—The Attorney General shall make every effort to ensure—

(A) the equitable participation of private and public institutions of higher education in the activities assisted under this section; and

(B) the equitable geographic distribution of grants under this section among the various regions of the United States.

(b) USE OF GRANT FUNDS.—Grants funds awarded under this section may be used for the following purposes:

(1) To provide personnel, training, technical assistance, data collection, and other equipment with respect to the increased apprehension, investigation, and adjudication of persons committing violent crimes against women on campus.

(2) To train campus administrators and campus security personnel to more effectively identify and respond to violent crimes against women on campus, including the crimes of sexual assault, stalking, and domestic violence.

(3) To develop, train, or expand campus security personnel and campus administrators with respect to specifically targeting violent crimes against women on campus, including the crimes of sexual assault, stalking, and domestic violence.

(4) To develop and implement more effective campus policies, protocols, orders, and services specifically devoted to prevent, identify, and respond to violent crimes against women on campus, including the crimes of sexual assault, stalking, and domestic violence.

(5) To develop, install, or expand data collection and communication systems, including computerized systems, linking campus security to the local law enforcement for the purpose of identifying and tracking arrests, protection orders, violations of protection orders, prosecutions, and convictions with respect to violent crimes against women on campus, including the crimes of sexual assault, stalking, and domestic violence.

(6) To develop, enlarge, or strengthen victim services programs for the campus and to improve delivery of victim services on campus.

(7) To provide capital improvements on campus to address violent crimes against women on campus, including the crimes of sexual assault, stalking, and domestic violence.

(8) To support improved coordination among campus administrators, campus security personnel, and local law enforcement to reduce violent crimes against women on campus.

(c) APPLICATIONS.—

(1) IN GENERAL.—In order to be eligible to be awarded a grant under this section for any fiscal year, an institution of higher education shall submit an application to the Attorney General at such time and in such manner as the Attorney General shall prescribe.

(2) CONTENTS.—Each application submitted under paragraph (1) shall—

(A) describe the need for grant funds and the plan for implementation for any of the purposes described in subsection (b);

(B) describe how the campus authorities shall consult and coordinate with nonprofit, nongovernmental victim services programs, including sexual assault and domestic violence victim services programs;

(C) describe the characteristics of the population being served, including type of campus, demographics of the population, and number of students;

(D) provide measurable goals and expected results from the use of the grants funds;

(E) provide assurances that the Federal funds made available under this section shall be used to supplement and, to the extent practical, increase the level of funds that would, in the absence of Federal funds, be made available by the institution for the purposes described in subsection (b); and

(F) include such other information and assurances as the Attorney General reasonably determines to be necessary.

(d) GRANTEE REPORTING.—Each institution of higher education receiving a grant under this section, upon completion of the grant period under this section, shall file a performance report with the Attorney General explaining the activities carried out under the grant, together with an assessment of the effectiveness of the activities in achieving the purposes described in subsection (b).

(e) DEFINITIONS.—In this section—

(1) the term "domestic violence" includes acts or threats of violence, not including acts of self defense, committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction, or by any other person against a victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction;

(2) the term "sexual assault" means any conduct proscribed by chapter 109A of title 18, United States Code, whether or not the conduct occurs in the special maritime and territorial jurisdiction of the United States or in a Federal prison, including both assaults committed by offenders who are

strangers to the victim and assaults committed by offenders who are known or related by blood or marriage to the victim; and

(3) the term "victim services" means a nonprofit, nongovernmental organization that assists domestic violence or sexual assault victims, including campus women's centers, rape crisis centers, battered women's shelters, and other sexual assault or domestic violence programs, including campus counseling support and victim advocate organizations with domestic violence, stalking, and sexual assault programs, whether or not organized and staffed by students.

(f) GENERAL TERMS AND CONDITIONS.—

(1) NONMONETARY ASSISTANCE.—In addition to the assistance provided under this section, the Attorney General may request any Federal agency to use the agency's authorities and the resources granted to the agency under Federal law (including personnel, equipment, supplies, facilities, and managerial, technical, and advisory services) in support of campus security, and investigation and victim service efforts.

(2) REPORTING.—Not later than 180 days after the end of the fiscal year for which grants are awarded under this section, the Attorney General shall submit to the committees of the House of Representatives and the Senate responsible for issues relating to higher education and crime, a report that includes—

(A) the number of grants, and the amount of funds, distributed under this section;

(B) a summary of the purposes for which the grants were provided and an evaluation of the progress made under the grant;

(C) a statistical summary of the persons served, detailing the nature of victimization, and providing data on age, sex, race, ethnicity, language, disability, relationship to offender, geographic distribution, and type of campus; and

(D) an evaluation of the effectiveness of programs funded under this section.

(3) REGULATIONS OR GUIDELINES.—Not later than 120 days after the date of enactment of this section, the Secretary shall publish proposed regulations or guidelines implementing this section. Not later than 180 days after the date of enactment of this section, the Attorney General shall publish final regulations or guidelines implementing this section.

(g) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated $10,000,000 for each of the fiscal years 1999 through 2002.

SEC. 793. AUTHORITY TO ADMINISTER SUMMER TRAVEL AND WORK PROGRAMS.

The Director of the United States Information Agency is authorized to administer summer travel and work programs without regard to preplacement requirements.

SEC. 794. IMPROVING UNITED STATES UNDERSTANDING OF SCIENCE, ENGINEERING, AND TECHNOLOGY IN EAST ASIA.

(a) ESTABLISHMENT.—The Director of the National Science Foundation is authorized, beginning in fiscal year 2000, to carry out an interdisciplinary program of education and research on East Asian science, engineering, and technology. The Director shall carry out the interdisciplinary program in consultation with the Secretary of Education.

(b) PURPOSES.—The purposes of the program established under this section shall be to—

(1) increase understanding of East Asian research, and innovation for the creative application of science and technology to the problems of society;

(2) provide scientists, engineers, technology managers, and students with training in East Asian languages, and with an understanding of research, technology, and management of innovation, in East Asian countries;

(3) provide program participants with opportunities to be directly involved in scientific and engineering research, and activities related to the management of scientific and technological innovation, in East Asia; and

(4) create mechanisms for cooperation and partnerships among United States industry, universities, colleges, not-for-profit institutions, Federal laboratories (within the meaning of section 4(6) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3703(6))), and government, to disseminate the results of the program assisted under this section for the benefit of United States research and innovation.

(c) PARTICIPATION BY FEDERAL SCIENTISTS, ENGINEERS, AND MANAGERS.—Scientists, engineers, and managers of science and engineering programs in Federal agencies and the Federal laboratories shall be eligible to participate in the program assisted under this section on a reimbursable basis.

(d) REQUIREMENT FOR MERIT REVIEW.—Awards made under the program established under this section shall only be made using a competitive, merit-based review process.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $10,000,000 for fiscal year 2000.

SEC. 795. UNDERGROUND RAILROAD EDUCATIONAL AND CULTURAL PROGRAM.

(a) PROGRAM ESTABLISHED.—The Secretary of Education, in consultation and cooperation with the Secretary of the Interior, is authorized to make grants to 1 or more nonprofit educational organizations that are established to research, display, interpret, and collect artifacts relating to the history of the Underground Railroad.

(b) GRANT AGREEMENT.—Each nonprofit educational organization awarded a grant under this section shall enter into an agreement with the Secretary of Education. Each such agreement shall require the organization—

(1) to establish a facility to house, display, and interpret the artifacts related to the history of the Underground Railroad, and to make the interpretive efforts available to institutions of higher education that award a baccalaureate or graduate degree;

(2) to demonstrate substantial private support for the facility through the implementation of a public-private partnership between a State or local public entity and a private entity for the support of the facility, which private entity shall provide matching funds for the support of the facility in an amount equal to 4 times the amount of the contribution of the State or local public entity, except that not more than 20 percent of the matching funds may be provided by the Federal Government;

(3) to create an endowment to fund any and all shortfalls in the costs of the on-going operations of the facility;

(4) to establish a network of satellite centers throughout the United States to help disseminate information regarding the Underground Railroad throughout the United States, if such satellite centers raise 80 percent of the funds required to establish the satellite centers from non-Federal public and private sources;

(5) to establish the capability to electronically link the facility with other local and regional facilities that have collections and programs which interpret the history of the Underground Railroad; and

(6) to submit, for each fiscal year for which the organization receives funding under this section, a report to the Secretary of Education that contains—

(A) a description of the programs and activities supported by the funding;

(B) the audited financial statement of the organization for the preceding fiscal year;

(C) a plan for the programs and activities to be supported by the funding as the Secretary may require; and

(D) an evaluation of the programs and activities supported by the funding as the Secretary may require.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $6,000,000 for fiscal year 1999, $6,000,000 for fiscal year 2000, $6,000,000 for fiscal year 2001, $3,000,000 for fiscal year 2002, and $3,000,000 for fiscal year 2003.

SEC. 796. GNMA GUARANTEE FEE.

(a) IN GENERAL.—Section 306(g)(3)(A) of the National Housing Act (12 U.S.C. 1721(g)(3)(A)) is amended by striking "No fee or charge" and all that follows through "States)" and inserting "The Association shall assess and collect a fee in an amount equal to 9 basis points".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on October 1, 2002.

SEC. 797. PROTECTION OF STUDENT SPEECH AND ASSOCIATION RIGHTS.

(a) PROTECTION OF RIGHTS.—It is the sense of Congress that no student attending an institution of higher education on a full- or part-time basis should, on the basis of participation in protected speech or protected association, be excluded from participation in, be denied the benefits of, or be subjected to discrimination or official sanction under any education program, activity, or division of the institution directly or indirectly receiving financial assistance under the Higher Education Act of 1965, whether or not such program, activity, or division is sponsored or officially sanctioned by the institution.

(b) CONSTRUCTION.—Nothing in this section shall be construed—

(1) to discourage the imposition of an official sanction on a student that has willfully participated in the disruption or attempted disruption of a lecture, class, speech, presentation, or performance made or scheduled to be made under the auspices of the institution of higher education; or

(2) to prevent an institution of higher education from taking appropriate and effective action to prevent violations of State liquor laws, to discourage binge drinking and other alcohol abuse, to protect students from sexual harassment including assault and date rape, or to regulate unsanitary or unsafe conditions in any student residence.

(c) DEFINITIONS.—For the purposes of this section:

(1) OFFICIAL SANCTION.—The term "official sanction"—

(A) means expulsion, suspension, probation, censure, condemnation. reprimand, or any other disciplinary, coercive, or adverse action taken by an institution of higher education or administrative unit of the institution; and

(B) includes an oral or written warning made by an official of an institution of higher education acting in the official capacity of the official.

(2) PROTECTED ASSOCIATION.—The term "protected association" means the joining,

assembling, and residing with others that is protected under the first and 14th amendments to the Constitution, or would be protected if the institution of higher education involved were subject to those amendments.

(3) PROTECTED SPEECH.—The term "protected speech" means speech that is protected under the first and 14th amendments to the Constitution, or would be protected if the institution of higher education involved were subject to those amendments.

SEC. 798. BINGE DRINKING ON COLLEGE CAMPUSES.

(a) SHORT TITLE.—This section may be cited as the "Collegiate Initiative To Reduce Binge Drinking".

(b) FINDINGS.—Congress makes the following findings:

(1) Many college president rank alcohol abuse as the number one problem on campus.

(2) Alcohol is a factor in the 3 leading causes of death (accidents, homicides, and suicides) for individuals aged 15 through 24.

(3) More than any other group, college students tend to consume large numbers of drinks in rapid succession with the intention of becoming drunk.

(4) 84 percent of college students report drinking alcohol during the school year, with 44 percent of all college students qualifying as binge drinkers and 19 percent of all college students qualifying as frequent binge drinkers.

(5) Alcohol is involved in a large percentage of all campus rapes, violent crimes, student suicides, and fraternity hazing accidents.

(6) Heavy alcohol consumption on college campuses can result in drunk driving crashes, hospitalization for alcohol overdoses, trouble with police, injury, missed classes, and academic failure.

(7) The secondhand effects of student alcohol consumption range from assault, property damage, and unwanted sexual advances, to interruptions in study or sleep, or having to "babysit" another student who drank too much.

(8) Campus binge drinking can also lead to the death of our Nation's young and promising students.

(c) SENSE OF CONGRESS.—It is the sense of Congress that, in an effort to change the culture of alcohol consumption on college campuses, all institutions of higher education should carry out the following:

(1) The president of the institution should appoint a task force consisting of school administrators; faculty, students, Greek system representatives, and others to conduct a full examination of student and academic life at the institution. The task force should make recommendations for a broad range of policy and program changes that would serve to reduce alcohol and other drug-related problems. The institution should provide resources to assist the task force in promoting the campus policies and proposed environmental changes that have been identified.

(2) The institution should provide maximum opportunities for students to live in an alcohol-free environment and to engage in stimulating, alcohol-free recreational and leisure activities.

(3) The institution should enforce a "zero tolerance" policy on the illegal consumption of alcohol by students at the institution.

(4) The institution should vigorously enforce the institution's code of disciplinary sanctions for those who violate campus alcohol policies. Students with alcohol or other drug-related problems should be referred for appropriate assistance.

(5) The institution should adopt a policy of eliminating alcoholic beverage-related sponsorship of on-campus activities. The institution should adopt policies limiting the advertisement and production of alcoholic beverages on campus.

(6) The institution should work with the local community, including local businesses, in a "Town/Gown" alliance to encourage responsible policies toward alcohol consumption and to address illegal alcohol use by students.

SEC. 799. SENSE OF THE SENATE REGARDING HIGHER EDUCATION.

(a) FINDINGS.—The Senate makes the following findings:

(1) Higher education must be kept affordable for all families as the number of students attending institutions of higher education in the 1995–1996 academic year reached 19,400,000 students at all levels.

(2) According to the College Board's Annual Survey of Colleges, 1997–1998 undergraduate students at United States colleges will pay on average, approximately 5 percent more for the 1997–1998 academic year in tuition and fees at 4-year institutions of higher education than the students paid for the 1996–1997 academic year, and from 2 to 4 percent more for the 1997–1998 academic year in tuition and fees at 2-year institutions of higher education than the students paid for the 1996–1997 academic year.

(3) From academic years 1980–1981 to academic years 1994–1995, tuition at 4-year public colleges and universities increased 234 percent, while median household income rose only 82 percent, and as a result, families now spend nearly twice as much of their income on college tuition as families did in 1980.

(4) A college education has become less affordable as undergraduate public school tuition has increased substantially in the years preceding 1998.

(5) In the 1997–1998 school year, average undergraduate tuition and fees—

(A) for public 4-year institutions of higher education were $3,111, representing a 97 percent increase from the 1988–1989 school year; and

(B) for private 4-year institutions of higher education were $13,664, representing an increase of 71 percent from the 1988–1989 school year.

(6) In the 1996–1997 academic year—

(A) over $580,000,000 in Federal Supplemental Educational Opportunity Grants were disbursed to more than 990,000 students;

(B) $760,000,000 in Federal funds supported more than 700,000 students in the Federal Work-Study Program; and

(C) more than 700,000 students borrowed approximately $940,000,000 in Federal Perkins Loans.

(7) In the 1996–1997 academic year, Federal loan programs provided over $30,000,000,000 in financial aid to students.

(8) Student financial aid in the form of loans is disproportionate to the amount of financial aid received through grants. In 1980, approximately 40 percent of Federal student financial aid was distributed through loans. In the 1996–1997 academic year, 60 percent of Federal, State, and institutional student financial aid was distributed through loans.

(9) As the proportion of Federal grants continues to decline, students and families will have to consider alternative ways to finance a college education.

(10) In the 1970s, Federal Pell Grants financed ¾ of the costs at a public 4-year institution of higher education and ⅓ of the costs at a private 4-year institution of higher education. In contrast, in the 1996–1997 academic year, Federal Pell Grants financed ⅓ of the costs at a 4-year public institution of higher education and ½ of the costs at a private 4-year institution of higher education.

(11) While student dependence on Federal loans programs has increased, the default rate on those loans has decreased. According to the Department of Education, in fiscal year 1990, the national default rate on federally insured student loans was 22.4 percent. In fiscal year 1994, the national default rate declined to 10.4 percent.

(12) The National Commission on the Cost of Higher Education concluded in the report of the National Commission that Federal student aid grants have not contributed to increases in tuition while the evidence is inconclusive regarding the impact of Federal student loans on increases in tuition.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the cost of tuition at institutions of higher education continues to increase at a rate above the Consumer Price Index, affecting the nearly 20,000,000 students at all levels, resulting in an increase in the number of students seeking Federal loans and Federal grants;

(2) efforts should be made to address the disproportionate share of Federal student aid in the form of Federal student loans compared to Federal student grants available for students at institutions of higher education; and

(3) Federal incentives provided to public and private institutions of higher education may be an effective way to limit tuition growth.

SEC. 799A. SENSE OF CONGRESS REGARDING TEACHER EDUCATION.

(a) FINDINGS.—Congress finds that—

(1) the education of teachers is a university-wide responsibility requiring the integration of subject matter and teacher education course work across faculties with multiple site-based clinical learning experiences;

(2) teachers well prepared in both subject matter and good professional practice are essential to raising the achievement levels of our Nation's students, especially in mathematics and the sciences;

(3) teacher educators, substantive experts, and kindergarten through grade 12 teachers need to interact with one another through shared experiences that incorporate school-site-based knowledge into the teacher preparation curriculum;

(4) partnerships between practitioners and academics working together in all phases of teacher education improve the quality of such education and create incentives for teachers to pursue excellence in their teaching;

(5) individuals may be more likely to choose teaching as a career if more flexible teacher preparation programs, tailored to the needs and experiences of the individuals, with multiple entry points and pathways into the teaching profession, are made available;

(6) strong leadership skills of school principals are essential to improving the quality of teaching and academic achievement of all students;

(7) collaboration among teacher educators, other university faculty, elementary and secondary schools, and community colleges facilitate, strengthen, and renew all the individuals and entities participating in the collaboration.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) Federal programs, including the Federal Work-Study Programs, should encourage students, particularly prospective teachers, to become involved in supervised tutoring and mentoring activities in kindergarten through grade 12 schools;

(2) institutions of higher education, kindergarten through grade 12 schools, local educational agencies, States, and the Department of Education should enter into partnerships to identify and prepare promising candidates as future education leaders and to provide continuing professional development opportunities to current principals and other education leaders;

(3) options for access to teacher preparation programs and new avenues to careers in teaching should be expanded to reach professionals seeking second careers and individuals whose prior experiences encompass critical subject areas such as mathematics and the sciences;

(4) partnerships between institutions of higher education and kindergarten through grade 12 schools should emphasize contacts between faculty and the business community to align expectations for academic achievement to create a more seamless transition for students from secondary to postsecondary schools and to the workplace; and

(5) Congress should focus on identifying, replicating, and facilitating the expansion of exemplary partnerships between institutions of higher education and kindergarten through grade 12 schools, with particular emphasis on partnerships targeted toward fostering excellence in kindergarten through grade 12 school leadership, attracting and preparing qualified professionals for new careers in teaching, helping teachers incorporate technology into curricula, and aligning the curricula and expectations for student achievement in secondary schools and institutions of higher education, and for the workplace.

The PRESIDING OFFICER. The Senator from Vermont.

PRIVILEGE OF THE FLOOR

Mr. JEFFORDS. Mr. President, I ask unanimous consent that Pam Moran, a fellow with the Committee on Labor and Human Resources, be allowed the privileges of the floor during consideration of S. 1882, the Higher Education Amendments of 1998.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JEFFORDS. Mr. President, I am extremely pleased that the Senate is considering S. 1882, the Higher Education Amendments of 1998. This legislation extends for 5 years the authorization of programs under the Higher Education Act and makes significant improvements in student benefits and in the operation of these programs.

The Higher Education Act is among the most significant statutes under the jurisdiction of the Committee on Labor and Human Resources. Since its inception in 1965, the Act has been focused on enhancing the opportunities of students to pursue postsecondary education. This legislation will make college more accessible for more Americans by increasing the amount of Pell grants and lowering interest rates for student loans. By increasing the access and quality of higher education, this bill will help ensure that our nation remains a leader in educational excellence for all of our citizens. By giving more students the ability to attend college, we are giving them the opportunity to pursue their dreams.

136 years ago this week, Senator Justin Smith Morrill from Vermont led the effort in the United States Senate to pass the Land Grant College Act of 1862, which opened the doors of higher education to all Americans. Today, I am proud to follow in Justin Smith Morrill's footsteps and urge the Senate to pass this important bipartisan legislation which will make the dream of getting a college education become a reality for millions of students across this nation.

Over the years, the federal effort in this area has been substantial and will continue to be so. The Higher Education Act currently provides $48.5 billion in student financial assistance for 8.5 million students and $216 million for institutional development. In 1995-96, 55 percent of undergraduate students received financial aid under this Act. Over the next ten years, the Federal Government will guarantee over 88 million student loans—totaling over $383.5 billion. Over the next five years, the Federal Government will provide more than 25.4 million Pell Grants.

The reauthorization bill we are considering today preserves the focus on students—who are the primary reason we have a Higher Education Act in the first place. Students now in school will be assured of receiving the lowest interest rate in nearly two decades on their loans. Students now in high school who aspire to a college education will benefit from an expanded early intervention program known as CONNECTIONS, as well as continuing to receive services from the time-tested and highly regarded TRIO programs.

Students who have graduated and are faced with exceptionally high loan burdens will be able to take advantage of extended repayment options under the guaranteed loan program. Recognizing the toll which ever increasing college costs are placing on students, the bill builds on recommendations of the National Commission on the Cost of Higher Education so that students and their families can obtain useful cost information.

This bill reflects a strong commitment to the maintenance of two viable loan programs—the guaranteed or Federal Family Education Loan Program (FFELP) and the Direct Loan Program. Among the most challenging tasks facing the committee was developing a student loan interest rate which could offer the lowest viable interest to students while assuring sufficient lender participation to preserve full access to loans. After nearly a year of consultation with students, lenders, representatives of the higher education community, the administration and financial services experts, the committee developed a compromise interest rate package. Lender yield is reduced by 30 basis points while students receive the significant interest rate reduction they have anticipated. This solution is by no means perfect, but it promises to preserve the stability of the FFEL program for the nearly 4 million students and their families who depend upon these loans each year.

The legislation also includes a new guaranty agency financing model—the goal of which is to achieve cost savings and efficiencies in the delivery and administration of student aid while ensuring that students, lenders, the Federal Government, and institutions of higher education receive high quality service. Additional efforts to improve the delivery of student aid programs include the development of a Performance Based Organization (PBO) to strengthen the management of key systems within the Department of Education. A number of provisions in the legislation also pave the way toward taking advantage of the efficiencies made possible through electronic processing and other technological advances.

Looking toward the future, the bill contains several provisions dealing with the Year 2000 computer problem. The Office of Management and Budget has raised serious questions about the Department of Education's ability to meet the timetable outlined by the General Accounting Office for the testing of software renovation work. Failure to renovate all mission critical systems could result in disruptions in the management and delivery of student financial aid to more than 8 million students. This is an area in which the committee will be following closely in the months ahead.

Perhaps the most exciting and far-reaching innovation in this legislation is its provisions dealing with teacher preparation. The bill before us eliminates some 15 small, categorical teacher training programs—only one of which receives funding—and replaces them with a comprehensive model for change and improvement. The teacher quality provisions included in title II of S. 1882 are an important first step towards really improving teacher training. I think it will be viewed as one of the lasting achievements of this reauthorization.

It represents a collaboration of good ideas from many members of the Labor and Human Resources Committee, each who spent a great deal of time on this matter. The result is a proposal that breaks away from "business-as-usual" practices, and encourages States and education partnerships to reform their efforts to meet the needs of students in today's classroom.

At its foundation, title II embraces the notion that investing in the preparation of our nation's teachers is a good one. Well prepared teachers play a key role in making it possible for our students to achieve the standards required to assure both their own well being and the ability of our country to compete internationally. In fact, the continued health and strength of our nation depends on our country's ability to improve the education of our young people. Integral to that is the strength and ability of our nation's teaching force. Without a strong, competent, well prepared teaching force, other investments in education will be of little value.

The bill takes a two-pronged approach to helping assure that our nation's elementary and secondary school teachers will be thoroughly prepared to offer the quality of instruction needed to assure that students achieve the standards we need and expect. Working at both the state level to promote system-wide reforms and at the local level to develop partnerships to enhance the quality of teacher training, the bill offers a comprehensive and systematic approach to this pressing national need.

Title II demands excellence from our teacher preparation programs; encourages coordination; focuses on the need for academic content knowledge and strong teaching skills; and fosters state innovations in establishing more rigorous standards and exploring alternative certification. These efforts recognize the fundamental connection that exists among states, institutions of higher education, and efforts to improve education for our nation's elementary and secondary school teachers.

The teacher training provisions included in this bill are unique in other ways as well. In particular, the committee included very strong accountability measures as part of this title. In order to maintain a grant, a State or a partnership will have to show improvement—measurable results—that go to the heart of learning.

It is important to consider the title II provisions in the context of education reform because, as I have said before, good teachers are at the core of educational improvement.

It has been 15 years since the national crisis in education was raised by the "A Nation At Risk" report. The admonition was given in these terse words: If a foreign government had imposed on us our educational system we would have declared it an act of war.

Yet little has changed. There is some improvement in science but little in math. Children are coming to school slightly more prepared to learn, but this is primarily in the area of health.

It is obvious that nothing is going to change unless it changes in the classroom. And nothing will change in the classroom until the teachers change. And the teachers can't be expected to change until they have help in knowing what is expected of them.

In the most recent Goals 2000 Report issued last November, we learned that in more than 40 States there was no change in the percentage of teachers who reported that they held a degree or held a teaching certificate in their main teaching assignment. In 33 States no change was reported in the proportion of beginning public school teachers who participated in a formal teacher induction process.

Dindo Rivera, who travels about the county for IBM raising this issue, likes to explain it this way: If you were an office worker and had fallen asleep as Rip Van Winkle did for twenty years and walked into a modern office you would go into catatonic shock at trying to do anything from answering the phone to typing a letter. However, if you were a school teacher when you walked back into the classroom after your slumber, you'd feel right at home in your subjects.

Some changes are occurring. The concept of social promotion initiated in the sixties is being challenged but creating serious problems for schools requiring remedial help. Literacy programs are being initiated to stop or reduce the inflow of non-readers. But as to the crisis of math and science and other critical subjects, we have seen little in the way of results.

Pointing a finger at the colleges of education is not inappropriate. They need to change. They must ensure that graduates are capable of facing today's challenge—not yesteryears. But they are unlikely to change unless the universities that host them pay attention to them. Often times, the schools of education are treated as step children. In most cases the degrees issued are not enough to increase their capacity to teach updated courses—and these updated courses are sorely needed.

We must focus attention on this issue. We should fully fund the new Title II Teacher Quality Program that is included in this bill. We should also call together the presidents of the universities to challenge them to take immediate action to remedy the crisis. We must enlist the teachers and the teachers unions and insist that they too help out.

The Higher Education bill before us does make strides in the direction of reform and improvement. Still, we must do even more to raise awareness of the problem and the need to change. The number of teachers is not as important as the quality of teachers. On the Federal level we must focus on promoting and ensuring quality. We don't necessarily need millions of new teachers—what we really need are millions of good teachers.

The need for good teachers has been recognized. The Hunt Commission Report, "What Matters Most: Teaching for America's Future" has a goal of providing 100,000 nationally accredited teachers. But their goal is too far off into the next century. Their goal would provide one teacher for every school. We need one for every classroom and, most certainly every new teacher graduating must be trained to be a good teacher. Every teacher's college must meet that challenge and every present teacher must be given the training to be a good teacher. The present bill takes a giant step in that direction.

In closing, I would like to acknowledge the long hours and hard work of members of the Labor and Human Resources Committee and their staffs over the past 18 months as we have worked to develop this legislation. Even with the substantial streamlining we have done in the Act, a thorough review of all its provisions is a large and challenging task. At this time, I would like to offer particular thanks to the ranking minority member, Senator KENNEDY, to Senator COATS, and to Senator DODD. These three members have gone well beyond the extra mile in helping to forge a bipartisan approach to improving the lives of American students. Throughout committee deliberations, there have been legitimate differences of opinion. The spirit of cooperation and the commitment to working through these differences has allowed us to present to the Senate a solid piece of legislation which I believe every member of this body can proudly support.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I yield for a consent request.

PRIVILEGES OF THE FLOOR

Mr. WELLSTONE. Mr. President, I ask unanimous consent that Erin Shanahan, Sarah West and Micky Holmes, interns and fellows, be allowed on the floor during the debate and votes on the education bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGES OF THE FLOOR

Mr. KENNEDY. Mr. President, I ask unanimous consent congressional fellow Jennifer Krone and Jim Butler be granted floor privileges.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, at the outset, as we begin this debate on the Higher Education Act, I thank my good friend, the chairman of our committee, Senator JEFFORDS, and all of the members of the committee for their broad support for this legislation and for the workmanship which was reflected in this product over a considerable period of time.

This legislation was reported unanimously out of our committee, and I think it reflects the best judgment of the members of the committee. I am particularly impressed by the work of our friends and colleagues on the Republican side—Senator COATS, Senator

COLLINS, and many of the others, members who were very, very much involved; and on our side, Senator DODD, Senator MURRAY, and many, many others whom I will refer to in my opening comments as well. This has been really a very strong bipartisan effort.

Those of us who have had the honor to serve on the Education Committee for a number of years have always felt that education is something which should have a special position in the thinking of not only the families of America but elected officials in trying to find a common ground in these areas that are so important to families across this country. This bill reflects that continued effort by the membership of the committee.

We have strong differences on some policy issues, which we have seen in recent hours and recent days, which we will see coming through these next several weeks, the next 35 days that we are in the Senate. Thankfully, we have been able to keep that kind of view out of the consideration of this legislation.

There will be several amendments from our side and from the Republican side. Those are based upon rather thoughtful consideration and thoughtful differences on education policy, but they are certainly serious amendments and thoughtful ones, and we look forward to addressing these issues as we move ahead.

We are very hopeful that we can move this legislation, because of its importance, to an early conclusion with due opportunity for the membership to express their views.

I want to pay particular tribute, as I mentioned, to the chairman of our committee, Senator JEFFORDS. He has had a longstanding, continuing commitment to a number of different issues in our Human Resources Committee, but I believe personally the commitment in terms of education generally has been a very special interest. He has been absolutely tireless in working with all the members of the committee to bring this product forward. All of us are grateful to him and to his staff for all of the efforts they have made and for the strong and good leadership that he has provided in fashioning this legislation.

Our goal in this bill is to strengthen the Federal support for higher education. A recent study from the Institute of Higher Education Policy summarizes the public and private benefits of higher education, both economic and social. As you can see on this chart, higher education provides major economic benefits, such as increased tax revenues, greater productivity, increased flexibility in the workforce.

We are all mindful that when we had the GI bill after World War II, for every dollar that was invested in the GI bill, more than $8 was actually returned by those who participated in those scholarship programs. The Nation benefits, the individuals benefit, our communities benefit, America benefits, and our position in the world and our values in the world benefit from the strong investment that we make in education and by the extraordinary talent that we have in the young people of our country.

This legislation provides vital social benefits as well. College graduates have greater involvement in their communities, give more to charities. They also show an appreciation of diversity that is vital in our increasingly complex society. This legislation expands access to college for all qualified students. It increases the maximum authorization for Pell grants for the neediest students and expands the formula for need analysis to protect more of the income of working parents and students.

The bill also continues the critical investments in graduate education through the program of Graduate Assistance in Areas of National Need and the portable Javits fellowships for talented students in the arts, humanities, and social sciences.

The bill also will enable colleges to work with faculty and administrators to improve teaching for students with disabilities. Many more students with disabilities are benefiting from higher education, and faculty members often have little experience in teaching these students. This bill reaches out to all colleges and universities and includes training in this area for graduate teaching assistants—the faculty of the future.

The bill takes a major step in improving training of teachers. Senator JEFFORDS has spoken to that issue in very considerable detail, but let me underline some points on that subject.

Fifty percent of the funding in this category goes to local partnerships that include elementary and secondary schools, colleges, and even teachers unions, businesses, and community organizations. The other 50 percent goes to competitive grants to State education agencies.

The bill also includes greater loan forgiveness for teachers. It forgives up to $8,000 of loans for teachers who teach at least 3 years in high-need schools. Many college graduates with heavy debtloads cannot afford to go into teaching in schools that need help the most. This program will make it easier for idealistic young men and women to work with the needy children.

The bill also includes early intervention initiatives to encourage students to plan for college as part of their future. One of the greatest tragedies of education today is that so many young students in elementary school, middle school, and high school regard college as out of reach.

I know many of our colleagues have had the opportunity that I have had in going out and talking to middle-school students around our States. You ask those young people, those young students, "How many of you would want to go to college?" and almost before the words come out of your mouth, every hand goes up in that classroom. There is a great desire, a great interest, on the part of these young students to continue their education.

Then something happens as they go through eighth and ninth grades and begin to become more disillusioned about the possibilities of going on to college and continuing their education, perhaps somewhat more realistic about some of the financial obligations that they have. It is not completely separate from the fact that the increased use of drugs in the eighth and ninth grades increases about 300 percent to 350 percent. The time when kids are beginning to cool off in terms of their realization of the possibilities for their continuing on to higher education corresponds to the period of dramatic increase among young people in terms of substance abuse.

Mr. President, the hope and the desire of young students in our society to go on to higher education is there in the middle schools, and so many of them are discouraged from doing so. This happens at a time when there has been a corresponding record of increased use of illegal substances. Many people believe it is the increased use of the substances that have discouraged students.

On the other hand, there are many others who believe that these young students, when they find out they will not have the opportunity to go on to higher education or continue their education, become discouraged, in many instances despondent, lose interest and subject themselves to the adverse behavior that some young people involve themselves in.

The whole question in terms of trying to reach out to these students in elementary school, middle school, and high school is very, very important. We need to do what we can to change that distressing mindset. This bill is a major step in that direction.

The bill also expands the Federal aid for student learning through distance education. The managers' package broadens the demonstration programs, and allows the use of Federal aid for certain distance education certificate programs.

Distance learning can open the doors of higher education to many who cannot attend classes because they live in remote areas or because of their job or family responsibilities. Some have some special needs, as well. But we must also ensure that the promise of these programs do not lead to abuses. The bill calls for the Department of Education to monitor these changes in distance education, and to report to Congress on the result.

Another important provision in the bill calls for the creation of a Performance Based Organization in the Department of Education. Its goal is to streamline and improve the financial aid functions of the Department, and give it more flexibility to deal with the many aspects of Federal aid.

The bill also enables guaranty agencies to enter into voluntary flexible agreements with the Secretary of Education. It will be more businesslike and will focus more heavily on preventing defaults. The guaranty agency in Massachusetts has been in the forefront of this reform.

Under these arrangements, guaranty agencies can concentrate on preventing defaults instead of simply collecting from students after they have defaulted on their loans. Under current law, these agencies are paid too much when the students go into default and they are not paid enough to prevent the defaults in the first place.

In a pilot project, the Great Lakes Guaranty Agency reduced its default rate by 96 percent, 96 percent over 18 months by emphasizing the prevention of defaults. This is a win-win-win idea. The student borrowers win because they avoid default and ruining their credit. Government wins because it saves millions in reinsurance payments. The lenders win because the loan continues to earn interest in their portfolios.

This bill accommodates the concerns of many individuals. Senator TORRICELLI in his bill, S. 1534, says students who are called to active duty in the Reserves of our Armed Forces will not have to worry about repaying their student loans before they return. Senator MOSELEY-BRAUN sponsored a program to encourage more individuals from underrepresentative groups to become college professors. Senators SARBANES and MIKULSKI spearheaded efforts to include the Thurgood Marshall Legal Education Opportunity Program.

The major issue in this bill is the interest rate on student loans. The bill reduces the interest rate that students will pay on loans by almost 1 percent, a substantial benefit for students. The average borrower with a loan of $12,000 will save $650 in interest payments over the 10-year life of the loan. The average master's degree student with a debt of $20,000 will save more than $1,000. For borrowers with larger loans, the savings will be even greater.

Unfortunately and unwisely, the bill trims the rates paid to banks only slightly. As in the House bill, students will pay the same lower interest rate to the banks that they pay to the Government in the Direct Loan Program. But the bill offers a sweetheart deal to the banks by giving the banks a half of a percent interest rate subsidy. This subsidy means that bank receipts will go down only slightly from the excessive receipts they receive under the high interest rates now in effect. It is estimated that the average bank return on student loans will be 16 percent—far higher than the average bank return of 12 percent on its overall assets since 1970.

This interest rate subsidy will be paid by the taxpayers. The Congressional Budget Office calculates that the costs will be at least $1 billion over 5 years and maybe as much as $3.6 billion. The Office of Management and Budget calculates that this subsidy will cost $2.7 billion over that period, a cost that is not paid for under the bill.

This failure could trigger a sequester of mandatory inventory programs in October, including Medicare, and we need to deal with this problem more effectively. The best solution is to change the current system under which Congress sets the interest rates the banks can charge. Instead, we should adopt, I believe, a market-based system for interest rates, not one based on price fixing by Congress.

We are considering offering an amendment that allows the Secretary of Education and the Secretary of the Treasury to conduct pilot programs using auctions as an alternative for setting these interest rates. Competition should determine how much of a premium lenders need in order to offer and service these loans. The results of the pilot programs would be reported to Congress and full-scale implementation would follow only after a subsequent vote of approval by Congress. These pilot programs will give Congress the information to make a sensible decision providing adequate incentives to the banks without gouging students or taxpayers.

I look forward to final Senate action on this bill. I commend the constructive bipartisan spirit that has brought us to this point. Our colleges and universities deserve no less.

Mr. GRAHAM. Mr. President, I ask unanimous consent for a period of morning business for the purposes of making a statement for 10 minutes.

Mr. McCONNELL. Mr. President, reserving the right to object, we have a Senate agreement we want to propound momentarily regarding an emergency piece of legislation that has now been cleared on both sides. I don't want to interrupt the Senator from Florida, but we are anxious.

Mr. GRAHAM. I modify my unanimous consent request to first provide for the Senator from Kentucky to proceed as indicated.

Mr. JEFFORDS. Reserving the right to object, I know we are trying to get the opening statements out with respect to this bill. Senator COATS, I know, has been waiting. Senator DODD is also waiting. So at this point I object until at least those two Members are taken care of.

The PRESIDING OFFICER. The Senator from Florida has the floor.

Mr. GRAHAM. Mr. President, it had been my understanding that unanimous consent requests could be made after Senator KENNEDY's statement, but if the Senator from Vermont would like to have other opening statements, I modify my unanimous consent request that I have 10 minutes of morning business immediately upon the completion of the statements by the Senators from Indiana, Connecticut, Minnesota, and any other members of the committee wishing to do so—that at that point, I have 10 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. McCONNELL. Mr. President, I have been told it is only going to take a minute to run a hotline on the Democratic side, after which I would like to propound, on behalf of myself and Senator BIDEN, a unanimous consent agreement. This whole matter will take just a minute or so. I would like to, with the consent of my colleagues, get that out of the way here before the debate continues, if the Senator from Vermont finds that acceptable.

The PRESIDING OFFICER. Is there objection?

Mr. KENNEDY. Mr. President, the Senator has this consent request. I hope he will offer it and we can consider it, if the leadership so desires. I would certainly support it. Can't we wait until we get the agreement?

The PRESIDING OFFICER. The Senator from Florida has the floor.

Mr. KENNEDY. I object then.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Mr. President, let me restate my unanimous consent, which is that upon the completion of the opening statements of the members of the committee, I be allowed 10 minutes as in morning business for a statement on the wildfires in Florida.

The PRESIDING OFFICER. Is there objection?

Mr. WELLSTONE. Mr. President, I will not object. I just say to my colleague, I am pleased to speak right after him. I just ask that other colleagues will speak, and I would like to speak after the Senator from Florida.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Connecticut is recognized.

Mr. DODD. Mr. President, let me thank my colleague from Florida for his graciousness. For the purposes of getting the opening statements out, it is worthwhile to hear those who have worked over the past year or more to put this piece of legislation together.

Let me begin by commending the distinguished chairman of the committee, Senator JEFFORDS of Vermont, and the distinguished ranking Democrat, Senator KENNEDY, and my colleague from Indiana, Senator COATS, for their tremendous efforts here to put this higher education bill together.

Mr. President, there are very few pieces of legislation that we will consider in this Congress that are as important to American families as the one we take up today.

I see my colleague from Kentucky. Does he wish me to yield?

Mr. McCONNELL. If the Senator will yield for a moment, the unanimous consent agreement has now been cleared.

Mr. DODD. Without interrupting the flow of the debate and without yielding my right to the floor, for the purposes of propounding the unanimous consent agreement, I will yield to the Senator from Kentucky.

UNANIMOUS CONSENT REQUEST—S. 2282

Mr. McCONNELL. Mr. President, I ask unanimous consent that at 2 p.m. today, the Senate proceed to the consideration of S. 2282, which I send to the desk, and that it be considered under the following agreement: 2 hours on the bill, equally divided between myself and Senator BIDEN or our designees; that no motions or amendments be in order; that following the conclusion or yielding back of the time, the bill be advanced to third reading, and the Senate proceed to vote on passage of the bill, all without any intervening action or debate.

Mr. BIDEN. Mr. President, that has been cleared on the Democratic side.

The PRESIDING OFFICER. Is there objection?

Mr. DODD. Reserving the right to object, Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator from Kentucky has the floor. Is there objection?

Mr. KENNEDY. Reserving the right to object——

Mr. DODD. I will object for a moment.

The PRESIDING OFFICER. Objection is heard.

Who seeks recognition?

Mr. McCONNELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. GRAHAM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAHAM. Mr. President, I ask unanimous consent that the 10 minutes I reserved previously be available to me at this time.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Florida is recognized.

FLORIDA'S FIRE CRISIS

Mr. GRAHAM. Mr. President, I am here with a sense of disappointment in that the President of the United States today is visiting my State and, particularly, visiting areas of the State that have recently been ravaged by an unprecedented series of wildfires. I regret that because of the schedule of the Senate, particularly the votes we have just taken this morning and those we will take later in the day, I was unable to accept the President's invitation, which he had generously extended to my colleague, Senator MACK, and myself. Therefore, I would like to take this opportunity to make a statement to my colleagues as to the circumstances in Florida.

Mr. President, next month—on August 24—Floridians will observe the sixth anniversary of one of the worst natural disasters in recent memory: Hurricane Andrew.

Many of my colleagues will remember that Andrew roared ashore in the middle of the night and vented its fury on the people of South Florida. The storm severely disrupted the lives of thousands of families. It damaged 128,000 homes and left approximately 160,000 people homeless. The insurance industry estimates that Andrew cost our state nearly $30 billion.

Perhaps even more sobering than these numbers is the knowledge that the devastation and loss of life would have been even worse had the storm struck just twenty miles to the north, in the heart of downtown Miami.

These facts demonstrate the unprecedented nature of Hurricane Andrew's destructive force.

But perhaps even more unprecedented was the tremendous generosity shown by people outside of Florida in the aftermath of Andrew's driving rains and fierce winds. Americans from every corner of our nation put their lives on hold to assist those Floridians whose lives had been turned upside down by Mother Nature. Some sent food and supplies. Others packed up cars, loaded vans, and boarded buses so that they could join relief efforts.

State disaster agencies lent personnel, expertise, and know-how to the Florida Department of Community Affairs in its clean-up efforts.

This enormous outpouring of support by Americans for people they had never met and neighborhoods they had probably never visited reaffirmed our belief in the vitality and essential goodness of the human spirit.

This August, Floridians will remember Hurricane Andrew with another natural disaster on their minds. Since May 24, a deadly combination of intense heat and prolonged drought has sparked more than 2,000 forest fires in Florida's 67 counties. Even for a state that is experienced in dealing with natural disasters, these fires have been spawned during what may be one of the worst years in Florida meteorological history.

In late January and early February—in the midst of our state's dry season—several Northern Florida counties were deluged by massive floods. Not long after, parts of Central Florida were devastated by thunderstorms and tornadoes that are more typical in the summer months.

The fire crisis is the latest example of our state's climactic reversal of fortune in 1998. Florida's hot summer temperatures are typically accompanied by afternoon thunderstorms and tropical weather. This year's heat and drought, and the lush undergrowth and foliage that sprung up in the wake of Florida's unusually wet winter, combined to fuel the fires that have put the state under a cloud of smoke and chased nearly 112,000 residents from their homes—7,040 of them into emergency shelters.

The numbers that I have just cited, and those that I will provide hereafter, are the result of analyses done by local and State emergency agencies and the Federal Emergency Management Agency.

These fires have had severe consequences. More than 350 homes, businesses, or buildings have been destroyed or heavily damaged. Nearly 100 individuals, mostly brave firefighters battling the blazes, have been injured.

Fortunately, as of today there have been no lives lost directly as a result of the wildfires.

A 140-mile stretch of Interstate 95 which was closed for several days was recently reopened. Four hundred and eighty-three thousand acres of land have been burned. As of the current estimate of damage, with higher estimates anticipated as a full economic accounting can be completed, there has been damage sustained of almost $300 million to private interests and over $100 million in costs to local, State, and Federal Governments.

In a step never before taken in Florida's long history with violent weather, on Friday of last week every one of the 45,000 residents of Flagler County, a county that is just north of Daytona Beach, had to be evacuated from their homes. That evacuation continued over the Independence Day weekend.

I happened to be with Governor Chiles when he made that mandatory evacuation order. There is no more difficult requirement of a Governor than to order people out of their homes for their safety. Governor Chiles was resolute, he was prompt, he was compassionate in that order, and it no doubt resulted in substantial saving of lives, of potential injuries, and the homes of those persons who were evacuated.

Mr. President, Mother Nature has once again subjected Florida to unprecedented weather conditions.

But with the memories of recent disasters, such as Hurricanes Opal and Andrew, and the aftermath still fresh in our minds, we know that the national response to our pleas for help is anything but unprecedented and are moved by the immediacy of America's heartfelt offers of assistance.

The Clinton Administration and Federal Emergency Management Agency (FEMA) moved quickly to ensure that Florida could rely on the federal government as a full partner in its battle against the fires. On June 19, President Clinton declared all 67 Florida counties as a major disaster area and made them eligible for immediate federal financial assistance.

In the weeks following that declaration, FEMA officials have skillfully coordinated relief efforts and worked hard to channel additional aid to the hardest hit areas. We greatly appreciate the continued efforts of FEMA Director James Lee Witt and his agency. Director Witt has spent much of his six years on the job in the Sunshine State—responding to Hurricane Opal, floods in North Florida, tornadoes in Central Florida, and now fires in every corner of the state.

I commend him and his fellow FEMA employees for their long-standing dedication to helping Floridians recover from Mother Nature's wrath.

But it is not just FEMA that has responded to this crisis. Americans from 44 states are fighting side-by-side with Floridians to prevent these fires from endangering families and engulfing even more homes, businesses, and roads. For example, U.S. Marines, National Guardsmen, and National Weather Service meteorologists from all over the country have converged on Florida. Two hundred and twenty-six firefighters and 53 firefighting vehicles have been airlifted from California, Oregon, and South Dakota, states whose residents are not strangers to violent weather and natural disasters.

North Carolina, a state that is even more heavily forested than my own, has sent 47 fire trucks and 95 firefighters to Florida.

Pennsylvania, which lost more than 2,200 citizens in less than ten minutes during the catastrophic Johnstown flood of 1889, has contributed 80 volunteers to combat this natural disaster in 1998.

So many states have donated equipment that two-thirds of all the firefighting helicopters in the United States are now working in Florida.

Even foreign governments have been eager to lend a hand. As Miami Herald Staff Writer Cyril Zaneski reported on July 4th, the Canadian provinces of Quebec and Ontario "offered firefighting tanker planes capable of dropping about 9,500 gallons of water an hour and refilling their tanks without landing."

I am pleased to announce that the Herculean efforts of these brave firefighters have not been in vain. The tide is turning.

Over the last few days, those Floridians who were forced from their homes have returned. Most of the fires have been brought under control. Meteorologists are predicting lower temperatures and more rain in the coming days. We have not reached the end of this crisis—but I am hopeful that this good news marks the beginning of the end.

Before I conclude today, I want to share a story that I think demonstrates why Floridians are so grateful for the efforts of our friends from around the nation.

An article in the Columbus Dispatch on July 6 chronicled the efforts of two Ohio firefighters in Central Florida. I'd like to read part of that article, and I ask that the full text be included in the RECORD.

Around every corner, behind every door and over every store counter, the stories just keep coming—stories of gratitude to the men and women who have come from all over to stare down an inferno.

There's the woman originally from Maine who invited all Maine firefighters to stay with her.

There's the firefighter from Western Florida who, try as he might, wasn't permitted to pay for a pair of boots at Wal-Mart.

There's the laundry owner from nearby DeLeon Springs who offered to wash buckets full of sooty, sweaty socks.

And then there's the free eye drops and sunblock, the free bottled water and Gatorade by the truckload, the free food cooked up in every possible pot, from residents' kitchens to popular restaurants.

Mark Puhl, a firefighter from Nelsonville, Ohio, who arrived in Deland with a relief crew Saturday night, got an early taste of the appreciation. "Usually response like this comes through toward the end of a job," he said. "But we had people in the airport thanking us in advance."

His colleague, Lea Ann Parsley of Granville, Ohio, understood. The wildfires she typically fights are in sparsely populated areas out West. "We're usually protecting timber," she said. "Here we're protecting people's homes. It hits home a lot more."

Mr. President, I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Columbus Dispatch]

FLORIDIANS TEND TO FIREFIGHTERS—FROM HAIRCUTS TO BOOTS, IT'S ALL 'ON THE HOUSE'

DELAND, FLA. (AP)—Around every corner, behind every door and over every store counter, the stories just keep coming—stories of gratitude to the men and women who have come from all over to stare down an inferno.

There's the woman originally from Maine who invited all Maine firefighters to stay with her. There's the firefighter from western Florida who, try as he might, wasn't permitted to pay for a pair of boots at Wal-Mart. There's the laundry owner from nearby DeLeon Springs who offered to wash buckets full of sooty, sweaty socks.

And there's the free eye drops and sunblock, the free bottled water and Gatorade by the truckload, the free food cooked up in every possible pot, from residents' kitchens to DeLand's most popular restaurants.

"It's the only fire I've ever fought and gained weight," joked Jacob Wilkerson, a 29-year-old DeLand firefighter who has been attacking flames since Memorial Day.

DeLand, a town at the edge of disaster, might well adopt a Dalmatian as its mascot. In these jumbled, sweaty, smoky days, it has become a firefighters' community.

The town of 16,000, about 30 miles north of Orlando, is just beyond the area that the Florida wildfires have hit the hardest.

On the road, practically every third car is an emergency vehicle, some from as far as Canada, Colorado, California. Motels not jammed with evacuees from adjacent Flagler County are filled with firefighters, as are the dorms at Stetson University.

Signs—on store marquees and hand-stenciled on plywood, on towels, on bedsheets, on cardboard—are everywhere. Most say thanks; some simply tell firefighters to hang in there.

"We luv ya," says the Farm Bureau Insurance sign east of town. "Thank you for saving our home," said another, farther north.

It's understandable. DeLand has been choked for days by a haze of acrid smoke. Everyone realizes that if it's this bad here, it's far worse on the fire line.

"If it's difficult for us, what are they facing?" said Carlos Esquivel, 18, who just graduated from DeLand High School. "They could die out there."

Similar sentiments are heard in other fire's-edge towns. In Ormond Beach, on the Atlantic Coast, Tim Curtis has turned his restaurant, Houligan's, into a veritable arcade for firefighters, offering everything from massages to haircuts.

Here in DeLand, firefighters are astonished at the massive outpouring.

"I've never been to a place where their towns are burning down and they're worried about us," said Mike Caldaro, a firefighter from western Florida just back from a 23-hour workday.

He is one of 200 firefighters staying at Stetson University, which opened its dormitories for firefighters. His colleague, Edward Osborne, fought fires so hot they melted his thermal boots. When he went to Wal-Mart to buy more, the cashier handed back his money.

"She gave me my boots and she gave me a hug. I needed both," Osborne said.

Mark Puhl, a firefighter from Nelsonville, Ohio, who arrived in DeLand with a relief crew Saturday night, got an early taste of the appreciation.

"Usually response like this comes through toward the end of a job," he said. "But we had people in the airport thanking us in advance."

His colleague, Lea Ann Parsley of Granville, Ohio, understood. The wildfires she typically fights are in sparsely populated areas out West.

"We're usually protecting timber," she said. "Here we're protecting people's homes. It hits home a lot more."

Mr. GRAHAM. Mr. President, I am very pleased that the President of the United States is going to Florida today, meeting with the victims and thanking the firefighters for their valiant effort.

Mr. President, I have lived in Florida for more than sixty-one years.

In that time, I have never observed wildfires as widespread and unmanageable as those that have plagued our state for the last forty-four days.

On behalf of over 14 million Floridians, I offer my deepest thanks to the thousands of Americans who have voluntarily left their homes and risked their lives so that our state's fire victims might not lose theirs.

They are true heroes, and all of us who proudly call Florida our home are forever in their debt.

Thank you, Mr. President.

Mr. JEFFORDS addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. JEFFORDS. Mr. President, I yield to the Senator from Kentucky for the purpose of a unanimous consent request.

Mr. McCONNELL. I thank the Senator from Vermont.

UNANIMOUS CONSENT AGREEMENT—S. 2282

Mr. McCONNELL. Mr. President, this agreement has been cleared on both sides.

I ask unanimous consent that at 2 p.m. today the Senate proceed to the consideration of S. 2282, which is at the desk, and it be considered under the following agreement:

Two hours on the bill to be equally divided between myself and Senator BIDEN, or our designees; that no motions or amendments be in order except those agreed to by both managers; and that following the conclusion or yielding back of time, the bill be advanced to third reading and the Senate proceed to vote on passage of the bill, all without intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. McCONNELL. I thank the Senator from Vermont.

Mr. DODD addressed the Chair.

Mr. DODD. Mr. President, I will proceed as I started earlier. I apologize to my colleagues for the minor interruption. I wanted to make a correction on that unanimous consent agreement.

HIGHER EDUCATION AMENDMENTS OF 1998

The Senate continued with the consideration of the bill.

Mr. DODD. Mr. President, There are few pieces of legislation as important to American families as the bill we take up today—the Higher Education Amendments of 1998.

I have been pleased and honored to work with the chairman and the ranking member of the Labor and Human Resources Committee, and with Senator COATS of Indiana to put this bill together over the last year. I appreciate the tremendous effort of Senator JEFFORDS, Senator KENNEDY and Senator COATS on this bill, which is going to move I think rather expeditiously. There will be some amendments, but it is a tribute to the efforts of the membership of this group and their staff that we have reached a point where we have this very, very important piece of legislation that has achieved as much harmony as it has. So I begin these brief remarks by commending them and the staff members who have put this bill together. And, together, we bring to the floor today a strong, bipartisan bill—a bill that American families need and deserve.

Mr. President, America has long been known as the land of promise. We take great pride in that as Americans. Those words are used at every national holidays—"a land of promise." I think the foundation of that promise has been, during the more than two centuries of our existence as a nation, education. A democracy as complicated, as sophisticated, and as subtle as ours could not succeed without an educated population. Education is also the root of our economic strength. Without an educated population, you cannot remain on the cutting edge of industry and business.

I think any successful national endeavor you talk about, Education is a critical factor in its success. It is the central theme that has created the kind of opportunity and success this Nation has enjoyed for so many years—particularly, I would add, higher education. This is no secret. Parents recognize that their child's success is, in no small measure, dependent on his or her educational achievement. Statistics bear this out. A person with a college degree earns twice as much as one with just a high school education.

But this issue is not only a concern of families. Higher education has also, as I said a moment ago, defined and shaped America's economy in the post-World War II era. Our economy has grown on the strength of knowledge-based, highly skilled industries and workers. This would not have been possible without our unparalleled network of universities and colleges and our Federal commitment to ensuring access to these institutions of higher learning.

Since the GI bill, millions of Americans have been able to attend college because of the assistance of their Federal Government. Today, in fact, 75 percent of all student aid is Federal.

Unfortunately, families increasingly worry that college is slipping beyond their grasp as college costs rise and student debt mounts. Studies suggest that even with the nearly $35 billion of Federal aid available each year, affordability is a significant factor for those at all income levels. For middle-income families, college costs are shaping students' decisions about where to attain their higher education and what type of careers they intend to pursue. For the neediest of students in our country, affordability of education is already affecting the fundamental decision of whether to attend higher education at all.

We cannot discuss the Higher Education Act, which is centrally about ensuring access to higher education, without discussing cost. I firmly believe that the choice of an institution, the choice of a career, and the choice of whether to attend college at all should not be based alone on the issue of cost—and for too many families today, it is.

Let's face it. Families are increasingly unable to cope with the cost increases that we see in higher education. According to a survey conducted by the American Council on Education, the public worries a great deal about the cost of attending college. They believe that college is too expensive, and they think that the cost can be brought down without affecting academic quality.

When asked what concerned them most about their children's well-being, respondents across this country in all income groups ranked paying for college as the second biggest concern. Their largest concern was use of illegal drugs. But right behind that was the cost of a higher education.

Today, 4 years at one of our Nation's leading colleges can easily total well over $120,000. Estimates are that the family of a child born today who might enter college at age 18 in the year 2016 could easily be looking at a cost of well over $250,000 for 4 years of college education at one of our nation's leading universities. In nearly all families, a letter offering financial aid is as, if not more, important than the actual letter of accepting the student into the college of their choice.

In the last 20 years, from 1977 to 1997, college costs—tuition, room and board—rose by an astounding 304 percent. During the same period, inflation rose by roughly half that figure, 165 percent. Let's look at just the tuition over the last 10 years.

Mr. President, I want to refer to a chart that will maybe help explain this a bit more graphically. As this chart indicates, while inflation between 1987 and 1996 rose by 38 percent, public 4-year college education rose 132 percent; private 4-year institutions went up 99 percent; and public 2-year institution's cost rose 85 percent.

Again, I come back to the Consumer Price Index. It went up 38 percent, and yet you see in tuition and fees rose at a significantly higher rate in every area of higher education, public and private, 2- and 4-year institutions as well.

As a result of these increases in the price of attending college, more and more students and families are going into debt in order to finance postsecondary education.

We take the first important steps in this bill, in my view, to make sure that the serious problem of rising college costs does not create a new class of haves and have-nots in terms of access to postsecondary education.

In particular, we have adopted many of the recommendations of the Cost of

College Commission formed by Congress last year. We streamlined regulatory requirements that may contribute to those costs. Most importantly, we adopted strong new disclosure requirements to assist families and policymakers with cost issues.

Mr. President, let me tell you, we come back year after year to this bill and this issue. And we do what I think we ought to do—we increase the financing for Pell grants, which has been of tremendous help to millions; we try to deal with student loan issues and make these necessary burdens easier to bear.

The Senator from Massachusetts, who knows this as well as anyone in this chamber, will tell you that he recalls it was not that many years ago when we had, in overall terms, 80 percent of our aid in grants; most students did not acquire debt as well as a diploma. We assisted students because we thought it was the right thing to do; there was a direct investment coming back. And 20 percent of our assistance to students was in the form of loans.

Today, those numbers are reversed. Students now rely on loans for over 80 percent of their aid. And so we come back each year. We get involved in the student aid issue, the Pell grant issue, a lot of other factors. At some point, we have to come back to these institutions and say: Look, how does it happen? How is it that the Consumer Price Index goes up 38 percent and yet your public 4-year institution has risen 132 percent in the same 10-year period, in 20 years up 304 percent, as opposed to a CPI number of 165 percent?

We can't come back here every 5 years and continue to monkey around with the student loan issue and to continue to try to come up with ways to meet the needs here as we watch debt accumulate and students making the choice to not go to college. We are seeing that today with a lot of needy students. They just decide they can't take on the financial burden. What a great outrage, what a great loss to all of us.

I am not suggesting there is any simple answer to this question, but one of the things that I like so much about this bill we have put together is that we are going to take a really hard look at this for the first time. This is not to suggest there may be some very clear answers as to why costs are rising. But this bill will finally help answer this central question.

We take several specific steps in the key area. First, our bill ensures that families will have the information they need to become good consumers when it comes to higher education. Today, you may be able to find cost figures for different institutions, but often times they don't match up and are hard to compare. The American Council on Education survey also revealed that the public does not know how much financial aid is available to help pay college bills, where it does come from, or how to get it.

These new disclosure provisions will provide families with timely, reliable, and comparable information on college costs as well as the availability of financial aid and educational loans for students who attend each institution so that they can exercise their power as consumers to choose institutions that are of high quality and of reasonable cost.

Secondly, Mr. President, the bill requires new information for policymakers on costs, including trends across and within sectors. Over the next few years, the National Center for Education Statistics will conduct a national study to examine how expenditures at institutions of higher education change over time, how such expenditures relate to college costs and ultimately the price of tuition for students. This study will attempt to explain why the price to obtain a higher education for each student has increased so much faster than the price for the institutions to provide an education for each student. Let me explain it in this chart here, if I can. From 1987–1997, the price for a public institution to instruct each student increased by 57 percent, but during that same period of time the price for each student to attend a public institution increased by 132 percent.

It is critical that this grave disparity be explained before policy makers can adequately address the issue of containing college costs.

Finally, we ask the Bureau of Labor Statistics to establish a market basket for higher education that will finally give us some clue as to what costs are reasonable.

These are crucial first steps that will help fill the knowledge gap on cost. But we must make sure these disclosure provisions work. The committee adopted an amendment that I offered to ensure that there are strong enforcement tools, such as a $25,000 fine to ensure that institutions cooperate in providing accurate information. Again, I don't have any reason to believe they won't. I am confident these institutions will want to participate in this kind of analysis. But just in case there are some who are reluctant, a little incentive is not a bad idea.

These provisions on college costs put colleges on notice that we are watching and we are not going to let pricing policies put college beyond the reach of too many Americans. It is far too important to them and, quite candidly, as has been said before, it is vitally important to all of us in this Nation.

This legislation also strengthens Federal financial aid programs which are lifelines to families who struggle with cost increases. We authorize an increase in the maximum Pell grant award and hope the appropriators and the budget committees will follow through with adequate funds. We also adjust the treatment of the neediest students' earnings to ensure that their families are not penalized in the award of aid because the students work, as I recommended in earlier legislation. We also expand campus-based aid programs like College Work-Study and low-cost Perkins Loans, to reach more students. We improve Federal student loan programs, providing extended repayment periods for students with large loan balances and by giving colleges more tools to help their students avoid expensive loans.

Most significantly, students are also guaranteed a substantially lower student loan interest rate. As the average debt of a student mounts to nearly $12,000 on average across the country, the relief that this nearly 1 point reduction in interest rates offers should not be undervalued. Again, I commend the chairman and the ranking Democrat, Senator KENNEDY, for being leaders on this issue and making a difference here that is going to save each student borrower in my State an average of $640. It could mean as much as $3,200 to those students who borrow for graduate and professional degrees. But for a family trying to make ends meet, $650 a year for a student loan is a lot of money. This will make a big, big difference.

Not surprisingly, the issue of student loan interest rate has been the most controversial and closely followed issue in this bill. I am very pleased that the solution we put forward today ensures that students will receive the long-term benefit substantially lower rates. However, I am disappointed that this bill expects taxpayers to bear much of the cost with a new subsidy to banks. I am unsure whether subsidizing the banks' returns on student loans is ultimately the best way to ensure affordability for our nation's students.

The legislation also takes important steps to address the needs of non-traditional students, whose participation in higher education is rising at an impressive rate.

We include new authority for the Secretary to explore the potential of distance learning. In the past, distance education too often meant correspondence courses with little merit and high cost. Today, the Internet, the World Wide Web and other emerging technologies offer new opportunities for quality, interactive learning right from a student's home. However, current law provides little opportunity for institutions and their students to explore these exciting opportunities. This bill broadly expands these opportunities and directs the Secretary to undertake and carefully monitor a demonstration program in distance education. I think this provision will be vitally important in meeting the needs of nontraditional students pursuing higher education.

The bill also includes another important initiative to increase access to post-secondary education—the Child

Care Access Means Parents in Schools Act, which I authored with Senator SNOWE. This bill will support campus-based child care centers meeting the needs of those nontraditional students who have children of their own. The face of college has changed. One of the key obstacles many of today's students face is locating affordable, quality child care. Campuses are a key place to meet this need. In Connecticut—I am sure it is true across the country—when you visit good college campuses, you find they build child care centers right into the campus design. This initiative will help strengthen these efforts and expand the reach of these critical programs.

Finally, this bill addresses the training of teachers. Colleges, of course, are our Nation's laboratories for teachers. This bill offers significant new support in this area. We have all worked hard to resolve the competing concerns and differing approaches, and the result, I believe, is a strong, comprehensive teacher training program that support state level initiatives and local partnerships. This two-track approach will ensure that colleges and schools that work together to improve teacher training will be rewarded at the state level with recognition for achieving higher standards. In another important initiative for teachers, this bill offers loan forgiveness for teachers working in high poverty schools. This effort will provide high qualified teachers with a powerful incentive to share their talents, skills and knowledge with the neediest children.

Beyond bringing student aid programs in line with today's realities, we take a key step to modernize and to improve the crucial student aid programs with the creation of a Performance-Based Organization within the Department of Education. This office will administer and deliver all Federal student aid. At nearly $35 billion a year, the complexity of this undertaking demands talent, energy, experience, and performance. This PBO, this Performance-Based Organization, will, I believe, ensure the Secretary of Education can recruit the best people for this job and retain them based on their performance.

It is not a perfect bill. That probably has been said by others. But it really is a very sound effort to deal with cost and shore up federal financial assistance, to deal with the issue of the nontraditional students, and to deal with the issue of teaching in our country. It sets us on the right road for the 21st century—putting in place strong federal policy to help make the promise of higher education a reality for more American families.

The PRESIDING OFFICER (Mr. BENNETT). The Senator from New Hampshire.

Mr. KENNEDY. Will the Senator from New Hampshire yield for a brief observation for a minute or two?

Mr. GREGG. Without losing the floor, I will yield to the Senator from Massachusetts.

Mr. KENNEDY. For purposes of Members' schedules—perhaps after the Senator from New Hampshire, to indicate—we have a number of our colleagues here who have been very, very cooperative, working with the leadership to try to bring their amendments up. They have been working with us so we could move this along. Now it will be set aside from 2 o'clock to 4. That includes the Senator from California, Senator FEINSTEIN, with whom we have worked. We want to be able to accept her amendment; Senator GRAHAM as well. Senator WELLSTONE is prepared to move on ahead.

I hope, just without asking consent—I will, if I might, ask that, if it is agreeable with the manager—I don't want to foreclose the process of moving back and forth—but it would seem, if it was agreeable to the floor manager, after the Senator from New Hampshire is recognized that we move ahead with the Senator from California, the Senator from Florida, and then the Senator from Minnesota, if that is agreeable?

Mr. GREGG. I yield to the Senators who are managing the bill for purposes of addressing this issue, but I note I am aware the Senator from Indiana also wishes to speak.

Mr. JEFFORDS. Mr. President, I would just say I want to expedite the movement of the bill by all possible means.

The people who are here should be recognized in an appropriate order, and I have no problem with the suggestion that was made. My good friend from New Hampshire has worked so long and hard on this bill and has been an important factor in getting this to a position where it can be expeditiously passed. I look forward to listening to his statement first.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire—

Mr. KENNEDY. Can I ask that as a unanimous consent request?

Mr. GREGG. I yield for purposes of propounding a unanimous consent request.

The PRESIDING OFFICER. Did the Senator from New Hampshire yield?

Mr. GREGG. Solely for the purpose of asking consent.

The PRESIDING OFFICER. Is there objection to the unanimous consent request made by the Senator from Massachusetts?

Mr. WELLSTONE. Reserving the right to object.

Mr. KENNEDY. Mr. President, I object. I withdraw it. I withdraw it.

The PRESIDING OFFICER. The request is withdrawn. The Senator from New Hampshire.

Mr. GRAHAM. Mr. President, will the Senator from New Hampshire yield for a unanimous consent request for floor privileges?

Mr. GREGG. I will yield to the Senator from Florida to make a unanimous consent request.

The PRESIDING OFFICER. The Senator from New Hampshire yields with the understanding that he retains the floor.

PRIVILEGE OF THE FLOOR

Mr. GRAHAM. Mr. President, I ask unanimous consent that a congressional fellow in my office, Neymi Aponte, and three interns, Gilberto Sanchez, Rachel Milstein and Jennie Beysolow, be allowed the privilege of the floor for the duration of this speech.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from New Hampshire.

Mr. GREGG. Mr. President, I rise in support of this bill and also to express my appreciation and respect for the leaders of this committee in developing this bill. I know Senator JEFFORDS, Senator KENNEDY, Senator COATS and Senator DODD have spent an immense amount of time on this and have done an extraordinarily good job of pulling together a strong bill which will ensure we continue a major commitment—a very significant commitment—to those people in our Nation who are attending school and use Federal resources to assist them in attending school.

We understand rather well that our Nation, especially in the New England region, depends, for our energy and our productivity, on basically people's creativity and their brain power. In New Hampshire, for example, we don't have any natural resources that produce great wealth, such as oil or large farmlands or mineral deposits. Our great natural resource in our State, and much of this country, is the wonderful minds of the people who work in our State and who produce products and, as a result of producing those products, which are competitive around the world, create prosperity, jobs and a good lifestyle.

The key to that, of course, is quality education, and first-class education depends on having students who have the ability to pick and choose among colleges and are able to afford the college of their choice to attend. In order to accomplish that, they have to have support, in many instances.

As the Senator from Connecticut so precisely outlined, the cost of quality education is going up dramatically, much faster than the price of most products in this country; in fact, almost 100 percent faster than the cost-of-living index over the last few years.

What is driving that cost, we are not absolutely sure. There are many of us who have opinions on it, but we are not sure. One thing we know is because those costs are going up quickly, it is becoming harder and harder to pay for college education. This bill is an attempt to address that and make sure students have available to them the resources necessary for a first-class college education.

As has been alluded to—this bill is filled with a lot of excellent ideas and many have already been outlined—but as has been alluded to, the core issue, the most important provision in this bill is the change in the student loan interest rates. Students who want to receive a higher education but must take out loans to do so will have a better chance in succeeding when they get out of school because the cost of paying back those loans will be less because the interest rates will have been cut, and that is a major step, a positive step in the right direction.

In addition to cutting the rates, we also cut the amount the Federal Government pays to support the lenders who supply the loans. As you know, lenders currently make very little money on student loans—many people know this, anyway—and the high cost of administration, however, that is tied to student loans has been reduced in this bill and, as a result, we not only cut the rate that it costs students to borrow money to go to college but we also cut the actual amount that lenders are going to make.

The big debate was whether or not we would cut it even further. The issue really wasn't whether or not these costs of administration should be cut further, the issue really came down to a question of whether or not we were going to shift from a system which had two competing arenas in which you could get a loan—a direct loan from the Federal Government or private loan from a private lender, to a single provider of loans—basically the Government.

For those of us who have seen the Government function under the Direct Student Loan Program, we have seen a dramatic and considerable risk to the entire loan portfolio, the ability of students to get loans if they were only given the option of going to the Federal Government. We wanted to make sure that this adjustment in loan rate was done in a way that maintained the viable private market.

In New Hampshire, for example, 96 percent—96 percent—of all the students go through a private loan process rather than through the direct loan process. So you can see that if a direct loan is their only avenue, it will actually create chaos. We know that to be a fact. Just last year when the Direct Loan Program was gearing up and was supposed to be ready and able to take care of the amount of activity that was being applied under the Direct Loan Program, we in the Congress had to pass an emergency bill to basically bail out the Direct Loan Program of the Federal Government which was already in chaos even though it hadn't even gotten up to, I think, much more than 25, 30 percent at that point in student loans, which is approximately where it is right now.

We know for a fact that the Direct Loan Program has some serious, serious problems. Not only that, but we are seeing that some of these problems, independent of the fact that they simply can't handle the volume of loans that will occur were the private sector driven out of the market, part of these problems are tied to their administrative activity.

The cost of the administration in the Direct Loan Program has gone up dramatically. By "administration," I am talking about compensation, travel and operational costs. It has gone up almost 143 percent, I believe is the number, even though the number of loans have only gone up by something around 35 percent during this same period.

The increase in the administrative overhead is a classic example of what happens, of course, when you have a Federal agency involved, when there is very little accountability in the area of administrative overhead and you have a huge bureaucracy which is dominated not by a desire to be efficient, but by a desire basically to create work, in many instances, and to be an agency which covers itself on every issue and creates bureaucrats for purposes of watching bureaucrats.

The whole issue in this bill, or the core issue in this bill was how we were going to balance private loan programs with the Direct Loan Program. We did finally reach an understanding on that, and it is a reasonable understanding. It is going to cost us money, but, in the end, it will allow us to give to students the most important item, which is a lower interest rate, and at the same time maintain a competitive marketplace where there will be pressure on the Federal Government's program, the direct lending program, to be more efficient because it will be competing with the private sector programs which have to be efficient in order to survive. That is a very big plus that that decision was made in this way.

There are a couple of other issues that were put into this bill I was actively involved in, and I want to address also one the Senator from Minnesota brought to our attention. That was the violence on campuses, especially directed at women. He had an amendment in committee that addressed this and created a program authorizing, under the Violence Against Women Act, $10 million to be set aside for the purposes of looking at the problem we now have on colleges.

Unfortunately, it is a serious problem. It has been seen here in the Capital region and the University of Maryland. I doubt there is a major college in this country that has not experienced a series of violent acts relative to women on campuses.

So not only did the Senator from Minnesota bring the idea forward, but it seemed to me to be such a good idea in the appropriations bill which I fund, we are going to be funding the idea. This may be the fastest funded authorization that has happened around here in a long time. But there will be $10 million spent relative to violence against women on campuses.

Another issue which is in this bill that I think deserves some mention is the fact that it addresses the issue of the use of drugs by students. The Senator from Connecticut was accurate. He said, in polling parents, the concern of the cost of education was listed as their No. 2 concern relative to how they are going to handle their children when they are growing up. He also mentioned that the No. 1 concern is if their children will become involved with drugs, and illegal drugs specifically.

This bill reflects that concern. It says that taxpayers should not be carrying the burden of supporting a student who has taken the irresponsible activity of using and being found to be guilty of using an illegal drug. Basically, it says that if you are caught using an illegal drug, and you are convicted of using an illegal drug, then you lose your eligibility for a student loan—on a first offense for 1 year; on a second offense for 2 years; and on a third offense indefinitely.

You can avoid this if you, as a student, go through a properly approved, satisfactory drug rehabilitation program. And the Secretary has the capacity to set up the regulations as to what will be a satisfactory drug rehabilitation program. So you can mute the effect of this, but essentially it sends a very clear message to students that if they are going to obtain the benefit—having the taxpayers of this country support them when they are in college through giving them basically a subsidized loan—then they are going to have to be responsible in the manner in which they pursue their academic careers and not use illegal drugs. This is, I think, a major step forward in delivering the correct philosophical position on the question of using drugs.

So this, on balance, is a good bill. It moves in the right direction. It confirms and energizes and reinforces programs which have proven to be extraordinarily successful. Again, I congratulate the leadership of the committee for bringing it forward.

I yield the floor.

Mrs. FEINSTEIN addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

AMENDMENT NO. 3107

(Purpose: To provide the Secretary of Education with discretionary authority to extend, on a case-by-case basis, Federal Pell Grant aid to teaching students enrolled in postbaccalaureate courses required by State law for teacher certification)

Mrs. FEINSTEIN. Mr. President, I join with those who have congratulated the committee for what I consider to be really a fine higher education bill. I want to extend my personal congratulations, representing Californians, both to the chairman and the ranking member of this committee.

This is a bill that really meets the needs of the day with respect to higher education. And I think we can all, hopefully, support it with great pride and enthusiasm.

I have been very involved in education in California because I have seen this great State, once in the lead, sink to below mediocrity in terms of its K-through-12 education system. And there are many reasons for it that the Federal Government cannot control, decisions that have to be made by the State itself, such as eliminating social promotion, setting specific standards of achievement for students in each of the grades, no-nonsense tests, remedial programs, and so on. But one thing the Federal Government can do is provide funds to help with the development of good teachers. And that is what this bill does and does so well.

I want to bring to the attention of the Senate one anomaly which the amendment I am about to send to the desk seeks to address. And that is that in the Pell grant program, there are two States that require a 5th year of teacher education. One of those States is New Hampshire; the other State is California. New Hampshire provides the 5th year before the baccalaureate degree and California requires the 5th year after the baccalaureate degree, ergo, California's higher education students are not currently eligible for Pell grants. And so, if I may, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from California [Mrs. FEINSTEIN], for herself and Mrs. BOXER, proposes an amendment numbered 3107.

The amendment is as follows:

On page 417, line 17, insert "(i)" after "(B)".

On page 417, line 19, insert "or clause (ii)" after "subparagraph (A)".

On page 417, line 23, strike the end quotation marks and "; and".

On page 417, between lines 23 and 24, insert the following:

"(ii) Notwithstanding subsection (a)(1), the Secretary may allow, on a case-by-case basis, a student to receive a basic grant if the student—

"(I) is carrying at least ½ the normal full-time work load for the course of study the student is pursuing, as determined by the institution of higher education; and

"(II) is enrolled or accepted for enrollment in a postbaccalaureate program that does not lead to a graduate degree, and in courses required by a State in order for the student to receive a professional certification or licensing credential that is required for employment as a teacher in an elementary school or secondary school in that State,

except that this subparagraph shall not apply to a student who is enrolled in an institution of higher education that offers a baccalaureate degree in education."; and

Mrs. FEINSTEIN. I thank the clerk.

Mr. President, this amendment is sent to the desk on behalf of Senator BOXER and myself. Essentially, what this amendment would do is authorize the U.S. Secretary of Education to award, on a case-by-case basis, Pell grants for students taking a 5th year of postbaccalaureate teacher education courses in order to get a teaching credential in a State that requires a 5th year.

This was brought to my attention, Mr. President, by the new chancellor of the California State University, Dr. Charles B. Reed. I want to just read an opening paragraph.

> When I came to the California State University in March of this year, I established as a top system priority strengthening and improving the quality of our teacher preparation programs. Over the next decade, in California alone, we will need an additional 250,000 new K–12 classroom teachers. In addition to our changing demographics, the shortage of teachers in California is particularly acute due to the State's classroom size reduction initiative. . . .

The Governor of our State has quite rightly determined that K through 3 should have class sizes of not more than 20 students per teacher. This is a real improvement and, of course, it will mean that more teachers will be necessary in the future. Additionally, there is an extraordinarily large number of teachers who are due to retire over the next 10 to 20 years.

Mr. President, I ask unanimous consent to have that letter printed in the RECORD at the end of my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See Exhibit 1.)

Mrs. FEINSTEIN. So the amendment simply authorizes the U. S. Department of Education, on a case-by-case basis, to award a Pell grant to a needy student that wants to get a teaching credential, but needs that 5th year required by the state. We all know that even 4 years of college is costly, and many students cannot afford it. That is the rationale, the purpose, and the foundation of the Pell Grant program.

Well, if you cannot afford 4 years, you likely cannot afford a 5th year. Therefore, we lose teachers because young people cannot afford that 5th year. And it is one of the reasons why today in California we have 21,000 teachers who are not credentialed. This would permit, on a case-by-case basis, a Pell grant to be granted to a needy student for that 5th year.

These students in California would get a bachelor's degree in an academic subject, such as biology or French or whatever it is, and then take a 5th year in teacher education. That 5th year consists of learning teaching methods and of student or practice teaching.

The American Council on Education, a consortium of all the higher education groups, has said, "These students [in California] who want to teach are unfairly caught in a state requirement 'catch-22' and should not be penalized as a result."

One of the central purposes of the higher education bill is to strengthen teacher education. And it is long overdue; and it is well met by this bill. I think we can all be very proud of the vote we will cast.

Title II authorizes new grants to States and to institutions to reform and toughen teacher training. Once again, California may well be leading the way because requiring this fifth year is also a good way to strengthen teacher education.

According to the National Commission on Teaching, each dollar spent on improving teacher qualifications nets greater gains in student learning than any other use of the education dollar. This study and others have found that teacher quality is very uneven through this country. Just last week, in the ranking member's State, Massachusetts, the state Board of Education said that 56 percent of their teachers failed the State's first basic reading and writing test for teachers. Nationwide, over one-quarter of newly hired teachers lack the qualifications for their jobs according, again, to the Teaching Commission.

Studies also show that unprepared or underprepared teachers simply don't stick it out. They are more likely to leave teaching after a few years. In my State, California, 30 percent of the teachers leave after their first 2 years; after 5 years, almost half of California's teachers have left. A November 1997 report of the California Advisory Panel on teacher education found in hard-to-staff schools as many as half of all beginning teachers leave teaching permanently after only 3 years in the classroom. That is shocking to me. Among underprepared teachers, this attrition rate climbs to two-thirds. What this is saying is that if a teacher isn't prepared, doesn't have the qualifications, doesn't have the teaching skills and aptitude, two-thirds of them leave within 3 years. This undermines education.

There is a precedent for the approach of this amendment. Congress gave the Secretary the authority to award year-long Pell grants, similar to what this amendment does, in 1992.

I want just quickly to make a few other comments on the teacher shortage and why this amendment is important. We have, as I said, 21,000 teachers in California on emergency credentials. That is 1 out of every 11 teachers. Half of California's math and science teachers didn't minor in those subjects in college, but they are still teaching. That is wrong. In Los Angeles, according to a U.S. News & World Report article last October, "New teachers have included Nordstrom clerks, a former clown, and several chiropractors."

This is a situation that shouldn't exist. It exists because there are not enough teachers. Therefore, emergency credentials are granted and these credentials can go on for 10 or 15 years and be granted to people who are really not qualified to teach. They are certainly not credentialled to teach.

The need for good teachers is exacerbated by the fact that we need these new teachers in the next decade because public school enrollment in California is growing at triple the national rate. In California, the need for new teachers is triple the national rate.

I am hopeful that this amendment would be accepted by this Senate.

The amendment is going to be particularly helpful to prospective teachers enrolled at California State University. This is an institution today which prepares 60 percent of my State's teaching force. At this university, 48 percent of the students are Pell-grant eligible and the average Pell grant is $1,200 to $1,500. The University of California has 1,200 candidates for a teaching credential each year, and one-third are eligible for Pell grants. Thus, 400 UC students could benefit from a fifth year Pell grant each year.

Essentially, this amendment is going to encourage more needy students to stick it out, to get that teaching credential, to do that fifth year at the university. That means that our young elementary and secondary students are going to be better served because they will have a teacher in the classroom who is qualified to teach. I, frankly, believe and would propose and urge the California Legislature to eliminate all emergency credentials by the year 2005 and be able to provide that the California teacher corps, K-12, is essentially 100 percent credentialled. But they will not be able to get there unless this body is willing to pass this amendment today.

Again, in summary, California requires a fifth year. These students are not eligible for Pell grants for the fifth year. Forty-eight percent of the students who would go into teaching need these grants. We need 250,000 new teachers. We currently have 21,000 teachers teaching who are not qualified to teach, who are teaching on so-called emergency credentials. The quality of education, its excellence and its accountability, I believe, will be heightened by this amendment.

I thank both the chairman and the ranking member. I am hopeful you will accept the amendment.

I yield the floor.

EXHIBIT NO. 1

THE CALIFORNIA STATE UNIVERSITY,
Long Beach, CA, July 8, 1998.

Hon. DIANNE FEINSTEIN,
U.S. Senate, Washington, DC.

DEAR SENATOR FEINSTEIN: When I came to the California State University in March of this year, I established as a top system priority strengthening and improving the quality of our teacher preparation programs. Over the next decade, in California alone, we will need an additional 250,000 new K-12 classroom teachers. In addition to our changing demographics, the shortage of teachers in California is particularly acute due to the State's classroom size reduction initiative, together with the large number of teachers who are expected to retire over the next 10–20 years.

As you know, one in eleven California teachers is teaching under an emergency certificate or waiver. Although the State of California requires that prospective teachers complete a 5th year of classroom preparation and pedagogy following receipt of their baccalaureate degree in order to become fully credentialed, these 5th-year students—who are considered neither undergraduate nor graduate students—lack access to federal grant aid. Your Pell Grant amendment to S. 1882 would go a long way to encourage financially needy students to persist in their studies so that they may become fully certified to teach in California's K-12 schools—rather than deferring completion of their requisite 5th year while teaching under an emergency certificate.

Indeed, those who enter the classroom without the necessary preparation are more likely to permanently leave the profession. In its November 1997 report to the California Commission on Teacher Credentialing, the Advisory Panel on Teacher Education, Induction and Certification for Twenty-First Century Schools states, "In many hard-to-staff schools, as many as half of all beginning teachers leave teaching permanently after only three years in the classroom. Among under-prepared new teachers, this attrition rate climbs to two-thirds."

On behalf of the California State University, which prepares more than half of the 18,000 new teachers credentialed in California each year, I wish to express my appreciation for your efforts to ensure that California's 21st Century teachers have access to the federal financial assistance they need to become fully prepared to provide all of California's children with the quality education they deserve.

With kind regards,
Sincerely,

CHARLES B. REED,
Chancellor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. First of all, I thank the Senator from California for working closely with us in order for us to help out the State. I understand the special circumstances involved in the State of California makes it different than the other 49 States in this regard, but the amendment has been carefully crafted so that it is acceptable to this side of the aisle.

We believe they should have the opportunity to provide Pell Grant assistance in the fifth year, which is generally seen, perhaps, now, as a necessary aspect of getting the teachers fully qualified for many of the areas they teach.

I have no objections on this side of the aisle to the amendment. It is accepted as far as the majority is concerned.

The PRESIDING OFFICER (Mr. GRAMS). The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I urge we accept this amendment. It is basically completely consistent with what we are attempting to do with the legislation; that is, to put a high priority on enhancing teacher training and the qualification of teachers and enhance educational background for teachers. That is what this program is directed towards with the program that has been fashioned and shaped in California.

This is basically not a graduate school program. It is just a continuation of a program that happens to take 5 years. There is an issue of whether we want to use the Pell funding for graduate education. I think those are policy issues that deserve a good deal of consideration, but this really doesn't fall in that category. It falls into a category where we are getting a very advanced kind of training program for young people who are going into teaching. This lasts over more of an extended period of time than in other parts of the country. This amendment is fashioned and shaped on a case-by-case method to make sure the program is going to be contained and targeted in ways that are absolutely consistent with the legislation.

I welcome the opportunity to urge our side to accept the amendment, and I thank the Senator from California for bringing it to our attention. Obviously, we didn't want those young people disadvantaged. We are, again, talking about needy students who will have gone to school for a long period of time. These are extraordinary young men and women who will continue over the fifth year to be eligible for Pell Grants. These are people who are really dedicated and committed. In terms of teaching, I think they are a unique group of young people. We certainly should not discourage them from their careers in education.

I urge the Senate to accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3107) was agreed to.

AMENDMENT NO. 3109

(Purpose: To amend section 485(f) of the Higher Education Act of 1965 to increase public awareness concerning crime on college and university campuses)

Mr. JEFFORDS. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Vermont [Mr. JEFFORDS], for Mr. SPECTER, proposes an amendment numbered 3109.

The amendment is as follows:

On page 550, between lines 16 and 17, insert the following:

(4) in paragraph (6) (as redesignated by paragraph (2)), by amending subparagraph (A) to read as follows: "(A) For purposes of this section the term 'campus' means—

"(i) any building or property owned or controlled by an institution of higher education within the same reasonably contiguous geographic area of the institution, including a building or property owned by the institution, but controlled by another person, such as a food or other retail vendor;

"(ii) any building or property owned or controlled by a student organization recognized by the institution;

"(iii) all public property that is within the same reasonably contiguous geographic area of the institution, such as a sidewalk, a street, other thoroughfare, or parking facility, that is adjacent to a facility owned or controlled by the institution;

"(iv) any building or property (other than a branch campus) owned or controlled by an institution of higher education that is used in direct support of, or in relation to, the institution's educational purposes, is used by students, and is not within the same reasonably contiguous geographic area of the institution; and

"(v) all dormitories or other student residential facilities owned or controlled by the institution.";

On page 553, line 25, strike the end quotation marks and the second period.

On page 553, after line 25, insert the following:

"(10)(A) The Secretary shall report to the appropriate committees of Congress each institution of higher education that the Secretary determines is not in compliance with the reporting requirements of this subsection.

"(B) The Secretary shall provide to an institution of higher education that the Secretary determines is having difficulty, or is not in compliance, with the reporting requirements of this subsection—

"(i) data and analysis regarding successful practices employed by institutions of higher education to reduce campus crime; and

"(ii) technical assistance.

"(11) For purposes of reporting the statistics described in paragraphs (1)(F) and (1)(H), an institution of higher education shall distinguish, by means of separate categories, any criminal offenses that occur—

"(A) on publicly owned sidewalks, streets, or other thoroughfares, or in parking facilities, that are adjacent to facilities owned by the institution; and

"(B) in dormitories or other residential facilities for students on campus.

"(12)(A) Upon determination, after reasonable notice and opportunity for a hearing on the record, that an institution of higher education—

"(i) has violated or failed to carry out any provision of this subsection or any regulation prescribed under this subsection; or

"(ii) has substantially misrepresented the number, location, or nature of the crimes required to be reported under this subsection,

the Secretary shall impose a civil penalty upon the institution of not to exceed $25,000 for each violation, failure, or misrepresentation.

"(B) Any civil penalty may be compromised by the Secretary. In determining the amount of such penalty, or the amount agreed upon in compromise, the appropriateness of the penalty to the size of the institution of higher education subject to the determination, and the gravity of the violation, failure, or misrepresentation shall be considered. The amount of such penalty, when finally determined, or the amount agreed upon in compromise, may be deducted from any sums owing by the United States to the institution charged.

"(13)(A) Nothing in this subsection may be construed to—

"(i) create a cause of action against any institution of higher education or any employee of such an institution for any civil liability; or

"(ii) establish any standard of care.

"(B) Notwithstanding any other provision of law, evidence regarding compliance or noncompliance with this subsection shall not be admissible as evidence in any proceeding of any court, agency, board, or other entity, except with respect to an action to enforce this subsection

"(14) This subsection may be cited as the 'Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act'.".

Mr. JEFFORDS. Mr. President, I offer this amendment on behalf of Senator SPECTER. I believe it is an excellent amendment.

First of all, I commend Senator SPECTER for the tremendous work he has done in the field of education. And as chairman of the Appropriations Subcommittee that handles education as well as many other very difficult subjects, he has done an extremely capable job of ensuring a good balance in all of the programs he handles. I commend him and I am pleased to have him back with us in the Senate. He was unable to be here at this particular time, so I am offering this amendment on his behalf.

Mr. President, since the last reauthorization of the Higher Education Act, crime on our college and university campuses has continued to be a major concern. In a 1997 report on campus crime, the National Center for Education Statistics noted the following:

> During each of the 3 years between 1992 and 1994, institutions reported a total of about 10,000 violent crimes and up to 40,000 property crimes. For 1994, the individual crime composition for violent crimes was about 20 murders, about 1,300 forcible sex offenses, 3,100 robberies, and 5,100 cases of aggravated assault. In the property crime category, institutions reported 28,800 burglaries and 9,000 motor vehicle thefts in 1994. In 1994, institutions reported about 20,400 arrests for liquor law violations, and about 7,200 arrests for drug abuse violations, and about 2,000 arrests for weapons possession.

From 1995 to 1996, for example, reports of murder, sexual offenses, and liquor- and drug-related violations for large universities increased substantially. It is not necessarily the case that crimes have gotten worse but perhaps that reporting has gotten better. Reports of crimes have continued to grow, but some institutions have still been less than diligent in accurately reporting campus crime statistics.

Every Member should be greatly concerned by these campus crime statistics. I am pleased that the Senate Labor Committee has made what I think are great strides in improving campus crime provisions in the 1998 Higher Education Act amendments. We have added to the list of crimes to be reported. We have enabled information about students' criminal records to become publicly accessible. We have required institutions of higher learning to maintain daily logs of crimes on campuses. With the help of Senator TORRICELLI, we have strengthened the reporting of hate crimes on campuses.

With the assistance of Senators GREGG and WELLSTONE, we created a competitive grant program to help institutions of higher education develop and strengthen the effective security and investigation strategies to combat violent crimes against women on campuses.

The amendment being offered by Senator SPECTER today provides an absolutely essential addition to the campus crime provisions in the Higher Education Act. His leadership on this issue is much appreciated. With his meticulous crafting, he has substantially improved the definition of "campus" for the purpose of reporting campus crime statistics. When Senator SPECTER held his campus crime hearing, he discovered that if a crime was committed on a sidewalk within the perimeters of a university, that institution was not required to report the incident in their campus crime statistics. Obviously, the law needed clarification, and I applaud Senator SPECTER in his superb efforts. His efforts create a careful balance.

This amendment minimizes additional reporting burdens to institutions of higher education while at the same time providing students and other members of campus communities with needed information to help improve their awareness about campus security issues. Such information, for example, can be used to help people make more conscious decisions about walking alone in particular areas or making sure to walk with a friend on or near a campus at night.

This amendment makes four changes in the statute. As I mentioned, it modifies the definition of "campus" to include additional areas that must be included in campus crime statistics. It requires the Secretary of Education to report to Congress when institutions of higher education are not in compliance with campus crime reporting requirements. It gives the Department of Education the explicit authority to impose fines if institutions substantially misrepresent information about campus crimes. And it renames the campus crime section of the bill after Jeanne Clery, the woman who died tragically at Lehigh University in 1986 as a result of a brutal campus crime. The Clery family has been instrumental in creating a national awareness and focus on campus crime over the past decade. Both Senator SPECTER and I are indebted to their service in helping Congress craft these provisions.

Mr. President, it is my pleasure to offer this on behalf of Senator SPECTER. I ask for its adoption.

Mr. KENNEDY. Mr. President, I join in urging adoption of this amendment. The original campus security amendment was offered by Senator Bradley of

New Jersey and myself some 6 years ago. This recognizes some of the areas where there have been loopholes in the interpretation of that amendment. Senator SPECTER has done good work in helping all of us to make sure that we are going to have safe campuses. Students cannot learn unless they have safe campuses. There are important loopholes that Senator SPECTER has identified and additional kinds of reporting requirements and a small enforcement mechanism, but an effective one. This is a good, solid amendment. I urge its adoption.

Mr. SPECTER. Mr. President, I seek recognition today to thank the Managers for agreeing to accept my amendment on campus crime reporting, which is based on legislation (S. 2100) I introduced on May 20, 1998.

As a lead sponsor of the Crime Awareness and Campus Security Act of 1990, I have been very concerned about what I perceive as the Department of Education's ineffective implementation of the Act's crime offense reporting requirements. On March 5, 1998, I held an oversight hearing on campus security issues as Chairman of the Senate Labor, Health, and Human Services and Education Appropriations Subcommittee. At that hearing, Assistant Secretary for postsecondary Education David Longanecker testified that the Department does not require colleges to report offenses occurring on sidewalks, streets and other public lands within what ordinarily would be considered a "campus." He also testified that buildings which are owned by a college but used for commercial purposes (such as a leased food court) do not fall within the Department's interpretation of "campus."

I believe that the omission of such information violates the spirit of the law and is a disservice to parents and students because commercial property such as food shops and retail stores and streets thread through a campus and must be visited or traveled in the course of one's studies. I was further troubled to hear testimony at the hearing that the Department has not imposed civil penalties on any school for failure to comply with the Act.

The best means of improving the implementation of the 1990 law is the enactment of the statutory clarifications included in my amendment, which redefines "campus" and requires the imposition of civil penalties where applicable.

I am grateful that the Managers have agreed to name these provisions of law in honor of Jeanne Clery, the daughter of Howard and Connie Clery of King of Prussia, Pennsylvania, who was brutally raped and murdered at Lehigh University in 1986. After that tragic incident, the Clerys founded Security on Campus, Inc., a non-profit dedicated to improving safety on our nation's college campuses. The Clerys brought the campus crime reporting issue to my attention in 1989 and it is highly fitting that after so many years of being inspired by their work on this issue, Congress will recognize Jeanne Clery in this manner.

I am hopeful that my amendment will be preserved in conference with the House and again thank my colleagues for their efforts on this issue.

Mr. MACK. Mr. President, I want to make some brief comments to commend the work of Senator SPECTER with regard to the inclusion of language in the bill to improve public safety on college and university campuses. I am an original cosponsor of the legislation Senator SPECTER introduced on May 20, 1998, the Campus Crime Disclosure Act.

My involvement in this important legislation began earlier this year, when I met with the Clery family of Palm City, Florida. Their personal tragedy, whereby Howard and Connie Clery's daughter Jeanne was brutally murdered in her college dormitory in 1998 at Lehigh University, saddened me. Since her death, her family has kept her memory alive by working to provide parents and students with more and better information about crimes occurring on college campuses. The result is the important changes to federal law which we are considering here today.

These changes include a modification to the Department of Education's definition of a "college campus". This definition will now include sidewalks and other areas adjacent to schools but not owned by the school. The Department had previously interpreted the term "campus" to exclude these areas. I, like Senator SPECTER, believe this is an incorrect interpretation. The result was that schools were not reporting crimes that had taken place on a sidewalk used by students to get to class. This legislation will correct that problem.

Furthermore, the legislation sets up a stronger but flexible enforcement mechanism which provides that the Department can find schools that are not complying with federal reporting laws dealing with campus security. Congress has given the Secretary of Education enforcement discretion when a school is found to be in non-compliance after a public hearing is conducted.

Mr. President, I am pleased that we are taking these important steps to ensure safer campuses for college students. I appreciate the fine work of the Chairman, Mr. JEFFORDS, in including these important provisions. I commend the work of the Clery's in increasing the public's awareness about campus crime, although I realize that this day must be bitter-sweet. I look forward to continuing to work with them in the future.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3109) was agreed to.

Mr. JEFFORDS. Mr. President, I ask unanimous consent that now that we have adopted the Specter amendment, Senator GRAHAM be recognized to offer his amendment and that there be 30 minutes of debate on the amendment.

Mr. WELLSTONE. Mr. President, I ask that I may follow Senator GRAHAM.

Mr. KENNEDY. Yes. Mr. President, I ask unanimous consent that Senator WELLSTONE be permitted to follow Senator GRAHAM.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Florida is recognized.

AMENDMENT NO. 3110

(Purpose: To amend the need analysis calculation regarding certain veterans' educational assistance, and to provide an offset)

Mr. GRAHAM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Florida [Mr. GRAHAM] proposes an amendment numbered 3110.

Mr. GRAHAM. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 537, between lines 20 and 21, insert the following:

SEC. 476. TREATMENT OF OTHER FINANCIAL ASSISTANCE.

Section 480(j)(3) (20 U.S.C. 1087vv(j)(3)) is amended by inserting "educational assistance after discharge or release from service under chapter 30 of title 38, United States Code, or" after "paragraph (1),".

In section 458(a)(1)(B) of the Higher Education Act of 1965, as amended by section 454 of this Act, strike "$617,000,000" and insert "$612,000,000".

In section 458(a)(1)(B) of the Higher Education Act of 1965, as amended by section 454 of this Act, strike "$735,000,000" and insert "$730,000,000".

On page 514, line 9, strike "$770,000,000" and insert "$765,000,000".

On page 514, line 10, strike "$780,000,000" and insert "$770,000,000".

On page 514, line 11, strike "$795,000,000" and insert "$785,000,000".

On page 446, line 6, strike "section 428(c)(6)(A)(i)" and insert "section 428(c)(6)(A)".

On page 450, line 6, strike "section 428(c)(6)(A)(ii)" and insert "section 428(c)(6)(B)".

Mr. GRAHAM. Mr. President, I rise before you today to offer an amendment on behalf of myself and Senators DORGAN, COVERDELL, MURRAY, and HAGEL. I offer this amendment to correct an injustice in our current student financial aid policy. Since June 1 of 1987, the Montgomery GI bill has guaranteed basic educational assistance for most persons who are or have been members of the Armed Forces or the selected reserves for significant periods of time.

This legislation was created in 1987 to achieve a number of important national objectives. It was to assist veterans in their readjustment to civilian life, to aid in the era of an all-volunteer military, in the recruitment and retention of qualified personnel in the Armed Forces, and to develop a more highly educated and productive workforce.

Unfortunately, currently, the Montgomery GI benefits are considered "other financial aid" in the determination of a student's need. In other words, when a veteran applies for financial aid, colleges and universities are required to take into account any benefits received under the Montgomery GI bill program in arriving at a judgment as to what resources that student would be entitled to receive.

The ultimate result is that the total financial aid award is substantially reduced.

Mr. President, I ask unanimous consent to have printed in the RECORD an analysis of three typical cases of student aid requests and the impact that the requirement to consider Montgomery GI benefits as a resource has on their financial aid.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Student A

Student is an unmarried male born in 1972 and is independent due to his age and his status as a veteran. With an adjusted gross income of just under $8,000 and having turned down work-study but accepted loans, the student has a budget of $10,100, a student contribution of $1,998, and unmet need of $0. His award package is shown below:

Program	Award with Montgomery GI bill	Award without Montgomery GI bill
Pell Grant	$750	$750
Supplemental Educational Opportunity Grant		1,200
Institutional Grant	2,588	3,100
Federal Direct Subsidized Loan	1,972	3,172
Federal Direct Unsubsidized Loan	2,138	2,138
Montgomery G.I. Bill	2,912	

Statistics from the University of Florida's Office of Financial Aid.

Student B

Student is a married male born in 1972 and is independent due to his age, marital status, and his veteran status. The couple's adjusted gross income is just under $12,000 and the student declined loans. His budget is $10,100, student contribution of $2,493, and unmet need of $1,465. His award package is as follows:

Program	Award with Montgomery GI bill	Award without Montgomery GI bill
Pell Grant	$400	$400
Florida Student Assistance Grant	1,092	1,092
Supplemental Educational Opportunity Grant	906	1,200
Institutional Grant	0	3,558
Montgomery G.I. Bill	3,744	

Statistics from the University of Florida's Office of Financial Aid.

Student C

Student is a single male born in 1970 and is independent due to his age. His adjusted gross income is just under $8,500. His budget is $10,230, student contribution is $2,222, and unmet need is $0. His award package is:

Program	Award with Montgomery GI bill	Award without Montgomery GI bill
Pell Grant	$225	$225
Federal Work Study	962	1,474
Federal Direct Unsubsidized Loan	1,181	1,181
Institutional Grant	2,000	2,300
Montgomery G.I. Bill	812	

Statistics from the University of Florida's Office of Financial Aid.

Mr. GRAHAM. Mr. President, this penalty, which is currently subjected to veterans' benefits, does not apply to other analogous benefits.

For instance, the current law states that those persons who receive benefits under the National Service Program Educational Award Program, which is generally known as the AmeriCorps Program, will not have their financial assistance treated as a deduction in their eligibility for other forms of student financial aid.

In fact, Mr. President, the amendment I offer is an amendment to precisely that section of the law adding the Montgomery GI bill to the current exemption for AmeriCorps as the basis of calculating student financial aid.

Mr. President, this unjust treatment of veterans' benefits has had a number of perverse affects. Although over 80 percent of persons in the military today are applying to become eligible for the Montgomery GI benefits—in fact, the latest statistics from the Department of Defense are that 94 percent of veterans are signing up for this program—less than 40 percent are actually using the program. And this discriminatory treatment is cited as a significant reason for that low level of utilization. It also is undercutting the ability of those who are attempting to recruit persons into the volunteer armed services by having to state that the real value of these benefits is substantially reduced and, therefore, this major inducement—in fact, the major inducement for many young people to come into the military—is diluted.

Mr. President, I offer this amendment today, which has been costed at $85 million over the next 10 years by the Congressional Budget Office, and is offset by reducing accounts in the Secretary's discretionary fund as a step towards achieving the objectives that this Congress sought when it first adopted the Montgomery GI bill in 1987.

Mr. President, our country has had a long experience, particularly the experience since the end of World War II, in encouraging returning veterans to continue their education. I believe that the GI bill of 1944 ranks with legislation that has already been referred to by the chairman of the committee, the Morrill Act, that established the Land Grant College system, and Social Security as premier examples of congressional legislation that has had a positive effect on our Nation.

I urge the adoption of this amendment which will assure that the full benefits of the Montgomery GI bill, our current national statement of appreciation to those who have served in our armed services, that the injustice that is currently attached to that program be eliminated, and that the full benefits of the program be available to not only the veterans but to all Americans.

Mr. President, that concludes my statement. If there are no other statements, I ask for the consideration of this amendment.

Mr. COVERDELL. Mr. President, I rise to speak for a brief moment on the amendment offered by my colleague from Florida to the Higher Education Reauthorization Act. This amendment is a common sense correction of a barrier veterans face when applying for financial aid from colleges and universities.

Currently, educational benefits veterans receive under the Montgomery GI bill count as a financial resource when they apply for financial aid. The ultimate result is a reduction in the total financial aid award a veteran receives to pay for college. I find it ironic, Mr. President, that the benefits intended to help veterans pay for higher education end up counting against them. Furthermore, the National Community Service Act of 1990 does not treat a national service educational award or post-service benefit as financial assistance. To present a contrasting case, Americorps education benefits are not counted as a resource in financial aid calculations.

Veterans who pay for the Montgomery GI bill through paycheck deductions and dedicated service to their country should not be penalized when applying for financial aid. Mr. President, we all understand the value of higher education, and we should work to eliminate the barriers that prevent people from moving on to college. This was the intent of the Montgomery GI bill, Mr. President—assist veterans in their pursuit of higher education. We should honor the intent of this bill.

Mr. President, I am proud to be a part of this effort to help our nation's veterans and pleased to serve as an original co-sponsor to the bill Senator GRAHAM introudced last evening. I urge my colleagues to adopt this important measure.

Mr. JEFFORDS addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Mr. President, we have one Member who would like to talk in support of the amendment who is on his way.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I thank the Senator from Florida for bringing this matter to our attention and for presenting it here on the floor of the Senate.

As a Member of the Armed Services Committee, I was there at the time the Montgomery educational programs were advanced as a part of the expanded opportunity for young people in the military services. That has been an enormously important program. It has been a vehicle for continuing education for those that are in the armed services. We have been encouraging that program for those people in the armed services. There is an incentive program for matching funds from the Federal Government for those young people who put aside and save their rather limited salaries. It has been very important and very effective.

Now we have the accumulation of some of those benefits after the young people come out and save for themselves and have served in the Armed Forces, many of them in very perilous conditions, called to serve overseas. Their GI Bill benefits have been part of the contract of service. Unless we accept this amendment, we are really unduly penalizing young people who have served in the Armed Forces and set aside some savings of their own in order to carry on their education.

It seems that we ought to take this very reasonable step, as the Senator from Florida has suggested, to make sure that those cumulative funds will not reduce the financial aid that these young people are eligible for.

I think that this makes a great deal of sense. I certainly support it.

One aspect of the proposal seriously concerns me. That is about how the amendment is paid for, because the amendment takes the money from the Department of Education's administrative funds. These funds are used for both the Direct Lending Program and the FFEL Program.

Last year's bipartisan budget agreement included major cuts in the Department's administrative fund, and the Department has already had to terminate a number of major contracts to live within these reduced funding levels. Funding cuts undermine the Department's efforts to modernize the student aid delivery systems and to address the year 2000 computer problems.

This can potentially hurt students and lenders.

We must work in the conference to find a better way to offset the cost of this important benefit for veterans. I will work with all of our colleagues in the conference to do so.

On the substance of the amendment, it makes sense. I thank the Senator.

Mr. JEFFORDS addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Mr. President, I will make the remarks in support of Senator GRAHAM's amendment, and I support him.

I believe that this takes care of really an important problem which some of our service people have had. Thus, I do not object to it. I did have a problem with the way the offset was chosen originally, which would have put the bill out of balance with the Congressional Budget Office and, therefore, we worked with the Senator from Florida to find a more acceptable way.

I sympathize with the comments of Senator KENNEDY in taking it from the discretionary fund of the Secretary. But it is better to do it this way and not put the bill out of balance, and to spread it over a number of years so that it is not a big hit.

I commend him for bringing this to our attention. I thank him for allowing us to include in the managers' package language that ensures that in the aggregate, all types of Federal aid for education will not exceed the cost of the required levels. The inclusion of this provision expresses the concerns I had, and, therefore, I support it.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I wonder if I might ask my colleague if I might make general comments about the bill as we are waiting.

Mr. JEFFORDS. The Senator from New Hampshire has arrived to comment on the pending amendment, and then we will be moving to the amendment after that.

Mr. WELLSTONE. That is fine.

Mr. GREGG. Mr. President, I appreciate the courtesy of the Senator in allowing me to proceed.

Mr. President, I rise in support of the amendment of the Senator from Florida and to talk a little bit about the payment process on this amendment—how we pay for this idea, which is an excellent idea, to make sure that the people benefiting from the GI bill don't end up being penalized for having participated in our military. Ironically, as has been mentioned, we treat people who participate in the AmeriCorps better than we treat the people who participate in the military.

The Senator from Florida corrects this problem. In order to pay for this, he suggested that we reduce the overhead administrative costs within the 458 account of the direct lending program, and there is great justification for doing this—great justification for doing this.

One of the concerns I think many of us had when the Federal Government got into the business of lending money for education was that we would end up with a bureaucracy that would end up spending a lot of money and maybe not be as efficient as the private marketplaces are. That is just inherent in government; government at all levels does not have a profit motive, and therefore efficiency is always questionable, and in many instances efficiency is poor. There are few exceptions to that, but for the most part you can say almost as a Black rule of law that a government program is going to be less efficient than a private program that is subject to competition.

In the instances of direct lending, we are seeing that that appears to have been borne out again. We know that the workload, casework load, is up from 1992 by about 29 percent. But we see that the administrative overhead is up by 143 percent, which is an increase of 120 points more, or 115 points more than the workload going up. And we are not talking here about things which are directly student related; we are talking more about things which are tied to inefficiency, in my opinion.

We see that, for example, in the data processing area, the cost has gone up about 222 percent; in the payroll roll area, the cost has gone up 351 percent; in the training area, the cost has gone up 480 percent; in the staffing area, the cost has gone up 429 percent—this in comparison, again, to a workload which has only gone up 29 percent.

So clearly there is a great deal of expansion in overhead costs here which is questionable on its face and on a statistical evaluation. So the Senator from Florida has included within his amendment an attempt to address this by reducing in the outyears the amount of increase which will be allowed in the area of administrative costs.

I congratulate him for that because I do think that is the right approach, and I think it is the way that this amendment should be paid for. I believe it is going to end up benefiting not only the GIs and the members of the service who benefit from the underlying amendment, but I think it is going to benefit the taxpayers generally, because we will be saving money out of administrative costs which are very questionable and applying it to getting people educated, which is the key.

So I congratulate the Senator from Florida for his amendment.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Mr. President, to close, I ask unanimous consent to have printed in the RECORD a letter dated July 7 from Mr. Steve A. Robertson, director of the National Legislative Commission of the American Legion, in which he states, "The American Legion urges you to support the Graham amendment to S. 1882, the Higher Education Reauthorization Act."

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE AMERICAN LEGION,
Washington, DC, July 7, 1998.

DEAR SENATOR: The American Legion urges your support to the Graham amendment to S. 1882, the Higher Education Reauthorization Act, which will exempt Montgomery GI

Bill (MGIB) benefits from being counted as resources when veterans apply for financial aid.

According to the Department of Veterans Affairs, over 95 percent of servicemembers entering the military elect to participate in the Montgomery GI Bill (MGIB). Sadly, less than 50 percent of eligible veterans have used their earned MGIB benefit. Because of the high costs associated with college, counting MGIB benefits as resources when applying for other types of federal financial aid, penalizes veterans and prevents many from enrolling in an educational program.

Ironically, counting earned benefits as resources only applies to the MGIB and not other federal education programs like AmeriCorps. Under existing law, many nonveterans entering college actually have a larger monetary budget and still receive more financial aid than veterans receiving MGIB benefits. Penalizing veterans for receiving an earned individual benefit sends the wrong message to America's youth and is illogical and counterproductive. The Graham amendment to the Higher Education Reauthorization Act corrects this injustice and helps to restore the integrity and purpose of "earning an education."

Young servicemembers have long understood the meaning of earning educational benefits and the concept of working, contributing and patiently planning to improve their economic situation. Historically, the MGIB has served as a tremendous recruiting tool for the Department of Defense. Unfortunately, young men and women are less likely to join the military today because of other federal education assistance programs that require little, if any, up front commitment, sacrifice and out of pocket expenses. Your efforts to help correct this trend will provide much needed financial relief to young veterans and their families when trying to transition from the military to the civilian work force and help them realize their educational potential.

Once again, The American Legion urges you to support the Graham amendment to the Higher Education Reauthorization Act. The American Legion appreciates your continued leadership and commitment to veterans and their families.

Sincerely,

STEVE A. ROBERTSON,
Director, National
Legislative Commission.

Mr. WELLSTONE. Mr. President, I ask unanimous consent to be included as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAHAM. Mr. President, I would like to conclude by recognizing the person who first brought this issue to my attention, Mr. Ron Atwell, who is the director of veterans benefits at the University of Central Florida in Orlando, FL. While participating in graduation ceremonies at the university in May, Mr. Atwell raised with me the inequity of this circumstance of veterans having effectively the benefits that they deserved to receive, that they had made a partial contribution towards, be diluted by the manner in which other student financial aid was calculated.

I thank Mr. Atwell. This is an example of a citizen with a legitimate concern who has made a difference in the lives of potentially many thousands of future veterans who will get the benefit of this removal of an injustice from our student financial aid program.

With that, Mr. President, I urge adoption of this amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3110) was agreed to.

Mr. GRAHAM. Mr. President, I move to reconsider the vote.

Mr. WELLSTONE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. I thank the Chair.

Mr. President, I am going to very shortly send an amendment to the desk. I want at the very beginning to just take a couple of minutes to thank my colleagues, Senator JEFFORDS and Senator KENNEDY, for their very fine work. To me, it is a labor of love to be on the Labor and Human Resources Committee, and I want to very briefly talk about the Higher Education Act which was first passed in 1965.

I want to highlight at the beginning the Pell Grant Program, and I want to pay my respects to one of the Senators whom I have most enjoyed getting to know and to work with. I think he is a giant. I think he represents civility. And that is Senator Claiborne Pell. When we talk about the Pell Grant Program, I would say to the pages, as you go to apply for higher education, the Pell Grant Program will be critically important. This was Claiborne Pell's great contribution.

I do believe that eventually—and I think my colleagues agree with me; and I am really disappointed that we haven't done this—we ought to fully fund the Pell Grant Program. We have bumped it up now to about $3,100 or thereabouts, but, frankly, we ought to take it up to $5,000. It is the most cost-effective approach. You reach the most students in need. You reach well into the middle-income range as well. Students don't graduate in such debt. It is absolutely critically important, and that would remain for me kind of the major priority in higher education.

I also want to just at the very beginning remind colleagues that I still think, on the Hope scholarship tax credit proposal, we have got our work cut out for us, because if it is not refundable, those students, many of whom are in community colleges, Mr. President, in our State of Minnesota, who come from families under $28,000 a year, just simply have no help at all. So the promise of a tremendous amount of assistance for 2 years of higher education is not being realized.

The average college student today is just so different—I mean is really so different. I sometimes believe the nontraditional students, students who are older and going back to school, many of them with children themselves, have become the traditional students. Over 57 percent of college students are female—it certainly wasn't that way in 1965 when we passed the Higher Education Act—37 percent are students of color. The average age of a student today in higher ed is 27, and more than 25 percent of college students are over 30. About 1 in 5 are married, and 1 in 10 are single parents. So it is not just 18- and 19-year-olds living in the dorm any longer. Really, we are talking about a very different situation.

I wanted to highlight this, and I will just take a few moments and then get right to the amendment by just some profiles of some of our Minnesota students.

Tony Rust is a senior at Southwest State University at Marshall, MN, and the Minnesota State University Student Association State Chair. He received the Pell grant his freshman year, only the Perkins loan his first 3 years, and the Stafford loan all 4 years. During his 4 years of college, Rust has worked at least 20 hours per week in order to pay for tuition and other expenses. His parents have not helped him financially, but he did, however, receive scholarships during his sophomore year. "I wouldn't have been able to attend college without the Federal financial aid programs," Rust said. "I wouldn't be graduating this weekend if it wasn't for federal programs." Rust's loan debt will be approximately $20,000.

That weekend, of course, goes back to the beginning of June. By the way, Southwest State University is one great university. And the thing I like about it best, Mr. President—you have probably visited it as well—is the accessibility for those students who are developmentally disabled. It is just an incredible place; it really is.

Paula Heinonen, after working for years in a rural hospital and raising four children, decided to return to school to enhance her skills. A nontraditional student, Paula is a junior at the Center for Extended Learning at Bemidji State University at Bemidji, MN. Paula is a wife, mother, worker, and student.

And we have a lot of students like that today on our campuses.

Then, finally, Troyce Williams. Troyce is a single mother of four children who is working hard to complete her studies at Minneapolis Community and Technical College within the one-year education requirement—which I will come back to in the amendment. Affordable housing and child care are critical to her graduating.

Mr. President, there are a couple of things in this bill I appreciate. There was an amendment I was proud of that we introduced, we did extend the Pell award for summer semesters, and that will help a lot these nontraditional students. I think that was terribly important. We did have increases, not all that we should have, in the Pell grants and in the TRIO Program. I don't think I heard a lot of discussion about the TRIO Program, but talk about a heart-and-soul program, I love the TRIO people in Minnesota. It is an effort to reach down in the public school system and attract students of color or "disadvantaged" students, low-income students, to higher education. And then, once there, once they are in our colleges and universities, to provide them with the kind of additional support services that they need. It is just wildly successful and, actually, we have strong bipartisan support for the TRIO Program. There was a time when we were fighting for the survival of the TRIO Program. I am really glad that both parties have united behind it.

Senator DEWINE and I—and I have enjoyed working with Senator DEWINE from Ohio—we have an amendment in this bill that I feel very good about. What we essentially say is that for those men and women who graduate who go into early childhood development, there will be loan forgiveness. That is a really positive incentive. We keep saying we have to get it right for students before kindergarten, but we pay men and women in child care miserably low wages. You make half of what you make working at a zoo, if you are working with children.

By the way, I think people who work at zoos do very important work. I love zoos. Actually, I think they are precious. But the point is, why in the world do we say, "These early years are so important for the development of the brain, as shown in all of the studies, and we have to get it right for these children, it has to be intellectually stimulating," and we have so many people who work for $6 or $7 or $8 an hour, many without any health care benefits and all? Senator DEWINE and I have a loan forgiveness provision in the bill which I think at least helps.

We have a mental health package which will provide those who are choosing careers in mental health to have research work and internships on the campus to be considered as study.

We have an effort with Senator KENNEDY in an area that has languished, recruiting women into the fields of math and science.

We do some things that I think are important with the Fair Play Act, which would require the university data—I say to the chair of the committee, don't worry, I am not going to get started on this today, at least—but we have expenditures on all sports to be shared with the Department of Education, so we can try to figure out why some of these minor sports, be they men's sports or women's sports, are being cut.

My colleague, Senator GREGG from New Hampshire, is great to work with. I am proud of the amendment we did on campus safety. We want more accurate reporting. We have an issue with the Senator from Pennsylvania, and we have a $10 million grant program for collaboration between campus police, local law enforcement, and those women who are working in battered women shelters, which I think is extremely important.

Finally, we are going to have an GAO study just look again at some of the cuts in college sports, some of which I think have been arbitrary and capricious, and to try to have a little bit more accountability.

I thank my colleagues for their work on this bill. I am proud of the amendments I was able to contribute. I think this is a very good piece of legislation.

I now will send an amendment to the desk. This amendment I introduce on behalf of myself, Senator WENDELL FORD, Senator TIM JOHNSON, Senator DICK DURBIN, Senator CARL LEVIN, Senator BARBARA MIKULSKI and Senator CAROL MOSELEY-BRAUN. A number of these Senators are going to be out on the floor speaking on this amendment. I think it is an extremely important amendment, colleagues. I believe we can pass it. I hope we can pass it.

AMENDMENT NO. 3111

(Purpose: To expand the educational opportunities for welfare recipients)

Mr. WELLSTONE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Minnesota [Mr. WELLSTONE], for himself, Mr. FORD, Mr. JOHNSON, Mr. DURBIN, Mr. LEVIN, Ms. MIKULSKI and Ms. MOSELEY-BRAUN, proposes an amendment numbered 3111.

Mr. WELLSTONE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in title VII, insert the following:

SEC. . EXPANSION OF EDUCATIONAL OPPORTUNITIES FOR WELFARE RECIPIENTS.

(a) 24 MONTHS OF POSTSECONDARY EDUCATION AND VOCATIONAL EDUCATIONAL TRAINING MADE PERMISSIBLE WORK ACTIVITIES.—Section 407(d)(8) of the Social Security Act (42 U.S.C. 607(d)(8)) is amended to read as follows:

"(8) postsecondary education and vocational educational training (not to exceed 24 months with respect to any individual);".

(b) MODIFICATIONS TO THE EDUCATIONAL CAP.—

(1) REMOVAL OF TEEN PARENTS FROM 30 PERCENT LIMITATION.—Section 407(c)(2)(D) of the Social Security Act (42 U.S.C. 607(c)(2)(D)) is amended by striking ", or (if the month is in fiscal year 2000 or thereafter) deemed to be engaged in work for the month by reason of subparagraph (C) of this paragraph".

(2) EXTENSION OF CAP TO POSTSECONDARY EDUCATION.—Section 407(c)(2)(D) of the Social Security Act (42 U.S.C. 607(c)(2)(D)) is amended by striking "vocational educational training" and inserting "training described in subsection (d)(8)".

Mr. WELLSTONE. Mr. President, most of my colleagues who support this amendment, and I believe there will be bipartisan support, supported the welfare bill. This is not about the welfare bill. Most colleagues who support this amendment were strongly in support of the welfare bill.

I want to say at the beginning, a few words about that welfare bill which is a little counterintuitive to what I think people have been reading about or hearing about. I want to say, and unfortunately I believe I can marshal a lot of evidence for this point of view, that the reduction of welfare rolls by some 4 million plus people will be a good thing if what we are talking about is a reduction of poverty. The question is whether or not it has led to a reduction of poverty. There is precious little information out there and we need to understand, when we say to a family—a single parent, almost always women with small children—you now are off the rolls, you will be working, the question becomes what kind of jobs at what kind of wages can they support their families on? And, when they lose their health care a year later, are they worse off or better off? We have to make sure that these women and these children will be better off and that this will lead to a reduction of poverty, economic independence and all the rest.

I am not at all sure that is happening. As a matter of fact, I think if we were ever to get the data State by State, we would find that many of these others and these children are worse off. First point. Then I will get to the amendment.

Second point—child care. There are too many stories that too many people are now telling about how, yes, they are working, but it is a 3-to-11 job. Where is the child care available for their 3-year-old or their 4-year-old? There are too many of these families that talk about very ad hoc arrangements, one week it is a cousin, another week it is an older brother, but they never know from week to week how they will be able to find the child care.

There are too many long waiting lists for affordable child care for working families. Now, you have another group of people who are coming into the workforce. There are too many first and second graders who are going home alone with no one there at all, and too many 3-year-olds and 4-year-olds also who are at home alone. That is the truth. Somebody has to look at that. I just want to say it on the floor once and then I go right on to the amendment. Someone has to look at that.

If we are going to say that children are so precious—and we say that—and if we are going to say the children are 100 percent of our future—and we say that—then these children, even if they are poor children, matter as much as any other children. They are, all of these children, are a mother's child and a father's child, and they should matter. Somebody, somewhere, sometime, someplace has to get beyond the hype and look at exactly what is happening.

Now, for the amendment supported by many colleagues who have a very different view about the welfare bill; this amendment is straightforward. What it does is it allows States to permit 24 months of vocational and postsecondary education as work activity. I will explain what this means. And, in addition, it removes teens from the 30 percent education cap.

Two issues: The States have a cap as to how many citizens they can count as working if they are going to school, and teenagers are included. In a way, the teenagers should not be included because the given is we want teenagers to complete their high school education. I think that is pretty simple and straightforward, and that will help a lot of our States out as they try to work through the work participation requirements.

The second thing this amendment says is, for any State that wants to—and there is no mandate at all—for any State that wants to, you can allow a mother to be able to complete 2 years of education.

This is extremely important. Senator LEVIN began this effort last summer when he offered a similar amendment to the Balanced Budget Act. His amendment would have expanded the current law to permit 24 months of vocational education. I commend his efforts.

I remind colleagues that there were 55 votes in favor of the amendment. Since that time, more data, more reports, more anecdotal evidence has emerged reinforcing the need to make this modification. In other words, we want to give States more flexibility with their welfare plans.

We have to make this modification, because right now what is happening is that in too many cases States don't have the flexibility and, therefore, women, single parents with small children who are on the path to economic self-sufficiency because they are going to school, are essentially being driven out of school. This is crazy. We shouldn't do this.

If we can at least put into effect this modification, which I think will have strong support, we will enable these women and these mothers to go on through the 2 years of education. We will enable the States to have the flexibility. No State is required to; it is up to the States. These women will be in a much better position to be economically sufficient.

I will provide a lot of data, I say to my colleagues. If the Senator from Illinois is here to speak on the amendment—I know he is an original cosponsor. Has the Senator come to speak on the amendment? I will give an introduction and then defer to my colleague because we are going to finish up soon.

Mr. President, what I am simply saying to colleagues is, I think this modification just makes all the sense in the world. Right now what happens is you have a State that is under pressure with all the work participation requirements. The State doesn't feel like it has the flexibility to give these mothers this option. And so you have this kind of bitterly ironic situation where a mother, a single parent, with two small children in college is forced out of college. She gets a $6-an-hour job with no benefits. One year later, she loses her medical assistance, and she and her children are far worse off, as opposed to—and I will provide a lot of data to support this—as opposed to what happens when this woman, this mother can complete her education.

There is no mandate. What we are saying is that if my State of Minnesota or the State of Illinois or the State of Vermont or the State of Massachusetts or the State of Alabama so desires, or the State of Kentucky—my colleague, Senator FORD, has been very active on this—then they can do so.

The question is, When these mothers are on the path to economic self-sufficiency, why do we want to take them off that path? I recently heard from a mother, Camille Martinson, who is a single mother with two children on the verge of completing a nursing degree. But fearing she will be unable to do so—her words best express the frustration she is now feeling and highlights, I think, the importance of the amendment. I quote from the letter that Camille sent me:

> With this infant program—

That is our welfare program in Minnesota—

> They are forcing me to work a $5.15 per hour job. But if I was to graduate as a nurse, I will work for pay of over $10 per hour or higher. I am almost ready to graduate but it's damn near impossible with all these demands on me. If I didn't love my children so much that I want to provide them and give them a good life, I would have quit school and flipped burgers for eternity. I guess that's what the State may be forced to have me do. It sure seems like it. I want to make something out of my life for me and my children and succeed in life but won't at this rate.

These are her words, a direct quote:

> Please help me with these issues as I see no other way out. It is hell for me. I guess you have to be in my shoes to know exactly how I feel and what I'm going through. I don't like the way this program is set up. It is a lose-lose situation. I can't win no matter what I do. The system I'm currently working on will make me fail no matter what I do. When I speak on these issues I'm not only speaking for myself, but many thousands of others are having similar problems that I do.

I have a lot to lay out on this amendment. I yield the floor to my colleague from Illinois who was gracious enough to come down and speak on this.

Mr. DURBIN. I thank the Senator from Minnesota.

The PRESIDING OFFICER (Mr. SESSIONS). The Senator from Illinois.

Mr. DURBIN. Mr. President, I ask for recognition in support of his effort. I say to my colleagues in the Senate, we have, in the course of the century, embarked on major undertakings at the Federal level. Probably the most historic was the New Deal. The New Deal, which goes back some 65 years-plus, was an effort to bring this country out of a terrible situation. It was initiated by President Franklin Delano Roosevelt, and he tried very many different ideas to try to get America moving again.

I thought the hallmark of the New Deal was the willingness to concede that every new idea in the New Deal didn't work. Some of them had to be junked; some of them had to be changed substantially.

I was one who voted in favor of the welfare reform legislation. I believed that we needed to change the welfare system in this country, to change the mentality of welfare, to break the generational dependency that was repeating and repeating.

I said as I voted for it, and I repeat today, that bill, as drafted, was not perfect law by a long shot. It didn't reflect the reality of change that would take place across America. So since then, on four or five different occasions, we have modified welfare reform in order to be more responsive to the actual needs of Americans.

What the Senator from Minnesota is asking us to do is to open our eyes, go beyond the stereotypes, go beyond the clichés, look at the real people who are now making the life struggle to come off welfare and into an independent state and a state where they can raise their families in dignity.

I have met women like those who have written to Senator WELLSTONE. One I can recall is in Springfield. She is coming off welfare, attending the community college. Bringing her 12-year-old daughter to class with her because she had no one to watch her, keeping that daughter in class with her during the course of the day, and trying to find her way home in the evening by public transportation was making the ultimate sacrifice. She was going to get that associate degree and use it to improve her life and to help her daughter no matter what. We should never stand in the way of that.

What the Senator from Minnesota is saying is let us have the flexibility to recognize when people are making an honest and determined effort. Let us not set up these barriers and walls to progress. Let us join in a partnership and hold our hand out to help these people come up that ladder to success. I think when it comes to education, it should go out without debate and really without controversy here; that if we have people who are moving on the track to training and education which liberates them from welfare dependency, we shouldn't constrict them with rules or with our laws or our legal stereotypes.

I gladly support the Senator from Minnesota, and I hope that we can provide this flexibility, and with this flexibility, we can give more people an opportunity to succeed.

Mr. President, I yield back the remainder of my time.

Mr. WELLSTONE. I thank my colleague. I know we are going to take a break in a moment. I say to my colleagues, if you don't have debate and want to support this amendment, I won't talk that long. I am ready to go forward with it. I don't know what my colleagues have heard. I believe both of them are supporters.

I will simply summarize right now. There is a lot of data I can present later on about the difference an associate degree makes in terms of an economic situation for a family.

I want to pick up on one comment my colleague from Illinois made. I can't even begin to recount the number of community colleges I have been at where maybe there are 300 students. I know about 20 percent are single parents, many welfare mothers. Over and over again, the plea that I hear is, "Please let me finish my education; please let me get my 2-year degree, because I will be in such a better position to support myself and my children."

I think if a State wants to allow a mother to do so, and her family will be much better off, we ought to give States that flexibility. I believe our States are saying that, I believe the community colleges are saying that and these families are saying that.

I have a list of about 70 different organizations—120 organizations—that are saying that. So I hope we will adopt this amendment.

Mr. President, I ask the manager, my colleague, the chairman, I have much to say if we are going on and there is debate. If there is support for this, I am prepared to urge its adoption. Does my colleague know? Is there opposition?

Mr. JEFFORDS. I am not at liberty to say at this time. I don't know. I suspect there is opposition, but I haven't had anyone come forward who wishes to speak at this point. But since we have reached the magic hour of 2 o'clock, it is best we proceed under the unanimous consent agreement.

AGRICULTURE EXPORT RELIEF ACT OF 1998

The PRESIDING OFFICER. The hour of 2 o'clock having arrived, the clerk will report S. 2282.

The legislative clerk read as follows:

A bill (S. 2282) to amend the Arms Export Control Act, and for other purposes.

The Senate proceeded to consider the bill.

The PRESIDING OFFICER. The Senator from Kentucky is recognized for 1 hour under the previous agreement.

Mr. MCCONNELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. MCCONNELL. Mr. President, I rise today to offer the Agriculture Export Relief Act. First, I thank the members of the sanctions task force for their critical contributions to this bill. The staff has met several times, and I think the concerns which were raised in each meeting have been incorporated in this legislation.

Before I describe the bill, I would like to mention a few Members for their unique role in bringing this bill to the floor and energizing all of the interest that has developed around this particular issue.

Senator ROBERTS of Kansas deserves special recognition for his leadership in resolving this pressing issue. It was two bills first introduced by Senator ROBERTS—one dealing with the specific issue of lost markets for U.S. farmers and another more important bill dealing with the broader issue of ensuring that the executive branch has the flexibility it needs to conduct foreign policy in south Asia—that provided the initial impetus for today's action on this important legislation.

Senator ROBERTS quickly recognized the need to provide additional flexibility in dealing with the troublesome relationship between India and Pakistan. His legislation to provide that flexibility prompted the majority leader to create the sanctions task force 2 weeks ago. And today, in the task force's action, the U.S. Senate is preparing to act on the legislation originally sponsored by Senator ROBERTS.

I am very pleased to associate myself with the work of the Senator from Kansas. While his efforts to protect and defend America's farmers and ranchers are widely appreciated, I am particularly pleased to recognize his strong leadership in the area of U.S. foreign policy and in protecting the national security interests of the American people.

I also want to take a moment to recognize the work of Senator CONRAD BURNS, Senator CHUCK HAGEL, and Senator LUGAR. Each have been vocal, effective advocates for their agriculture communities' interests, which I am convinced is why the Senate is acting so quickly today. And, in addition to that, Senator GRAMS of Minnesota and Senator ALLARD of Colorado have been particularly active and involved in this issue.

Let me outline briefly what I think this bill accomplishes, since we operated on a tight deadline and there may be some Members who have not had a chance to review the details. Frankly, it is short and it is simple.

As many Members know, current law imposes sanctions on nations which transfer nuclear technology or detonate a nuclear weapon. The law exempts from these sanctions intelligence activities and humanitarian assistance. This legislation adds one additional category. We have permanently exempted financing and credits extended by the Department of Agriculture to support the sales of agricultural commodities. We have also clarified that current law exemptions on commercial financing extend not only to agricultural commodities but also to fertilizer.

The reasoning behind this exemption is simple: Sanctions are supposed to squeeze the targeted country, not the American farmer or producer. Cutting off our sales will not alter or reverse the decision to detonate. Cutting off American export financing will not change any government's judgment or, for that matter, change its behavior about its nuclear program. There is no leverage in curtailing or cutting off our sales; there is only loss of income for our farmers, our ranchers, our producers.

As we discuss this bill, the U.S. agriculture community faces the possibility of not being able to bid on a tender of 350,000 tons of wheat recently proffered by the Pakistani Government. At a time when Asian markets and sales are depressed, this tender is unusually important. Whether the Pakistanis buy U.S. wheat, Canadian wheat, or some other country's wheat isn't going to make a difference on a dinner table in Islamabad—but it sure will in Topeka. We should not sacrifice the American farmer in our effort to put the nuclear genie back in the bottle.

This bill is a good first step. But I would like to let my colleagues know it is not as far as most of the members of the task force wanted us to go. I think many shared the view that we should exempt from the sanctions law all official export promotion support to all American businesses, especially in view of the enormous pressure many are under because of the Asian meltdown. In the search for substitute markets, it would have made a real difference to allow the Export-Import Bank and OPIC support for a wide range of businesses from aircraft to home computers. However, given Senator FEINSTEIN's and Senator GLENN's objections, we were not able to proceed with export support.

We also could not proceed with language which would give the President a margin of flexibility to facilitate a reduction of tensions in the region. We did not plan to offer a permanent waiver or suspension of sanctions. We were simply going to give the President authority to waive any restrictions until March 1 if doing so would produce some progress.

I think many of us are concerned about the possibility of additional tests, the prospect of deployment of nuclear weapons, and the transfer of fissile material to third parties. I am convinced that there was some merit in providing the President a short period of time to waive a restriction on economic assistance if he could produce meaningful results in enhancing our security interests.

Again, objections on the other side of the aisle have prevented us from offering that option today. We may not have reached as far as most of the members of the task force wanted, but we have taken a first, constructive step in defining when sanctions are and when sanctions are not in American interests and changing the law to better reflect those interests. This bill will advance and protect American economic security interests.

I have been pleased by the cooperative spirit which has characterized this first round in the task force's efforts and the fact that we had a very tough deadline set by the leadership which we were able to meet a week early. We would not have been able to move so quickly without Senator BIDEN's active and thoughtful effort. I thank him for that. We have had a lot of explaining to do, and my colleague has taken on that challenge with expertise and enthusiasm.

Mr. President, I do not see Senator BIDEN here yet. There are a variety of Senators on this side of the aisle who have been heavily involved in this, many of whom I see on the floor today. Senator CRAIG has been very, very active and concerned about this issue, and I believe he was first on the floor. I would be happy to yield to Senator CRAIG 5 minutes.

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President let me thank my colleague and chairman, Senator McCONNELL, for working so closely with so many of us to bring S. 2282 to the floor. It is important that we act now and that we act decisively to send a very clear message to our producers and to our markets, both nationally and around the world, that we recognize, although sometimes the action of Government does not appear to, that the American economy and American farmers live in a global economy, and that we have to be a good deal more sensitive to our actions as it relates to that and the impact that those actions can have on our producers. Cutting ourselves off through unilateral sanctions seldom benefits us as a nation and almost always hurts the producer. In this instance today, we are speaking of that producer being the American farmer.

Many of us have recognized that for a long time and have tried to say in a clear way through different pieces of legislation that food should never be used as a tool of foreign policy. But we stumble into that on a regular basis. As a result of that, we damage significantly the producer, because in the business of trade, one of the things that American agriculture has been able to establish over the years is two very important items. First of all, they are able to let the world know they can deliver a quality product. The world knows that and appreciates it. But it is also important that the world knows we are a reliable supplier. We search and we allow our producers to find markets and work to build those markets, only to be snuffed out by a piece of legislation that may or may not have impact upon another nation. That is exactly what has happened in this instance and why it is so important we act today and in a timely way.

Food should never be used as a tool of foreign policy for all the reasons that have been spoken to by myself and Senator McCONNELL and I am sure will be referenced here today. It is poor policy to require the farmer to bear the burden of a faulty foreign policy or undeterminable goals, faulty goals.

In the bill we passed a year and a half ago, a new farm bill, we made a variety of promises to American agriculture producers. We promised, as we eliminated most price supports and ushered in a greater freedom to produce, that we would help open up world markets and that we would assure their openness and access to those markets, and that would become an important part of the marketplace. We promised less government intervention, and we promised to improve risk management options. The tragedy is, while we promised it, the action that was necessary to be taken under the Arms Export Control Act was a denial of that promise.

Today, we are here on the floor reinstating that promise very clearly. I hope the task force that Senator McCONNELL and others are involved in, while they have looked at this and while Senator ROBERTS has been a leader in helping us focus on this issue, that we go well beyond this in the future, that we examine all of the things we are doing in the area of sanctions to see whether they really make sense or not. Maybe they would have in a world economy if we were the sole provider, if we had something nobody else had, if we had something that everybody else needed; maybe then we could force policy that was otherwise unpopular with some. That is not the case, certainly not the case with agricultural commodities. We must be a supplier of quality, and we must be a reliable supplier. Government needs to stay out of the way, only to help facilitate access to those markets, not in any way to deter them.

This amendment today moves us again to deal with this issue in a forthright manner. I think it will go a long way toward sending the right signal to our markets. I thank Senator McCONNELL and others who have been involved.

He mentioned a good number who have been involved with us on a regular basis over the last several months, both Democrat and Republican, in focusing on this issue. I am happy to have played some role in it but, most importantly, to help get this to the floor on a timely basis so we can impact markets and production and price in this country. I am convinced this action today will do so.

I yield back any remaining time.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Mr. President, I am very pleased today to join my colleagues, Senator BIDEN, Senator ROBERTS, and numerous other sponsors of this amendment, in moving forward this important piece of legislation today.

I ask unanimous consent Senator KERREY be added as a cosponsor as well.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. MURRAY. Mr. President, it is imperative that we preserve Pakistan as an export market for our wheat. Washington State wheat growers need this bill. Our wheat prices right now are beneath the cost of production. Our growers and the rural communities they support are, frankly, losing the shirts off their backs.

There are now 3,500 wheat farms in eastern Washington; that is 3,500 wheat families. These families are the backbone of our rural economy. In Douglas, Lincoln, and Adams Counties, in Ritzville and Garfield, our growers need export markets like Pakistan so they can keep going. Every day we are losing family farms, and it is imperative that we do something about it.

This bill doesn't just affect farmers, it affects our truckers, it affects our ports, it affects our barge operators, and all of their families as well.

Given the evolving market forces in south Asia, it is really critical that we pass this bill today to give wheat growers in Washington State, the Northwest, and the Nation the chance to compete with other suppliers who are just waiting to take our customers.

No one condones the actions of either Pakistan or India earlier this year. The proliferation of nuclear weapons must not be allowed. The Arms Export Control Act of 1994, passed overwhelmingly by Congress, and requires that sanctions be imposed on these nations.

But the original act excluded food and humanitarian assistance. Unfortunately, the export credit guarantee programs of USDA essential to sale of food to poorer nations like Pakistan were not excluded.

Last month, during committee consideration of the Agriculture appropriations bill, I passed an amendment to explicitly exclude these export credit guarantees, most notably the GSM-102 program, from the sanctions.

Unfortunately, because of recent developments here on the floor, this amendment on agriculture will not be enacted into law soon enough to prevent the loss of this important export market.

Pakistan recently announced that they will tender for 350,000 metric tons of white wheat on July 15 for an August shipment. Without access to the GSM-102 credit guarantees, United States wheat producers will not sell a single kernel of wheat to Pakistan.

In recent years, Washington state wheat producers, in fact, Pacific Northwest growers, have sold more than one-third of their wheat to Pakistan. Washington state and other Pacific Northwest states produce almost exclusively white wheat, making Pakistan outnumber one export market.

Washington wheat needs this export market. This is a $300 million market for Washington wheat.

If we do not enact this legislation by July 15, we will lose not only the ability to bid on this tender, but potentially the entire Pakistan market, as other nations step in to fill the void.

That is why we are bringing this amendment as a stand-alone piece of legislation this afternoon.

If we do not pass this bill and preserve this important wheat market, the United States reputation as a reliable supplier of high quality wheat will be weakened and our competitive advantage in the global marketplace undermined.

That is why this Congress must act now.

Mr. President, I have a number of items that I ask unanimous consent to have printed in the RECORD: A letter from Sandy Berger, Assistant to the President for National Security Affairs, in support of my amendment; remarks of the President in a radio statement on wheat exports in support of the legislation; a statement by the Secretary of Agriculture, Dan Glickman, in support of the legislation; a letter from the National Association of Wheat Growers in support of this legislation; and a letter from the National Association of State Departments of Agriculture in support of this legislation.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
Washington, DC., June 11, 1998.

Hon. PATTY MURRAY,
U.S. Senate, Washington, DC.

DEAR SENATOR MURRAY: Thank you for your leadership in addressing the question of Agriculture Department export credit programs that may be affected by the imposition of sanctions on Pakistan and India under section 102 of the Arms Export Control Act. As you know, in implementing the sanctions we are endeavoring, whenever possible, to minimize the humanitarian impact on the people of India and Pakistan.

With this purpose in mind, the Administration supports the legislative language in the bill, introduced today by you and Senator Roberts, which would amend the Arms Export Control Act to create an exception for "credit, credit guarantees, or other financial assistance provided by the Department of Agriculture for the purchase or other provision of food or other agricultural commodities." We further support your efforts to move such legislative language as expeditiously as possible.

Sincerely,

SAMUEL R. BERGER,
Assistant to the President for National Security Affairs.

THE WHITE HOUSE,
OFFICE OF THE PRESS SECRETARY,
June 11, 1998.

For Immediate Release:

REMARKS OF THE PRESIDENT IN A RADIO STATEMENT ON WHEAT EXPORTS

"Today, I announced my support for Senator Murray's legislation to ensure that American farmers can continue to export wheat to Pakistan and India under the Department of Agriculture's export credit program.

In implementing sanctions against India and Pakistan, we are trying, wherever possible, to minimize the humanitarian impact on the people of those countries. We have long believed that food should not be used as a weapon to influence other nations.

Farmers in the United States provide a significant percentage of Pakistan's wheat imports. Cutting off that supply would only hurt the citizens of Pakistan and American farmers without furthering our important goals of nonproliferation of atomic weapons. We hope this amendment is passed as quickly as possible."

CONTINUING AGRICULTURAL EXPORT CREDITS TO INDIA AND PAKISTAN

[From Radio Address of Agriculture Secretary Dan Glickman, June 12, 1998]

When India and Pakistan recently conducted underground tests of their nuclear weapons, they crossed a line with the United States that requires a firm, no-nonsense response. This Administration has imposed tough sanctions that we support and that are required by law.

But the law also has called into question the fate of U.S. agricultural export credits. Export credits promote the sale of U.S. farm products to buyers in countries facing economic difficulties. These credits, which come at no cost to U.S. taxpayers, have enabled our farmers and ranchers to sell several billion dollars worth of food and fiber around the world. Without these credits, our exports would decline, as would our farm income, and areas in Asia and other parts of the world would be more unstable because economically troubled countries would have a harder time buying food.

While India makes only nominal use of these export credit programs, Pakistan is another story. They are the third largest market for U.S. wheat, and the top market for white wheat. Last year, Pakistan purchased 81 million bushels of U.S. wheat, almost all through export credit guarantees. And, so far this year, these credits have made possible $162 million in U.S. wheat sales to buyers in Pakistan.

Unfortunately, as Congress wrote the arms control act, these sales may soon be in jeopardy. By law, this Administration could be forced to suspend these credits.

For humanitarian reasons, we should not use food as a weapon to influence other nations. From an economic perspective, it's important to show that the U.S. is committed to being a reliable supplier of agricultural products. And, for all practical purposes, the ones who will be punished most by this action would be U.S. wheat farmers who already have been beaten up by low prices.

This Administration will resist any action that would lead to a de facto grain embargo, and I do not believe the arms control act was written with that end in mind. We need to act quickly to protect these export credits. Fortunately, legislation now before the Congress—authored by Senator Patty Murray, of Washington, and Senator Pat Roberts, of Kansas—would do just that. This Administration strongly supports this bill which would separate agricultural trade from American's non-proliferation efforts.

For our world to be stable and secure in the next century, we need strong international arms control efforts, but we also need a strong agricultural trading system that is capable of getting enough food to people around the world. Both are essential ingredients to peace and stability, and neither should be sacrificed to the other.

NATIONAL ASSOCIATION OF
WHEAT GROWERS
Washington, DC, June 11, 1998.

Hon. PATTY MURRAY,
U.S. Senate, Washington, DC.

DEAR SENATOR MURRAY: We are writing in strong support of the "India-Pakistan Agricultural Credit Sanction Exemption Bill". It is our understanding that this bill will provide a narrow exemption for food and food credit programs from any possible sanctions resulting from Section 102(b) of the Arms Export Control Act against the nations of India and Pakistan. Further, this limited exemption is consistent with the existing statutory exemption for commercial agricultural loans.

Pakistan is the third largest wheat export market for the United States. In 1997-98, Pakistan imported 2.2 million metric tons. Wheat is the major staple of the Pakistani diet and inadequate inventories could cause social unrest. In 1997, wheat shortages led to the collapse of the political system. Such unrest could lead to the ouster of the current government or worse, a military strike at India. We see food as a means to protect the political stability of Pakistan.

Indian is subject to the same sanctions as a result of its nuclear tests, however, it does not participate in the USDA export credit guarantee program nor is it currently a major importer of U.S. wheat. Nevertheless the narrow exemption expressed in the "India-Pakistan Agricultural Credit Sanction Exemption Bill" should be applied equally.

Thank you for your leadership in advancing the view that food should not be used as a weapon of foreign policy. We would also like to express our appreciation for your brave effort to reverse the tide of unilateral economic sanctions. Currently, eleven percent of the world wheat market is off limits to U.S. producers due to the imposition of unilateral economic sanctions. The addition of Pakistan and India to the sanctions list would further disadvantage U.S. wheat farmers and drive down already low wheat prices. It is our experience that most sanctions serve no one but our competitors and do little, if anything, to improve the behavior of the offending government. We pledge to work with you and the bill's co-sponsors to reform our unilateral sanctions policy and exempt food and other humanitarian assistance from the U.S. sanctions arsenal.

Sincerely,

BILL FLORY,
President.

NATIONAL ASSOCIATION OF STATE
DEPARTMENTS OF AGRICULTURE,
Washington, DC, June 11, 1998.

Hon. PATTY MURRAY,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR MURRAY: On behalf of the nation's commissioners, secretaries and directors of the state departments of agriculture, I am writing to express our strong support for your amendments to exempt certain Department of Agriculture programs from sanctions under the Arms Export Control Act. Prohibitions against U.S. agricultural exports will only serve to hurt U.S. farmers.

As you know, the GSM-102 credit program is extremely important to U.S. agricultural exporters. It serves as a safety net for reluctant exporters by guaranteeing financing for the sale of U.S. agricultural commodities to certain foreign markets. The recently imposed sanctions against Pakistan do not exempt such programs as the GSM-102 program, virtually cutting off that market to U.S. agricultural products. Many of our nation's farmers rely upon Pakistan as a market for their products under the GSM-102 program.

Given the recent crisis in Asia, which has had a substantial impact on U.S. agricultural exports, now is not the time to cut off another key market for U.S. farm products. Senator Murray, we appreciate your efforts on behalf of U.S. agriculture. NASDA does not believe that foreign policy should serve to ban the export of U.S. agricultural products.

Sincerely,

RICHARD W. KIRCHHOFF,
Executive Vice President and CEO.

Mrs. MURRAY. Mr. President, agriculture is in crisis. The bottom has fallen out of the agriculture economy. Many of our growers are on the verge of bankruptcy. In fact, many have already gone over the edge.

We are losing family farms and we are losing the rural way of life.

Many in this chamber argue that trade is the answer. Trade is important, critically important. Pacific Northwest agriculture depends upon vigorous trade promotion.

I am a strong proponent of trade. But trade is not enough.

The 1996 farm bill took away the safety net for our growers. The old farm bill needed to be changed. And Freedom to Farm made some important changes. But it went too far and now growers are suffering.

While a market-based approach creates freedoms and opportunities in a competitive global market, some semblance of a safety net is necessary to ensure our growers survive the ups and downs of a volatile market. Congress needs to take action to protect agriculture and preserve rural communities before it is too late.

And this bill is an important step. Maintaining our export markets is essential to our long-term success. I urge the Senate to approve this legislation.

I retain the balance of our time.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. MCCONNELL. I yield 5 minutes to the distinguished Senator from Montana.

Mr. BURNS. I thank my friend from Kentucky. I also want to thank the Senator in a couple of other areas, because responding to what we have in the Northwest is, in my regard, an emergency.

Let's back up a little bit and talk about what has happened to farm export, and especially to the Northwest. Last January, we sat down with officials, including the Prime Minister of Australia, and talked about what has been commonly referred to as the Asian flu, the financial crisis in the Pacific rim—the complete, or almost complete collapse of financial conditions in four countries: Indonesia, Malaysia, Thailand and South Korea. And then we talked a little bit about the financial situation that Japan finds herself in, not being able to ride to the rescue of her neighbors in the rim. At that time, there was a consensus that maybe those countries that found themselves in financial difficulty would not impact the GDP of Australia, and little was regarded here in this country. I thought at the time that you cannot let the economies in four major importing countries of agricultural products cave in and it not affect this country. Sadly, I was correct.

So our exports to that part of the world have gone to zero. Now we come along with sanctions. Let me tell you a little bit about sanctions. I have never been convinced that sanctions on food really work. I will tell you in an instant that if we unilaterally sanction a country on American agricultural exports, here is what happens: That country is still capable of buying a supply from somebody else in the world. But the market knows of these sanctions; therefore, the rest of the world maybe puts 1 or 2 cents a bushel on wheat. Now, 1 or 2 cents doesn't sound like a lot for a bushel of wheat that weighs 60 pounds. That is in a short ton anyway. But when you are buying 300,000 metric tons, it is a lot of money. Even to a farmer, it is the difference between making the land payment this year and not making the land payment—that 2 cents a bushel.

Once that sale is made to the country that we have had sanctions on, then the country that did the selling pours the rest of their crop on the world market. So what do we do and what do our farmers do? They compete at a lower level. That is not right. It hasn't worked, as far as denying the country that had the sanctions on it. It didn't deny them of food supply for the people who live there. But it has denied our farmers entry into the marketplace, a place to compete.

To give you an idea, in the last 4 years the United States has imposed 61 unilateral economic sanctions on 35 countries containing 40 percent of the world's population. Now, what does that country do when that sanction is placed? It retaliates: I am not going to buy American products at any price. I am not going to do that.

So, in essence, we have denied our grain producers access to that market to even be considered to compete. I realize that we are talking about food here. I realize that to some folks that is not very important—until it comes suppertime. But to a farmer who only gets one or two paychecks a year, that is how he makes his payment on his operation, his fertilizer, his machinery, his land payment. It contributes to his schools, his community, his church. But under the conditions right now, they cannot do this.

So I ask my colleagues to strongly support this amendment. Yes, I know there are far-reaching implications of sanctions and, yes, there are folks who really understand that maybe national security may be at stake.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. MCCONNELL. I yield to the Senator from Montana an additional minute.

Mr. BURNS. Thank you. Mr. President, you tell me where they have worked when it comes to the supply of food. That is the very basic of all of our necessities every day. The Senator from Idaho is exactly right. We have developed export markets by using two methods—it is quality, it is quantity, and it is reliability. We are a reliable customer, and to deny our producers—and you can go all over the world. Our producers compete on an individual basis. We don't pool our wheat like Canada. We don't sell wheat on the international market by a decision made by Government. We do it by individual producers who want to sell their crop at a given time. Given the proper tools of risk management, they could take advantage of the international market.

I urge support of this amendment. I thank my friend from Kentucky for championing it.

The PRESIDING OFFICER. Who yields time?

Mr. BIDEN. Mr. President, I yield 8 minutes to the Senator from Oregon.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

Mr. WYDEN. Mr. President, before I begin, I want to express my appreciation to the Senator from Delaware, who spent about 2½ hours with a group of us this morning, working to make sure that this legislation got to the floor today. I also want to thank our colleague from Kentucky, Senator

McCONNELL, who was equally helpful in our effort to make sure that this bipartisan legislative effort didn't blow up at the last minute. I want to assure my colleagues that it was very close to going by the boards this morning.

Mr. President, the wheat farmers of the Pacific Northwest are 6 days away from a disaster. On July 15, Pakistan is going to initiate a process to purchase 350,000 metric tons of white wheat for August 1 to 20 shipment. Without access to the Government credit guarantees that we are talking about here, U.S. producers are not going to sell a kernel of wheat to Pakistan. The USDA estimates that Pakistan is going to import just under a million metric tons this year. Now, our prices are at a low. This year's crop is going to be one of the best ever. But the fact is, farmers across this country are staring an economic train wreck in the eye. We have a storage and transportation bottleneck with the imminent wheat harvest. We have a fair amount of the old crop still in the bins. We are facing the prospect of storing a great deal of wheat on the ground this year. Making a sale to Pakistan in the key August shipping period would be an enormous help in dealing with these logistical challenges. A sale might mean the difference between two or three turns of a river barge fleet versus only one turn in August.

Let me touch briefly on what it means to just one county, Umatilla, which I am very pleased that my colleague, Senator SMITH, who has worked so effectively with all of us on a bipartisan basis, calls home, and wheat growers there produce nearly one-third of all the wheat produced in our State. The economy of that county depends on both the direct sales of wheat and on all of the related jobs through suppliers, equipment, fertilizers, warehousing, shipping, and all of the economic base of our regional economy.

The fact is, Mr. President, and colleagues, unilateral sanctions simply do not work. They end up inflicting harm on U.S. producers and shippers. They don't target those specific leaders who are engaged in the most reprehensible activity. They hand market share to our competitors and then put the typical citizen in these countries in a position where they will not be able to secure the humanitarian help they need to survive. Each of these outcomes is not, obviously, a growth of U.S. foreign policy.

I am of the view that we do a lot of things well in our country. But I think what we do best is we grow things, and, at a critical time when we are seeing the United States in a position to play this leadership role in the global economy, it would be a tragedy to make the mistake of not passing this legislation, which, as far as I can tell, has kept about 15 Members of the U.S. Senate on the floor simply to speak for how important this legislation is.

We are, in the Pacific Northwest, 6 days away from a disaster. So it is critical now at the 11th hour that this legislation pass.

I am pleased to have been a part of this bipartisan group that has worked on this legislation over the last few weeks.

Again, I want to express my thanks to Senator McCONNELL of Kentucky, and Senator BIDEN, for their patience through that 2½-hour exercise this morning that had Sandy Berger of the White House and others involved, because had not Senator McCONNELL and Senator BIDEN been so patient this morning, we might not have this bipartisan legislation on the floor this afternoon, and our wheat farmers would not have had the help they need.

Mr. President, I yield the floor.

Mr. McCONNELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. McCONNELL. Mr. President, I yield 5 minutes to the distinguished Senator from Nebraska.

The PRESIDING OFFICER. The Senator from Nebraska is recognized for 5 minutes.

Mr. HAGEL. Mr. President, thank you.

I wish to first congratulate the bipartisan leadership in this body, the leadership of our two leaders, Senator LOTT and Senator DASCHLE, for addressing this issue and addressing the more encompassing issue of sanctions in total.

I want to also thank my friends and colleagues, Senators BIDEN and McCONNELL, for their active leadership on this issue.

This is a strong first step. We need a comprehensive trade package, a comprehensive package we will talk about and address. Yes, sanctions; sanction reviews—a number of my colleagues and I have worked on this issue for the last year. We have legislation pending. Senator LUGAR has been a leader in this area. We need to address the IMF issue as a Congress. We will be addressing MFN status with China and fast track. But a complete package.

This is a strong first step. This is the beginning of the larger debate that this Congress will have and must have about the role of the United States in the world and how we intend to engage the world, and trade is a very important part of that.

Our relationships with other nations must not be held captive to one issue. But our relationships with other nations are complicated. They include trade, of course, commerce. They include U.S. interests abroad, national defense, and human rights. But we must not allow one dynamic of our relationship with all our other nations on this globe to be held captive to just one issue.

History has shown, Mr. President, that trade and commerce engagement in reaching out does more to change attitudes and alter behavior than any one thing. Why? It improves diets; it improves standards of living; it opens society; it exposes people who have lived under totalitarian rule, who have had limited exposure to freedom, to liberty, to economic freedom, products, choice, consumerism. That is what trade does. Not one among us believes that just trade alone is all we need. But it is an important, integral part of our relationships around the world.

We live in a very dynamic time. The light of change today in the world is unprecedented in modern history, and maybe all of history. That change is spherical. It is moving. It touches every life in every way. Food, fiber, housing, and trade are common denominators of mutual interests of all the peoples of the world.

We must not isolate ourselves. Unilateral sanctions isolate those who impose unilateral sanctions. We need dynamic policies for dynamic times. The world is not static.

This is a good beginning. This is a significant beginning. Our leadership in this body has seized the moment at a critical time as we have witnessed our President in China for 9 days dealing with many of these issues. We know we have far to go in all dynamics with respect to our relationships with China, Pakistan, with India, all nations. But trade and commerce will play a vital role in building those relationships, enhancing the freedoms and liberties of people throughout the globe. We in the United States must play a full, dynamic leadership role in that process.

Mr. President, I am very proud to join my friends and colleagues who have worked on this diligently, who will continue to provide leadership, not just to this body but to the country, to the world, and to our farmers and our ranchers, our producers, and our citizens. We are all interconnected. We do live in a global village underpinned by a global economy.

I encourage all of my colleagues to vote for this very important amendment. Again, I say to my colleagues that this is an engagement we must all be part of.

I yield the floor.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. I yield myself 2 minutes.

Mr. President, I have not spoken. I am not going to take much time because Senators whose States which have very, very important interests in passage of this bill should be given time.

I would like to begin by thanking Senator MURRAY. She has been the spearhead of this effort. I, quite frankly, wish we had done something broader. The Senator from Kentucky and I thought we had worked out something more along the lines that my friend from Nebraska was just talking about, a broader approach to dealing with not just merely agriculture, which is obviously very important, but I just say to my colleagues, hopefully the Senator from Kentucky and I will be back on the floor in the not-too-distant future with a proposal for a more rational policy relating to sanctions generally, not just as they relate to Pakistan and not just as they relate to agriculture.

Mr. President, I am pleased to join the Senator from Kentucky in presenting this legislation.

As our colleagues know, just before the Fourth of July recess, the majority and minority leaders formed a bipartisan Task Force on Sanctions Policy. The Senator from Kentucky was named the chairman, the Senator from Delaware the co-chairman.

The task force was given two tasks; first, to make recommendations to the Senate leadership, by July 15, related to the existing sanctions against India and Pakistan. And second, to make recommendations, by September 1, on sanctions policy generally.

These are tight deadlines, but with the support of the leadership, the chairman and I are determined to try to meet them.

The situation with regard to Pakistan and India is our first challenge.

Two months ago, the security situation in South Asia changed, and changed utterly, to borrow a phrase from Yeats. The explosion of nuclear devices, first by India, then by Pakistan, brought two nations into the so-called club of countries which acknowledge that they possess nuclear weapons.

The testing by both countries was promptly—and properly—condemned by the United States and the international community. But the United States went further than most countries, because under the Glenn amendment, enacted in 1994, the President was required to impose sanctions on both governments.

The sanctions imposed by the Glenn amendment are as severe as they are sweeping.

They require the termination of all assistance under the Foreign Assistance Act—with certain exceptions such as narcotics assistance and humanitarian aid—the termination of all military sales and financing, the termination of all licenses for the exports of items on the U.S. Munitions List, and the termination of all credits or credit guarantees provided by the U.S. government.

Additionally, the law requires the United States to oppose the extension of loans by international financial institutions like the World Bank, and requires the U.S. government to prohibit private U.S. banks from making loans or credits for the purpose of purchasing food or other agricultural commodities.

The Glenn amendment provides little flexibility. Once imposed, there is no authority for the President to waive the law. His hands are completely tied.

I voted for the Glenn amendment in 1994, which was part of the State Department Authorization Act that year. But when viewed in the context of Pakistan's and India's decision to test, I have to conclude that while our approach worked for many years, it is no longer working. It didn't stop them from testing, and the lack of flexibility in the law provides little incentive for India and Pakistan to take positive steps now.

All this is not to suggest that sanctions should never be applied. I have voted for many sanctions laws in the past, and even authored a few. In this instance, sanctions were clearly appropriate, both as a strong condemnation of the governments in Delhi and Islamabad and to deter other countries which might seek a nuclear weapon.

What I am second-guessing is the decision of Congress not to provide more flexibility to the President.

I am a strong defender of congressional power, and I believe Congress is well within its constitutional authority to impose sanctions for foreign policy reasons. But the President is charged with the conduct of diplomacy. And any statute which provides little or no discretion for the President necessarily interferes with his ability to perform that task.

The task in this case is already difficult enough: the President faces the considerable challenge of convincing the two governments to constrain their nuclear weapons programs and avoid further escalation of tensions in the region. The inflexibility in the Glenn amendment deprives the President of tools that he might use to advance these objectives.

In imposing sanctions, we must also pause before applying sanctions unilaterally.

The weight of the historical evidence suggests that we are more likely to advance our objectives if we can gain the cooperation of our major allies. Moreover, unilateral sanctions may impose a greater cost on our economic interests than they do on the targeted country.

In the case of India and Pakistan, we are therefore faced with two questions: should we reconsider some of the unilateral sanctions set forth in the Glenn amendment?

And should we give the President some flexibility in order to advance his diplomatic objectives in the region?

I answer both questions in the affirmative and, I believe, so does the chairman.

However, the bill we are now considering is limited only to removing one unilateral sanction:

The bill before us would provide a permanent exemption under the Glenn amendment for U.S. government credits to support the purchase of food or other agriculture commodities.

This provision is identical to the provision sponsored by Senators MURRAY and GORTON which was added to the Agriculture appropriations bill during its consideration by the Committee on Appropriations.

The exemption for Commodity Credit Corporation—or CCC credits—is consistent with the approach of the Glenn amendment, which permits loans by private banks for the purchase of food and other agricultural commodities.

This matter is of some urgency, because there is an important sale offer to be made by Pakistan in the coming days.

Wheat farmers in the Pacific Northwest provide a significant portion of Pakistan's wheat market, and they rightly fear that they could lose that market if the CCC credits are not available.

I have long believed that we should not force U.S. farmers to bear the burden of foreign policy sanctions, so I am pleased to support this measure.

But I remain hopeful that in the coming weeks, we can devise a means to provide the President flexibility with the remaining sanctions now in place against India and Pakistan.

I do not mean to suggest that we should repeal these sanctions.

At this stage, just a few weeks after the nuclear tests in the region, and with the President's diplomatic efforts still at an early stage, it is premature to contemplate a complete repeal or blanket waiver of the provisions in the Glenn amendment.

But we should attempt, before we adjourn for the year, to give the President some latitude in order to assist his efforts to negotiate with the two countries.

We should not underestimate the enormity of the task before the President.

Helping to construct a new security framework in South Asia may take considerable time, given the complexity of the situation and the deep-seated antagonism between the countries of the region. I hope that our colleagues will give the administration the support that it needs in the months ahead.

In closing, I would like to thank the chairman of the task force, Senator McConnell, for his gracious acceptance of the job and for helping point us in this direction. I would also like to thank the majority and minority leaders for their confidence in selecting us to lead the task force, and for their support for this initial legislation.

I urge my colleagues to support it.

Mr. President, with the permission of my friend, may I yield now, even though it will be two Democrats in a row, to my friend from North Dakota, Mr. DORGAN, for 10 minutes.

The PRESIDING OFFICER. The Senator from North Dakota is recognized for 10 minutes.

Mr. DORGAN. Mr. President, I thank the Senator from Delaware. I am pleased to speak in support of this legislation. I will ask unanimous consent to be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DORGAN. Mr. President, I was pleased to be a cosponsor of this particular proposal when it was offered by Senator MURRAY in the Senate Appropriations Committee. I know that Senator MURRAY offered it on behalf of herself and Senator ROBERTS from Kansas, and I was pleased then to cosponsor it. It is the right thing to do. I must say, however, it is inching along in the right direction. This is not taking giant steps today. It is inching along in the right direction.

The question of sanctions, especially sanctions in international trade that say to the American farmer, you bear the entire cost of sanctions that we impose for foreign policy reasons; we are upset with Cuba so let's cut Cuba off so they can't get any grain. We are upset with Iran, Iraq, Libya, let's cut them off so they can't buy grain—10 percent of the world's wheat market is off limits to American farmers because, for foreign policy purposes, this country has decided that is what ought to be done. I fundamentally disagree with that.

Hubert Humphrey used to say send them anything they can't shoot back. Translated, he meant we ought not cut off food shipments around the world. I don't think we ought to cut off food shipments. All that does is hurt the poor people and hungry people around the world. But the fact is we do have sanctions in place, and I think in addition to a piece of legislation today that says with respect to the sanctions now dealing with Pakistan and India, that it will not include GSM credits, which therefore would then facilitate the flow of grain from the Northwest in this case. That is a step in the right direction, albeit a small one.

We don't ship grain to Pakistan. They are going to make these purchases largely from the Northwest. But farmers are farmers, and the wheat market is the wheat market.

The fact is the Senator from Washington, Mrs. MURRAY, described very well the crisis that exists in farm country today. Wheat farmers in this country have seen wheat prices on the international marketplace, on the national markets collapse, just drop to the cellar.

In my State, we not only have just rock-bottom wheat prices, we have the worst crop disease in a full century. It is called fusarium head blight. We call it scab. It has devastated the crops. So a farmer takes all the risks. They plant the seed, hope it will grow, hope insects don't come, hope it doesn't get destroyed by hail, hope it doesn't rain too much, hope it rains enough. Finally, all of those things are OK. They hope they raise a crop, and when they raise a crop they hope it isn't devastated by disease. They take the grain to the elevator in their 2-ton truck and discover they get $2 a bushel less than it cost them to raise it. And they go out of business hand over fist. We have so many auction sales right now they are calling auctioneers out of retirement to handle them.

We have a huge problem. We have to deal with the underlying farm bill. I know some people think it is working just fine. Gee, this is just great. It is not just great. It is not working just fine. We are pulling the rug out from family farmers in price support and calling it freedom to farm. It is like taking the minimum wage to a dollar an hour and calling it freedom to work. It doesn't make any sense.

We need to deal with the underlying problem. We need to deal with the larger trade problems. We can't get wheat to China. Japan isn't buying enough beef. We have had a flood of unfairly subsidized imports come in in durum and spring wheat and barley from Canada. We have a whole range of problems.

This bill deals with one small issue that is urgent and must be dealt with now. It deals with, in GSM, credit issues that will allow us to ship wheat to Pakistan and India. I support that. But we have a lot more to do. We ought to decide as a Congress right now that sanctions will not include food shipments, period. Let's get that 10 percent of the world wheat market back for American farmers.

Second, we ought to decide if there are those who insist that sanctions include food shipments from American farmers to overseas markets, then farmers ought to be reimbursed for the cost and the loss. Why should farmers be told, here is our new foreign policy and you pay the price. You bear the cost. Why should farmers be sent that bill and told to pay up. If it is our belief that the best foreign policy is to shut off food shipments through sanctions to some part of the world, why not as a part of our foreign policy through the State Department or part of our defense policy through the Defense Department, why not reimburse family farmers who are told now they bear the entire cost of those sanctions.

So I stand today to say again I appreciate this legislation. Senator MURRAY and Senator ROBERTS initiated it, at least on the Senate side, and I was pleased the day that Senator MURRAY introduced it on behalf of her and Senator ROBERTS. I am pleased to be a cosponsor. It is the right thing to do right now. But there is much, much, much more to do if we are going to address in a real and significant way the farm crisis.

This is as tough as I have ever seen it in rural America. I am not going to go further talking about the farm problem and the trade problem because they are abiding and tough and difficult, and we must get about the business of dealing with it. And I expect that in the coming couple of weeks we are going to have a big discussion. I know some people don't have farmers in their areas; they don't have to deal with farm problems every day. I think it is an opportunity to deal with farm problems. Family farmers are the roots of our society. Family values originate on the family farm and they nurture small towns and big cities in this country and always have.

I am pleased to represent a State of family farmers, and I think it is interesting to see people who wouldn't know a razorback hog from a pickup truck tell us here in Washington, DC, all about the theory of family farming. The fact is family farmers don't live on theory. They risk everything they have to try to raise a crop and hope when they have raised a crop to be able to sell it to make a decent living. Today the sad answer is this economy doesn't produce that because we have a whole series of problems, one of which, a small one, is addressed by this bill, and that is the potential cutoff of a foreign market for western wheat. This bill addresses it, and I am pleased to be a cosponsor. But I hope in the coming weeks we will do much, much, much more to address the crisis faced by family farmers.

Mr. President, I reserve the remainder of my time.

Mr. MCCONNELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. MCCONNELL. I yield 10 minutes to the distinguished Senator from Kansas.

Mr. ROBERTS. I thank the Senator for yielding.

Mr. President, first let me pay a sincere thanks to Senator MCCONNELL and Senator BIDEN, and both Republican and Democratic leaders, and to all of my colleagues who have addressed this most important issue for their help and support. I do really appreciate the opportunity to speak in behalf of what I consider to be a truly emergency agriculture export relief bill.

If we move, if we pass this bill, our U.S. wheat producers may, and I emphasize may, be able to sell Pakistan almost 14 million bushels of wheat. Now, that means about $40 million in the pockets of American wheat farmers instead of $40 million in the pockets of our competitors, not to mention the poor people in Pakistan who are suffering from malnutrition and hunger in regards to a very needed commodity.

The deadline for the wheat tender or sale is July 15. That is next week. That is why this is an emergency. That is why the decks are cleared. That is why this legislation is hotlined. Now, if the Congress delays, in this body or in the House, it will be a $40 million delay at the expense of U.S. agriculture. This bill simply exempts the GSM export credit program from the mandated sanctions now imposed upon Pakistan.

Let's take a look at a list of the positive things that will happen when and if the GSM credits are made available.

First, armed with the credits and facing desperate, desperate economic straits, Pakistan may well buy the wheat from these United States as opposed to our competitors.

Second, as a result of sale, the wheat market will gain strength, as will price recovery, especially in the northwestern part of the United States.

Third, lost U.S. market share due to the sanctions hopefully will be regained, but most important the passage of this legislation will send an immediate strong signal to the world trade community that the U.S. will compete aggressively, aggressively for export markets, and that the Congress is taking steps, finally taking steps, as the Senator from Nebraska has indicated, to correct the current drift in our trade policy. And, yes, it has great implications in regard to farm program policy. I am not going to go into that as of this afternoon, but it does have great implication.

Mr. President, Pakistan is expected to tender for wheat again in a few months, not just next week. So, with our export credit program freed from sanction chains, why, U.S. producers may win that sale as well. I might add again, time is of the essence. Our harvest is just concluded or is in the process of concluding. Now is the time when our U.S. wheat is the most competitive. If we don't sell the wheat now, the advantage will fall to our competitors.

I am pleased this legislation basically encompasses the legislation that Senator GORTON, Senator MURRAY, myself, and others introduced when we first heard of the sanctions some weeks ago. I also note the presence of the distinguished chairman of the Senate Agriculture Committee. He has a very comprehensive sanctions reform bill that looks ahead. I see Senator HAGEL is still on the floor, and Senator BIDEN. I have joined them in introducing a bill to take a look back in regard to the 115 sanctions that we have now imposed on 75 percent of the world's population. And we have other bills as well. So, I am very pleased to take part in that effort.

That is the good news. But I feel compelled to warn my colleagues, however, that I believe there is some bad news, with potentially more to come. This bill as originally proposed by the bipartisan task force on sanctions, ably led by Senators McCONNELL and BIDEN, took one important step for agriculture, and I think a bigger step towards meaningful sanctions reform as it pertains to our national security and our foreign and our trade policy. It represented, in my view, the first step in providing the President, any President, and his national security team and his foreign policy team, the real-world flexibility to deal with the proliferation and testing of nuclear weapons.

The obvious case in point, and the reason we are here, is the situation in Pakistan and India. More than a month ago, Secretary of State Albright told Members of this body, in a briefing, that she needed a full arsenal of diplomatic tools to help both coerce and possibly positively influence India and Pakistan to cease any further testing and to discuss some kind of mutual strategy for improved relations between the two countries. I would add at this point, my colleague and the senior Senator from Kansas, Senator BROWNBACK, and Senator ROBB from Virginia, have been to India and Pakistan and have taken a hard look at that situation.

As I recall Secretary Albright's words, she wanted the flexibility to use carrots and sticks instead of a sledgehammer. I think that is pretty graphic.

Let me stress, too, that the actions of India and Pakistan were most serious and dangerous. No way did this bill or the original and more comprehensive bill really condone the aggressive and dangerous actions of India and Pakistan. That is not the case. It should go without saying that our national and international security is the foremost concern of everyone in this body, and the President, and, yes, farmers and ranchers, and, yes, everybody in the business community. It is this Senator's foremost concern.

The United States cannot countenance the proliferation and testing of any weapons of mass destruction. We must continue to evaluate and improve our joint effort with our allies to achieve these mutual goals. But, in the doing of this, I say to my friends, there is a right way and there is a wrong way.

Unfortunately, the best of policies years ago may not serve our best interests as of today. Those who passed legislation 4 years ago could not know—we cannot know—how the world would look in 1998 or 4 years down the road. But as a result of mandatory sanction legislation passed in 1994, the executive has little—little, if any—any flexibility to deal with the extremely sensitive issue of India and Pakistan.

These sanctions are now in place. We have stopped all loans from international lending institutions, all credit programs. India, which is not dependent on World Bank financing, has largely been—somewhat—has been unaffected by the sanctions. But Pakistan is in serious jeopardy of default. How can this serve peace and cooperation?

Under the law of unintended effects, mandatory U.S. sanctions may well increase the suffering in Pakistan, it may well promote further extremism, serve no useful purpose—I might add in farm language, the testing cow is already out of the nuclear barn—and increase the likelihood of war in south Asia. And, in the process, since the United States alone has imposed sanctions, our trade competitors are first in line to seize our U.S. markets.

In the original bill introduced by Senators McCONNELL and BIDEN, and supported by the great majority of the Senate, we fixed that problem. Step two of the bill would have granted the executive the full authority to impose none, some, or all of the sanctions in the Arms Control Act. It also gave the President authority to lift some or all of the sanctions when appropriate. In other words, the original bill provided an "as you were, 9-month cooling off period," and gave to Secretary Albright the tools she requested to see if we could not achieve some progress in south Asia.

However, due to the concerns of several Senators—and I do not question their intent, their concern—it will not be possible to enact this more comprehensive bill. But as I said, in terms of the warning I said earlier—here is the warning: My friends, we are passing a very narrow and limited sanctions reform bill that applies to agriculture only, due to the Pakistani wheat tender and problems in farm country and our trade policy and our export policy. But I must warn you, when you deal with sanctions, they become overall embargoes. We saw that in 1980, with the infamous embargo imposed by President Carter. It ended up for 10 years like shattered glass and we had a terrible time putting it back together in regard to contract sanctity for U.S. agriculture.

If our competitors offer the same credit arrangements, and Pakistan has a choice, who do you think they are going to buy from as long as we continue the overall sanctions? In farm country language, you sanction a country and they get their nose out of joint.

The danger is this: Without section 3, which we originally had in the bill, we are also endangering the agricultural segment. It could happen. I hope it doesn't, but it could happen. As a matter of fact, I think a policy of "we will continue to sanction a whole lot of this but we will sell you some of that only if it suits us" does not do anything for a comprehensive and a clear trade policy.

I have already pointed out that in national security terms the current policy is counterproductive. Let me spell out some economic consequences in striking section 3.

Prior to the imposition of sanctions, the United States accounted for 25 percent of India's international trade. That is remarkable, considering all the miles in between our country and theirs. Also, I say, Senator BROWNBACK just went all the way over and all the way back to try to get an update on this. It has been truly extraordinary. The sanctions are now, however, estimated to cost India and Pakistan $4 billion in international bank loans. The Boeing aircraft company stands to lose up to $6 billion over several years in business with 30 airplanes that cannot now be delivered. Enron is building a huge power plant in western India, essential to raise the standard of living of India's near billion population. A foreign competitor could, in fact, actually take over that project. And $21 million in economic development and housing assistance and $6 million to combat greenhouse gases in India have been terminated.

Now, if there was any evidence, some evidence, a shred of evidence, that stopping this business activity or assistance would somehow result in Pakistan and India agreeing on a test plan and resolving their differences, I would gladly support sanctions. I would gladly do that. If there is any evidence that trade and foreign policy dominated by trade sanctions would have any practical or positive effect, I would support sanctions. In some rare cases they may be effective. In this case, I think they are making things much worse.

I think we have made a mistake in striking section 3 of this bill. In doing so, we have put grain sale to Pakistan at risk. I hope that is not the case. I am still optimistic. We continue to send signals that out of date and counterproductive sanctions are still the order of the day.

I full well realize, and I respect, the concerns in regard to authorship, jurisdiction, and the agreed-upon goal of a sanctions task force and the committees of jurisdiction achieving meaningful and comprehensive sanction reform. I understand that. I am part of the sanctions task force. That is going to take a considerable amount of time. It probably should, in terms of comprehensive reform. And, as a member of the task force, I look forward to working with my colleagues. But, Mr. President, in the doing of this, and in striking section 3, if we limp to the meetings it will be because, by delay in striking section 3 from this bill, we will have continued to shoot ourselves in the foot.

I yield the floor.

Mr. BIDEN. Mr. President, I yield 5 minutes to the Senator from South Dakota.

The PRESIDING OFFICER (Mr. SMITH of Oregon). The Senator from South Dakota.

Mr. JOHNSON. Mr. President, first, I thank the Senator from Delaware, Senator BIDEN, and the Senator from Kentucky, Senator MCCONNELL, for their work in helping expedite consideration of this very urgent legislation; also, a special commendation to my colleague, Senator PATTY MURRAY of Washington State, for her extraordinary leadership on this legislation, as well as to Senator ROBERTS from Kansas.

Over 10 percent of the world's wheat market is currently boxed out to our country's wheat farmers due to the current economic sanctions. The situation of wheat becomes all the more urgent as we consider sanctions against Pakistan and India, Pakistan being our third largest importer of wheat, at a time when wheat prices have fallen to less than $3 a bushel.

I have to say, however, that our effort to address this issue today needs to be regarded, I think, as part of a much larger effort to revisit the entire matter of sanctions imposed by the United States, as well as taking a look at other protrade mechanisms available to us.

In my view, it is inexcusable that the 105th Congress has not moved full funding of the International Monetary Fund, the IMF, and fast track continues to languish. I look forward to working with Senator LUGAR and others who are looking at comprehensive reform of our entire sanctions regime.

The fact is, Mr. President, that the United States has slapped economic sanctions on other countries about 120 times in the past 80 years, but over half of those instances have been since the Clinton administration came to power. This month, it is India and Pakistan, but no other country on Earth opts for sanctions as often as has the United States. Currently, our sanctions imposed by our Government affect more than 70 nations in one form or another, home to two-thirds of the world's population. What is worse is that this 105th Congress is considering, as we speak today, an additional 30 sanctions in other pieces of legislation.

Frankly, it is often an emotional and short-term political calculation which drives these sanctions, rather than a longer term, reasoned, logical explanation of what kind of cost benefit would derive and what kind of diplomatic leverage actually is derived from the sanctions.

It vents more outrage, but more often than not backfires, particularly in the case of food items, particularly in the case of grain where other nations have an opportunity to grow and to take our markets.

It is America all too often, rather than the target nations, that becomes isolated and that becomes victims of our own sanctions. When other nations refuse to join with our sanctions, American business suffers. In 1995 alone, unilateral sanctions cost the U.S. economy an estimated $15 billion to $19 billion and up to 260,000 jobs, according to the Institute for International Economics. Sanctions beyond that also give American suppliers a reputation for unreliability and its effects can be long lasting.

There are instances where sanctions, to some degree, have been effective. South Africa comes to mind. Some aspects or sanctions against Iraq come to mind relative to chemical, biological and nuclear weapons. But the successes we have had with sanctions in the United States, I think, points to a general rule, and that is, to be effective, sanctions must have broad international support and must target specific vulnerabilities.

We need to be examining more alternatives to sanctions, whether agricultural or otherwise. The engagement with other nations, rather than isolation, is one that I think is coming upon this Congress and certainly this administration as a direction that we need to pursue.

I am pleased that the Clinton Administration has organized a special State Department team installed to rethink our overall sanctions policy. The premise, I think, of our policy as we move in this direction—first with this bill and then, hopefully, with broader, more far-reaching sanctions legislation—is that it is multilateral sanctions, even if they are weaker in nature, that are usually preferable to unilateral sanctions. And secondly, any sanctions that we do impose should be subject to a cost-benefit analysis. Incredibly, in the past, few sanctions have been evaluated for their consequence on the American economy relative to what it does to the target nations.

The focus, I believe, needs to be on a much more reasoned approach to sanctions in general. This is a good first step in the right direction. It is urgent because of the Pakistani offer to purchase 350,000 net tons of wheat as of July 15, and we have this urgency now. But I support this legislation, and I ask unanimous consent to be listed as a cosponsor and yield back what time I may have.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. McCONNELL. I yield 5 minutes to the distinguished Senator from Kansas.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mr. BROWNBACK. Thank you very much, Mr. President. I thank very much the Senator from Kentucky. I, too, ask that I be added as a cosponsor of this bill.

I applaud the leadership of Senator MCCONNELL, and the leadership of the majority leader, TRENT LOTT, in moving this forward rapidly.

I think the number of people who have spoken on the floor about the issue of food and that it should never, ever be used as a political weapon or tool in foreign policy, speaks clearly with the mind of the Senate that it doesn't work. Food being used as a political tool or as a tool of foreign policy should never, ever occur.

Hopefully, as we move forward on some reforms, that will be a point of agreement, something with which everybody agrees: Food is never, ever to be used. It only hurts the people and hurts our farmers in the United States. So I congratulate my colleagues.

I particularly recognize my colleague from Kansas who has been a leading proponent in agriculture and agricultural trade for many years in the Congress, now in the U.S. Senate. We need to move this legislation, and we need to move it now.

Senator ROBB and I just got back 10 days ago—actually less than that, 7 days ago—from a trip to India and Pakistan. We met with the prime ministers of both countries. We met with the defense and foreign policy leadership in both countries, and we saw areas that they want to engage with the United States, feel they have definite security needs—both India and Pakistan —that they are responding to and are having difficulty in understanding us throwing the book at them.

I think we need to work now, obviously, in lifting this particular sanction on food. It should not be in place, period, anyway. It should be lifted rapidly, and I am glad to see the leadership doing that.

We next need to work on lifting the rest of the sanctions. We need to do it, in my estimation, rapidly. Pakistan is in crisis. They have less than 2 months foreign reserves of funds left to meet their debt loans. They have lost half of the valuation of their stock market. We need to do so rapidly.

We need to move forward in a way that reduces tension in the region, and this is a key point as well. We went to the line of control between Pakistan and India, and tensions are high. At the time we were there, 11 people were bombed and killed on the Pakistani side—just the time we were there. We met with a number of villagers who had been wounded at some point in time in the last 6 to 12 months. They were showing us the wounds they had. We have to act in a way that reduces tension. We have to act in a way that re-engages the United States in the region.

I am convinced we can do all of these things. This is a good first step. We have to further engage. I think we have to engage the United States broadly in the region with India and Pakistan.

There were a number of concerns raised by India while we were there at the same time the President was in China, saying that they were reacting to perceived threats from China that they have stated publicly and they were saying to Senator ROBB and myself as well.

On Monday, Senator ROBB and I will be hosting a hearing in the Foreign Relations subcommittee that deals with the Indian subcontinent on the issue of how can we next move forward with lifting the remainder of these sanctions in a way that we can do so rapidly, that helps the countries involved, that doesn't hurt unequally countries like Pakistan and India, that reduces tension in the region, and works rapidly to move this issue forward. We need to do so.

I am delighted to see that we are dealing with this issue of food. We do need to deal with the rest of the issues, particularly in the economic areas. We do need to deal with the areas of reducing tension in the region. I am convinced we can do all of this. We need to be back up in front of this body quickly, again, with the steps we need to take to further engage the United States in lifting the sanctions in this region.

I congratulate the leadership on moving this forward. I yield back the remainder of my time.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. I yield 13 minutes to the Senator from Ohio.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. GLENN. Thank you, Mr. President.

Mr. President, before I make the rest of my remarks, I want to say I support this legislation and will vote for it. I do want to bring up some points, though, that have not been brought up here today. I support this. It is good legislation that extends the exemption for food assistance already contained in the Glenn Amendment sanctions. This has been worked out with the leadership. And it is basically the language that Senator MURRAY brought out of committee, I believe. I think it is identical language—or close to it. So I want to congratulate her also on this. But let me put a different perspective on sanctions than some of those that have been expressed here today.

The United States currently has in effect some 61 sanctions against different nations around the world. They are not all involved in nuclear nonproliferation. We have sanctions involved with such things as drugs, as terrorism, human rights, sanctions against Cuba.

This legislation today does not address those. I do not think in some of these areas—for instance, on drugs, even if food was involved—we would be lifting these sanctions. But the United States has wanted to prevent nuclear war. Ever since the case of Hiroshima and Nagasaki, most responsible nations in the world have realized we need to control the threat of nuclear holocaust by sometime, somehow, some way reducing nuclear weapons.

While that remained a long-term objective, it would become even more difficult if more and more nations developed a nuclear weapons capability. It was with that longtime hope that legislation has been passed for more than 20 years—much of it my legislation; that is the reason I feel a special relationship or a special responsibility here today—for more than 20 years trying to stop the spread of nuclear weapons while at the same time holding out hope for eventual weapons control and reduction.

For many years I felt this was a rather futile gesture. I did not feel good about what we had done at all because we were not making much progress. But finally the cold war demise brought new hope for really gaining control of nuclear weaponry, and in a comparatively short period of time there was real optimism that control over these weapons could be gained.

With the end of the cold war and agreement with the Soviet Union, we saw missiles suddenly being taken out of silos, weapons being taken down, cores of fissile material being removed, and real progress was being made. The Lugar-Nunn—Nunn-Lugar—whichever way you want to say it—legislation gave some help in that direction. That has been a big mammoth help. And with U.S. leadership, we have achieved something we would not have even thought possible a few years ago, 185 nations signed the NPT, and progress is being made on the CTBT, the Comprehensive Test Ban Treaty, which now has 149 signatories.

So it was against that backdrop of really making some progress that the Glenn amendment was passed in 1994—which we are altering here today—with the belief that if we were even a little tougher than we had been, that this would really discourage other nations from moving toward nuclear weapons. That hope, of course, went down the drain when India's extreme Hindu nationalism took precedent over what most people around the world thought should have been more rational behavior. It was against that backdrop we passed the legislation.

The sanctions passed in the 1994 legislation were meant to be tough and provided no Presidential waiver largely because of the very spotty performance in nuclear nonproliferation in past administrations. I would remind my colleagues today who are here decrying what has gone on here that this bill passed unanimously in the U.S. Senate. Everyone critical today—most of the people here were here in 1994. And so it passed unanimously in the U.S. Senate.

Some feel that sanctions are just no good in any respect. But sanctions or the threat of sanctions as one of our diplomatic tools, I believe, has been effective in the past in helping to turn off either actual or incipient nuclear and missile programs. And we can give as examples Argentina and Brazil. Taiwan—I made a trip out there some years ago when we knew what Taiwan was doing in heading toward possible nuclear capability. South Korea was also on that list, and South Africa. And we may even have delayed some of Pakistan's access to the bomb which resulted in nuclear explosions.

What we do today here in the name of our own U.S. economy—I want everyone to realize what we are doing—what we are approving are U.S. loans, taxpayer dollars, to replace the money the Pakistanis spent on developing nuclear weapons instead of on food for their own people.

I also say, does this bring them any closer—with what we are about to do today, will this result in or do we have any under-the-table or tacit agreement that they will go ahead and sign the NPT, that they will sign the Comprehensive Test Ban Treaty? We can say this is a carrot hanging out there, but our carrots to Pakistan in the past have been rebuffed by one falsehood after another for the last 17 or 18 years that I have been experiencing personally, including visits to Pakistan to talk to their top people when they denied having any weapons or any weapons program, clear up until the time they set off the bombs that they claimed they did not have all these years.

So my reaction to this is, yes, for humanitarian reasons, I certainly do not want the Pakistani people themselves and little babies going hungry, and so on. So I am willing to go along with these humanitarian concerns. But we do need definitely to rethink sanctions across the board and what we mean by them.

As time has gone along, and the nations of the world are no longer being forced to choose between the United States and the Soviet Union, the world really has become more multipolar in every respect, with business, industry, banking, economics, and so on. And so the role of sanctions has changed along with that.

It has become increasingly evident through the years that the sanctions only become really effective if they have multilateral support, either from our major allies or preferably at the United Nations. I believe sanctions still have a major role to play in nonproliferation and in our fight against drugs and terrorism and human rights abuses and the situation in Cuba, and so on. I do not think we have to say all sanctions are bad, but they are only effective if they have multilateral support.

Today we have economic arguments here because sanctions are going to hurt our own farmers in this country, and we may have some that will affect the manufacturing of jeeps out of Toledo, for instance, in my home State of Ohio, as well as farming interests there.

So the world situation has changed, and we need, in each one of these cases, to consider the case on its own individual merits. In that regard, I have submitted legislation that was put in just before the last break. The legislation would alter the way sanctions are administered, and would be not only prospective but would be retrospective, also. And it would be basically this: At the time of an event or a determination that triggers a sanction against a given country, the President could, at his discretion, place a hold on the imposition of the sanction for up to 45 calendar days to decide whether to remove or impose the sanction or to say, "Here is a part that will work; here is a part that will not work." Maybe the President would want to say, "None of it will work," so he wants to recommend that we do away with that whole sanction for that particular country at that time.

He would be completely flexible in what he could recommend, but he would have 45 days to either build the multilateral support that I spoke about or come to the Congress and say to the Congress: Here is what I recommend in changing this sanction in this particular situation. And then he would propose that to the Congress, and Congress would have 15 session days to act under expedited procedures—15 days. We would have a limit on what debate could occur, obviously. It would be given preferential treatment here, and we would consider the President's purpose in this and require him to give us his reasons why he wants to change this legislation, alter it, or how he thinks it could be better administered. Congress would have 15 days to approve or disapprove what the President had done. That gives the President ultimate flexibility, it seems to me, and would be a great step forward.

For sanctions that are already in place, the President, on the anniversary of that sanction, would have to come back and say once again to us why it is working, why it is not working, what changes he thinks should be made in the sanction. And he would do that at the 2-year anniversary of the imposition of any sanction, and then would have to give us a report every year thereafter on that sanction as to whether it was working or not working and recommend any changes to make it more effective.

I do not see any other way to make this whole thing work in the multipolar world in which we live now. Sanctions 15 or 20 years ago may have had more of a chance of an effect even though they were unilateral, but rarely in the situation we find ourselves in in the world community today.

So while I am for this legislation today for humanitarian reasons, I do not go along with some people who talk about poor little Pakistan and how they are in the situation that they have brought upon themselves because they have deliberately misled us intentionally—one leader after another for about the last 15 or 16 years that I have been personally dealing with this. But I do not want to see the Pakistani people go hungry or anything like that, and so I go along with this today.

It was mentioned a moment ago what a sad situation it was that we did not include the other parts that were originally posed in this legislation. If we had kept those proposals on this legislation, I can guarantee you I would probably have participated in my first filibuster in my 24 years in the U.S. Senate. I feel that strongly about it.

I do think we have played a good role in stopping the proliferation of nuclear weapons, and sanctions have helped—but if we take these off today as far as food sales go, maybe it will give us a lever; maybe it will give Pakistan an incentive to sign the NPT, sign the comprehensive test ban treaty, and hopefully that would encourage India.

There is nothing in here for India, so I don't know whether we are unbalancing this situation or not. I don't know what the administration may have planned to sweeten the pie, sweeten the pot for India in this regard; also, to get them to move toward NPT and CTBT status.

Make no mistake, these are not just some international loans we are approving, these are U.S. loans we are approving to Pakistan and will pass in the Senate. It still has to pass the House, obviously, and we hope this can get done in time to take place before the bidding starts on the international sales, as I understand it, by the 15th.

I repeat, I think we need to rethink sanctions. The outline of what I have proposed is in legislation now. It has been filed. I hope we can move in that direction, because I think it would give the President the ultimate flexibility he needs without dumping congressional responsibility at the same time. It would mean whatever the President proposes with regard to sanctions we would have to consider on an expedited, privileged basis. To me, this is the way we should be going in the future.

I know I am part of the task force that will indeed be looking at these options between now and September 1 when we have to have them submitted for the U.S. Senate.

How much time remains?

The PRESIDING OFFICER. The Senator has used his time.

Mr. GLENN. I yield the floor.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. McCONNELL. I yield 5 minutes to the distinguished Senator from Washington.

Mr. GORTON. Mr. President, the time has come to pay the piper, and we don't much like the price. For years we have been able to sing the siren song of sanctions on the cheap. Whenever we are concerned about human rights—sanctions. If we are concerned about nuclear proliferation—sanctions. But I think almost always the magic of those sanctions has been that they don't go into effect when we make the speeches on that subject on the floor; they may happen sometime later. And now they have happened.

All of us in this body and our predecessors are guilty of this song. But now we learn what it really does. At a time in which farm prices, especially in our wheat country and the Pacific Northwest, are already declining precipitously because of the financial crisis in east Asia, we add to our own pain by creating a situation that will almost certainly cause us to lose hundreds of millions of dollars' worth of sales in Pakistan to other countries that don't share our enthusiasm for sanctions, unless we act in a period of time of less than 1 week.

Yes, this is an urgently needed bill, urgently needed for the farm sector of our community, urgently needed for our own ability to operate in a highly competitive world of agriculture. For that purpose, the work of the Senator from Kentucky and the Senator from Delaware and everyone else who has been a part of this is vitally important.

But the Senator from Ohio just said, gosh, this is unbalanced, it does something for Pakistan and it doesn't do anything for India. It did something for India this morning, Mr. President. This morning it did when it also allowed waivers with respect to the Export-Import Bank, where last year we sold almost $400 million worth of aircraft from my State, with future similar sales greatly threatened by sanctions which now remain because the Senators from California and from Ohio wouldn't permit this bill to come up at all unless that was taken out.

Of course we are going to support the bill in its present form, and of course we will support a task force, and what my seatmate here, the distinguished Senator from Indiana, has been working on for months, to bring a more rational system of sanctions together. But we are finding that the sanctions cost us more than they cost the Nations against whom they are imposed, because you can buy wheat in parts of the world other than the Pacific Northwest. Unfortunately, you can buy jet airliners from other sources than Seattle, WA. In fact, when you impose sanctions on one thing on a country, you give that country an immense incentive to buy other things from other countries, as well as a form of resentment.

In this case, when the India nuclear tests were largely caused by our policies with respect to China, and of course the Pakistani test by what happened in India, the sanctions are particularly bizarre.

The sanctions that we are in part removing today should be removed. But they are an illustration of an even bigger fact—that we should have done what this bill did this morning and does not do now; we should be doing even more. So in that respect, the promise in this bill is dual: First, an opportunity, if we do get it all the way through and to the President, that we will save a vitally important part of our wheat sales; and, second, the illustration that we are only at the beginning of deciding that maybe that song wasn't worth the price that we are now paying the piper for. And that may be every bit as important a part as the specific sections we are passing this afternoon, as important as they are.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. ROBB. Mr. President, I yield myself 5 minutes, with the permission of the Senator from Delaware who stepped off the floor.

The PRESIDING OFFICER. The Senator is recognized for 5 minutes.

Mr. ROBB. Mr. President, let me say that I think the debate this afternoon has been instructive, particularly with respect to the impact of sanctions, because we are acknowledging, perhaps for the first time in a forum and debate like this, the fact that sanctions clearly have limitations and all too often the target of the sanctions ends up being less impacted by the sanctions that are actually put in place than the country that enacts those particular sanctions.

Senator BROWNBACK spoke a few moments ago of a trip that he and I took to the Asian subcontinent just over a week ago. We had very good meetings with Prime Minister Vajpai and his key officials within his Government, including Interior Minister Advani, Defense Minister Fernandez, and others. We spent another day in Pakistan with Prime Minister Sharif, Foreign Minister Khan, and a number of key officials. We went up to a line of control and not only observed the positions there but did observe the fact that the fighting in the Kashmir area continues to inflict far more casualties on civilians than it does on actual combatants.

But for a very different reason than my good friend and colleague from Ohio, I am pleased that section 3 was removed because it was less than, I believe, we need to do in terms of taking congressional fingers off of the ability to waive sanctions that we currently employ. I believe it is important that we continue to focus on our oversight role and make the administration not only responsible for the conduct of foreign policy, but for defending foreign policy choices. But ultimately, if we prescribe sanctions and act, in effect, as 535 Secretaries of State in too many instances, we make it virtually impossible for the administration to carry out the functions of any administration—whether it be Democratic or Republican—to carry out the functions that we expect an administration to carry out on our behalf. So taking section 3 out of this particular legislation, which would have had a limited waiver authority, and working to provide the kind of complete waiver authority and comprehensive treatment that I believe this subject deserves, in my judgment, it is the right thing to do. Given the statement just made a few minutes ago by the distinguished Senator from Ohio, it may be that we will have extended debate on that particular topic. But it is important that we do so.

In this particular instance, much like fast-track authority and others, the Congress of the United States can play a role, but frequently its most important role is as the "bad cop" to provide an opportunity for the administration to get concessions and to make progress in areas that, but for the possible effect of sanctions or other activities that the Congress might impose, the President working directly with the other country with singular decisionmaking authority can achieve results that we simply could not obtain if we were reliant solely upon the actions of the Congress of the United States.

So I am pleased to be supportive of this legislation. I think that food is the right place to draw the line in the near term. I support the amendment that will be offered by my distinguished colleague from Virginia, and I believe the Senator from Connecticut, with respect to adding medicine to that list—I think that is an appropriate addition.

Next week, we will begin to consider, in a more comprehensive fashion, the kinds of authority that we ought to provide to the Chief Executive of the United States, whatever party he or she might be in at any given time, the authority to negotiate directly with foreign governments and not have the prospect of having to then bring whatever negotiation that took place back to the Congress, where it might be amended or changed.

With that, again, I salute those who were involved. I thank Senator BROWNBACK for making a very exhaustive 96-hour trip to visit those two countries and to get directly engaged in some of the problems that confront us. I thank all of our colleagues for the effort they have put into trying to find an equitable solution to a very serious problem confronting not only the United States and the South Asian Continent, but the international community and sanctions that we might employ in the future have the kind of effects that we may not have intended them to take.

With that, I yield back whatever time I may have and I yield the floor.

Mr. MCCONNELL addressed the Chair.

The PRESIDING OFFICER (Mr. BURNS). The Senator from Kentucky is recognized.

Mr. McCONNELL. Mr. President, I yield 5 minutes to the distinguished Senator from Oregon.

Mr. SMITH of Oregon. Mr. President, Senator McCONNELL and Senator BIDEN, my friends, who have shown leadership on this issue, I thank you publicly for doing that. It's been a remarkable afternoon as we've debated this issue. In fact, the debate has been somewhat limited because I think there's a whole lot of unanimity and that perhaps the Senate may have acted precipitously in the past.

I appreciated Senator GLENN's willingness to share with us some of the history and motivation that went into the markup of the Arms Export Control Act. I don't think anyone here doubts his sincerity and the accuracy of what he said. However, I think all of us who have risen today to defend wheat farmers recognize how seriously we have failed in some regard. We have not kept a nuclear genie in the bottle on the Indian Subcontinent, and now we see the bizarre spectacle of the American Government poised to wrestle American farmers to the ground because our law does not control arms half a world away.

I am pleased to rise as a defender of Oregon farmers. I suppose the motivation of everyone here is absolutely appropriate. I have additional motivation in that the farmers that we're talking about are my neighbors.

I come from Eastern Oregon, a place of rolling hills of wheat. And so when I consider this issue, I see their faces. And I know how much they're suffering as we speak, because last time I checked, wheat in the Port of Portland was selling at about $2.75 a bushel. I don't know when it has been that low and to have the threat of sanctions come on top of it is truly—truly a double jeopardy. I am pleased with what the Senate is doing today and I am happy to be an original cosponsor of this amendment. Again, I am thankful to the Republican and Democratic leadership for changing at least a small portion of the Arms Export Control Act.

Let me indicate how important this is as a country issue and a city issue. This year alone about 40 percent of the U.S. soft white wheat comes from the Pacific Northwest. Again, this year alone that crop amounts to about $255 million. Sales of this magnitude for the rest of the year will simply go to another country if we don't act as we are today.

In addition to that, this will have an effect on the city of Portland. So far this year, wheat sales in the Pacific Northwest have resulted in about $10 million. So, this is an issue that brings country and city together in a very significant way.

Now, Mr. President, I am pleased to tell you that in a recent conversation with President Clinton, he emphasized his willingness, even his great desire to sign this legislation. So we are doing something here, acting unitedly as Americans and with our president.

I am also pleased to tell you that a couple days ago I met with the Foreign Minister of Pakistan and Special Envoy of the Government of Pakistan. We discussed the need for Pakistan to develop with America a new way of rebuilding our relationship. I indicated to him that I felt it important to keep the door of commerce open as we acted in this Congress on sanctions legislation. I also let him know that they should also act to reach towards us as well. He gave me his assurance that purchasing soft white wheat from the Pacific Northwest would be a priority over similar purchases from other countries.

Mr. President, it's been a pleasure to stand with so many Senators who care about our farmers. I count myself chief among them. I thank them for their support and ask for their votes in the Senate and for the state of Oregon. I yield the remainder of my time.

Mr. BIDEN. Mr. President, I yield 5 minutes to the Senator from North Dakota.

The PRESIDING OFFICER. The Senator from North Dakota is recognized for 5 minutes.

Mr. CONRAD. I thank the Senator from Delaware.

Mr. President, in my home State of North Dakota, we are facing a disaster of stunning proportion. We are losing literally thousands of farm families as a result of what I call a "triple whammy" of bad prices, bad weather and bad policy. One part of the bad policy is the sanctions that we place on foreign countries that locks us out of their markets.

Mr. President, I have just spent 9 days in my State going from town to town. Everywhere I have gone, farmers have taken me aside, bankers have taken me aside, Main Street business people have taken me aside and they have told me that something is radically wrong. Farmers are not cashflowing. We have the lowest prices in history, coupled with a dramatic reduction in production because of the outbreak of massive disease—scab and other disease—that is reducing yields dramatically. That combination is absolutely devastating to farmers.

In the midst of this, our Asian markets, which are critical to us, are weakening because of a financial collapse there. And on top of it, our own Government is imposing sanctions on countries like Pakistan, which is the third largest buyer of wheat, and we are locking ourselves out of those markets, further weakening prices, creating what is, in effect, a death spiral.

Mr. President, what are the consequences? In my State, there are now 30,000 farm families. We are anticipating losing as many as 10 percent—3,000 farm families—this year. We have auctions that are being offered daily—many of them each and every day, as farm families liquidate, leave the land, because they can't possibly make it. These are some of the very best farmers that North Dakota has.

Mr. President, it is critically important that we pass this legislation to exempt agriculture from these sanctions to give our farmers a fighting chance. I visit farmsteads frequently in North Dakota. I wish I could explain to my colleagues the depth of despair that is being felt there. I had a farmer say to me this last week that he believes farm conditions are worse than the 1930s.

I have had many farmers say to me that conditions are worse than the 1980s. That was an incredibly bad period in North Dakota and, of course, in the rest of the farm country as well.

Mr. President, it is time to act. We can take a first important step today by passing this sanctions legislation.

I want to especially thank my colleague, Senator MURRAY of Washington, for her outstanding leadership on this legislation; Senator McCONNELL from Kentucky, who has taken a strong interest in getting this legislation passed—my hat is off to Senator McCONNELL as well; Senator BIDEN, who has played a critical role in advancing this legislation and keeping it together in the difficult hours this morning; and Senator ROBERTS from Kansas, who has also played a leading role. My thanks to each and every one of them.

I can tell you, we face a desperate situation in my State. It is truly a disaster. I just went through six counties, and in every one of them they are literally under water. There are 2 and 3 feet of water on the farm fields. There won't be any crops there this year. Coupled with the very low prices on crops they had last year, we face a deepening of the disaster that is already occurring.

This is an important step. I urge my colleagues to support it.

I yield the remainder of my time.

Mr. McCONNELL. Mr. President, I yield 5 minutes to the distinguished chairman of the Senate Agriculture Committee, who really, I think, began this debate with his comprehensive sanctions proposal. We are all grateful that it began to stimulate all Senators to certainly rethink where we are at this point with our history of sanctions.

I thank the chairman of the Agriculture Committee and yield him 5 minutes.

Mr. LUGAR. Mr. President, my thanks to the distinguished Senator from Kentucky. I appreciate his leadership, that of Senator BIDEN, and likewise the role of Senator LOTT and Senator DASCHLE in appointing this important task force.

I am eager to speak today as an original sponsor of the legislation before the Senate. This bill is appropriate and a good first step toward comprehensive review of economic sanctions that is sorely needed for our Nation's economic security.

First, the legislation is timely. Executive agencies have debated whether the Agriculture Department's export credit guarantees for Pakistan should be included in the Glenn Amendment prohibitions, or not. The Justice Department concluded the law did prohibit these guarantees.

In fiscal year 1997, Pakistan bought $347 million worth of U.S. wheat with USDA's export credit guarantees. In fiscal year 1998, Pakistan was allocated $250 million in export credit guarantees and has used $162 million of that amount, all for wheat.

On July 15, Pakistan will hold a tender for 350,000 metric tons of wheat. Without export credit guarantees, the United States will get none of that business. That will mean the loss of about $37 million in foreign exchange earnings.

The Pakistani government will not draw any lessons from our lack of participation, except that the U.S. has chosen to cede another market to its competitors. Other grain exporters are participating in the tender and will make the sales if we do not. Only our farmers will suffer. Quick action by the Congress, however, can resolve the short-term problem.

Second, the legislation is appropriate. Food should not be a weapon in foreign policy. The history of unilateral agricultural sanctions over several decades adequately demonstrates their futility.

When sanctions are unduly rigid and automatic, they become a roadblock to prudent diplomacy. This is a much more serious issue. In fact, sanctions tend to harm our industries and hamper our foreign policy more than they advance their stated goals.

Mr. President, rarely did we state our goals when we adopted any of the 61 sanctions that are now on the books; nor have we established benchmarks that show whether these sanctions have been successful. Obviously, our policy was not successful with regard to the sanctions we are discussing today. Unilateral sanctions rarely accomplish their objectives in the absence of multilateral cooperation. In fact, scholarship on this subject is replete with almost no instance in which unilateral U.S. sanctions have achieved their intended goals, even when the goals were implicit as opposed to being explicit.

Finally, the legislation is a good first step. This Senate needs a broad debate on economic sanctions and their consequences. The majority and minority leaders have shown strong leadership in naming a bipartisan task force to consider sanctions policy.

The fact that we need to pass this legislation on an emergency basis only illustrates the need for a more comprehensive legislative approach. We need to think through the consequences of unilateral, inflexible sanctions before they are imposed, not after.

In the near future, I will offer a modified version of my bill, S. 1413, for the Senate's consideration. That legislation will establish a framework for the consideration and review of future sanctions, and will broadly exempt food and humanitarian assistance.

I look forward to working closely with the task force headed by Senator McCONNELL and Senator BIDEN. I appreciate that we must examine not only prospective views on any legislation suggested but likewise retrospective views and those of our Chief Executive and Secretary of State.

For the moment, we need to pass the bill before us. I commend those who brought this important legislation to the floor today.

Mr. President, we will also need to think carefully, as other Senators have suggested, about the overall agriculture situation in our country. As a general rule we ought to be thinking about how we make the sale and move the grain, not about how we store the grain and dismember the farm bill.

Congress should grant the President fast track trade negotiating authority. We must have this in order to successfully move our grain to the rest of the world this year, next year, and for many years to come. Fast track is essential for the World Trade Organization (WTO) negotiations that will be paramount next year. We must also act on International Monetary Fund (IMF) replenishment. This is critical to having any chance of regaining Asian demand. Right now, prices are down because demand is down. It is as clear as that.

Finally, we must have broad sanctions reform. Sanctions inhibit us and cost American jobs and American sales.

For all of these reasons, Mr. President, this is an important moment, an important bill, and I strongly support its passage.

Mr. BIDEN. Mr. President, I yield 5 minutes to the Senator from Montana.

Mr. BAUCUS. Mr. President, I first thank my good friend, the Senator from Delaware.

Mr. President, we are now embarked on a very significant policy change with respect to sanctions. Over the past several years, it was simple for the U.S. Congress to slap sanctions on an offensive country. We could also give the President the authority to grant sanctions. We could do this because we believed this power was free. That is to say, we in Congress freely used sanctions to express our sentiments about issues of particular concern, and we passed several pieces of legislation giving the President sanctions authority because it didn't cost anything. And we made our statements loud and clear by doing so. Good statements, for example, that tried to curb proliferation of weapons of mass destruction. And at that time, these efforts were necessary in steering certain countries away from a course contrary to world public policy.

Unfortunately, despite our best intentions, most of these sanctions bills have been ineffective. Many have not accomplished the purpose for which they were intended. We may ask ourselves why? I believe one important reason is the fact that the world has become so global. In addition, this global marketplace is not conducive to the imposition of unilateral sanctions imposed by the United States. Quite simply, the sanctioned country can very easily avoid the purpose and penalty of our sanctions by going to other countries to get the products that they would otherwise obtain from the United States.

So, by and large, unilateral sanctions have not worked very well. On the other hand, multilateral sanctions tend to work when a majority of countries in the world join together with the same purpose and to help accomplish the same objective. The legislation that we are considering today, and will pass today, recognizes that phenomenon.

That being said, I believe that there is definitely a role for sanctions—unilateral and multilateral. We just have to work together to determine when and where each sanction is most appropriate and effective.

Over the last couple of weeks, we have seen a demonstrated interest in reforming our sanction's policy. We realize today that it probably makes more sense to pass something narrowly crafted than to use a blanket action to achieve a specific goal. Take for example, the fact that we are considering a waiver with respect to GSM agricultural credits for food shipments to Pakistan. We now believe—and I think I am speaking for almost all Members of Congress—that food shipments should never be used as a foreign policy weapon. Barring a country from a necessary food source is wrong. It is antihumanitarian. More often it hurts the very people who need it the most. It also tends to inadvertently penalize our producers here in America.

Food as a weapon simply does not work, and the legislation before us today essentially provides a release valve with respect to food shipments and agriculture products. Today we are talking about Pakistan, but we should also rethink our policy toward India and the rest of the sanctioned countries after this particular vote. We must also devise a way to give the President a little more flexibility when targeting a specific result. These results include the reduction of nuclear tests and weapons of mass destruction in Asia.

I believe that it is also important to point out that our agricultural producers are currently blocked out of 10 percent of the global market due to sanctions. This lack of market access obviously hurts our producers. It is almost ironic that in many cases we hurt ourselves far more than we hurt or influence an errant country. This is most often the result when we employ the use of unilateral sanctions. Our producers simply cannot afford to bear the brunt of our failed foreign policy endeavors. We simply must oppose and remove trade sanctions that unfairly inhibit market opportunities for our ag producers.

I might also add that I recently accompanied President Clinton on his trip to China. During this trip, I talked to several Chinese officials and tried to encourage them to open up their markets to American products like Pacific Northwest wheat. Unfortunately, the response I received was to the effect that China would be willing to buy if America was a reliable supplier. Their spin on trade was justified by claiming we in America sanction our food exports too often. Why, then should they depend on us to provide a reliable source of wheat, or beef or any other commodity subject to sanctions?

Now I'm not saying the sole reason China does not take wheat, particularly Pacific Northwest wheat, is due to sanctions. But I do believe our random sanctions policy is a contributing factor. Again it was obvious that if we stop using food as a tool of foreign policy, we will have an easier time in encouraging market access.

Mr. President. It took awhile but sanctions reform is now moving quickly. Many Senators should be recognized for their efforts in bringing the forefront—Senators McCONNELL, LUGAR, DODD, BIDEN, GLENN, MURRAY, FEINSTEIN and ROBERTS. There are many more and I would like to compliment them for their efforts. I only suggest that, as we work together on a solution, we be a little more thoughtful than we were this morning in rushing to push legislation throughout without thoughtful consideration and foresight.

Discretion is the better part of valor. For that reason, I am pleased that we in the Senate decided to focus on a narrow sanctions reform provision that would pass on its merits in the immediate future. This is much more reasonable than trying to enact broader sanctions reform which we should do, but at a later date in the fall after we have a sufficient amount of time to work together to produce a truly dynamic sanctions package. In the interim, I urge us to think carefully, think thoughtfully. Find a proper role for sanctions and offer a nonpartisan solution. We need to work together as a team. We have to, in fact, as the world becomes more complex with regard to foreign policy and trade policy build a strong coalition. As a team of Americans representing the Democrats, Republicans and Administration we will be able to set forth a policy enabling Americans to be respected as we would like to be.

With that, Mr. President, I compliment those who are involved in this legislation. It is a good first step. Let us continue down this path.

Mr. McCAIN. Mr. President, I note with some concern the support of some of my colleagues for a weakening of the sanctions currently in place against India and Pakistan under the terms of the Nuclear Proliferation Prevention Act of 1994. Although I do not oppose the Farmers Export Relief Act of 1998, I would encourage members of Congress not to lose sight of the national security considerations which motivate our sanctions against India and Pakistan, and to tread warily along the path of haphazardly lifting those sanctions.

In 1994, the United States Senate voted unanimously in favor of automatic sanctions against any country which "crashed the gates" of the nuclear club. The gravity of counter-proliferation sentiment in the Senate at the time was clearly expressed by the absence of the standard "national security waiver" that sanctions legislation typically contains. At the time, we believed that such a tough sanctions requirement would serve as an effective deterrent to any country which believed it had more to gain than lose by developing the ability to detonate a nuclear device.

The tenor of the debate in the Senate today indicates that our 1994 sanctions legislation is viewed as a failure. India and Pakistan are now nuclear powers, attesting to the inability of the global non-proliferation regime to constrain their national ambitions.

But can we say with any degree of certainty that our sanctions policy is as powerless as some suggest? The 1994 legislation was intended not only to deter countries from developing a nuclear weapons capability, but to punish countries that flouted the global consensus, embodied in the Nuclear Non-Proliferation Treaty, against developing nuclear weapons as a legitimate instrument of national power. Sanctions against India and Pakistan have been in place for less than two months. It has been widely acknowledged that both countries, particularly Pakistan, have suffered from the cut-off in U.S. trade and investment and the cessation of loan guarantees from the international financial institutions.

An earlier draft of the Farmers Export Relief Act of 1998 would have granted the President the authority to waive all the sanctions mandated by Congress by the Nuclear Proliferation Prevention Act of 1994. I am pleased that this language was removed, as it would have been inconsistent with both the spirit and letter of the 1994 law.

I support American farmer and agribusinesses who wish to export their products to South Asian markets. However, I am not convinced that the campaign to waive U.S. sanctions for agricultural products is driven by concern for American national security interests. What is the basis for singling out agricultural products, rather than any other category of goods, for a sanctions waiver? I am not convinced that the merits of exporting grain, cotton, or even tobacco—all agricultural goods that would be exempt from sanctions should this legislation pass—are such that agriculture should be singled out for a sanctions waiver. What national security logic drives this approach?

Let me stress that I do not oppose this legislation to exempt agricultural goods from the sanctions regime in place against India and Pakistan. I simply wish to caution my colleagues against piecemeal efforts to take the teeth out of sanctions whose credibility and effectiveness hinge on their capacity to hurt countries which defy international norms and undermine American national security. we must approach sanctions policy with an eye for overall strategy rather than taking a more narrow, tactical approach that obscures the larger objectives of our foreign policy.

Mr. LEAHY. Mr. President, I am a member of the Sanctions Taskforce established by the Majority and Minority Leaders, and I support this bill. I want to give the President additional flexibility in his efforts to persuade the Indian and Pakistani Governments to walk back from the nuclear precipice. I think this bill represents an appropriate compromise.

But I also want to emphasize that I am doing so because the President's waiver authority expires on March 1, 1999. I do not favor an open-ended waiver, nor do I want my support for this bill to be interpreted as a signal that the President should immediately use the authority to waive sanctions. I hope he will think long and hard before he does, and do so only if he is convinced that it could bring about a significant change in behavior of these countries.

The United States finds itself in a difficult position. We are, after all, the only country that has ever used nuclear weapons against another country. We have also conducted thousands of nuclear tests, and we have an enormous nuclear arsenal. From the perspective of the Indians and the Pakistanis, our expressions of outrage at their recent nuclear tests may seem hypocritical.

I, for one, believe the United States could do a great deal more to set an example on nuclear disarmament. We do not need to wait for the Russians before we take further steps of our own.

Our overwhelming military power makes it possible for us, indeed I would say we have a responsibility, to do so. We can reduce our arsenal further without risking our own security or the security of our allies.

But having said that, I also believe that the actions of the Indian and Pakistani Governments were at complete variance with the trend of history. Their acts were reckless and unnecessary. They contributed nothing to their defense, and they have only increased tensions and insecurity in South Asia. They have invited similar recklessness by other countries.

It is therefore imperative that the President use whatever diplomatic means he has to encourage the Indians and Pakistanis to join the Comprehensive Nuclear Test Ban Treaty, to enter into serious negotiations on a solution to the Kashmir problem, and to take whatever steps are necessary to ensure that they are not drawn into a nuclear arms race. In that regard, they need only look to the experience of the United States and the former Soviet Union to understand why it is in their interests to not start down that road.

I want the President's diplomacy to succeed, and I support giving him the tools he needs. But I also support the sunset provision in this bill because it gives these countries ample time to demonstrate whether or not they intend to respond to these concerns. If they do not, then sanctions should be reimposed. Any country that detonates a nuclear device should expect to suffer the consequences. On the other hand, if they do respond positively then I have no doubt that the Congress will reciprocate.

Mr. President, the avoidance of nuclear war is our country's first priority. Ever since the end of World War II we have done our utmost to avoid the use of nuclear weapons, by ourselves or by others. We have made headway with Russia on nuclear disarmament, but that process has stalled. I fully support the President's decision to go to Moscow to try to revive that process. The administration has also made progress in building international support for the Test Ban Treaty. The Indian and Pakistani tests have set that process back. This bill seeks to revive it. If we fail, we can anticipate a future with nuclear weapons bristling on every continent. That is not a legacy we want to leave.

I commend Senators McCONNELL and BIDEN for their very effective leadership of the Taskforce that produced this legislation.

Mr. KEMPTHORNE. Mr. President, times are tough for Idaho's farmers right now. No one who has read a commodity report in the last few months would disagree. Wheat and barley prices are at record lows as are prices for other important Idaho agricultural products. Growers all over the state are on the verge of bankruptcy. This is an emergency.

In a time when the situation is so desperate, eliminating a market that represents almost half of Idaho's white wheat exports could permanently cripple the grain industry in my state.

That is why sanctions against countries such as India and Pakistan, at least those based on agricultural commodities, don't make sense. In fact, the only loser—the only group that will suffer as a result of the sanctions—will be America's farmers.

While I completely understand the reasons behind sanctioning countries that violate the Arms Export Control Act, I cannot support punishing Idaho wheat farmers for the actions of foreign governments. This body cannot stand by while much of the nation's wheat crop is sitting in grain elevators. Closing an existing market to America's grain producers could have dire consequences. American wheat producers are already shut out of 20 percent of international markets. I believe that we need to expand new markets, not close off existing ones.

It is for that reason that I am an original cosponsor of S. 2282, the Farmer Export Relief Act. This bill would send a strong signal to the international trade community that the United States will aggressively compete for commodity markets.

The fact is, food should not be used as an economic weapon. The people of these countries, two of the world's largest, have to eat. There are 967 million mouths to feed in India, 135 million in Pakistan. That's over 4 times more mouths than we have here at home.

Pakistan will soon make a $37 million purchase of white wheat. Our producers should be able to bid on that 13.5 million bushel sale. If they don't get their food from us, that void will quickly be filled by other nations with similar surplus problems. Pakistan is the third largest wheat export market for the United States. We can't allow such a big portion of exports to be handed over to our competitors.

Bill Flory, an Idahoan, is the president of the National Association of Wheat Growers. As a grain producer from Northern Idaho, Bill knows first hand the problems facing growers. Bill recently told me that the prices he is getting for his wheat are almost exactly the same as he was getting in the 1970's—almost thirty years ago.

Mr. President, this is, indeed, an emergency. Idaho's grain farmers should not be punished for the actions of other nations. It is time for this body to come to the aid of American grain producers and lift the sanctions that don't hurt the violators, but instead only hurt our own farmers.

Mr. KERREY. Mr. President, I am pleased to support this important measure to keep our agricultural export markets open.

Beyond the legislation currently under consideration, I am pleased that Congress has begun a serious discussion about the general issue of our sanctions policy. Too often in the past we have been quick to use the blunt instrument of unilateral sanctions without fully evaluating its impact. I believe that when considering sanctions, we in the Congress must take into account not only the likelihood the policy will meet our objectives, but also the effects sanctions will have both domestically and abroad. By acknowledging that our farmers should no longer bear the brunt of our sanctions policy, this legislation is a small but important first step.

More importantly, those of us from rural states know that a crisis is brewing in rural America and I think it is vitally important that the Senate begin to act to preserve family based agriculture. Exports are down, prices are collapsing, and producer incomes are decreasing at an alarming rate. And somehow, this crisis in rural America is growing at a time when the rest of the country enjoys an unprecedented economic boom.

Without action, we are about to see another migration from our family farms. If we don't act to preserve this way of life, we are going to alter forever the face of rural America. And I suspect that the agricultural sector we end up with will not be one we like.

I believe strongly that this Congress should act and will act to preserve family based agriculture. I am pleased that we are taking this first step to support our wheat farmers today and I look forward to the upcoming debate about how best to act to preserve a healthy and prosperous rural economy.

Mr. President, I urge my colleagues to support this important legislation.

Mr. DOMENICI. Mr. President, I rise in strong support of the legislation before us today. This bill touches on matters of great importance to the future of American farmers as well as the direction of foreign policy for the United States.

I agree with many of my colleagues who contend here today that this legislation signals an important first step in reevaluating our sanctions policy. Many of us would agree that we have overused and thereby deadened the sting of sanctions. In addition, unilateral sanctions only hurt U.S. producers, regardless of the sector, and essentially amount to a gift to our foreign competitors.

I would also like to express my agreement with those who have suggested that agricultural sanctions in particular are an ineffective stick and cause substantial damage to already depressed agricultural markets. In a world market where the prices for agricultural commodities continue to decline and almost every major player heavily subsidizes its agricultural sector, curtailing U.S. farmers' access to significant portions of the global market through sanctions only serves to make a difficult situation worse.

I would also like to emphasize the importance of allowing the free market to dictate agricultural production and sales. The wealth of nations—and this is a conscious choice of wording—is not attained by erecting barriers—either through tariffs or embargoes—to the export of our agricultural commodities. Our agricultural surplus must be allowed into markets where there is a demand. Pakistan is only one of those markets.

If left in place, these sanctions will have a devastating immediate impact on American farmers. The pending sale of 15 million tons of wheat to Pakistan hangs in the balance. Our wheat farmers will shoulder the most immediate burden of misguided foreign policy unless we are willing today to take a small, but crucial step, in changing that policy. American farmers desperately need the remaining 10% of global markets that our current sanctions deny them. We already witnessed the impotence of embargoes in 1980. How often do we have to repeat our mistakes to learn?

Between 1993 and 1996, the United States unilaterally imposed sanctions 61 times against 35 countries. The effectiveness of these sanctions in attaining specific foreign policy objectives would have to be evaluated on a case by case basis. However, what requires no detailed examination at all is that we have created a web of walls to U.S. exports that previously did not exist. We have erected, in essence, extensive non-tariff barriers to myriad U.S. exports. We have systematically carved out large pieces of the global market and made them inaccessible to U.S. producers. The competition should be overwhelmed with gratitude. We are doing more to bolster foreign producers of agricultural goods than their own governments could hope to achieve through subsidies.

The focus of this legislation are the sanctions invoked in reaction to the nuclear tests carried out in India and Pakistan earlier this Spring. The 1994 Glenn amendment not only included agricultural commodities, it also shut off agricultural credit programs that enabled countries like Pakistan to import U.S. wheat and feed its citizens. In sanctioning Pakistan in this manner, we run the risk of further destabilizing the existing regime. I have already voiced my concern about the danger inherent in this approach. Hungry citizens and desperate regimes with nuclear weapons capability could be a formula for disaster.

A further disaster must, however, be noted and has not been adequately emphasized in the discussion of this bill. Allowing international markets to be regulated by supply and demand for agricultural products—as well as other goods, services and capital—is an idea that dates back to the founding of this nation. The wealth of this nation can only be derived from a free market economy and unimpeded international trade. These artificial barriers will spell disaster for U.S. farmers in the immediate term, and they will eventually have negative ramifications for every sector in the U.S. economy.

Mr. President, I am hopeful that this legislation will initiate further changes. It is essential to American farmers that we change the current policy. This is an important first step to removing the barriers we have created to allowing U.S. producers to compete and profit in global markets. The economic lessons published by Adam Smith in 1776 are as pertinent today as they were at this country's birth. U.S. sanctions will serve to crush the invisible hand and hinder our competitiveness. I believe we should keep this foremost in our mind as we evaluate our sanctions policies, MFN and fast track in the coming months.

The PRESIDING OFFICER (Mr. GORTON). Who yields time?

Mr. BIDEN. Mr. President, I believe I have 6 minutes remaining under my control.

The PRESIDING OFFICER. Just under 5.

Mr. BIDEN. Mr. President, I yield just over 4 then to the Senator from Connecticut.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, I thank my colleague.

Let me join in the chorus of praise of our distinguished colleagues from Kentucky and Delaware, who have worked out this arrangement to allow for the adoption of this resolution that will permit the sale of food shipments to go forward in the case of both Pakistan and India.

I also want to take a moment here to commend our colleague from Indiana, who is no longer in the Chamber, but who went beyond the particular legislation in front of us and suggested that there are a number of things we need to be doing on the international level if we are going to continue to have the kind of success economically at home that we have enjoyed over these past several years.

The critical elements, of ensuring success at home economically over the long term are that we have a sound education policy, an issue which we have been debating today as part of the higher education reauthorization legislation, in addition to the obvious sound monetary and economic policy. Another important component is to also have responsible global economic policies. Certainly enactment of IMF legislation is a critical element of such a policy. I am hopeful that the other body will follow the Senate in passing the IMF legislation before we adjourn this Fall.

Sanctions policy is another part of our global economic policy that certainly demands our attention in this Congress and in this session. I think most Members now have come to the conclusion that our present sanctions policy is not only not working very well, but is actually counter to our own self-interest.

Someone suggested the other day that when we adopt unilateral sanctions, what we ought to do is immediately lay off about 5 percent of the workforce in the affected industries, because that is the ultimate effect and we should be honest about it.

Senator HAGEL, Senator PAT ROBERTS, Senator BIDEN, and I, and others introduced legislation before the July 4 recess would fundamentally change how unilateral sanctions are dealt with in this country. I would restore the appropriate balance of power between the Congress and the Executive in the sanctions area by giving the President the authority to delay, suspend, or terminate a particular sanction if he believes it serves an important national interest to do so. But we are not going to debate that today or bring it up, but I am hopeful that before this session ends we will find the time to do so.

I am fearful that while there is a keen interest in the sanctions issue now because of recent events in Pakistan and India, we will soon move on to other things without fundamentally addressing the problems with sanctions that the India/Pakistan highlighted so vividly. I hope that doesn't happen.

We currently have in place sanctions that effect more than 40% of the world's population. In one year alone, existing sanctions has cost the United States $20 billion in lost export revenues and affected 200,000 jobs in America. And even if you did not pass one new sanction, that $20 billion turns into $100 billion over a five year period, and those 200,000 jobs turn into a million.

So I am hopeful that this interest being expressed today by both Democrats and Republicans on this particular issue—and they have gone beyond it to suggest we need to fundamentally change how we impose unilateral sanctions—will bear fruit in terms of some broader legislative steps before this Congress expires.

AMENDMENT NO. 3113

(Purpose: To exempt medicines and medical equipment from sanctions)

Mr. DODD. Mr. President, Senator WARNER and I have an amendment, on which we have been joined by Senator HAGEL and Senator ROBB, which I am going to send to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Connecticut [Mr. DODD], for himself, Mr. WARNER, Mr. HAGEL, and Mr. ROBB, proposes an amendment numbered 3113.

Mr. DODD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1, after line 14, insert:

(c) Section 102(b)(2)(D) of the Arms Export Control Act is further amended in clause (ii) by inserting after the word "to" the following words: "medicines, medical equipment, and,"

Renumber succeeding subsections accordingly.

Mr. DODD. This amendment has been cleared by both sides. What it does is, to exempt the sale of medicines and medical equipment from sanctions that would be imposed under this provision of the Arms Export Control Act. Senator WARNER, Senator HAGEL, Senator ROBB, and I feel that just as food should not be used as a weapon against other countries, neither should medicine or medical equipment.

I have heard it said now countless times over the last hour and a half or 2 hours on this floor that food shipments ought never to be used as an instrument of sanctions policy. Whatever else we may choose to do to sanction a government, we shouldn't be hurting the average person in that country because they aren't responsible for the actions of their leaders. We shouldn't be victimizing innocent men, women and children with our sanctions policy.

I guarantee you that the political leaders who formulate policies of countries get their flu shots, get their medicine; they get their food. It is the general population who are the innocent victims who suffer. So we wanted to add medicine and medical equipment to make a point today, to put them on the same footing as food shipment are treated in this bill, so that we would begin to set the precedent that food shipments and medicine will no longer be used as a tool of our sanctions policy. Our ultimate goal is to lift all sanctions on the sale of food and medicine that currently are included in existing law, and bar the imposition of any future sanctions of this kind. We hope we will accomplish this broader objective before Congress adjourns later this year. But that goes beyond the parameters of the legislation that is being considered today.

Mr. President, I am pleased to join with my colleagues in correcting what is clearly an unintended consequence of Congressional enacted sanctions—namely preventing American farmers from being able to export their products abroad. This not only hurts American farm families, but it also ends up hurting innocent populations who in many cases are terribly dependent on American food stuffs in order to stay alive. Moreover, it is unlikely to alter the behavior of the sanctioned government.

I do not believe that food should ever be used as a weapon against other governments or people. That is not what the United States should be about. The American people have an enormous humanitarian spirit always reaching to help the weak and defenseless. Surely there are enough weapons in our foreign policy arsenal that we can forswear the use of food as a sanctions tool.

Similarly, I believe that we should also forswear denying life saving medicines and medical equipment to innocent women and children, simply because we don't like something their government officials may have done. Let's not kid ourselves into thinking we are denying any high government officials access to all the food or medicine they need—they'll get it even though there is scarcity with respect to the general public.

I am pleased that the Managers have agreed to accept the Dodd/Warner amendment that amends the Arms Export Control Act to make it explicitly clear that medicines and medical supplies will not be withheld under the sanctions provisions of this act.

When we impose sanctions against other governments we are at the same time sending a signal to the rest of the world about what the United States stands for and believes in. For that reason I believe we should never be telling the world that we believe in starving innocent people or denying them access to medical care. It is important that throughout the planet everyone understands that the United States operates only on the highest moral standards and will never stoop to the kind of behavior that is the hallmark of petty dictatorships who care nothing for the well being of their people.

Mr. President, while I support what we are doing today, I do not believe it goes far enough. It does not resolve the problem that currently confronts the President with respect to sanctions generally and India and Pakistan most immediately. We have done nothing today to give him the flexibility he needs to bring India and Pakistan back within the fold of internationally responsible countries in the realm of nuclear nonproliferation. I would hope that we could get agreement to deal with this issue very quickly so that a bad situation does not become a global tragedy.

The PRESIDING OFFICER. All time under the control of the Senator from Delaware has now expired.

Mr. DODD. Mr. President, I ask for an additional 30 seconds.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DODD. I think this proposal is a step in that direction. It makes sense. It deserves our broad-based support. I strongly urge our colleagues to join with us on the broader efforts to fundamentally change sanctions policy.

Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. Who yields time? The Senator from Kentucky has 2½ minutes.

Mr. McCONNELL. Mr. President, there is no objection to the amendment.

THE PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 1313) was agreed to.

Mr. McCONNELL. Mr. President, I move to reconsider the vote.

Mr. BIDEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. McCONNELL. Mr. President, the situation is this. We are just about out of time, but I have one more Senator on our side of the aisle who would like a couple of minutes.

Mr. President, I ask unanimous consent that Senator THOMPSON have 2 minutes and Senator HARKIN have 2 minutes, and Senator BIDEN and I have 2 minutes each for a close.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCONNELL. So I say to our colleagues, that means the vote will be about 8 minutes from now.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. THOMPSON. I thank my colleagues from Kentucky and Delaware.

Mr. President, just a couple of brief points that I think need to be made in order to put what we are doing in context. I think the legislation is good legislation and it is needed. However, I think what we are doing here is taking a step toward Congress intervening in the sanctions process, as we have sometimes, and I think that is good. But I think we need to keep in mind that most of these sanctions have been passed in times past because of concerns of nuclear proliferation. Proliferation has come about because of detonation by countries that have been carried out in their own countries, such as India and Pakistan. Proliferation has also come about because of exports from one country to another, to a troublesome country, to a rogue nation or a nation that we feel might pose some danger to us.

So, while we are fashioning a particular remedy for a particular purpose with regard to these sanctions, we need to keep in mind that it is in a much larger context that we are going to have to address this. Because, while we want to liberalize the administration's discretion with regard to sanctions in this area, we need to keep in mind that what is also going on right now is the situation where Congress, time and time again, has expressed concern that the administration has not used the sanctions that are available to it. We have a situation right now where we have imposed sanctions on India because of detonations, and India's response is that they are doing so in large part because of our relationship with China. China, on the other hand, continues to be the world's greatest distributor of weapons of mass destruction around the world, and as they do so, the President waives sanctions on China.

More recently, the administration has decided to exercise its waiver authority and not to sanction the Russian company Gazprom for energy investments in Iran which violate the Iran-Libya Sanctions Act.

So, while it may be appropriate and needed for Congress to intervene to liberalize the application of sanctions in the area that we are dealing with today, we need to keep in mind that while we are bashing sanctions—and I personally believe that they have been greatly overapplied, are indiscriminate, there has not been sufficient distinction with regard to countries that pose a threat or not——

The PRESIDING OFFICER. The Senator's 2 minutes have expired.

Mr. THOMPSON. I ask consent for an additional 30 seconds.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THOMPSON. We have not made that kind of distinction; we have not made a distinction between those countries that pose a threat and countries that do not. We are going to have to address all of those issues and mainly we are going to have to address the question of whether or not we want to also intervene, as a Congress, with regard to those instances where the administration is not imposing sanctions when this Congress believes they should; where this administration is granting waivers to Russia and China time and time again with regard to their activities of proliferation.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, I want to make a few comments in favor of the bill and its swift passage. I just want to point out again what the bill accomplishes. What this legislation will do is to establish that the automatic sanctions under the Nuclear Proliferation Prevention Act of 1994 will not include a prohibition against credit, credit guarantees or other financial assistance provided by the Department of Agriculture to support the purchase of food or other ag commodities. Again, this bill does not deal with the underlying purposes and operation of the Nuclear Proliferation Prevention Act of 1994. It only deals with the question of whether the automatic sanctions will include USDA credit guarantees or other financial assistance for the purchase of food and ag commodities.

My views in this regard are similar to what Hubert Humphrey, a former Member of this body, once said when he wanted to extend more food sales to the then-Soviet Union—which, of course, was our enemy in the cold war—and someone was taking him to task for that. Senator Humphrey replied that he was in favor of selling them anything that they couldn't fire back.

That is essentially my perspective, too. We ought to be willing to sell food with credit guarantees not only for our own purposes here in this country but because a lot of people whose economic circumstances are marginal in other countries need this food for their basic subsistence.

Finally, it is important that the Senate not have the misimpression that this legislation is going to solve what is shaping up to be a very serious crisis in rural America and on our farms. We need to pass this legislation. It will help, but it should not delude us into thinking that now this is going to cure our low wheat prices or corn prices or solve the farm income problem.

With respect to U.S. ag exports, I would point out the net impact of U.S. trade sanctions in six markets—Cuba, Iran, Iraq, North Korea, Libya, and Sudan—amounts to only 1 percent of the total U.S. ag exports. Those six countries purchased only about 2 percent—I ask unanimous consent for 30 seconds.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARKIN. Those six countries purchased only about 2 percent of the total world ag imports in 1996. When India and Pakistan were added, the result was only 3.2 percent of the total world ag trade subject to U.S. sanctions. That is simply not enough to have caused the tremendous drop we have recently seen in wheat and other commodity prices. So, yes, we need to pass this bill, but we need to come back in this body and do something to help solve the low ag prices that are hurting our farmers all over America. This bill alone won't do it.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, what we are doing here today at the urging of Senator MURRAY and Senator ROBERTS is necessary and important. But I want to make it clear we didn't start this off as an ag bill. This is about foreign policy. This is about sanctions. It does affect us. It is important.

My only regret here today is we are only exempting agriculture. I hear my colleagues from the agricultural States stand up and talk about how farmers are put at risk. I point out, people who work in a factory at Boeing are put at risk. People who work in the Du Pont Company are put at risk. People who work in every other industry are put at the same risk farmers are put at when we impose these sanctions. So we should go further than we are going today.

That is the task that has been assigned to the task force that is chaired by Senator MCCONNELL and myself. I am hopeful and I am encouraged by the fact that we have been nonpartisan in our approach so far, to try to deal with this. There is going to be a tendency on the part of Democrats to say, "Gosh, if there is a Republican President next, maybe we should not do this." There is a tendency on the part of Republicans to say, "We have a Democratic President for the next 2 years, maybe we should not do this." I hope we continue to rise above that and do what needs to be done and have a rationalized sanctions policy that is fundamentally different than what we have here today.

But that is easier said than done. That is our task. We will attempt to do it. I am just sorry we weren't able to go forward with what was, even the broader version of this, was a modest version of what we had to do. We weren't able to get that done today, but with the leadership of the Senator from Kentucky and the help of our colleagues who have engaged in this, maybe we can come up with something before this session is over that rationalizes our sanctions policy.

I thank my friend from Kentucky.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. MCCONNELL. I thank my good friend from Delaware. I do look forward to this challenge we have together to try to move forward on this issue.

I ask unanimous consent that Senator GRAMS of Minnesota and Senator BOND of Missouri be added as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MCCONNELL. Mr. President, before we close for the vote on this India-Pakistan bill, let me re-examine our mandate from the leadership.

Senator BIDEN and I and the task force have been asked to focus on the following issues: What constitutes a sanction? Is it a sanction when we withhold or condition U.S. foreign assistance? Is it a sanction when we ban investment? Obviously, it is a sanction to ban commercial activity or investment, but there are other issues of aid conditions that are clearly foggy. What sanctions are in place? What flexibility has been offered? And how are these current sanctions being implemented? Implementation, even after we enact a sanction, has been somewhat haphazard.

Mr. President, as the task force moves forward, let me suggest that we are very likely to have a hearing before the August recess to give people out in the country who are affected by what we decide an opportunity to have their say. We know the business community, for example, seems to be comfortable with the 301 process, because they know what to expect and when to expect it. We look forward to hearing from them. There are others out in our country who feel the United States is, after all, the beacon of freedom in the world and we should express ourselves about policies in other countries with which we disagree, and we want to hear from them, Mr. President, as well.

It is the intention of Senator BIDEN and myself to meet the September 1 deadline that the leadership has given us. I want to say that we welcome the thoughts and comments of our colleagues both on and off the task force.

Mr. President, I understand that time has expired.

The PRESIDING OFFICER. All time has expired. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. MCCONNELL. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is, Shall the bill, as amended, pass? On this question, the yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Texas (Mrs. HUTCHISON) and the Senator from Arizona (Mr. KYL) are necessarily absent.

The result was announced—yeas 98, nays 0, as follows:

[Rollcall Vote No. 190 Leg.]

YEAS—98

Abraham
Akaka
Allard
Ashcroft
Baucus
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Cleland
Coats
Cochran
Collins
Conrad
Coverdell
Craig
D'Amato
Daschle
DeWine
Dodd
Domenici
Dorgan
Durbin
Enzi
Faircloth
Feingold
Feinstein
Ford
Frist
Glenn
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Hagel
Harkin
Hatch
Helms
Hollings
Hutchinson
Inhofe
Inouye
Jeffords
Johnson
Kempthorne
Kennedy
Kerrey
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Mikulski
Moseley-Braun
Moynihan
Murkowski
Murray
Nickles
Reed
Reid
Robb
Roberts
Rockefeller
Roth
Santorum
Sarbanes
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Torricelli
Warner
Wellstone
Wyden

NOT VOTING—2

Hutchison
Kyl

The bill (S. 2282), as amended, was passed, as follows:

S. 2282

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Agriculture Export Relief Act of 1998".

SEC. 2. SANCTIONS EXEMPTIONS.

(a) Section 102(b)(2)(D) of the Arms Export Control Act (22 U.S.C. 2799aa–1(b)(2)(D)) is amended as follows:

(1) In clause (ii) by striking the period and inserting in lieu thereof ", or".

(2) By inserting after clause (ii) the following new clause—

"(iii) any credit, credit guarantee or financial assistance provided by the Department of Agriculture to support the purchase of food or other agriculture commodity.".

(b) Section 102(b)(2)(F) is amended by striking the period at the end and inserting "which includes fertilizer.".

(c) Section 102(b)(2)(D) of the Arms Export Control Act is further amended in clause (ii) by inserting after the word "to" the following words: "medicines, medical equipment, and,".

(d) Amounts which may be made available by this section 102(b)(2)(D)(iii) are designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided*, That such amounts shall be available only to the extent that an official budget request that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

(e) Any sanction imposed under section 102(b)(2)(D) of the Arms Export Control Act before the date of this Act with respect only to the activity described in section 2(a)(2) of this Act shall cease to apply upon the enactment of this Act.

Mr. CRAIG. Mr. President, I move to reconsider the vote.

Mr. NICKLES. I move to lay it on the table.

The motion to lay on the table was agreed to.

HIGHER EDUCATION AMENDMENTS OF 1998

The Senate continued with consideration of the bill.

The PRESIDING OFFICER. The Senate will resume consideration of S. 1882.

The clerk will report.

The legislative clerk read as follows:

A bill (S. 1882) to reauthorize the Higher Education Act of 1965.

The PRESIDING OFFICER. The majority leader.

Mr. LOTT. Mr. President, I appreciate the fact that the Senate took up this very important issue of agricultural sanctions and has acted on it.

Now, of course, we return to the Higher Education Act. The managers of the legislation have been making progress. We have at least a couple of amendments that will still take some more time. I encourage Senators to speak briefly and just go ahead and get a vote on the issues that are involved. The plan is to stay on the Higher Education Act until we complete it tonight, so we will need cooperation of all Senators. I understand some Senators may have other events they would like to go to, but you can't say, "I want to offer amendments, but, by the way, I have an event I have to go to."

Please work with the Senator from Vermont and the Senator from Massachusetts. This is important legislation that expired July 1. We need to get it completed so we can get it in conference and get it done before we go out at the end of the year. I believe with a little cooperation, we can complete this very important Higher Education Act tonight. It is my intent for us to stay in until we get it done tonight.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Mr. President, I ask unanimous consent the pending Wellstone amendment be set aside for a period not to exceed 20 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JEFFORDS. It is my understanding that an amendment will be offered by Senator SANTORUM. He believes he will take 10 minutes or less. I know of no one that wants to speak on the other side.

I ask that Senator SANTORUM be recognized.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SANTORUM. Mr. President, I thank the chairman of the committee and also the ranking member, Senator KENNEDY, and other members of the working group, including Senator COATS and Senator DODD, for working with me on this amendment. It is a very important amendment to proprietary schools, career schools, who are doing the real lion's share of the work in educating in the poor communities, with disadvantaged people in our society. They are doing a great job in some of the toughest settings to try to make up the skills deficit that we have heard so much talk about in this country for the working poor and for those, in many cases, coming off of welfare.

We are moving from welfare to work, and we are going to have to have educational institutions in poor communities, in the cities, to be able to educate the poor. As a result, I have worked with the working group. And I will send the amendment to the desk I am offering with Senators DEWINE and COVERDELL.

AMENDMENT NO. 3114

(Purpose: To amend the Higher Education Act of 1965 to improve accountability and reform certain programs)

Mr. SANTORUM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Pennsylvania [Mr. SANTORUM], for himself, Mr. DEWINE and Mr. COVERDELL, proposes an amendment numbered 3114.

Mr. SANTORUM. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 466, between lines 19 and 20, insert the following:

(2) in paragraph (2)—

(A) in subparagraph (A), by striking "proof that reasonable attempts were made" and inserting "proof that the institution was contacted and other reasonable attempts were made"; and

(B) in subparagraph (G), by striking "certifies to the Secretary that diligent attempts have been made" and inserting "certifies to the Secretary that diligent attempts, including contact with the institution, have been made".

On page 494, between lines 20 and 21, insert the following:

SEC. 434. NOTICE TO SECRETARY AND PAYMENT OF LOSS.

The third sentence of section 430(a) (20 U.S.C. 1080(a)) is amended by inserting "the institution was contacted and other" after "submit proof that".

On page 501, between lines 14 and 15, insert the following:

(d) PUBLICATION DATE.—Section 435(m)(4) (20 U.S.C. 1085(m)(4)) is amended by adding at the end the following:

"(D) The Secretary shall publish the report described in subparagraph (C) by September 30 of each year.".

At the end, add the following:

SEC. . LIAISON FOR PROPRIETARY INSTITUTIONS OF HIGHER EDUCATION.

Title II of the Department of Education Organization Act (20 U.S.C. 3411 et seq.) is amended by adding at the end the following:

"SEC. 219. LIAISON FOR PROPRIETARY INSTITUTIONS OF HIGHER EDUCATION.

"(a) ESTABLISHMENT.—There shall be in the Department a Liaison for Proprietary Institutions of Higher Education, who shall be an officer of the Department appointed by the Secretary.

"(b) APPOINTMENT.—The Secretary shall appoint, not later than 6 months after the date of enactment of the Higher Education Amendments of 1998 a Liaison for Proprietary Institutions of Higher Education who shall be a person who—

"(1) has attained a certificate or degree from a proprietary institution of higher education; or

"(2) has been employed in a proprietary institution setting for not less than 5 years.

"(c) DUTIES.—The Liaison for Proprietary Institutions of Higher Education shall—

"(1) serve as the principal advisor to the Secretary on matters affecting proprietary institutions of higher education;

"(2) provide guidance to programs within the Department that involve functions affecting proprietary institutions of higher education; and

"(3) work with the Federal Interagency Committee on Education to improve the coordination of—

"(A) the outreach programs in the numerous Federal departments and agencies that administer education and job training programs;

"(B) collaborative business and education partnerships; and

"(C) education programs located in, and involving, rural areas.".

Mr. SANTORUM. Mr. President, this amendment does three things, all of which will, I believe, aid career colleges in proprietary skills and in their ability to hold down at-risk default rates. They are serving populations who, as a result of being at risk, have a tendency to have higher default rates. They want to work with the system to be able to help hold down those default rates because, obviously, they want to stay in business and continue to educate.

So the first provision that we put in this amendment is to require the guaranty agencies and lenders to contact institutions when they are doing skiptracing of borrowers who have gone into default. In other words, this will allow the schools to be notified when former students of theirs are going into default because, in many cases, through their placement offices they know where to locate these people and can, in fact, aid the lending institutions and guaranty agencies in bringing these people back on to a payment schedule, to avoid default, and to keep the default rate low, but also to help the young people who are out now in the working environment avoid a bad thing on their credit. And, obviously, it will save the Federal Government some money.

Secondly, it sets September 30 of each year as the deadline for the Department of Education to release its annual default rate for schools. This will help schools in their planning process, giving more certainty in how to deal with potential problems they may have with the default rate down the road.

Third, it creates a liaison position at the Department of Education for proprietary schools, similar to the liaison position created several years ago for community colleges. Community colleges and proprietary schools, in many cases, serve similar populations. There have been problems in communicating, in getting information, and having a voice at the Department of Education. This is a mechanism for those who are sometimes considered somewhat of a "stepchild" in the higher education community to get some real responsiveness from the Department to their needs and to their concerns.

That is the sum total of the amendment. I believe it will help these career and proprietary schools better serve an at-risk population that is in desperate need of making up a skills deficit. It will put them in a better position to keep the default rates down and improve the program overall.

Again, I thank the chairman, the ranking member, Senator COATS, and Senator DODD for working with me and my staff in coming up with this amendment.

I yield the floor.

Mr. JEFFORDS. Mr. President, I ask unanimous consent that we have an immediate vote.

Mr. KENNEDY. Well, I just need 30 seconds, Mr. President.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I think these are very good suggestions and recommendations. I think they will improve the accountability in the important areas of recovery of debt, and also give better information on these default rates, and will help to assist some of the proprietary schools. I think they are all very solid, good management recommendations that can make the programs more efficient. I thank the Senator for those initiatives.

I urge that we accept the amendment.

The PRESIDING OFFICER. Is there further debate?

The question is on agreeing to the amendment.

The amendment (No. 3114) was agreed to.

AMENDMENT NO. 3111

Mr. JEFFORDS. Mr. President, the pending amendment, I believe, is the Wellstone amendment.

I move that we return immediately to the Wellstone amendment and relinquish any time that was available.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. WELLSTONE. Mr. President, I think my colleague, Senator DODD from Connecticut, wants to speak on this amendment, and Senator FORD and Senator MOYNIHAN are going to come down. I believe my colleague from Delaware also is going to speak.

PRIVILEGE OF THE FLOOR

Mr. WELLSTONE. Mr. President, I ask unanimous consent that Matthew Tourville, an intern in my office, be allowed to be on the floor while we debate the higher education bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WELLSTONE. Mr. President, I will yield time to the Senator from Connecticut.

Mr. BINGAMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

PRIVILEGE OF THE FLOOR

Mr. BINGAMAN. Mr. President, I ask unanimous consent that Rena Subotnik, a fellow in my office, be allowed floor privileges during the pendency of this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DODD addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, I commend our colleague from Minnesota for this amendment. I think it is a very thoughtful amendment, one that I think most Americans would feel very comfortable in backing and supporting.

There was a significant debate, as we all recall, in this Chamber not that many months ago on the issue of welfare reform, and the desire to have people who collect public assistance find meaningful work. All of us supported the underlying principle of that concept. There were disagreements on how it should be achieved and on final passage of the bill. But the underlying desire to move people from welfare to work was certainly a laudable goal.

What our colleague is suggesting here is that a person on welfare who enters an educational program to learn skills and training—that education experience ought to be considered on a par with a work experience. For persons acquiring skills and trying to improve the quality of their life, to enhance their opportunities, I think that ought to be applauded and encouraged. If a person is engaged in that effort here, certainly that individual deserves our support and backing. A person who acquires skills is going to be a person who will earn that income that will make him or herself independent, a good provider at home, a better citizen. All of us know of the vital importance of education.

I made note earlier in the day that we now know factually that a person who earns a college degree today earns twice the income of a person with only a high school diploma. That was not the case only a few short years ago. A few short years ago, with a high school diploma, a set of good hands and a good heart, you could provide for your family, you could earn a good salary, a good wage, buy a home, educate your children, provide for their health needs. But today that is no longer the case. You have to have more education.

In my view, if a person who has been on welfare, on public assistance, is entering an educational opportunity, as I said a moment ago, then that ought to be supported. So I strongly urge our colleagues here to support the Wellstone amendment. If there is one thing that we know works to end the cycle of poverty, it is education. A person who has those tools will be in a far better position to not only gain employment, but to remain employed and to understand and support democracy.

I have often cited this quote, and I can't resist because sitting next to me is our dear friend and colleague from West Virginia. I have often used it and said to my audiences in my home State of Connecticut that Thomas Jefferson understood this concept 200 years ago when he said in a speech—I think I have the quote pretty close—"Any nation that expects to be ignorant and free expects what never was and never can be." He made those comments at the beginning of the 19th century. We are just a few short days from the end of the 20th century. Certainly, if it was true then, it is true today—that "Any nation that expects to be ignorant and free expects what never was and never can be."

As expensive as education is, ignorance is far more costly. We certainly know that people who are dependent on public assistance in most cases are people who lack educational skills.

To strengthen our country, to create opportunity to improve an individual's chance to succeed in this country, I think the idea should be equating a person who is entering an educational process on the same footing as someone who is entering into a work experience. For those reasons, I support the amendment of our colleagues from Minnesota, and urge adoption of it by a strong vote in this body.

Mr. President, I yield the floor.

Ms. MIKULSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. Mr. President, I rise in support of the Wellstone amendment and am an enthusiastic cosponsor of it.

I come to the Senate floor as a professionally trained social worker. I have been through seven welfare reforms in my career, both as a social worker in the streets and neighborhoods, and now in the corridors of the U.S. Senate. When we talk about reforming welfare, we want to make sure that welfare is not a way of life but that it is a tool to move to a better life.

Over the break I sat in a room in Baltimore meeting with welfare mothers who wanted exactly to move to a better life and who were practicing self-help. But the very cruel rules of government are going to derail their hopes, dreams, and practical opportunities. And what is that? They were enrolled in a community college program—one in business, one as an addiction counselor, and one doing prenursing courses to make sure they could get back to society and be able to give an income to their family. But they were told they had to leave the program. They had to leave the program and look for work rather than complete the program so that they could have jobs that were truly self-supporting and sustaining. Why were they told that? Not because of a callous social worker. We are not callous. But the rules of government said you can get some kind of temp training. You can get into a training program where you can get some type of training that might or might not take you to a livable wage.

That is not what welfare reform is all about. Welfare reform is to end the culture of poverty. And yet the very rules that we now have reinforce the culture of poverty. We are not giving help to those who want to practice self-help—meaning those who want to go to school, stay in school, and learn the skills for the new global economy, whether it is in the service field, the nonprofit, or the private sector.

The Wellstone amendment allows States, if they so choose—I happen to have the type of Governor who would be eager to have this—to allow these women to be able to go into a job training program or have 2 years of higher education.

There are people—there are women now on welfare who because of a bad choice in marriage actually dropped out of college. They might be 18 credits away. If we could help them finish, they would be able to have a job with benefits and be able to lead, indeed, a better life.

The Wellstone amendment is not about new rules. It is about opportunity. The other side of the aisle, and this side of the aisle, has said one of the most important functions of government is to create an opportunity ladder. This is what the Wellstone amendment does. It creates an opportunity ladder that doesn't necessarily take you to the top but gets you over the top.

I support the Wellstone amendment. I want to compliment the Senator from Minnesota for his steadfast commitment to children, but to know that for the children, they need a parent who has the best social program, which is a job that pays a living wage. And this is the best way to get one.

I look forward to voting for the amendment, supporting the amendment, and I look forward to seeing to it that those women I talked to are able to get on with their life while we get on with doing our job.

Mr. WELLSTONE. Mr. President, let me thank my colleague from Maryland. She always kind of takes these issues from the abstract and connects them to people. I really thank her for her statement. I am very proud to have her support. I hope we really get a strong vote for this.

Mr. President, I think my colleague from Kentucky is on the floor and wishes to speak.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. I thank the Chair.

Mr. President, I rise today to speak in support of the Wellstone amendment. I am honored to be able to add my name as an original cosponsor to this important amendment.

Booker T. Washington wrote that "success is to be measured not so much by the position one has reached in life as by the obstacles which one has overcome while trying to succeed."

He might well have been talking about the single, uneducated parents in this country trying to turn their lives around, while ensuring their children grow up in a healthy, safe environment.

Things like child care, transportation, and education, become obstacles of insurmountable proportions for these struggling parents, putting jobs that can build secure futures further and further out of reach.

As many of my colleagues know, I supported and voted for welfare reform.

It's been almost two years since Congress rewrote our welfare laws in hopes of breaking the cycle of dependency that was trapping too many Americans in poverty and despair. Much good has come of that law, including substantial drops in the welfare rolls, saving states like Kentucky $14 million.

But despite its good intentions, the new welfare law is penalizing parents trying to improve their chances at getting good jobs. Under the new law, a parent must work 20 hours to continue receiving aid.

That might not seem particularly onerous, but the law also limits these single parents to just one year of education before requiring them to find work.

Let me just repeat that. But the law also limits these single parents to just 1 year of education before requiring them to find work.

As one of Kentucky community college wrote me, "for even the best prepared traditional students, our community college programs require two years with a full load of course work. The best prepared traditional student, however, doesn't represent our average student. With over 70 percent of our students testing into developmental English, reading or math courses, the extra time needed to prepare for actual college course work is critical to their success. Twelve months is inadequate time for a person to move from a life of dependence upon government assistance to a life of independence and self-sufficiency."

For most single parents, the burden of going to school full-time, holding down a part-time job, all while trying to raise healthy children, will simply become too much, forcing them to choose a low-paying job with no future over the path to skilled, high-paying work.

Leaders in my home state of Kentucky, like Representative Tom Burch, recognized this problem. But their efforts to change the policy have been hampered by fears that the state will lose critical federal funds, further short-changing those who need the aid most.

That is why I am pleased to join in offering this amendment which will stop penalizing parents trying to improve their situation.

This amendment allows up to 24 months of post-secondary or vocational education, removes the 30 percent limitation on education as a work activity for teen parents, and clarifies that participation in a federal work-study program is a permissible work activity.

In my state, nearly 4,000 parents could benefit directly from these changes. But the truth is, they're not the only ones who stand to benefit. With the economy growing in Kentucky, employers are having a harder time finding qualified employees. With good-paying jobs, these parents can provide a much better quality of life for their children, and that adds up to success no matter how you measure it.

I urge my colleagues to vote for this worthwhile amendment.

Mr. President, I ask unanimous consent that letters of support for the Wellstone amendment from Kentucky's Secretary for Families and Children, Viola Miller; the Honorable Tom Burch; Kentuckians for the Commonwealth; and President Deborah Floyd of the University of Kentucky's Prestonburg Community College be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

THE SECRETARY FOR FAMILIES AND CHILDREN, COMMONWEALTH OF KENTUCKY,
March 25, 1998.

Hon. WENDELL H. FORD,
U.S. Senate,
Washington, DC.

DEAR SENATOR FORD: This is to express my support for the amendment you and Senator Wellstone have proposed for S. 1133 to support education for welfare recipients. While we understand that the goal of welfare reform is for recipients to obtain employment, and fully support that goal, we need to acknowledge that some recipients must acquire skills to be employable.

Approximately one-half of our recipients do not have a high school diploma or GED and less than one percent have any postsecondary education. We want to provide assistance that will not only help recipients get jobs, but also allow them to keep jobs and to advance. Thus, we support this initiative whether as an amendment to S. 1133 or through some future action.

Sincerely,

VIOLA P. MILLER,
Secretary.

COMMONWEALTH OF KENTUCKY,
HOUSE OF REPRESENTATIVES,
March 19, 1998.

Senator WENDELL FORD,
173A Russell Building,
Washington, DC.

DEAR SENATOR FORD. We appreciate your continuing interest and support of education for Kentucky's low-income parents. The General Assembly, the Kentucky Welfare Reform Coalition, and Kentucky's low-income parents are working hard to maintain access to educational opportunities. With the cooperation of the Kentucky Cabinet for Families and Children, progress has been made. Nonetheless, legislative attempts to expand educational opportunities are being stymied by the Cabinet's fear of incurring federal penalties under TAN–F work requirements. Clearly, the Commonwealth of Kentucky does not want to risk losing federal funds to assist those most in need.

Getting off and staying off public assistance are directly linked to educational attainment. The Urban Studies Institute at the University of Louisville recently reported that 51% of a sample of discontinued K–TAP recipients (Kentucky's version of TAN–F) have less than a 12th grade education. The University of Kentucky reports that 1996 average weekly earnings of women with less than 12 years of education are $176.00, far below the federal poverty level. With some college, weekly earnings for Kentucky women more than double to $371.00

This session we introduced 98 HB 434 to increase access to educational opportunities for Kentucky's low-income parents. The seed for this bill grew from K–TAP recipients struggling to stay in school. We could only make small strides with this legislation given the Cabinet's desire to comply with the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

Your proposed amendment to S. 1133 to allow up to 24 months of post-secondary education or vocational education, to remove the 30% limitation on education for teen parents, and to clarify that education counts as a work activity will potentially help nearly 3,700 low-income parents annually continue on the road to economic independence. We strongly endorse your support of this legislation for the people of the Commonwealth of Kentucky and the United States of America. Thank-you for the opportunity to support this legislation.

Sincerely,

TOM BURCH.

KENTUCKIANS FOR THE COMMONWEALTH,
Prestonsburg, KY, March 20, 1998.

DEAR SENATOR FORD, We were thrilled to learn that you will co-sponsor an amendment to SR 1133 to expand educational opportunities for welfare recipients.

As you know, Kentuckians For The Commonwealth has been organizing to build support for state legislation addressing this issue. In fact, several members of our organization met with you in October 1995 to express concerns about access to education and training in the welfare reform plans being discussed by the Republican Congress. We haven't stopped working ever since.

We applaud your efforts and look forward to lending our support to this cause.

KFTC and Kentucky Youth Advocates co-sponsored a series of public forums last fall in five locations across Kentucky. During these events, hundreds of low-income Kentuckians, teachers, social workers and concerned citizens shared their concerns about the impacts of welfare reform on their families and communities. Federal restrictions on educational opportunities were mentioned more than any other issue at these events. (Enclosed is a short video with excerpts from people who spoke first-hand about the importance of education in getting a living wage job and leaving welfare.)

Led by a remarkable group of low-income parents, KFTC worked with a coalition of groups to develop legislation which was eventually sponsored by Representative Tom Burch in the Kentucky General Assembly. HB 434 sought to prevent recipients from being pushed out of education and training due to punishing federal work requirements and lack of supportive services. The bill would have used state dollars, not federal TANF money, to support students in post-secondary education. We hoped this would allow student-parents some relief from the time clock and 20-hour work requirements while they got the training necessary to earn a living wage.

We found a great deal of support among legislators, community college presidents, low-income Kentuckians and others for our effort. In fact, the original version of the bill was co-sponsored by 15 law-makers, including both Democrats and Republicans. However, the administration strongly opposed the bill because they feared that federal penalties would harm Kentucky if we made such a commitment to education and training. The "flexibility" states were promised under federal welfare reform wasn't there.

Our bill (HB 434) was weakened and now simply requires the Cabinet for Families and Children to fully inform recipients of their rights to education and to convene an advisory board to examine the issues further. We also won a commitment from the administration to provide child care assistance to TANF-eligible students who decline cash assistance. This may allow some Kentuckians to leave welfare and get the supportive services they need to stay in school. We've come a long way, but not far enough for the 3,700 Kentucky parents who must, starting July 1, 1998, work twenty or more hours in addition to raising their families and attending school full time.

Clearly, a lasting and comprehensive solution to this problem lies at the federal level. Thank you for your leadership. We look forward to working with you to win passage of this amendment. Please let us know how we can be actively involved in support of your efforts.

Sincerely,

SHERRI BARKER,
Floyd County.
DAISY JOHNSON,
Union County.

On behalf of Kentuckians For The Commonwealth.

PRESTONSBURG COMMUNITY COLLEGE,
Prestonsburg, KY, March 20, 1998.

Senator WENDELL H. FORD,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR FORD: It is with great optimism that I write this letter in support of the Wellstone Amendment to S. 1133 on Education as a Work Activity in the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

For many people of our region, education and training present them their only way to escape a lifetime of poverty and/or dependence on public assistance. As you know, Prestonsburg Community College has long been committed to providing education opportunities to all citizens in the Big Sandy region. In our 35-year history, this commitment has often meant removing obstacles from the paths our students take to success.

Rather than removing obstacles, the Personal Responsibility and Work Opportunity Reconciliation Act actually presents a serious obstacle.

For students at PCC and other post-secondary and vocational educational institutions in the Commonwealth, this meant that after the twelve months had expired, each student had to find time in the day (1) to attend classes, (2) work a minimum of 20 hours per week to meet the countable work activity and (3) raise the families that are the driving motivation behind attending school.

For even the best-prepared traditional students, our community college programs require two years (full load). The best prepared traditional student, however, does not represent our average student. With over 70 percent of our students testing into developmental English, reading or mathematics courses, the extra time needed to prepare for actual college course work is critical to their success. Twelve months is inadequate time for a person to move from a life of dependence upon government assistance to a life of independence and self-sufficiency.

The Wellstone Amendment—with its provision for up to 24 months of post-secondary or vocational educational opportunities—is the chance our students have needed since the passage of the original 1996 legislation. If our students are able to remain actively engaged in the educational process for a full 24 months, they will be able to concentrate on their elected course of study without the heavy burden of meeting an additional, sometimes unrealistic, work requirement. With the completion of that course work, these students are far more likely to move into meaningful employment with opportunities for advancement and success throughout their careers.

Thank you so much for your support of the Wellstone Amendment. Despite the detriments of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Prestonsburg Community College has remained committed to helping all of our students successfully continue in school. The Amendment is an opportunity for the Senate to remove a roadblock that hinders the progress of institutions and students alike in their effort to produce a society of self-sustaining citizens. This is an opportunity to help not only our students, but students across the Commonwealth and the nation.

Sincerely,

DEBORAH L. FLOYD,
President.

Mr. FORD. Mr. President, I have one other item I would like to put in the RECORD. It is an editorial from the Lexington Herald-Leader dated July 1, 1998. I only quote a couple of paragraphs from that editorial. It says:

> We urge Congress to endorse such a change in a welfare policy that right now insists on work first, education later. It makes sense that work be the priority but not at the expense of forcing the most motivated to choose an entry-level job over a career track.
>
> It is a shame we have to pass laws to mandate what is common sense. A better education leads to career opportunities and long-term self-sufficiency.

And they end that editorial with this paragraph:

> One thing we do know. In this country, education is the surest route out of poverty. And we shouldn't close off that option by forcing people out of college into any old kind of job just so we can proclaim that we made the transition from welfare to work.

I ask unanimous consent that this editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

END WELFARE'S CATCH-22

FORD-WELLSTONE BILL WOULD ALLOW MORE TIME FOR EDUCATION

To address a problem, politicians often prefer the grand gesture or the new proclamation rather than the less glamorous work of just fixing what's wrong.

That approach was evident in the massive overhaul of nation's welfare policies. Instead of changing the rules that actually kept families dependent on monthly checks, Congress imposed deadlines and ordered folks to either get jobs or work for their benefits.

Spurred by this tough-love message and aided by a strong economy, the welfare rolls have shrunk considerably in the last two years. Now, Congress can finally look at changing the rules that prevent folks from getting a leg up.

Proposals by Kentucky Sen. Wendell Ford and Minnesota Sen. Paul Wellstone are a step in that direction. Their legislation would increase from one to two years the time a recipient can spend in vocational school or college and allow participation in a federal work-study program to count toward work requirements.

We urge Congress to endorse such a change in a welfare policy that right now insists on work first, education later. It makes sense that work be the priority, but not at the expense of forcing the most motivated to choose an entry-level job over a career track.

Kentucky is one of the few states that have agreed to count some work study toward work requirements. But changing the federal law would help ensure that the state would not lose federal money for doing the right thing.

It's a shame we have to pass laws to mandate what is common sense: A better education leads to career opportunities and long-term self-sufficiency.

Yet, our national welfare policy has long snared poor families in a Catch-22. For example, we bemoan single-parent families yet force fathers out of the homes before giving the families aid. We push folks to take low-pay, no-benefit jobs, then cut medical benefits and food subsidies before they can get on their feet, forcing them back on the rolls.

Over the last two years, those on welfare have proven that they either want to work or will go to work if required. Now, we may be ready to focus on what's needed to help them become truly self-sufficient.

One thing we do know: In this country, education is the surest route out of poverty. And we shouldn't close off that option by forcing people out of college into any old kind of job just so we can proclaim that they made the transition from welfare to work.

Mr. FORD. I don't know how many of my colleagues have been to junior colleges in the last year. I don't know how many of my colleagues have been to universities and colleges that have these types of individuals who have started. I go to my community college, and I talk to them. And this young lady with tears in her eyes says, "I finally am on the edge of opportunity, and that edge is being sharpened by 1 year, and I have to leave education and go to work." She said, "I cannot handle a job, I cannot handle education, I cannot handle my children, unless you give me this opportunity."

I have looked into the eyes of those who want to do better, who can do better, and we must give them that opportunity so they can have that better life. I hope that the 4,000 in my State have that opportunity for that second year of education, that opportunity to find that job, and that opportunity to make a better life for their children.

Mr. President, I yield the floor and I thank the chairman.

Mr. LEVIN. Mr. President, I support the Wellstone amendment which increases from 12 to 24 months the limit on the amount of post-secondary education training that a state can count towards meeting its work requirement under the new Temporary Assistance for Needy Families program. Under the old Aid to Families with Dependent Children program, recipients could attend post-secondary education training for up to 24 months. I support the new law's emphasis on moving recipients more quickly into jobs, but I am troubled by the law's restriction on post secondary education training, limiting it to 12 months. The limitation on such advanced training raises a number of concerns, not the least of which is whether persons may be forced into low-paying, short term employment that will lead them back onto public assistance because they are unable to support their families.

Mr. President, a majority of my colleagues in the Senate has previously cast their vote in support of making 24 months of post secondary education a permissible work activity under the Temporary Assistance for Needy Families program. A year ago, on June 25, 1997, a Levin-Jeffords amendment to the Senate Reconciliation bill, permitting up to 24 months of post-secondary education, received 55 votes—falling five votes short of the required procedural vote of 60. I would also like to make note of the fact that the amendment had the support of the National Governors Association.

Study after study indicates that short-term training programs raise the income of workers only marginally, while completion of at least a two-year associate degree has greater potential of breaking the cycle of poverty for recipients of public assistance. According to the U.S. Census Bureau, the median earnings of adults with an associate degree is 30 percent higher than adults with only a high school diploma or its recognized equivalent.

Mr. President, I would like to share with my colleagues some examples of jobs that an individual could prepare for in a two-year vocational or community college program and the salary range generally applicable to the positions. One very productive specialty area is information technology. Graduates in this area are generally hired immediately following or in some cases prior to completing their program.

According to a recent survey of the American Association of Community Colleges, information technology programs that have exhibited the most industry and labor force growth, with an average starting salary of $25,500 are as follows:

(1) Computer Technology/Computer Information Systems.

(2) Computer Applications and Software.

(3) Computer Programming.

(4) Microsoft Operating Systems.

Other important two-year training programs that present opportunity for growth and self-sufficiency include:

Accounting	$14,000-$28,000
Law enforcement	13,500-25,000
Dental hygiene	18,000-60,000
Resipiratory therapy/tech	21,000-32,000
Radiology technician	22,235-32,425
Legal assistant	28,630-30,000
Child care development	23,590-29,724
Registered nurse	24,400-38,135

Additionally, Mr. President, in an effort to further improve the success of welfare reform, this amendment would remove teens from being calculated in the 30% cap of those involved with work/education activities, ensuring that teens complete high school while giving states more flexibility in designing a welfare program that meets the needs of welfare recipients.

I urge my colleagues to support this amendment because it will help us reach the new law's intended goal of getting families permanently off of welfare and on to self-sufficiency.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, just very briefly, I hope this amendment will be accepted. I think in the study of welfare reform there are a number of items which are necessary to help move people into meaningful jobs. They have to have, one, by and large some help and assistance with child care; secondly, they have to have the health care needs of their children attended to. One of the reasons people are on welfare is the fact that health care costs have depleted their resources and they have ended up on welfare. Third, there has to be a job available; and, fourth, there has to be some training or education. That is the key element in terms of a successful movement. And taking all of those elements with an expanding economy, they have the real opportunity of promise for, I think, meaningful health care reform.

I did not believe in the last welfare reform bill we were really addressing those kinds of issues and questions, and therefore I voted in opposition to that particular program. The Senator from Minnesota has offered, I think, a very important and significant amendment that will really help to assist in terms of the medium- and long-term interests of those individuals who have the ability to gain entrance into educational institutions, obviously the commitment and the dedication to be able to do so, and I think it will make a major difference in terms of their lives.

I think it is very commendable. I hope the Senate will accept it.

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER (Mr. COATS). The Senator from Delaware.

Mr. ROTH. Mr. President, I rise in opposition to the Wellstone amendment as it will halt the momentum of welfare reform which has gained bipartisan acclaim for reducing the welfare rolls by 34 percent from the peak level in 1994. This amendment is a step backwards, and it will surely invite additional means of thwarting welfare reform.

The Wellstone amendment has little to do with education. It will weaken the work participation requirements under welfare reform for which the States are to be held accountable. The Wellstone amendment will create three new loopholes through which States will be tempted to avoid their responsibility for helping families gain the work experience they need to achieve self-sufficiency.

First, the Wellstone amendment will double the amount of time in vocational education from 12 months to 24 months that can be counted as meeting the work requirement. Second, it allows postsecondary education to be counted as work in the same manner as vocational education. And, finally, it removes parents up to age 20 from the 30 percent cap on the number of individuals who can be counted in educational activity. In other words, it will expand the number of people who can be in educational activities rather than in the workplace. This amendment will significantly weaken the work requirements which deserve some of the credit for the decline in the welfare rolls. And the effect of this amendment is to keep individuals on welfare for a longer period of time.

If this amendment passes, many more variations on this theme will follow, and without restrictions on the number of individuals counted in nonwork activities, there will be no meaningful work participation rates. Raising these limits is another way of unraveling welfare reform.

The grave injustice of weakening the work requirement is that it takes the pressure off the States to assist the hardest to serve, and it also requires an inequity among welfare recipients. A person who does not have a high school degree must work first. Only after such a person has worked 20 hours a week does any education count toward his or her work requirement. But a person who is in postsecondary education will not be required to work. Under this amendment, college will count from the very beginning of the work requirement but reading, writing, and arithmetic will not. One of the harshest indictments of the former welfare system is that it shrugged its shoulders at the indifference to welfare dependency. It did nothing to help those with little skills and education to find the path to independence.

The key to forcing the States to serve this most needy population is the work participation rate. Every time the work participation rate is weakened, it simply makes it easier for the States to do nothing for those who are hardest to serve, and that is the effect of this amendment. And this we should not do.

The work participation requirement on the States is an issue which the Senate has now acted upon four times in the past 3 years. The Senate has debated this issue at length, and there is no demonstrated need to reopen the bipartisan welfare reform agreement. The Wellstone amendment simply does not belong on the higher education bill. Make no mistake about this amendment, its purpose is not about providing education to welfare recipients; it will begin to unravel welfare reform.

The picture emerging from the states is crystal clear: welfare reform is working and work is the key reason. In March 1994, a record 5.1 million families were on the old AFDC program. There are now 3.4 million families receiving welfare assistance, a decline of 34 percent.

As the General Accounting Office found in its recent report to Congress on welfare implementation, the "work first" strategy has been a central feature of states' efforts to shift the emphasis from entitlement to self-sufficiency.

This strategy is working. States and counties which found the education and training model to be unsuccessful in moving recipients into work and self-sufficiency in the past are now helping more families find employment.

GAO reports that more families are participating in work activities than under the old JOBS programs and are able to keep more of their earnings while maintaining eligibility.

Another sign of success is in growth in wages. Oregon is among the states which are following the progress of families that have left the welfare rolls.

By matching job placements with data on employer-related wages, Oregon found that between 1993 and 1996, those former recipients who remained employed experienced a wage growth averaging 14 percent per year.

The states and the families are making progress. This is no time to change direction.

This amendment is not about helping individuals get off welfare.

The Wellstone amendment is about keeping people on welfare, even people who are seeking college degrees.

Let us make it clear that federal law allows a person to receive welfare while she is in vocational school or even in college. Under current law, welfare recipients can participate in vocational education training, job skills training, education directly related to employment, or attend school to earn a high school diploma or GED. All of these count as work activities.

Indeed, the new welfare law allows states to use welfare funds to pay for expenses related to a person's education if they so choose.

There is plenty of flexibility already built into the new welfare system if the states choose to make accommodations for individuals pursuing post-secondary education. A number of states have already created special programs to provide assistance to students while in college, so models are available. And, because of the decline in the welfare caseload, sanctions for failure to meet the work participation rate is not really an issue for all but a couple of states.

From a very practical standpoint, the Wellstone amendment is not really needed. But it sends the wrong message at the wrong time.

The Wellstone amendment is simply not needed to allow someone to pursue her educational training she chooses to advance.

The evidence of this comes from the "National Evaluation of Welfare to Work Strategies" which was recently released by the U.S. Department of Health and Human Services and the U.S. Department of Education.

This study, as conducted by the Manpower Demonstration Research Corporation, tracks over 55,000 individuals in seven sites across the country.

The first report examines the outcomes of welfare recipients in Atlanta, Georgia, Grand Rapids, Michigan, and Riverside County, California.

The studies include both individuals who are directed toward a "work first" approach and those who are assigned to educational activities.

MDRC found that many individuals pursued their educational interests outside of the welfare programs which were offered. In Grand Rapids, Michigan, for example, MDRC found that about 34 percent of those in Grand Rapids "work first" approach reported they were already enrolled in an education or training program at the point they were randomly assigned to a research group.

Moreover, MDRC found individuals were almost as likely, or more likely, to participate in basic education or college outside of the JOBS program as they were as part of JOBS.

In other words, participation in basic education and college, was self-initiated. People are going to pursue educational opportunities if they believe that is in their best interest.

Mr. President, the Wellstone amendment is simply another attempt to weaken the work participation requirements by excluding people from being counted under the cap on educational activities.

Under the existing cap, no more than 30 percent of individuals engaged in work may be included in the calculation of work participation rates because they are in vocational training or in educational activities.

The Wellstone amendment contains another feature which is troubling. It sends a very mixed message among those on welfare who are the hardest to serve.

In general, if an individual is going to college or is in a two-year vocational educational program, that individual already has two advantages many welfare recipients do not—academic success and some means to support the pursuit of higher education. For these individuals, school alone meets the obligation to work 20 hours per week.

But if you do not have a high school degree, you go to work first.

For these individuals, the state receives credit for their basic education only after they work 20 hours per week.

Mr. President, we have encouraging studies coming in which demonstrate that work requirements work.

The "National Evaluation of Welfare-to-Work Strategies" has found that in terms of comparing a labor force attachment strategy to an education and training strategy, work wins.

This study shows that an emphasis on employment leads to higher earnings for the welfare family, is less expensive to operate, and produces higher savings to the taxpayers.

So, there is evidence to suggest while the education approach is good, work is better. But just as I do not believe that we should re-open welfare reform to impose even tougher work requirements on the states, neither should we adopt the Wellstone amendment. I simply do not believe the rules should be changed at this point in time.

More importantly, by weakening the work requirements, we risk falling back into the same trap of the old welfare system in which it was all too easy for the states to do nothing for those who need the most assistance in finding the pathway to independence. The Wellstone amendment turns its back on the hardest to serve and should be rejected.

Mr. FORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Mr. President, I am surprised at the distinguished chairman of the Finance Committee for objecting to an individual having the opportunity to get an education. He ought to understand better than anybody in this Senate Chamber that education is power, education levels the playing field, education gives people an opportunity to do things that they have always wanted to do. The employers will be able to reach out to get individuals who are educated and trained. These people we are trying to help here want to get out of welfare. They want to be educated. They want better jobs. They want to take care of their children. If education does not belong on a higher education bill, I don't understand where it belongs.

The employers want better employees. Where do you get better employees but educated employees? Where do you find them today? Those who are on welfare, trying to get out of welfare, get out of Catch-22.

We have the American Association of Community Colleges that endorses this amendment, the State Directors of Vocational Technical Education Consortium, Career College Association, the Children's Defense Fund, Center for Women Policy Studies, American Association of University Women, the National Coalition for Women and Girls in Education, the American Council on Education. I could go on and on, of the associations that endorse this amendment.

So we are saying here this is going to destroy the welfare program? How in the world are they going to buy a Roth IRA, if they don't have a better job and have more money so they can save?

Mr. President, I hope the distinguished Senator would understand we are trying to get them out of poverty, give them a good job, help the employers—and higher education is where this amendment belongs. I hope this doesn't destroy welfare. We have a bipartisan effort here. These people are Democrats and Republicans who have endorsed this amendment.

So I am hopeful we would not look at this amendment as destroying the welfare reform bill that I voted for and that I supported. I think this is one place, now that it is in place, soon to be a 2-year anniversary, that we would have an opportunity to correct those things that we made a mistake on. This is one we made a mistake on. It belongs in the higher education bill.

I yield the floor.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, I rise in support of the amendment and, from the perspective, if I may, of someone who has been involved with welfare dependency for a third of a century and more, and to make two points, not each of which will give complete comfort to either side of the debate.

First, to say that when we began to recognize that a different sort of person was finding herself on welfare—which is to say the program which began for widows, and was a temporary bridge program until survivors insurance matured, as old-age insurance matured; and Francis Perkins, who presided over the creation of the Social Security Act, would describe the AFDC program, the typical recipient, as a West Virginia miner's widow, someone who wasn't going to work in the mines, this was a time of depression—this was a person who was left with children and no other source of support. We began to recognize that, more and more, we were getting younger mothers who had never been married, who had never had, either themselves or through a spouse, a relationship to the workforce; and we began to think in terms of vocational education.

Vocational education was a Federal program. It began in World War I with the idea of training persons for the elementary purposes of providing the skills needed at the time in war industries. That has turned out to be a problematic experiment. Too often it became a way of providing jobs for teachers in vocational education programs, and with no real cumulative effect upon the recipients it was designed to help. However, in that interval I have been engaged in this, 33 years, we have seen something quite remarkable in our educational system, the development of a new level of education called the community college, 2 years after high school, to acquire some specific training, often in complicated tasks for which there is a direct job relationship. That is the way the community colleges have learned to work. They train you at things for which there are jobs.

Last evening on the Jim Lehrer show we had a quarter hour segment of a community college in Austin, TX, where they are running short of high-tech computer producers and they are taking people in the community college there and they are teaching them about as advanced a degree of production skills as you could imagine—people who work with masks over their mouths lest their breath contaminate the infinitely complex circuitry of the computer chips they are making. This is done with the support of local industries who want those people to be employed and are in need of them and in a hurry for them.

This is exactly the sort of work program, training program, that takes people off welfare permanently, as much as you can speak so of any individual. It puts them, not just in jobs, but in jobs that require high levels of training for which there is real demand in this economy. To deny that opportunity to young women because they have been on welfare is a form of injustice as well as a self-inflicted wound on the society.

This is good sense. These are good training programs. These are people who, as the Senator from Kentucky has observed—let them get these 2 years behind them, get into the workforce, and buy Roth IRAs—Roth IRAs. The more the better for the people and the more people with this kind of education the more such purchases there will be.

Mr. President, I do hope in the interests of good common sense and experience, that this amendment be accepted.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I shall be brief. I am just going to summarize.

I thank my colleague. I think Senator FORD and Senator MOYNIHAN said it well. Mr. President, I think this is eminently reasonable. I want to be clear one more time, this just gives the States the flexibility to allow a mother who is in college or wants to go to college for 2 years, to be able to do that and not be penalized for it. No State has to adopt this amendment. It is entirely up to the judgment of the States. But right now we have a situation where States face penalties and they are put in a position of having to drive some of these women out of school where they could do so much better in terms of employment, so much better in terms of jobs. There is a wealth of evidence that I could go into, but I think we want to go to a vote.

This is the right thing to do. This is a terribly important initiative supported by many Senators who supported the welfare bill, and I hope there will be a very strong vote for it.

I ask unanimous consent that a letter from the Center for Women Policy Studies, that has over 100 signatures representing children, women and education organizations in support of this amendment, along with a letter from the National Urban League be printed in the RECORD. Since I don't have time to go into other organizations of support I ask that a list of these organizations from all around the country also be printed in the RECORD. I would also like to include in the RECORD that I have received letters in support for this amendment from the American Vocational Association, the American Association of Community Colleges, the Association of Community College Trustees, and letters from a number of different legislators.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEAR SENATOR: The undersigned organizations from the women's, children's civil rights, education, and human needs advocacy communities urge your support for an amendment to be offered by Senator Paul Wellstone (D-MN) to S. 1882, the Higher Education Amendments of 1998. The amendment would expand educational opportunities and encourage economic self-sufficiency for welfare recipients by doing the following:

Increase from 12 to 24 months the limit on vocational education;

Allow 24 months of postsecondary education to count as a "work activity";

Remove teen parents from the vocational education cap so more adults can: Pursue education.

Postsecondary education allows welfare recipients to pursue careers beyond the low wage, short-term jobs usually available to them.

Without an education, most women who leave welfare for work will earn wages far below the federal poverty line, even after five years of working (Weisbrot, 1997).

Nationally, the economy is projected to create only half as many new low skill jobs as there are welfare recipients targeted to enter the labor market (Weisbrot, 1997).

At least half of all new jobs by the year 2000 will require a college-educated workforce (Kates, 1993).

Postsecondary education is a cost-effective strategy for permanently moving welfare recipients from welfare to work at a decent wage.

African American women holding bachelor's degrees earn $2,002 a month, compared with $1,204 for those with only some college education (Gittell, Vandersall, Holdaway, and Newman, 1996).

Among families headed by African American women, the poverty rate for heads of households with at least one year of postsecondary education is 21 percent, compared to 51 percent for those with only a high school education (Gittell, Vandersall, Holdaway, and Newman, 1996).

Among families headed by Latinos, the poverty rate drops from 41 percent to 18.6 percent with at least one year of postsecondary education (Census Population Survey, as cited in Sherman, 1990).

For white women, the poverty rate drops from 22 percent to 13 percent (Census Population Survey, as cited in Sherman, 1990).

On average, women with a college degree earn an additional $3.65/hour (1997 dollars) over the wages of women with only a high school diploma (Spalter-Roth and Hartmann, as cited in Institute for Women's Policy Research, 1998).

Postsecondary education breaks the cycle of poverty for women and their children.

Benefits extend to the children of educated parents, as they are more likely to take education seriously and aspire to go to college themselves (Gittell, Gross, and Holdaway, 1993).

There is a strong association between parental income and the income of their children in future years (Gittell, Gross, and Holdaway, 1993).

We urge you to support Senator Wellstone's amendment to give TANF recipients the opportunity to pursue postsecondary education and become economically self-sufficient.

If you have any questions, please contact Tanya Chin or Kathleen Stoll at the Center for Women Policy Studies, 202/872-1770, or Mikki Holmes in Senator Wellstone's office, 202/224-5641. References cited above are available from the Center for Women Policy Studies.

Sincerely,

ACES: The Association for Children for Enforcement of Support.
ACORN: Association of Community organizations for Reform Now.
African-American Women's Clergy Association.
All Families Deserve a Change (AFDC) Coalition.
American Association for Adult and Continuing Education.
American Association of Community Colleges.
American Association of State Colleges and Universities.
American Association of University Women (AAUW).
American College of Nurse-Midwives.
American Council on Education.
American Counseling Association.
American Friends Service Committee.
American Psychological Association.
American Speech-Language-Hearing Association.
Applied Research Center, Oakland, CA.
The Arc.
Association of Community College Trustees.
Big Brothers, Big Sisters, KY.
Blue Grass Community Action.
Bread for the World.
Business and Professional Women/USA.
The California State University.
Campaign for Budget Fairness/Community Action Board of Santa Cruz County, Inc., CA.
Catholic Social Service Bureau.
Center for Advancement of Public Policy.
Center for the Child Care Workforce.
Center for Civil Justice.
Center for Community Change.
Center for Economic Options, Inc.
Center for Law and Social Policy.
Center for Policy Alternatives.
Center for Women & Enterprise.
Center for Women Policy Studies.
Central Conference of American Rabbis.
Child Care Council.
Children's Defense Fund.
Church Women United.
Clearinghouse on Women's Issues.
Coalition for Ethical Welfare Reform (CEWR).
Coalition of Labor Union Women (CLUW).
Coalition on Human Needs.
Department of Vocational Rehabilitation, KY.
Elizabeth Coalition to House the Homeless.
Elkhorn Middle School Youth Services Center, KY.
Family & Children's Service.
Florida Legal Services, Inc.
Frankfort/Franklin County Community Education, KY.
Franklin County Health Department, KY.
Franklin County Health Department (Home Health), KY.
Friends Committee on National Legislation (Quakers).
Harry J. Cowherd Family Resource Center.
Housing Comes First.
J.E.D.I. for Women (Justice, Economic Dignity & Independence).
Jewish Labor Committee.
Judge David L. Bazelon Center for Mental Health Law.
Justice for Women Working Group, National Council of Churches.
Kentuckians for the Commonwealth.
Kentucky State District Council of Carpenters, AFL–CIO.
Kentucky Youth Advocates.
LDA, The Learning Disabilities Association of America.
Legal Action Center.
Legal Aid Society of San Francisco, Employment Law Center.
LIFEtimE: Low-Income Families' Empowerment through Education.
Lutheran Office for Governmental Affairs, ELCA.
MANA, A National Latina Organization.
McAuley Institute.
Mennonite Central Committee, Washington Office.
Metro Human Needs Alliance/Jefferson County Welfare Reform Coalition, KY.
Mexican American Legal Defense and Educational Fund (MALDEF).
Minnesota State University Student Association (MSUSA).
Mothers Mobilized for Economic & Social Justice.
National Alliance to End Homelessness.
National Association for Equal Opportunity in Higher Education.
National Association of Child Advocates.
National Association of Community Action Agencies.
National Association of Developmental Disabilities Councils.
National Association of Independent Colleges and Universities.
National Association of Private Schools for Exceptional Children (NAPSEC).
National Association of Protection & Advocacy Systems.
National Association of Social Workers.
National Association of Social Workers, Nevada.
National Association of State Directors of Special Education.
National Association of State Directors of Vocational Technical Education Consortium.
National Association of State Universities and Land-Grant Colleges.
National Black Women's Health Project.
National Coalition for the Homeless.
National Council of Jewish Women.
National Council of La Raza.
National Council of Senior Citizens.
National Council of State Directors of Adult Education.
National Council of Women of the US, Inc.
National Easter Seal Society.
National Education Association.
National Law Center on Homelessness & Poverty.
National Low Income Housing Coalition.
National Network to End Domestic Violence.
National Organization for Women.
National Parent Network on Disabilities.
National Partnership for Women & Families.
National Puerto Rican Coalition.
National Therapeutic Recreation Society.
National Women's Conference Committee.
National Women's Law Center.
NAWE.
NETWORK, A National Catholic Social Justice Lobby.
Nevada Empowered Women's Project.
New Ways to Work.
New York State Education Department.
Northeast Missouri Client Council for Human Needs, Inc.
NOW Legal Defense and Education Fund.
Oakland County Welfare Rights Organization, MI.
PUSH Early Childhood Development Center.
Resource Office for Social Ministries (R.O.S.M.).
San Luis Valley Welfare Advocates, CO.
SEIU 660.
Simon House, Inc.
Spina Bifida Association of American.
Union of American Hebrew Congregations.
Unitarian Universalist Association.
United Cerebral Palsy Associations.
United States Student Association.
Utah Issues.
VAW Local 2320, NY.
VOICES (Voices for Opportunity, Income, Child Care, Education, & Support).
Volunteers of America.
Washington Welfare Reform Coalition.
Welfare Law Center.
Welfare Rights Initiative.
WeLISN (Welfare & Low-Income Support Network).
Wider Opportunities for Women.
The Woman Activist Fund, Inc.
Woman's National Democratic Club, Jewish Women's Caucus.
Women Employed.
Women and Poverty Public Education Initiative.
Women Work!
Women's Business Development Center.
Women's Resource Center, University of Nevada, Reno.
YWCA of the U.S.A.

NATIONAL URBAN LEAGUE,
POLICY AND GOVERNMENT,
Washington, DC, May 20, 1998.

DEAR SENATOR: The National Urban League stands in strong support of an amendment by Senator Paul Wellstone (D–MN) that would expand the educational opportunities for welfare recipients. Senator Wellstone will be offering his amendment to the Higher Education Amendments of 1998 (S. 1882).

The Wellstone Amendment would address a critical flaw in the 1996 welfare reform law (The Personal Responsibility and Work Opportunity Reconciliation Act) that places unrealistic limits on welfare recipients who seek economic self-sufficiency through education. The Amendment would:

Make 24 months of postsecondary and vocational education a permissible work activity under TANF (Temporary Assistance for Needy Families). Under current law, states can only count 12 months of vocational education as a work activity.

Remove teen parents from the 30% limitation in the educational cap so that more adults can pursue education.

If the goal of welfare reform is to place welfare recipients into permanent employment, and we know from studies that people with more education and training have higher earnings and a greater likelihood of being employed, then common sense dictates that access to quality higher education is the key to an effective reform of our welfare system. According to the 1996 Economic Report of the President, by the early 1990s, the earnings differences between high school and college graduates had nearly doubled from 49% in 1979 to 89% in 1993. And presently, each additional year of schooling after high school is worth about 5 to 15 percent in additional earnings.

Welfare recipients face the same changing economic conditions as any other person seeking employment today. According to a recent report, Education and Training for America's Future (Anthony P. Carnevale, 1998), more skill is not only necessary to get a job, but also to keep one as well. The report notes that education and training increasingly have separated the economic winners from the losers in a global economy where economic and technological change has been increasingly biased in favor of skill. Therefore, our national welfare policy must not be responsible for relegating welfare recipients into the "economic losers" category, when we know what it takes to make them winners. If they join the ranks of "economic winners," then their children win and so does society at large.

We should do no less for welfare recipients who seek to make themselves permanently employable than what we seek for all others in our quest for improving our national workforce development system. We urge your support for the Wellstone Amendment when it is offered.

Sincerely,

MILTON J. LITTLE, JR.,
Executive Vice President and COO.

GROUPS IN SUPPORT OF THE WELLSTONE AMENDMENT TO THE COVERDELL BILL

COSPONSORS: RICHARD DURBIN (D–IL), WENDELL FORD (D–KY), TIM JOHNSON (D–SD), CARL LEVIN (D–MI)

American Association of Community Colleges; American Association for Adult and Continuing Education; American Association of State Colleges and Universities; American Vocational Association; Association of Community College Trustees; Center for Women's Policy Studies; Hispanic Association of Colleges and Universities; National Association for Equal Opportunity in Higher Education; National Association of State Universities and Land Grant Colleges; National Council of State Directors of Adult Education; New York State Education Department; United Negro College Fund; United States Student Association.

Mr. WELLSTONE. I ask for the yeas and nays.

Mr. JEFFORDS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator has asked for the yeas and nays. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. JEFFORDS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, may I inquire as to how long it will be before the vote? I can use this time that is being used in a quorum call; I can use it in making some remarks. But I will be glad to withhold my remarks.

Mr. JEFFORDS. If I can inquire, if the information required to go to a vote is obtained, will the Senator mind being interrupted?

Mr. BYRD. Well, I am not accustomed to that, may I say. Washingtonian magazine says when I start speaking, it is hard to stop me.

Mr. JEFFORDS. That may have prompted my question.

Mr. BYRD. Well, you got a courteous answer, but an answer that was to the point, I guess. I saw this conversation going on over here, and I thought I might as well be speaking.

Mr. WELLSTONE. Mr. President, I ask my colleague from West Virginia to see if this can be resolved briefly. If not, maybe we will want to change course. I think we might be able to move to a vote briefly. Can we wait for a few moments?

Mr. BYRD. How long is a moment?

Mr. WELLSTONE. How long is a moment? Sixty seconds. I prefer, since the arguments are fresh in everybody's mind, to vote.

The PRESIDING OFFICER. The Senator from West Virginia has the floor.

Mr. BYRD. I have the floor.

Mr. JEFFORDS. There is no point of order, so we are ready to go to a vote.

Mr. BYRD. You are ready to go to a vote?

Mr. JEFFORDS. Yes.

Mr. BYRD. I yield.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Mr. President, I have no other speakers on this side. It is my understanding the yeas and nays have been ordered, and I believe we are ready to vote.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. NICKLES. I announce that the Senator from Texas (Mrs. HUTCHISON) and the Senator from Arizona (Mr. KYL) are necessarily absent.

The result was announced—yeas 56, nays 42, as follows:

[Rollcall Vote No. 191 Leg.]

YEAS—56

Akaka
Allard
Baucus
Biden
Bingaman
Boxer
Breaux
Bryan
Bumpers
Byrd
Chafee
Cleland
Collins
Conrad
D'Amato
Daschle
Dodd
Dorgan
Durbin
Feingold
Feinstein
Ford
Glenn
Graham
Harkin
Hatch
Hollings
Inouye
Jeffords
Johnson
Kennedy
Kerrey
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Moynihan
Murray
Reed
Reid
Robb
Rockefeller
Sarbanes
Snowe
Specter
Stevens
Thomas
Torricelli
Warner
Wellstone
Wyden

NAYS—42

Abraham
Ashcroft
Bennett
Bond
Brownback
Burns
Campbell
Coats
Cochran
Coverdell
Craig
DeWine
Domenici
Enzi
Faircloth
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hagel
Helms
Hutchinson
Inhofe
Kempthorne
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Roberts
Roth
Santorum
Sessions
Shelby
Smith (NH)
Smith (OR)
Thompson
Thurmond

NOT VOTING—2

Hutchison
Kyl

The amendment (No. 3111) was agreed to.

Mr. FORD. Mr. President, I move to reconsider the vote.

Mr. DASCHLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JEFFORDS addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

CHANGE OF VOTE

Mr. JEFFORDS. Mr. President, on rollcall vote No. 191, Senator WARNER voted "nay," which was not his intention. He meant to be recorded as "aye." I ask unanimous consent that he be recorded as an "aye." This would in no way affect the outcome of the vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The foregoing tally has been changed to reflect the above order.)

Mr. JEFFORDS. Mr. President, I ask unanimous consent that Senator SESSIONS now be recognized for up to 10 minutes on his amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, just for the information of Senators, following that, I know our friend and colleague from West Virginia has been here for some period of time and is prepared to speak on an amendment, which he has talked with us about. We are prepared to accept the amendment, but he wants to comment about it.

In terms of our side, we have one more amendment by the Senator from Minnesota, Senator WELLSTONE, and then an amendment by Senator BINGAMAN, and an amendment by Senator HARKIN. That is where we are. We haven't been able to get time agreements, but it gives you some idea about the amendments. And then I expect we will have one or two other Senators that want to speak on the measure. I think that gives us some idea about the work that remains for the evening—at least from our side. Is that your understanding?

Mr. JEFFORDS. Yes. It is our intention to finish tonight and to have the vote on final passage tomorrow morning at 9:30.

I just urge everybody to take Senator SESSIONS' example by getting a time limit and disposing of the amendments. I think this side is nearing completion. I don't believe we have any controversial amendments that will take a great deal of time. So I am really expecting that we can finish tonight, with the cooperation of all Members. Certainly, I look forward to Senator BYRD's comments.

Mr. KENNEDY. Mr. President, I wanted to mention, as well, that I have an amendment on a market-based study on interest rates, which we may or may not be able to get to. I thank the Chair.

The PRESIDING OFFICER. Under the previous order, the Senator from Alabama is recognized.

AMENDMENT NO. 3115

(Purpose: To amend the Internal Revenue Code of 1986 to provide additional tax incentives for education, and for other purposes)

Mr. SESSIONS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Alabama [Mr. SESSIONS], for himself, Mr. GRAHAM, Mr. MCCONNELL, and Mr. COVERDELL, proposes an amendment numbered 3115.

Mr. SESSIONS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end add the following:

SEC. ___. ELIGIBLE EDUCATIONAL INSTITUTIONS PERMITTED TO MAINTAIN QUALIFIED TUITION PROGRAMS.

(a) IN GENERAL.—Section 529(b)(1) of the Internal Revenue Code of 1986 (defining qualified State tuition program) is amended by inserting "or by 1 or more eligible educational institutions or any organization exempt from taxation under this subtitle that consists solely of eligible educational institutions" after "maintained by a State or agency or instrumentality thereof".

(b) CONFORMING AMENDMENTS.—

(1) The text and headings of each of the sections 72(e)(9), 135(c)(2(C), 135(d)(1)(D), 529, 530(b)(2)(B), 4973(e), and 6693(a)(2)(c) of the Internal Revenue Code of 1986 is amended by striking "qualified State tuition" each place it appears and inserting "qualified tuition".

(2)(A) The section heading of section 529 of such Code is amended to read as follows:

"SEC. 529. QUALIFIED TUITION PROGRAMS.".

(B) The item relating to section 529 in the table of sections for part VIII of subchapter F of chapter 1 of such Code is amended by striking "State".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1998.

SEC. ___. EXCLUSION FROM GROSS INCOME OF EDUCATION DISTRIBUTIONS FROM QUALIFIED STATE TUITION PROGRAMS.

(a) IN GENERAL.—Section 529(c)(3)(B) of the Internal Revenue Code of 1986 (relating to distributions) is amended to read as follows:

"(B) DISTRIBUTIONS FOR QUALIFIED HIGHER EDUCATION EXPENSES.—

"(i) IN GENERAL.—If a distributee elects the application of this clause for any taxable year—

"(I) no amount shall be includible in gross income under subparagraph (A) by reason of a distribution which consists of providing a benefit to the distributee which, if paid for by the distributee, would constitute payment of a qualified higher education expense, and

"(II) the amount which (but for the election) would be includible in gross income under subparagraph (A) by reason of any other distribution shall not be so includible in an amount which bears the same ratio to the amount which would be so includible as such expenses bear to such aggregate distributions.

"(ii) IN-KIND DISTRIBUTIONS.—Any benefit furnished to a designated beneficiary under a qualified State tuition program shall be treated as a distribution to the beneficiary for purposes of this paragraph.

"(iii) DISALLOWANCE OF EXCLUDED AMOUNTS AS CREDIT OR DEDUCTION.—No deduction or credit shall be allowed to the taxpayer under any other section of this chapter for any qualified higher education expenses to the extent taken into account in determining the amount of the exclusion under this subparagraph.".

(b) ADDITIONAL TAX ON AMOUNTS NOT USED FOR HIGHER EDUCATION EXPENSES.—Section 529(c)(3) of the Internal Revenue Code of 1986 (relating to distributions) is amended by adding at the end the following:

"(E) ADDITIONAL TAX ON AMOUNTS NOT USED FOR HIGHER EDUCATION EXPENSES.—The tax imposed by section 530(d)(4) shall apply to payments and distributions from qualified tuition programs in the same manner as such tax applies to education individual retirement accounts.".

(c) COORDINATION WITH EDUCATION CREDITS.—Section 25A(e)(2) of the Internal Revenue Code of 1986 (relating to coordination with exclusions) is amended—

(1) by inserting "a qualified tuition program or" before "an education individual retirement account", and

(2) by striking "section 530(d)(2)" and inserting "section 529(c)(3)(B) or 530(d)(2)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions made after December 31, 2003, for education furnished in academic periods beginning after such date.

SEC. ___. QUALIFIED TUITION PROGRAMS INCLUDED IN SECURITIES EXEMPTION.

(a) EXEMPTED SECURITIES.—Section 3(a)(4) of the Securities Act of 1933 (15 U.S.C. 77c(a)(4)) is amended by striking "individual;" and inserting "individual or any security issued by a prepaid tuition program described in section 529 of the Internal Revenue Code of 1986;".

(b) QUALIFIED TUITION PROGRAMS NOT INVESTMENT COMPANIES.—Section 3(c) of the Investment Company Act of 1940 (15 U.S.C. 80a–3(c)) is amended by adding at the end the following:

"(15) Any prepaid tuition program described in section 529 of the Internal Revenue Code of 1986.".

Mr. SESSIONS. Mr. President, I intended to come to the floor today, along with Senators BOB GRAHAM, MITCH MCCONNELL and PAUL COVERDELL, to offer an amendment to the Higher Education Act that would have helped more than 2.5 million students afford a college education.

I would like to particularly recognize the outstanding efforts of my good friend from Kentucky, Senator MCCONNELL. He has been a true champion of this issue for quite a number of years. Senator BOB GRAHAM of Florida has done an outstanding job of guiding and helping us work on this amendment and handle it in the proper way. His advice and leadership have been crucial in gaining the support for this amendment that we think is necessary for its passage. Let me take a few minutes to discuss the concept of prepaid tuition plans and why they are critically important to help America's families.

As a parent myself, who has put two children through college—I just had my second one graduate in May, and another one is currently in college—I know firsthand that America's families are struggling to meet the rising cost of higher education. In fact, American families have already accrued more college debt in the 1990s than during the previous three decades combined. The reason is twofold: The Federal Government subsidizes student debt with interest breaks and deferred payments and penalizes educational savings by taxing the interest that accrues on those savings accounts for college.

In recent years, however, many families have tackled rising tuition costs by taking advantage of prepaid college tuition plans. These plans allow families to purchase tuition credits years in advance. Thanks to innovative programs already established by at least 17 States, like my home State of Alabama, parents can actually lock in today's college tuition rates for tomorrow's education.

Congress has supported participating families in this effort by expanding the scope of prepaid tuition plans and by deferring taxes on the interest earned when students go off to college.

Recently, thanks to the hard work of Senator COVERDELL and several Members of the House of Representatives, including Chairman BILL ARCHER, a provision was included in the Coverdell A+ Educational Accounts bill, which would make all earnings in all prepaid tuition plans tax free. That is, interest that accumulated on the savings would accumulate without having to be taxed.

Unfortunately, President Clinton has promised to veto that bill on his opposition to several other unrelated provisions—provisions that I think are excellent, but the President has made clear his intention in that regard.

Due to his anticipated veto, more than 2.5 million students and their families planning to take advantage of prepaid tuition and savings programs over the next decade will be denied the ability to invest in their children's education using tax-free interest income.

Our amendment, modeled after Chairman ARCHER's and Senator COVERDELL's efforts during the A+ Educational Accounts conference committee, would have made earnings in State and private prepaid plans completely tax free.

Currently, most of the interest earned by families saving for college is taxed twice. The parent is paying taxes on it when he earns it. Then they set it aside in the college account—even the prepaid tuition accounts—and they have to pay taxes on the interest that it earns. On the other hand, the Federal Government subsidizes student loans by deferring interest payments until after graduation and sometimes giving low-interest rate loans. So it is no wonder that American families are having a hard time saving for college and instead are having to go heavily into debt to finance college at a later time. This trend must not continue. As a matter of fact, it is not good public policy.

Mr. President, let me take a few minutes to make a very critical point. I had an opportunity this morning to review a standard student education loan agreement, which belongs to one of my staff members. The loan, which was used to pay for the final 2 years of his college education, was $13,674.02. My young staffer is currently 25 years old. After the roughly 15 years it will take to pay off his loan, at which time he will be 40 years of age, he will have paid a total of $13,171.64 in interest alone. Mr. President, that will bring his total payment for his 2 years in college to $26,845.65; that is nearly double the original loan balance. This is the Federal Government's only option, the only way it provides help to families to pay for their children's education.

So in order to provide families a new alternative, the Sessions-Graham-McConnell-Coverdell amendment would provide tax-free treatment to all prepaid plans for public and private colleges and universities. This would place all savings plans and all schools on an equal playing field.

This bipartisan amendment would not only provide American families with more than $1 billion in much-needed tax relief over the next decade, but would also help control the cost of college for all students. In fact, the track record of existing State prepaid plans indicates that working, middle-income families benefit the most from these prepaid plans.

Prepaid tuition plans must become law. The Federal Government can no longer subsidize student debt with interest rate breaks and penalize educational savings by taxing the interest earned by families who are trying to save for college. Both public and private prepaid tuition plans should be held equal by the Federal Government and must be completely tax free.

If these goals are achieved, the Federal Government would be providing families with the help they need to meet the cost of college through savings rather than through debt. Indeed, as a nation we ought to be reviewing all of our laws and all of our public tax policies to make sure we are encouraging savings rather than encouraging debt. Too often our policies have been just the opposite.

I ask unanimous consent to have printed in the RECORD at the conclusion of my remarks several items in support of my amendment.

The PRESIDING OFFICER (Mr. BENNETT). Without objection, it is so ordered.

(See Exhibit 1.)

AMENDMENT NO. 3115, WITHDRAWN

Mr. SESSIONS. Mr. President, unfortunately at this point I will be having to withdraw this amendment due to the fact that it appears it may be in violation of existing rules governing the revenue proposals which have to originate in the House of Representatives.

The PRESIDING OFFICER. The Senator has that right. The amendment is withdrawn.

Mr. SESSIONS. Mr. President, I simply say with regard to the letters that have been introduced, those are letters to me from the Independent College Association and from the several other groups, such as the American Council on Education, that say the steps referred to in this amendment "would make prepaid tuition plans more widely available and more attractive for families. By doing this, families will have a strong incentive to begin to save money for college when their children are young. And, as with any investment, saving early is vitally important."

That is the American Council on Education, dated July 9, referring to this amendment.

The National Association of Independent Colleges and Universities is likewise supporting this amendment. They say, "On behalf of the over 900 independent colleges and universities that make up the National Association of Independent Colleges and Universities, I want to express our appreciation of your efforts.

"We agree that students and families who want to utilize prepaid tuition plans should be allowed to dedicate those funds to the institution of their choice" to be able to compete on a level playing field.

The College Savings Plans Network has likewise supported this proposal in a letter to Congressman ARCHER dated July 2, 1998.

The National Association of State Treasurers has adopted this resolution. Many State treasurers have formulated this legislation in the State—in fact, the Alabama State Treasury, and former State Treasurer George Wallace, Jr., is the one who passed the legislation in Alabama for the prepaid tuition plan.

Also, The Heritage Foundation has supported this effort.

EXHIBIT ONE

AMERICAN COUNCIL ON EDUCATION,
GOVERNMENT AND PUBLIC AFFAIRS,
Washington, DC, July 9, 1998.

Hon. JEFF SESSIONS,
U.S. Senate, Washington, DC.

DEAR SENATOR SESSIONS: I am writing with respect to the amendment on prepaid tuition plans that you hope to offer when the Senate considers S. 1882, The Higher Education Amendments of 1998.

In recent years, states and private sector organizations have begun to offer prepaid tuition plans designed to encourage families to save money for higher education. The American Council on Education supports these efforts. We believe that your amendment would enhance these plans in two important ways. First, it would exclude from federal income tax the value of the plan when the student enrolls in higher education. Second, the amendment would allow private colleges and universities to establish these initiatives.

These steps would make prepaid tuition plans more widely available and more attractive for families. By doing this, families will have a strong incentive to begin to save money for college when their children are young. And, as with any investment, saving early is vitally important.

We understand that there may be a jurisdictional problem with your amendment and we hope that this can be satisfactorily worked out. If it proves impossible to fix the jurisdictional issue, we will work with you to ensure that your plan is enacted this year.

We are enormously grateful for your leadership on this issue of such importance to families and colleges and universities. We look forward to working on it with you.

Sincerely,

TERRY W. HARTLE,
Senior Vice President.

NATIONAL ASSOCIATION OF INDEPENDENT COLLEGES AND UNIVERSITIES
Washington, DC, July 9, 1998.

Hon. JEFF SESSIONS,
U.S. Senate, Washington, DC.

DEAR SENATOR SESSIONS: On behalf of the over 900 independent colleges and universities that make up the National Association of Independent Colleges and Universities, I want to express our appreciation of your efforts to allow private colleges and universities to establish prepaid tuition plans that would enjoy the same tax treatment and preferences as state sponsored plans. We agree that students and families who want to utilize prepared tuition plans should be allowed to dedicate the funds to the institution of their choice. Allowing private colleges and universities to compete on a level playing field in the tax arena is absolutely necessary and fair.

We appreciate the parliamentary restrictions of including this language in the Higher Education Reauthorization Act, S. 1882, and look forward to working with you to see that this issue is addressed in a manner that will be enacted into law in the very near future.

Again, thank you for your efforts. Please do not hesitate to contact me if and when I can be further assistance on this or any issue of importance to independent higher education.

Sincerely,

DAVID L. WARREN,
President.

COLLEGE SAVINGS PLANS NETWORK,
Lexington, KY, July 2, 1998.

Hon. BILL ARCHER,
U.S. House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: On behalf of the College Savings Plans Network, I am writing in support of the proposed amendment by Senator Jeff Sessions to S. 1882, The Higher Education Amendments of 1998. The amendment is designed to increase the nation's saving rate and to improve access to higher education. The College Savings Plans Network (CSPN), the association of the state-sponsored college tuition programs, strongly supports Senator Session's amendment which would establish an exclusion from gross income for amounts distributed from qualified tuition programs to cover qualified higher education expenses. The enactment of this provision would further the public policy of encouraging parents to save for their children's college education, which would provide long-term benefits to the U.S. economy. CSPN urges you to support the amendment to S. 1882.

CSPN believes that the tax treatment of the qualified state programs should be carefully crafted to account for the unique design and circumstances in which the state programs operate. The Network supports the amendment because it provides clearer tax treatment for contributions to and distributions from the state-sponsored plans. Clearer tax treatment would encourage college savings, and would reduce the need to borrow, which would provide long-term benefits to over 700,000 families who participate in the state-sponsored qualified tuition programs.

Thank you for your strong leadership on this proposal and commitment to expanding the educational opportunities of American families.

Very truly yours,

MARSHALL G. BENNETT,
President, College Savings Plans Network and Mississippi State Treasurer.

RESOLUTION

FEDERAL TAX-EXEMPTION FOR COLLEGE TUITION PROGRAMS

Urging the Congress and the President to enact bipartisan legislation that will provide for the tax-free treatment of qualified state-sponsored college tuition programs, including both prepaid and savings programs.

Whereas, over the last several years, the constantly increasing costs of higher education and decreases in state and Federal funding of higher education have made an affordable, high quality college education increasingly difficult to obtain for everyday Americans; and

Whereas, in response, State legislatures created state-sponsored college savings programs to help families afford postsecondary education for their children; and

Whereas, the State sponsored programs are designed and operated in a manner to account for the unique nature of each state's educational system; and

Whereas, the programs are primarily directed to middle-income working families and encourage and permit these families to save for and send their children to college, where otherwise they may not be able to access postsecondary education without relying on significant borrowing to afford spiraling tuition costs; and

Whereas, over the past five years borrowing for higher education expenses has increased more than in the previous three decades; and

Whereas, the State sponsored programs are accountable to State-level policymakers, and are subject to close public scrutiny and multiple levels of accountability, which provides strong safeguards to the public's interest in these programs; and

Whereas, the Congress, recognizing the unique role states play in providing access to higher education for their citizens, in 1996, passed legislation to improve the tax treatment of State sponsored programs; and

Whereas, the Congress, further recognizing the unique role states play in providing access to higher education for their citizens, has included provisions in the Revenue Reconciliation Act that would further clarify and enhance the tax advantages offered to families through qualified state tuition plans, and

Whereas, under the proposed legislation, parents will be given greater incentive to save for or prepay a major portion of higher education costs in advance, in increments as little as $15 or $25 a month, which fit easily within their budgets; and

Whereas, this legislation is truly bipartisan and has been widely supported by Democratic and Republican members of the House and Senate.

Now, Therefore Be It Resolved, That the National Association of State Treasurers does hereby call upon the Congress and the President of the United States to promptly enact legislation providing for tax-free treatment of distributions from qualified state-sponsored college tuition programs.

THE HERITAGE FOUNDATION,
Washington, DC.

ANOTHER CHANCE TO HELP FAMILIES AFFORD COLLEGE

Last year, Congress took a big step to help American families save for the huge cost of their children's education. Thanks to the Taxpayers' Relief Act of 1997 (Public Law 105–34) families are now able to establish Education Individual Retirement Accounts (Education IRAs) and deposit up to $500 annually for use later to pay for higher education expenses without having taxes levied on the accrued interest. But in passing this measure, Congress placed undue restrictions on the amount of money families could place in such accounts, and it favored public colleges over private institutions.

Now, as the Senate moves to re-authorize the Higher Education Act, and as Congress considers a tax bill, there is another opportunity to help those families with college-bound students while dealing with the deficiencies in current law. An effective policy would:

1. Extend to all private tuition savings and prepaid plans the same tax treatment public plans receive. Currently, 28 states have established special programs that allow resident families to save for college costs. Federal income tax on the accrued interest in these state-sponsored accounts is deferred until the account is cashed in to pay for college. However, there are drawbacks to these plans, including the fact that they do not effectively meet the needs of families interested in sending their children to private colleges and universities since the plans are designed specifically to benefit public institutions. Nearly 25 percent of families choose to send their children to a private college or university, yet few state plans serve the needs of this population. Nor do state plans provide a nationwide network of institutions from which participating families may choose, yet 20 percent of students decide to attend an institution outside of their home state. Congress can help fix these deficiencies by giving the same tax treatment to private colleges and universities—or nationwide consortia of these institutions—that establish plans similar to those of the states as it does to the state-sponsored accounts for public colleges.

2. Make all interest earned through tuition savings and prepaid plans tax-free. Not only should all tuition savings and prepaid plans receive equal tax treatment, they also should be relieved of the double taxation that currently exists within the tax code (the money being saved is taxed when earned, and the interest on the savings also is taxed). In the case of Individual Retirement Accounts (IRAs), Roth IRAs and similar retirement plans, Congress has ended double taxation, but not on money placed in education accounts. Ending the double taxation of money in education accounts would both encourage savings for college and be consistent with long term tax reform.

Although these two provisions would provide significant relief to the more than two and a half million students and their families who plan to take advantage of tuition savings and prepaid plans, there would not be a significant revenue loss to the federal government. The Joint Committee on Taxation has estimated that granting state tuition savings and prepaid plans tax-free withdrawals would result in a loss to the federal government of just $339 million over the next five years. Since even the most enthusiastic industry estimates of the private market do not anticipate greater participation than is anticipated in the state plans, the total impact on federal revenues for both of the above proposals would be well below $800 million over five years. And even if it is assumed that families saving in private plans were, on average, in a higher tax bracket than those participating in state plans, the total revenue loss would not exceed $1.2 billion over the next five years.

But it is in any case erroneous to assume that tuition savings and prepaid plans benefit mainly the wealthy. In fact, the experience of existing state plans indicates that it is working, middle-income families who benefit most. For example, families with an annual income of less than $35,000 purchased 62 percent of the prepaid tuition contracts sold by the state of Pennsylvania in 1996. The average monthly contribution to a family's college savings account during 1995 in the state of Kentucky was $43.

Several Members of Congress have proposed tax-free savings for college. Senator PAUL COVERDELL (R–GA), House Ways and Means Chairman BILL ARCHER (R–TX) and Representatives DICK ARMEY (R–TX) and KAY GRANGER (R–TX), gained inclusion of a provision in the Education Savings Act for Public and Private Schools (H.R. 2646), also known as the "A+ Education Accounts Act," that would not only accomplish the above two goals for good tax policy but would also make interest earned on family savings for primary and secondary education tax-free. However, H.R. 2646 would place a $5,000 annual contribution limit on private tuition savings and prepaid plans.

Recently, Senators JEFF SESSIONS (R-AL), BOB GRAHAM (D-FL), and MITCH MCCONNELL (R-KY) have proposed an amendment to the reauthorization of the Higher Education Act (S. 1882) that would accomplish the two goals without any annual contribution limit. The result of these tax measures would be in line with the over-arching goal of the bill, to make attainment of a college diploma a reality for more American students.

American families accumulated more college debt during the first five years of the 1990s than the previous three decades combined. Recognizing that this trend cannot continue, several states have established tuition savings and prepaid plans. Now, a nation-wide consortium of more than 50 private schools, with more than 1 million alumni, has launched a similar plan for private institutions. These plans are extremely popular with parents, students, and alumni. They make it easier for families to save for college, and the pre-paid tuition plans also take the uncertainty out of the future cost of college. It is time for Congress and the President to recognize the value of such plans and eliminate the double taxation that exists on interest earned through the programs and to end the disparity that currently exists between public and private colleges.

STUART M. BUTLER, PH.D.,
Vice President, Domestic and
Economic Policy Studies.

Mr. SESSIONS. Mr. President, we believe we have a good plan. I want to again say how much I appreciate the leadership, advice, and support given by Senator BOB GRAHAM of Florida. He is an outstanding Senator and has been a great aid to this effort. I see him on the floor at this time and would be glad to yield such time as I have remaining to Senator GRAHAM.

Mr. BYRD. Mr. President, will the Senator yield? Has time been allotted to the Senator?

Mr. SESSIONS. I asked for 10 minutes.

The PRESIDING OFFICER. The Senator has 47 seconds left.

Mr. BYRD. He has yielded that to the Senator from Florida.

The PRESIDING OFFICER. That is correct. The Senator from Florida has 47 seconds.

Mr. GRAHAM. To my friend from Alabama, I express my appreciation for the kind remarks in bringing this matter to the attention of the Senate, even though, because of the rules of the two bodies, we cannot consider it tonight. But I believe what he has essentially done has put all of us on alert that we are going to be looking for another opportunity to remedy this remaining tax issue with the State college tuition plans and thus give to the families of America the assurance that every dollar they invest in a prepaid college tuition contract will go to the education of their children and thus encourage more families to participate.

Mr. President, I hope that with the message the Senator from Alabama has issued tonight we will soon be able to follow his clarion call.

Thank you.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, does the distinguished Senator from Florida need an additional 2 or 3 minutes or so? I will be glad to wait.

Mr. GRAHAM. I appreciate, as always, the Senator's graciousness. I anticipate that we will have an opportunity to discuss this issue again, I hope soon, and at that time we can actually be making movement toward legislative enactment. I will withhold any further comments until then. But I express my appreciation to the Senator.

Mr. BYRD. Mr. President, I thank the very distinguished Senator from Florida.

A TREND WORTH STOPPING

Mr. BYRD. Mr. President, I recently learned of an extremely alarming riot which occurred on the campus of Michigan State University. On May 2, 1998, nearly three thousand students abandoned their dorm rooms and various other corners of the university's massive campus to protest a university decision to end drinking at Munn Field, a popular campus spot where students gather before and after football games. Outraged students tore through a fence surrounding the field, thereafter charging into downtown East Lansing, home to the university, to set ablaze one of the area's busiest intersections. Police officers were pelted with flying bottles, rocks, and bricks, and were only able to quell the scores of protesting students with shots of tear gas.

Michigan State University does not stand alone. Both Washington State University and Plymouth State College in New Hampshire have experienced similar protests. Mr. President, our Nation has a serious problem, which only continues to worsen with each passing day, yet, we in Congress have all but ignored this epidemic plaguing our nation's young people. Rather, we have stood on this floor ranting about the pernicious effects of tobacco, while its evil twin continues to rampage across college campuses throughout the country. I support the efforts we have undertaken to crack down on youth use of tobacco, but is it not time, I ask, to broaden the equally staggering problem of alcohol abuse among our young people?

I hope that the President and the administration will engage in a similar crusade against alcohol abuse—similar to that which they have led with respect to the use of tobacco.

I hear nothing said about alcohol—not a word. The country seems to be silent. It seems to have lost its voice when it comes to alcohol abuse.

Alcohol, Mr. President, is the drug of choice—the drug of choice among teenagers and college students—not tobacco, not marijuana, not heroin, but alcohol. Surveys show that over 85 percent of all college students imbibe alcohol. That is a disgrace.

Let me read that again. Over 85 percent of all college students imbibe alcohol, whether it be a beer, wine, or some other potent concoction tossed together at a fraternity party. More than 40 percent consume five or more drinks at one sitting within a 2-week period, otherwise defined as "binge drinking." It really isn't the "in thing," Mr. President, and I hope that young people will learn that.

In the past year, the media have reported several incidents in which college students have tragically died due to alcohol poisoning or excessive inebriation, including deaths at Louisiana State University and the prestigious Massachusetts Institute of Technology. In Virginia alone, five students died within a one-month timespan in alcohol-related accidents.

If this were some new plague that was being visited upon the country, people would be asking for a remedy.

The amendment I have included in the managers' package recognizes ten universities, colleges, or community colleges across the nation that have responded to this crisis with innovative and effective alcohol prevention policies. Under my amendment, each institution receives a grant of $50,000 in recognition of its efforts, subsequently to be used to help maintain and improve each respective program. In addition, my amendment requires the Department of Education to distribute a publication identifying these schools and their policies to high school counselors for the information of prospective college-going students and their parents. It is my hope that parents and responsible students—I should say responsible parents and responsible students—will use this information to select schools that are most active in helping students to be students, not drunks—students.

Mr. President, over the years, the culture of college has gradually changed from one of academics and concentrated study to one consumed with partying—partying, and nobody benefits from it. Gathering at the library with classmates to prepare for an exam has taken a backseat to sitting around swilling beers at keg parties or ordering a round of shots at the closest bar.

Sadly, the process does not always begin in college. Often times, experimentation with alcohol begins in high school, or even earlier in the homes. That is where it begins many times. The examples are set by parents.

According to the 1995 "Monitoring the Future" study conducted by the National Institute on Drug Abuse, 55 percent of 8th graders have experimented with alcohol—55 percent of 8th graders have experimented with alcohol. When I was attending a little two-room school back in the mountains of West Virginia, it would never have been thought of, nobody would think of a student's going to school experimenting with alcohol. According to the study, 71 percent of 10th graders and 81 percent of high school seniors have experimented with alcohol. What are they doing in school? What do their parents think about that? What are their parents doing about it? Are the parents doing the same at home?

Even more alarming, perhaps, is the widespread occurrence of binge drinking—measured by five or more drinks in a row at least once in the prior 2-week period. As indicated by the Monitoring the Future study, binge drinking stands at 15 percent for 8th graders, 24 percent for 10th graders, and 30 percent for high school seniors. What a shame.

Today, alcohol is infesting the lives of vulnerable young children at the hands of irresponsible parents and schools, and students are not just walking away from the empty beer bottle with a so-called "buzz." In 1996, approximately 2,315 drivers between the ages of fifteen and twenty lost their lives in alcohol-related traffic deaths.

Yet, all the rage is about tobacco. I don't have any criticism of that rage, but why not alcohol also? Nobody hears a peep, not even a peep, about alcohol abuse.

More than 40 percent of all 16- to 20-year-old deaths result from motor vehicle crashes, about half of whom die in alcohol-related crashes. Nobody reads about tobacco-related crashes. These are alcohol-related crashes. Where are the administration speakers? Why don't they speak out about alcohol as well? Where are the churches? Where is the great moral force of the churches in this country anymore?

Alcohol is a factor in the three leading causes of death for 15- to 24-year-olds—accidents, homicides and suicides. There you have it. In approximately 50 to 60 percent of youth suicides, alcohol is involved—not tobacco, but alcohol—booze. That is stuff that inflames one's mind. Furthermore, links have been shown between alcohol use and teen pregnancies and sexually transmitted diseases.

So, Mr. President, with the drinking onset age becoming younger and younger, colleges each year face an influx of students who already know this drug all too well. Students walk on to college campuses today with booze on the brain—we have heard of water on the knee or water on the brain; these students have booze on the brain—completely apathetic to curriculum, major requirements, and freshman seminar choices.

Fraternity parties run amuck with students hankering to get their hands on a beer or whatever may be the alcoholic beverage of the night. According to a national survey recently released by researchers at Cornell and Southern Illinois universities, nearly three of every four fraternity leaders engage in binge drinking, averaging approximately fourteen drinks per week. Fourteen drinks per week!

Student alcohol abuse is the number one problem on college campuses across the nation, yet, precious little is being done to combat this destructive trend. In 1989, as part of the amendments to the Drug-Free Schools and Communities Act, Congress passed a minimum set of requirements for college substance abuse policies as a condition of receiving funds or any other form of financial assistance under any Federal Program. These regulations require institutions of higher education to certify to the Department of Education that they have implemented a policy that prohibits the unlawful possession, use, or distribution of drugs or alcohol on college property, or as part of a college activity, and to distribute to college students a document describing campus policy on alcohol and other drugs.

While many schools reluctantly meet these minimum federal requirements, there are a select few that go far beyond the call of duty to combat alcohol abuse on campus. It is these schools, these candles that are glowing in the darkness, that deserve recognition for their efforts. I have read articles highlighting a northeastern school which has implemented substance-free housing on campus, reducing binge drinking by as much as 30 percent in the past few years as a result of the program. It is this kind of progress which must be sought by parents and educators. However, such significant headway does not happen overnight, and certainly requires much work and dedication.

Again, my amendment names ten institutions of higher education each year with proven effective alcohol prevention policies and awards each a grant of $50,000 to help get at the root of the problem. These awards would not be conferred haphazardly to schools that craft a pretty brochure on alcohol abuse, but do virtually nothing to enforce what has been put down on paper. Vacuous words do not have much meaning, but action does. There are some terrific programs out there, such as the one at the aforementioned northeastern school, which should serve as models for other schools still grappling with alcohol abuse problems. My amendment awards those schools that make a difference.

Accordingly, my amendment lays forth explicit criteria which schools must meet in order to be eligible to receive a National Recognition award. Applicant colleges must have specific policies implemented on campus, including restrictions on alcohol advertising in campus publications and at sporting events, the establishment or expansion of alcohol-free living arrangements for all students, and the development of partnerships with community members and organizations to further alcohol prevention efforts on campus. In addition, my amendment creates a review board, with members to be appointed by the Secretary of Education, to review and evaluate the applicant's implementation of these policies on campus.

Earlier this year, Secretary Shalala urged members of the National Collegiate Athletic Association (NCAA) to sever their ties with the alcoholic beverage industry, and called on colleges to eliminate alcohol advertising from sporting events. I second that motion. After all, this is simple common sense. It is unequivocally evident that alcohol and sports do not mix, yet colleges continue to endorse alcoholic beverage sponsorship of athletic events. One particular school, until recently, actually herded basketball players from the locker room onto the home court by way of an inflatable silver tunnel resembling a can of beer!

My amendment included in the Higher Education Act begins to touch upon some of the fundamental areas which must be addressed in halting this deadly substance from further permeating college campuses. As we have learned this year from the tragic deaths of several promising young students at some of our finest universities just this past year, the decision to drink alcohol can sometimes mean life or death, even when an automobile is not involved.

Mr. President, I would like to acknowledge Senator WELLSTONE, and thank him for his work on the Labor and Human Resources Committee in addressing the issue of college drinking prior to S. 1882 coming to the floor. Senator WELLSTONE was successful in including an extremely important counterpart to my amendment which creates a grant program for colleges to establish alcohol and drug treatment, counseling, as well as alcohol and drug education. I want to commend Senator WELLSTONE for his efforts and dedication to fighting alcohol abuse on college campuses.

Mr. President, when I was a member of the West Virginia State Senate, 48 years ago, I was a witness to the execution of a young man named James Hewlett at the West Virginia State Penitentiary, in Moundsville. I asked to be a witness because the law at that time required a certain number of witnesses, to an execution. I asked to be a witness and the warden accepted me as a witness. Before the execution, I told the warden that I wanted to talk with this young man who was going to be executed at 9 p.m. He had shot a cabdriver in the back and left the cabdriver to die by the side of the road after robbing him and then drove off with the cab. This young man was later apprehended in a theater at Montgomery, WV, and was convicted and sentenced to die in the electric chair.

He did not wish to have a Chaplain in his cell. He scoffed at the idea of religion. But, as the days and weeks wore on, he asked for a Chaplain, because the Governor did not commute his sentence. And, so, the young man knew that he was going to die.

I went into the doomed man's cell that evening and shook his hand. He was perspiring. I said, "I often speak to young people, 4-H groups, Boy Scout groups and Girl Scout groups, and I thought that you might have a message that I could pass on to these young people."

He said, "Well, tell them to go to Sunday school and church. If I had gone to Sunday school and church, I probably wouldn't be here tonight."

I turned to go after a few more words. He said, "Wait a minute. Tell them something else. Tell them not to drink the stuff that I drank." Those were his very words. That was almost 50 years ago, but I have told that story over and over to young audiences. "Tell them not to drink the stuff that I drank."

I said, "Why do you say that?"

The chaplain in his cell spoke up and said, "Do you see that little crack in the wall up there?"

I looked up at the wall and said, "Yes."

He said, "If he were to take a couple of drinks, he would try to get through that little crack in the wall. That's what alcohol does to him."

I said goodbye and left, went back over to the warden's office and, at the stroke of 9, we were back in the death house where we watched the execution. That was the story of Jim Hewlett, "Tell them not to drink the stuff that I drank."

About 30 years later, I was visiting in the northern panhandle of West Virginia and someone said to me, "Why don't you pay a visit to the home of Father so-and-so. He's very ill, and it might help if you just stopped by and said hello." I personally did not know the clergyman.

I said, "Well, tell me where to go," and I went. And the priest was there. He was very ill. I don't know how the subject matter arose, how I came to tell this story to him, but I told this same story of having talked with Jim Hewlett just before the execution.

I told it in greater detail than I am now telling my colleagues, and the priest just sat and listened. He never said anything. When I finished, he said, "Yes. That's the way it was. You see, I was the chaplain in that cell that night when you came to visit Jim Hewlett."

That young man said to me—those words I will never forget —"Tell them not to drink the stuff I drank."

So I plead to our young people, those young pages who are here in this great Chamber and those who are listening and watching on television: Avoid alcohol. Stay away from it. There is nothing good in it. And the point is, you may get into an automobile and kill an innocent person—a woman taking her children to school, to the library, to the hospital or to church. You may kill them. Smoking tobacco is bad, but tobacco won't cause you to drive while drunk.

I am not upholding tobacco, but what I am saying is, in this country, we have been engaged in a great crusade against tobacco, but nobody lifts a finger, nobody says a word, there is not a peep said about alcohol abuse.

I implore the young people in this country to stop, look and listen before you "drink the stuff" that Jim Hewlett drank.

I thank the managers for accepting my amendment, and I yield the floor.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I thank the Chair. Let me just say to my colleague from West Virginia that it was an honor to work with him on this amendment. I thank him for his eloquence and for all that he does in the Senate.

Mr. President, other colleagues are here—two colleagues. I am going to be quite brief. I am going to speak briefly about an amendment I was going to offer, and then I was going to ask unanimous consent my slot be eliminated. I wonder if that will be in order.

Mr. JEFFORDS. That is fine.

Mr. WELLSTONE. While I have the floor, I ask unanimous consent that my slot be eliminated.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. WELLSTONE. I thank the Chair.

Mr. President, I will be very brief, because there are amendments that we have in the evening ahead of us. Let me simply talk about a conversation I had with Nils Hasselmo, who was president of the University of Minnesota and dropped by my office yesterday. He works with the American Association of Universities. He said, "Look, Paul, I rather you not do this amendment. We in the higher education community want to work with you." If so, fine.

I want to refer for a moment to a report. This was the Boyer Commission on Educating Undergraduates titled "Reinventing Undergraduate Education: A Blueprint for America's Research Universities." This was dedicated in memory of Ernest Boyer, who had been president of the Carnegie Foundation. Many of us knew Ernest Boyer as a visionary concerning education.

What concerns me about this report that came out a few months ago—and there were quite a few front-page stories about it—is the findings.

To be very brief, the findings go as follows: That in all too many of our large research universities, undergraduates go to these schools and their tuition is applied, of course, to the finances of these universities. They go in part because they hear about some of the university professors who have excellent reputations, but they never see them as teachers in their classes. It is not uncommon for undergraduates, first-year students—basically in their first year—to hardly have any professors—associate or full professors. It does seem to me if our universities and colleges are going to say they have a teaching mission, then there has to be some way that they live up to that mission.

I could go on for hours and hours, but let me simply say that as an undergraduate many years ago, I experienced this. I have been a rebel about this forever. I think it is just simply unacceptable that in so many of our large research institutions, the graduate students are the priority, and the truth of the matter is, the undergraduates are not. I think when parents send their children—women and men—to go to higher education institutions, they have every right to expect that there will be a real emphasis on teaching to go along with that emphasis on research and that, indeed, in their first year, these students will have a chance to have some of these professors as teachers. That is what is wrong.

I was going to speak to this in an amendment. When I talked with Nils Hasselmo and talked with others in the higher education community, we agreed to bring some presidents together, bring some higher education people together and go through this and see what kind of changes can be made.

I know that Mark Yudof at the University of Minnesota is doing some very good work to try and put more of an emphasis on what happens to first-year students, and I think some of that is coming from the higher education community.

I have to say, I didn't offer the amendment tonight, but I really want to see some changes take place here, and I believe there are many other Senators who will as well. The higher education community has to be accountable. There is a whole lot of Federal grant money that goes to these institutions. With all due respect, I think we have a right to say, "Look, we want to make sure that you don't just give lip service to teaching."

By way of conclusion, I want to mention what was in this Carnegie report as a kind of, if you will, bill of rights for students which gives us some direction, some sense of direction that I think the universities can go on:

> (1) By admitting a student, an institution of higher education commits to providing the student maximal opportunities for . . . including—
>
> (A) opportunities to learn through inquiry rather than simple transmission of knowledge;

(B) training in the skills necessary for oral and written communication at a level that will serve the student both within the institution of higher education and in post-graduate, professional and personal life;

(C) appreciation of arts, humanities, sciences, and social sciences, and the opportunity to experience the arts, humanities, sciences, and social sciences at any intensity and depth the student can accommodate; and

(D) careful and comprehensive preparation for whatever may lie beyond graduation, whether it be graduate school, professional school, or a first professional position.

(2) A student in a research university has the right—

(A) to expect to, and to have an opportunity for, work with talented senior researchers to help and guide the student's efforts;

(B) to have access to first-class facilities in which to pursue research, including laboratories, libraries, studios, computer systems, and concert halls;

(C) to have many options among fields of study, and among directions to move within those fields, including areas and choices not found in other kinds of institutions; and

(D) to have opportunities to interact with people of backgrounds, cultures, and experiences different from the student's own background, culture, and experience, and with pursuers of knowledge at every level of accomplishment, from freshmen students to senior research faculty.

Mr. President, I say to President Hasselmo and others, I look forward to having discussions with the higher education communities. I see several colleagues who are "education" Senators—the Senator from Maine, the Senator from Vermont. I am going to get a letter out to Senators saying if you want to be involved in a roundtable discussion, let's do so. The Chair, the Senator from Utah, has a fierce interest in education. I think he is one of the intellectuals in the U.S. Senate.

I hope that we can work with the higher education community. Tonight won't be the debate on the amendment, but I say to my colleagues in higher education, this was my background. I was a teacher, a professor for 20 years. The fact of the matter is, it is time to be more accountable. The fact of the matter is, you keep saying that teaching is your mission, but with all due respect, there is plenty of evidence that is not so much the case, and we ought to give these first-year students and these undergraduates a fair shake.

I conclude by asking unanimous consent that a series of statements and very powerful statements from students around the country in relation to the higher education bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STUDENT PROFILES FOR HIGHER EDUCATION FLOOR STATEMENT

DISTANCE LEARNING

Amy Saeland: Amy is a 23-year old student at Northwest Technical College in Bemidji, MN. The distance learning program provides the flexibility she needs to schedule classes around work. However, the current federal student financial assistance restrictions prevent her from fully benefiting from the advantages of distance education.

Sue Listerud: (Inver Hills Community College) "Distance learning is an ideal way for adults to go back to college. Making time to come to campus is extremely difficult. Education and development of new skills allows students to enhance their employability. The non-traditional student needs non-traditional instructing methods."

Lu Schmidtke: (Inver Hills Community College) "Distance learning allows me to receive credit for knowledge I already have in addition to teaching me a great deal more about the subject. I can do this on my own time at my own pace with a minimum amount of time in class."

Gwen Borgen: "I am a Dean of Students at Badger School in Badger Minnesota. I am currently pursuing my Masters in Educational Administration through Bemidji State University. Working full-time and trying to obtain this degree is quite a challenge. I am approximately 150 miles from Bemdiji so the convenience of distance learning is phenomenal. I am able to work full-time, raise a family, be involved in community and church and still work on my degree."

Jane Klaers: "I live in the town of Wabasso, MN. We have about 750 people in our town. I have been taking ITV classes off and on for about 3 or 4 years now through West Community College-Worthington campus. What I like most about these type of classes is that I don't have to travel to a college to take college level classes. To me that is a tremendous advantage. I have 2 small children and having these types of classes has allowed me to continue my college studies. This system is a tremendous service to people such as myself that can't go to the 'traditional' classes."

Karen Affinito: Karen was admitted to the Master's program in Education in April 1997. Ms. Affinito works as an Early Intervention Specialist with infants who are at high risk for cognitive and physical developmental problems. She has attempted to continue her education at local traditional educational institutions but found the time constraints of full-time employment and a family to be real barriers to her education. TGSA's distance learning program is making her education possible.

Keitha Hatfield: Keitha is an office manager for the Texas Conference of Churches, entered the Graduate School of America's Master's program in Organization and Management in October 1997. Through faculty-guided, self-directed study and the interactive capabilities of .telecommunications and computer technology, The Graduate School of America is able to deliver an educational experience that is personal, convenient and of the highest quality. Her goal for her academic program is to develop the skills and knowledge which will enable her to establish a nonprofit foundation devoted to research on social innovation, the public sector, and current social systems. About her studies, Ms. Hatfield writes "ideas are the most important social force in history" and "all these ideas started with one individual, one visionary, one dreamer who knew how to say "Why?"

Susan Arakawa: Susan was admitted to the Graduate School of America's Master's program in Interdisciplinary Studies in February 1996. Ms. Arakawa had worked as an English as a Second Language (ESL) instructor for 10 year prior to beginning her academic work with TGSA; for three of those 10 years, Ms. Arakawa lived, worked and studied in mainland China. Ms. Arakawa has structured her academic program to accomplish the research necessary to write and publish a book about the relations (historic as well as current) between China and the United States. Ms. Arakawa has made excellent progress in her program and has begun work on the final project for her degree.

Francis Jock: Francis is a Native American, admitted to the Graduate School of America's Ph.D. program in Organization and Management in June 1994. Previously, he had spent 22 years in military service, achieving the rank of Command Master Chief Petty Officer and managing over 300 enlisted personnel. It was very clear from Mr. Jock's application that he was highly motivated to be a lifelong learner, he listed as one of his personal goals "to continuously improve my personal growth through continuing education." Mr. Jock withdrew from The Graduate School of America in March 1995 due to lack of funding.

WORKING MANY HOURS WHILE GOING TO COLLEGE

Eric Alleckson: (1997) Eric Alleckson, a junior and President of the student government at Concordia College. Eric works two part time jobs, received financial assistance from his family, and will graduate with still large loans to repay. "Some money from loans is quite acceptable, if it is a reasonable amount," Eric said, "[But] the burden of student debt can be as restrictive as no education at all." Despite his two jobs and the sacrifice his parents are making financially, Eric says that his education would not be possible if there was no external financial assistance.

Abbie Weiss: Abbie will be a junior at Concordia University in St. Paul. She is in a one-parent, middle-class family. With the help of her father and the federal grant program she is able to attend college. She still needs to work three on campus jobs and one off-campus job (25–30 hrs/wk) to pursue her education. Without the help of financial aid, finishing at Concordia will be threatened. "Financial aid allows students to attend the college of their choice and to excel in their situation. My experience does not stand alone. Many other students are in the same situation that I am in and without help they may not be able to fulfill their dreams."

HIGH STUDENT LOAN DEBT

Sonja Lenk: (1997) Sonja Lenk, a junior at Moorhead State, was attending college with financial help from MSU work study and her parents' contributions, but will still graduate with approximately $11,000 in student loan debt.

Michael Kurowski: Michael, a senior at Winona State University and the MSUSA vice chair elect, received the unsubsidized Stafford loan. He worked three jobs equaling close to 50 hours per week. Michael will have a loan debt of approximately $20,000. (PHOTO)

Mario Hernandez: Mario, a senior at Southwest State University, in Marshall, MN, and the MSUSA MVP, received the Pell grant, state grants, the subsidized and unsubsidized Stafford loans. He worked approximately 30 hours per week. Hernandez received scholarships to help dampen the costs. His loan debt is $4500. (PHOTO)

Tony Fragnito: Tony, a senior at Bemidji State University, in Bemidji, MN, received the Pell grant all four years of college. He also worked between 35–40 hours per week. Although Tony received one scholarship, most of his financial funding is from loans. His loan debt will be $12,000.

Michael V. Nesdahl: Michael, a fifth year senior at Southwest State University, in Marshall, MN, didn't receive any financial aid throughout his five years of college. He worked approximately 40 hours per week and was in the National Guard. Most of his funding was from the military. Nesdahl will have a loan debt of $7300.

Tony Rust: Tony, a senior at Southwest State University, and the Minnesota State University Student Association state chair elect, received the Pell grant his freshman year only, the Perkins loan his first three years and the Stafford loan all four years. During his four years of college, Rust has worked at least 20 hours per week in order to pay for tuition and other expenses. His parents have not helped him financially, but he did receive scholarships during his sophomore year. His loan debt will be approximately $20,000.

Kay Wendling: Kay, a senior at Winona State, received no financial aid this year. However, in the past three years, Kay received a subsidized Stafford loan. She worked at least 16 hours per week off campus and 10 hours per week on campus. She will have a debt of $13,000.

Heidi deRuyter: Hedi, a senior at Moorhead State, and MSUSA treasurer and operations officer, received federal loans only. During her four years of college, deRuyter worked at least 20 hours per week. She received some scholarships the first year and her parents usually paid the interest on the loans. She will have a debt of $18,000.

Francis Klinkner; Francis, a fifth year senior at Mankato State, and the MSUSA state chair, received no financial aid this year. However, he did receive the Pell and state grants and the Stafford loans during his first four years in college. Francis worked at least 40 per week throughout his four years. His parents paid for his books, otherwise most of his funds came from loans. His debts will be $23,000.

IMPACT OF WELFARE REFORM

Crys Hans: Crys Hans, 28 years old, is transferring to the University of Minnesota from the Hibbing Community College and has maintained a GPA above a 3.8 while raising her 3-year-old daughter and working part time. Crys is determined to achieve financial independence for her and her daughter. However, under the new Welfare Reform legislation, Crys will have "even greater challenges." In six months, her one year of approved education will expire; she will have to work a minimum of 30 hours a week; and, she has to begin paying for child care. Crys is concerned about the impact the new welfare reform guidelines will have on her ability to finish school, secure a good paying job, and support and spend time with her daughter Tiana.

Colleen: Colleen, a divorced mother of two, dropped out of high school when she became pregnant. She obtained her GED; worked on a limited basis at a low wage office job; and decided that she needed a college degree to be able to support her family over the long term. She is enrolled in liberal arts classes at Minneapolis Community and Technical College and is doing very well. However, she would like to enroll in the Registered Nursing program to earn an A.S. degree. Because it takes 3 years to complete this degree (due to prerequisites needed), Colleen has had to put her dream on hold because of the welfare reform guidelines. The nursing degree would help Colleen achieve economic self-sufficiency, which office worker positions would not.

Camille Martinson: Camile is a single mother of 2 children. She is currently on the Minnesota Family Investment Program (state's new welfare reform program) and receiving AFDC, MA, and food stamps, while attending North Hennepin Technical College. New welfare reform requirements are pressuring her to go to work now for $5.15 an hour, rather than finish her education and be qualified to earn up to $20 an hour as a nurse.

Jonia Stanfel: Jonia, a single mother majoring in computer programming at the Minneapolis Community and Technical College, will be finished with her A.S. degree in less than a year. She is getting A's and should be able to support herself and her 3 young children after she graduates. However, last summer she was told by her Stride caseworker that "we are not supporting education programs." She was then told her child care would be discontinued and she must work 20 hours per week to receive her MFIP grant. Because the computer curriculum is rigorous, she knew she could not work, raise her kids and put in the time needed to get her computer degree. So . . . she has taken out a $2,600 loan and is funding her education on her own for the next 9 months. Her question is, "why wasn't funding available to someone who wanted to earn a two-year degree in a field with guaranteed jobs at high salaries?" Jonia feels fortunate that her college went to bat for her on the child care funding issue. But what happens to those people who don't have such an advocate?

Beth Frenette: Beth, a single mother of a two-year-old, has a clear cut career path in place when the new MFIP guidelines hit. Her plan was to earn a two-year degree and transfer to finish a B.A. degree in Elementary Education. To offset expenses, she was planning to get a job in Human Resources while in school. She began her plan by appealing for MFIP funding for her B.A. degree, but her appeal was denied. The reason: "if she can get a job now in Human Resources, she doesn't need funding for additional education." She then enrolled at Minneapolis Community and Technical College to begin taking her general education requirements, and appealed again for MFIP funding. Her second appeal was also denied, for the same reason stated before. She had submitted a clear education plan at each appeal. With help from our Career Placement Director, Beth's funding has been reinstated, although now she must squeeze 30 hours of work per week into her busy school and family schedule. She will graduate from MCTC in 9 months.

Crystal Visneski: Crystal, a single mother of two, is a human services major at Minneapolis Community and Technical College. She is juggling her studies, her children, a part time job, and responsibilities as an MCTC student ambassador. The new work requirement that came with the MFIP guidelines has drastically reduced the amount of time she can spend on her studies, as well as the time she can spend with her children, ages 4½ and 20 months. She will have to miss her son's graduation from preschool in June because she's taking an extra class this summer to ensure that she will finish her degree before the MFIP one-year clock runs out. Taking extra classes each quarter and satisfying the work requirement have created stress that has affected her patience with her children and her ability to focus on her studies. In addition, in the transition between her Stride program and MFIP, she lost her bus passes, her mileage reimbursement, and finally, her child care funding. She is now paying $1,000 a month for the cheapest child care available downtown, which is at the college's child Care Center. She is not eligible for a sliding fee scale because she receives welfare. Crystal is caught in the middle.

Latashie Brown: Latashsie, a single mother in her 30's, decided to return to college to enhance her nursing skills and improve her earning power. (PHOTO)

Troyce Williams: Troyce is a single mother of four children who is working hard to complete her studies at Minneapolis Community and Technical College within the one-year education requirement. Affordable housing and child care are critical to her graduating. (PHOTO)

HOW CAN MY FAMILY AFFORD COLLEGE?

Jacqueline Maddox: Jacqueline is a single parent who is concerned about how to pay for her daughter Bree's college education next year. Her daughter was on the honor roll in high school and is involved in extracurricular activities. Bree's father passed away when she was 13 years old and did not provide for her until he became terminally ill. Still, she will lose Social Security benefits when she turns 18. There is no money left after the rent, utilities and food. It seems the only option is a student loan, but Jacqueline is till paying back her own student loans.

NON TRADITIONAL STUDENTS

Paula Heinonen: After working for years in a rural hospital and raising four children, Paula Heinonen decided to return to school to enhance her skills. A non-traditional student, Paula is a junior at the Center for Extending Learning at Bemidji State University in Bemidji, Minnesota. Paula is a wife, mother, worker, and student.

Karen Ackland: Karen Ackland is a non-traditional student at Bemidji State University. Federal student financial aid and the TRIO program helped Karen return to school so that she could earn her baccalaureate degree.

Carla Barbeau: Carla started college at the age of 33 as a single parent with three children ages 9, 11, and 12. It was very difficult to support her family earning only $6 an hour and no benefits so decided to attend college. She wanted to enhance her skills in order to get a better job that paid well and had good benefits. Not being able to attend summer school because of financial aid restrictions is only delaying her graduation with a computer science degree. The longer it will take to finish school, the longer it will take to get a better job. She has received support from financial aid and federal TRIO programs.

TRIO

Mai Lor Yang: Mai Lor, (pronounced "My Low"), who is an immigrant from Laos, is graduating from high school in Duluth this year, participated in the TRIO Upward Bound Program, and plans to attend college in the Twin Cities next fall. (PHOTO)

Jeanie Kopf: 20 years ago, Jeanie, attended the U. of Superior with the intention of obtaining a BA in Political Science. This dream was brought to a close when, after the second semester, her state grant was cut off and the only way she could continue would be to take out student loans. Being that she was a single parent with a new baby the idea of compiling new amounts of financial debt, was overwhelming. She could see no way out and chose to drop out of school and raise her child. She fully intended coming back to school when her son was in school himself. When her son was 9, he was diagnosed with Attention Deficit Disorder and she needed to care for him full-time. Her second son was born and was diagnosed with Tourette Syndrome in 1993 and is a strong advocate for his proper education services to address his needs. She was diagnosed with Multiple Sclerosis in 1988 and was injured in a car accident in 1995. It wasn't until the accident before anyone mentioned the possibility of getting financial aid through DRS. This program ran out of funds and she then turned to the TRIO program. This program provided her with the support she needed to compete with the updated education field of today. The TRIO programs tutoring and study skills have proved to be indispensable to her.

Shannon Ament-Yellowbird: Shannon Ament-Yellowbird, who is a graduate of the University of Minnesota-Duluth, is pursuing her dream of a career in medicine with the support from TRIO Upward Bound and the McNair Post-baccalaureate Achievement program. While student financial aid programs help students overcome financial barriers to higher education, TRIO programs helps students overcome class, social academic and cultural barriers to higher education. Shannon, a Lakota Indian, is a registered member of the Pine Ridge Reservation of South Dakota.

Celena Hopp: Celena ia single parent, a Mexican-American female, welfare recipient and first-generation college student. She joined the STRIDE program in 1995 and became an active participant. She relies on financial aid, child care, and transportation assistance from STRIDE in order to come to school She also works part-time as a student worker in the college library. This year the STRIDE caseworker told her the new welfare requirements meant she could no longer pursue her bachelor's degree and that she had enough education and should immediately go to work. After three years of hard work in college, she had to fight to get approved just to stay in school for even one more year. STRIDE agreed to let her stay in school to complete an associate degree, provided she finished by spring of 1999. This was an extremely painful blow to her, especially since she was clearly on the road to transfer and a bachelor's degree.

BINGE DRINKING

Janice Rabideaux: On November 1, 1997 Janice, a 16-year-old high school student, died from alcohol poisoning at a sleep over party. She apparently drank a large amount of alcohol in a short period of time. There were no adults present when the police arrived, but an adult provided the alcohol and the State District Court was looking into charges against her.

Scott Krueger: On September 29, 1997, Scott Krueger became a victim of "binge drinking." Scott was a freshman, fraternity member at MIT. He went to a fraternity party on September 25 where drinking was required in order to fit in. He died with a blood alcohol level of .41—five times the drunken-driving standard in Massachusetts. After Darlen Krueger's comatose son left his frat house in a ambulance, one of the brothers told her, 'You have to understand—this was a very big night at our fraternity house.' (Source: Newsweek June 15, 1998)

Anonymous: A few years ago, an 18 year old freshman woman at a college in Minnesota went with 4 girlfriends to a "house party" at the home of several male students. All of the women engaged in binge drinking with a number of men at the party. They all became intoxicated. The young woman remembers the room spinning and she and one of her girl friends were escorted to a bedroom by 2 men who lived in the house. She recalls coming in and out of consciousness while a number of men had sex with her and her friend. She recalls seeing four different men, none of whom she knew. Her friend remembers nothing.

Five die in car wreck in Winona: In 1997, five young people who died when their vehicle plunged into the icy Mississippi River in Winona, Minnesota were legally drunk. The drowning victims were students and alumni at St. Mary's University in Winona.

Anonymous: In 1995, a sophomore student at a college in Iowa and other pledges of a fraternity were required to attend a formal ceremony called the "Big Brother/Little Brother Ceremony." The ceremony is a required meeting all pledges must attend in order to become an initiated member of the fraternity. The pledges were taken downstairs together, and after stating an oath, they left with their new "Big Brothers." The sophomore and other pledges were given a variety of beverages which they were expected to drink. The sophomore consumed a 40-ounce bottle of beer and a flask of Southern Comfort liquor. As a result, he became intoxicated, unconscious and unable to properly care for himself sometime near 11 p.m. Then, he was taken upstairs by active members of the fraternity. During various times in the night and the next day, members of the fraternity observed the sophomore student lying unconscious, and members of the Fraternity drew on his skin including drawing a beard on his face. No one could wake up the student as he lay snoring loudly and gurgling. No one called for an ambulance either. After 12 hours of being left alone, another fraternity member went upstairs to check on the sophomore and discovered he was not moving or breathing. Paramedics were called to the scene. He was pronounced dead immediately. The medical examiner estimated his death at 7:00 a.m. He died of pulmonary edema, caused by acute alcohol intoxication. His blood alcohol level was measured to be .250 to .300 at its peak (Iowa law considers a person to be intoxicated at an alcohol level of .1 and .001 for under-aged drinkers. Most of the active members and pledges at the "Big Brother/Little Brother Ceremony" were under the age of 21.

OTHER

Mary Brklich: Mary Brklich, a sophomore at Hibbing Community College and single mother of three, will transfer to Winona State College after the spring semester to complete her bachelor's degree. The Student Support Services and faculty at Hibbing Community College have assisted Mary and other non-traditional students to set their academic and professional goals, and the Support Services provide the encouragement and resources to reach them.

Holly Spinks. Holly Spinks was a second year student at Century Community and Technical College in White Bear Lake, MN in 1997. She planned to transfer to the University of Minnesota to finish a degree in psychology so that she may become a counselor for diabetic children. Holly is diabetic, and annually spends approximately $3,000 for medical expenses. From two years of study as a full time student, Holly has already accumulated $10,000 in debt, and her mother is unable to help with the cost of school. She receives a annual $420 Pell Grant award and about $5,000 in loans, as well. The cost of school for Holly is roughly twice that amount. Holly affirms that the Pell Grant program must be fully funded and the minimum age for declaring independence must be dropped from 24 to 21. "I am not asking for a hand-out," Holly said. "I am actively working to take my place in society as a producer and taxpayer."

Rick Harvala: In 1997, Rich Harvala, a student in the Marketing Program at Northwest Technical College in Moorhead, MN, lives independently of his parents and works full time at Pizza Hut to finance his education. Even though Eric receives the Pell Grant and Minnesota Grant awards, he has already accumulated $5,000 in debt. Eric is 19 years old. He worries that he is not devoting enough time to his studies because of his full time employment. Eric has managed to maintain a 3.87 GPA, but wishes he could focus on school more seriously and wonders how the rising costs will affect him in the future. "If financial aid increases do not keep pace with the ever climbing costs of a college education," Eric explains, "students will be forced out of college and the pool of educated employees will dwindle."

WRESTLING

Steve King: Steve was a national wrestling champion at a small Minnesota high school. he decided to attend Notre Dame for the academies. But then the school eliminated the wrestling program just before finals week at the end of King's junior year. "It was devastating," said King. Student athletes were not consulted about the decision, he added. "We're informed, boom, the program's dropped," he said. He transferred to the University of Michigan, but he lost so many credits in the move that he had to go to summer school on his own money to be eligible. (Source: AP and Steve King)

Mr. WELLSTONE. I say to my colleague from Indiana, who is on the floor, my understanding is that we reached an accommodation or compromise when it comes to higher education and "minor sports." We will have the GAO study that will go forward. And, in addition, we already have language in the bill that does call for a disclosure of financial information as to what is spent on different sports on the campuses. I think that is really important to a lot of us who were involved in some of these "minor sports." And I see those sports being cut right now in our institutions of higher learning.

I thank my colleagues for their accommodation. They seem ready to speak. I said I would be brief. I am done, I say to the Senator from Maine.

I yield the floor.

Mrs. FEINSTEIN. I would like to engage in a colloquy with the bill's manager, Senator JEFFORDS.

In Title II, Improving Teacher Quality, the bill authorizes the Secretary of Education to award grants to states to reform teacher preparation and, on page 363, lines 13–15, "to ensure that current and future teachers posses the necessary teaching skills and academic content knowledge in the subject areas in which the teachers are assigned to teach."

In (1) beginning on lines 18, the bill includes as an authorized activity that can be funded by a grant, "reforms that hold institutions of higher education with teacher preparation programs accountable for preparing teachers who are highly competent in the academic content areas in which teachers plan to teach, which may include the use of rigorous subject matter competency tests and the requirement that a teacher have an academic major in the subject area, or related discipline, in which the teacher plans to teach."

I commend the committee for these provisions and believe they will be very helpful in training good teachers.

Could the gentleman clarify a point for me?

Mr. JEFFORDS. I would be pleased to.

Mrs. FEINSTEIN. The bill uses the language, "academic content areas in which the teachers plan to teach." I am concerned that this would limit grants to programs that train teachers pursuing certain academic majors, such as biology or history or French.

My concern is that individuals in teacher preparation courses preparing to teach in the elementary grades might be excluded. Students in preparation to teach at the elementary level would not have an academic major, in the traditional sense that is directly related to the subject that they plan to teach, in part because elementary teachers teach all subjects.

Yet, I'm sure we all agree that strong teaching, particularly the teaching of reading and math at the elementary level, in the primary grades, is critical. It is fundamental to a student's educational success in the subsequent grades.

Do you not agree?

Mr. JEFFORDS. Absolutely. I agree.

Mrs. FEINSTEIN. And so, could you clarify that these funds could be used for teacher preparation programs preparing teachers to teach in elementary and secondary schools, in particular elementary reading and mathematics?

Mr. JEFFORDS. Yes, clearly, that is the intent. We do not intend to exclude the preparation of teachers for teaching at the elementary and secondary level and we agree that good instruction in how to teach reading and elementary mathematics should be a major emphasis because giving students a strong foundation in reading and math in the early years is critical to giving them a solid foundation for learning throughout their entire lives.

Mr. ASHCROFT. Mr. President, I would like to take this opportunity to speak about a provision that has been included in the managers' amendment of the higher education legislation that we are considering. Specifically, I have some reservations about a provision, offered by Senator CRAIG of Idaho, which expresses a sense of Congress regarding the protection of student speech and association rights.

I value highly the protections guaranteed to our nation's citizens under the First Amendment to the United States Constitution. Freedom of speech and association are cherished rights. They are foundational rights, in that the ability to speak freely and criticize the government are necessary to ensure that other constitutional rights are guaranteed and that the system of government erected in the Constitution functions well.

However, it must be remembered that the First Amendment was targeted against government oppression and designed to protect against censorship by the government—not by private individuals or institutions. The Bill of Rights was adopted to address the concern that the new federal government would not accord sufficient respect for the rights of individual citizens. It protects the citizens from the government, not from other citizens. As Thomas Jefferson wrote in a December 20, 1787 letter to James Madison, "a bill of rights is what the people are entitled to against every government on earth." The protections of the Bill of Rights were designed to check specific abuses that can flow from government power; they were neither designed nor intended to be a general code of conduct applicable to all citizens. Indeed, a wholesale application of the Bill of Rights to all private citizens would turn these key protections on their head—provisions designed to safeguard individual liberty would become the instrument for limiting individual liberty.

The United States Supreme Court has long recognized the unique role of the Bill of Rights as a limitation on government action through the state action doctrine. With the exception of limited circumstances in which some heavily regulated quasi-private entities are deemed state actors for limited purposes, the Supreme Court has refused to treat private entities as state actors to which the Bill of Rights apply. Two cases, Flagg Brothers, Inc. v. Brooks from 1978, and Jackson v. Metropolitan Edison Co., from 1974, articulate the Court's position in this area.

The notion that the Bill of Rights is directed exclusively at government action is implicit in the First Amendment itself. The First Amendment protects citizens not only from government regulation of speech, but also limits the government's ability to interfere with the right of individuals to join together to form private associations and organizations, including private educational institutions. A private college or university may choose to remain private in nature so that it can maintain control over its educational mission and policies. Wholesale application of the First Amendment protections to private institutions does not vindicate the First Amendment right to speech, but rather ends up restricting the First Amendment freedom of association.

None of this is meant to suggest that the federal government should never impose conditions on private institutions that receive federal funds. Although there has been an excessive tendency toward applying such mandatory conditions, there are situations in which Congress can properly insist that organizations receiving federal funds maintain certain minimum standards or not use the funds for questionable purposes. Even in the specific context of federal funds directed to private institutions of higher learning, it may be appropriate for Congress to insist that beneficiaries afford some rights to their students.

My concern is not that the Craig provision favors imposing some conditions on these institutions, but that it imports wholesale the limitations and restrictions developed over two centuries of cases interpreting the First Amendment. There is no reason to think that liberties designed to protect private individuals and entities from the government will strike the appropriate balance in the very different relationship between a student and a private college or university. Fortunately, the measure before the Senate today is not legislation that would impose the First Amendment directly on private educational institutions, but rather a sense of the Congress resolution that these constitutional limitations should apply to private institutions. I do not share that sense, and if the measure before the Senate were binding legislation, I would exercise my rights in an effort to change the legislation. However, in light of the non-binding nature of the Craig provision, I am content to note my views and concerns for the record.

Mr. KERREY. Mr. President, I rise today in support of S. 1882, the Higher Education Reauthorization Act, which is perhaps the most important piece of legislation Congress will pass this year to ensure that more Americans have a shot at the American Dream.

This legislation makes important strides both in improving the education students receive within colleges and universities and in increasing access to higher education.

For example, the bill makes significant improvements in teacher training. It authorizes $300 million for competitive grants to states improve teaching, and it also authorizes $37 million for grants to institutions with teacher education programs working in partnership with school districts in underserved areas in an effort to recruit teachers to communities that are most in need of assistance.

It also provides support for institutions that serve large numbers of low-income students. In particular it creates a new authorization for tribal colleges, which play an important role in educating students in my state of Nebraska.

But most importantly, this legislation is important because it opens the doors of higher education to more individuals. It helps more individuals acquire the knowledge and skills that will help them make better lives for themselves and their families.

Approximately $45 billion in this bill is devoted to postsecondary grants and loans for students. This is wise investment for all Americans because this financial assistance to obtain higher education helps individuals increase their earning power once they graduate. When we increase the income of Americans, we reduce spending and in turn reduce the tax burden on our citizens.

According to the U.S. Census, college graduates make an average of $600,000 more over their lifetime than do individuals without a college degree. That differential has doubled in the last 15 years.

An individual with a bachelors degree can expect to earn $1.4 million over the course of a lifetime. With a professional degree, that person can earn over $3 million in a lifetime.

But currently, on 60% of high school graduates go on to college, and by the time they are 25 years old, only about 25% have a college degree. Many young people have the intellectual ability to succeed in college, but they do not have the financial ability.

We still have much work to do as we try to figure out how to make higher education more affordable.

Nationwide we have about 10 million students enrolled in four-year and two-year public colleges and universities. About 83,000 of those students are in school in Nebraska.

We have about 2.5 million in private institutions—19,000 in Nebraska. About 36% of students nationwide receive some form of Title IV assistance: 22% receive Pell Grants; 22% receive subsidized loans; 10% receive unsubsidized loans; not to mention a smaller percentage who receive PLUS loans, Federal Work Study, Supplemental Educational Opportunity Grants, and Perkins loans.

In public institutions in Nebraska, the number of Pell grants is about 20,000. The dollar volume is $27.4 million. And the number of loans made to Nebraska students in public institutions is about 40,000. That dollar volume is $137 million.

This $137 million is a substantial increase over the 1990-91 loan dollar volume, which was $43.5 million. We must figure out how to bring student loan debt under control.

At the same time, we must remember that Title IV assistance goes to those most in need. 91% of Pell recipients have incomes of $30,000 or less. 65% of all recipients of subsidized loans have incomes of $30,000 or less.

This bill is a step in the right direction. It increases the authorization for maximum Pell Grants to $5,000 for 1999-2000. But it also calls for more reporting by institutions on college costs.

Reducing college costs and increasing access to higher education must be a joint effort. I am pleased to be a part of this effort.

I am also pleased to contribute to this legislation in a number of other ways. The bill includes a Web-based education commission to determine the Federal role in helping parents, students, and teachers identify high-quality educational software.

With Senator WELLSTONE and others, I encouraged the expansion of distance-learning opportunities through the Learn Anytime Anywhere partnerships.

We must also continue to stress the need for substantive partnerships between higher education institutions, K-12 institutions, and business communities.

Mr. President, I urge the Senate to pass S. 1882 so that all Americans will have a shot at achieving the American Dream.

Ms. SNOWE. Mr. President, we have before us the important task of reauthorizing the Higher Education Act for the next five years. I rise today in support of reauthorization, and I want to congratulate my friend, the Chairman, Senator JEFFORDS, for his efforts to bring the Senate a bill that makes a higher education more affordable to all Americans.

The Higher Education Act of 1998 continues a vital component of our nation's commitment to providing the very best education possible to our citizens. In particular, it is the programs reauthorized in this bill that to a great degree determine the shape of our federal presence in postsecondary education. In fact, nearly all of the available federal student aid, and about 70 percent of all financial aid awarded to postsecondary students, comes as a result of this act. And overall, Higher Education Act programs are responsible for an estimated $35 billion in grant, loan, or work-study assistance.

As we all know, the principal objective of the HEA is to expand postsecondary education opportunities, particularly for low income individuals, as well as increasing the affordability of postsecondary education for moderate income families. Since 1966, the Guaranteed Student Loans Program within the Higher Education Act—now called the Federal Family Education Loan (FFEL)—has provided over $143 billion to students. In 1993, the program reached an all time high of $16.5 billion in new loans.

Today, at a time when 71 percent of Americans—71 percent—think a college education is not affordable for most families, building on these successes is all the more pressing. That is why, throughout the reauthorization process, I have expressed the belief that it is critical we ensure the student loan program is strengthened in ways that will increase access.

I have always said that there is more to balancing the budget than making our debits equal our credits. Rather, it's about leadership, fiscal responsibility and being visionary in our investments. In order to survive the many multi-faceted challenges of the 21st century, we will have to invest heavily —more than ever before—in giving the essential tools to our country's greatest natural resource: today's students who are tomorrow's workforce.

That's why, as a member of the Senate Budget Committee, I have continuously fought to make education a priority during the balanced budget debate, and—specifically—have fought to preserve funding for the Student Loan program. In a world of increasing global competition, now is NOT the time to be reducing the Federal commitment to higher education!

The fact is, education is the great equalizer in our society that can give every citizen of our nation—regardless of race, income, or geographic background—the same opportunity to succeed in the global economy of the 21st century. This point is especially important when one considers that of the new jobs that are being created—and will be created—more than half of the new jobs that are being created will require education beyond high school.

Education is also the biggest single factor in the so-called "income gap". Consider these statistics from the Census Bureau: In 1990, for example, the average income for high school graduates was almost $18,000. But those who had 1 to 3 years of a college education, earned on the average $24,000. And those who graduated from college and received a college diploma received an average salary of $31,000. We simply must ensure that our young people have access to our system of higher education if they are to succeed in the changing global environment and maximize their earnings potential.

That's why the bill we're considering is so important. It maintains and improves the various grant, loan, and work study assistance programs already available under the Higher Education Act. It reduces the interest rate on student loans. It increases the maximum Pell Grant award by $200 per year, up to $5,800 by 2004. It removes various barriers for independent students seeking financial assistance. And it cancels loans for students who agree to teach for at least three years in high-need areas.

This is a significant step forward in our commitment to building a brighter future for the generations that will succeed us. I want to thank the members of the Senate Committee on Labor and Human Resources for their work on this bill, and in particular the Committee Chairman, Senator JEFFORDS, for accommodating some of my concerns in his manager's amendment. Because the federal role in higher education extends beyond loans, I believe that the changes which were incorporated have made for a stronger bill, and I appreciate his willingness to work with me on their inclusion.

The first provision increases the personal liability and responsibility of owners of proprietary schools to ensure their students receive the education that they were promised and purchased. This is important when you consider what happened to students at the Maine Academy of Hair Design, where the school was closed and the students left without recourse—or the education they paid for. I am pleased that the House bill already contains this provision, and its inclusion in the Senate version will ensure that it will be adopted in the upcoming House-Senate conference.

The second provision requires the General Accounting Office in consultation with the Inspector General at the Department of Education to issue a report to Congress outlining changes in federal law, and changes in administrative procedures at the Department, that would ensure property transfers, such as the recent one involving Nasson College and its former owner in my home state of Maine—could be prevented in the future. In the case of Nasson, the Department of Education conducted an auction in which purchaser and seller represented the same individual—the person ultimately responsible for paying on the mortgage, who for ten years had failed to make payments toward the $600,000 he owned to the Department, or to pay $28,500 in back property taxes to the community. It is an outrage—but, according to the Department of Education, perfectly legal. The language in the bill will help us in rewriting the law to prevent this from happening again.

And finally, I am pleased that the Committee, during markup, included a provision I authored along with Senator DODD to address the needs of low-income students who are parents. The "Child Care Access Means Parents in Schools" provision, or "CAMPUS", authorizes three-year grants to institutions of higher education to support or help establish a campus-based child care program serving the needs to low-income student parents. The Secretary will award grants based on applications submitted by the institution, and the grant amount will be linked to the institution's funding level for Pell Grants, in order to assure that the program reaches low-income students.

Senator DODD and I have worked together before on child care issues and I want to thank him for his leadership on the CAMPUS Act.

The bottom line is, students are more likely to remain in school, and to graduate sooner and at a higher rate, if they have CAMPUS-based child care. These services are particularly critical for older students who go back to school to get their degree or to improve their skills through advanced education. This is especially important in today's economy, where people need to continuously train and retrain in order to meet the demands of high-tech jobs.

Mr. President, this has been a carefully crafted bill that fulfills one of America's most important needs as we close out this century and look to the next. I wholeheartedly support this reauthorization of the Higher Education Act, and I urge my colleagues to do the same.

Mrs. FEINSTEIN. Mr. President, I am pleased today to support S. 1882, the Higher Education Act reauthorization bill.

The bill has several important features:

It authorizes $300 million for reforming and strengthening teacher training so that teachers will be better prepared to teach elementary and secondary students.

It continues student loans and increases the maximum authorized Pell grant from $4,500 to $5,800 in 1999 to help students regardless of income level get a college education.

It continues federal support for colleges and universities, such as science and engineering programs and graduate fellowships.

Education, particularly a college education, can open many doors in our society.

Today, approximately 22 percent of all jobs in the U.S. require at least a bachelor's degree, up from 15.8 percent in 1996, according to Occupational Outlook Quarterly. People with bachelor degrees have median incomes about 60 percent higher than for those with only a high school education.

In California, shifts in the economy make higher education more important than ever. Service-related jobs, such as those in high technology, have displaced many traditional manufacturing jobs. These new jobs require a level of knowledge and skill that can for the most part only be gained by a college education.

There are at least three specific factors that make this bill important to my state:

First, California has 21,000 teachers on emergency credentials and will need up to 300,000 in the next decade.

Second, California has many first generation, bilingual and "nontraditional" students, that this bill will assist.

Three, the bill provides for increases in several student assistance programs. Californians receive $1.7 billion in federal student financial aid. Over 400,000 Pell grants go to California students.

5th year Pell grant. The Senate today unanimously accepted my amendment to authorize the Secretary of Education to award on a case-by-case basis Pell grants for disadvantaged students for the fifth year of teacher education required in California to get a teaching credential. This will enable many disadvantaged students to become teachers, at a time when we are facing a severe teacher shortage and have 21,000 teachers in the classroom on emergency credentials.

Distance learning. I am also grateful that the managers have accepted two of my amendments to the distance learning demonstration (teaching away from the traditional campus via a computer, teleconferencing or other technologies). The manager's amendment includes a clarification that university "systems" (e.g., UC system, CSU system) would be eligible and the bill now authorizes 15 sites, up from 5 authorized in the committee bill.

Limited English Proficient Students/School Districts: The bill authorizes state grants for innovative ways to reduce teacher shortages in high poverty areas. At my suggestion, the bill includes as eligible or target areas, school districts with disproportionate numbers of limited English speaking children. This is especially important in California, where 1.3 million students have limited English proficiency, a tripling since 1986, and where 87 languages are spoken.

Study of Few Borrowers: The bill provides that schools whose student loan default rate exceeds 25% for 3 years will be ineligible to participate in the student loan program. For schools like California's community colleges, that have just a few borrowers, this method gives the appearance of having a very high default rate. For example, if the school has only four borrowers but two defaulters, they would have a 50-percent default rate. The manager's amendment includes my suggestion of a study of the effectiveness of this measurement method by September 30, 1999.

Enrollment in California's public schools, the college generation of the future, is growing at three times the national rate. Enrollment in the three major segments of higher education will increase by 28.9 percent, or by 549,144 students, between 1996 and 2006, according to the State's Department of Finance.

California will have this surge in college applicants because (1) the number of high school graduates has increased by 22 percent since 1993; (2) many adult workers are changing careers by choice because of organization restructuring, or to enhance their employment skills; (3) migration to California from other states and countries is continuing; and (4) more Californians over 40 are pursuing lifelong learning.

California's higher educational system has four components: the University of California system, the California State University system, the community system, and private colleges and universities.

The University of California (UC) consists of nine campuses that served

129,257 undergraduate students and 40,605 graduate students in fall 1997. UC educates approximately one in twelve of all postsecondary students in California, and includes the top one-eighth of high school graduates. Total enrollment at UC is projected to grow by about 36,500 students by fall 2006.

In addition to providing instruction in liberal arts and the sciences, UC has exclusive public responsibility for doctorate, law, medicine, dentistry, and veterinary medicine degrees. The UC campuses, especially Berkeley and UCLA, are some of the most prestigious public or private institutions in the Nation and the world.

The California State University System (CSU) consists of 22 regional campuses with 276,054 undergraduate students, and 67,725 postbaccalaureate and graduate students enrolled in fall 1997. This was one in six of every student enrolled in higher education in California. Enrollment is expected to grow by 31.4 percent or 105,809 students by year 2006.

Another characteristic of the CSU system is its large number of "nontraditional" students, students who are older than the usual college age. This is because many community college graduates transfer to CSU and many CSU students are working people seeking to progress professionally or maintain technical proficiency.

CSU's primary function is to provide instruction in the liberal arts and sciences and CSU prepares 60 percent of the state's teaching force with 21 teacher preparation programs.

The need for new teachers in my state is especially critical because there are currently 31,000 elementary and secondary classrooms being taught by men and women without full teaching credentials.

A major emphasis of the bill to which I give my full and enthusiastic support is to increase support for teacher education and to emphasize reform, accountability, and competency. Funds are provided to both States and postsecondary institutions for strengthening teacher training.

Another important element of higher education in California is the California Community system, the largest community college system in the world. Its 106 campuses provided vocational, academic, and community service programs to over 1.4 million students of varying ages, income levels and educational backgrounds in 1997. Roughly three of four public postsecondary students were enrolled in community colleges. The system is expected to increase by 28.9 percent as its attendance is projected to be over 1.8 million by fall 2006. A notable increase between 1990 and 1997 has been in the age group 50 and older, which grew by 21 percent.

Students at community colleges are older and tend to be employed full-time, many supporting families. Approximately 41 percent of community college students are in the 20–29 age group. Older students, particularly those over 40, are seeking postsecondary education for several reasons, including career enhancement, job displacement, divorce (especially for women), personal growth, and reforms in government assistance programs.

The student aid provisions of the bill will be particularly helpful to these students.

The bill also helps three specific types of institutions: Hispanic-serving institutions, tribal colleges and universities, and historically Black colleges and universities. Although California does not have any historically Black universities, more than 2,000 students do attend Hispanic-serving institutions and tribal colleges and universities. DQ University in Davis serves Native Americans from California and other states; and the National Hispanic University is a California higher education institution with a 25 percent or more Hispanic enrollment. This reauthorization bill strengthens these institutions by providing special grant awards to help them serve these populations and to become financially stable.

Student financial aid is a critical component of higher education in California. Expenses for tuition and supplies at California's postsecondary institutions, public and private, averaged $19,500 during the 1997–98 school year. The California Postsecondary Education Commission estimates that 50–55 percent of students at California's public and private institutions are receiving some form of state, federal or institutional financial assistance.

Federal student grant and loan programs since 1973 have enabled people to go to college. Tuition at higher education institutions throughout the United States is increasing at rates higher than the consumer price index (CPI) and the growth in family incomes. This is particularly troubling for California, a high cost state. In 1993 the CPI was 2.7 percent and average undergraduate fees for the University of California system was $3,044.00. The CPI in 1997 was 1.7 percent while the UC fees rose to $4,166, an increase of 136.9 percent!

Total expenses during the 1997–1998 school year to attend the University of California at Berkeley were $13,169 a year; at UC San Diego, $13,400; at California State University, Chico, $10,000. For private schools, the costs are more than $20,000 a year—at Occidental, $26,000; University of the Pacific, $25,000; and Stanford, $30,000. College affordability is becoming more difficult.

By continuing federal grant and loan programs, this bill will be a big help to many California families.

I strongly support S. 1882, the Higher Education Act Reauthorization of 1998 because it continues the federal commitment to an important endeavor of our society, the pursuit of a college education, increasingly the gateway to economic self-sufficiency. It will also revamp and toughen federal support for teacher training, a dire need in my and most states.

I hope my colleagues will join me in supporting this bill.

Mr. LIEBERMAN. Mr. President, I rise today to express my strong support for the teacher training amendment that Senator BINGAMAN has offered. I am proud to be his prime cosponsor, and I want to thank the Committee leadership for agreeing to accept this provision as part of the managers' amendment.

The proposal we have put forward addresses an issue critical not just to the future of our public schools but to our nation as a whole—the quality of teachers who will be preparing our children to be productive 21st century citizens and to compete in the Information Age economy.

There is growing evidence that many of the education schools charged with developing the next generation of teachers are failing at their fundamental mission. Our amendment seeks to focus attention on this problem, to push these seedbeds of teaching to set higher standards for their graduates, to hold them accountable when they don't, and ultimately to raise up the quality of the next generation of American teachers.

To understand the importance of this problem, it is important to first put it into the context of today's education debate. We all recognize that we have many outstanding public schools and many outstanding teachers working in them, men and women who are heroes in every sense of the word, for their dedication to helping America's students to fulfill their potential and realize their dreams. But it is becoming readily apparent that there are also many schools that are not meeting our expectations, that are failing to provide many students with the academic skills they need to succeed in an increasingly knowledge-based labor market, and that in particular are denying a distressing number of inner city children any chance of escaping the poverty and hopelessness that surrounds them.

We hear this over and over from parents, who tell us that they are deeply concerned about the health of our education system and who list improving our schools as their top priority. And we see this over and over in the mounting number of alarming studies and surveys that have been released recently, which taken collectively indicate that we remain a Nation at risk even 15 years after that landmark report was issued.

One of the most publicized and compelling warning signs came from the latest results of the TIMSS test, which showed that our 12th-graders ranked near the bottom of the world in their knowledge of math (19th out of 21 nations) and science (16th out of 21). Our advanced students did even worse, scoring dead last in physics.

Another troubling indicator came from a broad Public Agenda survey of employers and college professors, the prime consumers of K-12 education in this country, which found profound dissatisfaction with the way public schools are preparing students. More than 60 percent of employers and three quarters of professors said they believe that a high school diploma is no guarantee a student has learned the basics, and nearly 7 out of 10 employers said the high school graduates they see are not ready to succeed in the workplace.

With this heightened scrutiny, it is becoming clear that a big part of the problem is the caliber and performance of many of the teachers we count on to help our children meet the increasingly high standards we are setting for them. The fact is that many college students who choose to go into teaching today fall near the bottom of their peer group academically—a survey of students in 21 different fields of study found that education majors ranked 17th in their performance on the SAT. For those that go on to become secondary school teachers, a stunning member lack any expertise in their core field of instruction—one national survey found 36 percent did not major or even minor in their main teaching subject.

Also alarming is the dismal performance of many teaching candidates on State licensing and certification exams and other assessments of their qualifications. In Hawaii, for example, more than half of the 986 hires made in this past school year either failed to pass or complete certification tests that by all accounts have generous cut-off scores. In Long Island, only one in four teaching candidates in a pool of 758 could pass an English test normally given to 11th-graders. And most recently in Massachusetts, in a case that has received national media attention, 59 percent of the 1,800 candidates who took the State's first-ever certification exam flunked a literacy exam that the State board of education chairman rated as at "about the eighth-grade level."

The situation in Massachusetts has generated real outrage, and for good reason. Studies have shown conclusively that the quality of teaching is one of the greatest determinants of student achievement, and also that low-performing students make dramatic gains when they study with the most knowledgeable teachers. So we should be deeply troubled by the trends we are seeing, especially when we consider that the surge in student enrollment we're expected to face over the next decade will necessitate the hiring of up to 2 million new teachers. If we do not confront this problem now, we could be facing an incompetence boom in our schools that would doom our hopes of true education reform.

A number of States have begun to respond to the crisis in teacher quality and reevaluate their standards for certification and the tests they use to judge subject knowledge. Texas in particular has been at the forefront of this movement, implementing a comprehensive teacher quality and accountability plan that among other things will crack down on education schools that continually churn out unqualified graduates.

But this is truly a national problem that demands a national response, and the legislation we are considering today offers us a valuable opportunity to do something concrete to fix this problem. The underlying bill makes an important step in that direction through the new teacher training title it creates, which will encourage states and local school districts to: set tougher standards for their certification exams; expand efforts to recruit top-notch teachers in high-need content areas like math and science; improve their professional development programs for veteran teachers and mentoring programs for newcomers; and to create new partnerships that will draw on the expertise and resources of the business and higher education communities to produce better, more knowledgeable teachers.

The amendment that Senator BINGAMAN and I have proposed, and that the Committee leadership graciously accepted, is meant to be a complement to that new title, in that it targets the problem of teacher quality at its source, the Nation's education schools. While there are many excellent training programs interspersed throughout the country, there are also a surprising number of schools that are routinely graduating inept teaching candidates. Many of these aspiring instructors are incapable of passing even the most watered down certification or licensing exams—in fact, the pass rate at more than a few schools is below 50 percent. This situation is simply unacceptable, given the children's lives involved, and we believe our amendment will go a long way toward fixing it.

Among other things, our proposal would force the States, local school districts and the general public to confront the severity of this problem. The truth is that most people don't know how poor some of these teacher training programs are, in large part because most ed schools do not disclose their pass rates as other professional schools generally do. Our amendment would change that by requiring education schools to widely publicize the results of their graduate's performance on State certification and licensing exams. It would also require each State to collect a broad array of data to produce a report card on teacher quality, which in turn would be forwarded to the Department of Education to compile a national report card, allowing us to measure for the first time the caliber of America's teaching force.

But this amendment, which is comparable to a provision the House passed overwhelmingly, is not just about opening our eyes to bad programs. It's about closing the door on the worst of them, and holding those chronic underperformers accountable. Under our plan, States that receive funding under the Higher Education Act would be required to identify those teacher training programs that are failing and to then take action against them if they do not improve, including withdrawing State approval and terminating financial support. To show that we mean business at the Federal level, our amendment would disqualify any education school from participating in the Federal student aid programs if a State goes so far as to sever its ties with that program.

Mr. President, we recognize that this legislation on its own will not magically turn every new teacher into Socrates. It is going to take a lot of hard work in each school district and each individual state to change the way we have been operating for many years. We are convinced that this plan will help to lay the groundwork for a new national effort to improve teacher quality, and will thereby make a significant contribution to our broader goal of lasting education reform. Our optimism has been reaffirmed by the broad bipartisan support this amendment has received here in the Senate and the House and by the welcome endorsement we received from both major teachers unions.

Again, I want to express my appreciation to the bill managers for their willingness to accept our amendment, and I look forward to its passage. Thank you.

Mr. SMITH of Oregon. Mr. President, before I begin, I would like to thank my colleague, Senator JEFFORDS, for his leadership on this bill.

Mr. President, I believe the reauthorization of the Higher Education Act reestablishes our commitment to the young people of our Nation by focusing on one of our Nation's founding principles—opportunity.

By improving the quality of teacher training and recruitment, increasing the purchasing power of students through Pell grants and other forms of student assistance, and by improving access to higher education for students with disabilities, this legislation provides opportunity for the young people of our Nation to seek a higher education.

While I could continue to talk about the many merits of this bill, there is one issue that has been of great concern to me and to the students and parents of my State, and that is the rapidly rising cost of tuition. Even as we battle—successfully-every year to give more and more of our Nation's children an opportunity to seek a higher education by expanding Federal financial assistance, the cost of tuition continues to increase far beyond the Consumer Price Index—thus offsetting out efforts to expand education opportunities. We are winning the yearly battle but faring not nearly so well in the war.

In the 1997–98 school year, average undergraduate yearly tuition and fees for public 4-year institutions of higher education were $3.111, representing a 97-percent increase from the 1988—89 school year. For private 4-year institutions, tuition and fees that same year were $13,664, representing an increase of 71 percent. As a result, students and families have become increasingly dependent on Federal financial aid in the form of grants and loans. In the 1996–97 academic year, Federal loan programs provided over $30 billion in financial aid to students.

Even as we have continued to provide assistance to our students over the last 10 years, a troubled trend has developed. Student financial aid in the form of loans is disproportionate to the amount of financial aid received through grants. In the 1996–97 academic school year, 60 percent of Federal, State and institutional students financial aid was distributed through loans.

The combination of a decline in Federal grants and an increase in tuition cost for both public and private institutions has forced many students and families to seek Federal loans to pay for a higher education. I believe our goal in expanding the availability of student loans can't be simply to replace disappearing grants and subsidize vast tuition increases. Our goal is to expand opportunity. And so, providing money is not enough; we must control costs. Some have suggested that Federal incentives may be one way to control rising tuition rates. While this may not be a popular suggestion, we cannot afford to continue this cycle and this game of cat and mouse with our Federal education dollars.

Earlier this morning, my colleague from Connecticut, Senator DODD, addressed this issue in great detail and made some excellent points with respect to access and affordability. Basically, we're pricing parents and students out of the education marketplace by limiting the number of Federal grants. It is my hope that we can work together to change this disparity in the ratio of loans to grants and to find ways to streamline the existing student financial assistance structure so that the good we do here on a bill like this isn't undermined by tuition rates which increase even more quickly than our ability to adequately meet the financial needs of our students.

However, in the meantime, I am pleased that the chairman, Senator JEFFORDS, has included a sense-of-the-Senate provision in this bill on behalf of myself and Senator WYDEN that expresses these concerns.

Mr. President, it was once said that "education is a social process. Education is growth. Education is not preparation for life; education is life itself." I believe this bill represents our commitment to our students by providing them with the access, assistance, and the opportunity for a higher education. Education—the process of learning—is what drives us, fulfills us, and inspires us to achieve, and I believe it is our collective responsibility as legislators, and as citizens of this country, to sustain it. Again, I thank my colleague, Senator JEFFORDS, the members of the committee and their staff for their work on this important legislation.

Mr. TORRICELLI. Mr. President, I rise today in support of the Higher Education Reauthorization Act of 1998 (S. 1882). I commend my colleagues, Chairman JEFFORDS and Senator KENNEDY, for their hard work and leadership on this most important legislation. There are few pieces of legislation in this Congress that are as important to American families.

I would also like to express my gratitude to Senators JEFFORDS and KENNEDY for including in this bill two amendments I authored and which I think are critically important for students across the nation.

The first, the Torricelli Campus Hate Crimes Right to Know Act, would expand the campus security information available to the over 14 million students and their parents who apply to college every year.

In 1990, the Crime Awareness and Campus Security Act, was enacted in response to a steady rise in violent crime on some college campuses. This legislation paved the way for families to obtain vital security information about their college campuses. However, it is clear the law needs strengthening. Currently, the Campus Security Act requires colleges to report only those hate crimes motivated by race, religions, national origin, sexual orientation, or ethnicity, and those that result in murder, rape, or aggravated assault. This dual reporting requirement severely limits the ability of prospective students to gain information about the safety of a campus.

Our nation's college campuses should be a refuge from crime, particularly heinous attacks motivated by hatred and bigotry. The disturbing truth, however, is that college campuses are often fertile ground for bigotry. Twenty-five percent of minority college students attending predominantly white colleges have been victims of a hate crime. In 1996, 90 incidents of anti-Semitic activity occurred on college campuses.

Students and their parents have the right to know about any crimes, particularly those involving hatred and bigotry, that were committed on a college campus they will call home for four or more years. My legislation, which is now part of the Higher Education Act, will ensure they get that information.

The Torricelli Campus Hate Crimes Right to Know Act lists hate crimes as one of the reportable offenses and expands the definition of a hate crime to include those that result in robbery, burglary, arson, motor vehicle theft, vandalism and simple assault. The legislation also expands the definition of a hate crime to include gender and disability.

I am grateful to my colleagues, Senators JEFFORDS and KENNEDY for including this language in the Higher Education Act to provide students and their parents with vital information so that they may better protect themselves against such crimes.

Mr. President, I would also like to express my gratitude to the managers of this bill for including another piece of legislation I introduced.

This legislation undoes a travesty. We are inadvertently penalizing student reservists who are called to active duty and deployed overseas in places like Bosnia. While these courageous individuals are enduring great personal sacrifice in the service of their country, we are putting them at a financial disadvantage by starting the clock on the six month grace period for paying back their federal student loans.

Since the average call-up for a student reservist now lasts for 270 days, the grace period on their loans expires. Instead of returning home to a hero's welcome, they are coming home to a mailbox full of default notices. Although the Department of Education can grant deferments to these students upon their return, federal law prohibits reinstating the six month grace period, so interest continues to accrue whenever they are not attending classes. It is unfair and inconsistent with our increased reliance on the Reserve forces to call up these students to serve in harm's way, and, at the same time, to keep the clock running on their six month grace period for paying back their student loans.

This amendment, which is based on legislation I have introduced with Senators SESSIONS, HUTCHISON, DEWINE, CLELAND, D'AMATO and BINGAMAN, will not provide these veterans with any special treatment or benefit. It will simply guarantee that the repayment status on their student loans will be the same when they return as when they left.

These selfless Americans are helping to maintain a tradition that is over 350 years old, and extends back in time to before the founding of our Republic. Historically, militia and National Guard units have fought with honor in all major U.S. military operations from 1637 to the present. Today, these dedicated individuals represent all fifty states and four territories, and truly embody our forefather's vision of the American citizen-soldier. Reservists are active participants in the full spectrum of U.S. military operations, from the smallest of contingencies to full-scale theater war, and no major operation can be successful without them.

Since the start of operation Joint Endeavor almost 1,000 New Jerseyans have served with the New Jersey Air National Guard in Bosnia, and right now there are New Jerseyans on the ground in the Balkans fulfilling the requirements of the Dayton Accords. It is important for us to acknowledge their sacrifice so that we never forget what it means to be truly selfless.

In closing, Mr. President, I would like to thank Senators JEFFORDS and KENNEDY and their staffs for all of their hard work on the Higher Education Reauthorization Act and for their assistance with these two amendments.

Mr. McCAIN. Mr. President, I rise today to express my support for S. 1882, the "Higher Education Reauthorization Act of 1998. This important piece of legislation provides the authority for a litany of education programs which are intended to provide low and moderate income families with opportunities for postsecondary education.

It is my firm belief that our nation's colleges, universities, and post-secondary institutions have been and will continue to be the key to equal opportunity and economic advancement in our society. Each year, enrollment increases in postsecondary institutions around the country as more and more people realize the important role education plays in their economic future as well as the personal fulfillment and growth which can be achieved through higher education. It is imperative that we continue to encourage students of all ages to continue their studies and take advantage of the opportunities available for them at our nation's colleges, universities and postsecondary institutions, which are the finest in the world.

The rising cost of college and higher education continues to be a major concern for American families. Tuition for college continues to skyrocket, making it harder and harder for working families to save and pay for their childrens' education. Over the last twenty years the average tuition at public 4 and 2 year educational institutions has increased by 400% while tuition at private 4 year institutions has increased more than 440%. These are unnerving statistics for parents just starting their families, but terrifying to families with college-bound children.

This bill addresses these financial concerns of American families by increasing the availability of grants and loans to students and their families. It also provides students with the lowest loan interest rates in nearly two decades. These programs work together to help make college affordable for millions of Americans and alleviate their anxieties about incurring excessive debts.

In addition to making college more affordable for all Americans, this piece of legislation includes many programs which help strengthen educational opportunities for millions of low income or high risk students. This bill expands early intervention programs such as TRIO. As many of my colleagues know, the TRIO program reaches out to high risk students in high school and provides them with the encouragement, tools and personal training necessary to succeed in college. Personally, I have seen the success of the TRIO program in my home state of Arizona where this program has played an important role in encouraging Native American and Hispanic children to finish high school and to go on to receive their college degree and often their masters degree.

Another important component of this bill is the establishment of a comprehensive program promoting statewide reforms to enhance the performance of teachers in the classroom by improving the quality of teacher training. Having professional, well-trained teachers is an essential component for ensuring that our children achieve high educational standards. These new teacher training programs will be held to high standards and accountability to ensure that meaningful training is occurring. Finally, in our concerted effort to increase the number of students entering the teaching profession and serving our nation's underserved urban and rural areas this bill provides financial incentives for individuals who enter the teaching profession.

By passing this piece of legislation, Congress is strengthening our nation's education system while helping students get a college education, which is an important and essential investment for our country. This is why I am proud to support this bill and commend my colleagues on the Labor Committee for their dedication to this important matter.

Mr. GRAMM. Mr. President, I would like to thank Senator JEFFORDS for his leadership in bringing the important Higher Education Act Amendments bill to the floor of the Senate. The bill reflects a great deal of hard work and difficult compromises on a number of issues, particularly with regard to the FFELP, the Federal Family Education Loan Program.

However, there remains an issue of importance to my home state of Texas regarding state secondary markets that I and my colleague from Texas, Senator HUTCHISON, are concerned about. While I understand that you did not include a provision in the bill addressing this issue, I would nevertheless ask that you and the other members of the Committee continue to review the matter and seek an acceptable provision to address it.

As you know, each state is authorized to designate one state secondary market that may also act as an eligible lender under the FFELP. For most states, which have only one state secondary market, this is not a concern. However, Texas and several other states have multiple state secondary markets. The multiple secondary markets in these states are the only state secondary markets in the country that are not considered under the law to be either eligible lenders or eligible holders of student loans. Rather, these secondary markets must go through the costly and burdensome exercise of utilizing an eligible lender bank trustee in order to effectively hold and originate loans.

This is inconsistent with the intent of the FFELP—to ensure maximum access to student loan capital, and does not appear to meet any significant policy objective of the FFELP. Particularly at a time when lender yields and the number of lenders under the FFELP are declining, it is becoming increasingly important that these multiple secondary markets have the same ability to add capital to the student loan system as the secondary markets in single-market states now have.

Moreover, if the multiple secondary markets in Texas and other states were granted eligible lender status, it is my understanding that there would be virtually no change in the level or type of government regulation and oversight that these multiple secondary markets would be subject to. In Texas, this regulatory oversight includes a variety of state and federal agencies, including the Internal Revenue Service, the Securities and Exchange Commission, the state guarantee agency, the state attorney general, the state bond review agency, state auditors, private bond rating companies, private auditors, municipal governments, and individual boards of directors and corporate officers. While the exact type of regulation of multiple secondary markets varies somewhat from state-to-state, my understanding is that the granting of eligible lender status would again not reduce or otherwise change that oversight.

Thank you very much for your willingness to continue to consider this issue, and I look forward to working with you in this regard.

Mr. JEFFORDS. I thank the Senator, and I appreciate your support for higher education in Texas and your interest in this particular issue. I certainly understand your concern and your desire to ensure that all state secondary markets are treated equitably and that they are able to fully participate in the FFEL Program. I, too, want to see this important program and all its participants succeed so that students continue to have adequate access to affordable loans for their post-secondary education goals.

While this specific issue is one that we have not yet held hearings on in the Labor and Human Resources Committee, I am interested in doing so in order to thoroughly review the merits of granting eligible lender status to all state secondary markets. As this process continues, I will certainly seek the input and suggestions of you as well as Senator HUTCHISON.

Mr. GRAMM. I thank the Senator and I thank the Chair. I yield the floor.

Mr. COATS. Mr. President, this bill represents a strong bi-partisan consensus on the Labor Committee to ensure that students maintain access to post-secondary education through vital student opportunity programs, such as TRIO; healthy, stable, and streamlined loan programs; and a simplified student aid process. I am pleased to have contributed to this important bill and look forward to its quick passage today and on the floor.

This bill was developed using several guiding principles. First, we strove to maintain the primary focus of the Higher Education Act since its inception in 1965, which is to ensure that students have access and opportunity to pursue higher education. We have strengthened the major student opportunity programs in the Act by focusing more on the needs of low-income students through an expanded Pell Grant program, and making needed reforms to the TRIO programs.

In an effort to ensure continued access to higher education programs for all students, these amendments also include a new, low interest rate for student loans. This legislation sets a student loan repayment rate of 7.43 percent which represents a significant reduction in the interest rate for students. The interest rate that was scheduled to take effect on July 1, 1998 would have destabilized the successful Federal Family Loan Program by causing thousands of lenders to stop making student loans which would have left students without loans for the school year. The interest rate included in these amendments provides a significant reduction to students while maintaining the long-term viability of the student loan programs and ensuring that students will continue to have access to private loans at the lowest interest rate in 17 years.

Another vital principle for these amendments was the improvement and modernization of the student aid delivery system. This legislation creates a Performance-Based Organization (PBO) within the Department of Education aimed at providing quality service to students and parents. The utilization of this PBO which will incorporate the best and most successful practices in the private financial sector, coupled with other reforms aimed at streamlining the student aid regulatory requirements will result in a better managed and higher quality federal student aid system.

A third principle which guided these amendments was the need for much-needed reform of teacher preparation programs. A recent report found that 36 percent of teachers in the core subjects, such as math and science, neither majored nor minored in those subjects. Annually, more than 50,000 under-prepared teachers enter the field, which means about 1 in 4 new teachers are not prepared to meet the enormous responsibilities of teaching. This shortage of qualified teachers is the only real shortage of teachers in this country, and it most seriously impacted inner-city students who are often taught by teachers who lack a degree in their subject matter. This problem is growing—between 1987 and 1991, the proportion of well-qualified new teachers entering the field declined from 74% to 67%.

I am very pleased that these amendments include a new initiative for teacher training and professional development aimed at addressing the shortage of qualified teachers in this country which replaces most of the existing teacher preparation programs with a two-pronged approach. This initiative encourages state level reforms intended to produce well trained and highly competent teachers, and local level partnerships intended to improve under-performing teacher education programs.

States will compete to receive some of these teacher training dollars and can use the grants to strengthen their teacher certification requirements, create or expand alternative certification programs to attract highly qualified people from other occupations to the teaching profession, to decrease the shortage of highly qualified teachers in high need areas, or to develop programs which reward excellent teachers and remove unqualified teachers.

This reauthorization was also guided by a strong desire to streamline and consolidate the many programs and activities which are found in the Higher Education Act. This Act has become increasingly complex over the years and these amendments make great strides in simplifying the Act and better targeting its programs and activities.

I would like to thank the staff who have worked on this important legislation for the last year: on Senator JEFFORD's staff, Susan Hattan, Jenny Smulson, Scott Giles, Cory Heyman, and Pam Moran have done excellent work on this bill. In addition, Marianna Pierce with Senator KENNEDY and Suzanne Day with Senator DODD have worked diligently to ensure that this bill represents a strong bipartisan consensus. Thank you all so much for your long hours and excellent work.

Again, I am pleased to have been a part of crafting this important legislation.

OLYMPIC EDUCATION SCHOLARSHIP

Mr. LEVIN. Mr. President, I would like to engage the chairman of the Committee on Labor and Human Resources, Senator JEFFORDS, in a colloquy on an important measure which will be a subject of discussion during the House-Senate conference on the Higher Education reauthorization Act.

It has been observed that America does not send its athletes to the Olympic Games, Americans do. Indeed, the U.S. Olympic Committee, whose responsibilities include the support for training and selecting athletes to represent the United States in the Olympic and Pan America Games, is the only major national Olympic Committee from among the 197 participating nations that receives no funding whatsoever from its federal or state governments. All funds for training U.S. athletes must come from private sources, including an individual's personal resources.

In September 2000 more than 800 young American men and women will gather in Sydney, Australia to represent their countrymen in the XXVII Olympiad. They will join more than 10,000 other athletes from nearly 200 nations to engage in friendly competition. Many will have spent more than a decade preparing for what Jesse Owens once referred to as "fifteen seconds of glory."

As they have since the modern Olympic Games were instituted in 1896, Americans back home will follow with great pride the accomplishments of the U.S. athletes, and will vicariously share in each triumph. But when the Olympic flame is extinguished and our American heroes return home most will leave forever the athletic careers to which they have devoted so much of their lives.

The greatest homecoming we can prepare for our U.S. athletes is assistance in obtaining the educational foundation that will enable them to pursue productive lives outside of their athletic arenas. We can achieve this by reauthorizing the Olympic Education Scholarship program. Originally authorized in 1992, this important program recently expired; however, reauthorization language has been included in the House version of the Higher Education Act and it is my hope that our Senate conferees will support the House reauthorization of this important Olympic Education Scholarship program. The $5 million authorization level for this program would be an important step toward allowing these young men and women to simultaneously advance themselves on the training field and in the classroom.

Mr. JEFFORDS. Mr. President, I would like to say to the Senator from Michigan that I am tremendously impressed with the dedication, determination, and work ethic of our Olympic hopefuls. Given the opportunity, the same ethic suggests that they would apply similar dedication to academic endeavors. Balancing a schedule of rigorous training and education is very difficult for any person. Our Olympic athletes should be in the position to acquire post-secondary education after representing our country in the Olympic games. For these reasons, I pledge to the Senator from Michigan my efforts in the conference to consider the House language which reauthorizes the Olympic Education Scholarship.

Mr. LEVIN. Mr. President, I ask unanimous consent that two letters to the Chairman and Ranking Member of the Labor Committee, signed by myself, Senator BEN NIGHTHORSE CAMPBELL, Senator WAYNE ALLARD, Senator DANIEL PATRICK MOYNIHAN, Senator SPENCER ABRAHAM, Senator ALFONSE D'AMATO, Senator DIANNE FEINSTEIN, and Senator BARBARA BOXER, be included in the RECORD following this colloquy.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

WASHINGTON, DC,
June 26, 1998.

Hon. JAMES M. JEFFORDS, Chairman,
Hon. EDWARD KENNEDY, Ranking Member,
Labor and Human Resources Committee,
Washington, DC.

DEAR JIM AND TED: We write to request your support for an amendment reauthorizing the Olympic Education Scholarship (OES) program which we wish to have included in your manager's amendment to the Higher Education Reauthorization Act of 1998 (HEA). Originally authorized in 1992, this important program recently expired. Reauthorization language has been included in the House version of HEA. A copy of our proposed amendment is attached.

The OES program will help America's athletes advance their education while training at U.S. Olympic Training Centers through a targeted educational scholarship program. Without such a program, many American athletes have been forced to put aside higher education as they deal with the extraordinary demands of Olympic training. Sadly, once their Olympic careers are over, many of these athletes find themselves without the educational tools necessary to move forward. The $5 million authorization level for this program would be an important step toward allowing these young men and women to simultaneously advance themselves on the training field and in the classroom. This is particularly true for the Olympic athletes who train at the USOC training centers in Lake Placid, New York; Colorado Springs, Colorado, San Diego, California; and Marquette, Michigan.

Sincerely,

CARL LEVIN.
DANIEL PATRICK MOYNIHAN.
SPENCER ABRAHAM.
BEN NIGHTHORSE CAMPBELL.
WAYNE ALLARD.
ALFONSE D'AMATO.

WASHINGTON, DC,
July 8, 1998.

Hon. EDWARD KENNEDY,
Ranking Member, Committee on Labor and Human Resources, Dirksen Office Building, U.S. Senate, Washington, DC.

DEAR SENATOR KENNEDY: I am writing to request that you include in your manager's amendment to S. 1882, the Higher Education Act of 1965, support for the Olympic Training Scholarship Program.

The program provides financial support for American athletes with their education while they train for the Olympics. Many of our Olympic athletes have had to either postpone their education while they train or forego opportunities to participate in the Olympics. Unfortunately, many who postpone their education often find themselves without sufficient education to establish professional careers. The $5 million authorization level for this program would allow these young men and women to simultaneously study and train for the Olympics.

I appreciate the support of the committee and look forward to working with you to address California's needs. Please do not hesitate to call on me if I can be of further assistance.

Sincerely yours,

DIANNE FEINSTEIN,
U.S. Senator.

WASHINGTON, DC,
July 9, 1998.

Hon. JAMES M. JEFFORDS,
Chairman,
Committee on Labor and Human Resources.

DEAR MR. CHAIRMAN: I am writing to request your support for including a reauthorization of the Olympic Education Scholarship (OES) program in the manager's amendment to the Higher Education Reauthorization Act of 1998.

The OES program helps America's athletes advance their education while training at U.S. Olympic Training Centers through a targeted educational scholarship program. Without this program, many American athletes may be forced to postpone higher education due to fiscal restraints. Once their Olympic careers are over, many of these athletes are without the educational background necessary to move into professional careers. The $5 million authorization level for the Olympic Education Scholarship program would be an important step toward allowing these young men and women to advance themselves both on the training field and in the classroom.

Sincerely,

BARBARA BOXER,
U.S. Senator.

FACULTY RETIREMENT INCENTIVE PROVISION

Mr. ASHCROFT. Mr. President, I rise today along with my friend and colleague, Senator MOYNIHAN, to address the faculty retirement incentive provisions contained in the House-passed version of the Reauthorization of the Higher Education Act. This provision amends the Age Discrimination in Employment Act of 1967 (ADEA) to allow the use of age-based incentives for the voluntary retirement of faculty at colleges and universities.

In the House, Congressman FAWELL worked to include this provision in the Higher Education Act, and we thank him for his leadership on this issue. Here in the Senate, Senator MOYNIHAN and I have introduced an similar provision in the last two Congresses. I am pleased that Congress and the President will have an opportunity this year to pass this important legislation.

This legislation, called the Faculty Retirement Incentive Act, will clarify that institutions may establish plans that give faculty who wish to retire early financial assistance in doing so. Further it would help to ensure that academic institutions will be able to make necessary new hires, particularly in expanding disciplines and new fields. For those who are concerned about potential recrimination if a faculty member would choose not to retire early, the double protections of the ADEA and the tenure system provide effective safeguards against coercion. It is also important to note that current law expressly permits the type of age-based benefit for employees participating in defined-benefit plans. Most colleges and universities, however, maintain defined-contribution retirement plans for tenured faculty.

In January, the bipartisan National Commission on the Cost of Higher Education included this legislation initiative in its recommendations to check the skyrocketing cost of a college education. The Commission recommended that "Congress enact a clarification to the Age Discrimination in Employment Act to ensure that institutions offering defined contribution retirement programs are able to offer early retirement incentives to tenured faculty members."

The Faculty Retirement Incentive Act has the active support of a number of organizations, including the American Association of University Professors, the American Council on Education, the American Association of Community Colleges, the American Association of State Colleges and Universities, the Association of American Universities, the Association of Catholic Colleges and Universities, the Association of Community College Trustees, the Association of Jesuit Colleges and Universities, the University Personnel Association, the Council of Independent Colleges, the National Association of Independent Colleges and Universities, the National Association of State Universities and Land Grant Colleges, and the National Association of Student Personnel Administrators.

I feel it is important that Congress enact this important legislation and I know my colleague from New York shares this same belief.

Mr. MOYNIHAN. It has been a pleasure to work with my colleague from Missouri on the Faculty Retirement Incentive Act. Before I discuss the specifics of our bill, however, I would just like to commend the Chairman, Senator JEFFORDS; the Ranking Minority Member, Senator KENNEDY; and the other Committee members for the bipartisan way they have gone about the business of reauthorizing the Higher Education Act. I think they have done an outstanding job.

It has taken us several years to address the need of institutions of higher education to offer age-based incentives for the voluntary retirement of faculty. In 1990, Congress passed the Older Workers Benefit Protection Act (OWBRA) which made early retirement incentives permissible in the context of defined-benefit retirement plans, but did not address the status of such incentives in the context of defined-contribution retirement plans. Defined-contribution retirement plans are most popular with tenured faculty due to their pension portability. The OWBRA did not preclude defined-contribution retirement plans, but by not addressing them at all, it added to the ambiguity surrounding the matter. Functionally, early retirement incentives operate in the same manner for both types of plans. There is continued uncertainty, however, whether early retirement incentives with an upper-age limit that are offered to tenured faculty conflict with the purpose of the ADEA of prohibiting arbitrary age discrimination.

Inclusion of the Faculty Retirement Incentive Act in the Reauthorization of the Higher Education Act will provide a safe harbor for colleges and universities by clarifying that the early retirement incentives are permitted by the ADEA. Senator ASHCROFT and I believe that the faculty retirement incentive provision will benefit colleges and universities, as well as those faculty who choose to participate. As officials for the American Association of University Professors have stated, this provision will "provide greater flexibility in faculty retirement planning, offer a substantial retirement benefit to those professors who choose to retire under the terms of an incentive plan, and leave other professors whole in their choice to continue their careers."

Senator ASHCROFT and I intended to offer our bill as an amendment to the reauthorization of the Higher Education Act, but the Chairman informed us that there is broad support among Committee members for the House-passed provision, and that this issue can be resolved in the Conference Committee.

Mr. JEFFORDS. I would like to thank both Senator MOYNIHAN and Senator ASHCROFT for their diligent work on tenured faculty retirement incentives, and for their cooperation. I want to assure my two colleagues that there is, indeed, broad support for the measure and that I am confident that Senate conferees will give the House-passed provision the consideration it is due.

Mr. BIDEN. Mr. President, included in the manager's package of amendments to the higher education bill is a resolution I introduced last March on binge drinking on college campuses.

This was the same resolution that was introduced in the other body by Representative JOE KENNEDY—and virtually the same as what was adopted by the other body in its version of the Higher Education Act.

I want to take a few minutes to talk about my resolution—and why this issue is so important. But, first, let me thank Senators KENNEDY, DODD, JEFFORDS, and COATS for accepting the resolution.

Let me also thank Representative JOE KENNEDY, who came up with the idea for this resolution and has long been trying to bring alcohol-related problems to the attention of Members of Congress.

And, finally, let me thank the Center for Science in the Public Interest, which endorsed the resolution early on and has worked tirelessly to get it passed.

Mr. President, I think every one of my colleagues has heard or read about college students across the country—from Louisiana to Massachusetts to Virginia—who fell drunk out of dorm room windows or consumed so much alcohol, so fast that it literally poisoned them.

There were at least 18 such deaths this last academic year.

And, Mr. President, I think every one of my colleagues saw the news reports from this past spring on the riots—yes, riots—on several college campuses across the country—from Washington to Michigan to Ohio.

We saw police wearing riot gear; carrying shields; and firing tear gas into throngs of drunk college students.

These riots were either alcohol-induced—parties that got out of control—or were based on a peculiar notion—that underage college students should have a right to get drunk.

That's what binge drinking is. There is a technical definition for the academics who study this problem—and I'll talk about that in a minute. But, in layman's terms, binge drinking is simply the idea that you drink to get drunk, or, as a recent article in the Washington Post magazine put it, it is where "drinking isn't part of the party; it is the party."

And, binge drinking is, according to many university presidents, the biggest problem facing America's colleges today.

Let me repeat that. The biggest issue facing America's colleges—according to many college president's themselves—is not raising money for the university. Not ensuring high academic standards. Not finding top quality faculty. No, it's binge drinking.

There is a reason for that. And, it has to do with more than just the 18 college students who died this last year—tragic as that is.

According to a study by Harvard University, 44 percent of college students are binge drinkers—that is, technically, for men, consuming five drinks in one sitting during a 2-week period, and for women, consuming four drinks in one sitting.

Again, 44 percent of college students are binge drinkers.

Nearly one in every five college students is a frequent binge drinker—that is, binge drinking three or more times in a 2-week period.

And, almost half of all freshmen—18 year olds—binge in their first week at school.

But, it even goes deeper than that—deeper than the 18 deaths; deeper than the 44 percent of students who are binge drinkers.

The reason that binge drinking is the most important issue facing colleges today is because binge drinking affects everyone on campus—even those college students who do not drink—and even the majority of college students who are not binge drinkers. They are all affected by those who are.

Talk to a student who lives in a dorm room next to someone who drinks a lot, and I can guarantee you that he or she does not get many peaceful nights of sleep—and does not get many peaceful moments to study.

The greater the number of binge drinkers at a school, the greater the chances are that a student will be hit, pushed, insulted, assaulted—and of being the recipient of an unwanted sexual advance.

And, alcohol is involved in most campus rapes, violent crimes, student suicides, and fraternity hazing incidents. Many of the victims of these crimes are not the ones doing the drinking.

You know, we have heard a lot in the last decade or more about the connection between alcohol and car accidents, where those who die or are injured are often innocent victims who were not drinking.

And, there has been a great effort—led by Mothers Against Drunk Driving, a group for which I have the highest respect—to educate the public and prevent the tragedy.

But, there is also a growing body of evidence showing a link between alcohol and other crimes and irresponsible behaviors.

There is a link between alcohol and unsafe sex; between alcohol and suicide; between alcohol and rape; between alcohol and violence.

And, nowhere is this link more prevalent than on college campuses.

Unfortunately, there are many people out there—including many officials on college campuses—who look at binge drinking by college students as just part of the "campus experience"—as just some "rite of passage" to adulthood.

Well, I make no apologies for saying that drinking yourself to death is no "rite." It's just plan stupid.

And, I make no apologies for saying that those who overlook the problem are contributing to it.

It is time for the culture on college campuses to change—before someone else's son or daughter becomes another statistic.

We need to bring the problem of binge drinking among college students to the attention of the American people—to educate them and to prevent the tragedies associated with it—just as we have done with drunk driving.

So, Mr. President, my resolution would call on all college and university presidents to recognize and acknowledge the problem—and then to find solutions.

Specifically, my resolution expresses the sense of the Senate that every college and university president should carry out six specific activities to reduce alcohol consumption on college campuses.

(1) To appoint a task force to establish a policy on reducing alcohol and other drug-related problems;

(2) To provide students with the opportunity to live in an alcohol-free environment;

(3) To enforce a zero tolerance policy on the consumption of alcohol by minors;

(4) To eliminate alcoholic beverage-related sponsorship of on-campus events;

(5) To enforce vigorously a college's disciplinary codes against those who violate campus alcohol policies; and

(6) To work closely with the local officials in the town in which the college is located.

Mr. President, these activities are very similar to what is currently happening at the University of Delaware under the leadership of President David Roselle.

They need to happen on every college campus in America.

Now, there are some who say that this is just a sense-of-the-Senate resolution—it just expresses our opinion. True. But, Mr. President, we must start somewhere.

I believe that if we begin to take the problem seriously—and if colleges begin to seriously address the problem—we can begin to make a difference.

The lives of students can be saved—and the quality of life on our college campuses will be better.

Again, I thank my colleagues for their support and for including my resolution in the bill.

Ms. MOSELEY-BRAUN. Mr. President, I want to commend Senators JEFFORDS, KENNEDY, COATS, and DODD for their efforts in putting this bill together, and thank them for working with me to include several of my priorities in the bill.

No issue is as important to our future as education. When I was growing up, it was possible to graduate from high school and get a job as a police officer, a firefighter, or a clerk, and earn enough to raise and support a family. Mechanics used to train for their work on the job. The nursing profession used to consist of women who apprenticed in hospitals.

Times have changed. Now, if you want to be a airline mechanic, you need four years of college. Nursing is a degree program, and there are sub-specialities of nurses who are highly and scientifically educated. One recent advertisement for a maintenance technician stated the job required an understanding of "basic principles of electricity, mechanical systems, and fluid power." By the year 2000, the Department of Labor estimates that more than half of all new jobs will require an education beyond high school.

A higher education has never been as important as it is today. Unfortunately, while the value of a higher education is increasing, so is its cost. According to the U.S. General Accounting Office, tuition as a percentage of median household income has nearly doubled over the last 15 years—from 4.5 percent in 1981, to 8.9 percent in 1995. In 14 states, tuition is more than 10 percent of median household income. In 30 states, tuition is more than eight percent of household income. In all but one state, tuition is 1995 was more than it was 15 years ago.

The GAO reports that tuition at public, four-year colleges and universities increased 234 percent in 15 years. By contrast, the cost of medical care has gone up 182 percent, new cars by 106 percent, new houses by 101 percent, median household income by 82 percent, and food by 66 percent. The Consumer Price Index has risen 74 percent.

The exploding cost of college means that access to higher education is getting more and more out of reach for working- and middle-class Americans. The more tuition goes up, the more students will be priced out of their opportunity to pursue the American Dream.

That is exactly the wrong direction for our country. As President Clinton said in his 1997 State of the Union, "education is a critical national security issue for our future." He is absolutely right. In order to compete with cheap, third-world labor in a global economy, and to maintain the rising standard of living to which we have grown accustomed, America will need a workforce even better trained than it is now.

Last year in Davos, Switzerland, world economic leaders met to discuss the effects of technological change on the global market. They noted that if education and training policies do not keep pace with technological innovation, the gap between the "knows" and the "know-nots" will grow, increasing the disparities in wealth and capacity, and the ability of industrialized nations to remain competitive will shrink.

If that is the case, we should be working overtime to ensure that no student is barred from college because of a lack of financial resources. The legislation before us today goes a long way toward achieving that goal. It will standardize and make available information about college costs, so we will know exactly why costs are increasing at a rate so out of proportion with every other indicia of inflation. It will help us solve the mystery of the case of the Incredible Rising Tuition Bill. It will help American families and students make better decisions about where to go to college.

The legislation tells schools that the time has come to come clean about why their prices are climbing so rapidly, and to answer the question of whether the massive tuition increases are really necessary. Schools who opt to not comply with the requirements of the bill will be fined $25,000. I want to thank Senator DODD for this provision. I believe it is particularly important, because it puts the schools on notice that we are serious about these requirements.

I also want to thank Senator DODD and the other managers of the bill for including an amendment of mine directing the Secretary of Education to study the impact of student debt. Unfortunately, the trend in student aid over the last 20 years has been to move away from grants in favor of loans. Combined with the increasing cost of college, this trend has meant that more and more students are graduating with more and more debt.

According to the GAO, the percentage of undergraduate students who took out loans shot up 41 percent between 1993 and 1996. The percentage of graduates of four-year colleges who borrowed more than $20,000 rose from 9 percent in 1993 to 19 percent in 1996.

The General Accounting Office was not able to determine, however, the effect of this increasing debt burden on students and graduates. Under this legislation, the Secretary of Education will, within 18 months, determine how this increasing burden affects students' decisions about whether and where to go to school, how much to borrow, how long to stay in school, what kind of employment to seek, and whether burdensome debt payments impede graduates' ability to save for retirement or invest in a home.

The legislation will provide for the first time a comprehensive picture of exactly what is happening to college costs, why it is happening, and what the effects are.

Mr. President, I also want to thank the managers of the bill, as well as Senator WELLSTONE, for incorporating the provisions of the Fair Play Act into this higher education legislation. The Fair Play Act, which I introduced last year with Senators SNOWE and KENNEDY, builds upon the extraordinary success of Title IX and promotes the continued expansion of athletic opportunities for women.

Colleges and universities are currently required to collect information about their men's and women's athletic programs, including participation rates, operating and recruitment budgets, the availability of scholarships, revenues generated from athletic programs, and coaches' salaries, and are required to make this information available upon request.

The Fair Play Act directs colleges and universities to send this information, which they already compile annually, to the Department of Education, and directs the Department to issue an annual report and make the information available through a variety of mechanisms, including the Department's World Wide Web site.

The Fair Play Act will provide prospective students and prospective student athletes with the kind of information they need to make informed decisions about where to go to school. I will give the Department of Education valuable information to aid its enforcement of Title IX in the area of athletics, and it will encourage schools to continue to expand their athletic programs to meet the interests of women nationwide.

Over its 25 year history, Title IX has been directly responsible for expanding the athletic opportunities available to millions of women and girls. The Fair Play Act builds on this legacy of success, and provides the information needed to ensure that the expansion of athletic opportunities available to women continues into the 21st century.

I am grateful for the support of my colleagues on the Labor Committee, and I look forward to continuing to work with them on this important issue.

Mr. President, I also want to thank the managers of this bill for accepting an amendment of mine creating a Faculty Development Fellowship Program. The program will enable institutions of higher education to award graduate fellowships to talented students from groups under-represented in the American professoriate.

In many respects, colleges and universities are our nation's paragons of diversity. They understand the importance of having a student body made up of men and women of different races, ethnicities, and backgrounds. When I talk with university presidents from Illinois and elsewhere, they invariably tout their school's diversity.

The diversity appears to stop, however, after the undergraduate level. There is a disturbing dearth of diversity among graduate students and professors. In 1993, African-Americans received only 3 percent of all doctoral degrees conferred in the United States, and women received only 38 percent. According to the Department of Education, only 14 percent of full-time instructional faculty at colleges and universities are minorities, and only one-third are women.

We can do better than that. The problem is not a lack of talent among minorities and women, but a lack of opportunity. My amendment authorizes $30 million per year to encourage talented students from under-represented groups to pursue studies and become professors. The program will help us tap the talents of all our children, and therefore make us a stronger society. A community that gives all its members a chance to contribute to the maximum extent of their abilities is a stronger community, because it benefits from a broader range of contributions. As we head into the 21st century and a truly global economy, we cannot afford not to tap the talents of all our children.

Mr. President, that is really what this whole bill is about, making sure that every American has the chance to go as far as his or her talents will allow. This bill is about making sure that wealth and class are not obstacles to education. It is about giving more students more opportunities to receive a better education. I congratulate the leaders of the Labor Committee for their bipartisan efforts to put this bill together, and I look forward to its imminent passage.

Mrs. MURRAY. Mr. President, I rise today to express my strong support for S. 1882, the Higher Education Reauthorization bill. This bill is a major victory for students and teachers across America. As a member of the Committee, I have had the opportunity to hear from countless witnesses from across the nation who have testified on everything from default rates to job hunting, campus crime to child care. With a daughter entering college this fall, this issue has provided me with some very interesting insights into the higher ed challenges, millions face each year.

Throughout the Labor Committee's effort on this bill, I worked to strengthen our nation's commitment to providing the strongest training possible for school teachers. I am most pleased with the bill's focus on teacher training and in particular its emphasis on technology training. A year ago, I introduced the Teacher Technology Training Act to add technology to the areas of professional development and teacher training included in current law. S. 1882 now contains my legislation, and I thank Chairman JEFFORDS, Senator KENNEDY and Senator WARNER for their cooperation and support in adding this critical piece to the bill.

The work of the committee on the teacher education provisions is really quite historic and a drastic overhaul of the previous teacher training section. The bill provides Teacher Quality Enhancement Grants that will institute state-level reforms to ensure both current and future teachers possess the skills and academic knowledge to teach children effectively in their assigned area. As a member of the Labor Appropriations subcommittee, I will fight to ensure that this section is finally funded at a level that does make a difference in the classroom.

This teacher quality section particularly highlights training in the effective use of technology in the classroom. All of us have witnessed the tremendous impact that technology now plays in our daily world. It affects the way we communicate, the way we conduct commerce, and the way our children learn in school.

Young people today are in the midst of a technology explosion that has opened up limitless possibilities in the classroom. In order for students to tap into this potential and be prepared for the 21st century, they must learn how to use new technologies. But all too often, teachers are expected to incorporate technology into their instruction without being given the training to do so. Many students in our public schools have told me they know more than their teachers about how to use computers.

We cannot continue to rely on students to teach teachers in the rapidly expanding area of technology. I have toured several teaching schools and found them well supplied with up-to-date equipment. However, student teachers are often not provided adequate instruction in the use of that technology beyond simple communication purposes. It is not enough for a teacher to be able to email or use computers merely for administrative reasons, they must be able to use this education technology to advance their curriculum and provide their students resources along the information highway.

Last year, just 10 percent of new teachers reported that they felt prepared to use technology in their classrooms, while only 13 percent of all public schools reported that technology-related training for teachers was required by the school, district, or teacher certification agencies. Currently only 18 states require pre-service technology training.

This act will significantly turn these numbers around and provide our teachers with the training so critical to harnessing new technologies. I again thank Chairman JEFFORDS and Senator KENNEDY for their leadership on this effort. This technology training for teachers has been supported by a wide array of interests including the National Education Association, PTA, Society for Technology in Education, National Association of Secondary School

Principals, National School Boards Association, Information Technology Association of America, Washington State School Directors, the Software and Digital Alliance, the Colleges of Teacher Education. I also would like to thank Senator WELLSTONE for his work on the TANF amendment, so important for literacy instruction and lifelong learning.

With increased Pell Grants and decreased interest rates on loans, students can begin to think about their future rather than paying for their past. I believe this first generation of the new millennium will benefit immensely from the efforts put forth over this past year. From simplifying the financial aid process to campus security improvements to technology instruction, S. 1882 will stand as a proud trademark of this Congress.

Mr. SARBANES. Mr. President, I rise today in strong support of S. 1882, the Higher Education Act Amendments of 1998, reauthorizing the Higher Education Act for 5 years. The Higher Education Act, enacted in 1965 to provide disadvantaged students with greater educational opportunities, recognized the shared benefit of providing every American a chance to maximize his or her potential. As a result of the passage of this legislation, doors have been opened to millions of citizens who otherwise would not have had the access or the resources to obtain a higher education. Although the act has been amended over the years through the reauthorization process, the central purpose of the legislation has remained the same—to ensure access, choice and opportunity in higher education.

First, and foremost, this measure reauthorizes all postsecondary grant and loan programs which have allowed so many of our citizens to obtain additional education and training. It lowers the in-school interest rate on student loans from the current 7.6% to 6.8% and for the years after school from the current 8.2% to 7.4% to make higher education more affordable for more students. Most notably, the bill includes an increase in the maximum Pell Grant from $3,000 for the 1998–1999 academic year to $4,500 for 1999–2000, and increases that award by $200 a year for the following four years and further expands eligibility to include more students who are financially independent of their parents.

I am pleased that the bill also reinforces our continued support of the TRIO programs which have been so successful in serving disadvantaged and first-generation college students. I have been a longstanding supporter of TRIO which has served more than 700,000 through 1,900 programs nationwide. The impact of the outreach and early intervention services provided by TRIO become even more profound considering that more than two-thirds of the students benefitting from the program come from families with incomes under $24,000. No one set of Federal programs captures more completely the American ideal that fostering educational opportunity for all citizens benefits both the individual and the society as well.

Title II of the bill consolidates teacher training programs and refocuses Federal efforts to more efficiently and effectively train and recruit new teachers for our Nation's schools. It also provides for greater loan forgiveness for those who choose to dedicate their lives to the teaching profession. Now those who agree to teach for at least three years in high-need areas can see up to $8,000 in their student loans forgiven. In my view, this is an important step in relieving the heavy loan debt many graduates find themselves burdened with upon graduation to allow some of our best and brightest to enter the teaching profession independent of this financial pressure.

I am also pleased that legislation I introduced to establish the Thurgood Marshall Legal Opportunity Program has been incorporated into the bill before us. This program would identify socially and economically disadvantaged law school students and provide them with the opportunity to hone their skills through summer institutes, mid-year seminars and support services. Working within the framework of the highly successful Council on Legal Education Opportunity (CLEO), this program will provide the necessary resources to ensure that those who have proven themselves at the undergraduate level of study are able to maximize their potential as they move on to law school. Investing in the promise of these talented individuals is a worthwhile endeavor and I am pleased that this legislation has been included in this reauthorization.

Mr. President, passage of this legislation sustains our Nation's longstanding commitment to access, choice and opportunity in higher education. Every society places a premium on education in terms of fostering a skilled and trained work force in the next generation, and the more complex economically the world becomes, the more critical it is to address this aspect of developing our human resources. In our society, however, education carries two other very important responsibilities which make the legislation we are talking about today essential to the health and vitality of our society.

The first is that we are one of a handful of countries that has maintained a democracy over a sustained period of time. Obviously, education is essential to a literate citizenry capable of making a democracy work. The other dimension is that education in America represents a ladder of opportunity. We take great pride in being an open society in which people can move up and forward, and the way they do that is essentially through the educational ladders provided in the programs we are reauthorizing today. In a Nation which believes that a person's merit and talent should take them as far as they can go, we must continue to foster a path which allows them to maximize this potential. Many of us here today have benefitted from this philosophy and have achieved certain levels of success as a direct result of the opportunities afforded by such principles. However, all of the programs we address in this bill are not solely for the benefit of the individual, as important as that aspect is. These programs are part of our national effort to include people in our society rather than exclude them, an essential concept in my view to the harmonious working of American society.

In passing this legislation, it is important to understand that the value of programs authorized by this bill cannot be measured simply in terms of dollars spent. Without Federal support, millions of Americans would not have been able to attend college or receive the advanced training required to make them contributing, productive members of society. If this Nation is to continue to thrive in an ever-evolving global economy, we must not underestimate the value of the Federal government's commitment to higher education.

The Senate's approval of the reauthorization of the Higher Education Act is a critical step in our on-going efforts to maintain access and choice in higher education. We must continue to acknowledge the vital importance of education in this country, to sustain the educated base we have created, and to commit ourselves to a quality education for all our Nation's citizens.

Ms. MIKULSKI. Mr. President, I rise today in support of S. 1882, the Higher Education Amendments of 1998. I commend my colleagues, especially Senators KENNEDY, JEFFORDS, COATS and DODD, for all their hard work in putting together a bi-partisan education bill to reauthorize the Higher Education Act. I congratulate you for producing a package aimed at the needs of our students in paying for college and getting a quality education. This bill truly helps us to get behind our kids and our students. It lays the groundwork for the future in working toward a strong economy by educating our citizens and future leaders.

This bill contains many important provisions reauthorizing the range of student financial assistance. I support this bill for three reasons, in particular. First, it contains important provisions that expand our teacher training programs. Second, it increases the maximum amount needy students can receive under the Pell Grant program. Third, it encourages new teachers to serve elementary and secondary schools in low-income areas by providing loan forgiveness for their Stafford loans.

Training our teachers is one of the most important steps we can take toward improving education today. Our children deserve to be taught by well-qualified teachers in every classroom. We need more teachers, but we need more quality teachers. That is why I cosponsored Senator KENNEDY's and Senator REED's proposals to provide grants to local partnerships for teacher training. I am happy to see that many of the provisions in these two bills were included in this legislation. These grants will be made to local partnerships and are designed to encourage the reform and improvement of education at the local level.

Second, I am very pleased that this bill increases the amounts available to students for Pell Grants. This bill continues the historic commitment of our government to grant aid to the neediest students by increasing the Pell Grant to $5,000. Education should be an opportunity for all people, regardless of their financial status. Education should be both accessible and affordable. We have an obligation to make sure that every single citizen of our country has the chance to go to school, get an education, get a good job and a boost up the opportunity ladder.

Third, this bill provides loan forgiveness for Stafford loans to teachers who choose to teach in elementary and secondary schools in low-income areas. It authorizes the Secretary of Education to repay certain loans made to borrowers who become full-time teachers for three consecutive school years in a high-poverty area. This section combines our commitment to a quality public education for all students with our commitment to also target the areas in highest need. It provides incentives for well-trained teachers to teach in areas that really need committed and well trained teachers. This bill helps ensure that we are meeting the needs of all of our students by targeting funds to those high need areas.

Let me briefly mention two other provisions of this bill that are of special importance to me. I am very pleased to see that the Thurgood Marshal Legal Education Opportunity Program, legislation that I cosponsored with Senator SARBANES, was included in the manager's package of this bill. This amendment will help qualified disadvantaged students gain admission to law school and help prepare them for their legal education. It identifies socially and economically disadvantaged law students and provides them with both financial and academic support services. This program has a 29 year record of assisting these disadvantaged students and I am proud to have been a strong supporter of this program.

Mr. President, I would also like to thank Senator JEFFORDS and Senator KENNEDY for including language in the manager's package that doubles the authorization of federal funds that do not have to matched by the Historically Black Colleges and Universities graduate programs. This will greatly help our HBCU graduate programs increase their quality of programs. It follows our important commitment to support our Historically Black Colleges and Universities. I am particularly happy that both HBCU graduate programs in my state at Morgan State University and Eastern Shore will benefit from this important amendment.

Mr. President, this bill represents a real investment in the education of our youth. It represents, as it should, a bipartisan effort to ensure the quality and affordability of education for all. Education can and should be something that we can all agree on. We will all have to live in the future with the decisions we make now on education. We are responsible for our future, and that means we are responsible for making sure that our children are equipped to deal with the issues they will be facing.

Mr. DASCHLE. Mr. President, the legislation before us today, the Higher Education Act, is an example of what can happen when the majority makes an effort to work together with Senators from this side of the aisle to do something for the good of the country. I commend Senator JEFFORDS and Senator KENNEDY for their good work on this bill. Unfortunately, we have seen too few examples of this type of bipartisan cooperation this year.

The Higher Education Act is very important, and I am pleased we are making good progress in renewing and strengthening it. As we are all well aware, access to higher education can help unlock the door to a better future for our students and for our Nation, and this legislation provides the key for many students. Pell grants, student loans, campus-based aid and other programs have helped millions of students afford a college education. Through these programs, we provide $38 billion in financial assistance to more than 19.4 million students in postsecondary education institutions.

The bill we are adopting today makes a number of important improvements in this law. First, and most important, it continues the effort to make a college education more affordable by continuing current programs, increasing the maximum Pell Grant, reducing interest rates on student loans, improving repayment options for students, and increasing the information available to families about the cost of a college education while encouraging institutions to minimize cost increases.

The bill includes important incentives to improve the quality of teacher training and recruitment and to expand professional development opportunities. I commend the Committee, and in particular the Senator from New Mexico, Senator BINGAMAN, and the Senator from Rhode Island, Senator REED, for their efforts to consolidate and strengthen these provisions into a more logical, coordinate system. We know that putting students in a classroom with a well-trained, qualified teacher is one of the most effective ways to help them achieve to the best of their abilities.

I am also pleased that the bill establishes a demonstration program to expand post-secondary opportunities for distance learning. This will help many people, especially those in rural areas, those with disabilities and nontraditional students, gain access to programs in which they might not otherwise be able to participate. The Senator from Minnesota, Senator WELLSTONE, has been a strong supporter of these provisions.

The bill also includes a proposal offered by the Senator from Connecticut, Senator DODD, which I cosponsored, to encourage colleges to establish campus-based child care for low-income students. I also support provisions in the bill that will help reduce binge-drinking on college campuses and reduce campus crime levels.

Finally, I strongly support the provision creating a new grant program for Tribal Colleges and Universities. These institutions, most of which struggle financially, do a remarkable job of creating educational opportunities for Native Americans. They need and deserve federal support.

I would like to note that while I did not support the Kennedy amendment, I do support the study called for in the managers' amendment to determine whether there might be ways to move toward a more market-based student loan system to improve the efficiency of the student loan system. While I did support the Harkin amendment because it reduced the cost of student loans, I would note that I strongly believe we must take care to maintain a strong Federal Family Education Loan program. The evidence is strong that competition between the Direct Loan program and the FFEL program is good for both programs and ultimately good for students, and I believe it is important that we work to maintain this balance.

Mr. President, the Higher Education Act is yet another example of the positive impact the federal government can have in helping our Nation invest in our future. By helping to lower the cost barriers to higher education, we help millions of young people gain the skills they will need to be contributing members of society while we build a strong work force, encourage the development of our intellectual capital and nurture the leaders of the next generation. I urge my colleagues to join me wholeheartedly in supporting this very important piece of legislation.

Mr. JEFFORDS. Mr. President, it has come to my attention that the official

CBO scoring of the Graham amendment adopted earlier today shows a slight mismatch in outlays relating to the new spending and offset contained in the amendment. This technical drafting error has resulted in a small paygo problem for this legislation.

It is my intention that this bill be in full and complete compliance with all relevant budget rules and I intend to ensure that the bill as it comes out of conference will meet this standard.

SECTION 632 OF TITLE VI

Mr. DOMENICI. Mr. President, I would like to raise the issue of Section 632 of Title VI of the Higher Education Act, the so called "hold harmless" provision as the Senate discusses this very important reauthorization of the Higher Education Act.

It is my understanding that Section 632 was first enacted in the Higher Education Amendments of 1992 in order to prevent the Department of Education from funding new or expanding existing Title VI, International Education Programs unless existing Title VI programs were funded at their FY 1992 level. However, the bill before us removes the provision, so as to give the Secretary of Education greater flexability.

The University of New Mexico's Latin American Institute has contacted me to raise its concerns about the removal of Section 632 from the Higher Education Act. I also understand the international programs at Ohio State and the U. of Michigan have contacted their respective Senators with similar concerns.

However, I also understand the reauthorization of the Higher Education Act does not create any new programs within Title VI, so is it your understanding that since no new programs are created within Title VI that Section 632 is unnecessary?

Mr. JEFFORDS. I understand the concern of the distinguished Senator from New Mexico in protecting the funding of international programs such as the Latin American Institute at the University of New Mexico. I would concur with my colleague from New Mexico in what he has said and I would urge the Secretary of Education to allocate funding to international programs in a fair manner.

Mr. DOMENICI. I thank the distinguished Chairman for his consideration of this important matter.

Mr. JEFFORDS addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. I ask unanimous consent that Senator COLLINS be recognized to speak on the bill for up to 15 minutes, and that following her remarks, Senator DEWINE be recognized to speak on the bill for up to 15 minutes, and that following their remarks, Senator BINGAMAN be recognized to offer his amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Ms. COLLINS addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I am pleased to be a cosponsor of this important legislation, and I want to commend the Senator from Vermont, the chairman of the committee, for his work in bringing this very important legislation to the floor.

Mr. President, today we continue a historic commitment which began 40 years ago when Congress enacted the National Defense Education Act.

In 1958, the NDEA provided that: "The security of the Nation requires the fullest development of the mental resources and technical skills of its young men and women." At that time, Congress was thinking of security in terms of the cold war and was reacting to the Soviet Union's stunning achievement in launching Sputnik.

Although the cold war is behind us now, the sentiments expressed in 1958 remain valid today. The threat may no longer be as dramatic as the threat posed by the technological advancements of a hostile superpower; instead, the threat that we face today is a quiet threat of lost opportunity—economically, culturally, and socially—a threat that will be realized if we fail to provide educational opportunities to our citizens.

As a Senator from a State with a very high rate of high school completion but a very low rate of participation in higher education, I am particularly concerned about the threat that the lack of access to higher education poses to the future well-being of many of our lower-income citizens.

We know, Mr. President, that fewer people from lower-income families enroll in postsecondary education. The problems caused by the lack of access, however, do not stop once we get students to campus. Another challenge is keeping them there and encouraging them to graduate.

The disturbing truth, Mr. President, is that students who find college least affordable are much less likely to complete college than their financially more secure counterparts. As the Educational Testing Service's Policy Information Center has reported, "The education staircase . . . is getting steeper and harder to climb, particularly for those in lower income groups."

The center has reported the alarming fact that students from lower-income backgrounds, in addition to having much lower rates of entrance into college, have much higher dropout rates than those from higher-income families.

In 1979, a student in the top quartile of family income was four times more likely to obtain a baccalaureate degree by age 24 than a student from the bottom quartile.

By 1994, Mr. President, this problem, this gap, had gotten much worse. Individuals from the top quartile were 10 times more likely to attain a 4-year degree by age 24.

When you couple this statistic with the well-established relationship between educational attainment and lifetime earnings, the consequences of the education gap are obvious. We keep reading about the gap between the rich and the poor in this country and that that gap is growing. That gap is, by and large, an education gap.

If we are able to provide educational opportunities to lower-income families, we will help close that gap, because the differences in the lifetime earnings of people who complete only high school versus those who go on to postsecondary education are enormous. We are at risk of creating a permanent underclass of people without the skills that open the gateways to economic opportunity, the skills that allow entry into a job market demanding a higher-educated and better-trained workforce. In fact, Mr. President, it is estimated that in the State of Maine more than 80 percent of the new jobs being created require some sort of postsecondary education.

Unless steps are taken to close this educational gap, a gap rooted in economics rather than in intelligence or ability, we are locking the children of America's lower-income families into a self-perpetuating cycle of inadequate education and low-income status. Without educational opportunities, a significant part of American society will never have the chance to participate fairly in America's bright technology-based future.

Mr. President, the legislation before us, the Higher Education Act reauthorization, will help provide these educational opportunities. I would like to highlight some specific provisions in this legislation that I worked on and believe are critical. These provisions increase access to education by focusing on two components—first, helping families afford education; and, second, increasing the aspirations of our young people, particularly those who come from families where higher education is not a tradition.

Mr. President, the Pell Grant Program has been one of the Federal Government's greatest contributions to the success of higher education. Over the last 25 years, this program has provided invaluable assistance to tens of millions of our neediest students.

The Pell Grant Program has, however, had some flaws. Most notably, under its current formula, the program creates a disincentive to work. This was brought home to me when I talked to a young person who had decided to take a year off between high school and college in order to earn more money for her education. She worked at McDonald's and lived at home, saved every penny. The consequence was that she lost her Pell grant when she went to school the next year.

We have created, in the current formula, a disincentive, because we have a very low cap on allowable earnings which penalizes students who are trying to pay for their education through work rather than relying solely on loans.

Earlier this year, I introduced the Working Students Income Protection Act to address this problem. I am very pleased that the Labor and Human Resources Committee has incorporated my bill into the final version of the legislation before us today. It will increase by $1,000 the earnings allowance for students who receive Pell grants.

Another important provision improving the Pell grant that is included in this legislation is the elimination of the dependent care cap that had been included in the formula in the past. Again, I introduced legislation to make this change because I was concerned that as we increase the maximum level of aid, we end up limiting Pell grant awards to some of the most needy students, those who have child care expenses. Often these are single parents who are balancing raising children, going to work, and attending college. The changes that are included in this bill will make it a little bit easier for these students.

Another provision of this bill includes legislation that Senator REED of Rhode Island and I have authored to strengthen the State Student Incentive Grant Program. This program provides assistance to 12,000 Maine students who come from families whose average income is under $12,000.

Mr. President, as important as all this financial assistance is—and I know from my experience working in a Maine college that it is critical—there is another significant barrier to higher education for a lot of our young people.

If students come from a disadvantaged social or economic background, and come from families where there is no experience with higher education, they may look at college as being beyond their reach. It may be a frightening experience for them or something they simply do not consider, despite having the ability to succeed.

In reauthorizing the Higher Education Act, we are continuing one of the Federal Government's most successful efforts, and that is the TRIO Programs. In my home State, TRIO Programs such as Talent Search and Upward Bound have identified and reached out to promising young people who otherwise never would have considered postsecondary education but for these terrific programs. Two-thirds of the students benefiting from the TRIO Programs come from families where neither parent has any higher education and whose families' incomes are below $24,000.

One such student, Mr. President, recently visited me. She was a young woman from Greene, ME, who talked with such excitement about the benefit of the Talent Search Program to her aspirations. She said that the program had convinced her that she wants to go to college. This young woman comes from a low-income family. Neither of her parents went to college. In fact, her mother was a teenage mother who dropped out of high school to raise her children. This young woman put it very well. She said, "But for this program, but for the Talent Search Program, I would have been too frightened to go to college. I would have just assumed that it wasn't for me." This program, by exposing her to a college environment, by giving her the counseling, the mentoring, and the encouragement that she needed, has convinced her that higher education will be part of her future. I am convinced that it will be a bright future indeed.

It is difficult for me to think of a more worthwhile investment of Federal funds than these important programs. The Federal Government cannot guarantee equal educational attainment for every student, but we can certainly take steps that will guarantee equality of access for every student. We can help eliminate the barriers of cost and inadequate aspirations that prevent students from lower- and middle-income families from pursuing postsecondary education. We can give them equal opportunity by providing the access through the important programs in this legislation.

The Higher Education Act that is before the Senate today will help our citizens overcome economic and social barriers, take advantage of education, and reach their full potential. That not only benefits them as individuals, it benefits our Nation as a society, as well.

Today I encourage my colleagues to join in affirming and extending the commitment for access to education that we began 40 years ago.

I thank the President for the time, and I thank the chairman for his efforts, as well.

I yield the floor.

The PRESIDING OFFICER (Mr. SESSIONS). The Senator from Ohio.

Mr. DEWINE. Mr. President, I will offer a few brief comments in regard to this very important piece of legislation that the Senate is now considering. In my work on the Labor Committee, one of the things I have been focusing on is the issue of quality teaching in our classroom. Really, there is nothing more important in regard to education than the teacher. Our children deserve to be taught by teachers who really understand their subject, understand the subject matter.

I have worked hard to incorporate measures concerning good teaching into this bill. I want to thank Chairman JEFFORDS for the assistance that he has given me and the cooperation in getting these sections incorporated into this very good bill.

Title II of this legislation is entitled "Improving Teacher Quality." Here are some of the measures that I have been promoting that I am pleased to say have been included in this bill. One, the bill funds programs that establish, expand, and improve alternative routes to State certification for highly qualified individuals from other occupations and for recent college graduates with records of academic distinction.

Two, this bill would develop and implement innovative efforts aimed at reducing the shortage of highly qualified teachers in high-poverty urban and in high-poverty rural areas. These efforts might include the recruitment of highly qualified individuals from other occupations—again, through alternative certification programs.

Three, this bill would provide prospective teachers with alternatives to traditional preparation for teaching, through programs at colleges of arts and sciences or at nonprofit educational organizations.

I am pleased that this bill has a strong focus on alternative certification or licensure of teachers. I introduced S. 1742, the Alternative Certification and Licensure of Teachers Act back in February of this year. I introduced it because I wanted to give highly qualified people who like to teach, who want to teach, a chance to do so. These are people who can serve as mentors and who can serve as role models, real life examples of how a good education can make a huge, positive difference in a student's future. These are the types of individuals that we should be encouraging to become teachers and to get into education.

I also take a moment to talk about the commonsense Quality Child Care Loan Forgiveness Act, which I introduced last July. I am pleased that this provision has also been included in this bill. Members can find it incorporated in title IV of the bill before the Senate.

Now, Mr. President, the Quality Child Care Loan Forgiveness Act provides school loan forgiveness to individuals who earn a degree in early childhood education or in related fields and who then obtains employment in a child care facility. I think we must recognize the extraordinary need that exists today for quality child care. Recent studies have shown that more than 80 percent of child care centers provide mediocre or poor quality services. The indications are that a mere 14 percent of the centers surveyed met levels of quality that were high enough to adequately support a child's development. The Quality Child Care Loan Forgiveness Act will help ensure that our children get higher quality child care. It will do it by encouraging more people, better qualified people, to teach in these facilities. It will encourage students who are in college to major in this area and to make their lifework early childhood development. Again, I don't know what could be more important.

Finally, let me say I am glad that this bill includes important legislation I sponsored having to do with the underground railroad. The Underground Railroad Education Culture Act will provide for the establishment of programs to research, display, interpret, and collect artifacts and other items relating to the history of the underground railroad. The history of the underground railroad is important to this country. It is important to Ohio, and it is important to me personally. In the 20 years prior to the Civil War, it is estimated—no one will ever know what the true figure is—but it is estimated that more than 40,000 slaves, 40,000 human beings escaped bondage and made their way to free soil on the trail of the underground railroad.

This is a great story. It is a great story that every schoolchild in America should know about. More than 150 underground railroad sites have been identified in my home State of Ohio alone. We are sure there are many, many more besides that. These are sites that symbolized at the time freedom for thousands and thousands of enslaved Americans. When I visit these places, as I have with my family, it gives me real pause for hope about the future of our country.

When we talk about race relations in this country, we would do well to remind ourselves that at one of the darkest points in our history—maybe our darkest point, the period of slavery—some blacks and some whites took immense personal risk to work together for freedom, to work together for liberty. It is a great story. This is a part of the American story that we should be proud of and we should build on. In Ohio, we are very proud of the part our ancestors played in this great story. This is why I think this legislation is so very important.

I want to again thank my colleague, Senator JEFFORDS, the chairman of our committee, and my other colleagues on the Labor Committee, for agreeing to place this legislation in the managers' amendment. It was very important to recognize this period in our history.

Let me conclude, Mr. President, by mentioning briefly what I believe to be the next step on education policy. I have introduced legislation that would provide assistance for the creation of nonprofit teacher training facilities across the United States, facilities that would help train teachers—teachers who are already in the classroom, or individuals who are about to enter this great profession. S. 1742, the Teacher Quality Act, which I have introduced, is a commonsense piece of legislation that would assist school districts in their struggle to maintain the highest possible academic standards for their children. I hope that in the weeks ahead we will consider this bill as well.

Mr. President, I strongly support this bipartisan effort and will vote in favor of its passage. Again, I congratulate Senator JEFFORDS and the other members of our committee who have worked so long and hard to bring this very good and comprehensive bill to the Senate.

Mr. JEFFORDS. Mr. President, first of all, I want to thank both of my colleagues from Maine and from Ohio, Senator COLLINS and Senator DEWINE, for a very eloquent and pertinent statement and for all the work they did in committee in helping us to put together this bill.

Mr. President, I now believe that, under the previous unanimous consent order, Senator BINGAMAN is to be recognized. I don't believe there is any time agreement.

Would the Senator be willing to accept an hour equally divided?

Mr. BINGAMAN. Mr. President, I am not certain that a half hour on my side will be adequate. I have two other speakers in addition to myself. I would like to allow each of them to speak first. I don't expect that it will take much more than that on my side.

Mr. JEFFORDS. We will wait on that.

AMENDMENT NO. 3116

(Purpose: To ensure that secondary school teachers are sufficiently prepared during their pre-service training to have sufficient academic knowledge to be able to help their students reach high academic standards)

Mr. BINGAMAN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Mexico [Mr. BINGAMAN], for himself, Mr. COCHRAN, Mr. REID, and Mr. HOLLINGS, proposes an amendment numbered 3116.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Insert at the end of Title II, Part A (page 237, after line 14)

"SEC. 237. ACADEMIC MAJORS FOR SECONDARY SCHOOL TEACHERS.

"(a) States and postsecondary programs that prepare secondary school teachers and receive Federal funds under this Act excluding aid provided under Title IV, shall, unless they have already done so, adopt within 3 years after the date of enactment of the Higher Education Amendments of 1998 a policy that all undergraduate candidates preparing to be secondary school teachers be required to successfully complete an academic major, as defined by the institution of higher education at which the student attends, in the academic area in which they plan to teach."

"(b) Nothing in this Section shall affect the eligibility of an individual student or an institution of higher education to receive Federal grants or loans under Title IV under this Act."

Mr. BINGAMAN. Mr. President, this Higher Education Act that we are engaged in discussing and debating here is a very important act. We only get around to it every 6 years, so this is not a subject like a lot of subjects around here that come up every year and we go through a dog and pony show here on the Senate floor. This issue comes up once every 6 years. The last time we reauthorized the Higher Education Act was in 1992. The next time we are expected to reauthorize the Higher Education Act will be 2004. So it is important that we get it right and do it right this year.

I join with others who have spoken in congratulating Senator JEFFORDS and Senator KENNEDY for the leadership they have provided. We have a bipartisan bill. There are a number of incentives in this bill to streamline and strengthen the ways in which we deal with the issue of higher education in the country and the ways that we license and place teachers, including several provisions that I have recommended.

But there is some unfinished business, Mr. President, and that is what my amendment tries to address. Let me go on and describe a little of the background before I describe the amendment itself.

Teaching, of course, is our largest profession. We have close to 3 million people employed in teaching. To maintain and even increase the supply of teachers, the teacher preparation programs need to generate thousands of teaching candidates every year as we move ahead. The Federal Government is a major support for the students who go through these training programs. We provide $1.8 billion in student loans. Yet, we all know that the quality of these programs, in many cases, is inadequate, and we need to question this large Federal investment when we look at the quality of some of the teaching programs we are supporting.

How is it that some universities can condone a rate of only 40 percent of their teacher education students passing licensing exams? How do I, as a Senator, explain to my constituents the investment of Federal tax dollars going to these institutions when they fail to prepare students to meet the exams that the States themselves are providing for people who want to teach?

For this reason, I propose an amendment to the Higher Education Act to require accountability on the part of education schools and the universities that house those education schools. The amendment requires that States develop criteria to identify low-performing teacher preparation programs, including a State-determined pass rate on State licensing exams.

It also proposes that States make a public list of the teacher preparation programs that meet the criteria for being labeled low performing; that States develop a list of suggested ways in which local teacher preparation programs can improve; and, finally, after a 4-year period—4 years into this 6-year reauthorization bill—if the State removed its approval from a teacher preparation program that the State itself felt had not made adequate improvement, then the Federal Government would support the State by withholding Federal funds from that program as well.

That is what I have proposed. The education school accountability amendment was designed to ensure that teaching candidates have the baseline knowledge that they need before they go into the classroom. The amendment included a section on reporting. States and institutions would collect and publish the information needed by potential students to make informed decisions about enrollment in teacher preparation programs.

I must say, Mr. President, that we have been able to work out a provision on accountability of schools of education, which is being included in the managers' amendment, which I think is a substantial step forward. It does not include many of the provisions I had urged, unfortunately. And I must say that I have been baffled by the response of the higher education community to this effort to impose a little more accountability for low-performing teacher preparation institutions—those institutions existing nearly in every State.

In all the literature that has been distributed by that community in response to this amendment and the amendment Congressman MILLER offered on the House side, I have not seen any attempt by the higher education community to take any responsibility or come up with any suggestions for how to deal with the problem, which we know is a real one. The entire substance of their argument was one that they opposed interference by the Government; they certainly didn't want the Federal Government involving itself in the role of the States, and they didn't want the States involving themselves in higher education programs any more than they presently do. Basically, they were saying that the higher education programs need to be left as they are, in spite of the problems that clearly exist.

Most troubling to me was the lack of willingness even to report pass rates of teacher preparation programs. In a letter dated June 9, the American Council on Education indicated that reporting is too burdensome—the reporting that we were urging be accomplished. I don't really understand why it is possible for law schools and medical schools to publish their student pass rates, but not schools of education. Obviously, the question needs to be raised and answered: Is there something to hide? Is there some information they don't want out? I fear that that may be the case.

Together we can help the colleges and universities to raise the status of teacher education to ensure that students enrolling in teacher education programs get the return on their investment that they expect and deserve. But we can't forget that the most important constituency for us to be concerned about is the children who are going to be served by the graduates of these education schools. I think we can make real progress if we impose some accountability there.

Mr. President, the amendment that I have offered and sent to the desk is in addition to what has been agreed to in the managers' amendment. I commend the managers of the bill for agreeing to what I have already described.

But the amendment that I am proposing says if you are training people to teach at the high school level—just at the high school level, not the elementary school level—if you are training people to teach at the high school level, give those people an academic major. Give them any education courses you want. Certainly courses in methods and courses in technique are fine, but don't turn out people to teach in our high schools who have only taken education courses. We are not saying that you have to have a major in the academic subject in which you wind up teaching. We are not putting in any kind of requirement like that in the law, only that you have to have some kind of academic major.

This is not, let me make it very clear, Mr. President, an amendment which intends to bash teachers. It is just the opposite. The amendment is intended to support the good teachers we have in our education system today, to give them more good teachers to work with them in improving education.

In my State we have many extremely well-qualified and committed teachers who do a wonderful job for very little pay. In my own family, both my parents devoted their careers to teaching. My sister is a teacher. I am a great believer in the value of good teachers.

I believe the amendment I have offered will strengthen our ability to turn out good teachers and have those teachers in the classroom. We give a lot of speeches here about accountability. We need to make people more accountable. We need to make government more accountable. We need to make the institutions of government more accountable. I agree with all of that. The amendment I sent to the desk tries to do that very thing. It says to the schools that are training our teachers—give the new teachers that are coming out a good academic background.

The problem has been discussed extensively. There has been a great deal of publicity about the recent testing that has occurred in Massachusetts, of course, and the inadequate percentage of people there who are able to pass the exam, the people who are getting ready to go into teaching. Similar problems exist in other States. The simple fact is you cannot teach something if you do not understand it. You have to have more than technique in order to be a good teacher. You have to also know the subject matter. You have to have good academic skills provided to the teachers or else the students cannot be expected to have good academic skills themselves.

According to a recently completed analysis of State level student achievement data, students in States with more teachers holding certification plus a major in their field do significantly better on the national assessment of educational progress on reading and math exams than in States where this requirement is not available. Students of teachers who completed undergraduate activity majors and appropriate professional coursework achieve better than peers their own age whose teachers completed education majors. That is true no matter how poor the students are, no matter what their ethnicity, no matter whether English is their first language or their second language.

Mr. President, let me start with two charts that I want to call to people's attention. This first chart makes the obvious point that there are 32 States that require teachers to complete an academic major for high school teaching, 30 that explicitly require that you have an academic major if you go into high school teaching, two others that require the equivalent of that.

If any Senator wants to know whether his or her State already has this requirement in State law, they need to look at this chart. We have tried to provide copies of it. I am told we are not able to put copies on the Republican side of the aisle because there is some kind of a breakdown in our efforts to be bipartisan around here and we are only able to give them to the Democrats. But the chart is here. If anyone is willing to walk across the aisle, I would like to show them the chart. It is the same on both sides of the aisle. It makes the point, very clearly, that 32 States are now requiring the exact thing that we are trying to get done through this amendment.

I have been asked to break the discussion so that the Senator from Iowa may speak.

PRIVILEGES OF THE FLOOR

Mr. HARKIN. Mr. President, I ask unanimous consent that an intern in my office, Michael Pratt, and Lloyd Horwich, a detailee from the Department of Education, be given floor privileges during the duration of the debate on the Higher Education Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARKIN. Thank you, very much.

Mr. BINGAMAN. Mr. President, let me make another point—that requiring an academic major saves money. Let me show this second chart which makes this point, I think, very graphically.

This chart makes the point that entry and retention rates of teachers of teacher preparation programs that allow beginning teachers to complete a major in their subject and require a firm grounding in teaching skills is substantially higher than those programs, the traditional programs, that only have education courses in them. For every 100 candidates who are just in teacher education, 3 years after they complete their education only 28 of the 100 are still in teaching. We are training 72 of the people out of those 100 candidates in teacher education who don't stay in teaching more than 3 years. Those are the programs where they don't have an academic major. In the case where they do have an academic major, if you start with 100 candidates, after 3 years 75 of those candidates are still in teaching.

Mr. President, it is clear to me that this is a good deal for the taxpayer to give these people an academic background, keep them in teaching, and don't wind up spending a lot of money to train people who are going to drop out of the teaching profession very quickly. So I think it is very important that we try to do this.

Teachers with academic majors feel significantly better, are better prepared for their work, and they are significantly more likely to enter teaching following their preparation. Over 90 percent do enter teaching following their preparation, and they are much more likely to remain in the profession for more years.

The Higher Education Act, which we are considering on the floor, encourages State and higher education institutions to implement an academic major requirement. But it does not make it a 'priority for deciding who gets funding.

Given the evidence that directly links the acquisition of a major with student achievement, we are arguing with this amendment that the language of the bill should provide that those States that do not require a major for high school teachers would be required to develop a plan for implementation of that kind of requirement over the next 3 years. Requiring a major will help raise standards for entrance into the teaching profession.

According to a recent study by the National Education Longitudinal Study of 1988, in the field of math, only 35 percent of women attending a major in education scored in the top two of the five proficiency levels in the subject. Male education majors are almost three times as likely to be below the lowest level of reading proficiency as their peers going into other majors.

Professional organizations are weighing in on this issue in favor of what we are proposing in this amendment. The October 1997 Conference of the National Council of History Education conferees recommended that the colleges' education faculty be given the authority to reduce the number of generic methods courses in order to present team-taught courses with subject matter of scholars and seasoned teachers from the field.

The National Science Teachers Association supports all efforts that encourage science teachers to major in the subject that they plan to teach and at the same time receive a teaching credential.

If we expect higher standards of our students, as we all do, we need to provide them with teachers who have the content area preparation to help them meet those standards.

That is an impossible task when 39.5 percent of science teachers do not even hold a minor in the subject that they are teaching. Thirty-four percent of math teachers and 25 percent of English teachers were similarly teaching outside their field. In many high-poverty schools, the percentage of out-of-field teachers can rise above 50 percent. Increasing the number of teachers with an academic major is one way to alleviate the problem. We owe our children a quality education, a quality teacher in every classroom, and this higher education amendment is a place to start in that effort.

This bill, as I indicated earlier, only comes up once every 6 years. It is important, I believe, that we take this action tonight before we complete action on the bill. It is not enough to say we are going to study this for another 6 years. Either we believe that upgrading the quality of teaching is important or we do not. Let's not put off action until we are well into the next century. This is a chance to quit cursing the dark and to light a single candle. I do not think people who decide they should vote against this amendment should spend the next 6 years complaining about the poor quality of teaching in our schools. This is a chance to deal with that poor quality of teaching in a concrete way, and I hope people will support the amendment.

Let me defer. I see my colleague and cosponsor, Senator COCHRAN from Mississippi, has risen to speak. Let me yield the floor so he can do so, Mr. President.

Mr. COCHRAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I am delighted to join with my friend from New Mexico in sponsoring this amendment and urging the Senate to approve it.

I ask unanimous consent that I be shown as a cosponsor of the amendment, Mr. President.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COCHRAN. There has been some misunderstanding, I think, in conversations I have had with fellow Senators about this amendment. What it does not purport to do is to tell the States how to certify or what criteria to use in the certification process for secondary school teachers. This amendment is directed to the universities and the colleges that have departments of education and that grant degrees in education, and it seeks to insist that as a part of the education of secondary school teachers there be a requirement that there is a subject matter major included as part of the learning experience for these teacher candidates. So it doesn't purport to set out new rules to impose on States in the certification process.

That is another subject, and we could talk about that in a separate debate. But this subject talks about what kind of quality learning experience do we want our secondary school teachers to have. Some can go through the education departments in colleges and universities—at least in 18 States, or 16 States. Thirty-two require that there be subject matter majors of education degree candidates. But the other States, you can go through an education department learning experience and get a degree and then be a candidate for certification and teach in the secondary schools of the State without ever having a major field of study in an academic subject like English or history or math or science.

It seems to me that it makes eminently good sense to suggest as a matter of national policy that our education schools throughout the country insist upon an academic major for the graduates in the education schools. And that is all this amendment does.

The Senator from New Mexico talked about a number of other subjects that he thought ought to be considered by State governments, and they deal in large part with certification items. But the committee has already sorted through those suggestions. They have included some in the managers' package before the Senate, and they have not included some. But this is a very narrow amendment.

Of all the suggestions my friend from New Mexico makes, this one, to me, is one that ought to be approved by the Senate without any question whatsoever. It is certain that those who teach in the high schools of our country ought to be well versed, well grounded in some academic subjects, not just in teaching methods or teaching techniques or other courses—the relationship of the school with the community.

We have all, in our common experience, had knowledge of the courses that are taught in many of the education schools. Many of them are important, and they are valuable. But we do not want teachers coming through those colleges and universities with only courses in method and technique and the relationship of the school to the community and the other subjects that they are taught in the education departments. And we are not being critical. I am certainly not. My State of Mississippi, I am glad to see, is one of the 32 States where the academic major is required of teacher candidates who are graduating from the departments of education in our college and university system.

So I hope Senators will look at this amendment carefully and support it. To me, it is a very important step in the right direction of improving the overall quality of all of our teachers in secondary schools throughout the country.

Mr. JEFFORDS addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. I reluctantly rise in opposition to this amendment. I do so reluctantly because the Senator from New Mexico and certainly the Senator from Mississippi have been very active in trying to accomplish the goals which are intended by this amendment. The bill itself already, with the assistance of the Senator from New Mexico—in many cases his own language—has provided incentives and has carefully outlined programs to reward the States for accomplishing the role of making sure that the teachers, the new teachers, have a major in the area that they intend to teach.

So I applaud him for those, but I just think it goes too far, and I think it is counterproductive if you order the States to do something, which I agree they should do, but I think it will be counterproductive for the purposes of getting States to understand why they should and to do it not because they are told to but because they want to. On the "want to" side, also, States are rewarded when they do so by grants and funding, and those that do not will not be eligible for some of the funds that would be eligible to those that do. So there are incentives built in already to accomplish the goal.

This provision just goes too far and will result not in improving teacher preparation programs but will instead provide little or no incentive for States to reform teacher preparation or for schools of arts and sciences to work with their schools of education. Mandating at the Federal level that States or partnerships require academic majors for prospective teachers in order to be eligible for title II funds is counterproductive to the goals of that title.

Title II requires that schools of arts and sciences work with schools of education to improve and expand the academic rigor of these programs. By excluding these States and partnerships from competing for title II money, we are discouraging change in the very States and schools that need it the most.

About 20 States do not currently require students to have majors in academic content areas, and 30 do. So we should not exclude those that are not presently doing it from getting funds to help them do it. In other words, those of us who oppose it believe that the carrot is much more effective in this area than the stick. Title II will demand much of these grantees that receive the funds. Grantees will be required to show that they have increased the number of courses taught by teachers with academic majors in a particular field of study or they will lose their grants.

It is important to note that the amendment would deny States or institutions other Federal funds provided under this act, excluding title IV assistance.

This, too, is of concern to me. Requiring a major is not an issue that the Federal Government should be mandating. It is an issue that has historically been decided by States and institutions of higher learning. And while we encourage it in title II, it is not appropriate for the Federal Government to mandate it, as a prerequisite for participation in the title II grant program.

Finally, many States are moving towards requiring majors and increasing the academic content knowledge of prospective teachers. It does not seem at all sensible to deny funds to the folks who are now moving in the right direction.

This is a very, very critical area, and this is an important amendment, and it should be carefully reviewed. It has some support, but I believe the bill is well balanced as it presently is written, that this amendment will be counterproductive of the goals of the bill, and therefore I must reluctantly oppose the amendment.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, I rise to inquire, I have some questions of my colleague from New Mexico. I have not formulated a final position myself on it. I was listening here to the debate and read some of the material about this.

First of all, let me say I commend my colleagues from New Mexico and Mississippi. Even having a discussion of how we can improve the quality of our teachers who are working in our elementary and secondary schools is worthy. I compliment the chairman and managers. We do some major things in this bill to really try to assist teaching, such as loan forgiveness for people in the teaching professions, extended payment periods—a lot of things that really try to recognize the value of teachers.

I see my colleague from Connecticut has arrived on the floor as well.

I was going back over, in my own State of Connecticut, what criteria we have. On the list, we are listed as one of the States that requires a major. That is true, but only in a limited degree. We require majors in certain subject matters, not in every subject matter. For instance, in languages we do not require that you have a major in a language, English or a foreign language, in order to teach; the assumption being, if you were Hispanic or Latino and had acquired that skill, to major in it would require that you have teaching skills on how to teach the language, but not necessarily require a major in the field.

We do in other areas. In the science and math areas we do require majors. The general sciences, history, social studies, business, we do require majors; in foreign languages and English we do not. We have a requirement here of a minimum of 30 semester hours of credit in the subject for which endorsement is sought. I don't know whether or not that constitutes a major or not. But it seems, here, we have sort of a mixed approach.

We have some very fine teachers. Mr. President, 80 percent of our teachers have advanced degrees in Connecticut, and are normally rated as some of the best educated teachers in the country. So my first inquiry would be, I guess, if we do not require majors in every subject matter, would we be subject here? For instance, if someone did not have a major in a language, would Connecticut now have to require a major in that language, or would the 30 semester hours meet the standard? Or would the fact that we do in some and not in others meet the standard? Or would we be faced with having our program dollars cut unless we changed?

Mr. BINGAMAN. Mr. President, in response to the Senator from Connecticut, I would have to learn more of the detail precisely of what is done in Connecticut before I could answer the question. The source of the information that is reflected on this chart and that he has referred to as to which States already require this was Education Week magazine. They did interviews with the departments of education this last year, in September of 1997, and published this list.

Our amendment does not say that you have to have a major in the subject you wind up teaching. It says you should have a major in a subject you intend to teach. Maybe there should be an exception in there for foreign language. I would be glad to entertain that modification, if the Senator thinks that is a problem. But the notion that you should go into high school teaching without ever having majored in anything, any academic subject, is the concern I have. We have schools around the country—and they are not the schools the Senator is thinking of generally, and that I generally think of when I think of teacher preparation—but there are schools around the country that are not requiring people to take academic course work before they turn them out to teach in our high schools. So you have people going through, with very good intentions, who want to become teachers, want to become high school teachers, who take a whole raft of education courses and then are turned out to teach, and they do not have the academic training that they need in order to properly prepare students.

Mr. DODD. I appreciate the response on that. I do not have an amendment to offer because I don't feel competent to suggest what my State ought to require that there be major studies in. They have excluded certain areas. We require 3 semester hours in certain subject hours, 30 semester hours in others, a major in some and not in others. They have made a decision to have sort of a multiple approach to this thing, a varied approach on it. Far be it from me to stand here this evening and say Connecticut ought to require a major in certain areas where they don't require it. I have enough confidence in the people who have designed the program there to give them some flexibility.

What I do not want, if I am supporting my colleague's amendment, is to find out if my State loses financial assistance because we have not provided major fields, or required a major in every subject matter although we have in others. Then I would feel remiss in terms of a number of areas.

As I understand it, you would lose funding in international education, graduate education, funding for historically black colleges and universities, strengthening institutional grants that go to mainly community colleges. I don't want to be in the position, if I vote for this, to go back and find out I have just deprived my State of funding in those areas because the amendment, as crafted, would deny my State those benefits because in some areas majors are not required. That is my concern.

Several Senators addressed the Chair.

Mr. COATS. Will the Senator from New Mexico yield for a question?

The PRESIDING OFFICER. The Senator from Connecticut has the floor, I believe.

Mr. DODD. I am glad to yield to my colleague.

Mr. COATS. It is right on this very point, because on the list the Senator from New Mexico placed, I think, on the desk here—at least I have that list; I think it is the same as his chart—Indiana is also a State listed that requires secondary teachers to acquire academic accreditation. I think the States ought to do that, or at least ought to make that decision. I don't think the Federal Government ought to mandate it for the same reasons the Senator from Connecticut stated.

However, I am concerned now that the Senator from Connecticut has indicated that his State is one of the States you listed under the "Yes" column, as requiring that, as is Indiana, yet it doesn't require it in the sense that the Senator's amendment requires it in order to receive funds. We just learned of the amendment half an hour or so ago and have not had an opportunity. Our department of education is closed in Indiana now. I haven't had the opportunity to call and say does this conform? Is this across-the-board? Does this conform with the amendment of the Senator, or are there exceptions like there are in Connecticut where, for certain disciplines, you require the academic major?

I am in the same position, I think, as is the Senator from Connecticut. I cannot vote to support that if I don't know whether or not my State is going to be penalized. Does the Senator know the answer to that question relative to the State of Indiana?

Mr. BINGAMAN. Are you asking me or the Senator from Connecticut?

Mr. COATS. I am pretty sure the Senator from Connecticut doesn't know. If he does he knows more about the education in my State——

Mr. BINGAMAN. Mr. President, I would respond in the same way I would respond to the Senator from Connecticut. The basis for the list is Education Week, which published this based on interviews which they did with departments of education around the country last September. I do not know the detail of the department of education's requirements there in Indiana, any more than I know the detail of the department of education requirements in Connecticut.

Mr. COATS. I join the Senator from Connecticut in saying I think the Senator's efforts are laudable. I do think, as the Senator from Vermont has enumerated, there is a lot of language in this bill which I think reflects what the Senator from New Mexico and the Senator from Mississippi are attempting to do, yet it does it in an encouraging way rather than a penalizing way. Given the fact there is a lot of confusion about how this amendment applies to these States, and there is no way we could determine that this evening, I wonder if the Senator wouldn't be interested in withdrawing his amendment—at least working with us to try to accomplish these goals, but not in a way that puts us in a position where we will penalize our State.

Mr. BINGAMAN. In response to that question, I would say the amendment by its own language says the requirement doesn't take effect for 3 years.

There is a period of time in which to adjust the language if we were to adopt the amendment. There is plenty of time to adjust it if it is onerous on a particular State. Of course, I would not want to withdraw the amendment because, quite frankly, I think we have a tendency—every 6 years when we get to this thing, the education schools around the country lobby heavily against any change in the law or in the requirements imposed on them. We will be here in the year 2004—at least some of you will be here in the year 2004—once again trying to decide whether it is appropriate to require anything of these schools. I do not want to withdraw the amendment.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. Does the Senator from Connecticut yield the floor?

Mr. DODD. Mr. President, I pointed out earlier, I have not formed a final opinion on it. I raised the question because this was raised to me by my State. I am concerned—and I didn't expect this, so my colleague from New Mexico doesn't have a definitive answer—that there might be some criteria left open to the States to determine whether or not something classifies as major. It is not his intention to say to some State that he thinks falls into this category unwittingly they may be deprived of these funds because we didn't realize certain subject majors were not required. That is my concern.

I reluctantly may have to vote against the amendment, but I am not enthusiastic about doing it because I like the idea behind it. I think it makes a lot of sense. John Silber, the distinguished former president of Boston University, wrote an article the other day, one of the op-ed pieces in one of our national papers that makes the case. We are turning out people really not qualified to be teaching in our classrooms.

I am sympathetic to the idea to increase the teacher skills and knowledge base. I want to make sure in doing so, in our enthusiasm for that, we are not doing harmful things along the way. I share the enthusiasm. I share the appetite for it.

It is almost 8 o'clock here, east coast time. I want to make sure that in voting for something like this I am not saying to 32 States that may have very differing views on what classifies as a major that we have to turn around and undo something here that would otherwise deprive these States of funds they need and are clearly moving in the area of improving content as well as teaching skills.

I thank my colleague from New Mexico. I will listen to the debate. Maybe there will be something enlightening on this. I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, first of all, I think all of us on the Education Committee know of the enormous commitment and perseverance and persistence and wisdom of our friend from New Mexico in the development of education policy, particularly the quality of our teachers. It is a very important record. When he speaks about these issues, I think all of us take these very seriously. I do think, however, that in this particular situation, on this particular amendment, I must say that I differ with the Senator from New Mexico. Let me be very brief about the reasons.

First of all, in the various education programs and recruitment and retention programs—and I won't take the time to go on through them, but as one who is a supporter and an author of a fair amount of them, they never were funded over a period of time or funded very lightly:

The Paul Douglas Teacher Scholarship, Christa McAuliffe Teacher Corps, National Board for Professional Teachers, Standards class size demonstration, middle-school demonstration, new teaching careers, all the various mini-corps programs, foreign language instruction, small State teaching initiative—none of these effectively were funded. None of these were funded, and we had, as the Senator from New Mexico said, no evaluation of the few that were funded.

He makes a very good case about the past. I take some exception, and I ask our friends to review the parts of the legislation—I know the hour is late. We don't spend as much time in going through the particular provisions of the legislation. That is point No. 1.

Point No. 2, I believe, that many of the 18 States are just the kinds of States that need this help and assistance. I will go into the various details of the programs, and many of the comments the Senator from New Mexico has made are actually the kinds of criteria which are included in the various competitive grants. I don't want to exclude these 18 States. In many instances, they need the help and assistance the most. We all need it. We have to have 2 million teachers over the next 10 years, and we have to strengthen the opportunities for teachers to teach better and give our teachers additional training programs so they can do it and hold them to a higher accountability. We are in complete agreement with that.

The question is how you get there. I am not for excluding 18 States from being able to participate. When we were considering the Goals 2000, we were told that in making available resources that were going to be available to States on a voluntary basis that there were many States that said, "We don't want to do it because we do not want to have participation of Federal programs in here." I do not want the States that may need this the most denied it.

Let us look at the question—I will take the part of the Senator's evaluation first. If you look in the legislation on page 373, you see "Accountability and Evaluation." After a State receives a competitive grant under this section, it "shall submit an annual accountability report to the Secretary"—the Secretary of Education—but also to the Committee on Labor and Human Resources, our committee, and as well as to the House.

Such report shall describe the degree in which the State is using the funds to, what? Student achievement: "Increasing student achievement for all students, as measured by increased graduation rates, decreased dropout rates, or higher scores on local, State or other assessments."

Second: "Raising Standards.—Raising the State academic standards required to enter the teaching profession . . ." That is going to be part of the criteria. It will be part of the application for States if they want to participate in this program. They may have to, as part of their evaluation, have programs that will encourage the States to raise academic standards "required to enter the teaching profession, including, where appropriate, incentives to incorporate the requirement of an academic major in the subject, or related discipline, in which the teacher plans to teach."

This is a positive incentive. We are trying to, with the scarce resources that are going to be included in this bill, to say, yes, we want to see movement toward an academic major in the subject area and related discipline in which the teacher plans to teach. That is written right in the evaluation program.

It continues with regard to the core academic subjects, and it talks about the efforts that will be made to decrease shortages for professional development in poor urban areas and rural areas and communities, and it does an evaluation of these.

What it does find out, as it says on page 377:

"Each State or teacher training partnership"—that is either the State or local community—"receiving a grant . . . shall report annually on progress toward meeting the purposes of this part [upon which the grant was given] . . .. If the Secretary, after consultation with the peer review panel . . ."—and that has been spelled out—"determines that the State or partnership is not making substantial progress in meeting the purposes, goals, objectives and measures, as appropriate, by the end of the second year of the grant, the grant shall not be continued for the third year of the grant."

I think that is pretty good, Mr. President, if we have a Secretary who we are going to hold accountable to this. I think that is pretty good. That is a tough evaluation. It identifies many of the points—virtually all of the points—that the Senator from New Mexico has identified. Whether it will be enforced, whether we will be serious about seeing that it is enforced is going to be the challenge that is going to be placed upon us.

Look at page 372 where it talks about the responsibility of the local partnership in encouraging teachers at the local partnership. The application will:

> describe how the partnership will restructure and improve teaching, teacher training, and development programs, and how systematic changes will contribute to increased student achievement;
>
> describe how the partnership will prepare teachers to work with diverse student populations, including individuals with disabilities and limited English proficient individuals;

Some might say that is too prescriptive in terms of establishing at least criteria where there will be competition for these resources. Describe how the partnership will help prepare teachers to use technology. We can have all the technology in the world in our classrooms, but if our teachers do not know how to blend it into curriculum, that is very significant to mention.

The point is, Mr. President, that I believe that in this program we have the most effective kind of evaluation and criteria and accountability that I have seen in higher education. We do not do as well as we should in most programs, I will agree with that. But it does seem to me that the committee has given very substantial consideration, first of all, in recognizing that so many of these programs here just did not measure up, did not have the support, and was not the way to go.

And the best way we were going to try to do it was to provide some resources—half the money to the States, half to the partnerships. We had a lot of debate about the allocations of resources, and then we established criteria which is spelled out and which has included many of the points of the Senator from New Mexico about what we hope will be achieved in those applications. And we do that for the States as well as the local partnerships. Then we have a tough evaluation program to hold the States and the partnerships accountable.

So I must say, although there is much to which the Senator has pointed out that I agree with, it seems to me that the danger that we are risking in accepting the Senator's amendment is that we will be denying important opportunities for States that for one reason or another will not meet the exact criteria. They will be denied. We will be cutting them off from any participation. I do not think that is the way to go. I think the evaluating programs and the enforcement mechanisms included in this bill are the way to go. So I hope that the amendment would not be accepted.

Mr. COATS addressed the Chair.

The PRESIDING OFFICER (Mr. HUTCHINSON). The Senator from Indiana.

Mr. COATS. I won't belabor this because I think most of the points have been made. I do want to join both the chairman and the ranking member of the committee in opposing this amendment for all the reasons that were stated. We have spent a considerable amount of time and effort in the committee to try to address the very areas that the Senator from New Mexico has raised. We have worked with the Senator from New Mexico in attempting to incorporate a number of his suggestions and ideas.

I think the Senator from Connecticut raises a critical point relative to the fact that a chart out of Education Week does not really tell us the full status of where each of our States reside relative to these requirements. And because the Senator's amendment was substituted in lieu of another amendment, most of us are not able to get ahold of our State education departments at 8 o'clock in the evening to find out just exactly where we stand. We end up then potentially penalizing our States for failure to meet the requirements of the Senator's amendment rather than providing, as the Senator from Massachusetts said, incentives for them to do so.

Also, I point out to Members that the Senator's amendment violates the actual Department of Education Organization Act policy, which I would like to read from. Section 103, titled "Federal-State Relationship" says:

> It is the intention of the Congress, in the establishment of the Department, to protect the rights of State and local governments and public and private educational institutions in the areas of educational policies and administration programs and to strengthen and improve the control of such governments and institutions over their own educational programs and policies. The establishment of the Department of Education [this was written into the code when the Department of Education was established] shall not increase the authority of the Federal Government over education or diminish the responsibility of education which is reserved to the States and the local school systems and other instrumentalities of the States.

It goes on to talk about basically attempting to micromanage from the Federal level decisions that even with the establishment of the Department of Education the intent of Congress is listed.

Now, in a sense, we are doing that. But we are doing that here in this bill in a way that encourages and still leaves the decisions to the States to determine what their policies will be, and in this regard, policies relative to qualifications for teachers.

We all support the goal of higher qualified teachers being available. But the Senator's amendment, I believe, takes us one step further than we ought to go by penalizing those States that do not have that standard. And I think there are some 15 or 20 that fall in that category. But as we now have learned, there may be several more. There is no way we can find out this evening. There may be several more that have modifications of that requirement that require it in certain disciplines but do not require it in other disciplines.

The Senator from Connecticut cited the example of an individual affluent in a native language that might major in a different subject, and yet because they do not need to major in that language, but then intend to teach in that subject, they want to have an academic major in another subject. Are we going to penalize a State institution which receives funds from the Federal Government for allowing that to take place?

I think there are unintended consequences here that we ought to realize. And we worked on this carefully in a bipartisan way. There was a unanimous consensus coming out of committee in terms of how we would address this particular issue—18 to nothing vote.

I urge Members to support the hard effort that has been put into this and not at the last minute here, on an amendment we really have not had time to review and even check with our States on, to add this mandatory language to this bill.

Mr. President, I yield the floor.

Mr. BINGAMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, let me just respond to the various points that have been made, and then I will yield the floor and we can get on to other business. I gather that it is not possible, because of the arrangements that have been previously made with some Senators, to go ahead with the vote. So it is going to be stacked for later.

Let me just respond to a couple points that have been made. The notion that we are trying to micromanage by putting this requirement in Federal law, I do not think is accurate. We are saying, look, we give the States $1.8 billion to support these education training programs. Is it too much to ask that the education training programs that are being supported with this $1.8 billion provide academic instruction to the people who they are going to turn out to teach in our high schools? Is that too much to ask?

I mean, we are not asking that that be done for the elementary schools. Fine, you can continue to turn out people for the elementary schools who take nothing but education courses. We are not trying to interfere with that. But if you are going to teach at the high school level, you ought to take some kind of academic training. That is what this amendment provides.

The notion that this is overreaching by the Federal Government, the Senator from Indiana saying this violates the spirit or the policy that established the Department of Education, we have done the same thing with student loan default rates. We set it up with standards that need to be met. We have substantially reduced student loan default rates because of what we have done in that area.

We say here, fine, if you do not want the $1.8 billion, then do anything you want. If you want the $1.8 billion, then we will give you 3 years in which to figure out how to begin providing academic instruction to the people who are going to teach in the high schools.

I am in an awkward position here. Most of the people who have spoken against this amendment are from States that already require what the amendment is intended to require.

I am from a State that does not require what the amendment is intended to require, and I think we should. I think the State of New Mexico ought to require that anyone who is going into high school teaching have a major in some academic subject, not necessarily the one they wind up teaching in but in some academic subject.

I appreciate the concern of the Senator from Massachusetts and everyone else. They are genuinely concerned about what will happen to the 18 States. I represent one of the 18 States. I tell you what I think will happen to the 18 States. I think they will propose a little stiffer requirements. They will do a better job of teaching the teachers who are going into our schools. And I think the students of the country will benefit from that.

I think this is a responsible thing to do. I hope very much Members will support the amendment.

Mr. JEFFORDS. I ask unanimous consent the Bingaman amendment be temporarily set aside. I further ask unanimous consent that Senator DOMENICI be recognized to speak for up to 10 minutes, and upon the conclusion of his remarks, that Senator WARNER be recognized, and following that, we take up the amendment of Senator HARKIN.

Mr. HARKIN. Reserving the right to object, I now have been waiting at least 4 hours since I came on the floor. It was my understanding—just my understanding, I didn't consult with the manager of the bill—but it is my understanding I was to come right after the disposal of Senator BINGAMAN's amendment.

Mr. JEFFORDS. I point out, this will just take a very few minutes.

Mr. HARKIN. I thought you said there was another amendment?

Mr. JEFFORDS. It is one I don't think will take any time.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from New Mexico is recognized.

Mr. DOMENICI. Mr. President, I am the other Senator from New Mexico, so whatever has been said about the amendment, and who is for and who is against it, was not talking about my amendment.

First, I don't have any amendments. I rise to congratulate the committee on an excellent bill. By authorizing this Higher Education Act, the Senate is making a downpayment on our Nation's future. Benjamin Franklin, in the very early days of our country, put it best when he said, "An investment in knowledge always pays the best interest." Sometimes around here we are talking about interest rates as if they apply only to the economy and the like. So Benjamin Franklin, even many years ago, was talking about interest. He said, "An investment in knowledge pays the best interest." I believe that is right.

Building upon his statement and others, I say it is a simple fact that the future is prejudiced in favor of those who can read, write, and do math. A good education is a ticket to an opportunity to a secure economic future in the middle class of the United States.

As the earning gap between brains and brawn grows even larger, almost no one doubts today the link between education and an individual's prospects for a good and substantial livelihood and a good life in America. That is what the Senate is doing today in improving the postsecondary education system of our country. Incidentally, I said "improving" because it is already the best in the world. There are no countries in the world that have a postsecondary education system that comes anywhere close to ours.

So we are not here to be critical, we are here to offer improvements. In a nutshell, this bill improves the financial aid opportunities for students, creates a unified program to promote excellence in the teachers of our public schools, and streamlines the Higher Education Act by consolidating overlapping programs and eliminating unnecessary regulatory requirements.

Before I make some specific comments on provisions in the bill, I will quickly talk about my home State of New Mexico. We are a small State. Approximately 100,000 students are enrolled in New Mexico's public colleges and universities, with about 53,000 enrolled in community colleges and about 47,000 in universities. However, the number of high school graduates is expected to increase during the next decade and members of the current workforce are expected to seek additional education during that period.

Consequently, we must have a very high quality, low-cost college education available to a growing number of students. We must provide that regardless of income level, ethnic background, or place of residence. Students attending New Mexico institutions received more than $200 million in financial aid, counting grants and loans from all sources, during the 1995–1996 academic year. Thus, I believe that educational performance is a crucial element to our State's future. Speaking as a New Mexican, clearly, our state's future relies upon the capacity to prosper in this extremely competitive national-international economy and is directly related to the education we are able to give our young people.

Our colleges and universities directly and indirectly contribute to the economic vitality of our country and our State as they produce graduates with considerable intellectual depth and breadth, workers whose skills allow them to meet the demands of their employers, and first-rate research that helps to expand the boundaries of our knowledge.

Let me make a few comments about some provisions.

Title II: I congratulate the committee for improving teacher quality. Focusing on the two areas they have with reference to teacher quality and recruitment of teachers for underserved areas, first, the bill seeks to improve student achievement, improving the quality of the current and future teaching force by improving preparation of prospective teachers and enhancing professional development of activities; second, it seeks to increase the number of students, especially minority students, who complete high-quality teacher preparation programs.

Title III: the institutional aid title, creates a new grant program for tribal colleges—those are our Indian colleges, which obviously are severely underfunded and severely lacking in maximum professional qualities of their teachers—and the universities to strengthen services to Native American students.

Student financial aid is given a huge boost through several changes which I believe are in compliance with the 5-year budget agreement we made last year, which annually increased maximum Pell grant levels to the following amounts: $5,000 for academic year 1999–2000; $5,200 for academic year 2000–2001; $5,400 for academic year 2001–2002; $5,600 for academic year 2002–2003; and eventually up to $5,800 for academic year 2003–2004.

There are TRIO Programs that are given a boost through changes to the Student Assistance section under title IV which provides benefits to 700,000 students nationwide. Two-thirds of the participating students come from families where neither parent attended college and incomes are below $24,000. This bill reserves up to 2 percent of that program for the evaluation and dissemination of partnership grants.

The new Dissemination/Partnership provision would encourage partnerships between TRIO programs and other community based organizations offering programs or activities serving at-risk students.

The Federal Family Education Loan Program (FFEL) is stabilized in the following way. Student loan rates will be equal to the 91-day T-bill-plus-1.7-percent while students are in school, and plus-2.3-percent during repayment after graduation. The interest amount is capped at 8.25 percent and for PLUS loans, rates will be the 91-day-T-bill-plus-3.1 percent, capped at 9 percent for borrowers and lenders.

An innovative loan forgiveness program is also included for teachers. Thirty percent of a teacher's loans will be forgiven after the fourth and fifth complete years of teaching in a high-poverty school and 40 percent after the sixth complete year after meeting certain eligibility requirements.

Finally, there is the creation of a new part within Title V dedicated solely to supporting the needs of Hispanic Serving Institutions that is authorized at $45 million for fiscal year 1999.

Mr. President, I believe we are taking an important step forward today by making an investment in our nation's future with the reauthorization of the Higher Education Act.

I close by saying, frankly, I believe that we have a magnificent post-high-school education system because there is great competition. As a matter of fact, there is no question in my mind that if we had similar competition or even a little bit of it in our public school system, we would not have the education bills that we bring before the U.S. Congress which are so detailed and give so much direction and have so many hundreds of programs.

Higher education is competitive. You can make your choice. It can be a private school, a public school. You can find the very best; you can find less than the very best. But everywhere you look, you will find an opportunity to get a good college education. That is because there are so many institutions that want to do this, love their work, and think they are part of America's future.

I end tonight congratulating the committee, in particular the chairman, for the good bipartisan work that has been accomplished on this bill. I am glad, on a matter of this importance, we are not fighting in a partisan way here on the floor but tonight will approve this bill by an overwhelming bipartisan vote which means we support secondary education in America in a big way. It is our future. I yield the floor.

Mr. WARNER. Mr. President, I am in consultation with the distinguished managers of this bill in hopes that an amendment can be accepted, and I am receiving, I think, very fine cooperation.

I would like to state my case so that Senators can fully understand the purpose of this amendment. There is an ever-increasing problem, regrettably, throughout America at our colleges and universities, and that is binge drinking. But first I would like to congratulate the chairman of the committee, Senator JEFFORDS, for all his hard work in crafting an excellent Higher Education Reauthorization bill. I am privileged to serve on the committee with the distinguished Chairman. Indeed, our distinguished ranking member, Senator KENNEDY, along with Senators COATS and DODD, must also be recognized for their efforts in this successful reauthorization legislation.

S. 1882 has several important provisions aimed at reducing and eliminating the illegal use of drugs and alcohol on college campuses. I applaud the provisions for competitive grants to institutions programs of alcohol and drug abuse prevention and education. In addition, the collegiate initiative to reduce binge drinking, included in the legislation as a Sense of the Congress, is also noteworthy as institutions try to change the culture of alcohol use on college and university campuses.

Mr. President, more can be done, I think, to change this culture of alcohol on college campuses. This past year—and I regret to have to be on the floor of the Senate to say this—there have been five alcohol-related deaths at colleges and universities in the Commonwealth of Virginia. Five. One inebriated student fell out of a dorm window to her death. A second inebriated student fell down a flight of stairs to her death.

In response to these deaths, the then-Attorney General of Virginia, Richard Cullen, created a "Task Force on Drinking by College Students" in November of 1997. The task force included forty-four members. Among them were parents of the deceased students, a representative from every college and university in the Commonwealth of Virginia, representatives of the business community, representatives of the law enforcement community, representatives of the legal community, and a number of members of the General Assembly of Virginia, our state legislature. The current Attorney General, Mark Early, assumed leadership of the task force in January of this year when he was inaugurated. He should be commended for all of his hard work and dedication in bringing to a conclusion the important work of this volunteer group, as it relates to the use of alcohol on college campuses. The task force met for the final time on July 1 of this year and prepared its recommendations.

One problem the task force recognized immediately was the restriction placed on colleges and universities by the Family Educational Rights and Privacy Act, known as FERPA, for schools to disclose a student's educational record to a parent without the consent of the student. The recommendation continues that it should be the policy and the practice of each college and university to notify parents of dependent students of violations of law as they relate to alcohol and drugs.

Mr. President, I could not agree more with this recommendation. As a parent, and indeed as a grandparent, I would want to know if my children were in the unfortunate position of being in violation of the law as it relates to alcohol and drugs while they were students at a college or university. I would want to step forward in a constructive way, as would other parents, to lend a hand and assistance to work with the faculty and administration of the college or university to help that student. But sometimes parents are not aware of these problems because of the provision as construed in FERPA. Our colleges and universities should be free to notify the parents of dependent students who have violated the law relating to drugs and alcohol.

My amendment, which I am still working on—and I understand, of course, it has to be accepted by the managers of the bill. There is no way to bring it to the attention of the Senate through a vote. The Amendment I seek is simple. It reads: "Nothing in this bill shall be construed to prohibit an institution of postsecondary education from disclosing, to a parent of a student, information regarding violation of any federal, state, or local laws governing the use or possession of alcohol or drugs, whether or not that information is contained in the student's education records, if the student is under the age of 21."

The federal Family Educational Rights and Privacy Act, FERPA, creates, we believe, an impediment to the disclosure of a nondependent student's educational records to parents without the student's consent. Notification of parents of dependent students of violations of alcohol and drug law should be the policy and practice of colleges and universities all across our Nation.

As a member of the Virginia delegation to Congress—and I am privileged to be one—I am trying to see that there is appropriate legislation—so that there is a presumption of dependency by colleges and universities for all students who are under the age of 21 for the purposes of this notification to parents. This would ensure that parents are informed when their sons and daughters had the misfortune of violating state alcohol law or drug laws.

Mr. President, that summarizes my views. I shall continue to work with the distinguished managers of this bill through the evening in the hopes that we can reach some understanding and that this measure may be incorporated in the bill.

You know, it is interesting. Tonight, I was very pleased to see an announcement by the President of the United States of a decision to expend literally hundreds of millions of dollars on an advertising program to combat drug abuse to these young people. It seems to me that this provision I am offering simply enables the universities and colleges to bring in the parents of dependent students under 21 and involve them in a process, hopefully, to help the university and the administration. We are placing a tremendous burden on the administrative staffs of the universities and colleges. Why should they not have the benefit of parental help in tragic situations where there has been a clear violation of law as it relates to drugs and alcohol?

I thank the distinguished managers. Perhaps during the course of the evening, we can work out an amendment. The one I have here technically, for some reason, is not correct, but I have full confidence in the managers to see that we can get this done.

Mr. JEFFORDS. Mr. President, I thank the Senator from Virginia, who has been a tremendous help to me on the committee. I just point out that since he has been on there, the ability to get a consensus has grown immensely. A lot of it is through his savvy way of being able to pull people together to walk in the same direction. I deeply appreciate that. I assure him that this is a critical area, which all of us happen to be deeply concerned about. I will work with the ranking member of this committee to find a solution.

Mr. WARNER. Mr. President, I thank the Chairman for those kind words. I don't think I deserve any special credit. But I have over a quarter of a century of association with the distinguished ranking member. We went to the University of Virginia Law School at slightly different times. I was a member of the law class with his marvelous brother, Robert Kennedy, whom I adored in law school. I wish he were here tonight. He could stop this thing in a minute.

Mr. KENNEDY. We accept the amendment.

Mr. WARNER. Mr. President, then I will be seated.

Mr. DODD. I am sure your parents recalled quite frequently that you were both at the university. [Laughter.]

Mr. WARNER. I am not sure we wanted them to.

I thank the managers.

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, I have an amendment at the desk.

Mr. JEFFORDS. Mr. President, if I could ask the indulgence of the Senator, I think we are both willing to accept the Warner amendment, if we could have that offered and accepted, if that would be all right with the Senator from Iowa.

AMENDMENT NO. 3117

Mr. WARNER. I thank both managers.

I send an amendment to the desk

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER] proposes an amendment numbered 3117.

Mr. WARNER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place insert:

Nothing in this bill shall be construed to prohibit an institution of postsecondary education from disclosing, to a parent of a student, information regarding violation of any Federal, state, or local laws governing the use or possession of alcohol or drugs, whether or not that information is contained in the student's education records, if the student is under the age of 21.

Mr. WARNER. Mr. President, it is my understanding that it is acceptable to both managers. I thank them.

Mr. JEFFORDS. It is acceptable.

Mr. KENNEDY. I urge acceptance of the amendment.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 3117) was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. KENNEDY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3118

(Purpose: To reduce student loan fees, and for other purposes)

Mr. HARKIN. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Iowa (Mr. HARKIN), for himself, and Mr. REID, proposes an amendment numbered 3118.

Mr. HARKIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in title IV, insert the following:

SEC. ___. REDUCTION IN STUDENT LOAN FEES.

(a) FEDERAL DIRECT STAFFORD LOANS.—Section 455(c) (20 U.S.C. 1087e(c)) is amended by inserting ", except that the Secretary shall charge the borrower of a Federal Direct Stafford Loan an origination fee in the amount of 3.0 percent of the principal amount of the loan" before the period.

(b) SUBSIDIZED FEDERAL STAFFORD LOANS.—

(1) AMENDMENT.—Subparagraph (H) of section 428(b)(1) (20 U.S.C. 1078(b)(1)) is amended—

(A) by striking "not more than"; and

(B) by striking "will not be used for incentive payments to lenders" and inserting "shall be paid to the Federal Government for deposit in the Treasury".

(2) REPEAL.—Subparagraph (H) of section 428(b)(1) (20 U.S.C. 1078(b)(1)) is repealed.

(c) UNSUBSIDIZED STAFFORD LOAN AND PLUS LOAN INSURANCE PREMIUM REDIRECTION.—

(1) UNSUBSIDIZED STAFFORD LOANS.—Section 428H(h) (20 U.S.C. 1078–8(h)) is amended—

(A) by striking "may" and inserting "shall";

(B) by striking "not more than";

(C) by striking ", if such premium will not be used for incentive payments to lenders"; and

(D) by inserting at the end the following: "The proceeds of the insurance premium shall be paid to the Federal Government for deposit into the Treasury.".

(2) PLUS LOANS.—Section 428B (20 U.S.C. 1078–2) is amended by adding after subsection (f) (as added by section 427(2)) the following:

"(g) INSURANCE PREMIUM.—Each State or nonprofit private institution or organization having an agreement with the Secretary under section 428(b)(1) shall charge the borrower of a loan made under this section a single insurance premium in the amount of 1 percent of the principal amount of the loan. The proceeds of the insurance premium shall be paid to the Federal Government for deposit into the Treasury.".

(d) EFFECTIVE DATES.—

(1) SUBSECTION (b)(1).—The amendments made by subsection (b)(1) shall take effect on the date of enactment of this Act.

(2) SUBSECTIONS (a) AND (b)(2).—The amendments made by subsections (a) and (b)(2) shall take effect on July 1, 1999.

(3) SUBSECTION (c).—The amendments made by subsection (c) shall take effect on October 1, 1998.

Mr. HARKIN. Mr. President, the amendment I just sent to the desk really can be called the Tax Reduction for College Students Amendment, because that is exactly what it is.

So all Senators who are interested in cutting taxes, I say listen up because this is your amendment because that is what this amendment does. It cuts taxes, and it cuts taxes for college students. Let me explain.

First of all, I would like to say the legislation we are considering today, the Higher Education Amendments of 1998, is a strong bill. There are many positive features of this legislation.

I want to commend Senators JEFFORDS, KENNEDY, COATS, and DODD for putting together a strong bipartisan bill. However, I believe that this amendment I am offering will do more to strengthen it even further.

So the amendment is simple. It cuts the tax which has become known as origination and insurance fees. But a tax by any other name is still a tax. That is what it is. This amendment cuts this tax, this student tax, by 25 percent.

In other words, it cuts it from 4 percent to 3 percent for students with Federally subsidized guaranteed and direct student loans. It is paid for by eliminating or reducing excessive government subsidies paid to the student loan middlemen—the guaranty agencies.

My amendment eliminates the 1-percent insurance fee paid by students on the subsidized Federal family education loans, and reduces the origination fee on subsidized direct loans by one point. The net result is that all students with subsidized loans will have these taxes cut to 3 percent. In real terms it means up to an additional $171.25 while a student is in school.

Sam Barr, from the University of Northern Iowa, wrote,

> I have been in the financial aid profession since 1985. . . . Over the years, I have had the opportunity to meet with and counsel hundreds of students regarding loans. Many of these students have expressed concern regarding the fact that they received less money than they borrowed, and were very upset that they had to pay back the fees—with interest [even though they didn't get anything.]

Currently students pay the following taxes on their loans. Students with direct loans pay a 4-percent origination fee. Students with guaranteed loans pay a 3-percent origination fee, and a 1-percent insurance fee. In some cases, guaranty agencies currently waive a part or all of the insurance tax for some students with guaranteed loans.

For example, the Iowa agency waived half of the fee for students with guaranteed loans. California and Pennsylvania waived the entire 1-percent insurance fee.

So I have to ask, Mr. President, if some agencies are currently waiving the insurance fee on a selective basis, we really must question whether this revenue is really needed by the agencies.

Second, this benefit should be available to students on an equitable basis in all States and in both loan programs. Unfortunately, Federal law does not provide a similar break for students with direct loans. As a result, in my State of Iowa, more than half of the students that attend direct loan schools cannot receive this cut. In other words, Iowa waves half of the fee. So that brings it down to 3½ percent. That is for guaranteed loans, but half of the students in Iowa go into the Direct Loan Program. They have to pay the full 4 percent. That is simply not fair.

So my amendment provides an equitable distribution of the tax cut by providing relief for all students with subsidized guaranteed and direct loans instead of just a select few. It creates a level playing field between the two programs by cutting the combined student loan tax by 25 percent. The amendment will also ensure that all agencies will operate in the most efficient manner possible.

Mr. President, this insurance fee has been a part of the Guaranteed Student Loan Program since its inception. However, over the years additional subsidies were added to support the guaranty agencies. As a result, these agencies have accumulated huge reserves, currently in excess of $2.4 billion. So what we are doing is recalling about half of that money. But agencies will continue to hold over $1 billion in reserves needed to reimburse lenders for defaulted student loans.

In addition, the excessive subsidies have enabled agencies to pay lavish salaries in the past. At one point, a

CEO of U.S.A. Group, the Nation's largest guaranty agency, was paid over $1 million in salary and benefits.

To be sure, the Department of Education has cracked down on this practice and has established a compensation ceiling to prevent agencies from using Federal funds to pay exorbitant salaries. However, it is clear that generous subsidies enabled this to occur. The Senate bill has revamped the guaranty agency subsidies.

Even with my amendment, these agencies will continue to be paid handsomely for their work and will receive in excess of $4.5 billion over the next 5 years.

So if you have heard from some of your guaranty agencies that the Harkin amendment is going to break them and cause them to go bankrupt, this chart will prove otherwise. Over the next 5 years, if you add up their fees, collections, investment income, and prevention fees, it adds up to almost $4.6 billion that they are going to get over the next 5 years.

Without my amendment, they are going to get probably about double that, about $8 billion over the next 5 years. So this is quite sufficient to take care of any problems that they might have—$4.58 billion.

Mr. President, I am fully aware of the opposition to this amendment. The guaranty agencies are obviously opposed to it. Critics have called it a thinly veiled attempt to destabilize the Guaranteed Loan Program to force schools to enter a Direct Loan Program. But how could that be true? For example, in Iowa, as I said, in my home State, the State has waived half the fee. Students under the Guaranteed Loan Program pay 3½ percent. Under the Direct Loan Program, they pay 4 percent. These kinds of anomalies occur in a lot of States. All I am saying is make them both the same; make them both 3 percent.

That is what my amendment does. As I have stated in committee repeatedly in the past, I have supported the two loan programs. The competition of the Direct Loan Program has led to dramatic improvements in the Guaranteed Loan Program, and I think the result has been very positive for our students when we have both of these programs. But they are uneven and they are unfair.

Now, opponents also allege my amendment would cause individual agencies to become insolvent, thereby jeopardizing the payment of default claims by lenders. Absolute nonsense. In 1992, in the aftermath of the failure of the Higher Education Assistance Foundation, the law was changed to make it clear that default claims would be paid by the Federal Government in the event of the insolvency of an agency—period.

Well, Mr. President, over the past 17 years, since the inception, in 1981, of this program, the lender subsidy has declined dramatically, from about $1.9 billion in fiscal year 1982 to less than $300 million last year. Unfortunately, students have not seen a commensurate reduction in the student loan tax. In fact, students are actually paying more. Revenues from the program, the origination fees, have more than doubled. In 1982, when it started, revenues were $292 million; last year, they were $629 million. So students are paying more.

The President's fiscal year 1999 budget proposed phasing out the fee for the neediest students over the next few years. I wish we could do that this year. However, I recognize that elimination of the tax probably does not seem possible at this time. So this amendment takes the first step with a 25-percent cut in the tax for the neediest students.

Last year, we provided a significant boost to the Pell grant. We raised the maximum grant by $300 million to $3,000 per student. This effort received strong bipartisan support. My amendment will have a similar impact for students. It puts more money in their pockets to pay their educational expenses. This chart shows that.

What this amendment does is it basically says that over a 4-year period the reduction in the tax will mean a savings of about $171.25 per student. Now, to those of you who don't think that is much money, that buys a lot of textbooks for a student going to college. It buys a lot of textbooks.

These students, the neediest of students need every penny they can get to pay tuition and buy their books in school. Again, they are frustrated when they go in and borrow the money and they pay the fee, and they get less money than what they borrowed. And then when they pay it back, they even have to pay interest on the money they never got. Very unfair.

Well, my amendment has the support of virtually every major higher education group, and I have a number of letters in support of this amendment. I ask unanimous consent, first of all, that a list of organizations supporting the amendment be printed in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

ORGANIZATIONS THAT SUPPORT THE HARKIN AMENDMENT

Secretary Richard Riley.
American Council on Education.
American Association of Community Colleges.
American Association of State Colleges and Universities.
Association of Jesuit Colleges and Universities.
Council of Graduate Schools.
Council of Independent Colleges.
National Association for Equal Opportunity in Higher Education.
National Association of College and University Business Officers.
National Association of State Universities and Land-Grant Colleges.
National Association of Student Financial Aid Administrators.
U.S. PIRG.
U.S. Student Association.
The Education Trust.
The National Association of Graduate Professional Students.
Association of American Universities.
California Community Colleges.
California Association of Student Financial Aid Administrators.

Mr. HARKIN. I have several letters here—one from the Secretary of Education, Richard Riley, in support of this amendment; one from the American Council on Education in support of the amendment; one from a consortium including U.S. PIRG, United States Student Association, the Education Trust, and the National Association of Graduate Professional Students in support of this amendment, and, lastly, one from the National Association of Student Financial Aid Administrators in support of the amendment.

Mr. KENNEDY. Will the Senator yield for a question?

Mr. HARKIN. I will be delighted to yield.

Mr. KENNEDY. Is it the Senator's understanding that this origination fee was really developed to help pay costs of the loan program when we had soaring interest rates?

Mr. HARKIN. That is exactly right, these huge, high interest rates.

Mr. KENNEDY. So it was really an insurance program in terms of the loan program at that period of time. And then as the Senator makes the point now that we have virtually a strong economy, we have stable interest rates, low interest rates in terms of these programs, whatever justification was there at that time certainly is not there at the present time but still this fee has been maintained.

The Senator, as I understand, has spelled out that with his amendment there is still going to be a sound economic situation in terms of the total program, and that we are going to save at a time, as the Senator from Connecticut and others have pointed out, of ever-increasing costs and the pressure that is on middle-income families and working families, you are talking about, what is it, $171?

Mr. HARKIN. Yes, $171.

Mr. KENNEDY. And that is a lot of money for an awful lot of students. I can remember in my own State of Massachusetts when the University of Massachusetts in Boston had $1,000 a year tuition, 85 percent of the parents of the students who attended that university had never gone to college and 85 percent of them worked 25 hours a week or more. And when they raised the tuition by $100, they lost 15 percent of their applications—15 percent.

It is a real reflection—when you are talking $170, we are talking about a lot of books. We are talking about a real lifeline, in many instances, to sons and daughters of hard-working families, I know certainly in many of the urban areas and I believe in the rural areas, as well.

We have followed this issue for a long period of time. The Senator has been a constant advocate for moderating the cost of higher education over the long time that he has been in the Senate, and it has been a challenging one. But he, I believe, has made a very solid recommendation, and I would certainly hope his position is sustained.

I urge all of our colleagues to support his amendment.

Mr. HARKIN. I thank Senator KENNEDY for those comments in support of this amendment.

The Senator is absolutely right. This came in at a time when there was extremely high interest rates, used as an insurance policy. And then for some reason it just continued on and on and on and on. Again, as I pointed out, we have reduced some of the subsidies over the intervening years, but for some reason this student tax continued on. There is absolutely no reason for it today, and, as the Senator from Massachusetts pointed out and as this chart clearly shows, even with my amendment, over the next 5 years they are going to get $4.6 billion that they really don't even need. But they have it. Do they need twice that much? Do they need $8 billion? I don't think so.

So let's give our students a little bit of a tax break. Everybody is always talking about giving people tax cuts around here. Here is one you can vote for. Here is one that has an immediate impact right now. That means these students going to college this fall will have an extra amount of money to buy that textbook or to pay their tuition costs. For some people, $171 may not sound like a lot of money. But for a low-income student, families working hard trying to get their kids into college and through college, that is a lot of money. And it is money that is not needed by these guaranty agencies. It is just not needed. They get plenty of money, $4.5 billion. So I hope the Senate will support this very modest amendment. It is not cutting the whole thing. It is just cutting it by 25 percent. I think our students deserve that tax cut.

I am a product of student loans when I went to college. Neither one of my parents went to college. They didn't have any money, so I had to borrow money to go to college. But in those days we had the National Defense Education Act which came in under the Eisenhower administration. We borrowed the money. We never had to pay any interest on it all the time we were in school, never had to pay any interest on it when we were in the military. Finally, when I got through law school, I had to start paying back the loans and the interest started accruing on it.

I always thought what was good for our generation ought to be good for the present generation. I don't know why it shouldn't be that way. This is one step we can take to tell at least the neediest students today that they deserve to have a tax break and they deserve to have a little bit more money to buy their textbooks. So I urge the adoption of the amendment.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Mr. President, I rise in strong opposition to the amendment put forward by my colleague, Senator HARKIN. I think what is really intended here is an effort to try to undermine the effectiveness of the FFEL Program. I know my good friend from Iowa is a fan of direct lending. I know the same is true of my colleague from Massachusetts. And any way that they can try to undermine the FFEL Program and increase the capacity of the direct loans to somehow supplant it, is an effort which I can understand.

I have been involved in this a long time. I was involved in creating the commission that ended up recommending direct lending. We have tried very hard to make sure these programs operate on a basis of fairness and comparability. So far, that has worked well.

This bill provides nearly $1 billion each year in new benefits. Many of these benefits were paid for by offsets found within the guaranteed student loan program.

Pell grants—S. 1882 raises the maximum Pell grant to historically high levels and authorizes $85.6 billion in Pell grants over the next 5 years.

Other student assistance—S. 1882 authorizes more than $15 billion over the next 5 years for work-study grants, TRIO Programs, SEOG, childcare grants for low-income students and other important programs.

Loan forgiveness for child care providers—S. 1882 authorizes more than $50 million over the next 5 years to provide loan forgiveness to low-income individuals who pursue careers as child care providers.

Loan forgiveness for teachers—S. 1882 authorizes more than $615 million over the next 10 years to provide loan forgiveness to teachers who pursue teaching careers in private or public secondary or elementary schools that serve low-income families.

Extended repayment options—S. 1882 permits, at a cost of $290 million over 5 years, borrowers in the FFEL program with debt levels equal to or greater than $30,000 to be offered extended and graduated repayment terms similar to those available in direct lending.

Student loan interest rate—And finally, and without doubt the most important benefit we are offering to students, is the low interest rate. S. 1882 preserves two vital and healthy loan programs while providing students with the lowest interest rates they have enjoyed in nearly 20 years. By some estimates, this interest rate will provide students with a new benefit (in reduced interest costs) of nearly $11 billion.

These examples speak for themselves and they reflect the strong commitment I share with my colleagues to encouraging greater participation in higher education. The debate in which we are now engaged does not reflect upon one's commitment to student benefits. S. 1882 already provides nearly $1 billion in new student benefits each year. The issue which we must now confront is whether we are truly committed to preserving the stability of two student loan programs. The Harkin amendment, I believe unintentionally, would destroy the hub of the FFEL program by putting more than twenty-two guaranty agencies, including the Vermont Student Assistance Corporation, out of business—out of business.

I want to reiterate this point. In order to provide some students with a maximum of a $42 per year benefit, this amendment undermines the guaranty agency financing model and threatens the continued viability of the FFEL program both now and in the future. The choice is quite clear—a vote for the amendment offered by Senator HARKIN is a vote to destabilize the FFEL program. A vote against the amendment offered by Senator HARKIN is a vote to preserve the many benefits that the FFEL program so successfully offers to students and their families. I strongly urge my colleagues to oppose this amendment.

I point out that the $172 that was mentioned is over 4 years. It doesn't sound quite as much when you talk about 4 years as it does in 1 year. That is a few six-packs of beer a year. It is significant, perhaps a single text book, but certainly not something that is going to make a huge difference to any student.

I point out, this Federal fund and the insurance premium were created to try to take care of student loan defaults, to take care of the times when student's default on their loans, or loans are discharged due to death or disability.

Mr. President, 43 percent of the total cost of the FFEL Program are student loan defaults. This insurance premium helps take care of those defaults.

I would like to address for a moment the student and family benefits that are provided in this bill. S. 1882 reflects a strong bipartisan—in fact, unanimous commitment of members of the Senate Labor Committee—to craft a bill which strengthens and expands the access to higher education.

We have built up a dual system of competition perhaps. But we have two student loan systems that are more in balance now, and this bill balances those two systems again. This amendment would attempt to unbalance it, to again favor the direct lending program by taking a benefit away from one program and giving it to the other, and along the way, perhaps putting many of the present guaranty agencies that provide assistance to our college students out of business.

So I urge Senators to take a look at what this amendment really does. The minimal gain, $42 a year, which might possibly occur, is no balance to the risk of putting this whole program into a position where it could fail, at a cost of billions to students and the Federal Government.

Mr. SANTORUM. Mr. President, I rise to oppose the amendment offered by the Senator from Iowa. This amendment, which purports to lower guarantee fees on student loans, would, in actuality, increase fees for borrowers in Pennsylvania and elsewhere.

Under current law, student loan guarantee agencies participating in the Federal Family Education Loan Program (FFELP) have the option of charging borrowers a guarantee fee of up to 1% for subsidized Stafford loans, unsubsidized Stafford loans, and PLUS loans. Amendment No. 3117 would eliminate the optional guarantee fee for subsidized Stafford loans, and it would reduce by 1% the guarantee fee on Direct subsidized loans administered by the Department of Education. The costs of this provision would be offset by obligating guarantee agencies to charge the full 1% guarantee fee on all unsubsidized Stafford loans and PLUS loans.

The Pennsylvania Higher Education Assistance Agency (PHEAA), which guarantees loans for borrowers within the Commonwealth, presently waives the guarantee fee for both subsidized and unsubsidized Stafford loans, as well as the fee for PLUS loans. In addition, PHEAA also waives all guarantee fees for borrowers in West Virginia and Delaware, the two states for which it has been designated by the state's governor as the guarantee agency. Should Amendment No. 3117 become law, PHEAA would be compelled to begin charging a 1% fee on unsubsidized Stafford loans and PLUS loans. Consequently, total guarantee fees charged to student borrowers in Pennsylvania, West Virginia, and Delaware would actually increase.

Consider that in FY1997, PHEAA guaranteed $651 million in unsubsidized Stafford loans for 172,000 students and $171 million in PLUS loans for 28,000 parents. None of those borrowers were charged a guarantee fee. However, if this amendment had been law, it would have cost those borrowers $8.22 million in total guarantee fees. Moreover, 20% of FFELP borrowers nationwide receive fee waivers or fee reductions from their guarantor. Consequently, Amendment No. 3117 would increase fees for borrowers in states other than just those serviced by PHEAA. As such, I must oppose this amendment, and I urge my colleagues to join me in doing so.

The PRESIDING OFFICER (Ms. COLLINS). The Senator from Arkansas.

Mr. HUTCHINSON. Madam President, I rise in strong opposition to the Harkin amendment. I commend our chairman for the outstanding leadership on this legislation, but I have concerns on the impact of this legislation, what it would do to making student loans accessible to millions of our students.

At the core of making higher education affordable and accessible are two programs we have heard much about: The Federal Family Education Loan Program, or FFEL Program, which, through public-private partnership, has successfully provided loans to millions of students since 1965. The second program is the Direct Student Loan Program, a program initiated by President Clinton, and a program I think designed to make the Department of Education the largest student lender in the country. In fact, there are currently 36 active State and private nonprofit guaranty agencies, including the Student Loan Guarantee Foundation of Arkansas.

These guaranty foundations work closely with students, with families, with schools, and lenders to process loans, prevent loans from going into default, and pay claims on and collect on those loans that do default as a part of the traditional Guaranteed Student Loan Program, the FFEL Program.

Over the past 33 years, FFELP student loan providers have reliably delivered more than 92 million loans totaling $245 billion. Two-thirds of all student loans are provided by the private sector via the FFEL Program.

FFELP is cost effective for the Government, and the competitive environment spurs FFELP innovation and high-quality service. Reducing student loan original fees—which this amendment does not do—reducing student loan origination fees which are paid by students to the Department of Education, I believe, is a laudable goal, something we need to study and something we may do, but the amendment we are debating, the Harkin amendment, does not reduce the 3 percent origination fee paid by students in the Guaranteed Student Loan Program. Rather, it eliminates the 1 percent insurance program, also called the guaranty fee.

It is interesting, when you are against something, you call it a tax. And this fee has tonight been called a tax. Suddenly, we are voting for a tax decrease, a tax cut. But this guaranty fee has, in fact, preceded even the nationalizing of this loan program. It goes all the way back to 1965. This was not enacted as a temporary measure because of economic conditions. The original fee, in fact, was, but we are not dealing with the original fee, we are dealing with the guaranty fee, the insurance premium fee. That is what the amendment would do this evening.

That serves as the primary source of revenue to guarantors, intended to help offset the risk of default on student loans. Without the insurance premium coming in on the new guaranteed loans, guaranty agencies will have insufficient funds in their Federal reserve fund to pay lender claims on defaulted loans. Many of them will for sure. In fact, losing the 1 percent insurance fee equates to approximately 40 percent of revenue for the Student Loan Guaranty Foundation in my home State of Arkansas.

I believe—I think I am correct in this—that of all the institutions of higher learning in Arkansas, there is only one currently using the direct lending program. All the rest have opted to continue in the FFEL Program, and we seriously jeopardize the guaranty foundation with the Harkin amendment; therefore, we jeopardize the accessibility of student loans to hundreds of thousands of students who are going to need those loans now and in the future.

With less money in their reserve to process loans and pay lender claims on defaulted loans, the Arkansas guaranty agency could be forced out of business in less than 2 years. So I say to the competition, which has been lauded as being such a good thing, such a meritorious thing, it would be eliminated as the bias is made toward direct student lending, and the FFEL Program which has served my State so well would be jeopardized.

Madam President, the Harkin amendment, I believe sincerely, is a wolf in sheep's clothing. It would essentially kill the guaranteed loan program by driving guaranty agencies out of business. If schools really wanted to be in the Direct Loan Program, then over 80 percent of them would not have chosen to remain in the guaranteed loan program, which I believe we threaten by this amendment.

I urge my colleagues to support the loan program, which provides private capital and servicing for nearly two-thirds of all Federal student loans, and do so by opposing the Harkin amendment.

I yield the floor.

Mr. HARKIN. I wonder if the Senator will yield for a little colloquy on that issue to try to get something straightened out.

Mr. HUTCHINSON. I will be glad to yield. I will be delighted.

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. I ask my friend from Arkansas——

Mr. HUTCHINSON. I will be glad to yield for a question. I am not sure I have the authority to yield for a colloquy.

Mr. HARKIN. I will enter into kind of a colloquy on the floor here. I thought I would ask a question——

Mr. FORD. Just ask unanimous consent to have a colloquy.

Mr. HUTCHINSON. I would be delighted.

Mr. HARKIN. I ask unanimous consent to have a colloquy.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARKIN. I submit to my friend from Arkansas that one of the greatest myths about the guaranteed loan program is that the agencies are the real guarantors of the loans. I listened to the Senator and I listened to the Senator from Vermont also talk about putting the agencies in jeopardy by reducing the amount of money to pay for defaulted loans—at least that is what I heard—that my amendment might put them in jeopardy.

I think, contrary to popular belief, the Federal Government is the guarantor, and this changed in 1992. So I think there is a holdover from the previous era. In 1992—and I will just read to the Senator from the law itself: "Consequence of guaranty agency insolvency. In the event that the Secretary has determined that a guaranty agency is unable to meet its insurance obligations under this part, the holder of loans insured by the guaranty agency may submit insurance claims directly to the Secretary, and the Secretary shall pay to the holder the full insurance obligation of the guaranty agency."

Mr. HUTCHINSON. If I might respond, if I understand what you have just read from the law, that while that ensures the fact the Federal Government is the ultimate guarantor, that that only occurs when the guaranty foundation, the guaranty agency, has faced solvency, and that is my very concern.

Yes, while there may be an ultimate protection, before that ultimate protection is realized, the agencies that have served our students so well would, in fact, face insolvency. That is my concern for the State of Arkansas; that is my concern for the students of Arkansas.

Mr. HARKIN. I think the Senator makes a good point. As I pointed out, even with this modest cut of 25 percent, that leaves, over the next 5 years, $4.58 billion for these guaranty agencies. I haven't seen any evidence that this would be at all insufficient in the future for these agencies.

Mr. HUTCHINSON. If I might just conclude, we can stand here and debate and have a colloquy over the numbers you presented. I cannot and would not question the numbers you presented my colleagues, so I will not speak on the aggregate that you presented. But I will say that while you are dealing with the aggregate, you are not speaking to the specific circumstances and situations of guaranty foundations across the country. I only know in particular how it would impact the Arkansas Guaranty Foundation, which has served our State well, and I believe that the numbers in Arkansas reflect that it, in fact, could face insolvency in a matter of years should the Harkin amendment be adopted. And that is the basis of my very sincere and very strong opposition.

Mr. HARKIN. And I understand that. I want to make a couple points, I hope, clear, and that is, the Federal Government is the ultimate guarantor, not the guaranty agency.

Mr. HUTCHINSON. I understand, though, that if the guaranty foundation is insolvent, if I heard you read the law correctly——

Mr. HARKIN. That is correct.

Mr. HUTCHINSON. That is my very concern—then we would force students into direct lending. We would force institutions to adopt that program whether they want to or not.

Mr. HARKIN. Again, Madam President, I just want to point out, again, I do happen to have these figures available. For the State of Arkansas right now, the reserve fund is $7.9 million—$7.9 million that Arkansas has in its reserve fund. Even under my amendment, the yearly revenue for the next 5 years will be $3.8 million a year. So for the next 5 years, that will be another almost $20 million coming into Arkansas, and Arkansas has, as I said, a $7.9 million reserve fund right now.

Mr. HUTCHINSON. If I might just respond to that, the numbers we have indicate—and these are as of July 3, 1998—the cash reserve is $6.8 billion, which is considerably different from the numbers that you are presenting, and that, in fact, the information I have is that reserve would be jeopardized to a far more significant degree than what you have reflected.

Mr. HARKIN. The Senator may be right. My figures are from the end of the last fiscal year.

Mr. HUTCHINSON. Then I think it is certainly precarious for the foundation.

Mr. HARKIN. The Senator just said the reserve fund was $6.8 million as of the end of this last month; is that what the Senator said?

Mr. HUTCHINSON. That is what I said.

Mr. HARKIN. $6.8 million. Even under my amendment——

Mr. HUTCHINSON. What was the number that you gave for——

Mr. HARKIN. $7.9 billion as of the end of the last fiscal year.

Mr. HUTCHINSON. That would be a drop of $1.1 million in less than a year.

Mr. HARKIN. That is right.

Mr. HUTCHINSON. Without the Harkin amendment. With the Harkin amendment, it will be a considerable decrease in addition to that. Once again, I would say the projections are, within 2 years they would be insolvent, and the worst case scenario would become a reality in the State of Arkansas.

Mr. HARKIN. In the State of Arkansas, the Harkin amendment would continue to give $3.8 million over the next 5 years. That is hardly going insolvent.

Mr. HUTCHINSON. They have lost $1.1 million without the Harkin amendment in the reserve fund. So, Madam President, I would say, once again, my concern is for the students of Arkansas, that they have a competitive environment for student loans. I believe that will not continue if the Harkin amendment is adopted and that, in fact, the end result, intended or otherwise, will be to force institutions into direct student lending, which I do not think is in the best interest of the students of my State or this country.

I yield the floor.

Several Senators addressed the Chair.

Mr. HARKIN. I believe I have the floor.

The PRESIDING OFFICER. That Senator is correct.

Mr. HARKIN. I say to my friend from Arkansas, once again, without going further, I don't know why that went down $1.1 million. A lot of times these agencies dip into reserve funds to pay salaries and benefits and things like that. I don't know why they dipped in the reserve funds.

I just say that even $6.8 million for the State of Arkansas, with $3.8 million per year, is more than enough for the reserve fund. And, secondly, I say that in the worst case scenario that the Federal Government still is the guarantor. And, lastly, I just point out that unless one is totally pessimistic about the economy over the next 2 or 3 or 4 years, saying that everything is just going to go down the tubes, that we are going to have plenty of money in this reserve fund, even with this amendment.

(Mr. HUTCHINSON assumed the chair.)

Mr. HARKIN. Lastly, I just say to my friend from Arkansas, who now has assumed the chair, that there was some mention made that this amendment was a direct threat to the Guaranteed Loan Program and a way of tilting it toward the Direct Loan Program. And, again, I say that nothing could be further from the facts here, because my amendment takes a cut of 25 percent in both the Guaranteed Loan Program and in the Direct Loan Program. It puts them both at 3 percent. So it makes the playing field absolutely level. It does not give one a benefit over the other.

Mr. President, I yield the floor.

Mr. REED addressed the Chair.

The PRESIDING OFFICER (Mr. DEWINE). The Senator from Rhode Island.

Mr. REED. Thank you, Mr. President.

I believe the Senator from Iowa has introduced a very worthy amendment that is consistent with the overall thrust of the legislation to provide more affordable access to college for hundreds of thousands of American students. I hope that his amendment will prevail.

It also, I believe, compliments many other portions of this legislation which is particularly directed at providing more opportunities for Americans to go on to higher education.

One aspect that I think it compliments is the existing State Student Incentive Grant Program. This is a program that has been operating for years to provide Federal resources to States, which they match dollar for dollar, which provides grants and community service work-study programs for needy students.

As you recall, last year this provision was threatened with extinction because of no appropriations. But we in the Senate were able to rally support by an overwhelming vote and restored this program. I am pleased to say that the legislation that we are debating today, the underlying bill, makes significant improvements in the State Student Incentive Grant Program. It strengthers it by providing States greater incentives and flexibility to help needy students. And I hope we will provide further support, not only here but in the other body, so that we can continue to fund this very worthy program.

Once again, this program, like the Senator's amendment, is designed to provide particularly low-income American students access to higher education, to make higher education more affordable.

Also, having this opportunity to speak briefly for a moment, I would like to point out another aspect of the underlying legislation which I think is very important, and that is the strengthened provisions for teacher education.

I was very pleased to note that many provisions of legislation introduced to strengthen teacher education have been incorporated in the underlying legislation. In particular, I was very pleased to introduce legislation, S. 1169, the Teacher Excellence in America Challenge Act, or the TEACH Act. This legislation was based upon a national commission's report, What Matters Most: Teaching for America's Future, which essentially pointed out that we have a long way to go to ensure that every child in this country has a high-quality teacher in the classroom. Yet, we can take steps to get us to that worthy objective.

One step is to foster partnerships between schools of higher education, elementary and secondary schools and other participants, essentially incorporating a model of teacher education much like medical education. We would never think about going to a physician that had no extensive clinical training, yet we send young teachers into the classroom that have barely weeks of actual classroom experience.

So I hope building on this commission's report and on the language of this particular legislation, that we can improve dramatically the quality of education and teachers in this country.

Just as an aside, several weeks ago, Massachusetts conducted its first intensive testing of prospective teachers. They found, in a shocking way, that 59 percent of these teachers failed an examination which was designed to test a strong 10th grader, basically focusing on simple grammar, English, writing, and mathematics. This is a shocking indication of how far we have to go to improve teaching in America. And the underlying legislation has provisions which I have introduced separately that have been incorporated which will do that.

By and large, this is an excellent piece of legislation. I, of course, commend Senator JEFFORDS and Senator KENNEDY for their leadership, and Senator COATS and Senator DODD, and all the members of the committee. And, once again, I hope that we will quickly not only adopt the amendment of the Senator from Iowa, but also the underlying legislation which is a strong bipartisan attempt to further increase and strengthen the access to college for American students. In doing so, I think we will go a long way in keeping faith with a very important part of our country's tradition while making sure that the future of our country is strong.

With that, I yield back my time.

Mr. COATS addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. COATS. Mr. President, the hour is getting late. I doubt too many Members are listening to this debate. I will be brief because I know we want to move on to get these amendments finished so we can begin voting. I would like to just briefly respond regarding this amendment. And I will not repeat the benefits that flow to students under this legislation. Senator JEFFORDS of Vermont outlined those benefits: almost $10 billion in new student benefits paid through extensive loan provider cuts and other means over a period of years.

I think it is important to recognize that students benefit greatly from this legislation. It is kind of ironic that we are spending this amount of time debating a bill that came out of committee on a unanimous vote, 18–0. We felt we had a bipartisan package put together that would sail through the Senate here, but we are obviously tied up a little bit on some of the provisions. Hopefully, we can resolve some of them.

I think it is important to recognize that what those of us who oppose the Harkin amendment are doing, as we have done on a number of other amendments, is trying to preserve a viable, competitive system in terms of providing service and collection and the provision of loans to students. There has been a concerted effort over the past 6 or 7 years to eliminate the private sector loan program in favor of a full Federal-run program. There were efforts to take it to 100 percent. Those were thwarted after a lot of contentious debate under previous Congresses.

But I thought at least finally we had settled on the concept that competition is good, competition within the system is good, and we ought to have two programs side by side—a direct loan program run by the Federal Government, the Department of Education; and a private program that was operated in the private sector, involving guarantor agencies and banks and others that provided students benefits for years. And it was, of course, backed by the Federal guarantee. But it operated pretty well. There were concerns that those guarantor agencies were reaping too much benefit from that particular program.

So over the last several years there have been a variety of measures enacted which substantially reduce the fees that go to the guarantor agencies. This bill takes $500 million from the guaranty agencies to pay for student benefits. Between 1993 and 1997, revenue to student loan guarantors was cut by $2 billion. That is $2.5 billion we have taken out. Student loan guarantors get back another $1 billion in reserves over the next 5 years under the Balanced Budget Act that the Congress entered into last year. As a consequence of that, the concerns that were raised by the Senator from Arkansas become very real.

Ten student loan guarantors have ceased operations due to increased risk, declining revenues. The Alabama Commission on Higher Education, Delaware Higher Education Loan Program, Maryland Higher Education Loan Corporation, Mississippi Guaranteed Student Loan Agency, Ohio Student Loan Commission, Puerto Rico Higher Education Assistance Corporation, the State Education Assistance Authority of Virginia, the State Student Assistance Commission of Indiana, the Student Loan Funds of Idaho, and the Virgin Islands Board of Education have all ceased operations.

I don't think it is possible to accurately predict just which future agencies will go out of business as we keep squeezing the private sector and keep expanding benefits and provisions through the public sector, but a list has been put out that guaranty agencies would fail in a number of States over the next several years if the Harkin amendment is adopted and if the process of continuing to impose restrictions and squeezing the revenues of the private sector so they can't compete equally with the public sector continue to be enacted.

Now, the ultimate decisionmakers shouldn't be Members of Congress or the Department of Education. The Department of Education, obviously, has a bias in favor of expanding their scope in this program and becoming the only provider. That is what their intent was originally. That is what they have been working for. They have had the support of some Members of Congress on that.

I think we ought to go back to some basic philosophic understandings of what it is in this country that has proven over time to provide the most effective service and benefits at the most effective cost. And it hasn't been the Federal Government. You can't point to agencies of the Federal Government—whether it be Post Office, which used to be under the Federal control, but now is semi-independent—you can't point to any agency and compare it to a private agency and say the Federal Government is a more efficient provider of services at a more effective cost.

I remember asking the First Lady when she presented the Clinton health care plan, I said, "Mrs. Clinton, you have done a lot of work on this particular plan, but there is, in my opinion, a faulty assumption underlying the entire proposal, and that is that the Federal Government can provide services more efficiency and cost effectively than the private sector." I said, "In my experience here in Washington, I haven't come across any Federal Government program that has been able to do that. When matched head to head, they haven't been able to do that." The reason they haven't is because they don't have to compete. They don't have stockholders to whom they are accountable. They don't have a bottom line they have to reach. They simply turn to Congress for additional funds to fund whatever service they are providing. The very nature of bureaucracy and the very nature of monopoly leads to the inevitable conclusion that the taxpayer loses in the long run when the services aren't provided.

So here we are yet again with yet another amendment designed to put the private sector at a less competitive advantage. As I said, the real decisionmakers in this process ought to be the users of the product. And the users of the product are the schools.

Despite credible efforts by the Department of Education, in fact, some fairly heavy-handed tactics in some cases, two-thirds of all students choose to use the private sector to provide their loans and only one-third choose to use the Department of Education. The Department of Education, even within that one-third, which is less than what they had planned for, is having trouble even providing effective services to that one-third.

Let me refer to a GAO account which gave failing marks to the Federal Government and a number of Federal credit programs. Their report is not news to anyone who has followed the debacle that has occurred at the Department of Education in administering the Direct Loan Program. During its first 5 years, institutions have been unable to fully reconcile disbursements received in Federal funds. There have been cost overruns estimated at $40 million, despite ongoing problems in the Direct Loan Program and their attempts to protect it, either through the imposition of additional fees, cuts, additional revenue squeezes on the private sector, and additional protections for the Direct Loan Program.

So I think putting aside the intricacies of this program and whether there was an origination fee or an insurance fee, whether there is enough in the reserve fund for 5 years or 3 years or whatever, we ought to go back to the basic premise of, do we want to substantially expand the role of a department of government which has not proven itself an efficient administrator of these services, which has not proven itself as an entity capable of providing services in an efficient manner?

But if we are not going to do that, do we at least want to have a viable, competitive process, whereby the users of the product can make the choice? I think that is really what this is all about. We need to remember that last year's bipartisan balanced budget agreement called for the preservation of two healthy loan programs and that if there were cuts, those cuts should be equally divided between those two programs. That has not happened under the Harkin amendment. The cost of the 25-percent reduction that the Senator from Iowa is talking about doesn't come out, it is not equally divided between the Direct Loan Program and the FFEL Program, the entire cost savings comes out of the FFEL Program.

So it is a violation of what the agreement was last year, the balanced budget agreement. It violates the principle of that agreement by taking the fee from the private sector program and using it to cover the cost of loss of revenue in the public sector program that results from the change that occurs under the Harkin amendment.

I urge my colleagues to vote against the Harkin amendment, preserve the benefits and the balance that was created by the committee, supported by the committee in an 18–0 vote, and move forward with this education program that I think is important for our students and important for education initiatives that are in it.

I yield the floor.

Mr. JEFFORDS. I believe we are reaching conclusion on this amendment. It is my intention to make a few comments and then I believe Senator HARKIN will close in a few minutes.

In the interim, let me first make a very few comments. We are comparing apples and oranges here and you can make the apples look bad if you want to because you can't compare the oranges. The "oranges" are the direct lending program. It is a great one to cover things up. What you do when you lend out the money is create an accounts receivable on your ledger sheet. It doesn't show up anywhere regarding who doesn't pay back; it just shows up who does pay back. So it is very hard to trace where the losses are. On the other hand, the private sector one is a balanced one, with the student paying a 1 percent insurance fee which helps take care of default. The lenders absorb 2 percent of the cost of defaults, which helps, and the guaranty agencies absorb 5 percent, and the Federal government absorbs the remainder, which balances out and provides the money to pay for the default. So you can't really compare the two programs. You can make this one look bad because you don't know what the other program has done. There is no way of telling.

Mr. President, I ask unanimous consent that following the remarks of Senator HARKIN, the Harkin amendment be set aside, that Senator KENNEDY be recognized to offer his amendment, that there be 30 minutes equally divided on the Kennedy amendment, and that no second-degree amendments be in order. I further ask that upon the conclusion of debate on the Kennedy amendment, votes occur first on the Kennedy amendment, and then on the Bingaman amendment, and finally on the Harkin amendment, and that there be no second-degree amendments to any of the amendments.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. JEFFORDS. Mr. President, I ask unanimous consent that there be 2 minutes, equally divided, of debate between the votes for an explanation of the amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARKIN. Parliamentary inquiry, Mr. President. On the unanimous-consent agreement just propounded, did that include the yeas and nays on all of the amendments?

Mr. JEFFORDS. No, it did not.

Mr. President, I ask unanimous consent that it be in order to ask for the yeas and nays on the three amendments with one show of seconds.

The PRESIDING OFFICER. Without objection it is so ordered.

Mr. JEFFORDS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. JEFFORDS. So for the information of all Senators, Mr. President, we expect three votes to occur at about 9:45 or 10 o'clock, first on the Kennedy amendment, then the Bingaman amendment, and then on the Harkin amendment.

Mr. HARKIN. Mr. President, I will wrap up my comments on the amendment I offered. Again, Mr. President, I listened to the Senator, my good friend from Indiana, talk about schools choosing to stay out of the Direct Loan Program. Well, I point out that in the first 2 years there was a tremendous increase in schools joining the Direct Loan Program. But then in 1995 Congress began to make all of these threats about ending or killing the Direct Loan Program. So what has happened is that schools are apprehensive about whether or not they want to keep the Direct Loan Program, and that put a dampening effect on the tremendous growth we had in the first couple of years.

Secondly, I can't help but be somewhat amused by all this talk about the private sector—the private sector involved in these students loans. We want this private sector to keep going—this private sector. Let me point out, Mr. President, that the "private sector" involved in this Guaranteed Loan Program gets a subsidy from the taxpayers of this country to the tune of $7.5 billion a year. That is right—this private sector enterprise gets a subsidy from the Federal Government every year of $7.5 billion. Private sector? Hardly. Subsidized sector? Yes.

So all of this talk about this private sector out there in the Guaranteed Loan Program is nonsense. Now, if you want to make it private sector, let's not give them any subsidies. Let's knock out the $600 million to lenders for the special allowance payment. Let's knock off the $3 billion to cover defaults. Let's knock off the $2.5 million for interest subsidy for students. Knock off all that stuff—the $7.5 billion a year in subsidies that we put out for the guaranty loan agencies. If you want to talk about competition, that is fine; I don't mind having competition. In fact, it might be pretty good. But let's keep it balanced.

The point is that this amendment that I have offered for the students cuts their taxes by 25 percent on both the Guaranteed Loan Program and on the Direct Loan Program. It cuts it by 25 percent on both. It keeps them both even in that regard. So if you want to keep competition, I say vote for my amendment. You get a tax cut for the students, which allows them to buy textbooks, and it keeps the Direct Loan Program and the subsidized, private sector Guaranteed Loan Program in balance.

I yield the floor.

The PRESIDING OFFICER. Under the previous order, there will now be 30 minutes, equally divided, on the Kennedy amendment.

AMENDMENT NO. 3119

(Purpose: To provide for market-based determinations of lender returns)

Mr. KENNEDY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Massachusetts [Mr. KENNEDY] proposes an amendment numbered 3119.

Mr. KENNEDY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 458, between lines 2 and 3, insert the following:

SEC. 425. MARKET-BASED DETERMINATIONS OF LENDER RETURNS.

Part B of title IV (20 U.S.C. 1071 et seq.) is amended by inserting after section 427A the following:

"SEC. 427B. MARKET-BASED DETERMINATIONS OF LENDER RETURNS.

"(a) FINDINGS.—Congress finds that—

"(1) in the field of consumer lending, market forces have resulted in increased quality of services and decreased prices, and more extensive application of market forces to the Robert T. Stafford Federal Student Loan Program should be explored;

"(2) Federal subsidies to lenders making or holding loans made, insured, or guaranteed under this part should not exceed the level necessary to ensure that all eligible borrowers have access to loans under this part;

"(3) setting the level of lender returns necessary to achieve the objective described in paragraph (2) in statute is necessarily inexact and insufficiently flexible to respond to market forces, and therefore lender returns should be determined through the use of market-based mechanisms;

"(4) alternative market-based mechanisms must be tested before a final selection is made as to the particular mechanism to be used for all loans made, insured, or guaranteed under this part;

"(5) the results of testing alternative market-based mechanisms should be evaluated independently; and

"(6) if the independent evaluation concludes that the testing of alternative market-based mechanisms has been successful, a market-based mechanism to determine lender returns on all loans made, insured, or guaranteed under this part should be implemented as expeditiously as possible.

"(b) JOINT PLANNING STUDY TO SELECT AUCTION-BASED MECHANISMS FOR TESTING.—

"(1) PLANNING STUDY.—The Secretary and the Secretary of the Treasury jointly shall conduct a planning study, in consultation with the Office of Management and Budget, the Congressional Budget Office, the General Accounting Office, and other individuals and entities the Secretary determines appropriate, to—

"(A) examine the matters described in paragraph (2) in order to determine which auction-based mechanisms for determining lender returns on loans made, insured, or guaranteed under this part shall be tested under the pilot programs described in subsection (c); and

"(B) determine what related administrative and other changes will be required in order to ensure that high-quality services are provided under a successful implementation of auction-based determinations of lender returns for all loans made, insured, or guaranteed under this part.

"(2) MATTERS EXAMINED.—The planning study under this subsection shall examine—

"(A) whether it is most appropriate to auction existing loans under this part, to auction the rights to originate loans under this part, or a combination thereof;

"(B) whether it is preferable to auction parcels of such loans or rights, that are similar or diverse in terms of loan or borrower characteristics;

"(C) how to ensure that statutory, regulatory, or administrative requirements do not impede separate management and ownership of loans under this part; and

"(D) what is the appropriate allocation of risk between the Federal Government and the owners of loans under this part with respect to interest rates and nonpayment, or late payment, of loans;

"(3) MECHANISMS.—In determining which auction-based mechanisms are the most promising models to test in the pilot programs under subsection (c), the planning study shall take into account whether a particular auction-based mechanism will—

"(A) reduce Federal costs if used on a program-wide basis;

"(B) ensure loan availability under this part to all eligible students at all participating institutions;

"(C) minimize administrative complexity for borrowers, institutions, lenders, and the Federal Government; and

"(D) facilitate the participation of a broad spectrum of lenders and ensure healthy long-term competition in the program under this part.

"(4) REPORT.—A report on the results of the planning study, together with a plan for implementing 1 or more pilot programs using promising auction-based approaches for determining lender returns, shall be transmitted to Congress not later than April 1, 1999.

"(c) PILOT PROGRAMS.—

"(1) AUTHORIZATION.—

"(A) IN GENERAL.—Notwithstanding any other provision of this title, after the report described in subsection (b)(4) is transmitted to Congress, the Secretary is authorized, in consultation with the Secretary of the Treasury, to begin preparations necessary to carry out pilot programs meeting the requirements of this subsection in accordance with the implementation plan included in the report.

"(B) DETERMINATION.—Before commencing the implementation of the pilot programs, the Secretary shall determine that such implementation is consistent with enhancing—

"(i) the modernization of the student financial assistance delivery systems;

"(ii) service to students and institutions of higher education; and

"(iii) competition within the program under this part.

"(C) IMPLEMENTATION DATE.— The Secretary may commence implementation of the pilot programs under this subsection not earlier than 120 days after the report is transmitted to Congress under subsection (b)(4).

"(D) DURATION AND LOAN VOLUME.—The pilot programs under this subsection shall be not more than 2 years in duration, and the Secretary may use the pilot programs to determine the lender returns for not more than

10 percent of the annual loan volume under this part during each of the first and second years of the pilot programs under this subsection.

"(2) Requirements.—In carrying out pilot programs under this subsection, the Secretary—

"(A) shall use auction-based approaches, in which lenders bid competitively for the loans under this part, or rights to originate such loans (such as a right of first refusal to originate loans to borrowers at a particular institution, or a right to originate loans to all such borrowers remaining after a right of first refusal has been exercised), as the Secretary shall determine;

"(B) may determine the payments to lenders, and the terms, applicable to lenders, of the rights or loans, as the case may be, for which the lenders bid; and

"(C) shall include loans of different amounts and loans made to different categories of borrowers, but the composition of the parcels of loans or rights in each auction under a pilot program may vary from parcel-to-parcel to the extent that the Secretary determines appropriate.

"(3) Voluntary participation.—Participation in a pilot program under this subsection shall be voluntary for eligible institutions and eligible lenders.

"(4) Independent evaluation.—The Secretary shall enter into a contract with a non-Federal entity for the conduct of an independent evaluation of the pilot programs, which evaluation shall be completed, and the results of the evaluation submitted to the Secretary, the Secretary of the Treasury, and Congress, not later than 120 days after the termination of the pilot programs under this subsection.

"(d) Consultation.—

"(1) In general.—As part of the planning study and pilot programs described in this section, the Secretary shall consult with lenders, secondary markets, guaranty agencies, institutions of higher education, student loan borrowers, other participants in the student loan programs under this title, and other individuals or entities with pertinent technical expertise. The Secretary shall engage in such consultations using such methods as, and to the extent that, the Secretary determines appropriate to the time constraints associated with the study and programs. The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to such consultations.

"(2) Services of other federal agencies.—In carrying out the planning study and pilot programs described in this section, the Secretary may use, on a reimbursable basis, the services (including procurement authorities and services), equipment, personnel, and facilities of other agencies and instrumentalities of the Federal Government.".

On page 457, line 23, strike "The" and insert "Except as the Secretary of Education may otherwise provide under section 427B of the Higher Education Act of 1965, the".

On page 505, strike line 5 and all that follows through page 506, line 16.

Mr. KENNEDY. Mr. President, as I understand it, we have a half hour evenly divided, and I yield myself 7 minutes.

Mr. President, this was a very good segue—listening to the comments of my friend and colleague from Iowa—to the amendment which I propose this evening and which has the administration's support.

The amendment I am offering will enable the Department of Education, working with the Secretary of the Treasury, to conduct a pilot program on methods to rely on competition to set interest rates on student loans. The results of this pilot program will be reported back to Congress within 120 days after the end of the test, and Congress must act again before any further action to implement competition on a wider scale.

The bill currently calls on the Secretary to study the feasibility of using competition. That is too little and too late. It is a further delaying tactic. My amendment takes the reasonable step of authorizing a pilot program to see how competition would work in practice.

The obvious way to use competition is through an auction. Under this amendment, up to 10 percent of the loan volume can be auctioned in each of 2 years. Students will be protected with the same low interest rate in the bill, and access to loans will continue. Colleges will participate on a voluntary basis. No one will be forced to be part of a pilot project. After the pilot is completed, an independent entity will evaluate the results and submit them to the Department of Education, the Treasury, and Congress. For example, one type of auction could invite lenders to offer loans to all eligible students at a college, or a group of colleges; or a State could originate loans for students at colleges in the State and auction the loans afterward, with excess subsidies returned to the Federal Government.

The pilot project would be able to assess the practical problems, if any, in this procedure. In fact, there is already experience to build on. Loans for students in the health professions were conducted by auctions. Before the initial auction, the interest rate was based on a 91-day Treasury bill rate plus a premium of 3 percent. At the final auction, the premium was 1.5 percent—a significant cut in the interest rate that brought major savings for the students. According to the Treasury, lenders will make an average return of 16 percent on student loans under this bill, a higher rate of return than their historic rates of return on their other assets, even though these loans are guaranteed by the Federal Government and therefore have no risk to the banks.

As the Congressional Budget Office analysis of March 30, 1998, concludes, "banks do not require the same returns on FFELs that they require overall, since federally guaranteed student loans are less risky than the average bank asset." The excessive cost to the taxpayer of these artificially high interest rates is at least $1 billion over the 5 years.

Mr. President, we all know what is going on here. A Washington Post editorial of March 18 is titled "Stared Down by the Banks," and it pulls no punches and it accuses Congress of being intimidated by the banks. A USA Today editorial of March 23, 1998, is titled, "Banks Acting Like Bullies"—too much subsidies for the banks. Clearly, we should let competition set the interest rate, not Congress.

As the Los Angeles Times said in its editorial on June 5, "Congress should tackle the 'larger problem: the lack of competition in the student loan system.'" This amendment that I am offering this evening is a worthwhile pilot program that can help do so.

Competition can work and will work to save Federal dollars and save dollars for college students as well.

Mr. President, I ask unanimous consent to have printed in the Record the various Federal programs that are involved in this kind of a competition.

Examples of How Auctions Are Used in Federal Programs

Treasury Securities.—Treasury auctions bills, notes, bonds and inflation-indexed notes and bonds in a sealed-bid auction. Bidders bid an interest rate and loan volume they would like at that rate. But no bidder can win more than a certain percentage of the total put up for bid. Noncompetitive bidders can submit pre-auction bids for a given volume for which they'll accept the auction-determined interest rate. Treasury usually uses discriminatory-price auctions by giving each bidder the rate they bid, but it has also experimented with uniform auctions in which all winners get the highest winning rate.

HUD Loan and Real Estate Asset Sales.—HUD and FHA auction defaulted mortgages, and bidders may bid on any number of mortgages. Because any combination or all of the auctioned items can be bid on together, there is likely overlap in the mortgage packages submitted by each bidder. To address this problem and to be able to determine which combination of bids would optimize value for the government, an Auction Optimization Model was developed by AT&T Bell Laboratories. The computer model is used to select the winning bids based on total revenue for the government.

Health Education Assistance Loans (HEAL).—HHS conducts a sealed-bid auction in which bidders bid an interest rate and loan volume they would like at that rate. The low bidder and all others within a certain tolerance of the low bid win the right to make loans. In the case of single winners, schools would not have a choice in that given year and might have to deal with different lenders in each year. In the case of multiple winners, each bidder would have to compete to make as many loans as they can, though it would probably be less than their originally bidded volume.

FCC Wireless Spectrum Auctions.—The FCC conducts sealed-bid auctions for spectrums in which hundreds of markets are determined simultaneously. After each round, bidders see the prevailing price in each market and can place a bid in the next round in markets they had not bid for previously. The auction does not end until no more bidders want to make higher bids in any market. Telephone service provision is also auctioned in certain areas, including relatively unprofitable parts of areas. Though results have been mixed, most auctions have gone well.

Elk Hills Oil Field of the Naval Petroleum Reserve.—Elk Hills was one of the federal government's largest privatization efforts, with the sale completed in February of 1998. The process involved getting five independent evaluators to determine the value of the property before publishing the offer and collecting proposals from potential bidders. Due diligence and close attention to transfer documents were components of the many legal and technical steps. The bid evaluation incorporated negotiations with the three finalists on terms beyond the payment, such as environmental indemnity issues, and ultimately a single winner was selected.

WIC Infant Formula Bidding Process.—WIC purchases of infant formula comprise more than half of all formula sales within the U.S., and in an effort to ensure competitive pricing, in 1989 the federal government began requiring states to establish competitive bidding processes. The firm offering the lowest net price to the state or cluster of states wins the exclusive right to sell infant formula to WIC participants, and that firm is then billed by the state WIC agencies for rebates on formula purchased with WIC vouchers. Under this system GAO reports that after accounting for rebates in 1996, WIC agencies paid 85 percent less than the wholesale price for formula, on average, allowing WIC to be extended to an additional 1.7 million persons each month.

EPA Pollution Rights.—EPA's acid rain program holds an annual auction of a Special Allowance Reserve of approximately 2.8 percent of total allowances, conducted by the Chicago Board of Trade. In addition to providing an additional means of obtain allowances (each equal to one ton of annual SO_2 emissions), the auction also importantly establishes a market price signal. Allowances are sold from the Reserve before private holdings are sold. Anyone—including public interest and environmental groups—can participate in the bidding on and trading of allowances. Spot (for that year) and advance (not usable for seven years) allowances for SO_2 emissions are available through the auction, and allowances may be bought, sold, banked, or retired. This auction appears to use discriminatory pricing rather than uniform pricing.

Resolution Trust Corporation.—RTC auctions collateralized and uncollateralized assets. For example, in a recent competitive (sealed) bidding process, approximately 1100 assets were divided into 30 pools based on asset type and region. A financial advisor and due diligence contractor scrubbed the relevant files and collected data to establish values and reserve prices for each asset. This information, recorded in CD-ROM format, was made available to the public, which had four weeks to review it. Bids on the 30 asset pools were received at a centralized New York clearinghouse over a two-day span. Based on the best and final bids, the $450 million sale yielded 87 cents on the dollar rather than the 75 cents that the portfolio had originally been valued at.

Oil and Gas Sales on the Outer Continental Shelf.—After determining to lease the tracts, they are advertised in the Federal Register in an open bidding process. Potential investors send their checks; after the highest bidder is notified of their acceptance, the other checks are returned to the unsuccessful bidders. At this point, the government conducts its own assessment of the value of the oil and gas reserves, based on geological and mineral information provided by the successful bidder, to make sure the bidded amount meets or exceeds the government estimated value.

Conservation Reserve Program (CRP).—The USDA solicits bids from producers for enrollment of acres into the CRP. Bids are accepted based on a formula that accounts for the environmental for each dollar from enrollment (i.e., if a bid is accepted, the government pays farmers rental payments for 10 years to idle their land and put a conserving cover crop on it).

Timber Sales.—The Forest Service auctions off the rights to timber companies to cut designated areas in National Forests. After an offer of sale describing the timber and the sale terms is publicized, a sealed-bid process takes place. Non-price related terms of the sale, including environmental concerns, are all set by the government, so the highest bidder wins the auction.

Export Enhancement Program (EEP).—The USDA establishes prices and bonus levels based on their estimates of the going market rates, and then accepts bids from exporters. However, rather than bidding against each other in a true-market scenario, exporters are really only bidding against the government-set price and bonus level, and they have the option of coming back with successive new bids until they hit the USDA-determined price levels.

Mr. KENNEDY. We obviously have the Treasury securities that are involved in these kinds of competitions. The HUD loans; the FHA auction on mortgages is a competitive bid; the HEAL loans, the Health Education Assistance Loans; the FCC wireless spectrum auctions. We had a long debate on what was going to be the best way to protect the taxpayer. And the decision by the Congress was to have the spectrum auctions. Elk Hills Oil Field of the Naval Petroleum Reserve was auctioned. WIC, infant formula, there was a bidding process and auctions; EPA pollution rights are auctioned off. The Resolution Trust Corporation relied on auctions, and the auctions were, in their view, based on their best and final bids. The last auction that went off was typical. The $450 million sale yielded 87 cents on the dollar rather than the 75 cents that the portfolio had originally been valued at, and was returned to the Treasury. Oil and gas sales on the Outer Continental Shelf were auctioned off. Conservation Reserve Program auctioned off; timber sales auctioned off; Export Enhancement Program auctioned off.

These are existing Federal programs that use the auction system to provide the best kind of protection to the taxpayers, and in this case to the students.

But this particular amendment says, with the urging of the Administration, let's have a pilot program independently evaluated, the result of which is submitted to the Congress, the Administration, and made public. Then the Congress can make a judgment on this matter.

I hope our friends on the other side of the aisle who talk about market forces and are constantly lecturing Members will support this very modest recommendation. This amendment is built on market forces and built on competition. It follows the kinds of recommendations which the U.S. Government has accepted in terms of auctions.

All we are doing is saying let's have a pilot project and test how this program would work in terms of protecting student loans. We have had debates here tonight on the level of interest rates. We have had debates in our committee on the level of interest rates. Let us try in terms of protecting students to give them the best deal that they can possibly have, and use these resources to make a major difference in reducing the cost of higher education in this country.

I reserve the remainder of time.

The PRESIDING OFFICER. Who yields time?

Mr. JEFFORDS. Mr. President, I yield myself such time as I may consume.

Mr. President, I rise in strong opposition to the amendment being offered by my colleague Senator KENNEDY. While I share his interest in exploring mechanisms for improving the delivery of student loans, as chairman of the Labor Committee, I strongly oppose his effort to provide the Department of Education—whose desire to disadvantage the FFEL Program has been aptly demonstrated—with unbridled authority to conduct an experiment on the FFEL Program.

The impetus for this concept arose out of the lengthy deliberations we have had over the past eighteen months about setting the appropriate interest rate for students and lenders. In 1993, when the Student Loan Reform Act was being drafted, its authors—including Senator KENNEDY—anticipated that the Federal government would shift entirely from the FFEL Program to the Federal Direct Loan program. A transition provision was included in the law which changed the way that student loan interest rates were to be calculated effective July 1, 1998. This change was primarily intended to reflect the budget scoring needs of the Direct Lending program. The consequences for student borrowers in the FFEL Program, however, would have been dramatic.

There is general agreement that, if the interest rate that was set for July 1, 1998 and which was delayed until October 1, 1998 is allowed to go into effect, it will become unattractive for lenders to participate in the FFEL program.

S. 1882, as reported from the committee, confronts the challenge of trying to provide students with the lowest viable interest rate on their student loans while ensuring sufficient lender participation to preserve open and full access to student loans. After nearly a year of consultation with students, lenders, representatives of the higher education community, the administration and financial services experts, the committee put forward a compromise interest rate package.

This package sharply reduced lender yield by 30 basis points while allowing students and their families to enjoy the lowest interest rates in nearly twenty years. The process of developing this package was long and difficult and the stakes were very high. While by no means perfect, the bipartisan compromise meets the twin challenges of low rates for students and continued stability in the FFEL Program.

As I wrestled with my desire to balance the twin objectives of reducing the interest rate paid by students and preserving access to loans under the FFEL Program, I encountered several budget analysts who were interested in using market-based mechanisms to establish student loan interest rates.

It became clear to me, however, that market-based mechanisms, while attractive a first blush, quickly reveal themselves to be far more complicated to design and implement than is ever fully appreciated. These analysts, who often focus only upon economic considerations, often fail to recognize that student loan programs are designed primarily to offer a social benefit—that is, to offer loans, at reasonable rates, to students without respect to credit history, educational program, loan size, geographic location, or potential as a consumer of future credit products. Market-based mechanisms, if they are to be implemented, must be carefully designed to ensure that all students continue to have equal access to student loans without regard to any particular characteristics of the borrower or their program of education.

Further, any changes to the delivery system for the FFEL Program, must strive to preserve the high level of service that students and institutions of higher education currently enjoy. Under an auction model, schools and borrowers may be forced to deal with a different lender and servicer each year. Regional lenders in small States may lose the ability to participate in the program. Students may lose the ability to select the lender of their choice. And equally important, particularly in light of the collapse last year of the Department's loan consolidation program, students may find themselves forced to make payments to myriad lenders each of whom has different practices and procedures. An auction, improperly designed, could add new and unintended layers of complexity to the program.

As a result of these concerns, as well as concerns about the ability of the Department of Education to administer an auction model, the American Association of Medical Colleges and others have publicly stated their deep reservations about moving toward a market-based model. These issues may be resolvable but I cannot support providing the Department with the authority to experiment on the FFEL program until they have been studied and addressed to my satisfaction and the satisfaction of my colleagues on the Senate Labor Committee.

In an effort to answer some of these questions, our bill directs the Secretary of the Treasury to conduct a study of the feasibility of employing market-based mechanisms. After consultation with students, lenders, and institutions of higher education, the Secretary of Treasury is required to analyze the potential impact of these mechanisms on the delivery of student aid, the implications for students and institutions of higher education with regard to access to student loan capital, and provide a plan for structuring and implementing a mechanism is a manner that ensures the cost effective availability of student loans for students and their families. This report shall be provided no later than September 30, 1999.

It is my strong belief that any pilots, if appropriate, should only be developed after careful study and full Congressional participation. In this spirit, S. 1882 contains a provision directing the Secretary of Treasury to conduct a thorough study and report to Congress on the feasibility of designating and implementing market-based mechanisms for setting student loan interest rates. I look forward to receiving this report and working with the Congressional Budget Office, my colleagues in the Senate, and all of the participants in the FFEL and Direct Lending Programs to fully assess whether or not market-based mechanisms can contribute to improvements in the availability, cost, and efficiency of the student loan programs.

In closing, I want to make one very important additional point. From all of this talk, one might think that there is a crisis within the FFEL program which we are trying to fix. The FFEL program continues to be the program of choice of the vast majority of colleges and universities. As a result, the higher education community has deep misgivings about the Kennedy amendment because it is concerned that efforts by the Department to conduct experiments upon the FFEL program will disrupt the benefits and services that students and institutions currently enjoy. For all of these reasons, I urge my colleagues to oppose this amendment.

I retain the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. COATS addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. JEFFORDS. I yield the Senator from Indiana such time as he may require.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. COATS. Mr. President, I will be brief. I just want to make a couple points.

Point No. 1, the legislation that is before us, the base legislation, already contains a carefully designed analysis and feasibility study of market-based mechanisms for student loans. The KENNEDY amendment goes much further than that. We have a study in place. We will get the information needed to make a determination as to whether or not we want to move to an auction market-based program.

Secondly, the last thing the Department of Education needs right now is another big responsibility. It can't handle the responsibilities it currently has. It has not been able to successfully manage the Direct Loan Program and the FFEL Program. Why would we want to consider giving it something else to manage?

Let me just cite a few things from the inspector general relative to the Department's administering of the Direct Loan Program. The IG has concluded that audits at 16 direct loan schools found 8 major weaknesses in 16 of those programs. They also stated that in their audit, the weaknesses they found were representative of the majority of direct loan schools. They said:

> They are very likely to exist at these other direct loan schools. The Department reviewed disbursement amounts recorded at one school and found a total of nearly $300,000 hadn't been entered into the direct loan system.

The IG's report said that 3 of the 16 schools maintained excess cash as a result of improper cash management practices.

Let me quote again from the IG's analysis of the department's ineptness in running the programs that it has now. And I quote:

> The Department does not currently have a process in place to match specific drawdowns with specific disbursement transactions.

The IG goes on to say:

> 53 percent of student status reporting was inaccurate. On average 71 percent of student records in the national student loan data system were inaccurate; 58 percent of transactions were not reported by schools through the department in a timely manner.

The IG says that today, if data is not reported timely, due diligence and timeliness of reconciliation of loan data may be adversely impacted.

We probably all remember, or should remember, that in the 1995–1996 academic year, 1 million applications were backlogged at the Department of Education which caused families and students all over the country to be put in a position where they didn't know whether they were going to get a loan or not. Two years later, the Department sent out 2.7 million forms to fill out and had the wrong shading on it, and therefore the forms were not processed right, and they ended up with hundreds of thousands of backlog as a result of that.

This goes on and on and on, the inability of the Department to handle the one-third of direct loans that it now has. So why do we want to throw in another major initiative at the Department of Education. Let them at least get the initiatives that they currently have jurisdiction for under some control. So I would urge my colleagues to join with the chairman of the committee in defeating the Kennedy amendment.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, I yield myself 3 minutes.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. What my friend, the Senator from Indiana, did not point out is that the student loan defaults were 22 percent under the Republican administration, the previous administration, now down to 10 percent, saving hundreds of millions of dollars a year. This debate isn't over the particular administration, because what we are talking about is a very sound idea. Let me give you what Mr. Petri, a Republican in the House of Representatives, said:

> The amendment would end the recurring battle—he has one that would put in place an auction program. Ours is just a pilot program.
>
> The amendment would end the recurring battle between student groups and lenders over the industry on student loans, which results in the price of the private sector services being set by political negotiation without regard to the actual cost of services.
>
> This amendment has the potential of saving the American taxpayers billions of dollars through competition for this profitable business. Up to now, with the exceptions of in-school interest and the overall interest cap, the banks have always received the same interest the students paid on interest loans.

Here is Mr. McKEON, Republican of California. This is what he says:

> The gentleman is correct that up to now we have tried to figure out how much to pay the lenders for providing student loans in a political negotiation, and we in Congress really have no way of knowing what the right price is.

These are two Republicans who believe in the market system:

> It would be much better if we had a market process to determine rates.

That is exactly what this amendment provides, a test, a pilot. You can't implement it until we vote again, but a test and a pilot make sense for the very reasons two of the most knowledgeable leaders in the Republican Party in the House of Representatives have stated:

> I am interested in working in that direction.

That is in the recent debate and discussion.

Now, Mr. President, I indicated just a few moments ago all the different agencies of Government that use this process, the most significant, obviously, the Treasury, the FHA, dealing with a great deal more amount of funding than we are considering.

Finally, Mr. President, just look at this chart that I have in the Chamber. This represents, according to the FDIC—and my good friend from Iowa was referring to various figures. Under the proposal that we have tonight, the proposal; that is, the bill, will guarantee the return on equity for all commercial banks at 16 percent. This chart here shows what the banks have made from 1958 going up to 1996, and recently, in 1994 through 1996, it has been in excess of 14 percent.

All we are saying, for those Members of the Senate who are concerned about the cost of higher education, is we have an opportunity to do something and do it the old fashioned way—competition; competition, tried, tested, utilized by other agencies of our Government and which effectively works. At least a pilot project; let's give it a try.

Mr. HARKIN. If I could ask the Senator to yield just briefly.

Mr. KENNEDY. I would be glad to yield—1½ minutes to the Senator from Iowa and 1½ minutes to the Senator from Connecticut.

Mr. HARKIN. I just want to ask the Senator again on this chart—this is outrageous—there is the return on equity for commercial banks. For a number of years it averaged about 11, 12 percent. Now it is up over 14 percent. That is a return on equity for banks. Is the Senator saying that this bill that we are passing will guarantee them a 16-percent return on guaranteed student loans?

Mr. KENNEDY. That is the estimate by the FDIC. And was used by the committee.

Mr. HARKIN. Not only do they get the 16-percent guarantee, they get a $7.5 billion subsidy from the taxpayers of this country. So I think the Senator is absolutely right. If they want to be private sector, let's put it out for bid. Some years ago, as the Senator remembers, we put the WIC Program out, the Women's Infants and Children's feeding program out for competitive bidding, good old free enterprise competitive bidding, and we have saved billions of dollars for the taxpayers of this country and improved the program. I think the Senator is right on target on this. If there is so much money floating around here, let's put it out for bid. Let's put it out for good old free enterprise, competitive bidding.

Mr. COATS. Will the Senator yield at that point?

Mr. KENNEDY. I have 1½ minutes left, I believe. Is that right?

The PRESIDING OFFICER. The Senator has a total of 3 minutes left.

Mr. COATS. Could I ask a question, just ask the time? How much time is left on our side?

The PRESIDING OFFICER. The Senator from Vermont has 4 minutes 6 seconds; the Senator from Massachusetts has 2 minutes 53 seconds.

Mr. COATS. Mr. President, I wonder if the Senator will yield me 1 minute on our side?

Mr. JEFFORDS. Yes, you may have it.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. COATS. We may have the makings of a real deal here. From what I hear it is that the Senator from Massachusetts and the Senator from Iowa are willing to put the whole program out for bid. And if we would take the whole program, including what is run by the public sector, maybe we could cut a deal and just turn the whole thing over to the private sector. Is that what the Senator is suggesting?

Mr. KENNEDY. The pilot program, yes. This is for a pilot program. We will have to come back. But to test and put both aspects out, to have it fair.

Mr. COATS. The Senator is extolling the virtues of the market system?

Mr. KENNEDY. That's fine.

Mr. COATS. Let's take the whole program.

Mr. KENNEDY. I am not prepared to take the whole program, Senator. I am talking about a pilot program.

Mr. COATS. I think I have the floor, Mr. President? Do I not have the floor?

The PRESIDING OFFICER. The Senator from Indiana still has the floor.

Mr. COATS. I thank the Chair. Mr. President, I ask the Senator for an additional minute.

Mr. JEFFORDS. I yield the Senator an additional minute.

Mr. COATS. I thought I heard the proposal that the virtues of the market system were so wonderful that the whole thing ought to be put out into the market system, and that is probably a good idea. So why—I don't understand; you can't have it both ways. You cannot try to attract it into the public sector and not provide competition in the Department of Education and yet kick everything else into the free market.

So I am saying we may have the makings of a deal here. If the Senators think the whole thing ought to go in the market, why, we can probably get that done pretty quickly and it might benefit everybody.

I yield the floor.

The PRESIDING OFFICER. Who yields time? The Senator from Massachusetts.

Mr. KENNEDY. Just for 20 seconds, Mr. President. You have to start someplace. This is a pilot program. If the Senator—if we accept this this evening, I guarantee we will work with the Senator from Indiana to try to make any kinds of adjustments in any types of ways to get whatever kind of pilot program that will accurately reflect the market forces on student loans. Whatever way the Senator wants to, we will work with him closely and we will look forward to his vote this evening.

I yield the remaining time to the Senator from Connecticut.

Mr. DODD. Mr. President, I am reluctant to take the time. I am enjoying this going back and forth. I just wanted to add my voice on this. In fact, I think, what the Senator from Indiana may have just proposed, it is unfortunate that it is not in the form of an amendment here. Because I think a pilot program, as one who has supported allowing institutions to make the choices on direct loans and guaranteed loans, that is really the best way to work. Let the marketplace work this out. I would certainly be amenable to such an amendment here.

I think what the Senator from Massachusetts is proposing and offering here is going to be a great asset to all of us. What we are doing right now is guessing. This is a guessing game, and it need not be a guessing game. So we are being asked arbitrarily here to sort of accept some numbers, disregarding what the larger economic picture is across the country.

And by establishing this study with a pilot program, we can come back in 5 years. That is when we come back to this issue. In that window we will be in a far better position to make a determination as to what should be those rates and how the marketplace could work. Why shouldn't we take advantage of that? It doesn't lock us into a particular answer one way or the other. It just gives us the opportunity to try to see if we can't come up with a more reliable, predictable solution as to how these rates ought to be determined.

Given the fact that we hear from the Congressional Budget Office that, under current rates, the banks have earned rates of return on student loans between 16 and 35 percent—by anyone's estimation that is excessive. That is their estimate. Analysts predict that we will lock in generous profits. CBO, the Congressional Budget Office, predicts that the rates of return under the interest rates in the bill will be between 10 and 25 percent. The Treasury Department calculates an average return under the bill of 16 percent. That is really excessive.

So by allowing a pilot program in the marketplace deciding these factors, we are not allowing a situation that costs taxpayers a tremendous amount. We have done so much here to alleviate some of the pressures for students in this bill, it would be a tragedy not to take advantage of doing something for the taxpayers who underwrite this program. I urge we adopt this amendment.

The PRESIDING OFFICER. Who yields time? The Senator from Vermont has 2 minutes 25 seconds.

Mr. JEFFORDS. Mr. President, I will be very brief. What we are faced with here is a bill that says these are ideas we ought to study, but we ought to have them studied not by an agency that is dedicated to killing the program, so we give it to the Department of Treasury. We say here is an idea; study it, and then make recommendations, and then we can maybe go to a pilot if it looks good. You don't give it to an agency who is dedicated to doing the program in unless you obviously want to kill the program. And that is obviously the design here.

I yield the remainder of my time.

The PRESIDING OFFICER. All time has expired. Under the previous order, the question is on the Kennedy amendment, No. 3119.

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Texas (Mrs. HUTCHISON) and the Senator from Arizona (Mr. KYL) are necessarily absent.

Mr. FORD. I announce that the Senator from New York (Mr. MOYNIHAN) is necessarily absent.

The PRESIDING OFFICER (Mr. THOMAS). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 39, nays 58, as follows:

[Rollcall Vote No. 192 Leg.]

YEAS—39

Akaka
Biden
Bingaman
Boxer
Breaux
Bryan
Bumpers
Byrd
Cleland
Conrad
Dodd
Dorgan
Durbin
Feingold
Feinstein
Glenn
Graham
Harkin
Hollings
Inouye
Johnson
Kennedy
Kerry
Kohl
Landrieu
Lautenberg
Levin
Lieberman
Mikulski
Moseley-Braun
Murray
Reed
Reid
Robb
Rockefeller
Sarbanes
Torricelli
Wellstone
Wyden

NAYS—58

Abraham
Allard
Ashcroft
Baucus
Bennett
Bond
Brownback
Burns
Campbell
Chafee
Coats
Cochran
Collins
Coverdell
Craig
D'Amato
Daschle
DeWine
Domenici
Enzi
Faircloth
Ford
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hagel
Hatch
Helms
Hutchinson
Inhofe
Jeffords
Kempthorne
Kerrey
Leahy
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Roberts
Roth
Santorum
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner

NOT VOTING—3

Hutchison
Kyl
Moynihan

The amendment (No. 3119) was rejected.

Mr. LOTT. Mr. President, I move to reconsider the vote.

Mr. JEFFORDS. I move to lay it on the table.

The motion to lay on the table was agreed to.

Mr. LOTT. Mr. President, first, I ask all the Senators to stay in the Chamber so we can get through the next two votes quickly. The managers have done a good job getting us to the point where we have two more amendments left. There is one other issue that is being worked on, and then we would be ready to go to final passage. If the Senators will stay close, we can get through the two remaining amendment votes in 20 minutes and hopefully be ready to go to final passage after perhaps a brief colloquy right before final passage.

I ask unanimous consent that the next votes in the series be limited to 10 minutes in length.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Will the Senator yield? Do we have any information on how we are doing on our Patients' Bill of Rights?

Mr. LOTT. I don't believe that has come up today. We have worked on higher education. There is a vision on the horizon of how this could be done. I am sure we will find a way to do that in the next week.

Mr. KENNEDY. You will let us know—next week?

Mr. LOTT. Like to; unless there is obstruction or resistance. (Laughter.)

I am sure when the time comes, the Senator may have some second thoughts.

But at any rate, let's do higher education and then we will talk about that.

AMENDMENT NO. 3116

The PRESIDING OFFICER. The question is on the Bingaman amendment No. 3116, with 2 minutes equally divided.

Mr. BINGAMAN. Mr. President, this amendment is intended to improve the academic preparation of our teachers. This is an area of great concern all around the country. The amendment says to States: You should require an academic major for the people you are training to teach in high schools—that in addition to the education course they take, they should have an academic major. Mr. President, 32 States already have in place this requirement.

What we are saying is that over the next 3 years each State should be able to adopt a plan to get to this same point. It will substantially improve the preparation of teachers at the high school level. It has been shown to do that in the States that have adopted it. I believe this would be a very good policy for us to adopt as part of this bill.

I urge my colleagues to take this opportunity. It will be 6 years, again, before we pass a reauthorization of the Higher Ed Act and we need to get on with the business of improving teaching in this country. This amendment will help to do that.

Mr. JEFFORDS. I must oppose the amendment offered by my colleague from New Mexico. He has done a wonderful job in assisting us in taking a serious look at the problems we have with respect to teachers and whether or not they have a major in the subject which they will be teaching.

The problem with this amendment is that it mandates to the States that they must do something. The bill itself provides incentives for them to make sure that the people wanting to be teachers have studied the things which they will teach. We do it by enticement and through assistance with loan programs—with programs—whereas this amendment would order it done.

It is a mandate, and I think it is inappropriate and that it would be counterproductive.

The PRESIDING OFFICER. All time has expired.

The clerk will call the roll.

Mr. NICKLES. I announce that the Senator from Texas (Mrs. HUTCHISON) and the Senator from Arizona (Mr. KYL) are necessarily absent.

Mr. FORD. I announce that the Senator from New York (Mr. MOYNIHAN) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 23, nays 74, as follows:

[Rollcall Vote No. 193 Leg.]

YEAS—23

Biden
Bingaman
Boxer
Bryan
Bumpers
Cochran
Conrad
Daschle
Domenici
Dorgan
Durbin
Ford
Harkin
Hollings
Johnson
Kerrey
Lugar
Moseley-Braun
Reed
Reid
Robb
Torricelli
Wellstone

NAYS—74

Abraham
Akaka
Allard
Ashcroft
Baucus
Bennett
Bond
Breaux
Brownback
Burns
Byrd
Campbell
Chafee
Cleland
Coats
Collins
Coverdell
Craig
D'Amato
DeWine
Dodd
Enzi
Faircloth
Feingold
Feinstein
Frist
Glenn
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Hagel
Hatch
Helms
Hutchinson
Inhofe
Inouye
Jeffords
Kempthorne
Kennedy
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lott
Mack
McCain
McConnell
Mikulski
Murkowski
Murray
Nickles
Roberts
Rockefeller
Roth
Santorum
Sarbanes
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner
Wyden

NOT VOTING—3

Hutchison
Kyl
Moynihan

The amendment (No. 3116) was rejected.

Mr. JEFFORDS. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. COVERDELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3118

The PRESIDING OFFICER. The question now is on agreeing to the Harkin amendment. There are 2 minutes equally divided. Who yields time?

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, my amendment cuts the tax on subsidized student loans by 25 percent—from 4 percent to 3 percent. So it puts more actual money into the pockets of students so they can buy textbooks. It also continues to pay guaranty agencies over the next 5 years.

If you hear an argument that somehow this is going to put our guaranty agencies at risk and jeopardize the banks, I point out that even under my amendment by cutting this tax by 25 percent on students, the guaranty agencies will get almost $4.6 billion over the next 5 years, more than enough to handle any contingency.

So this basically is a tax cut for students. It is supported by a long list of colleges and student organizations. I think it is the least we can do for our students—to give them a tax break, also.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Mr. President, I rise in strong opposition to the Harkin amendment. It sounds nice but it really doesn't do what was anticipated. It saves maybe $42 a year for the students; that is, if the program doesn't go belly up.

It undoes a very careful balance between the share of the risk that the student takes, that the guaranty agencies take, and that the Federal Government takes. It unbalances it. It would put about 22 guaranty agencies out of business.

The present system, which is the FFEL system, is working very well. The direct lending is helped with competition. The last thing we want to do is put out the system which takes care of 80 percent of the colleges and 66 percent of all loans.

It is a dangerous amendment. And I strongly oppose it.

The PRESIDING OFFICER. All time has expired.

The question is on agreeing to the amendment of the Senator from Iowa. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Texas (Mrs. HUTCHISON and the Senator from Arizona (Mr. KYL) are necessarily absent.

Mr. FORD. I announce that the Senator from New York (Mr. MOYNIHAN) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 41, nays 56, as follows:

[Rollcall Vote No. 194 Leg.]

YEAS—41

Akaka
Baucus
Biden
Bingaman
Boxer
Breaux
Bryan
Bumpers
Byrd
Cleland
Daschle
Dodd
Durbin
Feingold
Feinstein
Ford
Glenn
Graham
Harkin
Hollings
Inouye
Kennedy
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Murray
Reed
Reid
Robb
Rockefeller
Sarbanes
Smith (OR)
Torricelli
Wellstone
Wyden

NAYS—56

Abraham
Allard
Ashcroft
Bennett
Bond
Brownback
Burns
Campbell
Chafee
Coats
Cochran
Collins
Conrad
Coverdell
Craig
D'Amato
DeWine
Domenici
Dorgan
Enzi
Faircloth
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hagel
Hatch
Helms
Hutchinson
Inhofe
Jeffords
Johnson
Kempthorne
Kerrey
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Roberts
Roth
Santorum
Sessions
Shelby
Smith (NH)
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner

NOT VOTING—3

Hutchison
Kyl
Moynihan

The amendment (No. 3118) was rejected.

Mr. JEFFORDS. Mr. President, I move to reconsider the vote.

Mr. KENNEDY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. JEFFORDS. Mr. President, I thank all my colleagues. This has been a long day, and we have a very important bill and we are about 2 minutes away from final passage. We just have a few little housekeeping things to do and then we can all go home.

AMENDMENT NO. 3120

Mr. JEFFORDS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Vermont [Mr. JEFFORDS] proposes an amendment numbered 3120.

Mr. JEFFORDS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of title VII, insert the following:

SEC. . RELEASE OF CONDITIONS, COVENANTS, AND REVERSIONARY INTERESTS, GUAM COMMUNITY COLLEGE CONVEYANCE, BARRIGADA, GUAM.

(a) RELEASE.—The Secretary of Education shall release all conditions and covenants that were imposed by the United States, and the reversionary interests that were retained by the United States, as part of the conveyance of a parcel of Federal surplus property located in Barrigada, Guam, consisting of approximately 314.28 acres and known as Naval Communications Area Master Station, WESTPAC, parcel IN, which was conveyed to the Guam Community College pursuant to—

(1) the quitclaim deed dated June 8, 1990, conveying 61.45 acres, between the Secretary, acting through the Administrator for Management Services, and the Guam Community College, acting through its Board of Trustees; and

(2) the quitclaim deed dated June 8, 1990, conveying 252.83 acres, between the Secretary, acting through the Administrator for Management Services, and the Guam Community College, acting through its Board of Trustees, and the Governor of Guam.

(b) CONSIDERATION.—The Secretary shall execute the release of the conditions, covenants, and reversionary interests under subsection (a) without consideration.

(c) INSTRUMENT OF RELEASE.—The Secretary shall execute and file in the appropriate office or offices a deed of release, amended deed, or other appropriate instrument effectuating the release of the conditions, covenants, and reversionary interests under subsection (a).

SEC. ___. SENSE OF CONGRESS REGARDING GOOD CHARACTER.

(a) FINDINGS.—Congress finds that—

(1) the future of our Nation and world will be determined by the young people of today;

(2) record levels of youth crime, violence, teenage pregnancy, and substance abuse indicate a growing moral crisis in our society;

(3) character development is the long-term process of helping young people to know, care about, and act upon such basic values as trustworthiness, respect for self and others, responsibility, fairness, compassion, and citizenship;

(4) these values are universal, reaching across cultural and religious differences;

(5) a recent poll found that 90 percent of Americans support the teaching of core moral and civic values;

(6) parents will always be children's primary character educators;

(7) good moral character is developed best in the context of the family;

(8) parents, community leaders, and school officials are establishing successful partnerships across the Nation to implement character education programs;

(9) character education programs also ask parents, faculty, and staff to serve as role models of core values, to provide opportunities for young people to apply these values, and to establish high academic standards that challenge students to set high goals, work to achieve the goals, and persevere in spite of difficulty;

(10) the development of virtue and moral character, those habits of mind, heart, and spirit that help young people to know, desire, and do what is right, has historically been a primary mission of colleges and universities; and

(11) the Congress encourages parents, faculty, and staff across the Nation to emphasize character development in the home, in the community, in our schools, and in our colleges and universities.

(b) SENSE OF CONGRESS.—It is the sense of Congress that Congress should support and encourage character building initiatives in schools across America and urge colleges and universities to affirm that the development of character is one of the primary goals of higher education.

On page 379, between lines 5 and 6, insert the following:

"SEC. 235. ACCOUNTABILITY FOR PROGRAMS THAT PREPARE TEACHERS.

"(a) INFORMATION COLLECTION AND PUBLICATION.—

"(1) DEFINITIONS.—

"(A) Within six months of the date of enactment, the Commissioner of the National Center for Education Statistics, in consultation with States and institutions of higher education, shall develop key definitions and uniform methods of calculation for terms related to the performance of elementary school and secondary school teacher preparation programs.

"(B) In complying with this section, the Secretary and State shall ensure that fair and equitable methods are used in reporting and that they protect the privacy of individuals.

"(2) INFORMATION.—

"(A) STATE REPORT CARD ON THE QUALITY OF TEACHER PREPARATION.—States that receive funds under this Act shall provide to the Secretary, within two years of enactment of the Higher Education Amendments of 1998, and annually thereafter, in a uniform and comprehensible manner that conforms with the definitions and methods established in (a)(1), a state report card on the quality of teacher preparation, which shall include at least the following:

"(1) A description of the teacher certification and licensure assessments, and any other certification and licensure requirements, used by each State.

"(2) The standards and criteria that prospective teachers must meet in order to attain initial teacher licensing or certification and to be licensed to teach particular subjects or in particular grades within the State.

"(3) A description of the extent to which those assessments and requirements are aligned with the State's standards and assessments for students.

"(4) The percentage of teaching candidates who passed each of the assessments used by the State for licensure and certification, and the "cut score" on each assessment that determines whether a candidate has passed that assessment.

"(5) The percentage of teaching candidates who passed each of the assessments used by the State for licensure and certification, disaggregated by the teacher preparation program in that State from which the teacher candidate received his or her most recent degree. States shall make these data available widely and publicly.

"(6) Information on the extent to which teachers in the State have been given waivers of State licensure or certification requirements, including the proportion of such teachers distributed across high and low poverty districts and across subject areas.

"(7) A description of each State's alternative routes to teacher certification, if any, and the percentage of teachers certified through alternative certification routes who pass state licensing assessments.

"(8) For each State, a description of proposed criteria for assessing the performance of teacher preparation programs within institutions of higher education, including but not limited to indicators of teacher candidate knowledge and skills as described in (b)(1)(A).

"(B) REPORT OF THE SECRETARY ON THE QUALITY OF TEACHER PREPARATION.—The Secretary shall publish annually and make widely available a report card on teacher qualifications and preparation in the United States, including all the information reported in (A)(1-8), beginning three years after enactment of the Higher Education Amendments of 1998. The Secretary shall report to Congress a comparison of States' efforts to improve teaching quality. The Secretary shall also report on the national mean and median scores on any standardized test that is used in more than one State for teacher licensure or certification. In the case of teacher preparation programs with fewer than 10 graduates taking any single initial teacher certification assessment during any administration of such assessment, the Secretary shall collect and publish information with respect to an average pass rate on State certification or licensure assessments taken over 3 years.

"(C) INSTITUTIONAL REPORT CARDS ON THE QUALITY OF TEACHER PREPARATION.—Each institution of higher education that conducts a teacher preparation program that enrolls students receiving federal assistance shall, not later than two years after the enactment of the Higher Education Amendments of 1998, and annually thereafter, report, in a uniform and comprehensible manner, the following information to the State, and the general public, including through publications such as course catalogues and promotional materials sent to potential applicants, high school guidance counselors, and prospective employers of its program graduates, in a manner that conforms with the definitions and methods established under (a)(1):

"(1) For the most recent year for which the information is available, the passing rate of its graduates on the teacher certification and licensure assessments of the state in which it is located, but only for those students who took those assessments within three years of completing the program. A comparison of the program's pass rate with the state average pass rate shall be included as well. In the case of teacher preparation programs with fewer than 10 graduates taking any single initial teacher certification assessment during any administration of such assessment, the institution shall collect and publish information with respect to an average pass rate on State certification or licensure assessments taken over 3 years.

"(2) The number of students in the program, the average number of hours of supervised practice teaching required for those in the program, and the faculty-student ratio in supervised practice teaching.

"(3) In States that approve or accredit teacher education programs, a statement of whether the institution's program is so approved or accredited.

"(4) Whether the program has been designated as low performing by the State under (b)(1)(B).

In addition to the actions authorized in S. 487(c), the Secretary may impose a fine not to exceed $25,000 on a teacher preparation program for failure to provide the information described in (a)(2)(B) in a timely or accurate manner.

"(b) ACCOUNTABILITY.—

"(1) States receiving funding under this Act, shall develop and implement, no later than three years after enactment of the Higher Education Amendments of 1998, the following teacher preparation program accountability measures and publish the measures publicly and widely:

"(A) A description of state criteria for identifying low-performing teacher preparation programs which may include a baseline pass rate on state licensing assessments and other indicators of teacher candidate knowledge and skill. States that do not employ assessments as part of their criteria for licensing or certification are not required to meet this criterion until such time as the State initiates the use of such assessments.

"(B) Procedures for identifying low performing teacher preparation programs based on the criteria developed by the state as required by (b)(1)(A), and publish a list of those programs.

"(C) States that have, prior to enactment, already conformed with (b)(1)(A–B), need not change their procedures, unless the State chooses to do so.

"(2) Not later than four years after enactment of the Higher Education Amendments of 1998, any teacher preparation programs for which the State has withdrawn its approval or terminated its financial support due to the low performance of its teacher preparation program based on procedures described in (b)(1).

"(1) shall be ineligible for any funding for professional development activities awarded by the Department of Education; and

"(2) shall not be permitted to accept or enroll any student that receives aid under title IV of this Act in its teacher preparation program.

Mr. JEFFORDS. This amendment contains items that have been agreed to on both sides, and I ask for its immediate adoption.

The PRESIDING OFFICER. If there is no objection, the amendment is agreed to.

The amendment (No. 3120) was agreed to.

Mr. JEFFORDS. Mr. President, I ask unanimous consent that no additional amendments be in order and that further action be as described in the order of June 25.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee substitute, as modified, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The clerk will report H.R. 6.

The legislative clerk read as follows:

A bill (H.R. 6) to extend the authorization of programs under the Higher Education Act of 1965, and for other purposes.

The Senate proceeded to consider the bill.

The PRESIDING OFFICER. Under the previous order, all after the enacting clause of H.R. 6 is stricken and the text of S. 1882, as amended, is inserted in lieu thereof.

The question is on the third reading of the bill.

The bill (H.R. 6), as amended, was ordered to a third reading and was read the third time.

The PRESIDING OFFICER. The question is, Shall the bill pass?

Mr. JEFFORDS. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? The yeas and nays have been ordered. The clerk will call the roll.

Mr. NICKLES. I announce that the Senator from Texas (Mrs. HUTCHISON) and the Senator from Arizona (Mr. KYL) are necessarily absent.

Mr. FORD. I announce that the Senator from New York (Mr. MOYNIHAN) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 96, nays 1, as follows:

[Rollcall Vote No. 195 Leg.]

YEAS—96

Abraham
Akaka
Allard
Ashcroft
Baucus
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Cleland
Coats
Cochran
Collins
Conrad
Coverdell
Craig
D'Amato
Daschle
DeWine
Dodd
Domenici
Dorgan
Durbin
Enzi
Faircloth
Feingold
Feinstein
Ford
Frist
Glenn
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Hagel
Harkin
Hatch
Hollings
Hutchinson
Inhofe
Inouye
Jeffords
Johnson
Kempthorne
Kennedy
Kerrey
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Mikulski
Moseley-Braun
Murkowski
Murray
Nickles
Reed
Reid
Robb
Roberts
Rockefeller
Roth
Santorum
Sarbanes
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Torricelli
Warner
Wellstone
Wyden

NAYS—1

Helms

NOT VOTING—3

Hutchison
Kyl
Moynihan

The bill (H.R. 6), as amended, was passed.

(The text of the bill (H.R. 6) will be printed in a future edition of the RECORD.)

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. LOTT. Mr. President, I commend the managers of this legislation. This is very important legislation. We needed to get it done so that they would have time to go to conference and get it completed without any doubt before this session ends. Students all across America depend on it. As a former employee in a placement and financial aid office at a university, I know how important these loan and grant programs and work study programs are. I thank Senator JEFFORDS, the chairman, and Senator KENNEDY for staying with it today to get this bill completed.

Mr. JEFFORDS addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. President, I am extremely pleased that the Senate has completed action on S. 1882. It is a good day for the Senate and a good day for America's students and their families.

The prompt action on this measure today would not have been possible without the concerted effort of Members of the Senate—particularly those serving on the Labor and Human Resources Committee—and their staffs over the past 18 months.

Each and every member of the Committee made a positive contribution to the development and refinement of this measure. I very much value the time, effort, and commitment they have brought to this task.

I would also like to extend my sincerest thanks to the many staff people who sacrificed their evenings and weekends to further this cause.

I would like particularly to recognize the efforts of Townsend Lange with Senator COATS, Marianna Pierce, Jane Oates, and Jennifer Kron with Senator KENNEDY, and Suzanne Day and Megan Murray with Senator DODD. These individuals—along with my own staff members Scott Giles, Susan Hattan, Cory Heyman, Pamela Moran, and Jenny Smulson—went "above and beyond" in terms of their diligent work on each and every aspect of this measure.

I would like also to recognize and thank the staff of other members of the committee—all of whom have shown great dedication to this cause:

Jackie Cooney with Senator GREGG;
Lori Meyer with Senator FRIST;
John Connelly with Senator DEWINE;
Chad Calvert with Senator ENZI;
Jenny Saunders with Senator HUTCHINSON;
Julian Haynes with Senator COLLINS;
Angie Stewart with Senator WARNER;
Robin Bowe and Holly Hacker with Senator MCCONNELL;
Bev Schroeder with Senator HARKIN;
Deborah Connelly with Senator MIKULSKI;
Alexander Russo and Rena Subonik with Senator BINGAMAN;
Roger Wolfson and Robin Burkhe with Senator WELLSTONE;
Mike Egan with Seantor MURRAY;
Elyse Wasch with Senator REED.

I also want to acknowledge the extraordinary assistance offered by Debb Kalcevik, Robin Seiler, Josh O'Harra, and Justin Latus with the Congressional Budget Office, Mark Sigurski with Senate Legislative Counsel, and Margot Schenet, Jim Steadman, and Barbara Miles, with the Congressional Research Service.

This process has been a collaborative and bipartisan one every step of the way. It has produced a measure of which we can all be proud.

I yield the floor.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I want to take a moment of the Senate's time to, first, congratulate Senator JEFFORDS and his staff and thank my staff and a number of our colleagues. This is an enormously important piece of legislation.

I didn't really have a chance in the final moments to indicate the importance and significance of this legislation, but to the parents of this country who may be following this discussion this evening, as a result of this legislation, the students who will be attending colleges after its implementation, which will be later in this year, will be saving anywhere from $650 to $3,200 over the course of a loan. The bill also provides for loan forgiveness for teachers, some $8,000 for highly qualified teachers who will teach in low-income communities.

It has very, very important quality teaching training programs. This was a high priority of the chairman. A great deal of time was taken on it. We have scarce resources, but the resources that were available were really targeted to strengthening the teaching and the training of teachers. As the debate indicated, I believe there are strong evaluation programs in the bill, and they are very, very significant.

This bill increases the Pell grant to some $5,000. Then it continues along with some important initiatives for students with disabilities, campus-based child care, distance education, and a range of other kinds of initiatives, building on a very solid record.

The fact that we were able to get this legislation through in one day is a clear indication of the very, very strong bipartisan support, and I think the vote is a real tribute to the chairman and his leadership and to the other members of the Human Resources Committee.

I thank my staff: Marianna Pierce who has been working on this legislation for many, many months, over a year; Jennifer Kron; Jane Oates; former fellows Gloria Corral, Maria McGarrity, Eileen O'Leary and Danielle Ripich.

I also thank Deborah Kalcevik from CBO and Margot Schenet, Jim Stedman and Barbara Miles at CRS; Mark Sigurski from the Office of Legislative Counsel, as well as on my staff, Michael Myers.

I in particular thank Senator JEFFORDS and his staff. I know he has mentioned them.

I thank Senator COATS who was very much involved in this legislation, and his staff, Townsend Lange.

From my friend and colleague from Connecticut, Senator DODD: Suzanne Day, Megan Murray, MaryEllen McGuire. They were all invaluable, as was the Senator, in working very effectively during the course of the whole day on this legislation.

I thank TOM HARKIN for his initiatives, PAUL WELLSTONE, JEFF BINGAMAN, all who were very much involved in the debate; PATTY MURRAY, BARBARA MIKULSKI and other members of the committee who were active and involved today; JACK REED who follows in a very long and distinguished tradition on the Education Committee in the great traditions of our dear friend Claiborne Pell, who was chairman of the Education Committee and made monumental contributions to the education of young people across this country.

To all of them, I am enormously grateful. I yield the floor.

Mr. DODD addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, very briefly, I see my colleague from Ohio here, I want to add my voice to those who have spoken in praise of Senator JEFFORDS, the chairman of the committee, his staff, and the wonderful job they did in leading this piece of legislation and working with Senator KENNEDY as the leading Democrat on our side.

What we witnessed today is a wonderful example of how the legislative process ought to work. It is hard to imagine taking on a piece of legislation that has a 5-year lifespan to it, a higher education bill that affects so many millions of Americans. We did this in one day in large measure because the committee worked very closely together, Mr. President. A lot of work went into trying to resolve issues as a committee. There were a couple we couldn't, so we left those to our colleagues, which is the way it should be here when you can't come to a final resolution.

That shows remarkable leadership on the part of the chairman and the ranking Democrat, that they can take a bill as complicated and as comprehensive as this, one as long in duration as this and bring it to the floor and, in the space of virtually 12 hours, provide the kind of unanimous—it may have been unanimous, I don't know what the vote was here—almost unanimous vote in support of the Higher Education Act for our Nation.

I want others to know that this is a good example of how we ought to work here. I hope others will heed this example.

For DAN COATS, who is not on the floor this evening, our colleague from Indiana, this will be the last higher education bill he will be involved in, as he made the decision to leave the U.S. Senate at the end of his term. Certainly, there will be other bills between now and when the session ends. I am certain Senator COATS feels a sense of pride, as he should, having played a major role in the last higher education bill he will be involved in in the U.S. Senate. I commend him for his efforts.

Let me join in commending staff: Mark Powden for his fine work, Susan Hattan, Scott Giles, Jenny Smulson, Corey Heyman.

Senator KENNEDY's staff: Marianna Pierce did a wonderful job on the Democratic side working on this and keeping us well informed and trying to work out amendments during the committee process and on the floor. Jennifer Kron and Jane Oates did a wonderful job, as did Townsend Lange from Senator COATS' staff. And you will all understand why I pay a special tribute to Suzanne Day of my office who does a fabulous job on these issues, and has for many, many years. She was joined this year by a new member of our staff who did a terrific job, Megan Murray, who is here with us on the floor this evening. I want to thank her, as well, for the tremendous effort she put into making this a successful bill.

So, Mr. President, I commend our colleagues, and staff particularly, for really doing a very, very fine job. And in these days of acrimony and partisanship and invective behavior, it is wonderful to know there are examples of where this institution shines and shows its best. It did so under the leadership of the distinguished Senator from Vermont and the Senator from Massachusetts.

Mr. President, I yield the floor.

PRIVATE PROPERTY RIGHTS—MOTION TO PROCEED

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate now turn to the consideration of Calendar No. 459, S. 2271, regarding private property rights.

The PRESIDING OFFICER. Is there objection?

Mr. KENNEDY. Mr. President, I object.

CLOTURE MOTION

Mr. LOTT. Mr. President, in light of the objection, I now move to proceed to S. 2271 and send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provision of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the motion to proceed to the private property rights legislation:

Trent Lott, Orrin Hatch, Jon Kyl, Chuck Hagel, Tim Hutchinson, Rod Grams, Pat Roberts, Pete Domenici, Dan Coats, Michael B. Enzi, Larry E. Craig, Craig Thomas, John Ashcroft, Frank Murkowski, Don Nickles, and Dirk Kempthorne.

Mr. LOTT. Mr. President, for the information of all Senators, this cloture vote will occur on Monday, July 13, at 5:45 p.m.

I propound the request that the mandatory quorum under rule XXII be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LOTT. I now withdraw the motion to proceed. I yield the floor, Mr. President.

The PRESIDING OFFICER. Who seeks time?

Mr. DEWINE addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

MORNING BUSINESS

Mr. DEWINE. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. DEWINE. Mr. President, I ask unanimous consent that I be permitted to proceed for the next 30 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMERICA'S STRATEGY AGAINST ILLEGAL DRUGS

Mr. DEWINE. Mr. President, I rise tonight to make some comments about America's strategy in the long and vitally important struggle we are waging against illegal drugs. When it comes to ensuring a bright future for our children, there are very few things we can do that are more important than protecting them from drugs.

Earlier today, President Clinton and Speaker of the House GINGRICH unveiled a major billion-dollar advertising campaign, a campaign approved by this Congress to reach our children with a hard-hitting message about the dangers of drugs. Mr. President, in my view, this is a very worthwhile project; it is something that we should do; it is something that I believe will in fact make a difference. It comes not a moment too soon.

Advertising is important in virtually every sector of our society. Those of us who run for public office use TV and radio; products are sold every day. I think the evidence is clear that we can reach our young people; we can reach everyone through very effective antidrug advertising.

Mr. President, investing in antidrug education campaigns is important, but education is just one of the key components. It must be part of a balanced overall strategy if we are to truly fight drug abuse. To succeed, we have to rely on more than just creative minds on Madison Avenue. We need the help of teachers, doctors, parents, and many more, to help reduce demand through education and through treatment. We need the help of law enforcement officers, we need the help of prosecutors, judges, to arrest and then send drug pushers to prison. And we need drug enforcement agents, Coast Guard crews, and even members of our military to seize drugs at the source or in transit before they come into our country. It takes all these individuals, and so many more, to wage a comprehensive—to wage a balanced, effective war on drugs. History proves the fight against drugs is only successful when it is balanced and when it is in fact comprehensive.

Mr. President, sadly—sadly—our overall drug strategy today is neither balanced nor comprehensive. Our drug strategy today is imbalanced because of a lack of commitment for the international and for the interdiction components of the antidrug effort. Let me repeat, I believe that we are not making enough effort in the international area and in the interdiction components of the antidrug effort.

Now, what do I mean by the interdiction component? What do I mean by the international component? Let me define "international effort," what I mean by that, and what I mean by "interdiction efforts."

International efforts include any direct assistance, resources and training the United States provides to foreign countries specifically for counternarcotics matters.

By interdiction efforts, I mean to include the seizing of drugs, the disruption of drug-trafficking routes outside our borders from where the drugs are produced in source countries, through the so-called transit zones, then up until they reach our border.

Basically, Mr. President, what we are talking about is everything from the production of the drugs all the way until they hit our border. It is in this effort in the past few years we have not made the effort, not made the sufficient effort.

Sadly, the current administration, despite its promises in this area, has been either unwilling or unable to maintain the support needed for a successful comprehensive and balanced international and interdiction strategy.

It is, Mr. President, because of this imbalance that the current administration has failed to uphold the tremendous successes of the Reagan and Bush administrations in reducing illegal drug use, particularly among young people. In fact, the evidence shows that drug use has been on the rise. This must be of great concern to all Americans.

Mr. President, I am going to be talking in the balance of this speech about that lack of effort in the international area and that lack of effort in the interdiction area. I want to also say, though, that part of the problem has been that initially this administration did not focus on the drug problem. It was not a high priority. The President, for years, did not use the bully pulpit of the Presidency to talk about this issue. And I think this contributed to the problem as well.

The fact is, over the course of the previous decade, international and interdiction programs beyond our borders were essential parts of a balanced plan to reduce drug use, a plan that also included drug education, drug treatment, and local law enforcement efforts. When we used all of these, Mr. President, we made some progress.

But beginning in 1993, the administration abandoned this balanced approach and shifted resources away from the international and interdiction components of our antidrug efforts. Simply put, this administration has deemphasized effective strategies beyond our borders that are designed to keep drugs from entering our country and infecting our communities.

Mr. President, I believe it is time to reverse this current policy. This evening, I call on my colleagues to join me in restoring—in restoring—a balanced drug control strategy that will put us back on a course toward ridding our schools and our communities of illegal and destructive drugs.

By doing this, we can in fact make a difference. By restoring our prior commitment to source and transit zone interdiction efforts, we can once again reduce the trafficking of drugs.

Let me address this issue in more detail. As I said at the beginning of my remarks, effective international and effective interdiction programs are a necessary and key component of any national drug control strategy.

During the period from 1985 through 1992, the U.S. Government waged a comprehensive and a balanced antidrug effort. The evidence clearly shows that with a balanced strategy we were making great progress. We significantly reduced drug use.

In 1987, the Federal drug control budget was divided as follows: 29 percent for demand reduction programs. These, of course, include education, treatment, prevention. Thirty-eight percent of the budget in that year—38 percent of the budget—went for domestic law enforcement, and 33 percent went for international and interdiction efforts.

The total national drug control budget at that time was $4.79 billion. Now, what were the results of this very balanced—very balanced—approach? We achieved some progress, with some success.

In 1988 to 1991, total drug use was down 13 percent, cocaine use dropped by 35 percent, marijuana use was reduced by 16 percent.

How did interdiction contribute to this decline? First, major efforts to limit the easy access to drugs by street dealers caused the number of potential drug users to fall off. Second, limiting success through interdiction drove up the street price of drugs dramatically. Because of interdiction, drugs became more difficult to find and more expensive to buy.

During this period of time, our drug interdiction strategy was serious business. President Bush called illegal drugs the "gravest domestic threat facing our Nation today." In 1989, President Bush tasked the Defense Department to play an important role in the drug war. Specifically, the Defense Department was tasked to engage in the detection and monitoring of drugs in transit towards the United States. As a Member of the House of Representatives at that time, I can recall very well the investment we dedicated toward the international and toward the interdiction components of the war on drugs. These investments did make a difference.

All this changed in 1993. The Clinton administration immediately pursued policies that upset this careful balance in drug funding. Although we have seen a considerable increase in the overall national drug control budget, the proportion of resources dedicated to international and to interdiction efforts has dramatically declined over the past 5 years.

In addition, interdiction no longer remains a priority within the Department of Defense. In fact, the Defense Department currently ranks counternarcotics dead last in importance, dead last in its global military force policy.

Let me spend a few minutes talking about this major shift in policy. Let me refer Members of the Senate to my second chart. Of the $13.3 million national drug control budget for the year 1995, 35 percent was allocated for drug demand reduction programs—35 percent—53 percent for law enforcement, but only 12 percent for the international and the interdiction components combined. So we went from one-third of the total budget to 12 percent, a dramatic change. Think of it—only 12 percent of the total drug control budget was dedicated to these efforts, down from 33 percent just a few years before. Although the overall drug budget increased threefold from 1987 to 1995, the piece of the drug budget pie allocated for international and interdiction efforts has dramatically decreased. This is not only unfortunate, it is also unacceptable.

There was then and continues to be no real effort made, no real commitment made, no real resources given, for international and interdiction efforts. We are spending some money, but it has been a dramatic decrease in the message of our total effort. I believe the results are clear and the consequences have been devastating.

Counternarcotics funding for defense fell 57 percent between 1992 and 1995. Coast Guard funding fell 32 percent during that same period. As a result, a number of Defense Department and Coast Guard ship days devoted to drug interdiction dropped from 4,448 in fiscal year 1993 to 2,845 in 1995. Further, not surprisingly, Coast Guard seizures dropped from a little over 90,000 pounds in 1991 to a little over 28,000 pounds in 1996. In addition, the number of flight hours by airborne warning and control systems, AWAC planes, dropped from 38,100 hours in fiscal year 1992, clear down to 17,713 hours in fiscal year 1996, a 54 percent reduction. Had it not been for the change in leadership in Congress in 1995, this very troubling situation would have been far, far worse.

However, the damage of an unbalanced strategy has been done. Cocaine seizures had dropped, the price of cocaine had dropped, and there was an increase in drug use. Overall drug use among teens aged 12–17 rose by 70 percent. Drug-abuse-related arrests more than doubled for minors between 1992 and 1996. Since 1992, there has been an overall 80 percent increase in illicit drug use among graduating high school seniors. This negative effect has sent shockwaves through our communities and our homes.

The rise of drug use is not at all surprising. With the decline of emphasis on drug interdiction, it became far easier to bring drugs into the United States and thus far easier to purchase drugs. A significant price decline caused by the increased availability of cocaine and heroin made it easier for casual adult users and our youth to buy these drugs. The Office of National Drug Control Policy reported that small "pieces" or rocks of crack once sold for $10 to $20 and are now available for $3 to $5.

Mr. President, what disturbs me about this current national drug control strategy is that this unbalanced trend continues. As we can see in the second chart, in the late 1980s there was a generally balanced distribution among the three different functions—demand reduction, law enforcement, and international interdiction efforts. In 1987, you can see, they are fairly balanced. Compare that to the distributions for the years 1994, 1995, and then 1998. One can see that our previous balanced approach certainly no longer exists.

The red on the chart is the international and interdiction components—again, Mr. President, basically our entire antidrug effort from the source countries to the transit zones, right up to the border of the United States. That is what this red represents. What you find is, it was basically a third when we started, when we looked at 1987, but by the time we get to 1995 and 1998 it is a much smaller percentage, down to as low as 12 percent. That is the problem.

Our previous balanced approach simply no longer exists. The strategy has changed, and, sadly, so have the results. This really is the untold story of what has gone on in regard to our antidrug efforts during the past few years. It is a story that I think has to be told, and it is a story that I think the Senate, the House, and the American people simply have to pay attention to. We have to change this trend. We need to restore a balance, a balanced strategy.

Let me make it clear that I strongly support funding to keep with the demand side of the drug situation; that is, finding a way to persuade Americans, particularly young people, that doing drugs is wrong, that it destroys lives, families, schools, and communities. Truly, in the end, reducing demand is the only permanent way to really overcome the threat of drugs. As long as there is demand for drugs, there will always be a supply. That is why education and treatment, both—education and treatment—remain essential long-term goal components of our antidrug efforts.

However, reducing the demand for drugs is not going to happen overnight. It will take many years to change minds regarding the use or abuse of drugs. I believe one way to reduce demand is to have an effective interdiction policy, one that will seriously reduce the level of drugs into this country. We must find ways to raise the costs of narcotics trafficking, making it far more difficult for drug lords to bring these drugs to our Nation and in making the drugs far more costly to buy.

It is sad to say, the drug cartels don't have a budget process or a bureaucracy to slow them down. Unfortunately, the job is not getting done. As I have mentioned before, the Caribbean is becoming more and more the transit route of choice for drug traffickers. I have made two visits to the transit zone in the Caribbean in the past few months. During my last visit, I learned that our agents in the Bahamas seized more cocaine in the first 3 months of 1998 than in the previous 3 years combined. This may sound great, it may sound like we are making progress, but our agents there inform me that although they would like to take tremendous credit for these seizures, their belief, their concern, is that the higher amount seized represents probably just a small fraction of the total amount of drugs coming through this area. They told me that they think the amount of drugs coming through is significantly up, and they are only getting a fraction of what is coming through.

For example, Mr. President, of the total drug air events in the Bahamas from April 1997 to April 1998, our U.S. agents told me that they believe there was only an 8 percent success rate in stopping drug air flights that had been detected. They are working hard and they are doing the best they can, but that means that over 92 percent got away. Without a doubt, there is a larger, larger flow of drugs entering the United States and a larger, larger flow of drugs coming through this part of the world.

Mr. President, when I was in Key West for a short visit in May, I was briefed on specific interdiction efforts in the Eastern Pacific. I was surprised to find that in the Eastern Pacific the coast is literally clear today for the drug lords to do their business. We have virtually nothing going on to stop drug trafficking in this area. It is wide, wide open. This is simply unacceptable.

The U.S. Government is not effectively dealing with this increasingly large threat in the eastern Pacific. We have virtually no presence because of a lack of funding and commitment. I was briefed about an operation called Caper Focus, which would have focused on interdiction efforts in the area. We would have had a number of surface assets and aircraft to patrol the waters and to do interdiction. This operation, unfortunately, was canceled—canceled before it started—because of a Department of Defense decision to send the needed surface assets elsewhere. To date, this issue has not been resolved and the coastal waters in the Eastern Pacific are wide open—wide open—for drug business.

Mr. President, it is situations like this that greatly disturb me and, I think, should disturb all Americans. As a Nation, we are not doing all we can to fight drugs beyond our borders. The drug lords in South America are well aware that the United States no longer considers interdiction an important facet in its drug program. It is no exaggeration to say that they are having a field day. Although the Coast Guard and agencies can monitor drug trafficking operations, they stand by helpless because they lack the necessary equipment to turn detection into seizures and arrests.

Mr. President, I believe it is time to provide the resources essential for our agencies to effectively complete the job that they have been assigned, and the job that they so desperately want to do—the job to protect our borders from the importation of illegal narcotics. The most effective way to stop the drug business is to find ways to make it more difficult for them to engage in this illicit and, frankly, immoral practice. We need to have a renewed commitment and rededication of resources toward drug interdiction.

Mr. President, there is a clear link between the rise in the drug use and the decline of resources devoted to interdiction. The interdiction efforts conducted from 1985 to 1992 made a difference in reducing drug use. Interdiction does drive up the price of doing business in drugs, and this drives up the price and drives down the purity of cocaine on the street, or any other drug. Also, it is important to note that seizing or destroying a ton of cocaine in source or transit areas is much more cost effective than trying to seize the same quantity of drugs at the point of sale. No doubt, interdiction is a key factor driving down drug use, and you do it by driving up drug prices.

Mr. President, the answer to this current problem is clear: We need a balanced antidrug approach. That means we have to restore source country/transit zone interdiction efforts. I believe that we can in fact do this. I believe we can restore the strategy we had not so many years ago before the current administration hobbled these efforts. We need to reduce the flow of cocaine and heroin into the U.S., we need to drive up the cost of these drugs, and we need to reduce their availability and support efforts to reduce demand. This will work.

Mr. President, I have been working with colleagues both in the Senate and the House in developing this comprehensive interdiction eradication and crop substitution program. So I intend to take the floor again soon and outline how we can restore our international interdiction efforts and how we can restore the balance we need to once again effectively fight the scourge of illegal drugs.

Mr. President, Abraham Lincoln once said, "We cannot escape history." Well, history shows that only with a comprehensive, balanced antidrug strategy can we actually reduce drug use. So it is time for our drug strategy to embrace history, not escape it.

Mr. President, I will discuss this matter in the future in more detail and with more specifics, as far as what I think we need to do. But the bottom line is that we need that balanced approach. We need to get back to doing what we were doing a few years ago, when one-third of our budget was devoted to interdiction, stopping drugs before they reached the United States. We need to do everything—we need to have drug treatment, we need to have drug education, we need to have domestic law enforcement, and we need to work at our borders. All of these things are important. But we also must do the final thing. The final thing is to stop the drugs at the source, in the source country, and in transit.

BUD SELIG—COMMISSIONER OF BASEBALL

Mr. DODD. Mr. President, I rise today to congratulate Alan H. "Bud" Selig, on his unanimous selection today to serve as baseball's ninth permanent commissioner.

Alan "Bud" Selig is a very good friend of mine.

Admittedly today's announcement is somewhat anti-climactic as Bud Selig's tenure has already surpassed that of four of his eight predecessors as commissioner. But this is truly a special day and a great accomplishment for a deserving and wonderful American.

Senator HERB KOHL of Wisconsin and Bud were college classmates. Most college classmates would consider it a great success if later in life they were to share season tickets to a ballpark. This was a unique college roommate relationship in that both of them ended up being owners of major league franchises within their own city.

I must admit that I can think of few college rooming groups in our Nation's history who have attained such success. Most roommates simply aspire to one day share a set of season-tickets, but for each roommate to own one of the home town professional sports teams must surely be unprecedented.

While Bud may be an owner, he has always remained first and foremost, a fan, and that is why I think that he has been and will continue to be a successful commissioner. He understands the power of the game and the joy and disappointment that it can deliver to its fans.

Bud, you have an important job ahead of you, and some large footsteps that you must walk in. But I have every confidence that you will serve in a manner worthy of the position and its history. Congratulations.

When Milwaukee joined the major leagues in 1953, Bud became a Braves fan and subsequently the largest public stockholder in 1963. But he saw his beloved Braves move to Atlanta in 1965 and he then sold his stock.

But in recognition of the importance of baseball to the city, Bud formed an organization to bring baseball back to Milwaukee. After several heartbreaking failures Bud was successful in 1970 when a Seattle bankruptcy court awarded the Seattle franchise to the investment group led by Bud Selig, and the modern-day Milwaukee Brewers were born.

Bud has led the Brewers since the move to Milwaukee, and has upon his selection as commissioner placed his interest in a trust. His daughter Wendy is currently serving as the president of the club.

Not only is Bud an asset to the game of baseball, but he is a pillar in his community. He is a member of the board of the Green Bay Packers football team and the University of Wisconsin medical school. He was a founder of athletes for youth, helped establish the child abuse prevention network and serves on the board for businesses against drunk driving. He is also a trustee of the Boys and Girls Club.

From the day that he took the reigns of baseball's executive council he has been faced with serious and difficult issues. He presided over the 230-day strike that wiped out the World Series for the first time in 90 years and led to a sharp drop-off in attendance and popularity. But eventually, he was able to help secure a new collective bargaining agreement with the players association, and the game has been moving in the right direction ever since.

Bud Selig has implemented a number of changes to the game that have been overwhelmingly popular with baseball's fans.

As a Red Sox fan, I want to personally thank the commissioner for implementing the popular wild card system. When I look in the sports pages today to check the standings, I don't see Boston as being 11 games out of first place. Instead, I see them with a five game lead in the wild card race. For that, I and much of New England thank the new commissioner.

He has also instigated interleague play that has brought tremendous excitement to cities all across America. For years, the Yankees-Mets or Cubs-White Sox debate took place in bar rooms and diners, but today it's taking place on the baseball diamond, where it should be.

Thanks to Bud Selig's leadership, baseball fans are no longer talking about labor programs. Instead they're talking about the quest to surpass Roger Maris's 61 home runs or Hack Wilson's RBI record. They're talking about whether or not the Yankees can break the record for most wins in a season. They're talking about the playoff hopes of the Red Sox and the Mets. And not only are they talking about baseball, but they're also going to the ball park, as major league attendance has almost completely returned to its pre-strike levels.

Today's vote is a testament to the job that Bud had done as interim commissioner. When he took the post in a temporary role in 1992, few people would have ever imagined that an owner could be approved as full-time commissioner. But Bud Selig is a commissioner for the future of baseball, and he will continue doing an admirable job tackling the problems of the modern game.

Perhaps the biggest problems facing baseball today is the dichotomy between rich and poor teams. And few Commissioners could be as uniquely well-suited to address this issue. As the owner of a small-market team Bud Selig understands the difficulties that the Milwaukees and Montreals of the world have going up against teams like the Braves and the Yankees.

He was instrumental in securing a revenue-sharing agreement between large and small market teams, and I am confident that he will continue seeking ways to address this issue.

In addition to a valuable perspective, Bud Selig also possesses the leadership skills and demeanor that will be necessary to take baseball into the next century. He's a far cry from the iron-fist of Judge Kinnesaw Mountain Landis. Instead, Bud Selig rules by consensus, and his consensus building skills will help him provide the unified leadership that will keep baseball on the right track as it heads into the 21st century.

On a personal note, I want to thank Bud Selig for his efforts to help expedite the move of the Yankees double-A farm team to Norwich, Connecticut. This ball club has played in Norwich for a few years now, and it has really helped to bring that community even closer together. They play in a beautiful ball park, that I'm proud to say is named after my father—Senator Thomas Dodd. The dedication of that stadium and the playing of the first minor league game in Norwich was a special day for me, and Bud Selig took the time from his busy schedule to spend that day with me and the people of Connecticut. And for that, I am thankful.

So our deep and sincere congratulations to Bud.

In closing, I would like to read a passage from one of Bud Selig's predecessors that highlights the significance of the job that he has just taken.

A former Connecticut resident who served as commissioner of baseball, A. Bartlett Giamatti, who passed away, former president of Yale University, wrote:

> I believe baseball is a beautiful and exciting game, loved by millions—I among them—and I believe baseball an important, enduring American institution. It must assert and aspire to the highest principles—of integrity, of professionalism of performance, of fair play within its rules. It will come as no surprise that like any institution composed of human beings, this institution will not always fulfill its highest aspirations. I know of no worldly institution that does but this one, because it is so much a part of our history as a people, and because it has such a penchant on our national soul, has an obligation to the people for whom it is played to, its fans, and well-wishers to strive for excellence in all things to promote the highest ideals. I am told that I am an idealist. I hope so. I will continue to locate ideals I hold for myself and my country in the national game as well as in others of our national institutions.

"Bud" Selig, I think, embraces those thoughts that Bartlett Giamatti expressed some years ago before his untimely and early death. I am very confident that we will all be proud of his tenure as commissioner of baseball.

I wanted to take this moment to congratulate "Bud" Selig and his family this evening. It is a proud night for them, and certainly it is a good night for baseball and for America as well.

U.S. FOREIGN OIL CONSUMPTION FOR WEEK ENDING JULY 3RD

Mr. HELMS. Mr. President, the American Petroleum Institute has reported that for the week ending July 3 that the U.S. imported 7,328,000 barrels of oil each day, 1,632,000 barrels a day less than the 8,960,000 imported during the same week a year ago.

While this is one of the rare weeks when Americans imported slightly less foreign oil than the same week a year ago, Americans still relied on foreign oil for 53.7 percent of their needs last week. There are no signs that the upward spiral will abate. Before the Persian Gulf War, the United States imported about 45 percent of its oil supply from foreign countries. During the Arab oil embargo in the 1970s, foreign oil accounted for only 35 percent of America's oil supply.

All Americans should ponder the economic calamity certain to occur in the U.S. if and when foreign producers shut off our supply—or double the already enormous cost of imported oil flowing into the U.S.: now 7,328,000 barrels a day at a cost of approximately $80,608,830 a day.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Wednesday, July 8, 1998, the federal debt stood at $5,529,002,150,322.41 (Five trillion, five hundred twenty-nine billion, two million, one hundred fifty thousand, three hundred twenty-two dollars and forty-one cents).

One year ago, July 8, 1997, the federal debt stood at $5,354,620,000,000 (Five trillion, three hundred fifty-four billion, six hundred twenty million).

Five years ago, July 8, 1993, the federal debt stood at $4,340,815,000,000 (Four trillion, three hundred forty billion, eight hundred fifteen million).

Ten years ago, July 8, 1988, the federal debt stood at $2,553,584,000,000 (Two trillion, five hundred fifty-three billion, five hundred eighty-four million).

Fifteen years ago, July 8, 1983, the federal debt stood at $1,328,732,000,000 (One trillion, three hundred twenty-eight billion, seven hundred thirty-two million) which reflects a debt increase of more than $4 trillion—$4,200,270,150,322.41 (Four trillion, two hundred billion, two hundred seventy million, one hundred fifty thousand, three hundred twenty-two dollars and forty-one cents) during the past 15 years.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the President Officer laid before the Senate messages from the President of the United States submitting one withdrawal and sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-5803. A communication from the Federal Co-Chairman of the Appalachian Regional Commission, transmitting, a draft of proposed legislation entitled "The Delta Regional Development Act"; to the Committee on Environment and Public Works.

EC-5804. A communication from the Assistant Secretary for Land and Minerals Management, transmitting, a draft of proposed legislation entitled "The Naval Air Station, Fallon, Nevada, Lands and Mineral Segregation Act"; to the Committee on Energy and Natural Resources.

EC-5805. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Peanuts Marketed in the United States; Relaxation of Handling Regulations" (Docket FV97-997-1 FIR and FV97-998-1 FIR) received on July 2, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC-5806. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Imported Fire Ant Quarantined Areas" (Docket 97-101-2) received on July 1, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC-5807. A communication from the Chairman and Chief Executive Officer of the Farm Credit Administration, transmitting, pursuant to law, the report of a rule regarding requirements relating to the funding and discount services that certain Farm Credit System banks extend to non-System financial institutions (RIN3052-AB67) received on June 30, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC-5808. A communication from the President and Chairman of the Export-Import Bank of the United States, transmitting, pursuant to law, notice of financial guarantees for the sale of aircraft to Turk Hava Yollari TAO of Turkey; to the Committee on Banking, Housing, and Urban Affairs.

EC-5809. A communication from the President and Chairman of the Export-Import Bank of the United States, transmitting, pursuant to law, notice of financial guarantees for the sale of power generating equipment to Comision Federal de Electricidad of Mexico; to the Committee on Banking, Housing, and Urban Affairs.

EC-5810. A communication from the President and Chairman of the Export-Import Bank of the United States, transmitting, pursuant to law, notice of financial guarantees for the sale of oil and gas services and equipment to Petroleos Mexicanos of Mexico; to the Committee on Banking, Housing, and Urban Affairs.

EC-5811. A communication from the President and Chairman of the Export-Import Bank of the United States, transmitting, pursuant to law, notice of financial guarantees for the construction of a pulp and paper mill in Turkmenistan; to the Committee on Banking, Housing, and Urban Affairs.

EC-5812. A communication from the Managing Director of the Federal Housing Finance Board, transmitting, pursuant to law, the report of a rule entitled "Eligibility for Membership and Advances" (RIN3069-AA69) received on July 2, 1998; to the Committee on Banking, Housing, and Urban Affairs.

EC-5813. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the report on open dumps on Indian lands for fiscal year 1997; to the Committee on Indian Affairs.

EC-5814. A communication from the Acting Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report concerning direct spending or receipts legislation within seven days of enactment dated June 9, 1998; to the Committee on the Budget.

EC-5815. A communication from the General Counsel of the National Tropical Botanical Garden, transmitting, pursuant to law, a report on the Garden's financial statements and schedules for calendar year 1997; to the Committee on the Judiciary.

EC-5816. A communication from the Director of the Office of Regulations Management, Department of Veterans Affairs, transmitting, pursuant to law, the report of a rule entitled "Veteran's Education: Suspension and Discontinuance of Payments" (RIN2900-AF85) received on July 2, 1998; to the Committee on Veterans Affairs.

EC-5817. A communication from the Assistant Secretary of the Navy (Installations and Environment), transmitting, pursuant to law, the notice of a decision to study certain functions performed by military and civilian personnel in the Department of the Navy dated June 24, 1998; to the Committee on Armed Services.

EC-5818. A communication from the Acting Principal Deputy Under Secretary of Defense (Logistics), transmitting, pursuant to law, a report entitled "Logistics Augmentation Program"; to the Committee on Armed Services.

EC-5819. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule regarding pesticide tolerances for sodium chlorate (FRL 5795-8) received on June 26, 1998; to the Committee on Environment and Public Works.

EC-5820. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule regarding revisions to the Metropolitan Washington, D.C. Ozone Nonattainment area Implementation Plans (FRL 6120-6) received on July 1, 1998; to the Committee on Environment and Public Works.

EC-5821. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule regarding revisions to Air Quality Implementation Plans for New Mexico and Albuquerque (FRL 6118-4) received on July 1, 1998; to the Committee on Environment and Public Works.

EC-5822. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule regarding the 15 Percent Plan for the Metropolitan Washington, D.C. Ozone Nonattainment Area (FRL 6120-3) received on July 1, 1998; to the Committee on Environment and Public Works.

EC-5823. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans; State of Missouri" (FRL 6118-3) received on July 1, 1998; to the Committee on Environment and Public Works.

EC-5824. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plan Revisions; Ohio" (FRL 6120-7) received on July 1, 1998; to the Committee on Environment and Public Works.

EC-5825. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule regarding residue tolerances for the pesticide pyriproxfenn (FRL 5794-6) received on July 1, 1998; to the Committee on Environment and Public Works.

EC-5826. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report on Medicare coverage of lung volume reduction surgery; to the Committee on Finance.

EC-5827. A communication from the Chief of Staff of the Office of the Commissioner of Social Security, transmitting, pursuant to law, the report of a rule entitled "Supplemental Security Income for the Aged, Blind, and Disabled; Valuation of In-Kind Support and Maintenance With Cost-of-Living Adjustment" (RIN 0960-AD82) received on July 2, 1998; to the Committee on Finance.

EC-5828. A communication from the Chief of Staff of the Office of the Commissioner of Social Security, transmitting, pursuant to law, the report of a rule entitled "Supplemental Security Income for the Aged, Blind, and Disabled; Charging Administration Fees for Making State Supplementary Payments" (RIN 0960-AE84) received on July 2, 1998; to the Committee on Finance.

EC-5829. A communication from the Regulatory Policy Officer, Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Diablo Grande Viticultural Area" (RIN1512-AA07) received on July 2, 1998; to the Committee on Finance.

EC-5830. A communication from the National Director of Appeals, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Salvage Value On Vessels Placed In Service Prior to January 1, 1981" received on July 2, 1998; to the Committee on Finance.

EC-5831. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Magnetic Media Filing Requirements for Information Returns" (RIN1545-AU08) received on June 29, 1998; to the Committee on Finance.

EC-5832. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Kerosene Tax; Aviation Fuel Tax; Tax on Heavy Trucks and Trailers" (RIN1545-AW15) received on June 29, 1998; to the Committee on Finance.

EC-5833. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, the report of international agreements other that treaties (98-81 to 98-89); to the Committee on Foreign Relations.

EC-5834. A communication from the Acting Assistant General Counsel for Regulations, Department of Education, transmitting, pursuant to law, the report of a rule regarding the administration of grants and agreements received on June 26, 1998; to the Committee on Labor and Human Resources.

EC-5835. A communication from the Acting Director of the Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Food Labeling: Health Claims; Antioxidant Vitamin A and Beta-Carotene and the Risk in Adults of Atherosclerosis, Coronary Heart Disease, and Certain Cancers" (Docket 98N-0428) received on July 2, 1998; to the Committee on Labor and Human Resources.

EC-5836. A communication from the Acting Director of the Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Food Labeling:

Health Claims; Calcium Consumption by Adolescents and Adults, Bone Density and The Risk of Fractures" (Docket 98N–0423) received on July 2, 1998; to the Committee on Labor and Human Resources.

EC–5837. A communication from the Acting Director of the Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Food Labeling: Health Claims; Garlic, Reduction of Serum Cholesterol, and the risk of Cardiovascular Disease in Adults" (Docket 98N–0422) received on July 2, 1998; to the Committee on Labor and Human Resources.

EC–5838. A communication from the Acting Director of the Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Food Labeling: Health Claims; Antioxidant Vitamins C and E and the Risk in Adults of Atherosclerosis, Coronary Heart Disease, Certain Cancers, and Cataracts" (Docket 98N–0426) received on July 2, 1998; to the Committee on Labor and Human Resources.

EC–5839. A communication from the Acting Director of the Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Food Labeling: Health Claims; Chromium and the Risk in Adults of Hyperglycemia and the Effects of Glucose Intolerance" (Docket 98N–0424) received on July 2, 1998; to the Committee on Labor and Human Resources.

EC–5840. A communication from the Acting Director of the Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Food Labeling: Health Claims; Omega-3 Fatty Acids and the Risk in Adults of Cardiovascular Disease" (Docket 98N–0419) received on July 2, 1998; to the Committee on Labor and Human Resources.

EC–5841. A communication from the Acting Director of the Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Drug Products Containing Quinine for the Treatment and/or Prevention of Malaria for Over-the-Counter Human Use" (Docket 94N–0355) received on July 2, 1998; to the Committee on Labor and Human Resources.

EC–5842. A communication from the Acting Director of the Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Food Labeling: Health Claims; Vitamin K and Promotion of Proper Blood Clotting and Improvement in Bone Health in Adults" (Docket 98N–0420) received on July 2, 1998; to the Committee on Labor and Human Resources.

EC–5843. A communication from the Acting Director of the Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Food Labeling: Health Claims; Zinc and the Body's Ability to Fight Infection and Heal Wounds in Adults" (Docket 98N–0421) received on July 2, 1998; to the Committee on Labor and Human Resources.

EC–5844. A communication from the Acting Director of the Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Food Labeling: Health Claims; B-Complex Vitamins, Lowered Homocysteine Levels, and the Risk in Adults of Cardiovascular Disease" (Docket 98N–0427) received on July 2, 1998; to the Committee on Labor and Human Resources.

EC–5845. A communication from the Acting Director of the Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers" (Docket 97F–0440) received on July 2, 1998; to the Committee on Labor and Human Resources.

EC–5846. A communication from the Acting Director of the Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Financial Disclosure by Clinical Investigators; Correction" (Docket 93N–0445) received on July 2, 1998; to the Committee on Labor and Human Resources.

EC–5847. A communication from the Secretary of Energy, transmitting, pursuant to law, the report entitled "Summary of Expenditures of Rebates from the Low-Level Radioactive Waste Surcharge Escrow Account for Calendar Year 1997"; to the Committee on Energy and Natural Resources.

EC–5848. A communication from the Director of the Office of Rulemaking Coordination, Department of Energy, transmitting, pursuant to law, the report of a rule entitled "Assistance Regulations: Technical Amendment" (RIN1991–AB41) received on June 26, 1998; to the Committee on Energy and Natural Resources.

EC–5849. A communication from the Acting Deputy General Counsel for Energy Policy, transmitting, pursuant to law, the report of an acquisition letter issued by the Department of Energy regarding procurement policies that apply to DOE officials and DOE contractors (AL98–09) received on July 2, 1998; to the Committee on Energy and Natural Resources.

EC–5850. A communication from the Acting Assistant Secretary for Fish and Wildlife and Parks, Department of the Interior, transmitting, pursuant to law, the report on National Natural Landmarks that have been damaged or are likely to be damaged for fiscal year 1997; to the Committee on Energy and Natural Resources.

EC–5851. A communication from the Deputy Associate Director for Royalty Management, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, notice of proposed refunds of offshore lease revenues under the Outer Continental Shelf Lands Act; to the Committee on Energy and Natural Resources.

EC–5852. A communication from the Director of the Office of Surface Mining Reclamation and Enforcement, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Alabama Regulatory Program" (No. AL–065–FOR) received on June 29, 1998; to the Committee on Energy and Natural Resources.

EC–5853. A communication from the Assistant Secretary for Land and Minerals Management, Department of the Interior, transmitting, pursuant to law, a notice on leasing systems for the Beaufort Sea, Sale 170, received on July 2, 1998; to the Committee on Energy and Natural Resources.

EC–5854. A communication from the Interim District of Columbia Auditor, transmitting, pursuant to law, a report entitled "ANC 4D Funds Diverted to Deceased Husband of Former ANC 4D Treasurer"; to the Committee on Governmental Affairs.

EC–5855. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 12–380 adopted by the Council on May 19, 1998; to the Committee on Governmental Affairs.

EC–5856. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 12–382 adopted by the Council on June 2, 1998; to the Committee on Governmental Affairs.

EC–5857. A communication from the Executive Director of the Committee for Purchase From People Who Are Blind or Severely Disabled, transmitting, pursuant to law, notice of additions to the Committee's Procurement List dated June 23, 1998; to the Committee on Governmental Affairs.

EC–5858. A communication from the Secretary of the Smithsonian Institution, transmitting, pursuant to law, the report of the Office of Inspector General for the period October 1, 1997 through March 31, 1998; to the Committee on Governmental Affairs.

EC–5859. A communication from the Chairman of the Board of Directors of the Panama Canal Commission, transmitting, pursuant to law, the report of the Office of Inspector General for the period October 1, 1997 through March 31, 1998; to the Committee on Governmental Affairs.

EC–5860. A communication from the Acting Comptroller General of the United States, transmitting, pursuant to law, a list of General Accounting Office reports issued or released in May 1998; to the Committee on Governmental Affairs.

EC–5861. A communication from the Acting Director of the Office of Management and Budget; Executive Office of the President, transmitting, pursuant to law, a report entitled "Agency Compliance with the Unfunded Mandates Reform Act of 1995"; to the Committee on Governmental Affairs.

EC–5862. A communication from the Assistant Secretary of Commerce and Commissioner of Patents and Trademarks, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Changes to Continued Prosecution Application Practice" (RIN0651–AA97) received on June 29, 1998; to the Committee on the Judiciary.

EC–5863. A communication from the Chief of the Regulations Division, Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Implementation of Public Law 104–208, Omnibus Consolidated Appropriations Act of 1997" (RIN1512–AB64) received on June 29, 1998; to the Committee on the Judiciary.

EC–5864. A communication from the Assistant Secretary for Employment Standards, Department of Labor, transmitting, pursuant to law, the report of a rule entitled "Technical Amendments of Rules Relating to Labor-Management Standards and Standards of Conduct for Federal Sector Labor Organizations" (RIN1215–AB22) received on July 1, 1998; to the Committee on Labor and Human Resources.

EC–5865. A communication from the Acting Assistant General Counsel for Regulations, Department of Education, transmitting, pursuant to law, the report of a rule entitled "Systems-Change Projects to Expand Employment Opportunities for Individuals With Mental or Physical Disabilities, or Both, Who Receive Public Support" (RIN1820–ZA11) received on July 7, 1998; to the Committee on Labor and Human Resources.

EC–5866. A communication from the Assistant Secretary for Children and Families, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Head Start Program—Replacement of Indian Head Start Grantee" (RIN0970–AB52) received on July 2, 1998; to the Committee on Labor and Human Resources.

EC–5867. A communication from the President of the United States, transmitting, pursuant to law, a report entitled "Report to Congress Concerning Emigration Laws and Policies of Mongolia"; to the Committee on Finance.

EC–5868. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the report of a rule regarding the Child Support Enforcement Program (RIN0970–AB67) received on July 1, 1998; to the Committee on Finance.

EC–5869. A communication from the Chief Counsel of the Bureau of the Public Dept, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Sale and Issue of Marketable Book-Entry Treasury Bills, Notes, and Bonds" (No. 1–93) received on July 2, 1998; to the Committee on Finance.

EC–5870. A communication from the Chief Counsel of the Bureau of the Public Dept, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Regulations Governing Book-Entry Treasury Bonds, Notes, and Bills; Determination Regarding State Statutes; Georgia, Florida and Connecticut" (No. 2–86) received on July 2, 1998; to the Committee on Finance.

EC–5871. A communication from the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule regarding landfill gas emissions in Montana (FRL6122–2) received on July 6, 1998; to the Committee on Environment and Public Works.

EC–5872. A communication from the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule regarding tolerances for the pesticide bifenthrin (FRL5797–7) received on July 6, 1998; to the Committee on Environment and Public Works.

EC–5873. A communication from the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule regarding the redesignation of the San Francisco Bay Area to Nonattainment for Ozone (FRL6120–4) received on July 6, 1998; to the Committee on Environment and Public Works.

EC–5874. A communication from the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule regarding tolerance for residues of the biological pesticide Gliocladium catenulatum (FRL5794–3) received on July 6, 1998; to the Committee on Environment and Public Works.

EC–5875. A communication from the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Myclobutanil; Pesticide Tolerances for Emergency Exemptions" (FRL5798–6) received on July 6, 1998; to the Committee on Environment and Public Works.

EC–5876. A communication from the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Underground Storage Tank Program: Approved State Program for Nevada" (FRL6118–1) received on July 6, 1998; to the Committee on Environment and Public Works.

EC–5877. A communication from the President of the United Sates, transmitting, pursuant to law, a report on the national emergency with respect to Libya that was declared in Executive Order 12543; to the Committee on Banking, Housing, and Urban Affairs.

EC–5878. A communication from the Deputy Secretary of the Securities and Exchange Commission, transmitting, pursuant to law, the report of a rule regarding amendments to certain definitions of "small business" and "small organization" used by the Commission received on June 26, 1998; to the Committee on Banking, Housing, and Urban Affairs.

EC–5879. A communication from the Deputy Secretary of the Securities and Exchange Commission, transmitting, pursuant to law, the report of a rule regarding the Form BD–Y2K used to solicit information on a broker-dealer's efforts to prepare for the Year 2000 received on July 7, 1998; to the Committee on Banking, Housing, and Urban Affairs.

EC–5880. A communication from the Deputy Secretary of the Securities and Exchange Commission, transmitting, pursuant to law, the report of a rule regarding the Form TA–Y2K used to solicit information on a non-bank transfer agent's efforts to prepare for the Year 2000 received on July 7, 1998; to the Committee on Banking, Housing, and Urban Affairs.

EC–5881. A communication from the Assistant to the Board of Governors of the Federal Reserve System, transmitting, pursuant to law, the report of a rule entitled "Regulation I, Issue and Cancellation of Reserve Bank Capitol Stock" (Docket R–0966) received on July 7, 1998; to the Committee on Banking, Housing, and Urban Affairs.

EC–5882. A communication from the Assistant to the Board of Governors of the Federal Reserve System, transmitting, pursuant to law, the report of a rule entitled "Security Procedures" (Docket R–0965) received on July 7, 1998; to the Committee on Banking, Housing, and Urban Affairs.

EC–5883. A communication from the Assistant to the Board of Governors of the Federal Reserve System, transmitting, pursuant to law, the report of a rule entitled "Membership of State Banking Institutions in the Federal Reserve System and Miscellaneous Interpretations" (Docket R–09645) received on July 7, 1998; to the Committee on Banking, Housing, and Urban Affairs.

EC–5884. A communication from the President and Chief Executive Officer of the Corporation for Public Broadcasting, transmitting, pursuant to law, the Corporation's triennial assessment of the needs of minority and diverse audiences and the Corporation's annual report on the provision of services to minority and diverse audiences; to the Committee on Commerce, Science, and Transportation.

EC–5885. A communication from the Associate Managing Director for Performance Evaluation and Records Management, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Assessment and Collection of Regulatory Fees for Fiscal Year 1998" (Docket 98–36) received on June 30, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5886. A communication from the Acting Secretary of the Federal Trade Commission, transmitting, pursuant to law, the report of a rule entitled "Rules and Regulations Under the Textile Fiber Products Identification Act" received on June 30, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5887. A communication from the Acting Secretary of the Federal Trade Commission, transmitting, pursuant to law, the report of a rule entitled "Organization, General Procedures, Rules of Practice for Adjudicative Proceedings" received on July 2, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5888. A communication from the Director of the Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 610" (Docket 971208297–8054–02) received on July 2, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5889. A communication from the Director of the Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Atlantic Tuna Fisheries; Atlantic Bluefin Tuna" (I.D. 061898D) received on July 7, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5890. A communication from the Director of the Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule regarding an inseason action for the West Coast ocean salmon fisheries (Docket 980429110–8110–01) received on July 2, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5891. A communication from the Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule regarding the Hancock Seamount in the Northwest Hawaiian Islands (Docket 980319068–8155–02) received on July 2, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5892. A communication from the Acting Director of the Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule regarding fishing for rockfish with trawl gear in the Bering Sea and Aleutian Islands Management Area (Docket 971208298–8055–02) received on July 2, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5893. A communication from the Acting Director of the Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Pacific Halibut Fisheries; Washington Sport Fishery" (Docket 980225048–8059–02) received on July 2, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5894. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Transportation of Hazardous Materials; Miscellaneous Amendments" (RIN 2137–AC41) received on July 7, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5895. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Standard Instrument

Approach Procedures; Miscellaneous Amendments'' (Docket 29260) received on July 7, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5896. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures; Miscellaneous Amendments'' (Docket 29262) received on July 7, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5897. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures; Miscellaneous Amendments'' (Docket 29261) received on July 7, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5898. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Boeing Model 737–100, –200, –200C Series Airplanes'' (Docket 98–NM–121–AD) received on July 7, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5899. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Class E Airspace; Daytona Beach, FL; Correction'' (Docket 98–ASO–6) received on July 7, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5900. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''High Theft Lines for Model Year 1999'' (RIN2127–AH06) received on July 2, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5901. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Special Local Regulations; Head of the Ohio, Allegheny River mile 0.0–3.3'' (Docket 08–98–034) received on July 2, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5902. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Technical Amendments; Organizational Changes; Miscellaneous Editorial Changes and Conforming Amendments'' (RIN2115–ZZ02) received on July 2, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5903. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule regarding a City of Pittsburgh Independence Eve Celebration on the Allegheny, Monongehela, and Ohio Rivers (Docket 08–98–035) received on July 2, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5904. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Special Local Regulations; Oakmont Yact Club Regatta'' (Docket 08–98–031) received on July 2, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5905. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Operation Regulation; Lake Pontchartrain, LA'' (Docket 08–98–031) received on July 2, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5906. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Special Local Regulations; Around Alone Sailboat Race, Charleston, SC'' (Docket 07–98–008) received on July 2, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5907. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Special Local Regulations; Steubenville Regatta, Ohio River mile 65.0–67.0'' (Docket 08–98–032) received on July 2, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5908. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule regarding the Pittsburgh Three Rivers Regatta (Docket 08–98–033) received on July 2, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5909. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Great Lakes Pilotage; Reorganization of Regulations'' (RIN2115–ZZ06) received on July 2, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5910. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Cessna Aircraft Company Model 172R Airplanes'' (Docket 97–CE–96–AD) received on July 2, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5911. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Pratt and Whitney Canada PW100 Series Turboprop Engines'' (Docket 97–ANE–33–AD) received on July 2, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5912. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; British Aerospace BAe Model ATP Airplanes'' (Docket 98–NM–113–AD) received on July 2, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5913. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment to Class E Airspace; Philadelphia, PA'' (Docket 98–AEA–02) received on July 2, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5914. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment to Class E Airspace; Farmville, VA'' (Docket 98–AEA–07) received on July 2, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5915. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace; Marion, OH'' (Docket 98–AGL–20) received on July 2, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5916. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Eurocopter France Model AS–350B, BA, B1, B2, and D, and Model AS–355E, F, F1, and N Helicopters'' (Docket 97–SW–25–AD) received on July 2, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5917. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; de Havilland Model DHC–8–100, –200, and –300 Series Airplanes'' (Docket 97–NM–336–AD) received on July 2, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5918. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Dornier Model 328–100 Series Airplanes'' (Docket 98–NM–103–AD) received on July 2, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5919. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; AlliedSignal Inc. KT 76A Air Traffic Control (ATC) Transponders'' (Docket 97–CE–30–AD) received on July 2, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5920. A communication from the Acting Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report on direct spending or receipts legislation within seven days of enactment dated June 16, 1998; to the Committee on the Budget.

EC–5921. A communication from the Secretary of Energy, transmitting, pursuant to law, the report on the effect of the U.S./Russian Highly Enriched Uranium Agreement on domestic uranium mining, conversion, and enrichment industries through April 1998; to the Committee on Energy and Natural Resources.

EC–5922. A communication from the Under Secretary for Food, Nutrition and Consumer Services, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Federal Means-Testing Public Benefits'' (RIN0584–AC62) received on July 2, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5923. A communication from the Manager of the Federal Crop Insurance Corporation, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Tobacco (Quota Plan) Crop Insurance Regulations; and Common Crop Insurance Regulations; Quota Tobacco Crop Insurance Provisions'' (RIN0563–AB47) received on July 2, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5924. A communication from the Manager of the Federal Crop Insurance Corporation, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''General Crop Insurance Regulations, Tobacco (Guaranteed Plan) Endorsement; and Common Crop Insurance Regulations, Guaranteed Tobacco Crop Insurance Provisions'' (RIN0563–AA84) received on July 2, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5925. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Revision of User Fees for 1998 Crop Cotton Classification Services to Growers'' (Docket CN–98–004) received on July 2, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5926. A communication from the Deputy Associate Administrator for Acquisition

Policy, General Services Administration, transmitting, pursuant to law, the report of a rule entitled "Federal Acquisition Regulation; Reform of Affirmative Action in Federal Procurement—Case 97-004B" (RIN9000-AH59) received on June 26, 1998; to the Committee on Small Business.

EC-5927. A communication from the Deputy Associate Administrator for Acquisition Policy, General Services Administration, transmitting, pursuant to law, the report of a rule entitled "Federal Acquisition Regulation; Reform of Affirmative Action in Federal Procurement—Case 97-004A" (RIN9000-AH59) received on June 26, 1998; to the Committee on Small Business.

EC-5928. A communication from the Deputy General Counsel of the Small Business Administration, transmitting, pursuant to law, the report of a rule entitled "HUBZone Empowerment Contracting Program" received on July 2, 1998; to the Committee on Small Business.

EC-5929. A communication from the Chairman of the Federal Housing Finance Board, transmitting, pursuant to law, the reports of the 12 Federal Home Loan Banks and the Financing Corporation for calendar year 1997; to the Committee on Governmental Affairs.

EC-5930. A communication from the Assistant Secretary for Policy, Management and Budget and Chief Financial Officer, Department of the Interior, transmitting, pursuant to law, the Department's Annual Accountability Report for fiscal year 1997; to the Committee on Governmental Affairs.

EC-5931. A communication from the Secretary of the Department of Agriculture, transmitting, a draft of proposed legislation to extend the United States Department of Agriculture Personnel Management Demonstration Project; to the Committee on Governmental Affairs.

EC-5932. A communication from the Director of the United States Arms Control And Disarmament Agency, transmitting, notice of the adoption of the practice of granting waivers of Agency rules and regulations as appropriate; to the Committee on Foreign Relations.

EC-5933. A communication from the Chief Counsel of the Office of Foreign Assets Control, Department of the Treasury, transmitting, pursuant to law, the report of a rule regarding technical corrections to controls on Cuban and Iranian assets; to the Committee on Foreign Relations.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HATCH, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 512. A bill to amend chapter 47 of title 18, United States Code, relating to identity fraud, and for other purposes.

S. 2143. A bill to amend chapter 45 of title 28, United States Code, to authorize the Administrative Assistant to the Chief Justice to accept voluntary services, and for other purposes.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. McCAIN, from the Committee on Commerce, Science, and Transportation:

William Clyburn, Jr., of South Carolina, to be a Member of the Surface Transportation Board for a term expiring December 31, 2000.

Deborah K. Kilmer, of Idaho, to be an Assistant Secretary of Commerce.

Neal F. Lane, of Oklahoma, to be Director of the Office of Science and Technology Policy.

Rosina M. Bierbaum, of Virginia, to be an Associate Director of the Office of Science and Technology Policy.

Clyde J. Hart, Jr., of New Jersey, to be Administrator of the Maritime Administration.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

The following name officer for appointment as Chief of Staff, United States Coast Guard, and to the grade indicated under title 14, U.S.C., section 50a:

To be vice admiral

Rear Adm. Timothy W. Josiah, 7249

(The above nomination was reported with the recommendation that he be confirmed.)

Mr. McCAIN. Madam President, for the Committee on Commerce, Science, and Transportation, I also report favorably one list in the United States Coast Guard which was printed in full in the Record of June 17, 1998, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar, that the nomination lie at the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nomination ordered to lie on the Secretary's desk was printed in the Record of June 17, 1998, at the end of the Senate proceedings.)

In the Coast Guard nomination of Christopher A. Buckridge, which was received by the Senate and appeared in the Congressional Record of June 17, 1998.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. McCAIN (for himself and Mr. Gorton):

S. 2279. A bill to amend title 49, United States Code, to authorize the programs of the Federal Aviation Administration for fiscal years 1999, 2000, 2001, and 2002, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. FAIRCLOTH:

S. 2280. A bill to provide for fairness in the home foreclosure process; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. DeWINE (for himself, Mr. Hollings, Mr. Ford, Mr. Dodd, Mr. Byrd, and Mr. Rockefeller):

S. 2281. A bill to amend the Tariff Act of 1930 to eliminate disincentives to fair trade conditions; to the Committee on Finance.

By Mr. McCONNELL (for himself, Mr. Biden, Mr. Roberts, Mrs. Murray, Mr. Craig, Mr. Wyden, Mr. Lugar, Mr. Burns, Mr. Smith of Oregon, Mr. Gorton, Mr. Leahy, Mr. Hagel, Mr. Conrad, Mr. Bennett, Mr. Kerrey, Mr. Daschle, Mr. Johnson, Mr. Dorgan, Mr. Brownback, Mr. Grams, Mr. Bond, and Mr. Baucus):

S. 2282. A bill to amend the Arms Export Control Act, and for other purposes; read twice.

By Mr. DeWINE (for himself, Mr. Sarbanes, Mr. Johnson, Mrs. Murray, Mr. Moynihan, Mr. Abraham, Ms. Snowe, and Mr. Levin):

S. 2283. A bill to support sustainable and broad-based agricultural and rural development in sub-Saharan Africa, and for other purposes; to the Committee on Foreign Relations.

By Mr. JOHNSON (for himself and Mr. Daschle):

S. 2284. A bill to establish the Minuteman Missle National Historic Site in the State of South Dakota, and for other purposes; to the Committee on Energy and Natural Resources.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. FAIRCLOTH:

S. 2280. A bill to provide for fairness in the home for closure process; to the Committee on Banking, Housing, and Urban Affairs.

FORECLOSURE FAIRNESS ACT OF 1998

• Mr. FAIRCLOTH. Mr. President, today I introduce legislation that will improve the single family home foreclosure process. As we all know, bankruptcies have reached an all time high. It has also recently been reported that a record number of homeowners are shifting debt from credit cards to their homes. According to some estimates, there are 500,000 foreclosures taking place annually.

I am greatly concerned that sometime in the future we may see a greater number of foreclosures on single family homes. I hope this will not be true, but if it is, I am introducing legislation to greatly improve the process for the homeowner.

Currently, a common practice in most States is causing tens of thousands of consumers to be treated unfairly when their homes are sold following foreclosure proceedings.

In all but three States, when a home is sold in a foreclosure sale, a lawyer normally advertises the event in an obscure local publication and in terms that the average person would have a hard time understanding. And the sales are typically held at times and places that are not designed to encourage bidding on the home. The sale may take place on the courthouse steps or in the backroom of law firm's office.

Because the general public is rarely aware of these sales, it is not uncommon for the lending institution and the lawyer to be the only people present.

In the long run, it is the homeowner who is the double loser. First, the homeowner has lost his home because of an inability to meet the mortgage payments. Second, the foreclosure sale usually does not result in the home bringing fair market value and this results in the now former homeowner facing a deficiency judgment that might not have occurred if the home had been sold in a public manner by auction.

I think this process needs to be improved. Today, I am introducing a bill that would allow the homeowner to choose to have his or her foreclosure conducted by auction, in a manner that maximizes competitive bidding, and most importantly, is open and convenient to the general public.

Under this process, in my view, both the homeowner and the lender will benefit greatly, because the property, when sold, will generate a true fair market value. There will most likely be no deficiency judgement against homeowners, and lenders will not have to collect their losses from insolvent homeowners.

Mr. President, my legislation has already undergone testing in three States, Maine, New Hampshire and Massachusetts. The first two States require a true auction, not a lawyer's secret sale, under State law, while Massachusetts uses the real auction procedures based on a court order. In all three States, the program has worked with great results and both homeowners and lenders gain from its usage.

Nothing in this legislation will affect State law regarding any other provision of foreclosures, except that the homeowner has the right to select an auction sale. Further, my legislation provides an exemption for State laws that are substantially similar in nature.

Mr. President, I think this is a good bill that will help consumers when they are in a dire financial condition. Consumers can take comfort in the fact that they will have the option to a full, fair, open and public sale of their home should it come to foreclosure.●

By Mr. DEWINE (for himself, Mr. SARBANES, Mr. JOHNSON, Mrs. MURRAY, Mr. MOYNIHAN, Mr. ABRAHAM, Ms. SNOWE, and Mr. LEVIN):

S. 2283. A bill to support sustainable and broad-based agricultural and rural development in sub-Saharan Africa, and for other purposes; to the Committee on Foreign Relations.

AFRICA: SEEDS OF HOPE ACT

Mr. DEWINE. Mr. President, I rise today, along with my colleague from Maryland, Senator SARBANES, Senator MOYNIHAN, Senator MURRAY, and Senator JOHNSON, to introduce the "Africa: Seeds of Hope Act"—legislation to promote small-scale agricultural and rural development in Africa. The bill also would recognize the important benefits such overseas agriculture advances could hold for our own farmers here in the United States.

Mr. President, according to the Food and Agriculture Organization, around 215 million people are undernourished in sub-Saharan Africa. This number is expected to increase dramatically in the next century. Similarly, the number of Africans who are unable to produce the provisions they need to lead healthy, productive lives is rising.

Food is the most basic necessity of life. Yet, millions of Africans lead lives of needless suffering because they don't have the skills and tools necessary to provide for themselves and others. As a result, many African countries are dependent on the outside world for humanitarian assistance and basic nutrition. Africa's food imports are projected to rise from less than 8,000,000 metric tons in 1990 to more than 25,000,000 metric tons by the year 2020.

Mr. President, I believe that the most effective way to improve conditions for Africa's poor is to increase the productivity of their agricultural sector. Whenever I travel to developing countries, I try to spend time looking at the countries' agriculture. I have seen firsthand that rural areas can succeed through innovative agricultural development. It does in fact work.

Mr. President, about 70 percent of Africa's poor lives in rural areas. That's where the major problem is, and that's where this bill can make a difference.

This legislation has an important link with another bipartisan trade bill—the African Trade Growth and Opportunities Act, which I cosponsored and hope the Senate will pass sometime in the near future. That legislation is also an important step in aiding a continent in need of strong economic leadership.

Before we can have effective trade, however, there needs to be a reciprocal market—a springboard from which we can foster substantive trade relations. This is why this bill we are introducing today is so critical to American interests in that region.

Mr. President, let me outline a few highlights of this bill:

First, it would encourage Federal agencies and international organizations to make rural development issues a priority—by teaching effective farming methods to small-scale sub-Saharan African farmers and entrepreneurs;

Second, it would provide African small farmers and entrepreneurs with improved access to credit and other resources necessary to stimulate production and micro-enterprise;

Third, it would mobilize new investments in African agriculture and rural development through the US Overseas Private Investment Corporation; and

Fourth, it would facilitate the coordination of national and international agricultural research and extension efforts aimed at developing the skills of African researchers, extension agents, farmers, and agribusiness people—in fact, the bill would allow American universities to play a pivotal role in this effort.

Mr. President, African nations are in dire need of agricultural development. This bill can help them gain the knowledge they need to succeed. At the same time, as a Senator from a State with a rich agricultural tradition, I believe we must be sensitive to the needs of our own American farmers. I believe the United States and our farmers could benefit from the passage of the bill.

This bill could open new export opportunities for American farmers, especially those who produce value-added goods. As the economies in sub-Saharan Africa develop, the overall standard of living will increase. In turn, the people of Africa will be in a better position to purchase a variety of goods, including American agricultural commodities and equipment. This is where our export markets can flourish.

Another significant point to consider is that food stability is a critical factor in preventing civil strife within nations. Our investment in international agriculture and rural development will help reduce demands for U.S. disaster and famine relief.

Also, the most rapidly increasing markets for U.S. product's are in developing countries. Hence, helping these economies grow through their agricultural sector will in the end help our own economy.

Mr. President, international agricultural development assistance has decreased over time. In fact, in the past decade alone, U.S. AID money for this program has dropped by 70 percent. We should re-focus our efforts in this important program and this bill will do that.

I want to commend my House colleagues, DOUG BEREUTER and LEE HAMILTON, for their work on the companion bill, H.R. 3636. Through their vision and leadership, they are building bipartisan support for this initiative as well.

Mr. President, this legislation has the ability to make a real difference in the lives of millions of people. Doing so serves our humanitarian and economic interests. This bill would help these countries make important progress in meeting basic human needs. I encourage and urge my colleagues to support this important and timely measure.

Mr. SARBANES. Mr. President, I am pleased to join today in introducing the "Africa: Seeds of Hope Act of 1998." This legislation will support sustainable and broad-based economic growth in sub-Saharan Africa by directing bilateral aid and investment programs toward small-scale farming and rural development. At the same time, by fostering research and extension activities and helping to build local markets, this initiative will provide important opportunities for mutual cooperation between U.S. and African farmers, educators, scientists and entrepreneurs.

Recognizing the high rates of malnutrition, poverty and hunger in many African countries, this bill is designed to promote food security and agricultural productivity by expanding access to credit and technology, improving information and farming techniques, and creating more efficient market mechanisms. The legislation would accomplish this in several ways. First, it ensures that the United States Agency for International Development (USAID) will devote adequate funding to programs and projects that improve food security and meet the needs of the rural poor. It requires the participation of affected communities in all phases of project planning and development, and strengthens coordination with nongovernmental organizations, cooperatives, land-grant and other appropriate universities, and local marketing associations that have relevant expertise.

Second, the bill highlights the role of microcredit assistance in the overall strategy against rural poverty. Lack of access to credit, particularly among women, has restricted the growth of small-scale agriculture, the availability and use of appropriate technology, and the establishment of an adequate and reliable food supply.

Third, this legislation mobilizes new resources for investment in African agriculture and rural development through the Overseas Private Investment Corporation (OPIC), working with small businesses and other U.S. entities to develop the capacities of small-scale farmers and rural entrepreneurs.

A fourth way in which the bill promotes food security and agricultural productivity is by directing USAID and the Department of Agriculture to develop a comprehensive plan to coordinate and build on the research and extension activities of U.S. land-grant universities, international agricultural research centers, and national agricultural research and extension centers. In this way, the initiative encourages the latest agricultural methods and most successful business practices, while ensuring they are appropriate to local conditions and adapted to specific climates.

Finally, this legislation establishes the Bill Emerson Humanitarian Trust, which is intended to serve as a reliable mechanism for providing emergency food aid overseas. Using unexpended balances in existing accounts, this bill converts the Food Security Commodity Reserve into a trust account that will allow for more timely and cost-effective responses to humanitarian crises.

Mr. President, as funding for international affairs has been reduced, it is programs like these, which address the needs of the world's poorest, that have been hit hardest. This bill draws attention to the importance of sustainable agriculture and targets U.S. assistance programs in Africa toward building food security and self-sufficiency. I am pleased to join with my distinguished colleague from Ohio, Mr. DEWINE, in introducing this legislation, and I look forward to working with him, the other cosponsors, and the Administration in moving it toward enactment.

By Mr. DEWINE (for himself, Mr. HOLLINGS, Mr. FORD, Mr. DODD, Mr. BYRD, and Mr. ROCKEFELLER):

S. 2281. A bill to amend the Tariff Act of 1930 to eliminate disincentives to fair trade conditions; to the Committee on Finance.

CONTINUED DUMPING OR SUBSIDIZATION OFFSET ACT OF 1998

Mr. DEWINE. Mr. President, today I am introducing the Continued Dumping or Subsidy Offset bill. I am pleased that Senators HOLLINGS, FORD, DODD, BYRD, and ROCKEFELLER have joined me as original cosponsors of this legislation. My friend and colleague from Ohio, Congressman RALPH REGULA already has introduced similar legislation in the House. This bill represents a strong step towards creating a more level playing field for domestic producers. It strengthens the Tariff Act of 1930, which currently imposes duties and fines for dumping and subsidization.

This new bill takes the 1930 Act a step further, by transferring the duties and fines to injured U.S. companies to compensate for damages. This approach is designed to discourage foreign companies from dumping and subsidization, since it would actually assist U.S. competitors at their expense. In order to counter the adverse effects of foreign dumping and subsidization on U.S. industries, the Senate should pass this bill.

Current law has simply not been strong enough to stop harmful trading practices. It is an unfortunate truth that foreign producers have continued to engage in dumping to increase or maintain unfair market shares. This dumping occurs in the face of existing U.S. trade laws and international agreements within the WTO.

Specifically, the problem with the law is that foreign producers are willing to pay current U.S. antidumping and countervailing duties out of the profits of dumping. In other words, there is no real disincentive to stop dumping. It's still good business for foreign companies. Furthermore, since some foreign producers receive continued subsidization, this enables them to maintain market share that unsubsidized prices would not sustain. As a result, U.S. companies are continually injured by the actions of these foreign producers.

The law also does not contain a mechanism to help injured U.S. industries recover from the harmful effects of foreign dumping and subsidization. The foreign practices have reduced the ability of our injured domestic industries to reinvest in plan, equipment, people, R&D, technology or to maintain or restore health care and pension benefits. The end result is this: continued dumping or subsidization jeopardizes renewed investment and prevents additional reinvestment from being made. Unless we act, domestic firms will face continued price depression. This is an unfair and unacceptable trading practice by foreign firms.

Under current law, any fines and duties imposed on foreign traders for illegal dumping practices go directly into U.S. Treasury coffers. It is important to note that U.S. trade laws are not intended to raise revenue for the Treasury. Rather, such laws are intended to see that U.S. companies face conditions of fair trade in the market. The bill I am introducing today would further that good by helping create a more level playing field and two ways mentioned earlier:

First, the legislation would award duties and fines to injured domestic companies, and provide businesses relief from adverse effects of foreign dumping and subsidization.

Second, this transfer of funds from foreign companies to their U.S. competitors may provide the disincentive to dump, which is a fundamental problem with current law. This would reduce the economic benefits of dumping and subsidizing.

Many companies and workers are currently not being given the level playing field intended by our trade laws and international trade agreements. The Continued Dumping or Subsidy Offset bill is the first strong step to correct his real problem by assisting domestic companies and further discouraging unfair trading practices by foreign traders.

ADDITIONAL COSPONSORS

S. 358

At the request of Mr. DEWINE, the name of the Senator from Washington [Mrs. MURRAY] was added as a cosponsor of S. 358, a bill to provide for compassionate payments with regard to individuals with blood-clotting disorders, such as hemophilia, who contracted human immunodeficiency virus due to contaminated blood products, and for other purposes.

S. 474

At the request of Mr. KYL, the name of the Senator from Georgia [Mr. COVERDELL] was added as a cosponsor of S. 474, a bill to amend sections 1081 and 1084 of title 18, United States Code.

S. 1031

At the request of Mr. GRAMS, his name was added as a cosponsor of S. 1031, a bill to protect Federal law enforcement officers who intervene in certain situations to protect life or prevent bodily injury.

S. 1251

At the request of Mr. D'AMATO, the name of the Senator from Virginia [Mr.

ROBB] was added as a cosponsor of S. 1251, a bill to amend the Internal Revenue Code of 1986 to increase the amount of private activity bonds which may be issued in each State, and to index such amount for inflation.

S. 1305

At the request of Mr. GRAMM, the name of the Senator from Colorado [Mr. ALLARD] was added as a cosponsor of S. 1305, a bill to invest in the future of the United States by doubling the amount authorized for basic scientific, medical, and pre-competitive engineering research.

S. 1480

At the request of Ms. SNOWE, the names of the Senator from South Carolina [Mr. HOLLINGS], the Senator from Massachusetts [Mr. KERRY], and the Senator from Alaska [Mr. STEVENS] were added as cosponsors of S. 1480, a bill to authorize appropriations for the National Oceanic and Atmospheric Administration to conduct research, monitoring, education and management activities for the eradication and control of harmful algal blooms, including blooms of Pfiesteria piscicida and other aquatic toxins.

S. 1596

At the request of Mr. COVERDELL, the name of the Senator from Alaska [Mr. MURKOWSKI] was added as a cosponsor of S. 1596, a bill to provide for reading excellence.

S. 1734

At the request of Mrs. HUTCHISON, the name of the Senator from California [Mrs. FEINSTEIN] was added as a cosponsor of S. 1734, a bill to amend the Internal Revenue Code of 1986 to waive the income inclusion on a distribution from an individual retirement account to the extent that the distribution is contributed for charitable purposes.

S. 1855

At the request of Mr. WYDEN, the name of the Senator from Wyoming [Mr. ENZI] was added as a cosponsor of S. 1855, a bill to require the Occupational Safety and Health Administration to recognize that electronic forms of providing MSDSs provide the same level of access to information as paper copies.

S. 1862

At the request of Mr. DEWINE, the name of the Senator from Illinois [Mr. DURBIN] was added as a cosponsor of S. 1862, a bill to provide assistance for poison prevention and to stabilize the funding of regional poison control centers.

S. 1879

At the request of Mr. BURNS, the names of the Senator from Utah [Mr. HATCH], the Senator from Washington [Mrs. MURRAY], the Senator from Wyoming [Mr. THOMAS], the Senator from Kansas [Mr. ROBERTS], the Senator from Kentucky [Mr. MCCONNELL], and the Senator from Colorado [Mr. ALLARD] were added as cosponsors of S. 1879, a bill to provide for the permanent extension of income averaging for farmers.

S. 1924

At the request of Mr. MACK, the name of the Senator from Ohio [Mr. GLENN] was added as a cosponsor of S. 1924, a bill to restore the standards used for determining whether technical workers are not employees as in effect before the Tax Reform Act of 1986.

S. 1965

At the request of Ms. MOSELEY-BRAUN, the name of the Senator from Missouri [Mr. ASHCROFT] was added as a cosponsor of S. 1965, a bill to prohibit the publication of identifying information relating to a minor for criminal sexual purposes.

S. 2034

At the request of Mr. DODD, the names of the Senator from Rhode Island [Mr. REED], the Senator from New Jersey [Mr. TORRICELLI], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Rhode Island [Mr. CHAFEE], and the Senator from Connecticut [Mr. LIEBERMAN] were added as cosponsors of S. 2034, a bill to establish a program to provide for a reduction in the incidence and prevalence of Lyme disease.

S. 2128

At the request of Mr. LOTT, his name was added as a cosponsor of S. 2128, a bill to clarify the authority of the Director of the Federal Bureau of Investigation regarding the collection of fees to process certain identification records and name checks, and for other purposes.

S. 2162

At the request of Mr. MACK, the name of the Senator from Alabama [Mr. SESSIONS] was added as a cosponsor of S. 2162, a bill to amend the Internal Revenue Code of 1986 to more accurately codify the depreciable life of printed wiring board and printed wiring assembly equipment.

S. 2222

At the request of Mr. GRASSLEY, the name of the Senator from North Dakota [Mr. DORGAN] was added as a cosponsor of S. 2222, a bill to amend title XVIII of the Social Security Act to repeal the financial limitation on rehabilitation services under part B of the Medicare Program.

S. 2223

At the request of Mr. GRAMS, the name of the Senator from Georgia [Mr. COVERDELL] was added as a cosponsor of S. 2223, a bill to provide a moratorium on certain class actions relating to the Real Estate Settlement Procedures Act of 1974.

SENATE CONCURRENT RESOLUTION 107

At the request of Mr. ASHCROFT, his name was added as a cosponsor of Senate Concurrent Resolution 107, a concurrent resolution affirming United States commmitments to Taiwan.

At the request of Mr. NICKLES, his name, and the name of the Senator from Oregon [Mr. SMITH] were added as cosponsors of Senate Concurrent Resolution 107, supra.

SENATE RESOLUTION 192

At the request of Mr. BIDEN, the name of the Senator from South Dakota [Mr. JOHNSON] was added as a cosponsor of Senate Resolution 192, a resolution expressing the sense of the Senate that institutions of higher education should carry out activities to change the culture of alcohol consumption on college campuses.

AMENDMENTS SUBMITTED

PRODUCT LIABILITY REFORM ACT OF 1998

FEINSTEIN (AND TORRICELLI) AMENDMENT NO. 3106

(Ordered to lie on the table.)

Mrs. FEINSTEIN (for herself and Mr. TORRICELLI) submitted an amendment intended to be proposed by them to the bill (S. 648) to establish legal standards and procedures for product liability litigation, and for other purposes; as follows

In lieu of the matter proposed to be added at the end section 102(a)(2), add the following:

(E) ACTIONS INVOLVING HARM CAUSED BY A FIREARM OR AMMUNITION.—A civil action brought for harm caused by a firearm or ammunition (as that term is defined in section 921(17)(A) of title 18, United States Code) shall not be subject to the provisions of this title governing product liability actions, but shall be subject to any applicable Federal or State law.

HIGHER EDUCATION AMENDMENTS OF 1998

FEINSTEIN (AND BOXER) AMENDMENT NO. 3107

Mrs. FEINSTEIN (for herself and Mrs. BOXER) proposed an amendment to the bill (S. 1882) to reauthorize the Higher Education Act of 1965, and for other purposes, as follows:

On page 417, line 17, insert "(i)" after "(B)".

On page 417, line 19, insert "or clause (ii)" after "subparagraph (A)".

On page 417, line 23, strike the end quotation marks and "; and".

On page 417, between lines 23 and 24, insert the following:

"(ii) Notwithstanding subsection (a)(1), the Secretary may allow, on a case-by-case basis, a student to receive a basic grant if the student—

"(I) is carrying at least ½ the normal full-time work load for the course of study the student is pursuing, as determined by the institution of higher education; and

"(II) is enrolled or accepted for enrollment in a postbaccalaureate program that does not lead to a graduate degree, and in courses required by a State in order for the student to receive a professional certification or licensing credential that is required for employment as a teacher in an elementary school or secondary school in that State,

except that this subparagraph shall not apply to a student who is enrolled in an institution of higher education that offers a baccalaureate degree in education."; and

HUTCHISON AMENDMENT NO. 3108

(Ordered to lie on the table.)

Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill, S. 1882, supra; as follows:

Amend Section 435(d)(1) of the Higher Education Act by adding a new section:

(K) for the purpose of making loans under this part or holding loans made by other lenders under this part, any not for profit corporation described in Section 150(d)(2) of the Internal Revenue Code Act of 1986, as amended, or any transferee corporation described in Section 150(d)(3)(B) of the Internal Revenue Code Act of 1986, as amended.

SPECTER (AND OTHERS) AMENDMENT NO. 3109

Mr. JEFFORDS (for Mr. SPECTER for himself, Mr. SANTORUM, and Mrs. MURRAY) proposed an amendment to the bill, S. 1882, supra; as follows:

On page 550, between lines 16 and 17, insert the following:

(4) in paragraph (6) (as redesignated by paragraph (2)), by amending subparagraph (A) to read as follows: "(A) For purposes of this section the term 'campus' means—

"(i) any building or property owned or controlled by an institution of higher education within the same reasonably contiguous geographic area of the institution, including a building or property owned by the institution, but controlled by another person, such as a food or other retail vendor;

"(ii) any building or property owned or controlled by a student organization recognized by the institution;

"(iii) all public property that is within the same reasonably contiguous geographic area of the institution, such as a sidewalk, a street, other thoroughfare, or parking facility, that is adjacent to a facility owned or controlled by the institution;

"(iv) any building or property (other than a branch campus) owned or controlled by an institution of higher education that is used in direct support of, or in relation to, the institution's educational purposes, is used by students, and is not within the same reasonably contiguous geographic area of the institution; and

"(v) all dormitories or other student residential facilities owned or controlled by the institution.";

On page 553, line 25, strike the end quotation marks and the second period.

On page 553, after line 25, insert the following:

"(10)(A) The Secretary shall report to the appropriate committees of Congress each institution of higher education that the Secretary determines is not in compliance with the reporting requirements of this subsection.

"(B) The Secretary shall provide to an institution of higher education that the Secretary determines is having difficulty, or is not in compliance, with the reporting requirements of this subsection—

"(i) data and analysis regarding successful practices employed by institutions of higher education to reduce campus crime; and

"(ii) technical assistance.

"(11) For purposes of reporting the statistics described in paragraphs (1)(F) and (1)(H), an institution of higher education shall distinguish, by means of separate categories, any criminal offenses that occur—

"(A) on publicly owned sidewalks, streets, or other thoroughfares, or in parking facilities, that are adjacent to facilities owned by the institution; and

"(B) in dormitories or other residential facilities for students on campus.

"(12)(A) Upon determination, after reasonable notice and opportunity for a hearing on the record, that an institution of higher education—

"(i) has violated or failed to carry out any provision of this subsection or any regulation prescribed under this subsection; or

"(ii) has substantially misrepresented the number, location, or nature of the crimes required to be reported under this subsection,

the Secretary shall impose a civil penalty upon the institution of not to exceed $25,000 for each violation, failure, or misrepresentation.

"(B) Any civil penalty may be compromised by the Secretary. In determining the amount of such penalty, or the amount agreed upon in compromise, the appropriateness of the penalty to the size of the institution of higher education subject to the determination, and the gravity of the violation, failure, or misrepresentation shall be considered. The amount of such penalty, when finally determined, or the amount agreed upon in compromise, may be deducted from any sums owing by the United States to the institution charged.

"(13)(A) Nothing in this subsection may be construed to—

"(i) create a cause of action against any institution of higher education or any employee of such an institution for any civil liability; or

"(ii) establish any standard of care.

"(B) Notwithstanding any other provision of law, evidence regarding compliance or noncompliance with this subsection shall not be admissible as evidence in any proceeding of any court, agency, board, or other entity, except with respect to an action to enforce this subsection

"(14) This subsection may be cited as the 'Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act'.".

GRAHAM (AND OTHERS) AMENDMENT NO. 3110

Mr. GRAHAM (for himself, Mr. WELLSTONE, and Mr. HAGEL) proposed an amendment to the bill, S. 1882, supra; as follows:

On page 537, between lines 20 and 21, insert the following:

SEC. 476. TREATMENT OF OTHER FINANCIAL ASSISTANCE.

Section 480(j)(3) (20 U.S.C. 1087vv(j)(3)) is amended by inserting "educational assistance after discharge or release from service under chapter 30 of title 38, United States Code, or" after "paragraph (1),".

In section 458(a)(1)(B) of the Higher Education Act of 1965, as amended by section 454 of this Act, strike "$617,000,000" and insert "$612,000,000".

In section 458(a)(1)(B) of the Higher Education Act of 1965, as amended by section 454 of this Act, strike "$735,000,000" and insert "$730,000,000".

On page 514, line 9, strike "$770,000,000" and insert "$765,000,000".

On page 514, line 10, strike "$780,000,000" and insert "$770,000,000".

On page 514, line 11, strike "$795,000,000" and insert "$785,000,000".

On page 446, line 6, strike "section 428(c)(6)(A)(i)" and insert "section 428(c)(6)(A)".

On page 450, line 6, strike "section 428(c)(6)(A)(ii)" and insert "section 428(c)(6)(B)".

WELLSTONE (AND OTHERS) AMENDMENT NO. 3111

Mr. WELLSTONE (for himself, Mr. FORD, Mr. JOHNSON, Mr. DURBIN, Mr. LEVIN, Ms. MIKULSKI, and Ms. MOSELEY-BRAUN) proposed an amendment to the bill, S. 1882, supra; as follows:

At the appropriate place in title VII, insert the following:

SEC . EXPANSION OF EDUCATIONAL OPPORTUNITIES FOR WELFARE RECIPIENTS.

(a) 24 MONTHS OF POSTSECONDARY EDUCATION AND VOCATIONAL EDUCATIONAL TRAINING MADE PERMISSIBLE WORK ACTIVITIES.—Section 407(d)(8) of the Social Security Act (42 U.S.C. 607(d)(8)) is amended to read as follows:

"(8) postsecondary education and vocational educational training (not to exceed 24 months with respect to any individual);".

(b) MODIFICATIONS TO THE EDUCATIONAL CAP.—

(1) REMOVAL OF TEEN PARENTS FROM 30 PERCENT LIMITATION.—Section 407(c)(2)(D) of the Social Security Act (42 U.S.C. 607(c)(2)(D)) is amended by striking ", or (if the month is in fiscal year 2000 or thereafter) deemed to be engaged in work for the month by reason of subparagraph (C) of this paragraph".

(2) EXTENSION OF CAP TO POSTSECONDARY EDUCATION.—Section 407(c)(2)(D) of the Social Security Act (42 U.S.C. 607(c)(2)(D)) is amended by striking "vocational educational training" and inserting "training described in subsection (d)(8)".

DAKOTA WATER RESOURCES ACT OF 1998

DORGAN (AND CONRAD) AMENDMENT NO. 3112

Mr. DORGAN (for himself and Mr. CONRAD) submitted an amendment intended to be proposed by them to the bill (S. 1515) to amend Public Law 98-108 to increase authorization levels for State and Indian tribal, municipal, rural, and industrial water supplies, to meet current and future water quantity and quality needs of the Red River Valley, to deauthorize certain project features and irrigation service areas, to enhance natural resources and fish and wildlife habitat, and for other purposes, as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Dakota Water Resources Act of 1998".

SEC. 2. PURPOSES AND AUTHORIZATION.

Section 1 of Public Law 89-108 (79 Stat. 433; 100 Stat. 418) is amended—

(1) in subsection (a)—

(A) in paragraph (2), by striking "of" and inserting "within";

(B) in paragraph (5), by striking "more timely" and inserting "appropriate"; and

(C) in paragraph (7), by striking "federally-assisted water resource development project providing irrigation for 130,940 acres of land" and inserting "multipurpose federally assisted water resource project providing irrigation, municipal, rural, and industrial water systems, fish, wildlife, and other natural resource conservation and development, recreation, flood control, ground water recharge, and augmented stream flows";

(2) in subsection (b)—

(A) by inserting ", jointly with the State of North Dakota," after "construct";

(B) by striking "the irrigation of 130,940 acres" and inserting "irrigation";

(C) by striking "fish and wildlife conservation" and inserting "fish, wildlife, and other natural resource conservation";

(D) by inserting "augmented stream flows, ground water recharge," after "flood control,"; and

(E) by inserting "(as modified by the Dakota Water Resources Act of 1998)" before the period at the end;

(3) in subsection (e), by striking "terminated" and all that follows and inserting "terminated."; and

(4) by striking subsections (f) and (g) and inserting the following:

"(f) Costs.—

"(1) Estimate.—The Secretary shall estimate—

"(A) the actual construction costs of the facilities (including mitigation facilities) in existence as of the date of enactment of the Dakota Water Resources Act of 1998; and

"(B) the annual operation, maintenance, and replacement costs associated with the used and unused capacity of the features in existence as of that date.

"(2) Repayment contract.—An appropriate repayment contract shall be negotiated that provides for the making of a payment for each payment period in an amount that is commensurate with the percentage of the total capacity of the project that is in actual use during the payment period.

"(3) Operation and maintenance costs.—The Secretary shall be responsible for the costs of operation and maintenance of the proportionate share attributable to the capacity of the facilities (including mitigation facilities) that remain unused.

"(g) Agreement Between the Secretary and the State.—The Secretary shall enter into 1 or more agreements with the State of North Dakota to carry out this Act, including operation and maintenance of the completed unit facilities and the design and construction of authorized new unit facilities by the State.

"(h) Boundary Waters Treaty of 1909.—

"(1) Delivery of water into the Hudson Bay basin.—Water systems constructed under this Act may deliver Missouri River water into the Hudson Bay basin only after the Secretary, in consultation with the Secretary of State and the Administrator of the Environmental Protection Agency, determines that adequate treatment has been provided to meet the requirements of the Treaty Between the United States and Great Britain relating to Boundary Waters Between the United States and Canada, signed at Washington January 11, 1909 (36 Stat. 2448; TS 548) (commonly known as the 'Boundary Waters Treaty of 1909').

"(2) Costs.—All costs of construction, operation, maintenance, and replacement of water treatment and related facilities authorized by this Act and attributable to meeting the requirements of the treaty referred to in paragraph (1) shall be nonreimbursable.".

SEC. 3. FISH AND WILDLIFE.

Section 2 of Public Law 89–108 (79 Stat. 433; 100 Stat. 419) is amended—

(1) by striking subsections (b), (c), and (d) and inserting the following:

"(b) Fish and Wildlife Costs.—All fish and wildlife enhancement costs incurred in connection with waterfowl refuges, waterfowl production areas, and wildlife conservation areas proposed for Federal or State administration shall be nonreimbursable.

"(c) Recreation Areas.—

"(1) Costs.—If non-Federal public bodies continue to agree to administer land and water areas approved for recreation and agree to bear not less than 50 percent of the separable costs of the unit allocated to recreation and attributable to those areas and all the costs of operation, maintenance, and replacement incurred in connection therewith, the remainder of the separable capital costs so allocated and attributed shall be nonreimbursable.

"(2) Approval.—The recreation areas shall be approved by the Secretary in consultation and coordination with the State of North Dakota.

"(d) Non-Federal Share.—The non-Federal share of the separable capital costs of the unit allocated to recreation shall be borne by non-Federal interests, using the following methods, as the Secretary may determine to be appropriate:

"(1) Services in kind.

"(2) Payment, or provision of lands, interests therein, or facilities for the unit.

"(3) Repayment, with interest, within 50 years of first use of unit recreation facilities.";

(2) in subsection (e)—

(A) by redesignating paragraphs (1) and (2) as paragraphs (2) and (3), respectively;

(B) by inserting "(1)" after "(e)";

(C) in paragraph (2) (as redesignated by subparagraph (A))—

(i) in the first sentence—

(I) by striking "within ten years after initial unit operation to administer for recreation and fish and wildlife enhancement" and inserting "to administer for recreation"; and

(II) by striking "which are not included within Federal waterfowl refuges and waterfowl production areas"; and

(ii) in the second sentence, by striking "or fish and wildlife enhancement"; and

(D) in the first sentence of paragraph (3) (as redesignated by subparagraph (A))—

(i) by striking ", within ten years after initial operation of the unit,"; and

(ii) by striking "paragraph (1) of this subsection" and inserting "paragraph (2)";

(3) in subsection (f), by striking "and fish and wildlife enhancement"; and

(4) in subsection (j)—

(A) in paragraph (1), by striking "prior to the completion of construction of Lonetree Dam and Reservoir"; and

(B) by adding at the end the following:

"(4) Taayer reservoir.—Taayer Reservoir is deauthorized as a project feature. The Secretary, acting through the Commissioner of Reclamation, shall acquire (including acquisition through donation or exchange) up to 5,000 acres in the Kraft and Pickell Slough areas and to manage the area as a component of the National Wildlife Refuge System giving consideration to the unique wildlife values of the area. In acquiring the lands which comprise the Kraft and Pickell Slough complex, the Secretary shall acquire wetlands in the immediate vicinity which may be hydrologically related and nearby uplands as may be necessary to provide for proper management of the complex. The Secretary shall provide for appropriate visitor access and control at the refuge.

"(5) Deauthorization of Lonetree dam and reservoir.—The Lonetree Dam and Reservoir is deauthorized, and the Secretary shall designate the lands acquired for the former reservoir site as a wildlife conservation area. The Secretary shall enter into an agreement with the State of North Dakota providing for the operation and maintenance of the wildlife conservation area as an enhancement feature, the costs of which shall be paid by the Secretary. If the features selected under section 8 include a buried pipeline and appurtenances between the McClusky Canal and New Rockford Canal, the use of the wildlife conservation area and Sheyenne Lake National Wildlife Refuge for such route is hereby authorized.".

SEC. 4. INTEREST CALCULATION.

Section 4 of Public Law 89–108 (100 Stat. 435) is amended by adding at the end the following: "Interest during construction shall be calculated only until such date as the Secretary declares any particular feature to be substantially complete, regardless of whether the feature is placed into service.".

SEC. 5. IRRIGATION FACILITIES.

Section 5 of Public Law 89–108 (100 Stat. 419) is amended—

(1) by striking "Sec. 5. (a)(1)" and all that follows through subsection (c) and inserting the following:

"SEC. 5. IRRIGATION FACILITIES.

"(a) In General.—

"(1) Authorized development.—In addition to the 5,000-acre Oakes Test Area in existence on the date of enactment of the Dakota Water Resources Act of 1998, the Secretary may develop irrigation in—

"(A) the Turtle Lake service area (13,700 acres);

"(B) the McClusky Canal service area (10,000 acres); and

"(C) if the investment costs are fully reimbursed without aid to irrigation from the Pick-Sloan Missouri Basin Program, the New Rockford Canal service area (1,200 acres).

"(2) Development not authorized.—None of the irrigation authorized by this section may be developed in the Hudson Bay/Devils Lake Basin.

"(3) No excess development.—The Secretary shall not develop irrigation in the service areas described in paragraph (1) in excess of the acreage specified in that paragraph, except that the Secretary shall develop up to 28,000 acres of irrigation in other areas of North Dakota (such as the Elk/Charbonneau, Mon-Dak, Nesson Valley, Horsehead Flats, and Oliver-Mercer areas) that are not located in the Hudson Bay/Devils Lake drainage basin or James River drainage basin.

"(4) Pumping power.—Irrigation development authorized by this section shall be considered authorized units of the Pick-Sloan Missouri Basin Program and eligible to receive project pumping power.

"(5) Principle Supply Works.—The Secretary shall complete and maintain the principle supply works as identified in the 1984 Garrison Diversion Unit Commission Final Report dated December 20, 1984 as modified by the Dakota Water Resources Act of 1998.";

(2) by redesignating subsections (d), (e), and (f) as subsections (b), (c), and (d), respectively;

(3) in the first sentence of subsection (b) (as redesignated by paragraph (2)), by striking "(a)(1)" and inserting "(a)";

(4) in the first sentence of subsection (c) (as redesignated by paragraph (2)), by striking "Lucky Mound (7,700 acres), Upper Six Mile Creek (7,500 acres)" and inserting "Lucky Mound (7,700 acres) and Upper Six Mile Creek (7,500 acres), or such other lands at Fort Berthold of equal acreage as may be selected by the tribe and approved by the Secretary,"; and

(5) by adding at the end the following:

"(e) Irrigation Report to Congress.—

"(1) In general.—The Secretary shall investigate and prepare a detailed report on the undesignated 28,000 acres in subsection (a)(3) as to costs and benefits for any irrigation units to be developed under Reclamation law.

"(2) Finding.—The report shall include a finding on the financial and engineering feasibility of the proposed irrigation unit, but shall be limited to the undesignated 28,000 acres.

"(3) Authorization.—If the Secretary finds that the proposed construction is feasible, such irrigation units are authorized without further Act of Congress.

"(4) Documentation.—No expenditure for the construction of facilities authorized under this section shall be made until after the Secretary, in cooperation with the State of North Dakota, has prepared the appropriate documentation in accordance with section 1 and pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) analyzing the direct and indirect impacts of implementing the report.".

SEC. 6. POWER.

Section 6 of Public Law 89-108 (79 Stat. 435; 100 Stat. 421) is amended—

(1) in subsection (b)—

(A) by striking "Notwithstanding the provisions of" and inserting "Pursuant to the provisions of"; and

(B) by striking "revenues," and all that follows and inserting "revenues."; and

(2) by striking subsection (c) and inserting the following:

"(c) No Increase in Rates or Affect on Repayment Methodology.—In accordance with the last sentence of section 302(a)(3) of the Department of Energy Organization Act (42 U.S.C. 7152(a)(3), section 1(e) shall not result in any reallocation of project costs and shall not result in increased rates to Pick-Sloan Missouri Basin Program customers. Nothing in the Dakota Water Resources Act of 1998 alters or affects in any way the repayment methodology in effect as of the date of enactment of that Act for other features of the Pick-Sloan Missouri Basin Program.".

SEC. 7. MUNICIPAL, RURAL, AND INDUSTRIAL WATER SERVICE.

Section 7 of Public Law 89-108 (100 Stat. 422) is amended—

(1) in subsection (a)(3)—

(A) in the second sentence—

(i) by striking "The non-Federal share" and inserting "Unless otherwise provided in this Act, the non-Federal share";

(ii) by striking "each water system" and inserting "water systems";

(iii) by inserting after the second sentence the following: "The State may use the Federal and non-Federal funds to provide grants or loans for municipal, rural, and industrial water systems. The State shall use the proceeds of repaid loans for municipal, rural, and industrial water systems."; and

(iv) by striking the last sentence and inserting the following: "The Southwest Pipeline Project, the Northwest Area Water Supply Project, the Red River Valley Water Supply Project, and other municipal, industrial, and rural water systems in the State of North Dakota shall be eligible for funding under the terms of this section. Funding provided under this section for the Red River Valley Water Supply Project shall be in addition to funding for that project under section 10(a)(1)(B). The amount of non-Federal contributions made after May 12, 1986, that exceeds the 25 percent requirement shall be credited to the State for future use in municipal, rural, and industrial projects under this section."; and

(2) by striking subsections (b), (c), and (d) and inserting the following:

"(b) Water Conservation Program.—The State of North Dakota may use funds provided under subsections (a) and (b)(1)(A) of section 10 to develop and implement a water conservation program. The Secretary and the State shall jointly establish water conservation goals to meet the purposes of the State program and to improve the availability of water supplies to meet the purposes of this Act. If the State achieves the established water conservation goals, the non-Federal cost share for future projects under subsection (a)(3) shall be reduced to 24.5 percent.

"(c) Nonreimbursability of Costs.—With respect to the Southwest Pipeline Project, the Northwest Area Water Supply Project, the Red River Valley Water Supply Project, and other municipal, industrial, and rural water systems in North Dakota, the costs of the features constructed on the Missouri River by the Secretary of the Army before the date of enactment of the Dakota Water Resources Act of 1998 shall be nonreimbursable.

"(d) Indian Municipal Rural and Industrial Water Supply.—The Secretary shall construct, operate, and maintain such municipal, rural, and industrial water systems as the Secretary determines to be necessary to meet the economic, public health, and environmental needs of the Fort Berthold, Standing Rock, Turtle Mountain (including the Trenton Indian Service Area), and Fort Totten Indian Reservations and adjacent areas.".

SEC. 8. SPECIFIC FEATURES.

(a) In General.—Public Law 89-108 (100 Stat. 423) is amended by striking section 8 and inserting the following:

"SEC. 8. SPECIFIC FEATURES.

"(a) Red River Valley Water Supply Project.—

"(1) In general.—The Secretary shall construct a feature or features to deliver Missouri River water to the Sheyenne River water supply and release facility or such other feature or features as are selected under subsection (d).

"(2) Design and construction.—The feature shall be designed and constructed to meet only the water delivery requirements of the irrigation areas, municipal, rural, and industrial water supply needs, ground water recharge, and streamflow augmentation (as described in subsection (b)(2)) authorized by this Act.

"(3) Commencement of construction.—The Secretary may not commence construction on the feature until a master repayment contract or water service agreement consistent with this Act between the Secretary and the appropriate non-Federal entity has been executed.

"(b) Report on Red River Valley Water Needs and Delivery Options.—

"(1) In general.—Pursuant to section 1(g), not later than 90 days after the date of enactment of the Dakota Water Resources Act of 1998, the Secretary and the State of North Dakota shall jointly submit to Congress a report on the comprehensive water quality and quantity needs of the Red River Valley and the options for meeting those needs, including the delivery of Missouri River water to the Red River Valley.

"(2) Needs.—The needs addressed in the report shall include such needs as—

"(A) augmenting streamflows; and

"(B) enhancing—

"(i) municipal, rural, and industrial water supplies;

"(ii) water quality;

"(iii) aquatic environment; and

"(iv) recreation.

"(3) Studies.—Existing and ongoing studies by the Bureau of Reclamation on Red River Water Supply needs and options shall be deemed to meet the requirements of this section.

"(c) Environmental Impact Statements.—

"(1) Draft.—

"(A) Deadline.—Pursuant to an agreement between the Secretary and the State of North Dakota as authorized under section 1(g), not later than 1 year after the date of enactment of the Dakota Water Resources Act of 1998, the Secretary and the State of North Dakota shall jointly prepare and complete a draft environmental impact statement concerning all feasible options to meet the comprehensive water quality and quantity needs of the Red River Valley and the options for meeting those needs, including possible alternatives for delivering Missouri River water to the Red River Valley.

"(B) Report on status.—If the Secretary and State of North Dakota cannot prepare and complete the draft environmental impact statement within 1 year after the date of enactment of the Dakota Water Resources Act of 1998, the Secretary, in consultation and coordination with the State of North Dakota, shall report to Congress on the status of this activity, including an estimate of the date of completion.

"(2) Final.—

"(A) Deadline.—Not later than 1 year after filing the draft environmental impact statement, a final environmental impact statement shall be prepared and published.

"(B) Report on status.—If the Secretary and State of North Dakota cannot prepare and complete a final environmental impact statement within 1 year of the completion of the draft environmental impact statement, the Secretary, in consultation and coordination with the State of North Dakota, shall report to Congress on the status of this activity, including an estimate of the date of completion.

"(d) Process for Selection.—

"(1) In general.—After reviewing the final report required by subsection (b)(1) and complying with subsection (c), the Secretary, in consultation and coordination with the State of North Dakota in coordination with affected local communities, shall select 1 or more project features described in subsection (a) that will meet the comprehensive water quality and quantity needs of the Red River Valley.

"(2) Agreements.—Not later than 180 days after the record of decision has been executed, the Secretary shall enter into a cooperative agreement with the State of North Dakota to construct the feature or features selected.

"(e) SHEYENNE RIVER WATER SUPPLY AND RELEASE OR ALTERNATE FEATURES.—The Secretary shall construct, operate, and maintain a Sheyenne River water supply and release feature (including a water treatment plant) capable of delivering 100 cubic feet per second of water or any other amount determined in the reports under this section, for the cities of Fargo and Grand Forks and surrounding communities, or such other feature or features as may be selected under subsection (d).".

SEC. 9. OAKES TEST AREA TITLE TRANSFER.

Public Law 89-108 (100 Stat. 423) is amended by striking section 9 and inserting the following:

"SEC. 9. OAKES TEST AREA TITLE TRANSFER.

"(a) IN GENERAL.—Not later than 2 years after execution of a record of decision under section 8(d) on whether to use the New Rockford Canal as a means of delivering water to the Red River Basin as described in section 8, the Secretary shall enter into an agreement with the State of North Dakota, or its designee, to convey title and all or any rights, interests, and obligations of the United States in and to the Oakes Test Area as constructed and operated under Public Law 99-294 (100 Stat. 418) under such terms and conditions as the Secretary believes would fully protect the public interest.

"(b) TERMS AND CONDITIONS.—The agreement shall define the terms and conditions of the transfer of the facilities, lands, mineral estate, easements, rights-of-way and water rights including the avoidance of costs that the Federal Government would otherwise incur in the case of a failure to agree under subsection (d).

"(c) COMPLIANCE.—The action of the Secretary under this section shall comply with all applicable requirements of Federal, State, and local law.

"(d) FAILURE TO AGREE.—If an agreement is not reached within the time limit specified in subsection (a), the Secretary shall dispose of the Oakes Test Area facilities under the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.).".

SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

Section 10 of Public Law 89-108 (100 Stat. 424; 106 Stat. 4669, 4739)

(1) in subsection (a)—

(A) by striking "(a)(1) There are authorized" and inserting the following:

"(a) WATER DISTRIBUTION FEATURES.—

"(1) IN GENERAL.—

"(A) MAIN STEM SUPPLY WORKS.—There is authorized";

(B) in paragraph (1)—

(i) in the first sentence, by striking "$270,395,000 for carrying out the provisions of section 5(a) through 5(c) and section 8(a)(1) of this Act" and inserting "$164,000,000 to carry out section 5(a)";

(ii) by inserting after subparagraph (A) (as designated by clause (i)) the following:

"(B) RED RIVER VALLEY WATER SUPPLY PROJECT.—There is authorized to be appropriated to carry out section 8(a)(1) $200,000,000."; and

(iii) by striking "Such sums" and inserting the following:

"(C) AVAILABILITY.—Such sums"; and

(C) in paragraph (2)—

(i) by striking "(2) There is" and inserting the following:

"(2) INDIAN IRRIGATION.—

"(A) IN GENERAL.—There is";

(ii) by striking "$7,910,000 for carrying out section 5(e) of this Act" and inserting "$7,910,000 to carry out section 5(c)"; and

(iii) by striking "Such sums" and inserting the following:

"(B) AVAILABILITY.—Such sums";

(2) in subsection (b)—

(A) by striking "(b)(1) There is" and inserting the following:

"(b) MUNICIPAL, RURAL, AND INDUSTRIAL WATER SUPPLY.—

"(1) STATEWIDE.—

"(A) INITIAL AMOUNT.—There is";

(B) in paragraph (1)—

(i) by inserting before "Such sums" the following:

"(B) ADDITIONAL AMOUNT.—In addition to the amount under subparagraph (A), there is authorized to be appropriated to carry out section 7(a) $300,000,000."; and

(ii) by striking "Such sums" and inserting the following:

"(C) AVAILABILITY.—Such sums"; and

(C) in paragraph (2)—

(i) by striking "(2) There are authorized to be appropriated $61,000,000" and all that follows through "Act." and inserting the following:

"(2) INDIAN MUNICIPAL, RURAL, AND INDUSTRIAL AND OTHER DELIVERY FEATURES.—

"(A) INITIAL AMOUNT.—There is authorized to be appropriated—

"(i) to carry out section 8(a)(5), $40,500,000; and

"(ii) to carry out section 7(d), $20,500,000.";

(ii) by inserting before "Such sums" the following:

"(B) ADDITIONAL AMOUNT.—

"(i) IN GENERAL.—In addition to the amount under subparagraph (A), there is authorized to be appropriated to carry out section 7(d) $200,000,000.

"(ii) ALLOCATION.—The amount under clause (i) shall be allocated as follows:

"(I) $30,000,000 to the Fort Totten Indian Reservation.

"(II) $70,000,000 to the Fort Berthold Indian Reservation.

"(IV) $80,000,000 to the Standing Rock Indian Reservation.

"(V) $20,000,000 to the Turtle Mountain Indian Reservation."; and

(ii) by striking "Such sums" and inserting the following:

"(C) AVAILABILITY.—Such sums";

(3) in subsection (c)—

(A) by striking "(c) There is" and inserting the following:

"(c) RESOURCES TRUST AND OTHER PROVISIONS.—

"(1) INITIAL AMOUNT.—There is"; and

(B) by striking the second and third sentences and inserting the following:

"(2) ADDITIONAL AMOUNT.—In addition to amount under paragraph (1), there are authorized to be appropriated—

"(A) $6,500,000 to carry out recreational projects; and

"(B) an additional $25,000,000 to carry out section 11;

to remain available until expended.

"(3) RECREATIONAL PROJECTS.—Of the funds authorized under paragraph (2) for recreational projects, up to $1,500,000 may be used to fund a wetland interpretive center in the State of North Dakota.

"(4) OPERATION AND MAINTENANCE.—

"(A) IN GENERAL.— There are authorized to be appropriated such sums as are necessary for operation and maintenance of the unit (including the mitigation and enhancement features).

"(B) AUTHORIZATION LIMITS.—Expenditures for operation and maintenance of features substantially completed and features constructed before the date of enactment of the Dakota Water Resources Act of 1998, including funds expended for such purposes since the date of enactment of Public Law 99-294, shall not be counted against the authorization limits in this section.

"(5) MITIGATION AND ENHANCEMENT LAND.—On or about the date on which the features authorized by section 8(a) are operational, a separate account in the Natural Resources Trust authorized by section 11 shall be established for operation and maintenance of the mitigation and enhancement land associated with the unit."; and

(4) by striking subsection (e) and inserting the following:

"(e) INDEXING.—The $300,000,000 amount under subsection (b)(1)(B), the $200,000,000 amount under subsection (a)(1)(B), and the funds authorized under subsection (b)(2) shall be indexed as necessary to allow for ordinary fluctuations of construction costs incurred after the date of enactment of the Dakota Water Resources Act of 1998 as indicated by engineering cost indices applicable for the type of construction involved. All other authorized cost ceilings shall remain unchanged.

"(f) FOUR BEARS BRIDGE.—There is authorized to be appropriated, for demolition of the existing structure and construction of the Four Bears Bridge across Lake Sakakawea within the Fort Berthold Indian Reservation, $40,000,000.".

SEC. 11. NATURAL RESOURCES TRUST.

Section 11 of Public Law 89-108 (100 Stat. 424) is amended—

(1) by striking subsection (a) and inserting the following:

"(a) CONTRIBUTION.—

"(1) INITIAL AUTHORIZATION.—

"(A) IN GENERAL.—From the sums appropriated under section 10 for the Garrison Diversion Unit, the Secretary shall make an annual Federal contribution to a Natural Resources Trust established by non-Federal interests in accordance with subsection (b) and operated in accordance with subsection (c).

"(B) AMOUNT.—The total amount of Federal contributions under subparagraph (A) shall not exceed $12,000,000.

"(2) ADDITIONAL AUTHORIZATION.—

"(A) IN GENERAL.—In addition to the amount authorized in paragraph (1), the Secretary shall make annual Federal contributions to the Natural Resources Trust until the amount authorized by section 10(c)(2)(B) is reached, in the manner stated in subparagraph (B).

"(B) ANNUAL AMOUNT.—The amount of the contribution under subparagraph (A) for each fiscal year shall be the amount that is equal to 5 percent of the total amount that is appropriated for the fiscal year under subsections (a)(1)(B) and (b)(1)(B) of section 10.

"(C) LIMITATION ON AVAILABILITY OF FUNDS.—Of the amount authorized by section 10(c)(2)(B), not more than $10,000,000 shall be made available until the date on which the features authorized by section 8(a) are operational and meet the objectives of section 8(a), as determined by the Secretary and the State of North Dakota.";

(2) in subsection (b), by striking "Wetlands Trust" and inserting "Natural Resources Trust"; and

(3) in subsection (c)—

(A) by striking "Wetland Trust" and inserting "Natural Resources Trust";

(B) by striking "are met" and inserting "is met";

(C) in paragraph (1), by inserting ", grassland conservation and riparian areas" after "habitat"; and

(D) in paragraph (2), by adding at the end the following:

"(C) The power to fund incentives for conservation practices by landowners.".

HIGHER EDUCATION AMENDMENTS OF 1998

DODD (AND OTHERS) AMENDMENT NO. 3113

Mr. DODD (for himself, Mr. WARNER, Mr. HAGEL, and Mr. ROBB) proposed an amendment to the bill, S. 1882, supra; as follows:

On page 1, after line 14, insert:

(c) Section 102(b)(2)(D) of the Arms Export Control Act is further amended in clause (ii) by inserting after the word "to" the following words: "medicines, medical equipment, and,"

Renumber succeeding subsections accordingly.

SANTORUM (AND OTHERS) AMENDMENT NO. 3114

Mr. SANTORUM (for himself, Mr. DEWINE, and Mr. COVERDELL) proposed an amendment to the bill, S. 1882, supra; as follows:

On page 466, between lines 19 and 20, insert the following:

(2) in paragraph (2)—

(A) in subparagraph (A), by striking "proof that reasonable attempts were made" and inserting "proof that the institution was contacted and other reasonable attempts were made"; and

(B) in subparagraph (G), by striking "certifies to the Secretary that diligent attempts have been made" and inserting "certifies to the Secretary that diligent attempts, including contact with the institution, have been made".

On page 494, between lines 20 and 21, insert the following:

SEC. 434. NOTICE TO SECRETARY AND PAYMENT OF LOSS.

The third sentence of section 430(a) (20 U.S.C. 1080(a)) is amended by inserting "the institution was contacted and other" after "submit proof that".

On page 501, between lines 14 and 15, insert the following:

(d) PUBLICATION DATE.—Section 435(m)(4) (20 U.S.C. 1085(m)(4)) is amended by adding at the end the following:

"(D) The Secretary shall publish the report described in subparagraph (C) by September 30 of each year.".

At the end, add the following:

SEC. . LIAISON FOR PROPRIETARY INSTITUTIONS OF HIGHER EDUCATION.

Title II of the Department of Education Organization Act (20 U.S.C. 3411 et seq.) is amended by adding at the end the following:

"SEC. 219. LIAISON FOR PROPRIETARY INSTITUTIONS OF HIGHER EDUCATION.

"(a) ESTABLISHMENT.—There shall be in the Department a Liaison for Proprietary Institutions of Higher Education, who shall be an officer of the Department appointed by the Secretary.

"(b) APPOINTMENT.—The Secretary shall appoint, not later than 6 months after the date of enactment of the Higher Education Amendments of 1998 a Liaison for Proprietary Institutions of Higher Education who shall be a person who—

"(1) has attained a certificate or degree from a proprietary institution of higher education; or

"(2) has been employed in a proprietary institution setting for not less than 5 years.

"(c) DUTIES.—The Liaison for Proprietary Institutions of Higher Education shall—

"(1) serve as the principal advisor to the Secretary on matters affecting proprietary institutions of higher education;

"(2) provide guidance to programs within the Department that involve functions affecting proprietary institutions of higher education; and

"(3) work with the Federal Interagency Committee on Education to improve the coordination of—

"(A) the outreach programs in the numerous Federal departments and agencies that administer education and job training programs;

"(B) collaborative business and education partnerships; and

"(C) education programs located in, and involving, rural areas.".

SESSIONS (AND OTHERS) AMENDMENT NO. 3115

Mr. SESSIONS (for himself, Mr. GRAHAM, Mr. MCCONNELL, and Mr. COVERDELL) proposed an amendment to the bill, S. 1882, supra; as follows:

At the end add the following:

SEC. . ELIGIBLE EDUCATIONAL INSTITUTIONS PERMITTED TO MAINTAIN QUALIFIED TUITION PROGRAMS.

(a) IN GENERAL.—Section 529(b)(1) of the Internal Revenue Code of 1986 (defining qualified State tuition program) is amended by inserting "or by 1 or more eligible educational institutions or any organization exempt from taxation under this subtitle that consists solely of eligible educational institutions" after "maintained by a State or agency or instrumentality thereof".

(b) CONFORMING AMENDMENTS.—

(1) The text and headings of each of the sections 72(e)(9), 135(c)(2(C), 135(d)(1)(D), 529, 530(b)(2)(B), 4973(e), and 6693(a)(2)(c) of the Internal Revenue Code of 1986 is amended by striking "qualified State tuition" each place it appears and inserting "qualified tuition".

(2)(A) The section heading of section 529 of such Code is amended to read as follows:

"SEC. 529. QUALIFIED TUITION PROGRAMS.".

(B) The item relating to section 529 in the table of sections for part VIII of subchapter F of chapter 1 of such Code is amended by striking "State".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1998.

SEC. . EXCLUSION FROM GROSS INCOME OF EDUCATION DISTRIBUTIONS FROM QUALIFIED STATE TUITION PROGRAMS.

(a) IN GENERAL.—Section 529(c)(3)(B) of the Internal Revenue Code of 1986 (relating to distributions) is amended to read as follows:

"(B) DISTRIBUTIONS FOR QUALIFIED HIGHER EDUCATION EXPENSES.—

"(i) IN GENERAL.—If a distributee elects the application of this clause for any taxable year—

"(I) no amount shall be includible in gross income under subparagraph (A) by reason of a distribution which consists of providing a benefit to the distributee which, if paid for by the distributee, would constitute payment of a qualified higher education expense, and

"(II) the amount which (but for the election) would be includible in gross income under subparagraph (A) by reason of any other distribution shall not be so includible in an amount which bears the same ratio to the amount which would be so includible as such expenses bear to such aggregate distributions.

"(ii) IN-KIND DISTRIBUTIONS.—Any benefit furnished to a designated beneficiary under a qualified State tuition program shall be treated as a distribution to the beneficiary for purposes of this paragraph.

"(iii) DISALLOWANCE OF EXCLUDED AMOUNTS AS CREDIT OR DEDUCTION.—No deduction or credit shall be allowed to the taxpayer under any other section of this chapter for any qualified higher education expenses to the extent taken into account in determining the amount of the exclusion under this subparagraph.".

(b) ADDITIONAL TAX ON AMOUNTS NOT USED FOR HIGHER EDUCATION EXPENSES.—Section 529(c)(3) of the Internal Revenue Code of 1986 (relating to distributions) is amended by adding at the end the following:

"(E) ADDITIONAL TAX ON AMOUNTS NOT USED FOR HIGHER EDUCATION EXPENSES.—The tax imposed by section 530(d)(4) shall apply to payments and distributions from qualified tuition programs in the same manner as such tax applies to education individual retirement accounts.".

(c) COORDINATION WITH EDUCATION CREDITS.—Section 25A(e)(2) of the Internal Revenue Code of 1986 (relating to coordination with exclusions) is amended—

(1) by inserting "a qualified tuition program or" before "an education individual retirement account", and

(2) by striking "section 530(d)(2)" and inserting "section 529(c)(3)(B) or 530(d)(2)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions made after December 31, 2003, for education furnished in academic periods beginning after such date.

SEC. . QUALIFIED TUITION PROGRAMS INCLUDED IN SECURITIES EXEMPTION.

(a) EXEMPTED SECURITIES.—Section 3(a)(4) of the Securities Act of 1933 (15 U.S.C. 77c(a)(4)) is amended by striking "individual;" and inserting "individual or any security issued by a prepaid tuition program described in section 529 of the Internal Revenue Code of 1986;".

(b) QUALIFIED TUITION PROGRAMS NOT INVESTMENT COMPANIES.—Section 3(c) of the Investment Company Act of 1940 (15 U.S.C. 80a-3(c)) is amended by adding at the end the following:

"(15) Any prepaid tuition program described in section 529 of the Internal Revenue Code of 1986.".

BINGAMAN (AND OTHERS) AMENDMENT NO. 3116

Mr. BINGAMAN (for himself, Mr. COCHRAN, Mr. REID, and Mr. HOLLINGS) proposed an amendment to the bill, S. 1882, supra; as follows:

Insert at the end of Title II, Part A (page 237, after line 14):

"SEC. 237. ACADEMIC MAJORS FOR SECONDARY SCHOOL TEACHERS.

"(a) States and postsecondary programs that prepare secondary school teachers and receive Federal funds under this Act excluding aid provided under Title IV, shall, unless they have already done so, adopt within 3 years after the date of enactment of the Higher Education Amendments of 1998 a policy that all undergraduate candidates preparing to be secondary school teachers be required to successfully complete an academic major, as defined by the institution of higher education at which the student attends, in the academic area in which they plan to teach."

"(b) Nothing in this Section shall affect the eligibility of an individual student or an institution of higher education to receive

Federal grants or loans under Title IV under this Act.''

WARNER (AND ROBB) AMENDMENT NO. 3117

Mr. WARNER (for himself and Mr. ROBB) proposed an amendment to the bill, S. 1882, supra; as follows:

At the appropriate place insert:

Nothing in this bill shall be construed to prohibit an institution of postsecondary education from disclosing, to a parent of a student, imformation regarding violation of any federal, state, or local laws governing the use or possession of alcohol or drugs, whether or not that information is contained in the student's education records, if the student is under the age of 21.

HARKIN (AND REID) AMENDMENT NO. 3118

Mr. HARKIN (for himself and Mr. REID) proposed an amendment to the bill, S. 1882, supra; as follows:

At the appropriate place in title IV, insert the following:

SEC. ___. REDUCTION IN STUDENT LOAN FEES.

(a) Federal Direct Stafford Loans.—Section 455(c) (20 U.S.C. 1087e(c)) is amended by inserting '', except that the Secretary shall charge the borrower of a Federal Direct Stafford Loan an origination fee in the amount of 3.0 percent of the principal amount of the loan'' before the period.

(b) Subsidized Federal Stafford Loans.—

(1) Amendment.—Subparagraph (H) of section 428(b)(1) (20 U.S.C. 1078(b)(1)) is amended—

(A) by striking ''not more than''; and

(B) by striking ''will not be used for incentive payments to lenders'' and inserting ''shall be paid to the Federal Government for deposit in the Treasury''.

(2) Repeal.—Subparagraph (H) of section 428(b)(1) (20 U.S.C. 1078(b)(1)) is repealed.

(c) Unsubsidized Stafford Loan and PLUS Loan Insurance Premium Redirection.—

(1) Unsubsidized stafford loans.—Section 428H(h) (20 U.S.C. 1078-8(h)) is amended—

(A) by striking ''may'' and inserting ''shall'';

(B) by striking ''not more than'';

(C) by striking '', if such premium will not be used for incentive payments to lenders''; and

(D) by inserting at the end the following: ''The proceeds of the insurance premium shall be paid to the Federal Government for deposit into the Treasury.''.

(2) PLUS loans.—Section 428B (20 U.S.C. 1078-2) is amended by adding after subsection (f) (as added by section 427(2)) the following:

''(g) Insurance Premium.—Each State or nonprofit private institution or organization having an agreement with the Secretary under section 428(b)(1) shall charge the borrower of a loan made under this section a single insurance premium in the amount of 1 percent of the principal amount of the loan. The proceeds of the insurance premium shall be paid to the Federal Government for deposit into the Treasury.''.

(d) Effective Dates.—

(1) Subsection (b)(1).—The amendments made by subsection (b)(1) shall take effect on the date of enactment of this Act.

(2) Subsections (a) and (b)(2).—The amendments made by subsections (a) and (b)(2) shall take effect on July 1, 1999.

(3) Subsection (c).—The amendments made by subsection (c) shall take effect on October 1, 1998.

KENNEDY AMENDMENT NO. 3119

Mr. KENNEDY proposed an amendment to the bill, S. 1882, supra; as follows:

On page 458, between lines 2 and 3, insert the following:

SEC. 425. MARKET-BASED DETERMINATIONS OF LENDER RETURNS.

Part B of title IV (20 U.S.C. 1071 et seq.) is amended by inserting after section 427A the following:

''SEC. 427B. MARKET-BASED DETERMINATIONS OF LENDER RETURNS.

''(a) Findings.—Congress finds that—

''(1) in the field of consumer lending, market forces have resulted in increased quality of services and decreased prices, and more extensive application of market forces to the Robert T. Stafford Federal Student Loan Program should be explored;

''(2) Federal subsidies to lenders making or holding loans made, insured, or guaranteed under this part should not exceed the level necessary to ensure that all eligible borrowers have access to loans under this part;

''(3) setting the level of lender returns necessary to achieve the objective described in paragraph (2) in statute is necessarily inexact and insufficiently flexible to respond to market forces, and therefore lender returns should be determined through the use of market-based mechanisms;

''(4) alternative market-based mechanisms must be tested before a final selection is made as to the particular mechanism to be used for all loans made, insured, or guaranteed under this part;

''(5) the results of testing alternative market-based mechanisms should be evaluated independently; and

''(6) if the independent evaluation concludes that the testing of alternative market-based mechanisms has been successful, a market-based mechanism to determine lender returns on all loans made, insured, or guaranteed under this part should be implemented as expeditiously as possible.

''(b) Joint Planning Study To Select Auction-Based Mechanisms for Testing.—

''(1) Planning study.—The Secretary and the Secretary of the Treasury jointly shall conduct a planning study, in consultation with the Office of Management and Budget, the Congressional Budget Office, the General Accounting Office, and other individuals and entities the Secretary determines appropriate, to—

''(A) examine the matters described in paragraph (2) in order to determine which auction-based mechanisms for determining lender returns on loans made, insured, or guaranteed under this part shall be tested under the pilot programs described in subsection (c); and

''(B) determine what related administrative and other changes will be required in order to ensure that high-quality services are provided under a successful implementation of auction-based determinations of lender returns for all loans made, insured, or guaranteed under this part.

''(2) Matters examined.—The planning study under this subsection shall examine—

''(A) whether it is most appropriate to auction existing loans under this part, to auction the rights to originate loans under this part, or a combination thereof;

''(B) whether it is preferable to auction parcels of such loans or rights, that are similar or diverse in terms of loan or borrower characteristics;

''(C) how to ensure that statutory, regulatory, or administrative requirements do not impede separate management and ownership of loans under this part; and

''(D) what is the appropriate allocation of risk between the Federal Government and the owners of loans under this part with respect to interest rates and nonpayment, or late payment, of loans;

''(3) Mechanisms.—In determining which auction-based mechanisms are the most promising models to test in the pilot programs under subsection (c), the planning study shall take into account whether a particular auction-based mechanism will—

''(A) reduce Federal costs if used on a program-wide basis;

''(B) ensure loan availability under this part to all eligible students at all participating institutions;

''(C) minimize administrative complexity for borrowers, institutions, lenders, and the Federal Government; and

''(D) facilitate the participation of a broad spectrum of lenders and ensure healthy long-term competition in the program under this part.

''(4) Report.—A report on the results of the planning study, together with a plan for implementing 1 or more pilot programs using promising auction-based approaches for determining lender returns, shall be transmitted to Congress not later than April 1, 1999.

''(c) Pilot Programs.—

''(1) Authorization.—

''(A) In general.—Notwithstanding any other provision of this title, after the report described in subsection (b)(4) is transmitted to Congress, the Secretary is authorized, in consultation with the Secretary of the Treasury, to begin preparations necessary to carry out pilot programs meeting the requirements of this subsection in accordance with the implementation plan included in the report.

''(B) Determination.—Before commencing the implementation of the pilot programs, the Secretary shall determine that such implementation is consistent with enhancing—

''(i) the modernization of the student financial assistance delivery systems;

''(ii) service to students and institutions of higher education; and

''(iii) competition within the program under this part.

''(C) Implementation date.— The Secretary may commence implementation of the pilot programs under this subsection not earlier than 120 days after the report is transmitted to Congress under subsection (b)(4).

''(D) Duration and loan volume.—The pilot programs under this subsection shall be not more than 2 years in duration, and the Secretary may use the pilot programs to determine the lender returns for not more than 10 percent of the annual loan volume under this part during each of the first and second years of the pilot programs under this subsection.

''(2) Requirements.—In carrying out pilot programs under this subsection, the Secretary—

''(A) shall use auction-based approaches, in which lenders bid competitively for the loans under this part, or rights to originate such loans (such as a right of first refusal to originate loans to borrowers at a particular institution, or a right to originate loans to all such borrowers remaining after a right of first refusal has been exercised), as the Secretary shall determine;

"(B) may determine the payments to lenders, and the terms, applicable to lenders, of the rights or loans, as the case may be, for which the lenders bid; and

"(C) shall include loans of different amounts and loans made to different categories of borrowers, but the composition of the parcels of loans or rights in each auction under a pilot program may vary from parcel-to-parcel to the extent that the Secretary determines appropriate.

"(3) Voluntary participation.—Participation in a pilot program under this subsection shall be voluntary for eligible institutions and eligible lenders.

"(4) Independent evaluation.—The Secretary shall enter into a contract with a non-Federal entity for the conduct of an independent evaluation of the pilot programs, which evaluation shall be completed, and the results of the evaluation submitted to the Secretary, the Secretary of the Treasury, and Congress, not later than 120 days after the termination of the pilot programs under this subsection.

"(d) Consultation.—

"(1) In general.—As part of the planning study and pilot programs described in this section, the Secretary shall consult with lenders, secondary markets, guaranty agencies, institutions of higher education, student loan borrowers, other participants in the student loan programs under this title, and other individuals or entities with pertinent technical expertise. The Secretary shall engage in such consultations using such methods as, and to the extent that, the Secretary determines appropriate to the time constraints associated with the study and programs. The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to such consultations.

"(2) Services of other federal agencies.—In carrying out the planning study and pilot programs described in this section, the Secretary may use, on a reimbursable basis, the services (including procurement authorities and services), equipment, personnel, and facilities of other agencies and instrumentalities of the Federal Government.".

On page 457, line 23, strike "The" and insert "Except as the Secretary of Education may otherwise provide under section 427B of the Higher Education Act of 1965, the".

On page 505, strike line 5 and all that follows through page 506, line 16.

JEFFORDS AMENDMENT NO. 3120

Mr. JEFFORDS proposed an amendment to the bill, S. 1882, supra; as follows:

At the end of title VII, insert the following:

SEC. . RELEASE OF CONDITIONS, COVENANTS, AND REVERSIONARY INTERESTS, GUAM COMMUNITY COLLEGE CONVEYANCE, BARRIGADA, GUAM.

(a) Release.—The Secretary of Education shall release all conditions and covenants that were imposed by the United States, and the reversionary interests that were retained by the United States, as part of the conveyance of a parcel of Federal surplus property located in Barrigada, Guam, consisting of approximately 314.28 acres and known as Naval Communications Area Master Station, WESTPAC, parcel IN, which was conveyed to the Guam Community College pursuant to—

(1) the quitclaim deed dated June 8, 1990, conveying 61.45 acres, between the Secretary, acting through the Administrator for Management Services, and the Guam Community College, acting through its Board of Trustees; and

(2) the quitclaim deed dated June 8, 1990, conveying 252.83 acres, between the Secretary, acting through the Administrator for Management Services, and the Guam Community College, acting through its Board of Trustees, and the Governor of Guam.

(b) Consideration.—The Secretary shall execute the release of the conditions, covenants, and reversionary interests under subsection (a) without consideration.

(c) Instrument of Release.—The Secretary shall execute and file in the appropriate office or offices a deed of release, amended deed, or other appropriate instrument effectuating the release of the conditions, covenants, and reversionary interests under subsection (a).

SEC. . SENSE OF CONGRESS REGARDING GOOD CHARACTER.

(a) Findings.—Congress finds that—

(1) the future of our Nation and world will be determined by the young people of today;

(2) record levels of youth crime, violence, teenage pregnancy, and substance abuse indicate a growing moral crisis in our society;

(3) character development is the long-term process of helping young people to know, care about, and act upon such basic values as trustworthiness, respect for self and others, responsibility, fairness, compassion, and citizenship;

(4) these values are universal, reaching across cultural and religious differences;

(5) a recent poll found that 90 percent of Americans support the teaching of core moral and civic values;

(6) parents will always be children's primary character educators;

(7) good moral character is developed best in the context of the family;

(8) parents, community leaders, and school officials are establishing successful partnerships across the Nation to implement character education programs;

(9) character education programs also ask parents, faculty, and staff to serve as role models of core values, to provide opportunities for young people to apply these values, and to establish high academic standards that challenge students to set high goals, work to achieve the goals, and persevere in spite of difficulty;

(10) the development of virtue and moral character, those habits of mind, heart, and spirit that help young people to know, desire, and do what is right, has historically been a primary mission of colleges and universities; and

(11) the Congress encourages parents, faculty, and staff across the Nation to emphasize character development in the home, in the community, in our schools, and in our colleges and universities.

(b) Sense of Congress.—It is the sense of Congress that Congress should support and encourage character building initiatives in schools across America and urge colleges and universities to affirm that the development of character is one of the primary goals of higher education.

On page 379, between lines 5 and 6, insert the following:

"SEC. 235. ACCOUNTABILITY FOR PROGRAMS THAT PREPARE TEACHERS.

"(a) Information Collection and Publication.—

"(1) Definitions.—

"(A) Within six months of the date of enactment, the Commissioner of the National Center for Education Statistics, in consultation with States and institutions of higher education, shall develop key definitions and uniform methods of calculation for terms related to the performance of elementary school and secondary school teacher preparation programs.

"(B) In complying with this section, the Secretary and State shall ensure that fair and equitable methods are used in reporting and that they protect the privacy of individuals.

"(2) Information.—

"(A) State report card on the quality of teacher preparation.—States that receive funds under this Act shall provide to the Secretary, within two years of enactment of the Higher Education Amendments of 1998, and annually thereafter, in a uniform and comprehensible manner that conforms with the definitions and methods established in (a)(1), a state report card on the quality of teacher preparation, which shall include at least the following:

"(i) A description of the teacher certification and licensure assessments, and any other certification and licensure requirements, used by each State.

"(ii) The standards and criteria that prospective teachers must meet in order to attain initial teacher licensing or certification and to be licensed to teach particular subjects or in particular grades within the State.

"(iii) A description of the extent to which those assessments and requirements are aligned with the State's standards and assessments for students.

"(iv) The percentage of teaching candidates who passed each of the assessments used by the State for licensure and certification, and the "cut score" on each assessment that determines whether a candidate has passed that assessment.

"(v) The percentage of teaching candidates who passed each of the assessments used by the State for licensure and certification, disaggregated by the teacher preparation program in that State from which the teacher candidate received his or her most recent degree. States shall make these data available widely and publicly.

"(vi) Information on the extent to which teachers in the State have been given waivers of State licensure or certification requirements, including the proportion of such teachers distributed across high and low poverty districts and across subject areas.

"(vii) A description of each State's alternative routes to teacher certification, if any, and the percentage of teachers certified through alternative certification routes who pass state licensing assessments.

"(viii) For each State, a description of proposed criteria for assessing the performance of teacher preparation programs within institutions of higher education, including but not limited to indicators of teacher candidate knowledge and skills as described in (b)(1)(A).

"(B) Report of the secretary on the quality of teacher preparation.—The Secretary shall publish annually and make widely available a report card on teacher qualifications and preparation in the United States, including all the information reported in (A)(1–8), beginning three years after enactment of the Higher Education Amendments of 1998. The Secretary shall report to Congress a comparison of States' efforts to improve teaching quality. The Secretary shall also report on the national mean and median scores on any standardized test that is used in more than one State for teacher licensure or certification. In the case of teacher preparation programs with fewer than 10 graduates taking any single initial teacher certification assessment during any administration of such assessment, the Secretary shall collect and publish information with respect to an average pass rate on State certification or licensure assessments taken over 3 years.

"(C) INSTITUTIONAL REPORT CARDS ON THE QUALITY OF TEACHER PREPARATION.—Each institution of higher education that conducts a teacher preparation program that enrolls students receiving federal assistance shall, not later than two years after the enactment of the Higher Education Amendments of 1998, and annually thereafter, report, in a uniform and comprehensible manner, the following information to the State, and the general public, including through publications such as course catalogues and promotional materials sent to potential applicants, high school guidance counselors, and prospective employers of its program graduates, in a manner that conforms with the definitions and methods established under (a)(1):

"(i) For the most recent year for which the information is available, the passing rate of its graduates on the teacher certification and licensure assessments of the state in which it is located, but only for those students who took those assessments within three years of completing the program. A comparison of the program's pass rate with the state average pass rate shall be included as well. In the case of teacher preparation programs with fewer than 10 graduates taking any single initial teacher certification assessment during any administration of such assessment, the institution shall collect and publish information with respect to an average pass rate on State certification or licensure assessments taken over 3 years.

"(ii) The number of students in the program, the average number of hours of supervised practice teaching required for those in the program, and the faculty-student ratio in supervised practice teaching.

"(iii) In States that approve or accredit teacher education programs, a statement of whether the institution's program is so approved or accredited.

"(iv) Whether the program has been designated as low performing by the State under (b)(1)(B).

In addition to the actions authorized in S. 487(c), the Secretary may impose a fine not to exceed $25,000 on a teacher preparation program for failure to provide the information described in (a)(2)(B) in a timely or accurate manner.

"(b) ACCOUNTABILITY.—

"(1) States receiving funding under this Act, shall develop and implement, no later than three years after enactment of the Higher Education Amendments of 1998, the following teacher preparation program accountability measures and publish the measures publicly and widely:

"(A) A description of state criteria for identifying low-performing teacher preparation programs which may include a baseline pass rate on state licensing assessments and other indicators of teacher candidate knowledge and skill. States that do not employ assessments as part of their criteria for licensing or certification are not required to meet this criterion until such time as the State initiates the use of such assessments.

"(B) Procedures for identifying low performing teacher preparation programs based on the criteria developed by the state as required by (b)(1)(A), and publish a list of those programs.

"(C) States that have, prior to enactment, already conformed with (b)(1)(A–B), need not change their procedures, unless the State chooses to do so.

"(2) Not later than four years after enactment of the Higher Education Amendments of 1998, any teacher preparation programs for which the State has withdrawn its approval or terminated its financial support due to the low performance of its teacher preparation program based on procedures described in (b)(1)—

"(a) shall be ineligible for any funding for professional development activities awarded by the Department of Education; and

"(b) shall not be permitted to accept or enroll any student that receives aid under title IV of this Act in its teacher preparation program.

NOTICE OF HEARING

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. CRAIG. Mr. President, I would like to announce for the public that a hearing has been scheduled before the Subcommittee on Forests and Public Land Management.

The hearing will take place on July 22, 1998 at 2:00 p.m. in room SD–366 of the Dirksen Senate Office Building in Washington, D.C.

The purpose of this hearing is to receive testimony on the following general land exchange bills: S. 2136, a bill to provide for the exchange of certain land in the State of Washington; S. 2226, a bill to amend the Idaho Admission Act regarding the sale or lease of school land; H.R. 2886, a bill to provide for a demonstration project in the Stanislaus National Forest, California, under which a private contractor will perform multiple resource management activities for that unit of the National Forest System, and H.R. 3796, a bill to authorize the Secretary of Agriculture to convey the administrative site for the Rogue River National Forest and use the proceeds for the construction or improvement of offices and support buildings for the Rogue River National Forest and the Bureau of Land Management.

Those who wish to submit written statements should write to the Committee on Energy and Natural Resources, U.S. Senate, Washington, D.C. 20510. For further information, please call Amie Brown or Mark Rey at (202) 224–6170.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Thursday, July 9, 1998, at 10:00 a.m. in open session, to receive testimony on U.S. Export Control and Nonproliferation Policy and the role and responsibility of the Department of Defense.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the full Committee on Environment and Public Works be granted permission to conduct a hearing Thursday, July 9, 9:00 a.m., Hearing Room (SD–406), on S. 1222, the Estuary Habitat Restoration Partnership Act; S. 1321, the National Estuary Conservation Act; and H.R. 2207, the Coastal Pollution Reduction Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. JEFFORDS. Mr. President, the Finance Committee requests unanimous consent to conduct a hearing on Thursday, July 9, 1998 beginning at 9:30 a.m. in room 215 Dirksen.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Committee on the Judiciary, be authorized to hold an executive business meeting during the session of the Senate on Thursday, July 9, 1998, at 9:00 a.m., in Room 226, of the Senate Dirksen Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Thursday, July 9, 1998 at 2:00 p.m. in Room 226 of the Senate Dirksen Office Building to hold a hearing on: "The Nomination of Beth Nolan, of New York, to be Assistant Attorney General for the Office of Legal Counsel."

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON INVESTIGATIONS

Mr. JEFFORDS. Mr. President, I ask unanimous consent on behalf of the Permanent Subcommittee on Investigations of the Governmental Affairs Committee to meet on Thursday, July 9, 1998, at 9:30 a.m. for a hearing on the topic of "The Safety of Food Imports: From the Farm to the Table—A Case Study of Tainted Imported Fruit."

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON NATIONAL PARKS, HISTORIC PRESERVATION, AND RECREATION

Mr. JEFFORDS. Mr. President, I ask unanimous consent that the Subcommittee on National Parks, Historic Preservation and Recreation of the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Thursday, July 9, for purposes of conducting a subcommittee hearing which is scheduled to begin at 2:00 p.m. The purpose of this hearing is to receive testimony on S. 1333, a bill to amend the Land and Water Conservation Fund Act of 1965 to allow national park units that cannot charge an entrance fee or admission fee to retain other fees and charges; S. 2129, a bill to eliminate restrictions on the acquisition of certain land contiguous to Hawaii Volcanoes National Park; S. 2232, a bill to establish the Little Rock Central High School National Historic Site in the State of Arkansas; and S. 2106 and H.R. 2283, bills to expand the boundaries of Arches National Park, Utah, to include portions of certain drainages that are under the jurisdiction of the Bureau of Land Management, and to include a portion of Fish Seep Draw owned by the State of Utah, and for other purposes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

DEATH OF MOSHOOD ABIOLA

• Mr. FEINGOLD. Mr. President, it is with great dismay that I wish to note the passing of Chief Moshood Abiola, the apparent winner of the 1993 presidential elections in Nigeria. Chief Abiola was apparently stricken by heart failure during a meeting with senior U.S. officials, including Undersecretary of State Thomas Pickering and Assistant Secretary of State for Africa, Susan Rice, on July 7. In great ironic tragedy, the U.S. delegation was in Nigeria, in part, to push the new government of that country for the release of Abiola and dozens of other political prisoners. There was broad speculation that Abiola would have been released within days.

Mr. President, Abiola's death comes during a tumultuous moment in Nigerian history, just one month after the death of military leader Gen. Sani Abacha. Gen. Abacha was by any definition an authoritarian leader of the worst sort. He routinely imprisoned individuals for expressing their political opinions and skimmed Nigeria's precious resources for his own gains. With the replacement of Abacha by the current military ruler, Gen. Abdulsalam Abubakar, there has been reason to be optimistic about Nigeria's future. Although he has not yet moved to repeal the repressive decrees that place severe restrictions on the basic freedoms of Nigerians, Gen. Abubakar has taken some positive steps, including the release of several prominent political prisoners, and has indicated a willingness to move his country once and for all in the direction of democracy. But he had yet to deal with one of the more vexing issues related to such a transition, and that is the role that Chief Abiola would assume.

News of Abiola's death has sent shock waves through the country. Since last night, there have been sporadic riots throughout the country, and particularly in Lagos, the center of Abiola's supporters. At least 19 people are known to have died in the ensuing violence. And, according to news reports, heavily armed police continue to patrol the streets.

Abubakar is making efforts to calm the country. First, he has ordered, with the consent of the Abiola family, a complete autopsy, under the supervision of Abiola's own doctor, of the cause of death. This is extremely important in order to quell the rumors already circulating that the military injected Abiola with poison prior to his meeting with the American officials. Abubakar also today announced the dissolution of the Abacha-appointed Cabinet. These are, indeed, positive steps, but they are not enough.

Earlier this session, I introduced the Nigerian Democracy and Civil Society Empowerment Act, S. 2102. The provisions of my bill include benchmarks defining what would constitute an open political process in Nigeria. Despite all the tumultuous events that have taken place in these past few weeks, I still believe these benchmarks are important, and I continue to call on Gen. Abubakar to implement as soon as possible these important changes, such as the repeal of the repressive decrees enacted under Abacha's rule, so that genuine reform can take place in Nigeria.

Finally, in this time of great uncertainty in the country, I urge all Nigerians to exercise restraint. Let's wait to see what Abubakar chooses to do next. Let's wait to evaluate the results of the autopsy. Nigeria has suffered enough already. It would be a shame if Abiola's death were to lead the country into armed conflict.

Let us hope this will not be the case.•

TRIBUTE TO MAJOR GENERAL MARION CARL

• Mr. SMITH of Oregon. Mr. President, when General George Marshall was asked during World War II if America had a secret weapon, he said, "Yes. Our secret weapon is the best darned kids in the world."

This morning, Mr. President, I traveled to Arlington Cemetery to attend the funeral service of one of those best darned kids. I speak of Major General Marion Carl, who was acknowledged as one of America's greatest military aviators, and who was tragically murdered in his Oregon home last week during an attempted robbery.

I did not have the privilege of knowing General Carl. But one cannot read the words of those who did know him or the summaries of his long and courageous service to our country, which included stints as a World War II fighter ace, a military test pilot, and a squadron commander in Vietnam, without concluding that General Carl was a true American hero.

I join with all Oregonians in expressing my condolences to General Carl's wife, Edna, and to their two children and grandchildren. I also ask that an article from the Oregonian summarizing the memorial service held for General Carl in Roseburg be printed in the RECORD following my remarks.

More that any words I can offer, this article summarizes the life and career of a man who will always be remembered for his humility, his loyalty, his bravery, and his service to his country.

The article follows:

MOURNERS PAY FINAL RESPECTS TO SLAIN OREGON WAR HERO

(By Janet Filips)

ROSEBURG.—In a dignified funeral that offered a quiet but stirring mix of the patriotic and the private, grieving family, friends and admirers bid a sad farewell to one of America's greatest pilots Monday morning—a man who lived with an uncommon combination of heroics, humility and humor until he was slain during a bungled burglary June 28.

No hourlong funeral can capture the fullness of a long and distinguished life such as that of Maj. Gen. Marion E. Carl, 82. But it can give telling glimpses, starting with slides depicting the tall, lean Carl with airplanes and his smiling, handsome family.

A Marine Corps brass quintet played "Ruffles and Flourishes," "Danny Boy" and the "Marine Corps Hymn." Vocalists movingly sang "America the Beautiful" and "A Wing and a Prayer." A pair of white-gloved Marines in dress blue uniforms guarded the flag-draped casket, spotlighted on the shadowed stage.

In it, the fallen general wore the same style of dress blues, with ribbons discreetly signifying his medals. And in the pocket over his heart, his wife, Edna Carl, had tucked his favorite photos of her, their two children and two grandchildren.

Most revealing of all, longtime military buddies spoke of the incomparable Marion Carl before a diverse crowd of about 750 who came to Umpqua Community College's Jacoby Auditorium to pay their final respects to Carl, a native Oregonian drawn to studying aircraft and pushing boundaries on behalf of his country in wartime and peace.

"Marion was a real hero. I'm not talking about purple-haired ballplayers," said eulogist Joseph R. Rees, a friend of Carl for 53 years. "He set a benchmark for youth, for all of us."

Despite a career of record-setting accomplishments, said Rees, humility was Carl's byword, integrity his daily password and loyalty the way of his friendship. Carl had the attributes people hope to find in their sons and daughters and political leaders, said Rees, who turns 76 today.

Carl could rapidly assess situations, then take decisive action without being hobbled by politics or fear.

Those traits are not to be mistaken for recklessness, added Ress, who lives about seven miles up North Bank Road from the Carl home.

"Marion knew where fear belonged," Rees said. "He just didn't let it get in the way when he knew something had to be done. Now, we saw that, just a few nights ago."

A week ago, Carl, who was in the middle stages of Alzheimer's had been awakened by shouting in his living room and stumbled into the middle of a burglary. He was fatally shot after lunging at a young man who had just fired a short at his wife. Sunday afternoon, the suspected killer was apprehended in Pasadena, Calif.

A second eulogist, Brigadier Gen. Joseph H. Foss, is a Congressional Medal of Honor holder and the Marine's top ace of all time, and 26 enemy planes to his credit. But Foss, 83, of Scottsdale, Ariz., lauded Carl as the top aviator.

Foss recalled his first ride, as a cadet in 1940, with Carl as an instructor in Pensacola, Florida. "He did everything with that airplane that an airplane could possibly do for 1½ hours. I was green," Foss said. "From that day on, I respected him as the No. 1 pilot in the World. If young folks would set their eyes on people like that, we wouldn't have punks like the one who ended his life."

Amid occasional sobs and sniffle from the mourners, Foss drew applause when he blasted current school studies of history that replace the study of pivotal American battles with "a dumb thing called political correctness."

Col. Hap Langstaff, 77, of Sacramento, described Carl's "astounding" knowledge of aircraft, his uncanny ability to track animals in the wild and his willingness to bend the rules to sneak in hunting trips in Eastern Oregon while stationed in Washington, D.C., in 1959. He shared stories of climbing into a T-28 aircraft on Fridays after work, flying all night to Mitchell, buzzing a narrow dirt road to clear the cattle off, then landing on a ranch.

"We always got deer," Langstaff said, "Back in Washington, D.C., Marion had difficulty explaining how cow manure got on the landing gear."

After the laughter, Langstaff's voice broke as he said, with a salute: "I'm going to miss you, Marion."

At the service's end, the crowd stepped outside for a stirring farewell: The sharp rat-a-tat of a 21-gun salute, taps played by two buglers, and a fly-by—against warm blue skies—of a pair of vintage planes from the Tillamook Air Museum: the F4U Corsair and the F4F Wildcat.

The funeral drew top military men and former co-workers from around the country, including one of Carl's former aides in Vietnam.

"I'm so damn angry, and I'm sad, but I'm so grateful for all the time we spent together," said Lyle Prouse, 59, now a pilot for Northwest Airlines and an Atlanta resident. "He was not a typical general. We were always out there in the middle of things. He stepped in and did whatever needed to be done, no matter the consequences."

Prouse and his wife rearranged their schedules to be at the funeral, he said, "just because I loved him so much."

Whenever Maj. Gen. Ken Houghton of La Jolla, Calif., hears the famed saying from Iwo Jima, "Uncommon valor is a common virtue," he is reminded of Carl. "This," he said, "epitomizes Gen. Carl."

After a gathering at the Roseburg Country Club, Carl's casket was escorted to the Eugene Airport later Monday afternoon, where it was flown to Washington, DC, for internment Thursday, with full military honors, in Arlington National Cemetery in Virginia.●

RECOGNITION OF HEIDELBERG COLLEGE

●Mr. GLENN. Mr. President, I rise today to recognize and congratulate Heidelberg College in Tiffin, Ohio, as it celebrates the 40th Anniversary of its educational exchange program with Heidelberg University of Heidelberg, Germany. The program between the two schools is the longest standing exchange program between an American and a German university in the post-World War II period.

When Heidelberg College was founded in 1850 by members of the German Reformed Church, it was named after the Heidelberg Catechism which was written at Heidelberg University in 1563. In 1958, cooperative relations were established between Heidelberg College and Heidelberg University and a student exchange program, the American Junior Year at Heidelberg University, was initiated. In 1973, the exchange became reciprocal with German students also studying at Heidelberg College. Over the course of the 40 years of cooperation, more than 1,400 German and American students have been able to participate in an academic exchange under the auspices of the Junior Year program.

Heidelberg College has a rich tradition of global education dating from the second half of the 19th century when missionaries were trained for service in Japan. Over the past two years, the College has revitalized its commitment to global education through the establishment of the Heidelberg College Center for Global Education. The Center for Global Education is the cornerstone of Heidelberg's effort to place an international focus on its curriculum, its majors, and its programs. Through its Advisory Council for Global Education, composed of local, regional, national, and international leaders, a number of priorities and future directions for global education at Heidelberg College have been identified in order to make it a worthwhile initiative that will influence the lives of thousands of young people for years to come.

I have been a long-standing advocate of increased exposure to global education for American students of all ages. I believe that it is fundamental for American students to have the opportunities to experience different cultures, languages, and individuals in order to compete in a world which is increasingly interdependent. I extend my best wishes to Heidelberg College for continued success in providing students from Ohio, and around the world, access to quality global education.●

CORRECTION TO THE RECORD

An error occurred in the printing of Daschle amendment No. 3063 in the Record of July 7, 1998. The amendment should read as follows:

DASCHLE AMENDMENT NO. 3063

Mr. DASCHLE proposed an amendment to the bill, S. 2168, supra; as follows:

At the appropriate place, insert the following:

TITLE ___—PATIENTS' BILL OF RIGHTS

SEC. ___001. SHORT TITLE.

This title may be cited as the "Patients' Bill of Rights Act of 1998".

Subtitle A—Health Insurance Bill of Rights

CHAPTER 1—ACCESS TO CARE

SEC. ___101. ACCESS TO EMERGENCY CARE.

(a) Coverage of Emergency Services.—

(1) In general.—If a group health plan, or health insurance coverage offered by a health insurance issuer, provides any benefits with respect to emergency services (as defined in paragraph (2)(B)), the plan or issuer shall cover emergency services furnished under the plan or coverage—

(A) without the need for any prior authorization determination;

(B) whether or not the health care provider furnishing such services is a participating provider with respect to such services;

(C) in a manner so that, if such services are provided to a participant, beneficiary, or enrollee by a nonparticipating health care provider—

(i) the participant, beneficiary, or enrollee is not liable for amounts that exceed the amounts of liability that would be incurred if the services were provided by a participating health care provider, and

(ii) the plan or issuer pays an amount that is not less than the amount paid to a participating health care provider for the same services; and

(D) without regard to any other term or condition of such coverage (other than exclusion or coordination of benefits, or an affiliation or waiting period, permitted under section 2701 of the Public Health Service Act, section 701 of the Employee Retirement Income Security Act of 1974, or section 9801 of the Internal Revenue Code of 1986, and other than applicable cost-sharing).

(2) Definitions.—In this section:

(A) Emergency medical condition based on prudent layperson standard.—The term "emergency medical condition" means a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in a condition described in clause (i), (ii), or (iii) of section 1867(e)(1)(A) of the Social Security Act.

(B) Emergency services.—The term "emergency services" means—

(i) a medical screening examination (as required under section 1867 of the Social Security Act) that is within the capability of the emergency department of a hospital, including ancillary services routinely available to the emergency department to evaluate an emergency medical condition (as defined in subparagraph (A)), and

(ii) within the capabilities of the staff and facilities available at the hospital, such further medical examination and treatment as are required under section 1867 of such Act to stabilize the patient.

(b) Reimbursement for Maintenance Care and Post-Stabilization Care.—In the case of services (other than emergency services) for which benefits are available under a group health plan, or under health insurance coverage offered by a health insurance issuer, the plan or issuer shall provide for reimbursement with respect to such services provided to a participant, beneficiary, or enrollee other than through a participating health care provider in a manner consistent with subsection (a)(1)(C) if the services are maintenance care or post-stabilization care covered under the guidelines established under section 1852(d)(2) of the Social Security Act (relating to promoting efficient and timely coordination of appropriate maintenance and post-stabilization care of an enrollee after an enrollee has been determined to be stable), or, in the absence of guidelines under such section, such guidelines as the Secretary shall establish to carry out this subsection.

SEC. 102. OFFERING OF CHOICE OF COVERAGE OPTIONS UNDER GROUP HEALTH PLANS.

(a) REQUIREMENT.—

(1) OFFERING OF POINT-OF-SERVICE COVERAGE OPTION.—Except as provided in paragraph (2), if a group health plan (or health insurance coverage offered by a health insurance issuer in connection with a group health plan) provides benefits only through participating health care providers, the plan or issuer shall offer the participant the option to purchase point-of-service coverage (as defined in subsection (b)) for all such benefits for which coverage is otherwise so limited. Such option shall be made available to the participant at the time of enrollment under the plan or coverage and at such other times as the plan or issuer offers the participant a choice of coverage options.

(2) EXCEPTION.—Paragraph (1) shall not apply with respect to a participant in a group health plan if the plan offers the participant—

(A) a choice of health insurance coverage through more than one health insurance issuer; or

(B) two or more coverage options that differ significantly with respect to the use of participating health care providers or the networks of such providers that are used.

(b) POINT-OF-SERVICE COVERAGE DEFINED.—In this section, the term "point-of-service coverage" means, with respect to benefits covered under a group health plan or health insurance issuer, coverage of such benefits when provided by a nonparticipating health care provider. Such coverage need not include coverage of providers that the plan or issuer excludes because of fraud, quality, or similar reasons.

(c) CONSTRUCTION.—Nothing in this section shall be construed—

(1) as requiring coverage for benefits for a particular type of health care provider;

(2) as requiring an employer to pay any costs as a result of this section or to make equal contributions with respect to different health coverage options; or

(3) as preventing a group health plan or health insurance issuer from imposing higher premiums or cost-sharing on a participant for the exercise of a point-of-service coverage option.

(d) NO REQUIREMENT FOR GUARANTEED AVAILABILITY.—If a health insurance issuer offers health insurance coverage that includes point-of-service coverage with respect to an employer solely in order to meet the requirement of subsection (a), nothing in section 2711(a)(1)(A) of the Public Health Service Act shall be construed as requiring the offering of such coverage with respect to another employer.

SEC. 103. CHOICE OF PROVIDERS.

(a) PRIMARY CARE.—A group health plan, and a health insurance issuer that offers health insurance coverage, shall permit each participant, beneficiary, and enrollee to receive primary care from any participating primary care provider who is available to accept such individual.

(b) SPECIALISTS.—

(1) IN GENERAL.—Subject to paragraph (2), a group health plan and a health insurance issuer that offers health insurance coverage shall permit each participant, beneficiary, or enrollee to receive medically necessary or appropriate specialty care, pursuant to appropriate referral procedures, from any qualified participating health care provider who is available to accept such individual for such care.

(2) LIMITATION.—Paragraph (1) shall not apply to specialty care if the plan or issuer clearly informs participants, beneficiaries, and enrollees of the limitations on choice of participating providers with respect to such care.

SEC. 104. ACCESS TO SPECIALTY CARE.

(a) OBSTETRICAL AND GYNECOLOGICAL CARE.—

(1) IN GENERAL.—If a group health plan, or a health insurance issuer in connection with the provision of health insurance coverage, requires or provides for a participant, beneficiary, or enrollee to designate a participating primary care provider—

(A) the plan or issuer shall permit such an individual who is a female to designate a participating physician who specializes in obstetrics and gynecology as the individual's primary care provider; and

(B) if such an individual has not designated such a provider as a primary care provider, the plan or issuer—

(i) may not require authorization or a referral by the individual's primary care provider or otherwise for coverage of routine gynecological care (such as preventive women's health examinations) and pregnancy-related services provided by a participating health care professional who specializes in obstetrics and gynecology to the extent such care is otherwise covered, and

(ii) may treat the ordering of other gynecological care by such a participating physician as the authorization of the primary care provider with respect to such care under the plan or coverage.

(2) CONSTRUCTION.—Nothing in paragraph (1)(B)(ii) shall waive any requirements of coverage relating to medical necessity or appropriateness with respect to coverage of gynecological care so ordered.

(b) SPECIALTY CARE.—

(1) SPECIALTY CARE FOR COVERED SERVICES.—

(A) IN GENERAL.—If—

(i) an individual is a participant or beneficiary under a group health plan or an enrollee who is covered under health insurance coverage offered by a health insurance issuer,

(ii) the individual has a condition or disease of sufficient seriousness and complexity to require treatment by a specialist, and

(iii) benefits for such treatment are provided under the plan or coverage,

the plan or issuer shall make or provide for a referral to a specialist who is available and accessible to provide the treatment for such condition or disease.

(B) SPECIALIST DEFINED.—For purposes of this subsection, the term "specialist" means, with respect to a condition, a health care practitioner, facility, or center (such as a center of excellence) that has adequate expertise through appropriate training and experience (including, in the case of a child, appropriate pediatric expertise) to provide high quality care in treating the condition.

(C) CARE UNDER REFERRAL.—A group health plan or health insurance issuer may require that the care provided to an individual pursuant to such referral under subparagraph (A) be—

(i) pursuant to a treatment plan, only if the treatment plan is developed by the specialist and approved by the plan or issuer, in consultation with the designated primary care provider or specialist and the individual (or the individual's designee), and

(ii) in accordance with applicable quality assurance and utilization review standards of the plan or issuer.

Nothing in this subsection shall be construed as preventing such a treatment plan for an individual from requiring a specialist to provide the primary care provider with regular updates on the specialty care provided, as well as all necessary medical information.

(D) REFERRALS TO PARTICIPATING PROVIDERS.—A group health plan or health insurance issuer is not required under subparagraph (A) to provide for a referral to a specialist that is not a participating provider, unless the plan or issuer does not have an appropriate specialist that is available and accessible to treat the individual's condition and that is a participating provider with respect to such treatment.

(E) TREATMENT OF NONPARTICIPATING PROVIDERS.—If a plan or issuer refers an individual to a nonparticipating specialist pursuant to subparagraph (A), services provided pursuant to the approved treatment plan (if any) shall be provided at no additional cost to the individual beyond what the individual would otherwise pay for services received by such a specialist that is a participating provider.

(2) SPECIALISTS AS PRIMARY CARE PROVIDERS.—

(A) IN GENERAL.—A group health plan, or a health insurance issuer, in connection with the provision of health insurance coverage, shall have a procedure by which an individual who is a participant, beneficiary, or enrollee and who has an ongoing special condition (as defined in subparagraph (C)) may receive a referral to a specialist for such condition who shall be responsible for and capable of providing and coordinating the individual's primary and specialty care. If such an individual's care would most appropriately be coordinated by such a specialist, such plan or issuer shall refer the individual to such specialist.

(B) TREATMENT AS PRIMARY CARE PROVIDER.—Such specialist shall be permitted to treat the individual without a referral from the individual's primary care provider and may authorize such referrals, procedures, tests, and other medical services as the individual's primary care provider would otherwise be permitted to provide or authorize, subject to the terms of the treatment plan (referred to in paragraph (1)(C)(i)).

(C) ONGOING SPECIAL CONDITION DEFINED.—In this paragraph, the term "special condition" means a condition or disease that—

(i) is life-threatening, degenerative, or disabling, and

(ii) requires specialized medical care over a prolonged period of time.

(D) TERMS OF REFERRAL.—The provisions of subparagraphs (C) through (E) of paragraph (1) apply with respect to referrals under subparagraph (A) of this paragraph in the same manner as they apply to referrals under paragraph (1)(A).

(3) STANDING REFERRALS.—

(A) IN GENERAL.—A group health plan, and a health insurance issuer in connection with the provision of health insurance coverage, shall have a procedure by which an individual who is a participant, beneficiary, or enrollee and who has a condition that requires ongoing care from a specialist may receive a standing referral to such specialist for treatment of such condition. If the plan or issuer, or if the primary care provider in consultation with the medical director of the plan or issuer and the specialist (if any), determines that such a standing referral is appropriate, the plan or issuer shall make such a referral to such a specialist.

(B) TERMS OF REFERRAL.—The provisions of subparagraphs (C) through (E) of paragraph (1) apply with respect to referrals under subparagraph (A) of this paragraph in the same manner as they apply to referrals under paragraph (1)(A).

SEC. ___ 105. CONTINUITY OF CARE.

(a) IN GENERAL.—

(1) TERMINATION OF PROVIDER.—If a contract between a group health plan, or a health insurance issuer in connection with the provision of health insurance coverage, and a health care provider is terminated (as defined in paragraph (3)), or benefits or coverage provided by a health care provider are terminated because of a change in the terms of provider participation in a group health plan, and an individual who is a participant, beneficiary, or enrollee in the plan or coverage is undergoing a course of treatment from the provider at the time of such termination, the plan or issuer shall—

(A) notify the individual on a timely basis of such termination, and

(B) subject to subsection (c), permit the individual to continue or be covered with respect to the course of treatment with the provider during a transitional period (provided under subsection (b)).

(2) TREATMENT OF TERMINATION OF CONTRACT WITH HEALTH INSURANCE ISSUER.—If a contract for the provision of health insurance coverage between a group health plan and a health insurance issuer is terminated and, as a result of such termination, coverage of services of a health care provider is terminated with respect to an individual, the provisions of paragraph (1) (and the succeeding provisions of this section) shall apply under the plan in the same manner as if there had been a contract between the plan and the provider that had been terminated, but only with respect to benefits that are covered under the plan after the contract termination.

(3) TERMINATION.—In this section, the term "terminated" includes, with respect to a contract, the expiration or nonrenewal of the contract, but does not include a termination of the contract by the plan or issuer for failure to meet applicable quality standards or for fraud.

(b) TRANSITIONAL PERIOD.—

(1) IN GENERAL.—Except as provided in paragraphs (2) through (4), the transitional period under this subsection shall extend for at least 90 days from the date of the notice described in subsection (a)(1)(A) of the provider's termination.

(2) INSTITUTIONAL CARE.—The transitional period under this subsection for institutional or inpatient care from a provider shall extend until the discharge or termination of the period of institutionalization and also shall include institutional care provided within a reasonable time of the date of termination of the provider status if the care was scheduled before the date of the announcement of the termination of the provider status under subsection (a)(1)(A) or if the individual on such date was on an established waiting list or otherwise scheduled to have such care.

(3) PREGNANCY.—If—

(A) a participant, beneficiary, or enrollee has entered the second trimester of pregnancy at the time of a provider's termination of participation, and

(B) the provider was treating the pregnancy before date of the termination,

the transitional period under this subsection with respect to provider's treatment of the pregnancy shall extend through the provision of post-partum care directly related to the delivery.

(4) TERMINAL ILLNESS.—If—

(A) a participant, beneficiary, or enrollee was determined to be terminally ill (as determined under section 1861(dd)(3)(A) of the Social Security Act) at the time of a provider's termination of participation, and

(B) the provider was treating the terminal illness before the date of termination,

the transitional period under this subsection shall extend for the remainder of the individual's life for care directly related to the treatment of the terminal illness.

(c) PERMISSIBLE TERMS AND CONDITIONS.—A group health plan or health insurance issuer may condition coverage of continued treatment by a provider under subsection (a)(1)(B) upon the provider agreeing to the following terms and conditions:

(1) The provider agrees to accept reimbursement from the plan or issuer and individual involved (with respect to cost-sharing) at the rates applicable prior to the start of the transitional period as payment in full (or, in the case described in subsection (a)(2), at the rates applicable under the replacement plan or issuer after the date of the termination of the contract with the health insurance issuer) and not to impose cost-sharing with respect to the individual in an amount that would exceed the cost-sharing that could have been imposed if the contract referred to in subsection (a)(1) had not been terminated.

(2) The provider agrees to adhere to the quality assurance standards of the plan or issuer responsible for payment under paragraph (1) and to provide to such plan or issuer necessary medical information related to the care provided.

(3) The provider agrees otherwise to adhere to such plan's or issuer's policies and procedures, including procedures regarding referrals and obtaining prior authorization and providing services pursuant to a treatment plan (if any) approved by the plan or issuer.

(d) CONSTRUCTION.—Nothing in this section shall be construed to require the coverage of benefits which would not have been covered if the provider involved remained a participating provider.

SEC. ___ 106. COVERAGE FOR INDIVIDUALS PARTICIPATING IN APPROVED CLINICAL TRIALS.

(a) COVERAGE.—

(1) IN GENERAL.—If a group health plan, or health insurance issuer that is providing health insurance coverage, provides coverage to a qualified individual (as defined in subsection (b)), the plan or issuer—

(A) may not deny the individual participation in the clinical trial referred to in subsection (b)(2);

(B) subject to subsection (c), may not deny (or limit or impose additional conditions on) the coverage of routine patient costs for items and services furnished in connection with participation in the trial; and

(C) may not discriminate against the individual on the basis of the enrollee's participation in such trial.

(2) EXCLUSION OF CERTAIN COSTS.—For purposes of paragraph (1)(B), routine patient costs do not include the cost of the tests or measurements conducted primarily for the purpose of the clinical trial involved.

(3) USE OF IN-NETWORK PROVIDERS.—If one or more participating providers is participating in a clinical trial, nothing in paragraph (1) shall be construed as preventing a plan or issuer from requiring that a qualified individual participate in the trial through such a participating provider if the provider will accept the individual as a participant in the trial.

(b) QUALIFIED INDIVIDUAL DEFINED.—For purposes of subsection (a), the term "qualified individual" means an individual who is a participant or beneficiary in a group health plan, or who is an enrollee under health insurance coverage, and who meets the following conditions:

(1)(A) The individual has a life-threatening or serious illness for which no standard treatment is effective.

(B) The individual is eligible to participate in an approved clinical trial according to the trial protocol with respect to treatment of such illness.

(C) The individual's participation in the trial offers meaningful potential for significant clinical benefit for the individual.

(2) Either—

(A) the referring physician is a participating health care professional and has concluded that the individual's participation in such trial would be appropriate based upon the individual meeting the conditions described in paragraph (1); or

(B) the participant, beneficiary, or enrollee provides medical and scientific information establishing that the individual's participation in such trial would be appropriate based upon the individual meeting the conditions described in paragraph (1).

(c) PAYMENT.—

(1) IN GENERAL.—Under this section a group health plan or health insurance issuer shall provide for payment for routine patient costs described in subsection (a)(2) but is not required to pay for costs of items and services that are reasonably expected (as determined by the Secretary) to be paid for by the sponsors of an approved clinical trial.

(2) PAYMENT RATE.—In the case of covered items and services provided by—

(A) a participating provider, the payment rate shall be at the agreed upon rate, or

(B) a nonparticipating provider, the payment rate shall be at the rate the plan or issuer would normally pay for comparable services under subparagraph (A).

(d) APPROVED CLINICAL TRIAL DEFINED.—

(1) IN GENERAL.—In this section, the term "approved clinical trial" means a clinical research study or clinical investigation approved and funded (which may include funding through in-kind contributions) by one or more of the following:

(A) The National Institutes of Health.

(B) A cooperative group or center of the National Institutes of Health.

(C) Either of the following if the conditions described in paragraph (2) are met:

(i) The Department of Veterans Affairs.

(ii) The Department of Defense.

(2) CONDITIONS FOR DEPARTMENTS.—The conditions described in this paragraph, for a study or investigation conducted by a Department, are that the study or investigation has been reviewed and approved through a system of peer review that the Secretary determines—

(A) to be comparable to the system of peer review of studies and investigations used by the National Institutes of Health, and

(B) assures unbiased review of the highest scientific standards by qualified individuals who have no interest in the outcome of the review.

(e) CONSTRUCTION.—Nothing in this section shall be construed to limit a plan's or issuer's coverage with respect to clinical trials.

SEC. 107. ACCESS TO NEEDED PRESCRIPTION DRUGS.

(a) IN GENERAL.—If a group health plan, or health insurance issuer that offers health insurance coverage, provides benefits with respect to prescription drugs but the coverage limits such benefits to drugs included in a formulary, the plan or issuer shall—

(1) ensure participation of participating physicians and pharmacists in the development of the formulary;

(2) disclose to providers and, disclose upon request under section 121(c)(6) to participants, beneficiaries, and enrollees, the nature of the formulary restrictions; and

(3) consistent with the standards for a utilization review program under section 115, provide for exceptions from the formulary limitation when a non-formulary alternative is medically indicated.

(b) COVERAGE OF APPROVED DRUGS AND MEDICAL DEVICES.—

(1) IN GENERAL.—A group health plan (or health insurance coverage offered in connection with such a plan) that provides any coverage of prescription drugs or medical devices shall not deny coverage of such a drug or device on the basis that the use is investigational, if the use—

(A) in the case of a prescription drug—

(i) is included in the labeling authorized by the application in effect for the drug pursuant to subsection (b) or (j) of section 505 of the Federal Food, Drug, and Cosmetic Act, without regard to any postmarketing requirements that may apply under such Act; or

(ii) is included in the labeling authorized by the application in effect for the drug under section 351 of the Public Health Service Act, without regard to any postmarketing requirements that may apply pursuant to such section; or

(B) in the case of a medical device, is included in the labeling authorized by a regulation under subsection (d) or (3) of section 513 of the Federal Food, Drug, and Cosmetic Act, an order under subsection (f) of such section, or an application approved under section 515 of such Act, without regard to any postmarketing requirements that may apply under such Act.

(2) CONSTRUCTION.—Nothing in this subsection shall be construed as requiring a group health plan (or health insurance coverage offered in connection with such a plan) to provide any coverage of prescription drugs or medical devices.

SEC. 108. ADEQUACY OF PROVIDER NETWORK.

(a) IN GENERAL.—Each group health plan, and each health insurance issuer offering health insurance coverage, that provides benefits, in whole or in part, through participating health care providers shall have (in relation to the coverage) a sufficient number, distribution, and variety of qualified participating health care providers to ensure that all covered health care services, including specialty services, will be available and accessible in a timely manner to all participants, beneficiaries, and enrollees under the plan or coverage.

(b) TREATMENT OF CERTAIN PROVIDERS.—The qualified health care providers under subsection (a) may include Federally qualified health centers, rural health clinics, migrant health centers, and other essential community providers located in the service area of the plan or issuer and shall include such providers if necessary to meet the standards established to carry out such subsection.

SEC. 109. NONDISCRIMINATION IN DELIVERY OF SERVICES.

(a) APPLICATION TO DELIVERY OF SERVICES.—Subject to subsection (b), a group health plan, and health insurance issuer in relation to health insurance coverage, may not discriminate against a participant, beneficiary, or enrollee in the delivery of health care services consistent with the benefits covered under the plan or coverage or as required by law based on race, color, ethnicity, national origin, religion, sex, age, mental or physical disability, sexual orientation, genetic information, or source of payment.

(b) CONSTRUCTION.—Nothing in subsection (a) shall be construed as relating to the eligibility to be covered, or the offering (or guaranteeing the offer) of coverage, under a plan or health insurance coverage, the application of any pre-existing condition exclusion consistent with applicable law, or premiums charged under such plan or coverage.

CHAPTER 2—QUALITY ASSURANCE

SEC. 111. INTERNAL QUALITY ASSURANCE PROGRAM.

(a) REQUIREMENT.—A group health plan, and a health insurance issuer that offers health insurance coverage, shall establish and maintain an ongoing, internal quality assurance and continuous quality improvement program that meets the requirements of subsection (b).

(b) PROGRAM REQUIREMENTS.—The requirements of this subsection for a quality improvement program of a plan or issuer are as follows:

(1) ADMINISTRATION.—The plan or issuer has a separate identifiable unit with responsibility for administration of the program.

(2) WRITTEN PLAN.—The plan or issuer has a written plan for the program that is updated annually and that specifies at least the following:

(A) The activities to be conducted.

(B) The organizational structure.

(C) The duties of the medical director.

(D) Criteria and procedures for the assessment of quality.

(3) SYSTEMATIC REVIEW.—The program provides for systematic review of the type of health services provided, consistency of services provided with good medical practice, and patient outcomes.

(4) QUALITY CRITERIA.—The program—

(A) uses criteria that are based on performance and patient outcomes where feasible and appropriate;

(B) includes criteria that are directed specifically at meeting the needs of at-risk populations and covered individuals with chronic conditions or severe illnesses, including gender-specific criteria and pediatric-specific criteria where available and appropriate;

(C) includes methods for informing covered individuals of the benefit of preventive care and what specific benefits with respect to preventive care are covered under the plan or coverage; and

(D) makes available to the public a description of the criteria used under subparagraph (A).

(5) SYSTEM FOR REPORTING.—The program has procedures for reporting of possible quality concerns by providers and enrollees and for remedial actions to correct quality problems, including written procedures for responding to concerns and taking appropriate corrective action.

(6) DATA ANALYSIS.—The program provides, using data that include the data collected under section 112, for an analysis of the plan's or issuer's performance on quality measures.

(7) DRUG UTILIZATION REVIEW.—The program provides for a drug utilization review program in accordance with section 114.

(c) DEEMING.—For purposes of subsection (a), the requirements of—

(1) subsection (b) (other than paragraph (5)) are deemed to be met with respect to a health insurance issuer that is a qualified health maintenance organization (as defined in section 1310(c) of the Public Health Service Act); or

(2) subsection (b) are deemed to be met with respect to a health insurance issuer that is accredited by a national accreditation organization that the Secretary certifies as applying, as a condition of certification, standards at least as stringent as those required for a quality improvement program under subsection (b).

(d) VARIATION PERMITTED.—The Secretary may provide for variations in the application of the requirements of this section to group health plans and health insurance issuers based upon differences in the delivery system among such plans and issuers as the Secretary deems appropriate.

SEC. 112. COLLECTION OF STANDARDIZED DATA.

(a) IN GENERAL.—A group health plan and a health insurance issuer that offers health insurance coverage shall collect uniform quality data that include a minimum uniform data set described in subsection (b).

(b) MINIMUM UNIFORM DATA SET.—The Secretary shall specify (and may from time to time update) the data required to be included in the minimum uniform data set under subsection (a) and the standard format for such data. Such data shall include at least—

(1) aggregate utilization data;

(2) data on the demographic characteristics of participants, beneficiaries, and enrollees;

(3) data on disease-specific and age-specific mortality rates and (to the extent feasible) morbidity rates of such individuals;

(4) data on satisfaction of such individuals, including data on voluntary disenrollment and grievances; and

(5) data on quality indicators and health outcomes, including, to the extent feasible and appropriate, data on pediatric cases and on a gender-specific basis.

(c) AVAILABILITY.—A summary of the data collected under subsection (a) shall be disclosed under section 121(b)(9). The Secretary shall be provided access to all the data so collected.

(d) VARIATION PERMITTED.—The Secretary may provide for variations in the application of the requirements of this section to group health plans and health insurance issuers based upon differences in the delivery system among such plans and issuers as the Secretary deems appropriate.

SEC. 113. PROCESS FOR SELECTION OF PROVIDERS.

(a) IN GENERAL.—A group health plan and a health insurance issuer that offers health insurance coverage shall, if it provides benefits through participating health care professionals, have a written process for the selection of participating health care professionals, including minimum professional requirements.

(b) VERIFICATION OF BACKGROUND.—Such process shall include verification of a health care provider's license and a history of suspension or revocation.

(c) RESTRICTION.—Such process shall not use a high-risk patient base or location of a provider in an area with residents with poorer health status as a basis for excluding providers from participation.

(d) NONDISCRIMINATION BASED ON LICENSURE.—

(1) IN GENERAL.—Such process shall not discriminate with respect to participation or indemnification as to any provider who is acting within the scope of the provider's license or certification under applicable State law, solely on the basis of such license or certification.

(2) CONSTRUCTION.—Paragraph (1) shall not be construed—

(A) as requiring the coverage under a plan or coverage of particular benefits or services or to prohibit a plan or issuer from including providers only to the extent necessary to meet the needs of the plan's or issuer's participants, beneficiaries, or enrollees or from establishing any measure designed to maintain quality and control costs consistent with the responsibilities of the plan or issuer; or

(B) to override any State licensure or scope-of-practice law.

(e) GENERAL NONDISCRIMINATION.—

(1) IN GENERAL.—Subject to paragraph (2), such process shall not discriminate with respect to selection of a health care professional to be a participating health care provider, or with respect to the terms and conditions of such participation, based on the professional's race, color, religion, sex, national origin, age, sexual orientation, or disability (consistent with the Americans with Disabilities Act of 1990).

(2) RULES.—The appropriate Secretary may establish such definitions, rules, and exceptions as may be appropriate to carry out paragraph (1), taking into account comparable definitions, rules, and exceptions in effect under employment-based nondiscrimination laws and regulations that relate to each of the particular bases for discrimination described in such paragraph.

SEC. ___114. DRUG UTILIZATION PROGRAM.

A group health plan, and a health insurance issuer that provides health insurance coverage, that includes benefits for prescription drugs shall establish and maintain, as part of its internal quality assurance and continuous quality improvement program under section ___111, a drug utilization program which—

(1) encourages appropriate use of prescription drugs by participants, beneficiaries, and enrollees and providers, and

(2) takes appropriate action to reduce the incidence of improper drug use and adverse drug reactions and interactions.

SEC. ___115. STANDARDS FOR UTILIZATION REVIEW ACTIVITIES.

(a) COMPLIANCE WITH REQUIREMENTS.—

(1) IN GENERAL.—A group health plan, and a health insurance issuer that provides health insurance coverage, shall conduct utilization review activities in connection with the provision of benefits under such plan or coverage only in accordance with a utilization review program that meets the requirements of this section.

(2) USE OF OUTSIDE AGENTS.—Nothing in this section shall be construed as preventing a group health plan or health insurance issuer from arranging through a contract or otherwise for persons or entities to conduct utilization review activities on behalf of the plan or issuer, so long as such activities are conducted in accordance with a utilization review program that meets the requirements of this section.

(3) UTILIZATION REVIEW DEFINED.—For purposes of this section, the terms "utilization review" and "utilization review activities" mean procedures used to monitor or evaluate the clinical necessity, appropriateness, efficacy, or efficiency of health care services, procedures or settings, and includes prospective review, concurrent review, second opinions, case management, discharge planning, or retrospective review.

(b) WRITTEN POLICIES AND CRITERIA.—

(1) WRITTEN POLICIES.—A utilization review program shall be conducted consistent with written policies and procedures that govern all aspects of the program.

(2) USE OF WRITTEN CRITERIA.—

(A) IN GENERAL.—Such a program shall utilize written clinical review criteria developed pursuant to the program with the input of appropriate physicians. Such criteria shall include written clinical review criteria described in section ___111(b)(4)(B).

(B) CONTINUING USE OF STANDARDS IN RETROSPECTIVE REVIEW.—If a health care service has been specifically pre-authorized or approved for an enrollee under such a program, the program shall not, pursuant to retrospective review, revise or modify the specific standards, criteria, or procedures used for the utilization review for procedures, treatment, and services delivered to the enrollee during the same course of treatment.

(c) CONDUCT OF PROGRAM ACTIVITIES.—

(1) ADMINISTRATION BY HEALTH CARE PROFESSIONALS.—A utilization review program shall be administered by qualified health care professionals who shall oversee review decisions. In this subsection, the term "health care professional" means a physician or other health care practitioner licensed, accredited, or certified to perform specified health services consistent with State law.

(2) USE OF QUALIFIED, INDEPENDENT PERSONNEL.—

(A) IN GENERAL.—A utilization review program shall provide for the conduct of utilization review activities only through personnel who are qualified and, to the extent required, who have received appropriate training in the conduct of such activities under the program.

(B) PEER REVIEW OF SAMPLE OF ADVERSE CLINICAL DETERMINATIONS.—Such a program shall provide that clinical peers (as defined in section ___191(c)(2)) shall evaluate the clinical appropriateness of at least a sample of adverse clinical determinations.

(C) PROHIBITION OF CONTINGENT COMPENSATION ARRANGEMENTS.—Such a program shall not, with respect to utilization review activities, permit or provide compensation or anything of value to its employees, agents, or contractors in a manner that—

(i) provides incentives, direct or indirect, for such persons to make inappropriate review decisions, or

(ii) is based, directly or indirectly, on the quantity or type of adverse determinations rendered.

(D) PROHIBITION OF CONFLICTS.—Such a program shall not permit a health care professional who provides health care services to an individual to perform utilization review activities in connection with the health care services being provided to the individual.

(3) ACCESSIBILITY OF REVIEW.—Such a program shall provide that appropriate personnel performing utilization review activities under the program are reasonably accessible by toll-free telephone during normal business hours to discuss patient care and allow response to telephone requests, and that appropriate provision is made to receive and respond promptly to calls received during other hours.

(4) LIMITS ON FREQUENCY.—Such a program shall not provide for the performance of utilization review activities with respect to a class of services furnished to an individual more frequently than is reasonably required to assess whether the services under review are medically necessary or appropriate.

(5) LIMITATION ON INFORMATION REQUESTS.—Under such a program, information shall be required to be provided by health care providers only to the extent it is necessary to perform the utilization review activity involved.

(d) DEADLINE FOR DETERMINATIONS.—

(1) PRIOR AUTHORIZATION SERVICES.—Except as provided in paragraph (2), in the case of a utilization review activity involving the prior authorization of health care items and services for an individual, the utilization review program shall make a determination concerning such authorization, and provide notice of the determination to the individual or the individual's designee and the individual's health care provider by telephone and in printed form, as soon as possible in accordance with the medical exigencies of the cases, and in no event later than 3 business days after the date of receipt of information that is reasonably necessary to make such determination.

(2) CONTINUED CARE.—In the case of a utilization review activity involving authorization for continued or extended health care services for an individual, or additional services for an individual undergoing a course of continued treatment prescribed by a health care provider, the utilization review program shall make a determination concerning such authorization, and provide notice of the determination to the individual or the individual's designee and the individual's health care provider by telephone and in printed form, as soon as possible in accordance with the medical exigencies of the cases, and in no event later than 1 business day after the date of receipt of information that is reasonably necessary to make such determination. Such notice shall include, with respect to continued or extended health care services, the number of extended services approved, the new total of approved services, the date of onset of services, and the next review date, if any.

(3) PREVIOUSLY PROVIDED SERVICES.—In the case of a utilization review activity involving retrospective review of health care services previously provided for an individual, the utilization review program shall make a determination concerning such services, and provide notice of the determination to the individual or the individual's designee and the individual's health care provider by telephone and in printed form, within 30 days of the date of receipt of information that is reasonably necessary to make such determination.

(4) REFERENCE TO SPECIAL RULES FOR EMERGENCY SERVICES, MAINTENANCE CARE, AND POST-STABILIZATION CARE.—For waiver of prior authorization requirements in certain cases involving emergency services and maintenance care and post-stabilization care, see subsections (a)(1) and (b) of section ___101, respectively.

(e) NOTICE OF ADVERSE DETERMINATIONS.—

(1) IN GENERAL.—Notice of an adverse determination under a utilization review program shall be provided in printed form and shall include—

(A) the reasons for the determination (including the clinical rationale);

(B) instructions on how to initiate an appeal under section ___132; and

(C) notice of the availability, upon request of the individual (or the individual's designee) of the clinical review criteria relied upon to make such determination.

(2) SPECIFICATION OF ANY ADDITIONAL INFORMATION.—Such a notice shall also specify

what (if any) additional necessary information must be provided to, or obtained by, the person making the determination in order to make a decision on such an appeal.

SEC. 116. HEALTH CARE QUALITY ADVISORY BOARD.

(a) ESTABLISHMENT.—The President shall establish an advisory board to provide information to Congress and the administration on issues relating to quality monitoring and improvement in the health care provided under group health plans and health insurance coverage.

(b) NUMBER AND APPOINTMENT.—The advisory board shall be composed of the Secretary of Health and Human Services (or the Secretary's designee), the Secretary of Labor (or the Secretary's designee), and 20 additional members appointed by the President, in consultation with the Majority and Minority Leaders of the Senate and House of Representatives. The members so appointed shall include individuals with expertise in—

(1) consumer needs;

(2) education and training of health professionals;

(3) health care services;

(4) health plan management;

(5) health care accreditation, quality assurance, improvement, measurement, and oversight;

(6) medical practice, including practicing physicians;

(7) prevention and public health; and

(8) public and private group purchasing for small and large employers or groups.

(c) DUTIES.—The advisory board shall—

(1) identify, update, and disseminate measures of health care quality for group health plans and health insurance issuers, including network and non-network plans;

(2) advise the Secretary on the development and maintenance of the minimum data set in section 112(b); and

(3) advise the Secretary on standardized formats for information on group health plans and health insurance coverage.

The measures identified under paragraph (1) may be used on a voluntary basis by such plans and issuers. In carrying out paragraph (1), the advisory board shall consult and cooperate with national health care standard setting bodies which define quality indicators, the Agency for Health Care Policy and Research, the Institute of Medicine, and other public and private entities that have expertise in health care quality.

(d) REPORT.—The advisory board shall provide an annual report to Congress and the President on the quality of the health care in the United States and national and regional trends in health care quality. Such report shall include a description of determinants of health care quality and measurements of practice and quality variability within the United States.

(e) SECRETARIAL CONSULTATION.—In serving on the advisory board, the Secretaries of Health and Human Services and Labor (or their designees) shall consult with the Secretaries responsible for other Federal health insurance and health care programs.

(f) VACANCIES.—Any vacancy on the board shall be filled in such manner as the original appointment. Members of the board shall serve without compensation but shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties. Administrative support, scientific support, and technical assistance for the advisory board shall be provided by the Secretary of Health and Human Services.

(g) CONTINUATION.—Section 14(a)(2)(B) of the Federal Advisory Committee Act (5 U.S.C. App.; relating to the termination of advisory committees) shall not apply to the advisory board.

CHAPTER 3—PATIENT INFORMATION

SEC. 121. PATIENT INFORMATION.

(a) DISCLOSURE REQUIREMENT.—

(1) GROUP HEALTH PLANS.—A group health plan shall—

(A) provide to participants and beneficiaries at the time of initial coverage under the plan (or the effective date of this section, in the case of individuals who are participants or beneficiaries as of such date), and at least annually thereafter, the information described in subsection (b) in printed form;

(B) provide to participants and beneficiaries, within a reasonable period (as specified by the appropriate Secretary) before or after the date of significant changes in the information described in subsection (b), information in printed form on such significant changes; and

(C) upon request, make available to participants and beneficiaries, the applicable authority, and prospective participants and beneficiaries, the information described in subsection (b) or (c) in printed form.

(2) HEALTH INSURANCE ISSUERS.—A health insurance issuer in connection with the provision of health insurance coverage shall—

(A) provide to individuals enrolled under such coverage at the time of enrollment, and at least annually thereafter, the information described in subsection (b) in printed form;

(B) provide to enrollees, within a reasonable period (as specified by the appropriate Secretary) before or after the date of significant changes in the information described in subsection (b), information in printed form on such significant changes; and

(C) upon request, make available to the applicable authority, to individuals who are prospective enrollees, and to the public the information described in subsection (b) or (c) in printed form.

(b) INFORMATION PROVIDED.—The information described in this subsection with respect to a group health plan or health insurance coverage offered by a health insurance issuer includes the following:

(1) SERVICE AREA.—The service area of the plan or issuer.

(2) BENEFITS.—Benefits offered under the plan or coverage, including—

(A) covered benefits, including benefit limits and coverage exclusions;

(B) cost sharing, such as deductibles, coinsurance, and copayment amounts, including any liability for balance billing, any maximum limitations on out of pocket expenses, and the maximum out of pocket costs for services that are provided by non participating providers or that are furnished without meeting the applicable utilization review requirements;

(C) the extent to which benefits may be obtained from nonparticipating providers;

(D) the extent to which a participant, beneficiary, or enrollee may select from among participating providers and the types of providers participating in the plan or issuer network;

(E) process for determining experimental coverage; and

(F) use of a prescription drug formulary.

(3) ACCESS.—A description of the following:

(A) The number, mix, and distribution of providers under the plan or coverage.

(B) Out-of-network coverage (if any) provided by the plan or coverage.

(C) Any point-of-service option (including any supplemental premium or cost-sharing for such option).

(D) The procedures for participants, beneficiaries, and enrollees to select, access, and change participating primary and specialty providers.

(E) The rights and procedures for obtaining referrals (including standing referrals) to participating and nonparticipating providers.

(F) The name, address, and telephone number of participating health care providers and an indication of whether each such provider is available to accept new patients.

(G) Any limitations imposed on the selection of qualifying participating health care providers, including any limitations imposed under section 103(b)(2).

(H) How the plan or issuer addresses the needs of participants, beneficiaries, and enrollees and others who do not speak English or who have other special communications needs in accessing providers under the plan or coverage, including the provision of information described in this subsection and subsection (c) to such individuals and including the provision of information in a language other than English if 5 percent of the number of participants, beneficiaries, and enrollees communicate in that language instead of English.

(4) OUT-OF-AREA COVERAGE.—Out-of-area coverage provided by the plan or issuer.

(5) EMERGENCY COVERAGE.—Coverage of emergency services, including—

(A) the appropriate use of emergency services, including use of the 911 telephone system or its local equivalent in emergency situations and an explanation of what constitutes an emergency situation;

(B) the process and procedures of the plan or issuer for obtaining emergency services; and

(C) the locations of (i) emergency departments, and (ii) other settings, in which plan physicians and hospitals provide emergency services and post-stabilization care.

(6) PERCENTAGE OF PREMIUMS USED FOR BENEFITS (LOSS-RATIOS).—In the case of health insurance coverage only (and not with respect to group health plans that do not provide coverage through health insurance coverage), a description of the overall loss-ratio for the coverage (as defined in accordance with rules established or recognized by the Secretary of Health and Human Services).

(7) PRIOR AUTHORIZATION RULES.—Rules regarding prior authorization or other review requirements that could result in noncoverage or nonpayment.

(8) GRIEVANCE AND APPEALS PROCEDURES.—All appeal or grievance rights and procedures under the plan or coverage, including the method for filing grievances and the time frames and circumstances for acting on grievances and appeals, who is the applicable authority with respect to the plan or issuer, and the availability of assistance through an ombudsman to individuals in relation to group health plans and health insurance coverage.

(9) QUALITY ASSURANCE.—A summary description of the data on quality collected under section 112(a), including a summary description of the data on satisfaction of participants, beneficiaries, and enrollees (including data on individual voluntary disenrollment and grievances and appeals) described in section 112(b)(4).

(10) SUMMARY OF PROVIDER FINANCIAL INCENTIVES.—A summary description of the information on the types of financial payment incentives (described in section 1852(j)(4) of the Social Security Act) provided by the plan or issuer under the coverage.

(11) INFORMATION ON ISSUER.—Notice of appropriate mailing addresses and telephone

numbers to be used by participants, beneficiaries, and enrollees in seeking information or authorization for treatment.

(12) AVAILABILITY OF INFORMATION ON REQUEST.—Notice that the information described in subsection (c) is available upon request.

(c) INFORMATION MADE AVAILABLE UPON REQUEST.—The information described in this subsection is the following:

(1) UTILIZATION REVIEW ACTIVITIES.—A description of procedures used and requirements (including circumstances, time frames, and appeal rights) under any utilization review program under section ___ 115, including under any drug formulary program under section ___ 107.

(2) GRIEVANCE AND APPEALS INFORMATION.—Information on the number of grievances and appeals and on the disposition in the aggregate of such matters.

(3) METHOD OF PHYSICIAN COMPENSATION.—An overall summary description as to the method of compensation of participating physicians, including information on the types of financial payment incentives (described in section 1852(j)(4) of the Social Security Act) provided by the plan or issuer under the coverage.

(4) SPECIFIC INFORMATION ON CREDENTIALS OF PARTICIPATING PROVIDERS.—In the case of each participating provider, a description of the credentials of the provider.

(5) CONFIDENTIALITY POLICIES AND PROCEDURES.—A description of the policies and procedures established to carry out section ___ 122.

(6) FORMULARY RESTRICTIONS.—A description of the nature of any drug formula restrictions.

(7) PARTICIPATING PROVIDER LIST.—A list of current participating health care providers.

(d) FORM OF DISCLOSURE.—

(1) UNIFORMITY.—Information required to be disclosed under this section shall be provided in accordance with uniform, national reporting standards specified by the Secretary, after consultation with applicable State authorities, so that prospective enrollees may compare the attributes of different issuers and coverage offered within an area.

(2) INFORMATION INTO HANDBOOK.—Nothing in this section shall be construed as preventing a group health plan or health insurance issuer from making the information under subsections (b) and (c) available to participants, beneficiaries, and enrollees through an enrollee handbook or similar publication.

(3) UPDATING PARTICIPATING PROVIDER INFORMATION.—The information on participating health care providers described in subsection (b)(3)(C) shall be updated within such reasonable period as determined appropriate by the Secretary. Nothing in this section shall prevent an issuer from changing or updating other information made available under this section.

(e) CONSTRUCTION.—Nothing in this section shall be construed as requiring public disclosure of individual contracts or financial arrangements between a group health plan or health insurance issuer and any provider.

SEC. ___ 122. PROTECTION OF PATIENT CONFIDENTIALITY.

Insofar as a group health plan, or a health insurance issuer that offers health insurance coverage, maintains medical records or other health information regarding participants, beneficiaries, and enrollees, the plan or issuer shall establish procedures—

(1) to safeguard the privacy of any individually identifiable enrollee information;

(2) to maintain such records and information in a manner that is accurate and timely, and

(3) to assure timely access of such individuals to such records and information.

SEC. ___ 123. HEALTH INSURANCE OMBUDSMEN.

(a) IN GENERAL.—Each State that obtains a grant under subsection (c) shall provide for creation and operation of a Health Insurance Ombudsman through a contract with a not-for-profit organization that operates independent of group health plans and health insurance issuers. Such Ombudsman shall be responsible for at least the following:

(1) To assist consumers in the State in choosing among health insurance coverage or among coverage options offered within group health plans.

(2) To provide counseling and assistance to enrollees dissatisfied with their treatment by health insurance issuers and group health plans in regard to such coverage or plans and with respect to grievances and appeals regarding determinations under such coverage or plans.

(b) FEDERAL ROLE.—In the case of any State that does not provide for such an Ombudsman under subsection (a), the Secretary shall provide for the creation and operation of a Health Insurance Ombudsman through a contract with a not-for-profit organization that operates independent of group health plans and health insurance issuers and that is responsible for carrying out with respect to that State the functions otherwise provided under subsection (a) by a Health Insurance Ombudsman.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Health and Human Services such amounts as may be necessary to provide for grants to States for contracts for Health Insurance Ombudsmen under subsection (a) or contracts for such Ombudsmen under subsection (b).

(d) CONSTRUCTION.—Nothing in this section shall be construed to prevent the use of other forms of enrollee assistance.

CHAPTER 4—GRIEVANCE AND APPEALS PROCEDURES

SEC. ___ 131. ESTABLISHMENT OF GRIEVANCE PROCESS.

(a) ESTABLISHMENT OF GRIEVANCE SYSTEM.—

(1) IN GENERAL.—A group health plan, and a health insurance issuer in connection with the provision of health insurance coverage, shall establish and maintain a system to provide for the presentation and resolution of oral and written grievances brought by individuals who are participants, beneficiaries, or enrollees, or health care providers or other individuals acting on behalf of an individual and with the individual's consent, regarding any aspect of the plan's or issuer's services.

(2) SCOPE.—The system shall include grievances regarding access to and availability of services, quality of care, choice and accessibility of providers, network adequacy, and compliance with the requirements of this subtitle.

(b) GRIEVANCE SYSTEM.—Such system shall include the following components with respect to individuals who are participants, beneficiaries, or enrollees:

(1) Written notification to all such individuals and providers of the telephone numbers and business addresses of the plan or issuer personnel responsible for resolution of grievances and appeals.

(2) A system to record and document, over a period of at least 3 previous years, all grievances and appeals made and their status.

(3) A process providing for timely processing and resolution of grievances.

(4) Procedures for follow-up action, including the methods to inform the person making the grievance of the resolution of the grievance.

(5) Notification to the continuous quality improvement program under section ___ 111(a) of all grievances and appeals relating to quality of care.

SEC. ___ 132. INTERNAL APPEALS OF ADVERSE DETERMINATIONS.

(a) RIGHT OF APPEAL.—

(1) IN GENERAL.—A participant or beneficiary in a group health plan, and an enrollee in health insurance coverage offered by a health insurance issuer, and any provider or other person acting on behalf of such an individual with the individual's consent, may appeal any appealable decision (as defined in paragraph (2)) under the procedures described in this section and (to the extent applicable) section ___ 133. Such individuals and providers shall be provided with a written explanation of the appeal process and the determination upon the conclusion of the appeals process and as provided in section ___ 121(b)(8).

(2) APPEALABLE DECISION DEFINED.—In this section, the term "appealable decision" means any of the following:

(A) Denial, reduction, or termination of, or failure to provide or make payment (in whole or in part) for, a benefit, including a failure to cover an item or service for which benefits are otherwise provided because it is determined to be experimental or investigational or not medically necessary or appropriate.

(B) Failure to provide coverage of emergency services or reimbursement of maintenance care or post-stabilization care under section ___ 101.

(C) Failure to provide a choice of provider under section ___ 103.

(D) Failure to provide qualified health care providers under section ___ 103.

(E) Failure to provide access to specialty and other care under section ___ 104.

(F) Failure to provide continuation of care under section ___ 105.

(G) Failure to provide coverage of routine patient costs in connection with an approval clinical trial under section ___ 106.

(H) Failure to provide access to needed drugs under section ___ 107(a)(3) or ___ 107(b).

(I) Discrimination in delivery of services in violation of section ___ 109.

(J) An adverse determination under a utilization review program under section ___ 115.

(K) The imposition of a limitation that is prohibited under section ___ 151.

(b) INTERNAL APPEAL PROCESS.—

(1) IN GENERAL.—Each group health plan and health insurance issuer shall establish and maintain an internal appeal process under which any participant, beneficiary, enrollee, or provider acting on behalf of such an individual with the individual's consent, who is dissatisfied with any appealable decision has the opportunity to appeal the decision through an internal appeal process. The appeal may be communicated orally.

(2) CONDUCT OF REVIEW.—

(A) IN GENERAL.—The process shall include a review of the decision by a physician or other health care professional (or professionals) who has been selected by the plan or issuer and who has not been involved in the appealable decision at issue in the appeal.

(B) AVAILABILITY AND PARTICIPATION OF CLINICAL PEERS.—The individuals conducting such review shall include one or more clinical peers (as defined in section ___ 191(c)(2)) who have not been involved in the appealable decision at issue in the appeal.

(3) Deadline.—

(A) In general.—Subject to subsection (c), the plan or issuer shall conclude each appeal as soon as possible after the time of the receipt of the appeal in accordance with medical exigencies of the case involved, but in no event later than—

(i) 72 hours after the time of receipt of an expedited appeal, and

(ii) except as provided in subparagraph (B), 30 business days after such time (or, if the participant, beneficiary, or enrollee supplies additional information that was not available to the plan or issuer at the time of the receipt of the appeal, after the date of supplying such additional information) in the case of all other appeals.

(B) Extension.—In the case of an appeal that does not relate to a decision regarding an expedited appeal and that does not involve medical exigencies, if a group health plan or health insurance issuer is unable to conclude the appeal within the time period provided under subparagraph (A)(ii) due to circumstances beyond the control of the plan or issuer, the deadline shall be extended for up to an additional 10 business days if the plan or issuer provides, on or before 10 days before the deadline otherwise applicable, written notice to the participant, beneficiary, or enrollee and the provider involved of the extension and the reasons for the extension.

(4) Notice.—If a plan or issuer denies an appeal, the plan or issuer shall provide the participant, beneficiary, or enrollee and provider involved with notice in printed form of the denial and the reasons therefore, together with a notice in printed form of rights to any further appeal.

(c) Expedited Review Process.—

(1) In general.—A group health plan, and a health insurance issuer, shall establish procedures in writing for the expedited consideration of appeals under subsection (b) in situations in which the application of the normal timeframe for making a determination could seriously jeopardize the life or health of the participant, beneficiary, or enrollee or such an individual's ability to regain maximum function.

(2) Process.—Under such procedures—

(A) the request for expedited appeal may be submitted orally or in writing by an individual or provider who is otherwise entitled to request the appeal;

(B) all necessary information, including the plan's or issuer's decision, shall be transmitted between the plan or issuer and the requester by telephone, facsimile, or other similarly expeditious available method; and

(C) the plan or issuer shall expedite the appeal if the request for an expedited appeal is submitted under subparagraph (A) by a physician and the request indicates that the situation described in paragraph (1) exists.

(d) Direct Use of Further Appeals.—In the event that the plan or issuer fails to comply with any of the deadlines for completion of appeals under this section or in the event that the plan or issuer for any reason expressly waives its rights to an internal review of an appeal under subsection (b), the participant, beneficiary, or enrollee involved and the provider involved shall be relieved of any obligation to complete the appeal involved and may, at such an individual's or provider's option, proceed directly to seek further appeal through any applicable external appeals process.

SEC. 133. EXTERNAL APPEALS OF ADVERSE DETERMINATIONS.

(a) Right to External Appeal.—

(1) In general.—A group health plan, and a health insurance issuer offering group health insurance coverage, shall provide for an external appeals process that meets the requirements of this section in the case of an externally appealable decision described in paragraph (2). The appropriate Secretary shall establish standards to carry out such requirements.

(2) Externally appealable decision defined.—For purposes of this section, the term "externally appealable decision" means an appealable decision (as defined in section 132(a)(2)) if—

(A) the amount involved exceeds a significant threshold; or

(B) the patient's life or health is jeopardized as a consequence of the decision.

Such term does not include a denial of coverage for services that are specifically listed in plan or coverage documents as excluded from coverage.

(3) Exhaustion of internal appeals process.—A plan or issuer may condition the use of an external appeal process in the case of an externally appealable decision upon completion of the internal review process provided under section 132, but only if the decision is made in a timely basis consistent with the deadlines provided under this chapter.

(b) General Elements of External Appeals Process.—

(1) Contract with qualified external appeal entity.—

(A) Contract requirement.—Subject to subparagraph (B), the external appeal process under this section of a plan or issuer shall be conducted under a contract between the plan or issuer and one or more qualified external appeal entities (as defined in subsection (c)).

(B) Restrictions on qualified external appeal entity.—

(i) By state for health insurance issuers.—With respect to health insurance issuers in a State, the State may provide for external review activities to be conducted by a qualified external appeal entity that is designated by the State or that is selected by the State in such a manner as to assure an unbiased determination.

(ii) By federal government for group health plans.—With respect to group health plans, the appropriate Secretary may exercise the same authority as a State may exercise with respect to health insurance issuers under clause (i). Such authority may include requiring the use of the qualified external appeal entity designated or selected under such clause.

(iii) Limitation on plan or issuer selection.—If an applicable authority permits more than one entity to qualify as a qualified external appeal entity with respect to a group health plan or health insurance issuer and the plan or issuer may select among such qualified entities, the applicable authority—

(I) shall assure that the selection process will not create any incentives for external appeal entities to make a decision in a biased manner, and

(II) shall implement a procedures for auditing a sample of decisions by such entities to assure that no such decisions are made in a biased manner.

(C) Other terms and conditions.—The terms and conditions of a contract under this paragraph shall be consistent with the standards the appropriate Secretary shall establish to assure there is no real or apparent conflict of interest in the conduct of external appeal activities. Such contract shall provide that the direct costs of the process (not including costs of representation of a participant, beneficiary, or enrollee) shall be paid by the plan or issuer, and not by the participant, beneficiary, or enrollee.

(2) Elements of process.—An external appeal process shall be conducted consistent with standards established by the appropriate Secretary that include at least the following:

(A) Fair process; de novo determination.—The process shall provide for a fair, de novo determination.

(B) Determination concerning externally appealable decisions.—A qualified external appeal entity shall determine whether a decision is an externally appealable decision and related decisions, including—

(i) whether such a decision involves an expedited appeal;

(ii) the appropriate deadlines for internal review process required due to medical exigencies in a case; and

(iii) whether such a process has been completed.

(C) Opportunity to submit evidence, have representation, and make oral presentation.—Each party to an externally appealable decision—

(i) may submit and review evidence related to the issues in dispute,

(ii) may use the assistance or representation of one or more individuals (any of whom may be an attorney), and

(iii) may make an oral presentation.

(D) Provision of information.—The plan or issuer involved shall provide timely access to all its records relating to the matter of the externally appealable decision and to all provisions of the plan or health insurance coverage (including any coverage manual) relating to the matter.

(E) Timely decisions.—A determination by the external appeal entity on the decision shall—

(i) be made orally or in writing and, if it is made orally, shall be supplied to the parties in writing as soon as possible;

(ii) be binding on the plan or issuer;

(iii) be made in accordance with the medical exigencies of the case involved, but in no event later than 60 days (or 72 hours in the case of an expedited appeal) from the date of completion of the filing of notice of external appeal of the decision;

(iv) state, in layperson's language, the basis for the determination, including, if relevant, any basis in the terms or conditions of the plan or coverage; and

(v) inform the participant, beneficiary, or enrollee of the individual's rights to seek further review by the courts (or other process) of the external appeal determination.

(c) Qualifications of External Appeal Entities.—

(1) In general.—For purposes of this section, the term "qualified external appeal entity" means, in relation to a plan or issuer, an entity (which may be a governmental entity) that is certified under paragraph (2) as meeting the following requirements:

(A) There is no real or apparent conflict of interest that would impede the entity conducting external appeal activities independent of the plan or issuer.

(B) The entity conducts external appeal activities through clinical peers.

(C) The entity has sufficient medical, legal, and other expertise and sufficient staffing to conduct external appeal activities for the plan or issuer on a timely basis consistent with subsection (b)(3)(E).

(D) The entity meets such other requirements as the appropriate Secretary may impose.

(2) CERTIFICATION OF EXTERNAL APPEAL ENTITIES.—

(A) IN GENERAL.—In order to be treated as a qualified external appeal entity with respect to—

(i) a group health plan, the entity must be certified (and, in accordance with subparagraph (B), periodically recertified) as meeting the requirements of paragraph (1) by the Secretary of Labor (or under a process recognized or approved by the Secretary of Labor); or

(ii) a health insurance issuer operating in a State, the entity must be certified (and, in accordance with subparagraph (B), periodically recertified) as meeting such requirements by the applicable State authority (or, if the States has not established an adequate certification and recertification process, by the Secretary of Health and Human Services, or under a process recognized or approved by such Secretary).

(B) RECERTIFICATION PROCESS.—The appropriate Secretary shall develop standards for the recertification of external appeal entities. Such standards shall include a specification of—

(i) the information required to be submitted as a condition of recertification on the entity's performance of external appeal activities, which information shall include the number of cases reviewed, a summary of the disposition of those cases, the length of time in making determinations on those cases, and such information as may be necessary to assure the independence of the entity from the plans or issuers for which external appeal activities are being conducted; and

(ii) the periodicity which recertification will be required.

(d) CONTINUING LEGAL RIGHTS OF ENROLLEES.—Nothing in this subtitle shall be construed as removing any legal rights of participants, beneficiaries, enrollees, and others under State or Federal law, including the right to file judicial actions to enforce rights.

CHAPTER 5—PROTECTING THE DOCTOR-PATIENT RELATIONSHIP

SEC. ___141. PROHIBITION OF INTERFERENCE WITH CERTAIN MEDICAL COMMUNICATIONS.

(a) PROHIBITION.—

(1) GENERAL RULE.—The provisions of any contract or agreement, or the operation of any contract or agreement, between a group health plan or health insurance issuer in relation to health insurance coverage (including any partnership, association, or other organization that enters into or administers such a contract or agreement) and a health care provider (or group of health care providers) shall not prohibit or restrict the provider from engaging in medical communications with the provider's patient.

(2) NULLIFICATION.—Any contract provision or agreement described in paragraph (1) shall be null and void.

(b) RULES OF CONSTRUCTION.—Nothing in this section shall be construed—

(1) to prohibit the enforcement, as part of a contract or agreement to which a health care provider is a party, of any mutually agreed upon terms and conditions, including terms and conditions requiring a health care provider to participate in, and cooperate with, all programs, policies, and procedures developed or operated by a group health plan or health insurance issuer to assure, review, or improve the quality and effective utilization of health care services (if such utilization is according to guidelines or protocols that are based on clinical or scientific evidence and the professional judgment of the provider) but only if the guidelines or protocols under such utilization do not prohibit or restrict medical communications between providers and their patients; or

(2) to permit a health care provider to misrepresent the scope of benefits covered under the group health plan or health insurance coverage or to otherwise require a group health plan health insurance issuer to reimburse providers for benefits not covered under the plan or coverage.

(c) MEDICAL COMMUNICATION DEFINED.—In this section:

(1) IN GENERAL.—The term "medical communication" means any communication made by a health care provider with a patient of the health care provider (or the guardian or legal representative of such patient) with respect to—

(A) the patient's health status, medical care, or treatment options;

(B) any utilization review requirements that may affect treatment options for the patient; or

(C) any financial incentives that may affect the treatment of the patient.

(2) MISREPRESENTATION.—The term "medical communication" does not include a communication by a health care provider with a patient of the health care provider (or the guardian or legal representative of such patient) if the communication involves a knowing or willful misrepresentation by such provider.

SEC. ___142. PROHIBITION AGAINST TRANSFER OF INDEMNIFICATION OR IMPROPER INCENTIVE ARRANGEMENTS.

(a) PROHIBITION OF TRANSFER OF INDEMNIFICATION.—

(1) IN GENERAL.—No contract or agreement between a group health plan or health insurance issuer (or any agent acting on behalf of such a plan or issuer) and a health care provider shall contain any provision purporting to transfer to the health care provider by indemnification or otherwise any liability relating to activities, actions, or omissions of the plan, issuer, or agent (as opposed to the provider).

(2) NULLIFICATION.—Any contract or agreement provision described in paragraph (1) shall be null and void.

(b) PROHIBITION OF IMPROPER PHYSICIAN INCENTIVE PLANS.—

(1) IN GENERAL.—A group health plan and a health insurance issuer offering health insurance coverage may not operate any physician incentive plan (as defined in subparagraph (B) of section 1876(i)(8) of the Social Security Act) unless the requirements described in subparagraph (A) of such section are met with respect to such a plan.

(2) APPLICATION.—For purposes of carrying out paragraph (1), any reference in section 1876(i)(8) of the Social Security Act to the Secretary, an eligible organization, or an individual enrolled with the organization shall be treated as a reference to the applicable authority, a group health plan or health insurance issuer, respectively, and a participant, beneficiary, or enrollee with the plan or organization, respectively.

SEC. ___143. ADDITIONAL RULES REGARDING PARTICIPATION OF HEALTH CARE PROFESSIONALS.

(a) PROCEDURES.—Insofar as a group health plan, or health insurance issuer that offers health insurance coverage, provides benefits through participating health care professionals, the plan or issuer shall establish reasonable procedures relating to the participation (under an agreement between a professional and the plan or issuer) of such professionals under the plan or coverage. Such procedures shall include—

(1) providing notice of the rules regarding participation;

(2) providing written notice of participation decisions that are adverse to professionals; and

(3) providing a process within the plan or issuer for appealing such adverse decisions, including the presentation of information and views of the professional regarding such decision.

(b) CONSULTATION IN MEDICAL POLICIES.—A group health plan, and health insurance issuer that offers health insurance coverage, shall consult with participating physicians (if any) regarding the plan's or issuer's medical policy, quality, and medical management procedures.

SEC. ___144. PROTECTION FOR PATIENT ADVOCACY.

(a) PROTECTION FOR USE OF UTILIZATION REVIEW AND GRIEVANCE PROCESS.—A group health plan, and a health insurance issuer with respect to the provision of health insurance coverage, may not retaliate against a participant, beneficiary, enrollee, or health care provider based on the participant's, beneficiary's, enrollee's or provider's use of, or participation in, a utilization review process or a grievance process of the plan or issuer (including an internal or external review or appeal process) under this subtitle.

(b) PROTECTION FOR QUALITY ADVOCACY BY HEALTH CARE PROFESSIONALS.—

(1) IN GENERAL.—A group health plan or health insurance issuer may not retaliate or discriminate against a protected health care professional because the professional in good faith—

(A) discloses information relating to the care, services, or conditions affecting one or more participants, beneficiaries, or enrollees of the plan or issuer to an appropriate public regulatory agency, an appropriate private accreditation body, or appropriate management personnel of the plan or issuer; or

(B) initiates, cooperates, or otherwise participates in an investigation or proceeding by such an agency with respect to such care, services, or conditions.

If an institutional health care provider is a participating provider with such a plan or issuer or otherwise receives payments for benefits provided by such a plan or issuer, the provisions of the previous sentence shall apply to the provider in relation to care, services, or conditions affecting one or more patients within an institutional health care provider in the same manner as they apply to the plan or issuer in relation to care, services, or conditions provided to one or more participants, beneficiaries, or enrollees; and for purposes of applying this sentence, any reference to a plan or issuer is deemed a reference to the institutional health care provider.

(2) GOOD FAITH ACTION.—For purposes of paragraph (1), a protected health care professional is considered to be acting in good faith with respect to disclosure of information or participation if, with respect to the information disclosed as part of the action—

(A) the disclosure is made on the basis of personal knowledge and is consistent with that degree of learning and skill ordinarily possessed by health care professionals with the same licensure or certification and the same experience;

(B) the professional reasonably believes the information to be true;

(C) the information evidences either a violation of a law, rule, or regulation, of an applicable accreditation standard, or of a generally recognized professional or clinical standard or that a patient is in imminent hazard of loss of life or serious injury; and

(D) subject to subparagraphs (B) and (C) of paragraph (3), the professional has followed reasonable internal procedures of the plan, issuer, or institutional health care provider established or the purpose of addressing quality concerns before making the disclosure.

(3) EXCEPTION AND SPECIAL RULE.—

(A) GENERAL EXCEPTION.—Paragraph (1) does not protect disclosures that would violate Federal or State law or diminish or impair the rights of any person to the continued protection of confidentiality of communications provided by such law.

(B) NOTICE OF INTERNAL PROCEDURES.—Subparagraph (D) of paragraph (2) shall not apply unless the internal procedures involved are reasonably expected to be known to the health care professional involved. For purposes of this subparagraph, a health care professional is reasonably expected to know of internal procedures if those procedures have been made available to the professional through distribution or posting.

(C) INTERNAL PROCEDURE EXCEPTION.—Subparagraph (D) of paragraph (2) also shall not apply if—

(i) the disclosure relates to an imminent hazard of loss of life or serious injury to a patient;

(ii) the disclosure is made to an appropriate private accreditation body pursuant to disclosure procedures established by the body; or

(iii) the disclosure is in response to an inquiry made in an investigation or proceeding of an appropriate public regulatory agency and the information disclosed is limited to the scope of the investigation or proceeding.

(4) ADDITIONAL CONSIDERATIONS.—It shall not be a violation of paragraph (1) to take an adverse action against a protected health care professional if the plan, issuer, or provider taking the adverse action involved demonstrates that it would have taken the same adverse action even in the absence of the activities protected under such paragraph.

(5) NOTICE.—A group health plan, health insurance issuer, and institutional health care provider shall post a notice, to be provided or approved by the Secretary of Labor, setting forth excerpts from, or summaries of, the pertinent provisions of this subsection and information pertaining to enforcement of such provisions.

(6) CONSTRUCTIONS.—

(A) DETERMINATIONS OF COVERAGE.—Nothing in this subsection shall be construed to prohibit a plan or issuer from making a determination not to pay for a particular medical treatment or service or the services of a type of health care professional.

(B) ENFORCEMENT OF PEER REVIEW PROTOCOLS AND INTERNAL PROCEDURES.—Nothing in this subsection shall be construed to prohibit a plan, issuer, or provider from establishing and enforcing reasonable peer review or utilization review protocols or determining whether a protected health care professional has complied with those protocols or from establishing and enforcing internal procedures for the purpose of addressing quality concerns.

(C) RELATION TO OTHER RIGHTS.—Nothing in this subsection shall be construed to abridge rights of participants, beneficiaries, enrollees, and protected health care professionals under other applicable Federal or State laws.

(7) PROTECTED HEALTH CARE PROFESSIONAL DEFINED.—For purposes of this subsection, the term "protected health care professional" means an individual who is a licensed or certified health care professional and who—

(A) with respect to a group health plan or health insurance issuer, is an employee of the plan or issuer or has a contract with the plan or issuer for provision of services for which benefits are available under the plan or issuer; or

(B) with respect to an institutional health care provider, is an employee of the provider or has a contract or other arrangement with the provider respecting the provision of health care services.

CHAPTER 6—PROMOTING GOOD MEDICAL PRACTICE

SEC. 151. PROMOTING GOOD MEDICAL PRACTICE.

(a) PROHIBITING ARBITRARY LIMITATIONS OR CONDITIONS FOR THE PROVISION OF SERVICES.—

(1) IN GENERAL.—A group health plan, and a health insurance issuer in connection with the provision of health insurance coverage, may not arbitrarily interfere with or alter the decision of the treating physician regarding the manner or setting in which particular services are delivered if the services are medically necessary or appropriate for treatment or diagnosis to the extent that such treatment or diagnosis is otherwise a covered benefit.

(2) CONSTRUCTION.—Paragraph (1) shall not be construed as prohibiting a plan or issuer from limiting the delivery of services to one or more health care providers within a network of such providers.

(3) MANNER OR SETTING DEFINED.—In paragraph (1), the term "manner or setting" means the location of treatment, such as whether treatment is provided on an inpatient or outpatient basis, and the duration of treatment, such as the number of days in a hospital, Such term does not include the coverage of a particular service or treatment.

(b) NO CHANGE IN COVERAGE.—Subsection (a) shall not be construed as requiring coverage of particular services the coverage of which is otherwise not covered under the terms of the plan or coverage or from conducting utilization review activities consistent with this subsection.

(c) MEDICAL NECESSITY OR APPROPRIATENESS DEFINED.—In subsection (a), the term "medically necessary or appropriate" means, with respect to a service or benefit, a service or benefit which is consistent with generally accepted principles of professional medical practice.

SEC. 152. STANDARDS RELATING TO BENEFITS FOR CERTAIN BREAST CANCER TREATMENT.

(a) INPATIENT CARE.—

(1) IN GENERAL.—A group health plan, and a health insurance issuer offering group health insurance coverage, that provides medical and surgical benefits shall ensure that inpatient coverage with respect to the treatment of breast cancer is provided for a period of time as is determined by the attending physician, in his or her professional judgment consistent with generally accepted medical standards, in consultation with the patient, to be medically appropriate following—

(A) a mastectomy;

(B) a lumpectomy; or

(C) a lymph node dissection for the treatment of breast cancer.

(2) EXCEPTION.—Nothing in this section shall be construed as requiring the provision of inpatient coverage if the attending physician and patient determine that a shorter period of hospital stay is medically appropriate.

(b) PROHIBITIONS.—A group health plan, and a health insurance issuer offering group health insurance coverage in connection with a group health plan, may not—

(1) deny to a woman eligibility, or continued eligibility, to enroll or to renew coverage under the terms of the plan, solely for the purpose of avoiding the requirements of this section;

(2) provide monetary payments or rebates to women to encourage such women to accept less than the minimum protections available under this section;

(3) penalize or otherwise reduce or limit the reimbursement of an attending provider because such provider provided care to an individual participant or beneficiary in accordance with this section;

(4) provide incentives (monetary or otherwise) to an attending provider to induce such provider to provide care to an individual participant or beneficiary in a manner inconsistent with this section; or

(5) subject to subsection (c)(3), restrict benefits for any portion of a period within a hospital length of stay required under subsection (a) in a manner which is less favorable than the benefits provided for any preceding portion of such stay.

(c) RULES OF CONSTRUCTION.—

(1) Nothing in this section shall be construed to require a woman who is a participant or beneficiary—

(A) to undergo a mastectomy or lymph node dissection in a hospital; or

(B) to stay in the hospital for a fixed period of time following a mastectomy or lymph node dissection.

(2) This section shall not apply with respect to any group health plan, or any group health insurance coverage offered by a health insurance issuer, which does not provide benefits for hospital lengths of stay in connection with a mastectomy or lymph node dissection for the treatment of breast cancer.

(3) Nothing in this section shall be construed as preventing a group health plan or issuer from imposing deductibles, coinsurance, or other cost-sharing in relation to benefits for hospital lengths of stay in connection with a mastectomy or lymph node dissection for the treatment of breast cancer under the plan (or under health insurance coverage offered in connection with a group health plan), except that such coinsurance or other cost-sharing for any portion of a period within a hospital length of stay required under subsection (a) may not be greater than such coinsurance or cost-sharing for any preceding portion of such stay.

(d) LEVEL AND TYPE OF REIMBURSEMENTS.—Nothing in this section shall be construed to prevent a group health plan or a health insurance issuer offering group health insurance coverage from negotiating the level and type of reimbursement with a provider for care provided in accordance with this section.

(e) EXCEPTION FOR HEALTH INSURANCE COVERAGE IN CERTAIN STATES.—

(1) IN GENERAL.—The requirements of this section shall not apply with respect to health insurance coverage if there is a State law (as defined in section 2723(d)(1) of the Public Health Service Act) for a State that regulates such coverage that is described in any of the following subparagraphs:

(A) Such State law requires such coverage to provide for at least a 48-hour hospital length of stay following a mastectomy performed for treatment of breast cancer and at least a 24-hour hospital length of stay following a lymph node dissection for treatment of breast cancer.

(B) Such State law requires, in connection with such coverage for surgical treatment of breast cancer, that the hospital length of stay for such care is left to the decision of (or required to be made by) the attending provider in consultation with the woman involved.

(2) CONSTRUCTION.—Section 2723(a)(1) of the Public Health Service Act and section 731(a)(1) of the Employee Retirement Income Security Act of 1974 shall not be construed as superseding a State law described in paragraph (1).

SEC. 153. STANDARDS RELATING TO BENEFITS FOR RECONSTRUCTIVE BREAST SURGERY.

(a) REQUIREMENTS FOR RECONSTRUCTIVE BREAST SURGERY.—

(1) IN GENERAL.—A group health plan, and a health insurance issuer offering group health insurance coverage, that provides coverage for breast surgery in connection with a mastectomy shall provide coverage for reconstructive breast surgery resulting from the mastectomy. Such coverage shall include coverage for all stages of reconstructive breast surgery performed on a nondiseased breast to establish symmetry with the diseased when reconstruction on the diseased breast is performed and coverage of prostheses and complications of mastectomy including lymphedema.

(2) RECONSTRUCTIVE BREAST SURGERY DEFINED.—In this section, the term "reconstructive breast surgery" means surgery performed as a result of a mastectomy to reestablish symmetry between two breasts, and includes augmentation mammoplasty, reduction mammoplasty, and mastopexy.

(3) MASTECTOMY DEFINED.—In this section, the term "mastectomy" means the surgical removal of all or part of a breast.

(b) PROHIBITIONS.—

(1) DENIAL OF COVERAGE BASED ON COSMETIC SURGERY.—A group health plan, and a health insurance issuer offering group health insurance coverage in connection with a group health plan, may not deny coverage described in subsection (a)(1) on the basis that the coverage is for cosmetic surgery.

(2) APPLICATION OF SIMILAR PROHIBITIONS.—Paragraphs (2) through (5) of section 152 shall apply under this section in the same manner as they apply with respect to section 152.

(c) RULES OF CONSTRUCTION.—

(1) Nothing in this section shall be construed to require a woman who is a participant or beneficiary to undergo reconstructive breast surgery.

(2) This section shall not apply with respect to any group health plan, or any group health insurance coverage offered by a health insurance issuer, which does not provide benefits for mastectomies.

(3) Nothing in this section shall be construed as preventing a group health plan or issuer from imposing deductibles, coinsurance, or other cost-sharing in relation to benefits for reconstructive breast surgery under the plan (or under health insurance coverage offered in connection with a group health plan), except that such coinsurance or other cost-sharing for any portion may not be greater than such coinsurance or cost-sharing that is otherwise applicable with respect to benefits for mastectomies.

(e) LEVEL AND TYPE OF REIMBURSEMENTS.—Nothing in this section shall be construed to prevent a group health plan or a health insurance issuer offering group health insurance coverage from negotiating the level and type of reimbursement with a provider for care provided in accordance with this section.

(f) EXCEPTION FOR HEALTH INSURANCE COVERAGE IN CERTAIN STATES.—

(1) IN GENERAL.—The requirements of this section shall not apply with respect to health insurance coverage if there is a State law (as defined in section 2723(d)(1) of the Public Health Service Act) for a State that regulates such coverage and that requires coverage of at least the coverage of reconstructive breast surgery otherwise required under this section.

(2) CONSTRUCTION.—Section 2723(a)(1) of the Public Health Service Act and section 731(a)(1) of the Employee Retirement Income Security Act of 1974 shall not be construed as superseding a State law described in paragraph (1).

CHAPTER 7—DEFINITIONS

SEC. 191. DEFINITIONS.

(a) INCORPORATION OF GENERAL DEFINITIONS.—The provisions of section 2971 of the Public Health Service Act shall apply for purposes of this subtitle in the same manner as they apply for purposes of title XXVII of such Act.

(b) SECRETARY.—Except as otherwise provided, the term "Secretary" means the Secretary of Health and Human Services, in consultation with the Secretary of Labor and the Secretary of the Treasury and the term "appropriate Secretary" means the Secretary of Health and Human Services in relation to carrying out this subtitle under sections 2706 and 2751 of the Public Health Service Act, the Secretary of Labor in relation to carrying out this subtitle under section 713 of the Employee Retirement Income Security Act of 1974, and the Secretary of the Treasury in relation to carrying out this subtitle under chapter 100 and section 4980D of the Internal Revenue Code of 1986.

(c) ADDITIONAL DEFINITIONS.—For purposes of this subtitle:

(1) APPLICABLE AUTHORITY.—The term "applicable authority" means—

(A) in the case of a group health plan, the Secretary of Health and Human Services and the Secretary of Labor; and

(B) in the case of a health insurance issuer with respect to a specific provision of this subtitle, the applicable State authority (as defined in section 2791(d) of the Public Health Service Act), or the Secretary of Health and Human Services, if such Secretary is enforcing such provision under section 2722(a)(2) or 2761(a)(2) of the Public Health Service Act.

(2) CLINICAL PEER.—The term "clinical peer" means, with respect to a review or appeal, a physician (allopathic or osteopathic) or other health care professional who holds a non-restricted license in a State and who is appropriately credentialed in the same or similar specialty as typically manages the medical condition, procedure, or treatment under review or appeal and includes a pediatric specialist where appropriate; except that only a physician may be a clinical peer with respect to the review or appeal of treatment rendered by a physician.

(3) HEALTH CARE PROVIDER.—The term "health care provider" includes a physician or other health care professional, as well as an institutional provider of health care services.

(4) NONPARTICIPATING.—The term "nonparticipating" means, with respect to a health care provider that provides health care items and services to a participant, beneficiary, or enrollee under group health plan or health insurance coverage, a health care provider that is not a participating health care provider with respect to such items and services.

(5) PARTICIPATING.—The term "participating" mean, with respect to a health care provider that provides health care items and services to a participant, beneficiary, or enrollee under group health plan or health insurance coverage offered by a health insurance issuer, a health care provider that furnishes such items and services under a contract or other arrangement with the plan or issuer.

SEC. 192. PREEMPTION; STATE FLEXIBILITY; CONSTRUCTION.

(a) CONTINUED APPLICABILITY OF STATE LAW WITH RESPECT TO HEALTH INSURANCE ISSUERS.—

(1) IN GENERAL.—Subject to paragraph (2), this subtitle shall not be construed to supersede any provision of State law which establishes, implements, or continues in effect any standard or requirement solely relating to health insurance issuers in connection with group health insurance coverage except to the extent that such standard or requirement prevents the application of a requirement of this subtitle.

(2) CONTINUED PREEMPTION WITH RESPECT TO GROUP HEALTH PLANS.—Nothing in this subtitle shall be construed to affect or modify the provisions of section 514 of the Employee Retirement Income Security Act of 1974 with respect to group health plans.

(b) RULES OF CONSTRUCTION.—Except as provided in sections 152 and 153, nothing in this subtitle shall be construed as requiring a group health plan or health insurance coverage to provide specific benefits under the terms of such plan or coverage.

(c) DEFINITIONS.—For purposes of this section:

(1) STATE LAW.—The term "State law" includes all laws, decisions, rules, regulations, or other State action having the effect of law, of any State. A law of the United States applicable only to the District of Columbia shall be treated as a State law rather than a law of the United States.

(2) STATE.—The term "State" includes a State, the Northern Mariana Islands, any political subdivisions of a State or such Islands, or any agency or instrumentality of either.

SEC. 193. REGULATIONS.

The Secretaries of Health and Human Services, Labor, and the Treasury shall issue such regulations as may be necessary or appropriate to carry out this subtitle. Such regulations shall be issued consistent with section 104 of Health Insurance Portability and Accountability Act of 1996. Such Secretaries may promulgate any interim final rules as the Secretaries determine are appropriate to carry out this subtitle.

Subtitle B—Application of Patient Protection Standards to Group Health Plans and Health Insurance Coverage Under Public Health Service Act

SEC. 201. APPLICATION TO GROUP HEALTH PLANS AND GROUP HEALTH INSURANCE COVERAGE.

(a) IN GENERAL.—Subpart 2 of part A of title XXVII of the Public Health Service Act is amended by adding at the end the following new section:

"SEC. 2706. PATIENT PROTECTION STANDARDS.

"(a) IN GENERAL.—Each group health plan shall comply with patient protection requirements under subtitle A of the Patients'

Bill of Rights Act of 1998, and each health insurance issuer shall comply with patient protection requirements under such subtitle with respect to group health insurance coverage it offers, and such requirements shall be deemed to be incorporated into this subsection.

"(b) NOTICE.—A group health plan shall comply with the notice requirement under section 711(d) of the Employee Retirement Income Security Act of 1974 with respect to the requirements referred to in subsection (a) and a health insurance issuer shall comply with such notice requirement as if such section applied to such issuer and such issuer were a group health plan.".

(b) CONFORMING AMENDMENT.—Section 2721(b)(1)(A) of such Act (42 U.S.C. 300gg-21(b)(1)(A)) is amended by inserting "(other than section 2706)" after "requirements of such subparts".

SEC. 202. APPLICATION TO INDIVIDUAL HEALTH INSURANCE COVERAGE.

Part B of title XXVII of the Public Health Service Act is amended by inserting after section 2751 the following new section:

"SEC. 2752. PATIENT PROTECTION STANDARDS.

"(a) IN GENERAL.—Each health insurance issuer shall comply with patient protection requirements under subtitle A of the Patients' Bill of Rights Act of 1998 with respect to individual health insurance coverage it offers, and such requirements shall be deemed to be incorporated into this subsection.

"(b) NOTICE.—A health insurance issuer under this part shall comply with the notice requirement under section 711(d) of the Employee Retirement Income Security Act of 1974 with respect to the requirements of such subtitle as if such section applied to such issuer and such issuer were a group health plan.".

Subtitle C—Amendments to the Employee Retirement Income Security Act of 1974

SEC. 301. APPLICATION OF PATIENT PROTECTION STANDARDS TO GROUP HEALTH PLANS AND GROUP HEALTH INSURANCE COVERAGE UNDER THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

(a) IN GENERAL.—Subpart B of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 is amended by adding at the end the following new section:

"SEC. 713. PATIENT PROTECTION STANDARDS.

"(a) IN GENERAL.—Subject to subsection (b), a group health plan (and a health insurance issuer offering group health insurance coverage in connection with such a plan) shall comply with the requirements of subtitle A of the Patients' Bill of Rights Act of 1998 (as in effect as of the date of the enactment of such Act), and such requirements shall be deemed to be incorporated into this subsection.

"(b) PLAN SATISFACTION OF CERTAIN REQUIREMENTS.—

"(1) SATISFACTION OF CERTAIN REQUIREMENTS THROUGH INSURANCE.—For purposes of subsection (a), insofar as a group health plan provides benefits in the form of health insurance coverage through a health insurance issuer, the plan shall be treated as meeting the following requirements of subtitle A of the Patients' Bill of Rights Act of 1998 with respect to such benefits and not be considered as failing to meet such requirements because of a failure of the issuer to meet such requirements so long as the plan sponsor or its representatives did not cause such failure by the issuer:

"(A) section 101 (relating to access to emergency care).

"(B) Section 102(a)(1) (relating to offering option to purchase point-of-service coverage), but only insofar as the plan is meeting such requirement through an agreement with the issuer to offer the option to purchase point-of-service coverage under such section.

"(C) Section 103 (relating to choice of providers).

"(D) Section 104 (relating to access to specialty care).

"(E) Section 105(a)(1) (relating to continuity in case of termination of provider contract) and section 105(a)(2) (relating to continuity in case of termination of issuer contract), but only insofar as a replacement issuer assumes the obligation for continuity of care.

"(F) section 106 (relating to coverage for individuals participating in approved clinical trials.)

"(G) section 107 (relating to access to needed prescription drugs).

"(H) Section 108 (relating to adequacy of provider network).

"(I) Chapter 2 (relating to quality assurance).

"(J) Section 143 (relating to additional rules regarding participation of health care professionals).

"(K) Section 152 (relating to standards relating to benefits for certain breast cancer treatment).

"(L) Section 153 (relating to standards relating to benefits for reconstructive breast surgery).

"(2) INFORMATION.—With respect to information required to be provided or made available under section 121, in the case of a group health plan that provides benefits in the form of health insurance coverage through a health insurance issuer, the Secretary shall determine the circumstances under which the plan is not required to provide or make available the information (and is not liable for the issuer's failure to provide or make available the information), if the issuer is obligated to provide and make available (or provides and makes available) such information.

"(3) GRIEVANCE AND INTERNAL APPEALS.—With respect to the grievance system and internal appeals process required to be established under sections 131 and 132, in the case of a group health plan that provides benefits in the form of health insurance coverage through a health insurance issuer, the Secretary shall determine the circumstances under which the plan is not required to provide for such system and process (and is not liable for the issuer's failure to provide for such system and process), if the issuer is obligated to provide for (and provides for) such system and process.

"(4) EXTERNAL APPEALS.—Pursuant to rules of the Secretary, insofar as a group health plan enters into a contract with a qualified external appeal entity for the conduct of external appeal activities in accordance with section 133, the plan shall be treated as meeting the requirement of such section and is not liable for the entity's failure to meet any requirements under such section.

"(5) APPLICATION TO PROHIBITIONS.—Pursuant to rules of the Secretary, if a health insurance issuer offers health insurance coverage in connection with a group health plan and takes an action in violation of any of the following sections, the group health plan shall not be liable for such violation unless the plan caused such violation:

"(A) Section 109 (relating to nondiscrimination in delivery of services).

"(B) Section 141 (relating to prohibition of interference with certain medical communications).

"(C) Section 142 (relating to prohibition against transfer of indemnification or improper incentive arrangements).

"(D) Section 144 (relating to prohibition on retaliation).

"(E) Section 151 (relating to promoting good medical practice).

"(6) CONSTRUCTION.—Nothing in this subsection shall be construed to affect or modify the responsibilities of the fiduciaries of a group health plan under part 4 of subtitle B.

"(7) APPLICATION TO CERTAIN PROHIBITIONS AGAINST RETALIATION.—With respect to compliance with the requirements of section 144(b)(1) of the Patients' Bill of Rights Act of 1998, for purposes of this subtitle the term 'group health plan' is deemed to include a reference to an institutional health care provider.

"(c) ENFORCEMENT OF CERTAIN REQUIREMENTS.—

"(1) COMPLAINTS.—Any protected health care professional who believes that the professional has been retaliated or discriminated against in violation of section 144(b)(1) of the Patients' Bill of Rights Act of 1998 may file with the Secretary a complaint within 180 days of the date of the alleged retaliation or discrimination.

"(2) INVESTIGATION.—The Secretary shall investigate such complaints and shall determine if a violation of such section has occurred and, if so, shall issue an order to ensure that the protected health care professional does not suffer any loss of position, pay, or benefits in relation to the plan, issuer, or provider involved, as a result of the violation found by the Secretary.

"(d) CONFORMING REGULATIONS.—The Secretary may issue regulations to coordinate the requirements on group health plans under this section with the requirements imposed under the other provisions of this title.".

(b) SATISFACTION OF ERISA CLAIMS PROCEDURE REQUIREMENT.—Section 503 of such Act (29 U.S.C. 1133) is amended by inserting "(a)" after "SEC. 503." and by adding at the end the following new subsection:

"(b) In the case of a group health plan (as defined in section 733) compliance with the requirements of chapter 4 (and section 115) of subtitle A of the Patients' Bill of Rights Act of 1998 in the case of a claims denial shall be deemed compliance with subsection (a) with respect to such claims denial.".

(c) CONFORMING AMENDMENTS.—(1) Section 732(a) of such Act (29 U.S.C. 1185(a)) is amended by striking "section 711" and inserting "sections 711 and 713".

(2) The table of contents in section 1 of such Act is amended by inserting after the item relating to section 712 the following new item:

"Sec. 713. Patient protection standards.".

(3) Section 502(b)(3) of such Act (29 U.S.C. 1132(b)(3)) is amended by inserting "(other than section 144(b))" after "part 7".

SEC. 302. ERISA PREEMPTION NOT TO APPLY TO CERTAIN ACTIONS INVOLVING HEALTH INSURANCE POLICYHOLDERS.

(a) IN GENERAL.—Section 514 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144) is amended by adding at the end the following subsection:

"(e) PREEMPTION NOT TO APPLY TO CERTAIN ACTIONS ARISING OUT OF PROVISION OF HEALTH BENEFITS.—

"(1) IN GENERAL.—Except as provided in this subsection, nothing in this title shall be construed to invalidate, impair, or supersede any cause of action brought by a plan participant or beneficiary (or the estate of a plan participant or beneficiary) under State law to recover damages resulting from personal injury or for wrongful death against any person—

"(A) in connection with the provision of insurance, administrative services, or medical services by such person to or for a group health plan (as defined in section 733), or

"(B) that arises out of the arrangement by such person for the provision of such insurance, administrative services, or medical services by other persons.

For purposes of this subsection, the term 'personal injury' means a physical injury and includes an injury arising out of the treatment (or failure to treat) a mental illness or disease.

"(2) EXCEPTION FOR EMPLOYERS AND OTHER PLAN SPONSORS.—

"(A) IN GENERAL.—Subject to subparagraph (B), paragraph (1) does not authorize—

"(i) any cause of action against an employer or other plan sponsor maintaining the group health plan (or against an employee of such an employer or sponsor acting within the scope of employment), or

"(ii) a right of recovery or indemnity by a person against an employer or other plan sponsor (or such an employee) for damages assessed against the person pursuant to a cause of action under paragraph (1).

"(B) SPECIAL RULE.—Subparagraph (A) shall not preclude any cause of action described in paragraph (1) against an employer or other plan sponsor (or against an employee of such an employer or sponsor acting within the scope of employment) if—

"(i) such action is based on the employer's or other plan sponsor's (or employee's) exercise of discretionary authority to make a decision on a claim for benefits covered under the plan or health insurance coverage in the case at issue; and

"(ii) the exercise by such employer or other plan sponsor (or employee) of such authority resulted in personal injury or wrongful death.

"(3) CONSTRUCTION.—Nothing in this subsection shall be construed as permitting a cause of action under State law for the failure to provide an item or service which is not covered under the group health plan involved.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to acts and omissions occurring on or after the date of the enactment of this title from which a cause of action arises.

Subtitle D—Application to Group Health Plans Under the Internal Revenue Code of 1986.

SEC. ___ 401. AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986.

Subchapter B of chapter 100 of the Internal Revenue Code of 1986 (as amended by section 1531(a) of the Taxpayer Relief Act of 1997) is amended—

(1) in the table of sections, by inserting after the item relating to section 9812 the following new item:

"Sec. 9813. Standard relating to patient freedom of choice."; and

(2) by inserting after section 9812 the following:

"SEC. 9813. STANDARD RELATING TO PATIENTS' BILL OF RIGHTS.

"A group health plan shall comply with the requirements of subtitle A of the Patients' Bill of Rights Act of 1998 (as in effect as of the date of the enactment of such Act), and such requirements shall be deemed to be incorporated into this section.".

Subtitle E—Effective Dates; Coordination in Implementation

SEC. ___ 501. EFFECTIVE DATES.

(a) GROUP HEALTH COVERAGE.—

(1) IN GENERAL.—Subject to paragraph (2), the amendments made by sections 2201(a) and 2301 (and subtitle A insofar as it relates to such sections) shall apply with respect to group health plans, and health insurance coverage offered in connection with group health plans, for plan years beginning on or after July 1, 1999 (in this section referred to as the "general effective date").

(2) TREATMENT OF COLLECTIVE BARGAINING AGREEMENTS.—In the case of a group health plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified before the date of enactment of this title, the amendments made by sections 2201(a) and 2301 (and subtitle A insofar as it relates to such sections) shall not apply to plan years beginning before the later of—

(A) the date on which the last collective bargaining agreements relating to the plan terminates (determined without regard to any extension thereof agreed to after the date of enactment of this title), or

(B) the general effective date.

For purposes of subparagraph (A), any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by this title shall not be treated as a termination of such collective bargaining agreement.

(b) INDIVIDUAL HEALTH INSURANCE COVERAGE.—The amendments made by section ___ 202 shall apply with respect to individual health insurance coverage offered, sold, issued, renewed, in effect, or operated in the individual market on or after the general effective date.

SEC. ___ 502. COORDINATION IN IMPLEMENTATION.

Section 104(1) of Health Insurance Portability and Accountability Act of 1996 is amended by inserting "or under subtitle A of the Patients' Bill of Rights Act of 1998 (and the amendments made by such title)" after "section 401)".

Subtitle F—Revenue

SEC. ___ 601. EXTENSION OF HAZARDOUS SUBSTANCE SUPERFUND TAXES.

(a) EXTENSION OF TAXES.—

(1) ENVIRONMENTAL TAX.—Section 59A(e) of the Internal Revenue Code of 1986 is amended to read as follows:

"(e) APPLICATION OF TAX.—The tax imposed by this section shall apply to taxable years beginning after December 31, 1986, and before January 1, 1996, and to taxable years beginning after December 31, 1999, and before January 1, 2009."

(2) EXCISE TAXES.—Section 4611(e) of such Code is amended to read as follows:

"(e) APPLICATION OF HAZARDOUS SUBSTANCE SUPERFUND FINANCING RATE.—The Hazardous Substance Superfund financing rate under this section shall apply after December 31, 1986, and before January 1, 1996, and after December 31, 1999, and before October 1, 2008."

(b) EFFECTIVE DATES.—

(1) INCOME TAX.—The amendment made by subsection (a)(1) shall apply to taxable years beginning after December 31, 1999.

(2) EXCISE TAX.—The amendment made by subsection (a)(2) shall take effect on January 1, 2000.

SEC. ___ 602. CLARIFICATION OF DEFINITION OF SPECIFIED LIABILITY LOSS.

(a) IN GENERAL.—Subparagraph (B) of section 172(f)(1) of the Internal Revenue Code of 1986 (defining specified liability loss) is amended to read as follows:

"(B) Any amount (not described in subparagraph (A)) allowable as a deduction under this chapter which is attributable to a liability—

"(i) under a Federal or State law requiring the reclamation of land, decommissioning of a nuclear power plant (or any unit thereof), dismantlement of an offshore drilling platform, remediation of environmental contamination, or payment of workmen's compensation, and

"(ii) with respect to which the act (or failure to act) giving rise to such liability occurs at least 3 years before the beginning of the taxable year."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to net operating losses for taxable years beginning after the date of the enactment of this Act.

SEC. ___ 603. PROPERTY SUBJECT TO A LIABILITY TREATED IN SAME MANNER AS ASSUMPTION OF LIABILITY.

(a) REPEAL OF PROPERTY SUBJECT TO A LIABILITY TEST.—

(1) SECTION 357.—Section 357(a) of the Internal Revenue Code of 1986 (relating to assumption of liability) is amended by striking ", or acquires from the taxpayer property subject to a liability" in paragraph (2).

(2) SECTION 358.—Section 358(d)(1) of such Code (relating to assumption of liability) is amended by striking "or acquired from the taxpayer property subject to a liability".

(3) SECTION 368.—

(A) Section 368(a)(1)(C) of such Code is amended by striking ", or the fact that property acquired is subject to a liability,".

(B) The last sentence of section 368(a)(2)(B) of such Code is amended by striking ", and the amount of any liability to which any property acquired from the acquiring corporation is subject,".

(b) CLARIFICATION OF ASSUMPTION OF LIABILITY.—Section 357(c) of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

"(4) DETERMINATION OF AMOUNT OF LIABILITY ASSUMED.—For purposes of this section, section 358(d), section 368(a)(1)(C), and section 368(a)(2)(B)—

"(A) a liability shall be treated as having been assumed to the extent, as determined on the basis of facts and circumstances, the transferor is relieved of such liability or any portion thereof (including through an indemnity agreement or other similar arrangement), and

"(B) in the case of the transfer of any property subject to a nonrecourse liability, unless the facts and circumstances indicate otherwise, the transferee shall be treated as assuming with respect to such property a ratable portion of such liability determined on the basis of the relative fair market values (determined without regard to section 7701(g)) of all assets subject to such liability.

(c) APPLICATION TO PROVISIONS OTHER THAN SUBCHAPTER C.—

(1) SECTION 584.—Section 584(h)(3) of the Internal Revenue Code of 1986 is amended—

(A) by striking ", and the fact that any property transferred by the common trust fund is subject to a liability," in subparagraph (A),

(B) by striking clause (ii) of subparagraph (B) and inserting:

"(ii) ASSUMED LIABILITIES.—For purposes of clause (i), the term 'assumed liabilities' means any liability of the common trust fund assumed by any regulated investment company in connection with the transfer referred to in paragraph (1)(A).

"(C) ASSUMPTION.—For purposes of this paragraph, in determining the amount of any liability assumed, the rules of section 357(c)(4) shall apply."

(2) SECTION 1031.—The last sentence of section 1031(d) of such Code is amended—

(A) by striking "assumed a liability of the taxpayer or acquired from the taxpayer property subject to a liability" and inserting "assumed (as determined under section 357(c)(4)) a liability of the taxpayer", and

(B) by striking "or acquisition (in the amount of the liability)".

(d) CONFORMING AMENDMENTS.—

(1) Section 351(h)(1) of the Internal Revenue Code of 1986 is amended by striking ", or acquires property subject to a liability,".

(2) Section 357 of such Code is amended by striking "or acquisition" each place it appears in subsection (a) or (b).

(3) Section 357(b)(1) of such Code Is amended by striking "or acquired".

(4) Section 357(c)(1) of such Code is amended by striking ", plus the amount of the liabilities to which the property is subject,".

(5) Section 357(c)(3) of such Code is amended by striking "or to which the property transferred is subject".

(6) Section 358(d)(1) of such Code is amended by striking "or acquisition (in the amount of the liability)".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers after the date of the enactment of this Act.

SEC. 604. EXCISE TAX ON PURCHASE OF STRUCTURED SETTLEMENT AGREEMENTS.

(a) IN GENERAL.—Subtitle D of the Internal Revenue Code of 1986 (relating to miscellaneous excise taxes) is amended by adding at the end the following:

"CHAPTER 48—STRUCTURED SETTLEMENT AGREEMENTS

"Sec. 5000A. Tax on purchases of structured settlement agreements.

"SEC. 5000A. TAX ON PURCHASES OF STRUCTURED SETTLEMENT AGREEMENTS.

"(a) IMPOSITION OF TAX.—There is hereby imposed on any person who purchases the right to receive payments under a structured settlement agreement a tax equal to 10 percent of the amount of the purchase price.

"(b) EXCEPTION FOR COURT-ORDERED PURCHASES.—Subsection (a) shall not apply to any purchase which is pursuant to a court order which finds that such purchase is necessary because of the extraordinary and unanticipated needs of the individual with the personal injuries or sickness giving rise to the structured settlement agreement.

"(c) STRUCTURED SETTLEMENT AGREEMENT.—For purposes of this section, the term 'structured settlement agreement' means—

"(1) any right to receive (whether by suit or agreement) periodic payments as damages on account of personal injuries or sickness, or

"(2) any right to receive periodic payments as compensation for personal injuries or sickness under any workmen's compensation act.

"(d) PURCHASE.—For purposes of this section, the term 'purchase' has the meaning given such term by section 179(d)(2)."

(b) CONFORMING AMENDMENT.—The table of chapters for subtitle D of the Internal Revenue Code of 1986 is amended by adding at the end the following:

"CHAPTER 48. Structured settlement agreements."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to purchases after the date of enactment of this Act.

SEC. 605. CLARIFICATION AND EXPANSION OF MATHEMATICAL ERROR ASSESSMENT PROCEDURES.

(a) TIN DEEMED INCORRECT IF INFORMATION ON RETURN DIFFERS WITH AGENCY RECORDS.—Section 6213(g)(2) of the Internal Revenue Code of 1986 (defining mathematical or clerical error) is amended by adding at the end the following flush sentence:

"A taxpayer shall be treated as having omitted a correct TIN for purposes of the preceding sentence if information provided by the taxpayer on the return with respect to the individual whose TIN was provided differs from the information the Secretary obtains from the person issuing the TIN."

(b) EXPANSION OF MATHEMATICAL ERROR PROCEDURES TO CASES WHERE TIN ESTABLISHES INDIVIDUAL NOT ELIGIBLE FOR TAX CREDIT.—Section 6213(g)(2) of the Internal Revenue Code of 1986 is amended by striking "and" at the end of subparagraph (I), by striking the period at the end of the first subparagraph (J) (relating to higher education credit) and inserting a comma, by redesignating the second subparagraph (J) (relating to earned income credit) as subparagraph (K) and by striking the period at the end and inserting ", and", and by adding at the end the following new subparagraph:

"(L) the inclusion of a TIN on a return with respect to an individual for whom a credit is claimed under section 21, 24, or 32 if, on the basis of data obtained by the Secretary from the person issuing the TIN, it is established that the individual does not meet any applicable age requirements for such credit."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

SEC. 606. MODIFICATION TO FOREIGN TAX CREDIT CARRYBACK AND CARRYOVER PERIODS.

(a) IN GENERAL.—Section 904(c) of the Internal Revenue Code of 1986 (relating to limitation on credit) is amended—

(1) by striking "in the second preceding taxable year,", and

(2) by striking "or fifth" and inserting "fifth, sixth, or seventh".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to credits arising in taxable years beginning after December 31, 2001.

SEC. 607. DEPOSIT REQUIREMENTS FOR FUTA TAXES.

(a) IN GENERAL.—Section 6157 of the Internal Revenue Code of 1986 (relating to payment of Federal unemployment tax on quarterly or other time period basis) is amended by adding at the end the following new subsection:

"(d) DEPOSITS OF FUTA TAXES.—

"(1) GENERAL RULE.—Except as otherwise provided in this subsection or in regulations prescribed by the Secretary, the taxes imposed by section 3301 which are attributable to wages paid during any calendar quarter shall be deposited on or before the last day of the first month following the close of such calendar quarter.

"(2) MONTHLY DEPOSIT RULE.—

"(A) IN GENERAL.—In the case of a monthly depositor for any calendar year, the taxes imposed by section 3301 which are attributable to wages paid during any month in such calendar year shall be deposited on or before the last day of the following month.

"(B) MONTHLY DEPOSITOR.—For purposes of subparagraph (A), an employer is a monthly depositor for any calendar year if the employer's liability for taxes imposed by section 3301 for the preceding calendar year was equal to or greater than $1,100. All persons treated as one employer under subsection (a) or (b) shall be treated as one employer for purposes of this subparagraph.

"(C) SAFE HARBOR FOR MONTHLY DEPOSITORS.—No penalties shall be imposed under this title with respect to—

"(i) deposits required under this paragraph for the first month of a calendar quarter if the amount deposited by the last day of the second month of such quarter is at least equal to the lesser of—

"(I) 30 percent of the taxes imposed by section 3301 which are attributable to wages paid during such quarter, or

"(II) 90 percent of the taxes imposed by section 3301 which are attributable to wages paid during the first month of such quarter, and

"(ii) deposits required under this paragraph for the second month of a calendar quarter if the amount deposited by the last day of the third month of such quarter is at least equal to the lesser of—

"(I) 60 percent of the taxes imposed by section 3301 which are attributable to wages paid during such quarter, or

"(II) 90 percent of the taxes imposed by section 3301 which are attributable to wages paid during the first 2 months of such quarter.

"(3) DEPOSIT REQUIRED ONLY ON BANKING DAYS.—If taxes are required to be deposited under this subsection on any day which is not a banking day, such taxes shall be treated as timely deposited if deposited on the first banking day thereafter.

"(4) WAGES.—For purposes of this subsection, the term 'wages' has the meaning given to such term by section 3306(b)."

(b) APPLICATION TO DEPOSITS REQUIRED BY STATE GOVERNMENTS.—

(1) IN GENERAL.—Section 303 of the Social Security Act (42 U.S.C. 503) is amended by adding at the end the following new subsection:

"(k)(1) The State agency charged with the administration of the State law shall provide that any deposit required under the State law to the unemployment fund of the State with respect to wages paid for any month during a calendar year by an employer is required to be made by the last day of the following month if such employer is treated as a monthly depositor for such calendar year for purposes of section 6157(d) of the Internal Revenue Code of 1986 (or if the State so elects, at such other time as is not later than the time provided under subparagraph (C) of section 6157(d)(2) of such Code).

"(2) Whenever the Secretary of Labor, after reasonable notice and opportunity for hearing to the State agency charged with the administration of State law, finds that there is a failure to comply substantially with the requirements of paragraph (1), the Secretary of Labor shall notify such State agency that further payments will not be made to the State until the Secretary is satisfied that there is no longer any such failure. Until the Secretary of Labor is so satisfied, he shall make no further certification to the Secretary of the Treasury with respect to such State."

(2) CONFORMING AMENDMENT.—Section 304(a)(2) of the Social Security Act (42 U.S.C. 504(a)(2)) is amended by striking "or (j)" and inserting "(j), or (k)".

(c) CONFORMING AMENDMENTS.—

(1) The last sentence of section 6157(a) of the Internal Revenue Code of 1986 is amended by striking "and such time".

(2) Section 6157(b) of such Code is amended by striking "referred to in paragraph (1) or (2) of subsection (a)".

(d) Effective Date.—The amendments made by this section shall apply to months beginning after December 31, 2003.

SEC. 608. INFORMATION REQUIREMENTS.

(a) Information From Group Health Plans.—Section 1862(b) of the Social Security Act (42 U.S.C. 1395y(b)) is amended by adding at the end the following:

"(7) Information from group health plans.—

"(A) Provision of information by group health plans.—The administrator of a group health plan subject to the requirements of paragraph (1) shall provide to the Secretary such of the information elements described in subparagraph (C) as the Secretary specifies, and in such manner and at such times as the Secretary may specify (but not more frequently than four times per year), with respect to each individual covered under the plan who is entitled to any benefits under this title.

"(B) Provision of information by employers and employee organizations.—An employer (or employee organization) that maintains or participates in a group health plan subject to the requirements of paragraph (1) shall provide to the administrator of the plan such of the information elements required to be provided under subparagraph (A), and in such manner and at such times as the Secretary may specify, at a frequency consistent with that required under subparagraph (A) with respect to each individual described in subparagraph (A) who is covered under the plan by reason of employment with that employer or membership in the organization.

"(C) Information elements.—The information elements described in this subparagraph are the following:

"(i) Elements concerning the individual.—

"(I) The individual's name.

"(II) The individual's date of birth.

"(III) The individual's sex.

"(IV) The individual's social security insurance number.

"(V) The number assigned by the Secretary to the individual for claims under this title.

"(VI) The family relationship of the individual to the person who has or had current or employment status with the employer.

"(ii) Elements concerning the family member with current or former employment status.—

"(I) The name of the person in the individual's family who has current or former employment status with the employer.

"(II) That person's social security insurance number.

"(III) The number or other identifier assigned by the plan to that person.

"(IV) The periods of coverage for that person under the plan.

"(V) The employment status of that person (current or former) during those periods of coverage.

"(VI) The classes (of that person's family members) covered under the plan.

"(iii) Plan elements.—

"(I) The items and services covered under the plan.

"(II) The name and address to which claims under the plan are to be sent.

"(iv) Elements concerning the employer.—

"(I) The employer's name.

"(II) The employer's address.

"(III) The employer identification number of the employer.

"(D) Use of identifiers.—The administrator of a group health plan shall utilize a unique identifier for the plan in providing information under subparagraph (A) and in other transactions, as may be specified by the Secretary, related to the provisions of this subsection. The Secretary may provide to the administrator the unique identifier described in the preceding sentence.

"(E) Penalty for noncompliance.—Any entity that knowingly and willfully fails to comply with a requirement imposed by the previous subparagraphs shall be subject to a civil money penalty not to exceed $1,000 for each incident of such failure. The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under the previous sentence in the same manner as those provisions apply to a penalty or proceeding under section 1128A(a).".

(b) Effective Date.—The amendment made by subsection (a) shall take effect 180 days after the date of enactment of this Act.

UNANIMOUS CONSENT AGREEMENT—S. CON. RES. 107

Mr. DeWINE. Mr. President, on behalf of the majority leader, I ask unanimous consent that on Friday, immediately following the opening prayer, the Foreign Relations Committee be discharged from further consideration of S. Con. Res. 107, a resolution affirming the U.S. commitment to Taiwan, and the Senate then proceed to its consideration. I further ask that an amendment offered by Senator Lott, which is at the desk, then be agreed to and the Senate then proceed to the immediate vote on adoption of the resolution, as amended, with no motions or additional amendments in order, other than a title amendment. I finally ask unanimous consent that, following the vote on the resolution, if adopted, the preamble be considered agreed to, an amendment to the title be agreed to, and the title, as amended, be agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR FRIDAY, JULY 10, 1998

Mr. DeWINE. On behalf of the majority leader, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m. on Friday, July 10. I further ask that when the Senate reconvenes on Friday, immediately following the prayer, the routine requests through the morning hour be granted.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. DeWINE. Mr. President, on behalf of the majority leader, pursuant to the consent agreement, the Senate will proceed immediately to S. Con. Res. 107 regarding Taiwan, with a rollcall vote occurring immediately. Therefore, a rollcall vote will occur at 9:30 a.m. on Friday, July 10.

Mr. President, following that vote, the Senate could be asked to turn to any other legislative or executive calendar items. However, no further votes will occur during Friday's session of the Senate.

MEASURE PLACED ON CALENDAR—S. 648

Mr. DeWINE. Mr. President, I ask unanimous consent that the product liability bill be placed back on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

VOTE ON CLOTURE REGARDING PRIVATE PROPERTY RIGHTS

Mr. DeWINE. Mr. President, as a reminder to all Senators, a cloture motion was filed on the motion to proceed to the private property rights. That cloture vote will occur on Monday, July 13, at 5:45 p.m.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. DeWINE. Mr. President, if there is no further business to come before the Senate, I now ask that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 11:48 p.m., adjourned until Friday, July 10, 1998, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate July 9, 1998:

DEPARTMENT OF STATE

SIMON FERRO, OF FLORIDA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF PANAMA.

WILLIAM B. MILAM, OF CALIFORNIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE ISLAMIC REPUBLIC OF PAKISTAN.

INSTITUTE OF AMERICAN INDIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT

D. BAMBI KRAUS, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE INSTITUTE OF AMERICAN INDIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT FOR A TERM EXPIRING MAY 19, 2004, VICE MARION G. CHAMBERS.

IN THE ARMY

THE FOLLOWING ARMY NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be major general

BRIG. GEN. EMILIO DIAZ-COLON, 2517

WITHDRAWAL

Executive message transmitted by the President to the Senate on July 9, 1998, withdrawing from further Senate consideration the following nomination:

AGENCY FOR INTERNATIONAL DEVELOPMENT

CARLOS PASCUAL, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSISTANT ADMINISTRATOR OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT, WHICH WAS SENT TO THE SENATE ON JUNE 11, 1998.

SENATE—*Friday, July 10, 1998*

The Senate met at 9:28 a.m. and was called to order by the President pro tempore (Mr. THURMOND).

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Almighty God, we claim Your promise, "I will not forget You. See, I have inscribed You on the palms of my hands."—Isaiah 49:16. So with confidence we pray the ancient Hebrew childhood prayer, "Father, into Your hand I commit my spirit."—Psalm 31:5. As we pray that prayer we get ourselves off our own hands and into Your strong and competent hands. We take each of the fears in our jumbled mass of worries and concerns and surrender them to You. You have promised to keep us in perfect peace if we allow You to keep our minds stayed on You. Interrupt us when we get too busy and remind us that we are here to serve You. When we forget You, remind us that You never forget or forsake us. May that awesome assurance steady our course and fill our sails with the wind of Your power. Through our Lord and Saviour. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The able majority leader is now recognized.

Mr. LOTT. Thank you, Mr. President.

SCHEDULE

Mr. LOTT. Mr. President, pursuant to the consent agreement reached last night, the Senate will now proceed to the consideration of S. Con. Res. 107 regarding Taiwan, with a rollcall vote occurring immediately after I give a brief statement on the resolution.

Following that vote, the Senate will be asked to turn to any other Legislative or Executive Calendar items that have been cleared for action. However, no further rollcall votes will occur during Friday's session of the Senate.

As a reminder to all Senators, a cloture motion was filed on the motion to proceed to the private property rights legislation. That cloture vote will occur on Monday, July 13, at 5:45 p.m.

As a final announcement, there will also be a joint meeting of Congress on Wednesday, July 15, at 10 a.m. to receive an address by the President of Romania.

I thank my colleagues for their cooperation on the schedule, including getting the higher education bill passed last night.

AFFIRMING THE UNITED STATES COMMITMENTS TO TAIWAN

The PRESIDING OFFICER (Mr. ALLARD). Under the previous order, the Foreign Relations Committee is discharged from Senate Concurrent Resolution 107, and the Senate will now proceed to its consideration, which the clerk will report.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 107) affirming the United States commitments to Taiwan.

The Senate proceeded to consider the resolution.

Mr. LOTT. Mr. President, I am pleased the Senate is about to vote on S. Con. Res. 107, introduced by Senator TORRICELLI, myself and many others earlier this week. This resolution was necessary to address the uncertainty created by President Clinton's remarks in Shanghai on his recent trip to China.

Our resolution reaffirms our commitments to Taiwan as spelled out in the 1979 Taiwan Relations Act. That act is the law of the land. Successive Presidents have reached bilateral agreements with the People's Republic of China, but they have never been submitted to the Senate for ratification. They are not binding on the United States. The Taiwan Relations Act is.

It is unfortunate the President chose to lay out a new course on Taiwan—unfortunately it was done in Shanghai, unfortunately it was done without any consultation with Congress, and unfortunately it was done without consultation with the democratic government of Taiwan.

It is also unfortunate the President did not apparently even seek to get China's leaders to renounce the use of force against Taiwan. Instead, he said exactly what Beijing wanted to hear.

One likely effect of the President's statements is to strengthen the voices in Taiwan seeking full independence. While seeking to please Beijing, he has strengthened those in Taiwan who argue the United States cannot be trusted as an ally.

President Clinton's statements have emboldened Beijing in its efforts to intimidate Taiwan. A Chinese official told Taiwan to "face reality." The Washington Post reports today the Beijing plans "to use the remarks as a lever to force Taiwan into political talks on reunification."

The article also reports that the remarks "underscore the important role the United States has played in forcing Taiwan to the bargaining table."

Chinese officials understand what Clinton officials deny: The President's remarks were a major victory for Beijing and major blow to democratic Taiwan.

Passage of this resolution sends a powerful signal that the Senate is not accepting President Clinton's new policy. It is a strong statement coming so soon after his return to the United States.

But passage of this resolution will not be the end of our efforts to try to understand the administration's new policy on Taiwan. Administration spokesmen have said they have not changed policy, when the opposite is obvious.

We will explore whether the administration stands by its 1994 Taiwan Policy Review. That review pledged to upgrade relations with Taiwan. That review pledged to support Taiwan's participation in certain international organizations. Is this still administration policy?

We also will try to determine whether the administration still adheres to the "Six Assurances" made to the Senate in 1982: No date for ending arms sales to Taiwan; no prior consultations with Beijing on arms sales to Taiwan; no U.S. mediation role between Taipei and Beijing; no agreement to alter the Taiwan Relations Act; no change in the United States position regarding Taiwan's sovereignty; and no pressure on Taiwan to enter into negotiations with Beijing.

We will ask the administration if they still adhere to these assurances given to the Senate after the Third Communique was reached in 1982.

This resolution is an important step and a timely step. But it is not the end of repairing the damage from the President's statements in China.

Mr. President, I yield the floor.

Mr. THOMAS. Mr. President, as the chairman of the Subcommittee on East Asian and Pacific Affairs, I rise this morning in support of the resolution on Taiwan.

My expectations for the recent summit meeting in the PRC were, frankly, not high. Summit meetings such as the one in Beijing rarely provide the atmosphere for momentous policy breakthroughs. Rather, they are an important opportunity for leaders to exchange views and to discuss further avenues of bilateral cooperation. This summit then, viewed from that standpoint, met expectations.

And I must say, that I was encouraged by the willingness of the PRC to broadcast both the Clinton-Jiang press conference and the President's speech from Beijing Daxue in Beijing. Clearly, that decision was an important step in

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

the PRC's continuing—albeit slow—progress toward further openness.

But Mr. President, I was disturbed by the President's pronouncements on Taiwan and the "three noes." The PRC-Taiwan-US relationship is a very complex one. While it certainly can be argued that the President's statement was simply a restatement of actual U.S. policy on Taiwan, in a culture, on both sides of the Taiwan Straits, where nuances are everything, I believe that the statement sent the worst possible signals to both sides.

First, the statement was the first time that a President of the United States has publicly adopted the PRC policy of the "three noes." While—as the President's national security adviser pointed out to me in a meeting yesterday—it is true that both he and Secretary Albright have made similar statements in the past, and it is true that in many ways the statement was simply a restatement of implicit U.S. policies, the fact that the pronouncement came directly from the President gives it a special gravity in Chinese eyes.

Second, it occurred while the President was still in the PRC, during the first visit of an American President since 1989, and more ominously for the Taiwanese, in Shanghai, the site of what they regard as the infamous Shanghai Communiqué.

Third, to me the statement bore all the markings of a quid pro quo. Any outside observer looking at the give-and-take of the summit would see that the PRC gave the U.S. four unprecedented opportunities for the President to make live statements on Chinese TV and radio. What did the PRC get in return in what for both sides is always supposed to be a zero-sum game, they might ask? Well, aside from the reception in Tiananmen Square, the only other concession to the PRC I can find is the Taiwan statement.

And let there be no doubt, Mr. President, the statement was a useful concession to the PRC. Beijing officials have stated that they intend to use the President's remarks as a lever to force Taiwan into political talks on reunification. The Foreign Ministry stated yesterday that Clinton's statement has "positive implications for the resolution of the Taiwan question." Tang Shubei, the Vice President of the PRC's Association for Relations Across the Taiwan Straits (ARATS) with whom I have discussed the Taiwan issue on several occasions, has said that the remarks helped the PRC: "This has provided favorable conditions for the development of cross-strait relations."

It seems to me that the President could have simply said, when asked, "There has been no change in the policy of the United States on the Taiwan question" or "The United States' position on the Taiwan question remains the same" or words to that effect. Instead, he made a conscious decision to explicitly adopt the PRC's "three noes" policy. Such a decision was hardly accidental, and so I must ask why that decision was made. And in the total absence of any other rational explanation from the White House, I and others can only conclude that the statement was some sort of quid pro quo.

Fourth, and most disturbing to me, the President explicitly stated that the United States will not under any circumstances support the independence of Taiwan. While it could be said that this policy is implicit in the fact that the United States supports the "one China" policy and does not support "two Chinas" or "one China one Taiwan," it is the first time in my knowledge that it has been publicly enunciated in this manner. In addition, it seems to me to completely rule out a bid for independence even if the PRC uses force to reunify with Taiwan—a course of action it has pointedly refused to rule out.

So Mr. President, I think it only proper under these unfortunate circumstances that the Congress make clear its position on the status of Taiwan. For that reason, I support the resolution and urge my colleagues to do the same.

Mr. MURKOWSKI. Mr. President, I am pleased that the Senate is acting with swift resolve in passing this important resolution reaffirming our commitments and support to the people and government of Taiwan. This is an important statement, which I hope gives some sense of reassurance to our friends in Taiwan that the United States will not turn its back on the right of any people to choose the path of democracy and freedom. And that we will not waiver in our support simply for political expediency.

Yesterday before the Senate Finance Committee, I asked our Secretary of State Madeleine Albright about the President's statements in China. Well, to no real surprise, the Secretary had to pretend that there has been no policy change on Taiwan since official relations were terminated with Taiwan in 1979. Mr. President, this is an indefensible line; the Administration clearly agreed to China's position on the Three No's"; possibly as early as when when President Jiang was here in Washington, D.C. last October, but most certainly reiterated by President Clinton himself while in China last month. Make no mistake about it, this is a policy change—and a dangerous one at that.

The Washington Post this morning has reported that the People's Republic of China is already using President Clinton's statements for leverage to bring Taiwan to the bargaining table. While this Administration claims it would never force Taiwan to negotiate with Beijing, it has done so by slowly taking away all its negotiating cards in the middle of the night and without consultation. I ask unanimous consent that this article appear in the RECORD at the conclusion of my remarks.

Mr. President, the United States is the greatest example for what democracy can accomplish; we are the greatest advocate for democracy and freedom in the history of mankind. But for some strange reason, the President of the United States chose to publicly handcuff the ability of the 21 million people in Taiwan to pursue the right of democracy. Will this deter others from summoning the courage to pursue the path of freedom? I hope not, but if the example is there that the United States will not support the quest; than I think it is remains more than a possibility.

Indeed, this a dark day for democracy and freedom. While I am pleased that the Senate is making this important statement, I fear that the damage has been done.

Mr. President, I yield the floor.

[From the Washington Post, July 10, 1998]

CHINA TELLS TAIWAN TO "FACE REALITY"

REUNIFICATION TALKS URGED

(By John Pomfret)

BEIJING, July 9.—China urged Taiwan today to "face reality" and agree to talks on eventual reunification with China following comments by President Clinton that the United States will not support an independent Taiwan.

Taiwan, meanwhile, announced it had agreed to a visit by a senior Beijing negotiator to prepare for resumption of high-level dialogue between the two rivals, separated by the 100-mile-wide Taiwan Strait.

The developments indicate that after a three-year freeze, talks could begin as early as this fall between the two sides. They also underscore the important role the United States has played in forcing Taiwan to the bargaining table. Clinton's statement, during his recent nine-day trip to China, was taken as a significant defeat in Taiwan even though U.S. officials contended it was simply a reiteration of U.S. policy.

Clinton's June 30 remarks in Shanghai made clear the United States would not support any formal independence bid by the island of 21 million people, or a policy backing "one China, one Taiwan," or "two Chinas." Clinton also said the United States will oppose any Taiwanese bid to join international bodies that accept only sovereign states as members.

Although the policy was first enunciated in October, Clinton himself had never said it publicly before. Thus, it was taken as a major defeat in Taiwan, which relies on the United States for most of its political support and weapons. In Washington, Clinton's statement has drawn some criticism. On Tuesday, Senate Majority Leader TRENT LOTT (R-Miss.) called Clinton's remarks counterproductive, and he threatened unspecified congressional action.

The Beijing government, which views Taiwan as a renegade Chinese province, has said it is satisfied with Clinton's remarks, even though it had tried to have Clinton commit them to writing. Chinese officials have said they plan to use the remarks as a lever to force Taiwan into political talks on reunification. Taiwanese officials say they want to limit any new talks to specific issues, such as immigration, cross-border crime, fishing rights and protection of investments. China rejects this limited approach and insists a broader discussion of reunification is necessary for improved ties.

Taiwan and China ostensibly have been separated since 1895, when Japan occupied the island following its victory over Imperial China in the Sino-Japanese War. In 1949, Nationalist Chinese leader Chiang Kai-shek fled to Taiwan from the mainland after his forces lost a civil war to Chinese Communist forces led by Mao Zedong. Since then, the two sides have moved further away from each other—in both economic and political development.

In Beijing, Foreign Ministry spokesman Tang Guoqiang said Clinton's statement has "positive implications for the resolution of the Taiwan question," and he added: "We hope that Taiwan authorities will get a clear understanding of the situation, face reality and place importance on the national interest.

"Similarly, the official China Daily quoted one of Beijing's top negotiators with Taiwan as saying that Clinton's remarks had helped China. "This has provided favorable conditions for the development of cross-strait relations," said Tang Shubei, vice president of the Association for Relations Across the Taiwan Strait. "But cross-strait issues will ultimately be solved by the Chinese people."Meanwhile, that group's Taiwanese counterpart, the semi-official Straits Exchange Foundation, informed the Chinese association that its deputy secretary general, Li Yafei, could visit Taiwan July 24–31. Li's visit is to be followed by a reciprocal trip to China by the leader of the Taiwan foundation, Koo Chen-fu. In June, Beijing invited Koo to visit China sometime in September or October, and Koo said later he plans to go in mid-September.

In 1993, Koo and Chinese association leader Wang Daohan met in Singapore in a landmark gathering that signaled warming ties between the old rivals. But after two years of improving relations, the ties collapsed in 1995 when Taiwanese President Lee Teng-hui obtained a visa to visit the United States for the 25th reunion of his Cornell University class.

China launched a series of military exercises off the Taiwanese coast in 1995 and 1996, lobbing cruise missiles into the area. In 1996, the United States dispatched two aircraft carrier battle groups to the region as a warning to China not to contemplate a military solution.

Mr. ABRAHAM. Mr. President, I rise to express my strong support for the Majority Leader's resolution on Taiwan. This resolution will reassure the people of Taiwan that the United States will stand by its pledges, particularly those included in the Taiwan Relations Act of 1979.

It is unfortunate to say the least, Mr. President, that it has become necessary to pass this resolution. But President Clinton's statements while in the People's Republic of China make it imperative that we reiterate and reaffirm our commitment to Taiwan's democratic principles, to its right to maintain a viable, sufficient self-defense capability, and to a future for Taiwan that is determined by peaceful, democratic means.

President Clinton's unwise and damaging statements during his visit to communist China have thrown in doubt our commitment to Taiwan. The President's three noes"—no independence for Taiwan, no recognition for a separate Taiwanese government, and no support for Taiwan's membership in international organizations—cast doubt on America's willingness to stand by its commitments and raise the prospect of future conflict in South Asia.

Were the President's statements allowed to stand, they would constitute an abandonment of Taiwan to its fate at the hands of a communist regime that has shown itself willing to slaughter its own people and resort to force and intimidation whenever useful.

This is unacceptable, Mr. President, and we must not let it stand. As the world's first free nation, and as the leader of the free world, we have a responsibility to stand up for nations like Taiwan which have moved toward democracy and free markets. We owe it to the people of Taiwan to renew our commitment to their democratic institutions and to their right to determine their own future on a democratic basis.

It also is important to note, Mr. President, that the People's Republic of China has engaged in shows of force and attempted military intimidation toward Taiwan over the course of several decades. Only two years ago, in 1996, the United States found it necessary to send aircraft carriers to the area to let the Chinese communist government know that we would respond should they take military action against Taiwan.

By explicitly stating that the United States would not support the Taiwanese people's right to determine their own future in a democratic manner, President Clinton sent a strong signal to the communist government in Beijing that we might stand idly by while it took control of Taiwan by force.

Mr. President, it was precisely this kind of miscalculation that precipitated the war in Korea, a war in which American troops ended up facing the Chinese army and in which thousands of brave American soldiers lost their lives. It is imperative, in my view, that Congress act swiftly and surely to see to it that history does not repeat itself.

The United States stands by the people of Taiwan in their determination to protect themselves and their democratic principles from any forceful reintegration into China. We must make our stance clear for the people of Taiwan, for the cause of freedom, and for the cause of peace.

I yield the floor.

Mr. CRAIG. Mr. President, I rise to speak in strong support of Senate Concurrent Resolution 107, a resolution affirming the United States' continued commitment to Taiwan.

During his recent visit to China, the President undermined long-standing U.S. policy regarding Taiwan. President Clinton said,

> I had a chance to reiterate our Taiwan policy, which is that we don't support independent for Taiwan, or two Chinas, or one Taiwan-one China. And we don't believe that Taiwan should be a member of any organization for which statehood is a requirement.

The President's statement, in fact, represents a long standing departure from U.S. policy. This statement represents an abandonment of a balanced policy that has allowed the United States to conduct important relations with both sides of the Taiwan Strait.

The United States has not taken, and should not take, a policy position on the outcome of the dispute between China and Taiwan. Neither should we endorse or oppose Taiwan's independence or reunification. However, we must continue to insist that any eventual resolution of this dispute must come through peaceful means and with the approval of the people of Taiwan. The President's remarks are not consistent with that goal.

Let us not forget that May 1998 marked the second anniversary of the first fully democratic Presidential election in the 5,000-year history of the Chinese people. That election occurred on the island of Taiwan. Taiwan has evolved into a modern, democratic society, a major economic power, and an active partner in world affairs. Taiwan's continued achievement should deepen the longstanding friendship between our two democracies. Should the President disregard that responsibility, the Congress must fill that void.

Mr. ASHCROFT. Mr. President, I rise today in strong support of S. Con. Res. 107. This resolution is intended to repair the damage done by President Clinton's ill-considered comments on Taiwan during the recent U.S.-China summit. The Senate needs to make a clear statement in support of Taiwan. A failure to do so would be a greater disservice to the people of Taiwan and the credibility of the United States in East Asia.

Mr. President, let us be clear, the President's statements undercut Taiwan in a way that past U.S. policy explicitly avoided. The Administration has tried to portray the President's regurgitation of Beijing's "three noes" as merely a restatement of U.S. policy. If this was merely a restatement of U.S. policy, however, why did the President have to make the comments at all?

Far from being a restatement of U.S. policy, Bill Clinton's remarks were the first by a U.S. president formally opposing Taiwanese independence. In addition, the President's stated opposition to Taiwan's membership in international organizations directly undercuts Taiwan's efforts to share abroad its vision for a democratic, unified China. It is Taiwan's vision of China's future—a future of democratic pluralism and civil liberty—that the Administration should be supporting, not legitimizing the Chinese Communist Party with CNN summitry.

As hard as the Administration might try to sanitize the President's comments, his statements already are being used by Beijing to pressure Taiwan on reunification. This morning's Washington Post reports that Beijing is telling Taiwan to "face reality" after the President's statement and agree to talks on reunification. One of Beijing's top negotiators with Taiwan said that the President's remarks strengthened China's hand and "* * * provided favorable conditions for the development of cross-strait relations."

This Administration seems to have forgotten that China has conducted missile exercises off of Taiwan's major ports in two of the last four years. "Favorable conditions" for China mean one thing: more latitude from the United States to intimidate Taiwan. The Chinese military continues to acquire weapons systems to facilitate an invasion of the island, yet the Administration tries to distance itself from American obligations in the Taiwan Relations Act to help Taiwan "maintain a sufficient self-defense capability." Incredibly, the Administration parroted the "three noes" policy for Beijing without even obtaining assurances from China that it will not use force to reunify with Taiwan.

Adopting Beijing's formulation on Taiwan was an ill-advised move by the President that has the potential of doing great harm to the 21 million Taiwanese who have built a vibrant democracy and free market. The Administration's position on Taiwan is not reassuring our democratic allies in East Asia.

It is time for this Administration to choose which side it will support in the continuing struggle for civil liberty and democratic reform in East Asia. Blind engagement with Beijing's oppressive regime is not the way to ensure that democracy is preserved on Taiwan or advanced in China. It is time for the United States to stand again for freedom in East Asia and around the world.

Mr. LOTT. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 3121

The PRESIDING OFFICER. Under the previous order, the clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Mississippi [Mr. LOTT] proposes an amendment numbered 3121.

On page 2, line 8, strike "with the consent of the people of Taiwan,".

The PRESIDING OFFICER. Under the previous order, the amendment is agreed to.

The Amendment (No. 3121) was agreed to.

The PRESIDING OFFICER. The question now is on agreeing to the Senate Concurrent Resolution 107, as amended. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRAIG. I announce that the Senator from Missouri (Mr. ASHCROFT), the Senator from New Mexico (Mr. DOMENICI), the Senator from Texas (Mrs. HUTCHISON), the Senator from Arizona (Mr. KYL), the Senator from Arizona (Mr. MCCAIN), the Senator from Oklahoma (Mr. NICKLES), and the Senator from Oregon (Mr. SMITH) are necessarily absent.

I further announce that, if present and voting, the Senator from Arizona (Mr. KYL) and the Senator from Texas (Mrs. HUTCHISON) would each vote "yes."

Mr. FORD. I announce that the Senator from New Mexico (Mr. BINGAMAN) is necessarily absent.

The result was announced—yeas 92, nays 0, as follows:

[Rollcall Vote No. 196 Leg.]

YEAS—92

Abraham
Akaka
Allard
Baucus
Bennett
Biden
Bond
Boxer
Breaux
Brownback
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Cleland
Coats
Cochran
Collins
Conrad
Coverdell
Craig
D'Amato
Daschle
DeWine
Dodd
Dorgan
Durbin
Enzi
Faircloth
Feingold
Feinstein
Ford
Frist
Glenn
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Hagel
Harkin
Hatch
Helms
Hollings
Hutchinson
Inhofe
Inouye
Jeffords
Johnson
Kempthorne
Kennedy
Kerrey
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McConnell
Mikulski
Moseley-Braun
Moynihan
Murkowski
Murray
Reed
Reid
Robb
Roberts
Rockefeller
Roth
Santorum
Sarbanes
Sessions
Shelby
Smith (NH)
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Torricelli
Warner
Wellstone
Wyden

NOT VOTING—8

Ashcroft
Bingaman
Domenici
Hutchison
Kyl
McCain
Nickles
Smith (OR)

The concurrent resolution (S. Con. Res. 107), as amended, was agreed to.

The PRESIDING OFFICER (Mr. SESSIONS). Under the previous order, the preamble to the resolution is agreed to and an amendment to the title is agreed to.

The preamble was agreed to.

The resolution, as amended, with its preamble, is as follows:

S. CON. RES. 107

Whereas at no time since the establishment of the People's Republic of China on October 1, 1949, has Taiwan been under the control of the People's Republic of China;

Whereas the United States began its long, peaceful, friendly relationship with Taiwan in 1949;

Whereas since the enactment of the Taiwan Relations Act in 1979, the policy of the United States has been based on the expectation that the future relationship between the People's Republic of China and Taiwan would be determined by peaceful means;

Whereas in March 1996, the People's Republic of China held provocative military maneuvers, including missile launch exercises in the Taiwan Strait, in an attempt to intimidate the people of Taiwan during their historic, free and democratic presidential election;

Whereas officials of the People's Republic of China refuse to renounce the use of force against democratic Taiwan;

Whereas Taiwan has achieved significant political and economic strength as one of the world's premier democracies and as the nineteenth largest economy in the world;

Whereas Taiwan is the seventh largest trading partner of the United States and imports more than twice as much annually from the United States as does the People's Republic of China; and

Whereas no treaties exist between the People's Republic of China and Taiwan that determine the future status of Taiwan: Now therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) affirms its longstanding commitment to Taiwan and the people of Taiwan in accordance with the Taiwan Relations Act (Public Law 96–8);

(2) affirms its expectation, consistent with the Taiwan Relations Act, that the future of Taiwan will be determined by peaceful means, and considers any effort to determine the future of Taiwan by other than peaceful means a threat to the peace and security of the Western Pacific and of grave concern to the United States;

(3) affirms its commitment, consistent with the Taiwan Relations Act, to make available to Taiwan such defense articles and defense services in such quantities as may be necessary to enable Taiwan to maintain a sufficient self-defense capability;

(4) affirms its commitment, consistent with the Taiwan Relations Act, that only the President and Congress shall determine the nature and quantity of defense articles and services for Taiwan based solely upon their judgment of the needs of Taiwan; and

(5) urges the President of the United States to seek a public renunciation by the People's Republic of China of any use of force, or threat to use force, against democratic Taiwan.

The title was amended so as to read: "Affirming U.S. Commitments Under the Taiwan Relations Act".

Mr. DODD addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, what is the business before the Senate?

The PRESIDING OFFICER. The Senate has no order at this time.

Mr. HATCH. Will the Senator yield so I can put us in morning business?

Mr. DODD. I will be happy to.

MORNING BUSINESS

Mr. HATCH. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. I thank my colleague.

Mr. DODD. Mr. President, I ask unanimous consent to proceed in morning business.

The PRESIDING OFFICER. That is the present order. The Senator has 10 minutes to speak.

(The remarks of Mr. DODD and Mr. MOYNIHAN pertaining to the introduction of S. 2285 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. The Senator from Colorado is recognized for up to 10 minutes.

CAPITAL GAINS

Mr. ALLARD. Mr. President, I wish to speak about capital gains and the way that we look at the estimates that come from a reduction in taxes such as capital gains.

Earlier this year, I introduced legislation to reduce the capital gains tax to 14 percent and to provide indexing of the capital gains tax from that point out. This legislation builds on last year's tax bill which moved the capital gains rate down from 28 percent to 20 percent.

I rise today to commend both the Senate majority leader and the Speaker of the House for their recent calls for a reduction in the top capital gains rate to 15 percent. Both of our leaders have indicated they are introducing legislation to cut the rate. This could be accomplished as early as this year. Again, I commend them for their leadership.

I also wish to express my support for a provision in the IRS reform bill that returns the holding period for long-term capital gains treatment to 12 months. Last year, the administration unwisely insisted on extending this out to 18 months. This added complexity to the code and represented another attempt by Government to micromanage investment decisions.

There is a great deal of interest in the tax treatment of capital gains due to mounting evidence that capital gains tax rate reductions not only benefit taxpayers and the economy but also increase revenues.

Last month, the Joint Tax Committee released new estimates of the revenue resulting in the 1997 reduction of the top capital gains rate from 28 percent to 20 percent. The Joint Tax Committee apparently underestimated the revenue gain in 1998 by $13 billion and in 1999 by $12 billion. In fact, the latest estimates are that over the first 5 years revenue could be as much as $58 billion greater than previously forecast.

Now, this does not surprise me. In fact, there are a number of us in Congress who have been making this very point for years. The capital gains tax rate cut will increase revenue, not reduce it. There are two principal reasons for this increase in revenue. First, there is the short-term incentive to sell more capital assets; second is the long-term progrowth benefit from a capital-friendly tax policy.

The capital gains tax is largely a voluntary tax. The tax is only paid if the investor chooses to sell the asset.

If taxes are high, an investor can hold on to the asset for years. But when taxes are low, investors will often decide to sell the assets and "realize" the capital gain.

History confirms this pattern. In 1978, when the capital gains tax rate was reduced from 40 percent to 28 percent, capital realizations increased by 50 percent, and tax receipts increased.

In 1981, Congress and President Reagan further reduced the capital gains tax rate to 20 percent. Once again, capital gain realizations increased dramatically and by 1983 were again up by 50 percent.

By contrast, tax revenues actually dropped for a number of years following the capital gains tax rate hike in 1986.

Mr. President, last year, when Congress proposed to cut the capital gains tax rate from 28 percent to 20 percent, the Joint Tax Committee submitted its revenue estimate.

The Joint Tax Committee forecast a 10-year revenue loss from the rate cut of $21 billion.

Mr. President, it is clear that the Joint Tax Committee and Congressional Budget Office estimates dramatically underestimated both the strength of the economy and the positive response to the tax rate cut.

The Joint Tax Committee now concedes that there will be a significant revenue gain from capital gains realizations.

In my view, a review of the last twenty years of capital gains tax rates and the associated revenues suggests that the model used by the Joint Tax Committee and the Congressional Budget Office to estimate capital gains revenues is flawed.

The Congressional Budget Office argues that government revenue estimates adequately account for behavioral changes that occur as a result of tax changes.

Despite this claim, it would appear that when tax rates are lowered the revenue estimating model significantly exaggerates the revenue losses.

In fact, in no single year after a rate cut has there ever been a loss of revenue.

Conversely, when tax rates are increased, the model significantly exaggerates the level of revenue gains.

Not only do the Congressional models fail to accurately measure the response of taxpayers to changes in tax rates, they exclude an estimate of the impact of tax changes on economic performance.

Congress is largely in the dark when it comes to any estimates of the economic benefit of tax rate reductions.

It is logical to assume that a lower tax rate on capital lowers the cost of capital. This clearly benefits the economy. As a consequence the Federal Government will realize greater income, payroll, and excise taxes. In addition, State and local tax revenues will also rise.

Admittedly, all of this is difficult to measure. However, I would like to see some attempt made to include these factors in revenue models.

At a minimum they should always be appended to the official revenue estimates. This would give Congress a more complete picture of the impact of tax changes on revenues.

Mr. President, I will note that a recent addition to the rules of the House permits the Joint Committee on Taxation to append dynamic estimates to tax legislation when requested to do so by the Chairman of the Ways and Means Committee.

This dynamic estimate is to reflect the anticipated macroeconomic effects of tax legislation, and is to be used solely for informational purposes.

It is time for Congress to build on this process. Dynamic estimates should be routinely requested in both the House and Senate.

Congress should also make greater use of the work of a multitude of economists. I would note for example that in 1997 the Joint Economic Committee published a study by two Florida State University economics professors; James Gwartney and Randall Holcombe that argued that the optimal capital gains rate is 15 percent or less.

These economists predicted accurately prior to last year's rate cut that a reduction in the rate would increase revenues.

While improvements in the revenue estimating process are certainly desirable, the fact remains that estimates are just "estimates", and Congress should recognize that those estimates will often turn out to be way off the mark.

That is why Congress should place greater emphasis on the impact that changes in the taxation will have on the private economy, and less emphasis on projections of government revenue.

Economic growth, job creation, and international competitiveness should be our focus.

Mr. President, when it comes to capital gains taxes I suggest that Congress spend less time gazing into the crystal ball of revenue forecasting, and more time focusing on the real world impact of taxes on capital formation, job creation, and economic growth.

I think it will then be abundantly clear that we should continue to reduce the tax on capital to 14 percent. This will continue the good work that we began last year.

Mr. President, the U.S. level of tax on capital has been among the highest in the world, I am dedicated to seeing that it becomes one of the lowest in the world.

A low rate of tax will encourage capital investment, economic growth and job creation.

This is no time for the United States to sit on its lead; we must continue to ensure that America is the premier location in the world to do business.

A low capital gains tax will help our economy, but it will also help America's families by reducing their tax burden.

I look forward to working with Majority Leader LOTT and with Speaker GINGRICH as we continue to cut the rate of taxation on capital gains.

I yield the balance of my time.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. MOYNIHAN. Mr. President, I ask that I be granted 10 minutes to speak in morning business.

The PRESIDING OFFICER. The Senator has 10 minutes under the previous order.

NOMINATION OF SONIA SOTOMAYOR TO BE A JUDGE ON THE SECOND CIRCUIT COURT OF APPEALS

Mr. MOYNIHAN. Mr. President, there has been some discussion in the press of late concerning a ruling in Federal District Court of the Southern District of New York involving a business coalition in Manhattan called the Grand Central Partnership. In this case, *Archie* v. *Grand Central Partnership, Inc.* (1998 WL 122589, 1998 U.S. Dist. Lexis 3599, S.D.N.Y. 1998), the judge agreed with the plaintiffs who had brought suit against the partnership demanding to be paid at minimum wage rates pursuant to the provisions of the Fair Labor Standards Act and the New York State Minimum Wage Act. The language of the decision reads as follows:

> Despite the attractive nature of the defendants' program in serving the needs of the homeless, the question of whether such a program should be exempted from the minimum wage laws is a policy decision either Congress or the Executive Branch should make. . . . The Court, however, cannot grant an exemption where one does not exist in law.

Setting aside any personal bias, the judge ruled solely on the basis of law.

In *Bartlett* v. *New York State Board of Law Examiners* (970 F. Supp. 1094, S.D.N.Y. 1997), this same judge ruled in favor of one Marilyn Bartlett, an applicant with a learning disability similar to dyslexia, who sought admission to the State bar. The Board of Law Examiners had denied Bartlett's special accommodation—in this case, an extension of time limitations in which to take the bar examination. The judge found that the Americans With Disabilities Act clearly required the board to provide the accommodation. Again, this decision was made—as it ought to have been made—on the basis of law. Nothing more.

The district court judge in both of these matters was the Honorable Sonia Sotomayor of the Southern District of New York, who now seeks confirmation from this body for appointment to the Second Circuit of the United States Court of Appeals.

May I take just a moment to thank the distinguished chairman, Senator HATCH, and ranking member, Senator LEAHY, and the members of the Committee on the Judiciary.

With confirmation earlier this year of Robert Sack, Chester Straub, and Rosemary Pooler, the judicial emergency in the Second Circuit declared by Chief Judge Ralph K. Winter on March 23 will soon be over.

It will be over, Mr. President, when Judge Sotomayor is confirmed by the Senate. She has been reported by the Judiciary Committee.

A little over one year ago, President Clinton nominated Judge Sotomayor to fill a vacancy on the Second Circuit Court of Appeals. The Committee on the Judiciary held a hearing on September 30, 1997 and she was reported out by a vote of 16 to 2 on March 5 of this year.

Seven years ago, in March 1991, it was my honor to recommend Sonia Sotomayor to serve on the Southern District Court of New York. President Bush placed her name in nomination shortly thereafter and she was sworn in on October 2, 1992.

The distinguished members of the Committee on the Judiciary were surely impressed with the background and accomplishments of this extraordinary woman. Sonia Sotomayor was raised in the projects of the South Bronx. Her father, Juan Luis, worked in a tool and die factory while her mother, Celina, worked as a nurse. Through discipline and hard work she was graduated summa cum laude from Princeton University in 1976, receiving the university's highest distinction, the M. Taylor Pyne Honor Prize. She went on to graduate from Yale Law School in 1979 where she served as editor of the Yale Law Journal.

After law school, Ms. Sotomayor joined the New York County District Attorney's office. After more than five years there she moved to the firm of Pavia & Harcourt, attaining the position of partner. She is a former member of the New York City Campaign Finance Board and the New York State Mortgage Agency. All of these achievements are detailed in Ms. Sotomayor's résumé which I ask, without objection, be incorporated into my remarks.

Her service on the Southern District Court has been exemplary. In 5½ years, having presided over 500 cases, she has been overturned only six times. Her decisions are scholarly, well-researched, and well-reasoned. She has presided over cases of enormous complexity with skill and confidence.

My colleagues will likely recall that it was Judge Sotomayor who put an end to the baseball strike in 1995. Her ruling in *Silverman* v. *Major League Baseball Player Relations Committee, Inc.*, 880 F. Supp. 246 (S.D.N.Y. 1995) was upheld by the very court she now seeks to join.

During the course of her confirmation hearing before the Judiciary Committee, some questions were introduced regarding Judge Sotomayor's position on mandatory sentencing and Federal sentencing guidelines. As of October 1997, in the 217 criminal cases over which she presided, she departed downward a total of 58 times. Forty-four of those departures were at the Government's specific request, because of the defendant's substantial assistance. Excluding such departures, the Judge has departed downward in only 6.5 percent of her criminal cases. The judge has upwardly departed in 6 of her 217 criminal cases, an average of 2.7 percent.

A recent New York Law Journal article reports on the 1996 sentencing practices of Federal district judges. Comparing Judge Sotomayor's sentencing record to these statistics, it is apparent that Judge Sotomayor is more conservative in sentencing than many of her colleagues on the Federal bench. Her 6.5 percent downward departure rate is below the national average of 10.3 percent, and well below the Second Circuit average of 15.2 percent. Her upward departure rate of 2.7 percent is three times the national average of 0.9 percent.

Mr. President, we have before us a candidate who embodies all of the finest qualities we could possibly ask for in a Federal judge. She is brilliant, principled and thoughtful. I can see no reason to prolong the process that will lead to her confirmation any further. Surely the time has come for us to act.

Thank you, Mr. President.

I yield the floor.

Mr. BREAUX addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

MEDICARE COMMISSION FIELD HEARINGS

Mr. BREAUX. Mr. President, I take this time on the floor to inform my colleagues, and others who may have an interest in the fact, that the Medicare Commission will be having a field hearing on Monday coming outside of Washington in Minneapolis, MN.

As always, it is the intention of myself as chairman of the Medicare Commission, along with my colleague from the House, BILL THOMAS, and all of the commission members, that we need to get as much information from outside of Washington about the Medicare problem as we possibly can.

This effort in bringing the commission to the city of Minneapolis, MN, on Monday for a rather very, very full agenda of activities in Minneapolis relating to Medicare is to give all of us an opportunity to gather information, which will be extremely important in helping us make the very difficult but extremely important recommendations that we are required by Congress to make to the President, and also to the Congress by March 1st of this coming year.

Our hearing will consist of a site visit in the morning where commissioners will choose from one of four sites, three of which will have the direct interaction with Medicare beneficiaries. I would like to cover some of the sites that we will be visiting so people will know exactly what this commission is going to be doing.

We will have a chance to visit the Wilder Senior Services Clinic, which is a Minnesota Senior Health Options Clinic, which is really a demonstration program now being run by the Minnesota Department of Human Services. It serves seniors who find themselves in the unique position of being eligible for Medicare, and also being eligible for Medicaid at the same time. These people are so-called dual beneficiaries who can get their health coverage from two separate programs. And how this particular operation is handling it is something that I think we can benefit from seeing.

The second site visit that we are going to take the commission to is a Fairview University Medicare Center, the Mayo Clinic, the world famous medical institution in Minneapolis, where our commissioners will have the opportunity to really tour an integrated care clinical site and observe telemedicine demonstrations with the Mayo Clinic in a rural facility outside of the city, and also a visit with providers and beneficiaries and also administrators.

Third, the commissioners will be able to also visit Medtronic, which develops and manufacturers medical devices to treat cardiovascular and neurological disorders.

The idea is to tour these facilities to look at the impact that new technology, of which the United States is a world leader in producing, has on the future of Medicare.

Clearly, as we are able to produce more sophisticated equipment facilities to treat health care beneficiaries in this country, it is going to have a direct effect on the Medicare Program, and hopefully for the better.

The final site visit opportunity we will be taking is the United Health Care Research Center, an Institute for Health Care Quality, where we will tour their facilities and learn about how United Health Care gathers and analyzes patient data to evaluate medical outcomes and cost-effectiveness as a treatment.

It is very important that we study how various forms of health care affect outcomes, both from a health standpoint, as well as from a cost standpoint.

Then, beginning at noon at the Minneapolis Convention Center, our commissioners will then hear from people who will make presentations to our committee in the form of three panels.

The first panel we will hear from is the Buyers Health Care Action Group, which is interestingly a coalition of 27 large, Twin-Cities-based self-insured employers—companies like 3M, General Mills, and Honeywell.

This panel hopefully will give the commission an opportunity to hear from private companies regarding how they purchase health care for their employees and what the result has been for their employees, as well as what the results have been for their companies.

The second panel will be a panel of managed care plans to talk about their experience in the managed care market in Minneapolis, which has had managed care around longer than most places in the country.

With the debate on Medicare both in the Congress and in the public in general I think it is important that we look at some of them and try to understand better how they are working in providing quality health care and reduced costs for Medicare beneficiaries.

The third and last panel we will hear from is current and future beneficiaries on information that they need and use in making health care decisions. It is really important with the new proposal coming out of the Health Care Financing Authority, HCFA, coming October 1st. Medicare is not going to be like it used to be. People who are Medicare beneficiaries are going to get some choice options. They are going to have different decisions to make about whether they want to go into managed care.

It is very important for seniors and their families to understand that grandma, grandpa, mom, dad, and others are going to have to make some different decisions about their health care. While this can be a little bit frightening, I think we should look upon it as a real opportunity to give them more choice and ultimately better services than they currently get under Medicare.

We can be very proud of what Medicare has done. Medicare is not that great a plan in the 1990s. It doesn't provide eyeglass coverage; it doesn't provide prescription drugs; it doesn't provide long-term health care. Most beneficiaries think it is a wonderful program, and, indeed, it is. But it is not nearly as good as most health plans in the country today that are private plans which provide generally a lot more benefits to the beneficiaries than Medicare does.

So we are going to be looking at how people get their information and what information they need in order to make these choices.

The rest of the afternoon is going to be devoted to public interest, to really have the commission sit and listen to Mr. and Mrs. America and tell us what they would like to see in Medicare for the future.

We have 2 hours set aside for audience participation. We call this session a "Call for Solutions" where we have invited ordinary citizens from the Minnesota region and area to submit their ideas and recommendations for improving Medicare.

In addition to the field hearing that we will be having in Minneapolis, we will also be continuing to explore other ways to get input from the public. We don't have to visit every city and every State and every county in America to hear from America. In this century, as we move to the 21st century, we are going to be making use of teleconferencing, video conferencing. Commission meetings that we have had so far have been covered in full by C-SPAN. We have a national web site. We have had 13 commission and task force meetings since March 6th, all of which have been open to the public for their information.

I think we have a very ambitious schedule, as I have just outlined, for the Monday field hearings in Minneapolis.

I urge my colleagues to continue to be mindful of what we are attempting to do. If they have suggestions, we are open to receiving those suggestions. Hopefully, we will have their participation as we draft recommendations for the full Congress and for the President, so we can make the reforms necessary to preserve, protect, and even, indeed, improve Medicare for future generations.

With that, Mr. President, I yield the floor and make a point of order a quorum is not present.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

VERBAL LITTER

Mr. BYRD. Mr. President, much has been said about the so-called "lost art" of writing. The ubiquity of telephones and, more recently, electronic mail, or "cyber-chat," as well as the acceptability of alternative presentations in lieu of written essays in schools, can all be cited as contributors to the growing inability of many people to compose and edit well-organized and effective written documents. E-mail, which is daily becoming more and more common, a common method for communicating, is an easy, instant way to get a message out, but the very quickness of the transmit inhibits the kind of thoughtful consideration of the message and care in editing that are the hallmarks of good letters and great literature.

Someone has said that letters are our personal ambassadors. We politicians need to be very much aware of that. Letters are our personal ambassadors. And the trend toward relying more and more exclusively on e-mail means that the future's historical archives will become littered with broken sentence fragments, incomplete thoughts, and embarrassingly ignorant spelling. Think about it. Mr. President, can you imagine the Federalist essays by Jay, Madison, and Hamilton—can you imagine those Federalist essays, had they been typed in such a stream-of-consciousness manner and then spewed across the fiber optic web the way some messages are nowadays?

I am sure that Hamilton, Madison, and Jay, the authors of the Federalist Papers, did not speak as cogently and fluidly as they wrote. Perhaps nobody does, or very few persons do. But they were no slouches at the speaker's rostrum. I doubt that they would have been very good on television. I have thought about that a good many times, and wondered how Daniel Webster or Henry Clay or John C. Calhoun would have come across on television. How would they do on 20-second sound bites? They would do as poorly as ROBERT C. BYRD, I would anticipate.

As Francis Bacon observed, "Reading maketh a full man; conference a ready man; and writing an exact man." Think about that also. That is very true. "Reading maketh a full man; conference a ready man; and writing an exact man." And so we write more exactly than we speak.

These Founding Fathers were certainly well read and they were good writers and, therefore, very knowledgeable and exact, precise, weighing every word.

When we speak of infrastructure, such as reservoirs and dams, we talk about the Army engineers. When we seek their recommendations about a particular dam or reservoir, they will give us advice, and it will reflect the B-C ratio, the benefit-cost ratio. Anything that is recommended by the Army engineers would have to have at least $1 in benefits for every $1 in costs. That is the benefit-cost ratio.

Therefore, in speaking of the Founding Fathers, which is a term that needs to be examined—"Founding Fathers"—and especially those who wrote the Federalist essays, I think in terms of the benefit-cost ratio. They made every word count. Every word carried its full weight. It had a proper place in the construction of the essay. It wasn't used lightly. It was used thoughtfully. So there was the B-C ratio.

Well, that is just a little idea of mine. But these men were knowledgeable, they were exact, and their writing was enhanced by their thoughtfulness, and, in turn, their speaking ability was enhanced by their writing, especially in the case of Daniel Webster.

When Webster made a speech, when he spoke on January 26 and January 27, 1830, in his debate with Hayne—schoolboys all across the Nation, it used to be, were required to memorize some of Webster's speeches. I don't guess they are required to memorize those speeches anymore. As a matter of fact, memorization is not looked upon as being very beneficial or helpful in some schools, I suppose. Times have changed.

But Webster was a good writer, and he memorized the speeches, many of them. Then he took them home, took them to his boarding house near the Capitol Building, and kept them for a few days, edited them, changed them, for the purposes of publication. Therefore, they were not exactly the speeches that we schoolboys memorized, they were not the exact speeches that Webster gave before the Senate. They were improved upon, just as we edit our own speeches. But we don't take them home. We don't take them to our boarding houses and keep them out several days. We edit them the same day. Many Senators probably have their staffs edit their remarks. But Webster, in doing so, had in mind exactly what Bacon referred to: "Writing maketh an exact man."

I said that the term "Founding Fathers" needed a little examination. Who were the Founding Fathers? Were they the signers of the Declaration of Independence? Were they the Framers of the Constitution? Were they the Framers of the first American Constitution, the Constitution under the Articles of Confederation? Were they the signers of the second Constitution, the Constitution of 1787?

In those days, women did not participate in the conventions—but would the Founding Fathers also not include those individuals who met in the various State conventions to ratify the Constitution? Would they not include the writers of the Declaration of Independence? Would they not include the Members of the Congress under the Articles of Confederation? They surely debated much that went into the second Constitution. Would they not include the legislatures of the States that then existed?

So when we talk about the Founding Fathers, many people associate that term only with the framers of the second American Constitution. And certainly the framers were Founding Fathers, but not all the Founding Fathers, I am saying, not all the Founding Fathers were framers of the Constitution. So there is a little difference. It isn't a serious matter by any means, and I am not taking issue with anyone, but I have thought about that term.

It is hard to imagine that their spoken words could possibly be undercut by any of the all too common fillers that plague common conversation today, those "ums" and "uhs" and "likes," and especially that inanity of inanities, "you know." That is the most useless phrase. That is pure deadwood. It doesn't carry its weight in a speech, "you know."

Any time one turns on a television—which I don't do very often; perhaps that is why I have a lot of old ideas—he will hear a string of "you knows" from the anchormen and women, "you know."

What does it mean, "you know"? What do I know? You know? That is taking advantage of the other person when you say, "You know." "You know." How silly, how useless a phrase. That certainly would not carry its weight under the B-C ratio—the benefit-cost ratio—that inanity of inanities; that inanity of inanities, "you know."

Oh, how I hate that pernicious phrase, "you know." This is simply a filler. The tongue is operating in overdrive and the brain is somewhat behind the tongue, "you know."

We are told by Plutarch that—well, I am providing a rather good example of what Plutarch was saying. He said that Alcibiades was the greatest orator of his time.

Plutarch wrote that Demosthenes said that Alcibiades was the greatest speaker of his time and that when he came to a place in his oration and was having difficulty remembering the exact word, he paused—he paused—he simply paused until the right word came. He did not fill the gap with "you knows" or "ahs," "uhs," or "ums," and so on. He simply waited until the right word came.

Try it sometime. Record your own remarks. See if you are using that phrase. Our remarks are awash in "you knows." And they are uttered all around us by people who are unaware of how they are filling the time between words when the mind is still struggling to complete the thought. They are filling the time with that inanity of inanities—"you know."

Speaking now as a listener, I contend there is almost nothing more irritating and distracting than suffering through countless "you knows" while trying desperately to discern what message the speaker is attempting—vainly—to convey.

If I were teaching a class, that would be one of the things I would come down very hard on. I know that most people have no idea that their speech is packed chock-full of "you knows," and it just becomes a habit. And if one listens to it very much, he will fall victim to the same bad habit. For the first thing he knows, he will find that his remarks are being filled with "you knows." And these are sometimes strung together in staccato multiples: "you know, you know, you know?" It is simply filler—meaningless—sound to fill dead air while the speaker's unprepared brain hunts down the sentence's conclusion.

Perhaps it is because Americans are such creatures of the television age, used to actors, or those who think they are actors, news broadcasters, even politicians, reading seamlessly from scripts, cue cards, and teleprompters. We are not used to hearing pauses of any length so we unconsciously try not to allow even a few seconds of quietude to fill the air.

We have become unused to true public speaking and debate in which informed individuals prepared their minds with facts and arguments, listened to each other, and retorted and rebutted extemporaneously. Such debate demands close attention and even, shockingly, moments of silent, deliberate thought while a rejoinder is mentally composed.

I never hear the senior Senator from New York, Mr. MOYNIHAN, using that phrase. I have noticed that he pauses from time to time, but he does not use the phrase "you know." I think of him as a fine example of a teacher at whose feet I would be honored to sit.

These small pauses, like the quick closing and opening of the stage curtains between acts, allow the speaker to savor the argument he has laid out, while his opponent prepares a clever and pointed rebuttal. Few can do that anymore, even those so-called professional debaters—the talking heads of media and politicians. If the response is quick, it is quite likely to be a prepared, canned, one-liner sound bite which sells the sender's message regardless of whether or not it is completely pertinent.

It is possible to expunge "you knows" from public discourse. I have seen it done by conscientious individuals, as I indicated a little earlier, but it is no easy task. Like poison ivy, "you knows" are pernicious and persistent. It takes strong medicine to kill back that lush growth, and diligent weeding to keep opportunistic tendrils from creeping back into common use. To rid one's speech of "you know," one must first learn to listen to himself or to herself. One must learn to train himself to recognize that he uses "you know" or other distracting filler words. As a test, ask someone to tape you or to count the "you knows."

Various members of my staff, as and when and if they hear another staff person saying "you know," they point their finger immediately at that person. And in that way they help to break the habit. I think many people will be unpleasantly surprised at the results of such a test. Then enlist these same friends to alert you when an unconscious "you know" pops out. They will enjoy that part of the task. And then work at it, work at it, work at it. The more you do, the more you will notice just how often you use such needless and asinine fill-ins. Weed them out of your speech, and you will increase your reputation as a good speaker and a thoughtful person. There is a common saying to the effect that "I would rather be silent and be thought a fool, than to open my mouth and prove it." Speech peppered with "you knows" has much the same effect.

As I have observed already, Alcybides was noted for his practice of simply pausing silently when the chosen word momentarily escaped his mind's ability to marshal and bring it safely to his lips. Then, when he could continue, he simply resumed speaking. And he was the finest orator of his time. Clearly, a moment of silence is preferable to "you know." Think of it: "Four score and, like, seven years ago, you know, our Forefathers, uh, brought forth, you know, upon this continent, you know, a new nation, you know, conceived in, uh, liberty, and, you know, you know, dedicated to the proposition that, uh, uh, like, all men are created, like, equal." With that kind of delivery, President Abraham Lincoln could not have stoked the nation's determination to see the Civil War through to its conclusion. Or let's imagine Martin Luther King: "I, uh, have a dream, you know." Not a very stirring message when it is lost in the verbal litter.

Ridding your speech of such verbal trash may not make an individual a leader of nations or of men—that requires great thoughts as well as a clear and stirring delivery—but leaving them in can surely blight the path to greatness, you know.

Mr. President, I have some remarks on another matter, but I see the distinguished senior Senator from Massachusetts, my friend, my true friend, Senator KENNEDY is on the floor. I am going to ask if he wishes to speak at this time?

Mr. KENNEDY. I thank the Senator for his typical kindness. I would be glad to make my remarks after my good friend from West Virginia. It is always a pleasure to listen to him at any time, but particularly on a Friday when I can give full attention to his eloquence.

Mr. BYRD. Mr. President, I thank Senator KENNEDY. As I have remarked before, and I shall say again, he is one who would have appropriately graced a seat at the Constitutional Convention in 1787. I can see him working in that audience on the floor and off the floor, arguing forcefully and passionately, and advocating his position on a matter and doing it well.

So I will proceed. I will try to be brief, more so this time than other occasions.

BRIGHT SPOTS BRING HOPE TO EDUCATION

Mr. BYRD. Mr. President, I have recently drawn much attention to the results of the Third International Mathematics and Science Study, released in February of this year. My visceral, my visceral reaction to the poor scores of high school seniors on the mathematics and science portions of this exam was one of great dismay and disbelief. How could United States students be performing so poorly given the massive amounts of money invested each year in our nation's education system?

My spirits have since been lifted in the past month when hearing about the progress that my own home state of West Virginia is making on the education front. In my years as a United States Senator, my state has been scoffed at more times than I can remember, or want to remember. Well, today, I come to the floor to boast a little bit about what we are accomplishing back in the mountains and foothills of West Virginia.

For the second time in a row, West Virginia has posted the highest education marks of any state in the "Quality Counts" report released annually by Education Week magazine. West Virginia has tied only with Connecticut for top honors in the study, which grades states on standards and assessments, quality of teaching, school climate, and adequacy, equity, and allocation of resources. In achievement, no grades were granted but states were ranked by the percentage of students who scored at or above the proficient level in mathematics and science on the 1996 National Assessment of Educational Progress (NAEP). Seven states, including West Virginia, made significant gains in the percentage of fourth graders who scored at the proficient level or above on the 1996 mathematics test. What is even more striking about these scores is the fact that West Virginia ranks forty-ninth in per capita income and family income, an economic statistic which is often correlated with lower student achievement.

Earlier this year, West Virginia was recognized as a national model in geography education by the National Geographic Society. National Geographic Chairman Gilbert Grosvenor commended the state as "one of the best examples in the country of putting essential geography into a statewide system." The Fordham Foundation, a private organization committed to quality-based reform of elementary and secondary education, conducted a recent study evaluating different geography standards used by states in setting their academic curricula. West Virginia was one of only six states that received honor grades for adopting excellent standards for geography that are clear, specific, comprehensive, and rigorous.

Good students and teachers are an integral component of getting ahead in education.

West Virginia could not have made the progress in education that it has made in the past few years without solid homes, ambitious students, and good teachers. The whole process depends, in great measure, on quality teachers, since even the most driven and ambitious students can falter at the hands of an unqualified, incompetent teacher. Just recently, Susan Lee Barrett of Nicholas County, WV, was named as the West Virginia Teacher of the Year. Ms. Barrett is a teacher at the Cherry River Elementary School. She was selected based on her leadership in education reform. I hope that many other teachers in West Virginia and around the Nation will emulate the ambition and dedication to her chosen field that Ms. Barrett has so evidently displayed.

I also take great pleasure in learning of the headway West Virginia is making as a leader in education. Over the past few months, my office has been inundated with positive news about many West Virginia schools and students. These bright spots deserve recognition for their efforts and innovation. As Plato wrote in his day, "Excellent things are rare." How true that is. Excellence is something that we all can recognize—the Nobel Prize or a play by Shakespeare or Aeschylus or Euripides or Sophocles; however, it is not something that most of us see or experience on an everyday basis. For that reason, excellence should be acknowledged and it ought to be rewarded.

The Department of Education recently announced the selection of the 1998 national blue ribbon schools, which are recognized for strong leadership, high-quality teaching, up-to-date curriculum, policies, and practices. In West Virginia, Weir High School, which is in the northern panhandle of West Virginia, and Weir Middle School, both of Weirton, WV, were named for this award. Weir High School is unique for its active role in preparing students to meet the demands of today's high-tech society. With increased global competition and industry downsizing, Weir High School provides its students with many important resources, including a computerized library resource directory, Internet accessibility, satellite television access, computer-assisted drafting, laser disc technology, and electronic research. Weir High School students are making great strides as a result of such unprecedented use of technology, and I commend the school and its able faculty for its leadership in that area. When I went to school, we never heard of such things. We not only didn't have access to it, we never even heard of it.

In addition to an educational technology focus, Weir High School should be extremely proud of its veteran teaching staff—a staff that demonstrates an unparalleled level of commitment and dedication. That is what it requires: dedication and commitment. Among its faculty members, the school boasts of a Tandy finalist, Ashland Teacher of the Year, West Virginia Math Teacher of the Year, West Virginia Biology Teacher of the Year—think of that—several Hancock County Teachers of the Year, Who's Who Among American High School Teachers, and West Virginia Governor's Honor Academy Favorite Educators.

Following in the footsteps of its neighboring high school, Weir Middle School has made great progress in technology, curriculum, National and State test scores, community involvement, student environment, and meeting State and National education goals for all students. The school motto, "An Open Door to New Beginnings," is observed and followed daily. Accordingly, Weir Middle School recently introduced a new program, WEIR, We Encourage Individual Responsibility, to encompass total staff and student involvement in promoting learning and the teaching of standards.

West Virginia, with stars shining across its educational firmament, is home to many other schools producing excellent students. To name a few, Kiley Anne Berry, a sophomore at East Fairmont State College, in the northern portion of the State, is 1 of 20 distinguished students selected from across the Nation—not just across West Virginia, but across the Nation—to participate in an international Youth Science Festival in Seoul, Korea. Heather Wilson, an eight-year-old from Jefferson County, in West Virginia's eastern panhandle, was selected earlier this year as a National Runner-Up in the Reading is Fundamental 1998 National Reading Celebration, an annual reading program challenging students to meet or exceed an age-based reading goal. Several students at Clay County High School of Clay, WV, were distinguished in the "We the People . . . the Citizen and the Constitution" national finals. More than 250 other West Virginia students in grades five through eight were honored for their exceptional academic talents as part of the Johns Hopkins University Talent Search. And the list goes on.

I could spend several more minutes, or even hours, talking about distinguished West Virginia students and West Virginia schools, and education in general. I will, however, conclude now. But I urge all schools, teachers, and students, nationwide and in my State of West Virginia, to follow these pacesetters—pacesetters. Our education system in the United States is ailing and we need to get back on track. These schools and students that I have talked about today are succeeding, and I encourage others to keep pace and emulate this progress.

Mr. President, I yield the floor.

Mr. ENZI addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

HEALTH CARE QUALITY LEGISLATION

Mr. ENZI. Mr. President, I rise today to speak about the popular issue of health care quality. You can't mention health care without pulling on everyone's heartstrings. While several of the measures in both the House and the Senate have been pitched as being essential to enhancing the quality of care Americans receive, I hope that my colleagues will carefully evaluate the impact that any Federal one-size-fits-all mandate would have on our Nation's health care system.

Health care is as personal as it gets. More importantly, though, our decisions must not be tainted by simple anecdotes. This is not a one-line sound bite issue. Like any Member of this body, I believe that America's health care providers are the best in the world, and I believe that our health care system is the most technologically advanced in the world—the most technologically advanced in the world. Perhaps we don't hear that enough. The reason for that could be that this issue is being used by some folks as a political ad campaign, dwelling entirely on the negatives and failing to illustrate any positives. That is not rational, that is not fair. People are prone to believe something if they hear it enough, even if it isn't true. Repetition doesn't right a wrong, although repetition may lead a person to think a wrong is right.

While watching this debate unfold, I have seen people wield surveys and polls around this body like they were weapons of mass destruction. It stands to reason that if you want to make a bill popular, back it up with a survey or a poll. Why? Because you can always get the answer you want by the way you word the questions.

Legislating our Nation's health care system in such a fashion is like trying to cross a chasm in two jumps. It is detrimental to everyone's health.

I will, however, illustrate how unreliable survey and poll results have been in relation to various health care quality provisions. For instance, in May, a Democratic polling firm showed that 86 percent of those questioned supported the Patient Access to Responsible Care Act or PARCA bill. In the same month, a Republican poll found that more than 90 percent of those questioned favored federal legislation to guarantee protections such as full information about their conditions and treatment options, a list of benefits and costs, as well as access to specialists.

But when folks were asked how they feel about their own health plan, an April survey by the Employee Benefit Research Institute showed that 53 percent of respondents were extremely or very satisfied with their health plan. And in a November 1997 Kaiser/Harvard survey, 66 percent of Americans in managed care plans said they would give their own health plan a grade of A or B. Such mixed results are more reason to approach any debate of federal mandates with the greatest degree of caution.

What would the polls show if people were asked about additional costs? What would the polls show if changes could eliminate being able to see a doctor at all?

I will talk in a minute about the frontier, the rural, aspects of that.

Yes, another factor that has produced mixed results is the cost of each of these bills. I've seen estimates for a number of pending bills that could raise the price of premiums by at least 2.7 percent all the way up to 23 percent. Why aren't the people being polled about that? I don't believe that you can get quality out of any bill that forces people not to purchase insurance. We'd essentially be driving people away from coverage, not toward coverage. This is why cost estimates for the different proposals are vital. But with mixed results like this, I'm not about to assume that my constituents—who budget their incomes on a day to day basis—will swallow any additional price increases that federal mandates could create.

We are always asked that we not judge a book by its cover. Well, don't judge a bill by its title. The devil is in the details: Or, as we accountants like to say, the numbers should make us nervous, or the numbers should show the nightmare.

Aside from the morass of misleading information pertaining to this issue, I also have serious reservations about any legislation that would dismantle traditional state regulation of the health insurance industry. While serving in the Wyoming State Legislature for 10 years, I gained tremendous respect for our state insurance commissioner's ability to administer quality guidelines that cater to the unique type of care found in Wyoming. That is critical. I firmly believe that decisions which impact my constituent's health insurance should continue to be made in Cheyenne—not Washington.

I cannot emphasize how important it is to consider demographics when debating health care. Wyoming has 465,000 residents living within 97,000 square miles. That is living in a State that is 500 miles on a border. We are one of those square States that couldn't exist if somebody hadn't invented the square. There are 99,000 square miles with only 465,000 residents. The State has an average elevation exceeding 4,000 feet. We have high altitude and low multitude.

Most communities have a higher altitude than population. In fact, if you look at one of the Wyoming roadmaps, you will find a list of about 150 cities. We call them cities out there. If you look at the population following the name of the city, you will see that half of them have no population at all. They are a place where the ranchers come to pick up their mail. Even the Postmaster doesn't live in the town where the Post Office is. It is a long way between towns. I live in the sixth largest town in the State. It is 135 miles to the next biggest town—135 miles. The town I am from has 22,000 people. The biggest city in Wyoming is 50,006. We don't have that much population. We have a lot of miles. It is tough to get to doctors.

It's in those conditions that my constituents have to drive up to 125 miles one-way just to receive basic care. Moreover, we have a tough enough time enticing doctors to come to Wyoming, let alone keep them there once their residency is finished. Even more troubling is the limited number of facilities for those doctors to practice medicine in Wyoming. Let me just say that if you don't have doctors, or facilities for them to practice in, you sure don't have quality health care.

We have even talked here about an overabundance of doctors in parts of the country. In Wyoming, we wish for that affliction.

The majority of bills now pending consideration in the House and Senate are primarily geared to overhauling managed health care plans. In a rural, under-served state like Wyoming, managed care plans account for a very small percentage of state-wide health plans and services currently available. This is partly due to the state's small population. Managed care plans generally profit from high enrollment, and as a result, the majority of plans in Wyoming still remain fee-for-service. In terms of legislation, however, this doesn't make a bit of difference. Many fee-for-service insurers in my state also offer managed care plans elsewhere. Those costs could be distributed across the board. Is it fair for the federal government to force my constituents to pay for a premium hike that's caused by federal mandates on managed care? The availability and cost of care for 465,000 rural frontier residents may not mean much to some folks, but it sure means a great deal to me.

Is this a problem that can be fixed from Washington? I certainly don't believe so. People from Wyoming understand that life in our state is much different than in California or New York. A one-size-fits-all policy doesn't help states like Wyoming, it only excludes them further from obtaining the type of care they deserve. I encourage my colleagues to look at the fine print when considering legislation in the coming days. You just might agree that getting quality out some of these bills is like trying to squeeze blood out of a turnip. And we'll want to spend some time talking about whose blood!

Thank you, Mr. President.

I yield the floor.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

AZORES EARTHQUAKE

Mr. KENNEDY. Mr. President, I want to bring to the attention of the Senate a rather tragic set of circumstances that has taken place in the Azores in the last several hours.

Some 1,500 minor aftershocks hit the Azores last night after a strong earthquake struck the islands, killing 10 people, with very severe damages to the island of Faial in the Portuguese mid-Atlantic archipelago. There are many individuals sleeping out in the open, in the parks, and in their cars, to avoid the risk of being caught inside of a building if another quake should strike.

The impact of that was 5.8 on the Richter scale, which is a very, very sizable earthquake.

As I mentioned, there have been some 1,500 aftershocks. And the terror and loss that has struck the people in that island and in that archipelago is a great human tragedy. Obviously, the people of the United States want to reach out to all of those islanders and all of the people and families who have lost loved ones and those who are suffering injury.

I know that the United States will do what it can in terms of help and assistance to the people and to the Portuguese Government, particularly people on those islands, and we will want to give whatever humanitarian help and assistance that we can.

This happened a number of years ago. Some 40 years ago I can remember those circumstances, and I think many of us in Massachusetts who are fortunate to have families and friends who have families in the Azores and from the island of Faial, know that they are suffering greatly today, and it is appropriate that we take whatever steps, as a country, to help and assist them. In the meantime, our thoughts and prayers are with all the people of the Azores.

THE PATIENTS' BILL OF RIGHTS

Mr. KENNEDY. Mr. President, on another item, I want to just take a few moments to bring the Senate and those who are watching up to date about where we are on our battle for debate and discussion on the issue of the Patients' Bill of Rights.

As we have pointed out, that issue, which is of fundamental importance to the American people, is a rather basic and fundamental issue. It comes down to this very simple concept—that medical decisions ought to be made by doctors and patients and not by insurance agents, and that too often in America today managed care means mismanaged care. We have a responsibility to address the abuses that are taking place in our health care system.

That is what this whole discussion is really all about. Those of us who believe these issues are important have been denied the opportunity to address them. Some of us have introduced and supported legislation to address these abuses more than 1½ years ago, and, more recently, we have done so with the excellent bill that our leader has provided, Senator DASCHLE. We are in strong support of it. We have been trying to get time to debate that issue here on the floor of the U.S. Senate. We were blocked out of consideration in our committees. We were blocked out of consideration of even getting legislation on the calendar. We have been blocked out of consideration here on the floor of the U.S. Senate, and we have been resolute in our determination that this issue would be debated and discussed and acted on in this session.

We have seen, I think, as of yesterday, a list of so-called principles from our Republican leadership on their version of a Patients' Bill of Rights. I will just take a moment or two to reflect on their particular principles, and the hollowness of their commitment to meaningful rights will be clear.

I ask unanimous consent to have printed in the RECORD at the conclusion of my remarks their complete document, the Republican Health Care Principles.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See Exhibit 1.)

Mr. KENNEDY. Let me just go through them very quickly. This is on page 1.

Republicans believe all consumers have the right to: Receive accurate, easy-to-understand information about what their health plans provide, including information about out-of-pocket expenses and information about health care providers.

Then, if you read through the pages of their document and go to the last page, it talks about the information that will not be provided; that is, it lists, for example, that insurance plans will not have to provide information on treatment outcomes. They will not have to provide information on patient satisfaction. They will not need to report on the quality of the care they deliver. It seems to me that consumers ought to understand the satisfaction level of patients in a particular HMO. It seems to me that we should also have an opportunity to know the outcomes of various treatments in various insurance plans.

So, on the one hand, you see on page 1 various information is going to be made available. Then you turn around on page 3 and it lists all the things they are not going to provide, including many of the essential elements that every consumer group and every patient group and every employer understands are essential if patients and consumers are going to be able to make informed judgments on their health care.

Now, returning to the Republican leadership's list, it goes on to say that consumers should be able to "hold their health plans accountable through a fair and expeditious appeals process." That sounds good. But, the word that should have been in there is "independent." Patients need an independent appeal process. What does "a fair and expeditious appeals process" mean? If they had said it will be "independent," or to an "external body review for fair and expeditious appeals"—then we would be on our way toward agreement on something. But, oh, no, this again refuses to be specific or even indicative that patients will have fair-minded, independent, outside external review and accountability.

Furthermore, the so-called principles say consumers will be permitted to "communicate openly with their doctors about their treatment options." That sounds like we are lifting the gag rules, like this list might include lifting the gag rules that still exist in some HMOs. But, the fact is that most HMOs and insurance plans have the ability to fire doctors without cause. And they also have the ability to make financial arrangements with doctors, and those financial arrangements can be adjusted and changed by the HMO, to discourage provision of necessary medical care. So, while it sounds good to say you are promoting open communication, unless you are also going to guarantee that doctors can practice medicine unfettered by the insurance companies' accountants, you are really not doing very much. It might sound good, but in fact it is not doing very much. This is really a very, very weak commitment.

Then their list goes on. The consumer should:

> Know that their medical care is based on the best scientific information available, not on political considerations.

Patients need and deserve the best health care treatment. They are not worried about the political considerations. They are worried about the financial considerations—profit considerations of insurance companies—that drive medical decisions. Do we understand this? Our Republican colleagues do not even commit in their statement that they are going to have the decisions involving health care being made by the doctors on the basis of health considerations. All they say is they will have it "not on political considerations." They don't eliminate the clear, fundamental problem driving this debate, which is that health treatments are being based on the financial considerations of the insurance companies.

The Republican leadership's list continues. Consumers should have:

> Access to their medical records and the right to know that their medical information will be used only to provide better health care.

This would suggest privacy protections. This is very interesting. Senator LEAHY, our colleague from Vermont, has been a leader in this whole area. He introduced a bill more than a year ago, which I have cosponsored, and we can't get the majority to report out a bill in our committees, either in the Judiciary or in our Labor and Human Resources Committee, or get the Republican leadership to be willing to schedule it on the floor. Here they are, talking about all the kinds of guarantees in terms of privacy, but they have historically been unwilling to address it in a meaningful way.

Mr. President, just before the Fourth of July recess Speaker GINGRICH issued his principles. The Gingrich plan fails in three very important areas. First, it refuses to commit the Republican leadership to HMO reform that says that medical decisions will be made on the basis of medical concerns rather than insurance company concerns. Second, it does not guarantee access to specialists. What person in this Chamber would want to have either his wife or child who had been stricken by cancer be denied immediate access to an appropriately qualified oncologist or pediatric surgeon who can provide the best in terms of treatment? The Gingrich proposal simply does not provide the kind of guarantee of specialist access which is critically important for protecting consumers.

Third, it does not provide the ultimate protection of accountability. This will be an issue we will debate here. I cannot wait to find out how the Senate is going to vote on the issue of accountability. Just last month, the Senate voted by two-thirds that we were going to still hold the tobacco industries accountable for their actions. Are we going to reverse that with regards to the insurance companies on health care? Why can't our Republican leadership say, at least on that issue, given where the Senate has voted on tobacco, that we believe that the insurance industries that are dealing with health care also should not be free from liability? Why? Because the Republican leadership is in the pockets of the special interest groups who fear being held accountable for their actions. I would like someone to explain the inconsistency of this position, given the recent vote on immunity for tobacco companies. How can they oppose holding accountable those whose abusive actions can result in immediate injury or death? Who is going to look out after that? Mr. President, we want to make sure we are going to have accountability and that it is going to be an essential issue we are going to debate.

I call this Senate Republican proposal "Gingrich Lite." Gingrich Lite. They don't even go as far in the Senate as they went in the House of Representatives, which was lacking.

Finally, the Republican leadership's principles fail to meet the following very basic considerations and protections. I am waiting for Republicans to describe why they are opposed to any of these protections. I will just mention them again very quickly.

Patient information—it is interesting, as we list all of these protections in this particular chart, to note where we got these recommendations from.

In each and every case of protections that are guaranteed in the Patients' Bill of Rights, they have also been recommended either by the President's recent quality commission, which was a blue-ribbon non-partisan group of experts, or they have been in effect for a number of years under Medicare, or they have been recommended by the States' insurance commissioners, which is a bipartisan group, or it has been recommended by the American Association of Health Plans, which is the HMO trade association.

If you look down at guarantees that are included in our Patients' Bill of Rights, you will see that they have been recommended or been in effect for a number of years. This is a commonsense—commonsense—proposal based upon thoughtful consideration of the types of rights that are currently being guaranteed to many, but not all, Americans.

Mr. President, we welcomed the opportunity this week to have the measure before the Senate. It was there very, very briefly, but quickly taken away by the Republican leadership. No debate. No discussion.

This issue is a priority for the American people, and, even though we have only 44 days left in this Congress, we are going to be resolute and committed to bringing this issue up so that we in this body are going to be able to debate these matters on the floor of the U.S. Senate and vote to provide patients across the country with meaningful protections.

There are 44 days left, Mr. President, in order for us to take action—44 days left. Today is July 10. There are 44 days left to debate this issue and to take action, and the American people deserve action, and they will receive it, because we are strongly committed to it.

I yield the floor.

EXHIBIT 1

REPUBLICAN HEALTH CARE PRINCIPLES

Republicans will demand that HMOs play by the rules and provide access to patient-centered care. Many consumers fear that their health care plans will not give them access to care when they need it most, that they will be denied the benefits they've paid for and been promised, and that their health plans care more about cost than they do about quality. These are real fears of unacceptable conditions and HMOs must do better.

Republicans believe that all consumers have the right to:

Receive accurate, east-to-understand information about what their health plans provide, including information about out-of-pocket expenses and information about health care providers;

Receive the benefits they have paid for and been promised;

Hold their health plans accountable through a fair and expeditious appeals process;

Communicate openly with their doctors about their treatment options;

Know that their medical care is based on the best scientific information available, not on political considerations; and

Access to their medical records and the right to know that their medical information will be used only to provide better health care.

Republicans support expanding health care coverage to more Americans by enhancing its affordability. We will not adopt legislation that will make health insurance more costly or drive businesses—especially small businesses—to drop coverage of their employees. While CBO has not completed its analysis of PARCA or the "Patients Bill of Rights," a 1997 Milliman and Roberts study of PARCA found that the legislation would increase health care premiums by an average of 23 percent. To the average family, that's an annual premium hike of $1,220, or more than $100 per month. That study, significantly, did not take into account the additional costs that would be imposed by the liability provisions.

Higher health care costs mean more uninsured people. According to a 1997 study by Lewin, for every 1 percent increase in premiums, 400,000 people lose their health insurance coverage. Congress should not pass legislation that would cause hundreds of thousands and perhaps millions of people to become uninsured.

Republicans believe in expanding choice. We will not force every American into an HMO. Extensive new federal requirements included in the so-called Patients Bill of Rights will force all health plans to resemble HMOs. Ironically, many of the bills which claim to expand choice actually would limit choice. Rather than expanding regulation and forcing a "one-size-fits-all" approach to health care, Congress should focus efforts on reforming the tax rules which limit and in some cases prohibit consumer's choices.

Republicans believe that health resources should be used for patient care, not to pay trial lawyers. Medical malpractice laws have led doctors to practice defensive medicine, making health care more costly without improving patient outcomes. Expanding malpractice liability will exacerbate these problems. Moreover, health plans are likely to micromanage clinical decisions in order to protect themselves against costly lawsuits. Congress should not pass legislation on the assumption that people can sue their way to health care quality.

Republicans believe the private sector is more capable of keeping pace with the rapid changes of health care. The government is not the best caretaker of health care quality. Republicans agree with leading physicians such as Dr. Bob Waller of the Mayo Clinic, who warned that increased federal regulation of health care quality, by freezing in place standards that will quickly become obsolete, will actually diminish the quality of care that patients receive. Who also agree with the approach taken by the President's own hand-picked Commission on Quality which did not recommend legislation or regulation. Instead, the President's Commission—which he has conveniently disavowed—recommended voluntary implementation of consumer protections.

Republicans believe consumers have the right to a health system driven by the best scientific evidence available—not one hamstrung by political considerations. Congress should not practice medicine. Over the past several years, Congress has imposed a number of "body part" mandates on health insurance plans. These mandates, though well-intentioned, are often misguided. For example, the Journal of the American Medical Association last year published a study which concluded that maternity length-of-stay requirements do not improve health outcomes for mothers or their babies and may do more harm than good. Congress should not magnify and repeat past errors by imposing new body part mandates on health plans.

The federal government should focus on a system which will give providers and physicians more time with patients and less time on paperwork. Bills that impose extensive information disclosure requirements on health plans will force those plans to impose extensive paperwork requirements on providers. Instead of simply filing claims information with insurers—as providers in fee-for-service and PPOs do—doctors will have to supply insurance companies with information about their patients, the care their patients receive, treatment outcomes, and patient satisfaction, among other things. This will require doctors to spend more time filling out forms and less time treating their patients.

Republicans will not politicize or simplify an issue as important as health care quality. Many on the other side are willing to jeopardize insurance coverage for millions of Americans for a political "slam dunk." Republicans will not exploit the fears of Americans in order to enjoy a political victory. The issues surrounding the quality of our nation's health care deserve to be debated responsibly and cautiously. We will not pass legislation which increases the number of uninsured, makes health care unaffordable, and diminishes rather than enhance health care quality.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER (Mr. ROBERTS). The Senator from Arkansas.

Mr. BUMPERS. Mr. President, rather than ask later, let me ask now. I ask unanimous consent that I be able to proceed for up to 15 minutes.

Mr. WARNER. Mr. President, reserving the right to object, can I ask what the standing order is.

The PRESIDING OFFICER. The standing order is 10 minutes.

Mr. WARNER. I certainly want to accommodate the Senator, but there are others of us who are waiting. If that is what the Senator desires, then I withdraw the objection. But knowing my dear friend—15 minutes, fine. I thank the Chair.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Arkansas is recognized.

Mr. BUMPERS. I thank the Chair.

(The remarks of Mr. BUMPERS and Mr. WARNER pertaining to the introduction of S. 2289 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

(The remarks of Mr. WARNER and Mr. FORD pertaining to the introduction of S. 2288 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. The distinguished Senator from North Dakota is recognized for up to 10 minutes.

SUDAN'S FAMINE

Mr. DORGAN. Mr. President, in the Washington Post this week there was an article entitled "Sudan's Famine Overwhelms Aid Effort." I want to read a couple of sentences from this article, because I was struck by the concurrence of what I read about what is happening in Sudan and what I know is happening in North Dakota and in much of the farm belt.

> As the gate is about to close for the night on the feeding center here, near-lifeless bodies start turning up everywhere. Three have collapsed just outside the reed walls of the compound, human skeletons so thin they look two-dimensional against the ground.
>
> Three, then four, then five, then, somehow, eight others have been carried inside and laid among the swarm of gaunt people still strong enough to beckon medical workers who have spent the day ministering to the hundreds gathered outside this place that has food.
>
> The workers move from body to body, feeling for a pulse, crumbling high-calorie biscuits into palms, pouring sugar water from gourd to mouth. The impossibly sunken cheeks of a man too weak to hold his head up by himself fall deeper into his face as he slurps. . . .
>
> Four months after aid agencies issued warnings of impending famine in southern Sudan—and two months after they marshaled public opinion in the name of heading it off—starvation has arrived regardless. Across a vast region unsettled by civil war and erratic weather, the United Nations now says, 1.2 million people are at risk of death from hunger.

They are living on the leaves of trees. I heard a fellow who visited Sudan describe old women climbing trees to forage leaves to eat. When I think that halfway around the world people are dying of starvation, and people are climbing trees to eat leaves on trees, I can't help but think that on the other side of the world that our family farmers who produce food in the most abundant quantity anywhere on the Earth are being told that their production has no merit, and no value.

The price of farm commodities collapses, and family farmers are told, "Well, that's the breaks. That is the way things are. You produce it, and it should be worth $4.50 or $5 to cover the cost of production, and then you go put it on a truck and drive it to an elevator, and it is worth $3. Somehow the market doesn't value it. Your crop doesn't have worth, and doesn't have merit."

I think to myself that there is something kind of Byzantine about a world in which that happens. Just detach yourself from the globe for a moment and look at a globe sitting out here with people on this side starving and people on this side who are operating family farms going broke because they are told their food doesn't have value. Gosh.

This is not true with military equipment. Military equipment always has value. They ship it all around the world every day in every way, and there is plenty of money to finance it. The poorest countries in the world can buy military equipment. The poorest countries in the world can afford apparently the best jet planes, tanks, guns, and shells. But when it comes to food, the people who need it are starving, and the people who produce it—our family farmers—are told it doesn't have worth and they can go broke.

Let me describe what is happening in our part of the world. I might say that I served for almost 10 years on the Hunger Committee in the U.S. House of Representatives. I am well familiar with the famine that occurred in Ethiopia. I am well familiar with past famines in Sudan and other parts of the world where millions have died of starvation. This is happening on a planet where, in some parts of the earth we produce food in great abundant quantity and those who produce it are told it has too little value.

We have family farmers today who have invested everything, their lives, 10, 20, 30 years into running a family farm far out in the country, with the yard light on at night, raising their family, sending their kids to school, getting up early to do the chores, working all day, doing chores at night, and discover when they check their books and records that they are losing money and losing their farms.

Here is what happened to the price of wheat in the last couple of years. Wheat prices have fallen 53 percent since the current farm law was passed. Prices have collapsed like a down escalator, and yet some people say, "Gee, everything is working just fine." In fact, I heard some people say the farm program is working just fine. It is not working just fine.

The price of wheat is collapsing. On top of this, in our State we have the worst crop disease in a century. This is a crop disease that is pervasive. It is called fusarium head blight, commonly called scab. Farmers are hit by collapsed prices and crop diseases that are devastating. So we have, it seems to me, a twin failure here on this globe of ours. We have people who don't have anything to eat and are starving and dying in the streets in Sudan. Then we have families who are failing in the Farm Belt who have risked everything they have to run a family farm and are told, when they truck that wheat and barley that makes the foodstuffs that can be life-saving to others, that somehow this has no value. At least, they are told its value is so diminished that you can't make a decent living growing this grain.

Let me show you what has happened to these family farmers in my State. In 1 year, there has been a 98-percent reduction in net income for family farmers. That's right, 98 percent. Go to any neighborhood, any street, anyplace in this country and ask anybody how will you handle it, how will you fare, what will your life be like, if somebody takes away 98 percent of your income? This describes a serious economic emergency.

In my State, these red counties which make up a third of our counties, have been declared disaster counties every single year for 5 years—every year. Not just occasionally, every year. Incidentally, North Dakota is 10 times the size of Massachusetts in land mass. Those family farmers are trying to run a farm out here and trying to raise a crop they can plant and harvest. They have discovered that you cannot do it when you have these excessive wet cycles and pervasive crop disease so they don't get much of a crop. Then if they do get a crop, they send it to the market and it is underpriced because the price has collapsed.

The reason I make this point is we have family farmers in North Dakota—and in other parts of the Farm Belt, but especially in North Dakota—who are suffering terribly. We need to do something about that.

Do we need to respond to the Sudan with respect to food aid, substantially increased quantities of Food for Peace, title II and title III and others? Yes, we do. It is this country's obligation to do that. We ought to do it. Doing so, however, also obligates us, it seems to me, to do something to help those family farmers in our Farm Belt who are losing their hopes and their dreams.

> "This is the worst plant disease epidemic that the United States has faced with any major crop in this country." Brian Steffenson of North Dakota State University said that last week. That is just one part of the price collapse and crop disease that has put us in a devastating situation.
>
> Steffenson also said, "North Dakota's barley industry is hanging on by a thread, even though it is typically the leader in feed and malting barley production in the nation."

Farmers not only face disease and low prices, but also have a problem of selling into highly concentrated markets. Family farmers are trying to figure out how they market their commodity effectively. If they are raising beef, four packers control 87 percent. If they raise pork, its four packers that control 60 percent. Four firms control 55 percent of broilers. If they have sheep, four packers control 73 percent of sheep slaughter.

Grain facilities at our ports are controlled by four firms which have 59 percent. In flour milling, four firms control 62 percent. In wet corn milling, four firms control 74 percent. You get the picture. One farmer out there against that kind of market power that puts downward pressure on all these prices.

My point is this: We have a responsibility in this Congress to care about economic injury to important industries in this country, and none is more important, in my judgment, than family farming. Family farming is, and always has been, since Thomas Jefferson so described it as the most important enterprise in this country. Family farming is still important in this country, and we must make a commitment to deal with the economic injury to people who are out there, threatened with the loss of their livelihoods and the loss of their homes and dreams on their family farms.

In the coming week we intend to meet with the President. In the coming weeks we intend to come to the Congress and ask Republicans and Democrats, conservatives and liberals, all of them, to join us to say: We are not only profamily, we are profamily farming, and during times of emergencies we want to reach out and help. A country that can provide foreign aid can also provide some farm aid in times of trouble, and we have not had a time of trouble anywhere close to this for many, many decades.

Just this morning one of the industry leaders in North Dakota indicated that he thinks we are headed towards a period that is about as bad as the 1930s on the family farm. We have an obligation to respond. I will ask the cooperation of the majority leader, the minority leader, and all people of good will here in this Congress who care, as I do, about the enterprise of family farming and the fortunes of those families in rural America. I hope we can pass a piece of legislation in the next several weeks to respond to this emergency.

I thank the Senator from Mississippi for his indulgence.

The PRESIDING OFFICER. The distinguished majority leader is recognized.

PRIVATE PROPERTY RIGHTS

Mr. LOTT. Mr. President, I have in my hand a copy of that wonderful document, the Constitution of the United States of America. It begins, "We, the people of the United States * * *" Like Senator BYRD, who refers to it quite often and carries a copy of it in his pocket, I find that when I go back and read it and reread it I always see something different, something special, something very treasured. I refer, today, to the last phrase of Article 5, which is very clear and unambiguous. It says:

> * * * nor shall private property be taken for public use without just compensation.

The Constitution is very clear. And yet all across this country, privately owned property, including a lot of farmers' private property, and the private property of businessmen and individuals, is being taken pursuant to government action without just compensation. In many instances for so-called "good and valid reasons"—for example, to preserve wetlands or to protect endangered species. Such takings may, upon examination, be legitimate, but not if private property is taken from the property owner in an inappropriate way and without just compensation.

This is one of the rights I think we as Americans hold most dear, and is so deserving of protection that it is spelled out in our Constitution—the right to privately own property and to not have it taken away by government action without just compensation being paid.

When I visit with people from all over the world, particularly those who have lived behind the Iron Curtain and in Eastern European countries, one of the things they want, one of the things they feel so strongly about in America, is the ability to own private property, own your own little piece of the world, and to own your own home. Yet, in America—in America—we are in danger of losing that right even though it is guaranteed in the Constitution.

So I filed for cloture last night on S. 2271, and I intend to strike and substitute the content of H.R. 1534, which passed the House by an overwhelming vote—I think the margin was well over 100—and which has been amended and passed by the Senate Judiciary Committee.

I commend the Judiciary Committee for the work they have done in this area under the chairmanship of Senator HATCH and with a lot of other Senators being involved, including Senator DEWINE from Ohio and I think Senator SESSIONS from Alabama. They produced this very important legislation, which is intended to protect an individual Constitutional right, the right to own and keep private property, by guaranteeing timely access to the Federal courts.

A primary function of the Congress, I think, is to safeguard rights guaranteed by our Constitution. When the Fifth Amendment to the Constitution was ratified, our Founding Fathers were confident that the right of an individual to own and use private property without unreasonable restrictions of that right would be guaranteed. However, the framers of the Constitution and the Bill of Rights could not have reasonably foreseen the tremendous changes in our Government structure that have resulted, I believe, in the real impairment of these property rights guarantees.

The encroachment of Federal Government agencies into matters of private land management is an issue of escalating cost to taxpayers, businesses, and private property owners. Such encroachments often result in decreased property values, reduced or terminated business activities, and lost jobs.

What value does a piece of property have in Kansas or in Connecticut or in Mississippi if you have been told, "Oh, yes, it is your land. We won't take it. But, by the way, you can't use it in the way you intended, for the purpose perhaps that you had bought it; or you can't do something on your land that you have inherited from your forefathers?" You might as well just take it off the face of the globe. What value does it have if you can't use it?

The extreme interpretations, in my opinion, of the Endangered Species Act and the Clean Water Act by Federal regulatory agencies are resulting in a policy of national land use control. Further, the rights of individual property owners are imperiled when faced with oppressive Government regulation without the ability to even fight for those rights on equal footing. This must not be allowed to continue unchecked.

I believe a legislative remedy is now needed to reinstate what should otherwise be inalienable. At a minimum, an individual property owner should be confident in the knowledge that the Federal court system is available to resolve a dispute over the taking of an individual's property without just compensation in a fair and timely manner.

That timely access to the courts will be assured by the passage of this legislation before the Senate Monday, and the vote will be at 5:45 p.m. on Monday to allow us even to proceed to consider this bill which will guarantee private property owners access and the opportunity to go to the Federal courts.

This legislation affects only Federal property rights claims brought before a Federal court. Despite the contentions of opponents to this legislation, State and local prerogatives and State and local claims—those based on State and local law—are not affected. The mere fact that a property rights constitutional claim may arise from some action taken by a State or local government does not make that claim per se a State law claim rather than a Federal claim.

The Judiciary Committee has endeavored to strike the proper balance when weighing any impact on State and local governments caused by this legislation. This legislation will certainly empower property owners—that is what it is intended to do—but I believe it will merely place them in the position they should have been in all along and will place them in a position that balances the need of the governmental entity with the rights of the private property owner.

Finally, it should be clear to all that the U.S. district courts in particular (and the Federal court system in general) are the proper venue for the adjudication of Federal constitutional issues such as this Federal right stemming from the Fifth Amendment to the Constitution. This legislation does no harm to our well-established principles of federalism. The Federal courts reviewing these claims will have no power to write permits or to make zoning decisions as do local governments. The courts do, however, have the responsibility to ensure that such decisions are constitutional and do not improperly infringe upon the property rights established by the Fifth Amendment.

I am confident that this legislation will accomplish its desired effect, no more and no less. That effect is to ensure that a private property owner has his day in Federal court and a fair and timely hearing of his cause. This is a bedrock right, and it must be preserved.

This is not the same private property rights bill that had been considered earlier by the Congress. It is much narrower. It is targeted, but it gives access to the Federal court system. By taking this step, Congress will make great strides to ensure the preservation of this important Constitutional right.

I would like to hear any Member of the Senate go to his or her constituents in their respective States and say, "Private property owner, we think your property should be taken for whatever good and just cause that might be involved without just compensation, and, oh, by the way, you don't even have the right to go to the Federal courts and have a determination made if it is constitutional or not." Try to defend that.

We are going to have a vote. We will see who really believes in private property rights in America.

I yield the floor, Mr. President.

Mr. LIEBERMAN addressed the Chair.

The PRESIDING OFFICER (Mr. ENZI). The distinguished Senator from Connecticut is recognized.

Mr. LIEBERMAN. I thank the distinguished occupant of the Chair. Mr. President, I ask unanimous consent that I be allowed to speak without time limit as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LIEBERMAN. I thank the Chair.

BEYOND THE CULTURE WARS: HOW WE CAN REDISCOVER COMMON MORAL GROUND

Mr. LIEBERMAN. Mr. President, the distinguished leader's reference to the Constitution provides a transition for me today, and I appreciate it.

Mr. President, 222 years and 6 days ago, our Founding Fathers issued what we today regard as America's birth certificate: the Declaration of Independence. We know well the significance of this date which we celebrated, once again, last weekend all across the land and the subsequent events that comprise the remarkable and unique story of our freedom. But sometimes, it seems to me, we have lost sight of the substance of the document itself, and its continued relevance to our polity. So today I would like to revisit this great statement of our American ideals to see what guidance it gives us about our current condition.

Reread Jefferson's master work and you will see that it was not just the declaration of our independence, but also a declaration of our interdependence, a defining statement of the common conditions and values, the shared principles and purposes that would unite a diverse population of English and European pilgrims into a nation.

The original Americans did not all come from the same land, but they all did agree that there are fundamental truths that are self-evident.

They did not all hold the same religious tenets, but they did all hold an unerring faith that those inalienable rights that Jefferson enumerated in the declaration were endowed not by some benign king nor by the grace of a new government, but by their Creator.

I was moved to reflect, Mr. President, upon the declaration's meaning as our latest national birth date passed last Saturday by the recent comments of two prominent contemporary political activists about the state of our values in America in 1998, comments which, when taken together, I fear show how we have lost some of the unity of our founders' national vision.

The first came from Dr. James Dobson, the head of Focus on the Family, who for sometime now has been ringing a national alarm bell about the Nation's declining morality. It was just a few weeks ago that Dr. Dobson caused a stir by proclaiming to the national press that we are in the midst of a civil war over America's future, pitting the moral haves against the moral have-nots.

Not long after, Jane Fonda gave a speech on teen pregnancy that actually echoed Dr. Dobson's martial proclamation, but from a very different perspective. Ms. Fonda attacked the views espoused by Dr. Dobson and others on abortion and sex education, accusing them of ignoring children that "are not white, middle-class Christians" and warned her audience that our society is in the throes of a "holy war," pitting the forces of tolerance against the forces of intolerance.

It would be easy to dismiss this apocalyptic talk, this talk that seems, in some words, certainly to be intemperate, as just another bout of the hyperbole that dominates so much of our political discourse these days if it were not for the accumulation of evidence suggesting that Dr. Dobson and Ms Fonda are each in their own ways on to something. Maybe, as the stark contrast and conflict of their views and the way in which they express them suggest, the values that have long held us together are coming unglued. Maybe we are on the verge of abandoning the declaration's premise of interdependence and sliding toward either individual isolation or open conflict.

There is certainly a slew of public opinion polls showing that most Americans are gravely concerned about the condition of our values. There was a Gallup-USA Today survey released in March found that 49 percent of Americans believe that we are in the midst of a moral crisis. And another 41 percent said they believe we have major moral problems. What is driving these numbers, the polls suggest, is a swelling sense that our moral safety net, the interlaced norms of behavior we depend on to maintain a civil society, has become badly frayed, and that this fraying has contributed to some of our most pressing social ills, from the recent outbreak of children slaughtering children, to the ongoing epidemic of children giving birth to children, to the general coarsening of conversation, communication in our shared public places.

Mr. President, then consider, if you will, the vociferous complaints of millions of American parents—I certainly hear them in Connecticut—who feel as if they are locked in a competition with the immensely powerful, popular culture to raise their own children, a culture which more and more rejects, rather than reflects, the fundamental values we Americans have abided by for generations that have served us so well, a culture that glorifies murder, mayhem and drug abuse, promotes promiscuity and the latest perversion of the moment, denigrates authority with a numbing regularity, and wallowing in titillation and sensationalism and, it seems so often, all things scandalous.

Or closer to home, here in Congress, consider what our investigation of the 1996 campaign finance scandal revealed. We live in a political system where the clear intention of laws governing campaigns are regularly violated, where we have defined political deviancy down so far that it seems the only relevant standard left is what is technically legal—which is another way of saying, "What can we get away with in order to raise vast sums of money to run more television ads, to win more elections?"—and where hustlers cynically compare gaining access to the White House to dropping tokens into a subway turnstile.

Or consider the hostile tone of the debates we often hear in this Congress about visceral, values-based issues, particularly such as abortion or homosexuality or school prayer. The rancor of these discussions, which is eagerly amplified by the news media, only reinforces the impression that values are something that divides us as Americans today rather than defining us.

So there is ample evidence, I think, to suggest that something is deeply wrong with America's moral health today. Nor is it a stretch to conclude that Dr. Dobson and Ms. Fonda, together with the legions of other culture warriors who have seconded their respective convictions, raised some legitimate and consequential questions about what it is that ails us in our capacity to remedy it.

Among them are, What has happened to the founding principles that undergirded the Declaration and, for that matter, the Constitution and have sustained us for generations? Have we, in some sense, taken tolerance too far? Is our commitment to a common moral code on a set of fixed points of right and wrong self-evident truths that we declared in the Declaration disintegrating? And if it is, can a house so divided against its own values stand strong for long?

Mr. President, in my remarks today I will try to offer some answers that may add to our understanding of the controversial and complicated values debate, with the hope I may help to, in some small way, move it beyond the warped groove we seem to be stuck in these days. I do so convinced that America's moral Cassandras are on to something, that our Nation is in the grip of a crisis of values, that there really is a conflict at our core, and that the recent spate of school shootings and murders are a warning sign of even greater trouble ahead.

But I also do so convinced that we are misdiagnosing this conflict by framing it as a civil war, and that those who do, in fact, make it harder to overcome the very divisions that they bemoan and we, as a people, must repair if we are to fix what is, indeed, broken in our society.

Let me first try to say a bit more about what I mean by common values, because I know from experience that these words carry heavy baggage with them today and, as such, are often interpreted differently by different people which is, in itself, a symptom of the larger problem we face.

The best reference point I can think of is the Declaration of Independence, the Constitution, and the Bill of Rights, which are the great founding expressions of American values.

What are those core principles? Equal opportunity, freedom of religion and expression, particularly individual autonomy, self-rule, personal and civic responsibility, tolerance, and a respect for the basic dignity and underlying pervasive respect for the basic dignity of human life. All of these are derived, I believe, and can be seen from the documents—the Declaration particularly—all of these are derived from our faith in God, in our belief in the existence of moral truth and a higher law, and all of which, I suggest, are essential to living and sustaining a free and democratic society.

These Founding Fathers, we know, had their roots in the Judeo-Christian ethic, the Declaration's drafters, but the values are not exclusive to any one religion. In fact, over the years, they evolved into an American civic religion—principled, purposeful, moral, public, and not least of all inclusive—an American civics religion that cemented our common bonds as Americans for generations and made real the ideal of e pluribus unum—"one out of many."

But there is a profound tension that I think we have to acknowledge in these founding values between rights and freedoms, which we, as individuals, have been endowed, as the document says, by our Creator on the one hand, and in the mutual responsibilities and common obligations we must accept to form a government capable of securing those freedoms on the other hand—in other words, the coinciding claims of independence and interdependence that Jefferson articulated so brilliantly in the Declaration.

And it is in these tensions, I think, that we find the antecedents of the conflict that today engages Dr. Dobson, Ms. Fonda and so many others. It is, at its heart, not a conflict, I think, between warring camps of American citizens so much as a clash of competing fundamental American values—independence versus interdependence, the belief in moral truth versus the value of communal tolerance. It seems to me that we are not experiencing a wholesale repudiation of the basic common values I have described, but rather a shift in our national moral equilibrium in which tolerance has emerged as the more popular principle of the day.

A great challenge we face in our time, given this shift, is how to sustain tolerance without inviting immorality and how to uphold moral truth without becoming intolerant. This tension is illuminated by the research that Boston University sociologist Alan Wolfe did for his recent book "One Nation After All," which was based on interviews with 200 middle-class Americans from eight different communities across the country.

Wolfe set out to test the conventional wisdom reflected, particularly in Dr. Dobson's comments that "a deep divide existed between upholders of traditional cultural and moral values and those attracted to more modern themes of personal or group identity," end of quote from Alan Wolfe. What he found, to the surprise of many, is a high degree of agreement across ideological, theological, racial and ethnic lines on a core set of common values, on the basic questions of right and wrong that still bridge our many differences as Americans.

But Wolfe also found a correspondingly high degree of reluctance to translate those privately held values into public expressions that hold others accountable to those shared standards.

The common refrain Wolfe heard was that people did not want to appear intolerant and did not feel comfortable imposing their morality on their neighbors.

Of course, in some ways this rise in tolerance has made us a much better country, much truer to our founding ideals of equality and opportunity. We have opened a world of new, more equal opportunities for women; for instance, working to eradicate many confining and misguided biases. We have made great progress over the last generation in fighting bigotry and discrimination against African-Americans, making more real for them after a terrible national history of inequality and persecution, the equality of opportunity the Declaration and Constitution proposed for all Americans.

The same is happening with regard to our fellow Americans who are of Hispanic and Asian descent, or today who follow the faith of Islam, a group that is growing in number in our country. And we have begun to stamp out the prejudice long harbored against homosexuals and accept them as fellow citizens deserving of the same basic rights and respect as all other Americans.

But the triumph of tolerance in our values in recent decades has also had a less constructive effect. The pendulum has swung so far and has become so wary of the label "intolerant" that I think we are increasingly unwilling, and in some cases incapable, of making moral judgments. This is evident in the evolution of public attitudes about the family, where we have gone from earlier times stigmatizing adultery, divorce, and particularly out-of-wedlock childbirth, to normalizing these behaviors, with little apparent consideration given to the damage these choices can do, particularly to children individually or to our society collectively.

It is also evident in too many of our schools, where teachers and curricula avoid mentioning the word "values" or won't dare to instruct children in the meaning of right and wrong for fear that is too controversial or may offend some.

It is particularly evident, I fear, in the influential entertainment media, where executives at multibillion-dollar conglomerates too often refuse to draw any lines that they will not cross to raise their ratings and revenues. These men and women produce a market to our children—records that find fun in cop killing, gang rape; even at the extreme, pedophilia; video games that reward young players for mowing down innocent people with weapons; homicidal hotrods and television talk shows that degrade the human spirit and delight in the exploitation of human misery and perversity.

If criticized, the people who run the entertainment business often wave the first amendment around as if it were a constitutional hall pass that excuses their conduct, loathe to admit that the pollution they are dumping into the public square has much less to do with free speech than it has to do with higher profits.

The media moguls are surely not the only business leaders who have suspended judgment and let the values of the market, or the inherent lack thereof, rule practically unfettered. Much as Alan Wolfe's research suggests, more and more business leaders seem to be checking their privately held values, which are strong and deep, at the office door and, by extension, at least when they are functioning in their businesses, their sense of social responsibility. As a result, it too often seems as if the bottom line is the only line and that raising consumption is a far more important priority than raising healthy children.

The purest distillation of this ethos, I think, can be found in the new world of the Internet. Our shared enthusiasm for this exciting and immensely valuable new medium has, unfortunately, been tempered by the almost complete absence of boundaries or rules to guide online conduct. This is not just true of the criminals and the miscreants, the pornographers, pedophiles, and scam artists who, sadly, are taking advantage of the net's anonymity to do wrong, but also a distressing number of businesses that should know better. A recent report by the Federal Trade Commission on cyberspace privacy showed that many nationally recognized companies are using exploitive and manipulative marketing practices online to target web-surfing grade schoolers as potential customers. Specifically, an FTC survey of 212 sites aimed at kids found that 89 percent collect personally identifiable information and fewer than 10 percent provide any form of parental control over what information can be solicited.

Now, one could argue that it is not fair to judge these companies by their conduct in cyberspace since it is such a new medium. But one could also argue, as I would, that the best way to gauge someone's ethics is to judge their conduct when no one is looking. Well, is anyone looking today in America? The founders of our country, the people who drafted the Declaration of Independence and signed it, believed that God was always looking—which is why they showed such deference to what they described as the Supreme Judge of the world in the Declaration of Independence and why they made religious freedom the first freedom. They knew that in this Republic that they were creating, where the power of the state was to be limited, where the state would not be all powerful, that faith in God, in a higher law, would be a necessary and powerfully constructive source of good behavior among the citizenry.

Surveys done today consistently show that more than 90 percent of the American people say they believe in God. I can't think of another question we could ask on a poll in this country that would get that high a response. We exhibit levels of religiosity that are far greater than any country in the world. Yet over the last generation or two we have grown increasingly reluctant to allow that faith to be expressed in public, so much so that it seems at times we have banished religious values and religious institutions from our public policy deliberations and construct a discomfort zone for even discussing our faith in public settings, ironically making religion one of the few remaining socially acceptable targets of intolerance.

If you look at the talk shows on television and see subjects that are being discussed there which go way over the line, think of how little we see similar discussions of matters of faith. In driving religion from the public square, we manage to slowly and significantly, I fear, dislodge our morality from its religious foundations and thereby have lost what I described a few moments ago as our unifying national civic religion.

In some ways, the Ten Commandments became just another "do and don't" list that people feel free to argue with, negotiate, or ignore outright. Without the connection to a higher law, we have made it more and more difficult for people to answer the question of why it is wrong to steal, cheat, or lie, or settle conflicts with violence, or be unfaithful to one's spouse, or to be exploitive with children. We have often deprived our public life of what I believe is the best source of better behavior that the human race has, which is faith in God and a sense of personal accountability and responsibility that should go with it.

The net result of the intertwined trends that I have just described—the triumph of tolerance, the lionization of the market, the breakdown in authority, and the loss of public accountability that comes from faith—is that we have succeeded in creating a values vacuum in American life today. In this vacuum, where moral certainty fears to tread, there are fewer and fewer bright lines and more and more blurs of gray. The difficult balance of truth and tolerance, which for most of our country has sustained us, has been lost. And we are increasingly inclined to ask, "whose values?" when a question of morality is raised.

How much does this really matter? Well, according to Harvard's Michael Sandel, the dissolution of our public morality, coupled with the lost sense of common purposes, has effectively crippled our Government's ability to resolve our most complicated issues in formulating public policy. Without a common vocabulary of values and basic moral assumptions that should form our policies and our laws, Sandel suggests that our most important public debates are doomed from the start because we lack even a shared framework for reaching agreement.

Professor Sandel goes further, arguing in his recent book "Democracy's Discontent" that the breakdown in our common moral code has put the entire American experiment in self-government in jeopardy. Sandel says that in moving toward a value-neutral polity, we have abandoned what our colleague, PAT MOYNIHAN, has so aptly called the "central task" of any society—to inculcate values and develop virtue in its citizens, its children. By turning our backs on this mission, we have depleted the public capital necessary for a democratic government to function effectively. The consequences? A public philosophy that Professor Sandel says, "cannot secure the liberty it promises because it cannot sustain the kind of political community and civic engagement that liberty requires."

This cause for concern was reaffirmed by an important new report released last month by the National Commission on Civic Renewal, chaired by our former colleague, Sam Nunn, and by former Education Secretary Bill Bennett, which found that we are increasingly becoming "a Nation of spectators," passively disengaged from the duties and work of self-government. The commission examined 22 different trend lines, such as voter turnout, newspaper readership, and survey measurements of public trust, and determined that our civic condition has declined precipitously over the last generation.

Now, these indices of our current moral and civic decline become even more rattling when we consider what is filling the values vacuum today and what that means for our future. As our traditional values transmitters have shrunk from the task, the omnipresent, powerful popular culture has stepped in to assume that vitally important role. That means that the people setting the norms of behavior in this country and the standards of right and wrong more and more are the television producers and syndicators, the movie moguls, the fashion advertisers, the record manufacturers, the software designers, and a host of other players within the electronic media-cultural complex that collectively exert a powerful hold on our consciousness.

The work these people and many others are doing too often sends the worst kinds of messages. They teach our kids that the proper way to resolve a disagreement is with a fist to the face or a bullet to the brain, that sex is a form of recreational activity without consequences, and that parents exist either to be mocked or ignored. These messages are breeding more of the same values vacuum that created them in the first place, communicating to our children that standards are fungible and matters of right and wrong are negotiable at best, irrelevant at worst.

Most entertainment industry leaders deny that they exert this kind of influence, but the evidence to the contrary is accumulating in such abundance that the media conglomerates, I think, are on the verge—dangerous verge—of becoming the moral equals of the tobacco industry. Indeed, much like the link between cancer and cigarettes, the decidedly negative effects of prolonged exposure to violence on television has been proven conclusively by an overwhelming body of social science research, a conclusion embraced by the American people, yet continually disputed in public by producers of violent programming.

There is also a recent, growing body of research to show a correlation between heavy viewing of sexual content and kids initiating sexual activity before they otherwise would have. A survey done by Time magazine last month showed that 29 percent of teenagers said they learned about sex mainly from television, second only to their friends as a source of knowledge, indicating that the small screen has become a big sex educator. Also, many child development experts have voiced concerns that the omnipresence of graphic sexual displays throughout the media and in advertising is helping to sexualize our children at an unhealthily early age. It was because of these reports that I sponsored legislation in the fiscal 1998 Labor-HHS appropriations bill directing the National Institute of Child Health and Human Development to initiate a broad-based research initiative on the media's influence on children's sexual behavior. That is now underway. Hopefully, it will provide us a clearer understanding of the relationship.

What the experts tell us has recently been corroborated by an abundance of real-life experiences. Earlier this year, in Norfolk, VA, for instance, educators within the local public schools observed that a disturbing number of children who watched Jerry Springer's fight-filled talk show were often choosing to settle their disputes, as they explained, "like they do it on the Springer Show," with punches and kicks. One principal in Norfolk was so concerned that she sent home a letter with each student pleading with parents not to let them watch Springer anymore.

What can we make of the horrific bullets that children are firing with frightening frequency these days in the cafeterias, hallways, classrooms, and courtyards of America's schools? I am certainly not here to claim that the media is solely to blame for this spate of student gunfire. To do so would be unfair and would ignore the factual complexity of each case. Yet, it would be a far greater folly, I think, to ignore the pattern emerging that indicates that there is a connection between these violent acts and the culture of violence enveloping our children.

According to a recent report in the New York Times, which reviewed the most well-publicized cases of student violence over the last 9 months, as well as a few earlier incidents, we can conclude that each of the attackers "seemed to be obsessed with the violent pop culture." We know from various press reports that the boys in Springfield, OR; Pearl, MS, and Edinboro, PA, listened regularly to the nihilistic, hateful lyrics of shock-rocker Marilyn Manson. We know from the testimony of a teacher from Westside Middle School in Jonesboro, AR, that the older of the two shooters there was a devotee of vicious gangsta rap music, and that a favorite song of his by the group Bone-Thugs-n-Harmony plays out an open-field massacre of revenge quite similar to the plan the 13-year-old and the 11-year-old accomplice executed in March. And we know in some detail of the fascination a 14-year-old in Moses Lake, WA, who mowed down three students in his algebra class 2 years ago, had with Oliver Stone's ghoulish movie, "Natural Born Killers," because two friends of his told authorities that the boy had confided to them that it would be "pretty cool" and "fun" to go on a killing spree like the movie's lead characters.

To truly understand this connection, though, we need to know more. I am the first to say that, though I am critical of the entertainment media. Senator BROWNBACK and I took one step in that direction earlier this week when we convened a discussion forum on Tuesday with several leading experts, including writers, social scientists, a district attorney, and a clergyman to explore in greater detail the roots of this deeply disturbing trend of student violence. The discussion we had produced a remarkably strong consensus that, in fact, the culture is a major contributing factor, and the dissolution of the family is clearly another factor. But culture, everyone tells us, is a contributing factor. That is why I am considering legislation that would ask the Justice Department to conduct a far-reaching study to examine the relationship between media violence and juvenile crime. It is an issue that has already been deeply politicized and, in some respects, oversimplified, and before it gets any more so, we need to see what the science can objectively tell us.

But at the same time, I don't think we have to wait to conclude that something is deeply wrong in our society when our children are slaughtering each other, and that the enormously attractive and stimulating images of murder and mayhem so rampant throughout the electronic media are playing some role in this American nightmare.

We can and also should talk about easy access to guns too many kids enjoy, which is evidenced by a recent study showing that nearly one million kids brought a firearm to school at least once this past school year, and nearly half of them did so at least six times. And we can and should talk about the need for greater parental involvement and faster intervention by counselors and other school personnel when kids show signs they are homicidal or suicidal.

But I think we have to also talk honestly about the reality that boys in many parts of the country for a long time have had easy access to guns, that some have always been spurned by girls, and some have always had emotional problems, some have had reason to be angry with teachers or fellow students. Yet, to my knowledge, we have never before in our history seen a similar series of cases where some of these young men—boys really—work out their problems by grabbing guns and massacring their teachers and classmates. So I think we have to ask, Where do they get such an idea? Maybe it is from the contemporary culture.

Before this lunacy goes any further, we must ask the entertainment industry, which, notwithstanding my criticisms, really has done so much good by enlightening our minds and touching our hearts, but also confront the harm it can do, the effect the entertainment industry can have of pushing some troubled children, particularly, over the edge, that they hear our pleas to stop raining down so much death and messages of death on our children.

Thankfully, we are beginning to hear cause for hope from the corridors of American cultural power, as more and more media executives have been willing to break the silence associated with the values vacuum. Both ABC President Bob Iger and former NBC Chairman Grant Tinker have given speeches at major television conventions this year decrying the Springerization of the airwaves as "an embarrassment to our business," in Iger's words, and challenged broadcasters to "stand for something," in Tinker's words.

And Disney Chairman Michael Eisner made a forceful statement to the American Society of Newspaper Editors this spring in which he candidly criticized those in the industry who "hide behind the skirts of the Constitution" to justify marketing of "vile programs" like Springer. These are permissible under the first amendment," he said, "but they are not desirable if we aspire to call ourselves civilized." He then called on his peers to make the kind of moral judgments that they and too many of us have been reluctant to consider. "Edit we must," he said, "not to stife conflict or conviction, but to eliminate debasement."

Also encouraging is what is happening outside the cultural epicenters of New York and Hollywood. In recent months, a political consensus has begun to take shape about the dire state of our moral and civic condition, bringing together disparate voices on the left and the right to cry out for renewing fundamental values in our public life.

This consensus is expressed eloquently in an important new report, "A Call to Civil Society: Why Democracy Needs Moral Truth," which was issued by a diverse collection of leading academics, theologians, social activists, civic leaders and politicians, from Harvard's Cornel West to UCLA's James Q. Wilson. This report, which Senator COATS and I were privileged to play a role in shaping, is particularly significant because it reasserts the central premises of the Declaration's claim of interdependence, that there are moral truths that we as a people must uphold for our experiment in self-rule to work.

This emerging consensus was also evident at the National Fatherhood Summit that was held here in Washington last month. This convocation was called to highlight the crisis of father absence we are experiencing in this country, in which the number of children living without a father of any kind that has quadrupled over the last two generations, and to mobilize a response. The day-long affair was thoroughly bipartisan, with the leaders of both houses of Congress serving as honorary co-hosts and Vice President GORE delivering the key-note address, and it produced unanimity about the critical importance of fathers in the raising of children and the need to strengthen the two-parent family.

For the left and the right to reach agreement on this front represents remarkable prograss. A few years ago it was not just politically incorrect but politically dangerous to talk about the primacy of the two-parent family, as Dan Quayle learned, and to emphasize the critical role fathers play in the lives of their children. To do so was considered a knock against single mothers and perhaps all women. But the Fatherhood Summit and the Call to Civil Society suggest that we have turned an important corner in the politics of the family, and reflect a common understanding that to iterate the value of involved fathers is not to denigrate the value of single mothers who are often some of the greatest heroes in our society today.

Perhaps the most telling indicator of how far we have come is the recent statement that Murphy Brown herself made about the subject. Candice Bergen, the actress who played the sharp-tongued television character, recently declared that Dan Quayle "was right" to talk about the troubling marginalization of fathers in his infamous speech in 1992—although she still holds firm that the former Vice President was wrong in his specific criticism of Murphy Brown's choice to have a child on her own. "It was a completely logical speech," Bergen said in a newspaper interview. "Fathers are not indispensible. They are vital to a family."

Which raises an obvious question: If Dan Quayle and Murphy Brown can find common moral ground now, why then do we continue to hear the steady beat of the culture war drums echoing throughout the political arena?

No one can deny here, nor do I think there is any question that these differences do reflect the broader philosophical schism dividing parts of our society, a moral fault line that generally separates—and here is how I would describe that fault line—it generally separates the champions of tolerance like Jane Fonda from the defenders of traditional values like James Dobson.

But I suspect the values vacuum that overrides all has been represented to both exaggerate and exacerbate these divisions, making the extent of our moral disagreements appear far greater than Professor Alan Wolfe's research, and several other supporting polls, actually show them to be. It seems that the less we express our morality publicly, the more trouble we have finding a common vocabulary of values, which makes it even more difficult for us to discuss civilly and constructively those issues that divide us, or to identify those principles that unite us. This communications breakdown deepens the contempt and suspicion that each side already feels for the other.

The news media, I am afraid to say, which itself has been infected by that anything-goes mentality—not always, but often infected by the anything-goes mentality pervading the entertainment culture—seems too often to fan the flames of controversy. The result is not so much an honest, engaged debate about values, but a culture war echo chamber that only heightens the average citizen's distorted sense that the country is locked in a mortal moral struggle.

The conflict over homosexuality's place, the place of homosexuals in our society, I think, offers a contemporary example of this tension that is very real in our lives and in our discussions and debates. Let's start with the reality that many Americans continue to believe that homosexuality is immoral and not just because the Bible tells them so. In fact, Professor Wolfe's research showed that this is one of the few areas where Americans of all religious inclinations feel so strongly that they are willing to risk the tag of intolerance to express or hold to their points of view, although most of the people he interviewed tempered their disapproval by making clear that they did not support discrimination against gay men and lesbians. It is unfair, when you think about Professor Wolfe's research, then, for anyone to automatically conclude that people who express moral reservations or even disdain about homosexuality are bigots, or to publicly attack them as hateful. These are sincerely held morally based views.

Yet the suspicions and concerns of the gay community are understandable when one considers the Senate's treatment of James Hormel's nomination as Ambassador to Luxembourg, which is now being blocked by multiple holds by Members of this Chamber. If we truly believe in the claim of equality and the universal principle of fairness of the Declaration of Independence, and if we want to talk more broadly about values with true credibility in this Chamber, I think we owe Mr. Hormel a chance to be evaluated by the same standards we have applied to other nominees. We owe him a chance to be judged by his career and competence, not by his sexual orientation. We owe him a vote on this floor.

If we truly hope to repair the moral breach that separates us and prevents us from confronting what most Americans agree is a crisis of values, I think we have to start by recognizing that the tone of the debate matters as much as the substance. We need to declare a cease-fire in the culture wars, to lay down our rhetorical arms, step back and look at the person across the PTA meeting room or the abortion clinic or the affirmative action rally not as the enemy, but as a fellow American, deserving of the same respect and courtesy we all expect for ourselves, who happens to have a different, deeply held point of view. We need to build on the common moral ground staked out by the call to civil society and begin to reassert in public life those fundamental values that, despite the collateral damage of the culture warring, continue to connect our incredibly diverse populace.

I think the largest responsibility, the first responsibility, falls on those of us who are concerned about the weakening of our common values and the ramifications for our society. We have to acknowledge that many of our fellow citizens not only feel uncomfortable talking publicly about matters of morality, they are also skeptical of those who do. Indeed, one of the great ironies of our time is that many Americans have come to regard morality as a code word for intolerance. So our challenge today is to persuade the skeptics that it is crucial for the future of our country to rediscover those common core principles that made our democracy possible in the first place—those common core principles that were described, declared in the Declaration of Independence—and to renew their strength. We in Congress have the opportunity and the responsibility to support the search for common moral ground.

From those of us who have been privileged and honored to be elected to lead this country, the American people have a right to know that we hear their anxieties about the Nation's moral future, that we are striving to reflect their core values in our work and in our lives. But more than that, we have to recognize that so much of what we aspire to in this body, by passing legislation to serve the public interest and make this a better country, will ultimately be for naught if we do not fill the values vacuum in American life and rediscover, reclaim the nigh ground, the common moral ground.

For those reasons, I hope, in the months ahead, to return to the Senate floor, this historic Chamber that truly serves as the American people's forum, to speak with my colleagues from across this great country about different aspects of the values crisis that I have discussed today and to try to offer some specific ideas about how, together, we can better secure, "the Safety and Happiness" that our Declaration of Independence promises us all.

I thank the Chair and my colleagues for their patience. I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Minnesota.

Mr. GRAMS. Mr. President, I ask unanimous consent to be allowed to speak for up to 10 minutes.

The PRESIDING OFFICER. The Senator has that right.

Mr. GRAMS. I thank the Chair.

(The remarks of Mr. GRAMS pertaining to the introduction of S. 2291 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. GRAMS. Mr. President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GRAMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. HAGEL). Without objection, it is so ordered.

OMNIBUS PATENT REFORM ACT OF 1997

Mr. LEAHY. Mr. President, I hope that the Senate will celebrate America's independence by focusing its energy on issues that create American jobs, protect American ingenuity, and improve the lives of the American people.

One such issue that I would like to talk about today is as American as fireworks on the 4th of July. This is our Nation's patent system. Patents are the life's blood of America's industry and economic strength.

America's patent system was established in the Constitution itself. It is no coincidence that some of those who framed our Government were inventors. Both Benjamin Franklin and Thomas Jefferson were avid inventors. Indeed, Jefferson invented a cryptographic system that was used by the United States during World War II.

The Founders included in our enduring Constitution as an enumerated power of the Congress, the power "To promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries." (United States Constitution, Article I, Section 8.) This Constitutional provision was carefully drafted to reflect a recognition by the Founders that our patent system would have to evolve in order to serve its intended purposes.

Congress, from its early days, implemented this constitutional prerogative. The First Congress, in its second session, passed an "Act to Promote the Progress of Useful Arts." President Washington signed that law on April 10, 1790, and the United States Patent Office was thereby created.

Since that time, Congress has updated the patent laws of this country to make sure that the fuel of American genius was well stoked. Indeed, on an Independence Day more than 150 years ago, on July 4, 1836, Congress reorganized the patent system, created the office of "Commissioner of Patents" and reinstated the requirement that patent applications be examined. The Act provided that if the Commissioner deemed an invention "to be sufficiently useful and important, it shall be his duty to issue a patent therefor."

Abraham Lincoln, the only President to be issued a patent, declared that "patents add the fuel of interest to the fire of genius." The patent system has continued to evolve over the last century and one-half as we have adapted to changing times and advances in technology. All the while American innovators have remained at the forefront of useful invention.

I, for one, would like to keep American innovators in the lead. Our jobs and our economic security depend on it. As we enter a new millennium, however, fewer and fewer of America's innovators feel confident that our patent system is keeping pace.

According to the Commissioner of the Patent and Trademark Office (PTO), in the last fiscal year, the PTO received 237,045 patent applications—a 14.9 percent increase over the previous year. Inventors are rightly demanding that the PTO conduct quicker and more careful searches. After all, in today's digital world, an innovator cannot afford to wait two years for his or her patent application to be processed. And once that application has been processed, an applicant wants to know that the patent will hold up and that the patent holder will not be caught up in litigation for years attempting to defend it.

It is for this reason that American inventors of all shapes and sizes, large and small, independent inventors and large corporations, have been pleading with Congress to improve our current patent system. They are asking us to help cut the red tape at the PTO, provide our inventors with stronger patent applications, reduce the cost of resolving patent disputes, and put an end to rules that favor foreign applicants over American applicants. What they have been asking us to do is to pass the Omnibus Patent Reform Act of 1997, S. 507.

Who wants this bill? American innovators and businesses large and small.

The White House Conference on Small Business Technology Chairs wrote to me on May 7, 1998 urging passage of S. 507 because, and I am quoting from their letter:

> We believe that S. 507, as amended, will lower the litigation costs for small businesses, make it easier to know what areas of technology are open for innovation, and will go a long way towards giving us a more level playing field vis-a-vis our foreign competitors. We wholeheartedly support passage of the bill and appreciate the attention and support you have given to small business.

The Chief Executives of 48 of America's largest companies wrote the Senate Majority Leader, asking him to schedule a vote on the bill before the Senate adjourns in the fall because "S. 507 makes several major improvements in U.S. patent law that will greatly benefit American companies and inventors."

So what has been stopping this bill? Well, one of the most outspoken opponents of the bill has been the Eagle Forum. The Senate Republican leadership should not clip the wings of technology for the benefit of the Eagle Forum. That would be no way to honor America's independence and no way to honor America's proud tradition of innovation.

Instead, let us celebrate America's independence by helping out the millions of Americans who owe their jobs and prosperity to industries created by America's innovators and creators. The Senate should take up and pass S.507.

I inserted into the CONGRESSIONAL RECORD on June 23, letters of support from the White House Conference on Small Businesses, the National Association of Women Business Owners, the Small Business Technology Coalition, National Small Business United, the National Venture Capital Association, and the 21 Century Patent Coalition.

I ask that additional letters of support for S. 507 be included in the RECORD following the conclusion of my statement. These letters are from The Chamber of Commerce of the United States of America; the Pharmaceutical Research and Manufacturers of America, PhRMA; the American Automobile Manufacturers Association; the Software Publishers Association; the Semiconductor Industry Association; the Business Software Alliance; the American Electronics Association; and the Institute of Electrical and Electronics Engineers, Inc. and Industry Corporation.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

CHAMBER OF COMMERCE OF THE
UNITED STATES OF AMERICA,
Washington, DC, October 24, 1997.

Hon. TRENT LOTT,
Majority Leader, U.S. Senate,
Washington, DC.

DEAR TRENT: As you know, this time of year brings a flurry of bills to the fore, each with its own strengths and argument why it deserves floor time prior to adjournment. One bill that clearly merits your consideration for debate is S. 507, the Omnibus Patent Act of 1997.

In the chamber's view, the Hatch/Leahy bill has successfully bridged the debate between proponents of modernizing the patent system (the Chamber has long supported this) and a relatively small group of independent inventors who feared their patent rights might be abridged. The resulting compromise will help strengthen our competitiveness and create jobs while encouraging the inventiveness that always has been an American hallmark. We urge your support for this important legislation.

The House has already passed their corresponding bill. S. 507 was reported from the Judiciary Committee earlier this year by a bipartisan vote of 17 to 1. We believe the time is right now to move these needed reforms, adding another solid accomplishment to this session.

Thank you again for your support.

Sincerely,

R. BRUCE JOSTEN.

PHARMACEUTICAL RESEARCH AND
MANUFACTURERS OF AMERICA,
Washington, DC, June 2, 1998.

Hon. TRENT LOTT,
Majority Leader, U.S. Senate,
U.S. Capitol, Washington, DC.

DEAR SENATOR LOTT: On behalf of the research-based pharmaceutical industry, we urge you to schedule a vote on S. 507, *The Omnibus Patent Act of 1997*. This bill, which passed out of the Senate Judiciary Committee on May 22, 1997 by voice-vote, will strengthen U.S. patent law, advance innovation, and increase our global competitiveness.

We appreciate your interest in moving legislation that will not result in undue delay in the Senate. We question, however, whether opposition can ultimately be sustained on the Senate floor against S. 507 given its importance to American industry and innovation. Of particular interest to the pharmaceutical industry are provisions that would: Strengthen the Patent and Trademark Office (PTO) by making it a government corporation "with resulting operational and fiscal flexibility;" restore patent life lost as a result of unusual administrative delays at PTO; and provide for publication of patent applications 18 months after their filing to allow U.S. companies to have access to applications filed in the U.S. by foreign applicants.

Our industry, which in 1998 will spend over $20 billion in research and development, depends on strong patent protection to ensure that pharmaceutical companies are able to maximize their efforts to discover new medicines that prevent, cure, and treat disease. S. 507 will foster that and deserves floor consideration soon.

Thank you for you attention to this important legislation.

Sincerely,

Raymond Gilmartin, Chairman President and CEO, Merck & Co., Inc., PhRMA Chairman; David R. Ebsworth, Ph.D., Executive Vice President and President, Pharmaceutical Division, Bayer Corp.; Robert A. Ingram, Chairman, CEO and President, Glaxo Wellcome Inc.; Arthur D. Levinson, Ph.D., President and CEO, Genentech, Inc.; William C. Steere, Jr., Chairman and CEO, Pfizer Inc.; Wayne P. Yetter, President and CEO, Novartis Pharmaceuticals; Gordon M. Binder, Chairman and CEO, Amgen; Charles A. Heimbold, Jr., Chairman and CEO, Bristol Myers Squibb Co.; Jan Leschly, Chief Executive, SmithKline Beecham; Richard J. Markham, CEO, Hoechst Marion Roussel Inc.; Sidney Taurel, President and CEO, Eli Lilly and Co.

AMERICAN AUTOMOBILE
MANUFACTURERS ASSOCIATION,
November 7, 1997.

Hon. PATRICK J. LEAHY,
U.S. Senate,
Washington, DC.

DEAR SENATOR LEAHY: The American Automobile Manufacturers Association and its members, Chrysler Corporation, Ford Motor Company and General Motors Corporation, urge you to support S. 507, the "Omnibus Patent Act of 1997," co-sponsored by Senators Hatch and Leahy. The House passed patent reform earlier this year, and the Senate Judiciary Committee favorably reported S. 507 by a vote of 17 to 1. The bill has been modified in numerous ways to accommodate the concerns of small inventors, universities, and other interested groups.

We believe S. 507 is a fair and balanced bill that will significantly improve the U.S. patent system. Modernization of the Patent and Trademark Office will permit it to offer improved services to patent applicants and owners. The publication provisions will help avoid duplicative research efforts and will accelerate the development of technology by speeding the dissemination of research advances. Those who file only in the U.S. can avoid early publication if they desire, and new provisional royalty rights will ensure that no inventor is deprived of the economic value of his or her invention between the date of publication and patent approval. The bill also provides a safe harbor for domestic users of new manufacturing processes through the provision of prior user-rights. And, an improve patent reexamination process will provide a low-cost, speedy alternative to expensive litigation for determining the validity of any challenged patent.

The provisions of S. 507 will substantially improve our nation's patent system. This will serve the interests of inventors and technology users alike. More importantly, it will benefit the entire American public by further encouraging technological advances and the products such advances bring. We urge you to vote for S. 507.

Sincerely,

ANDREW H. CARD, Jr.,
President and CEO.

SOFTWARE PUBLISHERS ASSOCIATION,
Washington, DC, June 11, 1998.

Hon. PATRICK LEAHY,
U.S. Senate, Russell Senate Office Building,
Washington, DC.

DEAR SENATOR LEAHY: On behalf of the Software Publishers Association (SPA), I am writing to ask you to urge Senate Majority Leader Trent Lott to schedule a floor vote on S. 507, the Omnibus Patent Act, early this summer, and call on you to vote to enact its important patent reforms into law.

SPA has more than 1,200 member companies, ranging from large well-known companies to hundreds of smaller companies and Internet start-ups, that develop and market software for business, education, entertainment and the Internet. Patents represent an increasingly important means for these companies to protect the intellectual property in their software-related inventions. In fact, a 1997 survey of over 800 software companies found that over 20 percent either owned or had applied for a patent.

As the collective voice of one of the fastest growing, most competitive industries in the world, SPA supports S. 507 because it would enact patent reforms that would encourage investment and innovation in the software industry and other industries that will create more high-paying jobs in America. This legislation would make significant improvements in U.S. patent law, including early publication of pending patents, expanded reexamination, and a provisional right to a reasonable royalty.

Leading members of SPA long ago came out in favor of S. 507, and Eric Ruff, CEO of Utah-based PowerQuest Corp., testified in support of the bill before the Senate Judiciary Committee (his statement is enclosed). In May 1997, the Judiciary Committee favorably reported S. 507 by a vote of 17 to one. S. 507 continues to enjoy strong bipartisan support.

In closing, I urge you to support S. 507 without amendments that would undermine its objective—a patent system that produces high quality, carefully and examined patents. The House has already passed a similar bill, but time is running out for the Senate to ensure that these important patent reforms become law this year.

Sincerely yours,

KEN WASCH,
President.

SEMICONDUCTOR INDUSTRY
ASSOCIATION,
San Jose, CA, July 24, 1997.

Hon. DIANNE FEINSTEIN,
U.S. Senate,
Hart Senate Office Building,
Washington, DC.

Re Omnibus Patent Act of 1997.

DEAR SENATOR: The Semiconductor Industry Association urges you to support S. 507, the "Omnibus Patent Act of 1997", by Senators ORRIN HATCH, and PATRICK LEAHY.

The U.S. semiconductor industry employs over 235,000 Americans, including in California. Semiconductors are the enabling technology for the nearly $400 billion U.S. electronics industry, an industry that provides jobs for 2.5 million Americans.

The U.S. semiconductor industry invests over 11% of sales on R&D, $7 billion in 1996 and leads the world in microchip technology. A strong and efficient U.S. patent system is essential for the U.S. to maintain this technology leadership. S. 507 will create a Patent and Trademark Office that is more efficient and responsive to the needs of U.S. investors, mandate the speedy issuance for patents, and reduce lawsuits and legal bills paid by American inventors and companies. American companies will become more competitive by speeding up research and development and brining new products to market faster.

S. 507 is a carefully crafted measure that will encourage new inventions and protect American innovators and corporations while at the same time addressing the special concerns of small inventors, small business and universities. S. 507 cleared the Senate Judiciary Committee in May and a similar measure, H.R. 400, already passed the House.

Please vote for S507 when it comes to the Senate floor. If you or your staff would like to discuss this legislation and its importance to the semiconductor industry, please do not hesitate to call.

Sincerely,

GEORGE SCALISE,
President.

BUSINESS SOFTWARE ALLIANCE,
Washington, DC, June 29, 1998.

Hon. PATRICK LEAHY,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR LEAHY: On behalf of the members of the Business Software Alliance ("BSA"), I want to thank you for your leadership on the Omnibus Patent Act of 1997, S. 507. This legislation will make many significant improvements to the U.S. patent system that will greatly benefit the U.S. software industry and other users of the U.S. Patent Office.

We appreciate your efforts on this important issue and look forward to working with you to seek its enactment before the end of the session. Again, thank you for your hard work on behalf of our nation's high technology industries.

Sincerely,

ROBERT W. HOLLEYMAN, II,
President & CEO.

AMERICAN ELECTRONICS ASSOCIATION,
Santa Clara, CA, June 1, 1998.

DEAR SENATOR: I am writing on behalf of the more than 3,000 member companies of the American Electronics Association (AEA) to urge you to support S. 507, the "Omnibus Patent Act," and respectfully request that you contact the Senate Leadership and urge them to schedule debate and a floor vote on S. 507 in the near future.

The AEA's member companies span the spectrum of electronics and information technology companies, from semiconductors and software to mainframe computers and communications systems. For over 50 years, AEA has helped its members compete successfully in the global marketplace and has been the accepted voice of the American electronics and information technology industry.

According to AEA's Cyberstates Update report, the high-tech industry added some 200,000 new jobs in the U.S. between 1996 and 1997, for a total of nearly 4.5 million U.S. high-tech workers earning salaries 73 percent higher than the average private sector wage. AEA believes that modernizing the U.S. patent system is critical to sustain the innovation that has resulted in this tremendous job growth and the global competitiveness of U.S. high technology companies.

S. 507, which was introduced by Senators ORRIN HATCH (R-UT) and PATRICK LEAHY (D-VT), contains critical reforms that will protect the interests of American inventors and innovators while preparing the U.S. Patent and Trademark Office (PTO) to meet the needs of our nation's high technology firms as we enter the 21st Century. The reforms contained in S. 507 will increase the value of patents to inventors and companies, slash red tape in the PTO, and make it easier for U.S. inventors and companies to research, develop, and commercialize inventions.

AEA urges you to support this critical legislation to further advance American technology and strengthen our nation's global competitiveness. If you or your staff have any questions regarding S. 507 or patent reform, please contact Stephanie Stitzer of AEA at (202) 682–4431.

Sincerely,

WILLIAM T. ARCHEY,
President and CEO.

INSTITUTE OF ELECTRICAL AND
ELECTRONICS ENGINEERS,
October 9, 1997.

Hon. TRENT LOTT,
Senate Majority Leader, Russell Senate Office Building, Washington, DC.

DEAR SENATOR LOTT: On behalf of the Institute of Electrical and Electronics Engineers United States Activities Board (IEEE-USA) and its 220,000 electrical, electronics and computer engineers who are U.S. members of IEEE, we urge you to place the Omnibus Patent Act of 1997 (S. 507) on the legislative calendar during this session of Congress.

The Omnibus Patent Act and its various provisions have already had extensive analysis, numerous public hearings and full consideration of a wide range of perspectives. We believe that it is now time to call for a vote on this important legislation before the end of the first session of this Congress.

IEEE-USA supports the Omnibus Patent Act of 1997 (S. 507) and its publication provisions. Many important compromises have been made and we are now confident that the bill will strengthen the U.S. patent system. S. 507 takes into account many of our members' concerns regarding the disclosure of their technology prior to receiving patent protection. The Omnibus Patent Act provides inventors with the option of delaying the publication of their application until the patent is awarded—as long as they choose to file solely in the United States.

The bill provides our 220,000 U.S. members with a strengthened patent system and arrives as a reasonable balance between inventor protection and public disclosure of technology. We believe that his balance will assist in promoting U.S. innovation and competitiveness.

If you or your staff would like to discuss this with us further please contact Scott Grayson in our Washington, D.C. office at (202) 785–0017.

Sincerely,

DANIEL FISHER,
Chair, IEEE-USA
Intellectual Property Committee.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Thursday, July 9, 1998, the federal debt stood at $5,526,093,018,467.09 (Five trillion, five hundred twenty-six billion, ninety-three million, eighteen thousand, four hundred sixty-seven dollars and nine cents).

One year ago, July 9, 1997, the federal debt stood at $5,359,038,000,000 (Five trillion, three hundred fifty-nine billion, thirty-eight million).

Five years ago, July 9, 1993, the federal debt stood at $4,336,575,000,000 (Four trillion, three hundred thirty-six billion, five hundred seventy-five million).

Twenty-five years ago, July 9, 1973, the federal debt stood at $454,517,000,000 (Four hundred fifty-four billion, five hundred seventeen million) which reflects a debt increase of more than $5 trillion—$5,071,576,018,467.09 (Five trillion, seventy-one billion, five hundred seventy-six million, eighteen thousand, four hundred sixty-seven dollars and nine cents) during the past 25 years.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting one withdrawal and sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-5934. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, the report of a payment to Rewards Program Participant 96–22 under the State Department Basic Authorities Act; to the Committee on Foreign Relations.

EC-5935. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule regarding airworthiness directives on certain Rolls-Royce Limited turbojet engines (Docket 98–ANE–15–AD) received on July 8, 1998; to the Committee on Commerce, Science, and Transportation.

EC-5936. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Airbus Model A300, A300–600, and A310 Series Airplanes" (Docket 97–NM–257–AD) received on July 8, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5937. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Fokker Model F.28 Mark 0100 Series Airplanes" (Docket 97–NM–329–AD) received on July 8, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5938. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Saab Model SAAB 2000 Series Airplanes" (Docket 97–NM–145–AD) received on July 8, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5939. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; McDonnell Douglas Model DC–9 and DC–9–80 Series Airplanes, Model MD–88 Airplanes, and C–9 (Military) Series Airplanes" (Docket 96–NM–203–AD) received on July 8, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5940. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Saab Model SAAB SF340A, SAAB 340B, and SAAB 2000 Series Airplanes" (Docket 96–NM–212–AD) received on July 8, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5941. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; British Aerospace (Jetstream) Model 4101 Airplanes" (Docket 98–NM–115–AD) received on July 8, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5942. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Eurocopter France Model SA 330F, G, and J Helicopters" (Docket 97–SW–06–AD) received on July 8, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5943. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Eurocopter France Model AS332C, L, and L1 Model SA330F, G, and J Helicopters" (Docket 98–SW–11–AD) received on July 8, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5944. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Eurocopter France Model AS332C, L, and L1 Helicopters" (Docket 97–SW–39–AD) received on July 8, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5945. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Eurocopter Deutschland GmbH Model EC 135 Helicopters" (Docket 98–SW–18–AD) received on July 8, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5946. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Agusta S.p.A. Model A109C and A109K2 Helicopters" (Docket 97–SW–65–AD) received on July 8, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5947. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Amendment of Class E Airspace; Roxboro, NC" (Docket 98–ASO–5) received on July 8, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5948. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Fort Atkinson, WI" (Docket 98–AGL–23) received on July 8, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5949. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Griffith, IN" (Docket 98–AGL–22) received on July 8, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5950. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Youngstown Elser Metro Airport, OH" (Docket 98–AGL–24) received on July 8, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5951. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Airbus Model A300 and A300–600 Series Airplanes" (Docket 98–NM–81–AD) received on July 8, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5952. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Airbus Model A320 Series Airplanes" (Docket 98–NM–250–AD) received on July 8, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5953. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; AERMACCHI S.p.A. Models F.260, F.260B, F.260C, and F.260D Airplanes" (Docket 97–CE–143–AD) received on July 8, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5954. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Empresa Brasileira de Aeronautica, S.A. (EMBRAER) Model EMB–145 Series Airplanes" (Docket 98–NM–65–AD) received on July 8, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5955. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Fokker Model F27 Mark 100, 200, 300, 400, 500, 600, and 700 Series Airplanes" (Docket 98–NM–102–AD) received on July 8, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5956. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Airbus Model A319 and A321–100 Series Airplanes" (Docket 98–NM–75–AD) received on July 8, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5957. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Raytheon Aircraft Company Model 1900D Airplanes" (Docket 97–CE–86–AD) received on July 8, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5958. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Rolls-Royce Limited, Aero Division-Bristol, S.N.E.C.M.A., Olympus 593 Series Turbojet Engines" (Docket 98–ANE–12–AD) received on July 8, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5959. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Fokker Model F.28 Mark 1000, 2000, 3000, and 4000 Series Airplanes" (Docket 98–NM–16–AD) received on July 8, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5960. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; British Aerospace Model BAC 1–11 200 and 400 Series Airplanes" (Docket 98–NM–51–AD) received on July 8, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5961. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Dornier Model 328–100 Series Airplanes" (Docket 98–NM–89–AD) received on July 8, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5962. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Bombardier Model CL–600–2B19 (Regional Jet Series 100) Airplanes" (Docket 97–NM–83–AD) received on July 8, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5963. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Airbus Model A300–600 Series Airplanes" (Docket 95–NM–78–AD) received on July 8, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5964. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Technical Amendment to Passenger Train Emergency Preparedness Docket; Safety Glazing Standards; Correction" (Docket PTEP–1) received on July 8, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5965. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Final Theft Data; Motor Vehicle Theft Prevention Standard" (Docket 97–3125) received on July 8, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5966. A communication from the Administrator of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, a report on the impacts of children flying aircraft; to the Committee on Commerce, Science, and Transportation.

EC–5967. A communication from the Chief of Staff of the Office of the Commissioner of Social Security, transmitting, pursuant to law, the report of a rule entitled "Electronic Freedom of Information Amendments of 1996" (RIN0960–AE68) received on July 8, 1998; to the Committee on Finance.

EC–5968. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule regarding a grower diversion program under the tart cherry marketing order for the 1998–1999 and following crop years (Docket FV97–930–2 FR) received on July 8, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5969. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Removal of U.S. Grade Standards and Other Selected Regulations" (Docket FV–95–303) received on July 8, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5970. A communication from the Assistant Secretary for Occupational Safety and Health, Department of Labor, transmitting, pursuant to law, the report of a rule entitled "Occupational Exposures to Asbestos" (RIN1218–AB25) received on July 8, 1998; to the Committee on Labor and Human Resources.

EC–5971. A communication from the Acting Director of the Executive Office of the President, Office of Management and Budget, transmitting, pursuant to law, the report entitled "Federal Financial Management Status Report and Five Year Plan"; to the Committee on Governmental Affairs.

EC–5972. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of two rules regarding the Ohio Maintenance Plan and Recycled Used Oil Management Standards (FRL6123–1, FRL6123–3) received on July 8, 1998; to the Committee on Environment and Public Works.

EC–5973. A communication from the Deputy Director of the Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Medical Devices; Retention of Three Preamendment Class III Devices in Class III" (Docket 94N–0418) received on July 8, 1998; to the Committee on Labor and Human Resources.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–501. A resolution adopted by the City Council of Hialeah, Florida relative to the renaming of the Everglades National Park; to the Committee on Energy and Natural Resources.

POM–502. A resolution adopted by the Village Council of Miami Shores Village, Florida relative to the renaming of the Everglades National Park; to the Committee on Energy and Natural Resources.

POM–503. A resolution adopted by the Village Council of the Village of Virginia Gardens, Florida relative to the renaming of the Everglades National Park; to the Committee on Energy and Natural Resources.

POM–504. A resolution adopted by the Senate of the Legislature of the State of New Hampshire relative to trade with Japan; to the Committee on Foreign Relations.

POM–505. A resolution adopted by the Legislature of the State of Michigan; to the Committee on Environment and Public Works.

SENATE CONCURRENT RESOLUTION NO. 72

Whereas, The Food Quality Protection Act of 1996 (FQPA) as passed by Congress and was signed into law on August 3, 1996, by President Clinton; and

Whereas, Among the purposes of the FQPA is to assure that pesticide tolerance decisions and policies are based upon sound science and reliable data; and

Whereas, Another purpose of the FQPA is to assure tolerance decisions and policies are formulated in an open and transparent manner; and

Whereas, The EPA is required by the FQPA to have reviewed approximately 3,000 of the approximately 9,700 existing tolerances by August 1999 to determine whether these tolerances meet the safety standards established by the FQPA; and

Whereas, The implementation of the FQPA could have a profound negative impact on domestic agricultural production and on consumer food prices and availability. With Michigan's diverse agriculture, this impact could be especially severe on our numerous specialty crops; now, therefore be it

Resolved by the Senate (the House of Representatives concurring), That we memorialize the Congress of the United States to take the following actions:

1. Direct the EPA to initiate immediately appropriate administrative rulemaking to ensure that the policies and standards the agency intends to apply in evaluating pesticide tolerances are subject to thorough public notice and comment prior to final tolerance determinations being made by the agency.
2. Direct the EPA to use its authority under the FQPA to provide interested persons the opportunity to produce data needed to evaluate a pesticide tolerance so that the agency can avoid the use of unrealistic default assumptions in making pesticide tolerance decisions.
3. Direct the EPA to implement the FQPA in a manner that will not disrupt agricultural production nor have a negative impact on the availability, diversity, and affordability of food.
4. Conduct oversight hearings immediately to ensure that actions taken by the EPA are consistent with the FQPA provisions and congressional intent. If the intent of the legislation is not carried out, then Congress should postpone the August 1999 deadline. Following oversight hearings, Congress should, if necessary, take appropriate actions or amend the FQPA to correct problem areas.
5. Encourage the Secretary of Agriculture and the United States Department of Agriculture to increase its commitment of manpower and budgetary resources to work with the EPA to gather scientific data. Furthermore, Congress should encourage the United States Department of Agriculture to conduct an economic impact statement on the implementation of the FQPA.
6. Clarify the role of Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act as its provisions relate to the reestablishment of tolerances under the FQPA; and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, the members of the Michigan congressional delegation, and the United States Environmental Protection Agency.

Adopted by the Senate, March 26, 1998.

Adopted by the House of Representatives, June 11, 1998.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. LUGAR, from the Committee on Agriculture, Nutrition, and Forestry, without amendment:

S. 2286. An original bill to amend the National School Lunch Act and the Child Nutrition Act of 1966 to provide children with increased access to food and nutrition assistance, to simplify program operations and improve program management, to extend certain authorities contained in those Acts through fiscal year 2003, and for other purposes (Rept. No. 105–243).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute and an amendment to the title:

S. 1695. A bill to establish the Sand Creek Massacre National Historic Site in the State of Colorado (Rept. No. 105–244).

By Mr. D'AMATO, from the Committee on Banking, Housing, and Urban Affairs, with an amendment:

S. 1283. A bill to award Congressional gold medals to Jean Brown Trickey, Carlotta Walls LaNier, Melba Patillo Beals, Terrence Roberts, Gloria Ray Karlmark, Thelma Mothershed Wair, Ernest Green, Elizabeth Eckford, and Jefferson Thomas, commonly referred collectively as the "Little Rock Nine" on the occasion of the 40th anniversary of the integration of the Central High School in Little Rock, Arkansas (Rept. No. 105–245).

By Mr. McCAIN, from the Committee on Commerce, Science, and Transportation, with amendments:

S. 1259. A bill to authorize appropriations for fiscal years 1998 and 1999 for the United States Coast Guard, and for other purposes (Rept. No. 105–246).

By Mr. ROTH, from the Committee on Finance, unfavorably without amendment:

S.J. Res. 47. A joint resolution disapproving the extension of the waiver authority contained in section 402(c) of the Trade Act of 1974 with respect to Vietnam.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. ROTH, from the Committee on Finance:

Raymond W. Kelly, of New York, to be Commissioner of Customs.

James E. Johnson, of New Jersey, to be Under Secretary of the Treasury for Enforcement.

Elizabeth Bresee, of New York, to be an Assistant Secretary of the Treasury.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. DODD (for himself, Mr. STEVENS, Mr. KENNEDY, Mr. MOYNIHAN, Mr. D'AMATO, Mr. TORRICELLI, Mr. LIEBERMAN, Mr. DASCHLE, Ms. COLLINS, Ms. LANDRIEU, Mr. REID, Mr. DEWINE, Ms. MOSELEY-BRAUN, Ms. MIKULSKI, Mrs. BOXER, Ms. SNOWE, Mrs. MURRAY, Mrs. FEINSTEIN, and Mr. LAUTENBERG):

S. 2285. A bill to establish a commission, in honor of the 150th Anniversary of the Seneca Falls Convention, to further protect sites of importance in the historic efforts to secure equal rights for women; to the Committee on Energy and Natural Resources.

By Mr. LUGAR:

S. 2286. An original bill to amend the National School Lunch Act and the Child Nutrition Act of 1966 to provide children with increased access to food and nutrition assistance, to simplify program operations and improve program management, to extend certain authorities contained in those Acts through fiscal year 2003, and for other purposes; from the Committee on Agriculture, Nutrition, and Forestry; placed on the calendar.

By Mr. MURKOWSKI (for himself and Mr. BUMPERS) (by request):

S. 2287. A bill to provide for a more competitive electric power industry, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. WARNER:

S. 2288. A bill to provide for the reform and continuing legislative oversight of the production, procurement, dissemination, and permanent public access of the Government's publications, and for other purposes; to the Committee on Rules and Administration.

By Mr. BUMPERS:

S. 2289. A bill to amend the Federal Rules of Criminal Procedure, relating to grand jury proceedings, and for other purposes; to the Committee on the Judiciary.

By Mr. BREAUX:

S. 2290. A bill to promote the construction and operation of cruise ships in the United States; to the Committee on Commerce, Science, and Transportation.

By Mr. GRAMS:

S. 2291. A bill to amend title 17, United States Code, to prevent the misappropriation of collections of information; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DODD (for himself, Mr. STEVENS, Mr. KENNEDY, Mr. MOYNIHAN, Mr. D'AMATO, Mr. TORRICELLI, Mr. LIEBERMAN, Mr. DASCHLE, Ms. COLLINS, Ms. LANDRIEU, Mr. REID, Mr. DEWINE, Ms. MOSELEY-BRAUN, Ms. MIKULSKI, Mrs. BOXER, Ms. SNOWE, Mrs. MURRAY, Mrs. FEINSTEIN, and Mr. LAUTENBERG):

S. 2285. A bill to establish a commission, in honor of the 150th Anniversary of the Seneca Falls Convention, to further protect sites of importance in the historic efforts to secure equal rights for women; to the Committee on Energy and Natural Resources.

WOMEN'S PROGRESS COMMEMORATION ACT

Mr. DODD. Mr. President, one hundred and fifty years ago this month, a remarkable group of women and men came together and wrote the single most important document of the nineteenth-century American women's movement and one of the most important writings of American freedom: The Seneca Falls Declaration of Sentiments and Resolutions. Modeled closely after the Declaration of Independence, this document is a declaration of women's independence. Radical at the time, it expounded such ideas as allowing women to vote, to become educated, and to participate in economic activities.

I believe we should take the occasion of the 150th anniversary of the Seneca falls convention to celebrate and focus on the rich and courageous history of American women and their struggle for equality. With this in mind, I am introducing the Women's Progress Commemoration Act.

I am very happy to be joined in introducing this legislation by my primary cosponsor, Senator TED STEVENS of Alaska, and the bipartisan group of 17 other original cosponsors: Senators MOYNIHAN and D'AMATO from New York, Senator KENNEDY, Senator TORRICELLI, Senator LIEBERMAN, Senator DASCHLE, Senator COLLINS, Senator LANDRIEU, Senator REID, Senator DEWINE, Senator MOSELEY-BRAUN, Senator MIKULSKI, Senator BOXER, Senator SNOWE, Senator MURRAY, Senator FEINSTEIN, and Senator LAUTENBERG.

This legislation will establish a commission to identify sites that have been instrumental in the women's movement and help to ensure their historic preservation. The history of American women has barely begun to be recorded. Consider these facts: (1) less than 5 percent of our Nation's historic landmarks chronicle women's achievements, (2) right here in the capitol, of the 197 statues exhibited in statuary hall, only seven are of women leaders, (3) according to a recent study, less than 2 percent of even our contemporary history textbooks are dedicated to women's contributions.

And yet, despite the virtual infancy of efforts to record women's history, we are doing even less to preserve the places where that history was made. That is why this bill is so important. If we don't preserve our past, we can lose our way into our future and our opportunity to teach not only girls and women but all students and citizens.

As I stand here today, numerous buildings and structures of deep historical significance to the American women's movement are in a state of disrepair—they have peeling paint, flooded basements, and structural deficiencies.

For example, the Sewall-Belmont House, just a block from the Capitol, was and still is the headquarters of the National Women's Party, which pressed for woman suffrage. This building was also the residency of Alice Paul, the legendary founder of this party. This is a prime example of a critical site in American women's history that is in need of preservation. Unfortunately, this house is plagued with water problems, deteriorating electrical wiring, and weather-damaged parts of the structure.

As we can see, I brought these two photographs, Mr. President, to indicate the condition of the Sewall Belmont Home, which I said is about a block from the Capitol and a house that many of my colleagues have visited over the years. This historic house is where some of the treasures of the women's suffrage movement are located and, sadly, as you can see in these pictures, the house is in desperate need of restoration. Even though, I am happy to report that efforts have begun by the Senate to save this house, there are many more examples of such sites throughout the country that are literally crumbling way.

Another example of a site in need of repair is the McClintock House in the Women's Rights Historical Park in upstate New York. This is where the actual Declaration of Sentiments was drafted during the Seneca Falls Convention.

Another site that the commission could choose would be the Rankin Ranch in Helena, Montana—the home of the first woman elected to the U.S. House of Representatives.

Or perhaps the Harriet Tubman home in Auburn, New York, which is already open to the public but still needs financial support.

This commission will highlight sites throughout the country, such as these, that deserve to be preserved.

In my home State of Connecticut there are some success stories of efforts to preserve women's sites such as the Prudence Crandall home, the first school for African-American girls in this country, or the home of Harriet Beecher Stowe, the author of "Uncle Tom's Cabin."

Even though my State of Connecticut has been progressive about the preservation of women's sites, unfortunately, some of these efforts were too late. Sadly, some historic women's sites in Connecticut were not preserved and are relegated to a signpost or a plaque rather than a museum.

Hopefully, 150 years after the birth of the women's movement we can create more museums and fewer plaques.

Let me take a moment to explain very briefly the structure and goals of the commission. The commission will have 15 members appointed by the majority and minority leaders of the Senate and the House and by the administration. Members will be selected based on a knowledge of women's history and historical preservation. Not later than 1 year after the commission's initial meeting it will provide to the Secretary of the Interior a list of sites deserving recognition and preservation.

It will also recommend actions to rehabilitate those sites. Thirty days after the submission of this report, the commission will cease to exist. The commission will not fund preservation but rather highlight the need, and hopefully the publicity will generate funds—whether it be private, public, or nonprofit—that would be used to help in the preservation of these sites.

I hope that the sites across this Nation that signify important points in women's history or celebrate remarkable women will be preserved for the public to come and learn. I hope that school children across our Nation will be making field trips to historic women's sites, along with their trips to the White House, the Capitol, Monticello, and the significant memorials here in this city and across our Nation.

Let's make women's contributions to our history known to generations yet unborn—their accomplishments an inspiration and their homes and workplaces opportunities where future generations can come and learn.

In July of 1848 the Seneca Falls Convention convened to consider the social conditions and civil rights of women. As I have said, this convention signaled the beginning of an admirable and courageous women's movement in this Nation. Today, for the 150th anniversary of this historic meeting, let us take the opportunity to preserve and teach the contributions of women to our Nation's history to future generations of Americans.

I ask unanimous consent that the text of the legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2285

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Women's Progress Commemoration Act".

SEC. 2. DECLARATION.

Congress declares that—

(1) the original Seneca Falls Convention, held in upstate New York in July 1848, convened to consider the social conditions and civil rights of women at that time;

(2) the convention marked the beginning of an admirable and courageous struggle for equal rights for women;

(3) the 150th Anniversary of the convention provides an excellent opportunity to examine the history of the women's movement; and

(4) a Federal Commission should be established for the important task of ensuring the historic preservation of sites that have been instrumental in American women's history, creating a living legacy for generations to come.

SEC. 3. ESTABLISHMENT OF COMMISSION.

(a) ESTABLISHMENT.—There is established a commission to be known as the "Women's Progress Commemoration Commission" (referred to in this Act as the "Commission").

(b) MEMBERSHIP.—

(1) IN GENERAL.—The Commission shall be composed of 15 members, of whom—

(A) 3 shall be appointed by the President;

(B) 3 shall be appointed by the Speaker of the House of Representatives;

(C) 3 shall be appointed by the minority leader of the House of Representatives;

(D) 3 shall be appointed by the majority leader of the Senate; and

(E) 3 shall be appointed by the minority leader of the Senate.

(2) PERSONS ELIGIBLE.—

(A) IN GENERAL.—The members of the Commission shall be individuals who have knowledge or expertise, whether by experience or training, in matters to be studied by the Commission. The members may be from the public or private sector, and may include Federal, State, local, or employees, members of academia, nonprofit organizations, or industry, or other interested individuals.

(B) DIVERSITY.—It is the intent of Congress that persons appointed to the Commission under paragraph (1) be persons who represent diverse economic, professional, and cultural backgrounds.

(3) CONSULTATION AND APPOINTMENT.—

(A) IN GENERAL.—The President, Speaker of the House of Representatives, minority leader of the House of Representatives, majority leader of the Senate, and minority leader of the Senate shall consult among themselves before appointing the members of the Commission in order to achieve, to the maximum extent practicable, fair and equitable representation of various points of view with respect to the matters to be studied by the Commission.

(B) COMPLETION OF APPOINTMENTS; VACANCIES.—The President, Speaker of the House of Representatives, minority leader of the House of Representatives, majority leader of the Senate and minority leader of the Senate shall conduct the consultation under subparagraph (3) and make their respective appointments not later than 60 days after the date of enactment of this Act.

(4) VACANCIES.—A vacancy in the membership of the Commission shall not affect the powers of the Commission and shall be filled in the same manner as the original appointment not later than 30 days after the vacancy occurs.

(c) MEETINGS.—

(1) INITIAL MEETING.—Not later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold its first meeting.

(2) SUBSEQUENT MEETINGS.—After the initial meeting, the Commission shall meet at the call of the Chairperson.

(d) QUORUM.—A majority of the members of the Commission shall constitute a quorum for the transaction of business, but a lesser number of members may hold hearings.

(e) CHAIRPERSON AND VICE CHAIRPERSON.—The Commission shall select a Chairperson and Vice Chairperson from among its members.

SEC. 4. DUTIES OF THE COMMISSION.

Not later than 1 year after the initial meeting of the Commission, the Commission, in cooperation with the Secretary of the Interior and other appropriate Federal, State, and local public and private entities, shall prepare and submit to the Secretary of the Interior a report that—

(1) identifies sites of historical significance to the women's movement; and

(2) recommends actions, under the National Historic Preservation Act (16 U.S.C. 470 et seq.) and other law, to rehabilitate and preserve the sites and provide to the public interpretive and educational materials and activities at the sites.

SEC. 5. POWERS OF THE COMMISSION.

(a) HEARINGS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out its duties of this Act.

(b) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out the provisions of this Act. At the request of the Chairperson of the Committee, the head of such department or agency shall furnish such information to the Commission.

SEC. 6. COMMISSION PERSONNEL MATTERS.

(a) COMPENSATION OF MEMBERS.—A member of the Commission who is not otherwise an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which the member is engaged in the performance of the duties of the Commission. A member of the Commission who is otherwise an officer or employee of the United States shall serve without compensation in addition to that received for services as an officer or employee of the United States.

(b) TRAVEL EXPENSES.—A member of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from the home or regular place of business of the member in the performance of service for the Commission.

(c) STAFF.—

(1) IN GENERAL.—The Chairperson of the Commission may, without regard to the civil service laws (including regulations), appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Commission to perform its duties. The employment and termination of an executive director shall be subject to confirmation by a majority of the members of the Commission.

(2) COMPENSATION.—The executive director shall be compensated at a rate not to exceed the rate payable for a position at level V of the Executive Schedule under section 5316 of title 5, United States Code. The Chairperson may fix the compensation of other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for such personnel may not exceed the rate payable for a position at level V of the Executive Schedule under section 5316 of that title.

(3) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee, with the approval of the head of the appropriate Federal agency, may be detailed to the Commission without reimbursement, and the detail shall be without interruption or loss of civil service status, benefits, or privilege.

(d) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairperson of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals not to exceed the daily equivalent of the annual rate of basic pay prescribed for a position at level V of the Executive Schedule under section 5316 of that title.

SEC. 7. FUNDING.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Commission such sums as are necessary to carry out this Act.

(b) DONATIONS.—The Commission may accept donations from non-Federal sources to defray the costs of the operations of the Commission.

SEC. 8. TERMINATION.

The Commission shall terminate on the date that is 30 days after the date on which the Commission submits to the Secretary of the Interior the report under section 4(b).

SEC. 9. REPORTS TO CONGRESS.

Not later 2 years and not later than 5 years after the date on which the Commission submits to the Secretary of the Interior the report under section 4, the Secretary of the Interior shall submit to Congress a report describing the actions that have been taken to preserve the sites identified in the Commission report as being of historical significance.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. I rise, of course, to support and endorse the proposal by the Senator from Connecticut, cosponsored by the senior Senator from Alaska, with one small anecdote.

The Women's Rights National Convention met 150 years ago at the Wesleyan Chapel on Fall Street in Seneca Falls. There will be a lot of ceremony this week and next. The First Lady will be there.

I was in Seneca Falls about 1978 and was having a beer with the county leader, George Souhan, in the Gould Hotel. Looking down at the street, I just happened to say to him, "Where was that chapel where the convention met?" He said, "It was just down the street." I said, "Let's go look." Down the street we went. What did we find, but a laundromat. The Wesleyan Chapel had become a laundromat on Fall Street and a garage behind.

We had it declared a national park in 1980. We went around the city, the village, and found the houses of the ladies of Seneca Falls—the Bloomer girls and Elizabeth Cady Stanton and the like. We went to Waterloo, where in the McClintock House the declaration was drafted. That needs repair; the Park Service should do it.

It is quite an achievement, but it makes the point that the Senator from Connecticut has just made that you better look after these important sites. That was the first original American political idea—that women were equal in civic rights with men. It didn't come from Europe. It came right from central New York. It had almost vanished as a site until we came along.

If the Senator wishes to do more, more power to him. I thank my friend from Colorado.

Mr. DODD. If my friend from Colorado will yield once again, we realize the benefit of having the presence of our colleague from New York in our midst. Once again he was ahead in so many areas, and this is not an exception. As he pointed out, it was almost washed out. We are grateful that he stopped for a libation in Seneca Falls on that day in 1978.

By Mr. MURKOWSKI (for himself and Mr. BUMPERS) (by request):

S. 2287. A bill to provide for a more competitive electric power industry, and for other purposes; to the Committee on Energy and Natural Resources.

COMPREHENSIVE ELECTRICITY COMPETITION ACT

Mr. MURKOWSKI. Mr. President, at the request of the Administration, I am today introducing its proposed electric power industry legislation, the "Comprehensive Electric Competition Act." I do so not because I agree with all of the provisions of the Administration's legislation: I don't. I do so as a courtesy to the Administration and because I strongly support competition.

Mr. President, let me first say that I am a strong proponent of increased competition in the electric power industry. For the past century our electric utilities—investor-owned, municipally-owned, cooperatively-owned—have served this Nation well. Particularly as compared to the rest of the world, we have reasonably-priced, extremely reliable and nearly universal electric service. But with some well thought-out changes, our electric power industry can do even better. We have seen in a number of other industries—oil, natural gas, trucking and airlines, to name but a few—deregulation has greatly benefitted consumers. Market-based competition has reduced prices, increased supply and sparked innovation. There is no reason why increased competition in the electric power industry would not similarly benefit consumers, the economy and our international competitiveness.

I believe that there is a growing consensus that increased competition in the electric power industry is in the public interest. This is illustrated by the number of States that have already moved forward to promote retail competition. According to the Department of Energy, 18 States have already implemented retail competition, either through State legislation or by State public utility commission regulation. One hundred and twenty-one million people—49 percent of the U.S. population—live in these States. Of the remaining States, all but two (Florida and South Dakota) are now actively considering competition programs. This consensus is also illustrated by the 20 bills introduced to date in the Senate and the House of Representatives relating to this issue. Moreover, it is further illustrated by the Administration's decision to propose this legislation.

Mr. President, as I see it, the issue isn't: Do we want competition in the electric power industry? We do. Instead, the issue is: How do we bring about competition without jeopardizing price and reliability or financially damaging the industry? There is a consensus on the first issue; unfortunately, on the latter there is no consensus.

At the risk of oversimplification, there are two camps of thought on how to go about the task of promoting competition. On the one hand, there are those who want to see government-managed competition, not market-based competition. They believe that government should continue to regulate all aspects of the industry—just do it differently. Moreover, they prefer the Federal government—FERC—be put in charge and the States pushed out of the way. On the other hand, there are those who believe that competition should be market-based. They believe that the most effective and efficient regulator of business is the discipline of the free market—not the discipline of the government regulator. I fall into the latter camp. Having seen all too often the results of failed government regulation—wage-and-price controls, oil price and allocation controls, and natural gas wellhead price controls, for example. I believe that for electric competition legislation to benefit consumers it must deregulate, streamline and empower States to promote retail competition. We don't need different regulation; we don't need government-managed competition. We need deregulation; we need market-based competition.

Turning now to the Administration's proposed legislation, let me first say that it contains several provisions that are in keeping with my philosophy. For example, it proposes to repeal the Public Utility Holding Company Act ("PUHCA"). This language is very similar to legislation Senator D'AMATO introduced, S. 621, which has been reported by the Banking Committee and awaits action by the Senate. I am a cosponsor of S. 621, along with 22 other Senators. If we did nothing else, repeal of PUHCA would significantly promote competition in the electric power industry. This depression-era law, enacted in 1935, has long outlived its usefulness, and today is actually a significant impediment to competition. Repeal would allow both utilities and non-utilities to fully compete without fear of becoming tangled in PUHCA's regulatory spider web. More competitors mean more competition, and that would benefit consumers and our economy. Moreover, repeal of PUHCA would not diminish Federal and State consumer protections, which would remain in full force and effect.

Another provision of the Administration's bill that I strongly support is its prospective repeal of the mandatory purchase requirement of the Public Utility Regulatory Policies Act of 1978 ("PURPA"). PURPA is one of the few remaining vestiges of President Jimmy Carter's ill-fated 1978 "National Energy Plan" that we have yet to extinguish. PURPA requires electric utilities to purchase electricity from others whether or not they need it, and to pay so-called "full avoided cost" regardless of the actual market value of the power. This law has, and will until it is repealed, cost consumers billions of dollars in above-market prices for PURPA electricity. As just one example of how this is hurting consumers, just the other day the FERC refused to rescind the PURPA QF status of a powerplant even though the so-called "useful" thermal output of the facility is to produce distilled water that, at times, is just being dumped down the sewer. As a result, electric consumers in Brazos, Texas will pay an extra $890 million for electricity over the life of the PURPA contract—$148 per year for the average family of four living in Brazos. It is also essential that PURPA's mandatory purchase requirement be repealed as it is a key contributor to the so-called "stranded cost" problem that is plaguing industry restructuring efforts. Clearly, like PUHCA, it is time to repeal this anti-consumer and anti-competitive provision of PURPA.

While there are provisions such as these in the Administration's proposed legislation that I do support, there are many provisions that I am very concerned about—some of which raise serious Constitutional issues, others of which I just cannot support. For example, the Administration's bill imposes a Federal mandate on States; it imposes a new $3+ billion per year Federal electricity tax on consumers; and it has a 5½ percent "renewable set-aside" mandate (that curiously ignores hydroelectric power as a renewable). Moreover, the Administration's proposed legislation includes numerous provisions that vastly expand FERC jurisdiction, largely at the expense of States.

I am also troubled by the Administration's proposed legislation because of what it does not contain. The Administration's transmittal letter acknowledges that its legislation does not address several key issues. For example, the Administration's legislation does not resolve the competitive status of the Federal utilities—the Tennessee Valley Authority and the Federal power marketing administrations. Nor, does it address the competitive advantage municipal utilities have from tax-exempt bonds and access to Federal preference power. Also, it does not address key issues necessary to ensure viability of nuclear power. I do not see how any bill can be considered "comprehensive" if it does not address these and other issues.

Mr. President, although I have serious reservations about many provisions of the Administration's proposed legislation, I am willing to introduce it in the spirit of moving forward and trying to develop a consensus. That will not be an easy or a quick task. But, it is one that we must undertake if all consumers—residential, commercial and industrial—are to enjoy the benefits of increased competition in the electric power industry. I ask unanimous consent that the Administration's transmittal letter, its section-by-section analysis and its proposed legislation be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2287

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Comprehensive Electricity Competition Act".

SEC. 2. TABLE OF CONTENTS.

Sec. 1. Short title.
Sec. 2. Table of contents.

TITLE I—RETAIL ELECTRIC SERVICE

Sec. 101. Retail competition.
Sec. 102. Authority to impose reciprocity requirements.
Sec. 103. Consumer information.

TITLE II—FACILITATING STATE AND REGIONAL REGULATION

Sec. 201. Clarification of State and Federal authority over retail transmission services.
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TITLE III—PUBLIC BENEFITS

Sec. 301. Public benefits fund.
Sec. 302. Federal renewable portfolio standard.
Sec. 303. Net metering.
Sec. 304. Reform of section 210 of PURPA.

TITLE IV—REGULATION OF MERGERS AND CORPORATE STRUCTURE

Sec. 401. Reform of holding company regulation under PUHCA.
Sec. 402. Electric company mergers.
Sec. 403. Remedial measures for market power.

TITLE V—ELECTRIC RELIABILITY

Sec. 501. Electric reliability organization and oversight.
Sec. 502. Statutory presumption.

TITLE VI—ENVIRONMENTAL PROTECTION

Sec. 601. Nitrogen oxides cap and trade program.

TITLE VII—OTHER REGULATORY PROVISIONS

Sec. 701. Treatment of nuclear decommissioning costs in bankruptcy.
Sec. 702. Study of impacts of competition in electricity markets by the Energy Information Administration.
Sec. 703. Antitrust savings clause.
Sec. 704. Elimination of antitrust review by the Nuclear Regulatory Commission.
Sec. 705. Environmental laws savings clause.

TITLE I—RETAIL ELECTRIC SERVICE

SEC. 101. RETAIL COMPETITION.

(a) The Public Utility Regulatory Policies Act of 1978 (referred to in this Act as PURPA) is amended by adding after section 608 the following new section:

"SEC. 609. RETAIL COMPETITION.

"(a) DEFINITIONS.—For purposes of this section—

"(1) 'distribution utility' means a person, State agency, or any other entity that owns or operates a local distribution facility used or the sale of electric energy to an electric consumer;

"(2) 'nonregulated distribution utility' means a distribution utility not subject to the ratemaking authority of a State regulatory authority; and

"(3) 'retail stranded costs' means the amount of net costs incurred or obligations undertaken before the date of enactment of the Comprehensive Electricity Competition Act by a distribution utility that—

"(A) were incurred or undertaken by that distribution utility in order to comply with a legal obligation on that utility to provide electricity to electric consumers in its service territory, and

"(B) cannot be recovered because of implementation of retail competition under subsection (b).

"(b) RETAIL COMPETITION REQUIREMENT.—Except as provided in subsection (c), not later than January 1, 2003, any distribution utility that has the capability to deliver electric energy to an electric consumer over its facilities shall offer open access to those facilities for the sale of electric energy to the consumer and shall do so at rates, terms, and conditions that are not unduly discriminatory or preferential, as determined by the appropriate regulatory authority.

"(c) OPT OUT.—(1) A State regulatory authority (with respect to a distibution utility for which it has ratemaking authority) may direct a distribution utility not to implement the retail competition requirement described in subsection (b) if the State regulatory authority finds, after notice and opportunity for hearing, that implementation of the retail competition requirement by the distribution utility will have a negative impact on a class of customers of that utility that cannot be mitigated reasonably.

"(2) A nonregulated distribution utility may determine not to implement the retail competition requirement described in subsection (b) if it finds, after notice and opportunity for hearing, that implementation of the retail competition requirement by the distribution utility will have a negative impact on a class of customers of that utility that cannot be mitigated reasonably.

"(3) The State regulatory authority (with respect to a distribution utility for which it has ratemaking authority) or nonregulated distribution utility shall publish the determination and its basis and shall file a notice with the Commission of its determination by January 1, 2002.

"(d) NOTICE OF RETAIL COMPETITION.—A State regulatory authority (with respect to a distribution utility for which it has ratemaking authority) or nonregulated distribution utility shall file with the Commission a notice that the distribution utility has implemented or will implement retail competition consistent with subsection (b). The notice shall describe the implementation of retail competition. The notice is effective for purposes of section 118 of this Act and sections 212(h), 216, and 217 of the Federal Power Act on the date the notice is filed or the date of implementation of retail competition consistent with subsection (b) whichever is. later.

"(e) CONSIDERATION OF RECOVERY OF RETAIL STRANDED COSTS.—If a State regulatory authority conducts a public proceeding before a distribution utility implements retail competition as required under subsection (b), as part of this proceeding, the State regulatory authority shall consider the appropriate mechanism under State law to address recovery by a distribution utility for which it has ratemaking authority of retail stranded costs that are legitimate, prudent, and verifiable, if the utility has taken all reasonable steps to mitigate the costs. A charge imposed for purposes of recovering retail stranded costs should be imposed in a manner so as to minimize to the fullest extent possible any effect on an electric consumer's choice among competing suppliers or products.

"(f) ENFORCEMENT.—Any person may bring an action in the appropriate State court against a State regulatory authority, a distribution utility, or a nonregulated distribution utility for failure to comply with this section. Filing an action challenging whether retail competition is being implemented consistent with subsetion (b) makes a notice of retail competition ineffective for purposes of section 118 of this Act and sections 212(h), 216, and 217 of the Federal Power Act until final resolution of the action. Notwithstanding any other law, a court created under Article III of the Constitution does not have jurisdiction over an action arising under this section.".

"(b) DEFINITION.—Section 3 of PURPA is amended by adding after paragraph (21) the following new paragraph:

"(22) The term 'notice of retail competition' means a notice filed under section 609(d).".

SEC. 102. AUTHORITY TO IMPOSE RECIPROCITY REQUIREMENTS.

PURPA is amended by adding the following new section 117:

"SEC. 118. AUTHORITY TO IMPOSE RECIPROCITY REQUIREMENTS.

"(a) STATE REGULATORY AUTHORITY.—If a State regulatory authority files a notice of retail competition with respect to a distribution utility, beginning on the effective date of the notice, the State regulatory authority may prohibit any other distribution utility located in the United States over which it does not have ratemaking authority (and any affiliate of such a utility, as defined under the Public Utility Holding Company Act of 1998) from selling electric energy to electric consumers of a distribution facility covered by the notice of retail competition, unless a notice of retail competition has been filed with respect to the other distribution utility.

"(b) NONREGULATED DISTRIBUTION UTILITY.—If a nonregulated distribution utility files a notice of retail competition, beginning on the effective date of the notice, it may prohibit any other distribution utility located in the United States (or affiliate of the utility, as defined under the Public Utility Holding Company Act of 1998) from selling electric energy to electric consumers of the nonregulated distribution utility covered by the notice unless a notice of retail competition has been filed with respect to the other distribution utility.

"(c) DEFINITIONS.—For purposes of this section, 'distribution utility' and 'nonregulated distribution utility' have the meaning given them in section 609(a).".

SEC. 103. CONSUMER INFORMATION.

PURPA is amended by adding the following new section after section 118 as added by section 102 of this Act:

"SEC. 119. CONSUMER INFORMATION DISCLOSURE.

"(a) DISCLOSURE RULES.—Not later than January 1, 2000, the Secretary, in consultation with the Commission, the Administrator of the Environmental Protection Agency, and the Federal Trade Commission, shall issue rules prescribing the form, content, placement, and timing of the supplier disclosure required under subsections (b) and (c) of this section. The rules shall be prescribed in accordance with section 553 of title 5, United States Code (the Administrative Procedure Act).

"(b) DISCLOSURE TO ELECTRIC CONSUMERS.—An electric utility that offers to sell electric energy to an electric consumer shall provide the electric consumer, to the extent practicable and in accordance with rules issued under subsection (a), a statement containing the following information:

"(1) the nature of the service being offered, including information about interruptibility or curtailment of service;

"(2) the price of the electric energy, including a description of any variable charges;

"(3) a description of all other charges associated with the service being offered including, but not limited to, access charges, exit charges, back-up service charges, stranded cost recovery charges, and customer service charges;

"(4) information concerning the type of energy resource used to generate the electric energy and the environmental attributes of the generation (including air emissions characteristics); and

"(5) any other information the Secretary determines can be provided feasibly and would be useful to consumers in making purchasing decisions.

"(c) DISCLOSURE TO WHOLESALE CUSTOMERS.—In every sale of electric energy for resale, the seller shall provide to the purchaser the information respecting the type of energy resource used to generate the electric energy and the environmental attributes of the generation required by rules established under subsection (a).

"(d) FEDERAL TRADE COMMISSION ENFORCEMENT.—A violation of a rule prescribed under this section shall constitute an unfair or deceptive act or practice in violation of section 5 of the Federal Trade Commission Act (15 U.S.C. 45) and shall be treated as a violation of a rule under section 18 of the Federal Trade Commission Act (15 U.S.C. 57a). All functions and powers of the Federal Trade Commission under the Federal Trade Commission Act are available to the Federal Trade Commission to enforce compliance with this section notwithstanding jurisdictional limitations in the Federal Trade Commission Act.

"(e) AUTHORITY TO OBTAIN INFORMATION.—Authority to obtain information under section 11 of the Energy Supply and Environmental Coordination Act of 1974 (15 U.S.C. 796) is available to the Secretary to administer this section and to the Federal Trade Commission to enforce this section. In order to carry out its duties this section, the Federal Trade Commission may use any of its powers under sections 3, 6, 9, and 20 of the Federal Trade Commission Act (15 U.S.C. 43, 46, 49, and 57b–2) without regard to the limitations contained in section 20(b) of that Act (15 U.S.C. 57b–2(b)) or any jurisdictional limitations contained in that Act.

"(f) ENFORCEMENT BY STATES.—(1) When a State determines that the interests of its residents have been or are being threatened or adversely affected because any person is violating or has violated a rule of the Secretary under this section, the State may bring a civil action on behalf of its residents in an appropriate district court of the United States—

"(A) enjoin the violation;

"(B) enforce compliance with the rule of the Secretary;

"(C) obtain damages, restitution, or other compensation on behalf of its residents; or

"(D) obtain other relief the court considers appropriate.

"(2) The State shall serve prior written notice of any civil action under this subsection upon the Federal Trade Commission and provide the Federal Trade Commission with a copy of its complaint, except that if it is not feasible for the State to provide this prior notice, the State shall serve the notice immediately upon instituting the action. Upon receiving a notice respecting a civil action, the Federal Trade Commission may—

"(A) intervene in the action, and

"(B) upon so intervening, be heard on all matters arising in the action and file petition for appeal.

"(3) For purposes of bringing any civil action under this subsection, this section does not prevent a State official from exercising the powers conferred by State law to conduct investigations, administer oaths or affirmations, or compel the attendance of witnesses or the production of documentary and other evidence.

"(4) While a civil action instituted by or on behalf of the Federal Trade Commission for violation of any rule prescribed under this subsection is pending, a State may not institute a civil action under this section against a defendant named in the complaint in the pending action for a violation alleged in the complaint.

"(5) A civil action brought under this subsection may be brought in the district in which the defendant is found, is an inhabitant, or transacts business or wherever venue is proper under section 1391 of title 28, United States Code. Process in such an action may be served in any district in which the defendant is an inhabitant or in which the defendant may be found.

"(6) This section does not prohibit a State from proceeding in State court on the basis of an alleged violation of a State civil or criminal statute.".

TITLE II—FACILITATING STATE AND REGIONAL REGULATION

SEC. 201. CLARIFICATION OF STATE AND FEDERAL AUTHORITY OVER RETAIL TRANSMISSION SERVICES.

(a) NONPREEMPTION OF STATE AUTHORITY TO ORDER RETAIL WHEELING AND TO IMPOSE LOCAL DELIVERY CHARGES.—Section 201(b) of the Federal Power Act (referred to in this Act as "the FPA") is amended by adding the following new paragraph after paragraph (2):

"(3) This Act does not preempt or otherwise affect any authority under the law of a State or municipality to—

"(A) require unbundled transmission and local distribution services for the delivery of electric energy directly to an ultimate consumer, but if unbundled transmission is in interstate commerce, the rates, terms, and conditions of the transmission are subject to the exclusive jurisdiction of the Commission under this part, or

"(B) impose a delivery charge on an ultimate consumer's receipt of electric energy.".

(b) OPEN ACCESS TRANSMISSION AUTHORITY; RETAIL WHEELING IN RETAIL COMPETITION STATES.—

(1) APPLICABILITY OF OPEN ACCESS TRANSMISSION RULES.—Section 206 of the FPA is amended by adding the following new subsection after subsection (d):

"(e) OPEN ACCESS TRANSMISSION SERVICES.—(1) Under section 205 and this section, the Commission may require, by rule or order, public utilities and transmitting utilities to provide open access transmission services, subject to section 212(h), and may authorize recovery of stranded costs, as defined by the Commission, arising from any requirement to provide open access transmission services. This section applies to any rule or order issued by the Commission before the date of enactment of the Comprehensive Electricity Competition Act.".

(2) AUTHORITY TO ORDER RETAIL WHEELING.—Section 212(h) of the FPA is amended—

(A) by inserting "(1)" before "No";

(B) by striking "(1)", "(2)", "(A)", and "(B)" and inserting in their places "(A)", "(B)", "(i)", and "(ii)" respectively;

(C) by striking from redesignated paragraph (1)(B)(ii) "the date of enactment of this subsection" and inserting "October 24, 1992," in its place; and

(D) by adding at the end a new paragraph as follows:

"(2) Notwithstanding paragraph (1), the Commission may issue an order that requires the transmission of electric energy directly or indirectly to an ultimate consumer if a notice of retail competition under section 609 of the Public Utility Regulatory Policies Act of 1978 has been filed and is in effect with respect to the ultimate consumer or if a distribution utility offers open access to its delivery facilities to the ultimate consumer.".

(3) CONFORMING AMENDMENTS.—

(A) Section 3(23) of the FPA is amended to read as follows:

"(23) 'transmitting utility' means any entity that owns, controls, or operates electric power transmission facilities that are used for the sale of electric energy, notwithstanding section 201(f) of this Act.".

(B) Section 3(24) of the FPA is amended to read as follows:

"(24) 'transmission services' means the transmission of electric energy sold or to be sold.".

(C) Section 211(a) of the FPA is amended by striking "for resale".

(D) Section 212(a) of the FPA is amended by striking "wholesale" each time it appears, except the last time.

(c) APPLICABILITY OF COMMISSION JURISDICTION TO TRANSMITTING UTILITIES.—Section 206(e) of the FPA as added by subsection (b)(1) of this section is amended by adding the following new paragraphs after paragraph (1):

"(2)(A) The Commission has jurisdiction over the rates, terms, and conditions for transmission services provided by a transmitting utility that is not a public utility, subject to section 212(h).

"(B) In exercising its authority under this paragraph, the Commission—

"(i) shall take into account the different structural and operating characteristics of transmitting utilities, including the multitier structure and the not-for-profit operations of cooperatives;

"(ii) with respect to any transmitting utility that has outstanding loans made or guaranteed by the Rural Utilities Service, shall take into account the policies of the Department of Agriculture in implementing the Rural Electrification Act of 1936 and shall assure, to the extent practicable, that the utility will be able to meet any loan obligations under that Act; and

"(iii) shall not approve rates, terms, or conditions the Commission determines would have the effect of jeopardizing the tax exempt status of nonprofit electric cooperatives under the Internal Revenue Code of 1986.

"(C) Notwithstanding any other law, section 205, this section, and part III apply to a transmitting utility that is not a public utility for purposes of this section.

"(3) The Commission may suspend or modify for specified periods application of its rules on nondiscriminatory open access to one or more of the following entities: the Tennessee Valley Authority, the Bonneville Power Administration, the Southeastern Power Administration, the Southwestern Power Administration, the Western Area Power Administration, a corporation or association with outstanding debt to the Administrator of the Rural Utility Service relating to electric utility facilities, or a full-requirements wholesale customer of any of these entities, if the Commission finds that the entity will not be able to recover stranded costs.

"(4) Any electric utility that owns, directly or indirectly, generation facilities financed in whole or in part with outstanding loans made or guaranteed by the Rural Utilities Service may apply to the Commission to impose a charge for the recovery of stranded costs as defined by the Commission. If the Commission determines that the proposed charge is just, reasonable, and not unduly discriminatory or preferential, the Commission may issue an order providing for the imposition of the charge on transmission service by the applicant or by another transmitting utility or on any electric utility or transaction subject to the Commission's jurisdiction.".

SEC. 202. INTERSTATE COMPACTS ON REGIONAL TRANSMISSION PLANNING.

The FPA is amended by adding after section 214 the following new section:

"INTERSTATE COMPACTS ON REGIONAL TRANSMISSION PLANNING

"SEC. 215. (a) The consent of Congress is given for an agreement to establish a regional transmission planning agency, if the Commission determines that the agreement would—

"(1) facilitate coordination among the States within a particular region with regard to the planning of future transmission, generation, and distribution facilities,

"(2) carry out State electric facility siting responsibilities more effectively,

"(3) meet the other requirements of this section and rules prescribed by the Commission under this section, and

"(4) otherwise be consistent with the public interest.

"(b)(1) If the Commission determines that an agreement meets the requirements of subsection (a), the agency established under the agreement has the authority necessary or appropriate to carry out the agreement. This authority includes authority with respect to matters otherwise within the jurisdiction of the Commission, if expressly provided for in the agreement and approved by the Commission.

"(2) The Commission's determination under this section may be subject to any terms or conditions the Commission determines are necessary to ensure that the agreement is in the public interest.

"(c)(1) The Commission shall prescribe—

"(A) criteria for determining whether a regional transmission planning agreement meets subsection (a), and

"(B) standards for the administration of a regional transmission planning agency established under the agreement.

"(2) The criteria shall provide that, in order to meet subsection (a)—

"(A) a regional transmission planning agency must operate within a region that includes all tribal governments and all or part of each State that is a party to the agreement,

"(B) a regional transmission planning agency must be composed of one or more members from each State and tribal government that is a party to the agreement,

"(C) each participating State and tribal government must vest in the regional transmission planning agency the authority necessary to carry out the agreement and this section, and

"(D) the agency must follow workable and fair procedures in making its decisions, in governing itself, and in regulating parties to the agreement with respect to matters covered by the agreement, including a requirement that all decisions of the agency be made by majority vote (or majority of weighted votes) of the members present and voting.

"(3) The criteria may include any other requirement for meeting subsection (a) that the Commission determines is necessary to ensure that the regional transmission planning agency's organization, practices, and procedures are sufficient to carry out this section and the rules issued under it.

"(d) The Commission, after notice and opportunity for comment, may terminate the approval of an agreement under this section at any time if it determines that the regional transmission planning agency fails to comply with this section or Commission prescriptions under subsection (c) or that the agreement is contrary to the public interest.

"(e) Section 313 applies to a rehearing before a regional transmission planning agency and judicial review of any action of a regional transmission planning agency. For this purpose, when section 313 refers to "Commission", substitute "regional transmission planning agency" and when section 313(b) refers to "licensee or public utility", substitute "entity".".

SEC. 203. BACKUP AUTHORITY TO IMPOSE A CHARGE ON AN ULTIMATE CONSUMER'S RECEIPT OF ELECTRIC ENERGY.

The FPA is amended by adding the following new section after section 215 as added by section 202 of this Act:

"BACKUP AUTHORITY FOR CHARGE ON RECEIPT OF ELECTRIC ENERGY

"SEC. 216. (a) If a State regulatory authority that has provided notice of retail competition under section 609 of the Public Utility Regulatory Policies Act of 1978 for a distribution utility determines that the utility should be authorized or required to impose a charge on an ultimate consumer's receipt of electric energy but the State regulatory authority lacks authority to authorize or require imposition of such a charge, the State regulatory authority may apply to the Commission for an order providing for the imposition of the charge. If the Commission determines that the imposition of the charge is just, reasonable, and not unduly discriminatory or preferential; is consistent with the State regulatory authority's policy regarding the imposition of the charge; and is not specifically prohibited by State law, the Commission may issue an order providing for the imposition of the charge.

"(b) If a utility that has outstanding loans made or guaranteed by the Rural Utilities Service and that has filed a notice of retail competition under section 609 of the Public Utilities Regulatory Policies Act of 1978 determines that it is appropriate to impose a charge on an ultimate consumer's receipt of electric energy, but lacks the authority to impose such a charge under State law, the utility may apply to the Commission for an order providing for the imposition of a charge. If the Commission determines that the proposed charge is just, reasonable, and not unduly discriminatory or preferential, the Commission may issue an order providing for the imposition of the charge.''.

SEC. 204. AUTHORITY TO ESTABLISH AND REQUIRE INDEPENDENT SYSTEM OPERATION.

Section 202 of the FPA is amended by adding the following new subsection after subsection (g):

"(h) Upon its own motion or upon application or complaint and after notice and an opportunity for a hearing, the Commission may order the establishment of an entity for the purpose of independent operation and control of interconnected transmission facilities, may order a transmitting utility to relinquish control over operation of its transmission facilities to an entity established for the purpose of independent operation and control of interconnected transmission facilities, or may do both, if the Commission finds that—

"(1) this action is appropriate to promote competitive electricity markets and efficient, economical, and reliable operation of the interstate transmission grid;

"(2) the entity established for the purpose of independent operation and control of interconnected transmission facilities will operate the transmission facilities in a manner that assures that ownership of transmission facilities provides no advantage in competitive electricity markets; and

"(3) any transmitting utility ordered to transfer control of its transmission facilities will receive just and reasonable compensation for the use of its facilities.''.

TITLE III—PUBLIC BENEFITS

SEC. 301. PUBLIC BENEFITS FUND.

PURPA is amended by adding after section 609, as added by section 101 of this Act, the following new section:

"SEC. 610. PUBLIC BENEFITS FUND.

"(a) DEFINITIONS.—For purposes of this section—

"(1) the term 'Board' means the Federal-State Joint Board established under subsection (b)(1);

"(2) the term 'eligible public purpose program' means a program that supports one or more of the following—

"(A) availability of affordable electricity service to low-income customers,

"(B) implementation of energy conservation and energy efficiency measures and energy management practices,

"(C) consumer education,

"(D) the development and demonstration of an electricity generation technology that the Secretary determines is emerging from research and development, provides environmental benefits, and—

"(i) has significant national commercial potential, or

"(ii) provides energy security or generation resource diversity benefits, or

"(E) rural assistance subsequent to a determination made under subsection (d)(4);

"(3) the term 'fiscal agent' means the entity designated under subsection (b)(2)(B);

"(4) the term 'Fund' means the Public Benefits Fund established under subsection (b)(2)(A); and

"(5) the term 'State' means each of the contiguous States and the District of Columbia.

"(b) FEDERAL-STATE JOINT BOARD.—(1) A Federal-State Joint Board is established whose membership is composed of two officers or employees of the United States Government appointed by the Secretary and five State commissioners appointed by the national organization of State commissions. The Secretary shall designate the Chair of the Board.

"(2) The Board shall—

"(A) establish a Public Benefits Fund upon petition of States and tribal governments wishing to participate in the program under this section,

"(B) appoint a fiscal agent, from persons nominated by the States and tribal governments petitioning to establish the Fund, and

"(C) administer the Fund as set forth in this section.

"(c) FISCAL AGENT.—The fiscal agent appointed by the Board shall collect and disburse the amounts in the Fund as set forth in this section.

"(d) SECRETARY.—The Secretary shall prescribe rules for—

"(1) the determination of charges under subsection (e);

"(2) the collection of amounts for the Fund, including provisions for overcollection or undercollection;

"(3) distribution of amounts from the Fund; and

"(4) the criteria under which the Board determines whether a State or tribal government's program is an eligible public purpose program, including a rural assistance program. A rural assistance program shall be an eligible public purpose program to the extent that the Secretary, in consultation with the Secretary of Agriculture, determines by rule that significant adverse economic effects on rural customers have occurred or will occur as a result of electricity restructuring that meets the retail competition requirements of this Act. After such a determination is made, the Secretary, in consultation with the Secretary of Agriculture, shall specify by rule the mechanism for distribution of funds to rural assistance programs, amounts to be provided, and variances to the overall requirements to the Public Benefits Fund under this section, if any. For the purposes of funding of rural assistance programs, the Secretary shall increase the charge for the Public Benefit Fund as necessary, up to a maximum of .17 mills per kilowatt hour. Funding for rural assistance programs under this section shall be provided exclusively from this increase in the charge.

"(e) PUBLIC BENEFITS CHARGE.—(1) As a condition of existing or future interconnection with facilities of any transmitting utility, each owner of an electric generating facility whose capacity exceeds one megawatt shall pay the transmitting utility a public benefits charge determined under paragraph (2), even if the generation facility and the transmitting facility are under common ownership or are otherwise affiliated. Each importer of electric energy from Canada or Mexico, as a condition of existing or future interconnection with facilities of any transmitting utility in the United States, shall pay this same charge for imported electric energy. The transmitting utility shall pay the amounts collected to the fiscal agent at the close of each month, and the fiscal agent shall deposit the amounts into the Fund.

"(2)(A) The Board shall notify the Commission of the sum of the requests of all States and tribal governments under subsection (f) within 30 days after receiving the requests.

"(B) The Commission shall calculate the rate for the public benefits charge for each calendar year at an amount, not in excess of 1 mill per kilowatt-hour, equal to the sum of the requests of all States and tribal governments under subsection (f) for programs described in subsection (a)(2)(A) through (a)(2)(D) divided by the estimated kilowatt hours of electric energy to be generated by generators subject to the charge. Every five years the Secretary shall review the charge and shall direct the Commission to revise the charge as appropriate to maintain a total Fund level relatively close to the target level of approximately $3 billion per year nationwide, adjusted for inflation. If there are significant receipts from the sale of Renewable Energy Credits under section 611, the Secretary shall review the rate for this charge on a more frequent basis and may direct the Commission to reduce the charge by some portion of these receipts as long as sufficient funds remain to ensure that the Fund level is appropriate to achieve the environment goals of this section and section 611 of this Act.

"(C) If a finding is made under subsection (d)(4) in relation to rural customers, the pubic benefit charge shall be increased as indicated under subsection (d)(4).

"(f) STATE AND TRIBAL GOVERNMENT PARTICIPATION.—(1) Not later than 90 days before the beginning of each calendar year, each State and tribal government seeking to participate in the Fund shall submit to the Board a request for payments from the Fund for the calendar year in an amount not in excess of 50 percent of the State or tribal government's estimated expenditures for eligible public purpose programs for the year, except as provided under rules issued under subsection (d)(4) for rural assistance programs.

"(2) To the extent a State or tribal government generates all or part of its funds for eligible public purpose programs through a wires charge on an ultimate consumer's receipt of electric energy, the State or tribal government shall impose the charge on a non-discriminatory basis on all consumers within the State or tribal government jurisdiction.

"(3) Notwithstanding subsection (a)(5)—

"(A) Alaska may participate in the Fund as a State if it certifies to the Board that all generators within Alaska with a nameplate capacity exceeding one megawatt shall pay into the Fund at the rate calculated by the Board during the year in which Alaska seeks matching funds, and

"(B) Hawaii may participate in the Fund as a State if it certifies to the Board that all generators within Hawaii with a nameplate capacity exceeding one megawatt shall pay into the Fund at the rate calculated by the Board during the year in which Hawaii seeks matching funds.

"(g) DISBURSAL FROM THE FUND.—The Board shall review State and tribal government submissions and determine whether programs designated by the State or tribal government are eligible public purpose programs, using the criteria prescribed under subsection (d), and whether there is reasonable assurance that spending qualifying as State or tribal government matching funds will occur.

"(2) The fiscal agent shall disburse amounts in the Fund to participating States and tribal governments to carry out eligible public purpose programs in accordance with this subsection and rules prescribed under subsection (d).

"(3) To the extent the aggregate amount of funds requested by the States and tribal governments exceeds the maximum aggregate revenues eligible to be collected under subsection (e) and deposited as payment for Renewable Energy Credits under section 611, the fiscal agent shall reduce each participating State and tribal government's request proportionately.

"(4)(A) The fiscal agent shall disburse amounts for a calendar year from the Fund to a State or tribal government in twelve equal monthly payments beginning two months after the beginning of the calendar year. Amounts disbursed may not exceed the lesser of the State or tribal government's request for the fiscal year, after any reduction required under paragraph (3), or 50 percent of the State or tribal government's documented expenditures for eligible public purpose programs for a calendar year, except as provided under rules issued under subsection (d)(4) for rural assistance programs.

"(B) The fiscal agent shall make distributions to the State or tribal government or to an entity designated by the State or tribal government to receive payments. The State or tribal government may designate a nonregulated utility as an entity to receive payments under this section.

"(C) A State or tribal government may use amounts received only for the eligible public purpose programs the State or tribal government designated in its submission to the Board and the Board determined eligible.

"(h) REPORT.—One year before the date of expiration of this section, the Secretary shall report to Congress, after consultation with the Board, whether a public benefits fund should continue to exist.

"(i) SUNSET.—This section expires at midnight on December 31 of the fifteenth year after the year the Comprehensive Electricity Competition Act is enacted, except with regard to charges and funding for rural assistance programs.".

SEC. 302. FEDERAL RENEWABLE PORTFOLIO STANDARD.

(a) STANDARD. PURPA is amended by adding after section 610, as added by section 301 of this Act, the following new section:

"SEC. 611. FEDERAL RENEWABLE PORTFOLIO STANDARD.

"(a) MINIMUM RENEWABLE GENERATION REQUIREMENT.—For each calendar year beginning with 2000, a retail electric supplier shall submit to the Secretary Renewable Energy Credits in an amount equal to the required annual percentage, specified in subsection (b), of the total electric energy sold by the retail electric supplier to electric consumers in the calendar year. The retail electric supplier shall make this submission before April 1 of the following calendar year.

"(2) For purposes of this section 'renewable energy' means energy produced by solar, wind, geothermal, or biomass.

"(3) This section does not preclude a State from requiring additional renewable energy generation in that State.

"(b) REQUIRED ANNUAL PERCENTAGE.—(1) The Secretary shall determine the required annual percentage that is to be applied to all retail electric suppliers for calendar years 2000–2004. This required annual percentage shall be equal to the percent of the total electric energy sold, during the most recent calendar year for which information is available before the calendar year of the enactment of this section, by retail electric suppliers to electric customers in the United States that is renewable energy.

"(2) The Secretary shall determine the required annual percentage for all retail electric suppliers for calendar years 2005–2009. This percentage shall be above the percentage in paragraph (1) and below the percentage in paragraph (3) and shall be selected to promote a smooth transition to the level in paragraph (3).

"(3) for calendar years 2010–2015, 5.5 percent.

"(c) SUBMISSION OF CREDITS.—A retail electric supplier may satisfy the requirements of subsection (a) through the submission of—

"(1) Renewable Energy Credits issued under subsection (d) for renewable energy generated by the retail electric supplier in the calendar year for which Credits are being submitted or any previous calendar year,

"(2) Renewable Energy Credits issued under subsection (d) to any renewable energy generator for renewable energy generated in the calendar year for which Credits are being submitted or a previous calendar year and acquired by the retail electric supplier, or

"(3) any combination of Credits under paragraphs (1) and (2).

"(d) ISSUANCE OF CREDITS.—The Secretary shall establish, not later than one year after the date of enactment of this section, a program to issue, monitor the sale or exchange of, and track Renewable Energy Credits.

"(2) Under the program, an entity that generates electric energy through the use of renewable energy may apply to the Secretary for the issuance of Renewable Energy Credits. The application shall indicate—

"(A) the type of energy used to produce the electricity,

"(B) the State in which the electric energy was produced, and

"(C) any other information the Secretary determines appropriate.

"(3) The Secretary shall issue to an entity one Renewable Energy Credit for each kilowatt-hour of electric energy the entity generates through the use of renewable energy in any State in 2000 and any succeeding year. To be eligible for a Renewable Energy Credit, the unit of electricity generated through the use of renewable energy may be sold or may be used by the generator. If both renewable energy and nonrenewable energy are used to generate the electric energy, the Secretary shall issue credits based on the proportion of renewable energy used. The Secretary shall identify Renewable Energy Credits by type of generation and by the State in which the generating facility is located.

"(4) In order to receive a Renewable Energy Credit, the recipient of a Renewable Energy Credit shall pay a fee, calculated by the Secretary, in an amount that is equal to the administrative costs of issuing, recording, monitoring the sale or exchange of, and tracking the Credit or does not exceed five percent of the dollar value of the Credit, whichever is lower. The Secretary shall retain the fee and use it to pay these administrative costs.

"(5) When a generator sells electric energy generated through the use of renewable energy to a retail electric supplier under a contract subject to section 210 of this Act, the retail electric supplier is treated as the generator of the electric energy for the purposes of this section for the duration of the contract.

"(6) The Secretary shall disqualify an otherwise eligible renewable energy generator from receiving a Renewable Energy Credit if the generator has elected to participate in net metering under section 612.

"(7) If a generator using renewable energy receives matching funds under section 610, the Secretary shall reduce the number of Renewable Energy Credits the generator receives under paragraph (3) so that the aggregate value of those Credits plus the matching funds received under section 610 equals the aggregate value of the Credits the generator would have received absent this paragraph. For purposes of this paragraph, the Secretary shall value a Credit at a price that is representative of the price of a Credit in private transactions. In no event shall the Secretary use a price to establish values for purposes of this paragraph that exceeds the cost cap established under subsection (f).

"(e) SALE OR EXCHANGE.—A Renewable Energy Credit may be sold or exchanged by the entity to whom issued or by any other entity who acquires the Credit. A Renewable Energy Credit for any year that is not used to satisfy the minimum renewable generation requirement of subsection (a) for that year may be carried forward for use in another year.

"(f) RENEWABLE ENERGY CREDIT COST CAP.—Beginning January 1, 2000, the Secretary shall offer Renewable Energy Credits for sale. The Secretary shall charge 1.5 cents for each Renewable Energy Credit sold during calendar year 2000, and on January 1 of each following year, the Secretary shall adjust for inflation, based on the Consumer Price Index, the price charged per Credit for that calendar year. The Secretary shall deposit in the Public Benefits Fund established under section 610 the amount received from a sale under this subsection. That amount shall be used for the same purpose as other amounts in the Public Benefits Fund.

"(g) ENFORCEMENT.—The Secretary may being an action in the appropriate United States district court to impose a civil penalty on a retail electric supplier that does not comply with subsection (a). A retail electric supplier who does not submit the required number of Renewable Energy Credits under subsection (a) is subject to a civil penalty of not more than three times the value of the Renewable Energy Credits not submitted. For purposes of this subsection, the value of a Renewable Energy Credit is the price of a Credit determined under subsection (f) for the year the Credits were not submitted.

"(h) INFORMATION COLLECTION.—The Secretary may collect the information necessary to verify and audit—

"(1) the annual electric energy generation and renewable energy generation of any entity applying for Renewable Energy Credits under this section,

"(2) the validity of Renewable Energy Credits submitted by a retail electric supplier to the Secretary, and

"(3) the quantity of electricity sales of all retail electric suppliers.

"(i) SUNSET.—This section expires December 31, 2015.".

"(b) DEFINITION.—Section 3 of PURPA is amended by adding after paragraph (22) as added by section 101 of this Act the following new paragraph:

"(23) The term 'retail electric supplier' means a person, State agency, or Federal agency that sells electric energy to an electric consumer.".

SEC. 303. NET METERING.

PURPA is amended by adding the following new section after section 611 as added by section 302 of this Act:

"SEC. 612. NET METERING FOR RENEWABLE ENERGY.

"(a) DEFINITIONS.—For purposes of this section—

"(1) The term 'eligible on-site generating facility' means a facility on the site of an electric consumer with a peak generating capacity of 20 kilowatts or less that is fueled solely by a renewable energy resource.

"(2) The term 'renewable energy resource' means solar energy, wind, geothermal, or biomass.

"(3) The term 'net metering service' means service to an electric consumer under which electricity generated by that consumer from an eligible on-site generating facility and delivered to the distribution system through the same meter through which purchased electricity is received may be used to offset electricity provided by the retail electric supplier to the electric consumer during the applicable billing period so that an electric consumer is billed only for the net electricity consumed during the billing period, but in no event shall the net be less than zero during the applicable billing period.

"(b) REQUIREMENT TO PROVIDE NET METERING SERVICE.—Each retail electric supplier shall make available upon request net metering service to any retail electric consumer whom the supplier currently serves or solicits for service.

"(c) REQUIREMENT TO PROVIDE INTERCONNECTION.—A distribution utility, as defined in section 609, shall permit the interconnection to its distribution system of an on-site generating facility if the facility meets the safety and power quality standards established by the Commission.

"(d) RULES.—The Commission shall prescribe safety and power quality standards and rules necessary to carry out this section. These standards and rules apply to any interconnections of an on-site generating facility with a distribution system, regardless of the size of the facility or the type of fuel used by the facility.

"(e) STATE AUTHORITY.—This section does not preclude a State from imposing additional requirements consistent with the requirements in this section. A State may impose a cap limiting the amount of net metering available in the State.".

SEC. 304. REFORM OF SECTION 210 OF PURPA.

Section 210 of PURPA is amended by adding the following new subsection after subsection (l):

"(m) REPEAL OF MANDATORY PURCHASE REQUIREMENT.—After the date of enactment of the Comprehensive Electricity Competition Act, an electric utility shall not be required to enter into a new contract or obligation to purchase electric energy under this section.".

TITLE IV—REGULATION OF MERGERS AND CORPORATE STRUCTURE

SEC. 401. REFORM OF HOLDING COMPANY REGULATION UNDER PUHCA.

Effective 18 months after the enactment of this Act, the Public Utility Holding Company Act of 1935 is repealed and the following is enacted in its place.

"SECTION 1. SHORT TITLE.

"This Act may be cited as the 'Public Utility Holding Company Act of 1998'.

"SEC. 2. DEFINITIONS.

"For purposes of this Act—

"(1) the term 'affiliate' of a company means any company 5 percent or more of the outstanding voting securities of which are owned, controlled, or held with power to vote, directly or indirectly, by such company;

"(2) the term 'associate company' of a company means any company in the same holding company system with such company;

"(3) the term 'Commission' means the Federal Energy Regulatory Commission;

"(4) the term 'company' means a corporation, partnership, association, joint stock company, business trust, or any organized group of persons, whether incorporated or not, or a receiver, trustee, or other liquidating agent of any of the foregoing;

"(5) the term 'electric utility company' means any company that owns or operates facilities used for the generation, transmission, or distribution of electric energy for sale;

"(6) the terms 'exempt wholesale generator' and 'foreign utility company' have the same meanings as in sections 32 and 33, respectively, of the Public Utility Holding Company Act of 1935, as those sections existed on the day before the effective date of this Act;

"(7) the term 'gas utility company' means any company that owns or operates facilities used for distribution at retail (other than the distribution only in enclosed portable containers, or distribution to tenants or employees of the company operating such facilities for their own use and not for resale) of natural or manufactured gas for heat, light, or power;

"(8) the term 'holding company' means—

"(A) any company that directly or indirectly owns, controls, or holds, with power to vote, 10 percent or more of the outstanding voting securities of a public utility company or of a holding company of any public utility company; and

"(B) any person, determined by the Commission, after notice and opportunity for hearing, to exercise directly or indirectly (either alone or pursuant to an arrangement or understanding with one or more persons) such a controlling influence over the management or policies of any public utility company or holding company as to make it necessary or appropriate for the rate protection of utility customers with respect to rates that such person be subject to the obligations, duties, and liabilities imposed by this Act upon holding companies;

"(9) the term 'holding company system' means a holding company, together with its subsidiary companies;

"(10) the term 'jurisdictional rates' means rates established by the Commission for the transmission of electric energy, the sale of electric energy at wholesale in interstate commerce, the transportation of natural gas, and the sale in interstate commerce of natural gas for resale for ultimate public consumption for domestic, commercial, industrial, or any other use;

"(11) the term 'natural gas company' means a person engaged in the transportation of natural gas in interstate commerce or the sale of such gas in interstate commerce for resale;

"(12) the term 'person' means an individual or company;

"(13) the term 'public utility' means any person who owns or operates facilities used for transmission of electric energy or sales of electric energy at wholesale in interstate commerce;

"(14) the term 'public utility company' means an electric utility company or a gas utility company;

"(15) the term 'State commission' means any commission, board, agency, or officer, by whatever name designated, of a State, municipality, or other political subdivision of a State that, under the laws of such State, has jurisdiction to regulate public utility companies;

"(16) the term 'subsidiary company' of a holding company means—

"(A) any company, 10 percent or more of the outstanding voting securities of which are directly or indirectly owned, controlled, or held with power to vote, by such holding company; and

"(B) any person, the management or policies of which the Commission, after notice and opportunity for hearing, determines to be subject to a controlling influence, directly or indirectly, by such holding company (either alone or pursuant to an arrangement or understanding with one or more other persons) so as to make it necessary for the rate protection of utility customers with respect to rates that such person be subject to the obligations, duties and liabilities imposed by this Act upon subsidiary companies of holding companies; and

"(17) the term 'voting security' means any security presently entitling the owner or holder thereof to vote in the direction or management of the affairs of a company.

"SEC. 3. FEDERAL ACCESS TO BOOKS AND RECORDS.

"(a) IN GENERAL.—Each holding company and each associate company thereof shall maintain, and shall make available to the Commission, such books, accounts, records, memoranda, and other records as the Commission deems to be relevant to costs incurred by a public utility or natural gas company that is an associate company of such holding company and necessary or appropriate for the protection of utility customers with respect to jurisdictional rates for the transmission of electric energy, the sale of electric energy at wholesale in interstate commerce, the transportation of natural gas in interstate commerce, and the sale in interstate commerce of natural gas for resale for ultimate public consumption for domestic, commercial, industrial, or any other use.

"(b) AFFILIATE COMPANIES.—Each affiliate of a holding company or of any subsidiary company of a holding company shall maintain, and make available to the Commission, such books, accounts, memoranda, and other records with respect to any transaction with another affiliate, as the Commission deems relevant to costs incurred by a public utility or natural gas company that is an associate company of such holding company and necessary or appropriate for the protection of utility customers with respect to jurisdictional rates.

"(c) HOLDING COMPANY SYSTEMS.—The Commission may examine the books, accounts, memoranda, and other records of any company in a holding company system, or any affiliate thereof, as the Commission deems relevant to costs incurred by a public utility or natural gas company within such holding company system and necessary or appropriate for the protection of utility customers with respect to jurisdictional rates.

"(d) CONFIDENTIALITY.—No member, officer, or employee of the Commission shall divulge any fact or information that may come to his or her knowledge during the course of examination of books, accounts, memoranda, or other records as provided in this section, except as may be directed by the Commission or by a court of competent jurisdiction.

"SEC. 4. STATE ACCESS TO BOOKS AND RECORDS.

"(a) IN GENERAL.—Upon the written request of a State commission having jurisdiction to regulate a public utility company in a holding company system, the holding company or any associate company or affiliate thereof, other than such public utility company, wherever located, shall produce for inspection such books, accounts, memoranda, and other records that—

"(1) have been identified in reasonable detail in a proceeding before the State commission;

"(2) the State commission deems are relevant to costs incurred by such public utility company; and

"(3) are necessary for the effective discharge of the responsibilities of the State commission with respect to such proceeding.

"(b) LIMITATION.—Subsection (a) does not apply to any person that is a holding company solely by reason of ownership of one or more qualifying facilities under the Public Utility Regulatory Policies Act of 1978.

"(c) CONFIDENTIALITY OF INFORMATION.—The production of books, accounts, memoranda, and other records under subsection (a) shall be subject to such terms and conditions as may be necessary and appropriate to safeguard against unwarranted disclosure to the public of any trade secrets or sensitive commercial information.

"(d) Effect on State Law.—Nothing in this section shall preempt applicable State law concerning the provision of books, records, or any other information, or in any way limit the rights of any State to obtain books, records, or any other information under any other Federal law, contract, or otherwise.

"(e) Court Jurisdiction.—Any United States district court located in the State in which the State commission referred to in subsection (a) is located shall have jurisdiction to enforce compliance with this section.

"SEC. 5. EXEMPTION AUTHORITY.

"(a) RULEMAKING.—Not later than 90 days after the effective date of this Act, the Commission shall promulgate a final rule to exempt from the requirements of section 3 any person that is a holding company, solely with respect to one or more—

"(1) qualifying facilities under the Public Utility Regulatory Policies Act of 1978;

"(2) exempt wholesale generators; or

"(3) foreign utility companies.

"(b) Other Authority.—If, upon application or upon its own motion, the Commission finds that the books, records, accounts, memoranda, and other records of any person are not relevant to the jurisdictional rates of a public utility or natural gas company, or if the Commission finds that any class of transactions is not relevant to the jurisdictional rates of a public utility or natural gas company, the Commission shall exempt such person or transaction from the requirements of section 3.

"SEC. 6. AFFILIATE TRANSACTIONS.

"Nothing in this Act shall preclude the Commission or a State commission from exercising its jurisdiction under otherwise applicable law to determine whether a public utility company, public utility, or natural gas company may recover in rates any costs of an activity performed by an associate company, or any costs of goods or services acquired by such public utility company from an associate company.

"SEC. 7. APPLICABILITY.

"No provision of this Act shall apply to, or be deemed to include—

"(1) the United States;

"(2) a State or any political subdivision of a State;

"(3) any foreign governmental authority not operating in the United States;

"(4) any agency, authority, or instrumentality of any entity referred to in paragraph (1), (2), or (3); or

"(5) any officer, agent, or employee of any entity referred to in paragraph (1), (2), or (3) acting as such in the course of official duty.

SEC. 8. EFFECT ON OTHER REGULATIONS.

"Nothing in this Act precludes the Commission or a State commission from exercising its jurisdiction under otherwise applicable law to protect utility customers.

"SEC. 9. ENFORCEMENT.

"The Commission shall have the same powers as set forth in sections 306 through 317 of the Federal Power Act (16 U.S.C. 825d–825p) to enforce the provisions of this Act.

"SEC. 10. SAVINGS PROVISIONS.

"(a) In General.—Nothing in this Act prohibits a person from engaging in or continuing to engage in activities or transactions in which it is legally engaged or authorized to engage on the effective date of this Act.

"(b) Effect on Other Commission Authority.—Nothing in this Act limits the authority of the Commission under the Federal Power Act (16 U.S.C. 791a et seq.) (including section 301 of that Act) or the Natural Gas Act (15 U.S.C. 717 et seq.) (including section 8 of that Act).

"SEC. 11. IMPLEMENTATION.

"Not later that 18 months after the date of enactment of the Comprehensive Electricity Competition Act, the Commission shall—

"(1) promulgate such regulations as may be necessary or appropriate to implement this Act (other than section 4); and

"(2) submit to the Congress detailed recommendations on technical and conforming amendments to Federal law necessary to carry out this Act and the amendments made by this Act.

"SEC. 12. TRANSFER OF RESOURCES.

"All books and records that relate primarily to the functions transferred to the Commission under this Act shall be transferred from the Securities and Exchange Commission of the Commission.

"SEC. 13. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated such funds as may be necessary to carry out this Act.

"SEC. 14. CONFORMING AMENDMENT TO THE FEDERAL POWER ACT.

"Section 318 of the Federal Power Act (16 U.S.C. 825q) is repealed.".

SEC. 402. ELECTRIC COMPANY MERGERS.

Section 203(a) of the FPA is amended by—

(1) striking "public utility" each time it appears and inserting in its place "person or electric utility company";

(2) inserting after the first sentence the following: "Except as the Commission otherwise provides, a holding company in a holding company system that includes an electric utility company shall not, directly or indirectly, purchase, acquire, or take any security of an electric utility company or of a holding company in a holding company system that includes an electric utility company, without first securing an order of the Commission authorizing it to do so.";

(3) striking "hearing" in the last sentence and inserting "oral or written presentation of views"; and

(4) adding at the end the following: "For purposes of this subsection, the terms 'electric utility company', 'holding company', and 'holding company system' have the meaning given them in section 2 of the Public Utility Holding Company Act of 1998. Notwithstanding section 201(b)(1), generation facilities are subject to the jurisdiction of the Commission for purposes of this section, except as the Commission otherwise may provide.".

SEC. 403. REMEDIAL MEASURES FOR MARKET POWER.

The FPA is amended by adding the following new section after section 216 as added by section 203 of this Act:

"REMEDIAL MEASURES FOR MARKET POWER

"Sec. 217. (a) Definitions.—As used in this section—

"(1) 'market power' means the ability of an electric utility profitably to maintain prices above competitive levels for a significant period of time, and

"(2) 'notice of retail competition' has the meaning provided under section 3(22) of the Public Utility Regulatory Policies Act of 1978.

"(b) Commission Jurisdictional Sales.—(1) If the Commission determines that there are markets in which a public utility that owns or controls generation facilities has market power in sales of electric energy for resale in interstate commerce, the Commission shall order that utility to submit a plan for taking necessary actions to remedy its market power, which may include, but is not limited to, conditions respecting operation or dispatch of generation, independent operation of transmission facilities, or divestiture of ownership of one or more generation facilities.

"(2) In consultation with the Attorney General and the Federal Trade Commission, the Commission shall review the plan to determine if its implementation would adequately mitigate the adverse competitive effects of market power. The Commission may approve the plan with or without modification. The plan takes effect upon approval by the Commission. Notwithstanding any State law, regulation, or order to the contrary and notwithstanding any other provision of this Act or any other law, the Commission has jurisdiction to order divestiture or other transfer of control of generation assets pursuant to the plan.

"(c) State Jurisdictional Sales.—(1) If a State commission that has filed a notice of retail competition has reason to believe that an electric utility doing business in the State has market power, the State commission may apply for an order under this section.

"(2) If, after receipt of such an application and after notice and opportunity for a hearing, the Commission determines that the electric utility has market power in the sales of electric energy sold at retail in the State, this market power would adversely affect competition in the State, and the State commission lacks authority to effectively remedy such market power, the Commission may order the electric utility to submit a plan for taking necessary actions to remedy the electric utility's market power. These actions may include conditions respecting operation or dispatch of generation, competitive procurement of all generation capacity or energy, independent operation of transmission facilities, or divestiture of ownership of one or more generation facilities of the electric utility.

"(3) After consultation with the Attorney General and the Federal Trade Commission, the Commission may approve the plan with or without modification. The plan shall take effect upon approval by the Commission.

"(4) Notwithstanding any State law, regulation, or order to the contrary and notwithstanding any other provision of this Act or any other law, the Commission has jurisdiction to order divestiture or other transfer of control of generation assets pursuant to the plan.".

TITLE V—ELECTRIC RELIABILITY

SEC. 501. ELECTRIC RELIABILITY ORGANIZATION AND OVERSIGHT.

(a) The FPA is amended by adding the following new section after section 217 as added by section 403 of this Act:

"ELECTRIC RELIABILITY ORGANIZATION AND OVERSIGHT

"Sec. 218. (a) Definition.—As used in this section:

"(1) The term 'bulk-power system' means all facilities and control systems necessary for operating the interconnected transmission grids, including high-voltage transmission lines; substations; control centers; communications, data, and operations planning facilities; and generating units necessary to maintain transmission system reliability.

"(2) The term 'electric reliability organization' or 'organization' means the organization registered by the Commission under subsection (d)(4).

"(3) The term 'system operator' means any entity that operates or is responsible for the operation of the bulk-power system, including control area operators, independent system operators, transmission companies, transmission system operators, and regional security coordinators.

"(4) The term 'user of the bulk-power system' means any entity that sells, purchases, or transmits electric power over the bulk-power system; owns operates or maintains facilities of the bulk-power system; or is a system operator.

"(b) Commission Authority.—(1) The Commission has jurisdiction over the electric reliability organization, all systems operators, and all users of the bulk-power system for purposes of approving and enforcing compliance with standards in the United States.

"(2) The Commission may register an electric reliability organization and approve and oversee the activities in the United States of that electric reliability organization.

"(c) Compliance With Existing Reliability Standards.—A user of the bulk-power system shall comply with standards established by the North American Electric Reliability Council and the regional reliability councils that exist on the date of enactment of the Comprehensive Electricity Competition Act, consistent with any agreement entered into under subsection (f). Each standard remains in effect unless modified under this subsection or superseded by standards approved under subsection (e). The Commission, upon its own motion or upon request and consistent with any agreements entered into pursuant to subsection (f), may modify or suspend the application of a standard and may enforce a standard exercising the same authority that the electric reliability organization may exercise under subsection (k). The North American Electric Reliability Council and the regional reliability councils may monitor compliance with these standards.

"(d) Organization Registration and Establishment of Standards.—(1) Not later than 90 days after the date of enactment of this section, the Commission shall issue proposed rules specifying the procedures and requirements for an organization to apply for registration and file existing reliability standards. The Commission shall provide adequate opportunity for comment on the proposed rules. The Commission shall issue final rules under this subsection within 180 days after the date of enactment of this section.

"(2) Following the issuance of final Commission rules under paragraph (1), an electric reliability organization may apply for registration with the Commission. The organization shall include in its application its governance, procedures, and funding mechanism, and shall file the standards in effect under subsection (c).

"(3) The Commission shall provide public notice of the application and the standards filed under this subsection and afford interested parties an opportunity to comment on the application and filing.

"(4) The Commission shall register the organization if the Commission determines that the organization—

"(A) has the ability to provide for an adequate level of reliability of the bulk-power system;

"(B) permits voluntary membership to any users of the bulk-power system or interested customer class or public interest group;

"(C) assures fair representation of its members in the selection of its directors and fair management of its affairs, taking into account the need for efficiency and effectiveness in decisionmaking and operations and the requirements for technical competency in the development of standards and the exercise of oversight of the reliability system, and assures that no single class of market participants has the ability to control the organization's discharge of its responsibilities;

"(D) assesses reasonable dues, fees, or other charges necessary to support the organization and the purposes of this section and has a funding mechanism that is fair and not unduly discriminatory;

"(E) establishes procedures for standards development that provide reasonable notice and opportunity for public comment, taking into account the need for efficiency and effectiveness in decisionmaking and operations and the requirements for technical competency in the development of standards;

"(F) establishes fair and impartial procedures for enforcement of standards, including penalties; limitation of activity, function, or operations; or other appropriate sanctions;

"(G) establishes procedures for notice and opportunity for public observation of all meetings, except that the procedures for public observation may include alternative procedures for emergencies or for the discussion of information the directors determine should take place in closed session, including the discussion of information with respect to proposed enforcement or disciplinary action; and

"(H) addresses other matters that the Commission considers necessary or appropriate.

"(5) The Commission shall approve only one electric reliability organization. If the Commission receives timely applications from two or more applicants that satisfy the requirements of this subsection, the Commission shall approve only the application it concludes will best ensure a reliable bulk-power system.

"(e) Review and Changes of Modifications to Standards.—(1) The Commission shall review the standards submitted under subsection (d)(2), concurrent with its review of the application under subsection (d), and each standard remains effective if the Commission determines that it is just, reasonable, and not unduly discriminatory or preferential; is in the public interest; and provides for an adequate level of reliability of the bulk-power system.

"(2) With respect to a standard that the Commission determines should not remain effective under paragraph (1), the Commission shall refer that standard to the electric reliability organization for development of a new or modified standard under the organization's procedures as approved by the Commission.

"(3)(A) The electric reliability organization shall file with the Commission any new standard developed under paragraph (2) or a new standard or modification of a standard effective under paragraph (1) for review and approval. A new standard or modification does not take effect unless the Commission determines, after notice and opportunity for comment, that the standard or modification is just, reasonable, and not unduly discriminatory or preferential; is in the public interest; and provides for an adequate level of reliability of the bulk-power system, taking into account the purposes of this section to assure reliability of the bulk-power system and giving due weight to the technical competency of the registered electric reliability organization, and is consistent with any agreement entered into pursuant to subsection (f).

"(B) Any standard or modification that does not become effective under this paragraph shall be referred to the electric reliability organization for development of a new or modified standard under the organization's procedures as approved by the Commission.

"(C) The Commission, on its own motion, may require that the electric reliability organization develop a new or revised standard if the Commission considers a new or revised standard necessary or appropriate to further the purposes of this section. The organization shall file the new or revised standard in accordance with this paragraph.

"(D) On its own motion or at the request of the electric reliability organization, the Commission may develop and, consistent with any agreement under subsection (f), require immediate implementation by the organization of a new or modified standard if it determines that immediate implementation is required to avoid a significant disruption of reliability that would affect public safety or welfare. If immediate implementation is required, the Commission shall not delay implementation for notice and comment but shall publish the standard for notice and comment in a timely manner.

"(4) A user of the bulk power system shall comply with any new or modified standard that takes effect under paragraph (1) or (3).

"(f) Coordination With Canada and Mexico.—The United States may enter into international agreements with the governments of Canada and Mexico to provide for effective compliance with standards and to provide for the effectiveness of the electric reliability organization in carrying out its mission and responsibilities.

"(g) Changes in Organization Procedures, Governance, or Funding.—(1) The electric reliability organization shall file with the Commission any proposed change in its procedures, governance, or funding and accompany the filing with an explanation of the basis and purpose for the change.

"(2)(A) A proposed procedural change may take effect 90 days after filing with the Commission if the change—

"(i) constitutes a statement of policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing procedure; or

"(ii) is concerned solely with administration of the organization.

A proposed procedural change that does not qualify under clause (i) or (ii) takes effect only upon a finding by the Commission that the change is just, reasonable, not preferential, and in the public interest.

"(B) The Commission, by order, either upon complaint or upon its own motion, may suspend an existing procedure or procedural change if its determines the procedure or the proposed change is unjust, unreasonable, unduly discriminatory or preferential, or is otherwise not in the public interest.

"(3) A change in the organization's governance or funding does not take effect unless the Commission finds that the change is consistent with any agreement under subsection (f) and is just, reasonable, not unduly discriminatory or preferential, and in the public interest.

"(4) The Commission may require that the electric reliability organization amend its procedures, governance, or funding if the Commission considers the amendment necessary or appropriate to ensure the fair administration of the organization, conform the organization to the requirements of this section, or further the purposes of this section, consistent with any agreement entered into under subsection (f). The organization shall file the amendment in accordance with paragraph (1).

"(h) ORGANIZATION DELEGATIONS OF AUTHORITY.—(1) The organization may enter into an agreement under which it may delegate some or all of its authority to any person.

"(2) The organization shall file with the Commission any agreement entered into under this subsection and any information the Commission requires with respect to the person to whom authority is to be delegated. The Commission may approve the agreement, following public notice and an opportunity for comment, if it finds that the agreement is consistent with the requirements of this section. The agreement shall not take effect without Commission approval.

"(3)(A) The Commission may direct a modification to or suspend an agreement entered into under this subsection if it determines that—

"(i) the person to whom authority is delegated no longer has the capacity to carry out effectively or efficiently the person's implementation responsibilities under that agreement, or

"(ii) the rules, practices, or procedures of the person to whom authority is delegated no longer provide for fair and impartial discharge of the person's implementation responsibilities under the agreement.

"(B) If the agreement is suspended, the electric reliability organization shall assume the previously delegated responsibilities.

"(i) ORGANIZATION MEMBERSHIP.—Every system operator shall be a member of the electric reliability organization. The organization rules shall provide for voluntary membership to other users of the bulk-power system and any interested customer class or public interest group. A person required to become a member of the organization who fails to do so is subject to sections 314 and 316A of this Act upon notification from the organization to the Commission.

"(j) FAILURE TO APPLY FOR REGISTRATION.—(1) If an organization fails to apply for registration with the Commission within six months after the issuance date of final Commission rules for such a filing, or the Commission does not register an agreement within twelve months after the issuance date of final Commission rules for such a filing, the Commission shall convene a process to register an electric reliability organization.

"(2) Until an electric reliability organization is registered, the Commission has the same authority to enforce existing or modified standards that the electric reliability organization has under subsection (k).

"(k) DISCIPLINARY ACTION AND PENALTIES.—(1) Consistent with the range of actions approved by the Commission under subsection (d)(4)(F), the electric reliability organization may impose a penalty, take injunctive action, or impose other disciplinary action the organization finds appropriate against a user of the bulk-power system located in the United States if the organization finds, after notice and opportunity for a hearing, that the user has violated an organization procedure or standard.

"(2) An action taken under subparagraph (1) takes effect 30 days after the finding unless the Commission, on its own motion or upon application by the user of the bulk-power system who was the subject of the action, suspends the action. The action shall remain in effect or remain suspended until the Commission, after notice and opportunity for comment, sets aside, modifies, or reinstates the action.

"(3) The Commission, on its own motion, may impose a penalty, issue an injunction, or impose other disciplinary action the Commission finds appropriate against a user of the bulk power system located in the United States if the Commission finds, after notice and opportunity for a hearing, that the user has violated a procedure or standard of the electric reliability organization.

"(l) ADEQUACY, RELIABILITY, AND REPORTS.—The electric reliability organization shall conduct periodic assessments of the reliability and adequacy of the interconnected bulk-power system in North America and shall report annually to the Commission its findings and recommendations for monitoring or improving system reliability or adequacy.".

(b) Sections 316 and 316A of the FPA are amended by striking "or 214" each place it appears and inserting "214, or 218".

SEC. 502. STATUTORY PRESUMPTION.

(a) FEDERAL POWER ACT.—Any reliability standard developed by the reliability organization, and any actions taken in good faith to comply with a reliability standard under section 218 of the FPA, are rebuttably presumed just and reasonable and not unduly discriminatory or preferential for purposes of that Act.

(b) ANTITRUST LAWS.—Notwithstanding section 703 of this Act, the following activities are rebuttably presumed to be in compliance with the antitrust laws of the United States:

(1) activities undertaken by the electric reliability organization under section 218 of the FPA or delegated person operating under an agreement in effect under section 218(h) of the FPA, and

(2) activities of a member of the electric reliability organization in pursuit of organization objectives under section 218 of the FPA undertaken in good faith under the rules of the organization.

TITLE VI—ENVIRONMENTAL PROTECTION

SEC. 601. NITROGEN OXIDES CAP AND TRADE PROGRAM.

(a) PURPOSE.—The purpose of this section is to facilitate the implementation of a regional strategy for reducing ambient concentrations of ozone through regional reductions in emissions of NO_X.

(b) DEFINITIONS.—For purposes of this section—

(1) the term "Administrator" means the Administrator of the Environmental Protection Agency,

(2) the term "NO_X" means oxides of nitrogen,

(3) the term "NO_X allowance" means an authorization to emit a specified amount of NO_X into the atmosphere, and

(4) the term "NO_X allowance cap and trade program" means a program under which, in accordance with regulations issued by the Administrator, the Administrator establishes the maximum number of NO_X allowances that may be allocated for specified control periods, allocates or authorizes a State to allocate NO_X allowances, allows the transfer of NO_X allowances for use in States subject to such a program, requires monitoring and reporting of NO_X emissions that meet the requirements of section 412 of the Clean Air Act, and prohibits, and requires penalties and offsets for, any emissions of NO_X in excess of the number of NO_X allowances held.

(c) PROGRAM IMPLEMENTATION.—(1) If the Administrator determines under section 110(a)(2)(D) of the Clean Air Act that any source or other type of emissions activity in a State emits NO_X in amounts that will contribute significantly to nonattainment in, or interfere with maintenance by, any other State with respect to any national ambient air quality standard for ozone, the Administrator shall establish by regulation, within 12 months of the determination for primary standards and as expeditiously as practicable for secondary standards, and shall administer a NO_X allowance cap and trade program in all States in which such a source or other type of emissions activity is located.

(2) Any NO_X allowance cap and trade program shall contribute to providing for emissions reductions that mitigate adequately the contribution or interference and shall be taken into account by the Administrator in determing compliance with section 110(a)(2)(D) of the Clean Air Act.

(3) For purposes of sections 113, 114, 304, and 307 of the Clean Air Act, regulations promulgated under this section shall be treated as regulations promulgated under title IV of the Clean Air Act (entitled Acid Deposition Control). A requirement of regulations promulgated uner this section is considered an "emission standard" or "emission limitation" within the meaning of section 302 of the Clean Air Act and an "emission standard or limitation under this Act" within the meaning of section 304 of the Clean Air Act.

TITLE VII—OTHER REGULATORY PROVISIONS

SEC. 701. TREATMENT OF NUCLEAR DECOMMISSIONING COSTS IN BANKRUPTCY.

Section 523 of title 11, United States Code (section 523 of the Bankruptcy Code of 1978), is amended by adding the following new subsection after subsection (e):

"(f) Obligations to comply with, and claims resulting from compliance with, Nuclear Regulatory Commission regulations or orders governing the decontamination and decommissioning of nuclear power reactors licensed under section 103 or 104b. of the Atomic Energy Act of 1954 (42 U.S.C. 2133 and 2134(b)) shall be given priority and shall not be rejected, avoided, or discharged under title 11 of the United States Code or in any liquidation, reorganization, receivership, or other insolvency proceeding under State or Federal law.".

SEC. 702. STUDY OF IMPACTS OF COMPETITION IN ELECTRICITY MARKETS BY THE ENERGY INFORMATION ADMINISTRATION.

Section 205 of the Department of Energy Organization Act (42 U.S.C. 7135) is amended by adding after subsection (l) the following new subsection:

"(m)(1) The Administrator shall collect and publish information regarding the impact of wholesale and retail competition on the electric power industry. The Administrator shall prescribe forms for collecting this information. Information to be collected may include, but is not limited to—

"(A) the ownership and control of electric generation, transmission, distribution, and related facilities;

"(B) electricity consumption and demand;

"(C) the transmission, distribution, and delivery of electric services;

"(D) the price of competitive electric services;

"(E) the costs, revenues, and rates of regulated electric services;

"(F) the reliability of the electric generation and transmission system, including the availability of adequate generation and transmission capacity to meet load requirements, generation and transmission capacity additions and retirements, and fuel suppliers and stocks for electric generation;

"(G) electric energy efficiency programs and services and their impacts on energy consumption;

"(H) the development and use of renewable electric energy resources; and

"(I) research, development and demonstration activities to improve the nation's electric system.

"(2) In carrying out the purposes of this subsection, the Administrator shall take into account reporting burdens and the protection of proprietary information as required by law.".

SEC. 703. ANTITRUST SAVINGS CLAUSE.

This Act and the amendments made by this Act shall not be construed to modify, impair, or supersede the operation of the antitrust laws. For purposes of this section, "antitrust laws" has the meaning given it in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12(a)), except that it includes section 5 of the Federal Trade Commission Act (15 U.S.C. 45), to the extent that section 5 applies to unfair methods of competition.

SEC. 704. ELIMINATION OF ANTITRUST REVIEW BY THE NUCLEAR REGULATORY COMMISSION.

Section 105 of the Atomic Energy Act of 1954 (42 U.S.C. 2135) is amended by adding the following after subsection c.:

"d. Subsection 105 c. does not apply to an application for a license to construct or operate a utilization or production facility under section 103 or 104 b. following the date of enactment of this subsection. This Act does not affect the Commission's authority to enforce antitrust conditions included in licenses issued under section 103 or 104 b. before the date of enactment of this subsection.

SEC. 705. ENVIRONMENTAL LAWS SAVINGS CLAUSE.

Nothing in this Act alters or affects environmental requirements imposed by Federal or State law, including, but not limited to, the Clean Air Act (42 U.S.C. 7401 et seq.); the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.); the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.); the Federal Power Act (16 U.S.C. 791a et seq.); and the Endangered Species Act (16 U.S.C. 1531 et seq.).

SECTION-BY-SECTION ANALYSIS OF THE COMPREHENSIVE ELECTRICITY COMPETITION ACT

TITLE I—RETAIL ELECTRIC SERVICE

Section 101. Retail competition

This section would amend the Public Utility Regulatory Policies Act of 1978 (PURPA) to provide for customer choice through a flexible mandate. This provision would require each distribution utility to permit all of its retail customers to purchase power from the supplier of their choice by January 1, 2003, but would permit a State regulatory authority (with respect to a distribution utility for which it has ratemaking authority) or a non-regulated utility to opt out of this retail competition mandate if it finds, on the basis on a public proceeding, that consumers of the utility would be served better by the current monopoly system or an alternative State-crafted retail competition plan. The section also would establish a Federal policy that utilities should be able to recover prudently incurred, legitimate, and verifiable retail stranded costs that cannot be mitigated reasonably, but States would continue to determine recovery of retail stranded costs under State law. This section does not retrocede to States authority over Federal enclaves.

Section 102. Authority to impose reciprocity requirements

This section would amend PURPA to permit a State that has filed a notice indicating it is implementing retail competition to prohibit a distribution utility that is not under the ratemaking authority of the State and that has not implemented retail competition from selling electricity to the consumers covered by the State's notice. This section also would permit a nonregulated utility that has filed a notice of retail competition to prohibit any other utility that has not implemented retail competition from selling electricity to the consumers covered by the nonregulated utility's notice.

Section 103. Consumer information

This section would amend PURPA to permit the Secretary of Energy to required all suppliers of electricity to disclose information on price, terms, and conditions of sale; the type of energy resource used to generate the electric energy; and the environmental attributes of the generation, including air emissions characteristics. This requirement would be enforceable by the Federal Trade Commission and by individual States.

TITLE II—FACILITATING STATE AND REGIONAL REGULATION

Section 201. Clarification of State and Federal authority over retail transmission services

Subsection (a) would amend section 201(b) of the Federal Power Act (FPA) to clarify that the FPA does not prevent States from ordering retail competition or imposing conditions, such as a fee, on the receipt of electric energy by an ultimate customer within the State. This section also would clarify that FERC has jurisdiction over rates, terms, and conditions for unbundled retail transmission.

Subsection (b)(1) would amend section 206 of the FPA to reinforce FERC authority to require public utilities to provide open access transmission services and permit recovery of stranded costs. This section also would provide retroactive effect to Commission Order No. 888.

Subsection (b)(2) would amend section 212(h) of the FPA to clarify FERC authority to order retail transmission service to complete an authorized retail sale.

Subsection (b)(3) would make conforming amendments to the FPA.

Subsection (c) would amend the FPA to extend FERC's jurisdiction over transmision services to municipal and other publicly-owned utilities, cooperatives, the Tennessee Valley Authority, and the Federal Power Marketing Administrations. With this amendment, FERC would assure that the transmission rates, terms, and conditions of these entities are not unjust or unreasonable, taking into consideration the other responsibilities of these entities, but this amendment would not expand FERC's authority over the power business of these entities. However, FERC could suspend or modify application of FERC's open access transmission rules to the Tennessee Valley Authority, the Federal Power Marketing Administrations, and rural electric cooperatives with outstanding loans from the Rural Utilities Service, and their wholesale requirements customers, if FERC finds that adequate stranded cost recovery mechanisms are not yet available for those entities.

It should be noted that with regard to the Federal Power Marketing Administrations and TVA, the Administration considers this subsection as placeholder language pending development of language that more thoroughly addresses the question of the appropriate role of the Federal power marketing agencies in the new competitive market.

Section 202. Interstate compacts on regional transmission planing

This section would amend the FPA to permit FERC to approve interstate compacts that establish regional transmission planning agencies if the agencies meet certain criteria relating to their governance (e.g., uniform authority from each participating state and a workable governance protocol to avoid regulatory stalemate). This section also would permit FERC to terminate a compact if it is inconsistent with the public interest or if there are other specified reasons.

Section 203. Backup authority to impose a charge on an ultimate consumer's receipt of electric energy

This section would amend the FPA to reinforce FERC's authority to provide a back-up for the recovery of retail stranded costs and public benefits program if a State, or a utility that has outstanding loans made or guaranteed by the Rural Utilities Service, has filed a retail competition notice and concludes that such charges are appropriate but lacks authority to impose a charge on the consumer's receipt of electric energy.

Section 204. Authority to establish and require independent system operation

This section would amend section 202 of the FPA by permitting FERC to establish an entity for independent operation and control of interconnected transmission facilities and to require a transmitting utility to relinquish control over operation of its transmission facilities to an independent system operator.

TITLE III—PUBLIC BENEFITS

Section 301. Public benefits fund

This section would amend PURPA by establishing a Public Benefits Fund administered by a Federal-State Joint Board that would disburse matching funds to participating States and tribal governments to carry out programs that support affordable electricity service to low-income customers; implement energy conservation and energy efficiency measures and energy management practices; provide consumer education; and develop emerging electricity generation technologies. Funds for the Federal share would be collected from generators, which, as a condition of interconnection with facilities of any transmitting utility, would pay to the transmitting utility a charge, not to exceed one mill per kilowatt-hour. The transmitting utility then would pay the collected amounts to a fiscal agent for the Fund. States and tribal governments would have the flexibility to decide whether to seek funds and how to allocate funds among public purposes. In addition, a rural safety net would be created if the Secretary of Energy determines, in consultation with the Secretary of Agriculture, that significant adverse economic effects on rural areas have occurred or will occur as a result of electric restructuring.

Section 302. Federal renewable portfolio standard

This section would amend PURPA to establish a Federal Renewable Portfolio Standard (RPS) to guarantee that a minimum level of renewable generation is developed in the United States. The RPS would require electricity sellers to have renewable credits based on a percentage of their electricity sales. The seller would receive credits by generating power from non-hydroelectric renewable technologies, such as wind, solar, biomass, or geothermal generation; purchasing credits from renewable generators; or a combination of these. The RPS requirement for 2000–2004 would be set at the current ratio of RPS-eligible generation to retail electricity sales. Between 2005–2009, the Secretary of Energy would determine the required annual percentage, which would be greater than the baseline percentage but less than 5.5%. In 2010–2015, the percentage would be 5.5%. The RPS credits would be subject to a cost cap of 1.5 cents per kilowatt hour.

Section 303. Net metering

This section would amend PURPA by requiring all retail electric suppliers to make available to consumers "net metering service," through which a consumer would offset purchases of electric energy from the supplier with electric energy generated by the consumer at a small, on-site renewable generating facility and delivered to the distribution system.

Section 304. Reform of section 210 of PURPA

This section would repeal prospectively the "must buy" provision of section 210 of PURPA. Existing contracts would be preserved, and the other provisions of section 210 would continue to apply.

TITLE IV—REGULATION OF MERGERS AND CORPORATE STRUCTURE

Section 401. Reform of holding company regulation under PUHCA

This section would repeal the Public Utility Holding Company Act of 1935 (PUHCA) and would enact in its place the Public Utility Holding Company Act of 1998. Under this Act, FERC and State commissions would be given greater access to the books and records of holding companies and the affiliates of public utilities within the holding companies.

Section 402. Electric company mergers

This section would amend section 203(a) of the FPA by conferring on FERC jurisdiction over the merger or consolidation of electricity utility holding companies and generation-only companies. This section also would streamline FERC's review of mergers.

Section 403. Remedial measures for market power

This section would amend the FPA to authorize FERC, on its own motion or upon complaint, to remedy market power in wholesale markets. This section also would authorize FERC, upon petition from a State, to remedy market power in retail markets if retail competition is being implemented, the State finds market power, and the State has insufficient authority to remedy the market power. In these circumstances, FERC could require generators with market power to submit a plan to mitigate market power, which FERC could approve with or without modification. This section would authorize FERC to order divestiture to the extent necessary to mitigate market power.

TITLE V—ELECTRIC RELIABILITY

Section 501. Electric reliability organization and oversight

This section would amend the FPA to give FERC authority to register and oversee an electric reliability organization to prescribe and enforce mandatory reliability standards. Membership in the organization would be open to all entities that use the bulk-power system and would be required for all entities critical to system reliability. Until the reliability organization is registered, existing standards established by the North American Electric Reliability Council and regional reliability councils would be mandatory and enforced by the Commission.

Section 502. Statutory presumption

This section would establish a rebuttable presumption that actions taken to comply with the mandatory reliability standards would be deemed just and reasonable for purposes of the FPA. This section would also establish a rebuttable presumption that the activities of an electric reliability organization and the activities of a member of the organization in pursuit of organization objectives are in compliance with the antitrust laws of the United States.

TITLE VI—ENVIRONMENTAL PROTECTION

Section 601. Nitrogen oxides trading program

This section would clarify Environmental Protection Agency authority to require a cost-effective interstate trading system for nitrogen oxide pollutant reductions addressing the regional transport contributions needed to attain and maintain the National Ambient Air Quality Standards for ozone.

TITLE VII—OTHER REGULATORY PROVISIONS

Section 701. Treatment of nuclear decommissioning costs in bankruptcy

This section would amend the Bankruptcy Act to provide that decommissioning costs be a nondischargeable priority claim.

Section 702. Study of impacts of competition in electricity markets by the Energy Information Administration

This section would amend the Department of Energy Organization Act to direct the Energy Information Administration to collect and publish information on the impacts of wholesale and retail competition.

Section 703. Antitrust savings clause

This section would provide that nothing in this Act would supersede the operation of the antitrust laws.

Section 704. Elimination of antitrust review by the Nuclear Regulatory Commission

This section would eliminate Nuclear Regulatory Commission antitrust review of an application for a license to construct or operate a commercial utilization or production facility.

Section 705. Environmental law savings clause

This section would provide that nothing in this Act would alter environmental requirements of Federal or State law.

THE SECRETARY OF ENERGY,
Washington, DC, June 26, 1998.

Hon. ALBERT GORE,
President of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: Enclosed is legislation to bring competition and consumer choice to the electricity industry, the "Comprehensive Electricity Competition Act" ("CECA"). It is based upon the legislative specifications the Administration provided Congress on March 25, 1998, when we released our Comprehensive Electricity Competition Plan.

The basic Federal regulatory framework for the electric power industry was established with the enactment of the Public Utility Holding Company Act of 1935 and Title II of the Federal Power Act. These statutes are premised upon State-regulated monopolies rather than competition. Now, however, economic forces are beginning to forge a new era in the electricity industry, one in which generation prices will be determined primarily by the market rather than by legislation and regulation. Consequently, federal electricity laws need to be updated so that they stimulate, rather than stifle, competition.

In this new era of retail competition, consumers will choose their electricity supplier. The Department of Energy estimates that in making these choices, consumers will save at least $20 billion a year on their electricity bills. This translates into direct savings to the typical family of four of $104 per year and additional indirect savings from lower costs of other goods and services of $128 per year. Competition will also spark innovation in the American economy and create new industries, jobs, products, and services, just as telecommunications reform spawned cellular phones and other new technologies.

Competition will also benefit the environment. Under retail competition, the market rewards a generator who wrings as much energy as possible from every unit of fuel. More efficient fuel use means lower emissions. In addition, competition provides increased opportunities to sell energy efficiency services and green power. Moreover, CECA's renewable portfolio standard and enhanced public benefit funding will lead to substantial environmental benefits. The Department estimates that CECA will reduce greenhouse gas emissions by 25 to 40 million metric tons by 2010.

The following are key provisions of CECA:

All electric consumers would be able to choose their electricity supplier by January 1, 2003, but a State may opt out of retail competition if it believes its consumers would be better off under the status quo or an alternative State-crafted retail competition plan.

States would be encouraged to allow the recovery of prudently incurred, legitimate, and verifiable retail stranded costs that cannot be reasonably mitigated.

All participants in transactions on the transmission grid would comply with mandatory reliability standards. The Federal Energy Regulatory Commission (FERC) would approve and oversee a private, self-regulating organization that would develop and enforce these standards.

FERC would have the authority to require transmitting utilities to turn over operational control of transmission facilities to an independent system operator.

The Secretary of Energy would be authorized to require all retail electric suppliers to disclose, in a uniform format, information on prices, terms, and conditions of service; the type of energy resource used to generate the electric energy; and the environmental attributes of the generation (including air emissions characteristics).

A Renewable Portfolio Standard would be established to ensure that by 2010 at least 5.5 percent of all electricity sales consist of generation from renewable energy sources.

A Public Benefits Fund would be established to provide matching funds of up to $3 billion to States and Indian tribes for low-income assistance, energy-efficiency programs, consumer information, and the development and demonstration of emerging technologies, particularly renewable technologies. A rural safety net would be created if the Secretary of Energy determines, in consultation with the Secretary of Agriculture, that significant adverse economic effects on rural areas have occurred or will occur as a result of electric restructuring.

Environmental Protection Agency authority would be clarified to require interstate nitrogen oxides trading to facilitate attainment of the ambient standard for ozone in the United States.

Federal electricity law would be modernized to achieve the right balance of competition without market abuse, including repealing outdated laws like the Public Utility Holding Company Act of 1935 and the "must buy" provision of the Public Utility Regulatory Policies Act of 1978 and giving FERC enhanced authority to address market power.

CECA promotes healthy changes to the electricity industry. It will result in lower prices, a cleaner environment, and increased innovation.

The Administration intends to transmit the proposed legislative changes to the tax code described in the March 25, 1998 Comprehensive Electricity Competition Plan to the Congress separately at a later date.

The Omnibus Budget Reconciliation Act (OBRA) requires that all revenue and direct spending legislation meet a pay-as-you-go (PAYGO) requirement. That is, no such bill should result in a net budget cost; and if it does, it could contribute to a sequester if it is not fully offset. The net PAYGO effect of this legislative proposal is currently estimated to be zero.

The Office of Management and Budget advises that there is no objection to the presentation of this legislation to the Congress and that it is in accord with the program of the President.

Sincerely,

FEDERICO PEÑA.

By Mr. WARNER:

S. 2288. A bill to provide for the reform and continuing legislative oversight of the production, procurement, dissemination, and permanent public access of the Government's publications, and for other purposes; to the Committee on Rules and Administration.

WENDELL H. FORD GOVERNMENT PUBLICATIONS ACT OF 1998

Mr. WARNER. Now, Mr. President, it is my distinct pleasure and honor, together with the distinguished ranking member of the Rules Committee, which I am privileged to chair, to submit legislation to the Senate. In my capacity as chairman of the committee, I have taken it upon myself, after consultation with colleagues on the committee, to name this bill in honor of our distinguished ranking member, Senator Wendell FORD of Kentucky, who will be retiring from a very distinguished Senate career at the conclusion of this Congress.

The bill is entitled the "Wendell H. Ford Government Publications Reform Act of 1998." If I just might hold this bill up, it is quite voluminous. That size reflects the tireless effort of my distinguished colleague from Kentucky and many others—over a period in excess of a decade—including Senator STEVENS, the distinguished chairman of the Appropriations Committee, who have worked on this concept. I sort of picked it up and continued to work with Senator FORD in the course of my privileged service as chairman.

Senator FORD has served four terms in the U.S. Senate. During that time he has dedicated himself to many causes, but this has been one very dear to his heart. I think it is a magnificent way of paying a respectful tribute to this Senator.

We want to ensure that our Government produces its publications in the most cost-effective manner possible and that to the best of its ability the Government makes these publications accessible to the American public. They pay for them. But over the course of a number of years, like so many institutions' procedures and practices, it has gotten sort of tangled up. This prodigious document, hopefully, will be accepted by the Senate and accepted by the House and will go a long way to put this system back on track.

Over the past decade there has been a steady and precipitous migration of printing, publication service procurement, and publication dissemination away from the Government Printing Office, which was established for the very purpose of making these documents available.

In part, this migration occurred because of evolutions in technology. In part, this migration occurred because of the identified weakness and constant inability of the Joint Committee on Printing to enforce the work of the agencies and the departments of the executive branch in telling them to procure and disseminate their publications through the GPO. In part, this migration occurred because of the open encouragement by the current administration—through decisions and through the National Performance Review known as the NPR—for agencies to use printing and dissemination facilities other than the Government Printing Office. And in part, this migration occurred because the GPO has been slow to change and be more responsive to the ever-changing agency and Congressional needs, demands, and expectations.

When I make reference to agencies and departments of the Government, I am talking about all three branches of the Government. We are not singling out any one as being less participatory of the desired result in publication and cost effectiveness. We are all in it together. This straightens it out.

Despite the best efforts of Senator FORD and a long line of other Senators, successive administrations just have not been able to grapple and change the process and these problems are with us today.

When I became chairman of the Senate Committee on Rules and Administration, Senator FORD urged that together we continue the work that he and others had started. Indeed, Senator FORD and I became partners in resolving these issues. We directed our staffs to work together, to analyze the problems and identify the key solutions to bringing successful reform to the Government's printing, publishing, and dissemination services.

Senator FORD and I held a series of hearings during which we built a record to support the very bill that we introduce today. This bill primarily has four goals.

First, it resolves the conflicts between the branches of Federal Government—executive, legislative, and judicial—and brings about cost savings in printing and production. It seems to me it eliminates the problems with public access. It is in here in great detail.

Secondly, it guarantees the right of the public to access publications paid for by the taxpayers. We have to stress, they paid for this, so why shouldn't they have it? It requires that the Superintendent of Government Publications Access Programs—what a title; I will repeat that—the Superintendent of Government Publications Access Programs be notified when an agency creates a new publication whether on paper or electronically. That major advancement of dissemination in electronics has not been an easy one to deal with in this bill.

Third, it promotes public availability of Government information in the electronic age through a Federal publications access program requiring no-fee availability, regardless of format, by requiring agencies to provide the same notification to the Superintendent for electronic publications that they are required to provide for printed publications, and by requiring the Superintendent to head a study which will recommend to Congress additional legislation which may be needed to further safeguard the public's access rights.

Finally, the fourth goal is to facilitate the production and public access to Government publications by promoting the efficient and economic production of publications in an effective and equitable system of dissemination.

It was James Madison who established as an essential element of America's democracy the principle of an informed citizenry. According to scholars, Madison's vision for the success of this Nation rested on the ability of an informed citizenry to participate in the democratic process and to hold Government accountable for its actions. Democracy requires the free flow of information. Access to the Government's publications is fundamental to our free society.

Senator FORD and I and other members of the Committee on Rules and Administration, together with our staff, worked diligently and in a most nonpartisan manner to craft this legislation. The legislation is a culmination of nearly 18 months of discussion and negotiation. We consulted with the private sector, the printing industry, the information industry, representatives of the administration, the judicial branch, various legislative branch organizations, GPO, and, most importantly, the unions who really safeguard the future of employees throughout the printing system and other systems involved in this. My understanding is, and I think Senator FORD will have similar comments, that they recognize the need for change and have been a very constructive and helpful working partner in achieving this result. This bill, we feel, reflects a consensus among these interests and is to my mind one of the best examples of bipartisan cooperation in good public policy.

At this time, of course, both Senator FORD and I want to recognize the invaluable services of Eric Peterson, staff director of the Joint Committee on Printing, Kennie Gill of Senator FORD's staff, Grayson Winterling and Ed Edens of my staff, and the many others who have worked on this during the past 18 months. We look forward to receiving the support of our colleagues in passing and enacting this important reform legislation in the concluding days of this Congress.

I yield the floor.

The PRESIDING OFFICER. The very distinguished Senator from Kentucky.

Mr. FORD. I thank the Chair for the description.

Mr. President, it is a great pleasure for me to join with my colleague, the distinguished chairman of the Rules Committee. He is my friend. He is a gentleman in the best tradition of Virginia. I appreciate the honor that he has proposed for me this morning. It will be the first piece of legislation in 24 years that carries my name. I hope it doesn't impede the progress, however. I am grateful to the Senator from Virginia, Mr. WARNER, for his gracious remarks this morning. Hopefully, that tenor will continue through the consideration of this legislation by all of our colleagues, because our heart is right as it relates to the introduction of this legislation.

I hope our minds have put together a piece of legislation that will be lasting. But there is one thing about this institution; once it settles in and you find some problems with it, you always have the opportunity to correct those problems. Most of the time, we do not "throw the baby out with the bath water"; we take the changes and do them in an appropriate way.

So I join my colleague in introducing this legislation today to ensure one thing, Mr. President—that the American public continues to have access to the Government information. As my friend has said, it pays to produce. It is the people's access to Government, Government information, that forms the basis of our system of Government and ensures that democracy survives.

A Kentuckian that was born in Virginia—we claim him in Kentucky, however—and a statesman, Henry Clay, said:

> Government is a trust, and the officers of the Government are trustees; and both the trust and the trustees are created for the benefit of the people.

This legislation ensures that the decisions of the trustees of Government in all 3 branches will continue to be available for the benefit of the people who placed them there.

Since 1813, Congress has assured that our decisions have been available to the public through the depository libraries. In 1857, depository libraries began disseminating other Federal information and, in 1895, the Superintendent of Public Documents was moved from the Department of the Interior to the Government Printing Office.

Throughout our history, Mr. President, libraries have been the permanent repositories of the written history of our development as a Nation and the gateways to accessing the decision of its leaders. How important libraries are. You can be self-educated if you could read and go to the libraries and be able to secure information. Books that will do that. For almost 200 years, libraries have been the principal means by which citizens have come to learn of the decisions of their Government. Armed with that knowledge, the American public expresses its will through the democratic election process, which is the bedrock of our society.

For over 100 years, GPO has printed or procured the printing of Government information and then automatically—and I underscore "automatically"—made that information available, at no charge to the American people, through the 1,400 depository libraries located across this great land. And that information is maintained permanently by the regional depository libraries in order to ensure that future generations have access to it.

What I am trying to do here this afternoon is to say why this bill is so important. It has been so important to our past and it will be so important to our future. In turn, the depository libraries provide numerous access services, at no cost to the Federal Government, to the public who uses them to keep informed of their Government's decisions. In fact, the depository libraries, and numerous other public and private libraries that work in cooperation with the depositories, are the trustees of Government information for the people. For all of the criticisms of GPO, no one can dispute that a centralized printing and dissemination system for Government information has worked to keep the American people informed about their Government.

Mr. President, it was Thomas Jefferson who said, "To inform the minds of people, and to follow their will, is the chief duty of those placed at their head." That is the purpose of this legislation, the very root of the growth of this legislation. We, in a bipartisan manner, a friendly manner, desire to be sure that our citizens are informed, and that is the reason we are introducing this legislation today—to ensure that the American people are informed of the actions of their trustees so they can, in turn, inform us of their will.

This constant exchange of Government information and the people's informed will is the cornerstone of our representative democracy, and without the free flow of information about the actions of their Government, the people's will cannot be ascertained, and democracy is jeopardized.

While the centralized printing and dissemination system provided through GPO has served us well over the years, advances in technology, and recent Supreme Court rulings regarding separation of powers, have taxed the ability of a central agency to ensure that all Government information gets into the hands of the American public. So what did we do? We sat down, as we are supposed to do, to work out a way to continue to strengthen democracy and work the will of the American people's representatives. Some have responded that it is time to decentralize the dissemination of Government information and disjoin the procurement and dissemination functions. I could not disagree more strongly.

Instead, it is time to reform the system and bring it into the 21st century so that both Government and the American people, through the depository library system, can be served for another 100 years through enhanced information dissemination and access.

Title 44 and the Government Printing Office have not undergone a major revision in over 30 years. During this time, the Rules Committee has held numerous hearings, as my distinguished friend has said, on Government printing policies and public access to Government information. In the past 2 years, the committee has heard from the general public, those in the library community, and at GPO, and from officials in the executive and judicial branches, about the challenges and also the opportunities facing agencies who must comply with title 44.

Mr. President, at the beginning of the 105th Congress—this Congress—I outlined what I believed were the 3 principal issues that had to be addressed by any reform legislation.

First, elimination of the constitutional barriers to compliance with title 44 created by the administrative oversight functions of the Joint Committee on Printing; secondly, the expansion of title 44 to recognize the changes in technology, particularly the explosion of electronic publishing and the Internet as a means of disseminating Government information to the people; third, the need for enforcement—I underscore enforcement—of title 44 to ensure that executive agencies comply with the centralized printing and dissemination requirements that otherwise lead to the creation of fugitive documents. I use that word lovingly.

The legislation Senator WARNER and I are introducing today is designed to address these 3 issues in a manner that will ensure, in my opinion, the continued free flow of information to the public while at the same time recognizing the efficiencies and enhanced opportunity for dissemination that technology creates. The legislation reaffirms congressional intent, and 100 years of experience, that a centralized publishing production and procurement agency best ensures that the American public gets the greatest efficiencies for its tax dollar and the broadest access to Government information. The proposed legislation restructures the Government Printing Office to provide increased accountability and efficiencies, while affording the Congress the maximum oversight of the agency's policies and regulations.

This legislation removes the disincentives to compliance with title 44 by eliminating the constitutional problems created by the Joint Committee on Printing. The bill would eliminate the Joint Committee on Printing and download those authorities to the agency, with enhanced legislative oversight—let me underscore that—enhanced legislative oversight and authority over congressional printing by the Senate Committee on Rules and Administration and the Committee on House Oversight.

Most importantly, the proposed legislation recognizes the changes in technology and updates title 44 to ensure that as government information moves from printed material to electronically disseminated publications, the American public will continue to be able to access that information, at no charge, through the depository libraries. The role of the depository libraries is "key" to the success of government's transition from printed material to new technologies. America's libraries provide the safety net that guarantees that this Nation does not become a country of information "haves" and "have nots."

Finally, the bill creates enforcement mechanisms that will ensure that agencies comply with title 44 so that the American people continue to have access to the decisions of their government, regardless of whether those decisions are printed, posted on the Internet, or transmitted through some yet undiscovered technology.

I congratulate my colleague, the distinguished Chairman, and his capable staff for their dedication and diligence in crafting this legislation. No committee is blessed with better staff. We do fuss and fume every once in a while, but we always come out at the right place.

I want to publicly acknowledge the substantial contribution that the library community has made to this effort, particularly the American Library Association and the Inter-Association Working Group on Government Information Policy, chaired by Mr. Dan P. O'Mahony of Brown University.

I look forward to hearings on this measure in the Rules Committee and encourage my colleagues to cosponsor this measure and pass it into law. We cannot afford to delay; the very survival of democracy rests on our actions.

I want to also say that those who represent the employees, the unions, at the Government Printing Office have been thoroughly involved in this decision and just this morning assured me of their enthusiastic support of this legislation, because they understand that if they don't comply with the needs of the advancement of technology and the desires and hopes of the 21st century, they will not last.

Mr. President, I look forward to hearings on this measure in the Rules Committee. I encourage my colleagues to cosponsor this measure and to very quickly pass it into law, because I feel we cannot delay. We cannot afford to delay. The very survival of democracy rests on our actions here today.

I yield the floor.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, those of us who are privileged to hear the remarks of our distinguished colleague from Kentucky might well clearly tell in the tenor of his voice and the forcefulness of his remarks the sincerity with which he believes in this very important goal.

It is my fervent hope that the Senate will act quickly on this measure.

He closed with the comment with regard to unions, which have a very important role in the past, today, and, indeed, in the future in the publication of our documents. It is the credibility which Mr. FORD brings to this institution that enables us to cross that last bridge and gain their support.

The bottom line is that the men and women who work in this system, union members and all, want to have a more cost-effective, a more productive system, one that is compatible with the rapid movement of technology all across our land.

Mr. President, I thank my colleague. I hope that the Senate will turn to this legislation at the earliest possible opportunity. The Committee on Rules and Administration will have a hearing and will promptly issue a report. At that point, it is my expectation that the distinguished majority leader, in consultation with the Democratic leader, will make the appropriate decisions at the time.

I yield the floor.

By Mr. BUMPERS:

S. 2289. A bill to amend the Federal Rules of Criminal Procedure, relating to grand jury proceedings, and for other purposes; to the Committee on the Judiciary.

GRAND JURY REFORM ACT OF 1998

Mr. BUMPERS. Mr. President, recently I introduced S. 2030, the Grand Jury Due Process Act, to provide witnesses who are subpoenaed by federal grand juries with a right to the presence of counsel in the grand jury room. I am today introducing more comprehensive grand jury reform legislation which will remedy several major flaws in the grand jury system which today undermine the fairness of America's judicial system.

Criminal justice must provide for more than swift and sure punishment. It must ensure fairness and due process to the accused as well as to witnesses and victims of crime. In the majority of cases, our courts provide a greater measure of justice than any other system known to man. Yet our system remains far from perfect.

Of all aspects of America's criminal justice system, the grand jury has become the weakest link in ensuring due process of law. It is telling that most States have discarded grand juries entirely. Yet, the Federal Government is constrained by the fifth amendment constitutional requirement for grand juries, so we have to find ways to make the grand jury system work better.

The legislation I am introducing makes five critical grand jury reforms:

First, it directs the district courts to give basic legal instructions to the grand jurors at the time they begin their work. These instructions will include basic legal principles—the power to call witnesses, the power to investigate, and the power to indict on whatever charges the grand jury deems appropriate. No one would disagree with these basic instructions, but they are not required in the present grand jury system. Instead, grand jurors are told only as much about the law as the prosecutor chooses to tell them. My bill will change that.

Second, this bill gives grand jury witnesses the right to be accompanied by counsel in the grand jury room. This section is virtually identical to S. 2030 which I have already introduced. It also requires that a witness subpoenaed to testify before a grand jury be advised of his right to be accompanied by counsel, of the privilege against self-incrimination and other basic rights when the subpoena is issued.

Third, this bill strengthens enforcement of the existing rule on grand jury secrecy, which is a matter of first importance to the integrity of the justice system. News reports indicate that grand jury secrecy is now being violated on a regular basis.

Fourth, this bill mandates that prosecutors disclose to the grand jury any substantial evidence they possess which indicates that the accused is not, or may not be, guilty. While this may seem elementary to most Americans, it is contrary to a Supreme Court decision, United States v. Williams—a very recent decision—which held that the prosecutor has no such constitutional obligation.

Fifth and finally, this bill entitles a defendant to a transcript of the grand jury testimony of all witnesses who are called against him at trial. This is a matter of basic fairness. Anyone charged with a crime should have a right to know what a witness against him has told the grand jury. Knowing the witness's prior testimony is the essence of the right of cross-examination enshrined in the confrontation clause of the sixth amendment.

BACKGROUND

Grand juries have enormous power and they offer few protections to those who are called as witnesses or who are subject to investigation. Under the fifth amendment to the Constitution, Federal felony prosecutions must include indictment by a grand jury. This provision was intended to protect citizens against prosecutions which are without merit or which are politically motivated. The Founding Fathers had plenty of experience with prosecutorial misconduct by the English crown. That is the reason they inserted the grand jury into the Constitution. The grand jury was to be a bulwark against a tyrannical government.

My own observations of grand juries go back to my years as a small town defense lawyer, but they are reinforced by present day cases and news reports. Too often, I have seen criminal prosecutions which should never have been brought, or witnesses who have been abused by prosecutors. Recently, newspapers are filled with stories of secret grand jury testimony—often attributed to prosecution sources—and of witnesses who have been called back to testify a fourth or fifth or sixth time before the same grand jury. Many of these witnesses are obviously not criminals, at least in a reasonable person's understanding of the word.

To understand today's grand jury system, you must understand history. The grand jury, Mr. President, is one of the common law's most ancient institutions. Its roots go back even further than Magna Carta. In 1166, King Henry II proclaimed the Assize of Clarendon which required that 12 "lawful men" out of every hundred be sworn to tell whether they knew of any crimes committed in their towns. In these early days, grand juries operated mostly on the personal knowledge of the grand jurors.

The grand jury then, like today, only had power to accuse. In those days, trial was by ordeal. The accused either had his hand placed in boiling water or was bound and thrown into a lake. If he survived without injury, this was an acquittal. It was not until the 13th Century that our English forbearers secured the right to a trial by jury.

Trial by ordeal was supposedly abolished long ago, but I wonder whether many of today's grand jury witnesses might dispute this.

In English and American history up until the time of the Constitution, grand juries were a bulwark of freedom which stood between oppressive government and the individual. Grand juries often disagreed with English and colonial judges who were in service to the Crown. These feuds helped define both the power of the grand jury and the liberties of free people. For example, grand jurors in colonial Massachusetts adamantly refused demands by the Crown to indict the colonists who had participated in the Stamp Act riots.

Unhappily, the grand jury's role as defender of liberty, has changed dramatically for the worse over the years. Too often, the grand jury has become an arm of the executive branch and a rubber stamp for the prosecutor. In modern times, the Supreme Court has held that a grand jury may call witnesses to satisfy the mere suspicion that a crime may have been committed.

Grand juries have been judged so superfluous by the states that about half of them decided long ago to eliminate grand juries and allow criminal charges to be brought directly by prosecutors.

The chief judge of the State of New York remarked several years ago that most grand juries would indict "a ham sandwich" if the prosecutor so requested. A recent Supreme Court decision, United States v. Williams, the Court has held that the District Courts have no supervisory power over grand juries, and that grand juries are not even part of the judiciary. I disagree strenuously with Justice Scalia's conclusions in the Williams case. If grand juries are not accountable to the courts, then who are they accountable to?

INSTRUCTIONS OF LAW

Under present Federal law, grand jurors receive no instructions on the law except for whatever the prosecutor may choose to tell them. This bill will provide for the District Court which empanels the grand jury to give some very basic legal instructions to the jurors before they begin their work. Included among these are the grand jury's duty to inquire into criminal offenses that have been committed in the jurisdiction; the right to call and interrogate witnesses; the right to request production of documents, including exculpatory evidence; the necessity of finding credible evidence of each element of the crime before returning an indictment; the right to ask the prosecutor to draft indictments for charges other than those originally presented; the obligations of grand jury secrecy; and such other rights and duties as the court deems appropriate.

Mr. President, there is no good reason why these instructions should not be given. These rules of law are universally accepted. It makes no sense for the grand jury not to be told what its legal powers and duties are, and I cannot imagine that this provision would be disputed.

RIGHT TO COUNSEL

Mr. President, as I indicated before, the institution of the grand jury goes back more than 800 years in Anglo-American legal history, but it was not until 1963 that the Supreme Court held in Gideon v. Wainwright that a man may not be sent to prison without having had a lawyer at trial. Under Gideon, a person unable to pay for a lawyer must have counsel appointed to represent him, or else the requirement of due process of law has not been met.

In 1964, the Court held in Miranda v. Arizona that criminal defendants must be advised by the police of their right to counsel and of the Fifth Amendment privilege against self-incrimination. These rights are basic American freedoms which are the hallmarks of due process of law. And nobody today would take us back to the old days when those rules were not in effect.

Our ideas of due process have changed for the better over the centuries. One legal tradition which has not changed, however, is the lack of counsel before the grand jury. A witness who is not a criminal defendant but who is legally summoned to testify by the grand jury may not have his lawyer in the room. This rule of law is perverse to say the least in that it gives criminals, or accused criminals, more rights than innocent people.

A criminal defendant today has greater rights than an ordinary, unaccused witness testifying before a grand jury. The Federal Rule of Criminal Procedure which prohibits the presence of counsel for a witness is an anachronism, and it will be changed by this bill, as well as by S. 2030 which I previously introduced.

EXCULPATORY EVIDENCE

Even with a lawyer for the witness present, the grand jury will always be a one-sided affair in which only the prosecutor presents evidence. My bill will not change that. The prosecutor will naturally present only the evidence most favorable to the government. The Supreme Court has held that a prosecutor has no constitutional obligation to present the grand jury with any exculpatory evidence. This case, United States v. Williams, was a 5-4 decision written by Justice Scalia and as I said, in my opinion, it could not be more wrong.

If due process of law means anything at all, it means that both sides of a case must be heard. How can due process permit the government to withhold evidence which might prevent the indictment from even being issued?

My bill today reverses United States v. Williams by amending the Rules of Criminal Procedure to require that prosecutors present the grand jury any substantial evidence which directly negates the guilt of the accused.

This bill will not make the grand jury a "mini-trial" since the accused will not be able to present evidence or to cross-examine. But the Government will be required to tell the grand jury, before it decides to indict, of substantial evidence against guilt. Due process of law requires no less. those who are not guilty. It is no answer to say that evidence of innocence can be considered at trial, and the jury will correct mistakes of the grand jury. If the Government has evidence which—if it were shown to be the grand jury—would lead the grand jury not to indict, the government must share that evidence with those who have power to indict. U.S. v. Williams is a gross misreading of due process which cries out for correction.

GRAND JURY SECRECY

Mr. President, the secrecy of grand jury proceedings is a matter of fundamental importance which is already clearly required by Rule 6(e) of the Federal Rules. Yet the rule is flouted on almost a regular basis. Weekly, if not daily, the newspapers have carried stories about the several Independent Counsels' investigations which begin, "Sources close to the investigation report * * *" Every time the law regarding grand jury secrecy is violated, a fair and impartial trial is impossible.

Grand jury secrecy is as ancient as the institution itself. Without it, our judicial system would degenerate into a horrific state. An indictment is already tantamount to guilt in the opinion of most people. At the same time, the grand jurors must be insulated from outside pressure which might influence their decisions to indict or not. Grand jury secrecy is necessary for the protection of both witnesses and grand jurors.

The grand jury hears all kinds of testimony—some true, some scurrilous. Many things said to the grand jury may be incredibly damaging to people if they are revealed. Since the accused and his lawyer are not in the room, there is no safeguard of cross-examination. False testimony can easily go undiscovered until trial, which is one reason grand jury secrecy is so important.

If the public learns that a witness has made some horrendous accusation, it will be cold comfort that the grand jury later decides not to believe the testimony and not to indict.

More than one witness has lost his life when it was learned that he had testified against a leader of organized crime or a murderer. Grand jury secrecy can literally be a matter of life and death. Its importance to law enforcement and the cause of justice cannot be overstated.

At the same time, a witness who has testified before a grand jury is perfectly free, if he so chooses, to go on television and tell the world what he or she has testified to.

Present law places responsibility for enforcing grand jury secrecy on the prosecutor. If a member of the prosecution staff is leaking to the press, this is the clearest conflict of interest. Asking any prosecutor to investigate his own conduct is an obvious conflict of interest. Yet that is what present law provides.

Mr. President, the way to resolve this problem is to place authority for investigating violations of grand jury secrecy on the District Court which empaneled the grand jury in the first place. My bill does exactly that by giving the Court power to appoint an investigator or counsel if necessary to determine the source of leaks. It should be the exceptional case where such action will be necessary.

The existence of the possibility of an independent investigation should be enough to deter any prosecutor from breaching grand jury secrecy.

Mr. President, the public's confidence in law enforcement, in the courts, and in the administration of justice for all Americans has taken a beating in recent years. Time and again, we have seen misconduct by police and prosecutors, as well as jury verdicts and court judgments that seem to defy reason and common sense. This Congress has an extraordinary opportunity to restore public confidence in the judicial system. Almost every point in this bill is long-standing policy supported by the American Bar Association. I believe the public and the bar will widely support these changes, and I hope my colleagues will move swiftly to enact this bill into law.

Mr. President, I yield the floor.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The distinguished Senator from Virginia.

Mr. WARNER. Thank you.

I listened with great interest to my colleague's presentation of his bill, and it is quite interesting. You have never ceased in this institution to take on some of the toughest challenges.

Mr. BUMPERS. Thank you.

Mr. WARNER. I foresee some tough hills to climb within this legislation before it is through. But anyway, you are the man to do it if it is to be done. I cannot pass judgment at this time, but having been a prosecutor and having spent some time myself in this area, it is quite interesting.

Mr. BUMPERS. Mr. President, I ask unanimous consent that the text of the Grand Jury Reform Act, which I am introducing today, be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2289

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Grand Jury Reform Act of 1998".

SEC. 2. GRAND JURIES.

(a) IN GENERAL.—Rule 6 of the Federal Rules of Criminal Procedure is amended—

(1) in subdivision (a), by adding at the end the following:

"(3) INSTRUCTION ON RIGHTS, RESPONSIBILITIES, AND DUTIES.—Upon impaneling a grand jury, the court shall instruct and charge the grand jury on the rights, responsibilities, and duties of the grand jury under this rule, including—

"(A) the duty to inquire into criminal offenses that are alleged to have been committed within the jurisdiction;

"(B) the right to call and interrogate witnesses;

"(C) the right to request production of a book, paper, document, or other object, including exculpatory evidence;

"(D) the necessity of finding credible evidence of each material element of the crime charged before returning a true bill;

"(E) the right to request that the attorney for the government draft indictments for charges other than those originally requested by that attorney;

"(F) the obligation of secrecy under subdivision (e)(2); and

"(G) such other rights, responsibilities, and duties as the court determines to be appropriate.";

(2) in subdivision (d), by inserting "and counsel for that witness (as provided in subdivision (i))" after "under examination";

(3) in subdivision (e)(2), by adding at the end the following: "The court shall have the authority to investigate any violation of this paragraph, including the authority to appoint counsel to investigate and report to the court regarding any such violation."; and

(4) by adding at the end the following:

"(h) NOTICE TO WITNESSES.—Upon service of any subpoena requiring any witness to testify or produce information at any proceeding before a grand jury impaneled before a district court, the witness shall be given adequate and reasonable notice of—

"(1) his or her right to counsel, as provided in subdivision (i);

"(2) his or her privilege against self-incrimination;

"(3) the subject matter of the grand jury investigation;

"(4) whether his or her own conduct is under investigation by the grand jury;

"(5) the criminal statute, the violation of which is under consideration by the grand jury, if such statute is known at the time of issuance of the subpoena;

"(6) his or her rights regarding immunity; and

"(7) any other rights and privileges which the court deems necessary or appropriate.

"(i) COUNSEL FOR GRAND JURY WITNESSES.—

"(1) IN GENERAL.—

"(A) RIGHT OF ASSISTANCE.—Each witness subpoenaed to appear and testify before a grand jury in a district court, or to produce books, papers, documents, or other objects before that grand jury, shall be allowed the assistance of counsel during such time as the witness is questioned in the grand jury room.

"(B) RETENTION OR APPOINTMENT.—Counsel for a witness described in subparagraph (A)—

"(i) may be retained by the witness; or

"(ii) in the case of a witness who is determined by the court to be financially unable to obtain counsel, shall be appointed as provided in section 3006A of title 18, United States Code.

"(2) POWERS AND DUTIES OF COUNSEL.—A counsel retained by or appointed for a witness under paragraph (1)—

"(A) shall be allowed to be present in the grand jury room only during the questioning of the witness and only to advise the witness; and

"(B) shall not be permitted to address any grand juror, or otherwise participate in the proceedings before the grand jury.

"(3) Powers of the court.—

"(A) In general.—If the court determines that counsel retained by or appointed for a witness under this subdivision has violated paragraph (2), or that such action is necessary to ensure that the activities of the grand jury are not unduly delayed or impeded, the court may remove the counsel and either appoint new counsel or order the witness to obtain new counsel.

"(B) No effect on other sanctions.—Nothing in this paragraph shall be construed to affect the contempt powers of the court or the power of the court to impose other appropriate sanctions.

"(j) Exculpatory Evidence.—An attorney for the government shall disclose to the grand jury any substantial evidence of which that attorney has knowledge that directly negates the guilt of the accused. Failure to disclose such evidence may be the basis for a motion to dismiss the indictment, if the court determines that the evidence might reasonably be expected to lead the grand jury not to indict.

"(k) Availability of Grand Jury Transcripts and Other Statements.—

"(1) In general.—Subject to paragraph (2), not later than 10 days before trial (unless the court shall for good cause determine otherwise), and after the return of an indictment or the filing of any information, a defendant shall, upon request, and as the court determines to be reasonable, be entitled to examine and duplicate a transcript or electronic recording of—

"(A) the grand jury testimony of all witnesses to be called at trial;

"(B) all statements relating to the defendant's case made to the grand jury by the court, the attorney for the government, or a special attorney;

"(C) all grand jury testimony or evidence which in any manner could be considered exculpatory; and

"(D) all other grand jury testimony or evidence that is determined by the court to be material to the defense.

"(2) Exception.—The court may refuse to allow a defendant to examine and duplicate a transcript, or electronic recording of any testimony, statement, or evidence described in paragraph (1), if the court determines that such examination or duplication would endanger any witness.".

(b) Conforming Amendments.—Section 3500(e) of title 18, United States Code, is amended—

(1) in paragraph (1), by adding "or" at the end;

(2) in paragraph (2), by striking ", or" and inserting a period; and

(3) by striking paragraph (3).

By Mr. BREAUX:

S. 2290. A bill to promote the construction and operation of cruise ships in the United States; to the Committee on Commerce, Science, and Transportation.

U.S. FLAG CRUISE VESSELS LEGISLATION

• Mr. BREAUX. Mr. President, today I introduce legislation which I believe will help achieve the development of a United States cruise vessel industry and generate numerous economic benefits for our country through the operation of United States-flag cruise vessels between American ports.

There is little doubt that we should take significant and innovative action so that American ports, businesses and workers can share in the economic benefits that can be realized through the operation of cruise vessels in the United States domestic trade.

Recently, the Subcommittee on Surface Transportation and Merchant Marine held an oversight hearing on the need to generate cruise vessel operations between American ports. In fact, as a result of the hearing, many of our colleagues, including the Chairman of our Commerce Committee Senator McCain, are committed to moving forward on cruise vessel legislation this year so our port economies throughout the country can begin to benefit through cruise vessel operations.

As strongly as I am committed to helping ports in my state of Louisiana and throughout our country to attract and benefit from increased cruise vessel operations, I am equally convinced that we will not achieve the full measure of these economic benefits if we simply allow foreign flag passenger vessels to operate between America's ports. Rather, I believe we should be directing our efforts to develop a large, modern and competitive cruise vessel fleet comprised of vessels built in the United States, operated under the United States-flag, and crewed by United States citizens. Otherwise, we would simply be allowing foreign companies and foreign workers to receive all the privileges and benefits that come with operating in the United States domestic trade without any of the associated and resultant obligations and responsibilities we impose on American companies and American workers.

The legislation I am introducing today is intended to reflect the economic realities facing companies seeking to enter the domestic cruise trade and the desire of American ports to attract cruise vessels as quickly as possible. It will jumpstart the domestic cruise vessel industry by allowing American companies to acquire foreign built cruise vessels and operate those ships in the domestic cruise trade under very specific and limited circumstances. These vessels will be documented under the laws of the United States, run with American citizen crews, and operated in compliance with all applicable United States laws, regulations and tax obligations.

My legislation reflects the principles embodied in our Nation's cabotage laws while recognizing that a waiver of the Passenger Vessel Services Act, under specific terms and conditions, is absolutely necessary to attract United States-flag cruise vessels into our domestic trades.

Especially significant is the fact that in order to take advantage of the authority to operate such vessels in the domestic trades, the owner must agree, and my legislation requires, that they will first enter into a contract to build a replacement vessel or vessels in a United States shipyard.

I share the desire of Senator McCain and our colleagues to develop legislation that will immediately and dramatically increase domestic cruise vessel operations. However, I am convinced that we should not let this present opportunity pass by—we have a legitimate opportunity to increase the size of the oceangoing United States-flag cruise vessel fleet and to greatly increase the opportunity for American ports to attract and benefit from cruise vessel activity. I am aware of at least one American company ready to take advantage of this legislation, acquire two modern, attractive, large cruise vessels and operate them under the United States-flag under the terms and conditions set forth in my proposal.

I ask all my colleagues to join with me in support of this proposal so we can achieve the operation and construction of United States-flag cruise vessels.

Mr. President, I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2290

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PURPOSE.

The purpose of this Act is to allow foreign-constructed vessels to be documented as vessels of the United States with the right to engage in the domestic coastwise cruise trade in connection with the construction of cruise vessels in the United States.

SEC. 2. COASTWISE TRANSPORTATION OF PASSENGERS.

(a) Reflagging.—

(1) In general.—Notwithstanding section 12106(a)(2) of title 46, United States Code, section 27 of the Merchant Marine Act, 1920 (46 U.S.C. App. 883), the Act of June 19, 1886 (46 U.S.C. App. 289), or any other provision of law, the Secretary of Transportation may issue a certificate of documentation with a coastwise endorsement for a cruise vessel not constructed in the United States to a person who enters into a binding contract for construction in the United States of a cruise vessel or vessels with a total combined berth or stateroom capacity equal to at least 75 percent of the total combined berth or stateroom capacity of the cruise vessel or vessels for which the certificate is to be issued under this paragraph.

(2) Certificate sunset.—A certificate of documentation issued to a vessel under paragraph (1) shall terminate 2 years after the date on which all vessels constructed under the binding contract have been delivered.

(b) Limitations.—

(1) No competition with U.S.-built vessels.—A vessel issued a certificate of documentation under subsection (a)(1) may not operate in the coastwise cruise trade on a route served by a cruise vessel built in the United States operating under the authority

of section 27 of the Merchant Marine Act, 1920 (46 U.S.C. App. 883), the Act of June 19, 1886 (46 U.S.C. App. 289), section 12106(a)(2) of title 46, United States Code, or any other authority of law in effect on or before the date of enactment of this Act.

(2) HAWAIIAN ROUTES PROHIBITED.—A vessel issued a certificate of documentation under subsection (a)(1), or constructed under a binding contract referred to in that subsection, may not operate between or among the islands of Hawaii.

SEC. 3. CONSTRUCTION STANDARDS.

A vessel issued a certificate of documentation under subsection (a)(1) that meets the standards and conditions for the issuance of a control verification certificate for a cruise vessel documented under the laws of a foreign country embarking passengers in the United States is deemed to be in compliance with section 3309 of title 46, United States Code.

SEC. 4. FOREIGN TRANSFER.

Notwithstanding section 9(c) of the Shipping Act, 1916 (46 U.S.C. App. 808), a cruise vessel issued a certificate of documentation under subsection (a)(1), or constructed under a binding contract referred to in that subsection, may be placed under foreign registry after its documentation under subsection (a) or its initial documentation (in the case of a vessel so constructed), but the Secretary shall revoke the coastwise endorsement issued for any such vessel when it is placed under foreign registry.

SEC. 5. DEFINITIONS.

In this Act:

(1) COASTWISE CRUISE TRADE.—The term "coastwise cruise trade" means the transportation of passengers in coastwise trade between points in the United States, either directly or by way of a foreign point, or originating and terminating at the same point in the United States.

(2) CRUISE VESSEL.—The term "cruise vessel" means a vessel that—

(A) is at least 10,000 gross tons as measured under chapter 142 of title 46, United States Code; and

(B) has berth or stateroom accommodations for at least 275 passengers.●

By Mr. GRAMS:

S. 2291. A bill to amend title 17, United States Code, to prevent the misappropriation of collections of information; to the Committee on the Judiciary.

COLLECTIONS OF INFORMATION ANTIPIRACY ACT

Mr. GRAMS. Mr. President, I rise today to introduce the "Collections of Information Antipiracy Act." This legislation is similar to H.R. 2652, legislation already passed unanimously by our colleagues in the House of Representatives on May 19 of this year that is currently pending before the Judiciary Committee.

My legislation presents a much-needed Federal, legislative protection for databases. It is a fair and balanced bill that recognizes the need for database owners to receive adequate legal protection that provides them the incentives necessary to continue investing in database production.

The bill also acknowledges that users must continue to have access to timely and innovative database products and services.

America produces and uses some 65 percent of the world's databases.

Our database industry spans an enormous range of products and services—from collection of information about antidotes to poisons, to valuable collections of business and financial data, to databases of medical procedures and practice guidelines used to assure reliable and effective patient care.

These companies have been pioneers in offering innovative and easily accessible databases in any number of formats that meet consumer needs.

The myriad of databases produced in the United States are used by the business community, researchers, educators, government officials, and citizens to gain knowledge and make decisions that affect every aspect of our lives.

Yet, despite technological innovations, creating and offering databases in the marketplace is neither cheap nor easy.

Not only must database owners expend substantial resources on the collection of data, they must also maintain and distribute these information products, while continually updating them and responding to the demands of their customers.

Many American jobs depend on a healthy, vibrant U.S. database industry. These companies employ thousands of editors, researchers, and others. They invest millions of dollars in hardware and software to manage these large masses of information.

Despite the enormous value of these databases to our economy and society, American database owners are under a dual threat.

On the one hand, after a 1991 Supreme Court decision, it is increasingly unclear whether most databases are adequately protected from piracy by U.S. copyright law.

Lower courts since 1991 have handed down several decisions that have diminished the number and types of databases that are protected under the compilation copyright provisions in the 1976 Copyright Act.

In addition, these decisions have stated that even if databases as a whole may qualify for this limited copyright protection, the facts contained in them are freely available for the taking and re-use by others—including competing database producers—without authorization or compensation.

Although database producers do have means other than a new Federal law to seek protection, none has proven adequate, as is evidenced in the study completed by the U.S. Copyright Office last August.

Contract law, for example, binds only the parties to the contract and in any case varies from State to State and it also varies from country to country.

Technological protections are beginning to appear and are slowly being implemented in the online world, but they offer no protection to databases that are produced in other formats.

Some States have adopted doctrines of misappropriation; however, these legal protections are far from being uniform and offer no solace to database producers in States where such legal safeguards are not in place.

The European Union has begun implementing a new directive protecting databases in their own countries, but only those produced in the European Union or in countries that offer comparable protections. This law clearly is designed to disadvantage database owners not located in an EU country. Great Britain, Germany, Spain, and most Scandinavian nations have already made changes in their own laws to implement the EU directive, and also a European official recently predicted that within a few years, as many as 35 of our trading partners in Europe and the Russian Federation will have similar laws in place.

Unless the United States passes a law that is comparable to that now governing Europe, more and more American database owners may feel the need to move some or all of their operations overseas in an effort, to thwart potential piracy of their products and services by unscrupulous competitors or vendors.

As I mentioned previously, Mr. President, American database producers are anxious to continue producing valuable databases for worldwide use. However, the technologies present in today's world that allow for easy copying and redistribution of information threaten a producer's ability to continue receiving a fair return on the tremendous investments required to produce quality databases.

Coupled with the inadequacy of U.S. law to protect investment in databases and the threat posed by the EU directive, it is clear to me that Congress—and more importantly, the Senate—must act quickly if we are to preserve the American lead in database production and use.

The "Collections of Information Antipiracy Act" offers a solution to the threats faced by American database owners by helping to provide the right to stop harmful practices that affect the marketplace for that database.

This legislation uses Congress' powers under the Commerce clause of the Constitution to protect only those databases used in commerce.

Protection is limited to those databases whose owners have invested substantial monetary or other resources in gathering, organizing, or maintaining a collection of information.

It contains a definition of what constitutes a protected collection that is broad enough to offer effective protection to the wide range of products and services that would benefit from a new Federal law.

This legislation also contains numerous and important exceptions to the protections granted. For example, it makes clear that databases may be used for legitimate purposes of verification and news reporting. It offers special exceptions to nonprofit users, such as researchers, scientists, and educators. The bill also states clearly that no one is precluded from gathering the same facts contained on one database owner's product and creating another database—but again, as long as those facts are not stolen from the original database owner. Finally, the bill recognizes the importance of unfettered public access to Government databases by specifically denying protection to any database created by a governmental entity—whether Federal, State, or local—or any database that a Government agency seeks to have created and distributed under an exclusive licensing arrangement. Mr. President, the concepts that lie behind the Collections of Information Antipiracy Act, and many of its specific provisions, have been debated for more than 2 years now. The House-passed bill now before the Senate Judiciary Committee was the subject of two hearings that included witnesses from nearly every affected community—both producers and users of databases. Indeed, the bill I introduce today is a much-improved version of the legislation first introduced in the House, and many provisions have been added that strike a fair balance between the needs of database producers for adequate protection and also the requirements that users have fair access to these private-sector products and services. There should be no fear that database producers will exert extraordinary control over their products and services. But, this legislation contains not only a special savings clause preserving our antitrust laws, but it also specifies low penalties against any nonprofit user who may run afoul of this new law. In closing, Mr. President, I am convinced it is time for this body to act to protect the interests of database owners and users in the United States. The bill I am introducing today represents a reasonable and fair means of doing so, and I urge my colleagues to join with me in working during these few remaining days of the 105th Congress to consider and pass this very important piece of legislation.

ADDITIONAL COSPONSORS

S. 778

At the request of Mr. LUGAR, the name of the Senator from Texas (Mr. GRAMM) was added as a cosponsor of S. 778, a bill to authorize a new trade and investment policy for sub-Saharan Africa.

S. 1251

At the request of Mr. D'AMATO, the name of the Senator from Georgia (Mr. COVERDELL) was added as a cosponsor of S. 1251, a bill to amend the Internal Revenue Code of 1986 to increase the amount of private activity bonds which may be issued in each State, and to index such amount for inflation.

S. 1754

At the request of Mr. FRIST, the name of the Senator from Idaho (Mr. CRAIG) was added as a cosponsor of S. 1754, a bill to amend the Public Health Service Act to consolidate and reauthorize health professions and minority and disadvantaged health professions and disadvantaged health education programs, and for other purposes.

S. 1758

At the request of Mr. LUGAR, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 1758, a bill to amend the Foreign Assistance Act of 1961 to facilitate protection of tropical forests through debt reduction with developing countries with tropical forests.

S. 1976

At the request of Mr. HARKIN, his name was added as a cosponsor of S. 1976, a bill to increase public awareness of the plight of victims of crime with developmental disabilities, to collect data to measure the magnitude of the problem, and to develop strategies to address the safety and justice needs of victims of crime with developmental disabilities.

S. 2128

At the request of Mr. STEVENS, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of S. 2128, a bill to clarify the authority of the Director of the Federal Bureau of Investigation regarding the collection of fees to process certain identification records and name checks, and for other purposes.

SENATE CONCURRENT RESOLUTION 107

At the request of Mr. LOTT, the name of the Senator from Indiana (Mr. COATS) was added as a cosponsor of Senate Concurrent Resolution 107, a concurrent resolution affirming United States commitments to Taiwan.

AMENDMENT NO. 3109

At the request of Mr. ABRAHAM his name was added as a cosponsor of amendment No. 3109 proposed to S. 1882, a bill to reauthorize the Higher Education Act of 1965, and for other purposes.

AMENDMENTS SUBMITTED

AFFIRMING U.S. COMMITMENTS UNDER THE TAIWAN RELATIONS ACT

LOTT AMENDMENT NO. 3121

Mr. LOTT proposed an amendment to the concurrent resolution (S. Con. Res. 107) affirming U.S. commitments under the Taiwan Relations Act; as follows:

On page 2, line 8, strike "with the consent of the people of Taiwan,".

RELATIVE TO TAIWAN ADMISSION TO MULTILATERAL ECONOMIC INSTITUTIONS

HELMS AMENDMENT NO. 3122

Mr. GRAMS (for Mr. HELMS) proposed an amendment to the concurrent resolution (S. Con. Res. 30) expressing the sense of the Congress that the Republic of China should be admitted to multilateral economic institutions, including the International Monetary Fund and the International Bank for Reconstruction and Development; as follows:

Strike all after the resolving clause and insert the following: That it is the sense of the Senate (the House of Representatives concurring) that it should be United States policy to—

(1) support changes to the International Monetary Fund Charter that would allow the Republic of China on Taiwan and other qualified economies to become members of the International Monetary Fund; and

(2) support the admission of Taiwan to membership in other international economic organizations for which it is qualified, including the International Bank for Reconstruction and Development.

Strike the preamble and insert the following:

Whereas the Republic of China on Taiwan (hereafter referred to as "Taiwan") possesses a free economy with the 19th largest gross domestic product in the world;

Whereas Taiwan has the 14th largest trading economy in the world and the 7th largest amount of foreign investment in the world and holds one of the largest amounts of foreign exchange reserves in the world;

Whereas Taiwan is a democracy committed to the economic and political norms of the international community;

Whereas the purpose of the International Monetary Fund (hereafter referred to as "IMF") is to promote exchange stability, to establish a multilateral system of payments, to facilitate the expansion of world trade, and to provide capital to assist developing nations;

Whereas changes to the IMF Charter that would allow Taiwan and other qualified economies to become members of the IMF would benefit the world economy, especially those developing countries in need of capital, and would contribute to the purposes of the IMF;

Whereas the IMF aims to further economic liberalization and globalization and conducts conferences, exchanges, and training programs in international monetary management which would be beneficial to Taiwan;

Whereas membership in the IMF is a prerequisite for accession to the International Bank for Reconstruction and Development and to regional banks in which Taiwan's membership would be beneficial; and

Whereas Taiwan is already a member of regional multilateral economic institutions including the Asia-Pacific Economic Cooperation Forum and the Asian Development Bank: Now, therefore, be it

Amend the title so as to read: "Expressing the sense of Congress that the rules of multilateral economic institutions, including the

International Monetary Fund and the International Bank for Reconstruction and Development, should be amended to allow membership for the Republic of China on Taiwan and other qualified economies.''.

NOTICE OF HEARING

SUBCOMMITTEE ON NATIONAL PARKS, HISTORIC PRESERVATION AND RECREATION

Mr. THOMAS. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Subcommittee on National Parks, Historic Preservation and Recreation of the Committee on Energy and Natural Resources.

The hearing will take place on Thursday, July 23, 1998, at 2 p.m., in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of this hearing is to receive testimony on S. 2109, a bill to provide for an exchange of lands located near Gustavus, Alaska, and for other purposes; S. 2257, a bill to reauthorize the National Historic Preservation Act; S. 2276, a bill to amend the National Trails System Act to designate El Camino Real de los Tejas as a National Historic Trail; S. 2272, a bill to amend the boundaries of Grant-Kohrs Ranch National Historic Site in the State of Montana; S. 2284, a bill to establish the Minuteman Missile National Historic Site in the State of South Dakota, and for other purposes; and, H.R. 1522, a bill to extend the authorization for the National Historic Preservation Fund, and for other purposes.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Subcommittee on National Parks, Historic Preservation and Recreation, Committee on Energy and Natural Resources, United States Senate, 364 Dirksen Senate Office Building, Washington, DC 20510–6150.

For further information, please contact Jim O'Toole of the Subcommittee staff at (202) 224–5161.

ADDITIONAL STATEMENTS

FLORIDA'S WILDFIRE ASSISTANCE

• Mr. MACK. Mr. President, I rise today to make a few remarks on the extraordinary efforts which are currently taking place in my home state of Florida. For over a month now, as I am sure we are all well aware, devastating wildfires have ravaged Florida, impacting all of our 67 counties. Since this crisis began, more than 2,000 separate fires to date have been identified and more than 500,000 acres of state and federal land have been burned.

While these facts are certainly overwhelming, I think it is important that we take a moment to recognize the heroic campaign which has been undertaken to contain these fires. Last week I had the opportunity to tour the fire ravaged area of Volusia County, and I met with firefighters and emergency officials on the front line of what has been a constant battle. I was simply overwhelmed by the determination of these men and women who have undertaken the challenge of extinguishing these fires. These brave individuals are working 16 to 18 hours a day in extreme temperatures and the harshest of conditions. Tragically, these fires have consumed over 367 homes and 33 businesses. It is, however, thanks to the efforts of these individuals that losses have remained at this level.

These dedicated professionals, who have put their lives on the line fighting the wildfires, represent the tremendous support which Florida has received by our fellow Americans. Not since Hurricane Andrew in 1992 have we seen an outpouring of human kindness and supplies from around the country to help Florida fight a natural disaster of this magnitude. It is disasters like this which bring the American people together and makes our country one giant community. To date, 44 states, from as far away as California and Alaska, are involved in this effort. Through an outstanding coordinated effort on the part of local, state and federal agencies, countless numbers of people are working behind the scenes, including the Red Cross, the Salvation Army and private citizens.

I have remained in close contact with state and federal emergency officials, and I am confident all that can be done is being done. What Florida really needs is rain. While the situation still remains quite volatile, the weather patterns do offer some hope and relief to the devastated areas. Over the past few days several rainstorms have offered some relief, however much more is still needed to completely extinguish the fires. I know all of my colleagues join me in letting the firefighters, emergency officials and residents battling these fires know they are in our thoughts and prayers as they continue the fight to extinguish these fires.•

HIGHER EDUCATION AMENDMENTS OF 1998

• Mr. JOHNSON. Mr. President, I rise to express my strong support of legislation passed by the Senate last evening, the Higher Education Amendments of 1998.

The Higher Education Act has been of enormous benefit to millions of students over the past three decades in providing more affordable access to institutions of post-secondary education. Many of these students simply would not have gone to college or vocational school without the assistance provided through such programs as Pell Grants, student loans, and work study.

With the increased competition faced by workers in the global economy, the importance of these programs is even greater today, not only for students but also for our nation's economy. The Higher Education Act programs account for 68 percent of all financial aid available to students.

The cost of a college education continues to grow far faster than inflation, leaving more and more students with a large debt once they finish. Last fall, the College Board released a nationwide survey of tuition costs, finding that tuition and fees would rise about 5 percent for the fifth year in a row.

In contrast, inflation in the overall economy has been held under control during these years, hovering at an average of just over 2 percent.

As costs have increased, student borrowing has expanded to make up the difference. Student loans now comprise about 60 percent of all financial aid, whereas in the 1980–81 school year, loans were just over 40 percent of the total. The average graduate of a four-year college today will have $14,500 in debt upon entering the working world.

Given the increased reliance on borrowing, it is notable that this reauthorization legislation will provide for a reduction in interest rates on new student loans by approximately 1 percent from current rates. This provision will save students hundreds, if not thousands, of dollars.

Nearly 84 percent of South Dakota students receive financial aid in some form, with an average annual award of $5,400 to students who receive aid at the six public universities. Approximately 16,000 students in South Dakota receive Pell Grants, accounting for $28 million in federal assistance.

I am pleased that this bill will provide legislative authority to increase the size of the maximum Pell Grant to $5,000. In the 1970s, Pell Grants covered three-quarters of the costs of attending a four-year public school. Today, these grants cover only one-third of the cost. I realize that finding the budget resources to fund this maximum grant fully will be difficult, but Pell Grants are the most effective program we have for helping low-income students afford post-secondary education.

This legislation also continues the essential Federal Family Education Loan (FFEL) program. Although direct lending by the federal government has consumed a portion of the overall student loan volume, all of the colleges and universities in my state of South Dakota continue to use the FFEL program and remain satisfied with the services they receive. Accordingly, I have been skeptical of efforts that might destroy the balance that has existed between direct lending and the FFEL program. Federal policy should not be changed in ways to either favor direct lending or undermine the financial viability of lending by the private sector.

There are some lesser-noticed provisions of this bill of which I am particularly proud. Promoting the availability and affordability of child care has been one of my highest priorities in the Senate. That's why I am so pleased that legislation I cosponsored earlier this year, the CAMPUS Act, has been incorporated into this bill. CAMPUS stands for Child Care Access Means Parents in School. This provision will establish a grant program to assist colleges with the costs of establishing child care centers to provide campus-based child care for low-income parents attending college.

The obvious benefit of easy access to child care is that students with young children will have a much greater probability of staying in school and completing their degree. More and more students today are non-traditional students, and the need for campus-based child care is greater than ever before.

Additionally, this bill establishes an innovative new program to offer student loan forgiveness for those who earn a degree in early childhood education and become full-time child care workers. Child care, unfortunately, is one of the lowest-paying professions that one can find, and this low level of pay is completely incommensurate with the value of those who are caring for young children. Not surprisingly, turnover in this field is very high, as workers find better paying jobs elsewhere.

It is especially tragic when highly-trained graduates, those who have earned a degree in early childhood education, are forced to leave the child care profession because they can't pay their student loans. We still need to do all we can to raise wages for child care workers, but helping with student loan repayment is a remarkable step forward. This concept was contained in child care legislation I cosponsored last year, and I am very pleased that it has been included in this bill.

Finally, advocates of a more effective welfare system won a significant victory with the passage of Senator WELLSTONE's amendment to give states the option of counting two years of post-secondary education as a work requirement for purposes of the Temporary Assistance to Needy Families program. I was proud to cosponsor this amendment.

I have heard from a number of my constituents that current system has had the unfortunate effect of forcing TANF recipients out of college or vocational school and into dead-end, entry-level jobs. It seems obvious that enabling these individuals, which are usually single mothers, to complete a degree would be far more effective in achieving long-term benefits. Education leads to higher income levels, helping move these families out of poverty for good and making them productive taxpayers. Federal requirements should not be so rigid and inflexible that states are prevented exercising this option. I will press to ensure that this amendment survives the upcoming conference.

Passage of the Higher Education Amendments of 1998 was absolutely essential for the continuation and improvement of a system that helps keep post-secondary education within the reach of typical American families. I am pleased with the Senate's overwhelming vote in favor of this bill, and I look forward to expeditious consideration of the conference report and to sending the bill to President Clinton for his signature.•

HIGHER EDUCATION ACT OF 1998

• Mr. FAIRCLOTH. Mr. President, I am in strong support of S. 1882, the Higher Education Act of 1998. Every young person who wishes to pursue an education beyond the first 12 years should be able to do so. This bill contains important provisions to help students pay for the rapidly rising costs of college. It will benefit millions of students across the country in their pursuit of a higher education. I will highlight just a few of the provisions in this legislation.

First, I support the compromise reached by my colleagues in the Labor and Human Resources Committee that provides a low interest repayment rate for student loans, while still allowing a rate necessary for the uninterrupted flow of loan capital from banks. The Clinton Administration wanted to place the entire loan program under the jurisdiction of the Department of Education. I am adamantly opposed to this proposal. There is no reason nor justification to have the Federal government run a program that is being provided efficiently by the private sector. In fact, we should be doing more to have the entire program run by private lenders.

Second, I recognize the need for good teachers are more and more educators leave the field to pursue other professions. Improving the quality of the current and future teaching force calls for the improvement of preparation programs and the enhancement of professional development activities. I support North Carolina Governor Jim Hunt's Commission Report, "What Matters Most: Teaching for America's Future," which has a goal to provide 100,000 national accredited teachers. This bill provides the means for accomplishing that goal by providing teacher certification.

Finally, our nation is facing an alarming increase in violence and drug use on college campuses across the country. I was a co-sponsor of a bill to require that colleges report instances of rape or assault to the student body. I am pleased that this legislation was accepted as an amendment to this bill. I also support another provision of S. 1882 that would prevent students convicted of drug use or possession from being eligible for federal aid unless they complete a rehabilitation program. Taxpayers shouldn't support the tuition of students who recklessly use illegal drugs.

To be competitive in the global economy, America needs to provide its students with the means to better their education. I believe we must protect programs for higher education. The Higher Education Act makes college more affordable and improves the academic environment for students and teachers. The bill is a sound piece of legislation which I am pleased to support.•

NEED FOR HMO REFORM

• Mr. DORGAN. Mr. President, our health care system is in a state of crisis—a crisis of confidence. Many Americans no longer believe that their insurance companies can provide them with the access to care or quality of service they need.

Today I continue our series of stories describing how some managed care plans seem to have put cost saving before life-saving. The experience of Vaughn Dashiell is just one more example of the pressing need for Congress to act now to protect the rights of patients.

Vaughn Dashiell lived with his wife, Patricia, and their three children in Alexandria, Virginia. Vaughn owned and operated his own printing company.

On November 20, 1996, Vaughn stayed home sick from work suffering from a sore throat, dry mouth, and tunnel vision that limited his sight to 18 inches. He tried to get an appointment to see a doctor within his HMO network, but was told that none were available at his designated facility. Vaughn was able to speak only to the HMO-employed nurse on duty over the phone. She could have told Vaughn to go to an emergency room for treatment, but instead, told him to make a regular appointment although none were available.

As Vaughn's symptoms worsened, he called his HMO again requesting permission to see a doctor somewhere, or to go to a nearby emergency room. Vaughn was told only to wait and that he would receive a call back from a doctor on duty. When the doctor on duty was consulted, he agreed that Vaughn should go to an emergency room, but neither made a call himself, nor followed up to see that Vaughn was contacted. That night, Vaughn was not contacted, not by the nurse, the doctor, or any other HMO staff regarding his condition and requests for care.

The next morning, Patricia found Vaughn incoherent, with his "eyes rolling". She hurriedly called the HMO, hoping for an answer to Vaughn's problem. They advised her to call 911.

Vaughn arrived at the hospital at 9:18 am in a diabetic coma. His blood sugar level was more than twenty times greater than the normal level. Just over two hours after being rushed to the emergency room, Vaughn was dead from hyperglycemia. He was only 39 years old.

This should not happen in America. Health insurers should not be allowed to put profit before patients. Vaughn Dashiell's condition would have been treatable and curable if the health plan had enabled him to get the care he needed. But for an HMO driven by cutting costs, the needs of the patient did not come first. Had this HMO not placed their patients in the hands of a system weak in oversight and follow-up and instead allowed Mr. Dashiell the opportunity to see a doctor when he first felt threatened, he might still be alive today.

Mr. President, we must take up and pass meaningful patient protections this year. We have a bill, S. 1890, that would prevent tragedies like this from occurring. Under our plan, Vaughn would have had guaranteed access to needed care, especially in the case of an emergency. Under our bill, members of HMOs would be able to go to an emergency room without seeking their plan's approval if they felt their life was in danger.

This is only common sense. It should not be controversial. I will appeal once again to the Republican leaders of this body: Please bring our Patients' Bill of Rights to the floor for action. The President has promised to sign it into law. We are wasting valuable time.●

HIGHER EDUCATION AMENDMENTS OF 1998

The text of the bill (H.R. 6) as passed by the Senate on July 9, 1998, follows:

Resolved, That the bill from the House of Representatives (H.R. 6) entitled "An Act to extend the authorization of programs under the Higher Education Act of 1965, and for other purposes.", do pass with the following amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the "Higher Education Amendments of 1998".

(b) Table of Contents.—The table of contents is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. References.

TITLE I—GENERAL PROVISIONS

Sec. 101. General provisions.
Sec. 102. Federal control of education prohibited.
Sec. 103. National Advisory Committee on Institutional Quality and Integrity.
Sec. 104. Grants and recognition awards.
Sec. 105. Prior rights and obligations; recovery of payments.
Sec. 106. Technical and conforming amendments.

TITLE II—IMPROVING TEACHER QUALITY

Sec. 201. Improving teacher quality.

TITLE III—INSTITUTIONAL AID

Sec. 301. Transfers and redesignations.
Sec. 302. Findings.
Sec. 303. Strengthening institutions.
Sec. 304. Strengthening HBCU's.
Sec. 305. Endowment challenge grants.
Sec. 306. HBCU capital financing.
Sec. 307. Minority science and engineering improvement program.
Sec. 308. General provisions.

TITLE IV—STUDENT ASSISTANCE

Part A—Grants to Students in Attendance at Institutions of Higher Education

Sec. 411. Repeals and redesignations.
Sec. 412. Federal Pell grants.
Sec. 413. TRIO programs.
Sec. 414. Connections program.
Sec. 415. Federal supplemental educational opportunity grants.
Sec. 416. Leveraging educational assistance partnership program.
Sec. 417. HEP and CAMP.
Sec. 418. Robert C. Byrd honors scholarship program.
Sec. 419. Child care access means parents in school.
Sec. 420. Learning anytime anywhere partnerships.

Part B—Federal Family Education Loan Program

Sec. 421. Advances for reserve funds.
Sec. 422. Federal Student Loan Reserve Fund.
Sec. 423. Agency Operating Fund.
Sec. 424. Scope and duration of Federal loan insurance program.
Sec. 425. Applicable interest rates.
Sec. 426. Federal payments to reduce student interest costs.
Sec. 427. Voluntary flexible agreements with guaranty agencies.
Sec. 428. Federal PLUS loans.
Sec. 429. Federal consolidation loans.
Sec. 430. Requirements for disbursements of student loans.
Sec. 431. Default reduction program.
Sec. 432. Unsubsidized loans.
Sec. 433. Loan forgiveness for teachers.
Sec. 434. Loan forgiveness for child care providers.
Sec. 435. Notice to Secretary and payment of loss.
Sec. 436. Common forms and formats.
Sec. 437. Student loan information by eligible lenders.
Sec. 438. Definitions.
Sec. 439. Study of the effectiveness of cohort default rates for institutions with few student loan borrowers.
Sec. 440. Delegation of functions.
Sec. 440A. Special allowances.
Sec. 440B. Study of market-based mechanisms for determining student loan interest rates.

Part C—Federal Work-Study Programs

Sec. 441. Authorization of appropriations; community services.
Sec. 442. Grants for Federal work-study programs.
Sec. 443. Work colleges.

Part D—William D. Ford Federal Direct Loan Program

Sec. 451. Selection of institutions.
Sec. 452. Terms and conditions.
Sec. 453. Contracts.
Sec. 454. Funds for administrative expenses.
Sec. 455. Loan cancellation for teachers.

Part E—Federal Perkins Loans

Sec. 461. Authorization of appropriations.
Sec. 462. Allocation of funds.
Sec. 463. Agreements with institutions of higher education.
Sec. 464. Terms of loans.
Sec. 465. Distribution of assets from student loan funds.
Sec. 466. Perkins Loan Revolving Fund.

Part F—Need Analysis

Sec. 471. Cost of attendance.
Sec. 472. Family contribution for dependent students.
Sec. 473. Family contribution for independent students without dependents other than a spouse.
Sec. 474. Regulations; updated tables and amounts.
Sec. 475. Simplified needs test; zero expected family contribution.
Sec. 476. Refusal or adjustment of loan certifications.
Sec. 477. Treatment of other financial assistance.

Part G—General Provisions

Sec. 481. Definition of institution of higher education.
Sec. 482. Master calendar.
Sec. 483. Forms and regulations.
Sec. 484. Student eligibility.
Sec. 485. Institutional refunds.
Sec. 486. Institutional and financial assistance information for students.
Sec. 487. National student loan data bank system.
Sec. 488. Training in financial aid services.
Sec. 489. Program participation agreements.
Sec. 490. Regulatory relief and improvement.
Sec. 490A. Distance education demonstration programs.
Sec. 490B. Advisory Committee on Student Financial Assistance.
Sec. 490C. Regional meetings and negotiated rulemaking.
Sec. 490D. Procedures for cancellations and deferments for eligible disabled veterans.

Part H—Program Integrity Triad

Sec. 491. State role and responsibilities.
Sec. 492. Accrediting agency recognition.
Sec. 493. Eligibility and certification procedures.
Sec. 494. Program review and data.

Part I—Administrative Provisions for Delivery of Student Financial Assistance

Sec. 495. Performance-based organization for the delivery of Federal student financial assistance.
Sec. 496. Student Loan Ombudsman Office.

TITLE V—GRADUATE AND POSTSECONDARY IMPROVEMENT PROGRAMS

Sec. 501. Repeals, transfers, and redesignations.
Sec. 502. Purpose.

Part A—Jacob K. Javits Fellowship Program

Sec. 511. Award of fellowships.

Part B—Graduate Assistance in Areas of National Need

Sec. 521. Graduate assistance in areas of national need.

Part C—Faculty Devlopment Program

Sec. 531. Faculty development program reauthorized.

Part D—Urban Community Service

Sec. 541. Urban community service.

Part E—Fund for the Improvement of Postsecondary Education

Sec. 551. Fund for the improvement of postsecondary education.

Part F—Higher Education Access for Students With Disabilities; Hispanic-Serving Institutions; General Provisions

Sec. 561. Higher education access for students with disabilities; Hispanic-serving institutions; general provisions.

TITLE VI—INTERNATIONAL EDUCATION PROGRAMS

Sec. 601. International and foreign language studies.
Sec. 602. Business and international education programs.
Sec. 603. Institute for International Public Policy.
Sec. 604. General provisions.

TITLE VII—RELATED PROGRAMS AND AMENDMENTS TO OTHER ACTS

PART A—INDIAN EDUCATION PROGRAMS

Sec. 711. Tribally Controlled Community College Assistance Act of 1978.
Sec. 712. American Indian, Alaska Native, and Native Hawaiian culture and art development.
Sec. 713. Navajo Community College Act.

PART B—ADVANCED PLACEMENT INCENTIVE PROGRAM

Sec. 721. Advanced placement incentive program.

PART C—UNITED STATES INSTITUTE OF PEACE

Sec. 731. Authorities of the United States Institute of Peace.

PART D—COMMUNITY SCHOLARSHIP MOBILIZATION

Sec. 741. Short title.
Sec. 742. Findings.
Sec. 743. Definitions.
Sec. 744. Purpose, endowment grant authority.
Sec. 745. Grant agreement and requirements.
Sec. 746. Authorization of appropriations.

PART E—GRANTS TO STATES FOR WORKPLACE AND COMMUNITY TRANSITION TRAINING FOR INCARCERATED YOUTH OFFENDERS

Sec. 751. Grants to States for workplace and community transition training for incarcerated youth offenders.

PART F—WEB-BASED EDUCATION COMMISSION

Sec. 753. Short title; definitions.
Sec. 754. Establishment of Web-Based Education Commission.
Sec. 755. Duties of the Commission.
Sec. 756. Powers of the Commission.
Sec. 757. Commission personnel matters.
Sec. 758. Termination of the Commission.
Sec. 759. Authorization of appropriations.

PART G—EDUCATION OF THE DEAF

Sec. 761. Short title.
Sec. 762. Elementary and secondary education programs.
Sec. 763. Agreement with Gallaudet University.
Sec. 764. Agreement for the National Technical Institute for the Deaf.
Sec. 765. Definitions.
Sec. 766. Gifts.
Sec. 767. Reports.
Sec. 768. Monitoring, evaluation, and reporting.
Sec. 769. Investments.
Sec. 770. International students.
Sec. 771. Research priorities.
Sec. 772. Authorization of appropriations.
Sec. 773. Commission on Education of the Deaf.

PART H—REPEALS

Sec. 781. Repeals.

PART I—MISCELLANEOUS

Sec. 791. Year 2000 requirements at the Department of Education.
Sec. 792. Grants to combat violent crimes against women on campuses.
Sec. 793. Authority to administer summer travel and work programs.
Sec. 794. Improving United States understanding of science, engineering, and technology in East Asia.
Sec. 795. Underground Railroad educational and cultural program
Sec. 796. GNMA guarantee fee.
Sec. 797. Protection of student speech and association rights.
Sec. 798. Binge drinking on college campuses.
Sec. 799. Sense of the Senate regarding higher education.
Sec. 799A. Sense of Congress regarding teacher education.
Sec. 799B. Liaison for proprietary institutions of higher education.
Sec. 799C. Expansion of educational opportunities for welfare recipients.
Sec. 799D. Alcohol or drug possession disclosure.
Sec. 799E. Release of conditions, covenants, and reversionary interests, Guam Community College conveyance, Barrigada, Guam.
Sec. 799F. Sense of Congress regarding good character.

SEC. 2. REFERENCES.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.).

TITLE I—GENERAL PROVISIONS

SEC. 101. GENERAL PROVISIONS.

(a) REPEAL; TRANSFER AND REDESIGNATION.—The Act (20 U.S.C. 1001 et seq.) is amended—

(1) by repealing title I (20 U.S.C. 1001 et seq.);

(2) by repealing sections 1203, 1206, 1211, and 1212 (20 U.S.C. 1143, 1145a, 1145e, and 1145f);

(3) by striking the heading for title XII (20 U.S.C. 1141 et seq.);

(4) by inserting before title III (20 U.S.C. 1051 et seq.) the following:

"TITLE I—GENERAL PROVISIONS";

(5) by transferring sections 1201, 1202, 1204 (as renumbered by Public Law 90–575), 1204 (as added by Public Law 96–374), 1205, 1207, 1208, 1209, 1210, and 1213 (20 U.S.C. 1141, 1142, 1144, 1144a, 1145, 1145b, 1145c, 1145d, 1145d–1, and 1145g) to follow the heading for title I (as inserted by paragraph (4)); and

(6) by redesignating sections 1201, 1202, 1204 (as renumbered by Public Law 90–575), 1204 (as added by Public Law 96–374), 1205, 1207, 1208, 1209, 1210, and 1213 as sections 101, 102, 103, 104, 105, 106, 107, 108, 109, and 110, respectively.

SEC. 102. FEDERAL CONTROL OF EDUCATION PROHIBITED.

Section 103 (as redesignated by section 101(a)(6)) (20 U.S.C. 1144) is amended by striking "(b)".

SEC. 103. NATIONAL ADVISORY COMMITTEE ON INSTITUTIONAL QUALITY AND INTEGRITY.

Section 105 (as redesignated by section 101(a)(6)) (20 U.S.C. 1145) is amended—

(1) by striking the last sentence of subsection (a);

(2) by redesignating subsections (c) through (f) as subsections (d) through (g), respectively;

(3) by inserting after subsection (b) the following:

"(c) PUBLIC NOTICE.—The Secretary shall—

"(1) annually publish in the Federal Register a list containing the name of each member of the Committee and the date of the expiration of the term of office of the member; and

"(2) publicly solicit nominations for each vacant position or expiring term of office on the Committee.";

(4) in subsection (d) (as redesignated by paragraph (2))—

(A) by striking paragraph (6); and

(B) by redesignating paragraphs (7) and (8) as paragraphs (6) and (7), respectively; and

(5) in subsection (g) (as redesignated by paragraph (2)), by striking "1998" and inserting "2004".

SEC. 104. GRANTS AND RECOGNITION AWARDS.

Section 110 (as redesignated by section 101(a)(6)) (20 U.S.C. 1145g) is amended by adding at the end the following:

"(e) ALCOHOL AND DRUG ABUSE PREVENTION GRANTS.—

"(1) PROGRAM AUTHORITY.—The Secretary may make grants to institutions of higher education or consortia of such institutions, and enter into contracts with such institutions, consortia, and other organizations, to develop, implement, operate, improve, and disseminate programs of prevention, and education (including treatment-referral) to reduce and eliminate the illegal use of drugs and alcohol and the violence associated with such use. Such grants or contracts may also be used for the support of a higher education center for alcohol and drug abuse prevention that will provide training, technical assistance, evaluation, dissemination, and associated services and assistance to the higher education community as determined by the Secretary and institutions of higher education.

"(2) AWARDS.—Grants and contracts shall be awarded under paragraph (1) on a competitive basis.

"(3) APPLICATIONS.—An institution of higher education, a consortium of such institutions, or another organization that desires to receive a grant or contract under paragraph (1) shall submit an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require by regulation.

"(4) ADDITIONAL REQUIREMENTS.—

"(A) PARTICIPATION.—In awarding grants under this subsection the Secretary shall make every effort to ensure—

"(i) the equitable participation of private and public institutions of higher education (including community and junior colleges); and

"(ii) the equitable geographic participation of such institutions.

"(B) CONSIDERATION.—In awarding grants and contracts under this subsection the Secretary shall give appropriate consideration to institutions of higher education with limited enrollment.

"(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection $5,000,000 for fiscal year 1999 and such sums as may be necessary for each of the 4 succeeding fiscal years.

"(f) NATIONAL RECOGNITION AWARDS.—

"(1) PURPOSE.—It is the purpose of this subsection to provide models of innovative and effective alcohol prevention programs in higher education and to focus national attention on exemplary alcohol prevention efforts.

"(2) AWARDS.—

"(A) IN GENERAL.—The Secretary shall make 10 National Recognition Awards, on an annual basis, to institutions of higher education that—

"(i) have developed and implemented innovative and effective alcohol prevention programs; and

"(ii) demonstrate in the application submitted under paragraph (3) that the institution has undertaken efforts designed to change the culture of college drinking consistent with the objectives described in paragraph (4)(B).

"(B) CEREMONY.—The awards shall be made at a ceremony in Washington, D.C.

"(C) DOCUMENT.—The Secretary shall publish a document describing the alcohol prevention programs of institutions of higher education that receive the awards under this subsection and disseminate the document nationally to all public and private secondary school guidance counselors for use by secondary school juniors and seniors preparing to enter an institution of higher education. The document shall be disseminated not later than January 1 of each academic year.

"(D) AMOUNT AND USE.—Each institution of higher education selected to receive an award under this subsection shall receive an award in the amount of $50,000. Such award shall be used for the maintenance and improvement of the institution's alcohol prevention program for the academic year following the academic year for which the award is made.

"(3) APPLICATION.—

"(A) IN GENERAL.—Each institution of higher education desiring an award under this subsection shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require. Each such application shall contain—

"(i) a clear description of the goals and objectives of the alcohol program of the institution;

"(ii) a description of program activities that focus on alcohol policy issues, policy development, modification, or refinement, policy dissemination and implementation, and policy enforcement;

"(iii) a description of activities that encourage student and employee participation and involvement in activity development and implementation;

"(iv) the objective criteria used to determine the effectiveness of the methods used in the program and the means used to evaluate and improve the program efforts; and

"(v) a description of the activities to be assisted that meet the criteria described in subparagraph (C).

"(B) APPLICATION REVIEW.—The Secretary shall appoint a committee to review applications submitted under this paragraph. The committee may include representatives of Federal departments or agencies the programs of which include alcohol abuse prevention and education efforts, directors or heads (or their representatives) of professional associations that focus on alcohol abuse prevention efforts, and non-Federal scientists who have backgrounds in social science evaluation and research methodology and in education. Decisions of the committee shall be made directly to the Secretary without review by any other entity in the Department.

"(C) REVIEW CRITERIA.—The committee described in subparagraph (B) shall develop specific review criteria for reviewing and evaluating applications submitted under this paragraph. Such criteria shall include whether the institution of higher education has policies in effect that—

"(i) prohibit alcoholic beverage sponsorship of athletic events, and prohibit alcoholic beverage advertising inside athletic facilities;

"(ii) prohibit alcoholic beverage marketing on campus, which may include efforts to ban alcohol advertising in institutional publications or efforts to prohibit alcohol-related advertisements at campus events;

"(iii) establish or expand upon alcohol-free living arrangements for all college students;

"(iv) establish partnerships with community members and organizations to further alcohol prevention efforts on campus and the areas surrounding campus; and

"(v) establish innovative communications programs involving students and faculty in an effort to educate students about alcohol-related risks.

"(4) ELIGIBILITY.—

"(A) IN GENERAL.—In order to be eligible to receive a National Recognition Award an institution of higher education shall—

"(i) offer an associate or baccalaureate degree;

"(ii) have established an alcohol abuse prevention and education program;

"(iii) nominate itself or be nominated by others, such as professional associations or student organizations, to receive the award; and

"(iv) not have received an award under this subsection during the 5 academic years preceding the academic year for which the determination is made.

"(B) OBJECTIVES.—In order to receive a National Recognition Award an institution shall demonstrate in the application submitted under paragraph (3) that the institution has accomplished all of the following objectives:

"(i) The elimination of alcoholic beverage sponsorship of athletic events, and the elimination of alcoholic beverage advertising inside athletic facilities.

"(ii) The elimination of alcoholic beverage marketing on campus that may include efforts to ban alcohol advertising in institutional publications or prohibit alcohol-related advertisements at campus events.

"(iii) The establishment or expansion of alcohol-free living arrangements for all college students.

"(iv) The establishment of partnerships with community members and organizations to further alcohol prevention efforts on campus and the surrounding areas.

"(v) The establishment of innovative communications programs involving students and faculty in an effort to educate students about alcohol-related risks.

"(5) AUTHORIZATION OF APPROPRIATIONS.—

"(A) IN GENERAL.—There is authorized to be appropriated to carry out this subsection $750,000 for fiscal year 1999.

"(B) AVAILABILITY.—Funds appropriated under subparagraph (A) shall remain available until expended.".

SEC. 105. PRIOR RIGHTS AND OBLIGATIONS; RECOVERY OF PAYMENTS.

Title I (20 U.S.C. 1001 et seq.) is amended by adding after section 110 (as redesignated by section 101(a)(6)) the following:

"SEC. 111. PRIOR RIGHTS AND OBLIGATIONS.

"(a) AUTHORIZATION OF APPROPRIATIONS.—

"(1) PRE-1987 PARTS C AND D OF TITLE VII.—There are authorized to be appropriated such sums as may be necessary for fiscal year 1999 and for each of the 4 succeeding fiscal years to pay obligations incurred prior to 1987 under parts C and D of title VII, as such parts were in effect before the effective date of the Higher Education Amendments of 1992.

"(2) POST-1992 AND PRE-1998 PART C OF TITLE VII.—There are authorized to be appropriated such sums as may be necessary for fiscal year 1999 and for each of the 4 succeeding fiscal years to pay obligations incurred prior to the date of enactment of the Higher Education Amendments of 1998 under part C of title VII, as such part was in effect during the period—

"(A) after the effective date of the Higher Education Amendments of 1992; and

"(B) prior to the date of enactment of the Higher Education Amendments of 1998.

"(b) LEGAL RESPONSIBILITIES.—

"(1) PRE-1987 TITLE VII.—All entities with continuing obligations incurred under parts A, B, C, and D of title VII, as such parts were in effect before the effective date of the Higher Education Amendments of 1992, shall be subject to the requirements of such part as in effect before the effective date of the Higher Education Amendments of 1992.

"(2) POST-1992 AND PRE-1998 PART C OF TITLE VII.—All entities with continuing obligations incurred under part C of title VII, as such part was in effect during the period—

"(A) after the effective date of the Higher Education Amendments of 1992; and

"(B) prior to the date of enactment of the Higher Education Amendments of 1998,

shall be subject to the requirements of such part as such part was in effect during such period.

"SEC. 112. RECOVERY OF PAYMENTS.

"(a) PUBLIC BENEFIT.—Congress declares that, if a facility constructed with the aid of a grant under part A of title VII as such part A was in effect prior to the date of enactment of the Higher Education Amendments of 1998, or part B of such title as such part B was in effect prior to the date of enactment of the Higher Education Amendments of 1992, is used as an academic facility for 20 years following completion of such construction, the public benefit accruing to the United States will equal in value the amount of the grant. The period of 20 years after completion of such construction shall therefore be deemed to be the period of Federal interest in such facility for the purposes of such title as so in effect.

"(b) RECOVERY UPON CESSATION OF PUBLIC BENEFIT.—If, within 20 years after completion of construction of an academic facility which has been constructed, in part with a grant under part A of title VII as such part A was in effect prior to the date of enactment of the Higher Education Amendments of 1998, or part B of title VII as such part B was in effect prior to the date of enactment of the Higher Education Amendments of 1992—

"(1) the applicant under such parts as so in effect (or the applicant's successor in title or possession) ceases or fails to be a public or nonprofit institution, or

"(2) the facility ceases to be used as an academic facility, or the facility is used as a facility excluded from the term 'academic facility' (as such term was defined under title VII, as so in effect), unless the Secretary determines that there is good cause for releasing the institution from its obligation,

the United States shall be entitled to recover from such applicant (or successor) an amount which bears to the value of the facility at that time (or so much thereof as constituted an approved project or projects) the same ratio as the amount of Federal grant bore to the cost of the facility financed with the aid of such grant. The value shall be determined by agreement of the parties or by action brought in the United States district court for the district in which such facility is situated.

"(c) PROHIBITION ON USE FOR RELIGION.—Notwithstanding the provisions of subsections (a) and (b), no project assisted with funds under title VII (as in effect prior to the date of enactment of the Higher Education Amendments of 1998) shall ever be used for religious worship or a sectarian activity or for a school or department of divinity.

"SEC. 113. STUDENT-RELATED DEBT STUDY REQUIRED.

"(a) IN GENERAL.—The Secretary shall conduct a study that analyzes the distribution and increase in student-related debt in terms of—

"(1) demographic characteristics, such as race or ethnicity, and family income;

"(2) type of institution and whether the institution is a public or private institution;

"(3) loan source, such as Federal, State, institutional or other, and, if the loan source is Federal, whether the loan is or is not subsidized;

"(4) academic field of study;

"(5) parent loans, and whether the parent loans are federally guaranteed, private, or property-secured such as home equity loans; and

"(6) relation of student debt or anticipated debt to—

"(A) students' decisions about whether and where to enroll in college and whether or how much to borrow in order to attend college;

"(B) the length of time it takes students to earn baccalaureate degrees;

"(C) students' decisions about whether and where to attend graduate school;

"(D) graduates' employment decisions;

"(E) graduates' burden of repayment as reflected by the graduates' ability to save for retirement or invest in a home; and

"(F) students' future earnings.

"(b) REPORT.—After conclusion of the study required by subsection (a), the Secretary shall submit a final report regarding the findings of the study to the Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives not later than 18 months after the date of enactment of the Higher Education Amendments of 1998.

"(c) INFORMATION.—After the study and report under this section are concluded, the Secretary shall determine which information described in subsection (a) would be useful for families to know and shall include such information as part of the comparative information provided to families about the costs of higher education under the provisions of section 486(a)(1).

"SEC. 114. STUDY OF FORECLOSED PROPERTY OR ASSETS.

"Not later than 90 days after the date of enactment of the Higher Education Amendments of 1998, the Comptroller General, in consultation with the Inspector General of the Department, shall submit a report to the Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives that provides the following:

"(1) Descriptions of legislative changes that can be made to strengthen laws governing the transfer of foreclosed property or assets by the Department to individuals or their agents that have had prior dealings with the Department. Such descriptions shall address the transfer of property to individuals or their agents who have been in positions of management or oversight at postsecondary educational institutions that have failed, or are failing, to make payments to the Department on property loans, or defaulted on any property or asset loan from a Federal agency.

"(2) Changes that can be implemented at the Department to strengthen all rules and regulations governing the transfer of foreclosed property or assets by the Department to individuals or their agents as described in paragraph (1).

"SEC. 115. STATE REQUIREMENT.

"(a) IN GENERAL.—Except as provided in subsection (b), each State, that has individuals who reside in the State and who receive financial assistance under this Act, shall provide an appropriate number of mail voter registration forms (as described in section 6(a) of the National Voter Registration Act (42 U.S.C. 1973gg–4(a))) to each eligible institution under section 487 in the State, not later than 60 days before each date that is the last day to register to vote for a regularly scheduled—

"(1) election (as defined in section 301(1) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(1)); or

"(2) election for Governor or other chief executive within such State.

"(b) NONAPPLICABILITY TO CERTAIN STATES.—The requirement of subsection (a) shall not apply to a State which is described in section 4(b) of the National Voter Registration Act (42 U.S.C. 1973gg–2(b)).

"SEC. 116. STUDY OF OPPORTUNITIES FOR PARTICIPATION IN ATHLETICS PROGRAMS.

"(a) STUDY.—The Comptroller General shall conduct a study of the opportunities for participation in intercollegiate athletics. The study shall address issues including—

"(1) the extent to which the number of—

"(A) secondary school athletic teams has increased or decreased in the 20 years preceding 1998 (in aggregate terms); and

"(B) intercollegiate athletic teams has increased or decreased in the 20 years preceding 1998 (in aggregate terms) at 2-year and 4-year institutions of higher education;

"(2) the extent to which participation by student-athletes in secondary school and intercollegiate athletics has increased or decreased in the 20 years preceding 1998 (in aggregate terms);

"(3) over the 20-year period preceding 1998, a list of the men's and women's secondary school and intercollegiate sports, ranked in order of the sports most affected by increases or decreases in levels of participation and numbers of teams (in the aggregate);

"(4) all factors that have influenced campus officials to add or discontinue sports teams at secondary schools and institutions of higher education, including—

"(A) institutional mission and priorities;

"(B) budgetary pressures;

"(C) institutional reforms and restructuring;

"(D) escalating liability insurance premiums;

"(E) changing student and community interest in a sport;

"(F) advancement of diversity among students;

"(G) lack of necessary level of competitiveness of the sports program;

"(H) club level sport achieving a level of competitiveness to make the sport a viable varsity level sport;

"(I) injuries or deaths; and

"(J) conference realignment;

"(5) the actions that institutions of higher education have taken when decreasing the level of participation in intercollegiate sports, or the number of teams, in terms of providing information, advice, scholarship maintenance, counseling, advance warning, and an opportunity for student-athletes to be involved in the decisionmaking process;

"(6) the administrative processes and procedures used by institutions of higher education when determining whether to increase or decrease intercollegiate athletic teams or participation by student-athletes;

"(7) the budgetary or fiscal impact, if any, of a decision by an institution of higher education—

"(A) to increase or decrease the number of intercollegiate athletic teams or the participation of student-athletes; or

"(B) to be involved in a conference realignment; and

"(8) the alternatives, if any, institutions of higher education have pursued in lieu of eliminating, or severely reducing the funding for, an intercollegiate sport, and the success of such alternatives.

"(b) REPORT.—The Comptroller General shall submit a report regarding the results of the study to the Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives.

"SEC. 117. SPECIAL RULE.

"Notwithstanding any other provision of law, the sum of financial assistance received under this Act and other Federal financial assistance for postsecondary education received by an individual shall not exceed the individual's cost of attendance as defined in section 472, except that no individual shall have the amount of a Federal Pell Grant for which the individual is eligible reduced as a result of the application of this section.".

SEC. 106. TECHNICAL AND CONFORMING AMENDMENTS.

(a) CONFORMING AMENDMENTS CORRECTING REFERENCES TO SECTION 1201.—

(1) AGRICULTURE.—

(A) STUDENT INTERNSHIP PROGRAMS.—Section 922 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 2279c) is amended—

(i) in subsection (a)(1)(B)—

(I) by striking "1201" and inserting "101"; and

(II) by striking "(20 U.S.C. 1141)"; and

(ii) in subsection (b)(1)—

(I) by striking "1201" and inserting "101"; and

(II) by striking "(20 U.S.C. 1141)".

(B) AGRICULTURAL SCIENCES EDUCATION.—Section 1417(h)(1)(A) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3152(h)(1)(A)) is amended—

(i) by striking "1201(a)" and inserting "101(a)"; and

(ii) by striking "(20 U.S.C. 1141(a))".

(2) ARMED FORCES.—

(A) SCIENCE AND MATHEMATICS EDUCATION IMPROVEMENT PROGRAM.—Section 2193(c)(1) of title 10, United States Code, is amended—

(i) by striking "1201(a)" and inserting "101(a)"; and

(ii) by striking "(20 U.S.C. 1141(a))".

(B) SUPPORT OF SCIENCE, MATHEMATICS, AND ENGINEERING EDUCATION.—Section 2199(2) of title 10, United States Code, is amended—

(i) by striking "1201(a)" and inserting "101(a)"; and

(ii) by striking "(20 U.S.C. 1141(a))".

(C) ALLOWABLE COSTS UNDER DEFENSE CONTRACTS.—Section 841(c)(2) of the National Defense Authorization Act for fiscal year 1994 (10 U.S.C. 2324 note) is amended—

(i) by striking "1201(a)" and inserting "101(a)"; and

(ii) by striking "(20 U.S.C. 1141(a))".

(D) ENVIRONMENTAL RESTORATION INSTITUTIONAL GRANTS FOR TRAINING DISLOCATED DEFENSE WORKERS AND YOUNG ADULTS.—Section 1333(i)(3) of the National Defense Authorization Act for fiscal year 1994 (10 U.S.C. 2701 note) is amended—

(i) by striking "1201(a)" and inserting "101(a)"; and

(ii) by striking "(20 U.S.C. 1141(a))".

(E) ENVIRONMENTAL EDUCATION OPPORTUNITIES PROGRAM.—Section 1334(k)(3) of the National Defense Authorization Act for fiscal year 1994 (10 U.S.C. 2701 note) is amended—

(i) by striking "1201(a)" and inserting "101(a)"; and

(ii) by striking "(20 U.S.C. 1141(a))".

(F) ENVIRONMENTAL SCHOLARSHIP AND FELLOWSHIP PROGRAMS.—Section 4451(b)(1) of the National Defense Authorization Act for 1993 (10 U.S.C. 2701 note) is amended—

(i) by striking "1201(a)" and inserting "101(a)"; and

(ii) by striking "(20 U.S.C. 1141(a))".

(3) APPLICATION OF ANTITRUST LAWS TO AWARD OF NEED-BASED EDUCATIONAL AID.—Section 568(c)(3) of the Improving America's Schools Act of 1994 (15 U.S.C. 1 note) is amended—

(A) by striking "1201(a)" and inserting "101(a)"; and

(B) by striking "(20 U.S.C. 1141(a))".

(4) RESTRICTIONS ON FORMER OFFICERS, EMPLOYEES, AND ELECTED OFFICIALS OF THE EXECUTIVE AND LEGISLATIVE BRANCHES.—Section 207(j)(2)(B) of title 18, United States Code, is amended by striking "1201(a)" and inserting "101(a)".

(5) EDUCATION.—

(A) HIGHER EDUCATION AMENDMENTS OF 1992.—Section 1(c) of the Higher Education Amendments of 1992 (20 U.S.C. 1001 note) is amended by striking "1201" and inserting "101".

(B) PART F DEFINITIONS.—Section 481 of the Higher Education Act of 1965 (20 U.S.C. 1088) is amended—

(i) in subsection (a)—

(I) in the matter preceding paragraph (1)(A), by striking "1201(a)" and inserting "101(a)";

(II) in paragraph (1)(C), by striking "1201(a)" and inserting "101(a)";

(III) in the first sentence of the matter preceding clause (i) of paragraph (2)(A), by striking "1201(a)" and inserting "101(a)"; and

(IV) in the matter following paragraph (2)(B)(ii), by striking "1201(a)" and inserting "101(a)";

(ii) in subsection (b)—

(I) in the first sentence—

(aa) in paragraph (2), by striking "1201(a)" and inserting "101(a)"; and

(bb) in paragraph (3), by striking "1201(a)" and inserting "101(a)"; and

(II) in the second sentence, by striking "1201(a)" and inserting "101(a)"; and

(iii) in subsection (c)—

(I) in the first sentence, by striking "1201(a)" and inserting "101(a)"; and

(II) in the second sentence, by striking "1201(a)" and inserting "101(a)".

(C) TREATMENT OF BRANCHES.—Section 498(j)(2) of the Higher Education Act of 1965 (20 U.S.C. 1099c(j)(2)) is amended by striking "1201(a)(2)" and inserting "101(a)(2)".

(D) INTERNATIONAL EDUCATION PROGRAMS.—Section 631(a)(8) of the Higher Education Act of 1965 (20 U.S.C. 1132(a)(8)) is amended by striking "1201(a)" each place it appears and inserting "101(a)".

(E) DWIGHT D. EISENHOWER LEADERSHIP PROGRAM.—Section 1081(d) of the Higher Education Act of 1965 (20 U.S.C. 1135f(d)) is amended by striking "1201" and inserting "101".

(F) DISCLOSURE REQUIREMENTS.—Section 429(d)(2)(B)(ii) of the General Education Provisions Act (20 U.S.C. 1228c(d)(2)(B)(ii)) is amended by striking "1201(a)" and inserting "101(a)".

(G) HARRY S. TRUMAN SCHOLARSHIPS.—Section 3(4) of the Harry S. Truman Memorial Scholarship Act (20 U.S.C. 2002(4)) is amended by striking "1201(a)" and inserting "101(a)".

(H) TECH-PREP EDUCATION.—Section 347(2)(A) of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2394e(2)(A)) is amended by striking "1201(a)" and inserting "101(a)".

(I) EDUCATION FOR ECONOMIC SECURITY.—Section 3(6) of the Education for Economic Security Act (20 U.S.C. 3902(6)) is amended by striking "1201(a)" and inserting "101(a)".

(J) JAMES MADISON MEMORIAL FELLOWSHIPS.—Section 815 of the James Madison Memorial Fellowship Act (20 U.S.C. 4514) is amended—

(i) in paragraph (3), by striking "1201(a)" and inserting "101(a)"; and

(ii) in paragraph (4), by striking "1201(d) of the Higher Education Act of 1965" and inserting "14101 of the Elementary and Secondary Education Act of 1965".

(K) BARRY GOLDWATER SCHOLARSHIPS.—Section 1403(4) of the Barry Goldwater Scholarship and Excellence in Education Act (20 U.S.C. 4702(4)) is amended—

(i) by striking "1201(a)" and inserting "101(a)"; and

(ii) by striking "(20 U.S.C. 1141(a))".

(L) MORRIS K. UDALL SCHOLARSHIPS.—Section 4(6) of the Morris K. Udall Scholarship and Excellence in National Environmental and Native American Public Policy Act of 1992 (20 U.S.C. 5602(6)) is amended by striking "1201(a)" and inserting "101(a)".

(M) BILINGUAL EDUCATION, AND LANGUAGE ENHANCEMENT AND ACQUISITION.—Section 7501(4) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7601(4)) is amended by striking "1201(a)" and inserting "101(a)".

(N) GENERAL DEFINITIONS.—Section 14101(17) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801(17)) is amended by striking "1201(a)" and inserting "101(a)".

(O) NATIONAL EDUCATION STATISTICS.—Section 402(c)(3) of the National Education Statistics Act of 1994 (20 U.S.C. 9001(c)(3)) is amended by striking "1201(a)" and inserting "101(a)".

(6) FOREIGN RELATIONS.—

(A) ENVIRONMENT AND SUSTAINABLE DEVELOPMENT EXCHANGE PROGRAM.—Section 240(d) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (22 U.S.C. 2452 note) is amended by striking "1201(a)" and inserting "101(a)".

(B) SAMANTHA SMITH MEMORIAL EXCHANGE PROGRAM.—Section 112(a)(8) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2460(a)(8)) is amended—

(i) by striking "1201(a)" and inserting "101(a)"; and

(ii) by striking "(20 U.S.C. 1141(a))".

(C) SOVIET-EASTERN EUROPEAN TRAINING.—Section 803(1) of the Soviet-Eastern European Research and Training Act of 1983 (22 U.S.C. 4502(1)) is amended by striking "1201(a)" and inserting "101(a)".

(D) DEVELOPING COUNTRY SCHOLARSHIPS.—Section 603(d) of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (22 U.S.C. 4703(d)) is amended by striking "1201(a)" and inserting "101(a)".

(7) INDIANS.—

(A) SNYDER ACT.—The last paragraph of section 410 of the Act entitled "An Act authorizing appropriations and expenditures for the administration of Indian Affairs, and for other purposes", approved November 2, 1921 (25 U.S.C. 13) (commonly known as the Snyder Act) is amended by striking "1201" and inserting "101".

(B) TRIBALLY CONTROLLED COMMUNITY COLLEGE ASSISTANCE.—Section 2(a)(5) of the Tribally Controlled Community College Assistance Act (25 U.S.C. 1801(a)(5)) is amended by striking "1201(a)" and inserting "101(a)".

(C) CONSTRUCTION OF NEW FACILITIES.—Section 113(b)(2) of the Tribally Controlled Community College Assistance Act (25 U.S.C. 1813(b)(2)) is amended—

(i) by striking "1201(a)" and inserting "101(a)"; and

(ii) by striking "(20 U.S.C. 1141(a))".

(D) AMERICAN INDIAN TEACHER TRAINING.—Section 1371(a)(1)(B) of the Higher Education Amendments of 1992 (25 U.S.C. 3371(a)(1)(B)) is amended by striking "1201(a)" and inserting "101(a)".

(8) LABOR.—

(A) REHABILITATION DEFINITIONS.—Section 7(32) of the Rehabilitation Act of 1973 (29 U.S.C. 706(32)) is amended—

(i) by striking "1201(a)" and inserting "101(a)"; and

(ii) by striking "(20 U.S.C. 1141(a))".

(B) STATE PLANS.—Section 101(a)(7)(A)(iv)(II) of the Rehabilitation Act of 1973 (29 U.S.C. 721(a)(7)(A)(iv)(II)) is amended—

(i) by striking "1201(a)" and inserting "101(a)"; and

(ii) by striking "(20 U.S.C. 1141(a))".

(C) JTPA DEFINITIONS.—Section 4(12) of the Job Training Partnership Act (29 U.S.C. 1503(12)) is amended by striking "1201(a)" and inserting "101(a)".

(D) TUITION CHARGES.—Section 141(d)(3)(B) of the Job Training Partnership Act (29 U.S.C. 1551(d)(3)(B)) is amended—

(i) by striking "1201(a)" and inserting "101(a)"; and

(ii) by striking "(20 U.S.C. 1141(a))".

(9) SURFACE MINING CONTROL.—Section 701(32) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1291(32)) is amended by striking "1201(a)" and inserting "101(a)".

(10) POLLUTION PREVENTION.—Section 112(a)(1) of the Federal Water Pollution Control Act (33 U.S.C. 1262(a)(1)) is amended by striking "1201" and inserting "101".

(11) POSTAL SERVICE.—Section 3626(b)(3) of title 39, United States Code, is amended—

(A) by striking "1201(a)" and inserting "101(a)"; and

(B) by striking "(20 U.S.C. 1141(a))".

(12) PUBLIC HEALTH AND WELFARE.—

(A) SCIENTIFIC AND TECHNICAL EDUCATION.—Section 3(g) of the Scientific and Advanced-Technology Act of 1992 (42 U.S.C. 1862i(g)) is amended—

(i) in paragraph (2)—

(I) by striking "1201(a)" and inserting "101(a)"; and

(II) by striking "(20 U.S.C. 1141(a))"; and

(ii) in paragraph (3)—

(I) by striking "1201(a)" and inserting "101(a)"; and

(II) by striking "(20 U.S.C. 1141(a))".

(B) OLDER AMERICANS.—Section 102(32) of the Older Americans Act of 1965 (42 U.S.C. 3002(32)) is amended—

(i) by striking "1201(a)" and inserting "101(a)"; and

(ii) by striking "(20 U.S.C. 1141(a))".

(C) JUSTICE SYSTEM IMPROVEMENT.—Section 901(17) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3791(17)) is amended—

(i) by striking "1201(a)" and inserting "101(a)"; and

(ii) by striking "(20 U.S.C. 1141(a))".

(D) ENERGY TECHNOLOGY COMMERCIALIZATION SERVICES PROGRAM.—Section 362(f)(5)(A) of the Energy Policy and Conservation Act (42 U.S.C. 6322(f)(5)(A)) is amended—

(i) by striking "1201(a)" and inserting "101(a)"; and

(ii) by striking "(20 U.S.C. 1141(a))".

(E) ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT.—Section 3132(b)(1) of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (42 U.S.C. 7274e(b)(1)) is amended—

(i) by striking "1201(a)" and inserting "101(a)"; and

(ii) by striking "(20 U.S.C. 1141(a))".

(F) HEAD START.—Section 649(c)(3) of the Head Start Act (42 U.S.C. 9844(c)(3)) is amended—

(i) by striking "1201(a)" and inserting "101(a)"; and

(ii) by striking "(20 U.S.C. 1141(a))".

(G) STATE DEPENDENT CARE DEVELOPMENT GRANTS.—Section 670G(5) of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9877(5)) is amended by striking "1201(a)" and inserting "101(a)".

(H) INSTRUCTIONAL ACTIVITIES FOR LOW-INCOME YOUTH.—The matter preceding subparagraph (A) of section 682(b)(1) of the Community Services Block Grant Act (42 U.S.C. 9910c(b)(1)) is amended by striking "1201(a)" and inserting "101(a)".

(I) DRUG ABUSE EDUCATION.—Section 3601(7) of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 11851(7)) is amended—

(i) by striking "1201(a)" and inserting "101(a)"; and

(ii) by striking "(20 U.S.C. 1141(a))".

(J) NATIONAL AND COMMUNITY SERVICE.—Section 101(13) of the National and Community Service Act of 1990 (42 U.S.C. 12511(13)) is amended—

(i) by striking "1201(a)" and inserting "101(a)"; and

(ii) by striking "(20 U.S.C. 1141(a))".

(K) CIVILIAN COMMUNITY CORPS.—Section 166(6) of the National and Community Service Act of 1990 (42 U.S.C. 12626(6)) is amended—

(i) by striking "1201(a)" and inserting "101(a)"; and

(ii) by striking "(20 U.S.C. 1141(a))".

(L) COMMUNITY SCHOOLS YOUTH SERVICES AND SUPERVISION GRANT PROGRAM.—The definition of public school in section 30401(b) of the Community Schools Youth Services and Supervision Grant Program Act of 1994 (42 U.S.C. 13791(b)) is amended—

(i) by striking "1201" each place it appears and inserting "101"; and

(ii) by striking "(20 U.S.C. 1141(i))".

(M) POLICE CORPS.—The definition of institution of higher education in section 200103 of the Police Corps Act (42 U.S.C. 14092) is amended—

(i) by striking "1201(a)" and inserting "101(a)"; and

(ii) by striking "(20 U.S.C. 1141(a))".

(N) LAW ENFORCEMENT SCHOLARSHIP PROGRAM.—The definition of institution of higher education in section 200202 of the Law Enforcement Scholarship and Recruitment Act (42 U.S.C. 14111) is amended—

(i) by striking "1201(a)" and inserting "101(a)"; and

(ii) by striking "(20 U.S.C. 1141(a))".

(13) TELECOMMUNICATIONS.—Section 223(h)(4) of the Telecommunications Act of 1934 (47 U.S.C. 223(h)(4)) is amended—

(A) by striking "1201" and inserting "101"; and

(B) by striking "(20 U.S.C. 1141)".

(14) WAR AND NATIONAL DEFENSE.—Section 808(3) of the David L. Boren National Security Education Act of 1991 (50 U.S.C. 1908(3)) is amended—

(A) by striking "1201(a)" and inserting "101(a)"; and

(B) by striking "(20 U.S.C. 1141(a))".

(b) CROSS REFERENCES.—The Act (20 U.S.C. 1001 et seq.) is amended—

(1) in section 402A(c)(2) (20 U.S.C. 1070a-11(c)(2)), by striking "1210" and inserting "110";

(2) in section 481 (20 U.S.C. 1088)—

(A) in subsection (a)—

(i) in paragraph (1)—

(I) in the matter preceding subparagraph (A), by striking "1201(a)" and inserting "101(a)"; and

(II) in subparagraph (C), by striking "1201(a)" and inserting "101(a)"; and

(ii) in paragraph (2)—

(I) in the matter preceding clause (i) of subparagraph (A), by striking "1201(a)" and inserting "101(a)"; and

(II) in the matter following clause (ii) of subparagraph (B), by striking "1201(a)" and inserting "101(a)";

(B) in subsection (b), by striking "1201(a)" each place the term appears and inserting "101(a)"; and

(C) in subsection (c), by striking "1201(a)" each place the term appears and inserting "101(a)";

(3) in section 485(f)(1)(I) (20 U.S.C. 1092(f)(1)(I)), by striking "1213" and inserting "111";

(4) in section 498(j)(2) (20 U.S.C. 1099c(j)(2)), by striking "1201(a)(2)" and inserting "101(a)(2)";

(5) in section 591(d)(2) (20 U.S.C. 1115(d)(2)), by striking "1201(a)" and inserting "101(a)";

(6) in section 631(a)(8) (20 U.S.C. 1132(a)(8))—

(A) by striking "section 1201(a)" each place the term appears and inserting "section 101(a)"; and

(B) by striking "of 1201(a)" and inserting "of section 101(a)"; and

(7) in section 1081(d) (20 U.S.C. 1135f(d)), by striking "1201" and inserting "101(a)".

TITLE II—IMPROVING TEACHER QUALITY

SEC. 201. IMPROVING TEACHER QUALITY.

The Act (20 U.S.C. 1001) is amended by inserting after section 112 (as added by section 105) the following:

"TITLE II—IMPROVING TEACHER QUALITY

"SEC. 201. PURPOSES.

"The purpose of this title is to—

"(1) improve student achievement;

"(2) improve the quality of the current and future teaching force by improving the preparation of prospective teachers and enhancing professional development activities; and

"(3) hold institutions of higher education accountable for preparing teachers who have the necessary teaching skills and are highly competent in the academic content areas in which the teachers plan to teach, including training in the effective uses of technologies in the classroom.

"PART A—TEACHER QUALITY

"Subpart 1—Teacher Quality Enhancement Grants

"SEC. 211. GRANTS AUTHORIZED.

"(a) IN GENERAL.—The Secretary is authorized to award grants to States to enable the States to carry out the activities described in section 212. Each grant may be awarded for a period of not more than 5 years.

"(b) STATE DESIGNATION.—

"(1) IN GENERAL.—A State desiring a grant under this subpart shall, consistent with State law, designate the chief individual or entity in the State responsible for the State supervision of education, to administer the activities assisted under this subpart.

"(2) CONSULTATION.—The individual or entity designated under paragraph (1) shall consult with the Governor, State board of education, or State educational agency, as appropriate.

"(3) CONSTRUCTION.—Nothing in this subpart shall be construed to negate or supersede the legal authority under State law of any State agency, State entity, or State public official over programs that are under the jurisdiction of the agency, entity, or official.

"(c) MATCHING REQUIREMENT.—Each State receiving a grant under this subpart shall provide, from non-Federal sources, an amount equal to ½ of the amount of the grant, in cash or in kind, to carry out the activities supported through the grant.

"SEC. 212. USE OF FUNDS.

"A State that receives a grant under this subpart shall use the grant funds to reform teacher preparation requirements, and to ensure that current and future teachers possess the necessary teaching skills and academic content knowledge in the subject areas in which the teachers are assigned to teach, by carrying out 1 or more of the following activities:

"(1) REFORMS.—Implementing reforms that hold institutions of higher education with teacher preparation programs accountable for preparing teachers who are highly competent in the academic content areas in which the teachers plan to teach, which may include the use of rigorous subject matter competency tests and the requirement that a teacher have an academic major in the subject area, or related discipline, in which the teacher plans to teach.

"(2) CERTIFICATION OR LICENSURE REQUIREMENTS.—Reforming teacher certification or licensure requirements to ensure that new teachers have the necessary teaching skills and academic content knowledge in the subject areas in which teachers are assigned to teach.

"(3) ALTERNATIVES TO TRADITIONAL PREPARATION FOR TEACHING.—Providing prospective teachers alternatives to traditional preparation for teaching through programs at colleges of arts and sciences or at nonprofit educational organizations.

"(4) ALTERNATIVE ROUTES.—Funding programs that establish, expand, or improve alternative routes to State certification for highly qualified individuals from other occupations and recent college graduates with records of academic distinction, including support during the initial teaching experience.

"(5) RECRUITMENT; PAY; REMOVAL.—Developing and implementing effective mechanisms to ensure that schools are able to effectively recruit highly qualified teachers, to financially reward those teachers and principals whose students have made significant progress toward high academic performance, such as through performance-based compensation systems and access to ongoing professional development opportunities for teachers and administrators, and to remove teachers who are not qualified.

"(6) INNOVATIVE EFFORTS.—Development and implementation of innovative efforts aimed at reducing the shortage of highly qualified teachers in high poverty urban and rural areas, and in school districts with disproportionately high numbers of limited English proficient students, that may include the recruitment of highly qualified individuals from other occupations through alternative certification programs.

"(7) SOCIAL PROMOTION.—Development and implementation of efforts to address the problem of social promotion and to prepare teachers to effectively address the issues raised by ending the practice of social promotion.

"SEC. 213. COMPETITIVE AWARDS.

"(a) ANNUAL AWARDS; COMPETITIVE BASIS.—The Secretary shall award grants under this subpart annually and on a competitive basis.

"(b) PEER REVIEW PANEL.—The Secretary shall provide the applications submitted by States under section 214 to a peer review panel for evaluation. With respect to each application, the peer review panel shall initially recommend the application for funding or for disapproval.

"(c) PRIORITY.—In recommending applications for funding to the Secretary, the panel shall give priority to applications from States that describe activities that—

"(1) include innovative reforms to hold institutions of higher education with teacher preparation programs accountable for preparing teachers who are highly competent in the academic content areas in which the teachers plan to teach; and

"(2) involve the development of innovative efforts aimed at reducing the shortage of highly qualified teachers in high poverty urban and rural areas.

"SEC. 214. APPLICATIONS.

"(a) IN GENERAL.—Each State desiring a grant under this subpart shall submit an application to the Secretary at such time, in such manner and accompanied by such information as the Secretary may require.

"(b) CONTENT OF APPLICATIONS.—Such application shall include a description of how the State intends to use funds provided under this subpart.

"Subpart 2—Teacher Training Partnerships Grants

"SEC. 221. GRANTS AUTHORIZED.

"(a) IN GENERAL.—The Secretary is authorized to award grants to teacher training partnerships to enable the partnerships to carry out the activities described in section 222. Each grant may be awarded for a period of not more than 5 years.

"(b) DEFINITIONS.—In this part:

"(1) TEACHER TRAINING PARTNERSHIPS.—

"(A) IN GENERAL.—The term 'teacher training partnership' means a partnership that—

"(i) shall include a school of arts and sciences, a school or program of education, a local educational agency, and a kindergarten through grade 12 school;

"(ii) shall include a high need local educational agency or kindergarten through grade 12 school; and

"(iii) may include a State educational agency, a pre-kindergarten program, a nonprofit educational organization, a business, or a teacher organization.

"(B) HIGH NEED.—A local educational agency or kindergarten through grade 12 school shall be. considered high need for purposes of subparagraph (A)(ii) if the agency or school serves an area within a State in which there is—

"(i) a large number of individuals from families with incomes below the poverty line;

"(ii) a high percentage of teachers not teaching in the content area in which the teachers were trained to teach; or

"(iii) a high teacher turnover rate.

"(2) KINDERGARTEN THROUGH GRADE 12 SCHOOL.—The term 'kindergarten through grade 12 school' means a school having any one of the grades kindergarten through grade 12.

"(c) PRIORITY.—In awarding grants under this subpart the Secretary shall give priority to partnerships that involve businesses.

"(d) CONSIDERATION.—In awarding grants under this subpart the Secretary shall take into consideration—

"(1) providing an equitable geographic distribution of the grants throughout the United States; and

"(2) the proposed project's potential for creating improvement and positive change.

"(e) MATCHING FUNDS.—Each partnership receiving a grant under this subpart shall provide, from sources other than this subpart, an amount equal to 25 percent of the grant in the first year, 35 percent in the second such year, and 50 percent in each succeeding such year, of the amount of the grant, in cash or in kind, to carry out the activities supported by the grant.

"(f) ONE-TIME AWARD.—A partnership may receive a grant under this section only once.

"SEC. 222. USE OF FUNDS.

"(a) IN GENERAL.—Grant funds under this part shall be used to—

"(1) coordinate with the activities of the Governor, State board of education, and State educational agency, as appropriate;

"(2) provide sustained and high quality preservice clinical experiences including the mentoring of prospective teachers by veteran teachers;

"(3) work with a school of arts and sciences to provide increased academic study in a proposed teaching specialty area, through activities such as—

"(A) restructuring curriculum;

"(B) changing core course requirements;

"(C) increasing liberal arts focus;

"(D) providing preparation for board certification; and

"(E) assessing and improving alternative certification, including mentoring and induction support;

"(4) substantially increasing interaction and 2-way collaboration between—

"(A) faculty at institutions of higher education; and

"(B) new and experienced teachers, principals, and other administrators at elementary schools or secondary schools;

"(5) prepare teachers to use technology effectively in the classroom;

"(6) integrate reliable research-based teaching methods into the curriculum;

"(7) broadly disseminate information on effective practices used by the partnership; and

"(8) provide support, including preparation time, for interaction between faculty at an institution of higher education and classroom teachers.

"(b) SPECIAL RULE.—No individual member of a partnership shall retain more than 50 percent of the funds made available to the partnership under this subpart.

"(c) CONSTRUCTION.—Nothing in this part shall be construed to prohibit a teacher training partnership from using grant funds to coordinate with the activities of more than 1 Governor, State board of education, or State educational agency.

"SEC. 223. APPLICATIONS.

"Each teacher training partnership desiring a grant under this subpart shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require. Each such application shall—

"(1) describe the composition of the partnership and the involvement of each partner in the development of the application;

"(2) contain a needs assessment that includes an analysis of the needs of all the partners with respect to teaching and learning;

"(3) contain a resource assessment that includes—

"(A) an analysis of resources available to the partnership;

"(B) a description of the intended use of the grant funds;

"(C) a description of how the partnership will coordinate with other teacher training or professional development programs, including Federal, State, local, private, and other programs;

"(D) a description of how the activities assisted under this subpart are consistent with educational reform activities that promote student achievement; and

"(E) a description of the commitment of the resources of the partnership to the activities assisted under this subpart, including financial support, faculty participation, and time commitments;

"(4) describe how the partnership will include the participation of the schools, colleges, or departments of arts and sciences within an institution of higher education to ensure the integration of teaching techniques and content in teaching preparation;

"(5) describe how the partnership will restructure and improve teaching, teacher training, and development programs, and how such systemic changes will contribute to increased student achievement;

"(6) describe how the partnership will prepare teachers to work with diverse student populations, including individuals with disabilities and limited English proficient individuals;

"(7) describe how the partnership will prepare teachers to use technology;

"(8) contain a dissemination plan regarding knowledge and information with respect to effective teaching practices, and a description of how such knowledge and information will be implemented in elementary schools or secondary schools as well as institutions of higher education;

"(9) describe the commitment of the partnership to continue the activities assisted under this subpart without grant funds provided under this subpart; and

"(10) describe how the partnership will involve and include parents in the reform process.

"Subpart 3—General Provisions

"SEC. 231. ACCOUNTABILITY AND EVALUATION.

"(a) TEACHER QUALITY ENHANCEMENT GRANTS.—

"(1) ACCOUNTABILITY REPORT.—A State that receives a grant under subpart 1 shall submit an annual accountability report to the Secretary, the Committee on Labor and Human Resources of the Senate, and the Committee on Education and the Workforce of the House of Representatives. Such report shall include a description of the degree to which the State, in using funds provided under subpart 1, has made substantial progress in meeting the following goals:

"(A) STUDENT ACHIEVEMENT.—Increasing student achievement for all students, as measured by increased graduation rates, decreased dropout rates, or higher scores on local, State or other assessments.

"(B) RAISING STANDARDS.—Raising the State academic standards required to enter the teaching profession, including, where appropriate, incentives to incorporate the requirement of an academic major in the subject, or related discipline, in which the teacher plans to teach.

"(C) INITIAL CERTIFICATION OR LICENSURE.—Increasing success in the passage rate for initial State teacher certification or licensure, or increasing numbers of highly qualified individuals being certified or licensed as teachers through alternative programs.

"(D) CORE ACADEMIC SUBJECTS.—(i) Increasing the percentage of secondary school classes taught in core academic subject areas by teachers—

"(I) with academic majors in those areas or in a related field;

"(II) who can demonstrate a high level of competence through rigorous academic subject area tests; or

"(III) who can demonstrate high levels of competence through experience in relevant content areas.

"(ii) Increasing the percentage of elementary school classes taught by teachers—

"(I) with academic majors in the arts and sciences; or

"(II) who can demonstrate high levels of competence through experience in relevant content areas.

"(E) DECREASING SHORTAGES FOR PROFESSIONAL DEVELOPMENT.—Decreasing shortages of qualified teachers in poor urban and rural areas.

"(F) INCREASING OPPORTUNITIES.—Increasing opportunities for enhanced and ongoing professional development that improves the academic content knowledge of teachers in the subject areas in which the teachers are certified to teach or in which the teachers are working toward certification to teach.

"(G) TECHNOLOGY INTEGRATION.—Increasing the number of teachers prepared to integrate technology in the classroom.

"(2) TEACHER QUALIFICATIONS PROVIDED TO PARENT UPON REQUEST.—Any local educational agency that benefits from the activities assisted under subpart 1 shall make available, upon request and in an understandable and uniform format, to any parent of a student attending any school served by the local educational agency, information regarding the qualifications of the student's classroom teacher with regard to the subject matter in which the teacher provides instruction. The local educational agency shall inform parents that the parents are entitled to receive the information upon request.

"(b) TEACHER TRAINING PARTNERSHIP EVALUATION PLAN.—Each teacher training partnership receiving a grant under subpart 2 shall establish an evaluation plan that includes strong performance objectives established in negotiation with the Secretary at the time of the grant award. The plan shall include objectives and measures for—

"(1) increased student achievement for all students as measured by increased graduation rates, decreased dropout rates, or higher scores on local, State, or other assessments for a year compared to student achievement as determined by the rates or scores, as the case may be, for the year prior to the year for which a grant under this part is received;

"(2) increased teacher retention in the first 3 years of a teacher's career;

"(3) increased success in the passage rate for initial State certification or licensure of teachers;

"(4) increased percentages of secondary school classes taught in core academic subject areas by teachers—

"(A) with academic majors in those areas or in a related field;

"(B) who can demonstrate a high level of competence through rigorous academic subject area tests; and

"(C) increasing the percentage of elementary school classes taught by teachers with academic majors in the arts and sciences;

"(5) increased integration of technology in teacher preparation and in classroom instruction;

"(6) restructuring or change of methodology courses to reflect best practices learned from elementary schools, secondary schools or other entities;

"(7) increased dissemination of information about effective teaching strategies and practices; and

"(8) other effects of increased integration among members of the partnership.

"SEC. 232. REVOCATION OF GRANT.

"Each State or teacher training partnership receiving a grant under this part shall report annually on progress toward meeting the purposes of this part, and the goals, objectives and measures described in section 231. If the Secretary, after consultation with the peer review panel described in section 213(b) determines that the State or partnership is not making substantial progress in meeting the purposes, goals, objectives and measures, as appropriate, by the end of the second year of the grant, the grant shall not be continued for the third year of the grant.

"SEC. 233. EVALUATION AND DISSEMINATION.

"The Secretary shall evaluate the activities funded under this part and report the Secretary's findings to the Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives. The Secretary shall broadly disseminate successful practices developed by the States and teacher training partnerships under this part, and shall broadly disseminate information regarding such practices so developed that were found to be ineffective.

"SEC. 234. INTERNATIONAL STUDY AND REPORT.

"(a) STUDY.—The Secretary shall conduct a study through the National Center for Education Statistics regarding the ways teachers are trained and the extent to which teachers in the United States and other comparable countries are teaching in areas other than the teachers' field of study or expertise. The study will examine specific fields and will outline the nature and extent of the problem of out-of-field teaching in the United States and in other countries that are considered comparable to the United States. The study shall include, at a minimum, all the countries that participated in the Third International Mathematics and Science Study (TIMSS).

"(b) REPORT.—The Secretary shall report to Congress regarding the results of the study described in subsection (a).

"SEC. 235. ACCOUNTABILITY FOR PROGRAMS THAT PREPARE TEACHERS.

"(a) INFORMATION COLLECTION AND PUBLICATION.—

"(1) DEFINITIONS.—

"(A) Within six months of the date of enactment of the Higher Education Amendments of 1998, the Commissioner of the National Center for Education Statistics, in consultation with States and institutions of higher education, shall develop key definitions and uniform methods of calculation for terms related to the performance of elementary school and secondary school teacher preparation programs.

"(B) In complying with this section, the Secretary and State shall ensure that fair and equitable methods are used in reporting and that they protect the privacy of individuals.

"(2) INFORMATION.—

"(A) STATE REPORT CARD ON THE QUALITY OF TEACHER PREPARATION.—States that receive funds under this Act shall provide to the Secretary, within two years of enactment of the Higher Education Amendments of 1998, and annually thereafter, in a uniform and comprehensible manner that conforms with the definitions and methods established in subsection (a)(1), a State report card on the quality of teacher preparation, which shall include at least the following:

"(i) A description of the teacher certification and licensure assessments, and any other certification and licensure requirements, used by each State.

"(ii) The standards and criteria that prospective teachers must meet in order to attain initial teacher licensing or certification and to be licensed to teach particular subjects or in particular grades within the State.

"(iii) A description of the extent to which those assessments and requirements are aligned with the State's standards and assessments for students.

"(iv) The percentage of teaching candidates who passed each of the assessments used by the State for licensure and certification, and the 'cut score' on each assessment that determines whether a candidate has passed that assessment.

"(v) The percentage of teaching candidates who passed each of the assessments used by the State for licensure and certification, disaggregated by the teacher preparation program in that State from which the teacher candidate received his or her most recent degree. States shall make these data available widely and publicly.

"(vi) Information on the extent to which teachers in the State have been given waivers of State licensure or certification requirements, including the proportion of such teachers distributed across high and low poverty districts and across subject areas.

"(vii) A description of each State's alternative routes to teacher certification, if any, and the percentage of teachers certified through alternative certification routes who pass State licensing assessments.

"(viii) For each State, a description of proposed criteria for assessing the performance of teacher preparation programs within institutions of higher education, including but not limited to indicators of teacher candidate knowledge and skills as described in subsection (b)(1)(A).

"(B) REPORT OF THE SECRETARY ON THE QUALITY OF TEACHER PREPARATION.—The Secretary shall publish annually and make widely available a report card on teacher qualifications and preparation in the United States, including all the information reported in subparagraphs (A)(i)–(viii), beginning three years after enactment of the Higher Education Amendments of 1998. The Secretary shall report to Congress a comparison of States' efforts to improve teaching quality. The Secretary shall also report on the national mean and median scores on any standardized test that is used in more than one State for teacher licensure or certification. In the case of teacher preparation programs with fewer than 10 graduates taking any single initial teacher certification assessment during any administration of such assessment, the Secretary shall collect and publish information with respect to an average pass rate on State certification or licensure assessments taken over 3 years.

"(C) INSTITUTIONAL REPORT CARDS ON THE QUALITY OF TEACHER PREPARATION.—Each institution of higher education that conducts a teacher preparation program that enrolls students receiving Federal assistance shall, not later than two years after the enactment of the Higher Education Amendments of 1998, and annually thereafter, report, in a uniform and comprehensible manner, the following information to the State, and the general public, including through publications such as course catalogues and promotional materials sent to potential applicants, high school guidance counselors, and prospective employers of its program graduates, in a manner that conforms with the definitions and methods established under subsection (a)(1):

"(i) For the most recent year for which the information is available, the passing rate of its graduates on the teacher certification and licensure assessments of the State in which it is located, but only for those students who took those assessments within three years of completing the program. A comparison of the program's pass rate with the State average pass rate shall be included as well. In the case of teacher preparation programs with fewer than 10 graduates taking any single initial teacher certification assessment during any administration of such assessment, the institution shall collect and publish information with respect to an average pass rate on State certification or licensure assessments taken over 3 years.

"(ii) The number of students in the program, the average number of hours of supervised practice teaching required for those in the program, and the faculty-student ratio in supervised practice teaching.

"(iii) In States that approve or accredit teacher education programs, a statement of whether the institution's program is so approved or accredited.

"(iv) Whether the program has been designated as low-performing by the State under subsection (b)(1)(B).

In addition to the actions authorized in section 487(c), the Secretary may impose a fine not to exceed $25,000 on a teacher preparation program for failure to provide the information described in subsection (a)(2)(B) in a timely or accurate manner.

"(b) ACCOUNTABILITY.—

"(1) States receiving funding under this Act, shall develop and implement, no later than three years after enactment of the Higher Education Amendments of 1998, the following teacher preparation program accountability measures and publish the measures publicly and widely:

"(A) A description of State criteria for identifying low-performing teacher preparation programs which may include a baseline pass rate on State licensing assessments and other indicators of teacher candidate knowledge and skill. States that do not employ assessments as part of their criteria for licensing or certification are not required to meet this criterion until such time as the State initiates the use of such assessments.

"(B) Procedures for identifying low-performing teacher preparation programs based on the criteria developed by the State as required by subsection (b)(1)(A), and publish a list of those programs.

"(C) States that have, prior to enactment, already conformed with subsections (b)(1) (A)–(B), need not change their procedures, unless the State chooses to do so.

"(2) Not later than four years after enactment of the Higher Education Amendments of 1998, any teacher preparation programs for which the State has withdrawn its approval or terminated its financial support due to the low performance of its teacher preparation program based on procedures described in subsection (b)(1)—

"(A) shall be ineligible for any funding for professional development activities awarded by the Department of Education; and

"(B) shall not be permitted to accept or enroll any student that receives aid under title IV of this Act in its teacher preparation program.

"SEC. 236. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this part $300,000,000 for fiscal year 1999 and such sums as necessary for each of the 4 succeeding fiscal years, of which—

"(1) 50 percent shall be available for each fiscal year to carry out subpart 1; and

"(2) 50 percent shall be available for each fiscal year to carry out subpart 2.

"PART B—RECRUITING NEW TEACHERS FOR UNDERSERVED AREAS

"SEC. 251. STATEMENT OF PURPOSE.

"It is the purpose of this part to—

"(1) provide scholarships and, as necessary, support services for students with high potential to become effective teachers, particularly minority students;

"(2) increase the quality and number of new teachers nationally; and

“(3) increase the ability of schools in underserved areas to recruit a qualified teaching staff.

“SEC. 252. DEFINITIONS.

“In this part—

“(1) ELIGIBLE PARTNERSHIP.—

“(A) IN GENERAL.—The term ‘eligible partnership’ means a partnership consisting of—

“(i) an institution of higher education that awards baccalaureate degrees and prepares teachers for their initial entry into the teaching profession; and

“(ii) one or more local educational agencies that serve underserved areas.

“(B) ADDITIONAL PARTNERS.—Such a partnership may also include—

“(i) 2-year institutions of higher education that operate teacher preparation programs and maintain articulation agreements, with the institutions of higher education that award baccalaureate degrees for the transfer of credits in teacher preparation;

“(ii) State agencies that have responsibility for policies related to teacher preparation and teacher certification or licensure; and

“(iii) other public and private, nonprofit agencies and organizations that serve, or are located in, communities served by the local educational agencies in the partnership, and that have an interest in teacher recruitment, preparation, and induction.

“(2) SUPPORT SERVICES.—The term ‘support services’ means—

“(A) academic advice and counseling;

“(B) tutorial services;

“(C) mentoring; and

“(D) child care and transportation, if funding for those services cannot be arranged from other sources.

“(3) UNDERSERVED AREA.—The term ‘underserved area’ means—

“(A) the area served by the 3 local educational agencies in the State that have the highest numbers of children, ages 5 through 17, from families below the poverty level (based on data satisfactory to the Secretary); and

“(B) the area served by any other local educational agency in which the percentage of such children is at least 20 percent, or the number of such children is at least 10,000.

“SEC. 253. GRANT AUTHORITY AND CONDITIONS.

“(a) GRANTS AUTHORIZED.—

“(1) GRANTS.—

“(A) IN GENERAL.—From amounts appropriated under section 262 the Secretary shall award grants, on a competitive basis, to eligible partnerships to enable the eligible partnerships to pay the Federal share of the cost of carrying out the activities described in section 255.

“(B) DURATION.—Each grant awarded under subparagraph (A) shall be awarded for a period not to exceed 5 years.

“(2) CONTINUING ELIGIBILITY; REVIEW OF PROGRESS.—The Secretary shall—

“(A) continue to make grant payments for the second and succeeding years of a grant awarded under this part, only after determining that the eligible partnership is making satisfactory progress in carrying out the activities under the grant; and

“(B) conduct an intensive review of the eligible partnerships's progress under the grant, with the assistance of outside experts, before making grant payments for the fourth year of the grant.

“(3) MAXIMUM NUMBER.—No eligible partnership may receive more than 2 grants under this subsection.

“(b) MATCHING REQUIREMENT.—

“(1) FEDERAL SHARE.—The Federal share of the cost of activities carried out under a grant made under subsection (a) shall not exceed—

“(A) 70 percent of the cost in the first year of the grant;

“(B) 60 percent in the second year;

“(C) 60 percent in the third year;

“(D) 50 percent in the fourth year; and

“(E) 50 percent in the fifth year and any succeeding year (including each year of the second grant, if any).

“(2) NON-FEDERAL SHARE.—The non-Federal share of activities carried out with a grant under subsection (a) may be provided in cash or in kind, fairly evaluated, and may be obtained from any non-Federal public or private source.

“(c) PLANNING GRANTS.—

“(1) IN GENERAL.—The Secretary may award planning grants to eligible partnerships that are not ready to implement programs under subsection (a).

“(2) DURATION.—Each planning grant shall be for a period of not more than 1 year, which shall be in addition to the period of any grant under subsection (a).

“(3) REQUIREMENT.—Any recipient of a planning grant under this subsection that wishes to receive a grant under subsection (a)(1) shall separately apply for a grant under that subsection.

“SEC. 254. GRANT APPLICATIONS.

“(a) APPLICATIONS REQUIRED.—Any eligible partnership desiring to receive a grant under this part shall submit an application to the Secretary at such time, in such form, and containing such information as the Secretary may require.

“(b) APPLICATION CONTENTS.—Each application for a grant under section 253(a) shall include—

“(1) a designation of the institution or agency, within the eligible partnership, that will serve as the fiscal agent for the grant;

“(2) information on the quality of the teacher preparation program of the institution of higher education participating in the eligible partnership and how the eligible partnership will ensure, through improvements in the eligible partnership's teacher preparation practices or other appropriate strategies, that scholarship recipients will receive high-quality preparation;

“(3) a description of the assessment the members of the eligible partnership have undertaken—

“(A) to determine—

“(i) the most critical needs of the local educational agencies, particularly the needs of schools in high-poverty areas, for new teachers (which may include teachers in particular subject areas or at certain grade levels); and

“(ii) how the project carried out under the grant will address those needs; and

“(B) that reflects the input of all significant entities in the community (including organizations representing teachers and parents) that have an interest in teacher recruitment, preparation, and induction;

“(4) a description of the project the eligible partnership will carry out with the grant, including information regarding—

“(A) the recruitment and outreach efforts the eligible partnership will undertake to publicize the availability of scholarships and other assistance under the program;

“(B)(i) the number and types of students that the eligible partnership will serve under the program, which may include education paraprofessionals seeking to achieve full teacher certification or licensure; teachers whom the partner local educational agencies have hired under emergency certification or licensure procedures; or former military personnel, mid-career professionals, or AmeriCorps or Peace Corps volunteers, who desire to enter teaching; and

“(ii) the criteria that the eligible partnership will use in selecting the students, including criteria to determine whether individuals have the capacity to benefit from the program, complete teacher certification requirements, and become effective teachers;

“(C) the activities the eligible partnership will carry out under the grant, including a description of, and justification for, any support services the institution of higher education participating in the eligible partnership will offer to participating students;

“(D) the number and funding range of the scholarships the institution will provide to students; and

“(E) the procedures the institution will establish for entering into, and enforcing, agreements with scholarship recipients regarding the recipients' fulfillment of the service commitment described in section 259;

“(5) a description of how the institution will use funds provided under the grant only—

“(A) to increase the number of students—

“(i) with high potential to be effective teachers;

“(ii) participating in the institution's teacher preparation programs; or

“(iii) in the particular type or types of preparation programs that the grant will support; or

“(B) to increase the number of graduates, who are minority individuals, with high potential to be effective teachers;

“(6) a description of the commitments, by the local educational agencies participating in the partnership, to hire qualified scholarship recipients in the schools served by the agencies and in the subject areas or grade levels for which the scholarship recipients will be trained, and a description of the actions the participating institution of higher education, the participating local educational agencies, and the other partners will take to facilitate the successful transition of the recipients into teaching; and

“(7) a description of the eligible partnership's plan for institutionalizing the activities the partnership is carrying out under this part, so that the activities will continue once Federal funding ceases.

“SEC. 255. USES OF FUNDS.

“(a) IN GENERAL.—Each eligible partnership receiving a grant under section 523(a) shall use the grant funds for the following:

“(1) SCHOLARSHIPS.—Scholarships to help students pay the costs of tuition, room, board, and other expenses of completing a teacher preparation program.

“(2) SUPPORT SERVICES.—Support services, if needed to enable scholarship recipients to complete postsecondary education programs.

“(3) FOLLOWUP SERVICES.—Followup services provided to former scholarship recipients during the recipients' first 3 years of teaching.

“(4) PAYMENTS.—Payments to partner local educational agencies, if needed to enable the agencies to permit paraprofessional staff to participate in teacher preparation programs (such as the cost of release time for the staff).

“(5) ADDITIONAL COURSES.—If appropriate, and if no other funds are available for, paying the costs of additional courses taken by former scholarship recipients during the recipients' initial 3 years of teaching.

“(b) PLANNING GRANTS.—A recipient of a planning grant under section 253(c) shall use the grant funds for the costs of planning for the implementation of a grant under section 253(a).

“SEC. 256. SELECTION OF APPLICANTS.

“(a) PEER REVIEW.—The Secretary, using a peer review process, shall select eligible partnerships to receive funding under this part on the basis of—

“(1) the quality of the teacher preparation program offered by the institution participating in the partnership;

“(2) the quality of the program carried out under the application; and

“(3) the capacity of the partnership to carry out the grant successfully.

“(b) CRITERIA.—

“(1) IN GENERAL.—In awarding grants under section 253(a), the Secretary shall seek to ensure that—

"(A) in the aggregate, eligible partnerships carry out a variety of approaches to preparing new teachers; and

"(B) there is an equitable geographic distribution of the grants.

"(2) Special Consideration.—In addition to complying with paragraph (1), the Secretary shall give special consideration to—

"(A) applications most likely to result in the preparation of increased numbers of individuals with high potential for effective teaching who are minority individuals;

"(B) applications from partnerships that have as members of the partnerships historically Black colleges and universities, Hispanic-serving institutions, and Tribal Colleges and Universities; or

"(C) applications from partnerships that propose to carry out programs that use innovative means, including technology, to recruit for participation in the activities assisted under the programs students who are Native Hawaiian, Alaska Native, or Native American Pacific Islander.

"(c) Second Five-Year Grants.—In selecting eligible partnerships to receive second year grant payments under this part, the Secretary shall give a preference to eligible partnerships whose projects have resulted in—

"(1) the placement and retention of a substantial number of high-quality graduates in teaching positions in underserved, high-poverty schools;

"(2) the adoption of effective programs that meet the teacher preparation needs of high-poverty urban and rural areas; and

"(3) effective partnerships with elementary schools and secondary schools that are supporting improvements in student achievement.

"SEC. 257. DURATION AND AMOUNT OF ASSISTANCE; RELATION TO OTHER ASSISTANCE.

"(a) Duration of Assistance.—No individual may receive scholarship assistance under this part—

"(1) for more than 5 years of postsecondary education; and

"(2) unless that individual satisfies the requirements of section 484(a)(5).

"(b) Amount of Assistance.—No individual may receive a scholarship awarded under this part that exceeds the cost of attendance, as defined in section 472, at the institution of higher education the individual is attending.

"(c) Relation to Other Assistance.—A scholarship awarded under this part—

"(1) shall not be reduced on the basis of the individual's receipt of other forms of Federal student financial assistance; and

"(2) shall be regarded as other financial assistance available to the student, within the meaning of sections 471(3) and 480(j)(1), in determining the student's eligibility for grant, loan, or work assistance under title IV.

"SEC. 258. SCHOLARSHIP CONDITIONS.

"(a) In General.—A recipient of a scholarship under this part shall continue to receive the scholarship assistance only as long as the recipient is—

"(1) enrolled as a full-time student and pursuing a course of study leading to teacher certification, unless the recipient is working in a public school (as a paraprofessional, or as a teacher under emergency credentials) while participating in the program; and

"(2) maintaining satisfactory progress as determined by the institution of higher education participating in the partnership.

"(b) Special Rule. Each eligible partnership shall modify the application of section 257(a)(1) and of subsection (a)(1) to the extent necessary to accommodate the rights of individuals with disabilities under section 504 of the Rehabilitation Act of 1973.

"SEC. 259. SERVICE REQUIREMENTS.

"(a) Requirement.—Each eligible partnership receiving a grant under this part shall enter into an agreement, with each student to whom the partnership awards a scholarship under this part, providing that a scholarship recipient who completes a teacher preparation program under this part shall, within 7 years of completing that program, teach full-time for at least 5 years in a high-poverty school in an underserved geographic area or repay the amount of the scholarship, under the terms and conditions established by the Secretary.

"(b) Regulations. The Secretary shall prescribe regulations relating to the requirements of subsection (a), including any provisions for waiver of those requirements.

"SEC. 260. EVALUATION.

"The Secretary shall provide for an evaluation of the program carried out under this part, which shall asses such issues as—

"(1) whether institutions participating in the eligible partnerships are successful in preparing scholarship recipients to teach to high State and local standards;

"(2) whether scholarship recipients are successful in completing teacher preparation programs, becoming fully certified teachers, and obtaining teaching positions in underserved areas, and whether the recipients continue teaching in those areas over a period of years;

"(3) the national impact of the program in assisting local educational agencies in underserved areas to recruit, prepare, and retain diverse, high-quality teachers in the areas in which the agencies have the greatest needs;

"(4) the long-term impact of the grants on teacher preparation programs conducted by institutions of higher education participating in the eligible partnership and on the institutions' relationships with their partner local educational agencies and other members of the partnership; and

"(5) the relative effectiveness of different approaches for preparing new teachers to teach in underserved areas, including their effectiveness in preparing new teachers to teach to high content and performance standards.

"SEC. 261. NATIONAL ACTIVITIES.

"The Secretary may reserve not more than 5 percent of the funds appropriated for this part for any fiscal year for—

"(1) peer review of applications;

"(2) conducting the evaluation required under section 260; and

"(3) technical assistance.

"SEC. 262. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this part $37,000,000 for fiscal year 1999 and such sums as may be necessary for each of the 4 succeeding fiscal years.".

TITLE III—INSTITUTIONAL AID

SEC. 301. TRANSFERS AND REDESIGNATIONS.

(a) In General.—Title III (20 U.S.C. 1051 et seq.) is amended—

(1) by redesignating part D as part F;

(2) by redesignating sections 351, 352, 353, 354, 356, 357, 358, and 360 (20 U.S.C. 1066, 1067, 1068, 1069, 1069b, 1069c, 1069d, and 1069f) as sections 391, 392, 393, 394, 395, 396, 397, and 398, respectively;

(3) by transferring part B of title VII (20 U.S.C. 1132c et seq.) to title III to follow part C of title III (20 U.S.C. 1065 et seq.), and redesignating such part B as part D;

(4) by redesignating sections 721 through 728 (20 U.S.C. 1132c and 1132c–7) as sections 341 through 348, respectively;

(5) by transferring subparts 1 and 3 of part B of title X (20 U.S.C. 1135b et seq. and 1135d et seq.) to title III to follow part D of title III (as redesignated by paragraph (3)), and redesignating such subpart 3 as subpart 2;

(6) by inserting after part D of title III (as redesignated by paragraph (3)) the following:

"PART E—MINORITY SCIENCE IMPROVEMENT PROGRAM";

(7) by redesignating sections 1021 through 1024 (20 U.S.C. 1135b and 1135b–3), and sections 1041, 1042, 1043, 1044, 1046, and 1047 (20 U.S.C. 1135d, 1135d–1, 1135d–2, 1135d–3, 1135d–5, and 1135d–6) as sections 351 through 354, and sections 361, 362, 363, 364, 365, and 366, respectively; and

(8) by repealing section 366 (as redesignated by paragraph (7)) (20 U.S.C. 1135d–6).

(b) Conforming Amendment.—Section 361 (as redesignated by subsection (a)(7)) (20 U.S.C. 1135d) is amended—

(1) in paragraph (1), by inserting "and" after the semicolon;

(2) in paragraph (2), by striking "; and" and inserting a period; and

(3) by striking paragraph (3).

(c) Cross References.—Title III (20 U.S.C. 1051 et seq.) is amended—

(1) in section 311(b) (20 U.S.C. 1057(b)), by striking "360(a)(1)" and inserting "398(a)(1)";

(2) in section 312 (20 U.S.C. 1058)—

(A) in subsection (b)(1)(B), by striking "352(b)" and inserting "392(b)"; and

(B) in subsection (c)(2), by striking "352(a)" and inserting "392(a)";

(3) in section 313(b) (20 U.S.C. 1059(b)), by striking "354(a)(1)" and inserting "394(a)(1)";

(4) in section 342 (as redesignated by subsection (a)(4)) (20 U.S.C. 1132c–1)—

(A) in paragraph (3), by striking "723(b)" and inserting "343(b)";

(B) in paragraph (4), by striking "723" and inserting "343";

(C) in the matter preceding subparagraph (A) of paragraph (5), by striking "724(b)" and inserting "344(b)";

(D) in paragraph (8), by striking "725(1)" and inserting "345(1)"; and

(E) in paragraph (9), by striking "727" and inserting "347";

(5) in section 343 (as redesignated by subsection (a)(4)) (20 U.S.C. 1132c–2)—

(A) in subsection (a), by striking "724" and inserting "344"; and

(B) in subsection (b)—

(i) in the matter preceding paragraph (1), by striking "725(1) and 726" and inserting "345(1) and 346";

(ii) in paragraph (10), by striking "724" and inserting "344"; and

(iii) in subsection (d), by striking "723(c)(1)" and inserting "343(c)(1)";

(6) in section 345(2) (as redesignated by subsection (a)(4)) (20 U.S.C. 1132c–4(2)), by striking "723" and inserting "343";

(7) in section 348 (as redesignated by subsection (a)(4)) (20 U.S.C. 1132c–7), by striking "725(1)" and inserting "345(1)";

(8) in section 353(a) (as redesignated by subsection (a)(7)) (20 U.S.C. 1135b–2(a))—

(A) in paragraph (1), by striking "1046(6)" and inserting "365(6)";

(B) in paragraph (2), by striking "1046(7)" and inserting "365(7)";

(C) in paragraph (3), by striking "1046(8)" and inserting "365(8)"; and

(D) in paragraph (4), by striking "1046(9)" and inserting "365(9)";

(9) in section 361(1) (as redesignated by subsection (a)(7)) (20 U.S.C. 1135d(1)), by striking "1046(3)" and inserting "365(3)";

(10) in section 362(a) (as redesignated by subsection (a)(7)) (20 U.S.C. 1135d–1(a))—

(A) in the matter preceding paragraph (1), by striking "1041" and inserting "361"; and

(B) in paragraph (1), by striking "1021(b)" and inserting "351(b)"; and

(11) in section 391(b)(6) (as redesignated by subsection (a)(2)), by striking "357" and inserting "396".

SEC. 302. FINDINGS.

Section 301(a) (20 U.S.C. 1051(a)) is amended—

(1) by redesignating paragraphs (3) through (7) as paragraphs (4) through (8), respectively; and

(2) by inserting after paragraph (2) the following:

"(3) in order to be competitive and provide a high-quality education for all, institutions of higher education should improve their technological capacity and make effective use of technology;".

SEC. 303. STRENGTHENING INSTITUTIONS.

(a) GRANTS.—Section 311 (20 U.S.C. 1057) is amended—

(1) in subsection (b)(3)(D), by inserting ", including high technology equipment," after "equipment"; and

(2) by adding at the end the following:

"(c) ENDOWMENT FUND.—

"(1) IN GENERAL.—An eligible institution may use not more than 20 percent of the grant funds provided under this part to establish or increase an endowment fund at such institution.

"(2) MATCHING REQUIREMENT.—In order to be eligible to use grant funds in accordance with paragraph (1), the eligible institution shall provide matching funds, in an amount equal to the Federal funds used in accordance with paragraph (1), for the establishment or increase of the endowment fund.

"(3) COMPARABILITY.—The provisions of part C, regarding the establishment or increase of an endowment fund, that the Secretary determines are not inconsistent with this subsection, shall apply to funds used under paragraph (1).".

(b) DURATION OF GRANT.—Section 313 (20 U.S.C. 1059) is amended by adding at the end the following:

"(d) WAIT-OUT-PERIOD.—Each eligible institution that received a grant under this part for a 5-year period shall not be eligible to receive an additional grant under this part until 2 years after the date on which the 5-year grant period terminates.".

(c) AMERICAN INDIAN TRIBALLY CONTROLLED COLLEGES AND UNIVERSITIES.—Section 316 (20 U.S.C. 1059c) is amended to read as follows:

"SEC. 316. AMERICAN INDIAN TRIBALLY CONTROLLED COLLEGES AND UNIVERSITIES.

"(a) PROGRAM AUTHORIZED.—The Secretary shall provide grants and related assistance to American Indian Tribal Colleges and Universities to enable such institutions to improve and expand their capacity to serve Indian students.

"(b) DEFINITIONS.—In this section:

"(1) INDIAN.—The term 'Indian' has the meaning given the term in section 2 of the Tribally Controlled College or University Assistance Act of 1978.

"(2) INDIAN TRIBE.—The term 'Indian tribe' has the meaning given the term in section 2 of the Tribally Controlled College or University Assistance Act of 1978.

"(3) TRIBAL COLLEGE OR UNIVERSITY.—The term 'Tribal College or University' has the meaning give the term 'tribally controlled college or university' in section 2 of the Tribally Controlled College or University Assistance Act of 1978, and includes an institution listed in the Equity in Educational Land Grant Status Act of 1994.

"(4) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' means an institution of higher education as defined in section 1201(a), except that paragraph (2) of such section shall not apply.

"(c) AUTHORIZED ACTIVITIES.—

"(1) IN GENERAL.—Grants awarded under this section shall be used by Tribal Colleges or Universities to assist such institutions to plan, develop, undertake, and carry out activities to improve and expand such institutions' capacity to serve Indian students.

"(2) EXAMPLES OF AUTHORIZED ACTIVITIES.—The activities described in paragraph (1) may include—

"(A) purchase, rental, or lease of scientific or laboratory equipment for educational purposes, including instructional and research purposes;

"(B) construction, maintenance, renovation, and improvement in classrooms, libraries, laboratories, and other instructional facilities, including purchase or rental of telecommunications technology equipment or services;

"(C) support of faculty exchanges, faculty development, and faculty fellowships to assist in attaining advanced degrees in the faculty's field of instruction;

"(D) academic instruction in disciplines in which American Indians are underrepresented;

"(E) purchase of library books, periodicals, and other educational materials, including telecommunications program material;

"(F) tutoring, counseling, and student service programs designed to improve academic success;

"(G) funds management, administrative management, and acquisition of equipment for use in strengthening funds management;

"(H) joint use of facilities, such as laboratories and libraries;

"(I) establishing or improving a development office to strengthen or improve contributions from alumni and the private sector;

"(J) establishing or enhancing a program of teacher education designed to qualify students to teach in elementary schools or secondary schools, with a particular emphasis on teaching American Indian children and youth, that shall include, as part of such program, preparation for teacher certification;

"(K) establishing community outreach programs that encourage American Indian elementary school and secondary school students to develop the academic skills and the interest to pursue postsecondary education;

"(L) other activities proposed in the application submitted pursuant to subsection (d) that—

"(i) contribute to carrying out the activities described in subparagraphs (A) through (K); and

"(ii) are approved by the Secretary as part of the review and acceptance of such application.

"(3) ENDOWMENT FUND.—

"(A) IN GENERAL.—A Tribal College or University may use not more than 20 percent of the grant funds provided under this section to establish or increase an endowment fund at the institution.

"(B) MATCHING REQUIREMENT.—In order to be eligible to use grant funds in accordance with subparagraph (A), the Tribal College or University shall provide matching funds, in an amount equal to the Federal funds used in accordance with subparagraph (A), for the establishment or increase of the endowment fund.

"(C) COMPARABILITY.—The provisions of part C regarding the establishment or increase of an endowment fund, that the Secretary determines are not inconsistent with this paragraph, shall apply to funds used under subparagraph (A).

"(d) APPLICATION PROCESS.—

"(1) INSTITUTIONAL ELIGIBILITY.—To be eligible to receive assistance under this section, a Tribal College or University shall be an institution that—

"(A) is an eligible institution under section 312(b);

"(B) is eligible to receive assistance under the Tribally Controlled College or University Assistance Act of 1978; or

"(C) is eligible to receive funds under the Equity in Educational Land Grant Status Act of 1994.

"(2) APPLICATION.—Any Tribal College or University desiring to receive assistance under this section shall submit an application to the Secretary at such time, and in such manner, as the Secretary may by regulation reasonably require. Each such application shall include—

"(A) a 5-year plan for improving the assistance provided by the Tribal College or University to Indian students, increasing the rates at which Indian secondary school students enroll in higher education, and increasing overall postsecondary retention rates for Indian students; and

"(B) such enrollment data and other information and assurances as the Secretary may require to demonstrate compliance with subparagraph (A) or (B) of paragraph (1).

"(3) SPECIAL RULE.—For the purposes of this part, no Tribal College or University that is eligible for and receives funds under this section may concurrently receive other funds under this part or part B.".

(d) ALASKA NATIVE AND NATIVE HAWAIIAN-SERVING INSTITUTIONS.—Part A of title III (20 U.S.C. 1057 et seq.) is amended by adding at the end the following:

"SEC. 317. ALASKA NATIVE AND NATIVE HAWAIIAN-SERVING INSTITUTIONS.

"(a) PROGRAM AUTHORIZED.—The Secretary shall provide grants and related assistance to Alaska Native-serving institutions and Native Hawaiian-serving institutions to enable such institutions to improve and expand their capacity to serve Alaska Natives and Native Hawaiians.

"(b) DEFINITIONS.—For the purpose of this section—

"(1) the term 'Alaska Native' has the meaning given the term in section 9308 of the Elementary and Secondary Education Act of 1965;

"(2) the term 'Alaska Native-serving institution' means an institution of higher education that—

"(A) is an eligible institution under section 312(b); and

"(B) at the time of application, has an enrollment of undergraduate students that is at least 20 percent Alaska Native students;

"(3) the term 'Native Hawaiian' has the meaning given the term in section 9212 of the Elementary and Secondary Education Act of 1965; and

"(4) the term 'Native Hawaiian-serving institution' means an institution of higher education which—

"(A) is an eligible institution under section 312(b); and

"(B) at the time of application, has an enrollment of undergraduate students that is at least 10 percent Native Hawaiian students.

"(c) AUTHORIZED ACTIVITIES.—

"(1) TYPES OF ACTIVITIES AUTHORIZED.—Grants awarded under this section shall be used by Alaska Native-serving institutions and Native Hawaiian-serving institutions to assist such institutions to plan, develop, undertake, and carry out programs.

"(2) EXAMPLES OF AUTHORIZED ACTIVITIES.—Such programs may include—

"(A) purchase, rental, or lease of scientific or laboratory equipment for educational purposes, including instructional and research purposes;

"(B) renovation and improvement in classroom, library, laboratory, and other instructional facilities;

"(C) support of faculty exchanges, and faculty development and faculty fellowships to assist in attaining advanced degrees in their field of instruction;

"(D) curriculum development and academic instruction;

"(E) purchase of library books, periodicals, microfilm, and other educational materials;

"(F) funds and administrative management, and acquisition of equipment for use in strengthening funds management;

"(G) joint use of facilities such as laboratories and libraries; and

"(H) academic tutoring and counseling programs and student support services.

"(d) Application Process.—

"(1) Institutional eligibility.—Each Alaska Native-serving institution and Native Hawaiian-serving institution desiring to receive assistance under this section shall submit to the Secretary such enrollment data as may be necessary to demonstrate that it is an Alaska Native-serving institution or a Native Hawaiian-serving institution as defined in subsection (b), along with such other information and data as the Secretary may by regulation require.

"(2) Applications.—Any institution which is determined by the Secretary to be an Alaska Native-serving institution or a Native Hawaiian-serving institution may submit an application for assistance under this section to the Secretary. Such application shall include—

"(A) a 5-year plan for improving the assistance provided by the Alaska Native-serving institution or the Native Hawaiian-serving institution to Alaska Native or Native Hawaiian students; and

"(B) such other information and assurance as the Secretary may require.

"(e) Special Rule.—For the purposes of this section, no Alaska Native-serving institution or Native Hawaiian-serving institution which is eligible for and receives funds under this section may concurrently receive other funds under this part or part B.".

SEC. 304. STRENGTHENING HBCU's.

(a) Grants.—Section 323 (20 U.S.C. 1062) is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting after subsection (a) the following:

"(b) Endowment Fund.—

"(1) In general.—An institution may use not more than 20 percent of the grant funds provided under this part to establish or increase an endowment fund at the institution.

"(2) Matching requirement.—In order to be eligible to use grant funds in accordance with paragraph (1), the eligible institution shall provide matching funds, in an amount equal to the Federal funds used in accordance with paragraph (1), for the establishment or increase of the endowment fund.

"(3) Comparability.—The provisions of part C regarding the establishment or increase of an endowment fund, that the Secretary determines are not inconsistent with this subsection, shall apply to funds used under paragraph (1).".

(b) Professional or Graduate Institutions.—Section 326 (20 U.S.C. 1063b) is amended—

(1) in subsection (a)—

(A) in paragraph (2), by striking "$500,000" and inserting "$1,000,000"; and

(B) by adding at the end of paragraph (2) the following: "If a grant of less than $1,000,000 is made under this section, matching funds provided from non-Federal sources are not required. If a grant equal to or in excess of $1,000,000 is made under this section, matching funds provided from non-Federal sources are required only with respect to the amount of the grant that exceeds $1,000,000."; and

(2) in subsection (d)(2), by striking "$500,000" and inserting "$1,000,000".

(3) in subsection (e)(1)—

(A) in subparagraph (E), by inserting ", and any Tuskegee University qualified graduate program" before the semicolon;

(B) in subparagraph (F), by inserting ", and any Xavier University qualified graduate program" before the semicolon;

(C) in subparagraph (G), by inserting ", and any Southern University qualified graduate program" before the semicolon;

(D) in subparagraph (H), by inserting ", and any Texas Southern University qualified graduate program" before the semicolon;

(E) in subparagraph (I), by inserting ", and any Florida A&M University qualified graduate program" before the semicolon;

(F) in subparagraph (J), by inserting ", and any North Carolina Central University qualified graduate program" before the semicolon;

(G) in subparagraph (O), by striking "and" after the semicolon.

(H) in subparagraph (P)—

(i) by inserting "University" after "State"; and

(ii) by striking the period and inserting a semicolon; and

(I) by adding at the end the following:

"(Q) Norfolk State University qualified graduate program; and

"(R) Tennessee State University qualified graduate program.";

(4) in subsection (f)—

(A) in paragraph (1), by striking "$12,000,000" and inserting "$15,000,000";

(B) in paragraph (2)—

(i) in the matter preceding subparagraph (A), by striking "$12,000,000" and inserting "$15,000,000 but not in excess of $28,000,000";

(ii) in subparagraph (A), by striking "$500,000" and inserting "$1,000,000"; and

(iii) in subparagraph (B)—

(I) by striking "(A) through (P)" and inserting "(Q) and (R)"; and

(II) by striking the period and inserting "; and

(C) by adding at the end the following:

"(3) any amount appropriated in excess of $28,000,000 shall be available for the purpose of making grants to institutions or programs described in subparagraphs (A) through (R), on a competitive basis and through a peer review process that takes into consideration—

"(A) the ability of the institution to match Federal funds with non-Federal funds;

"(B) the number of students enrolled in the institution or program for which funds are sought;

"(C) the percentage of students enrolled in the institution or program for which funds are sought who are eligible for need-based student aid;

"(D) the percentage of students enrolled in the institution or program for which funds are sought who complete their degrees within a reasonable period of time as determined by the Secretary; and

"(E) the quality of the proposal."; and

(5) by adding at the end the following:

"(g) Special Rule.—No institution or program described in subsection (e)(1) that received a grant under this section for fiscal year 1998 and that is eligible to receive a grant under this section in a subsequent fiscal year shall receive a grant under this section in any subsequent fiscal year in an amount that is less than the grant amount received for fiscal year 1996 or 1997, whichever is greater, unless—

"(1) the amount appropriated for the subsequent fiscal year is not sufficient to provide grants under this section to all such institutions or programs; or

"(2) the institution or program cannot provide sufficient matching funds to meet the requirements of this section.".

SEC. 305. ENDOWMENT CHALLENGE GRANTS.

Paragraph (2) of section 331(b) (20 U.S.C. 1065(b)) is amended by striking subparagraphs (B) and (C) and inserting the following:

"(B) The Secretary may make a grant under this part to an eligible institution in any fiscal year if the institution—

"(i) applies for a grant in an amount not exceeding $500,000; and

"(ii) has deposited in the eligible institution's endowment fund established under this section an amount which is equal to ½ of the amount of such grant.

"(C) An eligible institution of higher education that is awarded a grant under subparagraph (B) shall not be eligible to receive an additional grant under subparagraph (B) until 10 years after the date on which the grant period terminates.".

SEC. 306. HBCU CAPITAL FINANCING.

(a) Definition.—Section 342(5) (as redesignated by section 301(a)(4)) (20 U.S.C. 1132c–1(5)) is amended—

(1) by redesignating subparagraphs (B), (C), and (D) as subparagraphs (C), (F), and (G);

(2) by inserting after subparagraph (A) the following:

"(B) a facility for the administration of an educational program, or a student center or student union, except that not more than 5 percent of the loan proceeds provided under this part may be used for the facility, center or union if the facility, center or union is owned, leased, managed, or operated by a private business, that, in return for such use, makes a payment to the eligible institution;";

(3) by inserting after subparagraph (C) (as redesignated by paragraph (1)) the following:

"(D) a maintenance, storage, or utility facility that is essential to the operation of a facility, a library, a dormitory, equipment, instrumentation, a fixture, real property or an interest therein, described in this paragraph;

"(E) a facility designed to provide primarily outpatient health care for students or faculty;"; and

(4) in subparagraph (G) (as redesignated by paragraph (2)), by striking "(C)" and inserting "(F)".

(b) Full Faith and Credit.—Section 343 (as redesignated by section 301(a)(4)) (20 U.S.C. 1132c–2) is amended by adding at the end the following:

"(e) Notwithstanding any other provision of law, the Secretary may sell a qualified bond guaranteed under this part to any party that offers terms that the Secretary determines are in the best interest of the eligible institution.".

SEC. 307. MINORITY SCIENCE AND ENGINEERING IMPROVEMENT PROGRAM.

(a) Minority Science Improvement Program Findings.—Subpart 1 of part E of title III (as redesignated by paragraphs (6) and (7) of section 301) (20 U.S.C. 1135b et seq.) is amended by inserting after the subpart heading the following:

"SEC. 350. FINDINGS.

"Congress makes the following findings:

"(1) It is incumbent on the Federal Government to support the technological and economic competitiveness of the United States by improving and expanding the scientific and technological capacity of the United States. More and better prepared scientists, engineers, and technical experts are needed to improve and expand such capacity.

"(2) As the Nation's population becomes more diverse, it is important that the educational and training needs of all Americans are met. Underrepresentation of minorities in science and technological fields diminishes our Nation's competitiveness by impairing the quantity of well prepared scientists, engineers, and technical experts in these fields.

"(3) Despite significant limitations in resources, minority institutions provide an important educational opportunity for minority students, particularly in science and engineering fields. Aid to minority institutions is a good way to address the underrepresentation of minorities in science and technological fields.

"(4) There is a strong Federal interest in improving science and engineering programs at minority institutions as such programs lag behind in program offerings and in student enrollment compared to such programs at other institutions of higher education.".

(b) DEFINITIONS.—Section 365(4) (as redesignated by section 301(a)(7)) (20 U.S.C. 1135d–5(4)) is amended by inserting "behavioral," after "physical,".

SEC. 308. GENERAL PROVISIONS.

(a) APPLICATIONS.—Paragraph (1) of section 391(b) (as redesignated by section 301(a)(2)) (20 U.S.C. 1066(b)) is amended by inserting ", D or E" after "part C".

(b) APPLICATION REVIEW PROCESS.—Section 393 (as redesignated by section 301(a)(2)) (20 U.S.C. 1068) is amended by adding at the end the following:

"(d) EXCLUSION.—The provisions of this section shall not apply to applications submitted under part D.".

(c) WAIVERS.—Paragraph (2) of section 395(b) (as redesignated by section 301(a)(2)) (20 U.S.C. 1069b(b)) is amended by striking "title IV, VII, or VIII" and inserting "part D or title IV".

(d) AUTHORIZATION OF APPROPRIATIONS.—Section 398(a) (as redesignated by section 301(a)(2)) (20 U.S.C. 1069f) is amended—

(1) in paragraph (1)—

(A) in subparagraph (A), by striking "1993" and inserting "1999";

(B) in subparagraph (B)—

(i) in clause (i), by striking "$45,000,000 for fiscal year 1993" and inserting "$5,000,000 for fiscal year 1999";

(ii) by striking clause (ii); and

(iii) by striking "(B)(i) There" and inserting "(B) There"; and

(C) by adding at the end the following:

"(C) There are authorized to be appropriated to carry out section 317, $5,000,000 for fiscal year 1999 and such sums as may be necessary for each of the 4 succeeding fiscal years.";

(2) in paragraph (2)—

(A) in subparagraph (A), by striking "1993" and inserting "1999"; and

(B) in subparagraph (B), by striking "$20,000,000 for fiscal year 1993" and inserting "$30,000,000 for fiscal year 1999";

(3) in paragraph (3), by striking "$50,000,000 for fiscal year 1993" and inserting "$10,000,000 for fiscal year 1999"; and

(4) by adding at the end the following:

"(4) PART D.—There are authorized to be appropriated to carry out part D, $110,000 for fiscal year 1999, and such sums as may be necessary for each of the 4 succeeding fiscal years.

"(5) PART E.—There are authorized to be appropriated to carry out part E, $10,000,000 for fiscal year 1999, and such sums as may be necessary for each of the 4 succeeding fiscal years.".

TITLE IV—STUDENT ASSISTANCE

PART A—GRANTS TO STUDENTS IN ATTENDANCE AT INSTITUTIONS OF HIGHER EDUCATION

SEC. 411. REPEALS AND REDESIGNATIONS.

Part A of title IV (20 U.S.C. 1070 et seq.) is amended—

(1) in subpart 2 (20 U.S.C. 1070a–11), by repealing chapters 3 through 8 (20 U.S.C. 1070a–31 et seq. and 1070a–81 et seq.); and

(2) by repealing subpart 8 (20 U.S.C. 1070f).

SEC. 412. FEDERAL PELL GRANTS.

(a) AMENDMENT TO SUBPART HEADING.—The heading for subpart 1 of part A of title IV (20 U.S.C. 1070a et seq.) is amended by striking "**Basic Educational Opportunity Grants**" and inserting "**Federal Pell Grants**".

(b) FEDERAL PELL GRANTS.—Section 401 (20 U.S.C. 1070a) is amended—

(1) in the section heading, by striking "**BASIC EDUCATIONAL OPPORTUNITY GRANTS**" and inserting "**FEDERAL PELL GRANTS**";

(2) in subsection (a)(1)—

(A) in the first sentence, by striking "shall, during the period beginning July 1, 1972, and ending September 30, 1998," and inserting ", for each fiscal year through fiscal year 2004, shall"; and

(B) in the second sentence, by inserting "until such time as the Secretary determines and publishes in the Federal Register with an opportunity for comment, an alternative payment system that provides payments to institutions in an accurate and timely manner," after "pay eligible students";

(3) in subsection (b)—

(A) in paragraph (2)(A), by striking clauses (i) through (v), and inserting the following:

"(i) $5,000 for academic year 1999–2000;

"(ii) $5,200 for academic year 2000–2001;

"(iii) $5,400 for academic year 2001–2002;

"(iv) $5,600 for academic year 2002–2003; and

"(v) $5,800 for academic year 2003–2004.";

(B) by amending paragraph (3) to read as follows:

"(3) For any academic year for which an appropriation Act provides a maximum basic grant in an amount in excess of $2,400, the amount of a student's basic grant shall equal $2,400 plus—

"(A) one-half of the amount by which such maximum basic grant exceeds $2,400; plus

"(B) the lesser of—

"(i) the remaining one-half of such excess; or

"(ii) the sum of the student's tuition, fees, and if the student has dependent care expenses (as described in section 472(8) or disability-related expenses (as described in section 472(9)), an allowance determined by the institution for such expenses.";

(C) in paragraph (5), by striking "$400, except" and all that follows through "grant of $400" and insert "$200"; and

(D) in paragraph (6)—

(i) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(ii) by inserting "(A)" after the paragraph designation; and

(iii) by adding at the end the following:

"(B) The Secretary shall promulgate regulations implementing this paragraph."; and

(4) in subsection (c)—

(A) by amending paragraph (1) to read as follows: "(1)(A) Except as provided in subparagraph (B), the period during which a student may receive a basic grant shall be the period, required for the completion of the first undergraduate baccalaureate course of study pursued by the student at the institution at which the student is in attendance, that does not exceed 150 percent of the period normally required by a full-time student (or the equivalent period, in the case of a part-time student) to complete the course of study at the institution, as determined by the institution.

"(B)(i) A student may receive basic grants under this subpart for a period that exceeds the period described in subparagraph (A) or clause (ii) to the extent the institution in which the student is enrolled determines necessary to accommodate the rights of students with disabilities under section 504 of the Rehabilitation Act of 1973.

"(ii) Notwithstanding subsection (a)(1), the Secretary may allow, on a case-by-case basis, a student to receive a basic grant if the student—

"(I) is carrying at least ½ the normal full-time work load for the course of study the student is pursuing, as determined by the institution of higher education; and

"(II) is enrolled or accepted for enrollment in a postbaccalaureate program that does not lead to a graduate degree, and in courses required by a State in order for the student to receive a professional certification or licensing credential that is required for employment as a teacher in an elementary school or secondary school in that State,

except that this subparagraph shall not apply to a student who is enrolled in an institution of higher education that offers a baccalaureate degree in education."; and

(B) in paragraph (2)—

(i) by striking "Nothing" and inserting "(A) Except as provided in subparagraph (B), nothing";

(ii) by striking "or, in the case" and all that follows through "or skills"; and

(iii) by adding at the end the following:

"(B)(i) A student may receive a basic grant to attend English language instruction that is a separate course of instruction only if—

"(I) not less than a minimum percentage of the students enrolled in the course complete the course;

"(II) students enrolled in the course are required to take an independently administered standardized test of English language proficiency upon completion of the course; and

"(III) not less than a minimum percentage of the students enrolled in the course achieve a passing score on that test.

"(ii) The Secretary shall promulgate regulations that specify the minimum percentage of students who complete the course of instruction, 1 or more standardized tests of English proficiency, the minimum percentage of students who must achieve a passing score on the tests, and such other requirements as the Secretary determines are necessary to implement clause (i).".

SEC. 413. TRIO PROGRAMS.

(a) PROGRAM AUTHORITY.—Section 402A (20 U.S.C. 1070a–11) is amended—

(1) in subsection (b)(3)—

(A) in subparagraph (A), by striking "$170,000 for fiscal year 1993" and inserting "$190,000 for each fiscal year";

(B) in subparagraph (B), by striking "$180,000 for fiscal year 1994" and inserting "$200,000 for each fiscal year"; and

(C) in subparagraph (C), by striking "$190,000 for fiscal year 1995" and inserting "$210,000 for each fiscal year";

(2) in subsection (c)(6), by amending the last sentence to read as follows: "The Secretary shall permit a Director of a program assisted under this chapter to also administer 1 or more additional programs for disadvantaged students operated by the sponsoring entity regardless of the funding source of such additional program.";

(3) in subsection (f), by striking "$650,000,000 for fiscal year 1993" and inserting "$700,000,000 for fiscal year 1999"; and

(4) in subsection (g), by adding at the end the following:

"(4) WAIVER.—The Secretary may waive the service requirements in subparagraph (A) or (B) of paragraph (3) if the Secretary determines the application of the service requirements to a veteran will defeat the purpose of a program under this chapter.".

(b) TALENT SEARCH.—(1) AMENDMENT TO SECTION 402B(b)(5).—Section 402B(b)(5) (20 U.S.C. 1070a–12(b)(5)) is amended by inserting ", or activities designed to acquaint individuals from disadvantaged backgrounds with careers in which the individuals are particularly underrepresented" before the semicolon.

(2) AMENDMENT TO SECTION 402B(b)(9).—Section 402B(b)(9) (20 U.S.C. 1070a–12(b)(9)) is amended by inserting "or counselors" after "teachers".

(c) UPWARD BOUND.—Section 402C (20 U.S.C. 1070a–13) is amended—

(1) in subsection (b)—

(A) in paragraph (9)—

(i) by inserting "or counselors" after "teachers"; and

(ii) by striking "and" after the semicolon;

(B) by redesignating paragraph (10) as paragraph (11);

(C) by inserting after paragraph (9) the following:

"(10) work-study positions where youth participating in the project are exposed to careers requiring a postsecondary degree; and"; and

(D) in paragraph (11) (as redesignated by subparagraph (B)), by striking "(9)" and inserting "(10)"; and

(2) in subsection (e), by striking "and not in excess of $40 per month during the remaining period of the year." and inserting "except that youth participating in a work-study position under subsection (b)(10) may be paid a stipend of $300 per month during June, July, and August. Youths participating in a project proposed to be carried out under any application may be paid stipends not in excess of $40 per month during the remaining period of the year.".

(d) Student Support Services.—Paragraph (6) of section 402D(c) (20 U.S.C. 1070a–14(c)(6)) is amended to read as follows:

"(6) consider, in addition to such other criteria as the Secretary may prescribe, the institution's effort, and where applicable past history, in—

"(A) providing sufficient financial assistance to meet the full financial need of each student at the institution; and

"(B) maintaining the loan burden of each such student at a manageable level.".

(e) Staff Development Activities.—Section 402G(a) (20 U.S.C. 1070a–17(a)) is amended by inserting "participating in," after "leadership personnel employed in,".

(f) Evaluation and Dissemination.—Section 402H (20 U.S.C. 1070a–18) is amended to read as follows:

"SEC. 402H. EVALUATIONS AND GRANTS FOR PROJECT IMPROVEMENT AND DISSEMINATION PARTNERSHIP PROJECTS.

"(a) Evaluations.—

"(1) In general.—For the purpose of improving the effectiveness of the programs and projects assisted under this subpart, the Secretary may make grants to or enter into contracts with institutions of higher education and other public and private institutions and organizations to evaluate the effectiveness of the programs and projects assisted under this subpart.

"(2) Practices.—The evaluations described in paragraph (1) shall identify institutional, community, and program or project practices that are particularly effective in enhancing the access of low-income individuals and first-generation college students to postsecondary education, the preparation of the individuals and students for postsecondary education, and the success of the individuals and students in postsecondary education.

"(b) Grants.—The Secretary may award grants to institutions of higher education or other private and public institutions and organizations, that are carrying out a program or project assisted under this subpart prior to the date of enactment of the Higher Education Amendments of 1998, to enable the institutions and organizations to expand and leverage the success of such programs or projects by working in partnership with other institutions, community-based organizations, or combinations of such institutions and organizations, that are not receiving assistance under this subpart and are serving low-income students and first generation college students, in order to—

"(1) disseminate and replicate best practices of programs or projects assisted under this subpart; and

"(2) provide technical assistance regarding programs and projects assisted under this subpart.

"(c) Results.—In order to improve overall program or project effectiveness, the results of evaluations and grants described in this section shall be disseminated by the Secretary to similar programs or projects assisted under this subpart, as well as other individuals concerned with postsecondary access for and retention of low-income individuals and first-generation college students.".

SEC. 414. CONNECTIONS PROGRAM.

Chapter 2 of subpart 2 of part A of title IV (20 U.S.C. 1070a–21 et seq.) is amended to read as follows:

"CHAPTER 2—CONNECTIONS PROGRAM

"SEC. 404A. EARLY INTERVENTION AND COLLEGE AWARENESS PROGRAM AUTHORIZED.

"(a) In General.—The Secretary is authorized, in accordance with the requirements of this chapter, to establish a program that—

"(1) encourages eligible entities to provide or maintain a guarantee to eligible low-income students who obtain a secondary school diploma (or its recognized equivalent), of the financial assistance necessary to permit the students to attend an institution of higher education; and

"(2) supports eligible entities in providing—

"(A) additional counseling, mentoring, academic support, outreach, and supportive services to elementary, middle, and secondary school students who are at risk of dropping out of school; and

"(B) information to students and their parents about the advantages of obtaining a postsecondary education and their college financing options.

"(b) Awards.—

"(1) In general.—The Secretary may award grants to eligible entities to carry out the program authorized under subsection (a).

"(2) Priority.—In making the awards described in paragraph (1), the Secretary shall—

"(A) give priority to eligible entities that—

"(i) carried out, prior to the date of enactment of the Higher Education Amendments of 1998, successful educational opportunity programs; and

"(ii) have a prior, demonstrated commitment to early intervention leading to college access through collaboration and replication of successful strategies; and

"(B) ensure that students served under this chapter prior to the date of enactment of the Higher Education Amendments of 1998 continue to receive service through the completion of secondary school.

"(c) Definitions.—For the purposes of this chapter, the term 'eligible entity' means—

"(1) a State; or

"(2) a partnership consisting of—

"(A) 1 or more local educational agencies acting on behalf of—

"(i) 1 or more public schools; and

"(ii) the public secondary schools that students from the schools described in clause (i) would normally attend;

"(B) 1 or more degree granting institutions of higher education; and

"(C) at least 2 community organizations or entities, such as businesses, professional associations, community-based organizations, philanthropic organizations, State agencies, institutions or agencies sponsoring programs authorized under subpart 4, or other public or private agencies or organizations.

"(d) Coordination.—Each eligible entity shall ensure that the activities assisted under this chapter are, to the extent practicable, coordinated with, and complement and enhance—

"(1) services under this chapter provided by other eligible entities serving the same school district or State; and

"(2) related services under other Federal or non-Federal programs.

"SEC. 404B. ELIGIBILITY ENTITY PLANS.

"(a) Plan Required for Eligibility.—

"(1) In general.—In order for an eligible entity to qualify for a grant under this chapter, the eligible entity shall submit to the Secretary a plan for carrying out the program under this chapter. Such plan shall provide for the conduct of both a scholarship component in accordance with section 404D and an early intervention component in accordance with section 404C.

"(2) Contents.—Each plan submitted pursuant to paragraph (1) shall be in such form, contain or be accompanied by such information or assurances, and be submitted at such time as the Secretary may require by regulation. Each such plan shall—

"(A) describe the activities for which assistance under this chapter is sought; and

"(B) provide such additional assurances as the Secretary determines necessary to ensure compliance with the requirements of this chapter.

"(b) Matching Requirement.—

"(1) In general.—The Secretary shall not approve a plan submitted under subsection (a) unless such plan—

"(A) provides that the eligible entity will provide, from State, local, institutional, or private funds, not less than ½ the cost of the program, which matching funds may be provided in cash or in kind;

"(B) specifies the methods by which such share of the costs will be paid; and

"(C) includes provisions designed to ensure that funds provided under this chapter shall supplement and not supplant funds expended for existing programs.

"(2) Special rule.—The Secretary may change the share of the costs required to be provided under paragraph (1)(A) for eligible entities defined in section 402A(c)(2).

"(c) Methods for Complying With Matching Requirement.—An eligible entity may count toward the share of the costs required by subsection (b)(1)(A)—

"(1) the amount of the grants paid to students from State, local, institutional, or private funds under this chapter;

"(2) the amount of tuition, fees, room or board waived or reduced for recipients of grants under this chapter; and

"(3) the amount expended on documented, targeted, long-term mentoring and counseling provided by volunteers or paid staff of nonschool organizations, including businesses, religious organizations, community groups, postsecondary educational institutions, nonprofit and philanthropic organizations, and other organizations.

"(d) Cohort Approach.—

"(1) In general.—The Secretary may require that eligible entities—

"(A) provide services under this chapter to at least 1 grade level of students, beginning not later than 7th grade, in a participating public school that has a 7th grade and in which at least 50 percent of the students enrolled are eligible for free or reduced-price lunch (or, if an eligible entity determines that it would promote the effectiveness of a project, an entire grade level of students, beginning not later than the 7th grade, who reside in public housing as defined in section 3(b)(1) of the United States Housing Act of 1937); and

"(B) ensure that the services are provided through the 12th grade to students in the participating grade level.

"(2) Coordination requirement.—In order for the Secretary to require the cohort approach described in paragraph (1), the Secretary shall, where applicable, ensure that the cohort approach is done in coordination and collaboration with existing early intervention programs and does not duplicate the services already provided to a school or community.

"SEC. 404C. EARLY INTERVENTION.

"(a) Services.—

"(1) In order to receive a grant under this chapter, an eligible entity shall demonstrate to the satisfaction of the Secretary, in the plan submitted under section 404B, that the eligible entity will provide comprehensive mentoring, counseling, outreach, and supportive services to students participating in programs under this chapter who are enrolled in any of the grades preschool through grade 12. Such counseling shall include financial aid counseling that provides—

"(A) information regarding the opportunities for financial assistance under this title; and

"(B) activities or information regarding—

"(i) fostering and improving parent involvement in promoting postsecondary information regarding the advantages of a college education, academic admission requirements, and the need to take college preparation courses;

"(ii) admissions and achievement tests; and

"(iii) application procedures.

"(2) METHODS.—The eligible entity shall demonstrate in such plan, pursuant to regulations of the Secretary, the methods by which the eligible entity will target services on priority students.

"(b) USES OF FUNDS.—

"(1) IN GENERAL.—The Secretary shall, by regulation, establish criteria for determining whether comprehensive mentoring, counseling, outreach, and supportive services programs may be used to meet the requirements of subsection (a).

"(2) ALLOWABLE PROVIDERS.—For those eligible entities defined in section 404A(c)(1), the activities required by subsection (a) may be provided by service providers such as community-based organizations, schools, institutions of higher education, public and private agencies, nonprofit and philanthropic organizations, businesses, institutions and agencies sponsoring programs authorized under subpart 4 of this part, and other organizations the State deems appropriate.

"(3) PERMISSIBLE ACTIVITIES.—Examples of activities that meet the requirements of subsection (a) include the following:

"(A) Providing eligible students in preschool through grade 12 with a continuing system of mentoring and advising that—

"(i) is coordinated with the Federal and State community service initiatives; and

"(ii) may include such support services as after school and summer tutoring, assistance in obtaining summer jobs, career mentoring, and academic counseling.

"(B) Requiring each student to enter into an agreement under which the student agrees to achieve certain academic milestones, such as completing a prescribed set of courses and maintaining satisfactory academic progress described in section 484(c), in exchange for receiving tuition assistance for a period of time to be established by each State.

"(C) Activities designed to ensure secondary school completion and college enrollment of at-risk children, including identification of at-risk children, after school and summer tutoring, assistance in obtaining summer jobs, academic counseling, volunteer and parent involvement, providing former or current scholarship recipients as mentor or peer counselors, skills assessment, providing access to rigorous core courses that reflect challenging academic standards, personal counseling, family counseling and home visits, staff development, and programs and activities described in this subparagraph that are specially designed for students of limited English proficiency.

"(D) Summer programs for individuals planning to attend an institution of higher education in the next academic year that—

"(i) are carried out at an institution of higher education that also has programs of academic year supportive services for disadvantaged students through projects authorized under section 402D or through comparable projects funded by the State or other sources;

"(ii) provide for the participation of the individuals who are eligible for assistance under section 402D or who are eligible for comparable programs funded by the State;

"(iii)(I) provide summer instruction in remedial, developmental or supportive courses;

"(II) provide such summer services as counseling, tutoring, or orientation; and

"(III) provide grant aid to the individuals to cover the individuals' summer costs for books, supplies, living costs, and personal expenses; and

"(iv) provide the individuals with financial aid during each academic year the individuals are enrolled at the participating institution after the summer program.

"(E) Requiring eligible students to meet other standards or requirements as the State determines necessary to meet the purposes of this section.

"(c) PRIORITY STUDENTS.—In administering the early intervention component, the eligible entity shall treat as priority students any student in preschool through grade 12 who is eligible—

"(1) to be counted under section 1005(c) of the Elementary and Secondary Education Act of 1965;

"(2) for free or reduced price meals pursuant to the National School Lunch Act; or

"(3) for assistance pursuant to part A of title IV of the Social Security Act.

"SEC. 404D. SCHOLARSHIP COMPONENT.

"(a) IN GENERAL.—

"(1) STATES.—In order to receive a grant under this chapter, an eligible entity described in section 404A(c)(1) shall establish or maintain a financial assistance program that awards grants to students in accordance with the requirements of this section. The Secretary shall encourage the eligible entity to ensure that the tuition assistance provided pursuant to this section is available to an eligible student for use at any institution of higher education.

"(2) PARTNERSHIPS.—An eligible entity described in section 404A(c)(2) may award scholarships to eligible students.

"(b) GRANT AMOUNTS.—The maximum amount of the grant that an eligible student shall be eligible to receive under this section shall be established by the State. The minimum amount of the grant for each fiscal year shall not be less than the lesser of—

"(1) 75 percent of the average cost of attendance for an in-State student, in a 4-year program of instruction, at public institutions of higher education in such State, as determined in accordance with regulations prescribed by the Secretary; or

"(2) the maximum Federal Pell Grant funded under section 401 for such fiscal year.

"(c) RELATION TO OTHER ASSISTANCE.—Tuition assistance provided under this chapter shall not be considered for the purpose of awarding Federal grant assistance under this title, except that in no case shall the total amount of student financial assistance awarded to a student under this title exceed such student's total cost of attendance.

"(d) ELIGIBLE STUDENTS.—A student eligible for assistance under this section is a student who—

"(1) is less than 22 years old at time of first grant award under this section;

"(2) receives a secondary school diploma or its recognized equivalent on or after January 1, 1993;

"(3) is enrolled or accepted for enrollment in a program of undergraduate instruction at an institution of higher education that is located within the State's boundaries, except that, at the State's option, an eligible entity may offer grant program portability for recipients who attend institutions of higher education outside such State; and

"(4) who participated in the early intervention component required under section 404C.

"(e) PRIORITY.—The Secretary shall ensure that each eligible entity places a priority on awarding scholarships to students who will receive a Federal Pell Grant for the academic year for which the scholarship is awarded under this section.

"(f) SPECIAL RULE.—An eligible entity may consider students who have successfully participated in programs funded under chapter 1 of this subpart to have met the requirements of subsection (d)(4).

"SEC. 404E. 21ST CENTURY SCHOLAR CERTIFICATES.

"(a) AUTHORITY.—The Secretary, using funds appropriated under section 404G, not to exceed $200,000 annually—

"(1) shall ensure that certificates, to be known as 21st Century Scholar Certificates, are provided to all students participating in programs under this chapter; and

"(2) may, as practicable, ensure that such certificates are provided to all students in grades 6 through 12 who attend schools at which at least 50 percent of the students enrolled are eligible for a free or reduced price lunch.

"(b) INFORMATION REQUIRED.—A 21st Century Scholar Certificate shall be personalized for each student and indicate the amount of Federal financial aid for college which a student may be eligible to receive.

"SEC. 404F. EVALUATION AND REPORT.

"(a) EVALUATION.—Each eligible entity receiving a grant under this chapter shall biennially evaluate the early intervention program assisted under this chapter in accordance with the standards described in subsection (b) and shall submit to the Secretary a copy of such evaluation. The evaluation shall permit service providers to track eligible student progress during the period such students are participating in the program assisted under this section and shall be consistent with the standards developed by the Secretary pursuant to subsection (b).

"(b) EVALUATION STANDARDS.—The Secretary shall prescribe standards for the evaluation described in subsection (a). Such standards shall—

"(1) provide for input from eligible entities and service providers; and

"(2) ensure that data protocols and procedures are consistent and uniform.

"(c) FEDERAL EVALUATION.—In order to evaluate and improve the impact of the program assisted under this chapter, the Secretary shall, with funds appropriated under section 404G, make grants to, and enter into contracts and cooperative agreements with public and private institutions and organizations, to evaluate the effectiveness of the program and, as appropriate, disseminate the results of the evaluation.

"(d) REPORT.—The Secretary shall biennially report to Congress on the activities assisted under this chapter and the evaluations conducted pursuant to this section.

"SEC. 404G. APPROPRIATIONS.

"There are authorized to be appropriated to carry out this chapter $200,000,000 for fiscal year 1999 and such sums as may be necessary for each of the 4 succeeding fiscal years.".

SEC. 415. FEDERAL SUPPLEMENTAL EDUCATIONAL OPPORTUNITY GRANTS.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 413A(b) (20 U.S.C. 1070b) is amended by striking "$675,000,000 for fiscal year 1993" and inserting "$700,000,000 for fiscal year 1999".

(b) USE OF FUNDS FOR LESS-THAN-FULL-TIME STUDENTS.—Subsection (d) of section 413C (20 U.S.C. 1070b–2) is amended to read as follows:

"(d) USE OF FUNDS FOR LESS-THAN-FULL-TIME STUDENTS.—If the institution's allocation under this subpart is directly or indirectly based in part on the financial need demonstrated by students who are independent students or attending the institution on less than a full-time basis, a reasonable proportion of the allocation shall be made available to such students.".

(c) CARRYOVER, CARRYBACK, AND REALLOCATION.—Subpart 3 of part A of title IV (20 U.S.C. 1070b et seq.) is amended by adding at the end the following:

"SEC. 413E. CARRYOVER, CARRYBACK, AND REALLOCATION.

"(a) CARRYOVER AUTHORITY.—Of the sums made available to an eligible institution under this subpart for a fiscal year, not more than 10 percent may, at the discretion of the institution, remain available for expenditure during the succeeding fiscal year to carry out the program under this subpart.

"(b) CARRYBACK AUTHORITY.—Of the sums made available to an eligible institution under this subpart for a fiscal year, not more than 10 percent may, at the discretion of the institution, be used by the institution for expenditure for the fiscal year preceding the fiscal year for which the sums were appropriated.

"(c) REALLOCATION.—Any of the sums made available to an eligible institution under this subpart for a fiscal year that are not needed by the institution to award supplemental grants during that fiscal year, that the institution does not wish to use during the succeeding fiscal year as authorized in subsection (a), and that the institution does not wish to use for the preceding fiscal year as authorized in subsection (b), shall be made available to the Secretary for reallocation under section 413D(e) until the end of the second fiscal year after the fiscal year for which such sums were appropriated.".

SEC. 416. LEVERAGING EDUCATIONAL ASSISTANCE PARTNERSHIP PROGRAM.

(a) AMENDMENT TO SUBPART HEADING.—

(1) IN GENERAL.—The heading for subpart 4 of part A of title IV (20 U.S.C. 1070c et seq.) is amended to read as follows:

"SUBPART 4—LEVERAGING EDUCATIONAL ASSISTANCE PARTNERSHIP PROGRAM".

(2) CONFORMING AMENDMENTS.—Subpart 4 of part A of title IV (20 U.S.C. 1070c et seq.) is amended—

(A) in section 415B(b) (20 U.S.C. 1070c–1(b)), by striking "State student grant incentive" and inserting "leveraging educational assistance partnership"; and

(B) in the heading for section 415C (20 U.S.C. 1070c–2), by striking ***"STATE STUDENT INCENTIVE GRANT"*** *and inserting* ***"LEVERAGING EDUCATIONAL ASSISTANCE PARTNERSHIP".***

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 415A(b) (20 U.S.C. 1070c(b)) is amended—

(1) in paragraph (1), by striking "1993" and inserting "1999";

(2) by redesignating paragraph (2) as paragraph (3); and

(3) by inserting after paragraph (1) the following:

"(2) RESERVATION.—For any fiscal year for which the amount appropriated under paragraph (1) exceeds $35,000,000, the excess shall be available to carry out section 415E.".

(c) SPECIAL LEVERAGING EDUCATIONAL ASSISTANCE PARTNERSHIP PROGRAM.—Subpart 4 of part A of title IV (20 U.S.C. 1070c et seq.) is amended—

(1) by redesignating section 415E as 415F;

(2) by inserting after section 415D the following:

"SEC. 415E. SPECIAL LEVERAGING EDUCATIONAL ASSISTANCE PARTNERSHIP PROGRAM.

"(a) IN GENERAL.—From amounts reserved under section 415A(b)(2) for each fiscal year, the Secretary shall—

"(1) make allotments among States in the same manner as the Secretary makes allotments among States under section 415B; and

"(2) award grants to States, from allotments under paragraph (1), to enable the States to pay the Federal share of the cost of the authorized activities described in subsection (c).

"(b) APPLICABILITY RULE.—The provisions of this subpart which are not inconsistent with this section shall apply to the program authorized by this section.

"(c) AUTHORIZED ACTIVITIES.—Each State receiving a grant under this section may use the grant funds for—

"(1) increasing the dollar amount of grants awarded under section 415B to eligible students who demonstrate financial need;

"(2) carrying out transition programs from secondary school to postsecondary education for eligible students who demonstrate financial need;

"(3) making funds available for community service work-study activities for eligible students who demonstrate financial need;

"(4) creating a postsecondary scholarship program for eligible students who demonstrate financial need and wish to enter teaching;

"(5) creating a scholarship program for eligible students who demonstrate financial need and wish to enter a program of study leading to a degree in mathematics, computer science, or engineering;

"(6) carrying out early intervention programs, mentoring programs, and career education programs for eligible students who demonstrate financial need; and

"(7) awarding merit or academic scholarships to eligible students who demonstrate financial need.

"(d) MAINTENANCE OF EFFORT REQUIREMENT.—Each State receiving a grant under this section for a fiscal year shall provide the Secretary an assurance that the aggregate amount expended per student or the aggregate expenditures by the State, from funds derived from non-Federal sources, for the authorized activities described in subsection (c) for the preceding fiscal year were not less than the amount expended per student or the aggregate expenditures by the State for the activities for the second preceding fiscal year.

"(e) FEDERAL SHARE.—The Federal share of the cost of the authorized activities described in subsection (c) for any fiscal year shall be 33⅓ percent."; and

(3) by adding at the end the following:

"SEC. 415G. FEDERAL-STATE RELATIONSHIPS; STATE AGREEMENTS.

"(a) IN GENERAL.—Any State that desires to receive assistance under this subpart shall enter into an agreement with the Secretary pursuant to subsection (b) setting forth the terms and conditions for the relationship between the Federal Government and that State for the purposes set forth under this subpart.

"(b) CONTENTS.—

"(1) IN GENERAL.—Such agreement shall consist of assurances by the State, including a description of the means to be used by the State to fulfill the assurances, that—

"(A) the State will provide for such methods of administration as are necessary for the proper and efficient administration of the program under this subpart in keeping with the purposes set forth under this subpart;

"(B) the State will provide for such fiscal control and fund accounting procedures as may be necessary to ensure proper disbursement of, and accounting for, Federal funds paid to the State under this subpart;

"(C) the State will follow policies and practices of administration that will ensure that non-Federal funds will not be supplanted by Federal funds, and that equitable and appropriate criteria will be used in evaluation of applications or proposals for grants under this subpart; and

"(D) the State has a comprehensive planning or policy formulation process that—

"(i) considers the relation between State administration of the program under this subpart, and administration of similar State programs or processes;

"(ii) encourages State policies designed to consider effects on declining enrollments on all sectors of postsecondary education in the State;

"(iii) considers the postsecondary education needs of unserved and underserved individuals within the State, including individuals beyond the traditional college age;

"(iv) considers the resources of institutions, organizations, or agencies (both public and private) within the State capable of providing postsecondary educational opportunities in the State; and

"(v) provides for direct, equitable, and active participation in the comprehensive planning or policy formulation process or processes of representatives of institutions of higher education (including community colleges, proprietary institutions, and independent colleges and universities), students, other providers of postsecondary education services, and the general public in the State.

"(2) SPECIAL RULE.—Participation under paragraph (1)(D)(v) shall, consistent with State law, be achieved through membership on State planning commissions, State advisory councils, or other State entities established by the State to conduct federally assisted comprehensive planning or policy formulation.

"(c) SPECIAL RULE.—The information and assurances provided by a State in accordance with subparagraphs (A), (B), and (C) of subsection (b)(1), and regulations issued by the Secretary related directly to such assurances, shall be satisfactory for the purposes of, and shall be considered in lieu of, any comparable requirements for information and assurances in any program under this subpart.

"(d) AGREEMENT DURATION; COMPLIANCE.—

"(1) AGREEMENT DURATION.—An agreement of a State shall remain in effect subject to modification as changes in information or circumstances require.

"(2) COMPLIANCE.—Whenever the Secretary, after reasonable notice and opportunity for a hearing has been given to the State, finds that there is a failure to comply substantially with the assurances required in subparagraph (A), (B), or (C) of subsection (b)(1), the Secretary shall notify the State that the State is no longer eligible to participate in the program under this subpart until the Secretary is satisfied that there is no longer any such failure to comply.

"(e) SPECIAL RULES.—

"(1) ENTITIES ENTERING INTO AGREEMENTS.—For the purpose of this section, the selection of the State entity or entities authorized to act on behalf of the State for the purpose of entering into an agreement with the Secretary shall be in accordance with the State law of each individual State with respect to the authority to make legal agreements between the State and the Federal Government.

"(2) CONSTRUCTION.—

"(A) STATE STRUCTURE.—Nothing in this section shall be construed to authorize the Secretary to require any State to adopt, as a condition for entering into an agreement, or for participation in a program under this subpart, a specific State organizational structure for achieving participation in the planning, or administration of programs, or for statewide planning, coordination, governing, regulating, or administering of postsecondary education agencies, institutions, or programs in the State.

"(B) STATE AUTHORITY.—Nothing in this section shall be construed as a limitation on the authority of any State to adopt a State organizational structure for postsecondary education agencies, institutions, or programs that is appropriate to the needs, traditions, and circumstances of that State, or as a limitation on the authority of a State entering into an agreement pursuant to this section to modify the

State organizational structure at any time subsequent to entering into such an agreement.''.

(d) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) PURPOSE.—Subsection (a) of section 415A (20 U.S.C. 1070c(a)) is amended to read as follows:

''(a) PURPOSE OF SUBPART.—It is the purpose of this subpart to make incentive grants available to States to assist States in—

''(1) providing grants to—

''(A) eligible students attending institutions of higher education or participating in programs of study abroad that are approved for credit by institutions of higher education at which such students are enrolled; and

''(B) eligible students for campus-based community service work-study; and

''(2) carrying out the activities described in section 415F.''.

(2) ALLOTMENT.—Section 415B(a)(1) (20 U.S.C. 1070c–1(a)(1)) is amended by inserting ''and not reserved under section 415A(b)(2)'' after ''415A(b)(1)''.

SEC. 417. HEP AND CAMP.

Section 418A(g) (20 U.S.C. 1070d–2(g)) is amended—

(1) in paragraph (1), by striking ''$15,000,000 for fiscal year 1993'' and inserting ''$25,000,000 for fiscal year 1999''; and

(2) in paragraph (2), by striking ''$5,000,000 for fiscal year 1993'' and inserting ''$10,000,000 for fiscal year 1999''.

SEC. 418. ROBERT C. BYRD HONORS SCHOLARSHIP PROGRAM.

Section 419K (20 U.S.C. 1070d–41) is amended by striking ''$10,000,000 for fiscal year 1993'' and inserting ''$45,000,000 for fiscal year 1999''.

SEC. 419. CHILD CARE ACCESS MEANS PARENTS IN SCHOOL.

Part A of title IV (20 U.S.C. 1070 et seq.) is amended by inserting after subpart 6 (20 U.S.C. 1070d–31 et seq.) the following:

''Subpart 7—Child Care Access Means Parents in School

''SEC. 419N. CHILD CARE ACCESS MEANS PARENTS IN SCHOOL.

''(a) PURPOSE.—The purpose of this section is to support the participation of low-income parents in postsecondary education through the provision of campus-based child care services.

''(b) PROGRAM AUTHORIZED.—

''(1) AUTHORITY.—The Secretary may award grants to institutions of higher education to assist the institutions in providing campus-based child care services primarily to low-income students.

''(2) AMOUNT OF GRANTS.—

''(A) IN GENERAL.—The amount of a grant awarded to an institution of higher education under this section for a fiscal year shall not exceed 1 percent of the total amount of all Federal Pell Grant funds awarded to students enrolled at the institution of higher education for the preceding fiscal year.

''(B) MINIMUM.—A grant under this section shall be awarded in an amount that is not less than $10,000.

''(3) DURATION; RENEWAL; AND PAYMENTS.—

''(A) DURATION.—The Secretary shall award a grant under this section for a period of 3 years.

''(B) RENEWAL.—A grant under this section may be renewed for a period of 3 years.

''(C) PAYMENTS.—Subject to subsection (e)(2), the Secretary shall make annual grant payments under this section.

''(4) ELIGIBLE INSTITUTIONS.—An institution of higher education shall be eligible to receive a grant under this section for a fiscal year if the total amount of all Federal Pell Grant funds awarded to students enrolled at the institution of higher education for the preceding fiscal year equals or exceeds $350,000.

''(5) USE OF FUNDS.—Grant funds under this section shall be used by an institution of higher education to support or establish a campus-based child care program primarily serving the needs of low-income students enrolled at the institution of higher education. Grant funds under this section may be used to provide before and after school services to the extent necessary to enable low-income students enrolled at the institution of higher education to pursue postsecondary education.

''(6) CONSTRUCTION.—Nothing in this section shall be construed to prohibit an institution of higher education that receives grant funds under this section from serving the child care needs of the community served by the institution.

''(7) DEFINITION OF LOW-INCOME STUDENT.—For the purpose of this section, the term ''low-income student'' means a student who is eligible to receive a Federal Pell Grant for the fiscal year for which the determination is made.

''(c) APPLICATIONS.—An institution of higher education desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require. Each application shall—

''(1) demonstrate that the institution is an eligible institution described in subsection (b)(4);

''(2) specify the amount of funds requested;

''(3) demonstrate the need of low-income students at the institution for campus-based child care services by including in the application—

''(A) information regarding student demographics;

''(B) an assessment of child care capacity on or near campus;

''(C) information regarding the existence of waiting lists for existing child care;

''(D) information regarding additional needs created by concentrations of poverty or by geographic isolation; and

''(E) other relevant data;

''(4) contain a description of the activities to be assisted, including whether the grant funds will support an existing child care program or a new child care program;

''(5) identify the resources, including technical expertise and financial support, the institution will draw upon to support the child care program and the participation of low-income students in the program, such as accessing social services funding, using student activity fees to help pay the costs of child care, using resources obtained by meeting the needs of parents who are not low-income students, and accessing foundation, corporate or other institutional support, and demonstrate that the use of the resources will not result in increases in student tuition;

''(6) contain an assurance that the institution will meet the child care needs of low-income students through the provision of services, or through a contract for the provision of services;

''(7) describe the extent to which the child care program will coordinate with the institution's early childhood education curriculum, to the extent the curriculum is available, to meet the needs of the students in the early childhood education program at the institution, and the needs of the parents and children participating in the child care program assisted under this section;

''(8) in the case of an institution seeking assistance for a new child care program—

''(A) provide a timeline, covering the period from receipt of the grant through the provision of the child care services, delineating the specific steps the institution will take to achieve the goal of providing low-income students with child care services;

''(B) specify any measures the institution will take to assist low-income students with child care during the period before the institution provides child care services; and

''(C) include a plan for identifying resources needed for the child care services, including space in which to provide child care services, and technical assistance if necessary;

''(9) contain an assurance that any child care facility assisted under this section will meet the applicable State or local government licensing, certification, approval, or registration requirements; and

''(10) contain a plan for any child care facility assisted under this section to become accredited within 3 years of the date the institution first receives assistance under this section.

''(d) PRIORITY.—The Secretary shall give priority in awarding grants under this section to institutions of higher education that submit applications describing programs that—

''(1) leverage significant local or institutional resources, including in-kind contributions, to support the activities assisted under this section; and

''(2) utilize a sliding fee scale for child care services provided under this section in order to support a high number of low-income parents pursuing postsecondary education at the institution.

''(e) REPORTING REQUIREMENTS; CONTINUING ELIGIBILITY.—

''(1) REPORTING REQUIREMENTS.—

''(A) REPORTS.—Each institution of higher education receiving a grant under this section shall report to the Secretary 18 months, and 36 months, after receiving the first grant payment under this section.

''(B) CONTENTS.—The report shall include—

''(i) data on the population served under this section;

''(ii) information on campus and community resources and funding used to help low-income students access child care services;

''(iii) information on progress made toward accreditation of any child care facility; and

''(iv) information on the impact of the grant on the quality, availability, and affordability of campus-based child care services.

''(2) CONTINUING ELIGIBILITY.—The Secretary shall make the third annual grant payment under this section to an institution of higher education only if the Secretary determines, on the basis of the 18-month report submitted under paragraph (1), that the institution is making a good faith effort to ensure that low-income students at the institution have access to affordable, quality child care services.

''(f) CONSTRUCTION.—No funds provided under this section shall be used for construction, except for minor renovation or repair to meet applicable State or local health or safety requirements.

''(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $60,000,000 for fiscal year 1999 and such sums as may be necessary for each of the 4 succeeding fiscal years.''.

SEC. 420. LEARNING ANYTIME ANYWHERE PARTNERSHIPS.

Part A of title IV (20 U.S.C. 1070 et seq.) is amended further by adding at the end the following:

''Subpart 9—Learning Anytime Anywhere Partnerships

''SEC. 420D. FINDINGS.

''Congress makes the following findings:

''(1) The nature of postsecondary education delivery is changing, and new technology and other related innovations can provide promising education opportunities for individuals who are currently not being served, particularly for individuals without easy access to traditional campus-based postsecondary education or for whom traditional courses are a poor match with education or training needs.

"(2) Individuals, including individuals seeking basic or technical skills or their first postsecondary experience, individuals with disabilities, dislocated workers, individuals making the transition from welfare-to-work, and individuals who are limited by time and place constraints can benefit from nontraditional, noncampus-based postsecondary education opportunities and appropriate support services.

"(3) The need for high-quality, nontraditional, technology-based education opportunities is great, as is the need for skill competency credentials and other measures of educational progress and attainment that are valid and widely accepted, but neither need is likely to be adequately addressed by the uncoordinated efforts of agencies and institutions acting independently and without assistance.

"(4) Partnerships, consisting of institutions of higher education, community organizations, or other public or private agencies or organizations, can coordinate and combine institutional resources—

"(A) to provide the needed variety of education options to students; and

"(B) to develop new means of ensuring accountability and quality for innovative education methods.

"SEC. 420E. PURPOSE; PROGRAM AUTHORIZED.

"(a) PURPOSE.—It is the purpose of this subpart to enhance the delivery, quality, and accountability of postsecondary education and career-oriented lifelong learning through technology and related innovations.

"(b) PROGRAM AUTHORIZED.—

"(1) GRANTS.—

"(A) IN GENERAL.—The Secretary may, from funds appropriated under section 420J make grants to, or enter into contracts or cooperative agreements with, eligible partnerships to carry out the authorized activities described in section 420G.

"(B) DURATION.—Grants under this subpart shall be awarded for periods that do not exceed 5 years.

"(2) DEFINITION OF ELIGIBLE PARTNERSHIP.—For purposes of this subpart, the term 'eligible partnership' means a partnership consisting of 2 or more independent agencies, organizations, or institutions. The agencies, organizations, or institutions may include institutions of higher education, community organizations, and other public and private institutions, agencies, and organizations.

"SEC. 420F. APPLICATION.

"(a) REQUIREMENT.—An eligible partnership desiring to receive a grant under this subpart shall submit an application to the Secretary, in such form and containing such information, as the Secretary may require.

"(b) CONTENTS.—Each application shall include—

"(1) the name of each partner and a description of the responsibilities of the partner, including the designation of a nonprofit organization as the fiscal agent for the partnership;

"(2) a description of the need for the project, including a description of how the project will build on any existing services and activities;

"(3) a listing of human, financial (other than funds provided under this subpart), and other resources that each member of the partnership will contribute to the partnership, and a description of the efforts each member of the partnership will make in seeking additional resources; and

"(4) a description of how the project will operate, including how funds awarded under this subpart will be used to meet the purpose of this subpart.

"SEC. 420G. AUTHORIZED ACTIVITIES.

"Funds awarded to an eligible partnership under this subpart shall be used to—

"(1) develop and assess model distance learning programs or innovative educational software;

"(2) develop methodologies for the identification and measurement of skill competencies;

"(3) develop and assess innovative student support services; or

"(4) support other activities that are consistent with the purpose of this subpart.

"SEC. 420H. MATCHING REQUIREMENT.

"Federal funds shall provide not more than 50 percent of the cost of a project under this subpart. The non-Federal share of project costs may be in cash or in kind, fairly evaluated, including services, supplies, or equipment.

"SEC. 420I. PEER REVIEW.

"The Secretary shall use a peer review process to review applications under this subpart and to make recommendations for funding under this subpart to the Secretary.

"SEC. 420J. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this subpart $30,000,000 for fiscal year 1999 and such sums as may be necessary for each of the 4 succeeding fiscal years.".

PART B—FEDERAL FAMILY EDUCATION LOAN PROGRAM

SEC. 421. ADVANCES FOR RESERVE FUNDS.

Section 422 (20 U.S.C. 1072) is amended—

(1) in subsection (c)—

(A) in paragraph (6)(B)(i), by striking "written" and inserting "written, electronic"; and

(B) in paragraph (7)(A), by striking "during the transition from the Federal Family Education Loan Program under this part to the Federal Direct Student Loan Program under part D of this title";

(2) in the matter preceding subparagraph (A) of subsection (g)(1), by striking "or the program authorized by part D of this title" each place the term appears; and

(3) by adding at the end the following:

"(i) ADDITIONAL RECALL OF RESERVES FOR FISCAL YEARS 1999, 2000, 2001, AND 2002.—

"(1) IN GENERAL.—Notwithstanding any other provision of law and subject to paragraph (4), the Secretary shall recall $21,250,000 for each of the fiscal years 1999, 2000, 2001, and 2002 from reserve funds held in the Federal Student Loan Reserve Funds established under section 422A by guaranty agencies.

"(2) DEPOSIT.—Funds recalled by the Secretary under this subsection shall be deposited in the Treasury.

"(3) REQUIRED SHARE.—The Secretary shall require each guaranty agency to return reserve funds under paragraph (1) annually on the basis of ¼ of the agency's required share. For purposes of this paragraph, a guaranty agency's required share shall be determined as follows:

"(A) EQUAL PERCENTAGE.—The Secretary shall require each guaranty agency to return an equal percentage reduction in the amount of reserve funds held by the agency on September 30, 1996.

"(B) CALCULATION.—The equal percentage reduction shall be the percentage obtained by dividing—

"(i) $85,000,000, by

"(ii) the total amount of all guaranty agencies' reserve funds held on September 30, 1996.

"(C) SPECIAL RULE.—Notwithstanding subparagraphs (A) and (B), the percentage reduction under subparagraph (B) shall not result in the depletion of the reserve funds of any agency which charges the 1.0 percent insurance premium pursuant to section 428(b)(1)(H) below an amount equal to the amount of lender claim payments paid 90 days prior to the date of the return under this subsection. If any additional amount is required to be returned after deducting the total of the required shares under subparagraph (B) and as a result of the preceding sentence, such additional amount shall be obtained by imposing on each guaranty agency to which the preceding sentence does not apply, an equal percentage reduction in the amount of the agency's remaining reserve funds.

"(4) OFFSET OF REQUIRED SHARES.—If any guaranty agency returns to the Secretary any reserve funds in excess of the amount required under this subsection or subsection (h), the total amount required to be returned under paragraph (1) shall be reduced by the amount of such excess reserve funds returned.

"(5) DEFINITION OF RESERVE FUNDS.—The term 'reserve funds' when used with respect to a guaranty agency—

"(A) includes any reserve funds in cash or liquid assets held by the guaranty agency, or held by, or under the control of, any other entity; and

"(B) does not include buildings, equipment, or other nonliquid assets.

"(j) ADDITIONAL RECALL OF RESERVES ON SEPTEMBER 1, 2007.—

"(1) IN GENERAL.—Notwithstanding any other provision of law and subject to paragraph (4), the Secretary shall recall, on September 1, 2007, $165,000,000 from reserve funds held in the Federal Student Loan Reserve Funds established under section 422A by guaranty agencies.

"(2) DEPOSIT.—Funds recalled by the Secretary under this subsection shall be deposited in the Treasury.

"(3) EQUAL PERCENTAGE REDUCTION.—The Secretary shall require each guaranty agency to return reserve funds under paragraph (1) by requiring an equal percentage reduction in the amount of reserve funds held by the agency on September 30, 1996.

"(4) OFFSET OF REQUIRED SHARES.—If any guaranty agency returns to the Secretary any reserve funds in excess of the amount required under this subsection, subsection (h), or subsection (i), the total amount required to be returned under paragraph (1) shall be reduced by the amount of such excess reserve funds returned.

"(5) DEFINITION OF RESERVE FUNDS.—The term 'reserve funds' when used with respect to a guaranty agency—

"(A) includes any reserve funds in cash or liquid assets held by the guaranty agency, or held by, or under the control of, any other entity; and

"(B) does not include buildings, equipment, or other nonliquid assets.".

SEC. 422. FEDERAL STUDENT LOAN RESERVE FUND.

Part B of title IV (20 U.S.C. 1071 et seq.) is amended by inserting after section 422 (20 U.S.C. 1072) the following:

"SEC. 422A. FEDERAL STUDENT LOAN RESERVE FUND.

"(a) ESTABLISHMENT.—Each guaranty agency shall, not later than 45 days after the date of enactment of this section, deposit all funds, securities, and other liquid assets contained in the reserve fund established pursuant to section 422 into a Federal Student Loan Reserve Fund (in this section referred to as the 'Federal Fund'), in an account of a type selected by the agency, with the approval of the Secretary.

"(b) INVESTMENT OF FUNDS.—Funds transferred to the Federal Fund shall be invested in obligations issued or guaranteed by the United States or a State, or in other similarly low-risk securities selected by the guaranty agency, with the approval of the Secretary. Earnings from the Federal Fund shall be the sole property of the Federal Government.

"(c) ADDITIONAL DEPOSITS.—After the establishment of the Federal Fund, a guaranty agency shall deposit into the Federal Fund—

"(1) all amounts received from the Secretary as payment of reinsurance on loans pursuant to section 428(c)(1);

"(2) from amounts collected on behalf of the obligation of a defaulted borrower, a percentage amount equal to the complement of the reinsurance percentage in effect when payment under the guaranty agreement was made with respect to the defaulted loan pursuant to section 428(c)(6)(A); and

"(3) the amount of the insurance premium collected from borrowers pursuant to section 428(b)(1)(H).

"(d) USES OF FUNDS.—Subject to subsection (f), the Federal Fund may only be used by a guaranty agency—

"(1) to pay lender claims pursuant to sections 428(b)(1)(G), 428(j), 437, and 439(q); and

"(2) to pay into the Agency Operating Fund established pursuant to section 422B a default prevention fee in accordance with section 428(l).

"(e) OWNERSHIP OF FEDERAL FUND.—The Federal Fund, and any nonliquid asset (such as a building or equipment) developed or purchased by the guaranty agency in whole or in part with Federal reserve funds, regardless of who holds or controls the Federal reserve funds or such asset, shall be considered to be the property of the United States, prorated based on the percentage of such asset developed or purchased with Federal reserve funds, which property shall be used in the operation of the program authorized by the part, as provided in subsection (d). The Secretary may restrict or regulate the use of such asset only to the extent necessary to reasonably protect the Secretary's prorated share of the value of such asset. The Secretary may direct a guaranty agency, or such agency's officers or directors, to cease any activity involving expenditures, use, or transfer of the Federal Fund administered by the guaranty agency that the Secretary determines is a misapplication, misuse, or improper expenditures of the Federal fund or the Secretary's share of such asset.

"(f) TRANSITION.—

"(1) IN GENERAL.—In order to establish the Agency Operating Fund established by section 422B, each agency may transfer not more than 180 days cash expenses for normal operating expenses, as a working capital reserve as defined in Office of Management and Budget Circular A-87 (Cost Accounting Standards) for use in the performance of the agency's duties under this part. Such transfers may occur during the first 3 years following the establishment of the Agency Operating Fund, except that no agency may transfer in excess of 40 percent of the Federal Fund balance to the agency's Agency Operating Fund during any fiscal year. In determining the amount necessary for transfer, the agency shall assure that sufficient funds remain in the Federal Fund to pay lender claims within the required time periods and to meet the reserve funds recall requirements of subsection (b).

"(2) REPAYMENT PROVISIONS.—Each guaranty agency shall begin repayment of sums transferred pursuant to this subsection not later than 3 years after the establishment of the Agency Operating Fund, and shall repay all sums transferred not later than 5 years from the date of the establishment of the Agency Operating Fund. The guaranty agency shall provide to the Secretary a schedule for repayment of the sums transferred and an annual financial analysis demonstrating the agency's ability to comply with the schedule and repay all outstanding sums transferred.

"(3) PROHIBITION.—If a guaranty agency transfers funds from the Federal Fund in accordance with this section, and fails to make scheduled repayments to the Federal Fund, the agency may not receive any other funds under this part until the Secretary determines that the agency has made such repayments. The Secretary shall pay to the guaranty agency any funds withheld in accordance with this paragraph immediately upon making the determination that the guaranty agency has made all such repayments.

"(4) WAIVER.—The Secretary may waive the requirements of paragraph (3) for a guaranty agency described in such paragraph if the Secretary determines there are extenuating circumstances beyond the control of the agency that justify such a waiver.

"(5) INVESTMENT OF FEDERAL FUNDS.—Funds transferred from the Federal Fund to the Agency Operating Fund for operating expenses shall be invested in obligations issued or guaranteed by the United States or a State, or in other similarly low-risk securities selected by the guaranty agency, with the approval of the Secretary.

"(6) SPECIAL RULE.—In applying the minimum reserve level required by section 428(c)(9)(A), the Secretary shall include all amounts owed to the Federal Fund by the guaranty agency in the calculation.".

SEC. 423. AGENCY OPERATING FUND.

Part B of title IV (20 U.S.C. 1071 et seq.) is amended further by inserting after section 422A (as added by section 422) the following:

"SEC. 422B. AGENCY OPERATING FUND.

"(a) ESTABLISHMENT.—Each guaranty agency shall, not later than 45 days after the date of enactment of this section, establish a fund designated as the Agency Operating Fund (in this section referred to as the 'Operating Fund').

"(b) INVESTMENT OF FUNDS.—Funds deposited into the Operating Fund, with the exception of funds transferred from the Federal Student Loan Reserve Fund pursuant to section 422A(f), shall be invested at the discretion of the guaranty agency.

"(c) ADDITIONAL DEPOSITS.—After the establishment of the Operating Fund, the guaranty agency shall deposit into the Operating Fund—

"(1) the loan processing and issuance fee paid by the Secretary pursuant to section 428(f);

"(2) administrative cost allowances paid under section 458, as such section was in effect on the day preceding the date of enactment of the Higher Education Amendments of 1998, and the portfolio maintenance fee paid by the Secretary in accordance with section 458;

"(3) the default prevention fee paid in accordance with section 428(l); and

"(4) amounts remaining pursuant to section 428(c)(6)(B) from collection on defaulted loans held by the agency, after payment of the Secretary's equitable share, excluding amounts deposited in the Federal Student Loan Reserve Fund pursuant to section 422A(c)(2).

"(d) USES OF FUNDS.—

"(1) IN GENERAL.—Funds in the Operating Fund shall be used for application processing, loan disbursement, enrollment and repayment status management, default prevention activities (including those described in section 422(h)(8), default collection activities, school and lender training, compliance monitoring, and other student financial aid related activities as determined by the Secretary.

"(2) SPECIAL RULE.—The guaranty agency may, in the agency's discretion, transfer funds from the Operating Fund to the Federal Student Loan Reserve Fund for use pursuant to section 422A. Such transfer shall be irrevocable, and any funds so transferred shall become the sole property of the United States.

"(3) DEFINITIONS.—For purposes of this subsection:

"(A) DEFAULT COLLECTION ACTIVITIES.—The term 'default collection activities' means activities of a guaranty agency that are directly related to the collection of the loan on which a default claim has been paid to the participating lender, including the attributable compensation of collection personnel (and in the case of personnel who perform several functions for such an agency only the portion of the compensation attributable to the collection activity), attorney's fees, fees paid to collection agencies, postage, equipment, supplies, telephone, and similar charges.

"(B) DEFAULT PREVENTION ACTIVITIES.—The term 'default prevention activities' means activities of a guaranty agency, including those described in section 422(h)(8), that are directly related to providing collection assistance to the lender on a delinquent loan, prior to the loan's being in a default status, including the attributable compensation of appropriate personnel (and in the case of personnel who perform several functions for such an agency only the portion of compensation attributable to the default prevention activity), fees paid to locate a missing borrower, postage, equipment, supplies, telephone, and similar charges.

"(C) ENROLLMENT AND REPAYMENT STATUS MANAGEMENT.—The term 'enrollment and repayment status management' means activities of a guaranty agency that are directly related to ascertaining the student's enrollment status, including prompt notification to the lender of such status, an audit of the note or written agreement to determine if the provisions of that note or agreement are consistent with the records of the guaranty agency as to the principal amount of the loan guaranteed, and an examination of the note or agreement to assure that the repayment provisions are consistent with the provisions of this title.

"(e) OWNERSHIP OF OPERATING FUND.—The Operating Fund, with the exception of funds transferred from the Federal Student Loan Reserve Fund in accordance with section 422A(f), shall be considered to be the property of the guaranty agency. The Secretary may not regulate the uses or expenditure of moneys in the Operating Fund, but the Secretary may require such necessary reports and audits as provided in section 428(b)(2). However, during any period in which funds are owed to the Federal Student Loan Reserve Fund as a result of transfer under section 422A(f), moneys in the Operating Fund may only be used for expenses related to the student loan programs authorized under this part.".

SEC. 424. SCOPE AND DURATION OF FEDERAL LOAN INSURANCE PROGRAM.

Section 424(a) (20 U.S.C. 1074(a)) is amended—

(1) by striking "October 1, 2002" and inserting "October 1, 2004"; and

(2) by striking "September 30, 2006" and inserting "September 30, 2008".

SEC. 425. APPLICABLE INTEREST RATES.

(a) APPLICABLE INTEREST RATES.—

(1) AMENDMENT.—Section 427A (20 U.S.C. 1077a et seq.) is amended by amending subsection (j) to read as follows:

"(j) INTEREST RATES FOR NEW LOANS ON OR AFTER OCTOBER 1, 1998, AND BEFORE JULY 1, 2003.—

"(1) IN GENERAL.—Notwithstanding subsection (h) and subject to paragraph (2), with respect to any loan made, insured, or guaranteed under this part (other than a loan made pursuant to section 428B or 428C) for which the first disbursement is made on or after October 1, 1998, and before July 1, 2003, the applicable rate of interest shall, during any 12-month period beginning on July 1 and ending on June 30, be determined on the preceding June 1 and be equal to—

"(A) the bond equivalent rate of 91-day Treasury bills auctioned at the final auction held prior to such June 1; plus

"(B) 2.3 percent,

except that such rate shall not exceed 8.25 percent.

"(2) IN SCHOOL AND GRACE PERIOD RULES.—Notwithstanding subsection (h), with respect to any loan under this part (other than a loan made pursuant to section 428B or 428C) for which the first disbursement is made on or after

October 1, 1998, and before July 1, 2003, the applicable rate of interest for interest which accrues—

"(A) prior to the beginning of the repayment period of the loan; or

"(B) during the period in which principal need not be paid (whether or not such principal is in fact paid) by reason of a provision described in section 428(b)(1)(M) or 427(a)(2)(C), shall be determined under paragraph (1) by substituting '1.7 percent' for '2.3 percent'.

"(3) PLUS LOANS.—Notwithstanding subsection (h), with respect to any loan under section 428B for which the first disbursement is made on or after October 1, 1998, and before July 1, 2003, the applicable rate of interest shall be determined under paragraph (1)—

"(A) by substituting '3.1 percent' for '2.3 percent'; and

"(B) by substituting '9.0 percent' for '8.25 percent'.

"(4) CONSULTATION.—The Secretary shall determine the applicable rate of interest under this subsection after consultation with the Secretary of the Treasury and shall publish such rate in the Federal Register as soon as practicable after the date of determination.".

(2) CONFORMING AMENDMENT.—Section 428B(d)(4) (20 U.S.C. 1078–2(d)(4)) is amended by striking "section 427A(c)" and inserting "section 427A(j)(3)".

(b) SPECIAL ALLOWANCES.

(1) AMENDMENT.—Section 438(b)(2)(G) (20 U.S.C. 1087–1(b)(2)(G)) is amended to read as follows:

"(G) LOANS DISBURSED BETWEEN OCTOBER 1, 1998, AND BEFORE JULY 1, 2003.—

"(i) IN GENERAL.—Subject to paragraph (4) and clauses (ii), (iii), and (iv) of this subparagraph, and except as provided in subparagraph (B), the special allowance paid pursuant to this subsection on loans for which the first disbursement is made on or after October 1, 1998, and before July 1, 2003, shall be computed—

"(I) by determining the average of the bond equivalent rates of 91-day Treasury bills auctioned for such 3-month period;

"(II) by subtracting the applicable interest rates on such loans from such average bond equivalent rate;

"(III) by adding 2.8 percent to the resultant percent; and

"(IV) by dividing the resultant percent by 4.

"(ii) IN SCHOOL AND GRACE PERIOD.—In the case of any loan for which the first disbursement is made on or after October 1, 1998, and before July 1, 2003, and for which the applicable rate of interest is described in section 427A(j)(2), clause (i)(III) of this subparagraph shall be applied by substituting '2.2 percent' for '2.8 percent'.

"(iii) PLUS LOANS.—In the case of any loan for which the first disbursement is made on or after October 1, 1998, and before July 1, 2003, and for which the applicable rate of interest is described in section 427A(j)(3), clause (i)(III) of this subparagraph shall be applied by substituting '3.1 percent' for '2.8 percent', subject to clause (iv) of this subparagraph.

"(iv) LIMITATION ON SPECIAL ALLOWANCES FOR PLUS LOANS.—In the case of loans disbursed on or after October 1, 1998, and before July 1, 2003, for which the interest rate is determined under section 427A(j)(3), a special allowance shall not be paid for a loan made under section 428B unless the rate determined for any 12-month period under section 427A(j)(3) exceeds 9 percent.".

(2) CONFORMING AMENDMENT.—Section 438(b)(2)(C)(ii) is amended by striking "In the case" and inserting "Subject to subparagraph (G), in the case".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to any loan made, insured, or guaranteed under part B of title IV of the Higher Education Act of 1965 for which the first disbursement is made on or after October 1, 1998, and before July 1, 2003.

SEC. 426. FEDERAL PAYMENTS TO REDUCE STUDENT INTEREST COSTS.

(a) FEDERAL INTEREST SUBSIDIES.—Section 428(a) (20 U.S.C. 1078(a)) is amended—

(1) in paragraph (2)—

(A) in subparagraph (A)—

(i) in clause (i), by striking subclauses (I), (II), and (III) and inserting the following:

"(I) sets forth the loan amount for which the student shows financial need; and

"(II) sets forth a schedule for disbursement of the proceeds of the loan in installments, consistent with the requirements of section 428G; and"; and

(ii) by amending clause (ii) to read as follows:

"(ii) meets the requirements of subparagraph (B); and";

(B) by amending subparagraph (B) to read as follows:

"(B) For the purpose of clause (ii) of subparagraph (A), a student shall qualify for a portion of an interest payment under paragraph (1) (and a loan amount pursuant to section 428H) if the eligible institution has determined and documented the student's amount of need for a loan based on the student's estimated cost of attendance, estimated financial assistance, and, for the purpose of an interest payment pursuant to this section, the expected family contribution (as determined under part F), subject to the provisions of subparagraph (D).";

(C) by amending subparagraph (C) to read as follows:

"(C) For the purpose of subparagraph (B) and this paragraph—

"(i) a student's cost of attendance shall be determined under section 472;

"(ii) a student's estimated financial assistance means, for the period for which the loan is sought, the amount of assistance such student will receive under subpart 1 of part A (as determined in accordance with section 484(b)), subpart 3 of part A, parts C and E, and any veterans' education benefits paid because of enrollment in a postsecondary education institution, including veterans' education benefits (as defined in section 480(c)), plus other scholarship, grant, or loan assistance; and

"(iii) the determination of need and of the amount of a loan by an eligible institution under subparagraph (B) with respect to a student shall, with the exception of loans made under section 428H, be calculated in accordance with part F."; and

(D) by striking subparagraph (F);

(2) in paragraph (3)(A)(v)—

(A) in subclause (I), by inserting "by the institution" after "disbursement"; and

(B) in clause (II), by inserting "by the institution" after "disbursement"; and

(3) in paragraph (5)—

(A) by striking "September 30, 2002" and inserting "September 30, 2004"; and

(B) by striking "September 30, 2006" and inserting "September 30, 2008".

(b) INSURANCE PROGRAM AGREEMENTS.—Section 428(b) (20 U.S.C. 1078(b)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (A)—

(i) in the matter preceding clause (i), by inserting ", as defined in section 481(d)(2)," after "academic year";

(ii) in clause (iv), by striking "and" after the semicolon;

(iii) in clause (v), by inserting "and" after the semicolon; and

(iv) by inserting before the matter following clause (v) the following:

"(vi) in the case of a student enrolled in coursework specified in sections 484(b)(3)(B) and 484(b)(4)(B)—

"(I) $2,625 for coursework necessary for enrollment in an undergraduate degree or certificate program, and $5,500 for coursework necessary for enrollment in a graduate or professional degree or certification program; and

"(II) $5,500 for coursework necessary for a professional credential or certification from a State required for employment as a teacher in an elementary or secondary school;";

(B) by amending subparagraph (E) to read as follows:

"(E) subject to subparagraphs (D) and (L), and except as provided by subparagraph (M), provides that—

"(i) not more than 6 months prior to the date on which the borrower's first payment is due, the lender shall offer the borrower of a loan made, insured, or guaranteed under this section or section 428H, the option of repaying the loan in accordance with a graduated, income-sensitive, or extended repayment schedule (as described in paragraph (9)) established by the lender in accordance with regulations provided by the Secretary; and

"(ii) repayment of loans shall be in installments in accordance with the repayment plan selected under paragraph (9) and commencing at the beginning of the repayment period determined under paragraph (7)";

(C) in subparagraph (L)(i), by inserting "except as otherwise provided by a repayment plan selected by the borrower under clause (ii) or (iii) of paragraph (9)(A)," before "during any"; and

(D) in subparagraph (U)(iii)(I), by inserting "that originates or holds more than $5,000,000 in loans made under this title for any fiscal year (except that each lender described in section 435(d)(1)(A)(ii)(III) shall annually submit the results of an audit required by this clause)," before "at least once a year";

(2) in paragraph (7), by adding at the end the following:

"(D) There shall be excluded from the 6-month period that begins on the date on which a student ceases to carry at least one-half the normal full-time academic workload as described in subparagraph (A)(i) any period not to exceed 3 years during which a borrower who is a member of a reserve component of the Armed Forces named in section 10101 of title 10, United States Code, is called or ordered to active duty for a period of more than 30 days (as defined in section 101(d)(2) of such title). Such period of exclusion shall include the period necessary to resume enrollment at the borrower's next available regular enrollment period."; and

(3) by adding at the end the following:

"(9) REPAYMENT PLANS.—

"(A) DESIGN AND SELECTION.—In accordance with regulations promulgated by the Secretary, the lender shall offer a borrower of a loan made under this part the plans described in this subparagraph for repayment of such loan, including principal and interest thereon. Except as provided in paragraph (1)(L)(i), no plan may require a borrower to repay a loan in less than 5 years. The borrower may choose from—

"(i) a standard repayment plan, with a fixed annual repayment amount paid over a fixed period of time, not to exceed 10 years;

"(ii) a graduated repayment plan paid over a fixed period of time, not to exceed 10 years;

"(iii) an income-sensitive repayment plan, with income-sensitive repayment amounts paid over a fixed period of time, not to exceed 10 years, except that the borrower's scheduled payments shall not be less than the amount of interest due; and

"(iv) for first-time borrowers on or after the date of enactment of the Higher Education Amendments of 1998 with outstanding loans under this part totaling more than $30,000, an extended repayment plan, with a fixed annual or graduated repayment amount paid over an

extended period of time, not to exceed 25 years, except that the borrower shall repay annually a minimum amount determined in accordance with paragraph (2)(L).

"(B) LENDER SELECTION OF OPTION IF BORROWER DOES NOT SELECT.—If a borrower of a loan made under this part does not select a repayment plan described in subparagraph (A), the lender shall provide the borrower with a repayment plan described in subparagraph (A)(i).

"(C) CHANGES IN SELECTION.—The borrower of a loan made under this part may change the borrower's selection of a repayment plan under subparagraph (B), as the case may be, under such conditions as may be prescribed by the Secretary in regulation.

"(D) ACCELERATION PERMITTED.—Under any of the plans described in this paragraph, the borrower shall be entitled to accelerate, without penalty, repayment on the borrower's loans under this part.".

(c) GUARANTY AGREEMENTS FOR REIMBURSING LOSSES.—Section 428(c) (20 U.S.C. 1078(c)) is amended—

(1) in paragraph (1)—

(A) in the fourth sentence of subparagraph (A), by striking "as reimbursement under this subsection shall be equal to 98 percent" and inserting "as reimbursement for loans for which the first disbursement is made on or after the date of enactment of the Higher Education Amendments of 1998 shall be equal to 95 percent";

(B) in subparagraph (B)—

(i) in clause (i), by striking "88 percent of the amount of such excess" and inserting "85 percent of the amount of such excess for loans for which the first disbursement is made on or after the date of enactment of the Higher Education Amendments of 1998"; and

(ii) in clause (ii), by striking "78 percent of the amount of such excess" and inserting "75 percent of the amount of such excess for loans for which the first disbursement is made on or after the date of enactment of the Higher Education Amendments of 1998";

(C) in subparagraph (E)—

(i) in clause (i), by striking "98 percent" and inserting "95 percent";

(ii) in clause (ii), by striking "88 percent" and inserting "85 percent"; and

(iii) in clause (iii), by striking "78 percent" and inserting "75 percent"; and

(D) in subparagraph (F)—

(i) in clause (i), by striking "98 percent" and inserting "95 percent"; and

(ii) in clause (ii), by striking "88 percent" and inserting "85 percent";

(2) in paragraph (2)—

(A) in subparagraph (A), by striking "proof that reasonable attempts were made" and inserting "proof that the institution was contacted and other reasonable attempts were made"; and

(B) in subparagraph (G), by striking "certifies to the Secretary that diligent attempts have been made" and inserting "certifies to the Secretary that diligent attempts, including contact with the institution, have been made".

(3) in paragraph (3)—

(A) in subparagraph (A)(i), by inserting "or electronic" after "written";

(B) in subparagraph (B), by striking "and" after the semicolon;

(C) in subparagraph (C), by striking the period and inserting "; and"; and

(D) by inserting before the matter following subparagraph (C) the following:

"(D) shall contain provisions that specify that forbearance for a period not to exceed 60 days may be granted if the lender determines that such a suspension of collection activity is warranted following a borrower's request for forbearance in order to collect or process appropriate supporting documentation related to the request, and that during such period interest shall not be capitalized.";

(4) by amending paragraph (6) to read as follows:

"(6) SECRETARY'S EQUITABLE SHARE.—For the purpose of paragraph (2)(D), the Secretary's equitable share of payments made by the borrower shall be that portion of the payments remaining after the guaranty agency with which the Secretary has an agreement under this subsection has deducted from such payments—

"(A) a percentage amount equal to the complement of the reinsurance percentage in effect when payment under the guaranty agreement was made with respect to the loan; and

"(B) an amount equal to 24 percent of such payments for use in accordance with section 422B, except that, beginning on September 30, 2003, this subparagraph shall be applied by substituting '23 percent' for '24 percent'.";

(5) in paragraph (8)—

(A) by striking "(A) If" and inserting "If"; and

(B) by striking subparagraph (B); and

(6) in paragraph (9)—

(A) in subparagraph (A), by striking "maintain a current minimum reserve level of at least .5 percent" and inserting "maintain in the agency's Federal Student Loan Reserve Fund established under section 422A a current minimum reserve level of at least 0.25 percent";

(B) in subparagraph (C)—

(i) by striking "80 percent" and inserting "78 percent";

(ii) by striking ", as appropriate,"; and

(iii) by striking "30 working" and inserting "45 working";

(C) in subparagraph (E)—

(i) in clause (iv), by inserting "or" after the semicolon;

(ii) in clause (v), by striking "; or" and inserting a period; and

(iii) by striking clause (vi);

(D) in subparagraph (F), by amending clause (vii) to read as follows:

"(vii) take any other action the Secretary determines necessary to avoid disruption of the student loan program, to ensure the continued availability of loans made under this part to residents of each State in which the guaranty agency did business, to ensure the full honoring of all guarantees issued by the guaranty agency prior to the Secretary's assumption of the functions of such agency, and to ensure the proper servicing of loans guaranteed by the guaranty agency prior to the Secretary's assumption of the functions of such agency."; and

(E) in subparagraph (K), by striking "and the progress of the transition from the loan programs under this part to the direct student loan programs under part D of this title".

(d) PAYMENT FOR LENDER REFERRAL SERVICES.—Subsection (e) of section 428 (20 U.S.C. 1078) is repealed.

(e) PAYMENT OF CERTAIN COSTS.—Subsection (f) of section 428 (20 U.S.C. 1078) is amended to read as follows:

"(f) PAYMENTS OF CERTAIN COSTS.—

"(1) PAYMENT FOR CERTAIN ACTIVITIES.—

"(A) IN GENERAL.—The Secretary—

"(i) for loans originated on or after October 1, 1998, and before October 1, 2003, and in accordance with the provisions of this paragraph, shall pay to each guaranty agency, a loan processing and issuance fee equal to 0.65 percent of the total principal amount of the loans on which insurance was issued under this part during such fiscal year by such agency; and

"(ii) for loans originated on or after October 1, 2003, and in accordance with the provisions of this paragraph, shall pay to each guaranty agency, a loan processing and issuance fee equal to 0.40 percent of the total principal amount of the loans on which insurance was issued under this part during such fiscal year by such agency.

"(B) PAYMENT.—The payment required by subparagraph (A) shall be paid on a quarterly basis. The guaranty agency shall be deemed to have a contractual right against the United States to receive payments according to the provisions of this subparagraph. Payments shall be made promptly and without administrative delay to any guaranty agency submitting an accurate and complete application therefore under this subparagraph.".

(f) LENDERS-OF-LAST-RESORT.—Paragraph (3) of section 428(j) (20 U.S.C. 1078(j)) is amended—

(1) in the paragraph heading, by striking "DURING TRANSITION TO DIRECT LENDING"; and

(2) in subparagraph (A), by striking "during the transition from the Federal Family Education Loan Program under this part to the Federal Direct Student Loan Program under part D of this title";

(g) DEFAULT AVERSION ASSISTANCE.—Subsection (l) of section 428 (20 U.S.C. 1078) is amended to read as follows:

"(l) DEFAULT AVERSION ASSISTANCE.—

"(1) ASSISTANCE REQUIRED.—Upon receipt of a proper request from the lender not earlier than the 60th nor later than the 90th day of delinquency, a guaranty agency having an agreement with the Secretary under subsection (c) shall engage in default aversion activities designed to prevent the default by a borrower on a loan covered by such agreement.

"(2) DEFAULT PREVENTION FEE REQUIRED.—

"(A) IN GENERAL.—A guaranty agency, in accordance with the provisions of this paragraph, may transfer from the Federal Student Loan Reserve Fund to the Agency Operating Fund a default prevention fee. Such fee shall be paid for any loan on which a claim for default has not been presented that the guaranty agency successfully brings into current repayment status on or before the 300th day after the loan becomes 60 days delinquent.

"(B) AMOUNT.—The default prevention fee shall be equal to 1 percent of the total unpaid principal and accrued interest on the loan calculated at the time the request is submitted by the lender. Such fee shall not be paid more than once on any loan for which the guaranty agency averts the default unless the borrower remained current in payments for at least 24 months prior to the subsequent delinquency. A guaranty agency may transfer such fees earned under this subsection not more frequently than monthly.

"(C) DEFINITION OF CURRENT REPAYMENT STATUS.—For the purpose of this paragraph, the term 'current repayment status' means that the borrower is not delinquent, in any respect, in the payment of principal and interest on the loan at the time the guaranty agency qualifies for the default prevention fee.".

(h) STATE SHARE OF DEFAULT COSTS.—Subsection (n) of section 428 (20 U.S.C. 1078) is repealed.

SEC. 427. VOLUNTARY FLEXIBLE AGREEMENTS WITH GUARANTY AGENCIES.

Part B of title IV (20 U.S.C. 1071 et seq.) is amended by inserting after section 428 (20 U.S.C. 1078) the following:

"SEC. 428A. VOLUNTARY FLEXIBLE AGREEMENTS WITH GUARANTY AGENCIES.

"(a) VOLUNTARY AGREEMENTS.—

"(1) AUTHORITY.—The Secretary may enter into a voluntary, flexible agreement, subject to paragraph (2), with guaranty agencies under this section, in lieu of agreements with a guaranty agency under subsections (b) and (c) of section 428. The Secretary may waive or modify any requirement under such subsections, except that the Secretary may not waive any statutory requirement pertaining to the terms and conditions attached to student loans, default claim

payments made to lenders, or the prohibitions on inducements contained in section 428(b)(3).

"(2) ELIGIBILITY.—During fiscal years 1999, 2000, and 2001, the Secretary may enter into a voluntary, flexible agreement with not more than 6 guaranty agencies that had 1 or more agreements with the Secretary under subsections (b) and (c) of section 428 as of the day before the date of enactment of the Higher Education Amendments of 1998. Beginning in fiscal year 2002, any guaranty agency or consortium thereof may enter into a similar agreement with the Secretary.

"(3) REPORT REQUIRED.—Not later than September 30, 2001, the Secretary shall report to the Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives regarding the impact that the voluntary flexible agreements have had upon program integrity, program and cost efficiencies, and the availability and delivery of student financial aid. Such report shall include—

"(A) a description of each voluntary flexible agreement and the performance goals established by the Secretary for each agreement;

"(B) a list of participating guaranty agencies and the specific statutory or regulatory waivers provided to each guaranty agency;

"(C) a description of the standards by which each agency's performance under the agency's voluntary flexible agreement was assessed and the degree to which each agency achieved the performance standards; and

"(D) an analysis of the fees paid by the Secretary, and the costs and efficiencies achieved under each voluntary agreement.

"(b) TERMS OF AGREEMENT.—An agreement between the Secretary and a guaranty agency under this section—

"(1) shall be developed by the Secretary, in consultation with the guaranty agency, on a case-by case basis;

"(2) may be secured by the parties;

"(3) may only include provisions—

"(A) specifying the responsibilities of the guaranty agency under the agreement, with respect to—

"(i) administering the issuance of insurance on loans made under this part on behalf of the Secretary;

"(ii) monitoring insurance commitments made under this part;

"(iii) default aversion activities;

"(iv) review of default claims made by lenders;

"(v) payment of default claims;

"(vi) collection of defaulted loans;

"(vii) adoption of internal systems of accounting and auditing that are acceptable to the Secretary, and reporting the result thereof to the Secretary in a timely manner, and on an accurate, and auditable basis;

"(viii) timely and accurate collection and reporting of such other data as the Secretary may require to carry out the purposes of the programs under this title;

"(ix) monitoring of institutions and lenders participating in the program under this part; and

"(x) informational outreach to schools and students in support of access to higher education;

"(B) regarding the fees the Secretary shall pay, in lieu of revenues that the guaranty agency may otherwise receive under this part, to the guaranty agency under the agreement, and other funds that the guaranty agency may receive or retain under the agreement, except that in no case may the cost to the Secretary of the agreement, as reasonably projected by the Secretary, exceed the cost to the Secretary, as similarly projected, in the absence of the agreement;

"(C) regarding the use of net revenues, as described in the agreement under this section, for such other activities in support of postsecondary education as may be agreed to by the Secretary and the guaranty agency;

"(D) regarding the standards by which the guaranty agency's performance of the agency's responsibilities under the agreement will be assessed, and the consequences for a guaranty agency's failure to achieve a specified level of performance on one or more performance standards;

"(E) regarding the circumstances in which a guaranty agency's agreement under this section may be ended in advance of the agreement's expiration date;

"(F) regarding such other businesses, previously purchased or developed with reserve funds, that relate to the program under this part and in which the Secretary permits the guaranty agency to engage; and

"(G) such other provisions as the Secretary may determine to be necessary to protect the United States from the risk of unreasonable loss and to promote the purposes of this part;

"(4) shall provide for uniform lender participation with the guaranty agency under the terms of the agreement; and

"(5) shall not prohibit or restrict borrowers from selecting a lender of the borrower's choosing, subject to the prohibitions and restrictions applicable to the selection under this Act.

"(c) PUBLIC NOTICE.—

"(1) IN GENERAL.—The Secretary shall publish in the Federal Register a notice to all guaranty agencies that sets forth—

"(A) an invitation for the guaranty agencies to enter into agreements under this section; and

"(B) the criteria that the Secretary will use for selecting the guaranty agencies with which the Secretary will enter into agreements under this section.

"(2) AGREEMENT NOTICE.—The Secretary shall notify the Chairperson and the Ranking Minority Members of the Committee on Labor and Human Resources of the Senate, and the Committee on Education and Workforce of the House of Representatives, and shall publish a notice in the Federal Register, with a request for public comment, at least 30 days prior to concluding an agreement under this section. The notice shall contain—

"(A) a description of the voluntary flexible agreement and the performance goals established by the Secretary for the agreement;

"(B) a list of participating guaranty agencies and the specific statutory or regulatory waivers provided to each guaranty agency;

"(C) a description of the standards by which each guaranty agency's performance under the agreement will be assessed; and

"(D) a description of the fees that will be paid to each participating guaranty agency.

"(3) PUBLIC AVAILABILITY.—The text of any voluntary flexible agreement, and any subsequent revisions, shall be readily available to the public.

"(4) MODIFICATION NOTICE.—The Secretary shall notify the Chairperson and the Ranking Minority Member of the Committee on Labor and Human Resources of the Senate, and the Committee on Education and Workforce of the House of Representatives 30 days prior to any modifications to an agreement under this section.

"(d) TERMINATION.—At the expiration or early termination of an agreement under this section, the Secretary shall reinstate the guaranty agency's prior agreements under subsections (b) and (c) of section 428, subject only to such additional requirements as the Secretary determines to be necessary in order to ensure the efficient transfer of responsibilities between the agreement under this section and the agreements under subsections (b) and (c) of section 428, and including the guaranty agency's compliance with reserve requirements under sections 422 and 428.".

SEC. 428. FEDERAL PLUS LOANS.

Section 428B (20 U.S.C. 1078–2) is amended—

(1) by amending subsection (a) to read as follows:

"(a) AUTHORITY TO BORROW.—

"(1) AUTHORITY AND ELIGIBILITY.—Parents of a dependent student shall be eligible to borrow funds under this section in amounts specified in subsection (b), if—

"(A) the parents do not have an adverse credit history as determined pursuant to regulations promulgated by the Secretary; and

"(B) the parents meet such other eligibility criteria as the Secretary may establish by regulation, after consultation with guaranty agencies, eligible lenders, and other organizations involved in student financial assistance.

"(2) TERMS, CONDITIONS, AND BENEFITS.—Except as provided in subsections (c), (d), and (e), loans made under this section shall have the same terms, conditions, and benefits as all other loans made under this part.

"(3) SPECIAL RULE.—Whenever necessary to carry out the provisions of this section, the terms "student" and "borrower" as used in this part shall include a parent borrower under this section."; and

(2) by adding at the end the following:

"(f) VERIFICATION OF IMMIGRATION STATUS AND SOCIAL SECURITY NUMBER.—A parent who wishes to borrow funds under this section shall be subject to verification of the parent's—

"(1) immigration status in the same manner as immigration status is verified for students under section 484(g); and

"(2) social security number in the same manner as social security numbers are verified for students under section 484(p).".

SEC. 429. FEDERAL CONSOLIDATION LOANS.

(a) IN GENERAL.—Section 428C(a)(3) (20 U.S.C. 1078–3(a)(3)) is amended—

(1) by amending subparagraph (A) to read as follows: "(A) For the purpose of this section, the term 'eligible borrower' means a borrower who—

"(i) is not subject to a judgment secured through litigation or an order for wage garnishment under section 488A; or

"(ii) at the time of application for a consolidation loan—

"(I) is in repayment status;

"(II) is in a grace period preceding repayment; or

"(III) is a defaulted borrower who has made arrangements to repay the obligation on the defaulted loans satisfactory to the holders of the defaulted loans."; and

(2) in subparagraph (B)(i)—

(A) in subclause (I), by striking "and" after the semicolon;

(B) by redesignating subclause (II) as subclause (III);

(C) by inserting after subclause (I) the following:

"(II) with respect to eligible student loans received prior to the date of consolidation that the borrower may wish to include with eligible loans specified in subclause (I) in a later consolidation loan; and"; and

(D) in subclause (III) (as redesignated by subparagraph (B)—

(i) by striking "that loans" and inserting "with respect to loans"; and

(ii) by inserting "that" before "may be added".

(b) DATE CHANGE.—Section 428C(e) (20 U.S.C. 1078–3(e)) is amended by striking "September 30, 2002" and inserting "September 30, 2004".

SEC. 430. REQUIREMENTS FOR DISBURSEMENTS OF STUDENT LOANS.

(a) IN GENERAL.—Section 428G (20 U.S.C. 1078G) is amended—

(1) in subsection (a)(1), by striking "The proceeds" and inserting "Except for a loan made

for the final period of enrollment, that is less than an academic year, in a student's baccalaureate program of study, at an institution with a cohort default rate (as calculated under section 435(m)) that is 5 percent or less, the proceeds";

(2) in subsection (b)(1), by striking "The first" and inserting "Except for a loan made to a student borrower entering an institution with a cohort default rate (as calculated under section 435(m)) of less than 5 percent, the first"; and

(3) in subsection (e)—

(A) by striking "or made" and inserting ", made"; and

(B) by inserting ", or made to a student to cover the cost of attendance in a program of study abroad approved by the home eligible institution if the home eligible institution has a cohort default rate (as calculated under section 435(m)) of less than 5 percent" before the period.

(b) EFFECTIVE DATE.—The amendment made by subsection (a)(2) shall be effective during the period beginning on October 1, 1998, and ending on September 30, 2002.

SEC. 431. DEFAULT REDUCTION PROGRAM.

The heading for subsection (b) of section 428F (20 U.S.C. 1078–6) is amended by striking "SPECIAL RULE" and inserting "SATISFACTORY REPAYMENT ARRANGEMENTS TO RENEW ELIGIBILITY".

SEC. 432. UNSUBSIDIZED LOANS.

(a) IN GENERAL.—Section 428H (20 U.S.C. 1078–8) is amended—

(1) by amending subsection (b) to read as follows:

"(b) ELIGIBLE BORROWERS.—Any student meeting the requirements for student eligibility under section 484 (including graduate and professional students as defined in regulations promulgated by the Secretary) shall be entitled to borrow an unsubsidized Stafford loan if the eligible institution at which the student has been accepted for enrollment, or at which the student is in attendance, has—

"(1) determined and documented the student's need for the loan based on the student's estimated cost of attendance (as determined under section 472) and the student's estimated financial assistance, including a loan which qualifies for interest subsidy payments under section 428; and

"(2) provided the lender a statement—

"(A) certifying the eligibility of the student to receive a loan under this section and the amount of the loan for which such student is eligible, in accordance with subsection (c); and

"(B) setting forth a schedule for disbursement of the proceeds of the loan in installments, consistent with the requirements of section 428G.";

(2) in subsection (d)—

(A) in paragraph (2)—

(i) in the matter preceding subparagraph (A)—

(I) by inserting ", as defined in section 481(d)(2)," after "academic year"; and

(II) by striking "or in any period of 7 consecutive months, whichever is longer,";

(ii) in subparagraph (C), by inserting "and" after the semicolon; and

(iii) by inserting before the matter following subparagraph (C) the following:

"(D) in the case of a student enrolled in coursework specified in sections 484(b)(3)(B) and 484(b)(4)(B)—

"(i) $4,000 for coursework necessary for enrollment in an undergraduate degree or certificate program, and $5,000 for coursework necessary for enrollment in a graduate or professional program; and

"(ii) $5,000 for coursework necessary for a professional credential or certification from a State required for employment as a teacher in an elementary or secondary school;"; and

(B) in paragraph (3), by adding at the end the following: "The maximum aggregate amount shall not include interest capitalized from an in-school period.";

(3) in subsection (e)—

(A) by amending paragraph (2) to read as follows:

"(2) CAPITALIZATION OF INTEREST.—Interest on loans made under this section for which payments of principal are not required during the in-school and grace periods or for which payments are deferred under sections 427(a)(2)(C) and 428(b)(1)(M) shall, if agreed upon by the borrower and the lender—

"(A) be paid monthly or quarterly; or

"(B) be added to the principal amount of the loan by the lender only—

"(i) when the loan enters repayment;

"(ii) at the expiration of a grace period, in the case of a loan that qualifies for a grace period;

"(iii) at the expiration of a period of deferment; or

"(iv) when the borrower defaults."; and

(B) in paragraph (6), by striking "10 year repayment period under section 428(b)(1)(D)" and inserting "repayment period under section 428(b)(9)".

(b) SENSE OF THE SENATE ON LOAN LIMIT FLEXIBILITY.—

(1) FINDINGS.—The Senate finds that—

(A) due to the annual borrowing ceilings on the Federal student loan programs, increasing numbers of needy students are borrowing from more expensive private sector loan programs than from the Federal loan programs;

(B) according to the College Board, in academic year 1996–1997, students borrowed approximately $1,200,000,000 from private sector loan programs;

(C) the alternative private sector loan programs are not only more expensive, but the interest rates are not capped, leaving students vulnerable to higher monthly payments when interest rates increase; and

(D) with more flexible Federal annual loan ceilings, students could be kept in Federal student loan programs, thereby making available to the students the debt management advantages of loan consolidation and alternative repayment options that are available under Federal student loan programs, and lowering the costs of monthly payments.

(2) SENSE OF THE SENATE.—It is the sense of the Senate that Congress should consider the growing problem described in paragraph (1) by continuing to examine the potential for adding borrowing flexibility to the annual, but not the aggregate, amounts that both undergraduate and graduate students are allowed to borrow under section 428H of the Higher Education Act of 1965.

SEC. 433. LOAN FORGIVENESS FOR TEACHERS.

Section 428J (20 U.S.C. 1078–10) is amended to read as follows:

"SEC. 428J. LOAN FORGIVENESS FOR TEACHERS.

"(a) STATEMENT OF PURPOSE.—It is the purpose of this section to encourage individuals to enter and continue in the teaching profession.

"(b) PROGRAM AUTHORIZED.—The Secretary is authorized to carry out a program, through the holder of the loan, of assuming the obligation to repay a qualifying loan made under section 428 that is eligible for interest subsidy, for any new borrower on or after October 1, 1998, who—

"(1) has been employed as a full-time teacher for 3 consecutive complete school years—

"(A) in a school that qualifies under section 465(a)(2)(A) for loan cancellation for Perkins loan recipients who teach in such schools;

"(B) if employed as a secondary school teacher, is teaching a subject area that is relevant to the borrower's academic major as certified by the chief administrative officer of the public or nonprofit private secondary school in which the borrower is employed; and

"(C) if employed as an elementary school teacher, has demonstrated, in accordance with State teacher certification or licensing requirements and as certified by the chief administrative officer of the public or nonprofit private elementary school in which the borrower is employed, knowledge and teaching skills in reading, writing, mathematics and other areas of the elementary school curriculum; and

"(2) is not in default on a loan for which the borrower seeks forgiveness.

"(c) QUALIFYING LOANS.—For purposes of this section, a loan is a qualifying loan if—

"(1) the loan was obtained to cover the cost of instruction for an academic year after the first and second years of undergraduate education; and

"(2) the loan did not cover the costs of instruction for more than 2 academic years, or 3 academic years in the case of a program of instruction normally requiring 5 years to complete.

"(d) REGULATIONS.—The Secretary is authorized to issue such regulations as may be necessary to carry out the provisions of this section.

"(e) LOAN REPAYMENT DURING CONTINUING TEACHING SERVICE.—

"(1) IN GENERAL.—The Secretary shall assume the obligation to repay through reimbursement to the holder—

"(A) 30 percent of the total outstanding amount and applicable interest of subsidized Federal Stafford loans that are qualifying loans and are owed by the student borrower after the completion of the fourth or fifth complete school year of service described in subsection (b);

"(B) 40 percent of such total amount after the completion of the sixth complete school year of such service; and

"(C) a total amount for any borrower that shall not exceed $8,000.

"(2) CONSTRUCTION.—Nothing in this section shall be construed to authorize any refunding of any repayment of a loan.

"(f) LIST.—If the list of schools in which a teacher may perform service pursuant to subsection (b) is not available before May 1 of any year, the Secretary may use the list for the year preceding the year for which the determination is made to make such service determination.

"(g) CONTINUED ELIGIBILITY.—Any teacher who performs service in a school that—

"(1) meets the requirements of subsection (b)(1)(A) in any year during such service; and

"(2) in a subsequent year fails to meet the requirements of such subsection, may continue to teach in such school and shall be eligible for loan forgiveness pursuant to subsection (b).".

SEC. 434. LOAN FORGIVENESS FOR CHILD CARE PROVIDERS.

Part B (20 U.S.C. 1071 et seq.) is amended by inserting after section 428J (as added by section 433) (20 U.S.C. 1078–10) the following:

"SEC. 428K. LOAN FORGIVENESS FOR CHILD CARE PROVIDERS.

"(a) PURPOSE.—It is the purpose of this section—

"(1) to bring more highly trained individuals into the early child care profession; and

"(2) to keep more highly trained child care providers in the early child care field for longer periods of time.

"(b) DEFINITIONS.—In this section:

"(1) CHILD CARE FACILITY.—The term 'child care facility' means a facility, including a home, that—

"(A) provides child care services; and

"(B) meets applicable State or local government licensing, certification, approval, or registration requirements, if any.

"(2) CHILD CARE SERVICES.—The term 'child care services' means activities and services provided for the education and care of children from birth through age 5 by an individual who has a degree in early childhood education.

"(3) DEGREE.—The term 'degree' means an associate's or bachelor's degree awarded by an institution of higher education.

"(4) EARLY CHILDHOOD EDUCATION.—The term 'early childhood education' means education in the areas of early child education, child care, or any other educational area related to child care that the Secretary determines appropriate.

"(5) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' has the meaning given the term in section 101.

"(c) DEMONSTRATION PROGRAM.—

"(1) IN GENERAL.—The Secretary may carry out a demonstration program of assuming the obligation to repay, pursuant to subsection (d), a loan made, insured or guaranteed under this part or part D (excluding loans made under sections 428B and 428C) for any new borrower after the date of enactment of the Higher Education Amendments of 1998, who—

"(A) completes a degree in early childhood education;

"(B) obtains employment in a child care facility; and

"(C) has worked full time for the 2 consecutive years preceding the year for which the determination is made as a child care provider in a low-income community.

"(2) LOW-INCOME COMMUNITY.—For the purposes of this subsection, the term 'low-income community' means a community in which 70 percent of households within the community earn less than 85 percent of the State median household income.

"(3) AWARD BASIS; PRIORITY.—

"(A) AWARD BASIS.—Subject to subparagraph (B), loan repayment under this section shall be on a first-come, first-served basis and subject to the availability of appropriations.

"(B) PRIORITY.—The Secretary shall give priority in providing loan repayment under this section for a fiscal year to student borrowers who received loan repayment under this section for the preceding fiscal year.

"(4) REGULATIONS.—The Secretary is authorized to prescribe such regulations as may be necessary to carry out the provisions of this section.

"(d) LOAN REPAYMENT.—

"(1) IN GENERAL.—The Secretary shall assume the obligation to repay—

"(A) after the second consecutive year of employment described in subparagraphs (B) and (C) of subsection (c)(1), 20 percent of the total amount of all loans made after date of enactment of the Higher Education Amendments of 1998, to a student under this part or part D;

"(B) after the third consecutive year of such employment, 20 percent of the total amount of all such loans; and

"(C) after each of the fourth and fifth consecutive years of such employment, 30 percent of the total amount of all such loans.

"(2) CONSTRUCTION.—Nothing in this section shall be construed to authorize the refunding of any repayment of a loan made under this part or part D.

"(3) INTEREST.—If a portion of a loan is repaid by the Secretary under this section for any year, the proportionate amount of interest on such loan which accrues for such year shall be repaid by the Secretary.

"(4) SPECIAL RULE.—In the case where a student borrower who is not participating in loan repayment pursuant to this section returns to an institution of higher education after graduation from an institution of higher education for the purpose of obtaining a degree in early childhood education, the Secretary is authorized to assume the obligation to repay the total amount of loans made under this part or part D incurred for a maximum of two academic years in returning to an institution of higher education for the purpose of obtaining a degree in early childhood education. Such loans shall only be repaid for borrowers who qualify for loan repayment pursuant to the provisions of this section, and shall be repaid in accordance with the provisions of paragraph (1).

"(5) INELIGIBILITY OF NATIONAL SERVICE AWARD RECIPIENTS.—No student borrower may, for the same volunteer service, receive a benefit under both this section and subtitle D of title I of the National and Community Service Act of 1990 (42 U.S.C. 12601 et seq.).

"(e) REPAYMENT TO ELIGIBLE LENDERS.—The Secretary shall pay to each eligible lender or holder for each fiscal year an amount equal to the aggregate amount of loans which are subject to repayment pursuant to this section for such year.

"(f) APPLICATION FOR REPAYMENT.—

"(1) IN GENERAL.—Each eligible individual desiring loan repayment under this section shall submit a complete and accurate application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

"(2) CONDITIONS.—An eligible individual may apply for loan repayment under this section after completing each year of qualifying employment. The borrower shall receive forbearance while engaged in qualifying employment unless the borrower is in deferment while so engaged.

"(g) EVALUATION.—

"(1) IN GENERAL.—The Secretary shall conduct, by grant or contract, an independent national evaluation of the impact of the demonstration program assisted under this section on the field of early childhood education.

"(2) COMPETITIVE BASIS.—The grant or contract described in subsection (b) shall be awarded on a competitive basis.

"(3) CONTENTS.—The evaluation described in this subsection shall—

"(A) determine the number of individuals who were encouraged by the demonstration program assisted under this section to pursue early childhood education;

"(B) determine the number of individuals who remain employed in a child care facility as a result of participation in the program;

"(C) identify the barriers to the effectiveness of the program;

"(D) assess the cost-effectiveness of the program in improving the quality of—

"(i) early childhood education; and

"(ii) child care services;

"(E) identify the reasons why participants in the program have chosen to take part in the program;

"(F) identify the number of individuals participating in the program who received an associate's degree and the number of such individuals who received a bachelor's degree; and

"(G) identify the number of years each individual participates in the program.

"(4) INTERIM AND FINAL EVALUATION REPORTS.—The Secretary shall prepare and submit to the President and the Congress such interim reports regarding the evaluation described in this subsection as the Secretary deems appropriate, and shall prepare and so submit a final report regarding the evaluation by January 1, 2002.

"(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $10,000,000 for fiscal year 1999, and such sums as may be necessary for each of the 4 succeeding fiscal years.".

SEC. 435. NOTICE TO SECRETARY AND PAYMENT OF LOSS.

The third sentence of section 430(a) (20 U.S.C. 1080(a)) is amended by inserting "the institution was contacted and other" after "submit proof that".

SEC. 436. COMMON FORMS AND FORMATS.

Section 432 (20 U.S.C. 1082) is amended—

(1) in subsection (m)(1)—

(A) in subparagraph (A), by striking "a common application form and promissory note" and inserting "common application forms and promissory notes, or master promissory notes,";

(B) by striking subparagraph (C);

(C) by redesignating subparagraph (D) as subparagraph (C); and

(D) in subparagraph (C) (as redesignated by subparagraph (C))—

(i) by inserting ", application and other" after "electronic"; and

(ii) by adding at the end the following: "Guaranty agencies, borrowers, and lenders may use electronically printed versions of common forms approved for use by the Secretary."; and

(2) in subsection (p), by striking "State postsecondary reviewing entities designated under subpart 1 of part H,".

SEC. 437. STUDENT LOAN INFORMATION BY ELIGIBLE LENDERS.

Section 433 (20 U.S.C. 1083) is amended—

(1) in subsection (a), by amending the matter preceding paragraph (1) to read as follows:

"(a) REQUIRED DISCLOSURE BEFORE DISBURSEMENT.—Each eligible lender shall, at or prior to the time such lender disburses a loan that is insured or guaranteed under this part (other than a loan made under section 428C), provide thorough and accurate loan information on such loan to the borrower. Any disclosure required by this subsection may be made by an eligible lender by written or electronic means, including as part of the application material provided to the borrower, as part of the promissory note evidencing the loan, or on a separate written form provided to the borrower. Each lender shall provide a telephone number, and may provide an electronic address, to each borrower through which additional loan information can be obtained. The disclosure shall include—"; and

(2) in subsection (b), by amending the matter preceding paragraph (1) to read as follows:

"(b) REQUIRED DISCLOSURE BEFORE REPAYMENT.—Each eligible lender shall, at or prior to the start of the repayment period of the student borrower on loans made, insured, or guaranteed under this part, disclose to the borrower by written or electronic means the information required under this subsection. Each eligible lender shall provide a telephone number, and may provide an electronic address, to each borrower through which additional loan information can be obtained. For any loan made, insured, or guaranteed under this part, other than a loan made under section 428B or 428C, such disclosure required by this subsection shall be made not less than 30 days nor more than 240 days before the first payment on the loan is due from the borrower. The disclosure shall include—".

SEC. 438. DEFINITIONS.

(a) ELIGIBLE INSTITUTION.—Section 435(a) (20 U.S.C. 1085(a)) is amended—

(1) in paragraph (2)—

(A) by adding after the matter following subparagraph (A)(ii) the following:

"If an institution continues to participate in a program under this part, and the institution's appeal of the loss of eligibility is unsuccessful, the institution shall be required to pay to the Secretary an amount equal to the amount of interest, special allowance, reinsurance, and any related payments made by the Secretary (or which the Secretary is obligated to make) with respect to loans made under this part to students attending, or planning to attend, that institution during the pendency of such appeal. In order to continue to participate during an appeal under this paragraph, the institution shall provide a letter of credit in favor of the Secretary or other third-party financial guarantees satisfactory to the Secretary in an amount determined by the Secretary to be sufficient to satisfy the institution's potential liability on such loans under the preceding sentence."; and

(B) by amending subparagraph (C) to read as follows:

"(C)(i) This paragraph shall not apply to any institution described in clause (ii), and any such institution that exceeds the threshold percentage in subparagraph (A)(ii) for 2 consecutive years shall submit to the Secretary a default management plan satisfactory to the Secretary and containing criteria designed, in accordance with the regulations of the Secretary, to demonstrate continuous improvement by the institution in the institution's cohort default rate. If the institution fails to submit the required plan, or to satisfy the criteria in the plan, the institution shall be subject to a loss of eligibility in accordance with this paragraph, except as the Secretary may otherwise specify in regulations.

"(ii) An institution referred to in clause (i) is—

"(I) a part B institution within the meaning of section 322(2);

"(II) a Tribally Controlled College or University within the meaning of section 2(a)(4) of the Tribally Controlled College or University Assistance Act of 1978; or

"(III) a Navajo Community College under the Navajo Community College Act.";

(2) in the matter following subparagraph (C)—

(A) by inserting "for a reasonable period of time, not to exceed 30 days," after "access"; and

(B) by striking "of the affected guaranty agencies and loan servicers for a reasonable period of time, not to exceed 30 days" and inserting "used by a guaranty agency in determining whether to pay a claim on a defaulted loan"; and

(3) by adding at the end the following:

"(4) PARTICIPATION RATE INDEX.—

"(A) IN GENERAL.—An institution that demonstrates to the Secretary that the institution's participation rate index is equal to or less than 0.0375 for any of the 3 applicable participation rate indices shall not be subject to paragraph (2). The participation rate index shall be determined by multiplying the institution's cohort default rate for loans under part B or D, or weighted average cohort default rate for loans under parts B and D, by the percentage of the institution's regular students, enrolled on at least a half-time basis, who received a loan made under part B or D for a 12-month period ending during the 6 months immediately preceding the fiscal year for which the cohort of borrowers used to calculate the institution's cohort default rate is determined.

"(B) DATA.—An institution shall provide the Secretary with sufficient data to determine the institution's participation rate index within 30 days after receiving an initial notification of the institution's draft cohort default rate.

"(C) NOTIFICATION.—Prior to publication of a final cohort default rate for an institution that provides the data described in subparagraph (B), the Secretary shall notify the institution of the institution's compliance or noncompliance with subparagraph (A).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a)(1)(B) shall be effective during the period beginning on the date of enactment of this Act and ending on September 30, 2002.

(c) ELIGIBLE LENDER.—Section 435(d)(1)(A)(ii) (20 U.S.C. 1085(d)(1)(A)(ii) is amended—

(1) by striking "or" after "1992,"; and

(2) by inserting before the semicolon the following: ", or (III) it is a bank (as defined in section 3(a)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1813(a)(1)) that is a wholly owned subsidiary of a nonprofit foundation, the foundation is described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(l) of such Code, and the bank makes loans under this part only to undergraduate students who are age 22 or younger and has a portfolio of such loans that is not more than $5,000,000".

(d) DEFINITION OF DEFAULT.—

(1) AMENDMENT.—Section 435(l) (20 U.S.C. 1085l) is amended—

(A) by striking "180 days" and inserting "270 days"; and

(B) by striking "240 days" and inserting "330 days".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply with respect to loans for which the first day of delinquency occurs on or after the date of enactment of this Act.

(e) COHORT DEFAULT RATE.—Section 435(m)(1)(B) (20 U.S.C. 1085(m)(1)(B)) is amended by striking "insurance, and, in considering appeals with respect to cohort default rates pursuant to subsection (a)(3), exclude" and inserting "insurance. In considering appeals with respect to cohort default rates pursuant to subsection (a)(3), the Secretary shall exclude, from the calculation of the number of students who entered repayment and from the calculation of the number of students who default,".

(f) PUBLICATION DATE.—Section 435(m)(4) (20 U.S.C. 1085(m)(4)) is amended by adding at the end the following:

"(D) The Secretary shall publish the report described in subparagraph (C) by September 30 of each year.".

SEC. 439. STUDY OF THE EFFECTIVENESS OF COHORT DEFAULT RATES FOR INSTITUTIONS WITH FEW STUDENT LOAN BORROWERS.

Part A of title IV (20 U.S.C. 1071 et seq.) is amended by adding after section 435 the following:

"SEC. 435A. STUDY OF THE EFFECTIVENESS OF COHORT DEFAULT RATES FOR INSTITUTIONS WITH FEW STUDENT LOAN BORROWERS.

"(a) STUDY REQUIRED.—The Secretary shall conduct a study of the effectiveness of cohort default rates as an indicator of administrative capability and program quality for institutions of higher education at which less than 15 percent of students eligible to borrow participate in the Federal student loan programs under this title and fewer than 30 borrowers enter repayment in any fiscal year. At a minimum, the study shall include—

"(1) identification of the institutions included in the study and of the student populations the institutions serve;

"(2) analysis of cohort default rates as indicators of administrative shortcomings and program quality at the institutions;

"(3) analysis of the effectiveness of cohort default rates as a means to prevent fraud and abuse in the programs assisted under this title;

"(4) analysis of the extent to which the institutions with high cohort default rates are no longer participants in the Federal student loan programs under this title; and

"(5) analysis of the costs incurred by the Department for the calculation, publication, correction, and appeal of cohort default rates for the institutions in relation to any benefits to taxpayers.

"(b) CONSULTATION.—In conducting the study described in subsection (a), the Secretary shall consult with institutions of higher education.

"(c) REPORT TO CONGRESS.—The Secretary shall report to the Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives not later than September 30, 1999, regarding the results of the study described in subsection (a).".

SEC. 440. DELEGATION OF FUNCTIONS.

Section 436 (20 U.S.C. 1086) is amended to read as follows:

"SEC. 436. DELEGATION OF FUNCTIONS.

"(a) IN GENERAL.—An eligible lender or guaranty agency that contracts with another entity to perform any of the lender's or agency's functions under this title, or otherwise delegates the performance of such functions to such other entity—

"(1) shall not be relieved of the lender's or agency's duty to comply with the requirements of this title; and

"(2) shall monitor the activities of such other entity for compliance with such requirements.

"(b) SPECIAL RULE.—A lender that holds a loan made under part B in the lender's capacity as a trustee is responsible for complying with all statutory and regulatory requirements imposed on any other holder of a loan made under this part.".

SEC. 440A. SPECIAL ALLOWANCES.

(a) AMENDMENTS.—Section 438 (20 U.S.C. 1087–1) is amended—

(1) in subsection (c), by amending paragraph (1) to read as follows:

"(1) DEDUCTION FROM INTEREST AND SPECIAL ALLOWANCE SUBSIDIES.—(A) Notwithstanding subsection (b), the Secretary shall collect the amount the lender is authorized to charge as an origination fee in accordance with paragraph (2) of this subsection—

"(i) by reducing the total amount of interest and special allowance payable under section 428(a)(3)(A) and subsection (b) of this section, respectively, to any holder; or

"(ii) directly from the holder of the loan, if the lender fails or is not required to bill the Secretary for interest and special allowance or withdraws from the program with unpaid loan origination fees.

"(B) If the Secretary collects the origination fee under this subsection through the reduction of interest and special allowance, and the total amount of interest and special allowance payable under section 428(a)(3)(A) and subsection (b) of this section, respectively, is less than the amount the lender was authorized to charge borrowers for origination fees in that quarter, the Secretary shall deduct the excess amount from the subsequent quarters' payments until the total amount has been deducted.";

(2) in subsection (d), by amending paragraph (1) to read as follows:

"(1) DEDUCTION FROM INTEREST AND SPECIAL ALLOWANCE SUBSIDIES.—

"(A) IN GENERAL.—Notwithstanding subsection (b), the Secretary shall collect a loan fee in an amount determined in accordance with paragraph (2)—

"(i) by reducing the total amount of interest and special allowance payable under section 428(a)(3)(A) and subsection (b), respectively, to any holder of a loan; or

"(ii) directly from the holder of the loan, if the lender—

"(I) fails or is not required to bill the Secretary for interest and special allowance payments; or

"(II) withdraws from the program with unpaid loan fees.

"(B) SPECIAL RULE.—If the Secretary collects loan fees under this subsection through the reduction of interest and special allowance payments, and the total amount of interest and special allowance payable under section 428(a)(3)(A) and subsection (b), respectively, is less than the amount of such loan fees, then the Secretary shall deduct the amount of the loan fee balance from the amount of interest and special allowance payments that would otherwise be payable, in subsequent quarterly increments until the balance has been deducted."; and

(3) in subsection (e)—

(A) by striking paragraphs (1) and (2); and

(B) by redesignating paragraphs (3) and (4) as paragraphs (1) and (2), respectively.

(b) CONFORMING AMENDMENT.—Section 432(f)(1)(D) is amended by striking "required to file a plan for doing business under section 438(d)" and inserting "that meets the requirements of section 438(e)".

SEC. 440B. STUDY OF MARKET-BASED MECHANISMS FOR DETERMINING STUDENT LOAN INTEREST RATES.

(a) STUDY REQUIRED.—

(1) IN GENERAL.—The Secretary of the Treasury shall conduct a study of the feasibility of employing market-based mechanisms, including some form of auction, for determining student loan interest rates under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.). The study shall include—

(A) analysis of the potential impact of the mechanisms on the delivery of student financial aid;

(B) analysis of the implications of the mechanisms with respect to student and institutional access to student loan capital;

(C) analysis of the potential impact of the mechanisms on the costs of the programs under such title for students and the Federal Government; and

(D) a plan for structuring and implementing the mechanisms in such a manner that ensures the cost-effective availability of student loans for students and their families.

(b) CONSULTATION.—In conducting the study described in paragraph (1), the Secretary shall consult with lenders, secondary markets, guaranty agencies, institutions of higher education, student loan borrowers, and other participants in the student loan programs under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.).

(c) REPORT TO CONGRESS.—The Secretary of the Treasury shall report to the Committee on Labor and Human Resources of the Senate, and the Committee on Education and the Workforce of the House of Representatives not later than September 30, 1999, regarding the results of the study described in subsection (a).

PART C—FEDERAL WORK-STUDY PROGRAMS

SEC. 441. AUTHORIZATION OF APPROPRIATIONS; COMMUNITY SERVICES.

Section 441 (20 U.S.C. 2751) is amended—

(1) in subsection (b), by striking "$800,000,000 for fiscal year 1993" and inserting "$900,000,000 for fiscal year 1999"; and

(2) in subsection (c)—

(A) in paragraph (1), by inserting "(including child care services provided on campus)" after "child care"; and

(B) in paragraph (3), by inserting ", including students with disabilities who are enrolled at the institution" before the semicolon.

SEC. 442. GRANTS FOR FEDERAL WORK-STUDY PROGRAMS.

Section 443(b) (20 U.S.C. 2753(b)) is amended—

(1) in paragraph (1), by inserting ", including internships or research assistanceships as determined by the Secretary," after "part-time employment";

(2) by amending paragraph (3) to read as follows:

"(3) provide that in the selection of students for employment under such work-study program, only students who demonstrate financial need in accordance with part F of this title and meet the requirements of section 484 will be assisted, except that if the institution's grant under this part is directly or indirectly based in part on the financial need demonstrated by students who are (A) attending the institution on less than a full-time basis, or (B) independent students, a reasonable portion of the allocation shall be made available to such students;";

(3) in paragraph (5)—

(A) by striking "provide that" and inserting "(A) provide that";

(B) by striking "1993–1994" and inserting "1999–2000"; and

(C) by inserting "and (B) provide that the Federal share of the compensation of students employed in community service shall not exceed 90 percent for academic years 1999–2000 and succeeding academic years," after "academic years,"; and

(4) in paragraph (6), by striking ", and to make" and all that follows through "such employment".

SEC. 443. WORK COLLEGES.

Section 448 (20 U.S.C. 2756b) is amended—

(1) in subsection (b)(2)—

(A) in subparagraph (C), by striking "and" after the semicolon;

(B) in subparagraph (D)(ii), by striking the period and inserting a semicolon; and

(C) by adding at the end the following:

"(E) coordinate and carry out joint projects and activities to promote work service learning; and

"(F) carry out a comprehensive, longitudinal study of student academic progress and academic and career outcomes, relative to student self-sufficiency in financing their higher education, repayment of student loans, continued community service, kind and quality of service performed, and career choice and community service selected after graduation."; and

(2) in subsection (f), by striking "$5,000,000 for fiscal year 1993" and inserting "$7,000,000 for fiscal year 1999".

PART D—WILLIAM D. FORD FEDERAL DIRECT LOAN PROGRAM

SEC. 451. SELECTION OF INSTITUTIONS.

Section 453(c) (20 U.S.C. 1087c(c)) is amended—

(1) in paragraph (2)—

(A) in the paragraph heading, by striking "TRANSITION";

(B) by striking subparagraph (E); and

(C) by redesignating subparagraphs (F), (G), and (H) as subparagraphs (E), (F), and (G), respectively; and

(2) in paragraph (3)—

(A) in the paragraph heading, by striking "AFTER TRANSITION"; and

(B) by striking "For academic year 1995–1996 and subsequent academic years, the" and inserting "The".

SEC. 452. TERMS AND CONDITIONS.

(a) DIRECT LOAN INTEREST RATES.—Section 455(b) (20 U.S.C. 1087e(b)) is amended by amending paragraph (5) to read as follows:

"(5) INTEREST RATE PROVISION.—

"(A) RATES FOR FDSL AND FDUSL.—Notwithstanding the preceding paragraphs of this subsection, for Federal Direct Unsubsidized Stafford/Ford Loans for which the first disbursement is made on or after October 1, 1998, and before July 1, 2003, the applicable rate of interest shall, during any 12-month period beginning on July 1 and ending on June 30, be determined on the preceding June 1 and be equal to—

"(i) the bond equivalent rate of 91-day Treasury bills auctioned at the final auction held prior to such June 1; plus

"(ii) 2.3 percent,

except that such rate shall not exceed 8.25 percent.

"(B) IN SCHOOL AND GRACE PERIOD RULES.—Notwithstanding the preceding paragraphs of this subsection, with respect to any Federal Direct Stafford/Ford Loan or Federal Direct Unsubsidized Stafford/Ford Loan for which the first disbursement is made on or after October 1, 1998, and before July 1, 2003, the applicable rate of interest for interest which accrues—

"(i) prior to the beginning of the repayment period of the loan; or

"(ii) during the period in which principal need not be paid (whether or not such principal is in fact paid) by reason of a provision described in section 428(b)(1)(M) or 427(a)(2)(C),

shall be determined under subparagraph (A) by substituting '1.7 percent' for '2.3 percent'.

"(C) PLUS LOANS.—Notwithstanding the preceding paragraphs of this subsection, with respect to Federal Direct PLUS Loan for which the first disbursement is made on or after October 1, 1998, and before July 1, 2003, the applicable rate of interest shall be determined under subparagraph (A)—

"(i) by substituting '3.1 percent' for '2.3 percent'; and

"(ii) by substituting '9.0 percent' for '8.25 percent'.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to any loan made under part D of title IV of the Higher Education Act of 1965 for which the first disbursement is made on or after October 1, 1998, and before July 1, 2003.

(c) REPAYMENT INCENTIVES.—Section 455(b) (20 U.S.C. 1087e(b)) is amended further by adding at the end the following:

"(7) REPAYMENT INCENTIVES.—

"(A) IN GENERAL.—Notwithstanding any other provision of this part, the Secretary is authorized to prescribe by regulation such reductions in the interest rate paid by a borrower of a loan made under this part as the Secretary determines appropriate to encourage on-time repayment of the loan. Such reductions may be offered only if the Secretary determines the reductions are cost neutral and in the best financial interest of the Federal Government. Any increase in subsidy costs resulting from such reductions shall be completely offset by corresponding savings in funds available for the William D. Ford Federal Direct Loan Program in that fiscal year from section 458 and other administrative accounts.

"(B) ACCOUNTABILITY.—The Secretary shall ensure the cost neutrality of such reductions by obtaining an official report from the Director of the Office of Management and Budget and the Director of the Congressional Budget Office that any such reductions will be completely cost neutral. The reports shall be transmitted to the Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives not less than 60 days prior to the publication of regulations proposing such reductions.".

SEC. 453. CONTRACTS.

Section 456(b) (20 U.S.C. 1087f(b)) is amended—

(1) in paragraph (3), by inserting "and" after the semicolon;

(2) by striking paragraph (4); and

(3) by redesignating paragraph (5) as paragraph (4).

SEC. 454. FUNDS FOR ADMINISTRATIVE EXPENSES.

Section 458 (20 U.S.C. 1087h) is amended—

(1) by amending subsection (a) to read as follows:

"(a) ADMINISTRATIVE EXPENSES.—

"(1) IN GENERAL.—Each fiscal year there shall be available to the Secretary, from funds not otherwise appropriated, funds to be obligated for—

"(A) administrative costs under this part and part B, including the costs of the direct student loan programs under this part; and

"(B) account maintenance fees payable to guaranty agencies under part B and calculated in accordance with subsections (b) and (c),

not to exceed (from such funds not otherwise appropriated) $612,000,000 in fiscal year 1999, $730,000,000 in fiscal year 2000, $765,000,000 in fiscal year 2001, $770,000,000 in fiscal year 2002, and $785,000,000 in fiscal year 2003.

"(2) ACCOUNT MAINTENANCE FEES.—Account maintenance fees under paragraph (1)(B) shall be paid quarterly and deposited in the Agency Operating Fund established under section 422B.

"(3) CARRYOVER.—The Secretary may carry over funds made available under this section to a subsequent fiscal year.";

(2) by amending subsection (b) to read as follows:

"(b) CALCULATION BASIS.—Except as provided in subsection (c), account maintenance fees payable to guaranty agencies under paragraph (1)(B) shall be calculated—

"(1) for fiscal years 1999 and 2000, on the basis of 0.12 percent of the original principal amount of outstanding loans on which insurance was issued under part B; and

"(2) for fiscal year 2001, 2002, and 2003, on the basis of 0.10 percent of the original principal amount of outstanding loans on which insurance was issued under part B.";

(3) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(4) by inserting after subsection (b) the following:

"(c) SPECIAL RULES.—

"(1) FEE CAP.—The total amount of account maintenance fees payable under this section—

"(A) for fiscal year 1999, shall not exceed $177,000,000;

"(B) for fiscal year 2000, shall not exceed $180,000,000;

"(C) for fiscal year 2001, shall not exceed $170,000,000;

"(D) for fiscal year 2002, shall not exceed $180,000,000; and

"(E) for fiscal year 2003, shall not exceed $195,000,000.

"(2) INSUFFICIENT FUNDING.—

"(A) IN GENERAL.—Notwithstanding section 422A(d), if the amount made available under subsection (a) is insufficient to pay the account maintenance fees payable to guaranty agencies under paragraph (1) for a fiscal year, the Secretary shall pay the insufficiency by requiring guaranty agencies to transfer funds from the Federal Student Loan Reserve Funds under section 422A to the Agency Operating Funds under section 422B.

"(B) ENTITLEMENT.—A guaranty agency shall be deemed to have a contractual right against the United States to receive payments according to the provisions of subparagraph (A).".

SEC. 455. LOAN CANCELLATION FOR TEACHERS.

Part D of title IV (20 U.S.C. 1087a et seq.) is amended by adding at the end the following:

"SEC. 459. LOAN CANCELLATION FOR TEACHERS.

"(a) STATEMENT OF PURPOSE.—It is the purpose of this section to encourage individuals to enter and continue in the teaching profession.

"(b) PROGRAM AUTHORIZED.—The Secretary is authorized to carry out a program of canceling the obligation to repay a Federal Direct Stafford/Ford Loan made under this part that is eligible for an interest subsidy and is a qualifying loan, for any new borrower on or after October 1, 1998, who—

"(1) has been employed as a full-time teacher for 3 consecutive complete school years—

"(A) in a school that qualifies under section 465(a)(2)(A) for loan cancellation for Perkins loan recipients who teach in such schools;

"(B) if employed as a secondary school teacher, is teaching a subject area that is relevant to the borrower's academic major as certified by the chief administrative officer of the public or non-profit private secondary school in which the borrower is employed; and

"(C) if employed as an elementary school teacher, has demonstrated, in accordance with State teacher certification or licensing requirements and as certified by the chief administrative officer of the public or nonprofit private elementary school in which the borrower is employed, knowledge and teaching skills in reading, writing, mathematics and other areas of the elementary school curriculum; and

"(2) is not in default on a loan for which the borrower seeks forgiveness.

"(c) QUALIFYING LOANS.—For purposes of this section, a loan is a qualifying loan if—

"(1) the loan was obtained to cover the cost of instruction for an academic year after the first and second years of undergraduate education; and

"(2) the loan did not cover the costs of instruction for more than 2 academic years, or 3 academic years in the case of a program of instruction normally requiring 5 years to complete.

"(d) REGULATIONS.—The Secretary is authorized to issue such regulations as may be necessary to carry out the provisions of this section.

"(e) LOAN CANCELLATION DURING CONTINUING TEACHING SERVICE.—

"(1) IN GENERAL.—The Secretary shall cancel the obligation to repay—

"(A) 30 percent of the total outstanding amount and applicable interest of subsidized Federal Direct Stafford/Ford loans that are qualifying loans and are owed by the student borrower after the completion of the fourth or fifth complete school year of service described in subsection (b);

"(B) 40 percent of such total amount after the completion of the sixth complete school year of such service; and

"(C) a total amount for any borrower that shall not exceed $8,000.

"(2) CONSTRUCTION.—Nothing in this section shall be construed to authorize any refunding of any canceled loan.

"(f) LIST.—If the list of schools in which a teacher may perform service pursuant to subsection (b) is not available before May 1 of any year, the Secretary may use the list for the year preceding the year for which the determination is made to make such service determination.

"(g) CONTINUED ELIGIBILITY.—Any teacher who performs service in a school that—

"(1) meets the requirements of subsection (b)(1)(A) in any year during such service; and

"(2) in a subsequent year fails to meet the requirements of such subsection, may continue to teach in such school and shall be eligible for loan cancellation pursuant to subsection (b).".

PART E—FEDERAL PERKINS LOANS

SEC. 461. AUTHORIZATION OF APPROPRIATIONS.

Subsection (b) of section 461 (20 U.S.C. 1087aa) is amended—

(1) in paragraph (1), by striking "1993" and inserting "1999"; and

(2) in paragraph (2), by striking "1997" each place the term appears and inserting "2003".

SEC. 462. ALLOCATION OF FUNDS.

(a) AMENDMENTS.—Section 462 (20 U.S.C. 1087bb) is amended—

(1) in the matter preceding subparagraph (A) of subsection (d)(3), by striking "the Secretary, for" and all that follows through "years,";

(2) by amending subsection (f) to read as follows:

"(f) DEFAULT PENALTIES.—

"(1) IN GENERAL.—For fiscal year 1998 and any succeeding fiscal year, any institution with a cohort default rate (as defined under subsection (h)) that equals or exceeds 25 percent shall have a default penalty of zero.

"(2) INELIGIBILITY.—

"(A) IN GENERAL.—For fiscal year 1998 and any succeeding fiscal year, any institution with a cohort default rate (as defined in subsection (h)) that equals or exceeds 50 percent for each of the 3 most recent years for which data are available shall not be eligible to participate in a program under this part for the fiscal year for which the determination is made and the 2 succeeding fiscal years, unless, within 30 days of receiving notification from the Secretary of the loss of eligibility under this paragraph, the institution appeals the loss of eligibility to the Secretary. The Secretary shall issue a decision on any such appeal within 45 days after the submission of the appeal. Such decision may permit the institution to continue to participate in a program under this part if—

"(i) the institution demonstrates to the satisfaction of the Secretary that the calculation of the institution's cohort default rate is not accurate, and that recalculation would reduce the institution's cohort default rate for any of the 3 fiscal years below 50 percent; or

"(ii) there are, in the judgment of the Secretary, exceptional mitigating circumstances such as a small number of borrowers entering repayment, that would make the application of this subparagraph inequitable.

"(B) CONTINUED PARTICIPATION.—During an appeal under subparagraph (A), the Secretary may permit the institution to continue to participate in a program under this part.

"(C) DEFINITION.—For the purposes of subparagraph (A), the term 'loss of eligibility' shall be defined as the mandatory liquidation of an institution's student loan fund, and assignment of the institution's outstanding loan portfolio to the Secretary.";

(3) by amending paragraph (1) of subsection (g) to read as follows: "(1) For award year 1998 and subsequent years, the maximum cohort default rate is 25 percent."; and

(4) in subsection (h)—

(A) in the subsection heading, by striking "DEFINITIONS OF DEFAULT RATE AND" and inserting "DEFINITION OF";

(B) by striking paragraphs (1) and (2);

(C) by redesignating paragraphs (3) and (4) as paragraphs (1) and (2), respectively;

(D) in paragraph (1) (as redesignated by subparagraph (C))—

(i) by striking subparagraph (B); and

(ii) by redesignating subparagraphs (C) through (G) as subparagraphs (B) through (F), respectively; and

(E) in the matter preceding subparagraph (A) of paragraph (2) (as redesignated by subparagraph (C)), by striking "A loan" and inserting "For purposes of calculating the cohort default rate under this subsection, a loan".

(b) CONFORMING AMENDMENTS.—Section 462 (20 U.S.C. 1087bb) is amended—

(1) in the matter following paragraphs (1)(B) and (2)(D)(ii) of subsection (a), by inserting "cohort" before "default" each place the term appears;

(2) in the matter following paragraphs (2)(B) and (3)(C) of subsection (c), by inserting "cohort" before "default" each place the term appears;

(3) in subsection (e)(2), by inserting "cohort" before "default"; and

(4) in subsection (h)(1)(F) (as redesignated by subparagraphs (C) and (D)(ii) of subsection (a)(4)), by inserting "cohort" before "default".

SEC. 463. AGREEMENTS WITH INSTITUTIONS OF HIGHER EDUCATION.

Section 463 (20 U.S.C. 1087cc) is amended—

(1) by amending subparagraph (B) of subsection (a)(2) to read as follows:

"(B) a capital contribution by an institution in an amount equal to one-third of the Federal capital contributions described in subparagraph (A);";

(2) in subsection (c)—

(A) in paragraph (2)—

(i) in the matter preceding subparagraph (A), by striking "by the Secretary" and all that follows through "of—" and inserting "by the Secretary or an institution, as the case may be, to such organizations, with respect to any loan held by the Secretary or the institution, respectively,
of—";

(ii) by amending subparagraph (A) to read as follows:

"(A) the date of disbursement and the amount of such loans made to any borrower under this part at the time of disbursement of the loan;";

(iii) in subparagraph (B)—

(I) by inserting "the repayment and" after "concerning"; and

(II) by striking "any defaulted" and inserting "such"; and

(iv) in subparagraph (C), by inserting ", or upon cancellation or discharge of the borrower's obligation on the loan for any reason" before the period;

(B) in paragraph (3)—

(i) in the matter preceding subparagraph (A), by striking "until—" and inserting "until the loan is paid in full."; and

(ii) by striking subparagraphs (A) and (B); and

(C) by amending paragraph (4) to read as follows:

"(4)(A) Except as provided in subparagraph (B), an institution of higher education, after consultation with the Secretary and pursuant to the agreements entered into under paragraph (1), shall disclose at least annually to any credit bureau organization with which the Secretary has such an agreement the information set forth in paragraph (2), and shall disclose promptly to such credit bureau organization any changes to the information previously disclosed.

"(B) The Secretary may promulgate regulations establishing criteria under which an institution of higher education may cease reporting the information described in paragraph (2) before a loan is paid in full.".

SEC. 464. TERMS OF LOANS.

Section 464 (20 U.S.C. 1087dd) is amended—

(1) in subsection (a), by amending paragraph (2) to read as follows:

"(2)(A) Except as provided in paragraph (4), the total of loans made to a student in any academic year or its equivalent by an institution of higher education from a loan fund established pursuant to an agreement under this part shall not exceed—

"(i) $4,000, in the case of a student who has not successfully completed a program of undergraduate education; or

"(ii) $6,000, in the case of a graduate or professional student (as defined in regulations issued by the Secretary).

"(B) Except as provided in paragraph (4), the aggregate of the loans for all years made to a student by institutions of higher education from loan funds established pursuant to agreements under this part may not exceed—

"(i) $40,000, in the case of any graduate or professional student (as defined by regulations issued by the Secretary, and including any loans from such funds made to such person before such person became a graduate or professional student);

"(ii) $20,000, in the case of a student who has successfully completed 2 years of a program of education leading to a bachelor's degree but who has not completed the work necessary for such a degree (determined under regulations issued by the Secretary, and including any loans from such funds made to such person before such person became such a student); and

"(iii) $8,000, in the case of any other student.

"(C)(i) The total of loans made to a student described in clause (ii) in any academic year or its equivalent by an institution of higher education from loan funds established pursuant to agreements under this part may not exceed—

"(I) $8,000 for each of the third and fourth years of the program of instruction leading to a bachelor's degree; or

"(II) $10,000 for the first year of graduate study (as defined in regulations issued by the Secretary).

"(ii) A student referred to in clause (i) is any student—

"(I) who is a junior in a program of instruction leading to a bachelor's degree;

"(II) who states in writing that the student will pursue a course of study to become an elementary or secondary school teacher; and

"(III) who states in writing that the student intends to become a full-time teacher in a school which meets the requirements of section 465(a)(2)(A).

"(iii) Each institution shall provide a report to the Secretary annually containing the number of loans under this subparagraph that are made, the amount of each loan, and whether students benefiting from the higher loan limits met the requirements for receiving those loans.

"(iv) If 3 years after the date of enactment of the Higher Education Amendments of 1998, the Secretary determines that an institution has engaged in a pattern of abuse of this subparagraph, the Secretary may reduce or terminate the institution's Federal capital contribution.";

(2) in subsection (b), by amending paragraph (2) to read as follows:

"(2) If the institution's capital contribution under section 462 is directly or indirectly based in part on the financial need demonstrated by students who are (A) attending the institution less than full time; or (B) independent students, a reasonable portion of the loans made from the institution's student loan fund containing the contribution shall be made available to such students.";

(3) in subsection (c)(1)—

(A) in subparagraph (D), by striking "(i) 3 percent" and all that follows through "or (iii)";

(B) by redesignating subparagraphs (H) and (I) as subparagraphs (I) and (J), respectively; and

(C) by inserting after subparagraph (G) the following:

"(H) shall provide that, in the case of a loan made on or after July 1, 1999, the loan shall be considered in default (except as otherwise provided in section 462(h)) if the borrower of a loan made under this part fails to make an installment payment when due, or to meet any other term of the promissory note or written repayment agreement, and such failure persists for—

"(i) 180 days in the case of a loan that is repayable in monthly installments; or

"(ii) 240 days in the case of a loan that is repayable in less frequent installments;";

(4) in subsection (c), by adding at the end the following:

"(7) There shall be excluded from the 9-month period that begins on the date on which a student ceases to carry at least one-half the normal full-time academic workload as described in paragraph (1)(A) any period not to exceed 3 years during which a borrower who is a member of a reserve component of the Armed Forces named in section 10101 of title 10, United States Code, is called or ordered to active duty for a period of more than 30 days (as defined in section 101(d)(2) of such title). Such period of exclusion shall include the period necessary to resume enrollment at the borrower's next available regular enrollment period."; and

(5) by adding at the end the following:

"(g) DISCHARGE.—

"(1) IN GENERAL.—If a student borrower who received a loan made under this part on or after January 1, 1986, is unable to complete the program in which such student is enrolled due to the closure of the institution, then the Secretary shall discharge the borrower's liability on the loan (including the interest and collection fees) by repaying the amount owed on the loan and shall subsequently pursue any claim available to such borrower against the institution and the institution's affiliates and principals, or settle the loan obligation pursuant to the financial responsibility standards described in section 498(c).

"(2) ASSIGNMENT.—A borrower whose loan has been discharged pursuant to this subsection shall be deemed to have assigned to the United States the right to a loan refund in an amount that does not exceed the amount discharged against the institution and the institution's affiliates and principals.

"(3) ELIGIBILITY FOR ADDITIONAL ASSISTANCE.—The period during which a student was unable to complete a course of study due to the closing of the institution shall not be considered for purposes of calculating the student's period of eligibility for additional assistance under this title.

"(4) SPECIAL RULE.—A borrower whose loan has been discharged pursuant to this subsection shall not be precluded, because of that discharge, from receiving additional grant, loan, or work assistance under this title for which the borrower would be otherwise eligible (but for the default on the discharged loan).

"(5) REPORTING.—The Secretary or institution, as the case may be, shall report to credit bureaus with respect to loans that have been discharged pursuant to this subsection.

"(h) REHABILITATION OF LOANS.—

"(1) REHABILITATION.—

"(A) IN GENERAL.—If the borrower of a loan made under this part who has defaulted on the loan makes 12 ontime, consecutive, monthly payments of amounts owed on the loan, as determined by the institution, the loan shall be considered rehabilitated, and the institution that made that loan (or the Secretary, in the case of a loan held by the Secretary) shall instruct any credit bureau organization or credit reporting agency to which the default was reported to remove the default from the borrower's credit history.

"(B) COMPARABLE CONDITIONS.—As long as the borrower continues to make scheduled repayments on a loan rehabilitated under this paragraph, the rehabilitated loan shall be subject to the same terms and conditions, and qualify for the same benefits and privileges, as other loans made under this part.

"(C) ADDITIONAL ASSISTANCE.—The borrower of a rehabilitated loan shall not be precluded by section 484 from receiving additional grant, loan, or work assistance under this title (for which the borrower is otherwise eligible) on the basis of defaulting on the loan prior to such rehabilitation.

"(D) LIMITATIONS.—A borrower only once may obtain the benefit of this paragraph with respect to rehabilitating a loan under this part.

"(2) RESTORATION OF ELIGIBILITY.—If the borrower of a loan made under this part who has defaulted on that loan makes 6 ontime, consecutive, monthly payments of amounts owed on such loan, the borrower's eligibility for grant, loan, or work assistance under this title shall be restored. A borrower only once may obtain the benefit of this paragraph with respect to restored eligibility.

"(i) INCENTIVE REPAYMENT PROGRAM.—

"(1) IN GENERAL.—Each institution of higher education may establish, with the approval of the Secretary, an incentive repayment program designed to reduce default and to replenish student loan funds established under this part. Each such incentive repayment program may—

"(A) offer a reduction of the interest rate on a loan on which the borrower has made 48 ontime, consecutive, monthly repayments, but in no event may the rate be reduced by more than 1 percent;

"(B) provide for a discount on the balance owed on a loan on which the borrower pays the principal and interest in full prior to the end of the applicable repayment period, but in no event may the discount exceed 5 percent of the unpaid principal balance due on the loan at the time the early repayment is made; and

"(C) include such other incentive repayment options as the institution determines will carry out the objectives of this subsection.

"(2) LIMITATION.—No incentive repayment option under an incentive repayment program authorized by this subsection may be paid for with Federal funds, including any Federal funds from the student loan fund, nor can an incentive repayment option be paid for with institutional funds from the student loan fund.".

SEC. 465. DISTRIBUTION OF ASSETS FROM STUDENT LOAN FUNDS.

Section 466 (20 U.S.C. 1087ff) is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1)—

(i) by striking "1996" and inserting "2003"; and

(ii) by striking "1997" and inserting "2004"; and

(B) in paragraph (1), by striking "1996" and inserting "2003";

(2) in subsection (b)—

(A) by striking "2005" and inserting "2012"; and

(B) by striking "1996" and inserting "2003"; and

(3) in subsection (c), by striking "1997" and inserting "2004".

SEC. 466. PERKINS LOAN REVOLVING FUND.

(a) REPEAL.—Subsection (c) of section 467 (20 U.S.C. 1087gg(c)) is repealed.

(b) TRANSFER OF BALANCE.—Any funds in the Perkins Loan Revolving Fund on the date of enactment of this Act shall be transferred to and deposited in the Treasury.

PART F—NEED ANALYSIS

SEC. 471. COST OF ATTENDANCE.

Section 472 (20 U.S.C. 1087ll) is amended—

(1) in paragraph (3)—

(A) in subparagraph (A), by striking "of not less than $1,500" and inserting "determined by the institution"; and

(B) in subparagraph (C), by striking ", except that the amount may not be less than $2,500"; and

(2) in paragraph (11), by striking "placed" and inserting "engaged".

SEC. 472. FAMILY CONTRIBUTION FOR DEPENDENT STUDENTS.

Section 475 (20 U.S.C. 1087oo) is amended—

(1) in subsection (g)—

(A) in paragraph (2)—

(i) in subparagraph (D)—

(I) by striking "$1,750" and inserting "$2,200"; and

(II) by striking "and" after the semicolon;

(ii) in subparagraph (E), by striking the period and inserting "; and"; and

(iii) by adding at the end the following:

"(F) an allowance for parents' negative available income, determined in accordance with paragraph (6)."; and

(B) by adding at the end the following:

"(6) ALLOWANCE FOR PARENTS' NEGATIVE AVAILABLE INCOME.—The allowance for parents' negative available income is the amount, if any, by which the sum of the amounts deducted under subparagraphs (A) through (F) of paragraph (1) exceeds the parents' total income (as defined in section 480)."; and

(2) by adding at the end the following:

"(j) ADJUSTMENTS TO STUDENTS CONTRIBUTION FOR ENROLLMENT PERIODS OF LESS THAN NINE MONTHS.—For periods of enrollment of less than 9 months, the student's contribution from adjusted available income (as determined under subsection (g)) is determined, for purposes other than subpart 2 of part A, by dividing the amount determined under such subsection by 9, and multiplying the result by the number of months in the period of enrollment.".

SEC. 473. FAMILY CONTRIBUTION FOR INDEPENDENT STUDENTS WITHOUT DEPENDENTS OTHER THAN A SPOUSE.

Section 476(b)(1)(A)(iv) (20 U.S.C. 1087pp(b)(1)(A)(iv)) is amended—

(1) in subclause (I), by striking "$3,000" and inserting "$4,250";

(2) in subclause (II), by striking "$3,000" and inserting "$4,250"; and

(3) in subclause (III), by striking "$6,000" and inserting "$7,250".

SEC. 474. REGULATIONS; UPDATED TABLES AND AMOUNTS.

Section 478(b) (20 U.S.C. 1087rr(b)) is amended—

(1) by striking "For each academic year" and inserting the following:

"(1) REVISED TABLES.—For each academic year"; and

(2) by adding at the end the following new paragraph:

"(2) REVISED AMOUNTS.—For each academic year after academic year 1999–2000, the Secretary shall publish in the Federal Register revised income protection allowances for the purpose of sections 475(g)(2)(D) and 476(b)(1)(A)(iv). Such revised allowances shall be developed by increasing each of the dollar amounts contained in such section by a percentage equal to the estimated percentage increase in the Consumer Price Index (as determined by the Secretary) between December 1998 and the December next preceding the beginning of such academic year, and rounding the result to the nearest $10.".

SEC. 475. SIMPLIFIED NEEDS TEST; ZERO EXPECTED FAMILY CONTRIBUTION.

Section 479 (20 U.S.C. 1087ss) is amended—

(1) in subsection (b)(3)—

(A) in subparagraph (A), by striking "or" after the semicolon;

(B) by redesignating subparagraph (B) as subparagraph (C); and

(C) by inserting after subparagraph (A) the following:

"(B) a form 1040 (including any prepared or electronic version of such form) required pursuant to the Internal Revenue Code of 1986, except that such form shall be considered a form described in this paragraph only if the student or family files such form in order to take a tax credit under section 25A of the Internal Revenue Code of 1986, and would otherwise be eligible to file a form described in subparagraph (A); or"; and

(2) in subsection (c)—

(A) in paragraph (1), by amending subparagraph (A) to read as follows:

"(A)(i) the student's parents file, or are eligible to file, a form described in subsection (b)(3), or the parents certify to the Secretary that the parents are not required to file an income tax return; and

"(ii) the student files, or is eligible to file, a form described in subsection (b)(3), or the student certifies to the Secretary that the student is not required to file an income tax return; and"; and

(B) in paragraph (2), by amending subparagraph (A) to read as follows:

"(A) the student (and the student's spouse, if any) files, or is eligible to file, a form described in subsection (b)(3), or the student certifies to the Secretary that the student (and the student's spouse, if any) is not required to file an income tax return; and".

SEC. 476. REFUSAL OR ADJUSTMENT OF LOAN CERTIFICATIONS.

Section 479A (20 U.S.C. 1087tt) is amended—

(1) in subsection (a), by inserting "Special circumstances may include tuition expenses at an elementary school or secondary school, medical or dental expenses not covered by insurance, other changes in a family's income or assets, or changes in a student's status." after "absence of special circumstances."; and

(2) by amending subsection (c) to read as follows:

"(c) REFUSAL OR ADJUSTMENT OF LOAN CERTIFICATIONS.—An eligible institution may refuse to certify a statement that permits a student to receive a loan under part B, or refuse to make a loan under part D, or may certify a loan amount or make a loan that is less than the student's determination of need (as determined under this part), if the reason for the action is documented and provided in written form to the student. No eligible institution shall discriminate against any borrower or applicant in obtaining a loan on the basis of race, national origin, religion, sex, marital status, age, or disability status.".

SEC. 477. TREATMENT OF OTHER FINANCIAL ASSISTANCE.

Section 480(j)(3) (20 U.S.C. 1087vv(j)(3)) is amended by inserting "educational assistance after discharge or release from service under chapter 30 of title 38, United States Code, or" after "paragraph (1),".

PART G—GENERAL PROVISIONS

SEC. 481. DEFINITION OF INSTITUTION OF HIGHER EDUCATION.

Subparagraph (A) of section 481(a)(2) (20 U.S.C. 1088(a)(2)) is amended—

(1) in the second sentence, by inserting "or veterinary" after "case of a graduate medical";

(2) by striking "attending a graduate medical school" and inserting "attending such school"; and

(3) by amending clause (ii) to read as follows:

"(ii) the institution has a clinical training program that was approved by a State as of January 1, 1992, or students enrolled in the institution complete their clinical training at an approved veterinary school located in the United States.".

SEC. 482. MASTER CALENDAR.

Section 482 (20 U.S.C. 1089) is amended—

(1) in subsection (a), by adding at the end the following:

"(3) To the extent feasible, the Secretary shall notify eligible institutions and vendors by December 1 prior to the start of an award year of minimal hardware and software requirements necessary to administer programs under this title."; and

(2) by amending subsection (c) to read as follows:

"(c) DELAY OF EFFECTIVE DATE OF LATE PUBLICATIONS.—(1) Except as provided in paragraph (2), any regulatory changes initiated by the Secretary affecting the programs under this title that have not been published in final form by November 1 prior to the start of the award year shall not become effective until the beginning of the second award year after such November 1 date.

"(2)(A) The Secretary may designate any regulatory provision that affects the programs under this title and is published in final form after November 1 as one that an entity subject to the provision may, in the entity's discretion, choose to implement prior to the effective date described in paragraph (1). The Secretary may specify in the designation when, and under what conditions, an entity may implement the provision prior to that effective date. The Secretary shall publish any designation under this subparagraph in the Federal Register.

"(B) If an entity chooses to implement a regulatory provision prior to the effective date described in paragraph (1), as permitted by subparagraph (A), the provision shall be effective with respect to that entity in accordance with the terms of the Secretary's designation.".

SEC. 483. FORMS AND REGULATIONS.

Section 483 (20 U.S.C. 1090) is amended—

(1) in subsection (a)—

(A) in the subsection heading, by striking "FORM" and inserting "FORM DEVELOPMENT";

(B) by amending paragraph (1) to read as follows:

"(1) SINGLE FORM REQUIREMENTS.—The Secretary, in cooperation with representatives of agencies and organizations involved in student financial assistance, shall produce, distribute, and process free of charge a common financial reporting form (which shall include electronic versions of the form) to be used—

"(A) to determine the need (including the expected family contribution and, if appropriate, cost of attendance) and eligibility of a student for financial assistance under parts A, C, D, and E; and

"(B) to determine the need (including the expected family contribution and cost of attendance) of a student for the purposes of part B.

"(2) STATE DATA ITEMS.—The Secretary shall include on the form developed under this subsection such data items, selected in consultation with the States to assist the States in awarding State student financial assistance, as the Secretary determines are appropriate for inclusion.

"(3) PARENT'S SOCIAL SECURITY NUMBER.—The Secretary shall include on the form developed under this paragraph space for the social security number of parents of dependent students seeking financial assistance under this title.

"(4) USE.—The Secretary shall require that the form developed under this paragraph be used for the purpose of collecting eligibility and other data for purposes of part B, including the applicant's choice of lender."; and

(C) in paragraph (3)—

(i) by striking "Institutions of higher education and States shall receive" and inserting "The Secretary shall provide"; and

(ii) by striking "by the Secretary"; and

(2) by adding at the end the following:

"(g) PAYMENT FOR DATA.—The Secretary may pay such charges as the Secretary determines are necessary to obtain data that the Secretary considers essential to the efficient administration of the programs under this title.

"(h) MASTER PROMISSORY NOTE.—

"(1) IN GENERAL.—The Secretary shall develop and require the use of a master promissory note, for loans made under this title for periods of enrollment beginning on or after July 1, 2000, that may be applicable to more than 1 academic year, or more than 1 type of loan made under this title. Prior to implementing the master promissory note for all loans made under this title, the Secretary may develop, test, and require the use of such a master promissory note on a limited or pilot basis.

"(2) CONSULTATION.—In developing the master promissory note under this subsection, the Secretary shall consult with representatives of guaranty agencies, eligible lenders, institutions of higher education, students, and organizations involved in student financial assistance.

"(3) SALE; ASSIGNMENT; ENFORCEABILITY.—Notwithstanding any other provision of law, each loan made under a master promissory note under this subsection may be sold or assigned independently of any other loan made under the same promissory note and each such loan shall be separately enforceable in all Federal and State courts on the basis of an original or copy of the master promissory note in accordance with the terms of the master promissory note.".

SEC. 484. STUDENT ELIGIBILITY.

(a) AMENDMENTS.—Section 484 (20 U.S.C. 1091) is amended—

(1) in subsection (d)—

(A) in the matter preceding paragraph (1), by striking "either"; and

(B) by adding at the end the following:

"(3) The student has completed a high school education in a home school setting and has met any State requirements with respect to such education in a home school setting.";

(2) in subsection (l), by amending paragraph (1) to read as follows:

"(1) RELATION TO CORRESPONDENCE COURSES.—

"(A) IN GENERAL.—A student enrolled in a course of instruction at an institution of higher education that is offered in whole or in part through telecommunications and leads to a recognized certificate for a program of study of 1 year or longer, or a recognized associate, baccalaureate, or graduate degree, conferred by such institution, shall not be considered to be enrolled in correspondence courses unless the total amount of telecommunications and correspondence courses at such institution equals or exceeds 50 percent of the total amount of all courses at the institution.

"(B) REQUIREMENT.—An institution of higher education referred to in subparagraph (A) is an institution of higher education—

"(i) that is not an institute or school described in section 521(4)(C) of the Carl D. Perkins Vocational and Applied Technology Education Act; and

"(ii) for which at least 50 percent of the programs of study offered by the institution lead to the award of a recognized associate, baccalaureate, or graduate degree."; and

(3) by adding at the end the following:

"(q) VERIFICATION OF IRS RETURN INFORMATION.—The Secretary shall verify the information reported by all applicants for assistance on the form prescribed under section 483 with the return information (as defined in section 6103 of the Internal Revenue Code of 1986) available to the Secretary of the Treasury. Notwithstanding section 6103 of such Code the Secretary of the Treasury shall provide the return information to the Secretary. In the case of a dependent student the return information shall include the return information of the parent of the student. The form prescribed by the Secretary under section 483 shall contain a prominent notice of the verification of the information and a warning to all the applicants of the penalties for misrepresentation, with respect to the information, under the United States Code.

"(r) SUSPENSION OF ELIGIBILITY FOR DRUG-RELATED OFFENSES.—

"(1) IN GENERAL.—A student who has been convicted of any offense under any Federal or State law involving the possession or sale of a controlled substance shall not be eligible to receive any grant, loan, or work assistance under this title during the period beginning on the date of such conviction and ending after the interval specified in the following table:

"If convicted of an offense involving:

The possession of a controlled substance:	**Ineligibility period is:**
First offense	1 year
Second offense	2 years
Third offense	Indefinite.
The sale of a controlled substance:	**Ineligibility period is:**
First offense	2 years
Second offense	Indefinite.

"(2) REHABILITATION.—A student whose eligibility has been suspended under paragraph (1) may resume eligibility before the end of the ineligibility period determined under such paragraph if—

"(A) the student satisfactorily completes a drug rehabilitation program that—

"(i) complies with such criteria as the Secretary shall prescribe in regulations for purposes of this paragraph; and

"(ii) includes 2 unannounced drug tests; or

"(B) the conviction is expunged by pardon, reversed, set aside, or otherwise rendered nugatory.

"(3) DEFINITIONS.—In this subsection, the term 'controlled substance' has the meaning given the term in section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a)(2) regarding suspension of eligibility for drug-related offenses, shall apply with respect to financial assistance to cover the costs of attendance for periods of enrollment beginning after the date of enactment of this Act.

SEC. 485. INSTITUTIONAL REFUNDS.

Section 484B (20 U.S.C. 1091b) is amended to read as follows:

"SEC. 484B. INSTITUTIONAL REFUNDS.

"(a) RETURN OF TITLE IV FUNDS.—

"(1) IN GENERAL.—If a recipient of assistance under this title withdraws from a payment period in which the recipient began attendance, the amount of grant (other than assistance received under part C of this title) or loan assistance to be returned to the title IV programs is calculated according to paragraph (2) and returned in accordance with subsection (b).

"(2) CALCULATION OF AMOUNT OF TITLE IV ASSISTANCE EARNED.—

"(A) IN GENERAL.—The amount of grant or loan assistance under this title that is earned by the recipient for purposes of this section is calculated by—

"(i) determining the percentage of grant and loan assistance under this title that has been earned by the student, as described in subparagraph (B); and

"(ii) applying such percentage to the total amount of such grant and loan assistance that was disbursed (and that could have been disbursed) to the student, or on the student's behalf, for the payment period, as of the day the student withdrew.

"(B) PERCENTAGE EARNED.—For purposes of subparagraph (A)(i), the percentage of grant or loan assistance under this title that has been earned by the student is—

"(i) equal to the percentage of the payment period completed (as determined in accordance with subsection (d)) as of the day the student withdrew, provided that such date occurs on or before the completion of 60 percent of the payment period; or

"(ii) 100 percent, if the day the student withdrew occurs after the student has completed 60 percent of the payment period.

"(C) PERCENTAGE NOT EARNED.—For purposes of subsection (b), the amount of grant and loan assistance awarded under this title that has not been earned by the student shall be calculated by—

"(i) determining the complement of the percentage of grant or loan assistance under this title has been earned by the student described in subparagraph (B); and

"(ii) applying the percentage determined under clause (i) to the total amount of such grant and loan assistance that was disbursed (and that could have been disbursed) to the student, or on the student's behalf, for the payment period, as of the day the student withdrew.

"(3) DIFFERENCES BETWEEN AMOUNTS EARNED AND AMOUNTS RECEIVED.—

"(A) IN GENERAL.—If the student has received less grant or loan assistance than the amount earned, as calculated under paragraph (2)(B), the institution of higher education shall comply with the procedures for late disbursement specified by the Secretary in regulations.

"(B) RETURN.—If the student has received more grant or loan assistance than the amount earned, as calculated under paragraph (2)(B), the unearned funds shall be returned by the institution or the student, or both, as may be required under paragraphs (1) and (2) of subsection (b), to the programs under this title in the order specified in subsection (b)(3).

"(b) RETURN OF TITLE IV PROGRAM FUNDS.—

"(1) RESPONSIBILITY OF THE INSTITUTION.—The institution shall return, in the order specified in paragraph (3), the lesser of—

"(A) the amount of grant and loan assistance awarded under this title that has not been earned by the student, as calculated under subsection (a)(2)(C); or

"(B) an amount equal to—

"(i) the total institutional charges for the payment period; multiplied by

"(ii) the percentage of grant and loan assistance awarded under this title that has not been earned by the student, as described in subsection (a)(2)(C).

"(2) RESPONSIBILITY OF THE STUDENT.—

"(A) IN GENERAL.—The student shall return assistance that has not been earned by the student as described in subsection (a)(2)(C) in the order specified in paragraph (3) minus the amount the institution is required to return under paragraph (1).

"(B) SPECIAL RULE.—The student shall return or repay, as appropriate, the amount determined under subparagraph (A) to—

"(i) a loan program under this title in accordance with the terms of the loan; and

"(ii) a grant program under this title, as an overpayment of such grant and shall be subject to overpayment collection procedures prescribed by the Secretary.

"(3) ORDER OF RETURN OF TITLE IV FUNDS.—

"(A) IN GENERAL.—Excess funds returned by the institution or the student, as appropriate, in accordance with paragraph (1) or (2), respectively, shall be credited to outstanding balances on loans made under this title to the student or on behalf of the student for the payment period for which a return of funds is required. Such excess funds shall be credited in the following order:

"(i) To outstanding balances on loans made under section 428H for the payment period for which a return of funds is required.

"(ii) To outstanding balances on loans made under section 428 for the payment period for which a return of funds is required.

"(iii) To outstanding balances on unsubsidized loans (other than parent loans) made under part D for the payment period for which a return of funds is required.

"(iv) To outstanding balances on subsidized loans made under part D for the payment period for which a return of funds is required.

"(v) To outstanding balances on loans made under part E for the payment period for which a return of funds is required.

"(vi) To outstanding balances on loans made under section 428B for the payment period for which a return of funds is required.

"(vii) To outstanding balances on parent loans made under part D for the payment period for which a return of funds is required.

"(B) REMAINING EXCESSES.—If excess funds remain after repaying all outstanding loan amounts, the remaining excess shall be credited in the following order:

"(i) To awards under subpart 1 of part A for the payment period for which a return of funds is required.

"(ii) To awards under subpart 3 of part A for the payment period for which a return of funds is required.

"(iii) To other assistance awarded under this title for which a return of funds is required.

"(c) WITHDRAWAL DATE.—

"(1) IN GENERAL.—In this section, the term 'day the student withdrew'—

"(A) is the date that the institution determines—

"(i) the student began the withdrawal process prescribed by the institution;

"(ii) the student otherwise provided official notification to the institution of the intent to withdraw; or

"(iii) in the case of a student who does not begin the withdrawal process or otherwise notify the institution of the intent to withdraw, the date that the payment period ends for which aid under this title was disbursed; or

"(B) for schools required to take attendance, is determined by the institution from such attendance records.

"(2) SPECIAL RULE.—Notwithstanding paragraph (1), if the institution determines that a student was not able to begin the withdrawal process, or otherwise notify the institution of the intent to withdraw, due to illness, accident, grievous personal loss, or other such circumstances beyond the student's control, the institution may determine the appropriate withdrawal date.

"(d) PERCENTAGE OF THE PAYMENT PERIOD COMPLETED.—For purposes of subsection (a)(2)(B)(i), the percentage of the payment period completed is determined—

"(1) in the case of a program that is measured in credit hours, by dividing the total number of calendar days comprising the payment period into the number of calendar days completed in that period as of the day the student withdrew; and

"(2) in the case of a program that is measured in clock hours, by dividing the total number of clock hours comprising the payment period into the number of clock hours completed by the student in that payment period as of the day the student withdrew.".

SEC. 486. INSTITUTIONAL AND FINANCIAL ASSISTANCE INFORMATION FOR STUDENTS.

(a) INFORMATION DISSEMINATION ACTIVITIES.—Section 485(a) (20 U.S.C. 1092(a)) is amended—

(1) in paragraph (1)—

(A) in the second sentence, by striking ", through appropriate publications and mailings, to all current students, and to any prospective student upon request." and inserting "upon request, through appropriate publications, mailings, and electronic media to an enrolled student, and to any prospective student.";

(B) by inserting after the second sentence the following: "Each eligible institution annually shall provide to all students enrolled at the institution, a list of the information that is required by this section, together with a statement of the procedures required to obtain the information.";

(C) by amending subparagraph (F) to read as follows:

"(F) a statement of—

"(i) the requirements of any refund policy with which the institution is required to comply;

"(ii) the requirements under section 484B for the return of grant or loan assistance provided under this title; and

"(iii) the requirements for officially withdrawing from the institution;";

(D) in subparagraph (M)(ii), by striking "and" after the semicolon; and

(E) in subparagraph (N), by striking the period and inserting "; and";

(2) in paragraph (2), by inserting "an application for" after "concerning"; and

(3) in paragraph (3), by amending subparagraph (A) to read as follows:

"(A) shall be made available by July 1 each year to current and prospective students prior to enrolling or entering into any financial obligation; and".

(b) EXIT COUNSELING FOR BORROWERS.—Section 485(b) (20 U.S.C. 1092(b)) is amended—

(1) in paragraph (1)(A), by striking "(individually or in groups)"; and

(2) in paragraph (2), by adding at the end the following:

"(C) Nothing in this subsection shall be construed to prohibit an institution of higher education from utilizing electronic means to provide personalized exit counseling.".

(c) DISCLOSURES REQUIRED WITH RESPECT TO ATHLETICALLY RELATED STUDENT AID.—Section 485(e) (20 U.S.C. 1092(e)) is amended—

(1) by amending paragraph (2) to read as follows:

"(2) When an institution described in paragraph (1) offers a potential student athlete athletically related student aid, such institution shall provide to the student, the student's parents, the student's guidance counselor, and the student's coach the information contained in the report submitted by such institution pursuant to paragraph (1). If the institution is a member of a national collegiate athletic association that compiles graduation rate data on behalf of its member institutions, that the Secretary determines is substantially comparable to the information described in the previous sentence, the distribution of the compilation to all secondary schools shall fulfill the responsibility of the institution to provide the information to a prospective student athlete's guidance counselor and coach."; and

(2) by amending paragraph (9) to read as follows:

"(9) The reports required by this subsection shall be due each July 1 and shall cover the 1-year period ending August 31 of the preceding year.".

(d) DISCLOSURE OF CAMPUS SECURITY POLICY AND CAMPUS CRIME STATISTICS.—Section 485(f) (20 U.S.C. 1092(f)) is amended—

(1) by amending subparagraph (F) of paragraph (1) to read as follows:

"(F) Statistics concerning the occurrence on campus, during the most recent calendar year, and during the 2 preceding calendar years for which data are available—

"(i) of the following criminal offenses reported to campus security authorities or local police agencies—

"(I) homicide, including murder or nonnegligent manslaughter or negligent manslaughter;

"(II) sex offenses, forcible or nonforcible;

"(III) robbery;

"(IV) aggravated assault;

"(V) burglary;

"(VI) motor vehicle theft; and

"(VII) arson;

"(ii) of the crimes described in subclauses (I) through (VII), and vandalism and simple assault, that manifest evidence of prejudice based on actual or perceived race, gender, religion, sexual orientation, ethnicity, or disability that are reported to campus security authorities or local police agencies, which data shall be collected and reported according to category of prejudice.";

(2) by redesignating paragraphs (4) through (7) as paragraphs (5) through (8), respectively;

(3) by inserting after paragraph (3) the following:

"(4)(A) Each institution participating in any program under this title which maintains either a police or security department of any kind shall make, keep, and maintain a daily log, written in a form that can be easily understood, recording all crimes reported to such police or security department, including—

"(i) the nature, date, time, and general location of each crime; and

"(ii) the disposition of the complaint, if known.

"(B)(i) All entries that are required pursuant to this paragraph shall, except where disclosure of such information is prohibited by law or such disclosure would jeopardize the confidentiality of the victim, be open to public inspection within 2 business days of the initial report being made to the department or a campus security authority.

"(ii) If new information about an entry into a log becomes available to a police or security department, then the new information shall be recorded in the log not later than 2 business days after the information becomes available to the police or security department.

"(iii) Where there is clear and convincing evidence that the release of such information would jeopardize an ongoing criminal investigation or the safety of an individual, cause a suspect to flee or evade detection, or result in the destruction of evidence, such information may be withheld until that damage is no longer likely to occur from the release of such information.

"(iv) Notwithstanding clause (iii), an institution of higher education shall record all criminal incidents occurring on campus and shall make the reports open to public inspection not later than 2 business days after the requirements of clause (iii) are met.";

(4) in paragraph (6) (as redesignated by paragraph (2)), by amending subparagraph (A) to read as follows: "(A) For purposes of this section the term 'campus' means—

"(i) any building or property owned or controlled by an institution of higher education within the same reasonably contiguous geographic area of the institution, including a building or property owned by the institution, but controlled by another person, such as a food or other retail vendor;

"(ii) any building or property owned or controlled by a student organization recognized by the institution;

"(iii) all public property that is within the same reasonably contiguous geographic area of the institution, such as a sidewalk, a street, other thoroughfare, or parking facility, that is adjacent to a facility owned or controlled by the institution;

"(iv) any building or property (other than a branch campus) owned or controlled by an institution of higher education that is used in direct support of, or in relation to, the institution's educational purposes, is used by students, and is not within the same reasonably contiguous geographic area of the institution; and

"(v) all dormitories or other student residential facilities owned or controlled by the institution.";

(5) in paragraph (7) (as redesignated by subparagraph (B)), by inserting at the end the following: "Such statistics shall not identify victims of crimes or persons accused of crimes, except as required by State or local law."; and

(6) by adding at the end the following:

"(9) STUDY.—

"(A) IN GENERAL.—The Secretary, in consultation with the Attorney General, shall provide for a national study to examine procedures undertaken after an institution of higher education receives a report of sexual assault.

"(B) REPORT.—The study required by subparagraph (A) shall include an analysis of—

"(i) the existence and publication of the institution of higher education's and State's definition of sexual assault;

"(ii) the existence and publication of the institution's policy for campus sexual assaults;

"(iii) the individuals to whom reports of sexual assault are given most often and—

"(I) how the individuals are trained to respond to the reports; and

"(II) the extent to which the individuals are trained;

"(iv) the reporting options that are articulated to the victim or victims of the sexual assault regarding—

"(I) on-campus reporting and procedure options; and

"(II) off-campus reporting and procedure options;

"(v) the resources available for victims' safety, support, medical health, and confidentiality, including—

"(I) how well the resources are articulated both specifically to the victim of sexual assault and generally to the campus at large; and

"(II) the security of the resources in terms of confidentiality or reputation;

"(vi) policies and practices that may prevent or discourage the reporting of campus sexual assaults to local crime authorities, or that may otherwise obstruct justice or interfere with the prosecution of perpetrators of campus sexual assaults;

"(vii) policies and practices found successful in aiding the report and any ensuing investigation or prosecution of a campus sexual assault;

"(viii) the on-campus procedures for investigation and disciplining the perpetrator of a sexual assault, including—

"(I) the format for collecting evidence; and

"(II) the format of the investigation and disciplinary proceeding, including the faculty responsible for running the disciplinary procedure and the persons allowed to attend the disciplinary procedure; and

"(ix) types of punishment for offenders, including—

"(I) whether the case is directed outside for further punishment; and

"(II) how the institution punishes perpetrators.

"(C) SUBMISSION OF REPORT.—The report required by subparagraph (B) shall be submitted to Congress not later than September 1, 1999.

"(D) DEFINITION.—For purposes of this section, the term 'campus sexual assaults' means sexual assaults occurring at institutions of higher education and sexual assaults committed against or by students or employees of such institutions.

"(E) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $1,000,000 for fiscal year 1999.

"(10)(A) The Secretary shall report to the appropriate committees of Congress each institution of higher education that the Secretary determines is not in compliance with the reporting requirements of this subsection.

"(B) The Secretary shall provide to an institution of higher education that the Secretary determines is having difficulty, or is not in compliance, with the reporting requirements of this subsection—

"(i) data and analysis regarding successful practices employed by institutions of higher education to reduce campus crime; and

"(ii) technical assistance.

"(11) For purposes of reporting the statistics described in paragraphs (1)(F) and (1)(H), an institution of higher education shall distinguish, by means of separate categories, any criminal offenses that occur—

"(A) on publicly owned sidewalks, streets, or other thoroughfares, or in parking facilities, that are adjacent to facilities owned by the institution; and

"(B) in dormitories or other residential facilities for students on campus.

"(12)(A) Upon determination, after reasonable notice and opportunity for a hearing on the record, that an institution of higher education—

"(i) has violated or failed to carry out any provision of this subsection or any regulation prescribed under this subsection; or

"(ii) has substantially misrepresented the number, location, or nature of the crimes required to be reported under this subsection,

the Secretary shall impose a civil penalty upon the institution of not to exceed $25,000 for each violation, failure, or misrepresentation.

"(B) Any civil penalty may be compromised by the Secretary. In determining the amount of such penalty, or the amount agreed upon in compromise, the appropriateness of the penalty to the size of the institution of higher education subject to the determination, and the gravity of the violation, failure, or misrepresentation shall be considered. The amount of such penalty, when finally determined, or the amount agreed upon in compromise, may be deducted from any sums owing by the United States to the institution charged.

"(13)(A) Nothing in this subsection may be construed to—

"(i) create a cause of action against any institution of higher education or any employee of such an institution for any civil liability; or

"(ii) establish any standard of care.

"(B) Notwithstanding any other provision of law, evidence regarding compliance or noncompliance with this subsection shall not be admissible as evidence in any proceeding of any court, agency, board, or other entity, except with respect to an action to enforce this subsection

"(14) This subsection may be cited as the 'Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act'.".

(e) DATA REQUIRED.—Section 485(g) (20 U.S.C. 1092(g)) is amended—

(1) in paragraph (1), by adding at the end the following:

"(I)(i) The total revenues, and the revenues from football, men's basketball, women's basketball, all other men's sports combined, and all other women's sports combined, derived by the institution from the institution's intercollegiate athletics activities.

"(ii) For the purpose of clause (i) revenues from intercollegiate athletics activities allocable to a sport shall include, without limitation, gate receipts, broadcast revenues, appearance guarantees and options, concessions and advertising, except that revenues such as student activities fees or alumni contributions not so allocable shall be included in the calculation of total revenues only.

"(J)(i) The total expenses, and the expenses attributable to football, men's basketball, women's basketball, all other men's sports combined and all other women's sports combined, made by the institution for the institution's intercollegiate athletics activities.

"(ii) For the purpose of clause (i) expenses for intercollegiate athletics activities allocable to a sport shall include without limitation grants-in-aid, salaries, travel, equipment, and supplies, except that expenses such as general and administrative overhead not so allocable shall be included in the calculation of total expenses only.".

(2) by striking paragraph (5);

(3) by redesignating paragraph (4) as paragraph (5); and

(4) by inserting after paragraph (3) the following:

"(4) SUBMISSION; REPORT; INFORMATION AVAILABILITY.—(A) Each institution of higher education described in paragraph (1) shall provide to the Secretary, within 15 days of the date that the institution makes available the report under paragraph (1), the information contained in the report.

"(B) The Secretary shall prepare a report regarding the information received under subparagraph (A) for each year by April 1 of the year. The report shall—

"(i) summarize the information and identify trends in the information;

"(ii) aggregate the information by divisions of the National Collegiate Athletic Association; and

"(iii) contain information on each individual institution of higher education.

"(C) The Secretary shall ensure that the report described in subparagraph (B) is made available on the Internet within a reasonable period of time.

"(D) The Secretary shall notify, not later than 180 days after the date of enactment of the Higher Education Amendments of 1998, all secondary schools in all States regarding the availability of the information reported under subparagraph (B) and the information made available under paragraph (1), and how such information may be accessed.".

(f) GEPA AMENDMENT.—Section 444(a)(4)(B) of the General Education Provisions Act (20 U.S.C. 1232g(a)(4)(B)) is amended—

(1) by redesignating clauses (iii) and (iv) as clauses (iv) and (v), respectively; and

(2) by inserting after clause (ii) the following:

"(iii) records that are maintained by local police or campus security officers of an educational agency or institution about—

"(I) individuals who have been found guilty of, or have pled guilty to, committing or participating in any criminal activity as defined in Federal, State, or local law that has occurred while the individual was a student in attendance, including audit or noncredit, at an educational institution; and

"(II) findings of guilt of criminal misconduct and related sanctions from any previously attended educational agencies or institutions where such records were created on or after September 1, 1999;".

SEC. 487. NATIONAL STUDENT LOAN DATA BANK SYSTEM.

Section 485B (20 U.S.C. 1092b) is amended by adding at the end the following:

"(h) STUDENT STATUS CONFIRMATION REPORT.—In order to reduce unnecessary paperwork and to increase the efficient administration, the Secretary shall assure that borrowers under part E are included in the Student Status Confirmation Report in the same manner as borrowers under parts B and D.".

SEC. 488. TRAINING IN FINANCIAL AID SERVICES.

Section 486 (20 U.S.C. 1093) is amended to read as follows:

"SEC. 486. INFORMATION ON THE COSTS OF HIGHER EDUCATION.

"(a) IN GENERAL.—For the purpose of providing comparative information to families about the costs of higher education—

"(1) the National Center for Education Statistics shall—

"(A) develop a standard definition for the following data elements:

"(i) Tuition and fees for a full-time undergraduate student.

"(ii) Cost of attendance for a full-time undergraduate student, consistent with the provisions of section 472.

"(iii) Average amount of financial assistance received by an undergraduate student who attends an institution of higher education, including—

"(I) each type of assistance or benefit described in section 428(a)(2)(C)(i);

"(II) fellowships; and

"(III) institutional and other assistance.

"(iv) Percentage of students receiving financial assistance described in each of subclauses (I), (II), and (III) of clause (iii);

"(B) report the definitions to each institution of higher education and the Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives not later than 90 days after the date of enactment of the Higher Education Amendments of 1998;

"(C) collect information regarding the data elements described in subparagraph (A) with respect to at least all institutions of higher education participating in the program under this title, and make available the information each year in a timely fashion through the integrated postsecondary education data system, beginning with the information from the 1999–2000 academic year;

"(D) provide the public notice when the information described in subparagraph (C) is available for public inspection; and

"(E) publish in a timely fashion a report after the third year of collection of the information described in subparagraph (C) that compares the information described in subparagraph (C) longitudinally by institution, which information shall be presented in a form that is easily understandable, including clear definitions of the data elements described in subparagraph (A), to allow parents and students to make informed decisions about attending college; and

"(2) institutions of higher education shall provide information regarding each data element described in paragraph (1)(A) to the National Center for Education Statistics by March 1 of each year, beginning in the year 2000.

"(b) STUDY.—

"(1) IN GENERAL.—In consultation with the Bureau of Labor Statistics, the National Center for Education Statistics shall conduct a national study of expenditures at institutions of higher education. Such study shall include information about—

"(A) expenditures for—

"(i) faculty salaries and benefits;

"(ii) administrative salaries, benefits, and expenses;

"(iii) academic support services;

"(iv) research;

"(v) operations and maintenance;

"(vi) construction; and

"(vii) technology;

"(B) the replacement cost of instructional buildings and equipment;

"(C) how the expenditures described in subparagraph (A) change over time; and

"(D) how the expenditures described in subparagraph (A) and the replacement cost described in subparagraph (B) relate to college costs.

"(2) FINAL REPORT.—The National Center for Education Statistics shall submit a report regarding the findings of the study required by paragraph (1) to the Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives not later than September 30, 2001.

"(c) HIGHER EDUCATION MARKET BASKET.—In consultation with the Bureau of Labor Statistics, the National Center for Education Statistics shall develop a Higher Education Market Basket that identifies the items that comprise the costs of higher education. The National Center for Education Statistics shall provide a report on the market basket to the Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives not later than September 30, 2002.

"(d) FINES.—In addition to the actions authorized in section 487(c), the Secretary may impose a fine in an amount not to exceed $25,000 on an institution of higher education for failure to provide the information described in subsection (a)(2) in a timely or accurate manner, or for failure to otherwise cooperate with the National Center for Education Statistics regarding efforts to obtain data on the cost of higher education under such subsection.".

SEC. 489. PROGRAM PARTICIPATION AGREEMENTS.

(a) IN GENERAL.—Section 487 (20 U.S.C. 1094) is amended—

(1) in subsection (a)—

(A) in paragraph (3)—

(i) by striking subparagraph (B); and

(ii) by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively;

(B) in paragraph (9), by striking "part B" and inserting "part B or D";

(C) in paragraph (14)—

(i) in subparagraph (A), by striking "part B" and inserting "part B or D"; and

(ii) in subparagraph (B)—

(I) by inserting "for-profit" after "Any";

(II) by striking "and any eligible institution which" and inserting "or"; and

(III) by striking "part B" and inserting "part B or D";

(D) in paragraph (15), by striking "State review entities" and inserting "the State agencies";

(E) by striking paragraph (18);

(F) by redesignating paragraphs (19) through (22) as paragraphs (18) through (21), respectively; and

(G) by amending paragraph (20) (as redesignated by subparagraph (F)) to read as follows:

"(20) The institution will meet the requirements established by the Secretary and accrediting agencies or associations, and will provide evidence to the Secretary that the institution has the authority to operate within a State."; and

(2) in subsection (c)—

(A) in paragraph (1)(A)—

(i) in clause (i)—

(I) by striking "clause (ii)" and inserting "clauses (ii) and (iii)";

(II) by striking "State review entities referred to in" and inserting "appropriate State agency notifying the Secretary under"; and

(III) by striking "or" after the semicolon;

(ii) in clause (ii), by inserting "or" after the semicolon; and

(iii) by adding at the end the following:

"(iii) with regard to an eligible institution (other than an eligible institution described in section 481(a)(1)(C)) that has obtained less than $200,000 in funds under this title during each of the 2 award years that precede the audit period and submits a letter of credit payable to the Secretary equal to not less than ½ of the annual potential liabilities of such institution as determined by the Secretary, deeming an audit conducted every 3 years to satisfy the requirements of clause (i), except for the award year immediately preceding renewal of the institution's eligibility under section 498(g);";

(B) in paragraph (4), by striking ", after consultation with each State review entity designated under subpart 1 of part H,"; and

(C) in paragraph (5), by striking "State review entities designated" and inserting "State agencies notifying the Secretary".

(b) PROVISION OF VOTER REGISTRATION FORMS.—

(1) PROGRAM PARTICIPATION REQUIREMENT.—Section 487(a) (20 U.S.C. 1094(a)) is amended by adding at the end the following:

"(23) The institution, if located in a State to which section 113 applies, will make a good faith effort to provide a mail voter registration form, received from such State, to each student enrolled in a degree or certificate program and in attendance at the institution and to make such forms widely available to students at the institution.".

(2) REGULATION PROHIBITED.—No officer of the executive branch is authorized to instruct the State in the manner in which the amendment made by this subsection is carried out.

SEC. 490. REGULATORY RELIEF AND IMPROVEMENT.

Section 487A (20 U.S.C. 1094a) is amended to read as follows:

"SEC. 487A. REGULATORY RELIEF AND IMPROVEMENT.

"(a) QUALITY ASSURANCE PROGRAM.—

"(1) IN GENERAL.—The Secretary is authorized to select institutions for voluntary participation in a Quality Assurance Program that provides participating institutions with an alternative management approach through which individual schools develop and implement their own comprehensive systems, including processing and disbursement of student financial aid, verification of student financial aid application data, and entrance and exit interviews, thereby enhancing program integrity within the student aid delivery system. The Quality Assurance Program authorized by this section shall be based on criteria that include demonstrated institutional performance, as determined by the Secretary, and shall take into consideration current quality assurance goals, as determined by the Secretary.

"(2) WAIVER.—The Secretary is authorized to waive for any institution participating in the Quality Assurance Program any regulations dealing with reporting or verification requirements in this title that are addressed by the institution's alternative management system, and may substitute such quality assurance reporting as the Secretary determines necessary to ensure accountability and compliance with the purposes of the programs under this title.

"(3) DETERMINATION.—The Secretary is authorized to determine—

"(A) when an institution that is unable to administer the Quality Assurance Program shall be removed from such program; and

"(B) when institutions desiring to cease participation in such program will be required to complete the current award year under the requirements of the Quality Assurance Program.

"(4) REVIEW AND EVALUATION.—The Secretary shall review and evaluate the Quality Assurance Program conducted by each participating institution and, on the basis of that evaluation, make recommendations regarding amendments to this Act that will streamline the administration and enhance the integrity of Federal student assistance programs. Such recommendations shall be submitted to the Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives.

"(b) REGULATORY IMPROVEMENT AND STREAMLINING EXPERIMENTS.—

"(1) IN GENERAL.—The Secretary shall review and evaluate the experience of institutions participating as experimental sites during the period of 1993 through 1998 under this section (as such section was in effect on the day before the date of enactment of the Higher Education Amendments of 1998), and shall submit a report based on this review and evaluation to the Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives not later than 6 months after the enactment of the Higher Education Amendments of 1998. Such report shall include—

"(A) a list of participating institutions and the specific statutory or regulatory waivers granted to each institution;

"(B) the findings and conclusions reached regarding each of the experiments conducted; and

"(C) recommendations for amendments to improve and streamline this Act, based on the results of the experiment.

"(2) SELECTION.—

"(A) IN GENERAL.—The Secretary is authorized to select a limited number of institutions for voluntary participation as experimental sites to provide recommendations to the Secretary on the impact and effectiveness of proposed regulations or new management initiatives, except that additional institutions may not be selected by the Secretary until the report required by subsection (b)(1) has been submitted to Congress.

"(B) CONSULTATION.—Prior to approving any additional experimental sites, the Secretary shall consult with the Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives and shall provide—

"(i) a list of institutions proposed for participation in the experiment and the specific statutory or regulatory waivers proposed to be granted to each institution;

"(ii) the objectives to be achieved through the experiment; and

"(iii) the period of time over which the experiment is to be conducted.

"(C) WAIVERS.—The Secretary is authorized to waive, for any institution participating as an experimental site under subparagraph (A), any requirements in this title, or regulations prescribed under this title, that will bias experimental results.

"(c) REGULATORY AND STATUTORY RELIEF FOR SMALL VOLUME INSTITUTIONS.—The Secretary, following discussions with representatives of eligible institutions (other than eligible institutions described in section 481(a)(1)(C)) that have obtained in each of the 2 most recent award years prior to the date of enactment of the Higher Education Amendments of 1998 less than $200,000 in funds through this title, shall review and evaluate ways in which regulations under and provisions of this Act affecting the institutions may be improved, streamlined, or eliminated, and shall submit, not later than 1 year after the enactment of the Higher Education Amendments of 1998, a report to the Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives detailing the Secretary's findings and recommendations, including a timetable for implementation of any recommended changes.

"(d) DEFINITIONS.—For purposes of this section, the term 'current award year' is defined as the award year during which the participating institution indicates the institution's intention to cease participation.".

SEC. 490A. DISTANCE EDUCATION DEMONSTRATION PROGRAMS.

Part G (20 U.S.C. 1088 et seq.) is amended by inserting after section 487B (20 U.S.C. 1094a) the following:

"SEC. 487C. DISTANCE EDUCATION DEMONSTRATION PROGRAMS.

"(a) PURPOSE.—It is the purpose of this section—

"(1) to allow demonstration programs that are strictly monitored by the Department to test the quality and viability of expanded distance education programs currently restricted under this Act;

"(2) to help determine the specific statutory and regulatory requirements which should be altered to provide greater access to high quality distance education programs; and

"(3) to help determine the appropriate level of Federal assistance for students enrolled in distance education programs.

"(b) DEMONSTRATION PROGRAMS AUTHORIZED.—

"(1) IN GENERAL.—The Secretary, in accordance with the provisions of subsection (d), is authorized to select institutions of higher education or consortia of such institutions for voluntary participation in a Distance Education Demonstration Program that provides participating institutions with the ability to offer distance education programs that do not meet all or a portion of the sections or regulations described in paragraph (2).

"(2) WAIVERS.—The Secretary is authorized to waive for any institution of higher education, system of institutions of higher education, or consortium participating in a Distance Education Demonstration Program, the requirements of section 472(5) as the section relates to computer costs, sections 481(d) and 481(e) as such sections relate to requirements for a minimum number of weeks of instruction, sections 472(10), 481(a)(3)(A), 481(a)(3)(B), 484(l)(1), or 1 or more of the regulations prescribed under this part or part F which inhibit the operation of quality distance education programs.

"(3) SPECIAL RULES.—

"(A) ELIGIBLE INSTITUTIONS.—Only an institution of higher education that provides at least a 2-year, or 4-year program of instruction for which the institution awards an associate or a baccalaureate degree, or provides a graduate degree, shall be eligible to participate in the demonstration program authorized under this section.

"(B) PROHIBITION.—An institution of higher education described in section 481(a)(1)(C) shall not be eligible to participate in the demonstration program authorized under this section.

"(C) SPECIAL RULE.—Subject to subparagraph (B), an institution of higher education that meets the requirements of subsection (a) of section 481, other than the requirement of paragraph (3)(A) or (3)(B) of such subsection, shall be eligible to participate in the demonstration program authorized under this section.

"(D) REQUIREMENT.—Notwithstanding any other provision of this paragraph, Western Governors University shall be considered eligible to participate in the demonstration program authorized under this section, and the Secretary may, in addition to the waivers described in paragraph (2), waive for such university such other requirements of this title as the Secretary determines to be appropriate because of the unique characteristics of such university. In carrying out the preceding sentence, the Secretary shall ensure that adequate program integrity and accountability measures apply to such university's participation in the demonstration program authorized under this section.

"(c) APPLICATION.—

"(1) IN GENERAL.—Each institution or consortia of institutions desiring to participate in a demonstration program under this section shall submit an application to the Secretary at such time and in such manner as the Secretary may require.

"(2) CONTENTS.—Each application shall include—

"(A) a description of the institution or consortium's consultation with a recognized accrediting agency or association with respect to quality assurances for the distance education programs to be offered;

"(B) a description of the statutory and regulatory requirements described in subsection (b)(2) for which a waiver is sought and the reasons for which the waiver is sought;

"(C) a description of the distance education programs to be offered;

"(D) a description of the students to whom distance education programs will be offered;

"(E) an assurance that the institution or consortium will offer full cooperation with the ongoing evaluations of the demonstration program provided for in this section; and

"(F) such other information as the Secretary may require.

"(d) SELECTION.—

"(1) IN GENERAL.—For the first year of the demonstration program authorized under this section, the Secretary is authorized to select for participation in the program not more than 15 institutions, systems of institutions, or consortia of institutions. For the third year of the demonstration program authorized under this title, the Secretary may select not more than 35 institutions, systems, or consortia, in addition to the institutions, systems, or consortia selected pursuant to the preceding sentence, to participate in the demonstration program if the Secretary determines that such expansion is warranted based on the evaluations conducted in accordance with subsections (f) and (g).

"(2) CONSIDERATIONS.—In selecting institutions to participate in the demonstration program in the first or succeeding years of the program, the Secretary shall take into account—

"(A) the number and quality of applications received;

"(B) the Department's capacity to oversee and monitor each institution's participation; and

"(C) an institution's—

"(i) financial responsibility;

"(ii) administrative capability; and

"(iii) program or programs being offered via distance education.

"(e) NOTIFICATION.—The Secretary shall make available to the public and to the Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives a list of institutions or consortia selected to participate in the demonstration program authorized by this section. Such notice shall include a listing of the specific statutory and regulatory requirements being waived for each institution or consortia and a description of the distance education courses to be offered.

"(f) EVALUATIONS AND REPORTS.—

"(1) EVALUATION.—The Secretary, on an annual basis, shall evaluate the demonstration programs authorized under this section. Such evaluations shall specifically review—

"(A) the number and types of students participating in the programs being offered, including the progress of participating students toward recognized associate, bachelor's, or graduate degrees, and the degree to which participation in such programs increased;

"(B) issues related to student financial assistance for distance education; and

"(C) the extent to which statutory or regulatory requirements not waived under the demonstration program present difficulties for students or institutions.

"(2) POLICY ANALYSIS.—In addition, the Secretary shall review current policies and identify those policies which present impediments to the development and use of distance education and other nontraditional methods of expanding access to education.

"(3) REPORTS.—

"(A) IN GENERAL.—Within 18 months of the initiation of the demonstration program, the Secretary shall report to the Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives with respect to—

"(i) the evaluations of the demonstration programs authorized under this section; and

"(ii) any proposed statutory changes designed to enhance the use of distance education.

"(B) ADDITIONAL REPORTS.—The Secretary shall provide additional reports to the Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives on an annual basis regarding—

"(i) the demonstration programs authorized under this section; and

"(ii) the number and types of students receiving assistance under this title for instruction leading to a recognized certificate, as provided for in section 484(l)(1), including the progress of such students toward recognized certificates and the degree to which participation in such programs leading to such certificates increased.

"(g) INDEPENDENT EVALUATION.—

"(1) IN GENERAL.—The Secretary shall enter into a contract with the National Academy of Sciences to study the quality of and student learning outcomes in distance education programs. Such study shall include—

"(A) identification of the elements by which quality in distance education can be assessed, such as subject matter, interactivity, and student outcomes; and

"(B) identification of the types of students which can most benefit from distance education in areas such as access to higher education, persistence, and graduation.

"(2) SCOPE.—Such study shall include distance education programs offered by the institutions or consortia participating in the demonstration program authorized by this section, as well as the distance education programs offered by other institutions.

"(3) INTERIM AND FINAL REPORTS.—The Secretary shall request that the National Academy of Sciences submit an interim report to the Secretary, the Committee on Labor and Human Resources of the Senate, and the Committee on Education and the Workforce of the House of Representatives not later than December 31, 2000, and a final report not later than December 31, 2002, regarding the study.

"(4) FUNDING.—The Secretary shall make available not more than $1,000,000 for the study required by this subsection.

"(h) OVERSIGHT.—In conducting the demonstration program authorized under this section, the Secretary shall, on a continuing basis—

"(1) assure compliance of institutions or consortia with the requirements of this title (other than the sections and regulations that are waived under subsection (b)(2));

"(2) provide technical assistance;

"(3) monitor fluctuations in the student population enrolled in the participating institutions or consortia; and

"(4) consult with appropriate accrediting agencies or associations and appropriate State regulatory authorities.

"(i) DEFINITION.—For the purpose of this section, the term 'distance education' means an educational process that is characterized by the separation, in time or place, between instructor and student. Distance education may include courses offered principally through the use of—

"(1) television, audio, or computer transmission, such as open broadcast, closed circuit, cable, microwave, or satellite transmission;

"(2) audio or computer conferencing;

"(3) video cassettes or discs; or

"(4) correspondence.".

SEC. 490B. ADVISORY COMMITTEE ON STUDENT FINANCIAL ASSISTANCE.

Section 491 (20 U.S.C. 1098) is amended—

(1) in subsection (b)—

(A) in the second sentence, by striking "and expenditures" and inserting ", expenditures and staffing levels"; and

(B) by inserting after the third sentence the following: "Reports, publications, and other documents, including such reports, publications, and documents in electronic form, shall not be subject to review by the Secretary.";

(2) in subsection (e)—

(A) by redesignating paragraphs (3), (4), and (5), as paragraphs (4), (5), and (6), respectively; and

(B) by inserting after paragraph (2) the following:

"(3) No officers or full-time employees of the Federal Government shall serve as members of the Advisory Committee.";

(3) in subsection (g), by striking "(1) Members" and all that follows through "of the United States may" and inserting "Members of the Advisory Committee may";

(4) in subsection (h)(1)—

(A) by inserting "determined" after "as may be"; and

(B) by adding at the end the following: "The Advisory Committee may appoint not more than 1 full-time equivalent, nonpermanent, consultant without regard to the provisions of title 5, United States Code. The Advisory Committee shall not be required by the Secretary to reduce personnel to meet agency personnel reduction goals.";

(5) in subsection (i), by striking "$750,000" and inserting "$800,000";

(6) by amending subsection (j) to read as follows:

"(j) SPECIAL ANALYSES AND ACTIVITIES.—The Advisory Committee shall—

"(1) monitor and evaluate the modernization of student financial aid systems and delivery processes, including the implementation of a performance-based organization within the Department, and report to Congress regarding such modernization on not less than an annual basis, including recommendations for improvement;

"(2) assess the adequacy of current methods for disseminating information about programs under this title and recommend improvements, as appropriate, regarding early needs assessment and information for first-year secondary school students;

"(3) assess and make recommendations concerning the feasibility and degree of use of appropriate technology in the application for, and delivery and management of, financial assistance under this title, as well as policies that promote use of such technology to reduce cost and enhance service and program integrity, including electronic application and reapplication, just-in-time delivery of funds, reporting of disbursements and reconciliation;

"(4) assess the implications of distance education on student eligibility and other requirements for financial assistance under this title, and make recommendations that will enhance access to postsecondary education through distance education while maintaining access, through on-campus instruction at eligible institutions, and program integrity; and

"(5) make recommendations to the Secretary regarding redundant or outdated provisions of and regulations under this Act, consistent with the Secretary's requirements under section 498A(b)(3).";

(7) in subsection (k), by striking "1998" and inserting "2004"; and

(8) by repealing subsection (l).

SEC. 490C. REGIONAL MEETINGS AND NEGOTIATED RULEMAKING.

Section 492 (20 U.S.C. 1098a) is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by inserting "D," after "B,"; and

(ii) by striking "Such meetings shall include" and inserting "The Secretary shall obtain the advice of and recommendations from"; and

(B) in paragraph (2)—

(i) by striking "During such meetings the" and inserting "The";

(ii) by inserting "D," after "B,"; and

(iii) by striking "1992" and inserting "1998 through such mechanisms as regional meetings and electronic exchanges of information"; and

(2) in subsection (b)—

(A) by striking "After" and inserting the following:

"(1) IN GENERAL.—After";

(B) in paragraph (1) (as redesignated by subparagraph (A))—

(i) by striking "holding regional meetings" and inserting "obtaining the advice and recommendations described in subsection (a)(1)";

(ii) by inserting "D," after "B,";

(iii) by striking "1992" and inserting "1998"; and

(iv) by striking "The Secretary shall follow the guidance provided in sections 305.82–4 and 305.85–5 of chapter 1, Code of Federal Regulations, and any successor recommendation, regulation, or law."; and

(C) by adding at the end the following:

"(2) EXPANSION OF NEGOTIATED RULEMAKING IN STUDENT LOAN PROGRAMS.—All regulations pertaining to the student assistance programs in parts B, D, G, and H, that are promulgated after the date of enactment of this paragraph, shall be subject to the negotiated rulemaking process, unless the Secretary determines that exceptional circumstances exist making negotiated rulemaking unnecessary or inadvisable with respect to given regulations and publishes the basis for such determination in the Federal Register at the same time as the proposed regulations in questions are first published. All published proposed regulations shall conform, unless impracticable, to agreements resulting from such negotiated rulemaking. Such negotiated rulemaking shall be conducted in accordance with the provisions of paragraph (1).".

SEC. 490D. PROCEDURES FOR CANCELLATIONS AND DEFERMENTS FOR ELIGIBLE DISABLED VETERANS.

Part G of title IV (20 U.S.C. 1088 et seq.) is amended by adding at the end the following:

"SEC. 493A. PROCEDURES FOR CANCELLATIONS AND DEFERMENTS FOR ELIGIBLE DISABLED VETERANS.

"The Secretary, in consultation with the Secretary of Veterans Affairs, shall develop and implement a procedure to permit Department of Veterans Affairs physicians to provide the certifications and affidavits needed to enable disabled veterans enrolled in the Department of Veterans Affairs health care system to document such veterans' eligibility for deferments or cancellations of student loans made, insured, or guaranteed under this title. Not later than 6 months after the date of enactment of the Higher Education Amendments of 1998, the Secretary and the Secretary of Veterans Affairs jointly shall report to Congress on the progress made in developing and implementing the procedure.''.

PART H—PROGRAM INTEGRITY TRIAD

SEC. 491. STATE ROLE AND RESPONSIBILITIES.

Subpart 1 of part H of title IV (20 U.S.C. 1099a et seq.) is amended to read as follows:

"Subpart 1—State Role

"SEC. 495. STATE RESPONSIBILITIES.

''(a) STATE RESPONSIBILITIES.—As part of the integrity program authorized by this part, each State, through 1 State agency or several State agencies selected by the State, shall—

''(1) furnish the Secretary, upon request, information with respect to the process for licensing or other authorization for institutions of higher education to operate within the State;

''(2) notify the Secretary promptly whenever the State revokes a license or other authority to operate an institution of higher education; and

''(3) notify the Secretary promptly whenever the State has credible evidence that an institution of higher education within the State—

''(A) has committed fraud in the administration of the student assistance programs authorized by this title; or

''(B) has substantially violated a provision of this title.

''(b) INSTITUTIONAL RESPONSIBILITY.—Each institution of higher education shall provide evidence to the Secretary that the institution has authority to operate within a State at the time the institution is certified under subpart 3.''.

SEC. 492. ACCREDITING AGENCY RECOGNITION.

(a) AMENDMENTS TO HEADINGS.—Subpart 2 of part H of title IV (20 U.S.C. 1099b et seq.) is amended—

(1) in the subpart heading, by striking ''**Approval**'' and inserting ''**Recognition**''; and

(2) in the heading for section 496, by striking ''**approval**'' and inserting ''**recognition**''.

(b) RECOGNITION OF ACCREDITING AGENCY OR ASSOCIATION.—Section 496 (20 U.S.C. 1099b) is amended—

(1) in the heading for subsection (a), by striking ''STANDARDS'' and inserting ''CRITERIA'';

(2) in subsection (a)—

(A) in the matter preceding paragraph (1), by striking ''standards'' each place the term appears and inserting ''criteria'';

(B) in paragraph (4)—

(i) by striking ''at the institution'' and inserting ''offered by the institution''; and

(ii) by inserting '', including distance education courses or programs,'' after ''higher education''; and

(C) in paragraph (5)—

(i) by striking subparagraph (I);

(ii) by redesignating subparagraphs (A) through (H) as subparagraphs (B) through (I), respectively;

(iii) by inserting before subparagraph (B) the following:

''(A) success with respect to student achievement in relation to the institution's mission, including, as appropriate, consideration of course completion, State licensing examination, and job placement rates;'';

(iv) in subparagraph (I) (as redesignated by clause (ii)), by striking ''in clock hours or credit hours''; and

(v) in subparagraph (L)—

(I) by inserting ''record of'' before ''compliance'';

(II) by striking ''Act, including any'' and inserting ''Act based on the'';

(III) by inserting ''any'' after ''reviews, and''; and

(IV) in the matter following subparagraph (L), by striking ''(G),'';

(3) by amending paragraph (1) of subsection (l) to read as follows: ''(1)(A)(i) If the Secretary determines that an accrediting agency or association has failed to apply effectively the standards in this section, or is otherwise not in compliance with the requirements of this section, the Secretary shall—

''(I) after notice and opportunity for a hearing, limit, suspend, or terminate the approval of the agency or association; or

''(II) require the agency or association to take appropriate action to bring the agency or association into compliance with such requirements within a timeframe specified by the Secretary, except that—

''(aa) such timeframe shall not exceed 12 months unless the Secretary extends such period for good cause; and

''(bb) if the agency or association fails to bring the agency or association into compliance within such timeframe, the Secretary shall, after notice and opportunity for a hearing, limit, suspend, or terminate the approval of the agency or association.''; and

(4) in subsection (n)(3), by adding at the end the following: ''When the Secretary decides to recognize an accrediting agency or association, the Secretary shall determine the agency or association's scope of recognition. If the agency or association reviews institutions offering distance education courses or programs and the Secretary determines that the agency or association meets the requirements of this section, then the agency shall be recognized and the scope of recognition shall include accreditation of institutions offering distance education courses or programs.''.

SEC. 493. ELIGIBILITY AND CERTIFICATION PROCEDURES.

(a) SINGLE APPLICATION FORM.—Section 498(b) (20 U.S.C. 1099c(b)) is amended—

(1) in paragraph (1), by striking ''and capability'' and inserting ''financial responsibility, and administrative capability'';

(2) by amending paragraph (3) to read as follows:

''(3) requires—

''(A) a description of the third party servicers of an institution of higher education; and

''(B) the institution to maintain a copy of any contract with a financial aid service provider or loan servicer, and provide a copy of any such contract to the Secretary upon request;'';

(3) in paragraph (4), by striking the period and inserting ''; and''; and

(4) by adding at the end the following:

''(5) provides, at the option of the institution, for participation in 1 or more of the programs under part B or D.''.

(b) FINANCIAL RESPONSIBILITY STANDARDS.—Section 498(c) (20 U.S.C. 1099c(c)) is amended—

(1) in paragraph (2), by striking ''with respect to operating losses, net worth, asset to liabilities ratios, or operating fund deficits'' and inserting ''regarding ratios that demonstrate financial responsibility,'';

(2) in paragraph (3)(A), by striking ''Secretary third party'' and all that follows through ''payable to the Secretary'' and inserting ''Secretary any third party guarantees, which the Secretary determines are reasonable, that''; and

(3) in paragraph (4)—

(A) in the matter preceding subparagraph (A), by striking ''ratio of current assets to current liabilities'' and inserting ''criteria''; and

(B) in subparagraph (C), by striking ''current operating ratio requirement'' and inserting ''criteria''.

(c) FINANCIAL GUARANTEES FROM OWNERS.—Section 498(e) (20 U.S.C. 1099c(e)) is amended—

(1) in the subsection heading, by inserting ''OF FOR-PROFIT INSTITUTIONS'' after ''OWNERS'';

(2) in paragraph (1)(A), by striking ''from an'' and inserting ''from a for-profit'';

(3) in paragraph (2)—

(A) in the matter preceding clause (i) of subparagraph (A), by inserting ''for-profit'' after ''or more'';

(B) in subparagraph (B), by inserting ''for-profit'' after ''or more'';

(4) in paragraph (3), by striking ''operation of, an institution or'' and inserting ''operation of, a for-profit institution or the''; and

(5) by adding at the end the following:

''(6) Notwithstanding any other provision of law, any individual, whom the Secretary determines, in accordance with paragraph (2), exercises substantial control over an institution participating in, or seeking to participate in, a program under this title, required to pay, on behalf of a student or borrower, a refund of unearned institutional charges to a lender, or to the Secretary, who willfully fails to pay such refund or willfully attempts in any manner to evade payment of such refund, shall, in addition to other penalties provided by law, be liable to the Secretary for the amount of the refund not paid, to the same extent with respect to such refund that such an individual would be liable as a responsible person for a penalty under section 6672(a) of Internal Revenue Code of 1986 with respect to the nonpayment of taxes.''.

(d) APPLICATIONS AND SITE VISITS.—Section 498(f) (20 U.S.C. 1099c(f)) is amended—

(1) in the subsection heading by striking ''; SITE VISITS AND FEES'' and inserting ''AND SITE VISITS'';

(2) in the second sentence, by striking ''shall'' and inserting ''may'';

(3) in the third sentence, strike ''may'' and insert ''shall''; and

(4) by striking the fourth sentence.

(e) TIME LIMITATIONS ON, AND RENEWAL OF, ELIGIBILITY.—Subsection (g) of section 498 (20 U.S.C. 1099c) is amended to read as follows:

''(g) TIME LIMITATIONS ON, AND RENEWAL OF, ELIGIBILITY.—

''(1) GENERAL RULE.—After the expiration of the certification of any institution under the schedule prescribed under this section (as in effect prior to the enactment of the Higher Education Act Amendments of 1998), or upon request for initial certification from an institution not previously certified, the Secretary may certify the eligibility for the purposes of any program authorized under this title of each such institution for a period not to exceed 6 years.

''(2) NOTIFICATION.—The Secretary shall notify each institution of higher education not later than 6 months prior to the date of the expiration of the institution's certification.

''(3) INSTITUTIONS OUTSIDE THE UNITED STATES.—The Secretary shall promulgate regulations regarding the recertification requirements applicable to an institution of higher education outside of the United States that meets the requirements of section 481(a)(1)(C) and received less than $500,000 in funds under part B for the most recent year for which data are available.''.

(f) PROVISIONAL CERTIFICATION.—Section 498(h) (20 U.S.C. 1099c(h)) is amended—

(1) in paragraph (1)(B)(ii), by striking ''an eligible'' and inserting ''a for-profit eligible''; and

(2) in paragraph (2), by striking ''the approval'' and inserting ''the recognition''.

(g) TREATMENT OF CHANGES OF OWNERSHIP.—Section 498(i) (20 U.S.C. 1099c(i)) is amended—

(1) in the subsection heading, by inserting ''OF FOR-PROFIT INSTITUTIONS'' after ''OWNERSHIP''; and

(2) in paragraph (2)—

(A) in subparagraph (A), by inserting ''for-profit'' before ''institution'';

(B) in subparagraph (C), by striking ''two'' and inserting ''a for-profit institution with one'';

(C) in subparagraph (D), by inserting ''for-profit'' before ''institutions'';

(D) in subparagraph (E), by inserting "for-profit" before "institutions"; and

(E) in subparagraph (F), by inserting "for-profit" before "institution".

(h) TREATMENT OF BRANCHES.—The second sentence of section 498(j)(1) (20 U.S.C. 1099c(j)(1)) is amended by inserting "after the branch is certified by the Secretary as a branch campus participating in a program under title IV," after "2 years".

SEC. 494. PROGRAM REVIEW AND DATA.

Section 498A (20 U.S.C. 1099c–1) is amended—

(1) in subsection (a)—

(A) in paragraph (2)—

(i) in the matter preceding subparagraph (A), by striking "may" and inserting "shall";

(ii) by amending subparagraph (C) to read as follows:

"(C) institutions with a significant fluctuation in Federal Stafford Loan volume, Federal Direct Stafford/Ford Loan volume, or Federal Pell Grant award volume, or any combination thereof, in the year for which the determination is made, compared to the year prior to such year, that are not accounted for by changes in the Federal Stafford Loan program, the Federal Direct Stafford/Ford Loan program, or the Pell Grant program, or any combination thereof;";

(iii) by amending subparagraph (D) to read as follows:

"(D) institutions reported to have deficiencies or financial aid problems by the State licensing or authorizing agency, or by the appropriate accrediting agency or association;";

(iv) in subparagraph (E), by inserting "and" after the semicolon; and

(v) by striking subparagraphs (F) and (G), and inserting the following:

"(F) such other institutions that the Secretary determines may pose a significant risk of failure to comply with the administrative capability or financial responsibility provisions of this title; and"; and

(B) in paragraph (3)(A), by inserting "relevant" after "all"; and

(2) by amending subsection (b) to read as follows:

"(b) SPECIAL ADMINISTRATIVE RULES.—

"(1) IN GENERAL.—In carrying out paragraphs (1) and (2) of subsection (a) and any other relevant provisions of this title, the Secretary shall—

"(A) establish guidelines designed to ensure uniformity of practice in the conduct of program reviews of institutions of higher education;

"(B) make available to each institution participating in programs authorized under this title complete copies of all review guidelines and procedures used in program reviews;

"(C) permit the institution to correct or cure an administrative, accounting, or recordkeeping error if the error is not part of a pattern of error and there is no evidence of fraud or misconduct related to the error;

"(D) base any civil penalty assessed against an institution of higher education resulting from a program review or audit on the gravity of the violation, failure, or misrepresentation; and

"(E) inform the appropriate State and accrediting agency or association whenever the Secretary takes action against an institution of higher education under this section, section 498, or section 432.

"(2) UNIFORMITY OF APPLICATION OF REGULATIONS.—The Secretary shall review the regulations of the Department and the application of such regulations to ensure the uniformity of interpretation and application of the regulations.

"(3) NONDUPLICATION AND COORDINATION.—The Secretary shall establish a process for ensuring that eligibility and compliance issues, such as institutional audit, program review, and recertification, are considered simultaneously, and shall establish a process for identifying unnecessary duplication of reporting and related regulatory requirements. In developing such processes, the Secretary shall consult with relevant representatives of institutions participating in the programs authorized by this title.".

PART I—ADMINISTRATIVE PROVISIONS FOR DELIVERY OF STUDENT FINANCIAL ASSISTANCE

SEC. 495. PERFORMANCE-BASED ORGANIZATION FOR THE DELIVERY OF FEDERAL STUDENT FINANCIAL ASSISTANCE.

Title IV (20 U.S.C. 1070 et seq.) is amended by adding at the end the following:

"PART I—ADMINISTRATIVE PROVISIONS FOR DELIVERY OF STUDENT FINANCIAL ASSISTANCE

"SEC. 499. PERFORMANCE-BASED ORGANIZATION FOR THE DELIVERY OF FEDERAL STUDENT FINANCIAL ASSISTANCE.

"(a) ESTABLISHMENT.—The Secretary shall establish in the Department a performance-based organization (hereafter in this part referred to as the 'PBO') to administer various functions relating to student financial assistance programs authorized under this title.

"(b) OVERSIGHT AND AUTHORITY.—

"(1) POLICY OVERSIGHT AND DIRECTION.—The Secretary shall maintain responsibility for the policy relating to functions managed by the PBO, and the PBO shall remain subject to the Secretary's oversight and direction.

"(2) AUDITS AND REVIEW.—The PBO shall be subject to the usual and customary Federal audit procedures and to review by the Inspector General of the Department.

"(3) CHANGES.—

"(A) IN GENERAL.—The Secretary and the Chief Operating Officer shall consult concerning the effects of policy, market, or other changes on the ability of the PBO to achieve the goals and objectives established in the performance plan described in subsection (e).

"(B) REVISIONS TO AGREEMENT.—The Secretary and the Chief Operating Officer may revise the annual performance agreement described in subsection (f)(2) in light of policy, market, or other changes that occur after the Secretary and the Chief Operating Officer enter into the agreement.

"(c) PURPOSES OF PBO.—The purposes of the PBO are—

"(1) to improve service to students and other participants in the student financial assistance programs authorized under this title, including making those programs more understandable to students and their parents;

"(2) to reduce the costs of administering those programs;

"(3) to increase the accountability of the officials responsible for administering those programs;

"(4) to provide greater flexibility in the administration of those programs;

"(5) to improve and integrate the information and delivery systems that support those programs; and

"(6) to develop and maintain a student financial assistance system that contains complete, accurate, and timely data to ensure program integrity.

"(d) FUNCTIONS.—

"(1) IN GENERAL.—Subject to subsection (b) of this section, the PBO shall be responsible for administration of the information and financial systems that support student financial assistance programs authorized under this title, including—

"(A) collecting, processing, and transmitting applicant data to students, institutions, and authorized third parties, as provided for in section 483;

"(B) contracting for the information and financial systems supporting student financial assistance programs under this title;

"(C) developing technical specifications for software and systems that support those programs; and

"(D) providing all customer service, training, and user support related to systems that support those programs.

"(2) ADDITIONAL FUNCTIONS.—The Secretary may allocate to the PBO such additional functions as the Secretary determines necessary or appropriate to achieve the purposes of the PBO.

"(e) PERFORMANCE PLAN AND REPORT.—

"(1) PERFORMANCE PLAN.—

"(A) IN GENERAL.—Each year, the Secretary and Chief Operating Officer shall agree on, and make available to the public, a performance plan for the PBO for the succeeding 5 years that establishes measurable goals and objectives for the organization.

"(B) CONSULTATION.—In developing the 5-year performance plan and any revision to the plan, the Secretary and the Chief Operating Officer shall consult with students, institutions of higher education, Congress, lenders, and other interested parties not less than 30 days prior to the implementation of the performance plan or revision.

"(C) AREAS.—The plan shall address the PBO's responsibilities in the following areas:

"(i) IMPROVING SERVICE.—Improving service to students and other participants in student financial aid programs authorized under this title, including making those programs more understandable to students and their parents.

"(ii) REDUCING COSTS.—Reducing the costs of administering those programs.

"(iii) IMPROVEMENT AND INTEGRATION OF SUPPORT SYSTEMS.—Improving and integrating the information and delivery systems that support those programs.

"(iv) DELIVERY AND INFORMATION SYSTEM.—Developing an open, common, and integrated delivery and information system for programs authorized under this title.

"(v) OTHER AREAS.—Any other areas identified by the Secretary.

"(2) ANNUAL REPORT.—(A) IN GENERAL.—Each year, the Chief Operating Officer shall prepare and submit to Congress, through the Secretary, an annual report on the performance of the PBO, including an evaluation of the extent to which the PBO met the goals and objectives contained in the 5-year performance plan described in paragraph (1) for the preceding year.

"(B) CONSULTATION WITH STAKEHOLDERS.—The Chief Operating Officer, in preparing the report described in subparagraph (A), shall establish appropriate means to consult with borrowers, institutions, lenders, guaranty agencies, secondary markets, and others involved in the delivery system of student aid under this title—

"(i) regarding the degree of satisfaction with the delivery system; and

"(ii) to seek suggestions on means to improve the delivery system.

"(f) CHIEF OPERATING OFFICER.—

"(1) APPOINTMENT.—

"(A) IN GENERAL.—The management of the PBO shall be vested in a Chief Operating Officer who shall be appointed by the Secretary to a term of not less than 3 and not more than 5 years and compensated without regard to chapters 33, 51, and 53 of title 5, United States Code.

"(B) BASIS.—The appointment shall be made on the basis of demonstrated ability in management and experience in information technology or financial services.

"(C) REAPPOINTMENT.—The Secretary may reappoint the Chief Operating Officer to subsequent terms of not less than 3 and not more than 5 years, so long as the performance of the Chief Operating Officer, as set forth in the performance agreement described in paragraph (2), is satisfactory.

"(2) PERFORMANCE AGREEMENT.—

"(A) IN GENERAL.—Each year, the Secretary and the Chief Operating Officer shall enter into an annual performance agreement, that shall set forth measurable organization and individual goals for the Chief Operating Officer.

"(B) TRANSMITTAL.—The final agreement, and any revision to the final agreement, shall be transmitted to the Committee on Education and the Workforce of the House of Representatives and the Committee on Labor and Human Resources of the Senate, and made publicly available.

"(3) COMPENSATION.—

"(A) IN GENERAL.—The Chief Operating Officer is authorized to be paid at an annual rate of basic pay not to exceed the maximum rate of basic pay for the Senior Executive Service under section 5382 of title 5, United States Code, including any applicable locality-based comparability payment that may be authorized under section 5304(h)(2)(C) of such title.

"(B) BONUS.—In addition, the Chief Operating Officer may receive a bonus in an amount that does not exceed 50 percent of such annual rate of basic pay, based upon the Secretary's evaluation of the Chief Operating Officer's performance in relation to the goals set forth in the performance agreement described in paragraph (2).

"(C) PAYMENT.—Payment of a bonus under this subparagraph (B) may be made to the Chief Operating Officer only to the extent that such payment does not cause the Chief Operating Officer's total aggregate compensation in a calendar year to equal or exceed the amount of the President's salary under section 102 of title 3, United States Code.

"(4) REMOVAL.—The Chief Operating Officer shall be removable—

"(A) by the President; or

"(B) by the Secretary for misconduct or failure to meet the goals set forth in the performance agreement described in paragraph (2).

"(g) SENIOR MANAGEMENT.—

"(1) APPOINTMENT.—

"(A) IN GENERAL.—The Chief Operating Officer may appoint such senior managers as that officer determines necessary without regard to the provisions of title 5, United States Code, governing appointments in the competitive service.

"(B) COMPENSATION.—The senior managers described in subparagraph (A) may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

"(2) PERFORMANCE AGREEMENT.—Each year, the Chief Operating Officer and each senior manager appointed under this subsection shall enter into an annual performance agreement that sets forth measurable organization and individual goals.

"(3) COMPENSATION.—

"(A) IN GENERAL.—A senior manager appointed under this subsection may be paid at an annual rate of basic pay of not more than the maximum rate of basic pay for the Senior Executive Service under section 5382 of title 5, United States Code, including any applicable locality-based comparability payment that may be authorized under section 5304(h)(2)(C) of such title 5.

"(B) BONUS.—In addition, a senior manager may receive a bonus in an amount such that the manager's total annual compensation does not exceed 125 percent of the maximum rate of basic pay for the Senior Executive Service, including any applicable locality-based comparability payment, based upon the Chief Operating Officer's evaluation of the manager's performance in relation to the goals set forth in the performance agreement described in paragraph (2).

"(4) REMOVAL.—A senior manager shall be removable by the Secretary or by the Chief Operating Officer.

"(h) REPORT.—The Secretary and the Chief Operating Officer, not later than 180 days after the date of enactment of the Higher Education Amendments of 1998, shall report to Congress on the proposed budget and sources of funding for the operation of the PBO.

"(i) AUTHORIZATION OF APPROPRIATIONS.—The Secretary shall allocate from funds made available under section 458 such funds as are appropriate to the functions assumed by the PBO. In addition, there are authorized to be appropriated such sums as may be necessary to carry out the purposes of this part, including transition costs.

"SEC. 499A. PERSONNEL FLEXIBILITIES.

"(a) GENERAL PROVISIONS.—

"(1) CERTAIN LIMITATIONS NOT APPLICABLE.—The PBO shall not be subject to any limitation related to the number or grade of its employees.

"(2) APPLICABLE PROVISIONS OF TITLE 5.—

"(A) PROVISIONS.—Any flexibilities provided under this section shall be exercised in a manner consistent with the following provisions of title 5, United States Code:

"(i) Chapter 23, relating to merit system principles and prohibited personnel practices.

"(ii) Provisions relating to preference eligibles.

"(iii) Section 5307, relating to the aggregate limitation on pay.

"(iv) Chapter 71, relating to labor-management relations, except to the extent provided by paragraph (3).

"(B) EXERCISE OF AUTHORITY.—The exercise of any authorities provided under this section shall be subject to subsections (b) and (c) of section 1104 of title 5, United States Code, as though such authorities were delegated to the PBO under subsection (a)(2) of such section. The PBO shall provide the Office of Personnel Management with any information the Office requires in carrying out its responsibilities under this subsection.

"(3) LABOR ORGANIZATION AGREEMENTS.—Employees within a unit to which a labor organization is accorded exclusive recognition under chapter 71 of title 5, United States Code, shall not be subject to any flexibility provided under this section unless the exclusive representative and PBO have entered into a written agreement which specifically provides for the exercise of that flexibility. A written agreement may not be imposed by the Federal Services Impasses Panel under section 7119 of title 5, United States Code.

"(4) FLEXIBILITIES.—

"(A) PRIOR APPROVAL.—The PBO may exercise any of the flexibilities provided under subsections (b), (c)(1), and (d) without prior approval of the Office of Personnel Management.

"(B) PLAN AND APPROVAL.—The PBO may exercise the flexibilities described in subsection (c)(2) only after a specific plan for implementation of those flexibilities is submitted to and approved by the Director of the Office of Personnel Management.

"(5) DEMONSTRATION PROJECTS.—

"(A) IN GENERAL.—The exercise of any flexibilities under this section shall not affect the authority of the PBO to implement a demonstration project subject to chapter 47 of title 5, United States Code, and as provided in subparagraph (B).

"(B) APPLICATION OF TITLE 5.—In applying section 4703 of title 5, United States Code, to a project described in subparagraph (A)—

"(i) section 4703(b)(1) shall be deemed to read as follows:

"'(1) develop a plan for such project which describes its purpose, the employees to be covered, the project itself, its anticipated outcomes, and the method of evaluating the project;';

"(ii) section 4703(b)(3) shall not apply;

"(iii) the 180-day notification period in section 4703(b)(4) shall be deemed to be a 30-day notification period;

"(iv) section 4703(b)(6) shall be deemed to read as follows:

"'(6) provide each House of Congress with the final version of the plan.';

"(v) section 4703(c)(1) shall be deemed to read as follows:

"'(1) subchapter V of chapter 63 or subpart G of part III of this title;';

"(vi) section 4703(d) shall not apply; and

"(vii) section 4703(f) shall not apply, and, in lieu thereof, paragraph (3) of this subsection shall apply as though the demonstration project were a flexibility authority provided under this subsection.

"(b) PERFORMANCE MANAGEMENT.—

"(1) IN GENERAL.—The PBO shall establish a performance management system that—

"(A) maintains individual accountability by—

"(i) establishing 1 or more retention standards for each employee related to the work of the employee and expressed in terms of individual performance, and communicating such retention standards to employees;

"(ii) making periodic determinations of whether each employee meets or does not meet the employee's established retention standards; and

"(iii) taking actions, in accordance with applicable laws and regulations, with respect to any employee whose performance does not meet established retention standards, including denying any increase in basic pay, promotions, and credit for performance under section 3502 of title 5, United States Code, and taking 1 or more of the following actions:

"(I) Reassignment;

"(II) An action under chapter 43 or 75 of title 5, United States Code; or

"(III) Any other appropriate action to resolve the performance problem; and

"(B) strengthens its effectiveness by providing for—

"(i) establishing goals or objectives for individual, group, or organizational performance (or any combination thereof), consistent with the annual performance agreement described in section 499(f)(2) and PBO performance planning procedures, including those established under the Government Performance and Results Act of 1993, and communicating such goals or objectives to employees;

"(ii) using such goals and objectives to make performance distinctions among employees or groups of employees; and

"(iii) using performance assessments as a basis for granting employee awards, adjusting an employee's rate of basic pay, and other appropriate personnel actions, in accordance with applicable provisions or law and regulation.

"(2) PERFORMANCE.—

"(A) ASSESSMENT.—For purposes of paragraph (1)(B), the term 'performance assessment' means a determination of whether or not retention standards established under paragraph (1)(A)(i) are met, and any additional performance determination made on the basis of performance goals and objectives established under paragraph (1)(B)(i).

"(B) UNACCEPTABLE PERFORMANCE.—For purposes of title 5, United States Code, the term 'unacceptable performance' with respect to an employee of the PBO means performance of the employee which fails to meet a retention standard established under paragraph (1)(A)(i).

"(3) AWARDS PROGRAM.—

"(A) IN GENERAL.—The PBO may establish an awards program designed to provide incentives for and recognition of organizational, group, and individual achievements by providing for granting awards to employees who, as individuals or members of a group, contribute to meeting the performance goals and objectives established under this part by such means as a superior individual or group accomplishment, a documented productivity gain, or sustained superior performance.

"(B) LIMITATION.—Notwithstanding section 4502(b) of title 5, United States Code, the PBO may grant a cash award in an amount not exceeding $25,000, with the approval of the Chief Operating Officer.

"(c) CLASSIFICATION AND PAY FLEXIBILITIES.—

"(1) IN GENERAL.—

"(A) DEFINITION.—For purposes of this section, the term 'broad-banded system' means a system for grouping positions for pay, job evaluation, and other purposes that is different from the system established under chapter 51 and subchapter III of chapter 53 of title 5, United States Code, as a result of combining grades and related ranges of rates of pay in 1 or more occupational series.

"(B) ESTABLISHMENT.—The PBO may, subject to criteria to be prescribed by the Office of Personnel Management, establish 1 or more broad-banded systems covering all or any portion of its workforce. The Office may require the PBO to submit to the Office such information relating to its broad-banded systems as the Office may require. Laws and regulations pertaining to General Schedule employees (other than chapter 52 and subchapter II of chapter 53 of title 5, United States Code) shall continue to be applicable to employees under a broad-banded system.

"(C) CRITERIA.—The criteria to be prescribed by the Office of Personnel Management shall, at a minimum—

"(i) ensure that the structure of any broad-banded system maintains, through linkage to the General Schedule, the principle of equal pay for substantially equal work;

"(ii) establish the minimum and maximum number of grades that may be combined into pay bands;

"(iii) establish requirements for adjusting the pay of an employee within a pay band;

"(iv) establish requirements for setting the pay of a supervisory employee whose position is in a pay band or who supervises employees whose positions are in pay bands; and

"(v) establish requirements and methodologies for setting the pay of an employee upon conversion to a broad-banded system, initial appointment, change of position or type of appointment (including promotion, demotion, transfer, reassignment, reinstatement, placement in another pay band, or movement to a different geographic location), and movement between a broad-banded system and another pay system.

"(2) ALTERNATIVE JOB EVALUATION SYSTEMS FLEXIBILITIES.—

"(A) IN GENERAL.—With the approval of the Office of Personnel Management in accordance with subsection (a)(4)(B), the PBO may establish 1 or more alternative job evaluation systems that include any positions or groups of positions that the PBO determines, for reasons of effective administration—

"(i) should not be classified under chapter 51 of title 5, United States Code, or paid under the General Schedule;

"(ii) should not be classified or paid under subchapter IV of chapter 53 of such title; or

"(iii) should not be paid under section 5376 of such title.

"(B) PAY.—

"(i) GENERAL LIMITATION.—An alternative job evaluation system established under this section that includes positions described in clause (i) or (ii), or both, of subparagraph (A) may not provide a rate of basic pay for any employee in excess of the maximum rate of pay under the General Schedule.

"(ii) SPECIFIC LIMITATION.—An alternative job evaluation system established under this section that includes positions described in clause (iii) of subparagraph (A) may not provide a rate of basic pay for any employee in excess of the annual rate of basic pay of the Chief Operating Officer under the first sentence of section 499(f)(3).

"(C) IMPLEMENTATION.—An alternative job evaluation system established under this section shall be implemented in such a way as to ensure the maintenance of the principle of equal pay for substantially equal work.

"(D) APPLICABILITY OF LAWS.—Except as otherwise provided under this part, employees under an alternative job evaluation system shall continue to be subject to the laws and regulations covering employees under the pay system that would otherwise apply to them. If the alternative job evaluation system combines employees from different pay systems into a single system, the plan submitted under subsection (a)(4)(B) shall address the applicability of the laws and regulations for the different pay systems.

"(d) STAFFING FLEXIBILITIES.—

"(1) APPOINTMENT.—

"(A) CONDITIONS.—Except as otherwise provided under this subsection, an employee of the PBO may be selected for a permanent appointment in the competitive service in the PBO through internal competitive promotion procedures if—

"(i) the employee has completed, in the competitive service, 2 years of current continuous service under a term appointment or any combination of term appointments;

"(ii) such term appointment or appointments were made under competitive procedures prescribed for permanent appointments;

"(iii) the employee's performance under such term appointment or appointments met established retention standards; and

"(iv) the vacancy announcement for the term appointment from which the conversion is made stated that there was a potential for subsequent conversion to a permanent appointment.

"(B) SIMILAR APPOINTMENT.—An appointment under this section may be made only to a position in the same line of work as a position to which the employee received a term appointment under competitive procedures.

"(2) CATEGORY RATING SYSTEMS.—

"(A) IN GENERAL.—Notwithstanding subchapter I of chapter 33 of title 5, United States Code, the PBO may establish category rating systems for evaluating job applicants for positions in the competitive service. Qualified candidates under such rating systems shall be divided into 2 or more quality categories on the basis of relative degrees of merit, rather than assigned individual numerical ratings. Each applicant who meets the minimum qualification requirements for the position to be filled shall be assigned to an appropriate category based on an evaluation of the applicant's knowledge, skills, and abilities relative to those needed for successful performance in the position to be filled.

"(B) PREFERENCE ELIGIBLES.—Within each quality category established under subparagraph (A), preference eligibles shall be listed ahead of individuals who are not preference eligibles. For other than scientific and professional positions at or higher than level GS–9 (or equivalent), preference eligibles who have a compensable service-connected disability of 10 percent or more, and who meet the minimum qualification standards, shall be listed in the highest quality category.

"(C) SELECTION.—An appointing authority may select any applicant from the highest quality category or, if fewer than 3 candidates have been assigned to the highest quality category, from a merged category consisting of the highest and second highest quality categories. Notwithstanding the preceding sentence, the appointing authority may not pass over a preference eligible in the same or higher category from which selection is made, unless the requirements of section 3317(b) or 3318(b) of title 5, United States Code, as applicable, are satisfied.

"(3) EXCEPTED SERVICE.—The Chief Operating Officer may appoint, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, not more than 25 technical and professional employees to administer the functions of the PBO. These employees may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

"(4) RULE OF CONSTRUCTION.—Notwithstanding paragraphs (1) through (3), no provision of this subsection exempts the PBO from—

"(A) any employment priorities established under direction of the President for the placement of surplus or displaced employees; or

"(B) its obligations under any court order or decree relating to the employment practices of the PBO or the Department of Education.

"SEC. 499B. PROCUREMENT FLEXIBILITY.

"(a) PROCUREMENT AUTHORITY.—Subject to the authority, direction, and control of the Secretary, the Chief Operating Officer of a PBO may exercise the authority of the Secretary to procure property and services in the performance of functions managed by the PBO. For the purposes of this section, the term 'PBO' includes the Chief Operating Officer of the PBO and any employee of the PBO exercising procurement authority under the preceding sentence.

"(b) APPLICABILITY OF PROCUREMENT LAWS.—Except to the extent otherwise authorized in this section, a PBO shall comply with all laws and regulations that are generally applicable to procurements of property and services by the head of an executive agency of the Federal Government.

"(c) USE OF MUTUAL BENEFIT CORPORATION.—The PBO may acquire services related to the title IV delivery system from any mutual benefit corporation that has the capability and capacity to meet the requirements for the system, as determined by the Chief Operating Officer of the PBO.

"(d) TWO-PHASE SOURCE-SELECTION PROCEDURES.—

"(1) IN GENERAL.—The PBO may use a two-phase process for selecting a source for a procurement of property or services.

"(2) FIRST PHASE.—The procedures for the first phase of the process for a procurement are as follows:

"(A) PUBLICATION OF NOTICE.—The contracting officer for the procurement shall publish a notice of the procurement in accordance with section 18 of the Office of Federal Procurement Policy Act (41 U.S.C. 416) and subsections (e), (f), and (g) of section 8 of the Small Business Act (15 U.S.C. 637), except that the notice shall include only the following:

"(i) A general description of the scope or purpose of the procurement that provides sufficient information on the scope or purpose for sources to make informed business decisions regarding whether to participate in the procurement.

"(ii) A description of the basis on which potential sources are to be selected to submit offers in the second phase.

"(iii) A description of the information that is to be required under subparagraph (B).

"(iv) Any additional information that the contracting officer determines appropriate.

"(B) INFORMATION SUBMITTED BY OFFERORS.—Each offeror for the procurement shall submit basic information, such as information on the offeror's qualifications, the proposed conceptual approach, costs likely to be associated with the proposed conceptual approach, and past performance of the offeror on Federal Government contracts, together with any additional information that is requested by the contracting officer.

"(C) SELECTION FOR SECOND PHASE.—The contracting officer shall select the offerors that are to be eligible to participate in the second phase

of the process. The contracting officer shall limit the number of the selected offerors to the number of sources that the contracting officer determines is appropriate and in the best interests of the Federal Government.

"(3) SECOND PHASE.—

"(A) IN GENERAL.—The contracting officer shall conduct the second phase of the source selection process in accordance with sections 303A and 303B of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253a and 253b).

"(B) ELIGIBLE PARTICIPANTS.—Only the sources selected in the first phase of the process shall be eligible to participate in the second phase.

"(C) SINGLE OR MULTIPLE PROCUREMENTS.—The second phase may include a single procurement or multiple procurements within the scope, or for the purpose, described in the notice pursuant to paragraph (2)(A).

"(4) PROCEDURES CONSIDERED COMPETITIVE.—The procedures used for selecting a source for a procurement under this subsection shall be considered competitive procedures for all purposes.

"(e) USE OF SIMPLIFIED PROCEDURES FOR COMMERCIAL ITEMS.—Whenever the PBO anticipates that commercial items will be offered for a procurement, the PBO may use (consistent with the special rules for commercial items) the special simplified procedures for the procurement without regard to—

"(1) any dollar limitation otherwise applicable to the use of those procedures; and

"(2) the expiration of the authority to use special simplified procedures under section 4202(e) of the Clinger-Cohen Act of 1996 (110 Stat. 654; 10 U.S.C. 2304 note).

"(f) FLEXIBLE WAIT PERIODS AND DEADLINES FOR SUBMISSION OF OFFERS OF NONCOMMERCIAL ITEMS.—

"(1) AUTHORITY.—In carrying out a procurement, the PBO may—

"(A) apply a shorter waiting period for the issuance of a solicitation after the publication of a notice under section 18 Office of Federal Procurement Policy Act (41 U.S.C. 416) than is required under subsection (a)(3)(A) of such section; and

"(B) notwithstanding subsection (a)(3) of such section, establish any deadline for the submission of bids or proposals that affords potential offerors a reasonable opportunity to respond to the solicitation.

"(2) INAPPLICABILITY TO COMMERCIAL ITEMS.—Paragraph (1) does not apply to a procurement of a commercial item.

"(3) CONSISTENCY WITH APPLICABLE INTERNATIONAL AGREEMENTS.—If an international agreement is applicable to the procurement, any exercise of authority under paragraph (1) shall be consistent with the international agreement.

"(g) MODULAR CONTRACTING.—

"(1) IN GENERAL.—The PBO may satisfy the requirements of the PBO for a system incrementally by carrying out successive procurements of modules of the system. In doing so, the PBO may use procedures authorized under this subsection to procure any such module after the first module.

"(2) UTILITY REQUIREMENT.—A module may not be procured for a system under this subsection unless the module is useful independently of the other modules or useful in combination with another module previously procured for the system.

"(3) CONDITIONS FOR USE OF AUTHORITY.—The PBO may use procedures authorized under paragraph (4) for the procurement of an additional module for a system if—

"(A) competitive procedures were used for awarding the contract for the procurement of the first module for the system; and

"(B) the solicitation for the first module included—

"(i) a general description of the entire system that was sufficient to provide potential offerors with reasonable notice of the general scope of future modules;

"(ii) other information sufficient for potential offerors to make informed business judgments regarding whether to submit offers for the contract for the first module; and

"(iii) a statement that procedures authorized under this subsection could be used for awarding subsequent contracts for the procurement of additional modules for the system.

"(4) PROCEDURES.—If the procurement of the first module for a system meets the requirements set forth in paragraph (3), the PBO may award a contract for the procurement of an additional module for the system using any of the following procedures:

"(A) SOLE SOURCE.—Award of the contract on a sole-source basis to a contractor who was awarded a contract for a module previously procured for the system under competitive procedures or procedures authorized under subparagraph (B).

"(B) ADEQUATE COMPETITION.—Award of the contract on the basis of offers made by—

"(i) a contractor who was awarded a contract for a module previously procured for the system after having been selected for award of the contract under this subparagraph or other competitive procedures; and

"(ii) at least one other offeror that submitted an offer for a module previously procured for the system and is expected, on the basis of the offer for the previously procured module, to submit a competitive offer for the additional module.

"(C) OTHER.—Award of the contract under any other procedure authorized by law.

"(5) NOTICE REQUIREMENT.—

"(A) PUBLICATION.—Not less than 30 days before issuing a solicitation for offers for a contract for a module for a system under procedures authorized under subparagraph (A) or (B) of paragraph (4), the PBO shall publish in the Commerce Business Daily a notice of the intent to use such procedures to enter into the contract.

"(B) EXCEPTION.—Publication of a notice is not required under this paragraph with respect to a use of procedures authorized under paragraph (4) if the contractor referred to in that subparagraph (who is to be solicited to submit an offer) has previously provided a module for the system under a contract that contained cost, schedule, and performance goals and the contractor met those goals.

"(C) CONTENT OF NOTICE.—A notice published under subparagraph (A) with respect to a use of procedures described in paragraph (4) shall contain the information required under section 18(b) of the Office of Federal Procurement Policy Act (41 U.S.C. 416(b)), other than paragraph (4) of such section, and shall invite the submission of any assertion that the use of the procedures for the procurement involved is not in the best interest of the Federal Government together with information supporting the assertion.

"(6) DOCUMENTATION.—The basis for an award of a contract under this subsection shall be documented. However, a justification pursuant to section 303(f) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(f)) or section 8(h) of the Small Business Act (15 U.S.C. 637(h)) is not required.

"(7) SIMPLIFIED SOURCE-SELECTION PROCEDURES.—The PBO may award a contract under any other simplified procedures prescribed by the PBO for the selection of sources for the procurement of modules for a system, after the first module, that are not to be procured under a contract awarded on a sole-source basis.

"(h) USE OF SIMPLIFIED PROCEDURES FOR SMALL BUSINESS SET-ASIDES FOR SERVICES OTHER THAN COMMERCIAL ITEMS.—

"(1) AUTHORITY.—The PBO may use special simplified procedures for a procurement of services that are not commercial items if—

"(A) the procurement is in an amount not greater than $1,000,000;

"(B) the procurement is conducted as a small business set-aside pursuant to section 15(a) of the Small Business Act (15 U.S.C. 644(a)); and

"(C) the price charged for supplies associated with the services procured are items of supply expected to be less than 20 percent of the total contract price.

"(2) INAPPLICABILITY TO CERTAIN PROCUREMENTS.—The authority set forth in paragraph (1) may not be used for—

"(A) an award of a contract on a sole-source basis; or

"(B) a contract for construction.

"(i) GUIDANCE FOR USE OF AUTHORITY.—

"(1) ISSUANCE BY PBO.—The Chief Operating Officer of the PBO, in consultation with the Administrator for Federal Procurement Policy, shall issue guidance for the use by PBO personnel of the authority provided in this section.

"(2) GUIDANCE FROM OFPP.—As part of the consultation required under paragraph (1), the Administrator for Federal Procurement Policy shall provide the PBO with guidance that is designed to ensure, to the maximum extent practicable, that the authority under this section is exercised by the PBO in a manner that is consistent with the exercise of the authority by the heads of the other performance-based organizations.

"(3) COMPLIANCE WITH OFPP GUIDANCE.—The head of the PBO shall ensure that the procurements of the PBO under this section are carried out in a manner that is consistent with the guidance provided for the PBO under paragraph (2).

"(j) LIMITATION ON MULTIAGENCY CONTRACTING.—No department or agency of the Federal Government may purchase property or services under contracts entered into or administered by a PBO under this section unless the purchase is approved in advance by the senior procurement official of that department or agency who is responsible for purchasing by the department or agency.

"(k) LAWS NOT AFFECTED.—Nothing in this section shall be construed to waive laws for the enforcement of civil rights or for the establishment and enforcement of labor standards that are applicable to contracts of the Federal Government.

"(l) DEFINITIONS.—In this section:

"(1) COMMERCIAL ITEM.—The term 'commercial item' has the meaning given the term in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12)).

"(2) COMPETITIVE PROCEDURES.—The term 'competitive procedures' has the meaning given the term in section 309(b) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 259(b)).

"(3) MUTUAL BENEFIT CORPORATION.—The term 'mutual benefit corporation' means a corporation organized and chartered as a mutual benefit corporation under the laws of any State governing the incorporation of nonprofit corporations.

"(4) SOLE-SOURCE BASIS.—The term 'sole-source basis', with respect to an award of a contract, means that the contract is awarded to a source after soliciting an offer or offers from, and negotiating with, only that source.

"(5) SPECIAL RULES FOR COMMERCIAL ITEMS.—The term 'special rules for commercial items' means the regulations set forth in the Federal Acquisition Regulation pursuant to section 303(g)(1) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(g)(1)) and section 31 of the Office of Federal Procurement Policy Act (41 U.S.C. 427).

"(6) SPECIAL SIMPLIFIED PROCEDURES.—The term 'special simplified procedures' means the procedures applicable to purchases of property and services for amounts not greater than the simplified acquisition threshold that are set forth in the Federal Acquisition Regulation pursuant to section 303(g)(1)(B) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(g)(1)(A)) and section 31(a)(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 427(a)(1)).".

SEC. 496. STUDENT LOAN OMBUDSMAN OFFICE.

Title IV (20 U.S.C. 1070 et seq.) is amended by adding after part I (as added by section 495) the following:

"PART J—STUDENT LOAN OMBUDSMAN OFFICE

"SEC. 499F. STUDENT LOAN OMBUDSMAN OFFICE.

"(a) OFFICE ESTABLISHED.—The Secretary shall establish, within the Department, a Student Loan Ombudsman Office.

"(b) INDEPENDENCE OF STUDENT LOAN OMBUDSMAN OFFICE.—In the exercise of its functions, powers, and duties, the Student Loan Ombudsman Office shall be independent of the Secretary and the other offices and officers of the Department.

"(c) STUDENT LOAN OMBUDSMAN.—The Student Loan Ombudsman Office shall be managed by the Student Loan Ombudsman, who shall be appointed by the Secretary to a 5-year term. The Secretary shall appoint the Student Loan Ombudsman not later than 6 months after the date of enactment of the Higher Education Amendments of 1998. The appointment shall be made without regard to political affiliation or activity. The Secretary may reappoint the Student Loan Ombudsman to subsequent terms.

"(d) DUTIES AND RESPONSIBILITIES.—The Student Loan Ombudsman Office shall—

"(1) directly assist student loan borrowers with loans made, insured, or guaranteed under this title;

"(2) ensure that student loan borrower complaints and requests for assistance are promptly resolved and responded to by the Secretary, contractors or servicers, guaranty agencies, lenders, and other loan holders, or the agents of such individuals or entities;

"(3) investigate and resolve complaints of student loan borrowers;

"(4) provide information on the experience of borrowers with respect to existing and proposed statutes, regulations, and Department directives and actions;

"(5) track and analyze complaint data by loan program, institution, lender, guaranty agency, and servicer, as applicable; and

"(6) report annually to the appropriate committees of Congress, which report shall be made available to the public, regarding the responsibilities and performance of the Student Loan Ombudsman Office, including an analysis of complaint data described in paragraph (5).

"(e) STUDENT LOAN OMBUDSMAN OFFICE ACCESS TO RECORDS.—The Student Loan Ombudsman Office shall, upon presentation of a signed release form from a student loan borrower, have full and complete access to all records regarding the borrower's loan and education program that are necessary to carry out the Student Loan Ombudsman's duties. The Student Loan Ombudsman shall maintain personal identifying information in the strictest confidence and use such information only for the purpose of assisting the borrower in pursuing resolution of the individual's complaint, unless written authorization is obtained to use such information for other specified purposes.

"(f) ACCESSIBILITY FOR BORROWERS.—The Student Loan Ombudsman Office shall maintain a toll-free telephone number and Internet web site for receiving borrower complaints.

"(g) NOTIFICATION TO BORROWERS.—The Student Loan Ombudsman Office shall encourage maximum outreach to borrowers by all appropriate parties, including the Department, Congress, lenders, institutions of higher education, loan servicers, and guaranty agencies, to provide ongoing notice, to student loan borrowers, of the Student Loan Ombudsman Office. Such notice, including the toll-free telephone number, at a minimum, shall be given to borrowers in publications and on Internet web sites.

"(h) CONFLICT OF INTEREST.—Employees of the Student Loan Ombudsman Office shall not be employees or officers of any participant in the student loan programs under this Act (other than the Department), including any lender, guaranty agency, proprietary institution of higher education, postsecondary vocational institution, institution of higher education, loan servicer, collections agency, or trade association or education advocacy group representing any such entity. The Student Loan Ombudsman Office shall avoid all conflicts of interest and appearances of impropriety.

"(i) SUPPLEMENT AND NOT SUPPLANT.—The remedies and procedures of the Student Loan Ombudsman Office shall supplement and not supplant any other consumer remedies and procedures available to borrowers.

"(j) FUNDING.—In each fiscal year, not less than $2,000,000 of the amount appropriated for the fiscal year for salaries and expenses at the Department shall be available to carry out this section.".

TITLE V—GRADUATE AND POSTSECONDARY IMPROVEMENT PROGRAMS

SEC. 501. REPEALS, TRANSFERS, AND REDESIGNATIONS.

(a) IN GENERAL.—Title V (20 U.S.C. 1101 et seq.) is amended—

(1) by amending the title heading to read as follows:

"TITLE V—GRADUATE AND POSTSECONDARY IMPROVEMENT PROGRAMS";

(2) by repealing parts A, B, C, D, E, and F of title V (20 U.S.C. 1102 et seq., 1103 et seq., 1104 et seq., 1107 et seq., 1111 et seq., and 1113 et seq.);

(3) by transferring part C of title IX, part D of title IX, part A of title XI, and part A of title X (20 U.S.C. 1134h et seq., 1134l et seq., 1136 et seq., and 1135 et seq.) to title V and redesignating such parts as parts A, B, D, and E, respectively;

(4) by redesignating sections 931 through 935 (20 U.S.C. 1134h et seq. and 1134k-1 et seq.) as sections 501 through 505, respectively;

(5) by redesignating sections 941 through 947 (20 U.S.C. 1134l and 1134q-1) as section 511 through 517, respectively;

(6) by redesignating sections 1101 through 1109 (20 U.S.C. 1136 through 1136h) as sections 531 through 539, respectively; and

(7) by redesignating sections 1001, 1002, 1003, 1004, and 1011 (20 U.S.C. 1135, 1135a-1, 1135a-2, 1135a-3, and 1135a-11) as sections 541, 542, 543, 544, and 551, respectively.

(b) CROSS REFERENCE CONFORMING AMENDMENTS.—

(1) JACOB K. JAVITS FELLOWSHIP PROGRAM.—Section 504(a) (as redesignated by subsection (a)(4)) (20 U.S.C. 1134k(a)) is amended by striking "933" and inserting "503".

(2) GRADUATE ASSISTANCE IN AREAS OF NATIONAL NEED.—Part B of title V (as redesignated by paragraphs (3) and (5) of subsection (a)) (20 U.S.C. 1134l et seq.) is amended—

(A) in section 514(b)(7) (as redesignated by subsection (a)(5)) (20 U.S.C. 1134o(b)(7)), by striking "945" and inserting "515"; and

(B) in section 515(c) (as redesignated by subsection (a)(5)) (20 U.S.C. 1134p(c))—

(i) by striking "946(a)" and inserting "516(a)"; and

(ii) by striking "944(b)(2)" and inserting "514(b)(2)".

(3) URBAN AND COMMUNITY SERVICE.—Part C of title V (as redesignated by paragraphs (3) and (6) of subsection (a)) (20 U.S.C. 1136 et seq.) is amended—

(A) in section 532(b) (20 U.S.C. 1136a(b)), by striking "1104" and inserting "534";

(B) in section 534(12) (20 U.S.C. 1136c(12)), by striking "1103(a)(2)(B)" and inserting "533(a)(2)(B)"; and

(C) in section 538(1) (20 U.S.C. 1136g(1)), by striking "1103" and inserting "533".

(4) FIPSE.—Subsections (b) and (c) of section 544 (as redesignated by subsection (a)(7)) (20 U.S.C. 1135a-3) each are amended by striking "1001(b)" and inserting "541(b)".

SEC. 502. PURPOSE.

Section 500 (20 U.S.C. 1101) is amended to read as follows:

"SEC. 500. PURPOSE.

"It is the purpose of this title—

"(1) to authorize national graduate fellowship programs—

"(A) in order to attract students of superior ability and achievement, exceptional promise, and demonstrated financial need, into high-quality graduate programs and provide the students with the financial support necessary to complete advanced degrees; and

"(B) that are designed to—

"(i) sustain and enhance the capacity for graduate education in areas of national need;

"(ii) encourage talented students to pursue scholarly careers in the humanities, social sciences, and the arts; and

"(iii) encourage talented individuals from underrepresented groups to pursue faculty careers in higher education; and

"(2) to promote postsecondary programs.".

PART A—JACOB K. JAVITS FELLOWSHIP PROGRAM

SEC. 511. AWARD OF FELLOWSHIPS.

(a) AWARD OF JACOB K. JAVITS FELLOWSHIPS.—Section 501 (as redesignated by section 501(4)) is amended—

(1) in subsection (a)—

(A) in the first sentence, by inserting ", financial need," after "demonstrated achievement";

(B) in the second sentence—

(i) by striking "students intending" and inserting "students who are eligible to receive any grant, loan, or work assistance pursuant to section 484 and intend"; and

(ii) by striking "commonly accepted" and all that follows through "degree-granting institution" and inserting "the terminal highest degree awarded in the area of study"; and

(C) in the third sentence, by inserting "following the fiscal year" after "July 1 of the fiscal year"; and

(2) by adding at the end the following:

"(d) PROCESS AND TIMING OF COMPETITION.—The Secretary shall make applications for fellowships under this part available not later than October 1 of the academic year preceding the academic year for which fellowships will be awarded, and shall announce the recipients of fellowships under this section not later than March 1 of the academic year preceding the academic year for which the fellowships are awarded.

"(e) AUTHORITY TO CONTRACT.—The Secretary is authorized to enter into a contract with a nongovernmental agency to administer the program assisted under this part if the Secretary determines that entering into the contract is an efficient means of carrying out the program.".

(b) ALLOCATION OF FELLOWSHIPS.—Section 502 (as redesignated by section 501(4)) (20 U.S.C. 1134i) is amended—

(1) in subsection (a)—

(A) in the third sentence of paragraph (1), by striking "knowledgeable about and have experience" and inserting "representative of a range of disciplines"; and

(B) in paragraph (2)—

(i) by amending subparagraph (B) to read as follows:

"(B) establish general criteria for the award of fellowships in academic fields identified by the Board, or, in the event that the Secretary enters into a contract with a nongovernmental entity to administer the program assisted under this part, by such nongovernmental entity;"; and

(ii) in subparagraph (C), by inserting "except that, in the event that the Secretary enters into a contract with a nongovernmental entity to administer the program, such panels may be appointed by such nongovernmental entity" before the semicolon; and

(2) in the first sentence of subsection (b), by inserting "except that in the event that the Secretary enters into a contract with a nongovernmental entity to administer the program, such panels may be appointed by such nongovernmental entity" before the period.

(c) STIPENDS.—Section 503 (as redesignated by section 501(4)) (20 U.S.C. 1134j) is amended—

(1) in subsection (a)—

(A) by striking "1993–1994" and inserting "1999–2000"; and

(B) by striking "according to measurements of need approved by the Secretary" and inserting "determined in accordance with part F of title IV"; and

(2) in subsection (b)(1)(A)—

(A) in clause (i)—

(i) by striking "$6,000" and inserting "$10,000"; and

(ii) by striking "1993–1994" and inserting "1999–2000"; and

(B) in clause (ii)—

(i) in the matter preceding subclause (I), by striking "1993–1994" and inserting "1999–2000";

(ii) in subclause (I), by striking "$9,000 for the academic year 1993–1994" and inserting "$10,000 for the academic year 1999–2000"; and

(iii) in subclause (II), by striking "$9,000" and inserting "$10,000".

(d) AUTHORIZATION OF APPROPRIATIONS.—Section 505 (as redesignated by section 501(4)) (20 U.S.C. 1134k–1) is amended by striking "1993" and inserting "1999".

PART B—GRADUATE ASSISTANCE IN AREAS OF NATIONAL NEED

SEC. 521. GRADUATE ASSISTANCE IN AREAS OF NATIONAL NEED.

(a) DESIGNATION OF AREAS OF NATIONAL NEED.—Subsection (b) of section 513 (as redesignated by section 501(5)) (20 U.S.C. 1134n) is amended to read as follows:

"(b) DESIGNATION OF AREAS OF NATIONAL NEED.—After consultation with the National Science Foundation, the National Academy of Sciences, and other appropriate Federal and nonprofit agencies and organizations, the Secretary shall designate areas of national need. In making such designations, the Secretary shall take into consideration—

"(1) the extent to which the national interest in the area is compelling;

"(2) the extent to which other Federal programs support postbaccalaureate study in the area concerned; and

"(3) an assessment of how the program may achieve the most significant impact with available resources.".

(b) CONTENT OF APPLICATIONS.—Section 514(b) (as redesignated by section 501(5)) (20 U.S.C. 1134o(b)) is amended—

(1) in paragraph (2)—

(A) by striking "funds" and inserting "sources"; and

(B) by inserting ", which contribution may be in cash or in kind, fairly valued" before the semicolon;

(2) by redesignating paragraphs (4) through (9) as paragraphs (5) through (10), respectively;

(3) by inserting after paragraph (3) the following:

"(4) describe the number, types, and amounts of the fellowships that the applicant intends to offer with grant funds provided under this part;" and

(4) in paragraph (5)(A) (as redesignated by paragraph (2)), by striking "criteria developed by the institution" and inserting "part F of title IV".

(c) AWARDS.—Section 515 (as redesignated by section 501(5)) (20 U.S.C. 1134p) is amended—

(1) in the third sentence of subsection (b)—

(A) by striking "1993–1994" and inserting "1999–2000"; and

(B) by striking "according to measurements of need approved by the Secretary" and inserting "determined in accordance with part F of title IV"; and

(2) in subsection (c), by striking "such payments" and inserting "such excess".

(d) INSTITUTIONAL PAYMENTS.—Section 516(a)(1) (as redesignated by section 501(5)) (20 U.S.C. 1134q(a)(1)) is amended—

(1) in subparagraph (A)—

(A) by striking "$6,000 annually" and inserting "$10,000 for each academic year,"; and

(B) by striking "1993–1994" and inserting "1999–2000"; and

(2) in subparagraph (B)—

(A) in the matter preceding clause (i), by striking "1993–1994" and inserting "1999–2000";

(B) in clause (i), by striking "$9,000 for the academic year 1993–1994" and inserting "$10,000 for the academic year 1999–2000"; and

(C) in clause (ii), by striking "$9,000" and inserting "$10,000".

(e) AUTHORIZATION OF APPROPRIATIONS.—Section 517 (as redesignated by section 501(5)) (20 U.S.C. 1134q–1) is amended by striking "$40,000,000 for fiscal year 1993" and inserting "$30,000,000 for fiscal year 1999".

PART C—FACULTY DEVELOPMENT PROGRAM

SEC. 531. FACULTY DEVELOPMENT PROGRAM REAUTHORIZED.

Title V (20 U.S.C. 1101 et seq.) is amended further by inserting after part B (as redesignated by section 501(a)(3)) the following:

"PART C—FACULTY DEVELOPMENT FELLOWSHIPS

"SEC. 521. FACULTY DEVELOPMENT FELLOWSHIPS AUTHORIZED.

"(a) IN GENERAL.—The Secretary shall make grants to institutions of higher education, or consortia of such institutions, to enable such institutions to award fellowships to talented graduate students in order to increase the access of individuals from underrepresented groups to pursue graduate study, and to teach in institutions of higher education.

"(b) UNDERREPRESENTED GROUPS DEFINED.—For the purpose of this part, the term 'underrepresented groups' means African Americans, Hispanic Americans, Asian Americans, Native Americans, Pacific Islanders, Native Hawaiians, and individuals who are pursuing graduate study in academic disciplines in which the individuals are underrepresented for the individuals' gender.

"(c) PREFERENCE.—In making awards under this part, the Secretary shall give preference to applicants with a demonstrated record of—

"(1) admitting students from the Ronald E. McNair Postbaccalaureate Achievement Program or a program with a similar purpose;

"(2) graduating individuals from groups underrepresented in graduate education; and

"(3) placing the graduates of the institution or consortium in faculty positions in institutions of higher education.

"(d) REPORTING.—Each institution of higher education or consortium receiving a grant under this section shall, on an annual basis, provide to the Secretary evidence regarding—

"(1) the success of the institution in attracting underrepresented students into graduate programs;

"(2) graduating the students; and

"(3) the success of each graduate in obtaining a faculty position in an institution of higher education.

"(e) APPLICATION REQUIRED.—

"(1) IN GENERAL.—Each academic department or program of an institution of higher education desiring a grant under this part shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.

"(2) ADDITIONAL ASSURANCES.—Each application submitted pursuant to paragraph (1) shall—

"(A) provide an assurance that, in the event that funds made available to the academic department or program under this part are insufficient to provide assistance due a student under a commitment entered into between the academic department and the student, the academic department or program will endeavor, from funds available to the department or program, to fulfill the commitment made to the student; and

"(B) contain such other assurances as the Secretary may reasonably require.

"(3) APPROVAL OF APPLICATIONS.—The Secretary shall prescribe criteria for the approval of applications submitted under paragraph (1).

"(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this part $30,000,000 for fiscal year 1999 and such sums as may be necessary for each of the 4 succeeding fiscal years.".

PART D—URBAN COMMUNITY SERVICE

SEC. 541. URBAN COMMUNITY SERVICE.

(a) PRIORITY.—Section 533(b) (as redesignated by section 501(a)(6)) (20 U.S.C. 1136b(b)) is amended by adding at the end the following: "In addition, the Secretary shall give priority to eligible institutions submitting applications that demonstrate the eligible institution's commitment to urban community service.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 539 (as redesignated by section 501(a)(6)) (20 U.S.C. 1136h) is amended by striking "1993" and inserting "1999".

PART E—FUND FOR THE IMPROVEMENT OF POSTSECONDARY EDUCATION

SEC. 551. FUND FOR THE IMPROVEMENT OF POSTSECONDARY EDUCATION.

(a) AUTHORITY.—Section 541(a) (as redesignated by section 501(a)(7)) (20 U.S.C. 1135(a)) is amended—

(1) in the matter preceding paragraph (1)—

(A) by striking "or combinations of such institutions" and inserting ", combinations of such institutions,"; and

(B) by striking "institutions and combinations of such institutions" and inserting "institutions, combinations, and agencies"; and

(2) in paragraph (2)—

(A) by striking "and programs involving new" and inserting ", programs and joint efforts involving"; and

(B) by striking "new combinations" and inserting "combinations".

(b) TECHNICAL EMPLOYEES.—Section 543(a) (as redesignated by section 501(a)(7)) (20 U.S.C. 1135a–2(a)) is amended by striking "5 technical" and inserting "7 technical".

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 544 (as redesignated by section 501(a)(7)) (20 U.S.C. 1135a–3) is amended—

(1) in subsection (a), by striking "$20,000,000 for fiscal year 1993" and inserting "$26,000,000 for fiscal year 1999"; and

(2) in subsection (b), by striking "1993" and inserting "1999".

(d) AREAS OF NATIONAL NEED.—

(1) AREAS.—Section 551(c) (as redesignated by section 501(a)(7)) (20 U.S.C. 1135a–11(c)) is amended—

(A) in paragraph (2), by striking "Campus climate and culture" and inserting "Institutional restructuring to improve learning and promote cost efficiencies";

(B) in paragraph (3), by inserting "of model programs" after "dissemination"; and

(C) by adding at the end the following:

"(4) Articulation between 2-year and 4-year institutions of higher education, including developing innovative methods for ensuring the successful transfer of students from 2-year to 4-year institutions of higher education.".

(2) AUTHORIZATION OF APPROPRIATIONS.—Section 551(d) (as redesignated by section 501(a)(7)) (20 U.S.C. 1135a–11(d)) is amended by striking "1993" and inserting "1999".

PART F—HIGHER EDUCATION ACCESS FOR STUDENTS WITH DISABILITIES; HISPANIC-SERVING INSTITUTIONS; GENERAL PROVISIONS

SEC. 561. HIGHER EDUCATION ACCESS FOR STUDENTS WITH DISABILITIES; HISPANIC-SERVING INSTITUTIONS; GENERAL PROVISIONS.

Title V (20 U.S.C. 1101 et seq.) is amended further by adding at the end the following:

"PART F—HIGHER EDUCATION ACCESS FOR STUDENTS WITH DISABILITIES

"SEC. 571. HIGHER EDUCATION ACCESS FOR STUDENTS WITH DISABILITIES.

"(a) PURPOSE.—It is the purpose of this part—

"(1) to support the development of model programs to provide technical assistance or training, and professional development, for faculty and administrators in institutions of higher education, as defined in section 481(a), to provide the faculty and administrators with the skills and assistance to teach effectively students with disabilities; and

"(2) to ensure effective evaluation and dissemination of such model programs.

"(b) GRANTS AUTHORIZED.—

"(1) IN GENERAL.—The Secretary is authorized to award grants to institutions of higher education to carry out the purposes of this part.

"(2) MODEL PROGRAMS.—To the extent feasible, the model programs developed under this part shall be developed for a range of types and sizes of institutions of higher education.

"(3) GEOGRAPHIC DISTRIBUTION.—In awarding grants under this part, the Secretary shall consider—

"(A) providing an equitable geographic distribution of such grants; and

"(B) distributing such grants to urban and rural areas.

"(4) APPROACHES.—The Secretary shall award grants under this part for a range of approaches to providing support to faculty and administrators, such as in-service training, professional development, customized and general technical assistance, workshops, summer institutes, distance learning and the use of educational technology.

"(c) DISSEMINATION OF GRANTS.—The Secretary may award grants to institutions of higher education that have demonstrated exceptional programs for students with disabilities under this part in order to disseminate those programs.

"(d) APPLICATIONS.—Each institution of higher education desiring a grant under this part shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require. Each such application shall include—

"(1) a plan to assess the needs of the institution of higher education in order to meet the purposes of this part, in consultation with a broad range of persons within that institution; and

"(2) a plan for coordinating with or collaborating with the office within the institution that provides services to students with disabilities, and the equal opportunity office within the institution, if the offices exist.

"(e) USE OF FUNDS.—Any institution of higher education receiving a grant under this part—

"(1) shall use the grant funds to—

"(A) meet the purposes of this section; and

"(B) ensure that projects assisted under this part include components for model development, demonstration, evaluation, and dissemination to other institutions of higher education; and

"(2) may include, to the extent practicable, graduate teaching assistants in the services provided under the grant.

"(f) GRANT AWARDS.—The Secretary shall award grants under this part for a period of 3 years.

"(g) CONSTRUCTION.—Nothing in this section shall be construed to impose any additional duty, obligation, or responsibility on an institution of higher education, or on the institution's administrators, faculty, or staff, in addition to the requirements of section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990.

"(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $10,000,000 for fiscal year 1999 and such sums as may be necessary for each of the 4 succeeding fiscal years.

"PART G—HISPANIC-SERVING INSTITUTIONS

"SEC. 580. FINDINGS.

"Congress makes the following findings:

"(1) Hispanic Americans are at high risk of not enrolling or graduating from institutions of higher education.

"(2) Disparities between the enrollment of non-Hispanic white students and Hispanic students in postsecondary education are increasing. Between 1973 and 1994, enrollment of white secondary school graduates in 4-year institutions of higher education increased at a rate 2 times higher than that of Hispanic secondary school graduates.

"(3) Despite significant limitations in resources, Hispanic-serving institutions provide a significant proportion of postsecondary opportunities for Hispanic students.

"(4) Relative to other institutions of higher education, Hispanic-serving institutions are underfunded. Such institutions receive significantly less in State and local funding, per full-time equivalent student, than other institutions of higher education.

"(5) Hispanic-serving institutions are succeeding in educating Hispanic students despite significant resource problems that—

"(A) limit the ability of such institutions to expand and improve the academic programs of such institutions; and

"(B) could imperil the financial and administrative stability of such institutions.

"(6) There is a national interest in remedying the disparities described in paragraphs (2) and (4) and ensuring that Hispanic students have an equal opportunity to pursue postsecondary opportunities.

"SEC. 581. PURPOSE.

"The purpose of this part is to—

"(1) expand educational opportunities for, and improve the academic attainment of, Hispanic students; and

"(2) expand and enhance the academic offerings, program quality, and institutional stability of colleges and universities that are educating the majority of Hispanic college students and helping large numbers of Hispanic students and other low-income individuals complete postsecondary degrees.

"SEC. 582. PROGRAM AUTHORIZED.

"(a) IN GENERAL.—The Secretary shall provide grants and related assistance to Hispanic-serving institutions to enable such institutions to improve and expand their capacity to serve Hispanic students and other low-income individuals.

"(b) AUTHORIZED ACTIVITIES.—

"(1) TYPES OF ACTIVITIES AUTHORIZED.—Grants awarded under this section shall be used by Hispanic-serving institutions of higher education to assist such institutions to plan, develop, undertake, and carry out programs to improve and expand such institutions' capacity to serve Hispanic students and other low-income students.

"(2) EXAMPLES OF AUTHORIZED ACTIVITIES.—The programs described in paragraph (1) may include—

"(A) purchase, rental, or lease of scientific or laboratory equipment for educational purposes, including instructional and research purposes;

"(B) renovation and improvement in classroom, library, laboratory, and other instructional facilities;

"(C) support of faculty exchanges, and faculty development and faculty fellowships to assist in attaining advanced degrees in their field of instruction;

"(D) curriculum development and academic instruction;

"(E) purchase of library books, periodicals, microfilm, and other educational materials;

"(F) funds and administrative management, and acquisition of equipment for use in strengthening funds management;

"(G) joint use of facilities such as laboratories and libraries;

"(H) academic tutoring and counseling programs and student support services; and

"(I) expanding the number of Hispanic and other underrepresented graduate and professional students that can be served by the institution by expanding courses and institutional resources.

"(3) ENDOWMENT FUND.—

"(A) IN GENERAL.—A Hispanic-serving institution may use not more than 20 percent of the grant funds provided under this part to establish or increase an endowment fund at the institution.

"(B) MATCHING REQUIREMENT.—In order to be eligible to use grant funds in accordance with subparagraph (A), the Hispanic-serving institution shall provide matching funds, in an amount equal to the Federal funds used in accordance with subparagraph (A), for the establishment or increase of the endowment fund.

"(C) COMPARABILITY.—The provisions of part C of title III regarding the establishment or increase of an endowment fund, that the Secretary determines are not inconsistent with this paragraph, shall apply to funds used under subparagraph (A).

"(c) WAIT-OUT-PERIOD.—Each Hispanic-serving institution that receives a grant under this part shall not be eligible to receive an additional grant under this part until 2 years after the date on which the preceding grant period terminates.

"SEC. 583. APPLICATION PROCESS.

"(a) INSTITUTIONAL ELIGIBILITY.—Each Hispanic-serving institution desiring to receive assistance under this part shall submit to the Secretary such enrollment data as may be necessary to demonstrate that the institution is a Hispanic-serving institution as defined in section 585, along with such other data and information as the Secretary may by regulation require.

"(b) APPLICATIONS.—Any institution which is determined by the Secretary to be a Hispanic-serving institution (on the basis of the data and information submitted under subsection (a)) may submit an application for assistance under this part to the Secretary. Such application shall include—

"(1) a 5-year plan for improving the assistance provided by the Hispanic-serving institution to Hispanic students and other low-income individuals; and

"(2) such other information and assurance as the Secretary may require.

"(c) PRIORITY.—With respect to applications for assistance under this section, the Secretary shall give priority to an application that contains satisfactory evidence that the Hispanic-serving institution has entered into or will enter into a collaborative arrangement with at least one local educational agency or community-based organization to provide such agency or organization with assistance (from funds other than funds provided under this part) in reducing dropout rates for Hispanic students, improving rates of academic achievement for Hispanic students, and increasing the rates at which Hispanic secondary school graduates enroll in higher education.

"SEC. 584. SPECIAL RULE.

"No Hispanic-serving institution that is eligible for and receives funds under this part may receive funds under part A or B of title III during the period for which funds under this part are awarded.

"SEC. 585. DEFINITIONS.

"For purposes of this part:

"(1) HISPANIC-SERVING INSTITUTION.—The term 'Hispanic-serving institution' means an institution of higher education which—

"(A) is an eligible institution under section 312(b);

"(B) at the time of application, has an enrollment of undergraduate full-time equivalent students that is at least 25 percent Hispanic students; and

"(C) provides assurances that not less than 50 percent of its Hispanic students are low-income individuals.

"(2) LOW-INCOME INDIVIDUAL.—The term 'low-income individual' means an individual from a family whose taxable income for the preceding year did not exceed 150 percent of an amount equal to the poverty level determined by using criteria of poverty established by the Bureau of the Census.

"SEC. 586. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this part $45,000,000 for fiscal year 1999 and such sums as may be necessary for each of the 4 succeeding fiscal years.

"PART H—THURGOOD MARSHALL LEGAL EDUCATIONAL OPPORTUNITY PROGRAM

"SEC. 588. LEGAL EDUCATIONAL OPPORTUNITY PROGRAM.

"(a) PROGRAM AUTHORITY.—The Secretary shall carry out a program to be known as the 'Thurgood Marshall Legal Educational Opportunity Program' designed to provide low-income, minority, or disadvantaged college students with the information, preparation, and financial assistance to gain access to and complete law school study.

"(b) ELIGIBILITY.—A college student is eligible for assistance under this section if the student is—

"(1) from a low-income family;

"(2) a minority; or

"(3) from an economically or otherwise disadvantaged background.

"(c) CONTRACT OR GRANT AUTHORIZED.—The Secretary is authorized to enter into a contract with, or make a grant to, the Council on Legal Education Opportunity, for a period of not less than 5 years—

"(1) to identify college students who are from low-income families, are minorities, or are from disadvantaged backgrounds described in subsection (b)(3);

"(2) to prepare such students for study at accredited law schools;

"(3) to assist such students to select the appropriate law school, make application for entry into law school, and receive financial assistance for such study;

"(4) to provide support services to such students who are first-year law students to improve retention and success in law school studies; and

"(5) to motivate and prepare such students with respect to law school studies and practice in low-income communities.

"(d) SERVICES PROVIDED.—In carrying out the purposes described in subsection (c), the contract or grant shall provide for the delivery of services through prelaw information resource centers, summer institutes, midyear seminars, and other educational activities, conducted under this section. Such services may include—

"(1) information and counseling regarding—

"(A) accredited law school academic programs, especially tuition, fees, and admission requirements;

"(B) course work offered and required for graduation;

"(C) faculty specialties and areas of legal emphasis; and

"(D) undergraduate preparatory courses and curriculum selection;

"(2) tutoring and academic counseling, including assistance in preparing for bar examinations;

"(3) prelaw mentoring programs, involving law school faculty, members of State and local bar associations, and retired and sitting judges, justices, and magistrates;

"(4) assistance in identifying preparatory courses and material for the law school aptitude or admissions tests;

"(5) summer institutes for Thurgood Marshall Fellows that expose the Fellows to a rigorous curriculum that emphasizes abstract thinking, legal analysis, research, writing, and examination techniques; and

"(6) midyear seminars and other educational activities that are designed to reinforce reading, writing, and studying skills of Thurgood Marshall Fellows.

"(e) DURATION OF THE PROVISION OF SERVICES.—The services described in subsection (d) may be provided—

"(1) prior to the period of law school study;

"(2) during the period of law school study; and

"(3) during the period following law school study and prior to taking a bar examination.

"(f) SUBCONTRACTS AND SUBGRANTS.—For the purposes of planning, developing, or delivering one or more of the services described in subsection (d), the Council on Legal Education Opportunity shall enter into subcontracts with, and make subgrants to, institutions of higher education, law schools, public and private agencies and organizations, and combinations of such institutions, schools, agencies, and organizations.

"(g) STIPENDS.—The Secretary shall annually establish the maximum stipend to be paid (including allowances for participant travel and for the travel of the dependents of the participant) to Thurgood Marshall Fellows for the period of participation in summer institutes and midyear seminars. A Fellow may be eligible for such a stipend only if the Fellow maintains satisfactory academic progress toward the Juris Doctor or Bachelor of Laws degree, as determined by the respective institutions.

"(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $5,000,000 for fiscal year 1999 and each of the 4 succeeding fiscal years.

"PART I—GENERAL PROVISIONS

"SEC. 591. ADMINISTRATIVE PROVISIONS FOR PARTS A, B, AND C.

"(a) COORDINATED ADMINISTRATION.—In carrying out the purpose described in section 500(1), the Secretary shall provide for coordinated administration and regulation of graduate programs assisted under parts A, B, and C with other Federal programs providing assistance for graduate education in order to minimize duplication and improve efficiency to ensure that the programs are carried out in a manner most compatible with academic practices and with the standard timetables for applications for, and notifications of acceptance to, graduate programs.

"(b) HIRING AUTHORITY.—For purposes of carrying out parts A, B, and C, the Secretary shall appoint, without regard to the provisions of title 5, United States Code, that govern appointments in the competitive service, such administrative and technical employees, with the appropriate educational background, as shall be needed to assist in the administration of such parts. The employees shall be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

"(c) USE FOR RELIGIOUS PURPOSES PROHIBITED.—No institutional payment or allowance under section 503(b) or 516 shall be paid to a school or department of divinity as a result of the award of a fellowship under part A or B, respectively, to an individual who is studying for a religious vocation.

"(d) EVALUATION.—The Secretary shall evaluate the success of assistance provided to individuals under part A, B, or C with respect to graduating from their degree programs, and placement in faculty and professional positions.

"(e) CONTINUATION AWARDS.—The Secretary, using funds appropriated to carry out parts A and B, and before awarding any assistance under such parts to a recipient that did not receive assistance under part C or D of title IX (as such parts were in effect prior to the date of enactment of the Higher Education Amendments of 1998) shall continue to provide funding to recipients of assistance under such part C or D (as so in effect), as the case may be, pursuant to any multiyear award of such assistance.".

TITLE VI—INTERNATIONAL EDUCATION PROGRAMS

SEC. 601. INTERNATIONAL AND FOREIGN LANGUAGE STUDIES.

Part A of title VI (20 U.S.C. 1121 et seq.) is amended to read as follows:

"PART A—INTERNATIONAL AND FOREIGN LANGUAGE STUDIES

"SEC. 601. FINDINGS AND PURPOSES.

"(a) FINDINGS.—The Congress finds that—

"(1) the well-being of the United States, its economy and long-range security, is dependent on the education and training of Americans in international and foreign language studies and on a strong research base in these areas;

"(2) knowledge of other countries and the ability to communicate in other languages is essential to the promotion of mutual understanding and cooperation among nations; and

"(3) systematic efforts are necessary to enhance the capacity of institutions of higher education in the United States for—

"(A) producing graduates with international and foreign language expertise and knowledge; and

"(B) research regarding such expertise and knowledge.

"(b) PURPOSES.—It is the purpose of this part—

"(1) to assist in the development of knowledge, international study, resources and trained personnel;

"(2) to stimulate the attainment of foreign language acquisition and fluency;

"(3) to develop a pool of international experts to meet national needs; and

"(4) to coordinate the programs of the Federal Government in the areas of foreign language,

area and other international studies, including professional international affairs education, and research.

"SEC. 602. GRADUATE AND UNDERGRADUATE LANGUAGE AND AREA CENTERS AND PROGRAMS.

"(a) NATIONAL LANGUAGE AND AREA CENTERS AND PROGRAMS AUTHORIZED.—

"(1) CENTERS AND PROGRAMS.—

"(A) IN GENERAL.—The Secretary is authorized—

"(i) to make grants to institutions of higher education, or combinations thereof, for the purpose of establishing, strengthening, and operating comprehensive language and area centers and programs; and

"(ii) to make grants to such institutions or combinations for the purpose of establishing, strengthening, and operating a diverse network of undergraduate language and area centers and programs.

"(B) NATIONAL RESOURCES.—The centers and programs referred to in paragraph (1) shall be national resources for—

"(i) teaching of any modern foreign language;

"(ii) instruction in fields needed to provide full understanding of areas, regions, or countries in which such language is commonly used;

"(iii) research and training in international studies, and the international and foreign language aspects of professional and other fields of study; and

"(iv) instruction and research on issues in world affairs which concern one or more countries.

"(2) AUTHORIZED ACTIVITIES.—Any such grant may be used to pay all or part of the cost of establishing or operating a center or program, including the cost of—

"(A) faculty, staff, and student travel in foreign areas, regions, or countries;

"(B) teaching and research materials;

"(C) curriculum planning and development;

"(D) bringing visiting scholars and faculty to the center to teach or to conduct research;

"(E) establishing and maintaining linkages with overseas institutions of higher education and other organizations that may contribute to the teaching and research of the center or program; and

"(F) training and improvement of the staff, for the purpose of, and subject to such conditions as the Secretary finds necessary for, carrying out this section.

"(3) GRANTS TO MAINTAIN LIBRARY COLLECTIONS.—The Secretary may make grants to centers described in paragraph (1) having important library collections, as determined by the Secretary, for the maintenance of such collections.

"(4) OUTREACH GRANTS AND SUMMER INSTITUTES.—The Secretary may make additional grants to centers described in paragraph (1) for any one or more of the following purposes:

"(A) Programs of linkage or outreach between foreign language, area studies, and other international fields and professional schools and colleges.

"(B) Programs of linkage or outreach with 2-year and 4-year colleges and universities.

"(C) Programs of linkage or outreach with departments or agencies of Federal and State Governments.

"(D) Programs of linkage or outreach with the news media, business, professional, or trade associations.

"(E) Summer institutes in foreign area, foreign language, and other international fields designed to carry out the programs of linkage and outreach in subparagraphs (A), (B), (C), and (D).

"(b) STIPENDS FOR FOREIGN LANGUAGE AND AREA STUDIES.—

"(1) IN GENERAL.—The Secretary is authorized to make grants to institutions of higher education or combinations of such institutions for the purpose of paying stipends to individuals undergoing advanced training in any center or program approved by the Secretary.

"(2) REQUIREMENTS.—Students receiving stipends described in paragraph (1) shall be individuals who are engaged in an instructional program with stated performance goals for functional foreign language use or in a program developing such performance goals, in combination with area studies, international studies, or the international aspects of a professional studies program.

"(3) ALLOWANCES.—Stipends awarded to graduate level recipients may include allowances for dependents and for travel for research and study in the United States and abroad.

"(c) SPECIAL RULE WITH RESPECT TO TRAVEL.—No funds may be expended under this part for undergraduate travel except in accordance with rules prescribed by the Secretary setting forth policies and procedures to assure that Federal funds made available for such travel are expended as part of a formal program of supervised study.

"SEC. 603. LANGUAGE RESOURCE CENTERS.

"(a) LANGUAGE RESOURCE CENTERS AUTHORIZED.—The Secretary is authorized to make grants to and enter into contracts with institutions of higher education, or combinations of such institutions, for the purpose of establishing, strengthening, and operating a small number of national language resource and training centers, which shall serve as resources to improve the capacity to teach and learn foreign languages effectively.

"(b) AUTHORIZED ACTIVITIES.—The activities carried out by the centers described in subsection (a)—

"(1) shall include effective dissemination efforts, whenever appropriate; and

"(2) may include—

"(A) the conduct and dissemination of research on new and improved teaching methods, including the use of advanced educational technology;

"(B) the development and dissemination of new teaching materials reflecting the use of such research in effective teaching strategies;

"(C) the development, application, and dissemination of performance testing appropriate to an educational setting for use as a standard and comparable measurement of skill levels in all languages;

"(D) the training of teachers in the administration and interpretation of performance tests, the use of effective teaching strategies, and the use of new technologies;

"(E) the publication and dissemination to individuals and organizations in the foreign language field of instructional materials in the less commonly taught languages;

"(F) the development and dissemination of materials designed to serve as a resource for foreign language teachers at the elementary and secondary school levels; and

"(G) the operation of intensive summer language institutes to train advanced foreign language students, provide professional development, and improve language instruction through preservice and inservice language training for teachers.

"(c) CONDITIONS FOR GRANTS.—Grants under this section shall be made on such conditions as the Secretary determines to be necessary to carry out the provisions of this section.

"SEC. 604. UNDERGRADUATE INTERNATIONAL STUDIES AND FOREIGN LANGUAGE PROGRAMS.

"(a) INCENTIVES FOR THE CREATION OF NEW PROGRAMS AND THE STRENGTHENING OF EXISTING PROGRAMS IN UNDERGRADUATE INTERNATIONAL STUDIES AND FOREIGN LANGUAGES.—

"(1) AUTHORITY.—The Secretary is authorized to make grants to institutions of higher education, combinations of such institutions, or partnerships between nonprofit educational institutions and institutions of higher education, to assist such institutions, combinations or partnerships in planning, developing, and carrying out programs to improve undergraduate instruction in international studies and foreign languages. Such grants shall be awarded to institutions, combinations or partnerships seeking to create new programs or to strengthen existing programs in area studies, foreign languages, and other international fields.

"(2) FEDERAL SHARE AND USE OF FUNDS.—Grants made under this section may be used to pay not more than 50 percent of the cost of projects and activities which are an integral part of such a program, such as—

"(A) planning for the development and expansion of undergraduate programs in international studies and foreign languages;

"(B) teaching, research, curriculum development, faculty training in the United States or abroad, and other related activities, including the expansion of library and teaching resources;

"(C) expansion of opportunities for learning foreign languages, including less commonly taught languages;

"(D) programs under which foreign teachers and scholars may visit institutions as visiting faculty;

"(E) programs designed to develop or enhance linkages between 2-year and 4-year institutions of higher education, or baccalaureate and post-baccalaureate programs or institutions;

"(F) the development of undergraduate study abroad programs in locations abroad in which such study opportunities are not otherwise available and the integration of these programs into specific on-campus degree programs;

"(G) the development of model programs to enhance the effectiveness of study abroad, including predeparture and post return programs;

"(H) the development of programs designed to integrate professional and technical education with area studies, foreign languages, and other international fields;

"(I) the conduct of summer institutes in foreign area, foreign language, and other international fields for purposes that are consistent with the projects and activities described in this subsection; and

"(J) the development of partnerships between institutions of higher education and the private sector, government, and elementary and secondary education institutions to enhance international knowledge.

"(3) NON-FEDERAL SHARE.—The non-Federal share of the cost of the programs assisted under this subsection may be provided either in cash or in kind. Such assistance may be composed of institutional and noninstitutional funds, including State, private sector, corporation, or foundation contributions.

"(4) PRIORITY.—In awarding grants under this section, the Secretary shall give priority to applications from institutions of higher education, combinations or partnerships that require entering students to have successfully completed at least 2 years of secondary school foreign language instruction or that require each graduating student to earn 2 years of postsecondary credit in a foreign language (or have demonstrated equivalent competence in the foreign language) or, in the case of a 2-year degree granting institution, offer 2 years of postsecondary credit in a foreign language.

"(5) GRANT CONDITIONS.—Grants under this subsection shall be made on such conditions as the Secretary determines to be necessary to carry out this subsection.

"(6) APPLICATION.—Each application for assistance under this subsection shall include—

"(A) evidence that the applicant has conducted extensive planning prior to submitting the application;

''(B) an assurance that the faculty and administrators of all relevant departments and programs served by the applicant are involved in ongoing collaboration with regard to achieving the stated objectives of the application;

''(C) an assurance that students at the applicant institutions, as appropriate, will have equal access to, and derive benefits from, the program assisted under this subsection; and

''(D) an assurance that each institution, combination or partnership will use the Federal assistance provided under this subsection to supplement and not supplant funds expended by the institution, prior to the receipt of the Federal assistance, for programs to improve undergraduate instruction in international studies and foreign languages.

''(7) EVALUATION.—The Secretary may establish requirements for program evaluations and require grant recipients to submit annual reports that evaluate the progress and performance of students participating in programs assisted under this subsection.

''(b) PROGRAMS OF NATIONAL SIGNIFICANCE.—The Secretary may also award grants to public and private nonprofit agencies and organizations, including professional and scholarly associations, whenever the Secretary determines such grants will make an especially significant contribution to improving undergraduate international studies and foreign language programs.

''SEC. 605. RESEARCH; STUDIES; ANNUAL REPORT.

''(a) AUTHORIZED ACTIVITIES.—The Secretary may, directly or through grants or contracts, conduct research and studies that contribute to achieving the purposes of this part. Such research and studies may include—

''(1) studies and surveys to determine needs for increased or improved instruction in foreign language, area studies, or other international fields, including the demand for foreign language, area, and other international specialists in government, education, and the private sector;

''(2) studies and surveys to assess the utilization of graduates of programs supported under this title by governmental, educational, and private sector organizations and other studies assessing the outcomes and effectiveness of programs so supported;

''(3) evaluation of the extent to which programs assisted under this title that address national needs would not otherwise be offered;

''(4) comparative studies of the effectiveness of strategies to provide international capabilities at institutions of higher education;

''(5) research on more effective methods of providing instruction and achieving competency in foreign languages;

''(6) the development and publication of specialized materials for use in foreign language, area studies, and other international fields, or for training foreign language, area, and other international specialists;

''(7) studies and evaluations of effective practices in the dissemination of international information, materials, research, teaching strategies, and testing techniques throughout the education community, including elementary and secondary schools; and

''(8) the application of performance tests and standards across all areas of foreign language instruction and classroom use.

''(b) ANNUAL REPORT.—The Secretary shall prepare, publish, and announce an annual report listing the books and research materials produced with assistance under this section.

''SEC. 606. SELECTION OF CERTAIN GRANT RECIPIENTS.

''(a) COMPETITIVE GRANTS.—The Secretary shall award grants under section 602 competitively on the basis of criteria that separately, but not less rigorously, evaluates the applications for comprehensive and undergraduate language and area centers and programs.

''(b) SELECTION CRITERIA.—The Secretary shall set criteria for grants awarded under section 602 by which a determination of excellence shall be made to meet the differing objectives of graduate and undergraduate institutions.

''(c) EQUITABLE DISTRIBUTION OF GRANTS.—The Secretary shall, to the extent practicable, award grants under this part (other than section 602) in such manner as to achieve an equitable distribution of the grant funds throughout the United States, based on the merit of a proposal as determined pursuant to a peer review process involving broadly representative professionals.

''SEC. 607. EQUITABLE DISTRIBUTION OF CERTAIN FUNDS.

''(a) SELECTION CRITERIA.—The Secretary shall make excellence the criterion for selection of grants awarded under section 602.

''(b) EQUITABLE DISTRIBUTION.—To the extent practicable and consistent with the criterion of excellence, the Secretary shall award grants under this part (other than section 602) in such a manner as will achieve an equitable distribution of funds throughout the United States.

''(c) SUPPORT FOR UNDERGRADUATE EDUCATION.—The Secretary shall also award grants under this part in such manner as to ensure that an appropriate portion of the funds appropriated for this part (as determined by the Secretary) are used to support undergraduate education.

''SEC. 608. AMERICAN OVERSEAS RESEARCH CENTERS.

''(a) CENTERS AUTHORIZED.—The Secretary is authorized to make grants to and enter into contracts with any American overseas research center that is a consortium of institutions of higher education (hereafter in this section referred to as a ''center'') to enable such center to promote postgraduate research, exchanges and area studies.

''(b) USE OF GRANTS.—Grants made and contracts entered into pursuant to this section may be used to pay all or a portion of the cost of establishing or operating a center or program, including—

''(1) the cost of faculty and staff stipends and salaries;

''(2) the cost of faculty, staff, and student travel;

''(3) the cost of the operation and maintenance of overseas facilities;

''(4) the cost of teaching and research materials;

''(5) the cost of acquisition, maintenance, and preservation of library collections;

''(6) the cost of bringing visiting scholars and faculty to a center to teach or to conduct research;

''(7) the cost of organizing and managing conferences; and

''(8) the cost of publication and dissemination of material for the scholarly and general public.

''(c) LIMITATION.—The Secretary shall only award grants to and enter into contracts with centers under this section that—

''(1) receive more than 50 percent of their funding from public or private United States sources;

''(2) have a permanent presence in the country in which the center is located; and

''(3) are organizations described in section 501(c)(3) of the Internal Revenue Code of 1986 which are exempt from taxation under section 501(a) of such Code.

''(d) DEVELOPMENT GRANTS.—The Secretary is authorized to make grants for the establishment of new centers. The grants may be used to fund activities that, within 1 year, will result in the creation of a center described in subsection (c).

''SEC. 609. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to carry out this part $80,000,000 for fiscal year 1999, and such sums as may be necessary for each of the 4 succeeding fiscal years.''.

SEC. 602. BUSINESS AND INTERNATIONAL EDUCATION PROGRAMS.

Part B of title VI (20 U.S.C. 1130 et seq.) is amended—

(1) in section 612 (20 U.S.C. 1130–1)—

(A) in subsection (c)—

(i) in paragraph (1)—

(I) in subparagraph (B), by striking ''advanced''; and

(II) in subparagraph (C), by striking ''evening or summer''; and

(ii) in paragraph (2)(C), by inserting ''foreign language,'' after ''studies,''; and

(B) in subsection (d)(2)(G), by inserting '', such as a representative of a community college in the region served by the center'' before the period; and

(2) in section 614 (20 U.S.C. 1130b)—

(A) in subsection (a), by striking ''1993'' and inserting ''1999''; and

(B) in subsection (b), by striking ''1993'' and inserting ''1999''.

SEC. 603. INSTITUTE FOR INTERNATIONAL PUBLIC POLICY.

Part C of title VI (20 U.S.C. 1131 et seq.) is amended—

(1) in section 621(e) (20 U.S.C. 1131(e))—

(A) by striking ''one-fourth'' and inserting ''one-half''; and

(B) by adding at the end the following: ''The non-Federal contribution shall be made from private sector sources.'';

(2) by redesignating sections 622 through 627 (20 U.S.C. 1131a and 1131f) as sections 623 through 628, respectively; and

(3) by inserting after section 621 (20 U.S.C. 1131) the following:

''SEC. 622. INSTITUTIONAL DEVELOPMENT.

''(a) IN GENERAL.—The Institute shall award grants, from amounts available to the Institute for each fiscal year, to historically Black colleges and universities, Hispanic-serving institutions, Tribally Controlled Colleges or Universities, and minority institutions, to enable such colleges, universities, and institutions to strengthen international affairs programs.

''(b) APPLICATION.—No grant may be made by the Institute unless an application is made by the college, university, or institution at such time, in such manner, and accompanied by such information as the Institute may require.

''(c) DEFINITIONS.—In this section—

''(1) the term 'historically Black college and university' has the meaning given the term in section 322;

''(2) the term 'Hispanic-serving institution' has the meaning given the term in section 585;

''(3) the term 'Tribally Controlled College or University' has the meaning given the term in section 2 of the Tribally Controlled College or University Assistance Act of 1978 (25 U.S.C. 1801); and

''(4) the term 'minority institution' has the meaning given the term in section 365.'';

(4) in section 623 (as redesignated by paragraph (2))—

(A) in the section heading, by striking ''**JUNIOR YEAR**'' and inserting ''**STUDY**'';

(B) in subsection (b)(2)—

(i) by inserting '', or completing the third year of study in the case of a summer abroad program,'' after ''study''; and

(ii) by striking ''junior year'' and inserting ''study'';

(C) in subsection (c)—

(i) in the matter preceding paragraph (1), by striking ''junior year'' and inserting ''study'';

(ii) in paragraph (1), by striking ''junior year'' and inserting ''study''; and

(iii) in paragraph (2)—

(I) by striking ''one-half'' and inserting ''one-third''; and

(II) by striking "junior year" and inserting "study";

(5) in section 627 (as redesignated by paragraph (2)) (20 U.S.C. 1131e), by striking "625" and inserting "626"; and

(6) in section 628 (as redesignated by paragraph (2)) (20 U.S.C. 1131f), by striking "1993" and inserting "1999".

SEC. 604. GENERAL PROVISIONS.

Section 632 (20 U.S.C. 1132–1) is repealed.

TITLE VII—RELATED PROGRAMS AND AMENDMENTS TO OTHER ACTS

PART A—INDIAN EDUCATION PROGRAMS

SEC. 711. TRIBALLY CONTROLLED COMMUNITY COLLEGE ASSISTANCE ACT OF 1978.

(a) REAUTHORIZATION.—

(1) AMOUNT OF GRANTS.—Section 108(a)(2) of the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1808(a)(2)) is amended by striking "$5,820" and inserting "$6,000".

(2) AUTHORIZATION OF APPROPRIATIONS.—

(A) TITLE I.—Section 110(a) of the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1810(a)) is amended—

(i) in paragraph (1), by striking "1993" and inserting "1999";

(ii) in paragraph (2), by striking "$30,000,000 for fiscal year 1993" and inserting "$40,000,000 for fiscal year 1999";

(iii) in paragraph (3), by striking "1993" and inserting "1999"; and

(iv) in paragraph (4), by striking "1993" and inserting "1999".

(B) TITLE III.—Section 306(a) of the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1836(a)) is amended by striking "1993" and inserting "1999".

(C) TITLE IV.—Section 403 of the Tribal Economic Development and Technology Related Education Assistance Act of 1990 (25 U.S.C. 1852) is amended by striking "1993" and inserting "1999".

(b) NAME CHANGE.—The Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1801 et seq.) is amended—

(1) by striking "community college" each place the term appears and inserting "college or university";

(2) by striking "Community College" each place the term appears (other than when such term is preceded by the term "Navajo") and inserting "College or University";

(3) by striking "community colleges" each place the term appears and inserting "colleges or universities";

(4) by striking "such college" each place the term appears and inserting "such college or university"; and

(5) by striking "community college's" and inserting "college or university's".

SEC. 712. AMERICAN INDIAN, ALASKA NATIVE, AND NATIVE HAWAIIAN CULTURE AND ART DEVELOPMENT.

Section 1531 of the American Indian, Alaska Native, and Native Hawaiian Culture and Art Development Act (20 U.S.C. 4451) is amended to read as follows:

"SEC. 1531. AUTHORIZATION OF APPROPRIATIONS.

"There is authorized to be appropriated to carry out part A $5,000,000 for fiscal year 1999.".

SEC. 713. NAVAJO COMMUNITY COLLEGE ACT.

Section 5(a)(1) of the Navajo Community College Act (25 U.S.C. 640c–1(a)(1)) is amended by striking "1993" and inserting "1999".

PART B—ADVANCED PLACEMENT INCENTIVE PROGRAM

SEC. 721. ADVANCED PLACEMENT INCENTIVE PROGRAM.

(a) PROGRAM ESTABLISHED.—The Secretary of Education is authorized to make grants to States having applications approved under subsection (d), from allotments under subsection (b), to enable the States to reimburse low-income individuals to cover part or all of the cost of advanced placement test fees, if the low-income individuals—

(1) are enrolled in an advanced placement class; and

(2) plan to take an advanced placement test.

(b) ALLOTMENT.—From the sum appropriated under subsection (j) for a fiscal year, the Secretary shall allot to each State an amount that bears the same relation to the sum as the number of low-income individuals in the State bears to the number of low-income individuals in all States.

(c) INFORMATION DISSEMINATION.—The State educational agency may use not more than 5 percent of grant funds received for a fiscal year to disseminate information regarding the availability of test fee payments under this section to eligible individuals through secondary school teachers and guidance counselors.

(d) REQUIREMENTS FOR APPROVAL OF APPLICATIONS.—In approving applications for grants the Secretary of Education shall—

(1) require that each such application contain a description of the advance placement test fees the State will pay on behalf of individual students;

(2) require an assurance that any funds received under this section, other than funds used in accordance with subsection (c), shall be used only to pay advanced placement test fees; and

(3) contain such information as the Secretary may require to demonstrate that the State will ensure that a student is eligible for payments under this section, including the documentation required by chapter 1 of subpart 2 of part A of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070a–11 et seq.).

(e) FUNDING RULE.—Funds provided under this section shall be used to supplement and not supplant other Federal, State, local or private funds available to assist low-income individuals in paying for advanced placement testing, except that such funds may be used to supplant the funds so available if the funds used to supplant are used to increase the participation of low-income individuals in advanced placement courses through teacher training and other activities directly related to increasing the availability of advanced placement courses.

(f) SPECIAL RULE.—The Secretary of Education shall only award grants under this section for a fiscal year if the amount the College Board spends for the College Board's fee assistance program for low-income students for the fiscal year is not less than the amount the College Board spent for such program for the preceding fiscal year.

(g) REGULATIONS.—The Secretary of Education shall prescribe such regulations as are necessary to carry out this section.

(h) REPORT.—Each State annually shall report to the Secretary of Education regarding—

(1) the number of low-income individuals in the State who receive assistance under this section; and

(2) the teacher training and other activities described in subsection (e).

(i) DEFINITION.—In this section:

(1) ADVANCED PLACEMENT TEST.—The term "advanced placement test" includes only an advanced placement test approved by the Secretary of Education for the purposes of this section.

(2) LOW-INCOME INDIVIDUAL.—The term "low-income individual" has the meaning given the term in section 402A(g)(2) of the Higher Education Act of 1965 (20 U.S.C. 1070a–11(g)(2)).

(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $10,000,000 for fiscal year 1999 and such sums as may be necessary for each of the 4 succeeding fiscal years to carry out this section.

PART C—UNITED STATES INSTITUTE OF PEACE

SEC. 731. AUTHORITIES OF THE UNITED STATES INSTITUTE OF PEACE.

The United States Institute of Peace Act (22 U.S.C. 4601 et seq.) is amended—

(1) in section 1705 (22 U.S.C. 4604)—

(A) in subsection (f), by inserting "personal service and other" after "may enter into"; and

(B) in subsection (o), by inserting after "Services" the following: "and use all sources of supply and services of the General Services Administration";

(2) in section 1710(a)(1) (22 U.S.C. 4609(a)(1))—

(A) by striking "1993" and inserting "1999"; and

(B) by striking "6" and inserting "4"; and

(3) in the second and third sentences of section 1712 (22 U.S.C. 4611), by striking "shall" each place the term appears and inserting "may".

PART D—COMMUNITY SCHOLARSHIP MOBILIZATION

SEC. 741. SHORT TITLE.

This part may be cited as the "Community Scholarship Mobilization Act."

SEC. 742. FINDINGS.

Congress finds that—

(1) the local community, when properly organized and challenged, is one of the best sources of academic support, motivation toward achievement, and financial resources for aspiring postsecondary students;

(2) local communities, working to complement or augment services currently offered by area schools and colleges, can raise the educational expectations and increase the rate of postsecondary attendance of their youth by forming locally-based organizations that provide both academic support (including guidance, counseling, mentoring, tutoring, encouragement, and recognition) and tangible, locally raised, effectively targeted, publicly recognized, financial assistance;

(3) proven methods of stimulating these community efforts can be promoted through Federal support for the establishment of regional, State or community program centers to organize and challenge community efforts to develop educational incentives and support for local students; and

(4) using Federal funds to leverage private contributions to help students from low-income families attain educational and career goals is an efficient and effective investment of scarce taxpayer-provided resources.

SEC. 743. DEFINITIONS.

In this part:

(1) REGIONAL, STATE OR COMMUNITY PROGRAM CENTER.—The term "regional, State or community program center" means an organization that—

(A) is a division or member of, responsible to, and overseen by, a national organization; and

(B) is staffed by professionals trained to create, develop, and sustain local entities in towns, cities, and neighborhoods.

(2) LOCAL ENTITY.—The term "local entity" means an organization that—

(A) is a nonprofit organization that is described in section 501(c)(3) of the Internal Revenue Code of 1986, and exempt from taxation under section 501(a) of such Code (or shall meet this criteria through affiliation with the national organization);

(B) is formed for the purpose of providing educational scholarships and academic support for residents of the local community served by such organization;

(C) solicits broad-based community support in its academic support and fund-raising activities;

(D) is broadly representative of the local community in the structures of its volunteer-operated organization and has a board of directors *that includes leaders from local neighborhood organizations and neighborhood residents, such as school or college personnel, parents, students, community agency representatives, retirees, and representatives of the business community;*

(E) awards scholarships without regard to age, sex, marital status, race, creed, color, religion, national origin or disability; and

(F) gives priority to awarding scholarships for postsecondary education to deserving students from low-income families in the local community.

(3) NATIONAL ORGANIZATION.—The term "national organization" means an organization that—

(A) has the capacity to create, develop and sustain local entities and affiliated regional, State or community program centers;

(B) has the capacity to sustain newly created local entities in towns, cities, and neighborhoods through ongoing training support programs;

(C) is described in section 501(c)(3) of the Internal Revenue Code of 1986, and exempt from taxation under section 501(a) of such Code;

(D) is a publicly supported organization within the meaning of section 170(b)(1)(A)(iv) of such Code;

(E) ensures that each of the organization's local entities meet the criteria described in subparagraphs (C) and (D); and

(F) has a program for or experience in cooperating with secondary and postsecondary institutions in carrying out the organization's scholarship and academic support activities.

(4) HIGH POVERTY AREA.—The term "high poverty area" means a community with a higher percentage of children from low-income families than the national average of such percentage and a lower percentage of children pursuing postsecondary education than the national average of such percentage.

(5) STUDENTS FROM LOW-INCOME FAMILIES.—The term "students from low-income families" means students determined, pursuant to part F of title IV of the Higher Education Act of 1965 (20 U.S.C. 1087kk et seq.), to be eligible for a Federal Pell Grant under subpart 1 of part A of title IV of such Act (20 U.S.C. 1070a).

SEC. 744. PURPOSE, ENDOWMENT GRANT AUTHORITY.

(a) PURPOSE.—It is the purpose of this part to establish and support regional, State or community program centers to enable such centers to foster the development of local entities in high poverty areas that promote higher education goals for students from low-income families by—

(1) providing academic support, including guidance, counseling, mentoring, tutoring, and recognition; and

(2) providing scholarship assistance for the cost of postsecondary education.

(b) ENDOWMENT GRANT AUTHORITY.—From the funds appropriated pursuant to the authority of section 746, the Secretary shall award an endowment grant, on a competitive basis, to a national organization to enable such organization to support the establishment or ongoing work of regional, State or community program centers that foster the development of local entities in high poverty areas to improve high school graduation rates and postsecondary attendance through the provision of academic support services and scholarship assistance for the cost of postsecondary education.

SEC. 745. GRANT AGREEMENT AND REQUIREMENTS.

(a) IN GENERAL.—The Secretary shall award one or more endowment grants described in section 744(b) pursuant to an agreement between the Secretary and a national organization. Such agreement shall—

(1) require a national organization to establish an endowment fund in the amount of the grant, the corpus of which shall remain intact and the interest income from which shall be used to support the activities described in paragraphs (2) and (3);

(2) require a national organization to use 70 percent of the interest income from the endowment fund in any fiscal year to support the establishment or ongoing work of regional, State or community program centers to enable such centers to work with local communities to establish local entities in high poverty areas and provide ongoing technical assistance, training workshops, and other activities to help ensure the ongoing success of the local entities;

(3) require a national organization to use 30 percent of the interest income from the endowment fund in any fiscal year to provide scholarships for postsecondary education to students from low-income families, which scholarships shall be matched on a dollar-for-dollar basis from funds raised by the local entities;

(4) require that at least 50 percent of all the interest income from the endowment be allocated to establish new local entities or support regional, State or community program centers in high poverty areas;

(5) require a national organization to submit, for each fiscal year in which such organization uses the interest from the endowment fund, a report to the Secretary that contains—

(A) a description of the programs and activities supported by the interest on the endowment fund;

(B) the audited financial statement of the national organization for the preceding fiscal year;

(C) a plan for the programs and activities to be supported by the interest on the endowment fund as the Secretary may require; and

(D) an evaluation of the programs and activities supported by the interest on the endowment fund as the Secretary may require; and

(E) data indicating the number of students from low-income families who receive scholarships from local entities, and the amounts of such scholarships;

(6) contain such assurances as the Secretary may require with respect to the management and operation of the endowment fund; and

(7) contain an assurance that if the Secretary determines that such organization is not in substantial compliance with the provisions of this part, then the national organization shall pay to the Secretary an amount equal to the corpus of the endowment fund plus any accrued interest on such fund that is available to the national organization on the date of such determination.

(b) RETURNED FUNDS.—All funds returned to the Secretary pursuant to subsection (a)(7) shall be available to the Secretary to carry out any scholarship or grant program assisted under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.).

SEC. 746. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this part $10,000,000 for fiscal year 2000.

PART E—GRANTS TO STATES FOR WORKPLACE AND COMMUNITY TRANSITION TRAINING FOR INCARCERATED YOUTH OFFENDERS

SEC. 751. GRANTS TO STATES FOR WORKPLACE AND COMMUNITY TRANSITION TRAINING FOR INCARCERATED YOUTH OFFENDERS.

(a) FINDINGS.—Congress makes the following findings:

(1) Over 150,000 youth offenders age 21 and younger are incarcerated in the Nation's jails, juvenile facilities, and prisons.

(2) Most youth offenders who are incarcerated have been sentenced as first-time adult felons.

(3) Approximately 75 percent of youth offenders are high school dropouts who lack basic literacy and life skills, have little or no job experience, and lack marketable skills.

(4) The average incarcerated youth has attended school only through grade 10.

(5) Most of these youths can be diverted from a life of crime into productive citizenship with available educational, vocational, work skills, and related service programs.

(6) If not involved with educational programs while incarcerated, almost all of these youths will return to a life of crime upon release.

(7) The average length of sentence for a youth offender is about 3 years. Time spent in prison provides a unique opportunity for education and training.

(8) Even with quality education and training provided during incarceration, a period of intense supervision, support, and counseling is needed upon release to ensure effective reintegration of youth offenders into society.

(9) Research consistently shows that the vast majority of incarcerated youths will not return to the public schools to complete their education.

(10) There is a need for alternative educational opportunities during incarceration and after release.

(b) DEFINITION.—For purposes of this part, the term "youth offender" means a male or female offender under the age of 25, who is incarcerated in a State prison, including a prerelease facility.

(c) GRANT PROGRAM.—The Secretary of Education (in this section referred to as the "Secretary") shall establish a program in accordance with this section to provide grants to the State correctional education agencies in the States, from allocations for the States under subsection (i), to assist and encourage incarcerated youths to acquire functional literacy, life, and job skills, through the pursuit of a postsecondary education certificate, or an associate of arts or bachelor's degree while in prison, and employment counseling and other related services which start during incarceration and continue through prerelease and while on parole.

(d) APPLICATION.—To be eligible for a grant under this section, a State correctional education agency shall submit to the Secretary a proposal for a youth offender program that—

(1) identifies the scope of the problem, including the number of incarcerated youths in need of postsecondary education and vocational training;

(2) lists the accredited public or private educational institution or institutions that will provide postsecondary educational services;

(3) lists the cooperating agencies, public and private, or businesses that will provide related services, such as counseling in the areas of career development, substance abuse, health, and parenting skills;

(4) describes the evaluation methods and performance measures that the State correctional education agency will employ, which methods and measures—

(A) shall be appropriate to meet the goals and objectives of the proposal; and

(B) shall include measures of—

(i) program completion;

(ii) student academic and vocational skill attainment;

(iii) success in job placement and retention; and

(iv) recidivism;

(5) describes how the proposed programs are to be integrated with existing State correctional education programs (such as adult education, graduate education degree programs, and vocational training) and State industry programs;

(6) addresses the educational needs of youth offenders who are in alternative programs (such as boot camps); and

(7) describes how students will be selected so that only youth offenders eligible under subsection (f) will be enrolled in postsecondary programs.

(e) Program Requirements.—Each State correctional education agency receiving a grant under this section shall—

(1) integrate activities carried out under the grant with the objectives and activities of the school-to-work programs of such State, including—

(A) work experience or apprenticeship programs;

(B) transitional worksite job training for vocational education students that is related to the occupational goals of such students and closely linked to classroom and laboratory instruction;

(C) placement services in occupations that the students are preparing to enter;

(D) employment-based learning programs; and

(E) programs that address State and local labor shortages;

(2) annually report to the Secretary and the Attorney General on the results of the evaluations conducted using the methods and performance measures contained in the proposal; and

(3) provide to each State for each student eligible under subsection (f) not more than $1,500 annually for tuition, books, and essential materials, and not more than $300 annually for related services such as career development, substance abuse counseling, parenting skills training, and health education, for each eligible incarcerated youth.

(f) Student Eligibility.—A youth offender shall be eligible for participation in a program receiving a grant under this section if the youth offender—

(1) is eligible to be released within 5 years (including a youth offender who is eligible for parole within such time); and

(2) is 25 years of age or younger.

(g) Length of Participation.—A State correctional education agency receiving a grant under this section shall provide educational and related services to each participating youth offender for a period not to exceed 5 years, 1 year of which may be devoted to study in a graduate education degree program or to remedial education services for students who have obtained a secondary school diploma. Educational and related services shall start during the period of incarceration in prison or prerelease and may continue during the period of parole.

(h) Education Delivery Systems.—State correctional education agencies and cooperating institutions shall, to the extent practicable, use high-tech applications in developing programs to meet the requirements and goals of this section.

(i) Allocation of Funds.—From the amounts appropriated pursuant to subsection (j), the Secretary shall allot to each State an amount that bears the same relationship to such funds as the total number of students eligible under subsection (f) in such State bears to the total number of such students in all States.

(j) Authorization of Appropriations.—There are authorized to be appropriated to carry out this section $14,000,000 for fiscal year 1999 and such sums as may be necessary for each of the 4 succeeding fiscal years.

PART F—WEB-BASED EDUCATION COMMISSION

SEC. 753. SHORT TITLE; DEFINITIONS.

(a) In General.—This part may be cited as the "Web-Based Education Commission Act".

(b) Definitions.—In this part:

(1) Commission.—The term "Commission" means the Web-Based Education Commission established under section 754.

(2) Information technology.—The term "information technology" has the meaning given that term in section 5002 of the Information Technology Management Reform Act of 1996 (110 Stat. 679).

(3) State.—The term "State" means each of the several States of the United States and the District of Columbia.

SEC. 754. ESTABLISHMENT OF WEB-BASED EDUCATION COMMISSION.

(a) Establishment.—There is established a commission to be known as the Web-Based Education Commission.

(b) Membership.—

(1) Composition.—The Commission shall be composed of 14 members, of which—

(A) 3 members shall be appointed by the President, from among individuals representing the Internet technology industry;

(B) 3 members shall be appointed by the Secretary, from among individuals with expertise in accreditation, establishing statewide curricula, and establishing information technology networks pertaining to education curricula;

(C) 2 members shall be appointed by the Majority Leader of the Senate;

(D) 2 members shall be appointed by the Minority Leader of the Senate;

(E) 2 members shall be appointed by the Speaker of the House of Representatives; and

(F) 2 members shall be appointed by the Minority Leader of the House of Representatives.

(2) Date.—The appointments of the members of the Commission shall be made not later than 45 days after the date of enactment of this Act.

(c) Period of Appointment; Vacancies.—Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(d) Initial Meeting.—No later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold its first meeting.

(e) Meetings.—The Commission shall meet at the call of the Chairperson.

(f) Quorum.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(g) Chairperson and Vice Chairperson.—The Commission shall select a chairperson and vice chairperson from among its members.

SEC. 755. DUTIES OF THE COMMISSION.

(a) Study.—

(1) In general.—The Commission shall conduct a thorough study to assess the educational software available in retail markets for secondary and postsecondary students who choose to use such software.

(2) Public hearings.—As part of the study conducted under this subsection, the Commission shall hold public hearings in each region of the United States concerning the assessment referred to in paragraph (1).

(3) Existing information.—To the extent practicable, in carrying out the study under this subsection, the Commission shall identify and use existing information related to the assessment referred to in paragraph (1).

(b) Report.—Not later than 6 months after the first meeting of the Commission, the Commission shall submit a report to the President and Congress that shall contain a detailed statement of the findings and conclusions of the Commission resulting from the study, together with its recommendations—

(1) for such legislation and administrative actions as the Commission considers to be appropriate; and

(2) regarding the appropriate Federal role in determining quality educational software products.

(c) Facilitation of Exchange of Information.—In carrying out the study under subsection (a), the Commission shall, to the extent practicable, facilitate the exchange of information concerning the issues that are the subject of the study among—

(1) officials of the Federal Government, and State governments and political subdivisions of States; and

(2) educators from Federal, State, and local institutions of higher education and secondary schools.

SEC. 756. POWERS OF THE COMMISSION.

(a) Hearings.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out the purposes of this part.

(b) Information From Federal Agencies.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out the provisions of this part. Upon request of the Chairperson of the Commission, the head of such department or agency shall furnish such information to the Commission.

(c) Postal Services.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(d) Gifts.—The Commission may accept, use, and dispose of gifts or donations of services or property.

SEC. 757. COMMISSION PERSONNEL MATTERS.

(a) Compensation of Members.—Except as provided in subsection (b), each member of the Commission who is not an officer or employee of the Federal Government shall serve without compensation. All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(b) Travel Expenses.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(c) Staff.—

(1) In general.—The Chairperson of the Commission may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Commission to perform its duties. The employment of an executive director shall be subject to confirmation by the Commission.

(2) Compensation.—The Chairperson of the Commission may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(d) Detail of Government Employees.—Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(e) Procurement of Temporary and Intermittent Services.—The Chairperson of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals that do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

SEC. 758. TERMINATION OF THE COMMISSION.

The Commission shall terminate on the date that is 90 days after the date on which the Commission submits its report under section 755(b).

SEC. 759. AUTHORIZATION OF APPROPRIATIONS.

(a) In General.—There are authorized to be appropriated $650,000 for fiscal year 1999 to the Commission to carry out this part.

(b) Availability.—Any sums appropriated under the authorization contained in this section shall remain available, without fiscal year limitation, until expended.

PART G—EDUCATION OF THE DEAF

SEC. 761. SHORT TITLE.

This part may be cited as the "Education of the Deaf Amendments of 1998".

SEC. 762. ELEMENTARY AND SECONDARY EDUCATION PROGRAMS.

Section 104(b) of the Education of the Deaf Act of 1986 (20 U.S.C. 4034(b)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (A), by inserting "and" after the semicolon;

(B) in subparagraph (B), by striking "; and" and inserting a period; and

(C) by striking subparagraph (C);

(2) in the matter preceding subparagraph (A) of paragraph (2)—

(A) by striking "paragraph (1)" and inserting "paragraph (1)(B)"; and

(B) by striking "section 618(b)" and inserting "section 618(a)(1)(A)";

(3) in paragraph (3), by striking "intermediate educational unit" and inserting "educational service agency";

(4) in paragraph (4)—

(A) in subparagraph (A), by striking "intermediate educational unit" and inserting "educational service agency"; and

(B) in subparagraph (B), by striking "intermediate educational units" and inserting "educational service agencies"; and

(5) by amending subparagraph (C) to read as follows:

"(C) provide the child a free appropriate public education in accordance with part B of the Individuals with Disabilities Education Act and procedural safeguards in accordance with the following provisions of section 615 of such Act:

"(i) paragraphs (1), and (3) through (6), of subsection (b).

"(ii) Subsections (c) through (g).

"(iii) Subsection (h), except for the matter in paragraph (4) pertaining to transmission of findings and decisions to a State advisory panel.

"(iv) Paragraphs (1) and (2) of subsection (i).

"(v) Subsection (j)—

"(I) except that such subsection shall not be applicable to a decision by the University to refuse to admit a child; or

"(II) to dismiss a child, except that, before dismissing any child, the University shall give at least 60 days written notice to the child's parents and to the local educational agency in which the child resides, unless the dismissal involves a suspension, expulsion, or other change in placement covered under section 615(k).

"(vi) Subsections (k) through (m).".

SEC. 763. AGREEMENT WITH GALLAUDET UNIVERSITY.

Section 105(a) of the Education of the Deaf Act of 1986 (20 U.S.C. 4305(a)) is amended—

(1) by striking "within 1 year after enactment of the Education of the Deaf Act Amendments of 1992, a new" and inserting "and periodically update, an"; and

(2) by amending the second sentence to read as follows: "The Secretary or the University shall determine the necessity for the periodic update described in the preceding sentence.".

SEC. 764. AGREEMENT FOR THE NATIONAL TECHNICAL INSTITUTE FOR THE DEAF.

Paragraph (2) of section 112(a) of the Education of the Deaf Act of 1986 (20 U.S.C. 4332(a)) is amended to read as follows:

"(2) The Secretary and the institution of higher education with which the Secretary has an agreement under this section—

"(A) shall periodically assess the need for modification of the agreement; and

"(B) shall periodically update the agreement as determined necessary by the Secretary or the institution.".

SEC. 765. DEFINITIONS.

Section 201 of the Education of the Deaf Act of 1986 (20 U.S.C. 4351) is amended—

(1) in paragraph (1)(C), by striking "Palau (but only until the Compact of Free Association with Palau takes effect),"; and

(2) in paragraph (5)—

(A) by inserting "and" after "Virgin Islands,"; and

(B) by striking ", and Palau (but only until the Compact of Free Association with Palau takes effect)".

SEC. 766. GIFTS.

Subsection (b) of section 203 of the Education of the Deaf Act of 1986 (20 U.S.C. 4353) is amended to read as follows:

"(b) INDEPENDENT FINANCIAL AND COMPLIANCE AUDIT.—

"(1) IN GENERAL.—Gallaudet University shall have an annual independent financial and compliance audit made of the programs and activities of the University, including the national mission and school operations of the elementary and secondary education programs at Gallaudet. The institution of higher education with which the Secretary has an agreement under section 112 shall have an annual independent financial and compliance audit made of the programs and activities of such institution of higher education, including NTID, and containing specific schedules and analyses for all NTID funds, as determined by the Secretary.

"(2) COMPLIANCE.—As used in paragraph (1), compliance means compliance with sections 102(b), 105(b)(4), 112(b)(5), and 203(c), paragraphs (2) and (3) of section 207(b), subsections (b)(2), (b)(3), and (c) through (f), of section 207, and subsections (b) and (c) of section 210.

"(3) SUBMISSION OF AUDITS.—A copy of each audit described in paragraph (1) shall be provided to the Secretary within 15 days of acceptance of the audit by the University or the institution authorized to establish and operate the NTID under section 112(a), as the case may be, but not later than January 10 of each year.".

SEC. 767. REPORTS.

Section 204(3) of the Education of the Deaf Act of 1986 (20 U.S.C. 4354(3)) is amended—

(1) in subparagraph (A), by striking "The annual" and inserting "A summary of the annual"; and

(2) in subparagraph (B), by striking "the annual" and inserting "a summary of the annual".

SEC. 768. MONITORING, EVALUATION, AND REPORTING.

Section 205(c) of the Education of the Deaf Act of 1986 (20 U.S.C. 4355(c)) is amended by striking "1993, 1994, 1995, 1996, and 1997" and inserting "1998 through 2003".

SEC. 769. INVESTMENTS.

Section 207 of the Education of the Deaf Act of 1986 (20 U.S.C. 4357) is amended—

(1) in subsection (c)(1), by inserting "the Federal contribution of" after "shall invest";

(2) in subsection (d)(3)(A), by striking "prior" and inserting "current"; and

(3) in subsection (h)—

(A) in paragraph (1), by striking "1993 through 1997" and inserting "1998 through 2003"; and

(B) in paragraph (2), by striking "1993 through 1997" and inserting "1998 through 2003".

SEC. 770. INTERNATIONAL STUDENTS.

Section 210(a) of the Education of the Deaf Act of 1986 (20 U.S.C. 4359a(a)) is amended by inserting before the period ", except that in any school year no United States citizen who is qualified to be admitted to the University or NTID and applies for admission to the University or NTID shall be denied admission because of the admission of an international student".

SEC. 771. RESEARCH PRIORITIES.

Section 211 of the Education of the Deaf Act of 1986 (20 U.S.C. 4360) is amended to read as follows:

"SEC. 211. RESEARCH PRIORITIES.

"(a) RESEARCH PRIORITIES.—Gallaudet University and the National Technical Institute for the Deaf shall each establish and disseminate priorities for their national mission with respect to deafness related research, development, and demonstration activities, that reflect public input, through a process that includes consumers, constituent groups, and the heads of other federally funded programs. The priorities for the University shall include activities conducted as part of the University's elementary and secondary education programs under section 104.

"(b) RESEARCH REPORTS.—The University and NTID shall each prepare and submit an annual research report, to the Secretary, the Committee on Education and the Workforce of the House of Representatives, and the Committee on Labor and Human Resources of the Senate, not later than January 10 of each year, that shall include—

"(1) a summary of the public input received as part of the establishment and dissemination of priorities required by subsection (a), and the University's and NTID's response to the input; and

"(2) a summary description of the research undertaken by the University and NTID, the start and projected end dates for each research project, the projected cost and source or sources of funding for each project, and any products resulting from research completed in the prior fiscal year.".

SEC. 772. AUTHORIZATION OF APPROPRIATIONS.

Title II of the Education of the Deaf Act of 1986 (20 U.S.C. 4351 et seq.) is amended by adding at the end the following:

"SEC. 212. AUTHORIZATION OF APPROPRIATIONS.

"(a) GALLAUDET UNIVERSITY.—There are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1998 through 2003 to carry out the provisions of titles I and II, relating to—

"(1) Gallaudet University;

"(2) Kendall Demonstration Elementary School; and

"(3) the Model Secondary School for the Deaf.

"(b) NATIONAL TECHNICAL INSTITUTE FOR THE DEAF.—There are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1998 through 2003 to carry out the provisions of titles I and II relating to the National Technical Institute for the Deaf.".

SEC. 773. COMMISSION ON EDUCATION OF THE DEAF.

The Education of the Deaf Act of 1986 (20 U.S.C. 4301 et seq.) is amended by adding at the end the following:

"TITLE III—COMMISSION ON EDUCATION OF THE DEAF

"SEC. 301. COMMISSION ESTABLISHED.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—The Secretary shall establish a Commission on the Education of the Deaf to identify those education-related factors in the lives of individuals who are deaf that result in barriers to successful postsecondary education experiences and employment, and those education-related factors in the lives of individuals who are deaf that contribute to successful postsecondary education experiences and employment.

"(2) DEFINITION OF INDIVIDUALS WHO ARE DEAF.—In this title, the term 'individuals who are deaf' means all persons with hearing impairments, including those who are hard-of-hearing, those deafened later in life, and those who are profoundly deaf.

"(b) COMPOSITION.—

"(1) IN GENERAL.—The Commission shall be composed of 13 members appointed by the Secretary from recommendations made by the National Association of the Deaf, the American Society for Deaf Children, the Alexander Graham

Bell Association, the President of Gallaudet, the Vice President of the National Technical Institute for the Deaf, State Schools for the Deaf, projects to train teachers of the deaf funded under section 673(b) of the Individuals with Disabilities Education Act, parent training and information centers funded under section 682 of such Act, the Regional Centers on Postsecondary Education for Individuals who are Deaf funded under section 672 of such Act, Self-Help for Hard of Hearing People, and the Cothe Council on Education of the Deaf.

"(2) QUALIFICATIONS.—

"(A) IN GENERAL.—Members of the Commission shall be appointed from among individuals who have broad experience and expertise in deafness, program evaluation, education, rehabilitation, and job training generally, which expertise and experience shall be directly relevant to the issues to be addressed by the Commission.

"(B) DEAF INDIVIDUALS.—At least ⅓ of members of the Commission shall be individuals who are deaf.

"(C) CHAIRPERSON.—The chairperson of the Commission shall be elected by a simple majority of the Commission.

"(D) ASSISTANT SECRETARY.—One member of the Commission shall be the Assistant Secretary for Special Education and Rehabilitative Services.

"(3) DATE.—Members of the Commission shall be appointed not later than 90 days after the date of enactment of the Education of the Deaf Amendments of 1998.

"SEC. 302. DUTIES, REPORT, AND DURATION OF THE COMMISSION.

"(a) IDENTIFICATION OF FACTORS.—The Commission shall identify, with respect to individuals who are deaf, factors that pose barriers to or factors that facilitate—

"(1) educational performance and progress of students who are deaf in high school;

"(2) educational performance and progress of students who are deaf in postsecondary education;

"(3) career exploration and selection;

"(4) job performance and satisfaction in initial postsecondary employment; and

"(5) career advancement and satisfaction.

"(b) REPORT.—The Commission shall report to the President and Congress such interim reports that the Commission deems appropriate, and not later than 18 months after the date of enactment of the Education of the Deaf Amendments of 1998, a final report containing the findings of the Commission with respect to the factors identified under subsection (a). The final report shall include recommendations, including legislative proposals, that the Commission deems advisable.

"(c) TERMINATION.—The Commission shall terminate 90 days after the date on which the Commission submits the Commission's final report described in subsection (b).

"SEC. 303. ADMINISTRATIVE PROVISIONS.

"(a) PERSONNEL.—

"(1) IN GENERAL.—The Commission may appoint such personnel, including a staff director, as the Commission deems necessary without regard to the provisions of title 5, United States Code, except that the rate pay for any employee of the Commission may not exceed the rate payable for level V of the Executive Schedule under section 5316 of title 5, United States Code.

"(2) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairperson of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

"(b) HEARINGS; QUORUM.—

"(1) HEARINGS.—The Commission or, with the authorization of the Commission, any committee of the Commission, may, for the purpose of carrying out the provisions of this title, hold such hearings, sit, and act at such times and such places in the United States as the Commission or such committee may deem advisable.

"(2) QUORUM.—Seven members of the Commission shall constitute a quorum, but 2 or more members may conduct hearings.

"(3) HEARINGS AND PUBLIC INPUT.—In conducting hearings and acquiring public input under this title, the Commission may use various telecommunications media, including teleconferencing, video-conferencing, the Internet, and other media.

"(c) CONSULTATION; INFORMATION AND STATISTICS; AGENCY COOPERATION.—

"(1) IN GENERAL.—In carrying out the Commission's duties under this title and to the extent not prohibited by Federal law, the Commission is authorized to secure consultation, information, statistics, and cooperation from Federal agencies, entities funded by the Federal Government, and other entities the Commission deems advisable.

"(2) SPECIAL RULE.—The Commission is authorized to use, with their consent, the services, personnel, information, and facilities of other Federal, State, local, and private agencies with or without reimbursement.

"SEC. 304. COMPENSATION OF MEMBERS.

"(a) UNITED STATES OFFICER AND EMPLOYEE MEMBERS.—Members of the Commission who are officers or full-time employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States; but may be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

"(b) PUBLIC MEMBERS.—Members of the Commission who are not officers or full-time employees of the United States shall receive compensation at a rate that does not exceed the daily rate payable for level V of the Executive Schedule under section 5316 of title 5, United States Code, for each day (including travel time) during which such members are engaged in the actual performance of the duties of the Commission. In addition, such members may be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

"SEC. 305. AUTHORIZATIONS OF APPROPRIATIONS.

"There is authorized to be appropriated to carry out this title such sums as may be necessary for each of the fiscal years 1999 and 2000.".

PART H—REPEALS

SEC. 781. REPEALS.

(a) HIGHER EDUCATION ACT OF 1965.—The following provisions of the Act (20 U.S.C. 1001 et seq.) are repealed:

(1) The heading for, sections 701 and 702 of, and parts A, C, D, and E of, title VII (20 U.S.C. 1132a, 1132a–1, 1132b et seq., 1132d et seq., 1132f et seq., and 1132i et seq.).

(2) Title VIII (20 U.S.C. 1133 et seq.).

(3) The heading for, section 901 of, and parts A, B, E, F, and G of, title IX (20 U.S.C. 1134, 1134a et seq., 1134d et seq., 1134r et seq., 20 U.S.C. 1134s et seq., and 1134u et seq.).

(4) The heading for, subpart 2 of part B of, and parts C, D and E of, title X (20 U.S.C. 1135c et seq., 1135e et seq., 1135f, and 1135g et seq.).

(5) The heading for, and part B of, title XI (20 U.S.C. 1137 et seq.).

(b) HIGHER EDUCATION AMENDMENTS OF 1992.—The following provisions of the Higher Education Amendments of 1992 (Public Law 102–325; 106 Stat 448) are repealed:

(1) Parts E, F, and G of title XIII of the Higher Education Amendments of 1992 (25 U.S.C. 3332 et seq., 3351 et seq., 3371) are repealed.

(2) Title XIV.

(3) Title XV.

PART I—MISCELLANEOUS

SEC. 791. YEAR 2000 REQUIREMENTS AT THE DEPARTMENT OF EDUCATION.

In order to ensure that the processing, delivery, and administration of grant, loan, and work assistance provided under title IV of the Higher Education Act of 1965 is not interrupted due to operational problems related to the inability of computer systems to indicate accurately dates after December 31, 1999, the Secretary shall—

(1) take such actions as are necessary to ensure that all internal and external systems, hardware and data exchange infrastructure administered by the Department of Education that are necessary for the processing, delivery, and administration of the grant, loan, and work assistance are year 2000 compliant, such that there will be no business interruption after December 31, 1999;

(2) ensure that the Robert T. Stafford Federal Student Loan Program and the William D. Ford Federal Direct Loan Program are equal in level of priority with respect to addressing, and that resources are managed to provide for successful resolution of, the year 2000 computer problem in both programs by December 31, 1999;

(3) work with institutions of higher education, guaranty agencies, third party servicers, and other persons to ensure successful data exchanges necessary for the processing, delivery, and administration of the grant, loan, and work assistance;

(4) ensure that the Inspector General of the Department of Education (or an external, independent entity selected by the Inspector General) performs and publishes a risk assessment of the systems and hardware under the Department's management, that has been reviewed by an independent entity, and make such assessment publicly available not later than 60 days after the date of enactment of the Higher Education Amendments of 1998;

(5) not later than June 30, 1999, ensure that the Inspector General (or an external, independent entity selected by the Inspector General) conducts a review of the Department's Year 2000 compliance for the processing, delivery, and administration systems and data exchange systems for the grant, loan, and work assistance, and submits a report reflecting the results of that review to the Chairperson of the Committee on Labor and Human Resources of the Senate and the Chairperson of the Committee on Education and the Workforce of the House of Representatives;

(6) develop a contingency plan to ensure the programs under title IV of the Higher Education Act of 1965 will continue to run uninterrupted in the event of a computer failure after December 31, 1999, which the contingency plan shall include a prioritization of mission critical systems and strategies to allow data partners to transfer data; and

(7) alert Congress at the earliest possible time if mission critical deadlines will not be met.

SEC. 792. GRANTS TO COMBAT VIOLENT CRIMES AGAINST WOMEN ON CAMPUSES.

(a) GRANTS AUTHORIZED.—

(1) IN GENERAL.—The Attorney General is authorized to make grants to institutions of higher education, for use by consortia consisting of

campus personnel, student organizations, campus administrators, security personnel, and regional crisis centers affiliated with the institution, to develop and strengthen effective security and investigation strategies to combat violent crimes against women on campuses, and to develop and strengthen victim services in cases involving violent crimes against women on campuses, which may include partnerships with local criminal justice authorities and community-based victim services agencies.

(2) AWARD BASIS.—The Attorney General shall award grants and contracts under this section on a competitive basis.

(3) EQUITABLE PARTICIPATION.—The Attorney General shall make every effort to ensure—

(A) the equitable participation of private and public institutions of higher education in the activities assisted under this section; and

(B) the equitable geographic distribution of grants under this section among the various regions of the United States.

(b) USE OF GRANT FUNDS.—Grants funds awarded under this section may be used for the following purposes:

(1) To provide personnel, training, technical assistance, data collection, and other equipment with respect to the increased apprehension, investigation, and adjudication of persons committing violent crimes against women on campus.

(2) To train campus administrators and campus security personnel to more effectively identify and respond to violent crimes against women on campus, including the crimes of sexual assault, stalking, and domestic violence.

(3) To develop, train, or expand campus security personnel and campus administrators with respect to specifically targeting violent crimes against women on campus, including the crimes of sexual assault, stalking, and domestic violence.

(4) To develop and implement more effective campus policies, protocols, orders, and services specifically devoted to prevent, identify, and respond to violent crimes against women on campus, including the crimes of sexual assault, stalking, and domestic violence.

(5) To develop, install, or expand data collection and communication systems, including computerized systems, linking campus security to the local law enforcement for the purpose of identifying and tracking arrests, protection orders, violations of protection orders, prosecutions, and convictions with respect to violent crimes against women on campus, including the crimes of sexual assault, stalking, and domestic violence.

(6) To develop, enlarge, or strengthen victim services programs for the campus and to improve delivery of victim services on campus.

(7) To provide capital improvements on campus to address violent crimes against women on campus, including the crimes of sexual assault, stalking, and domestic violence.

(8) To support improved coordination among campus administrators, campus security personnel, and local law enforcement to reduce violent crimes against women on campus.

(c) APPLICATIONS.—

(1) IN GENERAL.—In order to be eligible to be awarded a grant under this section for any fiscal year, an institution of higher education shall submit an application to the Attorney General at such time and in such manner as the Attorney General shall prescribe.

(2) CONTENTS.—Each application submitted under paragraph (1) shall—

(A) describe the need for grant funds and the plan for implementation for any of the purposes described in subsection (b);

(B) describe how the campus authorities shall consult and coordinate with nonprofit, nongovernmental victim services programs, including sexual assault and domestic violence victim services programs;

(C) describe the characteristics of the population being served, including type of campus, demographics of the population, and number of students;

(D) provide measurable goals and expected results from the use of the grants funds;

(E) provide assurances that the Federal funds made available under this section shall be used to supplement and, to the extent practical, increase the level of funds that would, in the absence of Federal funds, be made available by the institution for the purposes described in subsection (b); and

(F) include such other information and assurances as the Attorney General reasonably determines to be necessary.

(d) GRANTEE REPORTING.—Each institution of higher education receiving a grant under this section, upon completion of the grant period under this section, shall file a performance report with the Attorney General explaining the activities carried out under the grant, together with an assessment of the effectiveness of the activities in achieving the purposes described in subsection (b).

(e) DEFINITIONS.—In this section—

(1) the term "domestic violence" includes acts or threats of violence, not including acts of self defense, committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction, or by any other person against a victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction;

(2) the term "sexual assault" means any conduct proscribed by chapter 109A of title 18, United States Code, whether or not the conduct occurs in the special maritime and territorial jurisdiction of the United States or in a Federal prison, including both assaults committed by offenders who are strangers to the victim and assaults committed by offenders who are known or related by blood or marriage to the victim; and

(3) the term "victim services" means a nonprofit, nongovernmental organization that assists domestic violence or sexual assault victims, including campus women's centers, rape crisis centers, battered women's shelters, and other sexual assault or domestic violence programs, including campus counseling support and victim advocate organizations with domestic violence, stalking, and sexual assault programs, whether or not organized and staffed by students.

(f) GENERAL TERMS AND CONDITIONS.—

(1) NONMONETARY ASSISTANCE.—In addition to the assistance provided under this section, the Attorney General may request any Federal agency to use the agency's authorities and the resources granted to the agency under Federal law (including personnel, equipment, supplies, facilities, and managerial, technical, and advisory services) in support of campus security, and investigation and victim service efforts.

(2) REPORTING.—Not later than 180 days after the end of the fiscal year for which grants are awarded under this section, the Attorney General shall submit to the committees of the House of Representatives and the Senate responsible for issues relating to higher education and crime, a report that includes—

(A) the number of grants, and the amount of funds, distributed under this section;

(B) a summary of the purposes for which the grants were provided and an evaluation of the progress made under the grant;

(C) a statistical summary of the persons served, detailing the nature of victimization, and providing data on age, sex, race, ethnicity, language, disability, relationship to offender, geographic distribution, and type of campus; and

(D) an evaluation of the effectiveness of programs funded under this section.

(3) REGULATIONS OR GUIDELINES.—Not later than 120 days after the date of enactment of this section, the Secretary shall publish proposed regulations or guidelines implementing this section. Not later than 180 days after the date of enactment of this section, the Attorney General shall publish final regulations or guidelines implementing this section.

(g) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated $10,000,000 for each of the fiscal years 1999 through 2002.

SEC. 793. AUTHORITY TO ADMINISTER SUMMER TRAVEL AND WORK PROGRAMS.

The Director of the United States Information Agency is authorized to administer summer travel and work programs without regard to preplacement requirements.

SEC. 794. IMPROVING UNITED STATES UNDERSTANDING OF SCIENCE, ENGINEERING, AND TECHNOLOGY IN EAST ASIA.

(a) ESTABLISHMENT.—The Director of the National Science Foundation is authorized, beginning in fiscal year 2000, to carry out an interdisciplinary program of education and research on East Asian science, engineering, and technology. The Director shall carry out the interdisciplinary program in consultation with the Secretary of Education.

(b) PURPOSES.—The purposes of the program established under this section shall be to—

(1) increase understanding of East Asian research, and innovation for the creative application of science and technology to the problems of society;

(2) provide scientists, engineers, technology managers, and students with training in East Asian languages, and with an understanding of research, technology, and management of innovation, in East Asian countries;

(3) provide program participants with opportunities to be directly involved in scientific and engineering research, and activities related to the management of scientific and technological innovation, in East Asia; and

(4) create mechanisms for cooperation and partnerships among United States industry, universities, colleges, not-for-profit institutions, Federal laboratories (within the meaning of section 4(6) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3703(6))), and government, to disseminate the results of the program assisted under this section for the benefit of United States research and innovation.

(c) PARTICIPATION BY FEDERAL SCIENTISTS, ENGINEERS, AND MANAGERS.—Scientists, engineers, and managers of science and engineering programs in Federal agencies and the Federal laboratories shall be eligible to participate in the program assisted under this section on a reimbursable basis.

(d) REQUIREMENT FOR MERIT REVIEW.—Awards made under the program established under this section shall only be made using a competitive, merit-based review process.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $10,000,000 for fiscal year 2000.

SEC. 795. UNDERGROUND RAILROAD EDUCATIONAL AND CULTURAL PROGRAM.

(a) PROGRAM ESTABLISHED.—The Secretary of Education, in consultation and cooperation with the Secretary of the Interior, is authorized to make grants to 1 or more nonprofit educational organizations that are established to research, display, interpret, and collect artifacts relating to the history of the Underground Railroad.

(b) GRANT AGREEMENT.—Each nonprofit educational organization awarded a grant under

this section shall enter into an agreement with the Secretary of Education. Each such agreement shall require the organization—

(1) to establish a facility to house, display, and interpret the artifacts related to the history of the Underground Railroad, and to make the interpretive efforts available to institutions of higher education that award a baccalaureate or graduate degree;

(2) to demonstrate substantial private support for the facility through the implementation of a public-private partnership between a State or local public entity and a private entity for the support of the facility, which private entity shall provide matching funds for the support of the facility in an amount equal to 4 times the amount of the contribution of the State or local public entity, except that not more than 20 percent of the matching funds may be provided by the Federal Government;

(3) to create an endowment to fund any and all shortfalls in the costs of the on-going operations of the facility;

(4) to establish a network of satellite centers throughout the United States to help disseminate information regarding the Underground Railroad throughout the United States, if such satellite centers raise 80 percent of the funds required to establish the satellite centers from non-Federal public and private sources;

(5) to establish the capability to electronically link the facility with other local and regional facilities that have collections and programs which interpret the history of the Underground Railroad; and

(6) to submit, for each fiscal year for which the organization receives funding under this section, a report to the Secretary of Education that contains—

(A) a description of the programs and activities supported by the funding;

(B) the audited financial statement of the organization for the preceding fiscal year;

(C) a plan for the programs and activities to be supported by the funding as the Secretary may require; and

(D) an evaluation of the programs and activities supported by the funding as the Secretary may require.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $6,000,000 for fiscal year 1999, $6,000,000 for fiscal year 2000, $6,000,000 for fiscal year 2001, $3,000,000 for fiscal year 2002, and $3,000,000 for fiscal year 2003.

SEC. 796. GNMA GUARANTEE FEE.

(a) IN GENERAL.—Section 306(g)(3)(A) of the National Housing Act (12 U.S.C. 1721(g)(3)(A)) is amended by striking "No fee or charge" and all that follows through "States)" and inserting "The Association shall assess and collect a fee in an amount equal to 9 basis points".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on October 1, 2002.

SEC. 797. PROTECTION OF STUDENT SPEECH AND ASSOCIATION RIGHTS.

(a) PROTECTION OF RIGHTS.—It is the sense of Congress that no student attending an institution of higher education on a full- or part-time basis should, on the basis of participation in protected speech or protected association, be excluded from participation in, be denied the benefits of, or be subjected to discrimination or official sanction under any education program, activity, or division of the institution directly or indirectly receiving financial assistance under the Higher Education Act of 1965, whether or not such program, activity, or division is sponsored or officially sanctioned by the institution.

(b) CONSTRUCTION.—Nothing in this section shall be construed—

(1) to discourage the imposition of an official sanction on a student that has willfully participated in the disruption or attempted disruption of a lecture, class, speech, presentation, or performance made or scheduled to be made under the auspices of the institution of higher education; or

(2) to prevent an institution of higher education from taking appropriate and effective action to prevent violations of State liquor laws, to discourage binge drinking and other alcohol abuse, to protect students from sexual harassment including assault and date rape, or to regulate unsanitary or unsafe conditions in any student residence.

(c) DEFINITIONS.—For the purposes of this section:

(1) OFFICIAL SANCTION.—The term "official sanction"—

(A) means expulsion, suspension, probation, censure, condemnation, reprimand, or any other disciplinary, coercive, or adverse action taken by an institution of higher education or administrative unit of the institution; and

(B) includes an oral or written warning made by an official of an institution of higher education acting in the official capacity of the official.

(2) PROTECTED ASSOCIATION.—The term "protected association" means the joining, assembling, and residing with others that is protected under the first and 14th amendments to the Constitution, or would be protected if the institution of higher education involved were subject to those amendments.

(3) PROTECTED SPEECH.—The term "protected speech" means speech that is protected under the first and 14th amendments to the Constitution, or would be protected if the institution of higher education involved were subject to those amendments.

SEC. 798. BINGE DRINKING ON COLLEGE CAMPUSES.

(a) SHORT TITLE.—This section may be cited as the "Collegiate Initiative To Reduce Binge Drinking".

(b) FINDINGS.—Congress makes the following findings:

(1) Many college president rank alcohol abuse as the number one problem on campus.

(2) Alcohol is a factor in the 3 leading causes of death (accidents, homicides, and suicides) for individuals aged 15 through 24.

(3) More than any other group, college students tend to consume large numbers of drinks in rapid succession with the intention of becoming drunk.

(4) 84 percent of college students report drinking alcohol during the school year, with 44 percent of all college students qualifying as binge drinkers and 19 percent of all college students qualifying as frequent binge drinkers.

(5) Alcohol is involved in a large percentage of all campus rapes, violent crimes, student suicides, and fraternity hazing accidents.

(6) Heavy alcohol consumption on college campuses can result in drunk driving crashes, hospitalization for alcohol overdoses, trouble with police, injury, missed classes, and academic failure.

(7) The secondhand effects of student alcohol consumption range from assault, property damage, and unwanted sexual advances, to interruptions in study or sleep, or having to "babysit" another student who drank too much.

(8) Campus binge drinking can also lead to the death of our Nation's young and promising students.

(c) SENSE OF CONGRESS.—It is the sense of Congress that, in an effort to change the culture of alcohol consumption on college campuses, all institutions of higher education should carry out the following:

(1) The president of the institution should appoint a task force consisting of school administrators, faculty, students, Greek system representatives, and others to conduct a full examination of student and academic life at the institution. The task force should make recommendations for a broad range of policy and program changes that would serve to reduce alcohol and other drug-related problems. The institution should provide resources to assist the task force in promoting the campus policies and proposed environmental changes that have been identified.

(2) The institution should provide maximum opportunities for students to live in an alcohol-free environment and to engage in stimulating, alcohol-free recreational and leisure activities.

(3) The institution should enforce a "zero tolerance" policy on the illegal consumption of alcohol by students at the institution.

(4) The institution should vigorously enforce the institution's code of disciplinary sanctions for those who violate campus alcohol policies. Students with alcohol or other drug-related problems should be referred for appropriate assistance.

(5) The institution should adopt a policy of eliminating alcoholic beverage-related sponsorship of on-campus activities. The institution should adopt policies limiting the advertisement and production of alcoholic beverages on campus.

(6) The institution should work with the local community, including local businesses, in a "Town/Gown" alliance to encourage responsible policies toward alcohol consumption and to address illegal alcohol use by students.

SEC. 799. SENSE OF THE SENATE REGARDING HIGHER EDUCATION.

(a) FINDINGS.—The Senate makes the following findings:

(1) Higher education must be kept affordable for all families as the number of students attending institutions of higher education in the 1995–1996 academic year reached 19,400,000 students at all levels.

(2) According to the College Board's Annual Survey of Colleges, 1997–1998 undergraduate students at United States colleges will pay on average, approximately 5 percent more for the 1997–1998 academic year in tuition and fees at 4-year institutions of higher education than the students paid for the 1996–1997 academic year, and from 2 to 4 percent more for the 1997–1998 academic year in tuition and fees at 2-year institutions of higher education than the students paid for the 1996–1997 academic year.

(3) From academic years 1980–1981 to academic years 1994–1995, tuition at 4-year public colleges and universities increased 234 percent, while median household income rose only 82 percent, and as a result, families now spend nearly twice as much of their income on college tuition as families did in 1980.

(4) A college education has become less affordable as undergraduate public school tuition has increased substantially in the years preceding 1998.

(5) In the 1997–1998 school year, average undergraduate tuition and fees—

(A) for public 4-year institutions of higher education were $3,111, representing a 97 percent increase from the 1988–1989 school year; and

(B) for private 4-year institutions of higher education were $13,664, representing an increase of 71 percent from the 1988–1989 school year.

(6) In the 1996–1997 academic year—

(A) over $580,000,000 in Federal Supplemental Educational Opportunity Grants were disbursed to more than 990,000 students;

(B) $760,000,000 in Federal funds supported more than 700,000 students in the Federal Work-Study Program; and

(C) more than 700,000 students borrowed approximately $940,000,000 in Federal Perkins Loans.

(7) In the 1996–1997 academic year, Federal loan programs provided over $30,000,000,000 in financial aid to students.

(8) Student financial aid in the form of loans is disproportionate to the amount of financial aid received through grants. In 1980, approximately 40 percent of Federal student financial aid was distributed through loans. In the 1996–1997 academic year, 60 percent of Federal, State, and institutional student financial aid was distributed through loans.

(9) As the proportion of Federal grants continues to decline, students and families will have to consider alternative ways to finance a college education.

(10) In the 1970s, Federal Pell Grants financed ¾ of the costs at a public 4-year institution of higher education and ⅓ of the costs at a private 4-year institution of higher education. In contrast, in the 1996–1997 academic year, Federal Pell Grants financed ⅓ of the costs at a 4-year public institution of higher education and ⅐ of the costs at a private 4-year institution of higher education.

(11) While student dependence on Federal loans programs has increased, the default rate on those loans has decreased. According to the Department of Education, in fiscal year 1990, the national default rate on federally insured student loans was 22.4 percent. In fiscal year 1994, the national default rate declined to 10.4 percent.

(12) The National Commission on the Cost of Higher Education concluded in the report of the National Commission that Federal student aid grants have not contributed to increases in tuition while the evidence is inconclusive regarding the impact of Federal student loans on increases in tuition.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the cost of tuition at institutions of higher education continues to increase at a rate above the Consumer Price Index, affecting the nearly 20,000,000 students at all levels, resulting in an increase in the number of students seeking Federal loans and Federal grants;

(2) efforts should be made to address the disproportionate share of Federal student aid in the form of Federal student loans compared to Federal student grants available for students at institutions of higher education; and

(3) Federal incentives provided to public and private institutions of higher education may be an effective way to limit tuition growth.

SEC. 799A. SENSE OF CONGRESS REGARDING TEACHER EDUCATION.

(a) FINDINGS.—Congress finds that—

(1) the education of teachers is a university-wide responsibility requiring the integration of subject matter and teacher education course work across faculties with multiple site-based clinical learning experiences;

(2) teachers well prepared in both subject matter and good professional practice are essential to raising the achievement levels of our Nation's students, especially in mathematics and the sciences;

(3) teacher educators, substantive experts, and kindergarten through grade 12 teachers need to interact with one another through shared experiences that incorporate school-site-based knowledge into the teacher preparation curriculum;

(4) partnerships between practitioners and academics working together in all phases of teacher education improve the quality of such education and create incentives for teachers to pursue excellence in their teaching;

(5) individuals may be more likely to choose teaching as a career if more flexible teacher preparation programs, tailored to the needs and experiences of the individuals, with multiple entry points and pathways into the teaching profession, are made available;

(6) strong leadership skills of school principals are essential to improving the quality of teaching and academic achievement of all students;

(7) collaboration among teacher educators, other university faculty, elementary and secondary schools, and community colleges facilitate, strengthen, and renew all the individuals and entities participating in the collaboration.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) Federal programs, including the Federal Work-Study Programs, should encourage students, particularly prospective teachers, to become involved in supervised tutoring and mentoring activities in kindergarten through grade 12 schools;

(2) institutions of higher education, kindergarten through grade 12 schools, local educational agencies, States, and the Department of Education should enter into partnerships to identify and prepare promising candidates as future education leaders and to provide continuing professional development opportunities to current principals and other education leaders;

(3) options for access to teacher preparation programs and new avenues to careers in teaching should be expanded to reach professionals seeking second careers and individuals whose prior experiences encompass critical subject areas such as mathematics and the sciences;

(4) partnerships between institutions of higher education and kindergarten through grade 12 schools should emphasize contacts between faculty and the business community to align expectations for academic achievement to create a more seamless transition for students from secondary to postsecondary schools and to the workplace; and

(5) Congress should focus on identifying, replicating, and facilitating the expansion of exemplary partnerships between institutions of higher education and kindergarten through grade 12 schools, with particular emphasis on partnerships targeted toward fostering excellence in kindergarten through grade 12 school leadership, attracting and preparing qualified professionals for new careers in teaching, helping teachers incorporate technology into curricula, and aligning the curricula and expectations for student achievement in secondary schools and institutions of higher education, and for the workplace.

SEC. 799B. LIAISON FOR PROPRIETARY INSTITUTIONS OF HIGHER EDUCATION.

Title II of the Department of Education Organization Act (20 U.S.C. 3411 et seq.) is amended by adding at the end the following:

"SEC. 219. LIAISON FOR PROPRIETARY INSTITUTIONS OF HIGHER EDUCATION.

"(a) ESTABLISHMENT.—There shall be in the Department a Liaison for Proprietary Institutions of Higher Education, who shall be an officer of the Department appointed by the Secretary.

"(b) APPOINTMENT.—The Secretary shall appoint, not later than 6 months after the date of enactment of the Higher Education Amendments of 1998 a Liaison for Proprietary Institutions of Higher Education who shall be a person who—

"(1) has attained a certificate or degree from a proprietary institution of higher education; or

"(2) has been employed in a proprietary institution setting for not less than 5 years.

"(c) DUTIES.—The Liaison for Proprietary Institutions of Higher Education shall—

"(1) serve as the principal advisor to the Secretary on matters affecting proprietary institutions of higher education;

"(2) provide guidance to programs within the Department that involve functions affecting proprietary institutions of higher education; and

"(3) work with the Federal Interagency Committee on Education to improve the coordination of—

"(A) the outreach programs in the numerous Federal departments and agencies that administer education and job training programs;

"(B) collaborative business and education partnerships; and

"(C) education programs located in, and involving, rural areas.".

SEC 799C. EXPANSION OF EDUCATIONAL OPPORTUNITIES FOR WELFARE RECIPIENTS.

(a) 24 MONTHS OF POSTSECONDARY EDUCATION AND VOCATIONAL EDUCATIONAL TRAINING MADE PERMISSIBLE WORK ACTIVITIES.—Section 407(d)(8) of the Social Security Act (42 U.S.C. 607(d)(8)) is amended to read as follows:

"(8) postsecondary education and vocational educational training (not to exceed 24 months with respect to any individual);".

(b) MODIFICATIONS TO THE EDUCATIONAL CAP.—

(1) REMOVAL OF TEEN PARENTS FROM 30 PERCENT LIMITATION.—Section 407(c)(2)(D) of the Social Security Act (42 U.S.C. 607(c)(2)(D)) is amended by striking ", or (if the month is in fiscal year 2000 or thereafter) deemed to be engaged in work for the month by reason of subparagraph (C) of this paragraph".

(2) EXTENSION OF CAP TO POSTSECONDARY EDUCATION.—Section 407(c)(2)(D) of the Social Security Act (42 U.S.C. 607(c)(2)(D)) is amended by striking "vocational educational training" and inserting "training described in subsection (d)(8)".

SEC. 799D. ALCOHOL OR DRUG POSSESSION DISCLOSURE.

Nothing in this Act shall be construed to prohibit an institution of postsecondary education from disclosing, to a parent of a student, information regarding violation of any Federal, State, or local laws governing the use or possession of alcohol or drugs, whether or not that information is contained in the student's education records, if the student is under the age of 21.

SEC. 799E. RELEASE OF CONDITIONS, COVENANTS, AND REVERSIONARY INTERESTS, GUAM COMMUNITY COLLEGE CONVEYANCE, BARRIGADA, GUAM.

(a) RELEASE.—The Secretary of Education shall release all conditions and covenants that were imposed by the United States, and the reversionary interests that were retained by the United States, as part of the conveyance of a parcel of Federal surplus property located in Barrigada, Guam, consisting of approximately 314.28 acres and known as Naval Communications Area Master Station, WESTPAC, parcel IN, which was conveyed to the Guam Community College pursuant to—

(1) the quitclaim deed dated June 8, 1990, conveying 61.45 acres, between the Secretary, acting through the Administrator for Management Services, and the Guam Community College, acting through its Board of Trustees; and

(2) the quitclaim deed dated June 8, 1990, conveying 252.83 acres, between the Secretary, acting through the Administrator for Management Services, and the Guam Community College, acting through its Board of Trustees, and the Governor of Guam.

(b) CONSIDERATION.—The Secretary shall execute the release of the conditions, covenants, and reversionary interests under subsection (a) without consideration.

(c) INSTRUMENT OF RELEASE.—The Secretary shall execute and file in the appropriate office or offices a deed of release, amended deed, or other appropriate instrument effectuating the release of the conditions, covenants, and reversionary interests under subsection (a).

SEC. 799F. SENSE OF CONGRESS REGARDING GOOD CHARACTER.

(a) FINDINGS.—Congress finds that—

(1) the future of our Nation and world will be determined by the young people of today;

(2) record levels of youth crime, violence, teenage pregnancy, and substance abuse indicate a growing moral crisis in our society;

(3) character development is the long-term process of helping young people to know, care about, and act upon such basic values as trustworthiness, respect for self and others, responsibility, fairness, compassion, and citizenship;

(4) these values are universal, reaching across cultural and religious differences;

(5) a recent poll found that 90 percent of Americans support the teaching of core moral and civic values;

(6) parents will always be children's primary character educators;

(7) good moral character is developed best in the context of the family;

(8) parents, community leaders, and school officials are establishing successful partnerships across the Nation to implement character education programs;

(9) character education programs also ask parents, faculty, and staff to serve as role models of core values, to provide opportunities for young people to apply these values, and to establish high academic standards that challenge students to set high goals, work to achieve the goals, and persevere in spite of difficulty;

(10) the development of virtue and moral character, those habits of mind, heart, and spirit that help young people to know, desire, and do what is right, has historically been a primary mission of colleges and universities; and

(11) the Congress encourages parents, faculty, and staff across the Nation to emphasize character development in the home, in the community, in our schools, and in our colleges and universities.

(b) SENSE OF CONGRESS.—It is the sense of Congress that Congress should support and encourage character building initiatives in schools across America and urge colleges and universities to affirm that the development of character is one of the primary goals of higher education.

EXPRESSING THE SENSE OF THE CONGRESS RELATIVE TO ADMISSION OF THE REPUBLIC OF CHINA ON TAIWAN TO MULTILATERAL ECONOMIC INSTITUTIONS

Mr. GRAMS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar No. 374, S. Con. Res. 30.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 30) expressing the sense of the Congress that the Republic of China on Taiwan should be admitted to multilateral economic institutions, including the International Monetary Fund and the International Bank for Reconstruction and Development.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

AMENDMENT NO. 3122

Mr. GRAMS. Mr. President, there is an amendment at the desk, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Minnesota [Mr. GRAMS], for Mr. HELMS, proposes an amendment numbered 3122.

The amendment is as follows:

Strike all after the resolving clause and insert the following: That it is the sense of the Senate (the House of Representatives concurring) that it should be United States policy to—

(1) support changes to the International Monetary Fund Charter that would allow the Republic of China on Taiwan and other qualified economies to become members of the International Monetary Fund; and

(2) support the admission of Taiwan to membership in other international economic organizations for which it is qualified, including the International Bank for Reconstruction and Development.

Strike the preamble and insert the following:

Whereas the Republic of China on Taiwan (hereafter referred to as "Taiwan") possesses a free economy with the 19th largest gross domestic product in the world;

Whereas Taiwan has the 14th largest trading economy in the world and the 7th largest amount of foreign investment in the world and holds one of the largest amounts of foreign exchange reserves in the world;

Whereas Taiwan is a democracy committed to the economic and political norms of the international community;

Whereas the purpose of the International Monetary Fund (hereafter referred to as "IMF") is to promote exchange stability, to establish a multilateral system of payments, to facilitate the expansion of world trade, and to provide capital to assist developing nations;

Whereas changes to the IMF Charter that would allow Taiwan and other qualified economies to become members of the IMF would benefit the world economy, especially those developing countries in need of capital, and would contribute to the purposes of the IMF;

Whereas the IMF aims to further economic liberalization and globalization and conducts conferences, exchanges, and training programs in international monetary management which would be beneficial to Taiwan;

Whereas membership in the IMF is a prerequisite for accession to the International Bank for Reconstruction and Development and to regional banks in which Taiwan's membership would be beneficial; and

Whereas Taiwan is already a member of regional multilateral economic institutions including the Asia-Pacific Economic Cooperation Forum and the Asian Development Bank: Now, therefore, be it

Mr. GRAMS. I ask unanimous consent that the amendment to the resolution be agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 3122) was agreed to.

Mr. GRAMS. I ask unanimous consent that the resolution, as amended, be agreed to. I further ask unanimous consent that an amendment at the desk to the preamble be agreed to, and the preamble, as amended, be agreed to. And I finally ask that the title amendment be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the concurrent resolution appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Con. Res. 30), as amended, was agreed to.

The amendment to the preamble was agreed to.

The preamble, as amended, was agreed to.

The resolution, as amended, with its preamble, as amended, reads as follows:

S. CON. RES. 30

Whereas the Republic of China on Taiwan (hereafter referred to as "Taiwan") possesses a free economy with the 19th largest gross domestic product in the world;

Whereas Taiwan has the 14th largest trading economy in the world and the 7th largest amount of foreign investment in the world and holds one of the largest amounts of foreign exchange reserves in the world;

Whereas Taiwan is a democracy committed to the economic and political norms of the international community;

Whereas the purpose of the International Monetary Fund (hereafter referred to as "IMF") is to promote exchange stability, to establish a multilateral system of payments, to facilitate the expansion of world trade, and to provide capital to assist developing nations;

Whereas changes to the IMF Charter that would allow Taiwan and other qualified economies to become members of the IMF would benefit the world economy, especially those developing countries in need of capital, and would contribute to the purposes of the IMF;

Whereas the IMF aims to further economic liberalization and globalization and conducts conferences, exchanges, and training programs in international monetary management which would be beneficial to Taiwan;

Whereas membership in the IMF is a prerequisite for accession to the International Bank for Reconstruction and Development and to regional banks in which Taiwan's membership would be beneficial; and

Whereas Taiwan is already a member of regional multilateral economic institutions including the Asia-Pacific Economic Cooperation Forum and the Asian Development Bank: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Senate (the House of Representatives concurring) that it should be United States policy to—

(1) support changes to the International Monetary Fund Charter that would allow the Republic of China on Taiwan and other qualified economies to become members of the International Monetary Fund; and

(2) support the admission of Taiwan to membership in other international economic organizations for which it is qualified, including the International Bank for Reconstruction and Development.

The title was amended so as to read: "Expressing the sense of Congress that the rules of multilateral economic institutions, including the International Monetary Fund and the International Bank for Reconstruction and Development, should be amended to allow membership for the Republic of China on Taiwan and other qualified economies.".

REGARDING THE SITUATION IN INDONESIA AND EAST TIMOR

Mr. GRAMS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar No. 423, S. Res. 237.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 237) expressing the sense of the Senate regarding the situation in Indonesia and East Timor.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. GRAMS. Mr. President, I ask unanimous consent that the resolution and preamble be agreed to, en bloc, the motion to reconsider be laid upon the table, and that any statements relating to the resolution be placed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 237) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 237

Whereas recent political turmoil and economic failure in Indonesia have endangered the people of that country and fomented instability in the region;

Whereas President Suharto has properly responded to this crisis by resigning, after 32 years in office, the presidency of Indonesia in accordance with Indonesia's constitutional processes;

Whereas Indonesia is now embarking on a new era that is ripe for political and economic reform;

Whereas in 1975 Indonesia invaded, and since that time has illegally occupied, East Timor claiming the lives of approximately 200,000 East Timorese;

Whereas Indonesia has systematically committed human rights abuses against the people of East Timor through arbitrary arrests, torture, disappearances, extra-judicial executions, and general political repression;

Whereas 8 United Nations General Assembly and 2 United Nations Security Council resolutions have reaffirmed the right of the people of East Timor to self-determination;

Whereas Bishop Carlos Filipe Ximenes Belo and Jose Ramos-Horta, who were awarded the 1996 Nobel Peace Prize for their courageous contribution to the East Timorese struggle, have called for a United Nations-sponsored referendum on self-determination of the East Timorese;

Whereas President Clinton in a letter dated December 27, 1996, expressed interest in the idea of a United Nations-sponsored referendum on self-determination in East Timor;

Whereas the United States cosponsored a 1997 United Nations Human Rights Commission Resolution calling for Indonesia to comply with the directives of existing United Nations resolutions regarding East Timor; and

Whereas present circumstances provide a unique opportunity for a resolution of the East Timor question: Now, therefore, be it

Resolved, That it is the sense of the Senate that the President should—

(1) encourage the new political leadership in Indonesia to institute genuine democratic and economic reforms, including the establishment of an independent judiciary, civilian control of the military, and the release of political prisoners;

(2) encourage the new political leadership in Indonesia to promote and protect the human rights and fundamental freedoms of all the people of Indonesia and East Timor; and

(3) work actively, through the United Nations and with United States allies, to carry out the directives of existing United Nations resolutions on East Timor and to support an internationally supervised referendum on self-determination.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to the President.

CHANGES TO S. RES. 209

Mr. GRAMS. Also, Mr. President, on behalf of the chairman of the Budget Committee, Senator DOMENICI, I ask unanimous consent to adjust the allocation to the Appropriations Committee made under S. Res. 209 with the changes that I now send to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

The changes follow:

	Budget authority	Outlays
Current Allocation:		
Defense discretionary	271,570,000,000	266,635,000,000
Nondefense discretionary	255,450,000,000	289,547,000,000
Violent crime reduction fund	5,800,000,000	4,953,000,000
Highways		
Mass transit		
Mandatory	299,159,000,000	291,731,000,000
Total	831,979,000,000	852,866,000,000
Adjustments:		
Defense discretionary		
Nondefense discretionary	−859,000,000	−25,144,000,000
Violent crime reduction fund		
Highways		+21,885,000,000
Mass transit		+4,401,000,000
Mandatory		
Total	−859,000,000	+1,142,000,000
Revised Allocation:		
Defense discretionary	271,570,000,000	266,635,000,000
Nondefense discretionary	254,591,000,000	264,403,000,000
Violent crime reduction fund	5,800,000,000	4,953,000,000
Highways		21,885,000,000
Mass transit		4,401,000,000
Mandatory	299,159,000,000	291,731,000,000
Total	831,120,000,000	854,008,000,000

ORDERS FOR MONDAY, JULY 13, 1998

Mr. GRAMS. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until 12 noon on Monday, July 13. I further ask that when the Senate reconvenes on Monday, immediately following the prayer, the routine requests through the morning hour be granted and the Senate then begin a period of morning business until 2 p.m. with Senators permitted to speak for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAMS. I further ask unanimous consent that following morning business, the Senate begin debate on the motion to proceed to S. 2271, the property rights bill, until 5:45 p.m., with the time equally divided in the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. GRAMS. Mr. President, for the information of all Senators, when the Senate reconvenes on Monday at 12 noon, there will be a period of morning business until 2 p.m. Following morning business, the Senate will begin debate on the motion to proceed to the property rights bill. At 5:45 p.m., under a previous order, the Senate will proceed to a cloture vote on the motion to proceed to the property rights bill.

Following that vote, the Senate could consider any other legislative or executive items that may be cleared for action. For the remainder of next week, the Senate will attempt to complete action on the property rights bill and, hopefully, finish several appropriations bills.

As a reminder, on Wednesday, July 15, at 10 a.m., there will be a joint meeting of Congress to receive an address from the President of Romania.

ORDER FOR ADJOURNMENT

Mr. GRAMS. Mr. President, if there is no further business the come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order, following the remarks of the distinguished Senator from Delaware, Senator ROTH.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. ROTH. Mr. President, I ask unanimous consent that Kathryn Quinn of the Finance Committee be permitted to be on the Senate floor for the rest of this day.

The PRESIDING OFFICER. Without objection, it is so ordered.

IRS INTERNAL AUDITS

Mr. ROTH. Mr. President, yesterday's 96 to 2 vote to reform the Internal Revenue Service was a victory for the American people. I am grateful for the cooperation we received from our colleagues. I am grateful for the support that came from our constituents. And I very much appreciate the willing participation that came from individuals within the Internal Revenue Service itself.

From the beginning of our intensive investigation, and throughout our hearings, I made it clear that the IRS is filled with hard-working, honorable men and women.

We depend on these individuals, on their integrity and expertise to carry out a complex and often thankless task—yet a task that is fundamentally important to the welfare and future of America. Had it not been for those within the IRS who were concerned about the abuses they witnessed—had they not come forward to speak with us—there would have been no hearing. There would have been no reform effort—no change. And the abuses would have continued.

What our investigation focused on was the culture of the agency. It focused on an environment that had been allowed to establish itself because of rules that granted excessive license to those inclined to abuse power—an environment that lacked sufficient oversight. This was the culprit. And I am grateful that after an attempt early on in our investigation to circle the wagons concerning the Finance Committee's efforts, the IRS—under the fine leadership of Commissioner Charles Rossotti—determined to work with us, not against us.

Two reports issued today speak volumes about the spirit of cooperation Commissioner Rossotti demonstrated. They validate each of the concerns raised in our investigation. They are filled with examples that support those that we heard from the courageous witnesses who addressed our committee. They remove any question concerning the appropriateness or necessity of the extensive investigation we undertook. And they make it clear that our conclusions, and consequently our legislative outcome, were right on target.

I appreciate the honesty and candor that is contained in these two internal audits. Prepared by the agency's Chief Inspector's office at my request, they offer a thorough and objective analysis of serious problems within the agency's culture. Among other things, these reports paint a vivid picture of how the IRS' Examination Division used performance measures and statistics, compelling auditors and examination personnel to inflate taxpayer liabilities. They show how the Collection Division abused seizure authority, in one case turning a taxpayer's life upside down for the grand sum of four dollars and seventeen cents!

The reports even documented the most troubling issue of how the Internal Revenue Service would often go after taxpayers who were most vulnerable—those suffering from medical problems or severe financial setbacks. According to the internal audits, "the seizure[s] demonstrated insensitivity to the taxpayer's current situation or [were] conducted to enhance statistical measures."

These reports are astonishing in the scope of the taxpayer abuse they confirm and in the fact that they come from the agency itself. In the case of the man whose business was seized and sold to net the IRS four dollars and seventeen cents, the report states clearly that, "The revenue officer did not use sound * * * judgment when conducting this low dollar seizure."

And this is only one of many such cases documented, Mr. President. In these two reports, Americans will find a stunning array of similar abuses.

The reports make it clear that the agency's focus on goals and statistics come at the expense of quality service and fair treatment of taxpayers. They came at the expense of fairness to IRS employees. One report admits that a full 74 percent of group manager evaluations contained references to enforcement statistics. The evaluations cited dollars per hour, hours per return, and dollars recommended for collection.

The reports make it clear that districts routinely communicated goals and enforcement statistics to group managers and employees.

In fact, the agency admits that such statistics were "communicated in all 12 districts through newsletters, monthly reports of Examination activity, group meetings, and similar methods. Enforcement statistics," the report continues, "were often in referenced to how group managers and employees were doing in relation to district or group goals."

Cast after case is cited in these reports to illustrate how these activities within the agency adversely influenced the lives of taxpayers. In one example, collections officers did not even attempt to contact the taxpayer prior to seizing his property. The revenue officer confirmed the taxpayer's address and ownership of assets two days before seizing them. And what did the IRS seize? The tools the taxpayer needed to provide for his family. Even the taxpayer's 11-year-old daughter pleaded with the collections officer to halt the action, but the activity proceeded—the seizure producing a measly net proceed of $20!

Again, Mr. President, these stories are not coming from witnesses whose credibility might be challenged. They are admissions made by the Internal Revenue Service itself.

Nearly half of the seizures examined in these reports indicate that improper or abusive tactics were used against the taxpayer. Not only does this validate our findings, but the very existence of these internal audits demonstrate that a new era is drawing on an agency that for far too long has been operating in darkness. It looks to be an era of openness—of cooperation—and accountability. I laud the current leadership, Commissioner Rossotti, and those who support him in what will be an historic turning point in the life of the agency. What a legacy they will leave!

And again, I express my gratitude to colleagues who stood firm in our effort to change the way the IRS does business. Our reform legislation, which I expect will be signed by the President in the very near future, will go a long way toward preventing the types of abuses chronicled in these reports. We are increasing oversight of the agency and holding employees accountable for their actions. We are ensuring that taxpayers have due process protections in collections activities. We are prohibiting the IRS from using enforcement statistics.

This is a moment in which we can all be proud. The successful passage of reform legislation yesterday, the bipartisan spirit that marked our investigation and subsequent debate, the willingness of the agency, itself, to cooperate—all of these are to be credited.

ADJOURNMENT UNTIL MONDAY, JULY 13, 1998

The PRESIDING OFFICER. Under the previous order, the Senate now stands adjourned.

Thereupon, the Senate, at 2:37 p.m., adjourned until Monday, July 13, 1998, at 12 noon.

NOMINATIONS

Executive nominations received by the Senate July 10, 1998:

DEPARTMENT OF STATE

MARY BETH WEST, OF THE DISTRICT OF COLUMBIA, A CAREER MEMBER OF THE SENIOR EXECUTIVE SERVICE, FOR THE RANK OF AMBASSADOR DURING HER TENURE OF SERVICE AS DEPUTY ASSISTANT SECRETARY OF STATE FOR OCEANS, FISHERIES, AND SPACE.

THE JUDICIARY

WILLIAM B. TRAXLER, JR., OF SOUTH CAROLINA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE FOURTH CIRCUIT, VICE DONALD STUART RUSSELL, DECEASED.

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

LT. GEN. EDWARD G. ANDERSON, III, 2536

WITHDRAWAL

Executive message transmitted by the President to the Senate on July 10, 1998, withdrawing from further Senate consideration the following nomination:

DEPARTMENT OF STATE

MARY BETH WEST, OF THE DISTRICT OF COLUMBIA, A CAREER MEMBER OF THE SENIOR EXECUTIVE SERVICE, FOR THE RANK OF AMBASSADOR DURING HER TENURE OF SERVICE AS DEPUTY ASSISTANT SECRETARY OF STATE FOR OCEANS AND SPACE, WHICH WAS SENT TO THE SENATE ON FEBRUARY 24, 1998.

SENATE—*Monday, July 13, 1998*

The Senate met at 12 noon and was called to order by the President pro tempore (Mr. THURMOND).

The PRESIDENT pro tempore. Today's prayer will be offered by our guest Chaplain, Father Paul E. Lavin, St. Joseph's on Capitol Hill Church, Washington, DC.

We are glad to have you with us.

PRAYER

The guest Chaplain, Rev. Paul E. Lavin, offered the following prayer:

A reading from the Psalms of David.

Sing joyfully to the Lord, all you lands; serve the Lord with gladness; come before Him with song.

Know the Lord is God; He made us, His we are; His people, the flock He tends.

Enter His gates with thanksgiving, His courts with praise; Give thanks to Him; bless His Name.

For He is good; the Lord, whose kindness endures forever, and His faithfulness to all generations.—Psalm 100.

Almighty and eternal God, You have revealed Your glory to all nations. God of power and might, wisdom and justice, through You authority is rightly administered, laws enacted, and judgment decreed. Let the light of Your divine wisdom direct the men and women of the Senate and shine forth in all the proceedings and laws framed for our rule and government. May they seek to preserve peace, promote national happiness, and continue to bring us the blessings of liberty and equality.

We also pray for all the citizens of the United States, that we may be blessed in the knowledge and sanctified in the observance of Your holy law. May we be preserved in union and that peace which the world cannot give; and, after enjoying the blessings of this life, be admitted to those which are eternal. We pray to You who are Lord and God, forever and ever. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The able majority leader, Senator LOTT from Mississippi, is recognized.

Mr. LOTT. I thank the Chair.

SCHEDULE

Mr. LOTT. Mr. President, this afternoon there will be a period for morning business until 2 p.m. Following morning business, the Senate will begin debate on a motion to proceed to the property rights bill. At 5:45, under a previous order, the Senate will proceed to a cloture vote on the motion to proceed to the private property rights bill. Following that vote, the Senate will consider any legislative or executive items that may be cleared for action.

For the remainder of this week, the Senate will attempt to complete action on the private property rights bill, finish several appropriations bills, including agriculture appropriations, the HUD/VA appropriations bill is a possibility, and hopefully the legislative appropriations bill. We could also begin consideration of the credit union bill, and we are also looking at when we will begin and how we will debate and consider the Patients' Bill of Rights. We have some Internet bills that we are trying to get cleared so that we can consider those under a short time agreement.

Also, as a reminder, on Wednesday, July 15, at 10 a.m., there will be a joint meeting of Congress to receive the address from the President of Romania.

So we have a good bit of work that we need to do this week, as usual. The focus will be on appropriations bills throughout most of the week, turning late in the week or early next week to the Patients' Bill of Rights or the credit union bill.

I yield the floor, Mr. President.

I observe the absence of a quorum.

The PRESIDING OFFICER (Mr. HAGEL). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. DORGAN. Mr. President, is the Senate in morning business?

The PRESIDING OFFICER. The Senate is in morning business, under the previous order, until 2 p.m., and Senators are permitted to speak for up to 5 minutes.

Mr. DORGAN. Mr. President, I ask unanimous consent to speak for 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

PATIENTS' BILL OF RIGHTS

Mr. DORGAN. Mr. President, I would like to just talk briefly about two short items today, the first of which is the 'Patients' Bill of Rights legislation, which we hope the Senate will take up perhaps as early as this week. Some suggest that there isn't a need for legislation to ensure the quality of care provided by managed care plans. They believe, I suppose, as some insurance companies do, that things are just fine in managed care and health care in this country. But others, and that includes most of the American people, know better. They worry that health care in this country is now often directed not by doctors or other medical professionals but by some accountant in an insurance office 500 or 1,000 miles away from where the patient is.

Let me describe, as we have nearly every day for some weeks, a case that illustrates why the American people are so anxious about what is happening in our health care system. This is the example of Mr. Vaughn Dashiell. Vaughn Dashiell is one more reason why HMO reform, or managed care reform, in the form of the Patients' Bill of Rights, should be brought before the Senate.

Vaughn lived with his wife, Patricia, and their three children in Alexandria, VA, not too far from the U.S. Capitol. He owned and operated his own printing company. On November 20, 1996, Vaughn stayed home from work. He had awakened that morning sick, suffering from a sore throat, a dry mouth and tunnel vision that limited his sight to only 18 inches. He tried to get an appointment to see a doctor within his HMO network but was told there were no appointments available at his designated facility. He was able to speak only to an HMO-employed nurse on duty over the phone. She could have told Vaughn to go to an emergency room for treatment, but instead she told him to make a regular appointment, even though none were available. So here is someone who has health care coverage, wakes up ill, calls the HMO, can't speak to a doctor, instead speaks to a nurse, and the nurse says, "Make an appointment," but no appointments are available.

As Vaughn's symptoms worsened, he called his HMO again requesting permission to see a doctor somewhere, or to go to a nearby emergency room for treatment. He was told only to wait and that he would receive a call back from a doctor on duty. When the doctor on duty was consulted, he agreed that Vaughn should go to an emergency room, but neither made a call himself, nor followed-up to see that Vaughn was contacted. And that night Vaughn Dashiell was not contacted—not by the nurse, not by the doctor, or by any other HMO staff regarding his condition and the request he had made for health care.

The next morning, Patricia Dashiell found her husband incoherent, with his eyes rolling. She hurriedly called the

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

HMO hoping for an answer to Vaughn's problem, and they advised her to call 911. She called 911 and Vaughn arrived at the hospital at 9:18 a.m. in a diabetic coma. His blood sugar level was more than 20 times greater than the normal level. Just 2 hours after being rushed to the emergency room, Vaughn was dead from hyperglycemia. He was 39 years old. He had health insurance coverage, but he couldn't get care when he needed it, and he died.

This should not happen in this country. Health insurers should not put profits ahead of patients. And too often these days, they do. Vaughn Dashiell's condition would have and could have been treated if his health plan had enabled him to get care when he needed it. But all over this country, we are hearing of patients who need health care and are told by those who have covered them with health insurance, "It is not now available."

The Patients' Bill of Rights we have offered in the Senate is very simple. This legislation says that people who have health insurance coverage ought to get the health care they need when they have an urgent need for it. They ought to be able to seek emergency room care if a reasonable person would consider it an emergency. They ought to be able to see the doctor they need for the health care problem they are experiencing. Patients have a right to know all of the options for the treatment of their problem, not just the cheapest, and there are a whole series of other provisions to ensure that medical care will be practiced in a doctor's office or a hospital room, not an insurance office 1,000 miles away.

I have told, often, of the woman who, having fallen from a horse and hitting her head severely, was in an ambulance, with her brain swelling, on the way to the hospital. She had the presence of mind to tell the ambulance driver that she wanted to be driven to the hospital further away rather than to the nearby hospital. And when she recovered, she was asked why she had insisted, as she was lying there injured in the back of the ambulance with her brain swelling, on being taken to the hospital further away. She said it was because she knew the reputation of the closer hospital, and she knew that it was a for-profit institution with a reputation for being interested in its profit and loss margin than its patients' care. She did not want her body delivered to an emergency room where she would be looked at in terms of dollars and cents.

That story and the tragic story of Vaughn Dashiell and so many others like it that we have presented to the Senate daily now for so many weeks, describes the anxiety and concern people have in this country. We have the best health care in the world in many respects, but it is available to people in need of health care only if they are able to access the kind of doctors they need when they have need for that medical specialty.

It is available only if they are able to get to an emergency room when they have need for emergency care. When we have American citizens—thousands and thousand and thousands of them—who are denied care because someone in an office 500 miles away said, "Well, gee, that care is not needed, it is not to be delivered, it is not available," then the American people have a right to say, "What on Earth kind of health care system is this?"

One of the stories we presented earlier on the floor of the Senate was of a young boy with cerebral palsy whose managed care officials determined that he had only a 50 percent chance of being able to walk by age 5. And because he had only a 50 percent chance of being able to walk by age 5, plan officials decided that was a minimal benefit and they would withhold it from that young child; it was not cost effective. It was a minimal benefit to have a 50 percent chance of being able to walk when you are 5 years old.

Shame on the people who make those judgments. Shame on them.

We are saying with the Patients' Bill of Rights that those who need medical treatment in this country have certain rights, and those who deliver medical treatment certainly should be cost conscious, but cost ought not take precedence over quality. Those who have coverage for their health care needs ought to be able to expect to get their needs taken care of and responded to adequately. That is, regrettably, not the case in many parts of our country today.

We are led to believe that perhaps this week we will take up some form of the Patients' Bill of Rights. If that happens, it will be the right subject to be debated. It is a subject Americans expect to be addressed. I, as a cosponsor of the Patients' Bill of Rights, feel, as will many of my colleagues, that it is time for us to address this important issue on behalf of the American people.

FARM CRISIS

Mr. DORGAN. Mr. President, I want to make some remarks on the subject of the farm crisis that exists in North Dakota and other parts of the country, and discuss some legislation a number of us intend to offer in the coming days and weeks dealing with that issue.

As a way of describing that issue, the New York Times had a front-page story yesterday that talks about it. The article reports, "As the national economy is booming, lawmakers have begun to focus on one of the few places in the country where times are bad—the northern plains where wheat and livestock prices have plunged and many farmers are desperate."

The story goes on to describe the condition in North Dakota and some other States where we have a serious agricultural crisis. Collapsing profits in agriculture mean that we are seeing family farmers going out of business at a record pace.

Let me describe that with one chart for those who watch these proceedings. In my home State of North Dakota, net farm income has dropped 98 percent in 1 year. That's right; a 98-percent drop in net farm income in 1 year.

Then ask yourself what this statistic means. Ask yourself what would be the result for you, your neighbor, or your community, if you experienced a 98-percent drop in net income? That is what the farmers of North Dakota are facing because of collapsed grain prices and the worst crop disease in a century. The primary crop disease they face is called scab, or fusarium head blight, and it has devastated wheat and barley crops and some others. The combination of crop disease and a collapsed grain price has produced a farm crisis that is very, very serious and to which this Congress must respond.

In the same New York Times article, it says some who wrote the current farm bill two years ago—which I did not support and voted against it—say that a free-market agricultural policy is the best. It quotes the authors of the farm bill as saying "Farmers can best be helped by people staying out of their hair and promoting export markets."

I want to describe part of the problem that farmers face with this kind of free-trade philosophy. There really isn't free trade for farmers. There isn't a free market for farmers. On both ends, they are pinched badly and hurt badly. On one end where they are trying to sell their product, they are trying to sell up through the neck of a bottle. The iron fist around the neck is the grain trade firms, the millers, the railroads where three, four, or five firms control virtually all of it and they squeeze back down resulting in increased costs for farmers and depressed farm prices. So there is no free market moving up.

How about on the back side of it all? Is there a free market in trade? No; through our backdoor comes a flood of Canadian grain which is unfairly subsidized in my judgment, and undercuts our farmers and their prices.

While that happens every day, I want to read another news story. It says: "Official's Beanie Babies Stir Furor." I don't know what page this was on in the paper. It was a fairly large story about Beanie Babies—Beanie Babies, mind you. No offense to people who collect them and like them, but I have not spent a nanosecond of my life thinking about Beanie Babies.

This story is about the U.S. Trade Ambassador who came home from China and apparently had purchased some Beanie Babies in China. She discovered, I guess to her embarrassment, that you can't bring 40 Beanie Babies into this country from China. The Beanie Babies are made in China for an American firm. They make the Beanie Babies in China, and then they ship the Beanie Babies back to the United States for sale in the United States. But you can't buy 40 Beanie Babies in China and haul them back here. Apparently, visitors are restricted to one Beanie Baby from China to the United States. I am told also you are restricted to one Beanie Baby from Canada to the United States.

Those of us who live up near the Canadian border see a lot of things coming in from Canada. I went up to the Canadian border one day with Earl Jensen of Bowbells, ND. We had a little 2-ton orange 10-year-old truck. We tried to take a few bushels of durum wheat into Canada. All the way up to the border, we met 18-wheelers coming from Canada to the United States full of Canadian wheat. We saw truck after truck after truck after truck, all full of wheat, all the way to the border.

Earl and I got to the border with this little 10-year-old orange truck. Do you think we could get one quarter-truckload of durum into Canada? They said: No, you can't do that. You can flood the market in the United States with Canadian grain, but you can't get one little orange truckload of durum wheat into Canada.

When it comes to restricting imports to the United States, we say one Beanie Baby. Boy, we're tough on Beanie Babies. And if you exceed one Beanie Baby, you're apparently in huge trouble. But you can ship all the durum wheat, all the spring wheat and barley you want, and nobody is going to pay any mind at all. Nobody is going to care. In fact, if they unfairly subsidize it, as I am convinced they are doing, it still doesn't seem to matter. When we send auditors up to Canada to get into the books and records of the Canadian Wheat Board to check it out, the Canadian Wheat Board says, "Go fly a kite, we don't intend to show you any information; we intend to give you no records about our trade into the United States."

I say to those quoted in the New York Times and those in this Chamber who say, "Gee, what we should do is rely on this free-market stuff," that there is no free market. There is no free market on either end, not the top end through which farmers market their products and not the back end through which they are facing unfair competition coming into this country with unfairly subsidized grain.

We have farmers going broke in record numbers. We face a very serious farm crisis. A new farm bill was written 2 years ago. When that farm bill was written, it was written by folks who said, "Let's have the farmers operate in whatever the free-market system is." Some of us said the problem is, there isn't a free market and if farmers run into price collapse, we are in a situation where they will not be able to get over that pricing valley. When they hit a price collapse, there needs to be a bridge over that price valley. If you don't help family farmers over that valley, then they go broke.

Some people say, "That's okay, it doesn't matter, we don't care if we have family farmers." I suppose some people don't. They don't care if we end up with big farms, agrifactories, farming from the west coast to the east coast. Does it matter? It seems to me it matters.

For those who haven't been on a farm, if you look out the plane at night and you see the yard lights dotting the landscape, each of those lights is a family living on a family farm.

These family farmers take more risks than almost anyone else in this country doing business. They risk whether they will get a crop. They put all their money in their crop, including the cost of seed and fertilizer, as they plant their fields in the spring. They have no idea whether there will be a dozen or more weather-related events that might destroy their crop. There is the threat of insects, the threat of hail, the threat of drought, the threat of too much moisture, among other things. Yet, if they are fortunate enough to get a crop, they might well end up seeing the market as it exists today with collapsed prices.

And they are facing big interests that clap about that. They say, "Gee, that's great. We love collapsed prices." The big grain millers, they think that is just fine. Only four firms control almost sixty percent of the flour milling in this country. I suppose the grocery manufacturers think that is just fine, because they seem to love low farm prices.

The problem is family farmers can't survive. They are the seed bed of American enterprise and the home of family values that have always nurtured and flowed from family farms to small towns and into big cities. It is these family farmers, who are the ones that we lose.

This is not just about dollars and cents. It is about something much more important to this country's future than just dollars and cents. And that is why during this week, next week and beyond, we feel the need and the urgency to propose some changes here on the floor of the Senate. We must deal with farm policy in a way that addresses the issue of trade, in a way that addresses the issue of the misplaced priorities within a system that worries about Beanie Babies on the same day that nobody seems to care much about family farmers.

We think there are some things that can be done to extend a helping hand to family farmers, and to say, that they matter in this country's future. When we offer legislation on the floor of the Senate, I expect there will be those who say, as they did 2 weeks ago, that the current farm bill is working just fine. I dearly wish we could give them a deed this afternoon and say, "Here. You think it's working fine? Here is your farm. We'll give you 1,000 acres. Buy some fuel and fertilizers and seed, and farm until you go broke. When you go broke—and you will—you come back and tell us how well your farm policy works." I just wish we could do that. But, of course, there is not time because this crisis requires action on a much more immediate basis.

Mr. President, we expect to have a substantial debate about that in the coming days. I hope that Republicans and Democrats will understand the merit, the value, and the worth of family farming in this country's future. I hope that we will decide to embark upon a farm policy that says to family farmers that when prices collapse and when you are ravaged by the worst crop disease of the century, we want to help you over those price valleys. We want you to be a part of this country's future.

We need a farm policy that tells family farmers that they matter from the standpoint of social and economic policy. Here we are in a country that produces the most wholesome quality food at the lowest percent of disposable income of anywhere in the world. Family farmers do matter in this country's future. I hope that will be the result of the debate we have here in the next month or two in the U.S. Senate.

Mr. President, I yield the floor.

Ms. COLLINS addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I ask unanimous consent that I be permitted to proceed for not to exceed 12 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Ms. COLLINS pertaining to the introduction of S. 2292 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Ms. COLLINS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ROBERTS). Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

PROPERTY RIGHTS IMPLEMENTATION ACT OF 1998—MOTION TO PROCEED

Mr. HATCH. Mr. President, I move to proceed to the consideration of S. 2271, the Property Rights Implementation Act.

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to debate the motion to proceed to S. 2271, which the clerk will report.

The legislative clerk read as follows:

> Motion to proceed to the consideration of the bill (S. 2271) to simplify and expedite access to the Federal courts for injured parties whose rights and privileges, secured by the United States Constitution, have been deprived by final actions of Federal agencies, or other government officials or entities acting under color of State law, and for other purposes.

The Senate proceeded to consider the motion.

PRIVILEGE OF THE FLOOR

Mr. HATCH. Mr. President, I ask unanimous consent that Brian Day, one of my law clerks, have floor privileges during the pendency of the property rights debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Mr. President, the people of Utah, and indeed, of all of our States, have felt the heavy hand of the government erode their right to hold and enjoy private property. I have authored and cosponsored many bills in the past that would protect private property from the jaws of the regulatory state.

Our opponents on the left and the radical, so-called environmental groups, however, have been successful so-far in derailing the consideration of more needed reform measures. But I believe we have the opportunity to pass a narrower yet meaningful piece of legislation. The substitute we are considering today, S. 2271, the "Property Rights Implementation Act," narrows H.R. 1534, which passed the House of Representatives on October 23, 1997, by a 248 to 178 vote. After the House passed bill was referred to the Judiciary Committee, we met with local, environmental, and governmental groups in an effort to meet their concerns. The product of those meetings is the S. 2271 substitute.

Mr. President, I hope the Senate will allow us to proceed to consideration of this bill. How can we work to further improve this bill if your colleagues will not let us proceed to vote. This is a worthwhile bill that resolves many problems. I call on my colleagues to vote for cloture so that we may address those problems on the merits.

The purpose of S. 2271, is, at its root, primarily one of fostering fundamental fairness and simple justice for the many millions of Americans who possess or own property. Many citizens who attempt to protect their property rights guaranteed by the Fifth Amendment of the Constitution are barred from the doors of the federal courthouse.

In situations where other than Fifth Amendment property rights are sought to be enforced—such as First Amendment rights, for example—aggrieved parties generally file in a single federal forum without having to exhaust state and local procedures. This is not the case for property owners.

Often they must exhaust all state remedies with the result that they may have to wait for over a decade before their rights are allowed to be vindicated in federal court—if they get there at all. Moreover, the federal jurisdiction over property rights claims against federal agencies and Executive Branch Departments is in a muddle. In these types of cases, property owners face onerous procedural hurdles unique in federal litigation.

The Property Rights Implementation Act, if we are allowed to even consider it, primarily addresses the problem of providing property owners fair access to federal courts to vindicate their federal constitutional rights. The bill is thus merely procedural and does not create new substantive rights.

Consequently, the bill has two purposes. The first is to provide private property owners claiming a violation of the Fifth Amendment's taking clause some certainty as to when they may file the claim in federal court. This is accomplished by addressing the procedural hurdles of the ripeness and abstention doctrines which currently prevent them from having fair and equal access to federal court. S. 2271 defines when a final agency decision has occurred for purposes of meeting the ripeness requirement and prohibits a federal judge from abstaining from or relinquishing jurisdiction when the case does not allege any violation of a state law, right, or privilege. Thus, S. 2271 serves as a vehicle for overcoming federal judicial reluctance to review takings claims based on the ripeness and abstention doctrines.

The second purpose of the bill is to clarify the jurisdiction between the Court of Federal Claims in Washington, D.C., and the regional federal district courts over federal Fifth Amendment takings claims. The Tucker Act grants the Court of Federal Claims exclusive jurisdiction over takings claims seeking compensation. Thus, property owners seeking equitable relief must file in the appropriate federal district court.

This division between law and equity is archaic and results in burdensome delays as property owners who seek both types of relief are "shuffled" from one court to the other to determine which court is the proper forum for review. S. 2271 resolves this matter by simply giving both courts concurrent jurisdiction over takings claims, thus allowing both legal and equitable relief to be granted in a single forum. I will address this conundrum of the "Tucker Act shuffle" in more detail in a later speech.

I. HOW THE BILL WORKS

Let me briefly explain how the procedural aspects of the bill, designed to assure fairness, work. One of the hurdles property owners face when trying to have their Federal claim heard on the merits is the doctrine of abstention. Federal courts routinely abstain their jurisdiction and refer the case to state court, even if there is no State or local claim alleged. This is true only for property rights cases.

The bill would clarify that a Federal court shall not abstain its jurisdiction if only Federal claims are alleged. To protect State's rights, the bill allows an unsettled question of State law that arises in the course of the Federal claim to be certified in the highest appellate court of that State, under whatever certification procedures exist in that State. Federal courts would retain their jurisdiction, but the unsettled State law question would be answered in State, not Federal court. In the few States where no certification procedures exist, property owners would be unable to benefit from that expedited procedure.

The second hurdle the bill would resolve is the problem of "ripeness". Current law requires a property owner to get a "final decision" from the land use agency to which he or she has applied before their Federal claim can be heard in Federal court. S. 2271 simply provides an objective definition of a "final decision" so that both parties in a land use dispute will know when "enough is enough." The bill outlines the steps a property owner must take to resolve a dispute at the local level before a final decision by the agency in question has been reached.

The process clarified by the bill protects both States rights and the individual rights guaranteed by the Fifth Amendment. Before a land use decision is defined as "final": A property owner must make a meaningful application for a land use to the agency. If the application is denied, the property owner must make an appeal or seek a waiver of the denial. If rejected a second time, a final decision has been reached unless there is an elected local body with the authority to review land use appeals. In that case the property owner must submit another application and be denied a third time before a decision is defined as final.

The bill provides yet another layer of local decision making. In rejecting the property owners land use application, the agency may chose to provide a written explanation for the denial and explain the uses, density, and intensity of development that would be permitted on the property in question. If such an explanation is provided, the decision will not be considered final until the property owner resubmits a new application taking into account the conditions of the original denial. If the property owner is again rejected, and rejected on appeal, the decision is considered final.

In all instances, the property owner is exempted from making an appeal or seeking a waiver if no such appeal or waiver exists, or if doing so would be futile. The concept of "futility" is established in existing case law. The purpose of this exemption is to ensure that property owners are not trapped in a futile situation where time and money is wasted seeking such relief where the prospect is virtually nonexistent.

In short, the bill is very simple and protects the rights of localities by requiring that property owners comply with local procedures before they seek relief in Federal court.

II. THE NEED FOR LEGISLATION—THE RIPENESS PROBLEM

Mr. President, let me amplify why this legislation is desperately needed. The first part of the bill deals with the ripeness doctrine, a doctrine which has been misused in a manner that prevents property owners from vindicating what, after all, is a Federal right in Federal court.

Let me begin by reminding my colleagues that the Fifth Amendment to the United States Constitution protects individuals from having their private property "taken" by the Government without receiving just compensation. A complex body of law has developed from the Takings Clause of the Fifth Amendment and is used by Federal courts to determine whether a "taking" has occurred.

In conjunction with this complex body of takings law, an equally complex set of procedural doctrines has also developed for use by Federal courts to determine whether the core substantive issues involved in the takings claim are ready to be heard. These procedural doctrines are known as the doctrines of "ripeness" and, I might add, "abstention."

Under current case law, a takings claim must be "ripe" in order to be heard in Federal court. In a key decision entitled *Williamson County Planning Comm'n* v. *Hamilton Bank of Johnson City*, 473 U.S. 172 (1985), the Supreme Court attempted to clarify the principles of the ripeness doctrine.

The Court stated that a takings claimant must show: (1) that there has been issued a "final decision regarding the application of the regulations to the property at issue" from "the government entity charged with implementing the regulations," and (2) that the claimant requested "compensation through the procedures the State has provided for doing so." [Id. at 194.] A takings plaintiff must meet both requirements before the case will be considered ripe for federal adjudication; if either has not been met, then the claimant will be procedurally barred from bringing such a claim in Federal court.

Unfortunately, the lower court decisions which subsequently have attempted to apply the ripeness principles set forth in *Williamson County* have only served to create much confusion over when a claim becomes ripe. Property owners have been left with no clear understanding of how many proposals or applications must be submitted before their takings claim would be considered ripe.

For example, in *Southview Assocs.* v. *Bongartz*, 980 F.2d 84, 92 (2d Cir. 1992), cert. denied, 507 U.S. 987 (1993), the U.S. Court of Appeals for the Second Circuit decided a takings claim was not ripe because the landowner "did not attempt to modify the location of the units or otherwise seek to revise its application." The court failed to decide how many reapplications would be necessary to reach the merits.

In *Schulze* v. *Milne*, 849 F.Supp. 708 (N.D. Cal. 1994), aff'd in part, rev'd in part on other grounds, 98 F.3d 1346 (9th Cir. 1996), property owners submitted a total of thirteen (13) revised plans over three years to renovate their home. Each time they submitted a plan "in compliance with all applicable zoning laws," local officials nonetheless "refused to approve the plan, and instead informed plaintiffs that there were additional requirements, not found in any zoning or other statutes, which plaintiffs had yet to meet." [Id., 849 F.Supp. at 709.] This is happening in many areas around the country.

These examples poignantly illustrate the current confusion concerning when a claim becomes ripe. The current state of disarray that Federal judges and private landowners alike find themselves in can be fixed by the establishment of a set of objective criteria so that all parties will be able to easily discern when a government land use decision is final. This bill will bring that confusion to an end by clearly defining when a Federal takings claim becomes ripe for adjudication and how many final decisions are required before the claim may proceed in Federal court.

Additionally, much confusion has existed over the second prong of *Williamson County:* namely, the requirement that a property owner must exhaust all compensation remedies available under State law. This prong acts to prevent Federal courts from reaching a final decision until the State court definitively rules that it will not entertain a compensation remedy.

This problem is exemplified in *Santa Fe Village Venture* v. *City of Albuquerque*, 914 F.Supp. 478 (D.N.M. 1995). There, the local city council established a building moratorium to preclude any development on lands near a national monument site. Plaintiff had an option to purchase land within areas subject to the moratorium, but never exercised that option because of the total land use restriction. Rather, plaintiff filed a lawsuit in Federal District Court seeking just compensation from the local government for its inability to develop the property.

The first suit was dismissed on ripeness grounds because the property owner never sought a compensation remedy in State court. In other words, exhausting State compensation procedures was necessary to make a Federal claim ripe for resolution. The property owner then filed a second action for inverse condemnation in State court. This case was also dismissed—this time for lack of standing. Plaintiff returned to Federal court raising only Federal claims but had its case dismissed again on ripeness grounds because the Federal claims were not raised in State court despite the State court's previous adjudications. These type of situations will be resolved by the bill by remedying the confusion of the State exhaustion requirement.

As you can see in these Federal land use cases from 1983 to 1988, the red part of this, 94.4 percent, is where judges failed to reach the merits of the case—in other words, had ripeness problems—and the 5.6 percent of cases were decided on the merits, where they found that they were ripe. As you can see, the owners of property are just not being treated fairly and this is a constitutional privilege provided for in the fifth amendment of the Constitution, so this is wrong.

Let me just note, this is a recent study prepared by the law firm of Linowes and Blocher of Silver Spring, MD, and incorporated into the RECORD for this bill.

Over 80 percent of the takings cases originating in U.S. district courts between 1990 and 1997, as shown on this chart, were dismissed before the merits were ever reached due, again, to the ripeness doctrine.

The 81 percent in red is where judges failed to reach the merits of the case because of ripeness problems, and the green is decided on the merits. In those cases where they were decided, they averaged 7 years of total litigation. So you can imagine how the rights are not being protected.

Many of these dismissals were tantamount to the termination of the claim because the landowner lacked the adequate financial resources to form an appeal. For those landowners who could afford the high expenses of an appeal, the survey showed that more than half of the takings claims were still dismissed.

The red is where judges failed to reach the merits of the case, again, due to ripeness problems. The green is cases, between 1990 and 1997, decided on the merits, and they averaged 9.5 years of litigation.

Just think about that. For those landowners who could afford the high expenses of an appeal, the survey showed that more than half of the takings claims were still dismissed. Of those appellate cases that did not pass the ripeness test, 60 percent were remanded for more litigation on the merits. These results underscored the need for this legislation.

Further adding to the problem, a Federal court may also abstain from hearing a takings case under the judicially created doctrine of "abstention." This doctrine allows Federal judges to exercise discretion in deciding whether or not to accept cases that are properly under the Federal court's, in this case, jurisdiction. Federal courts are reluctant naturally to adjudicate State political and judicial controversies, so a Federal court will usually abstain anytime that a claim presents a Federal question that would not need to be resolved if an underlying challenged State action of an unsettled State law issue were determined. This is underscored by the Supreme Court case of *Railroad Commission of Texas* v. *Pullman Co.*, 312 U.S. 496 (1941). Federal courts also abstain from hearing cases which touch on sensitive State regulatory issues which are best left to the state courts. *Burford* v. *Sun Oil Co.*, 319 U.S. 315 (1943), is an example of this situation.

Additionally, federal judges often use the abstention doctrines to refer takings cases back to state courts before reaching the merits of the Fifth Amendment claims. This bill remedies the current abuse of abstention by requiring that Federal courts adjudicate the merits of an aggrieved property owner's claims where those claims are solely based on federal law. On the contrary, if a property owner also raises claims involving state constitutional, statutory or common law claims pendent to the federal claims, then the property owner may not use this bill and the federal court may properly abstain in that type of situation.

I have to emphasize that control over land use lies and will remain in the hands of local entities. Private property owners must submit a land use proposal to the local agency for approval which, for many applicants, is the beginning of a negotiation process regarding the permitted land uses. This process, however, can take years for property owners who are left in regulatory limbo due to the local entities' failure to make a final decision as to what land use is permitted. Consequently, property owners are not able to use or develop their land and are effectively denied their fifth amendment rights.

While this result could be construed as a fifth amendment taking, I must point out that the applicant is, for all practical purposes, unable to file a claim in Federal court to enforce these constitutional guarantees because local land use authorities do not want to be sued in Federal court and can abuse the system by purposely withholding a final agency decision. To further frustrate the problem, the federal court decisions interpreting the Supreme Court's "ripeness" definition are conflicting and confusing, providing little guidance to property owners as to when a case is "ripe" for federal adjudication.

Moreover, Federal judges are often reluctant to get involved in land use issues. Instead, they usually dismiss takings cases back to state court based on the abstention doctrines or the lack of ripeness. Unfortunately, the overwhelming majority of property owners do not have the time and money necessary to pursue their case through the state court and then re-file it in Federal court. The extensive use of the abstention doctrines by the Federal courts to avoid land use cases, even ones involving only a Federal claim, has created a blockade denying aggrieved land owners access to the Federal court system.

This problem is exemplified by the situation presented in *Suitum* v. *Tahoe Regional Planning Agency*, 80 F.3d 359 (9th Cir. 1996), vacated and remanded, 117 S.Ct. 1659 (1997). Bernadine Suitum, a retiree, was barred from building on her land by a regional planning agency. For seven years, the Federal courts steadfastly refused to consider whether a taking of her property by the government had occurred until the U.S. Supreme Court ruled in an unanimous decision that she will have the right to argue her case in Federal court. This elderly woman's plight has resulted in years of expensive litigation just to have the opportunity to present the merits of her case to a Federal judge. Unfortunately, this situation is far from rare for many takings claimants.

Another procedural tool that has been used to construct a barrier to property owners seeking remedies in Federal court has been the use of the doctrines of res judicata and collateral estoppel by Federal judges. Res judicata, also known as claim preclusion, acts as a bar to further claims brought by a party on the same claim where a final judgment on the merits has already been reached. Claim preclusion prevents parties from relitigating claims that were already raised or could have been raised in an earlier lawsuit. Similarly, collateral estoppel, also known as issue preclusion, prevents a plaintiff from relitigating issues that were already decided by a state court.

Consequently, a Federal court could preclude a property owner from bringing an otherwise ripe claim in Federal court because a final determination had already been reached in a State court proceeding. That is, a strict adherence to the Williamson County prongs could prove tantamount to the nails in the coffin box of the property owner's ripe takings claim. Nevertheless, by removing the state exhaustion requirement from the ripeness landscape, this bill effectively solves all res judicata and collateral estoppel problems.

Interestingly, claimants alleging violations of other fundamental rights do not encounter these same procedural barriers when attempting to bring meritorious actions in Federal court. In those situations, ripeness, abstention, and res judicata are often inapplicable.

This places fifth amendment claimants in an inferior position to their first amendment counterparts. But, the Supreme Court has expressly stated that the fifth amendment is "as much a part of the Bill of Rights as the first amendment or the fourth amendment.

Look what the Court said in Dolan v. City of Tigard:

> We see no reason why the takings clause of the fifth amendment, as much a part of the Bill of Rights as the first amendment or fourth amendment, should be relegated to the status of a poor relation . . .

The Court, I hope, means what it says.

In any event, I certainly concur. The rights of the fifth amendment should not be inferior to the rights of the first amendment or to any other fundamental guarantee contained in the Bill of Rights.

This bill seeks to address these procedural blockades and offer property owners more certainty as to the Federal adjudicatory process governing takings claims. More specifically, the bill accomplishes this by defining when a final agency decision takes place and prohibiting Federal judges from invoking the abstention doctrine to avoid cases that involve only fifth amendment takings claims.

In other words, this bill does not impugn or prevail upon any State rights. It only is triggered when we have fifth amendment constitutional rights invoked.

Additionally, S. 2271 maintains the traditional interpretations of the abstention doctrine which keep the federal courts free from being thrust into controversies surrounding state and local issues by limiting its scope only to actions involving federal claims. As the proposed language indicates, usage of this Act by a claimant is optional.

That is, the bill allows a claimant the opportunity to bring a claim in Federal court if she so chooses, but does not mandate such an avenue of jurisdiction. S. 2271 simply allows every citizen her right to bring a Federal takings claim into Federal court to be decided on the merits. It is important to note that if a claimant brings a takings claim that is joined to other State claims, a Federal court would be able to abstain: for example, a takings claim accompanied by a State constitutional claim, a claim of ultra vires conduct, or abuse of discretion would not be able to reach the merits in Federal court without a State court first deciding the merits of the State claims.

Let me refute the critics and assert that S. 2271 accomplishes its goals in a manner that will not crowd the Federal dockets. Under the provisions of this bill, a claimant is required to obtain as few as three and as many as five decisions by local entities before that claimant's claim will be ripe for review by a federal court. Thus, the claimant must spend adequate time pleading her case before the local authorities and must obtain the necessary denials from them; until she satisfies these prerequisites, her claim will be barred from the Federal courts.

Some have argued that the second prong of Williamson County mandates as a matter of constitutional law that property owners exhaust State compensation remedies before seeking federal court redress. This conclusion is buttressed by their claim that a taking does not occur on a State or local level until the State or locality has had the opportunity to afford compensation to the property owner.

I disagree with both these contentions. First, Williamson County was decided before the remedy for a Federal taking was clarified. It is, indeed, outdated. When Williamson County was decided in 1985, the Court viewed the remedy for takings to be invalidation of the offending statute or rule. In other words, compensation was not considered the remedy for a taking under the U.S. Constitution. That changed in 1987, with *First English Evangelical Lutheran Church of Glendale* v. *County of Los Angeles*, 482 U.S. 304 (1987), where the Supreme Court finally held that the Federal remedy for a taking is compensation. Now that this Federal remedy has been clarified, there is no reason to compel a citizen to litigate State court remedies in State court first.

Second, and consequently, the second prong of Williamson County is now merely prudential in nature. This conclusion is buttressed by the Supreme Court's most recent takings and ripeness decision, where the Court described Williamson County's requirements as "two independent prudential hurdles * * *." *Suitum* v. *Tahoe Regional Planning Agency*, the 1997 case I cited before, makes that case, 117 S. Ct. 1659, 1666 (1997). In other words, the requirement of exhaustion of State or local compensation procedures is a court-created barrier which Congress may alter. Simply put, initial State court litigation is not compelled by the Constitution.

Third, the Williamson County second prong is only dicta, and, therefore, not binding authority. The main issue in Williamson County concerned the first element of ripeness, that is, whether the land use agency rendered a "final decision." The ensuing discussion on compensation ripeness was neither essential nor necessary to support the decision. Thus, it was mere dicta.

Fourth, the text of the Takings Clause does not require that property owners must exhaust State or local compensation procedures. The drafters and ratifiers of the fifth and fourteenth amendments to the Federal Constitution did not intend such a result: The text of the takings clause states: "[N]or shall private property be taken for public use, without just compensation." Those are words right out of our beloved constitution.

Thus, the fifth amendment clearly creates a Federal remedy for a taking. There is no basis to believe that the drafters and ratifiers intended State court litigation as a prerequisite to vindicate that Federal remedy. State court litigation puts the cart before the horse: Compensation is simply a computation of the amount owed for a taking. It makes no sense to sue in State court first, until liability for the Federal taking has been determined.

Fifth, preclusion doctrines, as mentioned above, bar any Federal takings suit in Federal court if a plaintiff must sue in State court first. A property owner in this circumstance would never get to Federal court to vindicate the property owner's rights. It is doubtful that this was the intent of the drafters and ratifiers who promulgated and adopted Federal rights amendments and established the Federal forums to protect them. Yet being barred from the Federal courthouse is exactly what happened in *Dodd* v. *Hood River*, in 1998, 136 F.3d 1219 (9th Cir. 1998). That is a ninth circuit court case.

The minority views accompanying H.R. 1534, the bill voted out of the Judiciary Committee, completely misstates the Dodd case. Dodd stands for the reverse of what the minority views represent. The minority claims that, one, "most federal appeals courts allow claimants to 'reserve' federal constitutional claims so that the federal courts may address those claims once the state court litigation has ended." This is not true. This can be seen from what happened in the various *Dodd* cases.

After being allowed to reserve their Federal takings claim in Dodd IV [(59 F. 3d at 862)], the Dodds were denied the right in Dodd V to raise it in Federal court under the "issue preclusion" doctrine of collateral estoppel. [See Dodd V, 136 F.3d at 1227 (9th Cir. 1998).]

The same thing happened to a takings claimant in *Wilkinson* v. *Pitkin County Bd. of County Comm'rs*, a tenth circuit case in 1998, where the court concluded that "the Williamson ripeness requirement is insufficient to preclude application of res judicata and collateral estoppel principles in this case." Moreover, in a candid footnote, the court acknowledged:

> We do note our concern that Williamson's ripeness requirement may, in actuality, almost always result in preclusion of federal claims, regardless of whether a reservation is permitted. It is difficult to reconcile the ripeness requirement of Williamson with the laws of res judicata and collateral estoppel.

Contrary to the minority's misrepresentation of the law, Dodd and Wilkinson confirm that, without the referenced remedial legislation, citizens bringing fifth amendment takings claims in Federal court are in a Catch-22 situation. They must first go to state court, but when they do, they are barred from ever litigating their claim in Federal court. Meanwhile, municipal defendants in such cases are free to seek removal of the case from State to Federal court. This removal procedure was upheld recently by the Supreme Court in *City of Chicago* v. *International College of Surgeons*.

I must observe that other constitutional rights hinge on State or local issues, but do not require initial State litigation. Many provisions in the Bill of Rights also hinge on the resolution of issues concerning State or local law. There are no similar ripeness barriers requiring citizens to go to State court first to address the constitutionality of Government actions that infringe upon the speech, religion, or privacy rights protected in the Constitution.

Furthermore, the Supreme Court in *Loretto* v. *Teleprompter Manhattan CATV Corp.*, 458 U.S. 419, 437, n. 15 (1982), held that takings could occur regardless of whether the property has increased in value. In this case the Court found a taking where cable was laid pursuant to a New York statute, which undoubtedly increased the value of the building. The Supreme Court found a taking and remanded the compensation issue to the lower court.

I believe that this holding is contrary to the position of the bill's critics that takings analysis require, as a matter of law, that compensation be determined before a governmental action can be considered an unconstitutional taking. Under Loretto, a court could find that there has been a taking—a significant interference with property rights—yet award no compensation. It is still considered an unconstitutional taking. Consequently, the compensation requirement of the Takings Clause is merely a remedy that may or may not be awarded in a state or federal court, depending on the fairness of the situation.

Buttressing this conclusion is the recent Supreme Court decision in *Phillips* v. *Washington Legal Foundation*, No. 96-1578 (June 15, 1998). In Phillips, the Court held that interest accruing from interest bearing lawyers trust accounts, that is, Interest On Lawyers Trust Accounts, or IOLTAs, as they call it, that that is property within the meaning of the fifth amendment. Although the Court left open whether the adequacy of compensation must be determined before a constitutional taking is considered to occur, [Phillips slip op. at 7, n.4], it is interesting to note that as a practical matter the Court first determined whether there was a property interest and, thereafter, remanded the case to determine whether there was a taking, and if so, the amount of just compensation to be paid for such taking.

The Court in effect applied a three-part test: (1) whether a property interest exists; (2) whether the property interest has been significantly interfered with; and (3) if a property interest has been taken, the determination of just compensation. The Committee believes that this approach belies the argument that a federal court cannot hear takings claims before a state determines compensation. Indeed, this was the position of the dissent, who argued that the issue of compensation is not separate and distinct from the issue of disposition and use of property. [Phillips, slip op. at 4 (Souter, J., dissenting).]

Furthermore, in *Eastern Enterprises* v. *Apfel*, No. 97-42 (U.S. June 25, 1998), decided on the next to last day of the 1997-1998 Supreme Court term, the Court faced the issue of whether the Coal Industry Retiree Health Benefit Act—called the "Coal Act"—which established a mechanism to fund health care for retirees, could be applied retroactively to a company that no longer mined coal and had withdrawn from the Coal Act funding scheme pursuant to terms of a prior negotiated agreement.

Four Justices, Chief Justice Rehnquist and Justices O'Connor, Scalia, and Thomas, held that the application of the Coal Act violated the Takings Clause of the fifth amendment. [Eastern Enterprises, slip op. at 1-37 (Plurality opinion of O'Connor, Rehnquist, Scalia, and Thomas, J.J.)]. One Justice, Justice Kennedy, held in concurring opinion that retroactive application of the Act violated the Due Process Clause. [Eastern Enterprises, slip op. at 1-7 (Kennedy, J., concurring and dissenting in part)].

In reaching its conclusion, the plurality grappled with the ripeness issue of whether a litigant, such as the petitioner in this case, is barred from seeking equitable relief in federal district courts. The Tucker Act confers exclusive jurisdiction on the Court of Federal Claims to hear claims for compensation under the Takings Clause of the fifth amendment, and it was argued, much like critics of this bill, that a claim for equitable or other relief under the Takings Clause is hypothetical until compensation is first determined by a court. The Supreme Court noted that the Court of Appeals, the various courts of appeals, were divided on the issue and that the Supreme Court's precedents were seemingly contradictory. [Eastern Enterprises, slip op. at 19 (plurality opinion of O'Connor, J.)].

For instance, the Supreme Court in *First Evangelical Lutheran Church of Glendale* v. *County of Los Angeles*, 482 U.S. 304, 314 (1987), observed that "the fifth amendment does not prohibit the taking of private property, but instead places a condition [just compensation] on the exercise of that power." Yet in *Duke Power Company* v. *Carolina Environmental Study Group, Inc.*, 438 U.S. 59, 70 n. 15 (1978), the Supreme Court held that a district court may exercise jurisdiction over declaratory judgment actions pursuant to a Takings Clause claim, even when no attempt to seek compensatory relief has been made in the Court of Federal Claims.

Significantly, the Eastern Enterprises plurality noted that the Supreme Court had granted equitable relief without discussing the applicability of the Tucker Act, and, thus, decided the issue sub silento that an unconstitutional taking could occur without a determination of compensation. [Eastern Enterprises, slip op. at 19-20 (plurality opinion of O'Connor, J.), citing *Babbitt* v. *Youpee*, 519 U.S. 234, 243-245 (1997); *Concrete Pipe & Products of Cal.* v. *Construction Laborers Pension Trust for Southern Cal.*, 508 U.S. 602, 641-647 (1993); *Hodel* v. *Irving*, 481 U.S. 704, 716-718 (1987)].

Based on the foregoing, I believe that a federal court may decide takings issues before compensation is ascertained. Indeed, the Court of Appeals for the Second Circuit in *In re Chateaugay Corp.*, 53 F. 3d 478, 492 (2d Cir. 1995), characterized the contrary language in First Evangelical Lutheran Church, mentioned above, as obiter dicta.

Finally, I want to note that federal courts have more than adequate experience in the appraisal of value as the many takings and inverse condemnation claims heard by these courts demonstrate. Consequently, federal courts, as well as state courts, are appropriate forums to determine compensation. Indeed, this was the intent of the framers and ratifiers of the fifth and fourteenth Amendments.

In conclusion, let me point out that James Madison, in his celebrated Essay on Property, wrote that the very purpose of government is to protect private property.

Madison's own words in Essay on Property:

> Government is instituted to protect property of every sort . . . this being the end of government. That alone is a just government, which impartially secures to every man whatever is his own.

Let me also point out the admonition of John Adams, who, in his Defense of the Constitutions of Government, cautions that:

> The moment the idea is admitted into a society that property is not as sacred as the laws of God, and there is not force of law and public justice to protect it, anarchy and tyranny commence.

That is John Adams' Defense of the Constitutions of Government.

Mr. President, let us heed the advice and warnings of the wise Founders of this Republic. It is the duty of Congress to assure that the constitutional rights of all Americans are protected. This is especially true when, as here, the courts fail to do their job of safeguarding constitutional rights. In such a situation, Congress must step to the plate.

With passage of this bill, Congress will have hit a home run. The right to own and possess property will have been vindicated. Fairness to property owners will have been guaranteed by resolving the egregious delays and costs associated with the ripeness issue. Property owners will have been afforded fair access to the federal courts to vindicate their constitutional rights. Justice will no longer have been delayed nor denied.

I urge my colleagues to support this worthwhile measure.

The PRESIDING OFFICER (Ms. COLLINS). The Senator from Vermont is recognized.

Mr. LEAHY. Madam President, good to see a fellow Mainer. I was so intent and engrossed by the discussion of the senior Senator from Utah, I did not notice who was in the chair.

What is the parliamentary situation?

The PRESIDING OFFICER. The Senate is debating a motion to proceed to Senate bill 2271. The cloture vote will occur at 5:45 p.m. Time is divided equally between now and then.

Mr. LEAHY. How much time is due to the Senator from Vermont?

The PRESIDING OFFICER. The Senator from Vermont has 100 minutes remaining.

Mr. LEAHY. I thank the Chair.

Madam President, I am amazed on this issue. I look at the schedule set by the distinguished Speaker of the House, and we have so very few legislative days remaining that now we have this as a top priority—a bill to strip zoning and land use decisions from small towns and cities and counties—instead of passing important funding bills.

I do know the law requires us to have a budget by April 15; it also requires us to file our taxes bill April 15—we demand every person in the country do that. But it seems that the majority of the Republican leadership did not find it in their heart to obey their own law to pass the budget by that time.

I am not sure we have passed the budget. We passed one in the Senate; the House, months later, passed one; I don't believe it has been conferenced.

Anyway, these are things we cannot seem to find time to do, that the law requires us to do. The law requires us to file our income tax returns. The law requires the House and Senate to pass a budget by April 15. But the other body, at least, never got around to doing that.

We weren't able to find time to pass a tobacco bill, so there is not one that might be different from exactly what the tobacco companies want. We certainly haven't found time to pass legislation to increase patients' rights. We found it impossible to find time to pass legislation on campaign financing. But now we seem to be looking for the time to consider a bill that will take power away from State and local government. That power that we take from State and local government will go to the Federal courts.

This is the same U.S. Senate, Madam President, which has found it difficult to perform its constitutional duty to fill the scores of vacancies in the same Federal courts. On the one hand, we are saying we will not fill the vacancies; we will leave 75 to 100 vacancies in the Federal court. The U.S. Senate can't find time to confirm the people who are pending, like Sonia Sotomayor and others. But we have time to say we don't care what the States think in their courts. We don't care what counties and municipalities think in their courts. We will take their power away from them and dump them in the Federal court. Now, we are not going to have enough judges in the Federal court to handle the cases, because we will give the Federal courts a whole lot of jurisdiction they never asked for and don't want, in an unprecedented—unprecedented—exercise in antifederalism and unprecedented exercise of the Federal Government reaching into the States and stripping away their power and dumping into a Federal court. That is what we are spending our time on.

Maybe I made a mistake in reading some of the rhetoric that went with the Contract on America that my good friends on the other side of the aisle proposed which talked about giving power back to the States, back to the communities. They said: We have to get the Federal Government off your back. And yet now we have a piece of legislation which says: Whoops, we are going to take all your power away from you and give it to the Federal courts. Well, well, well.

This is a bill that would federalize local zoning decisions. This is a bill which goes against everything that the Republican Party has said they stood for, certainly everything that the people in my State, Republicans and Democrats, stand for, and that is giving power to local people. This goes against it. Why? Because its unabashed purpose is to give wealthy developers increased power to short-circuit communities' decisions, those decisions made through the public processes of local government.

Basically, what this is, it is a bill to instill the golden rule, saying, if you have got the gold, you are going to make the rules. That is basically what it is. If you have got plenty of money, don't worry about pesky little things like a State court or zoning court or the things a community has a stake in; ignore those, because you can make your decision from your corporate headquarters 2,000 miles away, and you could care less what the people of Bar Harbor, ME, or Burlington, VT, might think because you have got the money and you have got the bill.

S. 2271, the so-called Private Property Rights Implementation Act, will give developers greater access to Federal courts and less accountability to local governments than any other citizens have. In fact, this legislation elevates the rights of property owners above other constitutional rights, such as civil rights. It goes back almost to a time when we were forming this country where they said: If you have a lot of property, you should be the only ones with rights; you should have the votes; you should make the laws if you have a lot of property and a lot of money. And we said, no, no, no, no, we had a little matter of fighting the Revolution so that wouldn't happen. We call it democracy—not anarchy, not monarchy, but democracy.

I have received letters from Governors, State attorneys general, and county commissioners opposing this assault on local decisionmaking.

In fact, the National Association of Counties passed a resolution opposing this effort, stating that these types of decisions are best made at the local level with ample opportunity for all parties to seek nonjudicial solutions.

Then the National Conference of State Legislatures recently said, "The only certain result would be an additional centralization of power in an unelected Federal judiciary at the expense of the States."

The National League of Cities and the U.S. Conference of Mayors are also concerned that this effort would lead to significant property tax increases. Mayor Giuliani, Republican mayor of New York, is worried about the unfunded mandates in the bill. He said, "It remains to be seen where the resources will come from to pay for these added burdens . . . on local governments that would have to defend themselves in these proceedings."

The Justice Department advises us that this effort will interfere with local governments' ability to have a say in how close garbage dumps, liquor stores, adult bookstores and noisy industrial plants can be to schools, homes, and churches. What it says is, if your town doesn't want a porno shop next to your church or your school, the developer could say, "We are going to put it there, and you don't even have a say in it anymore. We are going into Federal court."

The National Association of Towns and Townships, representing 11,000 local governments and many tens of thousands of local elected officials—Republicans and Democrats alike—stresses that the bill "would involve Federal courts in those disputes well before local governments and landowners have had the opportunity to fully consider the range of development alternatives . . . . Clearly, communities want to keep factories away from residential areas and adult stores away from schools." I hope so. I hope the U.S. Senate would not pass a bill to make it easier for porno shops to go next to grade schools or churches.

Mayor Giuliani calls these measures a fundamental intrusion upon his city's authority over local land use decisions, and he has written to me opposing this bill in the strongest terms. A recent Washington Post article described his efforts to eradicate strip clubs, X-rated video stores, and peep shows in the Times Square area. Make no mistake about it. If you vote for this bill, you are voting for a bill that would be a roadblock to those efforts.

The contradictions presented by this bill are startling. Instead of trusting local mayors, councils, planning and zoning commissioners, and Governors to know what is best for its citizens, this bill short-circuits the local process and it turns local land use disputes into Federal cases. I point out that the mayor of New York City is better equipped to handle the legal expenses this bill would impose than are countless small towns I could mention in Vermont or other States, including my own small town of Middlesex, VT. But even New York City—with many, many times the population and wealth of my State of Vermont—says the burden this bill would impose would be onerous.

Can you imagine—whether it is a town of 500, or 1,000, or 2,000—the little town of Strafford, VT, which I had the privilege to visit on the Fourth of July, has just a few hundred people. One of them was Senator Morrill, a former Senator—Senator Morrill of the 19th century, one of the longest serving Senators from Vermont—that was his homestead and his home—who came out of that little town having some sense of education and the need for education in small States and small towns, began the Land Grant Act. Look what we have benefited by that—every State in this Union. But that little town would be totally wiped out if somebody wanted to come in and destroy their whole character and say, "You can't do anything to stop us."

The mayors have told me the chilling effect the bill would have on their entire planning process by the specter of paying takings damages and attorney fees to developers, merely because a Federal judge sitting in a court somewhere distant disagrees with the wisdom of a particular use policy that would result in a wholesale retreat for local zoning decisions.

As Mayor Larry Curtis of Ames, IA, testified before the Judiciary Committee, "You only have to look at budgets of our small towns to see how

S. 2271 would be tipping the scales of justice in favor of wealthy developers."

The top four developers in the United States have annual revenues in excess of $1 billion per year. Just four developers represent over $1 billion a year in revenues. Most of our small towns generate less than $10 million a year, and some way less than $10 million a year, in tax revenues. Ninety-percent of cities and towns in America have less than 10,000 people. They couldn't hire a lawyer to fight a well-entrenched developer. Of course not.

In my State, with a median community of around 2,500 people—my own community of Middlesex, VT, has 1,500 people—you can see these towns need their revenues to pay for police officers, teachers, safer streets and schools, and not spend the time in Federal court fighting huge developers. How can we expect small towns to protect the rights of their residents against a $1 billion developer who can hire all the lawyers they want? I would rather be paying that money for teachers, or nurses, or police officers, and for the protection of our communities. But, unfortunately, the House of Representatives has already made the decision that we will take power away from the States, we will take power away from our communities, we will give that power to major developers, who may be, coincidentally, major contributors to political action committees. They will take the power away from our towns and our cities.

How that flies in the face of the rhetoric when they talk about giving power back to our communities. But it is now the responsibility of the Senate to step through with some common sense to safeguard the jurisdiction of the budgets of our towns from a barrage of lawsuits, from special interests, and allow them to focus on community needs.

By giving land speculators and developers this huge new club to wield in their dealings with local officials, this bill would also remove the public from what should be a democratic process to decide what goes on in our communities' backyards. In Vermont, we have been fighting our own backyard battles over the last year—battles against the towers on the hillsides of our Green Mountains. One of our primary tools to protect Vermont from being turned into some kind of a giant pincushion with 200-foot towers indiscriminately sprouting up on every mountain and valley, within the protections of our own State law, Act 250 has become basically the anti-pincushion law. It has resolved over 15,000 cases, and it has been done with local people and with our own sense of our State and our own people making the decision, not some out-of-State fat-cat corporation. And the resolutions of these cases have been instrumental in retaining the character and natural resources and the heritage of my native State of Vermont—the heritage that makes it unique.

S. 2271 would have allowed developers to drag each and every one of those 15,000 cases into Federal court instead of allowing the people of Vermont to make the decisions. It might have been people from a huge corporation in Houston, or California, or somewhere else, against the people of Vermont. As the former State's attorney in Vermont, I cannot imagine having to fight this many legal battles on an annual State budget of less than $10 million, which is for fighting all of the State's legal battles.

This legislation will allow developers to avoid local and State authority to drag local communities into Federal court, where they won't even have the resources and where they might as well give up and say: Here are our choices. We could protect the people of our community, we could protect the people of our State, we could protect our heritage, we could do what the people of the State want us to do, but in even trying to do it, we face the risk of bankrupting the town or the State. So we want to protect your heritage. We want to protect the reasons you live here, but we can't bankrupt you, and we are just going to have to surrender.

Why have we lost all the power in our local communities? Why have we lost the power of our States to stand up for the interests of our people, and the power of our communities to stand up for the interests of their people? Because the people in Washington, DC, in the House and Senate, were more interested in the needs and whims of a few fat-cat developers. They sold away our rights and our interests. They sold away our heritage. They sold away what makes our communities what they are.

Now, Madam President, I have spoken many times on the floor of the Senate on how I feel about my own State of Vermont. I have heard the Presiding Officer speak of the pride in her own State of Maine, one of the most beautiful States in this country. Each of our States is different. I kind of like it that way. But when we go home as Senators, every one of us has to feel the tug of our State and the feel of being there.

When I left my farmhouse in Middlesex, VT, this morning, I drove down the dirt road. Mist was coming out of the fields, a deer had just run across one of the fields, and the sun was shining. The sun rose on Mt. Ellen. I drove down along the Winooski River heading to the airport. It was so beautiful. A farmer was out tilling the field. I saw a hawk flying over one of the fields. My wife pointed to a place she likes the most as we drove along. It is a little spot, a tiny pond alongside the road, in an area that has been kept open for agriculture and recreation. The people in the community decided not to develop it, even though it would be prime development land. She said, "Let's see if it is there." And it was. There is almost always a great blue heron standing in there. We can almost count on it in the morning as we head to the airport and drive up French Hill and come over the top and see the Champlain Valley and Burlington, and our really nice lake, Lake Champlain is out there. And I thought: How beautiful this is.

There are parts of the State I remember from when I was a child, and that is part of it. My father used to tell me that most of the mountains were open land and fields throughout at different times of our history. Now most of them are forests. Some of the areas had been farmland and are now developed. But it was done carefully, in the way we wanted it to be done in Vermont. Our Act 250 was put through the legislature by a conservative Republican Governor, Dean Davis. But, like me, he was a native Vermonter who wanted to keep the best of our State.

Has it worked perfectly in every case? Probably not. I am sure we could look back where something might have been done slightly differently, but for the vast majority of cases it has worked so well, and Vermont is a better place to live and a more beautiful State as a result. But we made our choices.

Now some out-of-State, wealthy developer might say to us, "But if you had only let us come in here, if you had knocked out that pond where that great blue heron is—who knows, maybe one in a hundred cars go by—we could have put a building there, and you would have had tax revenues from it. You may even have had some jobs."

You know, they are probably right. It probably might have even increased the per-capita income of our State. But do you know what, Madam President? The people of Vermont said that the beauty of that area is more valuable to us. And shouldn't we make that decision?

Now, every year, we have some developer from out of State who will come in and look at these magnificent views—views that we have preserved, sometimes at great sacrifices, as Vermonters, we have preserved. They come in and say, "Oh, if we can just develop here, we will make millions for you and we will make even more millions for us. Someday you are going to be gone anyway, so what difference does it make?" We say, "No; we kind of like it this way."

I think of the home that I have in Vermont. My parents bought it 41 years ago this summer. They bought it as a summer place. We have turned it into a year-round home. There is a field on it. This field has one of the prettiest views in central Vermont. It looks at Camel's Hump and at Mt. Ellen, and it is gorgeous.

About 3 weeks after my father bought the whole place, with a couple hundred acres, back in the late fifties, a man called him up and said, "I would like to buy that field. I understand there is about 8 or 10 acres there out of the 200 that you bought." Dad said, "That's right." He said, "I will offer you for that field what you paid for the whole farm." My father said he wasn't interested. The man kept calling back every week, and the amount went up and up and up. He finally offered my father many, many times what he paid for the whole 200 acres for that 8 to 10 acres. And dad said, "I won't sell." He said, I guess to impress my father—and my mother and father had a small printing business in Montpelier—he said, "I will come up there in my private plane, and I will offer you enough money that you will sell." And dad said, "I would hate to have you waste the time. I am not going to sell." He said, "Well, why won't you?" And my father made a comment that was actually prophetic because my wife and I do the same thing today. He said, "Every so often we like walking up that field around sunset time and we like looking out there and seeing the Sun set." And he said to my dad, "If that's all you want, sell it to me and you can come there and watch the Sun set anytime you want." My father said, "No. It wouldn't be the same."

Now, we take that attitude about many things in Vermont, Madam President. Somebody will say, "Well, if we put up this huge tower or this bowl, it would improve your ability to get Baywatch" or whatever else the 12 channels on which 12 different folks will tell you if you send contributions to them, they have a direct line to God and will get you a blessing, or a blessing bigger than money. And we say, "No, we kind of like it the way it is."

But we make that decision. And then an out-of-State telecommunications company can't come in and say, "Oh, we are going to set you aside and we will go in there," because they are trying to do that under the Telecommunications Act now. Or somebody says, "If we put this factory outlet right here, you know, if people come to see this great view here and they see the factory outlet, they will go down there." And we say, "No, we kind of like the view the way it is."

Just as years ago Vermont became the first State to ban billboards along its highways. Everybody said, "Oh, my God. Your tourism will disappear; your businesses will disappear. You will become an economic wasteland." You know what happened. Tourism skyrocketed up because people kind of liked seeing the views and not seeing the billboards. But we made that decision. Under this law, the billboard company could come in and say, "You can't make that decision because we are just going to come through and we are going to take over."

Now, I know there are examples of citizens who want to develop their land and should have been allowed to develop it without pushing cases through the courts for years, but the U.S. Supreme Court has decided some recent cases in favor of landowners saying you have to make your decision. You can't tie it up forever. You do have to make your decision.

And that is fine. That is the way case law develops, and we make our decisions accordingly. But it does not justify rewriting Federal law to encourage developers to sue local governments for local zoning decisions. It does not justify a bill that will allow the filing of thousands of suits to prevent local governments from zoning out gas stations or incinerators or a 20-story building next to your house.

We need only to look at the list of actual takings claims that confront local governments to see what is wrong with this bill. In Tampa, FL, and Mobile, AL, officials were sued when they tried to restrict topless dancing bars. A chemical company challenged a Guilford County, NC, denial of a permit to operate a hazardous waste facility. The county said, "We don't really want your hazardous waste facility." They took them to court. A landfill operator contested a county's health and safety ordinance prohibiting the construction of additional landfills, even though people worried about their water supply. An outdoor advertising company challenged a Durham, NC, ordinance that limited the number of billboards in order to preserve the character of the city. A gravel mine operation challenged a Hempstead, NY, ordinance prohibiting excavation within 2 feet of the groundwater table that supplied water for the town.

I know how I would feel if I was a parent living in that town and my children were drinking that water.

An essential part of land use policy is weighing one resident's concern over another to arrive at a decision in the community interest. We need to balance the rights of property owners with those of others in the same community.

Remember that all of us live downstream, downwind, or next door to property where pollution or unsuitable activities can harm our health or our safety or our property values.

This new challenge to local government is more dangerous than the legislation we defeated last Congress. Take a look at the groups opposing this legislation. These are the groups in opposition. Every major State and local government organization opposes this bill: National Governors' Association; National Association of Counties; National League of Cities; U.S. Conference of Mayors; National Association of Town and Townships; National Conference of State Legislatures; the Judicial Conference of the United States; religious organizations: United States Catholic Conference; National Council of Churches of Christ; Religious Action Center for Reform Judaism; Evangelicals for Social Action; the League of Women Voters; Alliance for Justice; Physicians for Social Responsibility; National Trust for Historic Preservation; National Wildlife Federation; League of Conservation Voters; the Sierra Club; the National Environmental Trust, and on and on and on and on.

Every major conservation group opposes this bill. Civil rights groups, religious groups, labor groups, public interest groups, preservation groups, all oppose this bill.

Let's not overlook the threat to our court system when we are looking at the threat to our State and local government. As I said earlier, S. 2271 could significantly boost the workload of our already overburdened Federal court system. By making a Federal case out of local zoning decisions, we are going to rush zoning decisions into the Federal court before the local public process has even had a chance to work out some kind of alternative the community might want. Instead of allowing our communities to try to work it out themselves, we say, whoops, it is out of your hands entirely; we are going to turn it over to a Federal judge.

And think of the cost of dramatically increasing the workload of Federal courts. It is going to cause a lot greater delay in existing Federal court workload, even if the Senate did do its duty and confirm those dozens and dozens and dozens and dozens of judges waiting confirmation. And, of course, that is why the Judicial Conference of the United States, the Conference of Chief Justices, and 38 State attorneys general all oppose this bill.

The contradictions presented by this bill, contradicting what the majority leadership of this Senate says they want, are amazing. The legislation turns the goal of increasing local jurisdiction and decisionmaking on its head. It seems to abandon the respect for local decisions that so many in this body espoused during the takings debate during the 104th Congress.

Statements were made just last year—is our memory so short as Senators that we forget that last year statements were made that legislation should only apply to the Federal Government and not impact State or local zoning laws? This legislation directly threatens local authority.

Another seemingly obvious contradiction this legislation offers is to the "judicial activism" rallying cry of some in the matter of judicial appointments—just a matter of how selective some of those same people can be about judicial activism unless, of course, we think they might act on behalf of our supporters.

Rebutting their own criticism of activist judges, this bill will encourage judges to intervene in problems that belong in legislatures or city councils.

So with all of these contradictions and with the overwhelming opposition to this dangerous legislation, why is Congress considering such sweeping changes to the balance of power between local officials and developers?

That is a question being asked of us across the country. The Manchester, NH, Union Leader, not considered the most liberal newspaper in America—in fact, usually considered the most conservative—posed that question to the House when it took up the bill, when they said this bill is a "conservative flip-flop," and they said "let's not federalize local zoning disputes."

They thought, and they said it is ". . . a good guess that this bill will die quietly in the Senate, enabling House conservatives to tell their backers we 'gave it our best shot.' "

Well, there they go again, because now we are wasting valuable floor time on a bill the President has pledged to veto. This legislative proposal is unwarranted. It is unwise. We have to do a lot better for our local towns and communities and for local homeowners.

I have a statement of administration policy and a letter. I ask unanimous consent to have those printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT OF ADMINISTRATION POLICY

S. 2271—PROPERTY RIGHTS IMPLEMENTATION ACT OF 1998

The Administration strongly opposes S. 2271 because it would shift authority over local land use issues away from local communities and State courts to Federal courts. The bill would subject local communities to the threat of premature, expensive Federal court litigation that would favor wealthy developers over neighboring property owners and the community at large. The President will veto S. 2271 or any similar legislation.

S. 2271 would harm neighboring property owners, weaken local public health and environmental protections, and diminish the quality of life by undermining local land use planning. Through radical changes to the existing legal doctrine of ripeness, the bill would give developers inappropriate leverage in their dealings with local officials by making it easier to sue local communities far earlier in the land use planning process. S. 2271 also purports to allow takings claimants to circumvent State courts altogether.

The bill would violate constitutional limits on congressional power if read, as its supporters intend, to allow for a ruling that an uncompensated taking has occurred even where the claimant fails to pursue available State compensation remedies. The bill also would prohibit Federal courts from "abstaining" or deferring to State courts on certain delicate issues of State law. It would lead to poorly informed decisions by allowing claimants to bring claims in Federal courts without an adequate factual record, the very claims that the courts themselves have said are unripe for resolution.

S. 2271 would empower the U.S. Court of Federal Claims to invalidate Federal statutes and rules and grant other injunctive relief in a broad category of cases. This grant of authority to a non-Article III court raises a host of serious constitutional and policy concerns.

The bill provides that, by including a property rights claim, any litigant against the United States could ensure that the entire case would be reviewed on appeal by the U.S. Court of Appeals for the Federal Circuit, an approach that would promote inappropriate forum-shopping. This would dramatically increase the legal influence of the Federal Circuit at the expense of other circuits, thereby disrupting settled interpretations of important areas of the law.

S. 2271 also could override the "preclusive review" provisions found in many Federal statutes, including major environmental laws. These provisions allow for the swift and orderly resolution of challenges to Federal actions. S. 2271 would deprive affected businesses and the public of the regulatory stability needed to plan their actions.

NATIONAL GOVERNORS' ASSOCIATION,
NATIONAL ASSOCIATION OF COUNTIES, NATIONAL CONFERENCE OF STATE LEGISLATURES, NATIONAL LEAGUE OF CITIES, UNITED STATES CONFERENCE OF MAYORS,
July 10, 1998.

TO ALL SENATORS: On behalf of the nation's governors, state legislators, and local elected officials, we are writing to express our strong opposition to S. 2271, the "Private Property Rights Implementation Act of 1998." We believe the proposed legislation, including the proposed technical amendments, would fundamentally interfere with and preempt the traditional and historic rights and responsibilities of state and local governments and would mandate significant new, unfunded costs for all state and local taxpayers.

State and local elected officials are as deeply committed to protecting private property rights as are members of Congress. A review of the most recent proposed revisions to the legislation makes clear that those changes do not address our fundamental problems with the bill. We continue to believe that S. 2271 goes far beyond its stated objectives.

If passed, the bill would undermine state and local government authority over land use and regulatory decisions by allowing developers and property owners to take their grievances directly to federal court, circumventing legal remedies at the state and local level. Such an "end run" around the processes established by our state laws runs counter to the foundations of federalism that this Congress purports to endorse. The bill preempts the traditional system for resolving local zoning, land use, and regulatory disputes; it creates a disincentive for developers to negotiate with localities in order to reach mutually agreeable solutions; and it puts federal judges in the position of micromanaging purely local affairs. We believe that large-scale developers will use the expedited access to federal courts under S. 2271 as a "club" to intimidate local officials who are charged with acting in the best interests of the community as a whole.

The framers of the Constitution never intended federal courts to be the first resort in resolving community disputes between local governments and private parties. In our view, these issues should be settled locally, as close to the affected community as possible. S. 2271 violates our cherished principles of federalism and state and local sovereignty. We urge you to oppose floor action on S. 2271.

Sincerely,

GOVERNOR GEORGE V. VOINOVICH,
Chairman, National Governors' Association.
SENATOR RICHARD FINAN,
President, Ohio Senate, President, National Conference of State Legislatures.
COMMISSIONER RANDY JOHNSON,
Hennepin County, Minnesota, President, National Association of Counties.
MAYOR DEEDEE CORRADINI,
Salt Lake City, Utah, President, U.S. Conference of Mayors.
COUNCIL MEMBER BRIAN O'NEILL,
City of Philadelphia, President, National League of Cities.

Mr. LEAHY. Madam President, I have some other items, but I see the very distinguished Senator from Louisiana on the floor, and I do not see others seeking recognition. I will yield to my colleague and friend from Louisiana, but before I do that, how much time remains?

The PRESIDING OFFICER. The Senator has 65 minutes remaining on his side.

Mr. LEAHY. I understand the Senator from Louisiana wanted time from Senator HATCH. If we could wait just one more moment for him to come back?

But while we are waiting for Senator HATCH to come back, let me just take a moment to offer what is really an example of the profits this bill will give to developers and the downfall it will be to homeowner rights.

One thing I heard from every mayor and local official about this bill is the fear of battles with large corporate developers with deep pockets. Instead of waging these battles, most mayors concede they will probably settle the cases and give in to the developers. It will be a field day for land speculators who buy land zoned for, let's say, farming and then sue in Federal court to have the land rezoned for commercial or residential purposes, because now they suddenly change their mind the day after buying it and say they no longer want to be farmers; they just want to make millions as developers.

One Senate staffer who works on this issue came across a timely example. He was visiting his boyhood hometown in Cortland County, NY, over the Fourth of July weekend. He told me about a pertinent situation.

A farm adjacent to about 25 homes on a small lake, Little York Lake, was recently sold for $2,000 per acre for a total of $65,000. A speculator bought the land which he wants to now sell for $30,000 per acre to make a quick profit of around $1 million. To do that, he has to evade local zoning and health requirements. The speculator knows the land, sold as farmland, is worth about

$2,000 per acre. But if you sell it for residential or business development, it could be worth 15 times more. But, of course, it would greatly reduce the property values of neighboring homeowners living in the community. They would be hurt by it, but one speculator would benefit if he is able to change the rules.

The persons who sold the land to the speculator might have wished they had thought about just avoiding local land-use regulations. They could have made a whole lot of money if they did it themselves, but they didn't want to. They wanted to obey the rules.

This bill would allow the speculator to get into Federal court. It would certainly be futile for him to apply for construction permits for business, since the land is not zoned for that use. So why bother to work with the local governing body? Why bother to find a solution that might be acceptable to everybody? Instead, under the bill he could just sue them for taking the hoped-for profits or have his attorney make them change their zoning requirements. Incidentally, the land is located on the aquifer that provides the water for the community.

Well, Madam President, I don't want to see this example replicated across the country. Fighting for the Department of Agriculture programs to help conserve our Nation's farmland, I don't want to say we passed S. 2271, which throws that out.

Madam President, I understand that Senator HATCH has said if I want to yield time to the Senator from Louisiana—how much time would my friend like?

Ms. LANDRIEU. I would like 15 minutes.

Mr. LEAHY. I yield 15 minutes of the time of the distinguished Senator from Utah to the distinguished Senator from Louisiana.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Ms. LANDRIEU. Madam President, I have not often found myself at odds with my distinguished colleague from Vermont whom I have come to respect and admire a great deal in every aspect of his work. But I do rise in support of this bill, in opposition to the comments made by the distinguished Senator from Vermont.

I will, however, agree with him on one point, and that is we most certainly need to have our positions in our Federal courts filled in a timely manner. This is not the only issue in our country that needs attention. This is not the only issue where people, individuals and parties, are aggrieved and need their grievances remedied in a timely manner. So I do join him and thank him for his valiant efforts to try to get the nominations of many qualified individuals, nominated for our Federal bench, certified and voted on so that these matters can be handled in a more timely fashion.

But I am pleased to rise in support of S. 2271, to join my distinguished colleagues from Utah and Georgia. The reason I rise to support this bill is because this is about fairness. It is about access to justice for the rich and for the poor, for people who have a lot of property, for people who have little property. In fact, this is a bill for people who don't own any property yet, but one day hope or dream or have planned or have saved, or perhaps inherit some property, perhaps the first ever owned in generations in their family, from having their rights of ownership trampled on. It is what I think the Democratic Party is about. It is why I am a Democrat. It is about the fundamental principles that the Democratic Party of which I am so proud stands for, and which I have spent, as have many on our side, a great deal of our lives and our political careers—fighting for the principles of these cornerstones of fairness and justice.

I know my distinguished colleague pointed out corporate America. I am not sure exactly this is the picture he had in mind, because this is a picture, here, of Ann and Richard Reahard from Lee County, FL. I don't—perhaps he does, but I don't—see a corporate headquarters here in this picture or cell phones or limousines or Christian Dior suits. I just see two people who look like they love each other and have worked hard. They inherited 40 acres of land in Florida.

I will not go through all the heartache that is listed here, but the point is, this is not corporate America. These are two people from Florida who inherited some land, and because of the lack of clearness in this law, in this unconstitutional law, have literally lived a nightmare since 1984, even with the most reasonable suggestions made to this county about what to do to develop their property.

But the point is, this is not about the rich. This is, in fact, about the poor and the rich, and about people who have property and people who one day hope to. This bill is not just important because it promotes these worthy goals. It is important because it provides practical relief for the small landowners of Louisiana and across the country.

Opponents of this legislation assert that the bill will only help large developers and will put small localities at a disadvantage. To view S. 2271 that way is to actually put this situation on its head. Large land developers do not need our help to enforce their rights. They are the only plaintiffs that can actually afford to go all the way through the State court and then to Federal court, because under the current situation, you need to have plenty money, plenty time and plenty patience.

Even so, large developers are not likely to be the people bringing these cases. If you are a development corporation with a half dozen projects in a certain area, what sense does it make for you to aggravate the local authorities by challenging their decision in Federal court? None, because it makes no sense.

This bill is not about corporate America, large landowners, rich lawyers. Its much more likely scenario is a large developer will use its economic power and leverage to sail through the approval process, as complicated as it is, free from any trouble from local authorities, and they often do. The people who need this bill are private landowners, small business persons, small landowners who don't have a lot of money, who don't have economic clout, who can't hire a 100-person law firm to defend their rights in court and who don't have the resources that are at the disposal of some of our large developers.

If your greatest asset is your home—and that is the greatest asset of the vast majority of people in our country who own nothing else; if they own something, they own their home and their land—they simply don't have the resources necessary to defend their constitutional rights against a local, State or Federal agency determined to delay and wait out your court claim.

That is why I assert that this bill is about fairness. We change no substantive law under the fifth amendment. You have the same rights today as you will have when this bill passes. They will, however, be more clear. The change occurs with respect to the process by which you can enforce those rights. As it stands now, if I am a small property owner and I believe my land has been taken, I will be forced into a morass of administrative and legal procedures which studies show will take on the average of 9½ years.

Let me repeat that: 9½ years to be resolved; not 3 months, not 6 months, not 2 years. There are not too many people who can afford an attorney for several months, let alone for 9 years. If you are a multimillion-dollar development corporation, you can afford to wait, but if you are a family building a business for the first time or building your first family home, you will be financially ruined in that amount of time.

Which brings us to the second principle upheld by this legislation: access to justice. A 1997 study by Linowes and Blocher showed that even if you had spent the necessary time and money to go to local hearings and State court, in 81 percent of the cases brought to Federal court, the judges will still decline to hear the case on procedural grounds. In 81 percent of the cases they are being declined, not on the merits or the substance of their claim, but on procedural cases because the laws are so unclear in the jurisprudence, and that is what we are hoping to remedy today.

Essentially, property owners have a constitutional right which they have no practical way of exercising.

Everyone, Madam President, is entitled to their day in court. I strongly support access to the courts for environmental concerns. I support municipalities who use the courts to enforce their zoning ordinances. But it would be hypocritical of me, I say to my colleagues, to turn my back on the other side of the argument and allow property owners to go without any remedy for their legitimate complaints.

Small property owners and large municipal governments, county governments and State governments—everyone—needs to have their day in court, and that is what this bill does, nothing more, nothing less.

The central principle which underlies this bill is that we do not have a two-tiered system of constitutional rights. Chief Justice Rehnquist stated that the fifth amendment should not be the forgotten stepchild of the Bill of Rights. However, that is precisely the situation we confront.

Under the fifth amendment, it states that private property shall not be taken for a public purpose without just compensation. To repeat: The fifth amendment says that private property shall not be taken for public use without a just compensation.

Nevertheless, we have inadvertently, I believe, constructed a system which precludes the vast majority of people from ever seeing the inside of a Federal court to defend their rights and to give meaning to these words. They are actually useless without proper procedures to allow someone to state their claim.

The free enjoyment of property is not only enshrined in the Constitution, it was one of the core motivations of our American Revolution. The difficulty is that while we have created a national right, the essence of land use and decisions are local, as they should be. For that reason, we have worked very hard to craft a bill which addresses the problems of property owners while maintaining the local decisionmaking structures.

This bill does not affect—although the opponents have said it from day one—it does not affect local zoning. It grants no new rights. It preserves the authority of zoning boards and city councils. Specifically, I point to page 16, lines 1 through 4 that establish clearly in this bill that no one is entitled, when this bill passes, to challenge the authority of a local government to set local zoning ordinances as enabled by their State constitution or State laws or the laws of their territory. I want to be very clear, because the opponents have argued that this upsets local zoning laws, and it does not.

In short, this is no overarching bill which will change land use laws. Rather, we will provide a chance for people who have real grievances to get their day in court in a timely manner.

This bill, in fact, Madam President, reminds me a great deal of the IRS reform bill, which this body just passed 98 to 2. When you put all the cards in the hands of an administrative agency, you ensure abuse. That is what is occurring in these land use cases today.

If you had read the horror stories that I have, you would feel the same outrage that compelled this Chamber to pass the IRS reform bill nearly unanimously.

From my own State, let me just share one of these stories. Dean and Rita Beard of Lafitte broke ground 2 years ago. They began building their dream home. They put all their savings into it and picked out a spot that had been pastureland for more than 100 years. The Beards hoped to turn this property over to their children and their grandchildren.

What ensued, however, was their worst nightmare, as the Army Corps of Engineers put their dream on hold by taking 10 acres of land for mitigation projects due to projects elsewhere. Now the nearly completed home of the Beards, which they were ready to enter, sits as a monument to the failure of our land use process.

The Beards' attorney advises them it may be 10 years before this issue is resolved. They may have a case, they may have a claim, they may have been harmed, but it will take them 10 years because of the complications of when the administrative decision is final is not clear.

In the meantime, they have invested their life savings into an unusable home and every extra penny has gone towards lawyers. I doubt after 9 years they will have, considering their situation, any money left.

That, Madam President, is what this bill is trying to address. It is not going to say how the courts should rule, it is just to say that this family, who built their dream home in hopes of turning it over to their children and grandchildren, can get their day in court more quickly after exhausting their local remedies.

This bill is important to the Beards, it is important to my State, it is important to the implementation of our Constitution. I hope my colleagues will take a close look—I know this vote is going to be very close today—I hope that they will take a close look at what is actually in this bill to see past the outlandish rhetoric thrown about by its opponents.

Should this bill pass, it will not be a panacea to all the problems and regulations faced by landowners and the difficulties faced by municipalities in zoning. However, it will be a negotiating tool that property owners do not now have. And it will take a small step in the right direction. It is a modest step.

The PRESIDING OFFICER. The Senator's time has expired.

Ms. LANDRIEU. May I please have additional time as I may require, another 2 minutes?

Mr. LEAHY. Certainly, from Senator HATCH's time.

Ms. LANDRIEU. Thank you. Another 5 minutes.

So I urge my colleagues to support cloture so that we can get to the merits of this legislation and debate it, to give it a full debate, because it most certainly is necessary.

In closing, let me just say a few words. My distinguished colleague from Vermont painted a most beautiful picture of the way Vermont looks. I hope to get to see it for myself someday. I sure have seen it in pictures, and I want to take my children there. Now, myself, I have spent many days on the shores of Lake Pontchartrain and flying over the marshes of Louisiana, seeing the beautiful sunsets, and have spent time on the west coast and on the east coast. And just this past weekend I was at a beautiful place in Maryland. I am well aware, as all of our colleagues are, how beautiful this land is and how grateful we should be to God for the land that He has given us.

But I do not think there is anything really, Madam President, that is more beautiful than the Constitution of the United States, and particularly the Bill of Rights. And I just want to remind our colleagues of the beautiful words of the amendments, the 10 amendments that make up the Bill of Rights, of which this is one that we speak today—the freedom of speech, the freedom of the press, the right of people to peacefully assemble, the right of people to petition their Government for redress of grievances, the right to life, liberty, and property, due process of law, nor shall private property be taken for public use without just compensation.

These are beautiful words. And it is our job to make sure that these words have meaning, that they are not just written on a piece of paper to be talked about or referred to in speeches, but that they actually work. And that is what this bill is—a modest attempt to clarify something that most certainly needs clarification.

Let me quote from the Washington Post editorial that my distinguished colleague from Vermont also referred to, an editorial opposing this bill. It takes exceptions with this bill. Actually, when I read this article, I thought it was a great example or outlined the three points of why this bill should be passed. And I would like to quote:

> Current takings law is murky [the Washington Post says], but its murkiness strikes a useful balance, allowing government to implement zoning, environmental and other rules that can restrict the use of private property while still permitting compensation where that property is physically invaded or grievously devalued. That balance [it says] should not be altered [because it is murky].

Madam President, I do not think our constitutional rights should be murky. I do not think people in America think that our constitutional rights should be murky—the right of free speech, the right of free press, the right to own your own property. And if it is taken from you, and totally eliminated of its value, you should be compensated. And everyone in America has their right for their day in court. I do not believe, Madam President, that our rights should be murky.

I urge my colleagues to vote for cloture later this afternoon.

Thank you, Madam President, and I yield the balance of my time.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. I ask unanimous consent that the Sunday Washington Post editorial "Takings Exception" be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Washington Post, July 12, 1998]

TAKINGS EXCEPTION

For all their professed commitment to federalism, congressional Republicans frequently seem eager to pass laws dumping quintessentially local matters into federal courts. The latest such effort is the Property Rights Implementation Act of 1998, which the Senate is now poised to consider. A version of this bill was already passed by the House of Representatives; it was a bad idea then, and it's no better now.

The principal component of the proposal would give property owners quicker access to federal courts in their disputes with local governments over contrasts on the use of private land. The takings clause of the Fifth Amendment forbids governments to take private property without providing just compensation, and battles over such local matters as zoning sometimes erupt into takings clause litigation. Traditionally, federal courts have not deemed takings claims ripe for review until avenues for negotiation with local officials are exhausted and plaintiffs have first sought compensation from state courts. The federal judiciary also has sought to avoid interpreting questions of state law in takings cases. The Senate bill would change the rules of takings litigation, allowing property holders into federal court earlier in the process of negotiations with local officials. It also would curtail the abstention authority of the federal courts. It would, in other words, make federal cases out of a whole class of property fights now treated as local matters.

The other prong of the legislation would give those claimants who are suing the federal government a wider choice of venues in which to do battle than they now enjoy. Currently, those who feel their property rights are being infringed can sue in federal district court seeking to have the federal agency stopped, or they can sue in the Court of Federal Claims for compensation for an alleged taking. The current proposal would give both courts jurisdiction over both types of claim. This is an invitation for abusive venue-shopping by plaintiffs, and the Justice Department has warned that it also poses constitutional problems.

The department has said it will recommend that President Clinton veto this bill, and he should certainly do so if it passes. Current takings law is murky, but its murkiness strikes a useful balance, allowing government to implement zoning, environmental and other rules that can restrict the use of private property while still permitting compensation where that property is physically invaded or grievously devalued. That balance should not be altered.

Mr. LEAHY. I yield such time as the distinguished senior Senator from Rhode Island might need.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. CHAFEE. Thank you very much, Madam President.

I want to thank the distinguished senior Senator from Vermont for permitting me to proceed.

Madam President, I oppose the motion to proceed to consider S. 2271, the so-called Property Rights Implementation Act of 1998. I urge my colleagues to vote against cloture. Quite simply, S. 2271 is a bad bill and we should not be spending any further time on this legislation, in my judgment.

The bill would put Federal courts in the position of second-guessing local land management decisions. It would make it significantly more difficult for State and local governments to implement zoning restrictions, preserve neighborhoods, or protect environmentally sensitive areas.

Madam President, this bill is opposed by virtually every national organization representing State and local governments—the National Governors' Association, the National Association of Counties, the National League of Cities, the Conference of Mayors, the National Conference of State Legislatures, amongst others.

The Nation's largest environmental groups are also strongly opposed to this legislation. I might say, Madam President, if anybody wonders whether this is an environmental vote, it is. And I know that many around here say that the environmentalists are not very fair in their scoring. Well, here they have given clear notice that this is an item that resonates deeply with them. They are strongly opposed to this legislation, the environmental groups.

The administration is strongly opposed. The Attorney General and the Secretary of the Interior and the Administrator of the EPA and the Chairwoman of the Council on Environmental Quality—all of them oppose this.

Madam President, I do not know whether these letters have been put in the RECORD previously, but I would just like to read, if I might—I wish the Senator from Utah were here, but perhaps he will be back. But I am going to just read, if I might, a couple of these letters.

This is from the National Governors' Association, the National Association of Counties, the National Conference of State Legislatures, the National League of Cities, the United States Conference of Mayors. This is dated July 10, 1998. This isn't some old letter we dragged out; this is dated July 10—3 days ago.

To all Senators: On behalf of the nation's governors, state legislators, and local elected officials, we are writing to express our strong opposition to S. 2271, the "Private Property Rights Implementation Act of 1998." We believe the proposed legislation, including the proposed technical amendments, would fundamentally interfere with and preempt the traditional and historic rights and responsibilities of state and local governments and would mandate significant new unfunded costs for all state and local taxpayers.

State and local elected officials are as deeply committed to protecting private property rights as are members of Congress. A review of the most recent proposed revisions to the legislation—

Your legislation, I say to Senator HATCH. I thought you might be interested in what the Governors and others have to say about it. They say your most recent revisions:

. . . do not address our fundamental problems with the bill. We continue to believe that S. 2271 goes far beyond its stated objectives.

If passed, the bill would undermine state and local government authority over land use and regulatory decisions by allowing developers and property owners to take their grievances directly to federal court, circumventing legal remedies on the state and local level. Such an "end run" around the processes established by our state law runs counter to the foundations of federalism . . . The bill preempts the traditional systems for resolving local zoning, land use, and regulatory disputes; it creates a disincentive for developers to negotiate with localities in order to reach mutually agreeable solutions; and it puts federal judges . . .

Imagine this: the Federal Government, Federal judges, the very group we are so warned about frequently on this floor. And what is more, they are labeled frequently as activist Federal judges. Suddenly we are putting them in charge. I am shocked by this.

Mr. HATCH. Will the Senator yield?

Mr. CHAFEE. Let me finish and I will give you a chance.

I know the Senator from Utah is deeply concerned about these activist Federal judges. That is why I find it sort of out of character——

Mr. HATCH. If the Senator will yield, I will clarify.

Mr. CHAFEE. For him to want to turn these matters over from the locals to the activist Federal judges, to the courts. The framers of the Constitution never intended Federal courts to be the first resort in resolving community disputes between local governments and private parties.

This letter is signed by—well, who do we have here?—by the mayor of Salt Lake City.

Mr. HATCH. Will the Senator yield?

Mr. CHAFEE. Deedee Corradini, president of the U.S. Conference of Mayors.

Mr. HATCH. As a matter of personal privilege, since the Senator raises my mayor, if the Senator will yield for a question, is the Senator aware in S. 2271 we have solved all those problems? The original bill did not participate, in the eyes of some of the mayors, but S. 2271, is the Senator aware, affects only Federal claims being brought before Federal court; that State and local claims, claims based on State or local law, are not affected by S. 2271, which is fairly contrary to what the distinguished Senator has been saying here?

The fact that the constitutional claims can arise from the actions of local governments does not make them any less a Federal claim, any more than a violation of first amendment rights are Federal claims, whether it is a Federal or local official doing the violating.

Is the Senator aware of that?

Mr. CHAFEE. I believe it is my time, is it not, Madam President?

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Let me finish, if I might.

I have here a letter, dated July 10, as I was saying just before the Senator from Utah came in. This is not some musty letter I dragged out of the files from a couple of years ago. This was written 3 days ago.

In it, it says:

> We believe the proposed legislation, including the proposed technical amendments [i.e. those you have been referring to] would fundamentally interfere with the preemptive traditional and historic rights.

And who signed it? Well, Governor George Voinovich, chairman, National Governors' Association; Richard Finan, president, Ohio State Senate and president, National Conference of State Legislatures; Randy Johnson, president, National Association of Counties; Councilmember Brian O'Neill of Philadelphia, president, National League of Cities; and then, of course the mayor of Salt Lake City. Here is her signature, Deedee Corradini.

I am sure she is a very able, intelligent, and fine lady, and an excellent administrator. So she directs this to all Senators. I am sure the Senator has received a copy.

Now, Madam President, let me just say this. In each of our cities and each of our States, we have a system for resolving zoning problems, for example. The way it works in my State—it might be entirely different in the State of the Presiding Officer or the State of the principal proponent of this legislation—if my property is zoned residential and I want to put a gas station next to my house and I think that would be a real winner, I could make a lot of money from that gas station—now it is true that 30 other houses on the plat might not like it, but I like it, so I go before, in our State, I go before the zoning board of review. I go before the zoning board. I would seek a variance. I presume I might well be turned down. Then I go to the zoning board of appeals. In other words, I take the second step.

Now, under this legislation, if I took that first step before the zoning board and was turned down and then I went to the zoning board of appeals, I wouldn't even have to wait for a decision. All I have to do is go before that, take that second step—in other words, one appeal—and then I can say, "This is taking too long," and "I want to go into the Federal court," and I can go into the Federal court. Then the Federal court, under this legislation, takes up the matter.

I just don't think that is what we want. So many times on the floor of this Senate we inveigh, all of us have, against one size fits all. Yet that is exactly what we are doing here. We are saying, no, no, no, we don't like your system that you have in Maine, in Bangor, the way they are handling these appeals. We will let that person go into that Federal court and there is no incentive to negotiate, to come up with a compromise. When it is done on a city level or town level, as it is in my State, having the zoning board say, can't you people work this out, a gas station, that sounds like a little much, but talk with your neighbors and see what they say. Perhaps in some other area you can work this out, but we want to negotiate.

That is not true when you get this thing in the Federal court. They then come down with a decision and they direct the zoning board—issue a permit for such and such. Is that really what we want?

I find this an astonishing proposal. I certainly hope that we are not going to get in this situation where powers that—200 years, these powers have resided in the local communities. Because somebody said, "Oh, they take too long, we don't like those long delays, so we are going to make it so you can go into the Federal court." Well, apparently the people who live there don't think it is taking too long or they would change it. We are not helpless in our local communities, and wherever one is, whether it is each Greenwich, RI, or Ellsworth, ME, the people don't like the situation, they can change it. That is perfectly possible.

What the law is saying, we don't like the way you are doing things down there, you are taking too long, so we will have those activist Federal judges that we have heard Senators on the floor inveigh against so often—I certainly hope that this cloture will not be invoked on this matter.

I might say, this issue isn't whether private property owners should be protected or whether private property owners are entitled to just compensation if their property is taken for public use. The fifth amendment already provides for that. You can get into the Federal court under the present system. You don't need this legislation. You have to permit the case to ripen. That is what the courts have been saying. In other words, exhaust your remedies on the local level before you can go into the Federal courts.

I greatly hope, as I said before, that for the sake of the locals and those who believe that powers should be at the local level, that a system that has been in place for the past 200 years is not arbitrarily changed as is proposed by this legislation here. I thank the Chair.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. HATCH. Madam President, I never cease to be shocked at some of the arguments made around here. A gas station in a 30-home residence area is going to rise to the dignity of what we are talking about here—give me a break. Houses of prostitution near places of worship—give me a break. Nobody is arguing about things like that. The State and local areas certainly have total control over those.

I am well aware this bill is opposed by the Department of Justice, many localities, some interstate governmental associations, and certain environmental groups. Almost knee-jerked in many respects. I believe their concerns that the bill would hinder local prerogatives and significantly increase the amount of Federal litigation are not only highly overstated but highly misunderstood by them. The bill is carefully drafted to ensure that aggrieved property owners must seek solutions on the local or State level before filing a Federal claim. It sets a limit on how many procedures localities may impose.

I don't consider just a few months reasonable procedure. The average case is taking 9½ years. If you are some poor little property owner, or even a developer, if you want to use some of the language that has been thrown around here and you have a just reason to bring up a takings claim because the State or local or Federal Government has taken your property, you have to have pretty deep pockets to be able to litigate for 9½ years. The reason you do is some of these localities are acting improperly and using the law to allow these cases to never ripen so that they can be heard.

I personally believe that the distinguished Senator from Rhode Island would change his mind if he just looked at the case and realized we are talking about true Federal issues here that should be in Federal court and should be there promptly, not after years of delay by local municipalities and/or other agencies, throwing up logjam after logjam to stop reasonable people from getting reasonable results under the circumstances. This bill will do that.

Now, when we originally wrote this bill, when it came from the House, it had provisions in there that caused some angst among people who are truly thoughtful in this area. So we, being truly thoughtful, made changes that aren't just technical, but changes that basically, I thought, solved every problem being raised on the floor today. It is extremely difficult. Let me just say that.

Moreover, I seriously doubt that there will be a rush of new litigation flooding Federal courts. This was the conclusion of none other than the Congressional Budget Office contained in the cost estimate section of the committee report accompanying H.R. 1534. Although CBO was unable to ascertain the increase in costs if large claims were allowed to proceed in Federal courts, it did note, after consulting legal experts, that "only a small proportion [of State cases] would be tried in Federal Court as the result of this H.R. 1534. . . ."

It is extremely difficult to prove a takings claim, and this bill does not in any way redefine what constitutes a taking. These claims are also very expensive to bring. Like I say, the average, over the last 10 years, has been 9½ years to bring even the most simple claim to fruition or conclusion. That is not what the Founding Fathers thought when they did the fifth amendment allowing and putting in the takings provision. These claims are expensive to bring. Paradoxically, localities' defense of Federal actions may be lessened by the bill, because localities already must litigate property rights claims on Federal ripeness grounds, which take years to resolve. It costs localities more money than they should have to pay.

Let me restate this. By providing certainty on the ripeness issue, the bill may very well reduce litigation costs to localities. Substantive takings claims, unless they are likely to prevail on the merits, are simply too hard to prove and too expensive to bring in Federal court. And the issue of ripeness will have been removed by the bill from the already-crowded court dockets.

Madam President, it is interesting to note that once many State officials, localities, and State and trade organizations really examine the measure, they rapidly become supporters of the bill. Those supporting the bill or increased vigilance in the property rights arena include the Governors of Tennessee, Wisconsin, Virginia, New Mexico, North Dakota, and South Carolina. They also include the American Legislative Exchange Council, which represents over 3,000 State legislatures, and trade groups such as America's Community Bankers, the National Mortgage Association of America, the National Association of Home Builders, the National Association of Realtors, and the National Federation of Independent Businesses, the organ of small business in this country. They are sick and tired of small businesses being taken advantage of by some of these people in some of these local areas and State areas, and even the Federal areas, in taking their property without just compensation. Then they have to go 9½ years to vindicate their claims. By the time they get there, the property is not worth anything anyway, or the interest has been consumed by attorney's fees.

People who support this bill also include agricultural interests, such as the American Farm Bureau, the American Forest and Paper Association, the National Cattlemen's Beef Association, the National Grange Association, et cetera, et cetera.

Just as important, let me point out that 133 House sponsors of the House-passed bill—and that is a bill different from this one, and that bill is subject to some of these criticisms—we have reformed that. The 133 House sponsors of the House-passed bill were former State and local officeholders. They are not stupid. They feel just as deeply about State and local office concerns as anybody on this floor.

I find it rather amusing that the distinguished Senator from Rhode Island is so solicitous of State and local areas, having argued on the other side on almost every other issue that has come before the Senate. Let's stop and think about it. I don't believe that these 133 former State and local officeholders would have voted for the bill if it conflicted with local sovereignty. The fact is that it does not conflict with local sovereignty. The fact is that it gives plenty of reasons and plenty of avenues for the local and State and other municipalities to solve these problems.

We have bent over backwards trying to accommodate those expressing concern about the bill which passed out of the Senate Judiciary Committee. We met with city mayors, representatives of local governmental organizations, attorneys general, and religious groups, to name a few. Some of these have signed these recent letters. I am not sure they understand any of these issues, let alone how much we have made in changes to this bill.

We held group meetings and asked for suggestions and changes to the bill, which would alleviate opposition and concerns. I thank Senators ABRAHAM, ASHCROFT, DEWINE, SPECTER, THOMPSON, and respective staffs, for negotiating and drafting changes to the bill designed to meet the concerns of particularly certain localities. These changes alleviate municipalities' concerns that the bill would become a vehicle for frivolous and novel suits. They remove any incentive the bill may have for property owners to file specious suits against localities. They foster negotiations to resolve problems, and these changes recognize the right of the States and localities to abate nuisances without having to pay compensation.

First of all, we created a new section dealing with the award of attorney's fees. In this section, we amended section 1988(b) of title 28 of the U.S. Code, which allows a court to award litigation costs and attorney's fees to the prevailing party in civil rights actions. This change allows a district court to hold the party seeking redress liable for reasonable attorney's fees and costs if the takings claim is not substantially justified. This section was created to address the localities' concerns that they would have to defend expensive, frivolous cases in Federal Court, wasting taxpayers' money. This section eliminates those concerns.

I think that the mayor of Salt Lake might have had a different opinion—or other mayors that the distinguished Senator from Rhode Island has cited, or the other Governors that the distinguished Senator from Rhode Island has cited. I have reason to believe that they haven't seen this current substitute that we have here, or they would change, like so many others are changing.

The problem is that you get these old bills out—and, yes, there were problems with the old bills, but that is what the legislative process is designed to correct. That is what we are doing here.

Mr. LEAHY. Will the Senator yield for a question?

Mr. HATCH. I am a little bit agitated right now, and I want to finish some of these thoughts.

Mr. LEAHY. Well, I don't want to add to the agitation of the distinguished Senator.

Mr. HATCH. I will just say that the distinguished Senator very seldom does.

Another amendment to the bill requires a party seeking redress for a taking of real property to give any potential defendant written notice 60 days prior to a commencement of action in district court. This was added to address the localities' concerns that they will have insufficient time to negotiate with parties seeking redress before a Federal action was filed. This delay, I might add, acts as an inducement to seek compromise.

In addition, we added a nuisance provision to the purpose section of the bill that confirms State power to prevent land uses that are nuisances. I suspect that a house of prostitution would be a nuisance alongside a church or some other place. Perhaps there are many in this body that might agree with me that it is a nuisance, period. Under existing law, States have authority to abate nuisances and zone for commercial or residential uses. The Supreme Court, in Lucas v. South Carolina Coastal Council, held that such State actions require no compensation to affected landowners.

This change in the bill thus makes clear that State prerogatives are not altered. The bill, in any event, changes no substantive law and merely allows property owners fair access to the Federal courts after having gone through a variety of procedures in the State courts. And reasonable procedures at that, but not after 9½ years of being jerked around by some of the State courts, and Federal courts, by the way, because the Federal courts have been jerking them around, too, refusing to hear some of these cases on the doctrine of rightness, and the other doctrines that I have mentioned.

All this belies the bizarre and false allegations, such as the one contained in the Minority Views of the H.R. 1534 Committee Report, that if the bill passes localities may not prohibit gas stations in residential areas unless compensation is paid.

Give me a break.

Finally, to narrow the scope of the ripeness provision, we limited the term "property owner" to include only "owners of real property." This change greatly narrows the procedural effects of this bill because the provisions of the bill that expedite access to the federal courts now will only encompass real property and, thus, will not apply to suits involving personal or intellectual property.

So we have solved that problem, which was a legitimate question, although really we ought to be protecting all property since this is a fundamental right of the fifth amendment of the Constitution of the United States of America, one that is ignored most of the time in our country.

THE STATES RIGHTS ISSUE: WHY S. 2271 DOES NOT IMPACT STATES' RIGHTS

S. 2271 affects only federal claims being brought before federal court. State and local claims, claims based on state or local law, are not affected by S. 2271. The fact that constitutional claims can arise from the actions of local governments does not make them any less a federal claim, any more than a violation of First Amendment rights are federal claims whether it is a federal or local official doing the violating.

The Supreme Court has long held that the Eleventh Amendment makes state governments acting under state law immune from suits filed under U.S.C. section 1983. In other words, state governments are already immune from suits filed on constitutional grounds by established Supreme court precedent, and S. 2271 does nothing to change that.

Local governments, however, are not immune from lawsuits claiming that constitutional rights have been violated. Again, it is the Supreme Court, not S. 2271, that has made local agencies subject to federal claims by individuals alleging their rights have been violated.

All S. 2271 does is ensure that when a suit is filed in federal court, the case can be heard on the merits, rather than spending time and money to determine whether the case is "ripe."

State and local agencies will have all the authority and power they currently have to make land use decisions—for zoning, environment, etc. S. 2271 does not change any substantive law. But, if local agencies violate Fifth Amendment rights when making land use decisions, S. 2271 helps a property owner get a more expedient hearing on the merits without the 10-year ripeness battle, which is one of the most futile experiences anyone can go through.

The property owner, under S. 2271, will still have to make at least one meaningful appeal to the agency in question before bringing a lawsuit. That means agencies have at least two cracks at making a balanced decision that protects the environment and public health while protecting the rights of private property owners. In the real world, property owners will likely try repeatedly, because the chances of getting a favorable ruling in court on the merits is extremely slim—and S. 2271 offers no help there.

The reason the bill refers to a property owner being rejected on "one meaningful application" and "one appeal or waiver" before a decision is considered final is to create some objective criteria so both the property owner and the land-use agency in question know when "enough is enough." The language actually codifies a body of federal cases requiring that a property owner make "one meaningful application" to the relevant land-use decision making body to ripen a Constitutional claim. (e.g. Eastern Minerals Int'l Inc. versus United States; Kawaoka versus City of Arroyo Grande; Unity Ventures versus Lake County.) The point is that property owners should not be forced to negotiate away portions of his or her constitutional rights in a series of re-applications and appeals as a condition of gaining access to federal court with a Constitutional claim. The fact that different cities or states may have varying procedures or multiple steps for making a final determination on land use is not at issue in this bill. The bill does not define what a "meaningful application" is, because it recognizes that different states and cities handle land use applications differently—the bill tries to be respectful of those differences and allow state and local officials determine that question.

If there is a threshold question of state or local law that is essential to the merits of the federal claim, and it is patently unclear or confusing, the federal court can, under S. 2271, have that question certified in state court under whatever procedures the state has in effect for certifying questions for a federal court.

In other words, if a federal claim involves an important issue of state law, the state courts will have first crack at it under S. 2271. The only difference is that the property owner will not get turned away from federal court and forced to file the whole claim again in state court, and go through a 10-year delay process that literally is subverting the very constitutional provisions that we are sworn to uphold.

This bill is pretty well thought out, and, frankly, I ask unanimous consent that a whole raft of letters from various people who are in support of this bill ranging from these various groups and so forth be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE ASSOCIATED GENERAL
CONTRACTORS OF AMERICA,
Washington, DC, June 19, 1998.

Hon. ORRIN G. HATCH,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR HATCH: The Associated General Contractors of America (AGC) supports H.R. 1534, the Private Property Rights Implementation Act. This legislation will provide access to justice for private property owners subject to takings by the federal government.

The legislation defines what is a final administrative decision by the federal government under the "ripeness doctrine." For private property owners, the bill determines what the last administrative appeal is, triggering an owner filing for compensation when the government has taken or devalued property. Recent private property cases heard by the Supreme Court were merely decisions allowing private property owners to pursue a "takings" claim under the Constitution's 5th Amendment protections. Property owners have been prevented from going to court regarding a takings claim when a lower court rules the administrative appeals process has not been exhausted. In this legislation, Congress will prevent further costly, unnecessary litigation by providing access to courts, ensuring federal courts will hear takings cases.

AGC urges you to support this legislation. This will prevent lengthy administrative cases and allows private property owners immediate and appropriate redress of a takings claim.

Sincerely,

LOREN E. SWEATT,
Director, Congressional Relations, Procurement and Environment.

AMERICAN FOREST AND
PAPER ASSOCIATION,
Washington, DC, July 9, 1998.

Hon. ORRIN HATCH,
U.S. Senate, Russell Building,
Washington, DC.

DEAR SENATOR HATCH: The Senate will have the opportunity as early as Monday, July 13, to cast a vote in support of private property owners by voting in favor of S. 2271, the "Property Rights Implementation Act" on the Senate floor. On behalf of the American Forest & Paper Association, and the 9 million woodlot owners in this country, we urge you to vote "yes" to invoke cloture and on final passage of this bill. A vote in support of S. 2271 will be considered a key vote on behalf of our membership.

S. 2271 is a moderate, balanced, bipartisan effort to ensure that private property owners have their day in court. The Fifth Amendment to the Constitution states that private property should not be taken by the government for public use unless the owner is paid just compensation. However, recent studies have shown that property owners attempting to protect their property rights in federal court are rejected on procedural grounds over 80% of the time without ever getting a hearing on the merits of their case. Those who do get their day in court are forced to spend an average of nearly 10 years in litigation and procedural hurdles.

S. 2271 is strictly a procedural bill—it does not define a "taking" or mandate compensation. The bill:

Helps property owners obtain federal court relief more quickly and more affordably to preserve their Constitutionally-protected property rights.

Does not change substantive law. Property owners still must have the facts and prove their case. The bill does not create any new cause of action for property owners to give federal courts more power and authority than they have already.

Does not destroy the current exercise of state authority to determine land use, but does require states to use their procedures in a fair and constitutional way.

Affects only Federal claims. Federal courts will still be able to send unresolved state claims back to state court for certification before the federal courts go forward.

Streamlines the federal court docket by simplifying the federal procedures for constitutional takings claims.

Thank you for your time and attention to this important legislation. We strongly urge you to support S. 2271 on the Senate floor.

Sincerely,

JOHN H. DRESSENDORFER,
Vice President.

Mr. HATCH. Madam President, I yield the floor and reserve the remainder of my time.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. LEAHY. Madam President, I listened with interest to my good friend, the distinguished senior Senator from Utah. He said that perhaps some of those who are opposed to this may not understand the bill. There is a reason for this. The bill we are discussing is S. 2271 which was introduced just last week. We never had a hearing on S. 2271. While we had a hearing on H.R. 1534 this bill is significantly different from S. 2271. S. 2271 was just printed late last week and many Members may not have had an opportunity to carefully review it.

This new bill just came bouncing in here. We haven't had one single hearing on this particular bill. My good friend from Utah talks of the care that went into it. This arrived full-blown, full-grown on the Senate floor—not one single Senate hearing on this bill. In fact, the bill on which we did hold a hearing, H.R. 1534, apparently bothered them enough that it was significantly changed. We haven't done a report on S. 2271. One was done on H.R. 1534 but not on S. 2271. Madam President, no Senator can point to 30 seconds of Senate hearing on S. 2271. No Senator can point to a two-sentence report on this bill.

A lot of Senators probably did not even have a chance to look at S. 2271. Apparently, they thought H.R. 1534 should be changed. But this is a new bill that many of us feel is worse than its predecessor. But there have been no hearings on the changed text. There is no report on S. 2271, and under some new streamlined process the bill was just sent to the floor. We will vote on S. 2271, and then we will debate it later. It is like Alice in Wonderland. You have the sentencing first, and the trial later. This is not the way the U.S. Senate should act.

I think that is why the National Governors' Association, the National League of Cities, the National Association of Counties, the U.S. Conference of Mayors, and the National Conference of State Legislatures all stated their opposition to this new bill. Just 3 days ago, they said:

> A review of the most recent proposed revisions to the legislation makes clear that those changes do not address our fundamental problems with the bill * * * The framers of the Constitution never intended federal courts to be the first resort in resolving community disputes between local governments and private parties. In our view, these issues should be settled locally, as close to the affected community as possible.

In fact, some would say H.R. 1534, the earlier bill, would be better than S. 2271. S. 2271 is more burdensome to local governments than earlier versions.

First, the revised bill goes even further in limiting Federal judges' ability to abstain from cases dealing with local land use decisions. Maybe they have to abstain because we don't fill the vacancies of Federal courts. But assuming there is a Federal court and a Federal judge who has been lucky enough to be confirmed by the U.S. Senate, they have a limited ability to abstain. In S. 2271 a Federal judge in many circumstances cannot abstain from or relinquish jurisdiction to a State court because the plaintiff "brings a prior or concurrent proceeding before a State, territory, or local tribunal."

This revision effectively turns the earlier version of this provision on its head. Rather than leaving room for abstention when a State law claim is asserted, the revised version specifically states that a district court shall not abstain when there is a State law claim.

I don't know when we have ever done anything like this. This is an unprecedented big-foot action on the part of the Federal Government of stepping in and telling local citizens and state courts, "You don't count," as far as the U.S. Senate is concerned.

Rather than reducing interference with State court resolution of State and local law issues, the revised version of the bill actually would maximize Federal court interference with State courts.

Second, the revisions make the bill worse from a local government standpoint by eliminating the authority conferred on local governments in the bill as reported by committee to define a "meaningful application."

Instead, the revised bill would allow Federal courts to get into looking at local land use requirements and applications. Other changes in the bill are either harmful, cosmetic or without significant effect.

As a general matter, the bill would introduce new vague terminology which could lead to years of litigation over the meaning of this new language. And, of course, we are asked to enact S. 2271 without even a report. Enactment of the new legislation would make land use litigation process more time-consuming.

Look at the insertion of the phrase "one meaningful application to use the property . . . within a reasonable time." This change ostensibly addresses the concern that H.R. 1534, as reported, suggests an applicant only had to initiate a local application or waiver proceeding, but not necessarily await the outcome of the proceeding before suing in Federal court.

The change to "within a reasonable time" simply confirms that in some circumstances a developer would be able to proceed to Federal court without first obtaining local decisions. Many States and local governments already have specific time limits for administrative decisions. That seems to throw it out of the window.

I have said over and over again that when property is taken, the landowner should be compensated. That is what our Constitution requires—it requires just compensation. That is what local, State and federal Governments are doing. Certainly, there has been no need for such sweeping legislation demonstrated.

I wish we had an opportunity to work with the chairman of the Senate Judiciary Committee to have a better bill. It is his prerogative not to have a hearing on this particular bill or to have a detailed report on it.

And we have instances where my friend from Utah says that this bill applies only to owners of property, but it defines owner as the owner or possessor of property or rights in property. That is more expansive than the normal meaning of the word owner. Somebody who steals property is a possessor of property. An adverse possessor of property is by definition in possession of the property. As I said, we have a case here where something is not broken, but we are about to fix it anyway.

Madam President, I withhold the balance of my time. I ask the Chair, how much time remains to the Senator from Vermont?

The PRESIDING OFFICER. The Senator has 39 minutes remaining.

Mr. LEAHY. I withhold that time.

Mr. HATCH. Mr. President, how much time does the Senator from Utah have?

The PRESIDING OFFICER. The Senator from Utah has 22 minutes 48 seconds.

Mr. HATCH. Let me just say this, that we have held hearings through the years on similar bills, and we have held hearings on the underlying bill. We made four changes, which I outlined in my last remarks. So the hearings were held and the changes were made to accommodate some of the concerns of those who have been critical of this bill. So this is not without hearings, and it is not without an understanding.

I yield 10 minutes to the distinguished Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. GRAMM. Madam President, I thank you. I thank my colleague for yielding.

I would like to say that I think comments made today are living proof of the old adage that no good deed ever goes unpunished. The plain truth is that we have had numerous hearings on the issue of private property and takings. Our colleague from Utah has been a leader in this effort. We are considering this bill today because he has continually tried to accommodate people who oppose the underlying amendment that he has so effectively championed.

The issue before us today is not an issue of technicalities. It is not an issue of whether or not a certain number of mayors or Governors or locally elected officials think one thing or think another. The issue before us is, are we going to effectively enforce the Constitution of the United States?

What an incredible paradox it is that if we had similar legislation before the Senate to enforce our first amendment rights to freedom of religion, freedom of speech, freedom of the press, freedom of the right to assemble, and to address the Government about our grievances, we would have 100 Members of the Senate here demanding that the Senator's bill be adopted. If the Senator from Utah was simply trying to guarantee our freedom of speech and religion by setting out a clear course where ordinary people could have a day in court in determining whether their first amendment rights had been respected or abused, we would have 100 Members of the Senate supporting this bill.

The real issue before us is that there are many Members of the Senate, many Governors, many locally elected officials who do not support our fifth amendment rights. The fifth amendment to the Constitution says, "Nor shall private property be taken for public use without just compensation."

We all know, and it is the reason that this amendment is before us, that every day in America private property is being taken without just compensation. We all know in the name of endangered species, in the name of wetlands, in the name of numerous other public purposes, private property rights are being trampled on and people are finding their property taken or dramatically reduced in value because of some public objective. The opposition to this amendment is not based on technicalities. The opposition to this amendment is not based on some letter signed by some local officials or some State legislators. The opposition to this amendment is based on the fact that there are many in the country and many in the Congress who would like the fifth amendment guarantees of protecting private property to be gone. These guarantees stood up very well until the Depression era when the Supreme Court basically started to rule against private property. The Supreme Court and the lower courts have now moved back toward recognizing and respecting the fifth amendment. But the problem is that a lot of ordinary people have trouble getting their day in court. They often find themselves shuffling between the district court and the Court of Claims trying to uphold their rights.

So what does the bill before us do? It sets out a very simple process whereby people who believe that their private property rights have been trampled on can go into Federal court and have their day in court and have a decision made. I believe that private property is at least as important as the right of freedom of religion and speech. Our Founding Fathers understood that if your property is not secure, your right to freedom of religion and your right to freedom of speech can be abridged. Our Founding Fathers understood that private property is not only a human right; it is the basic human right. It is a foundation right of the American Republic. And, more important, it has been a foundation right of every great civilization in history.

Will Durant, in talking about Rome and the rise of Rome says, "Never was there a day when private property did not exist in Rome." The foundation of ancient Athens was private property, and the respect for private property. It cannot be a happy day in America when private property rights are trampled upon. Those who oppose the fifth amendment say, "If you made the Government pay people when we took their property for these good purposes, then we wouldn't be able to take their property for these good purposes." They say, "Surely it is worth it to protect the wetlands and endangered species and thousands of other objectives to be able to take people's property. And if we had to compensate them, we couldn't promote these public purposes."

I would just conclude by making two points. No. 1, why should the property owner, and the property owner alone, be forced to bear the cost of promoting these public objectives? And, second, when the Founding Fathers wrote, "Nor shall private property be taken for public use without just compensation," is it not clear that they were not just talking about taking your property to build a road across, they were talking about Government action that profoundly lowered the value of land in use or exchange?

So, this is not a debate about technicalities. It is not a debate about letters signed by local officials or State officials. It is a debate about the Constitution and about the fifth amendment. Those who believe in private property, those who support private property rights, will vote for this amendment. And those who do not support private property, those who believe that public purpose is more important than private property and that taking property without compensation to promote some public good—as they would define it—will vote "no" on this amendment.

Many will try to confuse the voter about what the issue is. The issue is the fifth amendment. The issue is whether or not we respect private property and private property rights in America. I respect private property and private property rights in America. That is why I am for the pending bill. I hope my colleagues will vote "yes."

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. LEAHY. Madam President, I have another matter pressing. I am going to leave the remainder of my time in the hands of the Senator from Washington. I know the Senator from Rhode Island and others still want to speak. There will be time. I believe I have close to 40 minutes left—30-some-odd minutes?

The PRESIDING OFFICER. The Senator has 36 minutes remaining.

Mr. LEAHY. I now yield to the Senator from Washington such time as she may need, and she would then reserve the remainder of our time.

The PRESIDING OFFICER. The Senator from Washington.

PRIVILEGE OF THE FLOOR

Mrs. MURRAY. I ask unanimous consent a fellow from my office, Micki Aronson, be granted the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. MURRAY. Madam President, I rise today in opposition to S. 2271, the bill before the Senate this evening. I do so knowing that I have the support of the vast majority of Washington State voters who, 3 years ago, soundly defeated a radical and dangerous referendum that is very similar to the bill that is before us today. In 1995, the people of Washington State overwhelmingly rejected a referendum that would have put developers and resource exploiters ahead of the rest of us. They defeated this proposal because they knew it really only amounted to one thing: a massive tax increase on regular people. Developers and their supporters would have us pay for the right to a high quality of life and strong communities, whereas today we enjoy these things as a result of basic zoning laws and environmental standards.

While the measure before us differs somewhat from Referendum 48, its underlying motive does not. Developers somehow believe that they are being denied their property rights by having to work through local and State land use laws. And, to be fair, there have been some isolated cases in which a maze of laws has thwarted reasonable environmentally sensitive projects. I personally will continue to urge local and State governments to streamline their processes to fix these occasional problems.

But, basically, the system works. It is simply not broken, and this bill is not necessary.

Mr. President, the most objectionable provision in this bill is that it allows developers to short-circuit local administrative, zoning, and other land use procedures. This promises to send increased litigation against already strapped local and State governments. This means more taxes, both to fund the court battles and, if local governments lose, to pay off developers to protect our quality of life. In addition, simply the threat of a Federal court may drive a town to acquiesce to a developer's demands, because they cannot afford to go to court and fight to protect their local land use decisions.

Frankly, I am surprised at the support this bill has gotten from those who traditionally would defer to local government making decisions on how best to use land and instead give that decision making authority to Federal courts. This seems like quite a reversal. Frankly, it seems particularly odd, given the Senate's backlog in filling Federal court vacancies.

While we have moved two of our Washington State candidates—Margaret McKeown and Ed Shea—both Senator GORTON and I are pushing very hard to get another circuit court nominee, Ron Gould, and a district court nominee, Bob Lasnik, heard and confirmed. Another district court judge is set to retire in the near future, creating another vacancy. I have to ask, Why is the Senate increasing Federal caseloads with this bill while simultaneously not filling empty seats?

That issue aside, this bill is not what this country needs. We do not need to undermine our Nation's laws that protect public health, safety, and the environment. There are usually very good reasons why development is prohibited in certain areas. It could be safety; the area could be prone to flooding or to landslides. It could be protection of water quality. It might be protection of threatened endangered species or ecosystems. And, in those cases where a local, State, or Federal entity does unreasonably and actually take a private person's property for a public good, we have a well-established legal system to provide compensation. And that system is working.

Let me close by reminding everyone that the Conference of Mayors, the National Association of Counties, and the National Conference of State Legislators oppose this legislation. In addition, every conservation group I am aware of opposes this. This is simply not good public policy.

I am committed to keeping the Pacific Northwest beautiful. I am committed to ensuring my constituents have the power to enact reasonable zoning ordinances to protect their water and environmental resources. I do not believe their taxes should be used to pay off developers.

I pledge to my constituents to work to ensure that the reasons we are all so proud to call Washington home remain intact. This bill would limit our ability to protect the things we hold precious, and I will vigorously oppose it, and I urge my colleagues to do the same.

I reserve the remainder of our time.

Mr. HATCH. Mr. President, I yield 5 minutes to the distinguished Senator from South Carolina.

The PRESIDING OFFICER (Mr. ENZI). The Senator from South Carolina.

Mr. THURMOND. Mr. President, I rise today in support of cloture on S. 2271, the Property Rights Implementation Act. Put simply, this bill is a modest effort to help property owners get their day in court.

Currently, it is very difficult for many landowners to get into court. When a landowner wishes to develop property, he must seek approval from local land use authorities, who should quickly evaluate the request and make a decision. However, local bureaucracies may take years to make a decision or may require the landowner to make countless reapplications. There is nothing the landowner can do because the courts will wait on a final administrative determination before taking any action.

Under this bill, the courts eventually must act if the bureaucracy refuses to make a final decision. The fundamental role of local authorities in property development decisions does not change. A reasonable administrative determination of a claim is still required before the owner can go to court. In other words, the locality will still have the upper hand, but it will not hold all the cards.

After a negative administrative decision, the bill allows a landowner to choose to go to Federal court rather than state court, but only under certain limited circumstances. If a landowner brings any claims under state law, even if the state claims are secondary to the Federal claims, the case must proceed in state court. It is only if the landowner brings solely a Federal claim for a Constitutional taking that the landowner must be permitted to proceed in Federal court if he wishes. Moreover, once in Federal court, if an unsettled question of state law arises in the case, the question must be certified to the state court where possible.

Some opponents to this legislation have said that it will result in a great shift in public power to regulate land. They say that property owners will be put at a great advantage over state and local authorities who are charged with controlling development, causing property owners to win many more claims. This argument will not prove to be correct. It cannot because the bill does not change the standard for determining a property rights claim. The legislation does not provide property owners any more rights than they have today, even though the rights they now have are limited and uncertain under case law. It is very difficult for a property owner to show that property has been taken for purposes of the Fifth Amendment, and that will not change under this bill.

The legislation only makes it easier to get to Federal court for a takings claim. It simply gives landowners a fair opportunity to get a decision. It does not make it any easier for them to win.

A limited option of Federal court access should exist when someone is trying to adjudicate their property rights secured by the Constitution. When other Constitutional rights are violated, such as the right to free speech, the person can go immediately to Federal court for relief. Why should the right to just compensation for a taking be any different? Indeed, for free speech issues involving obscenity, the court must look to the standards in the local community, but the claimant can still go immediately to Federal court. As Chief Justice William Rehnquist has written for the Court, "We see no reason why the Takings Clause of the Fifth Amendment, as much a part of the Bill of Rights as the First Amendment and Fourth Amendment, should be relegated to the status of a poor relation."

I agree with the Supreme Court. This bill would solve that major problem. Yet, it makes only modest changes in the current system. I hope my colleagues will support this small but important step for fairness in property rights.

Mr. LIEBERMAN. Mr. President, I rise to express my strong opposition to S. 2271.

On the face of this bill, it sounds like the proponents are seeking to make some "procedural" changes in federal court jurisdiction that do not go as far as last Congress' unsuccessful attempts to change the standards for granting compensation under the Fifth Amendment.

But no one should be mistaken. This bill would dramatically change the standards—known as abstention and ripeness—which guide the resolution of claims for "just compensation" against local communities in local zoning disputes. The impact of these so-called procedural changes would be very significant, making it far easier to seriously undermine local land-use decisions. As a New York Times editorial stated with respect to the related House bill: "(The bill) is a dangerous piece of work that would threaten local zoning laws, reshape time-honored principles of federalism and make Federal judges the arbiters of land-use decisions everywhere. It would be a dream come true for developers but a nightmare for rational community planning." I believe that conclusion would apply with equal force to the bill before us.

That is why the bill is opposed by the National Governors Association, the League of Cities, the United States Conference of Mayors, the National Association of Counties, the Judicial Conference of the United States, 40 Attorneys General, major religious groups, the National Trust for Historic Preservation and a broad array of environmental and public interest groups.

For my State, this type of proposal is particularly contrary to what our citizens are seeking. There is no bigger issue right now in the State than the desire to preserve open space from development. Our Governor, John Rowland, has initiated a major program to preserve open space and the State Legislature has strongly supported these efforts. Connecticut is not unique: all over the country, states and localities are making preservation of open space a top priority.

This bill would seriously undermine these efforts by greatly expanding the volume of land-use litigation against local communities. Equally important, the heightened threat of litigation would significantly increase the leverage of developers over local communities in negotiations over land use issues. The existing authority of local governments to resolve local land use issues in their community would be undermined, and the ability of the public to participate in land-use decisions affecting their communities would be greatly diminished. In short, the end result of this legislation would be to undercut the ability of our nation's localities to protect zoning and land use regulations which average homeowners depend on to protect their investments.

In reviewing the Committee and Minority views on the bill considered by the Committee, I was particularly struck by a comment by Senator DEWINE during the markup. He stated: "The bill would in effect, leave local land use planners with two bad options—acquiesce to developers by making lenient decisions, or do whatever they think necessary to protect the local community and then face multiple suits in Federal court without having much negotiating ability with property owners." Senator DEWINE is right and with respect to the bill before us, too.

What is striking about this bill is the direct attack it makes on the ability of local and state governments to determine what is best for their communities, despite the fact that there is no evidence that local governments are incompetent or routinely deal in bad faith with developers. Nor is there any record to support the proposition that state courts cannot deal fairly with local land use zoning disputes.

Mr. President, I cannot see any reason why this Senate should pass legislation that is a wholesale attack on the ability of our localities and states to protect the values and fabric of the communities in which we live. I urge my colleagues to vote against the cloture motion.

Mr. GRAMS. Mr. President, I rise today in support of S. 2271—the Property Rights Implementation Act of 1998.

As a landowner, businessman, and Senator, I have long been concerned that the imposition of too many regulations adversely impact individuals and businesses. For too long, bureaucrats have exercised broad authority over local citizens and oftentimes trampled on their constitutional rights. It is time to bring even more comprehensive protections of property rights to the Senate floor for debate and a vote, and S. 2271 provides those missing or abused protections.

I am proud to say that I joined many of my colleagues last year in co-sponsoring S. 1204, Senator COVERDELL's Property Owners Access to Justice Act of 1997. That bipartisan legislation—very similar to that which we are debating today—simplified access to the federal courts for private property owners whose rights may have been deprived by government actions.

As we all know, the fifth amendment to the U.S. Constitution provides our nation's citizens with certain protections against the taking of their property. In cases where a taking is required, the Constitution ensures that the property owner is provided just compensation. Unfortunately, that is almost never the case and I doubt anyone in this chamber would claim the contrary. In the name of the "public good," governments often either take property or deem it unusable for virtually any productive purposes. Too often, property owners are then left with a worthless piece of land for which there is no use or little resale value.

Property owners are then forced to navigate their way through a maze of bureaucratic red tape and unending local and state roadblocks in fighting any unjust action. They are forced to exhaust any and all state or local remedies prior to having their claim heard in federal court. Because most property owners do not have the resources or the time to fight a taxpayer-subsidized army of lawyers and hurdles, they merely give up—unafforded their constitutional rights.

I am aware that the National League of Cities, the U.S. Conference of Mayors, and a whole host of State Attorneys General are opposed to S. 2271—but why? Because S. 2271 may actually force them to consider the rights of property owners before taking action. If the property in question is truly needed for the public good, then they should use eminent domain and acquire the property rather than leaving the owner holding the bag.

It is important to remember several points regarding S. 2271. First, S. 2271 does not circumvent local governments. Property owners must attempt to work through local procedures and be denied at least twice prior to seeking federal court action. S. 2271 does not preempt local zoning. Any use of the land by the property owner must be consistent with local zoning requirements—if not, S. 2271 does not apply. Additionally, S. 2271 does not require compensation or remove the burden to proof from the property owner in proving harm or the justification for compensation.

Similar legislation—authorzied by Congressman GALLEGLY—was introduced in the House last year. It quickly gathered the support of 237 co-sponsors and passed the House last October by a vote of 248 to 178. Likewise, S. 1204 was introduced in the Senate last September with Senators LANDRIEU and DORGAN as cosponsors. Both bills received significant bi-partisan support upon introduction and throughout the legislative process.

Mr. President, it is time we provide property owners with certainty. It is time we provide property owners with avenues for action. And it is time we provide property owners with the rights guaranteed them under our Constitution. I urge my colleagues to vote in support of the cloture petition for S. 2271.

Mr. BURNS. Mr. President, I rise today to address the important issue of private property rights and to support the Property Rights Implementation Act of 1998, S. 2271.

Private property rights have been the cornerstone of our free society. The fifth amendment of our Constitution states, "private property shall not be taken for public use without just compensation." Currently, too many Americans are being denied fair access to Federal courts in order to uphold their fifth amendment constitutional rights.

S. 2271 would expedite access to the federal courts for individuals hurt by a government "taking" of private property. At the same time, it protects states rights by ensuring that any question of state or local law that is unclear to the fundamental merits of a case is to be sent back to the state courts before a federal court can continue.

Mr. President, the right of the people to be represented and heard is the basis of our government.

S. 2271 gives us the opportunity to ensure that the people of our nation are not ignored. It allows an individual citizen to exercise their fifth amendment rights provided to them by our founding fathers without costing them thousands of dollars and without taking 8 or 10 years of court proceedings to maintain these rights. As we've all heard before, "justice delayed is justice denied."

S. 2271 only re-enforces the constitution and the intent of our founding Fathers who understood the value of private property from the standpoint of individual political freedoms and individual economic freedoms. Those who would argue in opposition are supporting more government control by not allowing an individual to care for their own property. I believe each individual land owner can and should be responsible for their property without breaking current environmental, federal, state, or local laws. This bill does not create special rights for property owners; it simply allows them the same access to federal courts as other plaintiffs claiming a violation of their constitutional rights.

Mr. President, for these reasons I stand in support of S. 2271 and hope that my colleagues on both sides of the aisle will do the same. I also want to thank Mr. LOTT and Mr. HATCH for bringing this important legislation to the floor.

Mr. COVERDELL. Mr. President, I rise today in support of the motion to proceed to consideration of S. 2271, the Property Rights Implementation Act of 1998. This bill, introduced by the senior Senator from Utah, incorporates provisions of the bipartisan bill I introduced last year along with the Senator from Louisiana, Senator LANDRIEU, on this same subject.

Our legislation, the Property Owners Access to Justice Act, was introduced to simplify access to the federal courts for private property owners. S. 2271 would accomplish the same objective. The Constitution requires that when the government takes private property for a public purpose, the property owner must receive just compensation. This "takings clause" guarantee is one of the strongest defenses we have against arbitrary government.

Yet in many cases property owners must navigate a time-consuming and expensive procedural maze to protect their rights. Federal courts do not consider a takings case "ripe" for their consideration until all state law issues have been resolved and all administrative remedies exhausted. For property owners this can mean years of court battles and tens of thousands of dollars in legal fees just to win the right to have a federal court hear the merits of their case. One study found less than 6% of takings claims filed between 1983 and 1988 were ever deemed ripe for federal court adjudication.

Small landowners, first-time home buyers, and family farmers simply cannot afford this process. They deserve to have their claims heard and their rights in their own property settled.

S. 2271 sets a clear standard for when a claimant has exhausted all administrative remedies by defining when a "final decision" has been reached for purposes of ripeness doctrine. It also allows property owners to choose whether to assert their Fifth Amendment rights in state or federal court.

The supporters of S. 2271 believe that property owners deserve the same access to justice as persons defending their rights to free speech, freedom of religion, due process, or any other freedom protected by the Constitution. If your rights under the First Amendment are infringed by the government, you are not told to endure endless administrative hearings before seeking to uphold your rights in court. Fifth Amendment rights deserve the same degree of protection. Under the S. 2271, private property owners will no longer be turned away at the courthouse door.

Mr. President, it is important to note that S. 2271 is strictly procedural in nature. It does not change substantive law. It does not define a "taking" or establish a trigger for when compensation is due. It does not give property owners any special access to the federal courts. On the contrary, it allows property owners the same access to federal courts that other claimants currently have.

The property owner would still shoulder the burden of proving that he or she has been injured and deserves compensation. The bill gives property owners a choice of how and where to assert their property rights under the Constitution. If the property owner wants to pursue action against a local or state agency that has infringed on his or her rights, the property owner can sue in state or local court, as he would now. Or, if the property owner wants to reject that route and instead pursue a Fifth Amendment takings claim, the case can be heard in federal court.

We should note that the provisions of this bill only apply to Fifth Amendment constitutional claims. Issues relating to state law or local ordinances or regulations would be resolved in state court. This bill does not bring state law claims into federal court.

Opponents of this legislation have claim that it will abolish local control over zoning decisions or will federalize zoning law. Suggestions that this bill intrudes on the prerogatives of local governments are simply wrong.

Under the bill, a property owner must submit a land use application to the local entity with authority to make land use decisions. If an application is denied, the applicant will have to either reapply or file for an appeal. If the local land use authority explained the denial and how to change the application so that it would be approved, the applicant must reapply taking into account the suggestions in the new application. If the second application is denied, the applicant may go to the next step—the applicant must appeal or request a waiver of that land use decision to the administrative body with the power to review those decisions. If a local elected body exists in the locality which has the power to review appeal decisions or land use decisions, the applicant must seek review from that body. If that review is denied, then a final decision for purposes of ripeness has been reached and the applicant may then file a claim in federal court.

There are at least three and up to five opportunities for the local land use agencies and governments to make critical decisions regarding land use applications in their community before an applicant would be able to file a claim in federal court. Anyone who runs that gauntlet and still wants to file a federal claim may or may not prevail on the merits, but the claim will certainly not be frivolous.

S. 2271 applies to claims filed in federal court which involve only a federal Fifth Amendment taking claim. A federal court may still dismiss the case or send it back to state court if there is a pending state claim based on the same set of facts, the claim asserts state law claims, or the claim involves a state regulatory matter. But the fundamental purpose of this bill is to enable citizens to defend their federal constitutional rights in federal court. This in no way denigrates the lawful authority of local governments over land use, because all levels of government must obey the Constitution.

Mr. President, S. 2271 is a narrowly targeted but vitally important step toward restoring full protection of a fundamental constitutional right. I urge support for the motion to proceed.

Mr. FEINGOLD. Mr. President, I wanted to take a few moments to state my opposition to S. 2271, the Private Property Rights Implementation Act of 1998.

First, Mr. President, on behalf of my constituents, I want to indicate my strong concerns about the manner in which this bill has come to the Senate floor, and indicate why I opposed cloture on the motion to proceed to this bill. If necessary, I will return to the floor to discuss my concerns about this legislation in greater detail. The Senate Judiciary Committee, upon which I serve, reported H.R. 1534, the Citizen's Access to Justice Act of 1997, with amendments. I voted against reporting that measure.

In an effort to address concerns raised in Committee debate when the bill was reported, the Chairman and Senior Senator from Utah (Mr. HATCH) announced that he would work with Committee members to seek necessary improvements. The bill now before us embodies what the Chairman would have offered on the floor as a substitute amendment to H.R. 1534 as reported. Not only do I take exception to the result of this attempt to "improve" the bill but I am also alarmed at the speed with which this measure has been brought to the floor. The resulting bill number shuffle and procedural debate over whether or not the proponents would be offering a substitute amendment has left my constituents, on both sides of this issue, frustrated and confused.

This extremely technical and complicated matter is of critical importance to a wide variety of interests in my state who have followed this legislation since the early days of this Congress. Thus, I had hoped to act with greater concern for those constituents interested in the outcome of this measure as we sought to move it to the floor.

Procedurally, I am also concerned, Mr. President, that S. 2271 differs significantly from the legislation the Judiciary Committee reported. Members, for the first time, have heard about the substance of this bill through floor debate today. Given the potential impact of this legislation on both the federal government and local governments' financing and regulatory structures that we should have given members both a comprehensive written description of the changes contained in S. 2271 and additional opportunities to discuss this legislation with their constituents.

I voted against this measure in Committee and oppose the bill currently before the Senate for a number of reasons. First, this bill will result in a increase in litigation over local zoning matters in federal courts. As a result of the Listening Sessions I hold in every Wisconsin county every year I have worked with constituents on a number of regulatory red tape issues. It is clear that the last thing Wisconsinites want or need is a bill that "takes" scarce resources away from local governments by exposing state and local officials in our state to threat of federal liability in their attempts to control local land use and follow federal law.

As my colleagues have pointed out, this bill creates an opportunity for clever lawyers to profit at the expense of local ordinances to which we in the Judiciary Committee, and in this body, normally claim to defer. Certainly, this bill is not consistent with any claim of deference to state and local authority. It is an explicit transfer of power to the federal government.

This bill purports to lessen the impact upon the prerogatives of local governments, but it continues to allow broad exceptions to the very abbreviation of local land use processes which the bill itself mandates, a process which can be now be the subject of federal litigation.

As the Ranking Member of the Judiciary Committee (Mr. LEAHY) has explained that S. 2271 lowers two threshold barriers to bringing takings claims against federal and local governments in federal courts. It does so by legislating both the circumstances under which courts can abstain from hearing a case and dictating when a claim may be heard by a federal court —known as "ripeness."

In the case of takings lawsuits against the federal government, a case is ripe for adjudication when, as the bill defines it, a federal agency has made a "final decision." A "final decision" exists when an either an application or an appeal to use the property has been submitted but not been approved "within a reasonable time." Similar language is incorporated to specify when suits can be brought against local governments, and that section is somewhat more deferential to local governments. The bill is more deferential to local land use regulatory bodies, unlike when a claim is brought against a federal agency, by arguably making it more likely that an initial application will be filed.

Let me repeat that for colleagues, to make it clear. Under this legislation in certain circumstances an individual is able to sue the federal government for a taking without even submitting an application to a federal agency to determine whether the action they propose violates federal law. The bill says that the party seeking redress under this bill would not be required to submit an application or appeal if the district court holds that such actions would be futile. Futility is defined as the inability to seek or obtain approvals to use real property as defined under applicable land use or environmental law. I would point out that while futility is defined for actions in district courts, there is no definition of futility for the Court of Claims, though an individual making a claim against the federal government has the option under this legislation, which also concerns this Senator, to sue in either court. These provisions allow litigation not when a Constitutional right is deprived, that is when the government denies compensation for restricted use or condemnation of property, but rather when the use of the property itself has some conditions placed upon it.

I would like my colleagues to think for a moment about what kind of anti-regulatory and anti-compliance actions the futility exemption in this legislation would encourage. Such language suggests that if one knew or might know, as an experienced developer, that a particular type of wetland filling activity would not be likely to be permitted under the Clean Water Act, then one would be free to claim that requesting a permit for such an activity would be futile and sue the federal government.

Even if the government dismisses that case, as I am sure the bill's supporters argue it would, because there are no supporting facts and no application, under the language of this bill the court isn't allowed to abstain. Aren't we sending the wrong message, Mr. President? In Wisconsin, often my constituents are unaware when an action they have taken requires them to interact with a federal agency, and my office helps constituents in those circumstances. But this legislation explicitly provides that if you know that an action is prohibited, you may sue to be compensated being denied the right to do it anyway. And for those who will argue that such suits won't happen, I'd reply by saying it's a genuine risk under this legislation. If an extreme suit against the government is successful, the federal government is obligated to pay the court costs of prevailing plaintiffs.

These same provisions apply to suits against local governments, though courts can abstain if an initial application isn't filed and there is some discretion given about whether prevailing plaintiffs would have to be awarded court costs. I also want to make clear that this bill applies to local land use decisions because I believe there may be some Senators who are under the impression that this bill applies only to actions taken by federal agencies.

However, this is not the case. S. 2271 contains additional provisions which limit local decision making, expanding upon similar provisions contained in the House-passed version of this legislation. For example it would require a land-use applicant to "take into account" any suggestions given by the land use agency which denied the application when reapplying before the applicant pursues federal litigation. This language is still unclear, and certainly local governments that will have their hands tied by this bill share this view.

Second, I remain concerned that this bill applies to all forms of property. Proponents claim that it only applies to real property. It may indirectly expand on the definition of private property. This will undoubtedly lead to creative lawsuits and increased costs for the taxpayers.

This bill allows vindication of "all interests constituting property rights, as defined by Federal or State law, protected under the fifth and fourteenth amendments to the United States Constitution." I would remind my colleagues that "all interests constituting property" is a much broader category than real estate. Moreover, the bill creates the right of access to federal court for any actions taken by federal agencies as described in Section 6 that "infringe or take" the rights to "use and enjoy real property."

Starting down the road of extending litigation rights to all forms of property, and all uses of property may lead the federal government to protect interests we might otherwise not protect.

Take for example contractual rights to receive water from the federal government. At present, there is no federal right to "receive" water except as provided by a contract, even though a supply of water clearly is related to the ability to produce crops on one's real property. The Bureau of Reclamation delivers water in 17 Western states, pursuant to contracts, for primarily agricultural purposes. Each year, it allocates water based upon supplies available in reservoirs and other storage facilities. Most contracts generally anticipate that delivered quantities may vary on an annual basis.

During the drought of 1993, the Bureau of Reclamation reduced the quantities of water supplied to the Westlands Water District. It allocated a portion of the limited water available to protect fish in accordance with the requirements of the Endangered Species Act. When agricultural users received only 50 percent of their contract quantities, Westlands sued alleging that the liability limitations of the contract were invalid and that the agricultural users were guaranteed a fixed quantity of water at a fixed price. They contended that despite the liability limitations of the contract, the Bureau's water allocation decisions improperly deprived them of water and entitled them to compensation.

The Ninth Circuit Court of Appeals dismissed Westlands' claim, sustaining the federal government's contract defense. This legislation would create an expedited procedure for bringing takings claims, and specifically provides for causes of action when "use" is restricted, thus potentially compromising the federal government's argument in the Westlands case that the government was in compliance with the contract. In response to questions I submitted about last Congress' takings legislation, which had similar definitions of "use," then Counselor to the Secretary of the Interior Joseph Sax wrote explicitly about the Administration's concerns with the potential for property rights legislation to create a new category of federal water law:

> Where Congress has recently restructured federal reclamation projects to direct more economically and environmentally sensitive management, as it has done for example in California's Central Valley Project, . . . [a]ny steps the Department of Interior takes to implement these congressionally ratified improvements would doubtless result in demands for compensation by affected interests if these bills became law.

Other portions of the bill raise similar questions. For example, is it the intent of the language to suggest that any person taking an action that causes injury to a property right, but doesn't actually take the property, creates the right of access to federal courts? Even if that action is supported or mandated by a local or state ordinance or statute? How would one substantiate an action which damages the "right to enjoy" one's property? This is just another example of the kinds of problems this legislation poses. And what about the distinction the bill makes by including special reference to "real property" without defining that term?

Wisconsin communities are deeply afraid of the litigation costs and general erosion of the notion of community that will be implicit in the answers to these questions. Mr. President, I have heard almost unprecedented levels of opposition to this legislation from local governments all over my state, from large cities like Milwaukee and Madison to small communities like the Village of Park Ridge near Stevens Point and Cudahy, Wisconsin. Individuals of every political affiliation oppose this legislation, and editorials opposing similar bills have appeared all over my state.

To me, however, one of the best arguments against this legislation was sent to me by the former Mayor of New London, Wisconsin, Gregory Mathewson. After the H.R. 1534 passed the other body and was sent to the Senate Judiciary Committee former Mayor Mathewson wrote:

> Our fear with this legislation is that it tilts the current balance and increases the range of things a property owner has a right to do. Meaning that communities no longer have any clear authority to zone property or decide between conflicting interests on the basis of the best interests of the community as a whole.
>
> We often have homeowners who do not wish to see apartments of any type built near them, owners of large houses who do not want small houses built near them, and we routinely have to tell people that the City exists for all persons not a few, and that the poor, the non-land owning and others shall be welcome.
>
> We fear now that these decisions will involve us in continuous litigation in federal court, and all notions of community will be eroded as the questions and issues will be so generalized by the courts that local reasons, customs and planning will be irrelevant.
>
> I ask you to see that a balance is maintained, the community ought to have rights balances against individual rights. In its current form, H.R. 1534 appears to eliminate this balance. Everybody seeks out places to live which offer a high quality of life. It must be clear that there is no quality of life if someone can do anything they want with their property or sue over any perceived impact on their property. In either case, the individual controls the community and this is the operational definition of anarchy.

Mr. President, Wisconsin communities respect property rights, and want to have well developed and well planned cities, towns, and villages. This legislation goes too far in seeking not just to clarify but to enhance the procedural rights of property owners to seek compensation under the fifth and fourteenth amendments to the Constitution. In doing it would have unintended consequences that might undo the unique character of towns across America and within my home state. It is for this reason, and the others I have described, that I oppose this legislation. I urge other Senators to join me in seeking its defeat.

Mr. KENNEDY. Mr. President, I oppose this legislation. Much of the bill is almost certainly unconstitutional, and all of it is unnecessary. States and municipalities already have adequate ways to decide questions of property rights.

The goal of this misguided legislation is not to protect the constitutional rights of property owners, but to create new rights for wealthy developers. It would alter the balance of power in their favor, and force local governments across the nation to accept a wide range of activities that harm communities.

This legislation is a Pandora's Box of problems for local communities and the federal judiciary. It will force municipalities into federal court early in the land-use process. It will force federal judges to accept cases involving sensitive land-use issues that should be handled at the local or state level. It will add a new burden to federal courts, at a time when they are already overburdened. It will substantially—and unconstitutionally—broaden the jurisdiction of the Court of Federal Claims.

The bill is the latest attempt by the Republican Congress to tip the balance against neighborhoods and towns and in favor of developers. It isn't unreasonable to ask property owners to consider the health, safety, and zoning needs of the local community. State and local planning and zoning boards, and health and safety commissions, exist to protect local needs, and balance them with the interests of property owners.

Each person's property rights are bounded by his neighbor's interests and limited by the public interest. It is not against the law for the government to "take" private property for public use. It is only against the law to take it without compensation. Local involvement is necessary to this process. Only at the local level can the proper determination of value be made and the necessary negotiations take place. Once decisions are made at the local level and state courts have a opportunity to reach a decision, property owners have the right to appeal to federal courts if they are dissatisfied with the local decision. There is nothing wrong with the current law that this legislation will fix.

By forcing federal courts into earlier stages of these local decisions, it will give landowners an unfair "big stick"—the threat of federal litigation.

And that threat is real. Currently, a federal judge may refuse to hear a case if it is not yet "ripe" for adjudication in a federal forum, or involves issues better dealt with in state courts. This bill will allow big developers to force local planning issues out of local administrative and judicial forums, where they belong, and into federal courtrooms, where they don't belong.

The bill also undermines the principles enunciated by the Supreme Court in the Williamson case, which held that remedies should be pursued at the state level before being sought in federal court. As the Court noted, "Rejection of exceedingly grandiose development plans does not logically imply that less ambitious plans will receive similarly unfavorable reviews." In other words, a city can deny a permit to build a factory on a piece of land, but might well allow residential development.

Most disputes about property are resolved by this back-and-forth process between local officials, neighbors and developers. Through this process, the community shapes the kind of growth it wants and can support. By allowing a developer to bring a city into federal court after filing one proposal, this bill will promote litigation at the expense of negotiated solution. Because municipalities are often small and federal lawsuits are costly, localities will be coerced into abandoning sensible land-use plans because they can't afford a lawsuit. This bill will certainly interfere with necessary local efforts to protect the quality of their communities, including the water, air, and open space, and health and safety, too.

Most communities across the country are small. Very few have legal staff. Yet these are the communities that will have to defend their regulations and zoning decisions in federal court if they don't surrender to big developers' demands. Some of the cases that this bill would affect could easily pose serious threats to the health and safety and well-being of our communities.

Finally, there are serious constitutional questions about the bill's proposed expansion of the jurisdiction of the Court of Federal Claims. That court is an Article I court, not an Article III court. It has no authority over Congressional or agency actions. It was created to hear monetary claims against the federal government. Expanding its scope will cause it to cross over into the realm of Article III courts.

The Judicial Conference of the United States opposes granting the Court of Federal Claims the power of injunctive and declaratory relief, and the authority to invalidate Acts of Congress or agency regulations. The power to invalidate Acts of Congress and federal regulations has historically been part of an independent judiciary. The Court of Federal Claims does not have the tenure and salary protections of an Article III court that ensure judicial independence. So this bill is likely to be held unconstitutional under standard doctrines of separations of powers.

Judicial efficiency in the already over-burdened federal court system will also suffer, as more federal lawsuits are filed against zoning boards, land-use bodies and regulatory agencies. The cases this legislation will unleash will burden the federal courts at a time when there are over 70 judicial vacancies. The irony is obvious—our Republican colleagues won't confirm more judges, but they're more than willing to add to the current excessive workload.

These complex issues of local land use are currently being resolved at the appropriate level. Congress should reject this heavy-handed scheme to curry favor with developers at the expense of homeowners and neighborhoods across America.

Mr. GRASSLEY. Mr. President, I rise in support of the property rights legislation we are currently considering. The question we have to answer today is simple. Do we want to give to homeowners and farmers the same rights to go to Federal court when their constitutional rights are infringed that we already give to flag burners and neo-Nazis who preach hate. For my Part, I think that hardworking farmers and homeowners ought to have at least as many constitutional rights as Nazis and flag burners.

For the benefit of my colleagues, I'd like to point out how this bill would change current law to correct the outrageous preference that activist Federal judges have given to flag burning over property rights. The current bill modifies the abstention doctrine, which provides that Federal courts will decline to hear certain court cases if there is on-going litigation in State court or before a State administrative agency.

Now, on its face, the abstention doctrine sounds good. I believe that Federal courts should decline to hear lawsuits when State governments or State courts are in the process of considering the same issues. This prevents the duplication of efforts and respects States' rights.

The property rights bill we're considering today would create an exception to the abstention doctrine for people who want to protect their constitutional right to own and control their property.

The thing to remember, however, is that the Federal courts have already created exceptions to the abstention doctrine. Let's look at some of the cases where the Federal courts have decided not to abstain. In other words, let's look at some cases where Federal courts went ahead and heard a court case even though a State government was in the middle of considering the same case.

In the case of Collins versus Smith, a Federal court decided not to abstain when a town in Illinois decided against issuing a parade permit to the American Nazi Party which wanted to march in a Jewish neighborhood. The Nazi Party couldn't afford to pay a fee which the town required, and so the Nazi Party was not given a permit to have this march. The Nazi Party challenged this decision as a violation of their constitutional rights and the town was considering whether to waive the fee or not to waive the fee. But the Nazis got tired of waiting and went to Federal court. And the court decided that it would hear the case even though there was a pending State proceeding.

So, the Nazi Party gets to protect their rights in Federal courts—no questions asked and without having to wait for State proceedings to conclude. But property owners don't have that ability. They can't just run into Federal court.

Mr. President, I think that's just plain wrong. I believe that hardworking Americans who own homes and hardworking farmers trying to work their land ought to have at least as many constitutional rights as the Nazi Party. If we pass this bill, we'll stop this unfairness.

Nazis aren't the only ones who get treated better than property owners. Flag burners have it pretty good as well. In Sutherland versus DeWulf, the city of Rock Island, Illinois tried to prosecute someone who had burned an American flag. So the flag burners went straight into Federal court to sue the city government. Even though there were on-going State proceedings, the Federal court decided to hear the case and specifically rules that it would not abstain until after the State proceedings were finished.

Again, this is unfair. It doesn't make sense to say that homeowners and farmers have to wait to have their day in court but flag burners can get their day in court any time they want. I think that property owners ought to have at least as many constitutional rights as flag burners.

So, Mr. President, we have a chance today to correct this absurd preference for flag burners and Nazis. Why should they get a special key to unlock the courthouse doors, while homeowners and farmers have to wait outside the courthouse for years until some Federal judge decides it's okay to file a property rights case. For once, let's use some common sense and pass this bill.

In the last Congress, the Judiciary Committee considered a comprehensive property rights bill. That was a good bill, and the Senate should have passed it. But there was strong opposition from intellectual elitists of the far left who have no regard for the concept of protecting private property rights. Those who spoke against the last property rights bill said it was too broad.

So, this Congress, we have a more narrowly focused bill. But even this more narrow bill isn't acceptable to the opponents of property rights.

Given what I've just pointed out about the preferential treatment that flag burners and Nazis get in terms of access to the Federal courts, I think that just shows how extreme and out-of-touch the other side is on this issue. I yield the floor.

Mr. President, I yield the floor.

Mr. HATCH. Mr. President, I yield 3 minutes to the distinguished Senator from Idaho.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. HATCH. Will the Senator yield for 1 second? Mr. President, I ask unanimous consent that after the Senator's remarks, I reserve the remainder of my time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRAIG. Mr. President, I congratulate Chairman HATCH for bringing the Senate this important reform measure to safeguard Americans' property rights.

The concept of property is at the root of civilization as we know it. The right of the individual to acquire, possess and use property is one of the natural rights that does not depend on government for its existence; on the contrary, governments were formed in part to protect that right. Our Founders also saw the right to private property as the key to spurring individuals initiative and productivity that would ensure national prosperity and security. For that reason, the concept of property and the importance of its protection permeates the Constitution—there are references to it throughout the document, in addition to the fifth amendment's prohibition against the taking of private property for the public good, without just compensation.

Unfortunately, however, all these rights aren't worth the paper they are printed on, unless they can be enforced. That principle applies even to the Constitution. Our Founding Fathers may have thought the fifth amendment would shield the people of this country from government taking their property without just compensation. But for all too many Americans the shield has no substance, the promise of protection is hollow, the Constitution's guarantee is an empty one—all because they cannot enforce it against government encroachment.

This is not an isolated problem for a few wealthy Americans. In communities across the nation it is ruining family businesses, devaluing property of all kinds, preventing people from building homes and sometimes even from cleaning up pollution or hazards. In short, it is depriving citizens of all incomes from every state of one of the most prized basic human liberties.

There are many aspects of the erosion of private property rights protection and many ways to attack the problem. Chairman HATCH and I and others have tried in the past to enact a comprehensive solution. Unfortunately, that effort ran headlong into another political agenda, and for that reason, we have put it aside for the near term. Meanwhile, however, it makes sense to push ahead on a more limited—but still important—part of the solution.

The bill before us today, the Property Rights Implementation Act of 1998, focuses on the judicial side of the equation. Currently, people trying to vindicate their constitutionally guaranteed property rights face a procedural catch-22. They are forced to jump endless hurdles on the way to court, and then are bounced from court to court to obtain relief. At every step, the system is biased to the benefit of government and against the citizen. The costs are often staggering.

If it were this difficult to enforce any other constitutional guarantee, we would have seen reform long ago. Even members of the judicial branch have acknowledged that clarification is seriously needed in this area.

This bill would simplify the path to court and clarify the jurisdiction of the courts. It doesn't grant any new rights but only attempts to clean up the procedural quagmire that presently frustrates access to the courts. This is a precise and limited reform that would make a big difference to the citizens who are forced to litigate in order to protect their property rights.

I know that local governments have been concerned that this legislation may interfere with their areas of jurisdiction. However, this bill does nothing to reduce the power of local governments to make decisions with regard to property. Furthermore, this legislation actually exempts localities from paying attorneys' fees if they lose a takings claim. If the case involves a critical question of state or local law that is unclear, that question will be sent back to a state court for decision before the federal case can continue. In short, the bill does nothing to take away power from state and local government, while it strengthens the protection of individual citizens' rights.

Mr. President, the House has already passed similar legislation by an overwhelming vote. S. 2271 is an important reform, and I urge all Senators to support its passage. Let's most this bill to conference and then on to the President for enactment.

In conclusion, Mr. President, I am pleased to stand with the chairman of the Judiciary Committee today in support of S. 2271, the Property Rights Implementation Act of 1998.

We can talk about constitutional rights, and we should; we can talk about the very basic foundation of our economy, and we must. All of us are in favor of the environment, but some like to put the rights of the collective over the right of the individual.

What we are trying to do here today is sort a little bit of that out, because, yes, people buy property for a variety of reasons. They buy it to hold as you would put money in a bank, hoping that some day in the future you might be able to use it as an investment purpose to retire. It reminds me of a lady I met from Texas not long ago. She and her husband had done so. They had bought a small piece of property a long ways out of Dallas 30 years ago, hoping that some day it might be of value.

All of a sudden, the suburbs of Dallas reached the property. Her husband is dead, and this is her retirement. The Federal Government, in cooperation with the municipal government, said that property can now not be developed for a multitude of reasons. This lady only can go to court to redeem her values, but in this instance, she has no money.

While this particular legislation would not address that example, it would go a long ways toward honoring our constitutional rights and, most assuredly, would have allowed this individual her day in court. That is one example.

In my State of Idaho, where there are people who have held property for generations and like to continue to hold them for a variety of reasons—ranching or farming because it is their livelihood—only to have the Federal Government step in and determine that certain uses may not go on on that land or certain practices—or the land itself may be habitat for a particular species of plant, animal or bird, the value of that property is diminished because of the flexibility that the individual has to manage and operate that property, not for investment purposes, but as an income property. Yet, in those instances, and in most instances, the opportunity to recoup those kinds of losses are denied.

There are a good many other examples, Mr. President, and my time is limited this afternoon. I stand in strong support of this legislation and hope that my colleagues will join with me in gaining cloture for the purpose of debating this issue.

The PRESIDING OFFICER. Who yields time?

Mrs. MURRAY addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. I yield 10 minutes to the Senator from Rhode Island.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, there has been considerable discussion this afternoon about compensation and takings and so forth, but what this really is all about is, are we going to permit the local authorities to have the powers that they have had in the past to deal with local zoning matters and matters similarly associated therewith.

What the proponents of this legislation are saying is that we don't want that, we don't want to have a situation whereby you must exhaust your local remedies. Even though that is recognized to apply in the fourth amendment where we are dealing with unlawful searches and seizures, for example—and there the courts have said you have to exhaust your local remedies—here is what they are also saying in connection with these so-called property rights under the fifth amendment.

For some peculiar reason that I haven't quite been able to fathom here, those people who have long been stalwarts of the local authority and the powers of the locals—local elected officials, for example—are suddenly saying, "No, no, no, you don't know how to do this; we're a lot smarter than you are; we're Federal officials, we live inside the beltway, this is where we make our decisions and we're going to tell you how to run these matters on your local level."

Even though the Supreme Court recognizes that, yes, there can be no taking of private property without just compensation, they are saying that, first, you must exhaust your local remedies, you must let this what they call "ripen." We have gotten adjusted to that. For over 200 years, this is the way this system has worked. But, "No, no," say the proponents of this legislation, "that's not fast enough. Your local officials really don't know how to do this. What they are doing is they are holding up matters too long."

It is true that you, the local voters, for example, from your town or your city, your county, wherever it might be, you are tolerant of this, you are satisfied with the way the system works.

But we are in Washington, DC. And we say, "No, we don't like that. We're going to change it for you. And, yes, your mayors can come to us and your Governors can come to us and your local legislators. We're going to dismiss you. We don't care what you want, we're going to tell you how to do this. We're pretty smart here in the U.S. Government, and we're going to straighten this thing out. No, we don't have to bother having any hearings. We'll tinker with this and change it all around and bring it to the floor. That's all right."

As the senior Senator from Vermont has pointed out, there has not been 30 seconds of hearings on this bill we have before us, but they say that is all right because we are all very, very smart around here and we know what is best. And so we are saying to the president of the U.S. Conference of Mayors, the president of the National Association of Counties, the president of the National League of Cities, and the vice chairman of the National Conference of State Legislatures, and so forth, this is the way we are going to do it.

We are going to say, "You don't have to exhaust your remedies." All you have to do in my State—I am not familiar how it works in every State; I know how it works in my State—if you want to make a dramatic change in zoning where you live, you want to put a multifamily structure up in a single family development, you say, "I'm going to go to the zoning board." And you ask permission for this. And if the zoning board says no, then you file with the zoning board of review. And that is all you have to do. You do not have to do anything else.

You do not have to go through that. And you do not have to take the steps and go to the State district court. Bang, you can go into Federal court. And there some federally appointed judge is going to tell you just how to straighten this thing out. He is going to tell you what to do, not your local officials, not your elected members of the zoning board or the zoning board of review. Not your mayor—he has nothing to do with this. It is going to be a federally appointed judge. And we have heard all —I do not know how many times on this floor we have heard about the dangers of activist Federal judges. And so we are going to have an activist Federal judge tell us what to do in East Greenwich, RI, or wherever it might be.

Mr. President, I do not think that is right. I can see why they avoided having a hearing on this final bill, because it would have been trash. And it came out on practically a straight party-line vote. It indicates the lack of support for this legislation.

Mr. President, I want to make one more point. When we have these things come up, a zoning request on the local level, there is great effort made to compromise it, to negotiate it in some fashion. "All right. You want to fill in a wetland? No, you can't fill in that wetland. There's a place where you can work out a situation, restore a wetland just right up the road. And this is the way we will work it out."

That is what local officials do. They know they are living there. They are dealing with their neighbors and people they know. They are not some Federal judge from some distant place who comes into town riding the circuit every now and then and says, "This is the way it's going to be." But the problem is, you do not have that negotiation, that attempt to compromise, that attempt to work these matters out.

I also might say, this has a very, very chilling effect on the local officials, because if the local officials are in a situation where they know they can be jerked into the Federal court—they make a decision on whether it is the preservation of a wetland or the preservation of the zoning, the one-acre zoning, whatever it might be—they are going to be very leery of making a decision against the wishes of the home builders, for example.

Why are the home builders so enthusiastic about this legislation? Are they trying to preserve the environment or preserve some open space or do what is best for the community? Well, it is totally understandable. They are looking after their own interests. That is what they want. So, Mr. President, they are going to be going right into the Federal court. They have plenty of money.

If I come from a relatively small town, and my little town is jerked into the Federal court—and we have a city solicitor—the town solicitor, who isn't paid much, if he is going to start going to Federal court and have to answer to every request for a change in the zoning, it is going to be a big bill that he is going to submit to this town.

Mr. President, I certainly hope that this so-called Property Rights Implementation Act of 1998, which is going to come before us in a half an hour on a question of cloture—I certainly hope that everybody will vote against cloture.

I thank the distinguished Senator from Washington for letting me speak.

Mrs. MURRAY addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. I suggest the absence of a quorum and I ask unanimous consent that it be divided equally between both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. HUTCHISON. I ask unanimous consent that I be allowed to speak for up to 4 minutes on behalf of the bill.

The PRESIDING OFFICER. Is the Senator using time from either side or is this an additional request?

Mrs. HUTCHISON. It is an additional request.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. HUTCHISON. Thank you, Mr. President. I want to thank the Senator from Washington for allowing me to use some time because I think there are a couple of other Senators who will be speaking on her side very shortly.

Mr. President, I commend Senator HATCH for his commitment to ensuring protection of private property rights as required by our Constitution and for trying to do everything we can to assure the private property provision of our Constitution is adhered to. People seem to overlook the fifth amendment sometimes, which says that:

> No person shall be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation.

In spite of this unequivocal protection of private property in the Bill of Rights, the Federal Government has often adopted laws that violate these important rights. One law, for example, which has been implemented to the detriment of private property rights in Texas is the Endangered Species Act. In the Texas Panhandle, the Endangered Species Act has been used to protect a bait fish called the Arkansas River shiner. To protect the fish in Texas, even though it thrives in New Mexico, the water supply for cities such as Amarillo and agriculture in the area are put in jeopardy. In Travis County, families who purchased residentially zoned lots in good faith to build their homes are being penalized. In addition to the cost of their lots, they are forced to pay $1,500 as an added fee to protect habitat for the golden-cheeked warbler, in an area where 20,000 acres already are set aside for that purpose.

There are many other examples like this that demonstrate how laws can be used to actually violate constitutional rights. For this reason, I support property rights protections. We tried in the 103d Congress and in the 104th Congress, to guarantee compensation to landowners whose private property was devalued due to government regulations. Unfortunately, we were unsuccessful in adopting these reforms. Today, we are trying a new approach. Senator HATCH has put forward a new approach that adjusts our legal process to assure that constitutional rights are secured for the private property owners of our country.

Now, what Senator HATCH is doing is really mostly technical in nature. It is giving people the right to have their cases heard. I don't think Americans should have to spend all of their money just seeking to challenge the violation of rights that are guaranteed to them under the Constitution. I don't think that is due process. So I commend this bill because I do think it will take one step in the right direction toward protecting private property rights and helping private property owners at least have their cases adjudicated in court.

The bill does not speak to the real issue which is how we can accommodate environmental laws in a way that also protects the rights of private property owners. I hope this Congress will address the basic issue soon.

In the meantime, this bill at least will take us a step toward allowing people due process to protect their private property rights. I think it is time that the American people who own property have the ability to fully protect their rights guaranteed by the Constitution. I hope that we will all support this bill.

I thank the Senator from Washington. I yield the floor.

The PRESIDING OFFICER. If neither side yields time, it will be deducted equally from each.

Mr. LEAHY. Mr. President, if I might, the other side was last to speak. If they have not called a quorum call, my understanding is the time is still on their time.

The PRESIDING OFFICER. The Senator is not correct. Under the precedent, if neither side yields time, the time is deducted equally.

Mr. LEAHY. Mr. President, parliamentary inquiry. There may have been another unanimous consent request when I was off the floor.

If somebody had sought recognition and yielded time for that person to speak, they do not call the quorum call, and nobody else seeks recognition subsequent to their speaking, does the time continue to run against whoever had been yielded time?

The PRESIDING OFFICER. Precedent is that the time is deducted from both sides equally.

Mr. LEAHY. So if somebody sought recognition on their time and just stands there silently, while they are standing there silently, the time is running equally?

The PRESIDING OFFICER. If they are yielded for a set amount of time, that time will be deducted from their side. Once they yield the floor and they sit down, the time is no longer charged to them, it is charged to both sides equally.

Mr. LEAHY. How much time remains to the Senator from Utah and the Senator from Vermont?

The PRESIDING OFFICER. The Senator from Utah has 4½ minutes, and the Senator from Vermont has 21½ minutes.

Mr. LEAHY. And the vote is set for quarter of?

The PRESIDING OFFICER. Yes.

Mr. LEAHY. I yield myself 5 minutes.

We continue to hear what an improvement we have in the new bill, S. 2271, as compared to H.R. 1534. Maybe it is, but maybe it isn't an improved bill. I don't believe it is an improved bill but it is a different bill.

Frankly, we have before the Senate a different piece of legislation in which there has not been 38 seconds of hearings. We have before the Senate a bill which, unlike other major legislation, does not have a specific report before the Senate. We have a bill that is brought down in time for the Monday afternoon bed check vote, without a report, without a hearing.

Mr. President, we are asked to pass a piece of legislation that would dramatically encroach on the rights of the municipalities, counties, and States in our country. It would be a massive shift of power from the local people and communities to the Federal courts.

I think one of the reasons it is being rushed through is that the big developers who want it don't want the public to look at this very long. But those who have looked at it are opposed to it. That includes the National Governors' Association, the National Association of Counties. Others who oppose it include the National League of Cities, the U.S. Conference of Mayors, the National Association of Towns and Townships, the National Conference of State Legislatures. The bill that was reported, H.R. 1534, was also opposed by those groups and the International Municipal Lawyers Association, 38 State attorneys general, and the American Planning Association.

Among those opposed to having that unprecedented shift of power to the Federal courts are the Judicial Conference of the U.S. Conference of Chief Justices and the Administrative Office of the U.S. Courts.

Among those religious organizations opposed to that bill are the United States Catholic Conference, the National Council of Churches of Christ, Religious Action Center for Reform Judaism, and the Evangelicals for Social Action.

Among the public interest groups that are opposed to it are the League of Women Voters, the Alliance for Justice, the Physicians for Social Responsibility, the National Trust for Historic Preservation, and the U.S. Public Interest Research Group.

Among the conservation groups against it are the National Wildlife Federation and the League of Conservation Voters. Those who oppose it include the Sierra Club, the National Environmental Trust, the Environmental Working Group, the Center for Marine Conservation, the Environmental Defense Fund, the National Audubon Society, the Great Lakes United, the Earth Justice Legal Defense Fund, Izaak Walton League of America, the Scenic America, and the Wilderness Society, Natural Resources Defense Council, the Rails to Trails Conservancy, and the National Parks and Conservation Association, Friends of the Earth, Defenders of Wildlife, Appalachian Mountain Club, and the American Oceans Campaign.

Among those who are opposed to it are the American Federation of State, County, and Municipal Employees and the United Steelworkers of America.

For the same reason that this Vermonter is opposed to the new bill, S. 2271, the Vermont League of Cities and Counties, is also opposed. They just wrote to me on the new bill saying:

> Dear Senator LEAHY: I am writing you to express our strong support for your actions in opposing S. 2271. * * *

> Local governments are working very hard in Vermont to exercise appropriate authority over land uses in their communities. We are joined in this in very real fashion by the Vermont legislature which this past session adopted legislation clarifying our ability to regulate wireless telecommunication facilities under zoning.
>
> What would a volunteer part-time planning commission or zoning board of authority do if a national wireless telecommunications company came into town, not only with its platoon of attorneys and engineers but also with the ability to say, "you take a wrong step and you're in federal court?"

Continuing from their letter:

> The chilling effect of that combination would be immense. It is already hard to find people willing to serve on local boards and commissions. With the threats proposed in the Takings legislation, many good public servants at the local level would simply give up.

That is from the Vermont League of Cities and Towns.

In an earlier letter, they asked me "At what cost to the communities?" This is a question being answered at the local level by local zoning boards of Charlotte, Hardwick, Cabot, and other towns throughout the State. I think we ought to pay some attention to it. In the Sunday Burlington Free Press, the homebuilders themselves made this statement regarding urban sprawl:

> Urban growth is not really Congress' purview. . . . I think most Members of Congress recognize that planning ought to take place at a local or State level.

Then I ask, why are they pushing this bill? They want the Federal Government to take authority away from our States. Do the homebuilders need this for a win?

I said earlier that we Vermonters may differ in the way our State and communities should be handled as compared to how they would be handled by some large-scale, wealthy developer. That is our choice to make. I spoke of some of the most beautiful spots in our State that my wife and I love driving by. Each one has enormous developmental value, but we Vermonters have decided not to develop it. Now, we Vermonters pay the price for that. We get less tax revenue. We make less from our land; I know I do from my own land.

I have 220 acres on my tree farm. We could earn a lot more if Vermont suddenly zoned everything for commercial use. But I don't want to do that. I like the quality of life in Vermont. I like not having to lock my door. I like being able to walk through my fields and see a deer, or to ski down one of the logging trails on my property, as I have in the wintertime, and to see an owl floating on the thermals ahead of me by the moonlight. I liked being awakened about 3 o'clock this morning by the screech of a bear near my home. Frankly, I like that better than the screech of brakes in a congested urban intersection.

They also told us we would lose a great deal in Vermont when we did away with billboards. But a couple out-of-State billboard companies didn't do so well. The scenic vistas of Vermont were opened up and the tourism increased.

Mr. President, we ought to stop taking things out of the hands of small communities and counties in our States. We ought to let the people of West Virginia make their decisions and the people of Vermont make their decision and not say: We are going to yank this out of your hands and put it in Federal court.

Mr. President, I reserve the balance of my time.

Mr. HATCH. Mr. President, I yield 2 minutes to the Senator from Alabama.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SESSIONS. Mr. President, I would like to congratulate Chairman HATCH for his outstanding work on this very important issue that deals with a constitutional right that is as fundamental as our right to free speech. The Constitution says that the Government cannot take somebody's property without paying just compensation for it. Let me repeat that. Property cannot be taken without it being paid for.

Too often in America today, we have government agencies that would like to take control of someone's property, but they don't want to pay for it. So these agencies take property through the use of regulations and laws. Sometimes their actions are legitimate. For example, zoning regulations are often perfectly legitimate rules that we have to have if we are going to live together. But there often reaches a point in which the actions of a municipality, or a county, or a State, or a Federal Government—which is primarily what we are dealing with here—can, in fact, take the beneficial use of that property without offering any compensation for it. That is wrong; it should not happen.

This bill is a modest, very reasonable step. Senator HATCH has compromised and worked with those who have different views, and he has crafted a bill that is logical, reasonable, realistic, and that will protect our Constitutional property rights while not doing anything that would deny our ability to protect our environment. To me, it is clearly wrong to say that passage of this legislation would in any way restrict the environmental rights in this country. So I join in support of it. I think it is outstanding legislation. It simply provides a mechanism to protect our cherished fifth amendment constitutional rights.

The PRESIDING OFFICER. Who yields time?

If no one yields time, time will be deducted equally.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER (Mr. ALLARD). The Senator from Vermont.

Mr. LEAHY. Mr. President, how much time is remaining?

The PRESIDING OFFICER. You have 11 minutes 20 seconds.

Mr. LEAHY. How much time is remaining for the Senator from Utah?

The PRESIDING OFFICER. One minute thirty-six seconds. The vote will take place at 5:49, which under the unanimous consent agreement was moved from 5:45 to 5:49.

Mr. LEAHY. The vote is at what time?

The PRESIDING OFFICER. 5:49.

Mr. LEAHY. Mr. President, I yield myself 4 minutes.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, we can probably sit here on the floor and think of some horror stories where a town made a mistake in holding something up. We could point somewhere to some local court where another mistake might have been made, or to a few prosecutors out of the thousands of our local prosecutors where one bad judgment call was made.

But we don't have the arrogance in this body to say we will take over all our local courts, all our local communities, all our local prosecutors, and turn them over to the Feds because mistakes won't be made. Because I can tell you right now that for every mistake made at the local level I could point to a bigger one made at the Federal level. I think that is why the Judicial Conference says don't quickly toss these matters into the Federal courts. The Federal courts can't keep up with the cases that are there today, especially when the Senate won't vote to confirm judges for the vacancies already existing.

Let's not do this. And let us say that the U.S. Senate, of all places, will protect the current state process and rights of local communities and local counties and States to make their own decisions.

Why do we want to say to our small towns that they can not decide to protect a particular area? Why do we say they should not be able to stop a building from being built next to a particular scenic spot? If they are willing to forego tax revenue by doing that, and they are willing to pay the price themselves—why do we want to say that some big developer from out of State could come in with a platoon of lawyers and endless pockets and say, "Oh, the heck with you. We know better. We can make a quick buck on that, and we will take you to Federal court if you do not let us do it"?

Before the Congress bulldozes local and state jurisdiction, we need to ask ourselves what urgent problem is being solved by this bill that could not be solved some other way? What is so urgent that we have to step in right now and wipe out the local land use process of our towns, our cities, our counties or our States? What is such a pressing need besides the current concerns of a couple of well-financed PACs? What is the urgent concern in this country that we have to suddenly rewrite the rule books and say from the Federal Government, "you people at the local government level don't know what you are doing, and we are going to step in and take it over"?

Mr. President, I reserve the remainder of my time.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, how much time do I have?

The PRESIDING OFFICER. One minute thirty seconds.

Mr. HATCH. Mr. President, let me use part of that.

Let me say what the five truths of the bill are.

This bill does not affect State or localities or local rights, and it only applies to real property.

No. 2, it does nothing to stop localities from zoning or passing or enforcing environmental measures.

No. 3, it does not increase Federal litigation against localities, because the bill does not create new law. And takings cases are expensive to bring. The Congressional Budget Office agrees with that.

No. 4, what the bill does is it grants property owners their day in court, which is denied in many cases by local court procedures or by local procedures, which at times are like the Minotaur's Labyrinth.

No. 5, currently property owners must litigate on average 9½ years before they can get a Federal court to reach a decision on the merits. No other constitutional right is treated that way.

In fact, in *Dolan* v. *City of Tigard*, the Supreme Court said, "We see no reason why the takings clause of the fifth amendment, as much of a part of the Bill of Rights as the first amendment, or fourth amendment should be delegated to the status of a poor relation."

We are trying to stop that. This bill will do it.

We have had hearings on it time after time over the years. We have added on this substitute four additional matters, mainly to help people who have raised concerns.

I hope our colleagues will support us on this motion to proceed.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, the fact is we have never had a hearing on this particular bill, S. 2271, not in the U.S. Senate. The fact is we do not have a report on this bill. S. 2271 was rushed to us and stuck on the calendar. It was just introduced last week. And without one second of hearings on this bill, without one word of a report, we Senators are asked to push forward and vote on it.

I am concerned that this bill radically changes a system which resolves thousands of land use decisions each week in thousands of American communities and cities. The zoning system in this country is working well. It is helping mayors, like Mayor Giuliani in New York, clean up their communities. Yet, as Mayor Giuliani said, the efforts he has made to clean up crime and clean up porno shops and clean up a lot of other problems in New York City, could be swept aside by this legislation.

I could show you stacks of letters from local citizens in Vermont, in Pennsylvania, in North Carolina, and in many other States who are up in arms about a provision of the 1996 Telecommunications Act that overrides local and State decisions involving cellular transmission towers. That provision, and this bill, were the subject of a recent article in Governing Magazine that was aptly titled, "The National Zoning Nanny."

Do we really want to federalize these local decisions by booting them into Federal court?

This bill is unwise, it is unsound, and it is unwarranted. We ought to be standing up here and defending our mayors, Governors, and our attorneys general, our towns and cities, and others in our States who understand the unintended consequences of this bill. We ought to stand up and say the people of Wyoming, Vermont, Utah, West Virginia, Rhode Island, North Carolina, Missouri, Alabama, North Carolina, South Carolina, South Dakota, North Dakota, Indiana, and Washington State, as the distinguished Senator from Washington State, Mrs. MURRAY said, know best how to make their decisions. And these people do not need the U.S. Senate to suddenly give them some new unfunded mandate and to make them liable for lawyers fees. We ought to respect the ability of the States to make decisions about how they run their communities, to make a decision of what is going to be built next to their schools or their churches or what kind of digging will go on next to the aquifers in their towns. All of these things could be quickly put before federal courts if we were to pass this bill.

Mr. President, in one minute, we are going to be voting. I hope we will vote not to proceed with this bill. We have never had a hearing on it. We never had a report on it. This issue is not ripe.

Mr. President, I yield any time I may have.

CLOTURE MOTION

The PRESIDING OFFICER. All time has expired. Under the previous order, the hour of the vote having arrived, the clerk will report the cloture motion.

The bill clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provision of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the motion to proceed to the private property rights legislation:

Trent Lott, Orrin Hatch, Jon Kyl, Chuck Hagel, Tim Hutchinson, Rod Grams, Pat Roberts, Pete Domenici, Dan Coats, Michael B. Enzi, Larry E. Craig, Craig Thomas, John Ashcroft, Frank Murkowski, Don Nickles, and Dirk Kempthorne.

CALL OF THE ROLL

The PRESIDING OFFICER. By unanimous consent, the quorum call under the rule has been waived.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on the motion to proceed to S. 2271, the Property Rights Implementation Act, shall be brought to a close?

The yeas and nays are required. The clerk will call the roll.

The bill clerk called the roll.

Mr. NICKLES. I announce that the Senator from New York (Mr. D'AMATO) and the Senator from Tennessee (Mr. FRIST) are necessarily absent.

Mr. FORD. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from Louisiana (Mr. BREAUX), the Senator from Ohio (Mr. GLENN), and the Senator from New Jersey (Mr. TORRICELLI) are necessarily absent.

The yeas and nays resulted—yeas 52, nays 42, as follows:

[Rollcall Vote No. 197 Leg.]

YEAS—52

Abraham
Allard
Ashcroft
Bennett
Bond
Brownback
Burns
Campbell
Coats
Cochran
Conrad
Coverdell
Craig
DeWine
Domenici
Dorgan
Enzi
Faircloth
Ford
Gorton
Gramm
Grams
Grassley
Hagel
Hatch
Helms
Hutchinson
Hutchison
Inhofe
Kempthorne
Kyl
Landrieu
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Reid
Roberts
Santorum
Sessions
Shelby
Smith (NH)
Smith (OR)
Specter
Stevens
Thomas
Thompson
Thurmond
Warner

NAYS—42

Akaka
Baucus
Bingaman
Boxer
Bryan
Bumpers
Byrd
Chafee
Cleland
Collins
Daschle
Dodd
Durbin
Feingold
Feinstein
Graham
Gregg
Harkin
Hollings
Inouye
Jeffords
Johnson
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Moynihan
Murray
Reed
Robb
Rockefeller
Roth
Sarbanes
Snowe
Wellstone
Wyden

NOT VOTING—6

Biden
Breaux
D'Amato
Frist
Glenn
Torricelli

The PRESIDING OFFICER. On the vote, the yeas are 52, the nays are 42. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

Mr. LEAHY. I move to reconsider the vote.

Mr. CHAFEE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 1999

Mr. LOTT. Mr. President, I ask unanimous consent that the Senate now turn to consideration of S. 2159, the agriculture appropriations bill.

The PRESIDING OFFICER. Is there objection?

Mr. DODD. Reserving the right to object, is there a possibility where there might be a few minutes just to conduct some morning business comments that are unrelated before we move to it? I do not think——

Mr. LOTT. Mr. President, responding to the Senator from Connecticut, we do plan to ask for a time for morning business. Senator GRASSLEY is here waiting to speak in morning business, and I am sure that the Senator from Connecticut would go, and others might want to, but we have one procedure we want to go through and then go to morning business.

Mr. DODD. I thank the Majority Leader.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

A bill (S. 2159) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for fiscal year ending September 30, 1999, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Daschle amendment No. 2729, to reform and structure the processes by which tobacco products are manufactured, marketed, and distributed, to prevent the use of tobacco products by minors, and to redress the adverse health effects of tobacco use.

AMENDMENT NO. 2729

Mr. LOTT. Mr. President, I ask for the yeas and nays on the pending amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. LOTT. I raise a point of order that the pending amendment violates section 302(f) of the Budget Act.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The Democratic leader.

MOTION TO WAIVE BUDGET ACT

Mr. DASCHLE. I move to waive the Budget Act for the amendment.

Mr. LOTT. Mr. President, I ask unanimous consent that at 9:30 a.m. on Tuesday, July 14, the Senate resume debate on the pending motion to waive the Budget Act, with the time until 10 a.m. equally divided in the usual form. I further ask unanimous consent that at the conclusion of the debate time the Senate proceed to a vote on the motion to waive.

The PRESIDING OFFICER. Is there objection?

Mr. DASCHLE. Reserving the right to object, I know Senator DODD had asked for time. I am wondering if I could ask unanimous consent that——

The PRESIDING OFFICER. The Senator will suspend. I would like to get order in the Chamber. The Senate will please come to order.

Mr. DASCHLE. It is not my desire to object. I was just thinking perhaps it might be in order that Senators DODD, KENNEDY, and GRASSLEY be recognized immediately following this colloquy for purposes of recognition under morning business.

Mr. LOTT. Mr. President, if the Senator will yield in his reservation to object, and if there is not objection and we get the yeas and nays on that, it would be my intention at that point to ask consent that we now have a period for the transaction of morning business right now.

The PRESIDING OFFICER. Is there objection?

Mr. LOTT. Mr. President, first of all, the Senator still had a reservation on my previous request.

Mr. DASCHLE. My only concern was that there be an accommodation for all those Senators who wish to be recognized, including Senator MURRAY.

Mr. LOTT. Are you asking that we get some sort of lineup as to how that might be?

Mr. DASCHLE. That might be appropriate. I do not know if there are other Senators on the leader's side of the aisle.

Mr. COCHRAN. Can we get the yeas and nays on the motion to waive and then approve this?

Mr. DASCHLE. Assuming we get some sort of an accommodation, I have no objection.

Mr. COCHRAN. I ask for the yeas and nays on the motion to waive the Budget Act.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. LOTT. Mr. President, I thank Senator DASCHLE for his cooperation on that.

MORNING BUSINESS

Mr. LOTT. I ask unanimous consent that there now be a period for the transaction of morning business with Senators permitted to speak for up to 10 minutes each, with the exception of Senator GRASSLEY—how much time do you desire?

Mr. GRASSLEY. That is plenty for me.

Mr. LOTT. And that Senator DODD be recognized following Senator GRASSLEY. Anybody else on this side seeking morning business time?

Mr. GRASSLEY. Since you asked me, 10 minutes.

Mr. LOTT. All right. We have 10 minutes first going to Senator GRASSLEY, then Senator DODD, and then Senator KENNEDY in that order, and then other Senators who may want to speak in morning business. That is the way I would make the request.

The PRESIDING OFFICER. Is there objection?

Mr. DASCHLE. I am not sure the request has been clarified—Senator GRASSLEY, Senator DODD, Senator KENNEDY, and Senator MURRAY. That order would be appropriate.

Mr. LOTT. Right.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

(The remarks of Mr. GRASSLEY are printed earlier in today's RECORD during consideration of the motion to proceed to S. 2271.)

The PRESIDING OFFICER. The Senator from Connecticut.

RECENT TRAGEDY IN NORTHERN IRELAND

Mr. DODD. Mr. President, as all of our colleagues and most of America know, tragedy has struck once again in Northern Ireland with the untimely deaths of three young Catholic boys—Richard, Mark, and Jason Quinn. The Quinn brothers were burned to death early Sunday morning after their home was firebombed by Protestant extremists. I join with Prime Ministers Blair and Ahern, President Clinton and others in condemning this terrorist act. I also want to extend, and I am sure I am joined in this by all our colleagues, my deepest condolences to the Quinn family.

The murder of three innocent children is such a cowardly act that it is incomprehensible. Sadly though for those of us who watched the week-long escalation of violence, after members of the Orange Order were prevented from going forward with a controversial parade through the Catholic neighborhoods, the outcome was predictable. Ironically, the Quinn family had absolutely nothing to do with the standoff between members of the Protestant Orange Order and the Catholic neighborhood of Garvaghy Road over whether a controversial parade route would be followed or whether some compromise plan could be devised. Far too often disputes in Northern Ireland has produced innocent victims—many of them children, and it occurred again on Sunday night.

Prime Minister Tony Blair and Northern Ireland's political leaders have called for a halt to the current protest at Drumcree to permit a period of reflection with respect to recent events. I believe that members of the Orange Order should accede to that request. Was the dispute over parade routes really worth the lives of three young boys? I do not believe it was, nor do vast majority of the people of Northern Ireland. It is time for Protestant and Catholic community leaders to put aside their excuses for not having a face to face dialogue. Only they are capable of fashioning a compromise on matters that divide them. Only they can end the senseless violence that threatens to destroy the very foundation of the Northern Ireland Peace Agreement before it even has a chance to become fully operational.

Mr. President, The Good Friday Peace Accords were strongly supported by the majority of Northern Ireland's Catholics and Protestants in the May referendum. The agreement contains a workable plan for getting to the root causes of decades of sectarian conflict, but it must be given a fair chance to produce results. The most recent tragedy in Central Belfast has tested the resolve of Northern Ireland's political leaders to stay the course of peace. I hope they will remain resolute in support of peace. I pray as well that no more sons or daughters of Northern Ireland parents lose their lives as a result of sectarian terrorism.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, as my friend and colleague, Senator DODD, has pointed out, during the weekend, three young brothers—10 year old Richard Quinn, 9 year old Mark Quinn, and 7 year old Jason Quinn—were senselessly murdered because they were Catholic.

Some time ago, an Independent Parades Commission, appointed by the British Government, ruled that members of the Orange Order—a Protestant organization that celebrates a centuries—old victory of Protestants over Catholics by staging trumphalist marches through Protestant and Catholic neighborhoods—could not march through a Catholic neighborhood in Portadown, Northern Ireland. But the Orange Order refused to accept the ruling and vowed to force the march to proceed along the Garvaghy Road in a Catholic neighborhood. A stand-off ensued—members of the Orange Order attempted to march through the area, but were not allowed past barricades erected by security forces. Protestant extremists have used the week-long stand-off as justification to carry out attacks on Catholic homes and members of the police force.

Early Sunday morning, in Ballymoney, Co. Antrim, many miles from Portadown, the Young Quinn boys were asleep in their beds when their home was firebombed by individuals who can only be described as terrorists. The boys were living in a Protestant neighborhood, and their home was targeted because their mother is Catholic.

Both sides deserve their share of the blame for the sectarian attacks that continue in Northern Ireland. But this tragedy never had to happen and never should have happened. The Orange Order must recognize that its refusal to abide by the decision of the Parades Commission led to the murder of the Quinn boys. As a card left at the site of the Quinn home read: "A price to great to pay for a 15 minute walk."

Another contentious parade was conducted today in a civilized manner. Despite opposition by the local Catholic residents on the Ormeau Road in Belfast, the Parades Commission ruled that this parade should be permitted. The Orange Order conducted the parade within the bounds set down by the Commission, and the residents of the area staged a peaceful, dignified protest, but did not attempt to block the parade.

Prime Minister Tony Blair and Northern Ireland's Secretary of State Mo Mowlam deserve credit for not bowing to the pressure of extremists in the Orange Order. And I join with Protestant leader David Trimble, the First Minister of the new Northern Ireland Assembly, and Deputy First Minister Seamus Mallon in calling on those assembled in Portadown to end their confrontation in light of this tragedy.

This brutal fire bombing was the act of cowards. They do not represent the vast majority of the people in Northern Ireland, Protestants and Catholics alike, who have voted for peace and an end to division. Everyone outraged by the murder of these three young boys must redouble their efforts to support the peace process and to assure that extremists bent on sabotaging that process do not prevail.

We all extend our deepest sympathies to the members of the family.

Mr. President, I ask unanimous consent to be able to proceed for 10 more minutes as in morning business.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

PATIENTS' BILL OF RIGHTS

Mr. KENNEDY. Mr. President, the time moves on on the issue of our Patients' Bill of Rights legislation. Just 43 days remain in this session. The time has come to end the abuses of the HMOs and managed care plans. Families across the country know that too many medical decisions today are being made by the insurance company accountants instead of doctors. They know the company profits too often get priority over patients' needs and, too often, managed care is mismanaged care.

We have legislation—the Patients' Bill of Rights—to end these abuses. Included in the Patients' Bill of Rights is a section that allows ERISA-covered patients to hold their health plans accountable for abusive actions that result in injury or death.

This provision seems to have drawn the strongest opposition from the Republican leadership and their special interest allies. But an article in last Saturday's New York Times paints a poignant picture of the need for reform.

Judges throughout the Federal judicial system have written decisions in which they implore Congress to take action to correct ERISA's gross inadequacies.

They have repeatedly ruled that their hands are tied—even in the most egregious cases—from providing the patients or their families with meaningful redress when an insurance company's actions result in injury or death.

Mr. President, I will quote a few parts of this article.

I ask the Chair to remind me when 2 minutes remain.

> . . . The United States Court of Appeals for the Fifth Circuit, in New Orleans, reached a typical conclusion in a lawsuit by a Louisiana woman whose fetus died after an insurance company refused to approve her hospitalization for a high-risk pregnancy. . . .
>
> In dismissing the suit, the court said, "The Corcorans have no remedy, state or Federal, for what may have been a serious mistake."
>
> The court said that the harsh result "would seem to warrant a re-evaluation of ERISA so that it can continue to serve its noble purpose of safeguarding the interests of employees."

What they were pointing out is that there was no opportunity, after the negligence involved in this case, for the defendant to be able to receive any redress for the injuries they sustained, and the Federal judge was saying that Congress should act.

In a second case, Judge William G. Young of the Federal District Court in Boston, and I point out that he is a Republican appointee, said—

> "It is deeply troubling that, in the health insurance context, ERISA has evolved into a shield of immunity which thwarts the legitimate claims of the very people it was designed to protect."
>
> Judge Young said he was distressed by "the failure of Congress to amend the statute that, due to the changing realities of the modern health care system, has gone conspicuously awry," leaving many consumers "without any remedy" for the wrongful denial of health benefits.

Next

> . . . Judge John C. Porfilio of the United States Court of Appeals for the 10th circuit, in Denver, said he was "moved by the tragic circumstances" of a woman with leukemia who died after her HMO refused approval for a bone marrow transplant. But, he said, the 1974 law "gives us no choice," and the woman's husband, who had sued for damages, is "left without a remedy."

Again

The United States Court of Appeals for the Eighth Circuit, in St. Louis, said the law protected an HMO—against a suit by the family of a Missouri man, Buddy Kuhl, who died after being denied approval for heart surgery recommended by his doctors. "Modification of ERISA in light of the questionable modern insurance practices must be the job of Congress, not the courts," said Judge C. Arlen Beam.

The United States Court of Appeals for the Sixth Circuit, in Cincinnati, said that the Federal law barred claims against a "utilization review" company that refused to approve psychiatric care for a man who later committed suicide. Because of ERISA, the court said, people who sue an HMO or an insurer for wrongful death "may be left without a meaningful remedy."

Federal District Judge Nathaniel M. Gorton, in Worcester, Mass., said that the husband of a woman who died of breast cancer was "left without any meaningful remedy" against an HMO that had refused to authorize treatment.

Federal District Judge Marvin J. Garbis in Baltimore, said . . . whether ERISA should be "reexamined and reformed in light of modern health care is an issue which must be addressed and resolved by the legislature rather than the courts."

The Ninth Circuit continues in another case, and it goes on and on and on.

This is what we are seeing across the country in the Federal district courts, in the circuit courts, with judges that come from entirely different traditions, Republicans and Democrats alike.

When they look at ERISA, they find out that there are grossly inadequate remedies for individuals who have suffered as a result of malpractice, or because that HMOs have denied coverage for health treatments recommended by their doctors.

So, Mr. President, this isn't just those of us who are supporting this legislation that are saying it. Here we have the irrefutable presentations made by district court and circuit court judges across the country that are inviting Congress to act to protect families in the United States of America.

There is only one bill that provides that protection, and it is the Patients' Bill of Rights. Every single day that we delay acting on it, the circumstances we have discussed here tonight will be repeated and repeated and repeated.

The insurers and corporations who fear they have something to lose if patients are able to hold plans accountable have used ginned up estimates to try scare people into thinking that offering this protection would somehow result in dramatic premium increases. But tens of millions of patients—those who work for states and localities and those who purchase health insurance on their own—have this right, and a recent study confirmed that the cost associated with it is negligible.

The independent and nonpartisan Kaiser Family Foundation hired Coopers and Lybrand to examine the costs of being able to hold plans accountable for their actions. And their study found that ensuring this right costs as little as three pennies per month. Three pennies per month to hold your plan accountable for its actions.

Now, we know that the insurance industry does not support that particular proposal, and we know that the Republican leadership does not support that proposal. But we are asking, when in the world will the Republican leadership let us at least debate that issue here on the floor of the U.S. Senate? They have denied us the opportunity to mark the bill up in our committee. They have denied us the opportunity to have legislation on the calendar and the opportunity to get that measure scheduled so we can debate it. Mr. President, that is wrong.

Now we listened to those on the floor of the U.S. Senate the other night speaking for the Republican leadership saying, "The Republican leadership will decide when we will schedule this measure, and we in the majority are not going to schedule that measure until we are good and ready to do so."

Well, we are saying that we are going to offer this measure on every single appropriate measure that comes before the U.S. Senate, and maybe the leader does have the power to pull legislation down and stick it back on the calendar, but they are going to be really busy doing that because they are going to have to put every piece of legislation back on the calendar because we are going to continue to offer this commonsense proposal.

The PRESIDING OFFICER. I advise the Senator that 2 minutes remain.

Mr. KENNEDY. Mr. President, I want to finally point out that the President's own blue ribbon nonpartisan commission, made up of a wide variety of different personnel representing the industry—doctors, patients, nurses—looked at the issues around patients rights. They recommended virtually unanimously that all patients should have the kinds of protections included in our Patients' Bill of Rights legislation. That is the President's commission.

Now, if our Republican friends do not want the American people to have these rights, let's get on the floor of the U.S. Senate and debate it. But they refuse to do so, Mr. President, and we will not be silent. We will continue to make every effort to bring this legislation up so that we can get about the business of protecting American consumers.

Mr. President, I ask unanimous consent that this full article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, July 11, 1998]

HANDS TIED, JUDGES RUE LAW THAT LIMITS H.M.O. LIABILITY

(By Robert Pear)

WASHINGTON, July 10—Federal judges around the country, frustrated by cases in which patients denied medical benefits have no right to sue, are urging Congress to consider changes in a 1974 law that protects insurance companies and health maintenance organizations against legal attacks.

In their decisions, the judges do not offer detailed solutions of the type being pushed in Congress by Democrats and some Republicans. But they say their hands are tied by the 1974 law, the Employee Retirement Income Security Act. And they often lament the results, saying the law has not kept pace with changes in health care and the workplace.

The law, known as Erisa, was adopted mainly because of Congressional concern that corrupt, incompetent pension managers were looting or squandering the money entrusted to them. The law, which also governs health plans covering 125 million Americans, sets stringent standards of conduct for the people who run such plans, but severely limits the remedies available to workers.

In a lawsuit challenging the denial of benefits, a person in an employer-sponsored health plan may recover the benefits in question and can get an injunction clarifying the right to future benefits. But judges have repeatedly held that the law does not allow compensation for lost wages, death or disability, pain and suffering, emotional distress or other harm that a patient suffers as a result of the improper denial of care.

Congress wanted to encourage employers to provide benefits to workers and therefore established uniform Federal standards, so pension and health plans would not have to comply with a multitude of conflicting state laws and regulations.

The United States Court of Appeals for the Fifth Circuit, in New Orleans, reached a typical conclusion in a lawsuit by a Louisiana woman whose fetus died after an insurance company refused to approve her hospitalization for a high-risk pregnancy. The woman, Florence B. Corcoran, and her husband sought damages under state law.

In dismissing the suit, the court said, "The Corcorans have no remedy, state or Federal, for what may have been a serious mistake."

The court said that the harsh result "would seem to warrant a reevaluation of the Erisa so that it can continue to serve its noble purpose of safeguarding the interests of employees."

In another case, Judge William G. Young, of the Federal District Court in Boston said, "It is deeply troubling that, in the health insurance context, Erisa has evolved into a shield of immunity which thwarts the legitimate claims of the very people it was designed to protect."

Judge Young said he was distressed by "the failure of Congress to amend a statute that, due to the changing realities of the modern health care system, has gone conspicuously awry," leaving many consumers "without any remedy" for the wrongful denial of health benefits.

Disputes over benefits have become common as more employers provide coverage to workers through H.M.O.'s and other types of managed care, which try to rein in costs by controlling the use of services.

Here are some examples of the ways in which judges have expressed concern:

Judge John C. Portfolio of the United States Court of Appeals for the 10th Circuit, in Denver, said he was "moved by the tragic circumstances" of a woman with leukemia who died after her H.M.O. refused approval for a bone marrow transplant. But, he said, the 1974 law "gives us no choice," and the woman's husband, who had sued for damages, is "left without a remedy."

The United States Court of Appeals for the Eighth Circuit, in St. Louis, said the law protected an H.M.O. against a suit by the family of a Missouri man, Buddy Kuhl, who died after being denied approval for heart surgery recommended by his doctors. "Modification of Erisa in light of questionable modern insurance practices must be the job of Congress, not the courts," said Judge C. Arlen Beam.

The United States Court of Appeals for the Sixth Circuit, in Cincinnati, said that Federal law barred claims against a "utilization review" company that refused to approve psychiatric care for a man who later committed suicide. Because of Erisa, the court said, people who sue an H.M.O. or an insurer for wrongful death "may be left without a meaningful remedy."

Federal District Judge Nathaniel M. Gorton, in Worcester, Mass., said that the husband of a woman who died of breast cancer was "left without any meaningful remedy" against an H.M.O. that had refused to authorize treatment.

Federal District Judge Marvin J. Garbis, in Baltimore, acknowledged that a Maryland man may be left "without an adequate remedy" for damages caused by his H.M.O.'s refusal to pay for eye surgery and other necessary treatments. But, Judge Garbis said, whether Erisa should be "re-examined and re-formed in light of modern health care is an issue which must be addressed and resolved by the legislature rather than the courts."

The United States Court of Appeals for the Ninth Circuit, in San Francisco, ruled last month that an insurance company did not have to surrender the money it saved by denying care to a Seattle woman, Rhonda Bast, who later died of breast cancer.

"This case presents a tragic set of facts," Judge David R. Thompson said. But "without action by Congress, there is nothing we can do to help the Basts and others who may find themselves in this same unfortunate situation."

Democrats and some Republicans in Congress are pushing legislation that would make it easier for patients to sue H.M.O.'s and insurance wrong decision, he or she can be sued, said Representative Charlie Norwood, Republican of Georgia, but "H.M.O.'s are shielded from liability for their decisions by Erisa."

Changes in Erisa will not come easily. The Supreme Court has described it as "an enormously complex and detailed statute" that carefully balances many powerful competing interests. Few members of Congress understand the intricacies of the law. Insurance companies, employers and Republican leaders strenuously oppose changes, saying that any new liability for H.M.O.'s would increase the cost of employee health benefits.

Senator Trent Lott of Mississippi, the Republican leader, said today that he had agreed to schedule floor debate on legislation to regulate managed care within the next two weeks. Senator Tom Daschle of South Dakota, the Democratic leader, who had been seeking such a debate, said Mr. Lott's commitment could be "a very consequential turning point" if Democrats have a true opportunity to offer their proposals.

But Senator Don Nickles of Oklahoma, the assistant Republican leader, said, "Republicans believe that health resources should be used for patient care, not to pay trial lawyers."

Proposals to regulate managed care have become an issue in this year's elections, and the hottest question of all is whether patients should be able to sue their H.M.O.'s. The denial of health benefits means something very different today from what it meant in 1974, when Erisa was passed. At that time, an insured worker would visit the doctor and then, if a claim was disallowed, haggle with the insurance company over who should pay. But now, in the era of managed care, treatment itself may be delayed or denied, and this "can lead to damages far beyond the out-of-pocket cost of the treatment at issue," Judge Young said.

H.M.O.'s have been successfully sued. A California lawyer, Mark O. Hiepler, won a multimillion-dollar jury verdict against an H.M.O. that denied a bone marrow transplant to his sister, Nelene Fox, who later died of breast cancer. But that case was unusual. Mrs. Fox was insured through a local school district, and such "governmental plans" are not generally covered by Erisa.

The primary goal of Erisa was to protect workers, and to that end the law established procedures for settling claim disputes.

Erisa supersedes any state laws that may "relate to" an employee benefit plan. Erisa does not allow damages for the improper denial or processing of claims, and judges have held that the Federal law, in effect, nullifies state laws that allow such damages.

Mrs. MURRAY addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Thank you Mr. President.

EDUCATION: RECENT SUCCESSES AND CHALLENGES

Mrs. MURRAY. Mr. President, I rise today to mention a few topics vital to the educational success and safety of American children.

Mr. President, last week we saw some real success for American families and students. The Higher Education Reauthorization Act made several improvements that can benefit from more attention; this bill is a major victory for students and teachers across America. My daughter enters college this fall. I now get to experience first-hand the challenges of entering higher education that millions of families each year, and our actions last week were helpful.

Throughout the Labor Committee's efforts on this bill, I worked to strengthen our Nation's commitment to providing the strongest training possible for K-12 school teachers. I am most pleased with the bill's focus on teacher training, and in particular its emphasis on technology training.

The bill's provisions concerning student loans will make the dream of higher education that much closer to reality for many potential American college students. The campus safety and child care provisions will make a difference in all our communities.

I specifically thank Senator WELLSTONE for his work on the TANF amendment, so important for literacy instruction and lifelong learning. Since our debate on the welfare reform bill in 1996, I have worked with former Senator Simon, Senator WELLSTONE, and other Senators to point out the vital importance of education and literacy to a person's success in getting off of welfare. The passage of the Wellstone amendment is the right thing to do for low-income working Americans.

Under the Higher Education Reauthorization Act, I believe that the first generation of the new millennium will benefit immensely from the efforts put forth over this past year. From increases in financial aid, to campus security improvements, to technology instruction, S. 1882 will stand as a proud hallmark of this Congress.

Mr. President, on other education topics, we still have some large challenges ahead. The House Appropriations Committee is set to have full Committee mark-up of education appropriations this week. The Labor Subcommittee has cut education funding from the President's proposed levels by $2 billion in discretionary spending, and ignored his proposals to improve school construction and class size reduction. This would be the week for House members to eliminate these egregious cuts.

Let me list a few things the House has put at risk through cuts or eliminations: improving children's literacy; opening school buildings up after hours to make them the hub of the community; getting extra help in reading and math to poor-achieving students; improving education technology, including technology teacher training; getting first-generation students ready for college; and many others. The House has ignored the priorities of the American people.

The American people care deeply about education. They are frustrated when their schools do not succeed, and they bristle at those who would make it harder for the schools to succeed. This is not about just bricks and mortar, or about throwing good money after bad. This is about priorities, common-sense solutions, and improving quality.

Do not try to fool the parents. The parents know that school improvement has a cost—in hard decisions, and in hard cash. They know that when Congress offers vouchers and expanded charter schools and bonuses for private schools and private businesses—the Congress is turning its back on the public school.

They know that a cut is a cut, and that a block grant leads to a cut. They know that nearly the entire discussion this year on education from the other side of the aisle—and a time or two on this side of the aisle—amounts to the empty words of a snake-oil salesman.

Well, now we have a chance to turn this all around, like the public has forced the Congress to do in years past.

Congress cuts the funding for schools, the public groans in disbelief, and the Congress wises up. Let us not wait until September to do it. The House has a chance this week to put back the money they've taken. The Senate will have its chance soon.

In America, you turn your back on the public school at your peril. What we need to do instead is meet the hard challenges head on.

The schools, in the inner cities, and in the rural areas, are crumbling. The Congress can do something about it.

The classes are overcrowded, which adds to the school construction problem. The Congress can take action.

The budgets have been cut and cut, and failing a local levy can mean disaster for a school. The Congress can keep its hands off the school budget, and restore these House cuts.

The Congress can increase national expenditures to more than the meager 2 percent of the national budget it now sets aside for schools. And the Congress can set the right tone.

Rather than generating empty air that has the effect of chipping away at support for the local public school—the very foundation of democracy, citizenship, and community in this nation—the Congress can speak the words that need to be said.

The responsibility of serving as a member of Congress, as a member of the United States Senate, is weighty indeed. By our words, our signature, and our actions, we can take steps to improve our nation's schools and our student's futures.

We can set an important tone, and say the hard things that the students, families, teachers, school officials, community leaders and others need to hear. We can also talk of success.

But if we act and speak only to tear the fabric of support for the public school—if the tone we set is only to chip, chip, chip at public confidence in an institution they know personally to have value—then we are abdicating part of our great responsibility as Senators.

Americans know that members of Congress can work together, and achieve results. They know we could take actions to improve their public schools. And that is why it is so disheartening to me when Republicans or Democrats put ideology or politics or mean-spiritedness in the way of success for our students. We must act together to do what is in the best interest of all children.

It is also important Mr. President that we conduct background checks and adequately screen our teachers to make sure they are qualified, competent and capable of providing our children with the quality education they deserve.

THE CRIME IDENTIFICATION TECHNOLOGY ACT OF 1998

Mrs. MURRAY. Mr. President, I wish to speak for a moment as a cosponsor of the Crime Identification Technology Act of 1998. Mr. President, this is a bill that simply, but importantly, provides funding to states and local communities so they can conduct quality criminal background checks. This bill assures parents that dangerous adults will not be employed by their child's school or child care facility.

There is no doubt that most children today head off to school or are dropped off at child care and are supervised by competent, qualified, caring adults. But as our society becomes increasingly violent, parents need the assurance that when their child is under another adult's care, steps have been taken to assure that the care-giver is qualified and competent and safe to take care of their child.

Mr. President, we sit in outrage when television newscasters report yet another story of a child who has been abused or molested when parents thought they had found a safe place to take their child. Nothing frightens a parent more than a report of a child who has been abused by a predator—molesters, abusers or pedophiles.

We do not have to sit and wait, Mr. President. We can and must do more. We have the laws to better screen those who care for our children. Let us use them. We must protect our children and see to it that they grow up in a safe environment. No child should ever suffer these kinds of traumas. That is why Mr. President, I am cosponsoring the Crime Identification Technology Act of 1998. I believe this bill is a strong step to accomplish the type of protection that is needed.

We have a right to expect that those people to whom we entrust the care of our children are decent, upright, trustworthy individuals. Parents have a right to know that anyone who comes in contact with their children in an unsupervised environment has been appropriately screened. We have a right to know that anyone with a criminal history of child abuse, molestation and sexual crimes against children will be prevented from being in a position where they have access to our children.

In this highly mobile society we live in, we know that abusers move easily across state boundaries seeking jobs in places where they think their past will not catch up to them. If schools or child care providers only check in-state applicants for state criminal convictions—and do not require a fingerprint check which can be scanned against a national clearinghouse of convicted criminals—they have not adequately screened applicants before hiring them to oversee our children.

In fact, Mr. President, a case that prompted the passage of laws requiring national criminal background checks in my home State of Washington, involved the arrest of a social worker who possessed hundreds of photos and videotapes of young boys engaged in sexual activities. He was charged on 40 counts of possession of child pornography.

The investigation began after one of the adolescents under his supervision accused him of sexual abuse. When the social worker was hired, a background check of this man was "clean" and reported "no past problems." However, he was previously employed by a state agency far away, across state lines in Texas. Although the Washington state agency checked his references in Texas, they did not check to see if he had a criminal history in any other state.

The background check did not extend beyond the borders of Washington state. State officials at the time admitted they had no routine way of determining whether any state worker had ever run afoul of the law outside Washington's borders.

As a result of this incident, the Washington State Legislature closed this loophole by passing laws requiring national criminal background checks on workers and volunteers who deal with vulnerable populations such as children, the elderly and disabled.

More recently, at a Washington, D.C. day care center, a substitute security guard was filling in for the regular guard, who was sick that day. That afternoon, the substitute guard was arrested on the premises—allegedly an accessory to murder a few months earlier.

In this case, the security firm failed to screen the worker adequately. He was a resident of Maryland and the firm only checked state records which revealed no criminal record. However, the substitute guard had a long rap sheet in Washington D.C., which the security firm did not check. The failure of this security firm to conduct a background check of the neighboring state's jurisdiction put 70 children at tremendous risk.

It is imperative that we stop interstate movement and let abusers know that their backgrounds will be checked, their applications will be screened and national and state fingerprint checks will be conducted where appropriate. In addition, it is essential that we provide funds to the states so they can update their criminal history records and provide timely information when it is requested.

Unfortunately, Mr. President, we live in a time that requires us to protect our children by screening and checking the backgrounds of volunteers and other people who have access to our children. Statistics reveal that 46 percent of child molesters are non-family members who are known to their victims. These are "trusted" adults, such as teachers, scoutmasters, coaches, clergy, counselors and neighbors. As parents, we must be concerned about the people who have access to our children. The bottom line is that strict screening mechanisms and criminal background checks are vital to the safety of our children.

Mr. President, I am cosponsoring this bill because it provides grants to the States for programs for fingerprint-supported background checks for noncriminal justice purposes. These purposes include screening youth service employees, volunteers, and other individuals in positions of trust—if authorized by federal or state law and administered by a government agency. This bill also promotes enhanced communication nationwide between local, state, and national computer systems for domestic violence and sexual offender identification and registration systems.

The Crime Identification Technology Act of 1998 is also important because it provides necessary funding to the States so they can upgrade their criminal history record systems and improve criminal identification of sexual offenders.

Mr. President, this bill is an effective way to stop pedophiles from stalking our children under the guise of employment or volunteer activity. It will also help States protect their children by letting sexual predators know that background checks and screening mechanisms will be conducted wherever they move.

It is imperative that would-be employees not be able to avoid detection during background checks by failing to report their criminal past. The Raleigh News and Observer reported on January 8, 1997 that Terry Dondrell Howie pled guilty to being an accessory to a murder, at the same time he worked taking care of toddlers at a local day care center.

Howie was fired from his job at the day care center, three days after he was sentenced to five years in prison for his role in a deadly car-jacking. Although a state law that requires annual background checks would have eventually caught his felony charges, day care employees facing felony charges can escape detection for months.

There is no requirement that a lengthy background check be completed before a hiring because of the high turnover on day care center staffs.

This can be a fatal practice that must be changed. Take the tragic case of 18-year-old Michelle Montoya, who—in 1997, as a senior in Rio Linda High School—was brutally raped and killed in the school's wood shop by a substitute janitor with a felonious past. The janitor was put on-the-job before fingerprint tests were completed. He had served time for voluntary manslaughter and just prior to the murder of Michelle, he had been paroled. Although California has since passed legislation prohibiting school districts from hiring employees before background checks are complete, the same is not true in every state.

As parents we expect our schools and day care centers to protect or children. We must provide the funding and the attention necessary to correct this problem so that other families do not suffer the same kind of horrible tragedy and loss as the Montoya family.

Mr. President, we cannot take any chances when it comes to protecting our children. We must do everything we can to ensure their safety and protection which is why I urge my colleagues to join me in support of this bill.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. BROWNBACK). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. ALLARD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRIBUTE TO MRS. CATHY ABELL

Mr. LOTT. Mr. President, I would like to recognize the professional dedication, vision and public service of Mrs. Cathy Abell who is leaving the Army Senate Legislative Liaison Office to serve as the Congressional Affairs Coordinator for the Assistant Secretary of the Army for Manpower and Reserve Affairs. It is a privilege for me to recognize the many outstanding achievements she has provided for the Senate, the Army, and our great Nation.

Cathy Abell worked for every Member of the Senate as the Secretary of the Army's legislative liaison to the Senate. She was instrumental in facilitating the exchange of information between our constituent services offices and the Department of the Army. Mrs. Abell is an expert at cutting through the red tape of the military bureaucracy and never lost sight of the fact that taking care of the individual was paramount. I never knew of an instance in which Mrs. Abell would back away from doing the right thing for the Army, the soldier or family member and the Senate offices she served.

Mrs. Abell earned the reputation as someone on whom we could rely on to respond to our inquiries in a responsive, professional manner. She always provided informative, well researched responses to our constituents. Cathy Abell was the "go to" person in the Army's Senate Legislative Liaison Office. When a Senate office had a really complex case, the legislative assistants knew that they should direct the inquiry to her. Mrs. Abell would skillfully work through the complex military regulations and determine how best to maintain the integrity of the Army's processes while permitting the soldier or family member to receive the relief required by their situation. She is able to communicate effectively with both military officials and Congressional staff members and has developed superb working relationships with our staffs. Her professional abilities and the excellent working relationships earned her the respect and trust which served her, the Army and the Senate so well.

Mrs. Abell recognized that many of our staff were not familiar with Army organizations, processes and procedures. To address this lack of familiarity, she organized and implemented a series of trips in which our staffs were able to experience first hand the conditions under which military personnel are recruited, processed and trained. As a result of her initiative, Senate staff members are able to more accurately explain Army procedures to constituents, in many cases eliminating the need for a formal inquiry. Initiative, caring service and professionalism are the terms used to describe Mrs. Abell.

Mr. President, Cathy Abell is a great credit to the Army and the Nation. As she now departs to share her experience and expertise with the Assistant Secretary of the Army for Manpower and Reserve Affairs, I call upon my colleagues on both sides of the aisle to recognize her service to the Senate and wish her well in her new assignment.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business Friday, July 10, 1998, the federal debt stood at $5,525,566,285,491.56 (Five trillion, five hundred twenty-five billion, five hundred sixty-six million, two hundred eighty-five thousand, four hundred ninety-one dollars and fifty-six cents).

One year ago, July 10, 1997, the federal debt stood at $5,354,746,000,000 (Five trillion, three hundred fifty-four billion, seven hundred forty-six million).

Twenty-five years ago, July 10, 1973, the federal debt stood at $454,595,000,000 (Four hundred fifty-four billion, five hundred ninety-five million) which reflects a debt increase of more than $5 trillion—$5,070,971,285,491.56 (Five trillion, seventy billion, nine hundred seventy-one million, two hundred eighty-five thousand, four hundred ninety-one dollars and fifty-six cents) during the past 25 years.

HIGHER EDUCATION REAUTHORIZATION ACT

Mr. GRASSLEY. Mr. President, I would like to discuss an important issue that should be addressed by

House and Senate conferees meeting to resolve differences regarding the Higher Education Reauthorization Act.

Various institutions of higher education have tried for a number of years to have the Age Discrimination in Employment Act amended to allow certain types of early retirement plans for tenured faculty. Various Members of this Body have traditionally viewed such an amendment with concern.

At the same time, some Members of this Body are concerned that potentially meritorious ADEA claims have faced statute of limitations problems based on the application of the Supreme Court decision in Lorance versus AT&T Technologies.

I understand there have been efforts to address these concerns, and I would like to pose a question to my colleague from Massachusetts, Senator KENNEDY. Senator KENNEDY, is it your understanding that the House of Representatives has addressed one or both of these issues in its version of this bill?

Mr. KENNEDY. The House of Representatives has addressed only one of these issues. It has proposed a limited exception to the Age Discrimination in Employment Act for tenured faculty. But you are correct that there is an additional concern regarding older workers and their ability to pursue claims under the Age Discrimination in Employment Act, and that has to do, as you noted, with the application of the Supreme Court case, Lorance versus AT&T Technologies.

In 1991, Congress passed legislation that partially overturned Lorance. Today, Lorance does not apply to claims brought under Title VII of the Civil Rights Act. Unfortunately, Congress did not consider the effect of the Lorance decision on other statutes, in particular, the Age Discrimination in Employment Act.

Mr. GRASSLEY. Yes, it is unfortunate. Lorance established an unworkable system for filing claims under the employment discrimination laws. It held that when a seniority system was allegedly adopted with a discriminatory purpose, the time limit for challenging that system begins to run on the date the system is first adopted—not the date it begins to apply to the individual employee. This could be a "catch-22": by the time an employee is harmed and has standing to bring a claim, the statutory time period for challenging the policy will often have expired. Indeed, in some cases, no current employee would ever be able to challenge a long-standing, but discriminatory employment policy or system.

This is clearly contrary to the purposes of the age discrimination laws. There is no justification for unfairly closing the doors of justice to victims of age discrimination.

Mr. KENNEDY. I concur with my colleague from Iowa. Before the Senate accedes to the House's provision on tenured faculty, this issue should be discussed and hopefully resolved during the conference.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–5974. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Last-In, First-Out Inventories" (Rev. Rul. 98–35) received on July 9, 1998; to the Committee on Finance.

EC–5975. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Election Not to Apply Look-Back Method in De Minimis Cases" (RIN1545–AV79) received on July 9, 1998; to the Committee on Finance.

EC–5976. A communication from the Assistant Chief Financial Officer of the Export-Import Bank of the United States, transmitting, pursuant to law, the Bank's report under the Freedom of Information Act for calendar year 1997; to the Committee on the Judiciary.

EC–5977. A communication from the Chairman of the Board of Directors of the Tennessee Valley Authority, transmitting, pursuant to law, the Authority's report under the Government in the Sunshine Act for calendar year 1997; to the Committee on Governmental Affairs.

EC–5978. A communication from the Executive Director of the Assassination Records Review Board, transmitting, pursuant to law, notice that the Board will cease its operations as of September 30, 1998; to the Committee on Governmental Affairs.

EC–5979. A communication from the Director of the Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Food Additives Permitted for Direct Addition to Food for Human Consumption; Acesulfame Potassium" (Docket 90F–0220) received on July 9, 1998; to the Committee on Labor and Human Resources.

EC–5980. A communication from the Deputy Executive Director and Chief Operating Officer, Pension Benefit Guaranty Corporation, transmitting, pursuant to law, the report of a rule entitled "Allocation of Assets in Single-Employer Plans; Interest Assumptions for Valuing Benefits" received on July 9, 1998; to the Committee on Labor and Human Resources.

EC–5981. A communication from the Assistant Secretary for Land and Minerals Management, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Update of Documents Incorporated by Reference" (RIN1010–46) received on July 8, 1998; to the Committee on Energy and Natural Resources.

EC–5982. A communication from the Deputy Associate Director for Royalty Management, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, notice of refunds or recoupments made under the Outer Continental Shelf Lands Act; to the Committee on Energy and Natural Resources.

EC–5983. A communication from the Director of the Office of Surface Mining Reclamation and Enforcement, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "West Virginia Regulatory Program" (Docket WV–078–FOR) received on July 9, 1998; to the Committee on Energy and Natural Resources.

EC–5984. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Animal Welfare; Primary Enclosures for Dogs and Cats" (Docket 98–044–1) received on July 9, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5985. A communication from the Chairman and Chief Executive Officer of the Farm Credit Administration, transmitting, pursuant to law, the report on the Administration's financial condition and performance for calendar year 1997; to the Committee on Agriculture, Nutrition, and Forestry.

EC–5986. A communication from the Administrator of the U.S. Agency for International Development, transmitting, pursuant to law, a quarterly report on Development Assistance Program Allocations; to the Committee on Foreign Relations.

EC–5987. A communication from the Assistant Secretary of the Army for Research, Development and Acquisition, transmitting, pursuant to law, notice of a planned destruction of lethal chemical agents; to the Committee on Armed Services.

EC–5988. A communication from the Chief of the Programs and Legislation Division, Office of Legislative Liaison, Department of the Army, transmitting, pursuant to law, the report of a cost comparison on the operation of base supply functions at F. E. Warren Air Force Base, Wyoming; to the Committee on Armed Services.

EC–5989. A communication from the Secretary of the Federal Trade Commission, transmitting, pursuant to law, the report of a rule regarding amplifiers utilized in home entertainment products received on July 9, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5990. A communication from the Secretary of the Federal Trade Commission, transmitting, pursuant to law, the report of a rule regarding energy consumption and water use of certain products received on July 9, 1998; to the Committee on Commerce, Science, and Transportation.

EC–5991. A communication from the Acting Under Secretary for Technology, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Experimental Program to Stimulate Competitive Technology" (RIN0692–ZA01) received on

July 9, 1998; to the Committee on Commerce, Science, and Transportation.

EC-5992. A communication from the Assistant Administrator for Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule relative to permit transfers and other regulations on Pacific Coast groundfish fishery (RIN0648-AJ20) received on July 9, 1998; to the Committee on Commerce, Science, and Transportation.

EC-5993. A communication from the Director of the Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries off the West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Trip Limit Changes" (Docket 971229312-7312-01) received on July 9, 1998; to the Committee on Commerce, Science, and Transportation.

EC-5994. A communication from the Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule regarding compensation for collecting resource information on Pacific Coast fishery (Docket 980501115-8160-02) received on July 9, 1998; to the Committee on Commerce, Science, and Transportation.

EC-5995. A communication from the Secretary of Agriculture, transmitting, a draft of proposed legislation to allow the Commodity Credit Corporation to use unobligated funds of the Export Enhancement Program for certain purposes; to the Committee on Agriculture, Nutrition, and Forestry.

EC-5996. A communication from the Secretary of Housing and Urban Development, transmitting, a draft of proposed legislation entitled "The Homeownership Zones Act of 1998"; to the Committee on Banking, Housing, and Urban Affairs.

EC-5997. A communication from the Secretary of Health and Human Services, transmitting, a draft of proposed legislation entitled "The Families of Children With Disabilities Support Act"; to the Committee on Finance.

EC-5998. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, a draft of proposed legislation entitled "The Intercountry Adoption Act"; to the Committee on Foreign Relations.

EC-5999. A communication from the Secretary of Veterans Affairs, transmitting, a draft of proposed legislation entitled "The Veterans' Benefits Improvement Act"; to the Committee on Veterans' Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. STEVENS, from the Committee on Appropriations: Special report entitled: "Further Revised Allocation to Subcommittees of Budget Totals for Fiscal Year 1999" (Rept. No. 105-246).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with amendments:

S. 1418: A bill to promote the research, identification, assessment, exploration, and development of methane hydrate resources, and for other purposes (Rept. No. 105-248)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Ms. COLLINS:

S. 2292. A bill to amend title XVIII of the Social Security Act to provide for coverage under the Medicare Program of insulin pumps as items of durable medical equipment; to the Committee on Finance.

By Mr. JOHNSON (for himself and Mr. DASCHLE):

S. 2293. A bill to increase the funding authorization for the James River, South Dakota, flood control project and direct the Secretary of the Army to enter into a programmatic agreement with the non-Federal sponsor of the project; to the Committee on Environment and Public Works..

By Mr. HATCH (for himself, Mr. LEAHY, Mr. DEWINE, and Mr. DASCHLE):

S. 2294. A bill to facilitate the exchange of criminal history records for noncriminal justice purposes, to provide for the decentralized storage of criminal history records, to amend the National Child Protection Act of 1993 to facilitate the fingerprint checks authorized by that Act, and for other purposes; considered and passed.

By Mr. MCCAIN (for himself, Ms. MIKULSKI, Mr. INHOFE, Mr. SMITH of Oregon, Mr. FAIRCLOTH, Mr. INOUYE, Mr. SANTORUM, Mr. BREAUX, Mr. DURBIN, Mr. CLELAND, Mr. KENNEDY, Mr. SARBANES, Mrs. BOXER, Mrs. MURRAY, Mr. FORD, Mr. WYDEN, Mr. ROBERTS, Mr. AKAKA, Mr. REID, Mr. BRYAN, Mr. LEVIN, Mr. GRAHAM, Mr. GRASSLEY, Mr. WELLSTONE, Mr. DORGAN, and Mr. REED):

S. 2295. A bill to amend the Older Americans Act of 1965 to extend the authorizations of appropriations for that Act, and for other purposes; to the Committee on Labor and Human Resources.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Ms. COLLINS:

S. 2292. A bill to amend title XVIII of the Social Security Act to provide for coverage under the Medicare Program of insulin pumps as items of durable medical equipment; to the Committee on Finance.

MEDICARE INSULIN PUMP COVERAGE ACT OF 1998

Ms. COLLINS. Mr. President, diabetes is a serious and potentially life-threatening disease affecting more than 16 million Americans at a cost of more than $137 billion annually. That is more than the cost of treating any other disease. Moreover, since 3 million elderly Medicare beneficiaries have been diagnosed with diabetes, and another 3 million are likely to have it but not realize it at this point, nowhere is the economic impact of diabetes felt more strongly than in our Medicare Program.

Treating seniors for the often devastating complications associated with diabetes accounts for more than one-quarter of all Medicare expenses. Therefore, helping diabetic seniors avoid the complications of their disease will not only greatly improve the quality of their lives, but also help reduce the economic burden that diabetes places on the Medicare Program. This, Mr. President, is essential to the long-term economic viability of Medicare.

While there is no known cure, diabetes is largely a treatable disease. Many people who have diabetes can lead completely normal, active lives as long as they stick to a proper diet, carefully monitor the amount of their blood sugar or glucose, and take their medicine, which may or may not include insulin.

However, Mr. President, unfortunately, if a person with diabetes does not follow this rather strict regimen, they put themselves at risk of blindness, loss of limbs and an increased chance of heart disease, kidney failure, and stroke. Therefore, appropriate preventive services for diabetes have the potential to save a great deal of money that otherwise would go for hospitalization or other acute care costs—not to mention a great deal of unnecessary pain and suffering.

Mr. President, Congress recently took a number of important steps to improve Medicare coverage of preventive care for individuals with diabetes. Prior to enactment of the Balanced Budget Act of 1997, Medicare covered diabetes self-maintenance education services in inpatient or hospital-based settings and in limited outpatient settings, specifically hospital outpatient departments or rural health clinics.

Medicare did not, however, cover education services if they were given in any other outpatient setting, such as a physician's office. Moreover, while Medicare did cover the cost of blood-testing strips used to monitor the sugar in the blood, it did so only for type I diabetics who required insulin to control their disease. Last year's Balanced Budget Act rightly expanded Medicare to cover all outpatient self-management training services as well as providing uniform coverage of blood-testing strips for all people with diabetes.

With the enactment of the Balanced Budget Act, we made significant progress toward improving care for Medicare beneficiaries with diabetes. However, Mr. President, there is more that we can do.

External insulin infusion pumps have proven to be more effective at controlling blood glucose levels than conventional injection therapy for many insulin-dependent diabetics. This helps them to avoid the expensive complications and the suffering resulting from uncontrolled diabetes. However, Mr. President, Medicare currently does not cover these pumps, even in cases where they have been prescribed as medically necessary by the Medicare beneficiary's physician. I am, therefore, today pleased to introduce legislation, the Medicare Insulin Pump Coverage Act of 1998, that would expand Medicare coverage to cover insulin infusion pumps for certain type I diabetics.

External insulin pumps are neither investigational nor experimental. They are widely accepted by health care professionals involved in treating patients with diabetes. Moreover, studies such as the Diabetes Control and Complications Trial sponsored by NIH have established that maintaining blood glucose levels as close to normal as possible is the key to preventing the devastating complications of diabetes.

For many patients, Mr. President, the use of an infusion pump is the only way that optimal blood glucose control can be achieved safely and effectively. That is why virtually all other third-party payers—including most State Medicaid programs and CHAMPUS—cover the device. Moreover, there is precedent under the Medicare Program itself for covering the pump. Medicare currently covers infusion pumps for numerous cancer drugs as well as for pain control medications.

Mr. President, I first became interested in this problem because of the experience of one of my constituents, Nona Frederich of Raymond, ME. She is an example of the kind of Medicare patient who would benefit from the pump. She is currently, unfortunately, being denied what is for her the most effective form of glucose control.

Nona has been an insulin-dependent diabetic since 1962. Because of her extremely volatile insulin sensitivity, her diabetic specialist placed her on an insulin infusion pump in January of 1982. Until she reached age 65, the cost of the pump and operating supplies was underwritten in large part by her insurer, Colorado Blue Cross-Blue Shield, and later by Blue Cross-Blue Shield of Maine.

In March of 1995, it became necessary for Nona to purchase a new infusion pump. By now, however, she was older and on Medicare. Much to her surprise, Medicare refused to cover the pump, even though her doctor had prescribed it as clearly being medically necessary to help control her diabetes. Since then, with the help of my Portland office staff, the Frederichs have worked their way through the Health Care Financing Administration's system of appeals. Unfortunately, in January of this year, they received final notification of a negative decision by the Department of Health and Human Services. Their only option now is to file a civil suit, which they are simply not in a position to pursue.

The Frederichs literally have notebooks filled with documentation of the procedures they have followed and the evidence they have submitted. Moreover, they have personally paid close to $5,000 in original pump costs and supplies for which they have received no reimbursement under the Medicare Program. For a Medicare beneficiary with limited income, these kinds of costs can be devastating. They can place the pump completely out of reach, even though the pump is medically necessary. In such a case, such patients would be forced to return to or continue with conventional insulin therapy which simply may not be as effective in controlling their blood sugar. As a consequence, these patients are admitted to the hospital with complications over and over again. The irony is that then Medicare will pick up the bill, and a far higher bill it will be than if Medicare had paid for the pump in the first place.

While potentially devastating for an individual, the financial cost to Medicare of expanding coverage to include the insulin-infusion pump would be relatively minor. Under my bill, the pump would have to be prescribed by a physician and the beneficiary would have to be a Type-I diabetic, "experiencing severe swings of high and low blood glucose levels." Of the estimated 3 million Medicare beneficiaries with diabetes, only about 5 percent are Type-I, or insulin-dependent. Of these, it is estimated the pump would be appropriate for only about 4 percent. But what a difference it would make in the lives of those 4 percent.

The American Diabetes Association, the American Association of Clinical Endocrinologists and the American Association of Diabetes Educators, as well as officials at the Centers for Disease Control, have all advocated expanding Medicare to cover insulin pumps for Type-I diabetics who would otherwise have great difficulty in controlling their blood sugar.

I am very pleased to be introducing this legislation today to do just that. I urge my colleagues to join me as cosponsors.

I ask unanimous consent that the text of the bill be entered into the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2292

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Medicare Insulin Pump Coverage Act of 1998".

SEC. 2. COVERAGE OF INSULIN PUMPS UNDER MEDICARE.

(a) INCLUSION AS ITEM OF DURABLE MEDICAL EQUIPMENT.—Section 1861(n) of the Social Security Act (42 U.S.C. 1395x(n)) is amended by inserting before the semicolon the following: ", and includes insulin infusion pumps (as defined in subsection (uu)) prescribed by the physician of an individual with Type I diabetes who is experiencing severe swings of high and low blood glucose levels and has successfully completed a training program that meets standards established by the Secretary or who has used such a pump without interruption for at least 18 months immediately before enrollment under part B".

(b) DEFINITION OF INSULIN INFUSION PUMP.—Section 1861 of the Social Security Act (42 U.S.C. 1395x) is amended by adding at the end the following:

"Insulin Infusion Pump

"(uu) The term 'insulin infusion pump' means an infusion pump, approved by the Federal Food and Drug Administration, that provides for the computerized delivery of insulin for individuals with diabetes in lieu of multiple daily manual insulin injections.".

(c) PAYMENT FOR SUPPLIES RELATING TO INFUSION PUMPS.—Section 1834(a)(2)(A) of the Social Security Act (42 U.S.C. 1395m(a)(2)(A)) is amended—

(1) in clause (ii), by striking "or" at the end;

(2) in clause (iii), by inserting "or" at the end; and

(3) by inserting after clause (iii) the following:

"(iv) which is an accessory used in conjunction with an insulin infusion pump (as defined in section 1861(uu)),".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to items of durable medical equipment furnished under title XVIII of the Social Security Act on or after the date of enactment of this Act.

By Mr. MCCAIN (for himself, Ms. MIKULSKI, Mr. INHOFE, Mr. SMITH of Oregon, Mr. FAIRCLOTH, Mr. INOUYE, Mr. SANTORUM, Mr. BREAUX, Mr. DURBIN, Mr. CLELAND, Mr. KENNEDY, Mr. SARBANES, Mrs. BOXER, Mrs. MURRAY, Mr. FORD, Mr. WYDEN, Mr. ROBERTS, Mr. AKAKA, Mr. REID, Mr. BRYAN, Mr. LEVIN, Mr. GRAHAM, Mr. GRASSLEY, Mr. WELLSTONE, Mr. DORGAN, and Mr. REED):

S. 2295. A bill to amend the Older Americans Act of 1965 to extend the authorizations of appropriations for that Act, and for other purposes; to the Committee on Labor and Human Resources.

OLDER AMERICANS ACT REAUTHORIZATION OF 1998

• Mr. MCCAIN. Mr. President, today I introduce the Older Americans Act Reauthorization Bill of 1998. I have 22 cosponsors: Senator BARBARA MIKULSKI, Senator JAMES INHOFE, Senator GORDON SMITH, Senator LAUCH FAIRCLOTH, Senator DANIEL INOUYE, Senator RICK SANTORUM, Senator JOHN BREAUX, Senator RICHARD DURBIN, Senator MAX CLELAND, Senator EDWARD KENNEDY, Senator PAUL SARBANES, Senator BARBARA BOXER, Senator PATTY MURRAY, Senator WENDELL FORD, Senator RON WYDEN, Senator PAT ROBERTS, Senator DANIEL AKAKA, Senator HARRY REID, Senator RICHARD BRYAN, Senator CARL LEVIN, Senator BOB GRAHAM, and Senator CHARLES GRASSLEY.

The OAA expired in 1995, and we are entering the fourth year without an OAA reauthorization. The bill would reauthorize the OAA thru the year 2001 using the language of the 1992 Act. This timeframe would give needed stability to OAA programs while allowing a full evaluation of the OAA to ensure it is relevant to our current and future seniors.

Reauthorization of the OAA is absolutely essential. It is the major vehicle for the delivery of such programs as: meals on wheels; congregate meals; home care (personal care, homemaker, and chore service); adult day care; senior centers; transportation; a job program with skills training for low income seniors; a long term care ombudsman; research and demonstration projects; and abuse prevention and elder rights.

In addition, this is the cornerstone of programs for elderly Native Americans because it is the only federal program that allows tribes to directly plan for the needs of their elderly based on their own culture and traditions.

The OAA is a coordinated system of care that can work alone or hand in hand with Medicare and Medicaid services for those seniors in greatest social and economic need. It also encourages public/private partnerships; promotes seniors volunteering to help one another; and spells out a planning and oversight mechanism that includes the seniors themselves.

We all recognize and appreciate the hard work of the Sub-Committee on Aging to get an updated, reauthorized bill to us during this Congress, and I will continue to work in support of their effort. However, with our condensed legislative calendar, the likelihood of completing the full committee process is diminished. This legislation would provide a short term reauthorization in order to allow The Committee to continue its work to rewrite the 1992 law.

This bill is endorsed by 32 of the major national aging organizations and associations, a list is attached.

Mr. President, our nation's seniors and their families are very concerned that these vital services will stop. It is time to reassure them.

Mr. President, I ask unanimous consent that a list of groups supporting the bill be printed in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

OLDER AMERICANS ACT ENDORSEMENTS

National Association of State Long Term Care Ombudsman Programs.

National Silver Haired Congress.

National Association of Nutrition and Aging Services Programs.

National Committee to Preserve Social Security and Medicare.

Center for Medicare Advocacy, Inc.

National Indian Council on Aging, Inc.

Texas National Silver Haired Congress.

National Committee for the Prevention of Elder Abuse.

National Academy of Elder Law Attorneys.

Council of Senior Centers and Services of New York City, Inc.

National Council on the Aging.

National Citizen's Coalition for Nursing Home Reform.

Arizona Association of Area Agencies on Aging.

Pima Council on Aging.

American Bar Association.

The Center for Social Gerontology.

American Bar Association Governmental Affairs Office.

American Association of Retired Persons.

The National Caucus and Center on Black Aged, Inc. (NCBA).

Association Nacional pro Personas Mayores.

Association for Gerontology in Higher Education (AGHE).

American Association of Homes and Services for the Aging.

National Association of Legal Services Developers 23.

Alzheimer's Association.

Adult Care Services, Inc.

The Gerontological Society of America.

United Neighborhood Houses of New York.

Green Thumb, Inc.

National Council of Senior Citizens.

National Association of Retired Federal Employees.

National Asian Pacific Center on Aging.

National Association of Social Workers.●

ADDITIONAL COSPONSORS

S. 75

At the request of Mr. KYL, the name of the Senator from Pennsylvania (Mr. SANTORUM) was added as a cosponsor of S. 75, a bill to repeal the Federal estate and gift taxes and the tax on generation-skipping transfers.

S. 358

At the request of Mr. DEWINE, the names of the Senator from Iowa (Mr. GRASSLEY) and the Senator from Ohio (Mr. GLENN) were added as cosponsors of S. 358, a bill to provide for compassionate payments with regard to individuals with blood-clotting disorders, such as hemophilia, who contracted human immunodeficiency virus due to contaminated blood products, and for other purposes.

S. 381

At the request of Mr. ROCKEFELLER, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 381, a bill to establish a demonstration project to study and provide coverage of routine patient care costs for medicare beneficiaries with cancer who are enrolled in an approved clinical trial program.

S. 625

At the request of Mr. MCCONNELL, the name of the Senator from North Carolina (Mr. FAIRCLOTH) was added as a cosponsor of S. 625, a bill to provide for competition between forms of motor vehicle insurance, to permit an owner of a motor vehicle to choose the most appropriate form of insurance for that person, to guarantee affordable premiums, to provide for more adequate and timely compensation for accident victims, and for other purposes.

S. 778

At the request of Mr. LUGAR, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 778, a bill to authorize a new trade and investment policy for sub-Saharan African.

S. 1647

At the request of Mr. BAUCUS, the names of the Senator from Mississippi (Mr. COCHRAN) and the Senator from Georgia (Mr. CLELAND) were added as cosponsors of S. 1647, a bill to reauthorize and make reforms to programs authorized by the Public Works and Economic Development Act of 1965.

S. 1693

At the request of Mr. THOMAS, the name of the Senator from Colorado (Mr. CAMPBELL) was added as a cosponsor of S. 1693, a bill to renew, reform, reinvigorate, and protect the National Park System.

S. 1725

At the request of Mr. BURNS, the name of the Senator from Colorado (Mr. ALLARD) was added as a cosponsor of S. 1725, a bill to terminate the Office of the Surgeon General of the Public Health Service.

S. 1734

At the request of Mrs. HUTCHISON, the name of the Senator from Arkansas (Mr. HUTCHINSON) was added as a cosponsor of S. 1734, a bill to amend the Internal Revenue Code of 1986 to waive the income inclusion on a distribution from an individual retirement account to the extent that the distribution is contributed for charitable purposes.

S. 1855

At the request of Mr. WYDEN, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 1855, a bill to require the Occupational Safety and Health Administration to recognize that electronic forms of providing MSDSs provide the same level of access to information as paper copies.

S. 1858

At the request of Mr. JEFFORDS, the names of the Senator from South Carolina (Mr. HOLLINGS), the Senator from South Dakota (Mr. DASCHLE), the Senator from Minnesota (Mr. WELLSTONE), and the Senator from California (Mrs. BOXER) were added as cosponsors of S. 1858, a bill to amend the Social Security Act to provide individuals with disabilities with incentives to become economically self-sufficient.

S. 1924

At the request of Mr. MACK, the names of the Senator from Colorado (Mr. CAMPBELL) and the Senator from New Mexico (Mr. BINGAMAN) were added as cosponsors of S. 1924, a bill to restore the standards used for determining whether technical workers are not employees as in effect before the Tax Reform Act of 1986.

S. 1927

At the request of Ms. MOSELEY-BRAUN, the name of the Senator from Minnesota (Mr. WELLSTONE) was added as a cosponsor of S. 1927, a bill to amend section 2007 of the Social Security Act to provide grant funding for 20 additional Empowerment Zones, and for other purposes.

S. 1930

At the request of Mr. NICKLES, the name of the Senator from Texas (Mr.

GRAMM) was added as a cosponsor of S. 1930, a bill to provide certainty for, reduce administrative and compliance burdens associated with, and streamline and improve the collection of royalties from Federal and outer continental shelf oil and gas leases, and for other purposes.

S. 2040

At the request of Mr. BAUCUS, the name of the Senator from Ohio (Mr. GLENN) was added as a cosponsor of S. 2040, a bill to amend title XIX of the Social Security Act to extend the authority of State medicaid fraud control units to investigate and prosecute fraud in connection with Federal health care programs and abuse of residents of board and care facilities.

S. 2078

At the request of Mr. GRASSLEY, the names of the Senator from Indiana (Mr. LUGAR) and the Senator from Idaho (Mr. CRAIG) were added as cosponsors of S. 2078, a bill to amend the Internal Revenue Code of 1986 to provide for Farm and Ranch Risk Management Accounts, and for other purposes.

S. 2128

At the request of Mr. STEVENS, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 2128, a bill to clarify the authority of the Director of the Federal Bureau of Investigation regarding the collection of fees to process certain identification records and name checks, and for other purposes.

S. 2130

At the request of Mr. GRAMS, the name of the Senator from Wyoming (Mr. THOMAS) was added as a cosponsor of S. 2130, a bill to amend the Internal Revenue Code of 1986 to provide additional retirement savings opportunities for small employers, including self-employed individuals.

S. 2162

At the request of Mr. MACK, the name of the Senator from Colorado (Mr. ALLARD) was added as a cosponsor of S. 2162, a bill to amend the Internal Revenue Code of 1986 to more accurately codify the depreciable life of printed wiring board and printed wiring assembly equipment.

S. 2180

At the request of Mr. LOTT, the names of the Senator from California (Mrs. BOXER), the Senator from Georgia (Mr. COVERDELL), the Senator from Nevada (Mr. REID) and the Senator from Oregon (Mr. WYDEN) were added as cosponsors of S. 2180, a bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to clarify liability under that Act for certain recycling transactions.

S. 2196

At the request of Mr. GORTON, the name of the Senator from Idaho (Mr. CRAIG) was added as a cosponsor of S. 2196, a bill to amend the Public Health Service Act to provide for establishment at the National Heart, Lung, and Blood Institute of a program regarding lifesaving interventions for individuals who experience cardiac arrest, and for other purposes.

S. 2201

At the request of Mr. TORRICELLI, the name of the Senator from Kentucky (Mr. FORD) was added as a cosponsor of S. 2201, a bill to delay the effective date of the final rule promulgated by the Secretary of Health and Human Services regarding the Organ Procurement and Transplantation Network.

S. 2217

At the request of Mr. FRIST, the names of the Senator from Georgia (Mr. CLELAND), the Senator from New York (Mr. D'AMATO), and the Senator from New York (Mr. MOYNIHAN) were added as cosponsors of S. 2217, a bill to provide for continuation of the Federal research investment in a fiscally sustainable way, and for other purposes.

S. 2223

At the request of Mr. FAIRCLOTH, the name of the Senator from Georgia (Mr. CLELAND) was added as a cosponsor of S. 2223, a bill to provide a moratorium on certain class actions relating to the Real Estate Settlement Procedures Act of 1974.

S. 2271

At the request of Mr. HAGEL, his name was added as a cosponsor of S. 2271, a bill to simplify and expedite access to the Federal courts for injured parties whose rights and privileges, secured by the United States Constitution, have been deprived by final actions of Federal agencies, or other government officials or entities acting under color of State law, and for other purposes.

S. 2282

At the request of Mr. KEMPTHORNE, his name was added as a cosponsor of S. 2282, a bill to amend the Arms Export Control Act, and for other purposes.

S. 2288

At the request of Mr. WARNER, the name of the Senator from Kentucky (Mr. FORD) was added as a cosponsor of S. 2288, a bill to provide for the reform and continuing legislative oversight of the production, procurement, dissemination, and permanent public access of the Government's publications, and for other purposes.

SENATE JOINT RESOLUTION 50

At the request of Mr. BOND, the names of the Senator from Michigan (Mr. ABRAHAM) and the Senator from Arkansas (Mr. HUTCHINSON) were added as cosponsors of Senate Joint Resolution 50, a joint resolution to disapprove the rule submitted by the Health Care Financing Administration, Department of Health and Human Services on June 1, 1998, relating to surety bond requirements for home health agencies under the Medicare and Medicaid programs.

SENATE CONCURRENT RESOLUTION 97

At the request of Mrs. FEINSTEIN, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of Senate Concurrent Resolution 97, a concurrent resolution expressing the sense of Congress concerning the human rights and humanitarian situation facing the women and girls of Afghanistan.

SENATE RESOLUTION 193

At the request of Mr. REID, the names of the Senator from Massachusetts (Mr. KENNEDY), the Senator from Idaho (Mr. CRAIG), and the Senator from South Carolina (Mr. HOLLINGS) were added as cosponsors of Senate Resolution 193, a resolution designating December 13, 1998, as "National Children's Memorial Day."

SENATE RESOLUTION 207

At the request of Mr. JEFFORDS, the names of the Senator from Nevada (Mr. BRYAN), the Senator from West Virginia (Mr. BYRD), the Senator from Delaware (Mr. BIDEN), the Senator from Maine (Ms. COLLINS), the Senator from Idaho (Mr. CRAIG) and the Senator from South Carolina (Mr. THURMOND) were added as cosponsors of Senate Resolution 207, a resolution commemorating the 20th anniversary of the founding of the Vietnam Veterans of America.

SENATE RESOLUTION 210

At the request of Mr. WARNER, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of Senate Resolution 210, a resolution designating the week of June 22, 1998 through June 28, 1998 as "National Mosquito Control Awareness Week."

AMENDMENTS SUBMITTED

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 1999

HUTCHINSON AMENDMENTS NOS. 3123–3125

(Ordered to lie on the table.)

Mr. HUTCHINSON submitted three amendments intended to be proposed by him to the bill (S. 2132) making appropriations for the Department of Defense for fiscal year ending September 30, 1999, and for other purposes; as follows:

AMENDMENT NO. 3123

On page 99, between lines 17 and 18, insert the following:

TITLE IX

HUMAN RIGHTS IN CHINA

Subtitle A—Forced Abortions in China

SEC. 9001. This subtitle may be cited as the "Forced Abortion Condemnation Act".

SEC. 9002. Congress makes the following findings:

(1) Forced abortion was rightly denounced as a crime against humanity by the Nuremberg War Crimes Tribunal.

(2) For over 15 years there have been frequent and credible reports of forced abortion and forced sterilization in connection with the population control policies of the People's Republic of China. These reports indicate the following:

(A) Although it is the stated position of the politburo of the Chinese Communist Party that forced abortion and forced sterilization have no role in the population control program, in fact the Communist Chinese Government encourages both forced abortion and forced sterilization through a combination of strictly enforced birth quotas and immunity for local population control officials who engage in coercion. Officials acknowledge that there have been instances of forced abortions and sterilization, and no evidence has been made available to suggest that the perpetrators have been punished.

(B) People's Republic of China population control officials, in cooperation with employers and works unit officials, routinely monitor women's menstrual cycles and subject women who conceive without government authorization to extreme psychological pressure, to harsh economic sanctions, including unpayable fines and loss of employment, and often to physical force.

(C) Official sanctions for giving birth to unauthorized children include fines in amounts several times larger than the per capita annual incomes of residents of the People's Republic of China. In Fujian, for example, the average fine is estimated to be twice a family's gross annual income. Families which cannot pay the fine may be subject to confiscation and destruction of their homes and personal property.

(D) Especially harsh punishments have been inflicted on those whose resistance is motivated by religion. For example, according to a 1995 Amnesty International report, the Catholic inhabitants of 2 villages in Hebei Province were subjected to population control under the slogan "better to have more graves than one more child". Enforcement measures included torture, sexual abuse, and the detention of resisters' relatives as hostages.

(E) Forced abortions in Communist China often have taken place in the very late stages of pregnancy.

(F) Since 1994 forced abortion and sterilization have been used in Communist China not only to regulate the number of children, but also to eliminate those who are regarded as defective in accordance with the official eugenic policy known as the "Natal and Health Care Law".

SEC. 9003. (a) Notwithstanding any other provision of law, the Secretary of State may not utilize any funds appropriated or otherwise available for the Department of State for fiscal year 1999 to issue any visa to any national of the People's Republic of China, including any official of the Communist Party or the Government of the People's Republic of China and its regional, local, and village authorities (except the head of state, the head of government, and cabinet level ministers) who the Secretary finds, based on credible information, has been involved in the establishment or enforcement of population control policies resulting in a woman being forced to undergo an abortion against her free choice, or resulting in a man or woman being forced to undergo sterilization against his or her free choice.

(b) Notwithstanding any other provision of law, the Attorney General may not utilize any funds appropriated or otherwise available for the Department of Justice for fiscal year 1999 to admit to the United States any national covered by subsection (a).

(c) The President may waive the prohibition in subsection (a) or (b) with respect to a national of the People's Republic of China if the President—

(1) determines that it is in the national interest of the United States to do so; and

(2) provides written notification to Congress containing a justification for the waiver.

Subtitle B—Freedom on Religion in China

SEC. 9011. (a) It is the sense of Congress that the President should make freedom of religion one of the major objectives of United States foreign policy with respect to China.

(b) As part of this policy, the Department of State should raise in every relevant bilateral and multilateral forum the issue of individuals imprisoned, detained, confined, or otherwise harassed by the Chinese Government on religious grounds.

(c) In its communications with the Chinese Government, the Department of State should provide specific names of individuals of concern and request a complete and timely response from the Chinese Government regarding the individuals' whereabouts and condition, the charges against them, and sentence imposed.

(d) The goal of these official communications should be the expeditious release of all religious prisoners in China and Tibet and the end of the Chinese Government's policy and practice of harassing and repressing religious believers.

SEC. 9012. (a) Notwithstanding any other provision of law, no funds appropriated or otherwise made available for the Department of State for fiscal year 1999 for the United States Information Agency or the United States Agency for International Development may be used for the purpose of providing travel expenses and per diem for the participation in conferences, exchanges, programs, and activities of the following nationals of the People's Republic of China:

(1) The head or political secretary of any of the following Chinese Government-created or approved organizations:

(A) The Chinese Buddhist Association.

(B) The Chinese Catholic Patriotic Association.

(C) The National Congress of Catholic Representatives.

(D) The Chinese Catholic Bishops' Conference.

(E) The Chinese Protestant "Three Self" Patriotic Movement.

(F) The China Christian Council.

(G) The Chinese Taoist Association.

(H) The Chinese Islamic Association.

(2) Any military or civilian official or employee of the Government of the People's Republic of China who carried out or directed the carrying out of any of the following policies or practices:

(A) Formulating, drafting, or implementing repressive religious policies.

(B) Imprisoning, detaining, or harassing individuals on religious grounds.

(C) Promoting or participating in policies or practices which hinder religious activities or the free expression of religious beliefs.

(b)(1) Each Federal agency subject to the prohibition in subsection (a) shall certify in writing to the appropriate congressional committees, on a quarterly basis during fiscal year 1999, that it did not pay, either directly or through a contractor or grantee, for travel expenses or per diem of any national of the People's Republic of China described in subsection (a).

(2) Each certification under paragraph (1) shall be supported by the following information:

(A) The name of each employee of any agency of the Government of the People's Republic of China whose travel expenses or per diem were paid by funds of the reporting agency of the United States Government.

(B) The procedures employed by the reporting agency of the United States Government to ascertain whether each individual under subparagraph (A) did or did not participate in activities described in subsection (a)(2).

(C) The reporting agency's basis for concluding that each individual under subparagraph (A) did not participate in such activities.

SEC. 9013. (a) Notwithstanding any other provision of law, the Secretary of State may not utilize any funds appropriated or otherwise available for the Department of State for fiscal year 1999 to issue a visa to any national of the People's Republic of China described in section 9012(a)(2) (except the head of state, the head of government, and cabinet level ministers).

(b) Notwithstanding any other provision of law, the Attorney General may not utilize any funds appropriated or otherwise available for the Department of Justice for fiscal year 1999 to admit to the United States any national covered by subsection (a).

(c) The President may waive the prohibition in subsection (a) or (b) with respect to an individual described in such subsection if the President—

(1) determines that it is vital to the national interest to do so; and

(2) provides written notification to the appropriate congressional committees containing a justification for the waiver.

SEC. 9014. In this subtitle, the term "appropriate congressional committees" means the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives.

Subtitle C—Monitoring of Human Rights Abuses in China

SEC. 9021. This subtitle may be cited as the "Political Freedom in China Act of 1998".

SEC. 9022. Congress makes the following findings:

(1) Congress concurs in the following conclusions of the United States State Department on human rights in the People's Republic of China in 1996:

(A) The People's Republic of China is "an authoritarian state" in which "citizens lack the freedom to peacefully express opposition to the party-led political system and the right to change their national leaders or form of government".

(B) The Government of the People's Republic of China has "continued to commit widespread and well-documented human rights abuses, in violation of internationally accepted norms, stemming from the authorities' intolerance of dissent, fear of unrest, and the absence or inadequacy of laws protecting basic freedoms".

(C) "[a]buses include torture and mistreatment of prisoners, forced confessions, and arbitrary and incommunicado detention".

(D) "[p]rison conditions remained harsh [and] [t]he Government continued severe restrictions on freedom of speech, the press, assembly, association, religion, privacy, and worker rights".

(E) "[a]lthough the Government denies that it holds political prisoners, the number of persons detained or serving sentences for 'counterrevolutionary crimes' or 'crimes against the state', or for peaceful political or religious activities are believed to number in the thousands".

(F) "[n]onapproved religious groups, including Protestant and Catholic groups * * * experienced intensified repression".

(G) "[s]erious human rights abuses persist in minority areas, including Tibet, Xinjiang, and Inner Mongolia, [and] [c]ontrols on religion and on other fundamental freedoms in these areas have also intensified".

(H) "[o]verall in 1996, the authorities stepped up efforts to cut off expressions of protest or criticism. All public dissent against the party and government was effectively silenced by intimidation, exile, the imposition of prison terms, administrative detention, or house arrest. No dissidents were known to be active at year's end.".

(2) In addition to the State Department, credible independent human rights organizations have documented an increase in repression in China during 1995, and effective destruction of the dissident movement through the arrest and sentencing of the few remaining pro-democracy and human rights activists not already in prison or exile.

(3) Among those were Li Hai, sentenced to 9 years in prison on December 18, 1996, for gathering information on the victims of the 1989 crackdown, which according to the court's verdict constituted "state secrets"; Liu Nianchun, an independent labor organizer, sentenced to 3 years of "re-education through labor" on July 4, 1996, due to his activities in connection with a petition campaign calling for human rights reforms; and Ngodrup Phuntsog, a Tibetan national, who was arrested in Tibet in 1987 immediately after he returned from a 2-year trip to India, where the Tibetan government in exile is located, and following a secret trial was convicted by the Government of the People's Republic of China of espionage on behalf of the "Ministry of Security of the Dalai clique".

(4) Many political prisoners are suffering from poor conditions and ill-treatment leading to serious medical and health problems, including—

(A) Gao Yu, a journalist sentenced to 6 years in prison in November 1994 and honored by UNESCO in May 1997, has a heart condition; and

(B) Chen Longde, a leading human rights advocate now serving a 3-year reeducation through labor sentence imposed without trial in August 1995, has reportedly been subject to repeated beatings and electric shocks at a labor camp for refusing to confess his guilt.

(5) The People's Republic of China, as a member of the United Nations, is expected to abide by the provisions of the Universal Declaration of Human Rights.

(6) The People's Republic of China is a party to numerous international human rights conventions, including the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

SEC. 9023. (a) The Secretary of State, in all official meetings with the Government of the People's Republic of China, should request the immediate and unconditional release of Ngodrup Phuntsog and other prisoners of conscience in Tibet, as well as in the People's Republic of China.

(b) The Secretary of State should seek access for international humanitarian organizations to Drapchi prison and other prisons in Tibet, as well as in the People's Republic of China, to ensure that prisoners are not being mistreated and are receiving necessary medical treatment.

(c) The Secretary of State, in all official meetings with the Government of the People's Republic of China, should call on that country to begin serious discussions with the Dalai Lama or his representatives, without preconditions, on the future of Tibet.

SEC. 9024. (a) Of the amounts appropriated or otherwise made available by this Act, $1,100,000 shall be available for support personnel to monitor political repression in the People's Republic of China in the United States Embassies in Beijing and Kathmandu, as well as the American consulates in Guangzhou, Shanghai, Shenyang, Chengdu, and Hong Kong.

(b) The amount available under subsection (a) is in addition to any other amounts appropriated or otherwise available in fiscal year 1999 for the personnel referred to in that subsection.

SEC. 9025. (a)(1) Of the amounts appropriated or otherwise made available by this Act, $2,500,000 shall be available for the National Endowment for Democracy for the promotion of democracy, civil society, and the development of the rule of law in China.

(2) The amount available under paragraph (1) is in addition to any other amounts appropriated or otherwise made available in fiscal year 1999 for the National Endowment for Democracy.

(b) The Secretary of State shall, in fiscal year 1999, utilize funds available in the East Asia-Pacific Regional Democracy Fund to provide grants to nongovernmental organizations to promote democracy, civil society, and the development of the rule of law in China.

SEC. 9026. (a) The Secretary of State shall utilize funds appropriated or otherwise available for the Department of State for fiscal year 1999 submit to the International Relations Committee of the House of Representatives and the Foreign Relations Committee of the Senate, in that fiscal year, a report on human rights in China, including religious persecution, the development of democratic institutions, and the rule of law. The report shall provide information on each region of China.

(b)(1) The Secretary of State shall utilize funds referred to in subsection (a) to establish a Prisoner Information Registry for China which shall provide information on all political prisoners, prisoners of conscience, and prisoners of faith in China.

(2) Such information shall include the charges, judicial processes, administrative actions, use of forced labor, incidences of torture, length of imprisonment, physical and health conditions, and other matters related to the incarceration of such prisoners in China.

(3) The Secretary may make funds available to nongovernmental organizations presently engaged in monitoring activities regarding Chinese political prisoners to assist in the creation and maintenance of the registry.

SEC. 9027. It is the sense of Congress that Congress, the President, and the Secretary of State should work with the governments of other countries to establish a Commission on Security and Cooperation in Asia which would be modeled after the Commission on Security and Cooperation in Europe.

SEC. 9028. It is the sense of Congress that—

(1) the people of Hong Kong should continue to have the right and ability to freely elect their legislative representatives; and

(2) the procedure for the conduct of the elections of the first legislature of the Hong Kong Special Administrative Region should be determined by the people of Hong Kong through an election law convention, a referendum, or both.

SEC. 9029. It is the sense of Congress that—

(1) the Government of the People's Republic of China should stop the practice of harvesting and transplanting organs for profit from prisoners that it executes;

(2) the Government of the People's Republic of China should be strongly condemned for such organ harvesting and transplanting practice;

(3) the President should bar from entry into the United States any and all officials of the Government of the People's Republic of China known to be directly involved in such organ harvesting and transplanting practice;

(4) individuals determined to be participating in or otherwise facilitating the sale of such organs in the United States should be prosecuted to the fullest possible extent of the law; and

(5) the appropriate officials in the United States should interview individuals, including doctors, who may have knowledge of such organ harvesting and transplanting practice.

AMENDMENT NO. 3124

On page 99, between lines 17 and 18, insert the following:

TITLE IX

HUMAN RIGHTS IN CHINA

Subtitle A—Forced Abortions in China

SEC. 9001. This subtitle may be cited as the "Forced Abortion Condemnation Act".

SEC. 9002. Congress makes the following findings:

(1) Forced abortion was rightly denounced as a crime against humanity by the Nuremberg War Crimes Tribunal.

(2) For over 15 years there have been frequent and credible reports of forced abortion and forced sterilization in connection with the population control policies of the People's Republic of China. These reports indicate the following:

(A) Although it is the stated position of the politburo of the Chinese Communist Party that forced abortion and forced sterilization have no role in the population control program, in fact the Communist Chinese Government encourages both forced abortion and forced sterilization through a combination of strictly enforced birth quotas and immunity for local population control officials who engage in coercion. Officials acknowledge that there have been instances of forced abortions and sterilization, and no evidence has been made available to suggest that the perpetrators have been punished.

(B) People's Republic of China population control officials, in cooperation with employers and works unit officials, routinely monitor women's menstrual cycles and subject women who conceive without government authorization to extreme psychological pressure, to harsh economic sanctions, including unpayable fines and loss of employment, and often to physical force.

(C) Official sanctions for giving birth to unauthorized children include fines in amounts several times larger than the per capita annual incomes of residents of the People's Republic of China. In Fujian, for example, the average fine is estimated to be twice a family's gross annual income. Families which cannot pay the fine may be subject to confiscation and destruction of their homes and personal property.

(D) Especially harsh punishments have been inflicted on those whose resistance is motivated by religion. For example, according to a 1995 Amnesty International report, the Catholic inhabitants of 2 villages in Hebei Province were subjected to population control under the slogan "better to have more graves than one more child". Enforcement measures included torture, sexual abuse, and the detention of resisters' relatives as hostages.

(E) Forced abortions in Communist China often have taken place in the very late stages of pregnancy.

(F) Since 1994 forced abortion and sterilization have been used in Communist China not only to regulate the number of children, but also to eliminate those who are regarded as defective in accordance with the official eugenic policy known as the "Natal and Health Care Law".

SEC. 9003. (a) Notwithstanding any other provision of law, the Secretary of State may not utilize any funds appropriated or otherwise available for the Department of State for fiscal year 1999 to issue any visa to any national of the People's Republic of China, including any official of the Communist Party or the Government of the People's Republic of China and its regional, local, and village authorities (except the head of state, the head of government, and cabinet level ministers) who the Secretary finds, based on credible information, has been involved in the establishment or enforcement of population control policies resulting in a woman being forced to undergo an abortion against her free choice, or resulting in a man or woman being forced to undergo sterilization against his or her free choice.

(b) Notwithstanding any other provision of law, the Attorney General may not utilize any funds appropriated or otherwise available for the Department of Justice for fiscal year 1999 to admit to the United States any national covered by subsection (a).

(c) The President may waive the prohibition in subsection (a) or (b) with respect to a national of the People's Republic of China if the President—

(1) determines that it is in the national interest of the United States to do so; and

(2) provides written notification to Congress containing a justification for the waiver.

Subtitle B—Freedom on Religion in China

SEC. 9011. (a) It is the sense of Congress that the President should make freedom of religion one of the major objectives of United States foreign policy with respect to China.

(b) As part of this policy, the Department of State should raise in every relevant bilateral and multilateral forum the issue of individuals imprisoned, detained, confined, or otherwise harassed by the Chinese Government on religious grounds.

(c) In its communications with the Chinese Government, the Department of State should provide specific names of individuals of concern and request a complete and timely response from the Chinese Government regarding the individuals' whereabouts and condition, the charges against them, and sentence imposed.

(d) The goal of these official communications should be the expeditious release of all religious prisoners in China and Tibet and the end of the Chinese Government's policy and practice of harassing and repressing religious believers.

SEC. 9012. (a) Notwithstanding any other provision of law, no funds appropriated or otherwise made available for the Department of State for fiscal year 1999 for the United States Information Agency or the United States Agency for International Development may be used for the purpose of providing travel expenses and per diem for the participation in conferences, exchanges, programs, and activities of the following nationals of the People's Republic of China:

(1) The head or political secretary of any of the following Chinese Government-created or approved organizations:

(A) The Chinese Buddhist Association.

(B) The Chinese Catholic Patriotic Association.

(C) The National Congress of Catholic Representatives.

(D) The Chinese Catholic Bishops' Conference.

(E) The Chinese Protestant "Three Self" Patriotic Movement.

(F) The China Christian Council.

(G) The Chinese Taoist Association.

(H) The Chinese Islamic Association.

(2) Any military or civilian official or employee of the Government of the People's Republic of China who carried out or directed the carrying out of any of the following policies or practices:

(A) Formulating, drafting, or implementing repressive religious policies.

(B) Imprisoning, detaining, or harassing individuals on religious grounds.

(C) Promoting or participating in policies or practices which hinder religious activities or the free expression of religious beliefs.

(b)(1) Each Federal agency subject to the prohibition in subsection (a) shall certify in writing to the appropriate congressional committees, on a quarterly basis during fiscal year 1999, that it did not pay, either directly or through a contractor or grantee, for travel expenses or per diem of any national of the People's Republic of China described in subsection (a).

(2) Each certification under paragraph (1) shall be supported by the following information:

(A) The name of each employee of any agency of the Government of the People's Republic of China whose travel expenses or per diem were paid by funds of the reporting agency of the United States Government.

(B) The procedures employed by the reporting agency of the United States Government to ascertain whether each individual under subparagraph (A) did or did not participate in activities described in subsection (a)(2).

(C) The reporting agency's basis for concluding that each individual under subparagraph (A) did not participate in such activities.

SEC. 9013. (a) Notwithstanding any other provision of law, the Secretary of State may not utilize any funds appropriated or otherwise available for the Department of State for fiscal year 1999 to issue a visa to any national of the People's Republic of China described in section 9012(a)(2) (except the head of state, the head of government, and cabinet level ministers).

(b) Notwithstanding any other provision of law, the Attorney General may not utilize any funds appropriated or otherwise available for the Department of Justice for fiscal year 1999 to admit to the United States any national covered by subsection (a).

(c) The President may waive the prohibition in subsection (a) or (b) with respect to an individual described in such subsection if the President—

(1) determines that it is vital to the national interest to do so; and

(2) provides written notification to the appropriate congressional committees containing a justification for the waiver.

SEC. 9014. In this subtitle, the term "appropriate congressional committees" means the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives.

AMENDMENT NO. 3125

On page 99, between lines 17 and 18, insert the following:

SEC. 8014. (a) SHORT TITLE.—This section may be cited as the "Communist China Subsidy Reduction Act of 1998".

(b) FINDINGS.—Congress finds that—

(1) the People's Republic of China has enjoyed ready access to international capital through commercial loans, direct investment, sales of securities, bond sales, and foreign aid;

(2) regarding international commercial lending, the People's Republic of China had $48,000,000,000 in loans outstanding from private creditors in 1995;

(3) regarding international direct investment, international direct investment in the People's Republic of China from 1993 through 1995 totaled $97,151,000,000, and in 1996 alone totaled $47,000,000,000;

(4) regarding investment in Chinese securities, the aggregate value of outstanding Chinese securities currently held by Chinese nationals and foreign persons is $175,000,000,000, and from 1993 through 1995 foreign persons invested $10,540,000,000 in Chinese stocks;

(5) regarding investment in Chinese bonds, entities controlled by the Government of the People's Republic of China have issued 75 bonds since 1988, including 36 dollar-denominated bond offerings valued at more than $6,700,000,000, and the total value of long-term Chinese bonds outstanding as of January 1, 1996, was $11,709,000,000;

(6) regarding international assistance, the People's Republic of China received almost $1,000,000,000 in foreign aid grants and an additional $1,566,000,000 in technical assistance grants from 1993 through 1995, and in 1995 received $5,540,000,000 in bilateral assistance loans, including concessional aid, export credits, and related assistance; and

(7) regarding international financial institutions—

(A) despite the People's Republic of China's access to international capital and world financial markets, international financial institutions have annually provided it with more than $4,000,000,000 in loans in recent years, amounting to almost a third of the loan commitments of the Asian Development Bank and 17.1 percent of the loan approvals by the International Bank for Reconstruction and Development in 1995; and

(B) the People's Republic of China borrows more from the International Bank for Reconstruction and Development and the Asian Development Bank than any other country, and loan commitments from those institutions to the People's Republic of China quadrupled from $1,100,000,000 in 1985 to $4,300,000,000 by 1995.

(c) OPPOSITION OF UNITED STATES TO CONCESSIONAL LOANS TO CHINA.—(1) Notwithstanding any other provision of law, in the consideration by an international financial institution of a concessional loan to the People's Republic of China, any citizen or national of the People's Republic of China, or any entity established in the People's Republic of China, the United States Executive Director of the international financial institution may not use any funds appropriated or otherwise available to such Executive Director for fiscal year 1999 except to use the voice and vote of the United States to oppose the provision of the concessional loan by the institution.

(2) In this subsection:

(A) The term "concessional loans" means loans with highly subsidized interest rates, grace periods for repayment of 5 years or more, and maturities of 20 years or more.

(B) The term "international financial institution" has the meaning given that term in section 1701(c)(2) of the International Financial Institutions Act (22 U.S.C. 262r(c)(2)).

(d) PRINCIPLES FOR UNITED STATES NATIONALS CONDUCTING INDUSTRIAL COOPERATION

PROJECTS IN CHINA.—(1) It is the purpose of this subsection to create principles governing the conduct of industrial cooperation projects of United States nationals in the People's Republic of China.

(2) It is the sense of Congress that any United States national conducting an industrial cooperation project in the People's Republic of China should:

(A) Suspend the use of any goods, wares, articles, or merchandise that the United States national has reason to believe were mined, produced, or manufactured, in whole or in part, by convict labor or forced labor, and refuse to use forced labor in the industrial cooperation project.

(B) Seek to ensure that political or religious views, sex, ethnic or national background, involvement in political activities or nonviolent demonstrations, or association with suspected or known dissidents will not prohibit hiring, lead to harassment, demotion, or dismissal, or in any way affect the status or terms of employment in the industrial cooperation project. The United States national should not discriminate in terms or conditions of employment in the industrial cooperation project against persons with past records of arrest or internal exile for nonviolent protest or membership in unofficial organizations committed to nonviolence.

(C) Ensure that methods of production used in the industrial cooperation project do not pose an unnecessary physical danger to workers and neighboring populations or property, and that the industrial cooperation project does not unnecessarily risk harm to the surrounding environment; and consult with community leaders regarding environmental protection with respect to the industrial cooperation project.

(D) Strive to establish a private business enterprise when involved in an industrial cooperation project with the Government of the People's Republic of China or other state entity.

(E) Discourage any Chinese military presence on the premises of any industrial cooperation projects which involve dual-use technologies.

(F) Undertake to promote freedom of association and assembly among the employees of the United States national. The United States national should protest any infringement by the Government of the People's Republic of China of these freedoms to the International Labor Organization's office in Beijing.

(G) Provide the Department of State with information relevant to the Department's efforts to collect information on prisoners for the purposes of the Prisoner Information Registry, and for other purposes.

(H) Discourage or undertake to prevent compulsory political indoctrination programs from taking place on the premises of the industrial cooperation project.

(I) Promote freedom of expression, including the freedom to seek, receive, and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any media. To this end, the United States national should raise with appropriate authorities of the Government of the People's Republic of China concerns about restrictions on the free flow of information.

(J) Undertake to prevent harassment of workers who, consistent with the United Nations World Population Plan of Action, decide freely and responsibly the number and spacing of their children; and prohibit compulsory population control activities on the premises of the industrial cooperation project.

(3) The Secretary of State shall utilize funds appropriated for the Department of State for fiscal year 1999 to forward a copy of the principles set forth in paragraph (2) to the member nations of the Organization for Economic Cooperation and Development and encourage them to promote principles similar to these principles.

(4) In this subsection:

(A) The term "industrial cooperation project" refers to a for-profit activity the business operations of which employ more than 25 individuals or have assets greater than $25,000.

(B) The term "United States national" means—

(i) a citizen or national of the United States or a permanent resident of the United States; and

(ii) a corporation, partnership, or other business association organized under the laws of the United States, any State or territory thereof, the District of Columbia, the Commonwealth of Puerto Rico, or the Commonwealth of the Northern Mariana Islands.

(e) PROMOTION OF EXCHANGES BETWEEN THE UNITED STATES AND CHINA.—(1) Agencies of the United States Government which engage in educational, cultural, scientific, agricultural, military, legal, political, and artistic exchanges shall utilize funds appropriated or otherwise available to such agencies for fiscal year 1999 to initiate or expand such exchange programs with regard to China.

(2) It is the sense of Congress that a Federally chartered not-for-profit organization should be established to fund exchanges between the United States and China through private donations.

CRIME IDENTIFICATION TECHNOLOGY ACT OF 1998

HATCH (AND OTHERS) AMENDMENT NO. 3126

Mr. ALLARD (for Mr. HATCH for himself, Mr. LEAHY, Mr. DEWINE, and Mr. DASCHLE) proposed an amendment to the bill (S. 2022) to provide for the improvement of interstate criminal justice identification, information, communications, and forensics; as follows:

At the appropriate place, insert the following:

TITLE II

SECTION 201. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Title may be cited as the "National Criminal History Access and Child Protection Act".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

SUBTITLE A—EXCHANGE OF CRIMINAL HISTORY RECORDS FOR NONCRIMINAL JUSTICE PURPOSES

Sec. 201. Short title.
Sec. 202. Findings.
Sec. 203. Definitions.
Sec. 204. Enactment and consent of the United States.
Sec. 205. Effect on other laws.
Sec. 206. Enforcement and implementation.
Sec. 207. National Crime Prevention and Privacy Compact.

OVERVIEW

ARTICLE I—DEFINITIONS
ARTICLE II—PURPOSES
ARTICLE III—RESPONSIBILITIES OF COMPACT PARTIES
ARTICLE IV—AUTHORIZED RECORD DISCLOSURES
ARTICLE V—RECORD REQUEST PROCEDURES
ARTICLE VI—ESTABLISHMENT OF COMPACT COUNCIL
ARTICLE VII—RATIFICATION OF COMPACT
ARTICLE VIII—MISCELLANEOUS PROVISIONS
ARTICLE IX—RENUNCIATION
ARTICLE X—SEVERABILITY
ARTICLE XI—ADJUDICATION OF DISPUTES

SUBTITLE B—VOLUNTEERS FOR CHILDREN ACT

Sec. 221. Short title.
Sec. 222. Facilitation of fingerprint checks.

Subtitle A—Exchange of Criminal History Records for Noncriminal Justice Purposes

SEC. 201. SHORT TITLE.

This title may be cited as the "National Crime Prevention and Privacy Compact Act of 1998".

SEC. 202. FINDINGS.

Congress finds that—

(1) both the Federal Bureau of Investigation and State criminal history record repositories maintain fingerprint-based criminal history records;

(2) these criminal history records are shared and exchanged for criminal justice purposes through a Federal-State program known as the Interstate Identification Index System;

(3) although these records are also exchanged for legally authorized, noncriminal justice uses, such as governmental licensing and employment background checks, the purposes for and procedures by which they are exchanged vary widely from State to State;

(4) an interstate and Federal-State compact is necessary to facilitate authorized interstate criminal history record exchanges for noncriminal justice purposes on a uniform basis, while permitting each State to effectuate its own dissemination policy within its own borders; and

(5) such a compact will allow Federal and State records to be provided expeditiously to governmental and nongovernmental agencies that use such records in accordance with pertinent Federal and State law, while simultaneously enhancing the accuracy of the records and safeguarding the information contained therein from unauthorized disclosure or use.

SEC. 203. DEFINITIONS.

In this title:

(1) ATTORNEY GENERAL.—The term "Attorney General" means the Attorney General of the United States.

(2) COMPACT.—The term "Compact" means the National Crime Prevention and Privacy Compact set forth in section 107.

(3) COUNCIL.—The term "Council" means the Compact Council established under Article VI of the Compact.

(4) FBI.—The term "FBI" means the Federal Bureau of Investigation.

(5) PARTY STATE.—The term "Party State" means a State that has ratified the Compact.

(6) STATE.—The term "State" means any State, territory, or possession of the United

States, the District of Columbia, and the Commonwealth of Puerto Rico.

SEC. 204. ENACTMENT AND CONSENT OF THE UNITED STATES.

The National Crime Prevention and Privacy Compact, as set forth in section 107, is enacted into law and entered into by the Federal Government. The consent of Congress is given to States to enter into the Compact.

SEC. 205. EFFECT ON OTHER LAWS.

(a) Privacy Act of 1974.—Nothing in the Compact shall affect the obligations and responsibilities of the FBI under section 552a of title 5, United States Code (commonly known as the "Privacy Act of 1974").

(b) Access to Certain Records Not Affected.—Nothing in the Compact shall interfere in any manner with—

(1) access, direct or otherwise, to records pursuant to—

(A) section 9101 of title 5, United States Code;

(B) the National Child Protection Act;

(C) the Brady Handgun Violence Prevention Act (Public Law 103–159; 107 Stat. 1536);

(D) the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322; 108 Stat. 2074) or any amendment made by that Act;

(E) the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.); or

(F) the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 et seq.); or

(2) any direct access to Federal criminal history records authorized by law.

(c) Authority of FBI Under Departments of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriation Act, 1973.—Nothing in the Compact shall be construed to affect the authority of the FBI under the Departments of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriation Act, 1973 (Public Law 92–544 (86 Stat. 1115)).

(d) Federal Advisory Committee Act.—The Council shall not be considered to be a Federal advisory committee for purposes of the Federal Advisory Committee Act (5 U.S.C. App.).

(e) Members of Council Not Federal Officers or Employees.—Members of the Council (other than a member from the FBI or any at-large member who may be a Federal official or employee) shall not, by virtue of such membership, be deemed—

(1) to be, for any purpose other than to effect the Compact, officers or employees of the United States (as defined in sections 2104 and 2105 of title 5, United States Code); or

(2) to become entitled by reason of Council membership to any compensation or benefit payable or made available by the Federal Government to its officers or employees.

SEC. 206. ENFORCEMENT AND IMPLEMENTATION.

All departments, agencies, officers, and employees of the United States shall enforce the Compact and cooperate with one another and with all Party States in enforcing the Compact and effectuating its purposes. For the Federal Government, the Attorney General shall make such rules, prescribe such instructions, and take such other actions as may be necessary to carry out the Compact and this title.

SEC. 207. NATIONAL CRIME PREVENTION AND PRIVACY COMPACT.

The Contracting Parties agree to the following:

Overview

(a) In General.—This Compact organizes an electronic information sharing system among the Federal Government and the States to exchange criminal history records for noncriminal justice purposes authorized by Federal or State law, such as background checks for governmental licensing and employment.

(b) Obligations of Parties.—Under this Compact, the FBI and the Party States agree to maintain detailed databases of their respective criminal history records, including arrests and dispositions, and to make them available to the Federal Government and to Party States for authorized purposes. The FBI shall also manage the Federal data facilities that provide a significant part of the infrastructure for the system.

ARTICLE I—DEFINITIONS

In this Compact:

(1) Attorney general.—The term "Attorney General" means the Attorney General of the United States;

(2) Compact officer.—The term "Compact officer" means—

(A) with respect to the Federal Government, an official so designated by the Director of the FBI; and

(B) with respect to a Party State, the chief administrator of the State's criminal history record repository or a designee of the chief administrator who is a regular full-time employee of the repository.

(3) Council.—The term "Council" means the Compact Council established under Article VI.

(4) Criminal history records.—The term "criminal history records"—

(A) means information collected by criminal justice agencies on individuals consisting of identifiable descriptions and notations of arrests, detentions, indictments, or other formal criminal charges, and any disposition arising therefrom, including acquittal, sentencing, correctional supervision, or release; and

(B) does not include identification information such as fingerprint records if such information does not indicate involvement of the individual with the criminal justice system.

(5) Criminal history record repository.—The term "criminal history record repository" means the State agency designated by the Governor or other appropriate executive official or the legislature of a State to perform centralized recordkeeping functions for criminal history records and services in the State.

(6) Criminal justice.—The term "criminal justice" includes activities relating to the detection, apprehension, detention, pretrial release, post-trial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders. The administration of criminal justice includes criminal identification activities and the collection, storage, and dissemination of criminal history records.

(7) Criminal justice agency.—The term "criminal justice agency"—

(A) means—

(i) courts; and

(ii) a governmental agency or any subunit thereof that—

(I) performs the administration of criminal justice pursuant to a statute or Executive order; and

(II) allocates a substantial part of its annual budget to the administration of criminal justice; and

(B) includes Federal and State inspectors general offices.

(8) Criminal justice services.—The term "criminal justice services" means services provided by the FBI to criminal justice agencies in response to a request for information about a particular individual or as an update to information previously provided for criminal justice purposes.

(9) Criterion offense.—The term "criterion offense" means any felony or misdemeanor offense not included on the list of nonserious offenses published periodically by the FBI.

(10) Direct access.—The term "direct access" means access to the National Identification Index by computer terminal or other automated means not requiring the assistance of or intervention by any other party or agency.

(11) Executive order.—The term "Executive order" means an order of the President of the United States or the chief executive officer of a State that has the force of law and that is promulgated in accordance with applicable law.

(12) FBI.—The term "FBI" means the Federal Bureau of Investigation.

(13) Interstate identification system.—The term "Interstate Identification Index System" or "III System"—

(A) means the cooperative Federal-State system for the exchange of criminal history records; and

(B) includes the National Identification Index, the National Fingerprint File and, to the extent of their participation in such system, the criminal history record repositories of the States and the FBI.

(14) National fingerprint file.—The term "National Fingerprint File" means a database of fingerprints, or other uniquely personal identifying information, relating to an arrested or charged individual maintained by the FBI to provide positive identification of record subjects indexed in the III System.

(15) National identification index.—The term "National Identification Index" means an index maintained by the FBI consisting of names, identifying numbers, and other descriptive information relating to record subjects about whom there are criminal history records in the III System.

(16) National indices.—The term "National indices" means the National Identification Index and the National Fingerprint File.

(17) Nonparty state.—The term "Nonparty State" means a State that has not ratified this Compact.

(18) Noncriminal justice purposes.—The term "noncriminal justice purposes" means uses of criminal history records for purposes authorized by Federal or State law other than purposes relating to criminal justice activities, including employment suitability, licensing determinations, immigration and naturalization matters, and national security clearances.

(19) Party state.—The term "Party State" means a State that has ratified this Compact.

(20) Positive identification.—The term "positive identification" means a determination, based upon a comparison of fingerprints or other equally reliable biometric identification techniques, that the subject of a record search is the same person as the subject of a criminal history record or records indexed in the III System. Identifications based solely upon a comparison of subjects' names or other nonunique identification characteristics or numbers, or combinations thereof, shall not constitute positive identification.

(21) Sealed record information.—The term "sealed record information" means—

(A) with respect to adults, that portion of a record that is—

(i) not available for criminal justice uses;

(ii) not supported by fingerprints or other accepted means of positive identification; or

(iii) subject to restrictions on dissemination for noncriminal justice purposes pursuant to a court order related to a particular subject or pursuant to a Federal or State statute that requires action on a sealing petition filed by a particular record subject; and

(B) with respect to juveniles, whatever each State determines is a sealed record under its own law and procedure.

(22) STATE.—The term "State" means any State, territory, or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

ARTICLE II—PURPOSES

The purposes of this Compact are to—

(1) provide a legal framework for the establishment of a cooperative Federal-State system for the interstate and Federal-State exchange of criminal history records for noncriminal justice uses;

(2) require the FBI to permit use of the National Identification Index and the National Fingerprint File by each Party State, and to provide, in a timely fashion, Federal and State criminal history records to requesting States, in accordance with the terms of this Compact and with rules, procedures, and standards established by the Council under Article VI;

(3) require Party States to provide information and records for the National Identification Index and the National Fingerprint File and to provide criminal history records, in a timely fashion, to criminal history record repositories of other States and the Federal Government for noncriminal justice purposes, in accordance with the terms of this Compact and with rules, procedures, and standards established by the Council under Article VI;

(4) provide for the establishment of a Council to monitor III System operations and to prescribe system rules and procedures for the effective and proper operation of the III System for noncriminal justice purposes; and

(5) require the FBI and each Party State to adhere to III System standards concerning record dissemination and use, response times, system security, data quality, and other duly established standards, including those that enhance the accuracy and privacy of such records.

ARTICLE III—RESPONSIBILITIES OF COMPACT PARTIES

(a) FBI RESPONSIBILITIES.—The Director of the FBI shall—

(1) appoint an FBI Compact officer who shall—

(A) administer this Compact within the Department of Justice and among Federal agencies and other agencies and organizations that submit search requests to the FBI pursuant to Article V(c);

(B) ensure that Compact provisions and rules, procedures, and standards prescribed by the Council under Article VI are complied with by the Department of Justice and the Federal agencies and other agencies and organizations referred to in Article III(1)(A); and

(C) regulate the use of records received by means of the III System from Party States when such records are supplied by the FBI directly to other Federal agencies;

(2) provide to Federal agencies and to State criminal history record repositories, criminal history records maintained in its database for the noncriminal justice purposes described in Article IV, including—

(A) information from Nonparty States; and

(B) information from Party States that is available from the FBI through the III System, but is not available from the Party State through the III System;

(3) provide a telecommunications network and maintain centralized facilities for the exchange of criminal history records for both criminal justice purposes and the noncriminal justice purposes described in Article IV, and ensure that the exchange of such records for criminal justice purposes has priority over exchange for noncriminal justice purposes; and

(4) modify or enter into user agreements with Nonparty State criminal history record repositories to require them to establish record request procedures conforming to those prescribed in Article V.

(b) STATE RESPONSIBILITIES.—Each Party State shall—

(1) appoint a Compact officer who shall—

(A) administer this Compact within that State;

(B) ensure that Compact provisions and rules, procedures, and standards established by the Council under Article VI are complied with in the State; and

(C) regulate the in-State use of records received by means of the III System from the FBI or from other Party States;

(2) establish and maintain a criminal history record repository, which shall provide—

(A) information and records for the National Identification Index and the National Fingerprint File; and

(B) the State's III System-indexed criminal history records for noncriminal justice purposes described in Article IV;

(3) participate in the National Fingerprint File; and

(4) provide and maintain telecommunications links and related equipment necessary to support the services set forth in this Compact.

(c) COMPLIANCE WITH III SYSTEM STANDARDS.—In carrying out their responsibilities under this Compact, the FBI and each Party State shall comply with III System rules, procedures, and standards duly established by the Council concerning record dissemination and use, response times, data quality, system security, accuracy, privacy protection, and other aspects of III System operation.

(d) MAINTENANCE OF RECORD SERVICES.—

(1) Use of the III System for noncriminal justice purposes authorized in this Compact shall be managed so as not to diminish the level of services provided in support of criminal justice purposes.

(2) Administration of Compact provisions shall not reduce the level of service available to authorized noncriminal justice users on the effective date of this Compact.

ARTICLE IV—AUTHORIZED RECORD DISCLOSURES

(a) STATE CRIMINAL HISTORY RECORD REPOSITORIES.—To the extent authorized by section 552a of title 5, United States Code (commonly known as the "Privacy Act of 1974"), the FBI shall provide on request criminal history records (excluding sealed records) to State criminal history record repositories for noncriminal justice purposes allowed by Federal statute, Federal Executive order, or a State statute that has been approved by the Attorney General and that authorizes national indices checks.

(b) CRIMINAL JUSTICE AGENCIES AND OTHER GOVERNMENTAL OR NONGOVERNMENTAL AGENCIES.—The FBI, to the extent authorized by section 552a of title 5, United States Code (commonly known as the "Privacy Act of 1974"), and State criminal history record repositories shall provide criminal history records (excluding sealed records) to criminal justice agencies and other governmental or nongovernmental agencies for noncriminal justice purposes allowed by Federal statute, Federal Executive order, or a State statute that has been approved by the Attorney General, that authorizes national indices checks.

(c) PROCEDURES.—Any record obtained under this Compact may be used only for the official purposes for which the record was requested. Each Compact officer shall establish procedures, consistent with this Compact, and with rules, procedures, and standards established by the Council under Article VI, which procedures shall protect the accuracy and privacy of the records, and shall—

(1) ensure that records obtained under this Compact are used only by authorized officials for authorized purposes;

(2) require that subsequent record checks are requested to obtain current information whenever a new need arises; and

(3) ensure that record entries that may not legally be used for a particular noncriminal justice purpose are deleted from the response and, if no information authorized for release remains, an appropriate "no record" response is communicated to the requesting official.

ARTICLE V—RECORD REQUEST PROCEDURES

(a) POSITIVE IDENTIFICATION.—Subject fingerprints or other approved forms of positive identification shall be submitted with all requests for criminal history record checks for noncriminal justice purposes.

(b) SUBMISSION OF STATE REQUESTS.—Each request for a criminal history record check utilizing the national indices made under any approved State statute shall be submitted through that State's criminal history record repository. A State criminal history record repository shall process an interstate request for noncriminal justice purposes through the national indices only if such request is transmitted through another State criminal history record repository or the FBI.

(c) SUBMISSION OF FEDERAL REQUESTS.—Each request for criminal history record checks utilizing the national indices made under Federal authority shall be submitted through the FBI or, if the State criminal history record repository consents to process fingerprint submissions, through the criminal history record repository in the State in which such request originated. Direct access to the National Identification Index by entities other than the FBI and State criminal history records repositories shall not be permitted for noncriminal justice purposes.

(d) FEES.—A State criminal history record repository or the FBI—

(1) may charge a fee, in accordance with applicable law, for handling a request involving fingerprint processing for noncriminal justice purposes; and

(2) may not charge a fee for providing criminal history records in response to an electronic request for a record that does not involve a request to process fingerprints.

(e) ADDITIONAL SEARCH.—

(1) If a State criminal history record repository cannot positively identify the subject of a record request made for noncriminal justice purposes, the request, together with fingerprints or other approved identifying information, shall be forwarded to the FBI for a search of the national indices.

(2) If, with respect to an request forwarded by a State criminal history record repository

under paragraph (1), the FBI positively identifies the subject as having a III System-indexed record or records—

(A) the FBI shall so advise the State criminal history record repository; and

(B) the State criminal history record repository shall be entitled to obtain the additional criminal history record information from the FBI or other State criminal history record repositories.

ARTICLE VI—ESTABLISHMENT OF COMPACT COUNCIL

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is established a council to be known as the "Compact Council", which shall have the authority to promulgate rules and procedures governing the use of the III System for noncriminal justice purposes, not to conflict with FBI administration of the III System for criminal justice purposes.

(2) ORGANIZATION.—The Council shall—

(A) continue in existence as long as this Compact remains in effect;

(B) be located, for administrative purposes, within the FBI; and

(C) be organized and hold its first meeting as soon as practicable after the effective date of this Compact.

(b) MEMBERSHIP.—The Council shall be composed of 15 members, each of whom shall be appointed by the Attorney General, as follows:

(1) Nine members, each of whom shall serve a 2-year term, who shall be selected from among the Compact officers of Party States based on the recommendation of the Compact officers of all Party States, except that, in the absence of the requisite number of Compact officers available to serve, the chief administrators of the criminal history record repositories of Nonparty States shall be eligible to serve on an interim basis.

(2) Two at-large members, nominated by the Director of the FBI, each of whom shall serve a 3-year term, of whom—

(A) 1 shall be a representative of the criminal justice agencies of the Federal Government and may not be an employee of the FBI; and

(B) 1 shall be a representative of the noncriminal justice agencies of the Federal Government.

(3) Two at-large members, nominated by the Chairman of the Council, once the Chairman is elected pursuant to Article VI(c), each of whom shall serve a 3-year term, of whom—

(A) 1 shall be a representative of State or local criminal justice agencies; and

(B) 1 shall be a representative of State or local noncriminal justice agencies.

(4) One member, who shall serve a 3-year term, and who shall simultaneously be a member of the FBI's advisory policy board on criminal justice information services, nominated by the membership of that policy board.

(5) One member, nominated by the Director of the FBI, who shall serve a 3-year term, and who shall be an employee of the FBI.

(c) CHAIRMAN AND VICE CHAIRMAN.—

(1) IN GENERAL.—From its membership, the Council shall elect a Chairman and a Vice Chairman of the Council, respectively. Both the Chairman and Vice Chairman of the Council—

(A) shall be a Compact officer, unless there is no Compact officer on the Council who is willing to serve, in which case the Chairman may be an at-large member; and

(B) shall serve a 2-year term and may be reelected to only 1 additional 2-year term.

(2) DUTIES OF VICE CHAIRMAN.—The Vice Chairman of the Council shall serve as the Chairman of the Council in the absence of the Chairman.

(d) MEETINGS.—

(1) IN GENERAL.—The Council shall meet a least once each year at the call of the Chairman. Each meeting of the Council shall be open to the public. The Council shall provide prior public notice in the Federal Register of each meeting of the Council, including the matters to be addressed at such meeting.

(2) QUORUM.—A majority of the Council or any committee of the Council shall constitute a quorum of the Council or of such committee, respectively, for the conduct of business. A lesser number may meet to hold hearings, take testimony, or conduct any business not requiring a vote.

(e) RULES, PROCEDURES, AND STANDARDS.—The Council shall make available for public inspection and copying at the Council office within the FBI, and shall publish in the Federal Register, any rules, procedures, or standards established by the Council.

(f) ASSISTANCE FROM FBI.—The Council may request from the FBI such reports, studies, statistics, or other information or materials as the Council determines to be necessary to enable the Council to perform its duties under this Compact. The FBI, to the extent authorized by law, may provide such assistance or information upon such a request.

(g) COMMITTEES.—The Chairman may establish committees as necessary to carry out this Compact and may prescribe their membership, responsibilities, and duration.

ARTICLE VII—RATIFICATION OF COMPACT

This Compact shall take effect upon being entered into by 2 or more States as between those States and the Federal Government. Upon subsequent entering into this Compact by additional States, it shall become effective among those States and the Federal Government and each Party State that has previously ratified it. When ratified, this Compact shall have the full force and effect of law within the ratifying jurisdictions. The form of ratification shall be in accordance with the laws of the executing State.

ARTICLE VIII—MISCELLANEOUS PROVISIONS

(a) RELATION OF COMPACT TO CERTAIN FBI ACTIVITIES.—Administration of this Compact shall not interfere with the management and control of the Director of the FBI over the FBI's collection and dissemination of criminal history records and the advisory function of the FBI's advisory policy board chartered under the Federal Advisory Committee Act (5 U.S.C. App.) for all purposes other than noncriminal justice.

(b) NO AUTHORITY FOR NONAPPROPRIATED EXPENDITURES.—Nothing in this Compact shall require the FBI to obligate or expend funds beyond those appropriated to the FBI.

(c) RELATING TO PUBLIC LAW 92-544.—Nothing in this Compact shall diminish or lessen the obligations, responsibilities, and authorities of any State, whether a Party State or a Nonparty State, or of any criminal history record repository or other subdivision or component thereof, under the Departments of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriation Act, 1973 (Public Law 92-544), or regulations and guidelines promulgated thereunder, including the rules and procedures promulgated by the Council under Article VI(a), regarding the use and dissemination of criminal history records and information.

ARTICLE IX—RENUNCIATION

(a) IN GENERAL.—This Compact shall bind each Party State until renounced by the Party State.

(b) EFFECT.—Any renunciation of this Compact by a Party State shall—

(1) be effected in the same manner by which the Party State ratified this Compact; and

(2) become effective 180 days after written notice of renunciation is provided by the Party State to each other Party State and to the Federal Government.

ARTICLE X—SEVERABILITY

The provisions of this Compact shall be severable, and if any phrase, clause, sentence, or provision of this Compact is declared to be contrary to the constitution of any participating State, or to the Constitution of the United States, or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this Compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If a portion of this Compact is held contrary to the constitution of any Party State, all other portions of this Compact shall remain in full force and effect as to the remaining Party States and in full force and effect as to the Party State affected, as to all other provisions.

ARTICLE XI—ADJUDICATION OF DISPUTES

(a) IN GENERAL.—The Council shall—

(1) have initial authority to make determinations with respect to any dispute regarding—

(A) interpretation of this Compact;

(B) any rule or standard established by the Council pursuant to Article V; and

(C) any dispute or controversy between any parties to this Compact; and

(2) hold a hearing concerning any dispute described in paragraph (1) at a regularly scheduled meeting of the Council and only render a decision based upon a majority vote of the members of the Council. Such decision shall be published pursuant to the requirements of Article VI(e).

(b) DUTIES OF FBI.—The FBI shall exercise immediate and necessary action to preserve the integrity of the III System, maintain system policy and standards, protect the accuracy and privacy of records, and to prevent abuses, until the Council holds a hearing on such matters.

(c) RIGHT OF APPEAL.—The FBI or a Party State may appeal any decision of the Council to the Attorney General, and thereafter may file suit in the appropriate district court of the United States, which shall have original jurisdiction of all cases or controversies arising under this Compact. Any suit arising under this Compact and initiated in a State court shall be removed to the appropriate district court of the United States in the manner provided by section 1446 of title 28, United States Code, or other statutory authority.

Subtitle B—Volunteers for Children Act

SEC. 221. SHORT TITLE.

This title may be cited as the "Volunteers for Children Act".

SEC. 222. FACILITATION OF FINGERPRINT CHECKS.

(a) STATE AGENCY.—Section 3(a) of the National Child Protection Act of 1993 (42 U.S.C. 5119a(a)) is amended by adding at the end the following:

"(3) In the absence of State procedures referred to in paragraph (1), a qualified entity designated under paragraph (1) may contact an authorized agency of the State to request national criminal fingerprint background checks. Qualified entities requesting background checks under this paragraph shall comply with the guidelines set forth in subsection (b) and with procedures for requesting national criminal fingerprint background checks, if any, established by the State.".

(b) FEDERAL LAW.—Section 3(b)(5) of the National Child Protection Act of 1993 (42 U.S.C. 5119a(b)(5)) is amended by inserting before the period at the end the following: ", except that this paragraph does not apply to any request by a qualified entity for a national criminal fingerprint background check pursuant to subsection (a)(3)".

(c) AUTHORIZATION.—Section 4(b)(2) of the National Child Protection Act of 1993 (42 U.S.C. 5119b(b)(2)) is amended by striking "1994, 1995, 1996, and 1997" and inserting "1999, 2000, 2001, and 2002".

NOTICE OF HEARING

COMMITTEE ON INDIAN AFFAIRS

Mr. CAMPBELL. Mr. President, I would like to announce that the Senate Committee on Indian Affairs will meet during the session of the Senate on Wednesday, July 15, 1998 at 9:30 a.m. to mark up the following: S. 391, Mississippi Sioux Judgment Funds; S. 1905, Cheyenne River Sioux Compensation; H.R. 700, Agua Caliente and; S. 109, Native Hawaiian Housing Assistance. Immediately following the mark-up the Committee will hold a hearing on S. 2097, the Indian Tribal Conflict Resolution and Tort Claims and Risk Management Act of 1998. The markup/hearing will be held in room G–50 of the Dirksen Senate Office Building. Those wishing additional information should contact the Committee on Indian Affairs at 202/224–2251.

AUTHORITY FOR COMMITTEE TO MEET

SUBCOMMITTEE ON NEAR EASTERN AND SOUTH ASIAN AFFAIRS

Ms. COLLINS. Mr. President, I ask unanimous consent that the Subcommittee on Near Eastern and South Asian Affairs be authorized to meet during the session of the Senate on Monday, July 13, 1998 at 3:00 pm to hold a hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

WALL STREET BEGINS MOCK TRADE TESTING FOR Y2K

• Mr. MOYNIHAN. Mr. President, Yesterday, The New York Times reported that Wall Street firms will turn their clocks ahead today to December 29, 1999, to begin mock trading in the widest ranging Year 2000 (Y2K) test yet by any industry. The tests will investigate what might happen to anyone trading stocks, options, or corporate and municipal bonds on December 30 and 31, 1999, and January 3 and 4, 2000 (January 1, 2000 falls on a Saturday).

As a member of the Special Committee on the Year 2000 Technology, I am encouraged to see that the financial community is taking the Year 2000 computer problem seriously. On Monday, July 6, Senator BENNETT and I held a field hearing in New York to examine the progress of U.S. and foreign financial firms in addressing the Y2K problem. At the hearing, we emphasized the importance of testing, and the need to begin testing by December of this year. Appearing on behalf of the Federal Reserve Bank of New York, the First Vice President Ernest T. Patrikis said that he "does not think it is possible to over-emphasize the importance of testing to help improve readiness."

The hearing last week made it clear that Y2K is a serious and pervasive problem confronting the domestic and international economy. The Senior Vice President and Chief Technology Officer of the New York Stock Exchange, William A. Bautz, said that the Securities Industry Association (SIA) refers to solving the Year 2000 computer problem as "the biggest business-technology effort that the world has ever experienced."

I am pleased that SIA is sponsoring this industry-wide test and look forward to seeing the results. I only hope that the other industries follow the lead of the financial community and start their testing soon.

I ask that the article from yesterday's Times, "Wall St. to Roll Clock Ahead To See if Year 2000 Computes," be printed in the RECORD.

The article follows:

[From the New York Times, July 12, 1998]

WALL ST. TO ROLL CLOCK AHEAD TO SEE IF YEAR 2000 COMPUTES

(By Barnaby J. Feder)

For computer wizards on Wall Street, tomorrow will be Dec. 29, 1999, a step into electronic time travel that will be studied anxiously around the globe.

After months of preparation, the nation's leading brokers, the major exchanges, clearinghouses and depository companies will begin mock trading in the widest-ranging test yet by any industry of how well computers will cope with the transition to the next century.

The tests, sponsored by the Securities Industry Association, are designed to help brokers and other key players in the $270 billion industry figure out whether their computer systems are ready to handle trades that will settle on Jan. 3, 2000, the first business day of the new century. Over the next two weeks, the industry will reset the clocks on the test computers and investigate what might happen to anyone trading stocks, options or corporate and municipal bonds on Dec. 30 and 31, 1999, and Jan 3, and 4, 2000.

Not much has been left to chance. The multimillion-dollar effort is supervised by Coopers & Lybrand following trading scripts carefully developed by the participants with the help of outside consultants.

Thus, Leonard De Trizio, the J.P. Morgan & Company vice president in charge of the computers that support equity trading, knows that he will be selling 800 shares of a fictional Big Board company with the ticker symbol KDD at 9:30 tomorrow morning, and he knows that Morgan Stanley will be buying it, while Merrill Lynch & Company will be selling Home Shopping Network convertible bonds to Lehman Brothers.

The participants are looking for signs of the millennium bug, the catchall name for a variety of electronic foul-ups that are likely to occur when computers fail to recognize that the first days of the new century come after the last days of the old one. The problem stems from the way many microprocessors and computer programs use only two digits to refer to the year in dates—98 for 1998, for example.

Many chips and programs do not accept a low number like 00 for the year 2000, or 01 for 2001 as valid dates that follow the 99 for 1999.

What complicates the problem is that computers often react in unpredictable ways. Some spew inaccurate data. Others appear to function normally but then cannot be restarted once they have been shut down.

Computer specialists have talked about the millennium problem for decades. But only recently have businesses and public officials begun to recognize how widely dates are used in computing and to take seriously warnings that the dawn of the new century could see widespread disruptions in daily life, at the very least, and deadly accidents or perhaps a global economic recession if the problem is not tamed.

Because the securities industry is the first to conduct tests involving connections between many computer users and is publishing vast amounts of data about the results on its World Wide Web site (www.sia.com), year 2000 experts say that the results of these tests could have a huge effect on morale in the rapidly growing legions of specialists working on the problem.

"It's good that they are setting a standard of openness for the entire corporate sector," said Edward Yardeni, chief economist of Deutsche Bank Securities. Mr. Yardeni has become one of the highest-profile year 2000 pessimists, predicting a 70 percent chance of worldwide recession stemming from computer problems related to the millennium.

"If it goes badly, though, corporations may be more reluctant to share information, and more people are going to come around to my view of the risks," Mr. Yardeni said.

Those managing the securities tests are discouraging any attempt to draw broad conclusions from them. The managers point out, for example, that the tests will deal with very small volumes of fictional securities, and they describe the exercise as a mere dress rehearsal for high-volume tests planned for next spring. Some major computer systems have been completely excluded, including those that manage dividends and interest, margin trading and client account records. In addition, only the most common types of trades and securities will be tested this week.

"Dealing with this isn't rocket science, but there is a mountain of details," said Donald Kittell, the association's executive vice president. "People don't realize that a trade may go through 40 to 50 steps from start to finish."

The securities companies participating in the test that starts tomorrow account for about half the trading volume in stocks, bonds, options and other financial instruments. Each agreed to set up a discrete computer operation to run the tests. In the United States alone, securities companies are expected to spend $3 billion to $5 billion addressing year 2000 and related problems.

Yet, when the millennium arrives, Wall Street's ability to function will depend not just on the internal systems it began to test today but on the preparedness of markets overseas, where many players offset any bets placed domestically.

What is more, Wall Street's success at ushering in the millennium will also depend heavily on the year 2000 readiness of New York's power, water and telecommunications utilities and of countless other systems that are beyond its ability to test.

All of this underscores what many computer experts consider one of the most troubling aspects of the year 2000 challenge. Each phase of the problem—from identifying vulnerable systems to figuring out remedies to testing fixes—has proved more complicated, time-consuming and expensive than had been expected. The emerging consensus has been that testing has been the most widely underestimated challenge.

Consultants are consistently warning that very few corporations, government agencies or other computer-dependent enterprises will end up having enough time and resources to do as much testing as they should.

"It would be a setback if this doesn't go well," said William Ulrich, a year 2000 consultant in Soquel, Calif., "because these guys are way out in front."●

HIGHER EDUCATION ACT AMENDMENTS OF 1998

● Mr. McCONNELL. Mr. President, I come to the floor today to support S. 1882, the Higher Education Act Amendments of 1998. This bill comes at a time when our nation's shifting job market has greatly increased student demand for post-secondary education. However, for many families in Kentucky and across the nation, the rising cost of tuition creates a real barrier to attending college. A majority of college students today rely upon some form of financial assistance in order to meet these escalating costs. For the first time in decades, loans constitute the largest part of student financial-aid packages. As the loan burden increases, students and their families are seeking greater choice in financial resources for higher education.

Making a college education more affordable has always been a priority of mine, and for the past several years I have introduced legislation to provide tax incentives to families who save for college. In fact, my legislation, which allows tax-free education savings in state-sponsored savings plans for education purposes, was included in the Parent and Student Savings Account Plus Act, which Congress approved earlier this year by a strong margin. The House and Senate approved this essential legislation in response to growing public interest in federal policies that facilitate personal planning and investment in education, and to provide students with greater choices in both academic programming and financial aid resources. However, this measure and similar initiatives have been heavily criticized by the Clinton Administration.

For example, throughout the HEA reauthorization process, President Clinton has repeatedly tried to limit students' financial options by creating a single-lender system run by the U.S. Department of Education. Banks, credit unions, and other qualified lenders currently use their financial expertise and experience in loan management to provide college loans for students and parents through the Federal Family Education Loan Program (FFELP), while the U.S. Department of Education operates the Direct Lending program through participating colleges and universities. The Clinton Administration heralded the consumer benefits that would result from the competition between FFELP and the Direct Lending program during its original authorization in the 1993 Budget. Now, President Clinton has turned away from his original advocacy for greater choice in favor of making the U.S. Department of Education the sole lender for student loans.

Since its creation, the Direct Lending program's reputation has become synonymous with slow, inefficient service. The Department simply does not have the personnel or experience necessary to efficiently process the high volume of loans demanded by students. For example, in 1996, the processing of 900,000 student aid applications submitted to the Department were delayed by severe management problems. Just last year Congress was forced to pass the Emergency Student Loan Consolidation Act in response to the Department's stoppage in processing applications for direct loan consolidations. If students had been limited to one lending option, the Department's backlog and organizational problems would have denied many students access to the student loans necessary for their enrollment in school.

Based on the Department's struggle to meet its responsibility to our nation's students, concerned members of the House and Senate have worked diligently to prevent another crisis in student access to college loans. Not all colleges and universities participate in the Direct Lending program, and the interest rate index adjustments supported by the 1993 Budget threaten to eliminate private lenders from the student loan market. Without the aid of private lenders, many students will be left without necessary financial assistance. S. 1882 rejects Clinton's repeated attempts to strangle consumer choice by revising the interest rate index on student loans, and improves the service and accountability standards of guaranty agencies who participate in the FFELP program.

The guaranty agency model included in this bill directs agencies to utilize the advantages of the Internet and other technological advances in order to increase the speed and efficiency of the student loan process. S. 1882 also increases the financial responsibility guaranty agencies must bear when a student loan goes into default. All lending organizations—public and private—should be held up to high standards of performance and fiscal integrity. By increasing agency accountability, this bill makes sure that students across the country have access to qualified, responsible lending agencies. By streamlining the loan process and weeding out irresponsible lenders, S. 1182 strengthens the ability of reliable agencies to offer low-interest student loans.

S. 1182 increases institutional accountability not only for lenders, but for institutions of higher education as well. A solid primary and secondary education is the base upon which future academic success is built, and a highly qualified teaching force is an essential component of a child's educational foundation. S. 1182 raises the bar with which we measure teachers by holding institutions of higher education that prepare teachers for classroom instruction responsible for the caliber of teachers they graduate.

From early childhood through post-secondary school, a child has no greater resource than a knowledgeable, skillful teacher in the classroom, and S. 1882 holds both states and institutions of higher education responsible for placing the best teachers in our public schools. Through the creation of Teacher Quality Enhancement Grants, S. 1882 focuses on state-based reform of the teacher certification process to ensure that new teachers are qualified both in instructional skills and the subject matter which they teach, and to hold institutions of higher education accountable for properly preparing teachers for the classroom. These grants also give states the flexibility to financially reward teachers whose students have high levels of academic performance, and the authority to remove unqualified teachers from the classroom. In addition, S. 1882 allows states to develop alternative certification options for college graduates and capable individuals from other professional and occupational backgrounds who are interested in teaching.

Students face many other barriers in addition to cost when preparing for acceptance into a post-secondary school. Many first-generation and low-income students have educational needs that are not met by routine classroom instruction. S. 1882 provides support services and counseling programs for these students through the reauthorization of federal TRIO programs. For years, students across Kentucky have benefited from the Upward Bound program, which assists disadvantaged students in gaining entrance into higher education and completing a course of study. Unfortunately, many Upward

Bound students are forced to choose between summer educational programs and part-time employment. S. 1882 will enable these students to pursue challenging academic programs by expanding Upward Bound to include summer work study. The Talent Search program is also expanded to introduce low-income students to careers in which students from disadvantaged backgrounds are under-represented. I am pleased that S. 1882 reauthorizes and strengthens these two programs which are highly valued by students throughout Kentucky.

The influence of institutions of higher education is felt far beyond the classroom as many colleges and universities are providing long-term leadership for communities undergoing an economic transition. In Kentucky, the higher education community has done an exemplary job of molding its curricula to meet the economic needs of the Commonwealth. The University of Kentucky and Louisville have established world-class research programs and have extended their community recruitment and outreach programs. Many of Kentucky's regional colleges and private schools are also implementing programs complimentary to the goals of excellence outlined by their home communities and the state government. Kentucky's community colleges and technical schools recently integrated their academic and training programs to create a seamless system of post-secondary education. Such efforts to achieve cooperation and quality in post-secondary education will produce great benefits for Kentucky students in the years to come.

By recognizing the inextricable link between future economic viability and higher education, Kentucky is a prime example of the direction in which higher education in the United States is headed. With this bill, we have the opportunity to open the doors of higher education to a greater number of students than ever before, at a time when post-secondary education is at a premium. As the summer draws to a close, and another school year is about to begin, I am pleased that ninety-five of my colleagues joined me in recognition of the important role education plays in shaping our nation's future by supporting S. 1882.•

AMERICA'S GAME HAS A NEW LEADER

• Mr. CONRAD. On July 9, 1998, Major League Baseball selected Bud Selig as its ninth Commissioner in the history of baseball.

After serving as the Chairman of Baseball's Executive Council for the last six years, the owners picked from their own ranks and bestowed the formal leadership mantle on Alan H. "Bud" Selig.

For the last 28 years, Bud has been the driving force behind major league baseball in Milwaukee, from bringing baseball back in 1970 to building a new convertible stadium to open in 2000.

In September of 1992, Bud was picked to fill the void created by the departure of Fay Vincent. From the day he took the reins of the Executive Council, he was faced with serious issues that had eluded solutions. The first task was securing a new collective bargaining agreement with the Players Association. That agreement is an essential element in the growing trust and cooperation that is now visible between the players and the owners.

If labor peace was not a big enough challenge, Bud was instrumental in securing a revenue sharing agreement, and in implementing the popular wild-card playoff system and interleague play that the fans have found very exciting and enthusiastically attend. All of these improvements have helped bring back fans in numbers that reflect a healing of the game after the strike.

Those accomplishments are truly important but they merely set the stage for the agenda items that await the ninth Commissioner of Baseball. Most people who follow baseball believe Bud will have to address several tough issues: realignment and scheduling; elimination of payroll disparity; and marketing and promotion of baseball both at home and internationally. This last issue is one that also provides an avenue to continue to work with the Players Association to grow the game in a way that the fans, the players and the owners benefit.

Bud was responsible for bringing Paul Beeston from the Toronto club into the management ranks of baseball as the Chief Operating Officer. With Paul to tend to the day to day operations in the new and reorganized New York offices, Bud will be free to focus on the important tasks that lie ahead. The challenges that Bud now faces will require him to draw on the legendary consensus building skills that he has so effectively used in the past to continue to provide the unified leadership that will put baseball on a path to move into the next century.

As a lifelong baseball fan, I wish him well.•

POSTAL WORKER RECOGNITION

• Mr. GRAMS. Mr. President, I take this opportunity to say "thank you" to a most diverse collection of government employees, unified by many factors but most of all, a commitment to service. Thank you for the professionalism that you display which has allowed us to come to expect value, reliability, and uniformity from one of the world's largest businesses.

Who are these employees? They're truck drivers, engineers, janitors, accountants, detectives, customer service personnel, and letter carriers. They're United States Postal Employees.

The United States Postal Service is a business with an unusual pedigree, even though we commonly recognize the "post office" as a traditional government entity. Yet while its origins can be traced to the origins of our country, the Postal Service as we know it today is only 27 years old. USPS went through an extensive revamping in the late 1960s and early 70s. The Post Office Department was removed from the President's Cabinet and converted into a non-profit government corporation. The result was an effective elimination of politicians from the management of postal affairs.

Congress passed the Postal Reorganization Act which created the new United States Postal Service on July 1, 1971. This month, we recognize an organization able to modernize, while maintaining the fundamental unifying factors required of such a massive global organization.

USPS has a unique set of privileges and responsibilities which serve to ensure uniform service and stable prices for mail delivery throughout the United States. The Chair of the USPS Board of Governors announced in late June that there would be no postal rate increase for 1998. The next rate increase will take effect January 10, 1999. At that time the price of a First-Class letter will increase by one penny, to 33 cents.

USPS last increased rates on January 1, 1995. When the new rates take effect next year, it will be the second straight rate adjustment below inflation, in effect cutting the real cost of a First-Class stamp by seven percent since 1995. That makes the cost of a First-Class letter among the lowest in the industrialized world—a feat managed without taxpayer subsidies. In Japan, the cost of a First-Class letter is $.57, in Great Britain it is $.42 and in Germany it is $.62.

Yet the success of USPS in its ability to reorganize, modernize, and compete in a global marketplace is due to each individual postal employee, because that's what comprises successful business operations—great employees.•

TRIBUTE TO JUSTIN S. MORRILL ON THE 100TH ANNIVERSARY OF HIS DEATH

• Mr. JEFFORDS. Mr. President, 1998 is an important year for Vermont and the nation as it marks the 100th anniversary of the death of a great statesman, Senator Justin S. Morrill. Senator Morrill was a remarkable man; his authorship of the Land-Grant College Act gave, and continues to give, millions of Americans the opportunity to pursue higher education. To recognize this accomplishment, the Stratford Historical Society is holding a symposium on July 16 and 17, 1998 to pay homage to Senator Morrill and his legacy.

Senator Morrill was one the most influential politicians in the mid-nineteenth century. During his 43 years in Congress, he introduced many innovative bills and worked to improve the lives of millions of Americans through higher education. The Land-Grant College Act provided public lands for agricultural colleges and, in turn, set the standard for American public universities. In addition to these accomplishments, Senator Morrill was also instrumental in the creation of the Washington Monument and the Library of Congress.

In fact, on November 4, 1997, I was honored to attend a ceremony at the Library of Congress to unveil a plaque in the Great Hall of the Jefferson Building honoring Senator Morrill. The plaque was presented to the Library on behalf of the people of Vermont by the Vermont Center for the Book, on the occasion of the 100th anniversary of the Jefferson Building. The plaque honors the vital role that Senator Morrill played in making the Jefferson Building a reality.

Mr. President, Justin S. Morrill was a dedicated statesman who spent his life helping others. He revolutionized education and, as poet Robert Frost once noted, "For me there is no greater name in American education than that of Senator Justin Smith Morrill." Such an amazing man deserves recognition and, on this 100th anniversary of his death, I pay tribute to him and his accomplishments.●

HIGHER EDUCATION AMENDMENTS OF 1998

Mr. ALLARD. Mr. President, I ask unanimous consent that the Senate now turn to H.R. 6, the higher education bill, and that the Senate insist on its amendment, request a conference with the House, and the Chair be authorized to appoint conferees on the part of the Senate, all without further action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Presiding Officer appointed Mr. Jeffords, Mr. Coats, Mr. Gregg, Mr. Frist, Mr. DeWine, Mr. Enzi, Mr. Hutchinson, Ms. Collins, Mr. Warner, Mr. McConnell, Mr. Kennedy, Mr. Dodd, Mr. Harkin, Ms. Mikulski, Mr. Bingaman, Mr. Wellstone, Mrs. Murray, and Mr. Reed conferees on the part of the Senate.

NATIONAL CRIMINAL HISTORY ACCESS AND CHILD PROTECTION ACT

Mr. ALLARD. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of S. 2294 introduced earlier today by Senator Hatch.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 2294) to facilitate the exchange of criminal history records for noncriminal justice purposes, to provide for the decentralized storage of criminal history records, to amend the National Child Protection Act of 1993 to facilitate the fingerprint checks authorized by that Act, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. HATCH. Mr. President, I have introduced the National Criminal History Access and Child Protection Act of 1998. I am pleased to have been joined by the Ranking Member of the Judiciary Committee, Senator Leahy, as well as by Senator DeWine and the distinguished Minority Leader, Senator Daschle, in introducing this legislation, which also has the support of the Administration.

This important legislation addresses a critical issue—the access to criminal history records for legitimate purposes other than use within the criminal justice system. These records are frequently used today for a wide variety of important purposes, such as employment background checks for child care workers, health care workers, elder care workers, teachers, school bus drivers, security guards, and bar applicants.

Few disagree with the use of criminal history records to ensure that those in important positions of trust with our children, elderly, and persons with disabilities do not have criminal backgrounds making such trust inappropriate or even dangerous. Yet, currently, policies and procedures on disseminating these records vary widely from state to state.

This legislation addresses this issue, by enacting what has come to be known as the Triple I (III) Compact. This proposed interstate and federal-state compact is supported by the Administration, the FBI, the Criminal Justice Information Advisory Policy Board, and all state criminal history repositories. It would establish "rules of the road" for the interstate sharing of criminal history records for noncriminal history purposes, such as background checks for employees who work with children or who are in otherwise sensitive jobs. The compact provides for state-to-state and federal-to-state sharing of records, through the Interstate Identification Index (III) and the National Fingerprint File (NFF).

Under the compact, requests for criminal history checks for non-criminal justice purposes would be made between state records repositories and between the state repositories and the FBI, which maintains the III and NFF systems. Interstate dissemination policy would be governed by the policy of the requesting state, but intrastate dissemination and use of records would still be governed by the law of the state which owns the record. The primacy of use of records for criminal justice purposes would be maintained, as would direct access to records already permitted under current law. Additionally, record checks would have to be fingerprint supported to ensure accuracy, and the privacy of records would be protected. The compact would be administered and policed by a council comprised of state and federal officials.

This legislation also includes improvements to the National Child Protection Act, which Congress enacted in 1993 to encourage the use of criminal history records to screen volunteers who work with our children, elderly, and persons with disabilities. This provision amends the NCPA to permit child care, elder care, and volunteer organizations, known as "qualified entities," to request background checks through state agencies in the absence of state laws implementing the NCPA. The 1993 NCPA and its 1994 amendments extending its coverage to elder care and disabled care workers conditioned part of state's Byrne grant funding on the establishment of procedures for records checks for child care and elder care workers and volunteers, but many states have not done so. Qualified entities are not permitted to request a background check from states absent state establishment of procedures. This provision is a modest change to current law, and permits qualified entities to request the background check, but does not override any state laws regarding use or dissemination of records. The provision is based on H.R. 2488, and is supported by volunteer groups, including the Boy Scouts and the Boys and Girls Clubs. This provision recently passed the House of Representatives as an amendment to other legislation.

Mr. President, this legislation is a modest but important step in protecting the most vulnerable in our society from those who would abuse unique access to prey on them. I appreciate the support of my cosponsors for this legislation, and urge its approval by the Senate.

Mr. ALLARD. I ask unanimous consent that the bill be deemed read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill appear in the Record.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 2294) was deemed read a third time and passed, as follows:

S. 2294

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the "National Criminal History Access and Child Protection Act".

(b) Table of Contents.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—EXCHANGE OF CRIMINAL HISTORY RECORDS FOR NONCRIMINAL JUSTICE PURPOSES
Sec. 101. Short title.
Sec. 102. Findings.
Sec. 103. Definitions.
Sec. 104. Enactment and consent of the United States.
Sec. 105. Effect on other laws.
Sec. 106. Enforcement and implementation.
Sec. 107. National Crime Prevention and Privacy Compact.
OVERVIEW
ARTICLE I—DEFINITIONS
ARTICLE II—PURPOSES
ARTICLE III—RESPONSIBILITIES OF COMPACT PARTIES
ARTICLE IV—AUTHORIZED RECORD DISCLOSURES
ARTICLE V—RECORD REQUEST PROCEDURES
ARTICLE VI—ESTABLISHMENT OF COMPACT COUNCIL
ARTICLE VII—RATIFICATION OF COMPACT
ARTICLE VIII—MISCELLANEOUS PROVISIONS
ARTICLE IX—RENUNCIATION
ARTICLE X—SEVERABILITY
ARTICLE XI—ADJUDICATION OF DISPUTES
TITLE II—VOLUNTEERS FOR CHILDREN ACT
Sec. 201. Short title.
Sec. 202. Facilitation of fingerprint checks.

TITLE I—EXCHANGE OF CRIMINAL HISTORY RECORDS FOR NONCRIMINAL JUSTICE PURPOSES

SEC. 101. SHORT TITLE.

This title may be cited as the "National Crime Prevention and Privacy Compact Act of 1998".

SEC. 102. FINDINGS.

Congress finds that—

(1) both the Federal Bureau of Investigation and State criminal history record repositories maintain fingerprint-based criminal history records;

(2) these criminal history records are shared and exchanged for criminal justice purposes through a Federal-State program known as the Interstate Identification Index System;

(3) although these records are also exchanged for legally authorized, noncriminal justice uses, such as governmental licensing and employment background checks, the purposes for and procedures by which they are exchanged vary widely from State to State;

(4) an interstate and Federal-State compact is necessary to facilitate authorized interstate criminal history record exchanges for noncriminal justice purposes on a uniform basis, while permitting each State to effectuate its own dissemination policy within its own borders; and

(5) such a compact will allow Federal and State records to be provided expeditiously to governmental and nongovernmental agencies that use such records in accordance with pertinent Federal and State law, while simultaneously enhancing the accuracy of the records and safeguarding the information contained therein from unauthorized disclosure or use.

SEC. 103. DEFINITIONS.

In this title:

(1) ATTORNEY GENERAL.—The term "Attorney General" means the Attorney General of the United States.

(2) COMPACT.—The term "Compact" means the National Crime Prevention and Privacy Compact set forth in section 107.

(3) COUNCIL.—The term "Council" means the Compact Council established under Article VI of the Compact.

(4) FBI.—The term "FBI" means the Federal Bureau of Investigation.

(5) PARTY STATE.—The term "Party State" means a State that has ratified the Compact.

(6) STATE.—The term "State" means any State, territory, or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

SEC. 104. ENACTMENT AND CONSENT OF THE UNITED STATES.

The National Crime Prevention and Privacy Compact, as set forth in section 107, is enacted into law and entered into by the Federal Government. The consent of Congress is given to States to enter into the Compact.

SEC. 105. EFFECT ON OTHER LAWS.

(a) PRIVACY ACT OF 1974.—Nothing in the Compact shall affect the obligations and responsibilities of the FBI under section 552a of title 5, United States Code (commonly known as the "Privacy Act of 1974").

(b) ACCESS TO CERTAIN RECORDS NOT AFFECTED.—Nothing in the Compact shall interfere in any manner with—

(1) access, direct or otherwise, to records pursuant to—

(A) section 9101 of title 5, United States Code;

(B) the National Child Protection Act;

(C) the Brady Handgun Violence Prevention Act (Public Law 103–159; 107 Stat. 1536);

(D) the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322; 108 Stat. 2074) or any amendment made by that Act;

(E) the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.); or

(F) the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 et seq.); or

(2) any direct access to Federal criminal history records authorized by law.

(c) AUTHORITY OF FBI UNDER DEPARTMENTS OF STATE, JUSTICE, AND COMMERCE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATION ACT, 1973.—Nothing in the Compact shall be construed to affect the authority of the FBI under the Departments of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriation Act, 1973 (Public Law 92–544 (86 Stat. 1115)).

(d) FEDERAL ADVISORY COMMITTEE ACT.—The Council shall not be considered to be a Federal advisory committee for purposes of the Federal Advisory Committee Act (5 U.S.C. App.).

(e) MEMBERS OF COUNCIL NOT FEDERAL OFFICERS OR EMPLOYEES.—Members of the Council (other than a member from the FBI or any at-large member who may be a Federal official or employee) shall not, by virtue of such membership, be deemed—

(1) to be, for any purpose other than to effect the Compact, officers or employees of the United States (as defined in sections 2104 and 2105 of title 5, United States Code); or

(2) to become entitled by reason of Council membership to any compensation or benefit payable or made available by the Federal Government to its officers or employees.

SEC. 106. ENFORCEMENT AND IMPLEMENTATION.

All departments, agencies, officers, and employees of the United States shall enforce the Compact and cooperate with one another and with all Party States in enforcing the Compact and effectuating its purposes. For the Federal Government, the Attorney General shall make such rules, prescribe such instructions, and take such other actions as may be necessary to carry out the Compact and this title.

SEC. 107. NATIONAL CRIME PREVENTION AND PRIVACY COMPACT.

The Contracting Parties agree to the following:

OVERVIEW

(a) IN GENERAL.—This Compact organizes an electronic information sharing system among the Federal Government and the States to exchange criminal history records for noncriminal justice purposes authorized by Federal or State law, such as background checks for governmental licensing and employment.

(b) OBLIGATIONS OF PARTIES.—Under this Compact, the FBI and the Party States agree to maintain detailed databases of their respective criminal history records, including arrests and dispositions, and to make them available to the Federal Government and to Party States for authorized purposes. The FBI shall also manage the Federal data facilities that provide a significant part of the infrastructure for the system.

ARTICLE I—DEFINITIONS

In this Compact:

(1) ATTORNEY GENERAL.—The term "Attorney General" means the Attorney General of the United States;

(2) COMPACT OFFICER.—The term "Compact officer" means—

(A) with respect to the Federal Government, an official so designated by the Director of the FBI; and

(B) with respect to a Party State, the chief administrator of the State's criminal history record repository or a designee of the chief administrator who is a regular full-time employee of the repository.

(3) COUNCIL.—The term "Council" means the Compact Council established under Article VI.

(4) CRIMINAL HISTORY RECORDS.—The term "criminal history records"—

(A) means information collected by criminal justice agencies on individuals consisting of identifiable descriptions and notations of arrests, detentions, indictments, or other formal criminal charges, and any disposition arising therefrom, including acquittal, sentencing, correctional supervision, or release; and

(B) does not include identification information such as fingerprint records if such information does not indicate involvement of the individual with the criminal justice system.

(5) CRIMINAL HISTORY RECORD REPOSITORY.—The term "criminal history record repository" means the State agency designated by the Governor or other appropriate executive official or the legislature of a State to perform centralized recordkeeping functions for criminal history records and services in the State.

(6) CRIMINAL JUSTICE.—The term "criminal justice" includes activities relating to the detection, apprehension, detention, pretrial release, post-trial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders. The administration of criminal justice includes criminal identification activities and the collection, storage, and dissemination of criminal history records.

(7) CRIMINAL JUSTICE AGENCY.—The term "criminal justice agency"—

(A) means—

(i) courts; and

(ii) a governmental agency or any subunit thereof that—

(I) performs the administration of criminal justice pursuant to a statute or Executive order; and

(II) allocates a substantial part of its annual budget to the administration of criminal justice; and

(B) includes Federal and State inspectors general offices.

(8) Criminal justice services.—The term "criminal justice services" means services provided by the FBI to criminal justice agencies in response to a request for information about a particular individual or as an update to information previously provided for criminal justice purposes.

(9) Criterion offense.—The term "criterion offense" means any felony or misdemeanor offense not included on the list of nonserious offenses published periodically by the FBI.

(10) Direct access.—The term "direct access" means access to the National Identification Index by computer terminal or other automated means not requiring the assistance of or intervention by any other party or agency.

(11) Executive order.—The term "Executive order" means an order of the President of the United States or the chief executive officer of a State that has the force of law and that is promulgated in accordance with applicable law.

(12) FBI.—The term "FBI" means the Federal Bureau of Investigation.

(13) Interstate identification system.—The term "Interstate Identification Index System" or "III System"—

(A) means the cooperative Federal-State system for the exchange of criminal history records; and

(B) includes the National Identification Index, the National Fingerprint File and, to the extent of their participation in such system, the criminal history record repositories of the States and the FBI.

(14) National fingerprint file.—The term "National Fingerprint File" means a database of fingerprints, or other uniquely personal identifying information, relating to an arrested or charged individual maintained by the FBI to provide positive identification of record subjects indexed in the III System.

(15) National identification index.—The term "National Identification Index" means an index maintained by the FBI consisting of names, identifying numbers, and other descriptive information relating to record subjects about whom there are criminal history records in the III System.

(16) National indices.—The term "National indices" means the National Identification Index and the National Fingerprint File.

(17) Nonparty state.—The term "Nonparty State" means a State that has not ratified this Compact.

(18) Noncriminal justice purposes.—The term "noncriminal justice purposes" means uses of criminal history records for purposes authorized by Federal or State law other than purposes relating to criminal justice activities, including employment suitability, licensing determinations, immigration and naturalization matters, and national security clearances.

(19) Party state.—The term "Party State" means a State that has ratified this Compact.

(20) Positive identification.—The term "positive identification" means a determination, based upon a comparison of fingerprints or other equally reliable biometric identification techniques, that the subject of a record search is the same person as the subject of a criminal history record or records indexed in the III System. Identifications based solely upon a comparison of subjects' names or other nonunique identification characteristics or numbers, or combinations thereof, shall not constitute positive identification.

(21) Sealed record information.—The term "sealed record information" means—

(A) with respect to adults, that portion of a record that is—

(i) not available for criminal justice uses;

(ii) not supported by fingerprints or other accepted means of positive identification; or

(iii) subject to restrictions on dissemination for noncriminal justice purposes pursuant to a court order related to a particular subject or pursuant to a Federal or State statute that requires action on a sealing petition filed by a particular record subject; and

(B) with respect to juveniles, whatever each State determines is a sealed record under its own law and procedure.

(22) State.—The term "State" means any State, territory, or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

ARTICLE II—PURPOSES

The purposes of this Compact are to—

(1) provide a legal framework for the establishment of a cooperative Federal-State system for the interstate and Federal-State exchange of criminal history records for noncriminal justice uses;

(2) require the FBI to permit use of the National Identification Index and the National Fingerprint File by each Party State, and to provide, in a timely fashion, Federal and State criminal history records to requesting States, in accordance with the terms of this Compact and with rules, procedures, and standards established by the Council under Article VI;

(3) require Party States to provide information and records for the National Identification Index and the National Fingerprint File and to provide criminal history records, in a timely fashion, to criminal history record repositories of other States and the Federal Government for noncriminal justice purposes, in accordance with the terms of this Compact and with rules, procedures, and standards established by the Council under Article VI;

(4) provide for the establishment of a Council to monitor III System operations and to prescribe system rules and procedures for the effective and proper operation of the III System for noncriminal justice purposes; and

(5) require the FBI and each Party State to adhere to III System standards concerning record dissemination and use, response times, system security, data quality, and other duly established standards, including those that enhance the accuracy and privacy of such records.

ARTICLE III—RESPONSIBILITIES OF COMPACT PARTIES

(a) FBI Responsibilities.—The Director of the FBI shall—

(1) appoint an FBI Compact officer who shall—

(A) administer this Compact within the Department of Justice and among Federal agencies and other agencies and organizations that submit search requests to the FBI pursuant to Article V(c);

(B) ensure that Compact provisions and rules, procedures, and standards prescribed by the Council under Article VI are complied with by the Department of Justice and the Federal agencies and other agencies and organizations referred to in Article III(1)(A); and

(C) regulate the use of records received by means of the III System from Party States when such records are supplied by the FBI directly to other Federal agencies;

(2) provide to Federal agencies and to State criminal history record repositories, criminal history records maintained in its database for the noncriminal justice purposes described in Article IV, including—

(A) information from Nonparty States; and

(B) information from Party States that is available from the FBI through the III System, but is not available from the Party State through the III System;

(3) provide a telecommunications network and maintain centralized facilities for the exchange of criminal history records for both criminal justice purposes and the noncriminal justice purposes described in Article IV, and ensure that the exchange of such records for criminal justice purposes has priority over exchange for noncriminal justice purposes; and

(4) modify or enter into user agreements with Nonparty State criminal history record repositories to require them to establish record request procedures conforming to those prescribed in Article V.

(b) State Responsibilities.—Each Party State shall—

(1) appoint a Compact officer who shall—

(A) administer this Compact within that State;

(B) ensure that Compact provisions and rules, procedures, and standards established by the Council under Article VI are complied with in the State; and

(C) regulate the in-State use of records received by means of the III System from the FBI or from other Party States;

(2) establish and maintain a criminal history record repository, which shall provide—

(A) information and records for the National Identification Index and the National Fingerprint File; and

(B) the State's III System-indexed criminal history records for noncriminal justice purposes described in Article IV;

(3) participate in the National Fingerprint File; and

(4) provide and maintain telecommunications links and related equipment necessary to support the services set forth in this Compact.

(c) Compliance With III System Standards.—In carrying out their responsibilities under this Compact, the FBI and each Party State shall comply with III System rules, procedures, and standards duly established by the Council concerning record dissemination and use, response times, data quality, system security, accuracy, privacy protection, and other aspects of III System operation.

(d) Maintenance of Record Services.—

(1) Use of the III System for noncriminal justice purposes authorized in this Compact shall be managed so as not to diminish the level of services provided in support of criminal justice purposes.

(2) Administration of Compact provisions shall not reduce the level of service available to authorized noncriminal justice users on the effective date of this Compact.

ARTICLE IV—AUTHORIZED RECORD DISCLOSURES

(a) State Criminal History Record Repositories.—To the extent authorized by section 552a of title 5, United States Code (commonly known as the "Privacy Act of 1974"), the FBI shall provide on request criminal history records (excluding sealed records) to State criminal history record repositories for noncriminal justice purposes allowed by Federal statute, Federal Executive order, or a State statute that has been approved by the Attorney General and that authorizes national indices checks.

(b) Criminal Justice Agencies and Other Governmental or Nongovernmental Agencies.—The FBI, to the extent authorized by section 552a of title 5, United States Code (commonly known as the "Privacy Act of 1974"), and State criminal history record repositories shall provide criminal history records (excluding sealed records) to criminal justice agencies and other governmental or nongovernmental agencies for noncriminal justice purposes allowed by Federal statute, Federal Executive order, or a State statute that has been approved by the Attorney General, that authorizes national indices checks.

(c) Procedures.—Any record obtained under this Compact may be used only for the official purposes for which the record was requested. Each Compact officer shall establish procedures, consistent with this Compact, and with rules, procedures, and standards established by the Council under Article VI, which procedures shall protect the accuracy and privacy of the records, and shall—

(1) ensure that records obtained under this Compact are used only by authorized officials for authorized purposes;

(2) require that subsequent record checks are requested to obtain current information whenever a new need arises; and

(3) ensure that record entries that may not legally be used for a particular noncriminal justice purpose are deleted from the response and, if no information authorized for release remains, an appropriate "no record" response is communicated to the requesting official.

ARTICLE V—RECORD REQUEST PROCEDURES

(a) Positive Identification.—Subject fingerprints or other approved forms of positive identification shall be submitted with all requests for criminal history record checks for noncriminal justice purposes.

(b) Submission of State Requests.—Each request for a criminal history record check utilizing the national indices made under any approved State statute shall be submitted through that State's criminal history record repository. A State criminal history record repository shall process an interstate request for noncriminal justice purposes through the national indices only if such request is transmitted through another State criminal history record repository or the FBI.

(c) Submission of Federal Requests.—Each request for criminal history record checks utilizing the national indices made under Federal authority shall be submitted through the FBI or, if the State criminal history record repository consents to process fingerprint submissions, through the criminal history record repository in the State in which such request originated. Direct access to the National Identification Index by entities other than the FBI and State criminal history records repositories shall not be permitted for noncriminal justice purposes.

(d) Fees.—A State criminal history record repository or the FBI—

(1) may charge a fee, in accordance with applicable law, for handling a request involving fingerprint processing for noncriminal justice purposes; and

(2) may not charge a fee for providing criminal history records in response to an electronic request for a record that does not involve a request to process fingerprints.

(e) Additional Search.—

(1) If a State criminal history record repository cannot positively identify the subject of a record request made for noncriminal justice purposes, the request, together with fingerprints or other approved identifying information, shall be forwarded to the FBI for a search of the national indices.

(2) If, with respect to an request forwarded by a State criminal history record repository under paragraph (1), the FBI positively identifies the subject as having a III System-indexed record or records—

(A) the FBI shall so advise the State criminal history record repository; and

(B) the State criminal history record repository shall be entitled to obtain the additional criminal history record information from the FBI or other State criminal history record repositories.

ARTICLE VI—ESTABLISHMENT OF COMPACT COUNCIL

(a) Establishment.—

(1) In general.—There is established a council to be known as the "Compact Council", which shall have the authority to promulgate rules and procedures governing the use of the III System for noncriminal justice purposes, not to conflict with FBI administration of the III System for criminal justice purposes.

(2) Organization.—The Council shall—

(A) continue in existence as long as this Compact remains in effect;

(B) be located, for administrative purposes, within the FBI; and

(C) be organized and hold its first meeting as soon as practicable after the effective date of this Compact.

(b) Membership.—The Council shall be composed of 15 members, each of whom shall be appointed by the Attorney General, as follows:

(1) Nine members, each of whom shall serve a 2-year term, who shall be selected from among the Compact officers of Party States based on the recommendation of the Compact officers of all Party States, except that, in the absence of the requisite number of Compact officers available to serve, the chief administrators of the criminal history record repositories of Nonparty States shall be eligible to serve on an interim basis.

(2) Two at-large members, nominated by the Director of the FBI, each of whom shall serve a 3-year term, of whom—

(A) 1 shall be a representative of the criminal justice agencies of the Federal Government and may not be an employee of the FBI; and

(B) 1 shall be a representative of the noncriminal justice agencies of the Federal Government.

(3) Two at-large members, nominated by the Chairman of the Council, once the Chairman is elected pursuant to Article VI(c), each of whom shall serve a 3-year term, of whom—

(A) 1 shall be a representative of State or local criminal justice agencies; and

(B) 1 shall be a representative of State or local noncriminal justice agencies.

(4) One member, who shall serve a 3-year term, and who shall simultaneously be a member of the FBI's advisory policy board on criminal justice information services, nominated by the membership of that policy board.

(5) One member, nominated by the Director of the FBI, who shall serve a 3-year term, and who shall be an employee of the FBI.

(c) Chairman and Vice Chairman.—

(1) In general.—From its membership, the Council shall elect a Chairman and a Vice Chairman of the Council, respectively. Both the Chairman and Vice Chairman of the Council—

(A) shall be a Compact officer, unless there is no Compact officer on the Council who is willing to serve, in which case the Chairman may be an at-large member; and

(B) shall serve a 2-year term and may be reelected to only 1 additional 2-year term.

(2) Duties of vice chairman.—The Vice Chairman of the Council shall serve as the Chairman of the Council in the absence of the Chairman.

(d) Meetings.—

(1) In general.—The Council shall meet at least once each year at the call of the Chairman. Each meeting of the Council shall be open to the public. The Council shall provide prior public notice in the Federal Register of each meeting of the Council, including the matters to be addressed at such meeting.

(2) Quorum.—A majority of the Council or any committee of the Council shall constitute a quorum of the Council or of such committee, respectively, for the conduct of business. A lesser number may meet to hold hearings, take testimony, or conduct any business not requiring a vote.

(e) Rules, Procedures, and Standards.—The Council shall make available for public inspection and copying at the Council office within the FBI, and shall publish in the Federal Register, any rules, procedures, or standards established by the Council.

(f) Assistance From FBI.—The Council may request from the FBI such reports, studies, statistics, or other information or materials as the Council determines to be necessary to enable the Council to perform its duties under this Compact. The FBI, to the extent authorized by law, may provide such assistance or information upon such a request.

(g) Committees.—The Chairman may establish committees as necessary to carry out this Compact and may prescribe their membership, responsibilities, and duration.

ARTICLE VII—RATIFICATION OF COMPACT

This Compact shall take effect upon being entered into by 2 or more States as between those States and the Federal Government. Upon subsequent entering into this Compact by additional States, it shall become effective among those States and the Federal Government and each Party State that has previously ratified it. When ratified, this Compact shall have the full force and effect of law within the ratifying jurisdictions. The form of ratification shall be in accordance with the laws of the executing State.

ARTICLE VIII—MISCELLANEOUS PROVISIONS

(a) Relation of Compact to Certain FBI Activities.—Administration of this Compact shall not interfere with the management and control of the Director of the FBI over the FBI's collection and dissemination of criminal history records and the advisory function of the FBI's advisory policy board chartered under the Federal Advisory Committee Act (5 U.S.C. App.) for all purposes other than noncriminal justice.

(b) No Authority for Nonappropriated Expenditures.—Nothing in this Compact shall require the FBI to obligate or expend funds beyond those appropriated to the FBI.

(c) Relating to Public Law 92–544.—Nothing in this Compact shall diminish or lessen the obligations, responsibilities, and authorities of any State, whether a Party State or a Nonparty State, or of any criminal history record repository or other subdivision or component thereof, under the Departments of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriation Act, 1973 (Public Law 92-544), or regulations and guidelines promulgated thereunder, including the rules and procedures promulgated by the Council under Article VI(a), regarding the use and dissemination of criminal history records and information.

ARTICLE IX—RENUNCIATION

(a) In General.—This Compact shall bind each Party State until renounced by the Party State.

(b) Effect.—Any renunciation of this Compact by a Party State shall—

(1) be effected in the same manner by which the Party State ratified this Compact; and

(2) become effective 180 days after written notice of renunciation is provided by the Party State to each other Party State and to the Federal Government.

ARTICLE X—SEVERABILITY

The provisions of this Compact shall be severable, and if any phrase, clause, sentence, or provision of this Compact is declared to be contrary to the constitution of any participating State, or to the Constitution of the United States, or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this Compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If a portion of this Compact is held contrary to the constitution of any Party State, all other portions of this Compact shall remain in full force and effect as to the remaining Party States and in full force and effect as to the Party State affected, as to all other provisions.

ARTICLE XI—ADJUDICATION OF DISPUTES

(a) In General.—The Council shall—

(1) have initial authority to make determinations with respect to any dispute regarding—

(A) interpretation of this Compact;

(B) any rule or standard established by the Council pursuant to Article V; and

(C) any dispute or controversy between any parties to this Compact; and

(2) hold a hearing concerning any dispute described in paragraph (1) at a regularly scheduled meeting of the Council and only render a decision based upon a majority vote of the members of the Council. Such decision shall be published pursuant to the requirements of Article VI(e).

(b) Duties of FBI.—The FBI shall exercise immediate and necessary action to preserve the integrity of the III System, maintain system policy and standards, protect the accuracy and privacy of records, and to prevent abuses, until the Council holds a hearing on such matters.

(c) Right of Appeal.—The FBI or a Party State may appeal any decision of the Council to the Attorney General, and thereafter may file suit in the appropriate district court of the United States, which shall have original jurisdiction of all cases or controversies arising under this Compact. Any suit arising under this Compact and initiated in a State court shall be removed to the appropriate district court of the United States in the manner provided by section 1446 of title 28, United States Code, or other statutory authority.

TITLE II—VOLUNTEERS FOR CHILDREN ACT

SEC. 201. SHORT TITLE.

This title may be cited as the "Volunteers for Children Act".

SEC. 202. FACILITATION OF FINGERPRINT CHECKS.

(a) State Agency.—Section 3(a) of the National Child Protection Act of 1993 (42 U.S.C. 5119a(a)) is amended by adding at the end the following:

"(3) In the absence of State procedures referred to in paragraph (1), a qualified entity designated under paragraph (1) may contact an authorized agency of the State to request national criminal fingerprint background checks. Qualified entities requesting background checks under this paragraph shall comply with the guidelines set forth in subsection (b) and with procedures for requesting national criminal fingerprint background checks, if any, established by the State.".

(b) Federal Law.—Section 3(b)(5) of the National Child Protection Act of 1993 (42 U.S.C. 5119a(b)(5)) is amended by inserting before the period at the end the following: ", except that this paragraph does not apply to any request by a qualified entity for a national criminal fingerprint background check pursuant to subsection (a)(3)".

(c) Authorization.—Section 4(b)(2) of the National Child Protection Act of 1993 (42 U.S.C. 5119b(b)(2)) is amended by striking "1994, 1995, 1996, and 1997" and inserting "1999, 2000, 2001, and 2002".

CRIME IDENTIFICATION TECHNOLOGY ACT OF 1998

Mr. ALLARD. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar No. 382, S. 2022.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 2022) to provide for the improvement of interstate criminal justice identification, information, communications, and forensics.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on the Judiciary, with an amendment on page seven, so as to make the bill read:

S. 2022

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Crime Identification Technology Act of 1998".

SEC. 2. STATE GRANT PROGRAM FOR CRIMINAL JUSTICE IDENTIFICATION, INFORMATION, AND COMMUNICATION.

(a) In General.—Subject to the availability of amounts provided in advance in appropriations Acts, the Attorney General, through the Bureau of Justice Statistics of the Department of Justice, shall make a grant to each State, which shall be used by the State, in conjunction with units of local government, State and local courts, other States, or combinations thereof, to establish or upgrade an integrated approach to develop information and identification technologies and systems to—

(1) upgrade criminal history and criminal justice record systems, including systems operated by law enforcement agencies and courts;

(2) improve criminal justice identification;

(3) promote compatibility and integration of national, State, and local systems for—

(A) criminal justice purposes;

(B) firearms eligibility determinations;

(C) identification of sexual offenders;

(D) identification of domestic violence offenders; and

(E) background checks for other authorized purposes unrelated to criminal justice; and

(4) capture information for statistical and research purposes to improve the administration of criminal justice.

(b) Use of Grant Amounts.—Grants under this section may be used for programs to establish, develop, update, or upgrade—

(1) State centralized, automated, adult and juvenile criminal history record information systems, including arrest and disposition reporting;

(2) automated fingerprint identification systems that are compatible with standards established by the National Institute of Standards and Technology and interoperable with the Integrated Automated Fingerprint Identification System (IAFIS) of the Federal Bureau of Investigation;

(3) finger imaging, live scan, and other automated systems to digitize fingerprints and to communicate prints in a manner that is compatible with standards established by the National Institute of Standards and Technology and interoperable with systems operated by States and by the Federal Bureau of Investigation;

(4) programs and systems to facilitate full participation in the Interstate Identification Index of the National Crime Information Center;

(5) systems to facilitate full participation in any compact relating to the Interstate Identification Index of the National Crime Information Center;

(6) systems to facilitate full participation in the national instant criminal background check system established under section 103(b) of the Brady Handgun Violence Prevention Act (18 U.S.C. 922 note) for firearms eligibility determinations;

(7) integrated criminal justice information systems to manage and communicate criminal justice information among law enforcement agencies, courts, prosecutors, and corrections agencies;

(8) noncriminal history record information systems relevant to firearms eligibility determinations for availability and accessibility to the national instant criminal background check system established under section 103(b) of the Brady Handgun Violence Prevention Act (18 U.S.C. 922 note);

(9) court-based criminal justice information systems that promote—

(A) reporting of dispositions to central State repositories and to the Federal Bureau of Investigation; and

(B) compatibility with, and integration of, court systems with other criminal justice information systems;

(10) ballistics identification and information programs that are compatible and integrated with the National Integrated Ballistics Network (NIBN);

(11) DNA programs for forensic and identification purposes, and identification and information programs to improve forensic analysis and to assist in accrediting crime laboratories;

(12) sexual offender identification and registration systems;

(13) domestic violence offender identification and information systems;

(14) programs for fingerprint-supported background checks capability for noncriminal justice purposes, including youth service employees and volunteers and other individuals in positions of responsibility, if

authorized by Federal or State law and administered by a government agency;

(15) criminal justice information systems with a capacity to provide statistical and research products including incident-based reporting systems that are compatible with the National Incident-Based Reporting System (NIBRS) and uniform crime reports; and

(16) multiagency, multijurisdictional communications systems among the States to share routine and emergency information among Federal, State, and local law enforcement agencies.

(c) ASSURANCES.—To be eligible to receive a grant under this section, a State shall provide assurances to the Attorney General that the State has the capability to contribute pertinent information to the national instant criminal background check system established under section 103(b) of the Brady Handgun Violence Prevention Act (18 U.S.C. 922 note).

(d) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated to carry out this section $250,000,000 for each of fiscal years 1999 through 2003.

(2) LIMITATIONS.—Of the amount made available to carry out this section in any fiscal year—

(A) not more than 3 percent may be used by the Attorney General for salaries and administrative expenses;

(B) not more than 5 percent may be used for technical assistance, training and evaluations, and studies commissioned by Bureau of Justice Statistics of the Department of Justice (through discretionary grants or otherwise) in furtherance of the purposes of this section; and

(C) the Attorney General shall ensure the amounts are distributed on an equitable geographic basis.

(e) GRANTS TO INDIAN TRIBES.—Notwithstanding any other provision of this section, the Attorney General may use amounts made available under this section to make grants to Indian tribes for use in accordance with this section.

AMENDMENT NO. 3126

Mr. ALLARD. Senator HATCH has an amendment at the desk for himself and others, and I ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Colorado [Mr. ALLARD], for Mr. HATCH, for himself, Mr. LEAHY, Mr. DEWINE, and Mr. DASCHLE, proposes an amendment numbered 3126.

Mr. ALLARD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following:

TITLE II

SECTION 201. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Title may be cited as the "National Criminal History Access and Child Protection Act".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

SUBTITLE A—EXCHANGE OF CRIMINAL HISTORY RECORDS FOR NONCRIMINAL JUSTICE PURPOSES

Sec. 201. Short title.
Sec. 202. Findings.
Sec. 203. Definitions.
Sec. 204. Enactment and consent of the United States.
Sec. 205. Effect on other laws.
Sec. 206. Enforcement and implementation.
Sec. 207. National Crime Prevention and Privacy Compact.

OVERVIEW

ARTICLE I—DEFINITIONS
ARTICLE II—PURPOSES
ARTICLE III—RESPONSIBILITIES OF COMPACT PARTIES
ARTICLE IV—AUTHORIZED RECORD DISCLOSURES
ARTICLE V—RECORD REQUEST PROCEDURES
ARTICLE VI—ESTABLISHMENT OF COMPACT COUNCIL
ARTICLE VII—RATIFICATION OF COMPACT
ARTICLE VIII—MISCELLANEOUS PROVISIONS
ARTICLE IX—RENUNCIATION
ARTICLE X—SEVERABILITY
ARTICLE XI—ADJUDICATION OF DISPUTES

SUBTITLE B—VOLUNTEERS FOR CHILDREN ACT

Sec. 221. Short title.
Sec. 222. Facilitation of fingerprint checks.

Subtitle A—Exchange of Criminal History Records for Noncriminal Justice Purposes

SEC. 201. SHORT TITLE.

This title may be cited as the "National Crime Prevention and Privacy Compact Act of 1998".

SEC. 202. FINDINGS.

Congress finds that—

(1) both the Federal Bureau of Investigation and State criminal history record repositories maintain fingerprint-based criminal history records;

(2) these criminal history records are shared and exchanged for criminal justice purposes through a Federal-State program known as the Interstate Identification Index System;

(3) although these records are also exchanged for legally authorized, noncriminal justice uses, such as governmental licensing and employment background checks, the purposes for and procedures by which they are exchanged vary widely from State to State;

(4) an interstate and Federal-State compact is necessary to facilitate authorized interstate criminal history record exchanges for noncriminal justice purposes on a uniform basis, while permitting each State to effectuate its own dissemination policy within its own borders; and

(5) such a compact will allow Federal and State records to be provided expeditiously to governmental and nongovernmental agencies that use such records in accordance with pertinent Federal and State law, while simultaneously enhancing the accuracy of the records and safeguarding the information contained therein from unauthorized disclosure or use.

SEC. 203. DEFINITIONS.

In this title:

(1) ATTORNEY GENERAL.—The term "Attorney General" means the Attorney General of the United States.

(2) COMPACT.—The term "Compact" means the National Crime Prevention and Privacy Compact set forth in section 107.

(3) COUNCIL.—The term "Council" means the Compact Council established under Article VI of the Compact.

(4) FBI.—The term "FBI" means the Federal Bureau of Investigation.

(5) PARTY STATE.—The term "Party State" means a State that has ratified the Compact.

(6) STATE.—The term "State" means any State, territory, or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

SEC. 204. ENACTMENT AND CONSENT OF THE UNITED STATES.

The National Crime Prevention and Privacy Compact, as set forth in section 107, is enacted into law and entered into by the Federal Government. The consent of Congress is given to States to enter into the Compact.

SEC. 205. EFFECT ON OTHER LAWS.

(a) PRIVACY ACT OF 1974.—Nothing in the Compact shall affect the obligations and responsibilities of the FBI under section 552a of title 5, United States Code (commonly known as the "Privacy Act of 1974").

(b) ACCESS TO CERTAIN RECORDS NOT AFFECTED.—Nothing in the Compact shall interfere in any manner with—

(1) access, direct or otherwise, to records pursuant to—

(A) section 9101 of title 5, United States Code;

(B) the National Child Protection Act;

(C) the Brady Handgun Violence Prevention Act (Public Law 103–159; 107 Stat. 1536);

(D) the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322; 108 Stat. 2074) or any amendment made by that Act;

(E) the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.); or

(F) the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 et seq.); or

(2) any direct access to Federal criminal history records authorized by law.

(c) AUTHORITY OF FBI UNDER DEPARTMENTS OF STATE, JUSTICE, AND COMMERCE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATION ACT, 1973.—Nothing in the Compact shall be construed to affect the authority of the FBI under the Departments of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriation Act, 1973 (Public Law 92–544 (86 Stat. 1115)).

(d) FEDERAL ADVISORY COMMITTEE ACT.—The Council shall not be considered to be a Federal advisory committee for purposes of the Federal Advisory Committee Act (5 U.S.C. App.).

(e) MEMBERS OF COUNCIL NOT FEDERAL OFFICERS OR EMPLOYEES.—Members of the Council (other than a member from the FBI or any at-large member who may be a Federal official or employee) shall not, by virtue of such membership, be deemed—

(1) to be, for any purpose other than to effect the Compact, officers or employees of the United States (as defined in sections 2104 and 2105 of title 5, United States Code); or

(2) to become entitled by reason of Council membership to any compensation or benefit payable or made available by the Federal Government to its officers or employees.

SEC. 206. ENFORCEMENT AND IMPLEMENTATION.

All departments, agencies, officers, and employees of the United States shall enforce the Compact and cooperate with one another and with all Party States in enforcing the Compact and effectuating its purposes. For the Federal Government, the Attorney General shall make such rules, prescribe such instructions, and take such other actions as may be necessary to carry out the Compact and this title.

SEC. 207. NATIONAL CRIME PREVENTION AND PRIVACY COMPACT.

The Contracting Parties agree to the following:

OVERVIEW

(a) IN GENERAL.—This Compact organizes an electronic information sharing system among the Federal Government and the States to exchange criminal history records for noncriminal justice purposes authorized by Federal or State law, such as background checks for governmental licensing and employment.

(b) OBLIGATIONS OF PARTIES.—Under this Compact, the FBI and the Party States agree to maintain detailed databases of their respective criminal history records, including arrests and dispositions, and to make them available to the Federal Government and to Party States for authorized purposes. The FBI shall also manage the Federal data facilities that provide a significant part of the infrastructure for the system.

ARTICLE I—DEFINITIONS

In this Compact:

(1) ATTORNEY GENERAL.—The term "Attorney General" means the Attorney General of the United States;

(2) COMPACT OFFICER.—The term "Compact officer" means—

(A) with respect to the Federal Government, an official so designated by the Director of the FBI; and

(B) with respect to a Party State, the chief administrator of the State's criminal history record repository or a designee of the chief administrator who is a regular full-time employee of the repository.

(3) COUNCIL.—The term "Council" means the Compact Council established under Article VI.

(4) CRIMINAL HISTORY RECORDS.—The term "criminal history records"—

(A) means information collected by criminal justice agencies on individuals consisting of identifiable descriptions and notations of arrests, detentions, indictments, or other formal criminal charges, and any disposition arising therefrom, including acquittal, sentencing, correctional supervision, or release; and

(B) does not include identification information such as fingerprint records if such information does not indicate involvement of the individual with the criminal justice system.

(5) CRIMINAL HISTORY RECORD REPOSITORY.—The term "criminal history record repository" means the State agency designated by the Governor or other appropriate executive official or the legislature of a State to perform centralized recordkeeping functions for criminal history records and services in the State.

(6) CRIMINAL JUSTICE.—The term "criminal justice" includes activities relating to the detection, apprehension, detention, pretrial release, post-trial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders. The administration of criminal justice includes criminal identification activities and the collection, storage, and dissemination of criminal history records.

(7) CRIMINAL JUSTICE AGENCY.—The term "criminal justice agency"—

(A) means—

(i) courts; and

(ii) a governmental agency or any subunit thereof that—

(I) performs the administration of criminal justice pursuant to a statute or Executive order; and

(II) allocates a substantial part of its annual budget to the administration of criminal justice; and

(B) includes Federal and State inspectors general offices.

(8) CRIMINAL JUSTICE SERVICES.—The term "criminal justice services" means services provided by the FBI to criminal justice agencies in response to a request for information about a particular individual or as an update to information previously provided for criminal justice purposes.

(9) CRITERION OFFENSE.—The term "criterion offense" means any felony or misdemeanor offense not included on the list of nonserious offenses published periodically by the FBI.

(10) DIRECT ACCESS.—The term "direct access" means access to the National Identification Index by computer terminal or other automated means not requiring the assistance of or intervention by any other party or agency.

(11) EXECUTIVE ORDER.—The term "Executive order" means an order of the President of the United States or the chief executive officer of a State that has the force of law and that is promulgated in accordance with applicable law.

(12) FBI.—The term "FBI" means the Federal Bureau of Investigation.

(13) INTERSTATE IDENTIFICATION SYSTEM.—The term "Interstate Identification Index System" or "III System"—

(A) means the cooperative Federal-State system for the exchange of criminal history records; and

(B) includes the National Identification Index, the National Fingerprint File and, to the extent of their participation in such system, the criminal history record repositories of the States and the FBI.

(14) NATIONAL FINGERPRINT FILE.—The term "National Fingerprint File" means a database of fingerprints, or other uniquely personal identifying information, relating to an arrested or charged individual maintained by the FBI to provide positive identification of record subjects indexed in the III System.

(15) NATIONAL IDENTIFICATION INDEX.—The term "National Identification Index" means an index maintained by the FBI consisting of names, identifying numbers, and other descriptive information relating to record subjects about whom there are criminal history records in the III System.

(16) NATIONAL INDICES.—The term "National indices" means the National Identification Index and the National Fingerprint File.

(17) NONPARTY STATE.—The term "Nonparty State" means a State that has not ratified this Compact.

(18) NONCRIMINAL JUSTICE PURPOSES.—The term "noncriminal justice purposes" means uses of criminal history records for purposes authorized by Federal or State law other than purposes relating to criminal justice activities, including employment suitability, licensing determinations, immigration and naturalization matters, and national security clearances.

(19) PARTY STATE.—The term "Party State" means a State that has ratified this Compact.

(20) POSITIVE IDENTIFICATION.—The term "positive identification" means a determination, based upon a comparison of fingerprints or other equally reliable biometric identification techniques, that the subject of a record search is the same person as the subject of a criminal history record or records indexed in the III System. Identifications based solely upon a comparison of subjects' names or other nonunique identification characteristics or numbers, or combinations thereof, shall not constitute positive identification.

(21) SEALED RECORD INFORMATION.—The term "sealed record information" means—

(A) with respect to adults, that portion of a record that is—

(i) not available for criminal justice uses;

(ii) not supported by fingerprints or other accepted means of positive identification; or

(iii) subject to restrictions on dissemination for noncriminal justice purposes pursuant to a court order related to a particular subject or pursuant to a Federal or State statute that requires action on a sealing petition filed by a particular record subject; and

(B) with respect to juveniles, whatever each State determines is a sealed record under its own law and procedure.

(22) STATE.—The term "State" means any State, territory, or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

ARTICLE II—PURPOSES

The purposes of this Compact are to—

(1) provide a legal framework for the establishment of a cooperative Federal-State system for the interstate and Federal-State exchange of criminal history records for noncriminal justice uses;

(2) require the FBI to permit use of the National Identification Index and the National Fingerprint File by each Party State, and to provide, in a timely fashion, Federal and State criminal history records to requesting States, in accordance with the terms of this Compact and with rules, procedures, and standards established by the Council under Article VI;

(3) require Party States to provide information and records for the National Identification Index and the National Fingerprint File and to provide criminal history records, in a timely fashion, to criminal history record repositories of other States and the Federal Government for noncriminal justice purposes, in accordance with the terms of this Compact and with rules, procedures, and standards established by the Council under Article VI;

(4) provide for the establishment of a Council to monitor III System operations and to prescribe system rules and procedures for the effective and proper operation of the III System for noncriminal justice purposes; and

(5) require the FBI and each Party State to adhere to III System standards concerning record dissemination and use, response times, system security, data quality, and other duly established standards, including those that enhance the accuracy and privacy of such records.

ARTICLE III—RESPONSIBILITIES OF COMPACT PARTIES

(a) FBI RESPONSIBILITIES.—The Director of the FBI shall—

(1) appoint an FBI Compact officer who shall—

(A) administer this Compact within the Department of Justice and among Federal agencies and other agencies and organizations that submit search requests to the FBI pursuant to Article V(c);

(B) ensure that Compact provisions and rules, procedures, and standards prescribed by the Council under Article VI are complied with by the Department of Justice and the Federal agencies and other agencies and organizations referred to in Article III(1)(A); and

(C) regulate the use of records received by means of the III System from Party States when such records are supplied by the FBI directly to other Federal agencies;

(2) provide to Federal agencies and to State criminal history record repositories, criminal history records maintained in its database for the noncriminal justice purposes described in Article IV, including—

(A) information from Nonparty States; and

(B) information from Party States that is available from the FBI through the III System, but is not available from the Party State through the III System;

(3) provide a telecommunications network and maintain centralized facilities for the exchange of criminal history records for both criminal justice purposes and the noncriminal justice purposes described in Article IV, and ensure that the exchange of such records for criminal justice purposes has priority over exchange for noncriminal justice purposes; and

(4) modify or enter into user agreements with Nonparty State criminal history record repositories to require them to establish record request procedures conforming to those prescribed in Article V.

(b) State Responsibilities.—Each Party State shall—

(1) appoint a Compact officer who shall—

(A) administer this Compact within that State;

(B) ensure that Compact provisions and rules, procedures, and standards established by the Council under Article VI are complied with in the State; and

(C) regulate the in-State use of records received by means of the III System from the FBI or from other Party States;

(2) establish and maintain a criminal history record repository, which shall provide—

(A) information and records for the National Identification Index and the National Fingerprint File; and

(B) the State's III System-indexed criminal history records for noncriminal justice purposes described in Article IV;

(3) participate in the National Fingerprint File; and

(4) provide and maintain telecommunications links and related equipment necessary to support the services set forth in this Compact.

(c) Compliance With III System Standards.—In carrying out their responsibilities under this Compact, the FBI and each Party State shall comply with III System rules, procedures, and standards duly established by the Council concerning record dissemination and use, response times, data quality, system security, accuracy, privacy protection, and other aspects of III System operation.

(d) Maintenance of Record Services.—

(1) Use of the III System for noncriminal justice purposes authorized in this Compact shall be managed so as not to diminish the level of services provided in support of criminal justice purposes.

(2) Administration of Compact provisions shall not reduce the level of service available to authorized noncriminal justice users on the effective date of this Compact.

ARTICLE IV—AUTHORIZED RECORD DISCLOSURES

(a) State Criminal History Record Repositories.—To the extent authorized by section 552a of title 5, United States Code (commonly known as the "Privacy Act of 1974"), the FBI shall provide on request criminal history records (excluding sealed records) to State criminal history record repositories for noncriminal justice purposes allowed by Federal statute, Federal Executive order, or a State statute that has been approved by the Attorney General and that authorizes national indices checks.

(b) Criminal Justice Agencies and Other Governmental or Nongovernmental Agencies.—The FBI, to the extent authorized by section 552a of title 5, United States Code (commonly known as the "Privacy Act of 1974"), and State criminal history record repositories shall provide criminal history records (excluding sealed records) to criminal justice agencies and other governmental or nongovernmental agencies for noncriminal justice purposes allowed by Federal statute, Federal Executive order, or a State statute that has been approved by the Attorney General, that authorizes national indices checks.

(c) Procedures.—Any record obtained under this Compact may be used only for the official purposes for which the record was requested. Each Compact officer shall establish procedures, consistent with this Compact, and with rules, procedures, and standards established by the Council under Article VI, which procedures shall protect the accuracy and privacy of the records, and shall—

(1) ensure that records obtained under this Compact are used only by authorized officials for authorized purposes;

(2) require that subsequent record checks are requested to obtain current information whenever a new need arises; and

(3) ensure that record entries that may not legally be used for a particular noncriminal justice purpose are deleted from the response and, if no information authorized for release remains, an appropriate "no record" response is communicated to the requesting official.

ARTICLE V—RECORD REQUEST PROCEDURES

(a) Positive Identification.—Subject fingerprints or other approved forms of positive identification shall be submitted with all requests for criminal history record checks for noncriminal justice purposes.

(b) Submission of State Requests.—Each request for a criminal history record check utilizing the national indices made under any approved State statute shall be submitted through that State's criminal history record repository. A State criminal history record repository shall process an interstate request for noncriminal justice purposes through the national indices only if such request is transmitted through another State criminal history record repository or the FBI.

(c) Submission of Federal Requests.—Each request for criminal history record checks utilizing the national indices made under Federal authority shall be submitted through the FBI or, if the State criminal history record repository consents to process fingerprint submissions, through the criminal history record repository in the State in which such request originated. Direct access to the National Identification Index by entities other than the FBI and State criminal history records repositories shall not be permitted for noncriminal justice purposes.

(d) Fees.—A State criminal history record repository or the FBI—

(1) may charge a fee, in accordance with applicable law, for handling a request involving fingerprint processing for noncriminal justice purposes; and

(2) may not charge a fee for providing criminal history records in response to an electronic request for a record that does not involve a request to process fingerprints.

(e) Additional Search.—

(1) If a State criminal history record repository cannot positively identify the subject of a record request made for noncriminal justice purposes, the request, together with fingerprints or other approved identifying information, shall be forwarded to the FBI for a search of the national indices.

(2) If, with respect to an request forwarded by a State criminal history record repository under paragraph (1), the FBI positively identifies the subject as having a III System-indexed record or records—

(A) the FBI shall so advise the State criminal history record repository; and

(B) the State criminal history record repository shall be entitled to obtain the additional criminal history record information from the FBI or other State criminal history record repositories.

ARTICLE VI—ESTABLISHMENT OF COMPACT COUNCIL

(a) Establishment.—

(1) In general.—There is established a council to be known as the "Compact Council", which shall have the authority to promulgate rules and procedures governing the use of the III System for noncriminal justice purposes, not to conflict with FBI administration of the III System for criminal justice purposes.

(2) Organization.—The Council shall—

(A) continue in existence as long as this Compact remains in effect;

(B) be located, for administrative purposes, within the FBI; and

(C) be organized and hold its first meeting as soon as practicable after the effective date of this Compact.

(b) Membership.—The Council shall be composed of 15 members, each of whom shall be appointed by the Attorney General, as follows:

(1) Nine members, each of whom shall serve a 2-year term, who shall be selected from among the Compact officers of Party States based on the recommendation of the Compact officers of all Party States, except that, in the absence of the requisite number of Compact officers available to serve, the chief administrators of the criminal history record repositories of Nonparty States shall be eligible to serve on an interim basis.

(2) Two at-large members, nominated by the Director of the FBI, each of whom shall serve a 3-year term, of whom—

(A) 1 shall be a representative of the criminal justice agencies of the Federal Government and may not be an employee of the FBI; and

(B) 1 shall be a representative of the noncriminal justice agencies of the Federal Government.

(3) Two at-large members, nominated by the Chairman of the Council, once the Chairman is elected pursuant to Article VI(c), each of whom shall serve a 3-year term, of whom—

(A) 1 shall be a representative of State or local criminal justice agencies; and

(B) 1 shall be a representative of State or local noncriminal justice agencies.

(4) One member, who shall serve a 3-year term, and who shall simultaneously be a member of the FBI's advisory policy board on criminal justice information services, nominated by the membership of that policy board.

(5) One member, nominated by the Director of the FBI, who shall serve a 3-year term, and who shall be an employee of the FBI.

(c) Chairman and Vice Chairman.—

(1) In general.—From its membership, the Council shall elect a Chairman and a Vice Chairman of the Council, respectively. Both the Chairman and Vice Chairman of the Council—

(A) shall be a Compact officer, unless there is no Compact officer on the Council who is willing to serve, in which case the Chairman may be an at-large member; and

(B) shall serve a 2-year term and may be reelected to only 1 additional 2-year term.

(2) DUTIES OF VICE CHAIRMAN.—The Vice Chairman of the Council shall serve as the Chairman of the Council in the absence of the Chairman.

(d) MEETINGS.—

(1) IN GENERAL.—The Council shall meet a least once each year at the call of the Chairman. Each meeting of the Council shall be open to the public. The Council shall provide prior public notice in the Federal Register of each meeting of the Council, including the matters to be addressed at such meeting.

(2) QUORUM.—A majority of the Council or any committee of the Council shall constitute a quorum of the Council or of such committee, respectively, for the conduct of business. A lesser number may meet to hold hearings, take testimony, or conduct any business not requiring a vote.

(e) RULES, PROCEDURES, AND STANDARDS.—The Council shall make available for public inspection and copying at the Council office within the FBI, and shall publish in the Federal Register, any rules, procedures, or standards established by the Council.

(f) ASSISTANCE FROM FBI.—The Council may request from the FBI such reports, studies, statistics, or other information or materials as the Council determines to be necessary to enable the Council to perform its duties under this Compact. The FBI, to the extent authorized by law, may provide such assistance or information upon such a request.

(g) COMMITTEES.—The Chairman may establish committees as necessary to carry out this Compact and may prescribe their membership, responsibilities, and duration.

ARTICLE VII—RATIFICATION OF COMPACT

This Compact shall take effect upon being entered into by 2 or more States as between those States and the Federal Government. Upon subsequent entering into this Compact by additional States, it shall become effective among those States and the Federal Government and each Party State that has previously ratified it. When ratified, this Compact shall have the full force and effect of law within the ratifying jurisdictions. The form of ratification shall be in accordance with the laws of the executing State.

ARTICLE VIII—MISCELLANEOUS PROVISIONS

(a) RELATION OF COMPACT TO CERTAIN FBI ACTIVITIES.—Administration of this Compact shall not interfere with the management and control of the Director of the FBI over the FBI's collection and dissemination of criminal history records and the advisory function of the FBI's advisory policy board chartered under the Federal Advisory Committee Act (5 U.S.C. App.) for all purposes other than noncriminal justice.

(b) NO AUTHORITY FOR NONAPPROPRIATED EXPENDITURES.—Nothing in this Compact shall require the FBI to obligate or expend funds beyond those appropriated to the FBI.

(c) RELATING TO PUBLIC LAW 92-544.—Nothing in this Compact shall diminish or lessen the obligations, responsibilities, and authorities of any State, whether a Party State or a Nonparty State, or of any criminal history record repository or other subdivision or component thereof, under the Departments of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriation Act, 1973 (Public Law 92-544), or regulations and guidelines promulgated thereunder, including the rules and procedures promulgated by the Council under Article VI(a), regarding the use and dissemination of criminal history records and information.

ARTICLE IX—RENUNCIATION

(a) IN GENERAL.—This Compact shall bind each Party State until renounced by the Party State.

(b) EFFECT.—Any renunciation of this Compact by a Party State shall—

(1) be effected in the same manner by which the Party State ratified this Compact; and

(2) become effective 180 days after written notice of renunciation is provided by the Party State to each other Party State and to the Federal Government.

ARTICLE X—SEVERABILITY

The provisions of this Compact shall be severable, and if any phrase, clause, sentence, or provision of this Compact is declared to be contrary to the constitution of any participating State, or to the Constitution of the United States, or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this Compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If a portion of this Compact is held contrary to the constitution of any Party State, all other portions of this Compact shall remain in full force and effect as to the remaining Party States and in full force and effect as to the Party State affected, as to all other provisions.

ARTICLE XI—ADJUDICATION OF DISPUTES

(a) IN GENERAL.—The Council shall—

(1) have initial authority to make determinations with respect to any dispute regarding—

(A) interpretation of this Compact;

(B) any rule or standard established by the Council pursuant to Article V; and

(C) any dispute or controversy between any parties to this Compact; and

(2) hold a hearing concerning any dispute described in paragraph (1) at a regularly scheduled meeting of the Council and only render a decision based upon a majority vote of the members of the Council. Such decision shall be published pursuant to the requirements of Article VI(e).

(b) DUTIES OF FBI.—The FBI shall exercise immediate and necessary action to preserve the integrity of the III System, maintain system policy and standards, protect the accuracy and privacy of records, and to prevent abuses, until the Council holds a hearing on such matters.

(c) RIGHT OF APPEAL.—The FBI or a Party State may appeal any decision of the Council to the Attorney General, and thereafter may file suit in the appropriate district court of the United States, which shall have original jurisdiction of all cases or controversies arising under this Compact. Any suit arising under this Compact and initiated in a State court shall be removed to the appropriate district court of the United States in the manner provided by section 1446 of title 28, United States Code, or other statutory authority.

Subtitle B—Volunteers for Children Act

SEC. 221. SHORT TITLE.

This subtitle may be cited as the "Volunteers for Children Act".

SEC. 222. FACILITATION OF FINGERPRINT CHECKS.

(a) STATE AGENCY.—Section 3(a) of the National Child Protection Act of 1993 (42 U.S.C. 5119a(a)) is amended by adding at the end the following:

"(3) In the absence of State procedures referred to in paragraph (1), a qualified entity designated under paragraph (1) may contact an authorized agency of the State to request national criminal fingerprint background checks. Qualified entities requesting background checks under this paragraph shall comply with the guidelines set forth in subsection (b) and with procedures for requesting national criminal fingerprint background checks, if any, established by the State.".

(b) FEDERAL LAW.—Section 3(b)(5) of the National Child Protection Act of 1993 (42 U.S.C. 5119a(b)(5)) is amended by inserting before the period at the end the following: ", except that this paragraph does not apply to any request by a qualified entity for a national criminal fingerprint background check pursuant to subsection (a)(3)".

(c) AUTHORIZATION.—Section 4(b)(2) of the National Child Protection Act of 1993 (42 U.S.C. 5119b(b)(2)) is amended by striking "1994, 1995, 1996, and 1997" and inserting "1999, 2000, 2001, and 2002".

Mr. LEAHY. Mr. President, I am pleased that the Senate today is passing, as an amendment to S. 2022, the Hatch-Leahy-DeWine-Daschle Federal-State "III" Compact for exchange of criminal history records for noncriminal justice purposes. This Compact is the product of a decade-long effort by federal and state law enforcement officials to establish a legal framework for the exchange of criminal history records for authorized noncriminal justice purposes, such as security clearances, employment or licensing background checks.

Since 1924, the FBI has collected and maintained duplicate state and local fingerprint cards, along with arrest and disposition records. Today, the FBI has over 200 million fingerprint cards in its system. These FBI records are accessible to authorized government entities for both criminal and authorized noncriminal justice purposes.

Maintaining duplicate files at the FBI is costly and leads to inaccuracies in the criminal history records, since follow-up disposition information from the States is often incomplete. Such a huge central database of routinely incomplete criminal history records raises significant privacy concerns.

In addition, the FBI releases these records for noncriminal justice purposes (as authorized by Federal law), to State agencies upon request, even if the State from which the records originated or the receiving State more narrowly restricts the dissemination of such records for noncriminal justice purposes.

The III Compact is an effort to get the FBI out of the business of holding a duplicate copy of every State and local criminal history record, and instead to keep those records at the State level. Once fully implemented, the FBI will only need to hold the Interstate Identification Index (III), consisting of the national fingerprint file and a pointer index to direct the requestor to the correct State records repository. The Compact would eliminate the necessity for duplicate records at the FBI for those States participating in the Compact. Eventually, when all the States become full participants in the Compact, the FBI's centralized files of state offender records will be discontinued and users of such records will obtain those records from the appropriate State's central repository (or from the FBI if the offender has a federal record).

The Compact would establish both a framework for this cooperative exchange of criminal history records for noncriminal justice purposes, and create a Compact Council with representatives from the FBI and the States to monitor system operations and issue necessary rules and procedures for the integrity and accuracy of the records and compliance with privacy standards. Importantly, this Compact would not in any way expand or diminish noncriminal justice purposes for which criminal history records may be used under existing State or Federal law.

Overall, I believe that the Compact would increase the accuracy, completeness and privacy protection for criminal history records.

In addition, the Compact would result in important cost savings from establishing a decentralized system. Under the system envisioned by the Compact, the FBI would hold only an "index and pointer" to the records maintained at the originating State. The FBI would no longer have to maintain duplicate State records. Moreover, States would no longer have the burden and costs of submitting arrest fingerprints and charge/disposition data to the FBI for all arrests. Instead, the State would only have to submit to the FBI the fingerprints and textual identification data for a person's first arrest.

With this system, criminal history records would be more up-to-date, or complete, because a decentralized system will keep the records closer to their point of origin in State repositories, eliminating the need for the States to keep sending updated disposition information to the FBI. To ensure further accuracy, the Compact would require requests for criminal history checks for noncriminal justice purposes to be submitted with fingerprints or some other form of positive identification, to avoid mistaken release of records.

Furthermore, under the Compact, the newly-created Council must establish procedures to require that the most current records are requested and that when a new need arises, a new record check is conducted.

Significantly, the newly-created Council must establish privacy enhancing procedures to ensure that requested criminal history records are only used by authorized officials for authorized purposes. Furthermore, the Compact makes clear that only the FBI and authorized representatives from the State repository may have direct access to the FBI index. The Council must also ensure that only legally appropriate information is released and, specifically, that record entries that may not be used for noncriminal justice purposes are deleted from the response.

Thus, while the Compact would require the release of arrest records to a requesting State, the Compact would also ensure that if disposition records are available that the complete record be released. Also, the Compact would require States receiving records under the Compact to ensure that the records are disseminated in compliance with the authorized uses in that State. Consequently, under the Compact, a State that receives arrest-only information would have to give effect to disposition-only policies in that State and not release that information for noncriminal justice purposes. Thus, in my view, the impact of the Compact for the privacy and accuracy of the records would be positive.

I am pleased to have joined with Senators HATCH and DEWINE to make a number of refinements to the Compact as transmitted by to us by the Administration. Specifically, we have worked to clarify that (1) the work of the Council includes establishing standards to protect the privacy of the records; (2) sealed criminal history records are not covered or subject to release for noncriminal justice purposes under the Compact; (3) the meetings of the Council are open to the public, and (4) the Council's decisions, rules and procedures are available for public inspection and copying and published in the Federal Register.

Commissioner Walton of the Vermont Department of Public Safety supports this Compact. He hopes that passage of the Compact will encourage Vermont to become a full participant in III for both criminal and noncriminal justice purposes, so that Vermont can "reap the benefits of cost savings and improved data quality." The Compact is also strongly supported by the FBI and SEARCH.

We all have an interest in making sure that the criminal history records maintained by our law enforcement agencies at the local, State and Federal levels, are complete, accurate and accessible only to authorized personnel for legally authorized purposes. This Compact is a significant step in the process of achieving that goal.

Mr. ALLARD. I ask unanimous consent that the amendment be agreed to, the committee amendment be agreed to, the bill be considered read the third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill appear in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 3126) was agreed to.

The committee amendment, as amended, was agreed to.

The bill (S. 2022), as amended, was considered read the third time and passed, as follows:

S. 2022

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TABLE OF CONTENTS.

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Sec. 1. Table of contents.

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Sec. 102. State grant program for criminal justice identification, information, and communication.

TITLE II—NATIONAL CRIMINAL HISTORY ACCESS AND CHILD PROTECTION ACT

Sec. 201. Short title.

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Subtitle B—Volunteers for Children Act

Sec. 221. Short title.
Sec. 222. Facilitation of fingerprint checks.

TITLE I—CRIME IDENTIFICATION TECHNOLOGY ACT OF 1998

SEC. 101. SHORT TITLE.

This title may be cited as the "Crime Identification Technology Act of 1998".

SEC. 102. STATE GRANT PROGRAM FOR CRIMINAL JUSTICE IDENTIFICATION, INFORMATION, AND COMMUNICATION.

(a) IN GENERAL.—Subject to the availability of amounts provided in advance in appropriations Acts, the Attorney General, through the Bureau of Justice Statistics of the Department of Justice, shall make a grant to each State, which shall be used by the State, in conjunction with units of local government, State and local courts, other States, or combinations thereof, to establish or upgrade an integrated approach to develop information and identification technologies and systems to—

(1) upgrade criminal history and criminal justice record systems, including systems operated by law enforcement agencies and courts;

(2) improve criminal justice identification;

(3) promote compatibility and integration of national, State, and local systems for—

(A) criminal justice purposes;

(B) firearms eligibility determinations;

(C) identification of sexual offenders;

(D) identification of domestic violence offenders; and

(E) background checks for other authorized purposes unrelated to criminal justice; and

(4) capture information for statistical and research purposes to improve the administration of criminal justice.

(b) USE OF GRANT AMOUNTS.—Grants under this section may be used for programs to establish, develop, update, or upgrade—

(1) State centralized, automated, adult and juvenile criminal history record information systems, including arrest and disposition reporting;

(2) automated fingerprint identification systems that are compatible with standards established by the National Institute of Standards and Technology and interoperable with the Integrated Automated Fingerprint Identification System (IAFIS) of the Federal Bureau of Investigation;

(3) finger imaging, live scan, and other automated systems to digitize fingerprints and to communicate prints in a manner that is compatible with standards established by the National Institute of Standards and Technology and interoperable with systems operated by States and by the Federal Bureau of Investigation;

(4) programs and systems to facilitate full participation in the Interstate Identification Index of the National Crime Information Center;

(5) systems to facilitate full participation in any compact relating to the Interstate Identification Index of the National Crime Information Center;

(6) systems to facilitate full participation in the national instant criminal background check system established under section 103(b) of the Brady Handgun Violence Prevention Act (18 U.S.C. 922 note) for firearms eligibility determinations;

(7) integrated criminal justice information systems to manage and communicate criminal justice information among law enforcement agencies, courts, prosecutors, and corrections agencies;

(8) noncriminal history record information systems relevant to firearms eligibility determinations for availability and accessibility to the national instant criminal background check system established under section 103(b) of the Brady Handgun Violence Prevention Act (18 U.S.C. 922 note);

(9) court-based criminal justice information systems that promote—

(A) reporting of dispositions to central State repositories and to the Federal Bureau of Investigation; and

(B) compatibility with, and integration of, court systems with other criminal justice information systems;

(10) ballistics identification and information programs that are compatible and integrated with the National Integrated Ballistics Network (NIBN);

(11) DNA programs for forensic and identification purposes, and identification and information programs to improve forensic analysis and to assist in accrediting crime laboratories;

(12) sexual offender identification and registration systems;

(13) domestic violence offender identification and information systems;

(14) programs for fingerprint-supported background checks capability for noncriminal justice purposes, including youth service employees and volunteers and other individuals in positions of responsibility, if authorized by Federal or State law and administered by a government agency;

(15) criminal justice information systems with a capacity to provide statistical and research products including incident-based reporting systems that are compatible with the National Incident-Based Reporting System (NIBRS) and uniform crime reports; and

(16) multiagency, multijurisdictional communications systems among the States to share routine and emergency information among Federal, State, and local law enforcement agencies.

(c) ASSURANCES.—To be eligible to receive a grant under this section, a State shall provide assurances to the Attorney General that the State has the capability to contribute pertinent information to the national instant criminal background check system established under section 103(b) of the Brady Handgun Violence Prevention Act (18 U.S.C. 922 note).

(d) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated to carry out this section $250,000,000 for each of fiscal years 1999 through 2003.

(2) LIMITATIONS.—Of the amount made available to carry out this section in any fiscal year—

(A) not more than 3 percent may be used by the Attorney General for salaries and administrative expenses;

(B) not more than 5 percent may be used for technical assistance, training and evaluations, and studies commissioned by Bureau of Justice Statistics of the Department of Justice (through discretionary grants or otherwise) in furtherance of the purposes of this section; and

(C) the Attorney General shall ensure the amounts are distributed on an equitable geographic basis.

(e) GRANTS TO INDIAN TRIBES.—Notwithstanding any other provision of this section, the Attorney General may use amounts made available under this section to make grants to Indian tribes for use in accordance with this section.

TITLE II—NATIONAL CRIMINAL HISTORY ACCESS AND CHILD PROTECTION ACT

SEC. 201. SHORT TITLE.

This title may be cited as the "National Criminal History Access and Child Protection Act".

Subtitle A—Exchange of Criminal History Records for Noncriminal Justice Purposes

SEC. 211. SHORT TITLE.

This subtitle may be cited as the "National Crime Prevention and Privacy Compact Act of 1998".

SEC. 212. FINDINGS.

Congress finds that—

(1) both the Federal Bureau of Investigation and State criminal history record repositories maintain fingerprint-based criminal history records;

(2) these criminal history records are shared and exchanged for criminal justice purposes through a Federal-State program known as the Interstate Identification Index System;

(3) although these records are also exchanged for legally authorized, noncriminal justice uses, such as governmental licensing and employment background checks, the purposes for and procedures by which they are exchanged vary widely from State to State;

(4) an interstate and Federal-State compact is necessary to facilitate authorized interstate criminal history record exchanges for noncriminal justice purposes on a uniform basis, while permitting each State to effectuate its own dissemination policy within its own borders; and

(5) such a compact will allow Federal and State records to be provided expeditiously to governmental and nongovernmental agencies that use such records in accordance with pertinent Federal and State law, while simultaneously enhancing the accuracy of the records and safeguarding the information contained therein from unauthorized disclosure or use.

SEC. 213. DEFINITIONS.

In this subtitle:

(1) ATTORNEY GENERAL.—The term "Attorney General" means the Attorney General of the United States.

(2) COMPACT.—The term "Compact" means the National Crime Prevention and Privacy Compact set forth in section 217.

(3) COUNCIL.—The term "Council" means the Compact Council established under Article VI of the Compact.

(4) FBI.—The term "FBI" means the Federal Bureau of Investigation.

(5) PARTY STATE.—The term "Party State" means a State that has ratified the Compact.

(6) STATE.—The term "State" means any State, territory, or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

SEC. 214. ENACTMENT AND CONSENT OF THE UNITED STATES.

The National Crime Prevention and Privacy Compact, as set forth in section 217, is enacted into law and entered into by the Federal Government. The consent of Congress is given to States to enter into the Compact.

SEC. 215. EFFECT ON OTHER LAWS.

(a) PRIVACY ACT OF 1974.—Nothing in the Compact shall affect the obligations and responsibilities of the FBI under section 552a of title 5, United States Code (commonly known as the "Privacy Act of 1974").

(b) ACCESS TO CERTAIN RECORDS NOT AFFECTED.—Nothing in the Compact shall interfere in any manner with—

(1) access, direct or otherwise, to records pursuant to—

(A) section 9101 of title 5, United States Code;

(B) the National Child Protection Act;

(C) the Brady Handgun Violence Prevention Act (Public Law 103–159; 107 Stat. 1536);

(D) the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322; 108 Stat. 2074) or any amendment made by that Act;

(E) the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.); or

(F) the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 et seq.); or

(2) any direct access to Federal criminal history records authorized by law.

(c) AUTHORITY OF FBI UNDER DEPARTMENTS OF STATE, JUSTICE, AND COMMERCE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATION ACT, 1973.—Nothing in the Compact shall be construed to affect the authority of the FBI under the Departments of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriation Act, 1973 (Public Law 92–544 (86 Stat. 1115)).

(d) FEDERAL ADVISORY COMMITTEE ACT.—The Council shall not be considered to be a

Federal advisory committee for purposes of the Federal Advisory Committee Act (5 U.S.C. App.).

(e) Members of Council Not Federal Officers or Employees.—Members of the Council (other than a member from the FBI or any at-large member who may be a Federal official or employee) shall not, by virtue of such membership, be deemed—

(1) to be, for any purpose other than to effect the Compact, officers or employees of the United States (as defined in sections 2104 and 2105 of title 5, United States Code); or

(2) to become entitled by reason of Council membership to any compensation or benefit payable or made available by the Federal Government to its officers or employees.

SEC. 216. ENFORCEMENT AND IMPLEMENTATION.

All departments, agencies, officers, and employees of the United States shall enforce the Compact and cooperate with one another and with all Party States in enforcing the Compact and effectuating its purposes. For the Federal Government, the Attorney General shall make such rules, prescribe such instructions, and take such other actions as may be necessary to carry out the Compact and this subtitle.

SEC. 217. NATIONAL CRIME PREVENTION AND PRIVACY COMPACT.

The Contracting Parties agree to the following:

OVERVIEW

(a) In General.—This Compact organizes an electronic information sharing system among the Federal Government and the States to exchange criminal history records for noncriminal justice purposes authorized by Federal or State law, such as background checks for governmental licensing and employment.

(b) Obligations of Parties.—Under this Compact, the FBI and the Party States agree to maintain detailed databases of their respective criminal history records, including arrests and dispositions, and to make them available to the Federal Government and to Party States for authorized purposes. The FBI shall also manage the Federal data facilities that provide a significant part of the infrastructure for the system.

ARTICLE I—DEFINITIONS

In this Compact:

(1) Attorney general.—The term "Attorney General" means the Attorney General of the United States;

(2) Compact officer.—The term "Compact officer" means—

(A) with respect to the Federal Government, an official so designated by the Director of the FBI; and

(B) with respect to a Party State, the chief administrator of the State's criminal history record repository or a designee of the chief administrator who is a regular full-time employee of the repository.

(3) Council.—The term "Council" means the Compact Council established under Article VI.

(4) Criminal history records.—The term "criminal history records"—

(A) means information collected by criminal justice agencies on individuals consisting of identifiable descriptions and notations of arrests, detentions, indictments, or other formal criminal charges, and any disposition arising therefrom, including acquittal, sentencing, correctional supervision, or release; and

(B) does not include identification information such as fingerprint records if such information does not indicate involvement of the individual with the criminal justice system.

(5) Criminal history record repository.—The term "criminal history record repository" means the State agency designated by the Governor or other appropriate executive official or the legislature of a State to perform centralized recordkeeping functions for criminal history records and services in the State.

(6) Criminal justice.—The term "criminal justice" includes activities relating to the detection, apprehension, detention, pretrial release, post-trial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders. The administration of criminal justice includes criminal identification activities and the collection, storage, and dissemination of criminal history records.

(7) Criminal justice agency.—The term "criminal justice agency"—

(A) means—

(i) courts; and

(ii) a governmental agency or any subunit thereof that—

(I) performs the administration of criminal justice pursuant to a statute or Executive order; and

(II) allocates a substantial part of its annual budget to the administration of criminal justice; and

(B) includes Federal and State inspectors general offices.

(8) Criminal justice services.—The term "criminal justice services" means services provided by the FBI to criminal justice agencies in response to a request for information about a particular individual or as an update to information previously provided for criminal justice purposes.

(9) Criterion offense.—The term "criterion offense" means any felony or misdemeanor offense not included on the list of nonserious offenses published periodically by the FBI.

(10) Direct access.—The term "direct access" means access to the National Identification Index by computer terminal or other automated means not requiring the assistance of or intervention by any other party or agency.

(11) Executive order.—The term "Executive order" means an order of the President of the United States or the chief executive officer of a State that has the force of law and that is promulgated in accordance with applicable law.

(12) FBI.—The term "FBI" means the Federal Bureau of Investigation.

(13) Interstate identification system.—The term "Interstate Identification Index System" or "III System"—

(A) means the cooperative Federal-State system for the exchange of criminal history records; and

(B) includes the National Identification Index, the National Fingerprint File and, to the extent of their participation in such system, the criminal history record repositories of the States and the FBI.

(14) National fingerprint file.—The term "National Fingerprint File" means a database of fingerprints, or other uniquely personal identifying information, relating to an arrested or charged individual maintained by the FBI to provide positive identification of record subjects indexed in the III System.

(15) National identification index.—The term "National Identification Index" means an index maintained by the FBI consisting of names, identifying numbers, and other descriptive information relating to record subjects about whom there are criminal history records in the III System.

(16) National indices.—The term "National indices" means the National Identification Index and the National Fingerprint File.

(17) Nonparty state.—The term "Nonparty State" means a State that has not ratified this Compact.

(18) Noncriminal justice purposes.—The term "noncriminal justice purposes" means uses of criminal history records for purposes authorized by Federal or State law other than purposes relating to criminal justice activities, including employment suitability, licensing determinations, immigration and naturalization matters, and national security clearances.

(19) Party state.—The term "Party State" means a State that has ratified this Compact.

(20) Positive identification.—The term "positive identification" means a determination, based upon a comparison of fingerprints or other equally reliable biometric identification techniques, that the subject of a record search is the same person as the subject of a criminal history record or records indexed in the III System. Identifications based solely upon a comparison of subjects' names or other nonunique identification characteristics or numbers, or combinations thereof, shall not constitute positive identification.

(21) Sealed record information.—The term "sealed record information" means—

(A) with respect to adults, that portion of a record that is—

(i) not available for criminal justice uses;

(ii) not supported by fingerprints or other accepted means of positive identification; or

(iii) subject to restrictions on dissemination for noncriminal justice purposes pursuant to a court order related to a particular subject or pursuant to a Federal or State statute that requires action on a sealing petition filed by a particular record subject; and

(B) with respect to juveniles, whatever each State determines is a sealed record under its own law and procedure.

(22) State.—The term "State" means any State, territory, or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

ARTICLE II—PURPOSES

The purposes of this Compact are to—

(1) provide a legal framework for the establishment of a cooperative Federal-State system for the interstate and Federal-State exchange of criminal history records for noncriminal justice uses;

(2) require the FBI to permit use of the National Identification Index and the National Fingerprint File by each Party State, and to provide, in a timely fashion, Federal and State criminal history records to requesting States, in accordance with the terms of this Compact and with rules, procedures, and standards established by the Council under Article VI;

(3) require Party States to provide information and records for the National Identification Index and the National Fingerprint File and to provide criminal history records, in a timely fashion, to criminal history record repositories of other States and the Federal Government for noncriminal justice purposes, in accordance with the terms of this Compact and with rules, procedures, and standards established by the Council under Article VI;

(4) provide for the establishment of a Council to monitor III System operations and to prescribe system rules and procedures for the effective and proper operation of the III System for noncriminal justice purposes; and

(5) require the FBI and each Party State to adhere to III System standards concerning record dissemination and use, response times, system security, data quality, and other duly established standards, including those that enhance the accuracy and privacy of such records.

ARTICLE III—RESPONSIBILITIES OF COMPACT PARTIES

(a) FBI Responsibilities.—The Director of the FBI shall—

(1) appoint an FBI Compact officer who shall—

(A) administer this Compact within the Department of Justice and among Federal agencies and other agencies and organizations that submit search requests to the FBI pursuant to Article V(c);

(B) ensure that Compact provisions and rules, procedures, and standards prescribed by the Council under Article VI are complied with by the Department of Justice and the Federal agencies and other agencies and organizations referred to in Article III(1)(A); and

(C) regulate the use of records received by means of the III System from Party States when such records are supplied by the FBI directly to other Federal agencies;

(2) provide to Federal agencies and to State criminal history record repositories, criminal history records maintained in its database for the noncriminal justice purposes described in Article IV, including—

(A) information from Nonparty States; and

(B) information from Party States that is available from the FBI through the III System, but is not available from the Party State through the III System;

(3) provide a telecommunications network and maintain centralized facilities for the exchange of criminal history records for both criminal justice purposes and the noncriminal justice purposes described in Article IV, and ensure that the exchange of such records for criminal justice purposes has priority over exchange for noncriminal justice purposes; and

(4) modify or enter into user agreements with Nonparty State criminal history record repositories to require them to establish record request procedures conforming to those prescribed in Article V.

(b) State Responsibilities.—Each Party State shall—

(1) appoint a Compact officer who shall—

(A) administer this Compact within that State;

(B) ensure that Compact provisions and rules, procedures, and standards established by the Council under Article VI are complied with in the State; and

(C) regulate the in-State use of records received by means of the III System from the FBI or from other Party States;

(2) establish and maintain a criminal history record repository, which shall provide—

(A) information and records for the National Identification Index and the National Fingerprint File; and

(B) the State's III System-indexed criminal history records for noncriminal justice purposes described in Article IV;

(3) participate in the National Fingerprint File; and

(4) provide and maintain telecommunications links and related equipment necessary to support the services set forth in this Compact.

(c) Compliance With III System Standards.—In carrying out their responsibilities under this Compact, the FBI and each Party State shall comply with III System rules, procedures, and standards duly established by the Council concerning record dissemination and use, response times, data quality, system security, accuracy, privacy protection, and other aspects of III System operation.

(d) Maintenance of Record Services.—

(1) Use of the III System for noncriminal justice purposes authorized in this Compact shall be managed so as not to diminish the level of services provided in support of criminal justice purposes.

(2) Administration of Compact provisions shall not reduce the level of service available to authorized noncriminal justice users on the effective date of this Compact.

ARTICLE IV—AUTHORIZED RECORD DISCLOSURES

(a) State Criminal History Record Repositories.—To the extent authorized by section 552a of title 5, United States Code (commonly known as the "Privacy Act of 1974"), the FBI shall provide on request criminal history records (excluding sealed records) to State criminal history record repositories for noncriminal justice purposes allowed by Federal statute, Federal Executive order, or a State statute that has been approved by the Attorney General and that authorizes national indices checks.

(b) Criminal Justice Agencies and Other Governmental or Nongovernmental Agencies.—The FBI, to the extent authorized by section 552a of title 5, United States Code (commonly known as the "Privacy Act of 1974"), and State criminal history record repositories shall provide criminal history records (excluding sealed records) to criminal justice agencies and other governmental or nongovernmental agencies for noncriminal justice purposes allowed by Federal statute, Federal Executive order, or a State statute that has been approved by the Attorney General, that authorizes national indices checks.

(c) Procedures.—Any record obtained under this Compact may be used only for the official purposes for which the record was requested. Each Compact officer shall establish procedures, consistent with this Compact, and with rules, procedures, and standards established by the Council under Article VI, which procedures shall protect the accuracy and privacy of the records, and shall—

(1) ensure that records obtained under this Compact are used only by authorized officials for authorized purposes;

(2) require that subsequent record checks are requested to obtain current information whenever a new need arises; and

(3) ensure that record entries that may not legally be used for a particular noncriminal justice purpose are deleted from the response and, if no information authorized for release remains, an appropriate "no record" response is communicated to the requesting official.

ARTICLE V—RECORD REQUEST PROCEDURES

(a) Positive Identification.—Subject fingerprints or other approved forms of positive identification shall be submitted with all requests for criminal history record checks for noncriminal justice purposes.

(b) Submission of State Requests.—Each request for a criminal history record check utilizing the national indices made under any approved State statute shall be submitted through that State's criminal history record repository. A State criminal history record repository shall process an interstate request for noncriminal justice purposes through the national indices only if such request is transmitted through another State criminal history record repository or the FBI.

(c) Submission of Federal Requests.—Each request for criminal history record checks utilizing the national indices made under Federal authority shall be submitted through the FBI or, if the State criminal history record repository consents to process fingerprint submissions, through the criminal history record repository in the State in which such request originated. Direct access to the National Identification Index by entities other than the FBI and State criminal history records repositories shall not be permitted for noncriminal justice purposes.

(d) Fees.—A State criminal history record repository or the FBI—

(1) may charge a fee, in accordance with applicable law, for handling a request involving fingerprint processing for noncriminal justice purposes; and

(2) may not charge a fee for providing criminal history records in response to an electronic request for a record that does not involve a request to process fingerprints.

(e) Additional Search.—

(1) If a State criminal history record repository cannot positively identify the subject of a record request made for noncriminal justice purposes, the request, together with fingerprints or other approved identifying information, shall be forwarded to the FBI for a search of the national indices.

(2) If, with respect to an request forwarded by a State criminal history record repository under paragraph (1), the FBI positively identifies the subject as having a III System-indexed record or records—

(A) the FBI shall so advise the State criminal history record repository; and

(B) the State criminal history record repository shall be entitled to obtain the additional criminal history record information from the FBI or other State criminal history record repositories.

ARTICLE VI—ESTABLISHMENT OF COMPACT COUNCIL

(a) Establishment.—

(1) In general.—There is established a council to be known as the "Compact Council", which shall have the authority to promulgate rules and procedures governing the use of the III System for noncriminal justice purposes, not to conflict with FBI administration of the III System for criminal justice purposes.

(2) Organization.—The Council shall—

(A) continue in existence as long as this Compact remains in effect;

(B) be located, for administrative purposes, within the FBI; and

(C) be organized and hold its first meeting as soon as practicable after the effective date of this Compact.

(b) Membership.—The Council shall be composed of 15 members, each of whom shall be appointed by the Attorney General, as follows:

(1) Nine members, each of whom shall serve a 2-year term, who shall be selected from among the Compact officers of Party States based on the recommendation of the Compact officers of all Party States, except that, in the absence of the requisite number of Compact officers available to serve, the chief administrators of the criminal history record repositories of Nonparty States shall be eligible to serve on an interim basis.

(2) Two at-large members, nominated by the Director of the FBI, each of whom shall serve a 3-year term, of whom—

(A) 1 shall be a representative of the criminal justice agencies of the Federal Government and may not be an employee of the FBI; and

(B) 1 shall be a representative of the noncriminal justice agencies of the Federal Government.

(3) Two at-large members, nominated by the Chairman of the Council, once the Chairman is elected pursuant to Article VI(c), each of whom shall serve a 3-year term, of whom—

(A) 1 shall be a representative of State or local criminal justice agencies; and

(B) 1 shall be a representative of State or local noncriminal justice agencies.

(4) One member, who shall serve a 3-year term, and who shall simultaneously be a member of the FBI's advisory policy board on criminal justice information services, nominated by the membership of that policy board.

(5) One member, nominated by the Director of the FBI, who shall serve a 3-year term, and who shall be an employee of the FBI.

(c) Chairman and Vice Chairman.—

(1) In general.—From its membership, the Council shall elect a Chairman and a Vice Chairman of the Council, respectively. Both the Chairman and Vice Chairman of the Council—

(A) shall be a Compact officer, unless there is no Compact officer on the Council who is willing to serve, in which case the Chairman may be an at-large member; and

(B) shall serve a 2-year term and may be reelected to only 1 additional 2-year term.

(2) Duties of vice chairman.—The Vice Chairman of the Council shall serve as the Chairman of the Council in the absence of the Chairman.

(d) Meetings.—

(1) In general.—The Council shall meet a least once each year at the call of the Chairman. Each meeting of the Council shall be open to the public. The Council shall provide prior public notice in the Federal Register of each meeting of the Council, including the matters to be addressed at such meeting.

(2) Quorum.—A majority of the Council or any committee of the Council shall constitute a quorum of the Council or of such committee, respectively, for the conduct of business. A lesser number may meet to hold hearings, take testimony, or conduct any business not requiring a vote.

(e) Rules, Procedures, and Standards.—The Council shall make available for public inspection and copying at the Council office within the FBI, and shall publish in the Federal Register, any rules, procedures, or standards established by the Council.

(f) Assistance From FBI.—The Council may request from the FBI such reports, studies, statistics, or other information or materials as the Council determines to be necessary to enable the Council to perform its duties under this Compact. The FBI, to the extent authorized by law, may provide such assistance or information upon such a request.

(g) Committees.—The Chairman may establish committees as necessary to carry out this Compact and may prescribe their membership, responsibilities, and duration.

ARTICLE VII—RATIFICATION OF COMPACT

This Compact shall take effect upon being entered into by 2 or more States as between those States and the Federal Government. Upon subsequent entering into this Compact by additional States, it shall become effective among those States and the Federal Government and each Party State that has previously ratified it. When ratified, this Compact shall have the full force and effect of law within the ratifying jurisdictions. The form of ratification shall be in accordance with the laws of the executing State.

ARTICLE VIII—MISCELLANEOUS PROVISIONS

(a) Relation of Compact to Certain FBI Activities.—Administration of this Compact shall not interfere with the management and control of the Director of the FBI over the FBI's collection and dissemination of criminal history records and the advisory function of the FBI's advisory policy board chartered under the Federal Advisory Committee Act (5 U.S.C. App.) for all purposes other than noncriminal justice.

(b) No Authority for Nonappropriated Expenditures.—Nothing in this Compact shall require the FBI to obligate or expend funds beyond those appropriated to the FBI.

(c) Relating to Public Law 92–544.—Nothing in this Compact shall diminish or lessen the obligations, responsibilities, and authorities of any State, whether a Party State or a Nonparty State, or of any criminal history record repository or other subdivision or component thereof, under the Departments of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriation Act, 1973 (Public Law 92–544), or regulations and guidelines promulgated thereunder, including the rules and procedures promulgated by the Council under Article VI(a), regarding the use and dissemination of criminal history records and information.

ARTICLE IX—RENUNCIATION

(a) In General.—This Compact shall bind each Party State until renounced by the Party State.

(b) Effect.—Any renunciation of this Compact by a Party State shall—

(1) be effected in the same manner by which the Party State ratified this Compact; and

(2) become effective 180 days after written notice of renunciation is provided by the Party State to each other Party State and to the Federal Government.

ARTICLE X—SEVERABILITY

The provisions of this Compact shall be severable, and if any phrase, clause, sentence, or provision of this Compact is declared to be contrary to the constitution of any participating State, or to the Constitution of the United States, or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this Compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If a portion of this Compact is held contrary to the constitution of any Party State, all other portions of this Compact shall remain in full force and effect as to the remaining Party States and in full force and effect as to the Party State affected, as to all other provisions.

ARTICLE XI—ADJUDICATION OF DISPUTES

(a) In General.—The Council shall—

(1) have initial authority to make determinations with respect to any dispute regarding—

(A) interpretation of this Compact;

(B) any rule or standard established by the Council pursuant to Article V; and

(C) any dispute or controversy between any parties to this Compact; and

(2) hold a hearing concerning any dispute described in paragraph (1) at a regularly scheduled meeting of the Council and only render a decision based upon a majority vote of the members of the Council. Such decision shall be published pursuant to the requirements of Article VI(e).

(b) Duties of FBI.—The FBI shall exercise immediate and necessary action to preserve the integrity of the III System, maintain system policy and standards, protect the accuracy and privacy of records, and to prevent abuses, until the Council holds a hearing on such matters.

(c) Right of Appeal.—The FBI or a Party State may appeal any decision of the Council to the Attorney General, and thereafter may file suit in the appropriate district court of the United States, which shall have original jurisdiction of all cases or controversies arising under this Compact. Any suit arising under this Compact and initiated in a State court shall be removed to the appropriate district court of the United States in the manner provided by section 1446 of title 28, United States Code, or other statutory authority.

Subtitle B—Volunteers for Children Act

SEC. 221. SHORT TITLE.

This subtitle may be cited as the "Volunteers for Children Act".

SEC. 222. FACILITATION OF FINGERPRINT CHECKS.

(a) State Agency.—Section 3(a) of the National Child Protection Act of 1993 (42 U.S.C. 5119a(a)) is amended by adding at the end the following:

"(3) In the absence of State procedures referred to in paragraph (1), a qualified entity designated under paragraph (1) may contact an authorized agency of the State to request national criminal fingerprint background checks. Qualified entities requesting background checks under this paragraph shall comply with the guidelines set forth in subsection (b) and with procedures for requesting national criminal fingerprint background checks, if any, established by the State.".

(b) Federal Law.—Section 3(b)(5) of the National Child Protection Act of 1993 (42 U.S.C. 5119a(b)(5)) is amended by inserting before the period at the end the following: ", except that this paragraph does not apply to any request by a qualified entity for a national criminal fingerprint background check pursuant to subsection (a)(3)".

(c) Authorization.—Section 4(b)(2) of the National Child Protection Act of 1993 (42 U.S.C. 5119b(b)(2)) is amended by striking "1994, 1995, 1996, and 1997" and inserting "1999, 2000, 2001, and 2002".

CRIME VICTIMS WITH DISABILITIES AWARENESS ACT

Mr. ALLARD. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar No. 438, S. 1976.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 1976) to increase public awareness of the plight of victims of crime with developmental disabilities, to collect data to measure the magnitude of the problem, and to develop strategies to address the safety and justice needs of victims of crime with developmental disabilities.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on the Judiciary, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Crime Victims With Disabilities Awareness Act".

SEC. 2. FINDINGS; PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) although research conducted abroad demonstrates that individuals with developmental disabilities are at a 4 to 10 times higher risk of becoming crime victims than those without disabilities, there have been no significant studies on this subject conducted in the United States;

(2) in fact, the National Crime Victim's Survey, conducted annually by the Bureau of Justice Statistics of the Department of Justice, does not specifically collect data relating to crimes against individuals with developmental disabilities;

(3) studies in Canada, Australia, and Great Britain consistently show that victims with developmental disabilities suffer repeated victimization because so few of the crimes against them are reported, and even when they are, there is sometimes a reluctance by police, prosecutors, and judges to rely on the testimony of a disabled individual, making individuals with developmental disabilities a target for criminal predators;

(4) research in the United States needs to be done to—

(A) understand the nature and extent of crimes against individuals with developmental disabilities;

(B) describe the manner in which the justice system responds to crimes against individuals with developmental disabilities; and

(C) identify programs, policies, or laws that hold promises for making the justice system more responsive to crimes against individuals with developmental disabilities; and

(5) the National Academy of Science Committee on Law and Justice of the National Research Council is a premier research institution with unique experience in developing seminal, multidisciplinary studies to establish a strong research base from which to make public policy.

(b) PURPOSES.—The purposes of this Act are—

(1) to increase public awareness of the plight of victims of crime who are individuals with developmental disabilities;

(2) to collect data to measure the extent of the problem of crimes against individuals with developmental disabilities; and

(3) to develop a basis to find new strategies to address the safety and justice needs of victims of crime who are individuals with developmental disabilities.

SEC. 3. DEFINITION OF DEVELOPMENTAL DISABILITY.

In this Act, the term "developmental disability" has the meaning given the term in section 102 of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001).

SEC. 4. STUDY.

(a) IN GENERAL.—The Attorney General shall conduct a study to increase knowledge and information about crimes against individuals with developmental disabilities that will be useful in developing new strategies to reduce the incidence of crimes against those individuals.

(b) ISSUES ADDRESSED.—The study conducted under this section shall address such issues as—

(1) the nature and extent of crimes against individuals with developmental disabilities;

(2) the risk factors associated with victimization of individuals with developmental disabilities;

(3) the manner in which the justice system responds to crimes against individuals with developmental disabilities; and

(4) the means by which States may establish and maintain a centralized computer database on the incidence of crimes against individuals with disabilities within a State.

(c) NATIONAL ACADEMY OF SCIENCES.—In carrying out this section, the Attorney General shall consider contracting with the Committee on Law and Justice of the National Research Council of the National Academy of Sciences to provide research for the study conducted under this section.

(d) REPORT.—Not later than 18 months after the date of enactment of this Act, the Attorney General shall submit to the Committees on the Judiciary of the Senate and the House of Representatives a report describing the results of the study conducted under this section.

SEC. 5. NATIONAL CRIME VICTIM'S SURVEY.

Not later than 2 years after the date of enactment of this Act, as part of each National Crime Victim's Survey, the Attorney General shall include statistics relating to—

(1) the nature of crimes against individuals with developmental disabilities; and

(2) the specific characteristics of the victims of those crimes.

Mr. LEAHY. Mr. President, I was delighted to join with Senator DEWINE during National Crime Victims Rights Week in April to introduce S. 1976, the Crime Victims with Disabilities Awareness Act. I was glad to welcome Senator KENNEDY, Senator HATCH, Senator KOHL, Senator FEINSTEIN, and Senator ABRAHAM as cosponsors.

I have been overwhelmed by the positive response and broad support that our bill has received. I have, and will include in the record, a letter of support signed by over 50 groups, including the National Association of Developmental Disabilities Council's the National Alliance for the Mentally Ill, the National Association of State Directors of Special Education, the National Center of Hearing Disabilities, the American Association of Health and Disability, and many, many others.

In order to move this bill through the Judiciary Committee, Senator DEWINE and I are agreeing to a substitute amendment to the Crime Victims With Disabilities Awareness Act. The substitute eliminates the specific authorization for the research funding and would, instead, leave it up to the Department of Justice to allocate money for this research. Although I preferred our original bill and regret having to eliminate the specific authorization that was at the heart of our original proposal, I was prepared to accept the amendment in order to achieve progress on this important front in our efforts better to assist and serve victims of crime.

The bill being considered by the Senate would have the Department of Justice conduct research which will increase public awareness of the victimization of individual with developmental disabilities, understanding of the nature and extent of such crimes, and examine the means by which States may establish and maintain a database on the incident of crime against individuals with disabilities.

The need for this research is abundantly clear. Studies conducted abroad have found that individuals with disabilities are four to 10 times more likely to be a victim than individuals without disabilities. One Canadian study found that 67 percent of women with disabilities were physically or sexually assaulted as children.

This bill also directs the Attorney General to utilize statistics gathered from studies by the Department for inclusion in the National Crime Victims Survey.

I said in April that it is important that we focus attention on the needs and rights of crime victims not only during National Crime Victims Rights Week, but throughout the year. For the past several years, I have worked hard with others to make improvements in the law and provide greater assistance to victims of crime.

My involvement with crime victims rights began more than three decades ago when I served as State's Attorney for Chittenden County, Vermont, and witnessed first-hand the devastation of crime. I have worked ever since to ensure that the criminal justice system is one that respects the rights and dignity of victims of crime and domestic violence, rather than presents additional ordeals for those already victimized.

Over the last 20 years we have made strides in recognizing crime victims' rights and providing much needed assistance. I am proud to have played a role in passage of the Victims and Witnesses Protection Act of 1983, the Victims of Crime Act of 1984, and the Victims' Rights and Restitution Act of 1990 and the other improvements we have been able to make.

In the Violent Crime Control Act of 1994, Congress acted to ensure a right of allocution of victims of crimes of violence or sexual abuse and to make tens of millions of dollars available to crime victims. No amount of money can make up for the harm and trauma of being the victim of crime, but we should do all that we can to see that victims are assisted, compensated and treated with dignity by the criminal justice system.

I was the author of the Victims of Terrorism Act that passed the Senate the wake of the Oklahoma City bombing and became the basis for the Justice for Victims of Terrorism Act signed into law in April 1996. We are able to make funds available through supplemental grants to the States to assist and compensate victims of terrorism and mass violence, which incidents might otherwise have overwhelmed the resources of Oklahoma's crime victims compensation program or its victims assistance services.

We also filled a gap in our law for residents of the United States who are victims of terrorism and mass violence that occur outside the borders of the United States. In addition, we allowed greater flexibility to our State and local victims' assistance programs and some greater certainly so that they can know that our commitments to victims programming will not wax and wane with events. And we were able to raise the assessments on those convicted of federal crimes in order to fund the needs of crime victims.

Last year, I cosponsored the Victim Rights Clarification Act of 1997. That legislation reversed a presumption against crime victims observing the fact phase of a trial if they were likely to provide testimony during the sentencing phase of that trial. As a result of that legislation, not only were victims of the Oklahoma City bombing able to observe the trial of Timothy McVeigh, all those who were able to witness the trial and were called as witnesses to provide victim impact testimony at the sentencing phase of that trial, were able to do so.

The Crime Victims Assistance Act, S. 1081, is legislation that I introduced this past July with Senator KENNEDY. It builds upon the progress made over the last several years. It provides for a wholesale reform of the Federal Rules and Federal law to establish additional rights and protections for victims of federal crime.

This bill would provide crime victims with an enhanced right to be heard on the issue of pretrial detention and plea bargains, an enhanced right to a speedy trial and to be present in the courtroom throughout a trial, an enhanced right to be heard on probation revocation and to give a statement at sentencing, and the right to be notified of a defendant's escape or release from prison.

The Crime Victims Assistance Act would also strengthen victims' services by increasing Federal victim assistance personnel, enhancing training for State and local law enforcement and Officers of the Court, and establishing an ombudsman program for crime victims.

With a simple majority of both Houses of Congress, the Crime Victims Assistance Act could be enacted this year and we could mark a significant and immediate difference in the lives of victims throughout our country. I hope that the Senate will turn to this important measure, as well, in our efforts to assist victims of crime.

One unfortunate consequence of the effort to focus attention on proposals to amend the Constitution has been to dissipate efforts to enact effective victims rights legislation over the past two years. The momentum we had built over the last several years has been dissipated by this constitutional focus and exclusion of statutory reform.

While we have made great improvements in our law enforcement and crime victims assistance programs and have made advances in recognizing crime victims' rights, we still have work to do. Each year I try to help focus attention on those who work so hard every week of the year on behalf of all crime victims in crime victims' assistance and compensation programs. Their hard work and dedication have made a real difference in the lives of people who suffer from violence and abuse.

The needs of victims of crime are many and must be addressed in a number of ways, including strengthening law enforcement and education, improving and increasing services for victims, and protecting the rights of victims. I am hopeful that in the days to come, the research directed by the Crime Victims with Disabilities Awareness Act will serve as the foundation for the growth and improvement of services available to victims with disabilities throughout our country.

Mr. ALLARD. Mr. President, I ask unanimous consent that the committee substitute be agreed to, the bill be considered read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill appear in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendment in the nature of a substitute was agreed to.

The bill (S. 1976), as amended, was considered read the third time and passed.

Mr. DEWINE. Mr. President, I rise today to compliment my colleagues for the unanimous passage of the Crime Victims with Disabilities Awareness Act of 1998. When I introduced this legislation, S. 1976, I wanted to increase public awareness of the plight of crime victims with disabilities—by developing a research and statistical basis from which to understand the nature and extent of crimes against people with developmental disabilities.

Gauging from the favorable response of my colleagues, the press, and people in the disability community itself, public awareness of the crime victims with developmental disabilities has increased by the very introduction of this legislation. But we recognize that this is only the tip of the iceberg—the larger problem is crimes against people with many other kinds of disabilities as well.

Passage of this legislation comes not a moment too soon. It is time that we began a new, hopeful chapter in the lives of the many disabled individuals who live quietly in fear of crime and violence.

There are too many victims who cannot communicate what has happened to them—who find it more difficult than most crime victims to seek comfort, counseling, reassurance, and protection. These victims must relive the violence for the rest of their lives.

Today, as a governing body, the United States Senate has spoken collectively on this increasing challenge. We know that for a number of reasons, more people are being born developmentally disabled. Among the factors are poor prenatal nutrition, increases in child abuse, and substance abuse issues, including fetal alcohol syndrome.

It is my hope that the Department of Justice will engage the Committee on Law and Justice of the National Research Council to produce seminal, multi-disciplinary research that will encourage further academic research in this area, and develop useful new strategies to reduce the incidence of crimes against the disabled. America should not have to rely upon foreign countries to infer research and statistics about our own citizens.

Passage of this legislation is an important recognition of the severity of the impact crime has on these people's lives. It is an attempt to speak for those who cannot speak for themselves. We will not let the disabled suffer alone and in silence any longer. As a country we must understand them, learn to communicate with them, and reassure them.

This is a very important step forward for American society.

I thank my colleagues, and I yield the floor.

ORDERS FOR TUESDAY, JULY 14, 1998

Mr. ALLARD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stands in adjournment until 9:30 a.m. on Tuesday, July 14. I further ask that when the Senate reconvenes on Tuesday, immediately following the prayer, the routine requests through the morning hour be granted.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ALLARD. I further ask consent that the Senate stand in recess from 12:30 until 2:15 p.m., to allow the weekly party caucuses to meet.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ALLARD. For the information of all Senators, on Tuesday morning, under a previous order, the Senate will debate the motion to waive the Budget Act with respect to the Daschle amendment, with a vote occurring on the motion at 10 a.m. Following that vote, the Senate will continue consideration of the agriculture appropriations bill with the hope of finishing the bill by early evening.

For the remainder of the week, it is hoped that the Senate will complete several more appropriations bills. Members are reminded that the Leader Lecture Series, hosted by the majority leader, will be held tomorrow night at 6 p.m. in the old Senate Chamber. The Speaker will be former Senate Majority Leader Howard Baker.

Also, on Wednesday morning at 10 a.m. there will be a joint meeting of Congress in the House Chamber to receive an address by the President of Romania.

ORDER FOR ADJOURNMENT

Mr. ALLARD. If there is no further business to come before the Senate, I now ask the Senate stand in adjournment under the previous order, following the remarks of the Senator from New Jersey, Senator LAUTENBERG.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ALLARD. I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

TOBACCO AMENDMENT NOT SUBJECT TO A POINT OF ORDER

Mr. LAUTENBERG. Mr. President, it has been inquired all around the country, by many people, as to whether or not the tobacco industry won its fight here in the Capitol. Did they bowl us over? Did they get the Congress to knuckle under? Are they so powerful that, over the will of the American people, the tobacco industry prevailed?

And we say no. There is an amendment that has been offered by the Democratic leader, Senator DASCHLE, that would give us a chance in the Senate to choose between the tobacco industry, the tobacco lobby, their friends, and our Nation's children.

This amendment would put a real dent in a public health catastrophe that has touched nearly every American family. There are few of us who have not heard about the ravages of tobacco on a friend or relative, or seen people we know weakened from respiratory conditions caused by the use of tobacco—smoking, and how it changed the structure of their lives, how they are unable to do the things that they used to do: participate in sports, play actively with their children or their grandchildren—or how they suffered premature death.

Too often, on the Senate floor, we have heard opponents of the tobacco bill parrot the propaganda of the tobacco industry. I would like to take a moment to review the real issues in this debate.

The tobacco industry still lives in a privileged regulatory environment set up by its backers throughout decades. We have now learned something about what they discussed in the privacy of their boardrooms, in the privacy of their records, in the privacy of their marketing schemes, knowing full well that if they manipulated their product, if they introduced more nicotine, if they changed the advertising, that they could capture the market replacements that they needed to maintain their profits and their revenues. They knew if they tweaked their ads in a certain way, they could get young people to pick up smoking. Joe Camel became better known, it was said, than Mickey Mouse.

The reason the industry targets our children and engages in other corporate misbehavior is that, aside from the courts, the industry does not face any real oversight of their actions, despite their devious actions to fool the public. The tobacco amendment that we have before us would put oversight in place. That is the primary reason that the industry's friends killed the bill last month. They killed it because they didn't want to have their market opportunities reduced. They didn't want to let the children, the young people in our society, get by, live normal lives, without their life expectancies being impaired. They didn't want to protect the families and the well-being of our citizens, because it meant cash to these folks. It meant that their market might shrink a little bit, that their stock prices might go down, that their salaries might be decreased. They didn't care about the damage they wrought—not at all. We see it in testimony, some of which was given under oath, which has some questions surrounding it.

This amendment would establish unfettered FDA jurisdiction over tobacco products, so people would know what is there, so people would know that smoking can really do a job on you. I know many people have talked about the importance of FDA jurisdiction, but I want to describe what it really means. It means that the Federal Drug Administration has the capacity to enforce their anti-teen-smoking efforts. It means that they will have clear statutory authority to enact the appropriate constitutional advertising restrictions to protect children.

FDA authority also means that smokers will know what chemicals and additives are put into the cigarettes they smoke. We did some research in my office on this subject and found out there are some 500 ingredients that are in a pack of cigarettes and some of these things are really toxic. We restrict their use in normal functioning in our society because we know how dangerous they are. When our constituents enter their local grocery or drug stores, cigarettes and other tobacco products are the only products meant for human consumption that do not disclose their ingredients. We ask it of food products. We are getting stricter all the time about what you have to worry about with meat and how you have to cook it and treat it. So, too, with vegetables. We see advertisements: "Organically grown." But when it comes to tobacco, they put up, to use the expression, a pretty heavy smokescreen.

Last year I introduced a bill to inform consumers about the ingredients and chemicals in tobacco products. Although we know that most smokers are aware that cigarettes are "bad for you," I don't think the vast majority of smokers, or citizens, realize that there is arsenic and benzene and lead in the smoke they consume. These are things we prohibit. We prohibit the use of lead in paint today. We prohibit the use of benzene in products where it used to be routine. And arsenic—everybody knows that arsenic is a poison. Not only will the FDA require, under this amendment, the tobacco companies to disclose the presence of these chemicals, but it will also make sure the tobacco industry takes appropriate steps to decrease these poisons in their products.

For years, the tobacco companies hid health secrets and secretly manipulated the ads as to the nature of their products. Under strong FDA jurisdiction, the tobacco industry will have to play by the rules. And, like other industries that produce drugs, they are going to be subject to the appropriate oversight to protect the consumers, to protect our citizens. It is long overdue.

One thing we have to remember in the argument with the tobacco companies, the arguments that we have with them, is that this is not just another business, this is a business whose products are going to kill you if you use them, and there is no denying that. This is a business that is designed to make an addict out of you—addicts, over 45 million in America today. If this business was conducted in a less auspicious place than a boardroom of a tobacco company, and if it was a group of individuals who said, "We have a way to weaken America and here is the plot: We can kill over 400,000 Americans every year, and no one is going to say anything to us. Further, we cannot only encourage people to use the product, but we can start with them when they are children."

Do you know what? They will be more addicted to this product than many of them are addicted to illegal drugs. If we do this, we can cost America $100 billion in lost productivity and in health care costs; we can attack the American Nation, killing 400,000 people in a year, more than eight times the number that we lost in Vietnam in all the years of that war, a period of time when almost all America went into mourning about the loss of these young lives, these brave people; 58,000 died there—and here we lose 400,000 people a year, more than all of the wars that this country fought in this century. In one year, we kill more Americans with tobacco than those lost in combat in the 20th century.

Mr. President, this amendment is going to require the tobacco products and advertisements to have large, clear warning labels that will send a strong message to kids about the real consequences of smoking. We are not just going to say "could be dangerous to your health." And we are not going to permit it to be in colorful ads to make the young people feel like this is the macho image, this is the cool image that they want to portray. These warning labels will not be hidden in small type on the side of a pack of cigarettes.

These labels will be prominently displayed in large type on each side of the pack of cigarettes.

They will contain simple, truthful messages about the dangers of the product: Cigarettes are addictive; cigarettes cause cancer; and smoking can kill you. All true. All to the point. These new warning labels will add a strong dose of truth to the industry's deceitful billboards and other ads. They are not going to continue to see the guy on horseback roping the cattle or the champion swimmer or the champion athlete. No, those are bogus claims. We don't believe those anymore. But the problem is there has been an impression created in the minds of America that goes back decades, and smoking appeared to be cool. Every movie actor and every movie actress not too many years ago would have a cigarette hanging out of their mouth.

When I was a soldier in the Army and I was in the war zone, they made sure we had in our rations little packs of cigarettes, little sleeves with three or four cigarettes, as I remember, in each of them, free, to make sure you felt good about what you were doing. At the same time, they were creating addictions that we now wrestle with in our veterans population.

What we want to see is the Surgeon General's warning clear and concise, clear and perceptible, instead of the industry lies like "Alive with Pleasure." We have seen that on billboards. It ought to read: "Dying with pain," "Dying too early," "Unable to compete," "Unable to function," "Unable to take care of your family," "Unable to stay with your children as they grow," because tobacco is dragging you down all the way.

This amendment will require a truthful health warning to be printed on 20 percent of the billboard service. See it: "Cigarettes kill"; "Dying with pain." That is the message that has to be out there, not this deceitful message that says, "You are going to feel good."

There was a time, I remember, when they used to say doctors smoke one brand more than any other, because it had the real taste, it was good, it made you feel good.

The tobacco industry and their friends don't want us to deliver this message to the public.

This amendment, Mr. President, contains strong look-back provisions that were improved by an amendment approved overwhelmingly by this body 66 votes to 29. I want to explain this look-back provision.

It says that if you haven't gained the objective—and that is to reduce the number of teenagers who are picking up smoking—you and your company are going to have to pay and pay substantially. It is going to put teeth in our effort to dramatically reduce teen smoking.

The real experts on marketing cigarettes to children are the tobacco companies themselves. So let them work to reduce that number. They have done a masterful job, and now they have to undo it.

Mr. President, we know that the most efficient and effective way to dramatically reduce teen smoking is to raise the price, and this amendment will do that. A variety of factors contribute to a teenager's decision to try that first cigarette or to chew that first bit of spit tobacco. I know, because I smoked for 25 years. I took up smoking when I was a teenager, and I sure reinforced the image when I served 3 years in the U.S. Army.

But we know that once you begin—tobacco companies know—most citizens don't realize that the first cigarette or the 15th or the 20th cigarette that you smoke is the reaction that says you are going to do this for the rest of your life whether you like it or not. How many people have we ever met in our lives—I know I have met, I will say, thousands who said to me, "Boy, I quit once for 3 months, but then something happened, and I started again." Or "I tried 100 times to stop smoking, and every time I have it licked, I come back to it."

We know that addiction is the tobacco industry's game. That is what they want to do: Get you addicted, and then the marketing is easy.

Mr. President, another issue I have long been involved with is secondhand smoke. As many of my colleagues know, I, with the help of then-Congressman DURBIN, now Senator DURBIN, authored the legislation that prohibited smoking on airplanes. It is now 11 years ago.

It was the first real dent in the tobacco industry lobbying armor, and it was the first step toward the eventual goal of an overall national standard on secondhand smoke. We know, and I see it all the time when I talk to people, if I tell them that I was the author of the smoking ban in airplanes, boy, they love it —"That is the greatest thing you have done." When I am searching for applause, speaking to an audience, I always tell them that and they all applause. These are people who remember how unpleasant it was to be in an airplane filled with tobacco smoke. The result is that secondhand smoke is very dangerous to the health and well-being of people.

A Harvard study said that there are 50,000 fatal heart attacks a year that result from secondhand smoke—fatal heart attacks, secondhand smoke, other people's smoke. This amendment makes serious headway in protecting the public from the dangers of secondhand smoke.

The tobacco industry has spent millions on propaganda and fake science reports to the contrary of the belief that breathing other people's smoke is not merely an inconvenience, it is a deadly poison.

Mr. President, although the disease caused by secondhand smoke often takes years to manifest itself in most adults, that is not the case for young children. Secondhand smoke creates immediate health risks for children. Exposure to smoking increases a child's risk for respiratory illnesses and infections, impaired development of their lungs and middle-ear infections. Further, about half of all the childhood cases of asthma, chronic bronchitis and wheezing are attributable to exposure to secondhand smoke.

It was really ironic when we were writing laws here that would prohibit smoking in places around the country, public buildings, et cetera, schools, places that children inhabit, and yet, smoking was allowed until very recently in the Capitol Buildings, on the Senate side absolutely.

I thought to myself, how can I ask my people to work in an environment where they have to breathe someone else's secondhand smoke and know that I am doing the right thing, when smoking was allowed in the halls in other areas. It used to bother me that a pregnant woman working in my office would have to walk through the halls, and it would be like walking through a smoker's lounge.

I know that she did not want to do it. And I did not want her to have to do it.

So we have a chance, Mr. President, to say to the tobacco industry, "Listen, lay off our kids. Stop it. We want you to be as concerned about this as the public health community is." I hope that my colleagues will support this, the Daschle amendment, to provide our children with a fighting chance against the seductions offered by the tobacco industry.

Its time will come. The game isn't over. What happens when the game is delayed in sports is, there is always a penalty that gets offered. That is the same thing that is going to happen here.

Mr. President, with that, I yield the floor.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands in adjournment until 9:30 a.m. tomorrow.

Thereupon, the Senate, at 7:30 p.m., adjourned until Tuesday, July 14, 1998, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate July 13, 1998:

DEPARTMENT OF STATE

CHRISTOPHER W. S. ROSS, OF CALIFORNIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF

CAREER MINISTER, FOR THE RANK OF AMBASSADOR DURING HIS TENURE OF SERVICE AS COORDINATOR FOR COUNTERTERRORISM.

FEDERAL ELECTION COMMISSION

KARL J. SANDSTROM, OF WASHINGTON, TO BE A MEMBER OF THE FEDERAL ELECTION COMMISSION FOR A TERM EXPIRING APRIL 30, 2001, VICE JOHN WARREN MCGARRY, TERM EXPIRED.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

LT. GEN. PHILLIP J. FORD, 8359.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. RONALD C. MARCOTTE, 7848.

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be general

LT. GEN. THOMAS A. SCHWARTZ, 0711.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624(C):

To be brigadier general, Judge Advocate General's Corps

COL. THOMAS J. ROMIG, 9070.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS CHIEF, NATIONAL GUARD BUREAU, AND FOR APPOINTMENT TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 10502:

To be lieutenant general, National Guard Bureau

EXTENSIONS OF REMARKS

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, July 14, 1998, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JULY 15

9:00 a.m.

Environment and Public Works

To hold hearings on the nomination of Nikki Rush Tinsley, of Maryland, to be Inspector General, Environmental Protection Agency.

SD–406

Judiciary

To continue oversight hearings to examine activities of the Department of Justice.

SD–226

9:30 a.m.

Energy and Natural Resources

To continue hearings on H.R. 856, to provide a process leading to full self-government for Puerto Rico, and S. 472, to provide for referenda in which the residents of Puerto Rico may express democratically their preferences regarding the political status of the territory.

SH–216

Indian Affairs

Business meeting, to mark up S. 1905, to provide for equitable compensation for the Cheyenne River Sioux Tribe, H.R. 700, to remove the restriction on the distribution of certain revenues from the Mineral Springs parcel to certain members of the Agua Caliente Band of Cahuilla Indians, S. 391, to provide for the disposition of certain funds appropriated to pay judgment in favor of the Mississippi Sioux Indians, and to resume consideration of S. 109, to provide Federal housing assistance to Native Hawaiians; to be followed by a hearing on S. 2097, to encourage and facilitate the resolution of conflicts involving Indian tribes.

SD–G50

9:45 a.m.

Small Business

To hold hearings to examine the impact of new home health care regulations on small business agencies.

SR–428A

10:00 a.m.

Banking, Housing, and Urban Affairs

To hold oversight hearings on the practice of automated teller machine (ATM) surcharging.

SD–538

10:30 a.m.

Governmental Affairs

Business meeting, to consider pending calendar business.

SD–342

1:30 p.m.

Special on Aging

To hold hearings to examine how an increase in the retirement age will affect the solvency of the Social Security system, the impact on workers, and how employers may adjust to an increase in the number of older workers.

SD–628

2:00 p.m.

Commerce, Science, and Transportation

To hold hearings on S. 2107, to enhance electronic commerce by providing the reliability and integrity of commercial transactions through establishing authentication standards for electronic communications.

SR–253

Foreign Relations

European Affairs Subcommittee

To hold hearings to examine United States policy toward Estonia, Latvia, and Lithuania.

SD–419

2:30 p.m.

Select on Intelligence

To resume hearings on the investigation of the impacts to United States national security from advanced satellite technology exports to China and Chinese efforts to influence United States policy.

SH–216

JULY 16

9:30 a.m.

Armed Services

To resume hearings on the nomination of Daryl L. Jones, of Florida, to be Secretary of the Air Force.

SH–216

Commerce, Science, and Transportation

To hold hearings to examine the General Accounting Office's investigation of the Universal Service, Schools and Libraries program.

SR–253

Judiciary

Business meeting, to consider pending calendar business.

SD–226

10:00 a.m.

Foreign Relations

To hold hearings on the nominations of Hugh Q. Parmer, of Texas, to be an Asssistant Administrator of the Agency for International Development, and Mary Beth West, of the District of Columbia, for the rank of Ambassador during her tenure of service as Deputy Assistant Secretary of State for Oceans and Space.

SD–419

2:00 p.m.

Energy and Natural Resources

National Parks, Historic Preservation, and Recreation Subcommittee

To hold hearings on S. 155, to redesignate General Grant National Memorial as Grant's Tomb National Monument, S. 1408, to establish the Lower East Side Tenement National Historic Site, S. 1718, to amend the Weir Farm National Historic Site Establishment Act of 1990 to authorize the acquisition of additional acreage for the historic site to permit the development of visitor and administrative facilities and to authorize appropriation of additional amounts for the acquisition of real and personal property, and S. 1990, to authorize expansion of Fort Davis National Historic Site in Fort Davis, Texas.

SD–366

Foreign Relations

To hold hearings on the nominations of John Bruce Craig, of Pennsylvania, to be Ambassador to the Sultanate of Oman, Theodore H. Kattouf, of Maryland, to be Ambassador to the United Arab Emirates, Elizabeth Davenport McKune, of Virginia, to be Ambassador to the State of Qatar, and David Michael Satterfield, of Virginia, to be Ambassador to the Republic of Lebanon.

SD–419

Judiciary

To hold hearings on pending nominations.

SD–226

4:00 p.m.

Foreign Relations

To hold hearings on the nominations of James Howard Holmes, of Virginia, to be Ambassador to the Republic of Latvia, Steven Robert Mann, of Pennsylvania, to be Ambassador to the Republic of Turkmenistan, Richard Nelson Swett, of New Hampshire, to be Ambassador to Denmark, and Melissa Foelsch Wells, of Connecticut, to be Ambassador to the Republic of Estonia.

SD–419

JULY 17

10:30 a.m.

Banking, Housing, and Urban Affairs

Financial Institutions and Regulatory Relief Subcommittee

Housing Opportunity and Community Development Subcommittee

To hold joint hearings to review a report on the Real Estate Settlements Procedure Act and the Truth in Lending Act from the Department of Housing and Urban Development and the Federal Reserve.

SD–106

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

JULY 21

10:00 a.m.
Judiciary
To hold oversight hearings to examine the Department of Justice's implementation of the Violence Against Women Act.
SD-226

Labor and Human Resources
To hold hearings on S.766, to require equitable coverage of prescription contraceptive drugs and devices, and contraceptive services under health plans.
SD-430

2:30 p.m.
Energy and Natural Resources
Forests and Public Land Management Subcommittee
To hold hearings on S. 1964, to provide for the sale of certain public land in the Ivanpah Valley, Nevada, to the Clark County Department of Aviation, and S. 1509, to authorize the Bureau of Land Management to use vegetation sales contracts in managing land at Fort Stanton and certain nearby acquired land along the Rio Bonita in Lincoln County, New Mexico.
SD-366

JULY 22

9:00 a.m.
Agriculture, Nutrition, and Forestry
To hold hearings to examine how the Year 2000 computer conversion will affect agricultural businesses.
SR-332

9:30 a.m.
Labor and Human Resources
Business meeting, to mark up S. 1380, to amend the Elementary and Secondary Education Act of 1965 regarding charter schools.
SD-430

Indian Affairs
To hold joint hearings with the House Resources Committee on S. 1770, to elevate the position of Director of the Indian Health Service to Assistant Secretary of Health and Human Services, and to provide for the organizational independence of the Indian Health Service within the Department of Health and Human Services, and H.R. 3782, to compensate certain Indian tribes for known errors in their tribal trust fund accounts, and to establish a process for settling other disputes regarding tribal trust fund accounts.
SD-106

2:00 p.m.
Energy and Natural Resources
Forests and Public Land Management Subcommittee
To hold hearings on S. 2136, to provide for the exchange of certain land in the State of Washington, S. 2226, to amend the Idaho Admission Act regarding the sale or lease of school land, H.R. 2886, to provide for a demonstration project in the Stanislaus National Forest, California, under which a private contractor will perform multiple resource management activities for that unit of the National Forest System, and H.R. 3796, to convey the administrative site for the Rogue River National Forest and use the proceeds for the construction or improvement of offices and support buildings for the Rogue River National Forest and the Bureau of Land Management.
SD-366

JULY 23

9:30 a.m.
Special on Special Committee on the Year 2000 Technology Problem
To hold hearings to examine the Year 2000 computer conversion as related to the health care industry.
SD-192

2:00 p.m.
Energy and Natural Resources
National Parks, Historic Preservation, and Recreation Subcommittee
To hold hearings on S. 2109, to provide for an exchange of lands located near Gustavus, Alaska, S. 2257, to reauthorize the National Historic Preservation Act, S. 2276, to amend the National Trails System Act to designate El Camino Real de los Tejas as a National Historic Trail, S. 2272, to amend the boundaries of Grant-Kohrs Ranch National Historic Site in the State of Montana, S. 2284, to establish the Minuteman Missile National Historic Site in the State of South Dakota, and H.R. 1522, to extend the authorization for the National Historic Preservation Fund.
SD-366

3:00 p.m.
Armed Services
To hold hearings on the nominations of Patrick T. Henry, of Virginia, to be Assistant Secretary of the Army for Manpower and Reserve Affairs, Carolyn H. Becraft, of Virginia, to be Assistant Secretary of the Navy for Manpower and Reserve Affairs, and Ruby Butler DeMesme, of Virginia, to be Assistant Secretary of the Air Force for Manpower, Reserve Affairs, Installations and Environment.
SR-222

JULY 27

1:00 p.m.
Special on Aging
To hold hearings to examine allegations of neglect in certain California nursing homes and the overall infrastructure that regulates these homes.
SH-216

JULY 28

9:30 a.m.
Commerce, Science, and Transportation
To hold hearings to examine why cable rates continue to increase.
SR-253

Energy and Natural Resources
To hold hearings to examine the March 31, 1998 Government Accounting Office report on the Forest Service, focusing on Alaska region operating costs.
SD-366

10:00 a.m.
Special on Aging
To continue hearings to examine allegations of neglect in certain California nursing homes and the overall infrastructure that regulates these homes.
SH-216

JULY 29

9:00 a.m.
Agriculture, Nutrition, and Forestry
To hold oversight hearings on the Department of Agriculture's progress in consolidating and downsizing its opearations.
SR-332

10:00 a.m.
Banking, Housing, and Urban Affairs
Business meeting, to mark up S. 1405, to provide for improved monetary policy and regulatory reform in financial institution management and activities, to streamline financial regulatory agency actions, and to provide for improved consumer credit disclosure.
SD-538

JULY 30

9:00 a.m.
Agriculture, Nutrition, and Forestry
To hold hearings to review a recent concept release by the Commodity Futures Trading Commission on over-the-counter derivatives, and on related proposals by the Treasury Department, the Board of Governors of the Federal Reserve System and the Securities and Exchange Commission.
SD-106

OCTOBER 6

9:30 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans Affairs on the legislative recommendations of the American Legion.
345 Cannon Building

POSTPONEMENTS

JULY 14

9:00 a.m.
Judiciary
To hold oversight hearings to examine activities of the Department of Justice, focusing on the Civil Rights Division.
SD-226

SENATE—*Tuesday, July 14, 1998*

The Senate met at 9:30 a.m. and was called to order by the President pro tempore (Mr. THURMOND).

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Father, You have created us to love and praise You. You desire an intimate, personal relationship with all of us. Praise surges from our hearts for what You are to us and thanksgiving for what You promise for us. We say with the psalmist, "I will praise You, O Lord, with my whole heart. I will tell of Your marvelous works. I will be glad and rejoice in You; I will sing praise to Your name."—(Psalm 9:1–2). When we are yielded to You, our faltering, fallible human nature is invaded by Your problem-solving, uplifting presence. We want to glory only in our knowledge of You and Your wisdom. We commit our minds, emotions, wills, and bodies so that we may be used by You. Fill us with Your supernatural power so that we may be equipped to face the ups and downs, the pleasures and pressures of this day. We will remember that whatever the circumstances, praise and thanksgiving will usher us into Your heart where alone we can find the guidance and grace we so urgently need. You have given the day; now show the way. Through our Lord and Saviour. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The able majority leader, Senator LOTT of Mississippi, is recognized.

Mr. LOTT. Thank you, Mr. President.

SCHEDULE

Mr. LOTT. Mr. President, this morning, under a previous order, the Senate will debate the motion to waive the Budget Act with respect to the Daschle amendment, with a vote occurring on the motion at 10 a.m.

Following that vote, the Senate will continue consideration of the very important agriculture appropriations bill, with the hope of finishing the bill as soon as possible this evening, or as early as possible this week. And I am very proud that my senior colleague from Mississippi, Senator COCHRAN, will be doing his usual very good job in handling this important bill. Therefore, Members should expect rollcall votes throughout today's session of the Senate, with the first vote at 10 a.m.

For the remainder of the week, it is hoped the Senate will complete several important appropriations bills—at least agriculture, HUD-VA, and legislative. That would be a very positive movement and would give us an opportunity to address other important issues.

Members are reminded that we have the second in the Leader Lecture series this evening. I will be honored to introduce our former majority leader, Senator Baker. That will be held tonight at 6 p.m. in the old Senate Chamber.

Also, on Wednesday morning at 10 o'clock, there will be a Joint Meeting of Congress in the House Chamber to receive an address from the President of Romania.

I urge my colleagues to come to our lecture series session this afternoon with Senator Baker. I know it will be interesting and, as usual, filled with good wit and good humor, and will be very informative about his views of the Senate and where we have been and where we are going. The next speaker in the leader series is scheduled to be Senator BYRD of West Virginia. I believe it is in September.

Mr. KENNEDY. Mr. President, I wonder if the leader would yield for a question.

Mr. LOTT. I will be glad to yield, Mr. President.

Mr. KENNEDY. I was listening to the leader's outline for the remainder of the week and the proposals, and I had not heard the scheduling of the Patients' Bill of Rights. I know that the leader talked with the Democratic leader. I was wondering if he could give us any further information about what the scheduling prospects would be for that very important piece of legislation, particularly since the HUD appropriations has that as an amendment on it. What could the leader tell us about the prospects of going to a debate on this legislation?

Mr. LOTT. I have been indicating all year that the Senate was going to take this issue up, and beginning June 18 I sent suggested unanimous consent agreements to Senator DASCHLE. He and I talked yesterday. We are working together on that issue. We fully expect that probably early next week we will turn to this issue. We have not worked out the exact time or the exact procedure. But we had a good discussion yesterday, and we will continue to have that discussion.

I would like for us to do it where we have the Patients' Bill of Rights as the issue that is pending, with Senator KENNEDY's bill as one of those, obviously, that would be offered, and the task force bill that has been put together by Senator NICKLES, and others, and not tie up appropriations bills. We have the people's work to do. The appropriations bills keep the Government running. They fund our farm programs, they fund our veterans programs, they fund our housing programs, they fund our parks and Interior, Commerce, State, and Justice. The Senator knows the list. So we need to go ahead with those appropriations bills, and then we will turn to the Patients' Bill of Rights in a reasonable period of time.

Mr. President, I ask unanimous consent that I may proceed with my leader time so that I can make a statement with regard to the committee hearings on the investigation with regard to the satellite exports to the People's Republic of China.

The PRESIDING OFFICER (Mr. ALLARD). Without objection, it is so ordered.

SATELLITE EXPORTS TO THE PEOPLE'S REPUBLIC OF CHINA

Mr. LOTT. Mr. President, I am going to provide an update on the investigations that have been proceeding by four of our committees into this U.S. policy toward satellite exports. We have not reached any final determinations. I want to emphasize that. The good counsel is that we have made some progress. We are learning some things, but there is a good deal more work that needs to be done. I believe the Intelligence Committee has an open hearing scheduled tomorrow. Senator COCHRAN's subcommittee has hearings scheduled I believe next week. So we will continue this. We are going to be thorough and we are going to be cautious. We should not jump to conclusions.

In this connection, I recently came across the following statement from 1989 concerning the Bush administration's decision to allow export licenses for three United States satellites: "Allowing these launches is not in the best interests of our country or of our relationship with China. It casts a long shadow that distorts beyond recognition what the United States ought to represent to our own people and to the people fighting for democracy in China." This statement was made by then-Senator AL GORE. He obviously has changed his position.

What we have to examine is whether the policy of allowing the export of U.S. satellites as implemented by the Clinton-Gore administration adequately protects American national interests.

Let me start with the bottom line. Senate investigations have only begun.

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Lack of cooperation from the administration has hampered our efforts. Thirteen hearings with 32 witnesses have been held by four committees. I have met with the committee chairmen and other members of our informal task force on China. At this point, five major interim judgments can be made based on what we already know.

First, the Clinton administration's export controls for satellites are wholly inadequate. They have not protected sensitive U.S. technology. National security concerns are regularly downplayed and even ignored.

Second, in violation of stated United States policy, sensitive technology related to satellite exports has been transferred to China. We know what the case is.

Third, China has received military benefit from United States satellite exports.

Every day, there continues to be additional information that comes out in this area.

In fact, in today's Washington Times, there is a news article that says "U.S. Technology Builds 'Bridge' for China Missile."

Fourth, the administration has ignored overwhelming information regarding Chinese proliferation, and has embarked on a de facto policy designed to protect China and U.S. satellite companies from sanctions under U.S. proliferation law. We have a statement from White House official to that effect.

Finally, new information has come to light about China's efforts to influence the American political process. This new information should remove all resistance to naming an independent counsel to investigate the evidence and the allegations.

The administration has failed to fully cooperate with the Senate investigation, even though they have indicated that they would, and there is still time for that. But on May 22, 1998, along committee chairmen of jurisdiction, I sent letters requesting administration documents from the White House, the Departments of State, Commerce, Defense, and the Arms Control and Disarmament Agency. On June 1, 1998, a letter was sent to the Department of Justice requesting documents. On June 2, 1998, a letter was sent requesting documents from the Customs Service. On June 12, 1998, Senators SHELBY and KERREY sent letters requesting information from eight Governmental agencies and the White House as part of the Select Committee on Intelligence investigation.

The letters I joined in sending requested documents in three areas: First, all issues associated with the export of satellites to China, including waivers of U.S. law governing such exports and the decision to transfer control of satellite exports from the Department of State to the Department of Commerce; second, issues associated with China's proposed membership in the Missile Technology Control Regime, MTCR; and third, information on Chinese proliferation activities which indicate possible violations of U.S. laws.

A significant amount of documents have been provided concerning some areas of satellite exports—particularly from the White House and particularly on the presidential waivers allowing satellite exports. But virtually no information has been provided concerning the transfer of export controls from State to Commerce—from the White House or any other agency. And virtually no information has been provided on Chinese membership in the MTCR, or on Chinese proliferation activities in violation of U.S. law.

A review of executive branch compliance with our document requests demonstrates how limited the cooperation really has been.

Until Friday of last week, the Department of Commerce only provided an initial limited set of documents. More has been promised, but the response has again glacial and incomplete. The documents they have provided contain redactions that limit their utility, quite frankly.

The Department of Justice has provided nothing to the Committee on Governmental Affairs, and has insisted on reviewing virtually all documents provided by any other Government agencies—significantly slowing down the process in this area.

The Department of State has provided also virtually nothing. Classified documents, according to a July 2, 1998, letter, would not be provided to the Congress. Instead, documents could be read only at the Department of State. Given that far more sensitive information is routinely provided for the use of the Senate in Senate spaces, this can only be seen as bureaucratic obstruction.

The White House has not responded to the Intelligence Committee. Neither has ACDA, Customs, or State. Defense and Commerce have only provided limited information.

The White House initially declassified some documents concerning waiver decisions in June, but has provided nothing since then.

The Department of Defense has provided only a very limited number of documents.

The Customs Service has provided nothing other than a June 23, 1998, letter stating that they would not meet our June 15, 1998, deadline, but we haven't gotten that information as of yet.

After a review of the Clinton administration's compliance with our requests for information, it is hard to escape the conclusion that delay has become the standard operating procedure. Once again, it is going to make it difficult for us to get the information we need so we can make a clear determination about the damage that has been done with this technology transfer. After an initial show of good faith by the administration, we have not had a lot more cooperation since then.

We will be forced to consider other measures to compel enforcement. I don't plan to move nominees of these non-cooperative agencies until our legitimate oversight requests are honored. We are actively examining the possibility of subpoena options. It is becoming increasingly difficult to continue with the very productive hearings that we have had without this cooperation.

Now, I would like to address the five points I raised earlier in some greater detail. Again, these are preliminary conclusions and we are seeking additional information.

First, the Clinton administration's export controls for satellites are simply inadequate. There has not been adequate protection of sensitive U.S. technology. National security concerns are regularly downplayed and even ignored. Hearings before several committees have detailed the shortcomings in the development and implementation of export controls of satellites.

For example, a senior official of the Defense Trade and Security Administration testified before the Committee on Governmental Affairs on June 25, 1998, that "over the past six years, the formal process to control dual-use items has failed in its stated mission—to safeguard the national security of the United States."

Transferring the control of satellite exports from the State Department to the Commerce Department in 1996 really resulted in dramatic changes. According to the General Accounting Office testimony before the Senate Select Committee on Intelligence on June 10, 1998, the transfer reduced the influence of the Defense Department. It eliminated Congressional notification. It exempted satellite exports from certain sanctions. Technical information is not as clearly controlled, leading to uncertainty on the part of aerospace companies and to more technology transfer than previously allowed.

Testimony on July 8, 1998, before the Governmental Affairs Subcommittee on International Security, has established that the Department of Defense monitors are not required to be present at satellite launches. This is directly contrary to previous administration claims. No statute, policy, or regulation requires U.S. Government monitors.

At least three U.S. satellites have been launched in China with no U.S. monitors present. No one in the U.S. Government knows what transpired at these launches or if U.S. laws and policies on technology transfer were followed. No one in our Government is even attempting to examine what occurred at these unmonitored satellite launches. Looking at these unmonitored launches, I think, would be a critical element of the next phase of our investigation.

Today's satellite export control system relies on the good will of the Commerce Department, a department which has repeatedly demonstrated its willingness to ignore national security concerns on satellite exports. This is an area where we need to take a close look at how we are going to proceed in the future and what is going to be expected of the Commerce Department.

For example, Commerce has unilaterally removed items subject to interagency license review without notice to other affected agencies. Commerce has also refused to send approved licenses to Defense so officials there can evaluate the final product. When it involves satellites and technology, clearly the Defense Department should be a part of this process.

Second, sensitive technology related to satellite exports has been transferred to China. In at least two cases, U.S. companies analyzed Chinese launch failures and communicated with Chinese officials. In 1995, Hughes analyzed the "APSTAR 2" launch failure. Commerce now concedes that this analysis should have been subject to State and Defense Department reviews before a Commerce official gave it to the Chinese. Commerce only provided the report, concluded in 1995, 2 hours before a Governmental Affairs Subcommittee on International Proliferation hearing on July 8 of this year.

The 1996 Loral launch failure is the subject of a Justice Department review for possible illegal transfer of technology. Compliance with the law is the province of the Justice Department. So we are looking into the impact on American national securities. It is very important that the Justice Department complete that work.

I agree with three assessments by three elements of the State and Defense Departments that China derived significant benefits from their technical exchanges with U.S. companies after the Long March crash in 1996, exchanges which are likely to lead to improvements in the reliability of their ballistic missile, and especially their guidance systems. So we have to be concerned very much about this transfer.

Third, China has received military benefit from U.S. satellite exports. There is a division within the executive branch agencies over how much China has benefited. But there seems to be agreement that certainly some benefit was derived.

The New York Times has reported that U.S. satellites are being used by the Chinese military for its internal coded communications. Administration officials concede that China is using American-made and exported satellites for their military communications. This is a clear and uncontested military benefit for China. The New York Times also reports that an additional satellite export that could enhance the Chinese military's ability to eavesdrop on phone conversations is under review by the Clinton administration.

The administration has ignored overwhelming information regarding Chinese proliferation and has embarked on what appears to be a de facto policy to protect China and U.S. satellite companies from sanctions under our U.S. proliferation law. For instance, on June 11, 1998, the Committee on Foreign Relations heard testimony from the former director of the Nonproliferation Center of the Central Intelligence Agency. The Clinton administration has used "almost any measure" to block intelligence judgments that China had transferred missiles to Pakistan—a clear violation of U.S. law that requires the imposition of sanctions. Intelligence analyses "were summarily dismissed by the policy community."

According to the testimony, the intelligence community is "virtually certain that this transfer had taken place . . ." I am convinced, after a personal investigation, that it did take place, and it was a very dangerous for Pakistan to be receiving these missiles. Why has that been the case, and why hasn't the administration been willing to take actions providing sanctions where clearly that information has been provided?

Finally, new information has come to light about China's efforts to influence the American political process. This new information should remove any doubt about the need for an independent counsel in this area.

It has already been reported that FBI Director Freeh has indicated his view that an independent counsel should be appointed. It is time to renew attention on the Attorney General. It is time for an outside, impartial investigation by an independent counsel into the serious and credible charges of direct Chinese Government financing or involvement in the 1996 elections. We have very good committees that are working together in a bipartisan way and looking into these very important questions. I urge them to continue to do so, and to do it in a calm and methodical way. It is essential that we get cooperation from the administration to provide the additional information that we requested, the additional evidence. And we will carry out our constitutional responsibilities. Nothing less should be expected of us.

In view of the inquiries we had about how these are proceeding, what information we have been getting, what is outstanding, and also what is our plan, as far as future hearings, I thought it was important that I give some review of what has transpired.

Mr. President, I yield the floor.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The Democratic leader is recognized.

Mr. DASCHLE. Mr. President, in light of the statements that have just been made and the time consumed by the majority leader, I ask unanimous consent that each side have 10 minutes to debate the pending amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DASCHLE. Mr. President, I will have the opportunity to discuss, in greater detail, the remarks just made by the distinguished majority leader. Let me just say that our interest, too, is to have a bipartisan review of the actions taken with regard to the technology transfer in China. But I do hope that it will be bipartisan. The majority leader gave what I would view to be a pretty partisan report this morning with regard to the allegations pending on this particular matter, and I will have a very thorough response to the majority leader at some point today. I do believe that the issue warrants our review. As he said, this is a constitutional responsibility, but it also warrants objectivity and very thoughtful and careful consideration of the facts. Many of the reports the distinguished majority leader cited were allegations that have yet to be proven, allegations reported—he mentioned the New York Times on a number of occasions—allegations reported, citing unidentified sources, and what I would consider to be very questionable sources with regard to the information reported in some cases. So we are going to have to be very careful about the distinction between allegation and fact, the distinction between what has actually occurred and what is reported or what is alleged to have occurred. So I hope that we can do that, as he noted, in a bipartisan way, thoroughly and very carefully examining the facts and coming to some conclusion prior to the time we issue any reports.

THE TOBACCO AMENDMENT

Mr. DASCHLE. Mr. President, in the next few minutes we will have an opportunity to revisit an issue that many of us hoped would not have been rejected last month. The amendment before us is the so-called McCain managers' amendment to the comprehensive tobacco bill reported by the Commerce Committee. The only significant change is the Lugar amendment to repeal the tobacco quota and price support programs is removed.

There were many complaints about how loaded up the tobacco bill had become. The amendment we are discussing this morning has none of the extra provisions dealing with taxes and drug abuse. Each day that we wait, 3,000 kids start to smoke; 1,000 of them will die prematurely of tobacco-related illnesses. Tobacco companies are targeting 12-, 13- and 14-year-old children as replacement smokers to fill the shoes of the 2 million smokers who quit or die each year. We have all heard the facts. Tobacco-related disease kills 400,000 Americans each year.

So today's tobacco amendment, the McCain managers' amendment, is simply designed to deter teen smoking without raising all of the other issues that surfaced during the debate. We had hoped very much that we could modify this amendment before its consideration today. Our Republican colleagues and the leader chose to oppose our unanimous consent request to change the amendment. We were going to modify the legislation to make it a straightforward authorization.

I will tell my colleagues that the modified amendment will be offered at a later date on another bill. We will be content to have the vote on the point of order on this amendment and then we will, as I have noted before, revisit this question on several occasions.

I am disappointed that our colleagues, for whatever reason, have chosen not to allow us to modify our amendment at this time. I hope no one will be misled. Their actions reflect their willingness to make difficult choices on tobacco legislation targeted at teenage smokers.

That is what this amendment is all about. So we will have an opportunity to vote on it. We can vote procedurally and we can obfuscate the question, but we will come back, and we will come back again and again over the course of the coming months, to offer legislation that will not be subject to any points of order. So we may be delaying that vote, but we will eventually have that vote.

I think it is critical that everyone recognize what a very important moment this is. The attorneys general are meeting as we speak. There is very likely to be an agreement dealing with past actions on the part of the tobacco industry. The question is, Can we deal with future ones, can we anticipate similar actions and establish public policy that will prevent the tobacco industry from targeting teenage smokers? That is, in essence, what we are attempting to do here with advertising restrictions, with research, with an array of disincentives to teenage smokers that otherwise will not be part of any agreement. It takes legislation.

So, Mr. President, this will be our opportunity to do that. I know there are other Senators who wish to speak, and I will yield the floor.

Mr. KENNEDY. Will the Senator yield?

Mr. DASCHLE. I would be happy to yield to the Senator from Massachusetts.

Mr. KENNEDY. There is a time-honored tradition here which has been violated, at least in my concern, where a person who offers the amendment usually is afforded the opportunity to modify it, and that was not afforded to our leader last evening.

Is it the Senator's understanding that even if we have an attorneys general agreement that basically deals retrospectively with what has been achieved in the past but will not provide the kind of preventive programs that are so important to discourage teenagers from smoking, it will not strengthen the Food and Drug Administration to be able to take effective action in terms of certain advertising programs for youth and will do very little in terms of discouraging children from purchasing cigarettes because of an increase in price? Is it the Senator's understanding that one of the reasons he continues to press this is because even if there is an attorneys general agreement, that it is retrospective rather than prospective?

Mr. DASCHLE. The Senator from Massachusetts says it very well. That is as succinct a description of the problem as I have heard. The attorneys general may help address past problems, the retrospective and very serious concerns that have been raised in court cases throughout the country. The problem, then, becomes, how do we avoid those problems in the future? And what every attorney general has said is the only way you can do that is to establish new public policy that strengthens regulatory controls on tobacco, ends advertisements that target kids, expands our research efforts, increases the price of tobacco to deter youth from falling prey to the smoking habit, holding tobacco companies accountable for accomplishing youth smoking reduction targets, that is, let's put into place strategies that reduce teen smoking. Permanently. This must happen prospectively. What the Senator from Massachusetts said is exactly right. It s a question of whether or not we can successfully put into place laws that preclude any further abuses by the tobacco industry. We must act now to stop the industry from any further use of covert strategies such as those that, thanks in large measure to the work of the attorneys general, are now common knowledge.

Mr. KENNEDY. Just finally, because I see others in the Chamber, of course, those kinds of inflictions of addiction are continuing among the young people in this country today without this action.

My final question is this: Is it the Senator's purpose in providing a substitute, if he had been able to do that, or make the modification last night in the time-honored tradition of this body, would the Senator's modification basically have addressed the objections which were made to the earlier consideration of the tobacco proposal? I understood that is where they were directed. So if the measure had been permitted to be modified, that effectively the kinds of procedural issues and questions that have been raised would effectively have been attended to and we would have on the floor of the Senate a real opportunity to address the substance of the amendment?

Of course, I think, myself, they both have become interchangeable, but I am just interested in what is the leader's viewpoint on that issue.

Mr. DASCHLE. I thank the Senator from Massachusetts for his question. We are in an interesting position here. The Republican majority will argue that the pending amendment violates our budgetary rules, and on the basis of that violation, they will vote against the amendment and vote against the motion to waive the point of order on the budgetary rules.

Last night, we offered to change the amendment to accommodate the budgetary rules, and we were denied the opportunity to change that amendment. So here you have the Republican majority objecting to our amendment based upon budgetary rules, but unwilling to allow us to change the amendment so that it conforms to budgetary rules. So the question then becomes, What is the basis for the real opposition? The basis for the real opposition, one could only assume, is that they simply do not want to pass meaningful tobacco policy that takes aim at the array of serious policy concerns the Senator addressed in his earlier question.

Mr. KENNEDY. I thank the leader.

Mr. DURBIN. Will the Senator yield for a question?

Mr. DASCHLE. I am happy to yield to the Senator from Illinois.

Mr. DURBIN. Is the Senator saying the vote which we are about to take is one where there will be objection to the Senator's motion on procedural grounds, and yet the Senator was not afforded the opportunity to correct any procedural problems?

Mr. DASCHLE. The Senator from Illinois is correct.

Mr. DURBIN. So, in other words, I recall a gentleman I worked for in Illinois by the name of Cecil Partee, who used to say, "In politics, for every position you take there is a good reason and a real reason." So the good reason many Republicans will oppose our amendment is that because procedurally it is inartful or doesn't comply with the rules; the real reason is they don't want to give the leader a chance in any way to correct his amendment so we can move to a vote that really has accountability for tobacco companies. Is that not the case?

Mr. DASCHLE. The Senator from Illinois is correct. My answer, stated, I think, prior to the time the Senator from Illinois came to the floor, was simply to say: We will have that opportunity on other bills. We will not be precluded from having an opportunity to offer a tobacco amendment that conforms to budgetary rules in some other context on some other piece of legislation in the not too distant future.

Mr. DURBIN. I ask the Senator to yield for one other question. So the tobacco companies on this next vote would really want your motion defeated; is that not true?

Mr. DASCHLE. The tobacco company's vote would be a "no" vote. That is correct.

Mr. DURBIN. I thank the Senator.

Mr. DASCHLE. I yield the floor.

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 1999

The PRESIDING OFFICER (Mr. HUTCHINSON). Under the previous order, the Senate will now resume consideration of S. 2159, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2159) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1999, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Daschle amendment No. 2729, to reform and structure the processes by which tobacco products are manufactured, marketed, and distributed, to prevent the use of tobacco products by minors, and to redress the adverse health effects of tobacco use.

Motion to waive section 302(f) of the Congressional Budget Act with respect to consideration of Amendment No. 2729.

MOTION TO WAIVE THE BUDGET ACT—AMENDMENT NO. 2729

The PRESIDING OFFICER. The pending question is the motion to waive the Budget Act with respect to the Daschle amendment, No. 2729.

The distinguished Senator from Mississippi is recognized.

Mr. COCHRAN. Mr. President, as I understand it, the Democratic leader's request was that there be 10 minutes equally divided, or 10 minutes on each side? Although 10 minutes has already been used in debating the amendment, does that count? I am curious.

The PRESIDING OFFICER. The Chair will advise the Senator he has 10 minutes remaining.

Mr. COCHRAN. Mr. President, I yield such time as he may consume to the distinguished Senator from New Mexico, the chairman of the Budget Committee.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. DOMENICI. Mr. President, let me say to anyone listening to this debate, you would think that those who want the big spending bill that is in the guise of helping children stop smoking—you would think they have not had an opportunity on the floor of the Senate to present their case. If one would take this discussion and say that is the only discussion we have had on the so-called cigarette tax bill, that would be one thing. But my recollection, without checking the record, is that we have debated this issue for 4 weeks. Is that not correct, I ask the chairman of the subcommittee? Four weeks of floor time, with scores of amendments and so many hours of debate that I am assuming even the American people who watch C–SPAN wondered, "How much longer are you going to discuss this?" Now we come to the floor on an appropriations bill that everybody knows has to be passed and signed by October 1 or we close down all of agriculture in America, and up comes the cigarette bill and a debate starts: "The Republicans don't want to let us vote."

I don't know anything about the lack of ability to amend the amendment, but I do know this. This amendment is for real in terms of its budgetary impacts. As a matter of fact, if this were on the bill when it came out of committee, it would be subject to a point of order and the whole bill would fall. That is how important it is, because it overspends what is allocated to the Subcommittee on Agriculture by $8 billion. I wonder how many eight billions of dollars over the allocation which keeps this new balance we can have around here? Can we have eight or nine of them this year and say, "It is such wonderful legislation that we just ought to break the rules of the budget?"

I will acknowledge the Budget Act says you can waive the Budget Act, so I am not critical of those who try to waive it. But I am wondering whether or not, when we wrote that Budget Act and said you can waive it, whether we had in mind breaking a 5-year balanced budget that was in place for the first time in 40 years because along came some legislation that people thought was very, very interesting and important?

Let me repeat. There are some who are going to say this is just a procedural vote, it isn't meaningful, and Republicans have pulled this out of the bag like a rabbit pulled out by some kind of a person that pulls tricks. There is nothing to that. Mr. President, $8 billion is a lot of money. I think the American people understand $8 billion. And this is $8 billion in new direct spending that will be charged to this subcommittee on its agricultural bill for all of agricultural programs, including research, in the United States. It could cause the bill to fail so that those on the other side of the aisle can have yet another chance to debate an issue which has been debated for 4 weeks.

Mr. President, I am glad the majority leader raised the point of order under the Budget Act. It is absolutely right. It is correct. It is substantive. As a matter of fact, had he not raised it, there would have been a chorus of Senators here to raise it because it is so patently in violation of the 5-year budget agreement that we just entered into last year wherein we told the American people it is a first in 38 years and how proud we are that we are in balance. Then along comes the President who says don't spend a nickel of the surplus on anything but Social Security. Then we come with bills like this, and there goes $8 billion of the surplus here. I don't know what is going to happen on the next bill when they have more of this. So, frankly, I believe we ought to sustain the point of order.

I repeat, it is real, it is fair, and it is timely. They have had, those who want this gigantic $875 billion new expenditure plan over the next 25 years—that is what the bill before us, the big bill, was—anyone who wants that, they had their debates for 4 weeks and lost. Do we want to start over again on an appropriations bill? And then who is going to be claiming we didn't get our business done, we couldn't get the appropriations finished by October 1? Who is going to be doing that? The President and the minority party. And this is just one more instance where it is their fault we don't get it done, not our fault.

We ought to pass this appropriations bill and do this in due course if there is another opportunity presented by the Senate. If not, they have had their day in court, it seems to me. I yield the floor.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I urge the Senate to vote against the motion made by the Democratic leader to waive the Budget Act. This is an amendment that is almost the biggest program in the entire bill that is contained in the agricultural appropriations bill that is before the Senate. We don't have the authority as an Appropriations Committee to write the legislative language to create a program of this kind, and that is what the Democratic leader and his cosponsors on his side of the aisle seek to do.

There is funding in the bill, Senators should know, for the Food and Drug Administration's program targeted to dealing with the problem of underage smoking. Mr. President, $34 million is appropriated in the bill for the FDA's program to deal with that, and that is consistent with the existing legal authority which this committee has to operate under and respect.

Supporting the Budget Committee chairman's appeal to the Senate, I urge Senators to vote "no" on the motion to waive.

Mr. KENNEDY. Mr. President, how much time remains?

The PRESIDING OFFICER (Mr. ROBERTS). The time on the Democratic side has expired.

The question is on agreeing to the motion to waive the Budget Act with respect to Daschle amendment No. 2729. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Delaware (Mr. BIDEN) and the Senator from Ohio (Mr. GLENN) are necessarily absent.

The yeas and nays resulted—yeas 43, nays 55, as follows:

[Rollcall Vote No. 198 Leg.]

YEAS—43

Akaka
Baucus
Bingaman
Boxer
Breaux
Bryan
Bumpers
Cleland
Conrad
Daschle
Dodd
Dorgan
Durbin
Feingold
Feinstein
Ford
Graham
Harkin
Hollings
Inouye
Johnson
Kennedy
Kerrey
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Moynihan
Murray
Reed
Reid
Robb
Rockefeller
Sarbanes
Specter
Torricelli
Wellstone
Wyden

NAYS—55

Abraham
Allard
Ashcroft
Bennett
Bond
Brownback
Burns
Byrd
Campbell
Chafee
Coats
Cochran
Collins
Coverdell
Craig
D'Amato
DeWine
Domenici
Enzi
Faircloth
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hagel
Hatch
Helms
Hutchinson
Hutchison
Inhofe
Jeffords
Kempthorne
Kyl
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Roberts
Roth
Santorum
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Stevens
Thomas
Thompson
Thurmond
Warner

NOT VOTING—2

Biden
Glenn

The PRESIDING OFFICER. On this vote, the yeas are 43, the nays are 55.

Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

The point of order is sustained and the amendment fails.

Mr. BUMPERS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DASCHLE. Mr. President, Senator HARKIN will have an amendment in just a moment. He is on his way over. I thought it might be appropriate to get the debate started and to have a discussion about the essence of the amendment. It will be simply a sense-of-the-Senate resolution that calls upon the Senate and the country to respond to the problem we find in agriculture today.

Most of America prospers with an economy that is striking for its performance and success. On Wall Street, on Main Street, in the suburbs of America, and in virtually every segment of our country the economy is as strong as it could possibly be. Wall Street has exceeded their expectations manyfold. The number of housing starts is up. The number of new businesses created is way up. The number of people employed has been dramatically improved upon in the last 5 years. We now have over 14 million Americans who have new jobs.

So while the overall economic picture is extremely bright and encouraging, with no end in sight, the Federal Reserve Board continues to argue that its circumstances are that they don't see any need to change; they won't increase the interest rates. While all that is happening, there is a segment of our economy that continues to get worse and worse and more and more bleak.

While most of America prospers, our farmers and ranchers in rural communities are now in a crisis. While we recognize the geographic differences that exist, there are some areas where you might suggest that crisis is avoided. Some in agriculture today—rice farmers and cotton farmers—are generally happier than they have been on other occasions. But across the Great Plains, down into Texas, well into the Dakotas, across into Montana and the West, down into the Southeast, every time I go home, we see increasing evidence of serious economic alarm.

This crisis rivals now the worst of the farm crisis in the 1980s in some parts of our country. Farm income is down dramatically in South Dakota and across the country. It has fallen in 32 States. It is down by 30 percent in more than one-fifth of the country today. The problem is low prices. In 1998, the average net farm income for Great Plains farmers is expected to be near the poverty line for a family of four.

Let me make sure everybody understands that.

A farmer in the Great Plains who is on the farm today working actively as a producer—the average farmer today—will actually see his or her income at the official poverty line for a family of four.

Here we are experiencing one of the greatest booms in modern day on Wall Street in virtually every segment of the economy, and yet our farmers and ranchers are the ones experiencing an unbelievable economic and financial crisis that equals, if not exceeds, anything they have had in the past.

Farm debt is now $172 billion. That, Mr. President, is the highest it has been in 13 years. We have to go all the way back to the time when farmers rolled their tractors into Washington to find a time when farm debt was as high as it is today at $172 billion. Overall farm income nationwide is down $5.2 billion since 1996.

So we have seen a precipitous decline in farm income. We have seen an accompanying increase in debt rivaling anything we have seen in my lifetime, going all the way back to the farm crisis of 1985. And that is our current circumstance. Do you call that a crisis, when a family of four is trying to eke out a living on a farm, or a ranch, is at the poverty-line income, when debt has gone up by $172 billion, when we have seen the precipitous decline in farm income in just the last 2 years of $5.2 billion?

Mr. President, that translates into losses that go beyond farms. In fact, we are told that we could see a loss of 100,000 jobs in rural America as a result of the problems in the agricultural sector—100,000 people. Why? Because farm income has plummeted, debt has gone up, and the economy continues to worsen.

So there is no doubt that this isn't just a farm issue, it is a rural issue of enormous magnitude. The ripple effect is clearly now in evidence.

Mr. President, I have the greatest admiration and affection and respect for the current Presiding Officer. He and I have worked together and come from the same part of the country. I appreciate his sense of humor. But in some ways you have to have a sense of humor to look at the Freedom to Farm Act today. Freedom to Farm, in my view, is what is responsible in large measure for what has happened. It has destroyed the safety net for our country's family farmers. Many of us predicted on the day that it passed that this would be what we would be facing. In fact, going back to a quote I made the day that the bill passed, I said at the time: "I think the Senate has made a very tragic mistake. This fight is not over. We will come back."

Well, we are back. I wish we didn't have to be. But we are back. We are back because we have no choice now. The crisis is upon us. Some of us could have predicted it. The fact is that it has happened. Without delving into all the reasons why it happened, at least right now, I don't think with the figures I have just stated for the record that anyone can deny that it is happening. What else can you say about a family farm that is experiencing poverty-level income? What else can you say about an income overall in the economy, the farm economy, that has projected a $172 billion debt, the highest since 1985? What else can you say about just 2 years of lost income, now $5.2 billion?

Mr. President, there is no question we are in a crisis. The question is now, what do we do? Frankly, after a great deal of debate internally, most of us have concluded that it isn't our purpose now to completely reopen the debate on the Freedom to Farm Act and revisit each and every one of the areas that we think need improvement. That is something we will have to save for another time. We are in a crisis. We are in an emergency. Because we are in an emergency, we don't have the luxury of saying let's just take our time, go back and review everything, and rewrite everything that we believe may be causing these problems. Rather, what we decided to do, Mr. President, is simply this:

First, let's offer a sense-of-the-Senate resolution that recognizes the seriousness of the problem, and as clearly, and hopefully in a bipartisan manner, say: "We want to respond. We hear you. We are empathetic. We agree the situation is very serious, and we are going to respond." That is the purpose of the sense-of-the-Senate resolution.

AMENDMENT NO. 3127

Mr. DASCHLE. Mr. President, on behalf of Senator HARKIN, and as a cosponsor of the resolution, I send it to the desk at this time.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from South Dakota (Mr. DASCHLE) for himself and Mr. HARKIN, proposes an amendment numbered 3127.

Mr. DASCHLE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert:

Findings:

In contrast to our Nation's generally strong economy, in a number of States, agricultural producers and rural communities are experiencing serious economic hardship;

Increased supplies of agricultural commodities in combination with weakened demand have caused prices of numerous farm commodities to decline dramatically;

Demand for imported agricultural commodities has fallen in some regions of the world, due in part to world economic conditions, and United States agricultural exports have declined from their record level of $60 billion in 1996;

Prolonged periods of weather disasters and crop disease have devastated agricultural producers in a number of States;

Thirty-two of the fifty States experienced declines in personal farm income between 1996 and 1997;

June estimates by the Department of Agriculture indicate that net farm income for 1998 will fall to $45.5 billion, down 13 percent from the $52.2 billion for 1996;

Total farm debt for 1998 is expected to reach $172 billion, the highest level since 1985;

Thousands of farm families are in danger of losing their livelihood and life savings;

Now, therefore, it is the sense of the Senate that emergency action by the President and Congress is necessary to respond to the economic hardships facing agricultural producers and their communities.

Mr. DASCHLE. Mr. President, many of our Republican colleagues have said that high prices and robust trade would keep the farm economy strong. I agree. I don't think there is anyone who disagrees with that. High prices and robust trade go hand in glove. The problem is, we don't have either. Prices across the board have plummeted to the lowest levels they have been in more than a decade. Livestock prices and grain prices are at such a point that no one can survive today. No one can survive on prices that farmers are receiving at the local elevator—no one. They are at the levels that farms received when the Presiding Officer and I were born. The same levels that farmers were getting when we were born are the prices farmers are getting today. Could we survive on that kind of an income as Senators, as members of the Senate staff? Could anyone on Main Street survive on prices they were getting in 1947, in my case? We know the answer to that.

This last week, an amendment was offered which was introduced by the distinguished Presiding Officer, Senator ROBERTS, and our very distinguished colleague from Washington, Senator MURRAY, exempting farm products from sanctions. We could have added a lot of things to that. But the Senator from Kansas said—and I had a discussion, and we agreed—that it was better to get something done than to use it as a vehicle for more proposals that we wish could get done.

So on a bipartisan basis, I think unanimously—if not unanimously, almost so—the Senate went on record in favor of lifting the agricultural sanctions that have existed now for some time.

The right thing to do—and I am very proud that on an overwhelming basis we sent as clear a message on trade with that vote as we could. Now I hope we will send just as clear a message on domestic solutions. If we can do it on trade, as the Senator from Kansas has noted, we ought to do it on price. And while there is no question that trade can have a positive effect on price, I think one would have to argue vociferously, and I don't think ever conclusively, that whatever changes we make on price related to trade will not be short term. It will be very, very difficult to see any short-term, immediate repercussions based on trade, although for long-term purposes it is exactly what we need to do. We need to find ways to market our products abroad. We need to find ways to be competitive and to see that those markets open up. For us to shoot ourselves in the foot at the very time when farmers need those markets is the absolute worst thing we can do.

So, Mr. President, the trade piece is the right piece for the long term. The problem is, we have short-term needs that will never be addressed by trade. So here we are, back to correct the failed policies that have crippled rural America, back to recognize that we have to take some actions on this particular bill.

The amendment that we now have before us recognizes the plight of the family farmer in America. It says that we are on your side, we understand your situation, and that we must act on a solution. That solution will be the subject of additional amendments that we will lay out over the course of the next period of time. It will remove the cap on marketing loans and extend the loan term. We require mandatory price reporting for livestock. We want to require labeling of imported meat. We want to target emergency assistance for victims of multiple-year disasters. The alternative is to do nothing. All Senators should ask, all Senators really need to ask is this: Would they accept a 30 percent cut in their income as thousands of farmers have? Do they want rural America to survive? Do they value the whole societal fabric that family farmers bring to rural America today?

We have to recognize and respond to this crisis and help farmers in rural communities, help at least in part by restoring a small segment of the agricultural safety net, create a more open and fair marketplace where a safety net isn't even necessary, and give farmers an opportunity to share in America's prosperity.

That is what we hope to do. We wish we could do it outside the context of an agriculture appropriations bill. That would be my choice. We have been unable, at least to date, to get markups and votes in the committee, taking legislation from the Agriculture Committee to the Senate floor. And so our choice is left to this, to offer amendments on the best second vehicle we could have. The agricultural appropriations bill is a bill that has to pass.

We will work with the distinguished manager, and there is no better, I might add, than the manager of this particular bill. We will work with him to see that we have the opportunity to pass this legislation and do what we must to assure that farmers have the resources they need. I cannot think of a more important issue than this. I cannot think of a better time than this for us to respond.

I hope that on a bipartisan basis we will see fit to pass this amendment.

I yield the floor.

Mr. COCHRAN. Mr. President, I think it is a good idea that at the beginning of this debate on agriculture appropriations we acknowledge there are some serious problems in the agriculture sector of our economy. There is no quarrel with that, and on both sides of the aisle I think Senators are prepared to acknowledge that we have an obligation to understand this fully and to do what we can within the constraints of the Budget Act and the constraints of the law. We appropriate funds to make sure that the Department of Agriculture has the resources to take all appropriate action to help deal with these problems.

We realized when we began work on the agriculture appropriations bill that we did not have enough money to do everything we would like to do for rural development, for nutrition assistance, for agriculture research, for export promotion, and the wide range of activities that go into the programs administered by the Department of Agriculture and the related agencies that are funded in this bill.

It is a bill that was fully supported by Members on both sides of our subcommittee and in the full Committee on Appropriations. We didn't have a dissenting vote anywhere along the way for the appropriations bill that we brought to the floor and that is pending before the Senate right now. We have tried to make sure that every possible effort is made, as we deal with the question of how much money to put in one account or the other, to do the best possible job that we could, and I think this bill is going to pass that test.

We were glad to have the strong and helpful support of the distinguished Senator from Arkansas, Mr. BUMPERS, who is the senior Democrat on the Appropriations subcommittee for the Department of Agriculture, and other Senators who worked with us as well. This sense-of-the-Senate resolution, if Senators will notice, outlines a number of things that are suggested for changes in either current law or the efforts that the administration could take to help deal with this problem which the distinguished Democratic leader outlined.

It may very well be that we can make some changes to this and have a bipartisan sense-of-the-Senate resolution. That would be my hope, and I suggest to Senators that we make that effort.

Since we have just seen this proposed resolution, I am hopeful that we can set it aside, take some time with those who are interested in helping make sure that we do accurately state the problem and the observations that the Senate has as a collective body of Republicans and Democrats in dealing with the problems, and can pass it without any objection on either side. That would be my hope, and that is what I intend to suggest the Senate do.

We have some other amendments that we are going to have to offer. Many of these amendments are proposed by Senators who are not members of the Appropriations Committee, but we have now had an opportunity to review them and we are prepared to recommend that a number of amendments be accepted.

The distinguished Democratic leader indicated that he would have no objection in setting aside this amendment if we wanted to go to other amendments, and so at this point I am going to ask unanimous consent that the pending sense-of-the-Senate resolution be set aside and I be permitted to send an amendment to the desk on the subject of crop insurance.

The PRESIDING OFFICER. Is there an objection?

The Chair hears none, and it is so ordered.

AMENDMENT NO. 3128

(Purpose: To provide additional funding for the Agricultural Research Service, the Cooperative State Research, Education, and Extension Service, and the Rural Community Advancement Program; to amend the Federal Crop Insurance Protection Act by eliminating the surcharge on the administrative fee for fiscal year 1999; and to restrict the Wetlands Reserve Program's new acreage enrollment in fiscal year 1999)

Mr. COCHRAN. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Mississippi [Mr. COCHRAN], for Mr. BUMPERS, for himself and Mr. COCHRAN, proposes an amendment numbered 3128.

The amendment is as follows:

On page 10, line 17, strike "$767,921,000" and insert in lieu thereof "$768,221,000".

On page 13, line 11, strike "$49,200,000" and insert in lieu thereof "$50,500,000".

On page 14, line 17, strike "$434,782,000" and insert in lieu thereof "$436,082,000".

On page 35, line 7, strike "$700,201,000" and insert in lieu thereof "$703,601,000".

On page 36, line 14, after the "systems", insert "": *Provided further*, That of the total amount appropriated, $2,800,000 shall be available for a community improvement project in Arkansas".

On page 64, line 18, strike "140,000" and insert in lieu thereof "120,000".

On page 67, after line 23, add the following:

"SEC. 739. None of the funds appropriated or otherwise made available by this Act may be used to require any producer to pay an administrative fee for catastrophic risk protection under section 508(b)(5)(A) of the Federal Crop Insurance Act (7 U.S.C. 1508(b)(5)(A)) in an amount that is greater than $50 per crop per county.".

"SEC. 740. Nothing in this Act shall be interpreted or construed to alter the current implementation of the Wetlands Reserve Program, unless expressly provided herein.".

Mr. COCHRAN. Mr. President, I ask unanimous consent that the clerk withhold reporting of the amendment. I have been advised, contrary to my understanding with the Democratic leader, there are some Democrats who could not agree that that amendment be set aside now. So I do not insist that the amendment be reported. Let me state what this amendment will do when it is offered.

This is an amendment that increases appropriations in the bill for the Agricultural Research Service and the Cooperative State Research, Education and Extension Service to fund additional agriculture research activities.

It also increases the total appropriations for the Rural Community Advancement Program and earmarks funding for a community improvement project in Arkansas.

It also adds a general provision to the bill to eliminate for fiscal year 1999 the surcharge on the administrative fee in excess of $50 per crop per county authorized by the Federal Crop Insurance Protection Act.

The proposed changes will also place some enrollment limitations on the Wetlands Reserve Program. The amendment is designed to make available to the Crop Insurance Program additional funds that were contemplated by the agriculture research bill that was passed by the Senate and signed by the President earlier this year. It is that legislation that we are suggesting be attached to this legislation to help carry out the provisions in the law that we now have had enacted as a result of the bipartisan effort in the Agriculture Committees of both the Senate and the House.

It is that amendment that we would like to propose to the Senate while we work on reaching an accommodation with Senators on both sides of the aisle on the sense-of-the-Senate resolution with respect to the problems in the agriculture sector of our economy.

The PRESIDING OFFICER. Without objection, the amendment offered by the Senator from Mississippi is set aside.

Mr. COCHRAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. COCHRAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COCHRAN. Mr. President, I understand that the objection that we previously heard had been raised to setting aside the pending sense-of-the-Senate resolution and sending an amendment to the desk has now been lifted, and that there is no objection to taking that action, as I had earlier been advised.

So, I send the amendment that I described on crop insurance to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment offered by the Senator from Mississippi is now the pending question.

Is there further debate on the amendment?

Mr. COCHRAN. Mr. President, this amendment increases appropriations in the bill for the Agricultural Research Service and the Cooperative State Research, Education, and Extension Service to fund additional agricultural research activities. Specifically, the amendment provides an additional $300,000 to increase scientific staffing at the Cropping Systems Center at the New England Plant, Soil, and Water Laboratory in Orono, Maine, to develop production and disease management systems. This research will increase potato production efficiency, viability of small farms and enhance water quality in the Northeast Region.

It increases the total funding provided in the bill for special research grants funded through the Cooperative State Research, Education, and Extension Service by $1,300,000 to fund the following new research grants at the levels specified:

Chesapeake Bay agroecology (Maryland)	$300,000
Designing Food for Health (Texas)	$250,000
Infectious disease research (Colorado)	$250,000
Scallops Research (Connecticut)	$250,000
Urban aquaculture (Massachusetts)	$250,000

The amendment also increases the appropriation for the Rural Community Advancement Program by $3,400,000 and earmarks funding for a community improvement project in Eastern Arkansas.

Finally, the amendment adds a general provision to the bill to eliminate for fiscal year 1999 the surcharge on the administrative fee in excess of $50 per crop per county authorized by the Federal Crop Insurance Protection Act.

The additional costs of the changes proposed by this amendment are fully offset by a further restriction on new acreage enrollments in the Wetlands Reserve Program for fiscal year 1999. This proposed change would place a 120,000 acre limitation on new acreage enrollments versus the 140,000 limitation currently recommended in the bill.

I ask that this amendment be favorably considered by my colleagues.

Let me say by way of further explanation, in describing the amendment, the reason we have to make this change in the Crop Insurance Program is that we wanted to remove a 10-percent surcharge on the administrative fee imposed by the Agriculture Research Extension and Education Reform Act. That was the bill that we had earlier passed which provides a lot of new, mandated expenditures for agriculture research. This surcharge, that I have referred to, would require farmers to pay as much as a 400-percent increase above the 1998 administrative fee. This is not a minimal administrative fee as farmers had been promised.

So this amendment will remove the surcharge, and that is the purpose of getting this amendment offered at this early stage in the bill, so there will not be any question about whether or not there will be an opportunity for participation by farmers in the Crop Insurance Program because of these prohibitive costs. We think this is an important change to be made in that law and will help provide the opportunity to deal with disaster assistance under the Crop Insurance Program.

My understanding is that this amendment has been cleared on both sides. I will defer to my friend from Arkansas for any comments he would like to make on this amendment.

Mr. BUMPERS. Mr. President, the Senator is correct. This amendment has been cleared on this side.

The PRESIDING OFFICER. If there is no objection, the amendment is agreed to.

The amendment (No. 3128) was agreed to.

Mr. COCHRAN. Mr. President, I move to reconsider the vote.

Mr. BUMPERS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. COCHRAN. Mr. President, we have a number of other amendments where we have worked to reach agreement and to recommend to the Senate that amendments be approved.

AMENDMENT NO. 3129

(Purpose: To make a technical correction in the amount provided for demonstration programs)

Mr. COCHRAN. Mr. President, the first one that I suggest we consider is an amendment offered by Senator BUMPERS and myself dealing with the Rural Community Advancement Program. It is a technical correction. I send that amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Mississippi [Mr. COCHRAN], for himself and Mr. BUMPERS, proposes an amendment numbered 3129.

Mr. COCHRAN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 35, line 25, strike "$1,000,000" and insert "$70,000".

Mr. COCHRAN. Mr. President, this amendment makes a technical correction to the bill to provide that not to exceed $70,000 of the total funds appropriated for the Rural Community Advancement Program be available to subsidize the cost of funds provided for demonstration programs.

Mr. BUMPERS. Mr. President, the amendment has been cleared on this side of the aisle.

The PRESIDING OFFICER. Is there further debate on the amendment? If there is no objection, the amendment is agreed to.

The amendment (No. 3129) was agreed to.

Mr. COCHRAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BUMPERS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3130

(Purpose: To transfer funding for credit sales of acquired property to subsidize the cost of additional farm ownership loans)

Mr. COCHRAN. Mr. President, I now send an amendment to the desk offered for myself and the distinguished Senator from Arkansas. This amendment will transfer funding for credit sales of acquired property to subsidize the cost of additional farm ownership loans.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Mississippi [Mr. COCHRAN], for himself and Mr. BUMPERS, proposes an amendment numbered 3130.

Mr. COCHRAN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 26, line 26, strike "$488,872,000" and insert in lieu thereof "$510,649,000".

On page 27, line 7, insert "and" before "for".

On page 27, lines 8 and 9, strike "; and for credit sales of acquired property, $25,000,000".

On page 27, line 13, strike "$16,320,000" and insert in lieu thereof "$19,580,000".

On page 27, line 20, insert "and" before "for".

On page 27, lines 21 and 22, strike "; and for credit sales of acquired property, "$3,260,000".

Mr. COCHRAN. Mr. President, this amendment, as I stated, is designed to eliminate the subsidy appropriation for Farm Service Agency credit sales of acquired property and transfer this amount to subsidize the cost of additional farm ownership direct loans.

The amendment increases the subsidy appropriation for farm ownership direct loans by $3,260,000 to fund an additional $21,777,000 in loans. This will fund an estimated total farm ownership direct loan level of $85,649,000 for fiscal year 1999 versus the $63,872,000 level now proposed by the bill.

I have been advised by the Department of Agriculture that the Farm Service Agency credit sales loan obligations are currently lower than anticipated and the full amount requested for fiscal year 1999 will not be required. Any funding needed for credit sales of acquired property for fiscal year 1999 can be made available through the agency's loan programs. Given this, the amendment proposes to move this money to increase available funding for farm ownership direct loans.

Mr. BUMPERS. Mr. President, the amendment has been cleared on this side of the aisle.

The PRESIDING OFFICER. If there is no objection, the amendment is agreed to.

The amendment (No. 3130) was agreed to.

Mr. BUMPERS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. COCHRAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3131

(Purpose: To establish a personnel management demonstration project)

Mr. COCHRAN. Mr. President, the next amendment on my list that has been cleared is one by the Senator from Arkansas dealing with a pilot personnel program. Does the Senator want to send that to the desk?

Mr. BUMPERS. Mr. President, I send an amendment to the desk and ask for its consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Arkansas [Mr. BUMPERS] proposes an amendment numbered 3131.

Mr. BUMPERS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 67, after line 23, insert the following:

SEC.   . That notwithstanding section 4703(d)(1) of title 5, United States Code, the personnel management demonstration project established in the Department of Agriculture, as described at 55 FR 9062 and amended at 61 FR 9507 and 61 FR 49178, shall be continued indefinitely and become effective upon enactment of this bill.

Mr. BUMPERS. Mr. President, this bill continues the current hiring system being used within the Forest Service and the Agricultural Research Service to examine for, and make, first permanent competitive Federal appointments. The hiring system will terminate on June 30, 1998, unless it is extended.

Applicants and management officials have had an overwhelmingly positive response to the hiring system. Specifically, management believes the program has increased its control over hiring, resulting in a greater likelihood that the candidate pool is appropriate and available, reducing the number of staff hours expended in testing, examining and rating applicants.

The Office of Management and Budget has no objection to this amendment. I think this has been cleared on the other side.

Mr. COCHRAN. Mr. President, we have reviewed this amendment, and we have cleared it on this side of the aisle.

The PRESIDING OFFICER. If there is no objection, the amendment is agreed to.

The amendment (No. 3131) was agreed to.

Mr. BUMPERS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. COCHRAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. COCHRAN. Mr. President, there is another amendment of Senator BUMPERS, which I have cosponsored, to prohibit budget requests based on unauthorized user fees. If it is appropriate, we can send that amendment to the desk at this time.

Mr. BUMPERS. Mr. President, I would like to move on to the next amendment and come back to this one.

AMENDMENT NO. 3132

(Purpose: To make an amendment relating to rural housing programs)

Mr. COCHRAN. Mr. President, there is another amendment which we have agreed to be adopted offered by Senators D'AMATO and SARBANES dealing with the rural housing authorization in this bill.

On behalf of Senator D'AMATO, for himself and Mr. SARBANES, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Mississippi [Mr. COCHRAN], for Mr. D'AMATO, for himself, and Mr. SARBANES, proposes an amendment numbered 3132.

Mr. COCHRAN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 67, after line 23, insert the following:

SEC.   . (a) The first sentence of section 509(f)(4)(A) of the Housing Act of 1949 (42 U.S.C. 1479(f)(4)(A)) is amended by striking "fiscal year 1998" and inserting "fiscal year 1999".

(b) Section 515(b)(4) of the Housing Act of 1949 (42 U.S.C. 1485(b)(4)) is amended by striking "September 30, 1998" and inserting "September 30, 1999".

(c) The first sentence of section 515(w)(1) of the Housing Act of 1949 (42 U.S.C. 1485(w)(1)) is amended by striking "fiscal year 1998" and inserting "fiscal year 1999".

(d) Section 538 of the Housing Act of 1949 (42 U.S.C. 1490p-2) is amended—

(1) in subsection (t), by striking "fiscal year 1998" and inserting "fiscal year 1999"; and

(2) in subsection (u), by striking "September 30, 1998" and inserting "September 30, 1999".

Mr. D'AMATO. Mr. President, I rise to offer an amendment relating to rural housing programs of the Department of Agriculture. I express my sincere appreciation to Chairman COCHRAN and Ranking Minority Member BUMPERS for their consideration of the amendment which I offer with Senator PAUL SARBANES, Ranking Minority Member of the Committee on Banking, Housing, and Urban Affairs. I commend them for their steadfast commitment to providing affordable housing for rural Americans.

The Department of Agriculture operates a number of successful housing programs under the auspices of its Rural Housing Service (RHS). Rural housing programs, while a function of the Department of Agriculture, are under the jurisdiction of the Banking Committee. As Chairman of the Banking Committee, I respectfully request the adoption of this amendment.

This amendment will permit vital housing programs to continue in an uninterrupted fashion. It includes one-year extensions of existing housing programs. Specifically, the RHS Section 515 Rural Rental Housing Program, the RHS Section 538 Rural Rental Housing Loan Guarantee Program, and the RHS Underserved Areas Program would be extended until September 30, 1999. These short-term extensions are necessary to ensure that needy Americans continue to be served.

There is a critical need for affordable housing in rural America. According to the 1990 census, over 2.7 million rural Americans live in substandard housing. In my home State of New York, 76 percent of renters are paying 30 percent or more of their income for housing. Approximately 60 percent of New York renters pay over 50 percent of their income for rent.

The Rural Housing Service Section 515 and Section 538 programs represent a significant portion of the limited resources available to respond to this serious unmet housing need. Since its inception in 1962, the Section 515 rental loan program has financed the development of over 450,000 units of affordable housing in over 18,000 apartment projects. The program assists elderly, disabled and low-income rural families with an average income of $7,200. The Section 538 program is a relatively new loan guarantee program which has proven to have widespread national appeal. With a subsidy rate of approximately 3 cents per dollar, it is an example of cost-efficient leveraging of public resources.

I thank the Appropriations Committee for its recognition of the great need for these essential rural housing programs. I support immediate adoption of this amendment.

Mr. SARBANES. Mr. President, I rise today to offer an amendment, along with the Chairman of the Senate Committee on Banking, Housing, and Urban Affairs, Senator ALFONSE D'AMATO, to extend rural housing programs for the Rural Housing Service of the Department of Agriculture. I would like to commend the leadership of Chairman COCHRAN and Ranking Member BUMPERS for their continued commitment to ensuring that rural housing programs serve rural Americans with affordable, decent housing choices.

This amendment would extend for one year several rural rental housing programs. This includes the Section 515 Rural Rental Housing Program, the Section 538 Rural Rental Housing Loan Guarantee Program, and the Underserved Areas Program. Because many families in rural America do not have incomes high enough to make homeownership possible, it is imperative that Rural Housing Service be able to provide decent, affordable rental units. These programs are among the few resources that help alleviate the shortage of affordable rental housing and enable very low and low income renters in rural America to access affordable rental housing.

The Section 515 Program has provided over 450,000 units of affordable rural housing since 1962; there is no other federal program that provides this assistance to very low income renters in rural areas. The Section 538 Loan Guarantee Program is designed to meet the needs of low and moderate income rural Americans not being served by the Section 515 Program. This program enables the federal government to partner with developers and funders to generate needed rental housing in rural areas.

Both the Section 515 and 538 Programs offer direct benefits for communities, including creating jobs and increasing local taxes, in addition to attracting and maintaining businesses. Stable rental housing has been proven to be a vital link to the overall health and viability of rural communities. While the Rural Housing Service has done much to bring affordable housing to rural America, many rural families still experience housing overcrowding, substandard facilities, cost overburdens, and remain in desperate need of housing assistance. As we encourage families to move from welfare to work, it is even more essential that we build on this vital housing program that provides the safety net which will give the working poor an opportunity to live in affordable, safe and decent housing.

Again, I would like to commend Chairman COCHRAN and Ranking Member BUMPERS for their action to ensure that essential rural rental housing programs receive authorization to continue serving low income families for another year. I urge the swift adoption of this amendment.

Mr. COCHRAN. Mr. President, the amendment has been cleared on this side. We recommend that it be approved by the Senate.

Mr. BUMPERS. Mr. President, the amendment has been cleared on this side of the aisle.

The PRESIDING OFFICER. If there is no objection, the amendment is agreed to.

The amendment (No. 3132) was agreed to.

Mr. COCHRAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BUMPERS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3133

(Purpose: To require the Secretary of Agriculture to conduct a review of methyl bromide alternatives research)

Mr. COCHRAN. Mr. President, another amendment which we have been able to review and are prepared to recommend the Senate accept is one offered by Senator GRAHAM of Florida. I send that amendment on his behalf to the desk and ask that it be stated.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Mississippi [Mr. COCHRAN], for Mr. GRAHAM, proposes an amendment numbered 3133.

Mr. COCHRAN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 67, after line 23, add the following:

SEC. 7 . METHYL BROMIDE ALTERNATIVES RESEARCH.

(a) REVIEW.—The Secretary of Agriculture, acting through the Agricultural Research Service, shall conduct a review of the methyl bromide alternatives research conducted by the Secretary that describes—

(1) the amount of funds expended by the Secretary since January 1, 1990, on methyl bromide alternatives research, including a description of the amounts paid for salaries, expenses, and actual research;

(2) plot and field scale testing of methyl bromide alternatives conducted by the Secretary since January 1, 1990, including a description of—

(A) the total amount of funds expended for the testing;

(B) the amount of funds expended for the testing as a portion of a larger project or independently of other projects; and

(C) the results of the testing and the impact of the results on future research; and

(3) variables that impact the effectiveness of methyl bromide alternatives, including a description of—

(A) the individual variables; and

(B) the plan of the Secretary for addressing each of the variables during the plot and field scale testing conducted by the Secretary.

(b) REPORT.—Not later than 120 days after the date of enactment of this Act, the Secretary shall submit to the Appropriations Committees of both Houses of Congress a report that describes the results of the review conducted under subsection (a).

Mr. COCHRAN. Mr. President, this amendment deals with the review of methyl bromide alternatives research. We have examined the amendment. We think it appropriate for the Senate to include it in this bill, and we recommend that it do so.

Mr. BUMPERS. Mr. President, the amendment has been cleared on this side of the aisle.

The PRESIDING OFFICER. If there is no objection, the amendment is agreed to.

The amendment (No. 3133) was agreed to.

Mr. COCHRAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BUMPERS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3134

(Purpose: To express the sense of the Senate that the Secretary of Agriculture should take certain actions to provide timely assistance to Texas agricultural producers that are experiencing worsening drought conditions)

Mr. COCHRAN. Mr. President, another amendment we have been able to review and are prepared to recommend approval of is offered by the Senators from Texas, Senator GRAMM and Senator HUTCHISON. On their behalf, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Mississippi [Mr. COCHRAN], for Mr. GRAMM, for himself, and Mrs. HUTCHISON, proposes an amendment numbered 3134.

Mr. COCHRAN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 67, after line 23, add the following:

SEC. ___. SENSE OF SENATE ON DISASTER ASSISTANCE FOR TEXAS AGRICULTURAL PRODUCERS.

(a) FINDINGS.—The Senate finds that—

(1) the statewide economic impact of the drought on agriculture in the State of Texas could be more than $4,600,000,000 in losses, according to the Agricultural Extension Service of the State;

(2) the direct loss of income to agricultural producers in the State is $1,500,000,000;

(3) the National Weather Service has reported that all 10 climatic regions in the State have received below-average rainfall from March through May of 1998, a critical time in the production of corn, cotton, sorghum, wheat, and forage;

(4) the total losses for cotton producers in the State have already reached an estimated $500,000,000;

(5) nearly half of the rangeland in the State (as of May 31, 1998) was rated as poor or very poor as a result of the lack of rain;

(6) the value of lost hay production in the State will approach an estimated $175,000,000 statewide, leading to an economic impact of $582,000,000;

(7) dryland fruit and vegetable production losses in East Texas have already been estimated at $33,000,000;

(8) the early rains in many parts of the State produced a large quantity of forage that is now extremely dry and a dangerous source of fuel for wildfires; and

(9) the Forest Service of the State has indicated that over half the State is in extreme or high danger of wildfires due to the drought conditions.

(b) SENSE OF SENATE.—It is the sense of the Senate that the Secretary of Agriculture should—

(1) streamline the drought declaration process to provide necessary relief to the State of Texas as quickly as is practicable;

(2) ensure that local Farm Service Agency offices in the State are equipped with full-time and emergency personnel in drought-

stricken areas to assist agricultural producers with disaster loan applications;

(3) direct the Forest Service, and request the Federal Emergency Management Agency, to assist the State in prepositioning fire fighting equipment and other appropriate resources in affected counties of the State;

(4) authorize haying and grazing on acreage in the State that is enrolled in the conservation reserve program carried out under section 1231 of the Food Security Act of 1985 (16 U.S.C. 3831); and

(5) convene experts within the Department of Agriculture to develop and implement an emergency plan for the State to help prevent wildfires and to overcome the economic impact of the continuing drought by providing assistance from the Department in a rapid and efficient manner for producers that are suffering from drought conditions.

Mr. COCHRAN. Mr. President, this amendment deals with the situation in the State of Texas occasioned by the severe drought that has occurred there. The Senators from Texas are acquainting the Senate with the problems that exist in Texas and making some observations about appropriate actions that could be taken to help relieve the problems.

It is very similar, as a matter of fact, to the sentiment contained in the earlier sense-of-the-Senate resolution. It probably could be included in our overall sense-of-the-Senate resolution on this subject when we get that worked out on both sides of the aisle. I am optimistic that we can do so. But in the meantime, I think it is appropriate for us to go ahead and adopt this amendment. We recommend that it be done.

Mr. BUMPERS. The amendment has been cleared on this side of the aisle, Mr. President.

The PRESIDING OFFICER. If there is no objection, the amendment is agreed to.

The amendment (No. 3134) was agreed to.

Mr. COCHRAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BUMPERS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. COCHRAN. Mr. President, the next item on my list for agreed amendments is one by the Senator from Wisconsin and the Senator from Arkansas dealing with Conservation Farm Options Program funding, if that is ready.

Mr. BUMPERS. Mr. President, it is not quite ready yet. Hopefully, it will be by the time we finish this package of amendments.

AMENDMENT NO. 3135

(Purpose: To amend the Wetlands Reserve Program by exempting thirty year easements from payment limitations; and clarifying the interpretation of "Maximum Extent Practicable" regarding the Wetlands Reserve Program enrollment goal)

Mr. COCHRAN. Mr. President, next I have an amendment by the Senator from Indiana, Senator LUGAR, dealing with the Wetlands Reserve Program. I am prepared to send that to the desk at this time and ask that it be stated on behalf of the Senator from Indiana.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Mississippi [Mr. COCHRAN], for Mr. LUGAR, proposes an amendment numbered 3135.

Mr. COCHRAN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 67, after line 23, add the following new sections:

"SEC. . Section 1237D(c)(1) of Subchapter C of the Food Security Act of 1985 is amended by inserting after "perpetual" the following "or 30-year."

"SEC. . Section 1237(b)(2) of Subchapter C of the Food Security Act of 1985 is amended by adding the following: (C) For purposes of subparagraph (A), to the maximum extent practicable should be interpreted to mean that acceptance of wetlands reserve program bids may be in proportion to landowner interest expressed in program options."

Mr. LUGAR. Mr. President, I rise today to offer an amendment to improve the effectiveness of the Wetland Reserve Program, or WRP.

The WRP is a program, administered by the Department of Agriculture, or USDA, which purchases easements to restore and protect wetlands. These easements are purchased from landowners on a willing-buyer and willing-seller basis. Under current law, land going into the WRP is enrolled for different time periods based on one of three types of contracts entered into between USDA and the landowner: (1) cost share contracts (which enroll land for ten years), (2) 30 year easements, and (3) permanent easements. Landowners have expressed more interest in longer term easements than in cost share contracts. However, current law requires USDA to enroll an equal proportion of each contract type (hence the so-called ⅓, ⅓, ⅓ rule), regardless of landowner interest. One part of the amendment which I am proposing would permit USDA to deviate from the ⅓, ⅓, ⅓ requirement based on landowner interest. Landowners would retain the ability to choose among permanent, non-permanent and cost-share agreements.

Mr. President, the second part of my amendment would also amend the WRP. Under current law, landowners receive annual payments for land enrolled in the WRP, but, in the case of longer term easements, can elect to receive payments up-front in a lump sum. Annual payments, including those taken in a lump sum, are subject to a $50,000 per person limitation. However, permanent easements are exempt from the limitation. Exempting only permanent easements from the payment limitation tends to discourage landowners from choosing 30 year easements. This amendment solves the inequity by broadening the exemption to include 30 year easements.

My amendment is strongly supported by the Audubon Society, Ducks Unlimited, and other conservation groups. It has been scored at no cost by the Congressional Budget Office (CBO). The amendment makes common-sense improvements to an important program which protects our natural resources. I urge my colleagues to support the amendment.

Mr. COCHRAN. Mr. President, this does involve an effort by the Senator from Indiana to improve the effectiveness of the Wetland Reserve Program. It has been reviewed, and we are prepared to recommend that it be agreed to in this bill.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 3135) was agreed to.

Mr. COCHRAN. I move to reconsider the vote.

Mr. BUMPERS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3136

(Purpose: To make technical corrections to the Agricultural Research, Extension, and Education Reform Act of 1998)

Mr. COCHRAN. Mr. President, I have another amendment offered by the Senator from Indiana, Mr. LUGAR, and cosponsored by others, dealing with technical corrections to the Agricultural Research, Extension, and Education Reform Act. On behalf of Senator LUGAR, I send that amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Mississippi [Mr. COCHRAN] for Mr. LUGAR, for himself, Mr. SANTORUM, Ms. COLLINS, Mr. HARKIN and Mr. LEAHY, proposes an amendment numbered 3136.

Mr. COCHRAN. I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 67, after line 23, insert the following:

SEC. . TECHNICAL CORRECTIONS TO AGRICULTURAL RESEARCH, EXTENSION, AND EDUCATION REFORM ACT OF 1998.

(a) FOREST AND RANGELAND RENEWABLE RESOURCES RESEARCH.—Section 3(d)(3) of the Forest and Rangeland Renewable Resources Research Act of 1978 (16 U.S.C. 1642(d)(3)) (as amended by section 253(b) of the Agricultural Research, Extension, and Education Reform Act of 1998) is amended by striking "The Secretary" and inserting "At the request of the Governor of the State of Maine, New Hampshire, New York, or Vermont, the Secretary".

(b) HONEY RESEARCH, PROMOTION, AND CONSUMER INFORMATION.—Section 7(e)(2) of the Honey Research, Promotion, and Consumer

Information Act (7 U.S.C. 4606(e)(2)) (as amended by section 605(f)(3) of the Agricultural Research, Extension, and Education Reform Act of 1998) is amended by striking "$0.0075" each place it appears and inserting "$0.01".

(c) EFFECTIVE DATE.—The amendments made by this section take effect on the date of enactment of the Agricultural Research, Extension, and Education Reform Act of 1998.

Mr. LUGAR. Mr. President, today I rise to offer an amendment to make a technical correction to recently passed bill. This noncontroversial legislation serves to clarify two provisions of the Agricultural Research, Extension, and Education Reform Act of 1998. Senators SANTORUM, COLLINS, HARKIN and LEAHY are cosponsors of this amendment.

The purpose of the amendment is twofold. First, under the Forest and Rangeland Renewable Resources Research program in the northeastern United States, the amendment adds a requirement that the Governor of the State of Maine, New Hampshire, New York, or Vermont make a request to the Secretary before any research is conducted under that particular program. Second, the assessment rate is amended from $0.0075 to $0.01 under the Honey Research, Promotion, and Consumer Information Act.

Mr. President, both amendments make technical corrections. I hope my colleagues will join me in supporting this legislation.

Mr. COCHRAN. Mr. President, we have reviewed it. We think it ought to be agreed to by the Senate.

Mr. BUMPERS. Mr. President, it has been cleared on this side of the aisle.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 3136) was agreed to.

Mr. BUMPERS. I move to reconsider the vote.

Mr. COCHRAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3137

Mr. COCHRAN. Mr. President, another amendment we have been able to clear, I am advised, is offered by the Senator from Virginia, Mr. ROBB. On his behalf, I send his amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Mississippi [Mr. COCHRAN], for Mr. ROBB, proposes an amendment numbered 3137.

Mr. COCHRAN. I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

After line 23 on page 67, add the following new title:

TITLE VIII

"SEC. 1. SHORT TITLE.

This section may be cited as the 'Agricultural Credit Restoration Act'.

SEC. 2. AMENDMENTS TO THE CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT.

(a) Section 343(a)(12)(B) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1991(a)(12)(B)) is amended to read as follows:

"(B) EXCEPTIONS.—The term 'debt forgiveness' does not include—

"(i) consolidation, rescheduling, reamortization, or deferral of a loan;

"(ii) 1 debt forgiveness in the form of a restructuring, write-down, or net recovery buy-out which occurred prior to date of enactment and was due to a financial problem of the borrower relating to a natural disaster or a medical condition of the borrower or of a member of the immediate family of the borrower (or, in the case of a borrower that is an entity, a principal owner of the borrower or a member of the immediate family of such an owner); and

"(iii) any restructuring, write-down, or net recovery buy-out provided as a part of a resolution of a discrimination complaint against the Secretary.".

(5) Section 355(c) of such Act (7 U.S.C. 2003(c)(2)) is amended to read as follows:

"(2) RESERVATION AND ALLOCATION.—

"(A) IN GENERAL.—The Secretary shall, to the greatest extent practicable, reserve and allocate the proportion of each State's loan funds made available under subtitle B that is equal to that State's target participation rate for use by the socially disadvantaged farmers or ranchers in that State. The Secretary shall, to the extent practicable distribute the total so derived on a county by county basis according to the number of socially disadvantaged farmers or ranchers in the county.

"(B) REALLOCATION OF UNUSED FUNDS.—The Secretary may pool any funds reserved and allocated under this paragraph with respect to a State that are not used as described in subparagraph (A) in a State in the first 10 months of a fiscal year with the funds similarly not so used in other States, and may reallocate such pooled funds in the discretion of the Secretary for use by socially disadvantaged farmers and ranchers in other States.".

(c) Section 373(b)(1) of such Act (7 U.S.C. 2008h(b)(1)) is amended to read as follows:

"(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary may not make a guarantee a loan under subtitle A or B to a borrower who received debt forgiveness on a loan made or guaranteed under this title unless such forgiveness occurred prior to April 4, 1996".

SEC. 2. REGULATIONS.

Not later than 90 days after the date of the enactment of this Act, the Secretary of Agriculture shall promulgate regulations necessary to carry out the amendments made by this Act, without regard to—

(1) the notice and comment provisions of section 553 of title 5, United States Code; and

(2) the statement of policy of the Secretary of Agriculture relating to notices of proposed rulemaking and public participation in rulemaking that became effective on July 24, 1971 (36 Fed. Reg. 13804).

Mr. COCHRAN. Mr. President, this deals with the Agricultural Credit Restoration Act. It has been cleared on this side. We recommend it be agreed to.

Mr. BUMPERS. Mr. President, the amendment has been cleared on this side.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 3137) was agreed to.

ORPHAN PRODUCTS RESEARCH GRANT

Mr. DURBIN. Mr. President, I rise today in order to engage the chairman of the Agriculture Appropriations Subcommittee, Senator COCHRAN, in a brief colloquy regarding the "Orphan Products Research Grant" program. I am pleased to note that the bill before us which includes funding for the Food and Drug Administration specifically maintains the current level of funding for the operation and grants that support research on rare conditions and diseases, the so-called "orphan products". While I hasten to point out here, as in many other cases, continued level funding is a reduction in program effectiveness because underlying costs go up which result in fewer grants and less research efforts going into this effort to help what have to be some of the most neglected and medically needy in our society who lack effective therapies.

Beyond the grant funding, I am seeking assurance that the Committee intends that the staffing and support functions of the FDA's orphan program are to be continued at not less than the current level of appropriated dollars and FTE's allocated to this most important mission and function. I understand that the FY98 resources are 17 FTEs and $1.8 million for operation costs for administering the Office for Orphan Products Development. The total funding level is $11.542 million which includes both grants and operation costs. The whole program is relatively small, clearly within the core functions of the agency, and extraordinarily effective and productive. It certainly deserves to have priority on any future increased funds that become available. In the last 15 years, this program has nurtured the development and marketing of more than 170 products, 21 of which have directly benefitted from its grant funding. It could easily get lost in the focus on many of the other big ticket, high visibility responsibilities of the FDA.

Mr. COCHRAN. I thank the Senator from Illinois. As Senator DURBIN knows, the committee has worked hard over the past several years to maintain this very important program. This program may be the only hope for cures for some with extremely rare diseases. It is important that FDA not divert these appropriated funds to other areas, thus undermining this worthwhile program. I thank the Senator from Illinois for bringing this issue to our attention.

FDA

Mr. GREGG. I would just like to commend the Senator from Mississippi for his hard work and dedication on this bill, and would like to thank him for his particular attention to FDA matters. It is important that the regulatory programs be adequately funded, and of particular importance to me and a number of my colleagues is the important regulatory program for cosmetics in the Office of Cosmetics and Color within the FDA's Center for Food Safety and Applied Nutrition. As the Senator from Mississippi knows too well, the FDA recently announced cutbacks in this program, and I just wanted to thank him for the report language accompanying this bill and its encouragement for restoring this program to previous years levels.

It is my understanding that our colleagues in the House have provided a $2.5 million increase to restore this program to that level, and I would hope that we can work to ensure that the final version of this bill contains that increase.

Mr. COCHRAN. I appreciate the Senator's remarks. We will do everything we can to make sure that the funding for this worthy program is adequately addressed.

TOMATO SPOTTED WILT VIRUS

Mr. CLELAND. Mr. President, I would like to take a moment to discuss a very important issue, specifically my efforts to provide critical research funding for Tomato Spotted Wilt Virus. First, I would like to thank my distinguished colleagues, the Chairman, Senator COCHRAN, and Ranking Member Senator BUMPERS, for their skillful work and superb leadership on this bill. I, like many of my colleagues, find it extremely fortunate to have two gentlemen in these posts who not only provide a valuable resource on matters facing agriculture, but can be depended on to work with Senators with candor and cooperation. As you may know, spotted wilt, caused by the tomato spotted wilt virus (TSWV), has become a serious impediment to effective production of several economically important crops in the Southeast, causing an estimated $100 million in losses to peanuts and vegetable crops annually. The disease is endemic to the Southeast and the wide host range of the virus makes it extremely difficult to control. If you recall, in the letter which I sent to you earlier this year, I requested that $330,000 be appropriated to the College of Agriculture at the University of Georgia for a project titled the Integrated Approach to Mitigate Tomato Spotted Wilt Virus Epidemics in the Southeastern United States. Although funding has not been provided in this bill, I understand that the House version contains $200,000 for this project's research.

Mr. COCHRAN. My colleague from Georgia is correct.

Mr. CLELAND. I thank the Senator. While I would like to see funding for this project included in the Senate bill, I understand the difficulties that my colleagues are facing in trying to accommodate my request at this time and I defer to your advice on this matter and will not offer an amendment to provide the funding. Given that my ultimate goal is to ensure that adequate funding for this important project is obtained, I would truly appreciate my colleagues providing recognition of the seriousness of this problem as well as a commitment to work to obtain this funding in conference.

Mr. BUMPERS. I share the Senator's concern about this matter and recognize the serious nature of this disease. I also believe that it is important that we provide funding for this valuable project, and hopefully we will be able to accommodate the Senator from Georgia's request in conference.

Mr. COCHRAN. I too appreciate the Senator bringing the critical nature of this issue to our attention. When we meet with the House Conferees on this bill, we will give every consideration to provide funding for this project.

Mr. CLELAND. I thank my esteemed colleagues for their assistance on this matter and I feel confident that, with your commitments, this critical funding will be provided. Considering the cost-benefit ratio of this research as well as our desire to maintain the superiority of American food quality and abundance, I believe that such funding is well justified and in the national interest.

Mr. COCHRAN. Mr. President, I yield the floor.

Several Senators addressed the Chair.

AMENDMENT NO. 3127

The PRESIDING OFFICER. The question recurs on amendment 3127.

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The distinguished Senator from Iowa is recognized.

Mr. HARKIN. Mr. President, again, a parliamentary inquiry. I guess we have before us now the sense-of-the-Senate resolution that was proposed a little while ago by the minority leader, Senator DASCHLE?

The PRESIDING OFFICER. The Senator is correct.

Mr. HARKIN. That is the pending matter before the Senate.

Mr. President, I note the presence of my colleagues from the Midwest and the Northern Plains States who are here on the floor. I think we have to really lay out for the American people what is happening in rural America today.

We can close our eyes to it. We can try to ignore what is going on, but the fact is, there is a crisis of immense proportions happening all over rural America.

In our sense-of-the-Senate resolution, we pointed out that net farm income for 1998 is projected to fall to $45.5 billion. That is down 13 percent from 1996. Now, with farm income going down 13 percent—I asked my staff to check and see what Wall Street did last year. The S&P 500 index went up 36 percent last year; farm receipts down 13 percent.

Farm debt for this year is expected to be $172 billion, the highest level since 1985. So what we say in our sense-of-the-Senate resolution is:

> . . . emergency action by the President and Congress is necessary to respond to the economic hardships facing agricultural producers and their communities.

Very simple. Very straightforward. It is an emergency situation and requires emergency action.

Mr. President, this chart really says it all, what happened to farm income between 1996 and 1997. Let us see, 32 States had a drop in net farm income—32 out of 50. Now, some of them, you might see, had a big increase. Oklahoma was up 94 percent and Kansas 28 percent and Wyoming 73 percent. That was simply because of the devastating drought they had in 1996, and their wheat crop recovered in 1997, and it looks better. But the prices there—and I will get to that in a moment—are still catastrophic for the wheat farmers all up and down the wheat belt.

But look at the other States: Minnesota, down 38 percent; North Dakota, down 98 percent, a 98-percent drop in farm income in the last year; New York State, 44 percent; Pennsylvania a 32-percent decrease in farm income.

Wall Street is doing great. Standard & Poor's is up—what did I say?—36 percent. Yet the ag economy in New York State went down 44 percent. That is the story across America. That is why we have a crisis.

Look at prices here, and you will find something, Mr. President, very interesting about these charts I am about to show. Here is the farm level corn price. We were coming up here in the early 1990s, and we had a steady increase, a little drop, but kept coming up. Right here is the Freedom to Farm bill, and, bang, down it goes. That is corn. Is that an anomaly? Let's look at wheat prices. We were bouncing around, but we had steady progression up all the time. We enacted Freedom to Farm, and down it comes. Wheat prices have been coming down ever since Freedom to Farm was passed. So that is corn and that is wheat.

Farm-level soybeans. Soybeans were coming up gradually, getting better, and we get here to Freedom to Farm, and down it comes. All of those crops, ever since Freedom to Farm, down they come.

Here is the other interesting thing. We can look at the corn and the wheat and the soybean prices. But let's look at the farm share of what is happening to how much farmers are getting from their products that are sold in grocery stores.

Right now, the farm share of the pork dollar is at the lowest point it has been in over 2 decades—in over 20 years. Iowa hog farmers, and hog farmers around America, are getting the lowest share of the retail dollar. So if prices have been declining, as I pointed out here for soybeans and for corn and for wheat, how come we haven't seen the price dropping at the grocery stores? Not a bit. Prices continue to go up, and yet the share of that dollar for our farmers keeps going down. That one is pork.

Let's take a look at beef. Here is the retail share of beef, which has been coming down all the time. It keeps coming down. Maybe it is not quite as bad as pork, but it is still pretty bad. So farmers get less and less.

Now, I noted that in the Washington Post this morning there was a story about our plans to do something to help the farm crisis in America. It said here, "While Democrats in both chambers want to help farmers by revamping domestic farm supports, Republicans say aid will come from more aggressive pursuit of exports."

Interesting. We are going to solve it all by exporting more. Well, let's look at two charts here. I heard a lot of talk about getting rid of sanctions. We are all for getting rid of sanctions. Here is a chart that shows how much agriculture is being affected in terms of sanctions and how much it is being affected by the fact that IMF is not being replenished, so they can continue to straighten out the economies in Asia. Trade sanctions reduce U.S. exports by about 1 percent of the total. That is the USDA estimate. Here is IMF-affected trade coming in at about $35 billion because of the lack of funding for IMF. Who is holding up the funding for IMF? The leadership in the House and the leadership in the Senate.

We will hear a lot of talk about sanctions. But if you really want to get at what is affecting our farm exports, it is the lack of funding and replenishment for IMF. But, Mr. President, is it really exports that are going to solve our problem? Here is U.S. exports on this chart going clear back to 1960—what we see here, hitting 1970 and in the 1970s and then the 1980s. We had a dip in 1985 because of the farm crisis, and then up and up and up. Look at the increase in U.S. agricultural exports. It is down a little bit now from its peak a couple years ago, down 7 percent. But it is still a huge increase over what we have had in the past. That is not the total answer to our problems.

Yes, we need to replenish IMF; yes, we need to continue our strong support for exports. But that won't solve the problem. The problem is that we have pulled the safety net out from underneath the farmers in this country when we passed Freedom to Farm a couple of years ago—the so-called "Freedom to Farm." I called it at that time the "freedom to go broke" bill, talking about our family farmers.

Now, some say, well, what we have to do is, we have to get EEP in there and we have to do more to get our exports going overseas. But the fact is, that would put more money in the pockets of the grain traders and importing companies and not the farmers we all represent. Some commodity groups want to spend several hundred million dollars on the Export Enhancement Program and other export programs. But who is it going to help? That money will go right into the pockets of the exporters, the big grain companies, and the importing countries. It is not going to go to the farmers.

I call that the sparrow feeding the horse kind of analogy. If you want to feed the horse, you feed the sparrow. Then the sparrow drops something on the ground; that fertilizes the grass; the grass grows, and the horse eats it. That is a crazy system. If you want to get money to farmers, then what we have to do is, we have to put in some supports and put that safety net back in there.

A 1994 General Accounting Office study found that direct payments to producers increased net income of farmers much more effectively than an equivalent level of indirect support through subsidies granted under the export subsidy program.

GAO. Direct payment of producers gets their net income up more effectively than putting that money into EEP.

Again, a lot of farmers were told that we had to pass this so-called Freedom to Farm because it gave them flexibility. We were all for flexibility. We had that before under the Carter administration. We had the whole farm base at that time. We all wanted to give farmers more flexibility for the whole farm and let them make the decisions. But we wanted to keep a safety net there.

This so-called Freedom to Farm is fine when prices are high, fine when you have the big payments going out to farmers in the initial 1 or 2 years. But when disasters come, as they will in agriculture, as they have since biblical times, when the prices go down, then what happens is, our family farmers are squeezed out.

It almost seems like the so-called Freedom to Farm bill really was designed with only the largest producers in mind. Why do I say that? Because when you get a downturn, when you have low prices, the big, well-financed producers can weather it. They can get through 1 or 2 or 3 years of low prices. But for that smaller family farmer out there, they can't do it. That is why you are now going to see farm bankruptcies again, as high as they were during the 1980s.

Mr. WELLSTONE. Will the Senator yield for one question?

Mr. HARKIN. I am delighted to yield to my colleague from Minnesota.

Mr. WELLSTONE. Mr. President, for the sake of other colleagues, I believe many will support our efforts on the floor this week because they know how important agriculture is. But when the Senator makes the point about what is going to happen to family farmers, as opposed to large conglomerates able to weather this crisis, I wonder if the Senator might want to explain to people who feel strongly about it why, from the point of view of consumers, it is important that the family farmers be able to stay on the land. Maybe some people will hear you talk and they might say, well, OK, so the giants can stay on, they will farm the lands, and what difference does it make to the vast majority of the people in the country? I wonder if the Senator can spell that out.

Mr. HARKIN. I thank my friend, because we hear a lot about that: "Wouldn't it be better to have a few large farmers out there rather than all these family farmers?" There are a lot of ways to answer that question.

First, a strong, healthy rural America is better in terms of the impact of unemployment in our cities, where people from farms are forced off, they come into the cities. It causes more urban congestion and all of the expenses that causes for people who live in our larger cities. You can look at it that way.

Secondly, you can look at it from the standpoint of a stable, safe food supply. Why do I say that? Because it has been my experience that a family farmer who lives on that land, owns that land, and the children are raised there, and they go to the local schools, and they have a stake in their community—they are some of the best stewards we have for our land. So if you want to take care of the land for future generations and you want to protect the soil and the water, it is better to have a family farm system of agriculture than these big corporate conglomerates that maybe just hire someone or rent it out.

It is like in housing. If you want people to take care of their houses, make them homeowners. That is why I have always been in favor of housing subsidies and getting more housing for low-income people. They will take care of it. They have a stake in it. They have equity in it. That is true with our family farmers, too. As long as they own the land and work it and have their families there, they have a stake in it.

Lastly, just from the standpoint of price, if you have more farmers out there producing more beef, pork, poultry, corn, wheat, and beans, you are going to have a more competitive situation out there. As we all know, competition gives you the best price.

I never could understand people who believe in a free enterprise system and who believe in this concept of competition and giving us the best products at the lowest possible price, then supporting policies that do just the opposite in agriculture and squeeze them out by setting up a few large, vertically integrated entities that have everything from the production of the grain, to the feeding of the livestock, to the slaughtering of the livestock, to the packaging, right to the time it gets to your counter. I can't understand people who think that somehow these kinds of monopolistic prices are going to be the best deal for our consumers. They just aren't. We know it, and we can prove it.

Mr. WELLSTONE. Mr. President, I have one more question for my colleague from Iowa. We have colleagues here on the floor from North Dakota and South Dakota. You talk about the Freedom to Farm bill and the whole question of the price plummeting and the dramatic loss of farm income in a State like Minnesota where we are really hurting. Later on I will get a chance to speak to that. The Senator mentioned that income in North Dakota dropped by 98 percent.

Could my colleague from Iowa explain, A, why the price has plummeted; and, B, when we talk about a fair price, what we are really saying here? Because I think people need to understand how centrally important the price is to this whole question. Would the colleagues from North Dakota and South Dakota also be willing to comment on this?

Mr. HARKIN. I am going to ask that same question of our colleague from North Dakota, because I believe he can answer it better.

I just wanted to point out that last year the average North Dakota wheat farmer suffered a loss of $23,000. My figures show, at least right now, that the income of the North Dakota farmer—I could be corrected by my colleague from North Dakota—this year their income will be, for a family of four, below the poverty level. Their income actually will be below what we have designated as the poverty level in this country.

So I guess the question of the Senator from Minnesota was, What has brought this about? Was that the question? Why has North Dakota, now, I think for 2 consecutive years of low wheat and barley prices—what has brought this about? I ask the same question of my colleague from North Dakota.

Mr. WELLSTONE. The price, and also, why is the price so important to whether or not family farmers will be able to continue to farm, and what is the central importance of that to our statement?

Mr. HARKIN. I would like to ask that question of my colleague from North Dakota and ask him to respond to that question.

Mr. DORGAN. Mr. President, if I might respond to the inquiry of the Senator from Iowa, who has used the floor to describe his sense of the Senate resolution. The problem in North Dakota has been that family farmers lost 98 percent of their income last year as compared to 1996. They planted a crop and they discovered that the crop was devastated by disease. The worst crop disease in this century has hit our part of the country. It has also touched Minnesota, Montana, South Dakota, and some other areas, but none quite as devastating as in North Dakota.

So a farmer plants a crop and hopes it grows. When it grows he hopes it avoids the insects, avoids the drought, avoids too much water, and avoids disease. Unfortunately, our crop didn't, it was devastated by disease. Then the farmer harvests those crops, or what is left of them.

That is not easy. I have been out on harvests plenty of times in my life. It is tough work. The farmer drives his truck into town and pulls it up to the county elevator and unloads that grain. The harvest in that truck box has all of your hopes and dreams for an entire year. That harvest in the truck box determines whether you are going to be able to feed your family, whether you are going to continue farming, and whether you are going to be able to pursue your hopes and dreams on the farm. That is what is in that truck box.

Then they unload that truck, and they put that durum, or the wheat or the barley, into that country grain elevator, and it is weighed, evaluated. And the elevator operator says, "Well, Mr. Farmer, Mrs. Farmer, we have decided that your grain is worth $2.75 a bushel." You didn't get much for it because you had a lot of disease. But what you got is worth $2.75 a bushel. The farmer looks at the price and says, "Well, the problem is it cost me $5 a bushel to raise that grain."

That is in short exactly what has been happening in our State. It has been devastated by disease and low prices.

Think of it this way: Ask any group of families living on any block of this country, any group of businesses on any Main Street of America, for that matter any legislators who are standing visiting in a circle. Ask them about what they would do if they were losing 98 percent of their income. Ask the folks on the block, the folks on Main Street, the legislators, anyone, how would you like to lose 98 percent of your income? Then ask yourself: How am I going to provide for my family? How am I going to meet the future and continue to farm?

That is what has happened to our family farmers. I will read some letters. I will not do it at the moment, but I will read some letters of some farm families in North Dakota who were forced to sell out this year. They say, "Well, we are good farmers. We don't spend money frivolously. We are not going out at night. We work. We work to the bone, and we try. We try hard. And the fact is we are going broke. Yet, everybody else dealing with this grain that we produce is making money."

The people who haul it, the railroads, have record profits. The people who put it in the mill have record profits. The people who make it into breakfast cereal have record profits. Take some wheat, puff it up, call it "Puffed Wheat," put it on the grocery shelf, charge $4 or $5 for it, or put it in bread. The farmer gets less than the heel.

Farm prices have collapsed. Have bread prices come down? I don't think so. Have cereal prices come down? I don't think so. Yet everybody in the process, except the people who grow the food, is making money.

There is one final point I want to make. I was on the floor of the Senate yesterday pointing out that half way around this globe of ours there are people climbing trees for food. Old women are climbing trees in Sudan to forage leaves to eat. They are eating leaves from trees because they are dying of hunger. Over 1 million people are at threat of starvation in Sudan.

The people on this side of the world are told, yes, there are 1 million people facing starvation. They are eating leaves off trees. But the food you raise on the family farms somehow doesn't have worth. It doesn't have value. That is a terrible, terrible disconnection of what we ought to be doing.

So the answer to the question of the Senator from Iowa is that our farmers have been devastated more than in any other State largely because we have been hit harder by disease. But all farmers trying to market wheat at this point are discovering that the price of wheat has collapsed.

Today the price is $2.99 a bushel at one of our local elevators in North Dakota. It was $5.75 just 2 years ago. The price today is what it was decades ago when the price of all the inputs was much, much less. At today's prices, farmers are losing over $2.00 per bushel.

So the question facing us is whether we are going to do something that gives family farmers an opportunity to make a living. Does family farming have value to our society? I believe it is more than just dollars and cents. If you believe as I do that it is important, then the question becomes what is the solution. What kinds of solutions and what menu of choices can we select that will say to family farmers, "You are not alone? When you hit price valleys, we will try to build bridges across those valleys because we want you in our future."

Mr. President, I thank the Senator from Iowa for asking the question. I thank my colleagues for their indulgence so that I could answer.

Mr. HARKIN. I just want to finish a few remarks, and then I will yield the floor.

Is that the desire of the Senator from South Dakota?

Mr. JOHNSON. Mr. President, I have a question that I would like to ask of the Senator from Iowa at some point.

Mr. HARKIN. I yield for a question.

Mr. JOHNSON. I thank the Senator from Iowa for his extraordinary leadership under these very trying circumstances.

One of the points that the Senator was making earlier struck me as particularly important in terms of the long-term future of rural America and the long-term capability of our Nation to feed not only our citizens but also much of the rest of the world. The Senator from Iowa was talking about what kind of structure we would have in rural America if we go particularly down the road of more and more concentration and vertical integration. It struck me that there may be other societies that have gone down that road from whom we can learn a lesson or two.

I am reminded of the agricultural regime in the former Soviet Union and their efforts to turn agricultural workers into paid employees rather than people who have a personal family stake in the outcome of their agricultural enterprise, and what that led to in terms of taking a nation with enormous natural resources, that had historically been one of the bread baskets of the world and what that did to that nation in terms of destroying its infrastructure of small rural communities, what it did ultimately to destroy its ability to produce food shipments for itself and for its neighbors.

I would wonder and question the Senator from Iowa whether he thinks there are some lessons to be learned from other societies that have destroyed family agriculture, then discovered it was a mistake, then discovered that turning family agriculture up by the roots is not so easily replanted and what happens after you have gone down that road, if you decide that you want to reestablish family agriculture after you have ripped it up by the roots in that manner? I wonder if the Senator will comment about the long-term structure that we are headed to if we continue down this road.

Mr. HARKIN. The Senator from South Dakota has put his finger on it. I visited the old Soviet Union on a couple of occasions before it disintegrated, went out and visited some of these big farms, some of the most inefficient, awful operations you have ever seen, and then I visited later just when they were breaking up the large farms. What I heard time and time again was that was probably one of the biggest mistakes they ever made in the Soviet Union—collectivizing the farms. And now in Russia, what they have decided—and I have met on more than one occasion with a couple of their agriculture ministers—is the best thing to do is return the land to the people, give them private ownership of that land and to disburse it as much as possible.

What they have found, lo and behold, is they are getting better products and better production for their people. Right on target. And yet we seem to be going in the other direction. We seem to be doing what the Soviet Union did. Now, it is not State collectivization, but it is monopoly practices. That is the same kind of vertical integration.

Mr. JOHNSON. Will the Senator agree that while the track that we are on may not be as a consequence of a specific plan simply on the part of the Government or anyone else, but that any sector of the economy that is expected to generate profits based on prices that were consistent with 1940, as we are in the grain and livestock sector today, and yet to pay the input costs that reflect 1998 costs will lead ultimately, as certainly as night follows day, to the demise of that enterprise, that family agriculture capitalized in a modest way as it cannot possibly sustain itself with the combination of these tragically low prices and the extraordinary high input prices?

Mr. HARKIN. The Senator knows about what I am about to say because I know he has been through this, and that is what I think a lot of consumers and what a lot of people have to understand about farming in America and about our family farms. Farmers are price takers. In other words, a farmer has a lot of fixed costs over which that farmer has no control—land, seed, fertilizer, chemicals. The farmer who goes down to get his seed can't say, well, my prices went down last year. I will buy that, but I can give you 10 percent less. The farmer has zero bargaining power. He pays the freight. Whatever it is, that is what he has to pay. So the only way for that farmer to make anything is through the price that the farmer receives, price plus his production. Now, if the price is so low, no matter what he produces, he can't produce himself out of the hole.

That is another little anomaly that I have thought about in all my years here and working in agriculture on the agriculture committees. People say, well, if prices drop—see if this doesn't ring true with my friend from South Dakota. A lot of ideologues say, well, if prices drop, farmers will take that signal and they will plant less. But we know what happens when a farmer has a fixed unit of land and he has his fixed machinery and prices drop. They say, how can I get more production out of that unit of land to cover the lower prices? And so what happens is you get a drop in the prices. Farmers plant more because they have a fixed amount of land. They want to squeeze more production out of it.

That has happened time after time after time in American agriculture. Yet some people do not seem to understand that.

So they have to have the price plus production or they are going to go broke, and that is what is happening today. I believe it was attributed to former President Kennedy—I can't be certain about this. But I think former President John Kennedy once said that a farmer is the only man in America who buys at retail, sells at wholesale and pays the freight both ways.

That is very true today. That is why we are having this crisis in America.

Now, again, I am all for farm flexibility and giving farmers the maximum flexibility. But we have to have a safety net in there because it is as true today as it was in biblical times. I guess we just never seem to learn it. I have here a letter that was sent to a number of us from Mr. Dwayne Andreas, chairman of the board of Archer Daniels Midland Company. I found this to be a fascinating letter.

Now, obviously, Andreas heads a large agribusiness that takes the raw food shipments and processes them and makes them into articles that we see sold all over the world. I am sure we have seen his ads on Sunday "Meet The Press," ADM, which is the supermarket to the world. We have all seen that and they do a good job. So here is an individual, the head of a large company that buys the raw products, processes them, turns them into something that is sold in supermarkets in places around the world. Interesting. He sends a letter dated June 18. He said:

> I feel the urge to say something about present farm policy. I could write pages about why support prices are necessary to protect farmers from the excesses of speculators.
>
> It was a bad idea to remove all the support prices from under farm commodities and if left alone it will lead to disaster. The side effect of a drop in farm income affects all U.S. businesses and can be devastating. Only those of us with long-term memory seem to be aware of that. The country shouldn't have to learn it all over again. Although, of course, it is legendary that people in my line of business can benefit from free falling farm prices by buying bargains, I feel that stabilized agriculture is extremely important for America and for the world.
>
> I hope you will work to restore some form of price support to protect farmers from disaster. Subsequent events prove it has to be corrected, not just for the benefit of farmers, but to stabilize the economy of our Nation. People seem to ignore the fact that no genuine free market is left in this world. Governments everywhere manage farm prices and the U.S. will have to follow suit or face disaster.

I find that interesting, coming from the head of perhaps one of the largest manufacturers of agricultural products. As he said, it is legendary that it would be in his best interest to have low farm prices. But I think what we have seen from Andreas is the statement of a statesman and someone who understands what it means for our entire economy and for our Government and, indeed, for hungry people around the world to make sure that our farmers have a decent price. So I applaud

Andreas for making that statement and taking the position he has taken, which probably is in direct conflict with his economic best interests.

Why I remembered that letter is he said those of us with memory long enough. And I have said it time and time again. It started in biblical times with Pharaoh's dream, and he asked Joseph to interpret the dream. And Joseph said what it means is during good times you store up the grain so you have it during bad times, 7 years of plenty and 7 years of famine. Through the ages, governments everywhere have learned and relearned that lesson. And yet for some reason, under the Freedom to Farm, so-called Freedom to Farm bill that we passed here a couple of years ago we said that is all over. Evidently, farmers are going to have high prices from now on. Well, they have short memories, and they probably haven't been reading the Bible either because if they had they would know that this has plagued us for thousands of years.

Mr. JOHNSON. Will the Senator agree that one of the things this institution needs to do is step back and recover its institutional memory, its recognition of why we arrived at the price support system in the first place, going back as long ago as the 1930s and the agricultural stabilization service? There was a recognized need then, generations ago.

Family agriculture, it would seem to me, cannot sustain itself without some stabilizing force. Otherwise, they simply will not be capitalized well enough. They will be driven off the land, just as what was happening at that time, and we need that kind of a presence not to micromanage, not to deny the flexibility that our farmers need to meet the forces in the market, but that they need an opportunity to compete fairly with a more stable kind of environment. We, in fact, are losing sight of that—assuming that the $6 wheat when Freedom to Farm was passed would be here forever, that the $5 corn when Freedom to Farm was passed would be here forever—and we find it out only a few years later, conveniently after the next elections, when prices have declined.

Does the Senator concur that a handful of years of declining transition payments, a pat on the back and a "good luck, buddy," is not a reasoned, long-term strategy for family agriculture and the provision of food in this Nation, and now that there is great urgency, we need to step back and accept that that was misguided? We do not need micromanagement, we do not need bureaucracy-laden policies, but we do need something that will provide the kind of stability that, as long as 60 years ago, was recognized as necessary when, if anything, we are in a more volatile world market situation now than we were then? Does the Senator concur with those observations?

Mr. HARKIN. The Senator is right on the mark again. I said a couple of years ago, when that so-called Freedom to Farm bill passed, it was a triumph of ideology over experience—the experience of thousands of years; the experience we have had in our own country since the 1930s. Yet there was this ideology that said, no, we have to get the Government out of everything; no price supports.

But I submit to my friend from South Dakota that the so-called Freedom to Farm bill probably is working just as it was intended. During high-price years, like we had when the Freedom to Farm passed, it offers large-scale farmers the ability to take advantage of opportunities that they might see in the marketplace. Now, does it help the smaller farmers a little bit? Sure, but only because those payments were high in the first years. As the Senator pointed out, those initial payments are coming down, so the large-scale farmer, better able to weather 1 or 2 or 3 years of low prices, is left to sail on through. The smaller farmer is left to go broke, and that is what Freedom to Farm was intended to do. I swear, the idea was to get fewer farmers out there, to structure it differently.

I am going to yield the floor momentarily, but I have to tell my friend a story that happened to me back in David Stockman's time. We always remember David Stockman first as the head of OMB under President Reagan.

I remember having a meeting with him at that time, talking about farm bills, and they were after agriculture. I used to have debates with David Stockman on the floor of the House on agriculture. He was always for this so-called getting the Government out of agriculture and everything. I remember, he sat at a table one time, and he said to me at the time, I think I was a Congressman then, he said, "Congressman HARKIN, you know as well as I do, if you have two farmers out there and they both have such-and-such land, they both have two tractors, they both have two combines, they both have two barns, they both have two this and that," he said, "you know as well as I do, one farmer could do it all."

I said, "Really? One farmer can do it all? Is that right? How so? How can one farmer?"

"Well, one farmer can buy out the other farmer and get all that machinery and get bigger equipment and hire someone to work for him and get it all done."

I said, "How is that one farmer going to buy out the other farmer? If you have those two farms, what is going to cause one of the farms to go under?"

"Well, recurring low prices."

We talked. I will give him one benefit, he was honest about it. He said, "With these recurring low prices, the little farmer will have to get out. The bigger farmer will buy him up." And his point was it would be more efficient to do it that way, more efficient.

I said, "How do you measure efficiency? How do you measure efficiency? Do you measure it in terms of the local businesses that now will go under in the local community because that farmer has gone out of business? Do you measure it in the local education system, where now kids have to go 30, 40 miles a day to go to school, and they have a hard time getting teachers to teach in these rural areas? Do you measure efficiency in terms of the lost production? If you had two tractors before and you only have one now, what does that mean in Detroit and places like that where people are working in manufacturing?"

So I always challenged him to define efficiency, not just by looking at the individual farm itself, but looking at the community at large; what was more efficient? I had always believed, and I do today believe that the most efficient, in terms of our Nation, in terms of our country, in terms of our consumers—the most efficient form of agriculture is one that is diverse, dispersed, and one that encompasses many family farmers owning their land and working their own land. I have maintained that for the last 25 years and I maintain it today. I think a lot of the problems we are having today have to do with the crisis we had in the 1980s that kicked a lot of farmers off their land, and we are having the same crisis today up in the northern plains area.

As I said, those who want to stick with that so-called Freedom to Farm—I suppose maybe they have the votes. I don't know. But we are going to have some amendments on this floor today and tomorrow, as long as we have to take, on this ag appropriations bill, to get some changes made to put that safety net back under our family farmers and to provide them with the support they need during these tough times. We can do nothing less, not just for them, but for our country.

I yield the floor.

The PRESIDING OFFICER (Mr. SESSIONS). The Senator from North Dakota.

Mr. DORGAN. Mr. President, I appreciate the remarks of the Senator from Iowa and the Senators from South Dakota and Minnesota who were here. We have offered a sense-of-the-Senate resolution on the question of the farm crisis and will get a vote on that at some point. The Senator from Iowa indicated other amendments will be offered. Let me just provide a bit more context for some of this.

I know a lot of folks in this country don't live on a farm, have never been on a farm, and don't know much about family farming. Perhaps they wonder why is there so much discussion about family farming. Why does it matter?

I come from a small community of 300 people in southwestern North Dakota, which is where we raise a lot of wheat and livestock. I suppose one can look at those parts of the country where there are not many people who live in the area and say that is not a big population center and it doesn't matter much. But it is where we produce our food, by and large, in this country.

When you get on an airplane and fly across the States at night, you look out the window. I am sure as the Senator from Iowa flies across the State of Iowa, just as I fly across North Dakota, he sees these yard lights out there at night. Take a look at them. See these brilliant little lights from the prairie that sparkle up to your airplane window and understand what is there. Underneath that light is a family out there. They have turned the yard light on, on the family farm. That is where they are trying to make a living. All those yard lights out there on the family farms represent the economic blood vessels that represent the rural lifestyle that allow these small towns to flourish and to live. That is where I grew up.

I am a Jeffersonian Democrat. I believe, as Thomas Jefferson did, that this country will survive as a free country with the kind of political freedoms that our Constitution guarantees us so long as we also have economic freedom. Economic freedom and political freedom go hand in hand. And economic freedom is nurtured and guaranteed by broad-based economic ownership in our country.

Jefferson believed in broad-based economic ownership. Small businesses and family farms dotting the prairies and populating our main streets represent broad-based economic ownership and, ultimately, represent the opportunity within economic freedom.

The country these days has seen an orgy of mergers. Gee, every day you wake up and you pick up the morning paper and somebody else has merged. You see it in almost every industry. Recently, it has been banks. The biggest banks in the country discover they love each other, apparently, and decide they want to get married. We didn't even know they were dating, and all of a sudden the newspaper in the morning tells us they want to get hitched, so they merge and two big banks make a much bigger bank.

Airlines have been doing it as well. Big airlines take a look at the little airlines and they don't like the competition. They say, "We want to buy you up and merge." So they merge. Two big airlines decide they will be better off if they merge, and they merge.

It doesn't matter what industry you look at. We used to have 30 or 40 class 1 railroads in this country. Now we have a handful at best. They all merged.

Some say that would also be good for farming. Let's have them all merge together; we can have farmland farmed; just get the family out of there. That is what some say. They say we can have giant corporate agrifactories producing agricultural products from California to Maine and that we don't need family farmers living out on the farms.

First of all, I think the people who ignore the question of size and mergers in this country do so at their own peril. And I think the people who ignore the question of the health of family farms do so at their own peril as well. Broad-based economic ownership in this country is important, and we ought to be concerned about it. We especially ought to be concerned about it on the family farm.

In addition to hearing about mergers every morning, you turn on the radio going to work and you hear reports on America's economic health. It is always some gray-suited economist who comes from the same university and works for the same entities, in most cases, who tells us how healthy America is, and they tell us in the morning how healthy America is by their latest reports on what we consume.

I actually used to teach economics a couple of years. I don't always admit that. Yet, I have been able to overcome that experience and, nonetheless, go on to lead a decent life. When I taught economics, I was one of those who didn't teach that our economic health in America is dependent on what we consume. No, it is dependent on what we produce. Real economic wealth is represented by what you produce.

The most prodigious producers in our country are family farmers. They are the all-star producers, bar none. Yet, you can take a look at this economy of ours and who is doing well and who isn't. Then you will discover that this economy has decided, for a whole series of reasons, some of which are public policy reasons and others, that the producers on the family farm are somehow expendable; it doesn't matter whether they do well.

I mentioned some while ago that in North Dakota family farmers lost 98 percent of their income in 1 year. I don't know of anyone who can withstand the loss of 98 percent of their income, not in theory, not in practice. When you lose 98 percent of your income, you lose your ability to continue.

I am going to read just a few letters from some North Dakotans, because they say it much better than I can.

A woman named Shirley in North Dakota. Their son is a beginning farmer. Shirley and her husband farm. Their son is a beginning farmer. She said:

> My son filled a sprayer with water, then checked the temperature at 4:30 a.m. this morning, June 3, 1998. Last night, freezing temperature records were forecast for all of North Dakota.

They ran into a cold spell.

She said:

> My son filled a sprayer with water, then checked the temperature at 4:30 a.m. because it freezes usually just before sunrise. He was prepared to go out and spray the beans with water to prevent them from being killed by frost. He probably already put in a 15- to 18-hour day, but at 4:30 a.m., he was up filling the sprayer with water to try to save his crop.
>
> He does carpentry work all winter to make ends meet. He serves on cooperative boards. He is a volunteer on the emergency medical team that runs two rural ambulances in our community. Last year, two quarter sections of his land were totaled by hail, and Federal crop paid almost nothing. He's been able to pay his $5,294-a-year health insurance bill only by giving up some farm-related necessities, like hail insurance.

She said:

> This letter is my personal plea that Congress appreciate the value of family farmers in this country and do something to help stabilize their income.

This is from Edwin from North Dakota. He said:

> If things continue as they are now, in 10 to 15 years, you'll find very few family farms. I believe when and if this happens and the farms get big enough, the price of food will go up drastically because the companies that operate these corporate farms will then be able to hold back production until they get what they want to make a profit. I farm a 1,200-acre farm. The original farm was homesteaded by my grandad, so I'm the third generation to be out here on the family farm. I'm 61 years old and have a son who would very much like to take over the farm when I retire, and I would like nothing better. But I have no choice but to tell him that as it is now, it is almost impossible to make a living on this farm anymore.
>
> The Federal Government says they want to keep family farms viable, but the freedom to farm bill is selling them down the river, in my opinion.

Mr. President, a letter from a man named Kelly, a family farmer. He wrote to Secretary Glickman and sent me a copy of it. He said:

> You can say that a farm crisis is occurring in a small isolated area and that Mother Nature has caused all of this, but I disagree. First of all, this is not an isolated area. This is a huge area. The population is small because many farms have already been forced out of business. Mother Nature is something farmers are used to dealing with when they have the proper tools to manage the climate wrath that she can behold. But these tools have slowly been taken away from farmers as yield guarantees and crop insurance formulas are getting lower and lower each time a claim is filed. Secondly, farmers' marketing tools—export enhancement and restricted trade with Canada—have been thrown in the junk pile by two successive administrations.

I am not going to continue to read more letters, but I think everyone understands the circumstances. Let me mention, finally, a paragraph from a woman named Kristen who talks about her father:

> I spoke to my father and he said if he doesn't have a good year this year, doesn't make it this year, he probably will have to get another job and sell the farm.

She said:

> That broke my heart. My father worked so hard all his life to give me and my brother the best upbringing and education. He put me through undergraduate and graduate school. As a child, I remember not seeing him much from April until he started taking me to basketball practice in August. He got up before dawn and returned long after I went to bed. That is what family farming is. The winters were not idle, either. Intricate planning necessary to run a successful farm is done all year-round. The reason my father is struggling is not because he is not a good farmer. He doesn't spend money frivolously. There is an increase in disease ravaging his crops, and the government is cutting back the help to make up for these losses.

Well, Mr. President, you get the point. But the point is more than just that. There is suffering and there is a farm crisis. The point is that somehow this system of ours has decided that everybody else can make money with the farmer's product. Yet the persons who grow it, it is OK if they do not make any money, and it is OK if they go broke.

You raise some crops, as I mentioned a bit ago, on the farm, and ship them through the process. The people who are going to haul that crop are going to make money. We have a railroad through our State that is going to charge them twice as much to haul that grain per carload of wheat, than they would charge on another line where there is competition. From Bismarck to Minneapolis there is no competition, so a farmer is told, "You pay $2,300 a carload to ship your wheat to Minneapolis." Yet, if you put the wheat on a train from Minneapolis to Chicago, which is about the same distance, you pay $1,000. Why do they charge us more than double? Because they can. That is the way the system works.

The people who haul the wheat make money. The people who mill the wheat, the flour mills, are doing just fine. About four firms control about 60 percent of that. They are doing just great, probably making record profits. Grocery interests are doing just fine.

Virtually everywhere you look, the people who turn it into breakfast food and puff it and crisp it and mangle it and shape it and box it and package it and send it to the store shelves and charge $4 for it, they do just fine. What about the person who produces it and takes all the risks and does all the work to produce the food out there in the family farm. They are the ones going broke in record numbers. In my State, they have had so many farm sales this spring they had to call auctioneers out of retirement to handle the sales.

The question for the Congress is whether we are we going to do something that says to the family farmers: "You matter. You are important to this country, and we want to provide something that helps you in a range of areas?"

We ought to help because we have a trade system in this country that, in my judgment, sells out the interests of producers. Our system of trade is not fair. We say to farmers, "We're upset with Cuba; therefore, we won't ship grain to Cuba, and you pay the cost of that lost market. We're upset with Libya; we will not allow you to ship grain to Libya, and you pay the cost, Mr. and Mrs. Farmer, for that lost market."

Ten percent of the wheat market in the world is off limits to our farmers. And farmers are told that is a foreign policy judgment, and we want you to pay the cost of it. That is not fair.

We also negotiate trade agreements with Canada, Mexico, China, Japan, and many others. In every set of circumstances, somehow we end up losing. We send negotiators out and they can lose in a day. I do not understand that. Will Rogers said some 60 years ago, "The United States of America has never lost a war and never won a conference." He surely must have been thinking about our trade negotiators. How can they lose so quickly?

Let's talk about Canada. They negotiated an agreement with Canada which fundamentally sells out the interests of our farmers. Every day, in every way, there is a flood of unfairly subsidized grain coming into this country eating away at the profits of our farmers, diminishing our price.

When we say to the Canadians, "We think you are violating the anti-dumping laws of this country, and we demand you open your books to our inspectors," they thumb their noses at us and say, "Go fly a kite. You have no ability to determine the trade practices of Canada." This incidentally is happening despite the fact that the trade negotiator who negotiated the trade agreement with Canada promised in writing it would not happen. That promise was not worth the paper it was written on.

I can speak at great length about trade. Why can't we get more wheat into China? Why can't we get more beef into Japan? Why can't we get raw potatoes into Mexico? Why can you drink all the Mexican beer up here you can possibly consume in a lifetime, but try to order an American beer in Mexico. Yes, when I talk about beer, I am talking about barley. But rather than talk at great length about all of those trade problems that confront our farmers and diminish their price, my point is, this isn't their fault.

The Federal Government, through a series of policy initiatives must take some responsibility. First of all, there were bad trade deals that were negotiated poorly, and then not enforced at all. Secondly, there has been a ravaging crop disease which decimates the quantity and quality of a crop. Then third, prices have collapsed following a farm bill that was passed by this Congress, which pulled the rug out from family farmers, and left them without a working safety net.

When Congress passed the farm bill a couple years ago, the price of wheat peaked at $5.75 a bushel. They called it the Freedom to Farm bill. To pull the rug out from under family farmers and say, "We're going to get rid of the price supports for you," would be like saying to the minimum wage folks, "Let's cut the minimum wage to $1 an hour and call it freedom to work." That is what freedom to farm is all about.

Since freedom to farm was passed, the price of wheat has gone straight down. Now it is almost $2 a bushel below what it costs the family farmer to raise wheat or to produce wheat. Family farmers cannot continue with prices below their costs of production.

This Congress has to decide whether it wants family farmers in our country's future or doesn't it? If it does, the question becomes what can and must we do together? What can Republicans and Democrats, conservatives and liberals and moderates do together? What can and must we do together to develop some kind of basic safety net to say to family farmers, "You matter. When prices collapse, and you are confronting monopolies on the upside and monopolies on the downside, or you are confronting unfair trade agreements, or you are confronting sanctions all around the world, or when you are confronting crop disease that is devastating your crops, then this Government cares about that, and the rest of the American people will provide some basic kind of safety net for you."

That is going to be the question that is posed to Members of Congress in the coming couple of weeks: Do family farmers matter? If they do, what can we do together to try to say to these people, "We'll give you some hope for the future. If you don't get a decent price at the marketplace, we'll provide a support mechanism of some type to get you over this price valley."

For decades, this country had decided that when farm prices collapse, we will build a bridge across those price valleys, because family farming matters and we want family farmers to be able to populate this country and retain broad-based economic ownership of the land in America.

That is the question we have to confront in the next couple of days and couple of weeks as we talk about this farm crisis that gets worse by the day and is affecting more and more areas of the country.

It is true that North Dakota is hardest hit. It is true that North Dakota had a 98-percent loss of net farm income for family farmers in our State. That is devastating. But it is also the case that crop disease called scab or fusarium head blight is spreading across this country. And it is also true that collapsed grain prices eventually will cause the same kind of problems they cause for our farmers in other parts of the United States.

Mr. President, with that, I yield the floor.

Mrs. HUTCHISON addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I just want to speak for a few moments.

The PRESIDING OFFICER. I advise the Senator that, under the previous agreement, we are to adjourn at 12:30.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent to be able to speak for up to 5 minutes on an amendment that has just passed.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3134

Mrs. HUTCHISON. Mr. President, I want to thank Senator COCHRAN and Senator BUMPERS for helping pass a sense-of-the-Senate resolution about an hour ago that addresses the devastating drought that we have been experiencing in Texas. They did it on behalf of Senator GRAMM and myself. This is a very important sense-of-the Senate, because it directs the Secretary of Agriculture to do everything possible to relieve the drought conditions—not to provide rain, obviously, but to do everything we can to prepare for the relief that is going to be necessary due to the economic losses that Texas farmers and ranchers are facing because of the worst drought that we have seen in my memory in the State of Texas.

In fact, it is now estimated that more than $4.6 billion in losses will result to the agriculture community according to the Texas Agricultural Extension Service. Direct losses of income to agricultural producers is $517 million, which will lead to another $1.2 billion in economic activity for the State.

What we are asking the Secretary to do is to streamline the drought declaration process to provide necessary relief as quickly as possible. The Secretary has released CRP acres in 53 counties for haying and grazing.

It will help to have these acres available for grazing because there is so little grass and few crops able to grow right now. Not only will haying the land provide food for the livestock, but it will take up dry grass so that it will not be a fire hazard.

In addition, we have asked and the President has given us an emergency declaration so that we can start positioning equipment in places where there is imminent danger of wildfires. We are very concerned about this potential because we have had so little rain for such a long period of time.

We have also ensured that the local farm agencies are equipped with full-time and emergency personnel in these drought-stricken areas to assist the producers with the disaster loan application pages. We are doing everything we can to prepare for the disaster that we are seeing unfold before our very eyes in our State right now. In fact, we have had more days of back-to-back temperatures over 100 than at any time in our State's history.

As you know, when you have, day after day after day, of no rain, and over 100-degree temperatures, it does start baking our land pretty quickly. I hope the Secretary of Agriculture will continue to respond to the requests that Senator GRAMM and I are making. As I will continue to do everything to prepare for the farmers who are losing their crops—as we speak right now—to give them the insurance that they need to get through this year economically. I want to thank both Senator COCHRAN and Senator BUMPERS for working with us to expedite this sense-of-the-Senate resolution. I just hope that, in lieu of rain, we will do everything else we can to prepare and give a cushion to the farmers and ranchers of my State that are suffering greatly right now.

Mr. COCHRAN. Mr. President, I thank the distinguished Senator from Texas for her leadership in bringing to the attention of the Senate the facts about the Texas drought. We have already had news reports on that subject. It is obvious that there are very serious conditions there that need the immediate attention of the Federal Government. Her resolution, cosponsored by Senator GRAMM from Texas, will be very helpful in directing the way for this response to be made.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate will stand in recess until 2:15 p.m.

Thereupon, the Senate, at 12:31 p.m., recessed until 2:14 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. GREGG).

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 1999

The Senate continued with the consideration of the bill.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. I thank the Chair.

AMENDMENT NO. 3127

Mr. President, I come before the Senate as a Senator from Minnesota, along with other Senators from the Midwest, although I think that we represent the point of view of Senators throughout the country. I come to speak to the sense-of-the-Senate amendment that is before the Senate, although we are going to have much more business to follow.

The concluding paragraph of the sense-of-the-Senate resolution is:

> Now, therefore, it is the sense of the Senate that emergency action by the President and Congress is necessary to respond to the economic hardships facing agricultural producers and their communities.

This was laid down by my colleague, Senator DASCHLE from South Dakota, the minority leader.

I ask unanimous consent that I be included as an original cosponsor of his amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WELLSTONE. Senator HARKIN spoke when I was out on the floor earlier, and Senator DORGAN, and Senator JOHNSON. Senator CONRAD may have spoken.

Mr. President, let me talk not so much about what is happening around the country, although most Senators represent States that are being hurt by this crisis in agriculture. Let me instead talk about what has happened in northwest Minnesota and what is happening right now in my State.

In northwest Minnesota, we have been hit by bad weather. Everybody remembers the floods. We have also been affected by scab disease. And now we are facing very low prices with grain crops.

Mr. President, the situation is dire. Wally Sparby, director of our farm service agency in the State, has predicted that we could lose as many as 20 percent of our farmers, that right now one out of every five farm families is in trouble and is struggling. Thanks to the help of Senators, including the Senator from Mississippi, Senator COCHRAN, we were able to get some help to farmers for spring planting season. We were able to get USDA farm credit to farmers at planting time. The problem is whether people are going to continue to be able to farm.

Mr. President, I read from the testimony of Rod Nelson, who is president of the First American Bank in Crookston, which also has offices in the communities of Warren, Fisher, and Shelly in northwest Minnesota. Here is the concluding paragraph:

> In our bank in the fall of 1995, we began addressing the reality that things had reached a new level of concern, as many rather than some of our farm customers, were not doing well. Things have only gotten worse since then. This year we conservatively project to have 20 growers quitting or significantly downsizing their operation. We likely have an equal number thinking about doing so or in the process of doing so. It's important to note that to properly phase out of farming it takes good planning and 2, 3 or 4 years. The increased number we are seeing this year will likely be even larger next year. These numbers just represent our banks customers. As you look at the whole of Northwestern Minnesota, the picture would be worse because not all areas have beets which has been the one consistently good crop.

Mr. President, I will just translate all of these statistics in personal terms.

I hope we will take action in this Chamber that will make a difference. I hope it will happen in the House. I don't want it to be symbolic politics. I don't want a partisan debate. I hope it doesn't end up going in that direction, because I will tell you, I have met too many people who are now being driven off their farms. They not only work on the farms; this is where they live. During the mid-1980s, I was a teacher at Carleton College in Northfield, in Rice County, some 491 square miles, population I think about 41,000, and most all of my community organizing was in farm, rural areas. I spoke at so many different farm gatherings, and I knew so many families that were foreclosed on. I saw a lot of broken dreams and a lot of broken lives and a lot of broken families. That is exactly the direction we are going in right now.

Farmers have good years and also some not so good years. Prices go up and prices go down. I am not, I say to my colleagues, going to come out here and rail about the Freedom to Farm bill. Maybe there will be a time to do that. I will say in a very quiet way that I really do believe this has been more for the benefit of corporate agribusiness, and I do think now that prices are falling and the so-called transition payments are dwindling, an awful lot of farmers are in trouble. That is the real point.

We no longer have the safety net we once had. Farmers cannot make it on $2 corn, they can't make it on $3.25 wheat, and that is why at the beginning I said, and I say it again, I think the Freedom to Farm bill has become the "Freedom to Fail" bill.

Now, after having said that, I want my colleague from Mississippi and other colleagues to know that I don't see this particular resolution or the amendments that we are going to bring to the floor over the next day or so as being a debate about the Freedom to Farm bill. I think it was a profound mistake. I voted against it. I will always take that position until proven wrong.

By the way, I said when it was passed that I prayed I was wrong. I would be pleased to be proven wrong. If in fact the Freedom to Farm bill, along with the flexibility for farmers in planting, which I am all for, was to lead to family farmers doing better and the families being better off, I would be all for it.

I guess that was the theory. But now we don't have the safety net we had, and, most important of all, farmers do not have the leverage in the marketplace to get a decent price. That is what I would put my focus on, a fair price for farmers, especially family farmers.

Now, for people who might be watching our debate, I think this is special to me as a Midwesterner, because the family farm structure of agriculture is precious to our part of the country. We all know that the land will be farmed by somebody and somebody will own the animals. The question is whether or not the land is farmed by family farmers. The number of family farmers who live in our communities has a lot to do with who supports our schools, who supports our churches or synagogues, who supports the local businesses in town. This is a life-or-death issue for a very important part of America. This is a life-or-death issue for a part of America that is dear to many Americans.

So first we have the resolution that is before us which asks the Senate to recognize that we have an emergency situation, and we do. This would potentially free up some funds that are needed to provide family farms and families in rural America with some support.

Second, I think the most significant thing we can do is to focus on price. When I think about the discussions I have with farmers—I hope to be in Granite Falls, Minnesota this Saturday with State legislators. Doug Peterson is going to be there; Ted Winter is going to be there; Jim Tunheim from northwest Minnesota has been making the plea over and over: Please do something. Our focus will be to lift the current cap on the market loan rate.

Right now, we have a cap on the loan rate which is $1.89 for a bushel of corn and $2.58 for a bushel of wheat, and this tends to set a floor under prices. But this is simply too low. It is just simply too low. Farmers cannot cash-flow with these kinds of prices. At a Minnesota average price for the year at $2 for corn, it simply is not going to work for family farmers.

What I would like to do in the best of all worlds, is to remove these caps and raise the loan rate to the close to the cost of production—$3 corn and $4 wheat. That is what we should talk about. Instead, what we want to do is to at least take the cap off this loan rate, and then raise the loan rate to 85 percent of the average price for the last 5 years. That would be at about $2.25 a bushel for corn and about $3.22 for a bushel of wheat.

Let me say to my colleagues, if we do that and we also extend the repayment period from 9 months to 15 months—all of it is paid back; this is not a giveaway—then what we will see is farmers getting a better price for their crop.

We have to take the cap off the loan rate. We have to get the price up. There is no way that family farmers can make it otherwise. We can focus on exports. We can focus on all those other issues. That is fine. But the central issue is price, price, price. And right now that loan rate is set at such a low level and farmers have so little bargaining power in the marketplace that they cannot get a fair price.

We also want to make sure that we have some price disclosure and reporting when it comes to what is going on with the livestock markets around the country.

The problem is that there is plenty of competition among the producers, but there is no competition among the buyers of hogs and beef cattle. Therefore what we are talking about is a pilot project that basically puts us on the path toward mandatory price reporting by the packers. I personally would like to see mandatory price reporting done nationally, but I think this is a good step. We ought to know what they are paying.

We have precious little free enterprise in what should be a free-enterprise system. The family farmers are the only competitive unit, and they find themselves squeezed both by the input suppliers and to whom they sell.

Finally, crop insurance just cannot do the job if you face several disaster years in a row. Our amendment would replenish the disaster reserve of the Secretary of Agriculture so we can make payments to farmers who have suffered a disaster and for whom crop insurance hasn't worked. This is the indemnity feature of this piece of legislation.

I say again to my colleagues, we can end up debating Freedom to Farm. I am all for debating it. But there is no way, whether it be what is happening to wheat farmers or what is now going on with corn growers as well, that farmers are going to make it if we don't get the price up. The most important single thing we can do as an emergency measure is to take the cap off the loan rate to get the price up, and, in addition, make sure that we can get some funding out there, some kind of indemnity program that will enable the Secretary of Agriculture, in the spirit of disaster relief, to get some funds out there to these families so that they have a chance.

I want to say to my colleagues, I hope there will be overwhelming support for this resolution. More importantly, I hope that we will have overwhelming support for what is to follow. We want to take a position as a Senate that this is for real. The economy is at peak economic performance, but we are faced with a crisis in many of our rural and agricultural communities. Then what we have to do is pass amendments to this appropriations bill which take some concrete steps that can make all the difference in the world to the people we are trying to represent here.

Those are steps I think we should take. I hope we get strong support for them. My priority is to be out on the floor speaking, debating this, working with colleagues, trying to get as much support as possible. For many family farmers in Minnesota and around the country, time is not neutral. It is not in their favor.

If we are not willing to take some action that can make a difference, they are going to go under. We are going to see too many family farmers driven off the land. We will see more and more concentration of ownership of land. It is not going to be good for agricultural America; it is not going to be good for rural America; it is not going to be good for small businesses; it is not going to be good for small towns; it is not going to be good for the environment; and it is not going to be good for the consumers in this country. This is a crisis of national proportions, and I hope we will take corrective action this week on this bill.

I yield the floor.

Mr. BAUCUS. Mr. President, I rise today on behalf of the American farmer.

Mr. President, Montana's farmers and ranchers have suffered from an extraordinary turn of events that is driving people off the family farm. Low prices, shrinking Asian markets, drought and the adjustments to a new farm bill have left our producers with an inadequate safety net. For many, this is disaster.

First, we have to deal with price. And we have to deal with price today. Our producers can't survive another setback. Montana farmers have already planted the smallest spring wheat crop since 1991—down 17 precent over last year and down 8 percent from what they intended to plant March 1. As I recall, we were talking about low prices as far back as December, And now, in mid-July we are talking about the same issues. We are simply farther down the rocky road. It's high time to act.

I am sure many of you will recall last spring—nearly 6 months ago—when our producers were desperately reaching out for help. So, we brought an amendment to the emergency supplemental appropriations bill that would extend marketing assistance loans. Unfortunately, we faced a brigade of opponents who wanted to push an aggressive trade agenda instead of an emergency price fix.

Now I find it ironic, that despite all of our best efforts, the many hearings held about the "Crisis in Agriculture," and the promotion of the sanctions package as the cure-all for our price dilemma—that we are exactly where we started—at ground zero. We've seen no improvement on price. In fact, we've lost ground: Montana's winter wheat average price decreased 22 cents from April 1998 to now, dropping to $3.06 per bushel.

Beef prices also are lower—down $3.10/cwt. And sheep have dropped by $8.40. And still, we want our producers to believe that we should look for brighter days in the international market—without congressional intervention.

Some would argue that this situation can be blamed on over-production, alone. I wholeheartedly disagree. While it is true that wheat stocks in Montana on June 1 totaled nearly 60 million bushels, up 80 percent from the same quarter last year, but our exports are down considerably. I think we can also make the argument that extending the market loans an additional six months is but a step in resolving the problem.

It is true that we must move our wheat, our beef, and all other "crisis commodities"—and now. We can't view this measure of extending loans and lifting the loan cap to become a last ditch-policy. But as an emergency matter, I would call on my colleagues to consider the ramifications of letting this disaster go another day. And encourage them to lend their support.

That will solve the short-term issue of price. Then, we must address the long term. We did just that by stepping up our efforts on the trade front by passing a bill last week removing GSM ag credits from our sanctions package on India and Pakistan.

Next we need to review those sanctions still pending on nearly 9 percent of the world and re-evaluate whether they are current, necessary and proper. If not, let's remove the sanctions and move our wheat into these markets and help our producers. Food should not be used as a weapon. And our policies should not hurt our hard-working producers.

We should also support the country of origin labeling amendment for our livestock producers. Consumers in America can examine the label on any given product to make an informed shopping decision. But that is not the case with our imported meat. I am a cosponsor of Senator JOHNSON'S efforts to require meat labeling. It makes sense. It costs little. And the benefit extends, not only to producers, but also consumers.

And finally, we cannot ignore the force of Mother Nature. No one can argue that our farmers have been subject to an adverse and often hostile market. But this year marks a series of natural disasters that are beyond our control. Drought still plagues many counties in Montana. In fact, twenty-two percent of our crops are in poor condition because of lack of moisture. That is bad news for our livestock industry, as well. Fifty-nine percent of our pasture—used for forage—is in less than good condition. Clearly, efforts targeted at replenishing the disaster reserve would be hailed as relief for those victims of annual disaster.

And finally, Mr. President. I urge my colleagues to support these measures—not on a partisan basis—but because it is the right thing to do for our producers back home. Our feet—and those of our producers—are being held to the fire. Will we take action—or spout rhetoric? Will we show our constituency that we are here in Washington fighting for them—not amongst ourselves? I would hope we can take the higher ground and send a message to America—we need and support our farmers and ranchers—by lending our support.

PRIVILEGE OF THE FLOOR

Mr. GRAHAM. Mr. President, I ask unanimous consent that four members of my staff, Catharine Cyr, Jason McNamara, Brandon Young and Sally Molloy, be granted the privilege of the floor for the duration of the consideration of the agriculture appropriations bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Maine.

NEW ENGLAND PLANT, SOIL, AND WATER RESEARCH LABORATORY

Ms. COLLINS. Mr. President, I rise today to thank the Senator from Mississippi, the distinguished chairman of the Agriculture Appropriations Subcommittee, for so generously honoring my request to support the USDA-Agricultural Research Service's New England Plant, Soil, and Water Research Laboratory, which is located at the University of Maine. I am very pleased that the Senate Agriculture Appropriations Subcommittee has recommended that this important agriculture research worksite be kept open, despite the administration's misguided attempt to close the facility and curtail its funding.

I am also happy that the distinguished chairman has agreed to my request to provide a $300,000 increase in the lab's funding to hire new scientists at the Cropping Systems Center to develop production and disease management systems.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I was pleased to be able to grant the request of the distinguished Senator from Maine, the request to ensure that this valuable agricultural research is continued at the Agriculture Research Center's laboratory.

Ms. COLLINS. Mr. President, to continue the colloquy with the distinguished chairman, I again thank him very much for his support. I would like to point out the research conducted at the University of Maine is particularly vital because of the 104 USDA-ARS labs across the country, the laboratory located in Orono, ME, is the only one in New England. The facility is thus able to conduct research on the unique challenges that face our New England farmers.

Specifically, the lab at Orono has conducted research into raised bed techniques that allow potatoes to be grown in the short New England growing season, as well as into disease and pest management.

The potato industry in New England, 95 percent of which is located in northern Maine where I grew up, is suffering through a difficult period. Underpriced subsidized imports and several consecutive years of disease, drought and pest problems have resulted in a steady decline in the amount of acreage planted in potatoes. The additional $300,000 included in the managers' amendment will allow the lab to hire a new pathologist and microbiologist to help New England farmers to overcome many of the challenges they face. I look forward to working with my colleague to enact this significant legislation and, again, I commend and thank him for acceding to our request in this regard.

Mr. COCHRAN. Mr. President, I am pleased to be able to point out the distinguished Senator from Maine has chaired committee hearings in the Permanent Subcommittee on Investigations on the subject of food safety. It has been a pleasure to participate with her in that effort and to observe the quality of leadership she has brought to that issue.

Her comprehensive investigation on the subject of food safety will greatly assist all of us in the Senate in our efforts to improve the food safety system in this country and ensure legislation on this subject is responsive to the real needs for improvements in the programs that are administered by the Food and Drug Administration and other agencies of the Federal Government.

Ms. COLLINS. I thank the Senator for his very kind comments. It has been a great honor to be able to work with the Senator on the issue of improving the safety of imported fruit and vegetables and all imported food.

As we have learned from the two hearings that we held to date, this is a very complex issue that does not lend itself to a simple solution. It is my hope that continuing to work with the Senator from Mississippi, we will be able to complete our investigation this fall and develop a series of recommendations that will get to the heart of the problem and help to continue to ensure that our food safety is the best in the world.

I thank the chairman for his cooperation and participation in this conversation, and I yield the floor.

Ms. SNOWE. Mr. President, I rise today to thank the distinguished Chairman of the FY99 Subcommittee for Agriculture, Rural Development, FDA and Related Agencies appropriations for honoring the requests of Senator COLLINS and myself for additional funding of $300,000 to fund a scientist and technical support for the New England Plant Soil, Water and Research laboratory at the University of Maine in Orono. I also greatly appreciate the fact that the appropriators have also agreed that the lab, which has been threatened with closure in the President's FY99 budget, should remain open.

This lab, under the capable leadership of Dr. C. Wayne Honeycutt, conducts research to develop and transfer solutions to problems of high national priority in the potato industry and is critical to the State of Maine, its potato growers, and its economy. Ninety five percent of New England's potato acreage is in Maine, and this lab has the benefit of being in close proximity to growers' fields. The additional funding provided by the appropriations will preserve and expand this vital research program and maintain New England's only agricultural research laboratory, and I thank Senator COCHRAN for his attention to our requests.

AMENDMENT NO. 3127

Mr. COCHRAN. Mr. President, the pending amendment is the resolution that was offered by the Democratic leader and others which is a recitation of some of the challenges and problems that face those who are involved in production agriculture throughout America. Several Senators have taken the floor to point out some specifics that back up the suggestion made in this sense-of-the-Senate resolution.

Other Senators have added their comments in the form of other resolutions. We have already adopted on a voice vote a resolution offered by the Senator from Texas dealing with the problems of the drought that is confronting agriculture producers in that State.

We have another amendment that has been brought to my attention that will be offered by the Senator from Florida, maybe both Senators from Florida, on the subject of the problems of agriculture that have been caused by the wildfires and the other disasters that have occurred in that State.

So it is no secret that we have plenty of problems out there. There may be disagreements on exactly how to approach the difficulties. They are not all the same. Some are weather related; some are not. Some have to do with market conditions in various parts of the world. So it is a complex and wide range of problems facing the Senate. We are being put to the test today, to come to some decision on these issues.

I encourage Senators who have comments to make on this subject to come to the floor and express their views. This is a good time to do that. At some point, we will have to either agree to this amendment or consider an amendment to it and move on to other issues.

So any Senators who would like to comment on that at this point, I encourage them to do so.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERTS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. KEMPTHORNE). Without objection, it is so ordered.

Mr. ROBERTS. Mr. President, I rise today to address the agricultural issues that have been presented by my colleagues, the agriculture appropriations bill, and to discuss the current state of agriculture in the country. More particularly, I think it is most pertinent and appropriate to discuss the amendment that has been introduced by the distinguished Democratic leader on behalf of my friend and colleague from Iowa, Senator HARKIN.

It is a sense-of-the-Senate resolution that describes a very serious situation in agriculture today. The resolution was presented to the desk when I had the privilege of being the Presiding Officer. It is a little difficult to read all of it in that there has been some editing there. I am not trying to perjure the editing at all. The distinguished chairman of the Agriculture Appropriations Subcommittee, the Senator from Mississippi, has indicated that if we could work on this a little bit, there should not be any problem in regard to a sense-of-the-Senate resolution that addresses the serious situation we have in agriculture, and more especially, the regional crisis that is now being experienced in the northern plains. So I look forward to a bipartisan sense-of-the-Senate resolution.

I guess we could quibble about the adjectives and adverbs and some of the comments and figures. We are trying to work that out. It should not be a problem, though. We have appropriate language. My staff has worked on it, and I know Senator COCHRAN's staff has worked on it. I know we are going to consult with Senator LUGAR, and many on the other side have worked on this. I think it is appropriate that we draw the attention of the American public to the severe problems that we are experiencing in agriculture, more especially in the northern plains.

Having said that, Mr. President, I don't argue that things are perfect in farm country or in rural America. But I do not believe that the wheels have fallen off and sent agriculture policy crashing into a wall, as some of my colleagues are claiming. There are, indeed, problems in agriculture. I think we are all aware of that. But, again, they are regional problems, it seems to me, caused by weather and crop disease and the "Asian economic flu"—or in some cases it has become the "Asian pneumonia"—but not the 1996 farm bill. They do not represent a national crisis in agriculture. It is very severe for the people involved, but a national crisis? No. Are there real problems in agriculture today because of the lack of a coherent, aggressive export policy? Sure. Are there other problems and other challenges? Yes. But a national crisis? I don't think so. Two years ago, we passed the Federal Agriculture Improvement and Reform Act, dubbed the Freedom to Farm Act. And it represented, I think, the most comprehensive change in agriculture policy since the New Deal. This new farm bill removed restrictive planting and marketing requirements—and, boy, were they restrictive—that for many years had prevented farmers from planting their crops and using their resources in the most efficient and profit-generating manners. When we wrote the FAIR Act, we had two basic choices. We could continue on a course of micromanaged planting and marketing restrictions that often put our producers at a competitive disadvantage in the world market, or we could pursue a course that would eliminate these restrictions and allow farmers to make their own planting decisions based on domestic and world market demands, while also receiving guaranteed—and I emphasize the word "guaranteed," underscore it—levels of government transition payments.

Let me put it in language that most farmers used when they talked to me when I had the privilege of being the chairman of the House Agriculture Committee in the midst of the farm rewrite. They were a little tired of putting seed in the ground according to USDA dictates. Before this farm bill, the farmer put the seed in the ground as dictated by the USDA to preserve an acreage base. Why? Because the acreage base qualified them for subsidy payments. How much? We would determine that here in Washington. Then, of course, the more we set aside to pay for all of this, they said, OK, put the seed in the ground. You protect your acreage base. But you have to set aside part of your wherewithal on some kind of a supply-demand, command-and-control scheme. That said, we will set aside 10 percent, 20 percent, or 30 percent of your reduction as decided by Washington in order to pay for this. Guess what? Our competitors overseas simply increased their production by more than we set aside, and we lost market share.

Folks, that was a dead-end street. The whole design of the new farm bill was to let farmers make their own decisions in regard to planting and what made sense in terms of price, market, environment, working their ground, or whatever.

As chairman of the House Agriculture Committee, I worked with Chairman LUGAR and members of the Senate Agriculture Committee to pursue this legislation that really would provide our producers with the tools to compete in the world market. But we did not, Mr. President—we did not—veer off aimlessly into the wilderness. Chairman LUGAR and I had held dozens of field hearings throughout the United States. I think we totalled them up in the House Agriculture Committee, and I think we went 30,000 miles—30,000 miles listening to farmers and ranchers in regard to what they wanted. The producers overwhelmingly stated that they wanted flexibility in making their own planting decisions in competing with the world market.

Has the FAIR Act worked? Has the Freedom to Farm bill worked as it was intended? I think the answer is a qualified yes. Is it perfect? No. Is it written in stone? No. Is it an ongoing work in progress? Yes.

Let me refer to the policy ledger that we promised farmers in regard to when we considered this bill. We said, "Look." If we are going to be budget-responsible—this is the policy ledger, 1996. This is what we told farmers in all of the hearings. And most of them bought it. Not all, but most of them bought it. And we said, look, if you have less Federal dollars here in terms of meeting our budget obligations—and let me point out that farmers and ranchers above anyone suffer from inflation and higher interest rates—they wanted a balanced budget. And we said, OK, if we are not going to rely on supply-demand set-asides, we have more reliance on risk management. Boy, that is a tough one because today a lot of farmers are finding unacceptable risk, as I have indicated, more especially in the northern plains. We are going to give you this in connection with the Freedom to Farm legislation.

This was farm policy reform under the bill, a consistent and predictable farm program support, and the only time we have ever passed a farm bill that for 5 or 6 years laid it out for every banker, every financial institution, every farmer on exactly what they were going to get. As one farmer told me one time at the Hutchinson State Fair in Kansas, he said, "Pat, I don't care what you do to me, just let me know." We did for 5 or 6 years.

Planting flexibility: I have gone over that.

The elimination of the set-aside programs, because we were losing market share. We were noncompetitive on the world market.

Improved risk management tools: Have we done that? Well, no. We haven't. We have ample funding, hopefully, in the agriculture research bill that was passed and the crop insurance bill that was passed with the help and leadership of Senator COCHRAN, Senator BUMPERS, and others as well, and some others. It was a tough fight, but we got it past the House, and we got it past the Senate. If we can get it past the House Appropriations Committee, why, that will be a real feather in our cap.

Having said that, we have not really reformed the risk management crop insurance that we need to do.

So, yes, the farm bill is not perfect. We need to do that.

Less paperwork and standing in lines: I will tell you, under the old bill farmers stood in line outside of the old ASCS office. That is an acronym. It is now changed to FSA. That is the Farm Service Agency. And Aunt Harriet was in the agency's office, the Farm Service Agency office. Farmers stood in line, filled out all of the paperwork, and filled out all of the forms. They got plumb tired of it. Under this new farm bill they don't have to do that. Less paperwork, less regulation, and less waiting in line.

Tax policy reform: That is all part of the credit that we promised, a farm savings account. We are going to do that this session of Congress. We should have done it in the farm bill. It should have been done at that particular time. We simply ran out of time.

Capital gains tax cut: We have done some of this. We need to do more.

State tax cut: We have done some of that. We need to do fully deductible health care. We are on the road to accomplishing that.

Income averages: CONRAD-BURNS from this very desk introduced the amendment on income averaging. We should extend it for the life of the farm bill. We need to do that.

The other thing on the ledger that we promised farmers we would work on, No. 3, is trade policy reform. Boy, we have a real challenge ahead of us in this regards.

Fast track negotiating authority: If there is one single thing that has happened in the last year that threw a real clinker into our export sales it was a decision by the Congress—and, yes, by the President—to withdraw fast track. That single item is the most distressing piece of news since the embargo of 1980 that lead to shattered glass in regard to exports, and helped cause the 1980s farm crisis.

I say to you, Mr. President, with all due respect, if we can get a 98-to-0 vote in regard to sanctions reform as we did last week, rethink fast track, please. I think that we could get it done, if you are for it. Be for it. Speaker GINGRICH and Leader LOTT have indicated that we will vote on it with a CBI initiative, with the African Trade Initiative. Let's do it. But that signal that was sent when we withdrew that bill sent tremors through all of our trade policies and with regard to contract sanctity.

End these unilateral sanctions. This Congress, and, yes, this administration, have become sanctimonious in regard to walling off about 75 percent of the world's population, 75 percent of the world's countries. You can't have a market-oriented policy with that.

Consistent aggressive export policy: Well, I don't think we are using all the tools we should.

NAFTA and WTO oversight: Not doing enough.

Value-added emphasis in regard to research funding: We are doing some. We should do more.

Extend MFN for China: Well, you can see on the trade policy reform that we haven't done so well. And that is part of the problem, albeit a passing glance to my colleagues on the other side. But that is part of the problem that we have.

Regulatory reform; preserve the conservation reserve program. We did that; not the way I wanted to, but we did that to some degree.

Enact FIFRA reform. That is an acronym for you. That is the Federal Insecticide, Fungicide, and Rodenticide Reform Act. That is the food safety reform bill. We enacted reform. The way the EPA is administering it we have real problems. And that is going to be the source of another debate on the floor and in committee as we go down the road. So we need some help there.

Incentive programs for good stewardship; eliminate unfunded mandates. That is the recipe.

We promised farmers in all of the hearings we had. We said, OK, you go to market-oriented agriculture. We rely less on subsidies. These are the things we are going to work on. Have we done them all? No. Should we do them all? Yes. And it should be a bipartisan effort.

But, if we do this, then obviously, by the way, the Freedom to Farm bill will work, and is working to a certain degree.

We have heard a lot of statements that the Freedom to Farm bill has failed, and that we "pulled the rug out from underneath our producers." My colleagues, this is not true. The facts are not there. The 1996 and 1997 farm bill provided a combined $11.5 billion in payments to America's farmers. Under the old program farmers would have only received a combined $3.6 billion in payments.

If we have increased the payments to farmers in this transition three times as high as in the old farm bill, how on Earth can you say that the current farm bill is the source of our problem?

Let's just put it in simple terms. If we provide more money to farmers, three times as much, that is a problem in regards to price with our export demand? Hello.

Mr. President, we have also heard that there is no longer a safety net for America's farmers, and advocates of this position argue that we must extend marketing loans and remove the caps on loan rates. And based on recent figures, it is estimated the loan rate for wheat would rise to $3.17 a bushel from its current level of $2.58. We could use corn and soybeans and other program crops, but wheat is going through a difficult time. It is a good example, so I am going to use wheat. But if you add in the transition payments—nobody over there on that side of the aisle has even mentioned a transition payment—the 63 that a farmer is getting per bushel right now—as I say, three times as much as they would have received under the old farm bill. That doesn't exist for my friends across the aisle. It is invisible. But it is not invisible to the farmer. When you add in the transition payments of 63 cents per bushel on the historical base farmers are receiving for wheat, you now have a safety net of $3.21. Why should we approve amendments that will bust the budget at a cost of nearly $4 billion over 5 years, Mr. President, when they provide a lower safety net than the current program?

No, I know the answer. They say we want both; we want the whole loaf. As a matter of fact, if we are going to consider any kind of a payment, it seems to me it ought to be added to the transition payment so farmers could make the decision, not some kind of a marketing loan or a loan program where, again, Washington makes the decision.

So raising and extending loan rates, I do not think, in the end result will improve prices and the producer's income. As a matter of fact, extending the loan rate actually results in lower prices in the long run. Extending the loan for 6 months simply gives producers another false hope for holding on to the remainder of last year's crop. Farmers will be holding on to a portion of the 1997 crop while at the same time harvesting another bumper crop in 1998. Thus, when you roll over the loan rate, it actually increases the amount of wheat on the market and results in lower prices, not higher prices. Since the excess stocks will continue to depress prices, we will then extend the rate again.

Once you go down that road, it is going to be very difficult not to extend it again. And I think it would become an endless cycle that would cost billions of dollars and which will eventually lead to a return of planting requirements to pay for it. You can't simply stand up and say we are going to spend $4 billion on an emergency because you have a regional farm crisis on the northern plains and not expect some people around here to say where is the offset. The offset would be in set-aside acres and you are right back to square one with the same old farm bill that caused all the problems to begin with. That would be an attempt to control the output and limit the budgetary effects.

I suppose we could find some offsets. Where is that article by Jim Suber? Jim Suber is an ag writer for the Topeka Daily Capital. He knows what he is talking about, if we want to find offsets and pay for this and do it the right way, not add to the budget deficit, not add to the possibility of inflation, higher interest rates. Jim says USDA is spending, or will spend $37.9 billion on social welfare programs. I am not perjuring that. They are very good programs. But it plans only to spend $5.9 billion in commodity programs.

So here we have the Department of Agriculture, according to Jim, spending 7 to 1 more money in regard to social welfare programs and other very fine programs as opposed to assistance to farmers.

Well, if we want to get offsets, I can certainly go down that list, but I don't think that is a popular thing to do, and I don't think I am going to do that.

Extending and raising loan rates will only serve, I think, to exacerbate the lack of storage associated with the transportation problems in middle America because it simply causes farmers to hold on to their crops and to fill their elevator storage spaces.

Now, in Kansas we have just harvested our second largest wheat crop in history. Perhaps not in Oklahoma and Texas, where they have had bad weather, but in Kansas that is certainly the case. There are predictions of record corn and soybeans in the fall in Kansas. If we don't move the wheat crop now, it will create transportation problems in the future that will surpass anything we experienced last year. And we had mounds of grain sitting by the local country elevator with no rail transportation.

I think I should also mention that advocates of higher extended loan rates argue it will allow farmers to hold their crops until after the harvest when prices will rise. After all, that is the whole intent, or that is the whole plan in regard to the higher loan rate. I would point out that Kansas State University recently published a report which looked at the years of 1981 to 1997, and they compared the farmer's earnings if they held wheat in storage until mid-November as opposed to selling at harvest. In all but 5 years, why, farmers ended up with a net loss as storage and interest costs exceeded the gains in price. Simply put, extending and raising the rates, I think, would provide a false hope for higher profits that most often does not exist.

Really, what we are talking about here, Mr. President—and it gets a little detailed here, but we are talking about what is the function of the loan rate in any farm program. Is the loan rate a market clearing device or is it income protection. And my friends across the aisle obviously want to make it both. I don't think you can have it both ways, but they want to make it income protection as opposed to the transition payments.

In addition, if you raise the loan rate up to $3.17, and you have a fire sale on wheat, you have a bumper crop and you have China, which is the world's No. 1 wheat producer, and you had the European Union, which is the world's No. 2 wheat producer, and a surplus of grain on the world market, what do you think is going to happen to the price? It will fall, and we will never have wheat over the price of $3.17.

So what my distinguished colleagues across the aisle fail to point out is if you put that cap on the loan rate at $3.17, you may get the $3.17 plus the transition payment if you can somehow squirrel that by the Senate and the House with all the budget problems, but you put a cap on it and you will never see $4 and $5 wheat. As a matter of fact, that is what some of my colleagues across the aisle say they have to have to stay in business.

One of the most effective measures of the success of the Freedom to Farm Act is to review the planting changes that have occurred all throughout the country since its passage. When that bill was passed, the opponents argued that farmers did not have the capability to rotate and grow various different crops, that this would be a negative. And we have heard that rhetoric here in this debate. We have heard it now for, what, 2, 3, 4, 5 weeks with the appropriate charts. Here are the facts.

In the northern plains, where many farmers are suffering from a devastating disease called white scab, farmers have rotated out of wheat acreage. They have switched to higher value crops. Recent USDA reports state that spring wheat acreage has fallen nearly a quarter from last year. We have in effect had a wheat set-aside to reduce the supply, but the farmer made that decision and went to more productive crops all across this country.

A comparison of the Farm Service Agency figures from 1993 and 1997 in North Dakota shows that during the 4 years soybean acreage increased from 591,000 acres to 1,090,000. Canola, which should be the crop of preference now in terms of profit in that State, went from 47,000 acres to 456,000 acres; dried pea acreage rose from 6,711 to 67,000 acres; navy beans went from virtually no acreage to 151,000—dramatic changes in crop production made by the decision of the individual producer.

Minnesota: The Minnesota Agriculture Statistics Service reported record soybeans and sugar beet acreage in 1997 with soybeans breaking the previous record by 850,000 acres. South Dakota's harvested soybean acres were 3.4 million—million—in 1997, 780,000 above the previous record set in 1996. Sorghum production was also up 42 percent from 1996.

I think it is important to know that these changes are not only occurring in the northern plains, but throughout the entire United States by farmers, under the flexibility under Freedom to Farm. Alabama cotton on acreage fell by 74,000 acres in 1997; soybean acreage increased by 70,000. They are following the market. A February paper by the Agriculture and Food Policy Institute at Texas A&M reported that cotton acreage declined in 1997 from the 1994–1996 average in Louisiana, in Mississippi, and in Arkansas by 34, 23, and 9 percent, respectively.

Here cotton farmers take a look at the market saying, "I think I can make a better deal; I can make a better profit in another crop." That is the flexibility that was provided in regard to Freedom to Farm.

Same report: Cotton acreage in Oklahoma decreased 42 percent from a 3-year average while sorghum acres increased 31 percent. And harvested wheat acreage in Kansas—we have a little saying on the Kansas license plate that says, "The Wheat State." Well, we are not. We are now the grain State—in 1998 was at its lowest level in nearly 25 years. Meanwhile, we have now planted some 20,000 to 25,000 acres of cotton in Kansas because it is productive. It is a profit incentive. As a matter of fact, the weather is a little cold up in Kansas as compared with down south, and the insects can't bite quite as hard on the cotton. If we can survive the winters, which we are doing, why, Kansas is now a cotton-producing State. You would never have dreamed that under the old farm bill.

These farmers who made these decisions and changes in American agriculture have exceeded expectations in 1996. During a recent meeting with 12 major farm organizations—what we call the summit, which we had here about 2 weeks ago—a Mississippi farmer representing the cotton growers summed it up best when he said, "I have been farming for 40 years and farming has changed more in the last 4 years than it did in the previous 40." That was a positive, not a negative. Farmers have switched to higher value crops because it makes economic sense.

The plain and simple and sometimes painful—let me emphasize that—sometimes painful truth is that all U.S. producers are no longer the most efficient producers of a crop, more especially wheat, in the world. That is hard news to tell to somebody who is going through a very difficult time, but in fact our producers are no longer the No. 1 producer of wheat. When my staff, my able staff, answers the phone from worried and concerned farmers from Kansas, one of the things that I instruct him to say is: Wake up a little bit. We are no longer the No. 1 wheat producer—I am talking about the United States—that's China. We are no longer No. 2; that's the European Union.

So, consequently, I think we have to look at what we can grow and be competitive with in regards to the global marketplace. I think that is a fact. Some people, however, refuse to accept that fact. But we have a competitive advantage in the feedgrains and oil seeds, and these are the exact crops that producers have shifted to under the Freedom to Farm bill.

Let me again clearly state, I am not standing here saying there are no problems in farm country—we have them—or that I would not like to see higher prices for our producers. Would I like to see the $5 wheat of 2 years ago? You bet. I would like to see $6 wheat. I can give a pretty good speech about old parity. Parity meant justice. Parity for wheat today is, what, $12, $13, as compared to what all the costs were back when the parity formula was first considered, way back in I think it was 1912.

So, to be fair, our producers ought to get $12 wheat. I can say that, but I also know that when wheat production—not acreage but production—is 60-bushel wheat in my State, which is more than double the level of 1996, we are not going to see any $5 wheat. And when you add in the European Union and you add in China, that is simply not going to happen.

As hard as it may be for some to believe—and I want every farmer and everyone listening, in terms of agricultural program policy, to pay attention—our Kansas farmers and other farmers, if they are blessed by good weather and good ideas, will make more in 1998 than they did in 1996. In 1996, 20 bushels an acre was a common yield for many Kansas farmers. At $5 a bushel, why, farmers had gross incomes of $100 per acre. Yesterday, wheat closed at $2.55 in Dodge City, KS, America. On Friday, we received estimates that the 1998 Kansas wheat crop will likely average at a State return of around 50 bushels per acre at $2.55 a bushel, a price I think is way too low. However, this figures up to a gross of $125 per acre.

In 18 years, serving as a Representative and Senator, I have yet to meet a farmer who would not choose the $125 per acre over the $100 per acre. Obviously, it would be better if the price were higher.

I know that current prices are not good. However, high yields are allowing farmers to continue to receive an income. The facts simply do not represent a crisis all throughout American agriculture. Yes, there are very severe problems in the northern plains. Yes, we must do something about it. But farmers in this area of the country have had to face a triple whammy, as evidenced so clear, and appropriately clear, by their Senators from those States. It is a triple whammy of floods and blizzards and crop disease. These are regional problems. They are factors that would have occurred regardless of the farm bill, regardless of what agriculture policy we had in place. You simply cannot argue that these factors are evidence we need to rewrite the farm bill.

Let me try to demonstrate how sincerely I feel about the demonstration of intent on the part of the distinguished Democratic leader and Senators DORGAN and CONRAD and WELLSTONE and DURBIN and others who have pointed out the seriousness of the situation in the northern plains. And I know that.

But let me quote in regard to the farm management specialist from North Dakota State University and their extension service. His name is Dwight Aakre. He says:

> Farmers in northeast North Dakota have only about a 50/50 chance of paying out-of-

> pocket costs if they raise durum or barley or flax in dry beans this year.

Boy, that is tough. They do have a problem, a very serious problem. He also says—this is Dwight again:

> Current expectations for harvest time prices keep dropping while the cost of production, the cost of operations, do not.

And he said:

> We are now approaching price levels where the best farming strategy is how to consider your losses and to go forward from that.

And then he says:

> Ouch, it is this the combo of anemic wheat prices and wet weather that has created what Senator Kent Conrad aptly calls the stealth disaster for his State in that region? As for this individual—

Again—I am referring to Dwight Aakre—he calculates:

> It's a pretty tough time to get enough income to pay out-of-pocket costs.

And he says:

> It's likely too late to drop any rental land for 1998.

So you can understand why my colleagues are on the floor calling for action. I know that.

Then he said, in regard to the farm bill, however:

> Contrary to popular thought—

And this is Andrew Swensen, the Farm Management Specialist for North Dakota State University Extension Service. He said:

> What caused our problems last year with wheat and barley yields of poor size and quality and lower prices and high cost of production [he says] is the effects of this last factor especially have been underestimated by many. Don't blame Freedom to Farm.

That isn't Pat Roberts, that is Andrew Swensen, from North Dakota:

> Contrary to popular thought, [says Swensen] the new Freedom to Farm Program was not responsible for 1997 woes. In fact, he says the market transition payments it provided were greater than what would have been provided under the old farm program.
>
> It is difficult to avoid blaming this whole situation on the weather, the Government, and prices, [says Swensen] but it is more productive to be realistic and analyze things that can be controlled internally in your own business.

I think that is certainly true.

So I don't doubt or disregard the pain many producers are feeling in the northern plains. However, I do point out that many of my farmers do have at least some questions, and I guess if you are going through a situation where you are drowning in a sea of troubles financially, you can drown in 6 inches of water or 6 feet. But we have heard that this is a disaster that has continued for 5 or 6 consecutive years. Every one of my colleagues over there has indicated that.

Kansas is known as a wheat State, yet both in 1995 and 1996, why, North Dakota led the Nation in the production of wheat. In 1996, North Dakota was first in the production of eight crops, second in two, third in one, fourth in two. In 1997, why, North Dakota had the following national production rankings: First in spring wheat, durum, barley, sunflower, dry edible beans, and canola and flax seed; second, all wheat, oats and honey; third, sugar beets.

There is very real pain being faced by the producers in North Dakota, South Dakota, Minnesota, some parts of Montana. If, in fact, for 6 years it has been a crop disaster, if you are going to lead the Nation in production in these crops, that is a disaster that most farmers in my State would be happy to experience.

I would also ask what good raising the loan rate will do if producers have no crop to sell; if, in fact, this is that serious. It is important to note that many farmers did indeed suffer production losses during the blizzards and the floods experienced in the northern plains last year, a real tragedy. However, under the old program, why, producers would have received little or no Government support. Yet, under the Freedom to Farm Act, farmers in North Dakota received $244 million in transition payments in 1997. Talk about indemnity payments. Not only did farmers receive the Government support they would not have received under the previous program, they were also allowed to go into the fields and plant substitute crops in place of the lost acres.

They could not have done that without the current farm bill. We have heard many statements on this floor about how the Government payments have been yanked away from producers in North Dakota, South Dakota and Minnesota. I point out the average payments in 1996 and 1997 for all three States exceeded the average level of Government payments in each State during 1991 through 1995. So if you have a bill that is providing more average payments to those three States, all three States exceeding the level of Government payments in each State during 1991 to 1995, where were my colleagues from 1991 to 1995? And what has changed? And what has changed is the export demand and unfair trading practices from Canada and the wheat disease and the weather—we have gone all over that—but it sure isn't the farm bill.

We have been told this is the worst crisis in farm country since the crisis of the eighties. Yet, let me point out in other sections of the country—not the northern plains—tractor purchases were up 15 percent in June over levels of a year ago, while self-propelled combine sales are 40 percent above year-ago levels.

I don't think the arguments we are hearing on the floor—they are certainly true in the northern plains—but I don't think they mirror what we are hearing from producers all across the country. Mr. President, I like to think that no one has spent more time on the wagon tongue listening to America's farmers than I have, and I must tell you from my recent visits with producers, they are not happy. They are worried about current prices. They are worried about the export market. But they realize in many instances why high yields have allowed them to meet or even surpass their income expectations. The greatest majority do not want to return to higher loan rates and loan extensions. They fear, and rightly so, that this would simply be the first step toward return to the narrow-focused, anticompetitive, micromanaged Government programs of the past.

Farmers tell me the 1996 farm bill is working if we can get our export demand back up to the levels that they used to be. They are changing their planting decisions. They are growing the crops that allow them to earn the most profits. They are happy with this flexibility. They want to see it continue.

What my farmers and ranchers are telling me is that they are extremely concerned with the seemingly lack of trade and foreign policy focus in Washington. Our farmers and ranchers realize the United States must export nearly 40 percent of our agriculture products to overseas customers. Unfortunately, this is very difficult to do when Congress and the President become what I call "sanctions happy" and place sanctions on approximately, as I have indicated before, 75 countries, 70 percent of the world's population.

U.S. Wheat Associates recently published several depressing facts in regard to U.S. trade policies. In the last 10 years, the embargo on Cuba has cost wheat producers at least $500 million in lost wheat sales. Iran, Libya, North Korea did represent 7 percent of the world's wheat market. The United States will not trade with these countries. Add on the embargo of Iraq and our producers are shut off from 11 percent of the world wheat market.

I am not saying those sanctions should be immediately lifted. There are national security implications, obviously. The United States has imposed sanctions 100 times since World War II. Sixty of these have been imposed since 1993.

Mr. President, as Hubert Humphrey once said, "We need to sell them anything that can't shoot back," and we are shooting ourself in the foot by not allowing our producers to sell to the other countries of the world. We must also give our trade negotiators the tools they need to open up foreign markets to U.S. products. You can't go to the trade gunfight with a butter knife. That was a statement by the president of the Oregon Wheat Producers, and he is certainly accurate. That is what we continually ask our negotiators to do. Other countries will not negotiate the trade agreements with the United

States because our negotiators do not have fast-track trade negotiating authority.

President Clinton has blamed inaction in the trade arena since last November on the Congress' failure to pass fast track. Now, Congress is not blameless. I have never seen a Congress more insular, more protectionist, and more ideological in regard to trade, and I am not happy with every member of my party on the Republican side who seem to think we can impose sanctions or not pass MFN or not pass the IMF or not go ahead with fast track. I understand their concerns. But in terms of doing great damage to the agriculture sector and other sectors of the economy, we are not blameless either—an editorial in behalf of the party with which I am associated.

However, our majority leader and the Speaker of the House are now pledging a vote on fast track in the Caribbean initiative and the African trade bill before the end of the 105th Congress. However, the President indicates he is not quite sure whether this is the time to pass fast track. Mr. President, our farmers and ranchers respectfully disagree.

I understand that some of my colleagues have stated that trade is really not that much of the problem. I point out that approximately 1 month ago, 14 Senators met with 12 major agriculture groups and organizations to discuss the priorities these groups felt were absolutely necessary for Congress to pass this year.

Rather than parroting a particular point of view or ideology or being locked into your criticism of the current farm bill of 2 years ago, what we did on the Republican side is to respond to the letter sent to all of the leadership in the Congress by the American Farm Bureau Federation, the American Soybean Association, the National Association of Wheat Growers, the National Barley Growers Association, the National Cattlemen's Beef Association, the National Corn Growers Association—there are about six left—National Cotton Council of America—I have their tie on in support of Senator COCHRAN in this debate—National Grange, National Grange Sorghum Producers Association, National Oil Seed Processors Association, National Pork Producers, National Sunflower Association.

A letter by all of these groups was sent to the President, Secretary of State, Trade Representative, Secretary of Agriculture, members of the House Committee on Ag, members of the House Committee on Ways and Means. I guess the only one they didn't send it to is Larry King.

They listed all of the things that they felt—farmers felt—that we needed to do in this session of the Congress to turn this thing around. I can go down the list: fast track, $18 billion IMF, reform of U.S. sanctions, administration should commit to seek agreement to end unfair trade practices in the next trade negotiation round, foreign market development, market access program, GSM program—trade, trade, trade, and trade.

Something has to be wrong here. Either the farmers and ranchers or the members of these organizations who hold meetings in counties and States and pass resolutions—the tail doesn't wag the dog; they get this information from farmers and ranchers—and either they are right or my colleagues who argue trade is not the problem at all or vice versa. I think I am going to go with the farm organizations.

I realize that some will argue that trade agreements, such as NAFTA, have sold out our farmers. I agree. We have not had the appropriate oversight in regard to NAFTA or, for that matter, GATT or, for that matter, preparation of the next round of trade talks.

However, let me point out that the USDA Under Secretary Gus Schumacher, who is doing all he can in regard to our export markets under very difficult circumstances, recently said in a speech in Minnesota that the United States would send a record number of exports to both Mexico and Canada in 1998. That is not a failed trade policy; it means simply we have regional problems where we could do a lot better.

Critics have stated on the Senate floor that one day we will wake up and discover that we are no longer the leader in agriculture exports, just like we lost the automotive market. Pay attention to this argument. It is interesting to note that many of the pitfalls suffered by the U.S. auto industry in the 1970s and early 1980s were based on its unwillingness to adapt to the desires of consumers the world over. Could there be a similar effect resulting from some Members' seeming unwillingness to allow producers to change their production practices to meet the demands of the world market?

Finally, Mr. President, not only do Republicans believe that we need to improve trade opportunities for our producers through fast track and sanctions reform and IMF funding and normal trade relations with China, we must also provide viable forms of risk management for our producers. One of the most important steps we can take in this area is passage of the farm savings account legislation.

The primary sponsor in the Senate is Senator GRASSLEY. The young Member of Congress who really authored this bill is KENNY HULSHOF, who is from Missouri. We tried to do it in the farm bill considerations in 1996. It would allow farmers to place up to 20 percent of their Schedule F income tax into a tax-deferred account for a period of up to 5 years. This would allow farmers to average out the income highs and lows better that are common in agriculture and allow farmers to save money for those years when incomes are lower due to a reduced crop yield.

I recently joined with many other Senators in signing a letter to our majority leader reconfirming our support of the farm savings account legislation. This is one of the most important risk-management tools, Mr. President, we can provide our producers. I think we are going to pass it this year.

As I have said in my earlier remarks, things are far from perfect in farm country, but we are far from a national crisis. It is not time to reinvent the wheel. We are at another one of those historical crossroads in agriculture policy. I am sorry the situation has developed on our export demand—that it is so severe. We can choose to return to the failed policies of the past and put our farmers and producers at a competitive disadvantage on the world market at the same time our dependence on world markets continues to increase. Or, we can take the necessary steps to provide our producers and our trade negotiators with the tools necessary to open foreign markets and meet the demands of the world market.

My colleagues are correct, the choices we make here today, and in the next few months, may very well affect the future of agriculture in the United States. My hope is that we continue to look with our producers toward the future and not into the rearview mirror and the broken policies of the past.

I want to make some very brief additional comments in regard to the fact that this is an even-numbered year.

At the beginning of this debate, this discussion that is most relevant to the difficulty we face in farm country, a number of my friends across the aisle have gone out of their way to mention me personally—I think I appreciate that—and very candidly, very frankly, blame most, if not all, of agriculture's problems on what is called the Freedom to Farm bill.

I know and I realize and accept that it is an even-numbered year. And when there are strong differences of opinion in even-numbered years, the chances for just a tad bit of politics to enter into the debate are pretty good. In this case, a tad has become a deluge.

I truly appreciated the kind remarks of the distinguished Democratic leader in reference to our friendship, even my alleged sense of humor. In that regard, I take the job and my responsibility very seriously, but not myself. But after listening to my colleagues go on and on and on, blaming all our problems on the new farm bill, I think you have to have a sense of humor.

The northern plains have experienced very bad weather. It is very real. You would think that Freedom to Farm was El Nino. The northern plains have experienced wheat disease for 6 years running. You would think the disease came from the Freedom to Farm bill.

By the way, I am at least gratified that after 6 years of wheat disease, my colleagues have now requested the targeted research funds to address this problem. And we should do that.

The Asian flu and sanctions and the lack of an aggressive and coherent trade policy are—or as the farm organizations simply put it to me yesterday, the failure of the administration and the Congress to use all of our export tools has played havoc in our markets.

My colleagues mention that with the wave of a hand—so much for supply and demand—must be the fault of the Freedom to Farm bill. The seven or so distinguished Senators who have been railing against and blaming the farm bill are the same seven who bitterly opposed it during the farm bill debate 2 years ago, voted against it, and recommended that the President veto it. He did not. It is an understatement to say they have not given up and will not.

If the good Lord is not willing and the creeks do not rise or if the creeks rise too much, blame the farm bill.

Can we end this partisan book-shelving of Freedom to Farm? I know it is not perfect. It is a work in progress. No bill is perfect. But I think it is a foundation. Can we build upon what is a good foundation? Can we seriously consider proposals that do not break the budget, or return us to the old command-and-control and residual-supply agricultural days? Can we shoot straight, Mr. President, with producers who are experiencing serious problems, and quit promising more than can be delivered, or should be delivered?

Let us fix crop insurance. Let us get cracking on an aggressive export policy free of sanctions. Let us finish the job with tax policy changes and regulatory reform. Let us commit to appropriate research to fight the plant disease. And let us pass this week—this week, if we could; next week—the farm savings account, and, yes, let us consider some form of payment.

The distinguished chairman of the subcommittee on Ag Appropriations has indicated to me that the President would declare the State of Florida, because of fires, eligible for disaster assistance. The same kind of thing could apply to the northern plains States. Of course they are hurting. There may be an opportunity here.

In view of what has happened to our markets—no fault of our farmers and ranchers—I would favor emergency sanction indemnity payments. If you are going to spend $4 billion, for goodness' sakes, call it an emergency. Why would you put it in a loan rate that keeps the price below approximately $3? You ought to give it to the farmer. Let us do all of this, and more, to build upon and improve the current farm bill.

Mr. President, I ask unanimous consent that the following articles be printed in the RECORD. I call them the "Set the Record Straight Articles." I call them to the attention of all of my colleagues, especially those so critical of current policy. It ought to be required reading for them.

As I have said before, the Freedom to Farm bill is not sacrosanct. It is far from perfect. There is no perfect legislation. It is a work in progress, should not be discarded.

I originally thought, in coming to the floor, I would not take so much of the time of my colleagues and the distinguished Senator from Mississippi. I thought the proper course of debate would be to simply ignore some of the commentary—basically accentuate the positive, eliminate the negative, and do not mess with Mr. In-Between. That was my original plan. But given the tidal wave of criticism, I think we also have the responsibility to set the record straight.

I ask unanimous consent that an article from Pro Farmer outlining what Speaker GINGRICH has indicated their agenda is in the House to be of help, be printed; and, finally, an article by Gregg Doud of World Perspectives, who did an analysis, and he calls it the "Anatomy of a Regional Farm Crisis."

I urge that all Senators—if they could find the time to really get at the bottom of what we are facing in regard to this farm crisis—read this. This goes into considerable detail. It is painful. It is painful to go through a transition when you are not competitive in the world market or, for that matter, the domestic market. But Gregg certainly tells it how it is. And I think all of these articles certainly set the record straight. And, again, I ask unanimous consent that these articles be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From Inside Washington Today, June 26, 1998]

HOUSE SPEAKER SPEAKS OUT ON CRITICAL AG, TRADE ISSUES

(By Jim Wiesemeyer)

It is unusual for a top hitter like Speaker of the House Newt Gingrich to wrap his arms around so many major issues impacting agriculture and trade. But that he did Thursday in a joint press briefing attended by other House Republicans, including Ag Committee Chairman Bob Smith (R-Oregon).

Today's dispatch focuses on the agenda Gingrich and Company said will prevail this summer and fall. And that agenda, if realized, would set a very firm foundation for U.S. agriculture's future, both near-term and especially over the long haul.

Gingrich's top-five priorities for action to be taken before Congress ends its 105th session:

A vote on fast-track trade authority by September.

Bipartisan agreement on reform of and funding for the International Monetary Fund (IMF);

A vote on renewing normal trade status for China;

Legislative action on exempting financial assistance for exports of agricultural commodities from international sanctions;

Efforts to significantly increase pressure on the European Union regarding agricultural subsidies and anti-competitive trade practices.

Let's takes those five priorities one important step at a time:

Fast track: Gingrich is committed to scheduling a vote this September. And the House Speaker says supports were "within eight votes" of passage last fall. Odds for passage this year in the House would improve rather dramatically under House Ag Committee Chairman Bob Smith's proposal. Smith says he could round up the needed House votes by altering a pending bill to increase the role of the Ag Committee in working with the Clinton administration before a trade agreement is initiated.

I've mentioned Smith's proposal before—it was included in his letter to U.S. Trade Representative Charlene Barshefsky. It would create a requirement that the administration consult with congressional committees before it initials a trade accord Under Smith's approach, this means the House and Senate ag panels would have the same rights as the House Ways & Means Committee and the Senate Finance Committee—the usual trade policy kingpin committees.

Reports have surfaced that in a June 18 letter to Rep. Smith, Barshefsky informed Smith that the administration supported a provision similar to his during last year's fast-track debate and thus would continue to do so. (However, the U.S. Trade Rep's office says the proposal had not been returned late June 25.)

What about the White House and Democrats? Gingrich says he believes the Clinton administration will "do everything it can to help pass this when it comes up in September."

White House reaction: On June 19, White House spokesman Mike McCurry said he was not aware of a renewed effort to past fast track, but said the administration would "welcome" such a step. Well, they've got it.

The Senate already has the votes to past fast track in my judgment. And that's what Gingrich says is the conclusion he got after speaking with Senate Majority Leader Trent Lott (R-Miss.).

But Senate Minority Leader Tom Daschle (D-S.D.) said that while he would support efforts to resurrect fast track, given the degree to which it is controversial, "it may be difficult to bring up in the short time we have left" in the current Congress—with less than 40 legislative days in the session.

The House must act first on trade legislation because it is considered a revenue measure.

Botton line: It's been a slow-track to fast-track, but its getting there.

IMF funding and reform: Gingrich says it might be necessary to fund the IMF at less than the $18 billion the United States has promised to provide.

That suggests the $18 billion amount is open to negotiation. Congressional sources say the final result on this topic depends on how many IMF reforms Republicans can get the White House to swallow (this is the most contentious area on this topic as Treasury Secretary Robert Rubin has focused his attention on the matter.)

Gingrich is mum on what level of IMF funding will likely come out of the Republican-controlled Congress. But he admitted the problems in Asia and Russia have sensitized the need for Congress to act.

Gingrich still faces some naysayers in his own party. Rep. Tom DeLay (R–Texas), who is the House Majority Whip, says "Giving the IMF more money is not a panacea for all the troubles that bedevil the Asian economy. In fact, in many instances, the IMF is the problem, not the solution."

I agree in many ways with DeLay's comments, but the IMF has suddenly (and prudently) changed its previous take-no-prisoners' stance at reforming the very impacted Asian countries.

The White House and House Minority Leader Dick Gephardt (D–Mo.) calls the financing of the IMF a more pressing issue than fast track. Gephardt predicts there would be enough Democrats and Republicans to support IMF legislation. He said he thinks Republicans "are hearing loud and clear from the business community that they think this is a risky business (delaying IMF funding). And I think you're going to see more and more Republicans coming to the view that we ought to take up that legislation.".

Bottom line: The ongoing Asian financial crisis is leading some previous naysaying lawmakers to at least reassess their prior stance. More IMF money is coming. Perhaps not the $18 billion. And there will be some needed IMF reform strings attached to it.

A vote on renewing normal trade relations/MFN with China. The House Ways and Means Committee on Thursday came out strongly in favor of granting China normal trade status.

Gingrich says "There are no practical grounds for cutting off American producers, American agriculture, and American companies" from the Chinese market, despite concerns about transfer of missile technology and illegal campaign contributions. A better way to say this cannot be found.

Bottom line: This is the easiest one to call—it's not a question of if but when China gets the "normal" trade status moniker. That is of course assuming the country doesn't make any major stupid moves to upset an election-year Congress.

Exempt financial assistance to ag commodities from U.S. sanctions: The House on June 24 passed a bill (HR 4101) that has an amendment lifting sanctions on Pakistan. The House Ag panel also has passed a bill (HR 3654) that would life ag sanctions. The Clinton administration says it supports the pending legislation.

Increase pressure on the EU for its ag subsidies and anti-competitive trade practices. I have two words for this priority: good luck.

They should have added Canada to the list. For example, Canada on Thursday declined to conduct a full financial audit of its wheat board. The United States says it will keep "pressing" the issue.

USDA General Sales Manager Chris Goldthwait says Canada "agreed to an audit of durum (wheat) only. We (U.S.), of course, had asked for a full audit, including sales to third countries, and will continue to press them on that."

The U.S. wants an audit because it suspects the Canadian Wheat Board is subsidizing Canadian growers—in violation of international trade rules.

Rep. Earl Pomeroy (D–N.D.) says Canada's outright refusal to conduct an audit is proof positive that it is subsidizing its wheat farmers. He labeled it a "national travesty" that the United States has not been able to convince Canada to conduct the full audit.

It didn't take long for an official at the Canadian Embassy here in Washington to put the word out that Canada's Wheat Board does not subsidize exports.

One Canadian official says the Canadian government wanted to limit the scope of the audit, due to cost. What? Heck, the U.S. Congress spends more money than a drunken sailor, so they should take Canada for its word and put the money. But frankly, if history prevails, another reason will float out as to why Canada shouldn't and won't oblige.

Bottom line: We must think smarter and be tougher. Until we get U.S. trade officials who consistently, fervently, and smartly keep up successful attacks on trade-distorting policies in the EU and other places (Canada for one), U.S. agriculture will continue to face an uphill battle in significantly boosting its export potential in the years ahead. Market access is one thing; getting countries to fulfill on prior pledges is another.

The best statement Gingrich made on these topics is when he said, "the only country economically strong enough to keep the world economy moving forward is the United States. The trick is for us to send a signal that we want a stronger and more vibrant world market, and that means a strong vote on fast track.

And if we don't get fast track and the hoped-for result of improved market access for competitive U.S. agricultural products, the trick will be on U.S. agribusiness which is in the process of pursuing structural and farm policy reforms to gear up for the perceived growth years ahead for the export market—both in volume and market share.

ANATOMY OF A REGIONAL FARM CRISIS

(By Gregg Doud)

There is no "crisis" in U.S. agriculture today. Even though grain prices are at multi-year lows and livestock prices are also in the doldrums, it must be realized that agricultural is a cyclical business. Anyone would have to expect that after 20-year-highs in world grain prices, the pendulum would eventually swing. After all, it's taken at least the last 100 years figuring out that the ebb and flow of supply and demand explain price and that agricultural commodity markets literally ebb and flow with the wind.

What hasn't been so obvious, however, is that little more than plain and simple greed drives farmers, over time, to produce at a level that covers little more than their variable costs of production. In other words, very few farmers have not wanted to farm the entire county in which they reside. Every year it's the same old, "I'll gamble and extend myself a little this year, because if I don't my neighbor will have an advantage over me."

Applying this classic psychology to northwest Minnesota and northeast North Dakota where there certainly is a regional production agriculture crisis going on these days, is the first step in understanding just what is now causing producers to go bankrupt and what policies and actions, if any, are to blame.

A recent study by North Dakota State University (NDSU) says production costs for producers in the Red River Valley (again, northwest Minnesota and northeast North Dakota) have increased by 71 percent since 1991 although yields in this predominantly spring wheat and barley producing area have not changed. The report estimated that costs of production in this region of the country range anywhere from $11 to as much as $200 per acre for wheat and/or barley. By comparison, the average northcentral Kansas total variable cash costs are $82 per acre and fixed costs are $35.53 per acre for a $118 per acre total. (Source: Kansas State University) Much of these added production costs in the Red River Valley include fungicides and herbicides and increased fertilizer costs associated with disease problems and an overabundance of rainfall in recent years.

It seems that where the Red River Valley separates itself, however, is with regard to land costs. In central North Dakota, cash rental rates typically run between $25 and $30 per acre (30 bushels per acre wheat). In the Red River Valley, though, NDSU put the average rental rate at $57.75 per acre and the average land value at $850 per acre. In comparison, good dry-land wheat farmground in northcentral Kansas these days that has a wheat production capability very similar to the Red River Valley goes for about $450–500 per acre. Remarkably, the disparity in land values is even larger when one considers that property taxes in Minnesota are some of the highest in the nation.

These numbers are important as they bring to light one of the major factors influencing this crisis. There is no way a Red River Valley wheat and barley producer can stay in business and pay these prices for cash rent or land ownership! The NDSU report suggested that a barley crop can cover about 50 percent of the cost of production while wheat will cover about 85 percent of total costs. These examples quickly illustrate the biggest obstacle Red River Valley's small grain producers face—their land is overpriced for the crops they are trying to grow. Or is it? There is a reason for this seemingly mad behavior and it's probably not too surprising that its roots are derived from another U.S. government commodity program.

In this region of the country, sugar beets are the money crop as producers can gross $700 per acre and net $150. However, in order to "get in" a producer must buy stock in the sugar beet corporation or co-op and that stock translates into the number of acres of beets the producer can plant. Apparently sugar beet stock trades just like land and is worth about 1–1½ times what the land is worth. Stock offerings have recently expanded to acquire more acreage.

Although there is a tariff rate import quota, these returns have driven up cash rental rates to $120 per acre or more in beet production areas. This wide discrepancy between these $25 per acre cash rental rates in the central part of the state and $120 per acre for beets has provided a wide window of opportunity for non-sugar beet landowners with an average $57.75 per acre rental rate the result.

Coming along once again to further complicate these seemingly unjustifiable rates, however, is the USDA and its "prairie pothole" designation as part of the Conservation Reserve Program (CRP). Some would argue that while the approximate average of a $55 per acre CRP rental rate doesn't necessarily drive up regional rental rates, the special designation makes it easier for landowners to get into the program. It is this threat that is causing renting producers to bid enough to keep the land in production despite the fact that paying these rates is not economically justifiable.

When Red River Valley producers have to pay "too much" for fixed or capital investments, it means there is little or no room for error when it comes to anything connected with either price (marketing), yield (gross returns), or management decisions. However, since problems do occur because of poor weather, etc., producers have to insure themselves by utilizing risk management tools such as crop insurance and the futures market.

Managing risk is the most difficult part of farming and every producer knows there is no such thing as a "perfect hedge." One often used risk management tool is the Federal Crop Insurance program. However, Red River Valley spring wheat producers in recent years have exposed a few holes in this program when it comes to dealing with scab damaged wheat.

IS BETTER CROP INSURANCE THE ANSWER?

Federal Crop Insurance indemnity payments are based on yield losses. If a producer's average wheat yield is 40 bushels/acre and insurance with a typical 65 percent coverage level is purchased, that equates to 26.5 bushels per acre of coverage multiplied by $3.50 per bushel, or $92.75 per acre of coverage. While this is still below the cost of production, it's certainly better than nothing. In the Red River Valley, participation in the Federal Crop Insurance program is very high although it has begun to decline somewhat. However, problems occur with this program when wheat is infested with scab damage.

Scab damage greatly reduces the quality of the wheat while sometimes having only a minor impact on yields. Research indicates that the Actual Production History (APH) on which Federal Crop Insurance is based has fallen by about five bushels per acre on the Minnesota side of the valley, but on the North Dakota side there is no overall decline. In fact, there has been a slight increase in the North Dakota barley APH. (Note: This describes county aggregates. Some individual producers may be greatly impacted by their lower APH levels.)

Since the APH is based on a five-year moving average yield and there have been three to four years of problems in this region, lower APHs are unavoidable and present a significant problem for the producer. The primary area of concern involves some 18 counties in eastern North Dakota and 10 in western Minnesota. While there are some instances of significant declines (20 bushels per acre) in APH levels, the bulk of the counties in North Dakota actually fluctuates between +/− 4 percent. An APH change of 4 percent, with a 40 bushel per acre yield, would add $5.60 per acre to the indemnity payment using the example above.

Some have suggested that USDA "give" or reset the APH levels in these areas to provide relief to the producer. To this regard, there will be a pilot program in 1999 that will look into alternative ways of calculating an APH. However, officials have some concern about the impact of having other parts of the country essentially subsidize the program in this particular region.

QUALITY LOSSES

The more serious income problem also not addressed by federal crop insurance is a result of the drastic changes in discount schedules the marketing system has instituted as a result of scab disease problems. In 1993, when scab damage first entered the scene, the market severely discounted non-millable quality wheat in a range of between 50 and 80 cents per bushel. Discounts typically deal with the quantity of total defects and test weight losses and are usually larger in times of higher prices.

Since that time, cleaning equipment has been installed and the market has done a better job of segregating quality. This past year a typical discount was about 20 cents per bushel. In all cases, however, neither crop insurance, the futures market, nor any other government program could provide the producer a mechanism of risk management for these income losses.

USDA's federal crop insurance program does not factor in an offset for losses until the quantity of damaged kernels exceeds 10 percent (making it U.S. Grade #5 wheat). Even at that point, the program only provides a 1 percent increase in the production account for 11 percent damage. This level of damage, however, would likely relegate a particular parcel of wheat to a price on par with corn.

Scab damage is again a concern in the Red River Valley this year as a large portion of the Valley's wheat crop is now flowering and standing in water due to recent heavy rains. Quality premiums and discounts could well end up being more important price discovery factors than the futures market this year if disease once again breaks out. The Federal Crop Insurance program's ability to better address quality and value losses could be of great benefit to these producers. The concern is that adjustments in these quality provisions could impede market signals.

A third minor option being discussed is to define an additional "unit level" within the structure of the Federal Crop Insurance program by combining "all owned" land with "all crop shared" into one "enterprise unit." This might provide for lower premiums, but this is very minor in relation to the overall regional farm income situation.

All of the above, however, is not enough to explain or resolve the distress for the entire region although a few changes to the crop insurance program would provide at least some assistance. These changes may also help turn the tide of decreasing participation in the Federal Crop Insurance program in this region.

A better approach would be the whole-farm-based Farm Production Insurance Corporation (FPIC) proposed by World Perspectives' CEO Carole Brookins. This program would deliver business interruption insurance and whole farm equity protection rather than a price-times-yield insurance coverage that has to be modified for every new situation that arises.

MAKING BETTER BUSINESS DECISIONS

One piece of WPI advice to producers is that when they find themselves in a hole, stop digging. Most U.S. grain farmers learned during the mid-1980s that bigger is not necessarily better. Farmers in the region say that one of the most unique characteristics of this regional crisis is that many producers have not stopped spending money. The truth is that farmers may be greedy, but when they have money, they spend it.

In the instances of producers still sitting on large quantities of old-crop grain, many had the opportunity to sell wheat at $3.75 per bushel last fall, but chose instead to put the crop under loan. Although hindsight is always 20/20, it would appear that in this case, the lure of $8 per bushel soybeans, $5 per bushel wheat and $3 per bushel corn clouded judgment at a very inopportune time. Will this crisis finally provide adequate encouragement for producers to seek other less risky methods of acquiring higher prices for their crops? Heaven only knows.

Farming is a cyclical business and it appears that the dairy business is doing quite well and grain prices may be turning the corner. Alternatively, WPI expects to see land values stagnate or possibly even decline slightly along with reductions in cash rental rates in relation to commodity prices. The grain market reacts to global events and right now there seems to be plenty of supply amid sluggish demand. WPI notes, however, that it's always interesting to see how politicians try to spin these circumstances to justify their policy positions.

Summer is quickly approaching and it's an even numbered year. All seats of the House of Representatives and one-third of the Senate seats are up for election. The current political landscape suggests that the majority in the House of Representatives is also up for grabs. There are probably about 15 House seats out of the 435 that may well decide who holds the majority and nearly all involve rural districts.

As a result, U.S. farm policy is caught in the middle of a raging battle of partisan politics with House Democrats claiming that Freedom to Farm has failed and Republicans decrying the Administration's approach to trade. House Republicans have also seen the non-use of Export Enhancement Program (EEP) during periods of low domestic prices as an opportunity to needle the Administration.

Both these postures are fatally flawed as they are old-school agricultural economics and in the real world producers see this for what it really is: political grandstanding. Producers have liked their freedom to farm and it has helped them realize that their income comes from the marketplace and not from Washington.

Possibly the most unfortunate consequence of this entire situation is that producers all across the country made significant capital expenditures during this period of high commodity prices and large transition payments in the last few years. In fact, a number of these expenditures were likely made to reduce taxable income. To address this situation, Congress has proposed the Farm and Ranch Risk Management (FARRM) program that would allow producers a five-year window in which to defer up to 20 percent annually of their taxable income. Income, however, could not be deferred for more than five years. This is an excellent way to address the highs and lows of farm income. It's just too bad that it wasn't in place before now.

The best option in dealing with scab is still crop rotation. Producers can also opt for chemical control, but this makes little economic sense unless both yields and prices are high. Increasing the loan rate for wheat will only impede this need for rotation. Raising loan rates will only serve to mute market signals and missed market signals will certainly lead to lower farm income. Tweaking the crop insurance program will help, but it doesn't do much to address the fundamental farm economics of the region.

One important element that should be arrived at based on these discussions is that there just isn't a lot that policymakers can do without distorting price discovery in the marketplace. Yes, there is a regional farm income crisis in the U.S. Northern Plains, but it is not a U.S. crisis. Also, there are no easy answers. There is, however, a series of steps over time that can be taken to remedy the situation including opening markets and decreasing regulation.

SUMMARY

Although it is probably unavoidable in an even-numbered year, WPI deplores the demagoguery in agricultural policy at anytime, but particularly when it occurs during a crisis situation. It is quite clear that deficiency payments would have been less than transition payments and that the 1996 Freedom to Farm Act and little, if anything, to do with the Red River Valley's unfortunate situation over much of the last five years. it is the responsibility of agricultural policymakers.

however, to see that appropriate research funding is available to eventually find a solution to the problem and to develop a better safety net. However, there is a big difference between a so-called safety net and a free indemnity payment.

Local newspaper editorials written by farmers in this region are not telling other farmers that if they can't produce wheat at a $3.00–$3.25 per bushel break-even point they have a problem. WPI adds that, hopefully, these producers have less of a problem growing something else besides wheat. Ultimately, it will be the market which decides whether or not there is a problem, or in other words, whether this wheat really needs to be produced.

It is unfortunate that high commodity prices and government payments have masked the severity of scab disease in this region. While many farmers in other places were able to recover financially as a result of these high prices, those in scab country were just postponing reality. Some farmers in this region appear to have been betting that the scab problem would simply go away. It hasn't and these producers are now in trouble.

In today's global wheat market, many U.S. regions and/or producers would not fall into the low-cost producer category. However, as of yet, WPI is not sure how well the market has communicated this message. This message will eventually be delivered and it may just be that wheat producers in the Red River Valley are the first ones to receive delivery. There is a siren blaring and it's calling for producers to rotate out of wheat production. Producers need to be able to hear it. They also need to make better business decisions.

Mr. ROBERTS. I yield the floor.

Mr. COCHRAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I listened very carefully to the excellent remarks of the distinguished Senator from Kansas. I think he put in perspective the challenges that face American agriculture, particularly out in the northern plains. But he also, I think, put in proper perspective the legislative history and the effort that was made, on a bipartisan basis, and with the approval of this President, to authorize farm programs that meet the modern needs of farmers, do not solve all the problems, but within the context of Federal legislation give farmers an opportunity to operate their farms in the context of a global economy, within the limits of the Federal budget that has been constrained in recent years, and with a predictability about the future, with rights of flexibility, with rights of choice on the part of farmers as to what they plan and how they manage their farm operation.

The distinguished Senator has been a very important leader in agriculture and I think, in listening to his remarks, it is clear to all of us why he has been chosen and why his advice is so often taken here in the U.S. Senate and when he was chairman of the House Agriculture Committee, and why he has been such an effective leader throughout the country on agriculture issues. It also shows us that we are in a situation now where we have to make a choice.

We have before us a resolution offered by Senators HARKIN and DASCHLE stating the problems in some sectors of the country in agriculture and calling on the Congress and the President to take action in response to these problems. I support the general tone and the general sense that is contained in that resolution, and I hope the Senate will work its will soon and adopt this resolution. If it has to be modified, let's modify it and then move on to specific amendments. We have a list of amendments.

As we started the consideration of this bill, which we had been advised Senators wanted the Senate to consider, there were about 50 amendments. We have worked our way down to a point now where it is a little less than 40. We have sent out hotline requests to Senators' offices to let us know what their intentions are in terms of specific amendments. Give us the benefit of the suggestions. Let us look at them. Senator BUMPERS and I will try to accommodate Senators' requests where we can, and get the reaction of the administration to other suggestions Senators make for amendments and work our way through those amendments to final passage of the bill. We would like to get that done tonight if we could. It is probably not realistic to expect to complete action within the next 2 hours. But I would like to do that. Then we could turn to other appropriations bills tomorrow.

The majority leader has already indicated that we will not be in late tonight. Certainly we ought to be able to finish this bill at least at an early hour tomorrow. But to accommodate the requests and the interests that we all have in moving along expeditiously on the passage of appropriations bills, we need to have the cooperation of Senators. The first order of business is to deal with this sense-of-the-Senate resolution.

I have suggested to some Senators on this side of the aisle that if they have suggestions for changes in that resolution, let us know about it, and we will take them up with the authors of the resolution and see if we can pass that resolution within the next several minutes. I hope we can do that.

COSMETICS

Mr. HATCH. Mr. President, I would like to commend my friend, the Senator from Mississippi, for his stewardship of this important bill.

I rise today to voice my great concern about FDA's recent announced cutbacks in its cosmetic regulatory program. I ask unanimous consent to have printed in the RECORD a copy of the letter that I sent to the chairman of the Agriculture Appropriations Subcommittee on April 23d which details my concerns about FDA's proposed cuts in the cosmetics program.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, April 23, 1998.

Hon. THAD COCHRAN,
Chairman, Subcommittee on Agriculture, Rural Development, and Related Agencies, Washington, DC.

DEAR MR. CHAIRMAN: I wanted to bring to your attention a matter concerning the funding of the Food and Drug Administration's (FDA) regulatory program for cosmetics. While I am mindful of how difficult appropriations allocation decisions are given the discretionary budgetary caps we enacted last year, I know that you have consistently worked over the years to see that the FDA would have adequate funding for its vital consumer protection mission.

It has come to my attention that FDA has recently informed the cosmetic industry of its intent to decrease substantially both the personnel and financial resources devoted toward its cosmetics regulatory program. I am concerned that this misguided decision will have untoward results for the millions or our citizens who use these products literally every day.

Let me just cite a few examples of the types of important activities that FDA plans to reduce, or outright eliminate, supposedly on the grounds that these activities are low priority. On the chopping block is the voluntary registration program whereby manufacturers currently register their products and facilities so that FDA's compliance activities are conducted effectively and efficiently. To eliminate such a program—a program that was successfully implemented in a spirit of voluntary cooperation between the regulated industry and the FDA—in an attempt to capture relatively meager short term budget savings may in practice only go to prove the wisdom in the old adage "penny wise and pound foolish." It just seems to me that this voluntary program provides vital information to FDA in terms of investigating adverse reaction reports, noncompliant products, and dilatory companies.

In addition, as I understand the situation, FDA has indicated that it will essentially completely phase out its consumer and manufacturer assistance program. Without this capability to monitor and respond to the technical issues attendant to cosmetics safety, I fear that the public health could be jeopardized.

The FDA cosmetic oversight program has been characterized by collaboration between the agency and the industry and this spirit of cooperation has succeeded in helping the industry sustain its strong record of product safety and consumer satisfaction. Without the FDA's visible presence and high standards, we may be unintentionally creating a climate that the irresponsible and unscrupulous will find irresistible. To allow FDA to backslide in the area of cosmetics can only prove unfortunate to the consumers of these products.

FDA is charged with implementing one of the most important consumer protection laws—the Food, Drug, and Cosmetics Act. We must not acquiesce to FDA's attempt to take short-sighted budgetary actions that will inevitably diminish the protection afforded consumers of cosmetics under this longstanding statutory scheme. Congress should act to keep "cosmetics" prominent in the Food, Drug, and Cosmetics Act.

In its FY 1999 Justification of Estimates for Appropriations Committees and Performance Plan to the Congress, FDA "zeroes out" the current budgetary line item for cosmetics with the following terse footnote: "Cosmetics monitoring is phased out in FYs 1998 and 1999. FDA will continue its activities at the center level." I believe that the best way to structure the budget is to target specific funds for the cosmetic regulatory program in the Center for Food Safety and Applied Nutrition (CFSAN). Such a decision will send an unambiguous message to FDA that Congress considers appropriate cosmetic regulation to be an important FDA function, and that we expect appropriated funds to be allocated for that purpose in the usual line item fashion.

While I know that new funds—not reallocated funds—would be preferable but difficult to secure, I hope that the Subcommittee will conclude that a relatively modest investment will go a long way for consumer protection in this area. Specifically, I recommend that the Subcommittee appropriate an additional $6 million in the FDA budget to be earmarked for the cosmetic program in CFSAN. This sum may represent a small fraction of the total FDA budget but it can provide a great difference for the millions of consumers of such commonly used products as soaps, shampoos, deodorants, and makeup and fragrances.

I thank you in advance for your consideration of this request. I want to work with you on this issue and I will do what I can to help.

Sincerely,

ORRIN G. HATCH,
U.S. Senator.

Mr. HATCH. Mr. President, the bottom line of this letter was to urge the Chairman and members of the Agriculture Appropriations Subcommittee to increase funding for the cosmetics program to $6 million.

I am pleased that the Report accompanying the Senate bill encourages the FDA to restore funding for this program to the funding levels of previous years. Because nearly every American uses a cosmetic product each day, it is important that the regulatory program for cosmetics in the Center for Food Safety and Applied Nutrition's Office of Cosmetics and Colors be adequately funded. I understand that our colleagues on the House side have wisely provided an increase of $2.5 million to keep this program at previous funding levels.

I would hope that we can work with our colleagues in the other chamber to see that the final version of this bill that emerges from conference does indeed contain the $2.5 million increase that the House provides and would restore the cosmetic program to the $6 million level.

Mr. COCHRAN. I thank the Senator from Utah for his remarks. I can tell him that we will try to do everything we can to restore the cuts in FDA's cosmetics program.

Mr. NICKLES. Mr. President, the Choctaw Nation of Oklahoma has brought to my attention concerns relating to the Food Distribution Program for Indian Reservation (FDPIR) program administered by the Department of Agriculture. Specifically, USDA regulations prohibit Oklahoma Indian tribes distributing commodity goods under FDPIR to tribal members in population area that exceed 10,000 persons. I have been made aware this prohibition does not exist in other states. As a result, Oklahoma tribes are placed in a different category from tribes administering FDPIR commodity programs.

To address the concerns raised by the Choctaw Nation, I would request the Secretary of Agriculture, in consultation with the appropriate Oklahoma state agencies, review the current regulations with respect to the FDPIR program in Oklahoma and take any necessary regulatory action to ensure tribal members receive adequate commodity services from the most appropriate provider.

Mr. COCHRAN. I appreciate the concerns raised by the Senator from Oklahoma, and would make a similar request of the Secretary with respect to this matter.

MOTION TO WAIVE BUDGET ACT—AMENDMENT NO. 2729

Mr. BYRD. Mr. President, earlier today, the Senate voted on a motion made by Senator DASCHLE, the distinguished Minority Leader, which would have waived the Budget Act with respect to a point of order raised against his tobacco amendment to S. 2159, the Department of Agriculture appropriations bill.

I voted against the Daschle motion because I believe that, after having debated tobacco legislation for nearly four weeks, the time has come for the Senate to move forward on the pending appropriations bills. Although I appreciate the Minority Leader's heartfelt desire to see a tobacco bill enacted during this Congress, I also appreciate the fact that that goal is not likely to be met in the few remaining days before adjournment. Thus, prolonging this issue is not, in my opinion, in the Senate's best interest.

Mr. President, while I could not support the Minority Leader's motion to waive the Budget Act in this particular case, I will not, of course, rule out supporting such a motion in the future. Should we, as the minority Members of this body, continue to be effectively precluded from offering amendments, I would then be willing to join my colleagues in seeking to have those amendments debated on any available legislative vehicle.

Mr. McCAIN. Mr. President, as we begin consideration of the spending bills for the next fiscal year, I commend the efforts of Chairman COCHRAN, Senator BUMPERS and other members of the Subcommittee in putting forth this bill to fund the wide array of agricultural programs within the U.S. Department of Agriculture and related agencies.

In the accompanying report, the Subcommittee stated its objective, to closely examine "[a]ll accounts in the bill" and "ensure that an appropriate level of funding is provided to carry out the programs." Mr. President, I was delighted to read this statement. However, after reviewing the bill and its accompanying report language, my delight was brief at best.

It is painfully clear the subcommittee has not lost its appetite for pork-barrel spending. This bill has been fattened up with vast amounts of low-priority, unnecessary and wasteful spending. In fact, this particular appropriations bill contains an astounding $241,486,300 in specifically earmarked pork-barrel spending. This is over $60 million more than last year's pork-barrel spending total for this bill, which was only $185 million in wasted funds. In addition, the bill and report direct that current year spending be maintained for hundreds of projects, without being specific as to the amount.

To exemplify this egregious spending, I have compiled a lengthy list of the numerous add-ons, earmarks, and special exemptions provided to individual projects in this bill.

Many of the programs funded in this bill are laughable. Yet there is nothing humorous about funneling Americans' hard-earned tax dollars to parochial interests. This bill is rife with examples.

The subcommittee's recommendation for the Cooperative State Research, Education and Extension Service (CRSEES) blatantly typifies the way my colleagues have irresponsibly put their own agendas ahead of national priorities. For CRSEES research and education activities, my colleagues added on $22,193,000 to the budget estimate. In fact, out of 106 special research grants for state universities, 99 projects were unrequested and earmarked to serve specific regions of the nation, such as: an earmark of $3,536,000 to Oregon, Mississippi, Minnesota, North Carolina, and Michigan for the wood utilization project; $150,000 for plant, drought, and disease resistance gene cataloging in New Mexico; $64,000 for nonfood uses of agricultural products in Nebraska; and, an earmark of $84,000 to Georgia for Vidalia Onions. Mr. President, you and I may love Vidalia Onions just as much as the next person, but an $84,000 earmark to Georgia for Vidalia Onions is absurd in this era of supposed fiscal restraint.

Let's look at the earmarks in the Animal and Plant Health Inspection Service funding.

The Committee directs the Department to continue funding at the current level for cattail management and blackbird control in North Dakota, South Dakota, and Louisiana. I would be surprised if there were no problems with excessive cattail growth and huge blackbird flocks in other areas of the country.

$800,000 is earmarked for rabies control programs in Ohio, Vermont, and

New York. Again, I am certain other areas of the country would benefit from rabies control funding.

The Committee encourages the Department to consider grants to Burlington, Vermont, and Anchorage, Alaska, to assist these cities in developing public markets.

The Committee notes that it "expects" the Agriculture Department to purchase surplus salmon, but only if there is surplus salmon at low prices.

Mr. President, this type of locality-specific and special-interest earmarking is blatantly unfair to the taxpayers. It sets the tone, so evident in this bill, for a spending frenzy where honest hardworking Americans' tax dollars are thrown away on unrequested, low-priority, wasteful spending similar to the previous examples and hundreds like it.

Similar flagrant violations of the appropriate merit-based review process permeate the FY '99 Agriculture Appropriations bill and report—a testament to my ongoing concerns about pork-barrel spending. Mr. President, I raised concerns over earmarks in the FY 1998 appropriations bill, yet funding continues to be provided without adequate justification for nonsensical programs and designated regional benefits, such as: the perennial add-on of $3,354,000 for the Shrimp Aquaculture project benefiting the states of Hawaii, Mississippi, Arizona, Massachusetts, South Carolina; $150,000 for the National Center for Peanut Competitiveness in Georgia; a $26 earmark million for additional spending to benefit the Lower Mississippi Delta region.

Mr. President, most of the programs in this bill, such as grants, loans and other types of technical assistance programs, would normally be available to local, state and tribal entities in an open and competitive process. Many projects of merit and national necessity deserve to compete for the scarce funds gobbled up by wasteful pork-barrel spending. But these projects will never receive fair deliberation if this Committee pre-determines their fate by "expecting" and "urging" the Department to give special consideration to certain projects over others.

This bill also continues the questionable practice of prohibiting facility closures and designating funding for maintaining administrative personnel. For example, an additional $1,400,000 is provided to the Rice Germplasm Laboratory in Stuttgart, AR, for additional staffing, and more than $20 million is provided to various agencies and field offices in order to maintain personnel. The bill also contains a section that prohibits the expenditure of any funds to close or relocate an FDA office in St. Louis. The Committee does not provide any justification on why we should be spending taxpayers dollars to preserve unneeded bureaucracy. Nor does the report explain why specific offices and laboratories are higher in priority than others and more deserving of continuing funding despite recommendations of closure.

Mr. President, I will not deliberate much longer on the objectionable provisions of this bill. In closing, I simply ask my colleagues to apply fair and reasonable spending principles when appropriating funds to the multitude of priority and necessary programs in our appropriations bills. I look forward to the day when we can go before the American people with a budget that is both fiscally responsible and ends the practice of earmarking funds in the appropriations process.

GENERIC DRUG APPROVALS

Mr. HATCH. Mr. President, over the past several years, I have highlighted my growing concern about the Food and Drug Administration's failure to meet statutory deadlines with respect to a number of very important consumer products it regulates, including medical devices, food additives and generic drugs.

I would note that enactment of the Food and Drug Administration Modernization Act (FDAMA) is intended to address some of those concerns, especially with respect to innovator drugs.

But a very real concern remains about the generic side of the equation.

My colleagues should be aware that, despite a requirement in the law that generic applications be acted upon within 180 days, the review time usually takes far longer. In fact, in its budget justification submitted to Congress this February, the agency reveals that only 50% of the applications receive final agency action within the statutory deadline, and the mean review time is 25.6 months.

This is a matter of significant concern to me, and, I believe, to the Congress as well. As the Committee noted in the report to accompany S. 2159:

> In light of the fact that generic drugs provide important cost benefits to consumers and the Federal Government, the Committee also encourages the FDA to devote additional resources to generic drug reviews in order to address the backlog of applications and provide reviews within the 6-month period required by statute.

Later, the Committee goes on to say:

> FDA delays have significant implications for public health. Each FDA delay extends the time it takes for consumers to benefit from new products that provide significant therapeutic benefits. The Committee believes that FDA's statutory obligations to perform its core regulatory activities must remain the agency's top priority.

The failure of the FDA to devote sufficient resources to the Office of Generic Drugs is penny-wise but pound-foolish. Generic drugs can provide significant benefits to consumers. They typically enter the market at a price 30% below their brand-name equivalents, and decline in price to 60%–70% below the brand product price over time.

Generic drugs have provided consumers with lower cost alternatives to innovator drugs, and they will continue to do so in the future. Over the next decade, a number of important pharmaceutical patents will expire, with cumulative annual sales in the tens of billions of dollars, and with the potential of tremendous consumer benefits. These benefits could be significantly diminished if there are not adequate abbreviated new drug application reviewers. It is as simple as that.

Last year, due to the concerted leadership of Chairman COCHRAN and others, the FDA was directed to submit a detailed operating plan which yielded an increase of $702,000 for the Office of Generic Drugs (OGD). I was, and am, very appreciative of these efforts.

It is my understanding that the House Appropriations Committee has provided an additional $1 million to OGD this year; I strongly support the House mark and only wish it could have been even higher.

When the agriculture appropriations bill goes to conference, I hope that conferees will build upon last year's record and will continue to increase funding for generic drug reviews. I know that it is always hard to find additional money given the budgetary constraints we face, but a very small amount of money in Federal budget terms can have a very large impact here, especially for those, particularly senior citizens, who lack prescription drug coverage.

APHIS/WILDLIFE SERVICES

Mr. JOHNSON. Mr. President, I strongly encourage the Conference Committee for the FY 1999 Agricultural Appropriations bill to recognize the need for a full-time APHIS/Wildlife Services district supervisor position located in South Dakota for the protection of agriculture and endangered species.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GRAMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BENNETT). Without objection, it is so ordered.

Mr. GRAMS. Mr. President, I rise in support of the Agriculture Appropriations bill, which includes essential funding to support our American farmers, the most competitive farmers in the world.

It is imperative that the Agriculture Appropriations be passed out of the Senate quickly, as our farmers will be forced to pay dearly for any delays. The bill includes vital funding for scab research. This is an essential project to counter what has become a major threat to wheat and barley farmers.

The bill includes many other important bio-genetic projects as well. Long-term basic research is fundamental and must remain a priority.

This bill also continues the crucial tools to help our farmers promote their commodities at home and throughout the world. The bill funds the Foreign Agricultural Service, which is a necessary component in successfully identifying and reaching foreign markets. The Service coordinates the formulation of trade policies and programs with the goal of enhancing world markets for U.S. agricultural products.

Included are the CCC Export Credit Guarantee Program; the PL-480; the Export Enhancement Program; the Market Access Program, and others. The bill also includes full funding of the Federal Crop Insurance program, the major risk management tool to come out of Freedom to Farm.

Today we will debate several amendments that are being touted as a remedy to the current farm crisis that some states in the Upper Midwest, including Minnesota, are currently facing.

I do not want to downplay the problems faced by Northern Minnesota farmers. Farmers are hurting, but we must look for the best ways to help them promote long-term solutions rather than take a costly political approach.

There are multiple factors which have contributed to and exacerbated the current circumstances facing many of our Upper Midwest farmers. They include the Asian financial crisis, plant diseases, and surpluses accompanied by low commodity prices. The combined effect has been enough to put some farmers out of business, despite the fact that the Market Transition Payments in the FAIR Act have provided our producers with a much greater safety net than the deficiency payments they would have received under the old program.

The current crisis cries out for an immediate answer—a quick-fix. Scrap the intent of the 1996 Freedom to Farm Act, some of my colleagues are suggesting, and go back to the old-style, government-directed farm policy we fought so hard to change.

Surely it is heart-wrenching to watch our neighbors lose their livelihoods, but is the approach of the Minority amendments the right one? Will it help farmers in the long run? I do not think so. These proposals will not alleviate the problems. That much should be obvious. These are serious problems and require serious legislative proposals What the situation demands is more deliberate, long-range attention.

Furthermore, these proposals like a serious misdiagnosis exacerbate the problem, not only for farming generations to come but for the very farmers they would supposedly serve.

One amendment would be to extend the loan rates in order to allow farmers the discretion of waiting for higher prices. Sadly, this looks like a sure-fire method to lower commodity prices even further. Extending the loan for an additional six months would give a farmer incentive to hold onto the remainder of last year's crop, while at the same time pulling in a new harvest—most likely a very large harvest. The effects are obvious—an increased amount of grain on the market, which pushes prices down.

There are other costs to this approach. Grain storage and transportation issues continue to play a role in the overall problem. Extending the loan rate will only make matters worse in that farmers who hold onto their grain longer must have a place to store it, taking up more space in the elevators. There must also be enough rail cars to ship it. This also drives prices down.

Another ill-fated proposal would raise the cap on government market loan rates. Again, we must beware of proposals—like extending the loan rates—that would influence the market in such a way as to create market distortions. That is just what this proposal would do. It would create more commodity than the market could stand without devaluing it. If loan caps are lifted, it tends to encourage a rational farmer to withhold grain from the market, leading to more government-owned grain. This also drives prices down.

Yet another proposal would authorize $500 million in payments to farmers who have suffered repeated crop failures. But we decided to avoid these types of measures in favor of the Federal Crop Insurance Program, and similar risk management measures included in the Freedom to Farm Act. And certainly $500 million spread over a number of hard-hit states is not going to be enough to make a real difference for farmers, even over the short-term. The better alternative is to continue to improve the FCIP.

It is not difficult to put these band-aid proposals into perspective. What is hard is the fact that they are being billed as steps that would immediately help individuals who have supposedly been hurt by Freedom to Farm, giving them false hope for relief—a magic elixir for suffering farmers that won't work. With the benefits of Freedom to Farm we agreed to accept the kind of market cycles other industries suffer. When the cycle turns down, we must look at the best way to reverse the downward cycle through sound government policies. We must continue our efforts to seek new markets for our agriculture products, and to seek alternative uses for them as well. We can replenish the IMF, pass Fast Track negotiating authority, pursue unfair trade practices, and continue MFN for China. We can oppose unilateral sanctions.

As Chairman of the International Finance Subcommittee of the Banking Committee, I worked with Senator HAGEL to pass the replenishment of the IMF in the Senate. I regret it is still held up on the House side. Without this kind of multilateral assistance, we cannot provide the assistance needed to address the kind of crises we face in Asia, Russia and many other areas. I urge the Administration to work out the differences we have surrounding this issue in the House so we can continue this kind of crucial assistance.

Fast Track negotiating authority is necessary to pursue new trade agreements with other nations that will improve access for agriculture and other products. While the Administration indicated it would pursue this authority this year, that appears to no longer be a priority this year. Yet, this authority would open markets to relieve some of the commodity pricing pressure in the Upper Midwest. I have joined Senator HAGEL and others today in requesting Senator LOTT to bring up Fast Track this year as one of our top priorities.

Continuing MFN for China is another top priority of mine as well as the agricultural community. China is a major market for the United States, now, and even more in the future. Those who want to hold agriculture hostage to solving many unrelated problems in China are very shortsighted. Not only do we risk United States exports in the short term, but the long term as well as the United States earns the reputation of an unreliable supplier. Engagement through trade and contact with the Chinese leaders and people is what gains us progress on human rights, religious persecution and other issues—not cutting off those relations.

Mr. President, I was pleased we passed the Farmer Relief Act last week to exclude agriculture products from India-Pakistan sanctions. We should have gone further to provide waiver authority and exclude all the economic sanctions, but that battle will be fought another day. It is clear to me that agriculture sales should not be included in any sanction, and I will continue to support efforts to eliminate agriculture from current sanctions as well as to prevent our farmers from being targeted in these largely political battles. Farmers still painfully recall the Russian grain embargo and other unilateral sanctions that continue to shut off important markets. Cutting off agriculture sales only hurts the people of the targeted country—not the government we aim to punish.

I am a co-sponsor of the Dodd bill to remove agriculture sales from current Cuba unilateral sanctions. The same arguments we make against other agriculture sanctions apply here as well. It is time to make this humanitarian, important change in the embargo.

I also am a co-sponsor of the Africa trade bill which I believe will help our farmers in the long term as we work to expand trade opportunities in that continent.

All of these current and pending sanctions—61 current and many pending—cry out for passage of the Lugar Sanctions Reform Bill, which I have co-sponsored. This will ensure that not only will we have a sound basis to ensure that sanctions will have their desired effect before we pass them, but also that they do not impose a higher cost to our economy than we can bear. This legislation should be non-controversial, and it should be passed immediately.

Mr. President, I am convinced that pursuing trade policies that open markets, not close them, will go a very long way in bringing higher prices to farmers in my state and others. I challenge my colleagues who have supported legislation to close markets abroad to take a closer look at what they are doing and support American agriculture on these important issues.

Mr. President, in passing Freedom to Farm, Congress recognized that agriculture policy in this country must emphasize business acumen and individual freedom—the principles that have made our economy sound today. And we must provide the means necessary to realize the potential of such a plan. The Agriculture Appropriations bill continues to provide the means. I urge my colleagues to stay the course and resist the short-sighted, politically motivated, market-distortion mechanisms that the Minority amendments would offer.

Thank you very much, Mr. President. I yield the floor.

Mr. BURNS. Mr. President, we have heard a lot of discussion here today about agriculture and the fix that it finds itself in, most of it caused by forces not under the control of the folks who live on our farms and ranches in this country, and in particular about our good friends who live in North Dakota along the northern high plains that stretch across the northern reaches of Minnesota, from Grand Forks to Williston, and yes, even over into my home State of Montana. I went through the 1980s as an auctioneer. I sold out some awfully good friends in that era. And, there again, that was caused by forces that were not under the control of those who make a living from our farms and ranches across this country.

You know, we, some of us, might take this lightly. But we are talking about something that involves every American. Every American has a stake in this, because the second thing you do every day after you get up is eat. I don't know what the first thing is because we have a lot of choices, I guess, but the second thing is that we eat.

We understand the pain on the northern high plains because I have experienced the same kind of situations and been around agriculture a long time, in the business of ag business and, yes, on the land, too. We understand that. We cannot write anything into legislation in the way of farm policy of a one-size-fits-all. Each State is different. Each county is different. Each region of this country is different, producing different crops under different circumstances, under different growing seasons, different soils, and that makes it a real challenge to try to develop any kind of farm policy as far as this Government is concerned from this place here in Washington, which I refer to every now and again as 17 square miles of logic-free environment.

What we did in the FAIR Act was to try to put agriculture into a position where farmers can enjoy as much versatility and flexibility in their cropping and making their decisions on how to market as each individual producer or operator could have. Risk management—that was part of it, part of it, making decisions on what to grow and when to grow it, how to market it, and, yes, even having some say in transportation.

We have heard a lot of people say this act is still a work in progress, that there were some things that we should really do that would facilitate the final policy of the FAIR: Farm savings accounts. Do something about estate taxes. We don't need estate taxes. Something has to be inherently wrong when you have to sell the farm to save the farm. Capital gains—a reduction in capital gains has already proven that, yes, it is an economic enhancer. We got income averaging for 3 years; now we need to put it in permanent law. And, yes, the sanctions reform, of which we have heard a lot in the past week and during this week —do that reform. And also reg reform.

Now, reg reform doesn't sound very big, but just this morning, in the full Committee on Appropriations, there was a memorandum of the Department of Transportation to deal with hazardous material with regard to agriculture, the hauling of hazardous materials from the city to the farm and from farm to farm with limited space and no reason that this Federal Government should preempt State regulations on handling those materials. Agriculture had enjoyed an exemption, when it comes to production agriculture, in providing the services that are needed on the farm and getting the crop back to the farm. Yet this Department of Transportation wants to change all of that. They want to preempt the States on how they handle hazardous material. It is just a little thing, the requirement of a CDL, just to do farm work—commercial driver's license, just to do farm work, not only putting the crop in but getting it out and getting it where it can be transported to the markets.

That is reg reform—the ability to use some pesticides and herbicides on growing new crops that have been introduced into the northern high plains, where we have competition from our friends in Canada where they have 15 to 20 different kinds of herbicides and pesticides to grow 1 crop while we are limited to 5 and cannot get FDA approval to go on and take care of the crop the way it has to be done.

One could also look at the situation, the terrible situation in North Dakota, where they have the disease scab. There is regulation on plant growth health.

We could also put together that same package of trade, trade, and trade. We know the effect of the financial crisis in the Pacific rim. Last January, we visited Australia. In talking to the Australians, they didn't think it would affect their GDP at all. When I walked out of that meeting in Canberra, Australia, I knew that these folks had really misread the crisis in the Pacific rim. They had underestimated exactly what was going to happen, when you have four major economies absolutely go in the tank, and then the economy that was to ride in and help them out can't do anything about it—and that is Japan. Those forces are completely out of the control of the American farmer and the American rancher.

So, fast track, normal trade relations to move our product into those markets and have a shot at that market. Right now, with sanctions, we are getting no shot at all. That is not right, and it is not fair.

I would probably say that sanctions have very little effect, if any at all, on any kind of product. What happens when you put sanctions on anything is, they will find the foodstuffs; they will find the grain. They might pay a little more for it, a couple of pennies a bushel more, and then we have to compete against the lower end of that market? That is not fair either. So, sanctions very seldom work.

There is also another end of this that I haven't heard anybody talk about in this country, and I do not know how to deal with this problem, but I know there is a problem. The percentage of the consumer dollar going back to the farm is the smallest it has been in the history of agriculture.

What do I mean by that? If some of you go to the grocery store and do your shopping, go down the cereal line and see what Wheaties are worth per pound. I think you will find they are around $3.75 a pound. Cereal is not cheap—$3.75 a pound. I want America to know—do you realize that we cannot even get $2.50 for a bushel of wheat that weighs 60 pounds? There is more money in the box than there is in the wheat that is the basis of the product. Something is a little out of whack. Yet, we have some of our great agricultural processors and purveyors and buyers calling themselves a supermarket to the world.

What we are saying though is: If you are such a good supermarket, then give us more of the consumer dollar. You have an obligation, like anybody else, to make sure the producer gets at least his cost of production. That would help them stay in business, but it also helps the processor to stay in business.

I noticed, there was a little letter that came this way from one of the great processors in this country wanting to go back to the old way of doing business. It makes sense to me. If I am out here buying corn and soybeans and wheat, I can buy it very cheaply, yet the taxpayer pays the profitable margin in this country to the farmer.

That is not right either. That should be paid at the marketplace, and a percentage of that should go to production agriculture.

We are still a work in progress, and, yes, we have a situation on the northern high plains with which we are going to have to deal and for which we have an obligation to deal.

NAFTA, has it been good? Maybe for all America, but it sure hasn't worked for us on the northern high plains. When you have 300 loads of cattle a day coming across the wheat grass in northern Montana, and yet we have a cattle market and you have $60 steers—I have a good friend who lives over in Miles City, MT. Of course, he has a great sense of humor, and it is a great thing. You have to have a good sense of humor when you farm a ranch. He said $60 fat cattle, $40 hogs, and $2.50 wheat, and $9 oil. Remember, oil only costs about $9 a barrel at the wellhead. That would tell me anybody who is in the business of producing a raw product is not getting paid very much for their product, but the price hasn't been reflected at the pump or at the grocery store. If they go down for the consumer, I guess all of us can live pretty good. But I said, "Well, that doesn't sound too good." He said, "Yeah, but there's a silver lining—we've got a lot of it." And that is the kind of attitude you have to carry into this business.

How do we deal with the northern high plains, victims of flood and drought and those farm families that really just eke it out every year? They are land rich, but they are cash poor. That has been the story of agriculture for a long, long time. I am afraid that story is not going to end with any action taken in the Congress.

Do we want the Government back in the grain business? Do we want those huge stocks that cost the taxpayer a lot of money in storage? Do we want those stocks to overshadow the market? This man who wrote this letter saying we should go back to the old way of doing business thinks it is all right, because he is going to get his supply from stocks that didn't cost very much money. Yet, his end product is not going to go down a great amount. In fact, it won't go down at all. They will always say "inflation." The percentage of the consumer dollar we don't have any control over either.

Just remember that little illustration that there is more money in the box that contains the Wheaties than there is in the wheat that is the base ingredient of that great food, a percentage of the consumer dollar. Going back to the old way will not cure the ills of what is happening in the northern high plains.

I thank the chairman of the Appropriations Committee and those of us who have been meeting every day to open up markets and to deal with sanctions, because it is trade, trade, trade. Just like in the business of the real estate, when you buy, there are three main things: Location, location, location.

We must continue to do that. This administration must use every tool they have to open those markets and to move the product, whether it be through Public Law 480, through EEP, or export credits. We must get in the world market, and we must compete and move the products.

I thank the chairman, and I yield the floor.

Mr. COCHRAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I commend the distinguished Senator from Montana for his comments and his leadership. I don't know whether Senators realize this or not, but he has been getting Senators together on an invitation basis at his office to discuss the problems in agriculture, bringing to the attention of all of us who are interested in that subject some very serious challenges that we face now in terms of trade policy and the other related issues that he has already talked about this afternoon.

His comments to the Senate are very helpful as we put in perspective what our challenge is and what our options are for responding to these very real problems in agriculture.

Mr. President, I am also happy to be able to advise the Senate that we have reached an agreement with the Democratic leader on the subject of the sense-of-the-Senate resolution which was offered earlier today and which has been the subject of a good deal of discussion.

There has been an agreement to modify the amendment, and I am ready to propound a unanimous consent request with the clearance of both leaders, and it is as follows:

I ask unanimous consent that at 5:15 p.m. this evening, the Senate proceed to a vote on amendment No. 3127, as modified, offered by the minority leader. I further ask unanimous consent that no second-degree amendments be in order prior to the vote.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

AMENDMENT NO. 3127, AS MODIFIED

Mr. BUMPERS. Mr. President, I send a modification to the desk.

The PRESIDING OFFICER. Without objection, the amendment is so modified.

The amendment, as modified, is as follows:

At the appropriate place, insert:

Findings:

In contrast to our nation's generally strong economy, in a number of States, agricultural producers and rural communities are experiencing serious economic hardship;

Increased supplies of agricultural commodities in combination with weakened demand have caused prices of numerous farm commodities to decline dramatically;

Demand for imported agricultural commodities has fallen in some regions of the world, due in part to world economic conditions, and United States agricultural exports have declined from their record level of $60 billion in 1996;

Prolonged periods of weather disasters and crop disease have devastated agricultural producers in a number of States;

Certain States experienced declines in personal farm income between 1996 and 1997;

June estimates by the Department of Agriculture indicate that net farm income for 1998 will fall to $45.5 billion, down 13 percent from the $52.2 billion for 1996;

Total farm debt for 1998 is expected to reach $172 billion, the highest level since 1985;

Thousands of farm families are in danger of losing their livelihood and life savings;

Now, therefore, it is the sense of the Senate that immediate action by the President and Congress is necessary to respond to the economic hardships facing agricultural producers and their communities.

Mr. COCHRAN. Mr. President, if there are Senators who want to discuss this or other issues, there is an opportunity between now and 5:15 to do that. Pending such discussion, the distinguished Senator from Arkansas and I have been able to review additional amendments, and we are prepared to recommend to the Senate that they be accepted as a part of this agriculture appropriations bill.

I ask unanimous consent that the pending amendment be set aside for the purpose of propounding these additional amendments for consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3142

(Purpose: To clarify a budget request submission regarding spending based on assumed revenues of unauthorized user fees)

Mr. BUMPERS. Mr. President, I send an amendment to the desk and ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arkansas [Mr. BUMPERS], for himself and Mr. COCHRAN, proposes an amendment numbered 3142.

Mr. BUMPERS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 67, after line 23 insert the following:

"SEC. . None of the funds appropriated by this Act or any other Act shall be used to pay the salaries and expenses of personnel who prepare or submit appropriations language as part of the President's Budget submission to the Congress of the United States for programs under the jurisdiction of the Appropriations Subcommittees on Agriculture, Rural Development, and Related Agencies that assumes revenues or reflects a reduction from the previous year due to user fees proposals that have not been enacted into law prior to the submission of the Budget unless such Budget submission identifies which additional spending reductions should occur in the event the users fees proposals are not enacted prior to the date of the convening of a committee of conference for the fiscal year 2000 appropriations act."

Mr. BUMPERS. Mr. President, this is an amendment that deals with what is a perennial knotty problem for the members of this subcommittee. It simply says that no funds may be used to prepare the budget for this subcommittee that includes user fees unless those fees have been previously authorized or under the budget identifies spending cuts or revenue increases that should occur in case the fees are not adopted, which they never are.

We invariably get these budgets. The President invariably sends a budget over, and our subcommittee looks it over, and there is always a bunch of user fees in there. This is about the eighth or ninth straight year that user fees have been included, and the subcommittee never agrees to them. The reason we don't is that the full committee and the Senate would never agree to them either.

This amendment is designed to say in the future, don't send those user fees over here unless you are prepared to tell us, in case we don't adopt the user fees, where you are going to find the spending cuts for it or where you are going to find revenue increases. This is a 1-year proposition. This provision will only apply to the budget year 1999. I think this has been cleared on both sides.

Mr. COCHRAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I am delighted to join the distinguished Senator from Arkansas in cosponsoring this amendment. He has identified the problem. It really ought to be labeled the "truth in budgeting amendment," because it requires the administration now to acknowledge when a proposal is made for user fees to be approved by Congress. In the absence of such approval by the legislative committee, in the legislative process a submission has to then show how much money should be appropriated from the Treasury through the appropriations process, not to continue to assume that there is this pot of money there that has been generated by the enactment of user fees. I think this will help everybody understand the process better. And we certainly welcome this change in the law as proposed by the distinguished Senator from Arkansas.

We know of no objection to the amendment on this side. We urge that it be approved by the Senate.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Without objection, the amendment is agreed to.

The amendment (No. 3142) was agreed to.

Mr. COCHRAN. I move to reconsider the vote by which the amendment was agreed to.

Mr. BUMPERS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3143

(Purpose: To establish a pilot program to permit certain owners and operators to hay and graze on land that is subject to conservation reserve contracts)

Mr. BUMPERS. Mr. President, I send an amendment to the desk on behalf of the minority leader, Mr. DASCHLE.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arkansas [Mr. BUMPERS] for Mr. DASCHLE, proposes an amendment numbered 3143.

Mr. BUMPERS. I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 67, after line 23, add the following:

SEC. 7___. PILOT PROGRAM TO PERMIT HAYING AND GRAZING ON CONSERVATION RESERVE LAND.

(a) DEFINITIONS.—In this section:

(1) ELIGIBLE STATE.—The term "eligible State" means any State that is approved by the Secretary for inclusion in the pilot program under subsection (b), except that the term shall not apply to more than 7 States.

(2) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(3) STATE TECHNICAL COMMITTEE.—The term "State technical committee" means the State technical committee for a State established under section 1261 of the Food Security Act of 1985 (16 U.S.C. 3861).

(b) PILOT PROGRAM.—Notwithstanding section 1232(a)(7) of the Food Security Act of 1985 (16 U.S.C. 3832(a)(7)), during the 4-year period beginning on the date of enactment of this Act, on application by an owner or operator of a farm or ranch located in an eligible State who has entered into a contract with the Secretary under subchapter B of chapter 1 of subtitle D of title XII of that Act (16 U.S.C. 3831 et seq.)—

(1) the Secretary shall permit harvesting and grazing on land on the farm or ranch that the Secretary determines has a sufficiently established cover to permit harvesting or grazing without undue harm to the purposes of the contract if—

(A) no land under the contract will be harvested or grazed more than once in a 4-year period;

(B) the owner or operator agrees to a payment reduction under that subchapter in an amount determined by the Secretary; and

(C) the owner or operator agrees to such other terms and conditions as the Secretary, in consultation with the State technical committee for the State, may establish to ensure that the harvesting or grazing is consistent with the purposes of the program established under that subchapter;

(2) the Secretary may permit grazing on land under the contract if—

(A) the grazing is incidental to the gleaning of crop residues;

(B) the owner or operator agrees to a payment reduction in annual rental payments that would otherwise be payable under that subchapter in an amount determined by the Secretary; and

(C) the owner or operator agrees to such other terms and conditions as the Secretary, in consultation with the State technical committee for the State, may establish to ensure that the grazing is consistent with the purposes of the program established under that subchapter; and

(3) the Secretary shall permit harvesting on land on the farm or ranch that the Secretary determines has a sufficiently established cover to permit harvesting without undue harm to the purposes of the contract if—

(A) land under the contract will be harvested not more than once annually for recovery of biomass used in energy production;

(B) the owner or operator agrees to a payment reduction under that subchapter in an amount determined by the Secretary; and

(C) the owner or operator agrees to such other terms and conditions as the Secretary, in consultation with the State technical committee for the State, may establish to ensure that the harvesting is consistent with the purposes of the program established under that subchapter.

(c) RELATIONSHIP TO OTHER HAYING AND GRAZING AUTHORITY.—During the 4-year period beginning on the date of enactment of this Act, land that is located in an eligible State shall not be eligible for harvesting or grazing under section 1232(a)(7) of the Food Security Act of 1985 (16 U.S.C. 3832(a)(7)).

(d) CONSERVATION PRACTICES AND TIMING RESTRICTIONS.—Not later than March 1 of each year, the Secretary, in consultation with the State technical committee for an eligible State, shall determine any conservation practices and timing restrictions that apply to land in the State that is harvested or grazed under subsection (b).

(e) STUDY.—The Secretary shall make available not more than $100,000 of funds of the Commodity Credit Corporation to contract with the game, fish, and parks department of an eligible State to conduct an analysis of the program conducted under this section (based on information provided by all eligible States).

(f) REGULATIONS.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary shall issue such regulations as are necessary to implement this Act.

(2) PROCEDURE.—The issuance of the regulations shall be made without regard to—

(A) the notice and comment provisions of section 553 of title 5, United States Code;

(B) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804), relating to notices of proposed rulemaking and public participation in rulemaking; or

(C) chapter 35 of title 44, United States Code (commonly known as the "Paperwork Reduction Act").

Mr. BUMPERS. Mr. President, this is an amendment that I think has a lot of merit. It is a pilot program under which farmers who are enrolled in the Conservation Reserve Program can take a reduction in the payments that they would otherwise receive under that program in exchange for the right to bale hay and graze according to an agreement, of course, that they would have to work out. But they would have a right to forego certain payments in the Conservation Reserve Program in exchange for the right to hay and graze on some of their CRP lands.

Mr. COCHRAN. Mr. President, we have reviewed the amendment on this side of the aisle and find no objection to it. I urge it be approved.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 3143) was agreed to.

Mr. COCHRAN. I move to reconsider the vote by which the amendment was agreed to.

Mr. BUMPERS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3144

(Purpose: To prohibit the previous shipment of shell eggs under the voluntary grading program of the Department of Agriculture and to require the Secretary of Agriculture to submit a report on egg safety and repackaging)

Mr. BUMPERS. Mr. President, I send an amendment to the desk on behalf of Senator DURBIN.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arkansas [Mr. BUMPERS], for Mr. DURBIN, proposes an amendment numbered 3144.

Mr. BUMPERS. I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 67, after line 23, add the following:

SEC. 7 . EGG GRADING AND SAFETY.

(a) PROHIBITION ON PREVIOUS SHIPMENT OF SHELL EGGS UNDER VOLUNTARY GRADING PROGRAM.—Section 203(h) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1622(h)) is amended by adding at the end the following: "Shell eggs packed under the voluntary grading program of the Department of Agriculture shall not have been shipped for sale previous to being packed under the program, as determined under a regulation promulgated by the Secretary.".

(b) REPORT ON EGG SAFETY AND REPACKAGING.—Not later than 90 days after the date of enactment of this Act, the Secretary of Agriculture, and the Secretary of Health and Human Services, shall submit a joint status report to the Committees on Appropriations of the House of Representatives and the Senate that describes actions taken by the Secretary of Agriculture and the Secretary of Health and Human Services—

(1) to enhance the safety of shell eggs and egg products;

(2) to prohibit the grading, under the voluntary grading program of the Department of Agriculture, of shell eggs previously shipped for sale; and

(3) to assess the feasibility and desirability of applying to all shell eggs the prohibition on repackaging to enhance food safety, consumer information, and consumer awareness.

Mr. BUMPERS. Mr. President, this amendment codifies the Secretary of Agriculture's prohibition on the repackaging of eggs packed under USDA's voluntary grading program. This prohibition went into effect on April 27. It directs the Secretaries of Agriculture and Health and Human Services to submit a joint report to the relevant congressional committees on egg safety and repackaging.

The amendment has been cleared by USDA, by the Food and Drug Administration, and the egg industry, and it is supported by consumer groups.

The USDA recently reported, each year over 660,000 Americans get sick from eating eggs contaminated with salmonella enterovirus. Illness from this can be fatal to the elderly, children, and those with weakened immune systems.

According to the Centers for Disease Control, this bacteria caused more reported deaths between 1988 and 1992 than any other foodborne pathogen. The estimated annual cost of illness from this particular salmonella ranges from $118 million to $767 million each year, according to the Center for Science in the Public Interest.

It sounds like a very good amendment to me.

Mr. COCHRAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, it sounds like a good amendment to me, too. We have checked on our side of the aisle. There is no objection to the amendment. We urge it be approved.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 3144) was agreed to.

Mr. COCHRAN. I move to reconsider the vote by which the amendment was agreed to.

Mr. BUMPERS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

AMENDMENT NO. 3145

(Purpose: To provide funding for completion of construction of the Alderson Plant Materials Center in Alderson, West Virginia)

Mr. BUMPERS. I send an amendment to the desk on behalf of the Senator from West Virginia, Mr. BYRD.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Arkansas [Mr. BUMPERS], for Mr. BYRD, proposes an amendment numbered 3145.

Mr. BUMPERS. I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 31, line 8, after "*Provided*," insert "That, of the total amount appropriated, $433,000 shall be used, along with prior year appropriations provided for this project, to complete construction of the Alderson Plant Materials Center, Alderson, West Virginia: *Provided, further*,".

Mr. BUMPERS. Mr. President, this is an amendment that provides, from available funds in the bill, $433,000 can be used to complete construction of the Alderson Plant Materials Center in Alderson, WV.

Mr. COCHRAN. Mr. President, the amendment has been cleared on this side.

The PRESIDING OFFICER. If there is no objection, the amendment is agreed to.

The amendment (No. 3145) was agreed to.

Mr. COCHRAN. I move to reconsider the vote by which the amendment was agreed to.

Mr. BUMPERS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BUMPERS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DASCHLE. Mr. President, I ask unanimous consent to lay aside the pending amendment until the time scheduled for its vote, which I believe is 5:15.

The PRESIDING OFFICER. The Senator is correct. It is 5:15. Is there objection?

Without objection, it is so ordered.

AMENDMENT NO. 3146

(Purpose: To provide a safety net for farmers and consumers)

Mr. DASCHLE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from South Dakota [Mr. DASCHLE], for himself, Mr. HARKIN, Mr. WELLSTONE, Mrs. MURRAY, Mr. KERREY, Mr. CONRAD, Mr. DORGAN and Mr. BAUCUS, proposes an amendment numbered 3146.

Mr. DASCHLE. I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 67, after line 23, add the following:

SEC. 7. MARKETING ASSISTANCE LOANS.

(a) MARKETING ASSISTANCE LOANS.—

(1) LOAN RATES.—Notwithstanding section 132 of the Agricultural Market Transition

Act (7 U.S.C. 7232), during fiscal year 1999, loan rates for a loan commodity (as defined in section 102 of that Act (7 U.S.C. 7202)) shall not be subject to any dollar limitation on loan rates prescribed under subsections (a)(1)(B), (b)(1)(B), (c)(2), (d)(2), (f)(1)(B), or (f)(2)(B) of that section.

(2) TERM OF LOAN.—Notwithstanding section 133(c) of the Agricultural Market Transition Act (7 U.S.C. 7233), during fiscal year 1999, the Secretary of Agriculture may extend the term of a marketing assistance loan for any loan commodity for a period not to exceed 6 months.

(b) EMERGENCY REQUIREMENT.—

(1) DESIGNATION BY CONGRESS.—Subject to paragraph (2), the entire amount of funds necessary to carry out this section is designated by Congress as an emergency requirement under section 252(e) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 902(e)).

(2) BUDGET REQUEST.—Funds shall be made available to carry out this section only to the extent that an official budget request that includes designation of the entire amount of the request as an emergency requirement for the purposes of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 900 et seq.) is transmitted by the President to Congress.

(c) TERMINATION OF EFFECTIVENESS.—

(1) IN GENERAL.—Subject to paragraph (2), the authority provided by this section terminates effective October 1, 1999.

(2) LOAN TERMS.—A marketing assistance loan made under subtitle C of the Agricultural Market Transition Act (7 U.S.C. 7231 et seq.) and subsection (a) shall be subject to the terms and conditions of the loan during the 15-month period beginning on October 1, 1998.

Mr. DASCHLE. Mr. President, I have discussed this matter procedurally with our distinguished managers on both sides of the aisle and appreciate very much their willingness to cooperate in terms of expediting the consideration of these critical amendments.

The amendment that I have just submitted is one that Senator HARKIN and I and others discussed on the floor this morning.

The amendment builds upon what I hope will be a very significant vote at 5:15 this afternoon. As we note, the first amendment hopefully brings us together, Republicans and Democrats, in a way that allows us to say: Yes, we understand there is a problem; yes, we have to respond. Even though we may not yet have an agreement on how we might respond, there should be a response.

That is, in essence, what we are saying with the passage of the resolution that we have just ordered a vote on. Now we go to the next phase: All right, if we recognize there is a problem, then what we do we do about it? As many of us noted this morning, we are offering a series of proposals that we hope will allow us to respond in a meaningful way to the situation that we find ourselves in in agriculture. A lot of people already today have put excellent reports found in various publications into the RECORD. The Chicago Tribune on June 21 of this year had a report that I don't think is yet in the RECORD. The article is headlined "Harvest of despair."

In the article, the very first statement says:

> Falling prices, poor growing conditions, and government deregulation are forcing thousands of family farmers to abandon their way of life, perhaps the worst blow to the rural Northern Plains since the bankruptcy crisis of the middle 1980's.

Mr. President, I don't think there is an article that could say it more succinctly than that. It goes on to explain the circumstances.

In 1996, for a bushel of wheat, farmers received $5.20 cents. In May of 1998, they received $3.07—a $2.13 reduction in price on a bushel of wheat in a 2-year period of time, a 40-percent-plus reduction in the availability of price for farmers.

That is the problem. This precipitous drop in price is generating an extraordinary crisis financially for family farmers and ranchers all over America. It is not just wheat. I could give the same statistics for corn. We could talk about livestock. We could talk about virtually any commodity found in the northern Great Plains, or in the West today, and you would see a situation that could be entitled "Harvest of Despair."

So the question is, What do we do about it? I am one who believes in the marketplace. But I also know that the market has many ways that have been used, many tools that have been used, both public and private, in an effort to soften these economic upturns and downturns. We see it on Wall Street. We see it on Main Street primarily through the Tax Code. We have seen it in agriculture for decades. We are not suggesting in response to this crisis that we reopen the farm bill and, in so doing, reopen the debate about all of the infrastructure that is now in place dealing with the relationship that the people of the United States have with farmers. We are not going to do that.

But what we are going to do is to suggest that there are some actions that can be taken that would have profound benefits to farmers and to ranchers to get through this crisis. And what we are suggesting is that in many of those cases we put a time limit on it. We don't say for all perpetuity now we are going to make these changes, because that would be doing the very thing I said we weren't going to do. So the amendment that I have laid down is a perfect illustration of just that.

The amendment says that the Government will take the average price that we have seen for commodities over the last 5 years, drop the highs and lows, and put in place a marketing loan at 85 percent of that price that the farmers could avail themselves of, if they don't want to be forced to sell their grain tomorrow.

Let's assume a farmer has a good crop. Let's assume that he is suffering, with this remarkable chart showing that prices have gone from $5.20 down to $3.07 in 2 years, and he doesn't want to settle for $3.07. What does he do? He goes to the Department of Agriculture and says, "I heard about this marketing loan you all have. I would like to take out a loan." For now it is 9 months. We are going to give them a little more flexibility. We are going to say 15 months—1 year and 3 months—5 quarters—before he has to pay it back. He is going to say, "I am going to take out that loan," betting their price is going to turn around. So he does. The price goes up, he pays the loan, the Government makes money, and the farmer stays in business.

Mr. President, that is what we are doing. That is what we are suggesting here.

Mr. President, I ask unanimous consent that the Chicago Tribune article be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Chicago Tribune, June 21, 1998]

HARVEST OF DESPAIR

(By Greg Burns)

HILLSBORO, ND—Years of farming the rich black soil near this town of 1,462 never quite prepared Scott Kraling for his new occupation.

Instead of wearing his customary blue jeans and dusty cap, he fidgets in the striped shirt and electric-blue shorts of a uniform. Instead of a trusty pickup truck, he rolls past wheat and sugarbeet fields in a yellow delivery van marked Schwan's Delicious Ice Cream.

His farming days are over. "I'm a Schwan's man now," the 38-year-old father of two said.

Kraling is among thousands of North Dakota farmers who have quit over the last few years in what's being called a "stealth" farm crisis.

Unlike in the mid-1980s, bankers aren't forcing them out. No one is making a major motion picture about their plight and singer Willie Nelson isn't staging any benefits.

Kraling arranged the auction of his tractors and combines himself last year because, truth be told, he was sick of farming. "You can't keep liking something that keeps going against you," he said, taking a quick pull on a cigarette. "I really don't think there's a future in it."

Across the Northern Plains, low grain prices, poor growing conditions and government deregulation are driving many farmers off the land.

Remote prairie countries that once supported a dozen or more independent dirt-scratchers now have just a few, as the survivors take on more acreage to seek elusive economies of scale.

In the last two years, 2,511 of North Dakota's farmers have given up, leaving fewer than 30,000, the lowest number since World War I, according to Richard Rathge, state demographer. Another 1,807 are expected to quit by the end of this year, a recent study indicates.

So far, the farm woes barely have dented the overall prosperity of this premier wheat state No. 2 in production behind Kansas. Ex-farmers such as Kraling are finding plenty of jobs available in town.

A bigger blow is being dealt to the rural culture of the Northern Plains, as a century-old pattern of life slips away.

"It affects all of us," said Margaret Bruce, pastoral minister at St. John's Catholic Church in Grafton, ND. "Grafton is a farming community. When you're looking at a fourth- or fifth-generation farmer leaving the farm, that's sad."

Since May, Bruce's church has distributed thousands of green ribbons to be worn in support of surviving farmers.

"This isn't just about dollars and cents," said Sen. Byron Dorgan (D-ND). "The country will lose something very important. Family values roll from family farms to small towns to big cities."

Yet many folks in these parts have come to accept that market forces will eliminate even more family farms. As in other sectors of the economy, tradition has fallen by the wayside as the nation embraces global commercial competition.

"Will there be fewer farmers? Yes," said North Dakota Gov. Ed Schafer. "It hurts. It changes the character of the state. [But] it's a return-on-investment decision."

In Washington, DC, momentum is building for some relief. Still, a major bailout of producers is unlikely.

Since the 1996 Farm Bill, Uncle Sam has moved in the opposite direction, lifting restrictions on farmers while also reducing the safety net of government handouts. Dorgan, for one, wants to restore part of that safety net, but even he expects "a struggle."

Speaking to some 1,100 North Dakotans earlier this month, Agriculture Secretary Dan Glickman dangled only a few modest initiatives—a crop-insurance break here, a credit relief program there.

The "demoralized" air of the farmers in attendance shocked him, Glickman said afterward. "It is almost frightening to see the faces," he said. "The situation in the Northern Plains is bleaker than I've seen in agriculture in a long time."

Farmer Mike Kozojed of Galesburg, N.D., came away from Glickman's talk expecting little relief. "There's no light at the end of the tunnel," he said.

Last Thursday, Tim Eisenhardt of Grandin, N.D., joined the ranks of ex-farmers, as auctioneer Scott Steffes went to work selling his trucks, combines, sprayers, swathers, and grain carts.

Under a cloudy sky, dozens of farmers from at least three states stopped around the muddy barnyard hunting for bargains, as Eisenhardt and his father, Fred, greeted neighbors at the edge of the crowd. "That's the way she goes," Fred remarked as the auction proceeded.

Barnyard auctions are becoming everyday events in North Dakota. Steffes had 11 scheduled for last week, nine for the coming week. "We're having sales for farmers who are discouraged and don't feel there's any opportunity," Steffes said. "Pretty soon, we're going to run out of people to sell for."

Nature is responsible for much of the hardship.

Years of poor weather and plant disease have made conditions tough even in the rich Red River Valley along the eastern edge of the state. The arid boondocks to the west, with thin soil suitable for only a few crops, has had it even tougher.

"If it's bad in the Red River Valley, it's bad everywhere," said commodity analyst Bill Biedermann of Allendale Inc. in McHenry, Ill.

Because of its short growing season and reliance on the single crop of wheat, this region has leaned heavily on government programs now being phased out. Under the 1996 legislation, farmers no longer will receive "deficiency" payments if prices fall below target levels, or automatic disaster aid-if crops fail.

The supposed benefit of the Farm Bill—the freedom to plant any crop the farmer sees fit—is a bigger boon in areas where a greater variety of crops will grow.

The legislation came about as soaring exports to the booming economies of Asia pushed prices higher. These days, Asia's demand for U.S. agricultural products has fallen along with its nations' currencies.

In addition, foreign competitors, inspired by the higher prices, brought more land into intensive production. Bumper crops around the world have pushed wheat prices down nearly 20 percent in a year.

A healthy national economy has cushioned the trouble's financial impact across the Northern Plains, but many business leaders worry about the future.

"It has an effect on all Main Street businesses," said Jim Williams, general manager of a farm-implement dealer in Arthur, N.D.

Sales at his 108-year-old Arthur Mercantile Co. have declined as much as 20 percent annually for two years running, and he expects the pinch to spread beyond the grain elevators, fuel stations and others who deal directly with farmers, he said. "It's kind of grim.

Lenders, too, are concerned. On the plus side, most farmers quitting these days have positive net worths, and those remaining borrow more money because they have bigger farms, explained Ken Knudsen, chief credit officer at Fargo's Farm Credit Services. Yet lending in small towns has become riskier as populations dwindle below sustainable levels.

"When they leave the farm, they move to Fargo or Bismarck or Grand Forks or Minot, not the town of 400," Knudsen said.

In fact, North Dakota's 17 towns with populations of at least 2,500 now account for 56 percent of the population, up from just 27 percent in 1950, according to demographer Rathge. Meantime, 99 of the state's 100 smallest towns have lost population in the 1990s. And the number of youths under 18 living on farms has plunged by 5,000, to 12,000, since 1990.

Some of the most progressive farmers are feeling intense pressure too. Many rely on side businesses to boost their incomes, even as they're taking on more acreage.

Dakota Growers Pasta Co., a co-op that makes private-label pasta for supermarkets and food-service firms, has thrived as farmers have sought to diversify. For every share they purchase in the venture, farmers can sell the co-op one bushel of wheat and receive a dividend based on the company's profit.

Similar ventures are springing up all over, said Tim Dodd, company president. "There's been co-op fever in North Dakota."

All the same, surviving farmers such as Kozojed, a mustachioed 41-year-old who farms 3,000 acres, predict the business will only get tougher. "Three years from now, we'll probably be farming 5,000 acres if we're still doing it," he said, digging into a plate of steak and eggs at the Country Hearth Family Restaurant.

But isn't farming always cyclical? Wouldn't one good year make a big difference? Kozojed stabs his toast into an egg yolk and grins. "I'd sure like to find out."

Mr. DASCHLE. Mr. President, on an emergency basis we give the President the opportunity to deal directly with the crisis that we are facing right now in farm after farm, in rural community after rural community. It only goes into effect in case of an economic crisis. It gives the President the discretion to control the extreme and persistent income losses by lifting the loan caps and extending their terms this year only. This authority expires this time next year.

Regardless of how my colleagues feel on lifting the caps, this measure would probably do more than any other I can think of in providing immediate help—immediate relief—to farmers who are the victims of the "Harvest of despair".

I know a lot of my colleagues have said, "Look, we don't want to get back into that. We have had those battles." I understand that. But I also understand, Mr. President, that we have very few options. And almost categorically when we talk to farmer organizations, and farmers themselves, they say, "We have to have some other option than to force our grain on the market when it is this low. Give us an opportunity for some breathing space. Give us some room." So that is what we are doing.

Wheat loan rates would increase 64 cents a bushel—from $2.58 to $3.22. Corn loan rates would increase 36 cents a bushel—from $1.89 to $2.25. Soybean rates would increase 7 cents a bushel—from $5.26 to $5.33.

Keep in mind that we are talking about the 85 percent average over the last 5 years.

They have flexibility. They have a little more certainty about what they are going to get for their crop going into the market this fall.

Mr. President, that is as good as we think we can do under these circumstances.

Would I like to see a higher loan rate? Absolutely. Would I like to see even more substantive ways in which to ensure a better price? Absolutely. But after very careful consideration, we said, "Look, let's do something that is reasonable. Let's do something that we believe the administration and most Members of Congress would recognize to be prudent and responsive to the problems we are facing in agriculture today."

I know that we are scheduled to vote at 5:15. I know the distinguished Senator from Iowa wanted to address this matter as well prior to the vote.

Just as soon as he appears in the Chamber, I will yield. I would like to yield the remainder of that time to the distinguished Senator from Iowa.

Mr. President, the "harvest of despair" needs to be addressed. All we are asking is an opportunity to address it in a way that is very prudent budgetarily, that very carefully addresses the emergency nature of the situation farmers are facing today.

I yield the floor.

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER (Mr. SMITH of Oregon). The Senator from Iowa.

Mr. HARKIN. Mr. President, first I thank our leader, Senator DASCHLE, for really taking the bit here and moving ahead aggressively to answer a real concern and a real need that we have in rural America. Well, I would go beyond that—a crisis in rural America. Senator DASCHLE has always been the leader in recognizing and understanding what is happening in our farm economy. This time is no exception, so I thank Senator DASCHLE personally for his leadership in this effort.

I thank the managers of the bill, both Senator COCHRAN and Senator BUMPERS, for working with us on the language. I understand that we have the language worked out in an agreed form on the sense-of-the-Senate resolution. I am happy that we can come to a good resolution on that, and I guess that is what we will be voting on here at 5:15. I hope it gets an overwhelming vote because it will send a strong signal, I think, to rural America that we do, indeed, recognize there is a crisis, a crisis of immense proportions, as it does say the total farm debt for 1998 is expected to reach $172 billion, the highest level since 1985.

And so the sense of the Senate is just that. We recognize there is the problem. Now, the amendment that Senator DASCHLE has just laid down then takes that recognition of the problem and begins to do something about it. By taking the caps off the loan rate and by extending for 6 months the period of the loan, it will at least give our farmers a little bit more, a little bit more in what they can get for their crop this fall, and then give them the ability to market it in a more orderly fashion over the next 15 months.

I have to say at the outset that this amendment is a modest amendment, I mean a very modest amendment. I know that many farmers and others in rural America will look at this and say, gee, this is not nearly enough. This doesn't come anywhere near the cost of production; it doesn't come anywhere near what I need. Well, I recognize that. It should be more. I think I heard Senator DASCHLE say that, too. But we have to face the reality of the situation.

I am just hopeful that this very modest amendment to raise the loan rate and put it back where it was under the 1990 farm bill will get overwhelming support. If we cannot even do this, if we cannot even give our farming sector this much support in an emergency situation, well, then I guess what we are going to do is say, well, we recognize there is a problem out there, but we are not going to do anything about it. We are just going to leave you farmers out there to take the brunt of El Nino and take the brunt of floods and take the brunt of low prices and take the brunt of the Southeast Asian economic collapse and this Government, this representative Government of yours cannot do anything about it.

I hope we do not say that. I hope we say two things: I hope we say, yes, there is a crisis out there. And then I hope we follow it up by saying, yes, we are going to do something about it. We are going to lift the caps on the loan rate and at least give a few pennies—a few, a little bit—to farmers to hopefully get them through the crisis they are facing this fall. And again, Mr. President, it is a crisis. It is a problem of having the safety net there.

I am hopeful we can repair that safety net with just a few modest proposals we have.

I understand the vote is set at 5:15. Is that the idea?

Mr. COCHRAN. Yes.

Mr. HARKIN. Mr. President, I yield the floor.

AMENDMENT NO. 3127, AS MODIFIED

Mr. COCHRAN. Mr. President, I am delighted we were able to work out a modification to the Daschle amendment. It is the pending business. I urge all Republicans to vote for the sense-of-the-Senate resolution indicating that there are problems in agriculture; they need the immediate attention of the President and the Congress.

Mr. BUMPERS. Have the yeas and nays been ordered, Mr. President?

The PRESIDING OFFICER. They have not.

Mr. BUMPERS. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 3127 offered by the Democratic leader, Mr. DASCHLE. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Ohio (Mr. GLENN) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 99, nays 0, as follows:

[Rollcall Vote No. 199 Leg.]

YEAS—99

Abraham
Akaka
Allard
Ashcroft
Baucus
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Cleland
Coats
Cochran
Collins
Conrad
Coverdell
Craig
D'Amato
Daschle
DeWine
Dodd
Domenici
Dorgan
Durbin
Enzi
Faircloth
Feingold
Feinstein
Ford
Frist
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Hagel
Harkin
Hatch
Helms
Hollings
Hutchinson
Hutchison
Inhofe
Inouye
Jeffords
Johnson
Kempthorne
Kennedy
Kerrey
Kerry
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Mikulski
Moseley-Braun
Moynihan
Murkowski
Murray
Nickles
Reed
Reid
Robb
Roberts
Rockefeller
Roth
Santorum
Sarbanes
Sessions
Shelby
Smith (NH)
Smith (OR)
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Torricelli
Warner
Wellstone
Wyden

NOT VOTING—1

Glenn

The amendment (No. 3127), as modified, was agreed to.

Mr. BUMPERS. I move to reconsider the vote.

Mr. COCHRAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERTS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. BUMPERS. Mr. President, will the Senator consider withholding that so we can offer and agree to a noncontroversial amendment?

Mr. ROBERTS. I would be delighted to.

Mr. BUMPERS. I thank the Senator.

AMENDMENT NO. 3147

(Purpose: To clarify the eligibility of State agricultural experiment stations for certain agricultural research programs)

Mr. BUMPERS. Mr. President, I send an amendment to the desk on behalf of the Senators from Connecticut, Mr. LIEBERMAN and Mr. DODD.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> The Senator from Arkansas [Mr. BUMPERS], for Mr. LIEBERMAN, for himself and Mr. DODD, proposes an amendment numbered 3147.

Mr. BUMPERS. I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 67, after line 23, add the following:

SEC. . ELIGIBILITY OF STATE AGRICULTURAL EXPERIMENT STATIONS FOR CERTAIN AGRICULTURAL RESEARCH PROGRAMS.

(a) FUND FOR RURAL AMERICA.—Section 793(c)(2)(B) of the Federal Agricultural Improvement and Reform Act of 1996 (7 U.S.C. 2204f(c)(2)(B)) is amended—

(1) in clause (iii), by striking "or" at the end;

(2) in clause (iv), by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following:

"(v) a State agricultural experiment station.".

(b) INITIATIVE FOR FUTURE AGRICULTURE AND FOOD SYSTEMS.—Section 401(d) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7621(d)) is amended—

(1) in paragraph (3), by striking "or" at the end;

(2) in paragraph (4), by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following:

"(5) a State agricultural experiment station.".

Mr. LIEBERMAN. Mr. President, I am privileged to join today with my senior colleague from Connecticut, Senator Dodd, to offer an amendment to the fiscal year 1999 agriculture spending bill to correct an oversight which threatens the ability of the Connecticut Agricultural Experiment Station to continue its important research activities.

The Station has a long and proud history. It happens to be the first state agricultural experiment station in the country, dating from 1875, and also happens to be the only state agricultural experiment station not affiliated with a university. Consequently, it is not eligible to apply for competitive grant funds from the Fund for Rural America or from the Initiative for Future Agriculture and Food Systems. The amendment we offer today makes a minor technical correction to allow the Station to compete for these grants just like every other experiment station across the country. We're not asking for any special consideration here. All we are asking for is an opportunity to compete.

The Connecticut Agricultural Experiment Station conducts research on plant pathology, horticulture, biochemistry, genetics, as well as many other science-based research projects. It also researches important public health issues, as well, such as Lyme Disease, which is a particular problem in our region, and now, nationwide. This important research should continue, and that is why we have brought this issue to the attention of the Senate today. I urge my colleagues to support this amendment.

Mr. DODD. Mr. President, I am pleased today to join my colleague from Connecticut, Senator Lieberman, to do something here in the Senate that will help the farmers back in our State.

As the Senate began debating the Agricultural Appropriations Bill for FY1999, it came to our attention that the Connecticut Agricultural Experiment Station was not eligible for certain federal grants under the 1996 Farm Bill and the Agricultural Research, Extension and Education Reform Act of 1998.

The Connecticut Agricultural Experiment Station was established in 1875 as the first agricultural experiment station in the country. The station's mission is to put science to work for farmers and society. The work of this agriculture experiment station includes research projects on such issues as plant diseases, plant breeding, soil problems, and insects.

The Connecticut Agricultural Experiment Station is the only state based station not affiliated with a land grant university in the nation. Unfortunately, the way the legislative language is written, this station would be excluded from grants available to every other agricultural experiment station in the country. Therefore, I joined with Senator Lieberman today to offer a technical correction amendment that would remedy this situation.

This amendment will allow the Connecticut Agricultural Experiment Station to be eligible for these competitive federal grants. Allowing this station to apply for grants will help our farmers, our citizens and our students who have questions or concerns about such topics as plants, insects, soil and water.

I thank the Chairman of the Subcommittee on Agriculture and Rural Development of the Appropriations Committee, Senator Cochran and the ranking member Senator Bumpers for their help with this amendment.

I hope that this amendment will be approved by the Senate.

Mr. BUMPERS. Mr. President, the Connecticut Agricultural Experiment Station is the oldest experiment station in America. It has never been a part of the land grant college, and under the research bill that we just passed not too long ago, there was a provision that you had to be a land grant college in order to be qualified for these.

As I say, the experiment station in Connecticut has always received these funds. But because of that, nobody was thinking about that experiment station at the time. This bill corrects what really was an omission.

Mr. COCHRAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, the amendment has been cleared on this side of the aisle.

Mr. DODD addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, I thank both the manager and the ranking member for their support. Senator Lieberman and I are very grateful. This was really a technical amendment to correct this situation, and it allows us to continue to qualify, as the Senator said.

We appreciate their support very much.

The PRESIDING OFFICER. If there is no objection, the amendment is agreed to.

The amendment (No. 3147) was agreed to.

Mr. COCHRAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BUMPERS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BUMPERS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERTS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3146

Mr. ROBERTS. Mr. President, I ask unanimous consent that at 11 a.m. on Wednesday, July 15, the Senate resume consideration of the Daschle amendment numbered 3146 regarding marketing assistance loans. I further ask that there be 3 hours for debate equally divided on the amendment and that, at the conclusion or yielding back of the time, Senator Cochran be recognized to move to table the Daschle amendment. I further ask that no second-degree amendment be in order prior to the vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

The PRESIDING OFFICER. There will now be a period for the transaction of morning business.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Monday, July 13, 1998, the federal debt stood at $5,528,488,599,737.13 (Five trillion, five hundred twenty-eight billion, four hundred eighty-eight million, five hundred ninety-nine thousand, seven hundred thirty-seven dollars and thirteen cents).

Five years ago, July 13, 1993, the federal debt stood at $4,335,590,000,000 (Four trillion, three hundred thirty-five billion, five hundred ninety million).

Ten years ago, July 13, 1988, the federal debt stood at $2,550,221,000,000 (Two trillion, five hundred fifty billion, two hundred twenty-one million).

Fifteen years ago, July 13, 1983, the federal debt stood at $1,328,638,000,000 (One trillion, three hundred twenty-eight billion, six hundred thirty-eight million).

Twenty-five years ago, July 13, 1973, the federal debt stood at $454,997,000,000 (Four hundred fifty-four billion, nine hundred ninety-seven million) which reflects a debt increase of more than $5 trillion—$5,073,491,599,737.13 (Five trillion, seventy-three billion, four hundred ninety-one million, five hundred ninety-nine thousand, seven hundred thirty-seven dollars and thirteen cents) during the past 25 years.

CRIME IDENTIFICATION TECHNOLOGY ACT OF 1998

Mr. LEAHY. Mr. President, I am delighted that the Senate passed the

Crime Identification Technology Act of 1998, S. 2022.

I am proud to join Senator DEWINE in supporting our bipartisan legislation to authorize comprehensive Department of Justice grants to every state for criminal justice identification, information and communications technologies and systems. I applaud the Senator from Ohio, Senator DEWINE, for his leadership. I also commend the Chairman of the Judiciary Committee and the Democratic Leader for their strong support of the Crime Identification Technology Act.

I know from my experience in law enforcement in Vermont over the last 30 years that access to quality, accurate information in a timely fashion is of vital importance. As we prepare to enter the 21st Century, we must provide our state and local law enforcement officers with the resources to develop the latest technological tools and communications systems to solve and prevent crime. I believe this bill accomplishes that goal.

The Crime Identification Technology Act authorizes $250 million for each of the next five years in grants to states for crime information and identification systems. The Attorney General, through the Bureau of Justice Statistics, is directed to make grants to each state to be used in conjunction with units of local government, and other states, to use information and identification technologies and systems to upgrade criminal history and criminal justice record systems.

Grants made under our legislation may include programs to establish, develop, update or upgrade:

State, centralized, automated criminal history record information systems, including arrest and disposition reporting.

Automated fingerprint identification systems that are compatible with the Integrated Automated Fingerprint Identification System (IAFIS) of the Federal Bureau of Investigation.

Finger imaging, live scan and other automated systems to digitize fingerprints and to communicate prints in a manner that is compatible with systems operated by states and the Federal Bureau of Investigation.

Systems to facilitate full participation in the Interstate Identification Index (III).

Programs and systems to facilitate full participation in the Interstate Identification Index National Crime Prevention and Privacy Compact.

Systems to facilitate full participation in the National Instant Criminal Background Check System (NICS) for firearms eligibility determinations.

Integrated criminal justice information systems to manage and communicate criminal justice information among law enforcement, courts, prosecution, and corrections.

Non-criminal history record information systems relevant to firearms eligibility determinations for availability and accessibility to the NICS.

Court-based criminal justice information systems to promote reporting of dispositions to central state repositories and to the FBI and to promote the compatibility with, and integration of, court systems with other criminal justice information systems.

Ballistics identification programs that are compatible and integrated with the ballistics programs of the National Integrated Ballistics Network (NIBN).

Information, identification and communications programs for forensic purposes.

DNA programs for forensic and identification purposes.

Sexual offender identification and registration systems.

Domestic violence offender identification and information systems.

Programs for fingerprint-supported background checks for non-criminal justice purposes including youth service employees and volunteers and other individuals in positions of trust, if authorized by federal or state law and administered by a government agency.

Criminal justice information systems with a capacity to provide statistical and research products including incident-based reporting systems and uniform crime reports.

Online and other state-of-the-art communications technologies and programs.

Multi-agency, multi-jurisdictional communications systems to share routine and emergency information among federal, state and local law enforcement agencies.

Let me just give a couple of examples from my home State of Vermont that illustrate how our comprehensive legislation will aid state and local law enforcement agencies across the country.

The future of law enforcement must focus on working together to harness the power of today s information age to prevent crime and catch criminals. One way to work together is for state and local law enforcement agencies to band together to create efficiencies of scale. For example, together with New Hampshire and Maine, the State of Vermont has pooled its resources together to build a tri-state IAFIS system to identify fingerprints. Our bipartisan legislation would foster these partnerships by allowing groups of States to apply together for grants.

Another challenge for law enforcement agencies across the country is communication difficulties between federal, state and local law enforcement officials. In a recent report, the Department of Justice s National Institute of Justice concluded that law enforcement agencies throughout the nation lack adequate communications systems to respond to crimes that cross state and local jurisdictions.

A 1997 incident along the Vermont and New Hampshire border underscored this problem. During a cross border shooting spree that left four people dead including two New Hampshire state troopers, Vermont and New Hampshire officers were forced to park two police cruisers next to one another to coordinate activities between federal, state and local law enforcement officers because the two states' police radios could not communicate with one another.

The Vermont Department of Public Safety, the Vermont U.S. Attorney's Office and others have reacted to this communications problem by developing the Northern Lights proposal. This project will allow the northern borders States of Vermont, New York, New Hampshire and Maine to integrate their law enforcement communications systems to better coordinate interdiction efforts and share intelligence data seamlessly.

Our legislation would provide grants for the development of integrated Federal, State and local law enforcement communications systems to foster cutting edge efforts like the Northern Lights project.

In addition, our bipartisan legislation will help each of our States meet its obligations under national anti-crime initiatives. For instance, the FBI will soon bring online NCIC 2000 and IAFIS which will require states to update their criminal justice systems for the country to benefit. States are also being asked to participate in several other national programs such as sexual offender registries, national domestic violence legislation, Brady Act, and National Child Protection Act.

Currently, there are no comprehensive programs to support these national crime-fighting systems. Our legislation will fill this void by helping each State meet its obligations under these Federal laws.

The Crime Identification Technology Act provides a helping hand with the heavy hand of a top-down, Washington-knows-best approach. Unfortunately, some in Congress have pushed legislation mandating minute detail changes that States must make in their laws to qualify for Federal funds. Our bill rejects this approach. Instead, we provide the States with Federal support to improve their criminal justice idenfication, information and communication systems without prescribing new Federal mandates

Mr. President, we have patterned the administration of the technology grants under our bill after the highly successful DOJ National Criminal History Improvement Program (N-CHIP),which was created by the 1993 Brady Act.

The Vermont Department of Public Safety has received funds under the N-CHIP program for the past three years and I have been proud to strongly support their efforts. With that Federal assistance, Vermont has been achieved acquiring the automated fingerprint identification system in conjunction with Maine and New Hampshire, upgrading its records repository computer systems, as well as extending their online incident-based reporting system to local jurisdictions throughout Vermont. Our bill builds on the Justice Department's existing infrastructure under the successful N-CHIP program to provide fair and effective grant administration.

I know that the Justice Department, under Attorney General Reno's leadership, has made it a priority to modernize and automate criminal history records. Our legislation will continue that leadership by providing each State with the necessary resources to continue to make important efforts to bring their criminal justice systems up to date.

I urge my colleagues in the House of Representatives to act quickly on the Crime Identification Technology Act to ensure that each State has the resources to capture the power of emerging information and communications technologies to serve and protect all of our citizens.

INTERSTATE IDENTIFICATION INDEX (III) COMPACT

Mr. LEAHY. Mr. President, I am delighted that the Senate passed, S.2294, the National Criminal History Access and Child Protection Act. I want to thank Senators HATCH, DEWINE and DASCHLE for their strong support of this legislation to enact the Interstate Identification Index (III) Compact.

This Compact is the product of a decade-long effort by federal and state law enforcement officials to establish a legal framework for the exchange of criminal history records for authorized noncriminal justice purposes, such as security clearances, employment or licensing background checks.

Since 1924, the FBI has collected and maintained duplicate state and local fingerprint cards, along with arrest and disposition records. Today, the FBI has over 200 million fingerprint cards in its system. These FBI records are accessible to authorized government entities for both criminal and authorized noncriminal justice purposes.

Maintaining duplicate files at the FBI is costly and leads to inaccuracies in the criminal history records, since follow-up disposition information from the States is often incomplete. Such a huge central database of routinely incomplete criminal history records raises significant privacy concerns.

In addition, the FBI releases these records for noncriminal justice purposes (as authorized by Federal law), to State agencies upon request, even if the State from which the records originated or the receiving State more narrowly restricts the dissemination of such records for noncriminal justice purposes.

The III Compact is an effort to get the FBI out of the business of holding a duplicate copy of every State and local criminal history record, and instead to keep those records at the State level. Once fully implemented, the FBI will only need to hold the Interstate Identification Index (III), consisting of the national fingerprint file and a pointer index to direct the requestor to the correct State records repository. The Compact would eliminate the necessity for duplicate records at the FBI for those States participating in the Compact. Eventually, when all the States become full participants in the Compact, the FBI s centralized files of state offender records will be discontinued and users of such records will obtain those records from the appropriate State's central repository (or from the FBI if the offender has a federal record).

The Compact would establish both a framework for this cooperative exchange of criminal history records for noncriminal justice purposes, and create a Compact Council with representatives from the FBI and the States to monitor system operations and issue necessary rules and procedures for the integrity and accuracy of the records and compliance with privacy standards. Importantly, this Compact would not in any way expand or diminish noncriminal justice purposes for which criminal history records may be used under existing State or Federal law.

Overall, I believe that the Compact would increase the accuracy, completeness and privacy protection for criminal history records.

In addition, the Compact would result in important cost savings from establishing a decentralized system. Under the system envisioned by the Compact, the FBI would hold only an index and pointer to the records maintained at the originating State. The FBI would no longer have to maintain duplicate State records. Moreover, States would no longer have the burden and costs of submitting arrest fingerprints and charge/disposition data to the FBI for all arrests. Instead, the State would only have to submit to the FBI the fingerprints and textual identification data for a person s first arrest.

With this system, criminal history records would be more up-to-date, or complete, because a decentralized system will keep the records closer to their point of origin in State repositories, eliminating the need for the States to keep sending updated disposition information to the FBI. To ensure further accuracy, the Compact would require requests for criminal history checks for noncriminal justice purposes to be submitted with fingerprints or some other form of positive identification, to avoid mistaken release of records.

Furthermore, under the Compact, the newly created Council must establish procedures to require that the most current records are requested and that when a new need arises, a new record check is conducted.

Significantly, the newly created Council must establish privacy enhancing procedures to ensure that requested criminal history records are only used by authorized officials for authorized purposes. Furthermore, the Compact makes clear that only the FBI and authorized representatives from the State repository may have direct access to the FBI index. The Council must also ensure that only legally appropriate information is released and, specifically, that record entries that may not be used for noncriminal justice purposes are deleted from the response.

Thus, while the Compact would require the release of arrest records to a requesting State, the Compact would also ensure that if disposition records are available that the complete record be released. Also, the Compact would require States receiving records under the Compact to ensure that the records are disseminated in compliance with the authorized uses in that State. Consequently, under the Compact, a State that receives arrest-only information would have to give effect to disposition-only policies in that State and not release that information for noncriminal justice purposes. Thus, in my view, the impact of the Compact for the privacy and accuracy of the records would be positive.

I am pleased to have joined with Senators HATCH and DEWINE to make a number of refinements to the Compact as transmitted by to us by the Administration. Specifically, we have worked to clarify that (1) the work of the Council includes establishing standards to protect the privacy of the records; (2) sealed criminal history records are not covered or subject to release for noncriminal justice purposes under the Compact; (3) the meetings of the Council are open to the public, and (4) the Council s decisions, rules and procedures are available for public inspection and copying and published in the Federal Register.

Commissioner Walton of the Vermont Department of Public Safety supports this Compact. He hopes that passage of the Compact will encourage Vermont to become a full participant in III for both criminal and noncriminal justice purposes, so that Vermont can reap the benefits of cost savings and improved data quality. The Compact is also strongly supported by the FBI and SEARCH.

We all have an interest in making sure that the criminal history records maintained by our law enforcement agencies at the local, State and Federal levels, are complete, accurate and accessible only to authorized personnel for legally authorized purposes. This Compact is a significant step in the process of achieving that goal.

PERFORMANCE OF BILL LANN LEE

Mr. LEAHY. Mr. President, the Senate Judiciary Committee has repeatedly postponed hearings regarding the performance of the Civil Rights Division of the Justice Department, including one that had been noticed for this morning. I am disappointed that this hearing was canceled because it would have offered us a chance to look at the outstanding on-the-job performance of Bill Lann Lee, our Acting Assistant Attorney General for Civil Rights.

At the end of last year, Bill Lee got caught up in one of the political whirlwinds that hit Washington every now and then. The result was that he became a victim of the right wing anti-affirmative action lobby and was denied a fair chance at a vote by the full Senate on his nomination to head the Civil Rights Division. Bill Lee was mischaracterized last fall as a wild-eyed radical and as someone ready to impose an extreme agenda on the United States. He was also mis-portrayed as a supporter of quotas.

I knew nothing could be further from the truth. After looking at Bill Lee's record, I knew he was a man who could effectively lead the Civil Rights Division, enforce the law and resolve disputes. I noted at the time: "He has been involved in approximately 200 cases in his 23 years of law practice, and he has settled all but six of them. Clearly, this is strong evidence that Mr. Lee is a problem solver and practical in his approach to the law. No one who has taken the time to thoroughly review his record could call him an idealogue." I recognized last fall that Bill Lee would be reasonable and practical in his approach to the job, and that he would be a top-notch enforcer of the Nation's civil rights laws.

Last December, after this nomination was blocked from going to the Senate for an up or down vote, the President and the Attorney General determined that the right thing to do was to have Bill Lee proceed to act as the head of the Civil Rights Division and to resubmit his nomination to the Senate. The Nation needs leadership in this important position. Bill Lee has been serving for seven months now, and he has established a solid track record. It is a shame that today's hearing was canceled, because it would have been a chance to show the Nation what an outstanding job he is doing for all Americans.

In preparation for the scheduled hearing, I have had a chance to take a close look at what Bill Lee has been doing while serving as the acting head of the Civil Rights Division. What I find is a record of strong accomplishments. In addition, I see professionalism and effective problem solving. I find him enforcing the law in a sensible and fair manner.

Over the past seven months, the Division has focused most intensely on three areas of the law: violations of our Nation's fair housing laws, enforcement of the Americans with Disabilities Act ("ADA"), and cases involving hate crimes. Bill Lee and his team of civil rights attorneys have made advances in each of these areas of the law.

The Division has resolved the following housing discrimination cases over the past few months:

An agreement was reached with two large New Jersey apartment complexes resolving allegations that the defendants had discriminated against potential renters based on family status and race. A housing discrimination case in Michigan was settled involving an apartment manager who told black applicants that no apartments were available at the same time that he was showing vacant apartments to white applicants. An agreement was also reached with the second largest real estate company in Alabama, which had been steering applicants to agents and residential areas based on race.

The Civil Rights Division has also focused on educating the public about the ADA and enforcing it where necessary. These cases have included: resolution of a case in Hawaii to allow those who are vision impaired to travel to the State without having to quarantine their guide dogs for four months in advance of arrival; a consent decree with the National Collegiate Athletic Association so that high school athletes with learning disabilities have the opportunity to compete for scholarships and participate in college athletics; an agreement with private hospitals in Connecticut to ensure patients who are deaf have access to sign-language interpreters; and assistance to the State of Florida to update their building code to bring it into compliance with the ADA. Florida joins Maine, Texas and Washington State in having a certified building code thereby ensuring better compliance with the ADA by architects, builders and contractors within the State.

The Civil Rights Division has also resolved several hate crimes cases over the past seven months, including: In Idaho, six men pled guilty to engaging in a series of racially motivated attacks on Mexican American men, women and children, some as young as 9; in Arizona, three members of a skinhead group pled guilty to burning a cross in the front yard of an African American woman; and in Texas, a man pled guilty to entering a Jewish temple and firing several gun shots while shouting anti-Semitic slurs.

The Division has also been vigorously enforcing its criminal statutes, including: indictments against three people in Arkansas charged with church burning; guilty pleas by 16 Puerto Rico correctional officers who beat 22 inmates and then tried to cover it up; cases arising from Mexican women and girls, some as young as 14, being lured to the U.S. and then being forced into prostitution; and guilty pleas from 18 defendants who forced 60 deaf Mexican nationals to sell trinkets on the streets of New York. Out of concerns about slavery continuing in the U.S., Bill Lee has created a Worker Exploitation Task Force to coordinate enforcement efforts with the Department of Labor. I commend Mr. Lee for putting the spotlight on these shameful crimes.

Other significant cases which the Civil Rights Division has handled in the past few months include the following: several long-standing school desegregation cases were settled or their consent decrees were terminated, including cases in Kansas City, Kansas; San Juan County, Utah; and Indianapolis, Indiana. Japanese-Latin Americans who were deported and interned in the United States during World War II finally received compensation this year. Lawsuits in Ohio and Washington, D.C. were settled to allow women access to women's health clinics.

This record indicates that Bill Lee has been running the Division the way it should be run. Here in Washington, where we have lots of show horses, Bill Lee is a work horse—a dedicated public official who is working hard to help solve our Nation's problems. I like people who get the job done. I commend Bill Lann Lee and the many hard-working professionals at the Civil Rights Division.

Bill Lee has served as acting head of the Civil Rights Division for seven months now. Given the claims made by many in the Senate last fall that Mr. Lee would lead the Division astray, you might expect that he would be in the headlines every day associated with some extreme decision. Instead, we have seen the strong and steady work of the Division—solid achievements and effective law enforcement.

Just last week, I received a letter from Governor Zell Miller of Georgia that is emblematic of the record that Bill Lee has established. Governor Miller discusses Bill Lee's efficient and effective ability to settle an action which involved Georgia's juvenile detention facilities. He notes that he was not exactly a fan of the Civil Rights Division before Bill Lee came along and writes that he "was fearful that Georgia would be unable to get a fair forum in which to present our position, and that we would once again be compelled to engage in protracted and expensive litigation." Governor Miller writes that his fears were unfounded, that the parties engaged in "intensive and expeditious negotiations" and reached a fair agreement. Governor Miller also notes:

> I have indicated to Mr. Lee both personally and publicly that he and his staff treated Georgia with professionalism, fairness, and respect during our negotiations. Under the

direction of Bill Lann Lee, what began as a potentially divisive and litigious process was transformed into an atmosphere where the State was able to have its case heard fairly, resulting in a reasonable agreement benefiting all parties. This is the way in which the Civil Rights Division should operate in its dealings with the states, and I am pleased to commend Mr. Lee and his staff for their efforts in this matter.

Bill Lee continues to build on his reputation as a professional and effective negotiator who routinely earns praise from opposing parties. I had high expectations for Bill Lee when he was nominated and I have not been disappointed. He is doing a terrific job, and I know that he will keep up the good work.

The President renominated Bill Lann Lee to be Assistant Attorney General in charge of the Civil Rights Division on January 29 of this year. Given his outstanding performance over the past seven months, I hope Chairman HATCH and the other Republican members of the Judiciary Committee will reconsider his nomination, review his record and favorably report the nomination of Bill Lee to the Senate so that he may be confirmed as the Assistant Attorney General for Civil Rights. Bill Lee deserves it.

I ask unanimous consent that the letter from Governor Miller of Georgia be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

STATE OF GEORGIA,
OFFICE OF THE GOVERNOR,
Atlanta, July 9, 1998.

Hon. ORRIN HATCH,
U.S. Senate, Russell Senate Office Building, Washington, DC.

Hon. PATRICK LEAHY,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATORS HATCH AND LEAHY: It is my understanding that you are conducting an oversight hearing concerning the Civil Rights Division of the United States Department of Justice. The purpose of this letter is to advise you of the State of Georgia's recent experience with the Civil Rights Division, which ultimately resulted in a joint agreement concerning our state juvenile detention facilities.

During much of 1997, representatives of the Civil Rights Division investigated certain alleged conditions and practices in detention facilities operated by Georgia's Department of Juvenile Justice. The Justice Department received full cooperation from state officials during its investigation

When the Justice Department's findings letter was released earlier this year, I was very upset with the manner in which the letter was issued and many of the comments contained in that correspondence. Frankly, given our state's prior experiences with the Department of Justice in general, and the Civil Rights Division in particular, I was fearful that Georgia would be unable to get a fair forum in which to present our position, and that we would once again be compelled to engage in protracted and expensive litigation.

I, members of my staff, and the Attorney General of Georgia made these concerns known to Acting Assistant Attorney General Bill Lann Lee and other Justice Department officials. We indicated a willingness to discuss the Justice Department's concerns and reach a reasonable resolution, as long as the legitimate interests of the State of Georgia in insuring public safety and developing its own policies would be honored.

After intensive and expeditious negotiations, the State of Georgia and the Department of Justice, through its Civil Rights Division directed by Mr. Lee, arrived at a Memorandum of Agreement which recognizes Georgia's legitimate interests to protect its citizens and set its own policies while, at the same time, improve services for youths in state custody. I have indicated to Mr. Lee both personally and publicly that he and his staff treated Georgia with professionalism, fairness, and respect during our negotiations.

Under the direction of Bill Lann Lee, what began as a potentially divisive and litigious process was transformed into an atmosphere where the State was able to have its case heard fairly, resulting in a reasonable agreement benefiting all parties.

This is the way in which the Civil Rights Division should operate in its dealings with the states, and I am pleased to commend Mr. Lee and his staff for their efforts in this manner.

With kindest regards, I remain.

Sincerely,

ZELL MILLER.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting one nomination which was referred to the Committee on Energy and Natural Resources.

(The nomination received today is printed at the end of the Senate proceedings.)

REPORT CONCERNING THE COMPREHENSIVE NATIONAL ENERGY STRATEGY—MESSAGE FROM THE PRESIDENT—PM 142

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Energy and Natural Resources.

To the Congress of the United States:

I am pleased to transmit the Comprehensive National Energy Strategy (Strategy) to the Congress. This report required by section 801 of the Department of Energy Organization Act (Public Law 95-91; 42 U.S.C. 7321(b)), highlights our national energy policy. It contains specific objectives and plans for meeting five essential, common sense goals enumerated in the accompanying message from Secretary Peña.

Energy is a global commodity of strategic importance. It is also a key contributor to our economic performance, and its production and use affect the environment in many ways. Thus, affordable, adequate, and environmentally benign supplies of energy are critical to our Nation's economic, environmental, and national security.

The Strategy reflects the emergence and interconnection of three preeminent challenges in the late 1990s: how to maintain energy security in increasingly globalized energy markets; how to harness competition in energy markets both here and abroad; and how to respond to local and global environmental concerns, including the threat of climate change. The need for research and development underlies the Strategy, which incorporates recommendations of my Committee of Advisors on Science and Technology (PCAST) for improvements in energy technologies that will enable the United States to address our energy-related challenges. Advances in energy technology can strengthen our economy, reduce our vulnerability to oil shocks, lower the cost of energy to consumers, and cut emissions of air pollutants as well as greenhouse gases.

This Strategy was developed over several months in an open process. Three public hearings were held earlier this year in California, Texas, and Washington, D.C., and more than 300 public comments were received. This Strategy is not a static document; its specifics can be modified to reflect evolving conditions, while the framework provides policy guidance into the 21st century. My Administration looks forward to working with the Congress to implement the Strategy and to achieve its goals in the most effective manner possible.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *July 14, 1998.*

REPORT ON FEDERAL ADVISORY COMMITTEES FOR FISCAL YEAR 1997—MESSAGE FROM THE PRESIDENT—PM 143

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Governmental Affairs.

To the Congress of the United States:

As provided by the Federal Advisory Committee Act (FACA), as amended (Public Law 92-463; 5 U.S.C. App. 2, 6(c)), I am submitting the *Twenty-sixth Annual Report on Federal Advisory Committees*, covering fiscal year 1997.

Consistent with my commitment to create a more responsive government, the executive branch continues to implement my policy of maintaining the number of advisory committees within the ceiling of 534 required by Executive Order 12838 of February 10, 1993. As a result, the number of discretionary advisory committees (established under general congressional authorizations) was held to 467, or 42 percent fewer than those 801 committees in existence at the beginning of my Administration.

Through the advisory committee planning process required by Executive Order 12838, the total number of advisory committees specifically mandated by statute has declined. The 391 such groups supported at the end of fiscal year 1997 represents a 4 percent decrease over the 407 in existence at the end of fiscal year 1996. Compared to the 439 advisory committees mandated by statute at the beginning of my Administration, the net total for fiscal year 1997 reflects an 11 percent decrease since 1993.

Furthermore, my Administration will assure that the total estimated costs to fund these groups in fiscal year 1998, or $43.8 million, are dedicated to support the highest priority public involvement efforts. We will continue to work with the Congress to assure that all advisory committees that are required by statute are regularly reviewed through the congressional reauthorization process and that any such new committees proposed through legislation are closely linked to national interests.

Combined savings achieved through actions taken by the executive branch to eliminate unneeded advisory committees during fiscal year 1997 were $2.7 million, including $545,000 saved through the termination of five advisory committees established under Presidential authority.

During fiscal year 1997, my Administration successfully worked with the Congress to clarify further the applicability of FACA to committees sponsored by the National Academy of Sciences (NAS) and the National Academy of Public Administration (NAPA). This initiative resulted in the enactment of the Federal Advisory Committee Act Amendments of 1997 (Public Law 105–153), which I signed into law on December 17, 1997. The Act provides for new and important means for the public and other interested stakeholders to participate in activities undertaken by committees established by the Academies in support of executive branch decisionmaking processes.

As FACA enters its second quarter-century during fiscal year 1998, it is appropriate for both the Congress and my Administration to continue examining opportunities for strengthening the Act's role in encouraging and promoting public participation. Accordingly, I am asking the Administrator of General Services to prepare a legislative proposal for my consideration that addresses an overall policy framework for leveraging the public's role in Federal decisionmaking through a wide variety of mechanisms, including advisory committees.

By jointly pursuing this goal, we can fortify what has been a uniquely American approach toward collaboration. As so aptly noted by Alexis de Tocqueville in *Democracy in America* (1835), "In democratic countries knowledge of how to combine is the mother of all other forms of knowledge; on its progress depends that of all the others." This observation strongly resonates at this moment in our history as we seek to combine policy opportunities with advances in collaboration made possible by new technologies, and an increased desire of the Nation's citizens to make meaningful contributions to their individual communities and their country.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *July 14, 1998.*

MESSAGES FROM THE HOUSE RECEIVED DURING ADJOURNMENT

Under the authority of the order of the Senate of January 7, 1997, the Secretary of the Senate, on July 14, 1998, during the adjournment of the Senate, received a message from the House of Representatives announcing that the House has passed the following bill, with an amendment, in which it requests the concurrence of the Senate:

S. 2282. An act to amend the Arms Export Control Act, and for other purposes.

ENROLLED BILL SIGNED

The following enrolled bill, previously signed by the Speaker pro tempore of the House, was signed on today, July 14, 1998, by the President pro tempore (Mr. THURMOND):

H.R. 1635. An act to establish within the United States National Park Service the National Underground Railroad Network to Freedom program, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–6000. A communication from the Director of the Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Shrimp Fishery of the Gulf of Mexico; Texas Closure" received on July 10, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6001. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Metric Equivalents" (RIN2137–AC98) received on July 9, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6002. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Special Local Regulations; Winter Harbor Lobster Boat Race, Winter Harbor, ME" (Docket 01–96–008) received on July 9, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6003. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Regulated Navigation Area; Ohio River, Mile 461.0–462.0, Cincinnati, OH" (Docket 08–98–038) received on July 9, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6004. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Drawbridge Operation Regulations; Beaufort Channel, Beaufort, North Carolina" (Docket 05–97–080) received on July 9, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6005. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Special Local Regulations for Marine Events; Norfolk Harbor, Elizabeth River, Norfolk and Portsmouth, Virginia" (Docket 05–98–046) received on July 9, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6006. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Special Local Regulations; Swim Buzzards Bay Day, New Bedford, MA" (Docket 01–96–015) received on July 9, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6007. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Safety Zone Regulations; Baptiste Collette Bayou Channel, Mile 11.5, Left Descending Bank, Lower Mississippi River, Above Head of Passes" received on July 9, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6008. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Special Local Regulations; Parker International Waterski Marathon" (Docket 11–98–001) received on July 9, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6009. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Special Local Regulations for Marine Events; Virginia is for Lovers Cup Unlimited Hydroplane Races, Willoughby Bay, Norfolk, Virginia" (Docket 05–98–045) received on July 9, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6010. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Special Local Regulations for Marine Events; Dragon Boat Races, Inner Harbor, Baltimore, Maryland" (Docket 05–98–047) received on July 9, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6011. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Airbus Model A300, A310, A300–600 Series Airplanes" (Docket 98–NM–132–AD) received on July 9, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6012. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Airbus Model A319, A320, and A321 Series Airplanes" (Docket 98–NM–93–AD) received on July 9, 1998; to the Committee on Commerce, Science, and Transportation.

EC-6013. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Boeing Model 767 Series Airplanes" (Docket 98-NM-95-AD) received on July 9, 1998; to the Committee on Commerce, Science, and Transportation.

EC-6014. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Boeing Model 747 Series Airplanes" (Docket 98-NM-145-AD) received on July 9, 1998; to the Committee on Commerce, Science, and Transportation.

EC-6015. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class E Airspace; Johnson City, TX" (Docket 98-ASW-33) received on July 9, 1998; to the Committee on Commerce, Science, and Transportation.

EC-6016. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Revocation of Class E Airspace; Spofford, TX" (Docket 98-ASW-21) received on July 9, 1998; to the Committee on Commerce, Science, and Transportation.

EC-6017. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Boeing Model 747-400, 757, 767, and 777 Series Airplanes Equipped with AlliedSignal RIA-35B Instrument Landing System Receivers" (Docket 98-NM-155-AD) received on July 9, 1998; to the Committee on Commerce, Science, and Transportation.

EC-6018. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Fokker Model F27 Mark 100, 200, 300, 400, 500, 600, and 700 Series Airplanes, and Model F27 Mark 050 Series Airplanes" (Docket 97-NM-139-AD) received on July 9, 1998; to the Committee on Commerce, Science, and Transportation.

EC-6019. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Turbopropeller-Powered McDonnell Douglas Model DC-3 and DC-3C Series Airplanes" (Docket, 97-NM-72-AD) received on July 9, 1998; to the Committee on Commerce, Science, and Transportation.

EC-6020. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Revision of Class D Airspace, San Diego, North Island NAS, CA" (Docket 98-AWP-14) received on July 9, 1998; to the Committee on Commerce, Science, and Transportation.

EC-6021. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives; Dornier Model 328-100 Series Airplanes" (Docket 98-NM-123-AD) received on July 9, 1998; to the Committee on Commerce, Science, and Transportation.

EC-6022. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Revision of Class E Airspace; Morgan City, LA" (Docket 98-ASW-36) received on July 9, 1998; to the Committee on Commerce, Science, and Transportation.

EC-6023. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Revision of Class E Airspace; Refugio, TX" (Docket 98-ASW-34) received on July 9, 1998; to the Committee on Commerce, Science, and Transportation.

EC-6024. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Revision of Class E Airspace; Pascagoula, MS" (Docket 98-ASW-38) received on July 9, 1998; to the Committee on Commerce, Science, and Transportation.

EC-6025. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Revision of Class E Airspace; Cameron, LA" (Docket 98-ASW-38) received on July 9, 1998; to the Committee on Commerce, Science, and Transportation.

EC-6026. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class E Airspace; Theodore, AL" (Docket 98-ASW-39) received on July 9, 1998; to the Committee on Commerce, Science, and Transportation.

EC-6027. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Revision of Class D Airspace; San Antonio, Kelly AFB, TX" (Docket 98-ASW-35) received on July 9, 1998; to the Committee on Commerce, Science, and Transportation.

EC-6028. A communication from the Secretary of Defense, transmitting, notice of military retirements; to the Committee on Armed Services.

EC-6029. A communication from the Director, Operational Test and Evaluation, Office of the Secretary of Defense, transmitting, certification that realistic survivability testing of the DDG 51 Flight IIA class of naval ship would be unreasonably expensive and impractical; to the Committee on Armed Services.

EC-6030. A communication from the Chief Counsel of the Office of Foreign Assets Control, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Sudanese Sanctions Regulations" received on June 29, 1998; to the Committee on Banking, Housing, and Urban Affairs.

EC-6031. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule regarding 1993 Periodic Carbon Monoxide Emission Inventories for Colorado (FRL6124-4) received on July 10, 1998; to the Committee on Environment and Public Works.

EC-6032. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report entitled "Maritime Terrorism: A Report to Congress" for calendar year 1997; to the Committee on Foreign Relations.

EC-6033. A communication from the Assistant Secretary of Labor for Occupational Safety and Health Administration, transmitting, pursuant to law, the report of a rule entitled "Standards Improvement (Miscellaneous Changes) For General Industry and Construction Standards; Paperwork Collection of Coke Oven Emissions and Inorganic Arsenic" (RIN1218-AB53) received on July 8, 1998; to the Committee on Labor and Human Resources.

EC-6034. A communication from the Director of the Office of Regulations Management, Department of Veterans Affairs, transmitting, pursuant to law, the report of a rule entitled "Schedule for Rating Disabilities: Cold Injuries" (RIN2900-AI46) received on July 10, 1998; to the Committee on Veterans Affairs.

EC-6035. A communication from the Director of the Office of Regulations Management, Department of Veterans Affairs, transmitting, pursuant to law, the report of a rule entitled "Provision of Drugs and Medicines to Certain Veterans in State Homes" (RIN2900-AJ34) received on July 10, 1998; to the Committee on Veterans Affairs.

EC-6036. A communication from the Chairman of the National Labor Relations Board, transmitting, pursuant to law, the report of the Office of Inspector General for the period October 1, 1997 through March 31, 1998; to the Committee on Governmental Affairs.

EC-6037. A communication from the Principal Deputy, Acquisition and Technology, Department of Defense, transmitting, pursuant to law, the report of Department of Defense purchases from foreign entities for fiscal year 1997; to the Committee on Armed Services.

EC-6038. A communication from the Secretary of Defense, transmitting, pursuant to law, a report entitled "Military Capabilities of the People's Republic of China"; to the Committee on Armed Services.

EC-6039. A communication from the Acting Chairman of the Depositor Protection Oversight Board, transmitting, pursuant to law, the report on the Resolution Funding Corporation for calendar year 1997; to the Committee on Banking, Housing, and Urban Affairs.

EC-6040. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report on the Federal Transit Administration's charter bus demonstration program; to the Committee on Environment and Public Works.

EC-6041. A communication from the Director of the Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Food Additives Permitted for Direct Addition to Food for Human Consumption; Acesulfame Potassium" (Docket 93F-0286) received on July 9, 1998; to the Committee on Labor and Human Resources.

EC-6042. A communication from the Deputy Associate Administrator for Acquisition Policy, General Services Administration, transmitting, pursuant to law, the report of a rule entitled "General Services Administration Acquisition Regulation; 10 Day Payment Clause for Certain Federal Supply Service Contracts and Authorized Price Lists Under Federal Supply Service" (RIN3090-AG47) received on July 9, 1998; to the Committee on Governmental Affairs.

EC-6043. A communication from the Acting Assistant Attorney General, Department of Justice, transmitting, pursuant to law, a report on the Civil Rights of Institutionalized Persons Act for fiscal year 1997; to the Committee on the Judiciary.

EC-6044. A communication from the Acting Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report on direct spending or receipts legislation within seven days of enactment (Report 445); to the Committee on the Budget.

EC-6045. A communication from the President of the United States, transmitting, pursuant to law, a report on the emigration laws and policies of Armenia, Azerbaijan, Georgia, Kazakhstan, Kyrgyzstan, Moldova, the Russian Federation, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan; to the Committee on Finance.

EC–6046. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Gypsy Moth Generally Infested Areas" (Docket 98–072–1) received on July 13, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–6047. A communication from the Acting Associate Chief of the Forest Service, Department of Agriculture, transmitting, pursuant to law, a report of Forest Service accomplishments for fiscal year 1997; to the Committee on Agriculture, Nutrition, and Forestry.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. MACK (for himself, Mr. BREAUX, Mr. CHAFEE, Mr. MURKOWSKI, Mr. HATCH, Mr. D'AMATO, Mr. ROCKEFELLER, Mr. GRAMM, Mr. WARNER, Mrs. HUTCHISON, Mr. DODD, Mr. GREGG, Mr. ROBB, Mr. THURMOND, Mr. LIEBERMAN, and Mr. COCHRAN):

S. 2296. A bill to amend the Internal Revenue Code of 1986 to repeal the limitation on the amount of receipts attributable to military property which may be treated as exempt foreign trade income; to the Committee on Finance.

By Mr. GORTON:

S. 2297. A bill to provide for the distribution of certain publications in units of the National Park System under a sales agreement between the Secretary of the Interior and a private contractor; to the Committee on Energy and Natural Resources.

S. 2298. A bill to provide for enforcement of title II of the Civil Rights Act of 1968, commonly known as the "Indian Civil Rights Act"; to the Committee on Indian Affairs.

S. 2299. A bill to provide for the enforcement of certain contracts made by Indian tribes; to the Committee on Indian Affairs.

S. 2300. A bill to provide for the collection of certain State taxes from an individual who is not a member of an Indian tribe; to the Committee on Indian Affairs.

S. 2301. A bill to provide for accountability by Indian tribes under certain Federal environmental laws, and for other purposes; to the Committee on Indian Affairs.

S. 2302. A bill to provide for tort liability insurance for Indian tribes, and for other purposes; to the Committee on Indian Affairs.

By Mr. LEAHY (for himself and Mr. BIDEN):

S. 2303. A bill to deter and punish international crime, to protect United States nationals and interests at home and abroad, and to promote global cooperation against international crime; to the Committee on the Judiciary.

By Mr. BENNETT:

S. 2304. A bill to amend the Internal Revenue Code of 1986 to allow the carryover of unused nontaxable benefits under cafeteria plans, flexible spending arrangements, and health flexible spending accounts; to the Committee on Finance.

By Mr. DURBIN:

S. 2305. A bill for the relief of Nizar Sweilem and Hassan Sweilem; to the Committee on the Judiciary.

By Mr. BURNS (for himself and Mr. MCCAIN):

S. 2306. A bill to require the Federal Communications Commission to modify its duopoly rule for multiple ownership of television stations; to the Committee on Commerce, Science, and Transportation.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MACK (for himself, Mr. BREAUX, Mr. CHAFEE, Mr. MURKOWSKI, Mr. HATCH, Mr. D'AMATO, Mr. ROCKEFELLER, Mr. GRAMM, Mr. WARNER, Mrs. HUTCHISON, Mr. DODD, Mr. GREGG, Mr. ROBB, Mr. THURMOND, Mr. LIEBERMAN, and Mr. COCHRAN):

S. 2296. A bill to amend the Internal Revenue Code of 1986 to repeal the limitation on the amount of receipts attributable to military property which may be treated as exempt foreign trade income; to the Committee on Finance.

DEFENSE JOBS AND TRADE PROMOTION ACT OF 1998

Mr. MACK. Mr. President, I rise to introduce the Defense Jobs and Trade Promotion Act of 1998. This bill will eliminate a provision of tax law which discriminates against United States exporters of defense products.

Other nations have systems of taxation which rely less on corporate income taxes and more on value-added taxes. By rebating the value-added taxes for products that are exported, these nations lower the costs of their exports and provide their companies a competitive advantage that is not based on quality, ingenuity, or resources but rather on tax policy.

In an attempt to level the playing field, our tax code allows U.S. companies to establish Foreign Sales Corporations (FSCs) through which U.S.-manufactured products may be exported. A portion of the profits from FSC sales are exempted from corporate income taxes, to mitigate the advantage that other countries give their exporters through value-added tax rebates.

But the tax benefits of a FSC are cut in half for defense exporters. This 50% limitation is the result of a compromise enacted 22 years ago as part of the predecessor to the FSC provisions. This compromise was not based on policy considerations, but instead merely split the difference between members who believed that the U.S. defense industry was so dominant in world markets that the foreign tax advantages were inconsequential, and members who believed that all U.S. exporters should be treated equally.

Today, U.S. defense manufacturers face intense competition from foreign businesses. With the sharp decline in the defense budget over the past decade, exports of defense products play a prominent role in maintaining a viable U.S. defense industrial base. It makes no sense to allow differences in international tax systems to stand as an obstacle to exports of U.S. defense products. We must level the international playing field for U.S. defense product manufacturers.

The fifty percent exclusion for sales of defense products makes even less sense when one considers that the sale of every defense product to a foreign government requires the determination of both the President and the Congress that the sale will strengthen the security of the United States and promote world peace. This is more than a matter of fair treatment for all U.S. exporters. National security is enhanced when our allies use U.S.-manufactured military equipment, because of its compatibility with equipment used by our armed forces.

The bill I am introducing today will repeal the provision of the Foreign Sales Corporation laws that discriminates against U.S. defense product manufacturers, enhancing both the competitiveness of U.S. companies in world markets and our national security.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Defense Jobs and Trade Promotion Act of 1998".

SEC. 2. REPEAL OF LIMITATION ON RECEIPTS ATTRIBUTABLE TO MILITARY PROPERTY WHICH MAY BE TREATED AS EXEMPT FOREIGN TRADE INCOME.

(a) IN GENERAL.—Subsection (a) of section 923 of the Internal Revenue Code of 1986 (defining exempt foreign trade income) is amended by striking paragraph (5) and by redesignating paragraph (6) as paragraph (5).

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after the date of the enactment of this Act.

By Mr. GORTON:

S. 2297. A bill to provide for the distribution of certain publications in units of the National Park System under a sales agreement between the Secretary of the Interior and a private contractor; to the Committee on Energy and Natural Resources.

NATIONAL PARKS MAGAZINE PROPOSAL LEGISLATION

• Mr. GORTON. Mr. President, as Chairman of the Senate Interior Appropriations Subcommittee responsible for funding the National Park System's annual budget and as a long time resident of Washington State—home to some of the true crown jewels of the system, I have long held both a personal and professional interest in ensuring that our parks are adequately funded and well maintained.

Unfortunately in recent years due to declining budgets, more units added to the system, and substantial increases in visitation, our park system faces some serious challenges. All told, the total unfunded backlog in maintenance, resource stabilization, infrastructure repair and employee housing alone is a staggering $8.7 billion.

While I have done everything I can to ensure that the National Park Service receives annual increases at a time when overall funding for the Department of Interior continues to decline, the fact is new, innovative ideas are imperative to overcome this desperate situation. For this reason, I have promoted such ideas in my Interior Appropriations bill.

One idea that was incorporated into our bill during the 104th Congress was the establishment of the recreation fee demonstration program. Under this three-year pilot program, individual units of the National Park and National Forest systems that charge an additional entry fee get to keep 80% of the receipts collected from that fee within the park or forest unit to help address the backlog of operational and maintenance needs.

The user fee program is designed to give each unit more authority over the resources needed to maintain facilities, to repair roads and other areas in need of up keep. While nobody likes higher fees, I have long believed that the public is willing to pay more to visit these national treasures if it could be assured that such increases went to addressing critical needs at the parks they visited. The recreation fee demonstration program is a small, but positive step forward in this direction.

More recently, I have gotten behind the ideas and efforts of Senator CRAIG THOMAS, Chairman of the authorizing subcommittee on national parks. Senator THOMAS recently developed a comprehensive and forward thinking proposal to reinvigorate the park system. In addition to making my Recreation Fee Demonstration Program permanent and extending it to all units of the National Park System, Senator THOMAS' proposal which passed the Senate last month contains a number of reforms which would improve overall services at our parks and hopefully generate more revenue. I am pleased to have supported Senator THOMAS in this effort both as a fellow member of the Senate Energy Committee and on the Senate floor.

In addition to my colleagues and my own ideas, I am also relying on the suggestions of the recreation community in my state of Washington which is home to the Olympic, Mount Ranier, and North Cascades National Parks. Recently, I was approached by Mr. John Taylor, a constituent of mine from the Seattle area, who came up with a thoughtful—albeit narrower proposal—which only furthers the interests of the system. This idea would create a National Park Service magazine similar to that established by the National Smithsonian Institution through its publication of the Smithsonian Magazine.

A National Park magazine would be created for people who visit or have a particular interest in our parks, their programs, and purpose. The plan is to create a high quality commercial consumer publication that will have broad appeal and park specific sections that will provide useful information and serve as a guide for the park where a specific edition is distributed.

Revenue generated from the sale of advertising in the magazine as well as from the sale of the publication itself would go directly to the Park in which the magazines are sold. Proponents of such a project inform me that such a magazine would generate $45 million for the National Park Service over the first 5 years of publication and $10–$12 million each year thereafter.

Unfortunately, current Park Service regulations severely restrict the sale of publications which contain advertising in units of the national park. Existing regulations are unnecessary in this case because a magazine for the national parks would no more commercialize the parks than the Smithsonian Magazine commercializes the Smithsonian Institution.

Ads in a Park publication are very different than corporate signs and corporate sponsorships in the parks. Magazines are invisible except to those who purchase them. They don't enter the landscape in any way. They don't alter infrastructure. They don't use facilities. They don't express or imply any kind of ownership or funding of any part of the Parks by sponsoring companies. Nor do they imply an endorsement of the product by the National Park Service. Moreover, individual parks have for years distributed information, maps and so on which contain ads from local community sponsors to cover their cost. A National Park Service magazine is merely an expansion of this idea.

Because of current NPS administrative roadblocks, I am introducing legislation which would correct this problem and allow the Park Service to begin consideration of magazine proposals. The entire cost of the project will be covered by the advertising and sales revenue the publication will generate through the large anticipated readership. The Park Service not only gains a vehicle for educating and informing the public about Parks—something that has been sorely needed for years—it does so at no cost. In fact under this proposal, it could do so while generating revenue for the Parks.

While the revenue generated from this proposal is a mere pittance compared to the multibillion backlog our parks currently face, the continued development and implementation of ideas such as this are critical to the long term restoration of our parks. I believe every Senator has an obligation to listen to good ideas at the grass roots level that help solve this growing problem. With budgets continuing to decline and demands only increasing for recreational outlets. Congress must continue to rely on the interested public for creative solutions that will generate more revenue for this important purpose.●

By Mr. BENNETT:

S. 2304. A bill to amend the Internal Revenue Code of 1986 to allow the carryover of unused nontaxable benefits under cafeteria plans, flexible spending arrangements, and health flexible spending accounts; to the Committee on Finance.

FLEXIBLE SPENDING ACCOUNTS LEGISLATION

● Mr. BENNETT. Mr. President, today I introduce a bill to provide individuals with greater control over their health care choices and dollars. This legislation will allow individuals enrolled in Flexible Spending Accounts (FSA) at year's end to move unutilized funds in the amount of $500 or less to other tax protected accounts such as: a medical savings account, an individual retirement account or a 401k account.

A flexible spending account is one of the options available to employers as they provide benefits to their employees. At the beginning of the year the employer gives the employee a set number of pre-tax benefit dollars which they can then allocate to any one or combination of the IRS approved FSA uses: health care, life insurance, day care, vacation, or retirement. The employee then must determine at the beginning of the year the number of dollars they will put in each account. In most cases the employee hopes they have made the appropriate allocation. If the employee has over funded a particular account they lose those benefit dollars at the end of the year.

About 21.7 million Americans lose between $125 to $200 every year because of a 1984 Internal Revenue Service regulation that governs FSAs. Every year Americans lose between $4.3 and $2.7 billion due to this IRS regulation! The regulation mandates that individuals with FSAs must either "use-it-or-lose-it." In other words, if you do not spend your money by the end of the year, your employer gets to keep the money you don't spend!

This legislation will allow individuals enrolled in flexible spending accounts at year's end to "rollover" or move up to $500 per year from their FSA into one of the approved accounts including: IRAs, MSAs, or 401ks. The funds rolled over into an appropriate account would be treated for tax purposes as a rollover contribution for the taxable year from which it was unused. The $500 allowable rollover would be indexed in increments of $50 and rounded to the lowest multiple of $50.

I believe this small change would have a significant impact on individuals and their health care. First, the incentive would be to spend these dollars only on health care services that are necessary, thus encouraging rational health care spending rather than the irrational health care spending promoted by the "use-it-or-lose-it" policy. Second, individuals would be more inclined to open up a MSA, and in doing so they would have both greater portability and greater choice. This would empower individuals by giving them greater control over their own health care dollars and expand access and choice. Third, more rational spending is likely to translate into lower health care costs and greater competition.

I hope the Senate will act swiftly to hold hearings and to move this legislation through the committee process to the Senate floor for final consideration. I would urge my colleagues to support this legislation and would welcome their cosponsorship.•

By Mr. DURBIN:

S. 2305. A bill for the relief of Nizar Sweilem and Hassan Sweilem; to the Committee on the Judiciary.

PRIVATE RELIEF LEGISLATION

• Mr. DURBIN. Mr. President, today I introduce a private relief bill, under the Immigration and Nationality Act, that would grant Nizar and Hassan Sweilem permanent residence in the United States. Nizar and Hassan Sweilem are natives and citizens of Lebanon. They are also brothers.

The Sweilem brothers have lived in Des Plaines, Illinois for fourteen years and have made the most of this opportunity to obtain a first-class education in this country. Nizar recently earned a Ph.D. in biochemistry from the University of Illinois at Chicago. Hassan earned a B.S. in Political Science and is completing a degree in Computer Science also at the University of Illinois.

Both Nizar and Hassan were born in Beirut, Lebanon. They entered the United States as children in August of 1983 to visit relatives. When they entered the United States, they were accompanied by their mother, and their maternal uncle. Their uncle returned early to Lebanon and was killed two weeks later when a rocket destroyed the Sweilem family home.

In April of 1984, because of her brother's murder and her own fear of persecution, Leila Sweilem applied to the INS for asylum in the United States without the assistance of counsel. Nizar and Hassan Sweilem were included in their mother's application since they were her minor children. Since 1984, the Sweilem brothers have been pursuing the right to live legally in the United States as permanent residents.

In 1985, the INS denied the Sweilems' request for asylum and initiated deportation proceedings against the family. Leila, Nizar and Hassan renewed their application for asylum in their hearing before an Immigration Judge, but those requests were denied. The Sweilems appealed that decision, but before any decision was issued, the Attorney General designated nationals of Lebanon eligible for Temporary Protected Status on account of the extreme level of violence created by the Lebanese civil war. TPS for citizens of Lebanon continued until March of 1993.

In August of 1993, Hassan and Nizar asked that their asylum appeal be reinstated and that their case be remanded to allow them to apply for suspension of deportation. In November of 1994, Hassan and Nizar applied for suspension of deportation. While their application was pending, Congress passed the Illegal Immigration Reform and Responsibility Act in September of 1996. This law retroactively made Nizar and Hassan ineligible for suspension of deportation and left them with no alternate remedy. The 1996 Act eliminated suspension of deportation and established a new form of relief entitled cancellation of removal that required an applicant to accrue ten years of continuous residence as of the date of the initial notice charging the applicant with being removable. Despite the fact that at that time the Sweilem brothers had twelve years of continuous residence in the U.S., the time accrued after the denial of their mother's initial asylum request does not count.

Last year, this Congress recognized that these new provisions could result in grave injustices to certain groups of people, so in November of 1997, the Nicaraguan and Central American Relief Act granted relief to certain citizens of former Soviet block countries and several Central American countries.

That law allowed several hundred thousand Central Americans and former Soviet Union or Warsaw Pact countries, who came to the U.S. during the civil strife of the 1980's to adjust to permanent resident status under more lenient hardship rules that existed prior to the 1996 change. The U.S. had allowed Central Americans to reside and work here for over a decade, during which time many of them established families, careers and community ties. If Nizar and Hassan Sweilem were citizens of Nicaragua, El Salvador Guatemala or any of the former Communist countries of Eastern Europe, they could continue to pursue their applications for suspension of deportation. The fact that they are citizens of Lebanon makes them ineligible for relief.

Nizar and Hassan Sweilem have lived in the United States for almost 15 years, since they were 12 and 14, respectively. They have taken full advantage of their educational opportunities and are more than capable of caring for themselves. The brothers will face undue hardship by returning to Lebanon, as evidenced by their uncle's murder. The Sweilem brothers' extended family now resides in the United States, and the brothers have strong ties to the local community. My office has received numerous letters from the community on their behalf, including a letter from the Director of Graduate Studies at the University of Illinois. They have no family left in Lebanon and have never visited it in the last 15 years.

The Sweilem brothers have spent more than half their lives in the United States. At every step, the Sweilems took American law at its word: they always attempted to follow the law only to have Congress suddenly pull the rug out from under them. I think this is an injustice and these two brothers from Lebanon deserve the same relief that we gave people from Nicaragua, El Salvador and Czechoslovakia. Mr. President, I ask you and my fellow colleagues to support these Lebanese brothers by giving them permanent residence status and not depriving them of the opportunity to become United States citizens.

Mr. President, I ask unanimous consent that a copy of the legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2305

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PERMANENT RESIDENCE.

Notwithstanding any other provision of law, for purposes of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), Nizar Sweilem and Hassan Sweilem shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of enactment of this Act upon payment of the required visa fees.

SEC. 2. REDUCTION OF NUMBER OF AVAILABLE VISAS.

Upon the granting of permanent residence to Nizar Sweilem and Hassan Sweilem, as provided in this Act, the Secretary of State shall instruct the proper officer to reduce by the appropriate number during the current fiscal year the total number of immigrant visas available to natives of the country of the aliens' birth under section 203(a) of the Immigration and Nationality Act (8 U.S.C. 1153(a)).•

By Mr. BURNS (for himself and Mr. MCCAIN):

S. 2306. A bill to require the Federal Communications Commission to modify its duopoly rule for multiple ownership of television stations; to the Committee on Commerce, Science, and Transportation.

FEDERAL COMMUNICATIONS COMMISSION LEGISLATION

• Mr. BURNS. Mr. President, today I introduce legislation that would eliminate the outdated broadcast ownership restrictions in place at the Federal Communications Commission. I am pleased to note that I am introducing this legislation with the co-sponsorship of the Chairman of the Commerce Committee. I welcome Senator McCAIN's support on this issue and look forward to working with him to make sure that these impractical restrictions are eliminated.

Currently, the FCC disallows ownership of stations in separate markets if the broadcast signals overlap. For example, a broadcaster may not now own a station in each of the Washington, DC, and Baltimore markets. I believe that ownership of stations with overlapping signals should be allowed if the stations are licensed to communities in different markets. Practical ownership policies will encourage the construction of new television stations and broadcast networks that will promote increased consumer choice.

In the Senate Communications Subcommittee, I have recently held numerous FCC oversight hearings on how best to create a regulatory framework for the age of competition. I believe this bill will help to move in the direction of deregulation and I look forward to working with my colleagues to ensure its passage.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2306

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. MULTIPLE OWNERSHIP RULES.

The Federal Communications Commission shall modify the television contour overlap rule set forth at section 73.3555 of title 47, Code of Federal Regulations, to permit any party (including all parties under common control), to own, operate, or control television stations despite overlapping contours if the television stations are licensed to communities in different television markets (as defined in section 76.55(e) of such title).●

ADDITIONAL COSPONSORS

S. 636

At the request of Mr. FRIST, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 636, a bill to establish a congressional commemorative medal for organ donors and their families.

S. 1251

At the request of Mr. LAUTENBERG, his name was added as a cosponsor of S. 1251, a bill to amend the Internal Revenue Code of 1986 to increase the amount of private activity bonds which may be issued in each State, and to index such amount for inflation.

S. 1385

At the request of Mrs. MURRAY, her name was added as a cosponsor of S. 1385, a bill to amend title 38, United States Code, to expand the list of diseases presumed to be service connected with respect to radiation-exposed veterans.

S. 1413

At the request of Mr. LUGAR, the name of the Senator from Colorado (Mr. ALLARD) was added as a cosponsor of S. 1413, a bill to provide a framework for consideration by the legislative and executive branches of unilateral economic sanctions.

S. 1764

At the request of Mr. THURMOND, the name of the Senator from Iowa (Mr. GRASSLEY) was added as a cosponsor of S. 1764, a bill to amend sections 3345 through 3349 of title 5, United States Code (commonly referred to as the "Vacancies Act") to clarify statutory requirements relating to vacancies in certain Federal offices, and for other purposes.

S. 1825

At the request of Mrs. MURRAY, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 1825, a bill to amend title 10, United States Code, to provide sufficient funding to assure a minimum size for honor guard details at funerals of veterans of the Armed Forces, to establish the minimum size of such details, and for other purposes.

S. 1862

At the request of Mr. DEWINE, the name of the Senator from Kentucky (Mr. FORD) was added as a cosponsor of S. 1862, a bill to provide assistance for poison prevention and to stabilize the funding of regional poison control centers.

S. 1993

At the request of Ms. COLLINS, the name of the Senator from South Carolina (Mr. THURMOND) was added as a cosponsor of S. 1993, a bill to amend title XVIII of the Social Security Act to adjust the formula used to determine costs limits for home health agencies under medicare program, and for other purposes.

S. 2003

At the request of Mr. REID, the name of the Senator from Kentucky (Mr. FORD) was added as a cosponsor of S. 2003, a bill to amend title II of the Social Security Act to allow workers who attain age 65 after 1981 and before 1992 to choose either lump sum payments over four years totalling $5,000 or an improved benefit computation formula under a new 10-year rule governing the transition to the changes in benefit computation rules enacted in the Social Security Amendments of 1977, and for other purposes.

S. 2078

At the request of Mr. FAIRCLOTH, his name was added as a cosponsor of S. 2078, a bill to amend the Internal Revenue Code of 1986 to provide for Farm and Ranch Risk Management Accounts, and for other purposes.

S. 2118

At the request of Mr. CHAFEE, the name of the Senator from North Dakota (Mr. CONRAD) was added as a cosponsor of S. 2118, a bill to amend the Internal Revenue Code of 1986 to reduce the tax on vaccines to 25 cents per dose.

S. 2170

At the request of Mr. ALLARD, the name of the Senator from Nebraska (Mr. HAGEL) was added as a cosponsor of S. 2170, a bill to amend the Internal Revenue Code of 1986 to eliminate the temporary increase in unemployment tax.

S. 2266

At the request of Mr. THURMOND, the names of the Senator from Colorado (Mr. ALLARD) and the Senator from Arizona (Mr. KYL) were added as cosponsors of S. 2266, a bill to amend the Americans with Disabilities Act of 1990 and the Rehabilitation Act of 1973 to exempt State and local agencies operating prisons from the provisions relating to public services.

S. 2285

At the request of Mr. DODD, the name of the Senator from Texas (Mrs. HUTCHISON) was added as a cosponsor of S. 2285, a bill to establish a commission, in honor of the 150th Anniversary of the Seneca Falls Convention, to further protect sites of importance in the historic efforts to secure equal rights for women.

S. 2295

At the request of Mr. McCAIN, the names of the Senator from Connecticut (Mr. DODD) and the Senator from South Carolina (Mr. HOLLINGS) were added as cosponsors of S. 2295, a bill to amend the Older Americans Act of 1965 to extend the authorizations of appropriations for that Act, and for other purposes.

SENATE CONCURRENT RESOLUTION 80

At the request of Ms. MOSELEY-BRAUN, the name of the Senator from Kentucky (Mr. FORD) was added as a cosponsor of Senate Concurrent Resolution 80, a concurrent resolution urging that the railroad industry, including rail labor, management and retiree organization, open discussions for adequately funding an amendment to the Railroad Retirement Act of 1974 to modify the guaranteed minimum benefit for widows and widowers whose annuities are converted from a spouse to a widow or widower annuity.

SENATE CONCURRENT RESOLUTION 95

At the request of Mr. DODD, the name of the Senator from Vermont (Mr. JEFFORDS) was added as a cosponsor of Senate Concurrent Resolution 95, a concurrent resolution expressing the sense of Congress with respect to promoting coverage of individuals under long-term care insurance.

SENATE RESOLUTION 237

At the request of Mrs. MURRAY, her name was added as a cosponsor of Senate Resolution 237, a resolution expressing the sense of the Senate regarding the situation in Indonesia and East Timor.

AMENDMENTS SUBMITTED

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 1999

HARKIN (AND OTHERS) AMENDMENT NO. 3127

Mr. DASCHLE (for Mr. HARKIN for himself, Mr. DASCHLE, Mrs. MURRAY, and Mr. WELLSTONE) proposed an amendment to the bill (S. 2159) making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for fiscal year ending September 30, 1999, and for other purposes; as follows:

At the appropriate place, insert:

Findings:

In contrast to our Nation's generally strong economy, in a number of States agricultural producers and rural communities are experiencing serious economic hardship;

Increased supplies of agricultural commodities in combination with weakened demand have caused prices of numerous farm commodities to decline dramatically;

Demand for imported agricultural commodities has fallen in some regions of the world, due in part to world economic conditions, and United States agricultural exports have declined from their record level of $60 billion in 1996;

Prolonged periods of weather disasters and crop disease have devastated agricultural producers in a number of States;

Thirty-two of the fifty States experienced declines in personal farm income between 1996 and 1997;

Whereas, June estimates by the Department of Agriculture indicate that net farm income for 1998 will fall to $45.5 billion, down 13 percent from the $52.2 billion for 1996;

Total farm debt for 1998 is expected to reach $172 billion, the highest level since 1985;

Thousands of farm families are in danger of losing their livelihoods and life savings

Now, therefore, it is the sense of the Senate that emergency action by the President and Congress is necessary to respond to the economic hardships facing agricultural producers and their communities.

BUMPERS (AND COCHRAN) AMENDMENT NO. 3128

Mr. COCHRAN (for Mr. BUMPERS for himself and Mr. COCHRAN) proposed an amendment to the bill, S. 2159, supra; as follows:

On page 10, line 17, strike "$767,921,000" and insert in lieu thereof "$768,221,000".

On page 13, line 11, strike "$49,200,000" and insert in lieu thereof "$50,500,000".

On page 14, line 17, strike "$434,782,000" and insert in lieu thereof "$436,082,000".

On page 35, line 7, strike "$700,201,000" and insert in lieu thereof "$703,601,000".

On page 36, line 14, after the "systems", insert ": *Provided further*, That of the total amount appropriated, $2,800,000 shall be available for a community improvement project in Arkansas".

On page 64, line 18, strike "140,000" and insert in lieu thereof "120,000".

On page 67, after line 23, add the following:

"SEC. 739. None of the funds appropriated or otherwise made available by this Act may be used to require any producer to pay an administrative fee for catastrophic risk protection under section 508(b)(5)(A) of the Federal Crop Insurance Act (7 U.S.C. 1508(b)(5)(A)) in an amount that is greater than $50 per crop per county.".

"SEC. 740. Nothing in this Act shall be interpreted or construed to alter the current implementation of the Wetlands Reserve Program, unless expressly provided herein.".

COCHRAN (AND BUMPERS) AMENDMENTS NOS. 3129–3130

Mr. COCHRAN (for himself and Mr. BUMPERS) proposed two amendments to the bill, S. 2159, supra; as follows:

AMENDMENT NO. 3129

On page 35, line 25, strike "$1,000,000" and insert "$70,000".

AMENDMENT NO. 3130

On page 26, line 26, strike "$488,872,000" and insert in lieu thereof "$510,649,000".

On page 27, line 7, insert "and" before "for".

On page 27, lines 8 and 9, strike "; and for credit sales of acquired property, $25,000,000".

On page 27, line 13, strike "$16,320,000" and insert in lieu thereof "$19,580,000".

On page 27, line 20, insert "and" before "for".

On page 27, lines 21 and 22, strike "; and for credit sales of acquired property, $3,260,000".

BUMPERS AMENDMENT NO. 3131

Mr. BUMPERS proposed an amendment to the bill, S. 2159, supra; as follows:

On page 67, after line 23, insert the following:

"SEC. . That notwithstanding section 4703(d)(1) of title 5, United States Code, the personnel management demonstration project established in the Department of Agriculture, as described at 55 FR 9062 and amended at 61 FR 9507 and 61 FR 49178, shall be continued indefinitely and become effective upon enactment of this bill."

D'AMATO (AND SARBANES) AMENDMENT NO. 3132

Mr. COCHRAN (for Mr. D'AMATO for himself and Mr. SARBANES) proposed an amendment to the bill, S. 2159, supra; as follows:

On page 67, after line 23, insert the following:

SEC. ___. (a) The first sentence of section 509(f)(4)(A) of the Housing Act of 1949 (42 U.S.C. 1479(f)(4)(A)) is amended by striking "fiscal year 1998" and inserting "fiscal year 1999".

(b) Section 515(b)(4) of the Housing Act of 1949 (42 U.S.C. 1485(b)(4)) is amended by striking "September 30, 1998" and inserting "September 30, 1999".

(c) The first sentence of section 515(w)(1) of the Housing Act of 1949 (42 U.S.C. 1485(w)(1)) is amended by striking "fiscal year 1998" and inserting "fiscal year 1999".

(d) Section 538 of the Housing Act of 1949 (42 U.S.C. 1490p–2) is amended—

(1) in subsection (t), by striking "fiscal year 1998" and inserting "fiscal year 1999"; and

(2) in subsection (u), by striking "September 30, 1998" and inserting "September 30, 1999".

GRAHAM AMENDMENT NO. 3133

Mr. COCHRAN (for Mr. GRAHAM) proposed an amendment to the bill, S. 2159, supra; as follows:

On page 67, after line 23, add the following:

SEC. 7___. METHYL BROMIDE ALTERNATIVES RESEARCH.

(a) REVIEW.—The Secretary of Agriculture, acting through the Agricultural Research Service, shall conduct a review of the methyl bromide alternatives research conducted by the Secretary that describes—

(1) the amount of funds expended by the Secretary since January 1, 1990, on methyl bromide alternatives research, including a description of the amounts paid for salaries, expenses, and actual research;

(2) plot and field scale testing of methyl bromide alternatives conducted by the Secretary since January 1, 1990, including a description of—

(A) the total amount of funds expended for the testing;

(B) the amount of funds expended for the testing as a portion of a larger project or independently of other projects; and

(C) the results of the testing and the impact of the results on future research; and

(3) variables that impact the effectiveness of methyl bromide alternatives, including a description of—

(A) the individual variables; and

(B) the plan of the Secretary for addressing each of the variables during the plot and field scale testing conducted by the Secretary.

(b) REPORT.—Not later than 120 days after the date of enactment of this Act, the Secretary shall submit to the Appropriations Committees of both Houses of Congress a report that describes the results of the review conducted under subsection (a).

GRAMM (AND HUTCHISON) AMENDMENT NO. 3134

Mr. COCHRAN (for Mr. GRAMM for himself and Mrs. HUTCHISON) proposed an amendment to the bill, S. 2159, supra; as follows:

On page 67, after line 23, add the following:

SEC. ___. SENSE OF SENATE ON DISASTER ASSISTANCE FOR TEXAS AGRICULTURAL PRODUCERS.

(a) FINDINGS.—The Senate finds that—

(1) the statewide economic impact of the drought on agriculture in the State of Texas could be more than $4,600,000,000 in losses, according to the Agricultural Extension Service of the State;

(2) the direct loss of income to agricultural producers in the State is $1,500,000,000;

(3) the National Weather Service has reported that all 10 climatic regions in the State have received below-average rainfall from March through May of 1998, a critical time in the production of corn, cotton, sorghum, wheat, and forage;

(4) the total losses for cotton producers in the State have already reached an estimated $500,000,000;

(5) nearly half of the rangeland in the State (as of May 31, 1998) was rated as poor or very poor as a result of the lack of rain;

(6) the value of lost hay production in the State will approach an estimated $175,000,000 statewide, leading to an economic impact of $582,000,000;

(7) dryland fruit and vegetable production losses in East Texas have already been estimated at $33,000,000;

(8) the early rains in many parts of the State produced a large quantity of forage that is now extremely dry and a dangerous source of fuel for wildfires; and

(9) the Forest Service of the State has indicated that over half the State is in extreme or high danger of wildfires due to the drought conditions.

(b) SENSE OF SENATE.—It is the sense of the Senate that the Secretary of Agriculture should—

(1) streamline the drought declaration process to provide necessary relief to the State of Texas as quickly as is practicable;

(2) ensure that local Farm Service Agency offices in the State are equipped with full-time and emergency personnel in drought-stricken areas to assist agricultural producers with disaster loan applications;

(3) direct the Forest Service, and request the Federal Emergency Management Agency, to assist the State in prepositioning fire fighting equipment and other appropriate resources in affected counties of the State;

(4) authorize haying and grazing on acreage in the State that is enrolled in the conservation reserve program carried out under section 1231 of the Food Security Act of 1985 (16 U.S.C. 3831); and

(5) convene experts within the Department of Agriculture to develop and implement an emergency plan for the State to help prevent wildfires and to overcome the economic impact of the continuing drought by providing assistance from the Department in a rapid and efficient manner for producers that are suffering from drought conditions.

LUGAR AMENDMENT NO. 3135

Mr. COCHRAN (for Mr. LUGAR) proposed an amendment to the bill, S. 2159, supra; as follows:

On page 67, after line 23, add the following new sections:

SEC. . Section 1237D(c)(1) of Subchapter C of the Food Security Act of 1985 is amended by inserting after "perpetual" the following: "or 30-year."

SEC. . Section 1237(b)(2) of Subchapter C of the Food Security Act of 1985 is amended by adding the following: "(C) For purposes of subparagraph (A), to the maximum extent practicable should be interpreted to mean that acceptance of wetlands reserve program bids may be in proportion to landowner interest expressed in program options."

LUGAR (AND OTHERS) AMENDMENT NO. 3136

Mr. COCHRAN (for Mr. LUGAR for himself, Mr. SANTORUM, Ms. COLLINS, Mr. HARKIN, and Mr. LEAHY) proposed an amendment to the bill, S. 2159, supra; as follows:

On page 67, after line 23, insert the following:

SEC. . TECHNICAL CORRECTIONS TO AGRICULTURAL RESEARCH, EXTENSION, AND EDUCATION REFORM ACT OF 1998.

(a) FOREST AND RANGELAND RENEWABLE RESOURCES RESEARCH.—Section 3(d)(3) of the Forest and Rangeland Renewable Resources Research Act of 1978 (16 U.S.C. 1642(d)(3)) (as amended by section 253(b) of the Agricultural Research, Extension, and Education Reform Act of 1998) is amended by striking "The Secretary" and inserting "At the request of the Governor of the State of Maine, New Hampshire, New York, or Vermont, the Secretary".

(b) HONEY RESEARCH, PROMOTION, AND CONSUMER INFORMATION.—Section 7(e)(2) of the Honey Research, Promotion, and Consumer Information Act (7 U.S.C. 4606(e)(2)) (as amended by section 605(f)(3) of the Agricultural Research, Extension, and Education Reform Act of 1998) is amended by striking "$0.0075" each place it appears and inserting "$0.01".

(c) EFFECTIVE DATE.—The amendments made by this section take effect on the date of enactment of the Agricultural Research, Extension, and Education Reform Act of 1998.

ROBB AMENDMENT NO. 3137

Mr. COCHRAN (for Mr. ROBB) proposed an amendment to the bill, S. 2159, supra; as follows:

After line 23 on page 67, add the following new title:

TITLE VIII

"SEC. 1. SHORT TITLE.

This section may be cited as the 'Agricultural Credit Restoration Act'.

SEC. 2. AMENDMENTS TO THE CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT.

(a) Section 343(a)(12)(B) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1991(a)(12)(B)) is amended to read as follows:

"(B) EXCEPTIONS.—The term 'debt forgiveness' does not include—

"(i) consolidation, rescheduling, reamortization, or deferral of a loan;

"(ii) 1 debt forgiveness in the form of a restructuring, write-down, or net recovery buy-out which occurred prior to date of enactment and was due to a financial problem of the borrower relating to a natural disaster or a medical condition of the borrower or of a member of the immediate family of the borrower (or, in the case of a borrower that is an entity, a principal owner of the borrower or a member of the immediate family of such an owner); and

"(iii) any restructuring, write-down, or net recovery buy-out provided as a part of a resolution of a discrimination complaint against the Secretary.".

(5) Section 355(c)(2) of such Act (7 U.S.C. 2003(c)(2)) is amended to read as follows:

"(2) RESERVATION AND ALLOCATION.—

"(A) IN GENERAL.—The Secretary shall, to the greatest extent practicable, reserve and allocate the proportion of each State's loan funds made available under subtitle B that is equal to that State's target participation rate for use by the socially disadvantaged farmers or ranchers in that State. The Secretary shall, to the extent practicable, distribute the total so derived on a county by county basis according to the number of socially disadvantaged farmers or ranchers in the county

"(B) REALLOCATION OF UNUSED FUNDS.—The Secretary may pool any funds reserved and allocated under this paragraph with respect to a State that are not used as described in subparagraph (A) in a State' in the first 10 months of a fiscal year with the funds similarly not so used in other States, and may reallocate such pooled funds in the discretion of the Secretary for use by socially disadvantaged farmers and ranchers in other States.".

(c) Section 373(b)(1) of such Act (7 U.S.C. 2008h(b)(1)) is amended to read as follows:

"(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary may not make or guarantee a loan under subtitle A or B to a borrower who received debt forgiveness on a loan made or guaranteed under this title unless such forgiveness occurred prior to April 4, 199 * * *".

SEC. 2. REGULATIONS.

Not later than 90 days after the date of the enactment of this Act, the Secretary of Agriculture shall promulgate regulations necessary to carry out the amendments made by this Act, without regard to—

(1) the notice and comment provisions of section 553 of title 5, United States Code; and

(2) the statement of policy of the Secretary of Agriculture relating to notices of proposed rulemaking and public participation in rulemaking that became effective on July 24, 1971 (36 Fed. Reg. 13804).

COVERDELL AMENDMENTS NOS. 3138–3139

(Ordered to lie on the table.)

Mr. COVERDELL submitted two amendments intended to be proposed by him to the bill, S. 2159, supra; as follows:

AMENDMENT NO. 3138

On page 67, after line 23, add the following:

SEC. . HEALTH THREATS POSED BY E. COLI:0157H7.

(a) TRANSFER.—Using $2,550,000 of the amounts appropriated under this Act, the Secretary of Agriculture shall carry out activities under subsection (b) to address urgent health threats posed by E. coli:0157H7.

(b) USE OF FUNDS.—From amounts transferred under subsection (a), the Secretary shall—

(1) provide $550,000 to fund ongoing research to detect or prevent colonization of E. coli:0157H7 in live cattle:

(2) provide, through the existing partnership between the Federal Government, industry, and consumer groups, $1,000,000 for the National Consumer Education Campaign on Food Safety as part of the activities to address safe food handling practices; and

(3) provide $1,000,000 for a contract to be entered into with the National Academy of Sciences to assess the effectiveness of testing to ensure zero tolerance of E. coli:0157H7 in raw ground beef products.

AMENDMENT NO. 3139

On page 67, after line 23, add the following:

SEC. . AGRICULTURAL CREDIT IMPROVEMENT.

(a) DEFINITION OF FAMILY FARM.—

(1) REAL ESTATE LOANS.—Section 302 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1922) is amended by adding at the end the following:

"(c) DETERMINATION OF QUALIFICATION FOR LOAN.—

"(1) PRIMARY FACTOR.—The primary factor to be considered in determining whether an applicant for a loan under this subtitle is engaged primarily and directly in farming or ranching shall be whether the applicant is participating in routine, ongoing farm activities and in overall decisionmaking with regard to the farm or ranch.

"((2) NO BASIS FOR DENIAL OF LOAN.—The Secretary may not deny a loan under this subtitle solely because 2 or more individuals are employed full-time in the farming operation for which the loan is sought.".

(2) OPERATING LOANS.—Section 311 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1941) is amended by adding at the end the following:

"(d) DETERMINATION OF QUALIFICATION FOR LOAN.—

"(1) PRIMARY FACTOR.—The primary factor to be considered in determining whether an applicant for a loan under this subtitle is engaged primarily and directly in farming or ranching shall be whether the applicant is participating in routine, ongoing farm activities and in overall decisionmaking with regard to the farm or ranch.

"(2) NO BASIS FOR DENIAL OF LOAN.—The Secretary may not deny a loan under this subtitle solely because 2 or more individuals are employed full-time in the farming operation for which the loan is sought.".

(3) EMERGENCY LOANS.—Section 321 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961) is amended by adding at the end the following:

"(e) DETERMINATION OF QUALIFICATION FOR LOAN.—

"(1) PRIMARY FACTOR.—The primary factor to be considered in determining whether an applicant for a loan under this subtitle is engaged primarily and directly in farming or ranching shall be whether the applicant is participating in routine, ongoing farm activities and in overall decisionmaking with regard to the farm or ranch.

"(2) NO BASIS FOR DENIAL OF LOAN.—The Secretary may not deny a loan under this subtitle solely because 2 or more individuals are employed full-time in the farming operation for which the loan is sought.".

(b) GROWER-SHIPPER AGREEMENTS.—

(1) REAL ESTATE LOANS.—Section 302 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1922) (as amended by subsection (a)(1)) is amended by adding at the end the following:

"(d) GROWER-SHIPPER AGREEMENTS.—This section does not prohibit the Secretary from making a loan under this subtitle to an applicant that has entered into an agreement with a shipper of perishable commodities under which the applicant and the shipper share in the proceeds from the sale of an agricultural commodity if—

"(1) in the absence of such an agreement, the applicant could not easily market the agricultural commodity or could not market the agricultural commodity without incurring significant additional risk; and

"(2) the agreement is clearly beneficial to the applicant.".

(2) OPERATING LOANS.—Section 311 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1941) (as amended by subsection (a)(2)) is amended by adding at the end the following:

"(e) GROWER-SHIPPER AGREEMENTS.—This section does not prohibit the Secretary from making a loan under this subtitle to an applicant that has entered into an agreement with a shipper of perishable commodities under which the applicant and the shipper share in the proceeds from the sale of an agricultural commodity if—

"(1) in the absence of such an agreement, the applicant could not easily market the agricultural commodity or could not market the agricultural commodity without incurring significant additional risk; and

"(2) the agreement is clearly beneficial to the applicant.".

(3) EMERGENCY LOANS.—Section 321 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1941) (as amended by subsection (a)(3)) is amended by adding at the end the following:

"(f) GROWER-SHIPPER AGREEMENTS.—This section does not prohibit the Secretary from making a loan under this subtitle to an applicant that has entered into an agreement with a shipper of perishable commodities under which the applicant and the shipper share in the proceeds from the sale of an agricultural commodity if—

"(1) in the absence of such an agreement, the applicant could not easily market the agricultural commodity or could not market the agricultural commodity without incurring significant additional risk; and

"(2) the agreement is clearly beneficial to the applicant.".

(c) COMBINED LIMIT ON AMOUNT OF FARM OWNERSHIP AND OPERATING LOANS; INDEXATION TO INFLATION.—

(1) LIMIT ON AMOUNT OF GUARANTEED FARM OWNERSHIP LOANS.—Section 305 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1925) is amended—

(A) by striking "SEC. 305. The Secretary" and inserting the following:

"SEC. 305. LIMITATIONS ON AMOUNT OF FARM OWNERSHIP LOANS.

"(a) IN GENERAL.—The Secretary";

(B) by striking "$300,000" and inserting "$700,000 (increased, beginning with fiscal year 1998, by the inflation percentage applicable to the fiscal year in which the loan is to be made or insured), reduced by the amount of any unpaid indebtedness of the borrower on loans under subtitle B that are guaranteed by the Secretary";

(C) by striking "In determining" and inserting the following:

"(b) DETERMINATION OF VALUE.—In determining"; and

(D) by adding at the end the following:

"(c) INFLATION PERCENTAGE.—For purposes of this section, the inflation percentage applicable to a fiscal year is the percentage (if any) by which—

"(1) the average of the Consumer Price Index (as defined in section 1(f)(5) of the Internal Revenue Code of 1986) for the 12-month period ending on August 31 of the immediately preceding fiscal year; exceeds

"(2) the average of the Consumer Price Index (as so defined) for the 12-month period ending on August 31, 1996.".

(2) LIMIT ON AMOUNT OF OPERATING LOANS.—Section 313 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1943) is amended—

(A) by striking "SEC. 313. The Secretary" and inserting the following:

"SEC. 313. LIMITATIONS ON AMOUNT OF OPERATING LOANS.

"(a) IN GENERAL.—The Secretary";

(B) by striking "this subtitle (1) that would cause" and inserting "this subtitle—

"(1) that would cause";

(C) by striking "$400,000; or (2) for the purchasing" and inserting "$700,000 (increased, beginning with fiscal year 1998, by the inflation percentage applicable to the fiscal year in which the loan is to be made or insured), reduced by the unpaid indebtedness of the borrower on loans under the sections specified in section 305 that are guaranteed by the Secretary; or

"(2) for the purchasing"; and

(D) by adding at the end the following:

"(b) INFLATION PERCENTAGE.—For purposes of this section, the inflation percentage applicable to a fiscal year is the percentage (if any) by which—

"(1) the average of the Consumer Price Index (as defined in section 1(f)(5) of the Internal Revenue Code of 1986) for the 12-month period ending on August 31 of the immediately preceding fiscal year; exceeds

"(2) the average of the Consumer Price Index (as so defined) for the 12-month period ending on August 31, 1996.".

(d) APPLICABILITY OF DISASTER LOAN COLLATERAL REQUIREMENTS UNDER THE SMALL BUSINESS ACT.—Section 324(d) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1964(d)) is amended—

(1) by striking "(d) All loans" and inserting the following:

"(d) REPAYMENT.—

"(1) IN GENERAL.— All loans"; and

(2) by adding at the end the following:

"(2) NO BASIS FOR DENIAL OF LOAN.—

"(A) IN GENERAL.—Subject to subparagraph (B), the Secretary shall not deny a loan under this subtitle to a borrower by reason of the fact that the borrower lacks a particular amount of collateral for the loan if it is reasonably certain that the borrower will be able to repay the loan.

"(B) REFUSAL TO PLEDGE AVAILABLE COLLATERAL.—The Secretary may deny or cancel a loan under this subtitle if a borrower refuses to pledge available collateral on request by the Secretary.".

(e) PROHIBITION OF LOAN GUARANTEES TO BORROWERS THAT HAVE RECEIVED DEBT FORGIVENESS AFTER APRIL 4, 1996.—

(1) IN GENERAL.—Section 373 of the Consolidated Farm and Rural Development Act (7 U.S.C. 2008h) is amended by striking subsection (b) and inserting the following:

"(b) PROHIBITION OF LOANS FOR BORROWERS THAT HAVE RECEIVED DEBT FORGIVENESS.—

"(1) PROHIBITIONS.—Except as provided in paragraph (2)—

"(A) the Secretary may not make a loan under this title to a borrower that has received debt forgiveness on a loan made or guaranteed under this title; and

"(B) the Secretary may not guarantee a loan under this title to a borrower that has received debt forgiveness after April 4, 1996, on a loan made or guaranteed under this title.

"(2) EXCEPTIONS.—

"(A) IN GENERAL.—The Secretary may make a direct or guaranteed farm operating loan for paying annual farm or ranch operating expenses of a borrower that was restructured with a write-down under section 353.

"(B) EMERGENCY LOANS.—The Secretary may make an emergency loan under section 321 to a borrower that—

"(i) on or before April 4, 1996, received not more than 1 debt forgiveness on a loan made or guaranteed under this title; and

"(ii) after April 4, 1996, has not received debt forgiveness on a loan made or guaranteed under this title.".

(f) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section take effect on the date of enactment of this Act.

(2) DEFINITION OF FAMILY FARM.—The amendments made by subsection (a) take effect on January 1, 1997.

DEWINE (AND HUTCHINSON) AMENDMENT NO. 3140

(Ordered to lie on the table.)

Mr. DEWINE (for himself and Mr. HUTCHINSON) submitted an amendment intended to be proposed by them to the bill, S. 2159, supra; as follows:

At the appropriate place in title VII, insert the following:

SEC. ___. METERED-DOSE INHALERS.

(a) FINDINGS.—Congress finds that—

(1) the Montreal Protocol on Substances That Deplete the Ozone Layer (referred to in this section as the "Montreal Protocol") requires the phaseout of products containing ozone-depleting substances, including chlorofluorocarbons;

(2) the primary remaining legal use in the United States of newly produced chlorofluorocarbons is in metered-dose inhalers;

(3) treatment with metered-dose inhalers is the preferred treatment for many patients with asthma and chronic obstructive pulmonary disease;

(4) the incidence of asthma and chronic obstructive pulmonary disease is increasing in children and is most prevalent among low-income persons in the United States;

(5) the Parties to the Montreal Protocol have called for development of national transition strategies to non-chlorofluorocarbon metered-dose inhalers;

(6) the Commissioner of Food and Drugs published an advance notice of proposed rulemaking that suggested a tentative framework for how to phase out the use of metered-dose inhalers that contain chlorofluorocarbons in the Federal Register on March 6, 1997, 62 Fed. Reg. 10242 (referred to in this section as the "proposal"); and

(7) the medical and patient communities, while calling for a formal transition strategy through the FDA rulemaking process have expressed serious concerns that, if implemented without change, the phaseout framework tentatively proposed by the FDA in the ANPR could result in the removal of MDIs containing CFCs from the market before adequate non-chlorofluorocarbon replacements are available, thus potentially placing some patients at risk.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the Food and Drug Administration should, in consultation with the Environmental Protection Agency, assess the risks and benefits to the environment and to patient health of the proposal and any alternatives;

(2) in conducting such assessments, the Food and Drug Administration should consult with patients, physicians, other health care providers, manufacturers of metered-dose inhalers, and other interested parties;

(3) upon completion of these assessments, the Food and Drug Administration should promptly issue a rule ensuring that a range of non-chlorofluorocarbon metered-dose inhaler alternatives is available which for all populations of users, are comparable to existing treatments (as of the date of issuance of the regulation) in terms of safety and efficacy, use for therapeutic indications, dosage strength, delivery system, and sufficient availability to meet patient needs. Such rule should not be based on a therapeutic class phaseout approach; and

(4) A proposed rule should be issued by the FDA no later than July 1, 1999.

BROWNBACK AMENDMENT NO. 3141

(Ordered to lie on the table.)

Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill, S. 2159, supra; as follows:

On page 67, after line 23, add the following:

SEC. 7 . CENSUS OF AGRICULTURE.

(a) IN GENERAL.—Section 2 of the Census of Agriculture Act of 1997 (7 U.S.C. 2204g) is amended—

(1) in subsection (b), by inserting before the period at the end the following: ", except that a survey or other information collection shall consist of not more than 20 questions"; and

(2) by striking subsection (d) and inserting the following:

"(d) COMPLIANCE.—

"(1) FRAUD.—A person over 18 years of age shall not willfully give an answer that is false to a question that the Secretary is authorized to submit to the person in connection with a census under this section.

"(2) REFUSAL OR NEGLECT TO ANSWER QUESTIONS.—A person over 18 years of age shall not refuse or willfully neglect to answer a question that the Secretary is authorized to submit to the person in connection with a census under this section.

"(3) PENALTIES.—A person that violates paragraph (1) or (2) shall not be subject to any penalty or injunction under this Act or any other law by reason of the violation.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) take effect on January 1, 1998.

BUMPERS (AND COCHRAN) AMENDMENT NO. 3142

Mr. BUMPERS (for himself and Mr. COCHRAN) proposed an amendment to the bill, S. 2159, supra; as follows:

On page 67, after line 23 insert the following:

"SEC. . None of the funds appropriated by this Act or any other Act shall be used to pay the salaries and expenses of personnel who prepare or submit appropriations language as part of the President's Budget submission to the Congress of the United States for programs under the jurisdiction of the Appropriations Subcommittees on Agriculture, Rural Development, and Related Agencies that assumes revenues or reflects a reduction from the previous year due to user fees proposals that have not been enacted into law prior to the submission of the Budget unless such Budget submission identifies which additional spending reductions should occur in the event the users fees proposals are not enacted prior to the date of the convening of a committee of conference for the fiscal year 2000 appropriations act."

DASCHLE AMENDMENT NO. 3143

Mr. BUMPERS (for Mr. DASCHLE) proposed an amendment to the bill, S. 2159, supra; as follows:

On page 67, after line 23, add the following:

SEC. 7 . PILOT PROGRAM TO PERMIT HAYING AND GRAZING ON CONSERVATION RESERVE LAND.

(a) DEFINITIONS.—In this section:

(1) ELIGIBLE STATE.—The term "eligible State" means any State that is approved by the Secretary for inclusion in the pilot program under subsection (b), except that the term shall not apply to more than 7 States.

(2) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(3) STATE TECHNICAL COMMITTEE.—The term "State technical committee" means the State technical committee for a State established under section 1261 of the Food Security Act of 1985 (16 U.S.C. 3861).

(b) PILOT PROGRAM.—Notwithstanding section 1232(a)(7) of the Food Security Act of 1985 (16 U.S.C. 3832(a)(7)), during the 4-year period beginning on the date of enactment of this Act, on application by an owner or operator of a farm or ranch located in an eligible State who has entered into a contract with the Secretary under subchapter B of chapter I of subtitle D of title XII of that Act (16 U.S.C. 3831 et seq.)—

(1) the Secretary shall permit harvesting and grazing on land on the farm or ranch that the Secretary determines has a sufficiently established cover to permit harvesting or grazing without undue harm to the purposes of the contract if—

(A) no land under the contract will be harvested or grazed more than once in a 4-year period;

(B) the owner or operator agrees to a payment reduction under that subchapter in an amount determined by the Secretary; and

(C) the owner or operator agrees to such other terms and conditions as the Secretary, in consultation with the State technical committee for the State, may establish to ensure that the harvesting or grazing is consistent with the purposes of the program established under that subchapter;

(2) the Secretary may permit grazing on land under the contract if—

(A) the grazing is incidental to the gleaning of crop residues;

(B) the owner or operator agrees to a payment reduction in annual rental payments that would otherwise be payable under that subchapter in an amount determined by the Secretary; and

(C) the owner or operator agrees to such other terms and conditions as the Secretary, in consultation with the State technical committee for the State, may establish to ensure that the grazing is consistent with the purposes of the program established under that subchapter; and

(3) the Secretary shall permit harvesting on land on the farm or ranch that the Secretary determines has a sufficiently established cover to permit harvesting without undue harm to the purposes of the contract if—

(A) land under the contract will be harvested not more than once annually for recovery of biomass used in energy production;

(B) the owner or operator agrees to a payment reduction under that subchapter in an amount determined by the Secretary; and

(C) the owner or operator agrees to such other terms and conditions as the Secretary, in consultation with the State technical committee for the State, may establish to ensure that the harvesting is consistent with the purposes of the program established under that subchapter.

(c) RELATIONSHIP TO OTHER HAYING AND GRAZING AUTHORITY.—During the 4-year period beginning on the date of enactment of this Act, land that is located in an eligible State shall not be eligible for harvesting or grazing under section 1232(a)(7) of the Food Security Act of 1985 (16 U.S.C. 3832(a)(7)).

(d) CONSERVATION PRACTICES AND TIMING RESTRICTIONS.—Not later than March 1 of each year, the Secretary, in consultation with the State technical committee for an eligible State, shall determine any conservation practices and timing restrictions that apply to land in the State that is harvested or grazed under subsection (b).

(e) STUDY.—The Secretary shall make available not more than $100,000 of funds of the Commodity Credit Corporation to contract with the game, fish, and parks department of an eligible State to conduct an analysis of the program conducted under this section (based on information provided by all eligible States).

(f) REGULATIONS.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary shall issue such regulations as are necessary to implement this Act.

(2) PROCEDURE.—The issuance of the regulations shall be made without regard to—

(A) the notice and comment provisions of section 553 of title 5, United States Code;

(B) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971

(36 Fed. Reg. 13804), relating to notices of proposed rulemaking and public participation in rulemaking; or

(C) chapter 35 of title 44, United States Code (commonly known as the "Paperwork Reduction Act").

DURBIN AMENDMENT NO. 3144

Mr. BUMPERS (for Mr. DURBIN) proposed an amendment to the bill, S. 2159, supra; as follows:

On page 67, after line 23, add the following:

SEC. 7 . EGG GRADING AND SAFETY.

(a) PROHIBITION ON PREVIOUS SHIPMENT OF SHELL EGGS UNDER VOLUNTARY GRADING PROGRAM.—Section 203(h) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1622(h)) is amended by adding at the end the following: "Shell eggs packed under the voluntary grading program of the Department of Agriculture shall not have been shipped for sale previous to being packed under the program, as determined under a regulation promulgated by the Secretary.".

(b) REPORT ON EGG SAFETY AND REPACKAGING.—Not later than 90 days after the date of enactment of this Act, the Secretary of Agriculture, and the Secretary of Health and Human Services, shall submit a status report to the Committees on Appropriations of the House of Representatives and the Senate that describes actions taken by the Secretary of Agriculture and the Secretary of Health and Human Services—

(1) to enhance the safety of shell eggs and egg products;

(2) to prohibit the grading, under the voluntary grading program of the Department of Agriculture, of shell eggs previously shipped for sale; and

(3) to assess the feasibility and desirability of applying to all shell eggs the prohibition on repackaging to enhance food safety, consumer information, and consumer awareness.

BYRD AMENDMENT NO. 3145

Mr. BUMPERS (for Mr. BYRD) proposed an amendment to the bill, S. 2159, supra; as follows:

On page 31, line 8, after "*Provided,*" insert "That, of the total amount appropriated, $433,000 shall be used, along with prior year appropriations provided for this project, to complete construction of the Alderson Plant Materials Center, Alderson, West Virginia: *Provided, further,*".

DASCHLE (AND OTHERS) AMENDMENT NO. 3146

Mr. DASCHLE (for himself, Mr. HARKIN, Mr. WELLSTONE, Mrs. MURRAY, Mr. KERREY, Mr. CONRAD, Mr. DORGAN, and Mr. BAUCUS) proposed an amendment to the bill, S. 2159, supra; as follows:

On page 67, after line 23, add the following:

SEC. 7___. MARKETING ASSISTANCE LOANS.

(a) MARKETING ASSISTANCE LOANS.—

(1) LOAN RATES.—Notwithstanding section 132 of the Agricultural Market Transition Act (7 U.S.C. 7232), during fiscal year 1999, loan rates for a loan commodity (as defined in section 102 of that Act (7 U.S.C. 7202)) shall not be subject to any dollar limitation on loan rates prescribed under subsections (a)(1)(B), (b)(1)(B), (c)(2), (d)(2), (f)(1)(B), or (f)(2)(B) of that section.

(2) TERM OF LOAN.—Notwithstanding section 133(c) of the Agricultural Market Transition Act (7 U.S.C. 7233), during fiscal year 1999, the Secretary of Agriculture may extend the term of a marketing assistance loan for any loan commodity for a period not to exceed 6 months.

(b) EMERGENCY REQUIREMENT.—

(1) DESIGNATION BY CONGRESS.—Subject to paragraph (2), the entire amount of funds necessary to carry out this section is designated by Congress as an emergency requirement under section 252(e) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 902(e)).

(2) BUDGET REQUEST.—Funds shall be made available to carry out this section only to the extent that an official budget request that includes designation of the entire amount of the request as an emergency requirement for the purposes of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 900 et seq.) is transmitted by the President to Congress.

(c) TERMINATION OF EFFECTIVENESS.—

(1) IN GENERAL.—Subject to paragraph (2), the authority provided by this section terminates effective October 1, 1999.

(2) LOAN TERMS.—A marketing assistance loan made under subtitle C of the Agricultural Market Transition Act (7 U.S.C. 7231 et seq.) and subsection (a) shall be subject to the terms and conditions of the loan during the 15-month period beginning on October 1, 1998.

LIEBERMAN (AND DODD) AMENDMENT NO. 3147

Mr. BUMPERS (for Mr. LIEBERMAN for himself and Mr. DODD) proposed an amendment to the bill, S. 2159, supra; as follows:

On page 67, after line 23, add the following:

SEC. ___. ELIGIBILITY OF STATE AGRICULTURAL EXPERIMENT STATIONS FOR CERTAIN AGRICULTURAL RESEARCH PROGRAMS.

(a) FUND FOR RURAL AMERICA.—Section 793(c)(2)(B) of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 2204f(c)(2)(B)) is amended—

(1) in clause (iii), by striking "or" at the end;

(2) in clause (iv), by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following:

"(v) a State agricultural experiment station.".

(b) INITIATIVE FOR FUTURE AGRICULTURE AND FOOD SYSTEMS.—Section 401(d) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7621(d)) is amended—

(1) in paragraph (3), by striking "or" at the end;

(2) in paragraph (4), by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following:

"(5) a State agricultural experiment station.".

TROPICAL FOREST CONSERVATION ACT OF 1998

HELMS (AND OTHERS) AMENDMENT NO. 3148

Mr. ROBERTS (for Mr. HELMS for himself, Mr. BIDEN, and Mr. LUGAR) proposed an amendment to the bill (S. 1758) to amend the Foreign Assistance Act of 1961 to facilitate protection of tropical forests through debt reduction with developing countries with tropical forests; as follows:

On page 6, line 11, strike "continental" and insert "regional, continental,".

On page 11, line 7, strike "For the cost" and insert the following:

"(A) IN GENERAL.—For the cost".

On page 11, line 11, strike "(A)" and insert "(i)".

On page 11, line 12, strike "(B)" and insert "(ii)".

On page 11, line 13, strike "(C)" and insert "(iii)".

On page 11, between lines 13 and 14, insert the following:

"(B) LIMITATION.—The authority provided by this section shall be available only to the extent that appropriations for the cost (as defined in section 502(5) of the Federal Credit Reform Act of 1990) of the modification of any debt pursuant to this section are made in advance.

On page 15, line 2, insert "the lessor of" after "than".

On page 15, between lines 6 and 7, insert the following:

"(3) LIMITATION.—The authority provided by paragraphs (1) and (2) shall be available only to the extent that appropriations for the cost (as defined in section 502(5) of the Federal Credit Reform Act of 1990) of the modification of any debt pursuant to such paragraphs are made in advance.

On page 15, line 7, strike "(3)" and insert "(4)".

On page 15, line 12, strike "(4)" and insert "(5)".

On page 18, line 2, strike "agroforestry" and insert "forestry".

On page 18, line 16, strike "to provide grants to preserve" and insert "only to provide grants to conserve,".

On page 18, line 18, strike "including" and insert "through".

On page 19, lines 1 and 2, strike "strengthen conservation institutions and increase" and insert "increase the".

On page 19, strike lines 10 and 11.

On page 19, line 12, strike "(7)" and insert "(6)".

On page 19, line 14, strike ", including the cultures of such individuals,".

On page 19, line 21, insert "forestry," after "conservation,".

On page 22, line 7, strike "agricultural" and insert "forestry".

On page 23, line 5, insert "forestry," after "scientific,".

On page 23, line 7, insert "forestry," after "scientific,".

AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 1999

BAUCUS AMENDMENTS NOS. 3149–3150

(Ordered to lie on the table.)

Mr. BAUCUS submitted two amendments intended to be proposed by him to the bill, S. 2159, supra; as follows:

AMENDMENT NO. 3149

On page 14, line 17, after the semicolon insert "$550,000 for research at Montana State University into an effective delivery system for a genetically engineered vaccine for brucellosis;"

Amendment No. 3150

At the appropriate place, insert the following:

Agricultural Research Service

For research efforts of the Agricultural Research Service of the Department of Agriculture for counter-narcotics research activities, $13,000,000, of which—

(1) $5,000,000 shall be used for chemical and biological crop eradication technologies;

(2) $2,000,000 shall be used for narcotics plant identification, chemistry, and biotechnology;

(3) $1,000,000 shall be used for worldwide crop identification, detection, tagging, and production estimation technology; and

(4) $5,000,000 shall be used for improving the disease resistance, yield, and economic competitiveness of commercial crops that can be promoted as alternatives to the production of narcotics plants.

For a contract with a commercial entity for the product development, environmental testing, registration, production, aerial distribution system development, product effectiveness monitoring, and modification of multiple mycoherbicides to control narcotic crops (including coca, poppy, and cannabis), $10,000,000, except that the entity shall—

(1) to be eligible to enter into the contract, have—

(A) long-term international experience with diseases of narcotic crops.

(B) intellectual property involving seed-borne dispersal formulations;

(C) the availability of state-of-the-art containment or quarantine facilities;

(D) country-specific mycoherbicide formulations;

(E) specialized fungicide resistant formulations; and

(F) special security arrangements; and

(2) report to a member of the Senior Executive Service in the Department of Agriculture.

At the appropriate place, insert the following:

SEC. . MASTER PLAN FOR MYCOHERBICIDES TO CONTROL NARCOTIC CROPS.

(a) In General.—The Secretary of Agriculture shall develop a 10-year master plan for the use of mycoherbicides to control narcotic crops (including coca, poppy, and cannabis).

(b) Coordination.—The Secretary shall develop the plan in coordination with—

(1) the Office of National Drug Control Policy (ONDCP);

(2) the Bureau for International Narcotics and Law Enforcement Activities (INL) of the Department of State;

(3) the Drug Enforcement Administration (DEA) of the Department of Justice;

(4) the Department of Defense;

(5) the United States Information Agency (USIA); and

(6) other appropriate agencies.

(c) Report.—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit a report to Congress that describes the activities undertaken to carry out this section.

GRASSLEY AMENDMENTS NOS. 3151–3152

(Ordered to lie on the table.)

Mr. GRASSLEY submitted two amendments intended to be proposed by him to the bill, S. 2159, supra; as follows:

Amendment No. 3151

On page 67, after line 23, add the following:

SEC. 7___. SENSE OF THE SENATE CONCERNING APPROPRIATE ACTIONS TO BE TAKEN TO ALLEVIATE THE ECONOMIC EFFECT OF LOW COMMODITY PRICES.

It is the sense of the Senate that—

(1) Congress should pass and the President should sign S.1269, which would reauthorize fast-track trading authority for the President;

(2) Congress should pass and the President should sign S.2078, the Farm and Ranch Risk Management Act, which would allow farmers and ranchers to better prepare for fluctuations in the agricultural economy;

(3) the House of Representatives should follow the Senate and provide full funding for the International Monetary Fund;

(4) Congress should pass and the President should sign S.1413, the Enhancement of Trade Security and Human Rights Through Sanctions Reform Act, so that the agricultural economy of the United States is not harmed by sanctions on foreign trade;

(5) Congress should pass and the President should sign legislation providing normal trade relations status for China and continue to pursue normal trade relations with China;

(6) the House and Senate should continue to pursue a package of capital gains and estate tax reforms; and

(7) the House and Senate should pursue stronger oversight on genetically modified organism and biotechnology negotiations.

Amendment No. 3152

At the appropriate place, insert the following title:

SECTION 1. SHORT TITLE.

This title may be cited as the "Reciprocal Trade Agreements Act of 1997".

SEC. 2. TRADE NEGOTIATING OBJECTIVES OF THE UNITED STATES.

(a) Statement of Purposes.—The purposes of this Act are to achieve, through trade agreements affording mutual benefits—

(1) more open, equitable, and reciprocal market access for United States goods, services, and investment;

(2) the reduction or elimination of barriers and other trade-distorting policies and practices;

(3) a more effective system of international trading disciplines and procedures; and

(4) economic growth, higher living standards, and full employment in the United States, and economic growth and development among United States trading partners.

(b) Principal Trade Negotiating Objectives.—The principal trade negotiating objectives of the United States for agreements subject to the provisions of section 3 include the following:

(1) Reduction of barriers to trade in goods.—The principal negotiating objective of the United States regarding barriers to trade in goods is to obtain competitive opportunities for United States exports in foreign markets substantially equivalent to the opportunities afforded foreign exports to United States markets, including the reduction or elimination of tariff and nontariff trade barriers, including—

(A) tariff and nontariff disparities remaining from previous rounds of multilateral trade negotiations that have put United States exports at a competitive disadvantage in world markets;

(B) measures identified in the annual report prepared under section 181 of the Trade Act of 1974 (19 U.S.C. 2241); and

(C) tariff elimination for products identified in section 111(b) of the Uruguay Round Agreements Act (19 U.S.C. 3521(b)) and the accompanying Statement of Administrative Action related to that section.

(2) Trade in services.—

(A) The principal negotiating objectives of the United States regarding trade in services are—

(i) to reduce or eliminate barriers to, or other distortions of, international trade in services, including regulatory and other barriers that deny national treatment or unreasonably restrict the establishment and operation of service suppliers in foreign markets; and

(ii) to develop internationally agreed rules, including dispute settlement procedures, that—

(I) are consistent with the commercial policies of the United States, and

(II) will reduce or eliminate such barriers or distortions, and help ensure fair, equitable opportunities for foreign markets.

(B) In pursuing the negotiating objectives described in subparagraph (A), United States negotiators shall take into account legitimate United States domestic objectives, including protection of legitimate health, safety, essential security, environmental, consumer, and employment opportunity interests. The preceding sentence shall not be construed to authorize any modification of United States law.

(3) Foreign investment.—

(A) The principal negotiating objectives of the United States regarding foreign investment are—

(i) to reduce or eliminate artificial or trade-distorting barriers to foreign investment, to expand the principle of national treatment, and to reduce unreasonable barriers to establishment; and

(ii) to develop internationally agreed rules through the negotiation of investment agreements, including dispute settlement procedures, that—

(I) will help ensure a free flow of foreign investment, and

(II) will reduce or eliminate the trade distortive effects of certain trade-related investment measures.

(B) In pursuing the negotiating objectives described in subparagraph (A), United States negotiators shall take into account legitimate United States domestic objectives, including protection of legitimate health, safety, essential security, environmental, consumer, and employment opportunity interests. The preceding sentence shall not be construed to authorize any modification of United States law.

(4) Intellectual property.—The principal negotiating objectives of the United States regarding intellectual property are—

(A) to further promote adequate and effective protection of intellectual property rights, by—

(i) seeking the enactment and effective enforcement by foreign countries of laws that—

(I) recognize and adequately protect intellectual property, including copyrights, patents, trademarks, semiconductor chip layout designs, and trade secrets, and

(II) provide protection against unfair competition;

(ii) accelerating and ensuring the full implementation of the Agreement on Trade-Related Aspects of Intellectual Property Rights referred to in section 101(d)(15) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(15)), and achieving improvements in the standards of that Agreement;

(iii) providing strong protection for new and emerging technologies and new methods of transmitting and distributing products embodying intellectual property;

(iv) preventing or eliminating discrimination with respect to matters affecting the availability, acquisition, scope, maintenance, use, and enforcement of intellectual property rights; and

(v) providing for strong enforcement of intellectual property rights through accessible, expeditious, and effective civil, administrative, and criminal enforcement mechanisms;

(B) to secure fair, equitable, and nondiscriminatory market access opportunities for United States persons that rely on intellectual property protection; and

(C) to recognize that the inclusion in the WTO of—

(i) adequate and effective substantive norms and standards for the protection and enforcement of intellectual property rights, and

(ii) dispute settlement provisions and enforcement procedures,

is without prejudice to other complementary initiatives undertaken in other international organizations.

(5) Agriculture.—The principal negotiating objectives of the United States with respect to agriculture are, in addition to those set forth in section 1123(b) of the Food Security Act of 1985 (7 U.S.C. 1736r(b)), to achieve, on an expedited basis to the maximum extent feasible, more open and fair conditions of trade in agricultural commodities by—

(A) developing, strengthening, and clarifying rules for agricultural trade, including disciplines on restrictive or trade-distorting import and export practices such as those that would impact perishable or cyclical products;

(B) increasing United States agricultural exports by eliminating barriers to trade (including transparent and nontransparent barriers) and reducing or eliminating the subsidization of agricultural production consistent with the United States policy of agricultural stabilization in cyclical and unpredictable markets;

(C) creating a free and more open world agricultural trading system by resolving questions pertaining to export and other trade-distorting subsidies, market pricing, and market access;

(D) eliminating or reducing substantially other specific constraints to fair trade and more open market access, such as tariffs, quotas, and other nontariff practices; and

(E) developing, strengthening, and clarifying rules that address practices that unfairly decrease United States market access opportunities or distort agricultural markets to the detriment of the United States, including—

(i) unfair or trade-distorting activities of state trading enterprises and other administrative mechanisms, including lack of price transparency;

(ii) unjustified restrictions or commercial requirements affecting new technologies, including biotechnology;

(iii) unjustified sanitary or phytosanitary restrictions;

(iv) other unjustified technical barriers to trade; and

(v) restrictive rules in the administration of tariff-rate quotas.

(6) Unfair trade practices.—The principal negotiating objectives of the United States with respect to unfair trade practices are—

(A) to enhance the operation and effectiveness of the relevant Uruguay Round Agreements and any other agreements designed to define, deter, discourage the persistent use of, and otherwise discipline, unfair trade practices having adverse trade effects, including forms of subsidy and dumping not adequately disciplined, such as resource input subsidies, diversionary dumping, dumped or subsidized inputs, third country dumping, circumvention of antidumping or countervailing duty orders, and export targeting practices; and

(B) to obtain the enforcement of WTO rules against—

(i) trade-distorting practices of state trading enterprises, and

(ii) the acts, practices, or policies of any foreign government which, as a practical matter, unreasonably require that—

(I) substantial direct investment in the foreign country be made,

(II) intellectual property be licensed to the foreign country or to any firm of the foreign country, or

(III) other collateral concessions be made,

as a condition for the importation of any product or service of the United States into the foreign country or as a condition for carrying on business in the foreign country.

(7) Safeguards.—The principal negotiating objectives of the United States regarding safeguards are—

(A) to improve and expand rules and procedures covering safeguard measures;

(B) to ensure that safeguard measures are—

(i) transparent,

(ii) temporary,

(iii) degressive, and

(iv) subject to review and termination when no longer necessary to remedy injury and to facilitate adjustment; and

(C) to require notification of, and to monitor the use by, WTO members of import relief actions for their domestic industries.

(8) Improvement of the WTO and multilateral trade agreements.—The principal negotiating objectives of the United States regarding the improvement of the WTO and other multilateral trade agreements are—

(A) to improve the operation and extend the coverage of the WTO and such agreements to products, sectors, and conditions of trade not adequately covered; and

(B) to expand country participation in particular agreements, where appropriate.

(9) Dispute settlement.—The principal negotiating objectives of the United States with respect to dispute settlement are—

(A) to provide for effective and expeditious dispute settlement mechanisms and procedures in any trade agreement entered into under this authority; and

(B) to ensure that such mechanisms within the WTO and agreements concluded under the auspices of the WTO provide for more effective and expeditious resolution of disputes and enable better enforcement of United States rights.

(10) Transparency.—The principal negotiating objective of the United States regarding transparency is to obtain broader application of the principle of transparency through increased public access to information regarding trade issues, clarification of the costs and benefits of trade policy actions, and the observance of open and equitable procedures by United States trading partners and within the WTO.

(11) Developing countries.—The principal negotiating objectives of the United States regarding developing countries are—

(A) to ensure that developing countries promote economic development by assuming the fullest possible measure of responsibility for achieving and maintaining an open international trading system by providing reciprocal benefits and assuming equivalent obligations with respect to their import and export practices; and

(B) to establish procedures for reducing nonreciprocal trade benefits for the more advanced developing countries.

(12) Current account surpluses.—The principal negotiating objective of the United States regarding current account surpluses is to promote policies to address large and persistent global current account imbalances of countries (including imbalances which threaten the stability of the international trading system), by imposing greater responsibility on such countries to undertake policy changes aimed at restoring current account equilibrium through expedited implementation of trade agreements where feasible and appropriate.

(13) Access to high technology.—

(A) The principal negotiating objective of the United States regarding access to high technology is to obtain the elimination or reduction of foreign barriers to, and acts, policies, or practices by foreign governments which limit, equitable access by United States persons to foreign-developed technology, including barriers, acts, policies, or practices which have the effect of—

(i) restricting the participation of United States persons in government-supported research and development projects;

(ii) denying equitable access by United States persons to government-held patents;

(iii) requiring the approval of government entities, or imposing other forms of government intervention, as a condition of granting licenses to United States persons by foreign persons (other than approval which may be necessary for national security purposes to control the export of critical military technology); and

(iv) otherwise denying equitable access by United States persons to foreign-developed technology or contributing to the inequitable flow of technology between the United States and its trading partners.

(B) In pursuing the negotiating objective described in subparagraph (A), the United States negotiators shall take into account United States Government policies in licensing or otherwise making available to foreign persons technology and other information developed by United States laboratories.

(14) Border taxes.—The principal negotiating objective of the United States regarding border taxes is, within the WTO, to obtain a revision of the treatment of border adjustments for internal taxes in order to redress the disadvantage to countries that rely primarily on direct taxes rather than indirect taxes for revenue.

(15) Regulatory competition.—The principal trade negotiating objectives of the United States regarding the use of government regulation or other practices by foreign governments to provide a competitive advantage to their domestic producers, service providers, or investors and thereby reduce market access for United States goods, services, and investment are—

(A) to ensure that government regulation and other government practices do not unfairly discriminate against United States goods, services, or investment; and

(B) to prevent the use of foreign government regulation and other government practices, including the lowering of, or derogation from, existing labor (including child labor), health and safety, or environmental standards, for the purpose of attracting investment or inhibiting United States exports.

Nothing in subparagraph (B) shall be construed to authorize in an implementing bill, or in an agreement subject to an implementing bill, the inclusion of provisions that would restrict the autonomy of the United States in these areas.

(c) International Economic Policy Objectives Designed To Reinforce the Trade Agreements Process.—

(1) In general.—It is the policy of the United States to reinforce the trade agreements process by—

(A) fostering stability in international currency markets and developing mechanisms to assure greater coordination, consistency, and cooperation between international trade and monetary systems and institutions in order to protect against the trade consequences of significant and unanticipated currency movements;

(B) supplementing and strengthening standards for protection of intellectual property rights under conventions designed to protect such rights that are administered by international organizations other than the WTO, expanding the conventions to cover new and emerging technologies, and eliminating discrimination and unreasonable exceptions or preconditions to such protection;

(C) promoting respect for workers' rights, by—

(i) reviewing the relationship between workers' rights and the operation of international trading systems and specific trade arrangements; and

(ii) seeking to establish in the International Labor Organization (referred to in this Act as the "ILO") a mechanism for the systematic examination of, and reporting on, the extent to which ILO members promote and enforce the freedom of association, the right to organize and bargain collectively, a prohibition on the use of forced labor, a prohibition on exploitative child labor, and a prohibition on discrimination in employment; and

(D) expanding the production of goods and trade in goods and services to ensure the optimal use of the world's resources, while seeking to protect and preserve the environment and to enhance the international means for doing so.

(2) Application of procedures.—Nothing in this subsection shall be construed to authorize the use of the trade agreement approval procedures described in section 3 to modify United States law.

SEC. 3. TRADE AGREEMENT NEGOTIATING AUTHORITY.

(a) Agreements Regarding Tariff Barriers.—

(1) In general.—Whenever the President determines that 1 or more existing duties or other import restrictions of any foreign country or the United States are unduly burdening and restricting the foreign trade of the United States and that the purposes, policies, and objectives of this Act will be promoted thereby, the President—

(A) may enter into trade agreements with foreign countries before—

(i) October 1, 2001, or

(ii) October 1, 2005, if the authority provided by this Act is extended under subsection (c); and

(B) may, consistent with paragraphs (2) through (5), proclaim—

(i) such modification or continuance of any existing duty,

(ii) such continuance of existing duty-free or excise treatment, or

(iii) such additional duties,

as the President determines to be required or appropriate to carry out any such trade agreement.

(2) Limitations.—No proclamation may be made under paragraph (1) that—

(A) reduces any rate of duty (other than a rate of duty that does not exceed 5 percent ad valorem on the date of enactment of this Act) to a rate which is less than 50 percent of the rate of such duty that applies on such date of enactment;

(B) provides for a reduction of duty on an article to take effect on a date that is more than 10 years after the first reduction that is proclaimed to carry out a trade agreement with respect to such article; or

(C) increases any rate of duty above the rate that applied on the date of enactment of this Act.

(3) Aggregate reduction; exemption from staging.—

(A) Aggregate reduction.—Except as provided in subparagraph (B), the aggregate reduction in the rate of duty on any article which is in effect on any day pursuant to a trade agreement entered into under paragraph (1) shall not exceed the aggregate reduction which would have been in effect on such day if—

(i) a reduction of 3 percent ad valorem or a reduction of one-tenth of the total reduction, whichever is greater, had taken effect on the effective date of the first reduction proclaimed under paragraph (1) to carry out such agreement with respect to such article; and

(ii) a reduction equal to the amount applicable under clause (i) had taken effect at 1-year intervals after the effective date of such first reduction.

(B) Exemption from staging.—No staging under subparagraph (A) is required with respect to a rate reduction that is proclaimed under paragraph (1) for an article of a kind that is not produced in the United States. The United States International Trade Commission shall advise the President of the identity of articles that may be exempted from staging under this subparagraph.

(4) Rounding.—If the President determines that such action will simplify the computation of reductions under paragraph (3), the President may round an annual reduction by the lesser of—

(A) the difference between the reduction without regard to this paragraph and the next lower whole number; or

(B) one-half of 1 percent ad valorem.

(5) Other limitations.—A rate of duty reduction or increase that may not be proclaimed by reason of paragraph (2) may take effect only if a provision authorizing such reduction or increase is included within an implementing bill provided for under section 5 and that bill is enacted into law.

(6) Expanded tariff proclamation authority.—

(A) In general.—Notwithstanding the provisions of paragraphs (1) through (5), before October 1, 2001 (or before October 1, 2005, if the authority provided by this Act is extended under subsection (c)), and subject to the consultation and layover requirements of section 115 of the Uruguay Round Agreements Act (19 U.S.C. 3524) and the notification and consultation requirements of section 4(a) of this Act, the President may proclaim the modification of any duty or staged rate reduction of any duty set forth in Schedule XX, as defined in section 2(5) of the Uruguay Round Agreements Act, if the United States has agreed to such modification or staged rate reduction in a negotiation for the reciprocal elimination or harmonization of duties, within the same tariff categories, under the auspices of the World Trade Organization or as part of an interim agreement leading to the formation of a regional free-trade area.

(B) Notice required.—The modification or staged rate reduction authorized under subparagraph (A) with respect to any negotiation initiated after the date of enactment of this Act may be proclaimed only on articles in tariff categories with respect to which the President has provided notice in accordance with section 4(a).

(7) Tariff modifications under Uruguay Round Agreements Act.—Nothing in this subsection shall limit the authority provided to the President under section 111(b) of the Uruguay Round Agreements Act.

(b) Agreements Regarding Tariff and Nontariff Barriers.—

(1) In general.—

(A) Determination by President.—Whenever the President determines that—

(i) any duty or other import restriction imposed by any foreign country or the United States or any other barrier to, or other distortion of, international trade—

(I) unduly burdens or restricts the foreign trade of the United States or adversely affects the United States economy, or

(II) is likely to result in such a burden, restriction, or effect, and

(ii) the purposes, policies, and objectives of this Act will be promoted thereby,

the President may, before October 1, 2001 (or before October 1, 2005, if the authority provided under this Act is extended under subsection (c)) enter into a trade agreement described in subparagraph (B).

(B) Trade agreement described.—A trade agreement described in this subparagraph means an agreement with a foreign country that provides for—

(i) the reduction or elimination of such duty, restriction, barrier, or other distortion; or

(ii) the prohibition of, or limitation on the imposition of, such barrier or other distortion.

(2) Conditions.—A trade agreement may be entered into under this subsection only if—

(A) such agreement makes progress in meeting the applicable objectives described in section 2(b); and

(B) the President satisfies the conditions set forth in section 4 with respect to such agreement.

(3) Bills qualifying for trade agreement approval procedures.—The provisions of section 151 of the Trade Act of 1974 (in this Act referred to as "trade agreement approval procedures") apply to implementing bills submitted with respect to trade agreements entered into under this subsection, except that, for purposes of applying section 151(b)(1), such implementing bills shall contain only—

(A) provisions that approve a trade agreement entered into under this subsection that achieves one or more of the principal negotiating objectives set forth in section 2(b) and the statement of administrative action (if any) proposed to implement such trade agreement;

(B) provisions that are—

(i) necessary to implement such agreement; or

(ii) otherwise related to the implementation, enforcement, and adjustment to the effects of such trade agreement and are directly related to trade; and

(C) provisions necessary for purposes of complying with section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 in implementing the applicable trade agreement.

(c) Extension Procedures.—

(1) In general.—Except as provided in section 5(b)—

(A) subsections (a) and (b) shall apply with respect to agreements entered into before October 1, 2001; and

(B) subsections (a) and (b) shall be extended to apply with respect to agreements entered into on or after October 1, 2001, and before October 1, 2005, if (and only if)—

(i) the President requests such extension under paragraph (2); and

(ii) neither House of Congress adopts an extension disapproval resolution under paragraph (5) before October 1, 2001.

(2) Report to Congress by the President.—If the President is of the opinion that the authority under subsections (a) and (b) should be extended, the President shall submit to Congress, not later than July 1, 2001, a written report that contains a request for such extension, together with—

(A) a description of all trade agreements that have been negotiated under subsections (a) and (b) and, where applicable, the anticipated schedule for submitting such agreements to Congress for approval;

(B) a description of the progress that has been made in negotiations to achieve the purposes, policies, and objectives set out in section 2 (a) and (b) of this Act, and a statement that such progress justifies the continuation of negotiations; and

(C) a statement of the reasons why the extension is needed to complete the negotiations.

(3) Report to Congress by the Advisory Committee.—The President shall promptly inform the Advisory Committee for Trade Policy and Negotiations established under section 135 of the Trade Act of 1974 (19 U.S.C. 2155) of the President's decision to submit a report to Congress under paragraph (2). The Advisory Committee shall submit to Congress as soon as practicable, but not later than August 1, 2001, a written report that contains—

(A) its views regarding the progress that has been made in negotiations to achieve the purposes, policies, and objectives of this Act; and

(B) a statement of its views, and the reasons therefor, regarding whether the extension requested under paragraph (2) should be approved or disapproved.

(4) Reports may be classified.—The reports submitted to Congress under paragraphs (2) and (3), or any portion of the reports, may be classified to the extent the President determines appropriate.

(5) Extension disapproval resolutions.—

(A) In general.—For purposes of this subsection, the term "extension disapproval resolution" means a resolution of either House of Congress, the sole matter after the resolving clause of which is as follows: "That the ______ disapproves the request of the President for an extension, under section 3(c) of the Reciprocal Trade Agreements Act of 1997, of ____________ after September 30, 2001.", with the first blank space being filled with the name of the resolving House of Congress and the second blank space being filled with one or both of the following phrases: "the tariff proclamation authority provided under section 3(a) of the Reciprocal Trade Agreements Act of 1997" or "the trade agreement approval procedures provided under section 3(b) of the Reciprocal Trade Agreements Act of 1997".

(B) Introduction and referral.—Extension disapproval resolutions—

(i) may be introduced in either House of Congress by any member of such House;

(ii) shall be jointly referred, in the House of Representatives, to the Committee on Ways and Means and the Committee on Rules; and

(iii) shall be referred, in the Senate, to the Committee on Finance.

(C) Floor consideration.—The provisions of sections 152(d) and (e) of the Trade Act of 1974 (19 U.S.C. 2192(d) and (e)) (relating to the floor consideration of certain resolutions in the House and Senate) apply to extension disapproval resolutions.

(D) Committee action required.—It is not in order for—

(i) the Senate to consider any extension disapproval resolution not reported by the Committee on Finance;

(ii) the House of Representatives to consider any extension disapproval resolution not reported by the Committee on Ways and Means and the Committee on Rules; or

(iii) either House of Congress to consider an extension disapproval resolution after September 30, 2001.

SEC. 4. NOTICE AND CONSULTATIONS.

(a) Notice and Consultation Before Negotiation.—With respect to any agreement subject to the provisions of section 3 (a) or (b), the President shall—

(1) not later than 90 calendar days before initiating negotiations, provide written notice to Congress regarding—

(A) the President's intent to initiate the negotiations;

(B) the date the President intends to initiate such negotiations;

(C) the specific United States objectives for the negotiations; and

(D) whether the President intends to seek an agreement or changes to an existing agreement;

(2) consult regarding the negotiations—

(A) before and promptly after submission of the notice described in paragraph (1), with the Committee on Finance of the Senate, the Committee on Ways and Means of the House of Representatives, and such other committees of the House and Senate as the President deems appropriate; and

(B) with any other committee that requests consultations in writing; and

(3) consult with the appropriate industry sector advisory groups established under section 135 of the Trade Act of 1974 before initiating negotiations.

(b) Consultation With Congress Before Agreement Entered Into.—

(1) Consultation.—Before entering into any trade agreement under section 3 (a) or (b), the President shall consult with—

(A) the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate; and

(B) each other committee of the House and the Senate, and each joint committee of Congress, which has jurisdiction over legislation involving subject matters that would be affected by the trade agreement.

(2) Scope.—The consultation described in paragraph (1) shall include consultation with respect to—

(A) the nature of the agreement;

(B) how and to what extent the agreement will achieve the applicable purposes, policies, and objectives of this Act;

(C) where applicable, the implementation of the agreement under section 5, including whether the agreement includes subject matter for which supplemental implementing legislation may be required which is not subject to trade agreement approval procedures; and

(D) any other agreement the President has entered into or intends to enter into with the country or countries in question.

(c) Advisory Committee Reports.—The report required under section 135(e)(1) of the Trade Act of 1974 regarding any trade agreement entered into under section 3(b) of this Act shall be provided to the President, Congress, and the United States Trade Representative not later than 30 calendar days after the date on which the President notifies Congress under section 5(a)(1)(A) of the President's intention to enter into the agreement.

(d) Consultation Before Agreement Initialed.—In the course of negotiations conducted under this Act, the United States Trade Representative shall consult closely and on a timely basis (including immediately before initialing an agreement) with, and keep fully apprised of the negotiations, the congressional advisers for trade policy and negotiations appointed under section 161 of the Trade Act of 1974 (19 U.S.C. 2211), the Committee on Finance of the Senate, and the Committee on Ways and Means of the House of Representatives.

SEC. 5. IMPLEMENTATION OF TRADE AGREEMENTS.

(a) In General.—

(1) Notification and submission.—Any agreement entered into under section 3(b) shall enter into force with respect to the United States if (and only if)—

(A) the President, at least 90 calendar days before the day on which the President enters into the trade agreement, notifies the House of Representatives and the Senate of the President's intention to enter into the agreement, and promptly thereafter publishes notice of such intention in the Federal Register;

(B) within 60 calendar days after entering into the agreement, the President submits to Congress a description of those changes to existing laws that the President considers would be required in order to bring the United States into compliance with the agreement;

(C) after entering into the agreement, the President submits a copy of the final legal text of the agreement, together with—

(i) a draft of an implementing bill described in section 3(b)(3);

(ii) a statement of any administrative action proposed to implement the trade agreement; and

(iii) the supporting information described in paragraph (2); and

(D) the implementing bill is enacted into law.

(2) Supporting information.—The supporting information required under paragraph (1)(C)(iii) consists of—

(A) an explanation as to how the implementing bill and proposed administrative action will change or affect existing law; and

(B) a statement—

(i) asserting that the agreement makes progress in achieving the applicable purposes, policies, and objectives of this Act; and

(ii) setting forth the reasons of the President regarding—

(I) how and to what extent the agreement makes progress in achieving the applicable purposes, policies, and objectives referred to in clause (i), and why and to what extent the agreement does not achieve other applicable purposes, policies, and objectives;

(II) whether and how the agreement changes provisions of an agreement previously negotiated;

(III) how the agreement serves the interests of United States commerce;

(IV) why the implementing bill qualifies for trade agreement approval procedures under section 3(b)(3); and

(V) any proposed administrative action.

(3) Reciprocal benefits.—To ensure that a foreign country which receives benefits

under a trade agreement entered into under section 3 (a) or (b) is subject to the obligations imposed by such agreement, the President shall recommend to Congress in the implementing bill and statement of administrative action submitted with respect to such agreement that the benefits and obligations of such agreement apply solely to the parties to such agreement, if such application is consistent with the terms of such agreement. The President may also recommend with respect to any such agreement that the benefits and obligations of such agreement not apply uniformly to all parties to such agreement, if such application is consistent with the terms of such agreement.

(b) Limitations on Trade Agreement Approval Procedures.—

(1) Disapproval of the negotiation.—The trade agreement approval procedures shall not apply to any implementing bill that contains a provision approving any trade agreement that is entered into under section 3(b) with any foreign country if the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives disapprove of the negotiation of the agreement before the close of the 90-calendar day period that begins on the date notice is provided under section 4(a)(1) with respect to the negotiation of such agreement.

(2) For lack of notice or consultations.—

(A) In general.—The trade agreement approval procedures shall not apply to any implementing bill submitted with respect to a trade agreement entered into under section 3(b) if during the 60-day period beginning on the date that one House of Congress agrees to a procedural disapproval resolution for lack of notice or consultations with respect to that trade agreement, the other House separately agrees to a procedural disapproval resolution with respect to that agreement.

(B) Procedural disapproval resolution.—For purposes of this paragraph, the term "procedural disapproval resolution" means a resolution of either House of Congress, the sole matter after the resolving clause of which is as follows: "That the President has failed or refused to notify or consult (as the case may be) with Congress in accordance with sections 4 and 5 of the Reciprocal Trade Agreements Act of 1997 with respect to   and, therefore, the trade agreement approval procedures set forth in section 3(b) of that Act shall not apply to any implementing bill submitted with respect to that trade agreement.", with the blank space being filled with a description of the trade agreement with respect to which the President is considered to have failed or refused to notify or consult.

(C) Computation of certain periods of time.—The 60-day period of time described in subparagraph (A) shall be computed without regard to—

(i) the days on which either House of Congress is not in session because of an adjournment of more than 3 days to a day certain or an adjournment of the Congress sine die; and

(ii) any Saturday and Sunday, not excluded under clause (i), when either House of Congress is not in session.

(3) Procedures for considering procedural disapproval resolutions.—

(A) Procedural disapproval resolutions.—Procedural disapproval resolutions—

(i) in the House of Representatives—

(I) shall be introduced by the chairman or ranking minority member of the Committee on Ways and Means or the chairman or ranking minority member of the Committee on Rules;

(II) shall be jointly referred to the Committee on Ways and Means and the Committee on Rules; and

(III) may not be amended by either Committee; and

(ii) in the Senate shall be original resolutions of the Committee on Finance.

(B) Floor consideration.—The provisions of section 152 (d) and (e) of the Trade Act of 1974 (19 U.S.C. 2192 (d) and (e)) (relating to the floor consideration of certain resolutions in the House and Senate) apply to procedural disapproval resolutions.

(C) Committee action required.—

(i) House of representatives.—It is not in order for the House of Representatives to consider any procedural disapproval resolution not reported by the Committee on Ways and Means and the Committee on Rules.

(ii) Senate.—It is not in order for the Senate to consider any procedural disapproval resolution not reported by the Committee on Finance.

(c) Rules of House of Representatives and Senate.—Subsection (b) of this section and section 3(c) are enacted by Congress—

(1) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such are deemed a part of the rules of each House, respectively, and such procedures supersede other rules only to the extent that they are inconsistent with such other rules; and

(2) with the full recognition of the constitutional right of either House to change the rules (so far as relating to the procedures of that House) at any time, in the same manner, and to the same extent as any other rule of that House.

SEC. 6. TREATMENT OF CERTAIN TRADE AGREEMENTS.

(a) In General.—Notwithstanding section 3(a)(6)(B) and section 3(b)(2), the provisions of section 4(a) shall not apply with respect to agreements that result from—

(1) negotiations under the auspices of the World Trade Organization regarding trade in information technology products;

(2) negotiations or work programs initiated pursuant to a Uruguay Round Agreement, as defined in section 2 of the Uruguay Round Agreements Act; or

(3) negotiations with Chile,

that were commenced before the date of enactment of this Act, and the applicability of trade agreement approval procedures with respect to such agreements shall be determined without regard to the requirements of section 4(a).

(b) Procedural Disapproval Resolution Not In Order.—A procedural disapproval resolution under section 5(b) shall not be in order with respect to an agreement described in subsection (a) of this section based on a failure or refusal to comply with section 4(a).

SEC. 7. CONFORMING AMENDMENTS.

(a) In General.—Title I of the Trade Act of 1974 (19 U.S.C. 2111 et seq.) is amended as follows:

(1) Implementing bill.—

(A) Section 151(b)(1) (19 U.S.C. 2191(b)(1)) is amended—

(i) by striking "section 1103(a)(1) of the Omnibus Trade and Competitiveness Act of 1988, or section 282 of the Uruguay Round Agreements Act" and inserting "section 282 of the Uruguay Round Agreements Act, or section 5(a)(1) of the Reciprocal Trade Agreements Act of 1997"; and

(ii) by adding after subparagraph (C) the following flush sentence:

"For purposes of applying this paragraph to implementing bills submitted with respect to trade agreements entered into under section 3(b) of the Reciprocal Trade Agreements Act of 1997, subparagraphs (A), (B), and (C) of section 3(b)(3) of such Act shall be substituted for subparagraphs (A), (B), and (C) of this paragraph.".

(B) Section 151(c)(1) (19 U.S.C. 2191(c)(1)) is amended by striking "or section 282 of the Uruguay Round Agreements Act" and inserting ", section 282 of the Uruguay Round Agreements Act, or section 5(a)(1) of the Reciprocal Trade Agreements Act of 1997".

(2) Advice from international trade commission.—Section 131 (19 U.S.C. 2151) is amended—

(A) in subsection (a)—

(i) in paragraph (1), by striking "section 123 of this Act or section 1102 (a) or (c) of the Omnibus Trade and Competitiveness Act of 1988," and inserting "section 123 of this Act or section 3 (a) or (b) of the Reciprocal Trade Agreements Act of 1997,"; and

(ii) in paragraph (2), by striking "section 1102 (b) or (c) of the Omnibus Trade and Competitiveness Act of 1988" and inserting "section 3(b) of the Reciprocal Trade Agreements Act of 1997";

(B) in subsection (b), by striking "section 1102(a)(3)(A)" and inserting "section 3(a)(3)(A) of the Reciprocal Trade Agreements Act of 1997" before the end period; and

(C) in subsection (c), by striking "section 1102 of the Omnibus Trade and Competitiveness Act of 1988," and inserting "section 3 of the Reciprocal Trade Agreements Act of 1997,".

(3) Hearings and advice.—Sections 132, 133(a), and 134(a) (19 U.S.C. 2152, 2153(a), and 2154(a)) are each amended by striking "section 1102 of the Omnibus Trade and Competitiveness Act of 1988," each place it appears and inserting "section 3 of the Reciprocal Trade Agreements Act of 1997,".

(4) Prerequisites for offers.—Section 134(b) (19 U.S.C. 2154(b)) is amended by striking "section 1102 of the Omnibus Trade and Competitiveness Act of 1988" and inserting "section 3 of the Reciprocal Trade Agreements Act of 1997".

(5) Advice from private and public sectors.—Section 135 (19 U.S.C. 2155) is amended—

(A) in subsection (a)(1)(A), by striking "section 1102 of the Omnibus Trade and Competitiveness Act of 1988" and inserting "section 3 of the Reciprocal Trade Agreements Act of 1997";

(B) in subsection (e)(1)—

(i) by striking "section 1102 of the Omnibus Trade and Competitiveness Act of 1988" each place it appears and inserting "section 3 of the Reciprocal Trade Agreements Act of 1997"; and

(ii) by striking "section 1103(a)(1)(A) of such Act of 1988" and inserting "section 5(a)(1)(A) of the Reciprocal Trade Agreements Act of 1997"; and

(C) in subsection (e)(2), by striking "the applicable overall and principal negotiating objectives set forth in section 1101 of the Omnibus Trade and Competitiveness Act of 1988" and inserting "the purposes, policies, and objectives set forth in section 2 (a) and (b) of the Reciprocal Trade Agreements Act of 1997".

(6) Transmission of agreements to congress.—Section 162(a) (19 U.S.C. 2212(a)) is amended by striking "or under section 1102 of the Omnibus Trade and Competitiveness Act of 1988" and inserting "or under section 3 of the Reciprocal Trade Agreements Act of 1997".

(b) Application of Certain Provisions.—For purposes of applying sections 125, 126, and 127 of the Trade Act of 1974 (19 U.S.C. 2135, 2136(a), and 2137)—

(1) any trade agreement entered into under section 3 shall be treated as an agreement entered into under section 101 or 102, as appropriate, of the Trade Act of 1974 (19 U.S.C. 2111 or 2112); and

(2) any proclamation or Executive order issued pursuant to a trade agreement entered into under section 3 shall be treated as a proclamation or Executive order issued pursuant to a trade agreement entered into under section 102 of the Trade Act of 1974.

SEC. 8. TRADE ADJUSTMENT ASSISTANCE.

(a) Authorization of Appropriations.—

(1) In general.—Section 245 of the Trade Act of 1974 (19 U.S.C. 2317) is amended—

(A) in subsection (a), by striking "1993, 1994, 1995, 1996, 1997, and" and inserting "1999, and 2000," after "1998,"; and

(B) in subsection (b), by striking "1994, 1995, 1996, 1997, and" and inserting "1999, and 2000," after "1998,".

(2) Assistance for firms.—Section 256(b) of the Trade Act of 1974 (19 U.S.C. 2346(b)) is amended by striking "1993, 1994, 1995, 1996, 1997, and" and inserting ", 1999, and 2000," after "1998".

(b) Termination.—Section 285(c) of the Trade Act of 1974 (19 U.S.C. 2271 note preceding) is amended—

(1) in paragraph (1), by striking "1998" and inserting "2000"; and

(2) in paragraph (2)(A), by striking "the day that is" and all that follows through "effective" and inserting "September 30, 2000".

SEC. 9. FEES FOR CERTAIN CUSTOMS SERVICES.

Section 13031(b)(1)(C) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(b)(1)(C)) is amended by striking "to fiscal years" and all that follows through "1997" and inserting "before September 1, 1998".

SEC. 10. DEFINITIONS.

In this Act:

(1) Distortion.—The term "distortion" includes, but is not limited to, a subsidy.

(2) Trade.—The term "trade" includes, but is not limited to—

(A) trade in both goods and services; and

(B) foreign investment by United States persons, especially if such investment has implications for trade in goods and services.

(3) Uruguay round agreements.— The term "Uruguay Round Agreements" has the meaning given such term in section 2(7) of the Uruguay Round Agreements Act (19 U.S.C. 3501(7).

(4) World trade organization.—The term "World Trade Organization" means the organization established pursuant to the WTO Agreement.

(5) WTO agreement.—The term "WTO Agreement" means the Agreement Establishing the World Trade Organization entered into on April 15, 1994.

(6) WTO and wto member.—The terms "WTO" and "WTO member" have the meanings given those terms in section 2 of the Uruguay Round Agreements Act (19 U.S.C. 3501).

COVERDELL AMENDMENT NO. 3153

(Ordered to lie on the table.)

Mr. COVERDELL submitted an amendment intended to be proposed by him to the bill, S. 2159, supra; as follows:

On page 14, line 17, strike "in all, $434,782,000" and insert "$550,000 for research to detect or prevent colonization of E. coli:0157H7 in live cattle; in all, $435,332,000".

On page 49, line 23, strike "$131,795,000" and insert "$131,245,000".

NOTICES OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MURKOWSKI. Mr. President, I would like to announce for the public that the hearing regarding H.R. 856, a bill to provide a process leading to full self-government for Puerto Rico; and S. 472, a bill to provide for referenda in which the residents of Puerto Rico may express democratically their preferences regarding the political status of the territory, and for other purposes, which began Tuesday, July 14 will continue on Wednesday, July 15 at 9:00 a.m. in room SH-216 of the Hart Senate Office Building in Washington, DC.

For further information, please call Jim Beirne (202)-224-2564) or Betty Nevitt (202-224-0765).

SUBCOMMITTEE ON FORESTS AND PUBLIC LAND MANAGEMENT

Mr. CRAIG. Mr. President, I would like to announce for the public that the previously announced hearing by the Subcommittee on Forests and Public Land Management of the Senate Committee on Energy and Natural Resources for July 21, 1998 has been postponed.

The hearing was scheduled to take place Tuesday, July 21, 1998, at 2:30 p.m. in room SD-366 of the Dirksen Senate Office Building in Washington, DC to receive testimony on S. 1964, the Ivanpah Valley Airport Public Land Transfer Act.

For further information, please call Amie Brown or Mike Menge (202) 224-6170.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MURKOWSKI. Mr. President, I would like to announce that a full committee hearing has been scheduled before the Committee on Energy and Natural Resources.

The hearing will take place Thursday, July 23, 1998, at 9:30 a.m. in room SD-366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of this hearing is to conduct oversight on the results of the Arctic National Wildlife Refuge, 1002 Area, Petroleum Assessment, 1998, conducted by the United States Geological Survey.

Those who wish to submit written testimony should write to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510. Presentation of oral testimony is by Committee invitation only. For further information, please contact Jo Meuse or Brian Malnak at (202) 224-6730.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Committee on energy and Natural Resources be granted permission to meet during the session of the Senate on Tuesday, July 14, for purposes of conducting a full committee hearing which is scheduled to begin at 9:30 a.m. The purpose of this hearing is to receive testimony on H.R. 856, a bill to provide a process leading to full self-government for Puerto Rico; and S. 472, a bill to provide for referenda in which the residents of Puerto Rico may express democratically their preferences regarding the political status of the territory, and for other purposes.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. COCHRAN. Mr. President, the Finance Committee requests unanimous consent to conduct a hearing on Tuesday, July 14, 1998 beginning at 9:30 a.m. in room 215 Dirksen.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Tuesday, July 14, 1998 at 2:00 p.m. to hold a closed business meeting.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON EAST ASIAN AND PACIFIC AFFAIRS

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Subcommittee on East Asian and Pacific Affairs be authorized to meet during the session of the Senate on Tuesday, July 14, 1998 at 10:00 a.m. to hold a hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Subcommittee on Transportation and Infrastructure be granted permission to conduct a hearing Tuesday, July 14, 9:30 a.m., hearing room (SD-406), on S. 1647, to reauthorize and make reforms to programs authorized by the Public Works and Economic Development Act of 1965, and other pending legislation to reauthorize.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON WATER AND POWER

Mr. COCHRAN. Mr. President, I ask unanimous consent that the Subcommittee on Water and Power of the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Tuesday, July 14, for purposes of conducting a subcommittee hearing which is scheduled to begin at 2:30 p.m. The purpose of this hearing is to receive testimony on S. 1515, the Dakota Water Resources Act of 1997; S. 2111, a bill to establish the conditions under which the Bonneville Power Administration and certain Federal agencies may enter into a memorandum of agreement concerning management of the Columbia/Snake River Basin, to direct the Secretary of the Interior to appoint an advisory committee to make recommendations regarding activities under the memorandum of understanding, and for other purposes; and S. 2117, the Perkins County Rural Water System Act of 1997.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

TRIBUTE TO ROLAND W. CULPEPPER, JR.

• Mr. WARNER. Mr. President, I rise today to honor the retirement of Roland W. Culpepper, Jr., an extraordinary individual who has rendered thirty-three years of civil service not only to the Commonwealth of Virginia, but also to the nation.

Mr. Culpepper, who resides in Chesapeake, Virginia, with his wife, Shirley, will soon enter into retirement after a lifetime of service in the Norfolk District of the United States Army Corps of Engineers.

During his time in the Norfolk District, Mr. Culpepper's expertise and professionalism facilitated his ascendance to the Chief of Programs and Project Management. His responsibilities included full delegated authority for the Norfolk District's Civil Works, Military, Environmental and Support for Others programs and projects. Preceding his duties as the Chief of Programs and Project Management, Mr. Culpepper spent a full twelve years as Chief, Plan Formulation Branch where he was responsible for the management of several large comprehensive water resources studies which led to Congressional-authorized projects. Afterwards, Mr. Culpepper moved to the administrative level within the Norfolk District as the Deputy Chief of the Planning and subsequently, served as Chief, Planning Division in 1986.

Throughout his thirty-three year career as a professional engineer, Mr. Culpepper has received numerous awards and distinctions in recognition of his exceptional career. Among them, Mr. Culpepper has received the Meritorious Civilian Service Award, the Commander's Award for Civilian Service, and the Engineer of the Year Award. Further distinguishing his performance is Mr. Culpepper's graduation from the Executive Development Program for the Engineers and Scientists Career Program in 1993.

Mr. President, Mr. Culpepper's thirty-three years of exceptional service, his numerous awards, and his distinguished education serve as testament of his dedication to the environmental improvement of the Commonwealth of Virginia and our country. I urge my colleagues to stand and join me in paying tribute to Roland W. Culpepper, Jr., and in wishing him happiness and contentment in his well-deserved retirement.•

CONFERENCE REPORT ON THE IRS REFORM AND RESTRUCTURING BILL (H.R. 2676)

• Mr. CLELAND. Mr. President, as we approached the final Senate vote on H.R. 2676, the IRS Reform and Restructuring bill, I was reminded of Dickens' "A Tale of Two Cities". As a conferee on this badly needed piece of legislation, I am led to observe that it is the best of bills, it is the worst of bills.

In its germane provisions reforming the operations of the Internal Revenue Service it represents the best of Congress in identifying and enacting legislation to address the real needs of American citizens. But in its last minute, secretive addition of several extraneous matters, most notably the ISTEA technical corrections, it represents the Congress at its worst in circumventing public debate and scrutiny.

In its putting the emphasis on the "Service" part of the IRS it demonstrates the best of policy-making in pursuit of the public interest which should be the focus of our efforts as national legislators. But, it also demonstrates the worst of our process in that in our haste to get something done rapidly, before the July 4 break, we are willing to cut some corners on important matters of national security.

Mr. President, I support, 100 percent, the public's right to know when a federal agency abuses a taxpayer, and I support the public's demand for a remedy to that intolerable situation. I was extremely proud to have been chosen to serve as a member of the conference committee on the IRS bill. Chairman ROTH, Vice Chairman ARCHER, Senator MOYNIHAN, Congressman RANGEL, and the remaining conferees from the Senate Finance Committee and the House Ways and Means Committee did yeoman's work in crafting one of the most significant acts of the 105th Congress—the IRS Reform and Restructuring bill.

This is groundbreaking legislation which recreates the IRS and puts in place dramatic changes which will make the agency more accountable to the American taxpayer. This bill revives the original purpose of the Internal Revenue Service: to collect tax revenue while providing the assistance and service taxpayers deserve.

Most importantly, taxpayers will receive overdue rights under the IRS Reform and Restructuring Act. Under the new law, the burden of proof will lie with the IRS, and taxpayers' rights in recovering civil damages as a result of unacceptable collection practices by the IRS will be expanded. An "innocent spouse" provision is also contained in this legislation. This provides that all understated tax is transferred to the culpable spouse. Also, for couples who are divorced or have been legally separated for more than 12 months, taxpayers are only liable for the deficiency that is attributable to their income reporting. This is an important provision for those who have burdened with a tax bill for which they are not responsible.

This conference report also reorganizes the tax collecting agency around the idea of taxpayer service. Knowledgeable employees who are specialized in meeting the needs of specific taxpayer categories—like individuals, small businesses, and corporations—will be available to answer taxpayers' questions. And, the IRS Commissioner will have some hiring flexibility to offer special packages to qualified, successful private sector employees who will increase the professionalism and responsiveness of the agency.

Because of these and other needed improvements, I endorse the IRS Reform and Restructuring Act, and despite some misgivings I am about to enunciate, I will vote for the adoption of the conference report. However, I did not sign the report because, at the last minute, extraneous material was tacked on to this landmark legislation. Out of the blue, and without being considered in either the House or Senate bill, the ISTEA technical corrections bill was included as part of the IRS conference report. Through this maneuver, Senator ROCKEFELLER was prevented from offering his amendment on the floor of the Senate to correct an injustice done to disabled veterans with smoking-related disabilities in the original ISTEA reauthorization bill. Through this maneuver, the Senate and the American people were denied the opportunity for open debate and an up-or-down vote on an issue affecting America's veterans who put their life on the line for this nation.

Justice Louis Brandeis once said, "Publicity is justly commended as a remedy for social and industrial diseases. Sunlight is said to be the best of disinfectants; electric light the most efficient policeman." I could not vote to report out of committee the conference report because it runs counter to the open door, public process by which Congress should responsibly pass our laws. Sadly, all too often conference committees are the vehicle by which lawmakers fast-track controversial measures behind closed doors in order to avoid unpopular votes. There are no fingerprints. Issues which were not in the House-passed bill, not in the Senate-passed bill, too often mysteriously appear in the final conference report. Where is our accountability as the legislators of this country?

However, though I will vote for this conference report because on balance it is good legislation which American taxpayers need and deserve, I want to make it crystal clear that this issue of appropriate compensation to veterans with smoking-related disabilities will NOT go away. When we come back into session after the July 4 break, I will work with Sen. ROCKEFELLER, and others, to correct the injustice done to our veterans in the ISTEA reauthorization bill. Specifically, I believe we need to strike the veterans' disability compensation offset which was included in the President's budget and in the ISTEA bill as more of budget-saving device rather than as a clearly considered matter of veterans' benefit policy.

On another front, I am also troubled by two provisions in this conference report which I believe, unintentionally, compromise the security of our nation. The first provision removes the lawful ability of the President, and most Cabinet members, to start or stop an audit or investigation of a taxpayer. Make no mistake: we all condemn the misuse of power to halt legitimate investigations or audits. But the lack of an exemption in the case of national security and law enforcement jeopardizes critical efforts to protect American citizens. It is my understanding that the Department of Justice has stated that the provision is unconstitutional.

I have similar concerns about the second provision, which carves out an exception to the Inspector General statute, so that the Secretary of the Treasury is prohibited from exercising his authority to stop an investigation by the Tax IG when national security or law enforcement issues are at stake. The Treasury Department and the Central Intelligence Agency are both opposed to this provision.

I worked with the other conferees to try to work out these national security problems but ultimately those efforts fell short because of time constraints.

On balance, though, I support, enthusiastically, H.R. 2676, the IRS Reform and Restructuring Act. It will significantly improve the position of American taxpayers in their dealings with the IRS. But I abhor the closed door process by which the ISTEA technical corrections bill was attached. However, this and the national security flaws are correctable, if not now on this legislation, then certainly before the Senate adjourns for the year. I pledge my efforts to achieve that goal.•

PARTIAL BIRTH ABORTION

• Mr. ABRAHAM. Mr. President, a recent, near-tragic incident has come to my attention; an incident which in my view casts significant light on the debate over partial birth abortion.

According to the Associated Press, on June 30 of this year Dr. John Biskind delivered a full-term baby girl. Unfortunately, this little girl was almost killed. She suffered cuts to her face and a skull fracture. Officials have refused to comment on her condition. She is scheduled to be adopted by a Texas couple, so it is my hope that she will experience a full recovery.

But we should not lose track of the cause of her injuries: Dr. Biskind attempted to perform a partial birth abortion. The 17 year-old mother had come to Dr. Biskind's A-Z Women's Center seeking an abortion. The clinic performed an ultrasound, determining that what they had here was a 23.6 week fetus, and determined to perform a partial birth abortion.

Dr. Biskind thought he was performing this inhuman procedure on a fetus two thirds of the way to term. That would be bad enough. But in fact Dr. Biskind's clinic made an unbelievable mistake in the ultrasound. The girl actually was approaching full term. And Dr. Biskind did not realize this fact until he already had begun aborting her.

This is astounding, Mr. President. According to Dr. Carolyn Gerster, a Phoenix physician and chairman of Arizona Right to Life, a 24-week-old fetus weighs an average of 2 pounds, whereas a 36 week-old fetus weighs about 6 and a half pounds. As Dr. Gerster commented, "I don't know how such a grave error could be made in estimating the size. There shouldn't be that kind of discrepancy in an ultrasound. It's horrendous."

Horrendous indeed, Mr. President. But this was not the first horrendous mistake made by this abortionist. Dr. Biskind was censured by the medical board in 1996 when a patient bled to death after undergoing an abortion. He also was reprimanded in 1989 for misdiagnosis or mistreatment of a patient, and in 1990 for improperly prescribing drugs. A similar complaint was dismissed in 1994.

This incident, and Dr. Biskind's deplorable record as a physician, cast an ugly light on an unfortunate procedure. Too many women in America are being subjected to partial birth abortions. Whatever one's views on the abortion issue itself, and I am strongly pro-life, there is no basis for defending partial birth abortion. The procedure is never, let me emphasize that Mr. President, never necessary for the life or health of the mother. It is in fact an unnecessarily dangerous procedure that increases the chance of physical harm to the mother, and which most reputable doctors refuse to even consider performing.

Defenders of partial birth abortion have relied on a number of untruths, including the false story that the procedure is performed only in rare occasions. We now know, Mr. President, that that just isn't so. We also know that there are abortionists like Dr. Biskind out there who let their patients bleed to death and who allow an ultrasound in their clinic to be botched so badly that they almost kill a fully formed baby girl.

It is time to shut down clinics like Dr. Biskind's. If defenders of abortion rights are really serious about defending women's health, they should join with me and those of my colleagues who have sought to ban partial birth abortion. They also should fight with me to keep women from having to undergo any kind of abortion.

Clearly, Mr. President, America is not doing enough for her expectant mothers. Too many are abandoned by their husbands, boyfriends, and families in their time of special need. Too many feel alone and powerless in the face of an unexpected pregnancy. Too many fall into the hands of the Dr. Biskind's of this world because they have not been fully informed of their options, including the availability of loving couples like the one that is adopting the girl Dr. Biskind almost aborted.

I intend to work as hard as I can, Mr. President, to bring practices like Dr. Biskind's to an end. It is long past time, in my view, for us to overturn President Clinton's veto of the ban on partial birth abortion. It also is long past time for us to make women more aware of the adoption option as we seek to make the better choice—the choice of life—easier to make.

Mr. President, I ask that the full text of the associated press story, as it appears in the Washington Times, be printed in the RECORD.

The article follows:

[From The Washington Times, Fri., July 10, 1998]

ABORTION ABORTED FOR BIRTH OF GIRL—FETUS' AGE WAS MISCALCULATED

Phoenix (AP)—A doctor performing a partial-birth abortion on what he says he thought was a 23-week fetus realized in the middle of the procedure that the pregnancy was much further along and instead delivered a full-term baby.

Police and the Arizona Board of Medical Examiners are investigating Dr. John Biskind and the June 30 birth at A–Z Women's Center, which terminates pregnancies through the 24th week.

"At this point, it doesn't appear anybody will be charged with anything," Sgt. Mike Torres said.

The 6-pound, 2-ounce girl suffered a skull fracture and cuts on her face and remained hospitalized yesterday. Officials refused to comment on her condition. A Texas couple plans to adopt the girl, authorities said.

The 17-year-old mother went to the clinic June 29 seeking to undergo a procedure in which the doctor delivers a fetus feet first up to its neck, punches a hole into its skull and sucks out its brain through a tube, killing the child.

Ultrasound testing at the clinic determined her fetus was 23.6 weeks' developed, the doctor said.

During the procedure the next day, Dr. Biskind realized the pregnancy was much further along, halted the abortion and delivered the infant, police said.

A woman who answered the phone at the abortion clinic said Dr. Biskind had no comment. "We're dealing with the police on this," said the woman, who would not give her name.

Police and the Maricopa County Attorney's Office are investigating to determine whether a crime was committed.

Dr. Carolyn Gerster, a Phoenix physician who is chairwoman of Arizona Right to Life, said the average weight for a 24-week fetus is about 2 pounds and about 6½ pounds at 36 weeks.

"I don't know how such a grave error could be made in estimating the size," she said. "There shouldn't be that kind of discrepancy in an ultrasound. It's horrendous."

The medical board censured Dr. Biskind in 1996 after a patient bled to death following an abortion. The patient's family has a lawsuit pending against him.

He also was reprimanded in 1989 for misdiagnosis or mistreatment of a patient and for improperly prescribing drugs in 1990. A similar complaint was dismissed in 1994.•

CONGRATULATING THE SMALL BUSINESS ADMINISTRATION'S YOUNG ENTREPRENEUR OF THE YEAR

• Mr. AKAKA. Mr. President, today I rise to recognize a very special Hawaii business person. Charles Wesley Fortner is the recipient of the 1998 U.S. Small Business Administration's Young Entrepreneur of the Year Award. Mr. Fortner, 28 years of age, is a resident of Mililani, Hawaii, and the founder and president of the Honolulu-based telecommunications firm, Island Page, Inc.

In 1994, Mr. Fortner had the courage to move to Hawaii to open the business by himself. With two partners who gave him the paging rights to the Hawaiian Islands, Mr. Fortner established the business location and field tested the equipment that carries the paging signals by driving and walking all over the island.

In less than 4 years, Island Page has grown from a one-man operation to a company with a trained staff of 18 employees. Mr. Fortner's motivational ability and management style encourage his employees to operate the business with a strong customer service attitude. Those who know Mr. Fortner consider him the model of the new business mentor for the next century.

Island Page sales totaled $280,000 in 1995 and increased 370 percent in 1996 to pass the $1 million mark. Sales for 1997 were expected to increase another 50 percent. The company achieved a profit of 12 percent in 1996 and anticipated a 25 percent return in 1997.

Mr. Fortner is the man behind Island Page's popular "Captain Beep Beep" radio campaign. His creative abilities have also played a major role in establishing the technical requirements of the company. He brought with him to Hawaii a new line of equipment that allowed him to operate the business at a lower cost than his competitors. The company started in one location on Oahu, moved into the Dillingham community in the second year and opened a third location in Hawaii Kai in 1997. Mainland travelers can use the Island Page network and local subscribers can travel anywhere in the country and receive a page from Hawaii.

I am pleased that Charles Wesley Fortner has been named SBA's 1998 Young Entrepreneur of the Year. I believe that he embodies the best Hawaii has to offer.•

TRIBUTE TO HERBERT C. GREEN: AN INSPIRATIONAL LEADER AND DEVOTED HUSBAND

• Mr. CLELAND. Mr. President, I rise today to honor Herbert Green from Norcross, GA for his service in the United Auto Workers Union, and on 50 years of love and devotion to his lovely wife Autince as they celebrate their Golden Wedding Anniversary on Sunday, July 19, 1998.

Walter Ruether, the great UAW leader, once said, "the most important thing in the world is to fight for the other guy."

This quote reminds me a lot of Herb Green because, for the last several decades, he has been organizing, educating and tirelessly fighting for the rights of working men and women in Georgia and our Nation.

Many of us know how important the labor movement has been for the improvement of working conditions and fair compensation for millions of Americans. None of this would have happened if it had not been for tireless, visionary individuals who were willing to work on behalf of their coworkers, such as Herb Green. Prior to his retirement in 1987 as the International Representative for Region 8, he focused his efforts in the educational and political arenas of the UAW and the State of Georgia. His UAW involvement continues as a member of the UAW's Advisory Council.

Herb's union work began in 1938 when he became a member of the Boot & Shoe Workers Union, followed by membership in the Packing House Workers Union from 1940 to 1942. After being hired at Local 10 (then GM BOP, now GM CPC) in Doraville in January 1949, Herb established his first UAW membership. He quickly became an active participant in Local 10's affairs, where he served as an Alternate Committeeman, Trustee, member of the Building Committee, District Committeeman, and for a number of years, Chairman of the Shop Committee.

In January 1962 he was appointed as a member of the Region's CAP Education Staff by then Director, E. T. Michael, a job he held through most of his union career, representing Georgia, Florida and South Carolina. He also served as a UAW International Representative of Region 8, consisting of the states of Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Tennessee, four counties in south central Pennsylvania, the District of Columbia, and Berkeley County, West Virginia.

I have had the pleasure of knowing and working with Herb for many years. On issues like employee rights and education for our children, nobody has worked longer, fought harder or been more committed than him. I am proud to call Herb a close friend and someone who I look to for advice and guidance.

A long time activist in the political and civic life of Georgia, Herb has served as a member of the board of review of the Georgia Employment Security Agency, the Urban League, board member of the United Way, vice chairman of the Gwinnett County Democratic Party, member of the Board of Elections of the Gwinnett County Democratic Party, member of Georgia State University's Advisory Committee of Labor Studies, and chairman of the trustees of Winter's Chapel Methodist Church, where he and his family have been members for many years.

Herb, who just celebrated his 77th birthday, was born on July 6, 1921. He and his wife have two children, a daughter Kathy and a son Terry, and five grandchildren—the true inspirations of their lives.

I am pleased to call attention to Herb's nearly half a century of dedicated service to the UAW and to congratulate him and Autince on 50 years of marital bliss. I know that they have many more years of happiness ahead of them. I wish them both the best and look forward to continuing our cherished friendship.•

JOINT MEETING OF THE TWO HOUSES—ADDRESS BY THE PRESIDENT OF ROMANIA

Mr. ROBERTS. Mr. President, I ask unanimous consent that the President pro tempore of the Senate be authorized to appoint a committee on the part of the Senate to join with a like committee on the part of the House of Representatives to escort the President of Romania into the House Chamber for the joint meeting at 10 a.m. on Wednesday, July 15, 1998.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT—S. 2282

Mr. ROBERTS. I ask unanimous consent that when the Senate receives from the House a message on S. 2282, the agriculture export bill, and the text of the House amendment is identical to the text I now send to the desk, then the Senate concur in the House amendment and the motion to reconsider be laid upon the table. I also ask that the Senate be authorized to receive the message this evening after the Senate adjourns.

The PRESIDING OFFICER. Without objection, it is so ordered.

The text of the amendment follows:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Agriculture Export Relief Act of 1998".

SEC. 2. SANCTIONS EXEMPTIONS.

(a) EXEMPTION REGARDING FOOD AND OTHER AGRICULTURAL COMMODITY PURCHASES.—Section 102(b)(2)(D) of the Arms Export Control Act (22 U.S.C. 2799aa–1(b)(2)(D)) is amended as follows:

(1) In clause (i) by striking "or" at the end.

(2) In clause (ii) by striking the period and inserting ", or".

(3) By inserting after clause (ii) the following new clause:

"(iii) to any credit, credit guarantee, or financial assistance provided by the Department of Agriculture to support the purchase of food or other agricultural commodity.".

(b) DESCRIPTION OF AGRICULTURAL COMMODITIES.—Section 102(b)(2)(F) of such Act is amended by striking the period at the end and inserting ", which includes fertilizer.".

(c) OTHER EXEMPTIONS.—Section 102(b)(2)(D)(ii) of such Act is further amended by inserting after "to" the following: "medicines, medical equipment, and".

(d) APPLICATION OF AMENDMENTS.—The amendment made by subsection (a)(3) shall apply to any credit, credit guarantee, or other financial assistance provided by the Department of Agriculture before, on, or after the date of enactment of this Act through September 30, 1999.

(e) EFFECT ON EXISTING SANCTIONS.—Any sanction imposed under section 102(b)(1) of the Arms Export Control Act before the date of the enactment of this Act shall cease to apply upon that date with respect to the items described in the amendments made by subsections (b) and (c). In the case of the amendment made by subsection (a)(3), any sanction imposed under section 102(b)(1) of the Arms Export Control Act before the date of the enactment of this Act shall not be in effect during the period beginning on that date and ending on September 30, 1999, with respect to the activities and items described in the amendment.

TROPICAL FOREST PROTECTION ACT OF 1998

Mr. ROBERTS. I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 420, S. 1758.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1758) to amend the Foreign Assistance Act of 1961 to facilitate protection of tropical forests through debt reduction with developing countries with tropical forests.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Foreign Relations, with amendments, as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italic.)

S. 1758

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DEBT REDUCTION FOR DEVELOPING COUNTRIES WITH TROPICAL FORESTS.

The Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) is amended by adding at the end the following:

"PART V—DEBT REDUCTION FOR DEVELOPING COUNTRIES WITH TROPICAL FORESTS

"SEC. 801. SHORT TITLE.

"This part may be cited as the 'Tropical Forest Conservation Act of 1998'.

"SEC. 802. FINDINGS AND PURPOSES.

"(a) FINDINGS.—The Congress finds the following:

"(1) It is the established policy of the United States to support and seek protection of tropical forests around the world.

"(2) Tropical forests provide a wide range of benefits to humankind by—

"(A) harboring a major share of the Earth's biological and terrestrial resources, which are the basis for developing pharmaceutical products and revitalizing agricultural crops;

"(B) playing a critical role as carbon sinks in reducing greenhouse gases in the atmosphere, thus moderating potential global climate change; and

"(C) regulating hydrological cycles on which far-flung agricultural and coastal resources depend.

"(3) International negotiations and assistance programs to conserve forest resources have proliferated over the past decade, but the rapid rate of tropical deforestation continues unabated.

"(4) Developing countries with urgent needs for investment and capital for development have allocated a significant amount of their forests to logging concessions.

"(5) Poverty and economic pressures on the populations of developing countries have, over time, resulted in clearing of vast areas of forest for conversion to agriculture, which is often unsustainable in the poor soils underlying tropical forests.

"(6) Debt reduction can reduce economic pressures on developing countries and result in increased protection for tropical forests.

"(7) Finding economic benefits to local communities from sustainable uses of tropical forests is critical to the protection of tropical forests.

"(b) PURPOSES.—The purposes of this part are—

"(1) to recognize the values received by United States citizens from protection of tropical forests;

"(2) to facilitate greater protection of tropical forests (and to give priority to protecting tropical forests with the highest levels of biodiversity and under the most severe threat) by providing for the alleviation of debt in countries where tropical forests are located, thus allowing the use of additional resources to protect these critical resources and reduce economic pressures that have led to deforestation;

"(3) to ensure that resources freed from debt in such countries are targeted to protection of tropical forests and their associated values; and

"(4) to rechannel existing resources to facilitate the protection of tropical forests.

"SEC. 803. DEFINITIONS.

"As used in this part:

"(1) ADMINISTERING BODY.—The term 'administering body' means the entity provided for in section 809(c).

"(2) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term 'appropriate congressional committees' means—

"(A) the Committee on International Relations and the Committee on Appropriations of the House of Representatives; and

"(B) the Committee on Foreign Relations and the Committee on Appropriations of the Senate.

"(3) BENEFICIARY COUNTRY.—The term 'beneficiary country' means an eligible country with respect to which the authority of section 806(a)(1), section 807(a)(1), or paragraph (1) or (2) of section 808(a) is exercised.

"(4) BOARD.—The term 'Board' means the board referred to in section 811.

"(5) DEVELOPING COUNTRY WITH A TROPICAL FOREST.—The term 'developing country with a tropical forest' means—

"(A)(i) a country that has a per capita income of $725 or less in 1994 United States dollars (commonly referred to as 'low-income country'), as determined and adjusted on an annual basis by the International Bank for Reconstruction and Development in its World Development Report; or

"(ii) a country that has a per capita income of more than $725 but less than $8,956 in 1994 United States dollars (commonly referred to as 'middle-income country'), as determined and adjusted on an annual basis by the International Bank for Reconstruction and Development in its World Development Report; and

"(B) a country that contains at least one tropical forest that is globally outstanding in terms of its biological diversity or represents one of the larger intact blocks of tropical forests left, on a continental or global scale.

"(6) ELIGIBLE COUNTRY.—The term 'eligible country' means a country designated by the President in accordance with section 805.

"(7) TROPICAL FOREST AGREEMENT.—The term 'Tropical Forest Agreement' or 'Agreement' means a Tropical Forest Agreement provided for in section 809.

"(8) TROPICAL FOREST FACILITY.—The term 'Tropical Forest Facility' or 'Facility' means the Tropical Forest Facility established in the Department of the Treasury by section 804.

"(9) TROPICAL FOREST FUND.—The term 'Tropical Forest Fund' or 'Fund' means a Tropical Forest Fund provided for in section 810.

"SEC. 804. ESTABLISHMENT OF THE FACILITY.

"There is established in the Department of the Treasury an entity to be known as the 'Tropical Forest Facility' for the purpose of providing for the administration of debt reduction in accordance with this part.

"SEC. 805. ELIGIBILITY FOR BENEFITS.

"(a) IN GENERAL.—To be eligible for benefits from the Facility under this part, a country shall be a developing country with a tropical forest—

"(1) whose government meets the requirements applicable to Latin American or Caribbean countries under paragraphs (1) through (5) and (7) of section 703(a) of this Act; and

"(2) that has put in place major investment reforms, as evidenced by the conclusion of a bilateral investment treaty with the United States, implementation of an investment sector loan with the Inter-American Development Bank, World Bank-supported investment reforms, or other measures, as appropriate.

"(b) ELIGIBILITY DETERMINATIONS.—

"(1) IN GENERAL.—Consistent with subsection (a), the President shall determine whether a country is eligible to receive benefits under this part.

"(2) CONGRESSIONAL NOTIFICATION.—The President shall notify the appropriate congressional committees of his intention to designate a country as an eligible country at least 15 days in advance of any formal determination.

"SEC. 806. REDUCTION OF DEBT OWED TO THE UNITED STATES AS A RESULT OF CONCESSIONAL LOANS UNDER THE FOREIGN ASSISTANCE ACT OF 1961.

"(a) AUTHORITY TO REDUCE DEBT.—

"(1) AUTHORITY.—The President may reduce the amount owed to the United States (or any agency of the United States) that is outstanding as of January 1, 1998, as a result of concessional loans made to an eligible country by the United States under part I of this Act, chapter 4 of part II of this Act, or predecessor foreign economic assistance legislation.

"(2) AUTHORIZATION OF APPROPRIATIONS.—For the cost (as defined in section 502(5) of the Federal Credit Reform Act of 1990) for the reduction of any debt pursuant to this section, there are authorized to be appropriated to the President—

"(A) $25,000,000 for fiscal year 1999;

"(B) $75,000,000 for fiscal year 2000; and

"(C) $100,000,000 for fiscal year 2001.

"(3) CERTAIN PROHIBITIONS INAPPLICABLE.—

"(A) IN GENERAL.—A reduction of debt pursuant to this section shall not be considered assistance for purposes of any provision of law limiting assistance to a country.

"(B) ADDITIONAL REQUIREMENT.—The authority of this section may be exercised notwithstanding section 620(r) of this Act or section 321 of the International Development and Food Assistance Act of 1975.

"(b) IMPLEMENTATION OF DEBT REDUCTION.—

"(1) IN GENERAL.—Any debt reduction pursuant to subsection (a) shall be accomplished at the direction of the Facility by the exchange of a new obligation for obligations of the type referred to in subsection (a) outstanding as of the date specified in subsection (a)(1).

"(2) EXCHANGE OF OBLIGATIONS.—

"(A) IN GENERAL.—The Facility shall notify the agency primarily responsible for administering part I of this Act of an agreement entered into under paragraph (1) with an eligible country to exchange a new obligation for outstanding obligations.

"(B) ADDITIONAL REQUIREMENT.—At the direction of the Facility, the old obligations that are the subject of the agreement shall be canceled and a new debt obligation for the country shall be established relating to the agreement, and the agency primarily responsible for administering part I of this Act shall make an adjustment in its accounts to reflect the debt reduction.

"(c) ADDITIONAL TERMS AND CONDITIONS.—The following additional terms and conditions shall apply to the reduction of debt under subsection (a)(1) in the same manner as such terms and conditions apply to the reduction of debt under section 704(a)(1) of this Act:

"(1) The provisions relating to repayment of principal under section 705 of this Act.

"(2) The provisions relating to interest on new obligations under section 706 of this Act.

"SEC. 807. REDUCTION OF DEBT OWED TO THE UNITED STATES AS A RESULT OF CREDITS EXTENDED UNDER TITLE I OF THE AGRICULTURAL TRADE DEVELOPMENT AND ASSISTANCE ACT OF 1954.

"(a) AUTHORITY TO REDUCE DEBT.—

"(1) AUTHORITY.—Notwithstanding any other provision of law, the President may reduce the amount owed to the United States (or any agency of the United States) that is outstanding as of January 1, 1998, as a result of any credits extended under title I of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1701 et seq.) to a country eligible for benefits from the Facility.

"(2) AUTHORIZATION OF APPROPRIATIONS.—For the cost (as defined in section 502(5) of the Federal Credit Reform Act of 1990) for the reduction of any debt pursuant to this section, there are authorized to be appropriated to the President—

"(A) $25,000,000 for fiscal year 1999;

"(B) $50,000,000 for fiscal year 2000; and

"(C) $50,000,000 for fiscal year 2001.

"(b) IMPLEMENTATION OF DEBT REDUCTION.—

"(1) IN GENERAL.—Any debt reduction pursuant to subsection (a) shall be accomplished at the direction of the Facility by the exchange of a new obligation for obligations of the type referred to in subsection (a) outstanding as of the date specified in subsection (a)(1).

"(2) EXCHANGE OF OBLIGATIONS.—

"(A) IN GENERAL.—The Facility shall notify the Commodity Credit Corporation of an agreement entered into under paragraph (1) with an eligible country to exchange a new obligation for outstanding obligations.

"(B) ADDITIONAL REQUIREMENT.—At the direction of the Facility, the old obligations that are the subject of the agreement shall be canceled and a new debt obligation shall be established for the country relating to the agreement, and the Commodity Credit Corporation shall make an adjustment in its accounts to reflect the debt reduction.

"(c) ADDITIONAL TERMS AND CONDITIONS.—The following additional terms and conditions shall apply to the reduction of debt under subsection (a)(1) in the same manner as such terms and conditions apply to the reduction of debt under section 604(a)(1) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1738c):

"(1) The provisions relating to repayment of principal under section 605 of such Act.

"(2) The provisions relating to interest on new obligations under section 606 of such Act.

"SEC. 808. AUTHORITY TO ENGAGE IN DEBT-FOR-NATURE SWAPS AND DEBT BUYBACKS.

"(a) LOANS AND CREDITS ELIGIBLE FOR SALE, REDUCTION, OR CANCELLATION.—

"(1) DEBT-FOR-NATURE SWAPS.—

"(A) IN GENERAL.—Notwithstanding any other provision of law, the President may, in accordance with this section, sell to any eligible purchaser described in subparagraph (B) any concessional loans described in section 806(a)(1) or any credits described in section 807(a)(1), or on receipt of payment from an eligible purchaser described in subparagraph (B), reduce or cancel such loans (or credits) or portion thereof, only for the purpose of facilitating a debt-for-nature swap to support eligible activities described in section 809(d).

"(B) ELIGIBLE PURCHASER DESCRIBED.—A loan or credit may be sold, reduced, or canceled under subparagraph (A) only to a purchaser who presents plans satisfactory to the President for using the loan or credit for the purpose of engaging in debt-for-nature swaps to support eligible activities described in section 809(d).

"(C) CONSULTATION REQUIREMENT.—Before the sale under subparagraph (A) to any eligible purchaser described in subparagraph (B), or any reduction or cancellation under such subparagraph (A), of any loan or credit made to an eligible country, the President shall consult with the country concerning the amount of loans or credits to be sold, reduced, or canceled and their uses for debt-for-nature swaps to support eligible activities described in section 809(d).

"(D) AUTHORIZATION OF APPROPRIATIONS.—For the cost (as defined in section 502(5) of the Federal Credit Reform Act of 1990) for the reduction of any debt pursuant to subparagraph (A), amounts authorized to appropriated under sections 806(a)(2) and 807(a)(2) shall be made available for such reduction of debt pursuant to subparagraph (A).

"(2) DEBT BUYBACKS.—Notwithstanding any other provision of law, the President may, in accordance with this section, sell to any eligible country any concessional loans described in section 806(a)(1) or any credits described in section 807(a)(1), or on receipt of payment from an eligible country, reduce or cancel such loans (or credits) or portion thereof, only for the purpose of facilitating a debt buyback by an eligible country of its own qualified debt, only if the eligible country uses an additional amount of the local currency of the eligible country, equal to not less than 40 percent of the price paid for such debt by such eligible country, or the difference between the price paid for such debt and the face value of such debt, to support eligible activities described in section 809(d).

"(3) TERMS AND CONDITIONS.—Notwithstanding any other provision of law, the President shall, in accordance with this section, establish the terms and conditions under which loans and credits may be sold, reduced, or canceled pursuant to this section.

"(4) ADMINISTRATION.—

"(A) IN GENERAL.—The Facility shall notify the administrator of the agency primarily responsible for administering part I of this Act or the Commodity Credit Corporation, as the case may be, of eligible purchasers described in paragraph (1)(B) that the President has determined to be eligible under paragraph (1), and shall direct such agency or Corporation, as the case may be, to carry out the sale, reduction, or cancellation of a loan pursuant to such paragraph.

"(B) ADDITIONAL REQUIREMENT.—Such agency or Corporation, as the case may be, shall make an adjustment in its accounts to reflect the sale, reduction, or cancellation.

"(b) DEPOSIT OF PROCEEDS.—The proceeds from the sale, reduction, or cancellation of any loan sold, reduced, or canceled pursuant to this section shall be deposited in the United States Government account or accounts established for the repayment of such loan.

"SEC. 809. TROPICAL FOREST AGREEMENT.

"(a) AUTHORITY.—

"(1) IN GENERAL.—The Secretary of State is authorized, in consultation with other appropriate officials of the Federal Government, to enter into a Tropical Forest Agreement with any eligible country concerning the operation and use of the Fund for that country.

"(2) CONSULTATION.—In the negotiation of such an Agreement, the Secretary shall consult with the Board in accordance with section 811.

"(b) CONTENTS OF AGREEMENT.—The requirements contained in section 708(b) of this Act (relating to contents of an agreement) shall apply to [a Agreement] *an Agreement* in the same manner as such requirements apply to an Americas Framework Agreement.

"(c) ADMINISTERING BODY.—

"(1) IN GENERAL.—Amounts disbursed from the Fund in each beneficiary country shall be administered by a body constituted under the laws of that country.

"(2) COMPOSITION.—

"(A) IN GENERAL.—The administering body shall consist of—

"(i) one or more individuals appointed by the United States Government;

"(ii) one or more individuals appointed by the government of the beneficiary country; and "(iii) individuals who represent a broad range of—

"(I) environmental nongovernmental organizations of, or active in, the beneficiary country;

"(II) local community development nongovernmental organizations of the beneficiary country; and

["(III) scientific or academic organizations or institutions of the beneficiary country.]

"(III) scientific, academic, or agroforestry organizations of the beneficiary country.

"(B) ADDITIONAL REQUIREMENT.—A majority of the members of the administering body shall be individuals described in subparagraph (A)(iii).

"(3) RESPONSIBILITIES.—The requirements contained in section 708(c)(3) of this Act (relating to responsibilities of the administering body) shall apply to an administering body described in paragraph (1) in the same manner as such requirements apply to an administering body described in section 708(c)(1) of this Act.

"(d) ELIGIBLE ACTIVITIES.—Amounts deposited in a Fund shall be used to provide grants to preserve, maintain, and restore the tropical forests in the beneficiary country, including one or more of the following activities:

"(1) Establishment, restoration, protection, and maintenance of parks, protected areas, and reserves.

"(2) Development and implementation of scientifically sound systems of natural resource management, including land and ecosystem management practices.

"(3) Training programs to strengthen conservation institutions and increase scientific, technical, and managerial capacities of individuals and organizations involved in conservation efforts.

"(4) Restoration, protection, or sustainable use of diverse animal and plant species.

"(5) Research and identification of medicinal uses of tropical forest plant life to treat human diseases and illnesses and health related concerns.

"[(5)] *(6)* Mitigation of greenhouse gases in the atmosphere.

"[(6)] *(7)* Development and support of the livelihoods of individuals living in or near a tropical forest, including the cultures of such individuals, in a manner consistent with protecting such tropical forest.

"(e) GRANT RECIPIENTS.—

"(1) IN GENERAL.—Grants made from a Fund shall be made to—

"(A) nongovernmental environmental, conservation, and indigenous peoples organizations of, or active in, the beneficiary country;

"(B) other appropriate local or regional entities of, or active in, the beneficiary country; [and] *or*

"(C) in exceptional circumstances, the government of the beneficiary country.

"(2) PRIORITY.—In providing grants under paragraph (1), priority shall be given to projects that are run by nongovernmental organizations and other private entities and that involve local communities in their planning and execution.

"(f) REVIEW OF LARGER GRANTS.—Any grant of more than $100,000 from a Fund shall be subject to veto by the Government of the United States or the government of the beneficiary country.

"(g) ELIGIBILITY CRITERIA.—In the event that a country ceases to meet the eligibility requirements set forth in section 805(a), as determined by the President pursuant to section 805(b), then grants from the Fund for that country may only be made to nongovernmental organizations until such time as the President determines that such country meets the eligibility requirements set forth in section 805(a).

"SEC. 810. TROPICAL FOREST FUND.

"(a) ESTABLISHMENT.—Each beneficiary country that enters into a Tropical Forest Agreement under section 809 shall be required to establish a Tropical Forest Fund to receive payments of interest on new obligations undertaken by the beneficiary country under this part.

"(b) REQUIREMENTS RELATING TO OPERATION OF FUND.—The following terms and conditions shall apply to the Fund in the same manner as such terms as conditions apply to an Enterprise for the Americas Fund under section 707 of this Act:

"(1) The provision relating to deposits under subsection (b) of such section.

"(2) The provision relating to investments under subsection (c) of such section.

"(3) The provision relating to disbursements under subsection (d) of such section.

"SEC. 811. BOARD.

"(a) ENTERPRISE FOR THE AMERICAS BOARD.—The Enterprise for the Americas Board established under section 610(a) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1738i(a)) shall, in addition to carrying out the responsibilities of the Board under section 610(c) of such Act, carry out the duties described in subsection (c) of this section for the purposes of this part.

"(b) ADDITIONAL MEMBERSHIP.—

"(1) IN GENERAL.—The Enterprise for the Americas Board shall be composed of an additional four members appointed by the President as follows:

"(A) Two representatives from the United States Government, including a representative of the International Forestry Division of the United States Forest Service.

"(B) Two representatives from private nongovernmental environmental, [scientific, and] *scientific, agricultural, or* academic organizations with experience and expertise in preservation, maintenance, *sustainable uses,* and restoration of tropical forests.

"(2) CHAIRPERSON.—Notwithstanding section 610(b)(2) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1738i(b)(2)), the Enterprise for the Americas Board shall be headed by a chairperson who shall be appointed by the President from among the representatives appointed under section 610(b)(1)(A) of such Act or paragraph (1)(A) of this subsection.

"(c) DUTIES.—The duties described in this subsection are as follows:

"(1) Advise the Secretary of State on the negotiations of Tropical Forest Agreements.

"(2) Ensure, in consultation with—

"(A) the government of the beneficiary country,

"(B) nongovernmental organizations of the beneficiary country,

"(C) nongovernmental organizations of the region (if appropriate),

"(D) environmental, scientific, and academic leaders of the beneficiary country, and

"(E) environmental, scientific, and academic leaders of the region (as appropriate), that a suitable administering body is identified for each Fund.

"(3) Review the programs, operations, and fiscal audits of each administering body.

"SEC. 812. CONSULTATIONS WITH THE CONGRESS.

"The President shall consult with the appropriate congressional committees on a periodic basis to review the operation of the Facility under this part and the eligibility of countries for benefits from the Facility under this part.

"SEC. 813. ANNUAL REPORTS TO THE CONGRESS.

"(a) IN GENERAL.—Not later than December 31 of each [fiscal] year, the President shall prepare and transmit to the Congress an annual report concerning the operation of the Facility for the prior fiscal year. Such report shall include—

"(1) a description of the activities undertaken by the Facility during the previous fiscal year;

"(2) a description of any Agreement entered into under this part;

"(3) a report on any Funds that have been established under this part and on the operations of such Funds; and

"(4) a description of any grants that have been provided by administering bodies pursuant to Agreements under this part.

"(b) SUPPLEMENTAL VIEWS IN ANNUAL REPORT.—Not later than December 15 of each [fiscal] year, each member of the Board shall be entitled to receive a copy of the report required under subsection (a). Each member of the Board may prepare and submit supplemental views to the President on the implementation of this part by December 31 for inclusion in the annual report when it is transmitted to Congress pursuant to this section.".

AMENDMENT NO. 3148

(Purpose: To make technical and clarifying amendments)

Mr. ROBERTS. Mr. President, there is an amendment at the desk making technical changes. I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Kansas [Mr. ROBERTS], for Mr. HELMS, for himself, Mr. BIDEN, and Mr. LUGAR, proposes an amendment numbered 3148.

Mr. ROBERTS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 6, line 11, strike "continental" and insert "regional, continental,".

On page 11, line 7, strike "For the cost" and insert the following:

"(A) IN GENERAL.—For the cost".

On page 11, line 11, strike "(A)" and insert "(i)".

On page 11, line 12, strike "(B)" and insert "(ii)".

On page 11, line 13, strike "(C)" and insert "(iii)".

On page 11, between lines 13 and 14, insert the following:

"(B) LIMITATION.—The authority provided by this section shall be available only to the extent that appropriations for the cost (as defined in section 502(5) of the Federal Credit Reform Act of 1990) of the modification of any debt pursuant to this section are made in advance.

On page 15, line 2, insert "the lessor of" after "than".

On page 15, between lines 6 and 7, insert the following:

"(3) LIMITATION.—The authority provided by paragraphs (1) and (2) shall be available only to the extent that appropriations for the cost (as defined in section 502(5) of the Federal Credit Reform Act of 1990) of the modification of any debt pursuant to such paragraphs are made in advance.

On page 15, line 7, strike "(3)" and insert "(4)".

On page 15, line 12, strike "(4)" and insert "(5)".

On page 18, line 2, strike "agroforestry" and insert "forestry".

On page 18, line 16, strike "to provide grants to preserve" and insert "only to provide grants to conserve,".

On page 18, line 18, strike "including" and insert "through".

On page 19, lines 1 and 2, strike "strengthen conservation institutions and increase" and insert "increase the".

On page 19, strike lines 10 and 11.

On page 19, line 12, strike "(7)" and insert "(6)".

On page 19, line 14, strike ", including the cultures of such individuals,".

On page 19, line 21, insert "forestry," after "conservation,".

On page 22, line 7, strike "agricultural" and insert "forestry".

On page 23, line 5, insert "forestry," after "scientific,".

On page 23, line 7, insert "forestry," after "scientific,".

Mr. LUGAR. Mr. President, there has been a remarkable degree of bipartisan cooperation in moving this bill forward. I would like to thank Senator BIDEN, Senator CHAFEE, and Senator LEAHY for their help in drafting the Senate bill, which is a companion to H.R. 2870, introduced by Representatives PORTMAN, KASICH and HAMILTON. I would also like to thank my twenty nine additional Senate cosponsors from both sides of the aisle for their important support. I would especially like to thank Senator HELMS for cosponsoring the bill and moving it expeditiously through the Committee on Foreign Relations, which approved it by voice vote on May 19, 1998.

Senator BIDEN and I have worked together on international environmental issues for many years. The original debt-for-nature bill was the Biden-Lugar Global Environmental Protection Assistance Act of 1989. This was followed by President Bush's Enterprise for the Americas Initiative (EAI), which also linked debt reduction and environmental protection in the developing nations of Latin America and the Caribbean.

S. 1758, the Tropical Forest Conservation Act, allows lower and middle income developing countries to reduce certain debts owed to the U.S. Government under the Foreign Assistance Act and the Agricultural Trade and Development Assistance Act. In return, they must place local currencies in a tropical forest fund to protect outstanding tropical forests in their own country.

The tropical forest fund in each country would be administered by a local board. These boards would be comprised of representatives of its government, our government and environmental, community development, forestry, scientific and academic organizations with expertise in the protection of tropical forests. A majority of the local board would have to represent these nongovernmental organizations. Oversight would be accomplished through expanding the Enterprise for the Americas Board to fifteen members, with eight members representing federal agencies and seven representing nongovernmental organizations with expertise in the protection of tropical forests. All grants of more than $100,000 would have to be approved by this Board.

The United States has a strong interest in helping to protect tropical forests in developing countries. Our world food security depends on tropical forests, which provide genetic materials to enhance world food production and which regulate the hydrological cycles on which world agriculture depends. The fight against cancer depends upon plants in tropical forests. Tropical forests also store carbon, mitigating the build up of greenhouse gas concentrations in the atmosphere.

I urge the Senate to support S. 1758 along with the technical and clarifying amendments which Senator HELMS, Senator BIDEN and I have offered to the Committee reported bill.

Mr. BIDEN. Mr. President, I join with my friend, the distinguished senior Senator from Indiana, to urge my colleagues to support the Tropical Forest Protection Act of 1998.

Mr. President, this bill marks a real victory for sensible, bipartisan action on an issue of global importance. Just looking at the list of our cosponsors—thirty-one of our colleagues, evenly divided between our two parties—shows me that good policy is good politics.

Right now, as we speak today, fires are burning in tropical forests around the world, the result of a combustible mix of unusually dry weather with unsustainable human activity. Slash-and-burn agriculture, logging, and the road cuts to support those activities, have exposed one of our planet's most important resources to a deadly threat.

Rainforests have a profound effect on our planet's weather, through their ability to absorb the most important greenhouse gas, carbon dioxide. They influence rainfall, and are therefore the sources of many of our most important rivers, that in turn support the farms and fisheries that feed us.

They are home to rich biological diversity—both flora and fauna—that we are just now realizing hold the secret to disease-resistant crops and new medicines.

But as the nations that contain our most significant rainforests enter the world economy, they are under increasing pressure to turn these irreplaceable assets into cash, for both their own short-term domestic needs and to service debts owed to the industrial nations, including the United States.

That's why this bill is so important. It allows the reduction of the debt those nations owe us, if they use the savings to protect those rainforests. This will help to break the tie between debt and the destruction of rainforests, to the benefit of everyone. It won't put out those fires, but it will remove some of the financial arrangements that fuel them.

I am particularly pleased to join again with my friend, Senator LUGAR, to expand on earlier Lugar-Biden legislation that has been on the books since 1989, and that is part of the 1990 Enterprise for the Americas Initiative.

And I am honored to be joined in this effort by the distinguished Chairman of the Foreign Relations Committee, the distinguished Chairman of the Environment and Public Works Committee, and so many other of our colleagues on both sides of the aisle.

Thank you, Mr. President.

Mr. CHAFEE. Mr. President I am pleased to be here today with my distinguished colleagues to offer my support for the Tropical Forest Conservation Act of 1998. This bipartisan legislation addresses one of the most important global environmental issues today—the protection and preservation of tropical rain forests.

Since 1950 the world has lost as much as half of its tropical forests, and the destruction is continuing unabated. The most comprehensive survey of global deforestation estimated that, last year alone, we lost more than 30 million acres of tropical rain forest—an area the size of the State of Washington. This is a devastating loss because of the potential biological impacts deforestation can have both regionally and globally.

Tropical forests contain the world's richest stores of biological diversity, and their health is essential for life on Earth. Scientists estimate that more than 50 percent of the Earth's terrestrial biological diversity is contained within these forests, which account for less than 2 percent of the planet's land surface. Almost 40 percent of all terrestrial plants and at least 25 percent of terrestrial vertebrate species are endemic to these areas. Many of these species are found only in a small area of the forests. And as the forests are destroyed, Mr. President, the species are permanently lost through extinction.

Tropical forests also function as carbon "sinks," storing greenhouse gases that could otherwise contribute to global climate change. While there are still many scientific uncertainties related to climate change, it is undeniable that atmospheric carbon dioxide levels are rising rapidly. A significant number of scientists believe that humans have already influenced our global climate. In order to lessen the risks associated with this change, such as sea level rise, extreme weather conditions, and higher average temperatures, it is important that the United States join with other nations to take preventive action. Protecting our tropical rain forests, and thus preserving their vital function of reducing greenhouse gases in the atmosphere, is one such action.

Many of the world's tropical forests are located in developing countries that, since the international debt crisis of the 1970s, have been unable to repay loans to foreign lenders. These countries are in need of hard currency, and to come up with cash, they have resorted to exploiting their natural resources with little regard for environmental planning. Vast areas of tropical forests are destroyed each year for logging, agriculture and livestock operations. This trend will continue as debt continues to mount.

Mr. President, the Tropical Forest Conservation Act will help turn the tide against this deforestation. This legislation builds upon President Bush's Enterprise for the Americas Initiative, or EAI. EAI created a system by which Latin American and Caribbean governments could restructure some of their official debt to the United States, while channeling local currency into funds to support environmental and child development programs.

Using so-called "debt-for-nature swaps," EAI restructured bilateral debt to provide $154 million to environmental trust funds in Latin America. Under these swaps, a nation's debt is modified, rescheduled, or written off, in return for the borrower nation's commitment of its own currency towards local conservation. The legislation before us today would extend the debt-for-nature mechanism of the EAI to the protection of significant tropical forests in lower and middle income countries throughout the world, not just those in Latin America and the Caribbean.

The Tropical Forest Conservation Act will authorize $325 million over three years to be used for debt-for-nature swaps with developing countries that have forests with the greatest biodiversity and the highest risk of threat. S. 1758 assists countries with tropical forests that are globally outstanding in terms of their biodiversity, and applies to any lesser developed country with tropical forests and qualified U.S. debt. The authorized amount would be used to compensate the Treasury Department for any revenues lost due to the restructuring of outstanding debt.

The legislation gives the President authority to reduce debt owed to the United States as a result of any credit extended through specific loan programs. In exchange, the developing countries would establish funds in their local currency to preserve and restore tropical forests. To ensure accountability, funds shall be administered and overseen by U.S. Government officials, environmental nongovernmental organizations active in the beneficiary country, and scientific or academic organizations.

To qualify for assistance, countries must meet the criteria established by Congress under EAI, including that the government must be democratically elected, has not provided support for acts of international terrorism, is not failing to cooperate on international narcotics control matters, and does not participate in a consistent pattern of gross violations of internationally recognized human rights.

Mr. President, I believe this is an important bill that will go a long way in helping protect some of the world's most ecologically sensitive and vital areas. The Tropical Forest Conservation Act promotes debt reduction, investment reforms, community based conservation and sustainable use of the environment. In addition, it stretches limited Federal dollars making an effective use of international environmental assistance. I urge my colleagues here in the Senate to support S. 1758.

Mr. ROBERTS. Mr. President, I ask unanimous consent the amendment be considered and agreed to, the committee amendments be agreed to, and the bill be read a third time.

The amendment (No. 3148) was agreed to.

The Committee amendments were agreed to.

The bill (S. 1758) was read the third time.

Mr. ROBERTS. I further ask unanimous consent that the Foreign Relations Committee be discharged from further consideration of H.R. 2870, that the Senate proceed to its immediate consideration, and all after the enacting clause be stricken and the text of S. 1758, as amended, be inserted in lieu thereof. I further ask unanimous consent that the bill be read a third time, passed, and the motion to reconsider be laid upon the table, and, finally, S. 1758 be placed back on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 2870), as amended, was considered read the third time and passed, as follows:

Resolved, That the bill from the House of Representatives (H.R. 2870) entitled "An Act to amend the Foreign Assistance Act of 1961 to facilitate protection of tropical forests through debt reduction with developing countries with tropical forests.", do pass with the following amendment:

Strike out all after the enacting clause and insert:

SECTION 1. DEBT REDUCTION FOR DEVELOPING COUNTRIES WITH TROPICAL FORESTS.

The Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) is amended by adding at the end the following:

"PART V—DEBT REDUCTION FOR DEVELOPING COUNTRIES WITH TROPICAL FORESTS

"SEC. 801. SHORT TITLE.

"This part may be cited as the 'Tropical Forest Conservation Act of 1998'.

"SEC. 802. FINDINGS AND PURPOSES.

"(a) FINDINGS.—The Congress finds the following:

"(1) It is the established policy of the United States to support and seek protection of tropical forests around the world.

"(2) Tropical forests provide a wide range of benefits to humankind by—

"(A) harboring a major share of the Earth's biological and terrestrial resources, which are the basis for developing pharmaceutical products and revitalizing agricultural crops;

"(B) playing a critical role as carbon sinks in reducing greenhouse gases in the atmosphere, thus moderating potential global climate change; and

"(C) regulating hydrological cycles on which far-flung agricultural and coastal resources depend.

"(3) International negotiations and assistance programs to conserve forest resources have proliferated over the past decade, but the rapid rate of tropical deforestation continues unabated.

"(4) Developing countries with urgent needs for investment and capital for development have allocated a significant amount of their forests to logging concessions.

"(5) Poverty and economic pressures on the populations of developing countries have, over time, resulted in clearing of vast areas of forest for conversion to agriculture, which is often unsustainable in the poor soils underlying tropical forests.

"(6) Debt reduction can reduce economic pressures on developing countries and result in increased protection for tropical forests.

"(7) Finding economic benefits to local communities from sustainable uses of tropical forests is critical to the protection of tropical forests.

"(b) PURPOSES.—The purposes of this part are—

"(1) to recognize the values received by United States citizens from protection of tropical forests;

"(2) to facilitate greater protection of tropical forests (and to give priority to protecting tropical forests with the highest levels of biodiversity and under the most severe threat) by providing for the alleviation of debt in countries where tropical forests are located, thus allowing the use of additional resources to protect these critical resources and reduce economic pressures that have led to deforestation;

"(3) to ensure that resources freed from debt in such countries are targeted to protection of tropical forests and their associated values; and

"(4) to rechannel existing resources to facilitate the protection of tropical forests.

"SEC. 803. DEFINITIONS.

"As used in this part:

"(1) ADMINISTERING BODY.—The term 'administering body' means the entity provided for in section 809(c).

"(2) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term 'appropriate congressional committees' means—

"(A) the Committee on International Relations and the Committee on Appropriations of the House of Representatives; and

"(B) the Committee on Foreign Relations and the Committee on Appropriations of the Senate.

"(3) BENEFICIARY COUNTRY.—The term 'beneficiary country' means an eligible country with respect to which the authority of section 806(a)(1), section 807(a)(1), or paragraph (1) or (2) of section 808(a) is exercised.

"(4) BOARD.—The term 'Board' means the board referred to in section 811.

"(5) DEVELOPING COUNTRY WITH A TROPICAL FOREST.—The term 'developing country with a tropical forest' means—

"(A)(i) a country that has a per capita income of $725 or less in 1994 United States dollars (commonly referred to as 'low-income country'),

as determined and adjusted on an annual basis by the International Bank for Reconstruction and Development in its World Development Report; or

"(ii) a country that has a per capita income of more than $725 but less than $8,956 in 1994 United States dollars (commonly referred to as 'middle-income country'), as determined and adjusted on an annual basis by the International Bank for Reconstruction and Development in its World Development Report; and

"(B) a country that contains at least one tropical forest that is globally outstanding in terms of its biological diversity or represents one of the larger intact blocks of tropical forests left, on a regional, continental, or global scale.

"(6) Eligible country.—The term 'eligible country' means a country designated by the President in accordance with section 805.

"(7) Tropical forest agreement.—The term 'Tropical Forest Agreement' or 'Agreement' means a Tropical Forest Agreement provided for in section 809.

"(8) Tropical forest facility.—The term 'Tropical Forest Facility' or 'Facility' means the Tropical Forest Facility established in the Department of the Treasury by section 804.

"(9) Tropical forest fund.—The term 'Tropical Forest Fund' or 'Fund' means a Tropical Forest Fund provided for in section 810.

"SEC. 804. ESTABLISHMENT OF THE FACILITY.

"There is established in the Department of the Treasury an entity to be known as the 'Tropical Forest Facility' for the purpose of providing for the administration of debt reduction in accordance with this part.

"SEC. 805. ELIGIBILITY FOR BENEFITS.

"(a) In General.—To be eligible for benefits from the Facility under this part, a country shall be a developing country with a tropical forest—

"(1) whose government meets the requirements applicable to Latin American or Caribbean countries under paragraphs (1) through (5) and (7) of section 703(a) of this Act; and

"(2) that has put in place major investment reforms, as evidenced by the conclusion of a bilateral investment treaty with the United States, implementation of an investment sector loan with the Inter-American Development Bank, World Bank-supported investment reforms, or other measures, as appropriate.

"(b) Eligibility Determinations.—

"(1) In general.—Consistent with subsection (a), the President shall determine whether a country is eligible to receive benefits under this part.

"(2) Congressional notification.—The President shall notify the appropriate congressional committees of his intention to designate a country as an eligible country at least 15 days in advance of any formal determination.

"SEC. 806. REDUCTION OF DEBT OWED TO THE UNITED STATES AS A RESULT OF CONCESSIONAL LOANS UNDER THE FOREIGN ASSISTANCE ACT OF 1961.

"(a) Authority To Reduce Debt.—

"(1) Authority.—The President may reduce the amount owed to the United States (or any agency of the United States) that is outstanding as of January 1, 1998, as a result of concessional loans made to an eligible country by the United States under part I of this Act, chapter 4 of part II of this Act, or predecessor foreign economic assistance legislation.

"(2) Authorization of appropriations.—For the cost (as defined in section 502(5) of the Federal Credit Reform Act of 1990) for the reduction of any debt pursuant to this section, there are authorized to be appropriated to the President—

"(A) $25,000,000 for fiscal year 1999;

"(B) $75,000,000 for fiscal year 2000; and

"(C) $100,000,000 for fiscal year 2001.

"(3) Certain prohibitions inapplicable.—

"(A) In general.—A reduction of debt pursuant to this section shall not be considered assistance for purposes of any provision of law limiting assistance to a country.

"(B) Additional requirement.—The authority of this section may be exercised notwithstanding section 620(r) of this Act or section 321 of the International Development and Food Assistance Act of 1975.

"(b) Implementation of Debt Reduction.—

"(1) In general.—Any debt reduction pursuant to subsection (a) shall be accomplished at the direction of the Facility by the exchange of a new obligation for obligations of the type referred to in subsection (a) outstanding as of the date specified in subsection (a)(1).

"(2) Exchange of obligations.—

"(A) In general.—The Facility shall notify the agency primarily responsible for administering part I of this Act of an agreement entered into under paragraph (1) with an eligible country to exchange a new obligation for outstanding obligations.

"(B) Additional requirement.—At the direction of the Facility, the old obligations that are the subject of the agreement shall be canceled and a new debt obligation for the country shall be established relating to the agreement, and the agency primarily responsible for administering part I of this Act shall make an adjustment in its accounts to reflect the debt reduction.

"(c) Additional Terms and Conditions.—The following additional terms and conditions shall apply to the reduction of debt under subsection (a)(1) in the same manner as such terms and conditions apply to the reduction of debt under section 704(a)(1) of this Act:

"(1) The provisions relating to repayment of principal under section 705 of this Act.

"(2) The provisions relating to interest on new obligations under section 706 of this Act.

"SEC. 807. REDUCTION OF DEBT OWED TO THE UNITED STATES AS A RESULT OF CREDITS EXTENDED UNDER TITLE I OF THE AGRICULTURAL TRADE DEVELOPMENT AND ASSISTANCE ACT OF 1954.

"(a) Authority To Reduce Debt.—

"(1) Authority.—Notwithstanding any other provision of law, the President may reduce the amount owed to the United States (or any agency of the United States) that is outstanding as of January 1, 1998, as a result of any credits extended under title I of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1701 et seq.) to a country eligible for benefits from the Facility.

"(2) Authorization of appropriations.—

"(A) In general.—For the cost (as defined in section 502(5) of the Federal Credit Reform Act of 1990) for the reduction of any debt pursuant to this section, there are authorized to be appropriated to the President—

"(i) $25,000,000 for fiscal year 1999;

"(ii) $50,000,000 for fiscal year 2000; and

"(iii) $50,000,000 for fiscal year 2001.

"(B) Limitation.—The authority provided by this section shall be available only to the extent that appropriations for the cost (as defined in section 502(5) of the Federal Credit Reform Act of 1990) of the modification of any debt pursuant to this section are made in advance.

"(b) Implementation of Debt Reduction.—

"(1) In general.—Any debt reduction pursuant to subsection (a) shall be accomplished at the direction of the Facility by the exchange of a new obligation for obligations of the type referred to in subsection (a) outstanding as of the date specified in subsection (a)(1).

"(2) Exchange of obligations.—

"(A) In general.—The Facility shall notify the Commodity Credit Corporation of an agreement entered into under paragraph (1) with an eligible country to exchange a new obligation for outstanding obligations.

"(B) Additional requirement.—At the direction of the Facility, the old obligations that are the subject of the agreement shall be canceled and a new debt obligation shall be established for the country relating to the agreement, and the Commodity Credit Corporation shall make an adjustment in its accounts to reflect the debt reduction.

"(c) Additional Terms and Conditions.—The following additional terms and conditions shall apply to the reduction of debt under subsection (a)(1) in the same manner as such terms and conditions apply to the reduction of debt under section 604(a)(1) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1738c):

"(1) The provisions relating to repayment of principal under section 605 of such Act.

"(2) The provisions relating to interest on new obligations under section 606 of such Act.

"SEC. 808. AUTHORITY TO ENGAGE IN DEBT-FOR-NATURE SWAPS AND DEBT BUYBACKS.

"(a) Loans and Credits Eligible for Sale, Reduction, or Cancellation.—

"(1) Debt-for-nature swaps.—

"(A) In general.—Notwithstanding any other provision of law, the President may, in accordance with this section, sell to any eligible purchaser described in subparagraph (B) any concessional loans described in section 806(a)(1) or any credits described in section 807(a)(1), or on receipt of payment from an eligible purchaser described in subparagraph (B), reduce or cancel such loans (or credits) or portion thereof, only for the purpose of facilitating a debt-for-nature swap to support eligible activities described in section 809(d).

"(B) Eligible purchaser described.—A loan or credit may be sold, reduced, or canceled under subparagraph (A) only to a purchaser who presents plans satisfactory to the President for using the loan or credit for the purpose of engaging in debt-for-nature swaps to support eligible activities described in section 809(d).

"(C) Consultation requirement.—Before the sale under subparagraph (A) to any eligible purchaser described in subparagraph (B), or any reduction or cancellation under such subparagraph (A), of any loan or credit made to an eligible country, the President shall consult with the country concerning the amount of loans or credits to be sold, reduced, or canceled and their uses for debt-for-nature swaps to support eligible activities described in section 809(d).

"(D) Authorization of appropriations.—For the cost (as defined in section 502(5) of the Federal Credit Reform Act of 1990) for the reduction of any debt pursuant to subparagraph (A), amounts authorized to appropriated under sections 806(a)(2) and 807(a)(2) shall be made available for such reduction of debt pursuant to subparagraph (A).

"(2) Debt buybacks.—Notwithstanding any other provision of law, the President may, in accordance with this section, sell to any eligible country any concessional loans described in section 806(a)(1) or any credits described in section 807(a)(1), or on receipt of payment from an eligible country, reduce or cancel such loans (or credits) or portion thereof, only for the purpose of facilitating a debt buyback by an eligible country of its own qualified debt, only if the eligible country uses an additional amount of the local currency of the eligible country, equal to not less than the lessor of 40 percent of the price paid for such debt by such eligible country, or the difference between the price paid for such debt and the face value of such debt, to support eligible activities described in section 809(d).

"(3) Limitation.—The authority provided by paragraphs (1) and (2) shall be available only to

the extent that appropriations for the cost (as defined in section 502(5) of the Federal Credit Reform Act of 1990) of the modification of any debt pursuant to such paragraphs are made in advance.

"(4) Terms and Conditions.—Notwithstanding any other provision of law, the President shall, in accordance with this section, establish the terms and conditions under which loans and credits may be sold, reduced, or canceled pursuant to this section.

"(5) Administration.—

"(A) In general.—The Facility shall notify the administrator of the agency primarily responsible for administering part I of this Act or the Commodity Credit Corporation, as the case may be, of eligible purchasers described in paragraph (1)(B) that the President has determined to be eligible under paragraph (1), and shall direct such agency or Corporation, as the case may be, to carry out the sale, reduction, or cancellation of a loan pursuant to such paragraph.

"(B) Additional requirement.—Such agency or Corporation, as the case may be, shall make an adjustment in its accounts to reflect the sale, reduction, or cancellation.

"(b) Deposit of Proceeds.—The proceeds from the sale, reduction, or cancellation of any loan sold, reduced, or canceled pursuant to this section shall be deposited in the United States Government account or accounts established for the repayment of such loan.

"SEC. 809. TROPICAL FOREST AGREEMENT.

"(a) Authority.—

"(1) In general.—The Secretary of State is authorized, in consultation with other appropriate officials of the Federal Government, to enter into a Tropical Forest Agreement with any eligible country concerning the operation and use of the Fund for that country.

"(2) Consultation.—In the negotiation of such an Agreement, the Secretary shall consult with the Board in accordance with section 811.

"(b) Contents of Agreement.—The requirements contained in section 708(b) of this Act (relating to contents of an agreement) shall apply to an Agreement in the same manner as such requirements apply to an Americas Framework Agreement.

"(c) Administering Body.—

"(1) In general.—Amounts disbursed from the Fund in each beneficiary country shall be administered by a body constituted under the laws of that country.

"(2) Composition.—

"(A) In general.—The administering body shall consist of—

"(i) one or more individuals appointed by the United States Government;

"(ii) one or more individuals appointed by the government of the beneficiary country; and

"(iii) individuals who represent a broad range of—

"(I) environmental nongovernmental organizations of, or active in, the beneficiary country;

"(II) local community development nongovernmental organizations of the beneficiary country; and

"(III) scientific, academic, or forestry organizations of the beneficiary country.

"(B) Additional requirement.—A majority of the members of the administering body shall be individuals described in subparagraph (A)(iii).

"(3) Responsibilities.—The requirements contained in section 708(c)(3) of this Act (relating to responsibilities of the administering body) shall apply to an administering body described in paragraph (1) in the same manner as such requirements apply to an administering body described in section 708(c)(1) of this Act.

"(d) Eligible Activities.—Amounts deposited in a Fund shall be used only to provide grants to conserve, maintain, and restore the tropical forests in the beneficiary country, through one or more of the following activities:

"(1) Establishment, restoration, protection, and maintenance of parks, protected areas, and reserves.

"(2) Development and implementation of scientifically sound systems of natural resource management, including land and ecosystem management practices.

"(3) Training programs to increase the scientific, technical, and managerial capacities of individuals and organizations involved in conservation efforts.

"(4) Restoration, protection, or sustainable use of diverse animal and plant species.

"(5) Research and identification of medicinal uses of tropical forest plant life to treat human diseases and illnesses and health related concerns.

"(6) Development and support of the livelihoods of individuals living in or near a tropical forest in a manner consistent with protecting such tropical forest.

"(e) Grant Recipients.—

"(1) In general.—Grants made from a Fund shall be made to—

"(A) nongovernmental environmental, forestry, conservation, and indigenous peoples organizations of, or active in, the beneficiary country;

"(B) other appropriate local or regional entities of, or active in, the beneficiary country; or

"(C) in exceptional circumstances, the government of the beneficiary country.

"(2) Priority.—In providing grants under paragraph (1), priority shall be given to projects that are run by nongovernmental organizations and other private entities and that involve local communities in their planning and execution.

"(f) Review of Larger Grants.—Any grant of more than $100,000 from a Fund shall be subject to veto by the Government of the United States or the government of the beneficiary country.

"(g) Eligibility Criteria.—In the event that a country ceases to meet the eligibility requirements set forth in section 805(a), as determined by the President pursuant to section 805(b), then grants from the Fund for that country may only be made to nongovernmental organizations until such time as the President determines that such country meets the eligibility requirements set forth in section 805(a).

"SEC. 810. TROPICAL FOREST FUND.

"(a) Establishment.—Each beneficiary country that enters into a Tropical Forest Agreement under section 809 shall be required to establish a Tropical Forest Fund to receive payments of interest on new obligations undertaken by the beneficiary country under this part.

"(b) Requirements Relating to Operation of Fund.—The following terms and conditions shall apply to the Fund in the same manner as such terms as conditions apply to an Enterprise for the Americas Fund under section 707 of this Act:

"(1) The provision relating to deposits under subsection (b) of such section.

"(2) The provision relating to investments under subsection (c) of such section.

"(3) The provision relating to disbursements under subsection (d) of such section.

"SEC. 811. BOARD.

"(a) Enterprise for the Americas Board.—The Enterprise for the Americas Board established under section 610(a) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1738i(a)) shall, in addition to carrying out the responsibilities of the Board under section 610(c) of such Act, carry out the duties described in subsection (c) of this section for the purposes of this part.

"(b) Additional Membership.—

"(1) In general.—The Enterprise for the Americas Board shall be composed of an additional four members appointed by the President as follows:

"(A) Two representatives from the United States Government, including a representative of the International Forestry Division of the United States Forest Service.

"(B) Two representatives from private nongovernmental environmental, scientific, forestry, or academic organizations with experience and expertise in preservation, maintenance, sustainable uses, and restoration of tropical forests.

"(2) Chairperson.—Notwithstanding section 610(b)(2) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1738i(b)(2)), the Enterprise for the Americas Board shall be headed by a chairperson who shall be appointed by the President from among the representatives appointed under section 610(b)(1)(A) of such Act or paragraph (1)(A) of this subsection.

"(c) Duties.—The duties described in this subsection are as follows:

"(1) Advise the Secretary of State on the negotiations of Tropical Forest Agreements.

"(2) Ensure, in consultation with—

"(A) the government of the beneficiary country,

"(B) nongovernmental organizations of the beneficiary country,

"(C) nongovernmental organizations of the region (if appropriate),

"(D) environmental, scientific, forestry, and academic leaders of the beneficiary country, and

"(E) environmental, scientific, forestry, and academic leaders of the region (as appropriate),

that a suitable administering body is identified for each Fund.

"(3) Review the programs, operations, and fiscal audits of each administering body.

"SEC. 812. CONSULTATIONS WITH THE CONGRESS.

"The President shall consult with the appropriate congressional committees on a periodic basis to review the operation of the Facility under this part and the eligibility of countries for benefits from the Facility under this part.

"SEC. 813. ANNUAL REPORTS TO THE CONGRESS.

"(a) In General.—Not later than December 31 of each year, the President shall prepare and transmit to the Congress an annual report concerning the operation of the Facility for the prior fiscal year. Such report shall include—

"(1) a description of the activities undertaken by the Facility during the previous fiscal year;

"(2) a description of any Agreement entered into under this part;

"(3) a report on any Funds that have been established under this part and on the operations of such Funds; and

"(4) a description of any grants that have been provided by administering bodies pursuant to Agreements under this part.

"(b) Supplemental Views in Annual Report.—Not later than December 15 of each year, each member of the Board shall be entitled to receive a copy of the report required under subsection (a). Each member of the Board may prepare and submit supplemental views to the President on the implementation of this part by December 31 for inclusion in the annual report when it is transmitted to Congress pursuant to this section.".

PRESENTATION OF CONGRESSIONAL GOLD MEDAL TO NELSON ROLIHLAHLA MANDELA

Mr. ROBERTS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 3156, which was received from the House.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 3156) to present a Congressional Gold Medal to Nelson Rolihlahla Mandela.

There being no objection, the Senate proceeded to consider the bill.

Mr. D'AMATO. Mr. President, today I rise to encourage Senate passage of H.R. 3156, a bill to authorize the President to present Nelson Mandela with the Congressional gold medal. President Mandela is a courageous world leader who has championed rights for freedom and equality for decades.

Nelson Mandela was born in South Africa in 1918, the son of a Tembu tribal chief. His tribal name, Rolihlahla, means, "one who brings trouble upon himself." The name seems to have led the young Mandela into a life of challenge, from the time he chose to enroll in college in pursuit of a law degree over his right to become tribal chiefdom, to his more than 25 years spent incarcerated as a political prisoner in his native South Africa. Nelson Mandela continually led the cause for liberation of his people.

Mr. President, who could forget the image as multitudes of South Africans stood in long lines on April 27, 1994 to cast their first vote in the country's first-ever democratic elections. In his inaugural address, President Mandala presented himself as the right man to lead all people of South Africa into a time of healing for peace, justice, and democracy. His blueprint for South Africa is one for all citizens of that country regardless of race, religious affiliation or gender, working together to build a nation of prosperity.

Nelson Mandela is known throughout the world for his long struggle in the fight against apartheid and has received a number of prestigious humanitarian awards, including the Nobel Peace Prize in 1993. It is only fitting that this country recognize Nelson Mandela's life of dedication and sacrifice and his victory over racial inequality not only for South Africa, but for all peoples everywhere.

Mr. ROBERTS. Mr. President, I ask unanimous consent that the bill be considered read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be placed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 3156) was passed.

ORDERS FOR WEDNESDAY, JULY 15, 1998

Mr. ROBERTS. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9 a.m. on Wednesday, July 15. I further ask that when the Senate reconvenes on Wednesday, immediately following the prayer, the routine requests through the morning hour be granted, and there then be 20 minutes for the following Senators limited to 5 minutes each: Senators MCCAIN, COATS, LIEBERMAN, and MURRAY. I further ask that following that debate the Senate stand in recess until 11 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERTS. I further ask that when the Senate reconvenes, Mr. President, at 11 a.m., the Senate resume consideration of the Daschle amendment No. 3146 under the previous agreement.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. ROBERTS. Mr. President, for the information of all Senators, when the Senate reconvenes on Wednesday at 11 a.m. and following morning business, the Senate will resume consideration of the Daschle amendment regarding marketing assistance loans. There are 3 hours of debate on the amendment, although some time is expected to be yielded back. Therefore, the first rollcall vote of Wednesday's session is expected to occur between 12 and 1 p.m. Also, a joint meeting of Congress is scheduled for 10 a.m. tomorrow. Senators are asked to be in the Senate Chamber at 9:40 a.m. in order to proceed as a body to the Hall of the House of Representatives to hear an address by the President of Romania. The Senate is expected to be in session into the evening with votes on Wednesday in order to complete action on the agriculture appropriations bill.

ADJOURNMENT UNTIL 9 A.M. TOMORROW

Mr. ROBERTS. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 6:05 p.m., adjourned until Wednesday, July 15, 1998, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate July 14, 1998:

DEPARTMENT OF ENERGY

BILL RICHARDSON, OF NEW MEXICO, TO BE SECRETARY OF ENERGY, VICE FEDERICO PENA, RESIGNED.

HOUSE OF REPRESENTATIVES—*Tuesday, July 14, 1998*

The House met at 12:30 p.m. and was called to order by the Speaker pro tempore (Mrs. JOHNSON of Connecticut).

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
July 14, 1998.

I hereby designate the Honorable NANCY L. JOHNSON to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 6. An act to extend the authorization of programs under the Higher Education Act of 1965, and for other purposes.

H.R. 3694. An act to authorize appropriations for fiscal year 1999 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

H.R. 4059. An act making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 1999, and for other purposes.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 6) "An Act to extend the authorization of programs under the Higher Education Act of 1965, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. JEFFORDS, Mr. COATS, Mr. GREGG, Mr. FRIST, Mr. DEWINE, Mr. ENZI, Mr. HUTCHINSON, Ms. COLLINS, Mr. WARNER, Mr. MCCONNELL, Mr. KENNEDY, Mr. DODD, Mr. HARKIN, Ms. MIKULSKI, Mr. BINGAMAN, Mr. WELLSTONE, Mrs. MURRAY, and Mr. REED, to be the conferees on the part of the Senate.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 3694) "An Act to authorize appropriations for fiscal year 1999 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. SHELBY, Mr. CHAFEE, Mr. LUGAR, Mr. DEWINE, Mr. KYL, Mr. INHOFE, Mr. HATCH, Mr. ROBERTS, Mr. ALLARD, Mr. COATS, Mr. KERREY, Mr. GLENN, Mr. BRYAN, Mr. GRAHAM, Mr. KERRY, Mr. BAUCUS, Mr. ROBB, Mr. LAUTENBERG, and Mr. LEVIN; and from the Committee on Armed Services, Mr. THURMOND, to be the conferees on the part of the Senate.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 4059) "An Act making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 1999, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. BURNS, Mrs. HUTCHISON, Mr. FAIRCLOTH, Mr. CRAIG, Mr. STEVENS, Mrs. MURRAY, Mr. REID, Mr. INOUYE, and Mr. BYRD, to be the conferees on the part of the Senate.

The message also announced that the Senate passed bills and concurrent resolutions of the following titles, in which concurrence of the House is requested:

S. 439. An act to provide for Alaska State jurisdiction over small hydroelectric projects, to address voluntary licensing of hydroelectric projects on fresh waters in the State of Hawaii, to provide an exemption for portion of a hydroelectric project located in the State of New Mexico, and for other purposes.

S. 538. An act to authorize the Secretary of the Interior to convey certain facilities of the Minidoka project to the Burley Irrigation District, and for other purposes.

S. 799. An act to direct the Secretary of the Interior to transfer to the personal representative of the estate of Fred Steffens of Big Horn County, Wyoming, certain land comprising the Steffens family property.

S. 814. An act to direct the Secretary of the Interior to transfer to John R. and Margaret J. Lowe of Big Horn County, Wyoming, certain land so as to correct an error in the patent issued to their predecessors in interest.

S. 846. An act to amend the Federal Power Act to remove the jurisdiction of the Federal Energy Regulatory Commission to license projects on fresh waters in the State of Hawaii.

S. 1158. An act to amend the Alaska Native Claims Settlement Act, regarding the Huna Totem Corporation public interest land exchange, and for other purposes.

S. 1159. An act to amend the Alaska Native Claims Settlement Act, regarding the Kake Tribal Corporation public interest land exchange.

S. 1609. An act to amend the High-Performance Computing Act of 1991 to authorize appropriations for fiscal years 1999 and 2000 for the Next Generation Internet program, to require the Advisory Committee on High-Performance Computing and Communications, Information Technology, and the Next Generation Internet to monitor and give advice concerning the development and implementation of the Next Generation Internet program and report to the President and the Congress on its activities, and for other purposes.

S. 1976. An act to increase public awareness of the plight of victims of crime with developmental disabilities, to collect data to measure the magnitude of the problem, and to develop strategies to address the safety and justice needs of victims of crime with developmental disabilities.

S. 2022. An act to provide for the improvement of interstate criminal justice identification, information, communications, and forensics.

S. 2073. An act to authorize appropriations for the National Center for Missing and Exploited Children.

S. 2275. An act to make technical corrections to the Agricultural Research, Extension, and Education Reform Act of 1998.

S. 2282. An act to amend the Arms Export Control Act, and for other purposes.

S. 2294. An act to facilitate the exchange of criminal history records for noncriminal justice purposes, to provide for the decentralized storage of criminal history records, to amend the National Child Protection Act of 1993 to facilitate the fingerprint checks authorized by that Act, and for other purposes.

S. Con. Res. 30. Concurrent resolution expressing the sense of Congress that the rules of multilateral economic institutions, including the International Monetary Fund and the International Bank for Reconstruction and Development, should be amended to allow membership for the Republic of China on Taiwan and other qualified economies.

S. Con. Res. 81. Concurrent resolution honoring the Berlin Airlift and commending the Berlin Sculpture Fund.

S. Con. Res. 106. Concurrent resolution to commend the Library of Congress for 200 years of outstanding service to Congress and the Nation, and to encourage activities to commemorate the bicentennial anniversary of the Library of Congress.

S. Con. Res. 107. Concurrent resolution affirming United States commitments under the Taiwan Relations Act.

The message also announced that pursuant to the provisions of Public Law 105–186, the Chair, on behalf of the Democratic Leader, appoints the following Senators to the Presidential Advisory Commission on Holocaust Assets in the United States—the Senator from California (Mrs. BOXER); and the Senator from Connecticut (Mr. DODD).

The message also announced that pursuant to the provisions of Public Law 105–186, the Chair, on behalf of the Majority Leader, appoints the following Senators to the Presidential Advisory Commission on Holocaust Assets in the United States—the Senator from New York (Mr. D'AMATO); and the Senator from Pennsylvania (Mr. SPECTER).

MORNING HOUR DEBATES

The SPEAKER pro tempore. Pursuant to the order of the House of January 21, 1997, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to 30 minutes, and each Member, other than the majority leader, the minority leader, or the minority whip, limited to 5 minutes.

The Chair recognizes the gentleman from Oregon (Mr. BLUMENAUER) for 5 minutes.

OREGON DEATH WITH DIGNITY LAW

Mr. BLUMENAUER. Madam Speaker, one of the most difficult decisions we in Congress routinely face on the Federal level is choosing where to act or intervene in a decision that is reached elsewhere. There are some that are relatively easy decisions for most Americans, as in the case of where there is active discrimination or a failure to protect the environment. People feel entirely comfortable with the Federal Government moving to assure equity and environmental protection.

Many, however, are decisions that are very much in a gray area, which some choose, unfortunately, to use for political reasons. One of these gray areas, the decision that affects the end of life, is perhaps one of the most difficult and personal.

In the State of Oregon, which I represent, we have struggled, debated and agonized over this issue for the last 4 years. The end-of-life issue is a very complex one, and, with the advent of new medical technologies and our rapidly aging population, it is getting more so for more of us.

There are a wide range of ways to impact on these decisions, but none, as near as I can tell, require Federal help or interference. Yet today, the House Committee on the Judiciary is poised to have one of its subcommittees deal with legislation that would do precisely that, undermine a decision that has been agonized over in my State of Oregon for these last 4 years.

There are, in fact, some very technical problems of a serious nature with this legislation. It would, in fact, interfere with the practice of medicine, of pharmacy, of pain management, of hospice management, in ways that would have profound effects on rights that many in America have taken for granted, and that is why there are large numbers of the medical profession that have come forward with their opposition to legislation of this nature.

In Oregon, our legislation, Death with Dignity, is still a work in progress, but the fact is the preliminary evidence suggests that this option may actually reduce the incidence of violent suicide while easing the burden of both the individual and their family.

Rather than having a flood of people to our State to take advantage of the provisions of the Death with Dignity law, it appears that individuals, having the knowledge that they, their families and their doctors can control this decision, gives a sense of peace and contentment that enables some people to move forward, enduring the pain and the struggle, without resorting to taking their own life.

At this very moment, there are people in America who are struggling with this question in their family, and, before the day is out, there will be someone in America who will, in fact, hasten their death.

As Americans struggle with these issues, mostly hidden from public view, it is important that we not have that personal tragedy, that agony, that frustration made more difficult by laws that ignore the realities of modern medicine and the range of legitimate personal medical choices.

As we age as a society, exponentially, with the increase of the elderly population, and just the growth in our population, this will become more serious. As medical science continues to advance, the difficult decision points are going to be made more difficult and more complex.

The evidence suggests that Americans support the principles of Death with Dignity. But whether you are a conservative and supportive of States' rights, or you are characterizing yourself perhaps as more progressive and feel that the government should be involved with more innovative policy development, it should be a point of common agreement that the Federal Government should allow Oregonians to continue their struggle in the implementation of Death with Dignity and avoid unnecessary Federal interference.

AMERICA UNITING IN PROVIDING FLORIDA DISASTER RELIEF

The SPEAKER pro tempore. Under the Speaker's announced policy of January 21, 1997, the gentleman from Florida (Mr. STEARNS) is recognized during morning hour business for 5 minutes.

Mr. STEARNS. Madam Speaker, my home State of Florida has been ravaged with the worst outbreak of fire in the State's history. We have seen the type of destruction which devastates communities. Such a disaster demands that people work together to protect life and property, and, in these cases, some of the best qualities come out of our American people.

Since June 1, 1998, in a prolonged drought, we have seen 1,946 reported fire outbreaks. The destruction is widespread. Fires have burned over 485,000 acres of land, over 2,200 homes and structures, and several businesses.

Madam Speaker, the outpouring of goodwill and assistance we received came not only from within our State, but from the Federal Government and, in fact, from 44 other States. Foreign countries even offered aid, with one loaning a special fire-fighting unit.

The Florida National Guard and U.S. Marine units worked together to help evacuate people, clear brush and build temporary bridges to transport the heavy fire-fighting equipment. Contractors in the private sector volunteered machinery and manpower to battle the flames and transport water. Churches, schools, motels and businesses opened their doors to shelter over 100,000 evacuees. Donations poured in to aid the victims and help the brave emergency workers and firefighters.

I am proud to represent these kinds of people, particularly the people who live in Palatka, Florida. These residents did not suffer the fire damage seen in other areas, but were able to open their doors to over 2,000 evacuees streaming from nearby Flagler County and other fire-stricken areas.

The local Price-Martin Community Center served as an information center, providing directions to nearby shelters. Folks from my county who love horses went over to Volusia County and helped with those folks who had horses that were straying. Volunteer nurses and the local Red Cross worked around the clock to ease the suffering of those forced from their homes.

Recognizing our State's emergency situation, on June 18, 1998, President Clinton declared the State of Florida a major disaster area, paving the way for over $32 million in Federal aid to reach Florida's fire-ravaged areas.

More recently, Secretary Glickman declared Florida eligible for Department of Agriculture assistance. That was very good news for Florida's family farmers, who sustained significant production losses. Agricultural interests in Florida suffered $100 million in damages just from El Nino events, and then lost more than $400 million in the following droughts and fires.

As grateful as we are in Florida for this Federal assistance, it comes at a 25 percent State cost. FEMA has initiated $60 million worth of missions to help Florida, but that means that Florida must contribute $15 million of its own. Add that to about $45 million in State and local costs, and the State's price tag of this natural disaster really begins to mount.

Fortunately, FEMA policy allows 100 percent Federal funding for direct Federal assistance emergency work. Recently Florida requested that the President authorize 100 percent funding for essential Federal assistance provided to date and thereafter.

I hope that the 100 percent assistance will be granted, as this is the fifth disaster declaration Florida has faced in 5 years, and that it comes on the heals of the El Nino floods earlier this year. Florida disaster resources are nearly exhausted. By reflecting on our response to this natural disaster, we can prepare for future fire outbreaks.

As a member of the House Fire Service Caucus, I recognize that a coordinated effort of all available resources is necessary to battle these blazes. On June 25, I joined fellow caucus members at a press conference highlighting our new task force and initiative on wildland fires.

□ 1245

We contacted the Secretary of Defense, Mr. Cohen, requesting the cooperation and the assistance of the Department of Defense to identify assets he could make available for firefighting purposes. Additionally, we asked the U.S. National Guard to examine its past deployments in firefighting efforts and then offer recommendations as to how these assets can be most effectively administered.

Luckily, I say to my colleagues, recent rains have provided some relief, and those who helped us through the worst deserve our praise and thanks. As we have seen, this difficult situation revealed our country's good character. This was evident in the valiant firefighting efforts that began on the first of June. I am confident that through a continued coordinated effort we will completely extinguish these fires threatening Florida and begin the long process of recovery.

Madam Speaker, I am here today to applaud all the efforts of all Floridians for all the hard work they have done to put out these fires. God bless them all.

TRIBUTE TO WATKINS M. ABBITT, SR.

The SPEAKER pro tempore (Mrs. JOHNSON of Connecticut). Under the Speaker's announced policy of January 21, 1997, the gentleman from Virginia (Mr. SISISKY) is recognized during morning hour debates for 5 minutes.

Mr. SISISKY. Madam Speaker, it is my sad duty to inform the House that former Congressman Watkins M. Abbitt, who formerly represented the 4th District of Virginia, died yesterday at the age of 90.

Congressman Abbitt was a true son of the south. He was born in Lynchburg, Virginia, 1908, graduated from the Appomattox Agricultural High School in 1925, and earned a law degree from the University of Richmond in 1931. He served as Commonwealth's Attorney in Appomattox from 1932 to 1948 and was a member of Virginia's Constitutional Convention in 1945.

He was a delegate to Democratic State conventions from 1932 to 1952, Chairman of the Democratic Central Committee from 1964 to 1970, and delegate to the Democratic National Convention in 1964. He also became a director of the Farmers National Bank.

He was elected to Congress in 1948 and served until he retired in 1973.

I will be the first to tell my colleagues that the 4th District has changed since Wat Abbitt served in Congress, and the great thing about Wat Abbitt was that he saw changes coming and was ready to change with it. Nevertheless, the rural character of Southside is still there; the peanut and tobacco farmers and families are still there.

After he retired, Wat Abbitt said his biggest accomplishment had been looking after the interests of the farmers in his district. I hope they can say that about me.

Among many of my constituents, Wat Abbitt is still the standard by which they measure an effective Congressman. I can tell my colleagues this about serving in Congress: I have worked hard to get the job, and I think I would have been elected even if Wat Abbitt had not helped me, but it sure made things easier for me that he did. I suspect there is 40 years worth of Virginia's governors, from both parties, and Congressmen who could say the same thing. He was one of the rare politicians who combined fidelity to the past with respect for the future. That ability helped change Virginia from the way it used to be to the way that it is today.

Madam Speaker, I yield to the gentleman from Virginia (Mr. GOODE).

Mr. GOODE. Madam Speaker, it is my pleasure to join my colleague, the gentleman from Virginia (Mr. SISISKY) in expressing sadness at the passing of former Congressman Watkins M. Abbitt of Appomattox. He served with distinction in this body for over 24 years. He represented the 4th District, but from 1972 on, he was a resident of Virginia's 5th District.

He first came to Congress in the winter of 1948 when he won an overwhelming victory over four opponents. In the years that followed, he rarely faced opposition because of his outstanding reputation and his leadership in the United States House of Representatives.

As Chairman of the Democratic Party of Virginia, he fought hard to bring our party into a position of prominence. In 1946, he had the distinction of being the only Statewide campaign manager for two Statewide campaigns, those of U.S. Senator Harry Byrd and U.S. Senator A. Willis Robinson. Both were overwhelmingly successful.

In 1972, Wat Abbitt retired from Congress though not from politics or life. He left all of us who knew him with many legacies, but I should mention three of the hallmarks of his legislative years: support for tobacco, fighting for peanuts, and warnings about rising deficits. In his later years he remained active. This last year he sold more tickets to the Appomattox County Democratic Fish Fry than any other person.

He gained renown as a great speaker, and I fondly recall his remarks and his speeches on my behalf in the nomination process for the U.S. House of Representatives.

I join many others in extending condolences to his wife; to his son, Watkins M. Abbitt, Jr., who is following in his father's footsteps and who is a member of the Virginia House of Delegates; to his two daughters; to his two brothers; and to his sisters. May we all remember his enthusiasm, his zest for living, and his willingness to fight for causes that were just and may he always serve as a model for us in the years ahead.

JUSTICE AND EQUITY FOR FILIPINO VETERANS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 21, 1997, the gentleman from California (Mr. FILNER) is recognized during morning hour debate for 5 minutes.

Mr. FILNER. Madam Speaker, what I want to do this afternoon is to bring to the attention of my colleagues and the American people a glaring injustice that has existed in this country for more than half a century, an injustice that was caused in 1946 and that we in this Congress in 1998 have a chance to remedy.

Recently, this Congress passed a resolution of support and congratulations for the 100th anniversary of the independence of the Republic of the Philippines. We celebrated that anniversary as true partners in the world with the Philippine Republic. I said at that time a few weeks ago that a better way to give honor to our allies in the Pacific, a better way to celebrate this 100th anniversary of our close partner, would be to remedy an injustice that was perpetrated on the brave veterans of the Philippine armed forces who fought side by side with the American Army in the liberation of the Pacific in World War II.

The Philippine soldiers were drafted into World War II by our President Franklin Roosevelt. They fought side by side and helped to win the battle of the Pacific; and yet, after the war, all the benefits of being a veteran were taken away by the Congress of 1946.

There is legislation in this House that is cosponsored by almost 200 of us, legislation introduced by the distinguished Chairman of the House Committee on International Relations, the gentleman from New York (Mr. GILMAN) and myself, H.R. 836, called the Philippines Veterans Equity Act.

Thanks to the Chairman of the Committee on Veterans' Affairs, the gentleman from Arizona (Mr. STUMP), we will be having a hearing on this legislation next week on July 22nd, a hearing on H.R. 836, the Filipino Veterans Equity Act. That hearing promises to give the American people a living history lesson of past bravery and courage, much of it long forgotten by our current generation.

The American people will hear from brave participants in the battles of Bataan and Corregidor. They will hear from survivors of the famous Bataan Death March in which thousands of Filipinos and Americans died. They will hear from guerilla fighters who, for 4 years in the Philippines, both held up the advance and the consolidation of power by the invaders and helped prepare the way for the return to the Philippines by General Douglas MacArthur. The story after that is well known, with MacArthur retaking the Philippines and using that as a base to regain the Pacific.

What will be clear from this testimony next week at the House Committee on Veterans Affairs will be the bravery, the courage, the honor, the dignity and the loyalty of these veterans of World War II, and what will also be clear is the injustice that was perpetrated more than 50 years ago and the dishonor that was brought really to us as Americans by allowing this action. We took away the rights that they had earned as veterans of the American Armed Forces. To this day, they are still wanting a return of this honor and dignity. Of more than almost a quarter of a million who were alive during World War II, less than 75,000 are alive today.

I plead with this Congress and with the Committee on Veterans' Affairs to restore the honor and dignity to these brave veterans in the last years of their lives. Let us pass H.R. 836, the Filipino Veterans Equity Act. Let us restore the honor and dignity of these brave fighters of World War II. Let us grant equity to them now.

We have apologized as a Nation for the internment of the Japanese in World War II. We have apologized to those soldiers at Tuskegee who were involuntarily subject to medical experiments which led to their death. It is time as a Nation that we apologize to the brave veterans of World War II who are from the Philippines. Let us pass H.R. 836. Let us give these soldiers their honor and dignity.

RUSSIAN MATTERS RELEVANT TO THE UNITED STATES

The SPEAKER pro tempore. Under the Speaker's announced policy of January 21, 1997, the gentleman from Pennsylvania (Mr. WELDON) is recognized during morning hour debates for 5 minutes.

Mr. WELDON of Pennsylvania. Madam Speaker, last evening I gave a keynote speech at the John F. Kennedy School of Harvard University to a group of 25 Duma members from Russia, parliamentarians who were here for 2 weeks of orientation in the ways of our operation of the American democracy, our Congress and our system of government. It was an eye-opening experience, and I wish them well as they spend the next 2 weeks learning more about America and our democracy.

Working in Russian issues as I do, I have two other facts I would like to bring to the attention of my colleagues. One is a very positive development in Russia, and we have all watched with a great degree of concern as this emerging democracy over the past several years has evolved in giving people additional rights and freedoms.

One of my good friends, Aleksei Yablokov, who has testified twice before Members of this Congress and our subcommittees on issues involving the environment, nuclear contamination and small nuclear bombs, unfortunately had an incident where one of the Russian publications, Nezavisimaya Gazeta, wrote an article about Mr. Yablokov calling him a traitor because he came before the U.S. Congress and told in a very open setting about his concerns that Russia had, in fact, built small nuclear suitcase bombs, that these bombs might not be accounted for.

Mr. Yablokov sued this publication and just recently, in fact last week, the Moscow Municipal Court ruled in favor of Aleksei Yablokov, ordered the newspaper, the Gazeta, to print a public retraction by the 9th of September, 1998, and to pay Yablokov 30,000 rubles because of this libel case. It is a credit to the Russian system that an individual with the integrity of Aleksei Yablokov can sue and successfully win compensation for wrongs committed by the Russian media, and for that I applaud Russia.

The second issue concerns me, Madam Speaker, because during the recent break one of my good friends, a member of the State Duma from the our home is Russia party, Lev Rokhlin was assassinated. He was the Chairman of the Duma Committee on National Security. I had met with him on numerous occasions, and while I in many cases did not agree with his political positions, I respected him. He was a retired Russian general, someone who was known for committing himself and his political leadership to support for the troops, for their quality of life.

□ 1300

Lev was also one of the most outspoken critics of Boris Yeltsin. In fact, last year he called publicly for Yeltsin to be impeached. For these calls, Lev was removed from his position as chairman of the Duma Defense Committee. He was involved more recently in investigating whether or not Russian oil companies took money for use in the Caucasus, to be used to buy weapons, instead of being used for the people and for the Russian government.

There are suspicions that Lev Rokhlin was assassinated because of his outspoken comments. The official line out of Moscow is that Lev was killed by his wife, a wife who shot him in a fit of anger. But Lev's children have publicly come out and said that is not the case, that Lev was assassinated, and that his wife had to say what she did because she also was told she would be assassinated.

In addition, Yuri Markin, a lawyer that worked with Rokhlin, said that he believed that there was an assassination attempt on his life the same night Lev Rokhlin was killed. Mr. Markin claims Lev was assassinated because he in fact was revealing things that were going on inside of Russia that were not legal and that in fact involved organized crime.

I encourage, Madam Speaker, the Russian government to fully investigate, as Boris Yeltsin has promised, the unfortunate and untimely death of Lev Rokhlin, so we can, as we have in the case of the environmentalists winning the money from the slanderous article by the Russian newspaper, so that we can have peace of mind that Lev Rokhlin was not killed by some organized criminal element in Russia because of what he was saying and because of the job that he was performing as a member of the State Duma.

The Russian people understand this issue. In fact, at Lev's funeral last week over 10,000 Russian citizens came out in force. Most of them have a suspicion that Lev was in fact assassinated by forces other than his wife.

I would ask our administration to lend its support to my call for the Russian government to have a full accounting as to the circumstances and facts surrounding the death of Duma Deputy Lev Rokhlin.

THE TRANSPORTATION NEEDS OF THE RESIDENTS OF THE 46TH CONGRESSIONAL DISTRICT

The SPEAKER pro tempore (Mrs. JOHNSON of Connecticut). Under the Speaker's announced policy of January 21, 1997, the gentlewoman from California (Ms. SANCHEZ) is recognized during morning hour debates for 3 minutes.

Ms. SANCHEZ. Madam Speaker, during the Fourth of July district work period, it was my distinct honor to join officials in Orange County, California, to highlight the transportation needs of the 46th Congressional District.

I joined the chairman of the Orange County Transportation Authority, Sara Catz, a longtime friend, and the regional administrator for the Federal Transit Administration, Mr. Leslie Rogers, to present a $5 million check in Federal transportation funding to undertake a feasibility study for the construction of an urban light rail system.

I believe that the final release of the Federal funding is an excellent example of the partnership between the Federal Government and regional transportation agencies in an effort to meet the transportation needs of local residents. I am pleased to work with the administration to make the funding available to begin the feasibility study of the transitway project.

The funding represents a significant step in relieving the crushing transportation demands of the residents of Orange County.

For example, the projected future economic growth will result in an estimated 43 percent increase in county traffic by the year 2020. In fact, if we take a look at the work that is being done today in the city of Anaheim, $5 billion worth of new construction, private construction, where we are building a second Disneyland theme park, Members will note that we have a lot of construction going on today.

While the residents of Orange County many years ago passed a proposition which would allow us to fund many of the transportation improvements we have been working on, the fact of the matter is that the economic good times that are occurring there with respect to construction and jobs require an even more fundamental solution.

For example, the interstate throughway through Orange County now has a place where it is 26 lanes wide in just one spot, so transit makes good sense if it can be affordable and if it can be applied correctly.

In fact, if we do not do something and we continue just to build freeways, it will add about another 20 minutes to commute time in Orange County, where some people already have commute times of 2 hours just one way to get to work in the morning.

The potential for the light rail system in our county is exciting. Transitway projects such as this represent a sound investment in infrastructure that enable our economy to thrive and to provide our communities with a safe and reliable transportation system. It becomes even more important as part of our population continues to age and as, for example, in the city of Santa Ana, which I represent, we have the youngest population across the United States.

Ultimately, by improving our transportation system, we stimulate economic growth, we create local jobs, and ultimately we improve the quality of life for our cities and our neighborhoods.

NORTON FILES BILL FOR FULL CONGRESSIONAL REPRESENTATION FOR THE DISTRICT OF COLUMBIA

The SPEAKER pro tempore. Under the Speaker's announced policy of January 21, 1997, the gentlewoman from the District of Columbia (Ms. NORTON) is recognized during morning hour debates for 5 minutes.

Ms. NORTON. Madam Speaker, today I introduced the District of Columbia Voting Rights Act of 1998, my first bill following the July 4 recess. District citizens commemorated July 4 of this year by presenting a petition to Congress for redress of grievances granting the citizens of the District of Columbia representation in Congress.

July 4 was the date the Founders of the Nation and the Framers of the Constitution declared their right to full voting representation before submitting to any government. The residents of the District take them at their word and insist upon the same.

Because the petition is not self-executing but requires the introduction of a bill, I have an obligation to respond to the petition by introducing a bill to carry out its request to the Congress to grant the District full voting representation. I expect the same bill to be introduced in the Senate.

District citizens, with great patience, have pursued all the remedies available to them, the Voting Rights Act of 1978 and the New Columbia Admission Act of 1993. Following the example set at the founding of the Nation on July 4 of 1776, it has become impossible for the District to let the matter rest any longer. A combination of authoritative sources now make clear that Congress cannot continue constitutionally to deny District residents representation in the national legislature, but must and can take all steps necessary to afford them full representation.

The Congress has continually cited Article I, Section 8, Clause 17, for the proposition that it has plenary power to do whatever is constitutionally and legally necessary to or for the District. Using this power, the Congress has required District residents to meet the responsibilities of States and to accept the obligations of States, but has denied District citizens the rights that citizens of the States take for granted. Under the Constitution as interpreted by the courts today, it has become impossible to argue that the Constitution gives the Congress power at once to impose obligations and to deny rights.

Fortunately, the Framers of the Constitution have not left District citizens without a remedy, should Congress fail to act. That is what the courts are there for, and that is what the Constitution is there for.

Therefore, today I am introducing into the RECORD the Petition for Redress of Grievances, which lays out the broad outlines of the constitutional framework that requires that District citizens be treated like the full American citizens they are.

The courts have already decided that all Americans are entitled to equal representation in the national legislature. The Supreme Court has interpreted the due process clause, the equal protection clause, the privileges and immunities clause, and the guarantee of a republican form of government, to mean that no American citizen may be excluded from an equal vote in the Congress.

The right to be represented in the national legislature is a function of national citizenship. District residents cannot be held to be the only citizens excluded from the one man-one vote equal representation of Reynolds versus Sims.

The citizens of the District of Columbia are as much entitled to the right to full representation as citizens who leave our shores, perhaps for a lifetime, but still claim the right to representation in the House and Senate, under the Overseas Citizens Voting Rights Act of 1975 passed by the Congress.

Thomas Jefferson spoke for the people whom I represent when, in the Declaration of Independence, he wrote about ". . . a long line of abuses and usurpations" resulting from government without representation of the governed, and concluded that there was "a duty to throw off such government and to provide new guards."

Like the colonists, District citizens pay taxes as required by a body in which they have no representation. Unlike the colonists, District citizens have recourse to a peaceful path for the redress of grievances, the Congress of the United States, and failing that, Article 3 courts established by the Framers themselves.

Therefore, I call upon my colleagues in the House and Senate to use Article I, Section 8, Clause 17, and the other relevant constitutional provisions and cases forthwith to grant, in the words of the bill I introduced today, ". . . the community of American citizens who are residents of the District constituting the seat of government of the United States . . . full voting representation in the Congress" before the 105th Congress adjourns sine die.

Madam Speaker, I include for the RECORD the text of the Petition for the Redress of Grievances.

The material referred to is as follows:

PETITION FOR REDRESS OF GRIEVANCES

We the people of the District of Columbia exercise our First Amendment right this July 4th "to petition the Government for a redress of grievances."[1] We file our Petition to ask the Congress and the President to redress the most fundamental of grievances: our lack of voting representation in the United States House of Representatives and in the United States Senate.

We the people of the District of Columbia are citizens of the United States, endowed with all the attendant rights and duties of American citizenship. Like all other American citizens, we are governed by the laws Congress writes; thousands of us have fought and died in the wars Congress has declared; and we pay into the Treasury billions of dollars for the taxes Congress levies. Yet, unlike all other citizens, we have no vote in the decisions Congress makes. And we are denied that right solely because our home is the Nation's Capital, the city that is a symbol of Democracy to people throughout the world.

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[1] Footnotes at end of petition.

This denial is wrong, because it is contrary to the principles of democratic consent and representative government upon which our Nation was founded. It was wrong when the vote was denied to African-Americans; it was wrong when the vote was denied to women; it was wrong when the vote was denied through poll taxes, literacy tests, property requirements and other devices that excluded citizens from equal participation in our Government; and, it is wrong now to deny voting rights in Congress to the citizens of the District of Columbia. Congress and the President, in the noble American tradition of justice for all, have redressed these wrongs in the past. They should do the same for us now. We therefore petition the Congress and the President to right the wrong that continues to be done to the citizens in the Nation's Capital.

The principles upon which we base our petition were first set out in the Declaration of Independence, 222 years ago today. There, Thomas Jefferson and the other founders of our Republic declared that Governments justly derive their powers only "from the consent of the governed" and that Great Britain had violated that requirement by forcing our people to "relinquish the right of Representation in the Legislature, a right inestimable to them . . ."[2]

In its first seven words, our Constitution carries forward these basic principles of our Declaration of Independence and articulates the sole source of our Government's legitimacy: "We the people of the United States . . ."[3] On behalf of all the people of the United States, the Founding Fathers wrote the Constitution in order to secure the Blessings of Liberty to the citizens of the original states and to their Posterity. We are part of that Posterity, and we therefore claim the rights the Constitution gives us.

The Constitution guarantees Due Process to all citizens. It guarantees Equal Protection of the Laws to all citizens. It guarantees the Privileges and Immunities of citizenship to all citizens. And it guarantees a Republican Form of Government to all citizens. As Abraham Lincoln said, ours is a government "of the people, by the people, and for the people."[4] We the citizens of the District of Columbia are entitled to the rights the Constitution guarantees, and we are certainly a part of the people of whom Lincoln so movingly spoke. To continue to deny us the vote is to deny us these constitutional rights and to exclude us from Lincoln's promise.

For how can ours be a Government of the people if part of the people have no voice in that Government solely because of their place of residence? How can we receive Due Process if we do not participate in the process that makes the laws we are asked to obey? How can we benefit from Equal Protection if the laws exclude us from voting representation? How can we exercise the Privileges of citizenship if we are denied citizenship's most precious privilege—the right to vote for those who govern us? And how can we enjoy a Republican form of Government if we have no voting representation in that Government? Indeed, how can our Government claim the consent of the governed when a half-million people in our Nation's Capital cannot consent because they have no vote?

The answer to all these questions is that without the right to vote, our Democratic rights are debased and the Blessings of Liberty are withheld. As Susan B. Anthony said in 1872: "Our democratic-republican government is based on the idea of the natural right of every individual member thereof to a voice and a vote in making and executing the laws."[5] As she also said: "It was we, the people, not we, the white male citizens, but we, the whole people, who formed this Union."[6] And as Martin Luther King, Jr., said on that historic day in 1963 when he and thousands of others gathered in our Nation's Capital: "When the architects of our republic wrote the magnificent words of the Constitution and the Declaration of Independence, they were signing a promissory note to which every American was to fall heir."[7] As he also said then, "now is the time to make real the promises of democracy."[8]

For most citizens, the Supreme Court made good that promise in 1964 in its landmark "one-person one-vote" decision (*Reynolds* v. *Sims*). In so doing our Supreme Court declared: "No right is more precious in a free country than that of having a voice in the election of those who make the laws under which, as good citizens, we must live. Other rights, even the most basic, are illusory if the right to vote is undermined."[9]

To their great credit, our recent Presidents and Congresses have repeatedly acted to further this constitutional imperative of representation for all Americans. President Lyndon Johnson, placing the full weight of his presidency behind the historic Voting Rights Act in 1965, declared before a Joint Session of Congress that "every American citizen must have an equal vote" and that "there is no duty which weighs more heavily on us than the duty we have to ensure that right."[10] Twenty-five years later, on the anniversary of that Act, President George Bush proclaimed a national day of celebration, declaring that "the right to vote . . . is at the heart of freedom and self-government."[11] He urged all Americans to "reflect upon the importance of exercising our right to vote and our determination to uphold America's promise of equal opportunity for all."[12]

For its part, Congress has repeatedly responded to such calls from our Presidents and from the Nation to protect the right to vote. For example, in the National Voter Registration Act of 1993, Congress expressly found that: (1) the right of citizens of the United States to vote is a fundamental right; and (2) it is the duty of the Federal, State, and local governments to promote the exercise of that right.[13]

Our grievance is that these resounding pronouncements ring hollow to us this July 4th. In November, when all other American citizens cast their ballots for their Representatives and Senators in our national Legislature, our votes will not be among them. On that day, the people of America will exercise their most precious right, but we the people of the Nation's Capital will be left out.

Twenty years ago, Congress recognized this grave injustice and proposed a constitutional amendment to address it. Two-thirds majorities of both Houses of Congress passed a joint resolution declaring that District citizens are entitled to full voting representation in both Houses. Senator Thurmond, who supported the amendment, defended its adoption as follows:

"I think it is a fair thing to do. We are advocating one-man, one vote. We are advocating democratic processes in this country. We have more than 700,000 people in the District of Columbia who do not have voting representation. I think it is nothing but right that we allow these people that representation. We are advocating democratic processes all over the world. We are holding ourselves up as the exemplary Nation that others may emulate in ideas of democracy. How can we do that when three-quarters of a million people are not allowed to have voting representation in the capital city of this Nation?"[14]

Senator Dole, who also championed the bill, explained that the 1976 Republican platform had endorsed voting representation for the District in both Houses, that as the Vice-Presidential nominee he had pointed "with pride" to that position as an "excellent expression of Republican ideals and principles," and that he supported passage of the 1978 bill.[15] His reasons eloquently capture why such a bill was and is necessary:

"The absence of voting representation for the District in Congress is an anomaly which the Senate can no longer sanction. It is an unjustifiable gap in our scheme of representative government—a gap which we can fill this afternoon by passing this resolution.

* * * * *

"It seems clear that the framers of the Constitution did not intend to disenfranchise a significant number of Americans by establishing a Federal District. I believe that the framers would have found the current situation offensive to their notions of fairness and participatory government.

* * * * *

"The Republican Party [in 1976] supported D.C. voting representation because it was just, and in justice we could do nothing else. We supported full rights of citizenship because from the first—from Lincoln forward—we have supported the full rights of citizenship for all Americans."[16]

These Senators' reasoning in support of full democratic representation for the District is as compelling today as it was 20 years ago. And yet, what these Senators rightly found intolerable 20 years ago still persists today. For although two-thirds of the Congress endorsed voting representation for the District in 1978, the vehicle chosen by Congress—a constitutional amendment—failed to attain ratification by the required three-fourths of the States. As a result, the equal rights for D.C. citizens that a large majority of the Members of Congress supported have still not been enacted into law.

However, a constitutional amendment is not required to give us those rights. Those rights are already guaranteed by the Constitution. All that Congress need do is pass a bill today recognizing that fact and giving us voting representation as it intended 20 years ago. Congress should do so now, not only because it is constitutionally and morally right, but also because it speaks to the common sense of the people. The most recent poll of public opinion shows that 80 per cent of the American people believe we should have equal representation in Congress.[17]

For these reasons, we formally petition the Congress to pass a bill granting us by legislation full voting representation as it approved for the District in 1978. We furthermore petition the Congress to pass such a bill before it adjourns this session. And we petition the President to support and promptly sign the bill. Our Government should not let us enter the 21st century as second-class citizens.

It is time to remedy this fundamental injustice. It is time to extend democracy to the loyal and taxpaying American citizens who reside in the Nation's Capital. It is time to give us the vote.

Respectfully submitted by John M. Ferren, District of Columbia Corporation Counsel, On Behalf of the Citizens of the Nation's Capital.

[To be signed, also, by a number of representative citizens of the District of Columbia]

FOOTNOTES

1. Constitution of the United States of America, Amendment I.
2. The Declaration of Independence (1776).
3. Constitution of the United States of America, Preamble.
4. Abraham Lincoln, The Gettysburg Address (November 19, 1863)
5. Susan B. Anthony, Women's Right to Vote Speech (June 1873)
6. Ibid.
7. Rev. Martin Luther King, Jr., "I Have a Dream" Speech (August 28, 1963).
8. Ibid.
9. 377 U.S. 533, 560 (1964).
10. 111 Cong. Rec. H5059 (1965).
11. Proclamation No. 6165, 55 Fed. Reg. 32233 (1990).
12. Ibid.
13. 42 U.S.C. §1973gg.
14. 124 Cong. Rec. 27253 (daily ed. August 22, 1978).
15. 124 Cong. Rec. 27254 (daily ed. August 22, 1978).
16. Ibid.
17. Washington Post, page J-1 (March 19, 1980).

RECESS

The SPEAKER pro tempore. Pursuant to clause 12 of rule I, the Chair declares the House in recess until 2 p.m.

Accordingly (at 1 o'clock and 10 minutes p.m.), the House stood in recess until 2 p.m.

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. HAYWORTH) at 2 p.m.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

May Your blessings, O God, that have touched our life since birth and continue with us day by day, abide in our hearts and minds this day. We recognize, gracious God, that the times abound with opportunities and challenges. As we seek to be responsible in our tasks, we need to know not only the details of issues, but we also need to surround ourselves with the great traditions from which we garner our values and ideals, our faith and our convictions. May our shared heritage remind us that in all things we should do justice, love mercy and ever walk humbly with You. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON) come forward and lead the House in the Pledge of Allegiance.

Ms. EDDIE BERNICE JOHNSON of Texas led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

U.S. HOUSE OF REPRESENTATIVES,
Washington, DC, June 26, 1998.

Hon. NEWT GINGRICH,
The Speaker, U.S. House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted to Clause 5 of Rule III of the Rules of the U.S. House of Representatives, the Clerk received the following messages from the Secretary of the Senate on Friday, June 26, 1998 at 1:00 p.m.:

That the Senate Agreed to House amendment S. 731.

That the Senate Passed without amendment H.R. 651.

That the Senate Passed without amendment H.R. 652.

That the Senate Passed without amendment H.R. 848.

That the Senate Passed without amendment H.R. 960.

That the Senate Passed without amendment H.R. 1184.

That the Senate Passed without amendment H.R. 1217.

That the Senate Passed without amendment H.R. 1635.

That the Senate Passed without amendment H.J. Res. 113.

With warm regards,

ROBIN H. CARLE,
Clerk.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

U.S. HOUSE OF REPRESENTATIVES,
Washington, DC, June 29, 1998.

Hon. NEWT GINGRICH,
The Speaker, U.S. House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted to Clause 5 of Rule III of the Rules of the U.S. House of Representatives, the Clerk received the following messages from the Secretary of the Senate on Monday, June 29, 1998 at 3:03 p.m.

That the Senate Agreed to House amendments to Senate amendments H.R. 3130.

With warm regards,

ROBIN H. CARLE,
Clerk.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

U.S. HOUSE OF REPRESENTATIVES,
Washington, DC, July 10, 1998.

Hon. NEWT GINGRICH,
The Speaker, U.S. House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted to Clause 5 of Rule III of the Rules of the U.S. House of Representatives, the Clerk received the following message from the Secretary of the Senate on Friday, July 10, 1998 at 11:30 a.m.

That the Senate Agreed to conference report H.R. 2676.

With warm regards,

ROBIN H. CARLE,
Clerk.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair desires to announce that pursuant to clause 4 of rule 1, the Speaker pro tempore signed the following enrolled bills on Tuesday June 30, 1998:

H.R. 651, to extend the deadline under the Federal Power Act for the construction of a hydroelectric project located in the State of Washington, and for other purposes;

H.R. 652, to extend the deadline under the Federal Power Act for the construction of a hydroelectric project located in the State of Washington, and for other purposes;

H.R. 848, to extend the deadline under the Federal Power Act applicable to the construction of the AuSable hydroelectric project in New York, and for other purposes;

H.R. 960, to validate certain conveyances in the city of Tulare, Tulare County, California, and for other purposes;

H.R. 1184, to extend the deadline under the Federal Power Act for the construction of the Bear Creek hydroelectric project in the State of Washington, and for other purposes;

H.R. 1217, to extend the deadline under the Federal Power Act for the construction of a hydroelectric project located in the State of Washington, and for other purposes;

H.R. 2202, to amend the Public Health Service Act to revise and extend the Bone Marrow Donor Program, and for other purposes;

H.R. 2864, to require the Secretary of Labor to establish a program under which employers may consult with State officials respecting compliance with occupational safety and health requirements;

H.R. 2877, to amend the Occupational Health Act of 1970;

H.R. 3130, to provide for an alternative penalty procedure for States that fail to meet Federal child support data processing requirements, to reform Federal incentives payments for effective child support performance, to provide for a more flexible penalty procedure for States that violate interjurisdictional adoption requirements, and for other purposes; and

S. 731, to extend the legislative authority for construction of the National Peace Garden Memorial, and for other purposes;

And the Speaker pro tempore signed the following enrolled bills and joint resolution on Tuesday, July 7, 1998:

H.R. 1635, to establish within the United States National Park Service the National Underground Railroad Network to Freedom Program, and for other purposes;

H.R. 3035, to establish an advisory commission to provide advice and recommendations on the creation of an integrated, coordinated Federal policy designed to prepare for and respond to serious drought emergencies; and

H.J. Res. 113, approving the location of a Martin Luther King, Jr., Memorial in the Nation's Capitol.

AUTHORIZING THE SPEAKER TO DECLARE A RECESS ON WEDNESDAY, JULY 15, 1998, FOR THE PURPOSE OF RECEIVING HIS EXCELLENCY EMIL CONSTANTINESCU, PRESIDENT OF ROMANIA

Mr. PITTS. Mr. Speaker, I ask unanimous consent that it may be in order at any time on Wednesday, July 15, 1998, for the Speaker to declare a recess, subject to the call of the Chair, for the purpose of receiving in joint meeting his Excellency Emil Constantinescu, President of Romania.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

SUPPORT THE CHILD CUSTODY PROTECTION ACT

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Mr. Speaker, I rise today in support of the Child Custody Protection Act, which this House will address tomorrow. It is time that we stand up for the safety of the daughters of this Nation as well as for the rights of the parents.

I served in the Pennsylvania legislature when we passed the parental consent laws for the purpose of keeping our young girls safe and under the consent of their parents. Yet abortion clinics in Pennsylvania's neighboring States, New Jersey and Maryland, seek to peddle their services through Pennsylvania newspapers and even to anyone who opens a Pennsylvania phone book.

By passing the Child Custody Protection Act this body will take a clear stand against the bizarre notion that the U.S. Constitution confers a right upon strangers to take one's minor daughter across State lines for a secret abortion, even when a State law specifically requires the involvement of a parent or judge in the daughter's abortion decision.

The Government should not allow our daughters' lives to be endangered by turning them over to strangers for serious medical procedures.

Let us protect States' rights. Let us protect parental authority. And most importantly, let us protect our Nation's young women. Let us pass the Child Custody Protection Act.

THE LAST THING AMERICA SHOULD DO IS GIVE MORE TAX DOLLARS TO RUSSIA AND CHINA

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, since 1992, Russia has gotten $35 billion from the World Bank, the International Monetary Fund and foreign aid from the United States of America. And reports say, check this, not 1 penny of all those billions can be accounted for.

Now, if that is not enough to tax your vodka, the International Monetary Fund today is giving Russia another $22 billion, to which the White House said, "Russia needs the money, and this time they promise to behave." Promises, my ascot, Mr. Speaker. Russia promised before, and they sold missiles to our enemies. China gets all our cash, and they have nuclear warheads pointed at America.

Promises, promises, promises. My colleagues, the last thing America needs is to give more money to China and Russia, who are building armies with our tax dollars. But what do I know, I am still trying to figure out the Tax Code.

PRESIDENT ASKS AMERICA TO BLINDLY TRUST THE COMMUNIST CHINESE

(Mr. GIBBONS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GIBBONS. Mr. Speaker, the President is back from a $50 million trip to China and he said that the Chinese now plan to move their nuclear-tipped missiles away from American children and American cities. So why are Americans a little confused and scratching their heads over this? Well, because time and time again this President has guaranteed the American public that we were free from the threat of nuclear missile attack.

In fact, the White House web site says that the President has made this promise 131 times. And in at least a quarter of these speeches, he stated very clearly that no country anywhere was aiming nuclear missiles at Americans.

The President was not alone in his claim. It seems the Vice President, as well as former Secretary of Defense Perry, have made similar claims.

Here is another surprise. President Clinton never mentioned that both Russia and China are upgrading their nuclear missiles with U.S. help. He also failed to mention that the missiles can be retargeted in minutes.

Mr. Speaker, I am not sure when to believe this President. All I know is he is asking us to blindly trust the Chinese, and that worries all of us.

SUPPORT STATES' RIGHTS TO ENACT DEATH WITH DIGNITY LAWS

(Mr. DEFAZIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DEFAZIO. Mr. Speaker, twice the voters of Oregon have gone to the ballot box to enact and uphold our Death With Dignity law. The Ninth Circuit Court, the Supreme Court, and most recently the Attorney General have upheld the right of the citizens of Oregon to enact a Death With Dignity law.

But now a group of our colleagues, working hand-in-glove with the same national special interest groups that opposed our ballot measure, have proposed Federal legislation to preempt our Death With Dignity law. Many of these same Members of Congress wax eloquent day after day on the floor of the House for States' rights. Yes, States' rights if it restricts a woman's right to choice. They are for States' rights if it shreds the social safety net. But if the people of Oregon want a Death With Dignity law, well, they are not for States' rights anymore. The Federal Government should preempt them.

This is not only an attack on our States' rights, it is an attempt to overturn the will of a majority of Oregonians with an unprecedented Federal intrusion into the doctor-patient relationship. It is no longer a doctor-patient relationship when we are dying, it is a doctor-patient and Drug Enforcement Administration official relationship. This will have an incredibly chilling effect on the end of life painfully provided by doctors. We must reject this proposal.

PRESIDENT'S TRIP TO CHINA SYMBOLIC OF MANY THINGS

(Mr. HEFLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HEFLEY. Mr. Speaker, the President just got back from his trip to

China, and I read in the newspaper while we were home for the break that this trip was symbolic. I began to think, what is it symbolic of?

I think it is symbolic, maybe, that the President told them "symbolically" that we do not care that they are building the biggest nuclear arsenal in the world; and we do not care that they are selling that technology to people around the world; and "symbolically" the President was also saying that we do not care that they are invading a little nation like Tibet, that never hurt anybody, and have occupied it for all these years; and "symbolically" he is saying that we do not care that they persecute people because of their faith and their beliefs and religion; and he is telling them "symbolically" that we do not care that they threatened Taiwan, that could not do them any damage, and that they even threatened the cities on the West Coast of the United States; and "symbolically" the President said, oh, it is okay that their army gave money to his reelection campaign.

And to show them "symbolically" that we do not mind any of this, we are going to give them some missile technology to help their intercontinental ballistic missiles function more appropriately.

The President must be proud of his symbolism.

SUPPORT PATIENT'S BILL OF RIGHTS

(Ms. EDDIE BERNICE JOHNSON of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I just got back from home as well, and what I heard is that the people really want us to give attention to the Patient's Bill of Rights. They want to be able to choose their own physicians. They feel legislation has been introduced and it is time for us to hear it on the floor so we can vote it. It is the number one concern throughout this country.

Patient care has totally left the hands of physicians and is in the hands of our insurance companies and our corporate leaders, who will not pay any more for coverage. It is time for us to address the issue, bring it to the floor, debate it and send it to the Senate. It is long past due. We have enough people to pass it, and I would simply call on our leadership to bring it to the floor.

SUPPORT SCHOOL CHOICE FOR THE DISTRICT OF COLUMBIA

(Mr. ROGAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROGAN. Mr. Speaker, children living in the District of Columbia deserve something they are not getting today: a quality education. The District of Columbia Control Board found "that the longer students stay in the District's public school system, the less likely they are to succeed."

In today's high-tech economy, our children simply cannot compete in life without a sound education. While Congress supports the efforts of General Becton, we must do more to give the children in the District of Columbia the opportunity for a quality education.

The D.C. School Choice bill would give low-income parents the freedom to choose the best schools for their children. When D.C. public schools compete for students, they will improve by necessity.

Mr. Speaker, the children of Washington deserve a chance to succeed in life. I urge my House colleagues to give them that chance by supporting school choice for the District of Columbia schools.

SUPPORT THE CHILD CUSTODY PROTECTION ACT

(Mr. DELAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DELAY. Mr. Speaker, the American people may not all agree on the issue of abortion, but all Americans should agree that parents have a right to know when their children are having an abortion.

Should a person be able to take a minor girl across State lines to obtain an abortion without her parents knowing about it? Well, 85 percent of the American people say no.

Mr. Speaker, this is not merely a question for the pollsters, it is a question of propriety. Mothers need to know when their daughters are having an abortion. A family needs to know when their children are in trouble. It does no good to keep parents in the dark. Parents need to have the peace of mind to know what their children are doing, and they have the right to know when their daughters are having an abortion.

Mr. Speaker, the Constitution does not confer a right upon strangers to take children across State lines for secret abortions. I urge my colleagues to support the Child Custody Protection Act. It is the right thing to do for America's families.

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PHYSICIAN-ASSISTED SUICIDE

(Ms. HOOLEY of Oregon asked and was given permission to address the House for 1 minute.)

Ms. HOOLEY of Oregon. Mr. Speaker, last year, after 3 years of intense debate and two separate ballot measures, the State of Oregon became the first State to implement a physician-assisted suicide law. This was not an easy decision for the people of my State. It was the subject of intense debate and media coverage, and the issue was so thorny that the legislature even decided to send it to the voters twice, and both times it was approved.

Despite this level of scrutiny in the State of Oregon, the Committee on the Judiciary will begin work today on a bill to overturn the Oregon law.

I came to the well today to say that I understand there are a number of Members of Congress who have very personal concerns about this issue. I have deep personal reservations about the concept of assisted suicide; and, as a private citizen, I voted against it at the ballot box and in this House of Representatives. I voted against Federal funding of assisted suicide.

But I understand this is not an issue about personal feelings. This is an issue about respecting the judgment of the voters of Oregon. This is about leaving Oregonians' business to Oregonians.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. HAYWORTH). Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken after debate has concluded on all motions to suspend the rules but not before 5 p.m. today.

NATIONAL SCIENCE FOUNDATION AUTHORIZATION ACT OF 1997

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and concur in the Senate amendment to the bill (H.R. 1273) to authorize appropriations for fiscal years 1998 and 1999 for the National Science Foundation, and for other purposes.

The Clerk read as follows:

Senate amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Science Foundation Authorization Act of 1998".

SEC. 2. DEFINITIONS.

In this Act:

(1) DIRECTOR.—The term "Director" means the Director of the National Science Foundation established under section 2 of the National Science Foundation Act of 1950 (42 U.S.C. 1861).

(2) FOUNDATION.—The term "Foundation" means the National Science Foundation established under section 2 of the National Science Foundation Act of 1950 (42 U.S.C. 1861).

(3) BOARD.—The term "Board" means the National Science Board established under section 2

of the National Science Foundation Act of 1950 (42 U.S.C. 1861).

(4) UNITED STATES.—The term "United States" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and any other territory or possession of the United States.

(5) NATIONAL RESEARCH FACILITY.—The term "national research facility" means a research facility funded by the Foundation which is available, subject to appropriate policies allocating access, for use by all scientists and engineers affiliated with research institutions located in the United States.

TITLE I—NATIONAL SCIENCE FOUNDATION AUTHORIZATION

SEC. 101. FINDINGS; CORE STRATEGIES.

(a) FINDINGS.—Congress finds the following:

(1) The United States depends upon its scientific and technological capabilities to preserve the military and economic security of the United States.

(2) America's leadership in the global marketplace is dependent upon a strong commitment to education, basic research, and development.

(3) A nation that is not technologically literate cannot compete in the emerging global economy.

(4) A coordinated commitment to mathematics and science instruction at all levels of education is a necessary component of successful efforts to produce technologically literate citizens.

(5) Professional development is a necessary component of efforts to produce system wide improvements in mathematics, engineering, and science education in secondary, elementary, and postsecondary settings.

(6)(A) The mission of the National Science Foundation is to provide Federal support for basic scientific and engineering research, and to be a primary contributor to mathematics, science, and engineering education at academic institutions in the United States.

(B) In accordance with such mission, the long-term goals of the National Science Foundation include providing leadership to—

(i) enable the United States to maintain a position of world leadership in all aspects of science, mathematics, engineering, and technology;

(ii) promote the discovery, integration, dissemination, and application of new knowledge in service to society; and

(iii) achieve excellence in United States science, mathematics, engineering, and technology education at all levels.

(b) CORE STRATEGIES.—In carrying out activities designed to achieve the goals described in subsection (a), the Foundation shall use the following core strategies:

(1) Develop intellectual capital, both people and ideas, with particular emphasis on groups and regions that traditionally have not participated fully in science, mathematics, and engineering.

(2) Strengthen the scientific infrastructure by investing in facilities planning and modernization, instrument acquisition, instrument design and development, and shared-use research platforms.

(3) Integrate research and education through activities that emphasize and strengthen the natural connections between learning and inquiry.

(4) Promote partnerships with industry, elementary and secondary schools, community colleges, colleges and universities, other agencies, State and local governments, and other institutions involved in science, mathematics, and engineering to enhance the delivery of math and science education and improve the technological literacy of the citizens of the United States.

SEC. 102. AUTHORIZATION OF APPROPRIATIONS.

(a) FISCAL YEAR 1998.—

(1) IN GENERAL.—There are authorized to be appropriated to the Foundation $3,505,630,000 for fiscal year 1998.

(2) SPECIFIC ALLOCATIONS.—Of the amount authorized under paragraph (1)—

(A) $2,576,200,000 shall be made available to carry out Research and Related Activities, of which—

(i) $370,820,000 shall be made available for Biological Sciences;

(ii) $289,170,000 shall be made available for Computer and Information Science and Engineering;

(iii) $360,470,000 shall be made available for Engineering;

(iv) $455,110,000 shall be made available for Geosciences;

(v) $715,710,000 shall be made available for Mathematical and Physical Sciences;

(vi) $130,660,000 shall be made available for Social, Behavioral, and Economic Sciences, of which up to $1,000,000 may be made available for the United States-Mexico Foundation for Science;

(vii) $165,930,000 shall be made available for United States Polar Research Programs;

(viii) $62,600,000 shall be made available for United States Antarctic Logistical Support Activities;

(ix) $2,730,000 shall be made available for the Critical Technologies Institute; and

(x) $23,000,000 shall be made available for the Next Generation Internet program;

(B) $632,500,000 shall be made available to carry out Education and Human Resources Activities;

(C) $155,130,000 shall be made available for Major Research Equipment;

(D) $136,950,000 shall be made available for Salaries and Expenses; and

(E) $4,850,000 shall be made available for the Office of Inspector General.

(b) FISCAL YEAR 1999.—

(1) IN GENERAL.—There are authorized to be appropriated to the Foundation $3,773,000,000 for fiscal year 1999.

(2) SPECIFIC ALLOCATIONS.—Of the amount authorized under paragraph (1)—

(A) $2,846,800,000 shall be made available to carry out Research and Related Activities, of which—

(i) $417,820,000 shall be made available for Biological Sciences;

(ii) $331,140,000 shall be made available for Computer and Information Science and Engineering, including $25,000,000 for the Next Generation Internet program;

(iii) $400,550,000 shall be made available for Engineering;

(iv) $507,310,000 shall be made available for Geosciences;

(v) $792,030,000 shall be made available for Mathematical and Physical Sciences;

(vi) $150,260,000 shall be made available for Social, Behavioral, and Economic Sciences, of which up to $2,000,000 may be made available for the United States-Mexico Foundation for Science;

(vii) $182,360,000 shall be made available for United States Polar Research Programs;

(viii) $62,600,000 shall be made available for United States Antarctic Logistical Support Activities;

(ix) $2,730,000 shall be made available for the Critical Technologies Institute; and

(B) $683,000,000 shall be made available to carry out Education and Human Resources Activities;

(C) $94,000,000 shall be made available for Major Research Equipment;

(D) $144,000,000 shall be made available for Salaries and Expenses; and

(E) $5,200,000 shall be made available for the Office of Inspector General.

(c) FISCAL YEAR 2000.—

(1) IN GENERAL.—There are authorized to be appropriated to the Foundation $3,886,190,000 for fiscal year 2000.

(2) SPECIFIC ALLOCATIONS.—Of the amount authorized under paragraph (1)—

(A) $2,935,024,000 shall be made available to carry out Research and Related Activities, of which up to—

(i) $2,000,000 may be made available for the U.S.-Mexico Foundation for Science;

(ii) $25,000,000 may be made available for the Next Generation Internet program;

(B) $703,490,000 shall be made available to carry out Education and Human Resources Activities;

(C) $94,000,000 shall be made available for Major Research Equipment;

(D) $148,320,000 shall be made available for Salaries and Expenses; and

(E) $5,356,000 shall be made available for the Office of Inspector General.

SEC. 103. PROPORTIONAL REDUCTION OF RESEARCH AND RELATED ACTIVITIES AMOUNTS.

If the amount appropriated pursuant to section 102(a)(2)(A) or (b)(2)(A) is less than the amount authorized under that paragraph, the amount available for each scientific directorate under that paragraph shall be reduced by the same proportion.

SEC. 104. CONSULTATION AND REPRESENTATION EXPENSES.

From appropriations made under authorizations provided in this Act, not more than $10,000 may be used in each fiscal year for official consultation, representation, or other extraordinary expenses. The Director shall have the discretion to determine the expenses (as described in this section) for which the funds described in this section shall be used. Such a determination by the Director shall be final and binding on the accounting officers of the Federal Government.

SEC. 105. UNITED STATES MAN AND THE BIOSPHERE PROGRAM LIMITATION.

No funds appropriated pursuant to this Act shall be used for the United States Man and the Biosphere Program, or related projects.

TITLE II—GENERAL PROVISIONS

SEC. 201. NATIONAL RESEARCH FACILITIES.

(a) FACILITIES PLAN.—

(1) IN GENERAL.—Not later than December 1, of each year, the Director shall, as part of the annual budget request, prepare and submit to Congress a plan for the proposed construction of, and repair and upgrades to, national research facilities.

(2) CONTENTS OF THE PLAN.—The plan shall include—

(A) estimates of the costs for the construction, repairs, and upgrades described in paragraph (1);

(B) estimates of the costs for the operation and maintenance of existing and proposed new facilities; and

(C) in the case of proposed new construction and for major upgrades to existing facilities, funding profiles, by fiscal year, and milestones for major phases of the construction.

(3) SPECIAL RULE.—The plan shall include cost estimates in the categories of construction, repair, and upgrades—

(A) for the year in which the plan is submitted to Congress; and

(B) for not fewer than the succeeding 4 years.

(b) STATUS OF FACILITIES UNDER CONSTRUCTION.—The plan required under subsection (a) shall include a status report for each uncompleted construction project included in current and previous plans. The status report shall include data on cumulative construction costs by project compared with estimated costs,

and shall compare the current and original schedules for achievement of milestones for the major phases of the construction.

SEC. 202. ADMINISTRATIVE AMENDMENTS.

(a) National Science Foundation Act of 1950 Amendments.—The National Science Foundation Act of 1950 (42 U.S.C. 1861 et seq.) is amended—

(1) in section 4(g) (42 U.S.C. 1863(g))—

(A) by striking "the appropriate rate provided for individuals in grade GS–18 of the General Schedule under section 5332" and inserting "the maximum rate payable under section 5376"; and

(B) by redesignating the second subsection (k) as subsection (l);

(2) in section 5(e) (42 U.S.C. 1864(e)) by striking paragraph (2), and inserting the following:

"(2) Any delegation of authority or imposition of conditions under paragraph (1) shall be promptly published in the Federal Register and reported to the Committee on Labor and Human Resources, and the Committee on Commerce, Science, and Transportation, of the Senate and the Committee on Science of the House of Representatives.";

(3) in section 14(c) (42 U.S.C. 1873(c))—

(A) by striking "shall receive" and inserting "shall be entitled to receive";

(B) by striking "the rate specified for the daily rate for GS–18 of the General Schedule under section 5332" and inserting "the maximum rate payable under section 5376"; and

(C) by adding at the end the following: "For the purposes of determining the payment of compensation under this subsection, the time spent in travel by any member of the Board or any member of a special commission shall be deemed as time engaged in the business of the Foundation. Members of the Board and members of special commissions may waive compensation and reimbursement for traveling expenses."; and

(4) in section 15(a) (42 U.S.C. 1874(a)), by striking "Atomic Energy Commission" and inserting "Secretary of Energy".

(b) National Science Foundation Authorization Act, 1976 Amendments.—Section 6(a) of the National Science Foundation Authorization Act, 1976 (42 U.S.C. 1881a(a)) is amended by striking "social," the first place it appears.

(c) National Science Foundation Authorization Act of 1988 Amendments.—Section 117(a) of the National Science Foundation Authorization Act of 1988 (42 U.S.C. 1881b(a)) is amended—

(1) by striking paragraph (1)(B)(v) and inserting the following:

"(v) from schools established outside the several States and the District of Columbia by any agency of the Federal Government for dependents of the employees of such agency."; and

(2) in paragraph (3)(A) by striking "Science and Engineering Education" and inserting "Education and Human Resources".

(d) Science and Engineering Equal Opportunities Act Amendments.—The Science and Engineering Equal Opportunities Act (42 U.S.C. 1885 et seq.) is amended—

(1) in section 34 (42 U.S.C. 1885b)—

(A) by striking the section heading and inserting the following:

"PARTICIPATION IN SCIENCE AND ENGINEERING OF MINORITIES AND PERSONS WITH DISABILITIES";

and

(B) by striking subsection (b) and inserting the following:

"(b) The Foundation is authorized to undertake or support programs and activities to encourage the participation of persons with disabilities in the science and engineering professions."; and

(2) in section 36 (42 U.S.C. 1885c)—

(A) in subsection (a), by striking "minorities," and all that follows through "in scientific" and inserting "minorities, and persons with disabilities in scientific";

(B) in subsection (b)—

(i) by striking "with the concurrence of the National Science Board"; and

(ii) by striking the second sentence and inserting the following: "In addition, the Chairman of the National Science Board may designate a member of the Board as a member of the Committee.";

(C) by striking subsections (c) and (d);

(D) by inserting after subsection (b) the following:

"(c) The Committee shall be responsible for reviewing and evaluating all Foundation matters relating to opportunities for the participation in, and the advancement of, women, minorities, and persons with disabilities in education, training, and science and engineering research programs.";

(E) by redesignating subsections (e) and (f) as subsections (d) and (e), respectively; and

(F) in subsection (d), as so redesignated by subparagraph (E), by striking "additional".

(e) Technical Amendment.—The second subsection (g) of section 3 of the National Science Foundation Act of 1950 is repealed.

SEC. 203. INDIRECT COSTS.

(a) Matching Funds.—Matching funds required pursuant to section 204(a)(2)(C) of the Academic Research Facilities Modernization Act of 1988 (42 U.S.C. 1862c(a)(2)(C)) shall not be considered facilities costs for purposes of determining indirect cost rates under Office of Management and Budget Circular A–21.

(b) Report.—

(1) In general.—The Director of the Office of Science and Technology Policy, in consultation with other Federal agencies the Director deems appropriate, shall prepare a report—

(A) analyzing the Federal indirect cost reimbursement rates (as the term is defined in Office of Management and Budget Circular A–21) paid to universities in comparison with Federal indirect cost reimbursement rates paid to other entities, such as industry, government laboratories, research hospitals, and nonprofit institutions;

(B)(i) analyzing the distribution of the Federal indirect cost reimbursement rates by category (such as administration, facilities, utilities, and libraries), and by the type of entity; and

(ii) determining what factors, including the type of research, influence the distribution;

(C) analyzing the impact, if any, that changes in Office of Management and Budget Circular A–21 have had on—

(i) the Federal indirect cost reimbursement rates, the rate of change of the Federal indirect cost reimbursement rates, the distribution by category of the Federal indirect cost reimbursement rates, and the distribution by type of entity of the Federal indirect cost reimbursement rates; and

(ii) the Federal indirect cost reimbursement (as calculated in accordance with Office of Management and Budget Circular A–21), the rate of change of the Federal indirect cost reimbursement, the distribution by category of the Federal indirect cost reimbursement, and the distribution by type of entity of the Federal indirect cost reimbursement;

(D) analyzing the impact, if any, of Federal and State law on the Federal indirect cost reimbursement rates;

(E)(i) analyzing options to reduce or control the rate of growth of the Federal indirect cost reimbursement rates, including options such as benchmarking of facilities and equipment cost, elimination of cost studies, mandated percentage reductions in the Federal indirect cost reimbursement; and

(ii) assessing the benefits and burdens of the options to the Federal Government, research institutions, and researchers; and

(F) analyzing options for creating a database—

(i) for tracking the Federal indirect cost reimbursement rates and the Federal indirect cost reimbursement; and

(ii) for analyzing the impact that changes in policies with respect to Federal indirect cost reimbursement will have on the Federal Government, researchers, and research institutions.

(2) Report to Congress.—The report prepared under paragraph (1) shall be submitted to Congress not later than 1 year after the date of enactment of this Act.

SEC. 204. FINANCIAL DISCLOSURE.

Persons temporarily employed by or at the Foundation shall be subject to the same financial disclosure requirements and related sanctions under the Ethics in Government Act of 1978 (5 U.S.C. App.) as are permanent employees of the Foundation in equivalent positions.

SEC. 205. NOTICE.

(a) Notice of Reprogramming.—If any funds appropriated pursuant to the amendments made by this Act are subject to a reprogramming action that requires notice to be provided to the Committees on Appropriations of the Senate and the House of Representatives, notice of that action shall concurrently be provided to the Committee on Commerce, Science, and Transportation of the Senate, the Committee on Labor and Human Resources of the Senate, and the Committee on Science of the House of Representatives.

(b) Notice of Reorganization.—Not later than 15 days before any major reorganization of any program, project, or activity of the National Science Foundation, the Director of the National Science Foundation shall provide notice to the Committees on Science and Appropriations of the House of Representatives and the Committees on Commerce, Science and Transportation, Labor and Human Resources of the Senate, and Appropriations of the Senate.

SEC. 206. ENHANCEMENT OF SCIENCE AND MATHEMATICS PROGRAMS.

(a) Definitions.—In this section:

(1) Educationally useful Federal equipment.—The term "educationally useful Federal equipment" means computers and related peripheral tools and research equipment that is appropriate for use in schools.

(2) School.—The term "school" means a public or private educational institution that serves any of the grades of kindergarten through grade 12.

(b) Sense of Congress.—

(1) In general.—It is the sense of the Congress that the Director should, to the greatest extent practicable and in a manner consistent with applicable Federal law (including Executive Order No. 12999), donate educationally useful Federal equipment to schools in order to enhance the science and mathematics programs of those schools.

(2) Reports.—

(A) In general.—Not later than 1 year after the date of enactment of this Act, and annually thereafter, the Director shall prepare and submit to the President a report that meets the requirements of this paragraph. The President shall submit that report to Congress at the same time as the President submits a budget request to Congress under section 1105(a) of title 31, United States Code.

(B) Contents of report.—The report prepared by the Director under this paragraph shall describe any donations of educationally useful Federal equipment to schools made during the period covered by the report.

SEC. 207. REPORT ON RESERVIST EDUCATION ISSUES.

(a) Convening Appropriate Representatives.—The Director of the National Science Foundation, with the assistance of the Office of Science and Technology Policy, shall convene appropriate officials of the Federal Government

and appropriate representatives of the postsecondary education community and of members of reserve components of the Armed Forces for the purpose of discussing and seeking a consensus on the appropriate resolution to problems relating to the academic standing and financial responsibilities of postsecondary students called or ordered to active duty in the Armed Forces.

(b) REPORT TO CONGRESS.—Not later than 90 days after the date of the enactment of this Act, the Director of the National Science Foundation shall transmit to the Congress a report summarizing the results of the convening individuals under subsection (a), including any consensus recommendations resulting therefrom as well as any significant opinions expressed by each participant that are not incorporated in such a consensus recommendation.

SEC. 208. SCIENCE AND TECHNOLOGY POLICY INSTITUTE.

(a) AMENDMENT.—Section 822 of the National Defense Authorization Act for Fiscal Year 1991 (42 U.S.C. 6686) is amended—

(1) by striking "Critical Technologies Institute" in the section heading and in subsection (a), and inserting in lieu thereof "Science and Technology Policy Institute";

(2) in subsection (b) by striking "As determined by the chairman of the committee referred to in subsection (c), the" and inserting in lieu thereof "The";

(3) by striking subsection (c), and redesignating subsections (d), (e), (f), and (g) as subsections (c), (d), (e), and (f), respectively;

(4) in subsection (c), as so redesignated by paragraph (3) of this subsection—

(A) by inserting "science and" after "developments and trends in" in paragraph (1);

(B) by striking "with particular emphasis on" in paragraph (1) and inserting "including";

(C) by inserting "and developing and maintaining relevant informational and analytical tools" before the period at the end of paragraph (1);

(D) by striking "to determine" and all that follows through "technology policies" in paragraph (2) and inserting "with particular attention to the scope and content of the Federal science and technology research and development portfolio as it affects interagency and national issues";

(E) by amending paragraph (3) to read as follows:

"(3) Initiation of studies and analysis of alternatives available for ensuring the long-term strength of the United States in the development and application of science and technology, including appropriate roles for the Federal Government, State governments, private industry, and institutions of higher education in the development and application of science and technology.";

(F) by inserting "science and" after "Executive branch on" in paragraph (4)(A); and

(G) by amending paragraph (4)(B) to read as follows:

"(B) to the interagency committees and panels of the Federal Government concerned with science and technology.";

(5) by striking "subsection (d)" in subsection (d), as redesignated by paragraph (3) of this subsection, and inserting in lieu thereof "subsection (c)";

(6) by striking "Committee" in each place it appears in subsection (e), as redesignated by paragraph (3) of this subsection, and inserting "Institute";

(7) by striking "subsection (d)" in subsection (f), as redesignated by paragraph (3) of this subsection, and inserting in lieu thereof "subsection (c)"; and

(8) by striking "Chairman of Committee" each place it appears in subsection (f), as designated by paragraph (3) of this subsection, and inserting "Director of Office of Science and Technology Policy".

(b) CONFORMING USAGE.—All references in Federal law or regulations to the Critical Technologies Institute shall be considered to be references to the Science and Technology Policy Institute.

SEC. 209. SENSE OF CONGRESS ON THE YEAR 2000 PROBLEM.

With the year 2000 fast approaching, it is the sense of Congress that the Foundation should—

(1) give high priority to correcting all 2-digit date-related problems in its computer systems to ensure that those systems continue to operate effectively in the year 2000 and beyond;

(2) assess immediately the extent of the risk to the operations of the Foundation posed by the problems referred to in paragraph (1), and plan and budget for achieving Year 2000 compliance for all of its mission-critical systems; and

(3) develop contingency plans for those systems that the Foundation is unable to correct in time.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON) each will control 20 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

(Mr. SENSENBRENNER asked and was given permission to revise and extend his remarks.)

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 1273, the National Science Foundation Authorization Act of 1998 and 1999, authorizes the Foundation's programs for fiscal years 1998, 1999, and 2000. This is a noncontroversial bill that was favorably reported by voice vote by the Committee on Science on April 16, 1997, and later passed the full House under suspension of the rules on April 24, 1997. The present version of H.R. 1273 is the product of negotiations with the Senate, which passed the bill on a vote of 99–0 on May 12, 1998.

The National Science Foundation provides funding to over 19,000 research and education projects in science and engineering annually. It does this through competitive grants and cooperative agreements to more than 2,000 colleges, universities, K–12 schools, businesses, and other research institutions in all parts of the United States. Although the Foundation's budget represents only 4 percent of Federal research and development funding, the Foundation accounts for more than 25 percent of Federal support to academic institutions for basic research.

This 3-year authorization improves our investment in America by strengthening our commitment to basic research. It authorizes $3.5 billion for fiscal year 1998, $3.8 billion for fiscal year 1999, and nearly $3.9 billion for fiscal year 2000. The bill received bipartisan support in the Committee on Science and demonstrates the Committee's belief that the support of basic research will help America maintain its lead in cutting-edge science and engineering. It is the kinds of research that the NSF funds through which we will make the fundamental discoveries which will become the economic drivers of the 21st century.

The Research and Related Activities account is NSF's primary account and provides the resources for a broad portfolio of science and engineering activities. For fiscal year 1999, H.R. 1273 provides for $2.57 billion for this account, a 10-percent increase over 1998. For fiscal year 2000, the bill provides a further $2.9 billion.

This legislation also follows through on the Committee on Science's commitment to improve math and science education. H.R. 1273 authorizes $632 million for Fiscal Year 1998, $683 million for Fiscal Year 1999, and $703 million for Fiscal Year 2000 for NSF's Education and Human Resources Directorate, which funds education programs. To hold down administrative costs, the bill holds the salaries and expense account of NSF to approximately 2 percent growth in Fiscal Years 1998, 1999, and 2000.

I want to take a moment to thank the acting chairman of the Subcommittee on Basic Research, the gentleman from Mississippi (Mr. PICKERING); the former ranking minority member of the subcommittee, the gentleman from Michigan (Mr. BARCIA); and the current ranking minority member, the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON); and the ranking minority member of the full committee, the gentleman from California (Mr. BROWN), for their efforts and support in crafting a truly bipartisan bill.

Before closing, I would like to express my appreciation and respect for all the hard work performed on this bill by the late former chairman of the Subcommittee on Basic Research, Congressman Steve Schiff, who passed away earlier this year.

H.R. 1273 is the product of Mr. Schiff's dedication to improving America's scientific and technological prowess. Steve was a true patriot who served our country both as an elected official and as a member of the Armed Forces. As this bill demonstrates, Steve Schiff was also an excellent legislator. The Committee on Science and the whole Congress will miss his intelligence, wit, and his diligence.

I believe that H.R. 1237 is an outstanding bill and urge all Members on both sides of the aisle to support it.

Mr. Speaker, I reserve the balance of my time.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 1273, which authorizes the programs of the National Science Foundation through Fiscal Year 2000.

Mr. Speaker, the National Science Foundation is the only Federal agency with the sole mission to support basic research and engineering research and education in the Nation's schools, colleges, and universities. It signals strong support for the key role of the Foundation in developing and sustaining the academic research enterprise of the Nation. It is consistent with the importance of scientific and engineering research and education as a public investment that contributes to the Nation's economic strength and to the well-being of our citizens.

The National Science Foundation programs support research in science and engineering, the operation of national research facilities, the acquisition of state-of-the-art scientific instruments, and science education at all levels of instruction. These wide-ranging activities underpin the technological strength of the Nation through both the generation of new knowledge and the education of scientists and engineers. Moreover, through its initiatives in K-12 science education, the National Science Foundation contributes to the important goal of improving the level of science literacy for all citizens.

In light of the National Science Foundation's important role, I am pleased that H.R. 1273 endorses the President's request for a 10-percent budget increase for Fiscal Year 1999 and growth above inflation for Fiscal Year 2000. This funding level would provide real growth for sustaining the Foundation's core research activities in the major science and engineering disciplines which support individual investigators and interdisciplinary research teams.

In addition, H.R. 1273 will allow the Foundation to pursue new initiatives in such areas as knowledge and distributed intelligence and the complex interdependencies among living organisms and the environments that affect and are affected by them.

In terms of sustaining the human resource base for research in the Nation's colleges and universities, H.R. 1273 will provide support for nearly 27,000 senior scientists, 5,500 postdoctoral researchers, and over 21,000 graduate students.

Mr. Speaker, the research investments made by the Foundation generate the new knowledge that fuels the Nation's technological innovation and, consequently, our economic strength of the future. I would like to describe some recent examples that show the breadth and potential technological value of results from the Foundation's sponsored research.

The Foundation-supported scientists are participating in the sequencing of the genome for a model flowering plant. A coordinated network of databases has been established to facilitate study of the sequence information. Discoveries to date have included understanding of how to reduce polyunsaturation in seed oils and how to produce biodegradable plastic in crop plants.

Researchers at MIT recently created the first atomic laser, a device that creates coherence among atoms, much like the photons in a light laser. This allows the control group of atoms which can be focused to a point or moved over large distances without spreading out. Atomic lasers may one day be used to fabricate extremely small electronic components that will form the basis for highly efficient navigation and communication devices.

Forecasting techniques for tornadoes and severe thunderstorms currently can provide only 30 minutes' warning. Researchers at the University of Oklahoma have now developed a computer model that has for the first time successfully predicted the location and structure of individual storms up to 6 hours in advance before the storms had begun to form. This forecasting tool has great promise for providing protection for lives and families.

National Science Foundation support for a wide range of research has led to new ways to exploit the physical, chemical, and biological properties of small groups of molecules. The discovery of novel phenomena and processes at this so-called "nano" scale have led to minuscule transistors that use less energy; tiny medical probes that will not damage tissue; improved computer disk-drive heads to boost data storage density; and new ceramic, polymer and other materials with special properties.

In addition to supporting basic research, the National Science Foundation's programs help to educate the next generation of scientists, engineers and technicians, and improve science education for all K-12 students. These outcomes are achieved through a wide range of activities, including graduate student support, research experiences for undergraduates, development of curricular materials for science courses at all levels of instruction, development of educational applications of computer and communication technologies, and in-service training for K-12 teachers.

The goals of the Foundation's effort to heighten the achievement of all students in science and math are particularly important. The approach now being emphasized has been through partnerships that the Foundation has instituted with States and local school systems to reform math and science instruction and to provide opportunities for professional development of teachers.

I believe that the National Science Foundation Urban Systemic Initiative is particularly important in that it focuses on inner city school systems, which often have low levels of student performance in science and math.

Finally, the bill provides for several national research facility construction projects. In accordance with the recommendation of a distinguished panel of experts that review the facilities needs of the U.S. Antarctic Program, it authorizes the replacement of South Pole Station and needed upgrades at other Antarctic stations. These facility upgrades are needed to ensure that U.S. facilities in Antarctica are capable of supporting the most advanced research and can provide adequate safety for the scientists and support staff who must function in this hostile environment.

H.R. 1237 will provide funding to complete other research facility construction projects and to initiate new projects, including the Polar Cap Observatory and detectors for the Large Hadron Collider. The bill also puts in place new reporting requirements to improve congressional oversight of such construction projects.

I want to acknowledge the role of our former colleague, the late Representative Steve Schiff, the former chairman of the Subcommittee on Basic Research, for his efforts during the first session of this Congress to develop H.R. 1273 in a spirit of cooperation. And I also want to commend the gentleman from Wisconsin (Mr. SENSENBRENNER), the chairman of the Committee on Science; and the gentleman from California (Mr. BROWN), the ranking Democratic Member, for their leadership in this important legislation.

Mr. Speaker, I fully support H.R. 1273 and urge its approval by the House.

Mr. Speaker, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield 6 minutes to the distinguished gentleman from Mississippi (Mr. PICKERING), who is the acting chair of the Subcommittee on Basic Research.

Mr. PICKERING. Mr. Speaker, I want to commend the leadership and work of the gentleman from Wisconsin (Mr. SENSENBRENNER) on this very important legislation. I rise to say a few words in support of H.R. 1273, the National Science Foundation Authorization Act of 1998.

Mr. Speaker, H.R. 1273 authorizes the Foundation's programs for Fiscal Years 1998, 1999, and 2000. It authorizes over $11 billion for fundamental scientific research over the next 3 years.

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It is a bipartisan bill, and I urge all of the Members to support it.

For the past few months I have had the privilege of serving as the acting chairman for the Committee on Science's Subcommittee on Basic Research. It has been a tremendous experience, but I cannot take credit for this bill. This is Steve Schiff's authorization bill.

Mr. Speaker, I learned a great deal from the chairman of our subcommittee, and I think many of Steve Schiff's priorities can be seen in H.R. 1273. I just wanted to take a moment to recognize Congressman Schiff for the work he did and, more importantly, for the values for which he stood. I would also like to thank our chairman, the gentleman from Wisconsin (Mr. SENSENBRENNER) again for giving me the opportunity of leading the subcommittee as its acting chairman.

In April of this year at a subcommittee hearing the Director of the National Science Foundation stated that 50 percent of our country's economic growth in the last 50 years has come from technological innovation and the science that supports it. That is why we fund the National Science Foundation. We understand that our Nation's economic strength 25 years from now depends on our support for science and technology today.

The strong bipartisan support for H.R. 1273 demonstrates that this Congress understands and respects the role of the scientist in our society. We may not see them in action, but whether it is the growth of the Internet or the latest medical breakthrough, we see the results.

In my home State of Mississippi NSF has played an important role in the development of remote sensing in developing the next generation Internet and that our three supercomputing research centers through NSF's EPSCoR Program, the Mississippi Research Consortium, made up of the University of Mississippi, Mississippi State University, Jackson State University and the University of Southern Mississippi has done great work in areas as diverse as manufacturing polymers, to producing new technology for agricultural products, to cutting edge areas such as artificial intelligence. Again, we may not see the scientists in action, but eventually we see their results in our daily lives.

Through this bill and through the scientific research and science education program supported by the NSF, we demonstrate our commitment to advancing science and improving science and math education not just in theory, but in the classroom. We show our commitment to using biology and chemistry not only to improve our own lives, but also to improve our understanding of the world around us as we show our commitment to the next generation of Americans by assuring that our children will enjoy the economic prosperity that is produced by long-term dedication to science.

Mr. Speaker, the National Science Foundation does great work. This is an excellent bill, and I urge all Members to support it.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I yield 3 minutes to the gentleman from North Carolina (Mr. PRICE).

Mr. PRICE of North Carolina. Mr. Speaker, I thank the gentlewoman from Texas for yielding this time to me.

Mr. Speaker, I want to express my enthusiastic support for the legislation before us today. The National Science Foundation is our main agency for strengthening our country in science and mathematics and technology, from investing in the training of teachers in math and science, to promoting outreach programs at our museums and supporting path-breaking research at our colleges and universities.

The impact of the National Science Foundation is particularly evident in my district in North Carolina. In the last fiscal year more than 350 NSF-sponsored grants were awarded to residents of the Research Triangle counties of North Carolina. Duke, North Carolina and North Carolina State Universities each received more than $11 million for their researchers, and together they were awarded $44 million for projects selected on their merits, for their scientific excellence and for their contribution to the national interest.

The National Science Foundation, for example, has helped fund Duke University research at Cape Hatteras on North Carolina's Outer Banks, has helped fund new laser-scanning technology at the University of North Carolina, and has supported a program widening educational opportunities for rural middle school students in conjunction with North Carolina State University.

I am also particularly proud that the Advanced Technological Education Program, a program launched through legislation that I initiated 6 years ago, is included in this legislation. The Advanced Technological Education Program has allowed NSF to become more involved with the community colleges in our country, helping our 2-year schools improve their science and math and technology education programs.

ATE creates a partnership between NSF and the community colleges similar to the one that has long been available to 4-year institutions, to develop improved curricula and teaching methods and to upgrade this country's advanced technology training programs, training at the level most of our new good jobs require.

As our country's educational needs continue to evolve, the role of 2-year institutions will increase. Quick training and retooling of our work force will be vital as we move toward a competitive global economy, and the ATE program will help ensure that our educational institutions and our students can meet this challenge.

Mr. Speaker, I urge my colleagues to support this legislation.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I yield 5 minutes to the gentleman from California (Mr. BROWN) our distinguished ranking member of the full committee.

Mr. BROWN of California. Mr. Speaker, I will not take 5 minutes, but I do wish to make a brief statement that will hopefully supplement the already excellent statements made by all of my colleagues on both sides of the aisle. I would point out that the National Science Foundation with its programs for support of basic research and education and science and engineering has long enjoyed the bipartisan support of Congress. This bill, by providing for continued growth will help ensure that the Foundation can continue to fulfill that role.

TRIBUTE TO DR. NEAL LANE

Mr. Speaker, I would like to take a moment to recognize the contributions of the outgoing NSF Director, Dr. Neal Lane. Dr. Lane, who has served as director since 1993, will soon leave to become the President's science advisor and head of the Office of Science and Technology Policy.

During his tenure at NSF, Dr. Lane has provided strong leadership and has made noteworthy contributions to the Foundation's effectiveness. He has worked to improve the process by which priorities are established for NSF's major activities and to identify promising cross-disciplinary research programs. In addition, he has maintained a wide ranging portfolio of programs to strengthen science and engineering education in the Nation's schools and institutions of higher education.

Dr. Lane recognized early on how the new computer and information-driven world would enable new ways to conduct research and would establish new skill requirements for the future workforce. The Knowledge and Distributed Intelligence initiative launched under his stewardship will lead to Foundation-wide activities focused on improving ways to discover, collect, represent, transmit, and apply information.

Similarly, Dr. Lane applied information technology to streamline the internal operations of NSF itself. He led the reengineering of the major business transactions between NSF and the research community, replacing paper-based processes with simpler, more efficient electronic transactions using the Internet. Today, more than 80 percent of all NSF funding is accomplished by electronic means.

Also, Dr. Lane is to be commended for assuming the role of a vocal champion for U.S. leadership in science and engineering research and for his efforts in challenging the research community to see its responsibilities in the larger context of societal values and needs. He has encouraged scientists and engineers to communicate more effectively with the public, which will help to make science more accessible to everyone.

Dr. Lane has left a lasting imprint at NSF, and he will be missed. I wish him well as he assumes his new responsibilities in the White House for the Nation's research and development enterprise.

Mr. SENSENBRENNER. Mr. Speaker, I yield 3 minutes to the gentleman from South Carolina (Mr. SANFORD).

Mr. SANFORD. Mr. Speaker, I thank the gentleman from Wisconsin for yielding this time to me.

I rise not so much in opposition to this authorization, but frankly against the appropriation which will come later this week, because it seems to me that last year on this House floor, when the gentleman from California (Mr. LEWIS) and the gentleman from Missouri (Mr. CLAY) offered an amendment to cut $174,000 out of the bill which at that time would have studied the reasons people do not run for elected office, of which I assume there are many. Basically what they are trying to signal to the Science Foundation was that we need a tighter grip on the way they spend money; that when people back home think about spending a dollar, they really run through a lot of priorities, and they run through a lot of interests that they have before they decide on actually spending that dollar, and that this organization ought to do the same. And so I rise to, in essence, follow up on what they tried to do last year in sending a message on the importance of sharpening a pencil, because when I look at the grants that have come since then, and there are a list of several that have come since then; I look here at, as my colleagues know, $210,000 to study ATMs, I look at $17,000 to study interactive video-on-demand services for popular videos, I look at $220,000 to look at why women smile more than men, and I guess there are many reasons there. As my colleagues know, $193,000 to study collaborative activity on poker, or $147,000, and I cannot quite figure out what this means, but to study how globalization has transformed legal consciousness and personal injury in Thailand, or $334,000 to study methods for routing pick-up and delivery vehicles in real time, or finally, $12,000 to study cheap talk.

I look at again a little bit more in the way of pencil sharpening that it seems to me that needs to be done, that we do have a duty, if my colleagues will, to authorize the study of basic sciences in this country, but we also have a duty to watch out for the taxpayer, and that is why later in this week I will be offering an amendment in the appropriations bill to tighten the pencil a little bit because it seems to me that some of this at minimum could be done by the private sector.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I yield 3 minutes to the gentlewoman from Michigan (Ms. STABENOW).

Ms. STABENOW. Mr. Speaker, it is my pleasure today to rise in strong support of this authorization bill for the National Science Foundation, to commend the Chair and ranking members of the committee and the subcommittee for their very, very important work. I cannot think of a more important subject for the Federal Government to be involved in than basic research and the development of technology for the future as it relates to jobs, our ability to compete in a world economy. The kinds of focuses by the National Science Foundation are critical to the quality of life of my constituents and all of the families of America. I commend them for their work.

Mr. Speaker, I commend universities in my district: the Michigan State University efforts, University of Michigan research efforts, that were continually in partnership with NSF to promote the quality of life through research that we need to be promoting across this country.

It is also important, as we all know, to focus on our future scientists by promoting quality math and science education, encouraging both boys and girls to be focused and to pick math and science education as future endeavors. As part of that, it is important that we make sure our schools are equipped with technology and the research equipment that they need so that we can excite young people about science and involve them in the future of math and science, and I want to particularly point out to my colleagues a section of the bill that I think is important in making sure our schools have that kind of equipment and the kind of computers that they need.

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I am very pleased to commend the committee for putting into the bill section 206, which provides an encouragement to NSF to donate surplus computers and research equipment to our schools.

I would just speak to the fact that I have been involved in the last year and a half in providing wiring through the Internet. We have wired almost 50 schools in my district through volunteer efforts to the Internet, and we have seen one school in my district, Lansing Sexton High School, that has benefited directly from this kind of a donation from the Federal Government. The EPA provided enough computers, and very high-quality computers, to Lansing Sexton to equip an entire computer lab. We now have young people, with wiring done through our Net Day and the computers donated through EPA, who are able to work on sophisticated equipment and be learning more about math and science and technology as a result of that partnership.

I would encourage NSF as we pass this authorization to work with us to provide that kind of equipment to our schools as we look for ways to join together to encourage math and science education for the future and make sure that our children have the kind of technology that they need in the classroom to be prepared.

This bill is about basic research, it is about developing technology, it is about at the same time a focus on our future children and developing the skills in math and science that are so critical. I commend the committee and urge its adoption.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I yield 3 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I, too, would like to thank the committee and as well thank Dr. Lane for his outstanding leadership of the National Science Foundation and to congratulate him as he embarks on his new opportunity as adviser to the President on science.

I also rise in support of this bill, which authorizes funds for the National Science Foundation through the year 2000. The National Science Foundation provides this Nation with the tools to remain a superpower in a world where technology remains supreme. It helps develop new technologies, not only on its own, but also through its partnerships with other government agencies, like NASA, and as well educational institutions and private institutions. I am likewise proud of my locally-based institutions, like the University of Houston, the Texas Medical Center, Texas Southern University, Houston Baptist College, the Houston Community College, Rice University, and many, many others that have embellished and bolstered their own science interests and activity.

Additionally, let me acknowledge Dr. Joshua Hill of Texas Southern University, who, as we speak, is conducting a science program with high school students.

The National Science Foundation is largely responsible for many of the scientific breakthroughs that we currently enjoy in this country. In fact, many of our more important scientific achievements started with either an experiment in an NSF lab or with an NSF grant to a university or a private corporation.

When this bill was in markup, I am very delighted that my colleagues joined me as I amended this particular legislation to provide for a provision which asked the Federal Government to do what it can to help educate our children. Section 206 is a simple process, but through this simple act it encourages the NSF to donate used computer research equipment to needy school children. I can assure you that many around this country are anxiously waiting for this legislation to pass so this wonderful partnership can be established.

I feel it is a simple solution to a complex problem, the underdevelopment of our public school computer and technology infrastructure. We cannot expect our children to be prepared for the next millennium if we do not have the right equipment to learn on.

Mr. Speaker, trying to teach children computer science without the benefit of a computer is like trying to teach English to children with the benefit of vocabulary or books. We must do our part to ensure that our children have the opportunity to learn, especially in the areas of math and science.

This year in the House Committee on Science we have heard a myriad of testimony during such hearings regarding the undereducation of our children in the hard sciences. In fact, it has been disappointing that we have not gotten our hands around that issue, and we must, in order to be competitive, work on getting our children to that competitive level.

It has gotten to the point that the media fails to report scientific breakthroughs, and we discussed that, not because of lack of public interest, but often because they feel that the general public will not understand the scientific achievement and what it means to them. This I think is something we cannot stand for, Mr. Speaker, and I would hope that this Congress would very quickly and efficiently pass this legislation and move our children along to the 21st Century.

Mr. Speaker, I rise to speak on behalf of this bill, which authorized funds for the National Science Foundation through the year 2000.

The National Science Foundation (NSF) provides this Nation with the tools to remain a superpower in a world where technology remains supreme. It helps develop new technologies, not only on its own, but also through its partnerships with other government agencies, like NASA, and with private institutions.

The NSF is largely responsible for many of the scientific breakthroughs that we currently enjoy in this country. In fact, many of our more important scientific achievements started either with an experiment in a NSF lab, or with a NSF grant to a university or private corporation.

When this bill was in markup, I was able to amend it to include a provision which asks the Federal government to do what it can to help educate our children, in this case, through the simple act of donating used computer and research equipment to needy schoolchildren.

I feel it is a simple solution to a complex problem, the under-development of our public school computer and technology infrastructure. We cannot expect our children to be prepared for the next millennium if they do not have the right equipment to learn on. Ladies and gentlemen, trying to teach children computer science without the benefit of a computer is like trying to teach English to children without books—utterly impossible.

We must do our part to ensure that our children have the opportunity to learn, especially in the areas of math and science. This year in the House Science Committee, we have heard a myriad of testimony during hearings regarding the under-education of our youth in the hard science. It has gotten to the point that the media fail to report scientific breakthroughs, not because of lack of public interest, but often because they do not feel that the general public will understand the scientific achievement and what it means to them. That is shameful. If this Nation intends to remain a world leader, we must do out part to educate our children in the ways of the future.

Here in Congress, we have worked long and hard to rectify this problem. We have sought to increase funding for education. We have tried to provide targeted discounts to schools and libraries so that they can get on the Internet. Those initiatives are controversial, but this provision is not. Its costs are low, and its benefits high. In short, this is "good legislation".

I encourage you all to vote for this authorization, and invest in our future generations.

Mr. SENSENBRENNER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and concur in the Senate amendment to H.R. 1273.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate amendment was concurred in.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the Senate amendment to H.R. 1273.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States were communicated to the House by Mr. Edwin Thomas, one of his secretaries.

TECHNOLOGY TRANSFER COMMERCIALIZATION ACT OF 1998

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2544) to improve the ability of Federal agencies to license federally owned inventions, as amended.

The Clerk read as follows:

H.R. 2544

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Technology Transfer Commercialization Act of 1998".

SEC. 2. COOPERATIVE RESEARCH AND DEVELOPMENT AGREEMENTS.

Section 12(b)(1) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(b)(1)) is amended by inserting "or, subject to section 209 of title 35, United States Code, may grant a license to an invention which is federally owned, made before the granting of the license, and directly related to the scope of the work under the agreement," after "under the agreement,".

SEC. 3. LICENSING FEDERALLY OWNED INVENTIONS.

(a) AMENDMENT.—Section 209 of title 35, United States Code, is amended to read as follows:

"§ 209. Licensing federally owned inventions

"(a) AUTHORITY.—A Federal agency may grant an exclusive or partially exclusive license on a federally owned invention only if—

"(1) granting the license is a reasonable and necessary incentive to—

"(A) call forth the investment capital and expenditures needed to bring the invention to practical application; or

"(B) otherwise promote the invention's utilization by the public;

"(2) the Federal agency finds that the public will be served by the granting of the license, as indicated by the applicant's intentions, plans, and ability to bring the invention to practical application or otherwise promote the invention's utilization by the public, and that the proposed scope of exclusivity is not greater than reasonably necessary to provide the incentive for bringing the invention to practical utilization, as proposed by the applicant, or otherwise to promote the invention's utilization by the public;

"(3) the applicant makes a commitment to achieve practical utilization of the invention within a reasonable time;

"(4) granting the license will not tend to substantially lessen competition or create or maintain a violation of the Federal antitrust laws; and

"(5) in the case of an invention covered by a foreign patent application or patent, the interests of the Federal Government or United States industry in foreign commerce will be enhanced.

"(b) MANUFACTURE IN UNITED STATES.—A Federal agency shall normally grant a license to use or sell any federally owned invention in the United States only to a licensee who agrees that any products embodying the invention or produced through the use of the invention will be manufactured substantially in the United States.

"(c) SMALL BUSINESS.—First preference for the granting of any exclusive or partially exclusive licenses under this section shall be given to small business firms having equal or greater likelihood as other applicants to bring the invention to practical application within a reasonable time.

"(d) TERMS AND CONDITIONS.—Licenses granted under this section shall contain such terms and conditions as the granting agency considers appropriate. Such terms and conditions shall include provisions—

"(1) retaining a nontransferrable, irrevocable, paid-up license for the Federal agency to practice the invention or have the invention practiced throughout the world by or on behalf of the Government of the United States;

"(2) requiring periodic reporting on utilization of the invention, and utilization efforts, by the licensee, but only to the extent necessary to enable the Federal agency to determine whether the terms of the license are being complied with; and

"(3) empowering the Federal agency to terminate the license in whole or in part if the agency determines that—

"(A) the licensee is not executing its commitment to achieve practical utilization of the invention, including commitments contained in any plan submitted in support of its request for a license, and the licensee cannot otherwise demonstrate to the satisfaction of the Federal agency that it has taken, or can be expected to take within a reasonable time, effective steps to achieve practical utilization of the invention;

"(B) the licensee is in breach of an agreement described in subsection (b);

"(C) termination is necessary to meet requirements for public use specified by Federal regulations issued after the date of the license, and such requirements are not reasonably satisfied by the licensee; or

"(D) the licensee has been found by a competent authority to have violated the Federal antitrust laws in connection with its performance under the license agreement.

"(e) PUBLIC NOTICE.—No exclusive or partially exclusive license may be granted under this section unless public notice of the intention to grant an exclusive or partially exclusive license on a federally owned invention has been provided in an appropriate manner at least 15 days before the license is granted, and the Federal agency has considered all comments received in response to that public notice. This subsection shall not apply to the licensing of inventions made under a cooperative research and development agreement entered into under section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a).

"(f) BASIC BUSINESS PLAN.—A Federal agency may grant a license on a federally owned invention only if the person requesting the license has supplied to the agency a basic business plan with development milestones, commercialization milestones, or both.

"(g) NONDISCLOSURE OF CERTAIN INFORMATION.—Any basic business plan, and revisions thereto, submitted by an applicant for a license, and any report on the utilization or utilization efforts of a licensed invention submitted by a licensee, shall be treated by the Federal agency as commercial and financial information obtained from a person and not subject to disclosure under section 552 of title 5, United States Code.".

(b) CONFORMING AMENDMENT.—The item relating to section 209 in the table of sections for chapter 18 of title 35, United States Code, is amended to read as follows:

"209. Licensing federally owned inventions.".

SEC. 4. TECHNICAL AMENDMENTS TO BAYH-DOLE ACT.

Chapter 18 of title 35, United States Code (popularly known as the "Bayh-Dole Act"), is amended—

(1) by amending section 202(e) to read as follows:

"(e) In any case when a Federal employee is a coinventor of any invention made under a funding agreement with a nonprofit organization or small business firm, the Federal agency employing such coinventor may, for the purpose of consolidating rights in the invention—

"(1) license or assign whatever rights it may acquire in the subject invention from its employee to the nonprofit organization or small business firm; or

"(2) acquire any rights in the subject invention, but only to the extent the party from whom the rights are acquired voluntarily enters into the transaction."; and

(2) in section 207(a)—

(A) by striking "patent applications, patents, or other forms of protection obtained" and inserting "inventions" in paragraph (2); and

(B) by inserting ", including acquiring rights for the Federal Government in any invention, but only to the extent the party from whom the rights are acquired voluntarily enters into the transaction, to facilitate the licensing of a federally owned invention" after "or through contract" in paragraph (3).

SEC. 5. TECHNICAL AMENDMENTS TO THE STEVENSON-WYDLER TECHNOLOGY INNOVATION ACT OF 1980.

Section 14(a)(1) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710c(a)(1)) is amended—

(1) in subparagraph (A)(i), by inserting ", if the inventor's or coinventor's rights are assigned to the United States" after "inventor or coinventors"; and

(2) in subparagraph (B), by striking "succeeding fiscal year" and inserting "2 succeeding fiscal years".

SEC. 6. REVIEW OF COOPERATIVE RESEARCH AND DEVELOPMENT AGREEMENT PROCEDURES.

(a) REVIEW.—The Director of the Office of Science and Technology Policy, in consultation with relevant Federal agencies, national laboratories, and any other person the Director considers appropriate, shall review the general policies and procedures used by Federal agencies to gather and consider the views of other agencies on—

(1) joint work statements under section 12(c)(5)(C) or (D) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(c)(5)(C) or (D)); or

(2) in the case of laboratories described in section 12(d)(2)(A) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(d)(2)(A)), cooperative research and development agreements under such section 12, with respect to major proposed cooperative research and development agreements that involve critical national security technology or may have a significant impact on domestic or international competitiveness.

(b) PROCEDURES.—Within one year after the date of the enactment of this Act, the Director of the Office of Science and Technology Policy, in consultation with relevant Federal agencies and national laboratories, shall—

(1) determine the adequacy of existing procedures and methods for interagency coordination and awareness; and

(2) establish and distribute to appropriate Federal agencies—

(A) specific criteria to indicate the necessity for gathering and considering the views of other agencies on joint work statements or cooperative research and development agreements as described in subsection (a); and

(B) additional procedures, if any, for carrying out such gathering and considering of agency views.

Procedures established under this subsection shall be designed to the extent possible to use or modify existing procedures, to minimize burdens on Federal agencies, to encourage industrial partnerships with national laboratories, and to minimize delay in the approval or disapproval of joint work statements and cooperative research and development agreements.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from Michigan (Mr. BARCIA) each will control 20 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in the past two decades, Congress has established a system to transfer unclassified technology from our Federal laboratories to the private sector in order to facilitate its commercialization. This system is designed to ensure U.S. citizens receive the full benefit from our government's investment in research and development.

To help further these goals, the Committee on Science first reported the Stevenson-Wydler Technology Innovation Act of 1980. The committee expanded on that landmark legislation with the passage of the Federal Technology Transfer Act of 1986, the National Competitive Technology Transfer Act of 1989, the American Technology Preeminence Act of 1991 and the National Technology Transfer and Advancement Act of 1995, among others.

Technology transfer has resulted in products which are currently being used to enhance our quality of life. Examples include the AIDS home testing kit, the global positioning system nautical navigation, and new materials technology to make automobiles lighter and more fuel-efficient.

H.R. 2544 continues the Committee on Science's long and rich history of advancing technology transfer to help boost our Nation's standard of living. I congratulate the Chair of the Subcommittee on Technology, the gentlewoman from Maryland (Mrs. MORELLA), for introducing H.R. 2544, and for her efforts to work cooperatively with members of the minority and the administration to craft this bipartisan bill.

I would also like to acknowledge and congratulate the hard work of the ranking Members from the Committee on Science and Subcommittee on Technology, the gentleman from California (Mr. BROWN) and the gentleman from Michigan (Mr. BARCIA) on this important legislation. Its drafting and passage by the Committee on Science could not have occurred without their considerable input and assistance.

The purpose of H.R. 2544 as reported is to promote the transfer and private sector commercialization of the technology created in our Nation's system of over 700 Federal laboratories, thereby leveraging Federal investment in scientific research through increasing collaboration with the private industry.

Specifically, the bill improves and streamlines the ability of Federal agencies to license federally-owned inventions. H.R. 2544 does this by reducing procedural obstacles and, to the greatest extent possible, the uncertainty involved in the licensing of government-owned patented inventions.

During the Committee on Science's hearing on this bill, the committee received testimony from both past and prospective private industry partners regarding their concerns about current Federal technology licensing processes.

Witnesses indicated that the strategic advantage of acquiring intellectual property rights through a cooperative research and development agreement, called CRADA for short, and/or the licensing of government-owned technology, are, unfortunately, offset by the delays and uncertainty often associated with the lengthy Federal technology transfer process, which is often out of sync with private sector timing. In addition to the uncertainty of actually being granted the license, these procedural barriers increase transaction costs and delay commercialization.

The present regulations also make it difficult for government-owned and government-operated laboratories, or GOGO for short, to bring existing scientific inventions into a CRADA, even when inclusion would create a more complete technology package.

By reducing the delay and uncertainty imposed by existing procedural barriers and thus lowering transactional costs associated with the licensing of technology transferred from the Federal laboratories, Federal agencies could greatly increase participation by the private sector in their technology transfer programs.

H.R. 2544 does just that. Its approach will expedite the commercialization of government-owned inventions and reduce the costs to the American taxpayer for the development of new technology-based products.

Through H.R. 2544, Federal agencies are provided with two important new tools for effectively commercializing on-the-shelf government-owned inventions: First, revised authorities under section 209 of the Bayh-Dole Act; and, second, the ability to license technology as part of a CRADA. Both mechanisms make Federal technology transfer programs much more attractive to U.S. private industries that seek to form partnerships with the Federal laboratories.

The committee reported H.R. 2544 by voice vote. The bill was subsequently discharged by the Committee on the Judiciary, to which it was sequentially referred. I appreciate the cooperation of the chairman and ranking minority member of the Committee on the Judiciary, the gentleman from Illinois (Mr. HYDE) and the gentleman from Michigan (Mr. CONYERS), for their assistance in bringing H.R. 2544 to the floor.

This bill is yet another important step in refining our Nation's technology transfer laws to remove existing impediments to advance government and industry collaboration, and I urge its adoption.

Mr. Speaker, I reserve the balance of my time.

Mr. BARCIA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would first begin by thanking the gentleman from Wisconsin (Chairman SENSENBRENNER) and, of course, the ranking member the gentleman from California (Mr. BROWN) for bringing H.R. 2544, the Technology Transfer Commercialization Act, to the floor. I would like to especially thank the bill's chief sponsor, the chairman of the Subcommittee on Technology, the gentlewoman from Maryland (Mrs. MORELLA), for her continued leadership on this and other important technology matters.

The goal of H.R. 2544 is to make sure that those innovations owned by our Federal labs and with commercial potential enter the marketplace as quickly and efficiently as possible. However, the bill also includes important protections that the gentleman from Utah (Mr. COOK) and I introduced during our Subcommittee on Technology markup to promote fairness of opportunity, to increase due diligence on the part of licenses, and to encourage the creation of American jobs.

The bill relaxes general notice requirements, but requires public notice when it matters most, when the granting of an exclusive license to a Federal invention is contemplated. Giving notice in advance of awarding an exclusive license is essential to ensure that the public gets full benefit from its research investment. This will make sure that every American company, no matter how small, has a chance to make its case for a license before exclusive rights are awarded. Without these protections, important innovations can inadvertently be blocked. Companies, often small businesses previously unknown to Federal laboratories, have responded to these public notices with revolutionary ideas that would otherwise have been lost.

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The National Institutes of Health first learned of companies with the capability to turn NIH innovations into a cystic fibrosis gene therapy and a cervical cancer vaccine through public notices of the intent to grant exclusive licenses to someone else. The Department of Agriculture uncovered important applications of its research, including a novel egg immunization technology and a way to take formaldehyde out of permanent press fabrics which could have been blocked without public notice.

Time and time again, public notice of the intent to grant exclusive licenses has produced dramatic results. The gentlewoman from Maryland (Mrs. MORELLA), the chairperson of the subcommittee, was absolutely right in pointing out to the committee that publication in the Federal Register is probably no longer the most effective method of public notice in an Internet age. Agencies need to make use of a variety of modern communication techniques such as electronic mailing lists, the Internet, and web pages. We encourage agencies to think creatively, to devise plans for reaching more people during shorter periods of public notice, and to pass the time savings on to their potential private sector partners.

Further, as our private sector is ultimately driven by small business, the licensing of Federal inventions may well be our most successful and cost-effective program to aid these smaller firms. In fact, the Department of Defense grants 61 percent of its exclusive licenses to small businesses, NIST grants 80 percent of licenses to small businesses, and NASA grants 93 percent of its licenses to small businesses. This bill ensures that small businesses will continue to be the focus of technology transfer initiatives far into the future.

Finally, this bill is geared toward American jobs. Federal licensees are expected to do high quality research and establish manufacturing jobs right here in the United States of America. In the 1980s, our committee showed wisdom in requiring a fair share of the jobs coming out of Federal innovations be located in the U.S. This bill will continue this important principle into the next century.

Mr. Speaker, the Subcommittee on Technology, under the leadership of the gentlewoman from Maryland (Mrs. MORELLA) and our distinguished chairman, the gentleman from Wisconsin (Mr. SENSENBRENNER), as well as our distinguished Ranking Member, the gentleman from California (Mr. BROWN) have, in a bipartisan manner, invested a large amount of time and energy in gathering the information necessary to perfect this legislation. I strongly urge my colleagues to support this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Utah (Mr. COOK).

Mr. COOK. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in support of H.R. 2544, the Technology Transfer Commercialization Act of 1998. First, I would like to commend our chairman, the gentleman from Wisconsin (Mr. SENSENBRENNER); the subcommittee chairwoman, the gentlewoman from Maryland (Mrs. MORELLA); and the ranking members of both committees, for their commitment and leadership on this legislation.

H.R. 2544 will improve the laws promoting technology transfer from our Nation's Federal laboratories. It will facilitate Federal technology licensing by streamlining the process and eliminating burdensome procedural hurdles for American businesses.

As a businessman I know the importance of keeping up with technology and the necessity of constantly innovating and initiating new ideas in order to remain competitive. I also understand how difficult it is to interact with the government. I am pleased that the committee accepted my pro-business amendments that further knock down some of the obstacles and concerns of industry when they seek to license technology from our Federal laboratories.

H.R. 2544 will bolster America's ability to compete internationally and will help our economy reap the fruits of taxpayer-funded Federal technology research.

I thank the chairman again for his support of this legislation, and I urge my colleagues to vote for this bill.

Mr. BARCIA. Mr. Speaker, I yield 3½ minutes to the distinguished gentleman from California (Mr. BROWN), ranking member of the House Committee on Science.

Mr. BROWN of California. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, over the last 20 years we have seen a complete change in attitude regarding technology transfer, and it has been a change for the better. In 1979 and in 1980, the House Committee on Science and Technology, working with some far-thinking individuals in the Carter administration, the university community and the private sector, came up with a holistic method of thinking about innovation in this country and the legislation necessary to back it up.

I am proud to have been a part of the bipartisan group of legislators who guided these bills, the Bayh-Dole Act and the Stevenson-Wydler Act, to enactment and who later worked with the Reagan administration to broaden their scope by extending the Bayh-Dole Act to government-owned, contractor-operated laboratories and by adding the concept of cooperative research and development agreements to the Stevenson-Wydler Act.

When I say bipartisan, my colleagues will all recognize that Senator Bayh was a leading Democratic Senator from Indiana, and Senator Dole of course was the later-to-be Republican leader and candidate for President. Of the Stevenson-Wydler Act, Senator Stevenson was the junior Senator from Illinois at that time, and Mr. Wydler was the Ranking Member of the Committee on Science, which I am today, so I am following in his great footsteps. But the point that I am trying to make here is that we unabashedly worked together on a bipartisan basis to enact this type of legislation which was aimed at reaping greater benefits from our investments in research and development in this country, and these programs have succeeded.

I should point out that the foundation for most of our current advanced technology programs was contained in the 1988 Trade Act, perhaps an odd place for it to be, but it was a separate title of that trade act which was signed into law by President Reagan and which has given us some of the new and, unfortunately, at times, controversial programs which have continued to help ensure our leadership in the world in terms of continually improving our market share in high technology products of all kinds.

What were revolutionary ideas in the 1980 and 1986 bills are now the heart of our Federal laboratory policy. These ideas have been so successful that practice in some ways has outgrown the original statute. Rather than having thousands of Federal inventions going unused, we now see intense competition in the private sector for the best ideas and need to ensure fairness of opportunity in selecting the most appropriate licensees, and this is what the legislation before us attempts to encourage. Instead of Federal researchers meeting their colleagues from outside the government only in professional meetings, we now have a culture of cooperative research involving Federal labs and universities in the private sector.

Mr. Speaker, this is an important, well-thought-out bill. I urge my colleagues to support it.

Mr. BARCIA. Mr. Speaker, I yield 3 minutes to the distinguished gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the gentleman from Illinois for his kindness and his leadership; the ranking member, the chairman and the committee for their work.

This is an exciting piece of legislation, and I am delighted to rise to support the Technology Transfer Commercialization Act of 1997. I certainly think Senators Bayh and Dole were innovative in 1980 when their act was first implemented, because it revolutionized the way we handle patents arising from Federal research. Until their legislation passed, the Federal Government retained title to all patents arising from Federal research and granted only nonexclusive licenses to private parties. This left no room for competitive advantages and what we wound up with was these 20,000 Federal inventions sitting in laboratories, underutilized and unused.

As a result of the Bayh-Dole policy, current policy is to get these inventions out to the private sector, either by licensing government-developed technology or by letting a university or company who made the invention with Federal funds have the patent outright. Out of that we have gotten new medicines and materials and processes, and ideas for products are flowing.

However, I believe as we move into the information age, we can do better. We have learned a lot about licensing since 1980, and therefore, I think it is crucial that this new amendment and legislation conforms our patent policies to our new sensibilities. It takes lessons learned over these 18 years as well as the legitimate concerns of licensees, and streamlining our patenting and licensing procedures to reflect 21st century realities.

What I really like about it is this is a real dynamic opportunity for our small businesses. This is a job creation bill, for the small businesses now will have the first crack, as they have in the past, but they will have a real opportunity for the licenses and a substantial portion of the jobs arising from commercializing Federal inventions will have to be located right here in the United States. I think it is a match made in heaven.

The small business preference works, because there are so many innovative technological firms that are small businesses and, in fact, generate a lot of jobs. This helps them to get right to the source of opportunity and to create more jobs and to create high technology. In fact, I understand that over 90 percent of NASA's licenses typically go to small businesses, many of which reside in my community.

H.R. 2544 also carefully devices ways to make sure that the ideas of all companies with an interest in commercializing an invention are considered before rights are awarded. H.R. 2544 also makes crucial adjustments to CRADA, a process by which companies can do joint research with the Federal laboratories. Again, here is another opportunity where there is joint venturing and partnerships between our Federal laboratories.

Mr. Speaker, as I said earlier, this is a bill for the 21st century. I am very proud to support this bill as well as on behalf of our small businesses in America, and technology.

Mr. Speaker, I rise in support of H.R. 2544, the Technology Transfer Commercialization Act of 1997. This bill is important to me for a number of reasons. It strengthens a program of great importance to small business, and it is key to helping U.S. companies harvest the bountiful ideas of Federal laboratories.

This bill amends the Bayh-Dole Act of 1980, which revolutionized the way we handle patents arising from Federal research. Until Bayh-Dole passed, the Federal government retained title to all the patents arising from Federal research and granted only non-exclusive licenses to private parties. This policy left no room for competitive advantages and led to 20,000 Federal inventions sitting in laboratories underutilized and unused.

As a result of Bayh-Dole, current policy is to get these inventions out to the private sector either by licensing government-developed technology, or by letting the university or company who made the invention with Federal funds have the patent outright. New medicines, materials, processes, and ideas for products are flowing from the government to the private sector as never before.

But we can do better. We have learned much about licensing since 1980. Businesses have also changed dramatically in this period. Product marketing and quality is much better now. There has been a communications revolution and business decisions must be made very quickly. Today's high-technology businesses simply do not have the time to produce mounds of paperwork and wait months to license a Federal invention.

H.R. 2544 conforms our patent policies to our new sensibilities. It takes the lessons learned over these 18 years as well as the legitimate concerns of licensees, and streamlines our patent licensing procedures to reflect 21st century realities.

This bill also preserves what is good about Bayh-Dole. Small businesses still will have first crack at the licenses, and a substantial portion of the jobs arising from commercializing Federal inventions will have to be located right here in the United States. This is a small business preference that works. I understand that over 90% of NASA's licenses typically go to small businesses, many of which reside in my district. H.R. 2544 also carefully devises ways to make sure that the ideas of all companies with an interest in commercializing an invention are considered before rights are awarded.

H.R. 2544 also makes crucial adjustments to the CRADA process by which companies can do joint research with the Federal laboratories. It retains all of the provisions which permit small businesses easy access to federal laboratories, but it also sets up a careful review of those CRADAs that are large enough or prominent enough to raise national security, antitrust, or international competitiveness issues.

Mr. Speaker, this bill represents hard and fruitful work on the part of my colleagues from both sides of the aisle, and from the Administration. I urge all of you to support this important legislation.

Mr. BARCIA. Mr. Speaker, having no additional speakers on our side, I yield back the balance of my time.

Mrs. MORELLA. Mr. Speaker, for nearly two decades, Congress and the Science Committee has encouraged the transfer to United States private industry of unclassified technology created in our federal laboratories.

As a result of these technology transfer laws, the ability of the United States to compete globally has been strengthened and a new paradigm for greater collaboration among the scientific enterprises that conduct our Nation's research and development—government, industry, and universities—has been developed. By permitting effective collaboration between our Federal laboratories and private industry, new technologies can be rapidly commercialized.

Federal technology transfer stimulates the American economy, enhances the competitive position of United States industry internationally, and promotes the development and use of new technologies developed under taxpayer funded research so those innovations are incorporated rapidly and effectively into practice to the benefit of the American public.

Our Federal laboratories have long been considered one of our greatest scientific research and development resources, employing one of every six scientists in the country and encompassing one-fifth of the country's laboratory and equipment capabilities. Effectively capturing this wealth of ideas and technology from our federal laboratories, through the transfer to private industry for commercialization, has helped to bolster our Nation's ability to compete in the global marketplace.

Given the importance and benefits of technology transfer, the Technology Subcommittee has continued to refine the technology transfer process to facilitate greater government, university, and industry collaboration. In the past Congress, we enhanced and simplified the process for Cooperative Research and Development Agreements through a bill which I introduced, the National Technology Transfer and Advancement Act (P.L. 104–113).

With the Technology Transfer Commercialization Act, we have now attempted to remove the obstacles to effectively license federally-owned inventions which are created in government-owned, government-operated laboratories, by adopting the successful Bayh-Dole Act as a framework.

Under the bill, agencies would be provided with two important new tools for effectively commercializing on-the-shelf federally owned technologies—either licensing them as standalone inventions, under the bill's revised authorities of Section 209 of the Bayh-Dole Act, or by including them as part of a larger package under a Cooperative Research and Development Agreement. In doing so, this will make both mechanisms much more attractive to United States companies that are striving to form partnerships with federal laboratories.

In the Technology Subcommittee's two legislative hearings on H.R. 2544, witnesses enthusiastically endorsed the bill's intent to streamline technology licensing to make it more effective. We heard from the Administration, large corporations, small businesses, federal laboratories, and technology transfer organizations, among others, that the bill will substantially improve the process of licensing federal technology for commercial applications and make it more attractive for industry to partner with government.

The bill before us represents a bipartisan consensus. I am pleased that we have worked closely with the members of the Minority in revising the bill since it was originally introduced. I would also like to thank the Chairman and Ranking Member of the Science Committee, Mr. SENSENBRENNER and Mr. BROWN, as well as the Ranking Member of the Technology Subcommittee, Mr. BARCIA, for their support of H.R. 2544.

I look forward to working with them and my Senate counterparts to have this bill signed into law before the conclusion of the 105th Congress. I urge all of my colleagues to pass this important measure.

Mr. SENSENBRENNER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the bill, H.R. 2544, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 2544, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

HOMEOWNERS PROTECTION ACT OF 1998

Mr. LEACH. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 318) to require automatic cancellation and notice of cancellation rights with respect to private mortgage insurance which is required as a condition for entering into a residential mortgage transaction, to abolish the Thrift Depositor Protection Oversight Board, and for other purposes, as amended.

The Clerk read as follows:

S. 318

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Homeowners Protection Act of 1998".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Definitions.
Sec. 3. Termination of private mortgage insurance.
Sec. 4. Disclosure requirements.
Sec. 5. Notification upon cancellation or termination.
Sec. 6. Disclosure requirements for lender paid mortgage insurance.
Sec. 7. Fees for disclosures.
Sec. 8. Civil liability.
Sec. 9. Effect on other laws and agreements.
Sec. 10. Enforcement.
Sec. 11. Construction
Sec. 12. Effective date.
Sec. 13. Abolishment of the Thrift Depositor Protection Oversight Board.

SEC. 2. DEFINITIONS.

In this Act, the following definitions shall apply:

(1) ADJUSTABLE RATE MORTGAGE.—The term "adjustable rate mortgage" means a residential mortgage that has an interest rate that is subject to change.

(2) CANCELLATION DATE.—The term "cancellation date" means—

(A) with respect to a fixed rate mortgage, at the option of the mortgagor, the date on which the principal balance of the mortgage—

(i) based solely on the initial amortization schedule for that mortgage, and irrespective of the outstanding balance for that mortgage on that date, is first scheduled to reach 80 percent of the original value of the property securing the loan; or

(ii) based solely on actual payments, reaches 80 percent of the original value of the property securing the loan; and

(B) with respect to an adjustable rate mortgage, at the option of the mortgagor, the date on which the principal balance of the mortgage—

(i) based solely on amortization schedules for that mortgage, and irrespective of the outstanding balance for that mortgage on that date, is first scheduled to reach 80 percent of the original value of the property securing the loan; or

(ii) based solely on actual payments, first reaches 80 percent of the original value of the property securing the loan.

(3) FIXED RATE MORTGAGE.—The term "fixed rate mortgage" means a residential mortgage that has an interest rate that is not subject to change.

(4) GOOD PAYMENT HISTORY.—The term "good payment history" means, with respect to a mortgagor, that the mortgagor has not—

(A) made a mortgage payment that was 60 days or longer past due during the 12-month period beginning 24 months before the date on which the mortgage reaches the cancellation date; or

(B) made a mortgage payment that was 30 days or longer past due during the 12-month period preceding the date on which the mortgage reaches the cancellation date.

(5) INITIAL AMORTIZATION SCHEDULE.—The term "initial amortization schedule" means a schedule established at the time at which a residential mortgage transaction is consummated with respect to a fixed rate mortgage, showing—

(A) the amount of principal and interest that is due at regular intervals to retire the principal balance and accrued interest over the amortization period of the loan; and

(B) the unpaid principal balance of the loan after each scheduled payment is made.

(6) MORTGAGE INSURANCE.—The term "mortgage insurance" means insurance, including any mortgage guaranty insurance, against the nonpayment of, or default on, an individual mortgage or loan involved in a residential mortgage transaction.

(7) MORTGAGE INSURER.—The term "mortgage insurer" means a provider of private mortgage insurance, as described in this Act, that is authorized to transact such business in the State in which the provider is transacting such business.

(8) MORTGAGEE.—The term "mortgagee" means the holder of a residential mortgage at the time at which that mortgage transaction is consummated.

(9) MORTGAGOR.—The term "mortgagor" means the original borrower under a residential mortgage or his or her successors or assignees. .

(10) ORIGINAL VALUE.—The term "original value", with respect to a residential mortgage, means the lesser of the sales price of the property securing the mortgage, as reflected in the contract, or the appraised value at the time at which the subject residential mortgage transaction was consummated.

(11) PRIVATE MORTGAGE INSURANCE.—The term "private mortgage insurance" means mortgage insurance other than mortgage insurance made available under the National Housing Act, title 38 of the United States Code, or title V of the Housing Act of 1949.

(12) RESIDENTIAL MORTGAGE.—The term "residential mortgage" means a mortgage, loan, or other evidence of a security interest created with respect to a single-family dwelling that is the primary residence of the mortgagor.

(13) RESIDENTIAL MORTGAGE TRANSACTION.—The term "residential mortgage transaction" means a transaction consummated on or after the date that is 1 year after the date of enactment of this Act, in which a mortgage, deed of trust, purchase money security interest arising under an installment sales contract, or equivalent consensual security interest is created or retained against a single-family dwelling that is the primary residence of the mortgagor to finance the acquisition, initial construction, or refinancing of that dwelling.

(14) SERVICER.—The term "servicer" has the same meaning as in section 6(i)(2) of the Real Estate Settlement Procedures Act of 1974, with respect to a residential mortgage.

(15) SINGLE-FAMILY DWELLING.—The term "single-family dwelling" means a residence consisting of 1 family dwelling unit.

(16) TERMINATION DATE.—The term "termination date" means—

(A) with respect to a fixed rate mortgage, the date on which the principal balance of the mortgage, based solely on the initial amortization schedule for that mortgage, and irrespective of the outstanding balance for that mortgage on that date, is first scheduled to reach 78 percent of the original value of the property securing the loan; and

(B) with respect to an adjustable rate mortgage, the date on which the principal balance of the mortgage, based solely on amortization schedules for that mortgage, and irrespective of the outstanding balance for that mortgage on that date, is first scheduled to reach 78 percent of the original value of the property securing the loan.

SEC. 3. TERMINATION OF PRIVATE MORTGAGE INSURANCE.

(a) BORROWER CANCELLATION.—A requirement for private mortgage insurance in connection with a residential mortgage transaction shall be canceled on the cancellation date, if the mortgagor—

(1) submits a request in writing to the servicer that cancellation be initiated;

(2) has a good payment history with respect to the residential mortgage; and

(3) has satisfied any requirement of the holder of the mortgage (as of the date of a request under paragraph (1)) for—

(A) evidence (of a type established in advance and made known to the mortgagor by the servicer promptly upon receipt of a request under paragraph (1)) that the value of the property securing the mortgage has not declined below the original value of the property; and

(B) certification that the equity of the mortgagor in the residence securing the mortgage is unencumbered by a subordinate lien.

(b) AUTOMATIC TERMINATION.—A requirement for private mortgage insurance in connection with a residential mortgage transaction shall terminate with respect to payments for that mortgage insurance made by the mortgagor—

(1) on the termination date if, on that date, the mortgagor is current on the payments required by the terms of the residential mortgage transaction; or

(2) on the date after the termination date on which the mortgagor becomes current on the payments required by the terms of the residential mortgage transaction.

(c) FINAL TERMINATION.—If a requirement for private mortgage insurance is not otherwise canceled or terminated in accordance with subsection (a) or (b), in no case may such a requirement be imposed beyond the first day of the month immediately following the date that is the midpoint of the amortization period of the loan if the mortgagor is current on the payments required by the terms of the mortgage.

(d) NO FURTHER PAYMENTS.—No payments or premiums may be required from the mortgagor in connection with a private mortgage insurance requirement terminated or canceled under this section—

(1) in the case of cancellation under subsection (a), more than 30 days after the later of—

(A) the date on which a request under subsection (a)(1) is received; or

(B) the date on which the mortgagor satisfies any evidence and certification requirements under subsection (a)(3);

(2) in the case of termination under subsection (b), more than 30 days after the termination date or the date referred to in subsection (b)(2), as applicable; and

(3) in the case of termination under subsection (c), more than 30 days after the final termination date established under that subsection.

(e) RETURN OF UNEARNED PREMIUMS.—

(1) IN GENERAL.—Not later than 45 days after the termination or cancellation of a private mortgage insurance requirement under this section, all unearned premiums for private mortgage insurance shall be returned to the mortgagor by the servicer.

(2) TRANSFER OF FUNDS TO SERVICER.—Not later than 30 days after notification by the servicer of termination or cancellation of private mortgage insurance under this Act with respect to a mortgagor, a mortgage insurer that is in possession of any unearned premiums of that mortgagor shall transfer to the servicer of the subject mortgage an amount equal to the amount of the unearned premiums for repayment in accordance with paragraph (1).

(f) EXCEPTIONS FOR HIGH RISK LOANS.—

(1) IN GENERAL.—The termination and cancellation provisions in subsections (a) and (b) do not apply to any residential mortgage or mortgage transaction that, at the time at which the residential mortgage transaction is consummated, has high risks associated with the extension of the loan—

(A) as determined in accordance with guidelines published by the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation, in the case of a mortgage loan with an original principal balance that does not exceed the applicable annual conforming loan limit for the secondary market established pursuant to section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act, so as to require the imposition or continuation of a private mortgage insurance requirement beyond the terms specified in subsection (a) or (b) of section 3; or

(B) as determined by the mortgagee in the case of any other mortgage, except that termination shall occur—

(i) with respect to a fixed rate mortgage, on the date on which the principal balance of the mortgage, based solely on the initial amortization schedule for that mortgage, and irrespective of the outstanding balance for that mortgage on that date, is first scheduled to reach 77 percent of the original value of the property securing the loan; and

(ii) with respect to an adjustable rate mortgage, on the date on which the principal balance of the mortgage, based solely on amortization schedules for that mortgage, and irrespective of the outstanding balance for that mortgage on that date, is first scheduled to reach 77 percent of the original value of the property securing the loan.

(2) TERMINATION AT MIDPOINT.—A private mortgage insurance requirement in connection with a residential mortgage or mortgage transaction described in paragraph (1) shall terminate in accordance with subsection (c).

(3) RULE OF CONSTRUCTION.—Nothing in this subsection may be construed to require a mortgage or mortgage transaction described in paragraph (1)(A) to be purchased by the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation.

(4) GAO REPORT.—Not later than 2 years after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the Congress a report describing the volume and characteristics of

residential mortgages and residential mortgage transactions that, pursuant to paragraph (1) of this subsection, are exempt from the application of subsections (a) and (b). The report shall—

(A) determine the number or volume of such mortgages and transactions compared to residential mortgages and residential mortgage transactions that are not classified as high-risk for purposes of paragraph (1); and

(B) identify the characteristics of such mortgages and transactions that result in their classification (for purposes of paragraph (1)) as having high risks associated with the extension of the loan and describe such characteristics, including—

(i) the income levels and races of the mortgagors involved;

(ii) the amount of the downpayments involved and the downpayments expressed as percentages of the acquisition costs of the properties involved;

(iii) the types and locations of the properties involved;

(iv) the mortgage principal amounts; and

(v) any other characteristics of such mortgages and transactions that may contribute to their classification as high risk for purposes of paragraph (1), including whether such mortgages are purchase-money mortgages or refinancings and whether and to what extent such loans are low-documentation loans.

SEC. 4. DISCLOSURE REQUIREMENTS.

(a) Disclosures for New Mortgages at Time of Transaction.—

(1) Disclosures for non-exempted transactions.—In any case in which private mortgage insurance is required in connection with a residential mortgage or mortgage transaction (other than a mortgage or mortgage transaction described in section 3(f)(1)), at the time at which the transaction is consummated, the mortgagee shall provide to the mortgagor—

(A) if the transaction relates to a fixed rate mortgage—

(i) a written initial amortization schedule; and

(ii) written notice—

(I) that the mortgagor may cancel the requirement in accordance with section 3(a) of this Act indicating the date on which the mortgagor may request cancellation, based solely on the initial amortization schedule;

(II) that the mortgagor may request cancellation in accordance with section 3(a) of this Act earlier than provided for in the initial amortization schedule, based on actual payments;

(III) that the requirement for private mortgage insurance will automatically terminate on the termination date in accordance with section 3(b) of this Act, and what that termination date is with respect to that mortgage; and

(IV) that there are exemptions to the right to cancellation and automatic termination of a requirement for private mortgage insurance in accordance with section 3(f) of this Act, and whether such an exemption applies at that time to that transaction; and

(B) if the transaction relates to an adjustable rate mortgage, a written notice that—

(i) the mortgagor may cancel the requirement in accordance with section 3(a) of this Act on the cancellation date, and that the servicer will notify the mortgagor when the cancellation date is reached;

(ii) the requirement for private mortgage insurance will automatically terminate on the termination date, and that on the termination date, the mortgagor will be notified of the termination or that the requirement will be terminated as soon as the mortgagor is current on loan payments; and

(iii) there are exemptions to the right of cancellation and automatic termination of a requirement for private mortgage insurance in accordance with section 3(f) of this Act, and whether such an exemption applies at that time to that transaction.

(2) Disclosures for excepted transactions.—In the case of a mortgage or mortgage transaction described in section 3(f)(1), at the time at which the transaction is consummated, the mortgagee shall provide written notice to the mortgagor that in no case may private mortgage insurance be required beyond the date that is the midpoint of the amortization period of the loan, if the mortgagor is current on payments required by the terms of the residential mortgage.

(3) Annual disclosures.—If private mortgage insurance is required in connection with a residential mortgage transaction, the servicer shall disclose to the mortgagor in each such transaction in an annual written statement—

(A) the rights of the mortgagor under this Act to cancellation or termination of the private mortgage insurance requirement; and

(B) an address and telephone number that the mortgagor may use to contact the servicer to determine whether the mortgagor may cancel the private mortgage insurance.

(4) Applicability.—Paragraphs (1) through (3) shall apply with respect to each residential mortgage transaction consummated on or after the date that is 1 year after the date of enactment of this Act.

(b) Disclosures for Existing Mortgages.—If private mortgage insurance was required in connection with a residential mortgage entered into at any time before the effective date of this Act, the servicer shall disclose to the mortgagor in each such transaction in an annual written statement—

(1) that the private mortgage insurance may, under certain circumstances, be canceled by the mortgagor (with the consent of the mortgagee or in accordance with applicable State law); and

(2) an address and telephone number that the mortgagor may use to contact the servicer to determine whether the mortgagor may cancel the private mortgage insurance.

(c) Inclusion in Other Annual Notices.—The information and disclosures required under subsection (b) and paragraphs (1)(B) and (3) of subsection (a) may be provided on the annual disclosure relating to the escrow account made as required under the Real Estate Settlement Procedures Act of 1974, or as part of the annual disclosure of interest payments made pursuant to Internal Revenue Service regulations, and on a form promulgated by the Internal Revenue Service for that purpose.

(d) Standardized Forms.—The mortgagee or servicer may use standardized forms for the provision of disclosures required under this section.

SEC. 5. NOTIFICATION UPON CANCELLATION OR TERMINATION.

(a) In General.—Not later than 30 days after the date of cancellation or termination of a private mortgage insurance requirement in accordance with this Act, the servicer shall notify the mortgagor in writing—

(1) that the private mortgage insurance has terminated and that the mortgagor no longer has private mortgage insurance; and

(2) that no further premiums, payments, or other fees shall be due or payable by the mortgagor in connection with the private mortgage insurance.

(b) Notice of Grounds.—

(1) In general.—If a servicer determines that a mortgage did not meet the requirements for termination or cancellation of private mortgage insurance under subsection (a) or (b) of section 3, the servicer shall provide written notice to the mortgagor of the grounds relied on to make the determination (including the results of any appraisal used to make the determination).

(2) Timing.—Notice required by paragraph (1) shall be provided—

(A) with respect to cancellation of private mortgage insurance under section 3(a), not later than 30 days after the later of—

(i) the date on which a request is received under section 3(a)(1); or

(ii) the date on which the mortgagor satisfies any evidence and certification requirements under section 3(a)(3); and

(B) with respect to termination of private mortgage insurance under section 3(b), not later than 30 days after the scheduled termination date.

SEC. 6. DISCLOSURE REQUIREMENTS FOR LENDER PAID MORTGAGE INSURANCE.

(a) Definitions.—For purposes of this section—

(1) the term "borrower paid mortgage insurance" means private mortgage insurance that is required in connection with a residential mortgage transaction, payments for which are made by the borrower;

(2) the term "lender paid mortgage insurance" means private mortgage insurance that is required in connection with a residential mortgage transaction, payments for which are made by a person other than the borrower; and

(3) the term "loan commitment" means a prospective mortgagee's written confirmation of its approval, including any applicable closing conditions, of the application of a prospective mortgagor for a residential mortgage loan.

(b) Exclusion.—Sections 3 through 5 do not apply in the case of lender paid mortgage insurance.

(c) Notices to Mortgagor.—In the case of lender paid mortgage insurance that is required in connection with a residential mortgage or a residential mortgage transaction—

(1) not later than the date on which a loan commitment is made for the residential mortgage transaction, the prospective mortgagee shall provide to the prospective mortgagor a written notice—

(A) that lender paid mortgage insurance differs from borrower paid mortgage insurance, in that lender paid mortgage insurance may not be canceled by the mortgagor, while borrower paid mortgage insurance could be cancelable by the mortgagor in accordance with section 3(a) of this Act, and could automatically terminate on the termination date in accordance with section 3(b) of this Act;

(B) that lender paid mortgage insurance—

(i) usually results in a residential mortgage having a higher interest rate than it would in the case of borrower paid mortgage insurance; and

(ii) terminates only when the residential mortgage is refinanced, paid off, or otherwise terminated; and

(C) that lender paid mortgage insurance and borrower paid mortgage insurance both have benefits and disadvantages, including a generic analysis of the differing costs and benefits of a residential mortgage in the case lender paid mortgage insurance versus borrower paid mortgage insurance over a 10-year period, assuming prevailing interest and property appreciation rates;

(D) that lender paid mortgage insurance may be tax-deductible for purposes of Federal income taxes, if the mortgagor itemizes expenses for that purpose; and

(2) not later than 30 days after the termination date that would apply in the case of borrower paid mortgage insurance, the servicer shall provide to the mortgagor a written notice indicating that the mortgagor may wish to review financing options that could eliminate the requirement for private mortgage insurance in connection with the residential mortgage.

(d) Standard Forms.—The servicer of a residential mortgage may develop and use a standardized form or forms for the provision of notices to the mortgagor, as required under subsection (c).

SEC. 7. FEES FOR DISCLOSURES.

No fee or other cost may be imposed on any mortgagor with respect to the provision of any notice or information to the mortgagor pursuant to this Act.

SEC. 8. CIVIL LIABILITY.

(a) In General.—Any servicer, mortgagee, or mortgage insurer that violates a provision of this Act shall be liable to each mortgagor to whom the violation relates for—

(1) in the case of an action by an individual, or a class action in which the liable party is not subject to section 10, any actual damages sustained by the mortgagor as a result of the violation, including interest (at a rate determined by the court) on the amount of actual damages, accruing from the date on which the violation commences;

(2) in the case of—

(A) an action by an individual, such statutory damages as the court may allow, not to exceed $2,000; and

(B) in the case of a class action—

(i) in which the liable party is subject to section 10, such amount as the court may allow, except that the total recovery under this subparagraph in any class action or series of class actions arising out of the same violation by the same liable party shall not exceed the lesser of $500,000 or 1 percent of the net worth of the liable party, as determined by the court; and

(ii) in which the liable party is not subject to section 10, such amount as the court may allow, not to exceed $1000 as to each member of the class, except that the total recovery under this subparagraph in any class action or series of class actions arising out of the same violation by the same liable party shall not exceed the lesser of $500,000 or 1 percent of the gross revenues of the liable party, as determined by the court;

(3) costs of the action; and

(4) reasonable attorney fees, as determined by the court.

(b) Timing of Actions.—No action may be brought by a mortgagor under subsection (a) later than 2 years after the date of the discovery of the violation that is the subject of the action.

(c) Limitations on Liability.—

(1) In general.—With respect to a residential mortgage transaction, the failure of a servicer to comply with the requirements of this Act due to the failure of a mortgage insurer or a mortgagee to comply with the requirements of this Act, shall not be construed to be a violation of this Act by the servicer.

(2) Rule of construction.—Nothing in paragraph (1) shall be construed to impose any additional requirement or liability on a mortgage insurer, a mortgagee, or a holder of a residential mortgage.

SEC. 9. EFFECT ON OTHER LAWS AND AGREEMENTS.

(a) Effect on State Law.—

(1) In general.—With respect to any residential mortgage or residential mortgage transaction consummated after the effective date of this Act, and except as provided in paragraph (2), the provisions of this Act shall supersede any provisions of the law of any State relating to requirements for obtaining or maintaining private mortgage insurance in connection with residential mortgage transactions, cancellation or automatic termination of such private mortgage insurance, any disclosure of information addressed by this Act, and any other matter specifically addressed by this Act.

(2) Protection of existing state laws.—

(A) In general.—The provisions of this Act do not supersede protected State laws, except to the extent that the protected State laws are inconsistent with any provision of this Act, and then only to the extent of the inconsistency.

(B) Inconsistencies.—A protected State law shall not be considered to be inconsistent with a provision of this Act if the protected State law—

(i) requires termination of private mortgage insurance or other mortgage guaranty insurance—

(I) at a date earlier than as provided in this Act; or

(II) when a mortgage principal balance is achieved that is higher than as provided in this Act; or

(ii) requires disclosure of information—

(I) that provides more information than the information required by this Act; or

(II) more often or at a date earlier than is required by this Act.

(C) Protected state laws.—For purposes of this paragraph, the term "protected State law" means a State law—

(i) regarding any requirements relating to private mortgage insurance in connection with residential mortgage transactions;

(ii) that was enacted not later than 2 years after the date of the enactment of this Act; and

(iii) that is the law of a State that had in effect, on or before January 2, 1998, any State law described in clause (i).

(b) Effect on Other Agreements.—The provisions of this Act shall supersede any conflicting provision contained in any agreement relating to the servicing of a residential mortgage loan entered into by the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, or any private investor or note holder (or any successors thereto).

SEC. 10. ENFORCEMENT.

(a) In General.—Compliance with the requirements imposed under this Act shall be enforced under—

(1) section 8 of the Federal Deposit Insurance Act—

(A) by the appropriate Federal banking agency (as defined in section 3(q) of the Federal Deposit Insurance Act) in the case of insured depository institutions (as defined in section 3(c)(2) of such Act);

(B) by the Federal Deposit Insurance Corporation in the case of depository institutions described in clause (i), (ii), or (iii) of section 19(b)(1)(A) of the Federal Reserve Act that are not insured depository institutions (as defined in section 3(c)(2) of the Federal Deposit Insurance Act); and

(C) by the Director of the Office of Thrift Supervision in the case of depository institutions described in clause (v) and or (vi) of section 19(b)(1)(A) of the Federal Reserve Act that are not insured depository institutions (as defined in section 3(c)(2) of the Federal Deposit Insurance Act);

(2) the Federal Credit Union Act, by the National Credit Union Administration Board in the case of depository institutions described in clause (iv) of section 19(b)(1)(A) of the Federal Reserve Act; and

(3) part C of title V of the Farm Credit Act of 1971 (12 U.S.C. 2261 et seq.), by the Farm Credit Administration in the case of an institution that is a member of the Farm Credit System.

(b) Additional Enforcement Powers.—

(1) Violation of this act treated as violation of other acts.—For purposes of the exercise by any agency referred to in subsection (a) of such agency's powers under any Act referred to in such subsection, a violation of a requirement imposed under this Act shall be deemed to be a violation of a requirement imposed under that Act.

(2) Enforcement authority under other acts.—In addition to the powers of any agency referred to in subsection (a) under any provision of law specifically referred to in such subsection, each such agency may exercise, for purposes of enforcing compliance with any requirement imposed under this Act, any other authority conferred on such agency by law.

(c) Enforcement and Reimbursement.—In carrying out its enforcement activities under this section, each agency referred to in subsection (a) shall—

(1) notify the mortgagee or servicer of any failure of the mortgagee or servicer to comply with 1 or more provisions of this Act;

(2) with respect to each such failure to comply, require the mortgagee or servicer, as applicable, to correct the account of the mortgagor to reflect the date on which the mortgage insurance should have been canceled or terminated under this Act; and

(3) require the mortgagee or servicer, as applicable, to reimburse the mortgagor in an amount equal to the total unearned premiums paid by the mortgagor after the date on which the obligation to pay those premiums ceased under this Act.

SEC. 11. CONSTRUCTION.

(a) PMI Not Required.—Nothing in this Act shall be construed to impose any requirement for private mortgage insurance in connection with a residential mortgage transaction.

(b) No Preclusion of Cancellation or Termination Agreements.—Nothing in this Act shall be construed to preclude cancellation or termination, by agreement between a mortgagor and the holder of the mortgage, of a requirement for private mortgage insurance in connection with a residential mortgage transaction before the cancellation or termination date established by this Act for the mortgage.

SEC. 12. EFFECTIVE DATE.

This Act, other than section 13, shall become effective 1 year after the date of enactment of this Act.

SEC. 13. ABOLISHMENT OF THE THRIFT DEPOSITOR PROTECTION OVERSIGHT BOARD.

(a) In General.—Effective at the end of the 3-month period beginning on the date of enactment of this Act, the Thrift Depositor Protection Oversight Board established under section 21A of the Federal Home Loan Bank Act (hereafter in this section referred to as the "Oversight Board") is hereby abolished.

(b) Disposition of Affairs.—

(1) Power of chairperson.—Effective on the date of enactment of this Act, the Chairperson of the Oversight Board (or the designee of the Chairperson) may exercise on behalf of the Oversight Board any power of

the Oversight Board necessary to settle and conclude the affairs of the Oversight Board.

(2) AVAILABILITY OF FUNDS.—Funds available to the Oversight Board shall be available to the Chairperson of the Oversight Board to pay expenses incurred in carrying out paragraph (1).

(c) SAVINGS PROVISION.—

(1) EXISTING RIGHTS, DUTIES, AND OBLIGATIONS NOT AFFECTED.—No provision of this section shall be construed as affecting the validity of any right, duty, or obligation of the United States, the Oversight Board, the Resolution Trust Corporation, or any other person that—

(A) arises under or pursuant to the Federal Home Loan Bank Act, or any other provision of law applicable with respect to the Oversight Board; and

(B) existed on the day before the abolishment of the Oversight Board in accordance with subsection (a).

(2) CONTINUATION OF SUITS.—No action or other proceeding commenced by or against the Oversight Board with respect to any function of the Oversight Board shall abate by reason of the enactment of this section.

(3) LIABILITIES.—

(A) IN GENERAL.—All liabilities arising out of the operation of the Oversight Board during the period beginning on August 9, 1989, and the date that is 3 months after the date of enactment of this Act shall remain the direct liabilities of the United States.

(B) NO SUBSTITUTION.—The Secretary of the Treasury shall not be substituted for the Oversight Board as a party to any action or proceeding referred to in subparagraph (A).

(4) CONTINUATIONS OF ORDERS, RESOLUTIONS, DETERMINATIONS, AND REGULATIONS PERTAINING TO THE RESOLUTION FUNDING CORPORATION.—

(A) IN GENERAL.—All orders, resolutions, determinations, and regulations regarding the Resolution Funding Corporation shall continue in effect according to the terms of such orders, resolutions, determinations, and regulations until modified, terminated, set aside, or superseded in accordance with applicable law if such orders, resolutions, determinations, or regulations—

(i) have been issued, made, and prescribed, or allowed to become effective by the Oversight Board, or by a court of competent jurisdiction, in the performance of functions transferred by this section; and

(ii) are in effect at the end of the 3-month period beginning on the date of enactment of this section.

(B) ENFORCEABILITY OF ORDERS, RESOLUTIONS, DETERMINATIONS, AND REGULATIONS BEFORE TRANSFER.—Before the effective date of the transfer of the authority and duties of the Resolution Funding Corporation to the Secretary of the Treasury under subsection (d), all orders, resolutions, determinations, and regulations pertaining to the Resolution Funding Corporation shall be enforceable by and against the United States.

(C) ENFORCEABILITY OF ORDERS, RESOLUTIONS, DETERMINATIONS, AND REGULATIONS AFTER TRANSFER.—On and after the effective date of the transfer of the authority and duties of the Resolution Funding Corporation to the Secretary of the Treasury under subsection (d), all orders, resolutions, determinations, and regulations pertaining to the Resolution Funding Corporation shall be enforceable by and against the Secretary of the Treasury.

(d) TRANSFER OF THRIFT DEPOSITOR PROTECTION OVERSIGHT BOARD AUTHORITY AND DUTIES OF RESOLUTION FUNDING CORPORATION TO SECRETARY OF THE TREASURY.—Effective at the end of the 3-month period beginning on the date of enactment of this Act, the authority and duties of the Oversight Board under sections 21A(a)(6)(I) and 21B of the Federal Home Loan Bank Act are transferred to the Secretary of the Treasury (or the designee of the Secretary).

(e) MEMBERSHIP OF THE AFFORDABLE HOUSING ADVISORY BOARD.—Effective on the date of enactment of this Act, section 14(b)(2) of the Resolution Trust Corporation Completion Act (12 U.S.C. 1831q note) is amended—

(1) by striking subparagraph (C); and

(2) by redesignating subparagraphs (D) and (E) as subparagraphs (C) and (D), respectively.

(f) TIME OF MEETINGS OF THE AFFORDABLE HOUSING ADVISORY BOARD.—

(1) IN GENERAL.—Section 14(b)(6)(A) of the Resolution Trust Corporation Completion Act (12 U.S.C. 1831q note) is amended—

(A) by striking "4 times a year, or more frequently if requested by the Thrift Depositor Protection Oversight Board or" and inserting "2 times a year or at the request of"; and

(B) by striking the second sentence.

(2) CLERICAL AMENDMENT.—Section 14(b)(6)(A) of the Resolution Trust Corporation Completion Act (12 U.S.C. 1831q note) is amended, in the subparagraph heading, by striking "AND LOCATION".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Iowa (Mr. LEACH) and the gentleman from New York (Mr. LAFALCE) each will control 20 minutes.

The Chair recognizes the gentleman from Iowa (Mr. LEACH).

Mr. LEACH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of S. 318, the Homeowners Protection Act. This legislation is about saving money for America's homeowners by ensuring that they do not overpay for private mortgage insurance, or PMI.

Private mortgage insurance, although paid by the homeowner, is designed to protect lenders from mortgage default risk, and it is usually required when the homeowner has less than 20 percent equity in his or her home. While most industry standards allow for cancellation of PMI once the 20 percent equity level is achieved, homeowners are not always aware of how it can be terminated. It is estimated that some borrowers are paying $240 to $1,200 annually for mortgage insurance that is no longer needed.

By requiring that automatic termination of PMI when insurance is no longer necessary and by requiring mortgage companies and other financial institutions to provide homeowners with information on the terms and conditions of this insurance and how it can be canceled, S. 318 protects homeowners from paying for PMI after all parties in the mortgage process agree that it is no longer needed.

□ 1515

Over the last 30 years, the mortgage financial markets have evolved with innovative products that leverage private sector resources in a manner that facilitates and expands affordable home ownership opportunities. In fact, the United States home ownership rate is at a record level today, with 66 percent of Americans owning their own home.

The Senate bill, S. 318, will further enhance home ownership opportunities by making home ownership less expensive and by providing the industry with clear and certain Federal rules on when and how mortgage insurance can be canceled.

The bill before us, which represents a compromise agreed to by the Senate Committee on Banking, is based on legislation originally introduced by the gentleman from Utah (Mr. HANSEN). The gentleman's firsthand difficulties in canceling PMI and the mortgage secured by his condominium led him to introduce legislation, H.R. 607, on this subject.

The Committee on Banking and Financial Services reported out the Hansen bill on March 20, 1997, and the full House approved by a vote of 421 to 7 on April 16, 1997. The Senate followed suit last fall in approving its version of PMI legislation, which is before the House today.

The homeowner protections contained in this bill cover owners of condominiums and cooperatives as well as owners of single-family detached homes. Under S. 318, the PMI disclosure and cancellation mandates cover residential mortgages and mortgage transactions for single-family dwellings. In the context of this legislation, the term "single-family dwellings" applies to condominium and cooperative home ownership arrangements.

In closing, I would like to thank my colleague, the gentleman from Utah (Mr. HANSEN), for his perseverance in his fight for the average homeowner, and the gentlewoman from Connecticut (Mrs. ROUKEMA), the gentleman from New York (Mr. LAZIO), the gentleman from New York (Mr. LAFALCE), the gentleman from Minnesota (Mr. VENTO), the gentleman from Massachusetts (Mr. KENNEDY), the gentlewoman from California (Ms. WATERS), the gentlewoman from Texas (Ms. JACKSON-LEE) and other members of this committee who have been such constructive participants in crafting the legislation before the House today.

Mr. Speaker, I urge my colleagues to support this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. LAFALCE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the chairman of the Committee on Banking and Financial Services for his kind words. This has been a very bipartisan and collegial process that has brought us to the floor today.

The fact is, if you are a homeowner today, or are thinking of becoming one, you do not want to spend any more money than you have to, especially on unnecessary payments. But, unfortunately, between 250,000 to 400,000 families nationwide are now doing exactly that. They are making unnecessary payments. They are paying up to $100 each month and thousands of dollars over the life of their mortgages for unnecessary private mortgage insurance.

There is nothing inherently wrong with private mortgage insurance, or PMI. It can be a valuable and essential tool used by many families who want to buy a home but are unable to finance a full 20 percent down payment. Fully 54 percent of mortgages offered last year did require PMI, private mortgage insurance.

That means the lender requires the borrower to buy and pay for insurance to protect the lender in case of a borrower's default. As a result, lenders have then been able to issue mortgages to families with smaller down payments who otherwise could not afford homes. So far, so good.

The problem with PMI arises once you have established approximately 20 percent equity in your home. This is the figure generally accepted by the mortgage industry as a benchmark of the risk they take in financing your home. At that point, PMI should no longer be necessary, since there is minimal risk to the lender. After all, the lender holds title to the home if you should default, and can always sell the property. But many homeowners are never even notified that they can discontinue their private mortgage insurance, and just keep on paying and paying and paying. It adds up to thousands of dollars.

Continuing to pay insurance to protect the lender after a borrower no longer represents a serious risk is an unjustified windfall to insurance companies, and an unfair burden on homeowners. That practice must stop, and our action today will insure that it does stop.

Mr. Speaker, I give special credit to the gentleman from Utah (Mr. HANSEN) for bringing this issue to the attention of our Committee on Banking and Financial Services and for bringing it to the attention of the full House of Representatives.

The bill he introduced initially would have required disclosure to homebuyers, both at the mortgage signing and in annual statements, of the precise conditions that might enable them to cancel payments of that insurance. But after committee members had time to reflect upon it, we believed that that would be helpful but not helpful enough. Some argued we should move beyond disclosure and also create a right to terminate, at least after certain conditions were met.

But many thought, well, even that is not good enough. We should go further still. This was my position. Simple disclosure and creation of a right to cancel is not enough. Unnecessary insurance payments should be terminated as a matter of law. No borrower in his right mind would choose to pay for insurance to protect a lender against the borrower's own default unless forced to do so.

Therefore, rather than create a right to reject and cancel insurance, which any reasonable person would always exercise, we argued we should legislate, instead, the actual termination of the insurance once certain conditions are met. That is the bill we have before us today.

The bill protects the consumer's right to initiate cancellation of the private mortgage insurance once 20 percent of the mortgage is satisfied, and requires servicers to cancel a consumer's mortgage insurance once 22 percent of the mortgage is satisfied.

Nonetheless, I am convinced we could have and should have gone even further. For instance, the bill does not afford the same automatic cancellation rights to so-called high-risk consumers, whose PMI will be canceled at the half-life of the mortgage. The bill does direct the housing enterprises, FNMA and FreddieMac, to establish industry guidelines defining what constitutes a risky borrower.

I assume and hope, and will watch to see, that the GSEs use their authority prudently, but I want to be clear that this provision was not included to enable lenders or investors to circumvent the intent of this legislation or to discriminate against certain types of borrowers. We will be watching this very closely.

With that in mind, I have asked that the bill require the GAO to evaluate how the high-risk exception is being applied, and report the findings to the Congress after enactment.

With regard to State preemption, again, I much preferred the House version. At least in this case the bill does protect State PMI cancellation and consumer laws in effect prior to January 2, 1998, and provides those States, eight of them, 2 years to revise and amend their laws: California, Minnesota, New York, Colorado, Connecticut, Maryland, Massachusetts, and Missouri.

I would have strongly preferred that the bill simply respect the rights of all States to enact stronger cancellation and disclosure laws, or had allowed the eight States with laws on the books to amend their laws without limitation. Nonetheless, I am pleased that we are now protecting stronger State consumer laws in States like New York, where they already do exist.

All in all, this is a strong consumer bill. It could have been stronger, and we might make it even stronger in future years. I urge my colleagues now to join me in supporting S. 318.

Mr. Speaker, I reserve the balance of my time.

Mr. LEACH. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Utah (Mr. HANSEN), the author of this bill and our good friend and great leader on this subject.

Mr. HANSEN. Mr. Speaker, I thank the chairman of the committee, the gentleman from Iowa (Mr. JIM LEACH), for the great leadership he has shown on this legislation, and the gentleman from New York (Mr. LAFALCE) for what he has done on this. I just say amen to what they have said. Both of them have hit it on the head.

Let me add a little, if I may. What is PMI? What is private mortgage insurance? It is a good thing, and I am grateful that the lending institutions have come up with this creative way in which to help people who could not pay at least 20 percent down on their loans. So they get into these things, they buy the house, they are elated, they are given the key to the house, this is a big moment, and they walk in.

Then after that goes away after a short time, they start looking at that payment bill that comes in. Anywhere between $20 to $100 they see every month, and say, what am I paying this for? They find that they are paying private mortgage insurance. When we think of insurance, we think of something that we buy to help us. This is not the case in this instance. This is something we buy to take care of the lender in case we do not make our payments.

It is an interesting history. I have to admit I did not know too much about it. After my first term I sold my place out in Virginia and bought a little condo across from the Pentagon. I wanted to be close to the House. I noticed that when I got my bill, there was something about private mortgage insurance. I did not even know what it was.

I called up the lending institution and said, what is this, anyway? They explained it to me, as it has been explained today. I said, that is all well and good, how do I get rid of it? They said, you send us a check for *x* amount of dollars and we will take it off.

I sent them the check. They did not take it off. I said, why did you not take it off? They said, we do not have to take it off. But if you will have an independent appraisal done on your place, we will be happy to consider it. How much is that? $1,200. Now, the average American paying between $20 to $100 for this, he is not going to see a lawyer, he is not going to fuss, he is going to be mad and hunker down and do it.

They did not do it after the appraisal. So I called them up again and they said, we do not have to take it off. Then, just like most people in our business, I started using this speech around America, and lo and behold, half the people in the audience would come up and say, I have this same problem. I have been paying this year after year after year.

A couple of attorneys came to see me, one from Alabama. He had a class action going of two or three thousand people who had faithfully made payments on their PMI, and they would not take it off. Then we started getting letters. I have stacks of letters now in my office where people would write in and show me the sarcastic and cavalier way that many of the banks, lending institutions, would come up with, and say, we do not have to take it off. Pay it the rest of your life.

That is what has happened, Mr. Speaker. Many people in America have paid it the rest of their lives. It would be interesting some day to see all of the letters we have, such as from a little lady in Texas, one in Nevada, one in Massachusetts, scattered all over America, who have faithfully made their payments on time and are enriching insurance companies, servicers, and lending institutions to the point of millions of dollars which did not have to be paid.

This is a piece of consumer legislation which I think is extremely important. I would like to point out that the language as we got it from the Senate says "single-family dwelling." If you go into a homeowner's policy or a policy such as that, that is interpreted to mean a freestanding place and only one family living in it. I think the gentleman from Iowa (Mr. LEACH) adequately addressed this, but if someone wants to try this case, I think it comes down to the idea that we mean a single family in a condo, in any other area, a unit which they are buying, so we do not exclude all those particular people.

As the gentleman from New York (Mr. LAFALCE) pointed out, this bill will require full disclosure of what PMI is. It will require notification of their right to cancel, and will have some information in the bill about automatic cancellation if they live up to it.

I want to thank the members of the Committee on Banking and Financial Services, who have worked so diligently on this. I really feel that this is a good piece of legislation. The Senate and the House have worked diligently to do it. In my humble opinion, this is one of the better pieces of consumer legislation we have come up with this in term. I would urge the support of my colleagues in passing this legislation.

Mr. LAFALCE. Mr. Speaker, I yield 4 minutes to the gentleman from Minnesota (Mr. VENTO).

Mr. VENTO. Mr. Speaker, I rise in support of this measure. It has a Senate number but, candidly, the catalyst for this was, as has been indicated, our colleague, the gentleman from Utah (Mr. JIM HANSEN), and the measure that we worked on, H.R. 607, which I think was a good proposal in terms of disclosure, in terms of bringing the issue into focus, and one in which we worked to in fact provide an automatic cancellation.

In fact, private mortgage insurance (PMI) is a good product. We have, of course, some Federal programs, the Federal Housing Administration and the insurance that it provides, it means that if a person has a lower down payment, they can become a homeowner with this insurance providing a pool of dollars that will provide for default or delinquency in the case that default occurs with regard to the mortgage.

□ 1530

But clearly if you make a large enough down payment, you can completely avert, such insurance whether it is FHA insurance or if it is PMI insurance. The case here is that after someone has paid for even the half-life of the mortgage or paid down to the loan-to-value ratio of 80 percent, they should be entitled and should have the opportunity to discharge this responsibility, cost and this insurance because it is no longer necessary. There is not the risk in that loan. The homeowner is paying a fair rate of interest on the loan. They should not have to pay, on a $100,000 mortgage, as is indicated, this could be anywhere from $40 to $80 a month over the course of a $100,000 mortgage on a home. That can easily obviously be $1000 a year in insurance payments that they are making that would not be necessary. This bill provides for the termination of such insurance and the cost to the consumer.

There are some concerns about the bill specifically with regard to the high risk mortgages because that is left somewhat undefined. I know our colleagues in the House were in agreement that we should define hi risk mortgages. We should be more specific and not leave any uncertainty. But we were not able to convince our Senate colleagues who rely upon the Federal National Mortgage Association and others to help in terms of such guidelines to follow guidelines in terms of defining high risk mortgages. But if it proves to be a problem, we have, I think, put in place a measure where we will get needed information from the General Accounting Office and others to in fact lead us in a direction to resolve such problems.

This is an important measure because it means that housing, homeownership will be facilitated. It will cost less. It is fair. It is fair to those that extend the mortgages. It is fair to the insurance companies that are making the dollars on real risk and assuming real risk, and it is certainly fair to the homeowners. So this is a step in the right direction.

I again commend my colleagues. This is an important issue in terms of achieving homeownership, and it is fair to the States that have already taken actions, such as my State of Minnesota, which has a private mortgage insurance provision, and the 7 or 8 other States which have similar provisions. So it is a good measure.

I am pleased to join my colleague from Utah and the others on my committee in terms of support of the measure and hope to see it signed into law by President Clinton.

Mr. Speaker, I rise in support of S. 318, the Homeowners Protection Act of 1998.

Over a year ago, this House passed a similar but better bill that was drafted on a bipartisan basis using the measure introduced by Mr. HANSEN, H.R. 607, as the vehicle.

We come before the House today having reconciled with the Senate a bill which will serve the needs of millions of American homeowners covered by private mortgage insurance.

Consumers spend hundreds of dollars a year extra in mortgage insurance even though they have paid down the mortgage by 20%, 25% or more, to a point where such insurance is not required or necessary. This bill will provide some equity for those homebuyers who make their payments faithfully for years.

The agreed upon bill prospectively (one year after enactment) provides for the automatic cancellation of private mortgage insurance when borrowers have 22% equity, or a 78% loan-to-value (LTV) ratio, in their homes (based on the original value of the home). Premiums paid past that date will be refunded.

The bill allows for cancellation of PMI at 80% LTV ratio based on the initial amortization schedules and would not preclude borrowers from seeking cancellation using home price appreciation if it is agreed upon between the lender and the borrower.

Importantly, the bill also provides for the disclosure of borrowers' rights and protections under this law. Existing loans will get annual statements that their PMI may be cancelable. Future borrowers will be informed of their rights at or before closing along with the annual disclosure.

There is, unfortunately, a provision about which I have great concern. It is because of this concern that changes to S. 318 were sought and made. It has been part of the reason for the delay in considering this Senate-passed bill.

The bill as passed by the Senate would allow FNMA (Fannie Mae) and FHLMC (Freddie Mac) to set the standards for a whole class of loans to be called "high risk" that would be exempt from the automatic termination and cancellation rights. This exemption, undefined and unregulated, could be used to avoid this entire law or could be used to discriminate against certain borrowers. That indeed would frustrate the implementation and results that could be attained from this proposed new law.

While we could not sway the other body to define "high risk"; to have a regulator define it; or, to simply modify the trigger level for all to accommodate riskier loans; we were successful in mandating in this measure a GAO report that will let us know how this exemption is being used and for whom it is being used or abused if that is the case in the future. We will be looking very carefully at the results of this report for possible future policy actions in the event of high risk misunderstandings.

Mortgage insurance helps provide an opportunity to people to purchase homes when they cannot come up with a 20% down payment. On a $100.000 home, that would be a hefty $20,000. Private mortgage insurance on a $100,000 house ranges from $28 to $76 a month depending on down payment. That works out to $336 to $912 a year! And of course, in many cities in this nation, including Washington, D.C., you cannot buy most homes for $100,000, so down payments are tougher to make and consumer premiums and costs also go up as does the size of the mortgage.

The consensus bill will not preempt state laws in the eight states that have passed laws on termination or disclosure of rights and rules to govern terminating private mortgage insurance. Since one of those innovative states is Minnesota, I wanted to be sure that our good and fairly simple law would not be unnecessarily preempted. Under the agreement, all of these states also have two years to further perfect their own law. While I would have liked to have seen more time and, in fact, no limitation on changes to those laws, two years is better than none and seven more states exempted from the initial Senate bill is better than only the state of New York.

Finally, although I do have some reservations about the complexity of the many trigger points for cancellation or termination of PMI generated by this bill's requirements, it is a step forward and a fairly good consensus bill to bring to our colleagues in the House. I hope that should the four basic trigger points be found to be too complex for consumers or servicers that we can revisit this bill and perhaps find a more uniform and fair trigger point for automatic cancellation.

Mr. Speaker, I urge my colleagues to support this very important consumer legislation. This bill will provide hundreds of dollars in relief to home buyers who have paid their way out of PMI, but have not yet found relief. More than phantom tax cut measures or phoney tax code revisions, this bill will produce real consumer savings in the purse of consumers paying PMI premiums today. Let's pass this pro-consumer legislation now and see it signed into law by President Clinton.

Mr. LEACH. Mr. Speaker, I yield 2 minutes to the gentleman from Delaware (Mr. CASTLE).

Mr. CASTLE. Mr. Speaker, I thank the gentleman very much for yielding me the time.

Let me join the others who have congratulated the gentleman from Utah (Mr. HANSEN) who I think really spotted a problem. I am sort of embarrassed that I did not see it sooner. I actually did some of this work when I was a lawyer, not for the PMI people but for the consumers. I should have recognized the fact that there was a problem.

I often raised the question. We never could get exactly correct answers as to what happened after a period of time. The people did pay this for some time. I think by spotlighting it, he has brought forward all of the concerns of a lot of people of this country. This is not the most major thing that we are going to do in Congress this year, but in terms of being very black and white, this is that. This is something that is absolutely correct to do. It is clear. I do not see how anybody could possibly oppose it. I think that the Homeowners Protection Act is just good common sense protection for homeowners across the United States of America to protect them when they have paid down their private mortgage insurance sufficiently so that there is enough equity in their home, and the various mortgages companies will be protected.

I think and I agree with those who have said that this is a valuable service. Without this, quite frankly, a lot of people would not have been able to buy homes. I am not up here to decry PMI or say that it was a bad service or whatever it may be. But the bottom line is that I think often by inattention as much as anything else, people continue to pay this for years and years after they should have stopped. And when you start to add up $30 or $40 a month over a period of time, indeed it becomes a significant sum of money.

This indeed is consumer protection. This is why we in Congress should be here, to protect our constituents from problems such as this. This is a problem that is a hidden problem, I think, by and large, but I think it is a problem which is very real nonetheless. For that reason, I think it should go forward.

I have often questioned, frankly, whether it should go down to 20 percent or, as we say in this case, perhaps as far as 22 percent before we cut it off, but that seems to be a number which is agreed to by the lending industry and even by those who watch over consumers. So indeed I judge that it is good enough for us.

The bottom line is that this is good legislation. I hope we would all support it and be proud of a good record. Congratulations again to the gentleman from Utah (Mr. HANSEN).

Mr. LAFALCE. Mr. Speaker, I yield 2 minutes and 30 seconds to the gentleman from North Carolina (Mr. WATT).

Mr. WATT of North Carolina. Mr. Speaker, I appreciate the gentleman yielding time to me.

I rise in support of this legislation, although I do so with some ambivalence.

The bill that we have to consider today in some respects is a better bill than the bill we passed out of the House originally, but in other respects it is not as good a bill as we passed out of the House originally. But clearly it is a bill that is worthy of being supported because it is better than nothing and it moves us in the right direction.

I would like to spend a moment talking about some of the concerns I have about the bill that we are addressing though. First concern is that we are preempting State law, at least partially preempting State law, I should not say we are fully preempting it, but there are 8 States that have stronger laws in this area than we are passing here today. We protect those laws for a period of 2 years but, after that, we do not give them the protection that they deserve to have going forward for States that have stronger laws.

Second, and a more important concern, is this high risk loan situation. If you get a loan that is categorized as a high risk loan, then you have got to pay 50 percent of the value of that loan before this law is of any benefit to you. For other people, you pay 22 percent of the loan or possibly 20 percent of the loan, if you have got an appraisal, 22 percent of the loan in some circumstances, 23 percent of the loan in other circumstances, but if you have a high risk loan, regardless of the value of your house going forward, if you have got a loan that starts off being categorized as a high risk loan, even if your area goes through an urban renewal, the value of your home continues to appreciate, you can not get the benefit of the 80 percent provision in this bill or the 78 percent provision in this bill or the 77 percent provision in this bill.

So you are kind of stuck with that henceforth now and forever. That is a concern that we need to pay particular attention to in the future.

On balance, support the bill. It is better than nothing.

Mr. LEACH. Mr. Speaker, I yield myself 1 minute simply to offer a clarification. On the two-year provision, let me just clarify that States that have laws can further modify these laws during a two-year period, but the laws will stay in effect as long as the State wants to keep those laws in effect. So it is not a cancellation of the law itself.

Mr. VENTO. Mr. Speaker, will the gentleman yield?

Mr. LEACH. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Speaker, I think that the House bill was much more clear with regard to some of these bend points. I think the gentleman from North Carolina raises a good point in terms of the complexity that is added to this and hopefully we will not see the type of frustration of the intent of this measure. But I think we did the best we could with the sponsors in the Senate.

Mr. LEACH. In that regard, I share some of the concerns of both the gentleman from Minnesota and the gentleman from North Carolina.

Mr. WATT of North Carolina. Mr. Speaker, will the gentleman yield?

Mr. LEACH. I yield to the gentleman from North Carolina.

Mr. WATT of North Carolina. Mr. Speaker, I think it was my inartful articulation of what I was trying to say. I understood that these 8 States have their laws protected going forward, but

I appreciate the gentleman clarifying that. I was not trying to mislead anyone on that point.

Mr. LEACH. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from New York (Mr. LAZIO).

Mr. LAZIO of New York. Mr. Speaker, I want to begin by commending the gentleman from Iowa (Mr. LEACH) for his hard work in improving this bill and his dedication in bringing it to the floor today and our colleague, the gentleman from Utah (Mr. HANSEN), whose diligence on this issue has raised consumer awareness of private mortgage insurance. And I think it is not too strong to say that he is really a consumer hero today to homeowners around America.

The mortgage financial markets have experienced dramatic change over the last few decades, allowing more low and moderate income families to attain the American dream of homeownership.

One important change is the emergence of private mortgage insurance. Before PMI, as it is known, families were typically required to make a 20 percent down payment for a new home. Now families who are creditworthy but are cash strapped can buy a house with down payments as low as 3 percent or 5 percent. And this private mortgage insurance also lowers the lender's risk of loss from mortgage defaults.

Private mortgage insurance is a crucial element in achieving our goals of helping all Americans buy homes so they can give their families a better quality of life. We should celebrate that our Nation now has the highest homeownership rate in our history. This is because of the new tools of the mortgage market, such as PMI, and our hard-earned Balanced Budget Agreement which lowered interest rates and created a strong economy.

While we provide a tool for the lenders to provide their investments, we also need to ensure that home buyers are safeguarded. If we can prevent homeowners from being exploited, American families can have peace of mind in buying a home. It is already a right of most homeowners to cancel their mortgage insurance when the equity in their homes reaches 20 percent. But many Americans are unaware of these rights and so they continue to pay the insurance premiums even after reaching the 20 percent level.

The average rate of private mortgage insurance is between $20 and $100 per month. That is an annual rate of $1,200. This is $1,200 that could instead be more money in the pocket of an average American family. It is food money, school costs, doctor bills and much more. How can we allow consumers to pay for private mortgage insurance long after they are considered good borrowers with little risk of default just because they are not aware of the applicable rules and laws?

I look forward to passage of this bill.

Mr. LAFALCE. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. BENTSEN).

Mr. BENTSEN. Mr. Speaker, I rise in strong support of S. 318. I congratulate our colleague from Utah for his work on this bill.

I came to this body from the banking industry where I looked at a great number of mortgage portfolios. The standard by which one is required to attain PMI insurance is when you are putting down less money than what would require you to get to an 80 percent loan-to-value ratio.

Like the previous speaker, the gentleman from New York, PMI is a good tool because it does allow millions of Americans to be able to purchase a home by only having to put down a small percentage. So it does open the mortgage market to those Americans. But what is not a good deal is when you have paid down on your mortgage to a level below the 80 percent loan-to-value ratio and you are still paying for something that the market says you do not need anymore. That is the problem that the gentleman from Utah found and that millions of Americans have found and why this bill is necessary today.

I understand the gentleman from North Carolina's concerns. I appreciate those concerns. But this is a step in the right direction. This will help 5 million Americans, it is estimated, immediately who are paying for PMI insurance, in some cases $30, $60, $90 a month, for which they really are receiving nothing, because what would happen in a default is that the PMI company would never have to shell out anything but they would gain the benefits of all the premiums.

So this is a good piece of consumer legislation. This may well be the most important piece of consumer legislation that this Congress adopts.

I appreciate the efforts on the part of the chairman of the committee, the subcommittee and the ranking member on our side of the full committee and the ranking member of the subcommittee.

□ 1545

Mr. LAFALCE. Mr. Speaker, I yield 1 minute to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the gentleman for yielding me this time. I wish to say "hats off" to the gentleman from Utah (Mr. HANSEN). This is an excellent, excellent response to the needs for housing in America, particularly in districts like mine.

Just a few weeks ago we participated in the Habitat for Humanity. That is one form of housing. But there is another form of housing where the working Americans are at a certain level and they are looking forward to having the opportunity to have and purchase homes. This bill allows homeowners to voluntarily cancel their private mortgage insurance when the loan-to-value ratio of the mortgage reaches 80 percent of the original value of the property, but only for loans originating 1 year after the enactment. It moves us forward.

I appreciate very much the story that the gentleman from Utah recounted for us because so many others have not caught that. And so we look forward to the fact that in America we encourage home ownership, we encourage people to pay down on their loans, and then we reward them by taking away the private mortgage insurance when it is not needed.

This is good legislation. I hope we pass it quickly.

Mr. Speaker, I strongly support this bill. Given the prosperity of our current economic climate, I believe that we should create mechanisms that make home buying easier and more practical. Such acts will protect these consumers who are so vital to the American economy.

It seems to me that automatic cancellation of private mortgage insurance (PMI) would create a buyer-friendly environment in the residential housing industry by ending the current problems associated with PMI.

Under the status quo, lenders usually require borrowers to purchase PMI if the borrower makes a downpayment on a home of less than 20 percent (i.e., if the mortgage loan will account for more than 80 percent of the home's purchase price). It is intended to offset the risk to lenders of making low downpayment loans.

However, many homeowners have reported difficulty in canceling PMI after paying down their loan to a level where it constitutes less than 80 percent of the home's value, and other homeowners have been unaware that they can cancel their policies at a certain point—often continuing to pay up to $100 a month for PMI.

By establishing three levels at which PMI must be automatically terminated by a mortgage service firm, the difficulties associated with PMI, and homebuying in general, would be alleviated to a limited extent.

The bill generally establishes three levels at which PMI paid for by a borrower must be canceled automatically by a mortgage servicing firm. Such automatic termination occurs when (1) the loan-to-value ratio of the mortgage reaches 78 percent of the original value of the property, (2) the loan-to-value ratio reaches 77 percent for larger "non-conforming" loans, or (3) the mid-point or "half-life" of the mortgage payment schedule for "high risk" loans (loans with higher risks of default).

The bill also allows homeowners to voluntarily cancel their PMI when the loan-to-value ratio of the mortgage reaches 80 percent of the original value of the property—but only for loans originated beginning one year after enactment, and only if the homeowner meets three requirements.

It appears that this bill adequately solves the problem before us. I do maintain some reservations about the involvement of Fannie Mae and Freddie Mac because the definition of "high risk" loans would be determined by these two entities. I would have preferred the use of a Federal regulator, instead of a private body acting as a government entity, but Fannie Mae and Freddie Mac have served us well in the past, and I believe that they are up to the task at hand.

With this measure, we can simultaneously create an incentive for homebuyers and protection for homeowners and allow homebuyers to more easily terminate private mortgage insurance (PMI) once they have paid a requisite portion of their loan.

Mr. LAFALCE. Mr. Speaker, I yield myself such time as I may consume.

I support this legislation strongly for a good many reasons, most of which I have already articulated. Let me make three points, however.

One of the primary reasons I am supporting this legislation is because we are now going to provide for automatic termination for homeowners in each of the 50 States, whereas today there are only three states that provide for automatic termination. That makes this probably the most important consumer bill that will have passed the Congress in this session.

There are some difficulties, however. With the exception of a limited exemption for eight states, we preempt States from enacting stronger consumer protection legislation. This is offensive, especially because it involves the insurance industry. The Federal Government has had little role regarding, or knowledge or experience with the insurance industry, certainly not so much that we should go in and say we know so much more than all the other States that we are going to preempt them. We should not be doing that if the states think they can pass even stronger consumer protection laws. The Senate insisted upon that. We could have done better.

Third, I do not like the process of avoiding conferences between the House and the Senate. We have been ping-ponging this bill back and forth. That is a permissible process, but it is not as good as a direct dialogue with the Members of the United States Senate. I do not want the Senate to think that it is going to be able to do this in other legislation, whether it is credit union legislation, financial services modernization, et cetera, virtually saying to the House take it or leave it. That is not an appropriate approach.

I support this bill and I go along with this approach because we are providing for automatic termination for homeowners in 50 States, whereas it now only exists in three states. But I have great difficulties with high-risk mortgages, the general state preemption and the process itself.

Mr. Speaker, I reserve the balance of my time.

Mr. LEACH. Mr. Speaker, I yield myself such time as I may consume and simply say, in conclusion, that I would like to stress that, as has been uttered by others, this is extraordinarily important consumer legislation, it is extraordinarily important home ownership legislation, it is common sense, and I would hope this body would adopt it unanimously.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. LAFALCE. Mr. Speaker, I yield myself such time as I may consume to point out that the chairman of the committee, the gentleman from Iowa (Mr. LEACH), has been a champion on this issue. He has been totally cooperative, and we have been in lockstep on virtually each and every issue that we have discussed today. I thank him and his staff.

Mrs. ROUKEMA. Mr. Speaker, I rise in strong support of S. 318 and want to commend my colleague from Utah, Congressman HANSEN, for his perseverance on this important legislation. This legislation evolved out of Congressman HANSEN's personal trials and tribulations of trying to cancel his own Private Mortgage Banking Insurance. And Representative HANSEN's testimony before the committee defined the problem and the solution. Think of this as a "Consumer Bill of Rights."

Private Mortgage Insurance is both an important but little understood instrument in the current mortgage industry. PMI enables families to purchase homes with as little as a 3–5 percent downpayment by insuring the mortgage lender against default. In 1996, more than 1 million people bought or refinanced a home with PMI. It made homeowners out of more than 16 million families.

PMI is normally required whenever a borrower does not have a 20-percent downpayment. PMI costs homeowners between $20 to $100 per month and protects the lender against the risk of loss on low-downpayment loans. PMI can be canceled under certain conditions, when a good payment history is met and 30 percent or more is achieved on the cost of the home.

The problem arises when homeowners are not informed of what PMI is and when and how they can stop paying it. Overpayment of PMI is potentially costing hundreds of thousands of homeowners millions of dollars per year.

Passage of this bill will ensure that homeowners will be better equipped to understand what PMI is, who it insures, and what rights the homeowner has to cancel it. This legislation requires automatic termination of private mortgage insurance after the homeowner attains a certain equity level in his or her home. In addition, the bill would require the mortgage companies and financial institutions that originate and service mortgages provide homeowners with information on the terms and conditions of PMI and how it can be canceled, both voluntarily and by law.

It is time to correct this problem and to stop overcharging the consumer. This is good public policy and I urge my colleagues to support it.

Mr. LAFALCE. Mr. Speaker, it has been a very bipartisan and collegial process that has brought us to the floor today, and I thank the Chairman of the Committee on Banking and Financial Services.

All in all, I believe this is probably one of the most important consumer bills that will have passed the Congress this session. One of the primary reasons I am supporting it is that we are now going to provide for automatic termination of private mortgage insurance (PMI), and therefore the considerable reduction of the costs associated with homeownership, for homeowners in each of the 50 states. Today there are only three states that provide for automatic termination. Extending that right to homeowners in all of the fifty states is an enormous step forward for consumers.

The fact is, if you are a homeowner today, or are thinking of becoming one, you do not want to spend any more money than you have to, especially on unnecessary payments. But, unfortunately, between 250,000 to 400,000 families nationwide are now doing exactly that. They are paying up to $100 each month and thousands of dollars over the life of their mortgages for unnecessary private mortgage insurance.

There is nothing inherently wrong with private mortgage insurance, or PMI. It can be a valuable and essential tool used by many families who want to buy a home but are unable to finance a full 20 percent down payment. Fully 54 percent of mortgages offered last year did require PMI.

That means the lender requires the borrowers to buy and pay for insurance to protect the lender in case of a borrower's default. As a result, lenders have then been able to issue mortgages to families with smaller down payments, who otherwise could not afford homes. That is of benefit to the consumer. So far, so good.

The problem with PMI arises once you have established approximately 20 percent equity in your home. This is the figure generally accepted by the mortgage industry as a benchmark of the risk they take in financing your home. At that point, PMI should no longer be necessary, since there is minimal risk to the lender. After all, the lender holds title to the home if you should default, and can always sell the property.

But many homeowners are never even notified that they can discontinue their private mortgage insurance, and just keep on paying and paying and paying. It adds up to thousands of dollars. Continuing to pay insurance to protect the lender after a borrower no longer represents a serious risk is an unjustified windfall to insurance companies, and an unfair burden on homeowners. That practice must stop, and our action today will insure that it does stop.

Mr. Speaker, I give special credit to the gentleman from Utah (Mr. HANSEN) for bringing this issue to the attention of our Committee on Banking and Financial Services and for bringing it to the attention of the full House of Representatives.

The bill Congressman HANSEN introduced initially would have required disclosure to homebuyers, both at the mortgage signing and in annual statements, of the precise conditions that might enable them to cancel payments of private mortgage insurance. But after Committee Members had time to reflect upon it, we believed that that would be helpful but not helpful enough. Some argued we should move beyond disclosure and also create a right to terminate, at least after certain conditions were met.

Many thought that even that was insufficient and we should go further still. This was my position. Simple disclosure and creation of a right to cancel is not enough. Unnecessary insurance payments should be terminated as a matter of law. Certainly, no sensible borrower would choose to pay for insurance to protect a lender against the borrower's own default unless forced to do so.

Therefore, rather than create a right to reject and cancel insurance, which any reasonable person would always exercise, we argued we should legislate instead the actual termination of the insurance once certain conditions were met. That is an essential element of the bill we have before us today.

The bill protects the consumer's right to initiate cancellation of the private mortgage insurance once 20 percent of the mortgage is satisfied, and requires servicers to cancel a consumer's mortgage insurance once 22 percent of the mortgage is satisfied.

Nonetheless, I am convinced we could have and should have gone even further. For instance, the bill does not afford the same automatic cancellation rights to so-called high-risk consumers, whose PMI will be canceled at the half-life of the mortgage. The bill does direct the housing enterprises, FNMA and Freddie Mac, to establish industry guidelines defining what constitutes a risky borrower.

I assume and hope, and will watch to see, that the GSEs use their authority prudently. But I want to be clear that this provision was not included to enable lenders or investors to circumvent the intent of this legislation or to discriminate against certain types of borrowers. We will be watching implementation of this provision very closely.

With that in mind, I have asked that the bill require the GAO to evaluate how the high-risk exception is being applied, and report the findings to the Congress after enactment.

With regard to state preemption, again, I much preferred the House version. At least in this case, the bill we have before us does protect state PMI cancellation and consumer laws in effect prior to January 2, 1998, and provides those states, eight of them, two years to revise and amend their laws: California, Minnesota, New York, Colorado, Connecticut, Maryland, Massachusetts and Missouri.

I would have strongly preferred that the bill simply respect the rights of all states to enact stronger cancellation and disclosure laws, or had allowed the eight states with laws on the books to amend their laws without limitation. But the Senate would not agree to this approach. Nonetheless, I am pleased that we are now protecting stronger state consumer laws in states like New York, where they already do exist.

All in all, this is a strong consumer bill. It could have been stronger in some regards, and we might make it even stronger in future years. But it represents real and significant progress for consumers. I urge my colleagues now to join me in supporting S. 318.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. HAYWORTH). The question is on the motion offered by the gentleman from Iowa (Mr. LEACH) that the House suspend the rules and pass the Senate bill, S. 318, as amended.

The question was taken; and (two-thirds having voted in favor thereof), the rules were suspended and the Senate bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. LEACH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on S. 318, the Senate bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

ENFORCEMENT OF CHILD CUSTODY AND VISITATION ORDERS

Mr. COBLE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4164) to amend title 28, United States Code, with respect to the enforcement of child custody and visitation orders.

The Clerk read as follows:

H.R. 4164

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CHILD CUSTODY AND VISITATION DETERMINATIONS.

Section 1738A of title 28, United States Code is amended as follows:

(1) Subsection (a) is amended by striking "subsection (f) of this section, any child custody determination" and inserting "subsections (f) and (g) of this section, any custody determination or visitation determination".

(2) Subsection (b)(2) is amended by striking "a parent" and inserting ", but not limited to, a parent or grandparent or, in cases involving a contested adoption, a person acting as a parent".

(3) Subsection (b)(3) is amended—

(A) by striking "or visitation";

(B) by striking "and" before "initial orders"; and

(C) by inserting before the semicolon at the end the following: ", and includes decrees, judgments, orders of adoption, and orders dismissing or denying petitions for adoption".

(4) Subsection (b)(4) is amended to read as follows:

"(4)(A) except as provided in subparagraph (B), 'home State' means—

"(i) the State in which, immediately preceding the time involved, the child lived with his or her parents, a parent, or a person acting as a parent, with whom the child has been living for at least six consecutive months, a prospective adoptive parent, or an agency with legal custody during a proceeding for adoption, and

"(ii) in the case of a child less than six months old, the State in which the child lived from birth, or from soon after birth,

and periods of temporary absence of any such persons are counted as part of such 6-month or other period; and

"(B) in cases involving a proceeding for adoption, 'home State' means the State in which—

"(i) immediately preceding commencement of the proceeding, not including periods of temporary absence, the child is in the custody of the prospective adoptive parent or parents;

"(ii) the child and the prospective adoptive parent or parents are physically present and the prospective adoptive parent or parents have lived for at least six months; and

"(iii) there is substantial evidence available concerning the child's present or future care;".

(5) Subsection (b)(5) is amended by inserting "or visitation determination" after "custody determination" each place it appears.

(6) Subsection (b) is amended by striking "and" at the end of paragraph (7), by striking the period at the end of paragraph (8) and inserting "; and", and by adding after paragraph (8) the following:

"(9) 'visitation determination' means a judgment, decree, or other order of a court providing for the visitation of a child and includes permanent and temporary orders and initial orders and modifications.".

(7) Subsection (c) is amended by striking "child custody determination" in the matter preceding paragraph (1) and inserting "custody determination or visitation determination".

(8) Subsection (c)(2)(D) is amended by adding "or visitation" after "determine the custody".

(9) Subsection (d) is amended by striking "child custody determination" and inserting "custody determination or visitation determination".

(10) Subsection (e) is amended—

(A) by striking "child custody determination" and inserting "custody determination or visitation determination"; and

(B) by striking "a child" and inserting "the child concerned".

(11) Subsection (f) is amended—

(A) by striking "determination of the custody of the same child" and inserting "custody determination";

(B) in paragraph (1) by striking "child" and by striking "and" after the semicolon;

(C) in paragraph (2) by striking the period and inserting "; and"; and

(D) by adding at the end the following:

"(3) in cases of contested adoption in which the child has resided with the prospective adoptive parent or parents for at least six consecutive months, the court finds by clear and convincing evidence that the court of the other State failed to consider—

"(A) the extent of the detriment to the child in being moved from the child's custodial environment;

"(B) the nature of the relationship between the biological parent or parents and the child;

"(C) the nature of the relationship between the prospective adoptive parent or parents and the child; and

"(D) the recommendation of the child's legal representative or guardian ad litem.

This subsection shall apply only if the party seeking a new hearing has acted in good faith and has not abused or attempted to abuse the legal process.".

(12) Subsection (g) is amended by inserting "or visitation determination" after "custody determination" each place it appears.

(13) Section 1738A is amended by adding at the end the following:

"(h) A court of a State may not modify a visitation determination made by a court of another State unless the court of the other

State has declined to exercise jurisdiction to modify such determination.

"(i) In all contested custody proceedings, including adoption proceedings, undertaken pursuant to this section, all proceedings and appeals shall be expedited.

"(j) In cases of conflicts between 2 or more States, the district courts shall have jurisdiction to determine which of conflicting custody determinations or visitation determinations is consistent with the provisions of this section or which State court is exercising jurisdiction consistently with the provisions of this section for purposes of subsection (g).".

(14) Subsection (c)(2) is amended—

(A) by inserting "or her" after "his" each place it appears; and

(B) by inserting "or she" after "he".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from North Carolina (Mr. COBLE) and the gentleman from Massachusetts (Mr. FRANK) each will control 20 minutes.

The Chair recognizes the gentleman from North Carolina (Mr. COBLE).

GENERAL LEAVE

Mr. COBLE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 4164, the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

Mr. COBLE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4164 is intended to alleviate the legal, financial and emotional hurdles that grandparents, who have visitation rights to their grandchildren, must overcome in order to enforce those rights if the children are subsequently moved to another State.

Mr. Speaker, I have met with several grandparents in my district, and the accounts that they share with me regarding their inability, for various reasons, to visit their grandchildren are generously laced with pain and frustration. H.R. 4164, Mr. Speaker, ensures that a visitation order granted to grandparents in one State will be recognized in any State where the grandchildren may be moved and thereby prevent grandchildren from losing contact with a valuable part of their family.

The bill also restores to Federal courts subject matter jurisdiction to determine which of two conflicting State court custody determinations or visitation determinations is valid based on which State is exercising proper jurisdiction. This will overturn a 1988 Supreme Court decision which held that various Federal courts did not have such jurisdiction, even though Federal courts had already been hearing these type cases for years. The decision resulted in conflicting State court custody decisions with no mechanisms to determine which order was valid.

H.R. 4164 will reduce duplicate State court proceedings. Though the number of such cases may not be overwhelming, the emotional and financial burdens that will be alleviated by this bill for those children and families faced with conflicting custody orders is immeasurable.

This bill also gives State courts an option whether or not to enforce the Parental Kidnapping Prevention Act in a limited number of interstate contested adoption cases. In an interstate contested adoption that has already been ruled on in another State, a State may exercise jurisdiction and modify the decision if the other State had failed to conduct a, "best interest of the child analysis". Litigants who have not acted in good faith or who have abused or attempted to abuse the system would not be eligible to utilize this provision.

As I said earlier, Mr. Speaker, I often, in my district, hear from grandparents about the many difficulties they face in trying to achieve contact with their grandchildren, and this is a significant step forward in protecting visitation rights for grandparents. This is a good bill that will benefit children and families involved in these cases, and I urge a "yes" vote on H.R. 4164.

Mr. Speaker, I reserve the balance of my time.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield myself such time as I may consume.

The chairman of the subcommittee has explained this well. I want to stress in particular the importance of giving due recognition to the role of grandparents, especially in today's world. Grandparents often find themselves in a parental role. In fact, we are seeing a good deal of grandparent involvement in the raising of grandchildren, and the law has simply not caught up with that.

I think the point of giving recognition to the strong emotional ties between grandparents and grandchildren, recognizing that grandparents, these days, are as likely to have the best interests of the children at heart as any other, those are all very important and I am delighted to support the legislation which adopts them.

The other part of the bill, which deals with allowing the Federal courts some substantive involvement, I say there is some constitutional controversy, but what persuades me this is worth supporting is it sets forth a substantive standard of the best interest of the child, and we have had too many other competing kinds of interests advanced.

So for those two principles, to the extent that we can federally, arguing that the best interest of the child should be the deciding point in custody cases, and recognizing the love and the care that grandparents parental and giving some protection to the grandparent-grandchildren bond, for those two reasons, I very much support this bill.

Mr. Speaker, I yield 3 minutes to the gentleman from New Jersey (Mr. ANDREWS).

Mr. ANDREWS. Mr. Speaker, I thank the gentleman from Massachusetts for yielding me this time.

I wish to thank the gentleman from North Carolina (Mr. COBLE) of the subcommittee, and the gentleman from Illinois (Mr. HYDE) of the full committee, as well as the ranking members, the gentleman from Michigan (Mr. CONYERS) and the gentleman from Massachusetts (Mr. FRANK) for their help in bringing this legislation to the floor.

Most American grandparents would believe that after a hard fought, very difficult, painful and expensive process of winning the right to visit their grandchildren in State court that they have won that right permanently, or at least until some negative circumstance occurs. Many of them have been shocked and chagrined to find out that that is not the case. Very often, when the child moves to another State, the rights of the grandparents evaporate.

This legislation, which is based upon legislation I authored last year, will solve that problem. It will say that if grandparents have rights to visit their grandchild in New Jersey or North Carolina or Massachusetts, then they have those rights irrespective of where the child lives. If the child moves to Arizona or Pennsylvania or to another State, the rights move with the child.

I want to commend all my colleagues for their involvement in this and spend a minute in telling my colleagues how I got involved in it. A constituent of mine from Cherry Hill, New Jersey, by the name of Josephine D'Antonio, brought this problem to my attention about 3 or 4 years ago, and it was through learning of her story, as the gentleman from North Carolina (Mr. COBLE) has learned from many stories in his district, that we were able to work together as Republicans and Democrats to bring this bill to the floor today. So I want to thank Mrs. D'Antonio, Mr. Speaker, for her role in making this happen.

I also want to thank Maureen Doherty from my office, who has worked tirelessly on this legislation throughout her tenure here. She is leaving us to go to law school in a couple of weeks. There are not many people who help to write a law before they become a lawyer or a law student, and I commend her for that.

I also want to say that I have learned of the importance of the bond between grandparents and grandchildren in my own heart and in my own life. I also want to say the important lessons many of us parents learned have been in that way, and on behalf of my children I wanted to thank their surviving grandparents, Mrs. Phyllis Wolf, Mr. Ernest Spinello and Mrs. Florence Spinello for the lessons they have taught us about that very important bond.

Mr. Speaker, I am glad today we are coming together so that grandparents all across this country will be able to walk into any courthouse in any State, if they have received a court order, and know that their right to participate in the nurturing and love of their grandchildren will continue across State lines.

I urge support of the bill and thank its movers to the floor.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield 2 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the gentleman from New Jersey for his leadership on this really very, very important issue, because it focuses on allowing for the loving and caring grandparents to have a role in the lives of our children.

I thank the gentleman from North Carolina (Mr. COBLE) and the gentleman from Illinois (Mr. HYDE) for their leadership, along with the gentleman from Michigan (Mr. CONYERS) and the gentleman from Massachusetts (Mr. FRANK) for recognizing the value of grandparents.

Let me speak for myself. Personally, I would like not to have to come to the floor of the House on legislation like this. I would like to think that families are bonded and are together for life.

□ 1600

We would like to think there is no such thing as divorce. We would like to think of the normal or at least, let me correct myself, the family of old, the extended family, where grandparents and parents and children live together. But we do have a different life and a different life-style, and I believe it is extremely important to reinforce that when a grandparent receives visitation in one State that every other State must respect and enforce that court order.

Nationwide, the percent of families with children headed by a single parent increased from 22 percent in 1985 to 26 percent in 1995. More than 75 percent of older Americans are grandparents. This legislation gives peace of mind and comfort, but it also gives the opportunity for our children to be connected with their history.

I, too, would like to pay tribute to my children's grandparents, Mr. and Mrs. Lee, Mr. Lee now deceased; and Mr. and Mrs. Jackson, Mr. Jackson now deceased. This is an excellent piece of legislation that helps bond our families and applauds and respects those grandparents and senior citizens who spend so much of their life contributing to the growth and nurturing of our children.

Mr. Speaker, thank you for allowing me time to speak on this important bill. As Chair of the Congressional Children's Caucus and as a parent, I care deeply about this bill.

H.R. 4164 is a law which is to the benefit of all family members. By enacting this legislation, we are requiring that when a grandparent is awarded visitation in one State, then every other State must respect and enforce that court order.

This law allows loving and caring grandparents access to their grandchildren, and it allows grandchildren the important experience of sharing time with additional family members who love and care about them, their grandparents.

In my home State of Texas the percentage of children living in single parent homes has increased by 33%.

Children growing up in single-parent households often do not have the same economic or human resources available as those growing up in 2 parent families. This law will make it possible for additional adults to make a difference in their lives, to offer support and love and guidance. Although some parents may have difficulties in their relationships with their adult children, a parent should not be able to sever the relationship between grandparent and grandchild—especially when the grandchildren and the grandparent have a meaningful, established relationship and the grandparents have been granted visitation.

For grandchildren, grandparents are the link to memories and family history. For grandparents, grandchildren are a link to the present and the future. This bill will allow a child to grow up with a sense of family history and with additional love and guidance.

Our children are our future and their well-being must be our focus. This bill recognizes the importance of family connection and I support it on behalf of our Nation's families and our children.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield back the balance of my time.

Mr. COBLE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, oftentimes we hear about the partisan rancor that surrounds our dealings here, and sometimes that is appropriate because of the nature of the beast. But this is a good example of how bipartisan cooperation played into bringing this bill to the floor.

My friend, the gentleman from Massachusetts (Mr. FRANK), and my friend, the gentleman from New Jersey (Mr. ANDREWS), did good work on this; the gentleman from Michigan (Mr. CONYERS), the ranking member; the gentleman from Illinois (Mr. HYDE), chairman of the full committee. We all had our oars in the water. And with all that has been said, I guess nothing further needs to be said.

But let me say this. I would be remiss if I did not mention Debbie Laman, counsel to the committee, who worked very diligently in this matter as well. But as has been said, Mr. Speaker, the grandparent-grandchild relationship is a cherished one that should be encouraged and nurtured.

This bill before us today is designed to promote this special relationship and, hopefully, will result in the resolution of problems that presently plague not only grandparents but children and families across our land.

I urge passage of this bill.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. HAYWORTH). The question is on the motion offered by the gentleman from North Carolina (Mr. COBLE) that the House suspend the rules and pass the bill, H.R. 4164.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

HIRAM H. WARD FEDERAL BUILDING AND UNITED STATES COURTHOUSE

Mr. KIM. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2379) to designate the Federal building and United States courthouse located at 251 North Main Street in Winston-Salem, North Carolina, as the "Hiram H. Ward Federal Building and United States Courthouse."

The Clerk read as follows:

H.R. 2379

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The Federal building and United States courthouse located at 251 North Main Street in Winston-Salem, North Carolina, shall be known and designated as the "Hiram H. Ward Federal Building and United States Courthouse".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building referred to in section 1 shall be deemed to be a reference to the "Hiram H. Ward Federal Building and United States Courthouse".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. KIM) and the gentleman from Ohio (Mr. TRAFICANT) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. KIM).

Mr. KIM. Mr. Speaker, I yield myself such time as I may; consume.

Mr. Speaker, this resolution, H.R. 2379, simply designates the Federal building and United States courthouse located in Winston-Salem, North Carolina, as the "Hiram H. Ward Federal Building and United States Courthouse."

Hiram H. Ward is a distinguished jurist who sat on the Federal bench for more than 20 years. He was born and raised in North Carolina and served in the United States Army Air Force during World War II.

In 1972, President Nixon appointed Mr. Ward to the Federal bench for the Middle District of North Carolina. He served on the Middle District as a judge and as a chief judge in 1988, when he elected to take senior status. However, even as a senior judge, Judge Ward continued to sit for an additional 6 years for the First Circuit Court of Appeals.

This is a fitting tribute to a dedicated public servant. I support the bill, and I urge my colleagues to support the bill.

Mr. Speaker, I reserve the balance of my time.

Mr. TRAFICANT. Mr. Speaker, I yield such time as he may consume to the gentleman from North Carolina (Mr. WATT), the great baseball pitcher of the Democrat side.

Mr. WATT of North Carolina. Mr. Speaker, I want to rise in support of this bill. I was not expecting to speak in front of some of my colleagues from North Carolina who were the original sponsors of this bill. But I think all of us hold Judge Hiram Ward in such high esteem that we will all be lining up here to say some goods things about him.

I personally, when I was practicing law, had the privilege of trying at least one case in front of him that I can remember. I may have repressed some others that I tried in front of him, but I do remember at least one case that I tried in front of him. And this tribute is especially fitting to Judge Ward, because not only did he serve for a long, long period on the Federal bench, but he was actually instrumental in the design and development of this particular courthouse in the Winston-Salem area, which, actually, the courthouse is in my congressional district.

So I just want to thank the gentleman from North Carolina (Mr. COBLE), whose idea it was, and the gentleman from North Carolina (Mr. BURR), who has joined with the gentleman from North Carolina (Mr. COBLE) and myself and other members of the North Carolina delegation in support of this legislation.

But, most importantly, we want to thank Judge Ward for his long service and dedication to the Federal judiciary and encourage our colleagues to support this bill so that we can get this courthouse named for him. It is certainly a worthy venture.

I thank the gentleman for yielding me time and exaggerating my baseball exploits.

Mr. KIM. Mr. Speaker, I yield 6 minutes to the gentleman from North Carolina (Mr. COBLE).

Mr. COBLE. Mr. Speaker, I thank the gentleman from California (Mr. KIM) for his assistance in developing this bill. And I want to say to my friends, the gentleman from Ohio (Mr. TRAFICANT) and the gentleman from North Carolina (Mr. WATT), I do not think you embellished his prowess. I think he did a good job on the mound and that was well-deserved.

This could develop into a turf battle, except we all get along very well, Mr. Speaker. I have extended my tentacles into a county that is represented by the gentleman from North Carolina (Mr. WATT), the gentleman from North Carolina (Mr. BURR), and the gentleman from North Carolina (Mr. BALLENGER).

I guess my coming into play in this bill is unique in that I did practice before Judge Ward and Judge Gordon when they were what I called the Dynamic Duo in those days in the Middle District. And I do not know that it has been said, but I am sure the gentleman from North Carolina (Mr. BURR) will remind us when it comes his time, but Judge Ward did receive his law degree from Wake Forest University in 1950. The gentleman from California (Mr. KIM) may have mentioned that.

During the time of years in which he was in practice, he became known as one of the most distinguished trial lawyers in North Carolina. He is highly regarded not only in the Middle District of North Carolina but the Fourth Circuit as well and, for that matter, throughout the Federal judiciary.

It has been said, Mr. Speaker and my colleagues, that a judge's temperament is as significant to his success on the bench as his academic credentials. I concur with that statement, Mr. Speaker; and permit me, if you will, to illustrate the temperament of Judge Ward.

I revert 2½ decades. It was the first day that he held court in the Middle District in Durham. I had the privilege of being there that day, and the first order of business was a naturalization ceremony in which a German woman became an American citizen. Keep in mind, this was Judge Ward's first day on the bench.

After citizenship was conferred upon her, she began to weep ever so softly and then her weeping developed into more noticeable sobbing and it became a distraction in the courtroom because it appeared that she was in obvious discomfort.

I will never forget the manner in which Judge Ward resolved that problem. He said to her, "Madam, may the court assist you in any way?" And then she continued to sob even more noticeably. Then she said to the judge, after she regained her composure, she said, "Your Honor, these are tears of joy, for the most part," she said. But she said, "I am weeping because I am happy to be an American citizen. But I am weeping also because I think of my family and friends in Germany who are not able to be here with me to share this very obvious day of celebration for me."

Judge Ward then said to her, and I remember it as if it were yesterday, he said, "Madam, most people in this courtroom are Americans as a result of residence of parents at their time of birth." He said, "You, Madam, are an American by choice." And then she began to weep even more, but those were tears of joy.

I said to a bystander when Judge Ward uttered those words, I said to him, "He has the proper judicial temperament." My words were prophetic. He did indeed express and still does his senior status.

But I appreciate the comments of my colleague, the gentleman from North Carolina (Mr. WATT). I look forward to hearing from Mr. BURR as well.

Again, I thank the gentleman from California (Mr. KIM) and his fine subcommittee and the gentleman from Ohio (Mr. TRAFICANT) for having moved this bill along. I cannot think of a more fitting tribute to a gentleman who, as a respected jurist and citizen, has contributed so much to his community and to his country.

Mr. KIM. Mr. Speaker, I yield 3 minutes to the gentleman from North Carolina (Mr. BURR).

Mr. BURR of North Carolina. Mr. Speaker, I rise in support today of H.R. 2379. As an original cosponsor of this legislation, I believe this is an excellent opportunity to provide a fitting tribute to a great North Carolinian, Judge Hiram Ward.

Judge Ward is known throughout North Carolina as a distinguished veteran, attorney, and Federal judge. After his plane was shot down in a World War II mission over Burma, Judge Ward was decorated with the Purple Heart and Air Medal and soon returned to the United States dedicated to his education and his career.

Following his military service, he was quickly accepted and enrolled as a student in Wake Forest College, and not university at that time, where a course in business law became his gateway to a distinguished career as a private attorney.

Judge Ward went on to serve 20 years as a private attorney, gaining the highest respect from his peers and colleagues for his devotion, his honesty and perseverance in his work. Judge Ward's passion and dedication to his work is echoed still today by his peers and colleagues in the North Carolina Federal District Court and the Fourth Circuit. This reputation ultimately earned Judge Ward an appointment to the Federal bench by President Richard Nixon in 1972. In 1982, he became chief judge, where he would stay until 1988, when he elected to take his senior status.

Mr. Speaker, Judge Ward is a man of commitment, service, and honor. He has provided North Carolina with the kind of service and dedication that I can only hope for in our future. It is my sincere belief that the legislation currently before this House to designate the Federal Building at 251 North Main Street in Winston-Salem, North Carolina, as the "Hiram H. Ward Federal Building and United States Courthouse" is both a fitting tribute for a man who gave so much selfless service to his country and to the people of North Carolina.

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I thank the gentleman from North Carolina (Mr. COBLE) for his sponsorship of this legislation and for the rest of the North Carolina delegation who in a very bipartisan way supported this tribute to Hiram Ward. I think I can best say, in summation, that though we are here to rename a building in recognition to the good work and the dedication of Hiram Ward, in fact his reward has already been felt in the city of Winston-Salem and in the State of North Carolina by his accomplishments, his deeds and his commitment to the people of our great State.

I urge my colleagues to support this legislation, Mr. Speaker.

Mr. TRAFICANT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I do not know Judge Ward, and I never met Judge Ward, but I know the gentleman from North Carolina (Mr. COBLE), and the gentleman from North Carolina (Mr. BURR), and the gentleman from North Carolina (Mr. WATT) and the gentleman from North Carolina (Mr. BALLENGER), and we received numerous letters that our subcommittee under the diligent leadership of the gentleman from California (Mr. KIM) researched and reviewed, and not one of those was to the contrary.

So I would just like to say that I would first ask that those letters be spread upon the record, and, second of all, for brevity sake, just summarize by saying there is a unanimous agreement from all concerned on Judge Ward's outstanding contributions to our Nation and to that district court system and that I am proud to join with the chief sponsor, the gentleman from North Carolina (Mr. COBLE) and all the North Carolina delegation and the gentleman from California (Mr. KIM) in supporting this resolution. I ask that this bill be passed.

The letters referred to are as follows:

HENDRICK LAW FIRM,
Winston-Salem, NC, November 3, 1997.
Congressman HOWARD COBLE,
W. Market Street,
Greensboro, NC.

TO THE HONORABLE HOWARD COBLE: I was fortunate enough to serve as a law clerk to Judge Hiram Ward in the United States Federal Court for the Middle District of North Carolina from 1973 to 1975. It was an honor to work for a principled and intelligent judge. Judge Ward has certainly served the Middle District with distinction and integrity.

I know that he made some personal sacrifices in order to maintain his offices in Winston-Salem. I think it would be highly appropriate if the U.S. Courthouse in Winston-Salem is named in honor of Judge Ward. I understand that you are submitting legislation to this effect and wanted to wholeheartedly support this legislation. Please let me know if I can do anything to assist.

Sincerely,
T. PAUL HENDRICK.

WACHOVIA,
Winston-Salem, NC, November 3, 1997.
Congressman HOWARD COBLE,
W. Market Street,
Greensboro, NC.

DEAR CONGRESSMAN COBLE: I have just learned that you recently submitted a bill to Congress which, if enacted, would name the U.S. Courthouse in Winston-Salem in honor of Judge Hiram H. Ward. As a former law clerk for Judge Ward, I am absolutely delighted that you have submitted this bill and stand ready to support this legislation in any way that I can. For brevity's sake, and because I know it is unnecessary to do so, I will not set forth all of the reasons the courthouse should be named in honor of Judge Ward; I know that you are well aware of his distinguished career and outstanding reputation as a jurist. Suffice it to say, I cannot imagine any individual being more deserving than Judge Ward for this honor.

Again, thank you for introducing this legislation, and please do not hesitate to contact me if I may be of assistance in any way.

Best regards.

Very truly yours,
JAMES P. HUTCHERSON,
Counsel.

WACHOVIA,
Winston-Salem, NC, November 3, 1997.
Hon. HOWARD COBLE,
Member of Congress,
Greensboro, NC.

DEAR HOWARD: I have just received a letter from Fred Crumpler indicating that you have recently submitted a bill to Congress which would name the United States Courthouse in Winston-Salem in honor of Judge Hiram Ward.

I just wanted you to know I support that bill 100% and personally am very appreciative that you would submit it to the Congress.

Judge Ward is one of the finest men and clearly one of the most outstanding judges I have ever encountered, and naming the Courthouse in Winston after him would bring honor not only to him but to Winston-Salem and all members of the bar.

Thank you for your efforts in this regard. If I can be of service in any way, please do not hesitate to call upon me.

With best personal regards and good wishes, I am

Sincerely,
KENNETH W. MCALLISTER.

SARA LEE CORPORATION,
Winston-Salem, NC, November 3, 1997.
Congressman HOWARD COBLE,
W. Market Street,
Greensboro, NC.

DEAR CONGRESSMAN COBLE: I recently learned of the bill you have submitted to Congress which, if enacted, would name the U.S. Courthouse in Winston-Salem in honor of Judge Hiram Ward. Having had the privileges of serving as one of Judge Ward's law clerks, appearing as a practicing attorney in his court and serving as Sara Lee's representative as a party to cases heard by him, I wholeheartedly support your efforts regarding this bill.

Judge Ward has been a tireless servant to the Federal Courts and always has merited the respect of counsel and parties appearing before him. Thank you for working to honor him in this manner.

Yours very truly,
LEON E. PORTER, Jr.,
Chief Counsel, Personal Products.

ROBINSON & LAWING,
Winston-Salem, NC, November 3, 1997.
Hon. HOWARD COBLE,
West Market Street,
Greensboro, NC.

DEAR CONGRESSMAN COBLE: It was my privilege to serve as a law clerk for The Honorable Hiram H. Ward in 1989 and 1990. In addition to providing valuable exposure to some of the more practical aspects of trial practice, that experience gave me a deep insight into the integrity, conscientiousness, and fairness that Judge Ward personifies, both on and off the bench. I remember, and continue to be impressed by, the unanimously high regard that others held for Judge Ward, not only attorneys, court personnel and witnesses, but his colleagues in the Federal District Courts of North Carolina and the Fourth Circuit, as well. I believe that Judge Ward's level of service and commitment to the Federal Bench and to the Bar of Forsyth County and the Middle District has been, and will likely remain, without parallel.

I wholeheartedly support and appreciate your proposed legislation that would name the U.S. Courthouse in Winston-Salem in honor of Judge Ward. I cannot think of a more fitting tribute for a gentleman who has contributed so much, not only as a respected jurist, but as a citizen, to his community and to his country.

Yours very truly,
JOHN N. TAYLOR, Jr.

Mr. TRAFICANT. Mr. Speaker, I yield back the balance of my time.

Mr. KIM. Mr. Speaker, I do not have any other speakers at this time, and I, too, yield back the balance of my time.

The SPEAKER pro tempore (Mr. WATTS of Oklahoma). The question is on the motion offered by the gentleman from North Carolina (Mr. COBLE) that the House suspend the rules and pass the bill, H.R. 2379.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

J.J. "JAKE" PICKLE FEDERAL BUILDING

Mr. KIM. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3223) to designate the Federal building located at 300 East 8th Street in Austin, Texas, as the "J.J. 'Jake' Pickle Federal Building".

The Clerk read as follows:

H.R. 3223

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The Federal building located at 300 East 8th Street in Austin, Texas, shall be known and designated as the "J.J. 'Jake' Pickle Federal Building".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building referred to in section 1 shall be deemed to be a reference to the "J.J. 'Jake' Pickle Federal Building".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. KIM) and the gentleman from Ohio (Mr. TRAFICANT) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. KIM).

Mr. KIM. Mr. Speaker, I yield myself such time as I may consume.

Again this resolution designates the Federal building located in Austin, Texas, as the J.J. Jake Pickle Federal Building. A former colleague, Jake Pickle was a dedicated public servant who served his constituents well during his career in this House which spanned over 30 years. He was born and raised in Texas and served in the United States Navy during World War II. He was elected to fill a vacant congressional seat in 1963 and was reelected to the seat for 15 successive Congresses.

During his tenure in Congress, Congressman Pickle was a strong advocate of civil rights issues and equal opportunities for women and minorities. He sat as Chair of the Committee on Ways and Means' Subcommittee on Oversight and Subcommittee on Social Security. It is a fitting honor for Congressman Pickle and the people he served.

I support this bill and urge my colleagues to support the bill.

Mr. Speaker, I reserve the balance of my time.

Mr. TRAFICANT. Mr. Speaker, I yield as much time as he may consume to the gentleman from Austin, Texas (Mr. DOGGETT), the new Congressman who has done an outstanding job and whose persistence ensured that this legislation and this honor is bestowed on Mr. Pickle.

Mr. DOGGETT. Mr. Speaker, my thanks to the ranking member, my friend and colleague from Ohio (Mr. TRAFICANT), and to the chairman of the committee for their favorable recommendation on this piece of legislation. It is with the greatest pleasure that I authored and now join in presenting this legislation as a tribute to the outstanding public service of Jake Pickle by naming the Federal Building in Austin in his honor.

For 31 years, from the time that I personally was a senior at Austin High School with his daughter, Peggy, until the day I was sworn in as a Congressman representing the same district here in this House in 1995, Jake Pickle was the only Congressman who ever represented me, and he did that and his representation for all of us in central Texas with the very greatest distinction. For all but 3 of his 31 years in office, the first 3, he officed on East Eighth Street in Austin, Texas, in the building that will now bear his name.

This is not, of course, the first structure in our community to bear his name. Our future in central Texas is already marked with the Pickle Research Campus and Complex at the University of Texas, and I am sure that this will not be the last such physical reminder of all that those decades of service have meant to our neighbors there in the Travis County and the broader central Texas area.

James Jerald "Jake" Pickle was born in 1913 up in Big Spring, Texas, and a few years back I had the pleasure of attending one of his many birthday parties and found that there must be something really good up there in Big Springs in the springs because there were a number of people that he went to public school there in Howard County with who were there, and they brought the same degree of enthusiasm that I have always seen in his work as our Congressman.

Jake went on to get his degree at the University of Texas in Austin back in 1938 where he served as Student Body President. He later worked as an area director for the National Youth Administration under President Roosevelt, and he served 3½ years in the Navy, as was mentioned, and I understand he even had a career as a night watchman over here in the Cannon Office Building where he later officed.

Upon returning to Austin though after World War II, he worked in radio at KVET in public relations. He served as the director of the Texas State Democratic Executive Committee and as a member of the Texas Employment Commission. It was from his position at TEC that he resigned to run for Congress in 1963.

He has established himself throughout his career as someone who is willing to stand up and be counted for what he believes in.

It was only a short time after he arrived here in Washington that he faced the challenging decision, given the times, of whether to vote for the Civil Rights Act of 1964, and he joined five other Members from the Southern States who voted for that legislation and still tells the tale of getting the call at I believe it was about 2:00 in the morning from President Johnson commending him on his support for the Civil Rights Act, and he went on the next year to support the Voting Rights Act and to continue his work on behalf of a broad range of people from our community in having opportunities for all of us to participate and share in the greatness of America. The service that he rendered was, of course, closely related to the service of President Lyndon Johnson, and President Johnson and of course still Lady Bird Johnson remain close friends of Congressman Pickle.

Naming this building in Austin in Congressman Pickle's honor is particularly important and appropriate because it was constructed during President Johnson's administration and still has there President Johnson's Texas apartment and office that he used during his Presidency, and it is preserved today in about the same fashion that he left it in 1973.

Jake has so many great stories that only he can tell in the appropriate way about the Great Society, about President Johnson and his work on that. All of it is really the stuff of political legend in Texas. He stands certainly as one of the few remaining personal historians of one have America's greatest Presidents.

Jake also distinguished himself, and I know others will speak of this, in his work on the House Committee on Ways and Means. He served as the Chair of the Committee on House Oversight where he focused on issues concerning the Internal Revenue Service, concerning the Medicare system and trying to be sure that waste and fraud were eliminated in Medicare. He also served as the chairman of the Subcommittee on Social Security back in the 98th Congress and is widely credited with shepherding through major Social Security reform that extended the life of the Social Security system.

But I think when folks back home in Texas think of him, they think not of all of his many votes and important committee work here in Congress, but they think of him as a person that, regardless of age, they call and feel comfortable in calling "Jake" because he was there when they had an individual problem or concern. His reputation for effective and efficient constituent service and community involvement is absolutely legendary. He set the highest standard for any Member of Congress, certainly for me, to emulate.

Not only did he engage in tireless advocacy on behalf of his constituents, he also deserves a reputation for giving selflessly of his time and seemingly boundless energies for our community.

Recently Jake and his daughter Peggy Pickle have authored a book about his life and reflections on his service here that many of our Members have obtained. It is a book that contains many wonderful anecdotes about Congress, LBJ and Texas politics, and it makes very clear his philosophy. He not only felt that each of us have a responsibility to one another, but that government has a responsibility to each of us to be fair and to be compassionate. He viewed that responsibility as both a duty and an honor, and while he never took himself too seriously and always had that great sense of humor that he brought to his work, he took this duty as a representative of government very seriously indeed, and he still does.

These days, while Jake is retired from Congress, he is hardly retiring, but he is working very hard there in Austin. He has continued energetic involvement particularly in questions involving our transportation system. He is invaluable. He continues to inspire us and to provide great counsel to many of us who serve in public office.

Based on these and other accomplishments that are too numerous to mention, I know that Congress will move promptly to name the Federal Building in Austin in Jake's honor, and short of having the security guards there pass out those plastic green pickles that all of us have to everyone who enters, I cannot think of a more fitting way to remind future generations of Texas how much he has really done for us. With 31 years of service to this community and to its people, J.J. "Jake" Pickle deserves nothing less than this very permanent memorial.

Mr. KIM. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from New York (Mr. HOUGHTON).

Mr. HOUGHTON. Mr. Speaker, I would like to follow up on the words of the gentleman from Texas (Mr. DOGGETT) and talk a little bit about Mr. Pickle.

I am honored to be able to stand here and endorse the naming of this Federal Building in Houston in the name of J.J. "Jake" Pickle. As my colleagues know, many times this is a now community, out of sight, out of mind, because there is so much going on here. But it is not so with Jake Pickle. He was a real hero.

He was, first of all, as others have said, a national hero, having been a great member of the United States Navy during World War II; certainly a congressional hero in terms of the legislation which he was part of, passed, supported and also his work on the Committee on Ways and Means.

I am not a resident of Austin, Texas, but I remember going down with the Committee on Ways and Means, and Jake was our host, and he is a real folk hero in that area. I can understand it, having known him and worked with him, but one has to go down there to see it to appreciate his association with that great community and the people in it.

Also, frankly, he is a personal hero. I worked with Jake in many different ways. The one I think I remember best is working with him on the Committee on Ways and Means and the Subcommittee .on Oversight. The Republicans at that point were in the minority, and I was the ranking member on the minority side. That never bothered Jake. He never made a decision, and he never sort of threw his leadership around without checking with me. He did not have to, it was not necessary, but with all the discussion of bipartisanship and civility, he represented it, he lived it, he spoke it and was a wonderful, wonderful example to me.

So all I can say is, "Jake, if you ever will read the record of this proceedings, I love you, you're a great man, and you're a standard for which this institution, all of us, strive to reach."

Mr. TRAFICANT. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Texas (Ms. JACKSON-LEE).

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Ms. JACKSON-LEE of Texas. I thank the gentleman from California and the gentleman from Ohio both for their leadership. It may not seem that these are the most crucial aspects of our legislative business, but to each of these gentlemen, let me say that they make many people in our respective States extremely happy and extremely pleased, and give honor to those who deserve honor.

I am delighted to rise as a Texan to pay tribute to J.J. "Jake" Pickle. Many of you had the honor with serving with him, of which I did not. But I bring a special perspective to this tribute to Jake, as he is affectionately called, recognizing his service in World War II, but also recognizing his battle in the war of civil rights.

I would not be standing here today, nor would my predecessors, the esteemed and honorable Barbara Jordan, Mickey Leland and Craig Washington, for this seat was created after the passage of the 1965 Voter Rights Act. This was the first seat that elected an African American to the United States Congress since reconstruction from the State of Texas, and certainly the first seat that elected an African American woman from the deep South to go to the United States Congress.

Do not let anyone tell you that this was an easy choice for Jake Pickle; but for him it was the right choice, and he believed in what he did, and he continued to believe in the equality and the freedom and justice for all.

He was not on the Committee on the Judiciary, and as I noted, he was from the deep State of Texas, the Yellow Rose State, and, for many, that could have been the appropriate cover not to vote for any civil rights during the time he did. But Jake Pickle saw the right way, and he recognized the deep segregation in Texas and realized that it was wrong.

Jake, I pay tribute to you, and I thank the gentleman from Texas (Mr. DOGGETT) for his leadership on giving to Jake his flowers before his end.

He is vibrant all right, and he is leading us in many different ways. He was proud to be an American, proud to be a Texan, and, yes, he is proud to be a Democrat. He served in the United States Congress for 31 years, and he took some very serious votes and did some great works as a member of the Committee on Ways and Means. As a Congresswoman from the 18th Congressional District, a district that is only one of two that has elected an African American from the State of Texas, knowing that we all are created equal, my special thanks to Jake for his vote for the 1964 Civil Rights Act and his vote for the 1965 Voters Rights Act.

While he was visiting the White House, as I close, he was meeting with President Johnson and Jack Valenti, and Jack thanked him for his vote on the 1964 Voter Rights Act, and he said, "Mr. President Johnson, well, it was a tough one, and I am sure glad that it is over."

President Johnson was listening, and he said "Jake, that was a tough vote, but you will be in Congress for another 20 years," and, of course, as I said, Jake was in Congress for 31 years, "and you will probably have a civil rights vote every year from now on. We have just started civil rights reform, and we are 200 years behind. We have a long way to catch up. So don't think for a second you have got your vote behind you."

As usual, the President, President Johnson was right, and the fight did go on. And I can assure you, our friend Jake was right there in the midst and helped create for us many victories that declared that we all are created equal and we all stand equal under the sun.

Thank you, Jake, and congratulations on this honor. I support this legislation and look forward to seeing Jake in future years taking his rightful place as one of our true American heroes.

Mr. KIM. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. GILMAN).

Mr. GILMAN. Mr. Speaker, I am pleased to rise in strong support of naming the Federal building in Austin, Texas, after our good colleague, former colleague, Jake Pickle, who we honored in Washington very recently; not only a veteran in our military, but a veteran in the House, and did so much for so many, particularly for our seniors. It is a great honor and a privilege to join in the debate supporting the naming of the Federal building in his honor.

Mr. TRAFICANT. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. BENTSEN).

Mr. BENTSEN. Mr. Speaker, I thank the gentleman for yielding me time and thank the chairman and ranking member of the subcommittee for bringing this bill to the floor.

Jake Pickle was a student of the "old school of politics." Raised in the small Texas town of Roscoe, Jake never forgot his rural roots. Jake belongs to a dwindling group of Texas politicians who were the protegees of another great Texan, President Lyndon Baines Johnson. In fact, Jake represented the same Texas district as President Johnson had once before and our colleague, the gentleman from Texas (Mr. DOGGETT) now represents. In fact, as the gentleman from Texas (Mr. DOGGETT) was telling me, that district used to run not just around Travis County, but ran all the way to Harris County at the time that Jake was first elected.

He wore many hats during his political career, serving as a campaign manager, Congressional aide, Congressman and an adviser to LBJ. After graduating from the University of Texas at Austin, he became the area director of the National Youth Administration. He then went on to serve 3½ years in the Navy in the Pacific during the Second World War.

When he got back, he went into the radio business in Austin and then reentered politics in 1957 as the director of the Texas State Democratic Executive Committee, which at that time was considered a contact sport.

In 1961, he was appointed a member of the Texas Employment Commission, resigning in 1963 to run for Congress. Some could say that it was the pickle-shaped campaign pins and recipe books that got him elected in 1964, but that would only be a small part of his success. It was Jake's great sense of knowing what the people want from their government that got him elected. His decades of experience in the public service prior to being elected to office gave Jake the tools he needed to be a Congressman. His warm personality and natural leadership skills made him a legend. I might add that having Beryl probably made the district.

As a member of Congress, where he served on the Committee on Ways and Means, Jake managed to involve himself in just about every major issue in his committee, from Social Security to trade to the complete revision of the Tax Code in 1986.

As chairman of the Committee on Ways and Means Subcommittee on Oversight and the Subcommittee on Social Security, Jake exercised broad mandate. In 1983, as the chairman of the Subcommittee on Social Security, Jake was convinced that the way to save the Social Security System from a long-term collapse was to raise the retirement age. While others wanted to solve long-term financing problems with eventual increases in the payroll tax, Jake unexpectedly prevailed on the floor in what was the most impressive and significant victory of his career, and what was then the Pickle-Pepper amendment to the Social Security reform bill.

Jake fought long and hard for the elderly. The effort in 1983 to save Social Security is the best example of the many attempts to improve their lives. To Jake, the elderly were the backbone of our society, helping America stand tall. For this reason, he did everything he could in Congress and in his committees and subcommittees to ensure the elderly would receive proper care and maintain financial stability.

Every once in a while one can find a leader and a politician as great as Jake Pickle. I have to say, while I did not have the opportunity to serve with Mr. Pickle as a Member of the House, I did have the opportunity as a member of the staff to the House during his tenure here. It was something that every year when the Texas State Society, which continues to meet on Fathers Day for its annual Fathers Day picnic, Jake and Beryl would be out there. And while I did not get to serve with them, I did get to play horseshoes with them on a couple of occasion. That is how he was every year of his service for the 31 years he was here, and even today, when he comes back to visit us and join us at the weekly Wednesday Texas Delegation Lunch to tell us how things were done before he was in Congress, while he was in Congress, and how we ought to be doing them now. I congratulate the chairman and ranking member for bringing this bill.

Mr. TRAFICANT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I know Jake Pickle, I served with Jake Pickle, and I know that Jake Pickle is deserving of this honor, and I am, too, proud, as other colleagues have spoken, to be a part of this legislation.

One thing about Jake Pickle, he was not yellow. He had a backbone, not a wishbone, a backbone, and very few of us may realize the pressure he had when he was one of only five Southern leaders to pass President Johnson's Civil Rights Act of 1964, amidst great pressure and attacks from those who thought otherwise.

Men like Jake Pickle have created an opportunity for all Americans that were not gifted with an automatic entry into our mainstream. But I want to just make a few comments on the Congressman that I knew, and how he helped me personally in a couple areas where we changed IRS law.

He helped me to pass legislation that requires the IRS to have a training program for all their agents so they do not abuse our taxpayers. Also he helped me pass legislation that allows an abused taxpayer now to sue the IRS. Then Jake worked on legislation with me and others to raise the limits for such lawsuits from $100,000 to $1 million. He also helped to promote, over a period of years, my legislation to make it tougher for the IRS to seize our property and to help us change the burden of proof in a civil tax case that has recently been passed with the help of Republican leadership, and I am appreciative of that.

Jake Pickle may be watching. If he is, thank you, Jake. Thanks for all you did for the American people, and thanks for your tough and courageous stand. You are most deserving of this honor and tribute.

Mr. GREEN. Mr. Speaker, I rise in strong support of H.R. 3223, a bill designating the J.J. "Jake" Pickle Federal Building in Austin, Texas. This is a fitting tribute to a unique Texan and former Member of Congress.

Congressman Pickle is a legend even by Texas standards. He put himself through college during the Depression, worked for President Roosevelt's National Youth Administration, served in the Pacific during World War II, started a radio station in Central Texas, and represented Texas' Tenth Congressional District from 1963 to 1995. During his long and distinguished career in the Congress, Jake Pickle prided himself as a protector of small businesses and a specialist in the Social Security system.

Over the years, Congressman Pickle managed to involve himself in every major issue that confronted the Ways and Means Committee, from Social Security to trade to the complete revision of the tax code.

During the 98th Congress, Jake Pickle chaired the Ways and Means Social Security Subcommittee. As chairman of that subcommittee, he was convinced that the way to save the Social Security system from a long-term collapse was to raise the retirement age. Democratic leaders, including Thomas P. O'Neill and Claude Pepper, wanted to solve long-term financing problems with eventual increases in the payroll tax. Few expected Pickle would prevail on the floor, but he did.

Through months of argument over what to do about Social Security, Pickle and Pepper were the spokesmen for two diametrically opposite points of view. During floor consideration, the House chose Jake Pickle's approach, which later became law. This victory represents the culmination of a long personal struggle for Jake Pickle to put the Social Security system on a sound personal footing.

Most everyone knows Jake Pickle as a political protege of President Lyndon B. Johnson. Congressman Pickle was a campaign manager and a Congressional aide to Johnson before World War II and an advisor in Johnson's 1948 Senate campaign. Jake always spoke reverently about President Johnson and his commitment and dedication is a testament to their friendship.

Congressman Pickle is also known for his storytelling ability. In 1997, shortly after his retirement from the United States House of Representatives, Jake Pickle wrote a book with his daughter in which he recalled some of the many adventures he has had during his political career. One of my favorite is featured in Chapter 35 of *Jake:*

> In 1957 or 1958 Governor Price Daniel and I were in El Paso attending a state democratic Executive Committee meeting. About that time the state of Chihuahua and Texas were instigating a program to eradicate the yellow boll weevil. So the Governor was in El Paso to officially give credence to the boll weevil eradication program as well. Jean Daniel was in El Paso with her husband.
>
> Our party stayed at El Paso's Del Norte Hotel, the finest in town. One night after our meeting, Price and Jean, Hazel and Bob Haynsworth, and I decided to go across the border to Juarez.
>
> The Haynsworths knew a bar in Juarez with a good band and a floor show, and Bob Haynsworth called ahead to speak to the manager. The Manager was told that the Governor of Texas would be in our party, and we wished no publicity. The manager said we did him a great honor. Absolutamente! He would respect our privacy.
>
> When our group arrived at the bar, we were seated at a big table near the band. Now, Governor Daniel was a Baptist and a teetotaler. Officially, he never drank. But he liked Cokes. Every time we went someplace people would offer Daniel a drink, and he'd always decline, saying, "Well thank you, but I don't drink." People expected this, but always felt they had to offer the governor a drink anyway.

But sometimes Daniel would add, "I'll take a Coke, though. Jake, why don't you get me a Coke?" And I would—but I'd have the bartender pour a shot of bourbon in it. Daniel never mentioned the bourbon—but he always asked me to get his Cokes. It was a little game we played for years, one which allowed Daniel to follow his religion, but enjoy a little socializing with a clear conscience.

However, Coke or no Coke, the last thing Daniel wanted was to be recognized in a bar, even a Mexican bar with no constituents.

Everything went fine for a few minutes. Then the band, which had been playing lively Mexican melodies, suddenly stopped, then executed a drum-roll flourish. The Governor and I looked at each other and thought, "Uh oh." He sank lower in his seat.

Then the bandleader announced into the mike, "We are proud to have with us tonight the Governor of the State of Texas"—Another drum roll—"the honorable Price Daniel!" Amid the fanfare, a white spotlight swept the dark bar and came to rest on our table.

Nobody moved. Daniel kept his head down.

Again, the announcer said, "Damas y caballeros, permitanme presentarles el gobernador del estado de Tejas!" Another drum roll and the bright spotlight on our table.

Still no movement from Price.

With the spotlight still on us, a third time the announcer called, "Please! Will the Governor of Texas stand and be recognized?"

Finally Jean leaned over and whispered urgently, "Jake, for goodness sake, will you do it?" And Daniel said, "Jake, I bet you've always wanted to be Governor—here's your chance."

So I got to my feet and grinned and waved to thunderous applause, as the band struck up "The Eyes of Texas." I must admit, I got a great reception.

Boll weevils and politicians. We're jus' lookin' for a home.

Mr. Speaker, I am proud to have served with Congressman Jake Pickle and will be forever grateful for his friendship. This designation is only a small token of our appreciation to a dedicated public servant.

Mr. ARCHER. Mr. Speaker, I rise in strong support of H.R. 3223, to designate the Federal building located at 300 East 8th Street in Austin, TX, as the "J.J. 'Jake' Pickle Federal Building."

It is a well deserved honor for a man who selflessly served his country in a multitude of ways over many years.

I was pleased to serve alongside Jake not only as a member of the Texas Congressional Delegation, but also on the Ways and Means Committee. His integrity, compassion and unswerving sense of right and wrong remain as sterling examples of the standard to which every public official should strive.

I join my colleagues and the American people in gratefully honoring the life, the contributions and achievements of Jake Pickle, a cherished friend, a loyal Texan and a selfless public servant.

Mr. TRAFICANT. Mr. Speaker, I yield back the balance of my time.

Mr. KIM. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. KIM) that the House suspend the rules and pass the bill, H.R. 3223.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

DICK CHENEY FEDERAL BUILDING

Mr. KIM. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3453) to designate the Federal Building and Post Office located at 100 East B Street, Casper, WY, as the "Dick Cheney Federal Building".

The Clerk read as follows:

H.R. 3453

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF DICK CHENEY FEDERAL BUILDING.

The Federal Building and Post Office located at 100 East B Street, Casper, Wyoming, shall be known and designated as the "Dick Cheney Federal Building".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal Building and Post Office referred to in section 1 shall be deemed to be a reference to the "Dick Cheney Federal Building".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. KIM) and the gentleman from Ohio (Mr. TRAFICANT) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. KIM).

Mr. KIM. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this resolution designates the Federal building and post office located in Casper, WY, as the Dick Cheney Federal Building. As a former Member of this body and a former Secretary of Defense, Dick Cheney has served this country and distinguished himself in both the executive and legislative branches of Federal Government. He served in the administrations of Presidents Nixon, Ford, and Bush. As head of the Department of Defense, Secretary Cheney presided over a number of historical operations, including Operation Just Cause in Panama and Operation Desert Storm in the Middle East. For his service during Desert Storm, President Bush awarded Secretary Cheney the Presidential Medal of Freedom on July 3, 1991.

In addition to his career in the executive branch, Dick Cheney was elected to the House of Representatives in 1978, representing the State of Wyoming. At the end of his first term, he was elected to serve as the chairman of the Republican Policy Committee. Congressman Cheney was reelected to serve in the House for five more consecutive terms. He became the chairman of the Republican Conference and House minority whip during his tenure.

For such a distinguished career and dedicated service to his career, this is a fitting tribute to Secretary Cheney. I support this bill and urge my colleagues to support the bill.

Mr. TRAFICANT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I knew Dick Cheney and served with Dick Cheney and am proud to be here today associated with this honor being paid to the former Secretary of Defense. I would just like to say that under his stewardship and leadership, two of the largest, most recent military campaigns, and, I might add, most successful, perhaps, in our recent history, that was Operation Just Cause in Panama and Operation Desert Storm in the Middle East, were under his stewardship.

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His leadership was not only positive but powerful for all of us that knew him. When he said something, he meant it. Everybody recognized that, no one debated it, and no one had to argue the point.

He was well liked. In addition to this stern, strong leadership, he possessed a genuine sense of humor and did much to advance the Armed Services of the United States of America, and everyone who worked with him and interacted with him not only respected him, they liked him very much.

So I want to just join today and say that I am proud to be a part of that, proud to be able to vote on this legislation, and urge everyone to vote for it.

Mr. Speaker, I yield back the balance of my time.

Mr. KIM. Mr. Speaker, I yield 4 minutes to the distinguished gentlewoman from Wyoming (Mrs. CUBIN).

Mrs. CUBIN. Mr. Speaker, it is a great pleasure for me to rise here today in support of passage of this legislation designating the Dick Cheney Federal Building in Casper, WY. I should note that by naming this building after Dick, in some respects we are passing on a family heritage. Dick's father worked in that building when it was first opened, when it was a brand-new building. So I am very grateful, and it has special meaning to those of us from Wyoming.

As my colleagues may know, I introduced the bill in March to rename the Federal building and post office in Casper, WY, in recognition of Mr. Cheney's many contributions to our country. I can think of no one who is more deserving of this honor. Dick has served this body in a number of capacities, including policy committee chairman, conference chairman, and minority whip. He also very ably served our country as Secretary of Defense in the Bush administration and received the Presidential Medal of Freedom for his leadership during Operation Desert Storm.

Mr. Speaker, there are few things in our lives that happen where we remember forever and ever where we were sitting and what we were doing when a national event occurred. The tragic death of President Kennedy was one of those things for me. When Anwar Sadat was assassinated, that was another thing for me.

I remember very well when Operation Desert Storm started. I was in the State legislature in a committee meeting in the Capitol, and the news came in that the bombing had started, and I remember having brothers that served in Vietnam and thinking about the young people that were there. I remember thinking, well, thank you, God, that Dick Cheney is in charge of those troops over there, because they could not be in better hands, and I truly felt that way, and I believe that today.

I know my colleagues will join me in thanking Dick for his leadership, for his statesmanship, but, most of all, for his friendship. I would also like to thank the gentleman from Pennsylvania (Mr. SHUSTER), the gentleman from California (Mr. KIM), and the Committee on Transportation and Infrastructure staff for working with me to enact this legislation. I urge the Senate to act on it expeditiously and hope that when it comes before that body that it will come into law.

Mr. KIM. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Nebraska (Mr. BEREUTER).

Mr. BEREUTER. Mr. Speaker, I rise in strong support of this legislation to name the Federal building in Casper for our former colleague, Dick Cheney. I thank the chairman for yielding me this time.

The gentlewoman from Wyoming has pointed out Dick Cheney's meteoric rise within Republican ranks of leadership here in the House of Representatives. In all probability, he now would be the Speaker of the House of Representatives if he had stayed here, if he had not answered the call of the country to serve as our Secretary of Defense, and he served there so ably with such a distinguished record.

Dick Cheney's competence was recognized by all as soon as he arrived here. I can recall that, directly, since he and I were first elected in the 96th Congress and served the first 4 years side by side on what was then called the House Committee on Interior and Insular Affairs.

He was born in my district in Lincoln, NE. His father was an employee of the U.S. Soil Conservation in Nebraska before he moved to Wyoming with Dick and his mother. They lived in a small central Nebraska town during World War II when Dick's father was serving in the military.

Dick Cheney has sometimes told me in the past when he came into my district or when I visited him in his district, "Doug, if I stayed in Lincoln, of course, I would be the Congressman." He would be. And I would be? "Well," he said, "I don't know what you would be." So Dick Cheney's departure to Wyoming was probably fortunate for me and undoubtedly for the citizens of Wyoming.

But I must say, as I watched Dick Cheney in this body and watched his competence already demonstrable in the earliest stages of his career here in the House, because of his service as the White House Chief of Staff and earlier at the OEO where he worked for Dick Rumsfield, I think that I and everyone else who knew Dick were quite impressed with him. He was my candidate to be the President of the United States; I wish he had made that effort.

In any case, he brought great honor and respect to this body for the contributions that he made here, and I thank my colleagues, particularly the gentlewoman from Wyoming, for offering this legislation. Naming the Federal Building in Casper for the Honorable Richard Cheney is a wonderful tribute that ought to be due to our former colleague, Dick Cheney.

Mr. KIM. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from New York (Mr. GILMAN), our chairman of the Committee on International Relations.

Mr. GILMAN. Mr. Speaker, I am pleased to rise in strong support of the gentlewoman's measure, the gentlewoman from Wyoming, in honoring Dick Cheney by naming the Federal building and post office at Casper, WY, in his name.

As a former White House Chief of Staff, as a former Member of the Congress, former Republican Chairman in the Congress, former Secretary of Defense, I can think of no more appropriate honor that we could give to Dick Cheney for his service to our Nation, and I am pleased to rise in support of the measure.

Mr. KIM. Mr. Speaker, I have no other speakers, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. KIM) that the House suspend the rules and pass the bill, H.R. 3453.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. KIM. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 3453, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

AGRICULTURE EXPORT RELIEF ACT OF 1998

Mr. GILMAN. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 2282) to amend the Arms Export Control Act, and for other purposes, as amended.

The Clerk read as follows:

S. 2282

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Agriculture Export Relief Act of 1998".

SEC. 2. SANCTIONS EXEMPTIONS.

(a) EXEMPTION REGARDING FOOD AND OTHER AGRICULTURAL COMMODITY PURCHASES.—Section 102(b)(2)(D) of the Arms Export Control Act (22 U.S.C. 2799aa-1(b)(2)(D)) is amended as follows:

(1) In clause (i) by striking "or" at the end.

(2) In clause (ii) by striking the period and inserting ", or".

(3) By inserting after clause (ii) the following new clause:

"(iii) to any credit, credit guarantee, or financial assistance provided by the Department of Agriculture to support the purchase of food or other agricultural commodity.".

(b) DESCRIPTION OF AGRICULTURAL COMMODITIES.—Section 102(b)(2)(F) of such Act is amended by striking the period at the end and inserting ", which includes fertilizer.".

(c) OTHER EXEMPTIONS.—Section 102(b)(2)(D)(ii) of such Act is further amended by inserting after "to" the following: "medicines, medical equipment, and".

(d) APPLICATION OF AMENDMENTS.—The amendment made by subsection (a)(3) shall apply to any credit, credit guarantee, or other financial assistance provided by the Department of Agriculture before, on, or after the date of enactment of this Act through September 30, 1999.

(e) EFFECT ON EXISTING SANCTIONS.—Any sanction imposed under section 102(b)(1) of the Arms Export Control Act before the date of the enactment of this Act shall cease to apply upon that date with respect to the items described in the amendments made by subsections (b) and (c). In the case of the amendment made by subsection (a)(3), any sanction imposed under section 102(b)(1) of the Arms Export Control Act before the date of the enactment of this Act shall not be in effect during the period beginning on that date and ending on September 30, 1999, with respect to the activities and items described in the amendment.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York (Mr. GILMAN) and the gentleman from Indiana (Mr. HAMILTON) each will control 20 minutes.

The Chair recognizes the gentleman from New York (Mr. GILMAN).

GENERAL LEAVE

Mr. GILMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on S. 2282, as amended.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. GILMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it has been long-standing American policy to penalize nuclear proliferators. In fact, the so-called "Glenn amendment," which we are modifying today, was supported by the Clinton administration and was adopted by the 103d Congress.

This bill, as amended, would permit taxpayer financing of certain commodity shipments to India and to Pakistan. It was approved in a slightly different form by unanimous rollcall vote in the other body. It extends an existing exemption for food assistance already contained in the law to financing food shipments. It also changes the definition of agricultural products and extends an exemption to include medicines.

The bill is necessary because, after extensive review, the Justice Department concluded that the law prohibits export credit guarantees for Pakistan. In response, we are making the necessary adjustments and showing ourselves capable of responding in a timely fashion to adjust these laws, if necessary.

We have made, in consultation with the Agriculture Committee, a series of changes to the Senate-passed bill. First, we have removed the provision that provided that spending to carry in effect the bill would be emergency spending under the Budget Act. Because we did not want to designate this as emergency spending, we have followed the pattern of the Nethercutt Amendment to the Agricultural Appropriations bill which makes this change only through September 30, 1999. Finally, there were several technical changes. I appreciate the work of the Committee on Agriculture and its staff in putting this amendment together.

In fiscal year 1997, Pakistan bought $347 million worth of U.S. wheat with USDA export credit guarantees. In fiscal year 1998, Pakistan was allocated $250 million in export credit guarantees and has used $162 million of that amount, all for wheat.

On July 15, Pakistan will hold a tender for 350,000 metric tons of wheat. Without export credit guarantees, the U.S. will not be able to secure that market for our farmers, which is worth some $37 million. The taxpayer subsidy will be $7 million in 1998 and $24 million in 1999.

Members should not lose sight of the fact that we are weakening the sanctions put in place against India and Pakistan on account of their having conducted numerous nuclear tests. These tests have only served to increase tensions and instability in south Asia.

I anticipate that today's debate may become a debate about our nonproliferation laws, but we should be careful about proceeding piecemeal to dismantle any of those laws. The credibility and effectiveness of our policies depends on our capacity to penalize nations which defy international norms and undermine our own national security.

I want to make clear that I am pleased that we can help our farmers by enacting this legislation. Food should not be any weapon in foreign policy.

But I also want to say that all Members should be aware of what we are doing today. We are approving United States loans funded by taxpayer dollars to replace the money that the Pakistanis could have used to take care of their own needs. Instead, they used that money to develop nuclear weapons.

I am confident that some Members will say that this bill is evidence that we need to rethink and rewrite all of our proliferation sanction laws. They will argue that our laws are ineffective and have not accomplished the purposes for which they were intended. They may even argue that our sanction laws are counterproductive.

Well, I fully disagree. There is definitely a role for both unilateral and multilateral sanctions, and I believe that they deterred India and Pakistan for many years from taking the steps they finally took earlier this year.

Many of the statistics and arguments you may hear today about how sanctions don't work and cost hundreds of thousands of jobs are gross exaggerations. For example, the Congressional Budget Office did work at the request of Mr. HAMILTON and myself on the impact of sanctions. Their estimate is that the actual impact of sanctions on the economy may be closer to $1 billion per year than the $15 billion often asserted in this debate. I happen to believe that $1 billion is not too much to spend to help keep Iraq, Iran, and other countries that would exploit our technology against their neighbors under some sort of control.

Just as we do not throw out the criminal code or abolish the police when we find that crime occurs, we should not give up the deterrent effects built into our nonproliferation, technology control, human rights and other foreign policy laws, even though they are not airtight.

Often it is argued that only multilateral sanctions work. Well, Members will recall that, following the G–8 summit in May, the President said he could not assert that it would have made a difference if he had been able to persuade the G–8 to sanction India. I have a hard time believing that the President really thinks that. In my view, he was merely rationalizing a failure to lead.

Had the President worked harder for a multilateral firm response, we would not be here today. In fact, Pakistan may not have tested. But we are where we are today, and we have to adjust to the situation we face today. We do not want our farmers needlessly penalized.

Mr. Speaker, Mr. SMITH is coming in from the airport, so at this time I will reserve the balance of my time; but, pending that, I ask unanimous consent that time be controlled by the gentleman from Nebraska (Mr. BEREUTER) on our side.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. HAMILTON. Mr. Speaker, I yield myself such time as I may consume.

I rise in support of this bill, S. 2282. I think all of us understand the intent of the bill. Section 102 of the Arms Export Control Act, which is commonly referred to as the "Glenn Amendment," mandates a set of sweeping sanctions against any country that detonates a nuclear explosive device other than the five recognized nuclear weapon states.

Following the nuclear tests by India and Pakistan which they conducted last May, the United States imposed section 102 sanctions against both countries. The section 102, as currently written, exempts humanitarian assistance and intelligence activities from these sanctions.

The bill we have before us today would create one additional exemption. It would permit government financing and credits to support the sale of food, agricultural products, including fertilizers, medicines and medical equipment.

The question, of course, is why this additional exemption is needed, I think, because our experience has demonstrated that the original language of the Glenn amendment, at least in present circumstances, was too broad and sweeping in its coverage.

□ 1700

It was indiscriminate in its targets. It provided the executive branch with no waiver authority, and therefore reduced the President's ability to negotiate with the governments of India and Pakistan. It contained no termination date. It penalized the individuals and families in the sanctioned countries, with whom we really have no complaint, rather than the governments that have offended us. It required American producers and American farmers to forsake important sales that would be lost to foreign producers.

This bill should not be construed as a lessening of our commitment to nonproliferation. To the contrary, by crafting a more focused sanctions policy, it helps secure the domestic base for continuing sanctions. For that reason, I think even Senator GLENN, the author of the original sanctions legislation, supported this change when the Senate voted on it last week.

The administration supports this legislation. The Senate adopted it last week by a practically unanimous vote of 98 to zero. I want to note that we are amending the bill for technical reasons, and they support this amendment.

Creating an exception to sanctions in this bill does have budgetary consequences. The Senate passed the bill as an emergency spending authority.

We are revising it to provide for offsets. It is my understanding that there is bipartisan agreement on this amendment, and I hope that the Senate will quickly agree to the House amendment and send the bill to the President by the time that Pakistani wheat tender occurs tomorrow. I urge my colleagues to support S. 2282.

Mr. Speaker, I reserve the balance of my time.

Mr. BEREUTER. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, I rise in strong support of this legislation, and endorse my colleagues' best hopes that in fact the Senate will act expeditiously on the amended version.

On May 11, 1998, America's wheat farmers were busy working in the fields when India detonated nuclear weapons the first time. Undoubtedly our farmers had no idea that Pakistan's subsequent nuclear test, and a very questionable American sanctions policy, which failed to deter the tests, would undermine our farmers' ability to sell wheat to the countries of the Asia subcontinent.

Perhaps they were also busy in their fields in 1994 when Congress passed the Glenn amendment to the Nuclear Proliferation Prevention Act. That amendment prohibits export credit guarantees to nonnuclear countries which either develop or test nuclear weapons.

Across the Atlantic on that same day, French wheat farmers had no idea that India's detonation of a nuclear weapon might produce such a windfall for them in lost American export markets. Contrary to the United States, France does not have a mandatory sanctions law, and their wheat sales, subsidized wheat sales, I might add, can continue to Pakistan.

Today, Mr. Speaker, American wheat farmers stand to lose a 2.2 million ton wheat market in Pakistan because of our unilateral sanctions policy toward the Asian subcontinent. The stakes are high and the timing could not be worse. If Congress does not amend the sanctions law to allow U.S.-backed wheat sales to Pakistan, the French, Canadian or Australian farmers will exploit this lucrative wheat export market without American competition at a time when American wheat prices for our farmers are at their lowest point in decades and at at time when we desperately need to hold onto those export markets.

This nearly forgotten sanction legislation imposed automatically on the backs of American farmers without additional thought, is just one facet of the 61 sanction-related laws or executive orders that Congress or the administration has enacted in the last 4 years. Those sanctions target 35 countries. According to an Institute for International Economics study, economic sanctions cost American industry and agriculture combined about $15 to $19 billion annually in exports.

Mr. Speaker, I urge my colleagues to support this legislation.

Mr. HAMILTON. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from New Jersey (Mr. PALLONE).

Mr. PALLONE. Mr. Speaker, I want to express support for the Agricultural Export Relief Act of 1998 that is before us. This is the first effort by Congress to lift the sanctions imposed pursuant to the Glenn amendment after India and Pakistan conducted underground nuclear tests earlier this year.

While I support this legislation, I think the President needs greater discretion in lifting these sanctions. Last week the task force empowered by the Senate leadership to look at the sanctions regime put forth a proposal that would give the President greater discretion in waiving unilateral sanctions against India and Pakistan, for example in international trade and finance. It would also allow for the President to clear the way for the U.S. to support international financial institutions to resume loan payments to India and Pakistan. The proposal, however, would not allow the President to waive sanctions that limit the transfer or sale of military and dual use technology.

Mr. Speaker, I plan to introduce a House bill today that is identical to the Senate task force proposal. I believe U.S. policy has proven to be ineffective in deterring the proliferation of nuclear weapons in South Asia, and it is time that Congress review this policy and implement legislation that gives the President greater flexibility in addressing nuclear crises.

I believe we must keep working for nonproliferation, but that the economic sanctions now in place are not the best way to achieve that goal. We have limited our diplomatic options in terms of nonproliferation in South Asia while damaging the growing economic relationship between India and the United States.

The administration has conducted several senior level meetings with the Indian government since the tests. India and Pakistan have expressed a desire to work with the U.S. in resolving these issues. Later this week Deputy Secretary of State Strobe Talbot and Assistant Secretary of State Karl Inderfurth will be visiting New Delhi and Islamabad to continue discussions and negotiations. This is following very successful meetings last week between the U.S. and India in Frankfurt, Germany.

During this critical time it is important that we give the President the necessary tools to help achieve our nonproliferation goals. I urge my colleagues from both chambers to work together so we can rectify this serious problem.

Mr. BEREUTER. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. MANZULLO), a distinguished member of the committee and a man very much focused on export issues.

Mr. MANZULLO. Mr. Speaker, I rise in support of this legislation. This bill makes sense. Tomorrow Pakistan will purchase 350,000 metric tons of wheat for $37 million. The only question remains which country will sell them this wheat.

Only U.S. wheat growers bear this heavy sanctions burden, while farmers in other countries eagerly await to seize this market from us. Did we not learn anything from the failed Carter grain embargo against the Soviet Union? The Soviets simply bought wheat from Argentina, Canada, and Australia, and it took years for U.S. farmers to regain a foothold in the Russian market.

What is good for the farm community should also be good for our manufacturing sector. Because of nuclear testing by India and Pakistan, Eximbank halted support for $4 billion in U.S. exports to those countries. That is placing 48,000 high-paying U.S. manufacturing jobs at risk, including those who work at Sundstrand and Woodward Governor in Rockford, which companies supply aviation parts to Boeing.

What kind of punishment is that to those countries that detonate? Ingersoll Milling Machine Company is trying to determine if it can still sell an $8 million four-axis machine center to a state-owned electric utility company in India.

Two Italian machine tool manufacturers not encumbered by these sanctions are standing by waiting to seize that market from the Americans. If Ingersoll does not receive an answer from the Commerce Department by July 20, we could lose that $8 million contract.

Motorola has already lost $15 million worth of two-way radio sales to India, and could lose hundreds of millions in more export opportunities to upgrade India's communication system because of the Eximbank sanctions. Three thousand employees work at the Harvard, Illinois plant making telecommunications equipment for Motorola.

That is why we need to rethink our whole philosophy towards sanctions. Why would we try to punish a country for doing something wrong, and we end up punishing our own workers, when that country in fact can end up buying the same materials from other countries?

Mr. HAMILTON. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Minnesota (Mr. MINGE).

Mr. MINGE. Mr. Speaker, I thank the distinguished gentleman from Indiana for yielding time to me.

Mr. Speaker, the bill that is under consideration is an emergency response in an emergency situation. We have seen the reemergence of an agricultural depression in this country.

Among other areas that have been hit are wheat producing communities in the Red River and west. It has hit areas of Texas. It is critical that when our producers are in financial distress, we not attempt unilateral sanctions against other countries in this world that are doomed to failure.

Unfortunately, the unilateral sanctions we have announced against India and Pakistan do not appear to be destined for effectiveness, because other countries which are competitors in selling agricultural commodities are more than willing to come in and replace American farmers as the suppliers of those commodities; in this case, wheat.

I would urge my colleagues to carefully review this situation, and understand that as much as all of us abhor the spread of nuclear weapons and nuclear testing, that what we need to make sure is that we act responsibly here and we not use a bludgeon that is designed to be ineffective, and in many cases come back and hit ourselves and inflict a mortal wound on our own producers, when what we are trying to do is to emphasize to India and Pakistan and other countries of the world that this country does not tolerate continued nuclear testing.

This bill is a bill that ought to pass today. It ought to be signed by the President yet this week. We ought to be able to go ahead and move these agricultural commodities this week so our farmers do not have this impediment to their success in 1998.

Mr. BEREUTER. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Washington (Mr. NETHERCUTT), who was, of course, the Member who first took legislative action for the successful Subcommittee on Agriculture, Rural Development, Food and Drug Administration, and related agencies on the Committee on Appropriations.

Mr. NETHERCUTT. Mr. Speaker, I thank the gentleman very much for yielding.

Mr. Speaker, I am pleased to rise in support of this bill today. As the gentleman from Nebraska (Mr. BEREUTER) stated, he and I and the gentleman from Kansas (Mr. MORAN) and the gentleman from North Dakota (Mr. POMEROY) and many others from farm country introduced this sanctions exemption legislation over a month ago in anticipation of the effect of the Arms Export Control Act upon the agriculture industry in this country.

I, representing the State of Washington, am particularly affected by the seriousness of this sanctions policy that was adopted in 1994. I must say, I was just home in Pullman, Washington, and Walla Walla and Davenport, and some of the very high quality farm wheat-producing parts of my State and our country.

I must say to my colleagues, there is great concern about the effect of sanctions upon American agriculture; most particularly, our relationship with the countries of Pakistan and India. Pakistan is a very important trading partner to the State of Washington. We export 90 percent of our wheat in our State, soft, white wheat, and Pakistan has been a very good customer.

As we in this country have learned in the 1980's with the embargo of the Soviet Union, the self-imposed embargo, the unilateral sanctions that were imposed cost my State and my region dramatically. We lost market share in that part of the world that we are still struggling to recover. I must say, I am very supportive of this bill.

We struggled with the cost issue. We passed this legislation, we not only introduced it a month or so ago but we passed it in the Subcommittee on Agriculture, Rural Development, Food and Drug Administration, and Related Agencies on which I serve on the Committee on Appropriations in a bipartisan way, we passed it in the full committee, and it has passed the full House. We just did not have a chance to get it worked out on a cost payment basis through the agriculture appropriations conference.

The Senate has not finished their work yet. The other body has not finished its work yet. I respect the other body for bringing this bill to the floor, but we are going to do our best to make sure that all is fair and square regarding cost.

The most important thing is if Pakistan buys wheat on the market Wednesday, tomorrow, with their tender, it is critically important that we do not interrupt that ability by Pakistan to deal with American farm interests. If we do not lift these sanctions and have it in place by today, then we lose. Our farmers are unilaterally going to lose because our market would be shut off by these sanctions in position.

I must say to my colleagues, let us struggle through the cost part of this sanctions issue and lifting the sanctions issue, but we must stand up for our agricultural interests and the farmers of my State and Nebraska and Kansas and every other State that deal with agriculture, or else our farmers are in great jeopardy.

I am pleased to speak in favor of this bill, and urge its adoption by this House.

Mr. HAMILTON. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Texas (Mr. STENHOLM).

Mr. STENHOLM. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, I rise in strong support of S. 2282. It is clear to me that the sanctions provisions of the Arms Export Control Act were never intended to limit the use of the Export Credit Guarantee Program. Nevertheless, I support clarification of the Act because of the uncertainty, as we have heard, of the U.S. wheat market.

Indeed, the Assistant to the President for National Security Affairs has recently sent a letter to the Congress indicating the Administration's strong support for this clarifying provision. In plain English, what we are saying is that it really does not make any common sense for the United States to unilaterally impose sanctions upon our producers and allow our friends and allies to make a sale.

As we have heard, the criticalness, the timeliness of this indicates we need to pass this and send this to the President for his signature very quickly.

□ 1715

Mr. GILMAN. Mr. Speaker, I yield 1 minute to the gentleman from Nebraska (Mr. BARRETT).

Mr. BARRETT of Nebraska. Mr. Speaker, I thank the gentleman for yielding me the time.

I also rise in support of this legislation. I do support the use of sanctions as a foreign policy tool, but I believe that the USDA has used them all too frequently.

The bill we are considering today would allow USDA to guarantee U.S. wheat sales to Pakistan and to India. Without the bill, American farmers would not be able to sell their product.

As has been mentioned by my colleagues from Illinois and Washington, Pakistan is expected to request bids for wheat very soon, possibly as early as tomorrow. This could involve nearly $40 million in sales of U.S. wheat.

I have examined the proposals to address the crisis in American agriculture, Mr. Speaker. There are some producers out there that are hurting; there is no question about it. I do not believe that the proposed solutions we are hearing about will do as much good as some believe. The so-called solutions would only rechain American agriculture to the dictatorial whims of our government.

However, the Federal Government, Congress and the executive branch, must live up to the promises of the 1996 Farm Bill or we could face a crisis. We must commit to a long-term, focused trade agenda. We need to expand our markets, enhance markets and find new markets.

It is a good bill. I hope the body will support it.

Mr. HAMILTON. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from California (Mr. DOOLEY).

Mr. DOOLEY of California. Mr. Speaker, I rise today in support of S. 2282 and ask my colleagues to support this important bill. This bill, which passed the Senate last week by a vote of 98 to 0, makes important changes in the 1994 Arms Export Control Act to allow India and Pakistan to continue to use U.S. guaranteed loans to import American food, fertilizer and other agriculture commodities.

The immediate beneficiaries of this legislation will be the wheat farmers in the Pacific Northwest who will be able to participate in the upcoming auction for 350,000 metric tons of white winter wheat to be sold to Pakistan.

While I support this legislation, I feel, unfortunately, that it does not go far enough, because it seems unlikely that India and Pakistan will be interested in purchasing U.S. agriculture products over a long term if we continue to prohibit the sale of other higher-value products to these countries.

While I have been listening to the remarks of some of my colleagues here, I find it difficult to see how we can rationalize that if it makes sense and it is in the interest of U.S. farmers to allow for their exportation of products to countries that are subject to sanctions, why does it not make sense for us to eliminate the sanctions on the production of any other U.S.-produced commodity or product?

Clearly, it is in the interest of U.S. workers and U.S. companies to eliminate sanctions that penalize our working men and women. That is why we need to go further, why we need to support the legislation introduced by our colleagues, the gentleman from Indiana (Mr. HAMILTON) and Mr. Sharp, that we can provide a better framework for future U.S. economic sanctions policy.

When we go beyond the sanctions, we have to move forward aggressively with our other trade issues and turn to the full funding of the International Monetary Fund, the passage of China most-favored-nation as well as the eventual passage of fast track authorization for the President.

I thank the gentleman for the opportunity to speak in support of S. 2282.

Mr. GILMAN. Mr. Speaker, I yield 1 minute to the gentleman from Kansas (Mr. MORAN).

Mr. MORAN of Kansas. Mr. Speaker, I thank the gentleman from New York for yielding me the time.

The timing on this legislation is important. S. 2282 needs to pass quickly and today. We need to resolve any differences with the Senate, and this legislation needs to be signed by the President. Not only is the timing important but Pakistan is important, 350,000 tons is up tomorrow for export tender, and our wheat farmers in Kansas as well as across the country cannot afford to lose one more market.

Price is low, as we know. Storage is a problem in Kansas. Transportation is a problem in Kansas. We need to move wheat on world markets to assist in improving the price, opening up storage and moving grain in our transportation system. It is necessary to have a boost in foreign sales, and perhaps that boost will translate into higher prices for wheat sold on the markets across this country.

This sets the stage for reducing trade barriers. It opens up the opportunity, sends a clear message to the rest of the world that we care about fighting on behalf of agriculture, and it also reminds us that sanctions do not work.

The gentleman who spoke previously is correct. We need to take the next step in regard to the Agricultural Export Act and the Sanctions Reform Act.

I urge passage of this bill quickly.

Mr. BEREUTER. Mr. Speaker, I yield 2 minutes to the gentleman from Washington (Mr. HASTINGS).

Mr. HASTINGS of Washington. Mr. Speaker, I would like to thank all the Members who have worked on this measure, particularly the gentleman from New York (Mr. GILMAN), the gentleman from Oregon (Mr. SMITH) and my colleague, the gentleman from Washington State (Mr. NETHERCUTT). Without their leadership on this issue, we would not be here today considering this important measure.

Right now, the wheat producers of Washington State are facing wheat prices that are below the cost of production. This means that they can either choose to sell for a loss or store their wheat in hopes that prices will return to a higher level. Many of these growers have been waiting around for months for the price to climb. It has not. Now is the time to act.

Unfortunately, with the test of the nuclear weapons by both India and Pakistan, the Arms Control Act Mandates certain economic sanctions. Mr. Speaker, let me be clear, I wholeheartedly condemn the escalation of the arms race between India and Pakistan. I do not believe the way to send a message is to unilaterally cut off trade of our producers. That is precisely what will happen if we do not pass this bill before us today.

It is important to note that Pakistan is a number one foreign purchaser of wheat from the northwest, over 35 percent. Without the guarantees that are offered by the credits, the Department of Agriculture, Pakistan will purchase billions of dollars of wheat from other countries such as Australia and Canada. They are not bound by these outdated laws on our books.

So I would like to emphasize the timeliness of this legislation. If we do not pass this legislation today or the Senate does not follow suit immediately, our producers will be unable to participate in the upcoming rounds of purchases by Pakistan, and we will have missed another key opportunity to help our foreign farmers.

Mr. Speaker, I just want to reiterate what has been said here today. This legislation is very, very important to our agriculture industry but particularly to the wheat industry in my State.

Mr. HAMILTON. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from North Dakota (Mr. POMEROY).

Mr. POMEROY. Mr. Speaker, I thank the gentleman for yielding me the time.

I just returned today from 3 weeks in North Dakota. I want my colleagues to understand just how desperately dire the farm situation is in my State and throughout the upper Great Plains.

We are absolutely ravaged by the twin disasters of very difficult times producing a crop and then a horribly insufficient price once you get a few bushels to market. In fact, let us focus on the price problem for purpose of the debate before us.

Price adjusted for inflation for wheat is at its lowest point in 50 years, this in the face of input costs that have gone up 71 percent since 1992. Under that new farm bill, we have done terrible damage to any functioning safety net for agriculture, as the farmers in my region are so tragically demonstrating.

That means we have to do everything possible to try and get that price up. That is why I was so pleased to join the gentleman from Washington (Mr. NETHERCUTT) in initiating the legislation that is substantially what is before us this afternoon and why we must act and must act now.

The USDA has done some brilliant work using the GSM loan program to advance wheat sales. With Pakistan representing potentially 10 percent of our wheat export market, it is vital that we do not lose a day, that we do not lose one sale by virtue of having this GSM program opportunity disrupted by application of the Arms Export Control Act.

I have read that act and I, for the life of me, do not really see why we could not have gone forward with this anyway, but the administration has ruled that we needed legislation. So let us pass the legislation and let us pass it today.

We should not continue this "hurt America first" policy which is the unfortunate aspect of applying sanctions on our agriculture exports. We need this legislation. Please join me in voting for it.

Mr. HAMILTON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. GILMAN. Mr. Speaker, I yield 2 minutes to the gentleman from Nebraska (Mr. BEREUTER).

Mr. BEREUTER. Mr. Speaker, I thank the gentleman for yielding me the time.

I thought I would try to set some context for why the removal of this sanction is so important. Among the things that has happened that is very much on our minds are the ramifications of the Asian financial crisis. We have seen a dramatic cutback in agriculture exports from this country to Asia. One of the reasons for that reduction, of course, is not only the absolute cutback of the imports by those Asian countries, but it also reflects the fact that the American currency versus the Australian, the Canadian and the European currencies is now more valuable; therefore, our export commodities and processed food products are less competitive in price than they were just a few months ago.

Thus we not only have an overall reduction in the imports of agriculture commodities by these countries, we actually have American exports a bit less competitive than they were. This reduction in imports and the reduced competitiveness of our exports have had a dramatic and negative impact upon our trade. That is why this legislation, before us today is so important. We especially cannot afford to lose those Pakistani or Indian agricultural export markets at this time. There is no reason why economic sanctions should fall on the backs of the American farmer. I would imagine that it was not, the intention of the original sanction legislation.

I thank the gentleman for yielding me the time.

Mr. GILMAN. Mr. Speaker, I yield the balance of my time to the gentleman from Oregon (Mr. SMITH), distinguished chairman of our Committee on Agriculture.

Mr. SMITH of Oregon. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, having just arrived from a long airplane trip from Oregon, I can tell my colleagues that the eyes of the Pacific Northwest are upon us at this time.

The urgency, I know, has been identified here, but, for instance, Pakistan is on the verge of a purchase of some 350,000 metric tons of wheat. I am sure it has been identified that sanctions were never to include food purchases and even the unintended result was voiced by the administration when the President has introduced this and supported this kind of legislation.

So, without further ado, Mr. Speaker, we hope that we can rush this along, even move it to the other body within the hour and it can become law, a great benefit, by the way, to a great country that needs to sell wheat, the United States, and a great country, Pakistan, who, by the way, is buying wheat for half the price it paid last year. Both our benefits are met.

Mr. KOLBE. Mr. Speaker, I rise in strong support of S. 2282, the Agriculture Export Relief Act of 1998. This bill will allow our agriculture exporters to continue to sell food and fertilizer to India and Pakistan, both of whom are subject to sanctions under the Arms Export Control Act for conducting nuclear tests.

Let's be clear here. This is not an argument about either of these countries conducting nuclear tests and raising tensions in this region of the world. I deplore their unilateral decisions to conduct tests, and urge both countries to comply with the nuclear non-proliferation treaty. But, without this legislation, our farmers will be shut out of these growing export markets, unable to sell their products, and thus unable to meet their own financial obligations. This could lead to job losses and bankruptcies throughout rural America.

The sad truth is that we created this problem ourselves. We enacted a sanctions law with noble purposes—among them stopping the spread of nuclear weapons. Unfortunately, this law, like most laws imposing unilateral sanctions, didn't work. It didn't stop India and Pakistan from nuclear testing. Yet our farmers and ranchers continue to pay the price.

Unfortunately, this Congress seems to be far more willing to impose unilateral economic sanctions as the foreign policy solution to practically all of our international problems. And the fact is—they rarely work! When we pull out of a foreign market or refuse to trade with foreign countries our foreign competitors love it! U.S. products are quickly and easily replaced by foreign goods while U.S. business is forced to stand on the sidelines. And, unfortunately, unilateral sanctions rarely result in the political changes we want.

Now I am not saying that economic sanctions should never be imposed. They can be an effective tool of foreign policy, particularly when applied selectively and multilaterally. But we in Congress should remember that they are just a tool—not the ultimate solution.

I would urge my colleagues to support this bill. I also hope many of you will take a hard look at a measure introduced by myself, Representative HAMILTON and Representative CRANE—the Enhancement of Trade, Security, and Human Rights through Sanctions Reform Act. Our legislation would not stop Congress from imposing sanctions, but would require a careful analysis of sanctions' costs and benefits before they are imposed. It would provide a rational, reasoned approach to our sanctions policy to help make sure that we do not find ourselves once again in the difficult situation we are trying to fix today.

Mr. GILMAN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SHIMKUS). The question is on the motion offered by the gentleman from New York (Mr. GILMAN) that the House suspend the rules and pass the Senate bill, S. 2282, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

A motion to reconsider was laid on the table.

COMPREHENSIVE NATIONAL ENERGY STRATEGY—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Commerce:

To the Congress of the United States:

I am pleased to transmit the Comprehensive National Energy Strategy (Strategy) to the Congress. This report required by section 801 of the Department of Energy Organization Act (Public Law 95–91; 42 U.S.C. 7321(b)), highlights our national energy policy. It contains specific objectives and plans for meeting five essential, common sense goals enumerated in the accompanying message from Secretary Peña.

Energy is a global commodity of strategic importance. It is also a key contributor to our economic performance, and its production and use affect the environment in many ways. Thus, affordable, adequate, and environmentally benign supplies of energy are critical to our Nation's economic, environmental, and national security.

The Strategy reflects the emergence and interconnection of three preeminent challenges in the late 1990s: how to maintain energy security in increasingly globalized energy markets; how to harness competition in energy markets both here and abroad; and how to respond to local and global environmental concerns, including the threat of climate change. The need for research and development underlies the Strategy, which incorporates recommendations of my Committee of Advisors on Science and Technology (PCAST) for improvements in energy technologies that will enable the United States to address our energy-related challenges. Advances in energy technology can strengthen our economy, reduce our vulnerability to oil shocks, lower the cost of energy to consumers, and cut emissions of air pollutants as well as greenhouse gases.

This Strategy was developed over several months in an open process. Three public hearings were held earlier this year in California, Texas, and Washington, D.C., and more than 300 public comments were received. This Strategy is not a static document; its specifics can be modified to reflect evolving conditions, while the framework provides policy guidance into the 21st century. My Administration looks forward to working with the Congress to implement the Strategy and to achieve its goals in the most effective manner possible.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *July 14, 1998.*

☐ 1730

26TH ANNUAL REPORT ON FEDERAL ADVISORY COMMITTEES, FISCAL YEAR 1997—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore (Mr. BARRETT of Nebraska) laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Government Reform and Oversight.

To the Congress of the United States:

As provided by the Federal Advisory Committee Act (FACA), as amended (Public Law 92–463; 5 U.S.C. App. 2, 6(c)), I am submitting the *Twenty-sixth Annual Report on Federal Advisory Committees*, covering fiscal year 1997.

Consistent with my commitment to create a more responsive government, the executive branch continues to implement my policy of maintaining the number of advisory committees within the ceiling of 534 required by Executive Order 12838 of February 10, 1993. As a result, the number of discretionary advisory committees (established under general congressional authorizations) was held to 467, or 42 percent fewer than those 801 committees in existence at the beginning of my Administration.

Through the advisory committee planning process required by Executive Order 12838, the total number of advisory committees specifically mandated by statute has declined. The 391 such groups supported at the end of fiscal year 1997 represents a 4 percent decrease over the 407 in existence at the end of fiscal year 1996. Compared to the 439 advisory committees mandated by statute at the beginning of my Administration, the net total for fiscal year 1997 reflects an 11 percent decrease since 1993.

Furthermore, my Administration will assure that the total estimated costs to fund these groups in fiscal year 1998, or $43.8 million, are dedicated to support the highest priority public involvement efforts. We will continue to work with the Congress to assure that all advisory committees that are required by statute are regularly reviewed through the congressional reauthorization process and that any such new committees proposed through legislation are closely linked to national interests.

Combined savings achieved through actions taken by the executive branch to eliminate unneeded advisory committees during fiscal year 1997 were $2.7 million, including $545,000 saved through the termination of five advisory committees established under Presidential authority.

During fiscal year 1997, my Administration successfully worked with the Congress to clarify further the applicability of FACA to committees sponsored by the National Academy of Sciences (NAS) and the National Academy of Public Administration (NAPA). This initiative resulted in the enactment of the Federal Advisory Committee Act Amendments of 1997 (Public Law 105–153), which I signed into law on December 17, 1997. The Act provides for new and important means for the public and other interested stakeholders to participate in activities undertaken by committees established by the Academies in support of executive branch decisionmaking processes.

As FACA enters its second quarter-century during fiscal year 1998, it is appropriate for both the Congress and my Administration to continue examining opportunities for strengthening the Act's role in encouraging and promoting public participation. Accordingly, I am asking the Administrator of General Services to prepare a legislative proposal for my consideration that addresses an overall policy framework for leveraging the public's role in Federal decisionmaking through a wide variety of mechanisms, including advisory committees.

By jointly pursuing this goal, we can fortify what has been a uniquely American approach toward collaboration. As so aptly noted by Alexis de Tocqueville in *Democracy in America* (1835), "In democratic countries knowledge of how to combine is the mother of all other forms of knowledge; on its progress depends that of all the others." This observation strongly resonates at this moment in our history as we seek to combine policy opportunities with advances in collaboration made possible by new technologies, and an increased desire of the Nation's citizens to make meaningful contributions to their individual communities and their country.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *July 14, 1998.*

BIPARTISAN CAMPAIGN INTEGRITY ACT OF 1997

The SPEAKER pro tempore. Pursuant to House Resolution 442 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 2183.

□ 1730

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 2183) to amend the Federal Election Campaign Act of 1971 to reform the financing of campaigns for elections for Federal office, and for other purposes, with Mr. SHIMKUS (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the Committee of the Whole rose on Friday, June 19, 1998, pending was an amendment numbered 82 by the gentleman from California (Mr. DOOLITTLE) to amendment number 13 by the gentleman from Connecticut (Mr. SHAYS). Is there further debate on the amendment?

Mr. DOOLITTLE. Mr. Chairman, I ask unanimous consent to strike the requisite number of words.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. DOOLITTLE. Mr. Chairman, this is the amendment that basically protects voter guides to be distributed by groups. The Shays-Meehan bill severely chills the freedom of speech in this regard and places restrictions that will subject anybody currently distributing voter guides to second-guessing by a Federal czar, and the imposition of sanctions should the second-guessing be interpreted as a violation of the provisions of the Shays-Meehan law.

For this reason I have offered this amendment to make clear that organizations that do voter guides are exempt from the application of this law and may continue to issue their voter guides without fear of chilling their freedom of speech or of being intimidated. And the intimidation that I am talking about is the intimidation of having to spend $400,000 or $500,000 in attorneys' fees and months of disruption of schedules preparing for depositions, et cetera, for the act of exercising their right of free speech protected by our United States constitution, and which I feel the Shays-Meehan bill impinges upon. For that reason I have offered this amendment.

I have, Mr. Chairman, an illustration of a voter guide. If I may, I am going to switch positions here to bring that up and illustrate it. This is an illustration of a 1994 Christian Coalition voter guide for the Iowa Congressional district, district number 4, the district of the gentleman from Iowa (Mr. GANSKE). This is distributed, as I am sure Members know, typically in churches.

The Christian Coalition describes itself as a pro-family organization. This includes different positions on issues, from Federal income taxes, the balanced budget amendment, taxpayer funding of abortion, parental notification for abortions by minors, voluntary prayer in public schools, homosexuals in the military, promoting homosexuality to schoolchildren.

Now, the Shays-Meehan language that my amendment seeks to replace says that an organization can only do voter guides in an educational manner, and in a way that no reasonable person could conclude that that group is advocating the election or defeat of a candidate. Well, it is quite clear from the context of this voter guide, it is distributed in churches, and the Christian Coalition describes itself in a statement down here, as a pro-family citizen action organization, quote-unquote.

So when we take those words in context, then, when they rank somebody as having a position on homosexuality in the schools or on abortion, that ranking could be interpreted by the Federal czar as advocating the defeat of a candidate and, therefore, as being proscribed. My amendment just protects this voter guide.

And I have heard several supporters, or I understand several supporters of Shays-Meehan have indicated in their opinion that this type of thing could continue to be distributed. I am just saying that based on the reading of the law as being proposed by Shays-Meehan and their supporters, it would not be allowed. That is why I am offering my amendment, to make clear that this can be allowed, so that organizations who do voter guides can characterize the positions of the candidates.

The gentleman from Texas (Mr. DELAY) is going to bring up here another one from the NAACP, and that has zeros and heroes, I believe is the characterization. I think that ought to be able to continue to be allowed. It would be proscribed under Shays-Meehan. And for that reason, I think it needs to be amended in the way that I have proposed in order to allow the unfettered discussion to occur near election time by organizations exercising their first amendment rights to comment on candidates and on elections.

And that basically, Mr. Chairman, is the purpose of my amendment.

Mr. CARDIN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, what the previous speaker was indicating with the voter guide can easily be made available under the Shays-Meehan bill. It is not a problem in getting that type of voter guide out. It easily can be done, either in the method it is, or by very minor modifications. The problem with the amendment before us is that it would allow almost anything to be sent out and would gut the protection on express advocacy in the Shays-Meehan bill. That is the reason why we must oppose it.

There is already a provision in the underlying bill that allows for voter guides. Voter guides are permitted if they present information in an educational manner solely about the voting record or position of a candidate on a campaign issue of two or more candidates, that is not made in coordination with the candidate's political party or agent of the candidate or political party. There are specific provisions in Shays-Meehan that would allow it.

The amendment before us would gut an essential provision in the bill. It would not allow voter guides, it would allow just about any type of express issue advocacy without the restrictions that are currently contained in the Shays-Meehan bill.

Mr. Chairman, what we are trying to do here is bring forward a reasonable campaign finance reform proposal that has bipartisan support, that deals with issue advocacy, that deals with soft money, that deals with some of the other problems that we all agree need to be addressed. The Shays-Meehan bill will do that. The amendment before us does not permit voter guides, the amendment before us would gut the provision that deals with issue advocacy in the underlying bill.

If there was a need to adjust the language for voter guides, let us talk about it. But that is not what this amendment would do. Voter guides are permitted under the underlying bill. This amendment is unnecessary. It jeopardizes the ability for a bipartisan bill. I urge my colleagues to reject the amendment.

Mr. SHAYS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, first I wanted to say to my colleagues that this afternoon we continue the effort to restore integrity into the campaign process. The substitute proposed before the chamber, the Meehan-Shays proposal and McCain-Feingold in the Senate, seeks to ban soft money, the unlimited sums by individuals, corporations, labor unions and other interest groups. It seeks to recognize sham issue ads as they are, campaign ads, and put them under the campaign law. It seeks to codify Beck. It seeks to improve the FEC disclosure and enforcement. It seeks to ban district-wide franking 6 months to an election. And it seeks to ban foreign money and fund-raising on government property.

We have an amendment before us right now which basically seeks to gut the second part of our proposal dealing with the sham issue ads. Now, the voter guide that the gentleman from California (Mr. DOOLITTLE) put forward is legal under Meehan-Shays. The language in our bill is clear. In printed communication the term express advocacy does not include. In other words, it is not a campaign ad, does not come under the campaign law if it is a printed communication that, one, presents information and educational matter solely about the voting record or position on a campaign issue of two or more candidates, and, two, that is not made in coordination with a candidate, political party or agent of that candidate or party, or a candidate's agent or a person who is coordinating with a candidate or a candidate's agent. That voter guide is not done in coordination. It is showing the voting record of a candidate.

What the gentleman from California seeks to do is take out the very language that I read that is in the Meehan-Shays substitute. So we need to recognize that, one, he is incorrect when he states it would not allow for the voter guide. It would. And the language is in our substitute to allow it. He, in fact, seeks to take it out.

Mr. Chairman, we have lots of amendments that are going to come before us, and it is difficult to try to describe amendments that are totally gutting of our proposal; those that, while we would recommend they not pass, would not do serious harm. There are others that would actually maybe help the bill and we would urge their being supported. This is an amendment, however well intended, that is gutting Meehan-Shays, which would then break down the coalition that exists of a majority of Congress to pass Meehan-Shays, and it needs to be defeated. It would gut the sham issue ads.

The sham issue ads are those ads that are clearly campaign ads. They are the ads that seek to have someone vote for or against an individual, and they should come under the campaign law. When they come under the campaign law, those groups can advertise and encourage someone to vote for or against, but they do it under the campaign law.

So I sincerely request this chamber and the Members who are paying attention outside this chamber to recognize that the Doolittle proposal is a gutting proposal. It would destroy the integrity of the Meehan-Shays amendment and would not do what it says it would do. And what it says it would do is the allow for the voter guides. In fact, the bill presently allows for voter guides.

Mr. LEVIN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, this Congress is on trial. With each election, big money is talking bigger and the voice of the average citizen is growing smaller.

This amendment, as has been said, is not essentially about voter guides. The caption says it is about voter guides, but it goes way beyond it. It says the term express advocacy, and we are now talking about these ads that are really campaign ads, that it shall not apply with respect to any communication which provides information or commentary on the voting record or positions on issues taken by any individual holding Federal office or any candidate for election for Federal office unless the communication contains explicit words expressly urging a vote for or against any identified candidate or political party. So this, as the gentleman from Connecticut (Mr. SHAYS) has said, guts the express advocacy provisions of this bipartisan bill.

Next, this is not a question about banning anything. The question is whether voter guides under any circumstances should fall within the regulations of Federal elections that are now in place: the limits on contributions and also disclosure.

□ 1745

So I just want to make it clear. Voting guides are permitted in terms of the Federal system under Shays-Meehan. The only contrary case would be where they clearly are a campaign document and not essentially otherwise, where the only reason they are not arguably a campaign document is because they do not say the word "elect" or "defeat," Mr. DOOLITTLE presents on the floor a voter guide. Now, if it were clearly a campaign document and it just left out the words "defeat" or "elect," I guess he would say, that is fine, unrestricted amounts without disclosure. But the point is that Coalition document would not fall within the language of Shays-Meehan placing it under Federal regulation in any event.

Now, I just want to say a word about the reference to the gentleman from Iowa (Mr. GANSKE) and tell my colleagues what this amendment is all about. Here is an ad in 1996 by the League of Conservation Voters about the gentleman from Iowa (Mr. GANSKE). I want to read it.

"It is our land, our water." This was a TV ad. "America's environment must be protected. But in just 18 months, Congressman GANSKE has voted 12 out of 12 times to weaken environmental protections. Congressman GANSKE even voted to let corporations continue releasing cancer-causing pollutants into our air. Congressman GANSKE voted for the big corporations who lobbied these bills and gave him thousands of dollars in contributions. Call Congressman GANSKE. Tell him to protect America's environment for our families, for our future."

Now, the amendment of the gentleman from California (Mr. DOOLITTLE) and the gentleman from Texas (Mr. DELAY) would essentially say that that kind of an ad could continue to be classified as a non-campaign ad without any disclosure and without any limits as to how much is spent simply because instead of saying after that clear attack on the gentleman from Iowa (Mr. GANSKE), it says, "call him, tell him." It does not say, "defeat." It says, "call him."

Now, I do not think anybody can reasonably argue that that was not a campaign ad. And what the gentleman from California (Mr. DOOLITTLE) is proposing is that we gut the provisions in this bipartisan bill so that for any amount at any point, any amount, any point, this kind of an attack ad could be continued without any Federal regulation at all as to amount or disclosure. That is why we are on trial here.

The CHAIRMAN pro tempore (Mr. SHIMKUS). The time of the gentleman from Michigan (Mr. LEVIN) has expired.

(By unanimous consent, Mr. LEVIN was allowed to proceed for 2 additional minutes.)

Mr. LEVIN. Because if we are serious about giving every citizen a voice and it not being submerged by big, undisclosed contributions, and I do not care if it is from corporations or from the labor movement or from wherever it comes, if they want that individual citizen to continue to have a real voice in America, we cannot vote for this amendment. We simply cannot vote for it.

Now, look, there may be some question about what the Supreme Court will eventually do. It has been 20 years since their decision. A lot has happened, including the explosion of these issue ads. One Circuit says we can regulate them. Another casts doubt on that. But we will leave that up to the courts.

What we should do is do what is right in terms of our obligations. Do not hide behind your theories of the First Amendment, especially when some of my colleagues not so recently rather glibly voted to amend it. We have here a question of the future health of this democracy.

I just want to conclude by reading from a nonpartisan study, the Annenberg study; and this is what it says. "This report catalogues one of the most intriguing and thorny new practices to come into the political scene in many years, the heavy use of so-called issue advocacy advertising by parties, labor unions, trade associations, and business, ideological and single issue groups during the last campaign. This is unprecedented and represents an important change in the culture of campaigns. To the naked eye, these issue advocacy ads are often indistinguishable from ads run by candidates."

I just want to read what the executive director of the NRA said about these. And I am not talking about the substance of their ads. I have no quarrel with them in terms of whether they should be permitted or not. That is not the issue.

The CHAIRMAN pro tempore. The time of the gentleman from Michigan (Mr. LEVIN) has expired.

(By unanimous consent, Mr. LEVIN was allowed to proceed for 1 additional minute.)

Mr. LEVIN. The question is whether they should come within the kind of regulation that now applies to ads that say "elect" or "defeat."

Here is the what the executive director of the NRA's Institute for Legislative Action said. "It is foolish to believe there is any practical difference between issue advocacy and advocacy of a political candidate. What separates issue advocacy and political advocacy is a line in the sand drawn on a windy day."

Now, look, I think Shays-Meehan protects voter guides like we presented here. If there is any question about that, let us have an amendment that relates to voter guides. Though I do not think it is necessary. But do not present an amendment that guts the entire issue advocacy provisions of this bipartisan bill.

Mr. PAUL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong support of this amendment. I want to compliment the gentleman from California (Mr. DOOLITTLE) for offering it.

Certainly, if nothing else, we ought to protect the rights of individuals and groups to distribute voter guides. There is an argument here whether or not it is actually doing this. But, obviously, the Member from California feels strongly that this is necessary in order to protect this right.

There has been a lot of talk here about soft money. I just often wonder about soft money. I know something about hard money. But this business of soft money and soft money automatically being bad is something we should think seriously about. Because so often when we are talking about soft money, we are talking about the people's money, their money, their property. Sure, it is a first amendment right. But there is also a property rights issue here. When people have money, they have a right to spend it; and if they want to spend it on a voters guide, they certainly ought to be able to do this.

So I think it is a very important amendment and we should pay close attention to this to make sure that we pass this amendment. The problem with attacking big money without knowing why there is big money involved in politics I think is the problem that we face. Big money is a problem. They are spending $100 million a month to lobby us in the Congress and hundreds of millions of dollars in the campaign, but nobody ever talks about why they are doing it.

There is a tremendous incentive to send all this money up here. Unless we deal with the incentive, we cannot deal with the problem. So, so far, almost all the talk that we have heard on this campaign finance reform is dealing with the symptom. The cause is Government is too big. Government is so big there is a tremendous incentive for people to invest this money. So as long as we do not deal with that problem, we are going to see a tremendous amount of money involved.

But what is wrong with people spending their own money to come here and fight for their freedom? What if they are a right-to-life group? What if they are a pro-gun-ownership group? What if they are a pro-property-ownership group? Why should they not be able to come and spend the money like the others have?

It just seems like they have been able to become more effective here in the last few years, and it seems like now we have to clamp down on them because they have an effective way to come here and fight for some of their freedoms back again.

So I think that we are misguided when we talk only about the money and not dealing with the incentive to spend the money, and that is big government. All the rules in the world will not change these problems. We had a tremendous amount of rules and laws written since the early 1970s and all it has done is compounded our problems.

So I think openness and reporting requirements to let people know where we are getting the money, let the people decide if we are taking too much from one group. But to come down hard and attack on individual liberty and the right for people to spend their money and the right for the people to distribute voters guides, I cannot say see how that is going to solve any problems. I mean, what are we doing here? I think it is total foolishness.

So I strongly endorse this amendment, and let us hope we can pass this amendment.

Mr. DOOLITTLE. Mr. Chairman, will the gentleman yield?

Mr. PAUL. I yield to the gentleman from California.

Mr. DOOLITTLE. Mr. Chairman, may I inquire as to how much time is remaining?

The CHAIRMAN pro tempore. The gentleman from Texas (Mr. PAUL) has 2 minutes remaining.

Mr. DOOLITTLE. I would like the gentleman from Michigan (Mr. LEVIN) or the gentleman from Connecticut (Mr. SHAYS) or someone from the side of the proponents of Shays-Meehan to explain to me why, in their opinion, the 1994 Christian Coalition voters guide is approved under Shays-Meehan. They say that so clearly, but it is quite clear to me that there is nothing clear about Shays-Meehan. I would like to have them specifically address themselves, instead of making the assertion and moving on, if they would please specifically address that illustration down there, which let us have it brought up in front of the House here, and explain to me why they think that that is protected.

If I were satisfied that that were protected by Shays-Meehan, I probably would not offer this amendment.

Mr. CAMPBELL. Mr. Chairman, will the gentleman yield?

Mr. PAUL. I yield to the gentleman from California.

Mr. CAMPBELL. I would like to take up the challenge offered.

If we take a look at the voter guide, the standards under Shays-Meehan are met. The voter guide is not express advocacy if it presents information in an educational manner solely about the voting record or position on a campaign issue with two or more candidates. It does. There are two candidates there, and it presents simply their positions on the issues.

Two, that it is not made in coordination with a candidate, political party, or agent of that candidate. We do not know if this was or not. But, obviously, there is nothing I can tell from the four corners of the document that it was.

And, lastly, that it not contain a phrase such as "vote for," "reelect," "support," or "cast a ballot for." And I again look to the document, and it has none of those words in it.

I rest my case.

The CHAIRMAN pro tempore. The time of the gentleman from Texas (Mr. PAUL) has expired.

(By unanimous consent, Mr. PAUL was allowed to proceed for 3 additional minutes.)

Mr. DELAY. Mr. Chairman, will the gentleman yield?

Mr. PAUL. I yield to the gentleman from Texas.

Mr. DELAY. The gentleman from California (Mr. CAMPBELL) fails to continue reading the language that concerns us the most. And the language says, it does not contain words that in context can have no reasonable meaning other than to urge the election or defeat of one or more cleared identified candidates.

This is where the rift is, where reasonable meaning. And we say that big government gets to decide, according to the language of the gentleman from California, what "reasonable meaning" is. And if I pass this out in a church, my opposition could very well say that, under reasonable understanding, that they are trying to sway the people in that church with this voter guide towards the gentleman from Iowa (Mr. GANSKE) on this voter guide. Therefore, they would have to come under Federal regulations.

Mr. DOOLITTLE. Mr. Chairman, will the gentleman yield?

Mr. PAUL. I yield to the gentleman from California.

Mr. DOOLITTLE. I would like to answer the gentleman from California (Mr. CAMPBELL) as well.

The gentleman from Texas (Mr. DELAY) is quite correct. He conveniently left out that key phrase.

I want to note that one of those points says promoting homosexuality to school children. And then down below in the real fine print, which no one can read from here, the Christian Coalition is described as a pro-family action organization, I believe is the phrase.

In context, I believe a reasonable person could conclude that a pro-family action organization does not think it is a good idea to promote homosexuality to schoolchildren and, therefore, that would fall under Shays-Meehan as being held to be applicable to their law and, therefore, would be banned.

I would like the gentleman from California (Mr. CAMPBELL) to explain to me his interpretation.

Mr. CAMPBELL. Mr. Chairman, will the gentleman yield?

Mr. PAUL. I yield to the gentleman from California.

Mr. CAMPBELL. The phraseology in Shays-Meehan refers to the words, the phrases, the slogan, that in context can have no reasonable meaning other than to urge the election or defeat of one or more clearly identified candidates.

The example we have before us does not give any statement regarding whether it is a good position or a bad position to be in support or in opposition to any of the listed subject matters. Accordingly, it passes the test under Shays-Meehan.

More fundamentally, the language that the gentleman from California would put in instead of the narrowly tailored voter guide exception of Shays-Meehan says that any communication that makes a comment on any position on an issue, even by a single candidate, qualifies as a voter guide. It does not have to refer to a voting record, it can refer only to a position taken, and he extends it to the phrase "commentary."

□ 1800

Accordingly it is a Mack truck kind of exception. Virtually anything could be called a "voter guide."

The CHAIRMAN pro tempore (Mr. SHIMKUS). The time of the gentleman from Texas (Mr. PAUL) has expired.

(By unanimous consent, Mr. PAUL was allowed to proceed for 2 additional minutes.)

Mr. PAUL. Mr. Chairman, I yield to the gentleman from California (Mr. DOOLITTLE).

Mr. DOOLITTLE. Mr. Chairman, I listened to the gentleman's explanation. The phrase in this bill that he supports says that words in context have no reasonable meaning other than to urge the election or defeat. I would submit to my colleague that the words "office of promoting homosexuality in schools" where one candidate opposes it and one supports it, those words in conjunction with the Christian Coalition card, which in context is being distributed in churches and the card or the word says it is a Christian action organization, those would be deemed, or could be deemed, to constitute the context advocating the election of the gentleman from Iowa (Mr. GANSKE) and the defeat of his opponent.

Mr. GANSKE. Mr. Chairman, will the gentleman yield?

Mr. PAUL. I yield to the gentleman from Iowa.

Mr. GANSKE. Mr. Chairman, I appreciate the gentleman yielding, particularly since I was back in my office, and all of a sudden I saw my campaign reenacted on the floor here.

I oppose the Doolittle amendment. If I thought that the Shays-Meehan language would prohibit a voter guide like this one, I would not support the Shays-Meehan language. But when I read the Shays-Meehan language, it seems to me clear that this type of voter guide is okay; I mean, presents information in an educational manner about a voting record or a position on a campaign of two or more issues, and in terms of this particular item here, it refers to a vote that was made here.

Mr. PAUL. Mr. Chairman, I reclaim my time, and I yield to the gentleman from Texas (Mr. DELAY).

Mr. DELAY. Mr. Chairman, I just want to say, if that is the case for the gentleman from Iowa, then he ought to support Doolittle because Doolittle is very clear. In fact it uses Supreme Court language as his amendment that says that we can do voter guides unless we specifically advocate the election or defeat of a candidate.

There is no in-between, and Shays-Meehan is very ambiguous.

The CHAIRMAN pro tempore. The time of the gentleman from Texas (Mr. PAUL) has expired.

Mr. MEEHAN. Mr. Chairman, I move to strike the requisite number of words.

I think, Mr. Chairman, the evidence here is quite clear that the language does, in fact, in the Shays-Meehan bill, does allow this particular voter guide. That is why the amendment needs to be defeated.

There has been some arguments here that voter guides are unallowable. I think the evidence is overwhelming that the language does not say at all that they are not allowable. In fact, I would say that the gentleman from California (Mr. DOOLITTLE) was reading from the wrong section. The section says: expressly unmistakable and unambiguous support for our opposition; 2, one or more clearly identified candidates when taken as a whole and with limited reference to external events such as proximity to an election.

So it is overwhelmingly clear that this particular provision is nothing more than a smokescreen to try to defeat our bill.

Mr. GANSKE. Mr. Chairman, would the gentleman yield?

Mr. MEEHAN. I yield to the gentleman from Iowa.

Mr. GANSKE. Mr. Chairman, I think it is important that we pass legislation that deals with issue advocacy.

Once again, while I was watching from my office, I saw or heard about a campaign ad that was run against me in 1996. The text of the act reads:

> It's Orlando water. America's environment must be protected, but in just 18 months Congressman Ganske voted 12 times out of 12 to weaken environmental protections. He even voted to let corporations continue releasing cancer-causing pollutants in our air. Congressman Ganske voted for big corporations who lobbied these bills, gave them thousands of dollars in contributions. Call and tell him to protect bla bla bla.

That is clearly an issue ad. It is the type of ad that we need to get after in terms of this legislation. There is a great big difference between that type of issue ad and a voter registration, a voter guide, that is put out either by this organization or any other number of organizations, and I think that we should defeat the Doolittle bill.

Mr. LEVIN. Mr. Chairman, will the gentleman yield?

Mr. MEEHAN. I yield to the gentleman from Michigan.

Mr. LEVIN. Mr. Chairman, I applaud the gentleman from Iowa (Mr. GANSKE) for going back to his election. He won it, so it is a little easier than if he had lost it. But he is a Republican, I am a Democrat, but the last thing I would deny is that that ad that was run against him was a campaign ad.

I tried an ad like this out on a group of students. Every single one was amazed that anybody would call that anything but a campaign ad. Every single one, they could not believe that is the way we function in this democracy. And what the Doolittle amendment does is say it refers to voting records, but, as been said before by the gentleman from Massachusetts (Mr. MEEHAN) and the gentleman from Connecticut (Mr. SHAYS), the sponsors, and by the gentleman from California (Mr. CAMPBELL), this amendment goes miles beyond voting records or voting guides. It says any communication on any position on any issue taken by a candidate.

My colleague is trying to gut the issue advocacy provisions and essentially leave defenseless, if he does not or she does not have a lot of money to respond, an ad like was tried against the gentleman from Iowa (Mr. GANSKE), and there was no need for the person or the group that presented it to indicate who they were.

Mr. MEEHAN. Reclaiming my time, let me just give an example of what we are trying to provide, why we want to have this provision in. This is what the amendment would allow people to not have to disclose, where money comes from. This is what we are protecting. This is a Senate candidate.

> Senate candidate Winston Bryant's budget as Attorney General has increased by 71 percent. Bryant has taken taxpayer funded junkets to the Virgin Islands, Alaska and Arizona. And spent about $100,000 on new furniture. Unfortunately, as the state's top law enforcement official, he's never opposed the parole of any convicted criminal, even rapists and murderers. And almost 4,000 Arkansas prisoners have been sent back to prison for crimes committed while they were out on parole. Winston Bryant: government waste, political junkets, soft on crime. Call Winston Bryant and tell him to give the money back.

Now should not the person who had that ad and the organization at a minimum have to disclose where that money comes from? And is it not reasonable to assume that the intent of that particular advertisement was to influence that election? Of course. The only thing that we are looking to do in this legislation: when somebody wants to spend millions of dollars in races clear across this country and have that type of a negative ad, at a minimum, at a minimum, the American public has a right to know where the money came from.

Mrs. CHENOWETH. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, as my colleagues know, it may seem odd that I would be standing up here supporting the Doolittle bill because I can tell my colleagues this Congressman, as a candidate, had millions and millions of dollars of negative campaign ads targeted against her. The very ad that ran against the gentleman from Iowa (Mr. GANSKE) ran in my district, and I am very opposed to that kind of campaigning. It is despicable.

But the way to get at it is not through more confused and confusing rules and regulations, not through a bureaucracy, but through a full disclosure, which the Doolittle bill requires. The bill that I am an original cosponsor on requires full disclosure, and then it leaves it up to the voters to be able to make that determination as to what is truthful and what is correct, as they did in the gentleman from Iowa (Mr. GANSKE's) campaign and as they did in mine. I probably had more dollars, millions and millions of dollars, targeted at me from these very kinds of groups with those kinds of ads than any other congressional candidate in the Nation. And yet the voters in Idaho decided to cut to the chase and get to the bottom line. What my voters in Idaho did not have was who was really paying for those ads, and the Doolittle bill requires full disclosure because then it takes it out of the hands of the bureaucracy and puts it in the hands of the voters to make the final decision.

But if we are really going to cut to the chase, my colleagues, let us really define what this whole debate is about. It is about free speech. And even though I had a very uncomfortable campaign; I mean it was a carpet bombing, and it was mean, and it was vicious, and I did not like it at all, nevertheless, as a Congressman, my first responsibility is to protect the Constitution and free speech, and let me show you what this debate is really all about.

In Time Magazine, February 1997, what the minority leader said is what we have is two important values in direct conflict: freedom of speech and our desire for healthy campaigns in a healthy democracy. We cannot have both. Well, maybe in their narrow scope of regulate and rule and rule and regulate we cannot have both, but in a country of free people where the people make the decisions, of course we can have both, and that is what we must defend and protect.

The Washington Times really said it best in their June 5 editorial. They said if Congress wants to clean up the mess of money and politics, it should do so by encouraging free speech, free discussion and free debate. And that is the basis of good political activity in the United States of America.

Now the Doolittle amendment protects voter education guides and score cards, and we need to protect that very vital free speech. The Shays-Meehan substitute cuts to the very core of free speech that our Constitution so vigorously protects. It restricts the ability of organizations to engage in the freedom to educate the voters in this country. Whether we like it or not, we should protect free speech first. Not only does this prevent opportunities for the electorate to become more informed, but it violates the free-speech rights of all organizations, and organizations who are opposing a Helen Chenoweth as well as my opponent or anyone else still should have their free speech rights protected vigorously by this body.

But the Shays-Meehan language also dictates a narrow set of speech specifications under which elected officials would deign to allow citizens groups to disseminate their voting records, specifications that would effectively ban the score cards that we saw here before, Mr. Chairman, and voter guides typically distributed by issue-oriented groups, and do we want to restrict the rights of groups or individuals to place ads in the Washington Post or the New York Times expressing their support or opposition to a piece of legislation? The Shays-Meehan substitute would restrict these sorts of actions regardless of whether the communication is express advocacy. This is a blatant violation of the first amendment, and I really do strongly support the Doolittle amendment.

Mr. Chairman, Congress should not find ways to restrict speech or limit the information available to our voters. Instead we should be promoting free speech and encouraging an educated electorate. We are responsible for that.

The CHAIRMAN pro tempore The time of the gentlewoman from Idaho (Mrs. CHENOWETH) has expired.

(On request of Mr. WHITFIELD, and by unanimous consent, Mrs. CHENOWETH was allowed to proceed for 2 additional minutes.)

Mrs. CHENOWETH. What are we afraid of?

As my colleagues know, I trust the American people to make the right decision when they are well-informed. I have faith in my fellow citizens, and I urge my colleagues to vote for the Doolittle amendment. Do not restrict political participation by American citizens, do not restrict the fundamental rights to free speech, and do not destroy the most vital tool we have to maintain our representative government.

Mr. Chairman, I yield to the gentleman from Kentucky (Mr. WHITFIELD).

Mr. WHITFIELD. Mr. Chairman, I think many of us feel the way the gentlewoman feels, that many of us had ads run against us in the last campaign that we did not like.

□ 1815

But we do believe that is the right of organizations to do that. I was just curious, what were some of the organizations that ran ads against the gentlewoman in her last election?

Mrs. CHENOWETH. Mr. Chairman, reclaiming my time, the organizations that I know about are the national labor organizations and national environmental organizations who tried to do the same thing that they did to the gentleman from Iowa (Mr. GANSKE) by distorting the record. I believe we should have truth in advertising in everything that is put across the airwaves, but the Shays-Meehan bill does not address that. So we need to leave it to the voters and their great discretion.

MODIFICATION TO AMENDMENT NO. 82 OFFERED BY MR. DOOLITTLE

Mr. DOOLITTLE. Mr. Chairman, I ask unanimous consent to modify my amendment.

The CHAIRMAN pro tempore (Mr. SHIMKUS). The Clerk will report the modification.

The Clerk read as follows:

Modification to amendment No. 82 offered by Mr. DOOLITTLE:

The amendment is modified as follows:

In section 301(20)(B) of the Federal Election Campaign Act of 1971, as proposed to be inserted by the amendment, insert after "any communication" the following: "which is in printed form or posted on the Internet and".

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from California?

Mr. SHAYS. Mr. Chairman, reserving the right to object, will the gentleman explain the purpose of this proposed modification?

Mr. DOOLITTLE. Mr. Chairman, will the gentleman yield?

Mr. SHAYS. I yield to the gentleman from California.

Mr. DOOLITTLE. Mr. Chairman, it was my intent when we offered this to have it drafted in such a way as to protect the printed material or material on the Internet. It really was not my intent to go beyond that. The wording of the amendment arguably does go beyond that, so I offer this modification to conform the written language of what my intent clearly was.

Mr. SHAYS. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from California?

Mr. CAMPBELL. Mr. Chairman, reserving the right to object, I believe that every author of an amendment ought to have the right to put it in the way that he or she thinks is best, so I will not object. But my reason for reserving the right to object was to ask the gentleman from California, if he is going back and amending his amendment, the gentleman might recall the discussion that we had before the break, where I thought that inadvertently the gentleman had gone out and excluded, struck from the bill, the provision against coordination.

Truly, in the interest of just giving the gentleman the best shot at his amendment, if the gentleman is going to go back and amend his amendment, all it would take to get rid of that issue entirely would be to say that the gentleman is striking section 301(20)(B)(1) instead of (301)(20)(B), if one reads what I am saying.

I offer this merely from the point of view of helping. If my colleague and friend from California does not wish my assistance, then I have nothing further to add and would withdraw my objection to his unanimous consent request.

Mr. DOOLITTLE. Mr. Chairman, will the gentleman yield?

Mr. CAMPBELL. I yield to the gentleman from California.

Mr. DOOLITTLE. Mr. Chairman, in drafting the original amendment, which we are now seeking to modify, although we strike out the coordination language in this subsection B, I would just reference the gentleman from California (Mr. CAMPBELL) to the overall section 206, which deals with coordination of the candidates. Since that deals with providing anything of value, it was our experts' belief that that would still apply, and, therefore, it was not necessary to do it in the way the gentleman is suggesting.

Mr. CAMPBELL. Mr. Chairman, further reserving the right to object, I offer this in a friendly way. If the gentleman said strike section 301(20)(B)(1), instead of all of 301(20)(B), you would remove all ambiguity. If, however, it is the gentleman's choice, then so be it.

I think the gentleman does create a dangerous legislative history, which is that the bill presently says you may not coordinate an expenditure. The gentleman's amendment strikes the phrase saying you may not coordinate an expenditure and puts in something silent on coordinating an expenditure, and that degree of history is dangerous.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from California?

Mr. SHAYS. Mr. Chairman, reserving the right to object, I just wanted, one, to know the intent of my colleague, and also to say as a general principle, I think that anyone who offers an amendment should have the right to perfect it as they choose, so I really want to adhere to the concept that the gentleman from California (Mr. CAMPBELL) already expressed.

Mr. Chairman, I withdraw my reservation of objection, if this is the purpose of the gentleman.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. CAMPBELL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, my purpose for rising was to engage my friend from California in a discussion, if he would wish, and I will reserve at least the requisite number of 2 minutes for that.

Here is the main point: The Shays-Meehan bill itself does not prohibit voter guides. It would not reach them in its own words. What it does deal with is whether they can be funded by soft money or whether, if you are going to run an ad that really is a campaign ad, it ought to be under the same rules as a campaign ad: Namely, you have got to raise the money under the rules of disclosure and maximum contribution limits of the Federal Election Act. That is all that Shays-Meehan does.

To make it absolutely clear though, Shays-Meehan then puts in a provision saying we exempt from the definition of express advocacy, which would require that only hard money be used, the following kind of notification. Where it discusses a voting record, deals with more than one candidate, and it is in a context that is not clearly devoted to advocating voting for or against somebody. So if one takes a look at the bill, there is an exclusion in its construction for what is a voter guide, and there is, in addition, then an explicit exclusion for a voter guide.

My good friend and colleague, the gentleman from California (Mr. DOOLITTLE), proposes an alternative. As you just heard, I was anxious that the gentleman try to clarify his alternative further. Instead, however, we still have the draft that the gentleman presented us with which removes the language that a true independent voter guide not be coordinated with an individual candidate. So the legislative history, if the gentleman's amendment passes, will be quite clear, that preparers of a voter guide can indeed go ahead and coordinate with the candidate favored in such a guide.

That is just the first problem with this amendment. Here are the remaining problems.

The Doolittle amendment creates a loophole for "any communication in printed form, or printed on the Internet, which provides . . . commentary on . . . positions on issues taken by . . . any candidate for election for Federal office." I am going through and taking all of the "or" clauses and taking just one of the options at each "or" clause.

So, as a result, the exception supposedly for voting records now covers any communication providing any commentary on positions on issues taken by any candidate.

I submit to Members that campaign ads of the most garden variety fit this definition. Such an ad will "provide commentary," and, if it does not refer to an issue taken by the individual, it would be an amazing piece of literature: Vote against this person because we do not like the way he looks; vote against this person, because of what? All that needs to be, in order for this loophole to apply, is to be a communication offering a commentary on a candidate's position on an issue.

Now I would like to ask a hypothetical. The poor gentleman from Iowa (Mr. GANSKE), our good friend and colleague, does not deserve to have his campaign ad brought up once more, but so be it. Neal Smith was his opponent, and that voter guide said "Here is where Greg Ganske is on the issues and here is where Neal Smith is on the issues."

Suppose that the group in question, the Christian Coalition, put out a notification 1 week before the election, and all it said was, "Neal Smith is a terrible Congressman because he opposes voluntary school prayer."

I believe that would fit through your loophole, and I would yield to the gentleman from California to answer this question if he would care to. The ad I just read, "Neal Smith is a terrible Congressman because he opposes voluntary school prayer," would that fit within your supposed "voter guide" exception?

Mr. DOOLITTLE. Mr. Chairman, will the gentleman yield?

Mr. CAMPBELL. I yield to the gentleman from California.

Mr. DOOLITTLE. Mr. Chairman, I am not satisfied with the gentleman's response to me on the voter guide, why he thinks that is permitted by Shays-Meehan. Now the gentleman is asking me to comment upon his hypothetical.

Mr. CAMPBELL. Mr. Chairman, reclaiming my time, it is my time. I yield to my friend to answer if he chooses. If he chooses not, I am also happy.

Mr. DELAY. Mr. Chairman, will the gentleman yield?

Mr. CAMPBELL. I yield to the gentleman from Texas.

Mr. DELAY. Mr. Chairman, it is amazing to me that the gentleman would want to stop an American citizen from putting out anything that they wanted to have the opportunity to say, that Neal Smith is a terrible Congressman. I am not advocating defeat or anything.

Mr. CAMPBELL. Mr. Chairman, reclaiming my time, if the Whip would stay in the well, I would like to engage him; it just has to be a colloquy, not just one way.

The CHAIRMAN. The time of the gentleman from California (Mr. CAMPBELL) has expired.

(On request of Mr. DELAY, and by unanimous consent, Mr. CAMPBELL was allowed to proceed for 2 additional minutes.)

Mr. CAMPBELL. Mr. Chairman, the provision here is not that an ad shall be prohibited. The question here is whether soft money shall be allowed to pay for it. And a loophole designed for a voter guide——

Mr. DELAY. Mr. Chairman, if the gentleman will yield further on that point right there, the gentleman interrupted me, let me interrupt the gentleman on a point, because the gentleman claims it is soft money. No, it is money raised by Americans who want to participate in the political process and express themselves about positions or votes taken by Members of Congress or people wanting to be Members of Congress that the gentleman is trying to prohibit.

Mr. CAMPBELL. Mr. Chairman, reclaiming my time, I think the Whip puts it quite well. It is a debate on this issue. But let us call it that. Shall we have limits to how much money potentially can corrupt our campaign system or not?

A very legitimate different point of view from mine, but a very legitimate point of view, says no, let us not have any limits on campaign finance. That is actually the view I think espoused by the distinguished Whip.

But it is contrary to the whole idea of campaign finance reform. If we are for limiting the potentially corrupting influence of money, as we have in the law now, by a $1,000 maximum, then we should not create a loophole so huge as to permit the example that I gave to my friend from California, as I gave to my distinguished colleague and friend, the Whip from Texas. I yield back the balance of my time, unless my colleague wishes to answer my hypothetical.

Mr. BILBRAY. Mr. Chairman, will the gentleman yield?

Mr. CAMPBELL. I yield to the gentleman from California.

Mr. BILBRAY. Mr. Chairman, I think the distinguished Whip has articulated his position quite clearly. I think that, Mr. Chairman, there is a disagreement about how this process should work. I do not think money may absolutely corrupt, but it does influence, and there are those of us that feel we should limit that influence and those who feel we should not.

This, obviously, is an issue of a huge loophole and just how much resources are able to be funneled into a campaign process. I understand the gentleman who is introducing this amendment's position, because he feels that there should not be any limits, and I respect that.

But if we are going to have limits, and if we are going to enforce those limits, then we cannot have a huge loophole that allows groups to come in and circumvent the entire premise that there should be a limit on money's ability to influence elections, and maybe this amendment's whole concept is to create such a loophole, that it destroys the entire enforceability of the limit concept.

I appreciate the gentleman from California's position and the fact that we do not want to create a loophole.

Mr. THOMAS. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. WICKER) having assumed the chair, Mr. SHIMKUS, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2183) to amend the

Federal Election Campaign Act of 1971 to reform the financing of campaigns for elections for Federal office, and for other purposes, had come to no resolution thereon.

REQUEST TO LIMIT FURTHER DEBATE AND AMENDMENTS ON THIS DAY TO SHAYS AMENDMENT IN THE NATURE OF A SUBSTITUTE DURING FURTHER CONSIDERATION OF H.R. 2183, BIPARTISAN CAMPAIGN INTEGRITY ACT OF 1997

Mr. THOMAS. Mr. Speaker, I ask unanimous consent that during further consideration of H.R. 2183 on this day, pursuant to H. Res. 442 and H. Res. 485, the pending amendment which we have been discussing by the gentleman from California (Mr. DOOLITTLE) to the amendment in the nature of a substitute by the gentleman from Connecticut (Mr. SHAYS) be debatable for 30 minutes, equally divided and controlled by the proponent and an opponent. No other amendment to the amendment by the gentleman from Connecticut (Mr. SHAYS) shall be in order on this day, except the amendments that have been placed at the desk, which are as follows:

The amendment by the gentleman from Mississippi (Mr. WICKER); the amendment by the gentleman from New York (Mr. FOSSELLA); the amendment by the gentleman from Florida (Mr. STEARNS); the amendment by the gentleman from Mississippi (Mr. PICKERING); and the amendment by the gentleman from Texas (Mr. DELAY).

□ 1830

On this day, each amendment may be considered only in the order listed and may be offered only by the Member designated, or his designee, shall be considered as read, and shall be debatable for 30 minutes equally divided and controlled by the proponent and an opponent, and shall not be subject to a demand for a division of the question in the House or in the Committee of the Whole.

Mr. MEEHAN. Mr. Speaker, reserving the right to object.

The SPEAKER pro tempore (Mr. WICKER). Is there objection to dispensing with the reading of the amendments only?

Mr. MEEHAN. Mr. Speaker, reserving the right to object, we have been talking, at least before we left for the 2-week break, we were talking about a unanimous consent agreement on campaign finance reform. We had talked about a comprehensive agreement, an agreement that would result in us being able to complete campaign finance reform by the August recess on August 7; and, to that end, many of us met today and we had talked about agreeing to a unanimous consent agreement and making part of the unanimous consent agreement the fact that we would take up in August, the week of August 3 through 7, all of the substitutes that had been made in order, have an hour of debate for each of those, and then vote up or down on those substitutes.

I think, Mr. Speaker, if we look at how long it has taken us to get to this point in time and if we consider the fact that, under the rule, we could literally have 250 to 260 amendments, that it makes sense for us to try to come to an agreement on a comprehensive unanimous consent agreement that would result in not only discussing those amendments that we need to discuss but also a definite, definitive time and date, that is August 3 through 7, where we would vote on each of the substitutes.

So that is the unanimous consent agreement that I was hoping that we could get.

I know that the gentleman from California (Mr. THOMAS) had proposed limiting to 34 different amendments before we left. Now that we have a unanimous consent agreement for just one evening, I would point out that they are all Republican amendments, and two of the amendments, the Stearns and the Fossella amendment, are nearly identical or are at least pretty similar.

So it does not seem to make any sense to agree to a unanimous consent agreement for one day when, in fact, what we need here is some kind of a commitment and some kind of an agreement in writing that we can have a vote on the substitutes that have been offered here and have that vote before the August recess. I do not think I have to tell my colleagues how long this process has been ongoing over a period of the last several years.

Mr. DELAY. Regular order, Mr. Speaker.

The SPEAKER pro tempore. Regular order would be the reading of the amendments.

Does the gentleman from Massachusetts object to the reading of the amendments?

Mr. MEEHAN. Mr. Speaker, I object to the reading of the amendments. I object to the original request.

Mr. DELAY. Mr. Speaker, reserving the right to object.

The SPEAKER pro tempore. The gentleman is recognized.

Mr. MEEHAN. Mr. Speaker, I objected.

The SPEAKER pro tempore. Does the gentleman from Massachusetts object to the original unanimous consent request also?

Mr. MEEHAN. Yes, Mr. Speaker, I do.

The SPEAKER pro tempore. Objection is heard.

DESIGNATION OF HON. GEORGE R. NETHERCUTT, JR., TO ACT AS SPEAKER PRO TEMPORE TO SIGN ENROLLED BILLS AND JOINT RESOLUTIONS ON THIS DAY

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
July 14, 1998.

I hereby designate the Honorable GEORGE R. NETHERCUTT, Jr. to act as Speaker pro tempore to sign enrolled bills and joint resolutions on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

The SPEAKER pro tempore. Without objection, the designation is agreed to.

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 4104, TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT APPROPRIATIONS ACT, 1999

Mr. HASTINGS of Washington, from the Committee on Rules, submitted a privileged report (Rept. No. 105–622) on the resolution (H. Res. 498) providing for consideration of the bill (H.R. 4104) making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1999, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 3682, CHILD CUSTODY PROTECTION ACT

Mr. HASTINGS of Washington, from the Committee on Rules, submitted a privileged report (Rept. No. 105–623) on the resolution (H. Res. 499) providing for consideration of the bill (H.R. 3682) to amend title 18, United States Code, to prohibit taking minors across State lines to avoid laws requiring the involvement of parents in abortion decisions, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 3267, SONNY BONO MEMORIAL SALTON SEA RECLAMATION ACT

Mr. HASTINGS of Washington, from the Committee on Rules, submitted a privileged report (Rept. No. 105–624) on the resolution (H. Res. 500) providing for the consideration of the bill (H.R. 3267) to direct the Secretary of the Interior, acting through the Bureau of Reclamation, to conduct a feasibility study and construct a project to reclaim the Salton Sea, which was referred to the House Calendar and ordered to be printed.

BIPARTISAN CAMPAIGN INTEGRITY ACT OF 1997

The SPEAKER pro tempore (Mr. WICKER). Pursuant to House Resolution 442 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 2183.

☐ 1836

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 2183) to amend the Federal Election Campaign Act of 1971 to reform the financing of campaigns for elections for Federal office, and for other purposes, with Mr. SHIMKUS (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the Committee of the Whole rose earlier today, pending was Amendment No. 82 by the gentleman from California (Mr. DOOLITTLE) to Amendment No. 13 by the gentleman from Connecticut (Mr. SHAYS).

Mr. THOMAS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I asked to rise into the House so that I could propound a unanimous consent request. However, a point of order was reserved and a speech was then made and then objection was heard. Unfortunately, I was not able during that monologue to explain why I offered the unanimous consent, so I am doing so now.

The majority leader has committed that the campaign finance debate will end prior to the August recess. That coincides with the gentleman from Massachusetts' specified dates of somewhere between August 3 and August 7. His complaint was that we do not have a complete agreement in which they have structured it and they have signed off on it.

What I am trying to do as the manager of a bill, if I cannot meet the entire structural agreement, I thought that it would be appropriate to move us along, to at least begin to structure it day by day. What I offered was a structure for today.

Contained within that unanimous consent was a desire to continue to debate this particular amendment by the gentleman from California (Mr. DOOLITTLE) to the substitute by the gentleman from Connecticut (Mr. SHAYS) for 30 minutes. We have consumed far more than 30 minutes prior to my unanimous consent being propounded. I am quite sure we are going to consume far more than an additional 30 minutes.

So I have some difficulty in understanding the argument from the other side in which they continue to make a point without listening.

The majority leader has said, we will finish this debate prior to the August recess. It would seem to me that it would behoove all of us who want to have an orderly process, give a fair opportunity for as many people who wish to enter into the debate as possible, to structure it. What we got was an objection from the other side because we could not structure from today until August. What I was offering was a structure for today. But, clearly, that was objected to.

So if we cannot do it day by day, we must propound something that is going to extend over a long period of time. It just baffles me that the debate that goes on is that we want to move through this in an orderly fashion, but then they object to an orderly fashion being offered for today. If the complaint is it is not everything, why would they object to today? If we can get order for today, maybe we can get order for tomorrow. If we can get order for tomorrow, maybe, working together, we can get order for the entire period.

But they seem to want to make the argument that they want to move forward; and when we try to propose an opportunity to agree to move forward, they object. That was the reason I tried to offer it, to move us forward under an orderly time frame. I am just sorry that they are more interested in the point of debate rather than the substance of moving forward.

Mr. MEEHAN. Mr. Chairman, I ask unanimous consent to speak for 2 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Massachusetts?

Mr. THOMAS. Mr. Chairman, reserving the right to object. Does the gentleman now, after refusing to set a structure for orderly debate——

Mr. MEEHAN. Mr. Chairman, I withdraw my unanimous consent request.

Mr. Chairman, I ask unanimous consent to strike the requisite number of words.

The CHAIRMAN pro tempore. Without objection, the gentleman from Massachusetts is recognized for 5 minutes.

There was no objection.

Mr. MEEHAN. Mr. Chairman, what we are looking to do here is try to find an agreement that gets us to a vote. Nobody rationally believes, given the UC agreement that we got on campaign finance reform before we left, that 25 hours of debate on this UC agreement, in order for us to have any chance at all of getting a vote by August, we would have to have at least three-fifths, four-fifths of the amendments that have been proposed withdrawn.

So I will be glad to work all evening to try to find a way to reach an agreement that results in a definite vote, a vote that would take place sometime in the week, the last week we are here, the 3rd through the 7th of August.

And I appreciate the gentleman from California's work on this. I would love to work with him further to get an agreement, but to propose four amendments for tonight, given the fact that campaign finance reform is not even scheduled for the rest of the week and is scheduled for possibly 1 day next week and there is only 2 weeks left after that. So no reasonable, rational person really thinks that we are going to get through 250 amendments by August 7.

Mr. DOOLEY of California. Mr. Chairman, I move to strike the requisite number of words.

Today I rise in strong opposition to the Doolittle amendment. I think, if we really ask ourselves honestly, if we are indeed committed to enacting campaign finance reform, we have to do so in a manner which addresses the greatest loophole which we are currently facing, and that loophole is the one which allows for unlimited amount of funding of issue advocacy ads.

Mr. Chairman, it is somewhat remarkable to me that we have spent a lot of time this year with congressional investigations into what have been perceived as illegal campaign violations. But the sad fact of it is is that one of the greatest problems we face is with legal problems with our campaign system. When we have a system in place that can allow for unlimited sums of money to come in to influence an outcome of an election, unlimited sums of money that can come in without any requirement that the people that are contributing that money be identified, we have a serious problem.

What Shays-Meehan does, it clearly ensures that everybody that contributes to a campaign or to an effort in order to influence the outcome is that we ask them to be identified. We are not saying that we are going to restrict anybody's right of speech. We are saying that everyone has the right to participate; everyone has the right to express their feelings and their concerns about an issue and about a candidate.

But what we are saying also is that the voters of any district, the voters of this country also have a right to know who is trying to influence those elections. And what the Doolittle amendment clearly does, it would undermine that. It would once again allow this loophole to continue, because it would allow printed material and campaign fliers to be mailed out to every household with what could be misleading information about a candidate's position.

And those could be funded by anyone. They could be funded by foreign interests. They could be funded by a criminal interest, and there is no way for the voters of that district and the family in the household in which that mailer went into to know who was behind those and who was trying to influence the outcome. That is the problem.

That is why, in order for us to have any legitimate campaign finance reform, we have to continue to be strong and vigilant in ensuring that people who try to influence the outcome have to disclose who the contributors are.

I would identify just this one chart that I have here. It is somewhat, it seems to me, just inequitable that a person who makes a contribution to my campaign or anyone else's, who contributes in excess of $200, has to include their name, their address, their employer, their occupation, the date of the contribution, the aggregate amount of the contributions that I have received.

□ 1845

But someone who contributes up to $250,000, maybe $1 million, and funnels that through an issue advocacy campaign effort, they are not required to identify themselves. They are not required to identify their address or their employer, even the country they might be coming from.

Mr. Chairman, the American people understand that they want control of their elections. That is what we are trying to achieve here. The only way we will be able to achieve that is by closing the issue advocacy loophole. Doolittle tries to open the barn doors wide open once again, and that clearly is not in the interests of the American people and the interests of having fair elections.

Mr. DELAY. Mr. Chairman, will the gentleman yield?

Mr. DOOLEY of California. I yield to the gentleman from Texas.

Mr. DELAY. Mr. Chairman, I appreciate the gentleman's point, but what we are doing is here is debating the Doolittle amendment.

I would ask the gentleman, is he for or against the Christian Coalition, the NAACP, or others to be able to offer those kinds of voter guides we have put up as examples?

Mr. DOOLEY of California. Mr. Chairman, I clearly support that right, and the Shays-Meehan legislation is carefully crafted to ensure that voter guides will be able to continue to be published.

Mr. DELAY. If the gentleman will yield further, what about the language in Shays-Meehan that says or offers the opportunity to regulate voter guides when it says that, in context, it can have no reasonable meaning other than to urge the election or defeat of one or more clearly-identified candidates? Is that not a huge loophole that would prohibit the Christian Coalition from offering those kinds of voter guides, say in the gentleman's church?

Mr. DOOLEY of California. Mr. Chairman, as the authors of this legislation have clearly stated, the clear intention of the gentleman from Connecticut (Mr. SHAYS) and the gentleman from Massachusetts (Mr. MEEHAN) was not to infringe in any way on the ability of the Christian Coalition, the Sierra Club, or anyone else who wants to provide information to the voters which is clearly designed to identify the source.

Mr. MEEHAN. Mr. Chairman, will the gentleman yield?

Mr. DOOLEY of California. I yield to the gentleman from Massachusetts.

Mr. MEEHAN. Mr. Chairman, interestingly enough, the language in here that is the appropriate language is "expressly unmistakable and unambiguous support for or opposition to one or more clearly identified candidates when taken as a whole and with limited reference to the external events, such as proximity to an election."

So this is not something that is a reasonable person's standard at all. In fact this is "expressly, unmistakable, unambiguous."

Mr. DOOLEY of California. Reclaiming my time, the issue here is very simple: Do we think that the voters of this country have the right to know who is trying to influence them?

The CHAIRMAN pro tempore. The time of the gentleman from California (Mr. DOOLEY) has expired.

(On request of Mr. MEEHAN, and by unanimous consent, Mr. DOOLEY of California was allowed to proceed for 1 additional minute.)

Mr. DOOLEY of California. Mr. Chairman, the issue is clear, do we believe as a Congress that the voters of the United States have the right to know who is trying to influence the outcome of an election? Unless we close the issue advocacy loophole, we are not giving the voters that right. We would certainly be doing an injustice to the American people in our efforts to reform campaign law if we do not close the issue advocacy loophole.

Mr. WHITFIELD. Mr. Chairman, will the gentleman yield?

Mr. DOOLEY of California. I yield to the gentleman from Kentucky.

Mr. WHITFIELD. Mr. Chairman, the gentleman has been discussing our right to know, and on any ad run on television or on the radio there is a disclaimer required, so the gentleman knows the organization that is paying for the ad.

Mr. DOOLEY of California. Let me give the gentleman a real, live example, if I could respond, with an independent expenditure that was issue advocacy on the Coalition for our Children's Future.

They have a board of directors that was in place, and had an executive director that was approached by a party who asked them whether or not they would agree to give blank checks that were signed to a third party, and would also sign an oath of secrecy that they would not disclose the identity of the person that was trying to influence the outcome.

The CHAIRMAN pro tempore. The time of the gentleman from California (Mr. DOOLEY) has again expired.

(On request of Mr. WHITFIELD, and by unanimous consent, Mr. DOOLEY of California was allowed to proceed for 1 additional minute.)

Mr. DOOLEY of California. Mr. Chairman, the point I am making is the disclosure was on the bottom of the ad, Coalition for our Children's Future. But the board of directors of Coalition for our Children's Future did not know who was funneling the money through them.

They also have an executive director that signed basically an oath of secrecy that he would not disclose who was funneling this money in. They also had an executive director that signed blank checks given to this entity that they had signed a nondisclosure agreement with so that they could keep that secret.

This third party entity that was using Coalition for our Children's Future could have been a foreign entity, foreign sources, it could have been criminal sources.

Mr. SHAYS. Mr. Chairman, will the gentleman yield?

Mr. DOOLEY of California. I yield to the gentleman from Connecticut.

Mr. SHAYS. Mr. Chairman, if it is not a campaign ad, there is no disclosure. You have to have it be a campaign ad in order to require disclosure.

Mr. MEEHAN. Mr. Chairman, will the gentleman yield?

Mr. DOOLEY of California. I yield to the gentleman from Massachusetts.

Mr. MEEHAN. Mr. Chairman, I think we are ready for a vote on this. Maybe we could move and get a vote.

Mr. BLUNT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I do not think that we have yet made the point of what happens with these voter guides. I think the problem is that, once again, we come into that problem of jeopardizing freedom of speech whenever we try to achieve some kind of change in the campaign finance system.

Who is going to decide, in context, what is reasonable and what is not reasonable? At what point are they going to decide that? What is the timing going to be in which they decide that? Do they decide that after the organization has had these voter guides printed? Do they decide that after they have been distributed? Do they decide that the day before they are distributed, on the weekend before the election, when it is too late to replace them with whatever the objection was?

Once again, we get right into the whole question of whether or not we want to limit the ability of people to make their points, their freedom of speech points that can be made.

The groups that support the Doolittle amendment and the groups that consider the Shays-Meehan exception for scorecards bogus is a list that just goes on and on and on. Seldom do we see the same groups in agreement that we see in agreement supporting the Doolittle amendment. The ACLU, the National Rifle Association, the Christian Coalition, the National Right-To-Life Committee, all agree that the Doolittle amendment protects their right to express their view of how candidates have voted on issues.

Who is going to decide? I know we are probably tired of seeing this voter guide of our colleague, the gentleman from Iowa (Mr. GREG GANSKE), but the voter guide itself that was handed out said clearly at the bottom that this is a pro-family citizen action organization.

Then if we look at the things they are reporting on, a reasonable person might very well decide that this advocates one of these candidates over another. Because they are pro-family, they are Christian, discussing taxpayer funding of abortion, homosexuals in the military, and we have one question here, promoting homosexuality to schoolchildren, and one candidate is seen as opposing that, and another supports that, I think it is pretty clear with this piece of literature that this group is likely to come down on the side of one of these candidates, even though they do not say that on this literature.

Mr. WHITFIELD. Mr. Chairman, will the gentleman yield?

Mr. BLUNT. I yield to the gentleman from Kentucky.

Mr. WHITFIELD. I want to just read from the Shays-Meehan language. Their language says, ". . . words that, in context, have no reasonable meaning other than to urge the election or defeat of one or more clearly identified candidates." Those are two clearly identified candidates.

I think reasonable men and women could have a difference of opinion as to whether or not this is urging the election or defeat of a candidate. Many of these scorecards can. I think the gentleman would agree with me that that could be interpreted to mean you cannot issue these during campaigns. Would the gentleman agree with that?

Mr. BLUNT. Reclaiming my time, Mr. Chairman, I would say that I agree totally. I say that the greater point here is that who is giving the authority to ultimately decide that the FEC or some other location can decide that, in a manner that is very, very disruptive to people trying to freely express their view of the public debate in the country?

If we decide that, are we going to have to get pre-clearance from the FEC? Do we expect the ACLU, the Christian Coalition, the National Right-To-Life Committee, to send in these things in advance? How long does that take? How many things happen after the time they sent their proposed literature in and the time that we would actually want to distribute it that we would in a normal context just simply add before it went to the printer?

We cannot do that because we put this clearance idea in, that somebody has to decide what is reasonable and what is not reasonable. So we have this group of people who are supporting the Doolittle amendment. We have a group of people who consider the exemption we are talking about for scorecards bogus. That includes the American Civil Liberties Union, the American Conservative Union, two groups that do not agree very often on issues; the American Council for Immigration Reform; the Association of Concerned Taxpayers; the Abraham Lincoln Foundation, and the list goes on and on and on.

Mr. DELAY. Mr. Chairman, will the gentleman yield?

Mr. BLUNT. I yield to the gentleman from Texas.

Mr. DELAY. Mr. Chairman, I appreciate the gentleman being from Missouri, because Missouri just cuts through all the lawyerspeak and gets right to the bottom line.

That is exactly what we have, what we find here. We find a bunch of lawyer language, and that is what we are trying to point out here. It is lawyer language that you can drive a truck through to stop these kinds of voter guides put out by these organizations that every Member that has stood up and opposed the Doolittle amendment has said they do not want to stop.

They claim that because Shays-Meehan has some sort of exemption for voter guides, that that makes it all all right.

The CHAIRMAN pro tempore. The time of the gentleman from Missouri (Mr. BLUNT) has expired.

(On request of Mr. DELAY, and by unanimous consent, Mr. BLUNT was allowed to proceed for 2 additional minutes.)

Mr. DELAY. Mr. Chairman, it is the same organizations that the opponents to the Doolittle amendment say they are trying to save that are supporting the Doolittle amendment.

The whole point here is how in the world, other than taking the Christian Coalition or NAACP or others to court and penalizing them, how in the world are we going to decide what does "reasonable" mean, other than going to court and getting a bunch of lawyers together, costing a lot of money, and restricting people's rights to stand up and say, this Congressman's voter record says this, this challenger's voter record says this, you can compare it for yourself and make a decision. It does not advocate the election or defeat of any one candidate.

What it does say, and I think we are just clearing it up, in Shays-Meehan they make an exception for voter guides. We are just saying, fine, but we want to stop the loopholes that you have written in here, and we want to make sure that we are protected in being able to put out voter guides.

Mr. BLUNT. I thank the gentleman from Texas. I would also say that when we put the word "reasonable" in the law itself, we really create a barrier to groups who do not want to throw their money away; to groups who clearly cannot spend all their time in court, and who see "reasonable" in the law, do not know what that means, decide they really cannot in all likelihood get their message across, so they just believe that their first amendment rights are gone, whether they are truly gone or not.

Who knows what "reasonable" means? How is that defined in the law? Are we going to leave that up to the FEC to decide how that is defined in the law?

Mr. CAMPBELL. Mr. Chairman, will the gentleman yield?

Mr. BLUNT. I yield to the gentleman from California.

Mr. CAMPBELL. Mr. Chairman, I thank the nonlawyer from Missouri for yielding to me.

Mr. Chairman, I would be interested in my colleague's point of view. Would a campaign piece of literature that simply says nothing more than "Neal Smith is a terrible congressman because he opposed voluntary school prayer," is that a voter guide, in the gentleman's opinion?

Mr. BLUNT. The gentleman's opinion may or may not be reasonable.

The CHAIRMAN pro tempore. The time of the gentleman from Missouri (Mr. BLUNT) has expired.

(On request of Mr. DELAY, and by unanimous consent, Mr. BLUNT was allowed to proceed for 2 additional minutes.)

Mr. DELAY. Mr. Chairman, will the gentleman yield?

Mr. BLUNT. I yield to the gentleman from California.

Mr. DELAY. Mr. Chairman, I would like to answer this. That is one of the reasons I have a problem with the Shays-Meehan language. They say it exempts voter guides, as long as they present information in an educational manner solely about the voting record on the campaign issue of two or more candidates.

The gentleman is absolutely right. If an organization wants to take on one Congressman and talk about his voting record and send out a voting guide, even if he is unopposed, even if he is unopposed, Shays-Meehan prohibits that from happening.

Mr. CAMPBELL. Mr. Chairman, will the gentleman yield?

Mr. BLUNT. I yield to the gentleman from California.

Mr. CAMPBELL. Mr. Chairman, my point was simple. If it is a voter guide exemption, make sure it is a voter guide.

The example I have given to the gentleman from California (Mr. DOOLITTLE), the gentleman from Missouri (Mr. BLUNT), and to the gentleman from Texas (Mr. DELAY) is not a voter guide. It says, this candidate is terrible because of his view on this issue. That is a campaign ad. I thank the gentleman for his courtesy in yielding to me.

Mr. BLUNT. In response to my friend, the gentleman from California, the voter guides that include multiple candidates clearly do show the voting record. Those are the traditional voting guides under the law now. I think it is unlikely that that process would continue. I think it is unlikely that those organizations would be able to distribute those guides.

I think the mechanics of putting the guidelines in place as to what was reasonable and what was not reasonable would be so prohibitive that what we are really saying here is that this is not going to happen, because anybody can take a voter guide and decide who that group was most likely for, whether it is the AFL-CIO or the Christian Coalition.

Mr. HEFNER. Mr. Chairman, will the gentleman yield?

Mr. BLUNT. I yield to the gentleman from North Carolina.

□ 1900

Mr. HEFNER. I have heard a lot about free speech, but I have not heard anything that talked about, when you send mailers or what have you, truthfulness. When you talk about somebody's voting record, you take just partial voting records or amendments that were in the committee or what have you and distort them, then do not identify who sent it out, this is absolutely not free speech. You do not stand up in a theater and holler fire.

The whole thing, the Doolittle, in my view, the Doolittle amendment opens it up. If some group wants to get together and say, like happened in my district, we had a mailer that said BILL HEFNER and Mike Dukakis, if you want to kill babies, vote for Mike Dukakis and BILL HEFNER. This is not a voter guide.

The CHAIRMAN pro tempore (Mr. SHIMKUS). The time of the gentleman from Missouri (Mr. BLUNT) has again expired.

(On request of Mr. WHITFIELD, and by unanimous consent, Mr. BLUNT was allowed to proceed for 2 additional minutes.)

Mr. BLUNT. I think there are viable laws that do come into effect here. The Doolittle amendment specifically talks about voter guides. If the voter guide that some group sends out is untruthful, there is recourse in that. I think for the Congress to decide what organizations can say, that is the job of the courts, not the job of the Congress. The first amendment did not give to the Congress the right to determine what was truthful language and what could be said in a free society.

Mr. DELAY. Mr. Chairman, will the gentleman yield?

Mr. BLUNT. I yield to the gentleman from Texas.

Mr. DELAY. Mr. Chairman, the gentleman from Missouri goes right to the point of the gentleman from North Carolina. The Shays-Meehan bill is an attempt by incumbents, incumbents, to decide what you say is the truth, not the courts. They want this Congress to decide and set up regulations to regulate people's participation in the process.

We want to get rid of all these uncomfortable ads that are being run against us because I do not like them and they make me uncomfortable. We want to get rid of the opportunities of people to stand up and say, I voted this way or I voted that way and they either like the way I voted or they dislike the way I voted. We want to get rid of all that so that we could be a little more comfortable and limit people's ability to participate in the process. That is what this is all about. The gentleman from North Carolina pointed that out very well.

Mr. BLUNT. Mr. Chairman, I think it is clear that the job of the Congress is not to be comfortable. The job of a Member of Congress is to represent the people of their district and for that, the way they do that, to be an item of public debate.

Certainly, if people make up untruthful things and distribute them, there are laws that govern that, but the Congress of the United States is not in a position to enforce those laws. We are in a position to encourage that some of those laws be passed, though generally those are going to be State laws. We are not in a position to enforce those laws. That is for somebody else.

What we are trying to do here is decide what is reasonable or not. What we are trying to do here is decide what is comfortable or not.

Mr. HEFNER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the gentleman said you have recourse for suing someone for sending out information that is untrue. But that is really not, an elected official is pretty much immune from being able to sue anybody.

What makes it so bad is in the closing parts of a campaign where the incumbent or the challenger has no way to respond to a negative mailing or, what we have done in broadcasting, we have done away with the fairness doctrine. There is no fairness doctrine anymore. So in my view the Doolittle amendment absolutely opens up a floodgate to let people do dishonest things for their own personal and for their own special interests with no regard for the truth or the consequences of it.

To me, I just think that the Meehan bill, I do not think that we need the Doolittle amendment. I think it does great harm to the work that these men have done over the years.

I think that there is a move to delay this and draw it out until, hopefully, it will die of old age.

Mr. SHAYS. Mr. Chairman, will the gentleman yield?

Mr. HEFNER. I yield to the gentleman from Connecticut.

Mr. SHAYS. Mr. Chairman, the bottom line to this debate is quite simple. Meehan-Shays does not in any way prevent voter guides from happening. But to assure that there was no question in this Chamber, we made sure that we added a section to make it unambiguous that you can provide for voter guides. The gentleman from California deletes our section which protects voter guides.

The bottom line to this issue is, where you have a campaign ad, including those sham "issue ads", then an individual can advertise under the campaign laws. It is bogus, it is wrong, it is totally incorrect to suggest that people do not have a voice. They have a voice outside the campaign law through using voter guides and other non-campaign activity. And they have a voice inside the campaign law by abiding by the same rules as everyone else. They have freedom of speech. We limit what people can raise. We do not limit what they can spend.

And any individual who wants to run an ad on their own can do so as long as it is not coordinated. Coordinated expenditures become campaign ads. But our Supreme Court has made it very clear that individuals cannot be limited on what they spend.

What you are hearing tonight is a bogus debate on the part, in my judgment, of the gentleman from California (Mr. DOOLITTLE) to suggest, one, that we do not allow these. We do allow them. We make it clear. First, we do not forbid them; and, secondly, we make it clear that they are allowed.

Secondly, I would like to take this time, if the gentleman would allow me to proceed, to say that Republicans who received the House Republican conference floor prep were given a very misleading statement about what the Doolittle proposal does and what Meehan-Shays does. I urge my colleagues to totally discount this very inaccurate statement put out by my own Republican Conference.

I thank the gentleman for yielding to me.

Mr. WHITFIELD. Mr. Chairman, I move to strike the requisite number of words.

The SPEAKER pro tempore. Without objection, the gentleman from Kentucky (Mr. WHITFIELD) is recognized for 5 minutes.

There was no objection.

PARLIAMENTARY INQUIRY

Mr. WHITFIELD. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN pro tempore. The gentleman will state it.

Mr. WHITFIELD. Mr. Chairman, if I have not spoken before and I move to strike the last word, can Members object to that?

The CHAIRMAN pro tempore. The fact that the gentleman offered a pro forma amendment, the Doolittle amendment on the 19th on his own time requires him to ask unanimous consent.

Mr. WHITFIELD. I thank the Chair.

Mr. Chairman, I think the real concern that we have today, the crux of this issue of the debate that we are really talking about today, gets down to this definition of express advocacy. The Supreme Court has consistently and very clearly said that express advocacy is language that explicitly requests the defeat or the election of a candidate. And if it says that, if the ad says that, you must use hard money. And that is money regulated by the Federal Election Commission.

The gentleman was correct. Any wealthy individual, a multimillionaire can go out any time they want to and buy an ad, and that is an independent expenditure. They can expressly advocate the defeat or the election of a candidate.

What we are talking about today is issue advocacy; and these are the many organizations around our country, the thousands of organizations that may want to participate in the political system. The Supreme Court has made it very clear that that is, goes to the very core of a democracy, of the right to speak about issues in an election.

What this bill does is it makes it unclear about what can and cannot be done. That is a chilling of the first amendment right of political free speech.

Now, the gentleman from Massachusetts, one of the cosponsors of this bill, read from paragraph 3 of express advocacy; and he said:

> Expressing unmistakable and unambiguous support for or opposition to one or more clearly identified candidates when taken as a whole and with limited reference to external events such as proximity to an election.

Now, reasonable people can have different views about what is and what is not, taken as a whole means this or means that. But the point that I would make, the Supreme Court has already ruled half of that language as unconstitutional in the FEC versus Maine Right to Life case. It has already been ruled unconstitutional, this language that is in this bill. Yet they still want to proceed with it.

In addition to that, they go on and further complicate it by saying that if one of these voter guides urges the election, if words that are in context can have no reasonable meaning other than to urge the election or defeat of a candidate, then it cannot, it is not covered under this exception. And these voting guides have, different men and women have differences of opinion about what they are urging and what they are not urging.

The thing that is so disturbing about the Shays-Meehan bill is that it does nothing about the election money spent by candidates. It does nothing about independent expenditures spent by wealthy individuals, but it shuts the door to all sorts of organizations, if they violate the definition of express advocacy as determined in this bill.

Any ad run 60 days within an election is express advocacy. It has to be hard money. So, in essence, what we do with this language is that we allow the Federal Election Commission to determine who can speak, what they can say and when they can say it.

Mr. SHAYS. Mr. Chairman, will the gentleman yield?

Mr. WHITFIELD. I yield to the gentleman from Connecticut.

Mr. SHAYS. Mr. Chairman, when the gentleman says shut the door, I wish the gentleman would clarify what he is saying. If it is, in fact, a campaign ad, it is true it comes under the campaign law. It means that people can raise money and advertise. They still have a right to advertise, they just come under disclosure rules and contributions limits. But they can spend as much as they raise.

Certainly the gentleman would not suggest that the Christian Coalition National Right to Life Committee, the National Rifle Association or any other group would have any trouble raising money and spending. They simply would, for the first time, have to disclose campaign ads.

Mr. WHITFIELD. They would have to go through all the process, the complicated process, the legal process of filing a political action committee, setting up a political action committee, forming all kinds of reports. And that is a chilling effect. We live in a democracy where groups and individuals can talk about elections whenever they want to. And the Supreme Court has consistently said that the only thing that is express advocacy is if you expressly urge the defeat or the election of a candidate. And you all are broadening this so broad that, as the gentleman from Missouri said, you would almost have to go to the FEC in advance and get their permission for running the ad.

I think that is the part of this that disturbs us and the reason that we are supporting the gentleman.

The CHAIRMAN pro tempore. The time of the gentleman from Kentucky (Mr. WHITFIELD) has expired.

(By unanimous consent, Mr. WHITFIELD was allowed to proceed for 2 additional minutes.)

Mr. WHITFIELD. Mr. Chairman, the reason that we are endorsing the gentleman from California's amendment is that he, in essence, returns to the original Supreme Court language here. Basically, there will not be any question about it. That is really what this is all about.

I realize that Shays-Meehan is a good-intentioned bill with all the best ideas that they can come up with. But the fact is it places so many things to interpretation, and the ultimate interpretation is going to be made by a group of commissioners at the FEC who are appointed by a President, and they have their political views.

And so everybody else in America may be, the door may be closed unless they want to go through all this complicated procedure of filing reports and establishing political action committees and hiring election lawyers and doing that.

Ms. RIVERS. Mr. Chairman, will the gentleman yield?

Mr. WHITFIELD. I yield to the gentlewoman from Michigan.

Ms. RIVERS. Mr. Chairman, when the gentleman from North Carolina (Mr. HEFNER) a few minutes ago raised the issue of honesty in ads, there was quite a lot of discussion about that. The argument was that courts could determine the honesty of particular ads and the appropriateness of particular ads relative to libel. Who appoints Federal judges?

Mr. WHITFIELD. Well, Mr. Chairman, I did not make that argument. The President, I think, still appoints them.

I might also add, if the gentlewoman wants to come up with an amendment on truth in advertising for political ads, I would be the first to support it.

Ms. RIVERS. Mr. Chairman, if the gentleman will continue to yield, I am responding to the comments from that side of the aisle a few minutes ago that certainly presidential appointees were capable of making decisions in an electioneering context, and so I do not think it is reasonable to argue on one hand that presidential appointees are inadequate and on the other that they are perfectly adequate. One cannot have it both ways.

Mr. WHITFIELD. Mr. Chairman, my point is that this is the core of our democracy, being involved in political elections. And who can speak and who cannot speak and who determines what they can say and what they can spend, that is okay for candidates. I understand that. That is okay for individuals who are wealthy.

□ 1915

The CHAIRMAN pro tempore (Mr. SHIMKUS). The time of the gentleman from Kentucky (Mr. WHITFIELD) has again expired.

(On request of Mr. DOOLITTLE, and by unanimous consent, Mr. WHITFIELD was allowed to proceed for 2 additional minutes.)

Ms. RIVERS. If the gentleman will continue to yield, I wish to ask him about the current system, because right now we have a series of categories that activities fall within. If we are engaged in an independent expenditure, for example, we must meet the criteria and we cannot step out of that.

Mr. WHITFIELD. We do not have to abide by any FEC law.

Ms. RIVERS. To do an independent expenditure? If we work with the campaign of the individual.

Mr. WHITFIELD. The gentlewoman did not say coordinate it.

Ms. RIVERS. That is what I was trying to say, is if we step outside of the law as it exists regarding independent expenditures, it is the FEC who enforces that; is it not?

Mr. WHITFIELD. Of course, if it is coordinated. But a wealthy individual can go out and run an ad.

Ms. RIVERS. The point I am making is that there are laws that currently exist that regulate the behavior we are discussing here. And if one steps outside of that behavior it is the FEC who enforces those laws. They have done it for years and years and years.

Mr. WHITFIELD. Mr. Chairman, I will reclaim my time.

Mr. DOOLITTLE. Mr. Chairman, will the gentleman yield?

Mr. WHITFIELD. I yield to the gentleman from California.

Mr. DOOLITTLE. The gentleman from Connecticut (Mr. SHAYS) indicated my amendment was bogus, but I thought it was interesting that these organizations all consider his so-called exemption for scorecards bogus: The American Civil Liberties Union, the American Conservative Union, the National Right to Life Committee, the National Rifle Association, the National Defense Foundation, amongst many others, the National Legal Policy Center.

Would the gentleman agree that their wording actually makes ambiguous what is now clear and unambiguous in the present law?

Mr. WHITFIELD. Yes, it does. It makes it ambiguous. And reasonable men and women can differ as to what is and what is not allowed.

Mr. DOOLITTLE. Whereas now that is clear. If we do not use certain words, it is clearly beyond the purview of Federal regulation. Now everything is arguably within the purview.

Mr. WHITFIELD. The Supreme Court has made it explicitly clear time and time again. And now we are going to, in my view, make the system much more complicated, much more difficult, and I think we will see less political participation than we would without this legislation.

Mr. DOOLITTLE. And that is the design.

Mr. FARR of California. Mr. Chairman, I move to strike the requisite number of words.

I rise as author of one of the major campaign finance reform bills, a comprehensive cleanup bill, and it contains the same measure in it that Shays-Meehan does. Therefore, I rise to oppose the amendment that is being offered.

This amendment really does not make any reform. It does not clean up anything. It takes the law back to what it is today, and that is not progress. So this amendment is really not about voter guides, it is really about special interest money remaining in politics. The Doolittle amendment, by removing the express advocacy language, maintains the status quo, it means that multi-mega-million dollar campaigns are not run by politicians nor by political parties but can be run by very special interests.

So where in this amendment is the reform? How does maintaining the status quo get us further ahead? In this whole debate, of all the 11 bills that have been brought to the floor by the Committee on Rules and these series of amendments, are all supposed to end up with the law in better shape after we have addressed it than it is today. This amendment does not do that. If adopted, it offers no change.

I think that sometimes these amendments can be classified as red herrings, to really divert our attention from the real issue here, which is how do we stop the money madness that is in campaigns? How do we bring money out of campaigns and really get down to where people are talking to people, not just buying words and buying fancy television ads? Certainly this amendment is not the answer.

Mr. Chairman, I support reform and I am urging strong defeat of the Doolittle amendment. And if there are no other speakers, Mr. Chairman, maybe we ought to move on.

Mr. METCALF. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I wanted to clear up one point. A previous Speaker stated that there are laws to prevent falsehoods used in ads or campaigns. I have had a lot of experience in campaigns, and to set the record straight, there are no enforceable laws to prevent untruth or even blatant falsehoods in campaigns.

Today, it is not really legal to lie about an opponent in a campaign, but there is no enforcement and, though illegal, no punishment possible. So it happens frequently in political campaigns and I wanted to just clear up that point.

Mr. DELAY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am really excited about this debate. I think the American people are really starting to understand what this is all about. This is incumbent protection. This is incumbent comfort. This is making sure that incumbents do not have people out there running around talking about their voting records, making them uncomfortable. This is basically about people's freedom of speech.

I rise in support of the Doolittle amendment because I am not afraid of someone talking about my voting record. I am not even afraid about people going out and running voter guides that distort my voting record. I think that is part of the process. Unfortunately, it is the dirty part of the process. It is a part that makes people very cynical about the process, but it is part of the process.

I feel very strongly that a vote for the Doolittle amendment is a vote for the first amendment. This is very critical. A vote against the Doolittle amendment is a vote to ban voter guides distributed by citizens' organizations, whether they be in union halls or churches or on the internet. I really believe that. Because they have written in lawyerese that creates loopholes that we can drive a truck through and stop voter guides.

Every year thousands of national, State and local organizations, like the Christian Coalition or the NAACP or, as we show here, the ACLU, they publish voter guides comparing elected officeholders on issues of interest to these organizations' memberships. Now, I doubt if there are many in this body who would openly question the right of these groups to make those comparisons, but without this amendment, the Doolittle amendment, Shays-Meehan would threaten, I believe, the ability of these groups to publish and distribute these kinds of voter guides.

Supporters of Shays-Meehan claim that there is a voter guide exemption in their bill. But if we take a closer look at it, at this so-called exemption, it shows that voter guides, such as the NAACP's voter guide, in my opinion, would be banned or, at the very least, regulated by bureaucrats in the Federal Government. The so-called exemption in Shays-Meehan requires a voter guide that talks about the position of one candidate being banned or regulated by the Federal Government. Under Shays-Meehan, a voter guide characterizing a candidate as pro life or pro choice or any other commentary describing a candidate as a civil rights hero, as the NAACP does, would be banned or regulated, in my opinion.

Under the Shays-Meehan exemption, groups could be punished, punished, if after the fact bureaucrats decide that their voter guides or their scorecards were not written in an "educational manner." Decided by "educational police"? I do not know. Under the Shays-Meehan exemption, a scorecard cannot contain words, "that in context can have no reasonable meaning other than to urge the election or defeat of one or more clearly identified candidates."

Now, this language would prevent the ACLU from distributing a voter guide that highlights Members of Congress who have a 100 percent ACLU voting record as members of an "ACLU honor role." They cannot say things like that because that is advocating defeat or election of a candidate, or it could be construed as such under the Shays-Meehan language.

It also prevents the NAACP from calling a Member of Congress a civil rights hero. For example, last month, the NAACP president Kweisi Mfume, former member of this body, released the organization's annual legislative report card on the 105th Congress at a news conference on Capitol Hill. He said, "As the report card circulates through our branches, it will be used in a nonpartisan fashion to punish those with failing grades and reward our heroes." Guess what? Under Shays-Meehan, they could not circulate that kind of report for that kind of purpose.

The Doolittle amendment, I think, would allow groups that post their voter guides and scorecards on the internet to continue to do so, groups like the Americans for Democratic Action, not exactly friends of mine; the ACLU. How about the National Organization of Women? Not exactly my best supporters. They all carry scorecards on their web sites.

The CHAIRMAN. The time of the gentleman from Texas (Mr. DELAY) has expired.

Mr. DELAY. Mr. Chairman, I ask unanimous consent to proceed for 2 additional minutes.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. CAMPBELL. Reserving the right to object, Mr. Chairman, would the gentleman at some point yield to me during those 2 minutes?

Mr. DELAY. If the gentleman will yield, I said I would, and I would be glad to.

Mr. CAMPBELL. I am looking forward to it.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. DELAY. Mr. Chairman, without the Doolittle amendment, the scorecards will have to be removed from the web sites.

Now, make no mistake about it. A vote against the Doolittle amendment is a vote for banning voter guides and scorecards and the Shays-Meehan voting guide exemption is no exemption at all. They may think it exempts, but if we read the language, we can see, and I am not even a lawyer, but I know how I can get through this language and stop a voter guide in a very easy fashion.

The Shays-Meehan bill would impose a chilling effect on the distribution of material that reports on our votes and where we stand on the issues, and the Doolittle amendment protects these voter guides. Nothing in the Shays-Meehan exemption, in my opinion, does. And I just urge my colleagues to vote for the first amendment by voting for the Doolittle amendment.

Mr. CAMPBELL. Mr. Chairman, will the gentleman yield?

Mr. DELAY. I yield to the gentleman from California.

Mr. CAMPBELL. Mr. Chairman, I thank the distinguished whip. I really have two brief points and I would appreciate his response to them.

First, does the distinguished gentleman have an objection to requiring that a group that puts out a guide, such as the one by his side, that we know who contributed the money that paid for it?

Mr. DELAY. Yes, I have an objection.

Mr. CAMPBELL. Let me understand the gentleman. He does not believe the citizens of this country have the right to know who pays for an advertisement in a campaign of that nature?

Mr. DELAY. No, because we have experienced—if we believe in the Constitution and the right of people to petition their government, whether it be by writing a petition or talking about my voting record or however they do it, the point is that if we believe in the Constitution and the people having a right to petition their government, then we do not want the government to be able to go and punish these people.

And we have seen time and time again, whether it be the NRA or NOW or others, people that belong to these organizations that want to express themselves are persecuted, in some cases oppressed by their enemies by being able to reveal their names. I do not know why we would want to get at them. Why does the gentleman want to get at them?

Mr. CAMPBELL. If the gentleman will continue to yield. As I understand the logic of the gentleman's position, then, he would never require any disclosure of who is behind funding campaigns?

Mr. DELAY. Not at all.

Mr. CAMPBELL. Not at all?

Mr. DELAY. Absolutely not. Not at all. I am all for the Doolittle substitute that brings full disclosure, full disclosure of people participating in campaigns. Not talking about issues.

The CHAIRMAN. The time of the gentleman from Texas (Mr. DELAY) has again expired.

(By unanimous consent, Mr. DELAY was allowed to proceed for 2 additional minutes.)

Mr. DELAY. Mr. Chairman, I am not advocating issues. Yes, I want my constituents to know who is giving me money to be used in my campaign and how I am spending it. Absolutely. They have the right to know, not some Federal bureaucrat in Washington, D.C.

Mr. CAMPBELL. In a previous colloquy, I believe the gentleman granted that the loophole that is being proposed by the gentleman from California (Mr. DOOLITTLE) would allow an ad that says, "Neil Smith is a terrible Congressman because he opposed voluntary school prayer."

Mr. DELAY. No, no, no. I want to correct the gentleman's premise. It would allow a voter guide, a piece of paper or on the internet, a voter guide that lists the votes and the issues and positions that a Congressman has taken.

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If they happen to say that he is a bad congressman because he took a position against their position, I know that is uncomfortable, but they have every right to say that.

Mr. CAMPBELL. Mr. Chairman, I appreciate the courtesy of the gentleman. He has been very kind in yielding to me.

I will only conclude by saying that it is a remarkable position that the gentleman would not want to have disclosed for the light of day who is behind ads that in every respect are the same as campaign ads, listing the name of a candidate, and providing a commentary regarding that person's performance in office. Such an ad that does not even mention another candidate, just that one candidate, is exempt from disclosure.

I repeat. I appreciate the gentleman's candor. It is his position. I just disagree with it.

Mr. DELAY. Mr. Chairman, reclaiming my time, the gentleman is absolutely right. And that is the debate over Shays-Meehan. Shays-Meehan and the gentleman from California want to shut down people's right to talk about issues and positions of people that are participating in the process. That is one issue.

The other issue that the gentleman is talking about is campaigns. Campaigns, they do not have hidden agendas running around in campaigns. They are giving money to me to participate in a campaign. The two are not supposed to cross. In fact, even in Shays-Meehan they talk about the two are not supposed to cross.

The CHAIRMAN pro tempore (Mr. SHIMKUS). The time of the gentleman from Texas (Mr. DELAY) has again expired.

(By unanimous consent, Mr. DELAY was allowed to proceed for 2 additional minutes.)

Mr. DELAY. We have the opportunity to make sure that they do not cross, and it is against the law to do so. The Supreme Court has upheld our position. That is why the Doolittle Amendment reflects and almost quotes the Supreme Court decision.

Mr. WHITFIELD. Mr. Chairman, will the gentleman yield?

Mr. DELAY. I yield to the gentleman from Kentucky.

Mr. WHITFIELD. Mr. Chairman, there are two sides of this. Do the American people have the right to know about these issue advocacy ads and who pays for them? But second of all, on the other side, my colleague mentioned the point, the person who makes the contribution. And the Supreme Court has already declared that individuals have a right to privacy.

In the NAACP versus Alabama case in 1958, they say that privacy and group association is indispensable to the preservation of our system of government; and so what this bill is trying to do is making these people also tell who is giving money and so forth.

Mr. DELAY. Mr. Chairman, reclaiming my time, would it not be interesting that the NAACP would have to disclose who belongs to the NAACP and who is supporting the NAACP to the exposure to whom? Would it not be interesting some of the hate groups out there that would love to know who supports the NAACP and would like to? But the gentleman from California, Shays-Meehan, wants everybody to know it and wants to lay it out there for everybody.

I just find that just really frightening that they not only want to step on our right and freedom of speech, but now they want to step on our right of privacy. I think this is what this is all about is those kinds of freedoms.

Mr. LEVIN. Mr. Chairman, will the gentleman yield?

Mr. DELAY. I yield to the gentleman from Michigan.

Mr. LEVIN. My colleague heard us read the ad that was used in the campaign against the gentleman from Iowa (Mr. GANSKE) in 1996. Was that a campaign ad?

Mr. DELAY. Reclaiming my time, I am not sure exactly the one the gentleman is referring to. The voter guide?

Mr. LEVIN. Mr. Chairman, if the gentleman would continue to yield, the Doolittle Amendment goes way beyond voter guides.

Mr. DELAY. No, it does not. The gentleman is wrong.

The CHAIRMAN pro tempore. The time of the gentleman from Texas (Mr. DELAY) has again expired.

Mr. LEVIN. Mr. Chairman, I ask unanimous consent that the gentleman from Texas (Mr. DELAY) have 2 additional minutes.

Mr. SHAYS. Mr. Chairman, I object. The gentleman has had 11 minutes, and I object.

The CHAIRMAN pro tempore. Objection is heard.

Mrs. LINDA SMITH of Washington. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I have had the pleasure to work with many Members who are legitimately concerned about campaign reform. I especially want to commend the gentleman from Connecticut (Mr. SHAYS) and the gentleman from Massachusetts (Mr. MEEHAN) because they worked on it before I arrived and they are still working on it. And that is very important that I state that because I think what they have done is come a long ways to finally have this debate on the floor.

I support the base purpose of the Shays-Meehan bill, and very likely should we deal with the voter guide issue to support the final bill. The base issue is to stop laundering money from one source to another and eliminate soft money and undisclosed contributions.

So what we have is a base bill that says, and it offends some of the groups, liberal and conservative, that no longer can this tobacco company or group give $5 million to one of the parties and have it divided up and be given to one of these conservative groups in most cases as last year, could have been liberal the year before, and then it comes out with a new voter guide because that tobacco company is really after somebody and they cannot come through the front door.

That is what this bill does. Soft money, which is hiding money, laundering money, is a corrupting force. I know there are many of the same groups that will fight it on the voter guide issue, but really they have started getting other sources of money through the two parties as soft money and large amounts of soft money.

But today, if we want to move this forward, we have to think about how to get it through the Senate, too. One of the biggest oppositions that we have is voter guides. Now, the amendment to Doolittle, it does not go far enough for me. I think that we could have done better; and, as always, we always think we can individually on this floor. But the reality is it did something that makes sense.

Now, is it perfect? No. But it said we are not going to focus on people and their voter guides, which by the way has to go, passed out, read, digested, they take some work, they are true grassroots politics. We are going to focus on the big batches of big money, TV and radio. That is still in here. When he amended the Doolittle Amendment, when he amended it, he brought it to voter guides only.

Now, yes, I have heard the debate. I have been listening to it for some time. And is it perfect? No. I would have a tendency to agree with some of the concerns that the gentleman from Massachusetts (Mr. MEEHAN) and the gentleman from Connecticut (Mr. SHAYS) have and the gentleman from California (Mr. CAMPBELL). But, on the other hand, do we want to pass a bill in the Senate or do we want a debate?

Unfortunately, a lot of posturing is because we all kind of like a debate but we really do not want to change behavior. Soft money being eliminated, this bill passed will eliminate the ability to launder money.

So I am standing here saying that it is not perfect, but eliminating micromanaging of the voter guides is something that, if we do that and we still have the rest of the bill, that we have taken away a lot of the complaints. And then they are just going to have to go back and say, really, we did not like the bill because we wanted to launder money. We liked the soft money being laundered to our groups, and we never had so much money before we found this loophole coming to our groups to fund our staff here in Washington, D.C., and our other activities. And all of a sudden we can fund voter guides through soft money because we got a million, 4 million, whatever, through soft money.

This removes the smoke and gets to the base issues of the most important and most corrupting. And I would advise that we vote for this amendment as amended even if it is not perfect, because then we can get to the real problems, and that is the huge TV buys, the huge radio buys, the laundering of money. And we can get about cleaning up the Senate and have something we can give to the Senate that also removes their objections and gives to them something and not just say, no, we do not want to clean up the system. We just want to have the debate.

Please vote yes for the Doolittle Amendment.

Mr. SNYDER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I yield to the gentleman from Massachusetts (Mr. MEEHAN).

Mr. MEEHAN. Mr. Chairman, it has been a long night. We debated this for a couple hours before we left on the break, and we also have debated it another couple of hours.

There are a lot of Members here, Republican and Democrat, both sides of the aisle, who have worked diligently over a period of years to try to get this bill to the floor. We have before us an amendment that claims to want to do something about voter guides. I have worked on this legislation for years with the gentleman from Connecticut (Mr. SHAYS) and others who are in this Chamber.

We carved an exemption for voter guides. We do not need this particular amendment. We have an exemption in the amendment. There are times this debate has been an outstanding debate. The gentleman from California (Mr. CAMPBELL) in particular I would cite for his lawyerly and scholarly articulation of what the Shays-Meehan bill does with regard to voter guides.

But this is not about voter guides. This is about whether or not the other side is going to try to defeat this bill. So let us have an up or down vote now. And I urge my colleagues, if they are for campaign finance reform, vote no on the DeLay-Doolittle Amendment.

The amendment is not needed, and all it serves to do is to defeat ultimately campaign finance reform.

So I would urge Members to vote no on the DeLay-Doolittle Amendment. I would urge us to move forward on this debate and have a vote.

Mr. WICKER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I yield to the gentleman from California (Mr. DOOLITTLE).

Mr. DOOLITTLE. Mr. Chairman, there is clearly a major difference of opinion about the Shays-Meehan bill and what it does. And those of us who have taken the floor in opposition have opposition for very principled reasons. They support it for principled reasons. But I think one thing is clear that they basically, by the wording of their bill, are going to wipe out the voter guides.

That is why we have got about four dozen organizations spanning the whole ideological spectrum, from the American Civil Liberties Union to the American Conservative Union and everything in between, claiming that this so-called exemption for voter guides in Shays-Meehan is "bogus." And it is bogus. It is bogus because it deliberately blurs the bright line that the Supreme Court handed down in the famous Buckley case in which it has been repeatedly reaffirmed.

When we read that case we see why they gave us a bright line, because it is very difficult to separate issue discussion from advocacy of election or defeat of a candidate. They did not want to chill free speech. That is why they gave us the bright line. That is why they said we had to be clear and unambiguous in urging the election or defeat of a candidate, using words such as "elect" or "defeat" or "support" or "oppose", et cetera. Shays-Meehan, basically in the name of good government, subverts the first amendment.

What could be more clear than the first amendment, which says Congress shall make no law abridging the freedom of speech? They abridge the freedom of speech, and they do it and justify it in their own minds because they think speech needs regulation.

The Founders thought it was too important to be regulated. That is why we fought the American Revolution, and that is why we have a written Constitution with that express provision in it. That is why all of these groups that do voter guides, which is the most grassroots form of activity there is, are urging my colleagues to support my amendment to this bill.

I think it is a bad bill, and I will oppose the bill with or without the amendment. But at least the amendment preserves the integrity of the voter guide system and allows these groups, which many Americans are members of, to go ahead and disseminate the information and not be called into question. Which one of my colleagues would want to have the threat of hiring attorneys, being subjected to months of publicity and spending $400,000 or $500,000 to defend what their own constitutional rights already are?

That is what this amendment is about, to make it clear and unambiguous, and that is why I urge my colleagues to support my amendment.

Ms. RIVERS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, as I listened tonight, the debate went back and forth, and I kind of had this feeling of being familiar with the debate but not know knowing what it reminded me of. And as I was sitting here thinking, I realized it reminded me of some of the children's stories that I used to read to my kids when they were little and it really had a Dr. Seuss-like quality to it. So as I was listening to the debate, I wrote down a few little comments. It goes like this:

The cat in the hat caused trouble, it is clear. But nothing compared to the trouble right here. The cat was persuasive, as smooth as they come. He convinced those two kids to do things that were dumb. He urged them. He spun them. He did his best to distract. Sort of like this amendment we are told to enact. It is easy to think that the Constitution is on trial. This argument would surely make the cat smile.

Like the cat in the hat, with good tricks at his command, this amendment is all about slight of hand. A loophole exists, it is known far and wide. But the cat in the hat is laughing inside. He laughs at the law. He does not like rules. As a matter of fact, he thinks rules are for fools. It is time to say no, to send the cat on his way, to close off the loopholes and start a new day.

No cards are at stake, no genuine guide. It is only the cheaters who are trying to hide. Vote no on this choice, or surely you will find the same sort of mess that old cat left behind. Say no, say it clear. And with some good luck, we will label what waddles and quacks a duck.

Mrs. ROUKEMA. Mr. Chairman, I rise in opposition to the Doolittle amendment and in strong support of the language in the Shays-Meehan substitute that protects voter guides.

Let's look at current law. Under current law, any group can pay for a printed voter guide with unrestricted funds as long as that voter guide does not contain "express advocacy"—that is, that the voter guide does not urge the defeat or election of a particular candidate.

The Shays-Meehan substitute does not change this.

What it does do is clarify that "express advocacy" is not limited to the use of the so-called "magic words" such as "vote for" or "vote against" or "defeat" or "elect". Express advocacy would also include phrases that indicate "unmistakable and unambiguous" support for or opposition to a candidate.

What does all this mean? It means that under Shays-Meehan, any organization may continue to use unrestricted funds for any voter guide or voting record at any time during the election cycle as long as it does not contain express advocacy and as long as it is not prepared in coordination with a candidate or a party committee.

Let me repeat that.

Under Shays-Meehan any organization may produce any voter guide at any time as long as it is not coordinated with a candidate or a party and contain express advocacy.

Why is this important? Because it makes it very clear that voter guides are already protected and that veil of protection will not be changed by Shays-Meehan.

What would Shays-Meehan change? It would change the way sham, secretly-funded campaign ads have come to dominate our electoral process.

Let me draw your attention to a recent U.S. Senate race in the State of New Jersey. Two of my State's more famous public servants were seeking election and our airwaves were jammed with so-called "educational" issue ads. The subjects of this avalanche of ads were crime, and Medicare, and Social Security, etc. And they tracked nearly identically with the platforms of the two candidates.

But you know what? They were so-called independent ads run by so-called independent groups and developed totally independent of a campaign or a party.

In some cases, they were paid for by soft money. In some cases, they were paid for by secret donors. In every case, they were undeniably campaign ads. (I would also add that in most cases they made the voters of New Jersey even more cynical and disheartened by the political process.)

Mr. Chairman, in Shays-Meehan, we are trying to end this disgraceful trend toward sham campaign ads—the kind of campaign ads that make the American people even more cynical.

My colleagues from Texas and California (Messrs. DELAY and DOOLITTLE) say their amendment creates a "carve-out" for printed voter guides.

This carve out is not necessary.

The Shays-Meehan amendment already protects voter guides. The Doolittle-DeLay amendment would go much farther. It guts the issue advocacy provisions of Shays-Meehan that will reign in sham campaign ads that masquerade as "educational" or issue-oriented.

I thank Messrs. DOOLITTLE and DELAY for adding to this debate. But I submit that their amendment is not necessary. Shays-Meehan protects voter guides. Shays-Meehan attacks secret, sham campaign ads.

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Mr. CAMPBELL. Mr. Chairman, I ask unanimous consent that the debate on the amendment, as modified, offered by the gentleman from California (Mr. DOOLITTLE) to the amendment in the nature of a substitute offered by the gentleman from Connecticut (Mr. SHAYS) be limited to the time already expended.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN pro tempore. The question is on the amendment, as modified, offered by the gentleman from California (Mr. DOOLITTLE) to the amendment in the nature of a substitute offered by the gentleman from Connecticut (Mr. SHAYS).

The question was taken; and the Chairman pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. MEEHAN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 201, noes 219, not voting 15, as follows:

[Roll No. 275]

AYES—201

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barcia
Barr
Bartlett
Barton
Bateman
Bilirakis
Bishop
Bliley
Blunt
Boehner
Bonilla
Bono
Brady (TX)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cannon
Chabot
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Cook
Cooksey
Costello
Cox
Crane
Crapo
Cubin
Cunningham
Danner
Davis (VA)
DeLay
Diaz-Balart
Dickey
Doolittle
Dreier
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fossella
Gekas
Gibbons
Gingrich
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Gutknecht
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hobson
Hoekstra
Hostettler
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
Johnson, Sam
Jones
Kasich
Kim
King (NY)
Kingston
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
Livingston
Lucas
Manzullo
McCollum
McCrery
McHugh
McInnis
McIntosh
McKeon
Mica
Miller (FL)
Mollohan
Moran (KS)
Murtha
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Ortiz
Oxley
Packard
Pappas
Paul
Paxon
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Portman
Poshard
Pryce (OH)
Quinn
Radanovich
Rahall
Redmond
Regula
Riggs
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Royce
Ryun
Salmon
Scarborough
Schaefer, Dan
Schaffer, Bob
Scott
Sensenbrenner
Sessions
Shadegg
Shaw
Shimkus
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stump
Stupak
Sununu
Talent
Tauzin
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Traficant
Watkins
Watt (NC)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wolf
Young (FL)

NOES—219

Abercrombie
Ackerman
Allen
Andrews
Baldacci
Barrett (NE)
Barrett (WI)
Bass
Becerra
Bentsen
Bereuter
Berman
Berry
Bilbray
Blagojevich
Blumenauer
Boehlert
Bonior
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brown (CA)
Brown (FL)
Brown (OH)
Campbell
Capps
Cardin
Carson
Castle
Clay
Clayton
Clement
Clyburn
Condit
Conyers
Coyne
Cramer
Cummings
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Duncan
Edwards
Eshoo
Etheridge
Evans
Farr
Fattah
Fawell
Fazio
Filner
Foley
Forbes
Ford
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Ganske
Gejdenson
Gephardt
Gilchrest
Gillmor
Gilman
Green
Greenwood
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Hinojosa
Holden
Hooley
Horn
Houghton
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Klug
Kucinich
LaFalce
Lampson
Lantos
Lazio
Leach
Lee
Levin
Lewis (GA)
Lipinski
LoBiondo
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McIntyre
McKinney
Meehan
Meek (FL)
Meeks (NY)
Menendez
Metcalf
Millender-McDonald
Miller (CA)
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Mink
Moakley
Moran (VA)
Morella
Nadler
Neal
Obey
Owens
Pallone
Parker
Pascrell
Pastor
Pelosi
Pickett
Pomeroy
Porter
Price (NC)
Ramstad
Rangel
Reyes
Rivers
Rodriguez
Roemer
Rothman
Roukema
Roybal-Allard
Sabo
Sanchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Schumer
Serrano
Shays
Sherman
Sisisky
Skaggs
Skelton
Slaughter
Smith, Adam
Snyder
Spratt
Stabenow
Stenholm
Stokes
Strickland
Tanner
Tauscher
Taylor (MS)
Thompson
Thurman
Tierney
Torres
Towns
Turner
Upton
Velázquez
Vento
Visclosky
Walsh
Wamp
Waters
Waxman
Wexler
Weygand
Wise
Woolsey
Wynn

NOT VOTING—15

Baesler
Deal
Engel
Fowler
Gonzalez
Hilleary
John
McDade
McNulty
Olver
Payne
Rush
Stark
Yates
Young (AK)

□ 2007

Mr. GALLEGLY and Mr. LAZIO of New York changed their vote from "aye" to "no."

Messrs. GUTKNECHT, EWING, CHAMBLISS, WATT of North Carolina, MURTHA, COSTELLO, COBURN and BACHUS changed their vote from "no" to "aye."

So the amendment, as modified, to the amendment in the nature of a substitute, was rejected.

Mr. THOMAS. Mr. Chairman, I know that certainty is valued highly by this body, and in an attempt to provide a degree of certainty, I move that debate on the amendment offered by the gentleman from Connecticut (Mr. SHAYS) and the following six amendments thereto, if offered by the following Members: First the gentleman from New York (Mr. FOSSELLA); second, the gentleman from Mississippi (Mr. WICKER); third, the gentleman from Florida (Mr. STEARNS); fourth, the gentleman from Mississippi (Mr. PICKERING); and, fifth, the gentleman from Texas (Mr. DELAY), be limited such that no amendment may be debated for longer than 40 minutes.

The CHAIRMAN pro tempore. The motion is not debatable.

The question is on the motion offered by the gentleman from California (Mr. THOMAS).

The motion was agreed to.

Mr. MEEHAN. Mr. Chairman, I demand a recorded vote and, pending that, make a point of order that a quorum is not present.

The CHAIRMAN pro tempore. The gentleman was on his feet and is entitled to be recognized.

Mr. MEEHAN. Mr. Chairman, I ask unanimous consent to speak out of turn for 30 seconds.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. MEEHAN. Mr. Chairman, it would be my hope that in order to expedite things here, we would be able to come to an agreement on limiting debate, but at this point, that we could roll votes until tomorrow on any amendments that we take up, and I would ask that we amend the gentleman's unanimous consent request so that votes will be rolled until tomorrow.

Mr. THOMAS. Mr. Chairman, if the gentleman will yield, I would tell the gentleman that it was not a unanimous consent request, because the gentleman objected to a unanimous consent request.

Mr. MEEHAN. Mr. Chairman, I am asking for unanimous consent.

Mr. THOMAS. Mr. Chairman, we moved this measure. It seems to me, given the time, it would be appropriate, since it is only 40 minutes, that we debate and vote on the motion that the Chair was going to recognize, the Fossella amendment, and, if we moved to any others, we would roll the other votes.

Mr. MEEHAN. Reclaiming my time, what my request of the leadership would be is that I am suggesting we would agree to limit debate, but let us make the last vote the last vote of the night, and then come back tomorrow.

It is a reasonable request. It is 8:50 at night.

PARLIAMENTARY INQUIRY

Mr. THOMAS. Mr. Chairman, I have a parliamentary inquiry. Is the gentleman from Massachusetts (Mr. MEEHAN) propounding a unanimous consent request?

Mr. MEEHAN. Yes.

Mr. THOMAS. Mr. Chairman, I did not understand that to be a unanimous consent request.

Mr. MEEHAN. I make a unanimous consent request.

The CHAIRMAN pro tempore. The Chair has the authority to postpone all requests for recorded votes on amendments. The Chair will take under advisement the question of whether to postpone votes.

Mr. THOMAS. Mr. Chairman, my understanding was the gentleman from Massachusetts offered a unanimous consent request, is that correct?

Mr. MEEHAN. Yes, the gentleman is correct.

Mr. THOMAS. Does the Chair understand that the gentleman from Massachusetts (Mr. MEEHAN) offered a unanimous consent request, the content being there be no more votes on any amendments tonight? Is that my understanding of the unanimous consent request?

□ 2015

The CHAIRMAN pro tempore (Mr. SHIMKUS). The Chair has not entertained that request because the Chair has the authority to postpone recorded votes under the rule adopted by the House.

PARLIAMENTARY INQUIRY

Mr. LEVIN. Mr. Chairman, parliamentary inquiry.

The CHAIRMAN pro tempore. The gentleman will state his parliamentary inquiry.

Mr. LEVIN. Mr. Chairman, I would say to the gentleman from California (Mr. THOMAS), it is my understanding, and tell me if I am correct or not, that the Chair has the authority, and the gentleman from Massachusetts (Mr. MEEHAN) has the right to request that there be unanimous consent that there be no more votes tonight, and the gentleman from California (Mr. THOMAS) has the right to reserve and comment on whether that would be agreeable, in which case I think we could avoid another vote on the gentleman's motion and finish the vote for tonight and go on with the debate.

Does not the gentleman from Massachusetts (Mr. MEEHAN) have the right to move that, even though the Chair has the right to postpone votes at his discretion?

The CHAIRMAN pro tempore. There is no right to move to postpone a vote in Committee of the Whole, and the Committee of the Whole cannot alter an authority conferred by the House.

AMENDMENT OFFERED BY MR. FOSSELLA TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE NO. 13 OFFERED BY MR. SHAYS

Mr. FOSSELLA. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment Offered by Mr. FOSSELLA to Amendment No. 13 in the nature of a substitute offered by Mr. SHAYS:

Add at the end of title V the following new section (and conform the table of contents accordingly):

SEC. 510. PROHIBITING NON-CITIZEN INDIVIDUALS FROM MAKING CONTRIBUTIONS IN CONNECTION WITH FEDERAL ELECTIONS.

(a) PROHIBITION APPLICABLE TO ALL INDIVIDUALS WHO ARE NOT CITIZENS OR NATIONALS OF THE UNITED STATES.—Section 319(b)(2) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441e(b)(2)) is amended by striking "and who is not lawfully admitted" and all that follows and inserting the following: "or a national of the United States (as defined in section 101(a)(22) of the Immigration and Nationality Act).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to contributions or expenditures made on or after the date of the enactment of this Act.

The CHAIRMAN pro tempore. The Chair will recognize 40 minutes of debate evenly divided by the gentleman from New York (Mr. FOSSELLA) and a Member opposed.

Mr. MEEHAN. Mr. Chairman, I ask unanimous consent to speak out of turn for 30 seconds to clarify the schedule.

The CHAIRMAN pro tempore. The gentleman already has 20 minutes in opposition to the amendment.

Mr. MEEHAN. But I want to know if this is the last vote and if we are going to roll it until tomorrow like I asked, so Members will know.

PARLIAMENTARY INQUIRY

Mr. MEEHAN. Mr. Chairman, parliamentary inquiry.

The CHAIRMAN pro tempore. The gentleman will state his parliamentary inquiry.

Mr. MEEHAN. Will the Chairman be rolling votes per my unanimous consent request earlier?

The CHAIRMAN pro tempore. The Chair has been requested to put to the Committee the debate and the vote on this amendment and then postpone recorded votes on subsequent amendments debated tonight.

PARLIAMENTARY INQUIRY

Mr. THOMAS. Parliamentary inquiry, Mr. Chairman.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. THOMAS. Mr. Chairman, my understanding was there was a motion presented to the House for 6 amendments, not more than 40 minutes. That amendment was adopted.

On what basis does the Chair now propound a procedure for dealing with that which has not either been a unanimous consent or an offering on the floor?

The CHAIRMAN pro tempore. The Chair is only proposing putting the question for a vote after the pending amendment is debated.

Mr. THOMAS. In other words, the Chair is now exercising the Chair's right to explain to a Member what may be the parliamentary procedure and the order of business on the floor as determined by the Chair?

The CHAIRMAN pro tempore. That is correct.

Mr. THOMAS. I thank the Chair.

The CHAIRMAN. The gentleman from New York (Mr. FOSSELLA) is recognized.

Mr. FOSSELLA. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I offer a very simple, straightforward, and I think a common sense amendment. Under current law, one does not have to be a United States citizen to make a campaign contribution to a candidate for Federal office. My amendment would establish that only United States citizens or United States nationals would be permitted to make an individual contribution to any candidate running for Federal office. Indeed, earlier this year following up on introductions by the gentleman from Nebraska (Mr. BEREUTER) and the gentleman from California (Mr. THOMAS) this House, by an overwhelming margin, sought to ban contributions to Federal elections by noncitizens.

My amendment would also allow the request of the gentleman from the territory of American Samoa (Mr. FALEOMAVAEGA), that would allow noncitizens and U.S. nationals, many of whom reside in the territory of American Samoa, to contribute to Federal campaigns.

I believe fundamentally that American citizens should determine the outcome of American Federal elections.

Mr. Chairman, again, let me just reiterate what this amendment does. Essentially it allows United States citizens, including United States nationals, to determine the outcome of Federal elections.

Currently, noncitizens can contribute to Federal elections. I think that is bad policy; I think that we have seen in the last couple of years how noncitizens have played a major role in funneling illegal money to Federal elections. Indeed, just in today's paper we see how a Thailand firm lobbyist was indicted as a conduit of campaign cash. The indictment brings to total the number 11 of persons charged so far in the Justice Department's campaign finance investigation which began in November of 1996, and all of them have a very similar trait in that they funnel money through people who are residents of the United States, but are noncitizens.

Mr. Chairman, I think that is why we have before us an amendment that just a couple of months ago by a vote of 369-to-43, this House overwhelmingly banned the contributions to Federal elections for noncitizens. As I stated earlier, I think this would go a long way to bring integrity back into the system we have before us, and essentially and in effect, allow foreign influence of the United States political process to be kept to a minimum.

Mr. Chairman, 369 votes to me is a strong indication of the bipartisan support that this legislation shares in this House, and I would think that every American who is watching this or every American who believes there should be integrity in the system, that American citizens should control the electoral process, particularly those at the Federal level, and would support such an amendment, and I think this would go a long way to clarify the underlying legislation.

Mr. Chairman, I reserve the balance of my time.

Mr. MEEHAN. Mr. Chairman, I ask unanimous consent that the 20 minutes of time allotted to me be controlled by the gentlewoman from Hawaii (Mrs. MINK).

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mrs. MINK of Hawaii. Mr. Chairman, I yield 2 minutes to the gentleman from Massachusetts (Mr. MEEHAN).

Mr. MEEHAN. Mr. Chairman, in our efforts, our bipartisan efforts over a period of the last several years to forge a partnership between Republicans and Democrats and find an agreement to comprehensive campaign finance reform, we have made a number of agreements and concessions along the way. We have a majority of the Members of this body who I believe and many of us believe now favor the McCain-Feingold, Shays-Meehan legislation.

The only thing that can defeat the Shays-Meehan legislation is an effort to have an amendment that is harmful to our ability to get it passed. I believe strongly that we should vote on this amendment. If Members are concerned about the specifics of this amendment, we voted and sent the bill over to the United States Senate, we can deal with it that way, or we can deal with it through the Commission as part of the bill that this House passed. We sent a Commission bill, gave them the responsibility to look at what changes there ought to be, other changes, in the campaign finance law.

□ 2030

I would suggest that this would be a change that the Commission could make a judgment on. This may well be an unconstitutional provision. The Commission would have an opportunity to talk to constitutional scholars and determine whether or not this should be part of some other amendment at some other time.

What we need to do at this point is to move forward, to get through this very cumbersome, difficult process, and have a vote up-or-down on the Shays-Meehan bill. I would urge my colleagues to vote against this amendment.

Mrs. MINK of Hawaii. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this is a very, very harmful amendment to add to this legislation. I ask this body to take a look at me as a person. I ask this body to examine this amendment and the impact it would create in a large percentage of the population of this country.

Just take a good look at me. If I were to hand over a campaign contribution to a Federal candidate, what would be the first thing that the recipient would do? It would be to ask me whether I was a citizen of the United States. I am a third generation American, but they would be forced to ask me that question because of my appearance, whereas the gentleman from New York, the gentleman from Massachusetts, tendering a contribution, would never have to be offended by such a request.

That is the cardinal offense that comes with the acceptance of this kind of provision, because it is implicitly discriminatory upon a large segment of our society that looks different than the basic majority.

There is nothing in this Constitution that says that the protections of the Bill of Rights extend only to United States citizens. Throughout it there is reference to people, to persons. There have been court decisions time and again that have extended the protections of the Constitution to all persons living within the United States.

We have had a great problem in the Congress making a distinction between illegal residents and legal permanent residents. Legal permanent residents have gone through all the processes. They have spent years to even come to the United States. They have come here with the purpose of being lawful, participating people in this great democracy. What are we afraid of, of these legal residents? We should not be. We should be welcoming them as participants in this democracy.

This Congress first took away their food, threatened to take away their health care, refused to give them disability protections, injured the elderly and the children and the sick among this category of so-called legal permanent residents.

Let us not make a mockery of the openness of this society, of the fierceness with which we defend the Constitution, and tonight adopt an amendment that says, yes, we welcome you into the country, but we will not allow you to be participants. We forbid you to make contributions to candidates. To me that really offends not only the core symbol of this democracy, but it is absolutely unconstitutional.

Pass this amendment and I am sure it would be taken to the courts and it will be stricken from the bill. Do not disgrace the Constitution by supporting this kind of amendment.

Mr. FAZIO of California. Mr. Chairman, will the gentlewoman yield?

Mrs. MINK of Hawaii. I yield to the gentleman from California.

Mr. FAZIO of California. Mr. Chairman, I want to congratulate the gentlewoman on an outstanding presentation to her colleagues. I think many of us who, as the gentlewoman said, look like the majority in this country would not have thought of the implicit distinction that people would have to make in order to make clear that a contributor was a citizen or legal resident of this country who had not attained nor sought citizenship.

There are thousands and thousands and thousands of people who, since the Federal election law has been in place, have contributed to candidates of both parties and to third and fourth parties all across the country, raising no issue, no scandal, no problem. They simply have attested to the fact that they care about the country they live in; that as people who go to work every day and invest in it and create jobs for others, they want to have some say about the atmosphere in which they go about living their life.

Mrs. MINK of Hawaii. Mr. Chairman, I make the assumption in my district that everyone who wants to participate in my campaign is welcome. If they want to make a contribution to my campaign, they are welcome. I am not going to ask them to prove to me that they are a citizen of the United States. I do not carry around anything in my pockets or anywhere in my possession that I know of that proves that I am an American citizen.

I pay taxes, I was born in America, my parents were born here. Why do Members want to impose this kind of incriminating disability on tens of thousands of honest, hard-working people in districts like mine? But that is what Members are going to force me to do. They are going to put me in jail and make me a criminal because I have taken a contribution from someone in my constituency that I love and I respect, because I did not have the whatever it was to insult him by saying, are you a citizen?

That is really what we are doing tonight, we are absolutely tearing away the very shreds of this democracy which says that people who come to this country and love this country ought to be able to participate in it. I ask this House to please defeat this amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. FOSSELLA. Mr. Chairman, I yield myself such time as I may consume.

I would just note for the RECORD, Mr. Chairman, I noticed, respectfully, of course, that my colleague, the gentleman from Massachusetts (Mr. MEEHAN), objects to this amendment, but earlier this year he, along with 369 of our colleagues, voted to support almost identical legislation. Indeed, this is broader than the piece of legislation we voted on earlier.

Mr. Chairman, I yield 3 minutes to the gentleman from Nebraska (Mr. BEREUTER).

Mr. BEREUTER. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, I would like to say to the gentleman from Massachusetts (Mr. MEEHAN), if he is here, that the Meehan-Shays bill is not a perfect bill. If the gentleman expects to have support from Members of this body, do not tell us to take it the way it is and do not try to amend it. That is not acceptable in this body.

I have great respect for the gentlewoman from Hawaii, but I am amazed and surprised at her comments here tonight. It is patently absurd to suggest that the gentleman's amendment is unconstitutional. It is discriminatory in only one way, only one way. It differentiates between citizens and noncitizens. It also takes into account the fact that we have U.S. nationals in places like American Samoa, to the credit of the author of the amendment. The House has voted on this very type of amendment and approved it before by a very large vote.

To this Member, it is very simple. If you want to be fully involved in our political process, then you must become a citizen of the United States. If you do not make the full commitment to our country by becoming a U.S. citizen, then you should not have the right to participate in our political system in the ultimate fashion, by making a campaign contribution and affecting the lives of American citizens. You should not have a role in electing American officials.

Most Americans believe this is the law already, but in fact, as we learned last year, you can simply be a permanent resident of the United States, and in fact be a resident, and then it is not illegal to make a political contribution.

There is no requirement on the gentlewoman, for example, to do a citizenship test of the people that might make contributions to her campaign. All she would have to do is simply say, "Are you a citizen?" And when you fill out a contributor's form you would have to attest that you are a citizen.

We have had problems in the recent presidential campaign which have cast a cloud on Asian Americans. That is deeply, deeply regretful, because that is an inappropriate cloud. But there is no reason why there is any additional discriminatory scrutiny given to a Caucasian from another country or a Hispanic from South America than there is an Asian American who is a citizen or a U.S. national.

I think it is a very obvious conclusion that the process of electing our officials should be a right reserved for citizens. It is wrong and dangerous to allow even the potential to exist for undue foreign influence in electing our government. That is what the American people expect. That is what they want. That is what the gentleman's amendment does.

I urge Members to support the gentleman's amendment.

Mr. Chairman, this Member rises today in support of the amendment offered by the distinguished gentleman from New York [Mr. FOSSELLA], which would prohibit foreign individual campaign contributions or expenditures and allow such contributions or expenditures only from United States citizens or United States Nationals. The Fossella amendment is almost identical to H.R. 34, which this Member sponsored as one aspect of necessary campaign finance reform legislation, and which was previously passed by the House by a vote of 369 to 43 (with 1 Member voting present) on March 30, 1998. The only difference between the Fossella amendment and this Member's original legislation (H.R. 34) is that the Fossella amendment would appropriately allow United States nationals (as defined by the Immigration and Nationality Act) to make individual campaign contributions or expenditures to Federal candidates.

However, it is apparent that a serious problem really for the first time came to the attention of the American public during the 1996 presidential election season—campaign contributions from foreign sources. The abuse that allegedly resulted from foreign campaign contributions in the recent presidential campaign is a terrible indictment of our current campaign finance system.

Many Americans believe that it is already illegal for foreigners to make Federal campaign contributions. The problem is that they are both right and wrong under our current Federal election laws. The fact of the matter is that under our current Federal election laws, you do not have to be a U.S. citizen to make campaign contributions to Federal candidates. Under our current Federal election laws, you can make a campaign contribution to a candidate running for Federal office if you are a permanent legal resident alien—a permanent legal resident alien and you, in fact, reside in the United States.

This Member believes that this situation is wrong, this Member believes that most Americans would agree it is wrong, and this Member believes that it is a problem begging for correction. Therefore, this Member introduced H.R. 34 on the first day of the 105th Congress to change our current Federal election laws so that only U.S. citizens are permitted to make an individual contribution to a candidate running for Federal office.

An overwhelming number of this Member's colleagues agreed with the purpose of H.R. 34; as of March 30, 1998, the House passed H.R. 34 by a vote of 369 to 43 (with 1 Member voting present).

Indeed, the Congress must be concerned about the issue of legal and illegal foreign campaign contributions. Everyone here today should be concerned about this recent insidious development in our presidential election process, and should understand that these statutory and procedural changes like the passage of the Fossella amendment are necessary to protect the integrity of the American electoral process. We must insure that it is Americans who choose our President and Congress.

We simply cannot allow foreign corporations and foreign individuals to decide who is elected to public office at any level of our government. Therefore, the Fossella amendment, which would require that only U.S. citizens and U.S. nationals be allowed to make individual contributions to candidates for Federal office (and which is virtually identical to this Member's bill—H.R. 34), must be a priority for the 105th Congress. This issue must be addressed and this Member intends to push for this change until successful.

In conclusion, this Member would ask his colleagues to strongly support the Fossella amendment—the essentially identical text of this Member's bill, H.R. 34, which previously passed the House by an overwhelming majority—as an important step forward campaign finance reform.

Mr. FOSSELLA. Mr. Chairman, I yield 2 minutes to the gentleman from New York (Mr. PAXON).

Mr. PAXON. Mr. Chairman, there are many controversial amendments that are being offered and have been offered, but not this one. On this one there is near unanimity in this body, whether we are on this side of the aisle, Republicans, or that side of the aisle, Democrats, liberals or conservatives, from whatever region of the country, there is agreement that this amendment needs to be part of this legislation.

As a matter of fact, in March when we voted on a similar amendment, a similar piece of legislation, H.R. 34, the Illegal Foreign Contributions Act, it passed with 369 votes. There are few things in this body that have enjoyed the depth and breadth of support that this idea did in the form of the legislation then, H.R. 34, and today in the form of the amendment offered by the gentleman from New York (Mr. FOSSELLA).

Why should there be such unanimity? It is just common sense, for two reasons. First, only U.S. citizens and U.S. nationals should be allowed to contribute to Federal campaigns. Back at home this is not rocket science. People would assume this should be the case. We should not even be talking about this, because they would have assumed long ago we would have made sure this was the case.

Of course, number two, common sense is a result of this amendment in the action of the gentleman from New York, no foreign dollars would be allowed to be part of our system. We know what has happened in recent months, and we have been witnessing in the papers even today about the influence, the attempted influence, of our system by foreign dollars.

I am very pleased that the gentleman from New York is taking this step so we can be certain that whatever reform legislation passes this House, that this idea, this important step to ensure the integrity of our American political system, is part of it.

I tip my hat to the gentleman from New York, and most importantly, to the Members of this Chamber who I know will be voting overwhelmingly, as we did last March, to make this important part of this reform move forward.

Mrs. MINK of Hawaii. Mr. Chairman I yield 1 minute to the gentleman from New Jersey (Mr. PALLONE).

Mr. PALLONE. Mr. Chairman, I want to support the gentlewoman from Hawaii, and say that I was one of those, part of that overwhelming 300 or so, who voted when we had this amendment on suspension a couple of months ago, who voted in favor of eliminating the right for permanent residents to be able to contribute.

After that time I was overwhelmed, if you will, by so many constituents in my district, which is a very multi-ethnic district. A lot of Asian Americans live in my district. They explained to me how insulting this was, if you will, that to say that people who are here, who become permanent residents, who would like and in most cases are trying to become citizens of the United States, that this is the one opportunity they have, really, or one of the few opportunities they have to express their will and get involved in the political process.

I think it is a mistake for us to deny them that. I think that I understand the point of view that says, well, you should be a citizen to fully participate in our democracy, but this is not—this is a form of participation, a very small form of participation, that I think we should allow permanent residents to be able to contribute and participate in this way.

□ 2045

Mr. FOSSELLA. Mr. Chairman, I yield 3 minutes to the gentleman from Michigan (Mr. KNOLLENBERG).

Mr. KNOLLENBERG. Mr. Chairman, I rise today in strong support of the Fossella amendment. It seems like deja vu. We have been here before.

Just a reminder about 1996, during the election cycle, the Democratic National Committee was forced to return over $2.8 million in illegal or improper donations. I was surprised and dismayed by that. The American people were dismayed and, frankly, frustrated over the ability of foreign nationals to wield such influence over our election process without casting a single vote.

It is why I introduced H.R. 767, which was the Common Sense Campaign Reform Act. That bill provided a common-sense, three-step approach to address the problems inherent in the current system. One step of the three would prohibit individuals who are not eligible to vote from contributing to candidates for Federal office or political parties.

I commend my colleague, Mr. FOSSELLA, for incorporating into his amendment the spirit of H.R. 767. Banning contributions from non-U.S. citizens reinforces the important message that American citizens and only American citizens elect their representatives in government, not foreigners.

Now, contrary to what I have heard over here, this is not harmful. It does not need a commission. It simply needs a vote, just like the last time.

By the way, this bill is more inclusive than the last bill. It is a better bill in response to the comments over here.

Mr. Chairman, foreign influence in our elections has eroded the American people's confidence in our democratic process and left far too many voters feeling demoralized and disenfranchised. While this bill is no sweeping reform effort, it does address one of the system's most glaring problems, the influx of foreign money in our political process.

I urge my colleagues to support this vital, common-sense piece of legislation.

Mr. FOSSELLA. Mr. Chairman, I yield 3 minutes to the gentleman from Missouri (Mr. BLUNT).

Mr. BLUNT. Mr. Chairman, I thank the gentleman from New York for bringing this amendment to the floor. I think it clearly does what most Americans think is already the case.

Some of my colleagues tonight have even said, I thought that is what the law already said, wondered why we passed this with such an overwhelming vote just a couple of months ago. Even the Shays-Meehan language tries to address this issue but I think does not adequately address the issue of expenditures.

This amendment clearly takes foreign citizens out of our election process as contributors. We have seen that ability of foreign citizens living in the United States to use our system in a negative way in just the last cycle of elections. We have heard example after example after example of citizens of other countries living in the United States who gave money, a lot of questions as to where that money came from, some apparent proof that that money was funneled into our politics through these people living in the United States from other governments. But if this law was on the books, that would not be allowed.

The House overwhelmingly voted to make this common-sense reform. This clarifies not only that people cannot give money to campaigns, they cannot independently spend money to affect campaigns, something that virtually all Americans believe to be the case today.

This amendment avoids the problem simply by banning all expenditures by noncitizens. H.R. 34 amended the law by banning contributions from foreign nationals. This clarifies that.

I urge my colleagues not to change their vote, not to have to explain why their vote 2 months ago is different than the vote they cast tonight but to be consistent on understanding this problem that has already seen abuses in the most recent series of campaigns, to change our laws so that those abuses cannot occur in the future, to make that part of any changes we make in campaign finance reform so that the laws are enforced, the laws are enforceable, and we do not continue to have the same kinds of problems that everybody understands were part of the last cycle of elections.

I urge my colleagues to vote for this. Actually, I would be delighted just to see my colleagues who voted for it the last time to vote for it this time or to come up with a pretty good explanation when they go back and talk about this topic, to talk about why that vote was one way 60 days ago and another way today.

I urge my colleagues to pass this. I think it will pass. I am grateful to the gentleman from New York for offering this amendment tonight.

Mrs. MINK of Hawaii. Mr. Chairman, I yield 3 minutes to the gentleman from Michigan (Mr. DINGELL).

Mr. DINGELL. Mr. Chairman, this is a bad amendment. Like a lot of other Members, in the enthusiasm of the early days following the last election I supported the idea that we should constrain the rights of new Americans and permanent residents to participate to the fullest in our election process. That was a mistake. It was wrong.

These are not citizens but they are people who have been permitted to come here. They will become citizens almost without exception in the orderly passage of time. They serve in our Armed Services. Indeed, there are better than 20,000 of these permanent residents who now serve the United States in our Armed Services. I would say that we ought to permit them to have full participation.

After all, it is the main thesis of my good colleagues and friends on the Republican side of the aisle that the giving of campaign contributions is an exercise of the right of free speech. Indeed, the Valeo case says so. Why then is it that we should deny these people who have come here, who have entered the country legally and who are for all intents and purposes, from tax paying to serving in the defense of this Nation, acting almost completely as American citizens?

Almost without exception, they intend to become American citizens. Almost without exception, they have a great reverence and love for this country. I think there is nothing wrong with permitting them to have that additional right of participating in our election process by making campaign contributions under the same basis that any other person who resides legally and permanently here.

I would urge my colleagues to reject the amendment offered by my friend and colleague on the Republican side. I would urge them to err in this matter, if we do err, and I do not believe so, on the side of seeing to it that the fullest of participation of citizenship in this important aspect is extended to those who are permanent residents of the United States.

With regret, I say this is a bad amendment. With regret, I say let us vote it down. And let us then proceed towards the enactment of the Shays-Meehan bill, which is a good piece of legislation in the public interest, and let us allow permanent residents, legally entered into the United States, to participate in the full exercise of free speech, looking to the day when they can become citizens and can actually have the right to vote.

Mr. FOSSELLA. Mr. Chairman, I yield 3 minutes to the gentleman from Pennsylvania (Mr. PETERSON).

Mr. PETERSON of Pennsylvania. Mr. Chairman, it is certainly a pleasure this evening to join the gentleman from New York in support of the Fossella amendment.

I have found it amazing to hear the discussion on this amendment, an amendment that says you must be a citizen of the United States to contribute to and influence elections. You must be a citizen of the United States to participate in elections. But it seems for some to be all right to give thousands of dollars that might change thousands of votes when you are not a citizen.

I find it incredible. Some have said it is unconstitutional. We know that is a joke. Someone said it was harmful to the bill if it passed. But they did not explain how it was harmful.

Maybe if it is not right, they said, we can fix it in the Senate or maybe in a conference committee. And then the one that amazed me, because bureaucrats always scare me, it was said, we can deal with it over at the commission if it is not right, telling the commission that they must determine whether it is appropriate for people that are not citizens to give to campaign contributions.

I also found it amazing that someone called it a cardinal sin and very offensive to be asked if you are a citizen. My grandparents came from Sweden. If someone asked me if I am a citizen, I will say, you bet I am and proud of it. Most of the newest citizens that I know, when asked if they are a citizen, they beam. They are so proud to be an American. It is not offensive to be asked. It is not an insult to be asked if you are a citizen.

What will be the impact if we do not do this? If we do not do this, it will be easy for those who are seeking the White House to continue to funnel foreign money into their coffers. That is what it will do.

Do my colleagues like what happened in 1996? I do not. Future Congress races, future Senate races will be easier to get foreign money and use it to win elections, which is wrong in this country.

Mr. Chairman, this is a clean, simple amendment. The law says you must be a citizen to vote. Why should you be able to influence elections with cash if you are not a citizen? You may influence thousands of votes.

This is the simplest, cleanest amendment we will face on campaign finance reform. I urge all of my colleagues on both sides of the aisle, let us stand for the Constitution. Let us stand for citizenship. Then if we are going to participate in elections in this country, you need to be a citizen, to vote and to contribute.

Mrs. MINK of Hawaii. Mr. Chairman, I yield 30 seconds to the gentleman from California (Mr. CAMPBELL).

Mr. CAMPBELL. Mr. Chairman, I voted in favor of this amendment when it stood separately. I now will vote against it. Why?

Since it passed before, we do not need it to be attached to this bill for its substance. The only reason it is being attached to this bill now is to defeat Shays-Meehan. Why? Because Shays-Meehan has to stay as close to identical to what passed or came close to passing with 57 votes in the Senate for cloture. Do not support this amendment if you are committed honestly to campaign finance reform. The further Shays-Meehan departs from what could pass in the Senate, the less our chance.

Mrs. MINK of Hawaii. Mr. Chairman, I yield 30 seconds to the gentlewoman from New York (Mrs. MALONEY).

Mrs. MALONEY of New York. Mr. Chairman, the gentleman from New York (Mr. FOSSELLA) pointed out that his amendment has already passed this body as a stand-alone bill. So why are we debating it now? We are debating it because, I would venture to say, many Members who support this amendment and who are trying to add amendments to Shays-Meehan are trying to defeat the bill, which has 218 votes to pass this body if we keep it in the form that it is in that is like the McCain-Feingold bill that has the majority of votes in the Senate.

I call on my colleagues, if they are for reform, vote against this amendment.

Mrs. MINK of Hawaii. Mr. Chairman, I yield 2 minutes to the gentleman from American Samoa (Mr. FALEOMAVAEGA).

Mr. FALEOMAVAEGA. Mr. Chairman, I thank the gentlewoman for allowing me to say a few remarks with reference to the amendment now at hand.

I would like to ask my good friend from New York for a dialogue concerning his amendment because there does seem to be a lot of misinformation going around here concerning the gentleman's amendment. I do want to thank him for his understanding of the uniqueness of the situation.

I know my colleagues probably are not aware I am the only representative that represents U.S. nationals in the great United States of America. By definition of the U.S. immigration law, a U.S. national is any person who is born in the confines of American Samoa, who is a permanent resident, not permanent resident, born and raised in American Samoa who owes permanent allegiance to the United States but he is neither a citizen nor an alien.

You tell me what that means? But I would like to ask the gentleman from New York if his understanding of a U.S. national is in that category and the reason for his amendment is that U.S. nationals can contribute to Federal elections?

☐ 2100

Mr. FOSSELLA. Mr. Chairman, will the gentleman yield?

Mr. FALEOMAVAEGA. I yield to the gentleman from New York.

Mr. FOSSELLA. To my colleague from American Samoa, Mr. Chairman, it was in a conversation that my office had with his office, in an effort to address this issue and his concern, and particularly with the letter dated May 12 of 1998, that we sought to allow U.S. nationals to contribute to Federal elections.

Mr. FALEOMAVAEGA. Reclaiming my time to just ask, because I was hoping that maybe the issue of permanent resident aliens and green card holders would be addressed at another time, but this is very key and important, and I want to ask my friend does his proposed amendment exclude permanent resident aliens from participating and contributing to U.S. elections?

Mr. FOSSELLA. If the gentleman will continue to yield, this amendment simply allows for United States' citizens and United States' nationals to contribute to Federal elections.

Mr. FALEOMAVAEGA. So, by omission, permanent resident aliens cannot contribute in U.S. Federal elections?

Mr. FOSSELLA. That is correct.

Mr. FALEOMAVAEGA. Is the gentleman aware that permanent resident aliens are subject to the U.S. draft?

Mr. FOSSELLA. Mr. Chairman, I yield 2 minutes to the gentleman from Florida (Mr. STEARNS).

Mr. STEARNS. Mr. Chairman, I would say to the gentleman from New York, I would be glad to take 2 minutes and allow 1 extra additional minute for the gentleman from American Samoa so he can finish his colloquy, because I think he is on a point the Members should understand.

Because I have an amendment that comes later which is very similar to the amendment of the gentleman from New York, and I support his amendment, but my amendment goes a little further and takes it down to the State and local level and also points out that one cannot solicit contributions. So this means that a U.S. citizen cannot go out and solicit contributions from people that are not citizens.

I support the gentleman's bill, but I would like to point out for the Members here that there is a controversial point here and it all pivots around the idea that we are not talking about U.S. citizens, we are not talking about U.S. nationals, we were talking about U.S. permanent legal aliens, is the term. And in many parts of the country these people want to participate.

Mr. FALEOMAVAEGA. Mr. Chairman, will the gentleman yield?

Mr. STEARNS. I yield to the gentleman from American Samoa.

Mr. FALEOMAVAEGA. Mr. Chairman, I thank the gentleman for yielding, because we do need to understand exactly what is a permanent resident alien. A permanent resident alien is an alien who petitions the Immigration and Naturalization Service for his status, for which he is then issued a green card under the provisions of a quota number that is given to that person.

By those conditions, a permanent resident alien is subject to the draft in times of a national emergency. I had several friends who were permanent resident aliens who were Vietnam veterans. They were subjected to the draft. Also, a permanent resident alien, after 3 years serving in the military, can also become a U.S. citizen, if he so wishes.

Mr. STEARNS. Reclaiming my time, Mr. Chairman, I thank the gentleman for that clarification.

I think the Members on this side who are saying they are against the gentleman's amendment must go back and realize that they have voted for this identical language and they are going to be flip-flopping on this floor because that bill passed 368; overwhelming.

The fact it is a stand-alone bill has no relevance here because it is the same words. So my colleagues have to know in their heart of hearts that they are going to flip-flop tonight if they do not support the amendment of the gentleman from New York.

Mrs. MINK of Hawaii. Mr. Chairman, I yield 2 minutes to the gentleman from Connecticut (Mr. SHAYS).

Mr. SHAYS. Mr. Chairman, this is one of those difficult moments in the process of bringing forth a comprehensive bill with many supporters. We tried to identify amendments as killer amendments, harmful amendments, benign or helpful amendments, and essential amendments to help the bill pass. For some, this is a killer amendment. I have to be candid with my colleagues, those who support Meehan-Shays, we are going to lose some supporters in the end if this amendment passes. It is likely to pass.

But one of the things I find extraordinarily ironic is I hear Members say there is agreement this amendment has to be part of Meehan-Shays. Yet the people who are saying it are not going to be voting for Meehan-Shays. So this is not particularly a friendly amendment. We already passed this legislation last year. It is waiting in the Senate. It can be dealt with there. To attach it to this bill will do what I think it is intended to do, which is to make it more difficult to pass Meehan-Shays. I accept this. I understand it.

What I would also like my colleagues to understand is that the real foreign money problem is with soft money, and the opponents of Meehan-Shays do not want to ban soft money. The foreign nationals who gave money gave soft money. They did not give hard money contributions. All the outrages that people are thinking of are soft money and yet so many who are concerned about foreign money are opposed to banning soft money.

When I look at this legislation, I have to tell my colleagues I understand that some just think people who live in this country, who are not legal, should not be allowed to contribute. I am grateful they are legal. I am grateful that they ultimately want to become citizens. And I regret my vote when I voted for it in the past, and I will vote "no".

I will say this. I encourage my colleagues who feel strongly against this amendment, do not let them win in the end. If they succeed in attaching this amendment, do not walk away, because that is the real reason why they are presenting this amendment. And I encourage my colleagues to realize that we cannot allow this amendment, if it passes, to be a killer amendment because they will have won.

Mr. FOSSELLA. Mr. Chairman, I yield myself such time as I may consume to urge all Members just to reflect upon the highest oracle of wisdom, and that is the experience of voting for this same, almost identical piece of legislation, but broader, just a few months ago.

The reality is that if Shays-Meehan were to pass, I think we would like as perfect a bill as possible and, in effect, what my amendment would do would only allow United States' citizens and United States' nationals to contribute to Federal campaigns.

Mr. Chairman, I reserve the balance of my time.

Mrs. MINK of Hawaii. Mr. Chairman, I yield 1 minute to the gentleman from California (Mr. BECERRA).

Mr. BECERRA. Mr. Chairman, I thank the gentlewoman for yielding me this time.

Please, Members, do not confuse the term foreign national with what this bill really does, and that is it goes after lawful permanent residents. Foreign nationals are people who may be visiting, may be coming to this country on occasion, but they are nationals, citizens of another country and do not have intentions of staying. Lawful permanent residents are exactly what the term says, they are lawfully here, they are permanently here and they are on their way to becoming U.S. citizens.

This amendment is a sweeping indictment of the 8 or 10 million people who are lawful permanent residents, 2 million of whom are waiting up to 3 years to become U.S. citizens. This amendment is telling all those folks, tough luck. This Congress has been very good at stripping rights from lawful permanent residents, but it is very bad, and I am willing to give them what they deserve, the opportunity to participate.

We tax lawful permanent residents. We expect them to defend this country in times of war, and they do, and we have Medal of Honor winners to prove it. We expect them to adopt a civil life in America, yet we want to now with this amendment exclude them from future participation.

Members should vote against this amendment if they are serious about campaign reform. Vote against this amendment.

Mrs. MINK of Hawaii. Mr. Chairman, I yield 1 minute to my colleague, the gentleman from Hawaii (Mr. NEIL ABERCROMBIE).

Mr. ABERCROMBIE. Mr. Chairman, it has been said several times tonight that we had an overwhelming vote on this before, and I think that is probably because we did not necessarily have the full implications before us.

I certainly do not fault what the gentleman from New York (Mr. FOSSELLA) is trying to accomplish in terms of trying to keep money that should not be in our campaigns out of it. But here I want to emphasize to all of my colleagues that we are talking about legal permanent residents; people who have served in the armed forces. We are in a situation in which we can have convicted felons who cannot vote, they can give money to a political campaign, but a legal permanent resident who is paying taxes, working hard, raising their families is not going to be allowed to give.

I am speaking right now because my colleague over there is the one who is going to be asked. I get out of it. I listened to some people on the floor say "if I was asked". I guarantee if someone looks like me, with the same physiognomy that I do, they will probably not get asked. But who is going to get asked are the people who are likely to be seen as foreign.

Anybody who is in this country under the protection of the Constitution is deserving of participating fully in our constitutional and democratic government.

Mrs. MINK of Hawaii. Mr. Chairman, I yield myself such time as I may consume, and I rise in very, very strong opposition to this amendment. We all came to this body, we took an oath of office, we swore to uphold the Constitution of the United States.

We all came to this body and we took an oath of office: We solemnly swear to uphold the Constitution of the United States. The First Amendment says Congress shall make no law respecting the establishment of religion or prohibiting the free exercise thereof or abridging the freedom of speech, and to petition the government for a redress of grievances.

Nowhere does the Constitution say that this right under the First Amendment is reserved to U.S. citizens. This affront today denying the right of legal people who have come through the process from exercising their right to petition to those who seek to represent them in the Congress from contributing is an absolute denial of free speech, a violation of the First Amendment and absolutely unconstitutional. I do not believe that we, as a dignified body, should adopt this amendment in this reform legislation.

The CHAIRMAN pro tempore (Mr. GIBBONS). The time of the gentlewoman from Hawaii (Mrs. MINK) has expired.

Mr. FOSSELLA. Mr. Chairman, I yield myself such time as I may consume.

Let me remind my colleagues again that 369 of them voted just a few months ago to support the almost identical legislation. The reality is that you can think what you want about what the Americans think about the campaign finance system and how important it is to their lives relative to education or taxes. The reality is that if you vote against this amendment you are going to continue to allow noncitizens to influence the electoral process in this country.

I submit, Mr. Chairman, and every colleague of mine in this House that what the American people want is for United States citizens and United States nationals to control the process, to vote and to contribute. If we vote no on this amendment what we are saying is that noncitizens can continue to influence the American election. If we vote yes on this amendment what we are saying is United States citizens, United States nationals, have the right to contribute, have the right to vote, have the right to influence our process.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from New York (Mr. FOSSELLA) to the amendment in the nature of a substitute offered by the gentleman from Connecticut (Mr. SHAYS).

The question was taken; and the Chairman pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mrs. MINK of Hawaii. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 282, noes 126, not voting 26, as follows:

[Roll No. 276]

AYES—282

Aderholt
Archer
Armey
Bachus
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bentsen
Bereuter
Berry
Bilbray
Bilirakis
Bishop
Bliley
Blunt
Boehner
Bonilla
Bono
Boswell
Boucher
Boyd
Brady (TX)
Brown (OH)
Bryant
Bunning
Burr
Buyer
Callahan
Calvert
Camp
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clement
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cubin
Cunningham
Danner
Davis (VA)
DeLauro
DeLay
Dickey
Dooley
Doyle
Dreier
Duncan
Dunn
Edwards
Ehrlich
Emerson
English
Ensign
Eshoo
Etheridge
Evans
Everett
Ewing
Fawell
Foley
Forbes

Fossella
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gejdenson
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutknecht
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hinchey
Hobson
Hoekstra
Holden
Hooley
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
Johnson (WI)
Johnson, Sam
Jones
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennelly
Kildee
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lucas
Luther
Maloney (CT)
Manzullo
Markey
Mascara

Matsui
McCarthy (MO)
McCollum
McCrery
McHugh
McInnis
McIntyre
McKeon
Metcalf
Mica
Miller (FL)
Moakley
Moran (KS)
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Obey
Oxley
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pomeroy
Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Redmond
Regula
Riggs
Riley
Rivers
Roemer
Rogan
Rogers
Rohrabacher
Rothman
Roukema
Royce
Ryun
Salmon
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Scarborough
Schaffer, Bob
Schumer
Sensenbrenner
Sessions
Shadegg
Shaw
Sherman
Shimkus
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Souder
Spence

Spratt
Stabenow
Stearns
Stenholm
Strickland
Stump
Stupak
Sununu
Tauscher
Tauzin
Taylor (MS)

Taylor (NC)
Thomas
Thune
Thurman
Tiahrt
Traficant
Turner
Upton
Walsh
Wamp
Watkins

Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wise
Wolf
Young (FL)

NOES—126

Abercrombie
Ackerman
Allen
Andrews
Barrett (WI)
Becerra
Berman
Blagojevich
Blumenauer
Boehlert
Bonior
Borski
Brady (PA)
Brown (CA)
Brown (FL)
Campbell
Capps
Cardin
Carson
Clay
Clayton
Clyburn
Conyers
Cummings
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
Diaz-Balart
Dicks
Dingell
Dixon
Doolittle
Ehlers
Engel
Farr
Fazio
Filner
Ford
Frank (MA)
Frost
Furse

Gutierrez
Hastings (FL)
Hefner
Hilliard
Hinojosa
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (CT)
Johnson, E. B.
Kanjorski
Kennedy (RI)
Kilpatrick
Kim
Kind (WI)
King (NY)
Lampson
Lantos
Lee
Lewis (GA)
Lofgren
Lowey
Maloney (NY)
Manton
McCarthy (NY)
McDermott
McGovern
McHale
McIntosh
McKinney
Meehan
Meek (FL)
Meeks (NY)
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Mollohan
Moran (VA)

Morella
Murtha
Nadler
Neal
Oberstar
Ortiz
Owens
Pallone
Pascrell
Pastor
Pelosi
Pombo
Porter
Rangel
Reyes
Rodriguez
Ros-Lehtinen
Roybal-Allard
Sabo
Sanford
Scott
Serrano
Shays
Skaggs
Slaughter
Stokes
Talent
Tanner
Thompson
Thornberry
Tierney
Torres
Towns
Velázquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Weygand
Woolsey
Wynn

NOT VOTING—26

Baesler
Burton
Deal
Deutsch
Doggett
Fattah
Fowler
Gephardt
Gonzalez

Hall (OH)
Hilleary
John
Martinez
McDade
McNulty
Olver
Payne
Rush

Schaefer, Dan
Shuster
Smith (OR)
Smith (TX)
Stark
Wexler
Yates
Young (AK)

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Mr. SANDERS and Mr. McINNIS changed their vote from "no" to "aye."

So the amendment to the amendment in the nature of a substitute was agreed to.

Mr. THOMAS. Mr. Chairman, I seek unanimous consent to explain a proposition in an attempt to bring additional order to the process on the floor regarding the Shays-Meehan amendment.

The CHAIRMAN pro tempore (Mr. GIBBONS). Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from California (Mr. THOMAS).

Mr. THOMAS. Mr. Chairman, this is to request in an attempt to propound either a unanimous consent request or a motion, if necessary, all of those individuals who have offered amendments to Shays-Meehan who are interested in pursuing those amendments to notify me, the Committee on House Oversight, that they have an interest in having their amendments considered in order on Shays-Meehan so that we will have the universe of those that are serious about their amendments by about 1 o'clock tomorrow so that we could perhaps begin to put together either a unanimous consent request or, as I said, a motion to create a defined universe of serious amendments to Shays-Meehan rather than the universe that is out there.

So I would request by 1 o'clock tomorrow that any individual who has an amendment that is in order on Shays-Meehan who wishes to have it considered as part of a unanimous consent or a motion to notify the Committee on House Oversight.

Mr. MEEHAN. Mr. Chairman, will the gentleman yield?

Mr. THOMAS. I yield to the gentleman from Massachusetts.

Mr. MEEHAN. One of the concerns that the minority would have, Mr. Chairman, is that we get a full list of which amendments people respond to and get it in a timely fashion. In other words, if it is at 1 o'clock tomorrow, that we could have the list at 1:15 or 1:20 so that we are in a position where we have a clear understanding what all the amendments are and who has voiced concern about having their amendment pulled or who really wants to go forward.

Mr. THOMAS. Yes, exactly. I will tell the gentleman that one of the things I have been trying to do is determine the accuracy of the list of proposed amendments; that is, the seriousness of them. What we are going to try to do is to get a notice out and leave a little time tomorrow morning for it to circulate, that anyone who is serious, let us know. It seems appropriate that if they are serious, it could be part of a propounded UC or a motion, and certainly as soon as we have that have list, we will provide our colleagues with it to get an understanding of where we are trying to go in an orderly fashion.

Mr. FRANK of Massachusetts. Mr. Chairman, I move to strike the last word.

PARLIAMENTARY INQUIRY

Mr. THOMAS. Parliamentary inquiry, Mr. Chairman.

The CHAIRMAN pro tempore. The gentleman will state his parliamentary inquiry.

Mr. THOMAS. My only question, Mr. Chairman, is can we in fact strike the last word under the amendment which was passed governing only those amendments under a time limit whose time limit is being drawn on if, in fact, the gentleman strikes the last word and there is no underlying amendment in front of us.

The CHAIRMAN pro tempore. A pro forma amendment is in order.

The gentleman from Massachusetts (Mr. FRANK) is recognized for 5 minutes.

Mr. FRANK of Massachusetts. Mr. Chairman, I simply want to say to my friend from California (Mr. THOMAS) and I was going to ask him: I heard him say that anyone who is serious about an amendment should come to him.

As I looked at the list of amendments and at the people who offered them, it had not previously occurred to me that being serious about an amendment was a prerequisite for offering one.

Is this a new, and it is my time, is this a new rule that only people on his side who are serious about their amendments will be allowed to offer them? Because if the people who are offering unserious amendments for unserious reasons were to be excluded, we could probably finish this in about an hour.

Mr. THOMAS. Mr. Chairman, will the gentleman yield?

Mr. FRANK of Massachusetts. I yield to the gentleman from California.

Mr. THOMAS. Mr. Chairman, the gentleman once again does make a meal of a term which I used in an attempt to determine whether or not someone wanted to be included in a unanimous consent or a motion. In using the term "serious" it seems to me that someone who may have been serious previously, watching the political antics of the gentleman's side of the aisle in arguing that they are serious about moving forward, but failing to do so, may have lost some interest, and I am hoping to make sure that everyone who involves themselves in the process has a level of interest equal to the gentleman.

Mr. FRANK of Massachusetts. Mr. Chairman, apparently by "antics," and let us be very clear, he refers to the antics on our side. "Antics" apparently is the gentleman's phrase for defeating amendments aimed at killing the bill. Certainly the antics have consisted of defeating amendments with some help on the other side. I think the gentleman unfairly denigrates the serious remnant on his own side.

Finally, the gentleman objected that I put too much meaning into use of "serious." I apologize for taking the gentleman at his word, and I will try to avoid doing that in the future.

Mr. LEVIN. Mr. Chairman, will the gentleman yield?

Mr. FRANK of Massachusetts. I yield to the gentleman from Michigan.

Mr. LEVIN. Mr. Chairman, since the gentleman from Massachusetts (Mr. FRANK) has been serious and raised a serious issue, I would just like to repeat what the gentleman from Massachusetts (Mr. MEEHAN) said to the gentleman from California.

If there is going to be unanimous-consent request, it must in the eyes of many of us, and I just speak for many of us, have a cut-off for a vote on Shays-Meehan and the other substitutes, because if there are 50 amendments, we do not see how there is time between now and August 7 to bring this to a vote, and we want not only order now, we want order to the end in that case.

So I wanted to mention that to my colleague in terms of his request.

Mr. THOMAS. Mr. Chairman, will the gentleman yield?

Mr. FRANK of Massachusetts. I yield to the gentleman from California.

Mr. THOMAS. Mr. Chairman, I tell my friend from Michigan (Mr. LEVIN) that it seems to me that the gentleman's request is within his own realm of concern reasonable. What we were able to do tonight was to create a degree of certainty for today, and my attempt is to begin to do it one day at a time.

If the gentleman will recall, we attempted to place order on this process earlier. Our failure to do that or failure to get unanimous consent cost us a full day of legislative time in the debate of Shays-Meehan.

I do not want in the pursuit of order to lose any more time than is necessary, and if the gentleman is holding out an absolute complete resolution in lieu of a day-by-day resolution, I will tell the gentleman he will probably create more of a delay than would otherwise be the case.

Let me at least now work day by day, and we will move from there, and I will tell the gentleman from Massachusetts that I never did intend, nor will I ever intend, to define for him what "antics" are to him.

Mr. LEVIN. Mr. Chairman, will the gentleman yield just briefly?

Mr. FRANK of Massachusetts. I will yield to the gentleman from Michigan so that I can ponder.

Mr. LEVIN. Mr. Chairman, I say to the gentleman from California (Mr. THOMAS) we need not only order day by day, but a guarantee that order day by day leads to a conclusion to this before we leave.

Mr. FRANK of Massachusetts. Mr. Chairman, I reclaim my time to say my understanding is we have already gotten such a guarantee, so the question is not whether we get a guarantee, but whether we get a guarantee of the guarantee because we are now several removed from the original guarantee, and I will now yield to the guarantor.

Mr. Chairman, I yield to the gentleman from California (Mr. THOMAS).

Mr. THOMAS. Mr. Chairman, I am not the original guarantor, but I will renew that guarantee from the original guarantor, the Majority Leader, that we will finish campaign reform debate prior to the August recess.

Mr. FRANK of Massachusetts. Let me first ask the gentleman one question. Just one question, and then the gentleman from California can finish.

By "complete" does the gentleman mean a vote on the final version of Shays-Meehan? And I will yield again to the gentleman.

Mr. THOMAS of California. My belief is that it would be more than that because Shays-Meehan is not the completion.

Mr. FRANK of Massachusetts. Would it be at least that?

Mr. THOMAS. Oh, yes. I will tell the gentleman that Shays-Meehan is only one of the substitutes under the rule.

Mr. FRANK of Massachusetts. The gentleman wishes it was only one.

The CHAIRMAN pro tempore. The time of the gentleman from Massachusetts (Mr. FRANK) has expired.

AMENDMENT NO. 59 OFFERED BY MR. WICKER TO AMENDMENT NO. 13 IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. SHAYS

Mr. WICKER. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The CHAIRMAN pro tempore. The Clerk will designate the amendment to the amendment in the nature of a substitute.

The text of the amendment to the amendment in the nature of a substitute is as follows:

Amendment No. 59 offered by Mr. WICKER to Amendment No. 13 in the nature of a substitute offered by Mr. SHAYS:

TITLE —PROHIBITING USE OF WHITE HOUSE MEALS AND ACCOMMODATIONS FOR POLITICAL FUNDRAISING

SEC. 01. PROHIBITING USE OF WHITE HOUSE MEALS AND ACCOMMODATIONS FOR POLITICAL FUNDRAISING.

(1) IN GENERAL.—Chapter 29 of title 18, United States Code, is amended by adding at the end the following new section:

"§612. Prohibiting use of meals and accommodations at White House for political fundraising.

"(a) It shall be unlawful for any person to provide or offer to provide any meals or accommodations at the White House in exchange for any money or other thing of value, or as a reward for the provision of any money or other thing of value, in support of any political party or the campaign for electoral office of any candidate.

"(b) Any person who violates this section shall be fined under this title or imprisoned not more than three years, or both.

"(c) For purposes of this section, any official residence or retreat of the President (including private residential areas and the grounds of such a residence or retreat) shall be treated as part of the White House.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 29 of title 18, United States Code, is amended by adding at the end the following new item:

"612. Prohibiting use of meals and accommodations at white house for political fundraising.".

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Mississippi (Mr. WICKER) for 20 minutes.

Mr. WICKER. Mr. Chairman, I yield myself 6 minutes.

Mr. Chairman, as many of my colleagues know, I do not agree with much of what this body is attempting to do in this legislation. I do not agree with cutting down on free speech, I do not agree that we have too much political expression in this country, and so I disagree with the direction that many of my colleagues are going in, and I think the American people are sort of with me on this.

I was encouraged to see the Washington Post/ABC News poll on the front page of the Washington Post newspaper this morning where it said that some of the things that we seem to be interested in here in this body and inside the Beltway are not really important to the voters out there in the public. When asked about changing the way political campaigns are financed, only 32 percent of the American voters think that is a very important issue, and only 1 in 10, only 1 in 10, Mr. Chairman, will let that issue decide how they will cast their ballots in November.

So I think we have been spending a lot of time talking about things like cutting down on free speech that we ought not to do and changing our campaign laws which maybe the people are not really interested in.

Here we are right now though at a very important issue, at a problem which exists, and does it ever exist, as shown by these headlines from around the Nation:

"Donors Pay and Stay at the White House"; Lincoln Bedroom a Special Treat, a Washington Post headline, my colleagues."

So I rise today to bring an issue that is most important, and that is a problem, and that is to prohibit fund-raising in the White House, the actual sale of coffees and overnight stays in the White House.

Let me make it clear that I believe the Pendleton Act of 1883 already makes it illegal for the President and Vice President to solicit contributions from the White House or the executive office buildings. The problem is that the law has not been enforced because courts have been hesitant on how to interpret the law.

□ 2145

President Clinton and others have seized upon this ambiguity and flagrantly violated the spirit, if not the letter, of the law. For this reason we need to pass this amendment.

This amendment goes further than the Shays-Meehan language, and, as a matter of fact, I would hope the authors of Shays-Meehan would vote for this amendment and accept it as an amendment that perfects the language they had offered previously.

This amendment would close the loopholes President Clinton and Vice President GORE have succeeded in driving trucks through. And, make no mistake about it, they drove those trucks all the way to the bank. There can be no doubt as to the need for this provision.

In the history of the presidency, there has never been such an orchestrated effort to subvert the law and misuse public property for the express purpose of netting political donations. The integrity of the White House has been compromised by shamelessly putting it up for sale.

The facts are shocking. President Clinton and Vice President GORE hosted more than 100 coffees inside the White House, which resulted in a staggering $27 million in Democrat contributions. Among the more than 1,500 guests attending these thinly disguised political fund raisers were Chinese arms dealers and business executives from Thailand. President Clinton invited more than 300 Democrat party donors to stay in the Lincoln bedroom in exchange for campaign contributions.

White House documents confirm that President Clinton solicited contributions by telephone from the White House, raising at least half a million dollars. Vice President ALBERT GORE, Jr., has admitted that he made phone calls from his White House office, and further stated that there was "no controlling legal authority" which precluded his actions.

Tonight we can provide that controlling authority. This president has done what no president before him has ever done; he has put a price tag on the highest office of the land. He has sold access to the White House and its accommodations to raise millions of dollars for the Democratic National Committee and his own reelection.

At no time did Bill Clinton and AL GORE have ownership of the White House. At no time did they have authority to sell or rent the White House. The White House belongs to the people, to the people of the 1st Congressional District of Mississippi, and to every Congressional District in the United States of America. It belongs to the American people.

The passage of this amendment would make it clear that the White House should never again be used and abused for political fund-raising purposes. This short and straightforward amendment makes it illegal for White House meals and accommodations to be used for political fund-raising.

The language is very plain. There is no ambiguity, there are no loopholes. Neither Mr. Clinton nor Mr. GORE nor any others would ever be able to skirt around the law, should this be enacted.

I strongly urge my colleagues to put an end to the sale of the White House and vote for this amendment.

Mr. MEEHAN. Mr. Chairman, I am not opposed to the amendment, but I ask unanimous consent to claim the time in opposition.

The CHAIRMAN pro tempore (Mr. GIBBONS). Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The CHAIRMAN pro tempore. The gentleman from Massachusetts (Mr. MEEHAN) is recognized for 20 minutes.

Mr. MEEHAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, we agree with this amendment. In fact, we could probably get through this pretty quickly. Our bill, by ending the soft money loophole, would take away the incentives for any of this to happen.

We have spent a lot of time over a period of the last year or so reading about problems in our campaign finance law. I think we can all agree that the White House, any White House, a Democratic or Republican White House, should never trade meals or accommodations for political fundraising.

So we would agree with this amendment, and we could have a vote on it right now and pass it unanimously.

Mr. Chairman, I reserve the balance of my time.

Mr. WICKER. Mr. Chairman, I am pleased to yield five minutes to the distinguished gentleman from Arizona (Mr. HAYWORTH).

Mr. HAYWORTH. Mr. Chairman, I thank my colleague from Mississippi for yielding me time.

Mr. Chairman, I hear some encouraging notions from the other side, but silent assent is not enough, because, you see, despite the talk of soft money, hard money and all the different slang that is bandied about this House, there is a clear and explicit problem. Our British cousins have an expression for it. It is called "being too clever by half."

What we have seen in this White House is nothing short of deliberate and despicable and dishonest, for the Vice President of the United States to have the audacity to stand in front of the Nation's press corps and say "my legal counsel informs me there is no controlling legal authority," in the wake of a memo from the former White House counsel, Judge Abner Mikva, who at the time precisely warned administration personnel of the real problems inherent in violating the Pendleton Act, an act that was strengthened, my colleagues, in the Carter administration in 1979.

But because there are those who attempt to be too clever by half to the extent that they open fund-raising to the likes of Chinese arms merchants and other despicable characters, we must come to this floor now in this vehicle to articulate that those who would seek to be clever and surreptitious and gain the system again will be given no quarter. That is why this amendment is so vitally important.

I would go a step further, Mr. Chairman. I believe the very existence of the Constitution of the United States and the oversight capacity of the Legislative Branch over the Executive Branch ensures in fact that there is controlling legal authority. But to those who shamefully, cynically, put the Lincoln bedroom up for sale, had sadly what now appear to be cash-and-carry coffees, where "Starbucks" takes on an entirely different meaning, we must stand four square against that type of behavior.

It is not enough to have the almost reflexive defense that "everybody does it." Mr. Chairman, nothing could be further from the truth. Everybody does not do it.

So, as we continue to follow the revelations that I suppose will continue to emanate from the other end of Pennsylvania Avenue, let us rise with one strong voice to say enough is enough; quit putting the White House up for sale.

Mr. Chairman, my colleague from Mississippi put it appropriately, it is the people's House, belonging to the people of the 6th District of Arizona. It is not the personal property of one William Jefferson Clinton, nor one ALBERT GORE, Jr., nor any of their minions in the employ of the administration. It is an American home for the American people, not a residence where the whims of American politics and the imagined pressures of campaign life can lead to such dreadful abuses.

Mr. Chairman, I say let us rise with one voice and say enough is enough. Support the Wicker amendment. End the dreadful abuse, and let us deal with genuine reform, because everybody does not do it.

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore. The Chair will take this opportunity to remind the colleagues in this chamber that they are not to make personal comments about the Vice President.

Mr. MEEHAN. Mr. Chairman, I yield myself 15 seconds.

Mr. Chairman, obviously I have said that we agree to support this amendment. After hearing the eloquent gentleman from Arizona, he has a real opportunity to do something about the problems under campaign finance system, and that is by voting for Shays-Meehan at the end of this long, cumbersome process. I hope he will join us in supporting this legislation.

Mr. Chairman, I yield five minutes to the gentlewoman from Michigan (Ms. RIVERS).

Ms. RIVERS. Mr. Chairman, I got involved with the particular efforts around campaign finance reform for one reason, because they were bipartisan. I did not believe that there was any chance to change the way this body operates unless there were people on both sides of the aisle working together.

I came forward to be a part of this because I knew two things had to happen: I knew that both sides had to work together to make change, and both sides had to acknowledge and take the blame for the system that we have today. I did not want to be a part of an action that would try and torpedo the other side. I wanted to be part of a positive change.

But I need to speak out today. I do support this particular amendment. I think it is a good idea. But I think the American people need to know that we need this amendment because there have been problems time after time after time. The system needs to be reformed because people on both sides of the aisle have caused problems.

My colleague from Arizona talked about "despicable" and "dishonest." I would also say disingenuous.

I have a couple of documents. One is from the Presidential Roundtable. It has a picture of President and Mrs. George Bush. You have to pay money to join the roundtable. What do you get? You get "one-on-one personal relationships." "The Presidential Roundtable allows Members to participate in the development of policy, as well as help forge close friendships with Washington's top decisionmakers."

Further on you find out if you give money, you are part of a program "designed to take members of the Presidential Roundtable to various other countries to discuss economic and political issues, exclusive meetings that are structured primarily to bring top American businessmen and women together with their counterparts in Europe and Asia. You can have a voice in trade, the Organization of the European Community and the new mission of NATO." This is what happened in 1990.

I have another document, the top of the letterhead is from Mr. Bob Dole. It is for an organization called the Republican Senatorial Inner Circle. If you pay money to join this group, you have an opportunity to take part in a variety of activities which culminate, according to this particular letter, "in the fall you will be able to join Vice President and Mrs. Quayle for a special inner circle reception which is traditionally held at the Vice President's residence." If you pay money and join this group, you get to go have dinner with the Vice President and his wife in their taxpayer paid-for residence.

I am going to vote for this amendment because I do not want to see either side doing this. But what I would like to see when we talk about reform is both sides stepping up and saying there have been problems and they need to be fixed. It is not one-sided, it is both-sided.

Has there been dishonesty in the past? Yes. Have there been problems in the past? Yes. Have there been despicable practices? Yes, on both sides. But let us leave the disingenuous aside and start talking about changing for a system we can live with that people can trust.

I have stacks and stacks and stacks of these things, and what they show is that there are certain ways to raise money in this town that are used over and over and over. And it does not matter if you are a Democrat or you are a Republican. What matters is if you are willing to change.

There are a number of people who have stepped forward and said we are ready to change and we ask you to join us. Not to come forward and fight every progressive step, but to join us to make change, and maybe for everybody here to accept the system has not always worked the way we want it to, and to find a way to make it work better in the future.

Mr. WICKER. Mr. Chairman, I am pleased to yield five minutes to the gentleman from Texas (Mr. DELAY), the distinguished Majority Whip.

Mr. DELAY. Mr. Chairman, it is amazing how this town works, as the gentlewoman has just said. In this whole fiasco of abusing the White House and other illegal campaign finance issues, no one has ever stood up on that side of the aisle and said the President was wrong, the DNC is wrong, they were wrong in what they did. All they do is say well, they may have been wrong, but the Republicans were just as bad.

□ 2200

Well, today we are going to talk about the Wicker amendment, and that applies to the White House and what has been going on for the last 6 years. For over 6 years, or 6 years ago, I remember President Clinton, or then candidate Clinton, promised the American people that he would establish the most ethical administration in the history of the United States.

Now, I would submit to the President that he has personally done more to ensure that his administration is one of the least ethical in the 220 year history of the office of the presidency. In orchestrating the most massive fund-raising campaign in the history of the United States, the President and the Vice President personally oversaw the use of the White House as fund-raising headquarters. Not meetings, not talking to constituents, not even coming and discussing policy, but using the White House as a fund-raising headquarters.

Every politician understands that it is illegal to raise campaign funds on Federal property, yet the President and the Vice President and the First Lady made it their personal mission to use the White House as a chit in a "cash for perks" scheme of unprecedented proportions.

President Clinton himself oversaw and orchestrated overnight stays in the Lincoln bedroom and personally attended a series of so-called coffees, and we have seen all of those on videotapes in pursuit of campaign contributions. During Operation Lincoln Bedroom, 938, 938 guests stayed overnight in the Lincoln and the Queen's bedrooms. The President, of course, claims that the Lincoln bedroom was never sold. However, more than one-third of these guests gave money to Clinton or the DNC. The bedroom visitors and their companies gave at least $6 million to the DNC and a total of $10.2 million to the Democrats.

Now, according to the presidential press secretary, Mike McCurry, the Lincoln bedroom was a special way of saying "thank you" for services rendered. Now, I think everyone in this Chamber knows exactly what services Mr. McCurry was referring to.

Sadly, it does not stop there. Concurrent with the Lincoln bedroom scheme, the Clinton administration orchestrated a series of coffees.

Mr. WICKER. Mr. Chairman, would the gentleman yield?

Mr. DELAY. I yield to the gentleman from Mississippi.

Mr. WICKER. Mr. Chairman, I just wondered if the gentleman recalls that, in response to this proposal to have overnight stays, the President actually sent a memo back to his chief of staff saying, yes, pursue promptly and get the names at $100,000 or more, $50,000 or more ready to start overnights right away, a memo from the President of the United States.

Mr. DELAY. Mr. Chairman, there is no denying what went on. There is a lot of spin going on around this town trying to spin it the other way and blame other people and blame the Republicans, even, for setting up the White House.

But even with the coffees, there were 1,528 individuals, 1,528 individuals who were invited to 103 coffees. My goodness, they drank a lot of coffee. Mr. Chairman, 358 of these individuals or the companies they represent gave $27 million to the DNC, and approximately $8.7 million was collected during the month before or after a personal coffee with the President or Vice President.

There cannot be any question in the mind of any reasonable person that the administration used the White House, Federal property, as a quid pro quo for campaign contributions; and it is already against the law now to raise campaign funds on Federal property. And because of the Clinton administration, we need to ensure that the White House is never, ever again used as a prop to leverage campaign contributions.

I ask that my colleagues support the Wicker amendment, because the White House belongs to the American people and not the Democrat National Committee.

Mr. MEEHAN. Mr. Chairman, I yield 5 minutes to the gentleman from Michigan (Mr. LEVIN) who has been a leader and a person who has really made a difference in bringing this fight to the floor of the House of Representatives.

Mr. LEVIN. Mr. Chairman, I thank the gentleman for his kind words. And to the gentleman from Connecticut (Mr. SHAYS) and the gentleman from California (Mr. CAMPBELL) who are in the House, to all of the Republicans who have worked on this with us Democrats, I want to express my optimism now that we have a real shot at reform. That is really the issue, whether we are going to make political speeches, try to make political points, or are we going to have political reform.

I had a poster here that illustrates the statement of the gentlewoman from Michigan (Ms. RIVERS) about the Bush White House. It has an invitation in big print for big Republican givers, but I am going to forget the poster and just talk to some of my colleagues about what I think is their inconsistency.

I want to join the gentleman, my colleague on the Committee on Ways and Means, getting up on his hind legs across the board, though, not just about one set of abuses but all abuses. And as the gentleman from Massachusetts (Mr. MEEHAN) said, the test will be whether one votes "yes" on this amendment and then "yes" on Shays-Meehan, or whether one votes "yes" on this amendment and "no" on Shays-Meehan. That is the test.

The cynical vote is going to be "yes" on this and "no" on the bill. That would be more than clever than by a half. That would be more than inconsistent. My colleagues raise their voices, but we will see if they choke in silence when it comes to the final vote.

Mr. Chairman, let us talk about millions and millions. I say this as someone who has been in this system, who has been working to change it, and all of us who have been in this system know that it needs change. How many tens of millions come in in soft money? And Shays-Meehan tries to get at it. How much in millions, multimillions comes in in issue ads, uncontrolled, without any disclosure as to who it is?

So I am anxious to vote for this amendment, because we need to wipe out abuse wherever, and we have to be honest with ourselves and realize what has been happening to the political system of this country in the last 15 or 20 years.

Mr. HAYWORTH. Mr. Chairman, will the gentleman yield?

Mr. LEVIN. I yield to the gentleman from Arizona.

Mr. HAYWORTH. Mr. Chairman, I ask my good friend from Michigan, because he returned to the argument that, quote, unquote, everybody does it.

Mr. LEVIN. No, no, no, I will take back my time. I will tell my colleague why. I will not let him label that. That is not a defense. It is an explanation of the depth of the problem. And what happened in the Bush White House was wrong and whatever happened in the Clinton White House, if it involved the interaction of money and participation in the White House, it was also wrong, and I want to end it.

Let me just finish. I also want to end this flood of money that comes in without knowing whom it comes from and without limits. So do not pin that label.

Mr. HAYWORTH. Mr. Chairman, will the gentleman yield?

Mr. LEVIN. I yield to the gentleman from Arizona.

Mr. HAYWORTH. Mr. Chairman, a simple question. Does the gentleman have any evidence of any Chinese arms merchants giving money to the Bush-Quayle reelection campaign?

Mr. LEVIN. Mr. Chairman, we have five or six committees looking into this, and I support investigations into where money came from. Mr. THOMPSON spent a number of months and came out without evidence. Now we will see what other committees come up with. And if there was a wrong, it should be, it should be not only looked into, but I think it should be redressed.

But I suggest to the gentleman, if I can take back my time, and I have heard the gentleman in the Committee on Ways and Means, I know the fervor with which you speak. My only suggestion is keep a bit of that fervor for the final vote on Shays-Meehan, just a bit of it, and do what this system needs.

PARLIAMENTARY INQUIRY

Mr. HAYWORTH. Parliamentary inquiry, Mr. Chairman.

Is it appropriate for Members to characterize the personal delivery styles of other Members?

The CHAIRMAN pro tempore. Will the gentleman from Michigan yield for a parliamentary inquiry by the gentleman from Arizona?

Mr. LEVIN. Mr. Chairman, I think he was inquiring of the Chair, not of me.

The CHAIRMAN pro tempore. Does the gentleman from Michigan yield?

Mr. LEVIN. Mr. Chairman, all I was saying was the gentleman is fervent, and I think the gentleman should be equally fervent——

Mr. HAYWORTH. Mr. Chairman, will the gentleman yield for a parliamentary inquiry?

Mr. LEVIN. Mr. Chairman, I will finish. The gentleman should be equally fervent when it comes to his chance to vote for reform. Do not pick and choose.

The CHAIRMAN pro tempore. The gentleman from Michigan's time has expired.

PARLIAMENTARY INQUIRY

Mr. HAYWORTH. Parliamentary inquiry, Mr. Chairman.

The CHAIRMAN pro tempore. The gentleman will state it.

Mr. HAYWORTH. Is it appropriate for Members to come to this Chamber and personally characterize the speaking styles and the conduct of other Members of this House while debate is going on?

The CHAIRMAN pro tempore. The Chair will remind the Members on both sides of the aisle that remarks personally critical of other Members are to be avoided.

Mr. HAYWORTH. I thank the Chair.

Mr. WICKER. Mr. Chairman, might I inquire about the time remaining?

The CHAIRMAN pro tempore. The gentleman from Mississippi (Mr. WICKER) has 5 minutes remaining and the right to close; and the gentleman from Massachusetts (Mr. MEEHAN) has 10 minutes remaining.

Mr. WICKER. Mr. Chairman, I yield 2½ minutes to the gentleman from California (Mr. BILBRAY).

Mr. BILBRAY. Mr. Chairman, I was sort of torn on which side I should ask for time from, seeing that I am working with both sides on this issue, and I think that this is a classic example of bipartisan and bicoastal cooperation.

Mr. Chairman, I think that, first of all, I want to praise the gentlewoman from Michigan, because I think a lot of people, because of partisan concerns, do not want to come up and say our side has really created an unacceptable situation, and I want to commend her for that. Because I think a lot of people on this side are saying, why has not anybody been willing to admit that wrongs have been done in the recent past?

I think, on the flip side, there have been things happening historically in the far past that have not been addressed; and I think we all admit, no matter what our party affiliation, that this issue has become so chronic and so obvious and so outrageous that this amendment should be made in order and should be adopted by even those of us who cringe, as the gentleman from Massachusetts and the gentleman from Connecticut does, to any type of amendment to our Shays-Meehan bill.

The Shays-Meehan bill does not want a lot of amendments, but I think this is a viable one, and I would congratulate the gentleman from Mississippi for bringing it forward. I think it is something that the Democrats and Republicans can draw on.

But let me remind my colleagues again, even with this amendment, we are treating a symptom to a much deeper problem. Why would anybody pay $100,000 to sleep in a bedroom except they think with the bedroom comes the ability to influence a whole lot of money and a whole lot of power? And the reason why people are trying to influence the political process in Washington is because Washington is controlling too much money and too much capital and too much power.

So as we talk about campaign finance reform, let us all, especially those of us that worked the hardest on this over the last few years, recognize that we are only taking one step with this amendment. We are taking a nice two or three steps with the Shays-Meehan bill, but we are never going to complete this journey unless we are willing to stop having Washington control so much power and so much money out of Washington, D.C., and we learn to allow the people and the communities in America to have that power, to have that influence.

I only wish there was as much money and as much interest in elections of city councils and county supervisors and commissioners and State assemblymen and State Senators and governors as there is in Washington, and the only way we can allow that to happen is to allow the people locally to make those decisions so that this type of influence is not needed and is not tried in the United States Congress.

Mr. MEEHAN. Mr. Chairman, I yield 5 minutes to the gentleman from Connecticut (Mr. SHAYS).

□ 1015

Mr. SHAYS. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, this is the kind of process that wins few friends, because everyone has a real sensitivity to the right and wrong of this issue. I acknowledge the fact that for me, I see it in black and white.

I weep that my own party does not want to lead reform. I think this is an example. This amendment here is a logical thing that should be part of the bill. I do not know why my own party did not come forward with campaign finance reform and take the lead, but it chose not to, I think because my own party decided that if it said you had to reform the system, in a way it meant that the things that happened in the Clinton White House were not wrong because it was just that we needed to amend the law.

I happen to think it is both sides. I happen to think, with all due respect to some on the Democratic side of the aisle, that they are ready to reform but do not want to investigate, and I think too many on my side of the aisle want to investigate but do not want to reform.

I say this with deep respect for some of my colleagues who are pretty angry that I am part of this process. But the best example is soft money. Soft money by law is not deemed a campaign contribution. Members may not want to accept it, but it is true. It does not come under the definition of "campaign." Therefore, technically, the Vice President was right, no controlling authority.

I think it is a pretty obscene response, and I happen to think that he knew it was wrong, and I happen to think that he did not want people to know about it. But I hear a colleague right now just laughing, as if this is so absurd. It is not absurd. It just happens not to be against the law. It needs to be made against the law.

One of the things we are trying to do is we are trying to ban soft money. The bottom line is that in Meehan-Shays we want to ban soft money, the unlimited sums that come from individuals, corporations, labor unions, and other interest groups. We want to ban them because the money has gotten obscene, and both sides, in my judgment, and it is my judgment, I admit, are shaking down businesses and others for these contributions. It is the White House, and I believe it is my own party. I believe my own party wants big contributions, and it is very clear, I think, to some of these businessmen and women that they have to ante up. I know they think that because they have told me.

The other thing is that we want to deal with the sham issue ads. The sham issue ads are those campaign ads that basically almost tanked the gentleman from Arizona. We would ban those sham issue ads. We would not see corporate money being used, we would not see union dues money because it would be illegal, because once it is a campaign ad, they cannot do those ads. They can do it through PAC contributions, but not through members' dues, and they cannot use corporate money.

We want to codify Beck, which is the Supreme Court decision, and we want to make sure if you are not a member of a union you should not have to have your money go for political activity. We want to make sure that we improve FEC disclosure and enforcement, because it is weak and needs to be changed.

One of the things I believe is I believe that the Clinton White House, and I believe some on my side of the aisle, have gotten away with things they should not have because the FEC is too weak, and we do not have proper disclosure. When we finally found out they did something wrong it was 6 years later, so it is kind of meaningless.

I think it is wrong for Members to spend franking so close to an election, so we ban it 6 months to an election. We make it clear that foreign money and fundraising on government property is illegal. What we do in our bill is make sure it is illegal not just for campaign money, but for soft money.

Soft money is not campaign money. That is the whole reason it snuck into the system. It was supposed to be party-building, but it was not party-building. We all know that. We know what happened to that money. It came to the parties, and then they funneled it right back to help candidates win elections.

It was not just for getting people registered. It was for helping candidates. It just rerouted the system and made a mockery of our campaign laws. I happen to believe our campaign laws worked pretty well for 12 years, but they have broken down because of the sham issue ads and because of soft money.

The CHAIRMAN pro tempore. The time of the gentleman from Connecticut (Mr. SHAYS) has expired.

Mr. MEEHAN. Mr. Chairman, I yield 5 minutes to the gentleman from Connecticut (Mr. SHAYS).

Mr. HAYWORTH. Mr. Chairman, will the gentleman yield?

Mr. SHAYS. I yield to the gentleman from Arizona.

Mr. HAYWORTH. I thank my colleague, the gentleman from Connecticut, for yielding to me.

Mr. Chairman, I just want to return for a second to his observation about "no controlling legal authority." How does my colleague from Connecticut then account for the memo that preceded the behavior by Vice President GORE from White House legal counsel Judge Abner Mikva, a former member of this institution, who said, for all administration employees, it was a violation of the Pendleton Act to solicit funds from Federal installations, i.e., the White House?

Mr. SHAYS. The bottom line is, the gentleman needs to know it was illegal to solicit campaign funds. Soft money is not defined as a campaign fund. It is the reason why we need to change the law. I say it time and time again, and the gentleman does not seem to understand it, it is not a campaign contribution. The Pendleton Act gets at campaign contributions.

Mr. HAYWORTH. Mr. Chairman, can I ask the gentleman another question, because I very much want to visit what he had to talk about in terms of different groups and their financing of different candidates.

Would the gentleman repeat again his notion of what is done now, if someone is not a union member, their dues cannot be taken? What happens to a union member who does not want his or her dues taken?

Mr. SHAYS. I talked about the Beck decision. The gentleman I think is clear on three things, but maybe some of my other colleagues are not.

Soft money can be union dues money. We ban it, so all union dues money cannot be contributed as soft money because it is not allowed, nor can corporate money that is soft money be allowed. We do both corporate and union.

The second thing we do is we call those sham issue ads campaign ads. Once it is titled a campaign ad, union money and corporate money cannot be used, because we by law now define an advertisement and forbid dues money in a campaign advertisement and corporate money in a campaign advertisement.

Then we get to the third part. This is the part the gentleman is most interested in. The Beck decision was a contest by someone who was not a member of the union who said his money should not be used for political purposes. The court made a ruling in the Beck decision that if you were not a member of the union, your money could not be used. That was the decision of the court.

Now, what my wife did was when she complained that her money, and my wife was a teacher and a member of the union in New Canaan, Connecticut, was going to a Democrat candidate who she opposed, she supported the Republican candidate, she said she did not want her money going, and the union said, you are a member of the union and we can spend it the way we want.

She said, well, I no longer choose to be a member of the union, then. She was able to deduct her political contribution and pay less union dues than that amount that was political. That was her right under the Beck decision. We codify it into law.

Mr. HAYWORTH. If the gentleman will yield further, Mr. Chairman, one further question to follow up.

In view of the fact that in several markets around the country, probably including Phoenix, the AFL-CIO will start an ad campaign, does the gentleman not worry about the constitutionality of attempting to abridge people's ability to speak? Because even though I am often personally the target of these abusive and false ads, I just do not think, or I would ask, does not the gentleman have some concerns that this could be unconstitutional?

Mr. SHAYS. The gentleman may have some concerns. I have little concerns about whether corporate or union money can be declared unconstitutional when it is a campaign ad. That has already been determined.

So the issue, to be fair to the gentleman, the issue is, is a campaign ad a campaign ad that has the picture and the name of an individual, as we define it? And I think yes, and I think the court will uphold it.

There is the other issue of whether the Supreme Court will agree with the Ninth Circuit or the First and Fourth, which talked about, essentially, that if it walked like a duck and quacked like a duck, it is a duck, it is a campaign ad, and two lower courts have gone in different directions. The court is going to have to decide which side they are going to come up with.

Mr. HAYWORTH. One further question, since the gentleman advances the argument that everybody does it, and he had his suspicions. Does the gentleman have any evidence that the Bush administration took any donations from Chinese arms merchants?

Mr. SHAYS. I do not think they did.

Mr. DELAY. Mr. Chairman, will the gentleman yield?

Mr. SHAYS. I yield to the gentleman from Texas.

Mr. DELAY. Mr. Chairman, the gentleman made a statement earlier that I take great exception to, that his party does not lead reform. No, I totally disagree with the gentleman, and would say that the gentleman's party does not lead the kind of reform that the gentleman wants. His party wants other kinds of reform.

Mr. SHAYS. I would take even other kinds of reform. I just want to see reform.

Mr. WICKER. Mr. Chairman, for purposes of closing the debate, I yield the balance of my time to the distinguished gentleman from Minnesota (Mr. GUTKNECHT).

The CHAIRMAN pro tempore. The gentleman from Minnesota (Mr. GUTKNECHT) is recognized for 2½ minutes.

Mr. GUTKNECHT. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, I think this is a very instructive debate. I think it gets to the core of what we are talking about. Just a few moments ago the gentleman from Connecticut said he wanted reform. I submit what we really want is compliance.

Mark Twain once observed that human beings are the only creatures that God has created that can blush, or need to. What has happened to our ability to blush? What has happened to our moral outrage? Twenty-seven million dollars was raised at White House coffees. We do not really need reform, I say to the gentleman from Connecticut (Mr. SHAYS), we simply need people who lead by example. Most of what we are talking about here tonight, most of the abuses we have read about, headline after headline, those are things that I think all of us know are wrong. They are simply wrong.

I would call the gentleman's attention to this amendment. I rise in support of this amendment. But even this amendment is fatally flawed, especially if somebody can legalistically rationalize no compelling legal authority. Then all of the rest of this, for example, the language is, "any official residence or retreat of the President, including private residential areas and the grounds of such a residence or retreat."

Does that mean Camp David? I think it does. But somebody else may say it does not. We can purse, we can come up with legalisms, we can come up with excuses. That really, at the end of the day, is the fundamental argument about "campaign finance reform." Our entire legal system, and particularly campaign finance, relies on voluntary compliance.

When we have people who are bound and determined to use their power, to use their office, to abuse the influence of that office, I do not think we can write campaign finance laws that are strong enough. I wish we could.

If anybody in this room, probably the gentleman from Arizona (Mr. HAYWORTH) and myself would love to see the stopping of this nonsense we have seen, the abuses of issue advocacy advertising and soft money and all the rest. But I suspect in the end the Supreme Court is going to say that that is protected political free speech. In the end what we are going to come back to is that certain people are going to figure out a way to get around whatever language we put in.

We had campaign finance reform before, and we will probably have it again. But in the end, only good people are bound by the law.

Mr. WICKER. Mr. Chairman, I move the question on the amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Mississippi (Mr. WICKER) to the amendment in the nature of a substitute offered by the gentleman from Connecticut (Mr. SHAYS).

The question was taken; and the Chairman pro tempore announced that the ayes appeared to have it.

Mr. WICKER. Mr. Chairman, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The CHAIRMAN pro tempore. Pursuant to House Resolution 442, further proceedings on the amendment offered by the gentleman from Mississippi (Mr. WICKER) will be postponed.

The point of no quorum is considered withdrawn.

AMENDMENT OFFERED BY MR. STEARNS TO AMENDMENT NO. 13 IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. SHAYS

Mr. STEARNS. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. STEARNS to Amendment No. 13 in the nature of a substitute offered by Mr. SHAYS:

Amend section 506 to read as follows (and conform the table of contents accordingly):

SEC. 506. BAN ON CAMPAIGN CONTRIBUTIONS BY NONCITIZENS.

Section 319 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441e) is amended to read as follows:

"CONTRIBUTIONS AND DONATIONS BY NONCITIZENS

"SEC. 319. (a) PROHIBITION.—It shall be unlawful for—

"(1) a noncitizen, directly or indirectly, to make—

"(A) a donation of money or other thing of value, or to promise expressly or impliedly to make a donation, in connection with a Federal, State, or local election to a political committee or a candidate for Federal office, or

"(B) a contribution or donation to a committee of a political party; or

"(2) a person to solicit, accept, or receive a contribution or donation described in paragraph (1) from a noncitizen.

"(b) TREATMENT OF NATIONALS OF THE UNITED STATES.—For purposes of subsection (a), a 'noncitizen' of the United States does not include a national of the United States (as defined in section 101(a)(22) of the Immigration and Nationality Act).".

The CHAIRMAN pro tempore. Pursuant to the previous order of today, the gentleman from Florida (Mr. STEARNS) is recognized for 20 minutes.

Mr. STEARNS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am not going to take very much time. We have already been through this debate. The gentleman from New York (Mr. FOSSELLA) has already offered primarily most of this amendment, but I would like to just formally put it in place, because there are some additions to his amendment that I think are important to specify. That is why I am here tonight.

I rise to offer this amendment to the Shays-Meehan substitute, the Bipartisan Campaign Integrity Act.

☐ 2230

This amendment, of course, clarifies the law by placing an explicit ban on campaign contributions by noncitizens, including illegal aliens, which was in part of the debate previously, for all elections, Federal, State and local and for contributions or donations to a committee of a political party.

And on those two last points, Mr. Chairman, my amendment sort of compliments and expands upon the Fossella amendment previously debated. So that there is a ban on foreign contributions. It will not be limited to just Federal elections but this extends all the way over to state and local. It would encompass all political campaigns in the country and political party campaigns.

I think the second addition is that my amendment is significantly different in that it prohibits individuals from soliciting or accepting foreign donations. Mr. Chairman, I think we have had the debate on the Fossella amendment.

I just point out, in conclusion, that basically I just move at the State and local level and then also talk about what prohibits individuals from soliciting or accepting foreign donations.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN pro tempore (Mr. GIBBONS). Does any Member seek the time in opposition to the amendment?

Mr. STEARNS. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Florida (Mr. STEARNS) to amendment No. 13 in the nature of a substitute offered by the gentleman from Connecticut (Mr. SHAYS).

The question was taken; and the Chairman pro tempore announced that the ayes appeared to have it.

Mr. STEARNS. Mr. Chairman, I demand a recorded vote and, pending that, I make the point of order that a quorum is not present.

The CHAIRMAN pro tempore. Pursuant to the rule, further proceedings on the amendment offered by the gentleman from Florida (Mr. STEARNS) to

Amendment No. 13 in the nature of a substitute offered by the gentleman from Connecticut (Mr. SHAYS) are postponed.

The point of no quorum is considered withdrawn.

AMENDMENT OFFERED BY MR. PICKERING TO AMENDMENT NO. 13 IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. SHAYS

Mr. PICKERING. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. PICKERING to Amendment No. 13 in the nature of a substitute offered by Mr. SHAYS:

In section 506, strike "Section 319" and insert "(a) IN GENERAL.—Section 319", and add at the end the following:

(b) PROHIBITING USE OF WILLFUL BLINDNESS AS DEFENSE AGAINST CHARGE OF VIOLATING FOREIGN CONTRIBUTION BAN.—

(1) IN GENERAL.—Section 319 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441e) is amended—

(A) by redesignating subsection (b) as subsection (c); and

(B) by inserting after subsection (a) the following new subsection:

"(b) It shall not be a defense to a violation of subsection (a) that the defendant did not know that the contribution originated from a foreign national if the defendant was aware of a high probability that the contribution originated from a foreign national.".

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to violations occurring on or after the date of the enactment of this Act.

The CHAIRMAN pro tempore. Pursuant to the previous order of today, the gentleman from Mississippi (Mr. PICKERING) is recognized for 20 minutes.

Mr. PICKERING. Mr. Chairman, I yield myself such time as I may consume.

I rise today to offer this amendment on something that I believe, just as we saw on the previous amendment by the gentleman from Mississippi on the use of the White House as a means to raise contributions, that this is an area where we, too, can reach consensus.

Let me say, as I start the debate, that I want first to commend all the participants in the debate. I think this is a very important issue. Those who are proposing, the gentleman from Connecticut (Mr. SHAYS) and the gentleman from Massachusetts (Mr. MEEHAN) although I profoundly disagree with their approach of reform and believe it is an infringement of constitutional rights and freedom, I do appreciate their intent and their motives.

But for those of us who disagree with their approach to reform, we are trying to find those areas where we have seen the gross abuses and violations and to go back and find ways to close those loopholes, to bring greater credibility and to protect the intent and the purpose of the laws now existing on the books.

It is illegal to accept foreign contributions but in this past presidential election, we have seen case after case after case of illegal foreign contributions. And the reason tonight that I have this picture as I present the case for this amendment is that I think that it is probably the best picture, the best illustration that shows the case or describes the term willful blindness, turning a blind eye.

As many already know, there was a fund-raiser in a Buddhist monastery in California, and we have heard many different descriptions of that. But the purpose has become clear over the investigation that it was a fund-raiser, and it was an opportunity to launder illegal foreign contributions.

There was money changing in the temple. And just as in the bible story, the biblical story where we had the corruption in the temple, we have seen the corruption in our campaign process and election process through foreign contributions. And what is the consequence? We now have the investigations going forward on technology transfers and nuclear proliferation and the buying of access, the foreign access, and the possibility of subverting the policy decisionmaking in this administration, the buying of access illegally through foreign sources, and the willful blindness of this administration and the DNC to accept those contributions and have the corruption and the money changing in our election and campaign process.

This amendment is intended to stop those who in recent campaigns raised illegal campaign cash from foreign sources. It is obvious that the political committees operated without obtaining adequate information regarding the source of these suspicious donations. They had no system in place to check the validity of campaign cash.

It has been documented in the press and congressional investigations that Democratic activists not only brought in envelopes of cash and suspicious money orders. They also created a network of illegal foreign donors that supplied millions of dollars for the Clinton-Gore reelection campaign.

It has been documented that the FBI, the Bureau of Alcohol, Tobacco and Firearms, the CIA, the National Security Council all raised concerns regarding the individuals that were associated with the Democratic Party and many of the contributions. There have been stories in the news regarding the improper use of the Lincoln bedroom, Air Force One, White House coffees and the White House staff arranging foreign trade missions for Democrat donors.

We know that the public will not tolerate such abuses of power because of the public outrage that we have seen, the intensive media coverage of the stories and the allegations and the abuses that was caused after the discovery that the DNC, President Clinton and Vice President AL GORE had attended fund-raisers that raised illegal foreign money.

Now, why is the original law on our books? Why do we ban illegal or foreign contributions? Because we believe that our national security is at stake. And that if foreign sources can influence U.S. campaigns, U.S. elections and U.S. policy, will it be our interests or China's interests that are being bought and sold? We must have this protection in place. And what we have seen time and time again is the willful blindness defense in relation to these foreign contributions. They did not know. Somehow they did not know that this was a fund-raiser. A blind eye.

Well, the American people will not accept us in this place in this House turning a blind eye to the corruption and the abuses that took place dealing with foreign contributions. My amendment will close that loophole, take away that defense.

One example of a conspiracy is to launder illegal funds with the DNC's fund-raiser at the Buddhist monastery in California. It is being investigated here in Congress. As a matter of fact, it was discovered during the Senate's recent investigation that this fund-raiser was organized by John Huang and Maria Hsai. They both have asserted their Fifth Amendment rights in the ongoing congressional investigation and Ms. Hsai was recently indicted by a Federal grand jury.

Again, Vice President GORE participated in this fund-raiser. But there were different stories and different accounts, different defenses used by the Vice President as this became public.

On Meet the Press, October 13, 1996, he said, We have strictly abided by all the campaign laws, strictly. There have been no violations.

Then on October 21, 1996, Mr. GORE stated that the DNC set up the event and asked me to attend it. It was not a fund-raiser. It was billed as a community outreach event. And indeed, no money was offered or collected at the event. But after the fact contributions were sent in. I did not handle any of this.

Then his story changes again. Finally, on January 20, 1997, Mr. GORE acknowledged that he knew the event was a fund-raiser. It was a mistake for the DNC to hold a fund-raiser event at a temple, and I take responsibility for my attendance at the event.

On February 14, 1997, the White House released documents that proved that the Vice President's office knew beforehand that the Huang event was a fund-raiser and the documents warned Mr. GORE to use great, great caution.

According to the February 10, 1998 edition of the Washington Post, Mr. GORE was informed through internal e-mail and memorandums by then Deputy Chief of Staff Harold Ickes that the event was a fund-raiser. Here are some interesting facts about the DNC fund-raiser at the Buddhist monastery. The cost per head was $2,500. The monks that donated to the DNC lived on a monthly stipend of $40.

The Senate investigation proved that the individuals were reimbursed for their donations. In other words, it was an illegal laundering of campaign contributions from questionable sources, many traced back to foreign donations or foreign money.

This event was videotaped by a private photographer. All copies of the videotape footage were taken from the production company by the Buddhist monastery and quickly shipped to Taiwan. The monk that took the tapes left the monastery after he learned the Senate Committee on Governmental Affairs served the monastery with a subpoena in search of those tapes. He has since disappeared and the videotapes remain hidden to this day.

But efforts to raise illegal campaign cash by the Democrats were not limited to this monastery. According to Bob Woodward, in the May 16, 1998 edition of the Washington Post, Johnny Chung, a Democratic fund-raiser, informed the U.S. Justice Department that a Chinese military officer who was an executive at the state-owned aerospace company gave him $300,000 to donate to the Democrats' 1996 campaign. As we know, the Chinese government's conspiracy to buy influence with Democratic leaders during the 1996 election has been well documented and will be fully investigated in this Congress.

As we look through the headlines today, it is overwhelming. The Washington Post, Saturday, May 16, Chung Ties China Money to DNC. New York Times, Democrat Fund-raiser said to Detail China Tie. New York Times, February 15, 1997, Clinton and Gore Received Warnings on Asian Donors. Chicago Tribune, Memos to Clinton Warned of Donors, Alarm Sounded Over Chinese Fund-raisers.

What is the defense? Willful blindness. Somehow they did not know.

Newsweek, White House Shell Game, Clinton Campaign's Frantic Fund-raising May Have Crossed the Line. The Washington Times, Huang's prodding for Lippo, an Indonesian company, verified. Washington Post, Scandal Alarms Went Unanswered. The Washington Post, DNC Acknowledges Inadequate Checks on Donors. The Washington Times, Foreign money scandal grows as $15 million offer is.

The Washington Post, Gore Community outreach Touched Wallets at Temple. The Washington Times, 31 Donors list DNC as Home Address.

It is the "don't ask, don't tell" policy of campaign fund-raising. I could go article after article after article until we are numb with the corruption. We simply want to protect our national security. We want to close this loophole. We want to take away this legal defense of willful blindness. The American people will not take a blind eye, neither should we.

I hope that we can have a consensus on this amendment that this defense will not be tolerated, will not be accepted and that we will close this loophole to make enforcement of illegal foreign contributions workable, doable and the law and practice of the land.

□ 2245

Mr. Chairman, I reserve the balance of my time.

Mr. SHAYS. Mr. Chairman, if I could know the proper request. I am not sure I oppose this, but I would like to claim the time in opposition.

The CHAIRMAN pro tempore (Mr. GIBBONS). The gentleman may, under a unanimous consent request, claim the time in opposition.

Mr. SHAYS. I thank the Chairman, and I do request that.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

The CHAIRMAN pro tempore. The gentleman from Connecticut (Mr. SHAYS) is recognized for 20 minutes.

Mr. SHAYS. Mr. Chairman, I yield myself such time as I may consume.

I understand the intent of the gentleman from Mississippi and agree with a good number of his remarks, but I would like him, if he would, to describe to me the term of art in subsection (b).

> It shall not be a defense to a violation of subsection (a) that defendant did not know that the contribution originated from a foreign national if the defendant was aware of a high probability that the contribution originated from a foreign national.

Is this a term of art that is used that the courts have defined? Because I am not aware of it and, if so, I would like to know where it is used.

Mr. PICKERING. Mr. Chairman, will the gentleman yield?

Mr. SHAYS. I yield to the gentleman from Mississippi.

Mr. PICKERING. Mr. Chairman, my understanding is that it is a clarification of the ban on foreign contributions. The defense of the administration and many of those in the various investigations surrounding foreign contributions again go back time and time again to it was a lack of knowledge or it was a lack of a system of checks. But I believe it was a willful blindness, and this would simply take away that defense from those who are responsible in campaigns for raising money to know the source of the donors.

If we look at the RNC, in their past practices, they have set in place an elaborate system of checks on all donors, all sources, and especially if they have any potential relationship to a foreign contribution.

Mr. SHAYS. Reclaiming my time, Mr. Chairman, my question, though, still stands. I am aware of the terms knowing and willful. An individual has to know and has to be willful, and that is a term that has been defined by law in both the States and the Federal Government for a long time. I have never seen the concept of a high probability, and I am just interested if the gentleman, and this may be, in fact, what he decided to do, but is this a term of art that has been used in the past? I am not aware of it being used in the past. Or is this a term that the gentleman had to use to reach the conclusion he wanted to reach?

I would be happy to ask someone else if they wanted to respond. For the legislative record as well it would be helpful for us to have some definition of this term of high probability.

Mr. PICKERING. If the gentleman will continue to yield, the high probability would become the standard in these types of cases and it would, I believe, set a clearer standard than the one we have today. The high probability that the contribution originated from the foreign national would set the definition and the standard by what is responsible for those who are accepting and raising and soliciting foreign campaign contributions.

Mr. SHAYS. Would this be a term of art that the court would help us define or the FEC?

Mr. PICKERING. It could be done either way, as the litigation and the different challenges progress through the campaign FEC process and through the court process. But I do believe that we would find an answer to the gentleman's question as far as case law and precedent on the term high probability. I would be glad to work with the gentleman to answer that question.

Mr. MEEHAN. Mr. Chairman, will the gentleman yield?

Mr. SHAYS. I yield to the gentleman from Massachusetts.

Mr. MEEHAN. Mr. Chairman, I, too, could potentially support the amendment, but high probability, there is no legal texture to that. I do not believe that there is any case law that has been determined anywhere that I know of where high probability was the legal basis of anything.

Before I got here I was a prosecutor in Massachusetts. We had 13,000 cases a year. I think willfulness may be the legal term that we want, but I just do not know that there is any court that has ever defined from the legal perspective the term high probability. I do not know what high probability is.

High probability. If we get a contribution from someone whose last name is, I do not know, Chin, and there are a lot of Chinese people named Chin; is that high probability? If the court cannot define what a high probability is, then I think we ought to use a term that has a legal texture, a term that is in Black's Law Dictionary, a term that courts somewhere somehow have used to determine legislative intent.

Mr. LEVIN. Mr. Chairman, will the gentleman yield?

Mr. SHAYS. I yield to the gentleman from Michigan.

Mr. LEVIN. Mr. Chairman, let me ask the gentleman from Mississippi a friendly question so we understand this, and I guess the gentleman from Connecticut (Mr. SHAYS) will have to yield to him.

As I read this amendment, it says in the caption "prohibiting use of willful blindness." The word willful is there, and then later on the term high probability. In order to violate this statute, would there have to be willfulness?

Mr. PICKERING. Mr. Chairman, will the gentleman yield?

Mr. SHAYS. I yield to the gentleman from Mississippi.

Mr. PICKERING. Yes, that would be the legal standard of a willful act.

Mr. LEVIN. If the gentleman from Connecticut (Mr. SHAYS) will continue to yield, is the gentleman from Mississippi (Mr. PICKERING) using high probability to mean willfulness?

Mr. PICKERING. The high probability, there would be a willfulness, and the willfulness would be determined in clause (b) by the probability that he should be aware.

For example, when Vice President GORE went to the Buddhist monastery, should he have had a high probability that that was a fund-raising event and, given the nature of that fundraiser, was there a probability that they could have received, since the nuns and the monks at that monastery live on about a $40 stipend, would a reasonable person, would a reasonable court decide that there was a probability that there was illegal laundering and that there was a probability of foreign sources in that contribution?

Mr. LEVIN. The gentleman's answer is that he should have a different standard than willfulness. Now, I am not sure how this was drafted, but maybe the thing to do is, if the gentleman wants to pass this amendment, understand its contradictions or take it back and try to rewrite it so that it does not have the inconsistencies. The caption reads the same way.

Mr. PICKERING. I do not see an inconsistency between willful blindness and a fleshing out of that. Was he aware of a high probability that a contribution originated from a foreign national? I do not see any inconsistency in that standard. It supports and, further, I think enhances the language of willful blindness.

There may be a case to what court precedent does it refer to, what standard and what definition, but I do think that the high probability supports the intent.

Mr. LEVIN. I think it would help if the gentleman could cite any noncriminal statute in this country that uses the term high probability; any civil statute that has the term high probability in it.

Mr. PICKERING. I will be glad to get back to the gentleman. I will ask the staff to research the matter.

Mr. LEVIN. Good. I thank the gentleman.

Mr. SHAYS. Mr. Chairman, I reserve the balance of my time.

Mr. PICKERING. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas (Mr. DELAY), the majority whip.

Mr. DELAY. Mr. Chairman, I do not know who is watching this, I hope some of the Members are, but we just got a legal lesson and I do not know what these lawyers were talking about. I do know what willful blindness as a defense means from a personal common sense point of view. I also know what high probability means relative to a contribution originating from a foreign national. It is English language. It is a pretty high probability that if one goes to a Buddhist temple and gets all kinds of gifts and are told either verbally or in memos that it is a fundraiser, it is a pretty high probability the money is being raised there and it is a fundraiser.

Maybe 80 percent, 90 percent. I mean, if you have a friend by the name of Charlie Yah Lin Trie that you have known for 14 years, as a person that does nothing but business with Asian clients, and he comes and gives you $640,000, then there has got to be a high probability that it came from foreign nationals, and you cannot walk around and say, I was blind to that, even though it came on a check from a Chinese bank, wrapped in red Pagoda cigarettes or something.

If you have got a friend by the name of Pauline Kanchanalak, who is a lobbyist for Thailand and helped form a U.S. Thai business council and donated contributions to the DNC and had frequent contacts and coffees with John Huang, then it is a high probability that the money that you are getting comes from foreign nationals.

If you have a friend by the name of Johnny Chien Chuen Chung, a Taiwanese American from Torrance, California, and his company does business with foreign nationals and comes up with $366,000 for the Democratic Party, then it is a high probability that when you receive that along with all the other stuff you have received, that you probably, in high probabilities, know that it came from foreign nationals. You cannot walk around and say, oh, gee, I did not know that, and then get off, and then have your spinmeisters run up and down Pennsylvania Avenue and get all kinds of interviews and try to cover-up the fact that you are taking money from foreign nationals.

If you have a friend by the name of Arief and Soraya, and I cannot even pronounce the last name, Wiriadinata, something like that, who donated $450,000 to the DNC and was friends with a guy named Johnny Huang, and later returned it because Wiriadinata could not explain where it came from, then probably there is a high probability that it is money from foreign nationals.

I could go on with John Lee and Cheong Am, Yogesh Gandhi, Ng Lap Seng, Supreme Master Suma Ching Hai and George Psaltis.

These are American names, I know, and a lot of them are Americans and American citizens, but many of them did business with foreign nationals and brought money to the DNC and others.

All this amendment does is give the opportunity or take away the defense, with all the legalese pushed aside, takes away the defense that says, oh, well, I did not know it. It did not seem proper to me but I did not know it. Therefore, I am not guilty for breaking the law.

We are just making it once and for all breaking the law.

Mr. SHAYS. Mr. Chairman, will the gentleman yield?

Mr. DELAY. I am glad to yield to the gentleman from Connecticut.

Mr. SHAYS. Mr. Chairman, I know the gentleman did not mean it to sound this way but when I listened to it it sounded this way. It sounded like if you have a foreign name; there was a high probability they were foreigners.

Mr. DELAY. Reclaiming my time, I knew the gentleman from Connecticut would try to do that.

Mr. SHAYS. That is what it sounded like.

Mr. DELAY. That is not my point. My point is that the administration and the DNC knew exactly who these people were, had known them for many, many long years, knew their contacts and I guarantee the gentleman, knew where this money came from, and walking into a Buddhist temple knowing that it was a fund-raiser and then walking out and saying, oh, well, I just really did not know it was a fund-raiser and I did not know I was getting foreign nationals is not a defense against the guilt of breaking the law, and the gentleman from Mississippi is making sure of the fact that you cannot claim blindness when there is a high probability you know that you are breaking the law.

Mr. SHAYS. Would the gentleman yield? I will yield on my time.

Mr. DELAY. Okay.

Mr. SHAYS. If I may, I just would be happy to take some time here. The gentleman is not saying if you have a foreign name, there is a high probability?

Mr. DELAY. No, I am not saying that.

Mr. SHAYS. Okay. I just think the record needs to show that.

Mr. DELAY. I appreciate that. I yield back the balance of my time.

Mr. PICKERING. Mr. Chairman, may I inquire as to how much time I have remaining?

The CHAIRMAN pro tempore (Mr. GIBBONS). The gentleman from Mississippi (Mr. PICKERING) has 2 minutes remaining, and the right to close. The gentleman from Connecticut (Mr. SHAYS) has 12 minutes.

Mr. SHAYS. Mr. Chairman, I am happy to yield such time as he might consume to the gentleman from Massachusetts (Mr. MEEHAN).

Mr. MEEHAN. Mr. Chairman, I thank my colleague for yielding.

The problem with the amendment, and we could come to some kind of an agreement, it seems to me, but the problem with the amendment is the term high probability is a statistical term. It has to do with the likelihood that something is going to happen. It is not a legal term. There is not any case, any civil case, there is not any criminal case. We cannot just be passing legislation. We have to take this seriously.

We should assume that this might become law. If we are doing that, we ought to sit down and come up with legislation and come up with wording in this instance that is something like this: That an individual knew or should have known. That is the legal terminology we should be able to sit down and come up with so we can have an agreement on this amendment. There is plenty of time in this debate to show photographs of the Vice President or anyone else for the political part of the argument, but it seems to me that it would be more constructive if we could work out language that we could come to an agreement on like knew or had reason to know.

There have been civil actions all over the country that people have been very successful on. There have been criminal actions people have been in.

□ 2300

It is knew or should have known, that is what the legal term is, but not high probability. I think we can work this out.

Mr. PICKERING. If the gentleman would yield, I would be glad to work with him. I think our intent is the same, to close this loophole, to take away this defense; and the language that my colleague suggested is something that I would be glad to sit down and work with him on.

I would add, though, that I believe we both understand the intent of this law. We have both seen the abuses. I think there is consent that we want to close that loophole and take away that defense, that we do not want to stand up here as American people, listen to this debate and say there is no controlling legal authority.

Mr. MEEHAN. Mr. Chairman, reclaiming my time, I think that is another amendment that we can get to. But I get the point. Hopefully, we will be able to work out the language on this.

I just do not want to see us accept all kinds of amendments and then have a high probability that it will all have to be thrown out once we finish with all this, because there clearly is a high probability that that would happen. But if we are looking at a legal term, I have a number that I can suggest and I think come to an accommodation.

Mr. Chairman, I yield the balance of my time to the gentleman from Connecticut (Mr. SHAYS), and I thank him for his patience.

Mr. BLUMENAUER. Mr. Chairman, if a modern day Rip Van Winkle tuned in today after napping for 25 years, who could fault him for immediately tuning out this debate on campaign finance reform? In 1971 and 1974 Congress passed campaign finance reforms that limited the amount of money in politics and, for the first time, required candidates to disclose the source of their money. The wisdom and application of those reform efforts have been debated by Congress ever since—annually, emotionally, and with futility.

So, for the last 25 years, Congressional campaigns have been conducted under a set of rules that have become unenforceable (through systematic defunding of the Federal Elections Commission), weakened (by court decisions), and yet located at the heart of the American distrust with elected officials. The Harris Poll showed us earlier this year that 85 percent of Americans believe special interests have more influence than voters on this institution. Who can fault them when total campaign spending has risen from $115 million in 1975, to $450 million in 1985, and almost certainly to over $1 billion in this election? Is it any wonder that voter turnout is at an all-time low, and that respect for Members of this institution seems to rise only when we are not in session?

In my relatively short time in Congress, I have seen how campaigns are financed, and how that distorts the decision making process. We would not have nearly the number of people who die each year from tobacco related deaths if it weren't for the influence of tobacco money in politics. I see negative ads from anonymous sources tearing at the fabric of our society. I see honest men and women trying to buck a system that distorts and creates negative consequences. And I see my colleagues, including Mr. ALLEN, Mr. SHAYS, Mr. MEEHAN and others, devoting enormous time and creativity to meaningful reforms that don't tilt in favor of Republicans or Democrats, don't unduly help incumbents, but do cut down the pursuit of campaign money.

We now know how cynically the deck has been stacked yet again against reform. Those who look at the current system and see nothing wrong have a rule that permits them to call up 258 non-germane amendments, essentially talking reform to death. Those who argue that we need more money in politics are using their control over the calendar to prevent a House bill—should one miraculously pass—from reaching the Senate before adjournment.

Despite these shenanigans, Mr. Chairman, we are not going to give up. The opponent of reform may succeed in pushing campaign finance reform into the 106th Congress, but reform is not going to die. The American people know the system is broken, and at the very least, we are going to give them a series of votes so after all the debate, after all the stalling tactics and parliamentary maneuvering, it will be perfectly clear who squandered this opportunity, and why.

Mr. SHAYS. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. PICKERING) having assumed the chair, Mr. GIBBONS, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2183) to amend the Federal Election Campaign Act of 1971 to reform the financing of campaigns for elections for Federal office, and for other purposes, had come to no resolution thereon.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. PICKERING). The Chair desires to announce that pursuant to clause 4 of rule 1, the Speaker signed the following enrolled bill today: S. 2282, to amend the Arms Export Control Act, and for other purposes.

GENERAL LEAVE

Mrs. NORTHUP. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and to include extraneous material on H.R. 2183.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Kentucky?

There was no objection.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mrs. FOWLER (at the request of Mr. ARMEY) for today on account of medical reasons.

Mr. MCNULTY (at the request of Mr. GEPHARDT) for today on account of official business in the district.

Mr. YATES (at the request of Mr. GEPHARDT) for today after 7:00 p.m. on account of physical reasons.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. LEVIN) to revise and extend their remarks and include extraneous material:)

Mr. CONYERS, today, for 5 minutes.

Mr. POMEROY, today, for 5 minutes.

Mr. MINGE, today, for 5 minutes.

Mr. PETERSON of Minnesota, today, for 5 minutes.

Mr. DAVIS of Illinois, today, for 5 minutes.

Mr. STRICKLAND, today, for 5 minutes.

(The following Members (at the request of Mrs. NORTHUP) to revise and extend their remarks and include extraneous material:)

Ms. ROS-LEHTINEN, July 15 and 16, for 5 minutes.

Mr. HULSHOF, today, for 5 minutes.

Mr. MILLER of Florida, July 15, for 5 minutes.

Mr. FOX of Pennsylvania, today, for 5 minutes.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. LEVIN) and to include extraneous material:)

Mr. KIND.
Mr. FARR of California.
Mr. MILLER of California.
Mr. HALL of Ohio.
Mr. PASCRELL.
Mr. BARCIA.
Mr. TOWNS.
Mr. HINOJOSA.
Mr. FAZIO of California.
Mr. LEVIN.
Mr. TRAFICANT.
Ms. LEE.
Mr. SHERMAN.
Ms. NORTON.
Mr. HAMILTON.
Mr. UNDERWOOD.
Mr. VISCLOSKY.
Mr. BLUMENAUER.
Mr. MALONEY of Connecticut.
Mr. CONYERS.
Mr. LAFALCE.
Mr. BAESLER.
Ms. MILLENDER-MCDONALD.

(The following Members (at the request of Mrs. NORTHUP) and to include extraneous material:)

Mr. TIAHRT.
Mr. BEREUTER.
Mr. RADANOVICH.
Mr. RILEY.
Mr. DAVIS of Virginia.
Mr. SMITH of Michigan.
Mr. WALSH.
Mr. CUNNINGHAM.
Mr. HORN.
Mr. HYDE.
Mr. HULSHOF.

SENATE BILLS AND JOINT RESOLUTIONS REFERRED

Bills and concurrent resolutions of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 439. An act to provide for Alaska State jurisdiction over small hydroelectric projects, to address voluntary licensing of hydroelectric projects on fresh waters in the State of Hawaii, to provide an exemption for portion of a hydroelectric project located in the State of New Mexico, and for other purposes; to the Committee on Commerce.

S. 799. An act to direct the Secretary of the Interior to transfer to the personal representative of the estate of Fred Steffens of Big Horn County, Wyoming, certain land comprising the Steffens family property; to the Committee on Resources.

S. 814. An act to direct the Secretary of the Interior to transfer to John R. and Margaret J. Lowe of Big Horn County, Wyoming, certain land so as to correct an error in the patent issued to their predecessors in interest; to the Committee on Resources.

S. 846. An act to amend the Federal Power Act to remove the jurisdiction of the Federal Energy Regulatory Commission to license projects on fresh waters in the State of Hawaii; to the Committee on Commerce.

S. 1976. An act to increase public awareness of the plight of victims of crime with developmental disabilities, to collect data to measure the magnitude of the problem, and to develop strategies to address the safety and justice needs of victims of crime with developmental disabilities; to the Committee on the Judiciary.

S. 2022. An act to provide for the improvement of interstate criminal justice identification, information, communications, and forensics; to the Committee on the Judiciary.

S. 2294. An act to facilitate the exchange of criminal history records for noncriminal justice purposes, to provide for the decentralized storage of criminal history records, to amend the National Child Protection Act of 1993 to facilitate the fingerprint checks authorized by that Act, and for other purposes; to the Committee on the Judiciary.

S. Con. Res. 30. Concurrent resolution expressing the sense of Congress that the rules of multilateral economic institutions, including the International Monetary Fund and the International Bank for Reconstruction and Development, should be amended to allow membership for the Republic of China on Taiwan and other qualified economies; to the Committee on Banking and Financial Services.

S. Con. Res. 107. Concurrent resolution affirming United States commitments under the Taiwan Relations Act; to the Committee on International Relations.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

Mr. THOMAS, from the Committee on House Oversight, reported that that committee had examined and found truly enrolled bills and a joint resolution of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 651. An act to extend the deadline under the Federal Power Act for the construction of a hydroelectric project located in the State of Washington, and for other purposes.

H.R. 652. An act to extend the deadline under the Federal Power Act for the construction of a hydroelectric project located in the State of Washington, and for other purposes.

H.R. 848. An act to extend the deadline under the Federal Power Act applicable to the construction of the AuSable Hydroelectric Project in New York, and for other purposes.

H.R. 960. An act to validate certain conveyances in the City of Tulare, Tulare County, California, and for other purposes.

H.R. 1184. An act to extend the deadline under the Federal Power Act for the construction of the Bear Creek Hydroelectric Project in the State of Washington, and for other purposes.

H.R. 1217. An act to extend the deadline under the Federal Power Act for the construction of a hydroelectric project located in the State of Washington, and for other purposes.

H.R. 1635. An act to establish within the United States National Park Service the National Underground Railroad Network to Freedom program, and for other purposes.

H.R. 2202. An act to amend the Public Health Service Act to revise and extend the bone marrow donor program, and for other purposes.

H.R. 2864. An act to require the Secretary of Labor to establish a program under which employers may consult with State officials respecting compliance with occupational safety and health requirements.

H.R. 2877. An act to amend the Occupational Health Act of 1970.

H.R. 3035. An act to establish an advisory commission to provide advice and recommendation on the creation of an integrated, coordinated Federal policy designed to prepare for and respond to serious drought emergencies.

H.R. 3130. An act to provide for an alternative penalty procedure for States that fail to meet Federal child support data processing requirements, to reform Federal incentive payments for effective child support performance, to provide for a more flexible penalty procedure for States that violate interjurisdictional adoption requirements, and for other purposes.

H.J. Res. 113. Joint resolution approving the location of a Martin Luther King, Jr., Memorial in the Nation's Capital.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 731. An act to extend the legislative authority for construction of the National Peace Garden memorial, and for other purposes.

S. 2282. An act to amend the Arms Export Control Act, and for other purposes.

BILLS AND JOINT RESOLUTION PRESENTED TO THE PRESIDENT

Mr. THOMAS, from the Committee on House Oversight, reported that that committee did on the following dates present to the President, for his approval, bills and a joint resolution of the House of the following titles:

On July 7, 1998:

H.R. 960. An act to validate certain conveyances in the City of Tulare, Tulare County, California, and for other purposes.

On July 8, 1998:

H.R. 652. An act to extend the deadline under the Federal Power Act for the construction of a hydroelectric project located in the State of Washington, and for other purposes.

H.R. 651. An act to extend the deadline under the Federal Power Act for the construction of a hydroelectric plant located in the State of Washington, and for other purposes.

H.J. Res. 113. Joint resolution approving the location of a Martin Luther King, Jr., Memorial in the Nation's Capital.

H.R. 3130. An act to provide for an alternative penalty procedure for States that fail to meet Federal child support data processing requirements to reform Federal incentive payments for effective child support performance, to provide for a more flexible penalty procedure for States that violate interjurisdictional adoption requirements, and for other purposes.

H.R. 3035. An act to establish an advisory commission to provide advice and recommendations on the creation of an integrated, coordinated Federal policy designed to prepare for and respond to serious drought emergencies.

H.R. 2877. An act to amend the Occupational Safety and Health Act of 1970.

H.R. 2864. An act to require the Secretary of Labor to establish a program under which employers may consult with State officials respecting compliance with occupational safety and health requirements.

H.R. 2202. An act to amend the Public Health Service Act to revise and extend the bone marrow donor program, and for other purposes.

H.R. 1217. An act to extend the deadline under the Federal Power Act for the construction of a hydroelectric project located in the State of Washington, and for other purposes.

H.R. 1184. An act to extend the deadline under the Federal Power Act for the construction of the Bear Creek Hydroelectric Project in the State of Washington, and for other purposes.

H.R. 848. An act to extend the deadline under the Federal Power Act applicable to the construction of the AuSable Hydroelectric Project in New York, and for other purposes.

On July 14, 1998:

H.R. 1316. An act to amend chapter 87 of title 5, United States Code, with respect to the order of precedence to be applied in the payment of life insurance benefits.

H.R. 2646. An act to amend the Internal Revenue Code of 1986 to allow tax-free expenditures from education individual retirement accounts for elementary and secondary school expenses, to increase the maximum annual amount of contributions to such accounts, and for other purposes.

H.R. 1635. An act to establish within the United States National Park Service the National Underground Railroad Network to Freedom Program, and for other purposes.

ADJOURNMENT

Mrs. NORTHUP. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock and 7 minutes p.m.) under its previous order, the House adjourned until tomorrow, Wednesday, July 15, 1998, at 9 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

9882. A letter from the Secretary of Agriculture, transmitting the annual report on foreign investment in U.S. agricultural land through December 31, 1996, pursuant to 7 U.S.C. 3504; to the Committee on Agriculture.

9883. A letter from the Administrator, Rural Development, Department of Agriculture, transmitting the Department's final rule—Electric Engineering, Architectural Services and Design Policies and Procedures (RIN: 0572-AA48) received June 25, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9884. A communication from the President of the United States, transmitting requests for FY 1999 budget amendments totaling $3.8 million for initiatives that will reduce crime, enhance public safety, and restore confidence in the criminal justice system in the District of Columbia, pursuant to 31 U.S.C. 1106(b); (H. Doc. No. 105-281); to the Committee on Appropriations and ordered to be printed.

9885. A letter from the Director, Defense Procurement, Department of Defense, transmitting the Department's final rule—Defense Federal Acquisition Regulation Supplement; Direct Award of 8(a) Contracts [DFARS Case 98-D011] received June 17, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on National Security.

9886. A letter from the Secretary of Defense, transmitting a report on the disposal of excess and surplus materials, pursuant to Public Law 105-85; to the Committee on National Security.

9887. A letter from the Secretary of Defense, transmitting the semiannual report of the Inspector General and classified annex for the period ending March 31, 1998, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on National Security.

9888. A letter from the Secretary of Defense, transmitting a report entitled "Military Capabilities of the People's Republic of China," pursuant to Public Law 105-85, section 1226; to the Committee on National Security.

9889. A letter from the Deputy Director for Policy and Programs, Department of the Treasury, transmitting the Department's final rule—Notice Inviting Applications to the Presidential Awards for Excellence in Microenterprise Development [No. 981-0158] received June 17, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

9890. A letter from the Assistant Secretary for Export Administration, Department of Commerce, transmitting the Department's final rule—Defense Priorities and Allocations System [Docket No. 970827205-8126-02] (RIN: 0694-AA02) received June 10, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

9891. A letter from the Assistant Attorney General, Office of Legislative Affairs, Department of Justice, transmitting a draft of proposed legislation entitled "Thrift Litigation Funding Act of 1998"; to the Committee on Banking and Financial Services.

9892. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting the FY 1999 revised Annual Performance Plan for the Export-Import Bank, pursuant to 12 U.S.C. 635g(a); to the Committee on Banking and Financial Services.

9893. A letter from the General Counsel, Federal Emergency Management Agency, transmitting the Agency's final rule—Suspension of Community Eligibility [Docket No. FEMA-7688] received June 10, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

9894. A letter from the Chairman, Federal Reserve System, transmitting the annual report to Congress outlining observed trends in the cost and availability of retail banking services; to the Committee on Banking and Financial Services.

9895. A letter from the Director, Office of Thrift Subervision, transmitting the 1997 Annual Report to Congress on the Preservation of Minority Savings Institutions; to the Committee on Banking and Financial Services.

9896. A letter from the Acting Assistant General Counsel for Regulations, Department of Education, transmitting the Department's final rule—Notice of Final Funding Priorities for Fiscal Years 1998-1999 for Rehabilitation Research and Training Centers—received June 24, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

9897. A letter from the Assistant Secretary, Office of Special Education and Rehabilitative Services, Department of Education, transmitting Notice of Final Funding Priorities for Fiscal Years 1998-1999 for a Rehabilitation Research and Training Center, pursuant to 5 U.S.C. 801(a)(1)(B); to the Committee on Education and the Workforce.

9898. A letter from the Secretary of Health and Human Services, transmitting a report entitled "A Study of Benefits for Head Start Employees"; to the Committee on Education and the Workforce.

9899. A letter from the Clerk, United States Court of Appeals for the District of Columbia, transmitting an opinion of the United States Court of Appeals, No. 96-7030—Carole Kolstad v. American Dental Association; to the Committee on Education and the Workforce.

9900. A letter from the Director, Minority Business Development Agency, Department of Commerce, transmitting the Department's final rule—Revision of the Cost-Share Requirement and Applicability of the Ten Bonus Points to All Future Solicitations to Operate Minority Business Development Centers (MBDC) [Docket No. 980608150-8150-01] (RIN: 0640-ZA03) received June 15, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9901. A letter from the Director, Office of Rulemaking Coordination, Department of Energy, transmitting the Department's final rule—Performance-Based Contracting [FAR Subpart 37.6] Performance-Based Contracting [DEAR Section 970.1001] Performance-Based Incentives [Acquisition Letter 97-08] Cost Reduction Incentives [Acquisition Letter 97-09] received June 22, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9902. A letter from the Director, Office of Rulemaking Coordination, Department of Energy, transmitting the Department's final rule—Personnel Security Activities [DOE O 472.1B] received June 17, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9903. A letter from the Director, Office of Rulemaking Coordination, Department of Energy, transmitting the Department's final rule—Packaging and Transportation Safety [DOE O 460.1A] received June 22, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9904. A letter from the Acting Deputy General Counsel for Energy Policy, Department of Energy, transmitting the Department's final rule—Contracting with the Small Business Administration [FAR 19.8] Notification of Competition Limited to Eligible 8(a) Concerns [FAR 52.219-18] Section 8(a) Direct Award [FAR 52.219-70XX] received June 25, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9905. A letter from the Director, Office of Rulemaking Coordination, Department of

Energy, transmitting the Department's final rule—Advisory Committee Management Program—received June 25, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9906. A letter from the Director, Office Of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—OMB Approval Numbers Under the Paperwork Reduction Act [FRL–6111–4] received June 15, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9907. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plan; Indiana [IN85–1a; FRL–6115–7] received June 23, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9908. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Organobromine Production Wastes; Identification and Listing of Hazardous Waste; Land Disposal Restrictions: Listing of CERCLA Hazardous Substances, Reportable Quantities; Final Rule [FRL–6115–4] (RIN: 2050–AD79) received June 23, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9909. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans; Ohio [OH103–2; FRL–6116–9] received June 24, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9910. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Disposal of Polychlorinated Biphenyls (PCBs) [OPPTS–66009C; FRL–5726–1] (RIN: 2070–AC01) received June 24, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9911. A letter from the Director, Regulations Policy and Management Staff, Office of Policy, Food and Drug Administration, transmitting the Administration's final rule—Beverages: Bottled Water; Correction [Docket No. 98N–0294] received June 15, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9912. A letter from the Chairman, Nuclear Regulatory Commission, transmitting the Commission's final rule—Revision of Fee Schedules; 100% Fee Recovery, FY 1998 (RIN: 3150–AF 83) received June 17, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9913. A letter from the Secretary of Commerce, transmitting a draft of proposed legislation to authorize the activities and necessary appropriations to establish digital broadcasting capability for public television and radio stations; to the Committee on Commerce.

9914. A letter from the Secretary of Health and Human Services, transmitting an annual report on Performance Improvement 1998: Evaluation Activities of the U.S. Department of Health and Human Services; to the Committee on Commerce.

9915. A letter from the Secretary of Health and Human Services, transmitting a draft of proposed legislation entitled "Medicaid and Children's Health Improvement Amendments of 1998"; to the Committee on Commerce.

9916. A letter from the Secretary, Securities And Exchange Commission, transmitting the Commission's final rule—Definitions of "Small Business" or "Small Organization" Under the Investment Company Act of 1940, the Investment Advisers Act of 1940, the Securities Exchange Act of 1934, and the Securities Act of 1933 [Release Nos. 33–7548, 34–40122, IC–23272, and IA–1727; File No.S7–4–97] (RIN: 3235–AG62; 3235–AH01) received June 25,1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

9917. A letter from the Director, Defense Security Assistance Agency, transmitting a copy of Presidential Determination No. 94–50: directed the provision of defense articles from the stocks of the Department of Defense, defense services of the Department of Defense, and military education and training to the countries participating in the multinational coalition to restore democracy to Haiti, pursuant to 22 U.S.C. 2318(a)(1); to the Committee on International Relations.

9918. A letter from the Director, Defense Security Assistance Agency, transmitting the Department of the Navy's proposed lease of defense articles to Spain (Transmittal No. 12–98), pursuant to 22 U.S.C. 2796a(a); to the Committee on International Relations.

9919. A letter from the Director, Defense Security Assistance Agency, transmitting the Department of the Navy's proposed lease of defense articles to Turkey (Transmittal No. 13–98), pursuant to 22 U.S.C. 2796a(a); to the Committee on International Relations.

9920. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification concerning the Department of the Air Force's Proposed Letter(s) of Offer and Acceptance (LOA) to Japan for defense articles and services (Transmittal No. 98–41), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

9921. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification concerning the Department of the Navy's Proposed Letter(s) of Offer and Acceptance (LOA) to Japan for defense articles and services (Transmittal No. 98–46), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

9922. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification concerning the Department of the Air Force's Proposed Letter(s) of Offer and Acceptance (LOA) to Spain for defense articles and services (Transmittal No. 98–48), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

9923. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold under a contract to the Government of the State of Kuwait (Transmittal No. RSAT–2–98), pursuant to 22 U.S.C. 2776(d); to the Committee on International Relations.

9924. A letter from the Assistant Secretary of State for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold under a contract to Germany, NATO, Sweden, Switzerland (Transmittal No. DTC–84–98), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

9925. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold under a contract to Turkey (Transmittal No. DTC–72–98), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

9926. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold under a contract to Germany (Transmittal No. DTC–73–98), pursuant to 22 U.S.C. 2776(d); to the Committee on International Relations.

9927. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold under a contract to Spain (Transmittal No. DTC–80–98), pursuant to 22 U.S.C. 2776(d); to the Committee on International Relations.

9928. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold under a contract to Japan (Transmittal No. DTC–75–98), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

9929. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a copy of Presidential Determination No. 98–24: Authorized the use of the Emergency Refugee and Migration Assistance Fund to meet the urgent and unexpected needs of refugees, victims of conflict, and other persons at risk in Africa and Southeast Asia, pursuant to 22 U.S.C. 2601(c)(3); to the Committee on International Relations.

9930. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a report on proliferation of missiles and essential components of nuclear, biological, and chemical weapons, pursuant to 22 U.S.C. 2751 nt.; to the Committee on International Relations.

9931. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting the annual report on authorized U.S. commercial exports, military assistance and foreign military sales and military imports for fiscal year 1997, pursuant to Public Law 104—106, section 1324(c) (110 Stat. 481); to the Committee on International Relations.

9932. A communication from the President of the United States, transmitting a report on arms control treaty compliance by the successor states to the Soviet Union and other nations that are parties to arms control agreements with the United States, as well as by the United States itself, pursuant to 22 U.S.C. 2592; to the Committee on International Relations.

9933. A letter from the Director, Arms Control and Disarmament Agency, transmitting the Agency's classified Executive Summary and Annexes to the U.S. Arms Control and Disarmament Agency's (ACDA) 1997 Annual Report, pursuant to 22 U.S.C. 2590; to the Committee on International Relations.

9934. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting the Department's final rule—Passport Procedures—Amendment to Restriction of Passports Regulation [Public Notice 2712] received June 25, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on International Relations.

9935. A communication from the President of the United States, transmitting the report on the Treaty on Conventional Armed Forces in Europe (CFE) Treaty Designated Permanent Storage Sites; to the Committee on International Relations.

9936. A letter from the Mayor, Council of the District of Columbia, transmitting a copy of D.C. Act 12–357, "Fiscal Year 1999 Budget Request Act" received June 19, 1998, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform and Oversight.

9937. A letter from the Deputy Executive Director, Commodity Futures Trading Commission, transmitting the Commission's final rule—Commission Records and Information [17 CFR Part 145] received June 19, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

9938. A letter from the Regulations Coordinator, Department of Health and Human Services, transmitting the Department's final rule—Block Grant Programs: Implementation of OMB Circular A-133 (RIN: 0991-AA92) received June 11, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

9939. A letter from the Administrator, Environmental Protection Agency, transmitting the determination that will allow the U.S. Environmental Protection Agency to place a contract with the National Academy of Public Administration; to the Committee on Government Reform and Oversight.

9940. A letter from the Deputy Associate Administrator for Acquisition Policy, General Services Administration, transmitting the Administration's final rule—Federal Acquisition Circular 97-05; Introduction [48 CFR Chapter 1] received June 17, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

9941. A letter from the Clerk of the House of Representatives, transmitting the annual compilation of personal financial disclosure statements and amendments thereto filed with the Clerk of the House of Representatives, pursuant to 2 U.S.C. 703(d)(1) and Rule XLIV, clause 1, of the House Rules; (H. Doc. No. 105—280); to the Committee on House Oversight and ordered to be printed.

9942. A letter from the Assistant Administrator, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Dean John A. Knauss Marine Policy Fellowship National Sea Grant College Federal Fellows Program, [Docket No. 980427106-8106-01] (RIN: 0648-ZA42) received June 17, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

9943. A letter from the Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries off West Coast States and in the Western Pacific; West Coast Salmon Fisheries; Closures and Reopenings From the U.S.—Canada Border To Cape Falcon, Oregon [Docket No. 980429110-8110-01 I.D. 060298B] received June 24, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

9944. A letter from the Acting Deputy Assistant Administrator for Ocean Services and Coastal Zone Management, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Coastal Services Center Coastal Change Analysis Program [Docket No. 980429111-8111-01] (RIN: 0648-ZA43) received June 22, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

9945. A letter from the Executive Director, The Presidio Trust, transmitting the Trust's final rule—Interim Management of the Presidio (RIN: 3212-AA00) received June 25, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

9946. A letter from the Director, Executive Office for Immigration Review, Department of Justice, transmitting the Department's final rule—Adjustment of Status to That of Person Admitted for Permanent Residence [EOIR No. 119I; A.G. ORDER No. 2117-97] (RIN: 1125-AA20) received June 15, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

9947. A letter from the Secretary, Federal Trade Commission, transmitting the Commission's Twentieth Annual Report to Congress pursuant to section 7A of the Clayton Act, pursuant to 15 U.S.C. 18a(j); to the Committee on the Judiciary.

9948. A letter from the Clerk, United States Court of Appeals for the District of Columbia, transmitting an opinion of the United States Court of Appeals, No. 96-5343—Auction Company of America v. Federal Deposit Insurance Corporation, as Manager of the FSLIC Resolution Trust Fund; to the Committee on the Judiciary.

9949. A letter from the Secretary of Transportation, transmitting the Department's 1997 annual report on the recommendations received from the National Transportation Board regarding transportation safety, pursuant to 49 U.S.C. app. 1906(b); to the Committee on Transportation and Infrastructure.

9950. A letter from the Deputy Associate Administrator for Procurement, National Aeronautics and Space Administration, transmitting the Administration's final rule—Miscellaneous Revisions to the NASA FAR Supplement [48 CFR Parts 1807, 1816, 1817, 1827, 1832, 1837, 1842, 1845, and 1852] received June 11, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Science.

9951. A letter from the Deputy General Counsel, Small Business Administration, transmitting the Administration's final rule—Disaster Loan Program [13 CFR Part 123] received June 15, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Small Business.

9952. A letter from the Deputy General Counsel, Small Business Administration, transmitting the Administration's final rule—Rules of NCUA Board Procedure; Promulgation of NCUA Rules and Regulations; Public Observation of NCUA Board Meetings [12 CFR Part 791] received June 16, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Small Business.

9953. A letter from the Clerk of the House of Representatives, transmitting the annual compilation of personal financial disclosure statements and amendments thereto filed with the Clerk of the House of Representatives, pursuant to 2 U.S.C. 703(d)(1) and Rule XLIV, clause 1, of the House Rules; (H. Doc. No. 105—280); to the Committee on Standards of Official Conduct and ordered to be printed.

9954. A letter from the Director, Office of Regulations Management, Department of Veterans Affairs, transmitting the Department's final rule— Criteria for Approving Flight Courses for Educational Assistance Programs (RIN: 2900-AI76) received June 17, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Veterans' Affairs.

9955. A letter from the Director, Office of Regulations Management, Department of Veterans Affairs, transmitting the Department's final rule— Veterans' Education: Effective Date for Awards of Educational Assistance to Veterans Who Were Voluntarily Discharged (RIN: 2900-AI88) received June 17, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Veterans' Affairs.

9956. A letter from the Assistant Secretary for Policy and Planning, Department of Veterans Affairs, transmitting the Annual Report of the Secretary of Veterans Affairs for Fiscal Year 1997, pursuant to 38 U.S.C. 214, 221(c), and 664; to the Committee on Veterans' Affairs.

9957. A letter from the Secretary of Veterans Affairs, transmitting a draft of proposed legislation to amend title 38, United States Code, to authorize a cost-of-living adjustment in the rates of disability compensation for veterans with service-connected disabilities and dependency and indemnity compensation for survivors of such veterans, to authorize payment of these benefits at full rates for certain Filipinos who reside in the United States, to establish a reserve to fully fund "H" policy holders under the National Service Life Insurance program, and for other purposes; to the Committee on Veterans' Affairs.

9958. A letter from the Executive Assistant, Legislative Affairs, Bureau of Alcohol, Tobacco and Firearms, transmitting a copy of the Bureau of Alcohol, Tobacco and Firearms (ATF) Fiscal Year 1997 Annual Report; to the Committee on Ways and Means.

9959. A letter from the General Counsel, Department of the Treasury, transmitting a draft of proposed legislation to authorize an increase in certain user fees to recover costs incurred for the modernization of automated commercial operations by the United States Customs Service; to the Committee on Ways and Means.

9960. A letter from the Assistant Secretary for Export Administration, Department of Commerce, transmitting the Department's final rule—Effect of Imported Articles on the National Security [Docket No. 980508121-8121-01] (RIN: 0694-AB58) received June 10, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

9961. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Examination of returns and claims for refund, credit, or abatement; determination of correct tax liability [Rev. Proc. 98-38] received June 25, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

9962. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—EIC Eligibility Requirements (RIN: 1545-AV62) received June 25, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

9963. A letter from the Director, Central Intelligence Agency and Director, Federal Bureau of Investigation, Central Intelligence Agency, transmitting a unclassified report to Congress on the Intelligence Activities of the People's Republic of China; to the Committee on Intelligence (Permanent Select).

9964. A letter from the Secretary of Energy, transmitting the semi-annual report regarding programs for the protection, control, and accountability of fissile materials in the countries of the former Soviet Union, pursuant to Public Law 104—106, section 3131(b) (110 Stat. 617); jointly to the Committees on National Security and International Relations.

9965. A letter from the Secretary of Health and Human Services, transmitting the results of the Demonstration Program for Direct Billing of Medicare, Medicaid, and other Third-Party Payors, pursuant to 25 U.S.C. 1671; jointly to the Committees on Commerce and Resources.

9966. A letter from the Secretary of Health and Human Services, transmitting Recommendations for health, safety, and equipment standards for boxers, pursuant to 15 U.S.C. 6311; jointly to the Committees on Commerce and Education and the Workforce.

9967. A letter from the Secretary of Transportation, transmitting the Department's annual report titled "Importing Noncomplying Motor Vehicles" for calendar year

1997; jointly to the Committees on Commerce and Ways and Means.

9968. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a copy of the Presidential Determination No. 98–31 providing a supplementary contribution to the Korean Peninsula Energy Development Organization; jointly to the Committees on International Relations and Appropriations.

9969. A letter from the The Board, Railroad Retirement Board, transmitting a report on the actuarial status of the railroad retirement system, including any recommendations for financing changes for a 25-year period, 1998–2022; jointly to the Committees on Transportation and Infrastructure and Ways and Means.

9970. A letter from the Regulations Coordinator, Department of Health and Human Services, transmitting the Department's final rule—Medicare and Medicaid Programs: Effective Dates of Provider Agreements and Supplier Approvals [HSQ–139–F] (RIN: 0938–AC88) received June 15, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); jointly to the Committees on Ways and Means and Commerce.

9971. A letter from the Regulations Coordinator, Department of Health and Human Services, transmitting the Department's final rule—Medicare and Medicaid; Resident Assessment in Long Term Care Facilities [HCFA–2180–F] (RIN: 0938–AE61) received June 15, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); jointly to the Committees on Ways and Means and Commerce.

9972. A letter from the Regulations Coordinator, Department of Health And Human Services, transmitting the Department's final rule—MedicareChoice Program; Collection of User Fees From MedicareChoice Plans and Risk-Sharing Contractors [HCFA–1911–IFC] (RIN: 0938–AI35) received June 15, 1998, pursuant to 5 U.S.C. 801(a)(1)(A); jointly to the Committees on Ways and Means and Commerce.

9973. A letter from the Railroad Retirement Board, transmitting the 1998 annual report on the financial status of the railroad unemployment insurance system, pursuant to 45 U.S.C. 369; jointly to the Committees on Ways and Means and Transportation and Infrastructure.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[Omitted from the Record of June 25, 1998]

Mr. LEACH: Committee on Banking and Financial Services. H.R. 1756. A bill to amend chapter 53 of title 31, United States Code, to require the development and implementation by the Secretary of the Treasury of a national money laundering and related financial crimes strategy to combat money laundering and related financial crimes, and for other purposes; with an amendment (Rept. 105–608 Pt. 1). Ordered to be printed.

[The following action occurred on July 8, 1998]

Mr. REGULA: Committee on Appropriations. H.R. 4193. A bill making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1999, and for other purposes (Rept. 105–609). Referred to the Committee of the Whole House on the State of the Union.

Mr. LEWIS of California: Committee on Appropriations. H.R. 4194. A bill making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry, independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1999, and for other purposes (Rept. 105–610). Referred to the Committee of the Whole House on the State of the Union.

Mr. LEACH: Committee on Banking and Financial Services. H.R. 4005. A bill to amend title 31 of the United States Code to improve methods for preventing financial crimes, and for other purposes; with an amendment (Rept. 105–611 Pt. 1). Ordered to be printed.

[Submitted July 14, 1998]

Mr. BLILEY: Committee on Commerce. H.R. 872. A bill to establish rules governing product liability actions against raw materials and bulk component suppliers to medical device manufacturers, and for other purposes; with an amendment (Rept. 105–549 Pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. YOUNG of Alaska: Committee on Resources. H.R. 1728. A bill to provide for the development of a plan and a management review of the National Park System and to reform the process by which areas are considered for addition to the National Park System, and for other purposes; with an amendment (Rept. 105–612). Referred to the Committee of the Whole House on the State of the Union.

Mr. YOUNG of Alaska: Committee on Resources. H.R. 3460. A bill to approve a governing international fishery agreement between the United States and the Republic of Latvia, and for other purposes; with an amendment (Rept. 105–613). Referred to the Committee of the Whole House on the State of the Union.

Mr. SHUSTER: Committee on Transportation and Infrastructure. H.R. 2379. A bill to designate the Federal building and United States courthouse located at 251 North Main Street in Winston-Salem, North Carolina, as the "Hiram H. Ward Federal Building and United States Courthouse" (Rept. 105–614). Referred to the House Calendar.

Mr. SHUSTER: Committee on Transportation and Infrastructure. H.R. 2787. A bill to designate the United States courthouse located in New Haven, Connecticut, as the "Richard C. Lee United States Courthouse"; with amendments (Rept. 105–615). Referred to the House Calendar.

Mr. SHUSTER: Committee on Transportation and Infrastructure. H.R. 3223. A bill to designate the Federal building located at 300 East 8th Street in Austin, Texas, as the "J.J. 'Jake' Pickle Federal Building" (Rept. 105–616). Referred to the House Calendar.

Mr. SHUSTER: Committee on Transportation and Infrastructure. H.R. 3696. A bill to designate the Federal Courthouse located at 316 North 26th Street in Billings, Montana, as the "James F. Battin Federal Courthouse"; with amendment (Rept. 105–617). Referred to the House Calendar.

Mr. SHUSTER: Committee on Transportation and Infrastructure. H.R. 3982. A bill to designate the Federal building located at 310 New Bern Avenue in Raleigh, North Carolina, as the "Terry Sanford Federal Building"; with an amendment (Rept. 105–618). Referred to the House Calendar.

Mr. SHUSTER: Committee on Transportation and Infrastructure. S. 1800. An act to designate the Federal building and United States courthouse located at 85 Marconi Boulevard in Columbus, Ohio, as the "Joseph P. Kinneary United States Courthouse" (Rept. 105–619). Referred to the House Calendar.

Mr. SENSENBRENNER: Committee on Science. H.R. 2544. A bill to improve the ability of Federal agencies to license federally owned inventions; with an amendment (Rept. 105–620, Pt. 1). Ordered to be printed.

Mr. GOSS: Committee on Rules. House Resolution 498. Resolution providing for consideration of the bill (H.R. 4104) making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1999, and for other purposes (Rept. 105–622). Referred to the House Calendar.

Mrs. MYRICK: Committee on Rules. House Resolution 499. Resolution providing for consideration of the bill (H.R. 3682) to amend title 18, United States Code, to prohibit taking minors across State lines to avoid laws requiring the involvement of parents in abortion decisions (Rept. 105–623). Referred to the House Calendar.

Mr. DREIER: Committee on Rules. House Resolution 500. Resolution providing for the consideration of the bill (H.R. 3267) to direct the Secretary of the Interior, acting through the Bureau of Reclamation, to conduct a feasibility study and construct a project to reclaim the Salton Sea (Rept. 105–624). Referred to the House Calendar.

Mr. BURTON: Committee on Government Reform and Oversight. H.R. 3249. A bill to provide for the rectification of certain retirement coverage errors affecting Federal employees, and for other purposes; with an amendment (Rept. 105–625 Pt. 1). Ordered to be printed.

DISCHARGE OF COMMITTEE

Pursuant to clause 5 of rule X the Committee on the Judiciary discharged from further consideration. H.R. 2544 referred to the Committee of the Whole House on the State of the Union.

Pursuant to clause 5 of rule X the Committee on Transportation and Infrastructure discharged from further consideration. H.R. 3267 referred to the Committee of the Whole House on the State of the Union.

REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

[The following action occurred on July 8, 1998]

Mr. LEACH: Committee on Banking and Financial Services. H.R. 4005. A bill to amend title 31 of the United States Code to improve methods for preventing financial crimes, and for other purposes; with an amendment; referred to the Committee on the Judiciary for a period ending not later than July 31, 1998, for consideration of such provisions of the bill and amendment recommended by the Committee on Banking and Financial Services as fall within the jurisdiction of that committee pursuant to clause 1(c), rule X.

[Submitted July 14, 1998]

Mr. YOUNG of Alaska: Committee on Resources. H.R. 3267. A bill to direct the Secretary of the Interior, acting through the Bureau of Reclamation, to conduct a feasibility study and construct a project to reclaim the Salton Sea; with an amendment; referred to the Committee on Transportation for a period ending not later than July 14, 1998, for consideration of such provisions of the bill and amendment as fall within the jurisdiction of that committee pursuant to clause 1(q), rule X (Rept 105-621, Pt. 1).

TIME LIMITATION OF REFERRED BILL

Pursuant to clause 5 of rule X the following action was taken by the Speaker:

[Omitted from the Record of June 25, 1998]

H.R. 1756. Referral to the Committee on the Judiciary extended for a period ending not later than July 31, 1998.

[The following action occurred on July 8, 1998]

H.R. 4005. Referral to the Committees on the Judiciary and Ways and Means extended for a period ending not later than July 31, 1998.

[Submitted July 14, 1998]

H.R. 2544. Referral to the Committee on the Judiciary extended for a period ending not later than July 14, 1998.

H.R. 3249. Referral to the Committee on Ways and Means extended for a period ending not later than July 15, 1998.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of Rule X and clause 4 of Rule XXII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. SMITH of Oregon (for himself, Mr. NETHERCUTT, Mr. COMBEST, Mr. STENHOLM, Mr. BEREUTER, Mr. BARRETT of Nebraska, Mr. BOEHNER, Mr. EWING, Mr. POMBO, Mr. POMEROY, Mr. LUCAS of Oklahoma, Mr. HOLDEN, Mrs. EMERSON, Mr. JOHN, Mr. MORAN of Kansas, Mr. BOSWELL, Mr. BOB SCHAFFER, Mr. THUNE, Mr. MINGE, Mrs. CHENOWETH, and Mr. HAMILTON):

H.R. 4195. A bill to amend the Arms Export Control Act, and for other purposes; to the Committee on International Relations.

By Mr. BARR of Georgia:

H.R. 4196. A bill to restore the division of governmental responsibilities between the national government and the States that was intended by the Framers of the Constitution, by requiring all Federal departments and agencies to comply with former Executive Order 12612; to the Committee on the Judiciary.

By Mr. BARR of Georgia:

H.R. 4197. A bill to repeal section 656 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, to prohibit Federal agencies from construing Federal law as authorizing the establishment of a national identification card, and for other purposes; to the Committee on Government Reform and Oversight.

By Mr. WELLER (for himself and Mr. FOX of Pennsylvania):

H.R. 4198. A bill to require a parent who is delinquent in child support to include his unpaid obligation in gross income, and to allow custodial parents a bad debt deduction for unpaid child support payments; to the Committee on Ways and Means.

By Mr. FOX of Pennsylvania:

H.R. 4199. A bill to authorize the Secretary of the Treasury to mint and issue coins in commemoration of Laurie Beechman and her battle against ovarian cancer; to the Committee on Banking and Financial Services.

By Mr. FOX of Pennsylvania:

H.R. 4200. A bill to authorize additional appropriations for the National Cancer Institute to provide to the public information and education on ovarian cancer; to the Committee on Commerce.

By Mr. DAVIS of Virginia:

H.R. 4201. A bill to provide that the provisions of subchapter III of chapter 83 and chapter 84 of title 5, United States Code, that apply with respect to law enforcement officers be made applicable with respect to Assistant United States Attorneys; to the Committee on Government Reform and Oversight.

By Mr. ENSIGN:

H.R. 4202. A bill to amend title XXVII of the Public Health Service Act to establish certain standards with respect to health plans; to the Committee on Commerce.

By Mr. GREENWOOD (for himself, Mr. BOUCHER, Ms. ROS-LEHTINEN, Mr. COSTELLO, Mr. LAFALCE, Mr. FROST, and Mr. ROTHMAN):

H.R. 4203. A bill to amend the Public Health Service Act to provide for the expansion, intensification, and coordination of the activities of the National Institutes of Health with respect to research on autism; to the Committee on Commerce.

By Mr. LATHAM:

H.R. 4204. A bill to amend the Controlled Substances Act to provide civil liability for illegal manufacturers and distributors of controlled substances for the harm caused by the use of those controlled substances; to the Committee on Commerce, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. MCKINNEY (for herself, Mr. LEWIS of Georgia, and Mr. BISHOP):

H.R. 4205. A bill to designate the United States Post Office located at 520 West Ponce De Leon Avenue in Decatur, Georgia, as the "Margie Pitts Hames Post Office"; to the Committee on Government Reform and Oversight.

By Mr. MCNULTY (for himself, Mr. MILLER of California, Mrs. MALONEY of New York, Mr. SERRANO, Mr. CLYBURN, Mr. BISHOP, Mrs. MEEK of Florida, Mr. NADLER, Mr. ABERCROMBIE, Ms. NORTON, Mr. ROMERO-BARCELO, Mr. ACKERMAN, Mr. BROWN of California, Mr. LAFALCE, Mr. SANDERS, Ms. KILPATRICK, Mr. GILMAN, Ms. JACKSON-LEE, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. MCDERMOTT, Mr. MEEKS of New York, Mr. PASCRELL, Ms. MILLENDER-MCDONALD, Ms. PELOSI, Mrs. LOWEY, Mr. MEEHAN, Mr. NEAL of Massachusetts, Mr. DICKS, Mr. GEJDENSON, Mr. ANDREWS, Mr. BALDACCI, Mr. BOEHLERT, Mr. HINCHEY, Mr. FRANK of Massachusetts, Mr. WYNN, Mrs. KENNELLY of Connecticut, Mrs. MCCARTHY of New York, Mr. JACKSON, Ms. DELAURO, Mr. FROST, Mr. FILNER, Mr. MCHUGH, and Ms. STABENOW):

H.R. 4206. A bill to establish the Kate Mullany National Historic Site in the State of New York, and for other purposes; to the Committee on Resources.

By Mr. METCALF:

H.R. 4207. A bill to direct the Secretary of Transportation to convey the Mukilteo Light Station to the City of Mukilteo, Washington; to the Committee on Transportation and Infrastructure.

By Ms. NORTON:

H.R. 4208. A bill to provide for full voting representation in the Congress for the District of Columbia; to the Committee on the Judiciary.

By Mr. PALLONE:

H.R. 4209. A bill to amend the Arms Export Control Act, and for other purposes; to the Committee on International Relations, and in addition to the Committees on Banking and Financial Services, and the Budget, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. REDMOND:

H.R. 4210. A bill to address the simultaneous decline of forest health of National Forest System lands in the state of New Mexico and rural community economies and to prevent and protect such lands from catastrophic fires, consistent with the requirements of existing public land management and environmental laws; to the Committee on Agriculture, and in addition to the Committee on Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. RILEY (for himself and Mr. HILLIARD):

H.R. 4211. A bill to establish the Tuskegee Airmen National Historic Site, in association with the Tuskegee University, in the State of Alabama, and for other purposes; to the Committee on Resources.

By Mr. SCOTT (for himself, Mr. SISISKY, and Mr. PICKETT):

H.R. 4212. A bill to amend the Internal Revenue Code of 1986 to give top performing enterprise communities priority for designation as the empowerment zones authorized by the Taxpayer Relief Act of 1997; to the Committee on Ways and Means.

By Mr. SOLOMON (for himself and Mr. MENENDEZ):

H.R. 4213. A bill to amend the Securities Exchange Act of 1934 to provide for an annual limit on the amount of certain fees which may be collected by the Securities and Exchange Commission; to the Committee on Commerce.

By Mr. STARK (for himself, Mr. CARDIN, Mr. WAXMAN, Mr. BERRY, Mr. BROWN of Ohio, Mr. MATSUI, Mr. FILNER, Mr. LAFALCE, Mr. FROST, and Mr. MCDERMOTT):

H.R. 4214. A bill to amend part C of title XVIII of the Social Security Act to prohibit the use of "cold-call" marketing of Medicare+Choice plans; to the Committee on Ways and Means, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. WHITFIELD (for himself and Mr. STRICKLAND):

H.R. 4215. A bill to require the Secretary of Energy to submit to Congress a plan to ensure that all amounts accrued on the books of the United States Enrichment Corporation for the disposition of depleted uranium hexafluoride will be used to treat and recycle depleted uranium hexafluoride; to the Committee on Commerce, and in addition to the Committee on the Budget, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

357. The SPEAKER presented a memorial of the Senate of the State of Colorado, relative to Senate Joint Resolution No. 98–31 urging Congress to pass the Medicaid Community Attendant Services Act of 1997; to the Committee on Commerce.

358. Also, a memorial of the General Assembly of the State of New Jersey, relative to Assembly Resolution No. 85 memorializing the Secretary of the United States Department of Health and Human Services is respectfully requested to reconsider these proposed regulations and to continue to allow for the regional sharing of organs based upon a well-regulated and uniform list of potential recipients; to the Committee on Commerce.

359. Also, a memorial of the General Assembly of the State of Colorado, relative to Senate Joint Resolution 98–023 urging the President of the United States not to sign the Kyoto Protocol, we strongly urge the United States Senate not to ratify the treaty; to the Committee on International Relations.

360. Also, a memorial of the Senate of the State of Pennsylvania, relative to Senate Resolution No. 134 memorializing the President of the United States not to sign the Kyoto Protocol; to the Committee on International Relations.

361. Also, a memorial of the Senate of the State of Pennsylvania, relative to Senate Resolution No. 218 urging the Congress of the United States to consider and pass S. 1284, H.R. 3188 or H.R. 2313, each of which would prohibit future memorials in the area desired by the Air Force; to the Committee on Resources.

362. Also, a memorial of the General Assembly of the Commonwealth of Pennsylvania, relative to Senate Resolution No. 113 memorializing Congress to enact legislation prohibiting sports agents from influencing college athletes; to the Committee on the Judiciary.

363. Also, a memorial of the Senate of the State of Pennsylvania, relative to Senate Resolution No. 183 urging the President of the United States and Congress to provide the Commission with funding in an amount equal to what is owed for the Federal Government's share of the Commission's operating budgets for Fiscal Years 1996, 1997, 1998 and 1999; to the Committee on the Judiciary.

364. Also, a memorial of the Senate of the State of Pennsylvania, relative to Senate Resolution 216 urging the President of the United States and Congress to provide the Commission with funding in an amount equal to what is owed for the Federal Government's share of the Commission's operating budgets for fiscal years 1996, 1997, 1998 and 1999; to the Committee on the Judiciary.

365. Also, a memorial of the House of Representatives of the State of Oklahoma, relative to House Resolution No. 1066 memorializing the United States Congress to take action to ensure the freedom of religion in public places as guaranteed by the United States Constitution; and directing distribution; to the Committee on the Judiciary.

366. Also, a memorial of the General Assembly of the State of California, relative to Assembly Joint Resolution No. 61 memorializing the Commissioner of the Immigration and Naturalization Service, the President, and the Congress of the United States to ensure that available resources are directed, and any additional funds as needed are appropriated, in order to eliminate, within 10 months, the current backlog in naturalization applications; to the Committee on the Judiciary.

367. Also, a memorial of the Legislature of the State of Louisiana, relative to House Concurrent Resolution No. 30 memorializing the United States Congress to take such actions as are necessary to amend the Highway Beautification Act of 1965 to revise provisions relating to the lighting requirements of outdoor advertising signs, displays, and devices in areas adjacent to the Interstate System and the Federal-Aid primary system; to the Committee on Transportation and Infrastructure.

368. Also, a memorial of the Legislature of the State of Louisiana, relative to House Concurrent Resolution No. 30 memorializing the United States Congress to take such actions as are necessary to amend the Highway Beautification Act of 1965 to revise provisions relating to the lighting requirements of outdoor advertising signs, displays, and devices in areas adjacent to the Interstate System and the Federal-Aid primary system; to the Committee on Transportation and Infrastructure.

369. Also, a memorial of the Senate of the State of Colorado, relative to Senate Joint Resolution 98–005 memorializing the President and the Congress to enact Legislation To Rename the Washington National Airport As The "Ronald Reagan Washington National Airport"; to the Committee on Transportation and Infrastructure.

370. Also, a memorial of the House of Representatives of the Commonwealth of Pennsylvania, relative to House Resolution No. 482 memorializing the President and Congress of the United States to revise the requirement that applicants for hunting and fishing licenses provide their Social Security numbers; to the Committee on Ways and Means.

371. Also, a memorial of the House of Representatives of the Commonwealth of Pennsylvania, relative to House Resolution No. 352 memorializing the Congress of the United States to create job and housing opportunities by supporting legislation to increase the private activity bond cap and low-income housing tax credit allocation; to the Committee on Ways and Means.

372. Also, a memorial of the Senate of the State of Alaska, relative to Senate Resolution 1 memorializing its gratititude to the members of the Swiss government and banking officials who have cooperated thus far in allowing investigations to be carried out because, without their assistance, these investigations would not be possible and none of the assets in question would be recoverable by their rightful owners or their heirs; jointly to the Committees on International Relations and Banking and Financial Services.

373. Also, a memorial of the House of Representatives of the State of Tennessee, relative to House Joint Resolution No. 525 memorializing each member of the U.S. Congress from Tennessee to utilize the full measure of his or her influence to effect the enactment of the Medicare Venipuncture Fairness Act; jointly to the Committees on Ways and Means and Commerce.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of Rule XXII,

Mr. HUNTER introduced A bill (H.R. 4216) to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for a barge; which was referred to the Committee on Transportation and Infrastructure.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 40: Mr. MEEKS of New York and Ms. LEE.

H.R. 306: Ms. LEE.

H.R. 532: Mr. BLAGOJEVICH.

H.R. 536: Ms. LEE, Ms. NORTON, and Ms. WATERS.

H.R. 538: Ms. LEE.

H.R. 594: Mr. ANDREWS, Mr. SHERMAN, and Mr. ENGEL.

H.R. 611: Mr. SALMON, Mr. BOEHLERT, and Mrs. CAPPS.

H.R. 612: Mr. CHABOT.

H.R. 614: Mr. PAPPAS and Mr. ROYCE.

H.R. 866: Mr. PAPPAS.

H.R. 970: Mrs. BONO.

H.R. 979: Mr. DIAZ-BALART, Mrs. MALONEY of New York, Mr. BRADY of Pennsylvania, Mr. BOSWELL, Mr. GOODLATTE, Mr. MINGE, and Mr. BONILLA.

H.R. 1061: Mr. ACKERMAN.

H.R. 1126: Mr. SCOTT, Mr. BARCIA of Michigan, Mr. PETRI, Mr. FATTAH, Mr. LAMPSON, Mr. SISISKY, Mr. BURTON of Indiana, Mr. SHUSTER, Mr. THOMPSON, Mr. YOUNG of Florida, Mr. COLLINS, and Mr. LAHOOD.

H.R. 1132: Mr. LUTHER.

H.R. 1166: Mr. COSTELLO.

H.R. 1176: Mr. DELAHUNT, Mrs. CAPPS, Ms. LOFGREN, and Mr. ENGEL.

H.R. 1319: Mr. BACHUS and Mr. PAPPAS.

H.R. 1375: Mr. BERRY.

H.R. 1382: Ms. KILPATRICK, Mr. DELAHUNT, Mrs. PRYCE of Ohio, Mr. ROMERO-BARCELÓ, and Mr. KENNEDY of Rhode Island.

H.R. 1401: Mr. BROWN of Ohio.

H.R. 1425: Mr. RUSH.

H.R. 1438: Mr. BLUMENAUER.

H.R. 1450: Mr. MASCARA and Mr. TRAFICANT.

H.R. 1453: Mr. BROWN of California.

H.R. 1592: Mr. OLVER.

H.R. 1608: Mr. CRAMER.

H.R. 1712: Mr. PETRI.

H.R. 1788: Ms. LEE.

H.R. 1883: Mr. KUCINICH.

H.R. 1951: Mr. BENTSEN.

H.R. 2174: Mr. FORD and Mr. MEEKS of New York.

H.R. 2224: Mr. ADAM SMITH of Washington.

H.R. 2454: Ms. KILPATRICK.

H.R. 2457: Ms. KILPATRICK.

H.R. 2504: Mr. MASCARA and Mr. BOEHLERT.

H.R. 2509: Mr. MOLLOHAN and Mr. WEXLER.

H.R. 2524: Mrs. LOWEY.

H.R. 2545: Mr. MARTINEZ.

H.R. 2547: Mr. JACKSON.

H.R. 2549: Ms. MCKINNEY.

H.R. 2667: Mr. BACHUS.

H.R. 2681: Mr. WAXMAN.

H.R. 2693: Mr. CUMMINGS, Ms. CHRISTIAN-GREEN, Mr. MASCARA, and Mr. KILDEE.

H.R. 2695: Ms. LEE.

H.R. 2704: Mr. CUMMINGS and Mr. KILDEE.

H.R. 2708: Mr. CRAMER, Mr. POMEROY, Mr. DAVIS of Florida, Mr. TANNER, Mr. BOEHNER, Mr. SANFORD, Mr. MCINTOSH, Mr. MORAN of Virginia, Mr. FAZIO of California, and Mr. PETERSON of Minnesota.

H.R. 2733: Mr. ALLEN, Mr. FOLEY, Mrs. LINDA SMITH of Washington, Mr. MALONEY of Connecticut, Mr. GOSS, Mr. PARKER, Mr. OBEY, Mr. POMEROY, Mr. PASTOR, Mr. KOLBE, Mr. WEXLER, Mr. SOLOMON, Mr. BATEMAN, and Mr. BERMAN.

H.R. 2748: Mr. THUNE.

H.R. 2754: Mr. BARRETT of Wisconsin and Ms. LEE.

H.R. 2760: Ms. SANCHEZ.

H.R. 2769: Mr. SHERMAN.

H.R. 2868: Mr. COOK.

H.R. 2900: Mr. LANTOS and Mr. KENNEDY of Rhode Island.

H.R. 2908: Mr. GOODLING, Mr. HOLDEN, and Mr. DUNCAN.

H.R. 2912: Ms. CARSON and Mr. HOLDEN.

H.R. 2921: Mr. DEUTSCH.

H.R. 2923: Mr. PALLONE, Mr. PAYNE, Mr. DIXON, Mr. KENNEDY of Rhode Island, and Mr. ADAM SMITH of Washington.

H.R. 2942: Mr. BONILLA and Mr. THOMPSON.

H.R. 2953: Mr. BOEHLERT.

H.R. 2955: Mr. BALDACCI and Mr. LEWIS of Georgia.

H.R. 2982: Mr. FROST, Mr. MARTINEZ, Mr. ROMERO-BARCELÓ, and Mr. ENGEL.

H.R. 2990: Mr. HORN, Mr. GILCHREST, Mr. McINTOSH, Mr. McHALE, Mr. BATEMAN, Ms. DeLAURO, Mr. PICKERING, Mr. PEASE, and Mr. BONILLA.

H.R. 3043: Mr. DEUTSCH.

H.R. 3048: Mr. STOKES.

H.R. 3081: Mr. RAHALL, Ms. McCARTHY of Missouri, Mr. DAVIS of Illinois, Mr. MARTINEZ, Mr. SANDLIN, and Mr. DIXON.

H.R. 3086: Mr. McGOVERN.

H.R. 3131: Mr. HOLSHOF and Mr. CAMPBELL.

H.R. 3134: Mr. FATTAH.

H.R. 3140: Ms. RIVERS.

H.R. 3161: Mr. McGOVERN and Mr. PORTER.

H.R. 3166: Mr. CALVERT.

H.R. 3181: Ms. NORTON.

H.R. 3215: Mr. PRICE of North Carolina and Mrs. LOWEY.

H.R. 3217: Mr. LIVINGSTON.

H.R. 3240: Ms. KILPATRICK and Mr. WYNN.

H.R. 3249: Mrs. LOWEY.

H.R. 3259: Mr. TORRES, Mr. LAMPSON, Ms. CARSON, and Mr. BLUMENAUER.

H.R. 3262: Mr. BONIOR.

H.R. 3300: Ms. KILPATRICK.

H.R 3435: Ms. McKINNEY and Mr. ROEMER.

H.R. 3503: Ms. STABENOW, Mr. MOLLOHAN, and Mr. BISHOP.

H.R. 3514: Ms. McCARTHY of Missouri, Ms. MILLENDER-McDONALD, Ms. KAPTUR, Ms. COSTELLO, Mrs. CAPPS, Mr. QUINN, and Ms. RIVERS.

H.R. 3523: Mr. RADANOVICH, Mrs. CUBIN, Mr. HILLEARY, and Mr. PICKETT.

H.R. 3531: Ms. LEE.

H.R. 3553: Mr. HASTINGS of Florida, Ms. BROWN of Florida, Mr. HINCHEY, and Mr. RUSH.

H.R. 3561: Mr. BLAGOJEVICH.

H.R. 3563: Mrs. MALONEY of New York.

H.R. 3567: Mr. BOUCHER, Mr. RILEY, Mr. SAWYER, Mr. PASCRELL, Mr. FRANK of Massachusetts, Mr. McCOLLUM, Mr. PAYNE, Ms. NORTON, and Mr. CAMP.

H.R. 3570: Mrs. LOWEY, Mr. MARTINEZ, and Mr. KENNEDY of Rhode Island.

H.R. 3583: Mr. SOLOMON.

H.R. 3624: Ms. ROYBAL-ALLARD and Mr. DAVIS of Illinois.

H.R. 3636: Ms. SLAUGHTER, Mr. THOMPSON, Mr. COYNE, Ms. LEE, Mr. DAVIS of Illinois, Mr. GEJDENSON, Mr. HORN, Mrs. CAPPS, Mrs. MALONEY of New York, Mr. SHERMAN, Ms. BROWN of Florida, Mrs. KELLY, Mr. WOLF, Mr. WATT of North Carolina, Mr. HINCHEY, Mr. DICKS, Mr. ENGEL, and Mr. UNDERWOOD.

H.R. 3637: Mr. MARTINEZ.

H.R. 3648: Mr. BUNNING of Kentucky.

H.R. 3651: Ms. CARSON and Mr. PAYNE.

H.R. 3659: Mr. GOODLING, Mr. DICKEY, and Mr. BOEHLERT.

H.R. 3684: Mr. OXLEY and Mr. CAMP.

H.R. 3698: Ms. WOOLSEY.

H.R. 3724: Mr. VISCLOSKY.

H.R. 3731: Mr. HOBSON, Ms. WILSON, Mr. PARKER, Mr. TAYLOR of Mississippi, Mr. BARCIA of Michigan, Mr. GOSS, Mr. ROHRABACHER, Ms. RIVERS, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. BRADY of Texas, Mr. BARTLETT of Maryland, Mr. EHLERS, Mr. FOLEY, Mr. DAVIS of Virginia, Mr. SAXTON, Mr. LEWIS of California, Mr. TANNER, Mrs. MORELLA, Mr. SERRANO, Mr. HAYWORTH, Mr. WALSH, Mrs. MEEK of Florida, Mr. ETHERIDGE, Mr. MANTON, and Mr. COOK.

H.R. 3767: Mr. SANFORD.

H.R. 3790: Mr. GINGRICH, Mr. GEPHARDT, Mr. ABERCROMBIE, Mr. ACKERMAN, Mr. BALDACCI, Mr. BISHOP, Mr. BLILEY, Mr. BOUCHER, Mr. CAMPBELL, Mr. COOK, Mr. CONDIT, Mr. CONYERS, Mr. DELAHUNT, Mr. DICKS, Mr. DOOLITTLE, Mr. DREIER, Mr. EHLERS, Mr. FAZIO of California, Mr. FOLEY, Mr. FORD, Mr. FRANK of Massachusetts, Mr. FRELINGHUYSEN, Mr. FROST, Mr. GEJDENSON, Ms. GRANGER, Mr. GREENWOOD, Mr. GUTIERREZ, Mr. HALL of Ohio, Mr. HINCHEY, Mr. HORN, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. KENNEDY of Massachusetts, Mr. KENNEDY of Rhode Island, Mrs. KENNELLY of Connecticut, Ms. KILPATRICK, Mr. LaTOURETTE, Mr. LANTOS, Ms. LEE, Ms. LOFGREN, Mr. McGOVERN, Mr. McINNIS, Mrs. MALONEY of New York, Mr. MALONEY of Connecticut, Mr. MANZULLO, Mr. MARKEY, Mrs. MEEK of Florida, Mr. MICA, Ms. MILLENDER-McDONALD, Mrs. MYRICK, Mr. NADLER, Mr. NEAL of Massachusetts, Mr. NEY, Mr. OWENS, Mr. PAPPAS, Mr. PAYNE, Mr. REDMOND, Mr. REGULA, Mr. ROMERO-BARCELO, Mr. SABO, Ms. SANCHEZ, Mr. SCHUMER, Mr. SHIMKUS, Mr. SISISKY, Mr. ADAM SMITH of Washington, Mr. SNYDER, Mr. STEARNS, Mr. TRAFICANT, Mr. WAMP, Mr. WATTS of Oklahoma, Mr. WAXMAN, and Mr. WOLF.

H.R. 3792: Mr. PAPPAS.

H.R. 3802: Ms. KILPATRICK and Mr. HINCHEY.

H.R. 3810: Mrs. ROUKEMA.

H.R. 3815: Mr. RANGEL, Ms. SLAUGHTER, and Mr. CUNNINGHAM.

H.R. 3820: Mr. MARTINEZ.

H.R. 3821: Mr. CAMP, Mr. EWING, Mr. FOX of Pennsylvania, Mr. BISHOP, Mr. FRANKS of New Jersey, Mr. TIAHRT, Mr. LEWIS of Kentucky, and Mr. SCARBOROUGH.

H.R. 3837: Mr. McGOVERN, Ms. PELOSI, and Mr. KENNEDY of Rhode Island.

H.R. 3844: Mr. UPTON.

H.R. 3855: Mr. KLECZKA, Ms. DUNN of Washington, Mr. DEAL of Georgia, Mr. RUSH, Mrs. MEEK of Florida, Mr. MEEHAN, Mr. COSTELLO, Mr. JACKSON, Mr. McGOVERN, Mr. SKELTON, and Mr. LANTOS.

H.R. 3862: Mr. BROWN of Ohio, Mr. BENTSEN, and Mr. BACHUS.

H.R. 3877: Mr. NEAL of Massachusetts, Mr. OLVER, and Mr. MARKEY.

H.R. 3879: Mr. HILLEARY, Mr. BURTON of Indiana, Mr. PACKARD, Mr. MARTINEZ, Mr. DOOLITTLE, Mr. SNOWBARGER, Mr. WICKER, Mr. FORBES, Mr. SANDLIN, Mr. GORDON, Mr. FRANKS of New Jersey, Mr. PEASE, Mr. RILEY, Mr. KLINK, Mr. DUNCAN, Mr. COBLE, Mr. CHABOT, and Mr. ENSIGN.

H.R. 3898: Mr. SNOWBARGER.

H.R. 3904: Mr. BARRETT of Nebraska, Mr. LIVINGSTON, and Mrs. NORTHUP.

H.R. 3912: Ms. RIVERS, Mr. BURTON of Indiana, Mr. STEARNS, Mr. ENSIGN, Mr. SESSIONS, Mr. CUNNINGHAM, and Mrs. MYRICK.

H.R. 3948: Mr. MALONEY of Connecticut and Ms. CARSON.

H.R. 3949: Mr. McCRERY, Mr. HASTINGS of Washington, Mr. SAM JOHNSON, Mr. SKEEN, Mr. PEASE, Mr. HALL of Texas, Mr. ENSIGN, Mr. METCALF, Mr. McINTOSH, Mr. CRAPO, Mr. MASCARA, Mr. THORNBERRY, Mr. THUNE, Mr. CLEMENT, and Mr. PICKETT.

H.R. 3956: Mr. OLVER.

H.R. 3980: Mr. ROMERO-BARCELO, Mr. GIBBONS, Ms. SLAUGHTER, Mr. COOK, Mr. BROWN of Ohio, Mr. FOX of Pennsylvania, Mr. REDMOND, Mr. BISHOP, Mr. PICKERING, Mr. BONIOR, Mr. THOMPSON, Mr. LaHOOD, Mr. PASCRELL, Mr. OLVER, Mr. MORAN of Kansas, and Mr. MEEHAN.

H.R. 3988: Mr. McDERMOTT, Mr. WAXMAN, and Mr. FROST.

H.R. 3991: Mrs. KENNELLY of Connecticut, Mrs. JOHNSON of Connecticut, Mr. CHRISTENSEN, and Ms. JACKSON-LEE.

H.R. 4006: Mr. CANNON, Mr. MANZULLO, Mr. GOODLING, Mr. KIM, Mr. CRANE, Mr. NETHERCUTT, Mr. BRYANT, Mr. HASTINGS of Washington, Mr. BARCIA of Michigan, and Mr. CANADY of Florida.

H.R. 4007: Mr. FORBES, Mrs. CLAYTON, Ms. SLAUGHTER, Ms. LEE, Mr. WATTS of Oklahoma, Mr. HINCHEY, Mr. SANDLIN, Mr. ENGEL, and Mr. RUSH.

H.R. 4009: Mr. LaFALCE, Mr. STRICKLAND, Mr. WEXLER, and Mr. UNDERWOOD.

H.R. 4018: Mr. MILLER of California.

H.R. 4019: Mr. DELAHUNT, Mr. SCHUMER, Mr. STUMP, Ms. RIVERS, Mr. HERGER, and Mr. DOOLITTLE.

H.R. 4035: Mr. TIERNEY, Mr. FILNER, Mr. HALL of Ohio, Ms. DANNER, Mrs. MORELLA, Mr. GUTIERREZ, Mr. ETHERIDGE, Mr. MEEKS of New York, Mr. STUPAK, Mr. OXLEY, Mr. TRAFICANT, Mr. ROMERO-BARCELO, Mr. MEEHAN, Mr. BISHOP, Mr. NORWOOD, Mr. SESSIONS, Mr. REDMOND, Mrs. MEEK of Florida, Mr. NEAL of Massachusetts, Mr. BLUMENAUER, Mr. HINCHEY, Mr. ABERCROMBIE, and Mr. KENNEDY of Rhode Island.

H.R. 4036: Mr. TIERNEY, Mr. FILNER, Mr. HALL of Ohio, Ms. DANNER, Mrs. MORELLA, Mr. GUTIERREZ, Mr. ETHERIDGE, Mr. KLECZKA, Mr. MEEKS of New York, Mr. STUPAK, Mr. MALONEY of Connecticut, Mr. BOSWELL, Mr. OXLEY, Mr. TRAFICANT, Mr. ROMERO-BARCELO, Mr. MEEHAN, Mr. BISHOP, Mr. NORWOOD, Mrs. MEEK of Florida, Mr. NEAL of Massachusetts, Mr. BLUMENAUER, Mr. HINCHEY, Mr. KENNEDY of Rhode Island, and Mr. BROWN of Ohio.

H.R. 4039: Mr. NETHERCUTT.

H.R. 4049: Mr. GOODLATTE.

H.R. 4062: Mr. LaFALCE.

H.R. 4070: Mr. BROWN of Ohio, Mr. GORDON, Mr. FILNER, Mr. KENNEDY of Rhode Island, and Mr. FROST.

H.R. 4071: Mr. REDMOND, Mr. HINOJOSA, and Mr. BLUNT.

H.R. 4073: Mr. HINOJOSA, Mr. JEFFERSON, Mr. BLAGOJEVICH, Mr. ANDREWS, Mr. SERRANO, Mr. FARR of California, Mr. BROWN of California, Mr. LANTOS, Ms. ROYBAL-ALLARD, Mr. FILNER, and Mr. TORRES.

H.R. 4092: Mr. LANTOS and Ms. JACKSON-LEE.

H.R. 4096: Mr. GOODLATTE and Mr. ROYCE.

H.R. 4121: Mrs. BONO, Ms. SLAUGHTER, Mr. MOLLOHAN, Mr. DAVIS of Virginia, Mrs. CLAYTON, Mr. PASCRELL, and Mr. HOYER.

H.R. 4125: Ms. PRYCE of Ohio, Mr. DOOLITTLE, Mr. LEACH, Mr. CHAMBLISS, Mr. MILLER of Florida, Mr. COX of California, and Mr. SHUSTER.

H.R. 4134: Ms. LOFGREN, Mr. BRADY of Pennsylvania, and Mr. FROST.

H.R. 4136: Mr. HOSTETTLER and Mr. STRICKLAND.

H.R. 4157: Mr. WATTS of Oklahoma.

H.R. 4164: Mr. ANDREWS.

H.R. 4188: Mr. WATTS of Oklahoma, Mrs. KELLY, Mr. HALL of Ohio, and Mr. CRAPO.

H.J. Res. 47: Mr. LaFALCE.

H.J. Res. 66: Mr. MARTINEZ and Mr. DOOLEY of California.

H.J. Res. 123: Mr. HILLIARD, Mr. THOMPSON, Mr. MALONEY of Connecticut, Mr. McGOVERN, Mr. SNOWBARGER, Mr. STEARNS, Mr. BURTON of Indiana, Mr. DOOLEY of California, Mr. KNOLLENBERG, Mrs. EMERSON, Mr. FAZIO of

California, Mr. Bonilla, Ms. Carson, Mr. Wicker, Mr. Lampson, Mr. Pickering, Mr. Aderholt, Mr. Istook, and Mr. Smith of New Jersey.

H.J. Res. 125: Mr. Cox of California.

H. Con. Res. 188: Mr. Saxton and Mr. Brown of Ohio.

H. Con. Res. 203: Mr. Torres, Mr. Souder, Mr. Hutchinson, and Mr. Lewis of Georgia.

H. Con. Res. 210: Mr. Sandlin, Mr. Hall of Texas, and Mr. Wise.

H. Con. Res. 239: Ms. Jackson-Lee, Mr. Underwood, and Mr. Romero-Barcelo.

H. Con. Res. 254: Mr. Duncan.

H. Con. Res. 258: Mr. McNulty, Mr. Price of North Carolina, Mr. McDermott, Ms. Norton, Ms. McKinney, Mr. Hinchey, and Mr. Underwood.

H. Con. Res. 287: Mr. Blumenauer.

H. Con. Res. 290: Mr. Shimkus, Mr. Lewis of Kentucky, Mr. Hunter, Mr. Hastings of Washington, Mr. Pastor, Mr. Blunt, Mr. Solomon, and Mr. Cramer.

H. Con. Res. 292: Mr. Berman.

H. Res. 313: Ms. Carson, Mrs. Clayton, and Ms. Kilpatrick.

H. Res. 460: Mr. Hayworth, Mr. Barr of Georgia, Mr. Romero-Barcelo, Mr. Calvert, Mrs. Clayton, Mr. Hunter, Mr. Allen, Mr. Brown of Ohio, Ms. Danner, Mr. Packard, Mr. Waxman, Ms. Norton, Mr. Sisisky, Mr. Bonior, and Mr. Stupak.

H. Res. 475: Mr. Miller of California, Mr. Markey, Ms. McCarthy of Missouri, Ms. Rivers, Mrs. Maloney of New York, Ms. Furse, Mr. Spence, Mr. Rohrabacher, Mr. Quinn, Mr. Goss, Mr. Brown of Ohio, Ms. Carson, Mr. Green, and Ms. Jackson-Lee.

H. Res. 494: Mr. Reyes, Ms. Brown of Florida, Mr. Doolittle, and Mr. Rush.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the clerk's desk and referred as follows:

66. The SPEAKER presented a petition of the Town Council of Buzzards Bay, Massachusetts, relative to the Town of Bourne determines that the U.S. Government has damaged the Town of Bourne because of: (a) the contamination of the Campbell School: (b) its unconscionable failure to pay the Town in excess of $10,000,000.00 in reimbursement for the education of the children of the military personnel stationed at the Mass Military Reservation in Bourne who's education was paid by the Town of Bourne; and (c) by the contamination of the water serving our school on the Mass military Reservation; which was referred to the Committee on National Security.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 3267

Offered By: Mr. Miller of California

(Amendment in the Nature of a Substitute)

Amendment No. 1: Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Sonny Bono Memorial Salton Sea Restoration Act".

SEC. 2. FINDINGS.

The Congress finds the following:

(1) The Salton Sea, located in Imperial and Riverside Counties, California, is an economic and environmental resource of national importance.

(2) The Salton Sea is a critical component of the Pacific flyway. However, the concentration of pollutants in the Salton Sea has contributed to recent die-offs of migratory waterfowl.

(3) The Salton Sea is critical as a reservoir for irrigation, municipal, and stormwater drainage.

(4) The Salton Sea provides benefits to surrounding communities and nearby irrigation and municipal water users.

(5) Restoring the Salton Sea will provide national and international benefits.

SEC. 3. DEFINITIONS.

In this Act:

(1) The term "Study" means the Salton Sea study authorized by section 4.

(2) The term "Salton Sea Authority" means the Joint Powers Authority by that name established under the laws of the State of California by a Joint Power Agreement signed on June 2, 1993.

(3) The term "Secretary" means the Secretary of the Interior, acting through the Bureau of Reclamation.

SEC. 4. SALTON SEA RESTORATION STUDY AUTHORIZATION.

(a) In General.—The Secretary, in accordance with this section, shall undertake a study of the feasibility of various alternatives for restoring the Salton Sea, California. The purpose of the Study shall be to select 1 or more practicable and cost-effective options for decreasing salinity and otherwise improving water quality and to develop a restoration plan that would implement the selected options. The Study shall be coordinated with preparation of an environmental impact statement pursuant to the National Environmental Policy Act of 1969 evaluating alternatives for restoration of the Salton Sea. The Study shall be conducted in accordance with the memorandum of understanding under subsection (g).

(b) Study Goals.—The Study shall explore alternatives to achieve the following objectives:

(1) Reducing and stabilizing the overall salinity, and otherwise improving the water quality of the Salton Sea.

(2) Stabilizing the surface elevation of the Salton Sea.

(3) Reclaiming, in the long term, healthy fish and wildlife resources and their habitats.

(4) Enhancing the potential for recreational uses and economic development of the Salton Sea.

(5) Ensuring the continued use of the Salton Sea as a reservoir for irrigation drainage.

(c) Options To Be Considered.—

(1) In general.—Options considered in the Study shall include each of the following and any appropriate combination thereof:

(A) Use of impoundments to segregate a portion of the waters of the Salton Sea in 1 or more evaporation ponds located in the Salton Sea basin.

(B) Pumping water out of the Salton Sea.

(C) Augmented flows of water into the Salton Sea.

(D) Improving the quality of wastewater discharges from Mexico and from other water users in the Salton Sea basin.

(E) Water transfers or exchanges in the Colorado River basin.

(F) Any other feasible restoration options.

(2) Limitation to proven technologies.—Options considered in the Study shall be limited to proven technologies.

(d) Factors To Be Considered.—

(1) Science subcommittee findings and reports.—In evaluating the feasibility of options considered in the Study, the Secretary shall carefully consider all available findings and reports of the Science Subcommittee established pursuant to section 5(c)(2) and incorporate such findings into the project design alternatives, to the extent feasible.

(2) Other factors to be considered.—The Secretary shall also consider—

(A) the ability of Federal, tribal, State, and local government sources and private sources to fund capital construction costs and annual operation, maintenance, energy, and replacement costs;

(B) how and where to dispose permanently of water pumped out of the Salton Sea;

(C) the availability of necessary minimum inflows to the Salton Sea from current sources, including irrigation drainage water; and

(D) the potential impact of Salton Sea restoration efforts on the rights of other water users in the Colorado River Basin and on California's Colorado River water entitlement pursuant to the Colorado River Compact and other laws governing water use in the Colorado River Basin.

(e) Interim Report.—

(1) Submission.—Not later than 9 months after the Secretary first receives appropriations for programs and actions authorized by this title, the Secretary shall submit to the Congress an interim progress report on restoration of the Salton Sea. The report shall—

(A) identify alternatives being considered for restoration of the Salton Sea;

(B) describe the status of environmental compliance activities;

(C) describe the status of cost-sharing negotiations with State of California and local agencies;

(D) describe the status of negotiations with the Government of Mexico, if required; and

(E) report on the progress of New River and Alamo River research and demonstration authorized by this Act.

(2) Congressional action.—Upon receipt of the interim report from the Secretary, the appropriate committees of the House of Representatives and the Senate shall promptly schedule and conduct oversight hearings to review implementation of the Salton Sea restoration plan included in the report under subsection (f), and to identify additional authorizations that may be required to effectuate plans and studies relating to the restoration of the Salton Sea.

(f) Report to Congress.—Not later than 18 months after commencement of the Study, the Secretary shall submit to the Congress a report on the findings and recommendations of the Study. The report shall include the following:

(1) A summary of options considered for restoring the Salton Sea.

(2) A recommendation of a preferred option for restoring the Salton Sea.

(3) A plan to implement the preferred option selected under paragraph (2).

(4) A recommendation for cost-sharing to implement the plan developed under paragraph (3). The cost-sharing recommendation may apply a different cost-sharing formula to capital construction costs than is applied to annual operation, maintenance, energy, and replacement costs.

(5) A draft of recommended legislation to authorize construction of the preferred option selected under paragraph (2).

(g) Memorandum of Understanding.—

(1) In general.—The Secretary shall carry out the Study in accordance with a memorandum of understanding entered into by the Secretary, the Salton Sea Authority, and the Governor of California.

(2) OPTION EVALUATION CRITERIA.—The memorandum of understanding shall, at a minimum, establish criteria for evaluation and selection of options under subsection (a), including criteria for determining the magnitude and practicability of costs of construction, operation, and maintenance of each option evaluated.

(h) RELATIONSHIP TO OTHER LAWS.—

(1) RECLAMATION LAWS.—Activities authorized by this section shall not be subject to the Act of June 17, 1902 (32 Stat. 388; 43 U.S.C. 391 et seq.) and other laws amendatory thereof or supplemental thereto. Amounts expended for those activities shall be considered nonreimbursable and nonreturnable for purposes of those laws.

(2) LAW OF THE COLORADO RIVER.—This section shall not be considered to supersede or otherwise affect any treaty, law, or agreement governing use of water from the Colorado River. All activities to carry out the Study under this section must be carried out in a manner consistent with rights and obligation of persons under those treaties, laws, and agreements.

(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary $30,000,000 to carry out the activities authorized in this section.

SEC. 5. CONCURRENT WILDLIFE RESOURCES STUDIES.

(a) IN GENERAL.—Concurrently with the Study under section 4, the Secretary shall provide for the conduct of studies of hydrology, wildlife pathology, and toxicology relating to wildlife resources of the Salton Sea by Federal and non-Federal entities.

(b) SELECTION OF TOPICS AND MANAGEMENT OF STUDIES.—

(1) IN GENERAL.—The Secretary shall establish a committee to be known as the Salton Sea Research Management Committee. The Committee shall select the topics of studies under this section and manage those studies.

(2) MEMBERSHIP.—The Committee shall consist of 5 members appointed as follows:

(A) 1 by the Secretary.

(B) 1 by the Governor of California.

(C) 1 by the Torres Martinez Desert Cahuilla Tribal Government.

(D) 1 by the Salton Sea Authority.

(E) 1 by the Director of the California Water Resources Center.

(c) COORDINATION.—

(1) IN GENERAL.—The Secretary shall require that studies conducted under this section are conducted in coordination with appropriate international bodies, Federal agencies, and California State agencies, including, but not limited to, the International Boundary and Water Commission, the United States Fish and Wildlife Service, the United States Environmental Protection Agency, the California Department of Water Resources, the California Department of Fish and Game, the California Resources Agency, the California Environmental Protection Agency, the California Regional Water Quality Board, and California State Parks.

(2) SCIENCE SUBCOMMITTEE.—The Secretary shall require that studies conducted under this section are coordinated through a Science Subcommittee that reports to the Salton Sea Research Management Committee. In addition to the membership provided for by the Science Subcommittee's charter, representatives shall be invited from the University of California, Riverside, the University of Redlands, San Diego State University, the Imperial Valley College, and Los Alamos National Laboratory.

(d) PEER REVIEW.—The Secretary shall require that studies under this section are subjected to peer review.

(e) AUTHORIZATION OF APPROPRIATIONS.—For wildlife resources studies under this section there are authorized to be appropriated to the Secretary $5,000,000.

SEC. 6. SALTON SEA NATIONAL WILDLIFE REFUGE RENAMED AS SONNY BONO SALTON SEA NATIONAL WILDLIFE REFUGE.

(a) REFUGE RENAMED.—The Salton Sea National Wildlife Refuge, located in Imperial County, California, is hereby renamed and shall be known as the Sonny Bono Salton Sea National Wildlife Refuge.

(b) REFERENCES.—Any reference in any statute, rule, regulation, Executive order, publication, map, or paper or other document of the United States to the Salton Sea National Wildlife Refuge is deemed to refer to the Sonny Bono Salton Sea National Wildlife Refuge.

SEC. 7. ALAMO RIVER AND NEW RIVER.

(a) RESEARCH AND DEMONSTRATION PROJECTS.—The Secretary shall promptly conduct research and construct wetlands filtration or construct wetlands demonstration projects to improve water quality in the Alamo River and New River, Imperial County, California. The Secretary may acquire equipment, real property, and interests in real property (including site access) as needed to implement actions authorized by this section.

(b) MONITORING AND OTHER ACTIONS.—The Secretary shall establish a long-term monitoring program to maximize the effectiveness of any demonstration project authorized by this section.

(c) COOPERATION.—The Secretary shall implement subsections (a) and (b) in cooperation with the Desert Wildlife Unlimited, the Imperial Irrigation District, the State of California, and other interested persons.

(d) AUTHORIZATION OF APPROPRIATIONS.—For research and demonstration projects authorized in this section, there are authorized to be appropriated to the Secretary $3,000,000.

SEC. 8. EMERGENCY ACTION.

If, during the conduct of the studies authorized by this Act, the Secretary determines that environmental conditions at the Salton Sea warrant immediate and emergency action, the Secretary shall immediately submit a report to Congress documenting such conditions and making recommendations for their correction.

H.R. 4104

OFFERED BY: MRS. NORTHUP

AMENDMENT NO. 12: Strike subsection (c) of section 407 of title 39, United States Code, as proposed to be amended by section 646 (a) (relating to international postal arrangements), and insert the following:

"(c) The Postal Service may—

"(1) enter into such commercial and operational contracts relating to international postal services as it considers necessary, except that the Postal Service may not enter into any contract with an agency of a foreign government (whether under authority of this paragraph or otherwise) if it would grant an undue or unreasonable preference to the Postal Service with respect to any class of mail or type of mail service; and

"(2) with the consent of the President, establish the rates of postage or other charges on mail matter conveyed between the United States and other countries.".

H.R. 4104

OFFERED BY: MR. SANDERS

AMENDMENT NO. 13: Page 58, line 1, after the dollar amount, insert the following: "(reduced by $2,000,000) (increased by $2,000,000)".

H.R. 4104

OFFERED BY: MR. SANDERS

AMENDMENT NO. 14: Page 58, line 1, after the dollar amount, insert the following: ", of which $2,000,000 shall be for the management of veterans records".

H.R. 4104

OFFERED BY: MR. SANDERS

AMENDMENT NO. 15: Page 58, line 1, after the dollar amount, insert the following: ", of which $6,000,000 shall be for the management of veterans records".

H.R. 4104

OFFERED BY: MR. SANDERS

AMENDMENT NO. 16: At the end of the bill, insert after the last section (preceding the short title) the following new section:

SEC. 648. None of the funds made available in this Act may be used to make any loan or credit in excess of $250,000,000 to a foreign entity or government of a foreign country through the exchange stabilization fund under section 5302 of title 31, United States Code.

H.R. 4104

OFFERED BY: MR. SANDERS

AMENDMENT NO. 17: At the end of the bill, insert after the last section (preceding the short title) the following new section:

SEC. 648. None of the funds made available in this Act may be used to make any loan or credit to a foreign entity or government of a foreign country through the exchange stabilization fund under section 5302 of title 31, United States Code.

H.R. 4193

OFFERED BY: MR. GUTIERREZ

AMENDMENT NO. 1: At the end of the bill before the short title insert the following:

SEC. 336. The Secretary of Energy, acting through the Assistant Secretary for Energy Efficiency and Renewable Energy, and the Secretary of Agriculture, acting through the Chief of the Forest Service, shall coordinate their endeavors to improve energy efficiency, reduce air pollution and decrease excessive summer heat using innovative forestry and energy conservation techniques in urban communities by—

(1) developing a comprehensive action plan that will detail how the programs under their administration can be integrated in urban communities to achieve common goals;

(2) actively pursuing opportunities to coordinate program functions in urban communities;

(3) targeting specific urban communities where energy efficiency and forestry programs can be integrated effectively; and

(4) working with State and local governmental entities, private sector partners, and not-for-profit organizations.

The Secretaries shall jointly submit reports to Congress biannually describing the progress made to achieve the goals of this section.

H.R. 4194

OFFERED BY: MR. BEREUTER

AMENDMENT NO. 1: Page 91, after line 3, insert the following:

SEC. 425. The aggregate amount otherwise appropriated in this Act for the functions of the Office of the Administrator of the Environmental Protection Agency is hereby reduced by $15,000,000.

H.R. 4194

OFFERED BY: MR. BEREUTER

AMENDMENT NO. 2: Page 91, after line 3, insert the following:

SEC. 425. (a) TEMPORARY PROHIBITION ON IMPLEMENTATION OR ENFORCEMENT OF PUBLIC WATER SYSTEM TREATMENT REQUIREMENTS FOR COPPER ACTION LEVEL.—None of the funds made available by this or any other Act for any fiscal year may be used by the Administrator of the Environmental Protection Agency to implement or enforce the national primary drinking water regulations for lead and copper in drinking water promulgated under the Safe Drinking Water Act (42 U.S.C. 300f et seq.), to the extent that the regulations pertain to the public water system treatment requirements related to the copper action level, until—

(1) the Administrator and the Director of the Centers for Disease Control and Prevention jointly conduct a study to establish a reliable dose-response relationship for the adverse human health effects that may result from exposure to copper in drinking water, that—

(A) includes an analysis of the health effects that may be experienced by groups within the general population (including infants) that are potentially at greater risk of adverse health effects as the result of the exposure;

(B) is conducted in consultation with interested States;

(C) is based on the best available science and supporting studies that are subject to peer review and conducted in accordance with sound and objective scientific practices; and

(D) is completed not later than 30 months after the date of enactment of this Act; and

(2) based on the results of the study and, once peer reviewed and published, the 2 studies of copper in drinking water conducted by the Centers for Disease Control and Prevention in the State of Nebraska and the State of Delaware, the Administrator establishes an action level for the presence of copper in drinking water that protects the public health against reasonably expected adverse effects due to exposure to copper in drinking water.

(b) CURRENT REQUIREMENTS.—Nothing in this section precludes a State from implementing or enforcing the national primary drinking water regulations for lead and copper in drinking water promulgated under the Safe Drinking Water Act (42 U.S.C. 300f et seq.) that are in effect on the date of enactment of this Act, to the extent that the regulations pertain to the public water system treatment requirements related to the copper action level.

H.R. 4194

OFFERED BY: MR. BEREUTER

AMENDMENT NO. 3: Page 91, after line 3, insert the following:

SEC. 425. No part of any funds made available by this Act may be used to pay salaries and expenses of any officer or employee of the Environmental Protection Agency to promulgate or implement any rule under the Safe Drinking Water Act requiring public water systems to use disinfection for those public water systems which rely on ground water. Nothing in the preceding sentence shall be construed to prohibit the Environmental Protection Agency, or any officer or employee of the Agency, from conducting studies and investigations regarding the use of disinfection in public water systems relying on ground water or regarding any alternatives to the use of disinfection in such systems for purposes of meeting national primary drinking water regulations.

H.R. 4194

OFFERED BY: MR. GUTIERREZ

AMENDMENT NO. 4: At the end of title I (page 17, after line 12), insert the following:

SEC. 110. (a) EXTENSION OF VETERANS SEXUAL TRAUMA COUNSELING AND TREATMENT PROGRAM.—Section 1720D of title 38, United States Code, is amended in subsections (a)(1) and (a)(3) by striking out "December 31, 1998," and inserting in lieu thereof "December 31, 2002,".

(b) PERSONS ELIGIBLE FOR SEXUAL TRAUMA COUNSELING AND TREATMENT.—Such section is further amended by adding at the end the following new subsection:

"(e)(1) A veteran shall be eligible for counseling and treatment under this section without regard to the provisions of section 5303A of this title.

"(2) An individual who is a member of a reserve component shall be eligible for counseling and treatment under this section in the same manner as a veteran and without regard to the provisions of section 5303A of this title.

"(3) An individual who is a former member of a reserve component (but who is not a veteran within the meaning of section 101 of this title) and who was discharged or released from service as a member of a reserve component under conditions other than dishonorable shall be eligible for counseling and treatment under this section in the same manner as a veteran and without regard to the provisions of section 5303A of this title.

"(4) The Secretary shall ensure that information about the counseling and treatment available to individuals under this subsection—

"(A) is made available and visibly posted at each facility of the Department; and

H.R. 4194

OFFERED BY: MR. ROEMER

AMENDMENT NO. 5: Page 72, line 15, strike "$5,309,000,000" and insert "$3,709,000,000".

H.R. 4194

OFFERED BY: MR. SANFORD

AMENDMENT NO. 6: page 76, line 24 strike "2,745,000,000" and insert "2,545,700,000."

H.R. 4194

OFFERED BY: MR. TIAHRT

AMENDMENT NO. 7: Page 8, line 15, before the period at the end, insert the following: *: Provided*, That, of the funds made available under this heading, $12,500,000 shall be for medical research relating to the Gulf War illnesses afflicting veterans of the Persian Gulf War

H.R. 4194

OFFERED BY: MR. TIAHRT

AMENDMENT NO. 8: Page 8, line 15, before the period at the end, insert the following: *: Provided*, That, of the funds made available under this heading, $25,000,000 shall be for medical research relating to the Gulf War illnesses afflicting veterans of the Persian Gulf War

H.R. 4194

OFFERED BY: MR. VENTO

AMENDMENT NO. 9: Page 52, after line 2, insert the following new section:

LOW-INCOME HOUSING PRESERVATION AND RESIDENT HOMEOWNERSHIP

SEC. 210. (a) NOTICE OF PREPAYMENT OR TERMINATION.—Notwithstanding section 212(b) of the Low-Income Housing Preservation and Resident Homeownership Act of 1990 (12 U.S.C. 4102(b)) or any other provision of law, during fiscal year 1999 and each fiscal year thereafter, an owner of eligible low-income housing (as defined in section 229 of the Low-Income Housing Preservation and Resident Homeownership Act of 1990 (12 U.S.C. 4119)) that intends to take any action described in section 212(a) of such Act (12 U.S.C. 4102(a)) shall, not less than 1 year before the date on which the action is taken—

(1) file a notice indicating that intent with the chief executive officer of the appropriate State or local government for the jurisdiction within which the housing is located; and

(2) provide each tenant of the housing with a copy of that notice.

(b) EXCEPTION.—The requirements of this section do not apply—

(1) in any case in which the prepayment or termination at issue is necessary to effect conversion to ownership by a priority purchaser (as defined in section 231(a) of the Low-Income Housing Preservation and Resident Homeownership Act of 1990 (12 U.S.C. 4120(a)); or

(2) in the case of any owner who has provided notice of an intended prepayment or termination on or before July 7, 1998, in accordance with the requirements of section 212(b) of the Low-Income Housing Preservation and Resident Homeownership Act of 1990 (12 U.S.C. 4102(b)).

H.R. 4194

OFFERED BY: MR. VENTO

AMENDMENT NO. 10: Page 70, line 19, after the dollar amount insert the following: "(increased by $30,000,000)".

Page 72, line 15, after the dollar amount insert the following: "(reduced by $43,500,000)".

H.R. 4194

OFFERED BY: MR. VENTO

AMENDMENT NO. 11: Page 70, line 19, after the dollar amount insert the following: "(increased by $30,000,000)".

Page 76, line 24, after the dollar amount insert the following: "(reduced by $107,400,000)".

EXTENSIONS OF REMARKS

FAST-TRACK AUTHORITY

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1998

Mr. TRAFICANT. Mr. Speaker, Article I, Section 8 of the Constitution of the United States of America states: "Congress has the power to lay and collect . . . Duties and to regulate Commerce with foreign Nations." Article II, Section 2 of the Constitution of the United States of America states: "Treaties with foreign governments shall be confirmed by a two-thirds majority of the Senate." However, over time, Congress has given away its Constitutional authority and responsibilities to the Executive Branch.

Take fast-track authority, for example. Fast-track proponents claim that this legislative authority is needed to expedite the negotiating process as well as consideration of the implementing legislation through the establishment of deadlines for various legislative stages, a prohibition on amendments, a limit on debate, and a requirement for an up-or-down vote. There are several myths and untruths associated with this argument, however.

The big myth is that the President needs fast track to negotiate trade agreements. The President already has the Constitutional power to conduct foreign affairs and negotiate international trade agreements. However, because Congress must approve any changes to U.S. law that result from trade agreements, fast track proponents purport that fast track is needed to strengthen the President's stance during trade negotiations and expedite consideration of the implementing legislation. The truth is, the President needs fast track so he can ignore the opinions of the vast majority of Members of Congress.

Fast-track authority, in theory, protects Congress from the delegation of Constitutional authority through the notifications and consultations the President must provide to Congress prior to, and during, trade negotiations.' In practice, however, Congress has handed over its Constitutional powers on a silver platter. The President has ignored the directives of large minorities in Congress regarding environmental protection, labor standards and American jobs, then bought the votes of a few with personal promises to gain the simple majority needed for passage.

The fact is, the archetype fast-track legislative authority was designed to give the President additional authority to negotiate customs classifications only. Experience has shown item-by-item consideration of the tariff schedule by Congress to be an arduous process, so the President was granted the ability to negotiate the small points. The bottom line is, the original fast-track was never intended to grant the President the broad authority over a vast array of non-tariff issues he enjoys today.

Another myth claims that fast-track process is needed not only to negotiate, but to simply get the trade agreement through the legislative process. Converse to popular thought, however, the fast-track procedure has rarely been implemented. Over 200 trade agreements have been enacted without fast track authority while only five trade agreements have been enacted under this procedure.

Clearly, fast-track authority has digressed from the original intentions of Congress. The President now has broad authority, while Members' hands are tied. Consultations are with a privileged few and merely a formality for the body as a whole. I have introduced legislation to authenticate fast-track legislative authority.

The Trade Act of 1974 recognizes the fast track mechanism as an "exercise of the rulemaking power of the House . . ." and maintains the "constitutional right of either House to change its rules at any time, in the same manner and to the same extent as any other rule of the House." In other words, the House may change its rules as it sees fit. The erosion of fast-track legislative intent is more than enough reason for the House to change its rules.

The legislation, H. Res. 497, amends the rules of the House to require a two-thirds majority vote on any legislation that either authorizes the President to enter into a trade agreement that is implemented pursuant to fast-track procedures, or that implements a trade agreement pursuant to such procedures. By requiring a two-thirds vote rather than a simple majority, the President will no longer be able to ignore the concerns of the vast majority of Members during negotiations and sweeten the agreement later. Trade agreements will take a consensus of both the legislative and executive branches to negotiate—a constitutionally sound solution of which the Founding Fathers would be proud.

TRIBUTE TO BILL WILLIAMS

HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1998

Mr. FARR of California Mr. Speaker, I rise today to salute Bill Williams, soldier, civil servant and civic leader. Bill was born in Newburgh, New York. Mr. Williams passed away this past May. He began his military career in 1943 at the age of twenty and retired from the military, after serving for twenty years and in many capacities, as a highly decorated Major in 1963. Bill's decorations included two Bronze Stars with the "V" Device, two Purple Hearts, a Combat Infantry Badge, service ribbons for the Normandy Invasion, and five Battle Stars for his service in Europe and Korea.

Upon his retirement from the military, Bill began his second career which lasted another twenty years. He applied the knowledge he had gained as a Training Company Commander while in the Army to his peacetime job in the field of Personnel Management.

During those years, Bill also applied his leadership skills as an officer in service clubs and veterans organizations. Bill was a life member of the Monterey Peninsula Kiwanis Club, including duties as Lieutenant Governor. He also held leadership posts in many of the other organizations of which he was a member: the Monterey Chapter of the Retired Officers Association, The Northern Military Order of the Purple Heart, The Northern California Region of TROA, The Masonic Liberty Lodge No. 70 of Paris France, and, The Pacific Grove Masonic Lodge No. 331.

I knew Bill as an active advocate for veterans. He kept me advised of matters of concern to the retired military community in the Fort Ord area. Bill vigorously pursued a site for a Veterans Cemetery on the grounds of the decommissioned Fort Ord. I greatly appreciated the work he did as a veteran's liaison in my Monterey office.

Bill leaves a loving wife of 49 years, Maria; his four daughters: Ginger, Debi, Kate and Elaine; and four grandchildren. We will all remember Bill as a fine example of leadership for his nation.

100TH ANNIVERSARY OF GREATER COOPER AFRICAN METHODIST EPISCOPAL ZION CHURCH IN WEST OAKLAND

HON. BARBARA LEE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1998

Ms. LEE. Mr. Speaker, it gives me great pleasure to rise today to congratulate the Greater Cooper African Methodist Episcopal Zion Church on its 100th anniversary of missionary and community involvement in West Oakland held July 11, 1998. The church, which in 1897 had its humble beginnings on Campbell Street, moved to Union Street in 1929 and is presently located since 1940 at 1429 Myrtle Street, one block west of Market Street amongst the beautiful Victorians of Old Oakland.

Many Bay Area residents will recall the years during and after World War II when Greater Cooper's membership grew to more than 500 as many servicemen passing through the area made Cooper Zion their church home. In the 1950's and 1960's, under the leadership of Rev. G. Lynwood Fauntleroy, Greater Cooper shared a music and radio ministry. Fond memories come with thoughts of their renowned Cathedral Choir, which graced the airwaves with their melodious renditions of anthems and spirituals.

Through the years this fine church has reached out to all segments of the community

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

through summer youth programs, childcare centers, senior citizens' programs, food ministries for the less fortunate, and a mentoring program for young boys.

The current pastor, the Reverend John A. Harrison, Jr., has the honor of heading this centennial celebration. Since November of 1997, the Greater Cooper has sponsored workshops, praise and worship services, and other ongoing activities to pronounce their joy in being blessed with such a long and rich history.

Together with the Greater Cooper A.M.E. Zion Church, I salute the great multitude of lay persons, those great men and women of Zion whose faith, prayers, and courage have sustained the church through economic struggles, and have helped to secure a permanent place of worship for its posterity.

It is significant that our community recognizes an important stable partner in our society that provides for the betterment and improvement in the quality of life, not only for its members, but the community and neighborhood they are situated. The Greater Cooper A.M.E. Zion Church has been that stable pillar and encouraged by its leadership and members, and it will continue to be a relevant contributor in the 21st century.

MEMORIALIZING CONGRESS TO AMEND TITLE TEN, UNITED STATES CODE RELATIVE TO THE COMPENSATION OF RETIRED MILITARY

HON. PATRICK J. KENNEDY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1998

Mr. KENNEDY of Rhode Island. Mr. Speaker, I submit the following for printing in the RECORD:

STATE OF RHODE ISLAND SENATE RESOLUTION 98-2995

Whereas, American servicemen and women have dedicated their careers to protect the rights we all enjoy; and

Whereas, Career military personnel endured hardships, privation, the threat of death, disability and long separations from their families in service to our country; and

Whereas, Integral to the success of our military forces are those soldiers and sailors who have made a career of defending our great nation in peace and war from the revolutionary war to present day; and

Whereas, There exists a gross inequity in the federal statutes that denies disabled career military equal rights to receive Veterans Administration disability compensation concurrent with receipt of earned military retired pay; and

Whereas, Legislation has been introduced in the United States Congress to remedy this inequity applicable to career military dating back to the nineteenth century; and

Whereas, The injustice concerns those veterans who are both retired with a minimum of 20 years, are denied concurrent receipt of hard earned military longevity retirement pay and Veterans Administration awards for service connected with disability; and

Whereas, Career military earn retirement benefits based on longevity of twenty years for honorable and faithful service and rank at time of retirement; and

Whereas, Veterans administered compensations serve a different purpose from longevity retired pay and are intended to compensate for pain, suffering, disfigurement, chemicals, wound injuries and a loss of earning ability and have a minimum requirement of 90 days of active duty; and

Whereas, The prevailing idea that military retirement pay is "free" is false. There is a contribution to retirement pay, which is calculated to reduce military base pay and retirement pay by approximately seven percent when pay and allowances are computed and approved by Congress; and

Whereas, Traditionally, a career military person receives a lower pay and retirement than his or her civilian counterpart and has invested a life of hardships and long hours without the benefit of overtime pay and lack of freedom of expression through the unions; and

Whereas, The Veterans Administration awards dependents allowances to disabled veterans with a thirty percent (30%) disability or more for each dependent, which allowances are increased with the amount of disability; and

Whereas, The Department of Defense deducts the entire amounts of dependents allowance, essentially leaving the disabled military retiree with no dependents allowance and that extends the discrimination to the families of military longevity retirees; and

Whereas, It is unfair to require disabled military retirees to fund their own Veterans Administration compensation by deductions on a dollar for dollar basis in the Department of Defense; and

Whereas, No such deduction applies to similarly situated federal civil service or Congressional retirement benefits to receive Veterans Administration compensation; and

Whereas, A statutory change is necessary to correct this injustice and discrimination in order to insure that America's commitment to national and international goals be matched by the same allegiance to those who sacrificed on behalf of those goals; now therefore be it

Resolved, That this Senate of the State of Rhode Island and Providence Plantations hereby urges the United States Congress to amend title ten, United States Code relating to the compensation of retired military, permitting concurrent receipt of military retired pay and Veterans Administration compensation, including dependents allowances; and be it further

Resolved, That the Secretary of State be and he hereby is authorized and directed to transmit a duly certified copy of this resolution to the President of the United States, Secretary of Defense, Senate Majority and Minority Leaders of the U.S. Congress, Speaker of the House, Committee Chairman of the Senate Armed Forces Committee and Veterans Affairs Committee, House Committee Chairman, National Security and Veterans Affairs Committee, and each member of the Rhode Island Delegation to Congress.

TRIBUTE TO MARY LOU AND MORT ZIEVE

HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1998

Mr. LEVIN. Mr. Speaker, on Wednesday, July 22, the Institute of Human Relations of the American Jewish Committee will present its Distinguished Community Service Award to two indeed distinguished citizens of Michigan, Mary Lou Simons Zieve and Mort Zieve.

Each has followed their own very busy and highly successful careers in the world of communication. No matter how intensive those challenges, they always have found time to participate in a diverse range of community activities. In quite a few of these, I have been privileged to participate with one or both of them or to see them in action. The result of their efforts have always been impressive and have benefitted thousands of fellow or sister citizens.

Mary Lou Zieve's broad community activities have included: President of the Detroit Historical Society (since 1994); honorary Life Member of the Karmanos Cancer Institute Board of Trustees; Chair of the Advisory Board of Wayne State University Press; a member of the Boards of the Greater Detroit Interfaith Round Table, the Michigan Historical Center Foundation in Lansing, Eton Academy and many others. She was producer of the Detroit area Jerry Lewis Telethon for five years, president of the Detroit chapter of American Federation of Television and Radio Artists; and founder and president of the Jewish Ensemble Theatre.

Mort Zieve's public endeavors have included: key publicity undertakings for the Michigan Opera Theatre and board member for 25 years; director of two productions at the Jewish Ensemble Theatre; Co-Chair of Detroit's Official Annual Birthday Party; and on the Mayor's Committee to structure the 300th birthday of the City in 2001. Mort Zieve has also received the Humanity in Arts Award for Musical at Wayne State University.

Mary Lou and Mort Zieve have been honored by the Karmanos Cancer Institute. In addition, Mary Lou has received the Leonard N. Simons History award from the Jewish Historical Society of Michigan and the Distinguished Alumna Award from Kingswood School Cranbrook.

It is my privilege to salute my distinguished fellow Michiganders and good friends on the receipt of a recognition so well deserved.

TRIBUTE TO JOSEPH MARINI

HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1998

Mr. FARR of California. Mr. Speaker, I rise today to honor a confectioner, Joseph Marini, Senior, who delighted our towns-people and provided fond memories to generations of beach goers. Mr. Marini passed away this past spring.

The mouth-watering treats in his sweet shops included traditional salt water taffy, spun on a vintage machine that has mesmerized young visitors since 1922. Mr. Marini devised candy dipped fruit, with cinnamon or cherry coatings, as well as chocolate flavors. Cotton candy was another popular item especially with the trick or treaters who visited Mr. Marini at his home on Halloween. Eventually, when the throngs of children numbered over

1200, the giveaway was discontinued. Many a vacation will be remembered by the aroma of caramel corn that wafted along the Beach Boardwalk.

As central as his business was to the life of the Santa Cruz community, Joseph Marini made another contribution. He imbued countless young high school students with life-long values, by employing them, instructing them with clear guidance, and providing a living example with his own matchless work ethic. This training came from a man who was known for mischief and pranks when a youngster himself. His conversion came when his father, who started the business, brought his 10-year old son into the shop to help. It took a special ledge to boost the boy high enough to wrap taffy kisses.

The candy business became so central to his life that he continued to diligently appear at his store long after younger members of his family were charged with daily operations. The candy business became so central to the life of the community, that Santa Cruz without Marini's is unimaginable.

Joseph Marini, Senior gave this locale its own special flavor. He will be greatly missed and long remembered.

HONORING DR. JAMES G. LAWS

HON. TONY P. HALL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1998

Mr. HALL of Ohio. Mr. Speaker, I rise today to pay tribute to Dr. James G. Laws, a man with a sincere passion for improving the lives of the people who suffer in remote areas of the world. He sets an example that we all should strive to follow and I am proud to have such a man in my district. Dr. Laws is the president of Knightsbridge International, a humanitarian relief organization. As such, he works on relief missions which bring much needed medicines to remote areas of the world. Dr. Laws often finances them himself and personally delivers the supplies. His commitment regularly brings Dr. Laws into the midst of armed conflicts, but he persists. For his dedication, his bravery, and his generosity, Dr. Laws deserves our thanks.

Dr. Laws is a cardiologist from Germantown, Ohio and a member of the Knights of Malta, an order dating back to the Crusades. Together with Dr. Edward Artis, a friend and fellow Knight, Dr. Laws confounded the humanitarian relief group, Knightsbridge International.

In 1994, Dr. Laws, Dr. Artis, and Knightsbridge were active in Rwanda. One of their successful missions is a remarkable story. A boy was lost in a sea of refugees after having watched his mother and sister murdered by soldiers. His father, who was studying in New Orleans, somehow spotted him on a newscast from Africa. The man appealed to Knightsbridge for help in finding the beloved son he had believed to be dead. Dr. Laws and his organization tracked down the terrified boy and brought him back to his grateful father.

That same year, Dr. Laws also helped to deliver 25,000 doses of antibiotics to needy clinics in Rwanda, and helped facilitate a contribution of a quarter of a million dollars to an orphanage built with Mother Teresa's help.

In 1996, Dr. Laws and Dr. Artis traveled to Nicaragua to investigate the possibility of constructing a new clinic on Corn Island. They envisioned a small, multipurpose medical center and dental facility which would be accessible to the impoverished islanders. Today, the clinic is fully functional. It provides the people of Corn Island with much needed health care and works together with the local clinic.

In 1997, Dr. Laws secured the donation of a cardiac unit from the Grandview Hospital of Dayton and transported it to Bishek, the capital of Kyrgyzstan. The donation upgraded the hospital's heart facility and enabled it to provided better medical care. Dr. Laws also was active in Azerbaijan, Daghestan, and Chechnya, helping deliver hundreds of thousand of dollars worth of medical supplies to them.

Most recently, Dr. Laws, Dr. Artis, and Knightsbridge International have been working to relieve the suffering in Afghanistan. Their first humanitarian mission took them to Kabul, where they provided local hospitals with $250,000 in medicines and medical supplies. Subsequent trips were to Bamiyan, the capital city of the Northern region, where some 400,000 people were on the verge of dying from hunger and disease. Dr. Laws defied death threats and braved a civil war zone to personally help bring more than a million dollars worth of critical medicines to the suffering people of Hazaristan.

Mr. Speaker, it is with pleasure that I ask you and my colleagues to join me in acknowledging the lifesaving work that Dr. James Laws does. He is a hometown hero whose activities I observe with pride. He has proven himself to be a true humanitarian who is dedicated to easing all suffering. His missions have brought relief and improved medical resources to countless communities, and, I hope, to many more to come. Dr. James Laws deserves our respect and thanks for the compassion he has shown, and continues to show, to the needy people of the world.

A TRIBUTE TO GENE BELLISARIO

HON. VIC FAZIO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1998

Mr. FAZIO of California. Mr. Speaker, I rise today to pay tribute to Gene Bellisario, a longtime supporter of education. Gene, president of the Yuba College Board of Trustees, is retiring from the Yuba College Board after five terms.

Gene Bellisario, a graduate of Yuba College, credits his success in the world of business to retired Yuba College instructor Harry Clinton, who first encouraged him to apply for a position at the Credit Bureau of Sutter County. That first position eventually led him to open a credit bureau of his own, and recently Gene sold his business, the Credit Bureau of Placer County, and retired.

For close to 40 years, Gene Bellisario has been an outstanding member of the community, both in business and in education. He is currently serving in his fourteenth year as a trustee of the Yuba College Board. Previously, he was a member of the Lake Tahoe Community College Board for six years. A popular figure at Yuba College, Gene was the top vote getter four of the five times that he ran for election as a trustee. During his tenure on the Yuba College board, he served in several capacities, including president, vice president, and clerk. The students, faculty, and administrators will sorely miss his presence at the college when his term ends and he retires at the end of 1998.

Gene Bellisario has continually striven to improve the quality of college trustees throughout the state. He has represented the Yuba College district at community college trustee workshops in Washington D.C., and he has served as a "mentor trustee" for other community college trustees in California. These efforts to learn and promote responsible trusteeship are a reflection of Gene's commitment to higher education.

Still active members of the community, Gene and his wife Peggy now concentrate on philanthropy. As a demonstration of their continuing belief in education, the Bellisarios have funded the Bellisario Family Trust which benefits both the Yuba College and Lake Tahoe Community College Foundations.

Mr. Speaker, I ask my colleagues in the House of Representatives to join me in honoring Gene Bellisario, and I personally extend my sincere appreciation for all he has done for the Yuba community during his many years of dedicated service.

TRIBUTE TO MARY MULLIGAN

HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1998

Mr. LEVIN. Mr. Speaker, I rise today to honor Mrs. Mary Mulligan on the occasion of her retirement from the Barbara Ann Karmanos Cancer Institute after 45 years of untiring and devoted service in cancer-related institutions.

Mrs. Mulligan's career began in 1953 when she helped establish an office in Mt. Clemens for the Macomb County Unit of the American Cancer Society. The office provided support, guidance and medical care to cancer patients—free of charge.

Her success in recruiting volunteers and aiding patients in this office, led to her involvement in the creation of 13 additional offices in Macomb County which ultimately served as the blueprint for offices that later opened in Wayne Oakland and Monroe Counties.

Over time, the American Cancer Society evolved into the Michigan Cancer Foundation and eventually became known as the Karmanos Cancer Institute.

Mrs. Mulligan continued her involvement in recruitment and education awareness and is retiring now as the Director of Volunteer Administration for the entire Karmanos Cancer Institute.

Mr. Speaker, I ask my colleagues to join me in honoring Mrs. Mary Mulligan for the caring, good will and effort she has devoted to help cancer patients over the many years. I wish her continued good health and happiness in the future.

ENDING THE MARRIAGE TAX PENALTY

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1998

Mr. BEREUTER. Mr. Speaker, I highly commend to my colleagues this July 2, 1998, editorial from the South Sioux City Star supporting the end to the marriage tax penalty.

TIME TO END MARRIAGE TAX PENALTY

Of all the external challenges to marital bliss, the least expected and the most unforgivable is the one posed by your own government.

Married couples are subjected to what is described as the "marriage tax."

Every year, more than 21 million couples are penalized for no other reason than they chose to come together in holy matrimony. It's unfortunate that a 1040 form comes between some couples who would like to get married, but would pay a financial penalty.

The breakup of the family is a leading cause for many of America's social problems. Washington should advocate policies that strengthen families, not weaken them. Yet punishing working families is what the current tax code does through a cold mathematical calculation on a piece of paper.

To correct this immoral inequality, the Marriage Tax Elimination Act (HR 2456), has been introduced. It would eliminate the penalty levied on nearly half of America's married couples. On the average, most couples must produce an additional $1,400 at tax time. Given the fact that two-income households have been the norm rather than the exception for years, the marriage tax needs to be eliminated.

The Marriage Tax Elimination Act would restore equilibrium by allowing couples to choose their filing status either jointly or singles, whichever produces the most savings.

The MTE Act was introduced in Congress with the support of the majority of the sophomore class and the Republican leadership. It already has 180 cosponsors and the support of such organizations as Americans for Tax Reform, Independent Women's Forum and National Taxpayers Union.

With such broad-based support you'd think the Marriage Tax Elimination Act should have no trouble moving through Congress. But the MTE is a tax cut and you know the difficulty of getting Congress to cut taxes in any area.

TRIBUTE TO GARY TATE

HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1998

Mr. FARR of California. Mr. Speaker, I rise today to honor Gary Tate, an innovative leader and passionate advocate of the open spaces, parklands and the natural resources of Monterey Peninsula, Carmel Valley and the Big Sur Coast.

Gary is retiring in July from his position as General Manager of the Monterey Peninsula Regional Park District after having served continuously for 25 years. First employed in June of 1973, soon after the District was formed, Gary was the only employee for 13 years. Fresh from the East Bay Regional Park District, Gary was only 29 years old when he was hired to manage an agency that did not exist. From an office that was 10 feet square, Gary set to work, seizing every opportunity to preserve open space and parklands.

Garland Ranch was Gary's first purchase in 1975. The dedication of its opening was my first public role as a new Monterey County Supervisor. On that glorious day, Gary met me with a big white mare to ride the five miles to the dedication. It became a red, white and blue dedication: white was the horse, red was my bottom, and blue was my body.

In the Park District's first quarter century under Gary's leadership, 23 projects throughout the Monterey Peninsula have been completed, resulting in the acquisition and protection of more than 7,500 acres that include river and pond wetlands, redwood and Monterey Pine forests, coastal dunes and beaches, and a wide variety of cultural and historic resources. In addition to garnering the necessary funding for these projects, Gary has trained a corps of volunteers, developed a support organization "Friends of the Park" and hired and supervised new members of the staff, now eight in all. Gary has the high esteem of his peers and the environmental community, and has been commended by the Sierra Club for his outstanding public service.

Some of the specific projects started and concluded by Gary include:

Formation of the Joint Powers Agency with the cities of Monterey and Seaside to acquire and preserve the lake at Laguna Grande and develop a park there;

Development of the regional Monterey Bay coastal trail;

A decade-long effort to correct the Local Coastal Plan of Sand City, resulting in an agreement with Sand City and California State Parks to preserve 70 percent of Sand City's coastline as a state beach; and

Acquisition of more than $5 million in grant funding from federal, state and private sources, to acquire and preserve open space parklands on the Monterey Peninsula.

Gary and his wife Sheri will continue to live in Carmel Valley where they have raised two daughters, Carrie and Christen, Gary, never idle, will be renovating his home, supervising a youth center building project for his church, hiking in Garland Park, and going fishing. He will remain active with the Hatton Canyon Coalition, which is seeking alternatives to a proposed freeway project. Gary will always be a steward of the area he calls home.

Gary himself has said "My 25 years with the District have been a never-ending challenge and a very rewarding experience." However, Gary's spectacular success, achieved through his clear vision, single-minded determination and energy, has made him our environmental hero. He has my very best wishes for continued health and happiness in his retirement. Gary Tate has left a special legacy that will be enjoyed by visitors and residents of the Monterey area in perpetuity.

CONGRATULATIONS TO BEE DEVELOPMENT AUTHORITY

HON. RUBÉN HINOJOSA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1998

Mr. HINOJOSA. Mr. Speaker, I rise today to mention a very exciting project that is occurring in the 15th Congressional District of Texas, which I am privileged to represent. This Spring, negotiations were completed for the sale of the former Naval Air Station, Chase Field land by the Department of the Navy to the City of Beeville. Subsequently, the City conveyed title to a portion of the land to the Bee Development Authority (BDA) in Beeville, Texas, thereby paving the way for the BDA to move forward with plans for the development of an industrial complex. This is a significant revitalization effort that has been in the works for years—one that is going to be a terrific boon to the community in terms of both jobs and economic benefits.

The Chase Field Industrial Complex would not be a reality today were it not for the foresight and perseverance of all the members of the Bee Development Authority. They are the individuals I want to take this occasion to congratulate. Quite simply put, they're an exceptional group.

Accomplishing this goal was by no means an easy feat. What it required was commitment, teamwork and, above all, a creative strategy. The Bee Development Authority combined energy—talent—and vision—and in so doing once again proved the age old adage that where there's a will, there's a way. It's a perfect example of what can be accomplished when ingenuity is mixed with perseverance.

Time has a way of passing very quickly. Days turn into weeks, weeks into months, and the next thing one knows, years have gone by. One day, and I predict it won't be all that far in the future, Chase Field Industrial Park will seem like it's always been a part of the Beeville landscape. I'm also certain that Chase Field Industrial Park will always be regarded as a milestone in the development of Beeville and Bee County. What a fitting tribute to the members of the Bee Development Authority. What a wonderful legacy.

Again, congratulations!

INTERNET TAX FREEDOM ACT

SPEECH OF

HON. CHRISTOPHER COX

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1998

Mr. COX of California. Mr. Speaker, I introduced the bill we are considering today, H.R. 4105, the Internet Tax Freedom Act, yesterday. It has not been reported to the House by either the Commerce Committee or the Judiciary Committee, or by any committee of Congress. It does, however, represent a synthesis of two bills approved by the Commerce Committee (H.R. 3849) and by the Judiciary Committee (H.R. 3529). Thus, while normally there be one or more committee reports filed in connection with H.R. 4105, there is none. As the author of the consensus bill, as well as of the original Internet Tax Freedom Act (H.R. 1054), upon which both H.R. 3849 and H.R. 3529 were based, I am pleased to set forth for the Record the author's intent concerning certain key provisions of the bill, notably Section 2 ("Moratorium on Certain Taxes") and Section 7 ("No Expansion of Tax Authority"), since this important information will not be fully reflected in the committee reports accompanying the two previous bills.

Report Concerning Provisions of H.R. 4105, the Internet Tax Freedom Act

A. MORATORIUM ON CERTAIN TAXES

Section 2 of H.R. 4105 amends Title 4 of the U.S. Code to add a new Chapter 6 (Sections 151–155). New Section 151 of Title 4 prohibits, for a period of 3 years, State and local governments from imposing, assessing, collecting, or attempting to collect "taxes on Internet access," "bit taxes," "multiple" taxes on electronic commerce, and "discriminatory" taxes on electronic commerce.

1. No taxes on Internet access

New Section 151(a) prohibits, for a period of 3 years, State and local governments from imposing, assessing, collecting, or attempting to collect "taxes on Internet access." It is intended that this temporary ban will be made permanent in the future, as it is envisioned that the legislation submitted to Congress by the Advisory Commission pursuant to new Section 153(b)(5) will include provisions making the 3-year ban on such taxes permanent. The National Governors' Association has already publicly declared its support for such a permanent ban.

The term "Internet access" is defined in new Section 155(7). It means any service that enables users to access content, information, and other services offered over the Internet. It includes access to proprietary content, information, and other services as part of a package of services offered to consumers. It does not, however, mean a telecommunications service. Providers of Internet access often provide their subscribers with the ability to run a variety of applications, including World Wide Web browsers, File Transfer Protocol clients, Usenet newsreaders, electronic mail clients, and Telnet applications. Providers of Internet access may also provide access to proprietary content as well as access to the Internet. American Online, CompuServe, Prodigy, and Microsoft Network are examples of providers of Internet access.

New Section 151(b) provides a limited exception to the moratorium on taxes on Internet access for eight States that presently tax Internet access—Connecticut, Wisconsin, Iowa, North Dakota, South Dakota, New Mexico, Tennessee, and Ohio. Any one of these States' taxes on Internet access would be "grandfathered" if the State enacts a law within one year expressly affirming that the State intends to tax Internet access. The intent of this provision is to "grandfather" only those States that have already come to rely on Internet access taxes as an important source of revenue, and that have expressly described in statute that Internet access is subject to taxation. The reason a further legislative act is required in order to quality for the exception is that none of the eight potentially "grandfathered" State statutes makes express reference to the Internet. (The Governors of two States that presently tax Internet access—Texas and South Carolina—opted not to have their States' laws included in the "grandfather" provision, because they oppose the taxation of Internet access.)

Because none of the States presently taxing Internet access has a law on the books that expressly authorizes the taxation of Internet access, such taxes are being imposed as the result of decisions made by tax administrators rather than by legislators. For example, a tax administrator may decide that Internet access falls within the definition of existing telecommunications or other taxes, even though the Internet is nowhere referred to or described in the State's law. New Section 151(b)(2), which requires the express codification of such Internet access taxes, is intended to ensure that the significant decision of a State to override national policy against the taxation of Internet access will be made by the State's duly elected representatives. In form, this provision is similar to other instances in which Congress has chosen to make applicability of a Federal law contingent upon the actions of others, including State officials. *See Currin* v. *Wallace*, 306 U.S. 1 (1939); *North Dakota* v. *United States*, 460 U.S. 300 (1983); and *Confederated Tribes of Siletz Indians* v. *United States*, 110 F.3d 688 (9th Cir. 1997).

It is important to note that the "grandfather" exception provided in new Section 151(b) only applies to "taxes on Internet access." It does not apply to the other taxes included within the moratorium—bit taxes, multiple taxes, or discriminatory taxes. As a result of this clear language, even if a State tax on Internet access meets the conditions of the exception set forth in Section 151(b), the tax may nevertheless be barred if it is imposed in a manner that would cause it to fall within the definition of a "multiple" tax or a "discriminatory" tax. Moreover, a tax on Internet access that comes within the "grandfather" provision is not thereby rendered valid for all purposes. Coming within the "grandfather" means only that the tax is only excepted from the moratorium imposed by this Act, not that is is excepted from any other limitations on a State's ability to tax—such as, for example, limitations imposed by the Constitution.

New Section 15(c) provides a further exception to the moratorium to ensure that telecommunications carriers will not avoid liability for taxes on telecommunications services as such. This provision requires that, in order to be covered by the moratorium, a telephone company that bundles telephone service along with Internet access must separately state on the customer's bill the portion of the billing that applies to telephone services.

2. No. bit taxes

New Section 151(a)(2) prohibits, for a period of 3 years, State and local governments from imposing, assessing, collecting, or attempting to collect so-called "bit" taxes. A "bit" is an abbreviation for "binary digit," which denotes either a zero or one. The term "bit tax" is defined in new Section 155(1) as any tax on electronic commerce expressly imposed on or measured by the volume of digital information transmitted electronically, or the volume of digital information per unit of time transmitted electronically. It does not include taxes imposed on the provision of telecommunications services. Because bit taxes target digital communications, they would be extremely detrimental to the future of the Internet and extremely costly for consumers. It is for these reasons that State and local governments are barred from imposing any such tax.

3. No multiple taxes on electronic commerce

New Section 151(a)(3) prohibits, for a period of 3 years, State and local governments from imposing, assessing, collecting, or attempting to collect "multiple" taxes on electric commerce. The term "multiple tax" is defined in new Section 155(8). In general, this definition covers two distinct ways that taxes may become layered in an unfair manner. The first concerns instances where two or more taxing jurisdictions all tax the same sercice. The second covers instances where one taxing jurisdiction applies a telecommunications tax in a manner that results in the consumer paying the same tax twice: once on the underlying phone service used to connect to the Internet, and again on the Internet service itself.

New Section 155(8)(A) states that a tax is a "multiple tax" if it is imposed by one State or locality on the same or essentially the same electronic commerce that is also taxed by another State or locality. Whether two or more taxes are "multiple" is independent of whether they are levied at the same rate, or on the same basis. A credit for taxes paid in other jurisdictions, or some other similar mechanism for avoiding double taxation, will prevent a tax from falling within this definition. This section is intended to strengthen the protections already afforded by the U.S. Supreme Court against multiple jurisdictional taxation. For instance, in *Goldberg* v. *Sweet*, 488 U.S. 252 (1989), the Court limited the ability of two States to double-tax the same service by requiring that an interstate telephone call must originate or terminate in the State and must be billed to an in-State address in order for that State to tax the telephone call. In the case of electronic commerce, it is even more important to provide clear protections against multiple taxation. The Internet's decentralized packet-switched architecture means that Internet transmissions almost always cross several jurisdictions. Moreover, the variety of technologies employed to deliver Internet services means that each aspect of a transaction could be subjected to separate taxation—for example, transmission of data and also the data itself—on the grounds that these are not "the same." (For this reason, the definition in new Section 155(8)(A) expressly adds the alternative "or essentially the same.") These factors, combined with the Internet's increasingly portable nature, makes it especially vulnerable to the threat of multiple taxation.

New Section 155(8)(B) states that if a State or local government classifies Internet access as telecommunications or communications services, then any State or local government tax on the underlying telecommunications services used to provide Internet access will constitute a "multiple tax." The definition provides an exception to this rule if the State or local government allows a credit for other taxes paid, a sale for resale exemption, or similar mechanism for eliminating double taxation of the service and the means for delivering the service.

4. No discriminatory taxes On electronic commerce

New Section 151(a)(3) prohibits, for a period of 3 years, State and local governments from imposing, assessing, collecting, or attempting to collect discriminatory taxes on electronic commerce. The term "discriminatory tax" is defined in new Section 155(3).

In the world of multi-state tax law, the term "discriminatory" commonly carries distinct meanings. It is most often used to describe taxes that favor local commerce over interstate commerce. For the purposes of this Act and only this Act, however, new Section 155(3) defines the term "discriminatory" in a manner that is meant to capture instances where State or local tax policies intentionally or unintentionally place electronic commerce at a disadvantage compared to similar commerce conducted through more traditional means, such as over the telephone or via mail-order. Adopting such a definition of "discriminatory tax" is not intended to disturb Commerce Clause protections against State or local tax laws that burden interstate commerce. Rather, the Act is meant to complement these existing protections.

New Section 155(3)(A)(i) defines "discriminatory tax" as any tax on electronic commerce that is not generally imposed and legally collectable by a State or local government on transactions involving similar property, goods, services, or information accomplished through other means. For example, if a State requires the seller of books at a retail outlet to collect and remit sales tax, but does not impose the same tax collection and remittance obligations on the seller if the same sale is made over the telephone from a mail-order catalog, then the State would be prohibited from imposing collection and remittance obligations on the seller when the transaction occurs in whole or in part over the Internet. A tax is discriminatory if it is imposed on an Internet transaction but not imposed on any other similar transaction off the Internet, or if it is imposed only in some but not all other cases. The property, goods, services, or information need not be identical, but only "similar." This is intended to cover the common phenomenon of "interactive" Internet versions of non-interactive products sold off the Internet. Likewise, any taxation of property, goods, services, or information that is inherently unique to the Internet would be discriminatory, because there is no non-Internet property, goods, services, or information that is similar and that the State generally taxes.

New Section 155(3)(A)(ii) extends the definition of "discriminatory tax" to include any levy by a State or local government that taxes electronic commerce in a manner that results in a different tax rate being imposed on electronic commerce when compared to a transaction that occurred through another means.

(a) No taxes on Internet-unique property, goods, services, or information

Taken together, new Section 155(3)(A)(i) and (ii) mean that property, goods, services, or information that is exchanged or used exclusively over the Internet—with no comparable off-line equivalent—will always be protected from taxation for the duration of the moratorium. Examples of Internet-unique property, goods, services, or information include, but are not limited to, electronic mail over the Internet, Internet site selections, Internet bulletin boards, and Internet search services.

(b) No new collection obligations

New Section 155(3)(A)(iii) states that a tax on electronic commerce is discriminatory if it imposes an obligation to collect or pay a tax on a different person or entity that would be the case if the transaction were accomplished without using the Internet, such as over the telephone or via mail-order. For instance, a tax is not discriminatory if the obligation to collect and remit it falls on the vendor whether the sale is made off-line or online.

This definition also includes taxes that impose tax collection obligations on persons other than the buyer or seller in an Internet transaction. For example, a tax is discriminatory if it imposes tax collection or tax reporting duties on Internet access providers, telephone companies, banks, credit card companies, financial intermediaries, or other entities that might have access to a customer's billing address, since these collection and reporting obligations are not imposed in the case of telephone, mail-order, or retail outlet sales.

(c) No classification of an ISP as a phone company

New Section 155(3)(A)(iv) states that a tax on electronic commerce is discriminatory if it establishes a classification of Internet access provider, and imposes a higher tax rate on this classification than on similar information services delivered through means other than the Internet. The term "information services" is expressly defined in new Section 155(5) and in Section 3(2) of the Communications Act of 1934 to *exclude* "telecommunications service." As a result, neither telephone companies nor similar public utilities, as such, may be "providers of information services delivered through other means" within the meaning of new Section 155(3)(A)(iv). For this reason, the fact that a telephone company or similar public utility service pays tax at the same or a higher tax rate than an Internet access provider will not prevent the tax on the Internet access provider from being discriminatory. In this way, new Section 155(3)(A)(iv) effectively serves to prohibit States and localities from classifying a provider of Internet access as a telephone company or similar public utility service—for example, for the purpose of applying a business license tax—if such classifications are subject to higher tax rates than other non-Internet information services.

(d) No New "Nexus"

The definition of "Discriminatory tax" in new Section 155(3)(B) is intended to prohibit States and localities from using Internet-based contacts as factor in determining whether an out-of-State business has "substantial nexus" with a taxing jurisdiction.

This is intended to is provide added assurance and certainty that the protections of *Quill* v. *North Dakota*, 504 U.S. 298 (1992)—including its requirement that substantial nexus be determined through a "bright-line" physical-presence test—will continue to apply to electronic commerce just as they apply to mail-order commerce, unless and until a future Congress decides to alter the current nexus requirements.

In this way, the Act intends to encourage the continued commercial and non-commercial development of the Internet. New Section 155(3)(B) is a direct response to testimony from a State tax administrator, who offered his view to Congress at a July 1997 hearing that the *Quill* protections provided to remote sellers without a substantial in-State physical presence should not apply to businesses engaged in electronic commerce. During the hearing, the tax administrator acknowledged that if a resident of his State were to use the telephone to purchase a good from an out-of-State vendor, his State would not be permitted to impose its tax collection obligations on that vendor unless the vendor otherwise had a substantial in-State physical presence. The tax administrator further testified, however, that if instead the Internet were used to place the order, his State would attempt to require the out-of-State vendor to collect taxes. His rationale was that the flow of data over the Internet into his State, the "presence" of a web page on a computer server located in-State, of the supposed "agency" relationship between the remote seller and an in-State Internet access provider should be enough to give the remote seller a substantial physical presence in his State.

The Act rejects this approach. The promotion of electronic commerce requires faithful adherence to the U.S. Supreme Court's clear statement in *Quill* that a "bright-line" physical presence—not some malleable theory of electronic or economic presence—is required for a State to claim substantial nexus. Even without the Act, the courts, in light of *Quill*, are likely to view such arguments by State tax administrators with great skepticism. But the Act provides clarity and far greater certainty by specifically outlawing State or local efforts to pursue aggressive theories of nexus. This should result in decreased litigation which will benefit States, localities, taxpayers, and an often overworked court system.

New Section 155(3)(B)(i) defines "Discriminatory tax" so as to make it clear that Congress considers the creation or maintaining of a site on the Internet to be so insignificant a physical presence that the use of an in-State computer server in this way by a remote seller shall never be considered in determining nexus.

New Section 155(3)(B)(ii) defines "discriminatory tax" so as to prohibit a State or political subdivision from deeming a provider of Internet access to be an "agent" of a remote seller. Internet access providers commonly display information on the Internet for remote sellers, and often maintain or update the remote seller's web page. Even if the Internet access provider provides these and other ancillary services (such as web page design or account processing) on an in-State computer server, the provider should not be considered an agent for purposes of taxation.

B. No expansion of tax authority

The Act is meant to prevent Internet taxes, not proliferate, encourage, or authorize them. Section 7 of H.R. 4105 expressly states, therefore, that nothing in the Act shall be construed to expand the duty of any person to collect or pay taxes beyond that which existed on the date of enactment of the Act.

Section 7 is specifically intended to make it clear that the Act does not, directly or indirectly, expand the definition of "substantial nexus" beyond existing judicial precedent and interpretations of the Commerce Clause of the United States Constitution. It is intended to negate any possible inference that the Act might subvert existing requirements that interstate activity have a "substantial nexus" (determined through a "bright-line" physical-presence test) with the taxing jurisdiction, and that taxes on such activities be fairly apportioned, be fairly related to the services provided by the jurisdiction, and not discriminate against interstate commerce.

It is fully intended that a State or local tax not barred by the provisions of this Act shall not be valid if such tax would otherwise constitute an undue burden on interstate or foreign commerce.

TRIBUTE TO THE ISRAEL 50TH ANNIVERSARY GALA HONOREES

HON. BRAD SHERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1998

Mr. SHERMAN. Mr. Speaker, I rise today to pay tribute to an outstanding collection of individuals for their unwavering commitment to the

Jewish Federation of Los Angeles. I would like to take this opportunity to acknowledge the 1997–1998 Jewish Federation Officers Herbert M. Gelfand, Irwin Field, Todd Morgan, Lionel Bell, Carol Katzman, Elaine Caplow, Chuck Boxenbaum, Stuart Buchalter, Jonathan Cookler, Rabbi Harvey J. Fields, Howard I. Friedman, Dr. Beryl Gerber, Meyer Hersch, Harriet Hochman, Evy Lutin, Annette Shapiro, Terri Smooke, Carmen Warschaw, David Wilstein, Mark Lainer, Edna Weiss, David Fox, and Newton Becker for their innovative leadership over the past two years.

The Talmud states "He who does charity and justice is as if he had filled the whole world with kindness." In the spirit of these words, these leaders have infused our community with great kindness, purpose, and pride. Their work strongly represents the Judaic tradition of generosity and concern for others. Their exceptional leadership has been instrumental in laying the foundation for a strong and cohesive Jewish community in the City of Los Angeles.

Mr. Speaker, distinguished colleagues, please join me today in congratulating these leaders for their tremendous dedication to the Jewish Federation.

TRIBUTE TO HIROSHI "HEEK" SHIKUMA

HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1998

Mr. FARR of California. Mr. Speaker, I rise today to honor a gentle man, Hiroshi "Heek" Shikuma, whose superior abilities and foresight were instrumental in developing an industry that has become a mainstay of the area economy, while his wisdom and gentleness made him a leader in the spiritual community. Mr. Shikuma passed away this past February.

Mr. Shikuma was born, raised, and educated in the Pajaro Valley. During World War II, he served in the United States Army's Japanese-American 442 Regiment, receiving a Purple Heart after being wounded in combat. Upon his return, Mr. Shikuma began farming in the rich soils of the Pajaro Valley. At that time, local farmers were just becoming aware of the value of strawberries as a crop. Strawberries were selling for an incredible twenty cents a pound in San Francisco. Shikuma Bros. Inc. was established when Heek was joined by his two older brothers, Mack and Kanji. Through hard work and dedication the strawberry industry prospered. The Shikuma family founded the Central California Berry Growers Association, a marketing cooperative that enabled growers to optimize the value of their product. Today the cooperative is known as Naturipe. Mr. Shikuma has been active on the board since 1949, for a time presiding as its president. In 1989, Mr. Shikuma was honored by the Japanese American National Museum and Los Angeles County for his contributions to the California strawberry industry, which now produces more than 70 percent of the nation's berries. In 1993, the Santa Cruz County Farm Bureau named Shikuma Bros. the "Farm Family of the Year."

As successful as Mr. Shikuma was in his business enterprises, he found the time to be a supporter of the community in which he lived. He was a long-time member of the Japanese American Citizens League, and served as president. His family founded the Japanese Presbyterian Church which became the Westview Presbyterian Church in Watsonville. Mr. Shikuma was remembered by his daughter, Nancy, as a "man of high integrity who extended his hand to others in need of help. He always put his family first and never spoke a harsh word to anybody."

Our thoughts are with the family, his wife of fifty years, Chiyeko, his two daughters, Nancy and Anne, his son, Ted, his brother, Mack, and sister, Emi, his grandchild and many nieces and nephews. His loss will be felt profoundly, but the mark he has left on the community is indelible. Heek Shikuma provides a magnificent example of the best in humankind with his special blend of intelligence, diligence and kindness.

TRIBUTE TO HINDU TEMPLE OF ST. LOUIS

HON. JAMES M. TALENT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1998

Mr. TALENT. Mr. Speaker, I rise today to pay tribute to the Hindu Temple of St. Louis and recognize their efforts to celebrate Kumbhabhisheka Mahotsava. I wanted to take this opportunity to enclose the text of some brief remarks I made on Friday, July 3, 1998, which recognizes this outstanding occasion.

> Since the Hindu Temple of St. Louis opened in 1991, it has become an integral part of the community. The recent expansion program has resulted in a spectacular temple with architectural roots in the 500-year-old temples of India.
>
> I congratulate the Temple and the community on your success and am honored to share in the excitement of Kumbhabhisheka Mahotsava, the consecration of the Temple. The traditions and rituals steeped in centuries of custom make this a unique and special opportunity for the St. Louis Hindu community.
>
> I wish you peace and joy on this great occasion. May God bless you and your families as you share in the beauty of Kumbhabhisheka.

Mr. Speaker, I ask that you and my colleagues join congratulating the Hindu Temple of St. Louis and wish them all the best on this very special event.

CELEBRATING THE THIRTY-FIFTH ANNIVERSARY OF THE WEST ORANGE FIRST AID SQUAD

HON. BILL PASCRELL, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1998

Mr. PASCRELL. Mr. Speaker, I would like to take this opportunity to highlight a momentous milestone for the West Orange First Aid Squad in West Orange, New Jersey. This July the squad will celebrate its 35th Anniversary in service to the public of West Orange.

In the late 1950s to early 1960s the Department of Civil Defense-Disaster Control (CD–DC) in West Orange began a series of residence training programs which focused on "Home Preparedness," fire safety, home protection, and elementary first aid. These sessions were very well attended. At every town function, the CD–DC would have the local boy Scout troop set up a first aid tent to care for minor injuries. For serious injuries, the fire department had an ambulance located at Fire Station #4 on Pleasant Valley Way. The personnel were not properly trained, and the equipment was lacking, but they did the best they could with what was available.

At this time, at a monthly CD–DC meeting a police auxiliary officer proposed creating a first aid unit. Information was gathered from the NJ Safety Council, and various township officials were contacted, resulting in the decisions that an emergency first aid unit should be created. After some debate, it was decided that it would be a separate volunteer organization. Volunteers were sought and a training program was started. Commissioner Edward Roos decided that the volunteers would be able to use the ambulance at station #4 if they passed their training.

The early 1960s saw all of the volunteers passing the first aid course. They were given a uniform of white coveralls with a special insignia. When it was realized that women too were taking the course, and a decision was reached that the squad would be an all-male operation, the women created an auxiliary called the Gold Cross which was responsible for raising money for the squad.

In 1963, the squad was officially recognized by the township as a separate volunteer medical unit and was granted a charter for "Primary Medical Emergency Medical Service." In the 1970s the number of volunteers grew and the squad was moved to a larger location at 25 Mount Pleasant Place, where it is still located today.

Today, the West Orange First Aid Squad continues to provide free emergency medical care to the Township of West Orange. It is one of the few squads in New Jersey to offer an in-house, 24-hour volunteer crew. Its volunteers go through an extensive training program, and work with the fire department in life threatening emergencies.

Mr. Speaker, I ask that you join me, our colleagues, and the Township of West Orange, as we congratulate the West Orange First Aid Squad on its 35th anniversary and wish it the best of luck in providing service to its community in the years to come.

U.S. SANCTIONS POLICY

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1998

Mr. HAMILTON. Mr. Speaker, I would like to bring to the attention of my colleagues an important op-ed article on U.S. foreign policy sanctions, published in the June 19 edition of The Wall Street Journal. The article was written by Richard Haas of the Brookings Institution, who was a senior National Security

Council official in the Bush Administration. Mr. Haas argues that unilateral sanctions are ineffective and costly, and he offers wise policy guidelines for future sanctions. The article follows:

SANCTIONS ALMOST NEVER WORK

Economic sanctions have never been more popular than they are now. Congress imposes them; the executive branch implements them; even state and municipal governments want to get into the act. More than 75 countries with over two-thirds of the world's population are subject to U.S. economic sanctions—whether aimed at discouraging weapons proliferation, bolstering human rights, deterring terrorism, thwarting drug trafficking, discouraging armed aggression, promoting market access, protecting the environment or replacing governments.

Sanctions are occasionally effective; they probably hastened the end of South African apartheid and constrained Saddam Hussein after the Gulf War. But the record strongly suggests that sanctions often fail or make things worse. Sanctions alone are unlikely to achieve foreign-policy objectives if the goals are ambitious or time is short.

Unilateral sanctions almost never work. Secondary sanctions—trying to compel others to join a sanctions effort by threatening sanctions against them—can seriously harm relationships with the secondary states. Sanctions have caused humanitarian suffering (Haiti), weakened friendly governments (Bosnia), bolstered tyrants (Cuba) and left countries with little choice but to develop nuclear weapons (Pakistan). From a domestic perspective they are expensive, costing U.S. businesses billions of dollars a year and many thousands of workers their jobs.

USE SPARINGLY

For these reasons the U.S. should use the weapons of sanctions sparingly if at all. Here are some principles policy makers and Congress should follow:

Avoid unilateral sanctions. The evidence is overwhelming that unilateral sanctions achieve little. Target countries can almost always find alternative sources of goods, capital and technology. For this reason, Washington should rethink its efforts against Cuba and should hold off on going it alone against Nigeria.

Resist resorting to secondary sanctions. It is an admission of diplomatic failure to punish friendly nations that don't comply with a sanction against a foe. It is also an expensive response. The costs to U.S. foreign policy, including relations with major trading partners and the World Trade Organization, almost always outweigh the potential benefits of coercing friends. This is the lesson of U.S. secondary sanctions imposed against Europe and Canada over their refusal to support broad U.S. sanctions against Cuba, Iran and Libya.

Tailor sanctions narrowly. A focused response helps avoid jeopardizing other interests and an entire bilateral relationship over one area of disagreement. Such a response also does less harm to innocent people and makes it easier to garner multinational support. Sanctions designed to stem the proliferation of weapons of mass destruction are a prime example. Where there are transgressions, the U.S. should direct any sanction against the foreign firms involved. If the government is to blame, Washington should cut off technological cooperation or trade in the relevant technologies. Political sanctions should be used sparingly if at all. U.S. officials should resist the temptation to break diplomatic relations or cancel high-level meetings. Such interactions provide opportunities for U.S. officials to make their case. All of this argues for narrowing the scope of sanctions against India and Pakistan—and not canceling this fall's planned presidential visit.

Don't hold major bilateral relationships hostage to a single issue. This is especially the case with a country like China, with which the U.S. has to balance interests that include maintaining stability on the Korean Peninsula, discouraging any support for weapons of mass destruction or missile programs of rogue states, managing the Taiwan-China situation, and promoting trade, market reform and human rights. A nearly identical argument could be made about applying broad sanctions against Russia because of its transgressions in the realm of missile exports.

Include humanitarian exceptions in any comprehensive sanctions. Innocents should not be made to suffer any more than is absolutely necessary. Including an exception that allows a target nation to import food and medicine should also make it easier to win domestic and international support. A humanitarian exception was made for Iraq—and one should be made for Cuba.

Issue a policy statement to Congress before or soon after a sanction is put in place. Such statements should be clear as to the purpose of the sanction; the required legal and political authority; the expected impact on the target, including its possible retaliation; the probable humanitarian consequences and steps to minimize them; the expected costs to the U.S.; the prospects for enforcing the sanction; and the anticipated degree of international support or opposition. In addition, policy makers should explain why a particular sanction, as opposed to other policy tools, was selected. Once sanctions are in place, policy makers should prepare a similar report to Congress every year. The proposed Sanctions Reform Act, sponsored by Sen. Richard Lugar (R., Ind.) and Reps. Lee Hamilton (D., Ind.) and Phil Crane (R., Ill.) takes many of these steps.

Include an exit strategy in every sanction plan. The criteria for lifting the sanction should be clearly spelled out. Current sanctions often lack this feature: The 1994 legislation that led to sanctions this year against India and Pakistan lacks any road map for how the sanctions might be reduced or lifted.

Allow the president discretion in the form of waivers. This would authorize the president to suspend or terminate a sanction if he judged it was in the interests of national security to do so. Such latitude is needed if international relationships are not to become hostage to one interest and if the executive is to have the flexibility needed to explore whether the introduction of limited incentives can bring about a desired policy goal. Waivers have reduced some of the worst features of legislation that penalizes non-American firms doing business with Cuba, Iran and Libya. And the absence of waivers is likely to haunt U.S. policy toward India and Pakistan, making it more difficult to influence their future decisions involving the deployment or use of nuclear weapons.

Challenge the authority of states and municipalities to institute economic sanctions. The Constitution may not settle the struggle between the executive and legislative branches over the foreign-affairs power—but it clearly limits the struggle to the federal government. Yet states and municipalities are adopting selective purchasing laws that prohibit public agencies from buying goods and services from companies doing business in or with target countries. The Clinton administration should support efforts to stop states and cities from conducting foreign policy, such as a recently filed lawsuit to enjoin Massachusetts from enforcing its law that would effectively ban the state from doing business with companies active in Burma.

REFLEXIVE TENDENCY

All of these proposals have one purpose: to reduce Washington's reflexive tendency to impose sanctions whenever political leaders are not prepared to use military force or carry out more appropriate—but more controversial—policies. Economic sanctions are a serious instrument of foreign policy. They demand consideration as rigorous as that which precedes military intervention. The likely benefits of a particular sanction to U.S. foreign policy should be greater than the anticipated economic and political costs. Moreover, the relationship between how the sanction is likely to affect U.S. interests should compare favorably to the likely consequences of all other policies, including military intervention, covert action, diplomacy, offering incentives (used to manage North Korea's nuclear ambitions) or doing nothing.

U.S. politicians and policy makers often see sanctions as an expressive tool. In fact, they are a form of intervention that can cause great damage to innocent people, as well as to U.S. businesses, workers and foreign-policy interests. In addition, sanctions can reduce U.S. leverage. Elimination of education, training and aid for foreign militaries, mandated by Congress to express displeasure with Pakistan and Indonesia, reduces U.S. influence with a powerful constituency in both those countries.

Foreign policy is not therapy. Its purpose is not to feel good but to do good. America's leaders should keep this in mind whenever they consider the imposition of sanctions.

CENTENNIAL ANNIVERSARY OF GUAM JOINING UNITED STATES FAMILY AND INTRODUCTION OF H. RES. 494 REGARDING THE CENTENNIAL

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1998

Mr. MILLER of California. Mr. Speaker, today I rise to say congratulations and Hafa Adai to our fellow citizens in Guam on marking the centennial of the American flag being raised on the island. In one hundred years Guam and its residents have provided a vital service to our national security and international relations within the Asian-Pacific region. In recognition of the centennial anniversary, Delegate ROBERT UNDERWOOD has introduced H. Res. 494 to bring our attention to the relationship between Guam and the United States and to highlight the work that still remains to be done. I am proud to be an original cosponsor of Mr. UNDERWOOD's legislation.

When the Japanese military temporarily seized control of Guam during World War II, many Guamanians suffered greatly for their loyalty to the United States. Although its residents were not yet American citizens, many hid and protected Americans throughout the occupation and did so at their own peril. The patriotism and bravery shown was unflinching and should never be forgotten by the people of our nation.

Many of Guam's residents wish to change the current relationship with the Federal government. I firmly believe in the right of Guamanians to determine for themselves what is best for their future welfare. If the people of Guam believe that is best achieved through a change of status and becoming fully self-governing, then I will assist in that endeavor. In addition, we have had a hearing on Guam's Commonwealth legislation this Congress and we need to continue to work on that proposal.

Many activities continue to be held here in Washington and across Guam to mark the centennial anniversary. Some are light and joyous while others are more somber and reflectful—but while the festivities continue in Hagatna and throughout Guam—let us be mindful of the past but with an eye towards the future.

Mr. Speaker, I call on you to schedule Congressman UNDERWOOD's legislation, H. Res. 494 for consideration by the House of Representatives before the August recess so the people of Guam know that this Congress is respectful of the unique history we have with them and the commitment to their future.

INTRODUCING A BILL TO ESTABLISH THE TUSKEGEE AIRMEN NATIONAL HISTORIC SITE

HON. BOB RILEY

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1998

Mr. RILEY. Mr. Speaker, despite a widespread belief that they did not have the ability as black aviators to be effective war fighters, the famed Tuskegee Airmen of World War II proved that they were among the best pilots in the European Theater.

Affectionately known by the bomber crews they protected as the "Red Tails" (for the red paint on the tails of their fighters), the pilots of Tuskegee did not lose one bomber in their care to enemy fighters. As a result of their heroic service, the Tuskegee Airmen were one of America's most highly decorated fighter groups of World War II.

But the contributions of the Tuskegee Airmen did not end with the war. Because of their demonstrated ability as an effective fighting force and their individual heroism, the Tuskegee Airmen gave President Harry S. Truman the proof he needed to justify his decision in 1948 to desegregate the U.S. military. Finally, the Airmen's success served as an inspiration for the civil rights movement in following decades.

Mr. Speaker, today, I, along with my colleague, Congressman EARL HILLIARD, will introduce legislation in the House of Representatives that will designate the Tuskegee Airmen National Historic Site at Moton Field, Alabama, as a unit of the National Park Service. Ultimately, this legislation will allow the Park Service to tell the American people the complete story of the brave men at Tuskegee who overcame racism and intolerance in their own nation so that they could fight racism and intolerance in Europe.

Mr. Speaker, we should neither discount nor forget the impact of the Tuskegee Airmen on the "American Experience." The Tuskegee Airmen, in my view, should be immortalized, honored and thanked for their courageous and selfless efforts to preserve and protect the freedom that every American enjoys. We can do that by passing this measure.

TRIBUTE TO JASON BELL

HON. BOB BARR

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1998

Mr. BARR of Georgia. Mr. Speaker, oftentimes, we read in the newspapers or hear on television, all the problems faced by our youth in today's society. I want to share with you the story of a young man who overcame adversities, set goals for himself, and achieved those goals: Jason Bell.

Jason Bell has resided in Rockmart, Georgia his entire life. I first met Jason when he entered the Seventh District Congressional Art Competition in 1997. He wasn't awarded first place that year but he didn't quit. This Spring, Jason was the winner of the Congressional Art Competition for the Seventh District of Georgia.

Jason's art teacher, Mrs. Christine Parker, teaches at both the elementary, middle, and the high school levels in Rockmart. She watched as Jason developed an interest in painting and pottery while in middle school. His skills continued to improve. Mr. Terry Lindsey, an executive with Engineered Fabrics, a prominent company headquartered in Rockmart, befriended Jason, through a Mentor Program, and watched with pride as Jason continued to achieve excellence in his studies and in his artworks.

During his four years of high school, Jason received numerous honors which included Governor's Honors, Boys State Award, Who's Who Among American High School Students, Beta Club, and others. After graduation this summer, Jason received The Shorter College Presidential Scholarship, which will pay all expenses for a four-year degree. Other academic scholarships awarded to Jason were the Rome Elk Club Scholarship, Rockmart Rotary Club Scholarship, the Temple Inland Foundation Scholarship, and an additional academic scholarship from Shorter College as a result of his being selected the winner in the Congressional Art Competition.

Jason will attend Shorter College in Rome, beginning this fall, to study chemical engineering. His family, teachers, friends, his community, and his Congressman, are very proud of Jason Bell, and are fully confident he will not only succeed at achieving his goals, but will far exceed them.

HONORING COLONEL RANDY HAGLUND

HON. NICK SMITH

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1998

Mr. SMITH of Michigan. Mr. Speaker, I rise today to join friends and family in honoring the distinguished service of Colonel Randall R. Haglund, commander of the Defense Logistics Information Service (DLIS) in Battle Creek, Michigan. Since 1995, Colonel Haglund has directed DLIS to help ensure our nation's military readiness. I am honored to wish him well on his retirement.

Throughout his tenure as commander, Randy Haglund distinguished himself as a superior leader who successfully guided DLIS through some difficult times. I know that I valued his knowledge and advice as I promoted the work of this facility in Congress. Due in no small part to his efforts, DLIS not only remained in Battle Creek, but was expanded and modernized.

Among his many achievements was his leadership role in the integration of the Central Contractor Registry (CCR) with existing systems. This innovation will provide better and more accurate information to military operations worldwide. Randy also was able to reengineer several major processes by incorporating new programs such as the Logistics Information Network (LINK) and the Electronic Catalog (E-Cat). I'm no expert on these programs, but I know very well that Randy's efforts proved once again the important role DLIS plays in our nation's defense.

In addition to his other duties, the Under Secretary of Defense asked Colonel Haglund to lead an independent review of the DoD Cataloging Centralization and Consolidation program, a major reengineering effort. Through his leadership, the team successfully completed the initial centralization and consolidation plan.

Colonel Haglund's greatest legacy surely is the improved efficiency of the Defense Logistics Information Service and Department of Defense. His hard work saves the taxpayers nearly $150 million a year. This is an accomplishment that we can all appreciate.

Randy has received many military honors, including the Meritorious Service award with gold star, the Navy Commendation, the National Defense Medal and the Defense Superior Service Medal. As a veteran, I have great respect for those who have earned a leadership role in our armed forces and I value very highly the contributions people such as Randall Haglund have made to safeguard our nation in an unpredictable world.

Time and time again Colonel Haglund has proven to be an exceptional man and leader. For these reasons, Bonnie and I wish the Colonel, his wife, Barbara, and their three sons the very best in all of their future endeavors. We in Battle Creek shall miss him.

CONGRATULATING MICHAEL LIN AS GUAM'S SMALL BUSINESS PERSON OF THE YEAR

HON. ROBERT A. UNDERWOOD

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1998

Mr. UNDERWOOD. Mr. Speaker, the Guam Chamber of Commerce annually selects the "Small Business Person of the Year" from a pool of individuals or business partners owning and operating or bear principal responsibility for small business establishments on Guam. The chamber takes into account staying power, sales growth, growth in payroll, innovativeness in product or service, response to adversity, and civic contributions. This year the honor was bestowed upon Michael Shih Lin, the president of Hornet International Inc.

In 1973, Michael Lin was on a business trip to Brazil as a Chemical Engineer and Manager for Taiwan Cyanamid Company, a subsidiary of its American counterpart. On his way back, his flight stopped over on Guam and upon recognizing the potential, he returned in 1973 and opened a retail store selling bicycles and skateboards.

Through the years, this business, now known as Hornet International, Inc., has grown steadily. The company's decision to expand from a skateboard and bicycle store to a full sporting goods store is a clear turning point. Starting with only one employee in 1974, Hornet, at one time, employed thirty-nine full-time employees at four locations.

Over the last two decades Michael's company has survived major typhoons, a disastrous fire, and intense competition from off-island retailers. In the face of adversity, Hornet has taken steps to expand its sales base. Since 1997, the company has imported bicycle parts from China and Taiwan for resale to retailers and importers. Their goal of importing bicycle parts and assembling them for resale in the United States is coming to fruition with the establishment of the company's California operations. Hornet's success is undoubtedly due to Michael's business acumen and innovations.

Taking time out of his business ventures, Michael also devotes his personal time and resources to civic activities. He has served on the board of the American Red Cross, Guam Chapter. During his tenure as president, the Rotary Club of Northern Guam was named the "Most Outstanding Club in District 2750". He was instrumental in the establishment of the Rotary Club of Guam Sunrise in 1997 and he currently serves as Vice Chairman for the Friendship Committee for District 2750 which includes Rotary Clubs from Japan. Michael was also the chapter president of the Chinese Merchants Association during its inception in 1993 and served through Chinese New Year of 1997. In addition, Michael also serves as a member of the Governor's Council of Economic Advisors, as a Board Member of the Guam Chamber of Commerce, the University of Guam Pacific Islands Small Business Development Center Network, and the Navy League of the U.S. Guam Council.

For over two decades, Guam's small business community has benefited from Michael Lin's efforts and dedication. I join the Guam Chamber of Commerce and the people of Guam in celebrating Michael's contributions and success and congratulate him for being chosen as "1998's Small Business Person of the Year."

CONGRESS SHOULD NOT INTERFERE WITH THE CLOSE RELATIONSHIP BETWEEN THE PRESIDENT AND THE SECRET SERVICE

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1998

Mr. CONYERS. Mr. Speaker, I am told that the Majority Whip, Mr. DELAY, will soon offer an extraordinary and unprecedented amendment to the Treasury-Postal appropriations bill which seeks to involve Congress in pending litigation between the Secret Service and the Independent Counsel, Kenneth Starr.

That litigation, which is before the federal appeals court in the District of Columbia, concerns whether Secret Service agents can be required to testify about private activities of the President. Under this Republican amendment, Congress would direct the Attorney General to withdraw the Secret Service's appeal from an order that affects them, and every future President, profoundly.

What the gentleman from Texas and the Republican leadership want is for Congress to weigh in on an important and difficult legal issue and give free and unsolicited legal advice to the Attorney General. The amendment is bad policy and, I am quite sure, unprecedented. Never, in my memory, has the Congress tried to involve itself in such sensitive litigation, and certainly not in the context of an Independent Counsel's investigation of the President.

Former President George Bush, in a recent letter to Secret Service Director Lewis Merletti, wrote, based on his experience, that he hoped that Secret Service agents "will be exempted from testifying before the Grand Jury." President Bush went on to say that "[w]hat's at stake here is the protection of the life of the President and his family, and the confidence and trust that a President must have" in the Secret Service. Even the three-judge panel of the D.C. Circuit Court of Appeals that originally heard the case itself said that "ensuring the physical safety of the President is a public good of the utmost importance."

Just this past Sunday, the Chairman of the Senate Judiciary Committee, Mr. ORRIN HATCH, said that his committee would hold hearings to consider legislation in this area, a proposal that I think is quite reasonable. But until Congress considers this complex area, I don't believe that we have any business trying to dictate to the Attorney General what position she should take in this litigation.

The Secret Service has a unique relationship with every President of the United States. Secret Service agents necessarily are within earshot of every confidential communication that a President has. Are we ready to require these agents to repeat everything that they overhear the President or the head of a foreign country say? The gentleman's amendment threatens the open and close relationship between the Secret Service and the President, a relationship that must provide the President with maximum security and protection.

As a matter of principle, the Secret Service has independently decided that the issue is important enough to seek rehearing before the entire District of Columbia Circuit Court of Appeals. Given the Secret Service's strongly held views, isn't it a bit presumptuous of us to consider the invitation of the gentleman from Texas to take a position on this issue?

TRIBUTE TO DANIEL L. LAVER

HON. RANDY "DUKE" CUNNINGHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1998

Mr. CUNNINGHAM. Mr. Speaker, I rise today to pay tribute to Daniel L. Laver, a long time resident of San Diego, who has recently retired as Director of the San Diego County Area Agency on Aging. Mr. Laver leaves behind an agency that has become the leader in services to the elderly and disabled populations in our county. For almost forty years, Mr. Laver gave his all to the County of San Diego and its citizens, often times putting his life on hold to meet the challenges and break the roadblocks that prevented the agency from providing the highest quality services. Several services and products developed under Mr. Laver's leadership have been deemed "Best in Class" at the local, state and national levels. Dan's motto has been: "If it's good for seniors—do it! If it's not—don't."

Dan is known for his tenacity in enhancing options for elderly and disabled people to remain living independently in their own homes and communities and for his creativity in program development and management. Highlights of his remarkable career include: building and renovating 18 senior centers throughout the county under the Senior Center Bond Act of 1984; creating "Meals on the Move" which delivers hot, nutritious meals to the homebound elderly on holidays, weekends and on an emergency basis; expanding the county's case management program to embrace younger persons with disabilities, as well as the elderly; establishing "Links-to-Life," which provides emergency medical identification bracelets for low-income seniors; and helping to establish "Christmas in April," which rehabilitates the houses of low-income elderly and disabled homeowners.

Mr. Laver is currently President of the National Association of Area Agencies (N4A) on Aging and leads them in their nationwide advocacy. In that capacity, he testified on the Older Americans Act before the Subcommittee on Early Childhood, Youth and Families, which I chaired at that time. In 1988, he was given N4's highest honor, the Distinguished Director Award. He also led the California Association of Area Agencies on Aging as its President from 1986 to 1987.

I commend Dan Laver for making a significant impact on the lives of elderly and disabled people in San Diego County and throughout the nation.

PERSONAL EXPLANATION

HON. CHRISTOPHER SHAYS

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1998

Mr. SHAYS. Mr. Speaker, on June 22, 1998, I mistakenly cast a "yea" vote on rollcall vote 256 on H. Con. Res. 452, expressing the sense of the House that the Board of Governors of the United States Postal Service (USPS) should reject the recommended postage rate increase. Please let it reflect in the record that I intended a "nay" vote.

The USPS faces enormous challenges, primarily maintaining universal mail service at an affordable price across our entire nation. The USPS needs to be more efficient and to improve local service in some areas, including parts of Connecticut's Fourth Congressional District. But I do not believe the increase is unreasonable.

Congress pushed for the Postal Service to be run like a private business and, therefore, should not interfere now in the decisions its board makes. The increase in the price of a first-class stamp, to 33 cents, is less than one-third the rate of inflation over the more than three years the 32-cent rate has been in effect.

COMMENDING THE TOWN OF CHESHIRE, CONNECTICUT

HON. JAMES H. MALONEY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1998

Mr. MALONEY of Connecticut. Mr. Speaker, during this past Fourth of July district work period, most of us participated in a variety of events in our congressional districts across the nation that underscored the patriotism that we all hold for our country. These events reminded us all of our heritage and the privilege of living in the greatest nation in the world.

Such a reminder should be noted not only on one day a year, but day-in and day-out. Accordingly, the people of the Town of Cheshire in my congressional district have recently taken steps to make patriotic pride a mainstay of every day life in their community. This past April 25th, the Town dedicated the Medal of Honor Plaza and a "Living Classroom of Historic Trees" to honor the Town's two Congressional Medal of Honor recipients, as well as other veterans with roots in Cheshire.

Captain Eri Woodbury, who fought with the Vermont Cavalry during the Civil War was the Town's first recipient in 1864. He was followed in 1965 by Vietnam War veteran Col. Harvey C. Barnum, USMC (Ret.). Only 3,500 individuals have received the Congressional Medal of Honor since its inception in 1862. Given the town's relatively small population of about 26,000, two Medal of Honor recipients is a highly notable distinction.

Near the center of the Town there now stands a black granite monument commemorating Captain Woodbury and Col. Barnum. The memorial is centered on a star shaped Plaza paved with bricks, each one bearing the name of one of over 400 other veterans with ties to Cheshire.

The "Living Classroom of Historic Trees" are seedlings taken from historic trees from around the country: Valley Forge, the Gettysburg battlefield where President Lincoln delivered his Gettysburg Address, the site of George Washington's Delaware River crossing, Mt. Vernon, Nathan Hale's home in Connecticut, as well as the Charter Oak, the famous Connecticut state tree. These historic trees represent not only great events, but people who made significant contributions to the history of our country.

Mr. Speaker, the Plaza and the Historic Trees are visible reminders of the fact that freedom is not free, but, indeed, comes only at great price. The Town of Cheshire is a proud community, proud of its heritage and that of our nation. The Cheshire Plaza signifies that pride, and the Town and its residents are to be commended for it.

INTRODUCTION OF THE MEDICARE+CHOICE COLD-CALLING PROHIBITION ACT

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1998

Mr. STARK. Mr. Speaker, I rise today with a number of my colleagues to introduce "The Medicare+Choice Cold-Calling Prohibition Act." This bill would prohibit unsolicited telemarketing sales of new Medicare+Choice health plans to Medicare beneficiaries.

Under the new Medicare+Choice program developed in the Balanced Budget Act of 1997 (BBA), Medicare beneficiaries will no longer have only a choice of traditional Medicare or HMOs. Seniors will now get to choose among an alphabet soup of additional options such as PPOs, PSOs, POSs, Private FFS, and MSAs. All of this would undoubtedly lead to real confusion.

Adding to that confusion will be the fact that many more private health insurance programs will be competing to capture large segments of the Medicare population.

The Balanced Budget Act of 1997 recognized the power of these insurance advertising budgets to sway seniors into decisions that may not be in their best interest. The law requires that marketing materials be submitted to the Health Care Financing Administration (HCFA) for review and that fair marketing standards be followed that prohibit cash or monetary rebates as an inducement to enroll.

HCFA's proposed regulation for implementing the BBA go even further. They prohibit insurance companies from marketing their products door-to-door, forbid misleading activities in marketing practices (such as intimating that the government endorsed their plan), and the plans must market to the disabled population as well as seniors. While all of these protections are good, they don't go far enough.

In addition to adding new managed care options to the Medicare program, the BBA greatly enhanced the ability of states to enroll their Medicaid populations in managed care. The marketing protections for Medicaid enrollees actually go further than those for Medicare beneficiaries. The BBA ensures that managed care plans "shall not, directly, or indirectly conduct door-to-door, telephonic, or other 'cold-call' marketing of enrollment under this title." So, our Medicaid population is protected from becoming prey to telemarketers whose paychecks depend directly upon the number of healthy risks that they sign up for the plan.

Unfortunately, our nation's Medicare beneficiaries are not protected from telemarketers. And, we know the senior population is especially vulnerable to a well-honed health insurance sales pitch. Many of you will recall the evidence we uncovered in the late 1980's that pushed us to enact standardized Medigap policies and to prohibit the sale of duplicative policies. We found seniors who were literally paying for a dozen Medigap plans—most of which covered the exact same benefits! And, a dozen policies for one individual wasn't even the most egregious of the examples.

That's why we rise today to introduce the Medicare+Choice Cold-Calling Prohibition Act". This bill does exactly what its title indicates—it would protect our seniors from being inundated with unwanted sales pitches. It provides the same protections granted to our Medicaid recipients to Medicare beneficiaries.

The BBA Medicare changes are significant—the most significant changes made to the program since its inception in 1965. It is important that Medicare beneficiaries learn as much as possible about these changes and make sure that the choices they make are in their best interest. The unfortunate reality is that we know from past practices that telemarketers will not be looking out for seniors' best interests. They will be looking out for making the biggest commissions possible. That's why passage of the Medicare+Choice Cold-Calling Prohibition Act is so important.

BOY SCOUTS OF AMERICA HONORS HIAWATHA COUNCIL FOR SUPPORT PROGRAM

HON. JAMES T. WALSH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1998

Mr. WALSH. Mr. Speaker, I rise today to publicly commend members of my Central New York community who have achieved great stature for the Hiawatha Council of the Boy Scouts of America.

By instituting the Boypower Program and endowment facility, these outstanding individuals have enhanced the future of the Hiawatha Council.

I know these people to be civic leaders beyond compare. For their work in scouting, they were honored recently at the national meeting of the BSA in San Antonio, TX. They are Hiawatha Council Scout Executive Bill Moran, President of the Council John Chambers, Arnie Rubenstein, and George and Barbara Schunck. They and everyone they work with should be proud of this national honor.

Across the Nation, as some of my colleagues will know, endowment giving in the BSA has more than doubled since 1994. The results have been increased staffs, expanded services to at-risk children and support for ordinary operating expenses.

Four years ago, the Hiawatha Council got excited about endowment giving possibilities. They set out to support something they believe in—a community helping its own. The estimated $23.5 million in gifts they handled during the past four years is a tribute to their effort and commitment.

I want to ask my colleagues in the House of Representatives to join me in congratulating the Hiawatha Council and all those who have been involved in this outstanding program.

TRIBUTE TO LISA MENDOSA

HON. GEORGE P. RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1998

Mr. RADANOVICH. Mr. Speaker, I rise today to pay tribute to Lisa Mendosa. Lisa Mendosa, an accomplished woman of the '90s, has added the title of Community Relations Coordinator for Borders Books to her credit. Having worked in numerous fields, Lisa Mendosa is in many respects, considered a renaissance woman.

Lisa Mendosa has had an impressive career, and still has much of her life ahead of her. In 1987, she was named one of America's top 100 women in Communications/Hispanic USA. In the same year she also won an award in the Associated Press television-radio competition. In 1989, she was named one of America's top 100 junior college graduates. In 1995, Lisa Mendosa received an Emmy Award for her coverage of the Lear Jet crash in Fresno. She was one of the first people to be given an Emmy Award for broadcasting.

Lisa Mendosa has also published a number of books on animals and children. She has a great love for animals and has raised two dogs from the age of eight weeks and studied their development for more than 8 years. Lisa Mendosa spent 17 years working in TV news researching, writing, producing and presenting thousands of news stories. At Channel 24, Lisa went from management to being a producer. After winning her Emmy, Lisa was offered a position by Channel 30, which she took. Currently, she is a Community Relations Coordinator for Borders Books. Today, she works harder than ever to establish a close community relationship with the Borders Books staff.

Mr. Speaker, it is with great honor that I pay tribute to Lisa Mendosa. Already being an accomplished woman of the '90's and considered a renaissance woman, Lisa Mendosa continues to be dedicated to her work. Her dedication and exemplary efforts should serve as an inspiration to all. I ask my colleagues to join me in wishing Lisa Mendosa continued success for the future.

KELSEY TEMPLE CHURCH OF GOD IN CHRIST CELEBRATES DIAMOND JUBILEE 1923–1998

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1998

Ms. NORTON. Mr. Speaker, on the occasion of its Diamond Jubilee, I rise to celebrate the Kelsey Temple Church of God In Christ and its founder, Bishop Samuel Kelsey.

Mr. Speaker, The life and history of the late Bishop Samuel Kelsey speak volumes about the church legacy he bequeathed to the citizens of the Nation's Capital. The church officers and members, in the Washington, D.C. Jurisdiction of the Church of God in Christ, take great pride in the combined histories of their great church and its founding father.

Bishop Kelsey was born on April 27, 1898 in Sandersville, GA. He received Christ in May 1915 and relocated to Philadelphia, PA in 1920, Bishop Kelsey officially started the first Church of God In Christ, now known as the Kelsey Temple Church of God In Christ, at 331 C Street, SW. Tent revivals were held nightly. The text of his first sermon, "Follow peace with all men, and holiness, without which no man shall see the Lord" was later adopted as the church's creed.

Prior to the purchase of the present site, services were conducted at several locations, 404 4½ Street, SW, 2030 Georgia Avenue, NW 4th Street, SW, 451 Virginia Ave., SW and 610 H. St., SW.

Bishop Kelsey's message and ministry reached the entire Washington, D.C. area through the airways. He began broadcasting on WWDC AM in 1941, and later on WOOK AM. The broadcasts continued for more than 40 years. Many broad branches were established as a direct result of Bishop Kelsey's work in this city including: St. Paul Miracle Temple Church of God In Christ, New Bethel Church of God In Christ, Friendship Church of God In Christ, Emmanuel Church of God In Christ, Open Door Church of God In Christ, Star of Bethlehem Church of God In Christ, Macedonia Church of God In Christ, Kirkland Memorial Church of God In Christ, Cornerstone Church of God In Christ, Victory Praise Church of God In Christ, Capital Temple Church of God In Christ and Living Word Church of God In Christ.

In his early ministry, Bishop Kelsey stood as a giant against the adversarial forces which resisted the holiness movement taking root in the Nation's Capital. His charismatic persona and great zeal, however, affirmed his prominence in the local, national and international religious communities. Samuel Kelsey engineered and erected bridges which spanned denominational gaps, and elevated his ministry to a pinnacle of religious diversity and camaraderie in this city. He also pioneered media relations and, in 1989, was recognized by the National Religious Broadcasters (NRB) for his excellence in service to the broadcasting community.

Bishop Kelsey's contributions to the city at-large demonstrated the compassion and commitment which characterized his ministry. Under his pastorate, the church acknowledged its debt "to serve those in need" physically as well as spiritually, by burying many of the disenfranchised and by establishing an Outreach Ministry which still exists today. This endeavor demonstrates the essence of servanthood through its clothing, food, and Summer Youth programs. The church also distributes tracts and Bibles, and has a strong Prison Outreach Ministry which serves the D.C. Jail and the Lorton Correctional Institutions.

The church often provided an open forum for the city's political process by offering its pulpit to noteworthy candidates. As an agent in social causes, the church accepted the challenge to continue rendering services during times of civil unrest. In the aftermath of the assassination of the Reverend Dr. Martin Luther King, Jr., this church provided temporary relief and shelter for duty-worn officers and civilians.

In 1953 and 1958, Bishop Samuel Kelsey was awarded both the Doctor of Divinity (DD) and Doctor of Laws (LLD) degrees, respectively, from Trinity Hall College and Seminary in Springfield, Illinois. The esteemed legacy of Samuel Kelsey is a tower to the monumental temple that is the gateway to Park Road and 14th Street, NW. It is the inheritance left by a visionary and humble servant that is deeply rooted in the essence of Pentecostalism, and continues to serve as a beacon to the weary and downtrodden. The current pastor, Elder Fred D. Morris, Sr., the former assistant pastor, has accepted the charge of continuing to spread the good news from this vantage point.

Mr. Speaker, I ask the Members in this hallowed chamber to join me in echoing the theme of the Diamond Jubilee of the Kelsey Temple Church of God In Christ, "Remembering the Past . . . Living the Present . . . Preparing for the Future."

TRIBUTE TO FREDERICK W. SILVERTHORNE

HON. THOMAS M. DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1998

Mr. DAVIS of Virginia. Mr. Speaker, I rise today to recognize the outstanding achievements of Mr. Frederick W. Silverthorne on his 80th birthday. I ask my colleagues to join me in sending warm wishes to Mr. Silverthorne on this special day.

Mr. Silverthorne has served his country both in the Armed Services and as an elected official. After he graduated from the University of Illinois, Mr. Silverthorne served twenty-seven years in the U.S. Navy where he earned several medals and commendations for his bravery, including the Distinguished Flying Cross. He retired from active duty after attaining the rank of Captain. His position as a naval aviator on the aircraft carrier *Coral Sea* allowed him to fly multiple types of aircraft. Mr. Silverthorne's bravery and valor are demonstrated by his experiences while fighting in World War II, the Korean War, and the Vietnam War. He retired from the Navy in 1968 and joined the National Security Industrial Association (NSIA) where he specialized in antisubmarine warfare for twenty years.

Mr. Silverthorne moved to the City of Fairfax in 1962. In the 1970's, he served on the City's Planning Commission and Parks and Recreation Board. He generously volunteered his time and guided the city at a time when it was experiencing rapid growth as a suburb of Metro Washington. He also served as a member of the Board and President of the Old Lee Hills Civic Association over the past thirty years and is still currently active in the organization. He helped put Old Lee Hills on the map as a politically active community. Mr. Silverthorne was elected to the Fairfax City Council in 1974 and was then elected Mayor of Fairfax in 1978 and re-elected in 1980. He took this position at a time when Fairfax City was feuding with Fairfax County over the city's independence. He was elected on a platform of preserving ties with Fairfax County including its school systems. The 1978 Mayoral election had the largest municipal turnout in City history with well over 4,000 people voting.

Mr. Silverthorne retired from the NSIA in 1988 after a long and distinguished career. Retirement has not slowed Mr. Silverthorne down, he remains active in all facets of his community. As a former champion diver, he gives diving lessons at the Country Club Hills Pool which he has been doing for 20 years. He is an avid golfer, playing any and every day the temperature is over 40 degrees. Mr. Silverthorne is also embracing the technology age by taking computer classes.

Mr. Silverthorne married the former Bette Brackett in 1943. They had four children: Craig, Janet, Nancy, and Scott. Scott has moved on to follow in his father's footsteps by serving as a five term member of the Fairfax City Council.

Mr. Speaker, distinguished colleagues, please join me in honoring the birthday of Frederick W. Silverthorne. As Mayor John Mason stated, "Frederick Silverthorne has made an enormous contribution to the Fairfax community not only as mayor or but as an outstanding civic leader." His 80 years have showed us what being a devoted and loyal American truly means.

TRANSATLANTIC EDUCATION AGENDA

HON. HENRY HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1998

Mr. HYDE. Mr. Speaker, one of our nation's great experts on education, Dr. D.L. Cuddy has written a valuable article on current legislative initiatives that we all can profit from reading. I herewith share it with my colleagues.

THE NEW TRANSATLANTIC

(By D.L. Cuddy, Ph.D.)

In the U.S. Congress, Rep. Henry Hyde has been warning people about school-to-work (STW) education initiatives, and Senator John Ashcroft has amended the Workforce Investment Partnership Act now being discussed to prohibit its funding of STW. At the state level, N.C. Rep. Don Davis is chairing a House Select Committee for Federal Education Grants, which has been investigating STW grants among others, and invited Richmond Times-Dispatch op-ed editor Robert Holland to address the Select Committee on this subject.

While the implications of STW at the state and national levels have been widely debated, not much has been written about the international connections. On May 18, the White House released a statement at the conclusion of the U.S.-European Summit in London, indicating that "through the New Transatlantic Agenda (NTA), created in 1995, the United States and the European Union have focused on addressing the challenges and opportunities of global integration."

One part of this "global integration" in 1995 was the agreement between the U.S. and the European Community establishing a cooperation program in higher education and vocational education and training. The agreement, signed December 21 of that year, called for "improving the quality of human resource development . . . Transatlantic student mobility, . . . and thus portability of academic credits." In this regard, a Joint Committee would reach decisions by consensus.

As part of the NTA, the U.S. and European Union then convened a major conference, "Bringing the Atlantic: People-to-People Links," on May 5-6, 1997 calling for "thematic networks for curriculum development," and further stating that in an information-based global economy, "governments too are obliged to adapt their economic, training and social welfare programs." The conference final report noted that in the U.S., ACHIEVE has been one of the organizations at the forefront of defining key issues in this regard and developing strategies to address them. ACHIEVE has been measuring and reporting each state's annual progress in establishing internationally competitive standards, and business leaders involved have indicated their commitment to consider the quality of each state's standards when making business location or expansion decisions.

The "Partners in a Global Economy Working Group" of the conference discussed "what redesigning of curricula is required . . . (i.e. what career skills are needed), . . . portability of ski'l certificates, . . . and institutionalizing cross-national learning/training activities."

Most people debating STW in the U.S. are familiar with the role of Marc Tucker, president of the National Center on Education and the Economy. He's also on the National Skill Standards Board (NSSB), and on its website under international links, one finds "Smartcards Project Forum," under which one reads: "The Tavistock Institute and the European Commission are working on a feasibility study to research the affect of using Smart Cards in competence accreditation. The study will be carried out in the USA and parts of Europe." The project involves assessing and validating students' skills, with information placed on personal skills Smartcards, which "become real passports to employment."

If without a passport one cannot enter a country, does this mean that without a skills passport one may not be able to get a job in the future?

In October 1997, the Tavistock Institute (and Manchester University) completed the final report for the European Commission, and described in a report summary were the relevancy of Goals 2000, SCANS (U.S. Department of Labor "Secretary's Commission on Achieving Necessary Skills") typology with its "profound implications for the curriculum and training changes that this will require," valid skills standards and portable credentials "benchmarked to international standards such as those promulgated by the International Standards Organization (ISO)."

The report summary went on to say that "there is increasing attention being focused on developing global skill standards and accreditation agreements," and there will be "partnerships between government, industry, and representatives of worker organizations . . . (and) a high degree of integration . . . embedding skills within the broader context of economic and social activity, and specifically within the areas of secondary education, work-based learning and local and regional economic development. . . . The NSSB, Goals 2000, STW Program are all combining to act as a catalyst to promote the formation of partnerships to develop skills standards. In this regard, a system like O*Net can be seen as the 'glue' that holds everything together."

O*Net is a new occupational database system sponsored by the U.S. Department of Labor's Employment and Training Administration, and is being piloted in Texas, South Carolina, California, New York and Minnesota. It includes information such as "Worker Characteristics" (abilities, interests and work styles) and "Worker Requirements" (e.g., basic skills, knowledge and education).

HEROES OF EAST CHICAGO, IN

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1998

Mr. VISCLOSKY. Mr. Speaker, it is my distinct honor and pleasure to commend the following residents of Indiana's First Congressional District for their display of bravery, community service, and altruistic heroism in rescuing over one hundred senior citizens from a fire in the Lake County Nursing and Rehabilitation Center, in East Chicago, Indiana, on June 20, 1998: Foster Battle, Leroy Butts, Dion Cook, Dwayne Cook, Priscilla Cook, Jermaine Cousinard, Betty Gibbs, Johnny Gillis, Darcey Glenn, Mitch Glover, Andrew Gregory, Dwayne Jackson, Anna Rose Jefferson, Jackie Jones, Joey Jones, Johnny Jones, Tyrus Julkes, Bennie Sapp, Louis Sapp, Willie Scott, Alan Simmons, Tim Taylor, Waylane Upshaw, Louis Ward, and Arthur Washington. In recognition of their unselfish efforts, these valiant heroes were honored by the City of East Chicago in a ceremony on July 1st, in Riley Park.

Though five residents of the nursing home were hospitalized, there would have been many more injuries, and even death, if not for the dozens of neighbors, friends, and passers-by who rushed to the scene of the fire. Minutes before the fire trucks and firefighters arrived from the East Chicago Fire Department, the intrepid rescuers were breaking windows with their hands and feet to evacuate the 112 residents from the blazing nursing home. Placing their own lives in danger, these brave humanitarians repeatedly entered the building, evacuated residents, and aided firefighters in caring for the injured until medical help could arrive. If not for their heroic efforts, many more could have been injured, or might have perished, in the fire.

This neighborhood effort shows the importance of community and friendship to the people of Northwest Indiana. Without the teamwork, leadership, and effort shown by these heroes, an unthinkable tragedy might have occurred. Moreover, these dauntless efforts represent the real value, respect, and honor the region shows its senior citizens. This noble rescue shows what a neighborhood can accomplish when working in concert, as well as representing an ideal of every true American community in a crisis.

Mr. Speaker, I ask you and my other distinguished colleagues to join me in commending the brave efforts of these upstanding citizens, as well as the East Chicago Fire Department, for their extraordinarily heroic efforts, last month, which saved the lives of the 112 residents of the Lake County Nursing and Rehabilitation Center.

COMMENDING KIM BEAL

HON. JOHN ELIAS BALDACCI

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1998

Mr. BALDACCI. Mr. Speaker, during the July District Work Period, I had the opportunity to meet an extraordinary young girl from Addison, Maine. Kim Beal, who is now 11 years old, is a true American hero. I am pleased to be able to bring her to the attention of the House.

Kim has faced many challenges in her life. Diagnosed at the age of 4, Kim has battled a rare form of cancer. She has received chemotherapy treatments, has faced surgeries, and has developed a weakened heart, a common side effect of some forms of chemotherapy.

But her positive attitude and will to survive have kept her going, and kept her one step ahead of the cancer. Today, there is no sign of the cancer in Kim.

That is battle enough to qualify Kim for the designation of "hero." But that is not all of Kim's story.

During her recovery from cancer, Kim learned to swim. Doctors recommended swimming as a good sport to help Kim regain strength in her chest where her tumor was removed. Over time, she has become a very strong and confident swimmer.

The past April, her swimming skills were put to the test. As she played by the pool at a hotel in Ellsworth, Maine, 4 year old Morgan Beal (who is the daughter of Kim's 4–H leader and is not related to Kim) jumped into the pool while an adult was distracted. Kim heard the splash, and looked over to see that the girl could not swim. Kim swam to the girl, grabbed hold of her, and swam toward the side of the pool. Although the girl was grasping at Kim and making it difficult for her to swim, Kim managed to get her to the side of the pool where others helped to pull her out.

It is no understatement to say that Kim's actions that day were heroic. She put her own safety at risk to help a small child who was drowning. Were it not for Kim's actions, the day could have been tragic.

While in my District, I was pleased to have the opportunity to present Kim Beal with the Role Model of the Year Award at the Maine 4–H Teen Conference. Kim truly is a role model for all her peers, and I'm glad she is getting the recognition she so clearly deserves.

TRIBUTE TO BILL OBAN

HON. EARL POMEROY

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1998

Mr. POMEROY. Mr. Speaker, today, North Dakotans said goodbye to a great friend and one of the most compassionate leaders the State has ever seen. State Representative Bill Oban passed away last week and I would like to take this opportunity to pay him tribute.

As a leader in the State legislature over the past 14 years, Bill worked tirelessly on behalf of those who needed the most help. His energy seemed endless during tough battles over compensation for injured workers and education for students with special needs. Bill represented the best part of the Democratic Party—he was, as one good friend described him, the party's conscience—giving a voice to so many people without one. During a time when our country is long on political rhetoric and in short supply of people with vision working on behalf of others, Bill stood tall as a true champion.

You see, Bill was less interested in taking credit than he was in making a difference. And with that attitude, what a difference he did make! Sadly, he leaves behind a wonderful family that is just beginning to deal with their great loss. His wife Alice and his children Heather, Shawn and Chad are in my thoughts and prayers during this terribly difficult time.

North Dakotans not only lost a smart, caring legislator—they lost a good friend in Bill Oban. The newspaper from the State's largest city, The Forum, joined with the rest of the State in mourning the huge loss, calling Bill a family man first, an educator second, a lawmaker third. Knowing Bill, I am sure that is exactly how he would have liked people to remember him.

BILL OBAN WILL BE MISSED

North Dakotans didn't have to agree with state Rep. Bill Oban in order to respect his commitment to the people of his state. When the Bismarck Democrat died Friday from injuries suffered in an automobile crash a few days before, the state lost a compassionate and intelligent legislator.

Oban, 51, earned the respect of his colleagues because of his dedication to his ideals. His passion, which sometimes rose to indignant anger, made for lively committee meetings and floor debates in the state House of Representatives.

Even his political foes enjoyed Oban's style because they understood his determination to make North Dakota a better place for all. As a member of the minority, he often lost the issue, but never lost his sense of humor.

Oban grew up in New Rockford, lived in Grafton, and eventually settled his family in Bismarck. He had a good grasp of the different needs of rural and urban counties.

He was a family man first, an educator second, a lawmaker third. That combination served him well as an advocate for youth, families and people in need.

One of Oban's colleagues described him as "the conscience" of his political party. We would extend that characterization. His record suggests he was the conscience of the Legislature, often reminding the House of its responsibility to all North Dakotans, no matter their social or economic status.

North Dakotans say goodbye to Oban today. We join with his family, friends, and colleagues in mourning his death. He will be missed.

PERSONAL EXPLANATION

HON. KENNY C. HULSHOF

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1998

Mr. HULSHOF. Mr. Speaker, due to business in my Congressional District, I was not present for roll call votes 267 through 274. Had I been present, I would have voted yea on roll call 267, no on roll call 268, yea on roll call 269, aye on roll call 270, nay on roll call 271, nay on roll call 272, nay on roll call 273 and aye on roll call 274.

CONGRATULATIONS TO BOB HOULDING SR.

HON. GEORGE P. RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1998

Mr. RADANOVICH. Mr. Speaker, I rise today to congratulate Bob Houlding Sr., for being recognized as the recipient of the 1998 Senior Farmer of the year award. Mr. Houlding has been providing dedicated services to the agricultural community for Madera County since the 1920's and is very deserving of this honor.

Mr. Houlding family's connection to Madera goes back to the 1800's. Bob Houlding Sr. is the son of William and Ludema Houlding. William Houlding came with his family from Nebraska to Madera in 1891. Bob Houlding Sr.'s brothers are Frank, Bill and Vigil, and his sister Ludema (Houlding) Weis.

Mr. Houlding started school in 1922 at Howard School, the year it was built, and graduated from Madera High School in 1934. In 1939, Bob Sr. joined the Air Force to serve his country, staying in until 1946. He initially signed up for a 3-year hitch, but just as his first tour was nearing its end, World War II broke out and he continued to serve. In the Air Force he worked as an engineer, repairing B–24s and B–29s in the 21st Bomb Squadron and serving in places such as New Orleans, La.; Riverside Ca.; Kansas; and the Aleutian Islands.

In 1942 he married Mildred Sonier. After marrying, the couple raised three sons, Bob Jr., Jerry and Mike. Mr. Houlding continued to farm once he returned to Madera, growing cotton, alfalfa, wheat and potatoes. As the years passed, Bob Houlding Sr. got his sons involved, and now together they own 3,500 acres in Madera and on the west side of the

San Joaquin Valley. His grandchildren and their spouses are also involved in the farming. All of the grandchildren are graduates, current students, or have aspirations of attending Cal Poly, San Luis Obispo.

Mr. Houlding began by farming row crops, but since 1976, has moved into growing tomatoes, cotton, wheat and almonds on the west side of Madera and Fresno County. Mr. Houlding's action plan for farming has always been to diversify the kinds of crops he grows and to use modern farming techniques as micro-sprinklers. Mr. Houlding has been a great proponent of reduced pesticide usage through the introduction of predator insects and water conservation through the installation of drip and sprinkler irrigation systems.

Mr. Houlding has always been supportive to his community and youth in agriculture. He was a member of the board of directors of the Golden State Gin, a member of the Trade Club, and a charter member of the Reel and Gun Club.

Mr. Speaker, it is with great honor that I congratulate Bob Houlding Sr. for receiving the Senior Farmer 1998 Award for Madera County. I applaud Mr. Houlding's dedicated services and leadership to the agricultural community. I ask my colleagues to join me in wishing Mr. Houlding many more years of success.

PERSONAL EXPLANATION

HON. JUANITA MILLENDER-McDONALD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1998

Ms. MILLENDER-McDONALD. Mr. Speaker, during roll call vote number 267 on June 25, 1998, I was unavoidably detained. Had I been present, I would have voted "nay."

LABOR/HHS APPROPRIATIONS BILL

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1998

Mr. PACKARD. Mr. Speaker, I would like to express my strong support of the FY99 Labor/HHS Appropriations bill, which is being marked up by the full Appropriations Committee this afternoon.

While this year's legislation saves taxpayers nearly $2.6 billion, Chairman PORTER and his subcommittee have ensured that this Congress remains committed to the health of every American family. I am very pleased to note that this year's legislation contains almost $100 million more than President Clinton requested for the National Institutes of Health. We simply can't retreat in the fight against disease and sickness and this bill continues our commitment to vital research.

I am also pleased with the subcommittee's continued commitment to education in America. The subcommittee took a major step toward loosening the government restrictions that hamper local efforts at improving our children's education. I strongly support the subcommittee's recommendation to reduce GOALS 2000 funding by one-half. The GOALS 2000 program required states to develop complex student performance standards while subverting the ability of local school boards and families to decide what's best for their children. These "standards" measure only the cash, number of employees, and programs in the schools, while ignoring the results in terms of what our children learn. The federal bureaucracy's role in education has expanded over the years, but little has been done to foster the real reform that our children need.

Mr. Speaker, I would like to thank Mr. PORTER for his continued hard work and dedication as Chairman of this important subcommittee. I support his legislation and I look forward to its full consideration in the House.

COMMEMORATING THE RETIREMENT OF JOHN VANDER LANS, CITY PROSECUTOR OF LONG BEACH, CALIFORNIA

HON. STEPHEN HORN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1998

Mr. HORN. Mr. Speaker, I rise today to recognize the long and distinguished career of the Honorable John Vander Lans, the City Prosecutor of Long Beach, California. I have been privileged to know John Vander Lans for over 20 years.

John Vander Lans was raised in Long Beach where he attended St. Anthony High School and Long Beach City College. He served 2 years in the United States Marine Corps where he attained the rank of Captain. After completing studies for his law degree at the Loyola School of Law, John went to work for the California Attorney General. He then worked for 18 months as a deputy Long Beach city prosecutor, before going into private practice in Long Beach.

John Vander Lans, was first elected to the City Prosecutor's office in 1978. Long Beach has the only elected City Prosecutor in the State of California. During his tenure, the City Prosecutor's office grew from nine to 15 attorneys. He started special units to handle misdemeanor domestic violence cases and environmental crimes. The Domestic Violence Prosecution Unit has its own courtroom and has recently achieved a 78 percent conviction rate. The Hazardous Materials Prosecution Unit has raised over $2.5 million for our community.

Under John Vander Lans's leadership the City of Long Beach Prosecutor's office has successfully resolved 98 percent of building code complaints against slumlords without going to court. This is just another example of the fine work that John has done for Long Beach over the past 20 years. I know that John will be missed at City Hall, but I also know that he and Patricia, his wife of 38 years, will continue to serve our community for years to come.

PERSONAL EXPLANATION

HON. KEVIN BRADY

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1998

Mr. BRADY of Texas. Mr. Speaker, on Thursday, June 25, 1998 by unanimous consent I was granted a leave of absence for official business at the request of House Majority Leader DICK ARMEY. As a member of the House International Relations Committee, I proudly co-hosted the European Parliament for the 49th United States/European Parliament Interparliamentary Meeting in College Station, Texas, which I represent.

Had I been present I would have voted "aye" on roll call vote 267, "nay" on roll call vote 268, "aye" on roll call vote 269, "aye" on roll call vote 270, "nay" on roll call vote 271, "aye" on roll call vote 272, "nay" on roll call vote 273 and "aye" on roll call vote 274.

COMMEMORATING THE RETIREMENT OF JOHN R. CALHOUN, CITY ATTORNEY OF LONG BEACH, CA

HON. STEPHEN HORN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1998

Mr. HORN. Mr. Speaker, I rise today to recognize the retirement of Hon. John R. Calhoun as the elected City Attorney of Long Beach, California. John Calhoun has served with distinction the city government and residents of Long Beach. During John's tenure, Long Beach has become the 5th largest city in California and the 31st largest in the nation.

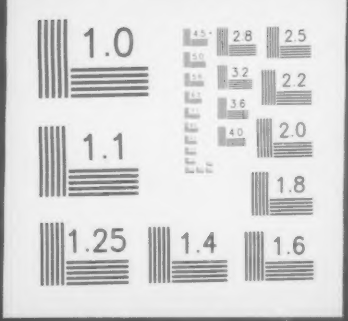
As he retires, John Calhoun is the longest serving elected City Attorney in California.

Mr. Speaker, John Calhoun has overseen the legal affairs of the city of Long Beach for 15 years. In that time its seaport has become one of America's largest. John has substantially assisted the International trade of the United States, especially in the great Pacific Rim Basin, for which the Port of Long Beach has become a basic transportation hub.

John Calhoun also has had a distinguished career in the U.S. Army Reserve, from which he retired as a Colonel in the Judge Advocate Corps.

Mr. Speaker, on behalf of a number of our many colleagues—past and present—in the House who have come to know City Attorney Calhoun over the years, I would offer his commitment to public service as an example of the quality local governmental leadership and professionalism that personifies good government for all our citizens. John's career has been marked by a strict insistence on courtesy and fairness to all the city's citizens and to the elected officials with whom he has shared leadership for so many years.

So best wishes to John Calhoun and his wife, Betty. I think that dynamic couple will offer even more constructive service in the years ahead.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